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PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Wednesday, October 19, 1977*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord is my shepherd. He restoreth my soul; he leadeth me in the paths of righteousness.—Psalms 23: 1, 3.

Almighty and eternal God, in whom we live and move and have our being, we thank Thee for Thy providence which has guided our Nation over the years and has brought us to this new day. Direct us in all our doings by Thy most gracious favor and further us with Thy continual help, that in all our works, begun, continued, and ended in Thee, we may this day and all days be strong in Thee, faithful to Thee, wise with Thee, and loving for Thee. Thus may this be a good day for us and for our country.

By Thy spirit guide our President, our Speaker, Members of Congress, the judiciary, and all who labor for them. Lead them and lead us all in the paths of righteousness, peace, and justice for Thy name's sake. Amen.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, under rule I, clause 1, of the rules of the House, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 668]

Ambro	Drinan	Mottl
Andrews, N. Dak.	Edwards, Okla.	Oakar
Archer	Fithian	Pepper
Armstrong	Fraser	Pritchard
AuCoin	Gammage	Rangel
Baldus	Goldwater	Roncalio
Baucus	Harris	Ryan
Bellenson	Harsha	Scheuer
Bolling	Hollenbeck	Solarz
Brown, Calif.	Huckaby	Spellman
Burke, Mass.	Jacobs	Teague
Burton, John	Kemp	Tucker
Cederberg	Keys	Udall
Chisholm	Koch	Ullman
Conyers	Le Fante	Vander Jagt
Corman	Leggett	Weiss
Dent	Lundine	Whalen
Diggs	McCormack	Wilson, Tex.
Dingell	McDonald	Wirth
Dodd	McKinney	Wolff
	Metcalfe	

The SPEAKER. On this rollcall 373 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on October 18, 1977 the President approved and signed bills of the House of the following titles:

H.R. 5742. An act to amend the Controlled Substances Act to extend for 3 fiscal years the authorization of appropriations under that Act for the expenses of the Department of Justice in carrying out that act; and

H.R. 9354. An act to amend the act of August 25, 1958, with respect to staff allowances for former Presidents.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3744) entitled "An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 785. An act to declare that all right, title, and interest of the United States in 2,700 acres, more or less, are hereby held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Fallon, Nev., to promote the economic self-sufficiency of the Paiute and Shoshone Tribes, and for other purposes.

THE LATE FORMER CONGRESSMAN DEAN P. TAYLOR

(Mr. PATTISON of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PATTISON of New York. Mr. Speaker, I join with my colleagues in paying tribute to former Congressman Dean P. Taylor, of Troy, N.Y., who died October 16. A respected Member of the House for 18 years, he represented his constituents in upstate New York with responsibility and dedication from 1942 to 1960. Not only was he a well-known member of the New York delegation who worked closely with Governor Dewey during his term in office, but he was also an active lawyer and leader who served my community of Troy and my congressional district.

He was a friend and adviser to me and to many young leaders interested in politics and community life. He will be missed.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. PATTISON of New York. I yield to my colleague from New York.

Mr. STRATTON. Mr. Speaker, I want to join the gentleman in paying respect to our late former colleague, Congressman Dean P. Taylor, from the city of Troy. I served with him here in the House for 2 years during the last 2 years of his service and the first 2 years of mine, and I too knew him well, and admired him.

He was a leading figure in the community, as the gentleman well knows. He was one of the directors of the Capital Cities Broadcasting Co., in our community. He was also State Republican chairman, as well as county chairman. He was a staunch friend of the veterans and a firm supporter of a strong America.

I know that his presence will be sorely missed, and I extend to Mrs. Taylor and his family my deepest sympathy.

Mr. PATTISON of New York. I thank the gentleman from New York (Mr. STRATTON) for his contribution.

NEW YORK YANKEES CAPTURE 1977 WORLD SERIES

(Mr. BIAGGI asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, today all New Yorkers are proud. Our New York Yankees with an awesome display of power hitting and pitching last night captured the 1977 world series.

The 1977 Yankees were perhaps the most exciting and controversial team in all of sports. It was a team which overcame internal adversities to become champions. Their road to the top was not easy. They first had to win their division which had such talents as the Boston Red Sox and Baltimore Orioles. To win the American League championship they had to beat the tough Kansas City Royals. The Los Angeles Dodgers, National League champions, proved to be formidable opponents in the series.

Yet it was the abundance and depth of talent which allowed the Yankees to win. Spectacular individual performances from Reggie Jackson and Mike Torres were the highlights of the world series.

I congratulate the Yankees, especially their gifted manager, Billy Martin—a man who created a winning spirit which infected the whole team. I salute George Steinbrenner, the principal owner of the club, who has achieved a lifelong dream. I also pay tribute to the genius of Gabe Paul, a man who built the Yankees into the championship team they are today. And of course the 24 players who made constant contributions to the success of the team deserve commendation.

It is a happy day for New York. Championship baseball has returned to New York. I can hear the call now "break up the Yankees."

THE UNITED NATIONS AND TERRORISTS

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. MICHEL. Mr. Speaker, needless to say, I join with all those throughout the world in applauding the West German Government and particularly its antiterrorist commando group in saving the lives of the hostages.

But I also must point out that this tragic incident, involving the murder of an airline pilot points up the utter failure of the United Nations to do anything to combat such incidents. I note that an airline pilots association has called for a 48-hour strike to dramatically bring to the attention of the United Nations that nothing has been done by that organization to effectively stop this kind of terrorism.

If the United Nations cannot agree on a policy toward terrorists, what can it agree on? The fight against international terrorism can be fought not only in the skies or in airports or on landing strips where commandos fight—it can be fought in the forum of the United Nations. The fact of the matter is that it is not being fought there.

So long as terrorists think they can find sanctuary somewhere in the world, they will continue. The civilized nations of the world should speak with one voice against international terrorism and what they should say is: No sanctuary, no ransoms, no quarter.

CANCELLATION OF B–1 BOMBER

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, this week the former Commander of the Strategic Air Command, retired just August 1, Gen. Russell E. Dougherty, sent a 6-page letter to me, with a copy to the gentleman from Illinois (Mr. PRICE), chairman of the Committee on Armed Services, on the B–1 issue which we will be debating again today. I believe this excellent letter to be the most thoughtful analysis I have ever seen on the cancellation of the B–1 bomber. In this letter he says:

I considered the B–1 production decision the single most important weapon system decision in front of our Administration and our Congress last year.

I believe it still is the most critical defense issue before us.

To this date, 9½ months into this administration, our President still considers his June 30 decision to cancel the B–1 bomber the most difficult decision he has had to make in his tenure as President. I believe it weighs heavily upon him because it was a wrong decision.

Mr. Speaker, I ask all of the Members to please go to yesterday's CONGRESSIONAL RECORD, dated October 17, starting on page E6329, and read this thoughtful, incisive, 6-page B–1 analysis by Gen. Russell E. Dougherty, one of the finest commanders that the Strategic Air Command has ever had. I cannot think of a better way to prepare for our difficult battle today over B–1 funding and the future of our Triad.

Thank you.

STATUS OF THE CONGRESSIONAL BUDGET FOR FISCAL YEAR 1978

(Mr. GIAIMO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GIAIMO. Mr. Speaker, as called for in the Congressional Budget Act, the House Budget Committee has notified the Speaker of the House on the status of the fiscal year 1978 congressional budget. A copy of my letter to the Speaker and the committee's report are attached at the end of these remarks. I would like to inform my colleagues in the House how the Congress stands with regard to the budget resolution it adopted on September 15.

Since my previous report to the House last week, the Congress has adopted and the President has signed House Joint Resolution 626, a resolution making continuing appropriations for fiscal year 1978 effective through October 31, 1977. This continuing resolution affects the Departments of Labor, and Health, Education, and Welfare, the District of Columbia, and the foreign assistance and related agencies appropriation. The enactment of the continuing resolution has the effect of increasing budget authority $22 billion and outlays $13 billion.

The net effect of this bill is to reduce the margin of the amount remaining to $26 billion in budget authority and $6 billion in outlays within the limits set by the second budget resolution for fiscal year 1978. The current level for revenues has remained unchanged since my last report to the House.

As my colleagues know, several legislative measures are yet to be considered for this fiscal year. It can be seen that it will be necessary for Congress to exert discipline and restraint in order to remain within its self-imposed spending and revenue limits.

Thank you, Mr. Speaker.

COMMITTEE ON THE BUDGET,
Washington, D.C., October 18, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedures which it had adopted in connection with its responsibilities under Sec. 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending. I am herewith transmitting the status report under H. Con. Res. 341, the Second Budget Resolution for FY 1978. This report reflects the resolution of September 15, 1977, and estimates of budget authority, outlays, and revenues based on all completed action on spending and revenue measures as of close of legislative business, Thursday, October 13, 1977.

Sincerely,

ROBERT N. GIAIMO,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1978 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 341

REFLECTING COMPLETED ACTION AS OF OCT. 13, 1977

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	500,100	458,250	397,000
Current level	474,356	452,233	398,100
Amount remaining	25,744	6,017	1,100

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $25,744 million for fiscal year 1978, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 341 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the

current level estimate and which would result in outlays exceeding $6,017 million for fiscal year 1978, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 341 to be exceeded.

REVENUES

Any measure that would result in a revenue loss exceeding $1,100 million for fiscal year 1978, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 341.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., October 14, 1977.

Hon. ROBERT N. GIAIMO,
Chairman, Committee on the Budget,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for these items contained in the most recently agreed to concurrent resolution on the 1978 budget. The current level estimates are as of close of business October 13, 1977.

Since my last report, the Congress has passed and the President signed a resolution (P.L. 95–130) continuing appropriations for fiscal year 1978 for the Departments of Labor and Health, Education, and Welfare, the District of Columbia, and for certain items carried in the regular Foreign Assistance and Related Agencies Appropriation Act for 1978 through October 31, 1977. This report incorporates estimates for the full fiscal year costs computed at the levels provided in the resolution.

[In millions of dollars]

	Budget authority	Outlays	Revenues
2. Enacted	419,759	412,930	398,100
Enactment authority and other mandatory items requiring further appropriation action	32,444	26,196	
3. Continuing resolution authority	22,153	13,107	
4. Conference agreements ratified by both Houses			
Current level	474,356	452,233	398,100
Second Concurrent Resolution	500,100	458,250	397,000
Amount remaining:			
Under ceiling	25,744	6,017	
Over floor			1,100

Sincerely,

ALICE M. RIVLIN,
Director.

PARLIAMENTARIAN STATUS REPORT SUPPORTING DETAIL, FISCAL YEAR 1978, AS OF CLOSE OF BUSINESS OCT. 13, 1977

[In millions of dollars]

	Budget authority	Outlays
Enacted:		
Permanent appropriations and trust funds	234,738	218,144
Outlays from balances of prior-year authority associated with appropriation bills not yet included in Parliamentarian Report:		
Foreign Assistance		2,732
District of Columbia		51
Labor–HEW		26,279
Offsetting receipts (including amounts generated by current appropriation action)	−52,525	−52,525
Enacted this session:		
Agriculture (Public Law 95–97)	12,749	13,520
Interior (Public Law 95–74)	10,026	8,888
Legislative (Public Law 95–94)	990	1,054
Military Construction (Public Law 95–101)	2,978	3,613
Public Works (Public Law 95–96)	10,294	9,436
State-Justice (Public Law 95–86)	7,709	10,942
Treasury (Public Law 95–81)	7,478	7,600
Transportation (Public Law 95–85)	6,197	14,940
Defense (Public Law 95–111)	109,753	101,910
HUD–Independent Agencies (Public Law 95–119)	69,371	45,312
Other spending legislation:		
Emergency Unemployment Benefits Extension (Public Law 95–19)		215
Food and Agriculture Act of 1977 (Public Law 95–113)		850
Deny Veterans benefits to certain individuals with upgraded discharges (Public Law 95–126)		−31
Total, enacted	419,759	412,930
Entitlement authority and other mandatory items requiring further appropriation action: [1]		
Function 050:		
Retired pay (anticipated supplemental)	93	93
Department of Defense, civilian and military pay (anticipated supplemental)	2,673	2,593
Function 500:		
Public assistance (H.R. 7555)	2,550	1,609
Human development (H.R. 7555)	760	760
Function 550:		
Retired pay, PHS (H.R. 7555)	57	45
Public assistance (H.R. 7555)	10,750	7,703
Payments to social security trust funds (H.R. 7555)	7,214	7,214
Offsetting receipts	−7,214	−7,214
Function 600:		
Public assistance (H.R. 7555)	6,300	4,335
Payments to social security trust funds (H.R. 7555)	741	741
Offsetting receipts	−741	−741
Supplemental security income (H.R. 7555)	5,250	5,180
Special benefits, disabled coal miners (H.R. 7555)	968	892
Federal unemployment benefits and allowances (H.R. 7555)	1,200	1,062
Special benefits, DOL (H.R. 7555)	319	316
Railroad Retirement, payment (H.R. 7555)	250	250
Offsetting receipts	−250	−250
Regional rail transportation protective account (H.R. 7555)	50	50
Function 700:		
Readjustment benefits (anticipated supplemental)	113	
Veterans Disability and Survivor Benefits Act (Public Law 95–117) (anticipated supplemental)	229	335
Function 800:		
Payment to Civil Service Retirement and Disability Trust Fund (anticipated supplemental)	319	319
Offsetting receipts	−319	−319
Function 920:		
Civilian agency pay raise (anticipated supplemental)	1,131	1,224
Total, entitlement authority	32,444	26,196
Continuing resolution authority:		
Continuing resolution (Public Law 95–130):		
Departments of Labor and Health Education and Welfare appropriation items	21,422	12,446
Foreign Assistance and Related Agencies appropriation items	360	310
District of Columbia appropriation items	371	351
Total, continuing resolution authority	22,153	13,107
Conference agreements ratified by both Houses		
Total, current level, as of Oct. 13, 1977	474,356	452,233
Current resolution of Sept. 15, 1977	500,100	458,250
Amount remaining:		
Over ceiling		
Under ceiling	25,744	6,017

[1] Includes anticipated supplementals and appropriations for entitlements pending in the regular Labor–HEW appropriation bill (H.R. 7555) at the amounts agreed to in conference.

Note: Detail may not add due to rounding.

GENERAL LEAVE

Mr. HUBBARD. Mr. Speaker, my colleagues from Kentucky join me in stating that on Monday of this week, comments were made honoring the late Honorable Frank Albert Stubblefield, and that a unanimous-consent request was made and granted for a period of 5 days in which Members could revise and extend their remarks in the RECORD.

Mr. Speaker, I ask unanimous consent that an additional 5 days be granted for all Members to enter their remarks in the RECORD on the life, character, and public service of the late Honorable Frank Albert Stubblefield.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 1037, ENERGY TRANSPORTATION SECURITY ACT OF 1977

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 774 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 774

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1037) to require that a percentage of United States oil imports be carried on United States-flag vessels. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and rank-

ing minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. MURPHY) is recognized for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 744 provides for the consideration of H.R. 1037, the "Energy Transportation Security Act of 1977". This is an open rule providing for 2 hours of general debate. House Resolution 774 provides that the committee amendment in the nature of a substitute be considered as the original bill for the purpose of amendment. This rule also allows one motion to recommit with or without instructions.

The Committee on Rules granted a rule on this measure on September 26, 1977, because a majority of the committee felt that this vital bill was significant to the national security of the United States and to the economic well-being of the Nation. It was the Committee on Rules view that H.R. 1037 should be debated before the Members so that they could have a fair opportunity to hear all sides of the merits of this measure in order to be able to have an informed basis on which to base their vote.

At the present time, the United States is dependent upon foreign-flag vessels to transport 97 percent of our necessary energy products. This is a dangerous situation and one requiring some attention by the Congress so that more than a mere 3 percent of our vital energy supplies may be carried in U.S.-flag vessels. H.R. 1037 would provide that ultimately at least 9½ percent of our petroleum products would be transported in reliable U.S.-flag vessels.

This bill additionally would generate substantial increased employment, would contribute significantly to the U.S. balance of payments problem, and would have a positive impact on the environment in our coastal waters.

The Committee on Rules granted this rule by a substantial margin of 10 to 3, with a view that this important but controversial measure should be argued on its merits by the members of the Merchant Marine and Fisheries Committee. For this reason, I urge all my colleagues to support House Resolution 774, for the passage of the rule, so that we may have an informed and intelligent debate on the merits of H.R. 1037.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very important rule we are considering today. It relates to one of the most important matters this Congress has had the opportunity of discussing this session. The able gentleman from Illinois (Mr. MURPHY) has described the provisions of this rule, and I will not go into detail in that regard.

Mr. Speaker, this rule should be defeated. This House has no business inflicting higher oil prices on the American people in order to fulfill President Carter's campaign promise to the maritime unions. This cargo preference bill should be scuttled and sunk or at least permitted to sink gracefully to the bottom of this Congress list of legislative priorities.

The cargo preference bill is just another example of a misguided approach to coin-operated legislation. The maritime unions drop their coins into the political process and expect the legislation they want to pop out of the White House automatically. I opposed the cargo preference bill that was passed but, thankfully, vetoed in 1974.

I oppose this year's version.

Contrary to what its proponents claim, cargo preference adds nothing to the security of the United States because the large oil tankers used to carry commercial oil are not the type of ship our armed forces require during an emergency or in time of war. The need is for smaller, faster tankers capable of sailing through narrow and restricted waters, not for enormous commercial supertankers. That is why the Department of Defense does not support this bill on national security grounds.

Mr. Speaker, enactment of this bill requiring that a fixed share of oil imports be carried in U.S.-flag ships will increase the price of oil, decrease employment, and violate trade treaties with approximately 30 nations, many of whom are friends and allies of long standing. Passage of this bill will cost the American people hundreds of millions of dollars in higher fuel prices.

Mr. Speaker, it is time that this Congress starts to think about bringing down the cost of high fuel prices, high energy prices, high prices across the board, instead of escalating them.

Mr. Speaker, I do not urge the defeat of this rule solely because of my opposition to the substance of the bill. This rule should also be defeated, Mr. Speaker, because the integrity of the proceedings of this House of Representatives has been called into question by the circumstances under which this bill has advanced to the floor. Respected newspapers throughout the country have denounced this bill as a consumer rip-off, born and nurtured amidst the most unsavory kind of political considerations. Listen to just a few of the editorial headlines denouncing this bill: the New York Times—"The Great Ship Robbery," and "Paying Off the Maritime Lobby." The Christian Science Monitor—"Sink the Cargo Bill." The Washington Post details in one editorial "How To Buy a Bill," and in another calls this cargo preference bill "The Blank Check Bill of 1977 and Forever After." The Wall Street Journal describes it simply as "The Maritime Payoff," while The Los Angeles Times calls this bill "A Cargo Conflict of Interests." I could go on, but it should be obvious to even those who do not wish to see, that the cargo preference bill has raised a host of very serious questions that have gone unanswered.

Mr. Speaker, this is a most serious matter.

I am not prepared to judge the merits of the allegations that have been raised, but I would suggest that when the only administration witness to appear before the Committee on Merchant Marine and Fisheries in support of the cargo preference bill has been offered a job at a salary in excess of $100,000 per year by the people supporting the bill, a reasonable person could question the degree to which the committee has been adequately informed as to the exact position of the administration.

I would suggest further that when the Secretary of the Treasury states in a memo to the President that he, the Economic Policy Group, the Council of Economic Advisers, the Department of Defense, and the Department of State do not support the cargo preference bill, that the committee ought to have some considerable interest in having a few more administration and other witnesses come before the committee to testify and be questioned. Such a request was made, under the rules of the House, by the ranking minority member of the Merchant Marine Subcommittee, but we all know that the committee chairman did not agree, and the witnesses never appeared.

Mr. Speaker, I think it is incredible that the House should be asked to consider this bill until the Committee on Merchant Marine and Fisheries has compelled further testimony, by subpena if necessary, in order to hear from all concerned viewpoints. Without further testimony, Mr. Speaker, the cloud that hangs over this bill cannot be dispelled.

This rule should be defeated. I urge my colleagues to defeat the rule so that this bad bill can go back to the committee.

Mr. Speaker, I reserve the balance of my time.

Mr. MURPHY of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I thank the distinguished member of the Committee on Rules, the gentleman from Illinois (Mr. MURPHY) for yielding me this time.

Mr. Speaker, a rule on a very similar piece of legislation was granted overwhelmingly in the 93d Congress on legislation that was not quite identical to the

bill that we will consider today. That was a cargo preference bill that would require 30 percent of the imported cargoes of petroleum and petroleum products coming into America to be carried in American-flag ships. The rule was granted. After debate, 266 Members of the House voted in favor of the bill. The Senate overwhelmingly passed the bill and it went to the White House. There it was pocket-vetoed by President Ford who, incidentally, as a Member of the House, supported the legislation and the concept of the legislation.

The distinguished gentleman from Tennessee (Mr. QUILLEN) has raised some issues that I did not think would be raised on a rule.

The rule we are asking for is a very simple open rule for 2 hours of general debate so that the issue of H.R. 1037 could be clearly and articulately discussed and debated in the open processes of the House.

This year the House Committee on Merchant Marine and Fisheries held extensive hearings on H.R. 1037. It was simple to call those witnesses in opposition to the legislation because we had 36 days of hearings in the 93d, 94th and 95th Congresses on this issue. It was easy to find the opponents to the legislation. In fact, we invited them to come up first. We invited labor, we invited the administration. The administration asked the Assistant Secretary of Commerce for Merchant Marine Affairs to be the spokesman of the administration's position. He very clearly articulated and outlined the policies of this administration and the compromises that President Carter and his cabinet had agreed upon in supporting H.R. 1037 which calls for one-third the level of the legislation that was passed in the 93d Congress.

Here we see the opponent raising false issues on legislation that is far more modest, on legislation that we have compromised with the administration, with the Executive, with the opponents of the bill, freely and openly in the processes of our House, so that we ultimately would carry 9½ percent of the oil imported that comes to the United States. The Secretary of the Navy was invited to the committee and he addressed himself specifically to the legislation. He was speaking for the Department of Defense. He said he clearly supported this legislation because it was in the national security interests.

The gentleman from Tennessee (Mr. QUILLEN) raises several interesting points. He said the State Department opposes the legislation in a memorandum circulated in the White House. That memorandum in fact was based on a 30-percent bill that was first introduced and not on the 9½-percent legislation we will consider today.

Treasury opposed the bill, as they traditionally did in the past Congresses, when we passed this legislation overwhelmingly. The Treasury opposition was based on the 30-percent level and not on the 9½-percent level of the legislation as it was finally marked up in the Committee on Merchant Marine and Fisheries.

Congress supported the legislation, Defense supported the legislation, and the Departments of Commerce and Labor supported the legislation.

We then said to the minority at their request—you may have 1 day of hearings under the rules of the House, under the rules of the committee. Under these rules they were entitled to call witnesses—the minority is entitled to call their witnesses for a hearing. I set aside that day for the minority witnesses to come. In fact, I got a list of witnesses from the minority, and, humorously, they wanted the President's Cabinet to come up and testify. The President sent the Assistant Secretary for Maritime Affairs in the Department of Commerce again to come up on July 29, 1977, and to represent his administration and what his administration's position was on this issue. The committee was certainly not going to subpena the President's Cabinet. We had all of the open, free, and clear debate, and all of the argument out in the 95th Congress that we had in the 93d Congress. We cut the legislation's requirements from 30 percent down to 9½ percent. We did have a vote on the subpena issue in committee and the committee voted not to authorize the subpenas by a vote of 17 to 13.

The cost of the legislation has been grossly overestimated in many areas. Early in the legislative process I asked the General Accounting Office to do a comprehensive study as to what this legislation would cost. It would cost, if we imported 8 million barrels of oil a day, $240 million. Those are the General Accounting Office's figures. The Department of Commerce's figures seriously challenge them. The administration thinks they are one-half of what the GAO says, or about $110 million.

That cost in effect amounts to this. If a man or woman drives a 20-miles-per-gallon car for 10,000 miles, it would cost $1 a year—$1 a year. That would be the cost on that energy-related basis, and that was in our committee report.

The question of campaign contributions has arisen. I was trying to think what George Washington, Abraham Lincoln, JAMES QUILLEN, JOHN RHODES, PETE MCCLOSKEY, and Ambassador Shirley Temple Black all had in common. One thing they all had in common was that they received political contributions when they ran for public office in America, and I do not think we can throw in here, to try to put a cloud on the House of Representatives, the fact that Members of the House received contributions, political contributions, as they have over the decades, from maritime interests, as with other interests, and that that is the compelling reason they should vote for this legislation.

In the 93d Congress 266 Members felt there was a need at the 30-percent level. I, frankly, think that an overwhelming number of Members of the House know and will vote that there is an overwhelming need at the 9½-percent level. We authorized a half billion barrels of strategic petroleum storage reserve in the United States for one reason, because we realized we only have today in America about an 8-day supply of oil. So the Congress has authorized a half billion barrels of strategic oil reserve storage in the salt domes of Texas and Louisiana in this country—for what reason? So we will have a 4- to 6-months strategic oil storage capacity. And here, when the issue comes up, when we should be able to carry 10 percent of the vital oil necessary to fuel our industries, to insure our defenses, in reliable American-flag vessels, manned by American seamen, we find total opposition. But where does that opposition come from? That opposition comes from the foreign-flag fleet operators. Who are they? To a major degree they are major multinational oil companies.

The reason they oppose this bill—and they are effective opposers, and we have seen them in the halls of the House and we are watching them over in the House-Senate conference on energy, and they happen to be doing a little bit of dual coverage over here this week on this bill trying to influence energy policy, and make no mistake that this is not an important energy bill—and we know of their influence in the Congress.

I would say that there is a 10-to-1 factor—a 10-to-1 factor—in the political contributions if that is an issue, and I do not think that is an issue. I think every American should be able to contribute to the candidate or party of his choice within the confines and limits of the laws as we have enacted them, but I think we should have an opportunity to debate on this issue and that we should not foreclose them and informed debate on this bill. That is why we asked for an open rule.

I thank my friend, the gentleman from Illinois, for yielding.

Mr. QUILLEN. Mr. Speaker, I yield 8 minutes to the gentleman from California (Mr. MCCLOSKEY).

Mr. MCCLOSKEY. Mr. Speaker, ordinarily I do not think any of us would ask our colleagues to vote against an open rule on a significant piece of legislation, but the open rule that is requested here, if it is voted favorably, in effect permits a committee of the House to bring legislation to the floor, supported by the administration, on which the White House has ordered six major Cabinet departments of the administration to refuse to testify. When Chairman MURPHY invited seven departments, six of them refused to appear.

Why would an administration refuse to allow an Assistant Secretary of State, an Assistant Secretary of Defense, the Secretary of the Treasury, and the Special Trade Representative to appear and testify on a bill which the chairman himself has said is the most important maritime bill in 200 years of the history of the United States? If the bill is of this importance, why should an administration, a so-called open administration be permitted to stonewall and refuse to

testify on a bill of this importance? Why? It is clear. There are facts in the possession of those other six executive branches of the Government which would militate against the passage of this bill. That is why the administration does not want its other officers to testify.

That is what the issue is on this rule. The debate is not yet on the merits. We should approach the merits in open debate, but we should not debate on the floor of this House any issue until all the facts are in front of us through proper testimony in committee.

I do not think there is a person in this Hall who is not proud this year of being a Member of the House of Representatives. We have watched the other body operate. We have watched the White House operate. But we in the House are responsible for the care and craftsmanship of the laws under which this Nation operates. It is a serious responsibility.

What has happened? When the President decided to support this bill on July 7, our House committee had had 7 previous days of hearings on this bill. However, these hearings were inconclusive. It did not receive the full consideration of the committee because we all knew that, until the administration made up its mind, there was a question whether the bill was doomed to failure or would have a serious chance of passage. When the President decided on July 7 to support the bill, he selected as his sole spokesman, Maritime Administrator Blackwell. Let me quote from Mr. Blackwell, because the chairman quoted him. This is what Mr. Blackwell said about the principle of cargo preference back in 1974:

I oppose H.R. 8913—

The nearly identical bill, not because of the percentages—

I oppose H.R. 8913 because it would be an undesirable, inefficient and inequitable way of achieving our goal of U.S. flag participation in oil imports.

Then Mr. Blackwell went on to testify:

a statutory requirement that commercial cargoes be carried in U.S. flag bottoms would be direct recognition that the U.S. Merchant Marine can never become competitive in the international market place. This would be the most serious admission of failure of the Merchant Marine that we could make.

What did this single administration witness go on to say when he testified this year, in July 1977? Let me quote from his testimony.

When we asked him about his State Department testimony 3 years ago that a vote for cargo preference would violate 30 treaties, let me quote his answer:

Mr. McCLOSKEY. The State Department indicates that this bill would violate our existing treaties of Friendship, Commerce and Navigation. Is that correct, sir.

Mr. BLACKWELL. I do not know whether the word violate—I do not know whether the Assistant Secretary used that term. I do not know whether you can violate that type of a treaty.

If we do not have clear testimony from the State Department whether we will be violating 30 treaties or not, should the House be considering this legislation?

What about the Defense aspect? We asked Mr. Blackwell:

Is it not a fact that the Defense Department does not consider this bill to enhance our national security?

Mr. BLACKWELL. Well, I do not know.

Now, should we not have Defense Department testimony? The Assistant Secretary of Defense, Paul Riley, testified 3 years ago that the bill would hurt national security. This year when the chairman called the Defense Department for testimony, his notice of hearing had no reference to cargo preference. In the notice published by the gentleman from New York (Mr. MURPHY), that we were going to consider the oil tanker construction program, the subject of the hearing was named as that program. Secretary Claytor came in and said that cargo preference was compatible with the Navy's shipbuilding needs and would help the national security. When he was asked on cross-examination whether he had participated then in the President's decision, he said "he had not participated in that decision."

What about the economic impact of this bill? We asked the sole administration witness this question:

Mr. McCLOSKEY. Mr. Blackwell, are you aware that the Council of Economic Advisors has estimated that the net impact on the economy as a whole would be a decrease in total employment and gross national product?

Mr. BLACKWELL. That is a surprise to me.

So with respect to the impact on the national economy, the impact on national defense, the impact on the treaties of our allies, there is no record from the Committee on Merchant Marine to support this most important bill in over 200 years.

Why is it important? Because this bill moves away from the historic leadership our country has provided toward, a policy of free world trade. We have never reserved commercial cargo before. We have reserved military cargo; we have reserved Public Law 480 cargo and we have reserved Government-generated cargo. We have not sought, however, to reserve any commercial cargo. Why does the Defense Department oppose this reservation? Because 61 percent of our oil comes in on tankers owned by United States' companies. Once we insist that 9½ percent are carried on U.S.-flag bottoms, we lose our credibility to urge the rest of the world that supplies us with oil, that they should not also have the same right to insist that 50 percent or 100 percent of their oil be carried in their flag tankers. If that occurs, what is the impact on the national security? Instead of having 61 percent of the tankers that supply this Nation with our single most important economic product, we could be squeezed down by the Saudis, by Kuwait and others, if they move to 50 percent, 70 percent, or 100 percent of similar cargo preference laws to the one we would adopt here. We would then have no flexibility to have U.S.-owned tankers available in the event of an economic squeeze of the type that occurred during the last Middle East War.

This is why the Defense Department opposed cargo preference in 1974 and they still oppose it, regardless of what Secretary Claytor said.

To legislate on the record before us is no tribute to the integrity of the House. The legislative integrity of this House is harmed when we are not in possession of the full facts.

The Supreme Court said it very well in McGrain against Daugherty:

A legislative body cannot legislate wisely and effectively in the absence of information respecting the conditions which the legislation is intended to affect or change and where the legislative body does not possess the requisite information.

We saw during the Nixon administration an Attorney General stand up and say that if the House of Representatives wants information, the executive branch has no obligation to give it to them. If the House wants information, its sole remedy is impeachment.

Do you remember Attorney General Kliendienst? Now, here this new Carter administration that promised to be open has refused to send down six of the seven administration witnesses invited by Chairman MURPHY. That creates a confrontation with the House of Representatives which is very similar to that caused by Attorney General Kleindienst. If the House lets the administration withhold information in this manner, how can we claim that we are meeting our own obligation to the American people to legislate wisely and only after we have made our own independent appraisal of the relevant facts? Thank you, Mr. Speaker.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I think it is appropriate that we should be considering this cargo preference boondoggle so close to Halloween because this is truly a trick-and-treat bill: The maritime interests have already generously dished out their treats in the form of campaign contributions, and the Congress is now expected to play a trick on American consumers. The costuming for this little Halloween party is just superb: We have one of the most blatant pieces of special interest legislation ever to ring the doorbell of this House masquerading as an "energy transportation security act." Now who could turn down such a cute little goblin as that, especially when it is passing out such treats? Well, believe it or not, quite a few doors have already been slammed in the face of this cute little goblin, including Common Cause, the Chamber of Commerce, the League of Women Voters, the Farm Bureau, Ralph Nader's Congress Watch, the Washington Post, the New York Times, and the Chicago Daily News, to name just a few. That is hardly a cast of fat cat, multinational big oil villains. Instead, it represents a pretty fair cross section of the American people we were sent here to represent.

I would urge my colleagues to follow the example of these groups and newspapers by slamming the door in the face

of this goblin before it can stick its fat, size 9½-percent foot in the door. Slam the door on this goblin now by defeating this rule or it will cast a plague on both our Houses. If we do not, we are going to show up at that Halloween party dressed like the "Ancient Mariner" in the poem—with a big, fat albatross around our necks.

Anyone who sat through our Rules Committee hearing on this bill must wonder in amazement how this bill ever got this far. It would seem to defy all the laws of legislative logic and gravity: it has been miraculously propelled from the Merchant Marine Committee, to the Rules Committee, to the House floor, by some strange power of levitation—as if it were riding on a magic, green carpet. I say this defies all the laws of legislative logic and gravity because the legislative committee bringing this bill before us would have us consider and pass this bill without having all the facts. In fact, as the additional views in the committee report by the gentleman from California (Mr. McCLOSKEY) make clear, the committee was aware of opposing views within the administration and yet refused to call these additional witnesses as requested by the minority to ascertain the facts.

Mr. Speaker, never before, to the best of my knowledge, has any committee come before this House and said, in effect, "we don't want to confuse you with the facts; just take our word for it that this is a good bill." Well, I for one think the committee had a clear obligation to obtain all the facts and lay them on the hearing record and before this House for our consideration. I do not know, for instance, how the committee can claim that the primary purpose of this bill is to strengthen the national security posture of the United States when the memorandum from the President's own Economic Policy Group indicates that the Defense and State Departments do not consider this bill vital to our national defense. To quote from that memorandum of Secretary Blumenthal:

> Defense believes that the essential national security problem is access to, not carriage of, oil, and does not support H.R. 1037 on national security grounds. State believes that, on balance, oil cargo preference would not be beneficial to national security. U.S. cargo preference, if emulated by others, would reduce U.S. flexibility in future supply disruptions should U.S. flag tankers be banned from suppliers' ports. Furthermore, vessels of our allies would be available to meet our needs in time of emergency.

And yet, the committee report casually dismisses the arguments raised against this bill in administration policy papers, as, "hearsay information in internal administration memoranda released under unauthorized conditions." Well, I daresay that Secretary Blumenthal would not rely on "hearsay information" in conveying another department's views, and the release of the memoranda under unauthorized conditions does not make the information contained therein any less authoritative.

The proponents of this bill like to point out that those memoranda were written on an earlier version of the bill which called for a 30-percent preference instead of 9.5 percent. Well, the fact is that Secretary Blumenthal was discussing, in option No. 1 of his memorandum, "a modified form of cargo preference, with a reduced preference percentage—of about 25 percent—a stretched out implementation timetable, and provision for limited foreign-built tanker participation." But whether he was talking about a 25-percent preference or a 9.5-percent preference is really irrelevant to the main issue: If this is being presented, as the bill title indicates, as an "energy transportation security act," and the Defense and State Departments argued that a 25-percent preference was not justified on national security grounds, why should we believe that a 9.5 percent preference is any more justified or any more critical to our national security. If, as the White House memoranda indicate, the bill would "violate U.S. treaties with more than 30 countries," why should we believe that a 9.5-percent preference bill is going to be any less in violation of those treaties than a 25-percent bill? Or are we to believe there is such a thing as being a little bit pregnant?

Mr. Speaker, I think it can be seen from these brief examples that the committee did not do its job and instead is doing a job on us. This Halloween goblin, playing its mean little tricks on American consumers, should be banished to Never-Never Land before its 9½-percent foot-in-the-door grows to the size 30 percent its masters really want. I think the most charitable thing we can do—the cleanest and least embarrassing way to handle this whole matter at this point—is to defeat this rule.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I rise in support of the rule.

Mr. Speaker, I think we ought to keep our remarks as best we can pertinent to the legislation before us, and not get sidetracked. The question has been raised as to whether or not the administration believes that the legislation before us is in the interests of national defense. I just want to read a few paragraphs out of the regular hearing, dated July 13, on tanker construction oversight and cargo equity, where the Secretary of the Navy, W. Graham Claytor, is speaking. He is speaking to the House Merchant Marine Committee and he is talking on this bill. He says:

> The administration's recently announced decision to support an increase in the amount of petroleum carried by U.S.-flag ships to 9½ percent in 5 years would plainly accommodate this adjustment.
>
> I support this position, since the ship construction requirements to reach that percentage are within the capabilities of the U.S. shipbuilding industry, and will not adversely impact on Navy's shipbuilding needs.
>
> A second area I would like to address concerns the value to our national defense of having U.S.-flag ships transport American cargoes in preference to foreign vessels. Certainly, U.S.-flag ships, when owned and operated by U.S. citizens, are likely to be more responsive to national emergencies.
>
> However, current U.S.-flag tonnage, by itself, is inadequate to satisfy both defense and commercial needs in event of war or national emergency; any increase in U.S.-flag ships will obviously improve this situation.
>
> Even with increased U.S.-flag tonnage of tankers, we would have to continue to rely on our NATO allies and others to provide the reliable backup in merchant shipping on which we have depended during emergencies in the past.
>
> In summary, the administration plan to increase the percentage of petroleum imports carried by U.S.-flag tankers to 9½ percent over the next 5 years plainly would not overtax the U.S. shipbuilding industry; it would strengthen the Nation's mobilization base; it is compatible with the Navy's own shipbuilding needs, and it contributes to our national defense needs.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Speaker, why would the gentleman be so anxious for a rule when he knows full well that several key administration officials have not been afforded the opportunity to testify on this issue?

We really have not properly heard from all leading responsible officials within the administration.

Mr. LEGGETT. As the gentleman knows, we held hearings on this bill.

Mr. ROUSSELOT. Yes, I know. But we really have not heard from all appropriate officials within the administration.

Mr. LEGGETT. The gentleman asked a question, and I am going to answer it.

We have held hearings on March 1, March 2, March 16, April 6, April 20, July 25, July 29.

Mr. ROUSSELOT. We know all of that, but I wish to reemphasize that appropriate and responsible officials were not heard during those dates.

Mr. LEGGETT. I am answering the gentleman's question.

Mr. ROUSSELOT. But I do not want the gentleman to filibuster on dates of hearings.

Mr. LEGGETT. I have here before me 597 pages of testimony that was taken on this bill in just this Congress, and we can add to that 1,000 pages taken back in 1973.

Mr. ROUSSELOT. How many people from the administration testified?

Mr. LEGGETT. Many, as the gentleman knows.

Mr. ROUSSELOT. Why would we have to subpena administration officials?

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. RHODES) the distinguished minority leader.

Mr. RHODES. Mr. Speaker, I rise in opposition to House Resolution 774 and applaud the effort of my colleague from California (Mr. McCLOSKEY) to defeat this rule for consideration of the so-called cargo preference bill.

By voting on the rule the House is deciding whether it wants to consider this bill at this particular time. I join with those who believe that H.R. 1037 needs further consideration in committee. There is a great deal of controversy over certain memorandums and testimony by administration officials, and some very important questions remain unanswered. It is a disservice to Members of this body to have a bill brought up on the floor before those significant questions have been given adequate consideration in committee. Based on all the information I have and the debate here today, I think this body must insist that the committee discharge its duties properly and completely before H.R. 1037 is brought before the House.

The sponsor of H.R. 1037 claims it is one of the most important maritime measures to be considered by Congress. If this is true, then the committee must hold additional hearings to clear up some of the significant and persisting questions about the bill, and must seek answers regarding the ultimate cost of this legislation to the consumer. We must also know the administration's true position on this bill by hearing testimony from all appropriate departments and agencies. In acting on legislation which affects our national interest and security we are entitled to know the full position of the Carter administration—rather than a brief appearance of one questionable witness and surreptitious memos between administration officials.

I urge all my colleagues in the House to vote against this rule and to oppose any effort to bring this measure before the House until the Committee on Merchant Marine and Fisheries discharges its responsibilities under the rules to conduct full and complete hearings and deliberations on the bill.

Mr. QUILLEN. Mr. Speaker, may I inquire as to how much time I have remaining?

The SPEAKER. The gentleman from Tennessee (Mr. QUILLEN) has 9 minutes remaining.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Speaker, I rise in opposition to the rule for H.R. 1037. While the official title of H.R. 1037 is the Energy Transportation Security Act of 1977, it has come to be commonly known by two other titles: the cargo equity bill, and the cargo preference bill. This rather odd arrangement of having one bill with an official title and two common titles, illustrates several things. To begin with, the common names are a strong indication of the heated debate and sharp differences of opinion on the measure. The official title indicates the attempt by the proponents of this legislation to disguise the real intent and effect of the legislation.

Supporters of H.R. 1037 make several very interesting claims about the ramifications of the bill. We have been told this bill is necessary to strengthen our defense posture, protect our environment, create jobs, and generally improve the economy. If the provisions of H.R. 1037 could do all that, I would support it wholeheartedly. However, even the most cursory examination makes it obvious that the claims are completely misleading.

A short statement of these claims is all that is really necessary to convince any unbiased observer of the suspiciousness of H.R. 1037. The measure simply does not help improve our defense posture. It is accessibility to, not transportation of, oil that is of military importance within the context of cargo preference legislation. We have American and allied ships—not to mention domestic supplies—which eliminate the need to have more U.S. built and operated oil tankers; further, there is a worldwide surplus of oil tankers which would increase with passage of H.R. 1037.

Further, the ships which would be built as a result of cargo preference legislation would be too large, too slow, and indefensible to be of military importance.

The environmental arguments used to support H.R. 1037 are completely absurd. There is no other word to describe this line of thinking. Under cargo preference, only 9.5 percent of the ships bringing oil into the United States would be American.

To argue that American ships are safer and that therefore cargo preference reduces the chances of an oil spill does not take into consideration the fact that 90.5 percent of the ships would still be foreign-flag ships. Certainly, if this is the intent of Congress, legislation could be passed which would require strict environmental safeguard standards to reduce the possibilities of oil spills. This type of legislation would be endorsed strongly by environmental groups, who, by the way, do not support passage of cargo preference legislation.

American shippers, already working full time, are having difficulty meeting current demands. This fortuitous situation is the result of legislation mandating that 50 percent of all U.S. Government-purchased oil be shipped to America in U.S.-flag ships. Further, the transportation of Alaskan oil to the 48 contiguous States must be shipped solely by U.S.-flag ships.

It should be further noted that the U.S. merchant fleet is already heavily subsidized by the American taxpayer. Through appropriations and special interest legislation, American shippers are already guaranteed a foothold in the world market. Any further subsidizing will merely take away any motivation on the part of industry to improve their operations or management. Whenever an industry is guaranteed a certain share of the market, and is thereby granted a profit, motivation to correct or revise methods of operations which lead to the need for Government aid in the first place, is completely eliminated.

As good as these arguments are against passage of H.R. 1037, there is still an even more important factor which has not been addressed. The American consumers will be the ones to suffer if H.R. 1037 is passed. While it may be true that our merchant marines and shipbuilders would benefit from cargo preference, it would be at the expense—literally—of the rest of the country. I have heard many figures predicting the cost to the consumer of H.R. 1037 ranging from the low hundreds of millions to $1.5 billion per year after 1982. It is impossible to justify any bill which would have such an adverse effect on our economy.

Mr. Speaker, I support, as much as anybody in this Chamber, efforts to improve the ability of U.S. industry to rival foreign competition. However, a worthy goal does not justify bad legislation. And that, Mr. Speaker, is exactly the situation with cargo preference legislation.

If H.R. 1037 passes, public opinion of this body will further decline. While much of the criticism aimed at Congress may be unjustified, that is not the case with respect to H.R. 1037. The American people understand all too well why the President has come out in support of H.R. 1037. This body should not get into the habit of passing bad legislation just to get the President off the hook. I most strongly urge my colleagues to defeat this rule.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Speaker, I rise in strong opposition to this economic rip-off bill known as cargo preference.

I have not been in the House for very long, Mr. Speaker, but this measure is easily the worst case of special interest legislation I have seen on this floor.

In fact, if U.S. oil tankers could move through the water with the speed at which the cargo preference bill sailed through the Merchant Marine Committee, then we would not even be having this debate.

There are many reasons to oppose this legislation. First and foremost is the cost to the consumer, estimated by the General Accounting Office to range between $550 million and $610 million a year. This estimate is five times the administration's estimate, an estimate which by the way was delivered to the committee by a man who was at the time under consideration for a $100,000 a year job from the very special interests which would benefit the most from this bill.

One group we need to take a special interest in is the American consumer. I do not think they can afford to be slapped again with another fuel cost increase, particularly when this increase will go to line the pockets of the maritime special interests.

I must also point out that the maritime interests are already one of the most heavily Government subsidized industries going. Uncle Sam now spends over $200 million a year in ship construction and over $300 million a year in operating subsidies. In fact, most of the salaries of the people who are lobbying so strongly for this bill probably come from the Federal Government.

A second and very compelling reason for refusing to pass this rule is the almost total unwillingness of the Carter administration to allow administration witnesses to testify before the committee on this measure. The only exception was Assistant Secretary of Commerce Robert J. Blackwell, who at the time was pondering whether to accept that $100,000 a year job from an ocean lines association. State and Defense Department witnesses, said to be opposed to the bill, were muzzled by the White House. So much for the promised "openness" in the Carter White House.

The proponents of this legislation have offered up several arguments in favor of this bill, ranging from job creation, to national defense to the environment. All of them, in my opinion, are myths.

The supporters of this bill say it will create 5,700 jobs in the maritime industry. What they do not tell you is that the cost of each of these jobs when compared to the GAO cost estimate of the bill, works out to about $107,000 per job. In fact, the President's own Council of Economic Advisers estimate that the net impact on the economy as a whole would be a decrease in total employment and GNP. CEA, in a memorandum prepared for the President by Secretary of the Treasury Blumenthal, is also quoted as stating that cargo preference would be contrary to the London Summit pledge to reject protectionism, trigger the adoption of similar or even more stringent measures by other countries, reverse U.S. policy which has favored free competition for commercial cargoes, and violate U.S. treaties with 30 countries.

In short, the President's own economic experts have labeled this bill for what it is—a boondoggle.

The supporters also say that cargo preference will add to America's security by insuring adequate oil transportation in times of world crisis. The fact of the matter, however, is that the critical security consideration is access to oil, not transportation. With the glut of tankers now operating in the world, there is little danger of not having enough ships to transport oil.

Rather, cargo preference will be a destabilizing influence in the world, since it would violate more than 30 treaties and provoke retaliatory actions across the Globe.

As for concern over whether we have adequate capacity for national security purposes, it should be noted that according to the logistics directorate of the Joint Chiefs of Staff, there is a need for about 13.3 million tons of tanker capacity for both military and civilian use in case of war. Currently, we have 9 million tons of U.S.-flag tankers. We have another 52.8 million tons of U.S.-owned tankers sailing under flags of convenience, which would readily be available. This is four times more than what we need for war.

The supporters of this legislation have also given the impression that the passage of cargo preference would somehow end tanker mishaps. Nothing could be further from the truth. Environmental safeguards can, and should be imposed on any ship entering U.S. waters, and I would hope that the House would move rapidly on legislation to set tough standards for both ships and crews. It must also be noted that flag-of-convenience tankers are, on the average, newer and safer than American flag ships.

Given these arguments, why is the President and why are some in Congress pushing this legislative boondoggle?

That question can be answered in one word—politics.

One need look no further than the memo from Robert S. Strauss to the President, dated June 24, 1977. In it, Ambassador Strauss, who certainly does not take a back seat to anyone when it comes to politics, says:

> Politically, something in the way of cargo preference is going to be very hard to resist. Other options don't serve or satisfy the political need, and might even be counterproductive.

What political need? Did Mr. Strauss mean the political need that was established by massive campaign contributions by the maritime special interests?

If that is so, then we are running a "government by poitical pay-off."

I urge this House to reject the special interests, and listen instead to the facts.

Cargo preference will hurt the consumer.

Cargo preference will damage our relations with our friends and allies around the world.

And, above all, cargo preference will cast a dark cloud over this Congress, as the American people begin to realize that they have been sold out to the special interests once again.

Mr. QUILLEN. Mr. Speaker, if I may, I wish to advise the gentleman from Illinois (Mr. MURPHY) that I have five further requests for time.

Mr. Speaker, I yield 1 minute to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, in 1 minute I cannot do very much, but let me begin by saying this:

I may be just one rose among many thorns on this side, but the fact is I have supported this legislation from the time I arrived in Congress. I supported it in the State Legislature in Alaska, and I recall that many of my colleagues supported this legislation in the 93d Congress. In fact, I have the voting list here, if any of the Members would like to go over it.

I think we ought to say one more thing about special interest legislation. There is no legislation that ever passes this House that is not legislation directed to some special interest, be it the Chamber of Commerce, Ralph Nader's group, John Gardner, the farmers, the laborers, the steelworkers, or whoever it may be. All those are special interests. Let us lay that argument to rest. Let us not keep talking about this as legislation for one special interest group.

I think, frankly, it is a disaster for this side to be opposing this rule. It is an open rule. If Members want to vote against the bill, that is their prerogative, but there is nothing wrong with this rule. No Member on this floor can point out anything wrong with this rule. It is the best rule we can possibly have. When Members stand up here and say, "Let us defeat this rule," that is just a political ploy.

By the way, Mr. Speaker, I want to compliment the gentleman from California (Mr. MCCLOSKEY) who opposed this bill in the committee. He has done a very fine job of smoking up the whole issue, and I compliment him on his tactics.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Maine (Mr. COHEN).

Mr. COHEN. Mr. Speaker, I had the privilege of serving with the gentleman from California (Mr. MCCLOSKEY) on the Committee on Merchant Marine and Fisheries, and also during the previous term I served with him on the Committee on the Judiciary.

I came to have a great deal of respect for the gentleman's integrity and for his determination to search out the truth at all costs. In fact, he wrote a book several years ago which made a very great impression on me, and that was entitled "Truth and Untruth in Government."

I have rarely had occasion to speak against an open rule, but I do so today because, as I understand it, this rule comes before the House with an incomplete record. President Carter has promised the people of this country an open administration, and the fact is that he has not allowed his administration to testify on crucial issues.

Mr. Speaker, I think that what is actually at stake in this instance is truth and untruth in Government.

Mr. Speaker, I urge my colleagues to oppose the rule.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. TREEN).

Mr. TREEN. Mr. Speaker and Members of the House, I am one of the members of the committee who voted in the Merchant Marine and Fisheries Committee to report this bill; but I do not think the issue now is the merits of the bill. I think the issue—and it has been put in proper perspective by the gentleman from California (Mr. MCCLOSKEY)—is whether or not this bill is ready for consideration by the Committee of the Whole.

Clearly, Mr. Speaker, on that issue the bill is not ready. Therefore, I intend to vote against the rule.

Further, Mr. Speaker, it seems to me that this is not, or should not be, a partisan issue. All of us in this House, it seems to me, ought to know before we vote on this bill why the Assistant Secretary of Commerce, Mr. Blackwell, says that, at the 9.5-percent level, it will cost $50,000 per sea-going job for this legislation.

Mr. Speaker, we ought to know why the Council of Economic Advisers, in a memorandum prepared by Secretary Blumenthal to the President, says that this bill will actually increase unemploy-

ment and decrease the gross national product. We ought to know why the State Department thinks that this bill is contrary to President Carter's pledge, made at the recent summit meeting in London. to reject protectionism.

We ought to know why the State Department believes that this bill violates U.S. treaties with more than 30 countries.

All of us in this House deserve to have the answers to these and other questions before we act on this bill. For that reason, a vote against the rule is entirely justified. By that vote, we are simply saying that the record is incomplete and that no bill should be considered until that deficiency is rectified.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Speaker, so far as I can remember, in the time I have served in the House of Representatives, I have never voted for a closed rule; and I have never voted against an open rule, no matter how much I opposed the particular legislation it represented. However, on this occasion I intend to vote against this resolution or rule simply because I am old-fashioned enough to believe that when there is a controversy, both sides should be allowed the right of due process so as to put in their evidence.

Mr. Speaker, I hear it said that when Presidential advisers give advice to a President, that should be personal and this should be private; but I do not believe that public office is private property or that public business is a private matter.

The members of the Cabinet do not work for the President. They work for the American people, and it is the duty of those to owe their allegiance, their honesty, and their best judgment first to the American people and to the Members of the Congress.

Mr. Speaker, that argument simply did not hold water in Watergate time, and it does not hold water now.

Mr. Speaker, this is not a partisan issue. I reject wholly, out of hand, any assertion by the Republican National Chairman that this is a partisan issue, that there are Democrats in the House who do not believe in fairness and who do not believe in due process.

Mr. Speaker, we will see from the vote how many Democrats believe in fairness and how many believe in due process.

The gentleman from California (Mr. MCCLOSKEY) did not want anything else in this world than simply the right that any lawyer on one side of the case would have, and that is the right to be given subpenas to bring in the witnesses.

Mr. Speaker, a committee report and hearings before a committee are not the property of that committee. They are the property, ultimately, of the American people; and they are the property of the entire Congress.

When there is brought to us from a committee a record which has an 18-minute gap or any other kind of gap which does not have both sides represented in it, than we have not brought in a proper record and we are not offering a proper rule.

Mr. Speaker, this rule should be voted down and recommitted to the committee so that fairness can be done, not alone to the gentleman from California (Mr. MCCLOSKEY), and not alone to those who honestly disagree about this bill, but for the benefit of the entire public which believes in openness in government.

Mr. Speaker, that is the attitude of the Democrats.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. RUPPE).

Mr. RUPPE. Mr. Speaker, I rise in opposition to the rule on H.R. 1037 because consideration of this legislation at this time violates, in my opinion, the very premise of good government, and that is that those witnesses that have the expertise and the knowledge to testify on the merits of a bill, indeed appear before the authorizing committee, submit their testimony and make themselves available to respond to the questions of those committee members who are present.

This basic test of open and responsive government has failed completely in the case of H.R. 1037.

I say this because there is one basic fundamental rationale for this bill, and that is national security. Yet the administration witnesses never made the national security case before the Committee on Merchant Marine and Fisheries. If those key administrative witnesses cannot or will not appear before the committee membership and address the national security aspects of this legislation then the rule on this bill should be defeated.

Secretary Claytor who appeared befor our committee—and there is serious question as to whether he was testifying on cargo preference or directing his remarks in a more general way to the impact of tanker construction on Navy needs—could not defend the numbers in the bill, acknowledged that he had no knowledge as to how these numbers were derived, and readily testified that he was in no way a participant to these determinations.

I would like to read to my colleagues from the testimony of Secretary Claytor.

I asked the Secretary:

Could you tell me how that number was derived, if you know it, and did the Navy have any part in developing that figure?

Secretary Claytor testified:

No. I assume that it is a judgment figure that was reached by the President, but I was not in on that and I cannot give you any information on that.

I then asked Secretary Claytor:

So it had nothing to do with national security?

Secretary Claytor responded:

I do not want to speculate on what it had to do with.

Then he went on to say:

There may have been some national defense consultation with the Defense Department. I was personally not involved.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

The SPEAKER. The time of the gentleman has expired.

Mr. MURPHY of New York. Mr. Speaker, I would ask the gentleman from Michigan (Mr. RUPPE), this question: When the committee reported the bill out of committee, how did the gentleman vote?

Mr. RUPPE. I voted for the bill. I think, frankly, that there is a lot of logic for the bill. There is a definite rationale for our country to carry a share of its cargoes in American bottoms.

I think a lot of us realize that indeed there is a good case to be made, but the case has to be made on national security grounds, and I do not believe that a case on national security grounds was made by the administration. I think it is a terrible precedent frankly, for the administration, that has the expertise and has the information, not to send its key executives to testify before the Committee on Merchant Marine and Fisheries.

The SPEAKER. The time of the gentleman has expired.

Mr. QUILLEN. Mr. Speaker, I have one more request for time, but, first let me say that the way to kill a rattlesnake is to cut off its head. The way to kill this bill is to defeat the rule.

Mr. Speaker, I urge my colleagues to vote against the rule.

I now yield the balance of my time to the distinguished gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, first let me say to my good friend, the gentleman from New York (Mr. MURPHY), that I have a tremendous amount of respect for the gentleman, and especially for his courage in carrying these unpopular causes. My heart bleeds for him.

Mr. Speaker, let me say that there is something else which must come out during this debate, and hopefully in more detail during the consideration of this bill, if this rule passes, will come out, and that is the political maneuverings which have gone on behind the scenes. Especially, during the last Presidential campaign.

We had before the Committee on Rules a number of editorials, which I invite the Members to read, which have gone into the background on and the commitments made on this legislation.

I have here before me several of these editorials. I just want to read one from the Los Angeles, Calif., Herald-Examiner:

CARTER'S POLITICAL DEBTS

Question: When is a bribe not a bribe?

Answer: When it is a political pay-off to organized labor.

Case in Point: On May 25, 1976, then presidential candidate Jimmy Carter sat down behind closed doors at New York City's Sheraton Hotel, with Jessi Calhoon, president of the National Maritime Engineers Beneficial Association.

During the meetings, Carter personally helped draft a letter of agreement, addressed to Calhoon, promising a federal government program to build up the U.S. Merchant Marine in return for union money and manpower during the election drive.

According to Herald-Examiner Columnist Victor Reisel, "Calhoon noted that Carter went over every word in the projected letter. He edited it personally. Took out this word, and changed that . . . Finally they worked it out."

Calhoon made this letter public on June 10, 1976, just two days after Carter had won the June 8 Ohio primary. Within two months, his union made good on its side of the bargain by contributing about $100,000 in cash to the Carter campaign, including two installments of $25,000 each.

Now President Carter is making good on his side of the bargain—and it is very good indeed.

Over the objection of most of his economic advisers, including Treasury Secretary Blumenthal, Carter is proposing passage by Congress of a special "Cargo Preference Act."

It will require that at least 10 percent of all oil imports must be carried under high cost American-flag tankers. (It costs $14,300 a day to run a 90,000-ton U.S. ship vs. $9,700 for the same size Liberian-flag freighter.) The bill is protectionist special-interest legislation and potentially disruptive to U.S. treaty relations with perhaps 30 other nations.

The additional cost of this bill to American consumers? Approximately $1 billion a year, which figures out to be an excellent return for Calhoon's investment in Carter of the $100,000 pay out of 1,000 to 1.

What is troublesome about this is that Carter, far from being the debt-free politician that some in the media have painted him, is turning out to have a great many IOU's still outstanding, including signed letters of agreement with, among others, the United Transportation Union, calling for massive new subsidies for railroading, and the National Education Association, calling for huge new commitments to public education.

It certainly is hoped that in all of these commitments, the special interest being paid off for political contributions just happens to coincide with the public interest as well.

That, unfortunately, is not at all clear.

I invite the Members' attention to this editorial. I invite their attention to the editorial of the Washington Post of August 2, 1977; the Buffalo Evening News editorial; an editorial by the New York Times, entitled "The Great Shipper Robber," of August 6, 1977, where they allude to these background matters. Other editorials on this matter will be at the desk during the debate.

I know, and the Members know, that if a commitment were made in exchange for this legislation, the country ought to know about it, and this House ought to go into it before it votes on it, because I know we do not want to be a party to carrying out such commitment.

Mr. QUILLEN. Mr. Speaker, would the gentleman from Illinois yield?

Mr. MURPHY of Illinois. Mr. Speaker, I yield to the gentleman from Tennessee.

Mr. QUILLEN. I yield to the gentleman from Virginia.

Mr. TRIBLE. Mr. Speaker, I rise in support of this rule. I will vote for this rule because it allows full and open debate, and will provide the opportunity for this legislation to be considered by this body on its merits. I encourage my colleagues to vote "yes."

Mr. MURPHY of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I am heartened today because I have witnessed what appears to be the return of St. Thomas Aquinas by the postulating of the opponents of this measure in this esteemed Chamber. They are obfuscating the picture by talking about irrelevant contributions from one source or another. Practically every Member receives these contributions except the richer ones who do not need it. Let me tell the Members reference was made to Mr. Jesse Calhoun, with whom I have had controversy and conflict. However, he like any and every other union leader as well as the American people have the right to espouse the reestablishment of the merchant marine in this Nation. The former President of these United States, Richard Nixon, pledged to do exactly that—reestablish the merchant marine. We went through a number of years with little or no improvement. We saw a deterioration, a pronounced diminution of the merchant marine.

Comment was made about the reason or rationale for this bill is national security. Yes. It is in our national security interest to strengthen our merchant marine. Consider the Soviet Union. While this Nation has been neglecting its merchant marine, the Soviets have been bolstering theirs. The result is that in less than 20 years, the expansion has allowed the Soviets to amass the largest commercial fleet in the world. I do not need any testimony from experts to tell me that we need a reliable capacity to ship oil. I know it. Every American knows it. We cannot afford to be susceptible to the whims of foreign nations transporting vital energy supplies. We learned this during the Arab oil embargo. We know of a case when Israel's very security was threatened by Liberia when it refused to transport oil. It should be noted that this is the same Liberia which along with Panama carries over 50 percent of U.S. oil imports.

The argument has been raised that we are setting precedent today. The facts clearly refute this contention. The fact is that 36 nations in the world have some type of cargo preference law or policy ranging from 100 percent levels in Spain to 67 percent levels in France and 50 percent in Japan. What do we seek—a mere 9½ percent by 1982. In light of comparison is this so unreasonable?

There is another aspect—the economic aspect. How about the working people of this country. Even the staunchest of opponents would begrudge the fact that H.R. 1037 means increased jobs. There are intolerably high levels of unemployment among seamen and employees of shipyards. We have a chance to eradicate this problem. How about the American shipbuilders? Do not tell me about American owners—60 percent of whom do not use American-flag ships. Most of them are involved with multinational corporations. They have influence that would astound you and I see it manifested here today—on this floor on this issue.

Mr. McCLOSKEY. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. No. I refuse to yield to the gentleman. I have 3 minutes, and I am going to take them.

We talk about hearings. We went through hearings and even passed a bill in the 93d Congress with 20 and 30 percent of American bottoms. We have compromised. We are asking for 9½ percent. It is disgusting and shameful that even this figure is subject to controversy. Are we to continue the decline of our merchant marine? That is the fundamental issue before us today.

Mr. MURPHY of Illinois. Mr. Speaker, in closing the debate, there have been a number of things said here today that are not facts. One is that there have been insufficient hearings. This bill has been the subject of hearings with ample testimony taken over the last 6 years. The opponents of the rule talk about the rule. This is an open rule. I have seen my colleague, the gentleman from Illinois (Mr. ANDERSON), and my colleague on the Committee on Rules, get down in the well of the House here the last month or so and criticize the Committee on Rules for a modified closed rule, and today we bring him an open rule after 6 years of hearings, and, he and they, still complain.

The gentleman also spoke about Halloween. I remember as a youngster Halloween was a time when people wore costumes to disguise what they were really doing. Yes, hide their real motives.

We have heard some charges here today that are totally irrelevant and false. I would like to read to my colleagues some of the words I just wrote down during the debate, strange words coming from the other side of the aisle: political maneuvering, bribes, tricks, Kleindienst, integrity, and Nixon, old ghosts brought out to defeat this rule.

There are a lot of ways to kill a rule, an open rule, Mr. Speaker, as the Members well know. One of those is to drag into this Chamber everything that is not at issue. That has been done here today.

We have heard testimony here today about subpena. There was a subpena requested by the minority, and as the rules of the House require, the request for the subpena was voted on by the committee and defeated. That procedure was according to the rules of the House.

Do not be fooled by all the names and ghosts brought up here today. The other side brought up the words "bribes, political maneuvering, tricks, and Kleindienst and Nixon" to defeat the rule and deprive the House of open debate on the bill.

I urge my colleagues to vote "yes" on this rule and I move the previous question on the resolution.

The SPEAKER. Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 249, nays 167, answered "present" 1, not voting 17, as follows:

[Roll No. 669]

YEAS—249

Addabbo	Ford, Mich.	Nowak
Akaka	Ford, Tenn.	Oakar
Alexander	Fountain	Oberstar
Ambro	Fowler	Obey
Anderson, Calif.	Fraser	Ottinger
	Fuqua	Patten
Andrews, N.C.	Gammage	Patterson
Annunzio	Gaydos	Pattison
Applegate	Giaimo	Perkins
Ashley	Ginn	Pickle
Aspin	Gonzalez	Pike
AuCoin	Gore	Preyer
Badillo	Gudger	Price
Baldus	Hall	Pritchard
Baucus	Hamilton	Rahall
Bauman	Hanley	Rangel
Beilenson	Harris	Reuss
Benjamin	Hawkins	Richmond
Bennett	Hefner	Rinaldo
Bevill	Heftel	Risenhoover
Biaggi	Hightower	Rodino
Bingham	Holland	Roe
Blanchard	Hollenbeck	Rogers
Boggs	Holtzman	Roncalio
Boland	Horton	Rooney
Bolling	Howard	Rose
Bonior	Hubbard	Rosenthal
Bonker	Hughes	Rostenkowski
Bowen	Jenkins	Roybal
Brademas	Jenrette	Runnels
Breaux	Johnson, Calif	Russo
Breckinridge	Jones, N.C.	Ryan
Brinkley	Jones, Tenn.	Santini
Brodhead	Jordan	Satterfield
Brooks	Kazen	Scheuer
Brown, Calif.	Kildee	Seiberling
Buchanan	Kindness	Sharp
Burgener	Krebs	Shipley
Burke, Calif.	LaFalce	Sikes
Burke, Mass.	Le Fante	Simon
Burton, John	Lederer	Slack
Burton, Phillip	Leggett	Snyder
Byron	Lehman	Solarz
Carney	Livingston	Spellman
Carr	Lloyd, Calif.	Spence
Cavanaugh	Lloyd, Tenn.	Staggers
Cederberg	Long, La.	Stark
Chappell	Long, Md.	Steed
Chisholm	Lott	Stokes
Clay	Luken	Stratton
Cornell	Lundine	Studds
Cotter	McFall	Thompson
Cunningham	McHugh	Thornton
D'Amours	McKay	Traxler
Daniel, Dan	Maguire	Trible
Daniel, R. W.	Mann	Tsongas
Danielson	Markey	Tucker
Davis	Marlenee	Ullman
de la Garza	Mathis	Van Deerlin
Delaney	Mattox	Vanik
Dellums	Meeds	Vento
Derrick	Meyner	Volkmer
Dicks	Mikulski	Waggonner
Dingell	Mikva	Walsh
Downey	Miller, Calif.	Wampler
Duncan, Oreg.	Mineta	Waxman
Early	Minish	Weaver
Eckhardt	Mitchell, Md.	White
Edwards, Ala.	Moakley	Whitehurst
Edwards, Calif.	Moffett	Whitley
Edwards, Okla.	Mollohan	Whitten
Eilberg	Montgomery	Wilson, Bob
English	Moore	Wilson, C. H.
Evans, Colo.	Moorhead, Pa.	Wilson, Tex.
Evans, Ind.	Moss	Wirth
Fary	Murphy, Ill.	Wright
Fisher	Murphy, N.Y.	Yatron
Fithian	Murphy, Pa.	Young, Alaska
Flippo	Murtha	Young, Mo.
Flood	Myers, Michael	Young, Tex.
Florio	Nedzi	Zablocki
Flowers	Nichols	Zeferetti
Flynt	Nix	
Foley	Nolan	

NAYS—167

Abdnor	Gibbons	Myers, John
Allen	Gilman	Natcher
Ammerman	Glickman	Neal
Anderson, Ill.	Goodling	O'Brien
Archer	Gradison	Panetta
Armstrong	Grassley	Pease
Ashbrook	Guyer	Pettis
Badham	Hagedorn	Poage
Bafalis	Hammer-schmidt	Pressler
Barnard		Pursell
Beard, R.I.	Hannaford	Quayle
Beard, Tenn.	Hansen	Quie
Bedell	Harkin	Quillen
Blouin	Harrington	Railsback
Broomfield	Harsha	Regula
Brown, Mich.	Heckler	Rhodes
Brown, Ohio	Hillis	Roberts
Broyhill	Holt	Robinson
Burke, Fla.	Hyde	Rousselot
Burleson, Tex.	Ichord	Rudd
Burlison, Mo.	Ireland	Ruppe
Butler	Jacobs	Sarasin
Caputo	Jeffords	Sawyer
Carter	Johnson, Colo.	Schroeder
Clausen, Don H.	Jones, Okla.	Schulze
	Kasten	Sebelius
Clawson, Del	Kastenmeier	Shuster
Cleveland	Kelly	Sisk
Cochran	Kemp	Skelton
Cohen	Ketchum	Skubitz
Coleman	Keys	Smith, Iowa
Collins, Tex.	Kostmayer	Smith, Nebr.
Conable	Krueger	St Germain
Conte	Lagomarsino	Stangeland
Conyers	Latta	Stanton
Corcoran	Leach	Steers
Coughlin	Lent	Steiger
Crane	Levitas	Stockman
Derwinski	Lujan	Stump
Devine	McClory	Symms
Dickinson	McCloskey	Taylor
Dornan	McDade	Thone
Drinan	McDonald	Treen
Duncan, Tenn.	McEwen	Udall
Edgar	McKinney	Vander Jagt
Emery	Madigan	Walgren
Erlenborn	Mahon	Walker
Ertel	Marks	Watkins
Evans, Del.	Marriott	Wiggins
Evans, Ga.	Martin	Winn
Fascell	Mazzoli	Wydler
Fenwick	Michel	Wylie
Findley	Milford	Yates
Fish	Miller, Ohio	Young, Fla.
Forsythe	Mitchell, N.Y.	
Frenzel	Moorhead, Calif.	
Frey		
Gephardt	Myers, Gary	

ANSWERED "PRESENT"—1

Cornwell

NOT VOTING—17

Andrews, N. Dak.	Dodd	Mottl
	Goldwater	Pepper
Collins, Ill.	Huckaby	Teague
Corman	Koch	Weiss
Dent	McCormack	Whalen
Diggs	Metcalfe	Wolff

The Clerk announced the following pairs:

On this vote:

Mr. Dent for, with Mr. Koch against.

Mr. Huckaby for, with Mr. Weiss against.

Mr. McCormack for, with Mr. Teague against.

Until further notice:

Mr. Wolff with Mrs. Collins of Illinois.

Mr. Pepper with Mr. Corman.

Mr. Mottl with Mr. Metcalfe.

Mr. Diggs with Mr. Dodd.

Messrs. HORTON, BAUCUS, and EDWARDS of Oklahoma changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FOURTH REPORT OF THE UNITED STATES SINAI SUPPORT MISSION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–246)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit herewith the Fourth Report of the United States Sinai Support Mission. It highlights the Mission's operation of the United States early warning system in the Sinai and the relationship of the system to the overall disengagement arrangements of the Agreement signed by Egypt and Israel on September 4, 1975—the Sinai II Agreement. This report is provided to the Congress in conformity with Section 4 of Public Law 94–110 of October 13, 1975.

Since the beginning of operations on February 22, 1976, there have been no serious intrusions into the area of the early warning system by either party. Some 40 minor or accidental intrusions have been detected and reported to both sides and to the United Nations, but none of them appears to have had any hostile purpose.

The Director of the Sinai Support Mission raised with senior Egyptian and Israeli officials the Congressional interest in the feasibility of substituting nationals of other countries for some of the Americans working in the Sinai. They expressed strong opposition to this proposal as, in their view, such a change would create difficult problems for their governments and risk upsetting arrangements which are now working to their complete satisfaction. Both parties continue to make clear their full support for the role of the United States in maintaining the disengagement arrangements in the Sinai.

At a time when we are engaged in intensive discussions to help Israel and the Arab states make further progress in the search for a lasting peace, it is essential that the United States meet fully its commitments under the Sinai II Agreement. The Sinai Support Mission is an important element in meeting these responsibilities, and I urge the Congress to continue its support for this peacekeeping mission.

JIMMY CARTER.

THE WHITE HOUSE, *October 19, 1977.*

ENERGY TRANSPORTATION SECURITY ACT OF 1977

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1037) to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. MURPHY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 1037, with Mr. UDALL in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New York (Mr. MURPHY) will be recognized for 1 hour, and the gentleman from Michigan (Mr. RUPPE) will be recognized for 1 hour.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, regrettably, we must replow the ground that we plowed partially in the debate on the rule.

Mr. Chairman, I take the well today to discuss a very important, but unnecessarily controversial piece of legislation, "the Energy Transportation Security Act of 1977." Very simply, this measure would require that between only 4½ percent and 9½ percent of all petroleum and petroleum products imported into the United States would go in U.S.-flag vessels. One may wonder why these peculiar percentage numbers. At present, we are carrying only a shocking 3 percent of our national energy requirements in U.S.-flag vessels and the rest, or 97 percent, is coming into the United States in foreign-flag bottoms.

This legislation has been before us in three Congresses, the 92d, 93d, and 95th. In the prior Congresses, the legislation would have required 20 percent escalating to 30 percent to be carried in U.S.-flag bottoms. This was scaled down to the present 4½ to 9½ percent by the administration which supports this cargo equity measure. In other words, import requirements in U.S.-flag vessels will commence at 4½ percent and escalate 1 percent per year up to 9½ percent. I submit that this is a truly modest figure for such an important matter as the transportation facilities available to carry our necessary and vital energy supplies.

Despite this scaling down from 30 percent to 9½ percent maximum, in this Congress, this legislation, Mr. Chairman, in the past several month has generated more opposition, vituperation and a constant drumfire of opposition in the media to an extent I have never before witnessed in all my years in the Congress. What is behind this massive media opposition and the onslaught on this legislation which frequently wanders far beyond the four corners of the legislation itself? Well, to a large extent it is generated by the multinational oil companies that are opposed to this measure because they carry their products into the United States in substandard foreign-flag vessels manned by low-wage foreign seamen. It is also opposed by these foreign-flag interests.

I would say to my colleagues that I do not stand before you here in the well today to push something that is wrong. Just the opposite, I am here urging your support for a measure that is in the national interest of the United States and which will contribute to our necessary maritime capability. The personal attacks I have been under the past several weeks from the media and even from a colleague opponent of the legislation in committee might lead someone to believe that I am espousing something that is wrong or bad for us. Just the opposite is true.

As chairman of the House Merchant Marine and Fisheries Committee, I am obligated to preserve the U.S.-flag merchant fleet which is necessary for the commercial and economic well-being and for defense purposes of the United States. Unfortunately, as we all know, U.S.-flag capability has fallen to a low state to the point where our fleet has dwindled from a World War II high of 5,000 merchant vessels to a paltry 570 vessels at the present time and our maritime labor force has shrunk to a dangerous level of only 20,000 or 30,000 employed maritime jobs.

This lack of maritime hardware and trained maritime personnel is so dangerous to our national security that it seems to me to be beyond question.

What then must be done to reverse this unfortunate trend and raise our maritime capability to a higher level? The answer is not simple and there is no single or easy solution. Obviously, many of us have different ideas as to how this should be done. Under my responsibility as chairman of the Merchant Marine and Fisheries Committee, I am attempting to get at the problem as expeditiously as possible and in the ways that seem best to me, and best as indicated by voluminous hearings and the record.

This leads us to the cargo equity principle. Most experts in the maritime field feel this is the way to go. Our hearing record over three Congresses and 36 days of hearings indicates that this is so, and the majority of the Merchant Marine and Fisheries Committee, in a bipartisan vote of 31 to 5, felt that this was the proper way to go. That is why I appear here in the well before you today, and that is why I believe that the Members will support H.R. 1037.

I would point out to my colleagues that the problem requiring this cargo equity solution is just one small manifestation of a gnawing, growing malaise eating into and eroding the economic vitality of the Nation. The legislation I am speaking for today relates to the encroachment by low-cost foreign labor and substandard foreign equipment into an area traditionally held by U.S. Maritime interests. I am saying that at one time we carried 50 percent of our petroleum imports in U.S.-flag vessels and that this has dwindled down to a dangerous and ludicrous 3 percent. All the rest—97 percent—is carried by substandard foreign equipment manned by low-wage foreign workers. The result: loss of jobs for American workers, loss of business for American entrepreneurs and our commercial and national security interests being cast in jeopardy.

It pains me greatly that I must stand before you today and say that this is a critical problem gnawing directly at the vitals of the maritime industry and indirectly at the vitals of the Nation. However, it pains me even more that this is only one manifestation of the sickness that is prevalent in many other areas such as the steel industry, the shoe industry, the textile industry, the electronics industry, and sporting goods industry.

I say to my colleagues from Pennsylvania and Ohio and West Virginia and all other States of the Nation with related industries depending on the steel industry, that our problem in the merchant marine that I am attempting to solve by H.R. 1037 is the same problem you are presently laboring under with respect to the contracting steel industry resulting in layoffs in all your major steel producing areas.

Just recently we have become aware that 5,000 employees have been laid off in Youngstown, Ohio, by the Youngstown Sheet & Tube Co.; 600 employees of Armco Steel Corp. in Ohio; and 350 United States Steel Corp. workers in Youngstown and Pittsburgh have been laid off. In addition, 3,000 workers in the Inland Steel South Chicago works and 4,000 at Bethlehem's Lackawana, N.Y., plant and others in flood-ravaged Johnstown, Pa., have joined the ranks of the unemployed, together with 5,000 Zenith—electronics—employees. These are just a few of the mounting army of laid off employees in the steel and other industries. These are facts. I have not made them up and there is every indication that this catastrophic trend will continue and spread not just in the steel industry but in all the related industries and the other industries which I mentioned above.

What is the cause of this tragic situation? Obviously, it is not a simple matter and the causes are many such as obsolete facilities, overcapacity, and rising labor costs. However, the main causes, as we all know, and must face, are dumping by foreign steel and electronics interests such as Japan resulting in a rising tide of imports at predatory prices. As with our problem in the maritime industry with respect to imports of our oil being carried in foreign-flag vessels, similarly, the steel industry is suffering from dumping by foreign steel producers which is produced by foreign workers at a lower cost because they have a lower standard of living. These same reasons apply to the electronics industry, the sporting goods industry, and textile industry and the shoe industry.

This is the problem we are facing.

Against this catastrophic background, we find, in response to our problem, that we are told that our solution of a modest 4½ to 9½ percent cargo equity principle is fallacious and no good because it is a protectionist device. The main opponent of this legislation in committee, has continuously made the State Department's point, that cargo equity is a protectionist device which will invite retaliation and hence should not be passed. In other

words, the other opponents of this legislation would have us lie dormant and be ravaged by foreign business interests and do nothing to protect ourselves. For if the opponents of this principle are opposed to this protectionist device they will be opposed to import restrictions or tariffs in the steel industry, in the shoe industry, in the textile industry, in the sporting goods industry, in the electronics industry, and with respect to agricultural products, and they will be opposed to any other so-called protectionist device in any other industry which might operate for the benefit of the American worker and to help the American businessman.

How can the opposition seriously speak of retaliation when these low-wage foreign nations are undercutting U.S. unmercifully in all our basic industries? The opponents of H.R. 1037 cannot be opposed to this principle today and for an import quota or a tariff for steel next week, or for another device which might help the American worker and businessman the following week in the electronics industry, or the shoe industry, or the textile industry, or for agricultural products. The opponents of this principle are striking not just at the maritime industry and this very modest cargo preference percentage which goes only a little way down the road to helping our maritime industry, but are lashing out against the American worker and the American businessman in all other American industries which are falling victim one by one to cheap foreign labor and substandard foreign hardware and industry. I call upon my colleagues representing U.S. workers and industry the length and breadth of the country to join with me in support of H.R. 1037 which is supporting all U.S. workers and all U.S. industry. It is absolutely vital and necessary that we band together in support of this legislation and in support of any principle which will protect the American worker and the U.S. businessman.

Make no mistake about it, if the opposition and their foreign consorts abort our collective efforts to protect the U.S. maritime employee and businessman in H.R. 1037 against low-wage and substandard foreign competition, then they will have set the stage for defeating any efforts by this body to protect the American laborer and businessman in the steel, textile, shoe, sporting goods, electronics industries, and, in fact, in all our industries.

This vital legislation is so important because it has several fundamental purposes:

As mentioned above, a basic purpose is that it would strengthen the national security posture of the United States by reducing this Nation's nearly total dependence on foreign-flag vessels for the carriage of America's energy imports. The United States imports over 50 percent of its oil requirements and approximately 97 percent of U.S. oil imports are transported on foreign-flag vessels over which the United States has no real control. The enactment of this legislation will decrease our dangerous dependency on foreign vessels by assuring that U.S.-flag tankers are no longer squeezed out of the international oil trade by the multinational oil companies that own, operate, and control the foreign-flag-of-convenience vessels that carry over 50 percent of U.S. oil imports.

Equally important, this legislation will result in significant benefits for the United States. The increased utilization of U.S.-flag vessels in the carriage of our oil imports will improve the U.S. balance-of-payments position by reducing the dollar outflow for foreign shipping services. The construction, operation, and repair of U.S.-flag vessels to carry the allocated share of oil imports will generate employment in the maritime industry, insure that existing jobs in the maritime and related service industries will be preserved, and assist in maintaining our shipbuilding industrial base.

In addition, the employment of American workers and the use of American vessels will generate individual and corporate tax revenues. Today, the construction, operation, and repair of foreign vessels by the multinational oil companies for the carriage of U.S. oil imports deprives American workers of much needed employment opportunities and robs the Treasury of much needed tax revenue.

Finally, the use of American vessels for the carriage of a greater portion of U.S. oil imports will serve to afford the greatest measure of protection to the marine environment. U.S. vessels are built and operated in accordance with stringent Government standards, unlike the foreign-flag-of-convenience vessels such as the *Argo Merchant* which were involved in a series of serious pollution incidents earlier this year.

As introduced, H.R. 1037 would have generally required that from 20 to 30 percent of our oil imports be transported on U.S.-flag merchant vessels. It was essentially the legislation that passed the House of Representatives on May 8, 1974, by a vote of 266 to 136. I note that of the 266 affirmative votes, 72 were cast by the minority party. Thereafter, that legislation was pocket-vetoed by former President Ford on December 30, 1974. President Ford indicated that despite his veto of that legislation, he did not object to cargo preference in principle and was willing to sign an appropriately drafted bill.

H.R. 1037, as reported by the Merchant Marine and Fisheries Committee, has been amended to reflect the support of President Carter. The most significant amendment is the reduction in the percentage amounts of imported oil to be transported in U.S.-flag commercial vessels from 20, 25, and 30 percent to 4½ to 9½ percent, increasing by 1 percent increments over 5 years.

Mr. Chairman, the committee supports the bill for the reasons just mentioned and the opponent of the bill attempts to subvert the more significant of these purposes. For example, he argues:

One. Although a main reason for support of the bill is national security, the Defense and State Departments do not support the bill on national security grounds.

Two. This legislation would create additional jobs. The opponent argues that the Counsel on Economic Advisers has indicated that it would reduce both the national employment and the GNP.

Three. The State Department previously testified that the bill's language would violate a number of treaties of friendship, commerce, and navigation with our treaty partners.

I would like to answer each of these attempts to undermine the positive aspects of this bill since they are wrong and lack substance or merit.

First, one of the principal rationales for the bill is national security and it is incorrect for the gentleman from California to leave the false impression that the Department of Defense did not testify on this 4½ to 9½ percent cargo equity principle or does not support it on these grounds. Secretary of the Navy Claytor specifically testified on H.R. 1037—the cover page of his testimony so stipulated—before the Merchant Marine and Fisheries Committee on July 13, 1977, and stated in this regard:

> I would like to concentrate my preliminary remarks on two areas of concern to the Navy. First, the potential impact of increased tanker construction on the Navy shipbuilding program as a result of cargo preference legislation; and second, the value of the Department of Defense of having U.S.-flag ships involved in American shipping in preference to foreign vessels.

He then went on to conclude as follows:

> Certainly U.S.-flag ships when owned and operated by U.S. citizens, are likely to be more responsible to national emergencies. However, current U.S.-flag tonnage by itself, is inadequate to satisfy both defense and commercial needs in the event of war or national emergency; any increase in U.S.-flag ships will obviously improve this situation.
>
> In summary, the administration plans to increase the percentage of petroleum imports carried by U.S.-flag tankers to 9½ percent over the next five years plainly would not overtax the U.S. shipbuilding industry; it would strengthen the Nation's mobilization base; it is compatible with the Navy's own shipbuilding needs; and it contributes to our national defense needs.

I would just like to repeat Secretary Claytor's final words that the cargo equity principle embodied in H.R. 1037 "contributes to our national defense needs."

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to my colleague, the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, at that particular July 13 hearing, is it not a fact that when the gentleman opened the hearing we welcomed to the committee not only the Honorable W. Graham Claytor, Jr., the Secretary of the Navy, but also Vice Adm. C. R. Bryan, commander, Naval Sea Systems Command; his Special Assistant for Shipbuilding, Rear Adm. Edward J. Otth, Jr.; and from the Office of the Chief of Naval Opera-

tion Vice Adm. J. H. Doyle, Jr. and Vice Adm. Edward W. Cooke? Is it not a fact that the gentleman stated flatly that the President supported this legislation? The gentleman opened his remarks and stated that the Chief of Naval Operations in his annual posture statement has indicated that naval superiority required the U.S. national security be assured that we would have the balance of maritime superiority in our favor, and that was testimony that had just been given over in the other body. And is it not a fact that the gentleman also quoted the statement of the President at that time?

Mr. MURPHY of New York. Mr. Chairman, that is true, and I thank my colleague for bringing it out. I think it is pertinent to mention that at the 30-percent level, as the bill originally called for, the industrial base of America would have been impacted and the cost of building tanker-fleet units would have risen. That accounted for the hesitation of the Defense Department in their total support of the 30-percent level. On the other hand, they said that at the 9½-percent level there would be no increase in the construction of the fleet units vital to our national security and that having American-manned strategic oil tanker vessels was vital.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield further?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, is it not a further fact that when this idea first surfaced we were not necessarily looking at tankers or any particular kind of ships? We were trying to develop some cargo capacity to be carried on the ships to be constructed under the 1970 Merchant Marine and Shipping Act. Is it not a fact that we finally came down on a bill in the early 1970's that would have required 50 percent of all our minerals and tanker products to be carried in American bottoms destined for American ports? Is that not the thing that originally stimulated some of the State Department opposition and, subsequently, we evolved down to 30 percent and now we are down to the 9½ percent in this bill?

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield for a limited period of time. The gentleman does have an hour on his side.

Mr. McCLOSKEY. I will be glad to yield some time back to the gentleman.

Mr. Chairman, I think the most beneficial aspect in this debate is to lay the groundwork for where we are trying to go. I share the gentleman's concern for a stronger U.S. merchant marine and particularly a large tanker fleet. It is helpful to the Department of Defense; but is it not true if this bill is enacted the only tankers that come under U.S. flags will be those that come under 200,000 deadweight tons or more? Is that not the gentleman's expectation?

Mr. MURPHY of New York. No, I think the gentleman should read the bill and understand it, because the question indicates to me that the gentleman feels only crude imports will come into the United States. All petroleum derivatives are covered by the legislation. All petroleum and petroleum products. The problem as it exists is that it is not just the imports of crude. It is imports of products, because the oil-producing countries have constructed refineries and related stream factories, so that they will be shipping to us distillates, gasoline, and other petroleum products.

The gentleman knows just as well as I do that no American port can take ships larger than 90,000 tons. The gentleman knows that the refinery areas in America and the depots for residual fuels and for gasoline will only accommodate vessels of 40,000, 50,000, and 60,000 tons. Therefore, we will have it across the board for different types and sizes of vessels.

Mr. McCLOSKEY. Mr. Chairman, if the gentleman will yield further, can the gentleman give some indication of how many ships the gentleman anticipates will come under U.S. flags and what respective sizes between now and 1932 to carry this additional 5½ percent?

Mr. MURPHY of New York. I cannot give the gentleman a definitive answer at this time, but we do known that we are talking about a deficit of between 4 and 6 million deadweight tons in the time frame mentioned. The world market in petroleum products is going to change vastly in the next 5 years. It has to move rapidly from 4½ to 9½ percent, with the need for the different types of ships arriving at different American ports.

Let us say the successful development of the loop proposal for Louisiana and sea dock for Shreveport, Tex., all have a direct bearing on the size and types of those vessels; but we do know there is existing tonnage today under the 1970 act to absorb this 9½ percent and probably by 1981 or 1982 we would then start into the ship construction program.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield further?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, our colleague on the right, the gentleman from California (Mr. McCLOSKEY), has indicated that the gentleman supports the redevelopment of the capacity of the U.S. merchant marine. Of course, we both served on the Committee on Merchant Marine for the last dozen years. So the gentleman is well aware, I am sure, I say to the gentleman from California (Mr. McCLOSKEY), that the 1970 Shipping Act really has not worked well. We are only building a preliminary amount of ships. We have now some 695 million tons of shipping going to and from American ports. Out of that 695 million tons there is only 31 million that moves in American bottoms, so the thing that naturally comes to mind to the chairman and to myself is how do we build some more cargo? We have thought, for instance, the mineral area was an area where the value of the commodity was rising very rapidly and they could absorb an additional shipping charge in that area very easily and it would only raise the price of the commodity a very small fraction of the amount that is going to be escalated.

So the question I would like to ask the gentleman is, What is his solution for building up the American merchant marine that he says he fully supports and wants to build up?

Mr. McCLOSKEY. My objection to the bill, as the gentleman knows, is the concern of violation of treaties and turning away from our leadership in free trade—my primary objection. It has been my thought that the reason for this 57 percent of all tanker carriage that is in Liberian, Panamanian, and foreign-flag vessels, the reason it is under foreign flag is because our tax laws have, up until now, rewarded the companies who put their steamships under foreign flag, and our labor costs have been noncompetitive.

It seems to me that one alternative is to remove the incentive to put ships under foreign flag by removing the tax benefits, and it is my understanding that there is a tax force of the Ways and Means Committee which has proposed to remove these tax benefits so that there would no longer be available to American owners of foreign-flag ships these tax benefits. As I understand it, there is no one on our committee who would oppose such a change in the tax law. If that could be accomplished and those U.S. shipowners do voluntarily bring their ships under the U.S. flag, we would accomplish the same result without violating any treaties.

That is the first objection, and as the gentleman knows, I do not think we ever had any debate on that in committee. The reason I urged defeat of the rule was because I do not think we ever honestly considered alternatives to cargo preference. This is the bill the chairman wanted passed. He had every right to expect that it would be passed. It passed overwhelmingly three years ago, but what has changed in this 3 years? Has Mr. Blackwell's opinion changed? He said this is the worst thing we could do, admit failure of the 1970 act, that our merchant marine could not become competitive.

Mr. MURPHY of New York. I am going to decline to yield at this point until I have laid the basis for our argument, because much of what we are saying now will be answered clearly for the record. I will yield further a little bit later.

Mr. LEGGETT. Mr. Chairman, would the gentleman yield for 30 additional seconds?

Mr. MURPHY of New York. I yield for 30 seconds.

Mr. LEGGETT. It is true that Mr. Blackwell at one time was looking forward to the 1970 Merchant Marine Act being successful, but that was several years ago. Things have happened since that time. We have not expanded; we have not blossomed; we have not been able to pass legislation the gentleman is talking about.

The only thing before us at the present time is the cargo preference bill to make

this modest inroad, to try to raise that 4½ percent of our cargo to maybe 5 percent, and this dramatic step is being blocked every inch of the way by Gulf and Exxon and Standard and all of the big oil corporations that are gutting the American people, that are supporting the gentleman's position.

Mr. McCLOSKEY. Would the gentleman yield for just one question?

Mr. MURPHY of New York. I yield for a question.

Mr. McCLOSKEY. I know that my colleague from California did not mean to suggest that I was the tool of the oil companies. So far as I know, they have never supported me.

Mr. LEGGETT. The gentleman is certainly not usually the tool of the oil companies.

Mr. McCLOSKEY. The question I want to address the chairman is this: If we take Mr. Blackwell's testimony 3 years ago as correct, that the basic cargo preference was to admit that the 1970 act was a failure, the question I want to ask is, if we are going to proceed to this new method of protection to build a cargo preference fleet, should we not then end the 1970 construction subsidies for oilers? In this bill, the tankers that are going to be built will not receive construction subsidies. If in passing this bill we recognize the failure of the 1970 act, should we not then terminate the, I think, $170 million we appropriated this year? Should we not consider that as part of the period?

Mr. MURPHY of New York. I think I will respond to the gentleman by saying this: The 1970 act was partially successful. The purpose of the 1970 act was to establish a business device or goal, if you will, so that we could build 30 ships a year for 10 years, and add 300 units to our beleaguered fleet. We considered that that would be dry cargo units added to the American flag merchant marine. An atmosphere of need existed because of a recession here, because of very high interest rates, because of a lack of cargo and a lack of cargo in those areas necessary for the American merchant marine.

There was no investment confidence. At no time did we approach the 30 ships per year. In their wisdom, two maritime administrators deviated, really, from the intent of the act, and permitted some liquid natural gas vessels and some very large bulk carriers to be constructed for some other tanker vessels, and I think those decisions were necessary at the time if we were to continue the building program. But the relevance of the 1970 act and what we are doing today, I frankly do not see.

I am not going to yield further until I finish this statement.

I think we have laid clearly on the record that the Defense Department and the Secretary of the Navy support this bill on vital national security grounds.

In light of this clear testimony from the Secretary of the Navy how can the gentleman from California continue to contend that the Department of Defense did not testify on H.R. 1037 or does not support the bill and that it does not support it on national security grounds. It is obvious that the Department of Defense did in fact testify on H.R. 1037 and does support H.R. 1037 on national security grounds.

In addition, the gentleman from California in markup in full committee offered an amendment which was accepted by the committee adding the following words to the bill relating to vessels in this petroleum carriage,

(b) Have been certified by the Secretary of the Navy as suitable for economical and speedy conversion into a naval or military auxiliary or otherwise suitable for the use of the United States Government in time of war or national emergency.

The words of the gentleman's own amendment make it abundanty clear that the vessels that will be used in this carriage of petroleum products imported into the United States under this bill will be made suitable for Navy use in time of war or national emergency. For the gentleman to continue to contend that the bill does not have national security purposes in light of the words of his own amendment boggles the mind.

I would like to make one further point to the Members in this connection. I note with interest and alarm and draw your attention to a New York Times article dated August 2d citing Pravda, the Soviet Communist Party organ, proposing that,

Oil producing countries seek Soviet help in developing their maritime capabilities . . . to make themselves more independent of their "imperialistic customers" by acquiring their own fleets of oil tankers.

The New York Times story further noted:

Soviet interest in cooperating with the fleets, dockyards and other maritime facilities of developing countries, particularly those ringing the mediterranean sea, has increased markedly in recent years. One of the benefits that has accrued to the Soviet Union has been the availability of certain port facilities for Soviet ships in return, including warships.

These words are right from the Soviet Communist Party organ and it is clear what their intent is. Our committee believes it is essential to the future security of this Nation to have a sufficient number of naval and merchant marine vessels capable of meeting any Soviet and Third World threat. Our colleague from California apparently would block this legislation which is necessary to our national security in view of the patent intention of the Soviet Union clearly stated by the Communist Party organ, Pravda. It is clear to everyone but the opponent of H.R. 1037 that we are presently in a dangerous and precarious posture with 97 percent of our vital petroleum supplies being dependent on foreign transportation. This bill would reduce this dependence at least to some extent.

Another contention raised by the opponent is, that reportedly The Council of Economic Advisers has indicated that the legislation would reduce both national employment and GNP is based on a memorandum dated June 17 from the Secretary of the Treasury, as Chairman of the Economic Policy Group, to the President. In this purloined memorandum various options are forwarded and the pros and cons of each option are considered. In the con section of the options for modified cargo preference, it was stated that the Economic Policy Group estimates the net impact on the economy as a whole would be a decrease in total employment and GNP. This, of course, was stated when the bill itself spoke in terms of 20 and 30 percent cargo preference and not the present 4½- to 9½-percent rates. In addition, this statemcnt is predicated on the annual cost estimated at $233 to $284 million depending on the level of oil imports, in 1985 and the final form of the wellhead tax. This premise is entirely negated by the testimony of the administration witness to the effect that cost would be one-tenth of 1 cent per gallon or $110 million a year and by the independent study by the GAO that the cost would be roughly two-tenths of a cent per gallon or $240 million. This is a far cry from the range upon which the Secretary of the Treasury bases his opinion. This statement is totally speculative not only because of the faulty cost premise but because no one at this time knows the final situation regarding wellhead tax.

This argument that the cargo equity principle wold reduce national employment and the GNP is completely unsupported by the record and the administration witness has testified to the contrary and this statement in the memorandum is based on unknown and incorrect premises as I have just discussed.

The contention that the language of the bill would violate a number of treaties of friendship, commerce and navigation with our trading partners is completely without merit. I note that the opponent of this legislation inserted a letter dated July 22, 1977, in the record at the committee's July 29, 1977, hearing This letter was to the Under Secretary of State for Economic Affairs and was sent on behalf of the Governments of Belgium, Denmark, Finland, the Federal Republic of Germany, Greece, Italy, Japan, The Netherlands, Norway, Sweden, and the United Kingdom. The thrust of this letter was to complain to the State Department about this alleged move by the United States in the direction of protecting its shipping policy.

A check of the vote several years ago on the UNCTAD code of liner conferences indicates that 6 of these 11 complaining nations either signed the UNCTAD or did not vote against it. The main provision of the UNCTAD code was to establish a cargo sharing system of 40–40–20 whereby the two trading partners would carry 40 percent of the trade of the cargo in that particular trade and the 20 percent would be left to third-flag carriers. It is beyond argument that this was a protectionist device, and yet 6 of these 11 nations now complaining about our move to reserve a small portion of oil imports on U.S. vessels did not vote against the UNCTAD code which would provide a 40–40–20 cargo sharing protectionist device.

Thus, the committee was confronted with this argument of violation of treaties of friendship, commerce and

navigation and possible retaliation by foreign nations, and the insertion of this July 22d letter complaining about the United States merely moving to carry a paltry 4½ to 9½ percent of its oil imports in U.S.-flag vessels while over half, 6 of the 11 signatory nations either voted for or did not vote against the UNCTAD code—espousing a 40–40–20 protectionist device. In light of these facts, their complaint is a sham and no credence whatsoever can be placed on the question of violations of treaties of friendship, commerce and navigation and of the notion of retaliation by foreign nations, when a majority of these principal maritime nations have already voted in an international forum to support a much stronger protectionist device. I note that of the maritime nations participating, 72 voted for the UNCTAD code and only 7 countries voted against it. In other words, almost all the countries voted for this protectionist cargo sharing system. How, then, can they now complain about our modest cargo equity device?

In addition, all of these treaties are subject to an exception usually explicit when a measure is taken in the interest of national security. Thus, as a national security measure, H.R. 1037 does not violate the treaties. Also, the treaty provisions have been observed more in the breach than otherwise. Many of the signatories have cargo preference laws. Others obtain the same result administratively. In addition, H.R. 1037 is no more violative of these treaties than existing cargo preference laws such as United States-U.S.S.R. maritime agreements and bilateral shipping agreements between certain United States shipping lines and some Latin American nations.

As a final point, I would like to point out the tremendous philosophical inconsistency of the principal opponent of H.R. 1037. In all his statements in every forum available to him he has attacked the cargo equity principle on the basis that it is a protectionist device. And yet, mind you, our colleague sent me a letter dated September 2, 1977, indicating his support for closing the liner conference system governing our steamship operators. At the present time, our liner steamship operators operate in open conferences and, incidentally, we have the only open conferences in the world while all other trading maritime nations have closed liner conferences. I repeat, my colleague from California in his letter argued strongly for the committee to take action with respect to the closed conferences. I submit, that there is no greater protectionist device than the closed conference system. How, then, can my colleague argue against a modest cargo equity percentage with respect to the importation of oil on U.S.-flag vessels on one hand as being evil because of its protectionist aspects and on the other hand advocate equally as strongly for closed conferences which is the strongest protectionist device extant. The opponent thus apparently has no position at all and seeks only to sow the seeds of strife and discord in order to prevent the passage on a measure which is clearly in the best interests of the United States.

On September 23, 1977, the opponent of H.R. 1037 sent a Dear Colleague letter in which he characteristically misquoted me. In the third paragraph of his letter he, for about the 15th time, quoted me as characterizing the bill as "the most important since the Founding of the Republic." In fact, I stated that it was one of "the most significant events in America's history as a maritime power." So I characterized it as a most significant maritime bill. The gentleman has failed again to make a responsible distinction between maritime legislation and general bills.

In this Dear Colleague letter, the gentleman from California has attached letters from the Embassy of Greece, the Embassy of Finland, and the Embassy of the Netherlands purporting to show that H.R. 1037 violates treaties of friendship and convenience between the United States and these three nations. I have already commented at length on this matter and it seems to me that there is little question left that the provisions of H.R. 1037 do not violate these treaties of friendship, commerce, and navigation. These treaties speak to such matters as duties, customs, and bounties, but do not address themselves to percentages of cargo. In this connection, we are only talking about 9½ percent of cargo for U.S.-flag vessels. These nations can still go out and get over 90 percent of the cargo and are not being deprived of that, so it is difficult to see how the treaty is being violated.

The letter of September 15 to the Congressman from California from the Ambassador of Greece starts out as follows:

> I would like to thank you for your letter dated September 13, 1977, by which you were asking if the oil cargo preference bill (H.R. 1037) violated any existing treaty of friendship, commerce and navigation, or any other agreement existing between our two countries.

Obviously, the gentleman from California solicited these letters from the Embassies of Greece, Finland, and the Netherlands. 18 U.S.C. 953 entitled, "Private Correspondence With Foreign Governments" clearly makes it a criminal offense for a private citizen to correspond with foreign governments in this manner. I do not contend that the gentleman has legally violated this crimial provision, but I charge that he has certainly violated the spirit of this law in this regard. Section 953 reads as follows:

> Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined not more than five thousand dollars or imprisoned not more than three years, or both.

It seems abundantly clear that the gentleman from California by soliciting these remarks from these embassies has clearly at least violated the spirit of the statute. I cannot imagine that this or any other legislation would engender such conduct. As for the embassies themselves, I question the Embassies of Greece, Finland, and the Netherlands interfering in the legislative deliberations of the Congress of the United States. In all my years in the Congress, I have never before encountered such behavior by the embassy of a foreign nation and I think that it is shocking and reprehensible that they would attempt to interfere with congressional deliberations of such an important measure. If these embassies feel that they must involve themselves in such a manner, then clearly the proper course of action would have been through the State Department or to have written directly to the President of the United States since they are attempting, in the words of the statute itself, to defeat a measure of the United States, and one which has been supported by the President of the United States.

Not only is there not any substance to the allegation that the provisions of H.R. 1037 violate the treaties of friendship, commerce, and navigation of these nations, but the methods employed to attempt to lend credence to these baseless claims are shocking in the extreme.

As we all know, H.R. 1037 is a controversial piece of legislation. The principal opponents, the multinational oil companies, strongly opposed it on the grounds that the bill would result in increased costs to the American consumer and create certain undesirable international ramifications.

The administration and my committee gave these matters careful consideration before reporting out the bill by a vote of 31 to 5. Having lost in committee, the multinational oil companies now appear to have marshaled their tremendous resources to coerce the Congress by means of biased attacks on the bill in the press.

The administration and my committee found, as I pointed out above, that H.R. 1037, as reported, would not result in adverse international ramifications. Also, the 9.5-percent cargo preference maximum is not expected to have a significant impact on our NATO trading partners, none of whom transport more than 10 percent of our oil imports.

With respect to the cost issue, the administration estimated that any such cost increase would be less than one-tenth of 1 cent per gallon, or about $110 million per year at 8 million barrels per day. The Congressional Budget Office, in an independent study, came to a similar conclusion. The CBO report set out on page 45 of the committee report, shows a cost of between $8 or $9 million to $173 million over an 8-year period, with most of the costs in a range of between $95 and $135 million. Finally, I had the General Accounting Office do a separate analysis, which concluded that any such cost increase would be less than two-tenths of a cent per gallon, or about $240 million annually. In short, this legislation would cost the American consumer, who drives 10,000 miles a year in an auto that gets 20 miles to the gallon, a grand total of from 50 cents to $1 a year.

The administration and GAO cost estimates of $110 million and $240 million

were on the basis of an estimation of 8 million barrels per day being imported into the United States. The GAO further estimated a $300 million cost at the speculative level of 10.3 million barrels per day being imported. These are speculative figures. The New York Times of September 15, carried an item indicating that the American Petroleum Institute figures showed that actually only 5 million barrels per day of crude were being imported that week, and thus, at that figure of importation, the actual cost, using GAO standards, would be around $150 million.

For this minimal cost, the bill will provide the following benefits:

First. It will give the United States sufficient tanker capability for direct support of the military in an emergency, and provide a small nucleus U.S.-flag tanker fleet for the carriage of our essential oil imports. The construction and repair of these vessels—in turn—will assist in the maintenance of our shipbuilding industrial base required by our national security.

Second. It will generate about 5,000 jobs in shipyards and aboard ships, which, in turn, will generate about 15,000 jobs in supporting industries. Just as important, the bill will prevent serious job layoffs—primarily minority workers—in areas of shipyard activity such as Alabama, California, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Pennsylvania, New Jersey, New York, Virginia, and Texas, among others.

Third. It will provide increased protection of the marine environment through the increased use of U.S.-flag tankers for our oil imports.

Fourth. It will result in an estimated positive impact on our balance of payments of $75 million annually.

Fifth. It will result in increased taxes to the U.S. Treasury through the increased use of U.S.-flag tankers. The revenue loss resulting from oil company use of foreign vessels is estimated by the Treasury Department to be as high as $140 million annually.

I would also like to comment briefly on a matter of procedure raised with respect to this bill, even though this was discussed thoroughly in the debate on the rule.

The gentleman from California has been making the allegation in the media and every other forum available to him that the minority was denied its rights by the majority in the legislative procedure relating to H.R. 1037, the cargo equity bill. Specifically, Mr. McCLOSKEY, pursuant to his rights under rule III(f) of the Merchant Marine and Fisheries Committee and rule XI(2)(j)(1) of the House rules requested another day of hearings on this bill which was granted and that extra day of hearings was held on Friday, July 29. In connection with this extra day of hearings, Mr. McCLOSKEY claims that minority rights were violated inasmuch as certain witnesses did not appear at this extra day of hearings which he requested. Among other things, he alleges that I would not call them. This is totally false, as I did make contact with the witnesses and asked them to appear, and they refused. This was done even though we do not read the rule, nor does the Speaker, that I am required to call these witnesses for the minority.

As I just mentioned, these witnesses were called and chose not to appear. Mr. McCLOSKEY attempted to force them to appear by subpena after I had refused to subpena these witnesses because some of them we had already heard from and we had already had some 36 days of hearings in committee on this subject matter. At any rate, Mr. McCLOSKEY first attempted to force a vote on this subpena issue when the committee was meeting in full committee on H.R. 3350, the deep seabed mining legislation. This, of course, was ruled out of order since it was a totally different piece of legislation and a totally different subject matter and not the proper forum for a subpena vote on an unrelated different legislative matter. He next tried to force a committee vote on the subpena question during the committee hearing on July 29 and a quorum was not present. Finally, Mr. McCLOSKEY did have a full committee vote on the subpena question with a quorum present at the markup on H.R. 1037 and was defeated 17 to 13.

The gentleman from California subsequently wrote a lengthy letter to the Speaker requesting a point of privilege under rule XI on the floor on the matters which I have just discussed. In a letter of August 30, 1977, the Speaker of the House denied Mr. McCLOSKEY his request for a point of privilege under rule XI of the House rules. In this connection, the Speaker was of the opinion that the minority is entitled to a day portion of the hearings on any subject if they so desire, which the minority had in the case of the cargo equity legislation. The Speaker further ruled that the minority has the responsibility of obtaining its own testimony and that the rules do not grant to the minority ranking members the power to require specific subpenas to issue. In short, the gentleman from California did have an extra day of hearings in accordance with the rules and a vote on the subpena issue in committee with a quorum present—and lost. Neither Mr. McCLOSKEY's rights, nor the rights of the minority were violated by me or by the committee in any respect.

A clear reading of the rules and the facts of the situation indicates that this is so, and the ruling of the Speaker indicates this. Mr. McCLOSKEY's own recitation of the facts in his August 3 letter to the Speaker refutes his allegations. Mr. McCLOSKEY has done nothing but continue to harass the chairman of the committee, the committee members, the Congress, and the public in general with this continuous complaint of violation of minority rights and privileges when, in fact, the record cleary establishes none has occurred.

In fact, Mr. McCLOSKEY has had more rights than any other member of the committee. Of 202 minutes of questioning by the minority in the last 2 days of hearings, Mr. McCLOSKEY utilized 161 of these minutes. In other words, the gentleman from Georgia used the equivalent of the questioning time of 35 members, or eight times the amount of time used by all the Democrats.

The point has been made that the small percentage amounts of H.R. 1037 will not result in any new construction tonnage until 1985. However, the contributions of the bill cannot be considered in isolation but must be considered in the context of other market forces operating at the same time. These forces in combination with the legislation will lend a significant impetus to new construction.

These factors on the demand side which will operate in combination are: First the domestic trade itself, including the trans-Alaskan carriage, which will probably run into a requirement of 9 million dwt; second, the strategic petroleum oil reserve, which is subject to the minimum 50 percent requirement of section 901(b) of the act; and third, the new preference requirement itself which assuming reasonable direct imports averaging 9.5 million barrels per day and indirect shipments of crude to the Caribbean for refining of a further 1.8 million barrels per day, would generate requirements nearly two-thirds as great as all other sources of demand.

Another factor which must be taken into consideration on the supply side will be that, beginning about 1980, the pending safety laws and regulations relating to segregated ballast requirements alone will eliminate at least 15 percent of the tanker fleet capacity which will have to be made up. In addition, obsolescence of the comparatively old tanker fleet will require replacement.

Thus, all of these factors and trends taken together project the necessity of tanker construction in 1981 or 1982, rather than 1985, in order to account for the projected deficiency of about 6 million dwt. Thus, there will be construction several years before 1985 if we are to meet the varying needs and requirements of our tanker trades.

In closing, I would like to say that it is a tragedy that the merits of this legislation have been besmirched and obscured by extraneous and irrelevant issues and by an unprecedented media campaign. As I stated before, this bill will go a long way toward bolstering the tanker segment of the faltering U.S.-flag merchant fleet and I urge every Member to vote for passage of H.R. 1037

Mr. RUPPE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, to say that the bill before us today, H.R. 1037, the oil cargo preference measure, is a bit controversial is, I think, to make a rather classic understatement. It has been the subject of extensive and intensive public debate in the media as well as in the Committee on Merchant Marine and Fisheries. The level of the debate and the hyperbole each side has resorted to lead me to believe that perhaps the proponents and opponents of the bill at times are discussing almost different legislation. However, a reasoned, unimpassioned examination of some of the major provisions of H.R. 1037, I believe, is in order at this time.

Mr. Chairman, at the outset, the bill requires that 4.5 percent of all oil imported into the United States be carried in U.S.-flag and U.S.-built vessels. This reserved percentage is to be increased at 1 percent annual increments until a level of 9.5 percent is reached in 1982. The quota is to be applicable only if U.S.-flag vessels are available at "fair and reasonable" rates. The Secretary of Commerce is given broad authority to promulgate rules to classify products and imports subject to the act.

To qualify to carry the preference cargo, vessels must not be beyond their economic lives, that is, generally 25 years; and before any vessel over 10 years old may be used in the preference trade, its owner must enter into a satisfactory arrangement with the Secretary of Commerce to replace that vessel before it reaches its 25th year. Qualifying vessels may not receive operating or construction subsidies except that existing vessels are grandfathered in; and the Secretary is required to adopt appropriate regulations to require either a payback of the subsidy or a reduction in freight rates to compensate for that subsidy. Also, any vessel assigned oil cargo under the preference program must be certified by the Navy as suitable for use in time of war or national emergency. Mr. Chairman, I believe that my colleague, the gentleman from California, is responsible for this amendment; and I applaud the amendment, I might add.

A small refinery exemption excludes from coverage the first 50,000 barrels per day of imports for a small and independent refinery, as defined in the Emergency Petroleum Allocation Act of 1973. This provision, which I authored, is designed to make any cargo preference program more manageable and to give a measure of equity to small refineries which do not own crude oil sources. Since the preference percentages refer to total imports, however, this exemption does not reduce the oil tonnage reserve to U.S.-flag ships. Therefore, I might say that I think there is a great deal of merit in some of the aspects of the legislation.

I think we have to address in this Congress the need for this Nation to carry a greater extent of its oil imports than has been the case heretofore. The problem I have with the legislation is that, in my opinion, the administration did not send down to the Committee on Merchant Marine and Fisheries its key witnesses or those individual experts, those executives within the administration, that could have made a logical and a reasoned plea and development for this particular legislation. I do not think that we can pass a bill in all good conscience that has as its basic reason national security when, indeed, a case for the national security itself has not been made by the administration before the Committee on Merchant Marine and Fisheries.

Mr. Chairman, I would like to quote further from the testimony of Secretary Claytor inasmuch as I ran out of time in my last statement during the debate on the rule. I would like to go over some of the comments made by him before the Committee on Merchant Marine and Fisheries.

It was pretty obvious at that particular time he was not an expert on the subject. It is also rather obvious that he, as Secretary of the Navy, had little or no role to play in the determination of the policy by the department itself. Specifically, I asked the Secretary:

Could you tell me how that number was derived—the preference numbers from 4½ percent to 9½ percent—if you know, and did the Navy have any part in developing that figure?

The Secretary responded:

No. I assume that it is a judgment figure which was reached by the President, but I was not in on that and I cannot give you any information on that.

I asked him again:

So it had nothing to do with national security?

And Secretary Claytor responded:

I do not want to speculate on what it had to do with.

Later on he went on to say:

There may have been some national defense consultation with the Defense Department. I was personally not involved, and I do not feel that I am in a position to provide any information on that.

So, Mr. Chairman, my difficulty with this legislation is that the real experts, the people who should have addressed themselves to the administration's position on this legislation, simply did not come before our committee.

Frankly, I do want to say that I continue to believe that the concept, the basic concept of cargo preference may be a good one and may be the proper maritime policy. I think it could be that Congress should pursue those measures needed to revitalize our U.S.-flag bulk fleets. However, in my opinion, the dictates of good government and, in this case, an open legislative process, cries out for the administration to make a better case for the legislation than they have so far.

Mr. MURPHY of Illinois. Mr. Chairman, does the gentleman have further requests for time?

Mr. RUPPE. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana (Mr. TREEN).

Mr. TREEN. Mr. Chairman, I have asked for this time in order that I might propound a few questions to the chairman. Before doing so, I would like to say that I find myself in the embarrassing position of being on the floor of the House today without having made up my own mind on how I am going to vote on this bill. I must say that I voted for it in the committee, as the chairman knows, and I did oppose the rule because I do feel that there are a number of questions that have not been answered.

In the hope of getting some of those answers to help me and perhaps other Members in their final determination on the bill, I have a few questions.

However, I would like to make one other remark before that. I do not subscribe to the inferences that have been made in this Chamber on both sides of the aisle that people are being influenced because of contributions either from oil companies or from maritime interests. My experience in serving on the Committee on Merchant Marine and Fisheries is that everybody there is trying to do an objective job for the best interests of this country. I have seen no evidence whatsoever in my 5 years on that committee that anybody is being influenced in an improper way on either side of the question.

The chairman made reference to the cost per job and made reference to a memorandum to the President from Secretary Blumenthal dated June 17. One of the attachments to that speaks of a modified oil cargo preference bill which would reduce the cargo preference percentage from 30 to 25 percent.

It is in that same memorandum, I might say to the gentleman from New York, that one of the disadvantages described is the cost of each seagoing job, and that is expressed at $111,000 per job, excluding the wellhead tax increase, I might say, at the 6 million barrels per-day import level, and at the 10 million barrels per day import level the cost per seagoing job, according to this memorandum, is $91,000. That, of course, is at the modified cargo preference level of 25 percent. But assuming that we go down to 9½ percent, applying the proportion there, we would still come out with about $35,000 per seagoing job, according to this memorandum, at the 9½-percent level. I want to create jobs in the merchant marine, too, but I am wondering, if these figures are correct, how we could justify creating jobs at $35,000 each. It would be better to keep them home and give them $30,000 apiece. How can we justify that at that level?

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding.

Before I respond, I would like to thank the gentleman for the contribution he makes to the committee generally on all legislation, and particularly for his vote of support when the committee reported this bill favorably to the floor by a 31-to-5 vote. I would also like to take this opportunity to thank the ranking minority member, the gentleman from Michigan (Mr. RUPPE), for his support as he voted to report the bill, as the majority and the minority did when we reported the bill from the committee, with the full understanding of all memoranda and documents.

Let us now go back to the internal process within the executive branch as they deliberated and took a policy position on this piece of legislation. As we know, in the executive branch one man speaks for it. One man is elected by the American people, and he makes the decisions. Here we have the ability to cast 435 votes pro, con, or "present" if we wish. In the original memoranda on this legislation, a task force had been put together by the executive branch to analyze in detail what position they would take, and they presumably went into the aspects of this. I found that many of the arguments were the standard arguments that had been used in previous Congresses in opposition to the bill when it was 20 to 30 percent. Incidentally, we know when we

passed the bill in those Congresses that the bill would create many jobs in the shipyards and on shipboard. I certainly agree with the figures you quoted as to how much these jobs would cost.

The legislation will create about 2,500 jobs onboard ship and about 2,100 shipyard jobs at the 9½-percent level, as well as thousands of jobs in related industries. The figures of cost the gentleman quoted from the purloined memorandums was not quite the same as the figure quoted by the administration witness, and as I said, you have to consider all the jobs which will be created, not just the shipboard jobs.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RUPPE. Mr. Chairman, I yield 2 additional minutes to the gentleman from Louisiana (Mr. TREEN).

Mr. MURPHY of New York. If the gentleman will yield further, in an effort to try and get at the true fact of employment cost related to this legislation, we cannot just look at the 2,500 seafaring jobs, we must, as I just mentioned, look at the approximately 15,000 shipbuilding and related-industry jobs.

Mr. TREEN. I will ask the chairman, where does he get that figure for shipbuilding jobs? I hope he is right, but where does he get that?

Mr. MURPHY of New York. The Maritime Administration provided these figures for us. When we take the overall employment benefits and dollar benefits of this legislation, they far outweigh the modest costs of the 9½ percent.

Mr. TREEN. I hear what the gentleman is saying, but I was trying to break it down to the specifics. Taking the administration at its own figures, it seems—for the seafaring jobs at least—and that does exclude shipbuilding—it comes out to about $35,000 per job. I hope the gentleman is right in that it is going to create jobs in the shipbuilding industry. I tried to get this information from Mr. Blackwell the last day he testified before the committee. I asked him to give me, based upon different possible levels of oil imports, how many ships would have to be built, and I think he said at the 8 million barrels per day level, another 500,000 deadweight tons would need to be constructed, and that would be done with 2 ships, one 400,000-deadweight-ton ship and one 100,000-deadweight-ton ship. So what Mr. Blackwell suggested was that we may not have any shipbuilding as a result of this bill.

Of course, I believe that the imports will be much higher than the administration suggests. I think it is unfortunate, but I think we will be importing a lot more oil.

Let me ask this question: Let us assume some shipbuilding is generated as we move toward the 9½-percent level.

Once those ships have been built, whatever the quantity might be, whether it is 2 ships or 20 ships or 30 ships, and once we have arrived at that 9½ percent level, and, let us say, we have built up some employment in the shipyards, the ships produced would have 20 or 25 years of life, then what happens? Won't we have a fall-off in our shipyards? What will happen to our shipbuilding base then? Will there not be pressure to increase the percentage of imported oil that will have to be carried in U.S. ships?

Mr. MURPHY of New York. I told the committee at its organizing meeting this year that this cargo equity provision was not going to be narrow and affect only the oil imports. This legislation is a first step in an overall cargo equity for the overall merchant marine to insure our ships do not sail half full of cargo, that we collect only the 1 percent of our imports, and 99 percent of the total goes to foreign vessels. By 1985 we will have older tonnage retired from the existing fleet, and there will be a study about building before that time, so we intend that the necessary deadweight tonnage for our shipbuilding base will be assisted by this legislation as it will by other legislation that, hopefully, the committee will have time to complete in the next session of the Congress.

Mr. TREEN. That leads me to the next question I have, and I appreciate the chairman being candid about his intentions. I think that has been one of the issues, that this bill is precedent-setting. Will we move, No. 1, to larger percentages of cargo preference for our oil cargo and, No. 2, will the Merchant Marine and Fisheries Committee move to apply this principle to other types of cargo? And I think the gentleman has answered that and said, yes, we do expect to move toward legislation to apply this principle to other types of cargo.

Mr. MURPHY of New York. This principle of cargo preference is applicable to other types of shipping. We must take each one of our trade routes and we have been in the process of analyzing them and analyzing why our merchant marine is in such sad condition. The remedy might be a different thing. It might be the closing of the conferences or bilateral arrangements in certain instances. We have discussed these matters previously in our committee and we will be getting to those proposals just as soon as we get H.R. 1037 behind us.

Mr. TREEN. There is a good possibility, a likelihood, that we will adopt this type of legislation, a protective type of legislation, whether it is good or bad, for other types of cargo. That is the estimate of the gentleman?

Mr. MURPHY of New York. We will protect the American merchant marine.

Mr. TREEN. I have one other thing. If this bill is passed and goes to conference with the Senate and the Senate proposes higher percentages in the time frame between now and 1982, would the gentleman fight to maintain this at House levels or would he be inclined to accept higher percentages?

Mr. MURPHY of New York. In the conference—and hopefully we will get to a conference shortly—I will strive to maintain the House positions. I always do.

Mr. TREEN. I thank the gentleman. I have other questions but I do not wish to monopolize the time.

Like every member of the Merchant Marine and Fisheries Committee, I am sincerely interested in building up our merchant marine. I wish we could transport half of all our cargo, whether it be oil or bulk cargo or container freight, in our own ships, but until we tackle the basic problems of costs we are going to find the proposals we come up with are going to be, to a large extent, self-defeating.

We have got to make our merchant marine, it seems to me, competitive in the world. That applies to so many things in our country today. We have got to get on with production. We have to eliminate feather-bedding. We have to get the American people to realize that wealth only comes from production. I hope we can soon address that fundamental issue.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I would be glad to yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, I think we all support the position that we have to make our American merchant marine competitive.

Mr. RUPPE. Mr. Chairman, I yield 12 minutes to the gentleman from California (Mr. McCLOSKEY).

Mr. McCLOSKEY. Mr. Chairman, much has been made of the procedural irregularities, massive campaign contributions, and political payoffs that have accompanied, or propelled, this bill through the legislative process. I believe that those reasons alone are sufficient grounds to defeat this bill. But those issues have received adequate coverage, and today I would like to speak specifically to the substantive issues involved. This is where we who oppose this bill have our strongest case for I am firmly convinced, as are almost all objective observers, that this bill is completely devoid of merit. This, not any sinister machinations of the oil companies, is the reason that this legislation has been so harshly, and almost universally, criticized in the news media across the country. This is why the legislation is opposed by Common Cause, the Environmental Policy Center, Ralph Nader's Public Citizen, the American Farm Bureau Federation, the National Industrial Traffic League, the U.S. Chamber of Commerce, the Public Interest Economics Center, and the League of Women Voters. Let me briefly review the issues.

NATIONAL SECURITY

Currently, there is a glut of tankers on the world market; 345 tankers, of approximately 31.7 million deadweight tons, are laid up on the world market. If we need tankers for national security, they are readily available—and from our closest allies such as Great Britain, Norway, West Germany, Greece, and Japan. NATO commitments pledge many of these vessels to our use in the event of war.

Because of shipyard opposition, supporters of this bill have consistently resisted any attempt to permit foreign-built vessels to qualify to carry preference oil if they register under the U.S. flag and employ U.S. crews. This "reflagging" proposal would permit the almost immediate creation of a U.S.-flag tanker fleet at a fraction of the cost of building

new vessels in U.S. yards—because new laid-up supertankers can be purchased on the world market for $8–$17 million, compared to a $150 million price tag for new construction in U.S. yards. Yet, those who have given national security as the prime rationale for cargo preference are the same ones who have succeeded in preventing the reflagging proposal from becoming a part of the bill.

Besides the great world surplus and the active vessels of our NATO allies, 61 percent of U.S. oil imports are carried in U.S.-owned tankers—57 percent under flag of convenience vessels which are under effective control contracts with the Department of Defense.

Our Nation needs more merchant ships to meet its national security needs, but it needs break-bulk ships, LASH ships, and RO/RO ships—not the supertankers that will be built under this bill. As Assistant Secretary of Commerce, Robert Blackwell, said in a speech before the American Society of Naval Engineers on May 6, 1977:

> By our assessments, although U.S.-flag tonnage availability to move essential imports is questionable, we will have an adequate wartime supply of tanker tonnage available for direct military support. This segment of the fleet also has the capability to carry deck-load military equipment, as it demonstrated in World War II.
>
> The liner ships—break-bulk and intermodal vessels—on the other hand, constitute the most crucial component of our fleet in terms of logistic support of the military forces.

This conclusion is the same as that expressed by the Department of Defense when it was allowed to testify in opposition to a similar bill in the 93d Congress. It is echoed in memos to President Carter which state:

> Defense believes that the essential national security problem is access to, not carriage of, oil, and does not support H.R. 1037 on national security grounds.
>
> State believes that, on balance, oil cargo preference would not be beneficial to national security. U.S. cargo preference, if emulated by others, would reduce U.S. flexibility in future supply disruptions should U.S.-flag tankers be banned from suppliers' ports. Furthermore, vessels of our allies would be available to meet our needs in time of emergency.

INTERNATIONAL IMPLICATIONS

It has been suggested that cargo preference is the wave of the future and that the United States should join this trend. This is inaccurate. International oil transportation is one of the world's freest markets with only 5 percent of oil movements subject to government preferences of any kind. But where, and if, the trend is developing, it should be resisted. A mechanism is provided in section 301 of the Trade Act of 1974 which gives the President authority to retaliate against countries that discriminate against U.S. shipping. A President committed to a strong U.S. merchant marine should have no hesitancy in using this mechanism—especially since it is fair, makes good international economic sense, is consistent with U.S. international economic policy, and does not violate treaties with our trading partners.

In May of this year the administration stated at the London Economic Summit:

> We are committed to providing strong political leadership for the global effort to expand opportunities for free trade and to strengthen the open international trading system—

And—

> Policies on protectionism foster unemployment, increase inflation and undermine the welfare of our peoples.

Endorsing a policy which reserves 9½ percent of our oil imports for U.S.-flag vessels is obviously inconsistent with this pledge and will likely bring the consequences predicted.

Besides brushing aside a solemn international agreement, this bill violates treaties of friendship, commerce, and navigation with some of the United States' closest trading partners. As you know, we were unable to obtain the testimony of a witness from the State Department during hearings in the House Merchant Marine and Fisheries Committee. However, the Presidential memos and past State Department testimony on this point are unequivocal. In 1974, Deputy Assistant Secretary of State Waldmann testified before our Committee as follows:

> Therefore, any measure by the U.S. Government extending a preference to U.S.-flag vessels for commercial cargoes, such as H.R. 8193 and H.R. 7304 would do—would cause us to violate those treaty obligations.

Secretary Blumenthal's memo to the President of June 17, 1977, states that the bill "would violate U.S. treaties with more than 30 countries." Being unable to obtain the testimony of our own State Department, I wrote to the Ambassadors of those countries with whom we have FCN treaties. Though not all countries have replied, the following have indicated a clear violation of FCN treaties: Greece, Netherlands, Finland, Korea, and Liberia.

In addition, on July 22, 1977, the Governments of 11 of our closest trading partners—Belgium, Denmark, Finland, West Germany, Greece, Italy, Japan, the Netherlands, Norway, Sweden, and the United Kingdom—sent an aide memoire expressing their "strong regret" at the President's decision to support this bill. The adverse international implications of this bill could hardly be clearer.

ECONOMIC IMPACTS

The oil cargo preference bill is also an economic disaster. It is very costly to consumers. In its full report of September 9, 1977, on the modified—9.5 percent—bill, the General Accounting Office estimates that by 1985, the bill will cost consumers $300 million annually. An additional cost of $310 would result if domestic prices are not controlled to keep them lower than the price of foreign oil. These estimates are on the low side since they do not include price increases which could result from captive market effects or retaliation by trading partners. The GAO analysis has been supported by the Federal Trade Commission.

It creates unemployment. The Maritime Administration has indicated that the bill will create 2,500 seagoing jobs. But the Council of Economic Advisers has indicated that it will result in a net loss of employment. GAO's report on the bill in its current form echoes this conclusion stating:

> Considering the direct employment increase in the maritime industries and the indirect employment effects together, our judgment is that cargo preference will cause a net loss of employment.

The cost per job is very high. Ralph Nader's Public Citizen has estimated the cost per seagoing job at $200,000 to $240,000 per year. Of course, looking at the net employment effects, the bill will require us to spend money to lose jobs.

Finally, it is economically unfair. Consumers and unemployed Americans are being asked to sacrifice for the U.S. maritime industry which already receives 74 percent wage subsidies, 50 percent construction subsidies, special tax advantages, 75 percent to 87½ percent mortgage guarantees, cargo preference for domestic trades and Government-generated cargoes, and its own governmental promotional agency in the U.S. Maritime Administration.

ENVIRONMENTAL PROTECTION

Another argument lacking any merit is that reserving oil for U.S.-flag tankers is an environmental measure.

First, the U.S.-flag tanker fleet is not safer than those of other major maritime countries. Its safety record is lower than that of the tanker fleets of the Soviet Union, the United Kingdom, Japan, West Germany, and France. In fact, during the first 6 months of this year, its record was worse than Panama's. The average age of the U.S. fleet is over 19 years and, in the words of the U.S. Coast Guard, "the age of the vessel is the single most important predictor of casualty rates."

Second, by creating a captive market for U.S.-flag tankers, the bill reduces any incentive to lay up old, unsafe tankers which would otherwise not be economically competitive.

Third, it induces a misallocation of world resources by encouraging new tanker construction in U.S. yards when there is a vast glut of tankers on the world market. (Over 340 surplus tankers are now laid up in foreign ports.)

Fourth, environmentalists recognize that this is a protectionist, not a safety bill. Other laws give the U.S. authority to require safe tanker operations in U.S. waters. The Ports and Waterways Safety Act of 1972—33 U.S.C. 1221— gives the Coast Guard authority to require appropriate safety regulations on all tankers entering U.S. waters. H.R. 6803, the Comprehensive Oil Pollution Liability and Compensation Act which passed the House on September 12, 1977, requires all tankers entering U.S. waters to assume strict liability for oil pollution damage and to establish adequate evidence of financial responsibility to pay for any damage.

ALTERNATIVES

Alternatives are available to this bill. Numerous people, including myself and

several Presidential advisers, have suggested the need for a comprehensive new maritime policy to consider such things as closed conferences, rebating, the subsidy system, Navy-merchant marine cooperation, and streamlined Government regulation.

A more specific alternative was suggested in my amendment to the House bill which would have substituted a simple extension of the Jones Act to the Virgin Islands for petroleum products. This is superior to the preference bill since it would, according to information supplied by the Maritime Administration:

Provide employment opportunities for approximately 25 U.S.-flag tankers with a total tonnage capacity of about 750,000 deadweight tons. These vessels are expected to be product tankers in the 20,000–40,000 deadweight ton class.

The cargo preference bill on the other hand would result in no new tanker construction until the 1985 time frame and then would likely result in the construction of supertankers which are too large to be useful for military support. Moreover, the benefits of the Virgin Islands amendment would be created without the foreign policy repercussions which would result from passage of cargo preference.

CONCLUSION

In conclusion, I would like to quote the words of Assistant Secretary of Commerce, Robert Blackwell, when he testified before the House Merchant Marine Committee on a similar bill in 1974. He said:

I oppose H.R. 8913 because it would be an undesirable, inefficient, and inequitable way of achieving our goal of U.S.-flag participation in oil imports.

and

Even more important than indicating that the new maritime program has failed, a statutory requirement that commercial oil import cargoes be carried in U.S.-flag bottoms would be direct recognition that the U.S. Merchant Marine can never become competitive in the international marketplace. This would be the most serious admission of failure of the Merchant Marine that we could make.

The bill clearly lacks any merit. Oil cargo preference is not good for this country or for the U.S. merchant marine. Its supporters, while well meaning, are clearly wrong and should recognize that now.

The only thing propelling this bill forward today is past commitments and promises. The best example of this is the words of Ambassador Strauss when he said—originally, and incorrectly, attributed to Senator LONG—in a memo to the President that "anything you fellows can satisfy Jesse Calhoon with, I will take and support." If the shapers and participants of maritime policy in this country will accept that kind of approach, then perhaps the U.S. merchant marine deserves the demise that surely awaits it.

Mr. Chairman, I would like to take some of my time to invite the distinguished chairman of the committee to discuss some of the points that the gentleman has made.

It is true, is it not, that today only 5 percent of the world's oil is carried under cargo preference laws? I think Venezuela, Kuwait, and Saudi Arabia, among our suppliers, are now requiring that some 5 percent of the oil exported to the United States be carried on their flag tankers.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman restate that? I am not clear as to what the gentleman is asking.

Mr. McCLOSKEY. Of all the oil that is presently imported into the United States, it is true, is it not, that only 5 percent is presently subject to oil cargo preference laws imposed by Kuwait, Saudi Arabia and Venezuela, among our suppliers?

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, I think on the surface that may be the case, although the policy in those countries is to use direct national flags, and we are well aware of that fact. I ask unanimous consent to insert at this point in the RECORD a study of "Cargo Preference in Foreign Countries" prepared by the Department of Commerce and dated January 13, 1977.

CARGO PREFERENCE IN FOREIGN COUNTRIES

Office of International Activities

The attached compilation of cargo preference practices shows that many countries are acting aggressively to protect their own merchant fleets and to get a greater share of U.S. cargoes. With increasing frequency our foreign trading partners are issuing laws, regulations, decrees, communiques and understandings which impede American shipowners from obtaining cargoes for their vessels.

Many cargo preference devices are intended to facilitate ambitious maritime expansion plans of countries with fledgling fleets. To facilitate these plans and ensure that the resulting ships are employed to the fullest extent, both cargo preference and flag discrimination laws are effected. To date over 30 LDC's have enacted preference laws while similar legislation is pending in a number of others, with OPEC in the front.

Many nations originally backed the UNCTAD Code of Conduct for Liner Conferences—which would reserve 40 percent of a country's trade for its own cargo liners—as a means of protecting their fleets. While adoption of the Code in its current form is very much in doubt, discussion of the Code has given international recognition to the principle that a majority of a nation's trade should be carried on vessels of that country, and has inspired several countries to legislate various measures along the lines of the 40–40–20 formula. Often countries have reserved 50 percent of cargoes for vessels flying the national flag. Some Latin American and Asian countries have often resorted to this practice. Such measures have helped developing countries to obtain a very high growth rate for their merchant fleets and to increase their share of the world cargo liner fleet to 15 percent.

The information collected here is derived from the best information available to the Maritime Administration as of December 1976. It should be borne in mind that some of these items have only been proposed and may not have entered into force. Similarly, it is possible that certain of these measures have been cancelled, withdrawn, or revoked as a result of internal or external governmental pressures.

ALGERIA

Requires a 50 percent clause in its export contracts for both oil and liquefied natural gas that gives preference to Algerian flag vessels.

Algeria and Brazil have signed a maritime navigation and transport agreement to cover all traffic between ports of the two countries except for petroleum and bulk cargo shipments.

ARGENTINA

According to the 1973 Merchant Marine law the Government of Argentina must approve all freight conference agreements which involve Argentina's overseas commerce. The law reaffirms Argentina's "right" to carry 50 percent of its water-borne foreign trade. Any freight conference agreement which appears to place limitations on Argentine ships or assign a smaller than 50 percent share to Argentine ships will not be recognized by the government. The government reserves the right to deny port facilities to foreign ships which do not operate under approved agreements. In actuality, the new legislation adds little to the previous legislation, but instead acts as enforcement legislation, reinforcing the 50 percent provision. The new legislation also clarifies the financial aspects of the domestic provisions while making known the internal promotion mechanisms.

Argentina has commercial agreements with Chile and the U.S.S.R. whereby the exchange of goods is to be divided in equal proportions between Argentine-flag ships and ships of these trading partners. In case of a shortage of such ships, it is necessary to obtain a waiver for transport in third-flag carriers.

BRAZIL

Under Decree Law 666 of July 2, 1969, all imports and exports in which the government provides financial assistance must be carried on Brazilian ships when available. However, this law provides for the waiver of cargo preference in the following instances:

1. Import or export cargoes obligatorily linked to transportation in Brazilian-flag ships, can be liberated in favor of the flag of the exporting or importing country by weight up to 50 percent of the total as long as the legislation of the buying or selling country concedes at least equal treatment in relation to Brazilian-flag ships.

2. In case there is no Brazilian-flag ship or flag ship of the importing or exporting country in position to take on the cargo, the Brazilian Superintendency of Merchant Marine can in its exclusive judgment, liberate the transportation (of the cargo) to a third-flag ship specifically designated.

3. When the exportation or importation of merchandise subject to liberation is made to or from a country that is not served by ships of both the countries involved, the Brazilian Superintendency of Merchant Marine will effect prior liberation of the cargoes covered by this decree, designating the transporter.

The government has a monopoly on the transportation of petroleum and petroleum products, except for some small companies which were in operation when the monopoly law went into effect.

All imports of ordinary paper (excluding special paper and pulp) must be carried in Brazilian ships, but in trades where special arrangements are made, as in the case of the Equal Access Agreement between SUNAMAM and the U.S. Maritime Administration, the other National lines can also participate in this carriage.

Algeria and Brazil have signed a maritime navigation and transport agreement to cover all traffic between ports of the two countries except for petroleum and bulk cargo shipments.

Since 1967 Brazil's legislation has called for the establishment of cargo quotas through pooling agreements aimed at achieving a 40 percent share for Brazilian carriers, a 40 percent for national flag lines of its trading partners, and 20 percent for third flags. Be-

tween Brazil and Argentina, Mexico, and Chile, however, the agreement is 50–50 unless national flag ships are unavailable.

CAMEROON

The Cameroon Shipping Lines is given exclusive right to transport all imports for the Government, public collectivities, or state-owned companies. All contracts for private imports and exports must give priority to Camshiplines or obtain a waiver from the company for any shipment it cannot handle.

CHILE

New procedures on cargo allocation have been issued by the Ministry of Transport whereby 50 percent of export cargo, whether U.S. bound or wayport, will be reserved for Chilean-flag shipping, and 50 percent will be shippers' free choice. The theory is that major exporters will be able to do their own allocation. In order to make such allocations, however, these firms will first have to request general authorization from the Ministry of Transport. In cases where space on a Chilean-flag is not available within set periods of time, cargo can be transported by a foreign-flag vessel without having to request a waiver from Chilean-flag companies.

Decree Law signed December 23, 1975, provides that 50 percent of export cargoes may be carried on ships of flag of country of destination as long as that country recognizes an equal right for Chilean vessels.

Cargo moving between Chile and Argentina, and Chile and Brazil shall be carried in equal portions by ships of the two countries when available.

CHINA, REPUBLIC OF (TAIWAN)

There is no legislation to enforce cargo preference, but preference on certain bulk goods is generally given to national companies which maintain regular liner services.

In trade with Japan, it is mutually agreed that 50 percent of the total between the two countries will be carried in national bottoms.

COLOMBIA

Decree No. 1208 of July 1969, states as follows:

Article 1.—In order to effect article 1 of Legislative Decree No. 994 of 1966, a reserve is made for Colombian-flag ships of no less than 50 percent of the general cargo of imports and exports on routes served by Colombian vessels, providing that the requirements of article 2 of the same Legislative Decree are met.

The Colombian Government after examining the capacity and speciality of the mentioned vessels through a study made by the Ministry of Development, the Merchant Fleet and a representative of the Colombian Shipowners, will establish a reserve of no more than 50 percent of Colombian-flag ships transporting bulk, liquid and refrigerated cargoes of imports and exports.

The reserved cargoes stipulated in this article will be applied only if they are not in conflict with previous government obligations with regard to foreign loans.

Article 2.—The reserved cargoes could be included in the transportation treaties between Colombian Shipowners and foreign maritime companies, in order to enlarge, integrate or consolidate the services and to reduce their costs.

The Latin American Shipowners registered in the Latin American Association of Shipowners, could participate in the transportation of reserved cargoes under equal conditions as the Colombian ships, provided that equal treatment or its equivalents be given to Colombian ships in their respective countries. Colombia has trade agreements with Argentina and Uruguay which contain 50/50 cargo sharing clauses.

DENMARK

Effective July 31, 1973, any sea transport of goods from Denmark to Greenland requires a permit from the Minister for Greenland. Exempt from this requirement are Danish Government and Government institution ships, and transport by sea of goods required for the operation of the Danish-American defense areas.

DOMINICAN REPUBLIC

Proposed legislation would provide that 40 percent of commercial import and export cargo, 50 percent of "exonerated" cargo and 60 percent of government cargo must be carried on national flag ships.

ECUADOR

Decree 11/74 and 26/74 of the National Council of the Merchant Marine and Ports raised the percentage of general cargo reserved for national flag vessels from 30 to 50 percent. Ecuador reserves the right to carry 50 percent of its petroleum cargoes—affirmed in the Hydrocarbons Law of 1971. The cargo reservation is written into the contract with petroleum companies.

EGYPT

Egypt's Council of State recently (May 1976) issued a ruling through the Supreme Administrative Court in Cairo to the effect that in the future all seaborne shipments entering or leaving Egypt on the business of the Arab Republic of Egypt, her public institutions, organizations and their affiliates must be arranged and supervised by the Egyptian Company for Maritime Transport or the foreign agents of this company.

FRANCE

According to a decree of April 1931, as amended in August 1970, two-thirds of the crude oil imported for internal consumption must be carried in French ships or in ships of which the charter parties have been approved by the Ministries concerned (i.e., Ministry of Fuel and Ministry of Transport (Merchant Marine).)

French-flag ships have a monopoly on coastwise traffic in metropolitan France; they also have a "de facto" monopoly on traffic between ports of the French Departments of La Guyane, La Guadeloupe and La Martinique, and between ports of the same overseas departments. Traffic between ports of metropolitan France and Tunisian ports is reserved jointly to French and Tunisian-flag ships; it is the same for traffic between metropolitan France and Algerian ports according to recent agreements. Traffic between France and the so-called ex-French territories is not reserved to French-flag ships.

GHANA

All cargoes ordered by the Ghana Supply Commission, the government's purchasing organization, are handled by the Black Star Line as shipping agents. However, cargo is moved by the first available conference vessel.

GUATEMALA

All import cargoes are reserved to Guatemalan-flag lines.

INDIA

India is exerting cargo preference pressure on her oil import trade. The national refineries give preference to shipping under the Indian flag, which is to transport 90 percent of all crude oil imports, compared to 30 percent up to now (April 1976). In the dry cargo sector, however, India is about to make provisions which will open up new possibilities for the third flag in trade with Europe.

India has agreements with the Soviet Union, Poland, Peru, German Democratic Republic, and the United Arab Republic to utilize as far as possible shipping of either party in the carriage of mutual trade. The Agreements provide for the carriage of the bilateral trade on the basis of suitability and equality in tonnage and earnings.

Export-Import Bank cargoes which are not carried in U.S.-flag vessels must be carried on national flag ships.

Shipments for government account must be carried on national flag ships.

INDONESIA

An instruction of November 27, 1964, orders that all requests for shipping space for export of Indonesian commodities be channeled through the Directorate of Shipping of the Directorate General of Sea Communications. This is designed to give national shipping companies priority in the transportation of Indonesian export goods.

The Minister of Sea Communications has ruled that transshipment of goods for Indonesia must be with Indonesian-owned ships using only Indonesian transshipment ports. It was also pointed out that as soon as possible, Indonesia-owned coasters will be used for transshipments from Bangkok, Thailand, and Kompongsom, Cambodia. Licenses will be issued by the National Shipping Bureau. If national vessels are unavailable, foreign-flag ships can be licensed to carry transshipments. The government has stipulated that national flag ships carry 40 percent of all cargo moving between Indonesia and Europe.

Indonesia allocates 45 percent of European cargoes for her own vessels.

A trade agreement with the U.S.S.R. allocates bilateral cargoes to flags of either country.

IRAN

All government imports must travel on Iranian ships.

IVORY COAST

Cargoes of all types coming from or destined for the Ivory Coast are divided between Ivorian and foreign shipping, following the 40–40–20 sharing formula of the UNCTAD Code of Conduct for Liner Conferences.

JAPAN

Utilization of government financing or licensing services often result in the direction of commercial cargoes to Japanese-flag carriers. The shipment of tobacco from the U.S. to Japan is a case in point—such cargoes have been shipped exclusively on Japanese-flag vessels for years. The close government-industry relationship in Japan necessarily results in a shipping policy that has the net effect of a "ship Japanese" program.

KOREA, REPUBLIC OF (SOUTH)

A preferential interest rate for importing raw materials for export production is extended to cover freight costs when the imports are carried on Korean-flag ships.

The Shipping Promotion Law enacted by the ROK makes it mandatory for exporters and importers in that country to use Korean-flag vessels only for all their shipments.

The government encourages the use of Korean-flag ships by awarding some government procurement contracts on an FOB rather than a CIF basis, thereby enabling these ships to compete on a more equal basis. The extent to which this policy is successful is indicated by the relatively large ratio of cargoes carried by its oceangoing merchant fleet.

There is a waiver system designed to assure the utmost cargo for the national fleet. A waiver is allowed only when there is no Korean vessel available for carrying cargo.

A Transportation Ministry decree names five commodities, now (February 1976) imported in foreign bottoms, which are as soon as possible to be carried in Korean-flag ships. The items are crude oil, iron ore, logs, grains and fertilizers.

Korea has trade agreements for the carriage of cargo by ship with the United States, West Germany and Japan.

KUWAIT

Arab countries are expected to exercise cargo preference, and Kuwait has already (April 1976) advised BP and Gulf Oil that absolute priority must be given to the national flag where oil shipments are concerned.

MEXICO

Preferential treatment is on the basis of administrative actions rather than laws. These actions have taken the following forms:

1. Approval of applications for import licenses with the proviso that the goods covered by the application be imported in Mexican-flag vessels.

The constitution of NAMUCAR requires members to use that line for all shipments between member countries in which there is a government interest, unless such cargo is reserved to national lines.

2. In some cases where the importation of a given item is restricted by allocations of quotas in currency, the cost of sea transportation is not charged against the quota when the goods are imported in Mexican-flag vessels. The effect of such a "credit" is to increase the quota of the importer who chooses to utilize the services of a Mexican-flag ship.

3. A decree of January 30, 1976, grants a 97.7 percent reduction of the export tax on cotton to cotton producers. The purpose of the decree is to encourage producers to seek foreign markets. It is stated in the decree that preferential treatment will be given to shippers who use Mexican-flag vessels or vessels chartered by a national shipping company.

4. A decree of January 18, 1963, established an export tax of one percent of the invoice value on bee honey if the shipment is made on a Mexican-flag ship. The tax applied on bee honey shipped on a foreign-flag vessel is three percent.

5. A decree effective January 1, 1966, provides the following subsidies for products intended for export: 50 percent of the railroad freight rate for manufactured products and 25 percent of the rate for semi-manufactured products or manufactured products not for end consumption. When such products are shipped by sea, the subsidy can only be given when either a Mexican-flag vessel or a foreign-flag vessel under charter to a Mexican shipping company is used.

MOROCCO

Requires that 40 percent of imports and 30 percent of exports move on Moroccan vessels.

NICARAGUA

Decree Law No. 299 of March 24, 1972, provides that cargoes purchased or sold by the State shall be transported exclusively by Nicaraguan shipping enterprises. Fifty percent of commercial cargoes shall be carried by national flag ships, and 50% by ships of the other party. Should the other party not provide shipping services, the Nicaraguan share may go up to 80%.

PAKISTAN

Cargo preference is practiced among participants in international shipping conferences which reserve a portion of the conference trade to Pakistan ships.

Half of United States and World Bank aid cargo is reserved to national-flag ships.

It is reported from Karachi that it has been decided that 40 percent of the country's imports and exports would be reserved to national flag ships.

PERU

Supreme Decree, effective March 26, 1976, guarantees that Compania Peruana de Vapores, the state flag line, shall receive preference in the carriage of all government cargoes, whether national or local.

A Peruvian decree provides that all public bodies give preference to the transportation of import and export cargoes to vessels belonging to the Peruvian Shipping Company (CPV). Also, the organization will contract through CPV the transportation of cargoes which CPV vessels cannot carry.

A Peruvian Government decree established that up to 50 percent of Peruvian exports and imports (calculated on a monthly basis) must be reserved for Peruvian shipping lines. In practice this started at 30 percent and permitted a periodic increase to bring it up to 50 percent, to which it was raised by Decree of June 2, 1970.

Decree dated December 30, 1969, stipulates that cargoes enjoying import duty exemption should be carried with priority in (a) Peruvian-flag vessels; (b) foreign-flag vessels chartered to Peruvian companies; (c) in foreign-flag vessels associated with Peruvian companies.

Peru and India have signed a trade agreement whereby the parties encourage contracts under which 50 percent of the cargo generated will be carried by national-flag ships.

Peru and Argentina and Peru and Brazil have similar agreements whereby the two parties have a right on equal terms to transport the cargoes and share the freight receipts derived from their bilateral trade.

PHILIPPINES

A Presidential Decree states that the government will take all steps necessary, including the provision of direct incentives to Philippine-flag vessels and national shipping lines, to enable them to carry a substantial and increasing share of the cargo generated by Philippine foreign trade. It also states that Philippine-flag vessels and those which are owned, controlled, or chartered by Philippine nationals shall carry at least an equal share of cargo as that carried by vessels of another country in trade between the two countries.

Exporters will be able to deduct from their taxable incomes an amount equivalent to 150 percent of overseas freight expenses and charges in Philippine ports incurred in shipping export products, provided they use Philippine-flag carriers. Enterprises registered with the Board of Investments will also be allowed to deduct from their taxable income, 200 percent of shipment costs incurred in the transport of their products and raw materials to and from foreign ports, provided the shipments are on Philippine vessels.

Under a Philippine licensing regulation, import licenses will be issued for a government cargo only when such import is to be transported on Philippine-flag ships. However, import licenses may be issued if no Philippine-flag vessel is available at the port of shipment. In actual practice, considerable shipments go to foreign liners due to the unavailability of Philippine ships.

Presidential Order No. 37 provides that all purchases of Philippine imports be made on an f.o.b. basis, that all freight payments be made in pesos in the Philippines, and that preference on the carriage of imports be given to Philippine-flag vessels.

Presidential Decree 917 of April 1, 1976, established the Freight Booking and Cargo Consolidation Center to (1) encourage, facilitate and assist Philippine shippers, and affect the consolidation of their cargoes, in order to achieve economy and efficiency in bulk shipments; (2) provide systematic vessel chartering services or charter vessels for the benefit of Philippine shippers; (3) secure adequate shipping services for the carriage of Philippine overseas trade and book cargoes at reasonable freight rates; (4) serve as the central implementing authority for the utilization of Philippine shipping lines for the seaborne transport of Philippine export and import cargoes, as prescribed under Presidential Decree No. 894; and (5) foster cooperation among, and enter into suitable arrangements with relevant private and public sectors in the Association of Southeast Asian nations for these purposes and projects.

Decree No. 894 of February 26, 1976, requires government offices, agencies, instrumentalities and government-owned or controlled corporations, persons and entities enjoying tax exemption, incentive or subsidy from the government to utilize in international transportation the services of Philippine-flag shipping lines to the maximum extent service by such lines is available.

All imports of United States agricultural commodities under Section 402, of the United States Government's Mutual Security Act, and United States Public Law 480 which are in excess of the 50 percent required to be carried on U.S.-flag ships must be shipped in Philippine vessels when available.

PORTUGAL

The Merchant Marine Secretariat has prepared a draft law reserving cargo for Portuguese-flag ships. Principal features of the proposed law: (1) where there are no bilateral agreements, all imports and exports of GOP owned or intervened entities exceeding ten tons must be carried on Portuguese ships. If a bilateral agreement exists, as much as possible of cargo should be reserved for Portuguese ships; (2) all imports exceeding ten tons, financed by bank credits or guarantees, must be carried on Portuguese ships; (3) in above cases, FOB terms must be obtained for imports and CIF for exports; and (4) freight rates wil not exceed those set by liner conferences or charged by competing companies.

The maritime transport companies of Portugal and the U.S.S.R. are entitled to equal shares in the carriage of merchandise in the bilateral trade between their ports. The provisions of this agreement, however, shall not affect the right of vessels of other countries to participate in trade between the ports of the contracting parties.

SAUDI ARABIA

Proposal is under consideration for the preference for Saudi flag vessels for the carriage of oil.

SOUTH AFRICA

All goods shipped from the United Kingdom or the continent of Europe to South Africa for government use must be shipped in vessels operated by the South and South-East African Conference Lines of which SAFMARINE is a member.

SRI LANKA

The state-run Ceylon Shipping Corporation has a monopoly on all cargo imports for the government and state-owned corporations. If that company is not ready to carry a cargo within 14 days it can be diverted to other shipping companies.

SPAIN

Spain restricts to national vessels, through government monopolies, many imports such as petroleum, tobacco, and cotton. When Spanish-flag ships are subjected by another country to measures contrary to free competition they shall have the right to apply similar measures in return.

TANZANIA

Tanzania has imposed an income tax on gross receipts accrued from outbound shipping freight and passengers effective April 2, 1976. This tax applies only to foreign shipping lines. The tax does not apply to transshipment traffic.

THAILAND

Decree No. 215 of September 20, 1972, provides that certain types of goods must be imported into Thailand on ships which are licensed by a special inter-departmental committee, or double duty must be paid.

TURKEY

All "public sector" cargoes must be carried in Turkish flag ships. Furthermore, the Maritime Bank exerts pressure on Turkish exporters and importers to ship commercial cargoes on Turkish ships when available.

The Turkish government issued a decree in 1975 which directs that cargo for Turkish destinations should be carried by Turkish ships whenever possible. However, should there be no Turkish ship in port at the time the goods are ready to be taken on board, shipping of any other flag is free to take the

business after obtaining a Turkish nomination certificate.

URUGUAY

A new bill for the development of Uruguay's Merchant Marine was presented to the Council of State on May 14, 1976. Major points of the bill include (1) reservation of 50 percent of waterborne foreign trade, and 100 percent of imports to national-flag ships, (2) freight rebate to exporters who ship on Uruguayan ships of ten percent in the case of traditional export products and 15 percent for non-traditional exports, (3) tax exemption to Uruguayan ships meeting certain conditions, and (4) formation of a Development Fund for the purpose of granting loans for ship construction.

Merchandise arriving in Uruguay for use by state entities as well as certain exports are entitled to "fiscal exemptions". Such cargo must, however, be shipped via Uruguayan-flag vessels.

VENEZUELA

The Law for the Protection and Development of the National Merchant Marine stipulates that ships should be 75 percent owned by nationals to qualify as Venezuelan flag, and on the general cargo side the law requires 50 percent of the traffic of each shipper and importer to travel in Venezuelan-flag vessels; it also further excludes the Venezuelan private sector from much of this trade.

The government has "suggested" the "advisability" of giving preference to CAVN on cargoes controlled by or contracted for government departments.

The National Executive shall reserve for Venezuelan-flag ships the transport of a percentage that is not less than ten percent of the export and import of petroleum and its derivatives, which shall augment gradually until 50 percent of the total is reached. In a like fashion, the transport of iron ore, wheat and other free-flowing cargo shall be treated equally whether they are exports or imports.

Article 44 of the Venezuelan Pilotage Law allows the National Executive to grant Venezuelan ships exonerations of up to 50 percent of the charges established by the law. Article 24 of the general regulations of the Pilotage Law states that national flag ships pay 50 percent of the charges established by the individual pilotage regulations of the different national ports, giving a legal basis on the Federal level for discriminatory charges.

CAVN maintains joint services with several "associated" [1]/foreign-flag lines and under the agreements establishing the joint services imports partially or totally exempt from import duties (known as "exonerated cargo"),[2] must move on CAVN or "associated" line ships. The "exoneration" is at the discretion of the government agencies concerned and amounts to about 15 percent of the value of Venezuelan imports. This assures a definite share of the cargo to CAVN in areas where it maintains a service.

YUGOSLAVIA

An export premium on ocean freight of 20 percent to U.S. North Atlantic ports and 30 percent to other ports is being given to Yugoslavia National Bank when the following conditions are met: (a) shipment is made via a Yugoslav port on a Yugoslav vessel; (b) if no Yugoslav vessel is available and shipment is made via a Yugoslav port, a foreign-flag vessel may be utilized; however, a certificate must be obtained from the Association of Yugoslav Shipowners stating that no Yugoslav-flag vessel is available.

[1] CAVN is associated with a number of lines in the Scandinavian countries, Europe and Japan whereby joint services are maintained.

[2] Government financed cargoes. The Government of Venezuela points out the majority of "exonerated cargo" is bulk cargo that is not normally carried by CAVN ships.

ZAIRE

Law 74-014 of July 10, 1974, gives Compagnie Martime Zairoise the monopoly of transport by sea of exports from the Republic of Zaire and the monopoly on imports of all goods and products imported with the assistance of the Bank of Zaire. It may bestow a part of the operation on other companies of its choice.

Mr. McCLOSKEY. Historically the U.S. policy has been with respect to oil and any other commercial cargo that we wanted free competition among all the nations of the world for the carriage of that oil and we have opposed restrictions on such carriage by other nations.

Mr. MURPHY of New York. That is true. I might say the United States is the only Nation that has open conferences and open trade routes. The gentleman knows that. I am generally in favor of the free trade policy but I am practical and realistic enough to know that in 1977, in the last quadrant of the 20th century, free trade has a different definition than it did in the 19th century.

Mr. McCLOSKEY. The question I want to ask the distinguished chairman is this. Once the United States moves to set aside 9½ percent of our oil importation for U.S.-flag ships, do we not lose all credibility in the leadership we have asserted for 200 years to cause continuing free trade and are we not subject to the possibility that oil-producing nations on which we depend will go to, say, 50 or 100 percent of their oil exports to be carried in their flag ships?

Mr. MURPHY of New York. I do not think so. I think that the world today is so much different from 200 years ago that it is unrecognizable. In fact, one of the first acts passed by the Congress when it was first organized in the 18th century was the Jones Act, a preference act to protect the American merchant marine at that time. It is still in existence and the world well knows that: but on the question of cargo preference, we know that other nations have other cargo preference devices, as well as laws.

The fact is that we today recognize that we are down to some 500-odd ships in the American-flag fleet and going down, that in the last decade American maritime labor has gone from 60,000 to 25,000. We see the American flag disappearing from the seas, impacting our economic and national security and we must do something. This legislation, I think is a step itself in correcting this inequity and dangerous inequality.

Mr. McCLOSKEY. Mr. Chairman, I appreciate the gentleman's concern. We all share that. We all recognize that. We came out of World War II as the strongest maritime nation in the world, but again, we had just fought a major war against the Germans and Japanese. It is understandable that our merchant marine strength be reduced somewhat from the early 1950's when we were really the only major maritime nation; but the problem that bothers me about the bill, and that I would like the gentleman to address, is that of our national security benefits. How are we to have the maximum number of tankers available to us when the next emergency occurs? I am not speaking of a war-type emergency, I am speaking of the type of assertion of commercial pressure that the OPEC nations may exert against us, for example, were we to go to the assistance of Israel, that kind of pressure. Clearly, if we presently have 61 percent of the tankers operating under U.S. ownership, we presently have a maximum degree of potential for the carriage of our oil.

What disturbs me is this: If we go to 9½ percent and the OPEC nations go to say 30 percent or 40 percent, are we not then of necessity reducing the U.S. ownership of the tankers that supply our Nation in the next decade or two decades from 61 percent down to 40 percent, or perhaps 30 percent?

Is that not a real possibility in the next two decades, once we have broken the line?

Mr. MURPHY of New York. I would say to the gentleman that those nations are preparing now to carry those percentages in their flag vessels and that what we are doing for the next 10 or 20 years is permitting foreign-flag nations to use our ships to carry over 90 percent of the oil products into this country. That is the net effect.

Mr. McCLOSKEY. Well, the gentleman knows that that is true today. The gentleman wanted a 20- to 30-percent carriage of oil. Frankly, I think the earlier bill was a sounder bill. In this bill, we give up the principle of reservation of commercial cargoes, but we really get nothing that benefits the national security. Certainly, 9½ percent of our oil, if that were all we were ever going to be able to transport, would diminish the national security.

Mr. MURPHY of New York. Would the gentleman permit me to quote him in the 94th Congress from the report of Honorable Lenor K. Sullivan, chairman, and Honorable PHILIP E. RUPPE, ranking minority member, with additional views by Honorable PAUL N. McCLOSKEY, JR., ranking minority member, Subcommittee on Merchant Marine of the Committee on Merchant Marine and Fisheries on the oversight hearings before the Merchant Marine Subcommittee with respect to U.S.-flag merchant marine?

Mr. McCLOSKEY. Certainly. I always enjoy being reminded of prior mistakes and some prior truths.

Mr. MURPHY of New York. I am quoting the gentleman.

Mr. McCLOSKEY. I wish the gentlemen would do so more often.

Mr. MURPHY of New York. To quote Mr. McCLOSKEY:

> There is a growing trend for governments of both market and non-market economies to use a variety of forms of discrimination in order to channel cargoes towards their own flag ships. For example, the Australian Minister of Transport announced in February, 1973, that Australia has approved a policy that would require 40 percent of its export minerals to be carried on Australian-owned, manned, and built ships. The People's Republic of China has a self-reliance policy in shipping and has a general rule to import important goods such as precision tools in its own ships. France requires that two-thirds of the crude oil imported for internal consumption must either be carried on French ships or on chartered ships which have been specifically approved by the concerned government ministry. The close government-industry relationship in Japan almost necessarily results in a policy that en-

courages Japanese industry to use Japanese ships. The Saudi Arabian Minister of Petroleum has sent a letter to the oil companies in his country instructing them to inform their buyers to give preference to Saudi Arabian vessels. . . .

In its mandate to insure a fair competitive environment for United States shipping, the U.S. government would be directed to institute cargo preference, pooling agreements, or interference in shipping rates to the extent such practices are levied against United States carriers. For example, if Saudi Arabia demands that 50 percent of its oil be carried in its ships, the United States should be prepared to demand that 50 percent of the oil from Saudi Arabia coming into this country be carried in U.S. ships. If English, Norwegian, French, and Indian carriers operate in a closed conference in the India Trade Route, the special trade representative could be directed to institute a suitable countervailing restraint in the U.S. trades against carriers from those nations.

I. NATIONAL SECURITY/ECONOMIC BENEFITS:

The United States should develop a comprehensive national cargo policy." . . .

While I agree with the Committee recommendation, it does not specify what form this cargo policy should take. Should we, for example, insist that U.S.-flag tankers carry 30 percent of our oil imports? Legislation to achieve this precise result passed Congress near the close of the 93rd Congress, but was pocket-vetoed by President Ford. Although it has not been considered in the 94th Congress, it is expected to be a top Congressional priority in 1977 and is apparently a commitment of President-elect Jimmy Carter.

Mr. McCLOSKEY. But the difference between what the gentleman does in this bill and a national cargo policy is that he is simply proceeding to a national cargo policy by unilateral action, rather than by negotiation with our allies, as we might do in the liner trade, by reducing U.S. carriage on a 40–40–20 or 30–30–40 basis. We should be negotiating with our allies rather than throwing this position in their faces. We are going to go unilateral when we have tried to lead the world for 200 years against cargo preference.

It seems to me that everyone agrees that the national security of the United States is secured only by adding in the shipping of our NATO allies. It is those very allies that oppose cargo preference because we do it unilaterally.

I am not suggesting that we should not have adequate tanker tonnage to carry 30 and 40 percent of our oil and dry cargo and in our liner trades, but when we do it by unilateral action such as the 200-mile bill, we invite almost certain retaliation. When we passed our own 200-mile bill, we invited the rest of the world to unilaterally go to 200 miles, and that has certainly been a contributing factor to the breakdown of the Law of the Seas negotiations.

It is one thing to go to closed conference or negotiated bilateral treaties whereby we agree on the percentage, and it is quite another to pass this bill.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I think my colleague from California has made an extremely important point before this body; that is, that any unilateral action invites retaliation by other countries because this Nation cannot take a unilateral step in a global economy without suggesting that other countries could do the same. Interestingly enough, Ambassador Strauss is now trying to reduce tariff barriers at the Geneva negotiations. On the one hand Ambassador Strauss is trying to reduce tariff barriers, and on the other hand, unilaterally by this act, as the gentleman suggests, we would be raising a new barrier to trade.

Another point that I wish to make is that the statement was made by the distinguished chairman of the committee as if free trade were something of the past. I share the desire of the gentleman in the well to enhance the position of this country, as I am sure the gentleman from New York would like to do, to see this country have not only free choice, but fairer trade; and I would remind my friend, the gentleman from New York, that the worst action, the most counterproductive action that this country ever took, in terms of trade, was not taken in the 19th century. It was taken in the 1930's, when the Congress and the administration passed Smoot-Hawley. The passage of the Smoot-Hawley Act, raising tariff on trade, every important trading partner moved to raise their tariff in an act of explicit retaliation. It caused a catastrophic contradiction of the world economy and it was the end of international trade until the post-World War II era of trade liberalization.

So the gentleman's point is well taken, and I want to commend the gentleman for his leadership on this.

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield so that I can respond to the gentleman from New York (Mr. KEMP), I will say that I will not get into the debate of the 1930's legislation. I happen to recall very well the economic conditions in the country at that time, when 15 percent of the work force was unemployed. The Congress was reacting to conditions at that time. I think we are reacting to the conditions at this time, where we ultimately understand and are delivering a message to the world, which has created an overtonnaging situation in the oil tanker market. Speculatively they have overbuilt tonnage, and their ability and desire to just dump all of this tonnage on the American routes and markets is putting the United States out of business economically and security-wise and from the standpoint of its ability to carry its own cargo.

I think what we are doing here is delivering a message that 9½ percent carriage in U.S.-flag vessels we feel is vital to the American flag interests, and "Go ahead and enjoy 90 percent of our trade."

Mr. McCLOSKEY. Mr. Chairman, if I may recall my time, I will say that that is not the point that my colleague, the gentleman from New York (Mr. KEMP), makes. The point is that retaliation can be expected when we do this. The Defense Department testified before us in 1974 that they expected retaliation. If there is retaliation by the Arab and OPEC countries, how can we resist, if they go to 50 percent carriage of oil on their flagships?

The CHAIRMAN. The time of the gentleman from California (Mr. McCLOSKEY) has expired.

Mr. RUPPE. Mr. Chairman, I yield 3 additional minutes to the gentleman from California (Mr. McCLOSKEY).

Mr. McCLOSKEY. Mr. Chairman, if other nations go to that retaliation, then we are hurt. This is the point. I do not object to the goal of this bill to increase the U.S.-flag carriage. It is the method by which it is done to which I object.

The chairman made the point in his statement that the GAO report did not go to the new 9½-percent bill. The GAO report is dated September 9, 1977, and it includes this comment about the impact of employment of this bill. It says:

The first approximation, lacking a detailed analysis, is that the indirect international trade disemployment effect would approximately offset the positive maritime employment effect. Since the maritime industry is heavily capital intensive, the net effect would probably be disemployment.

That is a clear GAO statement that they feel that, while this bill will create new maritime jobs, overall, nationally it will create more unemployment. That was the same thing that was in the memoranda to the President on the original bill.

Would the chairman concede that the GAO believes that this bill will create more unemployment than jobs created?

Mr. MURPHY of New York. No. I disagree.

Mr. McCLOSKEY. The gentleman does agree that the GAO said that?

Mr. MURPHY of New York. No. They said, "probably."

The GAO report did not go far enough. The GAO report said that, at 8 million barrels a day, the cost would be about $240 million. The last Manufacturers Hanover financial analysis that I looked at said that in 1978 we would have a $2 trillion-plus economy; $240 million in a $2 trillion economy is getting down to such a small fraction that even the GAO accountants could not analyze the impact that this legislation would have on employment.

I have stated that the Secretary of Commerce for Maritime Affairs has clearly pointed out a net increase in maritime and maritime-related jobs, and I happen to agree with those figures.

Mr. McCLOSKEY. Mr. Chairman, let me ask one further question, and then I will yield to my colleague, the gentleman from California (Mr. LEGGETT).

The chairman of the committee points out and relies on testimony from the Maritime Administration that if this bill is enacted, the additional cost to the U.S. consumer would be, I believe, according to the figures, $110 million a year.

Mr. MURPHY of New York. That varies, depending on whose figures we use.

Mr. McCLOSKEY. It has varied, in some cases from $240 million to $610 million, but let us take the Maritime Administration figures, since they are the only figures we received from the Administration.

If those figures are correct, that would indicate that in a total cost of transportation of 100 percent of our oil, which,

as I understand it, comes to around $2.2 billion a year, 10 percent of our oil comes in at a cost to us today of $220 million. So if we increase it by 50 percent, $110 million would be essentially the increased cost of carriage. That would be about a 50-percent increase, according to the Department of Commerce, if we moved this additional 9½ percent with U.S.-flag ships.

If that is so and if we are going to base our decision on the testimony of the Department of Commerce that the increased cost will only be $110 million, why would the committee chairman reject our amendment which would limit the increased cost of U.S.-flag ships' carriage to 50 percent? I do not understand why the chairman of the committee resisted that amendment in committee.

We took the figures of the Department of Commerce that the cost would increase 50 percent, another $110 million a year, and we said, "All right, we offer an amendment to limit it to that."

The CHAIRMAN. The time of the gentleman from California (Mr. McCLOSKEY) has expired.

Mr. RUPPE. Mr. Chairman, I yield 3 additional minutes to the gentleman from California (Mr. McCLOSKEY).

Mr. McCLOSKEY. Mr. Chairman, why does the committee chairman object to that amendment to limit the cost to the consumer to a 50-percent increase in the cost of carriage?

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield further, we very clearly stated at the time that we placed in the bill clear mechanisms in the Department of Commerce for careful regulation of the carriage rates and transportation costs, which I feel will, in effect, be lower than the transportation writeoffs on foreign-flag vessels that the consumer is currently paying.

Mr. McCLOSKEY. If that is so, why should we object to the amendment that limits the cost of increased carriage in U.S.-flag vessels to 50 percent?

Mr. MURPHY of New York. The fact is that due to economic conditions, the situation in the oil industry as it affects overall oil pricing is such that we cannot put on such a hard yardstick as that. We feel the Department of Commerce will get us the lowest cost possible for the carriage of oil imports.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman agree to a 100-percent increase in cost?

What the committee is trying to define is this: They say in the bill that the oil imported will be carried on U.S.-flag vessels at a reasonable cost.

What is the reasonable cost increase, in the opinion of the committee chairman? Is it 100 percent? Is it 200 percent? What should be the limit?

Mr. MURPHY of New York. I do not think we should put a percentage figure on reasonable cost. A reasonable cost is based on many factors that are going to vary on a yearly basis. That is why we use the term, "reasonable cost."

As an attorney, the gentleman certainly knows how to interpret legislative language.

Mr. McCLOSKEY. Mr. Chairman, if the U.S. merchant marine is to be competitive, how could we ever justify a U.S. merchant marine that costs over 50 percent over and above its competitors' costs to bring oil to this country, when the crew costs are really an infinitesimal amount of the total cost of operation today?

On these 20,000-ton tankers, we are talking about, the crew costs should not be more than $1 million a year diferent, should they?

Why should we give a blank check to the U.S. shipping industry, which already gets a 50 percent construction subsidy and 73 percent of its wages paid out of the Federal Treasury? In addition, we give them a special loan guarantee, and we give them tax benefits.

Why should they be able to charge more than 50 percent of foreign carrier rates, referring particularly to the Norwegians, the Swedes, and the British, whose wage scales are generally similar to ours?

Mr. MURPHY of New York. Mr. Chairman, the gentleman probably does not recall the years, 1972, 1973, and 1974, when world shipping rates were at world scale 300. Prior to that they were down around world scale 25 and 30. Because of all the tonnage in the world market, the bottom fell out, and probably the foreign-flag interests are sailing ships at far below costs, just because they want to keep a ship moving for a period of time.

That is why we say, "a reasonable cost," so that we have a proper, a businesslike, and a rational approach to the problem on a long-range basis.

Where else could they go; would they go back to 300 world scale at some time? We do not want to see the American consumer saddled with a percentage of cost scale when he should be paying a reasonable price.

Mr. McCLOSKEY. Mr. Chairman, would not the chairman of the committee agree that 50 percent higher than the rate of the Swedes, the Norwegians, and the British ought to be a reasonable limit on the cost of U.S. shipping if we are to compete?

After all, we have led the world in a free enterprise system and free competition. How can we contend that we want to maintain this leadership in free trade and free enterprise, as against a Communist confrontation, when we are unwilling to limit ourselves to even a 50-percent limit on costs as against our competitors?

Mr. MURPHY of New York. Mr. Chairman, the gentleman is a far more knowledgeable transportation expert than he would indicate by raising this question.

The gentleman well knows that the Swedes, the Norwegians, and the Russians will charge what the traffic will bear at a given time. They charge world scale, 25, today because they can get it. They were at world scale 300 because they could get it 3 years ago.

The gentleman knows that the way to capture a conference is to cut the rates on a conference. He knows full well that EUSC was quoting rates 20 percent below those of American carriers on all of our trade routes. The reason was to drive the Americans out of business by lowering those rates. Once they are out, up go the rates again.

The gentleman knows that very well because we analyzed this in the transportation industry in this country and on a worldwide basis.

The CHAIRMAN. The time of the gentleman from California (Mr. McCLOSKEY) has expired.

Mr. RUPPE. Mr. Chairman, I yield 1 additional minute to the gentleman from California (Mr. McCLOSKEY).

Mr. McCLOSKEY. Mr. Chairman, in a subsidized industry, it seems to me that the very least we should do for the American taxpayer, who pays the subsidies, is to say that if we are going to subsidize the industry, we at least should not be permitting rates which are more than 50 percent higher than the competing world rates.

It is that amendment which I will offer when we move to the amendment procedure. It seems to me that the chairman should accept it and accept the fact that the entire validity and integrity of our position is that this can be done at a reasonable cost to the American consumer, which almost requires that we say a reasonable cost to the American consumer should not exceed 50 percent of competitive rates on the world market.

Mr. MURPHY of New York. If the gentleman will yield further, Mr. Chairman, the General Accounting Office report on which the gentleman relies so heavily clearly states that the cost of this legislation to the American consumer would be approximately 0.2 of a cent per gallon or about $240 million. That works out so that a man or woman who drives an automobile 10,000 miles, with that vehicle getting 20 miles to the gallon will cost him or her $1 per year. That is how reasonable this legislation is, and at a negligible cost.

Mr. RUPPE. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. WHITEHURST).

Mr. WHITEHURST. Mr. Chairman, I rise in support of H.R. 1037, the Energy Transportation Security Act of 1977. This legislation will significantly enhance our Nation's economy, national security, and environment, and these gains will come at almost no cost to the Federal Government and a relatively minimal cost to American consumers.

The decline of the U.S. merchant marine since World War II has been dramatic. From its position as the leading maritime nation, the United States has slipped to 10th in the world in gross tonnage transported. This has meant the loss of thousands of jobs in the merchant marine, in shipbuilding, and in related industries.

Passage of the Energy Transportation Security Act, increasing oil imports carried on U.S.-flag vessels from the current level of 3 percent to 9.5 percent, would undoubtedly help to reverse the trend; 5,000 new jobs in American shipyards and on board American vessels and 15,000 job opportunities for Ameri-

can workers in mariime-related services, supply, and material industries will be created. In addition, more than 200,000 existing American jobs, likely to be lost if the decline of the U.S. merchant marine continues, will be saved. It is particularly important to note that these jobs created and saved will be in areas and among groups suffering particularly high rates of unemployment. For example, 7 out of 10 major shipyards are located in areas suffering chronic unemployment problems. Moreover, blacks and other minority groups, now experiencing their highest unemployment since World War II, comprise 31 percent of the shipyard work force and 17.5 percent of shipboard crews. Thus, the jobs resulting from this bill would be available in areas where they are needed most and would be held by the people who need them most.

One other important advantage is that the jobs created in the shipbuilding industry and the merchant marine are permanent and productive. This Congress has spent billions to create temporary, and often make-work, jobs under Government, sponsored employment programs. This bill will enable thousands of American workers to pursue a productive career at no cost to the Federal Government and an insignificant cost to the individual American consumer.

H.R. 1037 will also produce a number of other economic benefits. The multinational oil companies now avoid paying about $100 million annually in U.S. taxes by shipping oil on foreign-flag vessels. Thus, we can expect a significant increase in tax revenues from this legislation. Of course, the increased activity in the shipbuilding industry will also generate additional revenue for the Federal Treasury. American taxpayers will also enjoy a cost savings of about $100 million a year as a result of the elimination of direct construction and operating subsidies for tankers engaged in the preference trade. Since H.R. 1037 would become the primary means of maintaining a U.S. tanker fleet in foreign trade, these Federal subsidies would no longer be necessary. A final economic benefit is the contribution this legislation would make to reducing our huge balance of payments deficit.

In addition to the economic benefits which will be derived from the Energy Transportation Security Act, it will also enhance our national security. Despite the shock of the 1973 Arab oil embargo, our imports continue to skyrocket. We will soon be importing more than 50 percent of our petroleum needs. While our oil imports are increasing, however, the amount of these imports transported on U.S.-flag vessels has declined to the present level of 3 percent. The 1973 embargo demonstrated clearly the dangers of relying on foreign nations for oil. The threat to our security is particularly ominous in light of the fact that the United States has almost no control over the ships which carry the oil imports. The nations offering "flags of convenience" can and have limited the trade in which their vessels are engaged when it suits the political aims of these nations. For example, in 1973 Liberia prohibited any vessels flying the Liberian flag from participating in the carriage of arms to the Middle East. The United States can ill afford to place itself in a position of total depedence on these nations.

Another national security related reason for maintaining an effective American merchant fleet is its importance during times of war. U.S.-flag vessels have transported 95 percent of our total military supplies during past wars, serving as an indispensable component of our entire military and defense structure. If we allow our merchant fleet to diminish, in any future emergencies the United States would be forced to rely on foreign flag tankers manned by foreign nationals who may not be sympathetic to this Nation's objectives.

The rash of tragic accidents last winter involving foreign flag of convenience vessels highlights the environmental benefits which would result from this bill. Increasing the oil imports carried on U.S.-flag vessels would clearly improve the protection of our Nation's waters against massive oil spills. The record of flag of convenience vessels is extremely poor. Liberian vessels, for example, comprise 26 percent of the world's tanker tonnage, but in recent years they have been responsible for 40.7 percent of all tanker tonnage loss. In one of last winter's accidents, the Liberian tanker *Argo Merchant* went aground 24 miles off course. Its navigational equipment was apparently faulty or not working. Moreover, this tanker had been involved in 19 previous high seas mishaps since 1964.

With the United States accelerating its reliance on imported oil and with supertankers becoming increasingly common, we must take action to protect our environment against flag of convenience ships. U.S. standards for its vessels are far more stringent than for most foreign flag vessels, both in terms of the physical requirements of the ships and the competency of the crews. The ability of the crews is especially crucial, since 80 percent of the oil spills result from human error. Consequently, even if the United States unilaterally imposes ship construction standards for all ships entering its ports, our Nation's waters will remain endangered by the untrained and unskilled crew members all too often employed on flag of convenience vessels.

The major objection raised by opponents of H.R. 1037 is that it would increase the cost of imported oil. There is no doubt that some additional cost would be imposed on American consumers. In my view, however, the benefits of this legislation far outweigh the minimal cost. Cost estimates have varied from one-tenth to two-fifths a cent per gallon of imported oil. The Merchant Marine and Fisheries Committee estimates an additional cost of one-fifth a cent per gallon. This means that a typical motorist who drives 10,000 miles per year in a car that gets 20 miles per gallon would end up paying $1 more per year as a result of the Energy Transportation Security Act. In light of the 30-cent-per-gallon rise in the cost of gasoline over the past 5 years and the recent House passage of the energy bill which would increase the cost by at least an additional 7 cents per gallon, I find it hard to believe that the opponents of H.R. 1037 rest their case on the relatively insignificant increase of one-fifth of a cent per gallon.

I urge my colleagues to support this badly needed measure.

Mr. MURPHY of New York. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Chairman, I rise in strong support of the bill H.R. 1037, the Energy Transportation Security Act of 1977.

I first want to commend our distinguished chairman, the gentleman from New York (Mr. JOHN MURPHY), chairman of the Committee on Merchant Marine and Fisheries, for the work he has done, and for the extensive number of hearings he has conducted on this legislation. We have some 600 pages in our hearing report on this legislation. I think it was an outstanding job.

Mr. Chairman, the bill before us requires that 4½ percent of all oceanborne oil imported to be transported on U.S.-flag commercial vessels. This figure would increase by 1 percent per year until the cargo preference quantity is equal to 9½ percent of the gross oil imported into the United States on October 1, 1982.

If there is one objection I have to this bill it is that the percentage is not enough. This leaves over 90 percent of the oil imported to be transported in foreign-flag ships. Today the United States imports more than 8 million barrels per day of foreign crude oil, or almost 50 percent of the total domestic demand. However, less than 4 percent of this crude oil is carried in American owned and operated vessels.

Mr. Chairman, an important point to keep in mind is that the Executive and the General Accounting Office have estimated that the cost to you and me incurred in this bill would increase from one-tenth to two-tenths of a percent the price per gallon of gasoline. In return this legislation will enhance our national security, will provide about 5,000 jobs for American seamen and shipyard workers, protect our marine environment, improve the U.S. balance of payments, and produce savings to the taxpayers.

Mr. Chairman, one of the foreign-flag tankers, under Liberian registry, the *Sansinena*, exploded in Los Angeles Harbor in my district early this year. It seems to me that if we increase the use of trained and skilled American crews working on American-built ships—American-flag ships—we will decrease the possibility of another explosion in a harbor, or an oil spill off our coasts.

I also want to emphasize that the revenue loss to the U.S. Treasury resulting from multinational oil company use of foreign vessels is estimated by the Treasury Department to be as high as $140 million annually. In addition, U.S.-flag tankers contracted for after June 30, 1977 are eligible to participate in this trade only if constructed without construction differential subsidy (CDS) and operated without operating differential

subsidy (ODS). Both of which will save the taxpayer money.

Mr. Chairman, this is a good bill, and I urge an "aye" vote.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RUPPE. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. STOCKMAN).

Mr. STOCKMAN. Mr. Chairman, I rise in opposition to the legislation before us because I think it is totally lacking in basic economic justification. The only pretext of an economic justification that we have been given is that it creates a limited number of jobs, and that it provides some modest improvement in our balance of payments. But I would suggest to the House that the fact that it creates some jobs and helps our balance of payments is not even the beginning of justification for a measure of this sort, because the effect of job production, 5,000 or so, and the balance of payments improvement, are merely incidental effects of the proposal itself.

The fact is that any protectionist measure we might adopt, any market preference, any quota, any other protectionist measure, will have the very definite, first order effect of creating an identifiable number of new jobs in the domestic industry involved and will mechanically reduce the balance of payments.

We could apply that to any imported product or any service you might imagine. I would note, for example, that we import something like $300 million worth of bananas each year. I have no doubt if we were to establish a law reserving 10 percent of the banana market to domestic production, that there would be attempts to produce quota bananas.

There would be some enterprising entrepreneurs who would be out there building giant greenhouses to produce these quota bananas, and they would make the same arguments that are being made here today; that is, that there are significant job gains and balance of payment gains to be made. We would have onsite construction to build all those greenhouses. There would be a huge increase in the demand for green tinted glass and structural steel. They would have to hire a lot of people as greenhouse employees to pick the bananas and tend the trees. So there would be an enormous increase in jobs. You would also save on the balance of payments because you would no longer be importing as many bananas.

Of course, the other thing you would get would be horrendously, high-cost hothouse bananas when we could import a lot cheaper from those areas that have the lowest cost production advantages.

I would suggest to the House today that in principle there is no difference between the hothouse bananas that I have hypothetically conceived and hothouse tanker services. They are both based on an economic fiction. That is, that you can pay a lot more, a much higher cost, for the same volume of product or services and make some gain for the economy. Obviously we cannot do that here.

The real issue is not the direct number of jobs that can be gained or the initial balance of payments improvement. The real issue is the answer which was given by the proverbial man in the bar when he was asked, "How is your wife?" and he answered, "Compared to what?"

The question here is compared to what. Compared to any other strategy I can think of for creating jobs, this is the highest cost, most inefficient, most wasteful route to go.

The fact is, in the domestic economy for every expenditure of $12,000 on goods and services we get one job. For every expenditure of $10,500 under CETA we get one job. For every expenditure of $25,000 under the public works program we get one job. But under this bill, according to the realistic estimates the General Accounting Office provided, every additional job we get will cost at least $75,000. So this is not the way to create jobs, if that is our goal.

Mr. Chairman, I recognize that no policy is ideal and that on free trade, given the world we are in today, we are going to have to relent; we are going to have to retreat in some areas; but I would suggest to the House this afternoon that the oil tanker industry is the wrong industry at the wrong time. In fact, it is the worst possible occasion to do it, because, unlike the steel industry which is having temporary competitive problems but which over the long run has been competitively viable, the U.S. merchant marine and cargo industry has not been competive for 40 years. That is why we have to have $700 million worth of subsidies every year for construction and operation. That is why we have to have $100 million in tax subsidies; and that is why we have the domestic cargo preference in terms of coastwise trade. Now they want $300 million more.

It seems to me when we look at the construction costs, the fact that it costs $286 per ton to build a large cargo tanker in a foreign shipyard, and more than $480 in this country, and that is a 67 percent difference; when we look at the operating rates on large oil tankers and we see they are two to four times more costly on American tankers. I would suggest that if we are going to protect someone, let us protect an industry that has a fighting chance of staying in the ball game. If we are going to impose this huge cost of $300 million on the American economy, let us impose it in a way that can provide some benefits in the long run and clearly this measure is not capable of doing that.

Mr. MURPHY of New York. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi (Mr. BOWEN).

Mr. BOWEN. Mr. Chairman, I rise in strong support of H.R. 1037 as reported by the Committee on Merchant Marine and Fisheries, on which I serve.

Mr. Chairman, the national security need for this legislation, I believe, is well recognized. Certainly most of our national organizations who are concerned very directly with the defensive posture of this country support the enactment of this legislation. For example, let us look at our veterans' organizations. The American Legion has stated:

> The energy issue today is at the forefront of American consciousness and we all share the concern that our Nation imports nearly 50 percent of our oil demands. . . . The American Legion believes that we must reduce both the source and delivery dependencies. Passage of oil preference legislation would be a significant step towards lessening the delivery dependence.

The Navy League of the United States similarly has taken such a position, and I quote:

> . . . it simply does not make sense to rely so heavily on the ships of others to carry to our shores those cargoes of energy that make possible our tremendous productivity and unparalleled standard of living.

So too has the Naval Reserve Association said:

> . . . the proposed legislation is in the interests of national security . . . the U.S.-flag merchant marine is an essential and critical component of national defense . . .

The Veterans of Foreign Wars have said:

> Such imaginative legislation makes sense in terms of national security . . .

Our administration's position, as expressed in testimony to our committee on July 25 by Assistant Secretary of Commerce Robert Blackwell is this:

> The transportation of our energy requirements is too critical a security requirement to be completely abdicated to foreign interests.

There are further statements of course that have been presented to our committee from the Defense Department and from others in the administration.

The Defense Department estimates that 3.3 million deadweight tons of shipping would be needed for direct military support in the event of a major overseas deployment of ground forces. When the proposed 9.5 percent preference level is reached, there will be assured commercial foreign trade employment for tankers totaling approximately 4.4 million deadweight tons if oil imports remain at the current level of 8 million barrels per day.

Support across the board from those very directly and deeply concerned with the national security has been heavily in favor of the legislation.

As the distinguished chairman of the committee has pointed out to us, the cost is minimal to the American consumer. The General Accounting Office and the Maritime Association estimate only between one-tenth and two-tenths of a cent a gallon increase in gasoline prices would be involved as a consequence of this legislation. At a rate of 20 miles per gallon—and we hope our cars soon will reach that level—and using 20,000 miles per year as an average consumption figure, it will cost each American about $1 a year. Mr. Chairman, I suggest this is a small price to pay for such a major step in support of the military security of our Nation.

I urge the members of this committee to vote for this vital legislation.

Mr. RUPPE. Mr. Chairman, I yield 4 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding.

I rise in the strongest opposition to this bill.

I am not a transportation expert and I do not pretend to be one, but the people of this country are already paying one way or another, whether through the Department of Agriculture or whatever other way, $786 million a year to stabilize the construction of ships and wages of workers in the maritime industry. The *Stuyvesant* went down the ways the other day in Brooklyn. It was built for the Sohio Co. The company put in $9 million. The taxpayers put in $27 million. The rest of it was covered by guaranteed loans of the U.S. Government to a total of $63 million. It is expected to gross $30 million in 3 years. The taxpayers are already doing this.

But I would like to speak of a more delicate topic which was raised here earlier today, and this is not a partisan issue. I hope it will not be approached in that spirit. One of our colleagues from the majority side of the aisle emphasized that it was not a partisan issue. But nobody is going to question anybody's motives here. Nobody knows another human being's motives or why he does what he does.

We have got to understand how this looks to the public, in the face of what this country has known. Mr. Chairman, do we not realize, sitting down here in Congress, how this looks to the public? Do we not realize that no matter how pure our motives, this kind of thing is absolutely intolerable? We have here the same old story. This was all in the headlines a few years ago. There was $100,000 to the President and another $150,000 to Members of the Congress, and up went the price of milk. Now we have another $100,000 to the President and another hundred thousand dollars to Members of Congress, and up goes the price of oil?

And that is not the only point. The consumers are going to have to pay more for the gasoline or fuel oil they buy. It will all have to be paid for by the consumers, all of it.

The point is: What are we doing to the Members of Congress themselves? And how is that going to look to the public?

We have to justify what we do here today. We have got to begin to care about how we look and what we are doing. The public is not fooled and neither are the newspapers. Why are the newspapers calling this a ripoff and a payoff? Because that is the way it looks to them and to the public. We have got to pay some attention to this. We are not living in a capsule under this dome where we can do whatever we like without its being noticed.

Everybody knows everything, thank God, and that is our only defense: accountability to the public; all these contributions are public and then the public takes its own view as to what is going on down here. No matter how pure the motives, it does not look right.

To bring a bill up so soon after what we have seen, so soon after the horrors this country has been subjected to, with all that goes on in Washington, to me is a heartbreak. I do not know how people dare do it.

It would seem to me that with a decent respect for the opinions of mankind, as was written many years ago, this is not what we ought to be doing here today. I never thought, frankly, when I heard about this bill that it would ever come to the floor. I thought people would be embarrassed. Nothing I have heard here suggests to me that there is any real justification for it, according to what I read in the report of the committee.

Mr. MURPHY of New York. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Chairman, I rise to support this bill, H.R. 1037, for three reasons: National security, environment, and the employment opportunities that it will generate. I will not dwell on the national security or environmental issues. I believe others have spoken to that; however, I would like to make two points on national security. One of the points that I would like to bring to our attention is that the multilateral oil companies, who seem to owe no allegiance to anyone but themselves, have claimed that in attempting to kill this bill that their 517 foreign-flag tankers would be available to the U.S. Government in times of national emergency. I would like to remind this Congress that during the 1973 Yom Kippur war U.S.-owned Liberian-flag tankers were ordered not to deliver oil to Israel.

No. 2, at the same time the U.S. oil companies refused to refuel U.S. Navy ships in the Mediterranean.

Mr. Chairman, when we talk about national security, we should keep those points in mind.

This House, if it were voting for the Panama Canal would reject the proposed treaty; but the Panama Canal is only important if we have American ships to go through it.

However, I am not a national security expert or environmental expert. Those of you who know me know that I come to the Congress from a background of community involvement and social work. I see this from the employment opportunities that it offers. I am an expert in affirmative action. I am expert in trying to bring about a full employment strategy in this country. That is one of the reasons I am supporting this bill. My own shipyards in Maryland once employed 4,000 people. Primarily because of the work of the feminists and other civil rights groups, we were able to bring about very strong affirmative advancement in the shipyard industry.

The CHAIRMAN. The time of the gentlewoman from Maryland has expired.

Mr. MURPHY of New York. Mr. Chairman, I yield 1 additional minute to the gentlewoman from Maryland.

Ms. MIKULSKI. Mr. Chairman, on Christmas Eve I went to a graduation program where we had trained women in prison to be welders in the Baltimore shipyards. They were graduating. They were going to make $10,000 a year, get their kids out of foster care and build a new life. Now they are laid off, some back on welfare, others on dope and prostitution. It is for those women and others like them that I support this bill. They need and want jobs.

Mr. Chairman, this Congress talks a lot about endangered species. I hope we start worrying about the American worker as much as we worry about whales, walruses, and dolphins.

Mr. Chairman, I urge adoption of this legislation.

Mr. MURPHY of New York. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, like the gentlewoman from New Jersey, I am embarrassed also, but not for the same reason. I have to look at workers who are unemployed in the shipyards that we have in New York and throughout the country. They are unemployed because we in Congress have failed and failed them miserably. That kind of embarrassment I cannot live with. Remedy can be found in some measure in this legislation.

Mr. Chairman, I rise in strong support of H.R. 1037, a bill that would provide the United States with a nucleus fleet of U.S.-flag tankers that is required by our national security.

Mr. Chairman, often overlooked, is that one of the collateral benefits that would result from this bill is increased employment, and I would like to comment on that element of the legislation at this time.

Even the strongest opponents of H.R. 1037 agree that it will provide jobs for American workers aboard ship, in shipyards, and in numerous support industries. At the present time, there are a substantial number of well-trained but unemployed seamen, stranded by the exodus of vessels from the U.S. flag. In addition, our shipyards have already started to lay off personnel for lack of employment. I feel that one of the most positive collateral benefits of the bill will be the increase in maritime and maritime-related employment for U.S. citizens.

In this regard, when the administration testified in support of H.R. 1037, the committee was informed that at an import level of 8 million B/D in fiscal year 1982, the 9½-percent allocation would assure the employment of 2,500 American seamen. If the level of imports were to increase to 10 million B/D by 1982, this would assure jobs for 3,600 American seamen. Additionally, about 2,100 shipyards jobs would be created. Perhaps more important, the committee has reason to believe that without the enactment of H.R. 1037, thousands of maritime and maritime-related jobs would be lost.

Finally, the additional maintenance and repair work on U.S. tankers created by H.R. 1037, plus the need for the construction of replacement vessels, will create 15,000 jobs in excess of the administration's projections; not only in shipyards, but in ancillary jobs required to provide the steel, paint, parts, and other materials needed for ship repair, maintenance, and construction.

Because the multinational oil companies in this country continue to build and operate ships under foreign flags, the U.S. merchant marine has eroded to the point where many existing jobs

are threatened. The enactment of H.R. 1037 will not only assure there is no increase in such lost jobs, but will contribute to easing the Nation's unemployment problem.

This is especially significant, as 7 out of the 10 major shipyards in the United States are located in chronic unemployment areas, so that new jobs would be available where they are most needed. Additionally, about 31 percent of the shipyard workforce and 17.5 percent of shipboard crews are members of minority groups, as compared to the national average minority workforce of 11 percent. Because unemployment among minorities is substantially above the national average, jobs provided by H.R. 1037 would go to the people who need them the most.

Mr. Chairman, the men and women of America's labor force should be allowed a fair participation in the bonanza expected to accrue to the multinational oil companies as a result of our increased reliance on imported oil. I am convinced much of the vessel owners' flight to foreign flags may be attributed to an unjustified reluctance to deal with organized labor in the maritime trade: As much as any sectors of American labor, the maritime unions have placed a premium on continuity of operations. There have been some brief work stoppages at contract time, but these are insignificant compared with the disintegrating labor relations in many of the foreign-flag fleets, most notably the Japanese fleet. While it is true American seamen are paid more than the near subsistance wages paid the crews on many of the foreign-flag vessels, crew wages were never directly placed at issue in the hearings on this legislation. This is probably because crew costs have become a negligible factor on modern, highly automated tankers.

For example, the TT *Brooklyn*, a 225,000-ton tanker with a speed of 18 to 20 knots, carries a crew of 27 men. On the other hand, the old 14,000-ton T–2 tankers of World War II fame carried a crew of from 37 to 45.

Of course, with all the new technology in the shipping industry, greater skills and technical expertise are required to operate the modern tanker. Fortunately, the skill of our American seamen is unsurpassed by any others in the world, and we have several merchant marine academies—State, Federal and privately operated—to insure that trained personnel are always available.

Mr. Chairman, I urge my colleagues in the House not to lose sight of the employment benefits that will result from the enactment of H.R. 1037. I also urge their strong support of this very vital legislation.

Mr. RUPPE. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. TRIBLE).

Mr. TRIBLE. Mr. Chairman, I rise in support of the Energy Transportation Security Act. I am concerned about the state of the U.S.-flag merchant fleet. The U.S.-flag merchant marine is in a state of decline and the time has come to take action to reverse this trend.

American-flag shipping, by total volume, is carrying less than 6 percent of all U.S. foreign trade and commerce. In 1975, U.S.-flag carriers transported 5.1 percent of all U.S. water borne cargo, compared with 6.5 percent in 1974 and a 10-year average of 5.6 percent. With respect to tanker movements, American-flag vessels participated to the extent of 4.6 percent. The comparable figure for 1976 was 3.5—3.5 percent. Carriage of bulk commodities by U.S.-flag ships was even worse—1.4 percent.

In 1970 this Congress implemented a 10-year program to construct 300 new merchant vessels intended to substantively modernize and revitalize this country's dry cargo and bulk fleets. The vessel construction program is seriously behind schedule in meeting the 10-year goal established. This lag is of serious concern and has important national security and national interest implications. At more than the half-way point in the program, only 66 new vessels have been contracted for construction. Of this 66, only 36 vessels have been completed and delivered. Funds requested by the President, and authorized and appropriated by an overwhelming majority of Congress, remain unspent, and the program has clearly lost its momentum.

The chief cause for the delay in this program implementation is the lack of cargo for the U.S. merchant marine. I am absolutely convinced that a key factor in moving toward a strong and viable U.S.-flag maritime capability is a strong cargo policy which embodies some form of cargo equity. To this end I have vigorously supported the cargo preference bill.

The fundamental justification of cargo equity legislation is to provide for the assured employment in America's foreign trade of U.S.-flag tankers that can be called upon in the interest of security in war or national emergency.

In 1944, Dwight D. Eisenhower said:

> When final victory is ours, there is no organization that will share its credit more deservedly than the American merchant marine.
>
> We were caught flat-footed in both world wars because we relied too much upon foreign-owned and operated shipping to carry our cargoes abroad and to bring critically needed supplies to this country.
>
> America's industrial prosperity and military security both demand that we maintain a privately operated merchant marine adequate in size and of modern design to insure that our lines of supply for either peace or war will be safe.
>
> I consider the merchant marine to be our fourth arm of defense and vital to the stability and expansion of our foreign trades.

Presently, U.S.-flag vessels carry only about 3 percent of America's oil imports, with control over the transportation of 97 percent of our vitally needed oil imports in the hands of foreign nations and the multinational oil companies and their foreign-flag vessels.

The increased utilization of U.S.-flag vessels in the carriage of America's oil imports will guarantee this Nation the availability of a fleet of U.S.-flag tankers manned by U.S. citizens that is far more reliable than foreign-flag tankers manned by foreign nationals who may not be sympathetic with U.S. objectives. The flag-of-convenience vessels owned by the multinational oil companies registered in Liberia or Panama and which carry 57 percent of America's oil imports are completely outside the control of the United States and cannot be counted on to respond to our Nation's needs in time of war or other emergency.

The construction and repair in American shipyards of the vessels needed to carry the oil allocated under the cargo equity program will sustain America's shipbuilding mobilization base, an indispensable component of national security. Moreover, the operation of U.S.-flag tankers under this legislation will yield a significant complement of American merchant seamen prepared for close cooperation with the Navy in time of war.

The cargo equity legislation also will preserve existing maritime industry and related jobs and generate new long-term employment opportunities for American shipyard workers and seamen and for American workers in a wide variety of maritime service, supply, and material industries.

This legislation will create approximately 2,500 ship-going jobs. It is true that this bill will not create significant new job opportunities in other areas in the short-term. However, it is clear that this legislation will, in the long run, create new jobs in American shipyards, on board American vessels, and in maritime-related service, supply, and material industries. Epecially important is that more than 200,000 existing American jobs in ship construction and repair, in ship operation and in maritime-related service, supply, and material industries will be saved.

The skilled and unskilled workers who are indispensable to shipyard work are those who form the basis of an industrialized economy and include, among others, welders, sheetmetal workers, sanders, electricians, carpenters, painters, plumbers, machinists, shipriggers, shipfitters, and pipefitters. Without this legislation, shipyard facilities in numerous States, such as Massachusetts, Maryland, Virginia, New York, Alabama, California, Texas, Louisiana, Maine, and Mississippi, will have little guarantee for any work after 1978 when existing orders expire, compounding the Nation's unemployment problems.

There are other benefits that would result.

The increased employment of U.S. vessels and U.S. crews would contribute millions of dollars annually to the U.S. Treasury through corporate taxes on both shipbuilding and shipping profits and income taxes on shipyard workers and seamen. Presently, the multinational oil companies escape an estimated $100 million per year in U.S. taxation by registering their vessels under foreign-flags and manning them with foreign crews.

Cargo equity will also ease the drain of the U.S. dollar and lessen the deficit in our international balance of payments. When U.S. dollars and U.S. crews are paid to transport America's oil imports, dollars are retained in the U.S.

economy and used to purchase American goods and services. Dollars paid for foreign shipping leave this country.

Finally, the increased utilization of U.S.-flag vessels provides the greatest measure of protection for the marine environment.

American vessels are built in accordance with the most stringent construction safety standards in the world. American seafaring personnel are highly skilled and trained and must meet Federal Government licensing and certification requirements.

In contrast, the flag-of-convenience vessels utilized by the multinational oil companies in U.S. waters are often antiquated, manned by substandard crews, and in violation of the most basic safety standards of sea transport. The disastrous oil spills that occurred in U.S. waters last winter involved Liberian-flag vessels such as the *Argo Merchant*.

For these reasons I believe this legislation is necessary and urge my colleagues to support this measure.

Mr. MURPHY of New York. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Chairman, I rise in support of H.R. 1037.

Mr. Chairman, never have we seen such an abundance of misinformation surrounding a piece of legislation as in the case of H.R. 1037. Unfortunately, many of my colleagues are concentrating too much on the rhetoric espoused by the bill's opponents who claim that they are championing and talking about consumers' rights.

Mr. Chairman, we have heard a lot of talk to the effect that cargo equity legislation would raise the cost of oil to the consumer by two-tenths of a cent per gallon. Some strong evidence to the contrary, however, has arisen lately, and I think it is entirely possible that cargo equity legislation may actually reduce the cost of oil to the American consumer.

The executive branch has provided some compelling evidence in support of this. Earlier this year the Federal Energy Administration charged 20 multinational oil corporations with overcharging the American consumer by $336 million in a recent period. According to the Federal accusations, one of the devices used by the oil companies to perpetrate that was the foreign-flag shipping subsidiaries that they operate overseas as a means of avoiding their fair share of U.S. taxes. We have all seen the ridiculously low tax rates paid by the big oil companies. For instance, in 1975, according to a survey by a member of this House, Congressman VANIK, Mobil Oil paid only 1.8 percent in taxes on its profits. Gulf Oil paid only 6 percent. Texaco paid 9.2 percent.

One of the ways these companies avoid U.S. taxes and bilk the American consumer is through the clever use of foreign subsidiaries that they set up in tax havens throughout the world. The *Argo Merchant*, which spilled 7.5 million gallons of oil off the New England coast less than a year ago, is a typical example of this kind of foreign ownership tactic.

The way it works is this: A foreign shipping subsidiary of a multinational oil corporation owns or charters low-cost foreign-flag shipping that is not subject to U.S. control or standards. The parent corporation in this country has a strong profit incentive to grossly overcharge itself for the use of that foreign-flag shipping. This has the effect of siphoning earnings out of the United States and into these foreign tax havens. The Federal Energy Administration's accusations of $336 million in overcharges were based in part on just such devices as these. For example, an oil corporation based in New York can set up a shipping subsidiary in a file drawer in the Bahamas. The subsidiary might charter Liberian tankers to move oil for, say, a dollar per ton. But the subsidiary then turns around and charges its New York parent, say $5 per ton, whereas a U.S.-flag tanker would cost substantially less than that artificially inflated price. The American consumer pays that artificial overcharge cozily rigged up between the oil major and its foreign shipping subsidiary. The result is that the American consumer derives little, if any, benefit from the fact that the oil companies use cheap foreign ships. On the contrary, it is likely the American consumer pays shipping charges to the oil companies that are greater than if independently owned American tankers were employed in a free shipping market.

No one has had their hands deeper into the pockets of the American consumer over the last 50 years than have the multinational oil corporations. We have seen a remarkable willingness and ability on the part of those corporations to pass on to the American consumer every imaginable price increase they can. We have seen them double the price of gasoline in the past 4 years. We have seen them push for decontrol of domestic prices that would cost the American consumer many billions of dollars. We have seen the Federal Energy Administration accuse them of using yet another device, namely, their foreign-flag shipping to overcharge the American consumer in yet another way. As President Carter said the other day of these same oil companies, this amounts to war profiteering.

I think, therefore, that the cry of the oil companies that this bill will raise consumer costs some fraction of a cent per gallon is hardly credible. In fact, what this bill does is touch a very sensitive spot wherein these oil companies are already overcharging the American consumer. This bill would, in effect, for the first time open up the books and let consumers know the true extent to which these foreign ships are making us all pay through the nose.

Mr. RUPPE. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, whatever you call the bill before us today—cargo preference, cargo equity, energy security—it still represents another betrayal of the beleaguered American consumer.

This administration portrays itself as the consumer's champion, protecting the consumer against the "special interests" the President so vigorously attacks with great regularity.

Yet this administration blatantly asks the consumers to sacrifice even more for a maritime industry which already receives 74 percent wage subsidies, 50 percent construction subsidies, special tax advantages, 87½ percent mortgage guarantees, cargo preference for domestic trades and Government-generated cargoes, and has its own governmental promotional agency in the U.S. Maritime Administration.

Mr. Carter persists in pushing a bill that will cost consumers an estimated $610 million per year according to the General Accounting Office. Consumers will pay and pay, in higher home heating bills, higher gasoline prices, higher utility bills and higher costs—which the consumer always has to absorb—for every industry which uses oil.

Why does the administration insist on cargo preference? To quote President Carter's own Ambassador, Robert Strauss, this bill is a "political need" by the administration on behalf of the maritime industry. After Mr. Carter's May 1976 promise to the maritime unions of a "fair share of all types of cargo," the unions are today collecting on their IOUs.

It is interesting to note that the President's own media adviser, Gerald Rafshoon, is working hand in hand with the Maritime Committee to "turn the tide" in their media blitz.

Obviously this is one campaign promise Mr. Carter intends to keep.

Interestingly enough, another self-proclaimed champion of the consumer, Ralph Nader, has strongly opposed the cargo preference bill which, in his words, "so clearly lacks a plausible justification, which represents such a blatant grab at the consumer's pocketbook, and which involves an industry already oversubsidized."

While Mr. Nader and I seldom agree, he obviously read the same GAO report we have all read, estimating the cost of the cargo preference bill to be five times the estimate suggested by the only Government witness the administration permitted to testify during hearings on the bill.

Fortunately for the consumers, the administration could not squelch the GAO report, nor could it prevent the publication of private memos to the President by the Defense, State and Treasury Departments, all opposing the bill. Even the President's own Council of Economic Advisers suggested the "net impact on the economy as a whole would be a decrease in total employment and gross national product."

Mr Chairman, with friends like this administration, the consumers of America do not need any enemies. I hope this leigslation is defeated.

Mr. RUPPE. Mr. Chairman, I yield 6 minutes to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Chairman, I thank the distinguished ranking minority member on the Committee

on Merchant Marine and Fisheries for yielding.

I have enjoyed being on the Committee on Merchant Marine and Fisheries. I have enjoyed working under the chairman, the gentleman from New York (Mr. MURPHY), and I have enjoyed working with the gentleman from California (Mr. LEGGETT) and the gentleman from New York (Mr. BIAGGI). In many areas, we agree.

But there are some areas in which we disagree, and cargo preference is one of those areas.

I think it is important to weigh the assets and liabilities of any issue that we look at. In cargo preference, I believe, No. 1, that we must take a look at the impact on the consumer.

I have heard the gentleman from Virginia (Mr. WHITEHURST) mention the fact that the cost to the consumer would be insignificant. I respect the gentleman from Virginia, but I would take issue with his conclusion because the cost to the consumer would be significant.

The GAO has estimated that the added fuel costs to the American consumer will be somewhere in the neighborhood of $550 million to $610 million per year.

I think we have to take an interest in everyone. I think we have to take an interest particularly in the American consumer. I do not think this legislation recognizes the interests of the American consumer when we know that the added fuel costs involved could amount to $610 million.

Other Members have spoken here on the floor about jobs. Jobs are one of the most critical issues facing our Nation. But what is the cost of these jobs? That is also important.

In this particular instance, the committee has estimated that there would be about 5,700 jobs provided at the outside as a result of this legislation. Well, I am not very good at mathematics, but 5,700 into $610 million comes out to somewhere around $107,000 per job. That kind of mathematics simply does not make sense for our country.

I think we also have to take into consideration the fact that the Council of Economic Advisers of this administration has indicated that the long-term impact on the economy would reduce the number of permanent jobs in America.

We have also heard about national security, and I am, of course, very much interested in national security. But I think the point here is that the critical security consideration is access to oil—not its transportation. I think we have adequate transportation, but we do not have access. That is why we need to develop a comprehensive, and a fair energy program that will give us energy independence here in America.

I heard my good friend, the chairman of the Subcommittee on Coast Guard and Navigation, the gentleman from New York (Mr. BIAGGI), talk about the need for a strong merchant marine. Yes, I believe we need a strong merchant marine. But at what cost and in what manner do we achieve that objective?

Given all these arguments, there are some real questions, at least as far as this Member is concerned, about why the President and some Members of Congress are pushing so strongly for this particular bill. I think the question can be answered in one word: politics.

One need look no further than the memorandum from Ambassador Robert Strauss to the President dated June 24, 1977. In that memorandum Ambassador Strauss, who certainly takes no back seat to anyone in politics, said:

> Politically, something in the way of cargo preference is going to be very hard to resist. Other options don't serve or satisfy the political need and might even be counterproductive.

Of what political need is Ambassador Strauss speaking? Does Mr. Strauss mean a political need that was established by massive campaign contributions by the special maritime interests? If that is so, then we are running a "Government by political payoff." I do not think we are doing that, and I do not think the supporters of this legislation intend that but it is especially important to avoid giving that impression to the Nation.

I urge the Members to reject the special interests and listen instead to the facts. Cargo preference will hurt the consumer. Cargo preference will damage our relations with our friends and allies around the world.

Above all, Mr. Chairman, I believe cargo preference will cast a dark cloud over this Congress as the American people begin to realize they have once again been sold out to special interests.

Mr. MURPHY of New York. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I intend to support H.R. 1037 and one of my major reasons is the threat posed to U.S. coastal waters like Puget Sound by foreign-flag carriers. Last year nine of these foreign-flag ships broke up on the east coast of the United States causing serious damage to our marine environment.

H.R. 1037 calls for a 5-percent increase in the U.S. flags carrying oil to the United States. Obviously this would reduce foreign flags coming to our country.

Recently I received a letter from one of Washington State's leading environmental groups. The letter reads as follows:

COALITION AGAINST OIL POLLUTION,
Seattle, Wash., September 26, 1977.

The Honorable NORM DICKS,
Congressman 6th District, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN DICKS: The Puget Sound Coalition Against Oil Pollution, made up of fishing, tourist, boating and recreation interests in the Puget Sound region, strongly supports the concept of Cargo Preference for U.S.-flag tankers incorporated in H.R. 1037.

As you well know, Congressman, our organization has fought vigorously over the past several years to keep our Puget Sound waters from encountering oil spills created by tankers. H.R. 1037 would help promote this goal by ensuring more carriage of oil by U.S.-flag tankers of new construction and better safety measures. Our country has more control over oil tankers flying the U.S. flag crewed by U.S. citizens knowledgeable about local waters. U.S.-flag oil tankers under our governmental control helps ensure rigid enforcement of environmental laws. The latest in safety equipment can be mandated by law to be employed. This cannot be as effectively accomplished with foreign-flag oil tankers that currently dominate our oil import market. The latest series of tanker disasters by foreign vessels off our coasts further illustrates the urgent need for legislation such as H.R. 1037.

The members of the Puget Sound Coalition Against Oil Pollution applaud your efforts in bringing about better legislation governing oil tankers in U.S. waters. We urge your support of H.R. 1037 which we feel helps promote a more safe and clean environment for all of us to enjoy.

Sincerely,

JAY PEARSON,
Executive Director, C.A.O.P.

Mr. MURPHY of New York. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Chairman, I am also a member of the committee.

The more that I have looked at this issue, the more we have had hearings, the more compelling have been the arguments in favor of cargo preference.

Almost everybody agrees, even the opponents of this legislation, that we need a strong and viable merchant marine; but nobody as yet has come up with another solution or a substitute for the cargo preference legislation presently before us.

I personally have some questions about the subsidy program, but I have absolutely no questions about cargo preference.

Mr. Chairman, it bothers me that today we are so heavily dependent on foreign oil coming from Persian Gulf countries. We are as vulnerable to the countries that carry oil to U.S. ports as we are to the countries that export that oil.

If we are concerned about another possible oil embargo and the devastating effect it has on our energy and on our economy, then we had better be equally concerned about total dependence on foreign-flag vessels to bring that oil to U.S. ports.

Mr. Chairman, I think for that reason alone we ought to support this legislation.

Mr. MURPHY of New York. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma (Mr. RISENHOOVER).

Mr. RISENHOOVER. Mr. Chairman, I thank the chairman for yielding.

We do not build a lot of ships out in Oklahoma, but we have one of the world's newest ports in Catoosa in my district out in Oklahoma.

We recognize special-interest groups just the same as people do in every congressional district of this country.

Mr. Chairman, I would like to say that after the scurrilous attack leveled in several congressional districts, including mine, by the Conservative Victory Fund, accusing people of taking political payoffs and campaign contributions and of being bribed, and after having seen my district flooded at an expense far greater than that which any of the maritime

people have ever contributed to a campaign of mine, I got back exactly six letters in opposition to this legislation.

Mr. Chairman, I intend to vote for it. I think it is a good bill as it is now.

Mr. MURPHY of New York. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I rise in strong support of H.R. 1037.

Mr. Chairman, over the years, one of the most persuasive arguments used by the multinational oil companies in opposition to cargo equity legislation, such as H.R. 1037, is that it would result in increased cost to the American oil consumer.

During the hearings on similar cargo equity legislation in the 92d and 93d Congress, the committee received such a wide range of cost estimates that it was difficult to determine what cost increases, if any, would result from the use of U.S.-flag tankers mandated by the legislation under consideration. Therefore, at the onset of this year's hearings on H.R. 1037, the chairman asked the Comptroller General to prepare an independent assessment of the cost estimates provided by the various witnesses.

The General Accounting Office found that at 8 million BPD, this bill would result in a cost increase of about two-tenths of a cent per gallon, or about $240 million a year, and for imports of 10.3 million BPD, GAO's midrange cost estimate would be about $300 million annually. The committee has accepted the higher estimate of the General Accounting Office.

The administration and the Congressional Budget Office found that at an import level of 8 million barrels per day, any cost increase associated with the use of U.S.-flag tankers under H.R. 1037, would be less than one-tenth of a cent per gallon.

The natural question is: Given those figures from authoritative sources, why have the opponents of this bill put the cost increase at $610 million annually?

It appears to me to be a rather transparent attempt to distort the GAO report and confuse people.

The additional $310 million cost claimed by opponents is not part of the cost of H.R. 1037; oil cargo equity legislation. It grows out of an assumption that domestic oil prices would be free to respond to minor variations in the delivered price of imports. That factor, however, was not included in the GAO cost estimate, as domestic oil prices do not float freely. They are subject to comprehensive Federal regulation at the present time, and would continue to be regulated under proposed energy legislation which has already passed the House. This speculated increase in the price of domestically produced oil, adjusting to a change in the world market price, if it occurs at all, could be mitigated in whole or in part, according to the GAO, by price control, or by well-head taxes.

Furthermore, recent American Petroleum Institute figures show that we are in fact importing 5 million BPD of oil, not 8 million or 10.3 million BPD as speculated by the GAO in its report. Thus, using the GAO's own estimates, at the actual import of 5 million BPD the cost of H.R. 1037 would be $150 million, very close to the administration's cost estimate of $110 million.

Mr. Chairman, as a practical matter, these studies conclusively demonstrate that any cost increase to the American consumer who drives 10,000 miles a year in a car that gets 20 miles to the gallon would be in the range of from 50 cents to $1 a year.

This very modest cost increase will bring the United States some rather important benefits:

First. Sufficient U.S.-flag tanker capability for direct support of the military in an emergency, and a small nucleus U.S.-flag fleet for the carriage of essential oil imports. It would also help maintain our shipbuilding industrial base.

Second. About 5,000 jobs in shipyards and aboard ships, which, in turn, will generate about 15,000 jobs in supporting industries.

Third. Increased protection to the marine environment through the increased use of U.S.-flag tankers for our oil imports.

Fourth. An estimated positive impact on our balance of payments of $75 million.

Fifth. Increased taxes to the U.S. Treasury through the increased use of U.S.-flag tankers.

Mr. Chairman, a fair consideration of the facts demonstrates that the cost increase from 50 cents to $1 a year that could result from the enactment of H.R. 1037, is justified and is in the national interest, and I call upon the House to pass this vital legislation.

Mr. MURPHY of New York. Mr. Chairman, may I inquire how much time there is remaining?

The CHAIRMAN. The Chair will state that all time for the gentleman from Michigan (Mr. RUPPE) has expired and the gentleman from New York (Mr. MURPHY) has 2 minutes remaining.

Mr. MURPHY of New York. Mr. Chairman, I yield the balance of our time to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think that we want to build a U.S. merchant marine. I think we have to recognize that currently Liberia carries 20 percent of the world's total ship operations. Japan carries 11 percent. The United Kingdom carries 9.5 percent. Norway carries 8.5 percent. Greece carries 6.7 percent. Panama carries 4 percent. France carries 3.3 percent. The Soviet Union carries 3.2 percent. Italy carries 3 percent. The United States carries 2.7 percent and it is going down. It is estimated by the end of 1978 we will only have 9 merchant marine ships on the construction ways in the United States. We spend $40 billion a year buying foreign oil and shipping it to the United States. This "massive" bill that we have here would charge the consumers, not the taxpayers but the consumers, it does not come out of taxes, about $200 million a year. You subtract from that the recovery of Federal income taxes that we get from handling this shipping business ourselves, and the net cost to the American people is about $100 million.

I think this is the cheapest way to create jobs. It is a foot in the door toward bringing back the American merchant marine.

The question has been asked: Is this the first step? Do we intend to accelerate above 9½ percent to 20 or 30 percent?

I would certainly hope so because I am embarrassed that the greatest nation in the world, having 695 million tons of cargo transported to and from American ports each year, has only 31 million tons carried in American ships, less than 5 percent.

There is no other major country in the world that has this kind of a posture. We spend all kinds of money for jobs. I believe that this is a modest bill and deserves the support of every Member in the House.

Mr. KETCHUM. Mr. Chairman, there is no doubt that we have all been treated to a barrage of conflicting and inflammatory reports concerning the cargo preference legislation now before us. Those adovcating this measure insist that it is imperative to beef up our U.S. commercial fleet, providing backup for our military vessels in time of need, while opponents of the bill say this is hogwash. Proponents tell us that all manner of jobs will be created; those opposed rebut this. Those favoring the bill insist that its enactment will result in only a measly one-tenth of a cent per gallon increase in the cost of imported oil; opponents go as high as a full penny, while the GAO takes the midline at two-tenth of a cent.

There have been equally confusing arguments concerning the comparative advantages and disadvantages of this legislation in terms of our national security, environmental protection, and balance of payments. So much name-calling, political mud-slinging and accompanying folderol has highlighted the discussion of this bill that I rather imagine most members have been forced to do what I have done—certainly I would hope they have. The trick is to block out the surrounding din and attempt to consider the facts as well as possible. Having done that, I can only conclude that I must oppose this legislation.

One-tenth of a cent per gallon does not sound like much money; indeed, even a full penny per gallon does not sound like much money—but $200 million and $800 million per year sound like big potatoes to me, and that is what those figures add up to, respectively. Personally, I do not care which figure is correct—they are both too rich for my blood.

On the subject of jobs creation. I am for that—but, wading through all the conflicting information presented, I can only conclude that the jobs evolved would be relatively few in number and shockingly high in cost. Certainly, I do like to see sailors and ship contractors working at rewarding jobs, but not when those

jobs cost the taxpayers an estimated $110,000 apiece.

As nearly as I can fathom, neither the Department of Defense nor the State Department seems to feel we are in desperate need of commercial vessels to shore up our military fleet. Moreover, it would appear that taking this "protectionist" step would antagonize our allies, violate some long-standing treaties, and be counter-productive to the good old American philosophy of free competition for cargo vessels.

In short, I see us faced once again with a piece of legislation which translates into "let Uncle Sam handle it." I disagree with this philosophy; I disagree with the contention that there is any particular industry in need of being hand-fed, and I wholeheartedly oppose any additional Government-created financial burden upon our struggling consumers and taxpayers.

The question I am about to ask may sound desperately naive in a Chamber which so often seeks to protect our citizens from life, but nonetheless, I am still a true believer in this regard: Why cannot our seemingly poor and downtrodden maritime industry do what other industries appear perfectly capable of doing? Why can they not haul themselves up by the bootstraps and make their services more inviting and competitive to those who might utilize them? In a nutshell, what is wrong with free enterprise, that old turnip that seems to have become a dirty word? I suppose that the answer to my question is perfectly obvious to some Members: "Why should they when good old Uncle Sam is perfectly able to bail them out?" Maybe so, but not with this Member's vote, I can assure you.

The bill costs too much, no matter which figure is accurate. One-tenth of a cent per gallon is too much, and $110,000 per job is too much. I rise in complete opposition to this legislation, with or without the partisan accusations which surround it.

Mr. FRENZEL. Mr. Chairman, H.R. 1037 is an abomination. I voted against the rule because I believe the committee has an obligation to allow the minority to call witnesses from the administration to testify.

It is probably true that no minority rights have been violated, because administration witnesses refuse to appear except under subpena. But, because of the controversy, it seems to me that it is simply good sense and good legislative porcedure for the committee to subpena administration witnesses.

I shall certainly vote against the bill.

The maritime lobby has employed a skillful media advertising campaign in recent weeks to get its point of view across. While it has succeeded in raising some important questions, the discussion has been all one-sided and frequently misleading.

Cargo preference is the worst kind of protectionism. It says in effect that our maritime industry is incapable of meeting foreign competition and therefore proceeds to invent all sorts of reasons why American taxpayers should be required to pay the bill for additional U.S. shipping subsidies.

Already our merchant marine is heavily subsidized by the general taxpayers. American-flag vessels are a rarity on the high seas, partly because of high labor rates, but more importantly because of lower productivity stemming from featherbedding and other nonproductive work rules.

Regarding wage subsidies, the average American merchant seaman currently earns $18,000 per year based on a 6- to 8-month cruise. Uncle Sam picks up a whopping 74 percent of the seaman's salary ($13,320) in the form of a direct subsidy to the maritime industry. This represents an enormous drain on the Federal Treasury. In fiscal year 1978 the Federal Government will spend $352 million on its operating differential subsidy program (ODS) which automatically pays the difference between United States and adjusted foreign labor costs. Of this total amount, fully 86 percent is earmarked as a direct labor cost subsidy.

Under this arrangement management has very little incentive to hold the line on labor's wage demands since the taxpayer will be required to pick up the tab for almost three-quarters of any additional wage increase.

The labor productivity picture is even more alarming. According to the Bureau of Labor Statistics, the average cost per seaman on a U.S.-flag tanker is $96 per diem compared to only $39 per diem for a foreign-flag tanker. To cite just one example, Norway's merchant fleet labor cost is only 28 percent of our fleet labor costs, yet the average wage for a Norwegian seaman is 15 percent higher than his U.S. counterpart. Our archaic featherbedding practices which cause these discrepancies largely explain why the United States currently ranks a distant tenth in merchant marine fleet size.

On top of the huge labor subsidies, the Federal Government also pays for nearly 50 percent of the cost of constructing every merchant ship built in the United States. The construction differential subsidy program (CDS) pays the difference between the cost of constructing a ship in this country and construction costs in foreign ports. The CDS program is expected to consume roughly $233 million in subsidies during fiscal year 1978.

As is true with labor subsidies, these enormous ship construction subsidies cannot help but lessen management's incentive to engage in hard bargaining with the shipbuilding unions. This growing dependency on the Federal dole has led to a vicious circle of higher costs, lower productivity and a diminishing competitive position vis-a-vis other maritime nations. The inevitable shift of business to the more efficient foreign carriers has in turn been pointed to as justification for even larger subsidies and cargo preference protection as embodied in H.R. 1037.

The maritime lobby would like to have us believe that this legislation will aid the consumer, improve the environment, increase employment and trade, while providing a service that is essential to the national defense. In fact, it will provide none of these benefits.

Does the consumer really stand to benefit from this legislation? The General Accounting Office has estimated that this bill will cost American consumers at least $610 million when it is fully effective. Conservative estimates have placed the added cost of shipping foreign and domestic oil on U.S. ships at $11 per family per year. The consumers in my district are not willing to swallow these additional costs on top of the hundreds of millions of dollars worth of taxpayer subsidies already lavished on this industry. They will receive no advantage from this waste of their resources.

What is there in this bill for the environmentalists to cheer about? Our maritime industry has compiled a very poor environmental record and this situation will get worse rather than better if this bill is enacted. It is an embarrassing fact that among the top 10 maritime nations, ours is the seventh worst environmental record. U.S.-flag ships spill over 2½ times as much oil per ton of oil capacity as foreign-flag vessels yet we carry less than 4 percent of the oil. Since this bill provides for no new ship construction until 1985, the oil spill problem is likely to grow worse as our tanker fleet continues to age. We clearly need to improve our environmental performance, but we are not going to get it by adopting this bill.

Is H.R. 1037 really a jobs bill as its proponents maintain? The General Accounting Office does not think so. Their studies caused them to conclude that "cargo preference will lead to a net loss of jobs. And the comparatively few jobs that will be created within the maritime industry will cost the taxpayers anywhere from $52,000 to $75,000 apiece. This program is at least 4 to 6 times more expensive than our standard job development programs.

Is it true that this bill will expand foreign trade and reduce our balance-of-payments deficit? Since when has blatant protectionism led to increased trade. The far more likely outcome is retaliation by our foreign trading partners, particularly in view of the fact that this bill apparently violates as many as 30 treaties of friendship, commerce, and navigation.

What then of the claim that this bill is essential to our national security? The Defense Department has testified on a number of occasions that there is no security value in hauling oil in U.S. ships. They have said that access to oil, not carriage of oil, is what is really important. Stripped of the phony national security arguments, this bill has as its single justification the special interest greed of a single industry which is already almost wholly dependent on the taxpayers' largesse. But greed need have no limit if there are friends in Congress.

If this bill passes it would be the first time that the United States has imposed cargo preferences on private commercial cargoes. Until now, preferences have been imposed solely on goods where the Federal Government has some prop-

erty interest or is a party to the transaction.

If this bill passes, the drive to extend cargo preferences to other commodities is certain to pick up speed. The president of the Marine Engineers Beneficial Association stated that one of his primary objectives is to assure "our merchant marine a fair share of all types of cargo." The administrator of the AFL–CIO Maritime Trades Department announced he is seeking additional preferences on alumina and bauxite. The president of the National Maritime Union has testified that he is prepared to take one step at a time but he sees "no reason why all commodities could not be so treated." Most chilling of all, Special Trade Representative Strauss advised the President, in a now public memo, to stick to his campaign pledge and added, "establishing the concept of cargo preference is more important than the percentage."

The President has endorsed this bill, albeit without enthusiasm, for obviously political reasons. The House today has an excellent opportunity to spare the President the embarrassment of having to pay a political debt with the hard-earned dollars of American consumers.

We have had a number of anticonsumer, antipublic interest bills before this Congress, but I cannot remember one as bad as this one. I hope we can lay this bill to rest for all time. I urge that we now do so.

Mr. PRESSLER. Mr. Chairman, I am opposed to H.R. 1037 because I have grave doubt that it will do what its proponents have promised, because I believe it is overly costly to American consumers, and because I believe it will cause problems which its proponents have either minimized or not anticipated, especially problems for American farmers.

Requiring that prescribed percentages of incoming oil travel on U.S.-flag ships would not protect our supply of crude oil should unexpected international tension arise. There is nothing in the bill that could prevent the OPEC nations from doubling the price of their oil, or from refusing to sell it to us at all, or from designating what kinds of ships they want the oil to travel on. In sum, I do not feel the national security arguments have been adequately supported.

Proponents of H.R. 1037 say it will promote employment in U.S. maritime industries. They have not, however, answered the charge that the positive effect on employment in the maritime industries will be more than offset by loss of employment in other industries across the U.S. economy. This appears in the GAO report on H.R. 1037 and in the Council of Economic Advisers estimates reported in internal administration option papers presented to the President. It is not in the national interest to vote for legislation that will create some jobs in an identifiable sector at the expense of other workers so spread throughout the economy that they cannot mobilize to present their case to Congress.

Apart from the fact that I do not believe the case for this bill has been adequately made, I am concerned about its disadvantages, some of which have been inadequately explored. One of these is the likelihood of future expansion on the concept of preference—which this bill will establish for the first time—to other cargo including agricultural commodities.

Our existing preference laws—the Military Transportation Act of 1904, Public Resolution No. 17 of 1934, and the Cargo Preference Act of 1954 and its subsequent revisions—apply only with respect to goods in which there is Government interest. H.R. 1037 would extend preferences to purely commercial cargo for the first time. Once that line is crossed, advocates of preferences will almost certainly seek to go further, and agricultural products are among the bulk cargoes these advocates have said they would like to include.

At this time, 1 in every 4 acres of produce grown in this country is exported. Ninety-nine percent of those exports go out on foreign-flag ships, the rates of which are substantially lower than U.S.-flag ship rates. If U.S.-flag ships were required to be used on some of these exports, the competitive position of our farmers in world markets will suffer grave damage. I do not intend to vote for a bill that will create the precedent for that to happen.

Mr. KASTENMEIER. Mr. Chairman, H.R. 1037, the cargo preference bill, euphemistically entitled the Energy Transportation Security Act, is one of the worst pieces of legislation to come to the House floor during this session.

This measure proposes that the percentage of imported oil carried by U.S.-flag tankers, currently less than 4 percent, be increased to 9.5 percent by 1982. A highly expensive public relations campaign in the media has touted this bill as being necessary for our national security as well as for providing employment in the maritime and maritime-related industries.

In fact, however, this is not the case. In a memorandum submitted to the President by Secretary of the Treasury Blumenthal on the oil cargo preference issue, it was stated that the Department of Defense believes that this bill provides no national security benefit to the Nation since the critical security factor is access to oil and not its transportation. The Blumenthal memo went on to say that the Council of Economic Advisers estimates that the net impact of this legislation on the economy as a whole would be a decrease in total employment and GNP. Further, the Treasury Secretary's report pointed out that the cargo preference bill would be contrary to the London Summit pledge to reject protectionism, it would probably trigger the adoption of similiar or more stringent measures by other countries, it would be a reversal of U.S. policy which has favored free competition for commercial cargoes and it would violate U.S. treaties with more than 30 countries.

In addition, it should be emphasized that the legislation is inflationary and, thus, places an unacceptable burden upon consumers. A General Accounting Office report, released on September 9, found that H.R. 1037 would cost consumers an extra $610 million per year by 1985. The GAO study reported that cargo preference would raise the price of imported oil by $300 million a year. In addition, if price controls are not established, this legislation would increase the price of domestic oil $310 million by 1985.

Mr. Chairman, the maritime industry is one of the most heavily subsidized interests in the country. In the previous fiscal year, total Federal outlays for all subsidies to the maritime industry reached $786 million. This sum included $236 million for ship construction, $388 million for ship operating costs, $62 million in captive carriage of Public Law 480 grain shipments and $100 million in tax subsidy through the capital construction fund program. Apparently not content with over three-quarters of a billion dollars in subsidies a year, the maritime interests are seeking more handouts from the Federal Government.

I do not believe it is in the national interest to permit the merchant marine industry to be on the public dole. The merchant marine subsidy program has become an increasingly expensive proposition, and I have always opposed it. I can see no public interest in passing this additional give-away legislation, and I urge my colleagues to reject this ill-conceived proposals.

Mr. GLICKMAN. Mr. Chairman, I rise in opposition to H.R. 1037, the cargo preference bill.

While I will vote against final passage, I do recognize that the issues raised by this bill, as well as related issues affecting other American industries suffering in part from foreign competition, represent truly difficult and profound subjects. However, the cargo preference bill, in my mind, is no solution to the weaknesses in the maritime industry, will disturb trade relationships with foreign countries, and most importantly to my district, will adversely affect American agriculture.

Obviously, agricultural exports are the lifeblood of this Nation's economy, and the only thing which keeps our balance of payments from being in an intolerably bankrupt condition. A healthy, unfettered export policy for agricultural products is critical to this Nation's survival. It would seem to me that passage of this bill would be used as a justification for attempts to use the cargo preference concept to export shipments of agricultural commodities now moved in bulk, that is, wheat, corn, soybeans, sorghum, et cetera. Such an extension of the concept would result in further increases in prices for these commodities at foreign ports of delivery, and more importantly, could result in an interruption of deliveries of agricultural exports to purchasers abroad.

Mr. Chairman, Secretary of Agriculture Bergland has repeatedly stated that the biggest concern facing American agricultural exports is the fact that foreign buyers do not consider American export sales in the past to have been reliable and dependable in many instances, and that these foreign buyers and countries have tended to look elsewhere for commodities to insure a stable

and reliable source of supply. I cannot help but think that a cargo preference policy, applied to imports of foreign oil, will also become applicable to imports and exports of agricultural goods as well, which will in my opinion, jeopardize the reliability of these goods to foreign buyers.

For these reasons, I urge defeat of this bill.

Mr. WEISS. Mr. Chairman, I was unable to be present for the vote on the rule for H.R. 1037, the oil cargo preference bill, but was paired against it. I had no quarrel with the rule itself, but approval of the rule implies that the bill has been reported out of the Merchant Marine and Fisheries Committee in a responsible and equitable manner. Unfortunately, this was not the case with H.R. 1037.

It is my understanding that a majority of the minority members (the number needed to comply with House Rule XI, section j) requested that six witnesses be called. Under Rule XI, section j, the majority is obligated to provide for the appearance of these witnesses. That this was not done impugns the integrity of the processes and rules of the House.

It has been argued that the majority did comply with the minority request by instructing the minority to call the six witnesses. While some Members may believe this satisfies the letter of the law, it definitely violates the intent of the House rule. It is common knowledge that when the majority does not actually call witnesses on behalf of the minority it is a tacit signal to the witnesses that they need not appear. That is what happened here. Only one of the six witnesses the minority side requested actually testified before the committee.

Our committees are essential to the workings of the House. If their credibility comes under suspicion or if both parties are not given equal protection under the House rules, we seriously weaken the committee system. Regrettably, this occurred with H.R. 1037. I hope it is a mistake that is not repeated.

Mr. LEGGETT. Mr. Chairman, I rise in strong support of H.R. 1037, the Energy Transportation Security Act of 1977, which requires that set percentages of U.S. oil imports be carried on U.S.-flag vessels.

Over the past few decades, we have experienced a serious decline in our maritime strength, particularly the U.S. tanker fleet. For instance, at the close of World War II, our tanker fleet totaled 904 vessels amounting to about 12.7 million deadweight tons. However, today, only 235 tankers aggregating 10.7 million deadweight tons fly U.S. flags. To make matters even worse, this decline in our once-proud status as the world's leading maritime nation is being compounded by increasing dependency on overseas sources of crude oil and petroleum products. Whereas after World War II the United States imported a negligible amount of oil, today we import over 8 million barrels per day—or almost half of our total domestic demand for oil.

The urgent and important point to be drawn from such trends is that as our dependence on overseas sources of oil continues to increase, the participation of U.S.-flag tankers in this essential trade continues to decrease.

In 1970, this body attempted to reverse these disturbing trends through enactment of Public Law 91–469, the Merchant Marine Act. Here in the House of Representatives, support for passage was overwhelming, with fully 177 Democrats and 130 Republicans voting to grant Federal subsidies for the construction and operation of bulk carriers—including tankers.

One of the great hopes of this earlier legislation was to encourage the U.S. tanker fleet to expand its penetration into our oil import trade. However, as present statistics so disturbingly reveal, no such penetration has occurred. I ask my colleagues to ponder for a moment just why such great hopes on the sea have been dashed.

After long and careful examination, the Committee on Merchant Marine and Fisheries has come to the conclusion that the 1970 act was frustrated and circumvented not by foreign nations, but by the great multinational oil companies—most of which are U.S.-owned. These colossal giants have systematically diverted U.S. oil import cargoes to foreign-flag vessels owned and operated by their foreign subsidiaries and affiliates while our own merchant marine has languished in mothballs up the Hudson River. Through their vertically integrated monopolies, these companies have chosen to carry the oil—which they already own and control—in foreign vessels solely to escape American taxes, wage, and job safety requirements, and environmental standards and we legally let them do it.

The oil cargo equity legislation before us today has been designed to do something about this woeful state of affairs, and is a bill that deserves to be passed on the sheer weight of its merits. Let us briefly examine its potential benefits versus costs.

On the benefit side, this essential legislation will achieve a number of important goals.

First and most importantly, the act will strengthen national security. Presently, over 96 percent of our crude oil and petroleum product imports are carried on foreign-flag bottoms with foreign crews. These are vessels over which we exercise questionable and, at best, tenuous control. Indeed, during the Vietnam war, some flag-of-convenience vessels refused to carry war cargo to Southeast Asia. And those of you who cannot believe that foreign-flagged Exxon or Gulf tankers would ever refuse to carry oil during time of war do not clearly understand the situation with respect to crewing. These vessels carry a mixed crew of Panamanians, Liberians, and similar other foreign nationals who do not owe a common allegiance to the United States; they cannot be counted on 100 percent of the time.

We must not underestimate the value for our national defense of having U.S.-flag ships transport American cargoes in preference to foreign vessels. Secretary of the Navy Claytor reaffirmed this position when he testified before our Merchant Marine and Fisheries Committee earlier this year. He said:

> Certainly, U.S. Flag Ships, when owned and operated by U.S. citizens, are likely to be more responsive to national emergencies. However, current U.S. Flag tonnage, by itself, is inadequate to satisfy both defense and commercial needs in event of war or national emergency; any increase in U.S. Flag ships will obviously improve this situation. Even with increased U.S. Flag tonnage of tankers, we would have to continue to rely on our NATO allies and others to provide the reliable backup in merchant shipping on which we have depended during emergencies in the past.

In addition, our overall national security will be strengthened by passage of this legislation since it will:

Give the United States increased flexibility to transport oil from alternate sources if a military or political crisis forecloses access to traditional supplies of oil;

Provide a minimal level of tanker tonnage under the U.S. flag to render ineffective any form of transportation embargo, thereby insuring the ready availability of sufficient U.S. tonnage to quickly respond to energy supply cutoffs;

Yield a significant complement of American merchant seamen prepared for close cooperation with the U.S. Navy in the event of war;

Assure the development of a modern U.S.-flag tanker fleet which incorporates design features particularly suited to serving the needs of America's defense operations; and

Revitalize our U.S. merchant fleet and shipbuilding mobilization base through the construction, alteration, and repair of the fleet of U.S.-flag vessels needed to carry oil allocated under this legislation.

Second, the act will aid in stimulating new jobs. Assuming an import level of 8 million barrels of oil per day by fiscal year 1982, this legislation will:

Assume the employment of approximately 2,500 American seamen;

Create about 2,100 shipyard jobs;

Generate approximately 15,000 jobs in the steel components industry, paint industry, and supporting industries;

Assist in easing our Nation's hard-core unemployment problem since 7 out of the 10 major shipyards in the United States are located in areas of chronic unemployment;

Provide jobs for those people who need them most, since fully 31 percent of our shipyard work force and 17.5 percent of shipboard crews are members of minority groups, as compared to the national average minority work force of 11 percent;

And, perhaps even more importantly, preserve thousands of existing maritime and maritime-related jobs.

Third, passage of this act should afford increased protection to our marine environment. Currently, only slightly over 3 percent of our oil imports are transported in U.S.-flag tankers which must continually meet the most stringent safety standards in the world. On the other hand, flag-of-convenience vessels utilized

by the international oil companies in U.S. waters are in large part antiquated, manned by substandard crews, and oftentimes in violation of the most basic safety standards of sea transport as evidenced by the recent rash of disastrous oilspills off our coasts. Such unnecessary spills are a major threat to our beaches, shorelines, fish, and wildlife. Passage of this legislation will:

Guarantee an enhanced measure of environmental protection for U.S. waters at a time when they are threatened by a growing number of hazardous ships like the Liberian-flag *Argo Merchant*.

And insure that a higher percentage of our oil imports are transported in U.S.-flag vessels that are constructed in accordance with the most stringent construction safety standards in the world, inspected on a regular basis by the Coast Guard, and manned by American crews which must meet Federal Government licensing and certification requirements.

In contrast, the cost side is minimal at best. Indeed, these numerous benefits can be provided, according to the General Accounting Office, for a cost of less than two-tenths of 1 cent per gallon for the oil involved in this program—or a total increase in overall consumer prices of approximately $240 million. Both the Congressional Budget Office and the Commerce Department have estimated that the cost will be even lower. Concentrating solely on the anticipated employment benefits for a moment and using the higher GAO cost figure, this amounts to about $12,000 per job—or roughly the average cost for generating one job through CETA. This is a magnitude of three or four times less than the average cost of creating one job through increased public works.

Adverse foreign trade repercussions have also been cited by some as an additional cost of this act. This charge needs to be investigated in a responsible fashion. The contention that H.R. 1037 violates free trade does not square with the facts and is without real substance. The truth of the matter is that virtually no aspect of the international production, transportation, refining, and eventual distribution of oil and petroleum-related products is subject to free trade or free market principles. In the first place, production of the bulk of our imported oil is controlled by the OPEC cartel. Moreover, the transportation, processing, and distribution of oil is largely controlled by a small handful of giant international corporations. Nowhere is there a glimmer of free trade or free markets.

Similarly, the claim that this act will set an international precedent is also without merit. Fully 36 different countries presently adhere to some form of cargo preference law or policy. For instance, Argentina and Chile both require that 50 percent of all their cargoes be shipped on their respective flags. Spain requires that 100 percent of its oil imports be carried on its flag vessels; Algeria requires a 50-percent carriage clause in its export contracts for oil and liquefied natural gas; Venezuela has recently enacted legislation calling for an eventual 50 percent of its oil exports to be carried on its flag vessels; and Japan is already pursuing a national policy which requires that 50 percent of its energy imports be carried on Japanese-flag bottoms. Even France has a law which guarantees the French fleet the equivalent of two-thirds of all French oil imports.

It is time that the carefully contrived sensationalism surrounding this bill be branded for what it is: A vehicle engineered by the multinational oil companies to divert attention away from the merits and benefits of the legislation. In order to increase their own profits in the past, these colossal giants systematically sought tax havens, cheap labor, and weaker environmental standards for their so-called flags of convenience. As a result, they almost destroyed the viability of a U.S. merchant marine. Thus, it is only appropriate that we now reverse our present decline, and do something constructive to save our merchant marine and maritime industry.

Therefore, I urge you not to be deceived by their smokescreen. I urge you instead to support and vote for H.R. 1037 on its merits. This bill has already gained the support of a wide spectrum of American society including but not limited to the American Legion, the American Iron & Steel Institute, the American Petroleum Refiners Association, the AFL-CIO, the National Farmers Union, the Naval Reserve Association, the Navy League of the United States, the U.S. Conference of Mayors, and the Veterans of Foreign Wars.

H.R. 1037 is not only a good bill, it is urgently needed today.

Mr. KEMP. Mr. Chairman, we will soon be asked to vote on H.R. 1037, the cargo preference bill. This bill has been characterized by Merchant Marine and Fisheries Committee Chairman MURPHY as "the most significant piece of legislation for the U.S. merchant marine since the founding of the Republic." On the other hand it has been conceded by the President's closest adviser on domestic affairs, Stuart Eizenstat, as a "flawed concept."

This bill is significant in that for the first time since the founding of the Republic, the U S. Government will be expressly prohibiting by law foreign-flag ships from participating in our international commercial trade. It is flawed because; it runs counter to our efforts to liberalize trade, and support free-market, antiprotectionist, trade philosophies, recently reaffirmed at the London Economic Summit by President Carter and Ambassador Strauss; it violates many of our treaty obligations with our allies; it causes a net loss of employment and GNP, and it is costly to the consumer.

Because of the many flaws in the cargo preference concept, I believe there should be careful study of alternative methods to build a stronger U.S. merchant marine. Unfortunately, however, the Merchant Marine and Fisheries Committee has given no study to alternatives this year, and the administration, while discussing a number of alternatives in private meetings, has not publicized their almost universal view that these alternatives deserve careful study.

The failure of the committee to consider alternatives can be best understood after examination of some of the internal administration memos which surfaced last summer. These memos point out that the establishment of the principle of cargo preference—reserving a portion of U.S. commercial cargoes in international trade—is the only alternative acceptable to the administration at this time.

I would like to insert in the RECORD at this point a summary of those alternatives which are discussed in the various internal memos which have circulated in the administration in recent months.

At the very least, these alternatives should be the subject of full study by the Merchant Marine and Fisheries Committee before we proceed with what admittedly is a bad bill.

ALTERNATIVES TO CARGO PREFERENCE

The following proposals were developed by the Administration as alternatives to Cargo Preference. These options were presented to the Economic Policy Group after their unanimous recommendation to the President that he oppose Cargo Preference "even in modified form". Some of which I agree with and some of them I strongly oppose, particularly that first.

Extend the Jones Act to the Virgin Islands with respect to the carriage of oil. This proposal would result in employment for 1,650 U.S. seamen at a cost of $20,000–$30,000 per job (instead of approximately $110,000 for Cargo Preference). It would also create employment for about 25 tankers of the "Handy Size" (25–40,000 dwt) suitable for support of the Navy and capable of entering most U.S. ports.

Repeal the allowance of tax deferral for U.S.-owned foreign-flag shipping. This would eliminate what is in effect a tax subsidy for U.S.-owned foreign-flag vessels. This would increase the incentive for owners of such vessels to put them under the U.S.-flag with U.S. citizen crews.

Expand the U.S.-flag dry bulk carrier fleet. By relaxing the restrictions on operating subsidy eligibility, and by promoting the capital construction fund provisions of the tax code, the U.S.-flag dry bulk fleet—the weakest segment of the U.S. merchant marine—could be expanded.

Negotiate bilateral shipping agreements with selected trading partners. The State Department could negotiate cargo allocation systems which could increase the efficiency, health, and size of the U.S.-flag merchant marine.

Amend Title VI of the Merchant Marine Act, 1936, to permit foreign-built vessels reregistered under U.S.-flag to qualify for operating subsidies. This would allow U.S. vessel operators to receive operating subsidies on their vessels which were previously registered under foreign flags if they brought them under U.S.-flag. It would also encourage U.S. operators to purchase foreign-owned, foreign-built, vessels and reregister them under U.S.-flag.

Amend Title VI of the Merchant Marine Act, 1936, to expand the basis for the computation of operating subsidy. This would allow operating subsidy to reflect the full difference between U.S. and foreign-flag operating costs rather than on limited cost elements.

Amend Section 804 of the Merchant Marine Act, 1936, to allow U.S. operators receiving subsidy on their U.S. fleet to also operate a foreign-flag fleet. This would allow U.S. operators to avoid duplication in their management and cargo procurement operations

and allow both segments of their fleet to operate with lower overhead.

Amend Section 606(6) of the Merchant Marine Act, 1936, to permit repairs of subsidized vessels in foreign yards. This would reduce total operating costs of U.S.-flag vessels and allow them to compete on an equal footing with their foreign-flag competition.

Amend the Merchant Marine Act, 1936, to permit unlimited foreign-to-foreign trading for subsidized vessels. This would remove a significant operating restriction imposed on vessels receiving subsidy and would allow them to compete for cargo with foreign-flag vessels.

Revise MarAd regulations to allow operating subsidies on vessels in excess of 100,000 dwt. This would allow employment of large tankers in international trade.

Revise MarAd regulations to permit ODS agreements for short periods. This could increase the profitability of U.S.-flag vessels because it would allow more flexibility in their employment. Subsidized vessels would not be tied to specific trade routes or have operating restrictions for 20 year periods.

Amend the Merchant Marine Act, 1936, to allow deposits of foreign earnings in the Capital Construction Fund. This would give a tax break on foreign earnings on the condition that they are invested in U.S.-flag vessels.

In memos to the Economic Policy Group these last six options were grouped together as a single alternative to Cargo Preference. Of this package, the memo listed the following advantages:

Would generate more seagoing jobs (5,000) at a much lower cost $20,000) than cargo preference (2,500 jobs at $110,000 each),

Would not increase the refiner's acquisition cost of crude oil and therefore would not have the attendant inflationary impact on the U.S. economy that cargo preference would have,

Would not have the adverse foreign policy repercussions of the cargo preference option,

Would place a limit on total ODS expenditures which are now open ended.

The memo also listed the following disadvantages:

Would add $100 million to the budget cost of the maritime subsidy programs,

Would not generate jobs in U.S. shipyards,

Would restrict the Secretary of Commerce's contract authority under ODS and require her agrement to budgetary restraints,

It is not possible to predict the pace of participation by U.S.-owned foreign-flag ships,

It is unacceptable to the advocates of cargo preference.

Mr. RAILSBACK. Mr. Chairman, I rise today in opposition to H.R. 1037, the cargo preference bill. It is my opinion that this legislation would increase the cost of living and boost inflation without returning much in the way of benefits to the American people.

Briefly stated, the bill would require that 9.5 percent of all our imported bulk oil be transported in U.S. built and operated ships by 1982. Currently, between 3 and 4 percent of our bulk oil imports are transported in U.S.-flag ships. At first glance, this bill appears meritorious, but, on closer examination, there are real problems with it.

Transporting oil in U.S.-flag ships is terribly expensive when compared to the cost of transporting it in ships of other countries. The General Accounting Office, Congress own investigating agency, reports that enactment of this legislation could cost American consumers some $250 million each year. Prof. Walter Heller, a prominent economist and former Chairman of the Council of Economic Advisers, says those costs "would enter pretty directly into the cost of living in a very short time."

In my opinion, aside from the direct costs, the very concept of cargo preference is dangerous.

Proponents of the cargo preference concept say that once the idea is established for oil imports, it could be applied more easily to the import and export of other commodities. A logical next step for the proponents would be to apply cargo preference to our agricultural exports, especially grain.

Here is the danger: Another country needs grain. Should it look to the United States and see that our grain prices are comparable to other nations and all other things are equal, the importing country might opt for another nation's grain over the United States because transportation costs would be considerably less.

Our Nation, and my State of Illinois in particular, rely heavily upon our agricultural exports, which depend on uninterrupted, barrier-free international trade. Cargo preference would throw a wrench into the works. This Nation has been involved in bilateral and multilateral discussions aimed at freeing up international trade. An anti-trade cargo preference law would throw up a protectionist barrier, violating perhaps 20 to 30 treaties in the process.

It is true that we must embark on a campaign to improve our merchant marine fleet, but there are better and less destructive ways to do it than through cargo preference legislation. As a result, I will urge Members to vote "no" on this legislation.

Thank you.

Mr. LOTT. Mr. Chairman, I would like to make several comments in support of H.R. 1037, the cargo equity bill, which would mandate that 4.5 increasing to 9.5 percent over the next 5 years of petroleum and petroleum products imported into the United States goes in U.S.-flag vessels.

At the present time, we are carrying only between 3 percent and 4 percent of our vital energy supplies in U.S.-flag vessels and the other 97 percent goes in foreign-flag bottoms. I submit that this is an extremely dangerous situation and a development which must be reversed. The provisions of H.R. 1037 would relieve, to some extent, the reliance on foreign vessels for the transportation of our vital energy supplies. We simply cannot continue to depend on foreign sources for 50 percent of our energy products and on foreign transportation vessels for the carriage of these energy supplies. As I just mentioned, H.R. 1037 will take us a little way down the road to self-sufficiency in the transportation of our necessary energy products.

Obviously, H.R. 1037 has as a basic purpose national security, and this is most important. However, the bill will also provide jobs and this is of even more importance. Even the modest percentages of allocation supported by the administration in this bill will assure the employment of 2,500 American seamen, and about 2,100 shipyard jobs would be created. In addition, the bill will provide some 15,000 more jobs in related industries such as steel and electronics.

Everyone has concentrated on employment that will be created by H.R. 1037, but the loss of jobs if this bill is not enacted must also be considered.

One of the major shipyards of the United States is in my area of the country, Pascagoula, Miss. The creation of shipbuilding jobs is of paramount importance, but we must also be concerned about the loss of jobs. In this connection, I would like to point out to the Members of the House that, at the present time, the major shipyards in the United States have a considerable number of vessels under construction. However, this will phase out over the next several years so that by 1981 there will be practically no vessels in U.S. yards under construction. In addition, there are no new shipbuilding orders going into the order books of the U.S. yards. This must be a matter of grave concern, not only to the people contiguous to the U.S. shipyards, but to the Nation as a whole.

I realize that the charge has been made by the opposition to H.R. 1037 that no new building will take place until 1985, however, this cargo equity carriage must be considered together with the strategic petroleum oil reserve—50 percent of which must go in U.S.-flag bottoms—and the trans-Alaska pipeline carriage from Valdez to the lower 48. In the context of these trades, it is perfectly obvious, as pointed out on page 23 of the committee report, that there will be indicated tanker deficiency between now and 1982 of some 4.7 to 6.2 deadweight tons. Clearly, then, there will be the necessity for tanker construction in U.S. yards in 1981 if not sooner. If this important measure were to be defeated, there would not be any tanker construction on the horizon at least to the middle or end of the next decade. That would be a completely unacceptable situation.

There are many additional benefits deriving from this bill such as balance of payments and tax recovery, but I think one of the most important aspects is the creation of jobs. Jobs not only in the shipbuilding industry of the Nation but ancillary jobs required to provide the steel, paint, electronics, parts, components, and other materials needed for ship construction, repair, and maintenance.

We have all witnessed the adverse effect of foreign dumping of cheap steel in the United States, and we cannot stand here on the floor of the House and refuse to support a measure which would counteract this important activity in the shipyard, steel and related industries. I urge all the Members to vote in support of this vital and necessary cargo equity bill. H.R. 1037.

Mr. HARRIS. Mr. Chairman, H.R. 1037, the cargo preference bill, is a misdirected effort to correct a real problem.

The cargo preference bill would require that 9.5 percent of the oil imported into the United States be carried on U.S.-flag vessels in an effort to bolster the size and strength of America's merchant marine,

to guarantee a steady flow of oil into the United States and to create jobs in the maritime industry. I adhere to all of these goals, but I believe that cargo preference legislation is not just the wrong approach, but a deceptive approach.

TAX PEAKS FOR FOREIGN SHIPPERS HURT U.S. SHIPPERS

What has so skewed the oil shipping picture is a complex maze of tax preferences U.S. tax laws give foreign shippers. This is the problem that should be corrected. Currently, foreign shippers and the oil companies enjoy several tax advantages which give them an unfair advantage in shipping.

First, is the foreign tax credit which legislation I have introduced would repeal. Certain countries are tax havens for shippers, such as Liberia and Panama. Shippers are not taxed in those countries but they make money from the United States. I understand that the administration may propose ending this exemption from taxation that foreign-flag shippers now enjoy and propose a tax on half the earnings from shipments into and out of the United States. I think this approach makes sense.

Second, if U.S. firms operate outside the country—such as an oil company which has a shipping subsidiary in another country—they enjoy a tax deferral on oversea earnings. This gives them another tax break.

Third, on top of these two tax preferences, these companies have what are called "excess credits" which offset U.S. taxes owed.

This complicated scheme of the foreign tax credit, tax deferrals and excess credits are the "culprits" which work against American shipping and the U.S. merchant marine. This is where the corrections ought to be made and is the approach I think this Congress must take—to reform our tax laws so that foreign shippers and oil companies operating worldwide can no longer rip off the American taxpayer.

INCREASING COST OF OIL AND GAS FOR CONSUMERS

Congress investigative arm, the General Accounting Office, has said that this bill will cost consumers $610 million per year. This is $300 million annually in increased prices for imported oil, and potentially $310 million more in increased prices for domestic oil. The American people cannot stand any more increases in their gasoline and home heating bills.

We are now paying double for gas at the pump compared with what we paid several years ago; the 60-cent gallon of gas is already stretching the family budget to its limits. Last winter when we suffered a severe and extended cold snap, family heating bills in some cases exceeded monthly mortgage payments. I cannot vote to add even higher costs for oil and gas to the family budget.

BAD PRECEDENT COULD HALT OTHER IMPORTED GOODS

I am also concerned about the implications this bill has on trade in general. Cargo preference is restrictive; it may violate more than 30 treaties we currently have with other countries. Very simply, mandating that a certain percentage of oil must be carried on U.S. ships could invite retaliation by other countries. Our exports could be affected adversely. And a product not sold by, or shipped to, this country—from soybeans to typewriters—results in no cargo for American ships. Surely, we do not want to start this type of domino effect on the many markets we have in other countries. This could be severely damaging to our domestic economy and our prestige around the world.

COMPREHENSIVE OVERHAUL NEEDED

The President's advisers, including the Departments of State, Commerce, Defense, Transportation, and Energy, OMB, and the Council of Economic Advisers, have concluded that a more comprehensive approach must be taken to solve the problems of shipping goods to and from our country. We must look at other subsidies, tax deferments, loan guarantees, investment tax credits, economic regulation and importantly we must look at the economic costs to the average person. I fully agree with them that we must develop a new, long-term national maritime policy. This "single shot" approach is not the best answer.

The "cargo preference" bill will have very adverse repercussions for the family budget and for the country. I hope it is defeated.

Mr. MIKVA. Mr. Chairman, I want to voice my opposition to H.R. 1037, the Energy Transportation Security Act.

Most of the points for and against the bill have been brought out in the barrage of "Dear Colleague" letters, and in briefings such as the one held by the New Member's Caucus. The arguments against passage of the bill are overwhelming. On nearly all scores, the bill fails to meet the goals which the administration has professed—that the U.S. maritime industry and the merchant marine be kept strong and secure. In fact, the bill would probably have a negative effect in the long run on the U.S. marine fleet, and the personnel who man and support these ships.

The impulse for protectionism is strong, and we have seen the movement growing in many industries. To guarantee jobs for American workers in American industries, and to spend American dollars in the U.S. seems to make sense when unemployment is high, and the flow of U.S. money abroad is quickening. But we must also stop to consider the wider impact of such protectionism. Protectionism—and that is what this bill is—may be self-defeating. Protectionism is almost surely inflationary—and this is especially true in a bill which is as costly as this one. In the present economy, a rise in inflation has been accompanied by a concomitant rise in unemployment.

Considering that even the proponents can claim only 2,500 jobs to be created by cargo preference, the combined potential loss of jobs in other sectors, the potential loss of trade, and the loss of purchasing power for other commodities makes the passage of this legislation highly questionable.

The arguments for the buildup of the tanker fleet as a prime element in our national security rings hollow, as it has been pointed out that the type of tanker which would be utilized in the transportation of oil is the one design which cannot be easily converted to carry military cargo. In addition the concerns expressed by spokesmen from the Department of Defense regarding military cargo do not include those of tankers. Dr. John Bennett testified in 1975 that "in assessing defense ocean shipping needs for peace and war, my conclusion is that the tanker situation, while not without its problems, is not critical to national defense."

Furthermore, Treasury Secretary Blumenthal, in a memo to the President stated that—

> Defense believes that the essential national security problem is access to, not carriage of, oil and does not support H.R. 1037 on national security grounds.

This statement negates even the argument that there is a need to have a U.S.-flag tanker fleet in case of an international incident or national disaster.

If the goal of the bill is to increase U.S. income through the mechanism of cargo preference, the bill is a potential disaster. By guaranteeing that 9½ percent of oil is carried on U.S.-flag tankers, this move provides the motivation of other oil-carrying nations to set quotas on the oil that their ships transport. Carried to a logical conclusion, the United States could be caught in the uncomfortable situation of never being able to capture any more of the market than 9½ percent. Currently, the competition in this area is still very good worldwide. I would be very unhappy to see ocean-going commerce tied up any more in non-competitive arrangements.

An additional problem would be retaliation by some of our trading partners, which would damage both our domestic economy and our prestige abroad. Moreover, the State Department has advised the President that the bill would violate treaties with more than 30 countries, an added danger in the international arena.

Finally, the attempt to justify the system of cargo preference as an environmental safeguard falls very flat. Bringing the number of tankers carrying oil on U.S.-flag ships to 9.5 percent leaves over 90 percent of the oil being carried on foreign ships. While it is true that most of the oil spills off our shores have been from foreign-flags ships or tankers with flags of convenience, adding 5 percent of the oil carried in U.S. vessels with added protection that insures us a minute gain in environmental protection. A better way to safeguard the environment would be to impose standards on all ships entering American waters, regardless of its nation of registry..

Mr. Chairman, my opposition to this bill is based on my view of the merits. Frankly, there are very few positive factors which can be cited on this legislation. I urge my colleagues in the House to vote against the bill. I agree with Secretary Blumenthal that the legislation is unlikely to solve the long-range problems of the maritime industry, and will be detrimental overall to the domestic economy and U.S. relations with other nations.

Mr. DUNCAN of Oregon. Mr. Chairman, I would like to urge the passage

today of a bill that is of vital importance to our American merchant marine fleet and to our national security. This legislation, H.R. 1037, the Energy Transportation Security Act would require that up to 9.5 percent of the petroleum products imported into this country be carried on U.S.-flag vessels.

Our American merchant marine fleet has been a source of pride throughout our Nation's history both in times of peace and war. In recent years, however, we have become almost totally dependent on foreign-flag vessels to transport 97 percent of our essential oil imports. This dependence on foreign-flag ships has had a significant impact, not only on our commercial shipping industry, but on the employment of men and women in the maritime trades and related industries and perhaps most importantly on our national security.

The construction, operation and repair of U.S.-flag vessels to carry up to 9.5 percent of our oil imports, will preserve over 200,000 jobs for American working men and women and create an anticipated 20,000 new jobs in the maritime trades. In my district alone, over a thousand men and women are currently employed in the ship repair yards on Swan Island. This figure is expected to double with the passage of this legislation.

Another important factor we must consider in the passage of this bill, is the capability of our U.S.-flag ships in times of a national emergency. I have felt for many years the decline of our merchant marine fleet constitutes a major defect in our national security posture. Many of us here today can recall the important and vital role of our U.S.-flag vessels in times of war. We cannot overlook the national security protection provided by our merchant marine fleet at a minimum cost to the American Government.

President Carter has worked hard to seek solutions to cure this Nation's maritime problems and return our merchant marine fleet to a position of preparedness in the event of a national emergency. Today, Mr. Chairman, I urge the passage of H.R. 1037 as it affords the opportunity to provide numerous important benefits to our maritime industry and to all Americans.

The CHAIRMAN. All time has expired for general debate. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries, now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 1037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Transportation Security Act of 1977".

SEC. 2. Section 901 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1241), is amended by adding at the end thereof the following new subsection:

"(d) (1) The Secretary of Commerce shall take such steps as are necessary to assure that a quantity equal to 4½ per centum of the gross tonnage of oil transported in bulk on ocean vessels (whether transported directly from the original point of production or indirectly from such point to and from any intermediate points used for storage, refining, processing, packaging, unloading, or reloading of oil) for import into the United States shall be transported on privately owned United States-flag commercial vessels (to the extent that such vessels are available at fair and reasonable rates for such vessels), and to insure fair and reasonable participation of such vessels in such transportation from all geographical areas in which such oil is produced or refined or both. With respect to each fiscal year beginning after September 30, 1978, the quantity of such oil required to be transported on privately owned United States-flag commercial vessels shall be increased by 1 per centum of the gross tonnage of all oil transported in bulk on ocean vessels for import into the United States, and for each fiscal year beginning after September 30, 1982, such quantity shall be equal to 9½ per centum of such gross tonnage.

"(2) The Secretary of Commerce may by rule establish a system of reasonable classification of persons and imports subject to the provisions of this subsection, and such Secretary shall treat all persons in the same such classification in substantially the same manner. If any person alleges (A) that he has been incorrectly classified under any such rule; (B) that there is no reasonable basis in fact for any such classification; or (C) that as a consequence of any agency action, he is or may be treated substantially differently from any other person in the same classification, such person may request, and, upon a reasonable showing, obtain, a hearing in accordance with section 554 of title 5, United States Code. Upon an agency decision, such person may request judicial review in the United States Court of Appeals for the District of Columbia. The scope of such review shall be governed by section 706 of title 5, United States Code, including the contention that the action of the agency was unsupported by substantial evidence.

"(3) The Secretary of Commerce is authorized to grant credits toward the fulfillment of the requirements of paragraph (1) of this subsection in the case of oil transported by privately owned United States-flag commercial vessels, over one hundred thousand deadweight tons, between foreign ports until such time as an oil discharge facility, capable of discharging fully laden vessels of over two hundred thousand deadweight tons, is in operation on any coast of the United States: *Provided,* That the Secretary of Commerce shall take all reasonable steps to assure that the authority provided in this paragraph not encourage, directly or indirectly, the construction, operation, or maintenance of a fleet of privately owned United States-flag commercial vessels different in numbers, types, or sizes than the fleet that would otherwise result.

"(4) As used in this subsection—

"(A) 'oil' means crude oil and the following products refined or derived from crude oil: unfinished fuels, gasoline, kerosene, aviation fuels, naphtha, cracking stocks, distillate heating oil, diesel oil, and residual oils;

"(B) 'privately owned United States-flag commercial vessels' are vessels of United States registry (or if at any time documented under the laws of any foreign nation, then documented under the laws of the United States for not less than the three previous years), built in the United States, and which (a) are (i) not more than ten years old, or (ii) not beyond their economic lives (as determined by the Secretary of Commerce), and with respect to which the owner or lessee thereof has entered into a capital construction fund agreement with such Secretary pursuant to which such vessel shall be replaced at the end of its economic life and such agreement includes a mandatory deposit schedule to finance such replacement, or such Secretary and the owner or lessee of such vessel have entered into an agreement satisfactory to such Secretary providing for the replacement of such vessel and (b) have been certified by the Secretary of the Navy as suitable for economical and speedy conversion into a navy or military auxiliary, or otherwise suitable for the use of the United States Government in time of war or national emergency, and (c) if contracted for after June 30, 1977, only if constructed without the aid of construction-differential subsidy and operated without the aid of operating-differential subsidy. The Secretary of Commerce shall adopt appropriate rules and regulations governing the participation of vessels constructed with the aid of construction differential subsidy under contracts entered into prior to July 1, 1977, or operating under operating differential subsidy agreements executed prior to July 1, 1977; and

"(C) 'United States' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico.

"(5) Each department, agency, or other instrumentality of the United States which is affected by an obligation imposed under this subsection, and any officer or employee thereof, shall take all appropriate action to assure compliance with such obligation and with regulations which shall be issued by the Secretary of Commerce to implement and enforce the provisions of this subsection. Each citizen of the United States and each person subject to the jurisdiction of the United States shall comply with such obligation and any applicable regulations issued by such Secretary under this subsection.

"(6) The Secretary of Commerce shall incorporate in the annual report to Congress required by section 212(B)(d) of this Act a review and evaluation of the implementation of the provisions together with his recommendations concerning such requirements. Each such report shall include, but not be limited to, a study of (1) the adequacy and availability of construction and reconstruction facilities in the United States for the vessels needed to meet the provisions of paragraph (1) of this subsection, and (2) the reasonableness of the prices charged and delivery dates for the construction and reconstruction of such vessels.".

SEC. 3. The provisions of this Act shall not apply with respect to the first fifty thousand barrels per day of oil imported into the United States by or for a small and independent refiner, as those terms are defined in section 3 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 752), to the extent that such oil is processed or is exchanged for oil to be processed by such refiner: *Provided,* That neither this exemption nor any other exemption whether imposed by statute, rule, or regulation (or any oil required to be transported in privately owned United States-flag commercial vessels pursuant to subsection (b) of this section or any other provision of law), shall reduce the gross tonnage of oil to which the applicable percentage required to be carried shall be applied.

SEC. 4. Whoever violates any provision of this Act, or any rules, regulation, or order of the Secretary, shall be subject to a civil penalty, to be imposed by the Secretary in accordance with rules established by the Secretary for that purpose of not more than $25,000 for each day such violation occurs.

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. CUNNINGHAM. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk continued to read the committee amendment in the nature of a substitute.

Mr. CUNNINGHAM (during the reading). Mr. Chairman, I withdraw my objection.

The CHAIRMAN. Is there objection to having the committee amendment in the nature of a substitute considered as read, printed in the RECORD, and open to amendment at any point?

There was no objection.

The CHAIRMAN. Are there any amendments?

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: On page 7, line 6, after "both" add ": *Provided*, That any rate which is more than 50 per centum higher than the comparable world market rate may not be deemed fair and reasonable".

Mr. McCLOSKEY. Mr. Chairman, the sole administration witness for the bill, Maritime Administrator Robert A. Blackwell, testified that the additional costs of carriage of 9½ percent oil imports would not exceed $110 million, using an estimated oil import level of 8 million barrels of oil per day. Current transportation charges for oil are $2.18 billion per annum, and for 9½ percent approximately $220 million per annum. A 50-percent increase in this current additional cost would approximate the $110 million testified to by Mr. Blackwell. Therefore, if Mr. Blackwell's testimony is to be believed, cargo preference should not result in a rate increase of more than 50 percent of current transportation costs. This amendment would fix, as a matter of law, an obligation on the part of the Maritime Administration to assure that transportation costs did not increase more than 50 percent as the administration has estimated.

The bill currently requires that vessels may qualify to carry preference cargo only if they are available at "fair and reasonable rates." Although similar language is contained in other preference laws, such as those governing Public Law 480 cargo and Government-financed cargo, freight rates in those situations have been as much as 500 percent higher than comparable rates on the world market. This history makes it especially important to place some ceiling on what may be a fair and reasonable rate. Otherwise, with a captive market and inadequate numbers of vessels available to meet the preference percentages, qualifying shipowners can charge virtually what they wish.

The amendment would allow up to a 50-percent price premium for preference vessels. This is a more than generous benefit to U.S. shipowners while providing some protection for the consumer.

Mr. MURPHY of New York. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California.

Mr. Chairman, the determination of "fair and reasonable" rates will of necessity be a complicated one. The Maritime Administration is currently analyzing the various factors which should be taken into account in determining such rates. Factors which probably will be taken into account in determining fair and reasonable rates will include: the types and sizes of the vessels involved, the length of the charter, the costs of operating the vessels, and a reasonable return on the capital invested by the operator.

This is not going to be an easy matter. It may be necessary to have a different set of rates for vessels which have been constructed with the aid of construction-differential subsidy, or which are operated under an operating-differential subsidy agreement. I am assured, however, that the Maritime Administration will be prepared to issue guideline "fair and reasonable rates" upon the enactment of this legislation.

The effect of Mr. McCLOSKEY's amendment, limiting such "fair and reasonable rates" for U.S.-flag tankers to no more than 50 percent higher than comparable world market rates would effectively cancel the national benefits that are sought through H.R. 1037, and thus would have essentially the same practical effect as a veto of the legislation.

This result would probably occur for the following reason: Because of overbuilding by foreign speculators, the world tanker market has never been in such a depressed condition. Foreign tanker owners in many cases are facing default, and some have become bankrupt. At the present time, about 30 million deadweight tons of foreign-flag tankers are in lay-up for the lack of employment. Another 30 million deadweight tons of foreign-flag tankers are accepting less than break-even rates in order to keep their vessels out of lay-up. This situation has reduced foreign-flag tanker rates to the lowest levels in history. Because foreign speculators have constructed so much excess tanker tonnage, there is every indication that this situation will continue well into the 1980's.

I do not see how the fair and reasonable freight rate for U.S.-flag cargo equity tankers could be limited to 50 percent higher than these distress freight rates being accepted by foreign-flag tankers. This is especially true if we are requiring these U.S.-flag tanker operators to provide for the orderly replacement of their vessels.

The practical effect of this proposed amendment by Mr. McCLOSKEY would be to shut out U.S.-flag tankers from the cargo equity trade and make a mockery of the bill.

I urge the Members not to be misled by the 50-percent increase in Mr. McCLOSKEY's amendment.

The cost of the legislation resulting from the use of U.S.-flag tankers at fair and reasonable rates under the bill has been calculated by the Congressional Budget Office, the administration, and the General Accounting Office. All three studies indicate that any such cost increase would be limited to an increased cost to the average American automobile driver of from 50 cents to $1 a year.

I think that the Secretary of Commerce should have full discretion in this matter if the legislation is to be effectively implemented. His experience in calculating such "fair and reasonable" rates will be included in the annual report required by proposed section 901 (d) (6) of the bill.

Ten years ago tanker charter markets were 10 times as high as they are now. The effect of this amendment would mean that the American consumer would be paying 10 times a fair and reasonable rate, and I would think on the face of it we should not be misled by this amendment. At a different point in time, such as the 1973–74 oil embargo period—should it happen again—we now know the volatile nature of the world tanker market, and I would say the proper consumer vote is one to stick with the language in the legislation that calls for "fair and reasonable rates," that calls for the Maritime Administration to make those evaluations, and to reject this language.

We must bear in mind that the amendment in question would destroy the flexibility which we have given the Secretary of Commerce to react to fluctuations in the world market for the rates to carry oil cargo. The amendment would destroy this flexibility and impose a rigid restriction which would put us at a disadvantage when and if the world scale rates for the carriage of petroleum cargoes should escalate once again.

I urge my colleagues in the House to vote down this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

Mr. McCLOSKEY. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Fifty-seven Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The committee will resume its business.

The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCLOSKEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 253, noes 167, not voting 14, as follows:

[Roll No. 670]

AYES—253

Abdnor	Glaimo	Myers, John
Alexander	Gibbons	Neal
Allen	Gilman	Nichols
Ammerman	Glickman	Oakar
Anderson, Ill.	Goodling	Obey
Andrews, N.C.	Gore	Ottinger
Archer	Gradison	Panetta
Armstrong	Grassley	Pattison
Ashbrook	Gudger	Pease
Ashley	Guyer	Pettis
Aspin	Hagedorn	Pickle
Badham	Hall	Pike
Bafalis	Hamilton	Poage
Baldus	Hammer-	Pressler
Barnard	schmidt	Preyer
Baucus	Hannaford	Pursell
Bauman	Hansen	Quayle
Beard, Tenn.	Harkin	Quie
Bedell	Harris	Quillen
Bellenson	Harsha	Railsback
Bennett	Heckler	Regula
Bevill	Hefner	Reuss
Bingham	Hightower	Rhodes
Blouin	Hillis	Roberts
Boland	Hollenbeck	Robinson
Brademas	Holt	Rogers
Breaux	Holtzman	Roncalio
Broomfield	Horton	Rousselot
Brown, Mich.	Huckaby	Rudd
Brown, Ohio	Hyde	Runnels
Broyhill	Ichord	Ruppe
Buchanan	Ireland	Sarasin
Burke, Fla.	Jacobs	Sawyer
Burleson, Tex.	Jeffords	Schroeder
Butler	Jenkins	Schulze
Byron	Johnson, Colo.	Sebelius
Caputo	Jones, Okla.	Seiberling
Carr	Kasten	Sharp
Carter	Kastenmeier	Shuster
Cederberg	Kazen	Sisk
Clausen,	Kelly	Skubitz
Don H.	Kemp	Smith, Iowa
Clawson, Del	Ketchum	Smith, Nebr.
Cleveland	Keys	Snyder
Cochran	Kindness	Spence
Cohen	Kostmayer	St Germain
Coleman	Krueger	Stangeland
Collins, Tex.	LaFalce	Stanton
Conable	Lagomarsino	Stark
Conte	Latta	Steers
Conyers	Leach	Steiger
Corcoran	Lehman	Stockman
Cornell	Lent	Stratton
Cotter	Lloyd, Tenn.	Stump
Coughlin	Lujan	Symms
Crane	Luken	Taylor
Daniel, Dan	McClory	Thone
Danielson	McCloskey	Thornton
Derwinski	McDade	Traxler
Devine	McDonald	Treen
Dickinson	McEwen	Tsongas
Dornan	McHugh	Tucker
Downey	McKay	Udall
Drinan	McKinney	Vander Jagt
Duncan, Tenn.	Madigan	Vanik
Edgar	Maguire	Volkmer
Edwards, Ala.	Mahon	Waggonner
Edwards, Okla.	Mann	Walgren
Emery	Marks	Walker
English	Marlenee	Walsh
Erlenborn	Marriott	Wampler
Ertel	Martin	Watkins
Evans, Del.	Mazzoli	Waxman
Evans, Ga.	Meyner	White
Evans, Ind.	Michel	Whitley
Fenwick	Milford	Whitten
Findley	Miller, Ohio	Wiggins
Fish	Mitchell, N.Y.	Winn
Fisher	Moffett	Wirth
Flowers	Montgomery	Wydler
Forsythe	Moore	Wylie
Fountain	Moorhead,	Yates
Fowler	Calif.	Yatron
Fraser	Moorhead, Pa.	Young, Fla.
Frenzel	Mottl	
Frey	Myers, Gary	

NOES—167

Addabbo	Boggs	Burton, John
Akaka	Bonior	Burton, Phillip
Ambro	Bonker	Carney
Anderson,	Bowen	Cavanaugh
Calif.	Breckinridge	Chappell
Annunzio	Brinkley	Chisholm
Applegate	Brodhead	Clay
AuCoin	Brooks	Collins, Ill.
Badillo	Brown, Calif.	Corman
Beard, R.I.	Burgener	Cornwell
Benjamin	Burke, Calif.	Cunningham
Biaggi	Burke, Mass.	D'Amours
Blanchard	Burlison, Mo.	Daniel, R. W.
Davis	Krebs	Rangel
de la Garza	Le Fante	Richmond
Delaney	Lederer	Rinaldo
Dellums	Leggett	Risenhoover
Dent	Levitas	Rodino
Derrick	Livingston	Roe
Dicks	Lloyd, Calif.	Rooney
Diggs	Long, La.	Rose
Dingell	Long, Md.	Rosenthal
Duncan, Oreg.	Lott	Rostenkowski
Early	Lundine	Roybal
Eckhardt	McCormack	Russo
Edwards, Calif.	McFall	Ryan
Eilberg	Markey	Santini
Evans, Colo.	Mathis	Satterfield
Fary	Mattox	Scheuer
Fascell	Meeds	Shipley
Fithian	Mikulski	Sikes
Flippo	Mikva	Simon
Flood	Miller, Calif.	Skelton
Florio	Mineta	Slack
Foley	Minish	Solarz
Ford, Mich.	Mitchell, Md.	Spellman
Fuqua	Moakley	Staggers
Gammage	Mollohan	Steed
Gaydos	Murphy, Ill.	Stokes
Gephardt	Murphy, N.Y.	Studds
Ginn	Murphy, Pa.	Thompson
Gonzalez	Murtha	Trible
Hanley	Myers, Michael	Ullman
Harrington	Natcher	Van Deerlin
Hawkins	Nedzi	Vento
Heftel	Nix	Weaver
Holland	Nolan	Weiss
Howard	Nowak	Whitehurst
Hubbard	O'Brien	Wilson, Bob
Hughes	Oberstar	Wilson, Tex.
Jenrette	Patten	Wright
Johnson, Calif.	Patterson	Young, Alaska
Jones, N.C.	Perkins	Young, Mo.
Jones, Tenn.	Price	Young, Tex.
Jordan	Pritchard	Zablocki
Kildee	Rahall	Zeferetti

NOT VOTING—14

Andrews,	Ford, Tenn.	Pepper
N. Dak.	Goldwater	Teague
Bolling	Koch	Whalen
Dodd	Metcalfe	Wilson, C. H.
Flynt	Moss	Wolff

Messrs. LEHMAN, HARKIN, MOFFETT, WAXMAN, OTTINGER, AMMERMAN, and ALEXANDER changed their vote from "no" to "aye."

Mrs. SPELLMAN, Mr. RINALDO, and Mr. DERRICK changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. CUNNINGHAM

Mr. CUNNINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CUNNINGHAM: On Page 9, line 24 after the word "constructed" insert the following: "of steel produced in the United States,".

Mr. CUNNINGHAM. Mr. Chairman, my amendment simply says that the ships that will be built in compliance with this legislation so as to fulfill its requirements not only will be built in the United States, but they will be built with steel produced in the United States.

Mr. GIBBONS. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The Chair will advise the gentleman from Florida (Mr. GIBBONS) that the amendment has been read and the point of order comes too late.

Mr. CUNNINGHAM. Mr. Chairman, there has been a lot of conversation here about jobs. There has been talk about our national security. I submit to the Members that my amendment meets both of those requirements because what could be greater to our national security than to have a viable, fully employed work force?

As the Members may or may not know, but I think they know through the formation of the steel caucus that in 1976, 14 million tons of steel were imported into the United States, representing some 14 percent of the total U.S. consumption of steel.

That 14 percent was an 18-percent increase over 1975, imports and so far for the first 8 months of 1977 we are running at a 16-percent increase over the 1976 year. Using either the conservative or the liberal interpretation of how many jobs equate to 1 million tons, it is from 6,000 to 8,000 jobs per million tons. There could be at stake from 85,000 to 112,000 jobs. I think the people of the United States are entitled to those jobs. They are competing with steel that is imported, that is often subsidized by their governments, and, unfortunately, many of those government subsidy dollars come out of the citizens' pockets of the U.S. taxpayers. So I would urge that the Members support my amendment. I will say to the chairman of the committee that I consider my amendment a friendly amendment, and I would hope that my colleagues would join in its support.

This amendment does not directly interfere with foreign trade, but it does give each of us a chance to say to our own workers—that we care about their jobs and livelihood.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. CUNNINGHAM

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York as a substitute for the amendment offered by Mr. CUNNINGHAM:

That H.R. 1037 be amended by inserting on page 10, line 2, after the word "subsidy", the following: "In all such construction the shipbuilder, subcontractors, materialmen, or suppliers shall use, so far as practicable, only articles, materials, and supplies of the growth, production, or manufacture of the United States as defined in paragraph K of section 401 of the Tariff Act of 1930; Provided, however, That with respect to other than major components of the hull, superstructure, and any material used in the construction thereof. (1) if the Secretary of Commerce determines that the requirements of this sentence will unreasonably delay completion of any vessel beyond its contract delivery date, and (2) if such determination includes or is accompanied by a concise explanation of the basis therefor, then the Secretary of Commerce may waive such requirements to the extent necessary."

POINT OF ORDER

Mr. GIBBONS. Mr. Chairman, I have a point of order against the substitute amendment.

The CHAIRMAN. The gentleman will state the point of order.

Mr. FRENZEL. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Florida (Mr. GIBBONS) has made a point of order, and the Chair is asking him to state the point of order.

Mr. GIBBONS. Mr. Chairman, the chairman of the Committee on Merchant Marine and Fisheries is attempting to amend the Smoot-Hawley Tariff Act of 1930 by expanding the definition of the material that was included in the Smoot-Hawley Tariff Act. The Smoot-Hawley Tariff Act under the rules of the House was confined exclusively to the Committee on Ways and Means and not to the Committee on Merchant Marine and Fisheries, and I think it is not germane to this bill. It is a matter that is wholly within the jurisdiction of the Committee on Ways and Means. Mr. Chairman, we have lived long enough with the Smoot-Hawley Tariff Act without having to resurrect that buzzard.

The CHAIRMAN. Does the gentleman from New York (Mr. MURPHY) desire to be heard on the point of order against the substitute amendment?

Mr. MURPHY of New York. I do, Mr. Chairman.

The language of the substitute amendment is direct language taken from the Merchant Marine Act of 1970. It is, of course, language that came from the committee. It is language that we feel is germane to the precise bill because it goes to the construction standards of the vessels that will be constructed under the act. Therefore, I would hope that the Chair would overrule the point of order.

The CHAIRMAN. Does the gentleman from Minnesota (Mr. FRENZEL) desire to be heard on the point of order?

Mr. FRENZEL. I do, Mr. Chairman.

It seems to me that the question here is whether the amendment offered by the gentleman from New York (Mr. MURPHY) is germane to the amendment offered by the gentleman from Washington (Mr. CUNNINGHAM). Mr. Chairman, I think that it is clearly a violation of our rules of germaneness because it does go to the Smoot-Hawley Tariff Act of 1930 and far expands on the amendment which was submitted by the gentleman from Washington.

The title of the bill, which is to require that a percentage of the U.S. oil imports be carried on U.S.-flag ships, does not contain tariff references, nor does it give the sweeping power to the Secretary of Commerce that is included in the amendment offered by the gentleman from New York, nor does the amendment offered by the gentleman from New York really modify the amendment of the gentleman from Washington because it is far greater in scope and effect.

Mr. Chairman, in my judgment the amendment is clearly nongermane and the point of order should be sustained.

The CHAIRMAN (Mr. UDALL). The Chair is prepared to rule.

The gentleman from Washington offers an amendment on page 9, line 24, to insert the words "of steel produced in the United States" after the word "constructed". To that amendment the gentleman from New York (Mr. MURPHY) offers a substitute which provides that:

In all such construction the shipbuilder, subcontractors, materialmen, or suppliers shall use, so far as practicable, only articles, materials, and supplies of the growth, production, or manufacture of the United States . . .

The narrow question before the Chair is whether the substitute amendment offered by the gentleman from New York (Mr. MURPHY) is germane to the amendment offered by the gentleman from Washington (Mr. CUNNINGHAM). The Chair would observe certainly of the proposed substitute that it is far broader than the item of steel referred to in the base amendment and refers to "articles, materials, and supplies" and so on. Therefore the Chair would have to rule that the substitute offered by the gentleman from New York (Mr. MURPHY) is not germane and the point of order by the gentleman from Florida is sustained.

PARLIAMENTARY INQUIRY

Mr. MURPHY of New York. Mr. Chairman, a parliamentary question.

The CHAIRMAN. The gentleman will state it.

Mr. MURPHY of New York. Mr. Chairman, did the Chair state whether it is germane to the amendment offered by the gentleman from Washington?

The CHAIRMAN. The narrow question is whether the substitute offered by the gentleman from New York (Mr. MURPHY) is germane to the amendment offered by the gentleman from Washington (Mr. CUNNINGHAM), and on that narrow question the Chair would have to rule it is not germane.

Mr. MURPHY of New York. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Washington (Mr. CUNNINGHAM).

Mr. Chairman, the issue raised by the gentleman from Washington was raised in our general debate. In the Merchant Marine Act of 1970 we had tried to effect the intent of the gentleman from Washington, but, of course, it came in at that time with much broader language in the so-called buy America, provision. In this era of ship construction, I think the amendment offered by the gentleman from Washington is a very worthy one. Eight percent of U.S. steel production today goes to the U.S.-ship construction industry. I certainly think that if we are going to be faced with cheap foreign steel being dumped in this country, then this should not be allowed so that we have some provision mandating the use of U.S. steel. I am happy to support the amendment offered by the gentleman from Washington.

Mr. GIBBONS. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, I realize that I am not going to win any accolades from Members who represent steel-producing districts and I am frankly not out to do that, but I want to lay some things on the line about this amendment and what it does and what it starts and how serious it is.

As I said in my point of order against the amendment offered by the gentleman from New York (Mr. MURPHY), and as I would like to have said against this amendment had I been quick enough to recognize a Republican when he rose on the Democratic side and had the House been quiet enough so I could even have heard the amendment when it was read, I would have said this.

You know, there are many of us in this Chamber who remember what Smoot-Hawley did for this country and the world. It tore up this country. It started a trade war. It planted the seeds of what became World War II. We destroyed our economy. We destroyed the world economy by doing what we thought was wise and that was cutting off foreign trade and cutting if off very drastically. We lived to regret what was an honest mistake that this Congress made. But which we lived millions died. There is no sense starting down this road again. It is a serious road. It is a terrible road.

Mr. Chairman, I want everyone to know that I am in sympathy with the problems of people who have steel companies in their districts and who have unemployment in their districts. As has been said by the President, it is a very complex problem. It is not one susceptible to simplistic solutions, such as the Cunningham amendment attempts to invoke upon us here.

This is a bad amendment. It would, in effect, say that no matter how trivial, how small a piece of steel that we try to use in this construction, that it could not be used. It would also be a significant indication to the rest of the world that we are ready to go back to 1930 and start that mess all over again and bring on the kind of cataclysmic consequences we had then.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I am happy to yield to the gentleman from Illinois.

Mr. MIKVA. Mr. Chairman, I would like to associate myself with the gentleman in the well. I come from a steel-producing territory. I do not think there would be one job produced by this amendment. I think it would be a tragedy to pass it and I commend the gentleman in the well.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, this is a strange coalition, but I would like to join the gentleman in the well and the gentleman from Illinois.

I come from an area not only of steel production, but of high unemployment, so the next step to follow this amendment will be to say that all ships would be built with U.S. steel. Attractive as that is, it would do exactly what the gentleman in the well and the gentleman from Illinois have said. It would invite retaliation and discourage the creation and retention of American jobs.

The worst thing for the country to do for the steel industry is to return to the 1930 Smoot-Hawley Act, which destroyed world economy and helped to initiate the worst depression in the history of the modern world.

Mr. GIBBONS. It brought about nationalism. It wrecked this economy. It wrecked the economy of Europe. It wrecked the economy of Japan. We ought

to be smart enough after all these years to understand a little of the clearest record, that history has ever written for us.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I think it can be made appealing, as the gentleman has done, to bring Smoot-Hawley into this area where Smoot-Hawley is really not relevant. Here we are setting aside a portion or reserving cargo for American ships for its carriage and its construction.

Mr. GIBBONS. Mr. Chairman, the gentleman from New York sounds like Mr. Hawley, who was chairman of the Committee on Ways and Means in 1930 and made almost the identical statement the gentleman from New York is making right here on this floor of the House and from that table at that time.

I would tell the gentleman from New York, I would plead with the gentleman, we ought to be smart enough to learn something from history. We cannot tear up the economy of the world and expect to profit by it, because we then bring on retaliation. We bring on all kinds of problems. Nobody knows where the lightning bolt will strike next, but I can say that since the beginning of this Nation we have found ourselves in disaster when we start down that road.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(At the request of Mr. KREBS, and by unanimous consent, Mr. GIBBONS was allowed to proceed for 2 additional minutes.)

Mr. KREBS. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from California.

Mr. KREBS. Mr. Chairman, I thank the gentleman for yielding.

I would like to commend the gentleman in the well on the gentleman's courage in stating the gentleman's position as the gentleman just did.

I would also like to remind members of this committee, particularly those who represent, as I do, an agricultural area in this country, that last year we exported $22 million of agricultural products around the world. Had it not been for that $22 million of agricultural exports that we had, this country would have had a balance-of-trade deficit that would have been substantially worse, and the record of this Congress would have been worse yet.

I think it would be a serious mistake to embark on this dangerous road, as the gentleman from Florida pointed out.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I just want to point out in response to the previous remarks about exports, that 10 percent of all jobs in America depends on exports. One-third of all the areas under cultivation depends on exports. One-fifth of our gross national product depends on this country's ability to export: So what we are doing by these kinds of restrictive amendments is inviting retaliation by our trading partners and competitors.

What the gentleman in the well has said about Smoot-Hawley is relevant, because coincident with the establishment of the high tariffs in the Smoot-Hawley Act, France, Belgium, Switzerland, Germany, and every other major trading nation in the world trading with us at the time filed high tariffs against the United States. That was the end of world trade in the thirties, and led to the depths of the Depression. The gentleman has taken a very clear position on behalf of the American worker by opposing this amendment. I hope my colleagues will vote it down.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

(Mr. FRENZEL asked and was given

Mr. Chairman, this Committee has heard a series of eloquent statements in opposition to the amendment, defending the free trade policy which this country has maintained for many decades.

Those of us who oppose the amendment do not do so in any attempt to deride or to degrade the concern which the maker feels for American employees. We understand that concern and share it. We do, however, speak for the one in six American employees who are employed in export-related jobs, because, as previous speakers have indicated, there is simply no question that when America begins to raise its barriers and shut the doors to its markets, our trading partners have no choice but to do the same.

As the gentleman from California (Mr. KREBS) so wisely pointed out, those of us who come from agricultural districts are particularly aware of our dependence on foreign markets. Those Members will be the ones whose constituents will suffer the most because the first barriers that will be raised against American exports will be those against American agriculture.

Our steel industry is now in great trouble. Our President is trying to develop a series of suggestions for short- and long-term relief of this distress. He and his administration team are working on the problem. I think that we would be better advised to wait to see what his concerns and recommendations would be before we would force an unwise solution, hastily contrived on the floor of the House, upon him. We would be better advised to look at the problem with great care in the broadest perspective.

With respect to the amendment itself, it is obviously defective because it requires that every ounce of steel in these ships come from America. There may be specific equipment—tiny portions of those ships—which are constructed of small pieces of steel that necessarily come from outside our country's borders. The amendment might prevent any American ship from ever being certified under this program.

So, I think those Members who believe in the traditional American policy of free trade and who understand what it has done for us and for the rest of the world, and even those Members who want to see this bill passed, will join to defeat the amendment.

Mr. LEGGETT. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, every Member of this House over the past few days has received a statement from Mr. Edgar B. Spier, chairman of the board of United States Steel. This was a statement he made on October 13. Essentially, what he said was, that he does not want a quota on carbon steel imports. He said no. Do they want orderly marketing agreements; he indicates no.

Finally, no substitute for a free-market-oriented economy can be adopted. But, what he does say is that today the United States is virtually the last big open market in the world; has a relatively good level of steel consumption, which is attracting foreign steel at full-scale trade-war prices. He says:

> Don't misunderstand me, we don't object to competition. Any steel producer, foreign or domestic, has the right in our free market to compete for business. But, much of the growth of imported steel in our market has been achieved as a result of either dumping by foreign producers or subsidization by their governments.
>
> In enacting the Trade Act of 1974, Congress reaffirmed that these practices are unfair methods of competition and are not acceptable in our market.
>
> This is not just a transitory problem brought on by poor world business conditions. It results from decades of capacity expansion abroad, based on the expectation that any excess availability could be dumped into the American market when such a course of action suited the short-term economic and social objectives of foreign governments or their steel producers.

He goes on to say that the United States ought to be able to develop and market steel competitively.

The Wage and Price Council has said exactly the same thing.

Japan last year launched 31 million tons of shipping. The United States launched 1.2 million tons of shipping. Japan has dominated this market. Sixty percent of the overall world market for ships is built in Japan. We have a surplus now of tankers on the market. Thirty million deadweight tons cannot be used. And Japan is still thinking of dumping on the American market. We think that it is good and sound and right that we incorporate American products in American defense capability. This is a defense bill, and the provision to make the bill say what it means and mean what it says and build these 100,000 jobs, like the gentleman from Washington indicates that it will, is a sound and reasonable thing to do.

We are not desecrating any foreign competition. The foreigners are desecrating us. They are the ones who have 95 percent of the import cargo capability into the United States. We are the one with 4½ percent, trying to eke our way out. We are trying to not just build some seaman jobs and some shipping jobs, but we are also trying to build some steel business. That is what makes this whole bill tick. And the people who are arguing

against the buy-American-steel amendment are trying to kill this bill; they do not want an American merchant marine, and I believe that the amendment ought to be fully supported.

Mr. McCLOSKEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to direct a question to the distinguished chairman of the committee.

This amendment was never discussed in committee, and yet the chairman supports it. May I ask a single question: Does the administration support this amendment?

Mr. MURPHY of New York. If the gentleman will yield, I will say to the gentleman that I did not discuss this amendment with the administration.

Mr. McCLOSKEY. Mr. Chairman, I notice the sole administration spokesman, the Maritime Administrator, is in the gallery. Can we get the administration's position, so that the House can be advised?

It was never discussed in committee. Can we ask the Administrator what the administration's position is?

The CHAIRMAN. The gentleman will proceed in order. The Chair will inform the gentleman from California (Mr. McCLOSKEY) that the precedents of the House do not permit questions of persons in the House gallery and the rules do not permit reference in debate to persons in the gallery.

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield so that I may respond, my analysis of the intent of this legislation was to offer language very similar to language adopted in virtually every other merchant marine construction act.

POINT OF ORDER

Mr. DANIELSON. Mr. Chairman, I make the point of order that the gentleman from California (Mr. McCLOSKEY) seated himself and thereby yielded back the balance of his time.

The CHAIRMAN. The Chair adopts a commonsense interpretation of the rule.

Mr. DANIELSON. Mr. Chairman, I ask for regular order.

The CHAIRMAN. The gentleman from California (Mr. McCLOSKEY) was back up on his feet almost immediately and indicated that he wanted to continue his colloquy with the gentleman from New York (Mr. MURPHY).

Does the gentleman from California (Mr. McCLOSKEY) desire to yield to the gentleman from New York (Mr. MURPHY)?

Mr. McCLOSKEY. Mr. Chairman, I desire to yield to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY. Mr. Chairman, the intent is clearly consistent with the intent of the 1970 act, with the language that was adopted. Clearly it was consistent with most of the Merchant Marine construction acts that we have done.

Mr. McCLOSKEY. Mr. Chairman, I have to say that I have to oppose this amendment on the basis that there was absolutely no debate in the committee. This is a serious amendment. It has a serious impact, and without full committee consideration I think the amendment should be voted down.

AMENDMENT OFFERED BY MR. VOLKMER TO THE AMENDMENT OFFERED BY MR. CUNNINGHAM

Mr. VOLKMER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER to the amendment offered by Mr. CUNNINGHAM: Amend the amendment by inserting before the word "of" the following: "as far as practicable".

Mr. VOLKMER. Mr. Chairman, I have listened to the debate on the amendment offered by the gentleman from Washington (Mr. CUNNINGHAM) as to the use of U.S. steel in ship construction. There is no question that we have a problem with the steel industry, and that we have problems of unemployment in the steel industry.

But also, as the gentleman from Florida and other Members have more aptly stated, we do not want to go down the road to total nationalism or isolationism. We have to live in a world where we engage in international commerce.

Therefore, I offer this amendment to the amendment as something of a compromise to provide that, as far as practicable, the ships will be made of U.S. steel.

We also have the problem of specialty steels that would go into these ships which may not even be available from U.S. industry. This amendment, as originally drafted, would preclude the use of that steel.

For that reason, Mr. Chairman, I offer this amendment to the amendment.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate the fact that the members of the Committee on Merchant Marine and Fisheries worked long and hard on this bill. We have had more "Dear Colleague" letters and communications on this measure than on any other bill before us in the last month.

But I am also afraid, listening, as I have, to the debate in the last hour, that it is starting to degenerate. For example, the gentleman from California (Mr. LEGGETT), if we listen to him, tells us in effect that the amendment offered by the gentleman from Washington (Mr. CUNNINGHAM), if added to the bill, would literally solve all our economic problems, our unemployment problems, our problems with steel, and that it would somehow keep agriculture flowing. It would seem there is not a national problem that would not be solved.

Then we have my dear friend, the gentleman from California (Mr. McCLOSKEY), and the gentleman from Minnesota (Mr. FRENZEL), who do not like the amendment, but they argue against it in the wrong fashion. The fact that the amendment was not considered in committee is beside the point. The implication is that the amendment is motivated by the special problems in the district represented by the gentleman from Washington (Mr. CUNNINGHAM), that is perfectly proper. All of us tend to have parochial views once in a while.

The point is, though, that the philosophy of the amendment and the philosophy of the basic bill before us are wrong. What we have is an overkill to solve a very delicate, complicated problem. This is being done at a time when Mr. Strauss has embarked on a major assignment from the President to try to attack the prejudice and obstacles that have been erected against U.S. products.

If we took the kind of action this amendment would call for, we would trigger retaliation. Whenever we start a tariff war or whenever we start on a program of erecting trade barriers, there is retaliatory action, and everybody suffers; no one benefits.

I would suggest that what we have to do this afternoon is to rise above the temptation to be provincial and look at the broad issue of the ability of Americans to compete abroad. Free trade benefits everyone, and if we stick to those principles, we can emerge from this debate in a proper fashion.

Mr. Chairman, I suggest the rejection of this amendment.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this amendment is illustrative of the fact that it is difficult to take just one step down a primrose path. We are starting down a primrose path with this bill. Once we start we are tempted to take one step more, then another, then another.

The amendment is entirely consistent with the philosophy of the bill. Its course follows the bill's momentum. I agree entirely with the gentleman from Illinois (Mr. DERWINSKI) that it would be a serious mistake for us to embark on this course, particularly at this time, and I urge not only the rejection of the amendment, but the rejection of the entire bill as well.

Mr. DERWINSKI. Mr. Chairman, let me say that earlier there was some confusion as to who was speaking for the administration, the gentleman from California (Mr. McCLOSKEY) or the gentleman from New York (Mr. MURPHY). But I do know that the gentleman from Ohio (Mr. ASHBROOK) is speaking for Mr. Meany.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, the gentleman knows that I have not spoken for any administration since I have been here, so that pretty well establishes my qualifications.

The point I make is this—and I do not mean to say this facetiously—we talk about retaliation and we talk about nations taking courses of action in the trade field that might put a stop to free trade. Many of us think that it is the United States that should do some retaliating. We have been the fall guy in trade for 30 years without any real retaliation.

I represent a district that manufactures road graders. Our friends in Canada have put a 28-percent duty that must be paid on all road graders going from Galion and Bucyrus, Ohio, into Canada. Similar road graders that are exported from Canada to the United States come in with a 10-percent duty. We have been running up against this for 10 years. This could be multiplied a thousand times with other examples. Maybe it is time for the United States to do some retaliating of its own.

Mr. Chairman, that is my main objection to this bill.

Mr. DERWINSKI. That is why I made the point that Mr. Strauss, well armed by the President with the flexibility needed in negotiations, could well be the key to solving this problem. There are fewer trade problems, than the gentleman would care to mention. Basically free trade has been the pattern in the international field for 30 years, and all are the beneficiaries of it.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I thank the gentleman for yielding. It is important to remember that in 1976 the net foreign trade balance was a surplus in manufacturing exports for the United States of over $11 billion, and the net trade surplus in agricultural exports was over $11 billion.

In other words, free trade has worked to the great advantage of this Nation. However, I do not support foreign governments subsidizing their exports such as Japanese and European steel imports. That is our problem—subsidized foreign imports. Oil imports this year will create a substantial foreign trade deficit in the area of $30 billion.

Mr. DERWINSKI. The answer to that is more exploration for oil in the United States.

Mr. TRAXLER. So let us pass the President's energy bill.

Mr. FITHIAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I was listening with care to my friend, the gentleman from Florida, when he spoke on the virtues of free trade, as have several others.

However, I note that this hardly squares with the reality of what has happened in the world in the past few years if one only looks at some of the statistics that we are talking about.

Mr. Chairman, we are talking about the most basic of American industries, steel; and within that industry we are talking about an industry that is now being unfairly competed with, as has been indicated by the Treasury Department's tentative ruling with regard to five Japanese steel companies very recently. Further, as late as this morning, U.S. Steel's case was also accepted by the Treasury Department for investigation.

Therefore, Mr. Chairman, I would point out to the gentleman that we are hardly in an era of unlimited and unfettered free trade. I would point out to those who argue against this amendment that, in fact, the difference between the amount of American steel used in shipbuilding in 1975 and that which was used in 1976 showed a 31-percent reduction in the use of American steel. That is a total drop of 440,000 tons between 1975 and 1976.

Mr. Chairman, hardly anyone in this body should question whether or not the Japanese are subsidizing, by means of taxes and all kinds of other means, their own domestic steel industry. It is because of that, primarily, that they are able to unfairly compete with American steel.

Mr. Chairman, this is a small step; this is a minor step in terms of trying to do something about the ailments of the steel industry.

Mr. Chairman, let me remind the Members that we deal in this House from day to day with jobs. We deal in this House from day to day with all kinds of efforts to put Americans back to work. We deal in this House frequently with financial bills in an attempt to help out companies and to enable segments of our industry to recoup and to encourage their abilty to form capital in order to expand.

Mr. Chairman, none of those actions are challenged as being provincial. None of those actions are challenged as being antifree trade.

What we are asking here is that with regard to those few additional ships that would be constructed under this act, insofar as practicable—I think that is a useful amendment—insofar as practicable, we use American-made steel.

Mr. Chairman, we will either face this question in this fashion and other buy-American acts which will follow with regard to the steel industry, or we will face some other major catastrophic event in dealing with the steel industry itself.

We are talking, my friends, about steelworker jobs by the thousands.

As has been pointed out here, would we really rather pay unemployment compensation or put these people back to work for the few additional dollars that this would cost.

Mr. Chairman, I submit that the rule of reason should prevail, and we should be concerned about steelworker jobs, and we should be concerned about our most basic industry. That is all we are talking about here, our most basic industry.

Mr. Chairman, the administrations, the past administration and the present administration, have been rather lax in dealing with the specific tools that they have for coping with unfair dumping.

We do not have fair trade in some segments of the steel industry. This is one attempt, in a very small way, to correct that.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Florida for a question.

Mr. GIBBONS. Mr. Chairman, I thank the gentleman for yielding. I want the gentleman to know that I have a great deal of sympathy for the unemployed steelworkers. I have steelworkers in my district who manufacture steel and I know the problem. But it is a larger problem than just this. This is a very clumsy and a very inefficient way of going about solving the problems.

The problems in the steel industry are extremely complicated. There are old plants. The steel industry came out of a very protective tariff situation that developed a few years ago and the quotas to limit imports did not do anything for them.

They have problems regarding the environment. They have problems with the tax laws. They have all kinds of other problems.

Mr. FITHIAN. Mr. Chairman, I would like to reverse the order and ask the gentleman a question. I thought he was going to ask me a question. But I would ask him that I suppose, due to the gentleman's seniority in the House of Representatives, that the gentleman must have been here in 1970 when the bill passed that we are referencing here.

Mr. GIBBONS. In 1970?

Mr. FITHIAN. Yes.

Mr. GIBBONS. Yes, I was. But I believe you are talking about the 1930 law.

Mr. FITHIAN. If you go back to the 1970 act it deals with construction.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FITHIAN was allowed to proceed for 1 additional minute.)

Mr. FITHIAN. Mr. Chairman, I would like to argue the case that this is hardly unprecedented, and I will argue later the consideration of the germaneness feature, because we are dealing with legislation already on the books and which were referenced and cited in the 1970 legislation.

Mr. GIBBONS. This amendment, if the gentleman will yield further, refers to the 1930 act, the Smoot-Hawley Act of 1930. I just was back in the library and looked it up. I recognized the citation.

As I say, the problem is much more complicated and you are just making the situation worse. This is not the "buy American" provision that is included in Armed Services bills. As far as those "buy American" provisions are concerned, they have certain objective criterion by which they can be waived.

But, let me say that I want to help work out the problem of steel, but this is not the way to do so.

The CHAIRMAN. The time of the gentleman has again expired.

(By unanimous consent, Mr. FITHIAN was allowed to proceed for 2 additional minutes.)

Mr. FITHIAN. Mr. Chairman, I would like to respond to the gentleman from Florida (Mr. GIBBONS) briefly.

How basic can we be? Does the gentleman feel that is proper when defense bills are before the House that we can talk about "buy American"? I would submit to you that, in terms of industrial steel, in terms of national security, there is nothing as basic as basic steel. Therefore we are going to the heart of the matter.

We have dealt with "buy American" provisions in many pieces of legislation. There is no more national security at stake when a defense bill is on the floor than when we are dealing with the basic steel industry.

I would argue the reverse that basic steel is the most basic of all of our indus-

tries, therefore it is vital and central to our national security.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. DENT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I thank the Members so much for their applause and I want to rise to thank all of them for their encouragement, for their friendship, and for their good will that they so generously gave me when I had the thought that things were much blacker than what they really were.

I never hurt too much in my life because I have always been aggressive and dodged the missiles pretty much. But you were my main strength. Because of the men and women in this House, I have not taken the glove off to hit. It has swung out, as a Member of this Congress, maybe sometimes a little harder than it should have. And you all expressed concern that lifted my own concern and made everything just all right again.

[Applause, the Members rising.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER) to the amendment offered by the gentleman from Washington (Mr. CUNNINGHAM).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. CUNNINGHAM), as amended.

The question was taken; and on a division (demanded by Mr. CUNNINGHAM) there were—ayes 29, noes 42.

Mr. CUNNINGHAM. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment, as amended, was rejected.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: On page 6, line 18, after "shall" insert ", if the Secretary of the Treasury certifies that such steps will not reduce total national employment and gross national product,".

Mr. McCLOSKEY. Mr. Chairman, this amendment is a simple one. It tries to honor the position that the proponents of the bill have taken that the bill will not harm the overall employment situation in the United States and it will not hurt the gross national product. At page 79 of the committee report we have the testimony of the Council of Economic Advisers that if this bill were enacted into law at the 20-percent- to 30-percent level, the bill would cause a net decrease in the gross national product and a net decrease in overall unemployment. That testimony obviously does not apply to the 9½-percent level, and we are without testimony in the RECORD on what the effect of the 9½-percent bill will be on the gross national product and overall unemployment.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding. I just want to tell the gentleman that we have no opposition to his amendment.

Mr. McCLOSKEY. If the amendment is accepted, then I suppose I need not argue it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The amendment was agreed to.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wonder if I might address a question to the distinguished chairman, the gentleman from New York.

In section 3 of the bill, there is an exemption from the act for the first 50,000 barrels per day imported oil into the United States under certain conditions. Am I correct that this means the first 50,000 barrels per day imported in bulk in ocean vessels?

Mr. MURPHY of New York. It is my understanding that it is imports into the United States by tanker. Both the main portion of the bill and section 3 make it clear that it is petroleum carriage by vessels that the bill applies to.

Mr. FRENZEL. We have refineries in my area which import by pipeline from Canada and they may also import by ocean vessel, but their imports by vessel are less than 50,000 barrels a day. Altogether their imports are more than 50,000 barrels a day. Would these refineries be exempt under the bill as written?

Mr. MURPHY of New York. I would have to say to the gentleman that we are dealing with oil that is imported by vessel and of course we would not permit contravention through, say, a far offshore port and the entry by pipeline.

Mr. FRENZEL. I thank the chairman.

I repeat the same question to the gentleman from Michigan, the distinguished ranking minority member of the committee.

Mr. RUPPE. Mr. Chairman, I agree with the chairman, the gentleman from New York. It is an exemption against that flow of oil brought into the United States by tankers, so I think the gentleman's refineries would be protected. They would be protected under the act.

Mr. FRENZEL. I thank both the distinguished gentlemen for their contribution.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: On page 6, line 18, after "shall" insert ", if the Secretary of State certifies that such steps will not violate any treaty of friendship, commerce and navigation with any nation which is a member of the North Atlantic Treaty Organization,".

Mr. McCLOSKEY. Mr. Chairman, Assistant Secretary Blackwell, the sole administration witness, was unable to provide a firm analysis of whether the bill would violate treaties of friendship, commerce, and navigation. In response to a question on this point, he stated: "I do not know whether the word 'violate'—I do not know whether the Assistant Secretary of State used that term. I do not know whether you can violate that type of treaty."

However, previous administration testimony on a similar bill in the 93d Congress was unequivocal. Deputy Asssitant Secretary of State Waldman testified:

Any measure by the U.S. government extending a preference to U.S.-flag vessels for commercial cargoes . . . would cause us to violate those treaty obligations.

During hearings this year, the administration refused to send a State Department witness to testify. The Presidential memos, leaked to the press, state quite clearly, however, that it "would violate U.S. treaties with more than 30 countries." Five countries have stated in writing that the bill would violate the treaties.

An aide memoire sent to the Department of State by 11 of our closest allies—United Kingdom, Federal Republic of Germany, Japan, Belgium, Norway, Sweden, Denmark, Finland, Greece, Italy, and the Netherlands "strongly regretted" the position the administration took on this bill.

We should not take the drastic step mandated in this bill unless we are certain of the consequences. This is particularly important since many of the countries signatory to the treaties are members of the North Atlantic Treaty Organization and since our country has recently, at the London summit, pledged to end protectionism in international economic affairs.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, the majority has no opposition to that amendment.

The CHAIRMAN. Unless there is opposition, the question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: On page 9, line 4, strike "(or if at" and all thereafter through "and" on line 8.

Mr. McCLOSKEY. Mr. Chairman, this is a simple amendment.

This amendment would eliminate the requirement in the bill that only vessels built in U.S. shipyards can qualify to carry the preference oil. It would permit foreign-built vessels to qualify if they were documented under the U.S. flag and employed U.S. crews. If more U.S.-flag vessels are needed to meet the percentage levels, it is much cheaper and quicker to buy them in foreign markets and then register them under the American flag.

With worldwide excess tanker tonnage at about 60 million deadweight tons and

with about 33 million tons—340 ships—in layup, it is a waste of world resources to build any new tankers. Many of these tankers are fast, modern ships with far greater safety and antipollution features than many of the existing U.S.-flag tankers which are presently being used on U.S. trade routes.

According to Maritime Administration estimates, a tanker which costs about $150 million, and takes 3 years to build in the United States can be purchased on the world market for about $17 million. If we need tankers for national security, we can have them instantly and at a fraction of the cost by buying new laid up tankers in the world market.

The average age of the U.S. tanker today under U.S.-flag registry is about 19 years. Many of these are having a worse record of safety than those under Panamanian registry and did have during the first 6 months of this year.

According to Maritime Administration estimates, a tanker which would cost about $150 million, and takes 3 years to build in the United States, can be purchased on the world market today for less than $17 million. If we need tankers for national security, we can have them instantly and at a fraction of the cost by buying new laid up tankers in the world market.

Mr. Chairman, I offer this amendment with the understanding from the testimony before us in the committee that under this bill no new tankers would be built until 1985. If we can get them, or if the U.S. shipowners can get this tremendous bargain to buy a tanker that today would cost $150 million and be able to buy that tanker for $17 million, it would be a shame, in my judgment, to force U.S. shipowners to build new tankers at 5 to 10 times the cost and try to operate them competitively. This would be a major savings to U.S. taxpayers if we could acquire some of this cheap tonnage that is around the world.

Now, I might add that if the proponents of the bill are correct, even if the bill is passed as presently written, no new tankers would be constructed until 1985, then clearly there is no penalty to U.S. shipbuilding jobs by permitting some of these tankers to be purchased from the fine tankers now laid up.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, if the gentleman's amendment is accepted, would it not be a fact if any foreign ships are available they can be bought and documented under the American flag?

Mr. McCLOSKEY. They would have to meet the U.S. safety standards. They would have to meet the Coast Guard standards, but they could be purchased by U.S. owners and be under U.S. flags. They would have to have U.S. crews.

Mr. LEGGETT. Mr. Chairman, if the gentleman will yield further, considering that the Japanese are launching 31 million tons of shipping a year and the fact that the Japanese can build ships cheaper than any other country in the world and the fact that probably 80 percent of the American shipbuilding industry depends on commercial ships, would we not just be bringing a flood on the American shipbuilding industry and making a deal in this bill to buy almost exclusively Japanese?

Mr. McCLOSKEY. No, because no new tankers will be built in the next 5 years. With the tremendous number of surplus tankers now available, even for the Japanese to build new tankers is not profitable.

The testimony before the committee was that no new tankers would be built under this bill until 1985, so we are not hurting U.S. ship owners by getting a real bargain on the world market.

Mr. LEGGETT. Mr. Chairman, if the gentleman will yield further, what would happen after 1985?

Mr. McCLOSKEY. We ought to review the situation by 1985. By then we should have the shipbuilding study that the President has promised us for the past 2 years. Under this bill no new ships would be built, so this provision in the bill would not hurt a single shipyard job.

Mr. LEGGETT. Mr. Chairman, if the gentleman will yield further, is the gentleman aware that the workload of ship construction at Litton Shipyard at Pascagoula, Miss., is disastrous. They currently have 25,000 men on board, but in 3 years they will be down to 3,000 people, all dependent on commercial work for jobs.

Mr. McCLOSKEY. This bill does not change that.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite number of words. I rise briefly in opposition to the amendment.

Mr. Chairman, one of the major thrusts of this legislation is to insure that we have an adequate shipbuilding base that cannot only construct domestic maritime units, but also U.S. Navy fleet units. This amendment, of course, would permit purchase of foreign tonnage for carriage in this very modest 9½ percent cargo equity that we are talking about. That would just be playing into the hands of those speculators we talked about earlier that had constructed excess tonnage with the purpose of just dumping it on the American trades. It is not our purpose to bail out the bad business judgments of the foreign-flag operators and shipbuilders. For this reason, I feel it would be unwise to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The question was taken; and on a division (demanded by Mr. McCLOSKEY) there were—ayes 31, noes 22.

So the amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. GONZALEZ: Page 11, after line 7 insert:

(7) The Secretary of Commerce shall take such steps as are necessary to assure by regulation that the crews of vessels subject to this act shall be hired according to equal opportunity guidelines set therein.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I would be delighted to yield.

Mr. MURPHY of New York. The majority would be happy to accept the amendment.

Mr. GONZALEZ. I thank the gentleman.

I would like to say that this is a perfecting amendment just to make sure that in the hiring of the crews as a result of a measure that is seeking and striving to reduce American dependence, that the crews themselves will be selected on the basis of equal opportunity guidelines which we have developed in almost every part of the Federal Government.

It makes sure we have American "tops" for American bottoms, in a manner of speaking.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, I commend the gentleman on his amendment, and I rise in support of it.

Mr. GONZALEZ. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. UDALL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1037) to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels, pursuant to House Resolution 774, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be etnfrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it. The bill was passed.

The SPEAKER. A motion to reconsider is laid on the table.

Mr. McCLOSKEY. Mr. Speaker, I ask for a recorded vote.

The SPEAKER. The Chair waited and the gentleman did not ask at the proper time. The Chair waited and no Member rose within the proper time.

Mr. McCLOSKEY. I merely thought the Chair was speaking about the third reading of the bill.

The SPEAKER. We went through the third reading of the bill. The only way the gentleman can get a vote is by a unanimous-consent request.

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent to have a recorded vote.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. MURPHY of New York. Mr. Speaker, I object.

The SPEAKER. Does the gentleman ask unanimous consent to vacate the proceedings whereby the bill was passed and the motion to reconsider laid on the table? Does the gentleman make that request?

Mr. McCLOSKEY. I do, Mr. Speaker. I ask unanimous consent to vacate the action of the House, set aside the proceedings and have a record vote.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. MURPHY of New York. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

Mr. McCLOSKEY. Mr. Speaker, I move to reconsider the vote by which the House apparently passed the bill.

The SPEAKER. A motion to reconsider was laid on the table, without objection.

Mr. McCLOSKEY. Mr. Speaker, I was on my feet, seeking recognition.

The SPEAKER. The gentleman was not seeking recognition when the question was put on final passage. The Chair looked in that direction, expecting that someone would rise, and no Member rose. The Chair has been expeditiously fair on this matter, anticipating that somebody would rise, and nobody rose.

The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. BAUMAN. Mr. Speaker, I want to support the Chair in the Chair's statement. The gentleman from Maryland was watching the proceedings, and at no time did any Member rise to request a vote. The Chair waited for a period of time, and no request was made.

But I would also make this observation: In view of the controversy and the charges that have surrounded this legislation, it seems to me that the gentleman from New York (Mr. MURPHY) might want to reconsider his objection to the request to rescind the proceedings and to allow a vote. I think the subsequent public criticism that the House will receive should we pass this controversial bill without a rollcall vote will be far greater than any benefit that might be derived. The honor of the House as an institution is at stake here. That is only one Member's viewpoint, but the Chair was certainly within his rights in his ruling but we should have a vote.

The SPEAKER. The Chair respects the statement of the gentleman from Maryland.

Mr. MURPHY of New York. Mr. Speaker, I withdraw my objection to the request of the gentleman from California (Mr. McCLOSKEY).

The SPEAKER. The question is on the passage of the bill.

Mr. McCLOSKEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 165, nays 257, not voting 12, as follows:

[Roll No. 671]

YEAS—165

Addabbo	Emery	Nolan
Akaka	Evans, Ga.	Nowak
Anderson, Calif.	Fary	Oakar
	Fithian	Oberstar
Annunzio	Flippo	Patten
Applegate	Flood	Patterson
Ashley	Florio	Perkins
AuCoin	Flowers	Pickle
Bauman	Ford, Mich.	Pike
Benjamin	Gammage	Price
Bennett	Gaydos	Pritchard
Bevill	Giaimo	Rangel
Biaggi	Ginn	Richmond
Blanchard	Gonzalez	Rodino
Boggs	Hall	Roe
Bolling	Hanley	Rogers
Bonior	Hannaford	Rooney
Bonker	Hawkins	Rose
Bowen	Heftel	Rostenkowski
Breckinridge	Holland	Roybal
Brinkley	Howard	Runnels
Brodhead	Hubbard	Russo
Brooks	Huckaby	Ryan
Brown, Calif.	Jenrette	Santini
Buchanan	Johnson, Calif.	Shipley
Burgener	Jones, N.C.	Sikes
Burke, Calif.	Jordan	Slack
Burke, Mass.	Kazen	Snyder
Burton, John	Le Fante	Solarz
Burton, Phillip	Lederer	Spellman
Byron	Leggett	Spence
Carney	Livingston	Staggers
Chappell	Lloyd, Calif.	Steed
Chisholm	Long, La.	Stokes
Clausen, Don H.	Long, Md.	Teague
	Lott	Thompson
Clay	McCormack	Thornton
Collins, Ill.	McFall	Tribie
Corman	Mathis	Van Deerlin
Cornwell	Mattox	Vento
Cunningham	Meeds	Waggonner
D'Amours	Mikulski	Walgren
Daniel, R. W.	Mitchell, Md.	Weaver
Danielson	Moakley	Weiss
Davis	Mollohan	White
de la Garza	Montgomery	Whitehurst
Delaney	Moorhead, Pa.	Wilson, Bob
Dent	Mottl	Wilson, C. H.
Dicks	Murphy, Ill.	Wilson, Tex.
Diggs	Murphy, N.Y.	Wright
Dingell	Murphy, Pa.	Young, Alaska
Duncan, Oreg.	Murtha	Young, Mo.
Eckhardt	Myers, Michael	Young, Tex.
Edgar	Nedzi	Zablocki
Edwards, Ala.	Nichols	Zeferetti
Eilberg	Nix	

NAYS—257

Abdnor	Badham	Boland
Alexander	Bafalis	Brademas
Allen	Baldus	Breaux
Ambro	Barnard	Broomfield
Ammerman	Baucus	Brown, Mich.
Anderson, Ill.	Beard, R.I.	Broyhill
Andrews, N.C.	Beard, Tenn.	Burke, Fla.
Archer	Bedell	Burleson, Tex.
Armstrong	Bellenson	Burlison, Mo.
Ashbrook	Bingham	Butler
Aspin	Blouin	Caputo
Carr	Holt	Pease
Carter	Holtzman	Pettis
Cavanaugh	Horton	Poage
Cederberg	Hughes	Pressler
Clawson, Del	Hyde	Preyer
Cleveland	Ichord	Pursell
Cochran	Ireland	Quayle
Cohen	Jacobs	Quie
Coleman	Jeffords	Quillen
Collins, Tex.	Jenkins	Rahall
Conable	Johnson, Colo.	Railsback
Conte	Jones, Okla.	Regula
Conyers	Jones, Tenn.	Reuss
Corcoran	Kasten	Rhodes
Cornell	Kastenmeier	Rinaldo
Cotter	Kelly	Risenhoover
Coughlin	Kemp	Roberts
Crane	Ketchum	Robinson
Daniel, Dan	Keys	Roncalio
Dellums	Kildee	Rosenthal
Derrick	Kindness	Rousselot
Derwinski	Kostmayer	Rudd
Devine	Krebs	Ruppe
Dickinson	Krueger	Sarasin
Dornan	LaFalce	Satterfield
Downey	Lagomarsino	Sawyer
Drinan	Latta	Scheuer
Duncan, Tenn.	Leach	Schroeder
Early	Lehman	Schulze
Edwards, Calif.	Lent	Sebelius
Edwards, Okla.	Levitas	Seiberling
English	Lloyd, Tenn.	Sharp
Erlenborn	Lujan	Shuster
Ertel	Luken	Simon
Evans, Colo.	Lundine	Sisk
Evans, Del.	McClory	Skelton
Evans, Ind.	McCloskey	Skubitz
Fascell	McDade	Smith, Iowa
Fenwick	McDonald	Smith, Nebr.
Findley	McEwen	St Germain
Fish	McHugh	Stangeland
Fisher	McKay	Stanton
Flynt	McKinney	Steers
Foley	Madigan	Steiger
Ford, Tenn.	Maguire	Stockman
Forsythe	Mahon	Stratton
Fountain	Mann	Studds
Fowler	Markey	Stump
Fraser	Marks	Symms
Frenzel	Marlenee	Taylor
Frey	Marriott	Thone
Fuqua	Martin	Traxler
Gephardt	Mazzoli	Treen
Gibbons	Meyner	Tsongas
Gilman	Michel	Tucker
Glickman	Mikva	Udall
Goodling	Milford	Vander Jagt
Gore	Miller, Calif.	Vanik
Gradison	Miller, Ohio	Volkmer
Grassley	Mineta	Walker
Gudger	Minish	Walsh
Guyer	Mitchell, N.Y.	Wampler
Hagedorn	Moffett	Watkins
Hamilton	Moore	Waxman
Hammer-schmidt	Moorhead, Calif.	Whitley
		Whitten
Hansen	Moss	Wiggins
Harkin	Myers, Gary	Winn
Harrington	Myers, John	Wirth
Harris	Natcher	Wydler
Harsha	Neal	Wylie
Heckler	O'Brien	Yates
Hefner	Obey	Yatron
Hightower	Ottinger	Young, Fla.
Hillis	Panetta	
Hollenbeck	Pattison	

NOT VOTING—12

Andrews, N. Dak.	Goldwater	Ullman
	Koch	Whalen
Badillo	Metcalfe	Wolff
Brown, Ohio	Pepper	
Dodd	Stark	

The Clerk announced the following pairs:

On this vote:

Mr. Wolff for, with Mr. Brown of Ohio against.

Mr. Andrews of North Dakota for, with Mr. Koch against.

Until further notice:

Mr. Badillo with Mr. Goldwater.

Mr. Pepper with Mr. Whalen.

Mr. Metcalfe with Mr. Ullman.

Mr. Dodd with Mr. Stark.

Mr. LEVITAS changed his vote from "yea" to "nay."

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make the following announcement:

The House will now take up the rule granting waivers on the supplemental appropriations bill and then the supplemental appropriations bill. If possible, the House will get to the rule on social security financing. But, regardless of where we are at the time, the House will adjourn at 8 o'clock p.m.

CONFERENCE REPORT ON H.R. 5101, ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION AUTHORIZATION ACT OF 1978

Mr. BROWN of California submitted the following conference report and statement on the bill (H.R. 5101) to authorize appropriations for activities of the Environmental Protection Agency, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95–722)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5101) to authorize appropriations for activities of the Environmental Protection Agency, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Environmental Research, Development, and Demonstration Authorization Act of 1978".

SEC. 2. (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities for fiscal year 1978—

(1) $92,500,000 for water quality activities authorized under the Federal Water Pollution Control Act of which—

(A) $25,200,000 is for the Health and Ecological Effects program;

(B) $9,300,000 is for the Industrial Processes program;

(C) $6,069,000 is for the Monitoring and Technical Support program;

(D) $22,300,000 is for the Public Sector Activities program; and

(E) $29,631,000 is for the Energy program.

(2) $10,800,000 for activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act, in the Health and Ecological Effects program.

(3) $16,000,000 for water supply activities authorized under the Safe Drinking Water Act, in the Public Sector program.

(4) $8,200,000 for toxic substance control activities authorized under the Toxic Substances Control Act, in the Health and Ecological Effects program.

(5) $830,000 for radiation activities authorized under the Public Health Act, in the Health and Ecological Effects program.

(6) $35,000,000 for air quality activities authorized under the Clean Air Act, which shall be in addition to funds previously authorized in the Clean Air Act Amendments of 1977 (Public Law 95–95), so that the total amount authorized for such activities in fiscal year 1978 is $155,000,000, of which—

(A) $36,000,000 is for the Health and Ecological Effects program;

(B) $11,000,000 is for the Monitoring and Technical Support program;

(C) $7,000,000 is for the Industrial Processes program; and

(D) $101,000,000 is for the Energy program.

(7) $31,273,000 for interdisciplinary activities, of which—

(A) $9,230,000 is for the Health and Ecological Effects program;

(B) $6,066,000 is for the Industrial Processes program;

(C) $1,599,000 is for the Public Sector Activities program; and

(D) $14,378,000 is for the Monitoring and Technical Support program.

(b) In addition to any other sums authorized by this section or by other provisions of law—

(1) there are authorized to be appropriated to the Administrator of the Environmental Protection Agency for fiscal year 1978, $10,000,000 for long-term research and development in accordance with section 6 of this Act;

(2) there are authorized to be appropriated to the Administrator, for fiscal year 1978, $2,000,000 for training of health scientists needed for environmental research and development in fields where there are national shortages of trained personnel; and

(3) there are authorized to be appropriated to the Administrator, for fiscal year 1978, $3,000,000 to implement the study authorized in section 403(d) of the Clean Air Act Amendments of 1977 (Public Law 95–95).

(c) There is authorized to be appropriated to the Administrator $19,000,000 for fiscal year 1978 for program management and support related to environmental research and development.

(d) No funds may be transferred from any particular category listed in subsection (a) or (b) to any other category or categories listed in either such subsection if the total of the funds so transferred from that particular category would exceed 10 per centum thereof, and no funds may be transferred to any particular category listed in subsection (a) or (b) from any other category or categories listed in either such subsection if the total of the funds so transferred to that particular category would exceed 10 per centum thereof, unless—

(1) a period of thirty legislative days has passed after the Administrator of the Environmental Protection Agency or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate a written report containing a full and complete statement concerning the nature of the transfer and the reason therefor, or

(2) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 3. Appropriations made pursuant to the authority provided in section 2 of this Act shall remain available for obligation for expenditure, or for obligation and expenditure, for such period or periods as may be specified in the Acts making such appropriations.

SEC. 4. The Administrator of the Environmental Protection Agency, in each annual revision of the five-year plan transmitted to the Congress under section 5 of Public Law 94–475, shall include budget projections for a "no-growth" budget, for a "moderate-growth" budget, and for a "high-growth" budget. In addition, each such annual revision shall include a detailed explanation of the relationship of each budget projection to the existing laws, which authorize the Administration's environmental research, development, and demonstration programs.

SEC. 5. (a) The Administrator of the Environmental Protection Agency shall offer grants to public sector agencies for the purposes of—

(1) assisting in the development and demonstration (including construction) of any project which will demonstrate a new or improved method, approach, or technology for providing a dependably safe supply of drinking water to the public; and

(2) assisting in the development and demonstration (including construction) of any project which will investigate and demonstrate health and conservation implications involved in the reclamation, recycling, and reuse of wastewaters for drinking and the processes and methods for the preparation of safe and acceptable drinking water.

(b) Grants made by the Administrator under this section shall be subject to the following limitations:

(1) Grants under this section shall not exceed 66⅔ per centum of the total cost of construction of any facility and 75 per centum of any other costs, as determined by the Administrator.

(2) Grants under this section shall not be made for any project involving the construction or modification of any facilities for any public water system in a State unless such project has been approved by the State agency charged with the responsibility for safety of drinking water (or if there is no such agency in a State, by the State health authority).

(3) Grants under this section shall not be made for any project unless the Administrator determines, after consultation, that such project will serve a useful purpose relating to the development and demonstration of new or improved techniques, methods, or technologies for the provision of safe water to the public for drinking.

(c) There are authorized to be appropriated for the purposes of this section $25,000,000 for fiscal year 1978.

SEC. 6. (a) The Administrator of the Environmental Protection Agency shall establish a separately identified program to conduct continuing and long-term environmental research and development. Unless otherwise specified by law, at least 15 per centum of any funds appropriated to the Administrator for environmental research and development under section 2(a) of this Act or under any other Act shall be allocated for long-term environmental research and development under this section.

(b) The Administrator, after consultation with the Science Advisory Board, shall submit to the President and the Congress a report concerning the desirability and feasibility of establishing a national environmental laboratory, or a system of such laboratories, to assume or supplement the long-term environmental research functions created by subsection (a) of this section. Such report shall be submitted on or before March 31, 1978, and shall include findings and recommendations concerning—

(1) specific types of research to be carried out by such laboratory or laboratories;

(2) the coordination and integration of research to be conducted by such laboratory or laboratories with research conducted by existing Federal or other research facilities;

(3) methods for assuring continuing long-range funding for such laboratory or laboratories; and

(4) other administrative or legislative actions necessary to facilitate the establishment of such laboratory or laboratories.

SEC. 7. (a) The Administrator of the Environmental Protection Agency shall assure that the expenditure of any funds appropriated pursuant to this Act or any other provision of law for environmental research and development related to regulatory program activities shall be coordinated with and reflect the research needs and priorities of the program offices, as well as the overall research needs and priorities of the Agency, including those defined in the five-year research plan.

(b) For purposes of subsection (a), the appropriate program offices are—

(1) the Office of Air and Waste Management, for air quality activities;

(2) the Office of Water and Hazardous Materials, for water quality activities and water supply activities;

(3) the Office of Pesticides, for environmental effects of pesticides;

(4) the Office of Solid Waste, for solid waste activities;

(5) the Office of Toxic Substances, for toxic substance activities;

(6) the Office of Radiation Programs, for radiation activities; and

(7) the Office of Noise Abatement and Control, for noise activities.

(c) The Administrator shall submit to the President and the Congress a report concerning the most appropriate means of assuring, on a continuing basis, that the research efforts of the Agency reflect the needs and priorities of the regulatory program offices, while maintaining a high level of scientific quality. Such report shall be submitted on or before March 31, 1978.

SEC. 8. (a) The Administrator of the Environmental Protection Agency shall establish a Science Advisory Board which shall provide such scientific advice as the Administrator requests.

(b) Such Board shall be composed of at least nine members, one of whom shall be designated Chairman, and shall meet at such times and places as may be designated by the Chairman of the Board in consultation with the Administrator. Each member of the Board shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board under this section.

(c) In addition to providing scientific advice when requested by the Administrator under subsection (a), the Board shall review and comment on the Administration's five-year plan for environmental research, development, and demonstration provided for by section 5 of Public Law 94–475 and on each annual revision thereof. Such review and comment shall be transmitted to the Congress by the Administrator, together with his comments thereon, at the time of the transmission to the Congress of the annual revision involved.

(d) The Board shall conduct a review of and submit a report to the Administrator, the President, and the Congress, not later than October 1, 1978, concerning—

(1) the health effects research authorized by this Act and other laws;

(2) the procedures generally used in the conduct of such research;

(3) the internal and external reporting of the results of such research;

(4) the review procedures for such research and results;

(5) the procedures by which such results are used in internal and external recommendations on policy, regulations, and legislation; and

(6) the findings and recommendations of the report to the House Committee on Science and Technology entitled "The Environmental Protection Agency's Research Program with primary emphasis on the Community Health and Environmental Surveillance System (CHESS): An Investigative Report".

The review shall focus special attention on the procedural safeguards required to preserve the scientific integrity of such research and to insure reporting and use of the results of such research in subsequent recommendations. The report shall include specific recommendations on the results of the review to ensure scientific integrity throughout the Agency's health effects research, review, reporting, and recommendation process.

(e)(1) The Administrator, at the time any proposed criteria document, standard, limitation, or regulation under the Clean Air Act, the Federal Water Pollution Control Act, the Resource, Conservation and Recovery Act of 1976, the Noise Control Act, the Toxic Substances Control Act, or the Safe Drinking Water Act, or under any other authority of the Administrator, is provided to any other Federal agency for formal review and comment, shall make available to the Board such proposed criteria document, standard, limitation, or regulation, together with relevant scientific and technical information in the possession of the Environmental Protection Agency on which the proposed action is based.

(2) The Board may make available to the Administrator, within the time specified by the Administrator, its advice and comments on the adequacy of the scientific and technical basis of the proposed criteria document, standard, limitation, or regulation, together with any pertinent information in the Board's possession.

(f) In preparing such advice and comments, the Board shall avail itself of the technical and scientific capabilities of any Federal agency, including the Environmental Protection Agency and any national environmental laboratories.

(g) The Board is authorized to constitute such member committees and investigative panels as the Administrator and the Board find necessary to carry out this section. Each such member committee or investigative panel shall be chaired by a member of the Board.

(h)(1) Upon the recommendation of the Board, the Administrator shall appoint a secretary, and such other employees as deemed necessary to exercise and fulfill the Board's powers and responsibilities. The compensation of all employees appointed under this paragraph shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code.

(2) Members of the Board may be compensated at a rate to be fixed by the President but not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title 5 of the United States Code.

(i) In carrying out the functions assigned by this section, the Board shall consult and coordinate its activities with the Scientific Advisory Panel established by the Administrator pursuant to section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

SEC. 9. (a) The Administrator of the Environmental Protection Agency, in consultation and cooperation with the heads of other Federal agencies, shall take such actions on a continuing basis as may be necessary or appropriate—

(1) to identify environmental research, development, and demonstration activities, within and outside the Federal Government, which may need to be more effectively coordinated in order to minimize unnecessary duplication of programs, projects, and research facilities;

(2) to determine the steps which might be taken under existing law, by him and by the heads of such other agencies, to accomplish or promote such coordination, and to provide for or encourage the taking of such steps; and

(3) to determine the additional legislative actions which would be needed to assure such coordination to the maximum extent possible.

The Administrator shall include in each annual revision of the five-year plan provided for by section 5 of Public Law 94–475 a full and complete report on the actions taken and determinations made during the preceding year under this subsection, and may submit interim reports on such actions and determinations at such other times as he deems appropriate.

(b) The Administrator of the Environmental Protection Agency shall coordinate environmental research, development, and demonstration programs of such Agency with the heads of other Federal agencies in order to minimize unnecessary duplication of programs, projects, and research facilities.

(c)(1) In order to promote the coordination of environmental research and development activities, and to assure that the action taken and methods used (under subsection (a) and otherwise) to bring about such coordination will be as effective as possible for that purpose, the Council on Environmental Quality in consultation with the Office of Science and Technology Policy shall promptly undertake and carry out a joint study of all aspects of the coordination of environmental research and development. The Chairman of the Council shall prepare a report on the results of such study, together with such recommendations (including legislative recommendations) as he deems appropriate, and shall submit such report to the President and the Congress not later than May 31, 1978.

(2) Not later than September 30, 1978, the President shall report to the Congress on steps he has taken to implement the recommendations included in the report under paragraph (1), including any recommendations he may have for legislation.

SEC. 10. The Administrator of the Environmental Protection Agency shall implement the recommendations of the report prepared for the House Committee on Science and Technology entitled "The Environmental Protection Agency Research Program with primary emphasis on the Community Health and Environmental Surveillance System (CHESS): An Investigative Report", unless for any specific recommendation he determines (1) that such recommendation has been implemented, (2) that implementation of such recommendation would not enhance the quality of the research, or (3) that implementation of such recommendation will require funding which is not available. Where such funding is not available, the Administrator shall request the required authorization or appropriation for such implementation. The Administrator shall report the status of such implementation in each annual revision of the five-year plan transmitted to the Congress under section 5 of Public Law 94–475.

SEC. 11. The Administrator of the Environmental Protection Agency shall increase the number of personnel positions in the Health and Ecological Effects program to 862 positions for fiscal year 1978.

SEC. 12 (a) Each officer or employee of the Environmental Protection Agency who—

(1) performs any function or duty under this Act; and

(2) has any known financial interest in any person who applies for or receives grants, contracts, or other forms of financial assistance under this Act,

shall, beginning on February 1, 1978, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Administrator shall—

(1) act within ninety days after the date of enactment of this Act—

(A) to define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provision for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed under subsection (b) of this section, the Administrator may identify specific positions of a nonpolicymaking nature within the Administration and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than $2,500 or imprisoned not more than one year, or both.

SEC. 13. It is the national policy that to the maximum extent possible the procedures utilized for implementation of this Act shall encourage the drastic minimization of paperwork.

And the Senate agree to the same.

GEORGE E. BROWN, Jr.,
TIMOTHY E. WIRTH,
WES WATKINS,
JEROME A. AMBRO,
ROBERT S. WALKER,
LARRY WINN, Jr.,
Managers on the Part of the House.

JOHN CULVER,
EDMUND S. MUSKIE,
MALCOLM WALLOP,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing vote of the two Houses on the amendment of the Senate to the bill H.R. 5101, to authorize appropriations for activities of the Environmental Protection Agency and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all after the enacting clause and inserted a substitute text. The differences between the House bill and the Senate amendment are noted below, and the substitute agreed to in conference is discussed. Minor, technical and clarifying changes are not discussed.

SECTION 1. SHORT TITLE

The short title in the conference substitute is "The Environmental Research, Development and Demonstration Authorization Act of 1978."

SECTION 2. AUTHORIZATION OF APPROPRIATIONS

The conference report authorizes a total of $253,603,000 for the Environmental Protection Agency's environmental research and development program for fiscal year 1978. This compares to a House authorization of $313,064,000 and a Senate authorization of $185,330,000. A significant difference between the House and Senate bills is that the Senate bill does not authorize research under the Clean Air Act. Rather, the Senate carried this authorization separately in the Clean Air Act Amendments of 1977 (Public Law 95–95). For this reason, the conference substitute contains only an additional authorization of $35 million to cover the Environmental Protection Agency's supplemental appropriations request for fiscal year 1978. The Senate has also included authorization for research, development and demonstration in support of the Safe Drinking Water Act in the bill S. 1528, the Safe Drinking Water Act Amendments, and for research, development, and demonstration in support of the Noise Control Act in the bill S. 1511, Noise Control Act amendments. Both of these bills have passed the Senate. One other research authorization must be mentioned—there is an authorization for fiscal year 1978 of $45 million for research, development and demonstration related to solid waste contained in the Resource Conservation and Recovery Act (Public Law 94–580) passed in the last Congress.

The table below compares the authorization amounts in the House bill, the Senate amendment, and the conference substitute (as well as other legislation) for categories of environmental research carried out by the agency.

EPA RESEARCH—FISCAL YEAR 1978 COMPARISON OF AUTHORIZATION AMOUNTS

[In thousands of dollars]

Category	House H.R. 5151	Senate S. 1417	Other	Conference substitute
Air	117,577	0	[1] 120,000	35,000
Water	80,241	96,000	0	92,500
Drinking water	15,727	0	[2] 16,000	16,000
Drinking water demonstrations	25,000	0	[2] 25,000	25,000
Solid waste	9,818	0	[3] 45,000	0
Pesticides	10,756	10,800	0	10,800
Toxic substances	3,020	8,200	0	8,200
Radiation	830	830	0	830
nterdisciplinary	31,273	28,000	0	31,273
Program management	18,822	19,000	0	19,000
Long-term research	0	10,000	0	10,000
Training	0	2,000	0	2,000
Environmental emergencies	0	5,000	0	0
Regional air studies	0	5,000	0	3,000
CEQ coordination	0	500	0	0
Noise	0	0	[4] 2,100	0
Total	313,064	185,330	208,100	253,603

[1] In the Clean Air Act amendments, Public Law 95–95.
[2] In S. 1528, safe drinking water amendments, passed the Senate.
[3] In the Resource Conservation and Recovery Act of 1977, Public Law 94–580.
[4] In S. 1511, Noise Control Act Amendments, passed the Senate.

It should be noted that the conference substitute includes authorization for activities related to safe drinking water, but does not include authorization for activities related to the solid waste research program since that authorization is already included in law (Public Law 94–580). Finally, the substitute includes only a partial authorization for activities related to air pollution, because authorization is already contained in the Clean Air Act Amendments (Public Law 95–95). The $35 million authorized under "air" covers the portion of the fiscal year 1978 EPA supplemental request related to air pollution research.

The conference committee believes that $1.1 million of the $43 million authorized in P.L. 94–580 for solid waste research in fiscal year 1978 should be utilized for research at the municipal refuse-derived fuel (RDF) system in Ames, Iowa. The Ames facility is a source of information regarding the advantages of the RDF technique in small and medium-sized communities and on extending the breakeven point for such an operation in these communities. EPA should conduct further research at this facility in order to resolve short-term problems inhibiting rapid expansion of resource recovery.

The Senate bill only contained a breakdown of the authorization into categories by media as shown in the table. The conference agreed to follow the House bill in dividing the authorization amounts further into subcategories in order to provide guidance to the agency. Thus, for example, the research carried out related to water is broken into the following subcategories: Health and Ecological Research, Industrial Processes Research, Public Sector Activities Research, Research Related to Energy, and Monitoring and Technical Support. Such a breakdown into subcategories is carried out throughout the House bill and also in the conference substitute.

Supplemental request to support the National Energy Plan

H.R. 5101 contained $96,427,000 for energy activities, the same as the Agency budget request. According to the Agency, $26,872,000 of this is for activities authorized under the Federal Water Pollution Control Act, and $69,555,000 is for activities authorized under the Clean Air Act.

S. 1417 contained $43 million for energy activities authorized under the Federal Water Pollution Control Act. Further, Public Law 95–95, the Clean Air Amendments of 1977, contains $70 million for energy activities authorized under the Clean Air Act.

However, since consideration of those bills, the Administration has made a supplemental budget request of $35 million for research activities associated with and necessary to the successful implementation of the National Energy Plan. These activities fall in the category of air quality activities authorized under the Clean Air Act. The House and Senate authorizing committees wish to accommodate this request. Therefore, this bill includes the requested supplementary authorization of $35 million for research activities authorized under the Clean Air Act. (The conference substitute also includes authorization of $29,631,000 for energy research activities authorized under the Federal Water Pollution Control Act.)

The purpose of the $35 million energy-related research and development supplement is to support the coal control-technology program. As submitted, the new EPA coal control-technology program will have four parts: (1) $8 million for enhanced technology transfer for current generation flue gas desulfurization; (2) $12 million for improved performance of devices for fine particle control (baghouses, electrostatic precipitators and wet scrubbers); (3) $11 million for field testing of combustion modification techniques and improved burner design for nitrogen oxide control; and (4) $4 million for characterization and assessment of secondary aerosol pollution hazards (sulfates, nitrates and organics). The first three parts are assigned to the "energy" program category while the last is in the "health and ecology" category.

The Conferees desire that some of this funding or an additional supplemental re-

quest be used for research on physical coal cleaning. Otherwise the House and Senate conferees agree to this allocation of funds.

Development of control technology for coal-fired powerplants has been slow, and this could present serious environmental problems as the use of coal doubles in the next decade. Under the National Energy Plan, large sums will be spent by other agencies in promotion of coal utilization. It is incumbent on EPA to conduct an increased effort on the environmental protection side in order that the nation have a properly balanced coal program.

Authorizations

The following paragraphs briefly describe the authorization levels in the compromise bill.

Section 2(a)(1)

The conference substitute authorizes $92,500,000 for water quality activities under the Federal Water Pollution Control Act to be categorized as follows: $25,200,000 for "Health and ecological effects research"; $9,300,000 for "Industrial processes research"; $6,069,000 for "Monitoring and technical support"; $22,300,000 for "Public sector activities"; and $29,631,000 for "Research in the energy program." These are essentially the amounts authorized in the House bill, except for an increase of $2,759,000 in the energy research program and an increase of $9,500,000 in the "Public sector activities" program. This authorization increase covers a supplemental appropriation for a program of research, development and demonstration related to waste water treatment by land application. In this project, municipal waste water will be used as irrigation water and the effects studied.

The conference committee agreed with the House intent that the agency commit $1 million toward developing environmentally sound methods of controlling water weeds.

Section 2(a)(2)

The conference substitute authorizes $10,800,000 for activities under the Federal Insecticide, Fungicide and Rodenticide Act in the health and ecological effects program. This is the Senate authorization level—the House had authorized approximately the same amount ($10,756,000), and the conference committee agreed to accept the Senate level.

Section 2(a)(3)

The conference substitute authorizes $16,000,000 for water supply activities under the Safe Drinking Water Act in the public sector program, the amount authorized by the Senate in S. 1528. The House bill contained an authorization level of $15,727,000. Related funding authority for Safe Drinking Water demonstration activities is provided in section 5.

Section 2(a)(4)

The conference substitute authorizes $8,200,000 for toxic substance control activities authorized under the Toxic Substances Control Act in the health and ecological effects program. The House bill had authorized $3,020,000, while the Senate had authorized the $8,200,000. The conference committee, in accepting the higher Senate figure, agreed that the newly passed Toxic Substances Control Act would call for a large increase in supporting research activities.

Section 2(a)(5)

Both the House and Senate bills and the conference substitute provide $830,000 for radiation activities authorized under the Public Health Act in the health and ecological effects program.

Section 2(a)(6)

The conference substitute authorizes $35 million for research related to air.

While the House bill authorized $117,577,000 for this purpose, the Senate amendment contained no such authorization, since the Clean Air Act Amendments of 1977 (Public Law 95-95) authorized $120 million for research related to air. As discussed above, however, the Administration has submitted a supplemental budget request of $35 million necessitated by the President's National Energy Plan.

The $35 million provided for the energy plan in addition to the $120 million provided under P.L. 95-95 provides a total of $155 million for air-related research. The conference agreed that this total should be divided among program categories as follows:

Health and ecological effects	$36,000,000
Industrial processes	7,000,000
Monitoring and technical support	11,000,000
Energy-related research	101,000,000
Total	155,000,000

Section 2(a)(7)

The conference substitute authorizes $31,273,000 for interdisciplinary activities the amount authorized in the House bill. The Senate amendment had authorized $28 million. Interdisciplinary activities are those which cut across several media. For example, some monitoring efforts are applicable both to air and water activities—when such efforts cannot be easily attributed to a single medium, they are included in the interdisciplinary category. The conference substitute adopts the following division of funds contained in the House bill: For "Health and ecological effects," $9,230,000; for "Industrial processes," $6,066,000; for "Public sector activities," $1,599,000; and for "Monitoring and technical support," $14,378,000.

Section 2(b)

Section 2(b) of the conference substitute authorizes several activities which were included in the Senate amendment but not in the House bill including, $10 million for long-term research and development and $2 million for training of health scientists.

The Senate had also authorized $5 million for a study of air quality in the Gulf Coast region. The House had no such provision, and the conferees agreed to authorize the study at a level of $3 million for fiscal year 1978. This study specifically authorized in section 403(d) of the Clean Air Act Amendments of 1977 (Public Law 95-95). The conferees anticipate that this study will continue as a coordinated research program for several years, and that it will make considerable use of local facilities and personnel. It is further anticipated that many of the results of this study will be broadly useful in understanding air pollution in other areas of the Nation. Finally, it is expected that, in response to the spirit and the letter of section 403(d), EPA will coordinate with other agencies involved in similar studies, especially local agencies.

Section 2(c)

Section 2(c) of the conference substitute authorizes $19 million for "Program management and support," the amount contained in the Senate amendment. The House level was $18,822,000.

Section 2(d)

Section 2(d) is a provision from the House bill which limits the transfer of funds between program categories. If more than ten percent of the funds authorized for a particular category are to be transferred into or out of that category, approval must be sought from the appropriate committees of the House and Senate. The conference committee agreed that it would be appropriate to give the agency flexibility in making small changes (less than 10 percent) without seeking approval from the Congress but that oversight by the committees would be greatly enhanced if the agency were required to notify the Congress and obtain approval before shifting larger sums between program categories.

SECTION 3. AVAILABILITY OF APPROPRIATIONS

The conference agreed to accept this House provision for which there was no Senate equivalent.

This provision allows that appropriations made pursuant to the authority provided in section 2 shall remain available for obligation for expenditure, or for obligation and expenditure, for such period or periods as may be specified in the acts making such appropriations.

SECTION 4. BUDGET LEVELS IN THE 5-YEAR PLAN

The conference agreed to accept this House provision for which there was no Senate equivalent.

This provision directs the Environmental Protection Agency to include in their annual revisions to the 5-year plan (as required by section 5 of Public Law 94-475) several budget projections to assist the Congress in evaluating the progress and level of effort of the research program. These alternatives, described as "no growth", "moderate growth" and "high growth," refer to and represent different levels of effort and agency resource commitment within the 5-year plan. These references are not intended to refer to the growth of the economy or other such indicators. Moreover, each annual revision should relate the research programs to the Acts under EPA's jurisdiction.

The conference committee is aware of certain factors which can impact the agency's ability to conduct research. For example, the cost of scientific instruments has gone up faster than most indices of inflation, so that a program of scientific research would be especially constrained at fixed budget levels. The committee intends that the Agency make available in its plan information on the impact of such trends.

SECTION 5. DEMONSTRATION GRANTS FOR WASTEWATER RECYCLING

The conferees agreed to accept this House provision for which there is no Senate equivalent.

This provision requires the EPA Administrator to offer cost-sharing grants to public-sector agencies to assist them in projects which will demonstrate (1) new or improved methods for providing safe drinking water or (2) the health and conservation implications involved in recycling municipal wastewater as drinking water. This program would include projects such as direct potable reuse by means of additional and more sophisticated treatment technology or indirect reuse of means of recharging underground water supplies and perhaps other methods.

A similar provision was contained in S. 1528, legislation passed by the Senate, which amended the Safe Drinking Water Act (Public Law 93-523). The act established the authority for such demonstration projects and authorized a total of $25 million to carry out the provisions of the law. However, during the 3 years in which the act has been in effect the EPA has never requested the appropriation of any of the authorized funds, nor have past or present administrations requested funding for the program.

The conferees intend that the Agency pay particular attention to the health implications of the reuse of wastewater as drinking water and, accordingly, that appropriate guidelines be established under the Safe Drinking Water Act for projects demonstrating such reuse.

SECTION 6. LONG-TERM ENVIRONMENTAL RESEARCH AND DEVELOPMENT

The conferees agreed to accept this Senate provision for which there was no House equivalent.

Section 6(a) requires that at least 15 percent of all program-related funds appropriated to the Administrator for environmental

research and development be specifically utilized to support long-term research. This program should encompass several kinds of activities, including anticipatory research; research continuing over a long period of time, such as ecological baseline studies and epidemiological analyses; and fundamental research, which seeks to advance the basic understanding of environmental matters.

It is clear that functions such as monitoring and support will have a much smaller long-term component than health and ecological effects research. However, the conferees intend that for each program authorization, at least 15 percent of the authorization be used specifically for long-term research. This in no way should preclude a larger long-term effort if the Administrator feels it is appropriate.

The conferees are aware that the Agency's 1978 budget process has been virtually completed, but do not believe that a massive reprogramming of funds or other disruptions in the Agency's program will occur as a result of the mandatory earmarking of appropriations for long-term environmental research and development.

Section 6(b) directs the Agency to study and report to the President and Congress by March 31, 1978 on the feasibility of establishing a national environmental laboratory or system of laboratories for long-term environmental research. The Agency is directed to take into consideration in this study specific types of research to be carried out, methods for ensuring continued funding for such an organizational change, and other administrative or legislative actions necessary to facilitate the establishment of such a structure.

The conferees intend that the Agency, in planning its long-term research program in future years, consult with other agencies, including the Council on Environmental Quality, to ensure coordination of the Federal effort in this area.

SECTION 7. MANAGEMENT OF ENVIRONMENTAL RESEARCH AND DEVELOPMENT FUNDING

The conferees agreed to accept this Senate provision for which there was no House equivalent.

The provision requires the Administrator to ensure that expenditure of funds for environmental research and development related to regulatory program activities are properly coordinated with and reflect the needs and priorities of the program offices, as defined in this provision, including the needs set forth in the 5-year plan. The Administrator is also required to submit to the President and Congress by March 31, 1978 a report outlining the most appropriate means of ensuring that the Agency's research efforts meet the needs of the program offices.

SECTION 8. SCIENCE ADVISORY BOARD

The conferees agreed to combine provisions of the House bill and the Senate amendment which give legislative authority and a statutory mandate to the Environmental Protection Agency's Science Advisory Board. This Board was established by the Administrator of the Environmental Protection Agency in January 1974. While the Board originally existed within the Office of Research and Development, in 1975 it was transferred to the Office of the Administrator.

In general, both Houses recommended that the broad structure and operating procedures of the SAB remain unchanged.

Due to the complexity of environmental problems, the laws enacted by Congress to deal with these problems are often equally complex. Important decisions relating to enforcement of these acts must be made on the basis of highly technical data and through regulations on which there is not always full agreement.

Much of the criticism of the Environmental Protection Agency might be avoided if the decisions of the Administrator were fully supported by technical information which had been reviewed by independent, competent scientific authorities. The committee believes that some group should be able to review conflicting claims and advise the Administrator on the adequacy and reliability of the technical basis for rules and regulations.

The Science Advisory Board is intended to be advisory only. The Administrator will still have the responsibility for making the decisions required of him by law. The reviews and comments of the Board are to be provided to the Administrator for his use. The Board is not intended as a forum to be used by outside interests to criticize the workings of the Agency.

Subsection 8(a) adopted from the House bill establishes the Science Advisory Board to provide scientific advice as the Administrator requests. The Senate also gave the Board the duties of advising the Administrator on the adequacy of scientific information supporting proposed regulations. As discussed below, the conference committee agreed that the Board should be able to comment on such regulations; however, it should not be mandatory that they comment on all proposed regulations as some may be either technical modifications of earlier regulations or unrelated to the basic purpose of the SAB.

Subsection 8(b) provides that the Board shall be composed of at least nine members, one of whom shall be Chairman, and the Board shall meet at such times and in such places as designated by the Chairman in consultation with the Administrator. Each member of the Board shall be appropriately qualified to comment on matters referred to the Board under this section.

Subsection 8(c) is a House provision requiring the Board to comment on the Agency's 5-year plan for environmental research, development and demonstration. The conference agreed that such review by the Board would contribute to sound management of the Agency research program and therefore accepted this House provision for which there was no Senate equivalent.

Subsection 8(d) is a House provision for which there is no Senate equivalent. This language instructs the Board to pay particular attention to health effects research carried out by the Agency because so many of the Agency's regulations are based on health effects of pollution.

Subsection (e) is a Senate provision for which there is no House equivalent. The first paragraph of this subsection requires the Administrator of EPA to make available to the Board any proposed criteria, document, standard, limitation or regulation together with scientific and technical background information in the possession of the Agency on which the proposed action is based. This material would be made available to the Board at the time that the proposed action was made available to other Federal agencies for formal review and comment.

Paragraph 2 of this subsection provides that the Board may make comments to the Administrator on any such proposed regulations within a time frame set by the Administrator. The conference committee anticipates that the Board will not comment on every regulation, document, etc., proposed by the Agency. However, the intent of this language is to insure that the Board is able to comment in a well-informed manner on any regulation that it so desires.

The conference agreed to accept the Senate language which appears as subsection 8(f) and 8(g). These, respectively, allow the Board, in carrying out its duties, to avail itself of the technical and scientific capabilities of other Federal agencies, and authorize the Board to constitute member committees and investigative panels necessary to carry out their duties.

Subsection 8(h) is essentially a Senate provision which had no House counterpart. The first paragraph of this subsection deals with the appointment of a Secretary and a staff to assist the Board in carrying out its duties. The language of the Senate amendment had specified that the Board would appoint the Secretary and other staff. However, in order to avoid difficulties with Civil Service regulations the conferees agreed to change the language so that the Secretary and staff would be appointed by the Administrator upon the recommendation of the Board. The original intent of this section was to preserve the independence of the Board and the conferees, in agreeing to the new language, continue to endorse this intent.

Paragraph 2 of this subsection allows members of the Board to be paid compensation at a rate to be fixed by the President, but not in excess of the rate of pay for grade GS–18.

Subsection 8(i) is language from the House bill which was accepted by the conference. It provides that the Board shall consult and coordinate its activities with the Scientific Advisory Panel established by the Administrator under the Federal Insecticide, Fungicide and Rodenticide Act.

SECTION 9. INTER-AGENCY COORDINATION

The conferees are concerned about the lack of effective coordination in the Environmental Protection Agency. Despite specific provisions within existing law directing EPA to coordinate their research activities, problems are still apparent. Therefore, this section specifically directs the Administrator of the Environmental Protection Agency, in consultation and cooperation with the heads of other Federal agencies, to take such actions on a continuing basis as are necessary to identify environmental research which needs better coordination, to identify steps which might be taken in existing law to better coordinate such activities, and to determine the legislative actions which might assist in improving coordination.

Subsection 9(b) directs the Administrator of EPA to better coordinate its own programs of environmental research with those of other agencies and to remain cognizant of methods to improve research coordination with other agencies as well.

Subsection 9(c) directs the Council on Environmental Quality (CEQ) to undertake a study on all aspects of the coordination of environmental research and development in consultation with the Office of Science and Technology Policy (OSTP). The House bill had directed that the study be performed jointly by the two agencies while the Senate bill involved only CEQ. A report on this study must be submitted by CEQ to the President and to Congress by May 31, 1978. The President is to report to the Congress on implementation by September 30, 1978. These dates are a few months later than those in the House bill.

SECTION 10. CHESS RECOMMENDATIONS

This is a House provision for which there is no Senate equivalent.

This provision resulted from EPA's lack of responsiveness to a November, 1976 report done for the Subcommittee on the Environment and the Atmosphere entitled "The Environmental Protection Agency's Research Program with primary emphasis on the Community Health and Environmental Surveillance System (CHESS) : An Investigative Report." This report focused primarily on various problems that existed within EPA's research program, and made several recommendations concerning improvements in this program. While implementation of some of these recommendations would require action by OMB, a majority could have been implemented by EPA alone but were not.

Accordingly the provision instructs EPA to implement each recommendation unless the Administrator determines that: (1) it has already been implemented; (2) imple-

mentation would not have a positive effect on the research program; or (3) implementation would require resources which are not available. Exception (2) is slightly changed from the House bill, in which the second exception was for recommendations which were determined to be counterproductive to the research effort. That is, the test in exception (2) of the conference substitute is whether or not the recommendation would have a positive effect as opposed to the test in the House bill of whether or not it would have a negative effect. Thus, neutral recommendations need not be implemented.

SECTION 11. NEW PERSONNEL

The conferees agreed to accept the House provision for which there is no Senate equivalent.

The House bill directed the addition of new personnel for fiscal year 1978 to supplement ongoing effects research in health and ecology within the Office of Research and Development. At present, the current budget estimate for fiscal year 1978 provides 774 positions. The conferees agree that an additional 88 positions should be added, bringing the total positions in the Health and Ecological Research program to 862, exclusive of positions devoted to water supply health effects under the Water Supply activities of the Public Sector program. The conferees intend that these positions should be new positions and not reprogrammed positions within the Agency.

The conference committee accepted this provision.

SECTION 12. CONFLICT OF INTEREST

The conferees agreed to accept this House provision for which there was no Senate equivalent.

The provision requires that Agency employees who perform duties pertaining to environmental research and development which is authorized under the conference report or who have known financial interests in a person who applies for or receives grants, contracts or other forms of financial assistance under the conference report file annual statements with the Administrator concerning such interests. The Administrator may exempt from this requirement employees who occupy nonpolicymaking positions. In addition, the Administrator is required to define, within 90 days after the enactment of the conference report, the term "known financial interest" and to establish procedures for monitoring the filing of financial disclosure statements. A penalty of not more than $2,500 or 1 year in prison may be assessed for violations of this provision.

SECTION 13. MINIMIZATION OF PAPERWORK

The conferees agreed to accept this Senate provision for which there was no House equivalent.

The provision makes it the national policy that to the maximum extent possible procedures utilized for the implementation of the conference report shall encourage the drastic minimization of paperwork.

GEORGE E. BROWN, Jr.,
TIMOTHY E. WIRTH,
WES WATKINS,
JEROME A. AMBRO,
ROBERT S. WALKER,
LARRY WINN, Jr.,
Managers on the Part of the House.

JOHN CULVER,
EDMUND S. MUSKIE,
MALCOLM WALLOP,
Managers on the Part of the Senate.

SUPPLEMENTAL APPROPRIATIONS ACT, 1978

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 807 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 807

Resolved, That during the consideration of the bill (H.R. 9375) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clauses 2 and 6, rule XXI are hereby waived: beginning on page 3, lines 3 through 7; beginning on page 10, lines 13 through 26; beginning on page 11, lines 1 through 17; beginning after the period on page 13, line 20 through page 16, line 13; and beginning on page 16, lines 17 through 25.

The SPEAKER. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA) pending which I yield myself such time as I may consume.

Mr. Speaker, the resolution waives certain points of order which could be raised against provisions of the bill (H.R. 9375) making supplemental appropriations for fiscal year 1978.

The rule waives clause 2 of rule XXI which prohibits appropriations not authorized. It also waives clause 6 of rule XXI which prohibits reappropriation of unexpended balances of prior appropriations. The waivers apply only to provisions clearly identified in the rule. The authorizations for all of the unauthorized appropriations have at least been reported from committee and many are close to enactment. The items covered by waivers include:

Environmental Protection Agency, research and development. Sufficient latitude exists between the House-passed authorization (H.R. 5101) and the version agreed to in the other body.

Energy Research and Development Administration, operating expenses, of which most are earmarked to accommodate prior House action on the facility at Clinch River. Funds are provided for in S. 1811, now in conference.

Provisions requiring that coastal zone activity to be consistent with the Washington State coastal zone management program are subject to a possible point of order.

Public Law 95–107 authorizes funds appropriated for the Bureau of Reclamation in a prior supplemental to be made available through November 30, 1977. Even with the authorization, the language implementing this congressional intent is subject to a technical point of order.

The House will soon consider legislation (H.R. 8390) authorizing supplemental appropriations for the Department of Defense. The joint decision on the B–1 by the administration and Congress requires substantial readjustment of some of our procurement priorities and those provisions in this bill concerning the Department of Defense are subject to a point of order.

The bill contains provisions making technical corrections in limitations contained in the fiscal year 1978 appropriation for the Department of Defense which are subject to a point of order as legislative in nature.

Section 201 provides for payments of claims against the United States. The language is supported by the administration and perfects the permanent provision of law. As such it is subject to a point of order.

Section 202 is routine language that permits deficiency apportionments to be used to finance this year's cost-of-living increase.

Section 204 is necessary because the House may adjourn for about 2 weeks more than the maximum period during which the House is permitted to continue the pay of pages. The section provides for their retention between the first and second sessions and is admittedly subject to a point of order as appropriations not authorized.

No other rules of the House are waived nor do the two waivers pertain to any but the items listed.

The Committee on Rules held 2 days of hearings on the requested rule. Most of the controversy centered on two items not related to the rule. The first was funding for Amtrak. This bill contains no funding for the urgent supplemental request submitted by Amtrak. But the committee notes that this matter can be dealt with, if such is the will of the House, by amendment and the rule does nothing to promote or prevent the offering of such amendments.

The second issue concerns the B–1 bomber rescission. This is a matter which clearly must be dealt with and it appears that the Senate proposes to bring the issue into the conference on this bill. But it is clear that, under the rules of the House, the issue cannot occur in connection with our deliberations on this measure.

The only provision in the original request of the Committee on Appropriations to which there was any resistance was the proposed waiver of points of order for water pollution abatement and control funding under section 208 of the Water Pollution Control Act.

The two Houses are presently in conference on extensive amendments to this act and the managers for the House have expressed concern that such a waiver could undermine their position in conference. In deference to this position the Committee on Appropriations withdrew the request for a waiver on this provision and it comes to the floor unprotected by this rule.

I am aware of very little controversy; the rule is complicated but relatively routine I think there is general agreement that it provides for the fair and orderly consideration of the bill (H.R. 9375) and I urge the adoption of the rule.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur with the statements just made by the gentleman from Massachusetts.

Mr. Speaker, this rule is more noteworthy for what it does not do, than for what it does.

While the rule waives points of order against a number of specified sections of the bill because of lack of authorization and violation of the prohibition on reappropriations, the largest single item in the bill is left unprotected. Out of a total supplemental appropriation of approximately $6.8 billion, there is $4.5 billion for Environmental Protection Agency construction grants. The authorizing legislation for the $4.5 billion in EPA construction grants has not yet been signed into law. It can be stricken on a point of order since it is not protected by a waiver.

Some members of the authorizing committee, the Committee on Public Works and Transportation, appeared before the Rules Committee in opposition to a waiver on the $4.5 billion.

The chairman of the Appropriations Committee concurred and did not seek a waiver to cover the $4.5 billion. The Rules Committee honored their requests.

The chairman of the Appropriations Committee pointed out that even if the $4.5 billion is stricken on the House floor on a point of order, it will probably be put back in during the House-Senate conference.

PURPOSE

The purpose of H.R. 9375 is to provide a supplemental appropriation for fiscal year 1978. The bill provides a total of $6,847,456,000 in new budget authority and $2,668,000 for transfers between various accounts.

MAJOR PROVISIONS

The major items covered by the bill are set forth in the following chart:

Major items in the bill

[In thousands]

	Recommended in bill
Environmental Protection Agency construction grants	$4,500,000
Other EPA programs	125,500
Small Business Administration disaster loans	725,000
Federal Energy Administration	293,611
Strategic petroleum reserve	383,173
Department of Interior: Surface Mining Reclamation and Enforcement	60,727
Energy Research and Development Administration: Clinch River breeder reactor project	150,000
Defense programs	494,470

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time.

Mr. LATTA. Mr. Speaker, I have no requests for time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. MAHON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9375) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Michigan (Mr. CEDERBERG) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9375, with Mr. GIBBONS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Texas (Mr. MAHON) will be recognized for 30 minutes and the gentleman from Michigan (Mr. CEDERBERG) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is, of course, the supplemental appropriations bill, H.R. 9375. We have an hour of general debate. It does not seem to me that it would be profitable to undertake discussion of the content of the bill in any detail during the hour of general debate. There will be amendments offered. We will necessarily have to take some considerable time discussing some of the amendments which will be presented.

The budget requests considered by the Committee on Appropriations in marking up this bill totaled $7,160,724,000. In the bill, the committee recommends the appropriation of $6,847,456,000. We have cut the President's requests by $313,268,000.

There are eight Appropriations Subcommittees represented in the bill. We have had extensive hearings on the bill by the various subcommittees and the full committee took action on bringing the bill to the floor of the House for consideration.

The major items in the bill are:

Environmental Protection Agency construction grants, $4,500,000,000; other EPA programs, $125,500,000; Small Business Administration disaster loans, $725,000,000; Federal Energy Administration, $293,611,000; strategic petroleum reserves, $383,173,000; surface mining reclamation and enforcement, Department of the Interior, $60,727,000; various Defense B–52 retrofit, cruise missile, and related programs, $494,470,000; and the Clinch River breeder reactor, $150,000,000. There is also money in the bill, $17,000,000, to accomplish the consolidation of the Office of the Department of Energy.

Mr. Chairman, while there are some large sums in this bill, one of the principal reasons we have this supplemental at this time is associated with the decision of the President in furtherance of our strategic deterrent concept to proceed with the development of the cruise missile instead of the production of the B–1 bomber. This bill contains funds requested by the President to accelerate development of the cruise missile program, to upgrade the B–52 bomber, and to improve other programs to complement our strategic capabilities commensurate with the decision not to proceed with B–1 production.

Mr. Chairman, I have made mention of some of the amounts in the measure being considered today but I wish to make some additional brief comments about several of the items.

The bill as presented by the committee contains $725 million for the disaster loan program of the Small Business Administration. Subsequent to committee action on the bill, the President submitted an additional budget estimate of $675 million and it is my understanding that an amendment will be offered at the appropriate time to provide that additional amount bringing the total in the bill for this purpose to $1.4 billion.

Also included in the bill is the budgeted amount of $4.5 billion for the waste treatment construction grant program of the Environmental Protection Agency. There has been some considerable controversy with respect to the authorizing legislation for this program and there has been some objection to the provision of this $4.5 billion at this time. I wish to state, Mr. Chairman, that the Committee on Appropriations, in the interest of continuing an orderly and efficient construction program, felt compelled to include in the bill the full amount requested by the President. The enactment of the accompanying authorizing legislation has been too long delayed and members of the committee felt that it would be a disservice to program participants at the State and local level to disrupt the planning and execution of this important program by not providing necessary funds in a timely manner. We faced this authorizing problem earlier this year and I would say, Mr. Chairman, that the congressional budget system cannot operate properly without prompt action on such major authorizing legislation.

With respect to the Clinch River breeder reactor program, an amendment will be offered to bring the amount in this bill into conformity with the amount now contained in the authorizing legislation. This amendment has the support of the authorizing committee. Again, Mr. Chairman, the committee has been confronted with problems associated with delays in passing authorizing legislation.

There is in the bill for the Department of Defense the sum of about $494 million. Now, I would point out further that one of the amendments which undoubtedly will be offered will have to do with the controversial issue of the B–1 bomber. As the Members may remember, in September the House voted to support the President's cancellation of the pro-

duction models of the B–1. The Defense bill for fiscal year 1978, the current fiscal year, carried about $110 billion in toto, and included about $442 million for continued research and development on the B–1 and the fabrication of the fourth research and development B–1 aircraft. So, the discussion with respect to that matter will come under the 5-minute rule and I shall not undertake to pursue it any further at this moment.

Mr. Chairman, I do not believe it is necessary for me to discuss the bill further at this time. But I would advise the Members again that this bill is the product of the work of the members of the subcommittees of the Committee on Appropriations, and the members of these various subcommittees are here to discuss any of the details.

Each of the subcommittee chairmen will explain the items in the bill under the jurisdiction of their subcommittees.

At this point in the RECORD, I will insert a summary table reflecting the budget requests and amounts recommended by the committee.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

SUMMARY OF THE BILL

Chapter No.	Subcommittee	Budget estimates	Recommended in the bill	Bill compared with estimates
I	Agriculture: New budget (obligational) authority.	$4,145,000	$34,145,000	+$30,000,000
----------	Foreign Operations: New budget (obligational) authority.	6,300,000	----------	−6,300,000
II	Housing and Urban Development—Independent agencies: New budget (obligational) authority.	4,625,000,000	4,630,500,000	+5,500,000
III	Interior and related agencies: New budget (obligational) authority.	1,303,792,000	760,271,000	−543,521,000
IV	Labor and Health, Education, and Welfare:			
	New budget (obligational) authority.	38,637,000	29,070,000	−9,567,000
	Appropriations	23,637,000	14,070,000	−9,567,000
	Authority to spend debt receipts.	15,000,000	15,000,000	----------
V	Public Works: New budget (obligational) authority.	(17,000,000)	167,000,000	+167,000,000
VI	State, Justice, Commerce, and the Judiciary:			
	New budget (obligational) authority.	733,850,000	732,000,000	−1,850,000
	(By transfer)	(2,668,000)	(2,668,000)	----------
VII	Treasury, Postal Service, and General Government:			
	New budget (obligational) authority.	----------	----------	----------
	(Increase in limitations)	----------	(48,913,000)	(+48,913,000)
VIII	Defense: New budget (obligational) authority.	449,000,000	494,470,000	+45,470,000
	Grand total:			
	New budget (obligational) authority.	7,160,724,000	6,847,456,000	−313,268,000
	Appropriations	7,145,724,000	6,832,456,000	−313,268,000
	Authority to spend debt receipts (By transfer)	15,000,000 (2,668,000)	15,000,000 (2,668,000)	---------- ----------
	(Increase in limitations).	----------	(48,913,000)	(+48,913,000)

Mr. MAHON. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Chairman, for a change the Labor-HEW chapter in this supplemental bill is relatively small—only $14 million in appropriated funds and $15 million in borrowing authority. By standards of the Labor-HEW Subcommittee, that is small.

The committee made reductions from the President's budget request totaling $18.7 million. These reductions were partially offset by $9.1 million for an unbudgeted item. So we are about $9.5 million under the budget overall.

We have two items in the Department of Labor. The committee approved the budget request for 260 new compliance personnel in the Wage and Hour Division. These new positions will be used to undertake a program of investigations under the Fair Labor Standards Act directed at employers of "undocumented workers"—the new term for illegal aliens.

The purpose here is to step up the enforcement of the minimum wage and overtime provisions in those industries with a high incidence of undocumented workers. The Labor Department believes that stricter enforcement of the law will substantially remove the economic incentive for employers to hire undocumented workers. This is part of the President's overall initiative on the undocumented workers problem that was announced in a message to the Congress on August 4.

We approved the 260 jobs, but we cut the dollar amount by $1 million. We believe the Department's estimates are overstated.

The second Labor Department item is 57 new permanent positions and 25 temporary positions for the worker adjustment assistance program under the Trade Act of 1974. We approved the budget request to enable the Department to keep pace with its rapidly expanding workload and to try to avoid huge backlogs and lengthy delays in certifying petitions for assistance.

Then we have a couple of items in HEW.

First, we included $9.1 million for a new graduate facilities program for construction of two demonstration model academic intercultural centers under the Higher Education Act. One of these would be located in the District of Columbia and one in the Boston area.

This program was authorized by the Congress in the Education Amendments of 1976, enacted last October. This would be the first appropriation under this new section of the Higher Education Act.

The bill also authorizes the Commissioner of Education to make loans up to $7.2 million for the construction of these centers. The funds for these loans would come from unobligated balances which are available.

The next item in HEW is $15 million in borrowing authority, as requested in the budget, to cover a potential deficiency in the student loan insurance fund. That fund was set up to cover defaults in the guaranteed student loan program.

Since it is difficult to estimate these defaults from one year to the next, the committee has given HEW the authority to borrow money—up to $15 million—from the Treasury to cover any deficit in the fund.

However, the committee has denied the request for $15.9 million in appropriated funds for the student loan insurance fund. We saw no need to appropriate supplemental funds on top of granting the $15 million in borrowing authority. We think the borrowing authority will take care of their problems.

Finally, Mr. Chairman, the committee has not approved the request for $1,719,000 to compensate the State of Washington for the cost of certain improvements made by the State to land it received from HEW under the surplus property program.

This is a very complicated matter, involving an Indian tribe, and there are several lawsuits pending on it. This certainly did not appear to us to be just a routine claim.

HEW was unable to cite any legal authority to appropriate funds for settling legal disputes in this manner. As we all know, this committee is prohibited under the rules from reporting appropriations not authorized by law.

Mr. MAHON. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Chairman, chapter II contains the largest item in the fiscal year 1978 supplemental appropriation bill. I am referring to the $4.5 billion included in the bill for wastewater treatment facilities construction grants. Mr. Chairman, I cannot stress too much how important these funds are to maintain this program. The fact is that by January about 25 States will have run out of money. We have already begun to see delays creep into the entire program. Those delays cause planning disruptions, and in some cases, complicating lawsuits.

The authorization for these funds has passed both the Senate and the House and is currently pending in conference. There is no fundamental disagreement on the level of money for this program.

There is, I realize, disagreement over some other aspects of the water authorization bill. But, I come back again to the point that unless this $4.5 billion, or a substantial part of it, is in this supplemental appropriation bill, then no funding will be available until sometime in the spring.

The committee has also recommended $69 million for the section 208 areawide planning grant program. A similar request was before the Congress in the fiscal year 1977 supplemental. At that time the committee recommended against additional funding and suggested that the Government cease appealing court decisions which had ordered released $137 million of impounded section 208 moneys. However, on September 8, the U.S. Court of Appeals reversed the lower courts and held that the unobligated $137 million had lapsed and was unavailable for use. In view of this, the committee has recommended the additional $69 million at this time.

We have also included $16 million for the toxic pollutants effluent guidelines program and $40,500,000 for expanded environmental research and development—particularly in the area of coal control technology and land treatment.

Finally, Mr. Chairman, chapter II of the bill includes $5 million for grants for construction of State extended care facilities under the Veterans' Administration. These funds were requested by the President to meet the expanded program demand resulting from the State Veterans Home Assistance Improvement Act of 1977 which amended the current program, and provides for funding to assist the States to construct facilities for domiciliary care as well as nursing care.

Mr. MAHON. I yield such time as he may consume, Mr. Chairman, to the gentleman from Mississippi (Mr. WHITTEN), the chairman of the Subcommittee on Agriculture.

Mr. WHITTEN. Mr. Chairman, the bill includes $4,000,000 under the Farmers Home Administration for very low income housing repair grants for the elderly. The severe weather of last winter and the continuing energy shortage have highlighted the need for weatherization and other repairs to the homes of those elderly persons in rural areas whose incomes are so low that they cannot afford to repay even a 1-percent loan.

The bill also provides $30,000,000 to the Soil Conservation Service for emergency assistance to repair damage to watersheds as a result of major storms or forest fires. I will include in the RECORD a list of the latest estimated damages, by State:

California	$6,615,000
Connecticut	306,000
Colorado	903,000
Florida	75,000
Georgia	4,213,000
Idaho	1,200,000
Kansas	75,000
Maine	300,000
Missouri	526,000
Montana	100,000
New York	407,000
Oklahoma	50,000
Pennsylvania	9,776,000
Puerto Rico	428,000
Vermont	246,000
Virginia	44,000
Washington	1,204,000
West Virginia	236,000
Other	3,296,000
Total	30,000,000

Included is $3,296,000 to cover future emergencies. Funds that are not needed to cover emergency conditions in any of the States mentioned would be added to this reserve.

Mr. Chairman, under the Office of the Secretary of Agriculture the bill includes an additional $145,000 for salaries and expenses. These funds are needed to meet the increased costs related to the recently approved pay raise for executive level positions and the resulting increase in the pay ceiling for higher level General Schedule grades. In addition, the limitation of $1,500,000 on transfers for salaries and expenses of personnel on detail to this office would be increased to $2,164,000. This is in order to meet the transitional needs of direct funding, under this appropriation heading, of all personnel in this office beginning next year.

FACTS WE NEED TO KNOW

Mr. Chairman, I am pleased to present to the House these items in this supplemental appropriations bill. The funds which we provided to restore flood damage in approximately 15 States are a necessary investment to maintain the land and, of course, it is needed now before the winter rains set in.

In this connection, Mr. Chairman, it has been my pleasure through the years to present to the Congress bills to fund public works, flood control, navigation projects, development of recreation facilities, access roads, corridor highways, the Natchez Trace and many others, not only for my district, but for the whole State of Mississippi and for the Nation. We initiated funds for construction of the Tennessee-Tombigbee navigation project, including crossings, which we intend to complete by 1983. We revived the Yellow Creek Port after it had been turned down, as well as the Natchez Trace. We provided recreation facilities for the four reservoir areas—Arkabutla, Sardis, Enid, and Grenada—which we plan to complete by 1981 and, at present, we are working on similar facilities for Itawamba County.

We have aided our universities and colleges, including our junior colleges with buildings and programs, and have been a chief sponsor of vocational and 4–H club work in our high schools, initiating 4–H-type work in our large cities. In fact, the largest 4–H club in the United States is in downtown Indianapolis, Ind.

In presenting these matters to the Congress, I enjoy a rather key place, being next to Chairman MAHON of our Committee on Appropriations, who has announced his retirement next year. In this position, I have had a big part in presenting to the Congress funds for rural housing, for soil conservation, for water and sewer loans, including programs for towns and cities up to 20,000. This has done much to develop rural areas and we will not be satisfied until we get the job completed.

Years ago, my committee sponsored area coverage for rural electricity. We are doing the same thing for sewer and water lines and rural housing.

Mr. Chairman, this also has helped to relieve the problems of the overcrowded cities. We are faced with inflation which comes from other expenditures where we do not get our money's worth; however, these expenditures are an essential investment. I think I should remind my colleagues of some of the real dangers that we face at this time, as shown by my committee hearings.

THE THREAT TO OUR ECONOMY

To maintain a sound economy for our country, we must maintain a proper relationship between the income of agriculture, industry, and labor.

I have frequently discussed these matters in detail in this body. Here today I would like to again stress the fact that agriculture, with its tremendous purchases, is the largest single customer for industry and labor. Remember, it is also agriculture's dollars, earned in world trade, which have largely kept us afloat during this period of huge oil purchases from abroad.

FARMING TODAY

Fewer and fewer farmers, with greater and greater production, have freed more and more Americans to do other things, leading to our high standard of living. To do this, it took larger and larger capital investments. The producer incurred greater and greater costs—and the annual risks of farming became enormous.

FARM PURCHASING POWER THREATENED

According to figures recently released, the number of U.S. farms dropped from 3.7 million in 1959 to 2.3 million in 1974, and it is estimated to be far lower than that now. In one area of Virginia—typical in percentage to most of the United States—the price of farmland jumped from an average of $493 an acre in 1969 to $978 an acre in 1974.

Land costs are often based on nonagricultural value, such as for housing subdivisions. Thus, economic forces push more and more land into nonfarm use.

Real land value is something different, for no one can make enough money farming to buy on credit and pay for land. Some lenders on farmland are demanding mortgages on other properties as security over and above the land purchased.

Age, health, lack of hired hands, and income often insufficient to even cover costs are causing farmers to quit in alarming numbers. Moreover, it is virtually impossible for young folks to start out in farming today. I have observed that in order to start a new farm operation today, it takes as much money as to own a bank and as much nerve as to rob one.

And to these economic threats to farm purchasing power must be added the burden of certain Government programs,

such as programs which operate to make farm labor unavailable at realistic wages. EPA regulations prohibit the use of certain inexpensive pesticides—which have never been proven to have injured anyone when properly handled—and thus requiring the substitution of highly dangerous and terribly expensive chemical substitutes which do not do the job.

FOUNDATION OF OUR ECONOMY

If agriculture—the producer of our food, clothing, and shelter and the foundation of our economy—goes down, like a building with the foundation gone, the floor will follow; and the floor will carry with it the ceiling; and when the ceiling goes, the roof will topple. If you need proof of that, just study every depression we have had. Each was led off by a break in farm income. Today we are again threatened.

OUR MISSION

Our mission must be to get over to the people of the Nation the fact that agriculture is not something apart, but is the senior and major partner in the firm of agriculture, labor, and industry.

Farm purchasing power today is just as essential to the national economy as it ever was. Its breakdown could set off another depression just as readily as it has other depressions throughout our history.

H.R. 9608

To reestablish the position that agriculture once held in relation to labor and industry, I introduced a bill, H.R. 9608, on Monday, October 17, 1977, which is titled "A bill to protect the economy of the United States; domestic agriculture, labor, and industry, by the maintenance of farm income and purchasing power." I commend the bill to the attention of all of the Members of this body, and I would hope for its early passage.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentlewoman from Louisiana, my colleague on the Committee on Appropriations.

Mrs. BOGGS. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman for his forethought in providing for an additional $3.3 million for section 216 funds for the Soil Conservation Service, to cover future damages which may be unanticipated by the States.

As I understand it, these funds have not yet been obligated and are available for use when a threat to life and property is present; is that correct?

Mr. WHITTEN. That is true. And in my judgment, it would be available for that purpose.

Mrs. BOGGS. In Grand Isle, in Louisiana, it may be used for the protection of life and property of persons and their ability to escape in time of hurricanes. Grand Isle suffered extensive damage to its levee in the recent hurricanes. And, of course, the levee also was used for erosion prevention as well as for protection. Will funds be available for the replacement of such a levee?

Mr. WHITTEN. That was the intent of the committee, to meet such situations. I presume it would be available.

Mrs. BOGGS. So I can understand that the unobligated funds in section 216 could be utilized for that purpose?

Mr. WHITTEN. Yes.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I would like to compliment the appropriations chairman, Mr. MAHON, and the subcommittee chairman, Mr. WHITTEN, for their recognition of the need for emergency watershed repair in areas damaged by fire in the past dry, hot summer months. I would also like to thank my colleague from California (Mr. MCFALL) for noting in the committee meetings the particularly severe damage in our State. The $30 million supplemental authorization for the Soil Conservation Service, under section 216 of the Flood Control Act of 1950, will turn out, I think, to be a sound investment, bringing savings in watershed preservation, and disaster avoidance, instead of resulting in an actual net expenditure of funds.

The $6.6 million allotted for California, along with the $3.3 million contingency reserve, should enable us to repair damage done and prevent future disaster, through reseeding of burnt areas, and through construction of debris basins to prevent dangerous mud and debris slides from damaging populated areas. In our area, in the Cleveland National Forest just south of Corona, we had more than 5,000 acres of severely burnt mountainous watershed. The giant Marble Cone fire, in the central coastal area, was even more damaging. We project that three basins will be needed to control flooding and debris wash in our area, one in each of the three damaged canyons, Tin Mine, Hagador, and Kroonen. The cost is estimated to be $1.5 million for the three. However, given past flooding and fire experience in this area, the cost of not constructing these would be much greater. I would like to introduce in the record a short analysis of the situation, which makes these points clearly, in a letter from the Riverside County Flood Control and Water Conservation District to the Secretary of Agriculture. I should note that John Bryant, our chief engineer, has done an excellent job of analysis of the situation and played a key leadership role in getting interested agencies and parties to work together for the goal of effective flood control and fire prevention as well as relief.

The chairman of the subcommittee, the gentleman from Mississippi has been extremely cooperative in responding to the needs of California and my own district, and has indicated that the area of the Corona fire, which I have been discussing, is planned to be among the areas aided by the supplemental Soil Conservation Service appropriation.

I thank the gentleman for his help and again highly commend him for the excellent handling of these matters by the committee and subcommittee.

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT,
Riverside, Calif., August 23, 1977.

Re Corona fire, Corona, Calif.

Mr. BOB BERGLAND,
Secretary, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. BERGLAND: In July 1977 approximately 5000 acres of mountainous watershed, immediately above the city of Corona, were burned by an intense fire. The fire has left these mountain slopes almost completely denuded of all vegetation exposing the city of Corona to severe flooding and debris deposition. A small flood in 1969, when the hills were covered with native vegetation, resulted in debris deposition in the channels causing overflow and damages estimated in excess of $1,345,000 including physical damages and business losses.

The July fire denuded Tin Mine, Hagador and Kroonen Canyons, which combine to form the drainage area of the Oak Street Channel passing through the city of Corona. The three canyons have an area of 5.89 square miles with a combined discharge of 4500 cubic feet per second in a one percent flood. The USCE in the report titled "Review Report on the Santa Ana River Main Stem—Including Santiago Creek and Oak Street Drain," dated December 1975, estimated the debris production from these canyons to be 370 acre feet. Under the present burned condition, a one percent flood would probably result in a much greater volume of debris.

Even though the burned area will be reseeded, for the next several years the city of Corona will be exposed to severe damages from the debris production and flood waters from these canyons. In the case of the 1969 floods, had there been adequate debris basins at the mouth of these canyons to catch and store the debris, the existing flood channels would have been adequate to carry the runoff in a safe manner.

Since the 1969 flood the District has completed a debris basin on Mabey Canyon, a tributary to Oak Street Channel, at a cost of $400,000. However, if the Oak Street Channel is to be kept open for passage of flood waters, debris from the three canyons must be controlled by providing storage facilities.

Enclosed is an aerial photograph outlining the burned area, canyon names and alignment of the Oak Street Drain through Corona. Also enclosed are pictures of the 1969 flood. To provide necessary control of debris and avoid the plugging of the Oak Street Drain it is proposed to build three debris basins—one in each canyon at an estimated total cost of $1,500,000.

Development in the overflow area below the canyons and along the Oak Street Drain is now estimated to exceed $100,000,000. The cost of the necessary debris basins is beyond the capabilities of either the District or the City to finance.

Under Section 216 of the 1950 Flood Control Act, the Secretary of Agriculture is authorized at his discretion to undertake such emergency measures for runoff retardation and soil erosion prevention as may be needed to safeguard lives and property from floods and the products of erosion on any watershed whenever fire or any other natural element or force has caused a sudden impairment of that watershed. It is under this authority that the Riverside County Flood Con-

trol and Water Conservation District respectfully requests you to take action which will lead to design, financing and construction of necessary debris storage facilities above the Oak Street Drain in the city of Corona, California.

Your immediate attention to this matter will be greatly appreciated.

Very truly yours,

JOHN W. BRYANT,
Chief Engineer.

Mr. WHITTEN. Mr. Chairman, I wish to thank my colleague, the gentleman from California (Mr. BROWN) for his statement. Through the years I have had the privilege of going over many watersheds in California. The forest fires are tragic and sad. These fires have been one of the greatest disasters and have been very damaging to the watersheds. We are moving now, trying to get ahead of the winter rains, and I hope these funds will help meet the urgent need.

Mr. BROWN of California. I thank the gentleman.

Mr. PANETTA. Mr. Chairman, I rise in support of the supplemental appropriation contained in this bill to allow for emergency flood control assistance by the Soil Conservation Service.

As you may know, nearly 200,000 acres of prime wilderness land in my district were ravaged this summer in a major fire.

The most visible consequences of the fire has been the blackening of most of the scenic Ventana Wilderness in the Los Padres National Forest. Of more urgent importance, however, has been the massive destruction of vital watershed throughout the area. The dense vegetation which normally covers this terrain provides protection from excessive runoff or erosion during the rainy season. With this vegetation burned away, the consequences for downstream areas could be severe.

We have experienced flooding in the past following relatively minor fires, and unless adequate precautions are taken in the wake of this blaze, we face a disaster of major proportions.

I have been working closely with Monterey County and California State officials to help insure that necessary flood prevention measures are taken. A state of emergency has been declared by the county board of supervisors, and all available county funds are being expended.

In addition, the State legislature has made an emergency appropriation to assist in the effort.

At the Federal level, the Soil Conservation Service has authorized $6.5 million under section 216 of the Flood Control Act of 1950 for flood prevention work in Monterey County. This work will include debris clearing, bank stabilization, reseeding and other measures to reduce the potential for a post-fire disaster.

Although the work has been authorized, the funds remaining in the 216 fund have been seriously depleted. The purpose of this supplemental appropriation is to make these funds available and allow this important work to continue.

If we are to take the measures necessary to protect both lives and property during this emergency period, it will require a partnership of local, State and Federal efforts. I commend the chairman and the other members of the subcommittee for recognizing the urgency of this need and including these funds in the current bill. I urge my colleagues to support this measure and help to prevent another disaster from occurring.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I rise today in support of the portion of this supplemental appropriations bill that will provide $4 million in additional grant funds for the Farmers Home Administration section 504 elderly rural housing repair program.

I have a particular interest in this grant program because of successes with it in my district in Oregon. I represent a county which has aggressively put this money to use in assisting elderly rural homeowners, many of whom are living in little more than huts without running water, plumbing, or substantial insulation or adequate roofs.

These people cannot afford a section 504 home repair loan even on the most favorable of terms. That is why the section 504 grant program is necessary and vital if we are to assist the most needy elderly homeowners.

However, there is one aspect of the bill that concerns me. According to the report language "the $4,000,000 recommended—is to provide additional funds for weatherization grants." The additional funds will be used to meet the substantial increase in demand resulting from the severe weather of last winter.

The Housing Act of 1949, as amended, authorizes that the funds be used "to make such dwelling safe and sanitary and remove hazards to the health of the occupant, his family, or the community."

I would take that to mean these grant funds can be used for other types of repairs, as well as weatherization. In fact, the authorizing legislation lists the following as eligible improvements: "Repairing roofs, providing toilet facilities, providing a convenient and sanitary water supply, supplying screens, repairing or providing structural supports, or making similar repairs, additions, or improvements, including all preliminary and installation costs in obtaining central water and sewer service."

Mr. Gordon Cavanaugh, Farmers Home Administrator, stated in his testimony before the Agriculture Subcommittee of the Committee on Appropriations on September 16 that the program is not limited to weatherization efforts. The program is meant to deal with making homes safe and healthy.

Notwithstanding this concern, I want to commend Chairman WHITTEN of the Appropriations Subcommittee on Agriculture for his willingness to bring forward this requested supplemental appropriation. He did so in recognition that the $5 million previously appropriated for this program was insufficient to meet the demand, as evidenced last fiscal year when the $5 million was consumed in about 6 months time.

This additional $4 million is not an exorbitant amount. Oregon's share of the original $5 million annual appropriation is $112,000. Last year, the Farmers Home office in Oregon received 75 applications from eligible, needy rural elderly homeowners. The request totaled $280,000. Almost twice that many requests are expected this year. The State director for Farmers Home in Oregon estimates at a minimum a need for $1 million in just that State alone. I think this illustrates that to obtain the fullest use of this important program, which complements the section 504 loan program, we must have adequate allocation of resources. I look upon this supplemental amount of $4 million, if not limited exclusively to weatherization, as a sound and wise investment of our resources.

Mr. CEDERBERG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, here we are 19 days into the fiscal year 1978 and we already have a 1978 supplemental before us for $6.8 billion. That, I hope, will not set a precedent.

I recognize that when a new administration comes into Washington, the members of the administration really do not have much time, and it is always necessary to take care of everything that they want in their revised budget.

As I look through the appropriation bill, I see many items in here that are necessary and on which we should take some action. But I would hope that next year we do not come in with another supplemental on October 19, with the fiscal year beginning on October 1, containing these huge amounts. It certainly was the intent of the original Budget Act that this should not occur, but I can understand some justification for it this year.

Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Chairman, the total in this supplemental is $6.3 billion, of which just $29 million falls in the Labor-HEW chapter. This is one of those rare instances where a major supplemental does not contain a high percentage of funds for labor, health, education, and welfare programs.

Of the $29 million in the Labor-HEW chapter, $3.7 million goes for 260 new positions to enable the Labor Department to more rigorously enforce minimum wage and hour standards in areas with large numbers of illegal aliens. The idea is to make it more costly for employers to employ illegal aliens, and thus hopefully to eliminate the incentive in this regard. I am not sure how effective this will be, because over 70 percent of the illegals earn more than the minimum wage as it is. There is also a question of whether American workers are willing to do the work that illegals are performing, so that simply requiring employers to obey the law may not reduce

the use of illegals if the Labor Department is not going to require unemployed Americans to take such jobs.

I am concerned over statements by Labor Department officials during our hearings that: First, the Department will not seek the names of illegals for referral to the Immigration Service when it investigates a business, second, that it will not make any information obtained available to States which have laws making the employment of illegal aliens illegal, and third, that it is planning to order backpay awards to illegal aliens when violations are found. In the latter case, it may be that the Department legally cannot do anything different, but I find it hard to justify rewarding people who are illegally here in the first place. Overall, it seems to me the Department ought to show a better degree of cooperation with other enforcement bodies than apparently will be the case.

The illegal alien problem is such that every possible step needs to be pursued in order to deal with it. Consequently, I believe this proposed action by the Labor Department is worth trying, though I do not think we ought to hold out any great hope that it will result in significant accomplishments.

Also included in the Labor-HEW chapter is $1.3 million and 57 positions to handle the increased workload under the trade adjustment program.

A request for $1.7 million to reimburse the State of Washington for improvements it made on surplus Federal property that is now being reclaimed has been rejected, because we felt there was no legal authority for such funds.

We have also rejected the request for $15.9 million to pay student loan default claims under the guaranteed student loan program because funds have been included in the regular 1978 bill for this purpose. We did approve the $15 million in borrowing authority requested.

On the matter of defaults, we have been reading some very distressing stories in the newspapers recently about the high default rate and the types of people, including 316 HEW employees, who have not paid back their loans. There is no excuse for this, and I can assure you that the Labor-HEW Subcommittee has and will continue to watch this matter very closely. Frankly, I think we have been sold a bill of goods by the Department over the years, because every year they tell us they are making headway, all the while the default rate continues to rise. They are now going to use collection agencies, but when I asked what kind of experience they could provide regarding the effectiveness of collection agencies, we got no answer. I hope this will work, but I am afraid it may just be another shot in the dark.

I think the authorizing committees had better take a look at the program and see if they can come up with stronger penalties, and other means to insure repayment. What will not help the situation is a provision in the bankruptcy bill reported out by the Judiciary Committee which permits students to file bankruptcy right after they graduate, thus reneging on their loans. This had been a problem which the Higher Education Act enacted last year sought to rectify by requiring students to wait 5 years after they graduate before they can declare bankruptcy. Now the Judiciary Committee apparently wants to negate that action and restore the loophole. I suggest that we ought to look at this bill long and hard when it comes before us on the floor before we allow something like this to slip through.

The last item in the Labor-HEW chapter involves $9.1 million in grants and $7.2 million in loan authority for intercultural centers. You may recall that this item previously came before us in connection with last spring's supplemental. At that time it was a request by Georgetown University. Now it is a joint request by Georgetown and Tufts Universities. The funds were included last spring in our version of the bill, but there was resistance in the Senate and the project was dropped by its sponsors. Now they are back again.

Frankly, there is very little justification for this funding. The need for starting a program of construction grants for intercultural centers has not been shown. first of all, and secondly, if we are to provide funding, it ought to be made available to the program as a whole, for which all schools would be eligible to apply, rather than as a special earmark for two schools.

The language in the bill would simply make the funds available to the program as a whole, but then report language was added in subcommittee stating specifically that the funds should go to Georgetown and Tufts. That report language violates the statute, and thus I believe and hope HEW will ignore it should this appropriation become law.

Touching on a couple of other items in the supplemental, $383 million is included for petroleum acquisition for the strategic petroleum reserve. What is most significant about this figure, however, is that $117 million of it represents simply a cargo preference allowance. This is important to keep in mind when we consider the cargo preference bill, because it shows the substantial cost involved when we grant special preferences to our maritime industry.

Seventeen million dollars is contained in chapter 5 of the bill for moving the new Energy Department into the Forrestal Building and moving Defense employees to other locations. The important thing to remember is that only 3 percent of this amount is directly related to the move. The remainder is for renovating facilities to accommodate the switches in personnel.

Frankly, it does not make sense to me to pay this kind of money so that the Department of Energy will have a nice, new, ready-made building for itself. The Forrestal Building was designed and constructed to meet defense needs. It has special vaults, library facilities, and a computer system designed for military use and hooked up to our embassies around the world. It is ridiculous to ship the Defense people out, spend good money to renovate other scattered facilities to meet their needs, and then spend more good money to make major changes in the Forrestal Building in order to accommodate the Energy people. Furthermore, the amount in this bill may not be the end of it. GAO indicates the cost could go as high as $22 million, and this does not count a possible $4.5 million which may be required to move the computer system. Nor does funding in the bill cover a possible third move for those Defense people who would be moved temporarily to Buzzard's Point. I suggest that if $17 million is to be spent, it ought to be used to renovate some other, unoccupied facility or facilities for the Energy people rather than for this game of musical chairs.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, as chairman of the Subcommittee on Postsecondary Education of the Committee on Education and Labor, it is my duty to conduct the kind of oversight the gentleman has been talking about, and as a matter of fact, the committee has, both here in Washington and elsewhere in the country, been doing just that throughout the year.

But as the ranking minority member of the subcommittee dealing with the money involved in the student loans, could the gentleman from Illinois tell me this:

Where would we send a young person who wanted to pay this money back? Let us say a young person walked through that door and said, "I have not been making payments on my student loan. My conscience has been bothering me. Now I have a good job. Where do I go to work this out so I can pay back the money? I am in arrears and I want to get it straightened out".

Could the gentleman tell us where we would send that young man? What bureaucrat would we send him to?

I have asked this question of the Office of Education. What would we do if somebody just walked in off the street and wanted to pay?

The point I am making—and I am not trying to embarrass the gentleman—is this: If a dozen of these students, a hundred, or a thousand of them, walked into this building and talked to Members of Congress or their staffs and asked, "Where do I go to pay? This is an obligation I have, and I want to pay," we would not be able to tell them. That is true because up until now no one in charge of that shop over there has ever set up a practical system to either ask these young people to make their payments or in fact to provide a way for them to come in and make them if they wanted to.

That is being corrected now, we are told, by the new administration, with

the appointment of someone in charge of that department over there who has shown an interest in actually getting the money collected.

But it is a bad rap to suggest that we have a lot of young Americans who, after they receive a college education, have lost all their fine American sense of fair play and refused to pay the money back. The fact is that they may not have been encouraged to pay the money. They have not been requested to pay the money, and like other young people with more obligations than they can handle, they pay those bills that they feel compelled to pay because of some reminder.

We have never even sent a letter to anybody asking them to pay these debts, and yet people talk about the money we have lost.

The fact is that we have not really lost a penny on student loans, because we will not let a businessman write off a debt that is outstanding until he makes an effort to collect it. Only after he makes an effort to collect it, and cannot collect it do we permit him to write it off. We have not made any real effort to collect the money from these people.

I think it behooves Members of Congress, considering the responsibility the gentleman mentions, to be very careful that we do not play into the hands of irresponsible people who are covering up for the bureaucrats who have not done their job and are trying to take it out now on the young people of this country.

Mr. MICHEL. I am certainly not about to take the chestnuts out of the fire for the bureaucracy. The institutions of higher learning were not exactly all that adept in performing their particular tasks. However, I would differ with the gentleman only in the sense that when we have a recognized loan program, I do not think it is incumbent upon us to remind people that a loan is a loan which requires a repayment. It is not a gift or a grant. We have basic and supplemental grant programs which provide grants.

This was a loan program sold to the American people on those grounds, and I think every young person—and I do not care how fine an institution of higher learning he attended—has an obligation to repay the loan.

To think that we are not going to approve or simply look the other way because some of them are in trouble is wrong. I may very well be in trouble in paying back some of the loans I am still obligated for, not in education, but we all have that problem; and a person might as well learn it while he or she is young and going to college.

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will yield further, I think the gentleman is referring to the national direct student loan program, and that is only a part of the problem, of course. However, I would remind the gentleman that it never has been the intention of Congress that all of the money borrowed would be paid back because, in its early years, we forgave the repayment for certain purposes.

Mr. MICHEL. I agree with that. We did that to allow people to go into teaching. We forgave 50 percent of the loan, and that was a recognized thing. Here we are talking about something else, and the gentleman very well knows that, I am sure.

Mr. CEDERBERG. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana (Mr. JOHN T. MYERS).

Mr. JOHN T. MYERS. Mr. Chairman, I thank our ranking member for granting me this time.

I rise in general support of this supplemental appropriation bill which, unfortunately, has become necessary.

I agree with our ranking minority member that I, too, understood several years ago when we created the budget management control in the Congress that we would not have to come up with a supplemental. Nevertheless, we are here with a supplemental appropriation bill, and generally these are items that have become necessary since we had the opportunity to act on appropriations in previous sessions.

There is one particular section, section 5, which I, because of my assignment on the subcommittee, am concerned about. I agree as to the Clinch River project. I understand that figure is going to be changed from the $150 million because of action by the authorization committee, in conference with the other body. However, there is an additional $17 million that is being requested by the new Department of Energy for a move of personnel, a rather large move of personnel.

As we all remember, we created a new Department of Energy which became effective as of October 1 of this year, with the new Secretary confirmed Dr. James Schlesinger. He appeared before our subcommittee and made a request for $17 million. That was a revised figure.

Originally they had planned to reprogram some existing money that ERDA had already requested, but because of objections from the committee and the staff, they revised it and came in on the supplemental for this $17 million figure. This also had been further revised because the General Services Administration, which has the responsibility for making these moves, had originally a figure of around $32 million for this move. Dr. Schlesinger changed that figure to $17 million, with only the personal assurance to the committee that it can be done for $17 million.

Later on today, Mr. Chairman, I probably will offer an amendment to take action upon that $17 million.

I am not sure, and I feel confident that every member of the committee, in good conscience, cannot for sure say, first, whether that move is absolutely necessary; and secondly, can it be done for the $17 million? Third, are all of the laws under which such a move would be made being complied with?

I am afraid the answer, in each instance, will be no.

So, because of that situation, I believe it is best, in the wisdom here of this Congress, not to bring this up in the supplemental at this time. I believe we should defer it, send it back for a study in order to make sure it is a proper move. I say that because this move is disrupting and uprooting almost 10,000 people in the District of Columbia who will have to be moved because of the wishes that Dr. Schlesinger would like to have his office in the Forrestal Building.

I am quite confident that we should delay this and let the GSA and the Department of Energy go through the normal procedure as required of any construction project, or any large move like this, that we first make an environmental study to understand what the impact of this is going to be, not only upon the human beings who will be affected, because there are almost 10,000 families affected here, but also upon the Government itself as to the efficiency of the Government. Then there should be a cost analysis. Is there a cheaper and better way of achieving the same objective? At this particular haste, no one can say for sure.

I will yield back the balance of my time but, under the 5-minute rule when amendments are permitted, I shall consider taking action on this.

Mr. CEDERBERG. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Chairman, in the course of the consideration of the 1977 farm bill, H.R. 7171 (now Public Law 95–113), on July 20, 1977, I offered an amendment to title I, section 101, entitled "Payment Limitation for Wheat, Feed Grains, and Upland Cotton." This amendment would have limited payments to producers of wheat, feed grains, rice and upland cotton ot $20,000 instead of the payment limitation in the bill, which would escalate payments from $35,000 in crop year 1978 to $46,585 in crop year 1981 for wheat, feed grains, and upland cotton and decrease rice payments from an existing $55,000 in 1977 to $52,250 in 1978, and would decrease 5 percent each year thereafter until the payment reached $46,585, the same as that applied to wheat, feed grains and cotton.

In the course of that debate, I said that without a prudent payment limitation of $20,000—which has existed for wheat, feed grains, and cotton since 1973 and has caused no problem—the payment over $20,000 was going to go to the big farm operators—not family-type farmers.

I also said:

Let us be honest. The payments under these farm programs have social policy purpose. That is their main function. They are income support for farm families when commodity prices are down. They are not support for bushels nor for bales; they are support for people. I contend that family farm income support at $20,000 is high enough. These payments are intended to help farm families over the rough spots in the road. They are intended to strengthen the family structure of American agriculture. They are not intended to cater to large corporation-type farms.

These payments are a subsidy to people operating family-owned farms, whose role in rural agriculture and rural America we all cherish and wish to protect.

The Congressional Budget Office studies indicate that without a payment limit, most of the payment money would go to just a tiny percentage of farms. Somewhere between 4 and 10 percent of the farms would get over half the payment money. This fact of life makes it absolutely essential that the payment limit be held at $20,000 in the aggregate. The higher the limit, the bigger the grab by big farms.

The amendment lost by a fairly close margin of 47 votes, 183 ayes, 230 nays.

Keep in mind if you you will that my payment limitation amendment was the first one considered on the floor during consideration of H.R. 7171. Later the target price for wheat for crop year 1977 was increased from $2.65 to $2.90 a bushel. Not only that, but other liberalization of payments for 1978 and later years occurred during floor consideration and during the House-Senate conference on the farm bill. The conference alone increased the farm bill costs by $200 million—according to the Congressional Budget Office—and its estimate was on the conservative side.

You need only glance at the 1977 Farm Act, Public Law 95–113, to comprehend quickly that the Department of Agriculture is going to be heavily involved in payments to farmers and producers over the next 4 years. Farmers—and that includes the big operators with a net worth far in excess of $1 million—are going to realize a substantial part of their 'income" in the form of Government checks picked up at the mail box.

I do not believe the majority of the farmers or the consumers support such a program.

How much is it going to cost the American taxpayers to support payment limitations in excess of $30,000?

Well, based on information provided me by the Congressional Budget Office, it appears that the budget savings in fiscal year 1978 for a $30,000 limitation over the existing provisions of the 1977 Farm Act calling for a $40,000 limitation in crop year 1978 would be about $20 million for wheat and feed grains alone. Of course, the budget savings would be greater in crop years 1979, 1980, and 1981 when the payment limitations are increased under the 1977 act.

Neither the Congressional Budget Office nor the Economic Research Service could provide me with any specific figures on the budget savings that might be realized from a reduction in the payment limitation to $30,000 for cotton and rice; however, the attached CBO memo of September 2, 1977, reflects substantial increases in deficiency payments for rice from fiscal year 1979 to fiscal year 1981—from $79 million to $94 million—and dramatic increases—from $0 in fiscal year 1979 to $250 million in fiscal year 1981—for cotton.

I insert the memo in the RECORD at this point:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 2, 1977.

MEMORANDUM

To: John Giles, Senate Budget Committee, Allen Grommet, House Budget Committee.

From: Marilyn K. Moore, House Analysis Division, CBO.

Subject: Cost of the Conference Version of S. 275 for Fiscal Years 1979 through 1982.

Based on the version of the conference bill made available to CBO by the staff of the Senate Agriculture Committee in mid-August, CBO has estimated out-year costs for CCC and function 350. CCC costs, including wool, average $4.8 billion per year. CBO projects function 350 outlays to average $6.6 billion per year for fiscal years 1979 through 1982. This compares to an average of $3.1 billion for CCC outlays and about $4.9 for function 350 under current policy, or a difference of approximately $1.7 billion per year.

Table 1 shows commodity-by-commodity estimates for the CCC. Feed grain, wheat, and cotton estimates are based on the long-run DRI model, adjusted for CBO assumptions. The rice estimates are the same as those shown in H.R. 7171, except that disaster payments terminate with the 1979 crop (fiscal year 1980). For crop years 1978 and 1979, a 20 percent set-aside is assured for wheat and a 10 percent set-aside on feed grains. A participation rate of 100 percent is assumed. An allocation factor of 100 percent is also assumed, with the exception of the 1980 and 1981 crops of wheat. For these two years, an allocation factor of 80 percent was used to calculate wheat deficiency payments.

The dairy estimates are based on a support rate of 80 percent of parity through the 1978 marketing year and 75 percent of parity thereafter. The costs of the peanut program are the same as previously estimated for H.R. 7171 and S. 275. Storage facility loans, short-term export credit, tobacco, and net interest were adopted from CBO out-year projections of May 23, 1977. The costs of administration and "all other" were assumed at the fiscal year 1978 rate, inflated by CBO's projections of federal salary increases. The estimation of the wool costs was detailed in a memo to Allen Grommet dated July 12, 1977.

The pattern of CCC costs is somewhat irregular. The projection of $5.3 billion for fiscal year 1979 is $1.0 billion below fiscal year 1978. This reflects the effect of the wheat and feed grain set-asides; however, the set-aside effects are somewhat offset by an increase of $350 million as the President's feed grain stock program decreases loan repayments.

In FY 1980, further savings are realized as the result of the set-aside programs. Feed grain loans and deficiency payments fluctuate in FY 1980, FY 1981, and FY 1982 as the market price hovers around the target price for corn. The wheat, rice, and cotton programs continue to increase somewhat after 1980. After several years of support at 75 percent of parity, dairy costs tend to decrease by FY 1982. Other programs decline or remain fairly small.

Table 2 shows CBO's rough projections of function 350 totals under the conference version of S. 275. In addition to CCC costs, permanent and appropriated funds are included in the function. For purposes of this estimate, these permanent and appropriated funds were assumed at the fiscal year 1978 level, with allowance for additional appropriations of $70 million, due to the higher authorization levels in S. 275. The CBO projection of the federal salary inflator was multiplied by this base to obtain outlays for FY 1979 through 1982.

TABLE 1.—CCC COST ESTIMATE FOR FISCAL YEARS 1979 THROUGH 1982 UNDER THE CONFERENCE VERSION OF S. 275

[In millions of dollars]

Commodity	Fiscal year— 1979	1980	1981	1982	4-yr average
Feed grains:					
Net lending	921.4	452.3	536.7	485.8	599.0
Deficiency payments	1,497.1	853.3	1,513.2	989.1	1,213.2
Disaster payments	234.0	238.5	0	0	118.1
Other (net)	15.0	15.0	15.0	15.0	15.0
Total feed grains	2,667.5	1,559.1	2,064.9	1,489.9	1,945.3
Wheat:					
Net lending	225.0	197.1	256.9	281.0	240.0
Deficiency payments	1,141.8	1,068.9	1,215.7	1,410.1	1,209.1
Disaster payments	126.0	130.5	0	0	64.1
Other (net)	25.0	25.0	25.0	25.0	25.0
Total wheat	1,517.8	1,421.5	1,497.6	1,716.1	1,538.2
Rice:					
Net lending	0	0	0	0	0
Deficiency payments	79.0	90.0	94.0	105.0	92.0
Disaster payments	5.0	5.0	0	0	2.5
Other (net)	1.0	1.0	1.0	1.0	1.0
Total rice	85.0	96.0	95.0	106.0	95.5
Soybeans	0	0	0	0	0
Upland cotton:					
Net lending	0	0	0	0	0
Deficiency payments	0	150.0	250.0	300.0	175.0
Disaster payments	99.0	94.5	0	0	48.4
Other (net)	0	0	0	0	0
Total upland cotton	99.0	244.5	250.0	300.0	223.4
Dairy:					
Net purchases	600.0	600.0	600.0	500.0	575.0
Other (net)	15.0	15.0	15.0	15.0	15.0
Total dairy	615.0	615.0	615.0	515.0	590.0
Peanuts:					
Net lending	90.0	58.0	32.0	15.0	48.8
Other (net)	0	0	0	0	0
Total peanuts	90.0	58.0	32.0	15.0	48.8
Storage facilities loans	120.0	120.0	85.0	64.0	97.5
Short-term export credit	−62.0	−59.0	−30.0	0	−37.8
Tobacco	−16.0	−35.0	0	0	−12.8
Net interest	153.0	176.0	185.0	200.0	178.5
Administration and all other	53.6	56.7	60.0	63.4	58.4
Total CCC, excluding wool	5,322.9	4,252.8	4,854.5	4,470.4	4,725.0
Wool	52.0	57.5	61.1	64.8	58.8
Total CCC	5,374.9	4,310.3	4,915.6	4,535.2	4,783.8

TABLE 2.—FUNCTION 350 OUTLAYS FOR FISCAL YEARS 1979 THROUGH 1982 UNDER THE CONFERENCE VERSION OF S. 275

[In millions of dollars]

Subfunction	Fiscal year— 1979	1980	1981	1982	4-yr average
350: Receipts	−2.6	−2.6	−2.6	−2.6	−2.6
351:					
CCC	5,374.9	4,310.3	4,915.6	4,535.2	4,783.8
Other (permanent and appropriated)	348.0	367.8	389.1	411.4	379.1
Total 351	5,722.9	4,678.1	5,304.7	4,946.6	5,163.0
352: Appropriated, permanents, and offsetting receipts	1,295.8	1,369.6	1,449.0	1,531.9	1,411.6
Total function 350	7,016.1	6,045.1	6,751.1	6,475.9	6,572.0

TABLE 2.—COMPARISON OF ESTIMATED FISCAL YEAR 1978 COSTS OF POSSIBLE CONFERENCE AGREEMENT ON S. 275 AND CURRENT POLICY

[In millions of dollars]

Price support and related programs	Estimate of Sept. 1, 1977: Current policy modified by possible conference agreement on S. 275	Current policy	Difference: Conference agreement less current policy
Wheat:			
Deficiency payment	1,229.0	410.0	+819.0
Net lending	775.9	775.9	0
Disaster payments	120.0	106.0	+14.0
Other (net)	21.2	21.2	0
Total, wheat	2,146.1	1,313.1	+833.0
Feedgrains:			
Deficiency payments	0	0	0
Net lending	1,200.0	1,200.0	0
Disaster payments	207.0	207.0	0
Other (net)	11.0	11.0	0
Total feedgrains	1,418.0	1,418.0	0
Soybeans	34.9	34.9	0
Rice	67.0	67.0	0
Peanuts	60.0	75.0	−15.0
Upland cotton	118.7	118.7	0
Dairy	480.0	480.0	0
Storage facility program	127.0	127.0	0
Other CCC (current policy, not in S. 275)[1]	314.2	314.2	0
Total, price support and related programs	4,765.9	3,947.9	+818.0
Wool	46.0	3.3	+42.7
Total, Commodity Credit Corporation	4,811.9	3,951.2	+860.7

[1] Includes tobacco, short-term export credit, net interest, administration, and minor commodity programs. The administration costs are $39,800,000. Sugar costs under current policy are zero because the Attorney General declared the administration's sugar program unauthorized; sugar costs are estimated at zero for S. 275 because of the conferees' intent that the program be administered through the use of tariffs and quotas.

It is obvious that the $30,000 payment limitation would bring about substantial budget savings to U.S. taxpayers for the next 4 years with respect to payments to rice and cotton producers. It is common knowledge that these farmers are generally large farmers.

HOUSE AGRICULTURAL COMMITTEE PROPOSAL PAYMENT LIMIT ANALYSIS

The level at which program payment limits are set affects the equity impacts of farm programs. The impact of payment limits is related to the means by which commodity prices and/or farm income are supported. Producers of commodities which get support through the market mechanism via loans, export subsidies, and so forth, are not limited as to the benefits received from programs. However, producers of commodities whose support is derived from direct transfers in the form of income support payments may be affected by payment limits that would limit the size of payments they could receive.

If limits are set at a low level and voluntary production adjustment is attempted through the program, large producers whose payments would exceed the limit may choose not to participate in the program. In this case program effectiveness is lost or else smaller producers have to assume a larger share of the adjustment. Large producers may benefit from the supply adjustment by small producers participating in the program. If limits are set at a high level, large producers can receive large payments and may be willing to make required adjustments, but taxpayers often question the necessity of making very large payments to individual producers. Cost savings to the Government also decrease as payment limitations are raised; in this case taxpayers may question the need for large program expenditures in total.

The attached tables show the number of producers that would be affected at various payment limits assuming the maximum possible income support payment level based on the difference between the target price and the loan rate. It was assumed disaster payments were not subject to payment limits.

Even at the $20,000 limit, only the largest cotton and feed grain farms would be affected. Total savings under payment limitations cannot be estimated with any accuracy because there is no data available on the small number of very large farms that would be affected.

A reduction in the payment limit from $50,000 to $20,000 would affect an additional 2,300 wheat producers in 1981. Total saving from this adjustment would be in the $20 to $25 million range. This would be in addition to whatever savings would be achieved at the $50,000 payment limit.

I wish to make it clear that I—and I believe I can speak for a majority of American taxpayers on this subject—will offer an amendment placing a $30,000 limitation on payments to producers because I believe it is fair and right. I will offer the amendment at the next appropriation bill opportunity.

I offered the motion to recommit H.R. 7171 with an amendment. That amendment would have set a $30,000 payment limitation for wheat, feed grains, rice and upland cotton for crop years 1978–1981. That motion lost by a mere nine votes—201 yeas, 210 nays.

I believe you should have another opportunity to vote on the $30,000 payment limitation amendment for the following reasons:

First. It is clear that under the 1977 Farm Act, the Department of Agriculture is embarking on a course of ever more liberal payments to large producers.

Second. Changes in the cotton program will cause a dramatic increase in deficiency payments to large producers.

Third. Estimates provided me indicate that less than 1 percent of feed grains, wheat and cotton producers would be affected by a $30,000 payment limitation, and these are big operators who do not deserve massive Federal subsidy.

HOUSE AGRICULTURAL COMMITTEE PROPOSAL—NUMBER OF PRODUCERS AFFECTED BY SPECIFIED PAYMENT LIMITS[1]

Crop	Number of producers 1978	1979	1980	1981
$20,000 limit:				
Wheat	2,300	2,500	2,700	2,900
Percent of producers	(2)	(2)	(2)	(2)
Feed grain	200	225	275	300
Percent of producers	(2)	(2)	(2)	(2)
Cotton	600	300	1,200	1,700
Percent of producers	(2)	(2)	(2)	(2)
Rice	>1,500	>1,500	>1,500	>1,500
Percent of producers	>10	>10	>10	>10
$35,000 limit:				
Wheat	850	950	1,100	1,250
Percent of producers	(2)	(2)	(2)	(2)
Feed grain	<100	100	150	200
Percent of producers	(2)	(2)	(2)	(2)
Cotton	200	<200	200	250
Percent of producers	(2)	(2)	(2)	(2)
Rice	510	540	560	620
Percent of producers	3.5	3.7	3.9	4.3
$50,000 limit:				
Wheat	300	400	500	600
Percent of producers	(2)	(2)	(2)	(2)
Feed grain	<100	<100	<100	<100
Percent of producers	(2)	(2)	(2)	(2)
Cotton	<200	<200	<200	<200
Percent of producers	(2)	(2)	(2)	(2)
Rice	210	220	260	275
Percent of producers	1.5	1.5	1.8	1.9

[1] Assumes market prices for all crops are at their respective loan rates. It is unlikely in practice that prices for all crops would be at their loan rates at the same time. Thus the numbers are representative of maximum number of produce.

[2] Less than 1 percent.

Note: < less than; > greater than.

ALLOTMENT ACREAGES ON INDIVIDUAL FARMS AT WHICH SPECIFIED PAYMENT LIMIT WOULD BECOME EFFECTIVE, HOUSE AGRICULTURE COMMITTEE PROPOSAL, BY COMMODITY, U.S. AVERAGE, 1977–81

	1977	1978	1979	1980	1981
$20,000 limit:					
Corn	2,151	2,151	2,688	1,955	1,536
Sorghum	3,636	3,636	4,545	3,306	2,597
Barley	5,051	5,051	6,494	4,545	3,788
Wheat	1,511	930	863	828	785
Cotton	744	759	789	716	691
Rice	215	212	206	196	189
$35,000 limit:					
Corn	3,763	3,763	4,704	3,421	2,688
Sorghum	6,364	6,364	7,955	5,785	4,545
Barley	8,838	8,838	11,364	7,955	6,629
Wheat	2,644	1,626	1,511	1,448	1,373
Cotton	1,302	1,327	1,382	1,254	1,209
Rice	377	371	361	343	330
$50,000 limit:					
Corn	5,376	5,376	6,720	4,888	3,840
Sorghum	9,091	9,091	11,364	8,264	6,494
Barley	12,626	12,626	16,234	11,364	9,470
Wheat	3,776	2,324	2,158	2,069	1,962
Cotton	1,860	1,896	1,974	1,791	1,727
Rice	538	530	516	491	472

Mr. MAHON. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut (Mr. GIAIMO), the chairman of the Committee on the Budget.

Mr. GIAIMO. Mr. Chairman, the pending supplemental bill, as reported by the Committee on Appropriations, is consistent with the second budget resolution for 1978 and the reported bill represents $6.8 billion of new outlays, $1.8 billion during fiscal year 1978. These amounts are under the ceiling established in the budget resolution and also in the allocations made to the Committee on Appropriations.

For the information of the Members, Mr. Chairman, actually the bill would be $1.3 billion under the ceiling agreed to in the second budget resolution. This calculation assumes adoption of the conference reports on those regular appropriation bills which have not yet been enacted: the foreign assistance bill that was acted on in this body yesterday and Labor-HEW bill. It also assumes the District of Columbia appropriation bill at the House passed level, plus five or six other House passed bills.

Mr. Chairman, I shall include in the RECORD, when I can get permission to do so on the floor of the House, a list of the major items which were assumed in the second budget resolution for fiscal year 1978 and which remain to be acted on by this Congress.

If these items are appropriated later this fiscal year, as undoubtedly they will be, they will make the budget ceilings very tight. I stress that point. We are hitting against the ceiling. And when you consider that we are going to be adding additional expenditures as we will be doing today in SBA and possibly in some other areas together with other actions that we will be acting on in the future—and I might add that the fiscal year just began a few weeks ago—we are getting dangerously close to the ceilings.

We all believe in the necessity of having a budgetary process and in budget discipline, but I submit to the Members that Congress is beginning to react once again in a piecemeal fashion, taking up individual spending items as they come along without giving sufficient attention to the overall budget effect on the total spending. I caution the Members that this is serious. We have to address ourselves to a proper consideration for total spending and for living within the budget, for establishing our real needs and priorities, and recognizing that we cannot spend money for every wish that we have. This applies particularly so if we intend to hold down the deficit which is already too large and to get anywhere near a balanced budget by fiscal year 1981. I submit to you it cannot be done. Here we are with an economy just rising up out of the recession in which it has languished for several years. It is not improving as well as we would like it to do and yet at the same time that this is happening we have deficits in the area of $60 billion. We have to concern ourselves with this. And the only way to do it is to concern ourselves about spending.

I insert a list of the major items yet to be acted upon by the Congress.

Analysis of the amount remaining under the budget ceilings in the second resolution

[In millions of dollars]

	Budget authority	Outlays
Budget ceilings	500,100	458,250
Current level of spending (October 14, 1977)	474,356	452,233
Amount remaining	25,744	6,017

Deduct those amounts in the following bills that are not included in the current level above:

[In millions of dollars]

	Budget authority	Outlays
The conference agreement on Labor-HEW, foreign assistance, the House passed version of the D.C. appropriations bill and five other House passed spending bills	8,616	3,389
Deduct the fall supplemental: (H.R. 9375)	6,847	1,237
"Realistic" amount remaining	10,281	1,391

Selected major items assumed in the Second Budget Resolution and not yet counted against the budget ceilings:

[In millions of dollars]

	Budget authority	Outlays
Public service employment (forward funding)	3,800	-----
Youth employment and education	900	200
Social services and child welfare	400	300
GNMA weatherization	2,000	15
Other energy initiatives	1,055	42
Forest firefighting	250	250
Veterans cost of living and other initiatives	1,246	1,197

Mr. CEDERBERG. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. MCDADE).

Mr. McDADE. Mr. Chairman, I rise in support of H.R. 9375, the supplemental appropriations bill currently before the House of Representatives and to urge its approval. I especially commend the attention of my colleagues to title 3 of the bill providing appropriations for the U.S. Department of the Interior and related agencies.

Mr. Chairman, title III of this bill contains $760.2 million in new appropriations all but $13.8 million of which are earmarked to continue the national commitment to meeting our energy needs. What is so important about this appropriation is that most of this money will be put to immediate work conserving energy, gathering data for oil lease sales, accelerating solar technology or speeding up our often expressed intention to get more coal out of the ground. The funds here also increase the vitally important strategic petroleum reserve by providing funds to purchase additional oil supplies.

This bill makes available $60.7 million to begin one of our Nation's most productive and successful investments—the implementation of the activities authorized by the Surface Mine Reclamation Act which passed Congress earlier this year.

The committee, at my request, included language urging the Office of Surface Mine Reclamation to work closely with the U.S. Army Corps of Engineers, the Bureau of Mines, and the Soil Conservation Service to gather inventory data of mine devastated lands needed to get the program underway. While I question the need for this inventory at all, the committee directed that $1 million be used to complete it and the other $4 million originally requested for inventory studies be used for actual hardware. This work has been going on for many years in Pennsylvania, in Wyoming, in West Virginia and now in Illinois. I am confident that OSMRE can and should move faster in this area to get more actual reclamation work underway as soon as possible.

Mr. Chairman, the committee also included funds to stimulate the development and expansion of small coal mines especially in Appalachia. Congress began the initiative of creating a coal loan program with the passage of the Energy Acts of 1975 and 1976. We did this because we recognized that small mines can make the most dramatic increase in coal production if given the front end capital with which to expand. This program is aimed at giving them that

chance. Today our bill provides an additional $7.3 million to administer the coal loan program and to begin operations.

Once operational, the program may provide up to $750 million in loan guarantees, with a maximum guarantee of $30 million to any individual borrower. These guarantees can be used to open new mines as well as reopen or expand existing operations. This program can be an especially valuable tool in helping the anthracite coal industry since it is directed as low-sulfur, deep-mine operations. We need to do everything possible to develop our Appalachia coal reserves and to help these small operators get back in business. This program will aid that effort.

Mr. Chairman, our committee reviewed the administration's budget with great care. We reduced the original budget request by $543.5 million. But we reduced it only when we were convinced that the administration could not possibly spend the funds which they requested. We have however given our national energy goals a significant boost through this bill and I believe that all of the Members of this House can endorse our decisions with enthusiasm.

In addition I want to express my thanks to the Agriculture Subcommittee chairman, JAMIE WHITTEN, also ranking member, Mr. MARK ANDREWS for their efforts to include $30 million for the soil conservation service emergency watershed protection program—$9.7 million of this amount is reserved for my home State of Pennsylvania to assist in recovering from the October 1976 and Johnstown floods.

Over $1.8 million will be spent in a six-county area of my congressional district. Because this is the only Federal program for debris clearance and erosion prevention in small tributaries, it is critical to my constituents in the flood prone Susquehanna watershed. This is the third time since Hurricane Eloise that we have received the committee's approval for SCS emergency assistance. I and my constituents appreciate the continuing efforts of the committee and the House to aid flood disaster victims.

Mr. CEDERBERG. Mr. Chairman, I yield back the remainder of my time.

Mr. MAHON. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. YATES), the chairman of the subcommittee.

Mr. YATES. Mr. Chairman, chapter III of the bill includes recommendations for appropriations of $760,271,000, a reduction of $543,521,000 from the budget request of $1,303,792,000. With the exception of $13,817,000 for Indian programs, and $1,798,000 for the administration of the trust territories, the supplemental is concerned with energy programs which continue to have a high priority in the Congress, as well as in the administration.

The recommended appropriation contains $744,656,000 in energy-related programs, large portions of which have yet to be authorized, but which the committee believes important enough to recommend appropriations in advance of authorization in several cases. The amounts recommended are mostly in areas where actual hardware will be put into place to conserve energy or where solar energy applications can be shown to be economical. The amounts also begin the enforcement and reclamation activity in the recently-passed strip mining bill. Finally, continued support of the strategic petroleum reserve is recommended.

The committee's recommendations include $5 million for the Geological Survey to gather seismic data in the Beaufort Sea in preparation for a lease sale in December 1979. This sale is rated by industry as the second most promising area for future sales and this data will aid greatly in the Survey's evaluation of the area.

An amount of $60,727,000 is recommended for the initial implementation of enforcement, research, and reclamation activities related to the Surface Mining Control and Reclamation Act of 1977. A separate Office of Surface Mining and Reclamation and Enforcement has been established in the Department of Interior to handle this activity, which is essential in light of the country's plans for increased reliance on coal as an energy resource. As coal production increases, major expansion of strip mining will be necessary, and a solidly based regulatory and reclamation activity must be in place. With regard to reclamation of abandoned lands, the committee supports future supplemental requests to utilize the entire amount of the Abandoned Mine Reclamation Fund when the newly established office can identify a comprehensive inventory of projects. The recommended amounts would also allow expansion of departmental support activities serving the new office.

The committee recommends $293,611,000 for the Federal Energy Administration, $242,711,000 of which is connected with conservation activities; $266,145,000 is for programs not yet authorized which are identified individually in the bill. The major items in this appropriation are $200,000,000 for grants to States for conservation in schools and health care facilities and $25,000,000 for grants to States for conservation in local government buildings. In both of these cases, the amount recommended is the lower of the authorization amounts passed by either the House or the Senate. Even assuming authorization by Congress and rapid implementation by FEA, it would be late in the fiscal year before these programs could be implemented and the lower amounts should be sufficient.

Other major items included in the FEA account are $25,000,000 for solar energy installations in Federal buildings, $3,415,000 for a limited demonstration of vanpooling, $12,020,000 for assistance to utility regulatory commissions in rate reform activity and $7,017,000 to initiate a limited loan guarantee program for opening and expanding small underground mines to recover low sulfur coal resources.

The last energy item is $383,173,000 for the strategic petroleum reserve, $415,061,000 below the budget request. Based on the 233 million barrels of oil that the original 1978 appropriation allows, the committee recommends an inflationary allowance of $262,000,000 and a cargo preference allowance of $117,000,000. At this time, the committee is not convinced that there is sufficient information available to insure that current schedules allowing for petroleum storage of 250 million barrels by the end of fiscal year 1978 will be met, and does not recommend that the $242,416,000 for 17 million additional barrel of storage be appropriated. If major construction of pipelines to and from storage sites is completed in the beginning of calendar year 1978 as in the beginning of calendar year 1978 as be considered.

We do not recommend the $172,600,000 request for the effect of the oil equalization tax on the reserve because of the considerable uncertainty over its passage. If a tax is enacted, additional appropriations can be considered.

In nonenergy areas, the committee recommends $6,329,000 be appropriated to the Bureau of Indian Affairs for the protection of Indian livestock and Indian grazing resources endangered by the continued drought in the West, $6,138,000 for initial funding of a long-range comprehensive fisheries enhancement program developed by the President's task force on Northwest fisheries; and $1,350,000 for the defense of the interests of the United States in three lawsuits in which the United States is named defendant in its role as trustee of the property of Indian tribes; $1,798,000 is recommended to allow the expenses of the Government Comptrollers' Offices of Guam and the Virgin Islands to be paid by the Department of the Interior rather than by local funds, because of the financial conditions in these territories. This is dependent upon enactment of authorization legislation. The bill also provides that no loan guarantees can be established unless provided for in an appropriation act.

Mr. MAHON. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Chairman, I would like to compliment the members of the Committee on Appropriations for adding $2.7 million to the Department of Justice for increased antitrust enforcement and increased law enforcement in connection with white-collar crimes. On the other hand, I am dismayed to see that this $2.7 million is coming out of the LEAA program. Since fiscal year 1975, LEAA has been cut by approximately $250 million, which amounts to more than a quarter of that program. I would hope that this Congress would try to force the administration to administer the LEAA program in accordance with its objectives and to help States fight crime, rather than constantly to nickel-and-dime it to death. LEAA can work, and I regret that further serious efforts have not been made to strengthen it.

Mr. McCLORY. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentlewoman for yielding.

I commend the gentlewoman on her remarks here and fully support the position that she has taken. I hope that some action will be taken soon to strengthen the Law Enforcement Assistance Agency (LEAA), and that this administration will get behind increased funding for LEAA, the only Federal program we have which helps to support the local and State law enforcement agencies.

It seems unbelievable to me that funds are being drained out of the reduced LEAA appropriation to pay salaries and other expenses in the Department of Justice. These LEAA moneys should all go to the local units of government where most law enforcement responsibility is reposed.

Ms. HOLTZMAN. Mr. Chairman, I yield back the remainder of my time.

Mr. FRENZEL. Mr. Chairman, on this bill, I am going to change my vote again. This fall, I voted for B–1 production because I believed the President needed all the bargaining chips we could give him in the SALT negotiations.

After the President decided, with much public fanfare, that we do not need the B–1, and did not want it, I accepted his decision. I voted against the B–1, because I did not want to give the President a system he will not use.

Today I will vote to restore the B–1 funds. I will do so because I have been misled, deliberately I think, by the President. After he decided against the B–1, he allowed his administration to come to Congress to ask planning funds for a manned bomber, F–111H using B–1 engines, B–1 equipment, and an airframe which does not exist and which no one knows whether it will fly.

The President has apparently made SALT proposals limiting our Cruise missiles to 2,500 kilometers. This means, I think that we need a manned, penetrating, supersonic bomber to deliver missiles aimed at targets in the Russian heartland. Hence his administration's request for an unknown quantity, but at least for a manned bomber.

I personally feel I have been hoodwinked, deceived, and misled. Until the President exhibits some candor on this subject—until he tells us what he is really for—I have to vote for the best manned penetrating bomber, the B–1, rather than the F–111H, or the "B–2", or "son of B–1," as it is otherwise known.

I am not a great fan of B–1 production, but the President has almost forced us to vote for it, at least temporarily.

Mr. JEFFORDS. Mr. Chairman, today the House takes up the issue of supplemental money needed to carry out a variety of Federal responsibilities. I would like to draw the attention of the House to an important area of responsibility which has been neglected both in the basic and in the supplemental appropriations bills for fiscal year 1978.

Some of you may recall that when the Labor-HEW appropriations bill was pending on the floor on June 15, I intended to offer an amendment to add $250,000,000 for purposes of assisting in implementation of the regulations issued pursuant to section 504 of the Vocational Rehabilitation Act of 1973. I was persuaded, instead, to wait until hearings could be held on the subject of 504 implementation. Those hearings took place in the Select Education Subcommittee on September 9, 13, and 16. If anything became clear as a result of those hearings, it was the very lack of available specific information concerning the liabilities and costs to be incurred through compliance with the regulations. In addition, it became clear that there is not sufficient personnel in the Office for Civil Rights at HEW to provide even basic information, let alone extensive technical assistance on the implementation of section 504.

Witness after witness contended that they are unable to get timely and definitive information on their compliance responsibilities. They must have this information so they know what they have to do, and how to project what it could cost to carry out those duties. But in fact, it is very difficult to get accurate cost projections for individual institutions and agencies, let alone concrete data on what national projections might be.

The hard reality we must face is that even if the Office for Civil Rights wants to make a good faith effort to address 504, they simply cannot do it given the manpower in the Office. Part of the problem is that there are many court orders which drastically affect how OCR personnel are used. Titles VI and IX, race and sex cases, divert much of the Office's attention. When you superimpose the massive technical assistance and enforcement problems created by 504, it seems clear to us that unless OCR gets more staff immediately, the problems will simply get worse.

Today there is a crying need throughout the country for more technical assistance and basic information. OCR is having trouble providing basic 504 information. As a result it is obvious that they do not have the personnel to begin to address matters of enforcement. Unfortunately I have no way of knowing what the specific personnel needs of OCR are. A glance at the following tables will, however, give you some idea of the magnitude.

In the September 16 hearing in the Subcommittee on Select Education on section 504, Mr. David Tatel, Director, Office for Civil Rights, testified about some of the difficulties his office is facing. He was asked to provide the committee with the number of personnel his office needs, not only to implement title VI and title IX responsibilities, but specifically how many people he would need to answer technical assistance questions adequately, as well as to enforce the section 504 regulations. Mr. Tatel indicated that he would provide this information to the committee. After waiting for almost 3 weeks the committee has been advised by OCR that in spite of Mr. Tatel's public commitment to share this information, it will not be available to us because HEW does not feel it can be made available prior to negotiations with OMB. OCR indicates that it would "share the information on a private basis" but that I would "not be able to share it with other members of the committee or with the Congress." I find this situation incredulous. As the ranking member of the subcommittee which has responsibility for the 504 legislation, I asked the man responsible for the agency implementing the provision whether he was able to do the job with the personnel that he had. He indicated the need for more personnel, and I simply asked, "How many?" I can't understand why such a simple, direct question cannot get a simple, direct answer. How can we in Congress help if basic information is not even given to us?

TABLE 1.—*Complaint investigations, fiscal year 1978*

Backlog	3,025
Expected new receipts	2,455
Total	5,480
Expected complaint resolutions for fiscal year 1978	
Backlog	1,270
Expected new receipts	245
Total	1,515
Percent of complaints resolved	
Backlog	42
Expected new receipts	10
Total	27.6
Status of complaints at end of fiscal year 1978	
Backlog	3,965

TABLE 2.—PLANNED COMPLAINT RESOLUTION ACTIVITY, FISCAL YEAR 1978 SUMMARY

[Staff time shown in investigative person years]

Basis	Carryover [1]		New investigations: Backlog		New investigations: New receipts		Total	
	Number	Person years	Number	Person years	Number	Person years	Number	Person years
Race	344	44.02	82	18.14	77	17.04	503	79.20
Sex	504	59.25	82	18.17	80	17.72	666	95.14
National origin	104	13.46	22	4.87	23	5.09	149	23.42
Handicap	70	9.10	56	12.41	57	12.36	183	34.14
Total	1,022	125.83	242	53.59	237	52.48	1,501	231.90

[1] Carryover means all complaints in which an investigation was initated prior to Oct. 1, 1977, but which have not been resolved as of that date.

What makes this situation worse is that while Mr. Tatel is constrained from sharing this information with the Congress, he apparently has no similar restrictions when dealing with the courts. On October 7 Higher Education Daily reported:

JUDGE SINKS OCR'S ENFORCEMENT PLANS

U.S. District Court Judge John Pratt Wednesday scuttled HEW's plans for "balanced" enforcement of civil rights laws by refusing to allow its Office for Civil Rights to ignore Pratt's June, 1976 order requiring prompt resolution of sex, race and national origin discrimination complaints against elementary and secondary schools in 17 Southern and border states.

The decision in the seven-year-old Adams v. Califano case will directly affect colleges and universities, according to OCR Director David Tatel.

During a two-day hearing on OCR's enforcement plans, Tatel warned Pratt that if the judge did not release OCR from the 1976 order, "I don't know where" the agency will get the resources to investigate higher education discrimination complaints or enforce the new anti-handicapped discrimination Section 504 regulations.

Tatel also said OCR would not be able to put, into effect its proposed Annual Operating Plan (HED, Aug. 3, Sept. 22) for fiscal 1978, which calls for balancing OCR's enforcement efforts between complaint investigations and compliance reviews, which are OCR-initiated investigations.

If the agency is unable to adopt the AOP, Tatel said, his plans for revitalizing OCR will be jeopardized. "OCR will continue to be a relatively distorted agency that is not performing in some areas and that is performing poorly in others," Tatel said.

While expressing sympathy for HEW's manpower problem, Pratt noted that OCR itself negotiated the 1976 order as a reasonable solution to the elementary and secondary portion of the long-standing Adams case.

OCR has admitted that it has been unable to comply with the June, 1976 order. Justice Department attorney Robert Franzinger said OCR underestimated the time it takes to process an average complaint. In addition, Franzinger said a high vacancy rate at OCR—at one time as many as 225 positions were vacant in an agency with an authorized staff of 1,002—crippled OCR's ability to process complaints.

Elliott Lichtman, a NAACP Legal Defense Fund attorney representing the plaintiffs, argued that the 1976 order should not be relaxed because that would delay enforcement of the law. Lichtman also questioned OCR's claim of insufficient resources and said the agency's AOP is based on an unacceptable standard of productivity. "We suggest that any efficiency might make the resource problem evaporate," Lichtman said.

Pratt criticized OCR for doing too little to increase its resources and for failing to fill the vacancies. He said OCR's problem of inadequate resources was HEW's problem and no excuse for not fulfilling its obligation to process the elementary and secondary complaints. "I don't think this court should get into the administrative problems of a particular agency . . ." he said. "It would be a serious mistake for us to monitor how the government makes use of its limited resources."

During the hearing, Tatel told Pratt that HEW has submitted to the Office of Management and Budget a request for 1,256 additional staffers over the next year and a half, which would allow OCR to eliminate its backlog of complaints by May, 1980 while fulfilling all its other obligations.

No Consolidation. In a related ruling, Pratt refused an HEW request to consolidate the Adams case with two other suits, WEAL vs. Califano and Brown v. Califano. HEW argued that all three cases raised similar issues and that merging them would put the agency in a better position to comply with the court's orders.

Pratt said the Adams litigation is already complicated and that there are significant differences among the three cases. WEAL involves enforcement of anti-sex bias laws by HEW and the Department of Labor, while the plaintiffs in Brown are concerned with enforcement of the Title VI ban on race discrimination in 33 Northern and Western states.

HEW's request to consolidate the three cases was part of its overall plan to get out from under court orders requiring specific enforcement action. In place of orders in Adams, Brown, and WEAL, HEW had asked Pratt to bind OCR to carrying out the AOP enforcement plan spreading the agency's resources across its different jurisdictions.

Handicapped, Too. Pratt also allowed the National Federation of the Blind to intervene in the Adams case as a plaintiff representing the interests of handicapped persons. The group's attorney, Jim McHaney, said handicapped people have a stake in the litigation because it affects OCR's ability to enforce the new Section 504 regs."—CBL

The ramifications of this manpower shortage are very serious for recipients of HEW money, who are liable to comply with the 504 regulations. They are equally serious for the Congress, which must have full and reliable information in order to make responsible legislative decisions on this issue. Given the severity of the manpower problem, I have serious doubts that adequate information regarding the costs to be incurred through compliance, will be available at a timely date. Since the regulations allow up to three years for any structural changes required to bring a recipient into compliance, the Congress could have a significant alleviating impact if it acted in the next session. Beyond that, it will be too late.

I would add that perhaps the executive branch would have moved more expeditiously to resolve these questions, had it been faced with the tough decision that HEW fund recipients are now confronting. In other words, if Federal agencies had to comply with their own 504 regulations; if they had to worry about budgeting for structural changes and additional services needed to comply with 504, they might act with a greater sense of urgency. They might even gain sympathy for the view that many recipients of Federal money will find it financially difficult to comply in full with the regulations without any Federal assistance.

For those who are surprised to discover that the Congress passed a law mandating extensive, costly changes by State and local governments, as well as private organizations receiving Federa money, while exempting all three branches of the Federal Government from that mandate, the following is a statement issued by the Office for Civil Rights:

The scope of section 504's jurisdiction extends to all persons or entities which receive financial assistance from the federal government. As with title VI of the Civil Rights Act of 1964 and title IX of the Education amendments of 1972, the federal agencies themselves are not subject to the nondiscrimination requirements of the statute. Thus, while it would be improper to state that federal agencies are exempt from coverage under section 504, they are not obligated to meet the requirements of the statute. (Source: statements submitted to the Subcommittee on Select Education on October 12, no response to questions raised during the September 16 hearing.)

I have indicated to Secretary Califano that the Congress must know, by the early winter months, whether or not compliance activities will involve substantial costs. He assured me that HEW has sufficient resources to conduct an evaluation of the compliance cost situation, and to report back to Congress within the stated timeframe. I am relying on this assurance, and in view of the information I have been able to gather to date, much is also at stake for HEW fund recipients.

I bring this matter to the attention of the Congress today for two basic reasons. The first is my hope that it will force those who make personnel decisions, either at HEW or OMB, to immediately address the OCR manpower needs. I would hope that decisions can be made internally without the Congress having to act. I am, however, prepared to take legislative action if the issue of personnel needs for OCR is not resolved in the very near future. The second reason is to alert my colleagues to a critical issue that we will have to address in the next session of Congress. I want everyone to be on notice as to the difficulty we will have in fulfilling this responsibility if we do not get timely and extensive help from the executive branch.

To turn briefly to another problem, I have discovered that when people first hear about section 504 they assume that it is intended only to eliminate architectural barriers that may restrict the physically handicapped. Section 504 is certainly much more than that, getting into many areas of life including jobs, education, housing, and so forth, and affecting all other disabilities. The deaf, for example, do not need architectural barriers removed to be able to move about freely. Many deaf people, however, have a communication barrier. They cannot pick up a telephone as you and I do and talk freely, without the aid of an instrument called the TTY. They can and do communicate through such an instrument with other deaf people.

However, they face real problems when they attempt to communicate with a hearing individual who does not have a comparable device. When a public office or agency does not have a TTY it creates a communication barrier which discriminates against the deaf. And, of course, blind people, and people who have cerebral palsy and other handicapping conditions, are often confronted with communications barriers which can be and are required by the 504 regulations to be lifted through the use of a growing array of auxiliary aids. Just yesterday, the Subcommittees on Select Education and on International Scientific Planning,

Analysis, and Cooperation, learned a great deal about computer learning technologies currently being applied in the education of the handicapped.

In a sense, the Office of Civil Rights at HEW, the agency responsible for enforcing 504, actually discriminates against the deaf because it does not have a TTY, nor does it have any individuals trained in sign language to answer the questions or problems of the deaf. When Mr. Tatel was asked in our committee hearings about this situation, he indicated that OCR has been trying to get a TTY for several months, but has not been able to get an approval out of the HEW bureacracy. He also indicated that several people in OCR were taking sign language courses. Given the responsibilities of OCR it is difficult for me to anticipate just how long it may take before anybody in OCR is proficient enough to fully communicate with the deaf and to meet their information needs. And the problem is that the deaf and every other recipient or provider group throughout the country needs information today, not 6 or 10 months from now.

Mr. MAHON. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CONSTRUCTION

For an additional amount for "Construction", $2,163,000, to remain available until expended: *Provided*, That not to exceed $1,685,000 shall be available to assist the Tulalip Indian Tribes for planning, engineering, and initial ground preparation for construction of a fish hatchery on Puget Sound; not to exceed $181,000 shall be available to assist the Point-No-Point Treaty Tribes, including the tribes of Lower Elwha, Skokomish and Port Gamble, for expansion of salmon enhancement facilities; and not to exceed $297,000 shall be available to assist the Quinault Indian Tribe for rehabilitation of salmon production facilities.

AMENDMENT OFFERED BY MR. YATES

Mr. YATES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YATES: Page 6, strike out lines 5 through 16 and insert in lieu thereof the following:

CONSTRUCTION

For an additional amount for "Construction", $1,866,000, to remain available until expended: *Provided*, That not to exceed $1,685,000 shall be available to assist the Tulalip Indian Tribes for planning, engineering, and initial ground preparation for construction of a fish hatchery on Puget Sound; and not to exceed $181,000 shall be available to assist the Point-No-Point Treaty Tribes, including the tribes of Lower Elwha, Skokomish and Port Gamble, for expansion of salmon enhancement facilities.

Mr. YATES. Mr. Chairman, the purpose of this amendment is to reduce by $297,000 the amount available for Bureau of Indian Affairs construction. The $297,000 was provided for rehabilitation construction of the Quinault Indian Tribe's salmon production facilities. The committee learned subsequent to its action on this budget request that the Economic Development Administration has provided a total of $465,950 to the Quinault Tribe, of which $293,600 is for rehabilitation construction of salmon production facilities. Since the purpose of the funds provided by EDA to the Quinault Tribe duplicates the funding provided in this bill to the BIA, I am proposing this amendment.

Mr. BONKER. Mr. Chairman, the State of Washington has become one of the main arenas in which the Federal courts are attempting to forge the next chapter of national Indian policy. Three years ago, the Federal district court in Tacoma handed down its "Boldt decision" which ordered a massive reallocation of the fish resources of the State. The beneficiaries of this court's finding were the Indians who to that point in time had harvested only a small percentage of the salmon and steelhead each year.

The resulting turmoil in the fishing industry has brought the State to the brink of anarchy. Normally lawbiding-citizens have blocked navigation lanes with fishing nets and boats, have fished when the waters were closed for conservation, have falsified catch documents to confuse management personnel who open and close the seasons based on the numbers of fish caught by Indians and nontreaty fishermen, and in the ultimate act of frustration, encircled and rammed enforcement patrol boats. During this confrontation, a troller fishing in Puget Sound far from his accustomed ocean fishing grounds was felled by a shotgun blast.

The Washington delegation this year was able finally to convince the President that the Federal Government has an obligation to assist the State in its efforts to meet the terms of Indian treaties as interpreted by the Federal courts. The delegation persuaded the President to appoint a task force of high-level officials of the branches of Government involved with Indians to investigate the problems generated in our State by this court decision.

That investigative effort has been underway since early April. On several occasions the task force has been instrumental in bringing the parties to the conflict to the table to resolve problems. It was able also to provide a formula to the judge to resolve what threatened to be a major confrontation. But most importantly, it has been able to communicate among the several parties to keep peace on the waters.

Management decisions that force one group to stop fishing so that another can have greater fishing opportunity lie at the base of much of the controversy. As a part of its charge from the President, the task force was to develop a comprehensive plan that would increase the supply of fish available for harvest so all parties could once again harvest fish at historical levels, and such regulations would no longer be necessary.

Indians, State agencies, and individuals submitted fish-rearing proposals to the task force for its evaluation and approval. The Washington delegation pledged its support of the task force whenever it made recommendations to the President for funding for these projects. Funding for some of these fish-enhancement projects is included in this supplemental budget. Four Indian-sponsored projects that will begin the process toward doubling the amount of harvestable fish available within the next 10 years are included.

As is often the case, by the time the evaluation and recommendation process had run its course the regular budget had already been considered. But the significance of the task force's activities was recognized by the administration and the fish projects which the task force had recommended as consistent with the comprehensive plan were included in the supplemental budget we have before us. That is, except for one. For some unexplainable reason, one of the most necessary projects was not included in the supplemental budget.

Funding for the Washington State Department of Game steelhead program was omitted. The effect of this omission is a tragedy. One might well ask, "Why?" Funding of the other projects amounts to millions of dollars. Why is the omission of $1,582,960 so terribly important? Surely the millions of salmon that will be reared and released will be enough to begin the rebuilding process about which I spoke.

Except for the fact that the Game Department project is a steelhead program, I would agree. But the judge in this case did not distinguish between steelhead and salmon. Instead, he ordered the State to allow the Indians to harvest, with nets, "50 percent of all the fish as if no prior fishery had taken place." Frankly, that wording in the decision sealed the doom of one of the finest game fish in the world. Prior to the Boldt decision, steelhead were caught for the most part on sport gear—hook and line. Since then, however, Indian nets have been allowed and the population of steelhead in many streams has fallen dramatically. To show both the effect of the Indian nets on these game fish and the relatively small numbers of fish about which we are concerned, it is instructive to examine some statistics. In the 1970–71 winter steelhead season, sport anglers caught a record 154,000 fish. By the winter of 1975–76, the sport steelhead catch was only 47,000 fish.

What is even more incomprehensible to me is the fact that much of the game department program was ordered accomplished by Judge Boldt. The court has ordered State officials to monitor and gather the statistics necessary to implement its decision. Since the game department is a dedicated agency that receives the bulk of its funding from sport license fees, it seems incumbent upon the Federal Government that it provide the State with the funds to meet these orders of the court. The balance of the program would provide the additional fish necessary to meet the terms of the Federal treaties with Indians in Washington State.

This project was evaluated fully by the Presidential task force, was recommended for funding, and all indications as late as September were that the funding would be included in the supplemental budget. The effect of deletion of these funds is that the mere existence of steelhead is threatened, the court ordered, on-

going program of the game department will have to be discontinued, and the pledge of Washington's Congressmen to fund programs to end the disharmony between Indian and non-Indian fishermen has not been honored.

Since this is the initial funding in what is considered to be a major enhancement effort that will span several years, it is discouraging to see the difficulties encountered in this relatively small expenditure. I am hopeful that this is the last such speech I will have to deliver on the subject of meeting the obligations that have been spawned by the terms of treaties written over a hundred years ago. But from the items I read in papers from across this Nation, and the events taking place in my own State, I am afraid the funds appropriated in this supplemental budget represent just the first few millions of dollars of the billions Congress will be asked to appropriate to reach settlement with Indians.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. YATES).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

RELATED AGENCIES

FEDERAL ENERGY ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $293,611,000, of which $266,145,000 shall become available only upon enactment of authorizing legislation as follows: (1) for conservation grants for schools and health care facilities, $200,000,000; for conservation grants for local government buildings, $25,000,000; for grants for financial assistance to utility regulatory commissions, $11,250,000: for solar heating and cooling installations in federal buildings, $25,000,000; to remain available for obligation until September 30, 1979; and (2) for administration of grants for schools and health care facilities, local government buildings, and utility rate reform, $1,480,000; and for a federal vanpooling program, $3,415,000: *Provided*, That of the total amount of this appropriation, not to exceed $6,000,000, shall remain available until expended for a reserve to cover any defaults from loan guarantees issued to develop underground coal mines as authorized by Public Law 94–163: *Provided further*, That the indebtedness guaranteed or committed to be guaranteed under said law shall not exceed the aggregate of $62,000,000: *Provided further*, That notwithstanding 31 U.S.C. 638a(c)(2) government-owned vehicles may be used to initiate vanpool demonstration projects.

POINT OF ORDER

Mr. HORTON. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. HORTON. Mr. Chairman, I make a point of order against the portion of this chapter which appropriates funds for a Federal vanpooling program. The appropriation is contained in lines 15 and 16 of page 8—in the words "; and for a Federal vanpooling program, $3,415,000". Related language, to which my point of order should also apply since these words have no meaning in the bill except as they pertain to the vanpooling appropriation, is contained in lines 23 and 24 of page 8 and lines 1 and 2 of page 9:

Provided further, That notwithstanding 31 U.S.C. 638a(c)(2) government-owned vehicles may be used to initiate vanpool demonstration projects.

Mr. Chairman, these provisions violate rule XXI, clause 2, of the Rules of the House. This rule states, in pertinent part:

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress.

A Federal vanpooling program has never been authorized and is not now in progress. In fact, the House has rejected such a program twice, the second time by an even larger margin than the first. We considered vanpooling as section 701 of H.R. 8444, the National Energy Act, in August of this year. I moved to strike that section from the bill, and my amendment carried with strong bipartisan support, 232 to 184. When the bill was reported back to the House by the Committee of the Whole, a separate vote was demanded on my amendment. In the separate vote, the amendment was agreed to by a vote of 239 to 180.

Mr. Chairman, I am opposed to the House creating by a few words in an appropriation bill a program which it has twice explicitly rejected in the past. That is why I have raised this point of order against H.R. 9375's appropriation of funds for a Federal vanpooling program.

POINT OF ORDER

Mr. OTTINGER. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. OTTINGER. Mr. Chairman, I make a point of order against the portion of the bill H.R. 9375 appropriating salaries and expenses for the Federal Energy Administration.

The particular provision appropriates $266,145,000 for several purposes all of which are prefaced by the phrase that such appropriation is subject to "enactment of authorizing legislation." The purposes are:

Conservation grants for schools and health care facilities, $200 million;

Conservation grants for local government buildings, $25 million;

Grants for financial assistance to utility regulatory commissions, $11,250,000;

Solar heating and cooling installations in Federal buildings, $25 million;

Administration of grants for schools and health care facilities, local government buildings, and utility rate reform, $1,480,000; and

Federal vanpooling programs, $3,415,000.

Mr. Chairman, rule XXI, clause 2, provides that no appropriations shall be reported in any general appropriation bill for any expenditure not previously authorized by law. All of the above provisions are unauthorized. They are now a part of the versions of the National Energy Act legislation pending in the House and the Senate. The vanpooling provision was soundly rejected by the House last August in connection with H.R. 8444. The precedents show that an authorization must be enacted before the appropriation may be included in an appropriation bill. Thus, delaying the availability of an appropriation pending enactment of the authorization, as is done in H.R. 9375, does not protect the item of appropriation against the point of order under rule XXI, clause 2. See, CONGRESSIONAL RECORD April 26, 1972, page 14455. See also, 114 CONGRESSIONAL RECORD, 15354, 90th Congress, second session, May 28, 1968, where it was ruled that an appropriation for a maritime ship construction operation and research not yet authorized by law for the fiscal year of the appropriation was conceded to be unauthorized and was ruled in violation of rule XXI, clause 2. A similar point of order was sustained where a bill authorizing appropriations for the Peace Corps had not yet been enacted into law. An appropriation for the program was conceded to be subject to the point of order, 116 CONGRESSIONAL RECORD 18409, 91st Congress, second session, June 4, 1970.

Rule XXI, clause 2 also prohibits inclusion of legislation in general appropriations bills. H.R. 9375 provides that all of the above appropriations for grants are to "remain available for obligation until September 30, 1979" which is 1 year beyond fiscal year 1978. It is generally not in order in a general appropriation bill to require that funds shall be available beyond the fiscal year covered by the bill unless the authorizing law permits it. (26 Deschler 7–10).

This portion of H.R. 9375 also includes a proviso which waives the provisions in existing law (31 U.S.C. 638a (c)(2)) prohibiting Federal employees from using Government-owned vehicles for private purposes. This provision changes existing law for the purposes of the van pooling demonstration program. It is legislation in an appropriations bill and is not in order (105 CONGRESSIONAL RECORD, 12125, 86th Congress, first session, June 29, 1959).

Mr. Chairman, I am offering this point of order on behalf of the chairman of the Subcommittee on Energy and Power, the gentleman from Michigan (Mr. DINGELL), who cannot be here because he is in conference on energy. These are programs, many of which he supports and advocates, as do I, but we feel that they are not properly before the committee at this time. I ask that the Chair rule, therefore, in favor of the point of order.

The CHAIRMAN. Does any other Member desire to be heard?

Mr. YATES. Mr. Chairman, I think I should respond to the point of order. The gentleman is correct insofar as the point of order is concerned. The purpose of the subcommittee in placing these appropriations in this bill was in order to expedite the activities of the Federal Energy Administration at a critical time. It is my understanding that the conferees for both the House and the Senate have very nearly reached agreement on the bill.

The action of the gentleman in offering the point of order, in my judgment, will slow down the activities of the Federal Energy Administration. However, let me say that as far as the point of order itself is concerned, we are constrained to concede it.

Mr. HORTON. Mr. Chairman, I did not want to make a point of order against the remainder of the section for the reasons that were stated by the gentleman from Illinois, because it is pretty close to being concluded. I do feel that the Department of Energy needs to move forward as quickly as possible, but the inclusion in this chapter of moneys for the vanpooling program is certainly without any authority because the House has twice rejected that on a vote, and it is not at all in the works as far as the House is concerned.

So, I would, in the event that the point of order is not sustained insofar as the gentleman from New York is concerned, I would certainly want to urge the point of order as to the vanpooling provisions.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BAUMAN. Exactly what lines were stricken by the point of order?

The CHAIRMAN. The point of order requests the striking of the language on page 8, line 2, through page 9, line 2; the entire section.

Mr. YATES. Up to the line, "strategic petroleum reserve."

The CHAIRMAN. Does anyone else desire to be heard on the point or order?

Mr. HORTON. Mr. Chairman, I did not understand what the Chair said as to the language that is to be stricken.

The CHAIRMAN. The language the gentleman from New York (Mr. OTTINGER) wishes to be stricken on the point of order is the language beginning on page 8, line 2, going through page 9, line 2. All of that language, which includes the part the gentleman from New York (Mr. HORTON) has raised his point of order against.

Mr. HORTON. Mr. Chairman, I thank the Chair.

The CHAIRMAN. The Chair is prepared to rule.

The point of order has been conceded, and the point of order is sustained. The language on page 8, line 2, through page 9, line 2, is stricken.

Mr. McDADE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I agree with the able gentleman from Illinois on the point of order the Chair has already ruled upon.

I take this time because I want to express my regret for the point of order being offered. If this House could vote today, we would vote virtually unanimously to spend the $200 million for conservation grants for schools and health care facilities. All we are trying to do is to retrofit them, to make them more efficient, to insulate them, to make them better institutions, in terms of energy conservation.

We are told there is a crisis. The President tells us there is a crisis every day. There is $25 million to try to get local government buildings retrofitted. The House would overwhelmingly pass that. Yet because the authorizing committee has not finished its work, all of this is now going to go out the window. We will not see it, perhaps, until the supplemental some time next year.

I recognize the gentleman from New York has his rights as a Member. I am jealous of the rights of any Member, that they be protected. I compliment my chairman who decided not to seek a rule waiving points of order on these items. He believed as do I that the House ought to work its will. We could have, I suppose, gone up to the Committee on Rules and said, "We would like to get a rule that covers these, even though they are not currently authorized, because we do want to retrofit public buildings, schools, and places where people are kept in health care facilities, and make them energy efficient."

I say, Mr. Chairman, I think the action is regrettable. It would take us 2 seconds to vote today, and there would not be five votes against knocking these vital items out of the bill. It is regrettable. It just sets back our efforts as a nation to come to grips with the energy problem. It sets back our efforts to quickly develop solar energy. I regret the action taken here today.

AMENDMENT OFFERED BY MR. OTTINGER

Mr. OTTINGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OTTINGER: Page 8, following line 1, insert the following:

FEDERAL ENERGY ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $31,338,000: *Provided That* $3,872,000 of such amount shall not be available except for compliance activities, in addition to the sums available herein for compliance contract activities, in connection with regulatory programs administered by the Federal Energy Administration: *Provided further,* That of the total amount of this appropriation, not to exceed $6,000,000, shall remain available until expended for a reserve to cover any defaults from loan guarantees issued to develop underground coal mines as authorized by Public Law 94–163: *Provided further,* That the indebtedness guaranteed or committed to be guaranteed under such law shall not exceed the aggregate of $62,000,000.

POINT OF ORDER

Mr. YATES. Mr. Chairman, I make a point of order against the amendment.

Mr. HORTON. Mr. Chairman, I reserve a point of order.

Mr. YATES. I make a point of order against the amendment, Mr. Chairman.

The CHAIRMAN. The gentleman from Illinois may be heard on his point of order.

Mr. YATES. Mr. Chairman, I make a point of order that the amendment offered is legislation in an appropriation bill and thus in violation of clause 2, rule 21.

The gentleman's amendment states: *Provided,* That $3,872,000 of such amount shall not be available except for compliance activities, in addition to the sums available herein . . ." The stipulation that the funds shall not be available except for compliance activities is a restriction of executive discretion and provides affirmative direction to an executive.

Cannon's Precedents, volume VII, section 1691, states:

The purpose rather than the form of a proposed limitation is the proper criterion by which its admissibility should be judged, and if its purpose appears to be a restriction of executive discretion to a degree that may be fairly termed a change in policy rather than a matter of administrative detail it is not in order.

There are other precedents, Mr. Chairman, but I think this adequately covers the ground, and I respectfully submit that the amendment offered by the gentleman from New York (Mr. OTTINGER) is subject to the point of order.

The CHAIRMAN. Does the gentleman from New York (Mr. OTTINGER) desire to be heard on the point of order?

Mr. OTTINGER. I would like to be heard on the point of order, Mr. Chairman.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. OTTINGER. Mr. Chairman, the amendment which I have offered, which is offered also on behalf of the gentleman from Michigan (Mr. DINGELL), seems to me to be a very straightforward amendment and one that is completely in order, restoring the moneys which were in fact authorized in the original bill.

If we read the bill, we see that on lines 4 and 5, on page 8, $293,611,000 was appropriated, of which $266,145,000 shall becomc available only upon enactment of authorizing legislation. The remaining amount is in fact authorized.

The limitation to which my friend, the gentleman from Illinois (Mr. YATES), refers is just that. All it does is it provides that $3,872,000 of the amount shall not be available except for compliance activities. It requires no affirmative actions on behalf of the department; it requires no exercise of discretion. It is a simple, straightforward limitation on the use of the money.

Therefore, Mr. Chairman, I think the point of order should be overruled.

Mr. YATES. Mr. Chairman, may I be heard further on the point of order?

The CHAIRMAN. The Chair will hear the gentleman.

Mr. YATES. Mr. Chairman. may I respectfully cite another precedent?

This is from Hinds Precedents, volume IV, section 3860, and it states that when Chairman Albert Hopkins held that where an executive officer has general discretion as to the application of an appropriation, an appropriation limited to a specific detail has been legislation in that the executive in the discharge of his duties in expending the appropriations provided for in the bill might think to be unnecessary or unwise.

Mr. OTTINGER. If I may respond to that argument, Mr. Chairman, there is no discretionary authority granted here. It merely says that of the $31 million, $3 million has to be used for a particular purpose. It seems to me that is an ordinary limitation on the appropriation and one which would not be subject to a point of order.

The CHAIRMAN (Mr. GIBBONS). The Chair is going to overrule the point of order, based upon the precedents that the Chair has used before in this type of matter and since the amendment in effect earmarks a sum for a particular authorized purpose without affirmatively directing a particular use of the funds.

The Chair cites precedents of the House of Representatives, specifically, Cannon's Precedents, volume 7, section 1694, which reads as follows:

While a limitation may not involve change of existing law or affirmatively restrict executive discretion, it may properly effect a change of administrative policy and still be in order.

Therefore, the Chair overrules the point of order.

The gentleman from New York (Mr. OTTINGER) will be recognized for 5 minutes in support of his amendment.

Mr. OTTINGER. Mr. Chairman, this amendment would add approximately $3.9 million to a supplemental appropriation for the FEA, now the Economic Regulatory Administration, compliance program.

Last July, Mr. Stanley Sporkin of the Securities and Exchange Commission issued a report of a task force which he headed concerning the disaster in enforcement at FEA. In that report he stated that there was a huge backlog of cases totaling $1.7 billion in overcharges by the oil industry. These cases largely resulted from actions taken by the industry during the embargo period of 1973. That was 4 years ago, and the cases are becoming stale.

A principal recommendation in that report was to reduce that backlog within 18 to 24 months. It also urged better enforcement techniques and better use of the agency's lawyers.

In August of this year the FEA asked OMB to provide the necessary funds and personnel to implement this report. The OMB rejected that proposal. Instead, OMB dreamed up a reprograming proposal designed, in effect, to cut back the compliance function by 102 positions. In addition, the OMB called for a reduction in the reseller program on the assumption that there would be gasoline decontrol approved in this session of Congress. That gasoline decontrol measure has not been resubmitted by the administration, and I doubt that it will be in the very near future. Thus, the cutback in the reseller audit program is clearly inappropriate.

Mr. Chairman, the gentleman from Michigan (Mr. DINGELL) had numerous discussions with the Committee on Appropriations and the administration over how additional positions to carry out this program would be established without increasing the budget. I am not entirely, nor is he entirely, opposed to a reprograming. However, every proposal I have seen to date for reprograming simply robs Peter to pay Paul. Other programs would be hurt, and the compliance effort still not adequately staffed.

Furthermore, it does not appear that there are adequately trained people who could be reprogramed to do this very important compliance work.

More recently, the OMB has suggested that the whole matter should be deferred until next January, when the 1979 budget is placed before Congress. In my judgment, that would be a mistake. The overcharges, as I have already stated, are stale. Each month of delay makes it more difficult for the agency to enforce these cases and collect the overcharges from the industry. Who benefits?—not the public, but the oil industry. So long as they do not have to pay, the money is theirs.

Mr. Chairman, I think it is in the public interest to resolve this matter now. It is also in the interest of the oil industry because continued criticism of the FEA and the way in which they have handled these violations also results in continued criticism of the industry. It is to their benefit to avoid that criticism and to see that the program is enforced and the backlog cleaned up quickly. Indeed, Gulf Oil, to its credit, recently testified before our subcommittee that it supported the efforts of the Sporkin report.

Mr. Chairman, this amendment also adds back in the money that is authorized for salaries and expenses of FEA.

I would like to say, in response to the statement of my friend, the gentleman from Pennsylvania (Mr. MCDADE), that I am the principal sponsor of many of these very important conservation programs for which appropriations were knocked out by a point of order on behalf of the gentleman from Michigan (Mr. DINGELL). I hope that the Committee on Appropriations will act quickly on these items once the authorization is passed. I have stricken them out at the request of the chairman of the subcommittee because of the uncertainty of their fate in the current conference and in protest against appropriating prior to passage of the authorization; but I know that he strongly supports these programs. I strongly support the programs, and I do hope we will get quick response from the committee.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I see that in the gentleman's amendment he puts back in $31 million. Therefore, the gentleman reduced this particular section by approximately $262 million; is that correct?

Mr. OTTINGER. It is $266 million, I believe.

Mr. ROUSSELOT. My understanding is it is a reduction of $262 million. Is any of the $31 million which the gentleman put back in the bill subject to any points of order? I ask that since the gentleman is an expert on points of order.

Mr. OTTINGER. No. That is money which was authorized for salaries and expenses of the FEA.

Mr. ROUSSELOT. None of the $31 million, the gentleman can assure us, is subject to any point of order?

Mr. OTTINGER. I can assure the gentleman that it is authorized.

Mr. ROUSSELOT. Is it subject to a point of order?

Mr. OTTINGER. Not that I am aware of.

The CHAIRMAN. The time of the gentleman from New York (Mr. OTTINGER) has expired.

Mr. OTTINGER. At any rate, the time has expired for raising any such points of order.

Mr. YATES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Illinois (Mr. YATES) is recognized for 5 minutes.

Mr. YATES. Mr. Chairman, I rise most reluctantly in opposition to the amendment.

There is no question but that the purpose of the amendment is a desirable one. The problem is one which cannot be cured by money, however.

The committee placed in the regular fiscal year 1978 appropriations bill sufficient funds to take care of the 3,716 personnel authorized to FEA by the personnel ceilings of the Office of Management and Budget. In addition, there is an additional amount of $2.5 million in this bill to provide for the compliance program.

The gentleman's amendment would add another 270 personnel, which would be in excess of the personnel ceilings that have been established by the Office of Management and Budget. If the Office of Management and Budget insists upon its personnel ceilings, the money will not be expended. We encountered the same kind of dilemma in connection with the Forest Service program when the Congress appropriated funds under the Rarick-Humphrey Act, which would take care of 82 percent of the requirements of the Forest Service. We put the money in and yet the OMB ceilings prevented the Forest Service from carrying out its function. Under the OMB ceilings the money could not be used.

Let me say to the Members that I have been in communication with the gentleman from Michigan (Mr. DINGELL) and have had conferences with the OMB and the FEA. The Federal Energy Administration Administrator came to our committee room and sat down with staff from Mr. DINGELL's committee and with me, in an effort to solve this question. In fact, a new precedent was established when a responsible member of OMB met with members of our subcommittee on this subject. I thought that the gentleman from OMB in this instance acted reasonably because he said that he, too, wants the compliance program to go forward. However, in view of the reorganization of the Department of Energy, which is now taking place, there are approximately 1,000 people in the Department who have not yet been assigned to any job in that Department. He stated that they have every confidence that from this pool of people who are not now assigned, that adequate numbers could be used for the compliance program of the Department of Energy.

We have this choice of putting in the funds in accordance with the gentleman's amendment, and not having them used, or to stand by the action of the committee. If those funds are inadequate

for the purpose, and we wait for 3 months after the organization of the Department of Energy to see how that department is organized, and to see whether they act in accordance with the gentleman from the Office of Management and Budget's agreement with us to permit an adequate number of personnel to be assigned to the compliance union, we can then add funds.

So, Mr. Chairman, I urge the House to reject this amendment. I think it is not an effective amendment, because of the personnel ceilings that have been established. The money will not be used. In the event that additional personnel are needed, they could be supplied after the Department of Energy is organized and we can then get on with the job.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I thank my chairman for yielding. He has stated the position accurately. This amendment has been discussed for some time, now. It is quite clear, as the gentleman has said, this money is not going to be effective, and there is no point in adding this money because it is not going to be spent. We have had money in the bill that might have been spent for a good purpose, which was agreed upon, and which was knocked out on a point of order. This money, if it goes in the bill, will never get through the Office of Management and Budget.

If I ever saw an effort in contradiction, then this is it.

We should vote down the amendment and get on with the bill.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from New York.

Mr. OTTINGER. There are some 1,000 positions. It has been made quite clear to the gentleman's subcommittee, and to ours, as I understand it, that many of those people would not be available for compliance purposes.

I would quote from a letter from the gentleman to the Deputy Associate Director of OMB, of October 11, 1977.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. OTTINGER, and by unanimous consent, Mr. YATES was allowed to proceed for 2 additional minutes.)

Mr. OTTINGER. In the letter you say that:

> You mentioned that approximately 1,000 vacancies have been identified within the various DOE units, although many of those are related to specific programs and thus not available for allocation to the compliance program.

That is what concerned the gentleman. It is true there is a personnel ceiling for the time being, but the gentleman knows what a fighter my chairman, the gentleman from Michigan (Mr. DINGELL), is, and he had assured me if the money is in he will take care of it being used.

Mr. YATES. Let me point out that the letter the gentleman has cited shows the concern of our subcommittee for the enforcement of this particular activity. We do believe that there are adequate personnel within the 1,000 personnel pool that the DOE will have. We have 3 months in which to see how the DOE is organized. There will be another supplemental bill early in the next year. I will assure the gentleman that we will follow this activity very closely, and if there is not a bona fide attempt by OMB to place in the compliance activity an adequate number of personnel we will take care of it at that time.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

I would hope that the amendment could be adopted because I think this is critical. I thank the gentleman for his assurances, but I think it is very important that we get to this.

Mr. YATES. Let me tell the gentleman our committee has as much interest and possibly more than the gentleman's committee has, because we want to see the additional money that is wrapped up in the compliance proceedings brought into the Treasury, so we have that same kind of interest as the gentleman has.

Mr. Chairman, I urge that the amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. OTTINGER).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OFFICE OF EDUCATION

HIGHER EDUCATION

For an additional amount for "Higher education, $9,100,000, to remain available until expended for the support of the construction of two demonstration model intercultural centers as authorized by section 721(a)(2) of the Higher Education Act of 1965 as amended: *Provided*, That in addition the Commissioner is to make available new construction loans not to exceed $7,200,000 from amounts available in the Higher Education Facilities Loan and Insurance Fund for the construction of two demonstration model intercultural centers.

POINT OF ORDER

Mrs. HOLT. Mr. Chairman, I make a point of order against the entire paragraph beginning on page 9, line 20.

The CHAIRMAN. The gentlewoman will state the point of order.

Mrs. HOLT. I make the point of order, Mr. Chairman, on the ground that it violates clause 2 of rule XXI which prohibits legislation in a general appropriation bill. Mr. Chairman, I would like to quote from Deschler's Procedure, chapter 26, section 7.5, which states:

> A paragraph in a general appropriation bill containing funds to enable the National Academy of Sciences to conduct an analysis of the Environmental Protection Agency under contract, which funds were to remain available until expended, was conceded to contain an appropriation unauthorized by law and legislation in violation of clause 2 rule XXI and was ruled out on a point of order.

The language "to remain available until expended" in line 22, page 9, would extend the availability of the $9.1 million for construction grants beyond the end of the fiscal year for which the funds are appropriated. No such availability is provided by the authorization for the grant program.

There are other precedents, Mr. Chairman, but I will not offer them.

The CHAIRMAN. Does anyone else wish to be heard on the point of order?

Mr. FLOOD. Mr. Chairman, the point of order that the gentlewoman raises against the language in line 22, page 9, that concerns the extended availability of funds has merit, and we concede the point of order on that language.

The CHAIRMAN. The point of order is conceded, and the paragraph is stricken.

AMENDMENT OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr FLOOD:

HIGHER EDUCATION

For an additional amount for "Higher education", $9,100,000 for the support of the construction of two demonstration model intercultural centers as authorized by section 721(a)(2) of the Higher Education Act of 1965 as amended: *Provided*, That in addition the Commissioner is to make available new construction loans not to exceed $7,200,000 from amounts available in the Higher Education Facilities Loan and Insurance Fund for the construction of two demonstration model intercultural centers.

Mrs. HOLT. Mr. Chairman, I would like to make a point of order against the amendment.

The CHAIRMAN. The gentlewoman will state it.

Mrs. HOLT. Mr. Chairman, the language "the Commissioner is to make available new construction loans" constitutes a direction to the executive officer which goes beyond the authorization for the loan program.

The CHAIRMAN. Does the gentleman from Pennsylvania wish to be heard on the point of order?

Mr. FLOOD. Yes. I would like to say that this deals with lines 2 and 3, I presume, of page 10. Here we have a citation mentioned by the proponent of the point of order and that does not apply to the appropriation. Instead the authority we have here for this language in lines 2 and 3 of page 10 is found in section 744(a) of the Higher Education Act, and I will read it for the Members. This calls for authorization in any bill on which the appropriation is based, and section 744 reads as follows:

> SEC. 744. (a) There is hereby created within the Treasury a separate fund for higher education academic facilities loans and loan insurance (hereafter in this section called the "fund") which shall be available to the Commissioner without fiscal year limitation as a revolving fund for the purposes of making loans and insuring loans under this part. The total of any loans made from the fund in any fiscal year shall not exceed limitations specified in appropriation acts.

It so happens that here the Appropriation Act does specify limitations and so require.

Mrs. HOLT. Mr. Chairman, but the language of the law gives the Commissioner discretion. It says the Commissioner is authorized to make loans, and

this is a direction. The Commissioner is to make available new construction loans, so therefore it is legislation on an appropriation bill.

Mr. CONTE. Mr. Chairman, I would like to be heard on the point of order.

I disagree with the gentlewoman from Maryland. As the able chairman pointed out, section 744(a) of the Higher Education Act provides:

> The total of any loans made from the fund in any fiscal year shall not exceed limitations specified in the appropriation acts.

And therefore the language in the bill simply carries out the directive in the basic law, in section 744(a).

I hope the point of order is overruled.

The CHAIRMAN (Mr. GIBBONS). The Chair is prepared to rule.

The Chair has examined the authorization for this appropriation as contained in title 20, United States Code, section 1132c–3(a) as amended in 1972, and the language at the bottom of the page reads this:

> The total of any loans made from the fund in any fiscal year shall not exceed limitation specified in the appropriation act.

In the opinion of the Chair, the amendment merely sets a limitation on loan authority as permitted by law and does not contain new loan authority. So the Chair would have to overrule the point of order.

The gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes in support of his amendment.

Mr. FLOOD. All that does is restore the language. We have had a lot of acts written in this way.

Mr. Chairman, the Education Amendments of 1976 enacted October 12, 1976, authorized HEW to support "the construction of facilities for model intercultural programs designed to integrate education requirements of substantive knowledge and language proficiency."

The subcommittee is recommending funds in this supplemental appropriations bill to start this program in two areas of the country. Last year Congress enacted this program and now we are appropriating funds to carry it out.

The subcommittee did agree to specify the areas for the initial two centers, because Washington and Boston have the greatest concentration of international students. These two areas fit the authorizing legislation and they are ready to proceed. The Fletcher School at Tufts University is the oldest graduate school in the field of foreign affairs. Georgetown University has the oldest undergraduate school of foreign service.

There is obviously a need to expand the supply of people trained in international and world affairs. The institutions specified are recognized leaders in the field of international education. They are ready to proceed to expand their capability. All we are suggesting is to appropriate the necessary funds to go ahead.

Mrs. HOLT. Mr. Chairman, I move to strike the last word.

This amendment would add $9.1 million in grants and $7.2 million in loans intended for construction of two demonstration model intercultural centers at Georgetown University and Tufts University.

In the consideration of proposals to spend the taxpayers' money, it is time for us to draw some distinctions between what is merely nice and what is necessary.

The taxpayers are very heavily burdened by the growth of Government spending, and their Representatives in Congress have failed to heed their cries for relief. My amendment is the opportunity to take one small step for our taxpaying constituents. It would symbolize our concern for them.

I have read the transcript of the hearings conducted by the appropriations subcommittee on these intercultural centers. They would certainly be very nice, bringing professors and scholars from many nations together in grand facilities.

But they are not necessary, Mr. Chairman. The public at large has no demonstrable need for these centers. And there is no evidence that the affected universities would stop their splendid international programs if these facilities were not provided.

I have no intention of denigrating the excellence of the international programs which are offered at the universities. They can be extremely proud of their accomplishments. Their wish to improve their facilities is even laudable.

But we cannot continue to shovel the taxpayers' money to everything that is merely desirable. The economic problems of our country can be largely traced to the inability of Congress to draw the distinction between desirability and necessity. These intercultural centers are not necessary.

One further point I would make. What is the emergency? Even assuming that this House might someday approve appropriations for these centers, why is their construction deemed so urgent that they come before us in a supplemental appropriation bill?

I submit that there is no urgency, and that this issue should be considered in the normal appropriations process, where its importance could be weighed against all the other necessary or desirable programs in the education field.

Mr. JOHN T. MYERS. Mr. Chairman, will the gentlewoman yield?

Mrs. HOLT. I yield to the gentleman from Indiana (Mr. JOHN T. MYERS).

Mr. JOHN T. MYERS. Mr. Chairman, I have been reading from the hearings conducted on the intercultural centers and the cost and an appropriations requested for this is estimated at $100 per square foot. I realize that construction costs have gone up in the country, but things like support space, including storage and lockers are at $100 per square foot, and washrooms at $100 per square foot, and circulation and mechanical and structural areas at $100 per square foot, and in every area of these intercultural centers costs are at $100 per square foot.

It seems to me anything that expensive ought to be sent back and restudied. One can have an awful lot of building for $100 per square foot.

Mrs. HOLT. I think the gentleman is absolutely correct.

This is just not an emergency. I think we ought to give it more careful consideration.

I urge defeat of the amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman yielding. I understand this is 100,000 square feet to be built at $100 a square foot. Now, what is the great urgency to that? Why cannot we do it in the normal authorization process?

Mr. FLOOD. This is the normal practice.

Mr. ROUSSELOT. Placing an unauthorized $16 million item in a supplemental appropriations is a normal process?

Mr. FLOOD. This is the normal process. We went through this last year.

Mr. ROUSSELOT. How many buildings does the gentleman have being built in his district at $100 a square foot?

Mr. FLOOD. This is not the first time it has been done.

Mr. ROUSSELOT. That does not make it right, especially for two colleges that have not been approved by an appropriate screening panel.

Mr. FLOOD. We have established the fact this square footage was needed. We are simply going to delay this thing, if we do not fund it in this appropriation bill.

Mr. ROUSSELOT. What is the great urgency for this $16 million when the law has not been complied with?

Mr. FLOOD. There is urgency on all these programs in this kind of education. Delay increases the cost.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I just wonder why the Congress of the United States should be asked to single out for a total appropriation of $16 million the construction of two buildings at Tufts University and Georgetown University, which appear to be nothing more than teaching halls, which they ought to be paying for themselves and financing through other sources.

Mr. FLOOD. Mr. Chairman, let me say that the gentleman stands as exhibit A of what should be done for Georgetown University.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

(By unanimous consent, Mr. CONTE was allowed to proceed for 5 additional minutes.)

The CHAIRMAN. The gentleman from Massachusetts is recognized for 10 minutes.

Mr. CONTE. Mr. Chairman, I rise in support of the Tufts-Georgetown Intercultural Centers.

The Labor-HEW Subcommittee and the full Appropriations Committee approved the request for $9.1 million in direct grants and $7.2 million in loan guarantees to be used by the two schools for the development of these centers. The

schools propose to finance 50 percent of the cost of the centers from the Federal grants, 30 percent from repayable Federal guaranteed loans and 20 percent from the universities' resources.

National survival is of the highest priority and diplomacy is essential to it. Both of these schools have been providing a great service to the United States by training highly qualified career diplomats and ambassadors. At present, there are over 4,000 persons serving the United States in the field of international affairs who are graduates of either Tufts or Georgetown. No other two schools combined could come close to that figure.

Under the Higher Education Act Amendments of 1976, Public Law 94–482, the Secretary of the Department of Health, Education, and Welfare is "authorized to make grants or contracts for the construction of facilities for model intercultural programs designed to integrate education requirements of substantive knowledge and language proficiency." Both Georgetown and Tufts meet the requirements of this legislation. Both have a reputation for academic excellence and language proficiency. But so do other institutions. Why then Georgetown and Tufts?

The authorizing legislation allows models, that is experiments for other schools to follow. Under that criteria, Georgetown and Tufts are the obvious choice. Dr. John Silber, president of Boston University, when testifying at the Senate hearings on this appropriations bill, said it best when he said:

> The kind of facilities and the kind of instruction that will be available at Tufts and Georgetown after they have benefited by this grant will be the start of programs that all other institutions interested in foreign relations can look to for guidance, consultation and support. Many programs in the U.S. are effective because they have learned a great deal from Tufts and Georgetown.

These schools are models because of their seniority and historically they have been the pioneers in international and intercultural experiments. They are the senior institutions in foreign affairs, Georgetown having the oldest school of foreign service, while Tufts has the oldest graduate school, Fletcher. They have proven to be the innovators and disseminators of international educational programs.

As I mentioned previously, these institutions have been assisting the United States in its diplomatic efforts by producing a large number of highly qualified individuals in the field of foreign affairs.

The Fletcher School of Law and Diplomacy at Tufts University has 2,100 graduates at work; 261 of these are in the Department of State and 273 in other Federal agencies. Fourteen of our Ambassadors and nearly 200 Government officials of foreign countries, including 35 Ambassadors are Fletcher School graduates. Seventy-seven are employed by the various international organizations such as the United Nations and the World Bank. The figures for Georgetown's School of Foreign Service are comparable: among its 7,500 graduates have been 375 U.S. Foreign Service officers and 1,275 other U.S. Government officers; 2,025 have entered the foreign service of foreign governments. As of June 1976, some 340 Georgetown alumni were active in the U.S. Foreign Service, and 10 of our 125 embassies had Georgetown graduates as Ambassador or deputy chief of mission.

These two schools have carried the burden without asking much and have actually subsidized the taxpayer an average of $4,000 per student in the training of those in foreign service. Without congressional support to upgrade the facilities of these institutions, it will be difficult, if not impossible, for these schools to continue to produce the caliber of graduates necessary to carry out the diplomacy of the United States. These schools have nearly doubled in size in the last few years.

The establishment of these two demonstration intercultural centers at George and Tufts would enable these institutions to continue their present intercultural programs as well as serve as examples for other American universities to emulate. These centers would also serve as focal points for the District of Columbia and the Boston area with their large international population and involvement in international affairs.

The intercultural centers would involve graduate and undergraduate students, faculties, and community leaders of this country with their counterparts in foreign nations and use the knowledge and understanding gained from this involvement toward the solution of the multifaceted problems confronting all of us as members of the world community.

I know you will all agree with me that there is a legitimate need for these kinds of demonstration projects and I hope you agree that Georgetown and Tufts are the obvious choices. This does not preclude other qualified universities from this program, but I think it is important to stress that this is a demonstration project, to be utilized by other universities to reorganize their intercultural academic programs.

It was not the intent of the authorizing legislation to provide funds for programs at a large number of sites, the concept stressed in this legislation was "model intercultural programs." To quote from President Silber's Senate testimony once again:

> If Congress is looking for excellence in intercultural programs, it can do no better than to build on the existent and long-demonstrated strengths of Tufts and Georgetown. In this area, competitive bidding among institutions can only be to the detriment of quality.

I hope my colleagues concur in this opinion and strongly support the Georgetown-Tufts Intercultural Centers, not because of parochial interests, but because of a genuine interest in maintaining and improving the quality of the U.S. diplomatic corps.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. I thank the gentleman for yielding.

Mr. Chairman, some months ago, we had an item before us for an appropriation regarding a fish hatchery which the gentleman was interested in. I was tempted to ask this question at that time, but I did not. I do feel that those of us in the West, who have water development projects which have to fulfill certain criteria, might be interested if the gentleman can tell us whether or not there is a cost-benefit ratio in relation to these projects, and, if so, what the cost-benefit ratios are.

Mr. CONTE. Fifty percent of it will be put up by the university.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, can we get the cost-benefit ratio on this?

Mr. CONTE. No, because on cost-benefit programs they do not put up anything. My good friend knows that.

Mr. ROUSSELOT. On the water projects? Oh, yes, they do.

My understanding is—and I know my colleague is a strong adherent of the law—that the law relating to this appropriation for these two institutions, which are most worthy, states that applications as not to be approved until reviewed by a panel of outside experts and specialists.

Now, what outside specialists reviewed this application? Were other applications taken, were all of them turned down, and how did these two come up when it was a low-priority item?

Mr. CONTE. These two will still have to be reviewed by the outside specialists.

Mr. ROUSSELOT. Do I understand it is to be done?

Mr. CONTE. Yes.

Mr. ROUSSELOT. So if we vote for this, we are not abiding by the law?

Mr. CONTE. We are abiding by the law.

Mr. ROUSSELOT. How?

Mr. CONTE. It will be done.

Mr. ROUSSELOT. But that is not what the law says. The law says that applications are not to be approved until reviewed by a panel of outside specialists, and since my distinguished colleague has said it is to be done, obviously we should vote down the amendment.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. CONTE) has expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. CONTE was allowed to proceed for 1 additional minute.)

Mr. CONTE. Mr. Chairman, the gentleman from California (Mr. ROUSSELOT) is in here making his usual argument, and I would just like to remind him that this is a good project.

If the gentleman will read page 9 and page 10 of the bill, he will find it does not mention the schools. It does not say that as a matter of law the money will go to these two schools, although I hope it will go to these two schools. I am referring to this amount of $9.1 million.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield, I understand this is about $100 a square foot. That is more expensive than the Defense Department buildings.

Mr. CONTE. Mr. Chairman, I would like to remind the gentleman that if this amendment passes, it will have to go through the review law process the gentleman mentioned. I wish the gentleman would not try to draw red herrings over this issue.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I just want to note for the committee this particular issue was heard before the Committee on Appropriations. I do not think there should be any rush to add this money in this particular bill.

The gentleman from Illinois (Mr. MICHEL) sat in the hearings, and he made a statement which is a good description of the pending issue. After listening to the heads of these universities explaining their desire for a demonstration model center for these schools, Mr. MICHEL said this:

> I wouldn't discount the fact that the two schools have been prominent and may be preeminent in their field, but what would you propose to do by way of demonstration that other schools are going to be able to realize from this, other than the demonstrated ability to come before the committee and get a grant and loan to build facilities?

I think that is the issue. I do not think we ought to single out any specific schools for this kind of special treatment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I would like to bring to my colleague's attention the fact that it is true these two schools, Georgetown and Tufts, produce a certain number of Foreign Service officers, but 85 percent of the Foreign Service officers are trained at colleges other than the two named here.

So I do not think we should be persuaded to go ahead on this $16 million appropriation in the mistaken belief we will stop the flow of Foreign Service graduates. Trimming this amount will not stop the flow of Foreign Service officers or the number being graduated.

I would like to reemphasize the matter of the costs. At $100 per square foot, that is more expensive than what we are paying for most other Federal buildings. I think it is just an unneeded and wasteful thing to do at this moment, although I am sure the two colleges involved are very distinguished in their field.

Let me review the reasons the House should vote this amendment down:

First. The intercultural program itself is a low priority item for which there is no overriding reason to initiate funding.

Second. Singling out two schools for special consideration is an inequitable method of providing funding which discriminates against other schools which might be interested in applying for funding.

Third. The law states that all interested schools are to be given an opportunity to apply for funds.

Fourth. The law states that applications are not to be approved until reviewed by a panel of outside specialists. If we ask them to ignore this, we are calling for violation of our own law.

Fifth. Eighty-five percent of our Foreign Service officers are trained at schools other than Georgetown and Tufts, so there is no basis, in terms of any national need, for giving these schools favored treatment.

Sixth. Tufts estimates the cost of its proposed facility at $100 per square foot. This is higher than some of our defense facilities. Clearly these costs are excessive and padded. It was clear during our hearings that the Tufts proposal was hurriedly put together in order to be part of Georgetown's appeal for funding. This is all the more reason why any applications should be thoroughly reviewed by HEW before funding is approved.

Seventh. How are the Members here going to explain to any of their own schools which may want funding under this program that Georgetown and Tufts are more deserving?

Eighth. Funds for this program have not been requested by the administration, and the administration has expressed opposition to such funding.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. FLOOD).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. CONTE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand by the gentleman from New York (Mr. CONTE) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 215, noes 202, not voting 17, as follows:

[Roll No. 672]

AYES—215

Addabbo	Beilenson	Burke, Calif.
Akaka	Bevill	Burke, Mass.
Alexander	Bingham	Burlison, Mo.
Allen	Blanchard	Burton, John
Ammerman	Blouin	Burton, Phillip
Applegate	Boggs	Carney
Aspin	Boland	Carr
AuCoin	Bolling	Carter
Baldus	Bonior	Chappell
Barnard	Bowen	Chisholm
Baucus	Brademas	Clay
Beard, R.I.	Brodhead	Conte
Bedell	Brown, Calif.	Conyers
Corman	Johnson, Calif.	Pike
Cornell	Jones, Tenn.	Pressler
Cotter	Jordan	Preyer
D'Amours	Kastenmeier	Price
Danielson	Kazen	Quillen
de la Garza	Kemp	Rangel
Delaney	Keys	Reuss
Dellums	Kildee	Richmond
Derrick	Kostmayer	Risenhoover
Dicks	LaFalce	Rodino
Drinan	Le Fante	Roe
Early	Lederer	Roncalio
Eckhardt	Levitas	Rooney
Edgar	Lloyd, Calif.	Rose
Edwards, Ala.	Long, La.	Rosenthal
Edwards, Calif.	Lujan	Roybal
Eilberg	Luken	Russo
Ertel	Lundine	Scheuer
Evans, Ga.	McCloskey	Seiberling
Fascell	McDade	Sharp
Fenwick	McFall	Shipley
Fish	McHugh	Sikes
Fisher	McKinney	Simon
Fithian	Maguire	Skelton
Flood	Mahon	Slack
Florio	Mann	Smith, Iowa
Flynt	Markey	Solarz
Foley	Mattox	Spellman
Ford, Mich.	Mazzoli	St Germain
Ford, Tenn.	Meeds	Staggers
Fraser	Meyner	Stanton
Gaydos	Mikulski	Stark
Gephardt	Mikva	Steed
Giaimo	Milford	Steers
Glickman	Miller, Calif.	Stokes
Gonzalez	Mineta	Studds
Gore	Moakley	Thompson
Hammer-schmidt	Moffett	Thornton
	Moorhead, Pa.	Traxler
Hanley	Murphy, N.Y.	Tsongas
Hannaford	Murphy, Pa.	Tucker
Harkin	Murtha	Udall
Harrington	Myers, Michael	Van Deerlin
Harris	Natcher	Vento
Hawkins	Neal	Walgren
Heckler	Nedzi	Walsh
Heftel	Nix	Waxman
Hightower	Nolan	Weiss
Hollenbeck	Nowak	White
Holtzman	O'Brien	Whitten
Horton	Oakar	Wilson, C. H.
Howard	Oberstar	Wilson, Tex.
Hubbard	Obey	Wright
Hughes	Ottinger	Yates
Hyde	Patten	Yatron
Ireland	Pattison	Young, Fla.
Jacobs	Pease	Young, Tex.
Jeffords	Perkins	Zablocki
Jenrette	Pickle	Zeferetti

NOES—202

Abdnor	Corcoran	Hall
Ambro	Cornwell	Hamilton
Anderson, Calif.	Coughlin	Hansen
	Crane	Harsha
Anderson, Ill.	Cunningham	Hefner
Andrews, N.C.	Daniel, Dan	Hillis
Annunzio	Daniel, R. W.	Holland
Archer	Davis	Holt
Armstrong	Derwinski	Huckaby
Ashbrook	Devine	Ichord
Badham	Dickinson	Jenkins
Bafalis	Dornan	Johnson, Colo.
Bauman	Downey	Jones, N.C.
Beard, Tenn.	Duncan, Oreg.	Jones, Okla.
Benjamin	Duncan, Tenn.	Kasten
Bennett	Edwards, Okla.	Kelly
Biaggi	Emery	Ketchum
Breaux	English	Kindness
Breckinridge	Erlenborn	Krebs
Brinkley	Evans, Colo.	Krueger
Brooks	Evans, Del.	Lagomarsino
Broomfield	Evans, Ind.	Latta
Brown, Mich.	Fary	Leach
Broyhill	Findley	Leggett
Buchanan	Flippo	Lehman
Burgener	Flowers	Lent
Burke, Fla.	Forsythe	Livingston
Burleson, Tex.	Fountain	Lloyd, Tenn.
Butler	Fowler	Long, Md.
Byron	Frenzel	Lott
Caputo	Frey	McClory
Cavanaugh	Fuqua	McCormack
Cederberg	Gammage	McDonald
Clausen, Don H.	Gibbons	McEwen
	Gilman	McKay
Clawson, Del	Ginn	Madigan
Cleveland	Goodling	Marks
Cochran	Gradison	Marlenee
Cohen	Grassley	Marriott
Coleman	Gudger	Martin
Collins, Tex.	Guyer	Mathis
Conable	Hagedorn	Michel

Miller, Ohio	Rinaldo	Stump
Minish	Roberts	Symms
Mitchell, Md.	Robinson	Taylor
Mitchell, N.Y.	Rogers	Teague
Mollohan	Rostenkowski	Thone
Montgomery	Rousselot	Treen
Moore	Rudd	Trible
Moorhead, Calif.	Runnels	Vander Jagt
	Ruppe	Vanik
Moss	Ryan	Volkmer
Mottl	Santini	Waggonner
Murphy, Ill.	Sarasin	Walker
Myers, Gary	Satterfield	Wampler
Myers, John	Sawyer	Watkins
Nichols	Schroeder	Weaver
Panetta	Schulze	Whitehurst
Patterson	Sebelius	Whitley
Pettis	Shuster	Wiggins
Poage	Sisk	Wilson, Bob
Pritchard	Skubitz	Winn
Pursell	Smith, Nebr.	Wirth
Quayle	Snyder	Wydler
Quie	Spence	Wylie
Rahall	Stangeland	Young, Alaska
Railsback	Steiger	Young, Mo.
Regula	Stockman	
Rhodes	Stratton	

NOT VOTING—17

Andrews, N. Dak.	Collins, Ill.	Koch
	Dent	Metcalfe
Ashley	Diggs	Pepper
Badillo	Dingell	Ullman
Bonker	Dodd	Whalen
Brown, Ohio	Goldwater	Wolff

Mr. FARY and Mr. RAHALL changed their vote from "aye" to "no."

Messrs. YOUNG of Florida, VENTO, BAUCUS, STEERS, and HAMMERSCHMIDT changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OPERATING EXPENSES

For an additional amount for "Operating expenses", to remain available until expended, $167,000,000; of which $150,000,000 shall be for the Clinch River Breeder Reactor Project and which shall become available only upon the enactment into law of authorizing legislation; and of which not to exceed $17,000,000 is made available to reimburse the General Services Administration for the expenses of renovation, furnishing and repair of facilities necessary to provide temporary and permanent space for personnel relocated as a result of the establishment and activation of the Department of Energy.

AMENDMENT OFFERED BY MR. BEVIL

Mr. BEVILL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEVILL: on page 10, line 17 strike out "$167,000,000" and insert "$97,000,000";

On line 18 strike out "$150,000,000" and insert "$80,000,000"; and

Beginning on line 19 strike out "and which shall become available only upon the enactment into law of authorizing legislation".

Mr. BEVILL. Mr. Chairman, the conference has been completed on the authorizing legislation for the Energy Research and Development Administration, now Department of Energy, programs for fiscal year 1978.

The conferees on the authorizing legislation agreed to $80 million in fiscal year 1978 for the Clinch River breeder reactor project. The authorizing legislation would not permit the construction or site preparation activities to commence in fiscal year 1978.

The amendment which I offer would reduce the amount included in the supplemental appropriation bill (H.R. 9375) from $150 million to $80 million to continue the Clinch River breeder reactor project. No site preparation or construction will be started in the current fiscal year.

Mr. Chairman, when the Subcommittee on Public Works and the full Committee on Appropriations considered this item, the House had approved $150 million for this breeder project, the other body had approved $75 million, but no agreement had been reached on the amount to be included in the authorizing legislation. As I stated earlier, the conference on the authorizing legislation has been completed and the amount in that conference report is $80 million.

My amendment will make the amount of money appropriated for this breeder project consistent with the authorizing legislation.

As you will recall, the conference report (N.D. 95–507) which accompanied the public works appropriation bill provided as follows:

The Committees on Appropriations have consistently supported the Clinch River Breeder Reactor Demonstration; however due to lack of enactment of authorizing legislation the conferees have deleted funding for this item without prejudice with the understanding that funding will be forthcoming by way of a supplemental immediately following enactment of the appropriate authorizing legislation.

Because the authorizing committees have reached agreement and since this is the last appropriation bill for this session of Congress, I feel that it is appropriate to include funds for this breeder in the supplemental appropriation bill.

In addition to funding this breeder project, the committee felt it was appropriate to include language in the bill to subject the use of the funds to enactment of authorizing legislation, because a House/Senate conference on the authorizing legislation had not been concluded when we marked-up the appropriation bill.

That conference has been concluded and I am sure the House will adopt the conference report authorizing this breeder project to continue.

It is, therefore, my opinion that the restriction should be removed and I have offered an amendment to accomplish this.

There has been some confusion in my communications with the White House regarding this restriction in the bill. This morning I learned that the President's position on this breeder project is still the same and, therefore, the White House opposes the removal of this restriction.

However it is the position of a majority of this subcommittee that this amendment be approved.

PARLIAMENTARY INQUIRIES

Mr. BROWN of California. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROWN of California. Mr. Chairman, would I be in order to ask for a division of the question and, following that, to debate the merits on each section separately?

The CHAIRMAN. The Chair will protect the rights of the gentleman from California (Mr. BROWN) to request a division when we come to a vote on this matter. The gentleman can do it right now, if he wants to.

Mr. BROWN of California. Mr. Chairman, I wish to call for a division of the question at this time.

Mr. JOHN T. MYERS. I reserve the right to object, Mr. Chairman.

The CHAIRMAN. Let the Chair first inquire as to which part.

Mr. BROWN of California. Mr. Chairman, I ask for a separate vote on the last clause.

The CHAIRMAN. The clause beginning, "and beginning on line 19 strike out * * *"?

Mr. BROWN of California. That is correct.

Mr. FLOWERS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman from Alabama (Mr. FLOWERS) will state his parliamentary inquiry.

Mr. FLOWERS. Mr. Chairman, is the gentleman entitled to have that request granted just on the decision of the Chair, or does it require action by the committee?

The CHAIRMAN. Any Member can request a division if the question that will be offered is divisible.

Mr. FLOWERS. Mr. Chairman, I object to the request, and I would like to be heard on whether or not it is a divisible question.

The CHAIRMAN. It is not one of the matters that requires unanimous consent. It is not within the prerogative of the Chair. It is within the right of the Member to request a division on a matter that is divisible, and this matter is clearly divisible.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as the chairman of the subcommittee, the gentleman from Alabama (Mr. BEVILL), explained, this is the section of the bill pertaining to the Clinch River breeder reactor.

As a member of the conference committee on the authorizing bill that reached agreement on the figure of $80 million, I signed the conference report, although I am still opposed to the Clinch River breeder reactor.

I certainly commend the Committee on Appropriations for acting to include the $80 million within the supplemental appropriation bill. I think it is only appropriate that we do that, and I am prepared to support the appropriation of the $80 million which is authorized for Clinch River.

However, the language on which I have asked for a separate vote strikes out that provision of the appropriation bill which says that this money shall only become available upon the enactment into law of authorizing legislation.

As the chairman of the subcommittee of the Committee on Appropriations indicated, the conferees on the authoriz-

ing bill have reached agreement. They reached agreement about 2 weeks ago, as a matter of fact. The conference report was brought to the floor last week, and on a point of order it was sent back to conference. I can assure the Members that there are additional points of order which may send the bill back to conference again.

The only point I am making here is that we still do not have an authorizing bill, and it is, therefore, appropriate to retain the language which the gentleman from Alabama (Mr. BEVILL) proposes to strike from the appropriation bill. We do not yet have an authorizing bill.

I may point out that members of the authorizing committee will come to their colleagues and ask that they support the action of the Committee on Appropriations to strike this language. These are the same members who came to their colleagues a couple of months ago and asked that they protect the integrity of the authorizing process, because at that point they objected to the appropriation bill being considered ahead of the authorizing bill.

The exigencies of legislative scheduling required that the consideration of the appropriation bill go ahead. It did go ahead, but the members of the authorizing committee were justifiably incensed at this.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to associate myself with the gentleman's remarks.

Is it not the case that what the amendment does is to shortcut the authorization process, and that this will provide in effect an appropriation for Clinch River without the authorizing legislation having been enacted into law, adopted by both Houses of the Congress and signed by the President?

Mr. BROWN of California. Mr. Chairman, the gentleman is precisely correct.

There are just 2 other points that I want to make. I am not going to argue the Clinch River issue over again. I want the Congress to work its will on Clinch River, but I do want the Members to be careful about how they work their will.

In other words, I do not want the same Members who came in here a few weeks ago saying, "We want the authorizing process protected" now coming back to their colleagues, in the absence of the authorizing legislation, and saying, "We want the authorizing process disregarded."

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, I am afraid that the gentleman has got his facts a little askew there. That is not what the amendment we offered to the original appropriation bill provided.

The amendment struck the language from the appropriation bill for Clinch River, and the amendment said that nothing in the appropriation bill could be used to terminate the project. We did not argue as the gentleman has suggested. I think he has his facts a little out of line.

Mr. BROWN of California. Mr. Chairman, I recall the argument very well.

Mr. FLOWERS. Mr. Chairman, we are very anxious to protect the authorizing process. We were, and we still are.

Mr. BROWN of California. Yes, I agree that you were, and you still are. That is the point I wanted to make.

Mr. FLOWERS. We want all the Members of the House to work their will, and we want to protect the authorizing process.

The gentleman is just trying to give the President an easy chance to exercise his veto. That is what he is trying to do.

The CHAIRMAN. The time of the gentleman from California (Mr. BROWN) has expired.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for 2 additional minutes.)

Mr. TEAGUE. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Texas.

Mr. TEAGUE. Mr. Chairman, the gentleman from Alabama (Mr. FLOWERS) described the situation correctly. This gives the President a veto over Clinch River.

The rest of the bill is already authorized. There were a number of budget problems earlier this year, and the Committee on Appropriations went ahead with the appropriation, so that we authorize practically everything that is in the bill except Clinch River.

Mr. Chairman, the gentleman from California (Mr. BROWN) knows that. He knows that this is just a device to give the President a chance to veto Clinch River, and that is it.

Mr. BROWN of California. Mr. Chairman, the gentleman from Texas (Mr. TEAGUE) makes a good point which I wanted to elaborate on, if I may be permitted to do so.

This is definitely involved with the question of whether the President will veto the authorizing bill. If the President were to veto the authorizing bill with Clinch River in it, then we would have an appropriation bill which seeks to circumvent the Constitution of the United States.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr BROWN of California. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, actually, if the gentleman's position prevails, then we are going to circumvent the wishes of a majority of the two Houses of Congress; is that not correct?

Mr. BROWN of California. The gentleman is precisely correct, Mr. Chairman, and the Constitution provides that it takes two-thirds, not a majority, to pass a bill or to enact legislation over the President's veto.

I know exactly what is sought to be done, and the gentleman knows exactly what is sought to be done here. We are trying to get Clinch River started with a majority vote, but not two-thirds.

If the Congress wishes to proceed in that fashion, it may do so; but I assure the Members that they are inviting more constitutional problems than they ever dreamed of if they seek to follow this course of action.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from California (Mr. BROWN).

We are in the same situation we were in before. There is not any authorizing legislation. We are now talking about taking language out of the appropriation bill and putting it into the same circumstances it was in before, which would leave us in the same situation that we were in before.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, let us have everybody understand exactly what is going on here and clearly understand it.

This is an attempt to kill the Clinch River breeder reactor. That is all this is. It comes right down to that on the bottom line.

If this device succeeds, the President can then veto the authorization bill for the whole of ERDA, and the only thing that he will be affecting is the Clinch River project. Obviously therefore, he would be tempted to veto it.

Mr. Chairman, the gentleman is being very inconsistent because the President, if he vetos the ERDA bill, will allow all the other projects to go forward since they have already been treated in this manner in the ERDA program. They are all going to go forward, therefore, even though there has not been a two-thirds vote in the House.

Mr. Chairman, if the gentleman believes what he said about Clinch River, he has to apply it to all the other items in the ERDA bill as well.

I hope he will explain what the difference in those two situations is because I do not understand it.

The CHAIRMAN. The time of the gentleman from California (Mr. BROWN) has again expired.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for 3 additional minutes.)

Mr. BROWN of California. As I said before, Mr. Chairman, I signed the conference report on the authorizing legislation, even though I oppose the Clinch River project. I merely wish that this House understands what it is doing.

The gentleman from New York (Mr. WYDLER) says that I am trying to kill Clinch River. I prefer to put it that I am trying to protect the consistency of my colleagues who want the authorizing committee's will to be respected, and to protect the integrity of the Constitution, which says that in the event of a difference between the Congress and the President, it takes two-thirds of the Congress, not a majority, in order to enact policy.

As I have said before, this will not be the first time that we have tried to put something into a "veto proof" condition by attaching something the President did not want to something he did want. Many of you are far better versed at that than I. But I want you to understand it. I want you to understand that by voting to strike this language you are voting an appropriation before there is an authorization bill and you are doing so in the perspective that the President may veto this bill. I have no knowledge that he will veto the authorization bill but I can assure you that if he wants to veto the authorization bill he will probably veto this bill, too, even though only about 3 percent of the money in it is for Clinch River.

So, instead of being a simple veto of one bill, you are going to end up with a two bill veto if the President is adamant in his position.

Mr. TEAGUE. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I am happy to yield to the gentleman from Texas.

Mr. TEAGUE. If the gentleman from California (Mr. BROWN) were a supporter of the Clinch River breeder reactor project, how would the gentleman vote on this question?

Mr. BROWN of California. Mr. Chairman, I would vote to leave the language in the second part of this amendment in the bill. Then I would try my very best to get the President to sign the authorizing bill and then, if he did veto the bill, I would try to override the veto.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, how can the money be spent on the Clinch River breeder project?

The CHAIRMAN. The time of the gentleman has again expired.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would ask the gentleman from California (Mr. BROWN) how can this money be spent through an appropriation bill if the President does veto the authorization bill and it is not enacted into law?

Mr. BROWN of California. If the gentleman will yield, that is the point I would like to elaborate on.

Mr. WEAVER. I do not understand it.

Mr. BROWN of California. There is a very serious constitutional and legal problem involved. I think the President could hold that even though the money was in the appropriation bill that in the absence of an authorization he was justified in not spending it. In which case you have merely put the conflict into some ambiguous arena where nobody can be confident of the outcome without a court test and we are faced with a court test.

Mr. WEAVER. How would this occur? Could the money be spent if it were already in the appropriation bill and not authorized, I would ask the chairman, the gentleman from Texas (Mr. TEAGUE)?

Mr. TEAGUE. Mr. Chairman, I am sorry, but I could not hear the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, the question is this: If the money were passed in the appropriation bill but the authorization bill did not become enacted into law, could the money be spent on the Clinch River breeder reactor?

Mr. TEAGUE. My answer is no. But I would ask the Parliamentarian if my opinion is wrong, how would you spend it?

In other words, if you vote for the gentleman's amendment you are voting against Clinch River. I know exactly what they are trying to do.

Mr. WEAVER. I would like to find out from the distinguished chairman, the gentleman from Texas (Mr. TEAGUE), to explain once more for us, the appropriation passes, the authorization bill, let us hypothesize and say it has not been enacted into law, on what could the money be spent in the appropriation bill if the President vetoed the bill?

Mr. TEAGUE. In the authorization bill the only thing he would veto is Clinch River, then he could not spend a dime of that money.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

I do not understand why the gentleman from Alabama has included in his amendment language to strike the words:

> . . . and which shall become available only upon the enactment into law of authorizing legislation . . .

If the chairman is telling us that no money could be spent if the authorizing legislation is not enacted into law, then what is the purpose of that last phrase that the gentleman from Alabama has added to his amendment and which the gentleman from California seeks to strike out.

Mr. TEAGUE. I want to know whether this same question was asked of someone on the committee, as to how this language happened to be in the bill and why it was put in there?

Mr. WEAVER. Mr. Chairman, I will yield to the distinguished chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, the original language in the bill reads, "an additional amount for 'operating expenses', to remain available until expended," "of which $150,000,000 shall be for the Clinch River breeder reactor project and which shall become available only upon the enactment into law of authorizing legislation;".

Mr. WEAVER. Is that where we stand?

Mr. MAHON. Yes, except that an amendment is pending to change the dollar amount. Now, if the prohibition remains in the appropriations bill, it will not be available for obligation until authorized, and the President could not spend the money unless the authorization bill is signed into law.

Mr. WEAVER. Is that proviso staying in the appropriations bill?

Mr. MAHON. The amendment will knock the language out of the bill and if this supplemental appropriation bill is signed into law the money can be spent.

Mr. WEAVER. I will ask the gentleman from Alabama, if his amendment presently succeeds can we spend the money if the President vetoes the authorization bill?

Mr. BEVILL. If the gentleman will yield, if my amendment is adopted the money could be spent without further authorizing legislation being enacted, as the chairman, the gentleman from Texas (Mr. MAHON) has pointed out.

Mr. WEAVER. Could the money be spent if the authorization bill is not enacted into law?

Mr. BEVILL. If the prohibition is knocked out, as my amendment will do, the money can be spent, yes.

Mr. WEAVER. Even though the authorization bill is not enacted into law?

Mr. BEVILL. This is right.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BINGHAM, and by unanimous consent, Mr. WEAVER was allowed to proceed for 1 additional minute.)

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

Let me just rephrase what my friend, the gentleman from Alabama, has said. If you are for the Constitution, then vote for Brown.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from New York.

Mr. WYDLER. I thank the gentleman for yielding.

Again let us get back to it. Earlier in this session this very House passed in this very same way all the items in the ERDA bill. It appropriated the money. The authorization is in that same authorization we are talking about. Now we are asking to do the same thing with the breeder reactor, so if there is any inconsistency and unconstitutionality, or whatever else you say, it goes to the whole ERDA bill. But nobody is worried about that. They are only worried about this amendment. Why? Because the President then will have a free shot in vetoing the authorization bill, and the only thing he will knock out of the bill is the Clinch River breeder reactor. That is what they are trying to do to the Members on the floor today. So vote yes on the Bevill amendment.

Mr. FLOWERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Bevill amendment. I cannot allow my friend, the gentleman from New York (Mr. BINGHAM) to cloak himself so securely in the Constitution. I am afraid that that venerable document does not say anything about the authorization or the appropriation process in that sense.

My distinguished colleague, the gentleman from Alabama, is absolutely correct. From time immemorial we have been passing appropriations bills without authorization, and that is all in the world this is here. There are numerous items within this supplemental, I understand, that do not have authorizing legislation. Is that correct, I would ask my distinguished friend? He nods affirmatively.

There are waivers that were granted in the rule for that simple purpose. This merely puts this appropriation in the same form, in the same shape, as everything else that is presently in the bill. Hardly anywhere else in the entire supplemental do the words "only upon authorizing legislation" appear except in this spot. The distinguished gentleman from Alabama has moved to strike that language. I say that we ought to support him. Whether it is severed or taken together, we ought to support him very strongly and give at least the same vote we gave when the authorization was passed and the Clinch River issue was voted on. It was clearly understood, and that is what is at issue here. The question is whether we are going to place language in the appropriation bill for the convenience of the President so that he can have an easy veto.

I say that Congress has spoken on this issue. We ought to speak again, and we ought to vote for the Bevill amendment and send the same message back down Pennsylvania Avenue that we sent a couple of weeks ago.

Mr. YATES. Mr. Chairman, I move to strike the last word, and I rise just to speak on behalf of the appropriations process and to quote my good friend, the gentleman from Alabama, on that score. When the Interior Department appropriation bill was on the floor earlier this year, my good friend, the gentleman from Alabama, took the floor to castigate our committee for daring to impinge upon the prerogatives of the Science and Technology Committee. My friend's remarks can be found on page 18271 of the RECORD of June 9, which says:

Mr. FLOWERS. Mr. Speaker, let me say to my colleagues in the House, "Get your bags packed and hold on to your hats, because you are getting ready for the ride on the appropriations choo-choo. It is going to be moving through here fast. Whether or not your authorization bills are ready, it matters not. The Appropriations Committee is ready and they are coming at you full speed ahead."

Now, I make that point very crudely, I know; but I say this. We are at a breakwater point of deciding whether or not we are going to have the now three-tiered process that we have in this House; the budget process, the authorization process, and the appropriation process. The tier that I might say is losing out, not I might say, but I could very well say is, in fact, being compressed out, being squeezed to death, is the old faithful authorization process. In this instance we have the committee that I happen to serve on, the Committee on Science and Technology, and as chairman of the Fossil and Nuclear Subcommittee, we reported out our bill H.R. 6796 timely, according to the rules of this body, on May 16. It took a lot of hard work over a period of several months, but particularly compressed in the short period of time following the energy message that the President of the United States delivered to this Congress.

Yet we reported out on May 16, according to the rules. The bill was sequentially referred to a couple of other standing committees of the House which had some claim of jurisdiction on the measure. The bill has since been reported out by the last of those sequentially referred to committees. We have requested a rule.

The Science and Technology Committee stands ready to bring H.R. 6976, the authorization bill, to the floor in due order, prior to the appropriations bill. We have been denied, or not given, that privilege because the Appropriations Committee has its predetermined schedule that it must follow, or they tell us they follow it at all costs. And the cost here is the authorization process.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Alabama (Mr. FLOWERS).

Mr. FLOWERS. I did not know I made such a good speech, but I would say to my friend, just as I have heard so often on this floor, that was an entirely different issue. The choo-choo has gone through this station. I am just trying to hitch a ride on the caboose. For sure, we are appropriating here without authorization. Had we not appropriated without authorizing on that bill, on the original ERDA appropriation bill, I would have no argument obviously. But we have done this before, and it works for everything else and so it ought to work for Clinch River.

I thank the gentleman.

Mr. YATES. All I am trying to do is agree with the gentleman. I want to stay with him and support the three-tier process, the budget process, the authorization process, and the appropriation process. We have not yet completed the authorization process for Clinch River and we ought to complete that before we vote the appropriation.

Mr. JOHN T. MYERS. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Indiana (Mr. JOHN T. MYERS).

Mr. JOHN T. MYERS. Mr. Chairman, I am sorry to bring this up but I remember the gentleman in the well was the engineer on that choo-choo a few weeks ago to resume the Indiana Dunes Park by appropriation bill as well as FEA legislation in this bill.

Mr. YATES. The gentleman is entirely wrong. But let me repeat that what we want to observe here is the same thing the gentleman from Alabama wanted to observe, and that is to have the same kind of legislative procedure the House has had.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. Mr. Chairman, could the gentleman tell me why he does not want to follow the same procedure as on all other items on the supplemental bill? Why is he not insisting the same language be attached to every other appropriation in this bill?

Mr. YATES. May I point out to the gentleman, with respect to my portion of the bill, chapter 3, Department of the Interior, I asked for no such rule and had such language. My language was stricken on a point of order. That answers the gentleman's question.

Mr. GARY A. MYERS. It does not seem to.

Mr. YATES. Of course it does. It shows that I support the authorizing process and the appropriation process.

Mrs. LLOYD of Tennessee. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment offered by the distinguished subcommittee chairman, the gentleman from Alabama (Mr. BEVILL). I want to thank my distinguished friend for his untiring and conscientious efforts in behalf of the Clinch River breeder project.

Mr. Chairman, we are down to the wire now. It has been a long, hard year for the Clinch River breeder project. Many of you have changed your opinions and ideas and have been convinced that we must progress with this vital energy source. What we are talking about tonight is the only section of the ERDA bill that has been thus drawn out. This is the only part we are saying has to be subject to an authorization.

I ask my colleagues, if you think that this is the way we ought to legislate? This is clearly a decision whether or not we want the breeder program, whether or not we are going to let other countries move ahead of us, whether they are going to have a clean, environmentally acceptable, inexhaustible source of energy for the next century while we stand and watch.

Mr. Chairman, the conference committee worked hard to achieve language that would be acceptable to the administration, that would stand a chance of not being vetoed. We took out all language pertaining to the construction of the breeder program in fiscal year 1978. We asked to proceed with the licensing process. I think we can say in all good conscience that we made every effort to accommodate the administration. I am therefore asking the House now to support the amendment of our distinguished chairman, the gentleman from Alabama (Mr. BEVILL), if you are for the Clinch River program. This tactic is clearly an effort to put the breeder program out for a veto.

Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my comments are to reiterate several points that have been made here, so that we all will understand exactly what we are discussing at this point. The first is that of all the items for the energy research development and demonstration programs under the old ERDA and now the new Department of Energy, the only item that would require authorization would be for the Clinch River breeder project,

unless the committee amendment is accepted, all funding approved under the appropriation bill which was passed earlier this year had no authorization. All of the items in the supplemental appropriations bill before us at this time require no authorization at all.

The attempt to require authorization for this item alone is a blatant and naked attempt to invite the President to veto the authorization bill in an attempt to kill Clinch River.

I want to point out, however, that the situation is not quite that simple. If the President were to veto the authorization bill, he would not be killing only Clinch River. He would be killing the loan programs for synthetic fuels that are now included in the authorization bill. He would be killing the revisions for the electric vehicle research and development program; he would be killing the program sponsored by the gentleman from California (Mr. BROWN), the vehicle research and development program. He would be killing waste conversion programs for municipalities. He would be killing physics research at Berkeley and other university sites across the country.

I think we should keep these facts in mind. The authorizing committee, indeed, objected when the appropriations bill came first on the floor. However, the fact is that it did, and today we are talking about the situation which exists today, not about a debate that occurred several months ago.

The opponents of the Clinch River project, and I cannot understand how any Member of Congress can oppose the only source of energy by which this Nation, and most of the other nations of the world, have any chance to be self-sufficient during this century. How anyone can oppose the cheapest, cleanest, most abundant, most environmentally acceptable source of energy available, I do not know.

Those who are supporting the Brown attempt for Clinch River are trying by the subterfuge of putting an apparently harmless sentence in an appropriation bill to invite the President to veto the authorization bill.

The damage to this country and indeed to the world, if this were to happen, is almost beyond calculation. I remind the Members that the Appropriation and the Authorization Committees are working together. We are in agreement on this point.

The question is whether we are going to try to kill Clinch River or not, and if a Member voted for Clinch River before, he should be voting for the committee position and against Mr. BROWN's attempt to keep this unusual provision in this bill at this time.

Mr. JOHN T. MYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I realize the hour is late, but I urge my colleagues to support the amendment offered by our chairman to strike the language.

The bill was marked up before the Authorization Committee conferees had an agreement on the Clinch River project. This frequently happens.

What I really want to talk about at this particular time, moving away from Clinch River, is the Forrestal Building on Independence Avenue. In June a decision was made that we would remove approximately 5,000 people from the Forrestal Building into many locations where presently are housed Department of Energy personnel, and then those people, the Department of Energy personnel, in about 20 locations throughout the District of Columbia area, will be moved into the Forrestal Building. In other words, they are trading buildings. That is about 10,000 people.

There are a number of things that have not happened. On August 22, the General Services Administration notified the Department of Energy, Dr. Schlesinger, that this move was going to be expensive. At that time, the estimates were approaching $32 million, and it would require some authorization; would require some studies to be made. It was not easily done. Somehow, very quickly, all these things have been overcome and people have been notified in the Forrestal Building that they are going to have to be moved. They do not know where, most of them. Construction has started in renovating the Forrestal Building.

The Forrestal Building was completed just about 10 years ago and completely occupied by 1969. It was built for the Department of Defense. It has an expensive computer system on the ground floor that the $17 million does not cover for moving expenses.

But, let us talk about what is required when we start moving this many people in such an important move. The National Environmental Protection Act requires that any significant move by Federal Agencies requires an environmental impact assessment. None has been made. Oh, one was presented to us back in 1975 on a building at Buzzard's Point, referred to as 1900 Half Street. It was recommended at that time that the Securities and Exchange Commission be moved in. The SEC refused. So, that impact statement was not used.

Then, the following year, trying to house somebody in this building on which the General Services Administration already had a lease, it was recommended that some Treasury components move in. They refused also, so another environmental assessment was made. Those are the two environmental assessments that are being used now for this massive move.

Second, there is an Executive Order No. 11491, dated October 29, 1969, that provides: Anytime we uproot or change the working conditions or locations significantly of Government employees, that has to be negotiated with the labor unions representing those employees. This has not been done. The labor unions advised us that they have not done it.

AMENDMENT OFFERED BY MR. JOHN T. MYERS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BEVILL

Mr. JOHN T. MYERS. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The clerk read as follows:

Amendment offered by Mr. JOHN T. MYERS as a substitute for the amendment offered by Mr. BEVILL: on page 10, line 17 strike out "$167,000,000" and insert "$80,000,000";

On line 18 strike out "$150,000,000" and insert "$80,000,000";

Beginning on line 19 strike out "and which shall become available only upon the enactment into law of authorizing legislation";

On line 20 strike out "; and of which not" and insert a period; and

Strike out lines 21 through 26.

Mr. JOHN T. MYERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. JOHN T. MYERS. Mr. Chairman, the only significant change that my amendment would make in the chairman's amendment would be the fact that it would reduce it by $17 million, to delay this move until there is further study, until the laws have been complied with.

This move is going to uproot almost 10,000 people and families. It is a very important move to many people. This hasty move should be delayed. I do not think we should treat this casually so that the Secretary of the Department of Energy can say his office is on Independence Avenue. Let us look at the cost. The cost is clear across the gamut in the estimates. Originally the General Services Administration estimated the cost would run in excess of $32 million, but arbitrarily Mr. Schlesinger changed that to $17 million. The GSA, which has the responsibility for all of this, has not changed it. Dr. Schlesinger changed it when he came before the committee.

What is in this $17 million? Admittedly, the Department of Energy says it will not cover all of the expenses. They admit it will not cover the computer movement. They have to move the computer out of the basement of the Forrestal Building. It will cost up to $4 million. They admit and tell the Department of Energy, "We are going to have to take some excessive funds, cost overruns, out of rents, and so forth."

What does the $17 million include? It includes $12,707,000 for changing partitions on these buildings, a building that has been built less than 10 years. What a tremendous expense. That is $7,100,000 in the Forrestal Building alone.

Another part is a special purpose room, $3 million for special purpose rooms.

The moving costs alone were only $393,000. So there is just so much here in this; $900,000 estimated telephone.

Here is the alternative I would like to suggest is available. I do not blame Secretary Schlesinger. It would be nice to have his people together. But he can locate most of those people he is now going to locate in the Forrestal Building by placing them in an almost empty building which has less than 600 people in it now, a building known as Buzzard Point. It is a brand new building. Four have moved into it. There are no partitions in most of the building right now. He can put in all the partitions he wants. He can

locate most of his people there. He has a number of people here at 20 Massachusetts Avenue, where they are already located. He can have almost the same number of people in two buildings and save a lot of money and a lot of inconvenience to almost 10,000 people.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. JOHN T. MYERS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

We have a big move on Capitol Hill every 2 years. Does the gentleman think the Congress should file an environmental impact statement?

Mr. JOHN T. MYERS. That might not be a bad idea. I do not know. If we did, we never would get moved, would we? It would take 2 years to get an EIS accepted.

Usually there is not a major move around here. I hope a lot will be moving next year, too. I might inform the gentleman.

This will be a major move. That is what the Environmental Policy Act says, a major move. Moving 10,000 families I consider to be a major move. So I suggest that in striking this $17 million we are not really saying they will not make this move.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. JOHN T. MYERS. I yield to the gentleman from Maine.

Mr. COHEN. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman in the well and point out that this administration is to be criticized for some inconsistencies in its priorities. The administration is considering the problem, for example, of closing down a major SAC base in the State of Maine for the purpose of saving $17 million. It will bring down economic chaos in the northern part of Maine to save $17 million, allegedly.

What this gentleman is saying is that he would like to save $17 million and delay the decision to accommodate Mr. Schlesinger, and I want to commend him for it.

Mr. JOHN T. MYERS. Mr. Chairman, I thank the gentleman.

This is going to mean chaos for about 10,000 families. I have two letters here from groups representing concerned employees. They have asked to meet with the President. At this point he has not offered them any time.

Mr. Chairman, all I am asking is that we wait until next year and give an opportunity for a further study to see if there is not a better alternative. I think that is the right thing for this Congress to do at this time.

Mr. Chairman, the letters to which I referred are as follows:

OPEN LETTER TO PRESIDENT CARTER

Mr. PRESIDENT: In your decision to hand over the Forrestal Building (which was built to meet the needs of the Department of Defense) to Mr. Schlesinger, so that his Department of Energy Headquarters could locate here, you have indeed established your memory indelibly in the minds of every Federal worker. Not one of them will ever feel that their job location is secure enough to make any sort of permanent plans in connection with it again.

No one who is aware of the millions of tax dollars that will be squandered in moves and re-moves, shuffling and reshuffling of many thousands of people simply because you are acquiescing to, and abetting Mr. Schlesinger's overzealous drive for personal aggrandizement, is likely to ever forget.

Nor will many fail to remember that quite obviously, you took no consideration of the personal frustration, inconvenience, and extra expense to the thousands who are caught up in this disjointed and disgraceful scheme, involving all the moves and all this money wasted simply to satisfy Mr. Schlesinger's desire to be located in the Forrestal Building (halfway between the White House and the Capital).

And finally, we certainly will never forget your failure to respond to either a letter or later a telegram, asking for a few minutes of your time, in order to present to you our side of this situation.

Your campaign slogan comes to mind, "Let's return the Government to the people."

We the people, wish to know if this is your conception of that statement?

Your fellow Americans,

FORRESTAL EMPLOYEES.

[Mailgram]

CALIFORNIA STREET NW.,
Washington, D.C.

President JIMMY CARTER,
White House,
Washington, D.C.

Mr. PRESIDENT: Our previous letter requesting audience with you has produced no response. Time being a critical factor in this case for approximately 12,000 DOD and DOE employees we respectfully request 15 minutes of your time today at your convenience.

Ann L. Arkie 6937381, Hannah M. Zeidlik 6935045, Ed Bryant 3250593, for the Forrestal Coordinating Committee.

Mr. BEVILL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am going to make this very brief. Let me point out that the $17 million is needed to consolidate the functions of the new Department of Energy out of 21 different locations in the metropolitan District of Columbia area. Presently the DOE personnel are located in 20 different locations, if we want to count the warehouse space it would be 21 locations.

Dr. Schlesinger informed the committee that he cannot operate with the personnel scattered all around over the District of Columbia; he says that it would be extremely difficult to coordinate the operation under those circumstances and get the Department of Energy functioning as we expect it to.

I would say that the bill establishing the Department of Energy is the most important bill that we have passed in this Congress this year and that has actually reached the desk of the President.

This will cost a lot of money. The subcommittee realizes that, the Committee on Appropriations realizes it, and the President realized it when he ordered this move. As a matter of fact, the move has already been started.

Most of these funds will be used to relocate personnel. The General Services Administration in their testimony said that they could not find any other facilities in their attempts to handle this move. GSA has handled moves bigger than this before.

When we are talking about Buzzard's Point; it is actually a very nice building. I have been down there, and I recall an officer in charge of the FBI offices located there who said, "We are pleased to be here. We have just moved into the building ourselves."

We have listened to some of the employees who will be involved, some of the employees are going to be inconvenienced, there is no question about that.

Mr. Chairman, I must disagree with my distinguished colleague in what he said, and I hate to disagree with him, because we work very closely on the committee and we appreciate each other's views on these matters. The President has made the order for this move to the Forrestal Building to take place. The Corps of Engineers will be moving to 20 Massachusetts Avenue; that involves 1,250 of the people. All of the moves are being planned and are being worked out by the experts.

I am not trying to qualify myself as an expert, but the experts have given us their best information. Dr. Schlesinger testified that it was originally estimated to cost $10 per square foot for the renovations required to make this move and in all it would come to about $22 million. But he reviewed that estimate and cut that down to $8 a square foot or a total cost of $17 million. This is what the President said he needs, this is what Dr. Schlesinger says he needs, and this is what the General Services Administration says should be done.

Mr. Chairman, this is what the subcommittee approved, and this is what the Committee on Appropriations approved, and so I urge the Members to vote against this amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, the gentleman talks about the inconvenience to people. What about the 5,000 people who are going to have to move out?

Mr. BEVILL. Mr. Chairman, I agree there will be inconvenience, there is no question about that. But let us take the other alternative.

Are we going to have a Department of Energy, or are we going to forget about it? We passed the bill which established the Department of Energy and we said that is what we wanted.

Let us set the Department up and let it begin operations. Let us not delay it.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, nobody said we should not have a Department of Energy.

The question is that the gentleman talks about inconvenience to the employees involved. What about the 5,000 people we have to ship out?

What is wrong with putting the energy agency where we are going to ship these other people?

Mr. BEVILL. Because in the Forrestal Building there is no single coordinated mission. There are just fragments of the Department of Defense, the Air Force, the Army, and the Corps of Engineers. None of them are coordinated. There is no single mission for that group, I feel

we have a single mission for this U.S. Department of Energy.

Mr. ROUSSELOT. The gentleman says there is no mission for the group that is there now?

Mr. BEVILL. There is no mission, no single mission for the various fragments of the Department of Defense in the Forrestal Building.

Mr. ROUSSELOT. It is part of the Defense Department, is it not?

Mr. BEVILL. Yes, if we want to take the Department of Defense as a single mission.

I am quoting the Secretary of Department of Energy. I would assume that he would be aware of the problems. He is a former Secretary of Defense, and we thought he would be knowledgeable in this matter.

Mr. ROUSSELOT. We thought he was, too. My point is that there are 5,000 people that we would have to ship out of the Forrestal Building. The Forrestal Building is named after a Secretary of Defense, I might remind the gentleman.

We would have to ship them someplace else, and then create a vacancy, because the new Secretary, I understand, wants an independent installation.

AMENDMENT OFFERED BY MR. TSONGAS TO THE AMENDMENT OFFERED BY MR. BEVILL

Mr. TSONGAS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. TSONGAS to the amendment offered by Mr. BEVILL: Page 10, line 17, strike out "$97,000,000" and insert in lieu thereof "$121,000,000".

The CHAIRMAN. The gentleman from Massachusetts (Mr. TSONGAS) is recognized for 5 minutes in support of his amendment.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. Mr. Chairman, I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, we accept the gentleman's amendment. There are no objections to it, and certainly there is justification for it. We accept it.

Mr. JOHN T. MYERS. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Mr. Chairman, we will accept it on this side, but I think it would be well for the gentleman to give a brief explanation of it. Two Members should not really make this decision, I do not believe, for this body.

Mr. TSONGAS. Mr. Chairman, when the ERDA authorization bill came up, I offered three amendments which were passed by the House, one involving the photovoltaics, as the Members may recall; the second involving the parallel design system for energy conversion; and the third involving wind energy.

The $24 million reflects those amendments contained in the conference report between the House and Senate which we signed.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, if I understand correctly, this is an increase of $24 million above the appropriation level provided in the bill, so that there will be $2 million for wind energy, $3 million for education programs, and $19 million for photovoltaic systems, with $6 million of this $19 million being for technical development, $800,000 for studies of various sorts, and $12.2 million for the purchase of photovoltaic systems when they become cost effective; is that correct?

Mr. TSONGAS. The gentleman is correct.

Mr. McCORMACK. Is this what the gentleman has, in effect, provided for in this amendment?

Mr. TSONGAS. The gentleman is correct.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, the gentleman is putting in this extra money. However, he is not going to have any provision in there relating to this matter that has to be in the authorizing legislation in regard to the extra money that he is adding; is he?

Mr. TSONGAS. Mr. Chairman, I would indicate to the gentleman that it is already in the authorization bill.

Mr. WYDLER. I understand that. So is everything else, but the gentleman is not going to put a provision in this bill as to these items which have been authorized before, is he? These items are going to go through, whether the authorization bill goes through or not; are they not?

Mr. TSONGAS. I am quite prepared to allow the authorization to dictate what is going to happen.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, is it not true that the section which the gentleman is amending already has the language in it, subject to authorization?

Mr. TSONGAS. That is true.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

I would like to ask my colleague, the gentleman from Indiana (Mr. JOHN T. MYERS), who has offered the amendment to strike what I would consider to be the unnecessary relocation allocation for the new Department of Energy and, move 5,000 people from the Department of Defense Forrestal Building, a question. Would the gentleman explain to us, if we vote for his amendment, whether the Department of Energy will have adequate space in which to presently operate or will it find other space?

Mr. JOHN T. MYERS. Mr. Chairman, if the gentleman will yield, the chairman of the committee, the gentleman from Alabama (Mr. BEVILL), has stated that the Department of Energy is presently located at about 20 locations throughout the area. That is true. The largest concentration probably is at 20 Massachusetts Avenue, on the other side of the Capitol where there are about 1,250 persons. But there is one new building at 1900 Half Street which is leased by the General Services Administration and has been leased for over 2 years. Just recently the district office of the FBI began to move into about 1½ floors which are now occupied by around 500 people, but the building can hold around 2,600 persons.

Mr. ROUSSELOT. Twenty-six hundred?

Mr. JOHN T. MYERS. That is correct. So that it is virtually impossible to follow Mr. Schlesinger's desires to put all of the people in one building.

He is not going to be able to have them all in one location, anyway. He is only going to be able to have about 60 percent in one building and the others will be in the two other buildings. They would be moving about 5,000 people out of approximately 8,000 DOE located in the Washington area.

Mr. ROUSSELOT. So that the gentleman can assure us that the new Department of Energy, which our colleague, the gentleman from Alabama (Mr. BEVILL) is so deeply concerned that they have adequate space; that there is a place that would be available, and that it would not be as costly as throwing out 5,000 people from the Forrestal Building and getting them another place?

Mr. JOHN T. MYERS. Adopting my amendment to strike the $17 million does not really stop it, it just delays it until further examination can be made. I am not sure, but I suspect that it is the wrong thing to do. This building is an 8-year-old building and it was built especially for the Department of Defense. And we are not going to say that all of the 4,850 Department of Energy people will have the same mission in that building, of course they will not. It can be done in an alternative fashion.

Mr. ROUSSELOT. The present group of people presently in the Forrestal Building are all Department of Defense people?

Mr. JOHN T. MYERS. That is right.

Mr. ROUSSELOT. So we cannot say they are all unrelated units?

Mr. JOHN T. MYERS. That is correct.

Our good friend from Chicago has mentioned a number of times about complying with the procedures in the House. I completely agree that we should generally follow those procedures. As a practice, we have here, but there are at least two provisions of law that have been ignored in this move.

Mr. ROUSSELOT. Two provisions of law have been ignored?

Mr. JOHN T. MYERS. That is correct. We should have an environmental impact study and one has not been made for the move. Also the Executive order provides that there should be negotiations with the labor unions representing the people. That has yet to be done.

We ought to slow down this thing, maybe it will finally be done. But there is not that much haste.

Mr. ROUSSELOT. And certainly we do not need to do this in a supplemental bill?

Mr. JOHN T. MYERS. Certainly not.

Mr. ROUSSELOT. I thank the gentleman for his comments.

Mr. OTTINGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to have the House advised as to where we stand parliamentarily and I will ask a parliamentary inquiry.

The CHAIRMAN. The gentleman may do so.

PARLIAMENTARY INQUIRY

Mr. OTTINGER. Mr. Chairman, my parliamentary inquiry is this, I will seek to add $5 million, as I advised the House previously, for a program of loan grants for applied technology. As I understand the procedure, if I do understand it correctly, the first vote will come on the amendment offered by the gentleman from Massachusetts (Mr. TSONGAS) adding $24 million?

The CHAIRMAN. The Chair will state the gentleman is correct.

Mr. OTTINGER. Then the vote will occur on the substitute amendment offered by the gentleman from Indiana (Mr. JOHN T. MYERS)?

The CHAIRMAN. That is correct, unless there are further amendments.

Mr. OTTINGER. If the Myers substitute is defeated, then it would be in order for me to offer a substitute adding more money than the Tsongas amendment has provided, of $5 million, which I will seek to do.

The CHAIRMAN. The Chair will state the gentleman is correct. Then we will have a division of the question when we are all through.

Mr. OTTINGER. I thank the Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. TSONGAS) to the amendment offered by the gentleman from Alabama (Mr. BEVILL).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. JOHN T. MYERS) as a substitute for the amendment offered by the gentleman from Alabama (Mr. BEVILL) as amended.

The amendment offered as a substitute for the amendment, as amended, was rejected.

AMENDMENT OFFERED BY MR. OTTINGER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BEVILL, AS AMENDED

Mr. OTTINGER. Mr. Chairman, I offer an amendment as a substitute for the amendment, as amended.

The Clerk read as follows:

Amendment offered by the gentleman from New York, Mr. OTTINGER, as a substitute for the amendment offered by the gentleman from Alabama, Mr. BEVILL, as amended: On page 10, line 17, strike out "$167,000,000" and insert "$126,000,000";

On line 18 strike out "$150,000,000" and insert "$80,000,000"; and

Beginning on line 19 strike out "and which shall become available only upon the enactment into law of authorizing legislation".

Mr. OTTINGER. Mr. Chairman, I am offering an amendment to the supplemental appropriation which is intended to bring the appropriation for the small grants for appropriate technology program up to the level of funding authorized by the ERDA conference committee.

The House authorized $10 million for this program, while the Senate authorized $6 million. The conference committee settled the difference at $8 million. The appropriation, however, only carries $3 million, an amount too small to get a significant program started.

Each of us, I am sure, has been contacted by local inventors and small businesses within our districts who have inventions which could contribute materially to solving our energy crisis. At the present time, ERDA has almost no facility for evaluating such proposals. When such proposals are sent to ERDA, they get no evaluation—just a fast shuffle.

This is a new program being initiated by the Energy Research and Development Administration in response to a growing realization of the important contribution small businesses and inventors across the country can make toward our energy solutions. There presently is no program or capability within DOE or ERDA to reach out to small business and inventors. Indeed, ERDA has concentrated the huge bulk of its $6 billion appropriation in the giant energy corporations and their billion-dollar per plant energy solutions such as breeder reactors, coal gasification, and liquefaction plants, and nuclear fission.

"Appropriate technology" to be funded by this program is technology to produce energy of the quality and in the amount needed for a specific task. The projects are typically small in scale, locally applied using local resources and labor, and environmentally benign.

Congress is the real initiator of this program. Under our strong urging, the Energy Research and Development Administration is establishing a program of small grants for the development of technological innovations and local projects which meet the criteria of being "appropriate technology." The program will give grants to individuals, small businesses, inventors, community groups and others whose ideas pass a thorough technical review and are recommended for funding by a peer group panel. These ideas will all have a demonstrated potential to conserve or produce energy.

The National Center for Appropriate Technology, a nonprofit organization created to promote appropriate technology development, has experienced considerable public interest in its limited grant program. After only 6 months of operation, it has received a total of over 350 grant proposals for over $3,000,000 competing for less then $1 million in available funds.

Just this week, a conference on appropriate technology was held in Montana. Over 4,000 persons attended the conference, which far exceeded its organizers expectations and indicated the great interest and potential for such a program.

I have little doubt that in every State there are at least a dozen ideas which are small scale, locally applied, and environmentally benign which, with a small amount of funding, can contribute to our national energy effort. Yet, with just $3 million provided in the appropriation, ERDA says it can only start on a small scale pilot basis in two areas—New York and California.

I am told that like any R. & D. activity, there is a degree of risk involved. But for a change, we are putting funds into small businesses, inventors, and local and community groups. We will be developing technology which will be decentralized, instead of technology which demands ever larger and more dangerous power production.

I consider this small grants program an important part of the initiative called for by the President in his April 20 address. He then announced plans to create an Office of Small Scale Technology "to tap the innovative potential of our Nation's small businesses and individual innovative potential of our Nation's small businesses and individual inventors." I would urge you to support an adequate level of funding to make this a nationwide program in the next fiscal year.

The CHAIRMAN. The time of the gentleman from New York (Mr. OTTINGER) has expired.

Mr. OTTINGER. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. DICKS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. YATES. Mr. Chairman, I rise in opposition to the Ottinger substitute amendment.

Mr. Chairman, this is a brand new program for which the Congress has already appropriated $3 million in fiscal year 1978. The question is: How much money should go into a program that is just beginning? In addition to the sum that was placed into the regular bill for this specific program, there is also $2 million in that bill for small inventors, and $1.8 million in the public works appropriation bill that is supervised by the subcommittee of the gentleman from Alabama (Mr. BEVILL), so that we have now $6.8 million appropriated for this program.

The committee is very much concerned that small inventors shall be given a fair and thorough hearing by ERDA, and it was for that purpose that the committee grilled ERDA to make sure that an appropriate procedure would be established. ERDA has set up an appropriate technology program and established an office in San Francisco. It has $500,000. It has not expended the $500,000 for this purpose at the present time.

Upon communicating with ERDA, we learned that the agency will make no contracts under this program until next February. Obviously the amount that the committee has made available for this program is adequate.

This program, the program for which the gentleman from New York speaks, also is supporting small business. There is not an agency in ERDA that does not have a division for small business. There is plenty of money in the ERDA program for small business without the need for providing additional funds at this particular time. That is why, Mr. Chairman, I say there is adequate funding, and I urge the defeat of the amendment offered by the gentleman from New York.

Mr. JOHN T. MYERS. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Indiana (Mr. JOHN T. MYERS).

Mr. JOHN T. MYERS. Mr. Chairman, I rise in agreement with the gentleman from Illinois. Throughout our budgetary process and the appropriation process we do have funds from various other appropriations that go to contribute to ERDA. ERDA gets its funds not only from this subcommittee. Quite often it is disguised or difficult to follow, but I agree completely with the gentleman, they are getting plenty now. The evidence is there. We have heard it in the subcommittee of the gentleman and we have heard it in other committees, and the money is there.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, is it not true the House voted $10 million, but the Appropriations Committee voted only $5 million for this, and then it went down in conference?

Mr. YATES. Yes, but the conferees thought that $3 million was adequate, and that is the amount appropriated. ERDA has established one office in San Francisco to spend a half million dollars, and it still has $2½ million for appropriate technology, it will not expend until after February.

Mr. LONG of Maryland. Mr. Chairman, I support the amendment of the gentleman from New York to increase from $3 million to $8 million the ERDA small grants program in appropriate energy technologies. As the gentleman knows and as my distinguished subcommittee chairman, Mr. YATES, knows, I advocated full funding for this program in the subcommittee markup of our fiscal year 1978 Interior appropriations bill and would have advocated full funding in the House-Senate conference had not my foreign aid appropriations bill been on the House floor the day of the conference.

For the United States to meet the capital shortage that creates our energy scarcity, we need energy technologies that require much less capital per unit of energy produced. The production of such technologies should also require more labor relative to capital and thus should gradually work to ease our unemployment problems.

I support the amendment and urge my colleagues to support it. This sort of program and the stimulation of the small-scale inventor and entrepreneur, not massive outlays for breeder reactors, will bring energy independence to America.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. OTTINGER) as a substitute for the amendment offered by the gentleman from Alabama (Mr. BEVILL), as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. OTTINGER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

More than 100 Members are present, a quorum.

Mr. OTTINGER. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment offered as a substitute for the amendment, as amended, was rejected.

The CHAIRMAN. The question is on the first part of the amendment offered by the gentleman from Alabama (Mr. BEVILL), as amended. The question has been divided.

PARLIAMENTARY INQUIRY

Mr. McCORMACK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. McCORMACK. Mr. Chairman, is it correct now that the Tsongas amendment has been construed by the Chair as having been accepted by the Committee?

The CHAIRMAN. The Tsongas amendment has been agreed to. It was an amendment to the Bevill amendment.

Mr. McCORMACK. So what we are voting on is the Bevill amendment as amended by the Tsongas amendment?

The CHAIRMAN. Yes, but the question will have to be divided when we get to that. It is the Bevill amendment, as amended, with a division requested by the gentleman from California (Mr. BROWN).

The Clerk will report the first part of the Bevill amendment, as amended.

The Clerk read as follows:

On page 10, line 17 strike out "$167,000,000" and insert "$97,000,000"; and

On line 18 strike out "$150,000,000" and insert "$80,000,000".

The CHAIRMAN. The question is on the first part of the amendment offered by the gentleman from Alabama (Mr. BEVILL), as amended.

The first part of the amendment, as amended, was agreed to.

The CHAIRMAN. The Clerk will report the second part of the amendment offered by the gentleman from Alabama (Mr. BEVILL).

The Clerk read as follows:

Beginning on line 19 strike out "and which shall become available only upon the enactment into law of authorizing legislation".

The CHAIRMAN. The question is on the second part of the amendment offered by the gentleman from Alabama (Mr. BEVILL).

PARLIAMENTARY INQUIRY

Mr. FRENZEL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FRENZEL. Mr. Chairman, if Members want to keep that language in, they vote "no;" if they want to strike the language, they vote "yes;" is that correct?

The CHAIRMAN. That is correct.

The question is on the second part of the amendment offered by the gentleman from Alabama (Mr. BEVILL).

The question was taken; and on a division (demanded by Mr. BROWN of California) there were—ayes 77, noes 44.

RECORDED VOTE

Mr. BROWN of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 252, noes 165, not voting 17, as follows:

[Roll No. 673]

AYES—252

Abdnor	Gaydos	Nix
Alexander	Gibbons	O'Brien
Anderson, Ill.	Ginn	Patten
Andrews, N.C.	Gonzalez	Pease
Annunzio	Goodling	Perkins
Applegate	Gore	Pettis
Archer	Gradison	Pickle
Armstrong	Grassley	Poage
Ashbrook	Guyer	Pressler
Ashley	Hagedorn	Price
Badham	Hall	Quayle
Bafalis	Hammer-schmidt	Quie
Bauman		Quillen
Beard, Tenn.	Hannaford	Railsback
Benjamin	Hansen	Regula
Bennett	Harsha	Rhodes
Bevill	Hightower	Rinaldo
Boggs	Hillis	Risenhoover
Bowen	Holland	Roberts
Breaux	Hollenbeck	Robinson
Breckinridge	Holt	Roe
Brinkley	Horton	Rooney
Brooks	Hubbard	Rose
Broomfield	Huckaby	Rostenkowski
Brown, Mich.	Hyde	Rousselot
Broyhill	Ichord	Rudd
Buchanan	Ireland	Runnels
Burgener	Jenrette	Russo
Burke, Fla.	Johnson, Calif.	Santini
Burleson, Tex.	Johnson, Colo.	Satterfield
Burlison, Mo.	Jones, N.C.	Sawyer
Butler	Jones, Okla.	Scheuer
Byron	Jones, Tenn.	Schulze
Carney	Jordan	Sebelius
Carter	Kasten	Shipley
Cederberg	Kazen	Shuster
Chappell	Kelly	Sikes
Clausen, Don H.	Kemp	Sisk
	Ketchum	Skelton
Clawson, Del	Krueger	Skubitz
Cleveland	Lagomarsino	Slack
Cochran	Latta	Smith, Iowa
Coleman	Le Fante	Smith, Nebr.
Collins, Ill.	Lederer	Snyder
Collins, Tex.	Lent	Spence
Conable	Livingston	Staggers
Corcoran	Lloyd, Calif.	Stangeland
Cornwell	Lloyd, Tenn.	Stanton
Crane	Long, La.	Steed
Cunningham	Long, Md.	Stratton
Daniel, Dan	Lott	Stump
Daniel, R. W.	Lujan	Symms
Danielson	McClory	Taylor
Davis	McCloskey	Teague
de la Garza	McCormack	Thone
Derrick	McDonald	Thornton
Derwinski	McEwen	Treen
Devine	McFall	Trible
Dickinson	McKay	Tucker
Dicks	Madigan	Ullman
Dornan	Mahon	Vander Jagt
Duncan, Oreg.	Mann	Volkmer
Duncan, Tenn.	Marks	Waggonner
Edwards, Ala.	Martin	Walker
Edwards, Okla.	Mathis	Walsh
Eilberg	Mazzoli	Wampler
English	Meeds	Watkins
Erlenborn	Michel	White
Ertel	Milford	Whitehurst
Evans, Del.	Miller, Ohio	Whitley
Evans, Ind.	Mineta	Whitten
Fary	Mollohan	Wiggins
Fisher	Montgomery	Wilson, Bob
Flippo	Moore	Wilson, C. H.
Flowers	Moorhead, Calif.	Wilson, Tex.
Flynt		Winn
Foley	Moorhead, Pa.	Wright
Flood	Murphy, Ill.	Wydler
Ford, Tenn.	Murphy, N.Y.	Yatron
Forsythe	Murphy, Pa.	Young, Alaska
Fountain	Murtha	Young, Fla.
Frenzel	Myers, Gary	Young, Mo.
Frey	Myers, John	Young, Tex.
Fuqua	Myers, Michael	Zablocki
Gammage	Nichols	Zeferetti

NOES—165

Addabbo	Barnard	Bonior
Akaka	Baucus	Bonker
Allen	Beard, R.I.	Brademas
Ambro	Bedell	Brodhead
Ammerman	Beilenson	Brown, Calif.
Anderson, Calif.	Biaggi	Burke, Calif.
	Bingham	Burke, Mass.
Aspin	Blanchard	Burton, John
AuCoin	Blouin	Burton, Phillip
Baldus	Boland	Caputo

Carr	Heftel	Panetta
Cavanaugh	Holtzman	Patterson
Chisholm	Howard	Pattison
Clay	Hughes	Pike
Cohen	Jacobs	Preyer
Conte	Jeffords	Pritchard
Conyers	Jenkins	Pursell
Corman	Kastenmeier	Rahall
Cornell	Keys	Rangel
Cotter	Kildee	Reuss
Coughlin	Kostmayer	Richmond
D'Amours	Krebs	Rodino
Delaney	LaFalce	Rogers
Dellums	Leach	Roncalio
Dingell	Leggett	Rosenthal
Downey	Lehman	Roybal
Drinan	Levitas	Ruppe
Early	Luken	Ryan
Eckhardt	Lundine	Schroeder
Edgar	McDade	Seiberling
Edwards, Calif.	McHugh	Sharp
Emery	McKinney	Simon
Evans, Colo.	Maguire	Solarz
Evans, Ga.	Markey	Spellman
Fascell	Marlenee	St Germain
Fenwick	Mattox	Stark
Findley	Meyner	Steers
Fish	Mikulski	Steiger
Fithian	Mikva	Stokes
Florio	Miller, Calif.	Studds
Ford, Mich.	Minish	Thompson
Fowler	Mitchell, Md.	Traxler
Fraser	Mitchell, N.Y.	Tsongas
Gephardt	Moakley	Udall
Giaimo	Moffett	Van Deerlin
Gilman	Moss	Vanik
Glickman	Mottl	Vento
Gudger	Natcher	Walgren
Hamilton	Neal	Waxman
Hanley	Nedzi	Weaver
Harkin	Nolan	Weiss
Harrington	Nowak	Wirth
Harris	Oakar	Wylie
Hawkins	Oberstar	Yates
Heckler	Obey	
Hefner	Ottinger	

NOT VOTING—17

Andrews, N. Dak.	Diggs	Metcalfe
Badillo	Dodd	Pepper
Bolling	Goldwater	Sarasin
Brown, Ohio	Kindness	Stockman
Dent	Koch	Whalen
	Marriott	Wolff

The Clerk announced the following pairs:

On this vote:

Mr. Dent for, with Mr. Dodd against.

Mr. Marriott for, with Mr. Pepper against.

Mr. Goldwater for, with Mr. Metcalfe against.

Mr. Brown of Ohio for, with Mr. Diggs against.

Mr. Kindness for, with Mr. Badillo against.

Mr. GUDGER changed his vote from "aye" to "no."

Mr. RUSSO changed his vote from "no" to "aye."

So the second part of the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES (TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses, General legal activities", $1,445,000, to be derived by transfer from "Salaries and expenses", Law Enforcement Assistance Administration.

Mr. MAHON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. GIBBONS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9375) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION DISMISSING ELECTION CONTEST OF ELSA DEBRA HILL AND FELIX J. PANASIGUI AGAINST WILLIAM CLAY

Mr. THOMPSON, from the Committee on House Administration, submitted a privileged report (Rept. No. 95–723) on the resolution (H. Res. 822) dismissing the election contest of Elsa Debra Hill and Felix J. Panasigui against William Clay, which was referred to the House calendar and ordered to be printed.

REPORT ON RESOLUTION DISMISSING ELECTION CONTEST AGAINST W. WYCHE FOWLER, JR.

Mr. THOMPSON, from the Committee on House Administration, submitted a privileged report (Rept. No. 95–724) on the resolution (H. Res. 825) dismissing the election contest against W. Wyche Fowler, Jr., which was referred to the House calendar and ordered to be printed.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 9375, just considered, and that I be permitted to insert extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

THE OIL COMPANIES—"THEY ARE ME"

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BADHAM. Mr. Speaker, in this morning's Washington Post there was printed a letter to the editor which should be read and pondered by each of the Members of this House. It is from an American who is one of the hundreds of thousands of owners of "the oil companies." The monthly payment of $93.33 this gentleman receives from his investment is a large part of his retirement income. He points out a few basic facts which should always be in our minds when we discuss the energy industry and which all too often seem to be overlooked when oversimplification leads people to refer to "the oil companies" during public debate over energy policy.

The President's recent attack on the "oil companies" and his vision of history's greatest "rip-off" was an insult to the millions of investors in our corporate enterprise system. The President does not blame "the farm companies" when farm prices are at issue. He talks about "farmers." The President does not seem to apply the same standard when the issue is our energy industry.

I commend the text of this letter to my colleagues:

THE OIL COMPANIES—"THEY ARE ME"

President Carter's senseless attack on "the oil companies" should be noted as political rhetoric only, as any brief analysis would show. Who are "the oil companies"? Well, they are me—I own 800 shares of Continental Oil Company (Conoco) stock, which I bought with money I saved while working, and the $93.33 that Conoco pays me every month helps a great deal now that I'm retired. Although lagging for a while, dividend increases lately have a bit more than matched the increase in cost of living.

Over the past 10 years, including those when Sen. Harry Jackson was calling "the oil companies" thieves, Conoco has sold $44.3 billion worth of products, has paid federal income taxes of $600 million and other taxes of $8.9 billions, and "other costs" have amounted to $32.6 billion. Net profits were $2.2 billion (5 per cent of sales), dividends were $800 million, and $1.4 billion were reinvested in the business. Those receiving dividends (the owners) were perhaps, on the average, in a 38 per cent tax bracket, so $300 million of the $800 million in dividends went to Uncle Sam, increasing his take from the business to $900 million and decreasing the owners' take to $500 million.

So Uncle got, in income taxes alone, almost twice as much as the owners got in net income; total taxes paid by Conoco over the period were almost 20 times as much as the owners got from the business. During the 10 years, long-term debt increased by $600 million, so the owners borrowed more money than they got back in net income.

"Other costs" of $32.6 billion, the $1.4 billion reinvested, and the $600 million increase in long-term debt mostly went into jobs for people—you can't drill a hole in the ground or buy transportation or equipment without putting people to work. Certainly these figures represent hundreds of thousands of jobs.

So this is "the oil companies," fostered by private capital and existing in a competitive environment, paying 20 times as much in taxes as the owners get, and selling gasoline much more cheaply than it can be bought in most other major countries of the world. This is a rip-off?

What do the politicians offer us in return if we accede to their demands that they be allowed to run the oil companies? Promises, intentionally vague promises, because they know little of the system they would destroy. But I know this, that when they destroy the oil companies they destroy me and hundreds of thousands of people like me. I am writing this letter because I object strenuously to being destroyed.

WILLIAM T. ST. CLAIR.

BERRYVILLE, Va.

ERIC SEVAREID BLASTS THE FRIENDS OF HANOI

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROUSSELOT. Mr. Speaker, Eric Sevareid of the Columbia Broadcasting System recently commented on the rally held in support of representatives of the brutal Communist dictatorship in Hanoi. "They were celebrating the triumph of Communist totalitarianism," he says of those Americans like ACTION Director Sam Brown who took part in this shameful episode.

I would like to ask the following question: What is the moral difference between those who applaud Communist

dictators today and those who, in the thirties, applauded Nazi dictators? I see no difference—the degree of horror and barbarity are the same in both cases. Unless someone can show me how the Communist tyrants differ from the Nazis in regard to human rights, I am forced to the conclusion that Sam Brown, a high-ranking official of the Carter administration, pays honor to those whose standards are on a level with those of Heinrich Himmler.

At this point I want to insert into the RECORD "Those Who Hail Hanoi" by Eric Sevareid, as reprinted in the Christian Science Monitor October 12, 1977:

THOSE WHO HAIL HANOI

(By Eric Sevareid)

The United Nations General Assembly has reconvened in New York, including representatives of the regime that now runs a unified Vietnam. They won their war. They have demonstrated full control of that country. The principle of universality must govern UN membership, not likemindedness, so they are entitled to their seat. Americans must put up with that.

What they may properly react to is the transaction that occurred [recently] in a New York theater. Several thousand other Americans joyfully welcomed the Hanoi delegation, one of whom promptly denounced what he called U.S. imperialism and demanded money payment from this country. One newspaper describes the gathering as the antiwar movement coming together again. It was, rather, that part of the antiwar movement which was not antiwar at all; it was anti the American role in the war and pro Hanoi. This group never had the slightest objection to the murderous civil war in Vietnam, which was started by the Hanoi Communists, who invaded the South, where the war was entirely fought save for the American bombing of the North.

There's a great difference between those Americans who wanted the United States out of the war because they thought it was none of our business, unwinnable, morally and politically destructive of our own principles and our own society—between them and the Americans who wanted Hanoi to win. It was the latter, for the most part, who met in the theater, and they had the effrontery to welcome the Hanoi officials in the name of the American people.

There is nothing most Americans want to forget more than Vietnam, but this occurrence obliges us to do a little remembering—to remember the thousands of North Vietnamese farmers cold-bloodedly liquidated by the Hanoi Communists in the name of their class warfare doctrine; a million or so ordinary people of the North driven into exile in the South, men, women, and children on foot, tens of thousands of Roman Catholics among them; the thousands of village leaders in the South executed by Viet Cong assassination squads. And to remember that at no time was there evidence that the majority of southern Vietnamese desired Communist rule and much evidence that a majority feared and loathed the prospect.

Most of those in the New York theater were not celebrating peace. They were celebrating the triumph of Communist totalitarianism, which is what they had always been working for in the guise of a peace movement.

RATEMAKING PRACTICES IMPOSED ON COUNTRY AUCTION BARNS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) is recognized for 10 minutes.

Mr. HAMMERSCHMIDT. Mr. Speaker, today, with a great sense of urgency I have joined with my friend and colleague, Congressman RAY THORNTON, and other Members in sponsoring a bill to lift the onerous and costly Federal ratemaking procedures and standards which are presently being applied to auction barns and which threaten to drive many of these markets out of business.

Under this measure small rural auction barns operating in competition with one another will no longer be treated as public utilities whose rates and charges can only be established after elaborate and costly application of Federal ratemaking machinery. However, it will not disturb the jurisdiction of the Secretary of Agriculture over the rates and charges of stockyards which operate without effective competition.

The Packers and Stockyards Act of 1921 provided the Secretary of Agriculture with the authority to set rates and charges at stockyards so that they might be reasonable, just, and nondiscriminatory. At that time, the 71 existing terminal stockyards were operating without effective competition and were rightfully subjected to the Federal ratemaking process designed for public utilities. During the following years, however, increased livestock marketing caused the creation of smaller stockyards, known as auction barns. When these barns came under the authority of the Secretary of Agriculture in 1958, they were also made subject to Federal regulations setting tariffs by per head commissions, as determined by an involved formula devised by the Packers and Stockyards Administration.

These restrictive ratemaking procedures which served a legitimate purpose when applied to monopolistic practices of the large stockyards of the early 1920's are creating a damaging situation now that the livestock market has been decentralized.

The Arkansas Livestock Auction Sales Association has demonstrated the gravity of the situation in a very persuasive and compelling manner, and has urged legislative assistance to save their industry. There are 1,980 auction barns throughout the United States. In comparison to that number, only a miniscule number of these barns are of the type which Congress considered in 1921 and subjected to regulation as public utilities, yet the same ratemaking policies are being applied to all.

Our proposal will ease the plight of small, locally owned auction barns, but will at the same time leave undisturbed the jurisdiction of the Secretary of Agriculture over the very large facility and the isolated facility at which there is no effective competition. I would urge my distinguished colleagues in the House to join with me in this effort and take a positive step to eliminate one example of antiquated and excessive Federal regulations which have a potentially devastating effect on the private sector.

I particularly hope that the esteemed members of the Agriculture Committee will press for hearings on this issue, and firmly believe that a thorough exploration of the facts will demonstrate the need for action to protect the small auction barn owner from extinction.

The text of my bill is included for your review:

H.R. 9639

A bill to amend the Packers and Stockyards Act of 1924

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301 of the Packers and Stockyards Act, 1921 (7 U.S.C. 201), as amended, is amended by adding at the end thereof the following new subsection:

"(e) The term 'animal marketing unit' means one head of cattle, one calf, one horse, three hogs, or four sheep.".

SEC. 2. Section 305 of such Act (7 U.S.C. 206), as amended, is amended by adding the following new sentence at the end thereof: "For the purpose of carrying out the provisions of this Act with respect to the justness or reasonableness of any such rate or charge (or the method of computing such rate or charge), the authority of the Secretary is restricted to those rates or charges (or methods of computing such rates or charges) for stockyard services at stockyards which (1) have an annual sales volume in excess of one hundred thousand animal marketing units, as determined by the Secretary; or (2) have an annual sales volume in excess of twenty thousand animal marketing units, as determined by the Secretary, and are located more than seventy-five miles from the nearest independently owned and operated stockyard.".

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 5 minutes.

Mr. SARASIN. Mr. Speaker, on October 18, 1977, I was absent for part of the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 664: S. 393: Montana Wilderness Study. The House passed the measure to provide for the study of certain lands to determine their suitability for designation as wilderness in accordance with the Wilderness Act of 1964, "yea."

YORKTOWN BICENTENNIAL CELEBRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. TRIBLE) is recognized for 10 minutes.

Mr. TRIBLE. Mr. Speaker, today is the 196th anniversary of Cornwallis' defeat at Yorktown. This event marked the successful termination of the American Revolution. I am pleased to introduce on this anniversary a resolution, supported and cosponsored by every Member of the Virginia delegation, to celebrate the 200th anniversary of the victory at Yorktown in 1981.

The American people are enthusiastic about celebrating national events. This much is evident from the Nation's response to the Bicentennial. This celebration is continuing, with great interest and enjoyment, at the local level on the anniversaries of the lesser episodes of the Revolution. We must encourage this

disposition to show admiration and gratitude for the great things that our Nation has accomplished. Celebrations are a primary means of transmitting our heritage from generation to generation. They are times for enjoying and contemplating what it is to be an American.

The surrender of Cornwallis at Yorktown, Va., on October 19, 1981, was the crowning success of the American Revolution. Everyone is aware of what we owe to this victory.

The joy, relief, and happiness that was displayed by the young Nation in 1781 was boundless. No incident of the Revolution—the surrender of Burgoyne not excepted—aroused such universal, spontaneous enthusiasm. As the news spread, bonfires, salutes, processions, "ox-roasts," public meetings, speeches, and sermons were the order of the day. The people knew with certainty that the success at Yorktown had sounded the death knell of the British domination in America. The determination of the American people to live under their own Government had been realized. With the victory at Yorktown, men and women looked upon the Revolution as accomplished.

If Bunker Hill represents a resolution made to resist parliamentary aggression to the end, Yorktown represents that resolution kept. Our autonomy as a nation dates from this victory. Yorktown represents both the struggle and the success of the Revolution.

The people of the United States have celebrated the victory at Yorktown annually, with a centennial, and a sesquicentennial. Yorktown has a deep meaning to the American people as a seminal part of their heritage.

The centennial celebration was a magnificent affair. The Congress adjourned for 5 days. Two-hundred Senators, Congressmen, Governors, Supreme Court Justices, and descendants of Revolutionary War generals attended. France sent the French Minister and the descendants of Rochambeau, De Grasse, and La Fayette. Twelve thousand military men performed for 25,000 guests and visitors. The battle monument that now stands in mute testimony to the Americans and French who died in the battle was dedicated.

On the sesquicentennial, the American people responded with a nationwide demonstration of their respect for this victory. The radio stations broadcast the events of the 4-day celebration across the country. Public school children paused on the 19th of October to pray and consider the importance of the victory at Yorktown.

Between 60,000 and 150,000 persons visited Yorktown on each day of the celebration. A grand fleet of 43 American and French ships of the line, including the battleship *Arkansas*, and the S.S. *Constitution*, passed in review on the York River.

Thirty-five States and the Territory of Hawaii participated in the various events, pageants, and parades.

France, Germany, and England were represented by the descendants of Cornwallis, Admiral de Grasse, Comte de Rochambeau, La Fayette, and General von Stuben.

The American people dedicated a living, perpetual memorial to the battle, the Colonial National Monument, that embraces the battlefield of Yorktown, Jamestown Island, and parts of the city of Williamsburg all connected by a scenic parkway.

It was a celebration of pageantry and military pomp and splendor on a scale seldom, if ever, seen.

It is time now to start planning the events to take place in 1981. The French are already inquiring as to our progress in this celebration. I believe the Congress of the United States should assume the leadership in initiating a bicentennial commemoration of the victory at Yorktown.

The purpose of this resolution is to begin these plans. This resolution would establish a commission to plan, encourage, develop, and coordinate such a celebration. 4 Senators, 4 Congressmen, and 17 private citizens would be joined by the Secretary of State, the Attorney General, the Secretary of the Interior, the Secretary of Defense, the Secretary of Health, Education, and Welfare, the Librarian of Congress, the Secretary of the Smithsonian Institution, the Archivist of the United States, and the Chairman of the Federal Council on the Arts and the Humanities as ex-officio members.

In 1 year, these individuals would recommend a comprehensive program and an estimate of the cost. In terms of a celebration, we need not do more than emulate the spirit and duplicate the enthusiasm of our predecessors.

We should also seek to educate the people to the implications of this event for the present and future generations of Americans. The production and dissemination of books, pamphlets, films, and other educational materials would serve to remind the people of this great day. Nationwide programs and activities could inform the people on the national and international significance of the victory. The commission could encourage the generation of scholarly works that focus on these closing years of the Revolution. The commission could also contemplate our contribution to the permanent memorial at Yorktown.

These plans and programs developed by the commission would be coordinated with related programs developed by State, local, and private groups. Financial and administrative responsibility should be allocated among the public and private authorities and organizations participating in the celebration.

There can be no doubt that a commemoration on a national scale is warranted. Like the battle, this commemoration should be the capstone of our Revolutionary celebration. It should serve to draw together and focus all our hopes and expectations for the bicentennial in an appropriately conclusive celebration. I ask for your support and participation in this endeavor.

[Board of Supervisors, County of York, Yorktown, Va.]

RESOLUTION

At a regular meeting of the York County Board of Supervisors held in the Circuit Courtroom at Yorktown, on the 13th day of October 1977:

On motion of Dr. Quarles, which carried 5:0, the following resolution was adopted:

Whereas, on July 4, 1776 the colonial leaders of America declared, for the consideration and judgement of mankind, the causes which impelled them to dissolve the political bonds connecting the United States of America with Great Britain; and

Whereas, on October 19, 1781, the people of America completed their declaration of sovereign independence by accepting the surrender of British regiments at Yorktown, Virginia; and

Whereas, with the victory of American and French forces at Yorktown, the long and proud history of nation-building in the United States of America was begun; and

Whereas, the bicentennial celebration of American independence would be incomplete without due recognition of October nineteenth as a day for national celebration of the establishment of a free people in these United States of America;

Now, therefore, be it resolved by the Board of Supervisors of York County, Virginia, on this the 13th day of October 1977 that the Congress and the President of the United States of America be and they are hereby earnestly and respectfully petitioned to establish Yorktown Day, October nineteenth, as a national holiday in the year 1981 and thereafter.

Be it still further resolved that if the Congress of the United States establishes a commission to plan, encourage and coordinate observances of the 200th anniversary of the British surrender at Yorktown the Board of Supervisors of York County respectfully petitions to be represented on such commission.

SOLAR CELLS FIND THEIR NICHE IN EVERYDAY LIFE ON EARTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

Mr. NEAL. Mr. Speaker, the possibility of relying directly on the Sun as a major source of energy is quickly becoming a reality. Yet, there are some major barriers that must be overcome before we can realize this goal; one such barrier is education. Despite the rapid progress we have been making in this field, many people—including policymakers—still view solar as an exotic futuristic technology, which in all practical terms, is far beyond our grasp. This is especially true of photovoltaics—the seemingly magical conversion of sunlight into electricity. This month the Smithsonian magazine featured an excellent article, written by David Morris, about the progress we have made since 1973 and some of the remaining difficulties of developing photovoltaics, which I would like to commend to my colleagues' attention.

The article follows:

SOLAR CELLS FIND THEIR NICHE IN EVERYDAY LIFE ON EARTH

(By David Morris)

The next time you buy a calculator, a wristwatch or even a new home, its electrical power source may be almost magical solar cells. These light-transforming wafers of silicon generate electricity silently, using nothing more than sunlight for fuel. They are beginning to supply electricity for commercial and agricultural uses in remote areas far from power lines. Although still in their infancy, it is increasingly likely that solar cells will become the centerpiece of our solar electric program and part of the answer to the energy crisis. Pioneers in this highly so-

phisticated field hope to provide low-cost electrical energy from rooftop solar panels by the mid-1980s, a development with profound implications regarding the utility industry and the nature of our neighborhoods and households.

Although the basic patents for solar cells were established in the early Forties, the first breakthrough in their manufacture came at Bell Laboratories in 1954. Bell's applications of one-meter solar arrays as voltage amplifiers was a pioneering step. The cells became more familiar in the 1960s, providing electrical power to spacecraft. Those used in the space program were very expensive, but cost was not the primary concern. With no other market, manufacturers had no incentive to lower the cost.

A few systems were established on Earth, using cells that had not met the requirements of the space program, but few cells designed for terrestrial use were produced until 1973.

Solar cells should not be confused with the solar collectors used to heat water and buildings and, by producing steam, to generate electricity. Collectors convert sunlight into heat; solar cells convert it directly into electricity. Sunlight striking the cells frees electrons, forming an electrical current.

In space the sun is always shining, so there is no problem with storing electricity. On Earth, however, the sun shines only half the time in good weather and not at all in bad, so electricity must be stored for sunless periods. (Wind-powered electric systems have the same problem: electricity must be stored for times when there is no wind.) Currently this is done with lead-acid storage batteries, similar to those used in automobiles. A day's electricity for an average single-family house can be stored in batteries occupying the space of a closet; a row of such "closets" in the basement store power for sunless periods.

If, as some expect, solar cells come to be used in neighborhood-size rather than single-house systems, then storage, too, would be central. Two thousand homes would require about as much storage space as a million-gallon water tank, a not unfamiliar sight in many communities.

Present batteries present safety problems (from the sulfuric acid in them) and are expensive; it takes about $40 worth of batteries to store one kilowatt hour. So along with the research on solar cells, a lot of work is being devoted to batteries using chemical reactions other than lead-acid.

Back-up systems can be used. A house fitted with solar cells can be left connected to the local utility; during sunless periods the house is simply switched over to the conventional source. (This way, the house can feed any surplus it produces back into the grid system as well; this is already happening with some wind systems.) And diesel generators can be used, just as they are now in hospitals and homes when the power fails in a storm or blackout.

Large central systems generating electricity with solar cells or windmills can store power in other ways. One is to pump water up to a reservoir during periods of low demand, then let it run downhill through turbine generators when demand is high. Another is to extract hydrogen from water by electrolysis during low demand, then run gas turbines with the hydrogen during peak demand. Still another way is to use surplus power to spin huge flywheels, storing the energy as momentum.

Confident that storage problems will be solved, manufacturers are concentrating on making better and cheaper cells. The cells are extremely thin (12 thousandths of an inch). At present all commercial cells are made of silicon, the second most abundant element in the Earth's crust. But they can be made from other materials: two companies are about to produce cells made of cadmium sulfide. The largest cells made today are four inches in diameter. They are wired together in panels of dozens or hundreds.

The output of solar cells is often given in "peak watts," the amount of power produced in full sunlight at 77 degrees. A four-inch cell can provide slightly more than one peak watt at noon on a sunny day in an area such as Phoenix. Higher temperatures decrease the efficiency of silicon cells.

For many readers, a more relevant term may be "average wattage." The peak watt is what we get in ideal conditions; the average watt is what we get at any time, assuming adequate power storage. Over a year, we may average four to six hours of sunlight a day. Thus the ratio of peak to average is about five to one, a little less in Arizona, a little more in Minnesota.

The average single-family residence (a four-person, 1,500-square-foot, non-air-conditioned house) uses about 700 kilowatt hours a month, the equivalent of a one-kilowatt generator running continuously. Because this average house needs one kilowatt of average power, it requires five kilowatts of peak power. This, in turn, would require about 500 square feet of solar cells at present efficiency levels under optimum conditions. The Energy Research and Development Administration (ERDA) says 1,500 square feet would now be required in a northern area such as Boston.

In the last four years the price has dropped from $500 to $13.50 per peak watt. The cells are already cost-effective in remote areas, places where expensive heavy-duty batteries would otherwise have to be maintained and discarded regularly. Offshore oil platforms, buoys and remote weather and forestry stations are places where solar cells are now routinely used.

Most observers agree that the price will have to drop to a dollar or 50 cents per peak watt before solar cells on rooftops will be competitive with conventional central power plants.

The very recent entry into the marketplace by solar cells has produced a considerable gap in public understanding. Indeed, since 1974 the industry has advanced so rapidly that ERDA is reevaluating its programs. Henry Marvin, director of the Solar Energy Division, has assumed management of the solar cell or "photovoltaic" program. "The program was not keeping up with the technology," Marvin says. "ERDA was no longer pushing industry. It was no longer in front."

THE PRICE OF PURITY

The very high cost of ultrapure semiconductor silicon has been a barrier to lowering the cost of solar cells. Metallurgical-grade silicon has a purity as high as 99.5 percent, and it costs 10 to 20 cents per pound, roughly the same cost as steel. The semiconductor-grade silicon, used in solar cells, however, has a purity of 99.99999 percent and costs $10 to $20 a pound. Microminiaturized circuitry demands this kind of purity, but it adds a great cost burden to solar cell manufacturers. Of the present $13.50 per peak watt, approximately $3.50 is for high-grade silicon.

Over the last three years, ERDA has chosen to concentrate on lowering the cost of the single-crystal process, in which each cell is sliced from a large, very pure, man-made silicon crystal. ERDA formerly believed that polycrystalline silicon, a cheaper, multiple-crystal form with lower purity levels, would have very low efficiencies. (Efficiency here means the percentage of energy in sunlight striking the cell that is converted into electricity. Present efficiency of single-crystal cells is 10 to 14 percent.)

Although many industry experts as recently as 1973 concluded that polycrystalline solar cells with a 10 percent efficiency could not be developed until at least 1983, two companies developed such cells independently in 1975.

Technology is changing faster than almost anyone realizes. In 1975, experts maintained that so much energy was required to make solar cells, they would not generate enough energy to pay back the initial expenditure within their 20-year lifetime. Yet a 1977 report done for the federal government on an actual production process not only found that the payback period was between four and six years, but went on to advocate the establishment of a solar breeder. A company could produce cells, put them on the roof, and use the electricity to make more cells. With slight refinements, many believe the payback period can be less than two years.

These rapid technological developments have the industry straining to transform technical developments into production-line processes. As one observer asked, "What good is a polycrystalline cell if it is not mass-produced and marketed?" Limited markets are delaying this step. A rapidly expanding market would permit manufacturers to invest the capital to automate their machinery and reduce prices.

It is unlikely that the market will open up very rapidly by itself. There are already thousands of locations where solar cells can be used economically, but the newness of the industry means every potential customer has to be educated anew.

Another marketing problem is the remote locations of existing solar-cell arrays. They grace the Arctic, Antarctic mountain peaks and north African deserts. No one sees them. One manufacturer laments, "The first national exposure for solar cells occurred when we installed some on a toilet facility in Yellowstone National Park."

Even in areas where solar cells are currently economical, their high initial cost makes local agencies hesitate. Few are experienced at considering costs over the lifetime of a system, a method of evaluation in which solar cells can be competitive. Many procurement officers appear to prefer to wait for a lower purchase price.

With the need to stimulate the market in mind, ERDA began direct purchasing of solar cells in 1975. It will purchase solar arrays capable of producing 160 to 200 kilowatts in 1977 and plans to buy more in fiscal 1978. Dick Weingarner of Optical Coating Laboratories, Inc., sums up the general feeling of manufactureres by saying, "It is good to see ERDA involved in direct buying, but this kind of national program will not bring the price down. Production levels need to be significantly higher before prices will fall significantly."

For many, the Department of Defense is the logical agency to make major purchases. A recent study identified military potential applications for solar cells as many times greater than current annual production. But the Defense Department has yet to be convinced that solar cells are superior to traditional diesel generators and battery systems.

In 1976 the ERDA photovoltaic budget (about $59.4 million) was many times the total sales of terrestrial solar cells (about $7 million last year). The agency bought 20 percent of the industry's output, spending the rest of the money for research and development.

According to Dr. Marvin, ERDA will purchase $10 million of photovoltaic equipment in 1978 and spend another $30 million on research, development and overhead costs.

RAISING THE MONEY

Congressional supporters have introduced legislation to increase substantially the level of federal purchases. The House approved a bill calling for a $39 million, three-year procurement program beginning in 1979. The Senate is discussing a $98 million purchase over the same time period.

Until now, however, the companies producing terrestrial solar cells have been relatively

small. Big business has been reluctant to enter the solar-cell market aggressively. Mobil, Exxon, Shell, Hughes Aircraft and a French petroleum company do own solar-cell manufacturing or research companies but to date few have been willing to invest the money needed to develop the market.

One of the most intriguing aspects of solar-cell development is their potential for decentralization. The cells operate most efficiently where the electricity is used. The farther they are from the consumer, the cheaper they must be to be competitive. While rooftop solar cells can be competitive with coal or nuclear power plants when the cell cost drops to 50 cents to $1 per peak watt, central solar plants would require a price drop to 20 cents.

Except for multistory buildings, the average rooftop has enough space to provide all the power needs of the building "with enough left over, say, to charge an electric car," noted Jerold Noel of Tyco Laboratories in 1974. Joseph Loferski of Brown University estimates that in Rhode Island 20 percent of the rooftop space could generate enough electricity to supply all of that state's needs.

ERDA predicts that a household system will cost $5,000 to $6,000 in 1985. It will supply all energy requirements except for a portion of the space heating. Is this the wave of the future? No one knows, but decentralization is a factor in the discussions.

Dr. Joseph Lindmayer, Solarex Corporation, told Congress: "The many letters we have received at Solarex and the many audiences we've addressed have convinced us that a major motivation for the growing popular support of solar energy is the fact that it can be controlled by individuals and local communities."

The utilities are studying solar-cell systems in three actual operations through their research association, the Electric Power Research Institute. Dr. Edward DeMeo of EPRI concedes the possibility of household systems, but believes centralized systems will prove more reliable. "I have some serious problems with individual rooftop arrays. One of the principal problems is maintenance. I don't think the individual will want to accept responsibility for his apparatus. We just don't operate like that. A possible scenario may be for the utility company or other organization to buy and install these on roofs and take care of maintenance. Once that step is taken it makes sense to try to aggregate the apparatus at some level, possibly one megawatt (200 households) in a central location purely for maintenance reasons and ease of installation."

The Office of Technology Assessment recently considered the decentralization issue: "If on-site energy equipment can be installed on a large scale at prices that are competitive with utility rates, a 30-year trend toward central power production would be reversed. . . . It would also challenge the premise on which existing regulatory law is founded: that because of economies of scale, utility companies are 'natural monopolies' and competition should be replaced by regulation to protect the public interest."

When the price of solar cells falls below eight dollars or five dollars per peak watt, they will become more widely used. The Agency for International Development and the World Bank have seriously explored the feasibility of using solar cells in those villages in developing countries where not electric grid system exists. Solar cells may become competitive for those applications within a year. Thus the solar industry will be building up experience in self-sufficient village systems in developing nations, before the price drops to where they are applicable in our own villages.

As the price drops still further, solar cells will become attractive for widespread use in industrialized countries. At 50 cents per peak watt the cost of electricity would be six to eight cents per kilowatt hour, comparable to costs in many cities now.

As noted above, however, central systems would require a cost of only 20 cents a peak watt. Whether this level can be reached is a point of considerable disagreement in the industry. Such a cost would translate into two dollars a square foot. No one is saying this isn't possible, but most agree that there must be some lower limit to solar-cell cost, and that decentralized applications will come first.

Some answers about solar cells may come from the community college project now under way in Blytheville, Arkansas. For the first time ERDA has awarded a contract directly to a user, which in turn has put together a technical team and is asking for bids from manufacturers. Integrated heat and photovoltaic systems are being used. The Mississippi County Community College will be designed to have a 250-kilowatt array that will use concentrating collectors. Light collectors will focus the sunlight onto the solar cells, getting more electricity from a given area of cell. Because the concentrator itself is less costly than the solar cell, the cost for the electricity should drop, perhaps to as low as $4.50 to $6 per peak watt. The system will also test a new type of battery, expected to be cheaper and more efficient.

The future of solar electricity looks bright. Considering that the first solar cells for use on Earth came off the production line in late 1973, the pace of development is extraordinary. Whether the market can increase rapidly enough to meet the price goals set forth in ERDA's national plan is the most pressing question. Yet each year, as the price continues to drop and the cost of conventional power continues to rise, these tiny devices demand more attention in all our future energy planning.

TERRORISM'S LEGAL ARM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. McDONALD) is recognized for 5 minutes.

Mr. McDONALD. Mr. Speaker, the coordinated efforts over the past 2 months among the Baader-Meinhof terrorists jailed in West Germany, their at-large comrades who have kidnapped businessman Hanns-Martin Schleyer, and the group of Arab and German hijackers of the Lufthansa jet has brought into sharp focus the role of revolutionary lawyers who have been serving as the principal communications network for terrorists.

Two years ago, a West German lawyer serving on the Baader-Meinhof defense team participated in the Libyan-sponsored raid on the OPEC oil ministers conference in Vienna led by "Carlos the Jackel"—Ilych Ramirez Sanchez. Radical lawyers for the Baader-Meinhof defense have made dozens of visits to jailed terrorists without making any court appearances on their behalf, while the terrorists have engaged in coordinated hunger strikes and other activities. For example, a coordinated 25-day hunger strike by Baader-Meinhof gang leaders in a number of separate prisons where they were being held in solitary confinement ended suddenly just 3 days before the Schleyer kidnapping. The inference is unmistakable.

In this country, the National Lawyers Guild serves as the major link between a large number of Marxist terrorist groups here and in other countries. Fugitive NLG member Stephen Bingham is accused of having smuggled a gun to prisoner George Jackson for an attempted jailbreak at San Quentin.

National Lawyers Guild representatives have traveled abroad to act in support of terrorists in the Middle East, South Africa, Iran, Chile, Argentina, Spain, and other countries. Its members have been tied to several attempted jailbreaks by the Black Liberation Army, and in smuggling contraband to prisoners.

In 1975, some of the NLG's leading supporters of revolutionary terrorism including Peter Weiss, William Kunstler, William Schaap, and Margie Ratner, with former Attorney General Ramsey Clark to lead an aura of respectability, tried to join the Baader-Meinhof defense team. The West German authorities wisely denied their request.

In 1976 it was revealed that a group of National Lawyers Guild members headed by Leonard Boudin are acting as a "policy-planning board" for the Weather Underground terrorists, having planned in instrumented the new Weather Underground tactic of surfacing selected leaders. Boudin has been the Cuban Government's legal agent since 1961. Following the premature explosion of an antipersonnel bomb in a New York City townhouse in 1970, the Cubans arranged a refuge for the fugitive terrorists in Czechoslovakia. Later the Czechs provided false travel documents so the Weathermen could return and resume their terrorist careers.

Mr. Speaker, new legislation is needed to cope with changing terrorist tactics; and 160 Members of this House who recognize this need have joined together in sponsoring House Resolution 48 to reestablish the Committee on Internal Security with the responsibility and capability to investigate terrorism and propose remedial legislation. I urge that the Rules Committee report out House Resolution 48 and give the Members of Congress the opportunity to vote on this burning issue.

HOUSING ALLOWANCES FOR SSI RECIPIENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 30 minutes.

Ms. HOLTZMAN. Mr. Speaker, I have on numerous occasions pointed out the failure of the supplemental security income (SSI) program to meet the needs of many poverty-stricken, aged, blind, and disabled Americans. I am introducing today legislation to provide relief, through a supplemental housing allowance, to those people who have suffered most under SSI—persons who cannot meet their most basic living expenses because of the high rents or housing costs they are forced to pay.

A fundamental defect in SSI stems from its structure as an income program. Benefits are uniform, determined without regard to the actual living costs of individual recipients. Thus, people whose living costs are relatively high receive

the same benefit as those with lower expenses, and often cannot make ends meet.

On the basis of experience with my own constituents, I have found that the greatest financial burden facing the elderly and disabled poor is the cost of housing. In my district, for example, I have encountered elderly individuals living alone paying rents as high as $150 or $160 a month. I might note that such a rent is not unusual nor does it represent luxury housing. A person in those circumstances, whose maximum monthly income is $239 may, after paying for gas and electricity, a telephone, and personal necessities such as soap, aspirin, toilet paper, and laundry, have less than $1 a day with which to purchase food.

This situation is not unique to New York. An elderly person in Texas paying $100 in rent out of a $178 benefit and a blind couple in Illinois facing monthly mortgage payments of $160 out of a benefit of $267 are in the same desperate condition.

This crisis in housing costs for the aged, blind, and disabled poor is likely to grow worse in the coming years. The President's energy program and the actions of the OPEC nations will undoubtedly cause major increases in the costs of gas, electricity, and home and water heating. The elderly and disabled poor living on SSI will not be able to meet these rising costs.

My bill will prevent this intolerable hardship by providing a supplemental housing allowance of up to $50 per month for an individual or couple whose rent or housing costs exceed one-third of monthly income. It would allow a couple paying $160 for rent or mortgage out of a total monthly income of $267 to receive an additional $50 per month. Such a payment would, for many recipients, make the difference between desperation and survival.

I would stress that this bill is not an extravagant measure. It uses 33⅓ percent of gross income as a trigger for eligibility while public housing requires tenants to pay no more than 25 percent of an adjusted income. The Department of Labor estimates that rent for a low-income couple should amount to 27 percent of income. The housing supplement would not, therefore, be a luxury, but would make the difference between subsistence and starvation. My bill retains the basic structure of SSI as an income program, but gives it the flexibility to meet the needs of recipients while avoiding a costly general benefit increase.

Mr. Speaker, I believe that the minimal test of our decency and humanity as a nation is in how we treat our most helpless people—the aged, blind, and disabled poor. The bill I am introducing today is an effort to meet that test. I urge its passage.

The text follows:

H.R. 9653

A bill to provide a supplementary housing allowance to supplemental security income recipients

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part A of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

"SUPPLEMENTARY HOUSING BENEFITS

"SEC. 1619. (a) In addition to other benefits under this title, the Secretary shall grant full financial assistance to any individual who makes application therefor, who is an eligible individual for purposes of this title, and whose annual housing expenses exceed 33⅓ per centum of his or her annual income (which for purposes of this section shall include benefits paid under section 1611 and any income which would otherwise be excluded pursuant to section 1612(b)).

"(b) For purposes of this section, an individual's annual housing expenses shall consist of such individual's annual expenses for rent or for mortgage payments and real estate taxes, together with such individual's annual expenses for gas and electric utilities and home and water heating.

"(c) The benefit under this section shall be payable at a rate which is the lesser of—

"(1) $600, or

"(2) the amount by which such individual's annual housing expenses exceed 33⅓ per centum of his or her annual income.

"(d) If two aged, blind, or disabled individuals are husband and wife (which shall be determined in accordance with section 1614(d)) and are not living apart from each other, only one of them may be qualified to receive benefits under this section; and the income and annual housing expenses of the other shall be included for purposes of determinations under this section to the same extent as they would be if such determinations involved eligibility for the amount of benefits under section 1611.

"(e) The Secretary shall administer this section and shall prescribe such regulations as may be necessary or appropriate to effectuate its purposes and conform its administration, to the maximum extent feasible, to the general administration of the supplemental security income benefits program under this title.".

KLAN NOT NEEDED OR WANTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. VAN DEERLIN) is recognized for 5 minutes.

Mr. VAN DEERLIN. Mr. Speaker, almost no situation seems so difficult that it cannot be made worse. Not even our problem along the international border with Mexico, which is being penetrated by illegal aliens in record numbers.

Now hooded types from the Ku Klux Klan have pronounced themselves ready to mass along the border from San Diego to the Gulf of Mexico, patrolling in marked cars to frighten away those who would enter the United States illegally.

As everybody knows, the thin green ranks of the Border Patrol are hard pressed to contain the surging tide from Mexico—but the last thing they need is help from the KKK.

Apart from comic aspects of the Klan's prospective intervention, there is also the inescapable fact that this is a vigilante group with a penchant for injecting itself where it is neither wanted nor needed. Klan members lack the training or authority for apprehending aliens—or doing much else that requires intellect or skills beyond cross burning. Their presence on the border could only exacerbate an already tense situation.

Mr. Speaker, Immigration and Naturalization officials responsible for policing our borders must use whatever firmness is needed to keep these kooks in bedsheets from butting in.

HONORING THADDEUS KOSCIUSZKO AND THE 200TH ANNIVERSARY OF THE AMERICAN VICTORY IN THE BATTLE OF SARATOGA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I would like at this time to declare my admiration for one of the great military accomplishments of American history—the victory of the patriot armies at Saratoga, N.Y., 200 years ago.

I would also call to the attention of the House the outstanding performance at Saratoga of the Polish patriot hero Thaddeus Kosciuszko, without whose assistance the American cause could well have failed in its worthy objectives.

If the State of New York appeared to anyone last year, just a shade more enthusiastic and demonstrative then the other 49 States of the Union in the matter of hailing our national Bicentennial, it was wholly understandable.

For it was there, on New York land and water, that the largest number of military engagements took place in the American Revolution. With all due respect to New England and the South, the Revolution was in fact, to a considerable extent, New York's private war. It may have started in Massachusetts and finished up in Virginia, but a very large part of what happened in between, happened in New York.

This was only natural, in that New York provided the gateway connecting the Colonies with Canada. If New York fell, the Colonies would have been divided in half and very likely conquered with ease. Indeed, when the war began that was what the British military leaders had distinctly in mind.

That nothing of the sort occurred was in large part due to the result of the Saratoga campaign of 1777, from which several Patriot leaders emerged as heroes of the new Nation. One of these was Gen. Horatio Gates, commander of the Northern Army; another, his dashing subordinate, Gen. Benedict Arnold. But the most important hero of all in the Saratoga undertaking would appear to have been Thaddeus Kosciuszko, the outstanding military engineer of the war.

Kosciuszko was a native of Poland, an aristocrat, and a member of the small gentry. Yet his spirit was democratic to the core. In the 1760's and 1770's, immediately preceding the outbreak of our Revolution, Europe was largely concerned with undemocratic preparations for and consumption of the First Partition of Poland, in 1772.

The Partition was occasioned by the aggressive policies of Russia, Prussia, and Austria, aided and abetted by a large body of treacherous Polish noblemen. Following the Partition, that part of the Polish nobility and gentry openly hostile to foreign domination was rendered unwelcome in their own land, and moved away.

One of these was Thaddeus Kosciuszko. A graduate of the Royal School at Warsaw, with the rank of captain, he was one of many European soldiers of fortune attracted to the democratic banner. Exiled in Paris when the war began, Kosciuszko saw in the American adventure a reflection of his own democratic purposes in Poland, and therefore determined on joining the American cause. Borrowing the necessary funds, he sailed to America and upon his arrival offered his services to Congress which was deeply impressed by his knowledge of military engineering. Desperate for assistance in this vital regard, the Congress welcomed Kosciuszko and put him instantly to work.

He was first employed in designing the defenses of the Delaware River. The success of this endeavor won for Kosciuszko a commission as colonel of engineers in the Continental forces. In the spring of 1777, he joined the Northern Army under General Gates at Ticonderoga where he advised the fortification of Mount Defiance. The failure to follow his recommendation lost Ticonderoga to the Patriots.

This was in July, in September, British General Burgoyne moved against the American position at Freeman's Farm on Bemis Heights, nearby Saratoga. The area had been selected by Kosciuszko and fortified according to his orders. The British objective was to shove the Americans aside and march on Albany which was virtually unprotected. As it worked out, Kosciuszko's defenses stymied British firepower and the spirited British bayonet assaults failed to turn the tide.

With darkness, firing ceased and the Americans withdrew, leaving the field in British hands. But the losses sustained by the enemy were twice those suffered by the Patriots and Burgoyne had been thwarted in his main purpose of setting out for Albany.

It has been noted that here, for the first time since Bunker Hill, the Americans began to feel themselves the equal of British Regulars in close fighting on difficult terrain. Much of the credit for this sense of self esteem must go to the man who set the advantageous stage for battle: Thaddeus Kosciuszko.

On October 7, 1777 Burgoyne dispatched 1,500 troops to reconnoiter Gates' position. Responding on the field selected by Kosciuszko, the Americans drove Burgoyne aside, inflicting 400 casualties in 1 hour's time. When the British force began retreating, the Patriots charged, driving them back upon their own camp with heavy losses. When darkness fell, the British Army was a shambles and good for nothing but retreat. When Burgoyne hesitated, Gates surrounded his position and, after some delay, Burgoyne surrendered.

Deeply impressed by the American performance at Saratoga, the British Government began arranging for the dispatch of a peace commission to America. But before that could happen, the French Government declared its recognition of American independence.

The later and conclusive actions of the French troops and the French loans and subsidies to the American Treasury, were directly traceable to the victory at Saratoga and its author, Thaddeus Kosciuszko.

Clearly no contribution to the American Revolutionary cause can be said to outshine that of this remarkable man, whose zenith came at Saratoga 200 years ago.

To honor the 200th anniversary of the Battle of Saratoga, the Polish Museum of America and the Legion of Young Polish Women have published the book, "Kosciuszko Letters in the American Revolution."

HEARINGS BEFORE THE SUBCOMMITTEE ON CRIME OF THE HOUSE COMMITTEE ON THE JUDICIARY RELATING TO UNEMPLOYMENT AND CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, the Subcommittee on Crime of the House Judiciary Committee will continue its series of hearings on the relationship between economic factors, particularly unemployment, and crime rates.

These hearings will continue with 2 days of testimony on October 26, 1977, at 10 a.m. in room 2226 Rayburn House Office Building, and on October 27, 1977, 10 a.m. in room 2237 Rayburn House Office Building.

Those wishing to testify or to submit a statement for the record should address their requests to the House Committee or. the Judiciary, 2137 Rayburn House Office Building, Washington, D.C. 20515.

A SALUTE TO NATIONAL SCHOOL LUNCH WEEK

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, during the past week, millions of schoolchildren across the country participated in a nationwide salute to the national school lunch program. The theme for this year's National School Lunch Week has been "Eat to Learn and Learn to Eat." In response to this, last week, schoolchildren from kindergarten through senior high school not only enjoyed appetizing and well balanced meals but also learned the importance of good nutrition.

Since its inception in 1947, the national school lunch program has played a significant role in providing our Nation's children with healthy and highly nutritious meals. During the past 31 years, we have come a long way in meeting this objective. We are now embarking upon a new objective and that is to not only provide well balanced meals but to educate ourselves and our children about the benefits of good nutrition.

During the recent Senate-House conference on H.R. 1139, legislation was adopted that will create a nutrition information and education training program. It is the intention of this legislation that this program be the vehicle through which children, parents, teachers, and food service personnel become aware of the importance of the principles of good nutrition.

In the face of worldwide hunger and poverty, we as a nation should pay special tribute to a country that can provide for its children. Therefore, since last week was set aside as "National School Lunch Week," I know that my colleagues would want to join in my salute to all those dedicated individuals who devote so much time and care during the school year in the planning and preparation of nutritious meals for our schoolchildren.

A TRIBUTE TO EARLE C. CLEMENTS ON HIS 81ST BIRTHDAY

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PERKINS. Mr. Speaker, fortunately for the Nation, it has always had a valuable resource in the advice and counsel of its senior statesmen who, after long and fruitful public service, continue to be interested in the state of our Nation and dedicated to seeing government work for the people.

Today, outstanding among these wise and experienced experts in Government, industry, agriculture, and politics is Earle C. Clements. Today, October 19, 1977, he celebrates his 81st birthday. Former U.S. Senator from Kentucky and deputy majority leader of the U.S. Senate, Earle C. Clements is as interested and active in local and national affairs as in those days.

When, as Kentucky's Governor, he laid the organizational foundation for modern government in our Commonwealth,

When, as county judge, he brought Union County, Ky., from a state of near bankruptcy to a fiscally sound operation, greatly improving the county road system and the public facilities in the process,

When, as high school football coach, he in a short period of time produced a championship team.

I am pleased and grateful that I and others concerned in Government can continue to draw upon the experience and wisdom of Earle C. Clements. Most of my colleagues here today do not recall his service in the U.S. House of Representatives in the 79th and 80th Congresses, but no one who has known him in any of his former roles as coach, sheriff, county clerk, State senator, Congressman, Governor, and U.S. Senator, will ever forget his penetrating intellect, his dedication to his State and county and his effectiveness in making government work efficiently and responsively to need.

PRINTING OF AN ADDITIONAL RULE TO THE RULES OF THE COMMITTEE ON ARMED SERVICES

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, in accordance with clause 2(a) of Rule XI of the

Rules of the House of Representatives, I submit herewith for printing in the CONGRESSIONAL RECORD an amendment to the rules of the Committee on Armed Services which was adopted by the committee in open session on Tuesday, October 18, 1977:

ADDITIONAL RULE NO. 18, TO THE COMMITTEE RULES REGARDING BROADCASTING

18. In accordance with the provision of rule XI, clause 3, Rules of the House of Representatives, it is the purpose of this rule to provide a means, in conformity with acceptable standards of dignity, propriety, and decorum, by which committee or subcommittee hearings or meetings, which are open to the public may be covered, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage. In that regard, the provisions of rule XI, clause (3(a)(d) are specifically incorporated herein by reference.

The chairman of the full committee or the chairmen of the subcommittees are authorized to determine on behalf of the full committee or its subcommittees respectively whether hearings or meetings which are open may be broadcast, unless the committee or its subcommittees respectively by majority vote determine otherwise.

In accordance with rule XI, clause 3(f), the following provisions shall apply to the broadcasting of committee or subcommittee hearings or meetings which are open to the public:

(a) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(b) No witness served with a subpena by the committee shall be required against his will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any such witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off. This subparagraph is supplementary to paragraph (m) of clause 2(k)(5) of rule XI of the Rules of the House of Representatives, relating to the protection of the rights of witnesses.

(c) Not more than four television cameras, operating from fixed positions, shall be permitted in a hearing or meeting room. The allocation among cameras permitted in a hearing room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(d) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any Member of the committee or its subcommittees or the visibility of that witness and that Member to each other.

(e) Television cameras shall not be placed in positions which obstruct unnecessarily the coverage of the hearing by the other media.

(f) Equipment necessary for coverage by the television and radio media shall not be installed in, or removed from, the hearing or meeting room while the committee or subcommittee is in session.

(g) Floodlights, spotlights, strobelights, and flashguns shall not be used in providing any method of coverage of the hearing or meeting, except that the television media may install additional lighting in the hearing room, without cost to the Government, in order to raise the ambient lighting level in the hearing room to the lowest level necessary to provide adequate television coverage to the hearing or meeting at the then current state of the art of television coverage.

(h) Not more than five press photographers shall be permitted to cover a hearing or meeting by still photography. In the selection of these photographers, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If request is made by more than five of the media for coverage of the hearing or meeting by still photography, that coverage shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(i) Photographers shall not position themselves, at any time during the course of the hearing or meeting, between the witness table and the Members of the committee or its subcommittees.

(j) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage of the hearing by the other media.

(k) Personnel providing coverage by the television and radio media shall be then currently accredited to the Radio and Television Correspondents' Galleries.

(l) Personnel providing coverage by still photography shall be then currently accredited to the Press Photographers' Gallery Committee of Press Photographers.

(m) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

GENERAL LEAVE

Mr. GARY A. MYERS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 1037.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

Mr. ANDREWS of North Dakota (at the request of Mr. RHODES), for today and the balance of the week, on account of illness in the family.

Mr. CORMAN (at the request of Mr. WRIGHT), until 12:15 p.m. today, on account of official business.

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GARY A. MYERS) to revise and extend their remarks and include extraneous material:)

Mr. HAMMERSCHMIDT, for 10 minutes, today.

Mr. SARASIN, for 5 minutes, today.

Mr. PRITCHARD, for 20 minutes, today.

Mr. RAILSBACK, for 5 minutes, today.

Mr. KEMP, for 10 minutes, today.

Mr. TRIBLE, for 10 minutes, today.

(The following Members (at the request of Mr. KOSTMAYER) to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. NEAL, for 5 minutes, today.

Mr. MCDONALD, for 5 minutes, today.

Mr. SIMON, for 5 minutes, today.

Mr. FASCELL, for 60 minutes, today.

Ms. HOLTZMAN, for 30 minutes, today.

Mr. VAN DEERLIN, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BROWN of California, to revise and extend his remarks and include extraneous material during debate on H.R. 9375 in the Committee of the Whole today on the section pertaining to Soil Conservation Service watershed and flood prevention operations.

Mr. GIAIMO, to include extraneous material in his remarks on H.R. 9375 during general debate in the Committee of the Whole today.

Mr. FINDLEY, to revise and extend his remarks and include extraneous matter when the Committee considers H.R. 9375.

Mr. BONKER, on the Yates amendment to H.R. 9375 in the Committee of the Whole today.

Mr. PANETTA, to insert remarks following Mr. WHITTEN on agricultural section.

Mr. JOHN T. MYERS, to revise and extend his remarks and to include extraneous material during general debate on H.R. 9375, supplemental appropriations bill.

(The following Members (at the request of Mr. GARY A. MYERS) and to include extraneous matter:)

Mr. DUNCAN of Tennesseee.

Mr. ASHBROOK in three instances.

Mr. GILMAN in three instances.

Mr. WHALEN.

Mr. CRANE.

Mr. FORSYTHE.

Mr. LAGOMARSINO.

Mr. PRESSLER.

Mr. KEMP in two instances.

Mr. MCCLORY.

Mr. JEFFORDS.

Mr. WALKER.

Mr. CARTER.

Mr. DORNAN.

(The following Members (at the request of Mr. KOSTMAYER) and to include extraneous matter:)

Mr. CORNWELL.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. PATTEN.

Mr. CLAY.

Mr. MCDONALD in five instances.

Mr. TEAGUE.

Ms. OAKAR.

Mr. MAZZOLI.

Mr. FRASER.

Mr. CONYERS in five instances.

Mr. ROONEY.

Mr. HAMILTON.

Mr. CARNEY in two instances.

Mr. FLOWERS in two instances.

Mr. SIMON.

Mr. RICHMOND.

Mr. WAXMAN in three instances.

Mr. SLACK.
Mr. ROE.
Mr. HOWARD.
Mr. VAN DEERLIN.
Mr. DANIELSON.
Mr. WOLFF.
Mr. BONKER.
Mr. ROSE.
Mr. VANIK in two instances.
Mr. FARY in two instances.
Mr. FASCELL.
Mr. MILFORD in two instances.
Mr. THOMPSON in five instances.
Mr. STARK.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to the enrolled bills of the Senate of the following titles:

S. 393. An act to provide for the study of certain lands to determine their suitability for designation as wilderness in accordance with the Wilderness Act of 1964, and for other purposes; and

S. 2089. An act to establish within the Department of Justice the position of Associate Attorney General.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 7769. An act to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia, and to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided, and for other purposes; and

H.J. Res. 573. Joint resolution commemorating Gen. Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 785. An act to declare that all right, title, and interest of the United States in 2,700 acres, more or less, are hereby held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Fallon, Nev., to promote the economic self-sufficiency of the Paiute and Shoshone Tribes, and for other purposes; to the committee on Interior and Insular Affairs.

ADJOURNMENT

Mr. KOSTMAYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 55 minutes p.m.), the House adjourned until tomorrow, Thursday, October 20, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

2577. Under clause 2 of rule XXIV, a letter from the Comptroller General of the United States, transmitting a report on the Air Force program to acquire additional airbasing space in Europe (ID-77-29, October 19, 1977); jointly, to the Committees on Government Operations, Armed Services, and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on Coast Guard efforts to prevent oil pollution caused by tanker accidents (Rept. No. 95-719). Referred to the Committee of the Whole House on the State of the Union.

Mr. EILBERG: Committee on the Judiciary. S. 1682. An act to provide for the implementation of treaties for the transfer of offenders to or from foreign countries (Rept. No. 95-720). Referred to the Committee on the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 7442. A bill to amend the Communications Act of 1934 to provide for the regulation of utility pole attachments; with amendment (Rept. No. 95-721). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROWN of California. Committee of Conference. Conference report on H.R. 5101 (Rept. No. 95-722). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and references to the proper calendar, as follows:

Mr. THOMPSON: Committee on House Administration. House resolution 822. Resolution dismissing the election contest of Elsa Debra Hill and Felix J. Panasigui against William Clay (Rept. No. 95-723). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 825. Resolution dismissing the election contest against W. Wyche Fowler, Jr. (Rept. 95-724). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COHEN:

H.R. 9636. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit with respect to housing senior citizens in the principal residence of the taxpayer, and to provide to senior citizens a tax credit for property taxes, or a certain portion of rent, paid by them for their principal residences; to the Committee on Ways and Means.

By Mr. EILBERG (by request):

H.R. 9637. A bill to repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

By Mr. FINDLEY:

H.R. 9638. A bill to make use of a firearm to commit a felony a Federal crime where such use violates State law, and for other purposes; to the Committee on the Judiciary.

By Mr. HAMMERSCHMIDT:

H.R. 9639. A bill to amend the Packers and Stockyards Act of 1921; to the Committee on Agriculture.

By Mr. HEFTEL (for himself and Mr. AKAKA):

H.R. 9640. A bill to amend section 222 of the Communication Act of 1934 in order to include Hawaii in the same category as other States for the purposes of such section; to the Committee on Interstate and Foreign Commerce.

By Mr. KETCHUM:

H.R. 9641. A bill relating to water deliveries and land dispositions within a Federal reclamation project; to the Committee on Interior and Insular Affairs.

By Ms. MIKULSKI (for herself, Mr. BONIOR, Mr. LUNDINE, Mr. MURPHY of Pennsylvania, Mr. NOLAN, Ms. OAKAR, and Mr. SEIBERLING):

H.R. 9642. A bill to establish programs for the prevention and treatment of family violence; to the Committee on Education and Labor.

By Mr. MOORHEAD of Pennsylvania (for himself, Mr. PATTERSON of California, and Mr. HANLEY):

H.R. 9643. A bill to clarify the treatment of banks and other depository institutions under State and local revenue laws; jointly, to the Committees on Banking, Finance and Urban Affairs and the Judiciary.

By Mr. PIKE (for himself and Mr. AMBRO):

H.R. 9644. A bill to amend title 5, United States Code to revise the pay structure for Federal air traffic controllers; to the Committee on Post Office and Civil Service.

By Mr. ROBERTS (by request):

H.R. 9645. A bill to amend title 38, United States Code, to provide readjustment counseling for any veterans with readjustment problem; to the Committee on Veterans' Affairs.

By Mr. SANTINI:

H.R. 9646. A bill to amend the Strategic and Critical Materials Stock Piling Act in order to prescribe the method for determining the quantity of any material to be stockpiled under such act, and for other purposes; to the Committee on Armed Services.

By Mr. STAGGERS (for himself and Mr. DEVINE):

H.R. 9647. A bill to provide for the establishment, ownership, operation, and Government oversight and regulation of international maritime mobile satellite telecommunications services, and for other purposes; jointly, to the Committee on Interstate and Foreign Commerce, and Merchant Marine and Fisheries.

By Mr. VANDER JAGT:

H.R. 9648. A bill to amend title 5 of the United States Code to establish a uniform procedure for congressional review of agency rules which may be contrary to law or inconsistent with congressional intent, to expand opportunities for public participation in agency rulemaking, and for other purposes; jointly, to the Committee on the Judiciary, and Rules.

By Mr. VENTO:

H.R. 9649. A bill to promote further the accountability of the Federal Reserve System; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WAGGONNER:

H.R. 9650. A bill to suspend until the close of December 31, 1978, the duty on 1,3,5-Trimethyl-2,4,6-tris[3,5-di-tert-butyl-4-hydroxy benzyl] benzene; to the Committee on Ways and Means.

By Mr. CARTER (for himself Mr. HYDE, Mr. GOODLING, Mr. LEACH, Mr. HARRINGTON, Mr. BEDELL, Mr. ROE, Mr. BOWEN, Mr. TREEN, and Mr. VANDER JAGT):

H.R. 9651. A bill to amend the Internal Revenue Code of 1954 to exempt from taxation amounts received under certain scholarship programs; to the Committee on Ways and Means.

By Mr. EILBERG:

H.R. 9652. A bill to amend sections 201(a) and 203 of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

By Ms. HOLTZMAN:

H.R. 9653. A bill to provide a supplementary housing allowance to supplemental security income recipients; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. ANDERSON of Illinois, Mr. ANDREWS of North Dakota, Mr. BAUMAN, Mr. BROYHILL, Mr. BROWN of Michigan, Mr. BUCHANAN, Mr. CAPUTO, Mr. CONTE, Mr. DUNCAN of Tennessee, Mr. ERLENBORN, Mrs. FENWICK, Mr. FISH, Mr. GILMAN, Mr. HORTON, Mr. MCDADE, Mr. MCKINNEY, Mr. MARTIN, Mr. MITCHELL of New York, Mr. SEBELIUS, Mr. TREEN, Mr. VANDER JAGT, Mr. WALSH, Mr. WHITEHURST, and Mr. WYDLER):

H.R. 9654. A bill to provide for permanent tax rate reductions for individuals and businesses; to the Committee on Ways and Means.

By Mr. LAFALCE:

H.R. 9655. A bill to amend the Small Business Investment Company Act of 1958; to the Committee on Small Business.

By Mr. LUJAN:

H.R. 9656. A bill relating to a national referendum on the Panama Canal; to the Committee on House Administration.

By Mr. ROYBAL:

H.R. 9657. A bill to establish uniform procedures for and regulate the procurement, production and distribution of audiovisual materials by all Federal agencies; to the Committee on Government Operations.

By Mr. EVANS of Colorado (for himself, Mr. ULLMAN, Mr. MCKAY, Mr. SISK, Mr. ANDERSON of California, Mr. BURGENER, Mr. DON H. CLAUSEN, Mr. JOHNSON of California, Mr. KETCHUM, Mr. LUJAN, Mr. MCFALL, Mr. RUNNELS, Mr. RUDD, Mr. MCCORMACK, Mrs. SMITH of Nebraska, Mr. WHITE, Mr. STUMP and Mr. RHODES):

H.J. Res. 633. Joint resolution relating to the excess land provisions and residency requirements of the Federal Reclamation Laws, as amended and supplemented; to the Committee on Interior and Insular Affairs.

By Mr. TRIBLE (for himself, Mr. WHITEHURST, Mr. BUTLER, Mr. ROBINSON, Mr. ROBERT W. DANIEL, Jr., Mr. HARRIS, Mr. FISHER, Mr. DAN DANIEL, Mr. SATTERFIELD, and Mr. WAMPLER):

H.J. Res. 634. Joint resolution to establish the Yorktown Bicentennial Commission to the Committee on Post Office and Civil Service.

By Mrs. COLLINS of Illinois:

H. Con. Res. 383. Concurrent resolution to condemn the Government of South Africa which has most recently evidenced its irresponsibility as a member of the international community by engaging in massive violations of the civil liberties of the people of South Africa; to the Committee on International Relations.

By Mr. KETCHUM (for himself, Mrs. HOLT, Mr. MATHIS, and Mr. LOTT):

H. Res. 844. Resolution providing for an increase in the compensation of doormen employed by the Doorkeeper of the House of Representatives; to the Committee on House Administration.

By Mrs. KEYS:

H. Res. 845. Resolution relative to restricting the proposed reorganization of the field and insuring offices of the Department of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROSE:

H. Res. 846. Resolution relative to customs duties on textile or apparel products; to the Committee on Ways and Means.

By Mr. TEAGUE (for himself and Mr. FUQUA):

H. Res. 847. Resolution providing for the printing as a House document of a print of the Committee on Science and Technology; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BRECKINRIDGE:

H.R. 9658. A bill for the relief of Wilhelmina Octavo Lucila; to the Committee on the Judiciary.

By Mr. FISH:

H.R. 9659. A bill for the relief of Miss Karen Odell; to the Committee on the Judiciary.

By Mr. FREY:

H.R. 9660. A bill for the relief of Hermina Jormigos; to the Committee on the Judiciary.

H.R. 9661. A bill for the relief of Lee Myong Sook; to the Committee on the Judiciary.

SENATE—*Wednesday, October 19, 1977*

The Senate met at 9 a.m., and was called to order by Hon. SPARK M. MATSUNAGA, a Senator from the State of Hawaii.

PRAYER

The Reverend Monsignor William F. O'Donnell, editor, The Catholic Standard, and pastor, St. Hugh's Church, Greenbelt, Md., offered the following prayer:

Let us pray.

Almighty God, Author of all creation, we acknowledge Your sovereignty and thank You for the many blessings You have bestowed on our Nation and its people. We prayerfully ask Your continued benevolence in the years ahead.

Grant each of us the wisdom to know Your will and the courage and strength to carry it out in all that we are called upon to do.

Give us the insight and concern to know the needs of the people we have been called to represent so that we may serve them as effectively as possible.

Make us conscious that all authority ultimately comes from You, Almighty God, so that our deliberations and decisions may be made in keeping with Your will and for the common good of all the people.

Finally, we ask Your special blessings on this assembly and each of its members so that all their deliberations and decisions are made in accordance with Your will and in response to the needs of the people of our Nation and the world.

This we ask through Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 19, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SPARK M. MATSUNAGA, a Senator from the State of Hawaii, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MATSUNAGA thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, October 17, 1977, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I believe there are three nominations on the Executive Calendar that have been cleared, beginning with "New Reports" and, if it is agreeable with the distinguished acting Republican leader, I ask unanimous consent that the Senate proceed to their consideration in executive session.

Mr. STEVENS. There is no objection on this side.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered. The Senate will proceed to their consideration in executive session.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of Ralph C. Bishop, of Alabama, to be U.S. marshal for the northern district of Alabama.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The second assistant legislative clerk read the nomination of Charles F. C. Ruff, of the District of Columbia, to be Deputy Inspector General, Department of Health, Education, and Welfare.

Mr. DOLE. Mr. President, the Senator from Kansas supports the confirmation

of Mr. Charles Ruff as Deputy Inspector General of the Department of Health, Education, and Welfare.

As the ranking Republican member of the Health Subcommittee of the Senate Finance Committee, I was involved in creating this position. At that time, we emphasized the need for highly skilled investigators, specially trained in the area of medicaid fraud. We noted the substantial evidence of complex schemes employed by those persons engaged in fraudulent activities and recognized that uncovering these activities would require highly skilled individuals.

TAXPAYERS FUNDS AT STAKE

The indications we have had are that hundreds of millions of dollars of tax revenues are at stake. I am concerned that we should make every effort to insure that those funds go to those persons who really need medicare and medicaid assistance.

During the confirmation hearings for Mr. Ruff, I questioned him about his qualifications and plans to be Deputy Inspector General, and listened closely to the questions of other Senators. I was pleased with his responses during that portion of the hearing. I am confident that he will make every effort to bring an end to the fraudulent abuses of the medicaid and medicare programs. Hopefully, the results will be a more effective and efficient use of taxpayer dollars.

UNANSWERED QUESTIONS

On another matter, I had thought about submitting additional questions to Mr. Ruff to clear up questions about the investigation of then-President Ford during the very closely contested Presidential campaign last year. I expressed my concern in a letter to the chairman of the Finance Committee, Senator LONG. I ask unanimous consent that a copy of this letter be inserted in the RECORD following these remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. DOLE. Mr. President, I would add that during the confirmation hearings, there was bipartisan concern about the Special Prosecutor's investigation on the part of the chairman (Mr. LONG), the ranking Republican member (Mr. CURTIS), other Senators, and myself.

The central concern about that investigation remains unanswered. Very simply, it is strange indeed that the President of the United States can be investigated on an unverified complaint and that the investigation was permitted to drag on week after week during the heat of the campaign—from August 19, 1976 to October 14, 1976. Perhaps someday, all the facts of this matter will be made available. They should be, not because it would change the results of last year's election, but because I believe President Ford was unfairly treated. It would be a comfort to him, his friends and his family to know why the investigation was triggered and why it dragged on and on.

Having said this I have concluded it would be better to proceed with this confirmation. In view of the need to get the HEW antifraud program moving, I proposed on Thursday, October 13, to the committee to report the nomination of Mr. Ruff. I trust that he will be successful in this position.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., September 9, 1977.

Hon. RUSSELL LONG,
U.S. Senate,
Washington, D.C.

DEAR RUSSELL: Following the hearing on July 26 on the nomination of Charles Ruff to be Deputy Inspector General, Health, Education, and Welfare, I indicated the possibility of additional questions. There is one specific question concerning the identity of an informant which I feel should be addressed. The pertinent facts are as follows:

On October 14, 1976, Charles Ruff, the Special Prosecutor, announced that he had completed an investigation relating to information he had received concerning alleged misuse of union political contributions by President Ford during the period 1964–1974. The Special Prosecutor said that no evidence of violations of law by President Ford had been found and the investigation had been closed.

But the troubling question remains as to who was behind the allegations that brought about this investigation in the midst of a hotly contested Presidential campaign and why.

The investigation was not the first time President Ford's campaign, tax and financial affairs have been subjected to scrutiny and he has received a clean bill of health.

When he was confirmed as Vice President in 1973, President Ford's tax and financial affairs were audited in detail, not only by the IRS, but also by the staff of the Joint Committee on Internal Revenue Taxation. A House Judiciary Committee report stated that "The results of these independent audits and summaries of the voluminous financial information were reviewed in detail by the Committee, and no information prejudicial to (Mr. Ford) was noted." In addition, all available campaign records were also reviewed and the Congressional Committees found nothing amiss.

The House Committee concluded that it "had investigated and questioned (Mr. Ford's) public and private life to a degree far beyond that of any person holding public office in America today".

Given the exhaustive investigation to which Gerald Ford was subjected in 1973, was it merely a coincidence that the allegation—now proved false and apparently relating to essentially the same information reviewed during the Vice Presidential confirmation process—was made during the Presidential campaign? Surely, the person or persons who were behind the allegation know that an investigation, even one which concluded that the allegation was baseless, would damage the President's campaign. Was the allegation asserted in good faith by a public spirited citizen or was something more sinister involved?

Two sentences in the Special Prosecutor's October 14 press release clearing the President are curious:

"This allegation was made to an agent of the FBI by an individual who had *recently* become aware of the underlying information. Investigation has revealed no apparent motive on the part of *this* individual to fabricate." (Emphasis added.)

These questions do not relate to the Special Prosecutor or to the action he was obliged to take. During the investigation, President Ford said that he believed in the Special Prosecutor concept and expressed full confidence in the integrity of the Special Prosecutor. He was certain that the Special Prosecutor would live up to the legal profession's high standards and pursue a full and complete investigation. It appears that the Special Prosecutor carried out his responsibilities.

But how did it all start and why? Certain facts are known, and others have been reported in the press, which are puzzling at best:

On December 30, 1974, the President vetoed the inflationary Energy Transportation Security Act of 1974—the so-called cargo preference law—which would have required that 20% (and later 30%) of the oil imported into the U.S. be carried on U.S. flag tankers. The bill would have increased the cost of oil and raised the prices of all products and services which depends on oil. It was vetoed by the President because of the substantial adverse effect it would have had on the Nation's economy and international interest.

The political committees of the Marine Engineers and the Seafarers Unions had contributed to the political campaigns of the President when he served in Congress. The vetoed bill would have meant millions of dollars to the maritime industry and unions. Enactment of the bill had been the highest priority of the maritime unions and, according to *The Washington Post*, they were "stunned" by the veto and "felt it was a double cross."

On May 11, 1976, at a Carter fund-raiser, the *National Journal* reported that Jesse M. Calhoon, President of the National Maritime Engineers Beneficial Association (MEBA), met with Governor Carter and gave him $5,000 on behalf of his union.

Just two weeks after the May 11 meeting, *The American Marine Engineer* reported that Governor Carter met again with Mr. Calhoon in Suite 2124 of the New York Sheraton Hotel and discussed a maritime program. According to an editorial by Mr. Calhoon in the *Engineer*, Carter said he would seek the "cooperation of MEBA and other maritime unions."

One day after the May 25 meeting with Mr. Calhoon, *The American Marine Engineer* stated that a letter from Governor Carter was hand-delivered to Mr. Calhoon pledging a maritime program in harmony with most of MEBA's aspirations. The *Journal of Commerce* reported that by this letter Carter had "made a major commitment to the maritime industry for an across-the-board U.S. flag national cargo preference policy." It was an oil cargo preference bill that the President had vetoed in 1974.

In response to Carter's pledge, MEBA swung into high gear. Calhoon announced a Carter fund drive and urged his union members to "contribute your donations, your time and energy, and vote for Jimmy Carter."

The relationship between Governor Carter and Maritime labor was called a "virtual lovefest" by the *National Journal*. In the last two months of his primary campaign, *The Washington Post* observed that Governor Carter received at least "$160,000 from individuals in the maritime unions or from the unions themselves." But there is no accurate record of how much the unions have contributed, and the *National Journal* reports that "MEBA officials refused to return telephone calls seeking information" about a June 30 Washington $1,000 per person fundraiser organized by MEBA for Carter.

Soon thereafter—apparently in July 1976—the allegation, later reported to have involved maritime union political contributions, was made to the Department of Justice and then referred to the Special Prosecutor.

On August 19, 1976, one day after President Ford was nominated at the Republican National Convention, the Special Prosecutor issued a subpoena for records maintained by Republican political committees located in the Fifth Congressional District of Michigan, the President's district when he served in Congress.

On October 3, 1976, CBS said on its "60 Minutes" show that it wanted to discuss Carter's pledges to MEBA and its campaign contributions with Governor Carter but his staff had declined a personal interview.

During the week of October 4, 1976, *The Washington Post* said that copies of a confidential IRS tax audit report prepared in 1973 for the Vice Presidential confirmation was leaked "by a supporter of the Jimmy Carter presidential campaign" to *The Washington Post* and the *Wall Street Journal*. This was not the first time the report had been leaked in violation of the tax laws which guarantee to every taxpayer the confidentiality of tax return information. Columnist Jack Anderson had examined the report in April 1974 and concluded: "In sum, the Vice President's tax returns reveal him as an honest man, who has never connived to seek private gain from his public position."

But during the hectic campaign period of early October 1976, a different slant was taken. The old material, thoroughly reviewed and satisfactorily resolved by investigators for the 1973 Vice Presidential confirmation was exhumed and distorted. Using the fact of the Special Prosecutor's investigation as a hook, this old material was recast in the forms of personal vilification and scurrilous attacks on the President.

On October 4, 1976, Victor Riesel reported in his *Inside Labor* column that "the impression is that someone in the 'Carter crowd'—as it was put the other day—is willing to throw the maritime unions 'to the cops' so something can be hung on President Ford".

On October 8, 1976, it was widely reported in the press that Jesse Calhoon, President of MEBA, testified before a grand jury in connection with the Special Prosecutor's investigation.

On October 8, 1976, Governor Carter launched his first attack on the campaign funds issue. His aides said the strategy was "to keep President Ford on the defense".

On October 14, 1976, Special Prosecutor Charles Ruff announced that his investigation had been closed and no evidence of violations of law by the President had been found.

Governor Carter at first accepted the President's statements about the campaign contribution questions. But shortly thereafter, Carter called for the President to speak "the truth, whole truth, and nothing but the truth". The truth about the false allegations has been confirmed, and to complete the record, the American people are entitled to additional information.

The hearing on the nomination of Mr. Ruff left unanswered questions. This matter could be clarified if Mr. Ruff would divulge the name of the informant who precipitated the investigation of President Ford and the facts and circumstances surrounding it. If this is not possible, perhaps the informant's identity could be disclosed to committee members in an executive session, or if he cannot do this the information could be obtained through subpoena of pertinent records.

I would appreciate your comments and suggestions.

Sincerely yours,

BOB DOLE,
U.S. Senate.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that moon on the table.

The motion to lay on the table was agreed to.

U.S. INTERNATIONAL TRADE COMMISSION

The second assistant legislative clerk read the nomination of William R. Alberger, of Oregon, to be a member of the U.S. International Trade Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will now resume legislative session.

A MATTER OF CONTINUING CONCERN

Mr. ROBERT C. BYRD. Mr. President, the Washington Post carried a report on October 15 refocusing attention on a problem that is a matter of continuing concern. Since 1973, the debt of the Soviet Union and Eastern European nations to Western banks and governments has reportedly risen from less than $10 billion to more than $40 billion. It is estimated that this debt could reach as much as $100 billion by the early 1980's if credit extensions continue at the present rate.

Among apparent reasons for the quadrupling of this debt are the need of Eastern European nations and the Soviet Union to purchase more advanced Western technology and goods; the inability of the Eastern nations to produce sufficient high-quality finished goods for the Western market; and a shortage among Eastern European nations of capital to develop their domestic resources.

These are legitimate reasons for borrowing among nations. Proponents of liberal loan policies toward the Soviet Union and the Eastern nations claim that the fiscal and economic ties binding East and West are conducive to peace, and will stimulate the Eastern economies to such a degree that their stake in world stability and order will increase. Moreover, some bankers point out that the Soviet Union, which might be expected to back the loans of her allies, has an excellent credit rating.

Nonetheless, I am concerned about this growing indebtedness and believe that it is a matter deserving of thoughtful attention. The long-term implications and possible repercussions cannot be ignored.

For example, default of payments, even to major industrial nations such as West Germany, could result in serious economic and political consequences. In certain nations, the economic relationship with the Soviet Union has already led to a troublesome situation. Some Western bankers are said to be reluctant to suggest that further credit will not be extended for fear of precipitating a default on the part of the borrowing nations.

In addition, there is the possibility that the continued borrowing of the Eastern nations might divert needed credit from third world nations, where economic development is essential to future viability and stability.

Moreover, the advanatges of encouraging trade beween the Eastern European states and the West to decrease the dependence of the Eastern nations on the Soviet Union may have produced a paradoxical situation. Because the Soviet Union might be needed to back the loans to her allies, those allies could become increasingly vulnerable to Soviet pressures. Some experts suggest, for example that Poland, which has frequently shown signs of independent action, is experiencing economic difficulties which may affect its ability to meet its debt repayment obligations.

Mr. President, according to the best information available, the United States share of the loans to the U.S.S.R. and Eastern European nations is only about $3 billion. The exact figures on the Soviet debts to various other Western banks and nations is not known in the West. However, Soviet-East European indebtedness to Western nations is estimated at about $40 billion.

Indeed the lack of a comprehensive and detailed record of Soviet-Eastern European indebtedness has become a serious shortcoming of our system of financial accounting.

Mr. President, in view of the potential power and influence that the level of indebtedness can accrue to the Soviet Union, there ought to be a reasonable and general acceptable means of collecting and coordinating information on the extent and nature of Soviet and Eastern European financial transactions with the West and Japan. Such a system would not only permit the United States and its political allies to safeguard their economics, but it may also enable them to collaborate more fully on coordinating their economic recoveries.

A BOLD AND COMMENDABLE RESCUE

Mr. ROBERT C. BYRD. Mr. President, on Monday, millions of people around the world were encouraged and relieved by the swift, brave, and successful action on the part of the West German commando forces, who freed the 86 passengers aboard a Lufthansa airliner from their terrorist captors. For a period of 4½ days, the civilized world endured the anxiety, anguish, and tension of the latest act of international barbarism and outrage perpetrated by a terrorist organization, until the West Germans brought it to an end.

I commend Chancellor Helmut Schmidt, his cabinet, the West German commando forces, and all others who were responsible for planning and executing this bold rescue effort. As many persons in several nations have stated, the action by the West Germans at Mogadishu, Somalia, has shown people around the world how to deal with terrorism.

We are living in an increasingly vul-

nerable era in many ways. The complexity of modern civilization has brought men and nations into a closer interdependence than ever before. Instantaneous communications systems allow people to become immediately aware of events thousands of miles away.

Terrorists and terrorist organizations of a wide variety have taken advantage of this situation for several years. Through the kidnaping and murder of individual citizens and public officials, as well as the commandeering of airliners, buses, and trains, terrorists and unbalanced people have been able to disrupt the lives of hundreds, threaten the security of thousands, and draw the attention of millions.

Airline hijacking is an especially reprehensible form of terrorist activity. Without regard to the welfare or safety of their captives, terrorists subject helpless groups of people to almost unbearable conditions and mental torture for the sake of causes and whims over which their captives have no control or responsibility.

Only decisive action, such as that taken by the West Germans in the Somalia incident, the Israelis at Entebbe, and the United States in instituting increased airport security and surveillance, will serve to halt the flood of terrorism that has arisen in this complex age.

It is unfortunate however, that the world must depend on individual nations to combat international terrorism, because the United Nations has failed to adequately address this problem. It seems that, whenever the world is in an hour of need, the United Nations is often found wanting.

I fear that we will continue to see acts of terrorism until international agreements are reached to put an end to terrorism.

Mr. President, I again commend the West German Government for its decisive actions.

Mr. President, if I have any time remaining I yield it back.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

H.R. 8309—RIVERS AND HARBORS AUTHORIZATIONS

Mr. STEVENS. Mr. President, may I inquire of the majority leader? It is my understanding that the inland waterway bill might become the pending business on Friday; is it in order for us to yield to the Senator from New Mexico to make the motion which he must make to have that come over on the calendar?

Mr. ROBERT C. BYRD. Yes, if the Senator will yield to the Senator from New Mexico.

Mr. STEVENS. Mr. President, I yield to the Senator from New Mexico (Mr. DOMENICI).

Mr. DOMENICI. Mr. President, I ask that H.R. 8309 may have its second reading.

The ACTING PRESIDENT pro tempore. H.R. 8309, having been read the first time on the previous legislative day, will now be read the second time. The clerk will report.

The assistant legislative clerk read as follows:

H.R. 8309, an act authorizing certain public works on rivers for navigation, and for other purposes.

Mr. DOMENICI. Mr. President, I object to any further action on H.R. 8309 at this time.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will go to the calendar.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. DOMENICI. The bill has now gone to the calendar?

The ACTING PRESIDENT pro tempore. Yes.

Mr. DOMENICI. And will be subject to the majority leader's call, which I assume may be on Friday?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DOMENICI. I thank the majority leader and the Senator from Alaska.

(Later the following occurred:)

Mr. ALLEN. Will the Senator yield to me?

Mr. ROBERT C. BYRD. If the Senator from New York will allow it.

Mr. MOYNIHAN. I shall be happy to yield to the distinguished Senator for a question.

Mr. ALLEN. As to H.R. 8309, which was placed on the calendar after a second reading today, I state that I have an amendment which I wish to offer to this bill when it comes up. I hope the distinguished majority leader will protect me in that wish.

Mr. ROBERT C. BYRD. I shall, indeed.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, do I have any time remaining?

Mr. STEVENS. I yield the majority leader whatever time he needs.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting Republican leader. I yield to the Senator from New Jersey to call up a conference report.

Mr. STEVENS. How much time is needed, I might ask the Senators?

Mr. JAVITS. Ten minutes or more?

Mr. STEVENS. I yield such time as I have remaining.

The ACTING PRESIDENT pro tempore. The minority leader has 8 minutes remaining.

Mr. STEVENS. I yield that time to the managers of the bill.

MINIMUM WAGE INCREASE—CONFERENCE REPORT

Mr. WILLIAMS. Mr. President, I submit a report of the committee of conference on H.R. 3744 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore (Mr. MATSUNAGA). The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of Oct. 17, 1977, at page 33933.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that Steven J. Paradise, Darryl Anderson, Michael Forscey, Charles Edwards, Gerald B. Lindrew, and Michael Goldberg all of the Committee on Human Resources staff, be permitted the privilege of the floor during the debate and all rollcall votes on the conference report on H.R. 3744, and also on the Age Discrimination in Employment Amendments of 1977, H.R. 5383, which will be coming up later.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I am pleased to bring to the Senate the conference report on H.R. 3744, the Fair Labor Standards Amendments of 1977.

As chairman of the conference committee, I wish to commend my fellow conferees from the Senate, including of course the ranking member of the Human Resources Committee, Senator JAVITS, and the distinguished Senator from West Virginia, Senator RANDOLPH, for their invaluable assistance in working out fair and equitable legislation of which we can all be proud. The work of the House conferees, including their committee chairman, Mr. PERKINS, and the sponsor of the House legislation, Mr. BURTON, was also invaluable. The conference committee engaged in 2 days of deliberations on this legislation and produced a report which I am confident will gain the support and approval of this body.

Before we proceed to the adoption of the conference report, I would like to highlight several important provisions which have emerged from the conference. Under the conference agreement, the basic minimum wage rate will be increased to $2.65 per hour effective January 1, 1978. Thereafter, the rate will be increased to $2.90 on January 1, 1979; $3.10 on January 1, 1980; and $3.35 on January 1, 1981. The amounts are, in my opinion, totally justified and they will go a long way toward providing minimum wage protection for America's lowest paid workers.

The conference also resulted in a fair and reasonable compromise with regard to the coverage of small retail and service establishments. The House bill would have increased the present $250,000 test for enterprise coverage to $500,000 per year.

The Senate amendment to the House bill provided a special enterprise dollar amount for retail and service establishments which was to be increased from the present amount of $250,000 per year to $325,000 by July 1, 1980, with an interme-

diate increase to $275,000 effective July 1, 1978. Under the conference committee agreement, the dollar amount test for these retail and service enterprises will be increased to $362,500 effective December 31, 1981. The first two increases, to $275,000 and to $325,000, remain as they were in the Senate bill.

In this regard I would also like to point out that the House conferees accepted the provisions in our bill which liberalize the application procedures for the use of full-time students at less than the minimum wage. Under present law, small businessmen may employ up to four students if they certify that that employment will not have an adverse effect upon full-time workers.

However, they must use the same application form which is used by employers who are seeking a broader waiver. Under the Senate amendment, which was agreed to by the House, the number of students who may be employed upon certification by the employer is increased from four to six; and the Secretary is directed to adopt new, simplified application procedures. This should be of substantial benefit to small businessmen and to students seeking part-time work.

The Senate bill would also have phased down the tip credit, from 50 percent of the minimum wage to 30 percent. The House bill had no such provision, but included a provision redefining a tipped employee. The conference amendment adopts the House change in the definition of a tipped employee, to be one who is engaged in an occupation in which he customarily and regularly receives more than $30 a month in tips.

Under the present law, this amount is $20 per month.

The conference amendment further provides that the 50-percent tip credit be phased down to 40 percent in two stages. The first reduction will occur on January 1, 1979, when the maximum tip credit is reduced from 50 to 45 percent. Then, on January 1, 1980, the maximum tip credit will be reduced from 45 to 40 percent.

I am pleased to report that the House receded with regard to two other provisions in the Senate bill which have been the focus of substantial discussion and inquiry. The House conferees accepted our provision expanding the present minimum wage and overtime exemption for seasonal amusement and recreational establishments. Under the amendment, this exemption will be available to religious or nonprofit educational conference centers as well as to organized camps and other season amusement and recreation establishments.

The House conferees also accepted the restrictions which the Senate had placed on the use of children under 12 in hand-harvest labor in agriculture. This amendment was, of course, intended primarily to permit children to accompany their parents to the field, and to participate in the harvest under very limited circumstances. It is intended to apply to the potato harvest in Aroostoock County, Maine, and to the berry harvests in the Northwest.

The restrictions in the Senate amendment, in addition to the specific age and week limitations, which speak for themselves, are intended to insure that the Secretary of Labor will promulgate rules and regulations to prevent these children from engaging in arduous or hazardous labor. Thus, the burden is placed on the employer to come forward with sufficient information to permit the Secretary to make an informed judgment on these points.

The Senate requirement that the Secretary make a finding that the use of 10- and 11-year-old children is necessary to prevent severe economic disruption of an applicant's industry was also accepted. This requirement, plus the exclusion of migrant workers from the waiver provision, and the provision limiting the amendment to children who commute daily from their permanent residences, is intended to insure that the waiver will not be granted in areas where migrant or season farm workers are available for the harvest. The Secretary of Labor is required to examine the circumstances in each case to insure that the waiver is truly necessary, consistent with local traditions and practices, and is needed to permit the harvesting of crops with exceptionally short harvest seasons.

Mr. President, this legislation is the product of thorough consideration and hard work by its sponsors on both sides of the aisle and in both Houses of the Congress.

I personally wish to extend my appreciation for the result of this conference and for the full cooperation that was achieved by all members of the conference, certainly to Chairman PERKINS of the House conferees and to the author of the bill in the House, Representative BURTON. I found, and I am sure that Mr. JAVITS found, that they applied themselves with wisdom and in a spirit of cooperation to bring this bill back from conference as soon as we could, with the result that we have it here today. As I say, it is a very sound result from the standpoint of the Senate. In my opinion, it is a significant step forward in our effort to establish full and meaningful protections for our working poor and I urge the Senate to approve and adopt the conference report.

At this time, Mr. President, I would also like to take a moment to acknowledge the excellent job done by the clerical staff of the Labor Subcommittee. These key employees, Denise Medlin, Martha Woodman, Maureen Dollard, Joan Wilson, and Harriett Bramble regularly work extremely long, hard days. Without their competent, conscientious efforts, the work of the committee on these important legislative matters could not go on.

Mr. JAVITS. Mr. President, I fully concur with our colleague from New Jersey, and associate myself with his remarks. I believe the conference was relatively, as much as these things can be, satisfactory to the Senate version of the bill, and the cooperation of the House conferees, led by Representative PERKINS and Representative BURTON on the Democratic side, and by Representative QUIE on the Republican side, achieved, I think, an excellent result.

The chairman has already referred to the hourly figures. To me, the key turning point in respect to the minimum wage this time was on the question of indexing. I believe the country, Mr. President, will have been greatly benefited by the fact that indexing was rejected, and that we have a fixed minimum wage increase compatible with projected aspects of the increasing cost of living and inflation up to 1981.

The other issue which was important, other than the gross receipts of small businesses, which the chairman has referred to already, is the question of tip credit. This was reduced to 40 percent of the minimum wage beginning in 1980. The House had gone for 50 percent, we went for 30 percent and, generally speaking, that was split down the middle.

I was very regretful that we finally had to settle for the provision respecting agricultural hand harvest labor, and go to a low age of 10 for children.

I still feel very badly about that. I do not believe it will give any satisfaction to anybody, including the people in those areas, who think they need it. But these are the facts of life. While I am extremely regretful about it, I support the conference report.

Finally, there was a provision in the House bill which particularly penalized conglomerates in respect of the various exemptions under the Fair Labor Standards Act, because they were conglomerates with an aggregate volume of $100 million a year or more. I thought that principle was iniquitous, highly unwise. Even the Supreme Court has said that size alone is not the determinant or criterion for violation of the antitrust laws. Yet here we were wrapping it into a statute. After a very considerable debate that was eliminated. I think that was a victory for the country and for intelligent, nondiscrimination.

What was substituted was a study to see whether there was any reason for any such discrimination.

I must pay tribute to Mr. BURTON, who was the author of that amendment, who felt very strongly about it, but was finally persuaded in the interest of the whole to relinquish it, based upon the fact that the issue would get studied in a close way.

Mr. President, I join with Senator WILLIAMS, chairman of the Committee on Human Resources, in urging the Senate to approve the Fair Labor Standards Amendments of 1977, H.R. 3744, as reported by the House and Senate conferees. Although the conference bill is the product of hard bargaining with the House and does not in some respects provide for as generous treatment of low-wage workers as did the Senate amendments, I can assure my colleagues that, in my judgment, the conference bill is a just compromise that deserves their vote.

The conferees agreed to a 4-year schedule of increases in the minimum wage to $3.35 an hour in 1981, $0.05 an hour less than was provided in the Senate bill. This rate in 1981 will insure a full time minimum wage worker who

supports a family an annual income equal to over 90 percent of the estimated poverty standard of living for that year. This represents the very least we can do for those workers who cannot protect themselves and their families from the erosion in their living standards caused by inflation. Perhaps most significantly, these increases afford such workers the opportunity to hold even a minimum wage job with the sense of dignity which derives from the ability to support a family.

The conference bill gives the Congress an opportunity to reevaluate the economic situation after 1981 with regard to the Federal minimum wage. I opposed the use of a permanent indexing mechanism for the minimum wage in committee and on the Senate floor, in part because I felt the Congress should retain the responsibility of periodic reviews. I am gratified that Congress has agreed to retain this responsibility in light of the uncertain near term economic future that may face this country.

The conference bill also raises the business volume test which exempts retail and service employers from the act. The conferees agreed to an additional step beyond those already provided in the Senate bill. As of December 31, 1981, those businesses with gross sales of under $362,500 will be exempt from minimum wage and overtime requirements. The conference bill provides that the existing wages and overtime provisions enjoyed by such workers cannot be lowered after they are exempted from coverage as a result of the increased small business exemptions.

The final major issue agreed to by the conferees is the reduction in the tip credit for tipped employees. The conference bill reduces this credit to 40 percent of the minimum wage beginning in 1980. In my judgment, this is a fair compromise in light of the other elements of the bill.

I am particularly pleased that the House receded to the Senate provision for agricultural hand harvest laborers, for this body had enacted much stricter protections against the possible exploitation of child labor. I want to emphasize in particular the requirement in the conference bill that before being issued a certificate to employ children under 12, an employer must affirmatively show that no one over 12 years of age is available for such work. I am hopeful that this restriction and others will limit the application of this certificate program to only those cases where it is absolutely indispensible, not just to those where it is customary.

In sum, Mr. President, these provisions along with the others contained in the conference bill provide a measure of economic justice for the working poor of this country. The bill guarantees vital increases in the incomes of those who must labor at the bottom of the wage scale. In light of the economic hardships endured by these people, we must not continue to force them to bear the greatest share of the burden of inflation. Instead, we must insure that every person who works does so for a living wage, and that low wage workers can achieve a sense of dignity and self-worth from the fruits of their labors. I ask my colleagues to speed the enactment of this urgently needed legislation by adopting the conference report today.

Mr. President, I believe the Senator from New Jersey and I, as always, had very satisfactory cooperation in this matter. I am deeply appreciative of the many courtesies and the close working together which was shown in this as in so many other of our joint ventures as chairman and ranking minority member.

I commend this report, with the shortcomings which I have described, to the Senate and hope the Senate will approve it this morning.

Mr. WILLIAMS. I appreciate very much the remarks of the Senator from New York. I share with him a feeling of gratitude for our fine working relationship. It is a long and difficult journey to get to this point in the legislative process. Certainly, our staff members were faithful and diligent in working long, long hours, and in an area which is highly complicated. Their faithfulness to their staff positions was remarkable.

Mr. JAVITS. I thank my colleague. I think Don Zimmerman and John Rother especially rendered fine service.

Mr. President, we are ready for a vote.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SPECIAL ORDERS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for a period not to exceed 15 minutes.

THE PANAMA CANAL TREATIES NO. 17

Mr. ALLEN. Mr. President, over the past weekend the news media covered extensively the visit to the White House made by Panamanian Dictator Omar Torrijos. The dictator apparently had been called in for a conference with the President to discuss the right of priority passage for the U.S. Navy and the right of the United States to intervene to guarantee canal neutrality—two of the many ambiguous provisions found throughout the proposed Panama Canal Treaty and the proposed Neutrality Treaty. Other matters, possibly involving the indictment of Moises Torrijos, the dictator's brother, may also have been under discussion; however, press accounts did not allude to that possibility.

In any event, at the conclusion of the conference, amid much fanfare and jubilation, yet another Panama Canal agreement was announced allegedly clearing up the two problems under discussion. At first, many thought that the agreement was at least a signed document. But we soon learned that the purported agreement was, in fact, an unsigned document wholly devoid of any binding legal effect.

But, Mr. President, even assuming that this document had been signed and even assuming that this document could, therefore, be treated as an executive agreement, or a reservation to treaty—I assume that is what it is going to be called if it is ever agreed to by our negotiators and sent up to be added to the treaty—does this document clear up ambiguities or does it simply create more? Clearly, Mr. President, we are in worse shape now than we were before the dictator's visit. For example, on the question of the right to intervene to guarantee the neutrality of the canal, the document reads:

> The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional processes, defend the canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the canal or against the peaceful transit of vessels through the canal.

Now, that does not sound too bad, but look at this, Mr. President, that provision is followed by this language:

> This does not mean, nor shall it be interpreted as a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the canal will remain open, secure and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.

So, the dictator is seeking here to protect and preserve his dictatorship.

So, Mr. President, here we are back at square 1—more confused than ever. Does this language mean that the United States has the right to intervene within Panama to protect the canal against all aggressors, including Panama.

That is a possible aggressor. Panama, in entering into these treaties, does not guarantee that there will not be insurrection, sabotage, violence, demonstrations. So one of the aggressors may well be Panama.

Or does it mean that the United States may take action only outside Panama against third countries violating canal neutrality? Perhaps, on the other hand, it may mean that the United States can act within Panama to defend the canal's neutrality, but only against third nations. One guess is as good as another.

Mr. President, why can we not have a document which is clear and unambiguous on its face? Do they not have any lawyers down at the Department of State who are capable of drafting a simple contract?

That is what this really is: a high level contract between nations.

Mr. President, they need to hire some lawyers down there who know that a binding contract to be performed over a period of years ought at least to be a signed document.

We do not have that at this time.

These proposed treaties are at least signed, but they themselves are obviously

of no value in understanding our rights, since all these extraneous documents keep having to be drafted by platoons of lawyers at the behest of ill-advised negotiators. Certainly, this latest document does nothing but add to the confusion.

Yet, Mr. President, here is former Ambassador Linowitz telling the press at the time the document was announced, and I quote from his remarks:

> There has never been any misunderstanding between President Carter and General Torrijos as to the exact meaning of the treaties. The statement is intended to put to rest any misunderstanding as to what is intended under the treaties.

There must have been some ambiguity if they had to issue a statement to clear up the ambiguity.

It would be difficult to see how there was no misunderstanding and now find the issuance of a statement to clear up ambiguity.

You know, Mr. President, I am glad former Ambassador Linowitz thinks that President Carter and Dictator Torrijos have had no misunderstanding over the exact meaning of the treaties because that at least guarantees that two people on the face of the Earth can read these treaties and make some sense out of them. But what about the rest of us? What about future Presidents? What about future dictators—or, hopefully, what about future elected Panamanian presidents—which they do not have now, of course? What are they going to have to go on? If ratified, these treaties could stay in effect for many years and would be the best and only evidence of what was actually agreed. But it is indeed comforting, Mr. President, to know that at least the President and the dictator, according to former Ambassador Linowitz anyway, do mutually understand the exact meaning of these quite baffling provisions. Many of us do wish they would let us in on the secret.

So, Mr. President, former Ambassador Linowitz says there is a meeting of minds; let us hear what Dictator Torrijos had to say no sooner than he left the room where this so-called agreement was promulgated. Dictator Torrijos summarized the meaning of this new document this way:

> If a great power attacks the canal or puts the canal in danger, it is the right of the United States to go and defend the canal. But it does not have the right to intervene or interfere in the internal affairs of Panama.

So, Mr. President, already the Panamanians have got their own version of the meaning of the so-called agreement, and I am sure the Department of State will soon too have its own interpretation.

I might say Mr. Torrijos boasted when he got back to Panama that he had not signed a document, he had not even signed an autograph when he was in Washington, conferring with the President; so he is boasting of the fact that he has not signed anything.

Looking at the language of the document, I must say that Dictator Torrijos may well be correct in his assessment of this unsigned paper. As I read the document, it seems to be saying that the United States can take action away from Panama to defend the regime of neutrality which would be established under the neutrality treaty. But, of course, that right would be close to useless if the United States did not also have the right to defend in place the canal itself. In other words, if Panama—if Panama decided the canal would no longer be neutral because of an alliance formed with another nation, presumably with Cuba or with the Soviet Union, or if Panama decided that it would be convenient to impose discriminatory tolls, or if Panama decided to make difficult the passage of ships of particular nations, Dictator Torrijos or his dictator successor would be in a position to assert that, all neutrality aside, the United States had no right—no right whatsoever—to intervene within Panama or to interfere with the internal policies and affairs of Panama. Here we are, Mr. President, back at square one.

What have we actually gained, Mr. President, by this latest diplomatic triumph—and I might add, Mr. President, I do not believe the country can take too many more diplomatic coups in our dealing with Panama. What have we gained? True, we all read the headlines boldly proclaiming that the President and the dictator had agreed on canal defense rights, but once again, as the truth leaks out, we learn that the document is not even signed, that the document itself is ambiguous, that the document creates problems, Mr. President, and does not solve problems.

This latter point is particularly clear when a thorough examination is given to the language purporting to clarify the rights of American warships to rapid transit of the Isthumus. This language reads as follows:

> In case of need or emergency, warships may go to the head of the line of vessels in order to transit the canal rapidly.

What this unsigned document does not say, however, is who gets to decide what is a case of need or what is a case of emergency. Panama might have one idea about what constitutes an emergency situation and we might have another idea.

Why not say it, Mr. President, in simple terms? I suggest the following, which may well be offered as an amendment to the treaty when it comes up here, in the Senate:

> United States warships have the right of priority passage at any time and may at all times proceed ahead of waiting merchantmen.

No, Mr. President, I guess that is too simple so we have elected instead in this unsigned, meaningless, nonbinding, and confusing document to foment still further potential disagreement by apparently leaving to the Panamanians the right to determine what emergency or which case of need is sufficient to justify priority passage by American war vessels. I think I shall change this word that I have suggested, "waiting merchantmen" to say merely "waiting vessels" rather than merchantmen; that U.S. warships have the right of priority passage at any time and may at all times proceed ahead of waiting vessels.

But listen, Mr. President, what former Ambassador Linowitz is reported to have said on this subject:

> We are hoping it will lay to rest the questions that have been raised so that we can go forward with the approval of the treaties. I don't think, personally, that any further action will be required.

Former Ambassador Linowitz does not seem to be paying too much attention to what is going on over here on the Senate floor, Mr. President, because if he did, he would know that this unsigned, ambiguous document clarifies nothing and does nothing whatsoever to address the many, many other serious—indeed, fatal—defects found throughout the proposed treaties.

I would suggest, Mr. President, that the Department of State pay closer attention to what is being said over here in the Senate because sooner or later, the Department of State has to face up to the simple fact that these treaties are so poorly drafted throughout that the Senate could not properly consent to their ratification. Even proponents of a canal giveaway recognize that fact. Even proponents recognize that both treaties must be rewritten in their entirety.

In my judgment, Mr. President, the Senate should undertake this onerous task. The Senate should, by amendment, rewrite these disastrous proposals now under study in the Committee on Foreign Relations. The Senate should, acting as the Committee of the Whole, sit down to the hard work of undoing the damage and unraveling the mystery of why the Department of State was incapable of reaching an agreement with the Panamanian negotiators which could, at a minimum, protect the vital national security interests of our country.

Unsigned documents clarifying nothing, understandings of no binding legal effect, reservations of rights not agreed to by the other party, are not going to be sufficient. Fanfare and hoopla in the press is not going to be sufficient. The only course of action is extensive and thorough page-by-page, paragraph-by-paragraph, sentence-by-sentence, word-by-word consideration and amendment of each and every provision of both treaties. Both treaties, Mr. President. This process will be long and tedious, very long and very tedious, but if these treaties are not soon withdrawn, it is a duty, Mr. President, we must soon undertake inasmuch as others have not. We must unfortunately also go ahead with the painful process of resolving all of the questions surrounding the peculiar manner in which the treaties were negotiated.

Mr. President, I feel that, as time goes on, we shall see other statements to clear up other ambiguities. I feel that, in the final analysis, we are going to have to amend these treaties here, on the floor of the Senate, and send this amended treaty back to the negotiators to serve as a guideline for further negotiation.

Mr. President, I appreciate the Chair's lenience. I know I have consumed all my time. I yield the floor.

ORDER TO CALL UP ENERGY TAX MEASURE AT ANY TIME

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the leadership be authorized to call up the energy tax measure at any time after the committee report has been available to Members. This is in accordance with the understanding that I reached on yesterday with the distinguished Republican leader.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. For the record, this unanimous consent has been cleared with the leadership on the Republican side and with the Republican members of the Committee on Finance. I am requested to make this statement by the minority leader.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none. It is so ordered.

Mr. ROBERT C. BYRD. Mr. President, is the distinguished Senator from New York (Mr. MOYNIHAN) being recognized?

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New York is recognized for a period of not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Will he yield to me?

Mr. MOYNIHAN. I am honored to yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I ask unanimous consent that the time not be charged against the Senator from New York.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate Foreign Relations Committee be authorized to meet during the session of the Senate today to consider the Panama Canal treaties.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President. I ask unanimous consent that the Permanent Subcommittee on Investigations of the Governmental Affairs Committee be authorized to meet until 12:30 p.m. during the session of the Senate today. to continue its investigation of labor union insurance programs.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. JAVITS. Mr. President, will the Senator from New York yield to me for 1 minute?

Mr. MOYNIHAN. I shall, with great pleasure, yield to my distinguished colleague.

Mr. JAVITS. Mr. President, I ask unanimous consent that the remarks which I will make, though subsumed under the same heading, shall follow those of my colleague from New York.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that my 15 minutes allotted to me, whatever time I have remaining, be given to the distinguished junior Senator from New York.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Senator.

THE STEEL COLLOQUY

Mr. MOYNIHAN. Mr. President, we are commencing this morning on an event that is unique in the history of the U.S. Senate. A number of Members of the Senate from States throughout the Nation have chosen this occasion to rise to speak to the question of the U.S. steel industry, the industry which first seized the lead in productivity and in production in the world.

Mr. President, the steel industry of the United States first took the lead in productivity and in production in the world somewhere in the middle of the 1890's, and with that event the United States—perhaps little known to itself at the time and less to others in the world, but soon in the First World War to become so apparent—with that event the United States became the premier, the leading industrial power in the world.

It was on the basis of that great steel industry that we proceeded to create an automobile industry, and an ever increasingly complex industrial civilization, always built on the fundamental industrial activity, that of making steel.

It was not until the end of the Second World War that American preeminence in this field was challenged and, indeed, not until the end of the 1960's that a new industrial power, equally adept and even perhaps more ingenious, proceeded to surpass the United States in output per man-hour in the steel industry, that of Japan.

Andrew Carnegie once observed, of the great genius with which he had put together his own steel-making complex, that he would take 2 pounds of iron ore 150 miles from West Virginia and 5 pounds of coal 300 miles from Kentucky and make them into a pound of iron and sell it for a penny. That capacity and that dominance lasted almost a century, only in the course of the 1960's to recede and to be followed in the 1970's by a growing awareness of a malaise, of a fundamental dislocation in this most fundamental of all industrial industries.

It is to the question of the role of Government in the onset of that dislocation that I would like to speak, and my colleagues—including the distinguished junior Senator from Pennsylvania who is standing at this moment—would like to speak.

Mr. President, our particular attention today will be addressed to the question of specialty steel, those particularly hard, particularly durable steels capable of sustaining great stress, equal to the heaviest demands of industry, of science, of technology, of armament, which for some time now have been subject to extraordinary import penetration from other countries, such that in January of 1976 the International Trade Commission issued a report to the President—then President Ford—which said that certain stainless steels "are being imported into the United States in such increased quantities as to be a substantial cause of serious injury or threat thereof to the domestic industry or industries producing articles like, or directly competitive with, the imported articles."

The International Trade Commission thereupon recommended that quotas be imposed on these products for a period of 5 years—the longest period for which quotas are allowed.

This situation was thus in place when, on May 25 of this year, the President's Special Representative for Trade Negotiations requested of the Commission that it review its earlier findings to determine the probable economic effect on the domestic industry of the termination or the modification of the relief provided by the Presidential proclamation of 1976.

Mr. President, the International Trade Commission has now completed that review and just now has issued a finding which, by a 3-to-1 margin, advised the President that the termination of these annual quotas on imports of stainless steel and alloy steel would have a serious adverse economic effect on U.S. producers.

Mr. President, we rise in this Chamber today to endorse the finding of the International Trade Commission and to speak, as it were, to President Carter, to urge him with the greatest conviction to accept the now renewed finding of his own Trade Commission that the industry, the specialty steel industry, is being injured and is deserving of the protection provided for a period of 3 years. The original judgment has been confirmed.

We ask the President to make no change.

Mr. JAVITS. Mr. President, I wish to associate myself with the position which is being taken by my colleague (Mr. MOYNIHAN) on specialty steel. My own record for many years, both in the House and the Senate, has been in support of open trade as being in the highest national interest of the United States and in the highest interest of a peaceful and prosperous world. I still very deeply feel that way. In order to maintain that policy, however, it must be possible to give phasing-in periods when industries may adjust to a sudden situation which imperils them and their workers before adjustment assistance or tariff relief by negotiation in the multilateral trade negotiations in the GATT can take hold. That is the situation with specialty steel.

Quotas were instituted in June 1975 on specialty steel imports for 3 years, after import injury was proven. The President requested the International Trade Commission to review the economic situation

in the domestic industry to determine if the quotas should be reduced or terminated before the 3 years are up. The ITC found by a 3-to-1 vote that the quotas should not be removed before the end of the period. The ITC action is only a recommendation and the final decision rests with the President.

In asking for a continuation of the quotas we are not asking for new import relief, but only for a continuation of the quotas for the original period and no more. Import-related injury was already proven.

The specialty steel makers are only now beginning to feel the benefits of the temporary restraints. Taking away the quotas before the intended deadline would force the specialty steel people to cutback on their major capital investment plans, on which they are counting to be able to meet the import competition when the quotas are removed in 2 years.

Any industry request for further import relief after these quotas might be difficult to support, and the industry should therefore use the time well to introduce a major restructuring of the industry.

The time should also be used to work out an acceptable long-term solution to the problem through sectoral negotiations in the multilateral trade negotiations. The continuation of the quotas would put U.S. negotiators in a stronger position in developing an international solution.

The entire steel question is another example of an economic area in which the administration must have a concerted policy which carefully balances our domestic interests in full employment and capitol investments and our international interests in open trades. The administration appears to be continuously putting out brush-fires without understanding the larger implications for global U.S. economic policy.

I therefore join with my colleague from New York and other Senators—and join also with the International Trade Commission which has come to the same conclusion by a vote of 3-to-1—in urging the President not to rescind the quotas on specialty steel, but to maintain them for the period which was ordered, to wit, 3 years from the original date, on the ground that the industry during that time may do what is needed to adjust itself to an open world trading situation—in which I believe, and in which I feel my colleague (Mr. MOYNIHAN) also believes.

I thank the Chair, and I thank my colleague very much.

Mr. FORD. Will the distinguished junior Senator from New York yield for 1 minute?

Mr. MOYNIHAN. With great pleasure.

Mr. FORD. I thank the Senator.

Mr. President, I, too, want to associate myself with the junior Senator from New York in what he is endeavoring to do this morning.

The specialty steel industry is important to Kentucky. As each of us know, Kentucky is not the richest State in the Nation. But we do have these operations in Ashland, Newport, Wildie, and in my hometown of Owensboro.

Mr. President, I rise today to join with my distinguished colleagues in exploring an issue that is of increasing concern to the American people. The rising tide of imported goods into this country is washing out hundreds of thousands of American jobs and we are faced with a trade deficit this year that the Secretary of the Treasury believes may reach as high as $30 billion.

Less than a decade ago trade deficits for the United States were unheard of and indeed most of us thought they were unthinkable. But deficits began in the first Nixon administration and, with one or two exceptions, we have had them almost every year since. Our constituents see their jobs threatened, or in all too many cases, eliminated entirely by the flood of unrestricted imports.

The argument that imports hold down inflation appears ridiculous when we see prices skyrocketing on products like shoes and apparel where imports have come to dominate the American market. Imports may mean bigger markups and higher profits for department stores and chain retailers, but they certainly have not brought lower prices for the consumer.

Moreover, on certain items we see foreign suppliers increasing their prices astronomically once they have captured or come to dominate a segment of our market. Specialty steel is a case in point. During the world steel shortage of 1973–74, the foreign steelmakers boosted their prices on certain specialty steel products as much as 100 percent. Their rationale is that once they drive their American competition out of the market they can charge whatever the market will then bear.

We cannot afford to see this happen to the entire specialty steel industry, which is one of the most critical and essential industries in the country.

Almost every other key industry is dependent upon specialty steels, and we must make sure they have a reliable supply of these high technology metals at prices that will not force these other industries to increase their prices.

More than 65,000 jobs in the specialty steel industry are at stake in the President's review of the import quotas on specialty steel. It is really a question of whether we want to sacrifice our jobs and our industries to unfair competition from government-owned or subsidized industries abroad.

This matter is of extreme concern to me since major steel operations are located in my State at Ashland, Owensboro, Newport, and Wilder. I have already expressed my concern to the President, Labor Secretary Marshall, Treasury Secretary Blumenthal, and Special Trade Representative Strauss, with whom I and more than 20 other Senators met 3 weeks ago in an attempt to find a solution to this most serious situation.

As of now, the key to relief for the steel industry appears to be the country's antidumping laws. If it is determined that dumping is harmful to the industry, the Government will levy special tariffs on foreign imports.

However, Lloyd McBride, president of the United Steel Workers of America, says that this will not act fast enough to compensate for, or stop layoffs in the industry, and that some quotas or other temporary restraints are necessary. I urge the President to act and act quickly, and if administrative actions do not bring the desired result, we in the Congress must be prepared and ready to take legislative steps to resolve this most serious problem.

Mr. MOYNIHAN. I thank my distinguished colleague and former Governor of the State of Kentucky for his supportive comments.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am glad to yield to the Senator from Pennsylvania.

Mr. HEINZ. First, I commend the distinguished junior Senator from New York (Mr. MOYNIHAN) for leading this colloquy. It could not come at a more appropriate time.

Last Thursday, at the White House Conference on Steel, the President of the United States indicated that the administration's policy would be to enforce the trade laws to prevent unfair trade. That includes section 201, the escape clause; that includes the other sections of the 1974 Trade Act, the Tariff Act of 1930, and the Antidumping Act, which deal with discrimination, with countervailing duties, and with dumping. This represents the first opportunity for President Carter to make good on his pledge to enforce the law.

What is at issue here in the specialty steel case, as the Senator from New York has succinctly pointed out, is whether the President will modify or eliminate, contrary to the recommendation of the U.S. International Trade Commission, the existing quotas on specialty steel which have yet some 2 years to run.

The Senator from New York is a member of the Finance Committee. I know that, as a member of that committee, he fully appreciates what Congress intended in passing the Trade Act of 1974. That intent was that import relief, once granted, should not be terminated without good and just cause; and when a finding was made that injury would result, it clearly was the intent of Congress that those quotas not be lifted.

We are now confronted with an argument, which is advanced by some who would urge the President to remove these quotas, that the reason they should be removed is that the industry is making progress, that the industry is making capital investments, that the industry is providing jobs, that the industry is playing the role that we had hoped it would play. In fact, what they are saying is, "You should eliminate these quotas because they are accomplishing their intended purpose."

Mr. MOYNIHAN. That is right.

Mr. HEINZ. I think the Senator would agree that if we accept that logic, we might as well agree with the following logic: that because senior citizens are living longer, we might as well get rid of

medicare. That is the logic of those who say that because the quotas are working, we should get rid of them. It is the same logic that contends that because more Americans attend college today than ever before, we should get rid of aid and loan programs to help students who are going to college. I know the Senator does not agree with that logic. It is the same logic that says that because we have more Americans working today than ever before—87 million—we do not need to do more to create jobs. I know that every Member of this body understands that we should do more.

I say to my distinguished colleague from New York that the logic of those who support doing away with these quotas makes absolutely no sense at all.

That is why I am extremely pleased to be able to join Senator MOYNIHAN, Senator JAVITS, Senator SCHWEIKER, Senator METZENBAUM, Senator FORD, and the other Senators who are participating in this colloquy and point out that if the President does change or eliminate the quotas, he runs the risk that we may seek to change the trade laws as they now stand. A tremendously sound case is advanced by the Senator from New York and many others that we want to see not only that this law works, but that all our other laws against unfair trade also work.

If we lose the battle to enforce this law, then all those countries in the EEC, Japan, and others will look at our other trade laws on dumping; against cartels, as is the focus of the antidiscrimination law; against foreign government subsidies of industries, on pain of being subject to a countervailing duty; and they will decide that they do not need to pay attention to anything we have written into law. That is why I think this colloquy is important.

Mr. President, Pennsylvania is truly the home of the specialty steel industry. Thousands of steelworkers live in Pennsylvania and many specialty steel companies have their corporate headquarters in my State. Therefore, this is an issue which is of particular interest to me.

I had the opportunity to testify before the International Trade Commission on September 7, as part of the review President Carter requested the ITC undertake in connection with the quotas. At those hearings, I pointed out that it would be senseless and unfair to reduce or terminate these vitally needed quotas before the promised 3 years of import relief has been completed.

I ask unanimous consent that the text of my statement to the International Trade Commission be printed in the RECORD following the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. HEINZ. It is important to note at this point that the recent vote by the International Trade Commission gives added force to our contention that the current quotas should be continued. By a 3-to-1 margin the four Commissioners voting agreed that removal of the quotas would have an adverse effect on the industry. The Commissioners split 2 to 2 on the question of modification of the quotas, though of the two supporting modifications one favored only limited changes. On balance the ITC vote represents a significant victory for the industry, which has contended the quotas should be allowed to run their prescribed course.

This decision by the Commission is also important in the context of what is happening in the steel industry as a whole. As I previously indicated, at the White House meeting last week, the President's major point was his new-found determination to aggressively enforce existing law. Though his resolve in this regard may be more an effort to put off the enactment of stricter legislation rather than a real commitment to the steel industry, those of us who are concerned about the industry have to seize these opportunities as they come along and hold the President to his statement.

There is no question, of course, that there is significant enforcement to be done. There are currently three major dumping cases pending, following the Treasury Department's tentative finding of dumping in the Gilmore case. United States Steel last month filed a complaint against Japanese companies covering structural steel, hot and cold rolled sheet, galvanized sheet, and welded standard pipe. Also last month, Georgetown Steel filed a complaint against the French alleging dumping of carbon steel rods. Earlier this week a group of American steel companies filed a complaint against a number of Japanese and Indian firms for dumping seven-wire. Treasury must shortly decide whether to go ahead with investigations in these cases, and this decision will be an early test of the significance of the President's announcement last week.

Likewise, a section 301 complaint has been pending in the Office of the Special Trade Representative for more than a year. This complaint, alleging that a secret bilateral agreement between the European Coal and Steel Community and the Japanese Ministry of International Trade and Industry (MITI) has had the effect of diverting significant quantities of Japanese steel to the United States. Whether the President and Ambassador Strauss will act on this complaint is another test of Presidential determination.

Still other complaints are likely to be brought, given the President's statement, and as a result there will be more tests to come.

Another important measure of the President's commitment to the steel industry will be his action on the specialty steel quotas case.

Even though unfair competition has not been alleged in this case—it is a section 201 "escape clause" case—the question of the efficacy and legitimacy of the 201 mechanism is at stake here. This is the only case in recent years where the President actually followed an ITC recommendation and imposed quotas. The purpose of the quotas is to give the specialty industry some breathing space, some time to sharpen its competitive edge. That appears to be happening as a result of the quotas, and I believe it is fair to say that this section of the Trade Act is working as intended. Unfortunately, we now seem to be facing the argument that the very fact it is working is reason enough to end it in this case. That is, now that the industry is making progress, perhaps we should remove the quotas as they are no longer necessary. Such an argument, of course, flies in the face of all logic and facts in this case.

The purpose of the escape clause mechanism is to provide time for an industry to recover. That time has barely begun to run in the specialty steel case, the quotas being only in the beginning of their second year. To remove them at this point would not only do serious harm to the industry but would do violence to the whole concept of protection from imports that Congress developed in the Trade Act of 1974. The escape clause—section 201—was carefully structured so as not to provide permanent or unjustifiable protection from imports, but rather to set up a procedure allowing for a carefully defined period of protection during which beleaguered industries could rebuild their strength. This procedure is working as intended in this case, and I know all of us speaking this morning agree that it should be allowed to run its course in the specialty steel case.

Of course, as I implied a moment ago, the specialty steel industry is only a part of the steel industry in the United States, and trade is only a part of the problem facing the industry today. Several weeks ago Senators RANDOLPH, GLENN, METZENBAUM, and I organized the first meeting of the Senate steel caucus, which was attended by 17 Senators representing 12 States, with a number of others who indicated substantial interest but who were unable to attend the initial meeting. As a result of that meeting, though no formal structure has been established in the caucus, the offices of the four organizing Senators are now working together to fashion a legislative program that will help the industry.

It is our intention to proceed slowly and carefully in this regard, and we will be examining in detail a number of different proposals including amendments to the Buy American Act, changes in our tax laws to ease the installation of pollution control equipment and other federally mandated expenditures, loans or loan guarantees to aid the industry in modernizing its facilities, industrial development bonds for the same purpose, and, of course, a variety of trade legislation including proposals to streamline procedures for investigating complaints under existing law and improvements in our adjustment assistance program.

The House of Representatives, in a parallel caucus, is doing the same thing, and I am sure it our mutual hope to have a number of legislative proposals reviewed by the end of this session. The President has indicated that his interdepartmental working group on steel, chaired by Under Secretary of the Treasury Tony Solomon, will be submitting its report and legislative recommendations shortly. Needless to say, since that program is likely to become the President's

program, it is awaited with great interest and will be reviewed with great care by the steel caucus.

Overall, Mr. President, it is my view that the administration has now been made aware of the magnitude of the problems confronting the steel industry. Whether the will to do anything about them or the expertise to come up with the right policies actually exists remains to be seen. Many of us in the Congress, however, will be watching closely.

I thank the Senator from New York for yielding to me.

EXHIBIT 1

TESTIMONY BEFORE THE INTERNATIONAL TRADE COMMISSION ON SPECIALTY STEEL IMPORT RESTRAINTS

Mr. Chairman and Members of the Commission: I appreciate the opportunity to testify today concerning your review of the import quotas on specialty steel products. I am particularly interested in this case because, as you know, much of the specialty steel industry is located in Pennsylvania. Allegheny Ludlum, Armco Steel, Babcock & Wilcox, Bethlehem, Braeburn Alloy Steel, Carpenter Technology, Colt Industries, Jessop Steel, Jones & Laughlin Steel, Latrobe Steel, Teledyne-Vasco, United States Steel, Universal Cyclops, and Washington Steel all have facilities in my state. There are 22 separate specialty steel facilities in Pennsylvania employing thousands of workers. Thus, it may fairly be said that Pennsylvania is the home of the specialty steel industy, and the outcome of this case will have a significant effect on my state, as well as the national economy.

BACKGROUND OF CASE

On July 16, 1975, 19 American specialty steel producers and the United Steelworkers of America filed a petition under Section 201 of the Trade Act of 1974, seeking relief from the growing tide of specialty steel imports which threatened the security of 65,000 steelworkers' jobs. This commission held hearings in October, 1975, and on January 16, 1976, determined that imports were a "substantial cause of serious injury" to the domestic specialty steel industry. The Commission recommended quotas for a period of five years to prevent or remedy the injury.

During the Spring of 1976, the Ford Administration negotiated an orderly marketing agreement with Japan and set quantitative limitations on other foreign nations, notably the European Community, which declined to negotiate orderly marketing agreements. On June 14, 1976, quotas on certain specialty, steel products (tool steels, stainless steel strip, sheet, plate, bar and wire rod) were put into effect for a period of three years.

On May 24, 1977, President Carter announced plans to review the specialty steel import restraint program. This was less than one year following implementation of the strongest form of relief ever recommended by the International Trade Commission and subsequently implemented by a President. Under Section 203(1)(2) of the Trade Act, the role of the International Trade Commission is to advise the President of its judgment "as to the probable economic effect on the industry" of the reduction or termination of import relief. Under Section 203(h)(4), the President must then determine whether reduction or termination of the import relief is "in the national interest".

It is my view that removal of quotas at this point would be a serious mistake. It would not only be unfair to the industry, which is just beginning to see the effects of the quotas, such a move would also be detrimental to our long term trade policy objectives.

IMPORT RELIEF IS JUST BEGINNING TO TAKE EFFECT

The relief recommended by this Commission and implemented by President Ford is just beginning to take effect. In fact, imports during 1976 again set records, in spite of the fact that the quotas went into effect on June 14th. 1976 imports totalled over 167,000 tons, 9 percent higher than 1975 imports, and 14 percent higher than the restraint level permitted for the first year of the quotas. As a result, no relief was felt in 1976, and in fact injury continued to occur for at least a year following the ITC decision of January, 1976.

As I am sure you will hear from industry witnesses, individual companies have made plans for substantial increases in capital investment, and other projections based on the promised three-year period of relief. It would be unfair and unwise to terminate or modify the import quotas now and jeopardize these growth plans, and the needed jobs they will create. Surely, the "serious injury" found by this Commission in January, 1976, has not been remedied by only a few months of effective import relief. The specialty steel industry spent many months of valuable management and labor time proving its case. The judgment of this Commission that strong relief was required was confirmed by the President. In my view, these were eminently correct decisions on both counts. To require this industry to prove its case again in order to save relief which was so clearly justified and generally agreed upon makes a travesty of the Trade Act and the procedures it established.

A further problem in this case is that there is no provision in the Trade Act for a Congressional override of a Presidential decision to terminate or modify this import relief. In cases where the President modifies the relief recommended by the International Trade Commission, Congress has the opportunity by a majority vote in both Houses to override the President's decision and require implementation of the remedy recommended by this Commission. However, where import relief is already in effect, as in this case, there is no such provision. After the President receives your advice as well as that of the Secretaries of Labor and Commerce, he has a free hand to do as he wishes.

Nevertheless, I can assure you, Mr. Chairman, that many members of Congress are watching this case carefully and are concerned about what implications it may have for the Administration's trade policy. A decision to terminate or modify these quotas could well stimulate new trade legislation to reduce the current flexibility permitted the President under the Trade Act.

In addition, the timing of this review is particularly unfortunate. The economics of Europe and Japan have not recovered to the extent of the American economy. As a result, foreign producers have built up large inventories of specialty steel products and are anxious to ship those products to the United States. In fact, within only a few days following the beginning of the second quota year on June 14, 1977, the European community reached its ceilings for two specialty steel products subject to the quotas for the next six-month period. Additionally, the "basket category" for "other" countries reached its ceiling on one specialty steel product. It is obvious that the flood of imports would begin anew if the quotas were ended or significantly modified, thereby undoing the effects of the short period of relief.

IMPORTANCE OF CASE TO U.S. TRADE POLICY

Second, this case is particularly relevant to the Trade Act. We are dealing with an industry which is technologically competitive and can make its products as efficiently and as cheaply as any of its foreign competitors. The American specialty steel industry is not a dying industry. Under conditions of fair international trade, it can survive and prosper. Furthermore, this industry is adjusting to competitive conditions as contemplated by the Trade Act. Some of the indicators of industry economic health are beginning to nudge upward. In fact, it is ironic that this review has been ordered just as what is supposed to happen during a period of import relief is in fact happening. The industry is beginning to make a recovery. But to remove or modify the quotas now would put this industry back in the position it was in when it initiated the escape clause case in 1975. In short, the specialty steel industry can survive and prosper, but it needs the full three-year period of import relief to do so.

A second reason this case is so important to overall U.S. trade policy is that it exemplifies what we are facing in many industries—an environment characterized by unfair trade practices on the part of our trading partners. With few exceptions, American specialty steel companies are the only ones in the world which are currently profitable. Yet, they are continually undercut by foreign pricing practices. A recent "white paper" prepared by an independent consulting firm for the American Iron and Steel Institute concluded "that foreign producers are currently selling steel in the U.S. market at prices below their average cost, and that this practice has been consistently used by foreign producers in the past whenever necessary to increase their capacity utilization."

Foreign specialty steel companies are supported by a vast array of government subsidies. Preferential bank loans, tax advantages, subsidies for producing during periods of slack demand, government grants for pollution control expenditures, price-setting by government-authorized cartels—these are just examples of practices permitted and encouraged by foreign governments which allow their companies to operate outside the normal requirements of profitability and capital formation. Under such circumstances, production efficiencies have little meaning. This poses a particular problem for the specialty steel industry, and it underlines the necessity for steel sectoral negotiations in the Multilateral Trade Negotiations, as directed by President Ford in conjunction with his approval of import relief for this industry. I have recently discussed the New Administration's interest and goals in ensuring fair international trade practices in the steel industry with Assistant Secretary of the Treasury, Fred Bergsten, and others. I was informed that the Administration was concerned enough to place the problem before the OECD. In fact, this was done earlier this summer. As a result, some progress on international steel discussions is beginning to take place within the OECD, and I intend to follow these discussions with great interest. It is essential that we move aggressively to bring some order to the international steel market and seek to end the unfair tactics our trading partners are using.

This case is also important to our overall trade policy because it will establish a precedent for future industries which may be granted relief under the Trade Act. If the United States government is willing to abandon an industry which has so recently proven that import relief is clearly justified, then what hope is there for other industries in similar positions? The Trade Act was designed to provide needed relief. It should be permitted to work in this case.

Not to permit the process to run to its conclusion jeopardizes the integrity of all our future trade actions. It tells American manufacturers they cannot count on their government to keep its commitments, and it tells foreign governments we don't intend to stick to any meaningful policies designed to promote *fair* trading practices.

Moreover, to unilaterally surrender an important bargaining chip like this in the Multilateral Trade Negotiations without a quid pro quo would send this unfortunate message loud and clear. Why should the United States terminate or modify these quotas without receiving enforceable commitments in return which will go toward eliminating widespread unfair trade practices in this area. Surely our trade negotiators must recognize the wisdom of retaining this valuable bargaining chip until a quid pro quo is offered.

In short, if we do not stand fast in this case, the result will be an added impetus to foreign export subsidies and a renewed flood of subsidized imports into this country. It would also make a mockery of the recent statements and actions by the Administration in a contrary direction.

Mr. Chairman, and Members of the Commission, I strongly urge you to confirm the wisdom of your 1976 decision and recommend to the President that the import quotas be retained for the full three-year period of relief. Surely the serious injury you found in early 1976 has not been remedied in only a few months.

Mr. MOYNIHAN. I thank the Senator from Pennsylvania.

Mr. President, I should like to sum up two points made by the Senator from Pennsylvania with great clarity, with force, and with the conviction that comes from the support of facts.

The first is that the argument that the protection provided by the Commission is not needed because of the growth of employment in this special industry, the growth of investment in this special industry, the increase in share of the market, far from being an argument against the acts of the Commission, is an argument to suggest that the Commission's judgment was correct and this remedy is working.

Second, the Senator makes the powerful and much more general point—which the President surely will want to hear—that the United States, which has led the world in the free trade policies which have brought about and shaped the modern trading system of the free world, has introduced only modest protections of its own industry.

Compared with any of our trading partners, we are far more liberal, always the first to make concessions, always the last to impose restraints. But if we do impose restraints, let us by all means have it understood that we are serious, that we are moved by powerful argument and irredeemable fact, and that the restraints so imposed will be continued during the formally decreed period of time.

I see the Senator from Ohio in the Chamber, and I wonder whether he would like to join in this discussion.

Mr. METZENBAUM. I would, indeed.

I am pleased to join the distinguished Senator from New York, and I respect him for leading this colloquy, with the two Senators from Pennsylvania. Also, I see that the Senator from Tennessee is in the Chamber, to join in the colloquy.

Mr. President, I think it is significant that we all see fit to come to the floor today to address ourselves to this question, because I suppose that, with no exception, each of us, in his own State, is experiencing some unemployment—some higher and some less—in the steel industry.

I represent a State in which 5,500 employees were advised recently that the entire plant was being closed down. Although it is not a specialty steel situation as such, it is indicative of what is happening to the steel industry in this country.

The quotas that were imposed by the International Trade Commission were set on a trial basis, and they were needed. If we look at the figures, we see that imports of specialty steel in 1975 were 154,061 tons. By 1976, it had gone up to 167,760 tons.

U.S. production in specialty steel, however, between 1974 and 1975, before the imposition of quotas, had taken a nose dive from 1,328,000 tons to approximately half of that amount, 722,000 tons.

Then came the imposition of quotas; and in 1976, the amount of specialty steel produced went back up to 1,063,000 tons, about a 50-percent increase. For the first 6 months of 1977, the figures indicate that specialty steel production will be approximately the same as that in 1976.

Here is an opportunity that we have where Government has made it possible so that there may be employment, so that industries may operate at a profit, so that we may have a viable economy, and instead of that consideration is being given now to removing those import quotas in spite of the fact that by a 3-to-1 vote the International Trade Commission just recently indicated that it did not support the concept of removal.

I believe that that decision and this colloquy, I would hope, would indicate to the President the strong concern that we have based upon the facts and based upon the determination made by the International Trade Commission that these quotas are indeed needed. That was their determination.

I think that to do anything less than to keep them in effect for the balance of the period would be to fail to concern ourselves about those who might otherwise be walking the streets of America and adding to the unemployment lines that exist at the present time.

My State is a major steel-producing State in this country. The Senator from Pennsylvania, the Senator from New York, and the Senator from Tennessee, also represent major steel-producing States.

We are concerned about people having an opportunity to earn a livelihood. We are concerned about people being able to participate in their community, to pay their taxes, and to be a part of a healthy community, and that means that they have to have jobs. If they are to have jobs at this point in time I see no alternative but that we continue in effect the import quotas that are presently in effect, and I hope that the President will see fit to give support and comfort to those of us who represent States and, for that matter, the entire Nation, since this affects the entire economy, that we can keep up to the employment where it presently is, particularly in the import steel and in the special steel area, and I hope that no change will come about.

I am grateful to the Senator from New York for having seen fit to bring a number of us to the Chamber today to engage in this colloquy. It is a privilege to have an opportunity to work with him in this matter.

Mr. DECONCINI assumed the Chair.

Mr. MOYNIHAN. I thank my distinguished friend, the chairman of the Northeast-Midwest coalition of this Senate.

I wish to report some news which has just been handed me which is further confirmation both of the timeliness of our colloquy this morning and of the case which we present. I am just informed by Mr. Munsey, of the Treasury Department's Public Affairs section, that the Treasury Department will announce today that it has decided to proceed with the investigation of the dumping petition, filed by the United States Steel Corporation, to determine whether imported steel is being sold at less than fair value.

I think my colleagues recognize as do I, certainly as one who has served in the executive branch of Government under four administrations, that the Treasury Department comes with great reluctance and comparable care to any such judgment. The decision to go forward with an investigation is evidence of their judgment that there is a prima facie case that has been made and indeed the case does exist.

The Government is slowly recognizing that we are on the verge of a crisis with respect to the fundamental industry of an industrial society, and it is time for a response not only to the specifics of the complaint or that sector of the economy but also, as I shall speak to in a short while, to the general question of the manufacture of steel and its various products in the United States.

I thank the Senator from Ohio.

I see the senior Senator from Pennsylvania is in the Chamber, and I should be honored to yield to him for his comments on this matter.

Mr. SCHWEIKER. I thank the distinguished Senator from New York, and I commend him very strongly for his leadership and initiative in this area. I believe I have a special order in my own right, so to conserve his time I ask unanimous consent that this be taken out of my special order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I join my distinguished colleague from New York and many other Senators today in asking President Carter to uphold the ITC's recent decision and to retain the import quotas on foreign specialty steel products. More than any other State, Pennsylvania is directly affected by imported specialty steel.

It is estimated that some 65,000 are employed in the specialty steel industry nationwide, 30,000 of which are in Pennsylvania. It is rather obvious that Pennsylvania has a very basic interest in maintaining a healthy specialty steel industry. I have long been concerned about the flood of imports because thousands of steelworkers in my State have been laid off periodically due to im-

ports, and because many Pennsylvania companies have been injured by the unfair trade practices committed by Government-subsidized foreign specialty steel producers.

I might say, Mr. President, that on April 7, 1972, I chaired a special hearing for the Subcommittee on General Legislation of the Armed Services Committee, the topic of which was the essentiality of specialty steel to national security.

The record of this hearing was subsequently published in the form of a committee report. It was clearly shown that all of the production for defense purposes that we have in this country today requires the utilization of specialty steel at some point in the manufacturing process. To have our domestic industry decline and decay through the continued purchase of foreign specialty steel would result in the most serious of consequences for our national security. So I think there are very, very significant defense ramifications to the plea that we are making today.

After congressional enactment of the Trade Act of 1974, the specialty steel industry filed an escape clause petition with the International Trade Commission. Following extensive hearings and a full investigation, the ITC recommended 5 years of import quotas. President Ford concurred with the ITC finding that the domestic industry was being severely injured by imports and, in June 1976, implemented quotas for a 3-year period, reducing the initial recommendation by 2 years.

This summer, after little more than a year of import relief, the administration initiated a review of the situation. It would be unfair to take away the relief which the specialty steel industry attained only after a year long struggle.

I have pointed out that I conducted hearings on this subject back in 1972, and we had a 4-year struggle before relief was granted.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. SCHWEIKER. I am glad to yield.

Mr. MOYNIHAN. I think it would have been inappropriate for me on this occasion not to recognize that it has been precisely the leadership of the senior Senator from Pennsylvania which, well in advance of any national or administration perception of this crisis, brought to our attention by the hearings that he held and by the record which he made, the seriousness of this matter. The action which we are supporting today is being taken as a direct consequence of the initiative which he took, in the first instance, for which I think both the industry and those of us who represent these constituents can be grateful. I acknowledge that gratitude on the part of the State of New York.

Mr. SCHWEIKER. I certainly thank the distinguished Senator for his kind remarks. I am delighted to see his leadership and his initiative at a very critical time when everything we have worked for may be lost if we do not speak out as we are trying to do here today.

The American specialty steel industry is a very modern industry, unlike some others with which we are currently having problems. This is not a case of obsolete production methods. Anticipating 3 years of import quotas, the industry has made major new commitments, based on a 3-year cycle, to capital expenditure. To pull the rug out from under them after only 1 year of relief just cannot be justified. Our specialty steel industry is not a dying industry. It is healthy and competitive.

But competition in the U.S. market is characterized by the unfair trade practices of foreign competitors.

The distinguished Senator from New York has just cited the most recent situation of this nature to point out the very problem caused by unfair competition. I am referring to the Treasury Department's examination of the dumping of basic steel.

So foreign producers are able to sell in our market at prices below their cost of production.

I join my colleagues in urging the President to retain the specialty steel quotas without change. I ask unanimous consent that a letter I have written, in conjunction with Senator BENTSEN and 15 of our colleagues, including the distinguished Senator from New York, to President Carter on this issue be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., September 30, 1977.

HON. JIMMY CARTER,
President, The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are writing concerning your forthcoming review of the import quotas on specialty steel. As you know, the International Trade Commission recently conducted hearings on this matter. We strongly believe the domestic specialty steel industry has more than justified its case for continued protection against unfair foreign competition. We urge you to retain these vitally needed quotas without change.

After a comprehensive investigation, the International Trade Commission last year found that the specialty steel industry was suffering serious injury as defined by the Trade Act of 1974, and recommended quotas extending for five years. In the only case where an ITC recommendation of this nature has been followed, President Ford granted three years of import relief and called for an international conference on steel.

Now, after only a little more than a year of relief, the quotas are being reviewed. Three years have not passed, nor has there been any movement in the current GATT negotiations towards a resolution of the problems confronting the specialty steel industry.

Yet, the provisions of the Trade Act of 1974 have, in this case, proven effective. The domestic specialty steel industry is steadily recovering. The highest level of production and employment since 1974 was attained during the second quarter of 1977. However, this improvement is only the first sign of long-term recovery.

Should the quotas be terminated or modified, the domestic specialty steel industry will once again be severely impacted by foreign imports. American workers will be laid off. Foreign producers, heavily subsidized by their governments, view the United States as the primary market in which to increase sales and reduce the losses to which they have, in many instances, been accustomed. The American specialty steel industry, on the other hand, is the world's most efficient, and can operate profitably if not confronted with unfair foreign competition.

Mr. President, we are very concerned that if these quotas are removed, there will be strong pressure within the Congress for new, more restrictive trade legislation. We therefore respectfully urge that in this most deserving of cases, the Trade Act of 1974 be allowed to function as originally contemplated by Congress.

Sincerely,

Lloyd Bentsen, Wendell R. Anderson, Birch Bayh, John Glenn, Orrin G. Hatch, H. John Heinz III, Richard G. Lugar, Charles McC. Mathias, Jr., James A. McClure.

Richard S. Schweiker, Howard M. Metzenbaum, Daniel Patrick Moynihan, Jennings Randolph, Paul S. Sarbanes, Jim Sasser, Adlai E. Stevenson, John Tower.

Mr. SCHWEIKER. I would just like to emphasize that this particular letter, asking President Carter to retain the quotas for the full 3-year period, was signed, in addition to Senator BENTSEN, Senator MOYNIHAN, and myself, by Senator ANDERSON, of Minnesota, Senator BAYH, of Indiana, Senator GLENN, of Ohio, Senator HATCH, of Utah, Senator HEINZ, of Pennsylvania, Senator LUGAR, of Indiana, Senator MATHIAS, of Maryland, Senator MCCLURE, of Idaho, Senator METZENBAUM, of Ohio, Senator RANDOLPH, of West Virginia, Senator SARBANES, of Maryland, Senator SASSER, of Tennessee, Senator STEVENSON, of Illinois, and Senator TOWER, of Texas.

I point this out to show the very broad consensus existing in this area and how essential and critical we feel this whole problem is.

Once again, Mr. President, I thank the distinguished Senator from New York (Mr. MOYNIHAN) for yielding, and I commend him for his leadership.

The time I have remaining on my special order I yield to the distinguished Senator from New York.

Mr. MOYNIHAN. I thank the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I wish to reiterate the important fact that it was his farsightedness, perception, and doggedness, if you will, which first brought to the attention of the Nation the situation in this most basic of industrial industries and which is now increasingly the focus of attention by the Congress, the administration and, indeed, now by the President.

I see that my good friend and classmate, the distinguished junior Senator from Tennessee, is in the Chamber, and I know he would like to address himself to this subject.

Mr SASSER. Mr. President, I want to take this opportunity to join my distinguished colleague in speaking on this very crucial issue.

I applaud the able and always articulate junior Senator from New York for his efforts in this matter, efforts in which

I join eagerly, even though I hasten to add I am not presently a member of the northeastern coalition nor do I anticipate joining that august body.

But I think, Mr. President, that the health of this basic industry is of crucial and strategic importance, and this issue is one which should be of concern to all Americans. It is not simply a local economic issue confined to one region of the country.

During the past months we have heard more and more about the effects of foreign imports on our troubled economy. The steel industry is not alone in its attempts to deal with difficult competition coming from foreign nations—foreign nations. I add, that enjoy the advantage of Government subsidy in many cases, a labor force paid what we would consider substandard wages in this country, and of laws with less concern in protecting the environment than the laws of the United States of America.

I think the electronics industry and the shoe industry are two prime examples of what we are discussing here this morning. But without diminishing the magnitude of the problem of those industries, I feel safe in saying that the problems of the steel industry are presently of the greatest concern.

We are watching one of our Nation's basic industries fight for its very life. It is an industry that directly employs 67,000 American men and women, and indirectly employs thousands of others.

A little over a year ago then President Gerald Ford agreed to a modified International Trade Commission plan to grant important relief to America's specialty steel industry. Since that time we have seen a significant improvement in that industry in this country.

President Carter has asked for a review of these quotas. I wrote to encourage the President to continue this support of the steel industry for the full 3-year period originally recommended.

The International Trade Commission has determined that termination of existing import quotas would have a serious adverse economic effect on the steel industry.

Furthermore, I think we cannot ignore another sad fact: the fact that competition from foreign nations is frequently less than fair. Again last week the Treasury Department found that five Japanese steelmakers had been selling carbon steel plate in the United States market at a loss estimated to be $50 per ton. There are indications that this case is only the tip of the iceberg of steel dumping by foreign competitors in this country to the detriment of the American industry.

I am hesitant to suggest the drastic step of quotas and tariffs on foreign goods. I come from a region of this country which has traditionally believed in free trade, and which has traditionally fostered and espoused the doctrine of free trade.

I firmly believe that free international trade is the best form of trade. I firmly believe in the ability of American industry and American workers to compete in a fair world market.

In this case, however, the competition has not been fair, and meaningful negotiation has been lacking. Free trade is ideal, but there can be no free trade where free trade does not indeed exist.

So today, Mr. President, I call on the President to recognize the importance of this issue. Our economic recovery, our defense, and the very well-being of the American people are greatly dependent upon the ability of our steel industry to become once again strong and competitive not only domestically but internationally.

I thank the distinguished Senator from New York in yielding me time to speak on this issue.

Mr. MOYNIHAN. I thank the Senator from Tennessee.

Mr. President, I would like to draw attention to the essential point which my colleague from Tennessee has just raised with a clarity which he has unfailingly brought to discussions in this Chamber, and with a sense of national purpose which has invariably formed his judgment in this matter. That is to say, that we ask to be understood as intending that our concern today is not to bring about a regression in American trade policies toward protection, toward a fearful and restricted view of the world, but rather to preserve the free trade system of international economic exchange which has been so very much a principle of American foreign policy and central to our foreign economic policies from the time of Franklin D. Roosevelt.

I think it is fair to say that the man whose name will live in the history of this century as the one who personified the belief in free trade, in a decade when, in the world over, that belief had collapsed, who showed courage in a world dominated by fear, who showed initiative in an age frozen into inaction, was Cordell Hull of Tennessee.

Cordell Hull served in this Chamber and we surely have here an immensely promising successor—it would only be out of fear of presumptuousness that I would hesitate to compare my friend Senater SASSER, to that great man, and he himself would be as reluctant as I—but he follows in this tradition and honorably upholds it. It is however a tradition which can be exaggerated.

Cobden once said free trade was a principle of the Almighty. I think that may exaggerate the concern of the heavens for the economic arrangements we have here. But, nonetheless, the association of free trade with free societies is not only historically powerful, the correlation immensely close, but it is a matter of close connection in principle, in theory, as well as in practice.

It is because the United States has held to the proposition that there was not merely economic advantage but fundamental political principle involved, that we rise to speak today. It was Cordell Hull who said, "If trade crosses borders, armies will not."

This is not an issue which has influenced and enlivened American economic policy for three generations out of some casual and essentially marginal interest in the management of economic affairs. It reflects a fundamental belief in that which makes for a stable world and a free world. That belief should never falter in the great trading Nation of the United States. We have sustained it over these years, from the time in the 1930's when Cordell Hull took up the mantle of free trade which the British had so long sustained, but which had collapsed under the impact of the long recession of the 1930's. If we give it up, who will succeed us and what will succeed us? Certainly not a world such as we have known in the past 30 years, which saw an immense increase in the economic activity of the world markets and in the economic well-being of the people in those markets.

It is, after all, precisely an example of our commitment that embarrasses us today. The United States in 1945 saw the steel industry of Japan destroyed—in 1945 Japan produced less steel than India did. Germany produced no steel. It was our conviction and our belief, and our lack of fear, that led to the reconstruction of these once great economies, and it is to those particular economies that we now say, "Do not spoil what has been a system of world trade that has meant so much to your own people as well as ours, by taking unfair advantage at a time of genuine concern in this country, and in particular with respect to an industry without which no industrial economy can call itself secure, much less great."

We recognize, Mr. President, a fundamental fact, which is that output per man hour in the Japanese steel industry has surpassed that of the United States. That is an immense achievement, and all credit is owing to the people, the workers, and the managers who brought it about. But that also involves a responsibility not to abuse the capacity which that margin now gives them, not to abuse and take unfair advantage so as to undermine the position of American producers who are still economic and still efficient.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the time allocated to the Senator from Ohio (Mr. GLENN) for the purpose of this colloquy be allocated to me instead.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

In connection with that point I would like to emphasize a point which a number of Senators have made, which is that the specialty steel industry, of which we speak, is not one which is characterized by antiquated equipment or by obsolescent techniques. To the contrary, this is precisely the industry which has pioneered in innovative technology in the steel industry. We have heard, in the last month, of steel facilities in the

Northeast being closed which were opened in the 19th century. This is not true of the alloy steels and specialty steels of which we are speaking, some of which only began to be developed in the last decade.

Here the statistics on investment in stainless steel and alloy tool steel, the capital expenditure for facilities used in the manufacture, warehousing, and marketing of stainless steel, seem to me particularly striking, and provide the most confirming evidence of the case we have been making.

In 1974, the industry invested over $81 million in the capital plant of this sector of the industry. This year, it is budgeted to invest $124.715 million, not quite a doubling, but an increase of almost 70 percent in a mere 3 years.

An extraordinary amount of capital is flowing into this industry in clear response to what is the characteristic American economic advantage at this time in the world, the combination of advanced technology and sufficient capital—and this at the very time, indeed, when we learn from Professor Tobin that the Q ratio has declined so precipitously in the economy generally. It is striking how much their competence has been shown to produce this particularly difficult and demanding product at a level which can compete with the rest of the world if not indeed surpass it.

Mr. President, I ask unanimous consent at this point to have printed in the RECORD a number of charts: First, a table showing the capital investment at this time; second, a table indicating the increased utilization by the steel industry of capacity, which has now at last moved up into the high 70- and 80-percent range, where it is efficient and which was the original objective; and finally, a table showing the increase import penetration of the 1970's, which led to this action in the first place.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 41.—STAINLESS STEEL AND ALLOY TOOL STEEL: U.S. PRODUCERS' CAPITAL EXPENDITURES FOR FACILITIES USED IN THE MANUFACTURE, WAREHOUSING AND MARKETING, OF STAINLESS STEEL AND ALLOY TOOL STEEL, 1974-76 AND BUDGETED FIGURES FOR 1977

[In thousands of dollars]

Item	1974	1975	1976	Budgeted, 1977
Land and land improvements	463	567	795	780
Building and leasehold improvements	7,227	6,723	9,493	10,251
Machinery, equipment, and fixtures	59,522	55,670	86,861	93,406
Environmental expenditures	13,854	7,998	12,305	20,278
Total	81,066	70,958	109,454	124,715

Source: Compiled from data submitted to the U.S. Internationa\ Trade Commission by the domestic producers.

TABLE 9.—STAINLESS STEEL AND ALLOY TOOL STEEL: U.S. CAPACITY UTILIZATION, BY TYPES, ANNUALLY, 1970-76, AND QUARTERLY, JANUARY 1974-JUNE 1977

[In percent]

Period	Capacity to melt—			Capacity to roll stainless steel—		Capacity to manufacture—		
	Stainless steel	Tool steel	Stainless and tool steel, total	Plates	Sheets and strip	Stainless steel rods	Stainless steel bars	Alloy tool steel, all forms
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1970	54	39	52	37	43	54	62	55
1971	54	40	53	30	49	52	61	54
1972	64	51	63	32	59	65	70	65
1973	76	60	74	42	71	80	75	82
1974	89	62	86	69	77	85	87	89
1975	49	34	48	52	38	42	53	48
1976	70	41	67	43	64	52	63	50
1974:								
January to March	87	66	85	62	74	88	87	83
April to June	106	68	102	99	101	89	96	97
July to September	90	53	86	73	82	87	82	80
October to December	89	62	86	71	72	94	86	90
1975:								
January to March	53	47	53	74	35	49	74	66
April to June	39	36	39	51	28	31	54	51
July to September	49	29	47	37	40	39	40	40
October to December	56	24	53	39	49	47	44	38
1976:								
January to March	71	36	67	41	63	45	57	43
April to June	76	39	73	49	68	61	66	46
July to September	68	38	65	44	62	53	61	50
October to December	64	47	62	38	63	47	67	59
1977:								
January to March	78	50	75	40	69	56	76	52
April to June	88	71	86	48	79	66	88	62

Source: International Trade Commission.

IMPORT PENETRATION

Ratio of imports to consumption

[In percent]

Category	1970	1976
Stainless steel plates	12.9	17.1
Stainless steel bars	13.1	16.6
Stainless steel rods	57.0	54.2
Alloy tool steel	17.9	29.3

SOURCE.—U.S. producers shipments compiled by U.S. International Trade Commission and from the official statistics of the Department of Commerce.

Mr. MOYNIHAN. Mr. President, I also ask unanimous consent that a statement by the Senator from Maryland (Mr. MATHIAS), and the attachment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MATHIAS

Mr. President, we are all disturbed by the recent rash of mill closings and layoffs in the steel industry. There is however, a segment of that industry—specialty steel producers—that has been plagued by depressed earnings and high unemployment for some years.

The primary cause of the unemployment in our specialty steel industry has been steel shipped into this country by foreign firms either owned or heavily subsidized by their governments. Virtually every other specialty steel industry in the world has been losing money for years. Yet foreign producers keep expanding capacity and shipping their surplus steel to America in order to maintain relatively high employment at home. In short, many of our trading partners are exporting their unemployment to the United States.

In June 1976, President Ford acted to offset this practice by imposing import quotas on certain specialty steel products. In the fifteen months since then our domestic industry has shown a remarkable recovery and thousands of workers have been called back to their jobs. President Carter is, however, now reviewing the quotas on specialty steel and a cloud of uncertainty hangs over the industry and its 65,000 workers.

There are more than 40,000 members of the United Steelworkers of America in Maryland. Several thousand of them are employed in two specialty steel mills, the Armco Advanced Materials Division and the Eastmet Corporation plant, both in the Baltimore area. These mills each suffered prolonged periods of high unemployment before the import quotas were ordered. In the last ten months, however, they have begun calling people back to work. Clearly, nothing should be done now to jeopardize that positive trend.

Before the quotas went into effect, the Armco mill in Baltimore had more than 50 percent of its 1,200 people laid off and the future of the entire operation was very uncertain. Today, about 300 of those persons are still out of work and whether they will ever be called back may well depend upon the future of import quotas. A similar pattern can be observed throughout this industry.

Evidence of the high unemployment in the specialty steel industry is seen in the large number of people, at least 25,000, who have received trade adjustment assistance since

1975. Actually, the figure is undoubtedly higher than that since some of the larger companies producing specialty steel do not break out the unemployment for that type of production, but lump it in with their overall figures.

In this regard, I would like to invite the attention of my colleagues to an article on the adjustment assistance program for the specialty steel industry, which appeared in the August 29 issue of the American Metal Market trade publication.

TRADE ADJUSTMENT AID MUSHROOMS

(By Sheldon Wesson)

WASHINGTON.—Almost 25,000 workers in 43 plants in the specialty steel industry have qualified for trade adjustment assistance since the Labor Department's program began in April, 1975, through June, 1977, as a result of the effect of imports on the industry's employment.

A rash of applications for this assistance were filed in the spring of last year, but the number tapered off recently. At the end of June another seven petitions were pending which clearly could be identified as involving specialty steel products. In addition, a number of petitions have been entered by large integrated steel producers since the beginning of this year; and while specialty steels may be involved, they are not listed separately in the Labor Department's compilations.

If President Carter decides to relax or eliminate the import quota system as the result of the new study which he has requested of the International Trade Commission, undoubtedly there will be another jump in the number of adjustment petitions submitted to the Labor Department, according to officials here close to the program, and officials of the United Steelworkers of America (USW), which has initiated most of the petitions.

There may be an increase in the near future in any case, the case of "outreach" efforts by the department to acquaint workers with their rights to benefits under the law, and the continued activity in this area of the USW.

A sleeper in this situation is a recent recommendation to Congress by the General Accounting Office (GAO) that the adjustment program be expanded to include workers who supply components to factories affected by imports and whose workers thus qualify for adjustment assistance.

The GAO had in mind such components as heels supplied to a shoe manufacturer, but the same principle extends logically to suppliers of component materials to an affected manufacturer of specialty steel products, a GAO official said.

As he sees it, a case-by-case determination would have to be made to demonstrate that the supplier of an alloying material had been affected directly and demonstrably by the loss of a customer due to the effect of imports on the customer.

Many people in the GAO espouse this type of thinking, and it will emerge in future reports which GAO is preparing on the subject of trade adjustment programs, the official said.

The USW continues "vigorously opposed" to any relaxation of import quotas, and will assert that stand when the International Trade Commission holds hearings, a union official said.

The permanent loss of jobs in the industry is measurable and serious, he said. Any relaxation of the quotas will cause increased filings for adjustment benefits, and re-filing of many past petitions for additional benefits, he added.

Under the adjustment program, a worker whose job has been lost as a result of import competition faced by his employer may receive 52 weeks of cash benefits. Those benefits may start at any time, so that some may still be in course of payment as a result of the first few specialty steel petitions submitted last year, Labor Department officials said.

In addition, the act provides for certain types of retraining and testing services to be financed by the Federal Government for an affected worker, even after the period of cash benefits runs out.

Mr. MOYNIHAN. I also ask unanimous consent to have printed in the RECORD a statement by New York State Commerce Commissioner John S. Dyson before International Trade Commission hearings on specialty steels.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY NEW YORK STATE COMMERCE COMMISSIONER JOHN S. DYSON

We in New York State strongly support the continuation of the quantitative restraints and orderly marketing arrangements for specialty steels for the full three-year period as imposed by the President in June 1976.

Others are testifying here on all aspects of international competitiveness in the industry: costs of production, product mix, technological competence and defense impact. We will concentrate on the impact on New York, which can be presented in distressingly simple terms. If President Carter acts to end quotas prematurely, the result would be the loss of jobs, increased human misery and another setback for New York's fight to regain economic viability.

New York's situation is serious. While the State's unemployment rate has been reduced from almost 11% in 1975 we still averaged 9.3 percent in the first six months of 1977, well above the national average of 7.6 percent. And this disadvantageous comparison is not just a recent phenomenon. New York's rate has exceeded that of the country as a whole in every year after 1970.

The intense penetration of the United States market by foreign steel producers has hurt the domestic industry badly, but the impact on the northeast and on New York has been more serious than in the Nation. In 1976, employment in the New York State's basic steel industry averaged 22,000; down 13,000, or 37 percent, since 1958. In the country as a whole in that period, the drop was 10 percent.

Just recently Bethlehem Steel announced a new cut of about 3,500 jobs in New York, and an additional 3,800 in Johnstown, Pa.

New York has suffered disproportionate cuts in steel capacity because it is a mature industrial state with long established centers of production. Unfair price competition from modern facilities abroad, often coupled with the expense involved in meeting national environmental standards, combine to make older steel-making facilities most vulnerable when capacity must be cut because of shrinking domestic markets.

New York is already suffering from long-term neglect on the part of the Federal Government. For five decades or more, the Nation has pursued a series of aid programs to spur the development of the South and West. This was a noble motive, except its achievement resulted in a gradual, artificial shift in regional competitive advantage. It's time to reverse this thrust and to equalize regional advantages.

Not that the blame for our plight is totally Federal. We in New York were slow to perceive the acceleration of the decline in our basic economic strength for many years and continued to build, borrow and promise as if we were still impregnably installed as the Nation's premier industrial state. We have since learned and are doing what must be done to restore reality to government planning and confidence to our business community.

This economic dropback makes a healthy specialty steel industry especially critical to New York. We have four specialty steel manufacturers, employing about 4,200 workers and generating approximately $76 million in payrolls annually. These firms must be protected from discriminatory and unfair foreign competition or these jobs and payrolls will be lost to both the State and the country.

One firm, newly established in facilities purchased from a major specialty steel manufacturer using, in part, financing from the U.S. Economic Development Administration, needs the next two years of quotas to complete successfully its essential modernization program.

Each of the five New York State communities which house specialty steel manufacturing facilities already have serious economic problems. Four of them—Watervliet, Dunkirk, Syracuse and New Hartford—are in areas classified by the United States Department of Labor as having substantial unemployment, and the other, Lockport, is in an area of persistent unemployment.

These are the kinds of communities which the Federal Government is focusing on with several major aid programs, as evidenced by the EDA loan and revolving fund mentioned earlier.

The continuation of the quotas would not entail any further investment of Federal funds but, instead, would complete a program already fully justified by this Commission in its initial investigation under the Trade Act of 1974.

Then the Commission found quotas for specialty steel were necessary, and recommended to the President that they be imposed for five years. He decided on three years and only one has gone by. Surely, the remaining two years are the bare minimum necessary to give this strategic industry its chance for economic survival, and to assure thousands of New Yorkers and their dependents of an opportunity for gainful employment.

Mr. MOYNIHAN. Finally, Mr. President, I would like to speak to a subject larger than the specific case of specialty steel now before the President. That is the case of the management of the steel industry itself, and the prospects for that sector of our economy.

Mr. President, it comes as a surprise, I think, to most Americans, to learn that this most basic and fundamental industry is no longer the leader in technology, in the largest sense, in the world, nor the most efficient and most productive. It comes as a shock to those of us who represent communities in which steel facilities have been closed down, as they have with such precipitousness—near abandonment—such that we ask ourselves, what is the matter and what can be done?

Here we begin to realize that Government surely has a responsibility in all this.

I was a young Assistant Secretary of Labor in the administration of President John F. Kennedy when the first encounter between the steel industry and the U.S. Government of this present era took place. At a time of rising demand, the steel industry chose to raise its prices. The economists in Government judged that this would inhibit what they hoped would be the recovery from the recession of 1959. There was a series of rather

dramatic acts following an agreement with the steel union—the United Steelworkers of America. (May I say, Mr. President, perhaps to what in the House of Commons is to declare my interest, that the first trade union I ever belonged to was the United Steelworkers and I retain the highest regard for that union and particularly the present leadership.) The steelworkers did not receive higher wages in their new contract and the industry was asked by the Government to rescind the increases it had proposed, which it had a perfect right to propose.

That was 15 years ago, Mr. President, and the 15 years which have intervened have seen the increasing pattern of a Federal Government coming in at the last moment after a whole set of decisions have been made by this industry to, in effect, block those decisions, reverse them, precipitously, often arbitrarily, certainly rarely with any display of cooperative endeavor. Just as precipitously and just as arbitrarily, those of us who represent States where steel has major employment have found plants closed down, workers in the middle of their careers thrown into a market which has no place for them, with no anticipation, no foreknowledge, no preparation.

Simultaneously, the industry declines. Its capacity does not grow. We have scarcely more steel capacity today than we had at the time of the Korean war.

Something is the matter where Government intervenes only to block, where industry acts only to resist, where unions and workers at most live in a world of anticipated but little understood danger and decline.

Mr. President, on September 26, 1977, an article appeared in the Wall Street Journal. I ask unanimous consent that it be printed in the RECORD. It is entitled "Government and the Steel Industry."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GOVERNMENT AND THE STEEL INDUSTRY

(By David Ignatius)

PITTSBURGH.—For heaven's sake, don't call it "planning." But that unmentionable term is at least suggestive of the sort of broad policy coordination some feel the government should consider offering the sagging American steel industry.

By its own testimony, the steel industry is in trouble. Costs are up, profits are down and the industry seems, even to its friends, to be entering a gloomy period of retrenchment—in which financial pressures will force the closing of old plants but prevent the building of new ones.

Government economic officials, in recent statements, have seemed inclined to blame steel management for the industry's woes. What's more, they appear willing to let the market take its harsh course in disciplining the industry—through phaseout of marginal facilities, layoffs of steelworkers, and tougher control of overhead costs. While painful, these belt-tightening moves are indeed likely to strengthen the industry's financial position, and one can argue that the steel companies should have taken such steps long ago.

But the steelmakers contend that if there's an underlying mismanagement problem afflicting the steel industry, much of it can be traced to Washington, which takes a hand in almost every major area of the steel business. Despite their enormous power, government economic managers have often acted with little regard for the efficiency or long-term health of the industry.

Consider the ways in which the government presently shapes steel's economic position: Prices are set only after discussions with government officials; capital formation is bounded by the wrinkles of government tax policy; millions of dollars of available capital funds are channeled toward non-productive facilities by government anti-pollution requirements; and overall market conditions are shaped by government trade policies.

CONFLICTING EDICTS

What's worse, the government's "public interest" edicts to Pittsburgh often seem to conflict with each other. And in the resulting confusion, the public's presumable interest in maintaining a viable domestic steel industry may suffer.

Anti-pollution authorities, for example, have mandated new equipment, costing hundreds of millions of dollars, on the assumption that the steel companies will be able to raise their prices to cover the cost of environmental protection. But let the steelmakers try to boost their quoted prices and they're sure to hear howls of protest from government anti-inflation authorities. This suggests a failure of communication in Washington.

Similarly, the Commerce Department may urge the industry to adopt more efficient production techniques, embodying cost-saving economies of scale. But the Justice Department's zealous enforcement of antitrust laws is likely to block any move toward joint ventures—which are the only way most steel companies could hope to utilize some of the forbiddingly expensive innovations in iron and steelmaking.

Industry officials might like to be released from all manner of government constraint and lift alone to manage their business for themselves. Leaving aside the question of whether this would be desirable, it's clear that laissez-faire isn't in the cards. From President Carter's recent jawboning pronouncements, it's already obvious that he enjoys testing his mettle against the steelmen as much as did his predecessors.

An end to government involvement in the steel industry isn't likely, then. But a "planned" coordination of its policies may be possible, a knowledgeable professor suggests. He and others say this approach is perhaps preferable for the industry to the adversarial sniping that has characterized its relations with Washington in recent years.

Later this month, the Council on Wage and Price Stability is expected to complete a report on the steel industry's problems and what, if anything, the government should do about them. In the report, prepared at the behest of President Carter following a recent steel-price boost, the council is likely to at least touch on the key questions that should concern planners: How much capacity does the industry need, how can it be financed and what impact do government policies have on the industry's cost-price bind.

One friend of the steel industry who has argued the case for a limited form of steel-sector planning is former Harvard Business School Professor Paul Marshall. His credentials as an industry observer are solid: After authoring a careful report on steel prices several years ago for the Council on Wage and Price Stability, Mr. Marshall was retained by the American Iron and Steel Institute to prepare a major study of international steel trade, released earlier this year.

Mr. Marshall bemoans the buck-passing syndrome which has developed as various government agencies pursue their separate bureaucratic imperatives in dealing with the steel industry.

The Labor Department, he notes, wants a healthy steel industry, but it also insists that its costly health and safety standards be met. So Labor looks to the Treasury Department to restrain steel imports. Treasury also wants a healthy steel industry, but it is committed to free trade policies; so it instead urges new investment to modernize the industry and make it more cost-competitive. But the Internal Revenue Service frets about the revenue loss that would result from any tax incentives for new investment, and the Justice Department worries about the anti-competitive effects of any joint modernization projects. Meanwhile, the steel industry continues its nose dive.

"There is almost universal consensus," observes Mr. Marshall, "that a healthy domestic steel industry is vital to our economy and that currently our steel industry is not economically healthy." But despite this recognition, he notes, "most government agencies that could take positive action see the best solution as being *someone else's* job and therefore do nothing."

To combat this buck-passing, he concludes, "it is important that some part of the federal government review all government policies as they impact our basic industries." What this means, inescapably, is some form of high-level policy planning in Washington.

A LURKING THREAT?

Mr. Marshall scolds the steel industry's penchant for confrontation in dealing with the government. "Ironically," he notes, "the steel industry itself has often been the major opponent of the sort of 'planning' which might lead to a better coordinated set of government policies." The industry, he argues, "must abandon its view that the government is an adversary and encourage the government to take a more coordinated and planned response to its problems."

Steel executives aren't likely to be thrilled at the prospect of greater government involvement in their business, even in the name of efficiency. Mention of the term "planning" in a recent interview had Armco Steel Corp.'s otherwise amicable chairman William Verity grumbling about "Soviet Russia" and "big brother." Another industry executive sees the lurking threat of government ownership and wonders: "Consteel . . . how long do you think it will be before you're calling us that?"

The nearly universal antipathy to planning probably stems from its connotation of state coercion and bureaucratic bungling. The phrase "policy coordination" may be more felicitous, since it doesn't imply commissars. But even so, there's ample evidence that if the government tried to coordinate and rationalize its policies toward the steel industry, it might botch the job.

But the experience of the Japanese steel industry—widely reckoned to be the most efficient in the world—is worth noting. Through the activities of Japan's Ministry of International Trade and Industry and other bodies, Japanese steelmakers benefit from informal "indicative" planning. Government planners develop estimates of likely growth of demand and of appropriate steelmaking capacity. Private institutions, like steel companies and the banks that lend to them, seem to align themselves quickly and relatively painlessly to these targets. Japanese enterprise and innovation don't appear to have suffered from this system.

The point isn't that we should ape the Japanese, but that our government's economic activities ought to be at least as well-managed as those of our private sector.

Mr. MOYNIHAN. This article speaks to the question, is it not time that the U.S. Government recognizes that for 15 years it has been controlling prices in this industry; that the industry is not well; that it is declining; that its capacity is stagnant and its employment pre-

cipitantly on the down side; and that we do something better than be angry with one another and fearful and suspicious of one another? It suggests that we learn to cooperate in planning the future of this industry, along the lines of indicative planning which the French trade unions and French industry have worked out with great effect and some success.

I know the word planning will strike some horror in the lounges of the Duquesne Club. At the Golden Triangle there will be much fussing over this.

I would like to suggest to the leaders of this industry that they have not really learned to live in the world of today; that they have not come to the understanding that, willy-nilly, they are involved with Government decisionmaking and, therefore, that they ought to influence Government decisionmaking in the early stages of the process, such that what evolves is in part their decision as well as that of academic economists of the kind that typically will occupy the seats in the Council of Economic Advisers, financial advisers who will typically be found in the Department of the Treasury, and the career international trade experts who are normally in charge of these matters in the Department of State.

We need to think about the possibility of Government, industry, and labor coming together in this troubled but fundamentally important sector of the economy, to evolve, on a cooperative basis, a judgment of what actions ought to be pursued in the future; what policies in tax matters; what policies in trade matters; what policies in environmental matters, such that a now troubled, fearful, and increasingly unstable industry might once again emerge as a fundamentally sound and absolutely essential sector of the American economy.

Mr. President, I would like to thank the Chair for its patience through this colloquy. I would like to thank my colleagues who have joined me in this. We address our concerns to the President, now that the International Trade Commission has acted. We ask that he follow the recommendations of the Commission with respect to the specific matter of specialty steels. On my part, and I cannot speak for any others in this matter, I would also hope the President might now take this opportunity to think of the larger question of the cooperation between industry, Government, and labor in planning and shaping the future of a strong and productive, efficient and profitable American steel industry. I thank the Chair.

Mr. WILLIAMS. Mr. President, I am pleased to join with Senator MOYNIHAN and many other colleagues this morning in urging the President to maintain the important relief program for the specialty steel industry.

I am concerned about the retention of the specialty steel quotas for two reasons. First, the outcome of this matter will have a direct impact on steelworkers and steel companies in New Jersey. Second, as chairman of the Senate Committee on Human Resources and the Senate Labor Subcommittee, I am concerned about the future of the 65,000 jobs in the specialty steel industry.

In January 1976, the International Trade Commission found under the terms of the Trade Act of 1974 that the domestic specialty steel industry had suffered serious injury as a result of unrestrained imports. Unemployment in this industry had climbed as high as 40 percent, and company profit margins were very low.

Following the determination by the International Trade Commission, the President decided to take remedial action and granted 3 years of import relief to the domestic specialty steel industry beginning June 14, 1977. Before even 1 year of the import restraint program had elapsed, President Carter ordered a review of the quotas to determine whether they should be liberalized or terminated. Earlier this month, the International Trade Commission held 3 days of hearings on this issue, and its report along with the reports of the Secretary of Labor and the Secretary of Commerce, are due to be transmitted to the President in mid-October.

Mr. President, employment in this industry is at substantially depressed levels. In 1976, for example, the total direct employment in the manufacture of the products subject to import restraint was about 23 percent below the level in 1974. In the first half of 1977, average total employment in the four stainless steel categories covered by the quotas was about 17 percent below 1974, and average employment of production workers was down approximately 16 percent.

Even though employment has improved somewhat, the increase in manhours has not followed the trend. Thus, while the average number of production workers employed in 1976 was about 22 percent below the 1974 level, the number of man-hours worked was about 30 percent lower. The figures show clearly that continuing unemployment in the specialty steel industry is not solely attributable to greater productivity. Even adjusting for productivity changes, employment in the specialty steel industry is still at depressed levels. This strongly indicates that, while employment in the industry during the period of import restraint has improved, this process is just beginning. Employment is by no means back to "healthy" levels.

From the standpoint of the 65,000 workers in the specialty steel industry, it could be disastrous to liberalize or terminate these quotas. Many workers who were on layoff before the quotas were instituted, and are now working again, would certainly lose their jobs as the flood of imports begins anew. In my judgment, it would be unfair and unnecessary to subject thousands of steelworkers to the trauma of being out of work again. We would be undermining their jobs and this industry before it had sufficient time to regain its economic viability.

Mr. President, this is an issue on which the United Steelworkers of America and the specialty steel companies have joined hands in the battle to retain the import quotas. Mr. Lloyd McBride, international president of the Steelworkers, testified before the International Trade Commission on September 7 and said, "The issue before you today is a very simple one. It can be summarized in one single-syllable word: 'Jobs.'" Mr. McBride further said, "Obviously, the import restraints are doing what they were set up to do: Improve the health of the domestic industry. In fact, they are doing what adjustment assistance cannot do: provide jobs for American workers."

Clearly, it makes far more sense for these workers to be gainfully employed by the specialty steel industry than to be unemployed and supported by all of the taxpayers through the adjustment assistance program.

Mr. McBride continued, "However even though current figures show some improvement in the plight of these workers, full recovery to historical levels of production and employment has not yet been achieved. The Commission projected that such recovery would take 5 full years. The President determined that 3 years were necessary to complete the process. If the quotas are relaxed now, imports will once again flood the American market as foreign producers export their unemployment along with their specialty steel. Thousands of American jobs will be lost."

I join with my colleagues in urging President Carter not to let this happen. The import quotas were instituted for a period of 3 years and they should be permitted to run for their entire term. We should not succumb to the urgings of foreign producers who want us to open the floodgates once again.

Mr. ROBERT C. BYRD. Mr. President, the steel crisis facing our country cannot be solved solely by domestic initiative. The causes of the domestic industry's problems are truly international in nature, and appropriate solutions will require simultaneous action on the international and domestic fronts.

The domestic steel industry, like the foreign steel industry, has been seriously affected in the last several years by the slackened worldwide demand for steel which has characterized the recovery from the recent recession. Excess productive capacity plagues both domestic and foreign steel producers.

To deal with this situation, I firmly believe that the United States and its trading partners must redouble their efforts to spur an upturn in world economic growth, an upturn which would help absorb excess steel capacity.

Failure of our major trading partners to stimulate their domestic economic recovery will mean that they will be either inordinately dependent on relatively open foreign markets—such as our own—to handle the output of their steel industries, or they will be forced to resort to massive plant shutdowns and worker layoffs.

While we must continue to encourage worldwide economic growth, we and our trading partners cannot slacken our efforts to achieve a reduction in worldwide tariff barriers for industrial and agricultural products. The achievement of freer trade can lead to a higher standard of living for us all.

Our internationalist stand, however, should not be misinterpreted to suggest that our markets are open to any and all trading practices. The sine qua non of free trade is that the laws and regula-

tions of trading partners are respected. Foreign industries cannot be allowed to sell their products at predatory prices.

The administration is to be commended for its recent statement regarding the serious "derogation of duty" in the area of dumping. We should join with the administration in urging that the American steel industry file with the Treasury Department any complaints of unfair trading practices. The Department should then initiate full-scale investigations and report its findings.

Mr. President, I strongly believe that the international component of the steel situation requires serious and immediate attention. We must recognize, however, that the problems of our steel industry are chronic and, in many ways, related to the loss of its competitiveness, its ability to compete with foreign imports. American plant and equipment have become outmoded compared to the new or "greenfield" industry built, for example, by our German and Japanese trading partners after World War II, in many cases with our financial assistance.

According to a recent study by the Council on Wage and Price Stability, the U.S. steel industry share of the world market has declined from 39 percent of total output in 1955 to 20 percent today.

The industry's loss of competitive advantage derives in large part—and I quote from the study:

* * * from sharp declines in the cost of raw materials in the world economy compared to the domestic U.S. industry; large improvements in the efficiency of ocean transport of raw materials; lower foreign labor costs, and the spread of modern steel-making technologies to other countries.

Earnings data is particularly revealing of industry problems. United States Steel, the leading producer, suffered a 52-percent earnings drop in the first half of 1977. Bethlehem, the No. 2 producer, had a profit decline of 88 percent for the same period.

Currently, the domestic industry is cutting back production and laying off tens of thousands of workers. The impact of these actions on our steel producing communities is in many cases catastrophic. In one such community—Youngstown, Ohio—phased layoffs of 5,000 workers will mean a loss of $100 million a year in revenue.

The list of layoffs and shutdowns continues to grow and bodes ill for the steel industry as a whole. United States Steel and Armco have announced layoffs of several hundred employees. National Steel has announced the furloughing of 600 employees. Kaiser Steel, Alan Wood, and Jones & Laughlin have announced plant closings with attendant layoffs. The Weirton Steel Co. in Weirton, W. Va. is considering a 3-week shutdown which could affect as many as 13,000 employees.

An immediate domestic strategy must be set to restore vitality to the steel industry, an industry responsible—directly and indirectly—for the livelihoods of millions of Americans. The recent steel conference called by the administration to explore the problems of the industry was a step in the right direction.

Several measures should be considered for inclusion in the strategy. First, tax credits should be considered to facilitate the industry's modernization. These should be made available to spur the replacement of outmoded plant and equipment. Second, credits should be provided to help offset the costs of installing anti-pollution equipment. Third, special industrial development bonds should be considered as a way to provide capital for building new facilities.

Mr. President, the development of a strong and competitive steel industry is what we all want to achieve. I am confident that it can be achieved through international collaboration and a domestic program of assistance such as I have outlined.

Mr. RIEGLE. Mr. President, I wish to point out that steelworkers are not the only workers whose jobs depend upon a reliable, assured supply of steel and steel products. In my home State of Michigan, almost 25,000 steelworkers are employed in 22 steel-industry facilities; many thousand more workers in the automotive and related industries share their concern with the undisrupted flow of steel, including specialty steel.

When these workers are laid off their jobs, simple adjustment assistance is not enough. The maximum total compensation, unemployment insurance and adjustment assistance combined, is 70 percent of a worker's weekly wage—and even then not more than the average weekly wage in manufacturing. Even if we succeed in revamping the system to more adequately meet the needs of workers displaced by imports, my friends in the labor movement will tell you that adjustment assistance is tantamount to "burial insurance"—for the jobs workers no longer have.

Mr. TOWER. Mr. President, I am pleased to join with my colleagues today in their penetrating exploration of this issue.

Before limitations were placed on imports of specialty steel products in June 1976, it was apparent that this important segment of the steel industry was threatened with extinction. Unemployment ran as high as 40 percent throughout the specialty steel industry and some mills were virtually shut down.

Imports had already captured significant portions of our home markets for our specialty steel industry's bread-and-butter products and foreign producers were moving aggressively to invade the markets for even the most sophisticated metals. As early as 1970 imports accounted for as much as 67 percent of the domestic market for stainless wire rod. American producers of this product, unable to compete with socialized and subsidized steel industries abroad, were phasing out their production of this and other lines that had once been a mainstay of their business.

The Department of Defense was deeply concerned about the ramifications of this trend for the national security. And in April 1972 when the Subcommittee on General Legislation of the Senate Committee on Armed Services held hearings on the specialty steel industry, the Defense Department was represented by an expert witness. He was Vice Adm. Eli T. Reich, the Deputy Assistant Secretary of Defense for Installations and Logistics. Admiral Reich testified in part:

"From the time that the specialty steel industry was started in this country over 100 years ago, specialty steels have been important to military programs. In the early days it was by virtue of the tool steel needed to machine weapons and munitions. In more recent times stainless steel and high-temperature alloys have also become important to the Department of Defense because these materials are needed for the proper functioning of many of our weapon systems where high strength, corrosion or wear resistance or ability to withstand high temperatures is required.

For example, no aircraft in use today or planned for production in the future could be considered safe without such critical high-strength components as hydraulic lines, landing gears, brakes or bearings. No aircraft engine could meet the high performance demanded of it in combat situations without the specialty designed bearings, turbine components or combustion chambers produced by the specialty steel industry and the companies who further process these special steels. Specialty steels are used in the manufacture of motor shafts and other moving parts for our helicopters and for engine, transmissions and drive components in heavy duty and off-the-road vehicles such as trucks, personnel carriers and tanks.

Admiral Reich went on to testify about the other kinds of weapons systems and equipment that require specialty steel.

It is a common misconception that military forces alone are the sole deterrent to war. However, all of us can appreciate the fact that a nation's industrial capability and industrial readiness in case of an emergency can either strengthen or weaken a nation's military capability. The steel industry as a whole and specialty steel in particular are a vital part of this industrial capability. It is a national asset and a part of our military power that serves as a deterrent to would-be enemies.

It is plain from this testimony, and from that of other expert witnesses at the 1972 hearings, that this Nation cannot afford to sit by and watch such a critical industry decimated by imports.

Specialty steels are not only essential to our national defense directly, but are also directly critical to other vital industries. As one of my colleagues has pointed out, no oil could be drilled without these high technology metals. No natural gas could be transported without them. Communications equipment is dependent upon specialty steels. So is our marine equipment, automotive, and aerospace industries.

In the interest of our national economy, as well as the national defense, I urge the President to maintain the limitations on specialty steel imports.

Mr. LUGAR. Mr. President, I am pleased to join my colleagues in this discussion of the difficulties confronting the domestic specialty steel industry.

The damage experienced by specialty steel producers has been discussed and examined thoroughly during the past few years. As my colleagues know, the International Trade Commission last year recommended import relief for specialty steel. Former President Ford imposed import quotas on specialty steel for a period of 3 years, marking the first time that an ITC recommendation of this nature had been implemented.

This relief was granted pursuant to the procedures of the Trade Act of 1974. The Commission's careful study of the specialty steel industry led to a recommendation that quotas be imposed due to a finding of serious injury to the industry. President Ford concurred.

The specialty steel industry has conducted its business planning based on these temporary import quotas. I believe it would be inequitable to abandon these quotas at this time and such a decision is clearly not justified by the facts.

President Carter's decision to request the International Trade Commission to review the need for these import quotas was regrettable. This step alone has caused considerable consternation in the industry.

I am advised that the Commission has submitted its report to the President. I urge the President to concur with those Commission members who have urged that no modification or recession of the quotas take place.

Last month, I wrote to President Carter to request that he discontinue the review by the existing quotas. I ask unanimous consent that my letter to the President be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 14, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing to you to express my concern for your recent decision to review the temporary import quotas on specialty steel. I urge you to rescind this review and allow these vitally needed quotas to continue without change.

Last year after a comprehensive investigation by the International Trade Commission and a thorough review by the Administration, the President granted three years of import relief to the domestic specialty steel industry. This industry had proven that it was suffering serious injury as defined by the Trade Act of 1974.

After only one year of relief the quotas are being reviewed at your request by the I.T.C. I believe this recent development is unfortunate as the relief granted is just beginning to prove its effectiveness. The specialty steel industry relied on this import relief in committing significant amounts of fresh capital in an effort to become more competitive. In addition, some workers have returned to their previous jobs.

I believe it is clear that if the quotas are terminated or modified the domestic specialty steel industry will be back where it was before relief was granted.

I respectfully urge that you discontinue the review of these existing quotas.

Sincerely,

RICHARD G. LUGAR.

Mr. LUGAR. Mr. President, the strength of the economy of Indiana depends on the health of the steel industry. This clearly justifiable import relief for specialty steel, which was imposed only after a finding of unfair and injurious competition, should be retained in its original, temporary form. Specialty steel firms in Indiana and other States have reasonably relied on this import relief. It should remain.

Mr. DANFORTH. Mr. President, our steel industry today faces a major crisis. Japanese and other foreign steel producers have gained approximately 20 percent of the U.S. domestic market. Some of this has occurred because of lower foreign labor costs and more efficient operations, but according to recent findings of the Treasury Department, much of the recent gain is attributable to predatory pricing tactics and steel "dumping" on U.S. markets by foreign producers. The net result has been a reduction in jobs—60,000 to date—profits, and investment within America's steel industry—and the situation is deteriorating rapidly.

The human tragedy of this growing problem was portrayed vividly in a recent story in the St. Louis Post-Dispatch about a steel mill closing. The story described disruptions to individuals, their community, and the local economy—with after effects likely to linger on for years.

Imported steel threatens both our basic steel and fabricated steel industries. In Missouri during 1976, over 3,000 tons of imported fabricated steel were used in the construction of buildings and bridges. This use of foreign fabricated steel cost people in Missouri jobs and the State and local governments lost tax revenues.

Specialty steel is a specific case of how predatory pricing tactics can hurt the steel industry. Specialty steel accounts for 1.5 percent of total steel production tonnage but it amounts to 9 percent of the dollar value of such output. The premium paid for specialty steel makes it most attractive as an export item from countries such as Japan, Great Britain, and West Germany. Since 1965, the U.S. specialty steel exports have steadily declined and foreign imports have steadily increased. In 1975, imports exceeded exports by approximately 300 percent; whereas in 1967 imports and exports were about the same.

The International Trade Commission has found that there is "a substantial cause of serious injury, or threat thereof, to the domestic industry" for specific items of stainless or alloy tool steel. This determination was made under the Trade Act of 1974. The Ford administration decided to grant import relief to the specialty steel industry beginning on June 14, 1976. This relief was granted for 3 years and President Carter is now giving consideration to ending it.

In considering alternatives for remedial action, the Federal Government should not be tempted to move in certain directions. For example, direct government investment or subsidy has not been successful in Great Britain and should not be attempted in the United States. Also, we should not embark on Japanese-style "impact loans"—the Japanese national bank has supplied low-interest loans to keep national steel production at full capacity.

To avoid local unemployment in Sweden, specialty steel companies receive direct government grants and loans when demand declines. I do not believe that such direct interference in the marketplace by government is either justified or wise. Nevertheless, some action appears to be necessary if the American steel industry is forced to compete in a world market where the competition receives direct assistance from foreign governments.

I believe that creative but limited solutions to the steel industry's problems can be developed, without the direct and intrusive involvement of the Federal Government. Certainly, we should enforce section 301 of the 1974 Trade Act which prohibits "dumping." Recently, Swedish and French steel producers have "dumped" stainless steel wire, rod, and stainless steel plate on the world market, and the Japanese are "dumping" steel directly in the U.S. market. There may well be other violations of this statute that should be reviewed. Several tax reform proposals could be of some assistance to the steel industry, especially a general reduction of tax rates. In addition, Congress should consider an accelerated depreciation allowance for capital expenditures, perhaps following the Canadian example of "expensing" capital investment. Another approach would allow depreciation on replacement cost rather than original cost basis for pollution abatement devices.

On the international front, our negotiators in Geneva at the Multilateral Trade Negotiations should demand that predatory pricing practices be ended and that equitable standards be established. In addition, through the general agreement on tariffs and trade (GATT), the United States should demand that the various tax incentives given by many of the major industrial countries for exporting steel and other commodities be reviewed on a comparative basis. In particular, direct and indirect methods of tax rebates should be studied carefully.

Furthermore, we should review the multifarious regulations that are imposed on the steel industry, in order that we might distinguish between valid regulations and those that are excessive. One major corporation has estimated that 40 percent of its regulation costs are questionable or not required by good business practices. Government should work with the steel industry on a cooperative basis in analyzing the whole range of regulations to determine which regulations could be simplified or abolished.

The problems for the industry are real, and some of the causes relate to matters totally outside the control of the industry. Any effective solution to such difficulties will require a constructive partnership between Government and the industry.

Mr. THURMOND. Mr. President, 5 years ago the General Legislation Subcommittee of the Senate Armed Services Committee published a report which documented how essential the American specialty steel industry is to our national defense.

The high technology metals produced by this industry are vital to our whole aerospace effort. Indeed, we could not have put men on the Moon without the heat-resistant alloys which went into the Apollo spaceships. Furthermore, we could not today maintain our orbiting surveillance programs without these metals.

As the General Legislation Subcommittee report pointed out in 1972, the steel and other metals produced by this industry are essential to all branches of our Armed Forces. The Navy needs them for its communications equipment and for many other vital items of military materiel. The Air Force relies upon these

metals for its very existence since they are used widely for the construction of all aircraft, missiles, and communications and control equipment.

If the President removes the import quotas on specialty steel, he will place all our armed services at the mercy of foreign suppliers of specialty steels. Therefore, I want to emphatically join with my colleagues in urging the President to maintain the quotas and, by so doing, insure the future strength of our Army, Navy, and Air Force.

Mr. President, I ask unanimous consent that an excerpt of the report of the Subcommittee on General Legislation of the Senate Armed Services Committee on this subject, dated May 25, 1972, be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

REPORT ON ESSENTIALITY OF AMERICAN SPECIALTY STEELS INDUSTRY TO NATIONAL DEFENSE

On April 7, 1972, the Subcommittee on General Legislation held hearings to examine the relationship of the specialty steels industry for the national security. The subcommittee chairman made it clear at the outset that the scope of the hearings would be confined to defense essentiality. He emphasized that it was not the subcommittee's authority to invade the jurisdiction of other committees that deal with import quotas, tariffs, and stockpiles.

WHAT ARE SPECIALTY STEELS?

Although there is no single material that is designated steel there are hundreds of materials that make up the metals industry. When speaking of specialty steels, we are dealing with only a small portion of the entire steel production. The carbon steels represent the bulk tonnage of the steel producing industry.

The specialty steels vary in their carbon content and other elements are deliberately introduced to obtain special properties for desired applications. These elements include, among others, nickel, chromium, molybdenum, manganese, vanadium, cobalt, tungsten, columbium, and titanium.

The specialty steels include stainless steels, tool steels, high temperature steels, superalloys and refractory electrical and electronic metals. The category also includes pressure and mechanical tubing of carbon, alloy, and stainless steels. The unique characteristics of these specialty metals lend themselves to many and varied applications. They are designed for use in extreme environments requiring exceptional hardness, toughness, strength, resistance to wear, erosion or abrasion or combinations of these factors.

ESSENTIALITY TO NATIONAL DEFENSE

The testimony adduced from industry and Government witnesses makes it abundantly clear that specialty steels are essential, today more than ever, in the fabrication of the major portion of our defense weapons and critical weapons systems. Moreover, these specialty steels are necessary for the proper functioning of related essential components and weapons reliability. The Department of Defense witness emphasized that "* * * no aircraft in use today or planned for production in the future could be considered safe without such critical high strength components * * *" or "* * * meet the high performance demanded of it in combat situations * * *", without the specialty designed components produced by the specialty steels industry.

The importance of the industry to our national security by the Defense Department witness was summarized as follows:

It is a common misconception that military forces alone are the sole deterrent to war. However, all of us can appreciate the fact that a nation's industrial capability and industrial readiness in case of an emergency can either strengthen or weaken a nation's military capability. The steel industry as a whole and specialty steel in particular are a vital part of this industrial capability. It is a national asset and a part of our military power that serves as a deterrent to would-be enemies.

The Department of Commerce witness had this to say.

There is no one, to my knowledge, in the Federal Establishment who believes even remotely that the specialty steel industry is not essential to our national security. We are in an age of tremendous sophistication in weaponry and other military, space, and atomic hardware. The greater the degree of sophistication the greater the need for new steel alloys. Since such is the case, it follows that there is a continuing need for a viable research and development effort to maintain weapons, space and atomic preeminence.

The representative of the Office of Emergency Preparedness (OEP) testified that:

* * * based on information available to OEP, if present downward trends in the capability to produce specific steel product continues, this situation could become a matter of concern on national security grounds.

INDUSTRY RESEARCH AND DEVELOPMENT

The testimony of industry witnesses indicates that nearly 60 percent of the costly research and development conducted by industry has been directed, in the past, toward improved specialities and high performance materials to meet the increasingly sophisticated national security needs. This, according to the testimony, is so despite the fact that Defense needs represent only a fractional part of U.S. tonnage production. Today, however, the specialty steels industry has seriously curtailed this research and development effort because of dwindling commercial markets resulting from unrestricted import quotas and foreign competition. The manpower skills developed since World War II and up-to-date technology may not be available in a period of national emergency if the industry continues to decline.

U.S. DEPENDENCE ON FOREIGN RESOURCES

As stated earlier in this report, there are many elements which are essential in the production of specialty metals such as chromite, nickel, and manganese, etc. These elements also have a direct bearing on our national defense posture. The testimony reveals that the United States is dependent on foreign imports for almost 100 percent of the minerals which are vital in the production of specialty steels. The following table shows U.S. dependence on foreign sources for strategic and critical minerals. This table was prepared by the Bureau of Mines, Department of Interior. According to the Department of Commerce, the percentages shown on the table are understated because of recent sales of surplus materials from Government stockpiles.

LIST OF SELECTED MINERALS AND METALS SHOWING U.S. DEPENDENCY ON FOREIGN SOURCES IN CALENDAR 1970

Commodity	Percent of U.S. consumption from foreign sources: Total	By source	Quantity of net imports
Aluminum	91	Jamaica 41, Surinam 16, Australia 11, Canada 6, Dominican Republic 4, Guyana 3, Haiti 3, other 7.	4,382,000 tons.
Antimony	94	Republic of South Africa 32, Mexico 20, United Kingdom 14, Bolivia 11, Guatemala 6, France 4, other 7.	18,100 tons.
Asbestos	83	Canada 78, Republic of South Africa 3, other 2	649,400 tons.
Beryllium (ore)	51	Brazil 37, Uganda 4, Republic of South Africa 3, Argentina 3, Mozambique 2, other 2.	4,940 tons.
Cadmium	53	Canada 17, Mexico 16, Japan 7, other 13	3,460 tons.
Chromite	100	U.S.S.R. 33, Republic of South Africa 29, Turkey 18, Philippines 15, other 5.	1,405,000 tons.
Cobalt	93	Congo (Kinshasa) 52, Belgium-Luxembourg 26, Norway 6, Canada 3, other 6.	6,200 tons.
Columbium	100	Brazil 58, Canada 22, Nigeria 12, Congo (Kinshasa) 2, Angola, Argentia, Belgium-Luxembourg, Burundi-Rwanda, West Germany, Mozambique, Portugal, Singapore, Uganda, United Kingdom 6.	2,860 tons.
Copper	6	Peru 2, Chile 2, Canada 1, other 1	9,900 tons.
Fluorspar	78	Mexico 60, Spain 10, Italy 6, United Kingdom, Brazil, Mozambique, West Germany, Republic of South Africa 2.	1,077,000 tons.
Iron ore	33	Canada 18, Venezuela 10, Australia, Brazil, Chile, Liberia, Peru, Sweden 5.	39,400,000 tons.
Lead	38	Canada 11, Australia 9, Peru 8, Mexico 4, Yugoslavia 2, Honduras 1, other 3.	350,000 tons.
Magnesium	0		(31,200) tons.
Manganese (plus 35 percent ore).	99	Brazil 35, Gabon 31, Republic of South Africa 8, India 4, Ghana 4, other 17.	836,600 tons.
Mercury	38	Canada 31, Spain 3, other 4	17,000 flasks o. 76 lb. each.
Mica	100	India 86, Brazil 13, other 1	5,309,000 lb.
Molybdenum	0		(55,737,000) lb.
Nickel	87	Canada 72, Norway 7, Republic of South Africa 1, other 7.	135,000 tons.
Platinum group metals.	98	United Kingdom 45, U.S.S.R. 34, Republic of South Africa 8, Japan 3, Canada 2, Colombia 2, Belgium-Luxembourg 1, Norway 1, other 2.	1,009,300 oz.
Rhenium	7	West Germany 3, U.S.S.R. 2, France 2	210 lb.
Rutile	100	Australia 92, Sierra Leone 8	242,200 tons.
Selenium	29	Canada 28, other 1	454,000 lb.
Silver	27	Canada 16, Peru 5, Mexico 2, Honduras 2, other 2	34,686,000 oz.
Tantalum	100	Canada 46, Congo (Kinshasa) 21, Brazil 17, Spain 5, Burundi-Rwanda 3, United Kingdom 2, Argentina, Australia, Belgium-Luxembourg, Cameroon, Cyprus, Japan, Nigeria, Portugal, Spain, Western Africa 6.	523 tons.
Tellurium	20	Peru 11, Canada 9	64,000 lb.
Tin	100	Malaysia 63, Thailand 30, Indonesia 3, other 4	46,100 long tons.
Tungsten	0		(18,171,000) lb.[1]
Vanadium	22	Republic of South Africa 13, Chile 5, U.S.S.R. 3, other 1.	1,033 tons.
Zinc	58	Canada 32, Mexico 10, Peru 6, Australia 3, Japan 2, other 5.	795,900 tons.

[1] Net exports largely due to Government sales.

Note: Figures in parenthesis are net exports.

Characteristic of many of these ores and minerals imported into the United States, the total import is not consumed in any one given year by the metallurgical industry. For example, chromite is consumed by the metallurgical industry, the chemical industry, and the refractory industry. 1,405,000 tons of chromite were imported into the United States in 1970 and 1,403,000 tons were consumed. Of the total consumed, the metallurgical industry used 912,000 tons of metallurgical grade chromite of which 46 percent was imported from the U.S.S.R. as shown in the following chart:

APPENDIX II.—IMPORTS OF METALLURGICAL GRADE CHROMITE FOR DOMESTIC CONSUMPTION

[In thousands of short tons]

	1960	Percent	1961	Percent	1962	Percent	1963	Percent	1964	Percent	1965	Percent	1966	Percent	1967	Percent	1968	Percent	1969	Percent	1970 [1]	Percent
Rhodesia	307	57	218	48	234	41	144	37	259	38	225	37	219	22	147	20	1					
Russia	7	1	20	4	36	6	192	49	275	42	352	27	302	29	299	40	335	47	299	39	365	41
Turkey	123	23	150	33	171	30	40	10	18	6	114	19	186	18	108	15	151	22	74	10	120	19
South Africa	80	15	54	12	101	17	18	5	64	10	119	13	184	18	95	13	74	11	143	18	87	11
Other	24	4	10	3	35	6	0	0	25	4	34	4	22	2	11	2	6	1	13	2	66	9
Subtotal	541		452		557		394		651		844	100	913	89	660	90	567	81	529	69	638	80
Stockpile shipments													115	11	71	10	135	19	243	31	160	20
Total	541		452		557		394		651		844	100	1,028	100	731	100	702	100	772	[1] 100	798	100

[1] 1970 date I.M. 146 (Department of Commerce).

Source: Bureau of Mines data (1960–69).

STATUS OF NEGOTIATIONS ON VOLUNTARY LIMITATIONS AGREEMENT

In full recognition that the principal problem facing the specialty steels industry results from circumstances outside the jurisdiction of this subcommittee, we think it proper to comment briefly on the negotiations on the voluntary limitations arrangement. In 1968 the United States entered into an arrangement with Japanese and European Common Market steel producers. The agreement was designed to moderate the flow of foreign steel into the United States by placing quantity limitations on total tonnage to be shipped by these foreign producers during 1969, 1970, and 1971. Of extreme importance was a provision in the arrangement that the signatories would not change materially the product mix of their steel exports.

According to the testimony, there has been a gross violation of this provision by foreign producers and the shift of product mix toward more expensive steels and the increasing tonnage of shipments have had a critical impact on the U.S. specialty steel products.

Negotiations are now being conducted by the State Department with a view to the reestablishment of voluntary restraints on steel exports, including specialty steels, from these countries and the United Kingdom. However, industry representatives express little hope that any voluntary workable agreement can be negotiated. Even if an agreement is reached, unless it includes mill products item-by-item the problems of the U.S. specialty steels industry will not be resolved on the diplomatic level.

CONCLUSIONS

1. Based on the testimony the specialty steels industry is essential to the national security.

2. During a period of national emergency there may not be sufficient time to train the people in the specialized and critical skills which are essential to produce the specialty metals vital for our defense requirements if the industry is not preserved.

3. The U.S. specialty steels industry is in extreme difficulty today due to the dwindling commercial market which, according to the testimony, is caused by unrestricted imports of specialty metals.

RECOMMENDATIONS

1. The subcommittee strongly urges that the responsible departments and agencies of the executive branch undertake to determine whether this country can afford to lose the specialty steel industry and the currently available skills and technology associated therewith.

2. That the responsible departments and agencies of the executive branch maintain careful vigilance over the declining trend of the specialty steel industry and to institute corrective action, if necessary.

3. That the Secretary of Defense examine the desirability of amending the Armed Services Procurement Regulation (ASPR) to provide that domestically produced specialty metals are employed to the maximum extent in the production of equipment under Department of Defense contracts.

TEMPORARY QUOTAS ON SPECIALTY STEEL IMPORTS

Mr. BAYH. Mr. President, I wish to associate myself with concern being expressed today by my able colleagues that the import quotas on specialty steel be continued. As we know, the specialty steel industry is the "high value" sector of the total steel industry in this country. While accounting for only about 1.5 percent of tonnage yearly, specialty steel constitutes about 9 percent of the dollar value of the steel sold in this country. On September 28, I urged President Carter to continue the temporary quotas on specialty steel imports for the full 3-year period determined by the previous administration. On September 30, I signed a letter to the President with 16 of my colleagues strongly recommending that the present restraints be continued. The persistence of our concern about this issue is evidenced today on the Senate floor.

The U.S. International Trade Commission seems to have concurred with the judgment of many in the Senate that we should maintain these temporary quotas in order to allow the domestic industry full opportunity to recover. By a vote of 3 to 1 the Commission has found against terminating quotas on specialty steel at this time. What was also confirmed was the contention that the industry is presently making good progress along the road to recovery both in terms of sales and employment. Sales volume was 1 million short tons in 1976—25 percent higher than in 1975 while the value of sales increased 23 percent in the same period to about $1.7 billion. The specialty steel workforce was also up by 16 percent. Profitability climbed by 123 percent.

This fairly encouraging picture further argues against terminating quotas to the ongoing restraint program since this would catch the industry in the mid-stream of its recovery. While employment is up in the industry, it is still some 16 percent below the peak year of 1974. It is important to keep in mind in this regard that productivity gains have also been realized in the industry. While productivity in the stainless steel sector slipped slightly owing to less experience employees being brought on line with less efficient equipment, the alloy tool sector did enjoy a substantial improvement in productivity for the January-June period of 1977. Stainless steel productivity was still much above the 1974 peak year.

Mr. President, I think the USITC report to the President on stainless steel and alloy tool steel contains findings which must encourage those of us who believe in fair trade. Clearly, there is little to gain by abandoning the current restraint program when we see tangible progress being made on all fronts for labor and industry. I just want to reiterate my own concern about this important issue since it impacts such a vital part of a basic industry.

RETAIN SPECIALTY STEEL QUOTAS

Mr. GLENN. Mr. President, the complex question of the impact on a domestic industry of foreign imports again requires our special attention. But this time, the issue concerns retaining, rather than imposing, import quotas.

To allow these quotas to be lifted is tantamount to relegating a sizable number of Ohio steelworkers to the unemployment lines. It is a serious threat when foreign producers, due to politically generated competitive advantage, are able to export steel to this country in quantities which threaten the livelihood of American citizens.

The first year of a 3-year quota imposition is hardly over, and the specialty steel industry has experienced increased, not decreased, imports from foreign countries. As this program represents a test, the 3-year testing period must be preserved in order to gauge the effect of import quotas on the industry.

If what little relief was granted were to be eliminated now, the effects of a 3-year test period would be aborted prematurely. Little more than 2 years remain to offer the specialty steel industry sufficient relief just to maintain growth and jobs.

THE STEEL INDUSTRY

Mr. STEVENSON. Mr. President, President Carter's impending reviews of specialty steel quotas has significant implications not only for specialty steel producers and their employees but for the entire steel industry. It is an industry beset by a sea of troubles. How we, as a nation, react to this crisis will have ramifications extending beyond any one industry or national economy.

THE SPECIALTY STEEL ISSUE

On September 30, 1977, I joined with several of my colleagues in a letter to President Carter urging him to let the quotas on specialty steel run their prescribed course until mid-1979. This letter made three essential points in support of retaining the quotas that I endorse strongly this morning.

First, the provisions of the Trade Act of 1974 have, in the case of specialty steel, proven to be effective. By May of this year, this industry was back near full employment and running at 85 percent of capacity in many plants. This clearly demonstrates, I believe, the correctness both of the original USITC recommendation and President Ford's imposition of quotas. The specialty steel industry was primarily a victim of flooding import competition, not inefficiency or lack of productivity.

Second, while the industry is recovering smartly, the gradual recovery process could be seriously undermined if the quotas are prematurely removed. The USITC originally recommended a 5-year quota; President Ford modified this by applying a 3-year quota. These recommendations were made with the knowledge that effective planning by business and labor cannot be done on a year-to-year basis. Capital investment, research, and collective bargaining decisions must be made over a longer term, and, in the case of specialty steel, business and labor have both made plans based on a 3-year period of relative market stability. We should give the industry the full 3 years to allow for full recovery and to avoid the disruptive market effects that would be sure to occur from premature termination of quotas.

Third, and I believe most important, if we do not allow the Trade Act of 1974 to function as contemplated by the Congress, the legitimacy of all trade relief actions will be greatly damaged and increasing pressure will be brought to bear for more protectionist legislation. Such legislation would threaten the stability of world trade and financial markets and which could portend a repeat of the catacylsmic policies of the 1930's. The real congressional issue in the specialty steel case is, I believe, maintaining the integrity of Trade Act decisions and remedies and the congressional role therein. The administration cannot on the one hand tell our business and labor leaders to pursue vigorously all available remedies under the Trade Act and on the other hand thereafter dilute remedies lawfully pursued and justly won at the point when they begin to be effective, and when the congressional power to veto under the Trade Act has expired. Very simply, specialty steel quotas present a crucial test of whether the Trade Act is to be allowed to work as intended by Congress.

THE STEEL INDUSTRY GENERALLY

I know many of my colleagues this morning will be speaking forthrightly on the problems of the steel industry, and their effects on their States and communities. I would like to join this debate by highlighting the perspective I feel I must take as a representative of the people of Illinois.

Illinois is the fourth leading producer of steel in the United States, producing some 11 million net tons in 1976. Steel-producing facilities in the State range from the giant U.S. Steel South Works on the South Side of Chicago to smaller independent companies throughout the State. All these companies provide employment, local tax revenues, and income that supports large and small communities. Recent and projected reductions in the work force at some of these facilities, most notably the South Works, and at similar facilities in other States has caused me great concern over the future of the steel industry in my State and in this country, and over the economic well-being of thousands of families and scores of communities. Many constituents have written to me demanding to know what the Government is going to do to prevent the ruination of this key industry by allegedly unfair foreign competition.

Illinois is also the leading exporting State in the Nation, selling abroad almost 10 percent of its agricultural exports and almost 9 percent of its manufactured goods. The Chicago Association of Commerce and Industry estimates that Illinois produced for export some $2.3 billion of agricultural commodities and $7.9 billion of manufactured goods in 1976. Approximately one out of five manufacturing jobs in Illinois result from exports. Illinois has a vital stake in insuring that we and our major trading partners overseas do not engage in reciprocal protectionist trade measures that block trade and lead to a dangerous stagnation of the world economy.

Our task, therefore, is a difficult one: We must respond to the problems of the steel industry without imperiling the delicate fabric of the free world trade. It must be made clear, moreover, that we, in Government, cannot solve by legislative or executive fiat the critical problems of the steel industry. Business and labor leaders, and leaders in affected communities throughout the Nation, must join us in this task.

Before we can begin to prescribe remedies for our ailing steel industry, we must understand its basic ills.

THE TROUBLED WORLD STEEL MARKET

Recent reports and studies have indicated that competition for steel markets is intensifying as the growth in steel demand slows, the global import market shrinks, and most producers contend with large underutilized capacity.

Our major foreign competitors, to some degree subsidized by host governments, have in many instances reacted by increasing exports and reducing prices to maintain high production and employment levels. Such policies have, however, been accompanied in some cases by staggering losses that can only be borne by Government-controlled or subsidized companies. It is estimated that Britain suffered steel-related losses of some $400 million last year. United States companies, unable to penetrate effectively export markets abroad and confronted with intensified foreign competition in a shrinking domestic market, have had to cut back production and eliminate marginal facilities at the cost of thousands of jobs.

THE MODERNIZATION GAP

While there are many conflicting views on the efficiency and productivity of the U.S. steel industry as compared with its major competitors in Japan and Europe, it is evident that the U.S. steel industry overall has not modernized as fast as its major competitors in Japan and Germany. Its labor costs are high by global standards, even by U.S. standards. Productivity levels in Japan have outstripped those in the United States, and consolidation and cartelization in the EC countries are proceeding apace. While it is difficult to make absoltue comparisons in terms of costs and efficiency, it is evident that the U.S. steel industry will not be able to compete effectively with foreign steel makers unless it achieves substantial modernization in the next several years. This will demand capital investment by an industry that is plagued by declining profits and moderation on the wage side.

The question now is what can be done in light of these ills.

THE ROLE OF GOVERNMENT

There are five policy areas where the U.S. Government has an important role to play—economic, trade, tax, environmental, and antitrust.

ECONOMIC

Continued expansion of the economy is needed to sustain increased levels of capital goods investment, crucial to the steel industry, and to afford new job opportunities for those already displaced by layoffs and cutbacks.

TRADE

Arbitrary and unilaterally imposed trade restrictions on foreign steel imports are not the answer, and can only lead to a damaging trade war in which the United States—and my home State of Illinois—would be the ultimate losers. Trade policy, however, must be responsive to changing conditions in U.S. markets. We cannot simply wrap ourselves in the banner of free trade while the United States becomes the targeted export market for foreign competitors. To this end a reasoned and equitable approach is needed.

First, the Government must promptly enforce remedies provided under the Trade Act for dumping and other forms of unfair foreign import competition. I was glad to cosponsor Senator HEINZ's recently passed resolution—Senate Resolution 279—urging the Secretary of the Treasury and Office of Special Trade Representative to act expeditiously on complaints of dumping and unfair competition. I was also heartened by President Carter's endorsement of such a policy at his recent meeting with Members of the Congress and the steel industry. Free and fair competition must be the cornerstone of our trade policy.

Second, the administration should keep alive the possibility of orderly marketing agreements with Japan and the EC countries on steel exports. This vehicle has been used well in other industries severely affected by foreign import competition, such as shoes and color TV's and, in fact, would parallel a similar form of agreement that currently exists between the EC and Japan which has caused, at least in part, increased exports to the United States. Such an agreement should be reasonable in length and fairly negotiated to insure our trading partners that U.S. markets will always be open. Even if not negotiated in the near future, such an agreement should be kept alive as a serious option—and warning. We cannot be the export

market of last resort for all other steel makers when the world market slumps.

Third, negotiations both within the OECD and under the aegis of the general agreements on tariffs and trade must proceed apace to construct an acceptable multilateral solution to the steel problem. Some form of multinational monitoring effort would be desirable to insure that one country is not made the export market for the world when demand slows. Our trading partners must be willing to adjust their exports to reflect changing world market conditions.

Additionally, we must examine critically our current export promotion policy to see to what extent lagging export growth is contributing to our overall trade deficit, which is growing at the alarming rate of almost $30 billion a year, and why our steel and other manufacturing industries are losing their share of the worldwide import market. This is an inquiry I intend to pursue vigorously as chairman of the Subcommittee on International Finance of the Banking Committee and the Subcommittee on Science, Technology and Space of the Commerce Committee.

TAXATION

In reforming our tax system, we should examine carefully incentives that will lead to greater and more rapid capital formation, which will, in turn, lead to greater growth and more jobs. Three suggestions that seem particularly worthy of serious study by the administration and Congress are: First, tax provisions allowing for more rapid recovery of capital invested in industrial facilities—such as machinery, equipment, and buildings—that produce growth and new employment opportunities; second, tax provisions permitting industries, such as steel, with long-lived capital facilities, to depreciate such facilities on a replacement cost basis, facilitating recapture for new investment; and third, immediate writeoffs of nonproductive but ecologically necessary pollution control facilities and equipment. These and other proposals could benefit selected, critical industries, not merely the steel industry.

ENVIRONMENT

I would be reluctant to see any retreat in environmental controls since they affect the health of our citizens. We should, however, be willing to create positive incentives to comply with controls as soon as possible, such as immediate tax writeoffs of pollution control equipment. We should also insure that antipollution requirements are reasonable and capable of being met within the times dictated. Industry has at time been at fault by fighting compliance instead of working with regulatory agencies on a step-by-step basis to insure gradual and orderly conversion; similarly, environmental groups have at times been too impatient and too heedless of the economic effects of compliance. The courts are too often forced by both industry and environmental groups to be the final arbiters on these very complex technological issues with important social consequences.

ANTITRUST

In antitrust law, there is a "failing company" doctrine which insulates mergers that would otherwise be subject to antitrust attack. I hope that we do not have to reach this point before we allow some steel mergers that may be necessary to enable the industry to achieve economies of scale necessary to compete both here and abroad with foreign manufacturers. This may be a necessary step in the modernization process and one requiring at thoughtful reexamination of our existing antitrust laws as they apply to steel.

THE ROLE OF BUSINESS

The steel industry itself must demonstrate that, given some form of import relief whether through Trade Act decisions or orderly marketing agreements, it can compete on an equal par with fair import competition; that, given incentives and capital to modernize, it will do so efficiently and rapidly, and in compliance with environmental controls; and that, given the importance of steel prices in the inflationary equation, it will not seek excessive or inflationary price increases when market conditions improve.

THE ROLE OF LABOR

Those who work in the steel industry must demonstrate their willingness to match or excel the productivity of foreign workers. their willingness to refrain from any excessive or inflationary wage and benefit demands, and their willingness to avoid strikes or other disruptive actions that in the past, have given foreign competitors substantial inroads into the domestic market. For those who have been or may have to be displaced by modernization, the Government should provide adequate and rapid adjustment assistance and opportunities for new and meaningful employment in other industries. We can also assist by holding down overall inflation, so that workers wages and benefits are not being constantly eroded.

In summary, it is clear that the problems of our steel industry cannot be solved overnight and cannot be solved without concerted action by Government, business, and labor. The world, as well as the Nation, is watching us closely; how we react will set an important precedent for dealing with similar issues in the future. We must proceed with the knowledge that the fabric of world trade is delicate, and that if it is damaged irreparably, we will be the final losers.

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 5383, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5383) to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such act, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceed to consider the bill (H.R. 5383), which had been reported from the Committee on Human Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Age Discrimination in Employment Amendments of 1977".

SEC. 2. (a) Section 4(f)(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(f)(1)) is amended by inserting after "section" a comma and the following: "including the establishment of a mandatory retirement age less than the maximum age specified in section 12 of this Act,".

(b) Section 4(f)(2) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(f)(2)) is amended by inserting after "individual" a comma and the following: "and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual specified by section 12 of this Act because of the age of such employee".

(c) The amendments made by subsections (a) and (b) of this section shall take effect on the date of enactment of this Act, except that in the case of employees covered by a collective bargaining agreement which is in effect on September 1, 1977, entered into by a labor organization (as defined in section 6(d)(4) of the Fair Labor Standards Act of 1938), and which would otherwise be prohibited by the amendment made by section 3 of this Act, the amendment made by subsection (b) shall take effect upon the termination of such agreement or January 1, 1980, whichever occurs first.

SEC. 3. (a) Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended to read as follows:

"LIMITATION

"SEC. 12. The prohibitions in this Act shall be limited to individuals who are at least 40 years of age but less than 70 years of age.".

(b) The amendment made by subsection (a) of this section shall take effect January 1, 1979.

SEC. 4. (a) Section 7(d) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(d)) is amended to read as follows:

"(d) No civil action may be commenced by any individual under this section until the individual has given the Secretary not less than sixty days' notice of an intent to file such action. Upon receiving a notice of intent to sue, the Secretary shall promptly notify all persons named therein as prospective defendants in the action and shall promptly seek to eliminate any alleged unlawful practice by informal methods of conciliation, conference, and persuasion.".

(b) The amendment made by subsection (a) of this section shall take effect with respect to civil actions brought after the date of enactment of this Act.

SEC. 5. (a) Section 7(e) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(e)), is amended to read as follows:

"(e) For the period during which the Secretary is attempting to effect voluntray compliance with requirements of this Act through informal methods of conciliation, conference and persuasion pursuant to subsection (b), the statute of limitations as provided in section 6 of the Portal-to-Portal Act of 1947 shall be tolled.".

(b) The amendment made by subsection (a) of this section will take effect with respect to conciliations commenced after the date of enactment of this Act.

SEC. 6. (a) Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) (as amended by section 3 of this Act) is further amended by inserting "(a)" after the section designation and by adding at the end thereof the following:

"(b)(1) Nothing in this Act shall be construed to prohibit compulsory retirement of employees who have attained 65 years of age but not 70 years of age, and who are members of a group of highly compensated management employees, if any such employee is entitled to an immediate nonforfeitable annual

retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least $20,000.

"(2) The Secretary shall adjust annually the $20,000 amount specified in paragraph (1) for increases and decreases in the cost of living in accordance with regulations prescribed by the Secretary.

"(3) In applying the retirement income test of paragraph (1) of this subsection, if any such retirement benefit is in a form other than a straight life annuity (with no ancillary benefits), or if employees contribute to any such plan or make rollover contributions, such benefit shall be adjusted in accordance with regulations prescribed by the Secretary, after consultation with the Secretary of the Treasury, so that the benefit is the equivalent of a straight life annuity (with no ancillary benefits) under a plan to which employees do not contribute and under which no rollover contributions are made.

"(c) Nothing in this Act shall be construed to prohibit compulsory retirement of employees who have attained 65 years of age but not 70 years of age, and who are serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education as defined by section 1201 (a) of the Higher Education Act of 1965.

"(d) Nothing in this Act shall be construed to prohibit compulsory retirement of teachers who have attained 65 years of age but not 70 years of age, and who are serving under a contract of unlimited tenure in a local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965 of a State, if State law in effect at the date of enactment of the Age Discrimination in Employment Amendments of 1977 provides for such retirement.".

(b) The amendments made by subsection (a) of this section shall take effect January 1, 1979.

SEC. 7. The Secretary of Labor is directed to undertake a study, directly or by contract or other arrangement, of the effects of raising the upper age limitation under section 12 of the Age Discrimination in Employment Act of 1967 (as provided in section 3 of this Act). Such study shall be completed and reported to the Congress within three years after these amendments become effective. An interim report shall be completed and delivered to the Congress two years after these amendments become effective. The study shall focus on—

(1) the effect of raising the limitation to seventy years of age;

(2) the feasibility of raising the limit above seventy years of age; and

(3) the feasibility of lowering the minimum age for coverage under such Act.

The PRESIDING OFFICER. Time for debate on this bill is limited to 1½ hours, to be equally divided and controlled by the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New York (Mr. JAVITS), with 1 hour on any amendment, and with 20 minutes on any debatable motion, appeal, or point of order.

Who yields time?

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Judiciary Committee be authorized to meet during the session of the Senate on October 19, which is today, to consider revision of the criminal code.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration may meet until 12 o'clock noon today.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO SESSION ON MONDAY, OCTOBER 24, 1977

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senators, there will be no session of the Senate on Monday.

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 5383.

Mr. WILLIAMS. Mr. President, I take this moment to ask unanimous consent that the privilege of the floor be accorded to the following, in addition to those who were granted privileges by prior request, during consideration of H.R. 5383: Don Zimmerman, Peter Turza, John Rother, Susan Martinez, Fran Butler, and Jon Steinberg.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, when Congress enacted the Age Discrimination in Employment Act in 1967, it determined that it would be our national policy to promote the employment of older workers between the ages of 40 and 65 by preventing discrimination in hiring, firing, and other conditions of employment based solely upon age.

Our experience with the law as well as with the concept of age discrimination since that time has demonstrated that while we have made some progress toward this goal, a number of critical problems remain to be addressed.

The action taken by the Human Resources Committee in reporting the Age Discrimination in Employment Act Amendments of 1977 is a long, though not complete, step toward assuring that no person with the capacity and desire to work will be denied that opportunity solely on the basis of age. This legislation does this by raising the current upper age limit of 65 in the area to age 70 and by changing the language of section 4 (f) (2) to make clear the original intent that the act prohibits mandatory retirement of individuals within the protected age group pursuant to the terms of employee benefit plans or seniority systems.

When the Age Discrimination in Employment Act was enacted in 1967, comparatively little was known about the desires or abiilties of older workers. The social and economic role of the aged in our national life was unclear as well.

In the ensuing decade, however, much of this uncertainty has been resolved. Scientific research now indicates that chronological age alone is a poor indicator of the ability to perform work. Moreover, recent studies have demonstrated the important relationship between activity and good health.

Gerontological experts agree that one of the most fundamental emotional needs which older persons have is to remain active contributing members of society. For those who wish to work, employment opportunities can provide that vital sense of personal purpose.

In the committee's view, it is a matter of basic civil rights that individuals should be treated in employment on the basis of their ability to perform a job rather than on the basis of stereotypes. I believe that the act's current age limitation unfairly assumes that age alone provides an accurate measure of an individual's ability to perform work.

This assumption is effectively refuted by the fact that there were some 2.7 million persons age 65 and older working in 1976, and 1.6 million of them were between the ages of 65 and 69, and 1.1 million of them were older than age 70.

Older workers may in fact be among the best employees because of experience and job commitment. In 1974, 33 State agencies in New York compared workers over and under age 65 with regard to absenteeism, punctuality, on-the-job accidents, and overall job performance. The results of the survey indicated that job performance of the workers over age 65 as about equal to, and sometimes noticeably better than, younger workers.

Moreover, mandatory retirement often works severe injustices against the aged. Indeed, for some, the opportunity to continue working has become a question of economic survival. Retirement results in a considerable loss of income for retirees. For half of the mandatorily retired males, retirement income represents less than 40 percent of salary.

In 1976, 3.3 million Americans age 65 and older had incomes below the poverty level. The average social security benefit for individuals is $2,750 per year, for couples $4,320 per year. According to a 1974 Harris survey, the largest percentage of persons wanting to work after 65 were those who earned less than $3,000 a year. In other words, those who want to work beyond 65 are most often those who need to work in order to maintain a minimal standard of living.

There is now widespread agreement that the present funding of the social security system is inadequate to meet future demands, because demographic projections suggest that proportionately fewer workers will be supporting a far greater number of retirees than has been the case in the past. Although I would not suggest that workers should be required to continue working beyond 65, these data suggest that we should not discourage those older Americans who wish to continue working.

But it is not merely this economic issue that concerns me. Mandatory retirement may have severe deteriorative impact on the physical and psychological health of older individuals.

The American Medical Association has observed that the sudden cessation of

productive work and earning power for an individual caused by compulsory retirement often leads to physical and emotional illness and even premature death.

A number of arguments have been advanced suggesting that raising the mandatory retirement age will have a severe impact on our economy. It has been argued that this bill will greatly increase the labor force participation rates of older workers and thereby reduce employment opportunities for younger workers.

I would be very concerned if I thought this legislation would further exacerbate the unemployment problem.

However, the best estimate that we have received from the Department of Labor indicates that increasing the mandatory retirement age to 70, as we do in this bill, would result in an increase in the labor force of approximately 200,000 people a year. That is somewhere between one-tenth and two-tenths of a percent increase in an economy which last year produced some 3 million new jobs.

Another argument which was advanced at our hearings was that the costs for pension and other employee benefit plans would vastly increase if the act's upper age limit is extended.

Mr. Donald Elisburg, the Assistant Secretary of Labor for Employment Standards, assured us that officials in the Department of Labor who administer ERISA are in complete agreement that there will be no conflict with the relevant provisions of the 1974 pension law if the upper age limit is raised.

It was feared that employers would be required to credit years of service for the purpose of benefit accrual after the normal retirement age specified in a pension plan for those workers who continued working after age 65.

The Department has assured us in a letter which we have made a part of the legislative history of this act that nothing in the ADEA requires such accrual. Neither the ADEA nor ERISA requires an employer to make any upward adjustment in benefits at the time of the employee's actual retirement in order to make sure that he will receive the actuarial equivalent of the benefits he would have received had he retired at the normal retirement age.

Most pension plans condition payment of benefits upon termination of service. However, since some plans specify that the employee is entitled to a benefit at a specific date, it was suggested that raising the mandatory retirement age would permit such an employee to collect a pension even if he continued to work. I can assure you that this is not the case. Plans which have a mandatory retirement age but which do not specify that entitlement to benefits is contingent upon terminating the employment relationship may be amended to make certain that this will not occur, without violating ERISA or the ADEA.

Concerns were also expressed regarding potential increased costs for employee welfare benefit plans, such as disability, health, life, and other forms of insurance, because of increased costs which would accompany the continued employment of older workers. Under section 4 (f) (2) of the act, an employer is not compelled to afford older workers exactly the same pension, retirement, or insurance benefits as he affords younger workers, provided that any difference in these benefits is not a subterfuge for age discrimination.

This bill would not alter existing law with respect to these practices.

This bill would amend section 12 of the Age Discrimination Act to raise the upper age limit from 65 to 70. Prior to the committee's consideration of the bill, I received a letter from President Carter in which he stated his support for the principles embodied in the bill.

However, the President expressed his desire that we should provide a sufficient opportunity for employers to adjust personnel policies to reflect the changes in existing law made by the increase in the act's upper age limit. I therefore offered an amendment, which the committee adopted, which will delay the effective date of the increase in the upper age limit to 70 until January 1, 1979.

The business community has expressed serious reservations about the impact that the elimination of mandatory retirement would have on the ability of employers to assure executive level promotional opportunities for younger workers. In order to permit employers to replace certain key employees and keep promotional channels open for younger employees, the committee adopted an amendment offered by Senator PELL which would permit the compulsory retirement of management or highly compensated employees at age 65 or above if they will receive an employer-provided annual retirement benefit of at least $20,000, exclusive of any social security benefit.

In calculating this annual retirement benefit, lump-sum distribution or installment distributions from a pension, profit-sharing, savings or other deferred compensation plan, or any combination thereof, may be included so long as the value of such benefits is actuarially adjusted to reflect the equivalent of a straight-life annuity of $20,000 per year.

The amendment also requires the Secretary of Labor to annually adjust the $20,000 figure to reflect increases or decreases in the cost of living. This cost of living adjustment will insure that in future years an employee subject to this provision will receive the equivalent of $20,000 in 1977 dollars.

The committee intends that the Secretary shall use his rulemaking authority under the act to interpret and implement the exemptions established by the bill.

During the committee's consideration of the bill, two amendments were proposed and accepted which recognize a special type of employee-employer relationship in educational institutions. Many colleges and universities maintain that for the foreseeable future the number of avaliable faculty positions will be closely related to the number of retirements, thereby making it difficult to employ younger professors, particularly women and minorities.

It was also suggested the act's exemption permitting discharge for cause could not be applied to tenured faculty members, because their employment contracts make discharge for cause virtually impossible. Senator CHAFEE offered an amendment which was adopted by the committee to permit colleges and universities to maintain compulsory retirement policies for faculty members between ages 65 and 70 who are serving under a contract of unlimited tenure or similar arrangement providing for unlimited tenure. The committee also adopted an amendment which would permit compulsory retirement of teachers between ages 65 and 70 in public elementary and secondary schools who are serving under contracts of unlimited tenure.

Section 4(F) (2) of the ADEA permits an exception to the ADEA's general discrimination prohibition by making it lawful to "observe the terms of * * * any bona fide employee benefit plan * * * which is not a subterfuge to evade the purposes of the act". The purpose of this exception is to facilitate the hiring of older workers by permitting their employment without necessarily requiring an employer to provide equal benefits to them under retirement, insurance or disability benefit plans. Of course, there must be some reason other than age which justifies the unequal benefits.

At the time of enactment in 1967, the legislative history on this point was made quite explicit by my colleague, Senator Javits, who stated:

> An employer will not be compelled under this section to afford to older workers exactly the same pension, retirement or insurance benefits as he affords to younger workers.

Since enactment, and despite this clear expression of our intent, the courts have disagreed over the interpretation of this section. The third and fifth circuit courts of appeals have ruled that a pension plan which requires mandatory retirement at age 65 does not violate the act, because section 4(f) (2) sanctions such a provision. *Zinger* v. *Blanchette*, 549 F. 2d 901 (3rd cir. 1977) *Brennan* v. *Taft Broadcasting*, 500 F. 2nd 212 (5th cir. 1974). However, in *McMann* v. *United Airlines*, 542 F. 2d 217 (4th cir. 1976), cert. granted, 429 U.S. 1090 (1977), the fourth circuit court of appeals held that section 4(f) (2) does not permit mandatory retirement required by a collective bargaining agreement or pension plan, because the only purpose of 4(f) (2) was to encourage the employment of older workers by permitting employers to make distinctions based on age with respect to participation in employee benefit plans.

There may be valid distinctions which can be made between older persons and younger persons with respect to the costs of providing term life insurance, for example. Section 4(f) (2) was intended to permit and will continue to permit varying coverage of workers in different age groups to reflect those differences so long as they are based on valid assumptions and applied in a nondiscriminatory manner.

But the application of a mandatory retirement provision contained in a seniority system or employee benefit plan makes no such valid distinction. Rather, it takes away an individual's right to employment solely because of his or her age. That is age discrimination plain and simple, and it is not excused by any provision of the act.

Because some courts have not properly interpreted the meaning of this section, the committee acted to clarify our original intention. The amendment to section 4(F)(2) forbids mandatory retirement required by a pension or other employee benefit plan or seniority system and serves to express congressional approval of the result reached by the fourth circuit in McMann.

Although the committee favored a complete ban on mandatory retirement, I believed that we should not prevent mandatory retirement in those instances where age has been established as a bona fide occupational qualification.

In his letter endorsing the basic purposes of my bill, President Carter expressed the same concern and asked that in enacting this legislation we clearly permit the establishment of a designated retirement age of less than 70 where age has been shown to be an important indicator of job performance. For some types of work, for example, law enforcement activity, there may be a factual basis for believing that substantially all employees above a specified age will be unable to continue performing their duties. In addition, it may be impossible or impractical to determine through medical examinations or periodic reviews of job performance the employee's capacity or ability to continue working safely and efficiently.

I therefore offered an amendment, which the committee adopted, which provides in effect that where these two conditions are satisfied and a bona fide occupational qualification has therefore been established, an employer may lawfully require mandatory retirement at that specified age. The committee also recommended that the Secretary examine the feasibility of issuing guidelines to aid employers in determining the applicability of the bona fide occupational qualification exception to their particular situation.

The committee also recognized that reciprocal agreements and concessions are often made in exchange for the mandatory retirement provisions contained in collective bargaining agreements. In order to provide maximum deference to contracts negotiated between management and labor and to give the parties an opportunity to make those clarifications in pension plan agreements which are required by this legislation, I offered an amendment, which the committee adopted, which delays the effective date of the prohibition on mandatory retirement policies for age 65 to 70, if such policy is contained in a collective bargaining agreement which was in effect on September 1, 1977.

The effective date of the prohibition on mandatory retirement between 65 and 70 in these situtions would be the termination date of the contract or January 1, 1980, whichever occurs first. Since the increase in the act's upper age limit does not go into effect until January 1, 1979, this exemption would provide at most an additional year for an agreement in effect on September 1, 1977.

Although considerable sentiment was expressed in favor of removing the act's upper age limit during our deliberations, the committee concluded, and I concur, that for the present time the act's upper age limit should not be extended beyond 70 years of age.

But because of the interest that was expressed concerning total uncapping of the act, the legislation requires the Department of Labor to conduct a study on the effect of revising the act's upper age limit to 70 years of age and the feasibility of raising the limit above 70 years of age. This study must be completed within 3 years, with an interim report due 2 years after the effective date. It is our hope that the results of these studies will alleviate many of the concerns that have been expressed regarding increasing the upper age limit from 65 to 70, and will therefore provide the impetus for early consideration of uncapping the act entirely.

The committee also voted to include two procedural amendments to the act in this bill.

The Age Discrimination in Employment Act contains a plethora of time limitations and procedural requirements. One of the most unfair is the requirement of section 7(D) that before any individual may institute a lawsuit, he or she must give the Department of Labor notice of intent to file a suit within 180 days of the occurrence of the alleged act of discrimination. This period is extended to 300 days if the alleged unlawful practice takes place in a State which has an age discrimination statute under which a State agency is empowered to grant or seek relief from discriminatory practices.

The failure to file timely notice within this 180-day period has been the most common basis for dismissal of ADEA lawsuits by private individuals. Many courts have found this limitation to be a jurisdictional prerequisite and have therefore refused to consider any excuse for not satisfying the notice requirement. It has never been our intent that the 180-day notice period be considered a jurisdictional prerequisite. Instead, the time limitation is subject to equitable modifications and in that sense is similar to a statute of limitations. Several court decisions have properly adopted this approach, such as *Dartt* v. *Shell Oil Co.*, 539 F.2d 1256 (10th Cir. 1976) and *Charlier* v. *S. C. Johnson & Son, Inc.*, 556 F.2d 761 (5th Cir. 1977).

Age discrimination is often more suitable and less well understood than other forms of discrimination. In many instances it is not discovered by the victim until long after the alleged unlawful practice has occurred. Therefore, the 180-day period is frequently too short.

In order to remove this unreasonable burden on victims of age discrimination, the bill eliminates both the 180-day and the 300-day notice of intent to sue requirement, so that a complaint alleging discrimination will be timely unless barred by the applicable statute of limitations.

The committee also provided for tolling of the statute of limitations for the period during which the Department of Labor is making informal attempts to bring about voluntary compliance with the act.

Various courts have held that failure to comply with the conciliation requirement requires dismissal of the lawsuit. Some have gone so far as to say that conciliation is a jurisdictional prerequisite to bringing a lawsuit under the act. As explained in the committee report, we have never intended that the conciliation requirement be applied so rigidly.

The purpose of conciliation is to avoid unnecessary and meritless litigation and to promote settlement of cases which do have merit. It should not and was never intended to require the Department of Labor to compromise its position. It was not intended to permit potential defendants to avoid their responsibilities under the law.

Unfortunately this has all too often become the case. In order to put an end to this practice and to assure a resolution of age discrimination charges on the merits, this bill provides that the statute of limitations will be tolled for the period conciliation is carried out pursuant to section 7(b).

Mr. President, older workers are a valuable national asset and comprehensive protection of their legitimate employment rights is a priority of the highest order. This legislation, which I am proud to have sponsored, is a significant step. It is my belief that it is the vehicle toward the day when the practice of discrimination based solely on age will be entirely eliminated.

Mr. JAVITS. Mr. President, we have before us today a bill to clarify, expand and strengthen the Age Discrimination in Employment Act, which is one of the few pieces of Federal legislation through which we attempt to establish national policy about the role of older workers in the Nation's work force. In essence, what we seek to do through this act is to assure older workers the opportunity to participate, or not to participate, in the work force in the manner they themselves choose.

Full assurance of this opportunity will of course require a good deal more, such as improved retirement income protection, expanded opportunities to pursue second careers, and the chance to shift gradually to part-time work with the same employer. But, none of this would be possible without first establishing the central matter—at what age may employers mandate the retirement of their employees? The ADEA provides this core statutory protection against employment discrimination, including mandatory retirement, on the basis of an arbitrarily selected age.

This bill, H.R. 5383, could well turn out to be as significant for our working citizens as any measure passed by this Congress. As a sponsor of one of the bills considered by the Human Resources Committee, I wish to be one of the first to acknowledge that the effects of this measure are almost certain to be far greater than a 5-year change in the covered age group might suggest.

What this bill directly prohibts—discriminatory employment practices against older workers, now to be redefined upward to age 70—is less important for the actual enforcement actions likely to ensue from it than for its signaling of a fundamental change in the way older workers perceive them-

selves and the way they are perceived by employers and society generally. Our intent here is to put an end to the now almost fixed pattern of automatically passing judgment on an individual's working capacity when he or she turns age 65.

I hope that the Senate is now prepared to promote opportunity for older workers by altering what has become an acceptance of the institutional value of efficiency as having primacy over what should be our primary individual value—that of permitting each person to continue working past age 65 as a matter of individual choice and ability. We have permitted an arbitrarily determined age factor to govern not only when a worker must retire from employment, but when workers are considered to have exhausted the value of their work to themselves, to their employers and to the national economy. I urge my colleagues to reorder our priorities by prohibiting age discrimination in employment from age 40 to age 70 as proposed in this bill.

There is nothing preordained about the 65 upper age limit of the Age Discrimination Act. Former Secretary of Labor Willard Wirtz acknowledged that it was selected simply because the Social Security Act used that age. If we look at the history of the Social Security Act, we see that age 65 was selected somewhat arbitrarily, in part because of the tradition of the use of this age in prewar Germany's social security system.

With advances in medical science and in the standard of living, life expectancies in the United States have steadily increased since the time when age 65 was first incorporated into law. Age 65 is not as old as it once was, and our laws on age discrimination should take this into account.

It has always seemed unjustifiable to me to permit employees to be forced into retirement solely because they have reached an arbitrarily established age. Mandatory retirement at any specific age fails to take account of differential aging and the effects of aging on different skills. It could waste well-developed abilities and mature judgment which can be of great benefit to society. In addition, mandatory retirement accelerates the aging process and can worsen physical and emotional problems.

The fact is that not even half of U.S. workers are provided with anything approaching financial independence when they retire. Only 29 million of the 66 million nongovernment wage and salary workers, according to the latest data available, are covered by employer retirement financial benefit plans. Even among these many are not provided with sufficient benefits to supplement social security payments to enable them to retire without substantial economic difficulty.

The growth of private pension plans, which we have attempted both to promote and to regulate responsibly through the enactment of the Employee Retirement Income Security Act, has made it possible for many older workers to retire early to engage in volunteer activities and to pursue second careers. This development, coupled with greatly improved health care and increased longevity has very materially altered the working careers of millions of our citizens. The development of new retirement patterns, with such a marked contrast between those who choose early retirement and those who want to choose continued employment makes it more necessary than ever to assure older workers of the opportunity to make that choice.

That choice is today all too restricted by limiting the application of the Age Discrimination in Employment Act to those under age 65. Twenty-six years ago as a Member of the House of Representatives, I introduced legislation to prohibit discrimination in employment on the basis of age, any age.

It was not until 10 years ago that Federal law was eventually enacted to fulfill that goal at least in part.

I have viewed the act's present protection of workers who are at least 40 but less than 65 years of age from discrimination in employment on the basis of age as a first step in protecting older employees. Earlier this year, I introduced legislation with Senators EAGLETON and CHAFEE to phase out gradually the act's upper age limit by 1985. Our bill also clarified the 4(f)(2) bona fide employee benefit plan exception so that pension plans would not require the forced early retirement of employees.

Because of my desire to see age legislation passed this year, I decided to throw my support to the more conservative position of raising the age cap to 70.

Contrary to charges that Congress is blindly leaping into the unknown, there is an established track record for mandatory retirement ages above 65. Corporations like Bankers' Life and Casualty Co. have had no compulsory retirement for over 30 years. The civil service system has effectively operated with an upper age limit of 70, and General Motors Corp. uses age 68 as its compulsory retirement age.

Some employers have claimed that raising the mandatory retirement age will cause aged and unproductive employees to linger on. The record, however, strongly suggests otherwise.

The trend in recent times has been toward early retirement. In 1974, 72 percent of all new social security retirees opted for reduced benefits with age 62 as the overwhelmingly most common age. From 1950 through 1976, 60 percent of GM's hourly employees retired before age 65, and 13 percent retired at the mandatory age of 68.

In 1976, only 2 percent of such GM employees worked until age 68. Bankers Life, which has no mandatory retirement age, reports that in 1968 only 3 percent of their employees were age 65 and over, and in 1977 that figure went to 4 percent. At Connecticut General Life Insurance Co., which recently eliminated compulsory retirement, 2 of 50 retiring employees decided to stay on in 1977.

A recent Roper poll found that nearly two-thirds of Americans would like to retire before age 62, and over one-third prefer to retire before reaching 60. The Labor Department estimates that raising the mandatory age will increase the labor force by about 175,000 to 200,000 persons out of over 90 million workers.

I should add that at all times an employer may discharge an unproductive employee, whether age 70 or younger, for cause.

Employers have also expressed concern that the costs of funding their pension plans will increase if the mandatory retirement age is raised. Our analysis, which has been supported by the Labor Department, is that pension costs will not increase and, in fact, will decrease if workers stay on the job past 65. The longer an employee works, the shorter the period retirement payments will have to be made. Savings would also come from the added years of accumulated interests on the pension assets. Additional savings would arise from the fact that a plan need not provide for further benefit accruals after the participant reaches the plan's normal retirement age. Added years of service after normal retirement need not necessarily be credited toward the ultimate retirement benefit, and thus, there need be no cost increase. It should also be noted that much of the cost of medical care for workers older than age 65 would be covered by the Federal medicare program.

In order to allay fears about raising the age cap, the Senate Human Resources Committee voted for a number of amendments. The committee bills provide an exemption for corporate executives who receive $20,000 or more in employer provided retirement benefits, exclusive of social security. It also provides exemptions for teachers who have unlimited tenure at public, elementary, and secondary schools as well as higher educational institutions, whether public or private. At the administration's request, clarifying language was approved which permits the establishment of a designated retirement age less than age 70 where the employer can show that age is a bona fide indicator of job performance. The effective date for the changes in section 12 has been moved back to January 1, 1979 and for collectively bargaining pension plans which have 65 as the mandatory retirement age, the effective date for making changes will be no later than January 1, 1980.

In my view, the corporate executive exemption is troublesome. Corporations which have no compulsory retirement have used sophisticated management techniques to avoid blocked lines of progression for executives. For example, years of service in any one position could be limited, much the way the President of the United States term of office is restricted. Rotation of personnel between different divisions could also be stipulated, as could increased pension benefits for early retirees. Company growth, organizational structure changes, and employee counseling are other factors to be considered. A recent poll of 450 executives indicated that only 13 percent planned to work past age 65. This poll suggests that executives do not wish to stay on the job any longer than the hourly employees they supervise.

In order to effect the will of the Committee, however, I am willing to accept the exemption, as is Senator WILLIAMS, even though neither of us is very happy about it.

The tenured teacher exemptions are also troubling. The elementary and sec-

ondary public school teacher exemption is potentially overbroad. There are approximately 2,190,000 elementary and secondary public school teachers who could be covered by this exemption. The committee hearing record contains no estimates on the number of public school teachers covered by superior State mandatory retirement statutes who would not come under this exemption. It is fair to say that the committee acted on this amendment without sufficient information.

With respect to college faculty, the percentage of professors who work past age 65 where permitted to do so is only 0.027 percent of the number of tenured professors who are eligible to do so. In New York State, where professors in the State system are required to retire at age 70, only 12 of 10,000 professors in the system are between the ages of 65 and 70. It appears that the trend toward early retirement among professors may be greater than the trend for the general population and that the need for a professor's exemption may be woefully lacking.

In order again to carry out the judgment of the committee, I am going to accept the tenured professor exemption. However, Senator WILLIAMS and I simply cannot swallow the public school-teacher exemption which covers so very many employees.

So, Mr. President, I will find it necessary to oppose the public teacher exemption, although, most reluctantly, I shall stay with the chairman and the committee with respect to the corporate executive exemption and the tenured professor exemption.

Mr. President, I will not take the time of the Senate to go into further detail. I would, though, like to bring to the Senate's attention a recent survey released by the conference board. The survey shows that the vast majority of Americans oppose any kind of mandatory retirement age. Interestingly, about 75 percent of persons under 25 years of age opposed a fixed retirement age even though these are the very individuals, we are told, who feel they will be harmed by the closing off of promotional paths. I ask unanimous consent that the October 18 Bureau of National Affairs' description of the conference board survey be included in the RECORD.

There being no objection, the survey was ordered to be printed in the RECORD, as follows:

SURVEY SAYS VAST MAJORITY OF AMERICANS, INCLUDING YOUNG, OPPOSE FORCED RETIREMENT

A vast majority of Americans oppose any kind of mandatory retirement age—with the strongest opposition coming from young persons, according to a survey released by the Conference Board.

The survey, covering some 5,000 households across the nation, was conducted for the Board by National Family Opinion, Inc. of Toledo, Ohio. The polling was done in September just prior to House passage of the bill (H.R. 5383) lifting the permissible mandatory retirement age in the private sector from 65 to 70 (1977 DLR 186: AA-1). A companion Senate measure (S. 1784) is scheduled to be considered on the Senate floor on October 19.

About 64 percent of those surveyed are against mandatory retirement at any age, the Board says, with some 32 percent supporting mandatory retirement at age 65 or earlier. The remaining 4 percent are in favor of mandatory retirement at 70.

The largest vote against mandatory retirement was cast by those who would be expected to gain the most from such a policy. Approximately 75 percent of persons under 25 years of age opposed a fixed retirement age, compared with 56 percent of those in the 55 to 64 age group. Only 51 percent of those 65 and over in the survey oppose a mandatory retirement age.

The survey also indicates that attitudes on mandatory retirement vary significantly according to income. More than 68 percent of the families earning at least $20,000 a year oppose mandatory retirement, the survey reports, compared with 58 percent of those with incomes under $10,000.

"The retirement urge is apparently linked to the type of work one does," remarks Fabian Linden, director of consumer research at the Conference Board. "While a large number of those in the low-income brackets are performing physically demanding work, the upper-income brackets are largely comprised of people in professional or other white-collar occupations where job satisfaction tends to run higher," Linden adds.

The survey also finds that some 69 percent of the white-collar workers are against forced retirement, compared with 62 percent of the blue-collar workers. It shows that 21 percent of the blue-collar workers surveyed favor compulsory retirement at age 60, a view held by less than 12 percent of those in white-collar jobs.

The House bill, which passed by a vote of 359 to 4, would prohibit a mandatory retirement age for federal employees, and would raise the upper age limit of private sector workers covered by the Age Discrimination in Employment Act from 65 to 70.

On September 30, during its markup of the companion measure (S. 1784), the Senate Human Resources Committee voted to raise the mandatory retirement age to 70, but decided to allow the involuntary retirement at 65 for executives whose pensions total at least $20,000 a year and teachers with full tenure (1977 DLR 191: AA-1).

Representative Claude Pepper (D-Fla), principal author of H.R. 5383, immediately decried the Senate panel's action and called on the full Senate to strike the "arbitrary exemptions" from the bill when it reaches the Senate floor. Pepper also attacked the committee's vote postponing the effective date of the age 70 level until January 1, 1979, in accordance with a request by President Carter for such a delay. The House version makes the age 70 cutoff effective six months after enactment.

"If ending mandatory retirement offers the elderly a whole loaf, the House bill offers them three-fourths of a loaf with the promise of a whole loaf, while the Senate bill tells them to go hungry for a while longer while waiting for the crumbs," Pepper declared. He urged every elderly person in the country to write his or her Senator in support of the House-passed bill.

The American Federation of Teachers also registered its opposition to the language in the Senate bill that retains the current age 65 permissible mandatory retirement age for tenured teachers. In a letter to members of the Senate AFT President Albert Shanker stated that the exemption of teachers from the ADEA amendments was "neither sought nor desired by teachers or the organizations representing them." He contended that there is "no rational justification" for requiring teachers to retire earlier than other professionals.

"Experience is as valuable a commodity among educational personnel as it is with any other professional," Shanker said. He exhorted the Senate to support an amendment that will be offered by Senators Frank Church (D-Idaho) and Alan Cranston (D-Calif.) which would eliminate the teacher exemption provision. The teachers' union reiterated its support for the remainder of the bill.

The Senate Human Resources Committee amendment to exempt tenured teachers arose out of a proposal by Senator John Chafee (R-RI) to retain the mandatory retirement age at 65 for tenured faculty at colleges and universities. Chafee argued that teachers with unlimited tenure are different from other employees because they have career appointments that do not allow for subsequent merit reviews. He also warned that "bright and ambitious" young teachers would be kept out of jobs in higher education if the age level were raised.

Subsequently, Senator William Hathaway (D-Maine) proposed that the exemption for tenured faculty apply to all teachers, on the ground that the rationale behind the Chafee amendment also applies to elementary and secondary school systems.

Benjamin Hooks, executive director of the NAACP, has asked the Senate to retain the one-year delay of the effective date that is currently in the bill. Citing the "crisis" of teenage unemployment," Hooks said that the NAACP and other groups need time for additional study of the proposed legislation before taking a final position. He emphasized that although the NAACP's initial reaction to raising the mandatory retirement age is unfavorable, the civil rights organization is not asking that the bill be defeated.

Both the Senate and House bills would clarify Section 4(f)(2) of the ADEA by providing that pension plans and seniority systems in the private sector may not be used to force retirement before age 70. Section 4(f)(2), which permits employers to observe the terms of a bona fide employee benefit plan if such observance is not a subterfuge to avoid the purposes of the Act, has been interpreted by some courts to allow involuntary retirement prior to age 65.

Unlike the age 70 extension, the provision in the Senate bill clarifying Section 4(f)(2) would become effective upon enactment, but the committee-approved language providing that pension plans in collective bargaining contracts in existence on September 1, 1977 may continue to be used to force retirement before age 70 during the life of the contract or until January 1, 1980, whichever comes first.

The House-passed bill contains a similar "grace period" allowing such pension plans to operate until the contract expires or two years after enacmtent, whichever comes first, in cases of contracts in effect at least 30 days prior to the date of enactment.

In sum, what we propose to do through this bill is to permit older workers to remain on the job longer if they so choose. The heart of the matter is personal opportunity, which cannot be fulfilled without the extended protection provided in this bill. It is not too much to expect, I believe, that workers no longer facing an age 65 age barrier to employment will seek, and receive, individual evaluation of their working capacity when employers are required to exercise their managerial responsibilities to make employment decisions based on performance rather than a fall back on arbitrary forced retirement at age 65. The dignity of employees—and of their employers—is at stake.

Mr. President, I ask unanimous consent that Tim Smith, of Senator STAFFORD's staff, may have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I thank my colleague from California.

Mr. CHAFEE. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. CHAFEE. Mr. President, I ask unanimous consent that Lee Verstandig and Nancy Barrow, of my staff, have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I support the provision in the 1977 Age Discrimination in Employment Act Amendments except section 6, which would permit mandatory retirement at age 65 for college professors, elementary and secondary teachers, and highly paid employees.

Later, Senator CRANSTON and I shall offer an amendment to strike this language from the bill.

At this time, though, I would like to direct my remarks to the other provisions of H.R. 5383—several of which I either advanced or sponsored.

First, the bill would increase the upper age limit of the anti-age discrimination law from 65 to 70.

This represents an important step toward the goal of employment based on merit.

I have long maintained that functional capacity—not chronological age—should determine whether a person is hired, fired, promoted, or demoted.

Unfortunately, many Americans now believe that advancing age shuts them off from purposeful activity.

Elderly persons have repeatedly asked the Committee on Aging: Why should our Nation encourage inactivity when inactivity may be our greatest enemy?

Today almost 11 percent of our total population is aged 65 or older. Yet, older Americans represent only about 3 percent of the civilian labor force.

Many elderly persons need to work because inflation is placing them in a financial squeeze. Others want to work because they find it fulfilling.

Older Americans should have an opportunity to compete on the basis of ability and not chronological age.

The 1977 Age Discrimination in Employment Act Amendments will help to implement this goal.

Second, the bill includes a proposal that I sponsored with Senator WILLIAMS to prohibit mandatory retirement before age 70.

This measure would not—and I want to stress this point—prohibit early retirement on a voluntary basis.

Workers who are now involuntarily retired at an early age may find themselves on an economic treadmill. If they retire before age 62, they are ineligible for social security. If they are mandatorily retired at age 62, 63, or 64, they will receive actuarially reduced social security benefits for the rest of their lives.

Forced retirement may also be psychologically damaging, especially for individuals who have lived active and productive lives. A person does not suddenly change upon reaching the age of 65.

Third, the committee bill would authorize the Secretary of Labor to conduct a study to determine the feasibility of abolishing mandatory retirement completely.

Finally, I am pleased that H.R. 5383 includes my proposal to extend from 180 days to 22 months the notice of intent to sue requirement for employees.

The Department of Labor estimates that the courts have dismissed nearly two-thirds of all private age discrimination suits without a hearing on the merits because an individual failed to comply with the act's procedural requirements.

One of the most troublesome is the 180-day notice of intent to sue provision, which has proved to be a trap for the unwary or unsophisticated.

The anti-age discrimination law is designed to promote employment on the basis of ability and to prohibit job bias because of age.

These purposes are not fulfilled if disputes are decided on procedural technicalities, instead of substantive issues. The policy of the act should be to encourage decisions on the merits of the claims.

Quite often, a plaintiff may need more than 180 days to notify the Department of Labor of his intent to sue, for several reasons, including:

He may want an informed legal opinion concerning the likelihood for success if a lawsuit is filed.

He may attempt to resolve the dispute himself or work out a compromise with an employer.

For these reasons, I reaffirm my support for these provisions.

UP AMENDMENT NO. 948

(Purpose: To provide for technical corrections respecting the exemption regarding highly compensated or management employees. and the statute of limitations under the Age Discrimination in Employment Act of 1967.)

Mr WILLIAMS. Mr. President, there are two technical amendments that should be taken care of at the outset. I send to the desk an amendment to provide for technical corrections respecting the exemption regarding highly compensated or management employees and the statute of limitations under the Age Discrimination Employment Act of 1967.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposed an unprinted amendment numbered 948:

On page 9, line 8, strike out "to read as follows" and insert in lieu thereof the following: "by inserting '(1)' after the subsection designation and by adding at the end thereof the following".

On page 9, line 9, strike out "(e)" and insert in lieu thereof "(2)".

On page 10, line 1, beginning with "group" strike out through "employees" and insert in lieu thereof: "select group of management or highly compensated employees".

Mr. WILLIAMS. Mr. President, these are technical corrections. A mistake was made in the printing and these are designed to correct those mistakes.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. JAVITS. I yield back my time.

Mr. WILLIAMS. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of amendment No. 1459: Senator ABOUREZK, Senator CLARK, Senator BURDICK, Senator HATFIELD, Senator HASKELL, Senator HUMPHREY, Senator MELCHER, Senator DURKIN, and Senator MATSUNAGA.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1459

(Purpose: To delete the exclusion of tenured elementary and secondary teachers, university professors, and persons with certain retirement benefits.)

Mr. CRANSTON. Mr. President, I call up amendment No. 1459, on behalf of myself and the chairman of the Select Committee on Aging, the Senator from Idaho (Mr. CHURCH), as well as the Senator from Michigan (Mr. RIEGLE), the Senator from Arizona (Mr. DECONCINI), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Iowa (Mr. CLARK), the Senator from North Dakota (Mr. BURDICK), the Senator from Oregon (Mr. HATFIELD), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Montana (Mr. MELCHER), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Hawaii (Mr. MATSUNAGA).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and others, proposes an amendment numbered 1459:

On pages 9, 10, and 11, strike out all of section 6.

On page 11, line 14, strike out "SEC. 7" and insert in lieu thereof "SEC. 6".

Mr. CRANSTON. Mr. President, while I am in full support of the purpose underlying H.R. 5383 as it seeks to raise the upper age limit of the Age Discrimination in Employment Act of 1967 from 65 to 70, I am deeply concerned over the provisions of the bill as reported by the Human Resources Committee which exempt from the full protections of the act certain categories of workers.

Section 6 of the bill as reported would exempt from the extension of the age limits, employees with retirement benefits of more than $20,000, tenured teachers and college professors.

The net effect of this provision would be to permit the mandatory retirement of workers in these categories at age 65 solely on the basis of age while forbidding it for all other workers. This discrimination is unnecessary and contrary to the underlying principles of the Age Discrimination Act.

Mr. President, I oppose these exclusions because I believe that they are contrary to the basic principles of equal treatment and equal rights for all Americans which is the basic purpose underlying the Age Discrimination in Employment Act.

I firmly believe that an individual's competency, not age, should determine his or her job performance capability and this is so regardless of the category of work involved. A blanket exclusion of educators and business people merely because of the category of work involved bears no relationship to the question of

competency. Should we start making exceptions to other civil rights laws for certain jobs? I certainly hope not.

Mr. President, I must point out that the act already provides for exceptions where age is actually a factor in an individual's ability to perform his job. The new exclusions in the committee bill, however, have nothing to do with an individual's ability to perform. They are blanket exclusions based upon claims that without such exclusion, there would be various difficulties in complying with the requirements of the law, and that lacking the ability to force the retirement of certain older workers, educational institutions, and businesses would be unable to provide job opportunities for younger workers.

I oppose these exclusions because I believe that they are philosophically indefensible. To say that a college professor is unable to do a job because he has reached his 65th birthday is as offensive to me as saying a person cannot do a job because she happens to be a woman. Age discrimination is as arbitrary and reprehensible as employment discrimination based upon sex, race, or other irrelevant factors.

Mr. President, I further oppose these exclusions because I believe that the facts do not support the arguments advanced in their support.

Those who support the exemption of college professors from the new coverage of the act argue that tenure provisions and the need for infusion of new ideas from young professionals requires mandatory retirement at age 65.

This argument is refuted by the fact that there are many distinguished institutions of higher learning which today provide for retirement at age 70, not 65. These institutions include such distinguished universities as Duke University, Rutgers, the University of Virginia, the State University of New York, Indiana University, and the University of Michigan.

I ask unanimous consent that there be printed in the RECORD at this point a lengthy list of States in which public universities today have retirement ages of 70 or above along with a number of additional private colleges.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

The public institutions in the following states either specify no mandatory retirement or specify an age of 70 or above:

	Source of information
Alabama	NEA
Alaska	NEA
California	CRS
Georgia	NEA
Hawaii	NEA
Maryland	NEA
Montana	NEA
New Jersey	NCES
New Mexico	NEA
New York	NEA/NCES
Ohio	NEA
Rhode Island	NEA
South Carolina	NEA
Florida	CRS

The following institutions either specify no mandatory retirement or specify an age of 70 or above:

	Source of information
University of Connecticut	DI
University of Missouri	DI
University of Texas	DI
University of Washington	DI
University of Wisconsin	DI
University of Louisiana	DI
University of Massachusetts	DI
American University	NCES
Central Methodist College (Mo.)	NCES
Central Michigan University	NCES
Dominican College of Blauvelt (N.Y.)	NCES
Drake University (Iowa)	NCES
Duke University (N.C.)	NCES
Emporia, Kansas, State College	NCES
Ferris State College (Mich.)	NCES
Fort Hays, Kansas, State College	NCES
Geneva College (Pa.)	NCES
Gettysburg College (Pa.)	NCES
Hampden-Sydney College (Va.)	NCES
Hiram College (Ohio)	NCES
Indiana University	NCES
Institute for Advanced Study (N.J.)	NCES
Iowa State University	NCES
Kansas State University	NCES
Kansas Technical Institute	NCES
University of Kansas	NCES
Michigan Technical University	NCES
University of Michigan	NCES
University of the Pacific (Calif.)	NCES
University of Pittsburgh	NCES
University of Richmond (Va.)	NCES
Texas A&I University	NCES
Valparaiso University (Ind.)	NCES
University of Virginia	NCES
Wake Forest University (N.C.)	NCES
Wayne State University (Mich.)	NCES
Western Michigan University	NCES
Wichita State University (Kans.)	NCES
University of Oregon	DI

NCES—National Center for Educational Statistics.
NEA—National Education Association.
DI—Direct Inquiry.

Mr. CRANSTON. I wish to note in passing that one of my sons, Kim, is a student at Hastings Law School in San Francisco. That is a school that has no mandatory age retirement at any age, and it is I think generally recognized as an outstanding law school. It picks up people who are forced into retirement at other institutions, many of them in the prime of their teaching capacities, and has them for as long as they are able to teach. Many of them continue to teach with great excellence. This policy has contributed to the ability of this school to hire some of the finest teachers and professors in the United States.

Mr. CHAFEE. Mr. President, will the Senator yield for a question on that point?

Mr. CRANSTON. I yield.

Mr. CHAFEE. The point here is tenured professors, and I believe at Hastings they do not have tenure. In other words, their performance can be reviewed objectively every year. That is just the point of what we are talking about here today.

I am very familiar with Hastings because many professors from Harvard Law School upon their retirement go to Hastings and teach and have very fruitful, successful careers there, but they are not tenured and Hastings can let them go whenever they choose to do so.

Mr. CRANSTON. I think there is an answer to the issue of tenure. Tenure provisions uniformly provide for removal of employees for cause—cause meaning incompetency, inability to perform, or gross misconduct in office. The argument has been made that because tenured teachers or professors cannot be removed except for cause, educational institutions will not be able to remove employees between the ages of 65 or 70 who are unable to perform adequately unless this exemption is maintained. The argument is made that although the right to discharge for cause exists under tenure systems, it is rarely utilized.

Mr. President, coverage of these employees will simply mean educational institutions have to make the tough decisions they want to avoid. When is an employee no longer competent? That is the basic question they are seeking to avoid by simply lumping all employees together and putting them all out at a specific point in their life cycle.

I think making those hard decisions is far preferable to discriminating against the competent solely because of age and the fact that is an easier way to do it.

Mr. President, I also wish to point out that tenure is not unique to education.

State and Federal civil service systems customarily have tenure provisions which prevent discharge except for cause or unfitness. The Federal civil service system operates with a retirement age of 70. There is no real basis for distinguishing educational tenure from tenure in State or Federal civil service systems. If it is a little too difficult to remove incompetent people under the tenure system, then we should deal with that problem and make it a simpler process to remove an employee who has reached the point where he or she can no longer serve or who in the vast technical world can no longer teach effectively.

Mr. President, the fact that these colleges and universities on the list that I have inserted to the RECORD, function with a retirement age of 70 without undue detriment amply demonstrates that the exclusion of college professors from the protection of this bill is not, as a practical matter, necessary.

Mr. President, I might also add that although a great many public as well as private universities permit faculty members to work up to the age of 70 and in some cases beyond, very few actually elect to do so. For example, in New York where the retirement age for professors is 70, only 0.027 percent—a quarter of 1 percent—actually worked past the age of 65.

Thus, Mr. President, the facts are that very few professors who have the choice actually continue working. But it is vitally important that we give to those who wish and are able to continue their contributions, the option of doing so. The alternative is to force people to give up their employment without regard to competency, ability to contribute, or any other relevant factor.

Turning from that exception to another, Mr. President, the exclusion of tenured elementary and secondary teachers is, I believe, equally unwarranted. This exclusion—as with the other two—was never raised at any hearing. It has not been sought by any organized group. It is opposed by the National Education Association.

It is also contrary to the laws of a majority of the States—with well over half of the Nation's population—which provide for either no mandatory retirement or retirement at age 70 or above for teachers. States which provide for retirement at or over the age of 70 for elementary and secondary teachers include the following long list of States: Alabama, Alaska, Arkansas, California, Connecticut, Georgia, Hawaii, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Missouri, Montana, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, and Virginia.

Mr. President, I ask unanimous consent to print in the RECORD a State-by-State breakdown of elementary and secondary retirement laws compiled from National Education Association reports.

There being no objection, the breakdown was ordered to be printed in the RECORD, as follows:

ELEMENTARY AND SECONDARY SCHOOL TEACHER RETIREMENT SYSTEMS [1]

Mandatory or compulsory at age 65 [2]	Mandatory or compulsory at 70 (or above) [2]	No mandatory or compulsory under State law	Comments
	Alabama		
		Alaska	Recent change.
Arizona			Mandatory at 70; from 65 to 70 at option of employer.
	Arkansas (72)		
		California	Recent change.
		Colorado	Compulsory retirement not part of retirement law; State law ends tenure at 65.
	Connecticut		
Delaware			Mandatory at 70; from 65 to 70 at option of employer.
		Florida	None under State law; counties may establish.
	Georgia		
	Hawaii		
Idaho			Mandatory at 70; from 65 to 70 at option of employer.
		Illinois	None under State law; local boards may establish.
	Indiana		
Iowa			After 65 is at option of employer (mandatory at 70 in Des Moines).
	Kansas		
	Kentucky		
Louisiana			
	Maine		
	Maryland		
	Massachusetts		
		Michigan	None under State law; local districts may establish.
Minnesota			
Mississippi			Mandatory at 70; from 65 to 70 at option of employer.
	Missouri		
	Montana		
Nebraska			Mandatory at 72; from 65 to 72 at option of employer.
		Nevada	None under state law; local boards may set.
New Hampshire			Mandatory at 70; from 65 to 70 at option of employer.
	New Jersey		
		New Mexico	Application for retirement may be made only by the employee.
		New York	None under State law; local districts may impose at 70 or above.
North Carolina			After age 65 is at option of employer.
		North Dakota	None under State law; local boards may establish; many now at 65.
	Ohio		After age 70 is at option of employer.
		Oklahoma	None under State law; local boards may establish.
	Oregon		
	Pennsylvania		
	Rhode Island		
	South Carolina (72)		
		South Dakota	None under State law; local boards may establish.
Tennessee			Mandatory at 70; from 65 to 70 at option of employer.
		Texas	None under State law; local boards may establish.
		Utah	None under State law; local boards may establish; most now at 65.
	Vermont		
	Virginia		
		Washington	None under State law; local boards may fix; many do at 65.
West Virginia			After 65 is at option of employer.
		Wisconsin	None under State law; local boards may establish; Milwaukee is at 70.
		Wyoming	None under State law; local boards may establish.

[1] Compiled from data provided by the National Education Association and from data provided by the State education departments of various States.

[2] Virtually all systems provide for retirement at the end of the school year during which the individual reaches the indicated age rather than on the birthday.

Mr. CRANSTON. The fact that so many of our States have found it feasible and appropriate to use retirement ages of 70 or above amply demonstrates that the exclusion of elementary and secondary teachers from the provisions of this bill is not necessary nor justifiable.

Finally, turning to one other exclusion, the third of these exclusions that I seek to strike covers workers with retirement benefits of more than $20,000. This amendment, sought by some employer groups, is alleged to be necessary to provide job and promotional opportunities for younger workers.

There appears to me to be no justification for this exclusion, as there is none for the others.

As my esteemed colleague from New York, Senator JAVITS, noted in his additional views in the committee report on this bill, many large corporations—such as General Motors—have operated for years with retirement ages above 65. Yet, few employees choose to remain on the job. These corporations have developed various management techniques to keep promotional opportunities open. The various approaches which have been demonstrated to be effective in this regard are described in Senator JAVITS's separate views in the committee report at pages 32–33.

The ability of these corporations to deal with these problems through innovative management techniques demonstrates that the exclusion of this category of workers from the extended protection of this act is unnecessary.

Finally let me close by saying this:

Exclusion of categories of workers without any relationship to their ability to perform undermines the spirit of the Age Discrimination in Employment Act and adversely affects the health and well being of those who want to remain active or need to work and have the capacity to do so effectively. The proposed exclusions are arbitrary and unjust, and I urge their removal.

Mr. President, I have been contacted by many, many organizations who join me in opposing these exclusions. These organizations are:

American Association of Retired Persons.

American Retired Teachers Association.

American Association of University Professors.

National Education Association.

National Council on Aging.

National Center on Black Aged.

National Association for the Spanish-speaking Elderly.

National Indian Council on Aged.

National Association of State Units on Aging.

National Association of Area Units on Aging.

American Association of Homes for the Aging.

Urban Elderly Coalition.

Western Gerontological Society.

National Association of Retired Federal Employees.

Association for Gerontology.

International Center for Social Gerontology.

Task Force on Aging of the U.S. Conference of Mayors.

Mr. President, I urge my colleagues to support our amendment to delete the arbitrary exclusions from the full protections of the Age Discrimination in Employment Act.

Mr. President, Congressman CLAUDE PEPPER, chairman of the House Select Committee on Aging and a distinguished Member of this body for 14 years has circulated an eloquent statement of opposition to the exclusion of teachers and persons with retirement benefits over $20,000.

I ask unanimous consent that Congressman PEPPER's letter and statement be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE TO VOTE ON MANDATORY RETIREMENT LEGISLATION THIS WEEK

DEAR COLLEAGUE: As someone who had the privilege of serving in the U.S. Senate for 14 years, I request your support of legislation (H.R. 5383), scheduled for Senate floor action this week, to raise the minimum age at which most workers can be forced to retire from 65 to 70. I also urge your support for an amendment to be offered by Senator Cranston to strengthen the bill by removing its exemptions of teachers and persons whose pensions minus Social Security benefits exceed $20,000. Similar legislation to curb mandatory retirement, without any of these exemptions, has already passed the House by an overwhelming vote of 359 to 4.

Under existing law, the so-called "Age Discrimination in Employment Act" (ADEA), only workers who are between 40 and 65 are protected from mandatory retirement, making this law its own worst offender. The tragic result is that the talents and abilities of millions of older persons who are willing and able to go on working are wasted.

Enactment of H.R. 5383 would be a major step forward in the fight to end age discrimination. Specifically, the bill would:

(1) Raise from 65 to 70 the upper age limit for protection under ADEA, thereby giving an additional 5 years of protection against age-based mandatory retirement.

(2) Clarify section 4(f)(2) of ADEA to prohibit the use of pension plans or seniority systems to force the retirement of workers in the protected age groups.

(3) Require completion, within three years, of a study on the impact of involuntary retirement and on the feasibility of totally eliminating the upper age limit for all workers.

Yet, because of a number of exemptions the bill, in its present form, would legitimize new forms of age discrimination. Passage of H.R. 5383 without the Cranston amendment would mean, in effect, telling the American people that competence, not age, ought to determine whether a person may retain a job past 65 unless that person happens to be a competent teacher or a competent worker in any profession who is entitled to a certain pension.

The arbitrary and blatant exemption of teachers is based on fallacious arguments. Mandatory retirement will not solve the Ph.D. glut or the problems universities visit upon themselves through their refusal to evaluate the competence of tenured professors. Extending protection from mandatory retirement to age 70 will have little impact on either job openings or job mobility because few professors elect to remain at their jobs past 65 when given the option. Moreover, it is unfair to retire 8.87% of professors and 16.5% of the associate professors in the country who are female in the name of affirmative action. If we use age discrimination in order to aid in abolishing sexism or racism, women and minorities would ultimately suffer the double or triple burden of age, sex and race discrimination.

In addition, the exemption against the right to continue working for persons whose pensions, minus Social Security, exceed $20,000, amounts to class discrimination against those persons who are lucky enough to have pensions above an arbitrary level. I see no grounds for discrimination against any person of any income or pension level.

Age-based compulsory retirement arbitrarily severs productive persons from their livelihood, squanders their talents, scars their health, strains an already overburdened Social Security system, and drives many elderly persons into poverty and despair. It is based on stereotypes and assumptions that old people are feeble-minded and worthless while in truth chronological age is a poor indicator of ability to perform a job. In short, mandatory retirement is a euphemism for discrimination on the basis of age and is as odious as any other form of discrimination.

I hope that the Senate will act decisively to enact the strongest possible legislation to curb mandatory retirement by passing H.R. 5383 and by accepting the Cranston amendment.

Believe me,

Always sincerely,

CLAUDE PEPPER,
Chairman, House Select Committee on Aging.

PEPPER ARGUES AGAINST EXEMPTIONS OF TEACHERS AND INCOME IN MANDATORY RETIREMENT BILL

Rep. Claude Pepper (D-Fla.), chairman of the House Committee on Aging and principal author of a bill (passed by the House on September 23 by 359–4 vote) extending protection from mandatory retirement to age 70 in the private sector and banning mandatory retirement in the federal sector, today issued a statement opposing the Senate mandatory retirement bill's exemption of teachers and of persons whose pensions minus social security exceed $20,000. The statement follows:

EXEMPTION FOR TEACHERS

It is ironic that the Universities will arbitrarily retire the scholars who established that neither productivity nor intelligence decline with age. It is also ironic that Universities, which teach courses in Government and Politics, now claim that they were caught unaware by this landmark legislation. In fact, University spokespersons concede that they knew of the legislation but failed to take it seriously. That fact might explain why the Presidents of Harvard and Yale declined to testify and why, during the two years in which hearings were held, no spokesperson for the Universities appeared to defend mandatory retirement. Nonetheless, available data suggest that the concerns finally voiced by University representatives are exaggerated.

The outcry overestimates not only the extent of forced faculty retirement at 65, but also the number of University jobs opened by forced retirement. In fact, most of the Universities which specify 65 as a normal age of retirement permit extensions to age 70. In those institutions which do not permit a reprieve from forced retirement, 70 is the most common retirement age. The major Universities which set 70 as the retirement age and consequently are unaffected by my bill, include all of New Jersey's two and four year state colleges, the University of New York, University of Wisconsin, University of Michigan, University of Kansas, Indiana University, Iowa State University, and Wayne State University. Mandatory retirement in California colleges and universities is banned entirely under a new law recently signed by Gov. Brown.

The bill's opponents also assume that, unlike workers in other occupations, professors spurn early retirement. Yet a 1976 Carnegie Commission on Higher Education report projects that early retirement will increase the rate of retirement by 10% in 1976–1980, 30% in 1981–85, and 50% in 1986–90. And in 1976 a third of the TIAA–CREF (Teachers Insurance and Annuity Association and College Retirement Equities Fund) annuities were started at ages below 65.

The assumption that forced retirement opens large numbers of jobs for young scholars is equally unjustified. The Labor Department estimates that between now and 1985, such factors as death and voluntary and involuntary retirement will open only an annual average of 3,615 University and non-University jobs requiring a doctorate. However, because economic growth will open 140,000 jobs for Ph.D.'s between 1972 and 1985, even a total ban on mandatory retirement would not create a lost generation of scholars.

Nonetheless, whether or not mandatory retirement is retained, by 1985 more than two Ph.D's will be competing for every available job. The Ph.D. glut is only one of the self-created problems which the Universities unmask in their defense of mandatory retirement. Another is uncritical non-competitive retention of professors. Bound by a system of tenure, Universities have relied on mandatory retirement to weed out those incompetents who were uncritically tenured during the Ph.D. shortage of the 1950's and early 1960's or whose performance failed to match the promise which justified tenure. As Kingman Brewster, Jr., then President of Yale, noted, tenured professors are retained "even in cases where performance has fallen way below reasonable expectations." Norman Hackerman, President of Rice University adds, "an administrator cannot even look at a tenured faculty member's performance without being accused of harassment, even though the administrator is realistically trying to monitor the quality of an institution." Universities ought to weed out incompetents when incompetence is recognized rather than waiting for mandatory retirement to force them out at 65 or 70.

The Universities' plea on behalf of women and minorities is insidious because it advocates age discrimination in the name of abolishing race and sex discrimination. In fact, women and minorities ultimately suffer the double or triple burden of age, race and sex discrimination. Ironically, the Universities would force 8.8% of the professors and 16.5% of the associate professors in the country who are female from the classroom at 65 in the name of affirmative action. Those defending mandatory retirement as a form of salvation for women and minorities might note that the National Organization for Women and the National Center for Black Aged have endorsed my bill. I am also pleased to note that both the National Education Association and the American Association of University Professors oppose the Senate bill's exemption of teachers.

The Universities do not defend mandatory retirement as protection against doddering professors. Academic research renders such contentions indefensible as does the experience of a college built on the mandatory retirement of other Universities. California's prestigious Hastings College of Law employs only professors over 65 who have been retired from the nation's finest law schools. Consequently, Hastings, where the average age of the full time faculty is 73, houses the authors of the profession's most respected law texts.

The professors and students at Hastings are fortunate. Under policies which drive professors from the classroom by the age of 70. Freud could not have taught "Civilization and Its Discontents" for he published it in his 74th year, Bertrand Russell could not have lectured on his "History of Western Philosophy" for he completed it at age 73, and, during the last twelve years of his life, Tolstoy would not have been permitted in the classroom to discuss "War and Peace."

PENSION EXEMPTIONS, DELAY, AND FEDERAL SECTOR

The Senate's exemptions legitimize age discrimination against persons whose pensions, minus Social Security, exceed $20,000. I am opposed to the arbitrary blanket exemption of teachers and to what amounts to class discrimination against those whose pensions exceed an arbitrary amount. The Senate is telling the American people that competence not age ought to determine whether a person may retain a job past 65 unless that person happens to be a competent teacher or a competent worker in any

profession who is entitled to a certain pension. I see no grounds for discrimination against any person in any profession, of any income, or any pension level. Nor do I see what data not already available can be gathered by delaying implementaion to January 1979. Delay simply compounds our complicity in discrimination while at the same time stalling the studies mandated by the bill, which will pave the way to a total ban on mandatory retirement.

I realize that adding a federal sector ban to the Senate bill would have further delayed the bill but am confident that such a provision will be added on the Senate floor or in conference when the House and Senate bills are considered by a joint committee. By studying the impact of a total ban on mandatory retirement in the federal sector we establish the Federal Government as a model employer and provide a data base useful in determining the impact a complete ban on mandatory retirement would have in the private sector.

Mr. CRANSTON. I thank the Chair.

The PRESIDING OFFICER. Who yields time? Does the Senator from Rhode Island wish to be recognized?

Mr. PELL. I just wanted 2 minutes to speak on the general issue or should we wait until later?

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I just want to make a couple of comments on the general issue here because we discussed it at length in our committee.

As Senator CRANSTON, who is a member of the committee knows, it is a very humane, very liberal committee, and we were all concerned about the plight of our older citizens, but we were also concerned about the plight of our younger citizens.

My older son is 32. He is working in a bank as an officer. I think if he has to figure out he has to wait 35 years until he is 67 or 68 before he gets a responsible job that would remove the enthusiasm of working in this particular institution.

I think this applies, as we all know, to teaching, too. There are old teachers who are absolutely wonderful. But we also want to have young teachers who can identify with the students and, particularly, minority students, minority teachers, blacks, women, and give them an opportunity to get into the system.

I think what this amendment of Senator CRANSTON'S would do if it were approved would be to postpone for another 5 years, lengthen the time, before minorities and women could have a reasonably equal place with men.

We thought about this in the committee, and we were very torn because of the problems of being kind to the older people and being just to the younger people.

We also thought about the question of tenure. I am a trustee of a university where they have tenure. They have too much tenure there. I think it is 70 percent, going up to 75. It makes it very difficult when that university has to cut back because they have to cut back by about 50 percent, and what that means is they reduce by half the untenured, who include just about all of the blacks and the women.

The only way you can let people go if they are tenured is on the ground, as I understand it, of moral turpitude, gross incompetence, or the financial distress of the institution.

These are all pretty hard to establish. Maybe the last is the least difficult to establish.

But also in the field of business, returning to the field of business, we felt very strongly there should be some grounds for promotion and for optimism on the part of the younger employees.

It has been figured out that by having somebody retire at 65 as opposed to 70, it has a ripple effect of 5 to 8 additional promotions. This again speaks well for the initiative and the effectiveness of the American industrial machine.

For these reasons I would like to see us hold firm to the original amendment, to the original language of the bill, which I supported in the committee and combined the amendments of my junior colleague from Rhode Island, the Senator from Maine, and my own.

Mr. CRANSTON. Mr. President, I would like to say just in very brief response to my good friend from Rhode Island, first, on the matter of young people, there can be no assurance that if somebody who is 65 or thereabouts retires that somebody who is 20 or 30 will replace that person.

On the matter of employment opportunities for minorities and women, I wish to point out that the very groups the distinguished Senator from Rhode Island argues are in need of employment opportunities are the same groups which are hit the hardest by mandatory retirement.

Blacks and women, who are generally underemployed in our society also have the lowest retirement benefits because of the limited duration of their prior employment and low rates of wages. Forced retirement for minorities and women all too often means relegating them to an existence at the poverty level with less than adequate income to insure a decent retirement living standard.

For this reason, such groups as the National Center on Black Aged, the National Association for the Spanish-speaking Elderly, the National Indian Council on Aging, and the National Organization for Women oppose mandatory retirement legislation.

Mr. President, I ask unanimous consent that there be printed in the RECORD statements by the National Organization for Women (NOW) on the effects of mandatory retirement laws on women, and by the National Caucus on the Black Aged setting forth the reasons why mandatory retirement strikes especially hard at the black elderly.

These statements amply demonstrate that older women and blacks have a vital interest in elimination of age discrimination for all workers.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT ON MANDATORY RETIREMENT

The National Organization for Women (NOW) supports passage of H.R. 5383 (Pepper) as an important step toward elimination of age-related mandatory retirement. H.R. 5383, as reported unanimously by the House Committee on Education and Labor to the House floor on July 14, would ban age-based mandatory retirement in Federal Service, in the private sector to the age of 70, and would assure, with a few exceptions, that those between the ages of 40 and 70 will not be forced to retire because of a retirement age written into a pension plan or seniority system. Chronological age, like sex, is a poor indicator of ability to perform a job.

Women have a special stake in elimination of age-based retirement practices. A majority of women try to return to the labor market after their children are raised. They often have a difficult time finding work, in part because they are too close to the retirement age. If they do find employment, forced retirement limits the years which they can work to build up pension benefits or social security credits.

In addition, one-third of women in their middle years are no longer married. Of persons over 65, less than one-quarter of the men but well over half of the women are without spouses. In this age bracket, there are five times as many widows as widowers. Women alone seek work for economic as well as psychological reasons, and many would continue working if not forced into idleness and loneliness by mandatory retirement rules.

Women have a greater need than men to have the option to continue working, because of their lower economic status and more limited resources on retirement. Eighty percent of female retirees (as compared with 68.6% of male) have no pension to supplement social security. In the 55 to 64 age bracket, the median woman's income is about one-third of her male counterpart. But on top of this, earnings replacement rates of retirement income are lower for women than for men. Because more men than women receive pensions in addition to social security, the median income replacement ratio for women is 38% as compared with 43% for men. According to the Task Force on Social Security Paper prepared for the Senate Special Committee on Aging, "A retirement income crisis now affects millions of aged and aging women and threatens to engulf many more." ("Women and Social Security: Adapting to a New Era"—Special Committee on Aging, U.S. Senate, October 1975). More than two out of every three poor persons 65 or over are women. The average benefit for an aged widow falls $78 below the $2,574 (official poverty threshold for an elderly single woman, and this $200 a month is too low to live on in decency. Almost three times as many women receive SSI welfare as men.

In part because of mandatory retirement, women tend to retire earlier than men, which aggravates their economic situation. Over 70% of eligible women apply for social security before age 65, and by so doing receive lower benefits for life through actuarial reduction. In many cases there is pressure upon women, who tend to be younger than their husbands, to retire early when their spouses reach mandatory retirement age.

Women also have a special stake in the elimination of mandatory retirement because of their greater longevity. Because most women outlive their husbands, and the compounding impact of inflation systematically reduces the value of fixed incomes, more and more women desperately need the opportunity for employment in their middle and late years. Coping with combined age and sex discrimination in employment is bad enough without legally sanctioned restrictions.

While the argument is sometimes made that mandatory retirement opens up more jobs for women, evidence suggests that such jobs are more often phased out or filled by men. Furthermore, in industries where mandatory retirement has been eliminated, the large majority of persons with adequate income choose to retire at 65 or earlier.

NOW supports equal opportunity for all people, and our organization considers dis-

crimination based on age to be as odious as discrimination based on sex or race. By sanctioning mandatory retirement, this nation reinforces the myth that to be old is to be feebleminded and worthless, which then becomes a self-fulfilling prophecy to the detriment of our whole society.

For these reasons, and because we believe that a full employment program to provide jobs for all those willing and able to work is the only solution to a contracting labor market, we urge support of H.R. 5383, and will work for its passage.

THE NATIONAL CAUCUS ON THE BLACK AGED OPPOSES MANDATORY RETIREMENT

The National Caucus on the Black Aged advocates elimination of the several policies in government, industry and business, which force a physically active and productive individual into retirement merely because he or she has reached an arbitrarily set chronological age.

Compulsory retirement denies society the benefit of the skills and abilities of the older worker which have been accumulated through years of experience. It strikes especially hard at the Black elderly in their particularly paradoxical situation. Having worked extremely hard at menial physical labor for low pay, all of their lives, over sixty percent of the Black elderly are most deserving of a rest in their senior years, yet they are least able to afford it. So, unlike most of their white counterparts, to whom retirement means feelings of rejection and worthlessness but economic well being, for the Black elderly, retirement too often means abject, grinding poverty, with no respite from pain, loneliness and isolation.

After having attained the age for full Social Security benefits, retirement should be a matter of personal choice. At that point an individual should be allowed to work until he or she is no longer able to produce at full capacity.

The National Caucus on the Black Aged does not accept the contention that this country, with its trillion dollar gross national product and the multi-billion dollar aggregate income of its industries, cannot maintain productive older workers on their jobs, as well as provide them a decent income in retirement. Social decency demands that we do this. Public opinion will accept nothing less.

Mr. PELL. Mr. President, if the Senator will yield——

Mr. CRANSTON. I yield.

Mr. PELL. I would also like to cite the specific statistics of Brown University, where I am a trustee, and where I was at a meeting of the trustees 3 days ago.

The problem we faced there is that because of the financial distress reason we have to reduce the faculty by about 15 percent.

Since 70 percent of the faculty is already tenured and, as I pointed out earlier, can only be let go for reasons of moral turpitude, gross incompetence, or the financial distress of the institution, it means that out of the remaining 30 percent half have to be let go, and what has happened is that the very groups the Senator from California has referred to, blacks and women, are in that 30 percent. So what it means is that they are going to bear the brunt of the people who are going to be let go. Just the opposite set of circumstances is arising in the institution with which I am most familiar.

Mr. CRANSTON. Mr. President, I am prepared to yield back time in order to expedite the action on the amendment.

Mr. WILLIAMS. I just wondered if the junior Senator from California wanted time at this time?

Mr. HAYAKAWA. Yes.

Mr. DURKIN. Mr. President, will someone yield for a unanimous-consent request?

Mr. WILLIAMS. I yield.

Mr. DURKIN. Mr. President, I ask unanimous consent that Mark Coven, Robert Solomon, and Jane Yanulis be given floor privileges during the remainder of this and the GI bill which follows.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, will the Senator yield for a unanimous-consent request? I ask unanimous consent that Senator HEINZ be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, will the Senator yield? I ask unanimous consent that Peter Harris of the Committee on Human Resources be given permission to be on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that Ginny Eby of Senator HAYAKAWA's office, Chris Brewster of Senator DANFORTH's office, and Marianne Simpson of Senator STEVENS' office be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, we are controlling the time in opposition to the Cranston amendment, and I understand the junior Senator from California desires to speak.

Mr. HAYAKAWA. I thank the Senator.

Mr. President, I do wish to speak against this amendment. As one who spent my entire life in academic pursuits in universities teaching, I would say that one of the most serious problems we have in academic life is the static quality of life in universities because it is so slow in turnover of personnel.

It is not only because people take a long time to retire, but because they have tenure they do not move from place to place as they do in industry, so that you have to wait not just for senior professors to move somewhere else, which they never do, but you have to wait for them to reach the age of 65.

The stagnation that results in so many departments and universities which is the result of this slowness of personnel turnover is something which has always distressed me about academic life.

In fact, it distressed me so much when I first acquired tenure in the year 1948 I resigned in order to keep moving because it is kind of a trap; it is a trap that people welcome.

I just got news the other day that some of the professors in the English Department at the University of Wisconsin, where I studied in its graduate school over 40 years ago—it is nice to include the young professors with whom I studied—they have just been there almost 40 years, and they just retired. It means that that particular department for 40 years had no room for other personnel, young students and Ph. D.'s, and so forth. This stifles university development and stifles authorship and curiosity, and if you extend the retirement age to the mandatory age of 70, the thing simply grows worse to the frustration of ambitious young men and women and minority groups, and so forth, who would like to move up in their profession.

One idea that has occurred to me—and I do not know how it is going to be adopted, but it illustrates the point—I understand that many corporations have a custom of retiring executives at the age of 55, at which point they do not quit work, they retire at half pay or two-thirds pay, and for whom no further tenure rights exist.

The point of it is this: With their children grown up, their family budgets and their expenses are not as great as they were when their children were in high school or college, and so, at the age of 55 or 60, they can live on less, and then they can continue, year by year at reduced salaries on an individual basis, subject to physical examination.

If a retiring professor, at 65 or 68, under the new system, is getting $30,000 a year, he gets $30,000 a year regardless of the fact that his children are grown up and he does not have the expenses any more, and therefore he takes up a whole salary level that would hire two young instructors. This freezes an unreasonable amount of stagnation into academic life, and slows down the progress, especially, of the younger people who want to get up in the world.

So, Mr. President, just as a matter of preventing stagnation in academic life, I would like us not to extend the mandatory retirement age to 70 for teachers and professors. The thing that is important about teachers and professors is the fact that they should get around, expose themselves more, have more time for the development of theories, which is what advanced educations are for. They should have a larger degree of freedom in order to make maximum use of their background and experience, and in order to take advantage of these new programs in extended education and continued education in outfits like the school at Brown University to which our distinguished colleague from Rhode Island has referred, affording opportunities for retired professors at 65 who are still in full possession of their faculties. There is lots of room for them in the world as now constituted, because education itself has changed so much.

There are, as I say, these external degree programs. There are extension programs, continuing education programs, and so on, and all sorts of interstitial places in the academic system where they fit in very well, in their own time and on their own level of activities.

This is the reason, Mr. President, why I oppose the amendment.

Mr. CRANSTON. Mr. President, will the Senator yield for a question?

Mr. HAYAKAWA. Yes, indeed.

Mr. CRANSTON. I was unclear about part of the Senator's statement. Was he objecting to a mandatory retirement age by legislation which the Federal Govern-

ment would pass for the Nation, which would, in effect, tell schools at what age teachers should retire?

Mr. HAYAKAWA. No. The thrust of the present legislation, is it not, is that the Federal Government is requiring that companies and institutions not require retirement before the age of 70?

Is that what is proposed?

Mr. CRANSTON. Yes, that is the effect of my amendment.

Mr. HAYAKAWA. Yes. Well, I do not want teachers included under that particular "protection."

Mr. CRANSTON. I thank the Senator.

PRIVILEGE OF THE FLOOR ON S. 457—GI BILL IMPROVEMENT ACT OF 1977

Mr. CRANSTON. Mr. President, I ask unanimous consent that committee staff members Jon Steinberg, Ed Scott, Jack Wickes, Mary Sears, Erica Baum, Babette Polzer, Gary Crawford, and Garner Shriver be granted the privileges of the floor throughout consideration of S. 457, the next item with which we will be dealing.

The PRESIDING OFFICER. (Mr. ZORINSKY) Without objection, it is so ordered.

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 5383.

Mr. CHURCH. Mr. President, as a cosponsor of the amendment that has been offered by the distinguished Senator from California, I would like to say a few words in support of it.

I listened with great interest to the remarks of the junior Senator from California, whose credentials as a professor cannot be questioned, I cannot reply to him in terms of one who has spent his life in that capacity. However, in my university years, the professors who had the greatest influence on me and, as far as I can remember, on my fellow classmates were the older professors. Certainly that was true in my law school experience. But it was also largely true in my undergraduate experience. The teachers I remember today were senior professors with much seasoning and skill, who had achieved an eminence in their particular disciplines after many years of teaching.

It seems to me that if we are establishing a policy of moving the permissible age for mandatory retirement from 65 to 70, there is no reason to exclude university professors. In fact, based upon my own experience, that would be one group I would want most to see included in a bill of this kind.

After all, Mr. President, the bill is certainly not a radical departure from present law or policy. It simply extends the existing upper age limit of the Age Discrimination in Employment Act from 65 to 70. The bill does not lead public opinion on this issue; it follows.

I call the attention of the Senate to a very interesting article in the Wall Street Journal. It is a short account, and I should like to read it to the Senate, in order to demonstrate that public opinion in this country is well ahead of the bill we are now considering. The article reads:

> Nearly two-thirds of all Americans oppose mandatory retirement at any age, according to a special survey conducted for the Conference Board.
>
> The board, a business research organization based here, said the strongest opposition to compulsory retirement came from younger workers, those with higher incomes, and those in white-collar jobs.
>
> Some 5,000 households were surveyed for the board by National Family Opinion Inc., Toledo, Ohio. The poll was taken in September just before the House of Representatives passed a bill raising the mandatory retirement age to 70.
>
> Nearly 64% of those surveyed opposed compulsory retirement at any age. Some 32% back mandatory retirement at age 65 or earlier, while 4% favor retirement at 70.
>
> About 75% of those under 25 oppose mandatory retirement at any age, compared with 56% of those in the 55-64 age group.
>
> More than 68% of the families in the $20,000-and-over bracket oppose compulsory retirement, against 58% for those with income under $10,000.
>
> Some 69% of the white-collar workers are against forced retirement, compared with 62% of the blue-collar workers.

So, Mr. President, no matter how you view the country—whether you consider the opinion of blue collar workers or white collar workers, or whether you look at each category in terms of actual income—the overwhelming sentiment of the people of this Nation is against involuntary retirement at any age.

This reflects an understanding that older people who wish to continue to work actively should have that opportunity. Some may want to postpone retirement, out of a love for the work they do. Others, in vigorous health, may be unprepared for a life of leisure, knowing they still have much to contribute to society.

For these reasons, I support the bill without exemptions. In my opinion, it makes no sense to carve out an exception for professors who hold tenure at our universities. My own personal experience would suggest that they should definitely be included in the bill.

One of the major purposes of the 1977 Age Discrimination in Employment Act amendments is to permit productive workers to remain on the job.

This goal is not well served by carving out exemptions in the law. These exceptions will only dilute or weaken a bill which already has strong bipartisan support.

The better course of action, it seems to me, is for businesses and educational institutions to determine carefully whether their existing employment and tenure practices need modification in our changing society.

The proposed exemptions reflect a fear that prohibiting mandatory retirement before age 70 would somehow clutter businesses and classrooms with unproductive and incompetent personnel. The evidence is to the contrary.

First, several studies make it clear that older workers perform as well on the job as younger workers.

The New York State Division of Human Rights, for example, found that employees 65 or older are generally equal to, and in some cases noticeably better than, their younger counterparts in the areas of attendance, punctuality, on-the-job safety, and work performance.

Second, all evidence suggests that the vast majority of older workers will continue, as they have in the past, to retire upon becoming eligible for social security, or shortly afterwards. Employees would still be free to retire at earlier ages—such as 60 or 55—under the 1977 Age Discrimination in Employment Act Amendments, provided this is done voluntarily.

The Department of Labor estimates that perhaps 175,000 to 200,000 persons would delay retirement because of this legislation. This figure, however, is small, considering our civilian labor force is approaching 100 million now. Surely, these older workers, who would represent only about two-tenths of 1 percent of the work force, can be absorbed by even a very modest rate of economic growth.

Supporters of these exemptions may claim that mandatory retirement can save face for older workers who are coasting into retirement, sparing them and their employers the burden of competency-based evaluations. But I think the central question here is whether it is fair to shield a small group of persons who may not be performing satisfactorily by denying a far larger number of productive workers reaching a certain age from continuing to work. Administrators and personnel officers constantly make judgments each day about the competence of employees under 65 years of age. Why does it suddenly become so much more difficult when these same workers reach age 65? On-the-job standards applicable to those under 65 should also be applicable to those in the 65-plus age category.

Older workers are not asking for any preferential treatment. All they want is a chance to compete on equal terms with others on the basis of ability and not chronological age.

As chairman of the Senate Committee on Aging, I strongly believe that they deserve this opportunity.

Mr. President, I ask unanimous consent to have certain items printed in the RECORD.

The first is a letter from one of my constituents—Dr. Ralph Maughan, a 32-year-old professor at Idaho State University.

Dr. Maughan is opposed to the exception for university faculty members with unlimited tenure. He says:

> . . . Keeping the retirement age at 65 may aid me to advance faster. However, old age is a minority that almost everyone eventually joins (hopefully including myself). I'm not too anxious to advance faster now only to be forced out before I feel I'm ready.

He also points out that Idaho State University has a tenure competency review every 5 years. Other higher educational institutions may wish to follow Idaho State University's tenure policy. This approach, it seems to me, is much more desirable than attempting to create

a special exemption for all tenured professors.

Second, a recent New York Times editorial opposes the exemptions in the committee bill for teachers and executives, saying:

. . . There should be no specific exemptions for professors or teachers or executives; the problems that would confront these institutions exist in other occupations as well. All institutions should seek seriously to understand the consequences—and opportunities—of a change.

Third, I insert a recent column by Marc Rosenblum, which appeared in the New York Times:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OCTOBER 4, 1977.

The Honorable FRANK CHURCH,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: I want to go on record as supporting enactment of legislation that would raise the mandatory retirement age to 70. I also oppose attempts to exempt certain industries or types of jobs, particularly those attempts by educational organizations to get an exemption for teachers.

I am a college professor, age 32. Keeping the retirement age at 65 may aid me to advance faster. However, old age is a minority that almost everyone eventually joins (hopefully including myself). I'm not anxious to advance faster now only to be forced out before I feel I'm ready.

There is a glut of job seekers now in education, but who really knows what will be the case in 35 years? The decline in birth rates now means fewer students, but in 20 or 30 years it will mean a shortage of professors. Not everyone in education is as short-sighted as some of the organizations that claim to represent us on this issue.

Finally, let me make a comment on the issue of tenure. It is claimed that raising the retirement age for professors will lock in unproductive persons who can never be fired. Here at Idaho State University we have a tenure competency review every five years. An unproductive tenured faculty member can only rest for a term not exceeding five years.

Thank you for your consideration.

Sincerely,

RALPH MAUGHAN.

[From the New York Times, Oct. 9, 1977]

HOW RETIREMENT SHOULD WORK

The graying of America has transformed politics and it is about to transform the nation's retirement policy. Last month, with uncommon speed and near-unanimity, the House voted to lift the mandatory retirement age from 65 to 70 and to eliminate mandatory retirement altogether for employees of the Federal Government.

The Senate is now pondering the same measure, but its bill would still permit the mandatory retirement at 65 of teachers and high-paid executives to meet the fears of schools and corporation that younger talent would be denied employment and advancement. Many businessmen remain opposed to the legislation because of the uncertain consequences for pension arrangements and personnel policies. Unions are opposed because they fear higher unemployment among younger workers. The Administration, also worried about unemployment, is lukewarm.

Some of the concern arises from the confusion of two distinct policy issues in one bill. To eliminate all age limits on work is one question; to raise the age for mandatory retirement to 70 is another.

The opposition to any age limit on work is, clearly, appealing in principle. The courts and Congress have established that the right to a job should be determined only by ability and not by color or sex—until a person turns 65. Now the idea is dawning that this is both arbitrary and discriminatory. In a recent poll, 86 percent of those questioned agreed that "nobody should be forced to retire because of age if he or she wants to continue working and is still able to do a good job." That well explains the political momentum behind the demands for change, not only in Congress but in many states and inside many businesses. If Congress fails to address the situation, the courts probably will.

Poignant arguments accompany the demand. Many people feel no automatic loss of ability or capacity at age 65. That age crept into social custom and law because Bismarck used it for a public retirement program in Germany in the late 19th century—when life expectancy was much shorter than today. The age was borrowed by Social Security in the 1930's and it is common today in pension and retirement plans. Incalculable human talent—and spirit—has been wasted as able workers have been forced into premature idleness. Now that most people live well beyond 65, while the value of their pensions declines dramatically with inflation, the problem has been greatly compounded.

But the attractive principle of judging every worker individually must not be hastily enacted, for two reasons. First, it would unsettle existing work arrangements throughout the country, in wholly unpredictable ways. No one can be sure of the financial and social costs. Second, the principle has a disruptive corollary: If workers are to be judged individually on merit at retirement time, they will inevitably come to be judged more severely throughout their careers, perhaps losing the virtual tenure and job security that have been acquired over recent decades—and not just on campuses.

Employers typically give workers a test run on a job for a relatively few years, or even months. After that, firings are rare even where competence and productivity are in doubt. In part, this tenure tradition persists because employers can count on a terminal date for the retirement of inferior workers. If workers come to be judged on merit and productivity in later life, they will face less lenient judgment in earlier life as well.

In light of these competing rights, it would be irresponsible to legislate a principle before the consequences are understood. Fortunately, a major experiment is at hand. California has recently abolished all mandatory retirement. Congress should await the results before imposing the experiment on the entire nation or the Federal Government.

Extending the productive work years to age 70 would be just as arbitrary as the past fascination with 65. But given the changes in life expectancy and the social value of moving toward a system that weighs individual merit and capacity, it is an attractive proposition.

No one really knows how many workers would claim the extension; the trend in recent years has been toward earlier retirement, not later. What people seem to want most, and deserve, is greater choice. The savings that business firms might make on pension funds from later retirements could perhaps be invested in incentives for the earlier retirement of workers who lose their effectiveness. In no event should the legal opportunity to work until 70 diminish workers' financial opportunity to retire sooner. That would be pedaling backward in the name of progress. Congress needs time and care to weigh this factor.

Congress should also give employers with union contracts at least two years, as proposed, to examine the consequences of a change and to renegotiate retirement features. The Secretary of Labor, with particular responsibility for reducing unemployment, should retain the power he now has to authorize earlier mandatory retirement wherever the national standard causes social hardship. There should be no specific exemptions for professors or teachers or executives; the problems that would confront their institutions exist in other occupations as well. All institutions should seek seriously to understand the consequences—and opportunities—of a change. The hard-pressed Social Security trust funds may benefit if enough potential recipients remain active contributors, but this too needs study.

Recognizing the merits of a move away from mandatory retirement at 65—or, indeed, any automatic age—we urge Congress to accept the principle and to place the country on notice of a change to 70. At least a year for planning the transition, however, is essential; two years are probably desirable. The available experience could then be absorbed and incorporated into the law.

THE SENATE AND AGEISM

(By Marc Rosenblum)

WASHINGTON.—Business and higher education have combined to oppose extension of Federal age-discrimination laws to persons beyond age 65. Their efforts led to adoption recently of two exemptions that would negate the proposed legislation's effect on executives and professors.

These exemptions reflect the fear that forbidding mandatory retirement between ages 65 and 70 would result in the nation's board rooms and classrooms becoming haven for the senile. Such fears run counter to most available evidence. Nevertheless, sufficient pressure on the Senate Human Resources Committee led to adoption of amendments excluding from coverage businessmen who are to get $20,000 pensions and tenured professors.

The Senate should reject these exemptions or, alternatively, the House-Senate conference that will reconcile different versions of the 1977 Age Act amendments should refuse to accept the weaker Senate formula. The House, 359 to 4, passed legislation forbidding termination of employees before the age of 70 in the private sector without excepting special-interest groups.

These groups' special pleadings are unfounded, unnecessary and, in light of a recent Federal court ruling, probably unconstitutional. Underlying the academic and business opposition is concern that traditional staffing policies will require revision, without consideration of the adequacy of such practices in a changing environment.

The customary policy of permitting unproductive executives to coast into retirement and providing tenure protection unrelated to academic performance might be aggravated by extending the Act's coverage to age 70. But it is these hoary practices themselves that require re-examination; they should not be permitted to serve as an excuse for diluting a bill that permits all productive older workers to remain on the job.

Largely absent from most news analyses and press coverage is any indication of the substantial extent to which Federal law permits nonproductive business executives and professors—to be removed legally. Thus, special exemptions should be viewed as nothing other than a convenience for groups unwilling to face the shortcomings of their own ingrained practices.

Even the argument that younger workers' ambitions should be a factor in pending legislation may be unlawful under the Fifth Amendment. A Federal court held recently that equal-protection guarantees preclude

the singling out of certain employees for early retirement when most others in similar circumstances were allowed to continue. Moreover, the three judges specifically rejected as illegal the argument that personnel practices affecting older workers could be based on a policy of enhancing the status of younger ones.

The opposition of business leaders and higher education, while ill-founded, was not unexpected. The same cannot be said of the National Urban League leader, Vernon B. Jordan, Jr., who believes that blacks would suffer if older workers were better protected from job discrimination. The expedient trade off of one group's civil rights by those supposedly sensitive to discrimination serves to particularly underscore how engrained *ageism* is in American life. In truth, not only would older black workers benefit from the revised statute immediately, but younger blacks—and other minority members as well—as they got older would enjoy the law's protection.

The overwhelming majority of older workers will continue to retire on becoming eligible for Social Security, or soon after. Perhaps 200,000 would postpone retirement for a number of years, but that number could easily be accommodated by any resumption of economic growth. To suggest, as do opponents of the bill's original version, that our 100-million-member labor force cannot properly function if protection is extended to all workers between age 65 and 70, is to deny our economic system's vitality and underlying strength.

The Senate ought to recognize that the House has passed a better version of the Age Act amendments. While short of ideal, it more nearly captures the belief that added safeguards are needed for the older worker. The final language that both houses send to President Carter should reflect that realization.

Mr. CHURCH. I hope the Senate will see fit to adopt this amendment.

Mr. CHAFEE. Will the Senator yield for a question?

Mr. CHURCH. Certainly.

Mr. CHAFEE. The Senator has pointed out his experience in law school, that the older professors were found to be the most effective. That is the very point of this legislation. To discuss the legislation in terms of compulsory retirement it seems to me is inaccurate. The point is that anybody can be kept on after 65, as apparently the professors in the law school of the distinguished Senator were. There is no mandatory requirement that professors with tenure be retired. They can be kept on the faculty.

What this does is to say that they do not have a right to be kept on in their tenured status. Of course, tenure means that their performance cannot be objectively evaluated. The distinguished senior Senator from California said they can be let go for cause, but suggest I would like to have cited somewhere in this Chamber an instance where a tenured professor was let go for cause. I understand in the history of Harvard, in 300 years-plus, there has never been a professor let go for cause even though one did murder his wife and did go to the electric chair with his tenure still intact. (Laughter.)

Mr. CRANSTON. I do not want to name an individual, but I do have the names of individuals who have been retired for cause in my own State of California.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Does the junior Senator from California want to proceed?

Mr. HAYAKAWA. I yield to no one, Mr. President, in regard to concern for the aged, in view of the age of myself. I believe they are important parts of society. Nevertheless, I cannot help but be impressed by the fact that economically speaking they do not need the protections of tenure any more, nor do they need a full professor's salary any more. There are many, many opportunities where the young take advantage of their experience by attending all kinds of senior institutions or institutions where seniority is respected and valued, as the Hastings Law School, which Senator CHAFEE mentioned. There are other institutions of a similar kind. There is the emeritus program, for example, at the University of San Francisco, in which emeritus professors from various institutions lecture to groups of students in philosophy, religion, and other subjects. These new, innovative programs in adult education, in professional education, and in postgraduate seminars, and so on, are springing up all over the country.

It is not as if compulsory retirement at 70 would throw these people out on the street with nothing to do. There is still ample opportunity for the public to make use of their talents and their experience.

I cannot help but again think in terms of the younger teacher who wants to broaden his profession. I cannot help worrying about how, in an academic life, there is the history of keeping old people in their present posts, absent the possibility of promotion.

In this situation, I sympathize very much with the young, with the minorities.

I thank the distinguished Senator for yielding.

Mr. CRANSTON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. HATHAWAY. Will the Senator from New Jersey yield 5 minutes?

Mr. WILLIAMS. I yield 5 minutes.

Mr. HATHAWAY. Mr. President, I think perhaps our differences would be settled if we could come to some agreement on what we mean by unlimited tenure. When the Senator from Rhode Island offered his amendment in committee, it was my understanding that what we were protecting against was the situation where the school could not discharge a professor who was no longer competent even when he reached the age of 65. With that understanding, I offered the amendment that such tenure not be allowed at elementary and secondary schools beyond the age of 65, subject, however, to State law. Certainly, the reasons for discharging a teacher who is no longer competent are more pressing at that level of education than later.

It seems to me, from what I have heard this morning, that perhaps tenure does not mean what I originally conceived it to mean. I assumed that it meant that the person who had tenure could not be fired for incompetence. If I am wrong in that regard, I wish someone, either for or against the amendment, would correct me. It seems to me that if that is the definition of tenure, no one should have any disagreement that someone who is incompetent should not be kept on after the age of 65, as this bill would do.

Mr. CHAFEE. Tenure means that the member has permanent membership in the professional faculty and he has status and the assurance of continuous academic employment, barring incompetence or his being fired for cause. The problem is trying to prove incompetence or just cause. History shows that it is practically impossible to do that. I suppose if a professor shows up drunk 3 months in a row, that would indicate lack of competence and they could fire him for cause. But if he drifts along doing the minimum, not producing to the highest standards of the university, then there is no way in the world that a professor can be let go.

Mr. HATHAWAY. If the Senator will yield, what is the difference between the competency standards required for a tenured professor and one who is not tenured?

Mr. CHAFEE. The untenured man can certainly be let go for any reason the university deems sufficient, such as to make room for somebody else. They do not have to prove a case. It is just like an employee who works for any of us. The employee can be let go. The Senator does not have to prove to the world the person is not competent. It may be that one just does not want him around.

Mr. HATHAWAY. So while there is no reason that he would have to be shown to be incompetent, the tenured one would indeed have to be proven incompetent. Is that correct?

Mr. CHAFEE. Yes. But it is very difficult to prove. The distinguished Senator from California stated he knew of some who had been let go. I can only discuss university faculty. I am not familiar with elementary or secondary school teachers.

Letting the one with tenure protection go is very, very difficult. I shall not say impossible, but I would say it is very difficult.

Mr. HATHAWAY. It seems to me that the answer that the Senator from Rhode Island is giving is, in effect, protecting the schools from doing something that they are unwilling to do themselves. Would that be a fair statement?

Mr. CHAFEE. No, because that is the very definition of tenure, to give protection to professors. It was originally conceived in order to give protection to professors in the cause of academic freedom, so they could speak forth on whatever they desired without being subject to harassment or discharge. That is what tenure is all about. The question is, Should it be extended to the age of 65 without having any right of review, as now exists when somebody is reviewed?

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HATHAWAY. May I have an additional 1 minute?

Mr. CHAFEE. I do not control the time.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HATHAWAY. It seems to me that the reason some professors who have tenure have not been fired is, as the Senator from Rhode Island said, because the board of trustees or the governing body of the schools has been reluctant to discharge them for incompetence. But it does not then seem to me that Congress should take that role into its hands and go ahead so as to save the schools from whatever embarrassment it might cause them for calling these professors to task for incompetence.

Mr. CHAFEE. The question is not always one of incompetence. It is a question of being able to produce at the high level that we hope that university professors will. Furthermore, as we will see as we get into the subsequent debate, the problem more involves the situation universities and colleges are in as a result of the tremendous expansion and the majority, close to 80 percent, of their faculty being tenured, with no opportunity for the younger people to come in below, as my senior colleague from Rhode Island pointed out.

Mr. HATHAWAY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. I am prepared to yield back my time on the amendment.

Mr. WILLIAMS. We yield back our time.

Mr. JAVITS. I yield back my time.

UP AMENDMENT 949

(Purpose: To strike one exemption from the provisions of the Age Discrimination in Employment Act of 1967.)

Mr. CHAFEE. Mr. President, I send to the desk a perfecting amendment to the language proposed to be stricken by Mr. CRANSTON.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows.

The Senator from Rhode Island (Mr. CHAFEE) proposes unprinted amendment numbered 949.

On page 11, line 4, strike out down to and including line 11.

Mr. CHAFEE. Mr. President, I understand we have an hour on this.

The PRESIDING OFFICER. That is correct.

Mr. CHAFEE. I do not know how it should be divided.

Do I control 1 hour?

Mr. JAVITS. Mr. President, I ask unanimous consent, whatever may be the agreement, that Senator CHAFEE control the half hour.

The PRESIDING OFFICER. The mover of the amendment would get the half hour and the manager of the bill would get the other half hour, unless he is in favor of the amendment.

Mr. WILLIAMS. I believe it would be appropriate for the Senator from California to have the opposition time.

Mr. CRANSTON. I thank the Senator very much.

Mr. CHAFEE. Mr. President, where we are now is that Senator CRANSTON has submitted an amendment which would eliminate the three exemptions that are currently in the bill. Namely, he would eliminate the tenured professors, he would eliminate the executives whose pensions are over $20,000 a year, and he would eliminate the tenured elementary and secondary school teachers.

The effect of the perfecting amendment which I have submitted eliminates only the tenured professors and executives whose pensions are over $20,000 from the provisions of the bill. The elementary and secondary school teachers are untouched. In other words, they would be included in the bill and be able to go to 70 should the local community not find cause, other than age, to discharge them. Mr. President, I should like briefly to address the tenured professor situation and then my colleague from Rhode Island will discuss the executives whose pensions are over $20,000 exclusive of social security.

I might say, Mr. President, that I am for this bill and I am for the concept. As a matter of fact, I supported a bill that went much farther than this. I am a cosponsor of the bill submitted by the senior Senator from New York that would eliminate the retirement age completely. However, that did not receive favor, and now we are just talking about extending the prohibition against discrimination to the age of 70.

The part I am addressing is the tenured professors. It seems to me that we are not bearing in mind here the fact that tenure is something unique. Tenure provides for a career-long appointment without any real means of objective review.

I am not for abolishing tenure. Some people say, well, leave it up to the universities; they ought to handle this problem themselves; get rid of tenure. I do not think we want to get rid of tenure in our universities. It is a very important method of providing academic freedom. The universities need and they do support the tenure system. So I am not suggesting, and I do not think anybody here is seriously suggesting, getting rid of the whole system.

Let us talk about demographics. Demographics have been mentioned here with regard to the population getting more elderly. That is true. But there is another part of demographics. The universities and colleges all expanded, as we wanted them to do, very drastically in the 1950's and the 1960's. They gave us our education, many of them. They did expand to meet this increased demand. But now they are in a contracting period, because of demographics. There are fewer young people coming along.

Let me take the University of Rhode Island, in my own State. In 1979, the eligible high school graduates from Rhode Island will be 14,000. Fifteen years from now, there will not be 14,000. There will be only 8,000 in this pool. We know this. We know where the young people are.

This, combined with the financial constraints placed upon all our universities, but especially our privately supported ones, like all the ones we know about—just what has been mentioned about Brown University applies to Yale, to Harvard, to any private university we can talk about, privately supported ones. They are having to contract their faculties. This means that they are reducing the number of their faculties. Already they are at 60 to 80 percent tenured faculty. So the young, untenured ones at the bottom go out and soon there will be 90 percent, perhaps, of their faculties tenured. All this means that there is no opportunity for the young Ph. D.'s, the people we need, if we are going to keep this leavening in our colleges alive.

We talk about minorities. The Senator from California is concerned about minorities. What I am talking about are the minorities who are not there now, who are not tenured and will not have an opportunity to be tenured if this legislation passes, because there will not be the openings. If they are going to keep openings for affirmative action—and I have dealt with this on a university board—we have to have the openings through retirements. That is the only way we can achieve the openings.

So, who is going to be worse hit by this bill? The women and the minorities.

Mr. President, if we are seriously concerned about the quality of our universities, it seems to me that we have to bring along the young people. Here is an example, an interesting one, which is a fact: the average age of the Nobel prize winners at the time they did their prize-winning work—not when they got the Nobel prizes, but when they did their prize-winning work—is 28 years. These are the people we have to look to, for the good of the country and for a whole host of other reasons.

I want to point out something else: nothing in this bill prohibits a professor's contract from being extended after 65. The Senator from Idaho mentioned that his professors were good after 65. Great. They can stay on. Their contracts can be extended. There is nothing that prevents that.

Furthermore, any State can pass legislation that keeps a professor, a teacher, anybody, on until age 70. There is nothing in this legislation that overrides a State law. That is more liberal than the Federal law. If California wants to keep the professors on, tenured professors, until 70, that is their right. There is nothing that prohibits it in this legislation.

In conclusion, Mr. President, we are venturing into new territory with this legislation. There is no doubt about it. There is a tremendous sentiment behind it and it has whipped through the House of Representatives with only, I think, four dissenting votes. I am for it. I think everything is for the concept. But if we pass it with these two exemptions I am fostering and encouraging today—and if we feel we do not like them, we can always change the act.

There is nothing that prohibits that. But let us take a look at what we are doing, Mr. President.

Therefore, I very strongly urge the support of the Members for the perfecting amendment as presented.

Mr. President, I would like to yield, and I believe we have 26 minutes.

Mr. WILLIAMS. Will the Senator yield for a moment?

Mr. CHAFEE. Yes.

Mr. WILLIAMS. Mr. President, I, too, am concerned with the amendments that have been proposed and accepted in the committee providing for exemptions from the prohibition against mandatory retirement for certain classes of employees. One of the major difficulties is that no hard evidence was presented in the hearings to justify these exemptions as they have been presented. Indeed, in my discussions at the time with business leaders and representatives of higher education, it was suggested that additional time was needed so that they could come forward with the evidence which would support the exemptions.

My deepest concern throughout the consideration of this bill has been for those who simply do not have adequate retirement income on which to maintain an adequate standard of living. There are many, many Americans who fall into this category. To the extent these exemptions do not apply to low-income Americans, I am less concerned about their enactment.

There has never been any question in my mind that management ought to be able to keep promotional channels open for younger employees. However, even though the amendment has been very carefully drafted. I was not entirely certain that it would have a limited application.

Fortunately we now have the results of a study of 17 major corporations which reveals that, if the retirement formula in the amendment applied to those corporations in 1975 only 392 employees or about 1 percent of 82,000 employees who retired in 1975 would have qualified under the exemption.

Consequently I am now convinced that the exemption for business executives should be adapted.

In committee I voted against the amendment which would extend the education exemption for tenured faculty members to elementary and secondary schoolteachers. No evidence whatsoever was submitted that this was either necessary or desired, and indeed today we see that groups representing these teachers are opposed to the exemption. In my view, it is not justified and should be rejected.

I am, however, persuaded that there is some justification for the exemption covering faculty in colleges and universities. There are two principal reasons for this: First, I think there is a difference between a university and other institutions with respect to the ability of the employer to discharge an employee for cause.

The normal tenure contract usually offers protection under a career-long appointment with an explicit agreement that retirement will come at a fixed age. Unlike a blue-collar worker who may have the protection of a collective bargaining agreement permitting discharge for cause, the subjective nature of the work performed by faculty makes it extraordinarily difficult to demonstrate that he or she is not performing competent work. In fact, discharge for cause has in many cases, as Senator CHAFEE pointed out, been interpreted to require an act of moral turpitude rather than a lack of academic rigor.

It certainly cannot be argued that either blue-collar workers or business executives enjoy the protection of a tenured faculty member.

Second, there are other special circumstances which merit consideration with respect to colleges and universities. Princeton University, in my State of New Jersey, indicates that much of their problem with the bill results from the abnormal age distribution created by the large number of faculty members who were hired in the growth period of the late fifties and early sixties. As a result, there is today a correspondingly large number of older faculty during a period when little growth in the number of available positions can be anticipated. Princeton estimates that if there was a normal age distribution between younger and older faculty members, there would be 55 new appointments in the next 5 years and 100 over the next 10 years.

Because of the abnormal age distribution which I referred to, as it now stands, there will only be 30 openings over the next 5 years and 70 over the next 10.

If mandatory retirement is eliminated and if all of the professors choose to remain on the job, there will only be 8 new appointments over the next 5 years and 50 appointments over the next 10.

Because of the nature of the job, most professors would be able to continue working. Admittedly this is what this legislation is designed to encourage.

But in this one case policy considerations require a different result. The numbers of new Ph. D.'s who have been unable to find appointments in the academic community—many of them women, many of them minorities—has been staggering. Moreover, tenured faculty, like the business executives, are likely to have an adequate income if forced to retire.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from William Bowen of Princeton University, which falls right on the remarks of the Senator from Rhode Island.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PRINCETON UNIVERSITY,
Princeton, N.J , October 17, 1977.

Hon. HARRISON A. WILLIAMS, Jr.,
Russell Senate Office Building,
Washington, D.C.

DEAR PETE: I appreciate greatly your understanding of the special problems posed for higher education by proposed legislation requiring the extension of regular retirement to age 70, and I appreciate especially your efforts in committee to exempt tenure systems in higher education from such legislation. Now I understand that this bill is expected to reach the floor of the Senate early this week and that Senator Cranston plans to introduce an amendment to eliminate this exemption. As you know, loss of this exemption would nave very serious implications for the educational purposes we serve, and I hope that you will do all that you can to see it through the Senate.

In an effort to be helpful, I take the liberty of offering the following comments for whatever use they may be to you in discussing this subject with your colleagues.

1. The concern for the effects of such legislation is widespread within higher education. I have just returned from a meeting of the Board of Directors of the American Council of Education in Washington which, as you know, represents community colleges, state colleges and universities, private colleges and universities, and essentially all institutions of higher education. The Board voted overwhelmingly in favor of the effort your Committee has made to exempt tenure systems in higher education from this legislation. Having just been elected Chairman of the Board of the ACE, I believe I can speak for that organization, as well as for my own institution, in arguing for the freedom to devise our own retirement arrangements.

2. Nor is it just presidents and administrative officers of educational institutions who feel this way. When I returned to campus on Friday, I met with our Faculty's elected Advisory Committee on Policy, and this group felt strongly—and unanimously—that we should do everything that we can to retain the retirement age that is in effect now. I was reminded that the present retirement arrangements here—and, I'm sure, at many other institutions—have been developed with the active participation of the faculty themselves and have been approved by the faculty. Thus, on many campuses this is not an issue that divides faculty from administration, and I hope that the Congress will want faculties and administrators to continue to have the freedom and flexibility to design plans that meet the particular needs of individual institutions.

3. The proposed extension of statutory retirement to age 70 is a matter of especially serious concern to colleges and universities in part because faculty members, as a group, are much less likely than most other groups of workers to take early retirement. In contrast to the figures for workers generally, only about 9 percent of our eligible tenured faculty have taken early retirement over the last decade. Thus, there is every reason to believe that a move to age-70 retirement would have an immediate and substantial impact on the age distribution of the faculty, on the finances of the institution, and on opportunities for younger faculty members.

4. Obviously the immediate dollar impact of a change of this kind is worrisome in and of itself at a time when finances are so strained and all of us are concerned about rising tuitions. One other university with a tenured faculty of somewhat over 900 has estimated that, were the retirement age to go to 70, the increased direct cost of retaining higher paid senior faculty over the next five years would be $2.9 million.

5. It is not, however, the dollar costs that are most worrisome. It is the potential loss of teaching opportunities for a generation of younger faculty members already suffering from extraordinarily grim job prospects. The same university that I referred to above has estimated that if the retirement age moves to 70, employment opportunities for 62 young faculty members will be lost over the next five years. At Princeton, a smaller university, we estimate that we would lose 22 openings over this same period. The number "22" may not sound like a lot—until one realizes that because of the present age distribution of the faculty (skewed toward the middle age range because of the growth of the faculty in the 1950's and 1960's), we now anticipate only 30 openings as a result of scheduled retirements over the next five years. Thus, the projected loss of 22 openings would mean that we could be confident of only 8 openings due to retirements over a five-year period.

6. This is obviously an extremely serious matter from the standpoint of those individuals who have entered graduate schools or who are now junior faculty members and who expect to have at least some reasonable opportunity to qualify for regular faculty positions. Extension by Congress of the retire-

ment age to 70 would have an unexpected, traumatic, and unfair impact on their expectations.

7. For the institutions, and for the society at large, the implications are, if anything, even more serious. The efforts so many colleges and universities are making to broaden the composition of faculties to include more women and members of minority groups would be disrupted dramatically. More generally, colleges and universities simply must have a healthy representation of relatively young faculty members if they are to continue to be effective centers of teaching, learning, and scholarship. In some fields, and mathematics is a particularly good example, the major contributions of an individual often are made at a very young age. And in *all* fields it is the younger faculty members who so often stimulate both students and older colleagues by challenging old ways of thinking and bringing new perspectives and new energies to their disciplines. It was one of my senior faculty colleagues, I might add, who made this point most forcefully to me.

8. The concern that has motivated the legislation to extend the retirement age to 70 is a concern that we share. Clearly many faculty members, as well as other civilians, continue to be able to make extraordinarily effective contributions after they have passed age 65 or age 68. Some mechanisms exist now which enable us to take advantage of such talents (including annual reappointments and part-time or full-time employment at other institutions based on new evaluations of both the capacities of the individual and the needs of the institution). I believe strongly that we must continue to search for other mechanisms of this kind. But I do not believe that the blanket extension of tenure to age 70 is sensible in and of itself or desirable from the standpoint of the serious adverse consequences that would accompany such a change.

Again, my thanks for your continuing interest in this matter and for all of your help. Please let me know if there is anything else we can do to explain more fully the reasons why it is so important that Congress not extend the retirement age for tenure faculty.

With best personal regards,

WILLIAM G. BOWEN.

Mr. WILLIAMS. Mr. President, certainly, the statistical situation which exists at Princeton University is very much like the situation at other universities we have heard described here today. Without the amendment offered by the Senator from Rhode Island, there would be a significant reduction in the number of job openings for younger faculty over the next decade. Such a development I think, will be detrimental to the mission of the university.

So I support the Senator.

Mr. CHAFEE. I thank the Senator.

Mr. President, I yield to my colleague from Rhode Island.

Mr. PELL. Mr. President, H.R. 5383, the Age Discrimination in Employment Amendments of 1977, raises the age protection against retirement policies based solely on age from 65 to 70 years for millions of workers in our Nation. I believe that this is generally a good and fair policy, which should become the law of the land. When this bill was considered by the full Human Resources Committee, the committee accepted a provision I offered to exempt a very small and very well defined group of high level executives from coverage under this bill after age 65. Today I ask for the support of my colleagues in retaining that exemption.

In my view, an exemption for high level executives is wise and necessary. Large corporations depend upon a regular and predictable turnover in high level personnel to assure themselves of a constant replenishment of new ideas and perspectives at the topmost levels of corporate decisionmaking.

An automatic retirement age for top level personnel is recognized and widely used as an effective and proven element in this transition process. The executive exemption contained in this bill permits this automatic retirement policy, beginning no lower than age 65, to remain in effect.

Regular and predictable executive turnover also creates opportunities for the advancement and promotion of middle level personnel—opportunities which would be denied to these individuals if high level executives were logjammed at the top for an additional 5 years of employment. Estimates I have received from large corporations indicate that each age 65 high level management retirement creates between five and eight middle level management promotions. These promotions are necessary to keep good, talented personnel with a large corporation. If 35- or 40-year-old management employees find themselves with no promotion opportunities available until age 60, they will leave in search of these promotions, and that corporation will lose a whole generation of talent and innovation.

A logjam in executive retirements also harms the affirmative action plans which these corporations have placed in effect. As women and minority group members move through the middle management promotional ladder, their progress and upward mobility will be harmed and stalled unless there are top spots and ancillary promotions available to them.

Finally, there is also the problem of how very difficult it is to evaluate the performance of a top executive compared to other workers. Objective performance criteria are almost impossible for companies to establish, and without a fair and uniform retirement policy, it will be terribly difficult to make room for new, top level personnel via the retirement process at age 70.

The executive exemption which was incorporated in this bill would solve these very real problems. This exemption is very narrow, and it protects the economic well-being of this category of high-salaried executive. The exemption, as passed by the committee, only applies to executives whose retirement pension income from the company, and not including social security, would be $20,000 or more annually. I am advised by many large corporations that this translates into an annual earning of between $50,000 and $60,000.

Mr. President, this executive exception touches only a very small fraction of any company's work force, and even a small fraction of its executive personnel per se. I have collected statistics from 23 large corporations on their retirement patterns over the last 3 years, and if this language is retained in the bill as it is presently drafted, my executive exemption would affect less than fourtenths of 1 percent of their retirements. This very narrow amendment, nevertheless, will provide a real benefit to businesses at no real economic hardship to employees.

The protection for an employee's economic interest in this language is very clear. The employee has to be receiving $20,000 in annual company-sponsored pension benefits. In addition to these benefits, we may assume that the employee is receiving about the top end of the social security scale, which would be approximately $7,500 per year.

I established the $20,000 level to be sure that the economic security concerns of employees were met. This figure is about twice what the Federal Bureau of Labor statistics estimates as the upper income budget for a retired couple. This benefit, when added to social security benefits, means that the executives who retire under this provision between the ages of 65 and 70 will be receiving almost $30,000 in annual pension and Federal retirement benefits alone, a very decent income.

Further protection is afforded the executive employee by provisions in the bill which state that rollovers or previous employee contributions do not count in establishing the $20,000 figure. Therefore, I believe that this provision will be very limited in effect, but will insure those employees who do come under its reach, of a fair and high retirement income.

Mr. President, this partial exemption from the bill is very small, but it still provides real financial protection for those employees affected, and at the same time provides badly needed flexibility to the many businesses it would assist. There is nothing in this section of the bill which would require these very few executive employees to be mandatorily retired at age 65, so that if they were performing extraordinarily valuable services to their company, it is very likely that they would remain on the job. But it does provide some flexibility where flexibility is badly needed and does so fairly. I urge my colleagues to vote to retain it in this legislation.

Mr. President, the portion of the amendment that particularly interests me is the business portion of it which says that any individuals who have a combined pension income, not including social security, of $20,000 or better would not be covered by this bill and could be under a retirement scheme where they were retired at 65.

The reasons, I think, are pretty obvious. They try to make sure the wonderful and ingenious American business and industrial machine continues to have the vigor, the freshness, and the innovative qualities so needed to give us, in the first place, that which we presently enjoy in the world today in this regard.

If it is going to be the custom that business executives stay until 70, I think that will be sapped.

I am well aware of the fact that we have had great business executives into

their eighties. I can even think of one into the nineties. But, as a general rule, most of us start flagging around 65, I think, if not before.

For this reason, I believe we should keep it possible for the larger companies, in order to provide promotion opportunities, and some growth for optimism and ambition on the part of their younger executives, to have a 65 years of age retirement limit, provided the retirement benefits are adequate.

In this regard, I would like to have printed in the RECORD at this point the effect of the executive exemption to H.R. 5383 based on the retirement experience of the last 3 years, 1975 through 1977, of some 20-odd companies.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EFFECT OF EXECUTIVE EXEMPTION TO H.R. 5383 BASED ON RETIREMENT EXPERIENCE, 1975–77

Company	Number of employees	Total retirements	Affected retirements	Percent of total retirements
AT & T	753,965	18,239	229	1.25
Bethlehem Steel	106,393	11,639	34	.9
DuPont	103,000	7,500	52	.69
Eli Lilly	12,119	543	4	.74
Exxon (U.S.A.)	28,881	2,652	25	.94
Firestone	56,216	3,451	3	.09
General Electric	26,200	11,900	8	.07
Goodyear	76,557	3,508	1	.03
Monsanto	36,056	2,506	8	.32
Potomac Electric Power	4,521	224	2	.89
Morgan Trust	7,551	355	2	.56
PPG Industries	28,354	2,000	9	.45
Procter & Gamble	25,633	890	1	.11
Union Carbide	76,592	4,121	11	.27
Chrysler	121,781	11,895	3	.08
Ingersol Rand	18,342	779	0	0
Continental Group	41,000	2,974	4	.13
Allied Chemical	23,942	1,765	4	.23
Carolina Power/Light	4,858	83	0	0
Bristol-Meyers	15,031	658	1	.15
Alcoa	39,817	3,680	8	.22
N.L. Industries	17,151	1,039	10	.96
U.S. Steel	164,716	19,175	45	.23
Total, 23 companies	2,030,676	111,576	464	.42

Mr. PELL. Mr. President, this shows when they are put together—these companies include Bethlehem, A.T. & T., Exxon, General Electric, et cetera—that of the total number of employees, there are 2 million, and the total number of retirements is 111,000 in this 3-year period, of that 111,000 only 464 would be affected by this amendment. That is less than half of 1 percent. But, by permitting this half of 1 percent to retire, making sure they do retire at 65, it has a ripple effect so that anywhere from five to eight middle management promotions come up.

I believe it would be a good idea for this amendment to be accepted.

In this regard, I add that I am supportive as well of the exemption of the tenured professors, and, under the same logic and same extension, agree with the reasoning of my colleague from Maine who said it should apply in his area as well.

For all these reasons, I hope very much, indeed, that this amendment can be accepted and I intend to support it.

Mr. CRANSTON. Mr. President, does any other Senator wish to speak on this amendment at this time? I want to move to table, but not to cut off anybody's time.

Mr. CHAFEE. Senator MOYNIHAN wishes to speak.

The PRESIDING OFFICER (Mr. ANDERSON). The Senator from New York.

Who yields time?

Mr. CRANSTON. Mr. President, may I ask for the yeas and nays on a tabling motion? I think there are sufficient Members in the Chamber.

Mr. President, I ask unanimous consent that I may ask for the yeas and nays now.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to support the amendment of the Senator from Rhode Island and to speak, in particular, to the question of the impact of this proposed action upon higher education in the United States.

If there is one general point we have learned about Government in the second half of the 20th century, it is that a great many of the most important policies we adopted have been adopted unintentionally and, indeed, rise out of actions in Government that are seemingly unrelated.

It is to this point of the unintended and unanticipated consequences of what we are doing today that I would like to speak.

Mr. President, the bill before us, as it now stands, would be one of the most important Government acts with respect to the conditions of American intellectual and scientific life, that we have carried out in a very long while.

It seems to me that the impact would be deleterious, it would be harmful. It seems to the universities involved that it would be harmful. I think it is incumbent upon us to ask, are we prepared to proceed with a measure which is so disturbing to the universities and colleges, particularly the private institutions of this country, without having any educational purpose or intent in this act?

Now, the question comes specifically to the matter of tenure. I believe it is important to ask clearly, what is the time at which we do this?

American colleges and universities underwent a great expansion in the course of the 1950's and 1960's, they hired a large number of faculty members who acquired tenure and who are now on the verge of retirement.

Their prospect of retiring comes at a time when there is very little prospect for any increase in university and college enrollment, such that there is no increase in the demand for teachers at them, such that, to an extraordinary degree, few new faculty are going to be hired as old faculty retire.

The statistics on this are striking and they are something we have never known before in our country. I will give the estimates for the years 1980 to 1985.

During this period, we are going to be awarding some 35,000 doctoral degrees each year. During that period the 3,000 colleges and universities in the country are expected to hire some 3,700 faculty members. In round terms, one Ph. D. in nine can expect a position in a university. In round terms, each university or college will be adding one tenured member a year to its faculty.

It is estimated that if Congress takes the action now before it, those 3,700 faculty members to be hired each year in the Nation, will be cut in half, to some 1,600 in number. Our great system of higher education will face the prospect that every other year, on the average, an institution will acquire a new tenured professor. That is a formula for intellectual suffocation.

The junior Senator from Rhode Island mentioned that the median age at which the scientific work for the Nobel Prizes is done is 28. That would be an old age for the median achievement of mathematicians. Mathematicians, typically, are old at 22. It is the ineluctable, seemingly physiological, fact that the most creative work done in the demanding sciences is done very early in life.

The system of tenure which evolved in American universities evolved not as a retirement policy but as a system of doing two things: one, protecting faculty against the changing political and intellectual fashions of the time and, two, insuring sufficient periods in which work requiring long gestation could be done. It is not a retirement policy. It is an intellectual policy. It is an academic policy. It has to do with creativity and productivity and scholarship.

With the most extraordinary unanimity in my State—I think I can speak for other States as well—the heads of our great institutions have asked Congress not to do this. I spoke just an hour ago with Mel Eggers, an economist, the president of the University of Syracuse, where I once taught, who said that it is simply a fact that this would impose hardships on Syracuse University which it cannot comprehend and certainly does not desire.

Graduate student Don Hess, of the University of Rochester, has estimated that for the private colleges and univer-

sities of New York State, this measure would eliminate some 1,350 positions that are opening now; these would disappear. There is something further for which the Senate, surely, should have some regard: By enabling the higher salaried tenured professors to stay on past the contract into which they have entered, past faculty arrangements, we impose on these very colleges and universities considerable extra costs.

The administration of New York University, for example, estimates that a cumulative cost over 10 years for this measure would be $9 million—$9 million which NYU does not have, has not budgeted, has no new source to furnish, and which I suggest nobody in this Congress seems intent upon providing.

However, there is the larger point—and I should like my remarks to rest on this point—that the governance of universities is a complex and subtle process which has evolved not over decades and not over centuries but over almost the longest period of time of any institution in the Western World. Members of faculties are engaged for periods of time which relate not to their working life but to the creativity of the institution of which they are a part. The rules have been set by the professors themselves. They are rules designed to see that the end purposes of the universities and colleges are served. It is not for us casually, and with respect to a large matter having to do with other things altogether, to interrupt and so distort those arrangements as to have the consequences which the Senator from Rhode Island and I have described.

The universities and colleges of the country ask that this not be done to them. They are capable of managing their own affairs. It is fundamentally in the interest of a liberal society that the liberal arts colleges and universities and the scientific institutions of this country be able to create their own affairs.

It is not for nothing that we have opened the newspapers in the last 2 weeks to find one after another of the great Nobel Prizes awarded to American academics. When did a former colleague of mine at Harvard do his great work? John H. Van Vleck did it practically as a graduate student. He did it on magnetism, in the early 1930's, Einstein having received the Nobel Prize in physics in 1921. After 1921, that kind of work became possible for a brilliant young scientist. If it took a half century for the Nobel Prize to catch up with him, that was of no great matter. What mattered was that he was at Harvard University at that moment.

The question is, If we act as this bill unintentionally would have us act, how many Nobel laureates of the year 2020 are not going to be at our universities in 1980 to do the work that would bring them honor and achievement?

I ask, in the name of the independence of learning and the self-governance of academies, that the amendment of the Senator from Rhode Island be accepted; and I ask unanimous consent that my name be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it so ordered.

Mr. CHAFEE. I thank the Senator.

Mr. President, does anyone else desire to be heard on this amendment?

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. CHAFEE. I yield.

Mr. JAVITS. Mr. President, I intend to support the amendment, because I believe that we have gone about as far as we should with respect to exemptions, with respect to the two exemptions which would be left in the bill by Senator CHAFEE.

As I said when I spoke initially on the bill, as one of its comanagers, I deeply feel that the public school and secondary school exemptions are really impossible to justify for the 2.1 million teachers in the country; that what tenure means to primary and secondary school teachers would be completely up in the air; and that the teachers union, itself, opposes any exemption for those teachers. So it seems to me to be highly improper.

Therefore, I shall favor the Chafee amendment, with all the cosponsors who are engaged in it.

Mr. MOYNIHAN. Mr. President, will the Senator from Rhode Island yield for an additional remark?

Mr. CHAFEE. I yield.

Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. Eight minutes.

Mr. MOYNIHAN. Mr. President, I join in the statement made by my senior colleague from New York.

The question of public school teachers has nothing to do with the nature of the governance of the public school system. They are persons who have every right to the same protection of our labor laws and social security laws as do other persons employed in this economy.

The matter of the governance of universities and the tenure of professors is a wholly different matter and should be distinguished, as the Senators from Rhode Island propose to do.

Mr. CRANSTON. Mr. President, if there are no further speakers, I want to stress briefy that my reason for opposing this amendment is that I hope we can have no exclusions of categories of employees from the extended protection of the act. This amendment may reduce the chances of having no exclusions at all. Hence, I oppose it and will have to table it.

I, therefore, move to table the pending amendment.

The PRESIDING OFFICER. Without objection, the motion to table is in order.

Do all Senators yield back their time?

Mr. CRANSTON. I yield back my time.

Mr. CHAFEE. I only wish to say that this is an extremely important measure, as the Senator from New Jersey has pointed out, to our universities and colleges. This is not something that I think we should blithely pass over, and I am not suggesting we are, but it is of great consequence to the ability of our universities and colleges to bring in young people that they have to have.

I hope that everyone understands what we are voting on and particularly the aides around here who flash the word to Senators as they pour in. What we are voting on is a motion to table a provision that provides two exemptions to the extension of the age to 70. It would exempt from that provision tenured university professors, college professors and executives whose retirement pay, exclusive of social security, is $20,000 or more. Elementary and secondary teachers would be covered by the bill up to age 70 under the mechanics that we have gotten here.

Mr. JAVITS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. CHAFEE. I yield.

Mr. JAVITS. I ask unanimous consent that David Rust of the staff of the Special Committee on Aging, be accorded the privilege of the floor during the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, the yeas and nays have been ordered for the tabling of the amendment.

Mr. JAVITS. Have they?

Mr. CHAFEE. I ask for the yeas and nays on the amendment itself.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. I yield back the remainder of my time.

Mr. CRANSTON. Mr. President, I move then to table the pending amendment.

Mr. JAVITS. Mr. President, the yeas and nays.

The PRESIDING OFFICER. They have been ordered.

The question is on agreeing to the motion to table the amendment of the Senator from Rhode Island.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. CASE) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 41, nays 50, as follows:

[Rollcall Vote No. 565 Leg.]

YEAS—41

Bayh	Chiles	Ford
Brooke	Church	Glenn
Bumpers	Clark	Gravel
Byrd, Harry F., Jr.	Cranston	Griffin
Byrd, Robert C.	DeConcini	Haskell
Cannon	Domenici	Hatfield
	Durkin	Hathaway

Heinz	Matsunaga	Schmitt
Hollings	Metzenbaum	Scott
Huddleston	Percy	Stevens
Jackson	Proxmire	Stone
Laxalt	Randolph	Talmadge
Long	Ribicoff	Thurmond
Magnuson	Sasser	Weicker

NAYS—50

Allen	Hatch	Nunn
Anderson	Hayakawa	Packwood
Baker	Helms	Pearson
Bartlett	Inouye	Pell
Bellmon	Javits	Riegle
Bentsen	Johnston	Roth
Biden	Kennedy	Sarbanes
Burdick	Leahy	Schweiker
Chafee	Lugar	Stafford
Culver	McClure	Stennis
Curtis	McIntyre	Stevenson
Danforth	Melcher	Tower
Dole	Metcalf	Wallop
Eagleton	Morgan	Williams
Eastland	Moynihan	Young
Garn	Muskie	Zorinsky
Hansen	Nelson	

NOT VOTING—9

Abourezk	Hart	McClellan
Case	Humphrey	McGovern
Goldwater	Mathias	Sparkman

So the motion to lay on the table Mr. CHAFEE's amendment was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Rhode Island. The yeas and nays have been ordered.

Mr. CHAFEE. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. This is a vote on the substantive Chafee amendment.

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. As proposed, is that correct?

The PRESIDING OFFICER. Yes.

Mr. CHAFEE. Mr. President, could the Parliamentarian explain exactly what happens if we vote on the amendment?

Mr. JAVITS. Mr. President, I yield 2 minutes on the bill to the Senator from Rhode Island, and I will also yield time to anyone who wants time in opposition.

Mr. STONE. Mr. President, will the Senator yield for just one question?

Mr. RANDOLPH. Mr. President, the Senate is not in order. We cannot hear.

The PRESIDING OFFICER. Will the Senator use his microphone, please?

Mr. STONE. If the Senator from Rhode Island will yield for this one question, in the light of the fact that the motion to table was not agreed to, would the Senator be willing to consent to a voice vote on his amendment?

Mr. JAVITS. No; we need a vote.

Mr. CHAFEE. Except that we have another step. I would like to make a parliamentary inquiry, if I might.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHAFEE. As I understand it, if my amendment is approved, we would then go to the Cranston amendment, and if that were rejected, then the bill would have only two exemptions?

The PRESIDING OFFICER. If the Senator's amendment striking one subsection of the bill is agreed to, the question would then be on agreeing to the amendment offered by the Senator from California (Mr. CRANSTON), which has not been perfected, because the motion to strike was not amended, the matter sought to be stricken was perfected.

Mr. JAVITS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Could the Chair finish first?

Mr. JAVITS. So we will understand the situation, the technicalities may be very complex, but the situation is very simple. Here it is: If you wish to leave in the bill two exemptions, one for tenured college professors and the other for high level executives over $20,000, but you wish to strike out of the bill the exemptions for secondary and public school teachers, which means that they will have until age 70, whereas the other two groups will only have until age 65, then you must vote "yea" on the Chafee amendment.

If, on the other hand, you wish all exemptions eliminated—all three, to wit, public school and secondary school teachers, tenured college professors, and high-level executives—then you must vote "nay" on Chafee and "yea" on Cranston. That is the pattern of voting, and the tabling would follow suit.

That is the choice which the Senate has. If any Member is dissatisfied with the tenor of the debate, we have time on the bill, and we will yield it.

The PRESIDING OFFICER. The Senator from New York is not correct. A "yea" vote on both could achieve the effect he has just described.

Mr. CRANSTON. That is correct.

Mr. JAVITS. That is correct; but it is also correct, is it not, that even if Chafee carries, when you vote for the Cranston amendment you eliminate the exemptions?

The PRESIDING OFFICER. You eliminate the other two. The Chafee amendment would eliminate one.

Mr. JAVITS. All three, that is right.

Mr. ALLEN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Senator Cranston would eliminate the remaining two.

Mr. JAVITS. If the Chafee amendment carries——

The PRESIDING OFFICER. The Chafee amendment would eliminate one, and the Cranston amendment would eliminate the other two.

Mr. JAVITS. So if you want to eliminate all three, then you will vote "yea" on both Chafee and Cranston.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, if you want to keep the exemption for university professors who are tenured and executives whose pension is over $20,000, not counting social security, then you vote "yea" on the Chafee amendment and you vote "nay" on Cranston; is that not correct? I just want to be very positive here.

Mr. JAVITS. Mr. President, let us start all over again, if we can have a moment.

The fact is that all Chafee is seeking to eliminate is the public school teachers and secondary school teachers. If they are eliminated, what is left in the Cranston amendment is the opportunity to eliminate the two exemptions which remain, to wit, the tenured professors and the high-level executives. Is that not correct?

The PRESIDING OFFICER. It would eliminate the other two subsections.

Mr. JAVITS. Chafee would eliminate one and Cranston eliminates the remaining two.

The PRESIDING OFFICER. All of section 6 would thereby be eliminated.

Mr. CRANSTON. Mr. President, I would like an opportunity to make my own explanation, if I may.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. I yield the Senator 2 minutes on the bill.

Mr. CRANSTON. I would like to explain that the reason for the motion to lay on the table was to keep in tact my amendment that would have eliminated all three exclusions, for elementary and secondary teachers, university professors, and certain business executives.

I, therefore, moved to table the Chafee amendment. That having failed, I will now support the Chafee amendment, because that will remove one—indeed, by far the most far-reaching—of the exclusions, for elementary and secondary teachers. There will then be pending my amendment, which would eliminate either all there if the Chafee amendment fails on, if it succeeds, as I hope, the remaining two exclusions—for professors and the exclusion for business executives.

So an "aye" vote for Chafee removes one, an "aye" vote following that for my amendment would remove the other two, and we would have no exclusions.

Mr. CHILES. If the Senator would yield, there would be no reason for the yeas and nays on the Chafee amendment, if the Senator from California is supporting it, Senator CHAFEE is supporting it, and the motion to table failed.

Mr. CRANSTON. I see no particular reason for the yeas and nays on this.

Mr. JAVITS. Our problem is that we will be in a rather hot conference on this.

Mr. PELL. I think we should keep the yeas and nays.

Mr. CHILES. But everybody is supporting it.

Mr. JAVITS. But we will be in a difficult conference and need that support.

Mr. ALLEN. Will the Senator yield?

Mr. JAVITS. I yield.

The PRESIDING OFFICER. May we have order?

Mr. ALLEN. As I understand it, the Chafee amendment added to the Cranston amendment would not provide a method of choosing but merely to provide that the business executives might be retired under certain conditions. This applies to two, leaving one other. We are not given the opportunity of just having the exemption apply to the business executives. Is that correct?

Mr. JAVITS. That is correct. But there is an answer to that. What the Senator can do is as soon as Chafee is disposed of—this is a perfecting amendment—the Senator could interpose another.

Mr. ALLEN. I was referring to confin-

ing it only to business executives with $20,000 of income exclusively.

Mr. JAVITS. In that case, the Senator would have to introduce another perfecting amendment, exactly the same as Chafee's, except to a different subsection of section 6.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. CHAFEE. Mr. President, I am delighted to have a very strong vote. If the yeas and nays are ordered, I hope the momentum rolls right through so Senators will support me the next time.

Mr. JAVITS. Mr. President, that seems to be the general feeling. Does the Senator want a rollcall?

Mr. PELL. I believe so, because they have no exemptions in the House. We will be in a very difficult position.

Mr. CHILES. We are going to have a rollcall vote on the Cranston amendment. Can the Senator remember a conference in which he cited a rollcall vote?

Mr. JAVITS. I certainly can.

Mr. CHILES. If there is a split in the Senate, it may be necessary, but if there is no split in the Senate why is it necessary?

Mr. JAVITS. We had it on the minimum wage, on tip credit.

Mr. CHILES. Why not have a rollcall on every line in this bill? This is so crazy.

Mr. CHAFEE. Mr. President, I ask unanimous consent to dispense with the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Mr. PELL. I object.

The PRESIDING OFFICER. Objection is heard.

SEVERAL SENATORS. Vote! Vote!

Mr. PELL. May we have order, Mr. President?

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Maybe we can reach a simple solution by asking for a division.

Mr. JAVITS. Does the Senator want that?

Mr. PELL. I would not object if we had a division.

Mr. CRANSTON. Let me repeat the unanimous-consent request that the yeas and nays be withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I request a division on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. CRANSTON. Mr. President, what is the question? What is the pending matter?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

Mr. CRANSTON. But the yeas and nays have been withdrawn.

The PRESIDING OFFICER. Is there objection to vitiating the order for the yeas and nays? The Chair hears none and it is so ordered.

Mr. JAVITS. Now, Mr. President, I request a division on the amendment.

The PRESIDING OFFICER. A division is requested. Senators in favor of the amendment will rise and stand until counted.

(After a pause.) Those opposed will rise and stand until counted.

On a division, the amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Is it in order for the RECORD to show that only three people stood up on the "nay" side?

The PRESIDING OFFICER. The RECORD will so indicate.

Several Senators addressed the Chair.

PRIVILEGE OF THE FLOOR

The privilege of the floor was requested by the following Senators for various staff personnel, for which unanimous consent was obtained: Senator THURMOND, Senator HATCH, Senator HEINZ, Senator BARTLETT, Senator KENNEDY, and Senator LEAHY.

Mr. ALLEN. Will the Senator yield?

Mr. JAVITS. On my time on the bill I will yield.

Mr. ALLEN. As I understand the bill, State law could change the retirement age up or down as to any of these classifications. Is that correct?

Mr. CHAFEE. No, that is not correct. The State law can only increase it.

Mr. ALLEN. The State law can increase it?

Mr. CHAFEE. Yes.

Mr. ALLEN. In other words, this State law could take the ceiling off, if it wanted to?

Mr. JAVITS. That is correct.

Mr. ALLEN. It could not lower it but it could raise it, and these provisions for retirement that now apply are to apply if the Cranston amendment, as amended, is agreed to. They could be overturned by State law. In other words, the forced retirement of business executives and college professors could be overturned by State law.

Mr. JAVITS. But the Cranston amendment would prohibit mandatory retirement before 70 for all of these categories, so it would not alter the Federal right in that sense.

Mr. ALLEN. As I understood the Chafee amendment, it would have permitted the primary and secondary schools to go on to 70, but for the college professors they could be retired, under the Chafee amendment.

Mr. JAVITS. Under the Chafee amendment, as we stand now with the Chafee amendment agreed to, college professors and high-level executives can be mandatorily required to retire at age 65.

The PRESIDING OFFICER. May we have order in the Senate?

Mr. ALLEN. Business executives earning $20,000 by pensions exclusive of social security could be retired also.

Mr. JAVITS. But only between ages 65 and 70.

Mr. ALLEN. But State law could lift those ceilings; is that correct?

Mr. JAVITS. Yes. The State law could specify a higher age, for example, age 66 or 67.

Mr. ALLEN. In other words, they could nullify what the Chaffee amendment seeks to do.

Mr. JAVITS. Yes. Under State law forced retirement could be prohibited.

Mr. ALLEN. I just wanted to know for sure that this does not preempt State law to raise the ceiling nor to nullify what the Cranston amendment, as amended by the Chafee amendment, seeks to do.

Mr. JAVITS. I want to emphasize that there is no preemption of State law here. State laws can provide for a higher mandatory retirement age than the Federal law or can provide for no upper age limit at all.

Mr. CRANSTON. I would just like to explain that my amendment was not amended by the Chafee amendment. The bill was amended by the Chafee amendment.

Mr. CHAFEE. Mr. President, could we have order, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. CRANSTON. I ask for the yeas and nays on my amendment, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Mr. President, I think it is important that we know what is going on here.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. I yield 2 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, this is a vote on the Cranston amendment. If you vote "aye," you eliminate all exemptions from the bill. If you vote "nay," the bill passes with two exemptions: Tenured university professors can be retired for age at 65, although they do not have to be; executives whose pension is $20,000 or more—not counting social security—can be retired for age at 65, but they do not have to be. Furthermore, if State law provides otherwise, such as in California, which says you cannot retire university professors until age 70, that would provide.

So, if you want to see the universities have a chance to retire their tenured professors at the age of 65, then you vote "nay," and corporations retire executives at $20,000 pension—if you want that, you vote "nay" to the Cranston amendment. If you want no exemptions, you vote "aye."

Mr. JAVITS. Mr. President, I yield myself 2 minutes and happily yield to Senator CRANSTON 4 minutes, which represents cumulative time.

Mr. President, we had a very extensive debate this morning. A number of Senators spoke. Senator MOYNIHAN spoke; other Senators spoke. We wrestled with this matter in the committee. We came to the considered judgment, in which Senator WILLIAMS, the chairman, and I concurred, that these two exemptions were justified. I am not happy about them any more than is Senator CRANSTON. But they are very limited amendments and because of those limits, they

are justified. Therefore, I just want to make it plain that I shall vote "nay" on the Cranston amendment for that reason, because it does wipe out those exemptions.

In response, Mr. President, to those who say no exemptions, I point out that we have already made an exemption—to wit, 70 years of age. That is a compromise itself. My original bill, in which a number joined, including Senator CHAFEE, eliminated the age cap altogether. To me, that makes the best sense. But we are living in a practical, working world. So I believe that these two exemptions are simply an acknowledgment of the organization of our society which, I think, dictates that, as an interim step—and that is what this is—these exemptions should be made now.

Mr. FORD. May I ask the Senator a question?

Mr. JAVITS. Of course.

Mr. FORD. If a State has early retirement for the educational community at age, say, 55 or 60, does this bill interfere with that State plan?

Mr. JAVITS. If the State permits early retirement at 55 or 60, but does not require that retirement, the State plan is unaffected. It is only forced retirement prior to age 70 which is prohibited.

Mr. FORD. I thank the Senator.

Mr. CRANSTON. Will the Senator from New York yield me 2 minutes?

Mr. JAVITS. I yield him 3 or 4.

Mr. CRANSTON. For purposes of clarification, the success of the Chafee amendment eliminated one of the exclusions, elementary and secondary teachers. My amendment now pending would eliminate the other two exclusions, college professors and individuals with annual retirement benefits of $20,000.

Let me say that my reason for opposing each of the proposed exclusions, and therefore supporting the Chafee amendment to delete the exclusion of elementary and secondary teachers is that I believe that exclusions are contrary to the basic principles of equal treatment and equal rights for all citizens, which is the basic purpose underlying the Age Discrimination in Employment Act. I firmly believe that an individual's competence, not an individual's age, should determine his or her job performance capability. This is so regardless of the category or particular type of work that somebody is involved in. A blanket exclusion of educators and business people merely because of the category of work involved bears no relationship—none at all—to the matter of competence. Should we start making exemptions to other civil rights laws for certain jobs? I hope we do not. Therefore, I urge a favorable vote on my amendment.

(Mr. GLENN assumed the chair.)

Mr. CHAFEE. Mr. President, if I may have 2 minutes briefly to discuss this amendment, we are talking about a separate group here. We are talking about tenured university professors, whose performance is not subject to objective evaluation. As we mentioned earlier in the debate, in over 300 years of Harvard's history, they have never gotten rid of a tenured professor, even though one of them murdered his wife and went to the gallows with his tenure still intact. So we are not talking about the normal situation. We are talking about a group who are locked in.

We are further talking about a very severe crisis in our universities and colleges where, because of the contraction of the faculties, that means that the junior, nontenured ones go out, so that, now, in many of our colleges and universities, we have between 60 and 80 percent of the faculty tenured.

If this bill goes through and they are kept on automatically to age 70, no chance will there be for the young people to come in. We are talking about the young, bright, innovative people that we have to have if our universities are going to make their contribution to this society, as they have in the past. The average age of the Nobel Prize winners, when they did their Nobel Prize-winning work, was 28.

Furthermore, there is a tremendous effort through affirmative action programs to bring women and minorities into the tenured ranks. They will not be able to do it if you vote "aye" for the Cranston amendment.

Mr. MOYNIHAN. Will the Senator yield?

Mr. CHAFEE. Yes.

Mr. MOYNIHAN. Some of the Members of the Senate have arrived since we had our debate. They might be interested that——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. JAVITS. I yield 2 minutes.

Mr. MOYNIHAN. I want simply to say that the two Members of this body who have most recently joined it from the ranks of tenured professors, Senator HAYAKAWA and myself, both stood in the name of academic governance and the quality of American education. We pleaded that you support Senator CHAFEE and the committee and not support the amendment of Senator CRANSTON, which is certainly well intended, but which would have a devastating impact on the quality of American education at a time of altogether sufficient crisis as it is.

Mr. HEINZ. Will the junior Senator from New York yield for a question, please?

Mr. MOYNIHAN. I yield.

Mr. HEINZ. What is to prevent a university from granting tenure only up to age 65 and then having a professor subject to different terms of employment—to deem which do not include tenure but which respects the mandatory retirement policy set by this legislation? What is to prevent that?

Mr. MOYNIHAN. Nothing would. This is a practice that takes place. The point is that this is self-governance of an academic community on terms that one hopes they will be allowed to continue.

What we ask is that the Federal Government not enter in and impose upon the complex relationships of an intellectual community a rule that has to do with retirement and the work force. Tenure has not to do with retirement; it has to do with the conditions of academic pursuits. This is an inappropriate manner in which to impose upon universities a judgment affecting the quality of university life.

Mr. HEINZ. What does the Senator claim is being imposed by the Cranston amendment?

Mr. MOYNIHAN. The Cranston amendment would cut in half the number of new tenured openings in American universities in the next 5 years.

The PRESIDING OFFICER. The 2 minutes have expired.

Mr. HEINZ. Will the Senator yield an additional minute to me?

Mr. JAVITS. Yes.

Mr. HEINZ. As I understand my good friend from New York, he just said a moment ago that a university can grant tenure independently of the conditions or length of employment, that tenure is a particular relationship enjoyed between the professor and the university. As I understand what the Senator's objections are, he objects to the fact that tenure might be granted to universities to age 70, as would be permitted under the bill unless the Cranston amendment is to pass.

Now, it is true, as I understand the Cranston amendment and the bill that, indeed, it would be possible. But by no means would it require that the privilege of tenure be granted beyond age 65. That is a decision left to the academic community. I speak of Carnegie-Mellon, where I taught, and this is my recollection of the conditions of employment given to a tenured professor. I was not there long enough to be given such consideration, as was my friend from New York. But I say, if the argument is that the Cranston amendment in some way interferes with the academic community, I disagree strongly. The bill, however, if left in its present form, continues the interference, which is already quite obvious.

Mr. CHAFEE. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

I also announce that the Senator from New Jersey (Mr. CASE) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 45, nays 48, as follows:

[Rollcall Vote No. 566 Leg.]

YEAS—45

Bayh	Griffin	Metcalf
Burdick	Haskell	Metzenbaum
Byrd, Harry F., Jr.	Hatfield	Packwood
	Hathaway	Proxmire
Byrd, Robert C.	Heinz	Ribicoff
Cannon	Helms	Riegle
Chiles	Hollings	Sasser
Church	Huddleston	Schmitt
Clark	Inouye	Scott
Cranston	Jackson	Stevens
DeConcini	Laxalt	Stone
Domenici	Magnuson	Talmadge
Durkin	Matsunaga	Thurmond
Glenn	McClure	Weicker
Goldwater	McIntyre	
Gravel	Melcher	

NAYS—48

Allen	Ford	Nunn
Anderson	Garn	Pearson
Baker	Hansen	Pell
Bartlett	Hart	Percy
Bellmon	Hatch	Randolph
Bentsen	Hayakawa	Roth
Biden	Javits	Sarbanes
Brooke	Johnston	Schweiker
Bumpers	Kennedy	Stafford
Chafee	Leahy	Stennis
Culver	Long	Stevenson
Curtis	Lugar	Tower
Danforth	Morgan	Wallop
Dole	Moynihan	Williams
Eagleton	Muskie	Young
Eastland	Nelson	Zorinsky

NOT VOTING—7

Abourezk	Mathias	Sparkman
Case	McClellan	
Humphrey	McGovern	

So amendment No. 1459 of the Senator from California was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 950

Mr. RIEGLE. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The Senate is not in order. Those conversing will please take their seats or retire to the cloak room.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE) proposes an unprinted amendment numbered 950:

On page 12, line 5, insert the following:

SEC. 8. Section 14(c) of the Fair Labor Standards Act (29 U.S.C. 201 et seq.) is amended by adding at the end thereof the following:

"(4) The Secretary of Labor shall appoint a committee to advise on the administration and enforcement of this section. The committee shall be composed of handicapped consumers, and of representatives of the public, labor, industry, and programs functioning under this section."

Mr. RIEGLE. Mr. President, I have discussed this with members on both sides on the committee.

This amendment simply adds to the Fair Labor Standards Act a provision recreating the Advisory Committee on Sheltered Workshops to the Department of Labor. The administration recently abolished this effective advisory committee despite its effectiveness at channeling citizen participation into the Department.

Earlier this month, I introduced this amendment as a separate bill cosponsored by the chairman of the Human Resources Committee, Senator WILLIAMS; the ranking minority member of that committee, Senator JAVITS; and the chairman of the Subcommittee on the Handicapped, Senator RANDOLPH. The support which it has gathered from groups representing handicapped citizens is truly impressive.

All our citizens deserve the opportunity to participate in adding to the economic well-being of the Nation; sheltered workshops help extend this opportunity to handicapped workers. Similarly, all our citizens deserve the opportunity to participate in formulating Government policy; the Advisory Committee on Sheltered Workshops has served this purpose.

I hope, then, that we will have support for this amendment, and I hope the committee will accept it.

Mr. WILLIAMS. Mr. President, I yield myself a minute.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 1 minute.

Mr. WILLIAMS. Personally I have been a supporter of continuation of the Advisory Council in this area and suggest that this is the time to consider it. I approve it and shall take it to conference.

Mr. JAVITS. Mr. President, I agree with Senator WILLIAMS. I think in fairness to the Senate it should be noted that this is an amendment to another statute, the Fair Labor Standards Act, not the age discrimination in employment statute. If any Member wished it, which I hope he would not because the idea of having a proper advisory committee for the handicapped is extremely desirable, an objection could be made on the basis of the amendment not being germane, I hope that no Member will do that. I favor this amendment, and unless there is such an objection, agree with my chairman to take it to conference.

Mr. RIEGLE. I thank both Senators, and if there is no objection, I ask the amendment be approved.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. WILLIAMS. Yes. I yield back my time.

Mr. JAVITS. Yes.

The amendment was agreed to.

Mr. ALLEN. Mr. President, will the Senator from New York yield for a question?

Mr. JAVITS. I yield.

Mr. ALLEN. Earlier in the day, I was engaging in a colloquy with the distinguished Senator from New York on the applicability of State law in the circumstances provided by this bill, and then, I might state, the distinguished manager of the bill was not in the Chamber at that time, or I would have engaged in colloquy with him. But inasmuch as I was engaging in colloquy with the distinguished Senator from New York (Mr. JAVITS), I shall continue. The distinguished Senator from New York said that if a State should later enact a law which raised the age for the instances that are excepted under the bill, that is the business executives with certain income over $20,000 exclusive of social security, that is from pension, and tenured college professors, that is, if the State should raise those ages by law, then the State statute would apply notwithstanding the exception provided in this bill.

The question I ask now is: If existing State law provides for a higher age retirement in these excepted circumstances, for instance, the tenured professors, providing in my State for retirement at age 70, and I do not imagine there is any provision now as to the business executives, but if these provisions providing these exceptions are contrary to existing law as well as future law, they would not be applicable in that particular State? Is that correct?

Mr. JAVITS. As I indicated earlier today, the State may raise the age cap higher than the Federal cap.

Mr. ALLEN. Whether in the future or by existing statute?

Mr JAVITS. Exactly. And that is stated at page 5 of the committee report which cites section 14(a) of the basic law which we are amending and which also says: "As this language makes clear the ADEA does not preempt State laws."

Mr. ALLEN. Yes; if the distinguished manager of the bill will concur in that view, I shall appreciate it, for the legislative history.

Mr. WILLIAMS. Yes, we will do it for the record. Yes, that is correct.

Mr. ALLEN. I thank the distinguished Senators.

UP AMENDMENT NO. 951

(Purpose: To provide for limiting to 2 years the period in which the statute of limitations under the Age Discrimination in Employment Act of 1967 may be tolled.)

Mr. JAVITS. Mr. President, I sent to the desk an amendment which is an amendment intended to be proposed by Senator DOMENICI. So I hope his name will be carried in parenthesis or in some other way.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for Mr. DOMENICI, proposes an unprinted amendment numbered 951. On page 9, line 14, before the period insert a comma and the following: "but in no event for a period in excess of two years".

Mr. JAVITS. Mr. President, I shall explain the amendment. Senator DOMENICI is very properly engaged in the energy conference and asked as a courtesy for the managers of the bill to present this amendment in view of the fact that it is acceptable to us and is germane.

What the amendment does is to place a 2-year limitation on the period during which the statute of limitations is tolled while the Department of Labor is engaged in conciliation, as required by the act.

As we have it in the bill, the tolling period is not limited. In other words, for as long as the Department is engaged in conciliation, the statute is tolled.

Senator DOMENICI feels that there should be some limit upon the overall time during which the statute of limita-

tions is tolled. His amendment places 2 years as that limit; thus, if it is a nonwillful violation, suit must be filed within 4 years from the date of the violation, in order to preserve the full amount of back wages. If it is a willful violation, the aggregate period would be no more than 5 years.

This amendment is acceptable to me, and I believe if Senator WILLIAMS will answer, it is acceptable to him.

Mr. WILLIAMS. Yes.

Mr. DOMENICI. Mr. President, my amendment would place a 2-year limitation on the period during which the statute of limitations could be waived by the administrative actions of the Department of Labor. Section 5 of H.R. 5383 provides for an open-ended tolling of the statute of limitations while the "Secretary is attempting to effect voluntary compliance with requirements of this act through informal methods of conciliation, conference and persuasion." While I understand that complex administrative requirements, protracted negotiations, and a series of judicial decisions have resulted in a number of cases being dismissed on procedural grounds without a review of their merits, I am not at all sure that we should redress that problem by creating the potential for mischief in the opposite direction.

Mr. President, section 7(e) of the Age Discrimination in Employment Act of 1967 incorporates into its enforcement procedures sections 6 and 10 of the Portal-to-Portal Act of 1947. Under this provision the Secretary of Labor must file suit within 2 years of an alleged unlawful act and within 3 years in cases involving willful age discrimination. When the Department first approached the House Education and Labor Committee and the Senate Human Resources Committee, they portrayed the language contained in section 5 of H.R. 5383 as a technical amendment. Our colleagues in the other body did not share the Department's view of this sweeping substantive change in the enforcement mechanism for the Age Discrimination in Employment Act. The House-passed version of H.R. 5383 does not contain this Labor Department initiative.

Mr. President, I understand and can sympathize with the fact that in some cases, especially large and complex cases involving a number of individuals, more time is needed for the conciliation process. I can also appreciate that it is desirable for all concerned—the employees, the employers, and the Labor Department—to resolve as many cases as possible by means of voluntary compliance. Having said that, Mr. President, I would like to stress that I do not think it is necessary to grant the Department an unlimited tolling of the statute of limitations during which time the employer continues to be liable for additional back-pay damages.

The potential for mischief which I referred to earlier is simply this. If we enact the open-ended language contained in section 5 of this bill we will be granting to the enforcement bureau within the Department of Labor the power to exert vast leverage against a given employer. The growing financial burden that could accumulate during a prolonged period of "conciliation" could force an employer to make unnecessary and unfounded concessions in an effort to settle on terms acceptable to the Department. In seeking to overcome existing shortcomings in the enforcement mechanism, we should not tilt the scales too far in the opposite direction.

My amendment would give the parties up to 2 additional years to resolve their differences in informal negotiations. That is probably more time than will be needed in most instances. Some would argue that a 3- to 6-month period would be sufficient, but I wanted to make an effort to meet the legitimate needs of the claimants and the enforcement agency without creating an undue burden on the business community.

Mr. President, I ask unanimous consent that a letter dated July 13, 1977, from Mr. Forrest I. Rettgers, executive vice president of the National Association of Manufacturers, to Representative CARL PERKINS, chairman of the House Education and Labor Committee, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 13, 1977.

Hon. CARL D. PERKINS,
Chairman, House Education and Labor Committee, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Two days ago the National Association of Manufacturers presented to you by letter our views on H.R. 5383. It is our understanding that amendments to the statutes of limitations governing the Age Discrimination in Employment Act will also be considered during full Committee mark-up. I would therefore like to share with you our evaluation of the impact these procedural amendments would have on industry.

These amendments would generate a substantial additional record-keeping burden. Equally important is the effect the infinite period of conciliation would have on the efficient processing of ADEA claims by the Labor Department. We believe the effectiveness the Labor Department has demonstrated in its processing of age claims to date results in part from the time limitations to which it has had to adhere. With open-ended conciliation periods the Department might well drag on with a case for many months, even years, as does the EEOC. Such delay would work an obvious disservice to employers, whose potential liability would continue to accrue, and to legitimate claimants whose rights would go unsatisfied.

Proposals to toll the statute of limitations on filing suit for the entire conciliation period effectively defeats the purpose of a statute of limitations. Suits could quite conceivably be filed many years after the alleged violation occurred during which time records are destroyed, and witnesses move away or die.

In setting a limitations period a balance must be struck between the right of the claimant to achieve redress, and that of the defendant to conduct an effective defense. A new statute of limitations potentially years longer than that originally set by Congress does not weigh both considerations equally.

Should modifications of existing limitations periods be deemed necessary, we advise reasonable and *fixed* extensions. Such extensions should be based on the practical considerations of case processing, and not on the EEOC's bad example.

Sincerely,

FORREST I. RETTGERS.

Mr. DOMENICI. I would draw my colleagues' attention to the last paragraph of Mr. RETTGERS' letter in which he states that—

Should modifications of existing limitations periods be deemed necessary, we advise reasonable and fixed extentions.

I think this is a reasonable request on the part of the business community and I think that their concerns would be alleviated, in large part, by the adoption of my amendment.

Mr. President, I would hope that the distinguished managers of this bill will accept and support my amendment.

Mr. JAVITS. We yield back our time.

Mr. WILLIAMS. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

UP AMENDMENT NO. 952

(Purpose: To provide for jury trials in actions brought under the Age Discrimination in Employment Act of 1967.)

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes unprinted amendment numbered 952.

Mr. KENNEDY. Mr. President, I ask that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, between lines 16 and 17, insert the following:

Sec. 4. (a) Section 7(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(c)) is amended by inserting "(1)" after the subsection designation and adding at the end thereof the following new paragraph:

"(2) In an action brought under paragraph (1), a person shall be entitled to a trial by jury in any action involving monetary damages (including an action for back pay) regardless of whether equitable relief is sought by a party in the same action.".

(b) The amendment made by subsection (a) of this section shall take effect with respect to civil actions brought after the date of enactment of this Act.

On page 8, line 17, strike out "Sec. 4." and insert in lieu thereof "Sec. 5.".

On page 9, line 6, strike out "Sec. 5." and insert in lieu thereof "Sec. 6.".

On page 9, line 18, strike out "Sec. 6." and insert in lieu thereof "Sec. 7.".

On page 11, line 14, strike out "Sec. 7." and insert in lieu thereof "Sec. 8."

Mr. KENNEDY. Mr. President, the Fair Labor Standards Act provides for a jury trial on legal issues raised under that act. This particular amendment is to clarify section 7(c) of the Age Discrimination in Employment Act, which applies to lawsuits brought by aggrieved individuals on their own behalf. The amendment guarantees the availability of a jury trial on legal issues in private actions brought under the Age Act.

It seems to me, Mr. President, that

this clarification would be desirable. The provision will not have an adverse impact on the courts. The fact is that only 7.8 percent of the civil cases filed come to trial. In the Fair Labor Standards Act area, of the small number which get to trial, 89 percent of the cases are tried by the judge and not by the jury even though the parties could demand a jury. So we are not causing a great increase in court activity by clarifying that the jury right exists in private actions in the age discrimination area.

But this is still an important addition to the legislation. For, juries are more likely to be open to the issues which have been raised by the plaintiffs. Sometimes, a judge may be slightly callous, perhaps because he himself is protected by life tenure, or because he is somewhat removed from the usual employer-employee relationship. The jury may be more neutral in such circumstances.

It does seem to me that when a particular plaintiff in an age discrimination case feels aggrieved, if he desires to be able to utilize the procedures which are in the Fair Labor Standards Act, which do provide for a jury trial, that it would be important not to deny him that possibility.

Mr. President, I would point out that three out of the four circuits which have ruled on the availability of a jury trial under this act have held that it is the right of the individual to seek a jury solution.

It seems to me to be wise to insure that particular protection to those who are subject to age discrimination.

By this section, we are not attempting to define other circumstances under which a jury trial is required. Thus, decisional law which holds that jury trial is not required in suits brought for back pay as restitution under title VII, Civil Rights Act of 1964, 42 U.S.C. 2000(e) et seq., is unaffected by this section.

We talked about the issue of jury trials in age discrimination cases before the full committee, but it was not a part of the hearing process. Rather than have a final vote in the committee, we wanted to give an opportunity to the Members to examine it in greater detail, and I believe they have, and I hope my amendment will be accepted.

Mr. WILLIAMS. The Senator is correct. Mr. President, when we considered this bill in committee there were some questions regarding the right to a jury trial under the ADEA. At the time we wanted to get the bill reported. Since that time there has been an opportunity to clarify the issue.

There is a judicial conflict in this area. The amendment offered by the Senator from Massachusetts clarifies the conflict by guaranteeing plaintiffs the right to a jury trial. The amendment is most acceptable to this floor manager of the bill.

Mr. JAVITS. Mr. President, the amendment is acceptable to us.

The PRESIDING OFFICER. Is all time yielded back?

Mr. KENNEDY. I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. I assume someone has to yield me some time.

Mr. JAVITS. I yield whatever the Senator wishes.

The PRESIDING OFFICER. How much time is yielded?

Mr. JAVITS. Five minutes.

Mr. GRIFFIN. I would like to direct a few questions, if I might, to the managers of the bill.

As I understand the state of the bill now, a mandatory retirement program could not be adopted or adhered to except with respect to high-level management and university professors; is that correct?

Mr. JAVITS. May I interrupt?

Mr. GRIFFIN. Yes.

Mr. JAVITS. The only change is that the amendments provide protection from mandatory retirement until age 70 instead of 65. For those two exceptions, it is 65.

Mr. GRIFFIN. Even though a union representing employees and management may have agreed in a collective-bargaining agreement that it is desirable and in the interest of all parties to require retirement at age 65, this bill will prohibit such a retirement program effective upon expiration of any existing contract, or 1980, whichever is earlier; is that correct?

Mr. JAVITS. That is correct. They will be precluded in this way, I may say to the Senator: There can be no mandatory retirement if the action is based on age, rather than ability or performance. In other words, an employer may justify a lower age for mandatory retirement for some reason other than age—for example, airline pilots, if age is shown to be a bona fide occupational qualification.

Mr. GRIFFIN. I was going to come to airline pilots. I do not accept the Senator's classic example so readily. I think it is altogether possible that there could be many airline pilots at age 70 who would be able and fit to fly their planes.

Mr. JAVITS. The Senator caught me a little too fast. I did not mean to state that generically—that just because a person is an airline pilot he can be retired at 60. All I meant to say was that the law permits that distinction to be made if the employer has a valid reason other than age. In other words, if the employer has factual proof of diminished capacity or an agency with regulatory authority finds that on the basis of skill and competence, quite apart from age, a person is unable to perform his duties as an airline pilot, the law permits that retirement. But the action must still be based on a factor other than age.

Mr. GRIFFIN. It seems to me it would be very difficult to sustain the burden of proof that all airline pilots over 65, or over age 60, or over age 70, are ipso facto unqualified to fly airplanes.

Let me ask the Senator this: What about airline stewardesses? Will it be the law that airline stewardesses would have the right to continue working until they are age 70?

Mr. JAVITS. Unless the employer can prove that they are unable to perform adequately in the duties of their job.

Mr. GRIFFIN. They could under this bill.

Mr. JAVITS. The law permits, and I would like to read it to the Senator, because I think it is very important:

> It shall not be unlawful for an employer . . . to take any action otherwise prohibited under (the Act) . . . including the establishment of a mandatory retirement age less than the maximum age specified in section 12 of this Act, where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age; . . .

So it is simply a question of whether the employer can carry his burden of proving entitlement to the exception. I cannot substitute my judgment for that proof.

Mr. GRIFFIN. The Senator from New York is one of the best lawyers in this body; indeed, he is one of the best lawyers anywhere. He knows, as well as I, that if this bill becomes law it will be very difficult for any employer or any union to require retirement by any group in the work force before age 70.

The Senate just adopted an amendment offered by Mr. KENNEDY which would give anyone claiming age discrimination a trial by jury. It is said that an employee under age 70 can be fired "for cause", but it is very difficult these days to get a civil suit tried in Federal court, because of the speedy trial law giving priority to criminal cases. An employer requiring an employee to retire before age 70 might have to wait 3 years or more for a decision. In the meantime back pay claims would build up. Instead of saying "this employee (between 65 and 70) is still qualified—and that one is not," it will be easier to make no distinctions and to allow all to work until age 70.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. GRIFFIN. Maybe I could have some more time?

Mr. JAVITS. I yield the Senator an additional 5 minutes.

I understand the Senator's disquiet, but this is not a new law. It has been on the books for 10 years, and the upper age limit of 65 has been on the books for 10 years.

The dangers which the Senator fears in this law have been disproved in the past 10 years. What we are doing here does not change employers' experience at all. Section 4(f)(1) is now in the law and, apparently, it has not presented the difficulties raised by the Senator.

Now, individual cases in many establishments occur where you do have dif-

ferent types of physical activity, different types of required alertness, and so on. The burden is, of course, on the employer, to prove the applicability of the exception. But I can only point out this law has been in effect for 10 years and has not engendered any undue amount of litigation.

Mr. GRIFFIN. If I may proceed for a few minutes, I do have some contrary points of view I would like to express.

Mr. JAVITS. The Senator can have as much time as he wishes.

Mr. GRIFFIN. I thank the Senator.

Mr. JAVITS. How much time does the Senator wish? Fifteen minutes? I have no desire to curtail the Senator.

Mr. GRIFFIN. Five minutes.

Mr. JAVITS. I yield the Senator 5 additional minutes.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. Mr. President, frankly I concur with the spokesman for the AFL–CIO who testified before the House committee when he said:

> Because the appropriate age for retirement will vary from industry to industry and from occupation to occupation, labor and management are best equipped to work out retirement problems unique to their industries through the collective bargaining mechanism.

The earlier law, passed 10 years ago, which allowed mandatory retirement at age 65, made some sense, because age 65 ties in with the social security program. But I am deeply concerned that Congress is now about to change the age to 70 without enough study and deliberation about the effects of this action.

First, as we have already pointed out, this bill will preclude a union and management from negotiating a sensible retirement policy if it does not fit the rigid mold of this bill and—even though retirement at 65 or 62 might make good sense for all concerned in a particular group or industry.

Second, I am concerned about the effect of this bill upon pension plans now in effect, particularly plans covering employees who are not represented by labor unions. Many of those plans contemplate retirement at age 65. But, of course, it would be cheaper for an employer to fund a plan if employees worked until age 70. What will prevent an employer from changing such a plan—or establishing a new plan that lengthens the time an employee will have to work in order to benefit?

The Senate should also be concerned about the impact of this bill upon the economy, the productivity of the work force, the unemployment rate, and upon our whole social structure. Under this bill it is possible that a good many more workers will continue to work past age 65 until they reach age 70. As a practical matter, the employer is put in an impossible position by this bill. He will not be able to say, as among employees in the 65 to 70 age group: "You are still qualified—but you are not." So all who think they want to work, regardless of productivity, will get to do so.

How will this affect the employment opportunities of those who are now out of work, particularly young men and women who are seeking entry for the first time into the work force?

Obviously, every older person who continues to work past 65, because of this bill will be blocking a younger person from entering the work force at the bottom of the economic scale. If we are concerned about black unemployment—if we are concerned about teenage unemployment in the inner city, this bill will not advance their cause.

Despite my concerns, I do not advance the argument that the policy change embodied in this bill should never be made. I am saying, however, that it should not be made without more thought and consideration than the Senate is devoting to this measure on this occasion.

As this amended bill now stands all elementary and high school teachers with tenure will be able to continue teaching until they are 70 years of age, if they wish. To say that a school board, even in conjunction with a teachers union, cannot set a different, more sensible policy is ridiculous on its face. This move will surely be bad news for many students—and for many young newly graduated teachers who are out of work.

As the bill now stands, employees in such groups as airline pilots, stewardesses, and air controllers will be able to insist on working until age 70, even though their unions might see the wisdom of an earlier retirement age.

At the same time, without much logic or reason, this bill arbitrarily exempts two groups: College professors and highly paid corporate executives. In other words, persons in those two groups only, can be required, despite the law, to retire at age 65.

To recognize the need for exemption of those two groups, arbitrarily, is to recognize the basic weakness of this legislation. If those two groups ought to be exempted, can anyone really say, with a straight face, that they are the only ones to whom the policy of this bill should not apply?

I predict that the Senate will rue the day it passed this bill. I intend to vote against it, and I hope other Senators will do the same.

Mr. JAVITS. Mr. President, I yield myself 30 seconds.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. JAVITS. Will the Senator from New Jersey yield me 1 minute?

Mr. WILLIAMS. I am glad to yield the Senator from New York any time I have.

Mr. JAVITS. Just 1 minute.

Mr. President, we dealt with this question which has just been referred to in the committee report. I believe the questions raised by the Senator from Michigan are so important that we should include that whole section of the report which deals with this matter in the RECORD. It is found at page 10, relates to the amendment to section 4(f)(1) which is now in the bill, and makes it very clear that we intend that employers may establish a mandatory retirement age that is lower than age 70 where the requirements of section 4(f)(1) can be proved by the employer—that is, where the employer can demonstrate that there is an objective, factual basis for believing that virtually all employees above a certain age are unable to safely perform the duties of their jobs and where, in addition, there is no practical medical or performance test to determine capacity.

There being no objection, the excerpt from the report was ordered to be printed in the RECORD, as follows:

AMENDMENT TO SECTION 4(f)(1)

> The committee intends to make clear that under this legislation an employer would not be required to retain anyone is not qualified to perform a particular job. For example, in certain types of particularly arduous law enforcement activity, there may be a factual basis for believing that substantially all employees above a specified age would be unable to continue to perform safely and efficiently the duties of their particular jobs, and it may be impossible or impractical to determine through medical examinations, periodic reviews of current job performance and other objective tests the employees' capacity or ability to continue to perform the jobs safely and efficiently.
>
> Accordingly, the committee adopted an amendment to make it clear that where these two conditions are satisfied and where such a bona fide occupational qualification has therefore been established, an employer may lawfully require mandatory retirement at that specified age. The committee also expressed its concern that litigation should not be the sole means of determining the validity of a bona fide occupational qualification. The Secretary is presently empowered to issue advisory opinions on the applicability of BFOQ exception. The committee recommended that the Secretary examine the feasibility of issuing guidelines to aid employers in determining the applicability of section 4(f)(1) to their particular situations.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. JAVITS. May I get 1 more minute?

Mr. WILLIAMS. Yes.

Mr. JAVITS. I would like to assure the Senator from Michigan that, however he may vote on the bill, we have not taken this step without carefully studying the problem. To delay further would be to countenance continued discrimination on the basis of age. Individuals deserve to have their performance evaluated without reference to their age, and neither employers nor unions should be able to substitute their notions of when an employee is "ready" to retire. And with respect to your comments about youth unemployment, I want to reemphasize my belief that we cannot pit one disadvantaged group against another. During this session, we have passed landmark legislation addressed to the problems of youth unemployment; it is now time for the older worker.

Mr. GRIFFIN. Mr. President, will the Senator from New York yield?

Mr. JAVITS. Yes.

Mr. GRIFFIN. I do not understand what the standard is supposed to be. Would he say, for example, that if most policemen are physically unqualified after age 65 to continue to serve on the police force, then all policemen could be required to retire at 65, rather than 70?

Mr. JAVITS. If it is reasonable, factually based, and can be justified as a bona fide occupational qualification for that type of employment.

The PRESIDING OFFICER. The Sen-

ator's minute has expired. Who yields time?

Mr. JAVITS. I ask for 1 more minute.

Mr. WILLIAMS. I yield the Senator 1 more minute.

Mr. GRIFFIN. Is a large majority required? Obviously, in almost any group—even including the Senate of the United States—there are some who are able and qualified to work beyond the age of 70, or 75, or 80, or even 90; of course, others are not.

Mr. JAVITS. Let me read it to the Senator, because I think it is important:

The committee intends to make clear that under this legislation an employer would not be required to retain anyone who is not qualified to perform a particular job. For example, in certain types of particularly arduous law enforcement activity, there may be a factual basis for believing that substantially all employees above a specified age would be unable to continue to perform safely and efficiently the duties of their particular jobs, and it may be impossible or impractical to determine through medical examinations, periodic reviews of current job performance and other objective tests the employees' capacity or ability to continue to perform the jobs safely and efficiently.

The PRESIDING OFFICER. The Senator's minute has expired.

Mr. JAVITS. One more minute.

Mr. WILLIAMS. One minute.

Mr. GRIFFIN. Who is going to make that determination?

Mr. JAVITS. Employers are always free to request an opinion from the Secretary of Labor, which may be relied upon under the provisions of the Portal-to-Portal Act. And, of course, the courts are the last resort in a disagreement on the applicability of the exception.

Mr. GRIFFIN. Well, putting such power in the hands of the Secretary of Labor is one more reason why I shall vote against the bill.

ADDITIONAL STATEMENTS SUBMITTED

Mr. CRANSTON. Mr. President, the Age Discrimination in Employment Act (ADEA) was enacted to prohibit discrimination in employment on account of age in such matters as hiring, job retention, compensation, and other terms, conditions and privileges of employment. Its purpose is threefold: to promote employment of older persons based on their ability rather than age; to prohibit arbitrary age discrimination in employment; and to help employers and workers find ways of meeting problems arising from the impact of age on employment.

The ADEA currently prohibits most employers, employment agencies, and labor organizations from discriminating in employment practices against persons between the ages of 40 and 65 on the basis of their age. The law applies to employers having 20 or more employees, public employers, employment agencies serving such employers, and labor organizations with 25 or more members.

The act contains exception for cases where age is an established occupational qualification reasonably necessary to the normal operation of a particular job. This is known as the "BFOQ" provision.

On September 22, the House of Representatives approved H.R. 5383 by an overwhelming vote of 359 to 4. The House-passed bill includes provisions to raise from 65 to 70 the upper age limit of coverage under ADEA. The Senate bill, as reported by the Human Resources Committee on October 12, also raises the age of coverage to 70, but included in section 6 provisions to exclude from the extended coverage tenured teachers, college professors, and certain employees with retirement benfits of more than $20,000.

OPPOSITION TO EXCLUSION FROM COVERAGE

Mr. President, I sought to delete these exclusions from coverage because I believe that they are contrary to the principle of equal treatment and equal rights for all Americans which underlies the ADEA. We failed by the narrowest of margins, but I think we have made it clear that these provisions have the support of only a bare majority of Senators. I am pleased that the Senate has agreed to delete the exclusion of elementary and secondary teachers from the bill. That was the biggest loophole. I think it would have been a grave mistake to deny the over 2 million elementary and secondary teachers the full protections of the ADEA.

While I regret that the Senate did not remove the other exclusions, I believe that the very close vote—45 to 48—on my amendment to strike these exclusions from the bill demonstrates that a large number of my colleagues share my view that these exclusions are inappropriate and unjust.

ARGUMENTS AGAINST MANDATORY RETIREMENT

Mr. President, it is the view of the Committee on Human Resources—which I strongly share—that mandatory retirement works severe injustices against older workers.

Substantial evidence exists that mandatory retirement may have severe deteriorative impact on the physical and psychological health of older individuals. Dr. Albert Gunn, assistant director for hospitals at the M. D. Anderson Hospital Reheabilitation Center at the University of Texas in Houston, testified in hearings before the Labor Subcommittee that mandatory retirement based on age often subjects workers to sudden and sometimes strong negative reactions that affect mental attitudes, health, and perhaps even longevity. It detracts from the quality of life by taking away a sense of fulfillment and self-sufficiency that many workers find can be realized only from productive employment.

The American Medical Association opposes mandatory retirement. In the view of this organization, enforced idleness robs those affected of the will to live full, well-rounded lives, and deprives them of opportunities for rewarding physical and mental activity.

Mr. President, although I oppose any mandatory retirement age, I support the committee's decision to raise the age of coverage of the ADEA to 70, while we await the results of a study, also authorized by this legislation, on the impact of further changes in the age coverage of the ADEA.

NEW CALIFORNIA LAW BANS MANDATORY RETIREMENT

In this regard, Mr. President, I would like to point out that in my home State of California, our Governor recently signed into law legislation that completely removes the upper age limit of California's State law banning age discrimination in employment for workers in both the public and private sector. California thus joins the dozen or so States which proscribe mandatory retirement at any age.

Gov. Edmond J. Brown, Jr., in signing California's new law, rejected the arguments raised by the opponents. Noting that the opposition to this type legislation came mainly from the universities, corporations and "other holders of power." Governor Brown stated, "This is a classic case of gigantic institutions putting their own archaic and stereotyped work rules ahead of individual freedom." Governor Brown also said, "I would urge other States and other countries to do the same thing—the new California law—expands the available talent that society can draw on. It not only enhances individual liberties but also the ability of society to meet its needs."

I am proud that my home State is among the leaders in abolishing this form of employment discrimination and am proud to join with Governor Brown in opposition to age discrimination in employment.

MANDATORY RETIREMENT AS ARBITRARY AS OTHER FORMS OF DISCRIMINATION

Mr. President, I am against age discrimination in employment just as vehemently as I am against discrimination in employment based on sex, race, or other arbitrary factors. It, too, has the tragic result of wasting the talents and abilities of millions of Americans.

Those in favor of mandatory retirement claim that old age brings frailty and increased sickness—thus accident proneness—increased absenteeism, and actual reduced vigor in job performance. Yet, a number of studies have contradicted these categorical assertions by finding that older workers can produce a quality and quantity of work equal or superior to other workers, that they have as good, and usually better, attendance records as other workers, that they are as capable of learning new skills and that they are generally more satisfied with their jobs than other workers.

HISTORICAL PERSPECTIVE

Mr. President, the age of 65 was generally considered a reasonable retirement age when the social security program was established in 1935. In that year, life expectancy in this country was an average of 61.7 years. The life expectancy in 1976 was 72.5 years, an increase of more than 10 years. This fact in itself presents a persuasive argument for a reevaluation of the assumption that age 65 is acceptable as a "reasonable" retirement age. The upper age limit of 65 in the ADEA was selected only because it was the age at which pensions became payable under the 1935 Social Security Act. Reconsideration of this figure is clearly appropriate today.

ELIMINATION OF MANDATORY RETIREMENT WOULD HAVE MINIMAL IMPACT ON OPENING JOB OPPORTUNITIES FOR YOUTH

Mr. President, it has been argued that raising the mandatory retirement age would greatly increase the labor force participation rate of older workers and thereby reduce employment opportunities for younger workers. However, estimates by the Department of Labor indicate that if mandatory retirement had been prohibited for all workers under 70 in 1976, the male labor force would have increased by only one-tenth to two-tenths of 1 percent.

Further, studies demonstrate that only 30 to 40 percent of forced retirees have both the ability and the desire to continue working; of the total sum of voluntarily retiring male workers, only 7 percent of all retired male workers would be competing on the job market. Moreover, it may not be necessary to make room for the young in the coming years since the percentage of young people in the country will continue to decrease.

Mr. President, the premise that there is a need to make room for young entrants into the ranks of the employed was a product of the inevitable maturation of all those born during the "Baby Boom" years between 1949 and 1959. Since 1960, however, the birth rate has followed a sharp decline. Thus, by the end of the 1970's there will be 30 percent fewer entrants into the working population annually. If we allowed mandatory retirement to continue, there would not only be a reduced labor force, but the burden of social security and pension funds will weigh more heavily on the diminished number of younger workers.

BENEFITS TO RETIREMENT SYSTEMS

On the other hand, eliminating mandatory retirement would strengthen the social security and private pension systems, for workers would continue to contribute beyond age 65 instead of drawing benefits. Moreover, the economy would be stimulated as those working past age 65 continue to use their full purchasing power, while adding billions to the GNP through their skills and expertise.

A few years ago, the ratio of workers to social security beneficiaries was 4 to 1; today the ratio is 3.2 to 1; by 2030 the ratio will approach 2 to 1. The elimination of mandatory retirement would help alleviate this lopsided ratio and help provide a more sound retirement system. Ideally, those persons we now force into idleness should be permitted to continue in the work force, if they wish to do so, paying social security taxes and contributing to retirement plans, rather than being forced to join the retirement ranks collecting cash benefits.

Mr. President, it should be noted too that mandatory retirement causes increased expense to Government income-maintenance programs such as social security, as well as to social service programs, while causing loss of skills and experience from the work force, thus injuring the national economy. The Department of Labor has indicated that forcing skilled workers to resign reduces our gross national product by an estimated $10 billion. And, as I indicated, mandatory retirement also accelerates the likelihood that a proportionately smaller labor force will be supporting a larger retiree group by 1999.

ISSUE IS FREEDOM TO CHOOSE

Mr. President, the issue before us today is this: Should American workers have the freedom to decide whether or not they will continue to work past the age of 65?

There is nothing in this bill which requires individuals to work beyond 65—indeed the trend in recent years indicates that more and more Americans are choosing to retire early. But the opportunity to work past 65 should be provided for those who want to stay on the job, who are capable of continuing productive work and who need to work to support inadequate retirement benefits or who need to work for their health and well-being. I believe that to provide otherwise is short-sighted, unjust, and contrary to the principle of the Age Discrimination in Employment Act of 1967 (ADEA) that individuals be considered for employment on the basis of merit and ability, not age. For this reason, I support the legislation before us today to raise the upper age limit of coverage under the ADEA from 65 to 70, with the hope that this is a first step toward the eventual elimination of all mandatory retirement requirements.

Mr. President, I want particularly to thank Susanne Martinez and Fran Butler for their outstanding work on this bill, especially on the amendment I offered earlier today.

I urge my colleagues to support the Senate bill; imperfect as it is, it is a long stride forward.

Mr. DOMENICI. Mr. President, I would like to join with the distinguished floor managers in urging the Senate to act favorably on H.R. 5383, the 1977 amendments to the Age Discrimination in Employment Act. Approval of this measure will be an especially happy occasion for me. On January 28, 1977, I introduced S. 481, the first Senate bill in the 95th Congress which was designed to extend the protection of the Age Discrimination in Employment Act to persons over 65 years of age. On May 12, I wrote to the distinguished chairman of the Labor Subcommittee (Mr. WILLIAMS) and the Ranking Minority Member (Mr. JAVITS) urging them to give prompt and favorable action to legislation that would eliminate unreasonable age discrimination. I was pleased when they promptly responded by scheduling 2 days of hearings in late July.

Mr. President, I ask unanimous consent that the text of my May 12 letter be printed in the RECORD at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MAY 12, 1977.

Hon. JACOB K. JAVITS,
Ranking Member, Subcommittee on Labor, Room 4230, Dirksen Building, Washington, D.C.

DEAR JACK: As the Ranking Minority Member of the Special Committee on Aging, I have become increasingly concerned about the implementation of the Age Discrimination in Employment Act of 1967.

My first concern centers around reports that the Labor Department is simply not vigorously enforcing the present statute. The burdens of general inflation, the rapidly rising cost of energy, and the steady rise in health costs have fallen heavily upon the low and middle income elderly, most of whom live on fixed incomes. To meet these economic pressures, many older persons have found it necessary to continue working. Unfortunately many of them have not received meaningful assistance from the ADEA.

My second concern is closely related to the first. The current law prohibits discrimination against older workers between the ages of 40 and 65. An employer confronted by two potential employees, one aged 64 and the other 66, would actually be violating the ADEA if he hired the older individual. Thus we have, in effect, legislated discrimination against older workers over 65.

I would also note that the inability to have reasonable access to the job market is an especially heavy burden on women who did not start work until after their children were grown or after they had been widowed or divorced. Such employment discrimination limits the work life of these women thus preventing them from building up sufficient pension and/or Social Security benefits.

On January 28th, I introduced legislation (S. 481) which would make ADEA apply to all workers over the age of 40. I believe that this reform would ease the burden on Social Security and other Federal and State programs of income maintenance. It would also help those older persons who wish to work to better provide for their own housing, food, medical services, etc. I would urge you, as the Ranking Member of the Labor Subcommittee to schedule hearings on this important bill at the earliest possible date. Clearly the time has come for us to eliminate this form of unreasonable age discrimination from our economic system.

With warmest regards and best wishes, I am

Sincerely,

PETE V. DOMENICI.

Mr. DOMENICI. During my testimony before the Labor Subcommittee I urged the committee to completely remove the upper age limit so that the ADEA could protect all workers over the age of 40. The committee has chosen to raise the upper age limitation from 65 to 70. Although this is less than I had hoped, I believe it is a significant step forward and I support it. In connection with this matter, I was pleased with the committee's decision to mandate a study of the effects of raising the age limitation from 65 to 70 and the feasibility of raising it still higher in the future. I think that this is a constructive approach that will give the Congress the data we need to make future decisions regarding mandatory retirement.

Mr. President, I would like to briefly list the major reasons why I am urging the Senate to approve H.R. 5383.

First. The way the current law reads, we have actually institutionalized discrimination against workers over the age of 65. An employer with two potential employees—one aged 66 and one aged 63—would actually be in violation of the law if he hired the older individual.

Second. To further complicate the matter, a number of recent court decisions have narrowed the coverage of the existing act to such a point that it might well be rendered moot.

Third. The majority of retirees do not have private pensions to supplement

their social security benefits—and the earnings limitation makes it difficult for them to significantly increase their retirement income.

Fourth. If the low birth rate continues, there will be a steady increase in job opportunities for older workers. Thus there is a clear need for more flexible retirement system, in both the public and private sectors of our economy, to meet our future manpower needs.

Fifth. Greater freedom of choice in determining an individual's exit from the labor force could ease the financial pressures on the hard pressed social security trust funds as well as medicare, medicaid, food stamps, and other public assistance programs.

Sixth. Mandatory retirement is, for many people, a cruel, capricious, and arbitrary form of age discrimination that can no longer be justified or defended.

Seventh. An arbitrary chronological age is a poor indicator of a person's ability to perform a job.

Eighth. Involuntary retirement can adversely affect the psychological, emotional, and physcal well-being of older persons—a point substantiated by the American Medical Association's Committee on Aging.

Ninth. Mandatory retirement works to the disadvantage of those women who did not enter the work force until their children were grown or after they were widowed or divorced. They often find it difficult if not impossible to accumulate adequate pension and social security benefits.

Tenth. When a person is forced to retire he or she may find that age discrimination makes it extremely difficult for them to find another job.

Eleventh. Mandatory retirement deprives our Nation of the skills, talents and experience of thousands of productive Americans each day.

Twelfth. Involuntary retirement increases the cost of numerous governmental programs, and adds to the drain on the various Social Security trust funds.

Thirteenth. In 1974 a Harris poll indicated that 40 percent of our 20 million retirees would prefer to be working. Thus we have denied these 8 million individuals the freedom of choice to which they are entitled.

Fourteenth. Compulsory retirement is not applied equally to all segments of our economy. Many of the professions, the self-employed, and so forth are free from this type of discrimination. Thus mandatory retirement weighs most heavily upon low- and middle-income individuals.

Mr. President, when Senator FONG first introduced in the 93d Congress an age discrimination bill designed to raise the upper age limitation, he was putting forth an idea whose time had not yet come. Recent economic, social, and demographic changes have revolutionized our perception of mandatory retirement and it is now possible and desirable to enact this legislation.

H.R. 5383 will reassure older Americans that our society needs them and wants them to remain as vigorous, contributing, functioning members of their community. On an individual basis, it would preserve or restore to older workers a sense of self worth and dispel the feeling that his or her life no longer has purpose or meaning.

Mr. President, in closing let me note that medical and nutritional advances throughout the 20th century have enabled Americans to live longer and healthier lives. Our task today is to improve the quality of life for our 22 million senior citizens—a task we can begin to achieve by the prompt enactment of H.R. 5383.

Mr. BELLMON. Mr. President, I support H.R. 5383, the Age Discrimination in Employment Act Amendments of 1977. The purpose of this legislation is to insure that older individuals who desire to work will not be denied employment opportunities solely on the basis of age. This objective would be achieved by raising the current upper age limit of 65 years of age to 70 years of age.

Mr. President, as Governor of the State of Oklahoma, I was successful in initiating the first compulsory retirement system in the State. I believed then and I believe now in mandatory systems as being beneficial in freeing up jobs for young persons waiting to join the work force and in hastening the retirement of workers who desire to leave the work force. While I am still concerned with the present unemployment situation among the young, it is interesting to note that recent estimates by the Department of Labor indicate that if mandatory retirement had not been required for all workers under 70 years of age in 1976, the male labor force would have increased by only one-tenth to two-tenths of a percent. For the female labor force, the figure would have been one-tenth of a percent. This represents an increase in the labor force of approximately 200,000 per year. In my view, this is a relatively small increase in the labor force.

Mr. President, I think it should be emphasized that H.R. 5383 allows maximum freedom of choice for employees to decide when to retire. Now that scientific research indicates that chronological age alone is a poor indicator of ability to perform a job, I believe it is time to allow workers that right to continue the self-sufficient fulfillment that many workers realize from productive employment.

Mr. President, I commend the work on this bill by the Senate Human Resources Committee. The committee has also adopted several exemptions to the 70-year mandatory retirement age. These exemptions include compulsory retirement of highly compensated employees at age 65 or above if they will receive an employer-provided annual retirement benefit of at least $20,000, exclusive of social security. This amendment also includes a provision for the Secretary of Labor to adjust the $20,000 figure to reflect increases or decreases in the cost of living. I support this amendment.

Another amendment included in the Senate version of H.R. 5383 is the exemption for certain employees of educational institutions. This provision allows colleges and universities to maintain compulsory retirement policies for faculty, age 65 or above, who are serving under a contract of unlimited tenure This same provision has also been included permitting compulsory retirement of teachers in public schools at age 65. An argument for this amendment was best made, I believe, in a letter received from President Samuel E. Curl, of Phillips University in Oklahoma, who suggests that if mandatory retirement of faculty members is prohibited until age 70, there will be even fewer opportunities for well-trained, vibrant, young faculty members to secure teaching and research positions in U.S. colleges and universities. President Curl continues by pointing out that academic institutions across the country, already experiencing substantial budgetary problems due to inflation and in some cases declining enrollment would incur an additional financial obligation for services which, in many cases, yield questionable academic returns, should the 70 age limit be permitted in this profession.

Mr. President, I urge the Senate to favorably consider H.R. 5383 as reported by the Human Resources Committee. I believe it is time we give American workers greater freedom in determining whether to retire or continue working. In my judgment, there is great potential in many men and women over age 65 and retirement should be an individual consideration.

Mr. President, I ask unanimous consent that the letter to which I referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AUGUST 31, 1977.

Hon. HENRY BELLMON,
Dirksen Building,
Washington, D.C.

DEAR SENATOR BELLMON: I am writing to you with regard to H.R. 5383, concerning age discrimination in employment. Although H.R. 5383 was reported by the House Committee on Education and Labor on July 14 by a unanimous 33–0 vote, it has some serious implications for the financial and academic health of our colleges and universities.

If mandatory retirement of faculty members is prohibited until age 70, there will be even fewer opportunities for well-trained, vibrant, young faculty members to secure teaching and research positions in U.S. colleges and universities. Furthermore, entry into faculty and administrative positions by women and minorities would be slowed considerably. Academic institutions across the country, already experiencing substantial budgetary problems due to inflation, and in some cases, declining enrollment, would incur an additional financial obligation for services which in many cases, yield questionable academic returns. Although there are numerous exceptional cases, our students would, in general, be the ultimate losers. In summary, American higher education would suffer both financially and academically by passage of H.R. 5383. At the present, there is a strong presumption of retirement at age 65, with no great stigma attached to being "terminated" at that time.

I would greatly appreciate your voting against passage of H.R. 5383 and your influence in that regard. I will be grateful for what you can do at any time to insure that control of American colleges and universities remains in the hands of the trustees and administration of those institutions. Thank you very much.

Sincerely,

SAMUEL E. CURL, *President.*

Mr. THURMOND. Mr. President, under the current Age Discrimination in Employment Act, it is unlawful for an employer to "... fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to his compensation, terms, conditions or privileges of employment because of age." Coverage extends to members of the civilian labor force between the age of 40 and 64.

H.R. 5383 would change the age limit from the 65th to the 70th birthday. A number of groups have complained about the added costs which will be required to adjust employee work and health benefit programs and pension benefit accruals. In light of these concerns, the committee has made a number of changes in the bill as introduced, and I believe has answered many of their concerns.

Ideally, we should abolish mandatory retirement altogether, with a phase-in to allow for any necessary adjustments in pension, health, or other benefit plans. The option for voluntary retirement at age 65 should be retained, and social security recipients should not be penalized if they decide to work after age 65.

I strongly believe that as long as an individual wants to continue working and is able to do a good job, he should not be forced to retire. Age alone is a poor indicator of ability to perform on the job. Improved health techniques, longer life expectancy, the desire of people to maintain previous gains in the standard of living, and the detrimental effect on society and the individual of enforced idleness, make mandatory retirement a practice of questionable value.

Mr. President, I strongly support this legislation and urge my colleagues to do likewise.

Mr. KENNEDY. Mr. President, there is perhaps no more alienating an experience than being put out to pasture. It is a profound exile to be told that you are not wanted for work anymore even though you still want to work and are capable of working.

It is also a frightening experience to feel the need to maintain an income and to be told that you will not be allowed to do so.

Older workers bear the stigma that, as a class, they are less productive. In most fields of endeavor this is not the case, yet the irrationality leads to the shame and pain of unnecessary forced retirement. What we seek to do in this bill is to mitigate the pain of arbitrary forced retirement.

The bill has two main features. First, it protects workers against being terminated or being refused employment on the basis of age, from the time that they are 40 until the time that they are 70. This raises the protection another 5 years above that offered under the current law—from 65 to 70.

Second, the bill clarifies the congressional intention behind the exception to the act which allows lesser benefits to be given to older workers in pension, retirement, and insurance plans. The purpose of this provision was to ease the way for employment of older workers by allowing some differentiation in the fringe benefits that they would get. But a couple of courts have interpreted the provision to allow for the discharge of workers even if they would otherwise fall under the act's protection, so long as they were covered by a pension plan. We now make clear that the differentiation is allowed for purposes of fringe benefits alone and not for purposes of allowing an earlier retirement age.

Mr. President, I look forward to speedy action on this bill. Its counterpart measure has already been passed by the House.

Most workers who reach their mid-60's want to retire. We have helped make retirement a more pleasing prospect for older people as we've come to realize that our obligation to them entails both increasing their income and providing them with a variety of services. In this area, I have proposed legislation, which has become law, which provides nutritional insurance for older Americans. I was one of the sponsors of the Older Americans Act, which first clarified the need for a comprehensive approach to the needs of the elderly. There is much more which has to be done, but we should be pleased at the pledges to the elderly which we have made so far.

But it still must be acknowledged that the disposable income of retirees is much less than that of active workers—the average direct income of the worker decreases to less than half when he retires. In addition, of course, there are some people who want to continue to work—there is a good feeling which comes from a job well done.

For both of these reasons, we should protect people when an employer has no good economic reason to fire them or refuse to hire them. And that is what this bill does.

Mr. President, I am reminded of Daniel Webster's comment on the importance of work in this society:

> Employment gives health, sobriety and morals. Constant employment and well paid labor produce, in a country like ours, general prosperity, content, and cheerfulness.

Today we can take another step to insure that anyone who is imbued with that feeling will not be tossed aside merely because he was born too soon.

MANDATORY RETIREMENT

Mr. CLARK. Mr. President, I fully support the principles embodied in H.R. 5383, the Age Discrimination in Employment Act Amendments of 1977.

The bill has three major components: First, the upper age limit of the antiage discrimination law would be raised from 65 to 70.

Second, mandatory retirement before age 70 would be expressly prohibited.

Third, the Secretary of Labor would be authorized to conduct a study to determine the feasibility of abolishing mandatory retirement completely.

This legislation, which has already been overwhelmingly approved by the House of Representatives, will go a long way toward providing older workers with the protection they need against job discrimination on account of age.

However, as reported from the Senate Human Resources Committee, the bill exempts from its raised mandatory retirement age teachers, professors, and employees with substantial pension benefits. I consider this an inequity. I think the same retirement age should apply to all persons. I therefore have joined as a cosponsor of the Cranston-Church amendment to H.R. 5383, which would strike these exemptions from the bill.

Mr. President, I have long sought to end mandatory retirement. It constitutes the cruelest form of age discrimination, and it deprives this country of the resources of a vast number of senior citizens who wish to continue working, but cannot.

As the proportion of older Americans in the population grows larger, mandatory retirement practices will become an increasingly burdensome problem for millions of Americans, in fact, by the end of the century, we can expect the population to include 30 million persons over the age of 65.

An excellent study conducted for the National Council on the Aging, entitled "The Myth and Reality of Aging in America", concluded that one-third of the senior citizens would like to return to the work force—and an even larger number say they did not choose to retire in the first place. The desires of these older Americans will never be met until we end mandatory retirement once and for all.

While I would have preferred lifting the mandatory retirement age completely, this bill represents an important first step toward that ultimate objective.

Residents of my home State of Iowa have a large stake in this legislation, since Iowa has the third highest percentage of senior citizens among all States.

During field hearings held last year in the State by the Senate Special Committee on Aging, on the subject of "The Nation's Rural Elderly", I frequently heard from Iowans who objected to current mandatory retirement policies.

It should be stressed that this legislation would not force older people to postpone retirement. It would merely say to older Americans that if they are capable of continuing to work, and desire to do so, they will not be forced to retire until age 70.

This is a far fairer system than the one currently in effect. I want to urge its adoption by the Senate.

Mr. DOLE. Mr. President, most persons who have studied H.R. 5383, the bill amending the Age Discrimination in Employment Act, realize that if our employment situation was what we would like it to be, there would be no controversy over this issue.

Ideally, there would be an abundant number of jobs, the unemployment rate would be low enough as to be inconsequential, and there would be no reason for a mandatory retirement age. Unfortunately, no one needs to be reminded that our economic outlook is not this healthy.

BLEAK ECONOMIC PICTURE

We have to admit to a high unemployment rate. We have to recognize that a large number of youth and minority members are unemployed. We have to admit the possibility that if the mandatory retirement age is raised, employment and promotion opportunities all

across the board might be affected. Therefore, the real decision is whether we should allow older citizens to work 5 more years, or whether we should attempt to open as many work opportunities as possible for younger workers.

I have chosen to support the Age Discrimination Act as reported by the Human Resources Committee. In my opinion, this represents an acceptable compromise between the two choices outlined above.

HARDSHIPS ON RETIRED PERSONS

Every day, something in the news, a letter in my mail, or an encounter through another median reminds me that our less-than-thriving economy hits older Americans especially hard. Many of them live on a small, fixed income, and find it almost impossible to stretch their funds enough to compensate for the effects of inflation. Quite possibly, these persons would be better off had they been allowed to work up until age 70.

Not only would there be a paycheck coming in for more years, but there would be a larger contribution into a retirement plan. If raising the retirement age from 65 to 70 can improve the quality of life for these persons, then I heartily support this bill.

CONTINUING AGE DISCRIMINATION

Because age is such an arbitrary guideline, and because it reflects nothing about job performance, I regret that we find it necessary to refer to it at all. I am pleased to note that this bill directs the Department of Labor to study the possibility of removing the age limitation completely. Just raising the retirement age from 65 to 70 hardly eliminates discrimination. As I mentioned earlier, I look forward to the time when our economy will permit us to lift all restrictions.

The controversial aspects center on whether or not employers may require tenured college professors, and executives with retirement benefits of at least $20,000 to retire at age 65. With an eye toward the disturbing unemployment figures, I support these exceptions.

PROFESSORS

Tenured college professors often keep younger professors from being hired, or from progressing within the department. As long as an older professor holds a position, a research or teaching assignment, and a salary twice that of his younger colleagues, the academic community will see limited growth.

This could have severe effects on the American educational system. The provision allows mandatory retirement at age 65. At the same time, mandatory retirement is not required, so those older professors who are still exceptional may be able to continue teaching.

Testimony reflects that as the number of college-age students decreases, universities will be forced to cut back on teaching staff. It will be the untenured person that is forced out first, who is likely to be a female or a minority. However, if tenured professors are retired, this opens up new tenures to younger teachers.

EXECUTIVES

Similarly, older executives with a retirement pension of $20,000, excluding social security, are also appropriate candidates for retirement at age 65. It is unlikely that they would face financial hardships after they retire, and as long as their top-level positions are tied up, opportunities for promotion are limited for lower level employees. Once promotion occurs, it usually has a ripple effect down through the ranks. I think this should be encouraged, and therefore support excluding certain executives from coverage under this bill.

SUMMARY

I am pleased that the Senate agreed to these exceptions to H.R. 5383, and that for most employees, the mandatory retirement age will now be 70. I am hopeful that the House conferees will agree to these provisions, and trust that our action today is a step toward eliminating age discrimination.

Mr. WILLIAMS. Mr. President, I have no further requests for time.

Mr. JAVITS. I have no further requests, and I know of no further amendments.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment, as amended.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Does the Senator from New Jersey yield back the remainder of his time?

Mr. WILLIAMS. I yield to the Senator from West Virginia.

TIME-LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the pending bill, before proceeding to the next bill, which is the GI bill amendments, I believe, the Senate proceed to the consideration of the conference report on foreign assistance appropriations, with a time limitation thereon of not to exceed 1 hour—this has been cleared with the other side of the aisle—the time to be equally divided between and controlled by the Senator from Hawaii (Mr. INOUYE) and the Senator from Pennsylvania (Mr. SCHWEIKER).

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 5383.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. WILLIAMS. I yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

The result was announced—yeas 88, nays 7, as follows:

[Rollcall Vote No. 567 Leg.]

YEAS—88

Allen	Glenn	Muskie
Anderson	Goldwater	Nelson
Baker	Gravel	Nunn
Bayh	Hansen	Packwood
Bellmon	Hart	Pearson
Bentsen	Haskell	Pell
Biden	Hatch	Percy
Brooke	Hatfield	Proxmire
Bumpers	Hathaway	Randolph
Burdick	Heinz	Ribicoff
Byrd, Harry F., Jr.	Helms	Riegle
	Hollings	Roth
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Inouye	Sasser
Case	Jackson	Schmitt
Chafee	Javits	Schweiker
Chiles	Johnston	Scott
Church	Kennedy	Sparkman
Clark	Lavalt	Stafford
Cranston	Leahy	Stennis
Culver	Long	Stevens
Danforth	Lugar	Stone
DeConcini	Magnuson	Talmadge
Dole	Matsunaga	Thurmond
Domenici	McIntyre	Tower
Durkin	Melcher	Weicker
Eagleton	Metcalf	Williams
Eastland	Metzenbaum	Young
Ford	Morgan	Zorinsky
Garn	Moynihan	

NAYS—7

Bartlett	Hayakawa	Wallop
Curtis	McClure	
Griffin	Stevenson	

NOT VOTING—5

Abourezk	Mathias	McGovern
Humphrey	McClellan	

So the bill (H.R. 5383), as amended, was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Secretary of

the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 5383.

The ACTING PRESIDENT pro tempore (Mr. MATSUNAGA). Without objection, it is so ordered.

The Senate will please come to order. The Chair is unable to hear the statements of the Members.

Mr. JAVITS. Mr. President, I just want to express my appreciation at working again with Senator WILLIAMS to pass a very important bill for millions of our older citizens in this country. I want also to congratulate Mike Forscey who today and Steven Paradise of Senator WILLIAMS' staff and to thank them, and Don Zimmerman and Peter Turza of my staff and to thank them and those they represent for their fine service.

Mr. WILLIAMS. I want to join the Senator from New York in expressing my appreciation to Don Zimmerman and Peter Turza of his staff and to Steven Paradise, Michael Forscey, who is celebrating a birthday today, and to Charles Edwards of the Human Resources Committee staff for the fine work they have done on this legislation.

I also want to mention the dedication and support which has been provided by Harriett Bramble, Joan Wilson, Denny Medlin, Martha Woodman, Mildred Dunmore, and Maureen Dallard of the Labor Subcommittee staff. Without their willingness to work long hours day after day and often on weekends the subcommittees' work on this bill simply could not have been completed.

Mr. PERCY. Will the Senator yield?

Mr. JAVITS. Yes, I yield.

Mr. PERCY. I want to say that I have never voted on a bill which I have more reservations and questions about than this bill. It has come up sooner than most of us expected and at a time when most of us are heavily preoccupied with other urgent official business. I do not know fully what the consequences of this legislation are going to be. And I think a lot of my colleagues feel exactly as I do.

It is hard to vote against this bill, because I am deeply concerned about the rights and needs of older workers. On the other hand, I have serious reservations, because I wonder whether we really know all of the ramifications of what we are doing today.

Mr. JAVITS. Mr. President, we have taken the precautions, and every Senator should know that, of deferring the effective date for a full year. We are entirely openminded. Our feet are not rooted in concrete at all. Otherwise, we would not have done that. That is most unusual. That was at the request of the President.

I can assure the Senator, as one Senator and as the ranking member of this committee, that I shall regard any thought, idea, or suggestion he has to make with the greatest seriousness, notwithstanding passage of the bill.

Mr. PERCY. I express great appreciation for your assurances. The year's deferment was one reason why many of us felt that we could vote for the bill, even with serious reservations, because we do have a full year before its effective date to study the matter further. I think that openmindedness on the part of the committee will enable us to work together to see if the consequences are not what we expect.

I characterize my affirmative vote for this bill as a reluctant vote, because I am not convinced that many important questions have not been satisfactorily answered. These questions include: What would be the displacement effect on younger workers; what would be the effect on minority and women workers, workers who already suffer from the rigidity of seniority systems; and would there be an adverse effect on productivity due to the potential loss of efficiency of workers between the ages of 65 and 70? Will it cause individuals to inadequately financially prepare for retirement hoping that they can work until an age that subsequently is deemed unrealistic?

It is possible that definitive answers to these and other crucial questions are now nonexistent. The best knowledge of the Department of Labor, academia, business, organized labor, and other interest groups does not consist of hard facts, but of conjecture. We have no reliable statistics on the effect of this bill on pension plans or retirement benefits. We have no reliable statistics on the number of younger workers who may be denied entry into the job market, because an older worker decided to work until age 70. The available statistics and projections do not clearly indicate whether or not the trend toward early retirement will continue. In short, our actions today are based upon our best guess as to the probable impact of this bill rather than on clear and convincing evidence as to its impact.

However, mandatory retirement is not solely an economic issue. Indeed, it is primarily a people issue, and, in the absence of clear and convincing arguments to the contrary, it is consideration of the people aspect of this issue upon which I based my vote on this bill. Many of us have strongly advocated equal employment opportunities for all citizens, and we would be derelict if we did not somehow indicate our concerns in this regard for older workers.

We have our work cut out for us however in this next year before the law becomes effective. The exclusions already provided for in this bill may not prove to be adequate.

Mr. WILLIAMS. Mr. President, I move that the Senate insist on its amendments to H.R. 5383 and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Acting President pro tempore (Mr. MATSUNAGA) appointed Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. NELSON, Mr. RIEGLE, Mr. KENNEDY, Mr. JAVITS, Mr. SCHWEIKER, Mr. STAFFORD, and Mr. CHAFEE conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, will the Chair recognize my senior colleague?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Will my colleague yield to me?

Mr. RANDOLPH. Yes, I yield to my distinguished colleague.

Mr. ROBERT C. BYRD. Mr. President, I take this opportunity to compliment the distinguished Senator from New Jersey (Mr. WILLIAMS) and the distinguished Senator from New York (Mr. JAVITS) upon the passage by the Senate of the Age Discrimination in Employment Act. The concern of both of these Senators for the problems faced by older Americans is well-known and respected. One such problem is the growing alienation from society of our older citizens, who so often tend to be shunted aside and prohibited from making a worthwhile contribution to their fellow citizens.

Thankfully, the injustice of this situation is now being recognized, and Senators WILLIAMS and JAVITS are in the forefront in formulating a remedy. The passage of the Age Discrimination in Employment Act represents a large step in the formulation of that remedy. And our senior citizens owe both of these men a debt of gratitude for their labors.

COMMITTEE MEETING DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the permanent Subcommittee on Investigations of the Governmental Affairs Committee be authorized to meet during the session of the Senate today, during the hours of 1:45 p.m. and 2:45 p.m., to continue its investigation of labor union insurance. This has been cleared on the other side.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

Mr. ROBERT C. BYRD. If my colleague will yield further.

Mr. RANDOLPH. Yes.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate revert to the previous schedule and proceed at this time with Calendar Order No. 433, the veterans bill; and then, upon the disposition of that measure, go to the foreign assistance conference report, with the same time limitation on that conference report.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RANDOLPH. I should like to ask the Senator from New Jersey (Mr. WILLIAMS) whether this bill retroactively covers a forced retirement at, say, age 60 or 62 prior to the effective date of this bill where the individual so retired is eligible for, and actually receives, a pension under a pension plan which has been qualified with the Internal Revenue Service?

Mr. WILLIAMS. The bill is not retroactive. The question of mandatory retirements prior to the effective date of this bill will be determined by the courts' interpretation of existing law.

Mr. RANDOLPH. I thank the Senator for this explanation.

Mr. President, it is my desire to commend and congratulate the managers of the bill which has just been passed by a very overwhelming majority.

I say that Chairman WILLIAMS and the ranking minority member of the committee, Senator JAVITS, have certainly been very careful as they have proceeded in an effort at clarification and to indicate that our action today is not locked in legislative concrete.

There is an opportunity here, as has been stated by the assurance of Senator JAVITS to Senator PERCY, and I am sure that would be a statement that could be affirmed by the chairman of our committee (Mr. WILLIAMS), that we have moved forward in this legislation, because we felt it is appropriate; it is timely; and it is needed.

We are, in a sense, plowing some new ground in the Senate from the standpoint of providing opportunity to the elderly of our Nation. This measure concerns a vital segment of the American people. The older worker contributes in every facet of commerce—in businesses and professions of the United States.

I think the bill, on nearly all counts, is positive in nature.

Mr. WALLOP. Will the Senator yield?

Mr. WILLIAMS addressed the Chair.

The ACTING PRESIDENT pro tempore. Is the Senator from West Virginia yielding?

Mr. RANDOLPH. I yield.

Mr. WILLIAMS. Mr. President, I just want a moment to express my gratitude for the very generous remarks of the Senator from West Virginia in regard to me.

I say once again that here is a major matter that has come before us in the Senate that has had the attention and the effort throughout of our good friend, the most distinguished Senator from West Virginia (Mr. RANDOLPH).

He has been so constructive and helpful through the entire process which brought to a vote this matter which is so important, particularly to the elderly in our country.

Mr. WALLOP. Mr. President, I believe the Senator from West Virginia had yielded to me.

Mr. RANDOLPH. Yes.

The ACTING PRESIDENT pro tempore. If the Senator will wait.

Mr. WALLOP. Mr. President, I say to my distinguished colleague from West Virginia that I do not disagree with the route and the course prescribed by the legislation previously passed by such an overwhelming margin. But I suggest we may be well locked into legislative concrete, because to go back on such a thing now would be a very cruel allusion cast upon the condition and hopes and dreams of the elderly people of America.

If there is any validity in the earlier remarks of those who expressed their reservations that we may not know how far we have gone, then I would only express the wish that we had not gone so far so quickly without adequate hearings. If the committee itself was really aware that there was reason to put this off for a hearing, I wish, indeed, they had put it off for a hearing and held hearings and then perhaps proceeded without the risk of hurting the feelings and hopes and aspirations of the elderly people in America.

I have no quarrel with where it has gone, but I have a worry it may be locked in concrete and has not done what we thought we had done.

GI BILL IMPROVEMENT ACT OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 457, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 457) to amend section 1662(a) of title 38, United States Code, to extend the delimiting period for completion for certain veterans and under certain conditions.

The Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "GI Bill Improvement Act of 1977".

TITLE I—GI BILL RATE INCREASES VOCATIONAL REHABILITATION

SEC. 101. The table contained in section 1504(b) of title 38, United States Code, is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$241	$298	$351	$26
Three-quarter time	181	224	263	19
Half-time	120	149	176	13
Farm cooperative, apprentice, or other on-job training:				
Full-time	210	254	293	19".

VETERANS' EDUCATIONAL ASSISTANCE

SEC. 102. Chapter 34 of title 38, United States Code, is amended by—

(1) striking out in the last sentence of section 1677(b) "$270" and inserting in lieu thereof "$288";

(2) amending the table contained in paragraph (1) of section 1682(a) of title 38, United States Code, to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$311	$370	$422	$26
Three-quarter-time	233	277	317	19
Half-time	156	185	211	13
Cooperative	251	294	334	19";

(3) striking out in section 1682(b) "$292" and inserting in lieu thereof "$311";

(4) amending the table contained in paragraph (2) of section 1682(c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$251	$294	$334	$19
Three-quarter-time	188	221	251	15
Half-time	126	147	167	10";

(5) striking out in section 1692(b) "$65" aid "$780" and inserting in lieu thereof "$69" and "$828", respectively; and

(6) striking out in section 1696(b) "$292" and inserting in lieu thereof "$311".

SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

SEC. 103. Chapter 35 of title 38, United States Code, is amended by—

(1) striking out in section 1732(b) "$235" and inserting in lieu thereof "$251"; and

(2) striking out in section 1742(a) "$292", "$92", "$92", and "$9.76" and inserting in lieu thereof "$311", "$98", "$98", and "$10.40", respectively.

CORRESPONDENCE COURSES, ON-JOB TRAINING, AND EDUCATION LOANS

SEC. 104. Chapter 36 of title 38, United States Code, is amended by—

(1) striking out in section 1786(a)(2) "$292" and inserting in lieu thereof "$311";

(2) amending the table contained in paragraph (1) of section 1787(b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$226	$254	$277	$12
Second 6 months	169	197	221	12
Third 6 months	113	141	164	12
Fourth and any succeeding 6-month periods	56	84	108	12";

and

(3) striking out in paragraph (3) of section 1798(b) "$292" and inserting in lieu thereof "$311".

TITLE II—ACCELERATED PAYMENT AND DELIMITING PERIOD EXTENSION

ACCELERATED PAYMENT

SEC. 201. (a) Chapter 34 of title 38, United States Code, is amended by inserting after section 1682 the following new section:

"§ 1682A. Accelerated payment of educational assistance allowances

"(a) The Administrator shall, in accordance with the provisions of this section and section 1798(f) of this title and regulations which the Administrator shall prescribe under such sections, accelerate the payment of educational assistance allowances (hereinafter in this section referred to as 'accelerated payment') to an eligible veteran who

makes application and is eligible therefor. An accelerated payment shall be made by increasing the amount of the educational assistance allowance otherwise payable to such veteran for any school term and proportionally reducing the educational entitlement of such veteran under section 1661 of this title.

"(b) An eligible veteran who makes application for accelerated payment shall be eligible for such payment only upon the satisfactory completion of the school term for which such accelerated payment is to be made and only if—

"(1) such veteran was enrolled as a full-time student during such school term;

"(2) such veteran was entitled to an educational assistance allowance under section 1661 during such school terms;

"(3) such veteran has received a loan from the Veterans' Administration for such school term pursuant to section 1798(f) of this title;

"(4) the tuition and fees of the educational institution in which such veteran was enrolled are in excess of $1,000 for such school term;

"(5) such application was filed with the Administrator within 30 days after the beginning of the school term for which such accelerated payment is to be made;

"(6) the educational institution in which such veteran was enrolled has certified to the Administrator that such veteran satisfactorily completed such school term; and

"(7) the educational institution in which such veteran was enrolled has certified for such school term that less than 35 per centum of the total number of students enrolled in such institution were students receiving educational assistance benefits from the Veterans' Administration under this chapter or chapter 31, 35, or 36 of this title.

"(c)(1) An eligible veteran enrolled in an institution of higher learning shall, if otherwise eligible under this section, be entitled to an accelerated payment for—

"(A) the number of months equal to the number of months of entitlement such veteran may have in excess of the number of months necessary to complete a program of education leading to a standard undergraduate college degree, if such veteran has not successfully completed such a program, or

"(B) the number of months equal to the number of months of entitlement such veteran may have remaining in excess of the number of months necessary to complete the veteran's program of education, if such veteran has successfully completed a program of education leading to a standard undergraduate college degree.

"(2) An eligible veteran enrolled in an educational institution which is not an institution of higher learning shall, if otherwise eligible under this section, be entitled to an accelerated payment for—

"(A) the number of months equal to the number of months of entitlement such veteran may have remaining in excess of the number of months necessary to complete such program of education, or

"(B) nine months, whichever period is the lesser.

"(d)(1) In no event may the amount of accelerated payment for any school term exceed (A) an amount equal to the educational assistance allowance to which such veteran was otherwise entitled under section 1682 of this title for such school term, or (B) the amount by which the expenses of tuition and fees are in excess of $1,000 for such school term, whichever is the lesser.

"(2) In no event may the number of months of entitlement accelerated by a veteran for any school term exceed one-half the total number of months of entitlement the veteran may accelerate under this section unless such veteran can reasonably be expected to complete the program of education being pursued during the school term for which accelerated payment is to be made.

"(e) As used in this section, the term 'school term' means—

"(1) in the case of an institution of higher learning operating on a quarter system, three such consecutive quarters;

"(2) in the case of an institution of higher learning operating on a semester system, two such consecutive semesters; or

"(3) in the case of an educational institution not an institution of higher learning, or, in the case of an institution of higher learning not operating on a quarter or semester system, any time division approved by the Administrator of a program of education within which segments of the programs are completed."

(b) Chapter 35 of title 38, United States Code, is amended by inserting after section 1737 the following new section:

"§ 1738. Accelerated payment of educational assistance allowances

"An eligible person shall be entitled to an accelerated payment of educational assistance allowances pursuant to the provisions of section 1682A of this title.".

(c)(1) The table of sections at the beginning of chapter 34 of such title is amended by inserting

"1682A. Accelerated payment of educational assistance allowances."

below

"1682. Computation of educational assistance allowances.".

(2) The table of sections at the beginning of chapter 35 of such title is amended by inserting

"1738. Accelerated payment of educational assistance allowances."

below

"1737. Education loans.".

(d) The Administrator of Veterans' Affairs shall, not later than sixty days after the date of enactment of this Act, notify each appropriate educational institution that accelerated payments (as provided for in subsection (a) of this section) are available for certain students enrolled at such institutions, specifying the full conditions and procedures governing such payments.

(e) Notwithstanding the provisions of section 1682A or section 1738 of title 38, United States Code, as added by subsections (a) and (b) of this section, eligible veterans and eligible persons entitled thereunder shall for a semester or two consecutive quarters beginning after January 1, 1978, and ending prior to August 1, 1978, be entitled to accelerated payment of educational assistance allowances upon application therefor, but the amounts of such accelerated payment which may be paid for any such semester or quarters, the number of months by which such veteran's or person's entitlement shall be reduced, and any quantifiable eligibility criteria shall be appropriately prorated by the Administrator of Veterans' Affairs.

EDUCATION LOAN ELIGIBILITY IN CONNECTION WITH ACCELERATED PAYMENT

SEC. 202. Section 1798 of title 38, United States Code, is amended by—

(1) inserting in subsection (e)(3) a comma and "separately for loans made under subsection (a) and subsection (f) of this section" after "institutions"; and

(2) inserting at the end thereof the following new subsection:

"(f)(1) Notwithstanding the requirements of paragraphs (1) and (2) of subsection (c) of this section, each eligible veteran (for purposes of this subsection 'eligible veteran' includes 'eligible person' as defined in section 1701(a)(1) of this title) entitled to a loan under the provisions of subsections (a) and (b) of this section who, pursuant to section 1682A of this title, has applied and will be eligible for an accelerated payment under such section upon the satisfactory completion of the school term for which such payment is to be made is entitled to a loan under this subsection.

"(2) At the time of application for such loan in connection with such accelerated payment, the eligible veteran shall assign to the benefit of the Veterans' Administration the amount of the accelerated payment for which such eligible veteran is entitled for the school term for which such veteran has applied.

"(3) Unless the Administrator finds there are mitigating circumstances, an eligible veteran who fails to complete satisfactorily any school term for which a loan has been received under this subsection is not eligible for receipt of any accelerated payment under such section 1682A until such time as such eligible veteran has repaid in full the principal amount of and interest due on such loan.

"(4) Notwithstanding the provisions of subsection (b)(3) of this section, an eligible veteran entitled to a loan under this subsection shall be entitled to a total loan amount equal to the amount of accelerated payment for which such eligible veteran is entitled for the school term for which such veteran has applied for such payment.".

DELIMITING PERIOD EXTENSION

SEC. 203. Section 1662 of title 38, United States Code, is amended by striking out the period at the end of subsection (a) and inserting in lieu thereof a semicolon and "except that, in the case of any eligible veteran who was prevented from initiating or completing such veteran's chosen program of education within such time period because of a physical or mental disability or impairment which was not the result of such veteran's own willful misconduct, such veteran shall, upon application, be granted an extension of the applicable delimiting period for such length of time as the Administrator determines, from the evidence, that such veteran was prevented from initiating or completing such program of education.

TITLE III—OTHER EDUCATION AND TRAINING AMENDMENTS

CITATION OF AUTHORITY

SEC. 301. Section 210(c)(1) of title 38, United States Code, is amended by inserting at the end thereof the following new sentence: "Any rules, regulations, guidelines, or other published interpretations or orders, or any amendment thereto, issued pursuant to the authority granted by this subsection or any other provision of this title shall contain, immediately following each substantive provision of such rules, regulations, guidelines, or other published interpretations or orders, or any amendment thereto, citations to the particular section or sections of statutory law or other legal authority upon which such rule, regulation, guideline, or other published interpretation or order is based or, in the case of any amendment thereto, upon which such amendment and the rule, regulation, guideline, interpretation or order being amended is based.".

COUNSELING SERVICES AND PRE-DISCHARGE EDUCATION PROGRAM REPORT ELIMINATION

SEC. 302. Chapter 34 of title 38 United States Code, is amended by—

(1) amending section 1663 by—

(A) striking out the first sentence and inserting in lieu thereof "The Administrator shall make available to any eligible veteran, upon such veteran's request, comprehensive counseling services, including but not limited to, vocational and educational counseling and testing."; and

(B) inserting at the end thereof the following new sentence: "The Administrator shall carry out an effective outreach program to acquaint all eligible veterans with

the availability and advantages of such counseling."; and

(2) striking out in section 1698(b) "and periodically thereafter submits progress reports with respect to the implementation of such plan," after "report),".

STATE APPROVING AGENCY REIMBURSEMENT AND REPORT

SEC. 303. Section 1774 of title 38, United States Code, is amended by—

(1) amending subsection (b) to read as follows:

"(b) The allowance for administrative expenses incurred pursuant to subsection (a) of this section shall be paid in acccordance with the following formula:

"Total salary cost reimbursable under this section	Allowable for administrative expense
$5,000 or less	$660.
Over $5,000 but not exceeding $10,000	$1,188.
Over $10,000 but not exceeding $35,000	$1,188 for the first $10,000 plus $1,100 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $40,000	$7,189.
Over $40,000 but not exceeding $75,000	$7,189 for the first $40,000 plus $952 for each addition $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000	$14,256.
Over $80,000	$14,256 for the first $80,000 plus $831 for each additional $5,000 or fraction thereof.";

and

(2) inserting at the end thereof the following new subsection:

"(c) Each State and local agency with which the Administrator contracts or enters into an agreement under subsection (a) of this section shall report to the Administrator on September 30, 1978, and annually thereafter on the activities in the preceding twelve months carried out under such contract or agreement, summarizing services performed and the determinations made in conjunction with ascertaining the qualifications of educational institutions in connection with this chapter and chapters 32, 34, and 35 and in supervising such institutions.".

CORRESPONDENCE-RESIDENCE COURSES, REPORTING FEES, INSTITUTIONAL ATTENDANCE REQUIREMENTS, AND VOCATIONAL COURSE MEASUREMENT

SEC. 304. Chapter 36 of title 38, United States Code, is amended by—

(1) amending section 1780 by—

(A) inserting at the end of subsection (a) (5) and as a part thereof the following new sentence: "Notwithstanding the provisions of this clause, the Administrator may, in accordance with such regulations as the Administrator shall prescribe, approve a combination correspondence-residence course not meeting the 6-month requirement of this clause where the Administrator finds, based upon evidence submitted by the educational institution, that there is a reasonable relationship between the charge for each segment of the course (including the cost to the institution for providing each segment of the course) and the total charge made for the course.";

(B) striking out "and" at the end of clause (B) of paragraph (3) of subsection (d), striking out the period at end of clause (C) of such paragraph and inserting in lieu thereof a semicolon and "and", and inserting at the end of such paragraph the following new clause:

"(D) in clear and simple language, the period of time between the date of the advance payment and the scheduled date of the first monthly payment of educational assistance allowance."; and

(C) inserting at the end of paragraph (6) of subsection (d) the following new sentence: "The Administrator shall include with the advance payment a notice informing the veteran in clear and simple language of the period of time between the date of the advance payment and the scheduled date of the first monthly payment of educational assistance allowance.";

(2) amending section 1784(b) by—

(A) striking out "$5" and "$6" in the second sentence and inserting in lieu thereof "$10" and "$15", respectively;

(B) inserting after the second sentence the following new sentence: "Each of the amounts reporting fees prescribed in the preceding sentence shall be increased by $5 for each veteran or eligible person enrolled in a program of education as a full-time student under this chapter or chapter 34 or 35 of this title, who satisfactorily completes a school term (as defined in section 1682A of this title) during the calendar year for which such reporting fee has been paid."; and

(C) inserting at the end thereof the following new sentence: "No reporting fee payable to an educational institution under this subsection shall be subject to offset by the Administrator against any liability of such institution for any overpayment for which such institution may be administratively determined to be liable under section 1785 of this title.";

(3) amending section 1785 by—

(A) inserting in the first sentence a comma and "except as otherwise provided in section 1784(b) of this title," after "recovered"; and

(B) inserting at the end thereof the following new sentence: "Nothing in this section or any other provision of this title shall be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree."; and

(4) amending section 1788(a) by—

(A) inserting in clause (1) "and not more than 5 hours of supervised study" after "two and one-half hours of rest periods";

(B) striking out in clause (1) "27" and inserting in lieu thereof "22";

(C) inserting in clause (2) "and not more than 5 hours of supervised study" after "net of instruction" the first time it appears; and

(D) striking out in clause (2) "22" and inserting in lieu thereof "18".

OPERATION PERIOD WAIVER, EDUCATIONAL INSTITUTION ADMINISTRATIVE PROCEDURES, AND ADVISORY COUNCIL

SEC. 305. (a) (1) 1789 of title 38, United States Code, is amended by—

(A) inserting "(A)" in clause (2) of subsection (b) after "years," and striking out the semicolon at the end of such clause and inserting in lieu thereof a comma and "or (B) if the Administrator determines in the case of a course with a vocational objective that the institution offering such course has demonstrated its effectiveness in achieving the successful completion of courses and the employment of persons who completed courses offered by such institution in the occupational category for which the course was designed to provide training, and, after consultation with Secretary of Labor, that there is a clear need to train persons for employment in such occupational category in order to meet urgent national priorities;"; and

(B) adding at the end of subsection (c) the following new sentence: "The Administrator may waive the requirements of this subsection, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government.".

(2) Section 1673(d) of title 38, United States Code, is amended by—

(A) inserting in the second sentence a comma and "pursuant to regulations which the Administrator shall prescribe," after "determines"; and

(B) inserting at the end thereof the following new sentences: "The provisions of this subsection shall not apply to any course offered by an educational institution (1) where the number of veterans and persons receiving assistance under this chapter and chapters 31, 32, 35, and 36 of this title who are enrolled in such institutions equals 35 per centum or less of the total student enrollment at such institution (computed separately for the main campus and each branch or extension), except that the Administrator may apply the provisions of this subsection with respect to any course in which the Administrator has reason to believe that the enrollment of such veterans and persons is in excess of 85 per centum of the total student enrollment in such course, and (2) where the course is a residential course located outside the United States.".

(3) The Administrator of Veterans' Affairs shall, in consultation with the Commissioner of Education, Department of Health, Education, and Welfare, conduct a study to examine the need for computing, under section 1673(d) of title 38, United States Code, the percentage of those students enrolled in courses at educational institutions who are in receipt of grants from any Federal department or agency, and the problems of such institutions in making such latter computations, and shall, not later than August 1, 1978, submit a report to the Congress indicating whether such computations are needed and prescribing in detail an adequate system for making such computations. Until the expiration of six months after the date of submission of such report, the Administrator shall not apply the provisions contained in section 1673(d) of title 38, United States Code, requiring educational institutions in determining compliance with such subsection to compute the numbers of students in receipt of Federal grants other than from the Veterans' Administration.

(b) (1) The Administrator of Veterans' Affairs, in consultation with the Commissioner of Education, Department of Health, Education, and Welfare, the Comptroller General of the United States the Council on Postsecondary Accreditation, State approving agencies, and other appropriate bodies, officials, and persons, shall conduct a study into specific methods of improving the process by which postsecondary educational institutions and courses at such institutions are and continue to be approved for purposes of chapters 32, 34, 35, and 36 of title 38, United States Code. In recognition of the importance of assuring that Federal assistance is made available to those eligible veterans and persons seriously pursuing and making satisfactory progress toward an educational or vocational objective under such chapters, such study shall also investigate the need for legislative or administrative action in regard to sections 1674 and 1724 of title 38, United States Code, as amended by sections

206 and 307, respectively, of Public Law 94–502, and the regulations prescribed thereunder. The report of such study, together with such specific recommendations for administrative or legislative action as the Administrator deems appropriate, shall be submitted to the President and to the Congress not later than August 1, 1978.

(2) The Administrator shall transfer from funds appropriated for the readjustment benefits account of the Veterans' Administration such sums as are necessary, but not in excess of $500,000, for the purpose of carrying out paragraph (1) of this subsection.

(3)(A) During the period required to make the study required by paragraph (1) of this subsection, the Administrator shall suspend implementation of the amendments to sections 1674 and 1724 of title 38, United States Code, made by sections 206 and 307, respectively, of Public Law 94–502, in the case of any accredited educational institution which submits to the Administrator its course catalog of bulletin and a certification that the policies and regulations described in clauses (6) and (7) of section 1776(b) are being enforced by such institution unless the Administrator finds, pursuant to regulations which the Administrator shall prescribe, that such catalog or bulletin fails to state fully and clearly such policies and regulations.

(B) The Administrator shall, in appropriate instances, bring to the attention of the Council on Postsecondary Accreditation and the appropriate accrediting and licensing bodies such catalogs, bulletins, and certifications submitted under subparagraph (A) of this paragraph which the Administrator believes may not be in compliance with the standards of such accrediting and licensing body.

(c)(1) Where an educational institution—

(A) has in its possession veterans' or eligible persons' benefits checks made payable to a veteran or eligible person and mailed to such educational institution for a course offered (i) under the provisions of subchapter VI of chapter 34 of title 38, United States Code, or (ii) outside the United States under the provisions of section 1676 of title 38, United States Code, and which course was commenced by such veteran or eligible person prior to December 1, 1976, and completed not later than June 30, 1977; and

(B) holds a power of attorney executed by the veteran or eligible person prior to December 1, 1976, authorizing the educational institution to negotiate such benefit check,

the Administrator may, where the Administrator finds there is undue hardship on such educational institution, provide such relief as the Administrator determines equitable pursuant to regulations which the Administrator shall prescribe.

(2) Where an accredited correspondence school—

(A) has in its possession veterans' or eligible persons' benefit checks made payable to a veteran or eligible person and mailed to such school for lessons completed by the veteran or eligible person under section 1786 of this title and serviced by the school prior to January 1, 1977; and

(B) holds a power of attorney executed by the veteran or eligible person prior to December 1, 1976, authorizing the school to negotiate such benefit check,

the Administrator may, where the Administrator finds that (i) there is undue hardship on such educational institution and (ii) the courses were taken by veterans or eligible persons residing in the continental United States provide such relief as the Administrator determines equitable pursuant to regulations which the Administrator shall prescribe.

(d) Section 1792 of title 38, United States Code, is amended by—

(1) inserting in the last sentence "on a regular basis" after "shall"; and

(2) striking out in the last sentence "from time to time" and inserting in lieu thereof "(which shall meet at least semiannually)".

TERMINATION OF ASSISTANCE REQUIREMENTS

SEC. 306. Section 1790(b) of title 38, United States Code, is amended by—

(1) inserting "(1)" after "(b)", and inserting at the end thereof the following new paragraph:

"(2) Any action by the Administrator to suspend or terminate assistance provided to any eligible veteran or eligible person under this chapter or chapter 31, 32, 34, or 35 of this title shall be based upon clear evidence in the possession of the Administrator that the veteran or eligible person is not or was not entitled to such assistance. Whenever the Administrator suspends or terminates any such assistance, the Administrator shall concurrently provide written notice to such veteran or person of such suspension or termination action and that such veteran or person is entitled thereafter to a statement of the reasons for such action and an opportunity to be heard thereon.".

VOCATIONAL REHABILITATION STUDY

SEC. 307. The Administrator of Veterans' Affairs, in consultation with the Commissioner of Rehabilitation Services, Department of Health, Education, and Welfare, shall conduct a study in regard to the provisions of chapter 31 of title 38, United States Code. The report of such study shall include, but not be limited to, (1) the Administrator's recommendations for legislative or administrative changes in such chapter, (2) the Administrator's recommendations with regard to the need for the services of vocational rehabilitation specialists to provide chapter 31 trainees with appropriate job development and job placement assistance, and (3) the Administrator's recommendations for utilizing the veterans education programs provided by chapters 32, 34, 35, and 36 of this title to meet the needs of disabled veterans eligible for assistance under chapter 31 and such other chapters. Such report shall also include a description and analysis of the scope and quality of vocational rehabilitation assistance provided under chapter 31 in comparison with vocational rehabilitation services provided under the Rehabilitation Act of 1973, as amended (Public Law 93–112). The report of such study shall be submitted to the President and the Congress not later than March 1, 1978.

VETERANS READJUSTMENT APPOINTMENTS REPORT

SEC. 308. Section 2014(b) of title 38, United States Code, is amended by inserting at the end thereof the following new sentence: "The Chairman of the Civil Service Commission shall submit to the President and the Congress, not later than six months after the date of enactment of the GI Bill Improvement Act of 1977, a report on the need for the continuation after June 30, 1978, of the authority for veterans readjustment appointments contained in this subsection.".

TECHNICAL AMENDMENTS

SEC. 309. (a) Chapter 1 of title 38, United States Code, is amended by striking out in section 101(29) "such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress" and inserting in lieu thereof "May 7, 1975".

(b) Chapter 41 of title 38, United States Code, is amended by striking out in section 2007(c) "2001" and inserting in lieu thereof "2004".

VETERANS COST-OF-INSTRUCTION TRANSFER AUTHORITY

SEC. 310. Notwithstanding any other provision of law, (1) the Administrator of Veterans' Affairs is authorized to administer the conduct, pursuant to an interagency agreement or a delegation of authority, of the programs carried out under the provisions of section 420 of the Higher Education Act of 1965, as amended; (2) the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, is authorized to enter into such interagency agreement or to delegate to the Administrator his or her functions, powers, and duties under such section; and (3) pursuant to any such agreement or delegation of authority, funds appropriated to such Department or the Office of Education in such Department for the purpose of carrying out such section will be transferred from the Department to the Veterans' Administration for use for the purposes for which such funds are authorized and appropriated. Any such agreement or delegation of authority shall provide for all appropriate technical and support assistance to be provided by the Commissioner to the Administrator for the purposes of facilitating the effective conduct of the programs under such section in institutions of higher learning.

HOUSING SOLAR ENERGY AND WEATHERIZATION

SEC. 311. (a) Section 1810 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, the amount of guaranty entitlement available to a veteran under this section shall be increased by $2,000, less such entitlement as may have been used previously under this subsection, but only if such additional entitlement is used solely to improve a dwelling or farm residence which is to be or is owned and occupied by the veteran as the veteran's home by either installation of solar heating, solar heating and cooling, or combined solar heating and cooling, or application of a residential energy conservation measure. As used in this subsection, the terms 'solar heating', 'solar heating and cooling', and 'combined solar heating and cooling' shall be defined as defined in clauses (1) and (2) of section 3 of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502) and shall, in addition, include a passive system based on conductive, convective, or radiant energy transfer; the term 'passive system' includes, but is not limited to, window and skylight glazing, thermal floors, walls and roofs, movable insulation panels (in conjunction with glazing), portions of a residential structure which serve as solar furnaces so as to add heat to residences, double pane window insulation, or other components designed to enhance the natural transfer of energy for the purpose of heating or heating and cooling a residence as determined by the Administrator; and the term 'residential energy conservation measure' means—

"(1) caulking and weatherstripping of all exterior doors and windows;

"(2) furnace efficiency modifications limited to—

"(A) replacement burners, boilers, or furnaces which devices are designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(B) devices for modifying flue openings which will increase the efficiency of the heating system, and

"(C) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(3) clock thermostats;
"(4) ceiling, attic, wall, and floor insulation;
"(5) water heater insulation;
"(6) storm windows and doors; and
"(7) such other measures as the Administrator may by regulation identify for purposes of this subsection.".

(b) Section 1811(d)(2) of such title is amended by inserting at the end thereof the following new subparagraph:

"(C) Notwithstanding any other provision of law, the amount of direct loan which an eligible veteran may obtain under this section shall be increased by $3,800, reduced by the amount of direct loan which may have been used previously under this subparagraph, but only if such entitlement is used solely to improve a dwelling or farm residence which is to be or is owned and occupied by the veteran as the veteran's home by either installation of solar heating, solar heating and cooling, or combined solar heating and cooling, or application of a residential energy conservation measure, as those terms are defined in section 1810(d) of this title.".

TITLE IV—EFFECTIVE DATES

SEC. 401. The provisions of this Act shall become effective on the first day of the first month beginning 60 days after the date of enactment, except that the provisions of title I and section 304(2) (A) and (B) shall be effective retroactively to October 1, 1977, the provisions of sections 201 and 202 shall become effective on January 1, 1978, the provisions of section 203 shall be effective retroactively to May 31, 1976, and the provisions of sections 301, 302(2), 304(3), 304(2)(C), 304(3), 305(a)(2), 305(a)(3), 305(b), 305(c), 305(d), 306, 307, 308, 309, and 310 shall be effective upon enactment.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 2 hours to be equally divided and controlled by the chairman of the Veterans' Affairs Committee and the ranking minority member or their designee, with 1 hour on any amendment and with 20 minutes on any debatable motion, appeal, or point of order.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Tony Mazzaschi be granted privilege of the floor during consideration of this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I have the same request, that Peter Parham of my staff be granted privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, S. 457, as unanimously reported, the GI Bill Improvement Act of 1977, is intended to expand and improve the GI bill educational assistance program and make additional help available under the veterans housing program to those veterans interested in modifying or buying homes with weatherization or solar energy improvements.

The committee bill provides a 6.6-percent cost-of-living increase in the amounts of GI bill educational assistance allowances. In addition—in accordance with my promise that the committee would examine the problems some veterans have had in obtaining an education under the GI bill—the committee bill would establish a new program of accelerated educational assistance payments, thus making it possible for certain veterans and eligible persons either attending or desirous of attending higher cost programs of education to receive a greater amount of monthly GI bill educational assistance by utilizing portions of their 45 months total entitlement. Further, S. 457 proposes a number of changes in provisions generally affecting the administration of the GI bill program, and makes amendments to expand assistance under the veterans housing program, consistent with administration weatherization and solar energy proposals and the National Energy Conservation Policy Act passed by the Senate on September 13.

Mr. President, educational assistance has been provided to those who have served their country during World War II, The Korean conflict, and the post-Korean-conflict/Vietnam-era. Benefits provided under the GI bill assistance program have aided millions of veterans in their efforts to readjust to civilian life after service in the Nation's Armed Forces.

Under the current GI bill, approximately 6,750,000 veterans and nearly 254,000 survivors and dependents have been assisted in obtaining an education or training they might not otherwise have been able to afford. I think my colleagues will agree with me that the GI bill program—a program devised by this Nation to assist those who have served it so well—has served and continues to serve well our veterans and all of our Nation.

The GI Bill Improvement Act of 1977 attempts to make the GI bill program better able to assist eligible veterans and other eligible persons. Title I of the measure increases by 6.6 percent the amounts of GI bill educational assistance allowances. After careful consideration, the committee determined that it is important to assure that the benefits provided under the program are not diluted by the continuing increase in the cost of living. Thus, the benefit increases provided by S. 457 correspond to the estimated increase in the cost of living from October 1, 1976—the date of the last benefit increase—through September 30, 1977.

In title two of the measure, the committee, after examining the need for providing additional amounts of benefits to certain veterans, has unanimously approved the adoption of a new accelerated benefits program. For those veterans living in States where low-cost public education is not generally available, the GI bill uniform payment formula often provides less actual assistance in meeting the costs of education than it does for other veterans who live in States which have devoted considerable tax dollars to developing accessible low-cost public education. Although the disparity in State participation rates—and there are substantial variations in participation rates among States—is in large part a function of State and local support of post-secondary education, the committee believes that an accelerated program designed to provide additional GI bill assistance is needed in order to aid those veterans without access to low-cost educational institutions and those veterans enrolled in or desiring to enroll in a high-cost program of education.

The committee determined that the most equitable method of providing such assistance is the accelerated benefit program contained in title II of the committee bill. Under the accelerated program provided in title II all veterans would continue to be treated similarly by the Federal Government; that is, each veteran's service earns an entitlement of up to 45 months of GI bill educational assistance benefits. The accelerated program merely changes, in certain instances, the general rule that the benefits have to be used one month at a time.

I stress, Mr. President, that the committee found it essential that assistance be provided to these veterans enrolled in high-cost programs of education in a way that would be consistent with the principle of the Federal Government providing equal benefits for equal service to the Nation. Consequently, and in accordance with the levels of spending adopted by the second concurrent resolution on the budget for veterans benefits and services, the committee has fashioned its program to assist those veterans most in need; those veteran-students who qualify on the basis of need and who are bearing a heavy financial burden in obtaining an education. The committee expects that this new GI bill program will assist more veterans, particularly unemployed and underemployed veterans, in availing themselves of educational opportunities.

Title III of the committee bill generally would amend a number of administrative provisions of the GI bill program. Many of my colleagues, I am certain, have received communications from constituents concerning the anti-abuse amendments made by Public Law 94–502. I believe—and I know my colleagues will agree—that it is important to assure that Federal moneys are expended only for those veteran-students seriously pursuing an education. The antiabuse provisions of Public Law 94–502 were designed to promote that goal.

In some instances, however, Mr. President, implementation has resulted in inequities which compelled the committee to review carefully the GI bill administrative provisions and the 1976 amendments to them. The committee has attempted in the committee bill to address almost all concerns expressed to us by the many organizations and individuals who appeared at hearings, submitted testimony, and forwarded correspondence. We think we have produced a fair accommodation to the various considerations and concerns expressed in a way that is generally acceptable to most parties and to the administration. The amendments made by the committee are designated to improve the process by which educational institutions or courses offered by such institutions are and continue to be approved for purposes of GI

bill payments to enrolled veterans. Important provisions of title III would—

Increase by $5 and $9—from $5 and $6 to $10 and $15—the amount of reporting fees paid to reimburse educational institutions for costs incurred in filing with the Veterans' Administration required reports on veterans and eligible persons enrolled in such institutions.

Specify that under no circumstances shall section 1785—which pertains to institutional liability for veteran overpayments—or any other provision of title 38, be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.

Authorize the Administrator to waive the 2-year rule in those instances involving branch campuses or extensions of institutions of higher learning where the Administrator determines—pursuant to prescribed regulations—that the waiver would be in the interest of the eligible veteran and the Federal Government.

Exempt any institution with an enrollment of veterans which comprises 35 percent or less of the total student enrollment—with main campus and extensions computed separately—from the requirement of course-by-course computation of the "85–15" rule, except that where the Administrator has cause to believe that the GI bill enrollment in a particular course exceeds 85 percent of the total course enrollment, the Administrator can still apply the "85–15" rule and require computation for the particular course. The committee has elected to require main campuses and branch campuses to compute their respective enrollments separately because of the many problems—outlined at pages 91–93 of the committee report—arising out of off-campus degree programs.

Make inapplicable, until the expiration of 6 months after the date of the filing of a report in regard to certain provisions of the "85–15" rule, the provisions contained in the "85–15" rule requiring the inclusion of the number of students in receipt of other Federal grants, principally basic and supplementary educational opportunity grants under the Higher Education Act of 1965, as amended, when determining compliance by educational institutions with the "85–15" rule.

Mandate the Administrator to conduct a major study of specific methods of improving the process by which postsecondary education institutions and courses at such institutions are and continue to be approved for the purposes of the GI bill; and require that such study include the need for legislative and administrative action in regard to certain relevant provisions—including the "seat-time" requirement—of title 38 and regulations prescribed thereunder.

Suspend, until the submission of the report in regard to the study described above, the implementation of the satisfactory progress amendments contained in sections 206 and 307 of Public Law 94–502 for any accredited educational institutions submitting to the Administrator catalogs or bulletins which the Administrator determines are in compliance with the disclosure provisions regarding satisfactory progress and other standards prescribed in section 1776(b) (6) and (7) of title 38.

Provide the Administrator with the authority to provide equitable relief to certain educational institutions where the Administrator finds that, as a result of enactment of section 701 of Public Law 94–502—relating to negotiability of GI bill assistance checks under powers of attorney—the institution has incurred an undue hardship.

Mr. President, an additional provision included as part of title III of the committee bill would entitle eligible veterans to an additional $2,000 of home loan guaranty—and $3,800 in direct loans—to install in their homes solar heating, or combined solar heating and cooling, or to improve their homes with residential energy conservation measures.

As evidenced by my authorship of the Solar Heating and Cooling Demonstration Act of 1974, and of title IV–A, weatherization assistance for low-income persons, of the Energy Conservation in Existing Buildings Act of 1976, I have long been committed to finding ways to use solar energy and to promote energy conservation. Thus, in accordance with the President's overall energy program, the committee bill would expand the VA home loan program to make specific provisions for energy conservation improvements and solar heating and cooling installation. I emphasize that the provision in the committee bill marks the beginning of the committee's efforts in this field—not the culmination. These provisions are generally in accord with comparable amendments regarding FHA loans made by the National Energy Conservation Policy Act, as passed by the Senate on September 13 and have the support of the administration.

Since the enactment of the Solar Heating and Cooling Demonstration Act of 1974, solar energy has come a long way. Only a few years ago solar energy was viewed by many as an "exotic" energy source which might be available for practical applications 10 or 20 years in the future. Today we can point to study after study confirming that solar energy—particularly for home space heating and hot water—is now an economically competitive alternative to fossil fuels.

Because the fuel for solar energy systems is free, the installation of solar equipment will pay for itself over a period of a few years by offsetting the rising cost of home utility bills. But the initial capital investment could be a deterrent. Therefore, the most effective incentive to encourage rapid utilization of solar energy in the home is to assist the homeowner in defraying the initial capital costs of energy conserving improvements and solar energy installation. That is the purpose of the amendment in title III.

Mr. President, the total fiscal year 1978 cost of the committee bill is $828,000,000, which is fully within the function 700 ceiling as adopted in the second concurrent budget resolution for fiscal year 1978.

Mr. President, in conclusion, the GI Bill Improvement Act of 1977 represents the bipartisan efforts of the Committee on Veterans' Affairs in order to make this excellent program even better. I wish to thank all my colleagues on the committee for their continuing interest in and support for this program and the veterans it is designed to serve and for their contributions to the pending measure. I particularly want to highlight the efforts of the vice chairman of the Subcommittee on Health and Readjustment of the Committee on Veterans' Affairs, the Senator from New Hampshire (Mr. DURKIN), who has worked long and hard to improve the GI bill program. Also, major assistance was provided by our full committee ranking minority member, my good friend from Vermont (Mr. STAFFORD), and our able subcommittee ranking minority member, the Senator from South Carolina (Mr. THURMOND).

Mr. President, I want to thank Guy McMichael, General Counsel of the Veterans' Administration, and Grady Malone and Bob Dysland of the General Counsel's Office for their aid in the preparation of the GI bill Improvement Act of 1977. In addition, Andy Thornton and June Schaeffer of the Education and Rehabilitation Service of the VA have provided invaluable assistance. Finally, I wish to thank members of the committee staff, including Jack Wickes, Jon Steinberg, Erica Baum, Ed Scott, Garner Shriver, Gary Crawford, Harold Carter, James MacRae, Walter Klingner, Janice Orr, Helen Woo, Terri Childress, Ingrid Post, Ann Garman, and Mikki Day, and Legislative Counsel Hugh Evans, all of whom have been of so very much assistance.

Before closing, Mr. President, I note that the committee report (No. 95–468) on page 48 contains a mistake with respect to the fiscal year 1978 cost estimate. The total cost of title III of the bill for fiscal year 1978 should be $23 million, not $22 million, and the total cost for the bill as reported should thus be one million higher—$828 million rather than $827 million.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point appropriate excerpts from the committee report on S. 457 as reported.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF S. 457 AS REPORTED

Basic Purpose

S. 457, the GI Bill Improvement Act of 1977, as reported (hereinafter referred to as "the Committee bill") is intended to expand and improve the GI Bill Educational Assistance Program (hereinafter referred to as "the GI bill"), and make the Veterans' Housing Program more accessible to those veterans interested in improving or buying homes improved through weatherization or solar energy measures.

As ordered reported, the Committee bill increases by 6.6 percent the amount of educational assistance provided veterans and eligible persons enrolled in training under chapters 31, 34, 35, and 36 of title 38, United States Code. An accelerated benefits program providing certain veterans a greater opportunity to utilize the GI bill program by providing eligibility for additional assistance is established. Finally, some administrative provisions of the GI bill program are amended to make that program better able to respond to the needs of enrolled veterans, educational institutions, and those administering the program at the Federal, State, and local levels.

Summary of Provisions

The Committee bill contains four titles: GI bill rate increases, accelerated payment and delimiting period extension, other education and training amendments, and effective dates.

Title I: GI Bill Rate Increases.—This title amends title 38, United States Code, to increase by 6.6 percent the amounts of education assistance allowance provided under chapters 31, 34, 35, and 36 of that title—the current estimate of the increase in the cost-of-living between October 1, 1976, the effective date of the last GI bill increase (Public Law 94–502), and October 1, 1977, the effective date of the increase provided by this title.

Title II: Accelerated Payment and Delimiting Date Extension.—This title includes substantive amendments to chapters 34 and 35 of title 38 which would:

1. Establish a program of accelerated educational assistance payments thus making it possible for certain veterans and eligible persons attending a higher cost program of education to receive a greater amount of monthly GI bill educational assistance.

2. Establish an education loan program to be used in conjunction with the accelerated benefit program.

3. Extend the period of time a veteran has to utilize his or her GI bill benefits when the veteran has a mental or physical disability or impairment, not the result of his or her own misconduct, which the Administrators finds prevented the veteran from initiating or completing a course of study.

Title III: Other Education and Training Amendments.—This title includes provisions generally affecting the administration of the GI bill program which would:

(1) Require the Administrator, in the promulgation or issuance of any rule, regulation, guideline, or other published interpretation of title 38, or any amendment thereto, to provide a citation or citations to the particular section or sections of statutory law or other legal authority upon which it is based.

(2) Amend section 1663 of title 38 to provide eligible veterans with more extensive VA educational counseling services and require the Administrator to carry out an effective outreach program to acquaint all eligible veterans with the availability and advantages of such counseling.

(3) Eliminate the requirement that the Department of Defense file with the Congress progress reports with respect to the implementation of the Pre-discharge Education Program (PREP).

(4) Increase by 10 percent the amount of money State approving agencies are reimbursed for expenses incurred in approving educational institutions for purposes of GI bill enrollment.

(5) Require State approving agencies to report annually to the Administrator on their specific activities, approvals, and disapprovals during the preceding year.

(6) Authorize the approval by the Administrator of a combined correspondence-residence course not meeting the requirement that the correspondence portion normally take at least 6 months to complete if the Administrator finds—based on evidence submitted by the school—that there is a reasonable relationship between the charge for each segment of the course (including the cost to the institution for providing each segment) and the total charge for such course.

(7) Require the Administrator to include, as part of the veteran's application form for advance pay, a notice to the veteran, in clear and simple language, of the period of time between the date of advance payment and the scheduled date of the first monthly benefit payment for which the veteran is applying.

(8) Required the Administrator to include with the advance payment a notice to the veteran, in clear and simple language, of the period of time between the date of the advance payment and the scheduled date of the first monthly payment of educational assistance allowance to which the veteran would be entitled.

(9) Increase by $5 and $9 (from $5 and $6 to $10 and $15) the amount of reporting fees paid to reimburse educational institutions for costs incurred in filing with the Veterans' Administration required reports on veterans and eligible persons enrolled in such institutions.

(10) Require the payment of $5 to educational institutions for each full-time veteran or eligible person enrolled therein who satisfactorily completes the school term.

(11) Prohibit the Administrator from attempting to collect any administratively determined institutional liability for overpayments under section 1785 of title 38, United States Code, by offsetting the amount of reporting fees to which an institution may be entitled under section 1784(b).

(12) Specify that under no circumstances shall section 1785—which pertains to institutional liability for veteran overpayments—or any other provision of title 38, United States Code, be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.

(13) Reduce the number of clock hours which an accredited institutional trade or technical course must offer to assure that the veterans enrolled therein are eligible for full-time GI bill benefits—where classroom and theoretical instruction predominates, the required instructional hours are reduced from 22 to 18 and where classroom and theoretical instruction does not predominate, from 27 to 22 hours.

(14) Limit to 5 the number of hours of supervised study which nonaccredited institutional trade or technical courses are allowed to count in determining compliance with the required clock hours provisions (30 and 25, respectively for theoretical and nontheoretical instruction).

(15) Exempt courses with vocational objectives from the application of the 2-year rule in those instances where the Administrator determines (a) that the institution offering such courses has been in existence for 2 years or more and has demonstrated its effectiveness in achieving the completion of its courses by students and the employment of persons who completed courses within the institution in an occupation for which such persons were trained, and (b) after consultation with the Secretary of Labor, that there is clear need to train persons for employment in such vocational objective in terms of national priorities.

(16) Authorize the Administrator to waive the 2-year rule in those instances involving branch campuses or extension of institutions of higher learning where the Administrator determines—pursuant to prescribed regulations—that the waiver would be in the interest of the eligible veteran and the Federal Government.

(17) Exempt any institution with an enrollment of veterans which comprises 35 percent or less of the total student enrollment (with main campus and extensions computed separately) from the requirement of course-by-course computation of the "85–15" rule, except that where the Administrator has cause to believe that the GI bill enrollment in particular courses exceeds 85 percent of the total course enrollment, the Administrator can require computation for the particular course and enforce the "85–15" rule.

(18) Make the "85–15" rule inapplicable to overseas residential courses.

(19) Require the Administrator, in consultation with the Commissioner of Education, to conduct a study and submit to the Congress, by August 1, 1978, a report examining the need for including in the 85–15 computation those students in receipt of grants from any Federal department or agencies and the problems of such institutions including such a computation of those students in receipt of grants from any Federal department or agency other than the Veterans' Administration.

(20) Make inapplicable, until the expiration of 6 months after the date of the filing of such report, the provisions contained in the "85–15" rule requiring the inclusion of the number of students in receipt of Federal grants when determining compliance by educational institutions with the "85–15" rule.

(21) Mandate the Administrator, in consultation with the Commissioner of Education (HEW), the Council on Postsecondary Accreditation (COPA), State approving agencies, and other appropriate bodies, persons, and officials to conduct a study of specific methods of improving the process by which postsecondary education institutions and courses at such institutions are and continue to be approved for the purposes of the GI bill; require that such study include the need for legislative and administrative action in regard to certain relevant provisions—including the "seat-time" requirement—of title 38, and regulations prescribed thereunder; and require that the report of such study be submitted to the President and Congress by August 1, 1978.

(22) Suspend, during the period of time required to make the study described above, the implementation of the satisfactory progress amendments contained in sections 206 and 307 of Public Law 94–502 for any accredited educational institutions submitting to the Administrator catalogs or bulletins which the Administrator determines are in compliance with the provisions of section 1776(b) (6) and (7) of title 38.

(23) Require the Administrator, in appropriate instances, to bring to the attention of COPA—or other appropriate accrediting or licensing bodies—any course catalogs or bulletins submitted to the Administrator which the Administrator believes may not be in compliance with the standards of the accrediting or licensing body.

(24) Require the Administrator to transfer from funds appropriated for the readjustment benefits account such sums as are necessary (but not more than $500,000) for the conduct of the study on improving the process for approving institutions for GI bill purposes.

(25) Provide the Administrator with the authority to provide equitable relief to certain educational institutions where the Administrator finds that, as a result of enactment of section 701 of Public Law 94–502 (relating to negotiability of GI bill assistance checks subject to powers-of-attorney), the institution has incurred an undue hardship.

(26) Require the Education Advisory Council—established by section 1792 of title 38—to meet at least semiannually; and require the Administrator to consult with the Council on a regular basis.

(27) Provide that any action to terminate GI bill assistance must be based upon clear evidence in the possession of the Administrator that the veteran is not, or was not, eligible for such assistance; require the Administrator to give the veteran concurrent written notice whenever the Administrator suspends or terminates such assistance; and require the Administrator to give written notice to the veteran that he is entitled to a statement of the reasons for such termination or suspension and an opportunity to be heard.

(28) Direct the Administrator, in consultation with the HEW Commissioner of Rehabilitation Services, to conduct a study and to submit a report to the President and Congress, due March 1, 1978, in regard to chapter 31 of title 38, including the Administrator's recommendations for administrative or legislative changes in the Veterans Vocational Rehabilitation Program.

(29) Require the Chairman of the Civil Service Commission to submit to the President and the Congress, not later than 6 months after enactment. a report on the need for continuation after June 30, 1978, of the authority for veterans readjustment appointments.

(30) Make technical amendments to section 101(29) and section 2007(c) of title 38, United States Code.

(31) Authorize the Administrator of Veterans' Affairs to conduct, pursuant to either an interagency agreement with HEW or a delegation of authority by that Department (including a fund transfer), the programs carried out under section 420 of the Higher Education Act of 1965 as amended—the Veterans Cost of Instruction (VCI) program.

(32) Entitle eligible veterans to an additional $2,000 of home loan guarantee (and $3,800 in direct loans) to install in their homes, solar heating, solar heating and cooling, or combined solar heating and cooling or to improve their homes with residential energy conservation measures.

Title IV: Effective Dates.—Generally establishes the effective date of the Act as the first day of the month beginning 60 days after the date of enactment. However, the effective date of the allowance and reporting fee increases is to October 1, 1977; of the accelerated provision (sections 201 and 202) is January 1, 1978; and of section 203, in regard to extension of delimiting period for certain veterans who were prevented from initiating or completing a program of education as a result of a mental or physical disability or impairment not the result of such veteran's own willful misconduct, is retroactive to May 31, 1976; and those sections relating to studies, technical amendments and administrative matters are generally effective upon enactment.

BACKGROUND

In 1944, Public Law 78–346, the Servicemen's Readjustment Act, created a major educational and vocational assistance program, a program that has come to be known as the GI bill. For the last 33 years, this program had aided millions of veterans in their readjustment to civilian life. Since the inception of this program, three GI bills have assisted almost 17 million veterans and other eligible persons—reaching about 8 percent of the Nation's population over that time. The new chapter 32 program, enacted by Public Law 94–502 in 1976, is the fourth such GI bill.

The first program, often referred to as the World War II GI bill, provided assistance to approximately 7.8 million veterans (and certain survivors and dependents) who served during the period September 16, 1940, through July 25, 1947. The second program (Public Law 82–550), enacted on July 16, 1952, and often referred to as the Korean conflict GI bill, provided assistance to approximately 2.4 million veterans (and survivors and dependents) who served during the period June 27, 1950, through January 31, 1955. The third program (Public Law 89–358), enacted on March 3, 1966, and often referred to as the post-Korean-conflict GI bill and Vietnam-era GI bill, provides assistance to those who served during the period February 1, 1955, through December 31, 1976.

The post-Korean conflict and Vietnam-era GI bill was amended in 1967 (Public Law 90–77), 1970 (Public Law 91–219), 1972 (Public Law 92–540), 1974 (Public Law 93–508), and 1976 (Public Law 94–502) and, to date, has assisted 6.75 million veterans and nearly 254,000 survivors and dependents in obtaining education or training they might not otherwise have been able to afford. Veteran-students in receipt of educational assistance allowances may attend approved courses at colleges, universities, business and technical schools, vocational schools, and in some cases, pursue training at the high school level and below. Assistance is also provided for on-job or apprenticeship training, farm cooperative training, flight training, and correspondence courses.

To date, total expenditures on behalf of veterans enrolled in training under the three GI bill programs exceed $40 billion. For fiscal year 1977, the cost of GI bill educational assistance is estimated at approximately $4.3 billion—is more than twice the amount of the next largest fiscal year 1977 Federal expenditure for postsecondary educational assistance, $1.9 billion for Basic Educational Opportunity Grants (BEOGs) administered by the Office of Education. Today, the GI bill is the largest single Federal program providing postsecondary educational assistance. The program has assisted and continues to provide assistance in obtaining an education to most of those who have served their country.

During fiscal year 1976, nearly 3 million veterans, service personnel, and dependents received training under the GI bill—exceeding by 5.2 percent the peak GI bill enrollment of the previous year. More veterans than ever before participated in college level training. The following table depicts the number of individuals who have received training, generally, and college-level training, in particular, between 1967 and 1976.

The importance of the GI bill in assisting veterans in obtaining an education which otherwise they might not have obtained is revealed in a recent General Accounting Office study [GAO Report No. B–114859: *Veterans' Responses to GAO Questionnaires on the Operation and Effect of VA Educational Assistance Programs Under 38 U.S.C. 1651 et seq.*, August 11, 1976]. The GAO found that in the absence of GI bill benefits, more than half and, in some cases, more than two-thirds of the current veteran-students polled stated that they would not otherwise have entered training. Overall, 54 percent of the veteran-students polled by GAO indicated that they would not have undertaken training were it not for the availability of GI bill benefits.

TABLE 2.—*Impact of the GI bill on decisions to enter training*

[In percent]

Type of training taken	(1) Yes	(1) No
Apprentice	84	16
Other on job	78	22
Graduate	61	39
High school	58	42
Nondegree	57	43
Undergraduate	47	53
Vocational/technical	37	63
Flight	30	70
Correspondence	27	73
Farm cooperative	17	83
All respondents	46	54

[1] Would have entered training without benefits.

GAO also found that the number of individuals who premise their decision as to whether they should enter training upon the availability of VA educational benefits has increased since the current program commenced in 1966. The following table shows the number of individuals, by year, between 1967 and 1973, who would and would not have sought training if GI bill benefits had not been available.

TABLE 3.—*Impact of the GI bill on decision to enter training by year of enrollment*

[In percent]

Year	(1) Yes	(1) No
1967	56	44
1968	53	47
1969	62	38
1970	53	47
1971	49	51
1972	44	56
1973	44	56

[1] Would have entered training without benefits.

NOTE.—Table does not include any data on farm cooperative training.

Of the 6,903,146 post-Korean conflict and Vietnam-era veterans who have participated in GI bill training through November of 1976, 57 percent have been enrolled in college-level courses; 35 percent pursued postsecondary education not leading to a standard college degree; 7.5 percent participated in on-job training; and 0.6 percent were enrolled in farm cooperative training. The following tables show the number of veterans and dependents enrolled in a program of education under the GI bill by the type of program.

TABLE 4.—POST-KOREAN VETERANS AND SERVICE PERSONNEL TRAINING PROGRAMS—INDIVIDUALS TRAINED

Training programs	Trained during fiscal year 1976					Ever trained through June 30, 1976, total
		Resident school trainees				
	Total	Graduate	Undergraduate	Non-degree	Correspondence trainees	
Total all types of training	2,821,514					6,521,973
COLLEGE LEVEL						
Total	1,925,436	198,420	1,692,425	32,794	1,797	3,654,034
Academic degrees—field not specified—total	1,316,284	106,978	1,209,240		66	2,205,211
Associate in arts	389,096		389,088		7	629,827
Associate in science	59,589		59,589			92,140
Associate degree, nec	329,206		329,196		10	474,678
Bachelor of arts	123,581		123,570		11	225,299
Bachelor of science	77,455		77,451		4	145,467
Bachelor's degree, nec	230,376		230,346		30	416,522
Master of arts	29,825	29,825				57,118
Master of science	11,916	11,916				28,493
Master's degree, nec	53,665	53,663			2	106,744
Doctor of philosophy	9,560	9,559			1	26,002
Doctor's degree, nec	1,891	1,890			1	4,656
Post doctoral, nec	125	125				265
Business and commerce	191,040	27,019	163,995		26	437,060
Education	40,157	20,474	19,681		2	133,030
Engineering	24,981	2,656	22,319		6	83,084
English and journalism	2,698	634	2,061		3	11,372
Fine and applied arts	11,081	1,255	9,803		23	32,094
Foreign languages	612	247	365			3,087
Law	13,048	10,672	2,376			41,239
Liberal arts (major not specified)	26,875	560	26,313		2	62,644
Life sciences—total	33,238	14,504	18,733		1	104,135
Agricultural sciences	4,759	557	4,201		1	15,504
Biological sciences	5,821	1,201	4,620			17,194
Medical and health sciences	22,658	12,746	9,912			71,437
Mathematics and statistics	1,586	427	1,159			7,374
Physical sciences	4,143	1,202	2,938		3	15,257
Social sciences	22,363	7,351	15,007		5	78,244
Theology	5,117	1,799	3,308		10	13,946
Technical courses—total	192,557		158,612	32,794	1,151	353,612
Business and commerce	51,985		47,592	4,104	289	88,411
Engineering and related	3,951		3,786	154	11	8,103
Medical and related	5,211		3,543	1,661	7	12,698
Other technician courses	131,410		103,691	26,875	844	244,400
All other academic fields	39,656	2,642	36,515		499	72,645

	Trained during fiscal year 1976					Ever trained through June 30, 1976, total
		Resident school trainees				
	Total other schools	Vocational or tech, post-high school	Other vocational or technical	High school	Correspondence trainees	
SCHOOLS OTHER THAN COLLEGE						
Total	750,037	64,310	248,752	136,638	300,337	2,393,440
Arts	22,740	4,387	9,097		9,256	115,078
Business	49,808	13,503	17,478		18,827	320,467
Services	35,937	4,129	16,698		15,110	134,958
Technical courses—total	45,193	8,988	14,233		21,972	205,660
Electronic	29,568	4,724	7,111		17,733	138,021
Engineering	4,772	915	1,557		2,300	32,172
Legal	1,309	399	266		644	8,912
Medical and related	3,762	1,630	1,996		136	10,858
Other technical, nec	5,782	1,320	3,303		1,159	15,697
Trade and industrial—total	361,029	29,888	109,569		221,572	1,063,760
Air-conditioning	36,048	3,793	12,101		20,154	133,760
Construction	18,816	1,943	10,054		6,819	45,568
Electrical and electronic	140,631	4,795	15,832		120,004	349,711
Mechanical	102,412	9,447	36,801		56,164	303,170
Metalwork	30,487	6,775	22,376		1,336	84,326
Other trade and industrial	32,635	3,135	12,405		17,095	147,225
Other institutional	192,759	3,415	32,106	136,638	13,600	421,510
Flight training	42,571		42,571			132,007

	Trained during fiscal year 1976			Ever trained through June 30, 1976, total
	Total job trainees	Apprentice	Other-on-job	
MAJOR OCCUPATIONAL OBJECTIVES—JOB TRAINING				
Total	146,041	71,007	75,034	474,499
Technical and managerial	19,641	1,262	18,379	59,787
Clerical and sales	5,347	437	4,910	14,509
Service occupations	17,571	2,031	15,540	59,213
Farming, fishery, forestry occupations	1,641	121	1,520	4,154
Trade and industrial—total	95,909	64,564	31,345	316,849
Processing occupations	4,053	2,408	1,645	12,682
Machine trades occupations	34,545	21,990	12,555	97,304
Benchwork occupations	6,173	3,233	2,940	18,010
Structural work occupations	51,138	36,933	14,205	188,853
Miscellaneous occupations	5,932	2,592	3,340	19,987

Note: NEC—not elsewhere classified.

TABLE 5.—SONS, DAUGHTERS, SPOUSES, AND WIDOWS/WIDOWERS TRAINING PROGRAM

	Trained during fiscal year 1976				Ever trained through June 30, 1976, total
	Total	Sons	Daughters	Spouses widows/widowers	
Total all types of training	99,751	39,081	41,578	19,092	314,436
COLLEGE LEVEL					
Total	87,511	35,010	37,956	14,545	254,796
Academic degrees, field not specified, total	63,849	25,495	27,786	10,568	140,944
Associate in arts	14,822	5,161	5,978	3,683	26,838
Associate in science	2,178	792	878	508	3,901
Associate degree, nec [1]	10,482	3,739	4,328	2,415	20,392
Bachelor of arts	9,489	4,037	4,463	989	19,811
Bachelor of science	5,253	2,509	2,297	447	10,534
Bachelor's degree, nec	19,206	8,501	8,928	1,777	52,620
Master of arts	722	213	283	226	1,959
Master of science	255	82	113	60	572
Master's degree, nec	1,276	406	480	390	3,739
Doctor of philosophy	143	46	34	63	426
Doctor's degree, nec	23	9	4	10	152
Business and commerce	4,861	2,226	1,768	867	21,987
Education	3,621	803	1,982	836	23,426
Engineering	1,099	1,007	89	3	6,438
English and journalism	284	91	152	41	2,418
Fine and applied arts	832	421	334	77	4,566
Foreign languages	70	21	35	14	541
Home economics	188	4	139	45	1,353
Law	384	254	96	34	2,034
Liberal arts (major not specified)	1,644	695	756	193	12,103
Life sciences, total	3,520	1,098	1,956	466	14,398
Agriculture sciences	302	224	68	10	1,509
Biological sciences	586	319	244	23	2,794
Medical and health sciences	2,632	555	1,644	433	10,095
Mathematics	96	55	38	3	992
Physical sciences	225	168	56	1	1,846
Social sciences	1,330	544	581	205	8,139
Theology	151	107	31	13	706
Technician courses, total	4,207	1,555	1,708	944	10,382
Business and commerce	1,142	206	538	398	2,291
Engineering and related	36	34	1	1	128
Medical and related	804	100	561	143	2,501
Other technical courses	2,225	1,215	608	402	5,462
All other academic fields	1,150	466	449	235	2,523
SCHOOLS OTHER THAN COLLEGE LEVEL					
Total	11,778	3,694	3,590	4,944	58,780
Arts	652	296	181	175	2,827
Business	2,564	300	1,324	940	17,868
Services	2,938	268	1,389	1,281	16,129

Footnote at end of table.

TABLE 5.—SONS, DAUGHTERS, SPOUSES, AND WIDOWS/WIDOWERS TRAINING PROGRAM—Continued

	Trained during fiscal year 1976				Ever trained through June 30, 1976, total
	Total	Sons	Daughters	Spouses widows/ widowers	
SCHOOLS OTHER THAN COLLEGE LEVEL—Continued					
Technical courses, total	852	385	344	123	3,390
Electronic	215	203	8	4	1,024
Engineering	54	50	2	2	276
Medical and related	348	45	231	72	1,402
Other technical, nec	235	87	103	45	688
Trades and industrial, total	3,063	2,276	216	571	15,544
Construction	200	190	3	7	634
Dressmaking	576	122	114	340	4,606
Electrical and electronic	339	306	10	23	2,122
Mechanical	956	923	11	22	4,757
Metalwork	467	438	9	20	1,697
Other trade and industrial	525	297	69	159	1,728
Other institutional	1,709	169	136	1,404	3,022
ON JOB TRAINING					
Total	462	377	32	53	860
Technical and managerial	83	47	11	25	153
Clerical and sales	20	6	6	8	38
Service occupations	42	29	5	8	99
Trade and industrial occupations	305	286	9	10	543
Miscellaneous occupations	12	9	1	2	27

[1] Not elsewhere classified.

To date, Vietnam-era veterans have participated in the VA educational assistance programs at a rate of 64.3 percent. (When persons who last trained while on active duty are excluded the rate at the beginning of August was 55.6 percent.) By comparison, the participation rate among post-Korean conflict veterans was 59.1 percent. Both of these rates of participation are significantly higher than the final participation rates for the World War II GI bill (50.5 percent) and the Korean conflict GI bill (43.4 percent). Under the current GI bill, Vietnam-era veterans pursued higher education in a college or university at a participation rate of 35 percent—more than twice that of the World War II veterans' rate of 14.4 percent. Similarly, the rate of participation in college-level training of Vietnam-era GI bill veterans (35 percent) also exceeds that of Korean conflict GI bill veterans (22 percent).

TABLE 6.—3 GI BILLS, COMPARISON OF PARTICIPATION RATES *

	World War II June 1944–July 1956	Korean conflict September 1952–January 1965	Total post-Korean conflict and Vietnam era, June 1966–December 1989	Post-Korean June 1966–November 1976	Vietnam era June 1966–November 1976
Veteran population	15,440,000	5,509,000	19,746,000	11,414,000	8,332,000
Total trained	7,800,000	2,391,000	12,104,511	[1] 6,749,091	[1] 5,355,420
Percent	50.5	43.4	61.3	59.1	64.3
School trainees	5,710,000	2,073,000	11,127,591	6,219,694	4,907,897
Percent	37.0	37.6	56.4	54.5	58.9
College	(2,230,000)	(1,213,000)	(6,903,146)	(3,820,201)	(3,082,945)
Percent	(14.4)	(22.0)	35.0	(33.5)	(37.0)
Other schools	(3,480,000)	(860,000)	(4,224,445)	(2,399,493)	(1,824,952)
Percent	(22.5)	(15.6)	21.4	(21.0)	(21.9)
On-job trainees	1,400,000	223,000	902,308	482,523	419,785
Percent	9.1	4.0	4.6	4.2	5.0
Farm trainees	690,000	95,000	74,612	46,874	27,738
Percent	4.5	1.7	0.38	0.4	0.3
Cost [in billions]	$14.5	$4.5		$21.7	

[1] Includes 760,757 service personnel.

The Committe observes, however, that use of participation rates as the sole measure of program success can be deceiving, inasmuch as a veteran is considered to have participated whenever such veteran uses at least one month of entitlement. Thus, regardless of whether a veteran has used one month of entitlement or the full 45 months, such veteran is considered a participant for purposes of determining the GI Bill participation rate. In this regard, the Committee urges the VA to develop the necessary GI Bill data to enable the Committee to determine the extent to which veterans are participating in the program. Section 304(2)(B) of the Committee bill, pertaining to the increased payment of $5 in reporting fees to certain educational institutions for each veteran or eligible person enrolled in a program of education therein who satisfactorily completes a school term, should provide the VA with critical information to begin developing the necessary data which this Committee has been urging the VA to conduct for many years.

The committee notes that significant increases in the utilization of the GI bill correlates significantly with increases in the benefit rates. The relationship between educational allowances and the participation rate of veterans in each fiscal year between 1966 and 1977 is demonstrated in the following chart. (Not reproduced.)

It should be observed that with each increase in educational assistance rates, participation increased sharply—most notably following GI bill rate increases in 1970, 1972, and 1974. (There is insufficient data at the present time to gauge the effect of the 1976 amendments.) During the fall of 1971, when veterans had the full benefit of the 34.6 percent benefit increase provided for by Public Law 91–219; during the fall of 1973, when veterans had the benefit of the increase provided for by Public Law 91–219; during the fall of 1973, when veterans had the benefit of the increases provided by Public Law 92–540; and during the fall of 1975, when veterans had the benefit of the increases provided by Public Law 93–508 enrollment of veterans in educational programs increased by 33 percent, 14 percent, and 17.7 percent, respectively, over the previous year's enrollment.

Justification for Increasing GI Bill Educational Assistance Benefits

Title I of the Committee bill provides a 6.6-percent increase in the amounts of GI bill educational assistance allowances. The following table compares the benefit levels for the various allowances provided for by current law with the benefit levels which would be effective on October 1, 1977, under the Committee bill.

TABLE 8.—VOCATIONAL REHABILITATION (CH. 31, SEC. 1504(b))

	Existing law				S. 457 GI Bill Improvement Act of 1977			
	No dependents	1 dependent	2 dependents	Each additional dependent	No dependents	1 dependent	2 dependents	Each additional dependent
Institutional:								
Full-time	$226	$280	$329	$22	$241	$298	$351	$26
Three-quarter	170	210	247	18	181	224	263	19
Half-time	113	140	165	12	120	149	176	13
On-farm, OJT or apprenticeship; Full-time	197	238	275	18	210	254	293	19

TABLE 8.—INSTITUTIONAL AND COOPERATIVE TRAINING (COLLEGE TRAINING) (CH. 34, SEC. 1682(a))—Continued

Full-time	$292	$347	$396	$24	$311	$370	$422	$26
Three-quarter	219	260	297	18	233	277	317	19
Half-time	146	174	198	12	155	185	211	13
Cooperative	235	276	313	18	250	294	334	19

FARM COOPERATIVE TRAINING (CH. 34, SEC. 1682(c))

Farm cooperatives:								
Full-time	$235	$276	$313	$18	$251	$294	$334	$19
Three-quarter	176	207	235	14	188	221	251	15
Half-time	118	138	157	9	126	147	167	10

APPRENTICESHIP OR OTHER ON-JOB TRAINING (CH. 36, SEC. 1787)

Periods of training	Present law				S. 457			
	No dependents	1 dependent	2 dependents	Additional for each dependent above 2	No dependents	1 dependent	2 dependents	Additional for each dependent above 2
1st 6 mo	$212	$238	$260	$11	$226	$254	$277	$12
2d 6 mo	159	185	207	11	169	197	221	12
3d 6 mo	106	132	154	11	113	141	164	12
4th and any succeeding 6-mo periods	53	79	101	11	56	84	108	12

Other provisions (Ch. 34)

	Present law	S. 457
Flight training	$270	[1] $288
Active duty and less than half-time	292	[1] 311
Correspondence courses	292	[2] 311
Special supplementary assistance	[3] 65	[4] 69
Predischarge education program	292	311
Loan	[5] 292	[5] 311

Other provisions—War orphans, widows, and wives educational assistance (Ch. 35)

	Present law	S. 457
Full-time	$292	$311
Three-quarter-time	219	233
Half-time	146	156
Institutional-business courses	235	251
Special restorative training	292	311

[1] 90 percent established charges, with 1 month charged to entitlement for each $286 cost.

[2] Established charge for tuition and fees, but not to exceed full-time rate of $310 per month.

[3] Per month, maximum of $780.

[4] Per month, maximum of $828.

[5] Per month, maximum of $1,500.

A chronology of educational assistance allowances since the beginning of the current GI bill program (in 1966)—including the rate increase provided by the Committee bill—are shown in the following table:

TABLE 9.—CHRONOLOGY OF ACTUAL AND PROPOSED EDUCATIONAL ASSISTANCE RATES UNDER POST-KOREAN CONFLICT AND VIETNAM-ERA VETERANS' GI BILL PROGRAM

Law and type of course	Single veteran	Veteran and 1 dependent	Veteran and 2 dependents	Additional dependents
Public Law 89–358, June 1, 1966: Full-time institutional	$100	$125	$150	.....
Public Law 90–77, October 1967:				
Full-time institutional	130	155	175	$10
Full-time cooperative farm	105	125	145	7
Full-time on job	80	90	100	.....
Public Law 91–219, Feb. 1, 1970:				
Full-time institutional	175	205	230	13
Full-time cooperative farm	141	165	190	10
Full-time on job	108	120	133	.....
Public Law 92–540, Oct. 1, 1972:				
Full-time institutional	220	261	298	18
Full-time cooperative farm	177	208	236	14
Full-time on job	160	179	196	8
Public Law 93–508, Dec. 3, 1974, retroactive to Sept. 1, 1974:				
Full-time institutional	270	321	366	22
Full-time cooperative farm	217	255	289	17
Full-time on job	189	212	232	9
Public Law 94–502, Oct. 1, 1976:				
Full-time institutional	292	347	396	24
Full-time cooperative farm	235	276	313	18
Full-time on job	212	238	260	11
S. 457, Oct. 1, 1977:				
Full-time institutional	311	370	422	26
Full-time cooperative farm	251	294	334	19
Full-time on job	226	254	277	12

Congress must be constantly aware of changes in the economy that can dilute the effect of benefit programs such as the GI bill program. Congress established the GI bill in 1966 in order that: (1) Service in the Armed Forces be more attractive, (2) eligible veterans and their dependents might benefit from attaining a higher educational level than they might otherwise have been able to afford, (3) individuals whose lives and careers have been disrupted by their active duty in service might receive vocational and educational readjustment assistance, and (4) individuals who served their country honorably might attain the vocational or educational objectives they would have otherwise fulfilled had they not served in the military. Since the inception of the current GI bill in 1966, Congress has intended that the educational assistance allowance cover, in part, the costs incurred by the veteran-student for tuition, fees, books, supplies, subsistence, and other associated costs.

In recent years, inflation has taken its toll on the amount of GI bill educational assistance. In 1970, Congress increased benefits by approximately 35 percent (Public Law 91–219); in 1972, by 26 percent (Public Law 92–540); in 1974, by 23 percent (Public Law 93–508); and in 1976, by 8 percent (Public Law 94–502), for an aggregate increase of 92 percent in the last 7 years.

Yet, even the benefit increases provided by past amendments have not assured that benefit levels kept pace with the rate of inflation from year to year. For example, in 1976, Congress increased GI bill educational assistance allowances by 8 percent. However, as revealed in the following table, the increase in the cost of living (as measured by the Consumer Price Index (CPI)) between September 1, 1974—the effective date of the increases provided by Public Law 93–508—and October 1, 1976—the effective date of the increases provided by Public Law 94–502—was 14.08 percent.

TABLE 10.—U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX[1]

	1974	1975	1976	1977
January	139.7	156.1	166.7	175.3
February	141.5	157.2	167.1	177.1
March	143.1	157.8	167.5	178.2
April	144.0	158.6	168.2	179.6
May	145.6	159.3	169.2	180.6
June	147.1	160.6	170.1	181.8
July	148.3	162.3	171.1	182.6
August	150.2	162.8	171.9	.....
September	151.9	163.6	172.6	.....
October	153.2	164.6	173.3	.....
November	154.3	165.6	173.8	.....
December	155.4	166.3	174.3	.....

[1] To calculate percentage changes in the CPI, first find the difference in absolute index points, divide that difference by the previous index standing and then multiply by 100. For example: In September 1974, the index stood at 151.9. In October 1976, it stood at 713.3. The difference is 21.4. Dividing 21.4 by 151.9 and multiplying by 100 equals 14.08 percent.

Overall, between January of 1970 and July of 1977, the CPI increased approximately 61.2 percent. Since October 1, 1976—the effective date of the 8-percent increase provided by Public Law 94–502—the CPI has risen 5.79 percent (through July 1977). When the Committee bill was ordered reported in July, the Congressional Budget Office estimated that the increase in the cost-of-living between October 1, 1977, and October 1, 1978, will be 6.6 percent.

On the basis of the increases in the CPI over the last 2 years, alone, the Committee believes that the proposed 6.6-percent increase in GI Bill benefits is justified. Although national attention has been focused on the unprecedented rates of inflation during the last several years (as reflected by increases in the Consumer Price Index), higher education has been plagued with high inflation for over a decade. The following table demonstrates the increased cost of obtaining a higher education:

TABLE 11.—*Annual percentage increases in price index for higher education and for the Consumer Price Index*

Fiscal year	Higher Education Price Index: Halstead instruction*	Higher Education Price Index: Consumer Price Index
1963–64	(100.00)	(100.00)
1964–65	4.30	1.50
1965–66	4.99	2.37
1966–67	5.21	2.79
1967–68	5.99	3.56
1968–69	6.80	4.79
1969–70	6.90	5.70
1970–71	6.39	5.06
1971–72	5.53	3.81
1972–73	5.11	4.79
1973–74	6.99	8.64
1974–75	8.64	10.52

*Halstead Instruction Index, also known as the Higher Education Price Index (HEPI); measure the costs to institutions of higher learning and the rate of inflation for those costs. The composite figures represent the average costs to an institution—both private and public—for faculty salaries, noninstruction/administrative salaries, energy consumption, and general consumer goods and services (plant and physical construction, maintenance, purchase of paper, equipment, etc.).

Note: Each percentage value indicates a percentage increase in the index for the preceding year. The base year was fiscal year 1963–64, as indicated by the numeral "100" in parentheses for that year.

Source: Lyle H. Lanier and Charles J. Andersen, "A Study of the Financial Condition of Colleges and Universities: 1972–75." American Council of Education, Washington, D.C., October 1975, condensed from table 16, p. 47.

Beginning in 1970–71, the College Scholarship Service (CSS) of the College Entrance Examination Board has conducted a survey of the costs borne by students in pursuing college level studies. In January of 1977, the CSS reported that, over the last 6 years, the median cost per year at a public, 4-year college has increased from $1,973 to $2,790, or by 41.4 percent. Similarly, at private universities, students' costs have gone from $3,231 to $4,568, also showing an increase of 41.4 percent. Perhaps the most important single factor in this overall 41.4-percent increase is the increase in the amount of tuition and educational fees. Between 1970–71 and 1977–78, public, 4-year institutions experienced a 57.2-percent increase in the amount of tuition and fees. Private, 4-year schools showed a 63.2-percent increase in the amount of tuition and fees, while private 2-year schools increased 58.4 percent. Most dramatic, however, is the increase in the amount of tuition and fees at public, 2-year schools—over 131 percent. The following table demonstrates the inordinate increases in tuition and educational fees between 1970–71 and 1977–78, as well as tuition and fee increases between 1975–76, and 1977–78.

TABLE 12.—INCREASE IN MEAN TUITION AND FEES BY INSTITUTIONAL TYPE AND CONTROL

Type of institution	Increase from 1975–76 to 1976–77: Mean	Increase from 1975–76 to 1976–77: Percentage	Increase from 1976–77 to 1977–78: Mean	Increase from 1976–77 to 1977–78: Percentage	Increase from 1970–71 to 1977–78: Mean	Increase from 1970–71 to 1977–78: Percentage
Public 2-yr	$86.00	29	$2	0.5	$221.00	131.6
Private 2-yr	88.00	5	72	4.1	668.00	58.4
Public 4-yr	43.00	7	0	-------	226.00	57.2
Private 4-yr	89.00	4	147	6.3	959.00	63.2
Proprietary	181.00	11	87	4.8	-------	-------
Total average	97.40	11.2	77	3.9	518.50	77.6

The average cost of attending college in 1977–78 will increase by nearly 4 percent. This increase is the smallest reported in the last 5 years. By contrast, average college costs for the 1976–77 academic year rose by 11.2 percent over the previous year. The 4-percent jump in 1977–78 tuition and fees will bring yearly student expenses up to an average of $3,005 for residents at public, 4-year schools and to $4,905 for residents at private, 4-year schools.

TABLE 13.—THE INCREASE IN COLLEGE COSTS SINCE 1971

	Resident students: 1971–72	1972–73	1973–74	1974–75	1975–76	1976–77	1977–78	Commuter students: 1971–72	1972–73	1973–74	1974–75	1975–76	1976–77	1977–78
Public institutions:														
2-yr	(1)	(1)	$2,024	$2,153	$2,411	$2,588	$2,707	$1,526	$1,635	$1,665	$1,922	$2,058	$2,223	$2,314
Tuition and fees	(1)	(1)	251	287	301	387	389	185	200	251	287	301	387	389
Room and board	(1)	(1)	1,032	1,086	1,213	1,305	1,375	566	615	681	778	791	813	864
Other expenses	(1)	(1)	741	780	897	897	944	775	820	733	857	966	1,023	1,061
4-yr	$1,875	$1,985	2,242	2,400	2,679	2,890	3,005	1,659	1,760	1,775	2,085	2,266	2,448	2,486
Tuition and fees	439	465	498	541	578	621	621	439	465	498	541	578	621	621
Room and board	890	945	1,042	1,116	1,272	1,371	1,450	494	545	625	704	716	793	780
Other expenses	546	575	702	743	829	898	934	726	750	652	890	972	1,034	1,085
Private institutions:														
2-yr	2,484	2,540	3,194	3,617	3,690	4,009	4,113	1,993	2,090	2,583	3,287	3,421	3,595	3,680
Tuition and fees	1,192	1,210	1,389	1,578	1,652	1,740	1,812	1,192	1,210	1,389	1,578	1,652	1,740	1,812
Room and board	877	910	1,159	1,303	1,239	1,410	1,422	382	395	647	917	850	902	874
Other expenses	415	420	646	736	799	859	879	419	485	547	792	919	953	994
4-yr	3,171	3,280	3,693	4,039	4,391	4,663	4,905	2,599	2,745	3,162	3,638	3,950	4,141	4,331
Tuition and fees	1,652	1,725	1,942	2,080	2,240	2,329	2,476	1,652	1,725	1,942	2,080	2,240	2,329	2,476
Room and board	1,007	1,035	1,159	1,207	1,302	1,429	1,483	469	525	721	786	778	840	842
Other expenses	512	520	592	752	849	905	946	478	495	499	807	932	972	1,013
Proprietary institutions	(1)	(1)	(1)	3,817	3,822	4,271	4,395	(1)	(1)	(1)	3,414	3,382	3,726	3,914
Tuition and fees	(1)	(1)	(1)	1,651	1,627	1,808	1,895	(1)	(1)	(1)	1,651	1,627	1,808	1,855
Room and board	(1)	(1)	(1)	1,387	1,363	1,507	1,568	(1)	(1)	(1)	946	863	899	963
Other expenses	(1)	(1)	(1)	779	832	956	932	(1)	(1)	(1)	817	892	1,019	1,056

[1] Insufficient data.

Source: College Scholarship Service.

The Committee observes that increases in the amounts of GI bill allowances since 1970 have been primarily motivated by the Committee's desire to increase the veteran's education purchasing power. In this regard, the Committee, in its 1972 report to accompany S. 2161 (S. Rept. No. 92–988 at page 34), provisions of which were ultimately enacted into law is Public Law 92–540, stressed that the increase in benefits were designed to "achieve parity with veteran entitlement under the World War II GI bill." Again in 1974, the Committee emphasized the importance of increasing the amount of available benefits to provide "educational opportunities for today's veterans [equal] to those available to veterans following World War II."

Despite these increases, the veteran's education purchasing power has remained relatively static since 1970 as a result of the continued rise in the cost of living as measured by the CPI. The Committee has increased benefits almost 67 percent since 1970 (from $175 to $292). However, the increase in the CPI from 1970 through August 1977—Public Law 91–219, increasing monthly allowances from $130 to $175, became effective February 1, 1970—has been close to 60 percent As a result, the real purchasing power of these allowances over the 1970 level—which the Committee has previously found inadequate—has not been increased to the extent the Committee believes necessary. Thus, the Committee believes that a further cost-of-living increase is warranted.

Although the Committee has not included in the Committee bill a provision amending present section 1685 of title 38 (Veteran-student services) to increase the amount of work-study allowance provided by that section, recent Congressional action increasing the minimum wage (from $2.30 to $2.65 per hour, effective January 1, 1978, in H.R. 3744 as passed by the House) has underscored the

need for an increase in the amount of this allowance. In this regard, the Committee notes that the $2.50 per-hour allowance ($625 for 250 hours of service) provided under the work-study program has not been increased since the program was established by section 203 of Public Law 92-540, the Vietnam Era Veterans' Readjustment Assistance Act of 1972.

It is the Committee's intention to offer, when the full Senate considers S. 457, an amendment to provide that the amount of the hourly work-study allowance—and consequently the amount of the maximum allowance provided for 250 hours of service—shall be tied to increases in the amount of the Federal-required minimum hourly wage. Thus, the amount of the section 1685 work-study allowance would be no less than the minimum wage, and when such wage is increased, the work-study allowance would correspondingly be increased, if the amendment intended to be proposed is enacted.

Need for Accelerated Payment of Educational Assistance Allowances

In addition to determining that there was a need for increasing the amounts of educational assistance allowances (by 6.6 percent), the Committee, after carefully examining the need for providing additional amounts of benefits to certain veterans, has unanimously approved a new accelerated benefits program. For those veterans living in States where low-cost public education is not generally available, the GI bill uniform payment formula provides less assistance in meeting the cost of education than it does for other veterans who live in States which have devoted considerable tax dollars to developing accessible low-cost public education.

The committee notes that precedent for an accelerated benefits program is found in the World War II GI bill program. Under that program, a veteran's full school costs—including tuition, fees, books, and supplies—were paid by the Veterans' Administration up to a maximum of $500 a school year. If the veteran's school-year course costs exceeded $500, then, such veteran could accelerate entitlement to the extent the costs exceeded $500. One day of entitlement was charged against such veteran for each $2.10 paid under the accelerated program.

The rate of GI bill participation by Vietnam-era veterans varies considerably from State-to-State as shown by the following table:

TABLE 14.—PARTICIPATION RATE FOR VIETNAM-ERA VETERANS BY STATE AND TYPE OF TRAINING, CUMULATIVE THROUGH NOVEMBER 1976

		Trainees					
			Percent of veteran population				
	Veteran population (thousands)	Total trainees	Total	College	Other residence schools [1]	On-job training	Correspondence
Grand total	8,332	4,594,663	55.1	33.8	9.1	5.0	7.2
United States, State total	8,238	4,566,855	55.4	34.0	9.1	5.1	7.3
Alabama	117	81,751	69.9	39.7	19.7	5.9	4.6
Alaska	15	7,688	51.3	29.9	11.1	4.8	5.5
Arizona	89	66,681	74.9	55.3	7.4	5.5	6.7
Arkansas	71	40,560	57.1	26.4	18.6	6.5	5.6
California	944	659,626	69.9	53.9	7.6	3.7	4.8
Colorado	116	77,270	66.6	43.6	9.9	4.4	8.8
Connecticut	123	53,300	43.3	24.3	5.5	7.4	6.2
Delaware	25	13,819	55.3	33.2	6.8	4.2	11.1
District of Columbia	24	[2] 41,547	NA	NA	NA	NA	NA
Florida	308	182,318	59.2	36.2	11.6	4.7	6.7
Georgia	200	115,163	57.6	27.2	19.6	5.4	5.3
Hawaii	33	27,184	82.4	53.5	12.1	10.0	6.9
Idaho	30	17,249	57.5	36.6	5.0	5.4	10.5
Illinois	407	200,425	49.2	30.4	6.4	4.7	7.7
Indiana	215	92,760	43.1	20.0	7.0	5.1	11.0
Iowa	106	51,960	49.0	24.1	10.4	4.4	10.2
Kansas	87	48,643	55.9	34.4	10.0	4.1	7.5
Kentucky	113	60,054	53.1	30.2	9.5	4.0	9.5
Louisiana	122	71,365	58.5	28.8	14.7	8.3	6.7
Maine	40	22,752	56.9	29.7	10.6	9.5	7.1
Maryland	181	83,298	46.0	28.8	6.6	4.4	6.2
Massachusetts	240	104,146	43.4	29.9	5.8	3.4	4.2
Michigan	345	183,432	53.2	32.6	6.5	4.4	9.7
Minnesota	175	89,038	50.9	23.9	13.2	7.1	6.7
Mississippi	60	35,226	58.7	32.6	12.9	7.0	6.2
Missouri	191	106,959	56.0	32.2	10.4	4.9	8.4
Montana	30	17,226	57.4	31.7	9.9	9.0	6.9
Nebraska	58	34,701	59.8	32.9	10.5	9.2	7.3
Nevada	27	14,745	54.6	33.9	10.0	3.5	7.2
New Hampshire	37	17,341	46.9	28.9	4.4	7.0	6.5
New Jersey	273	106,517	39.0	22.1	6.1	4.2	6.6
New Mexico	39	30,173	77.4	45.4	16.7	5.3	9.9
New York	590	302,845	51.3	31.5	7.0	6.1	6.7
North Carolina	184	124,035	67.4	39.7	14.5	8.1	5.2
North Dakota	18	16,691	92.7	48.3	19.5	14.6	10.3
Ohio	424	189,249	44.6	24.2	6.6	4.3	9.5
Oklahoma	118	68,589	58.1	37.4	11.9	3.7	5.2
Oregon	109	57,551	52.8	37.1	5.5	5.1	5.1
Pennsylvania	460	199,726	43.4	20.0	7.6	5.4	10.4
Rhode Island	42	22,847	54.4	37.0	7.3	5.4	4.7
South Carolina	104	69,997	67.3	36.2	18.6	7.0	5.5
South Dakota	19	15,908	83.7	48.5	15.1	9.2	10.9
Tennessee	155	92,546	59.7	32.6	13.4	5.3	8.4
Texas	472	268,757	56.9	38.7	8.5	3.3	6.5
Utah	51	27,544	54.0	38.7	3.3	3.5	8.4
Vermont	20	7,151	35.8	17.0	3.6	8.4	6.7
Virginia	199	106,629	53.6	33.4	6.5	5.6	8.1
Washington	188	113,888	60.6	39.8	9.3	4.4	7.1
West Virginia	59	33,445	56.7	28.9	9.5	8.8	9.4
Wisconsin	171	86,377	50.5	26.2	7.7	5.7	10.9
Wyoming	14	8,163	58.3	36.8	5.1	7.5	8.9
Puerto Rico	45	17,868	39.7	26.3	11.5	.9	.9
All other [3]	49	9,940	20.3	4.9	13.6	.8	1.0

[1] The other residence schools percentage is derived by subtracting the correspondence percentage from the other schools percentage. This percentage will be slightly understated due to the small number of college level training contained in correspondence (about 1 percent).

[2] The number of trainees from the District of Columbia is overstated. See text sec. III.K.1a.(2)

[3] Includes persons training in U.S. possessions and territories and in other countries.

As indicated in the above, the rates of participation range from a low of 35 percent (in Vermont) to a high of 92.7 percent (in North Dakota). Differences in participation rates however are not unique to the current GI bill as evidenced by the following table:

TABLE 15.—THREE GI BILLS—EDUCATION AND TRAINING, STATE PARTICIPATION BY PERIOD OF SERVICE

[In thousands]

	World War II			Korean conflict			Peacetime post-Korean conflict			Vietnam era		
State	Veteran population [1]	Total trained [2]	Participation rates (percent)	Veteran population [1]	Total trained [2]	Participation rates (percent)	Veteran population [1]	Total trained [2]	Participation rates (percent) [3]	Veteran population [1]	Total trained [2]	Participation rates (percent) [3]
Grand total	15,440	7,800	50.5	5,509	2,391	43.4	3,077	1,396	45.4	8,533	4,745	55.6
United States, State total	15,315	7,757	50.6	5,456	2,345	43.0	3,041	1,383	45.5	8,436	4,717	55.9
Alabama	253	171	67.6	86	61	70.9	45	27	59.4	120	85	70.5
Alaska		6	NA	7	2	28.0	6	2	32.4	16	8	50.8
Arizona	74	40	54.1	46	17	37.0	31	21	67.5	92	69	75.3
Arkansas	156	104	66.7	36	23	63.9	25	12	47.1	73	42	57.5
California	1,187	581	48.9	651	245	37.6	334	208	62.3	966	683	70.7
Colorado	147	87	59.2	61	30	49.2	40	23	57.0	118	81	68.3
Connecticut	224	89	39.7	89	30	33.7	47	17	35.9	125	55	43.6
Delaware	34	15	44.1	14	4	28.6	10	4	40.7	25	14	57.2
District of Columbia	107	99	92.5	29	35	NA	11	10		24	47	
Florida	289	171	59.2	175	71	40.6	109	51	46.5	318	189	59.5
Georgia	290	191	65.9	100	66	66.0	70	30	42.3	204	119	58.4
Hawaii	(4)	19	NA	15	8	53.3	12	5	44.9	34	29	85.3
Idaho	57	33	57.9	17	8	47.1	11	6	50.8	31	18	57.4
Illinois	936	444	47.4	306	120	39.2	158	61	38.4	416	206	49.4
Indiana	400	162	40.5	141	51	36.2	79	29	37.0	220	95	43.2
Iowa	228	111	48.7	75	33	44.0	41	17	41.8	108	53	49.2
Kansas	188	88	46.8	60	23	38.3	32	13	40.4	89	50	56.4
Kentucky	245	115	46.9	73	34	46.6	43	17	39.4	116	62	53.8
Louisiana	238	156	65.5	80	47	58.8	46	22	46.9	125	74	58.8
Maine	82	39	47.6	26	8	30.8	15	7	46.0	41	24	57.5
Maryland	242	123	50.8	110	30	27.3	65	26	39.4	185	86	46.4
Massachusetts	522	247	47.3	168	75	44.6	89	41	45.9	245	107	43.7
Michigan	681	276	40.5	229	79	34.5	129	57	44.2	353	188	53.2

TABLE 15.—THREE GI BILLS—EDUCATION AND TRAINING, STATE PARTICIPATION BY PERIOD OF SERVICE—Continued

[In thousands]

State	World War II			Korean conflict			Peacetime post-Korean conflict			Vietnam era		
	Veteran population [1]	Total trained [2]	Participation rates (percent)	Veteran population [1]	Total trained [2]	Participation rates (percent)	Veteran population [1]	Total trained [2]	Participation rates (percent) [3]	Veteran population [1]	Total trained [2]	Participation rates (percent) [3]
Minnesota	300	144	48.0	104	53	51.0	61	28	45.3	179	91	50.9
Mississippi	175	119	72.1	40	28	70.0	23	9	40.2	61	36	59.8
Missouri	388	228	58.8	128	63	49.2	71	31	43.9	196	110	56.1
Montana	57	30	52.6	19	8	42.1	12	5	40.4	29	18	61.5
Nebraska	122	66	54.1	40	23	57.5	22	11	47.9	60	36	59.9
Nevada	17	8	47.1	14	2	14.3	11	5	49.4	27	16	57.5
New Hampshire	57	23	40.4	20	6	30.0	14	6	43.6	37	18	48.7
New Jersey	559	211	37.7	203	55	27.1	110	37	34.0	280	109	39.0
New Mexico	71	37	52.1	30	14	46.7	15	9	57.6	40	31	77.9
New York	1,609	790	49.1	495	202	40.8	237	101	42.6	603	310	51.5
North Carolina	344	198	57.6	109	62	56.9	68	31	46.0	190	129	67.8
North Dakota	46	23	50.0	14	10	71.4	8	4	52.5	18	17	96.2
Ohio	855	384	44.9	297	96	32.3	157	57	36.5	434	195	44.8
Oklahoma	221	135	61.1	67	41	61.2	40	19	46.7	121	71	58.5
Oregon	168	77	45.8	54	21	38.9	37	18	49.0	112	59	52.9
Pennsylvania	1,180	588	49.8	334	144	43.1	173	65	37.6	472	204	43.3
Rhode Island	96	33	34.4	27	12	44.4	15	10	63.5	43	23	54.3
South Carolina	164	102	62.2	55	31	54.3	36	17	47.8	107	73	67.9
South Dakota	59	27	45.8	18	12	66.7	9	6	70.1	19	17	87.4
Tennessee	298	203	68.1	94	52	55.3	57	26	45.3	159	95	60.0
Texas	783	453	57.9	273	140	51.3	168	77	45.5	484	279	57.6
Utah	74	46	62.2	30	20	66.7	17	11	62.4	53	28	53.3
Vermont	32	16	50.0	12	4	33.3	8	2	25.1	20	7	36.6
Virginia	301	118	39.2	120	35	29.2	70	23	33.3	205	111	54.1
Washington	233	111	47.6	95	40	42.1	63	31	48.5	193	119	61.9
West Virginia	195	73	37.4	46	22	47.8	22	10	43.4	61	35	56.9
Wisconsin	313	132	42.2	113	43	38.1	64	29	45.6	175	88	50.5
Wyoming	28	15	53.6	11	3	27.3	5	2	44.2	14	8	60.3
Outside United States, total	125	43	34.4	53	45	84.9	36	13	35.1	97	28	29.2

[1] Estimates of veteran participation are based upon net separations from the Armed Forces and therefore includes some persons not eligible for training under the GI bills.

[2] Estimates of State distribution of trainees are based upon location of training facility for World War II and Korean conflict veterans and on State of residence at time of original application for post-Korean and Vietnam-era veterans. Trainee counts for World War II and Korean conflict are as of end of program while those for later service periods are as of April 1977.

[3] Based on unrounded data.

[4] Less than 500.

Note: Column totals may not add due to rounding.

An analysis of the comparative charts and rates of participation shows the following: The rate of participation by Vietnam-era veterans in the current GI bill exceeds World War II rates in 33 of 48 States (Alaska and Hawaii are not included). In some States—for example, Louisiana, Georgia, Arkansas, Utah and Tennessee—the decline in participation can be explained by the State's extremely high participation rate attained under the World War II bill (65.5, 65.9, 66.7, 62.2, and 68.1, respectively). Yet, with the exception of Utah, in each of those States, the participation rate among Vietnam-era veterans exceeded that of the national average at the end of April 1977 (55.6—this rate does not include training by active duty service personnel when such persons are included, the participation rate at the end of April 1976, was 64.9 percent).

Some States show demonstrably increased rates of participation between the World War II program and the current Vietnam-era GI bill. For example, the increase from the World War II bill to the Vietnam-era program in the rate of participation was as follows for the following States: Arizona, 21.2 percent; California, 21.8 percent; Delaware, 13.1 percent; Michigan, 12.7 percent; Rhode Island, 19.9 percent; West Virginia, 19.5 percent; North Dakota, 46.2 percent; and South Dakota, 41.6 percent. This compares with an increase in the rate of participation of 5.1 percentage points for the current program over the World War II program (55.6 and 50.5, respectively).

In some States participation rates have not changed to any large extent. For example, in the State of Alabama the participation rate increased by 2.9 percent; in Illinois, 2.0 percent; in Indiana, 2.7 percent; in Iowa, 0.5 percent; in Minnesota, 2.9 percent; in New York, 2.4 percent; and in New Jersey, 1.3 percent. In the States of Ohio and Texas, the participation rate has declined 0.1 percent and 0.3 percent, respectively.

Thus, there have been disparities in the participation rates among States under both the World War II and the Vietnam-era programs. In addition, there are variations in State participation rates between the World War II bill and the current bill for which there is no easy explanation.

Nevertheless, it seems likely that the varying Vietnam-era GI bill participation rates among States is, to some extent, a function of the amount of resources which individual States and local communities have committed to the development of adequate, accessible, low-cost postsecondary education programs. The differences in the amounts of money appropriated by individual States for purposes of post-secondary education varies widely as indicated by the following table:

ABLE 16.—APPROPRIATIONS OF STATE TAX FUNDS FOR OPERATING EXPENSES OF HIGHER EDUCATION FOR FISCAL YEARS 1965-66, 1973-74 AND 1975-76 WITH PERCENTAGE GAINS OVER MOST RECENT 2 AND 10 YRS

[Dollar amounts in thousands]

States	Year 1965-66	Year 1973-74	Year 1975-76	2-yr gain (percent)	10-yr gain (percent)
(1)	(2)	(3)	(4)	(5)	(6)
Alabama	$40,327	$151,836	[1] $213,750	41	430
Alaska	6,108	23,359	52,864	126	767
Arizona	35,459	135,998	162,157	20	359
Arkansas	28,722	73,411	103,202	41	259
California	413,103	1,156,254	1,541,528	33	273
Colorado	44,073	140,315	184,313	31	318
Connecticut	31,060	119,918	136,623	14	340
Delaware	7,390	33,573	41,966	25	468
Florida	95,476	346,056	410,552	19	330
Georgia	50,859	218,660	240,490	10	373
Hawaii	17,006	57,295	83,255	41	390
Idaho	15,450	40,566	61,558	52	297
Illinois	204,403	550,804	642,942	17	215
Indiana	90,105	233,379	295,297	27	226
Iowa	61,284	144,476	195,320	35	219
Kansas	48,598	108,927	153,078	41	215
Kentucky	49,507	148,214	185,619	25	275
Louisiana	73,318	158,855	198,996	25	171
Maine	12,771	39,828	44,392	11	248
Maryland	48,275	172,826	207,451	20	330
Massachusetts	32,022	176,707	[1] 200,000	13	525
Michigan	176,380	464,029	556,806	20	215
Minnesota	65,211	187,552	250,815	34	285
Mississippi	25,931	112,868	149,363	32	476
Missouri	62,168	180,719	213,774	18	244
Montana	14,749	36,792	45,649	24	209
Nebraska	21,894	68,000	100,082	47	357
Nevada	7,114	26,632	37,719	42	430
New Hampshire	7,335	17,403	22,453	29	206
New Jersey	50,826	257,703	267,699	4	427
New Mexico	21,649	54,502	74,226	35	243
New York	283,722	983,941	1,256,593	28	343
North Carolina	75,323	287,115	368,754	28	383
North Dakota	13,989	31,730	48,865	54	249
Ohio	85,045	345,759	451,566	31	431
Oklahoma	41,867	96,038	127,656	33	205
Oregon	49,252	123,476	159,328	29	224
Pennsylvania	102,611	500,684	622,636	24	507
Rhode Island	12,868	42,439	47,801	13	271
South Carolina	21,403	145,402	213,040	47	895
South Dakota	15,987	25,977	35,667	37	123
Tennessee	41,106	147,253	171,473	16	317
Texas	165,624	509,130	830,320	63	401
Utah	24,891	66,373	87,848	32	253
Vermont	6,395	18,453	20,138	9	215
Virginia	40,830	206,458	277,198	34	579
Washington	94,979	252,224	310,131	23	227
West Virginia	32,294	81,796	103,125	26	219
Wisconsin	78,451	304,546	334,322	10	326
Wyoming	8,771	23,532	33,821	44	286
Total	3,055,021	9,830,328	12,575,141		
Weighted average percentages of gain				28	311

[1] Estimated, in advance of actual appropriations.

Many local cities, towns, and counties also appropriate money for purposes of postsecondary education. The relationship between the amount of tuition paid by a student in a public institution and the amount of State and local expenditures is shown by the following table:

(Not reproduced.)

Some correlations between State expenditures on higher education and Vietnam-era veteran GI bill participation rates may be deduced by examining State higher education appropriations in comparison to the size of the State Vietnam-era veteran population. For example, the State of New Jersey, which for fiscal year 1975–76 appropriated $267,699,000 for higher education, has a Vietnam-era veteran population of approximately 273,000 veterans. The State of Minnesota, on the other hand, with a Vietnam-era veteran population of 175,000—almost 100,000 fewer Vietnam-era veterans than in New Jersey, for fiscal years 1975–76 made postsecondary education appropriations of $250,815,000—approximately the same amount as did New Jersey. The participation rate for the State of Minnesota is 50.9 percent or 30.5 percent greater than the participation rate for the State of New Jersey (39 percent). Pennsylvania, another State with a relatively low Vietnam-era GI bill participation rate (43.3 percent) and with a population of approximately 460,000 of those veterans, appropriated approximately $623 million for fiscal year 1975–76 postsecondary education expenditures; Texas, with a similar number of these veterans (472,000) appropriated over $880 million for the same fiscal year for purposes of postsecondary education—over one-third greater than the amount appropriated by the State of Pennsylvania. The rate of participation for the State of Texas is 57.6 percent or 33 percent greater than the participation rate for the State of Pennsylvania.

There are also large variations in the general willingness of States to make expenditures on postsecondary education, as is revealed by the following chart which shows the relationship between the amount of State and personal income and expenditures for higher education:

(Not reproduced.)

It is likely that State participation rates are affected by the availability of accessible low-cost educational institutions. Recently, the Carnegie Foundation for the Advancement of Teaching, in a report entitled "The States and Higher Education: the Proud Past and a Vital Future (1976)", indicated that the number of educational institutions open at low or no tuition to all high school graduates with necessary skill requirements was insufficient. The report concluded:

We believe the possibility of such deficits should be particularly examined in all large metropolitan areas and in the following States as a whole:

	Percent
Delaware	57.2
Idaho	57.4
Indiana	43.2
Iowa	49.2
Kentucky	53.8
Maine	57.5
Maryland	46.4
Massachusetts	43.7
Minnesota	50.9
Mississippi	59.8
Nevada	57.5
New Hampshire	48.7
New Jersey	39.0
New Mexico	77.9
New York (SUNY)	51.5
North Dakota	96.2
Ohio	44.8
Oregon	52.9
Pennsylvania	43.3
Rhode Island	54.3
South Carolina	67.9
South Dakota	87.4
Utah	53.3
Vermont	36.6
West Virginia	56.9
Wisconsin	50.5

(Vietnam-era GI bill participation rates added by Committee to this Carnegie report table.)

In light of the above discussion, although the disparity in State participation rates is, in large part, a function of State and local support for postsecondary education, the Committee believes that an accelerated program designed to provide additional GI bill assistance is needed to aid those veterans without access to low-cost educational institutions and those veterans enrolled in or desirous of enrolling in a high-cost program of education. After due consideration, the Committee determined that the most equitable method of providing such assistance is the accelerated benefit program contained in title II (sections 201 and 202) of the committee bill. Under an accelerated program, all veterans would continue to be treated similarly by the Federal Government; that is, each veteran as a result of his service is entitled to a maximum of 45 months of educational assistance entitlement at the same rate. The accelerated program merely changes, in certain instances, the general rule that the benefit have to be used 1 month at a time.

The Committee believes that it is important, consistent with this principle of the Federal Government providing equal benefits for equal service to the Nation, to assist those veterans enrolled in high-cost programs of education—that is, those programs where the established charges for tuition and fees exceed $1,000 per school term. The Committee is cognizant that programs designed to assist those veterans enrolled in "medium cost" institutions would necessitate the expenditure of far more dollars than are currently available to the Committee under the Second Concurrent Resolution on the budget for fiscal year 1978. In addition, it must be questioned whether it would be wise to expend Federal dollars at the expense of other veteran programs on those veteran-students not required to expend large sums of money for purposes of education. Subject to these caveats, then, the Committee believes that the top priority should be the expenditure of Federal dollars to assist those veterans-students bearing a heavier burden of expenditures in obtaining an education.

The committee expects that as a result of enactment of the accelerated benefit program more veterans, particularly unemployed and underemployed veterans, should be better able to take advantage of the GI bill program.

The Committee in structuring the accelerated payment program has sought to assure its proper utilization. In order to assure that only those veterans and eligible persons seriously pursuing an education receive the benefits of the accelerated program, the Committee requires that benefits be paid to a veteran or eligible person only upon the certification by the educational institution that the veteran has satisfactorily completed the school term. To mitigate any financial difficulties caused by this delay in the payment until the end of the term, the Committee has established a special loan program for which the veteran must qualify. The veteran would be able to receive his money in the form of a loan "out front"—at the time when the veteran usually needs the assistance most. The failure of the veteran to complete satisfactorily the term will cause a default in the loan for which the veteran will be liable. In addition, the Committee has extended the benefits of the program only to those veterans who qualify on the basis of need as outlined in present section 1798 for the GI bill education loan program.

To assure the avoidance of institutional abuse, a veteran or eligible person would be eligible for receipt of the accelerated educational assistance allowance only if he is enrolled in an educational institution which has certified, pursuant to the "85–15" rule (section 1673(d)), that such institution had an enrollment during the previous school term of veterans equal to 35 percent or less of the total school enrollment. This provision should avoid institutions attempting to reap the benefits of the program by increasing their tuition or fees and enrolling veterans. Institutions must also meet the requirement in present law that veterans be subject to the same charge for tuition and fees as other similarly situated non-veterans.

Vocational Rehabilitation

Throughout the Nation's history, special concern has been shown for compensating those who have incurred injury by virtue of service in the country's Armed Forces. Federal assistance to those injured has been, in part, based upon the national purpose that everything possible should be done to help the disabled veteran readjust to civilian life.

Congress originally intended that an injured veteran should be assured that he would be "maintained competently during his life." However, as time passed, and medical technology improved, methods of medical treatment increased the number of disabled veterans. In response, Congress established programs that recognized the disabled veteran's need for vocational rehabilitation in addition to compensation in order to require the skills necessary to compete in the labor market.

Totally or partially disabled veterans of wars prior to World War I received assistance for hospitalization and recompense. During World War I, however, legislation was enacted to provide vocational rehabilitation for veterans having service-connected disabilities. The War Risk Insurance Act of 1917 (Public Law 65–90) included as part of its benefit package for disabled veterans provisions in regard to vocational rehabilitation. However, the Act did not detail the methods whereby such vocational rehabilitation might be accomplished.

To remedy this problem, the Vocational Rehabilitation Act (Public Law 65–178) was enacted in 1918. That public law detailed a disabled veterans vocational rehabilitation program. To be eligible for vocational rehabilitation under the program, the veteran had to demonstrate he was unable to carry on gainful employment or to re-enter the occupation he left. If the disabled veteran qualified for the program, he received monthly compensation equal to the amount of his monthly pay. In addition, the veteran was compensated for expenses he incurred as a result of participation in the program. Following training, and as part of the program, placement into suitable or gainful employment was provided. Furthermore, because the responsibility for finding suitable employment for rehabilitated veterans was placed upon the Government, the Government attempted to follow the veterans in their employment and assist them in meeting the difficulties of the new position. The vocational rehabilitation program for World War I disabled veterans provided by Public Law 65–178 terminated in 1928. During the program, approximately 675,000 applications for rehabilitation were received of which approximately half were rated as eligible for actual rehabilitation training.

Beginning with the War Risk Insurance Act of 1917, and until 1962, vocational rehabilitation programs for veterans with service-connected disabilities have been initiated subsequent to any major military involvement and terminated at the conclusion of the war. For example, on December 12, 1941—5 days after the Japanese attack on Pearl Harbor—President Roosevelt requested

the joint efforts of several Federal agencies, including the Veterans' Administration, in studying the problems of rehabilitating disabled veterans.

Congress, partially as a result of the experiences under the World War I vocational rehabilitation program, in 1943, ultimately enacted Public Law 78–16. This measure included provisions providing for vocational rehabilitation for any person who was otherwise eligible and who served in the active military or naval forces on or after December 7, 1941, and prior to the termination of hostilities in World War II. Public Law 78–16 provided for the rehabilitation of disabled veterans who had a disability incurred in or aggravated by military service. The purpose of the enacted legislation was to restore employ ability lost by virtue of a handicap due to service-incurred disability. The Act also gave the Administrator of Veterans' Affairs the power and duty to cooperate with and employ the facilities of other governmental and State employment agencies for the purpose of placing disabled veterans in gainful employment. Approximately, 550,000 disabled veterans from World War II benefited for the program before the program terminated.

Upon entry into the Korean war, President Harry Truman recommended the renewal of the vocational rehabilitation benefits granted by Public Law 78–16. Congress responded to this recommendation with the enactment in 1950 of Public Law 81–894. This Act as amended in 1951 by Public Law 82–110 provided vocational rehabilitation benefits for veterans who incurred service-connected disabilities and needed to overcome the handicap of a disability incurred or aggravated by such service. However, the disability had to be a direct result of armed conflict or incurred by the serviceperson either while engaged in extra-hazardous service or while the United States was engaged in war. Public Law 81–894 did not extend eligibility to those servicepersons who incurred their disabilities during the specified period for the vocational rehabilitation program if their injury only afforded them entitlement to the peacetime rates of compensation. The vocational rehabilitation program authorized under Public Law 81–894 was temporary and training had to be completed by participating veterans on or before August 20, 1963.

Historically, then, vocational rehabilitation legislation was enacted to address the prospective needs of service-connected disabled veterans when the Nation was faced with an existing or potential major military conflict. It was not until 1962, with the enactment of Public Law 87–815, that the vocational rehabilitation program was made permanent. Prior to the passage of that law, vocational rehabilitation benefits were granted veterans of World War II and the Korean conflict if they had a service-connected disability rated as 10 per centum or more disabling and were in need of vocational rehabilitation. With the enactment of Public Law 87–815, a veteran whose disability was incurred other than during World War II or the Korean conflict in order to receive vocational rehabilitation benefits was required to have been rated for purposes of compensation as 30 percent or more disabled or, if rated less than 30 percent, was required to have a pronounced employment handicap.

Public Law 87–815 and in 1962 Public Law 89–139 in 1965 liberalized, for purposes of determining eligibility, the required periods of service which a disabled veteran must have completed in order to be eligible for participation in the vocational rehabilitation program.

In 1968, Congress enacted Public Law 90–631, the Veterans Educational Assistance Act, which specified what educational assistance was available and detailed the relationship, for purposes of determining the character and duration of training, between vocational rehabilitation provided a veteran with a service-connected disability and other training programs provided generally.

It was not until 1972, with the enactment of the Vietnam Era Veterans' Readjustment Assistance Act, Public Law 92–540, that Congress expanded the scope of available vocational rehabilitation to any significant extent. For example, where feasible, those veterans pursuing a program of vocational rehabilitation training under chapter 31 were allowed to perform veteran-student services pursuant to section 1685 of title 38, United States Code.

At the end of November 1976, there were a total of 20,340 veterans in vocational training under chapter 31—a 32.5-percent increase over the 15,354 veterans enrolled at the end of November 1975. Of those enrolled in training in November 1976, 14,595 were attending colleges and universities, 2,748 were in vocational or technical schools, 551 were in on-job training, and 129 in institutional on-farm training, as demonstrated in the following table:

TABLE 19.—CH. 31—VOCATIONAL REHABILITATION PERSONS IN TRAINING AND EVER TRAINED

	In training			
	All laws	Vietnam era	Other	Vietnam era ever trained
Ch. 31 (total)	20,340	19,259	1,081	81,257
College (total)	14,595	14,034	561	51,357
Graduate level	1,225	1,182	43	1,933
Junior college	4,088	3,871	217	14,622
Other undergraduate	9,282	8,981	301	34,802
Other schools (total)	3,130	2,925	205	21,407
Vocational/technical	2,748	2,584	164	19,795
Elementary/secondary	189	172	17	1,154
Other	193	169	24	458
Institutional onfarm	129	120	9	374
On job training	551	539	12	3,678
Unknown	1,935	1,641	294	4,441

From June 1943, through November 1976, a total of more than 800,000 disabled veterans had trained under the VA vocational rehabilitation program. Of those, more than 81,000 have been Vietnam-era veterans.

Public Law 93–502, enacted in 1974, increased the amount of subsistence allowable provided disabled veterans participating in the vocational rehabilitation program under chapter 31. In addition to increasing the amount of benefits provided under chapter 31, Public Law 93–508, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, liberalized eligibility requirements extending the right to participate in the vocational rehabilitation program to certain disabled veterans who heretofore had been denied—those veterans with a service-connected disability rated at less than 30 percent. This measure made the eligibility requirement between the current program comparable to the programs provided to veterans of World War II and the Korean conflict. Public Law 93–508 also clarified and liberalized the circumstances under which disabled veterans training under the vocational rehabilitation provisions may obtain individualized tutorial assistance.

In 1976, Congress enacted Public Law 94–502, the Veterans Education and Employment Assistance Act of 1976, which included a substantive provision expanding the Nation's commitment to service-connected disabled veterans enrolled in the chapter 31 program. Section 103 of that act provided that chapter 31 trainees may be trained in the facilities of any Federal agency. Under section 103 of that law, the Administrator was given the authority to arrange for such unpaid training or work experience in a participating Federal agency as the Administrator determines necessary to accomplish vocational rehabilitation.

In regard to further improvements in the vocational rehabilitation program, in 1974, in the Committee report to accompany S. 2784 (S. Rept. No. 93–907, page 52), the Committee stressed that the vocational rehabilitation chapter (chapter 31), and the regulations implementing such chapter, had many inconsistencies. At the time, the Committee strongly recommended that the Veterans' Administration thoroughly review chapter 31 for possible legislative and administrative changes, particularly in light of Public Law 93–112, the Rehabilitation Act of 1973. That measure substantially restructured and redefined concepts regarding handicapped individuals generally and employment and services opportunities for them. Again, in 1976, the Committee stressed in its report to accompany S. 969, the Veterans Education and Employment Assistance Act of 1976 (S. Rept. No. 94–1243, page 43), that there were many inconsistencies and much outdated terminology in chapter 31 and the regulations promulgated thereunder, and urged the Veterans' Administration to conduct a thorough review of the vocational rehabilitation program for possible legislative and administrative changes, especially in connection with the Rehabilitation Act of 1973. The Committee also noted that it expected the Administrator, in the conduct of its study, to confer with the Commissioner of the Rehabilitation Services Administration in the Department of Health, Education, and Welfare.

However, to date, the Committee has yet to receive any recommendations from the Veterans' Administration. Thus, the Committee bill requires the Administrator, after consultation with the Commissioner of Rehabilitation Services in the Department of Health, Education, and Welfare, to submit to the President and the Congress a report on or before March 1, 1978. Such report shall include—but not be limited to—the Administrator's recommendations for legislative or administrative changes in chapter 31, recommendations for the need for services of vocational rehabilitation specialists to provide chapter 31 trainees with appropriate job development and job placement services, recommendations for utilizing the veterans education programs provided for by chapters 32, 34, 35, and 36 to meet the needs of disabled veterans eligible for chapter 31 training, and a description and analysis of the scope and quality of the chapter 31 program in comparison to the vocational rehabilitation provided under the Rehabilitation Act of 1973, as amended.

* * * * *

Further intensive discussion of the provisions of the Committee bill appears under the Section-by-Section Analysis and Discussion, *infra*.

COST ESTIMATE

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–150, 91st Congress), the committee, based on information supplied by the Congressional Budget Office, estimates that the 5-year cost resulting from the enactment of the committee bill would be $827 million in fiscal year 1978; $921 million in fiscal year 1979; $725 million in fiscal year 1980; $532 million in fiscal year 1981; and $382 million in fiscal year 1982.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE REVISED

SEPTEMBER 21, 1977.

1. Bill number: S. 457.

2. Bill title: GI Bill Improvement Act of 1977.

3. Bill status: As reported by the Senate Committee on Veterans' Affairs, July 22, 1977.

4. Bill purpose:

Title I—To provide rate increases to those using readjustment benefits.

Title II—To make available accelerated entitlement to certain persons receiving readjustment benefits and to extend the delimiting period for individuals who were not able to train during their ordinary entitlement period because of a disability.

Title III—Other minor amendments covering education, training and VA home loans to veterans.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1978	1979	1980	1981	1982
Title I:					
Sec. 101	15.0	14.0	12.0	11.0	9.0
Secs. 102 and 104	468.0	450.0	357.0	256.0	176.0
Sec. 103	27.0	26.0	24.0	23.0	21.0
Total title I	510.0	490.0	393.0	290.0	206.0
Title II:					
Secs. 201 and 202	295.0	410.0	312.0	223.0	159.0
Sec. 203	(1)	(1)	(1)	(1)	(1)
Total title II	295.0	410.0	312.0	223.0	159.00
Title III:					
Sec. 301	(1)	(1)	(1)	(1)	(1)
Sec. 302	6.7	5.9	5.2	4.5	3.8
Sec. 303	.2	.3	.3	.3	.3
Sec. 304	7.9	7.0	6.1	5.2	4.4
Sec. 305	(1)	(1)	(1)	(1)	(1)
Sec. 306	(1)	(1)	(1)	(1)	(1)
Sec. 307	(1)	(1)	(1)	(1)	(1)
Sec. 308	(1)	(1)	(1)	(1)	(1)
Sec. 309	(1)	(1)	(1)	(1)	(1)
Sec. 310	(1)	(1)	(1)	(1)	(1)
Sec. 311	8.0	8.1	8.3	8.5	8.7
Total title III	23.0	21.0	20.0	19.0	17.0
Total title IV					
Total all titles	828.0	921.0	725.0	532.0	382.0

1 Nominal cost.

These costs fall in budget function 700.

6. Basis for estimate: The additions to costs under all three titles decrease as the years go by because there will be continuously fewer veterans eligible to take training under the GI bill. Because the current GI bill is limited only to those entering the armed services prior to January 1, 1977, and because the armed services are at a reduced strength compared to what they were during the Vietnam war, the number passing the 10-year training period is and will be much greater than the number becoming eligible to train.

Title I: This provision provides for a 6.6 percent rate increase starting October 1, 1977. Rate increases act in two ways to increase the cost of training: (1) They raise the average cost per trainee and (2) they draw additional veterans into training who would not have trained otherwise. Roughly half of the estimated increase in the costs of this provision is attributable to each of these two ways. While there is no question that increased benefit rates raise average cost, the "suction effects" of GI bill increases require a bit more explanation. Using historical data over the tenure of the current GI bill (starting in fiscal year 1967), a CBO study has found a highly significant positive relationship between the level of benefits and number of trainees. The model developed as a result of this study projects that in fiscal year 1978, the proposed rate increase would result in 110,000 additional trainees and raise average cost $150 per trainee per year (from $1964 to $2114 in fiscal year 1978).

The table below shows the estimated additional number of trainees in each fiscal year as a result of the rate increase in addition to the estimated number of trainees without the rate increase.

[By fiscal years]

	1978	1979	1980	1981	1982
Number trained without the rate increase 1	1,850,000	1,550,000	1,160,000	820,000	590,000
Additional number trained with the rate increase	110,000	120,000	100,000	75,000	50,000

1 Preliminary estimates; excludes all chapter 32 trainees.

It should be noted that total costs are not simply average cost times number of trainees because other adjustments must be made.

Title II: Starting January 1, 1978, this provision would grant accelerated entitlement to veterans taking GI bill training if they meet certain conditions. These conditions would include the requirement that the veteran take out a means tested student loan for the amount of entitlement accelerated. Upon successful completion of the school term, the loan would be paid back by the accelerated payment. The accelerated payment can neither exceed the payment made otherwise to the veteran for the school term nor the amount by which tuition and fees exceed $1,000 per school year. The latter criterion would mean a greater payment only to those in high cost institutions. In fiscal year 1978 the amount accelerated is to be prorated for the partial school year remaining in 1977–1978. This provision would have three effects: (1) It would enable some veterans to enter training who would not have otherwise entered training because high tuition payments at accessible schools could not be financed, (2) It would enable those who would have trained even without accelerated entitlement to afford more expensive training if they so desire, and (3) It would provide some financial relief to veterans training in high cost institutions.

CBO estimates that accelerated entitlement under title II of S. 457 would result in an increase in average cost of $130 per complete year ($87 for fiscal year 1978 to account for the fact that the provision is not effective for the whole year). The estimated additional numbers of trainees resulting from accelerated entitlement during fiscal years 1978–1982 are shown in the table below:

Fiscal year:

1978	63,000
1979	98,000
1980	75,000
1981	54,000
1982	38,000

The extension of the GI bill entitlement period beyond 10 years for those who could not train because of a disability would have only a nominal cost. This part of the provision would be effective retroactive to May 31, 1976.

Title III. This set of miscellaneous adjustments in veterans benefits effective as of October 1, 1977 represents only a small addition to cost when compared with the two major provisions. These adjustments include an increase in the reporting fees paid by the VA to institutions for reporting the enrollment, interruption and termination of trainees, an increase in the maximum amount of loans available to veterans buying or improving homes with solar energy devices or added insulation and an increase in the reimbursement of administrative expenses for state approving agencies which deal with institutions training veterans under the GI bill.

7. Estimate comparison: None.

8. Previous CBO estimate: This estimate replaces the cost estimate of August 11, 1977.

9. Estimate prepared by: Al Peden (225–7766).

10. Estimate approved by:

G. G. NUCKOLS,
(For JAMES L. BLUM,
Assistant Director for Budget Analysis).

* * * * *

SECTION-BY-SECTION ANALYSIS AND DISCUSSION OF S. 457 AS REPORTED

Section 1

Provides that this Act may be cited as the "GI Bill Improvement Act of 1977".

TITLE I—GI BILL RATE INCREASES

Title I of the Committee bill amends title 38, United States Code, to provide increases of 6.6 percent in the amount of educational assistance provided under chapters 31, 34, 35, and 36 of title 38, United States Code—the most recent estimate of the percentage increase in the cost-of-living between October 1, 1976, the effective date of the last GI bill increase, and effective date of the increase provided by the Act.

VOCATIONAL REHABILITATION

Section 101

Amends section 1504(b) of chapter 31 to increase by 6.6 percent the monthly subsistence allowance payable to disabled veterans in training under that chapter which authorizes vocational rehabilitation training to assist disabled veterans in overcoming the handicapping effects of their disabilities and to prepare them for obtaining and holding productive employment. In addition to the monthly subsistence allowance paid by the Veterans' Administration, disabled veterans enrolled in training under chapter 31 are provided with full tuition, books, and supplies. At the end of March 1977, 20,200 disabled veterans were enrolled in the chapter 31 vocational rehabilitation program, of which 15,400 were enrolled in college. Under the Committee bill, the amount of monthly subsistence for a veteran with no dependents would be increased from $226 to $241; with one dependent, from $280 to $298; and with two dependents, from $329 to $351. The Veterans' Administration estimates that the rate increase of 6.6 percent provided by the Act will cause increased fiscal year 1978 chapter 31 expenditures of approximately $4.5 million.

VETERANS' EDUCATIONAL ASSISTANCE

Section 102

Amends chapter 34 of title 38, United States Code, to increase by 6.6 percent the amount of educational assistance allowances provided under that chapter.

Clause (1) of section 102 amends section 1677(b) of chapter 34 to increase by 6.6 percent the amount of monthly educational asistance allowance to which a veteran enrolled in a flight training course is entitled. Under the flight training program, the Administrator pays to the veteran an educational assistance allowance computed at the

rate of 90 percent of the tuition and fees established for the course. The amount of the veteran's educational entitlement is proportionally reduced by the amount paid by the VA—90 percent of the established charge—divided by the amount of monthly educational assistance to which the veteran is entitled. At the end of November 1976, 18,282 veterans were enrolled in a program of flight training under the GI bill. Under this section, the amount of monthly assistance would be increased from $270 to $288 a month.

Clause (2) of section 102 amends section 1682(a) of chapter 34 to increase by 6.6 percent the amounts of monthly educational assistance allowances payable to veterans training under the chapter 34 educational assistance program. The full-time institutional rate for a veteran with no dependents would be increased from $292 to $311 a month; the rate for a veteran with one dependent would be increased from $347 to $370, and the rate for a veteran with two dependents would be increased from $396 to $422. For each additional dependent the amount of monthly assistance would be increased from $24 to $26. Three-quarter and half-time rates are also adjusted upward by 6.6 percent.

At the end of November 1976, 1,223,662 veterans were enrolled in a program of education under chapter 34, a decline of 33 percent from the number of chapter 34 veteran enrollees at the end of November 1975 (1,825,631). Of those veterans enrolled at the end of November 1976, a total of 855,707 were enrolled in college; 125,498 in other residence schools; 64,851 in on-job training; 156,326 in correspondence schools; and 21,280 in flight training. Of those veterans enrolled in college, 53.9 percent were enrolled in a junior or 2-year program of education. From November 1975 through November 1976, 594,256 veterans participated in the GI program for the first time.

Clause (3) of section 102 amends section 1682(b) of chapter 34 to increase by 6.6 percent the amount of maximum allowance payable to a service person in pursuit of a program of education. Section 1682(b) of title 38 provides that the educational assistance allowance of a veteran who is on active duty or training on less than a half-time basis shall be computed at the rate of the established charges for tuition or $311 (increased from $292) per month for a full-time course—whichever charge is less. At the end of November 1976, approximately 75,000 service persons were enrolled in training under the chapter 34 program.

Clause (4) of section 102 amends section 1682(c)(2) of chapter 34 to increase by 6.6 percent the amount of the monthly educational assistance allowance payable to veterans pursuing a farm cooperative program. At the end of November 1976, 21,628 veterans in receipt of GI bill educational assistance allowances were enrolled in a farm cooperative program. This total represents an increase of approximately 2.6 percent in the number of these trainees from November 1975 to November 1976. The full-time farm cooperative program rate for a veteran with no dependents would be increased from $235 to $251 a month; the rate for a veteran with one dependent, from $276 to $294 a month; and the rate for a veteran with two dependents, from $313 to $334 a month. The monthly farm cooperative educational assistance allowance would be increased by $19 for each dependent in excess of two. Three-quarter time and half-time farm-cooperative assistance rates would be proportionately increased.

Clause (5) of section 102 amends section 1692(b) of chapter 34 to increase by 6.6 percent the amount of the tutorial assistance allowance the Administrator pays on behalf of a veteran with a deficiency in a subject required or indispensable to the satisfactory pursuit of the veteran's or eligible person's approved program of education. During fiscal year 1976, a total of 45,366 veterans and other eligible persons received tutorial assistance. The maximum amount of monthly tutorial assistance would be increased from $65 to $69, and the maximum amount of annual tutorial assistance would thus be increased from $780 to $828 (or 12 months × $69 per month maximum payments).

Clause (6) of section 102 amends section 1696(b) of chapter 34 to increase by 6.6 percent the maximum amount of the monthly educational assistance allowance payable for a full-time course under the Predischarge Education Program (PREP), from $292 to $311 per month.

SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

Section 103

Amends chapter 35 of title 38 to increase by 6.6 percent the amount of monthly educational assistance allowances provided under chapter 35 (Survivors' and Dependents' Educational Assistance). Chapter 35 provides educational benefits to the spouse and children of a veteran with a permanent and total service-connected disability, and the surviving spouse and children of a veteran who died as a result of service-connected causes. Those entitled to the chapter 35 educational assistance allowances are known as "eligible persons" and are defined in section 1701(a)(1).

At the end of November 1976, 66,297 eligible persons were enrolled in GI bill training under chapter 35. Of that total, 11,669 were spouses and widowers and 54,628 were sons and daughters. Of the 66,297 enrolled in training, the vast majority (60,573) were enrolled in college.

Clause (1) of section 103 amends section 1732(b) of chapter 35 to increase by 6.6 percent the amount of monthly educational assistance allowance paid in behalf of an eligible person pursuing a full-time educational program consisting of institutional courses and alternate phases of training in a business or industrial establishment. The maximum monthly allowance under this provision would be increased from $235 to $251 per month.

Clause (2) of section 103 amends section 1742(a) of chapter 35 to increase by 6.6 percent the amount of the special restorative training allowance—from $292 to $311 per month. These benefits are payable to the parent or guardian of the child in need of such training. Further, if the tuition and fees applicable for any such course are more than $98 (presently $92) per calendar month, the basic monthly allowance may be increased by the amount that such charges exceed that monthly figure, if the parent or guardian elects to have the entitlement reduced by 1 day for each $10.40 (presently $9.76) that the special training allowance paid exceeds the basic monthly allowance. At the end of November 1976, only 28 eligible persons were enrolled in special restorative training under chapter 35.

CORRESPONDENCE COURSES, ON-JOB TRAINING, AND EDUCATION LOANS

Section 104

Amends chapter 36 of title 38 to increase by 6.6 percent the amount of monthly educational assistance allowances provided for veterans, and eligible persons enrolled in correspondence courses and on-job and apprenticeship training courses under chapter 36. In addition, this section increases by 6.6 percent the amount of educational assistance benefits used to determine the maximum amount of education loans for veterans and eligible persons provided for by section 1798 of chapter 36.

Clause (1) of section 104 amends section 1786(a)(2) of chapter 36 to increase by 6.6 percent the amount of educational assistance allowance payable for pursuit of a program by correspondence. The amount of an enrolled veteran's or eligible person's educational assistance entitlement would be reduced by 1 month for each $311 (presently $292) paid to the eligible veteran or eligible person for the course. The amount paid for the course is 90 percent of the institution's established charge. At the end of November 1976, 156,326 were enrolled in a program of education by correspondence. Of this number, 45,040 were active-duty military personnel.

Clause (2) of section 104 amends section 1787(b)(1) of chapter 36 to increase by 6.6 percent the amount of monthly educational assistance allowance payable to a veteran or eligible person pursuing a full-time program of apprenticeship or other on-job training. At the end of November 1976, 64,851 veterans were enrolled in an on-job or apprenticeship program under the GI bill. For a veteran or an eligible person with no dependents, the monthly assistance allowance would be increased from $212 to $226 per month for the first 6 months; from $159 to $169 for the second 6 months; from $106 to $113 for the third 6 months; and from $53 to $56 for the fourth and any succeeding 6-month period. Rates for veterans or eligible persons with dependents would also be increased by 6.6 percent.

Clause (3) of section 104 amends section 1798(b)(3) of chapter 36 to increase by 6.6 percent the aggregate amount any veteran may borrow under the veterans loan program (with the exception of the new subsection (f) loan established by section 202 of the Committee bill). The aggregate amount of the loan for which a veteran or eligible person is entitled is computed by multiplying the number of months of entitlement which a veteran has remaining, times the monthly maximum educational assistance allowance—increased by the Committee bill from $292 to $311 a month, but in no event may the loan exceed $1,500 for any one academic year.

The Congressional Budget Office estimated that enactment of title I would cost approximately $510 million in fiscal year 1978, $490 million in fiscal year 1979, $393 million in fiscal year 1980, $290 million in fiscal year 1981, and $206 million in fiscal year 1982.

TITLE II—ACCELERATED PAYMENT AND DELIMITING PERIOD EXTENSION

Title II of the Committee bill amends title 38, United States Code, to provide for an accelerated program for the payment of additional educational assistance allowance—by virtue of accelerating a veterans' entitlement—for veterans enrolled in high-cost programs of education, and an extension of the delimiting date for a veteran who, as a result of a physical or mental disability or impairment—not the result of the veteran's own misconduct—was unable to initiate or complete a program of education in the normal 10-year period.

ACCELERATED PAYMENT

Section 201

Amends chapter 34 of title 38 to add a new section 1682A. A veteran—which, as used in this section, includes eligible persons as that term is defined by present section 1701(a)(1)—enrolled as a full-time student in a program of education with tuition and fees of greater than $1,000 for any school term—defined (except during the 1977–78 school year as discussed in section 201(e) of the Committee bill, *infra*) for institutions of higher learning (IHL) operating on a semester or quarter system as two consecutive semesters or three consecutive quarters, respectively, and for non-IHLs or for IHLs not operating on a quarter or semester system, as

any approved time divisions of a program of education within which segments of the program are completed—would be eligible to accelerate his or her GI bill benefits to the extent that the veteran has months of entitlement remaining in excess of the number of months needed to complete his course of study. Those accelerated benefits paid would proportionately reduce the educational entitlement of such veteran under present section 1661.

Generally, subject to other limitations, if the veteran does not have a standard undergraduate degree and is enrolled in an IHL, then he or she may only accelerate the number of months of entitlement (as determined pursuant to section 1661) which he has remaining in excess of the number of months needed to obtain such a degree. A veteran enrolled in a non-IHL may accelerate the number of months remaining in excess of the number of months needed to complete the program, or 9 months, whichever is the lesser. Unless a veteran could normally be expected to complete the program of education during the school term, he or she would be eligible in any one school term to accelerate no more than one-half of the maximum number of months he or she is entitled to accelerate. For example, a veteran with 45 months of entitlement starting his or her freshman year in an IHL would be eligible to accelerate a maximum of 9 months—or 45 months less than 36 months needed to complete his or her program of education. This provision limits the number of months such veteran could accelerate during any one school term to 4½ months—or one-half the maximum number of months he or she was eligible to accelerate. In order for the veteran to be eligible to accelerate his or her benefits, the educational institution in which the veteran is enrolled must certify that 35 percent or less of the total number of students enrolled in such institutions were students receiving education assistance from the Veterans' Administration. This requirement corresponds with the 35 percent or less certification which many educational institutions now make under the 85–15 rule (section 1673(d), appendix H of DVB Circular 20–76–84) and codified in section 1673(d) by section 305(a)(2)(B) of the Committee bill.

The accelerated program will operate as follows: A veteran must apply for an accelerated payment within 4 weeks after the date of the beginning of the school term for which the accelerated payment is sought. At the time of application, the veteran must also apply and subsequently be found eligible for a VA education loan under the new section 1798(f). When the eligible veteran has satisfactorily completed the school term for which the accelerated payments are to be made—as certified to the Administrator by the institution in which the veteran is enrolled—payment will be made of the amount of accelerated benefits to which the veteran is entitled.

The amount of educational assistance allowance which the veteran may accelerate is limited to the amount by which the tuition and fees of the institution in which the veteran is enrolled exceed $1,000 for the school term. In no event would the veteran in any school term be entitled to receive greater than twice the amount of educational assistance allowance to which he or she would normally be entitled during that term.

In connection with the accelerated educational assistance allowance program, an eligible veteran would be entitled to a loan under a special direct-loan provision established by section 202 of the Committee bill to be codified in section 1798(f) of title 38. The veteran can qualify for the accelerated payment only upon the certification by the educational institution in which such veteran is enrolled, that, he or she has satisfactorily completed the school term for which the benefits are to be paid. Thus, the veteran does not qualify for any accelerated assistance until the end of the school term. To mitigate the effect of this delayed payment, the accelerated assistance loan program provides for the loan payment to be made to eligible veterans at the beginning of the school year—at the time when the veteran most needs the additional educational assistance. Under this provision, a veteran who is otherwise eligible and who meets the general veteran education loan needs test, as provided for in present section 1798, will be entitled to borrow up to the amount of the accelerated benefit to which the veteran is entitled without regard to the $1,500 loan maximum under present section 1798. Under section 1798(f), the veteran would not have to meet the general section 1798 education loan requirement of having exhausted other loan sources. In addition, that provision of present section 1798, in regard to eligibility based on enrollment in a vocational objective course requiring at least 6 months completion time, would not be applicable.

In order for the veteran to be entitled to accelerate his or her educational assistance allowance, such veteran must have received a loan from the VA pursuant to new subsection (f) of section 1798. The Committee expects that the veteran's application for accelerated benefits would also be used by the VA as an application for the section 1798(f) loan, and an affirmative decision upon entitlement to a 1798(f) loan would satisfy the section 1682(A)(b)(3) requirement that the veteran is entitled to a 1798(f) loan.

At the time of application for the loan, the section 1798(f) veteran must assign his or her accelerated benefits to the VA. Upon the certification by the education institution in which the veteran is enrolled of the veteran's satisfactory completion of the school term for which the benefits are to be accelerated, the veteran's obligation for the 1798(f) loan would terminate—the accelerated benefits, in a "paper transaction", would be used to repay the principal of the loan. No interest would accrue on the loan under the normal operation of this program because, under the provisions of the VA educational loan program, no interest is charged to the veteran-borrower until 9 months after such veteran ceases to be at least a half-time student. However, if a veteran fails to be certified by the educational institution in which enrolled as having completed satisfactorily the school term for which the section 1798(f) loan has been made, the veteran will not be eligible to participate in the acceleration program again until the amount of principal and interest for which the veteran is liable has been repaid in full. (Of course, the VA could also offset the amount of liability against any VA benefit subsequently payable to the defaulting veteran.)

This accelerated assistance program and the special education loan program would be effective on January 1, 1978. For the time period between January 1, 1978, and August 1, 1978, the veteran would be eligible for participation in the program if enrolled for one semester or two consecutive quarters or if enrolled in an institution not on a quarter or semester system, for a time division or segment approved by th eAdministrator. The benefits of the program and $1,000 tuition and fees expense requirement would be appropriately prorated.

Subsection (a) of section 201 amends chapter 34 by establishing a new section 1682A entitled "Accelerated Payment of Educational Assistance Allowance", as follows:

New section 1682A: Subsection (a). Mandates the Administrator, in accordance with the provisions of new section 1682A and of section 1798(f)—the new loan subsection created under this title—to accelerate the payment of educational assistance allowance to an eligible veteran. (Under section 1682A, an eligible veteran also includes an eligible person as that term is defined by section 1701(a)(1) of chapter 35 of title 38.) The eligible veteran must make application for the accelerated benefits and must be found by the Administrator to be eligible therefor. The amount of entitlement for which an eligible veteran is eligible under section 1661 of title 38—a maximum of 45 months—is proportionately reduced by the number of months of accelerated benefits (computed by the amount of accelerated payment divided by the amount of monthly allowance to which the veteran is otherwise entitled) which the eligible veteran receives.

Subsection (b). Restricts the entitlement to the accelerated assistance program to those eligible veterans who have satisfactorily completed the school term for which such accelerated payment is to be made. To be eligible for the receipt of accelerated assistance payments for any school term, the veteran must be: (1) Enrolled as a full-time student; (2) entitled under section 1661 to an educational assistance allowance; (3) eligible for and receiving an education loan under the new section 1798(f); and (4) paying institutional tuition and fees in excess of $1,000. In addition the veteran must have filed or applied for accelerated assistance within 4 weeks after the beginning of the school term for which the benefits are sought. Further, the educational institution in which the veteran is enrolled has satisfactorily completed the school term for which the accelerated payment is sought, and that 35 percent or less of the total number of students enrolled during the school term for which the accelerated payment is to be paid were not VA GI bill educational assistance allowance recipients.

Paragraph (1) of subsection (c). Limits the number of months of entitlement that the eligible veteran may accelerate. Generally, those veterans enrolled in institutions of higher learning—IHLs—who have not successfully completed a baccalaureate degree can accelerate only the number of months in excess of the number of months necessary to complete a program of education leading to a standard undergraduate college degree. Thus, a veteran who has not used any of his or her 45 months of entitlement and who is starting as a freshman in an undergraduate or baccalaureate program would be eligible to accelerate 9 of his or her 45 months of entitlement, or the number of months in excess of the number of months he or she would generally need to complete the baccalaureate degree—36 months. If the veteran is enrolled in an institution of higher learning and has completed successfully a baccalaureate degree, he or she would be eligible to accelerate the number of months in excess of the number of months needed to complete his or her program of education. Thus a veteran who has not used any of his or her 45 months of entitlement, who has a bachelor's degree, and who is enrolled in a 3-year educational program, would be eligible to accelerate up to 18 months of benefits (45 minus 27) subject, of course, to the other limitations contained in new sections 1682A and 1798(f).

Paragraph (2) of subsection (c). Provides that an eligible veteran enrolled in an educational institution other than an institution of higher learning (both of these terms are defined in present section 1652) would be eligible to accelerate either the number of months remaining in excess of the number of months needed to complete the veteran's program of education or 9 months, whichever period of time is the lesser.

Paragraph (1) of subsection (d). Limits the amount—and the number of months—of accelerated entitlement that the veteran may accelerate in any one school term. The amount of accelerated educational assistance allowance cannot exceed the amount to which the veteran would otherwise be entitled for the school term under chapter 34 or the amount by which the expenses, tui-

tion, and fees for the school term exceed $1,000, whichever is the lesser.

Paragraph (2) of subsection (d). Limits the number of months which the veteran may accelerate in any one school term to one-half the total number of months the veteran is eligible to accelerate unless such veteran may reasonably be expected to complete the program being pursued during the school term. Thus, a veteran with 45 months of entitlement beginning his or her first year of a 4-year course of study could conceivably exhaust his or her accelerated benefits in the first 2 years of his or her program—4½ months in his or her first year and 4½ months in his or her second year. Of course, the veteran may elect to spread the amount of his or her accelerated benefits over the 4 year program period. If the veteran can reasonably be expected to complete his or her program during the school term for which the benefits are to be paid, there is no limitation *under this paragraph* on the number of months he or she may accelerate—he or she is, of course, subject to the other limitations included in section 1682A and section 1978(f).

Subsection (e). Defines "school term" for purposes of the accelerated assistance program. For those institutions of higher learning operating on a quarter system, a school term is defined as three consecutive such quarters; for an institution of higher learning operating on a semester system, a school term is defined as two such consecutive semesters; and, in the case of an educational institution not an institution of higher learning, or in the case of an institution of higher learning not operating on a quarter or semester system, a school term is defined as any approved (by the Administrator) time division of a program of education within which segments of the program are completed.

Subchapter (b) of section 201 amends chapter 35 of title 38 by adding a new section 1738 entitled "Accelerated Payment of Educational Assistance Allowances". This new section, included as part of chapter 35—Survivors' and Dependents' Educational Assistance—makes specific the entitlement of an eligible person—as that term is defined in present section 1701 to an accelerated payment of educational assistance allowance pursuant to the provisions of the new sections 1682A and 1798(f) as added by sections 201 and 202 of the Committee bill.

Subsection (c) of section 201 amends the table of sections at the beginning of chapters 34 and 35 of title 38 to reflect the addition of the new sections 1682A and 1738.

Section (d) of section 201 requires the Administrator to notify each appropriate educational institution that accelerated payments are available for certain students enrolled at such institutions. The Administrator is required to inform these educational institutions of the full conditions and procedures governing the payment of accelerated educational assistance allowances. The Administrator would be required to do this within 60 days after the date of enactment. This "outreach" provision is particularly important in order that all veterans who may be eligible for participation in the accelerated educational assistance program might become aware of such entitlement. Without an active outreach effort on the part of the Administrator, it is possible that many veterans would not discover the availability of the benefits of the program to mitigate the costs of obtaining an education. The Committee expects the Administrator to undertake a vigorous outreach effort in regard to these new benefits not only with regard to involved educational institutions but also with regard to those veterans who may benefit from such a program.

Subsection (e) of section 201 provides that, notwithstanding the general provisions of section 1682A or section 1738 (new sections establishing the accelerated educational assistance program), eligible veterans shall be entitled upon application therefor to accelerate their entitlement for a semester or two consecutive quarters beginning after January 1, 1978, and ending prior to August 1, 1978. This provision is necessary because of the effective date of January 1, 1978, a date which falls in the middle of many institutions' academic years. Otherwise, the effective date of January 1—in conjunction with the definition of school term for IHL's—would effectively limit the program eligibility for most veteran-students until the 1978–1979 school year commences in September 1978. The Committee, however, believes that the eligibility for this program should begin on January 1, 1978. The amounts of the accelerated payment which may be paid for any such semester or quarter, and the number of months by which such veteran's or person's entitlement would thereby be reduced, would be appropriately prorated by the Administrator of Veterans' Affairs. In addition, the eligibility or entitlement to accelerated benefits—for example, the $1,000 tuition and fees limitation—would be appropriately prorated also.

EDUCATION LOAN ELIGIBILITY IN CONNECTION WITH ACCELERATED PAYMENT

Section 202

Amends section 1798 (Eligibility for loans; amount and conditions of loans; interest rates on loans) of subchapter III (Education loans to eligible veterans and eligible persons) of chapter 36 of title 38, United States Code, by adding a new subsection (f) and by amending the provision describing the report presently required by subsection (e) of section 1798. In order for a veteran to be eligible for receipt of an accelerated educational assistance allowance under section 1682A, he or she must be entitled to and receive a loan under section 1798(f).

Clause (1) of section 202 amends section 1798(e)(3), relating to the requirement that the Administrator submit annual reports on default experiences and rates at educational institutions, to require separate reporting of the default experience under the education loan program established by new subsection (f) of section 1798. Currently, the Administrator is required to file annually with the Committees on Veterans' Affairs of the Senate and the House of Representatives a separate report specifying the default experience and the default rate at each educational institution where a veteran in receipt of a section 1798 educational loan is enrolled, along with a comparison of the collective default experience and the default rate at all such institutions. The last such report was submitted on December 13, 1976 (Committee Print No. 64, 94th Congress). This provision would amend this reporting requirement to require the Administrator to include in this annual report a separate section in regard to the loan program provided for under section 1798(f). The required separate section will contain the same information in regard to the section 1798(f) new loan provision as is presently included in regard to the current education loan program.

The inclusion in the annual report of this information will assist the Committee in examining the operation of the program. In testimony before the Committee, the Veterans of Foreign Wars voiced no objection to the accelerated program provided "the pending legislation be amended to grant the Administrator of Veterans' Affairs authority to discontinue loans based upon accelerated payment at any time when, in his opinion, the default rate on such loans and monetary values exceed the limits, good business practice would dictate." The additional reporting requirement in the Committee bill is responsive to this recommendation. The authority to discontinue loans was not granted to the Administrator, however, because the Committee believes that such a decision should be made by the Congress. The mandated data collection will assist the Committee in determining when and if the default rate on the loans "exceed the limits of good business practice."

Clause (2) of section 202 amends section 1798 of chapter 36 to add a new subsection (f) creating an entitlement to an accelerated benefit loan for each eligible veteran.

New subsection (f) of section 1798: Paragraph (1). Provides that each eligible veteran—as used in this subsection the term "eligible veteran" includes eligible person—who is otherwise entitled to a loan under the provisions of subsections (a) and (b) of section 1798 and who has applied for and will be eligible for an accelerated payment of benefits under new section 1682A (as added by section 201 of the Committee bill), upon the satisfactory completion of the school term for which such payment is to be made, is entitled to an accelerated benefit loan under this new subsection (f) of section 1798. Under present subsection (a) of section 1798, each eligible veteran is entitled to a loan if such veteran meets the conditions prescribed by section 1798.

Under present subsection (b)(1) of section 1798, the amount of the loan to which an eligible veteran or eligible person is entitled is limited to the amount of money equal to the amount needed by the veteran or person to pursue a program of education at the institution in which the veteran is enrolled. Subsection (b)(2) further provides that the amount needed by a veteran or person to pursue a program of education at an institution shall be determined by subtracting the total amount of financial resources available to the veteran that could reasonsonably be expected to be expended by such veteran for educational purposes, from the actual cost of attendance (as defined in subparagraph (C)) at the institution in which the veteran is enrolled (for purposes of section 1798(f) and section 1682A, an academic year is equivalent to school term as that term is defined under new section 1682A). Subsection (b)(2) further defines (in subparagraph (B)) the term "total amount of financial resources" of any veteran or person for any year as follows: (i) The annual adjusted effective income of the veteran or person less Federal income tax paid or payable by such veteran or person with respect to such income; (ii) the amount of cash assets of the veteran or person; (iii) the amount of financial assistance received by the veteran or person under the provisions of title IV of the Higher Education Act of 1965, as amended; (iv) the amount of educational assistance received by the veteran or person under this title other than under this subchapter; and (v) financial assistance received by the veteran or person under any scholarship or grant program other than these specified in clauses (iii) and (iv) above.

Subsection (b)(2)(C) of section 1708 defines the term "actual cost of attendance" as: "subject to such regulations as the Administrator may provide, the actual per student charges for tuition, fees, room and board (or expenses related to reasonable commuting), books, and allowance for such other expenses as the Administrator determines by regulations to be reasonably related to attendance at the institution at which the veteran or person in enrolled." Thus, a veteran would be eligible for the section 1798 (f) loan—and, as a result, the section 1682 accelerated educational assistance allowance—only if he or she qualifies under subsection (b) on the basis of need.

The new subsection (f) accelerated benefit loan program, however, does not require the veteran to comply with the general requirement, under subsection (c)(2), that an eligible veteran is entitled to a section 1798 loan only if the veteran has sought and is unable to obtain a loan in the full amount needed under a student loan program pursuant to the provisions of title IV of the Higher Education Act of 1965, as amended. In addition the provision of (c)(1) in regard to the noneligibility of a veteran enrolled in a vocational objective course of 6 months duration or less is not applicable.

In order to be eligible for a loan under subsection (f), the veteran would have to apply, and be eligible for, an accelerated payment under section 1682A. The Committee would expect that the application form for the accelerated payment under section 1682A (to be filed within 4 weeks after the beginning of the school term for which the veteran is seeking accelerated payments) would include the necessary data for the Administrator to determine whether the veteran would be eligible for the section 1798 (f) loan. A determination of eligibility for the loan will in turn result in the entitlement of the veteran to the appropriate amount of accelerated payment and consequently the appropriate amount of accelerated payment and consequently the appropriate amount of section 1798(f) loan. Thus, the decision as to whether the veteran is eligible for both the loan and the accelerated payment can and should be made by requiring the veteran to complete one set of VA forms at the time the veteran applies for the accelerated payment.

Paragraph (2) of new subsection (f). Requires the veteran to assign to the benefit of the VA the amount of accelerated payment for which the veteran is entitled for the school term for which the veteran has applied. The amount of the loan will equal the amount of the accelerated payment to which the veteran is entitled. As a result of this provision, upon the satisfactory completion of the school term for which the accelerated benefits are to be paid, the amount of the loan which the veteran has received pursuant to this subsection shall no longer constitute a liability against such veteran. Rather, at the time that the educational institution has certified the veteran's satisfactory completion of the school term for which the benefits are to be paid, the assignment of benefits will cause a "paper transaction" within the VA, thereby eliminating or removing the veteran's obligation for repayment of the loan.

Paragraph (3) of new subsection (f). Provides that an eligible veteran who fails to complete satisfactorily any school term for which a loan has been received under that subsection shall not be eligible for the receipt of any accelerated payment under section 1682A until such time as the veteran has repaid in full the principal amount of and interest due on the loan. If the Administrator finds, however, that there are mitigating circumstances which prevented the veteran from satisfactorily completing the school term, this provision will not apply.

Generally, the veteran would have fulfilled his liability for the principal amount of and interest due on a loan—interest on a present section 1798 loan will not accrue until 9 months after the date on which the veteran-student ceases to be at least a half-time student—by the satisfactory completion of the school term for which the accelerated benefits are to be paid. Thus, this provision would only become activated when an eligible veteran fails to complete the program satisfactorily. As noted earlier, under this paragraph, the Administrator is granted authority to waive the requirements of this provision if he finds the presence of mitigating circumstances. The Committee expects the VA to enforce this loan provision and, indeed, the entire accelerated payments program in a manner which assures that abuse is minimized to the greatest extent possible. However, the Committee also expects that the mitigating circumstances provision—a provision which should be interpreted by the VA with the needs of the individual veteran in mind—will be implemented with compassion and understanding in regard to the difficulties and problems often encountered by various veterans who are attempting to pursue an education.

Paragraph (4) of new subsection (f). Specifies that the veteran shall be entitled to a loan equal to the amount of accelerated payment for the school term for which the veteran has applied and is entitled. Thus, neither the limitation of a maximum loan amount of $1,500, provided for in subsection (b)(3) of section 1798, nor the provision, contained in the same subsection stipulating that the veteran may not exceed $292 (increased to $311 by section 104(3) of the Committee bill) multiplied by the number of months such veteran or person is entitled to receive educational assistance allowance, is applicable.

The Congressional Budget Office estimates that enactment of sections 201 and 202 will result in increased fiscal year 1978 expenditures of $295 million; in 1979, $410 million; in 1980, $312 million; in 1981, $223 million; and in 1982, $159 million.

DELIMITING PERIOD EXTENSION

Section 203

Amends section 1662 of chapter 34 by providing an exception to the normal 10-year delimiting period during which eligible veterans can use their educational assistance benefits. This section provides that an eligible veteran who is prevented from initiating or completing the veteran's chosen program of education within the normal 10-year delimiting period because of a physical or mental disability or impairment which was not the result of such veteran's own willful misconduct shall, upon application, be granted an extension of the delimiting period for such length of time as the Administrator determines from the evidence that the veteran was prevented from initiating or completing the chosen program of education. This provision was unanimously passed by the Senate as part of S. 969 in the 94th Congress (ultimately enacted as Public Law 94–502) but was not passed by the House.

The current GI bill program 10-year delimiting period assumes that the veteran was in a position to use his GI bill benefits. If during that period of time, the veteran was prevented, as a result of a physical or mental disability or impairment (whether or not service-connected) from using his or her GI bill entit'ement, then the period of time which the Administrator determines that the veteran was prevented from using his or her benefits as a result of the injury or impairment should not be counted in the computation of the veteran's 10-year delimiting period.

In determining whether the disability sustained was a result of the veteran's own "willful misconduct", the Committee intends that the same standards be applied as are utilized in determining eligibility for other VA programs under title 38. In this connection, see 38 CFR, part III, paragraphs 3.1(n) and 3.301, and VA Manual M21–1, section 1404.

In a related measure, H.R. 5027, the "Veterans Health Care Amendments Act of 1977", which the committee reported on August 3, 1977 and the Senate passed on September 9, 1977, provision is made for the establishment of a new program of readjustment professional counseling. The purpose of that provision (section 301 of H.R. 5027) "is to make fully available—and to encourage and facilitate the use of—the resources of the VA's health care system to those returning veterans who feel the need for professional or professionally supervised counseling to help them in their readjustment to civilian life." (S. Rept. No. 95–390, at p. 41.) The term "readjustment problem" was construed by the committee to be a low-grade motivational or behavioral impairment which interferes with a veteran's normal interpersonal relationships, job or educational performance, or overall ability to cope reasonably effectively with his or her daily life problems. A readjustment problem does not usually amount to a definable psychiatric illness or mental health problem requiring extended professional services but could become one in the absence of early detection and counseling and followup care where necessary.

Although the Committee believes that in some instances a readjustment problem may reflect a diagnosable mental disability or impairment of sufficient severity to warrant the conclusion that it could have prevented the veteran from pursuing an education, it is not the Committee's intention, if H.R. 5027 is enacted, that all veterans who seek readjustment counseling or receive such services automatically be granted a delimiting date extension. Rather, in each case—and regardless whether H.R. 5027 as passed by the Senate is enacted and whether the individual veteran was or has not sought counseling—it must be determined, prior to the granting of such an extension, that a diagnosable disability or impairment existed during the veteran's period of educational assistance eligibility and was the cause of the veteran's inability to begin or complete his or her educational program.

The Veterans' Administration in its official report on Amendment No. 448 wrote that "we would favor a limited extension of the delimiting date as provided for in the bill for those veterans who were truly prevented from initiating or completing their programs of education because of mental or physical disability"

The Congressional Budget Office estimates that enactment of this provision would result in a nominal first-year and 5-year cost.

TITLE III—OTHER EDUCATION AND TRAINING AMENDMENTS

Title III includes amendments affecting (a) the administration of the GI bill educational assistance program and (b) expanding the veterans home loan program to make specific provisions for the installation of solar heating and cooling and for application of residential energy conservation measures.

CITATION OF AUTHORITY

Section 301

Amends section 210(c)(1) of title 38, United States Code, to require the Administrator to include immediately following each substantive provision in the promulgation or issuance of any rule, regulation, guideline or other published interpretation under title 38, or any amendment thereto, a citation or citations to the particular section or sections of statutory law or other legal authority upon which the provision is based. This provision is similar to that presently required of the Office of Education by the General Education Provisions Act, as codified in section 1232 of title 20, United States Code. This citation requirement does not apply solely to issuances in regard to educational matters, but rather is applicable to any and all VA issuances published pursuant to the authority granted the Administrator under title 38.

The Administrator is required to include applicable citations immediately following each and every substantive provision of any issuance in order to facilitate evaluation, examination, and research relating to VA matters. The Committee has received a number of complaints concerning the difficulties encountered by interested parties in researching VA regulations. Generally, these criticisms allege that the examination of appli-

cable VA regulations, guidelines, and bulletins is an extremely difficult and tedious chore—not only for lawyers involved in cases concerning the Veterans' Administration but also for school personnel responsible for assuring that their educational institution remains in compliance with the administrative provisions of the GI bill program. The need for ascertaining and assuring compliance has been underscored by the VA's recent effort to impose liability for overpayments on various institutions under section 1785 of title 38. In this regard, although not included as part of this legislation, the Committee urges, and indeed, expects, the Veterans' Administration to compile all current pertinent educational regulations, bulletins, circulars, and other such issuances into one resource document and, if possible, publish such compilation in order that those who are responsible for complying with the law and regulations—for example, educational institutions—might have an opportunity to understand more clearly their duties and obligations under the GI educational assistance program.

Although the Committee considered making the provision in regard to citation of authority requirement retroactive to all issuances published by the Veterans' Administration within the past several years, the committee was persuaded that such a blanket retroactive imposition would place too great a burden on the VA at this time. However, the Committee expects that every rule, regulation, guideline, bulletin, or other published interpretation or order, which amends a current VA issuance or publication, either in whole or in part, will include a citation for each substantive provision of the rule, regulation, guideline, or other published interpretation or order which is being amended.

COUNSELING SERVICES AND PRE-DISCHARGE EDUCATION PROGRAM REPORT ELIMINATION

Section 302

Amends chapter 34 of title 38, United States Code, to provide eligible veterans with more extensive Veterans' Administration educational counseling, and to eliminate the present requirement that the Department of Defense file with Congress progress reports with respect to the implementation of the Predischarge Education Program (PREP) (subchapter VI of chapter 34).

Clause (1)(A) of section 302 amends section 1663, relating to VA educational and vocational counseling services, to require the Administrator to make available to any eligible veteran, upon such veteran's request, comprehensive counseling services including, but not limited to, vocational and educational counseling and testing, and to require the Administrator to carry out an effective outreach program to acquaint all eligible veterans with the availability and advantages of this kind of counseling.

Currently, counseling services are offered through 70 Veterans' Administration locations and in about 170 college, university, community, and private counseling centers under contract with the VA. The counseling currently provided by the VA is voluntary (upon the veteran's request)—and would continue to be provided on that basis under the committee bill. Counseling services have not been widely used by veterans enrolled in training under the current GI bill educational assistance program. For example, in fiscal year 1976, only 48,815 veterans were counseled of the 2,535,432 veterans who were enrolled in training—a percentage of veterans counseled of only 1.9 percent.

In 1974, the Educational Testing Service (ETS) of Princeton, N.J. (Committee Print No. 18, 93d Congress), found, pursuant to a statutorily mandated study (section 413 of Public Law 92-540), that only 2.9 percent of educationally disadvantaged veterans—those presumably most in need of the services which could be provided by a VA counselor—had, in fact, received VA counseling. ETS also found that the percentage of post-Korean conflict veteran-students who had been counseled through the end of fiscal year 1973 compared unfavorably with the percentage of veteran-students counseled under both the Korean conflict and World War II GI bill programs. Under the World War II program, 12.95 percent of all veteran-students were counseled; under the Korean conflict program, the rate was 10.23 percent; and under the post-Korean conflict/Vietnam-era program, only 3.83 percent of all veteran-students have been counseled. The ETS study concluded: "It appears that the effort to counsel veterans has declined over the three periods [referring to the three different GI bills]."

This "decline in efforts to counsel" found by ETS is difficult to understand in light of the success of the World War II counseling effort. The Bradley Commission (the Commission on Veteran's Pensions established by Executive Order No. 10588 of January 14, 1955, and chaired by Gen. Omar Bradley) cited the results of a study conducted in regard to that program that concluded that "veterans receiving advisement were twice as likely to continue their training or education." The Bradley Commission concluded that ". . . this study indicates that if counseling service were provided to all veterans prior to entering training, waste of money would be prevented. . . . While it is not possible to estimate the savings to taxpayers due to this aspect of the program, it is reasonable to state that thousands of veterans were saved from failure and wasted years of effort."

The Committee expects that those veterans who request VA educational and vocational counseling will, in fact, receive thorough and competent guidance and counseling which will enable them to make the best use of their education and training benefits. In this regard, the Committee stresses that it is vital that each veteran who seeks vocational and educational counseling be informed of those programs and services which could be of assistance in the pursuit of his or her educational or vocational objective. Under this section, VA counselors would also be expected to make appropriate referrals with respect to other problems such as those of a readjustment or a health nature.

To assist the veteran in arriving at a wise decision in regard to his educational or vocational goals or to aid the veteran in overcoming his personal readjustment programs, comprehensive counseling must integrate the many available Federal and local government programs into a coherent and understandable pattern according to the needs of individual veterans. For example, a counselor should be able to assist those veterans who seek part-time work or who are in need of supplemental income by guiding the veteran to the VA work-study program or the local Comprehensive Employment and Training Act (CETA) prime sponsor. Prime sponsors under CETA are specifically authorized to create split jobs for veterans who are going to school. The split-job approach permits the prime sponsor to split one job between two school-going veterans—the two split the job to correspond with the hours of their schooling. This concept has been underutilized, and the failure to apprise veterans of this opportunity is a contributing factor to this underutilization.

Clause (1)(B) of section 302 further amends section 1663 to require the Administrator to carry out an effective outreach program to acquaint all eligible veterans with the availability and advantages of such counseling. The Commission emphasizes the importance of the Administrator carrying out an effective outreach program. Often those most in need of the advantages which counseling offers, are those least aware of the availability of the VA counseling services, and the benefits thereof. Often those most in need of counseling assistance are those veterans generally unaware of available Government benefits, programs, and services.

In the past, the VA's outreach efforts in regard to the counseling services provided under the current GI bill have been less than effective. On August 11, 1976, the General Accounting Office (GAO) reported to the Committee (Committee Print No. 50, 94th Congress) that responses to their educational questionnaires revealed that "one of the main reasons for the low counseling activity [especially in comparison to previous GI bill counseling programs] was that many veterans were not aware that the VA offers counseling services. Of the 5,491 veterans responding, 2,244 or about 41 percent, said that they were not aware that the VA offered counseling services. Of the 2,244 veterans, 1,549 or about 70 percent, said they would have requested VA guidance if they had 'been aware of it'."

These GAO findings were verified by their further finding that overall 20 percent of the respondents (to their questionnaire) said that the training they took under the GI bill was of little or no use with regard to their training objective or career plan. When these responses are evaluated in light of the Bradley Commission's findings on the desirability of providing counseling services to interested veterans who are entering training, the Committee believes that the need for an effective outreach program and an effective counseling program are indeed compelling.

Clause (2) of section 302 amends section 1698(b) to eliminate the requirement that the Department of Defense submit progress reports to the Committees on Veterans' Affairs with respect to the implementation of the PREP program. Amendments included as part of Public Law 94-502, the Veterans' Education and Employment Assistance Act of 1976, generally terminated, effective October 30, 1976, the enrollment of veterans in the PREP program. However, the Act continued PREP eligibility for those veterans who have participated in the chapter 32 Post-Vietnam Era Educational Readjustment Assistance Program, and are in the last 6 months of their enlistment. At the present time, the length of enlistment in the Armed Forces is generally of 3 years duration or greater. There have been no new enrollees in the PREP program since the end of October 1976, and it is likely that there will be no new enrollments in the PREP program for at least the next 2 years. If, at that time, the Committee decides that reports should be filed by the Department of Defense in regard to the implementation and operation of the PREP program, the Committee would then so request. However, at this time, in light of the current PREP program status, the Committee believes the annual PREP implementation report is no longer necessary.

STATE APPROVING AGENCY REIMBURSEMENT AND REPORT

Section 303

Amends section 1774 of title 38, United States Code, to increase by 10 percent the amount of allowance provided for reimbursing State approving agencies for administrative expenses incurred in the process of approving educational institutions for purposes of GI bill enrollment, and requires each State approving agency to report annually to the Administrator on their specific activities, approvals, or disapprovals during the preceding year in regard to the GI bill enrollment approval process.

Clause (1) of section 303 amends subsection (b) of section 1774 to increase by 10 percent the amounts of administrative expense allowances paid to States approving agencies in reimbursement for costs incurred in rendering necessary services in ascertain-

ing the qualifications of educational institutions to furnish courses of education to eligible veterans or persons under chapters 32, 34, 35, and 36, supervising such educational institutions in so furnishing, and providing, upon the request of the Administrator, any other services in connection with chapters 34 and 35. In 1968, Congress mandated the Veterans' Administration, according to the formula established in section 1774 to share the administrative expenses borne by State approving agencies in carrying out their responsibilities under title 38. The section 1774 administrative expense reimbursements supplement payments already made to State approving agencies by the Administrator for necessary expenses, salary, and travel. These payments are made pursuant to contracts entered into between the Veterans' Administration and the respective State or local agency.

The increase of 10 percent in the amount of the section 1774 reimbursement provided by the Committee bill exceeds by two-thirds the amount of increase that would have been provided were the increase solely a cost-of-living increase. Increases in the amount of reimbursement provided under section 1774 have generally not been related to the cost-of-living—as evidenced by the 100-percent increase in allowances provided for in 1974 by Public Law 92–540. However, under clause (2) of this section, discussed below, section 1774 is amended further to require a report by State approving agencies in regard to their activities pursuant to their title 38 responsibilities. Thus, the increase in the amount of administrative reimbursement—above and beyond a simple cost-of-living increase—should suffice to cover any additional administrative expenses incurred by State approving agencies in complying with the new reporting requirements.

Clause (2) of section 303 adds a new subsection (c) to section 1774 to require each State and local agency with which the Administrator has contracted or entered into an agreement pursuant to present subsection (a) of section 1774, to submit to the Administrator a report on the activities of that State or local agency in carrying out such contract or agreement. The report, due on September 30, 1978, and annually thereafter, is required to include a summary of the services performed by the State approving agency pursuant to subsection (a) and the determinations made in conjunction with ascertaining the qualifications of educational institutions in connection with chapters 32, 34, 35, and 36 and in the supervision of such institutions. Currently, under such subsection, the involved State and local agencies are required to furnish, upon the request of the Administrator, other services in connection with chapters 32, 34, 35, and 36 of title 38, United States Code.

The Committee believes that it is important that the VA have current information in regard to participating educational institutions in order to administer the educational assistance program efficiently and effectively. In the past, the VA has been criticized for not knowing what State approving agencies are doing. In September 1973, the Education Testing Service (ETS) of Princeton, N.J., in the "Final Report on Educational Assistance to Veterans: A Comparative Study of Three GI Bills (at pages 272, 279)", conducted pursuant to section 413 of Public Law 92–540, reported:

"[T]he VA, prohibited from exerting any control over the approving agencies, has done very little to even compile information that would allow an accurate assessment of the performance of the State approving agencies. . . . [T]here is little evidence to suggest that the VA can determine what the State approving agencies are doing, or that the VA can be assured of the quality of education. . . ."

The Committee has no reason to believe that this situation has improved since that report.

The Committee believes that the requirement of the submission of reports by the State approving agencies to the Administrator will assist the Congress, the Veterans' Administration, and the State approving agencies in fulfilling their responsibilities for the efficient and effective operation of the educational assistance programs.

CORRESPONDENCE-RESIDENCE COURSES, REPORTING FEES, INSTITUTION ATTENDANCE REQUIREMENTS, AND VOCATIONAL COURSE MEASUREMENT

Section 304

Amends chapter 36 (Administration of Educational Benefits) of title 38 of the United States Code to make changes in a number of administrative provisions of the educational assistance program.

Clause (1)(A) of section 304 amends clause (5) of section 1780(a) (Payment of educational assistance or subsistence allowances), relating to the prohibition of the payment of educational benefits for a correspondence portion of a combined correspondence-residence course where the normal period of time required to complete such portion is less than 6 months, to authorize the Administrator to approve a combination correspondence-residence course not meeting the 6-month requirement, if the Administrator finds—based on evidence submitted by the school—that there is a reasonable relationship between the charge for each segment of the course (including the costs to the institution providing each segment) and the total course charge.

Section 505 of Public Law 94–502 amended section 1780(a)(5) prohibiting payment of VA benefits for a program of education by correspondence (or the correspondence portion of a combined correspondence-residence course) in any case where the normal completion time of the course (or such portion) was less than 6 months. This provision was adopted by Congress to assist in curbing a growing abuse by some educational institutions in the operation of correspondence courses and combined correspondence-residence courses.

Currently, the VA pays to the veteran 90 percent of the cost of a correspondence course. The maximum cost of the course is limited only by the number of months of entitlement which the veteran may have and by the statutory restriction that veteran-students in receipt of GI bill educational assistance may not be charged a fee greater than that charged to non-GI bill recipients. Thus, to reduce and prevent abuse in the GI bill program and to help assure that the expenditures made for a course are commensurate with the education which that course provides, Public Law 94–502 limited VA payments for correspondence courses to only those courses in which the normal period of time required to complete the course was of at least 6 months in duration. This limitation is also applicable to combined correspondence-residence courses. The 6-month period adopted by Congress is consistent with the provisions of the VA educational loan program under section 1798(c)(1) (where VA education loans are limited to those veterans enrolled in vocational objective courses where the course is of at least 6 months' duration) and is consistent with the long-standing requirement by the Office of Education for determining eligibility for participation in the guaranteed student loan program.

Section 505 of Public Law 94–502 has, in fact, greatly reduced the amount of perceived abuse in the area of correspondence and combined correspondence-residence courses. At the same time, however, it has also reduced the number of such courses available to an aspiring veteran-student and, as a result, in some instances, substantially reduced the choice of vocational objectives available to a veteran seeking training under the GI bill. The VA testified before the Committee on June 24, 1977, that "out of almost 300 schools that were offering correspondence courses under the GI bill when that law [section 505 of Public Law 94–502] was passed, there are only 84 that had been able to comply with the 6-month rule."

In addition, section 505 had the effect of eliminating, for all practical purposes, most combined correspondence-residence truck driving and heavy equipment operating courses. In this regard, the VA reported to the Committee that in the entire nation only two combination correspondence-residence training courses with a vocational objective of truck driver or heavy equipment operator met the 6-month requirement of section 1780(a)(5). It is generally conceded that, prior to enactment of Public Law 94–502, many correspondence-residence truck driving schools had "front-loaded" the cost of the entire training course upon the correspondence portion of the course (where the VA would pay 90 percent of the cost of the course), and, as such, were charging a large amount for the correspondence portion of the course—which, in many instances was of questionable value and easily and quickly completed.

The provision in the Committee bill provides the Administrator with the authority to approve a combination correspondence residence course not meeting the 6-month rule, if the Administrator finds that there is a reasonable relationship between the charge for each segment of the course. By providing this flexibility, the Committee believes that those schools offering heavy equipment operator or truck driver training courses will have the opportunity to be approved for GI bill trainees by submitting the necessary evidence concerning the allocation of their charges (and the appropriate costs to the school). Although the Committee understands that many schools may still not be able to comply with the 6-month requirement even as amended by this provision, it believes that the provision for fair charges for course content and material contained in this amendment is necessary to assure the appropriate expenditures of GI bill moneys. In addition, the Committee believes that this provision will allow for the exercise of reasonable discretion while at the same time continuing the statutory bar against "front-loading"—a practice of which the Committee continues to disapprove.

Clause (1)(B) of section 304 adds a new clause (D) to section 1780(d)(3), relating to the payment of an advance payment, to require the Administrator to include in the application form required to be submitted by a veteran in order to be eligible for the receipt of an advance payment, clear and simple language in regard to the period of time between the date of the advance payment and the scheduled date of the first monthly payment of educational assistance allowance which the veteran will receive. An advance payment of the initial educational assistance provided for in present section 1780(d) is the payment at the time of registration to an eligible veteran or person of an amount equal to an amount equivalent to the educational assistance allowance for which the veteran would be eligible for the month of enrollment, or fraction thereof, in which the veteran will commence the pursuit of the program plus the amount of the allowance for the succeeding month. This payment, provided for by Public Law 92–540, was based upon a finding by Congress that eligible veterans and eligible persons may need additional funds at the beginning of the school term to meet the expenses of books, travel, deposits, and pay-

ments for living quarters, the initial installment of tuition, and other special expenses usually concentrated at the beginning of the school term.

Public Law 94–502 changed the date of payment of GI bill benefits from the beginning of the month for which the veteran is entitled to receive benefits to the end of the month (from "pre-pay" to "post-pay"). As originally enacted in 1966, the current GI bill provided for the payment of benefits at the end of the month for which the veteran was entitled to receive such. However, when Public Law 92–540 added advance pay, the pay format was changed to "pre-pay".

Because of a rapid increase in the amount of GI bill overpayments—in fiscal year 1976 overpayments totaled approximately $833 million—partially as a result of the pre-pay provision, Congress, in Public Law 94–502, terminated prepayment in favor of post-payment and also amended the advance-pay provisions to require the veteran to make a specific request for the advance payment. As a result of the change in pay format from pre-pay to post-pay, a difference of 30 additional days will occur between the date the advance payment is made and the date of payment of the first monthly educational assistance check to which the veteran is entitled. In testimony before the Committee in June, the Veterans' Administration witness gave this example of the expected delays: "For example, if the school starts on September, 10 and he [the veteran] gets an advanced paycheck on September 10, the check will be for September and October. Then his November check will not be due until December 1st, so he will not have money from the VA under the GI bill from September 10 until December 1."

Although the VA has assured the Committee that that agency has undertaken efforts to publicize the length of this delay, the Committee believes it important that such notice in regard to the additional 30-day delay between payments be included in the advance pay application form, in order to assure that every opportunity has been taken by the VA to inform all concerned veterans of the length of time involved. A veteran, if informed, would then have the necessary information upon which to make a reasonable decision as to whether to participate in the advance pay program and then, if the veteran should decide affirmatively to participate, to know of the need for carefully managing his or her funds during the period of time between checks. The Committee emphasizes that this notice should be in plain and simple language and should be easily identifiable to the applying veteran.

Clause (1)(C) of section 304 further amends section 1780 to require the Administrator to include, with the advance payment, a notice informing the veteran—in clear and simple language—of the period of time between the date of the advance payment and the scheduled date of the first monthly payment of educational assistance allowance which the veteran will be eligible to receive. The inclusion of such language on a notice accompanying the advance payment check delivered to the veteran at the time of registration will, once again, provide the opportunity to put the veteran on notice that he should budget his funds carefully during the lengthy period of time between the advance paycheck and his first monthly educational assistance allowance check. Although, generally, at the time the veteran receives his advance benefit check, it would be too late for such veteran to decide against accepting the advance payment, it will not be too late for him to budget his available resources carefully during the period between that payment and the first monthly payment of his GI bill check.

Clause (2)(A) of section 304 amends section 1784(b), relating to payment of reporting fees, to increase by $5 and (with respect to advance payments) $9 the amount of reporting fees paid by the VA to educational institutions furnishing education or training under chapter 32, 34, 35, or 36 of title 38, as well as to provide an additional $5 annual payment to institutions for each full-time veteran or eligible person enrolled in such institution who satisfactorily completes the school term for which the reporting fees are paid.

The payment of reporting fees is intended to reimburse educational institutions for reports or certificates required by law or regulation to be submitted to the Administrator. Currently, section 1784 mandates the payment of $5 for each eligible veteran or eligible person enrolled in such institution pursuant to chapter 34, 35, or 36 whose educational assistance check is mailed in care of the institution for temporary custody and delivery to the veteran at the time of registration; that is an advance payment pursuant to section 1780(d)(5).

In 1966, when the current GI bill was enacted into law, no provision was made to reimburse institutions for certifications or reports required to be submitted to the VA in regard to veterans' enrollment. In 1967, however, Public Law 90–77 authorized payment of a $3 reporting fee for each eligible veteran or dependent enrolled in the institution in lieu of any other compensation or reimbursement. In 1972, this reporting fee was amended by section 315 of Public Law 92–540—when Congress provided for advance payment—to increase by an additional dollar, the amount paid to each educational institution for each enrolled veteran when the institution assumed responsibility for receiving and distributing such veterans' advance payment checks as provided for in section 1780.

In 1975, 8 years after the $3 reporting fee had been implemented, the Committee heard from numerous schools that the amount of the reporting fees was inadequate to cover the involved expenses and that the fees should be increased. The General Accounting Office, in its March 1976 report, "Educational Assistance Overpayments, A Billion Dollar Problem—A Look at the Causes, Solutions, and Collection Efforts," recommended that the fees be re-evaluated to determine their adequacy in light of rising school operating costs. In addition, GAO suggested that an increase in reporting fees may serve as an incentive for timely reporting of changes in the veteran's enrollment status. The VA, in its July 1976 comments on the GAO report, also noted that the inadequacy of the reporting fees made it difficult for some schools to comply with the administrative and reporting functions mandated by law and pertinent VA regulations. As a result of these findings and recommendations, Congress increased the basic reporting fee from $3 and $4 to $5 and $6, respectively. This increase became effective with enactment of Public Law 94–502 in October of 1976. In fiscal year 1976, reporting fees paid to schools totaled $6.4 million; the estimated fiscal year 1977 cost is $7.05 million.

Since the time of enactment of Public Law 94–502, the Committee has continued to receive comments from schools concerning the inadequacy of the current $5 and $6 reporting fees. Recently, the National Association of Veterans Program Administrators (NAVPA) conducted an independent survey of the costs incurred by schools in complying with VA reporting requirements and the adequacy of the $5 and $6 reporting fees. Submitted in February of 1977, the NAVPA study reported that the average cost to the institution far exceeded the amount of reimbursement provided under section 1784.

During hearings held by the Subcommittee on Health and Readjustment in June 1977, a Veterans' Administration witness testified that during this last school year—apparently since the increase in reporting fees provided by Public Law 94–502—there had been a great improvement in the timeliness and accuracy of schools' reports to the VA: "Within the last year I think we have seen a very great improvement in the reporting processes from the schools and the reporting time from the schools. I think the schools are doing a much better job than they were a year ago."

The Committee is particularly concerned with timely and correct reporting to the VA by the educational institutions. The 1976 GAO report cited the failure of educational institutions to inform the VA of the changes in the students' enrollment status as a primary cause of GI bill overpayments; in fiscal year 1976, GI bill overpayments amounted to approximately $833 million. Clearly, the schools play an integral role in the VA's efforts in preventing and reducing overpayments. The Committee believes that the increases provided for in the amounts of reporting fees—as long as these fees are in lieu of other compensation or reimbursement—will assist the educational institutions in complying with the reporting and certifying requirements in the timely and effective manner required by law.

The Committee bill provides for a $9 increase in the amount of reporting fees paid to an educational institution for each veteran in receipt of an advance payment. Public law 94–502 modified both the certification and the advance payment procedures. Section 1780(d) outlines the procedures to be followed by educational institutions in issuing advance payments of educational assistance as follows: An advance payment may not be made to any eligible veteran or dependent unless the veteran or dependent requests such payment and the Administrator finds that the educational institution at which the individual is enrolled has agreed to, and can satisfactorily carry out certain provisions; the educational institution is prepared to receive the veteran's advance payment check, take temporary custody of the check, and, during registration, insure that the check is delivered to the proper veteran-student; the institution does not make delivery of the check to the veteran more than 30 days before the program of education begins; when and if the school has delivered the advance payment check to the veteran-student, it submits to the Administrator a certification of delivery; and, in the event that the institution is unable to deliver the check to the veteran-student within 30 days after the program of study has begun, it bears the responsibility of returning the advance payment check to the Administrator in a timely fashion. It is clear that the educational institution has an important role in the advance pay program. This role requires the school to undertake additional burdens in regard to each veteran well in excess of the normal certification duties required.

Educational institutions would continue, under the Committee bill, to be able to elect whether to participate in the advance payment process. Generally, however, it is to the veteran-student's benefit if educational institutions are willing to participate in the process. By increasing the reporting fee paid to schools—from $6 to $15—for handling veterans' advance payment checks, the Committee bill would provide to educational institutions additional reimbursement for the extra effort required of those institutions participating in the advance payment program.

The Committee notes that these reporting fees, even if increased by $5 and $9 as proposed, may not in all instances cover all of the expenses incurred by educational institutions in complying with the reporting and certifying requirements. However, the Committee believes that the veteran-student services program—the work-study program—

provided for under present section 1685, can be used by schools to mitigate the difference between the amount of reporting fees paid by the VA and the costs incurred by the institution. Section 1685(a)(2) provides that a work-study allowance will be paid to veteran-students in return for their agreement to perform services, during or between periods of enrollment, including the "preparation and processing of necessary papers and other documents at educational institutions. . . ." In fiscal year 1976, veteran-students receiving work-study allowances devoted nearly 5 million hours—at a cost of $10.5 million—many of which were devoted to the preparation and processing of such papers at educational institutions. Between July 1976 and June 1977 (the transition quarter and the first three quarters of fiscal year 1977) veteran work-study recipients again spent over 5 million hours—at a cost of $12.7 million—many of which were devoted to the preparation and processing of educational institutions' VA required reports.

Public Law 93-508 removed the limitations on the maximum number of work-study students or hours that could be used for this and other purposes specified in section 1685(a). Section 1685(c) provides that the Administrator shall determine the number of veterans whose services can be effectively utilized. Accordingly, institutions who need additional assistance in completing certifications or other VA required surveys and reports should apply for such assistance during the Administrator's annual survey as mandated by section 1685(c).

Clause (2)(B) of section 304 further amends section 1784(b) to provide an additional payment of $5 to an educational institution for each full-time veteran or eligible person enrolled in a program of education at such institution who satisfactorily completes the school term during the calendar year for which reporting fees are being paid. A school term as defined by section 201 of the Committee bill—and codified in present section 1682A—is equal to three consecutive quarters for institutions of higher learning (IHL) on a quarter system or two consecutive semesters for IHLs on the semester system. For those IHLs not operating on a quarter or semester system and for non-IHLs, a school term is any time division approved by the Administrator within which segments of the program are completed. In order to receive this additional $5 per full-time veteran enrollee, the school must certify that each such veteran satisfactorily completed the school term.

The Committee believes that there is a correlation between the schools' willingness and ability to make the accurate and timely reports required by law on the enrollment and progress of veteran-students and the resources available to the schools for making such reports. The vast majority of schools are currently complying with the law and pertinent regulations by forwarding to the VA in a timely fashion the required information in regard to the status of veterans in their educational program. The extra $5 provided under this section will assist these schools in continuing to meet their statutory obligations.

It has come to the Committee's attention, however, that the VA does not have a sufficient amount of reliable information on veterans' completion rates. The Committee believes that it is as important for the VA and the Committee to know that veteran-students are satisfactorily completing the school term for which they are enrolled, as it is to know that their enrollment status has changed for some reason.

The Committee believes that payment to the educational institutions of the $5 additional fee upon certification by the institution that the veteran has satisfactorily completed the school term, will enhance the Congress' and VA's efforts in determining the extent to which the educational assistance program is working as intended and providing meaningful education and training assistance.

Clause (2)(C) of section 304 further amends section 1784(b) to prohibit the Administrator from offsetting the liability of an educational institution for any overpayment for which such institution may have been administratively determined to be liable under present section 1785 (overpayments to eligible persons or veterans) against the award of reporting fees which such institution is entitled to receive under present section 1784.

Section 1785 specifies that whenever the Administrator finds that an overpayment has been made to an eligible veteran as the result of the willful failure of an educational institution to report to the Veterans' Administration, as required, excessive absences, discontinuance, or interruption of a course by such veteran or the false certification by an educational institution, then the amount of such overpayment shall constitute a liability against such institution. The overpayment may then be recovered in the same manner as any other debt owed to the United States.

On March 19, 1976, the General Accounting Office (GAO), in a report entitled "Educational Assistance Overpayments, A Billion Dollar Problem—A Look at the Causes, Solutions, and Collection Efforts (MWD-76-109)", reported that the VA has "infrequently exercised" its authority under section 1785 to assess the amount of an overpayment against an educational institution that was negligent in reporting a change in an eligible person's educational status. The GAO further reported that the VA had brought only 43 overpayment cases against schools nationwide during fiscal year 1974, and only 49 cases in fiscal year 1975.

At the June 24, 1977, hearing before the Subcommittee on Health and Readjustment of this Committee, the Veterans' Administration witness testified that "through April 1977 we have identified and have pending 38,164 cases where we think there is potential school liability amounting to an excess of $32 million." Through August 1977, however, despite this large amount of possible potential school liability, only $89,291.85 has been collected from educational institutions by the Veterans' Administration since December 1975—the time when the VA began collecting school liability data. The total amount collected during the last 7 months of fiscal year 1976 was $33,232.09; and the amount collected for fiscal year 1977 through August was $56,059.76.

In the collection of overpayments from individual veterans, Veterans' Administration regional offices are generally required to check manually between and among benefit programs—such as the educational assistance, compensation, and pension programs—to offset against a recipient's other program benefits, the amount of overpayments for which such veteran is liable. In fact, the General Accounting Office recommended to the Veterans' Administration, as part of its March 19, 1976, report, that the VA determine "the feasibility of establishing an automatic cross-checking system for matching persons receiving compensation or pension benefits with their educational overpayment account so that collections can be accomplished by offset."

Although it is the Committee's understanding that there have been no instances to date where the Veterans' Administration has in fact attempted to offset, against the reporting fees due an institution under present section 1784, the amount of overpayment liability administratively determined under section 1785, the Committee is aware that the VA's General Counsel's office has ruled that "there is no statutory bar against offsetting reporting fees due an institution against its liability for an overpayment. Accordingly, we are of the opinion that the Veterans' Administration may properly offset any reporting fees due and payable to an institution against an outstanding overpayment resulting from a school's liability" (Unpublished General Counsel's Opinion, November 15, 1975).

The Committee believes that such an offset attempt would be unwise. In short, such an attempt would be self-defeating. Although offsetting these section 1784 payments by the amount of administratively established overpayments would be in accordance with the recommendations made by the General Accounting Office, such a practice could easily result in the failure—due to the lack of available funds—of the involved educational institutions providing the timely assistance needed by the VA to reduce overpayments, surely a "Catch 22" result. Thus, the Committee believes that the specific prohibition in section 1784 against collection of overpayments in this manner will assure the continued payment of the amounts of reporting fees to which educational institutions are entitled and the concomitant fulfillment by these institutions of their obligation to provide the VA with timely and accurate information on changes in veterans' enrollment status. In this way, the Committee seeks to assure continued cooperation on the part of educational institutions with the VA in reducing the amounts and numbers of overpayments.

Clause (3) of section 304 amends section 1785, relating to the liability of institutions for overpayments, to include a specific reference to the new prohibition against offsetting reporting fees and to make clear that neither section 1785, nor any other provision of title 38, shall be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.

Although the Veterans' Administration does not specifically require the maintenance of daily attendance records by institutions of higher learning in courses leading to a standard college degree, many institutions believe that they can avoid liability for overpayment under section 1785 only by keeping such records—a recordkeeping requirement that runs contrary to current practices in most institutions of higher learning. Generally, these institutions have been responsible to the VA for reporting the last day of attendance of any veteran who terminates enrollment or changes status. In this regard, on February 12, 1976, the VA issued Information Bulletin DVB IB 22-76-3 as a clarification of the last date of attendance determination. That bulletin stipulated that "the VA will accept as satisfactory the last date of pursuit reported by any duly accredited institution which has filed a statement of the institution's policy on determination of academic progress toward graduation requirements, and a statement that the institution has informed students that they are required to report to the institution immediately upon withdrawal or dropping of courses." The VA assured institutions of higher learning that compliance with the described steps would "enable institutions to establish the official withdrawal or drop date required to be reported to the VA promptly, and provide a good-faith basis for establishing a definitive date of last attendance within the month of occurrence or immediately thereafter." The VA, however, qualifies this assurance by stipulating: "This will not relieve a school of responsibility if a student fails to officially withdraw and continues to receive benefits for pursuit. If it [the school] does not take attendance, it may use any of the following methods of determining last date of pursuit:

(1) last activity date reflected in instructors' records;

(2) last papers submitted;
(3) last examination completed; or
(4) students' reasonable statement of last date of attendance."

The VA closes this clarification by noting: "The VA will be checking whatever records are available to determine last date of pursuit when it makes a compliance survey."

The Committee believes that the VA's "clarification" served only to cloud the issue further, and that the inclusion of specific language within the present section 1785 overpayment liability section will make more readily apparent the intent of Congress that institutions of higher learning are not required to maintain daily attendance records in courses leading to a standard college degree. Liability cannot be imposed under section 1785 upon any institution of higher learning for an overpayment resulting solely from such institution's practice of not taking and maintaining such daily attendance records in any course leading to a standard college degree.

Clause (4) of section 304 amends section 1788(a), relating to the number of clock hours which an accredited institutional, trade, or technical course must offer for veterans enrolled in such course to be eligible for full-time benefits under the GI bill educational assistance program, to reduce the number of hours required from 27 to 22 in any course approved under section 1775 where classroom or theoretical instruction does *not* predominate, and from 22 to 18 hours in any course approved under section 1775 where theoretical or classroom instruction does predominate; and to provide that, for a nonaccredited course, not more than 5 hours of supervised study may be counted toward the number of required clock hours which such course must provide in order for it to qualify as a full-time course.

Clause (4)(A) of section 304 amends section 1788(a)(1) by limiting, to 5 hours a week, the number of supervised study hours which may be counted towards computing the number of hours required (30) to determine full-time pursuit in the case of a nonaccredited shop-oriented (classroom or theory does not predominate) course. In the case of such a nonaccredited shop course, the veteran or eligible person, in order to qualify as a full-time student under the GI bill, would have to be in attendance for 30 hours per week, with no more than 5 hours of supervised study and 2½ hours of rest periods recognized towards the 30-hour total—a total of 22½ hours of class time. Under current law, nondegree granting courses not approved under section 1775 are considered full-time courses when a minimum of 30 hours per week of attendance is required, with no more than 2½ hours of rest period per week allowed and no limitation on the number of supervised study hours excluded. As a result of the 30-hour attendance requirement—with no limitation on the number of excluded hours—many nonaccredited, nondegree granting educational institutions, in order to assure that veterans enrolled in a course will qualify for full-time veterans' benefits, have required a number of hours, varying from school to school, of supervised study which such veterans are required to attend. Other students not in receipt of GI bill benefits are not so required. Generally, supervised study is essentially a "study hall" in which students do assigned homework while an instructor remains available to answer any questions. In order to assure that the veterans are, in fact, receiving the maximum amount of training possible, the Committee bill would reduce to five, the number of hours of supervised study that could be counted by nonaccredited courses for the purpose of determining eligibility for full-time veterans' benefits.

Clause (4)(B) of section 304 further amends section 1788(a)(1) to reduce from 27 hours per week to 22 hours per week the number of clock hours a veteran must attend in order to qualify for full-time GI bill benefits when enrolled in an accredited institutional, trade, or technical course offered on a clock-hour basis, not leading to a standard college degree which involves shop practice (classroom or theory does not predominate) as an integral part of such course.

The reduction in clock hours from 27 to 22 provided for under this amendment is applicable only to those courses which have been accredited and approved by a nationally recognized accrediting agency or association. The courses involved must have been approved pursuant to present section 1775 (Approval of Accredited Courses). Under that section, a State approving agency may approve the courses offered by an educational institution within its jurisdiction when such courses have been accredited and approved by a nationally recognized accrediting agency or association. In order for the State approving agency to know which courses are approved, the Commissioner of Education is required to publish a list of nationally recognized accrediting agencies and associations which the Commissioner has determined are reliable authority as to the quality of training offered by the educational institution. The State approving agency may, upon concurrence with the Commissioner's finding, utilize the specific accreditation granted by such associations or agencies for the approval of those courses.

During the 94th Congress, section 509 of S. 969, the Veterans' Education and Employment Assistance Act of 1976 (ultimately enacted as Public Law 94–502), as passed by the Senate, provided for a reduction in the number of clock hours of attendance required for payment of full-time benefits in the case of an accredited institutional, trade, or technical course. That measure would have reduced the number of hours required in the case of primarily shop practice courses (where classroom or theory does not predominate) from 30 (the number then required) to 22; and in the case of courses involving primarily theoretical and classroom instruction, the number of hours was reduced from 25 (the number then required) to 18 hours. In both instances, the Committee bill requires the same number of attendance hours which would have been required by section 509 of S. 969. In addition, S. 969 specifically provided for the exclusion of supervised study periods in computing the number of hours required for full-time measurement of accredited courses.

The House, however, amended S. 969 to set the clock-hour attendance requirements at 27 hours and 22 hours (rather than 22 and 18, respectively) but retained the supervised study exclusion as it had passed the Senate. The result, which seems at best anomalous, was that some accredited schools were required to provide more classroom instruction under the revised provision than was required prior to the amendment of the law. Such a result was certainly contrary to the original intent of the Senate in approving section 509 as part of S. 969.

In the report accompanying S. 969 (S. Rept. No. 94–1243, page 127), the Committee stated that it

"believes that a reduction in the minimum number of clock hours is warranted and can be accomplished without a reduction in the quality of the course or lessened attainment of vocational objective by its graduates. . . . [T]he Committee, in permitting a reduction in clock hours, expressly excludes supervised study in computing the required number of hours. This new measure is limited to schools accredited by nationally recognized accrediting agencies and approved pursuant to section 1775. The Committee has been assured by representatives of those applicable accrediting bodies that such clock-hour reduction will not result in the diminution of the quality of courses offered. Accordingly, the Committee expressly intends that such accrediting bodies take appropriate measures so that this does not occur. Any evidence to the contrary will result in prompt Committee reevaluation of the amendments made by the section."

The Committee has once again been assured by the representatives of the applicable accrediting bodies that the clock-hour reduction will not result in a reduction in the quality of courses offered. Once again, the Committee emphasizes that it intends to oversee with care this reduction in clock hours in order to assure that such reduction does not result in a reduction of the quality of courses offered to the enrolled veterans. Thus, the Committee believes, consistent with the intent underlying Senate passage of section 509 of S. 969 during the 94th Congress, that the reduction in hours is warranted and needed.

Clause (4)(C) of section 304 amends section 1788(a)(2) to limit, to 5, the number of supervised study hours which may be counted toward computing full-time pursuit in the case of a nonaccredited institutional trade or technical course where theoretical or classroom instruction predominates. Under section 1788(a)(2), a nonaccredited institutional course offered on a clock-hour basis not leading to a standard college degree, in which theoretical or classroom instruction predominates, shall be considered a full-time course when a minimum of 25 hours per week net of instruction (which may include customary rest intervals not to exceed 10 minutes between hours of instruction) is required. Under this provision, an enrolled veteran would have to be in attendance for 25 hours, with no more than 5 hours of supervised study and the 10-minute break between classes allowed—a total of 20 hours of classroom time. Although accredited courses are currently required to exclude supervised study from the computation of attendance hours in determining whether a veteran is, in fact, a full-time student under title 38, nonaccredited courses presently are not. The Committee bill would rectify this inconsistency.

Clause (4)(D) of section 304 further amends section 1788(a)(2) by reducing from 22 hours to 18 hours the number of hours per week of instruction required in a course offered on a clock-hour basis not leading to a standard college degree in which theoretical or classroom instruction predominates. Currently, in order for such a course to be considered a full-time course for purposes of the GI bill educational assistance program, a veteran must be in attendance for at least 22 hours, excluding supervised study. The reduction in the number of required clock hours provided under this clause is applicable only to those courses approved pursuant to section 1775—that is, accredited courses. As indicated in the discussion of subclause (B) of clause (4) of this section, *supra*, the Committee intends to monitor closely the implementation by accredited institutions of this reduced clock-hour requirement in order to assure that the reduction does not result in a reduction in course quality. Again, the Committee believes that the reduction in clock hours being provided under this provision carries out the intent of the Senate in passing section 509 of S. 969, the Veterans' Education and Employment Assistance Act of 1976.

OPERATION PERIOD WAIVER, EDUCATIONAL INSTITUTION ADMINISTRATIVE PROCEDURES, AND ADVISORY COUNCIL

Section 305

Amends title 38 of the United States Code to change the "2-year period of operation rule" (section 1789), to amend the "85–15 percent rule" (section 1673(d)) to provide authority for suspending, in certain instances, the rules in regard to unsatisfactory progress (sections 1674 and 1724), to extend relief to certain institutions holding benefit

checks under powers of attorney executed prior to December 1, 1976, but unable to be cashed by virtue of section 701 of Public Law 94–502; and to require the Administrator to meet regularly with the educational advisory committee, mandated by present section 1792.

Clause (A) of paragraph (1) of subsection (a) section 305 amends section 1789(b)(2), relating to the period of time an educational institution must be in operation before it can be approved for enrollment of veterans in receipt of GI bill educational assistance, to exempt a vocational objective course from the application of the 2-year rule if the Administrator determines that the institution offering such course has been in existence for 2 years or more and has demonstrated its effectiveness in achieving both the completion of its courses by its students and the employment in occupations for which the vocational training was provided of those students who have completed such courses. In order to exempt a vocational objective course from the application of the 2-year rule, the Administrator must also find, after consultation with the Secretary of Labor, that there is a clear need to train persons for employment in the vocational objective—in terms of national priorities—for which the waiver of the 2-year rule is sought.

Currently, under section 1789, the Administrator, subject to limited exceptions, is prohibited from approving the enrollment of any eligible veteran or eligible person in any course offered by an educational institution when such course has been in operation for less than 2 years. Examples of those exceptions include: A course pursued in a public or other tax-supported educational institution; a course offered by an educational institution which has been in operation for more than 2 years, if the course is similar in character to the instruction previously given by the institution; a course which has changed locations but was previously offered by an institution for a period of more than 2 years without change in ownership; and certain courses offered by an educational institution under contract with the Department of Defense.

Legislation requiring the expiration of a prior period of operation for a specified period of time before a course could be approved for the enrollment of veterans, originated in the closing years of the World War II GI bill. Public Law 81–266 contained provisions prohibiting GI bill payments to veterans training in institutions which had been in operation for less than 1 year. As implemented by regulation, the Veterans' Administration treated any new branch campus, other than those established "in close proximity to the original school that was not necessary to handle the overflow of students in the parent institution," as a new school. Later in the 81st Congress, however, legislation was enacted specifically exempting from the 1-year requirement any public or tax-supported school. The Veterans' Administration expressed reservations at the time about such exception, noting that "the very purpose of the general requirement that the school must have been in operation for at least 1 year, is to insure that it shall have proven its worth for a reasonable period of time, so that the interests of the veteran will be protected and Federal funds would not be expended wastefully. If the purpose is to be carried out effectively, the requirement must be as nearly uniform as possible." Subsequently, the Korean conflict GI bill (Public Law 82–550) provided that a course must have been in operation for at least 2 years before veteran enrollment could be approved, but retained the exception in regard to public or tax-supported schools.

The Committee believes that, generally, the 2-year rule assures that courses are not developed solely to take advantage of available Federal dollars in the form of GI bill educational assistance. However, in regard to vocational objective courses, it is possible that such a general prohibition may result in the preclusion of GI bill benefits for a course which could provide much needed training in a new subject area. For example, a vocational objective course offering training in the area of weatherization or solar heating and cooling technology could be a valuable course for a veteran seeking employment in the growing field of energy conservation. However, in most instances, unless a school has a course similar in nature, such weatherization course would have to be in operation for at least 2 years prior to the approval by the Administrator of the enrollment of a veteran under the GI bill.

Although the Committee believes that the 2-year rule generally serves a valuable function in reducing abuse, the Committee also is concerned that in some instances a general preclusion may not be in the interest of eligible veterans, especially when one considers the continued high unemployment rate among Vietnam-era veterans (at the end of August 1977, the overall unemployment rate for male Vietnam-era veterans, aged 20 through 34 years, was 7.8 percent). Thus, the Committee is providing the Administrator with the necessary authority to exercise his discretion in regard to certain vocational objective courses at schools of demonstrated effectiveness in fields of training meeting clear national needs. By doing so, the Committee believes that the Administrator will have greater flexibility to assist unemployed and underemployed veterans in obtaining training under the GI bill in those vocational objectives offering employment opportunities.

In order for this exemption to be applicable to a specific vocational objective course, the institution offering such course must have been in operation for a period of time equal to or greater than 2 years. In addition, such institution must demonstrate to the satisfaction of the Administrator that it has been effective in achieving both the successful completion of offered courses by enrolled students and the employment of course completers in the occupational category for which the course was designed to train them. Currently, under section 1673, the Administrator is prohibited from approving the enrollment of an eligible veteran in any course with a vocational objective, unless the eligible veteran or the institution offering such course submits justification showing that at least one-half of the persons who have completed such course over the preceding 2-year period, and who were available for employment, have been employed in the occupational category for which the course was designed to provide training. The law excludes from the computation those who trained under the GI bill while on active military duty status.

The provision for exemption from the 2-year rule provided by the Committee bill includes language similar to the 50-percent-placement requirements found in present section 1673(a)(2). It is not the intent of the Committee to suggest that compliance with section 1673(a)(2) necessarily means that the Administrator must find that there is compliance with the exemption provision of section 1789(b)(2)(B) as added by the Committee bill. The Committee believes that the section 1673(a)(2) compliance decision should be considered by the Administrator in making his determination of eligibility for the 2-year exemption, but that the placement and completion determinations required under this new provision should be made independently of that compliance determination. The Committee emphasizes in regard to the course completion requirement that, if many of the veterans and other students who have enrolled in the institution do not ultimately complete their course of study, the Administrator should not provide a 2-year exemption for a course which is likely to produce similar numbers of noncompleters.

A second criterion for determination of eligibility for the new section 1789 exemption is that the Administrator must find, after consultation with the Secretary of Labor, that there is a clear need to meet urgent national priorities to train persons for employment in the particular occupational category. Again, the example which readily comes to mind is that of training individuals for positions of weatherization experts or solar energy technologists. There is little doubt that quality training in this field could prove valuable in the future as various Government programs in regard to weatherization are enacted—such as the loan guaranty of $2,000 for solar energy and weatherization purposes provided in section 311 by the Committee bill.

The Committee expects the Administrator to exercise great caution in implementing this amendment to assure that exemptions in the 2-year rule are granted only in instances where the school has a record of proven ability to assure course completion and to place its students in relevant employment and where there is a clear national need for trained personnel in the occupational category for which the exemption is sought.

Clause (B) of paragraph (1) of subsection (a) of section 305 further amends section 1789(c) to authorize the Administrator to waive the 2-year rule for branch campuses and extensions if the Administrator determines, pursuant to prescribed regulations, that the waiver would be in the interest of the eligible veteran or the Federal Government.

Section 509(b) of Public Law 94–502, enacted into law October 15, 1976, amended section 1789 to extend the 2-year rule to courses offered by certain branches and extensions of institutions of higher learning.

Those courses specifically made subject to the 2-year rule included any course offered by a branch or extension of a public or other tax-supported institution, where the branch or extension of such institution is located outside the area of the taxing jurisdiction providing support to such institution and any course offered by a branch or extension of a proprietary nonprofit educational institution, where the branch or extension is located beyond the normal commuting distance of the main institution. An exception to the general operation of the 2-year provision was authorized for those courses offered by an educational institution under contract with the Department of Defense, given on or immediately adjacent to a military base, available only to active-duty military personnel and their dependents and approved by the State approving agency of the State in which the base is located.

This extension of the 2-year rule was aimed at the problems described in the Committee's report to accompany S. 969 (S. Rept. No. 94–1243), of the "dramatic rise in the number of recruiting, consulting, and other specific service-type contracts that schools are entering into with profitmaking organizations." In addition, the Committee expressed concern with the increase in veteran enrollments in schools establishing multi-branch campuses.

At the June 24, 1977, hearings before the Subcommittee on Health and Readjustment, a Veterans' Administration witness reported:

"Our Administrative experience has indicated that in many branch locations or extensions, the parent school loses some degree of control over what is going on at the branch. In addition, we are aware that some of these branches or extensions have been established to serve veteran-students almost exclusively and are operating out of inadequate facilities. It is our belief, that as a general rule the quality of education offered by such branches and extensions cannot be properly evaluated without a period of ex-

perience, 2 years being a reasonable span for such experience . . ."

Indeed, this Committee and those responsible for the administration of the educational assistance allowances under the GI bill are not alone in this concern over the growing problem of control of off-campus degree programs. In October 1976, the Council on Postsecondary Accreditation (COPA) launched a major attack on "questionable off-campus degree programs sponsored by accredited colleges and universities".

The Policy Statement on Off-Campus Degree Programs, issued in October 1976 by COPA, the national umbrella organization for nongovernmental accreditation, stated:

"[T]here is increasing evidence that at least a handful of colleges and universities apparently have established off-campus degree programs that are not equivalent academically to similar programs on campus, and further that they have allowed these off-campus programs to operate without adequate supervision from the sponsoring institution."

COPA's policy statement identified the following as major problems:

"Institutions with little or no experience in running off-campus degree programs have plunged into such operations.

"In response to demands, institutions have sponsored programs off campus for which they have no counterparts on campus.

"Institutions in some instances have formalized a differential standard of quality by labeling credits earned off-campus as being not acceptable on campus.

"Institutions have offered off-campus programs that require little or no involvement or oversight by on-campus faculty. In some instances, responsibility for the operationally separate units has been contracted out.

"Institutions have established satellite operations far removed from the parent campus, often crossing state and even regional boundaries.

"Off-campus offerings have ranged from large, relatively permanent educational units to short-term ventures consisting of one course, one faculty member hired locally, and a handful of students."

A recent article printed in the Chronicle of Higher Education on June 20, 1977, entitled "Educational Brokers: Threat to Academic Standards?" quoted the President of the California State University at Hayward, Ellis McCune as follows: "Some institutions are operating contractual programs that do not conform to accrediting commission standards." Mr. McCune then listed a number of criticisms which had been leveled at off-campus programs operated by contractors, including the following: Programs operate without involving the institution's own faculty; contract programs have no relation to other programs offered by the institution; grading standards are too liberal; excessive credit is given for life experience; student recruitment is uncontrolled; and tuition fees are paid directly to the contractor instead of to the institution.

The Committee understands that unfortunately the efforts to overcome some of these difficulties are not making speedy progress. For example, a recent issue of the Chronicle of Higher Education reported that the Western Association of Schools and Colleges (a regional accrediting body) was seeking to prohibit all such contracts by the fall of 1977. Subsequently, however, that association retracted its advisory statement and will, through a special Task Force, merely review an undetermined number of existing contracts and all new contracts.

Although COPA's efforts to correct these problems reveal that many within the industry responsible for program quality are at least as concerned with this problem as is Congress and the Veterans' Administration, it is probable that their efforts will not bring sufficient results—at least within the next few years—to justify, as has been urged by some, the general repealer of the current general 2-year rule provision as it relates to branch campuses and extensions of approved institutions of higher learning. Thus, the Committee believes that there continues to be a need for requiring certain branches and extensions of institutions of higher learning to comply with the current 2-year rule as codified in section 1789(c) of title 38.

However, it is apparent to the Committee that the continued administration of section 1789(c) insofar as branches and extensions of institutions of higher learning are concerned, without some provision for equitable relief in the form of authority for the Administrator to suspend or waive the 2-year requirement in certain instances, would be an error. As pointed out in the June 9, 1977, document prepared by the American Council on Education, a major shortcoming of the current 2-year law is that it "makes no provision for the VA to waive the 2-year rule, even though there are circumstances where it clearly operates to deny veterans a valuable educational program." In a letter, dated June 7, 1977, the American Association of Collegiate Registrars and Admission Officers criticized the current law, writing that "there presently is no opportunity for any waiver of the 2-year rule." The Committee agrees with the criticisms voiced by these two organizations in this regard. Thus, the Committee bill amends section 1789(c) to provide the Administrator with the authority to waive, pursuant to published regulatory criteria, the provisions of section 1789(c) when such waiver is found to be in the interest of the eligible veteran and the Federal Government.

The waiver language is similar to that in section 1673(d) for the 85–15 rule. Thus, with the experience of providing for waivers under that section, the Veterans' Administration should have little difficulty implementing this provision. Indeed, the Veterans' Administration, in its July 21, 1977, comments on Amendment No. 448, reported "[T]here may be situations involving applications of the expanded rule where some type of discretionary waiver authority might be beneficial. Because there is no waiver provision in current law with regard to the 2-year rule, we would have no objection to enactment of language which is similar to that previously granted with respect to the so-called 85–15 rule, currently set forth in section 1673(d) of title 38."

The Committee believes that the new waiver authority provided in this subsection should be exercised with care. The Administrator should establish a number of factors to be given consideration in determining whether a waiver should be granted. In this regard, the recent statement issued by the Council of Graduate Schools concerning nonresidential graduate degree programs should provide some guidance to the Administrator in determining when the 2-year rule should be waived for branches and extensions as being in the interest of the veteran and the Federal Government. The questions which that Council believes should be considered in evaluating the quality of a nonresidential graduate degree program include: (1) Has the institution providing the course, received authorization from the appropriate State agency and from the regional accrediting association involved? (2) has the institution providing the course demonstrated to State agencies and accrediting bodies that the purpose of the course "is consonant with the express and accredited purposes of the institution" and that there is "a genuine unmet need" for it? (3) has the institution demonstrated that the course is "essentially equivalent in quality to comparable courses offered on the home campus"? (4) has the institution shown that the course offered provides "full and easy access to faculty, library, and other resources of the appropriate academic units on the home campus"?

The Committee also believes that the Administrator should give special consideration to the existing statutory differences between the applicability of the 2-year rule to courses offered in extension and branch campuses at public as opposed to private schools. Under present section 1789(c), the 2-year rule is not applied to a proprietary institution of higher learning either profit or nonprofit—if the branch or extension—is within normal commuting distance of such institution. However, for a public or other tax-supported institution, the 2-year rule is not applied if the branch or extension is within the taxing jurisdiction providing support to such institution. In some instances, this distinction between private and public educational institutions can result in very real and inequitable disparities. In this regard, the Administrator may want to give consideration to the recommendations of the State approving agency exercising jurisdiction over and approving the main campus of a proprietary school, with respect to a possible exception for any branch campus or extension that is within the jurisdiction of such State approving agency.

The Committee is also especially concerned with oversea residential programs. The Committee believes that the Administrator should give special consideration to the need of these oversea programs, in accordance with the needs of the Department of Defense, to change course locations and provide different courses. The Committee urges the Administrator to consider carefully, prior to any denial of an application for a waiver of the 2-year rule for an oversea residential program, the valuable contribution provided by these programs in extending to members of the military, their dependents, civilian military personnel, and, indeed, all oversea personnel, the opportunity to enhance and develop their education.

In addition, the Committee urges the Administrator to consider with care the availability of other programs of education available to the veteran. For example, during hearings the Committee received testimony that some branches and extensions are opened in areas where, prior to the opening of that branch campus or extension, there were little, if any, other residential programs of education available. In those instances, the Committee stresses that the Administrator should carefully evaluate the needs of veterans in that locale and the needs of the Federal Government in providing educational opportunities to those who otherwise might not have the opportunity to use GI bill educational assistance allowance.

Paragraph (2) of subsection (a) of section 305 amends section 1673(d) of title 38 to make changes in the 85–15 rule.

Clause (A) of paragraph (2) of subsection (a) of section 305 amends section 1673(d) of title 38, United States Code, to make specific the requirement that the Administrator prescribes regulations governing the exercise of his 85–15 waiver authority.

Clause (B) of paragraph (2) of subsection (a) of section 305 further amends section 1673(d) of title 38, United States Code, to exempt any institution with an enrollment of veterans in receipt of educational assistance allowance under title 38 which comprises 35 percent or less of the total enrollment (main campus and extensions computed separately) from the requirements of separate course-by-course computation of the 85–15 rule. However, where the Administrator has reason to believe that a particular course has an enrollment of greater than 85 percent veterans, the Administrator may require computation for that particular course and enforce the rule. In addition, overseas residential courses are exempted from the 85–15 rule.

Currently, under section 1673(d), the Administrator is prohibited from approving the enrollment of any eligible veteran not al-

ready enrolled in any course—other than a PREP course (provided under subchapter VI of chapter 34), a farm cooperative training course, or certain courses offered by educational institutions under contract with the Department of Defense—for any period during which the Administrator finds that more than 85 percent of the students enrolled in such course have all or part of their tuition, fees, or other charges paid to or for them by the educational institution, by the Veterans' Administration under this title, or by grants from any Federal agency. The Administrator is currently authorized to waive the requirements of the 85–15 rule, in whole or in part, if the Administrator determines it to be in the interest of the eligible veteran and the Federal Government.

As finally implemented by the Veterans' Administration in Appendix H to DVB Circular 20–76–84, VA station directors were authorized to waive the 85–15 computation for institutions certifying that 35 percent or less of their enrollment was in receipt of Veterans' Administration educational assistance (main campuses and branches compute separately). The Veterans' Administration currently limits this waiver, however, by providing that the 85–15 rule will apply in the instance of any course where the percentage of VA-supported veterans enrolled exceeds 85 percent. Station directors are further responsible for taking "forceful action" to identify specific courses of study which may exceed 85 percent VA-supported enrollment, even if such courses are offered by schools having 35 percent or fewer veterans in the total school population. As a result of this "blanket waiver" to any school qualifying with the above criteria on a semester-by-semester basis, the VA witness testified in hearings held on June 24 that "at least 95 percent of the schools in the United States will be able to fall in this category which will mean that they will not have to make an individual computation."

The Committee believes that the rationale for original adoption of the 85–15 rule and its extension to institutions of higher learning by Public Law 94–502 remains valid—that is, "if an institution of higher learning cannot attract sufficient nonveteran and nonsubsidized students to its program, it presents a great potential for abuse of our GI educational programs." The Committee also believes it important that situations in which substantial abuse can occur be limited. It is important in the operation of any Federal benefits program especially in one as generous as the GI bill, that some control be exercised by the Federal Government in order to assure the expenditures of Federal funds are made only in the interest of the eligible persons and the Federal Government. In this regard, the Committee notes with interest a recent article by George Nolfi, entitled "Comparative Policy and Program Analyses of Alternative Proposals for Federal Programs of Educational Entitlement", published as one of a series of National Institute of Education papers in "Education and Work". In an interesting essay concerning the need for careful and systematic analysis of specific proposals in regard to educational entitlement, Mr. Nolfi made the following comments:

"In the current recurrent education system in America, accountability is built-in due to the fact that individual purchasers of service will stop purchasing those services if the services do not meet their needs, since they are spending their own funds. This is true whether the purchasers are individuals, or, as in many cases, employers. However, when public subsidy enters the picture, the problem of accountability becomes more subtle and more complex. An individual spending his or her educational entitlement feels less directly, and in less personal terms, the fact that value purchase may be less than expected. Hence, if public funds are to be invested wisely in recurrent educational entitlement, then entitlement designs must be carefully evaluated in terms of the accountability they provide." (at page 114.)

The Committee, however, believes that, in educational institutions where 35 percent or less of the total enrollment are veterans in receipt of educational assistance allowance under title 38, the imposition of the requirement of computation on a course-by-course basis can result in burdensome and costly recordkeeping requirements with little tangible demonstration that accountability has been assured or abuse has been curbed. The Committee has thus acted to codify in law this current regulatory waiver, thus eliminating the Veterans' Administration discretion in this regard. The Committee points out, however, an important distinction between the current DVB Circular implementing section 1673(d) and the amendment being made by the Committee bill. Under the bill, there is no need for an educational institution to certify that no course has an enrollment of greater than 85 percent veterans. As a result of the current regulatory requirement, many educational institutions find themselves in a "Catch 22" position, where, as a result of having fewer than 35 percent enrollment of veterans, such institutions are supposedly exempt from the obligation of making course-by-course computations. At the same time, however, these institutions are required to certify that no course—for which they have been waived from making a computation, had an enrollment of greater than 85 percent veterans. The Committee bill does not require such institutions to ceritfy that no course has greater than 85 percent enrollment of veterans. Rather, if an institution is waived from having to make the computations as a result of having an enrollment of veterans totaling 35 percent or less of total enrollment, then such institution will not be required to make such computations, unless the Administrator has reason to believe that a specific course has greater than 85 percent enrollment of assisted veterans.

The Committee has included this authority for the Administrator to require a specific enrollment to be computed where he has reason to believe the enrollment of veterans exceeds 85 percent of total course enrollment because it believes that there are instances where certain schools with an overall enrollment of 35 percent or less have created courses applicable only to veterans attending school under the GI bill. In this regard, it expects the Administrator to use the granted authority with care. The Committee emphasizes that the Administrator must have reason to believe that the enrollment in the specific course for which he will apply the provisions of section 1673(d), exceeds the 85 percent veteran enrollment. If the Committee finds overbroad or groundless application of this provision, it will reevaluate the need to provide the Administrator with such authority.

Section 1673(d) is further amended to exclude from the requirement of any 85–15 computation those courses which are residential courses and located outside the United States.

Currently under section 1676, pertaining to the pursuit by an eligible veteran of a program of education located outside the United States, an eligible veteran may pursue a program of education not located in a State only at an approved institution of higher learning. The Administrator may deny or discontinue the GI bill educational assistance of any veteran enrolled in an approved foreign educational institution if the Administrator finds that such enrollment is "not in the best interest of the veteran or the Government."

The Committee believes that such discretion to discontinue or deny benefits for veterans enrolled in foreign educational institutions is sufficient to assure that programs in which such veterans are enrolled are operated in a manner which conforms with the intent of the GI bill program. The Committee expects, however, that the Administrator will examine carefully the approved oversea programs of education. In many instances, especially when active duty service persons are involved, there is little choice as to the program or course of education available to the prospective student. Because of this, the Committee believes it important that the VA undertake to scrutinize oversea programs to assure that each program meets minimum standards of educational quality.

Paragraph (3) of subsection (a) of section 305 requires the Administrator, in consultation with the Commissioner of Education of the Department of Health, Education, and Welfare, to conduct a study examining the need for educational institutions, in computing the 85–15 ratio pursuant to section 1673(d), to compute those students enrolled who are in receipt of grants from any Federal department or agency other than the VA. In addition, the required study shall also consider the problems encountered by educational institutions in making such computations. The report of the study, to be submitted to Congress no later than August 1, 1978, shall stipulate whether the VA, in assuring that educational assistance allowances are being paid under title 38 in the manner intended by the Congress, needs such computations. The report shall also prescribe—in detail—an adequate system for the educational institutions to use in making the required computations. Until the expiration of 6 months from the date of the submission of the required report, the Administrator is prohibited from applying the provisions of present section 1673(d) insofar as the computation by affected educational institutions of the numbers of students in receipt of Federal grants—other than from the Veterans' Administration—is concerned.

Section 1673(d), as amended by section 205(4) of Public Law 94–502, requires the inclusion in the 85–15 computation of those students in receipt of direct Federal grants—Federal benefits which do not have to be repaid by the recipients. The section 205(4) inclusion in the 85–15 requirement of recipients of all such Federal assistance programs was mandated by Congress as a result of the finding that such was consistent with the general intent and rationale of section 1673(d)—that is, the requirement of a minimum number of students not wholly or partially subsidized by the Federal Government as a means of assuring quality by following the free market mechanism.

As implemented by the VA in appendix H to DVB circular 20–76–84, the requirement of inclusion of certain Federal grants was waived under the limited 85–15 rule waiver authority provided the Administrator. In regard to students in receipt of Federal grants, appendix H waived from the required computation the inclusion of all graduate students and all forms of Federal assistance, other than Basic Educational Opportunity Grants (BEOGs) and Supplementary Educational Opportunity Grants (SEOGs). Examples of those Federal educational assistance programs not included in the computation of the 85–15 rule include the benefits administered by the Social Security Administration, Federal grants supporting specific programs (such as law enforcement (LEEP), Safe Cities Act grants, nursing, and government employees training support), and tuition paid by an armed service to active-duty personnel.

Generally, the inclusion of recipients of non-VA Federal grants in the 85–15 computation affects only those institutions with an enrollment of veterans in receipt of GI bill

educational assistance allowance of greater than 35 percent of the total student body enrollment. Clause (A) of paragraph (2) of this section provides that an educational institution with an enrollment of veterans in receipt of GI bill educational assistance allowance equal to 35 percent or less of the total student enrollment of such institution need not make the section 1673(d) 85–15 computations. Of course, as discussed earlier, if the Administrator has cause to believe that a specific course has an enrollment in excess of 85 percent, then the Administrator may require the computation to be made by the educational institution in that specific course. Thus, generally, those institutions granted waivers from the requirements of the 85–15 rule as a result of the equal to or less than 35 percent GI bill educational assistance enrollment waiver, need not—at any time—make the required computation insofar as Federal grants are concerned. Hence, the Federal grant computation is generally applicable only to those educational institutions with an enrollment of veterans greater than 35 percent of the total student body (branches and main campus computed separately).

Currently, BEOGs and SEOGs are the only form of Federal educational assistance—other than that provided by the Veterans' Administration—not specifically waived from the 85–15 determination as required by section 1673(d). Inclusion of students in receipt of such assistance in the required determination was initially suspended by the Administrator through June 30, 1977, and subsequently extended through June 30, 1978. As a result, at the present time, no educational institution is required to include in its computations those students in receipt of non-VA educational assistance. The Veterans' Administration, in testimony before the Committee, reported that the reason the VA suspended for an additional year the provision that BEOG and SEOG recipients be included in the 85–15 requirement was that educational institutions and associations had reported that in their current recordkeeping systems, institutions do not identify by curriculum (or course of study) the enrollment of those students in receipt of BEOGs and SEOGs. Therefore, it would be very difficult—if not impossible—for them to make course-by-course computations.

The BEOG program, originally authorized by Public Law 92–318, amending the Higher Education Act of 1965 to add a section 131 provides students enrolled on at least a half-time basis with educational assistance based on need. The student must be in good standing at the educational institution in which enrolled. The grant program provides eligible students with a "floor" of financial aid to help defray the costs of pursuing a postsecondary education.

The maximum amount of the grant will be $1,800 for academic year 1978–79, less an expected family contribution. The amount of the BEOG cannot exceed one-half the cost of attending the postsecondary educational institution in which the student is enrolled. During fiscal year 1977, $1,903,900,000 was appropriated for the Basic Educational Opportunity Grant program. During fiscal year 1976, approximately 931,000 students were in receipt of BEOGs; during 1977, an estimated 1,975,000 recipients, and during fiscal year 1978, an estimated 2,241,000 students will receive assistance. During school year 1976–77, of BEOG recipients approximately 42.1 percent were members of a minority group. Almost 81 percent of BEOG recipients were enrolled in public educational institutions; 46 percent in attendance at public 2-year institutions; and 15.2 percent at public universities.

The SEOG program (added as section 131 to the Higher Education Act of 1965 by Public Law 92–318) provides, through participating institutions of higher learning, supplemental grants to assist qualified students who, for lack of financial means, would be unable to pursue an education. Funds for SEOGs are initially apportioned among the States in the same ratio as the States' full-time and full-time equivalent enrollment bears to the total national full-time and full-time equivalent enrollment. The awards are then continued in accordance with regulations published by the Commissioner of Education. The maximum student award is $1,500 per year, or one-half of the sum of the total amount of student financial aid provided to such student by the institution—whichever is lesser. During fiscal year 1977, $250,093,000 was appropriated for the SEOG program. During fiscal year 1976, 445,000 students were in receipt of SEOGs; during 1977, approximately 479,226 students and during fiscal year 1978, an estimated 462,000 students will receive grants under this program. During school year 1976–77, recipients of SEOGs were primarily enrolled in public institutions—64.4 percent; 20.5 percent were enrolled in public 2-year institutions; and 27.6 percent were enrolled in public 4-year institutions. Thirty-nine percent of SEOG recipients were members of a minority group.

In hearings held by the Health and Readjustment Subcommittee in June 1977, and in communications received by various members of the Subcommittee in the form of constituent letters and telegrams, the Committee has been apprised by numerous groups, organizations, and individuals of what is considered to be the deleterious effects of the required inclusion of Federal grants in the 85–15 computation. These criticisms have been leveled despite the permanent waiver by the Veterans' Administration of the Federal grant requirement for all such programs other than BEOGs and SEOGs, and the temporary waiver by that agency of the requirement of including in the required computation these two Federal grant programs. For example, American Association of State Colleges and Universities, on June 24, 1977, presented written testimony opposing the continued inclusion in the computation of BEOGs and SEOGs as follows:

"* * * [C]ounting BEOG and SEOG (and *all other* Federal grant programs are included in the law, though they been [sic] temporarily waived by the VA) requires far more paperwork and staff-time, since no college keeps a record of BEOG and SEOG enrollment by course. It also further discriminates against veterans, since there is no limit on the percentage of BEOG–SEOG students who can enroll in any course, but an 85 percent limit on veterans. While the VA may theoretically continue this waiver beyond July 1, [the VA's initial temporary waiver was until June 30, 1977—it has since been extended to June 30, 1978] we believe it would be far better to amend the law and return to the previous situation."

In regard to the requirement that records be kept on BEOGS and SEOGs, the American Council on Education reported:

"To establish such records by course of study in order to compute the percentage for the VA would be immensely costly and time-consuming, and serve no educational purpose: institutions have no reason to keep financial aid records by academic departments . . . . Further, the inclusion of other forms of federal assistance in 85 percent count is directly counter to the expressed intent of Congress in establishing those programs: that all students in financial need be encouraged to obtain a postsecondary education."

During the hearings before the Health and Readjustment Subcommittee in June, the Veterans' Administration, in response to questions concerning whether it would be disadvantageous to the VA's abuse-curbing efforts to strike from the 85–15 rule the current requirement of computation of Federal grant programs by legislation rather than through regulation, responded that the question was one that Congress "might want to look into".

The Committee believes it important that the continued need for the inclusion in the 85–15 determination of those students in receipt of Federal grants—other than from the VA—be fully reevaluated. Pursuant to this belief, the Committee bill mandates the conduct of a study by the Veterans' Administration, in conjunction with the Commissioner of Education of the Department of Health, Education, and Welfare, in regard to the need for inclusion and the procedures for compliance. The Committee appreciates the Veterans' Administration's need for assuring that veterans' educational programs are operated in a manner intended. However, in light of the large number of BEOG and SEOG recipients who are members of minority groups (42 percent and 39 percent, respectively) and the fact that BEOGs and SEOGs are paid purely on the basis of need, the Committee believes that it is possible that the implementation of the rule during the period of time the study is being conducted may cause difficulty in terms of burdensome paperwork requirements to those educational institutions serving minority group members and disadvantaged students, and, consequently, cause the greatest harm to those institutions serving veterans who are members of minority groups and those who are disadvantaged academically. For this reason, the Committee bill suspends until 6 months after the submission of the study, the inclusion of Federal grant recipients in the required determinations.

The Committee also believes, in view of the on-going statutory requirement of the inclusion of Federal grant recipients—despite the waiver provided by this section—that it is important that educational institutions receive guidance from the Veterans' Administration concerning an adequate system for making the necessary Federal grant computations. As quoted previously, representatives of educational institutions have charged that such a recordkeeping requirement would impose upon educational institutions, burdensome and costly recordkeeping and reporting requirements. Inasmuch as the Committee wishes to avoid imposing burdensome recordkeeping requirements, and as a result of the Committee's finding that most institutions currently are not keeping records of BEOG and SEOG recipients by course of study (curriculum), the Committee believes it necessary that the Veterans' Administration, in consultation with the Commissioner of Education of the Department of Health, Education, and Welfare, prescribe or recommend adequate systems for making such computations. In making these recommendations, the Committee expects the VA to seek technical assistance and advice from representatives of educational institutions and that any recommendations made will be taken fully into account and be explained in terms of the administrative capabilities of covered institutions. It may well be that the required study will find that the failure to keep records in regard to Federal grant recipients may impair the ability of the Federal Government to administer the VA, BEOG, and SEOG programs in the manner in which intended. If such is the case, the Committee would expect that the Administrator's recommendations, prescribing in detail an adequate system for making such computation, would reflect that finding. The Committee will examine carefully the report of the study and its recommendations, and expects to take appropriate action thereon.

Paragraph (1) of subsection (b) of section 305 requires the Administrator, in consultation with the Commissioner of Education of the Department of Health, Education, and Welfare, the Comptroller General of the United States, the Council on Postsecondary

Accreditation (COPA), State approving agencies (SAA), and other appropriate bodies, officials, and persons to conduct a study into the specific methods of improving the process by which postsecondary educational institutions and courses at such institutions are, and continue to be, approved for purposes of chapters 32, 34, 35, and 36 of title 38, United States Code. Such study in recognition of the importance of assuring that Federal assistance is made available only to those eligible veterans and persons seriously pursuing and making satisfactory progress toward an educational or vocational objective, shall also investigate the need for legislative or administrative action in regard to sections 1674 and 1724 as amended by sections 206 and 307 of Public Law 94–502, and the regulations prescribed thereunder. The Administrator is required to submit to the President and to the Congress, not later than August 1, 1978, the report of such study with such specific recommendations for administrative or legislative action as the Administrator deems appropriate.

Currently under section 1772, the responsibility for approving postsecondary educational institutions and courses at such institutions is—with limited exceptions—the function of State approving agencies (SAAs). Under section 1774, the Administrator is authorized to enter into contracts or agreements with State and local agencies to pay such agencies for reasonable and necessary expenses, salary, and travel incurred by employees of such agencies in rendering necessary services in regard to ascertaining the qualification of educational institutions for furnishing courses of education for eligible persons or veterans under chapters 34, 35, and 36 of title 38.

Under section 1775, a State approving agency may approve the courses offered by an educational institution when such course has been accredited and approved by a nationally recognized accrediting agency or association. In this regard, the Commissioner of Education of the Department of Health, Education, and Welfare is required to publish a list of nationally recognized agencies and associations which the Commissioner determines to be reliable authority as to the quality of training offered by the educational institutions. The respective State approving agencies may, upon concurrence with the Commissioner's finding, accept the accreditation of such private accrediting body as approval of the courses specifically accredited and approved by such accrediting association or agency.

However, as a precondition to approval under section 1775, the SAAs are required to find that the involved educational institution keeps adequate records showing the progress of each enrolled eligible person or veteran. Further, such records must, at a minimum—except for attendance—comply with the requirements set forth in section 1776(c)(7); that is, that adequate records as prescribed by the SAA be maintained by educational institutions to show progress or grades and that the institution has in force satisfactory standards relating to progress and conduct. In this regard, the SAA is required to find that such educational institution maintains a written record of the previous education or training of the person or veteran.

In making application for approval to the appropriate SAA, the educational institution is also required to transmit copies of such institution's bulletin or catalog, certified as true and correct in content by an authorized representative of the school. Such catalog or bulletin must specifically state the institution's progress requirements for graduation and must include, at a minimum, information in regard to the institution's policy and regulations relative to standards of progress—policies such as the grading system of the institution, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress, probationary periods, if any, allowed by the institution, and conditions for reentrance for those students dismissed for unsatisfactory progress. In addition, the catalog or bulletin must also include a statement as to the institution's policies and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct.

These requirements—imposed by sections 1776 (b) (6) and (7) and 1776(c)(7) of title 38 result from the enactment of section 504 of Public Law 94–502. That amendment was, in part, motivated by this Committee's finding that increased VA compliance surveys of institutions of higher learning had "revealed many instances where schools did not maintain accurate, current, or complete records of the academic progress of veterans enrolled therein. "... [M]any schools have such vague or virtually nonexistent standards of progress that it is difficult if not impossible, to determine at what point in time educational benefits should be discontinued." (S. Rept. No. 94—1243, page 118.)

Those educational institutions which have not been approved by a State approving agency pursuant to section 1775—in practice, this generally includes only nonaccredited courses and institutions—may be approved by the SAA pursuant to section 1776. A written application for approval of the involved course is required to be made by the educational institution to the SAA in whose jurisdiction responsibility for the course falls. Section 1776 requires such application be accompanied by two copies of the current catalog or bulletin certified as true and correct in content and policy by an authorized owner or official of the involved educational institution. Such catalog or bulletin must include specific items of data detailed in subsection (b) of section 1776. Further, the appropriate SAA may approve the application of such institution if the SAA finds, upon investigation, that the institution has met the criteria outlined by subsection (c) of section 1776.

Currently, there are at least three different systems in operation used by Federal administrators to be able to identify those educational institutions worthy of being eligible for Federal programs such as the GI Bill—State licensing, State approvals, and accreditation. Generally, such Federal payments are made by the involved Federal agency only upon the findings by State agencies or licensing bodies that the quality of the educational institution in which the student is enrolled meets the State's educational standards or, in the case of the VA, meets the respective State's standards and is in conformance with the VA's minimum standards or, if reliance is placed upon an accrediting body, that the involved institution is accredited.

The problem of assuring quality in education is an age-old problem—one that existed prior to the infusion of Federal moneys into postsecondary education and grants to students in attendance at postsecondary institutions. Although the problems of lack of educational quality are not caused solely by the flow of Federal dollars into the system, the payment of billions of Federal dollars to educational institutions or to students enrolled in such institutions certainly creates situations ripe for abuse.

Presently, as outlined previously, the Veterans' Administration, in the administration of its education program, relies upon SAAs for assuring the quality of courses of education in which veterans are approved for enrollment. Although discretion is granted by section 1775 as to whether SAAs shall accept the accreditation of an institution as being equivalent to approval for VA benefits, for all practical purposes, the accreditation of an educational institution by a nationally approved accrediting agency has been equivalent to the approval of the institution and its courses, and, consequently, an approval of the enrollment of veterans for receipt of GI Bill assistance. "The approval system operates loosely within the context of private accreditation." (The Final Report on Education Assistance to Veterans: A Comparative Study of Three GI Bills, Educational Testing Service, September 20, 1973, page 281.)

Past Federal attempts at quality assurance when Federal education benefits are involved appear to have been reliant upon the intertwined relationship of State approvals, State licensing, and private accreditation. In this regard, the National Advisory Council on Education Professions Development in the Office of Education, HEW, in April 1975 found that there is currently a strong tradition of State and local control of education. That report states:

"[Such tradition] puts into question any massive Federal effort to introduce and enforce standards of honesty and quality. Further, there is a continuing preference for educational pluralism, for diversity in higher education, for choices in postsecondary education; this makes it extremely difficult for any agency—Federal, state, local, or voluntary association — to establish standards, much less to enforce them."

When the expenditures of Federal dollars are involved, the Committee strongly believes that:

"when the Federal Government disperses funds to support educational institutions, programs and students [and the Veterans' Administration's GI bill educational assistance program is the Federal Government's largest postsecondary educational assistance program], it must assume responsibility for the way those funds affect the educational consumer as well as educational and program objectives." (Principle Number III, of the Subcommittee on Educational Consumer Protection of the Federal Inter-Agency Committee on Education, Toward a Federal Strategy for Protection of the Consumer of Education, July 1975.)

There can be little doubt that currently, in administering the GI bill, the VA has been regulating increasingly in an area which has traditionally been generally reserved to States and private accrediting bodies.

In testimony before the Subcommittee on Health and Readjustment, some educators asserted that the Veterans' Administration—rather than impose its own requirements to reduce abuse—should rely upon the established mechanism for education approval—the private nationally recognized accrediting associations. However, the Committee believes that reliance upon standards established by accrediting bodies as the sole determinant of GI bill enrollment approval would not completely vindicate the VA's responsibility for the appropriate payment of GI bill assistance. The ability of the private accrediting bodies to assure quality in postsecondary education has been questioned, and the private accrediting bodies have been criticized. For example, the National Advisory Council on Education and Professions Development in April of 1975 reported:

"Accreditation, even when performed by an association recognized by the U.S. Commissioner [of Education], is not necessarily an indicator of quality. . . . [A]ccrediting bodies now seek to determine whether each school is making satisfactory progress toward its goals. More than one critic has ridiculed this procedure by a reductio ad absurdum: this should mean that a diploma mill which openly states that its goals are to make money and to satisfy customers with educational pretensions, should be accredited if it successfully progresses towards its goal."

Others have criticized the States and the accrediting bodies. The National Advisory Council on Education Professions Development, in Gatekeepers in Education: A Report on Institutional Licensing, April 1975, at pages 1, 7, found:

". . . that every American school in the United States exists by permission of the state. . . . It also follows that existing abuses are the responsibilities of the States, sometimes attributable to nonexisting and obsolete laws, sometimes to weak laws, sometimes to weak administration, and sometimes to mere neglect. Further, the State responsibilities have been undermined by the private, voluntary accrediting bodies which (in all innocence) pursue their own purposes and have been used increasingly as indicators of quality and competence by State and Federal officials alike when their original purpose was not to be so used."

Thus, the Committee has reason to doubt the efficacy of sole reliance upon the accreditation by nationally recognized accrediting bodies as the only determinant of veteran-student eligibility for GI bill entitlement—as an alternative to the present methods for assuring quality.

However, sole reliance upon the current VA/SAA enforcement mechanism structure seems subject to criticism also. For example, "The Final Report on Education Assistance to Veterans: A Comparative Study of Three GI Bills" by the Educational Testing Service (September 20, 1973 at pages 283, 285) found that:

". . . State approving agencies range widely in their enforcement powers, diligence, and capability. The result is a lack of control and also a lack of knowledge, of evaluation, of data, of assurance that veterans are getting fair value for their time and money. . . . In short, there remains more than a suspicion that the State approving agencies are not an effective means of insuring the quality of educational performance that is necessary to protect the veteran."

Against this background, Congress last year, as part of Public Law 94–502, amended provisions of title 38 to make more stringent those requirements concerning approval of individual educational institutions for purposes of enrollment of eligible veterans—requirements above and beyond what may have been required by the appropriate SAA or accrediting body. The committee appreciates and understands the objections by representatives of the educational community concerning separate VA standards for enrolled veterans. To the extent these standards vary from other Federal program requirements, increased institutional paperwork and other such requirements inevitably result. To the extent that the VA directives differ from standards required by private accrediting bodies, the involved educational institutions become subject to new standards of academic performance.

However, the Committee continues to believe that the VA has now and will continue to have a statutory responsibility to assure the appropriate payment of GI bill educational assistance. On the other hand the Committee appreciates that the problem of educational abuse—and the abuse of Federal funds—is far more extensive than the Veterans' Administration educational assistance allowance program and the money expended thereon. Problems with quality assurance are not unique to the VA.

When the Committee amended the administrative provisions of the VA education program as part of Public Law 94–502 (changes designed by the Committee to curb abuse in the GI bill program and eliminate, to the extent possible, education overpayments), it took care to emphasize "that it does not undertake to assess the merits of changing educational practices with respect to enrollment policies, nonpunitive grading, attendance requirements, or liberalized withdrawal policies. But, when such policies are coupled with substantial Federal benefits, abuse, and contravention of Congressional intent can result (and unfortunately has resulted). . . . As such, the Committee would be derelict in its duty if it did not prescribe procedures designed to reduce actual or potential abuse and to insure that Federal tax dollars are spent in the manner intended by law." (S. Rept. 94–1243, page 49.)

Regardless of the efforts undertaken by Congress to assure the abuse-free operation of the GI bill program—that is, establishing the SAA framework and enacting abuse control provisions affecting individual institution policy—there is little doubt that the VA must also continue to rely upon traditional methods for assuring continuing educational quality, such as institutional integrity and private market enforcement through accrediting agencies. Although many involved in postsecondary education would agree that within the educational community abuses existed sufficient to give rise to the abuse curbs added by Public Law 94–502, many of these same educators and educational institutions would assert that, in order for any education provisions in regard to quality assurance to be successful, there must be general agreement among those who are to be regulated—educational institutions—as to the necessity of the provisions adopted to curb the abuse and, in general, as to their intent.

Thus, after reviewing the alternatives currently available—and nobody has seriously recommended sole reliance upon State licensing—the Committee mandates the conduct of a study by the Administrator in regard to the specific methods of improving the process by which postsecondary educational institutions and courses at such institutions are and continue to be approved for purposes of title 38. The Committee recognizes that mandating such study calls into question the advisability of the continued imposition of separate VA standards. The committee believes that the study must include examination of all three systems currently used by Federal administrators to identify institutions as being eligible for participation in Federal programs in order to find an effective and reasonable way of assuring accountability for the appropriate payment of educational assistance benefits.

The Committee expects that the required study will assess the present and potential roles of the various participants, to determine the strengths and weaknesses of present arrangements, and to recommend any changes deemed appropriate by the Administrator designed to achieve as effectively as possible the goal of assuring that Federal Government expenditures on behalf of veteran-students enrolled in training under the GI bill are not spent upon enrollments in "diploma mills", fradulent operations, or questionable educational enterprises and that the veteran-student is participating in a learning experience directed toward a worthwhile educational or vocational goal, in accord with generally accepted educational standards.

Satisfactory Progress

The study mandated by this subsection to be conducted and reported in regard to the approval process of postsecondary courses of education also requires the Administrator to investigate the need for legislative or administrative action in regard to the "satisfactory progress" requirement in present sections 1674 and 1724, as amended by sections 206 and 307 of Public Law 94–502—and the regulations prescribed thereunder. Although the Committee recognizes the extreme difficulty of attempting to "quantify" the concept of "serious pursuit", the Committee believes that the responsibility for assuring the appropriate expenditures of Federal moneys is of utmost importance. The Committee emphasizes that the GI bill is intended to be an educational assistance program—not an income-supplement program.

Sections 206 and 307 of Public Law 94–502 amended sections 1674 and 1724 of title 38, in regard to discontinuation of veterans' benefits for unsatisfactory progress. Section 307 amended chapter 35 in regard to the progress required of eligible persons. Thus, for the purposes of the Committee's discussion, comments concerning section 1674 (eligible veterans) are also pertinent to eligible persons under section 1724.

Prior to Public Law 94–502, section 1674 mandated the Administrator to "discontinue the educational assistance allowance of an eligible veteran, at any time the Administrator finds that according to the regularly prescribed standards and practices of the educational institution, his (the veteran's) conduct or progress is unsatisfactory." This provision was amended by Public Law 94–502 to provide that "progress will be considered unsatisfactory at any time the eligible veteran is not progressing at a rate that will permit such veteran to graduate within the approved length of the course based on the training time as certified by the Veterans' Administration, unless the Administrator finds that there are mitigating circumstances."

This amendment had the practical effect of terminating reliance upon the progress standards of individual educational institutions as the sole determinant of what constituted satisfactory progress for purposes of GI bill entitlement—of course, educational institutions remained subject in the promulgation and enforcement of such standards to what was acceptable to the appropriate State approving agencies, State licensing agencies, and private accrediting bodies. Public Law 94–502 changed this by allocating responsibility to the VA. In addition, to assuring satisfactory progress, the VA was given a standard by which to measure that program. The Administrator was mandated to find—unless he found the existence of mitigating circumstances—unsatisfactory progress in any instance where the veteran—even though in compliance with the regularly prescribed satisfactory progress requirements of the educational institution in which such veteran was enrolled and in which such veteran was approved for receipt of educational assistance allowance—was not progressing at a rate which would permit such veteran to graduate within the approved length of the course.

On December 17, 1976, the Veterans' Administration promulgated appendix O to DVB circular 20–76–84 implementing the "unsatisfactory progress" provisions of sections 1674 and 1724 as amended by sections 206 and 307 of Public Law 94–502. In general, appendix O broadened existing VA regulations in regard to satisfactory progress to comprehend the changes made by Public Law 94–502 by expanding "the concept of unsatisfactory progress to include those students not progressing at a rate that will permit graduation within the approved length of the course, based on the training time paid by the VA (Veterans' Administration)."

The Veterans' Administration in appendix O outlined the approved length of the course as follows: "the length of time required to complete a course depends upon the rate of pursuit. A student pursuing a bachelor's degree program at full-time and taking 15 credit hours per term can normally be expected to graduate in a 4–year period. However, a student taking 12 credit hours will normally require 5 years and a student taking six credit hours, 10 years." Appendix O then instructed institutions to determine the number of terms remaining at any point during a veteran-student's program in the following manner:

"(1) Determine the number of credit hours remaining for graduation by subtracting the hours completed (excluding hours for which nonpunitive grades are assigned) from the hours required.

"(2) Then divide this figure by the minimum number of full-time hours (12, 13 or 14 depending on the school) to determine

the number of terms remaining based on full-time enrollment.

"(3) The student must be able to graduate within that number of terms in order to complete the program in the approved length of time."

It is the educational institution's obligation to certify (with possible section 1785 overpayments liability for improper certification) to the Veterans' Administration, following the completion by the veteran-student of any given term—semester or quarter—that the student was able to graduate within the number of terms remaining. This certification requirement mandates a separate determination for each individual at the end of each quarter or semester (or any other applicable term for each veteran-student). If a veteran was required to extend his training beyond the approved length of the course to be able to meet the requirements for graduation in the absence of mitigating circumstances, progress was considered unsatisfactory. The VA instructed institutions that "this is true even though the student otherwise meets the regularly prescribed standards of the school, including maintaining the minimum passing grades or required GPA or average grades".

Appendix O further instructed educational institutions that "a determination as to whether an extension in the length of course would be required must be made by the school each time a course is not completed successfully". Institutions were instructed that for each veteran the institution was required to examine the following variables in each instance when a veteran failed to complete a course successfully:

"(1) The total credit hours needed to graduate, including the number to be repeated or otherwise made up; (2) the number of terms remaining based on the approved length of the course in the student's area of pursuit; and (3) the maximum credit hour load allowable per term based on school policy."

According to the American Council on Education, at page 8 of a June 9, 1977, report concerning the VA educational assistance program, the requirements of Appendix O "came as a surprise to institutions across the nation which had just completed an extensive effort to define satisfactory progress in response to regulations issued by the VA on August 12, 1975, requiring that schools file written standards of progress with their State approval agency (SAA) for approval. During academic year 1975–76, institutions and the whole educational community spent considerable time working on the VA's and SAA's to meet these requirements in a reasonable fashion."

The American Association of Collegiate Registrars and Admissions Officers in a June 7, 1977, letter to the Committee reported that the August 12, 1975, regulations had "created many problems in terms of institutional operation and close consultation took place between the education associations, institutions, State approval agencies and the VA to refine and interpret the regulations to make them workable in terms of reducing overpayment problems. After almost a year of cooperative consultation, standards were pretty well in place when the new legislation was enacted. The institutions, who had filed approved standards of progress, were suddenly faced with much more restrictive laws and regulations. The education associations and institutions feel that the 1975 standards of progress were never given an opportunity to work."

The American Council on Education in a June 9, 1977, report, at pages 8, 9, alleged that

"in this instance the higher education community and the SAA's acted in good faith to establish standards of progress which would apply for years to come, only to have the entire process superseded without evaluation by the VA, which sought instead to impose its own judgment of the value of various grades and how often course progress should be assessed. . . . Appendix 'O' calls for extensive calculations and report-filling by institutions. . . . The VA interprets 'at any time' to mean auditing satisfactory progress every quarter or semester, regardless of institutional policy and practice. This is excessive and impossible. Analysis of transcripts requires not only the computation of credit hours, but also the determination of which courses satisfy general educational requirements and which apply to variable major/minor requirements as well as the various grade-point requirements. This type of evaluation is usually done formally *once* during a student's course of study, a semester or two prior to graduation. In large colleges and universities, 6 to 8 months may be required to complete the 'graduation checks' for a class of graduates. The VA not only demands a calculation for every veteran every quarter —it does not accept the institution's standards for making the calculation."

After due consideration, the Committee finds that the current unsatisfactory progress requirements (the amendments made by sections 206 and 307) are in need of further close scrutiny and, as a result, mandates such examination by the Administrator.

The Committee believes that an important component in any approval process should be the extent to which an institution has a policy in regard to satisfactory progress and the extent to which the institution enforces such institutional policy.

In the 94th Congress, witnesses from the VA testified there had:

"[C]hanges in educational practices and philosophy have . . . contributed to the number of unauthorized payments of educational benefits. These include the open door enrollment, non-punitive grading, lax reporting of attendance and withdrawal of students." (Hearings, Veterans' Education and Employment Assistance Act of 1976, before the Subcommittee on Readjustment, Education, and Employment of the Veterans' Affairs, U.S. Senate, 94th Cong., 1st Sess., page 618.)

The VA indicated that such changes made it increasingly more difficult to assure appropriate expenditure of GI bill moneys. If these changes in educational philosophy are responsible for the inappropriate payment of educational assistance benefits—a payment capable of being remedied by the section 1674 (as amended by section 206) unsatisfactory progress requirement—then consideration should be given in the study as to the method whereby only those schools involved might be made subject to special unsatisfactory progress provisions.

In this regard, the mandated study and report thereof should address whether the standards adopted by the VA on August 12, 1975, are sufficient to assure appropriate payment of GI bill assistance and to what extent State approving agencies, the Council on Postsecondary Accreditation, and other appropriate accrediting bodies and State licensing bodies seek or are able to assure that veterans in receipt of GI bill assistance make satisfactory progress in those educational institutions in which enrolled. The study should also evaluate to what extent imposition by the Veterans' Administration of a separate veterans' standard of progress will affect the ability of educational institutions to certify accurately the progress of veteran-students towards the attainment of vocational or educational objectives, the extent to which such requirement will impose upon enrolled veterans a more rigorous progress requirement than that being required nonveteran enrollees, whether educational institutions in their catalogs or bulletins make specific their policy conceiving unsatisfactory progress, to what extent these same educational institutions comply with the standards established by title 38 for catalog or bulletin disclosure, and the need for legislation in regard to any changes recommended.

Of paramount interest to the Committee is the welfare and benefit of those veteran-students seriously pursuing a vocational or educational objective. The Committee believes that the educational assistance program exists for the benefit of those who served the country in time of need and to this extent all requirements—both in terms of accountability of the program and in terms of assuring that the program is used as intended—must take fully into account what is beneficial for those veteran-students seriously pursuing a vocational or educational objective.

"Seat Time"

During the past several months, the Committee has received numerous comments from those involved in degree-granting postsecondary education, voicing concern with the implementation by the VA, and the enforcement thereof, of DVB circular 20–76–16—Measurement for Payment Purposes VA Regulation 14272(d). That DVB circular noted that effective October 26, 1976, VA regulations were amended as follows: "In no case will a course be measured as full time when less than fourteen standard class sessions per week (or twelve standard class sessions if twelve credit hours is full time at the school) are required." VA Regulation 14200 (G) defines the term "standard class session" as "the amount of time a student is scheduled in the school's standard length term to spend in class per week for one quarter or one semester hour of credit. Normally but not necessarily, a standard class session is not less than one hour (or fifty-minute period) of academic instruction, two hours of laboratory training, or three hours workshop." Likewise, under the circular, part-time training requires a proportionate number of weekly standard class sessions.

Those individuals within the education community who oppose the Veterans' Administration's adoption of this course measurement for purpose of GI bill payment forcefully argue that the Veteran's Administration has no statutory authority under section 1788, to dictate what constitutes a standard class session or to what extent institutions may offer classes on other than a weekly basis. To date, the Committee is informed that approximately 27 educational institutions provide at least one course not in compliance with the VA's "seat time" requirements. Examples of institutions with courses not meeting the "seat time" provisions include the State University of New York at Buffalo, the University of California at Los Angeles, the University of New Hampshire, the University of Rochester, the University of Southern California, and the Wayne State University.

In light of the controversy surrounding this issue—already one institution, Wayne State University, has sought and been afforded injunctive relief in Federal District Court (*Wayne State University, et al.* v. *Max Cleland, Administrator, et al.*, USDC E.D. MICH., CA 77–0973.)—the Committee has required the study and report thereof mandated to be conducted under this paragraph to include comprehensive examination and evaluation of the need for and effectiveness of the "seat time" requirement.

The Committee notes that paragraph (3) (A) of section 305(b) of the committee bill provides for the suspension, in certain instances, of sections 206 and 307 (of Public Law 94–502—satisfactory progress requirements) while the mandated study is being conducted. Although the Committee has not made similar provision for the waiver of the "seat time" requirement, it may be appropriate for the Administrator to consider amending the VA's regulations to provide for individual waivers of the requirement in certain instances. Factors which would seem

relevant as to whether any such waiver should be granted would be: whether the quality of the involved course is affected by the manner in which the course is offered, whether the educational institution involved traditionally has given the courses on the clock-hour basis found by the Veterans' Administration to be in violation of 14272(D), and whether there is any evidence that the institution structured its clock-hour/credit requirements to make the course better able to attract veterans eligible for receipt of GI bill benefits.

The Committee expects the study and the report thereon to include a sufficient discussion and analysis of the "seat time" regulation to enable the Committee to determine whether or to what extent such requirement is in need of change.

Paragraph (2) of subsection (b) of section 305 requires the Administrator to transfer from funds appropriated for the readjustment benefit account (subfunction 702—readjustment benefits) such sums as are necessary, but not in excess of $500,000, for the purpose of carrying out the study mandated to be conducted by paragraph (1) of this subsection.

The Committee believes that the authorization for the transfer of funds from the readjustment benefits account will assure the availability of sufficient money for the Administrator to conduct the required study in the comprehensive manner expected by the Committee. The Committee emphasizes the vital role which this study could play in the development of future policy insofar as the administration of the GI bill educational assistance program is concerned.

Subparagraph (A) of paragraph (3) of subsection (b) of section 305 authorizes in certain instances the suspension by the Administrator of the VA's implementation (currently DVB circular 20–76–84, appendix O) of sections 206 and 307 of Public Law 94–502—amending sections 1674 and 1724 of title 38, respectively. Under this subparagraph, the Administrator is empowered to suspend the implementation of these amendments in the case of any accredited educational institution which submits to the Administrator its course catalog or bulletin and a certification that the policies and regulations described in clauses (6) and (7) of section 1776(b) are being enforced by such institution—unless the Administrator finds, pursuant to regulations which the Administrator shall prescribe, that such catalog or bulletin fails to state fully and clearly the policies and regulations of such institutions.

As outlined earlier, section 504(1) of Public Law 94–502 extended to accredited institutions approved pursuant to section 1775, the requirement that in making application for approval under title 38, such accredited institution must transmit to the appropriate State approving agency copies of the institution's catalogs or bulletins—certified as true and correct in content and policy by an authorized representative of the school. Further, the submitted catalog or bulletin must specifically state the institution's progress requirements for graduation and must include, at a minimum, the information required by sections 1776(b) (6) and (7).

Under the eligibility criteria outlined by the suspension provision in the Committee bill, an accredited educational institution, in order to be eligible for a suspension of the satisfactory progress requirements added by Public Law 94–502, must submit its course catalog or bulletin to the Administrator—in addition to the submission made to the respective State approving agencies as required by section 1775—and must certify to the Administrator that the policies described in the catalog or bulletin meeting the requirements of clauses (6) and (7) of section 1776 are being enforced—in addition to the submission to the appropriate State approving agency of the section 1775 certification to the effect that the catalog is true and correct in content and policy.

The Committee expects the Administrator to examine with care the catalogs and bulletins submitted by applying educational institutions. As part of his authority to deny suspension where he finds that the catalog or bulletin does not "state fully and clearly" the institution's policies and regulations on satisfactory progress, the Administrator is authorized to look behind the description in the certification to determine whether the policy described is actually the one implemented by the institution. If he finds that it is not—thereby raising a question of fraudulent completion of a Federal form—then he should withhold suspension since, in that event, the institution's policy has not, *ipso facto*, been stated "fully and clearly" in the certification.

The Committee has structured the satisfactory progress provision waiver requirements in this manner because it believes it is of paramount importance to assure that veteran-purchasers of educational products are provided the necessary information upon which to make rational choices as to which program of education to enter. "Without disclosure, students cannot inform themselves and neither can those who provide advice—high school counselors, veterans advisors, and staff of State employment services, for example. All of these persons need access to data which inform rather than obscure the truth." (George E. Arnstein, *Accreditation State Licensing, and Approvals: Why the System Isn't Working*, Phi Delta Kappa, February 1975).

In this regard, although the VA does not recognize, approve, or certify postsecondary education programs per se, the Committee notes that the Subcommittee on Education Consumer Protection of the Federal Interagency Committee on Education recommended that "all Federal agencies which recognize, approve, or certify postsecondary institutional educational programs should make protection of the educational consumer part of their criteria for recognition approval or certification." The new suspension prerequisites should thus assist the VA in making the protection of the veteran-consumer an important consideration.

Subparagraph (B) of paragraph (3) of subsection (b) of section 305 requires the Administrator, in appropriate instances, to bring to the attention of the Council of Postsecondary Accreditation and the appropriate accrediting and licensing bodies such catalogs, bulletins, and certifications submitted to the Administrator pursuant to subparagraph (A) of this paragraph which the Administrator believes may not be in compliance with the standards of such accrediting or licensing body.

In testimony received during hearings conducted on June 24 and 29 by the Subcommittee on Health and Readjustment and in communications received by various Committee members, it has been recommended to the Committee that the accreditation system should be relied upon by the Veterans' Administration to a greater extent than is presently done. Some, in fact, have urged that approval by a nationally recognized accreditation body should be sufficient—of itself—for the approval by the Veterans' Administration of an educational institution for the enrollment of eligible veterans in receipt of GI bill payments. Although the Committee does not agree with such recommendation, it believes that more could, and should, be done by the Veterans' Administration in the administration of the educational assistance allowance program to profit from present "market-place control devices"—such as the accrediting bodies approval process.

The Committee has also received many comments from individuals involved in the education process, to the effect that the VA has not communicated to the appropriate responsible individuals within the education community—such as accrediting body officials—information regarding those educational institutions which the VA had reason to believe were in violation of administrative provisions of the VA educational assistance program. These critics of the VA allege that, had the VA been working cooperatively with the appropriate responsible educational officials with regard to assuring the continued integrity of the educational process insofar as the GI bill program is concerned, it would not be necessary for the VA to impose upon educational institutions added "quality assurance" burdens.

The Committee understands generally that accrediting bodies were and are not established by their members to serve quasi-governmental roles—such as the enforcement of GI bill requirements—and recognized that accrediting bodies thus have responsibilities other than assuring the appropriate payment of GI bill moneys. However, the Committee believes that the VA could better utilize existing private enforcement mechanisms in the administration of the GI bill to the extent that the aims of the Veterans' Administration and the involved private accrediting body coincide. The Committee urges the Veterans' Administration, as part of its efforts in regard to the mandated study, to seek better relations with these bodies.

The Committee believes that by requiring the Administrator to forward to the appropriate accrediting bodies, those catalogs or bulletins which the Administrator believes are not in conformance with the standards of such accrediting body, the aims of the two recommendations discussed above will be accomplished; that is, the VA will expand its cooperation with private market enforcement groups by communicating to them the names of those institutions which the Administrator believes may not be in compliance with the standards of such accrediting organization.

The Committee expects the Administrator to use this section with discretion. Only the Administrator—or the Central Office of the Veterans' Administration—should forward to the involved accrediting body those catalogs or bulletins not believed in compliance with the standards of such body. A cover letter or analysis should accompany the submission of each catalog or bulletin explaining in each instance the reasons the Administrator believes that such catalog or bulletin is in violation of the body's standards.

Subsection (c) of section 305 provides for the granting of relief to certain educational institutions having in their possession valid GI bill educational benefit checks for which such educational institutions hold a valid power of attorney executed prior to December 1, 1976, authorizing the educational institution to negotiate such benefit check.

Paragraph (1) of subsection (c) of section 305 authorizes the Administrator to provide such relief as the Administrator deems equitable—pursuant to regulations which the Administrator shall prescribe—to those educational institutions where the Administrator finds undue hardship on such educational institutions as a result of the enactment of section 701 of Public Law 94–502. In order to be eligible for such equitable relief, the educational institution seeking relief must meet the following criteria:

"(1) The educational institution must have in its possession a veteran's or eligible person's benefit check made payable to such veteran or eligible person and mailed to such institution.

"(2) The educational institution must hold a power of attorney executed by such veteran or eligible person prior to December 1, 1976, authorizing the educational institution to negotiate such benefit check.

"(3) The benefit check must have been mailed to such educational institution for a course offered pursuant to the predischarge education program (PREP) (subchapter VI of chapter 34 of title 38), or a course offered outside the United States.

"(4) The course, for which the benefit check was mailed to the eligible veteran or person, commenced prior to December 1, 1976, and was completed by such veteran or eligible person not later than June 30, 1977."

Paragraph (2) of subsection (c) of section 305 authorizes the Administrator to provide such relief as the Administrator deems equitable—pursuant to regulations which the Administrator shall prescribe—to those accredited correspondence schools where the Administrator finds undue hardship on accredited correspondence schools as a result of the enactment of section 701 of Public Law 94–502. In order to be eligible for such equitable relief the accredited correspondence school seeking relief must meet the following criteria:

"(1) The accredited correspondence school must have in its possession a veteran or eligible person's benefit check made payable to such veteran or eligible person and mailed to the school.

"(2) The accredited correspondence school must hold a power of attorney executed by such veteran or eligible person prior to December 1, 1976, authorizing the school to negotiate such check.

"(3) The benefit check was mailed to such school for lessons completed by the veteran or eligible person and serviced (that is, the lesson has been completed by the student, forwarded to the school, and the school has completed assessment thereof) by the school prior to January 1, 1977.

"(4) The course was taken by such veteran or eligible person while residing in the continental United States."

Section 701 of Public Law 94–502 amended section 3101 (regarding the nonassignability of VA benefits) to provide that where the payee of an educational assistance allowance has designated the address of an attorney in fact as the payee's address for the purposes of receiving his benefit check and has also executed a power of attorney giving such attorney in fact the authority to negotiate such benefit check, such agreement was deemed to be an assignment of the benefit and, as such, was prohibited. This section of Public Law 94–502, which became effective December 1, 1976, makes specific the invalidity of powers of attorney insofar as the negotiation of veterans' benefit checks is concerned. Notwithstanding the general preclusive purport of the nonassignability provisions of section 3101 prior to the enactment of Public Law 94–502, in 1972, the Veterans' Administration General Counsel had ruled that when the payee of a benefit check has designated the address of an attorney-in-fact as the payee's address, and also executed a power-of-attorney to negotiate the benefit check, such transaction was not generally prohibited. Unfortunately, the result of the General Counsel's interpretation resulted in attorney arrangements which the Committee found were detrimental to the interest of veterans and greatly added to administrative problems in the management of the educational assistance program.

As a result of the enactment of section 701, a number of educational institutions and accredited correspondence schools received educational assistance allowance checks made payable to veterans or eligible persons for courses commenced prior to December 1, 1976. These checks had been mailed to the educational institution or accredited correspondence school pursuant to a previously executed and valid power-of-attorney. These checks, generally payments for courses which had been either taken or were in the process of being taken by the veteran, either were received by the school prior to the December 1, 1976, date and not negotiated prior to that date, or were received by the school subsequent to that date and hence not negotiated under the 1976 amendment.

In many instances, such as those educational institutions which provided predischarge education program (PREP) training to servicemen, or provided training on or adjacent to military bases at which servicemen were stationed, the courses ended on or after December 1, 1976, and payments were made by the Veterans' Administration after that date. These schools as a result of reliance on the status of the law (and the interpretation by the VA General Counsel) prior to the enactment of Public Law 94–502 (October 15, 1976), have suffered in many instances hardships from the inability to negotiate these checks despite the existence of an agreement which, prior to the enactment of Public Law 94–502, had been interpreted as a valid legal arrangement.

The Committee notes that to date approximately seven educational institutions and accredited correspondence schools have sought relief in court from the provisions of section 3101 as amended by section 701 of Public Law 94–502 and in some instances relief has been granted. Many of these schools, in attempting to mitigate their damages, have experienced great difficulty in locating the servicemen for the purpose of having the individual endorse the benefit check. The same problem has been encountered by schools which have provided other types of oversea training and by certain accredited correspondence schools.

In the case of PREP, and oversea training courses, many of the schools involved are community colleges and well-known State institutions of higher learning. Examples of the educational institutions involved include the University of Maryland, Eastern Carolina University, and the College of Charleston. In some instances, the checks which schools have been unable to negotiate have totaled several hundred thousand dollars. For example, the University of Maryland is holding $196,000 in nonnegotiable benefit checks.

The Veterans' Administration, in response to a question regarding the need to provide the Administrator with sufficient authority to provide equitable relief to educational institutions in those instances where he found an undue hardship testified that "we recognize there is a problem. . . ." In the VA's report to the Committee on that provision of Amendment No. 448, intended to be proposed to S. 457, concerning such equitable authorization, the Veterans' Administration stated that

"the restriction on the use of the power of attorney came about because of the many abuses we found were occurring in connection with the utilizing of power of attorney by school officials, their agents or banks where they had authority to receive and cash beneficiaries' benefit checks. . . ." We believe the 1976 amendment concerning the use of powers of attorney was a necessary requirement to prevent further misuse of veterans' and dependents educational benefits. We recognize, however, that the retroactive effect of the amendment and the short time for implementation of new procedures have produced problems for some schools who cannot locate students to whom they have provided training. We believe the provision incorporateed in the pending measure represents a reasonsonable solution to the problem which has been encountered by these schools. We also believe, however, that any relief which might be granted should be closely monitored to assure, for example, that the power of attorney held by the school is a valid document."

The Committee expects that the Administrator will use his discretion to provide the equitable relief authorized under this subsection. The Administrator should keep in mind that many institutions—in good faith—relied upon the VA General Counsel's interpretation as to the validity of the involved arrangement. The Committee expects the Administrator to assure that the check for which negotiation is sought has, in fact, been subject to a valid power-of-attorney negotiated prior to December 1, 1976. The Committee believes that the Administrator should take all possible steps to inform all those educational institutions and accredited correspondence schools which may be eligible for the relief provided under this section, of the availability of relief and the procedures required to be followed.

Subsection (d) of section 305 amends section 1792, relating to the VA educational assistance committee, to require the Administrator to advise and consult with the Committee of a regular basis and meet—at a minimum—with such committee at least two times a year.

Currently, section 1792 requires the establishment by the Administrator of an advisory committee to be composed of persons who are eminent in their respective fields of education, labor, and management. In addition, the Administrator is required to include as part of the Committee, representatives of various types of institutions and establishments. The Administrator is further directed to include among the appointed veterans' representatives, representatives of World War II, the Korean conflict era, the post-Korean conflict era and the Vietnam-era. In addition, those govenmental positions included as *ex officio* members of the section 1972 advisory committee include the Commissioner of Education of the Department of Health, Education, and Welfare and the Administrator of the Manpower Administration (since changed to Employment and Training Administration) of the Department of Labor. The Administrator is required to advise and consult with the Committee with respect to the administration of chapters 31, 34, 35, and 36 of title 38—although currently he is not required to do so on a regular basis—and the advisory committee is authorized to make such reports and recommendations as it deems desirable.

This amendment is similar to section 510 of S. 969, the Veterans' Education and Employment Assistance Act of 1976, as it unanimously passed the Senate; that provision, however, was not passed by the House. The Committee believes that the regular use of the advisory committee could serve as an important link and conduit between the Veterans' Administration and those affected by its educational programs. Testimony received by the Subcommittee on Health and Readjustment in hearings and in many written submissions has alleged that often the Veterans' Administration fails to communicate on a regular or affirmative basis with representatives of the educational community insofar as the administration of the VA educational assistance program is concerned.

For example, a number of representatives from education associations testified in June 1977 that, despite numerous requests, the VA did not forward to them as a matter of course pertinent VA educational bulletins or circulars. The Committee has been assured since that time that interested educational associations have been included on the appropriate mailing lists.

Unfortunately, the advisory committee—established by Congress specifically to assist the Veterans' Administration in establishing channels of communication with these and other concerned individuals—has met sporadically. Apparently, little emphasis has been placed by the Veteran's Administration upon the helpful role that the Committee could play in the mutual exchange of infor-

mation and ideas. The Committee report accompanying the report on S. 969 in September 1976, noted that the advisory committee had not met since October 17, 1975.

Testimony by the Veterans' Administration in June 1977 indicated that it is the intent of the Administrator to use the section 1792 education advisory committee. Representatives of the VA reported that the Administrator was moving to fill several recent vacancies. However, the VA also reported that there had not yet been a meeting scheduled in 1977. The Committee expects this situation to change.

The Committee urges the Administrator to fill the vacancies on the Committee as quickly as possible and to utilize this Committee to the extent possible in assisting him in administering the GI Bill benefit program. The Committee also notes, as it did last year, that in the 10 years that the section 1792 committee has existed, it has yet to make any reports or recommendations to the Congress under the discretionary authority granted under section 1792; it has reported only in response to a specific mandate of law to do so.

The Committee urges the members of the advisory committee as a unit to undertake to submit to the Committees on Veterans' Affairs of the House and the Senate such recommendations as it deems appropriate.

TERMINATION OF ASSISTANCE REQUIREMENTS

Section 306

Amends section 1790(b) to prohibit the Administrator from suspending or terminating assistance provided to any eligible veteran or eligible person under chapter 31, 32, 34, 35, or 36 of title 38, unless the Administrator has in his possession clear evidence that the veteran or eligible person whose educational assistance allowance is to be suspended, is not or was not entitled to such assistance. The amendment goes on to provide that whenever the Administrator terminates such educational assistance, he shall concurrently provide the veteran whose assistance is being terminated with written notice of such suspension or termination action and notification that such person or veteran is entitled thereafter to a statement of the reasons for the action and an opportunity to be heard thereon.

Currently under section 1790, the Administrator may discontinue the educational assistance allowance of any eligible veteran or person if he finds that the program of education or any course in which the veteran or person is enrolled fails to meet any of the requirements of chapter 34, 35, or 36 of title 38, or if the Administrator finds the educational institution offering such program or courses violated any provision of such chapters, or fails to meet any of the requirements of such chapters.

The totality of due process rights due a veteran in receipt of GI bill educational assistance allowance prior to the termination of suspension of allowance is a question which the Committee is not prepared to address at this time. Currently there is a difference of opinion as to the legal definition of the involved benefits. Some would call benefits "gratuities". In that case, some suggest, the Veterans' Administration would have no duty to provide the involved veteran with certain due process protections prior to suspension or termination. Others would label the educational assistance allowance as property for purposes of the 14th Amendment and, as such, any termination or suspension by the Veterans' Administration of such benefits would require certain due process protections.

In this regard, the Committee notes results to date in two important law suits bearing on this issue: One involving Citrus College (in California) and the other, the University of Minnesota. In the Citrus College case (*Devine* v. *Miller*, USDC CD, CA 76–0592–IH; CA 77–1424 & 77–1430, U.S. Court of Appeals for the Ninth Circuit), the Veterans' Administration suspended or terminated the educational assistance allowance of all veterans in attendance at such school after an audit of the school showed extensive violation of title 38 requirements. The court held that veteran/plaintiffs were entitled to a hearing before their benefits were terminated. In addition, the court ordered the VA to give veterans 30 days prior notice of any suspension, reduction, or termination of education benefits. Currently, that case is being appealed by the Government.

In the Minnesota case (*Waterman* v. *Roudebush*, D. Minn., Fourth Division, CA 4–77–70), the judge issued a preliminary injunction enjoining the Veterans' Administration from terminating benefits being provided any veteran otherwise eligible for educational benefits who is reported to the Veterans' Administration for unsatisfactory academic progress. The VA could so suspend or terminate if it established procedures for pretermination notice and interview in accordance with standards outlined by the judge. This ruling, applicable to all persons attending colleges and universities in Minnesota and served by the St. Paul Regional Office of the Veterans' Administration, provided that within 30 days after the filing of this order—June 22, 1977—the Veterans' Administration shall provide in each instance where a recipient of veterans educational assistance is reported to the Veterans' Administration for failure to satisfy VA/SAA academic requirements the following:

"(A) Within 10 days of receipt of the report (by the Veterans' Administration) from the educational institution, the student shall be sent a notice informing him of the report and its contents, the date of its termination, and the proposed grounds for termination. The notice shall also outline the procedure by which the student may attempt to prevent [sic] evidence in his favor and have a pretermination interview.

"(B) Upon request, the student shall be given an appointment with the Veterans' Administration counselor within 30 days of the pretermination notice.

"(C) As part of the interview he shall be allowed to see the Veterans' Administration file upon which termination is based and shall be allowed to submit any evidence he can produce concerning his status or explanation for the institutional report.

"The court concluded 'that in the circumstances of the average student/veteran, termination of benefits without notice and an opportnuity to contest the grounds constitute irreparable harm to the recipient. No amount of money granted later, even retroactively, can compensate for the lost time, lost momentum, and possibly lost opportunity resulting from an erroneous termination.'"

Under the provision in the Committee bill, the Administrator will be required to provide concurrently to the veteran—at the same time that he notifies him or her of the suspension or termination in the amount of educational assistance allowance—written notice of the entitlement of such veteran or eligible person to a statement of the reasons for the action and an opportunity to be heard thereon.

In addition, the Administrator would be prohibited from suspending or terminating the educational assistance allowance of any eligible veteran under title 38, unless he has in his possession clear evidence that the specific veteran whose benefits are being terminated is not or was not entitled to such assistance. This provision should assure that in the future no instances occur—such as at Citrus College—where the Administrator terminates *en masse* the educational assistance of veteran/students as a result of the finding that the school has consistently violated statutory requirements.

The Committee believes that the amendments made by this section will afford necessary protection to GI Bill recipients. The Committee stresses that in order to terminate a veteran's benefits the Administrator must have in his possession clear evidence that the particular veteran is not or was not entitled to such assistance. The Committee believes that the person or veteran being suspended or terminated should have an opportunity to examine and review such clear evidence. In addition, the Committee believes, the veteran should have an opportunity to be heard in some appropriate manner as soon as possible in order that termination or suspension of his assistance might be avoided if the Administrator finds that such suspension or termination was in error.

The Committee expects that the written notice informing the veteran of his entitlement to a statement of the reason for the suspension or termination action and the right to a hearing thereon will be conspicuously written and in plain and simple language.

VOCATIONAL REHABILITATION STUDY

Section 307

Requires the Administrator, in consultation with the Commissioner of Rehabilitation Services in the Department of Health, Education, and Welfare, to conduct a study in regard to provisions of chapter 31 of title 38. Such report shall include—but not be limited to—(1) the Administrator's recommendations for legislative or administrative changes in the Vocational Rehabilitation program (chapter 31); (2) the Administrator's recommendations with respect to the need for the services of vocational rehabilitation specialists to provide chapter 31 trainees with the appropriate job development and job placement assistance; and (3) the Administrator's recommendations for using the veterans education programs provided by chapters 32, 34, 35, and 36 to meet the needs of disabled veterans for assistance under chapter 31 and such other chapters. In addition, the required report must include a description and analysis of the scope and quality of assistance of vocational rehabilitation provided by the VA to disabled veterans under chapter 31 in comparison with the vocational rehabilitation provided by the Department of Health, Education, and Welfare, under the Rehabilitation Act of 1973, as amended (Public Law 93–112). A report of the study is required to be submitted to the President and the Congress not later than March 1, 1978.

In the Committee's report to accompany the Vietnam Era Veterans' Readjustment Assistance Act of 1974, S. 2784 (ultimately enacted into law as Public Law 93–508), the Committee reported that in its review of the chapter 31 vocational rehabilitation program it had discovered many inconsistencies and much outdated terminology. In addition, the Committee noted that the regulations issued thereunder seemed of little assistance in further interpreting such chapter. In light of those findings, the Committee strongly recommended that the "Veterans' Administration thoroughly review chapter 31 for possible legislative and administrative changes particularly in light of recent legislative action taken by Congress in the Rehabilitation Act of 1973 (Public Law 93–112), which substantially restructures and redefines concepts regarding handicapped individuals, [and] the employment service opportunities for them. . . .

Following such a review [by the VA], the Committee would anticipate reenacting chapter 31 in order to clarify and update the language which is difficult to understand and often appears to be archaic.

In the 1976 report to accompany the Veterans' Education and Employment Assistance Act of 1976, S. 969 (ultimately enacted into law as Public Law 94–502), the Committee once again observed that a perusal of the chapter 31 vocational rehabilitation program had revealed many inconsistencies and much outdated terminology. Once again, as a result of these findings the Committee reported that it "intends and expects the Veterans' Administration will thoroughly review chapter 31 for possible legislative and administrative changes. . . ."

In hearings held before the Subcommittee on Health and Readjustment in June 1977, the Veterans' Administration in response to a query as to what steps had been taken by that agency in regard to the Committee's urgings in 1974 and 1976 on the need for a vocational rehabilitation review, responded "We are aware of that. We have assigned to our Counseling Rehabilitation Section or unit the responsibility for doing that. . . . We are initiating a study on that at the present time."

Although urged by this Committee, in at least two prior Committee reports, to commence a review of the chapter 31 vocational rehabilitation program, the Veterans' Administration has failed totally to respond in an expeditious fashion to address this area of serious concern. Although the Committee is somewhat encouraged by the VA's report that they had, at last, initiated a review of the veterans vocational rehabilitation program, the Committee believes that a mandated study is needed.

Generally, in mandating a major study of this kind, the Committee would provide for a longer period of time during which the study could be conducted and reported. However, in testimony before the Committee in June, the Veterans' Administration indicated that they planned on completing their own review of the chapter 31 program in October 1977. Thus, the Committee, by setting a March 1 deadline, is allowing the VA an additional 4 to 5 months to complete and report the required study.

In testimony before the Committee in June 1977, and in support of the adoption of this provision, Lawrence Roffee, Legislative Director for the Paralyzed Veterans of America, testified that

"PVA strongly believes that chapter 31 is woefully outdated and perhaps ineffective. . . . To our knowledge, the VA has not conducted the review this Committee has intended them to make. In our conversation with VA officials administering the program we have discerned no impetus to make any changes. We strongly urge this Committee to amend S. 457 by adding a section specifically directing the VA to carry out a comprehensive review of chapter 31."

One example of a difference between the vocational rehabilitation program provided by HEW under the Rehabilitation Act of 1973 and the VA's vocational rehabilitation program is that under the HEW Rehabilitation Act program, local counselors follow each handicapped client completely through the vocational rehabilitation process, including providing assistance with job development and job placement. On the other hand, the VA counselors follow their clients only through the completion of the vocational rehabilitation program and then rely to a large extent upon the State Employment Service to assist them in obtaining employment. The VA testified that this distinction is of

"Concern to us in that other rehabilitation acts define rehabilitation as taking the man to actual employment and in some cases, to following him for several months into employment to see that he is suitably employed. We feel this is one of the areas we need to look at in the review of chapter 31."

The Committee believes that an examination and evaluation of the chapter 31 program is long overdue. In the past, the Veterans' Administration has been disinterested in undertaking such a review and study. The Committee stresses that improvements in the quality of the chapter 31 Vocational Rehabilitation Program is a high priority. It is keenly interested in assuring that veterans under the chapter 31 program receive the best possible vocational rehabilitation assistance.

VETERANS READJUSTMENT APPOINTMENTS REPORT

Section 308

Amends section 2014(b) of title 38, United States Code, to require the Chairman of the Civil Service Commission to submit to the President and the Congress a report on the need for the continuation after June 30, 1978, of the authority for the Veterans' Readjustment Appointments. The report is required to be submitted no later than 6 months after the date of enactment of the reported bill.

Section 403 of Public Law 93–508, in order to further the policy of the United States to promote the maximum employment and job advancement opportunities within the Federal Government for qualified disabled veterans and veterans of the Vietnam era, generally codified the veterans readjustment appointment (VRA) originally established by Executive Order No. 11521 (March 26, 1970). Under that Executive order—and section 2014—certain Vietnam-era and disabled veterans who met established eligibility requirements were and are eligible for a VRA to any position in the competitive Civil Service at or below the GS–5 level (or its equivalent).

The VRA is an excepted appointment; that is, it is not subject to regular civil service requirements. After 2 years, if the veterans job performance has been satisfactory and if he has participated in the training or education program as agreed, his appointment can be converted to career or career-conditional.

In order to be eligible to receive a VRA, there are two basic requirements which Vietnam-era veterans and disabled veterans must meet under the section 2014(b) program, as follows: (1) The veteran must have had no more than 14 years of education at the time of appointment; and (2) the veteran must have been separated from the Armed Forces for no longer than 1 year at the time of appointment. Exceptions to this general 1-year requirement are for those veterans who have had a period of hospitalization or treatment immediately following separation from the Armed Forces and those veterans enrolled in a program of education on more than a half time basis—under the GI bill. In those instances, the 1-year eligibility period would begin to run from the date of release from hospitalization or treatment, or in the case of a veteran enrolled in training under the GI bill on greater than a half-time basis, 6 months additional time is provided from the time the veteran first ceases to be enrolled in such course on more than a half-time basis. In any event, the final date beyond which no veteran may be eligible for a VRA is statutorily set at June 30, 1978.

In light of the scheduled June 30, 1978, statutory authority termination date for the VRA program, the Committee believes it important to receive information and recommendations from the Civil Service Commission as to the advisability of renewing the authority for such program. The Committee notes that the Civil Service Commission recently reported to the Committee that between January 1976 and June 1976 approximately 7,000 veterans received VRA appointments; or approximately 17 percent of all Vietnam-era veterans appointed to the Federal Government during that period of time.

The Committee expects the Commission to examine closely the need for the continuation of such authority in light of the continued high unemployment rates among Vietnam-era and disabled veterans, the extent to which that program has assisted Vietnam-era and disabled veterans in readjusting and finding employment and the obligations of the Nation in hiring those who served it during time of war. The Committee expects that the Commission will examine and report whether changes are necessary to improve the VRA program—such as extension of the eligibility time period.

Other information which the Committee believes vital includes the extent to which veterans have been given career-conditional appointments after having finished or completed the 2-year service requirement, the extent to which minority veterans have used the GI Bill educational assistance as a result of the use of the VRA appointment, the extent to which disabled veterans and minority veterans have benefited from the program, whether termination of the authority would hinder the Federal Government's efforts in providing employment assistance to disabled and Vietnam-era veterans, and the role VRA appointments play in the Administration's overall efforts in meeting the Federal Government's obligations in resolving employment problems among disabled and Vietnam-era veterans.

TECHNICAL AMENDMENTS

Section 309

Makes technical amendments to title 38 of the United States Code.

Subsection (a) of section 309 amends section 101 (29) of chapter 1 of title 38 to strike the date of the end of the Vietnam-era currently in law as that date "determined by the Presidential proclamation or concurrent resolution of the Congress," and replace it with May 7, 1975, the date set as the end of the Vietnam-era as a result of Presidential proclamation (by President Ford in Executive Proclamation 4373).

Subsection (b) of section 309 amends section 2007(c) of chapter 41 of title 38 to correct the current section 2007(c) requirement concerning the annual report required to be filed by the Secretary of Labor to include those determinations made by the Secretary of Labor pursuant to section 2004 in regard to local veterans employment representatives (LVER). Currently, as codified, the Secretary is mistakenly required to report on "section 2001" determinations—an incorrect reference to chapter 41 definitions.

VETERANS COST-OF-INSTRUCTION TRANSFER AUTHORITY

Section 310

Authorizes the Administrator and the Commissioner of Education in the Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, to enter into an interagency agreement or delegation of authority, functions, duties, and powers in order to transfer the Veterans Cost-of-Instruction (VCI) program (established by section 420 of the Higher Education, Act of 1965, as amended), from the Office of Education to the Veterans' Administration. The Administrator is authorized to administer the conduct of such program; and, pursuant to such agreement or delegation of authority, any funds appropriated for the purpose of carrying out the section 420 program would be transferred from the Department of Health, Education, and Welfare to the VA for use for the purposes for which such funds are authorized and appropriated. Further, the Commissioner of Education is mandated, pursuant to any such agreement or delegation of authority, to provide to the Administrator all appropriate technical and support assistance for the purposes of facilitating the effective conduct of the VCI program.

The VCI program was established by the Education Act Amendments of 1972—Public

Law 92-318. The program is designed to provide incentives and supporting funds for colleges and universities to recruit veterans and to establish special programs and services necessary to assist veterans—especially educationally disadvantaged veterans—in readjusting to an academic setting.

The authorization for the program was extended through fiscal year 1980 and certain improvements were made by the Education Amendments of 1976, Public Law 94-482. Included as part of those amendments is a provision directing the Commissioner of Education to coordinate the activities of the VCI program with complementary and supplementary programs carried out by the VA. Similarly, the VA is required to supply information, technical consultation, and assistance to the Office of Education in order to promote the maximum effectiveness of the VCI program.

Despite the enactment of this coordination provision into law a year ago, the Committee is still not satisfied that there has been, and is, adequate, effective coordination between the Office of Education and the VA. The committee believes that there is a continuing role for the functions of the VCI program in serving the education needs of veterans; however, it further believes that there is significant room for improvement in the current program.

Thus, if the Commissioner of Education (with the approval of the Secretary of HEW) and the Administrator of the VA agree, section 310 of the Act would provide the necessary legal authority for such a transfer. The Committee notes that the program was originally placed in the Office of Education in 1972 because at that time it was felt that the VA may not have been sufficiently sensitive to and committed to meeting the education needs of veterans. However, the Committee believes that at this time the best interests of the veterans may be served by placing the responsibility for the program in the VA—the agency primarily responsible for and committed to veterans.

The Committee stresses that the transfer of the VCI program would take place under the Committee bill only in the event that an interagency agreement so detailing such a transfer is entered into between the VA and HEW. The Committee stresses that the provision does not provide that employees of the VCI program at participating institutions would become employees of the VA. Nor does anything in this authorization alter in any way the substantive nature or purpose of the VCI program.

The Committee expects the Administrator to take the initiative to determine whether such a transfer would be in the best interest of those veterans who are or may be served by the program. The unemployment problems and readjustment difficulties encountered by Vietnam-era veterans are reminders that the Federal Government must be committed to resolving the problems of those who served in that long and divisive conflict.

The Committee emphasizes that its intent is to assure that the VCI program is attached to an agency or department which views the success of such program as a high priority.

HOUSING SOLAR ENERGY AND WEATHERIZATION

Section 311

Amends chapter 37 of title 38, United States Code, to provide housing loan guaranty and direct loan assistance to eligible veterans seeking to improve their homes by the installation of solar heating and/or cooling units or the application of residential energy conservation measures.

Subsection (a) of section 311 amends section 1810, relating to loan guarantees for purchase or construction of homes, by adding a new subsection (d), as follows:

New subsection (d): Increases by $2,000—less such entitlement which may have been used previously (and not restored under section 1817)—the amount of loan guaranty entitlement available to those veterans who improve their dwelling or farm residence by either the installation of solar heating, solar heating and cooling, combined solar heating and cooling, a passive solar system, or the application of a residential energy conservation measure.

The new subsection defines "a residential energy conservation measure" as caulking and weather-stripping of all exterior doors and windows; furnace efficiency modifications limited to replacement burners, boilers, or furnaces which devices are designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency, devices for modifying flue openings which will increase the efficiency of the heating system, and electrical or mechanical furnace ignition systems which replace standing gas pilot lights; clock thermostats; ceiling, attic, wall, and floor insulation; water heater insulation; storm windows and doors; and such other measures as the Administrator may by regulation identify for purposes of this provision. As used in this section, the definition of residential energy conservation measures is drawn from the definition of residential energy conservation in the Administration's National Energy Act as it passed the Senate on September 13, 1977, as section 202(13) of H.R. 5037 as amended (with the sole exception of the inclusion in the definition of "storm doors"; currently, the Energy Tax Act of 1977, H.R. 8444, as it passed the House of Representatives, includes storm doors as an "other energy-conserving component".) Although this comprehensive energy legislation is still pending before Congress and is still subject to revision, the Committee seeks, at the very least, to promote consistency in Federal energy programs by making the weatherization and winterization definitions—residential energy conservation measures—in the veterans' housing program comparable to the measures adopted for other Federal energy programs.

Solar heating, solar heating and cooling, and combined solar heating and cooling are defined as defined in paragraphs (1) and (2) of section 3 of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502). Therein those terms are defined as follows:

"The term 'solar heating,' with respect to any building, means the use of solar energy to meet such portion of the total heating needs of such building (including hot water), or such portion of the needs of such building for hot water (where its remaining heating needs are met by other methods), as may be required under performance criteria prescribed by the Secretary of Housing and Urban Development utilizing the services of the Director of the National Bureau of Standards, and in consultation with the Director of the National Science Foundation, and the Administrator of the National Aeronautics and Space Administration; and the terms 'solar heating and cooling' and 'combined solar heating and cooling', with respect to any building, means the use of solar energy to provide both such portion of the total heating needs of such building (including hot water) and such portion of the total cooling needs of such building, or such portion of the needs of such building for hot water (where its remaining heating needs are met by other methods) and such portion of the total cooling needs of a building, as may be required under performance criteria prescribed by the Secretary of Housing and Urban Development utilizing the services of the Director of the National Bureau of Standards, and in consultation with the Director of the National Science Foundation, and the Administrator of the National Aeronautics and Space Administration, and such term includes cooling by means of nocturnal heat radiation, by evaporation, or by other methods of meeting peakload energy requirements at non-peakload times;"

The terms "solar heating," "solar heating and cooling" and "combined solar heating and cooling" also include a passive system based on conductive, convective, or radiant energy transfer; the term "passive system" includes, but is not limited to, window and skylight glazing, thermal floors, walls and roofs, movable insulation panels (in conjunction with glazing), portions of a residential structure which serve as solar furnaces so as to add heat to residences, double pane window insulation, or other components designed to enhance the natural transfer of energy for the purpose of heating or heating and cooling a residence as determined by the Administrator.

The Committee firmly believes that the amendments made by these two provisions will assist the VA in providing financial assistance to those veterans desiring to make weatherization or solar energy improvements. Currently, residential energy use accounts for approximately 20 percent of the total energy consumed in the United States each year. Of this amount, 70 percent goes toward heating and cooling our living space, and heating our water. Residential energy needs, taken together with commercial energy requirements, consume fully one-third of the Nation's energy budget.

In December of 1972, a panel of experts organized jointly by the National Science Foundation (NSF) and the National Aeronautical and Space Administration (NASA) issued a report assessing the potential of solar energy as a national energy resource. The panel concluded that from both a technical and economic standpoint, solar energy holds great promise for purposes of heating and cooling buildings. In general, the panel found that there were no technical barriers to using solar energy to help meet the energy needs of our nation. Although the cost of converting to solar energy is, at present, higher than the cost of conventional sources of energy, the rapid escalation of prices for these conventional fuels will soon make solar energy economically competitive. Based on these findings, the panel recommended that the Federal Government take the lead and establish a research and development program for the practical and widespread use of solar energy.

Subsequently, in September of 1974, Congress enacted Public Law 93-409, the Solar Heating and Cooling Demonstration Act, authored in the Senate by Senator Alan Cranston. This law authorized the appropriation of $60 million over 5 years to demonstrate the commercial feasibility of solar heating and cooling technology. The Department of Housing and Urban Development and NASA are jointly responsible for administering this program. This demonstration program has helped make solar heating and cooling systems more readily available on the commercial market.

The House Committee on Banking, Finance and Urban Affairs, in its July 11, 1977, report to accompany the National Weatherization Act (H.R. 7893), stated that oil and gas—which currently represent more than 75 percent of the energy consumed by the United States—account for less than 8 percent of our fuel reserves. It is estimated that at current production levels, we will exhaust our domestic reserves by the year 2020. However, it has been estimated that if solar heating and cooling systems were built into all new homes and lowrise commercial buildings between now and the year 2000, solar energy could meet 4.5 percent of our total energy needs. By the year 2020, solar energy could account for as much as 8 percent of our nation's energy consumption. These figures represent significant savings to our economy which is already straining to absorb inflated energy costs, and conservation

of critical, more scarce alternative sources of energy.

The residential energy conservation goals set forth by the President would require that 90 percent of all homes, approximately 46.4 million, be weatherized and that a minimum of 2.5 million homes be fitted with solar energy equipment in the next 8 years. As initially outlined in H.R. 6831, the Administration's proposed "National Energy Act", the strategy for weatherizing homes and converting homes to solar energy included tax credits, regulatory changes, and provisions for making the required financing available. The Committee believes that those housing programs—such as the VA home loan program—can play an integral role in this regard by providing for interested veterans a source of capital to make the necessary changes. The Committee believes that subsections (a) and (b) of section 311 are fully consistent with and help effectuate the Administration's purpose in this regard.

During fiscal year 1976, the VA approved a total of 324,968 veterans for guaranteed GI home loans, a guaranty total of approximately $9.9 billion. This total represented an increase in the number of veterans served of 12.8 percent over the 288,163 veterans assisted in fiscal year 1975. During the transition quarter, 80,744 guaranteed home loans were approved for $2.6 billion. To date in fiscal year 1977, 267,136 loans have been approved for $9.1 billion and estimates for fiscal year 1978 are 360,100 loans worth $12.5 billion. These totals include refinancing, condominium, and alteration and repair loans, as well as loans for the purchase of a single family dwelling. The righ rate of participation in the VA housing program has been spurred by a series of legislative changes since 1970 that expanded eligibility requirements. For example, the Veterans Housing Act of 1970 (Public Law 91–506) removed the delimiting date on eligibility for VA home loans and made loans available for mobile homes; and the Veterans Housing Act of 1974 (Public Law 93–569) made it possible for veterans who previously obtained a loan to regain entitlement if the veteran has disposed of the property and the loan has been repaid in full. Thus, loans guaranteeed for veterans using restored entitlement rose from 7,213 in fiscal years 1975 to 16,832 in fiscal year 1976, and to 20,204 in the first three quarters of fiscal year 1977. The amendment made by the Committee bill to the guaranty loan program should likewise contribute to a greater utilization of the VA program.

The rate of veteran participation in the VA home loan program is substantial and continues to increase. The Committee believes, therefore, that this program should be amended to provide an incentive to actual and prospective veteran homeowners for undertaking home (dwelling or farm residence) solar energy, weatherization, and energy conservation programs.

Subsection (b) of section 311 amends section 1811(d)(2), relating to direct loans, to increase by $3,800 the amount of direct loan—reduced by the amount of direct loan which may have been used previously (and not restored under section 1817 of this title)—for which a veteran in a "housing credit shortage area" is eligible provided that such additional amount of entitlement is used by such veteran solely to improve the veteran's dwelling or farm residence by either the installation of solar heating, solar heating and cooling, combined solar heating and cooling, a passive solar system, or the application of a residential energy conservation measure.

The growth in participation in the VA guaranty loan program has not been duplicated in the VA's direct loan program, however. The purpose of the direct loan program is to extend credit to veterans for the purchase, construction, repair and alteration of homes and farm houses in rural areas, small cities, and towns where private credit is not generally available for guaranteed loans. In such instances, the VA may designate the area as a "housing credit shortage area". The veteran may then apply directly to the VA for a loan. The terms of the direct loans are the same as the terms would be were the veteran receiving a guaranteed loan.

Approximately 2,400 out of 3,000 counties, cities, and political subdivisions—or about 80 percent of the geographic area of this country—qualify as "housing credit shortage areas". About 19.5 percent of our veteran population reside in these areas. It has been estimated that there are approximately 5.4 million veterans who, by virtue of their location and present economic status, could qualify for the direct loan program. However, only 327,874 direct loans in the amount of $3.3 billion have been approved since this program's inception in 1950 (Public Law 84–475). In fiscal year 1970, some 8,500 veterans were aided by direct loans valued at over $144 million. By contrast, in fiscal year 1975, only 2,782 direct home loans were made, totaling $54.1 million. The number has declined further since then. In the first three quarters of fiscal year 1977, only 1,972 loans valued at $45.4 million have been made.

The Committee believes that Congressional intent with respect to the implementation of the direct loan program has been thwarted by unnecessary red tape and long delays which discourage eligible veterans from applying. In light of our troubled economy and the difficulty experienced by many veterans in securing adequate housing, we urge that the program be made more flexible and that the VA encourage greater participation. By amending section 1811(d)(2), to increase direct loans by $3,800 for purposes of installing solar energy devices or applying a residential energy conservation measure, the Committee reaffirms its commitment to the direct loan program, as well as to energy conservation.

The Committee expects the VA to inform all veterans, as part of its normal outreach efforts, of the housing benefits available as a result of these amendments. The Committee plans to monitor closely the VA's implementation of these provisions in order to assure that the programs operate in the manner intended.

VA Energy Conservation Impact

The Committee believes that the Veterans' Administration should examine each program it administers in order to ascertain whether the implementing policies and regulations reflect the national goal of conserving energy. The Committee directs the agency to submit to the Committee by February 1, 1978, a report on this examination. In this regard, the Committee observes that the section 1780(a) provision for continuing the payment of allowances to eligible veterans and eligible persons enrolled in courses "during periods when the schools are temporarily closed under an established policy based upon an executive order of the President or due to an emergency situation" would appear an ideal area for review and development of policies fully consistent with the national goal of reducing energy consumption. Specifically, the Committee believes that the VA should continue payments to involved veterans and eligible persons during periods when a school is temporarily closed when the school has made a strong showing of a clear likelihood that such closing would avert an emergency due to shortages or would result in substantial reductions in the amount of energy consumed by the school while not adversely affecting the quality of the training provided.

TITLE IV—EFFECTIVE DATES

Title IV of the Committee bill provides, generally, that provisions of the GI Bill Improvement Act of 1977 shall become effective on the first day of the first month beginning 60 days after the date of enactment, except as follows: The provisions of title I, relating to cost-of-living increases in the amounts of educational assistance allowances, and subsections (A) and (B) of section 304(2), relating to increases in the amounts of reporting fees, would be effective retroactively to October 1, 1977. The provisions of sections 201 and 202, relating to the accelerated payment and special education loan eligibility in connection with the accelerated payment, would become effective on January 1, 1978. Section 203, relating to the extension of the delimiting period when a veteran was prevented from initiating or completing a program of education within such time period due to a physical or mental disability not the result of his or her own willful misconduct, would be effective retroactively to May 31, 1976. The provisions of the following sections would be effective upon enactment: 301, relating to citation of authority; 302(2), relating to the elimination of the PREP report; 304(2)(c), relating to daily attendance records; 304(3), relating to the maintenance of daily attendance records by institutions of higher learning for any course leading to a standard college degree; 305(a)(2), relating to the waiver of the 85–15 rule when the enrollment of veterans is equal to or less than the total campus enrollment of veterans and the waiver of the 85–15 rule for residential courses located outside the United States; 305(a)(3), relating to the report by the Administrator on the need for including in the 85–15 computation the number of those students in receipt of Federal grants and prescribing an adequate system for making such computations; 305(b), relating to the report by the Administrator in regard to specific methods of improving the process by which postsecondary educational institutions and courses at such institutions are and continue to be approved, the suspension in certain instances of the satisfactory progress provisions contained in sections 206 and 307 of Public Law 94–502, and other matters; 305(c), relating to the Administrator's authority to provide equitable relief to certain institutions affected by section 701 of Public Law 94–502; 305(d), relating to the requirement that the section 1792 Advisory Committee meet at least semi-annually; 306, relating to the requirement that the Administrator provide certain procedural protections to veterans whose educational benefits are to be suspended or terminated; 307, relating to the study on the chapter 31 vocational rehabilitation program; 308, relating to the study on veterans readjustment appointments; 309, relating to certain technical amendments; and 310, relating to the authority of the Department of Health, Education, and Welfare to transfer or delegate to the Veterans' Administration the functions, powers, and duties under the VCI program.

RECORD OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, announcement is made that the Members of the Committee on Veterans' Affairs, on July 22, 1977, unanimously voted in favor of a motion to report S. 457, as amended favorably to the Senate.

Prior to that vote a motion offered by Senator Thurmond to delete section 203 of S. 457, as amended, relating to the extension, in certain instances, of the delimiting period was agreed to by 5–4 vote as follows:

YEAS—5

Herman E. Talmadge.
Jennings Randolph.
Robert T. Stafford.
Strom Thurmond.
Clifford P. Hansen.

NAYS—4

Alan Cranston.
Richard (Dick) Stone.
John A. Durkin.
Spark M. Matsunaga.

Mr. CRANSTON. Mr. President, I wish to stress again that the Committee on Veterans' Affairs has, in a continuing bipartisan spirit of cooperation, reported S. 457 unanimously.

I think that the committee bill is good legislation with much needed improvements and is worthy of support of all our colleagues.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. STAFFORD. Mr. President, I yield myself such time as I may consume.

The ACTING PRESIDENT pro tempore. The Senator from Vermont is recognized.

Mr. CRANSTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. STAFFORD. I yield.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Doug Racine, of Senator LEAHY's staff, be accorded the privilege of the floor throughout consideration of this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I ask unanimous consent that Bob Boyd, of the Budget Committee staff, be accorded the privilege of the floor during consideration and votes on this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that Ned Massee, of my staff, be accorded the privilege of the floor during debate and votes on this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Vermont.

Mr. STAFFORD. Mr. President; we of the Veterans' Affairs Committee bring to you an improved GI bill providing a program of educational assistance for veterans. This improved GI bill deserves the support of all Members of this body. All members of our committee joined in sponsoring and supporting the bill. By supporting this bill we not only will be of assistance to veterans, but we will be contributing to our investment in America.

One of the best programs we have had in Government has been the program for the education and rehabilitation of millions of veterans in their readjustment to civilian life. In the 33 years of what has been known as the GI bill, 2 GI bills have helped about 17 million veterans and other eligible persons.

The current GI bill was enacted March 3, 1966, and was established by Congress as shown in the act creating it "for the purpose of: First, enhancing and making more attractive service in the Armed Forces of the United States; and second, extending the benefits of a higher education to qualified and deserving young persons who might not otherwise be able to afford such an education; third, providing vocational readjustment and restoring lost educational opportunities to those service men and women whose careers have been interrupted or impeded by reason of active duty after January 31, 1955; and fourth, aiding such persons in attaining the vocational and educational status which they might normally have aspired to and obtained had they not served their country."

We continue to read and to hear that the GI bill is not providing adequate assistance to the Vietnam-era veteran and that the GI bill rates do not compare favorably with the assistance provided veterans of previous wars. This is not a valid criticism. I am not saying that the educational assistance provided to our veterans by a grateful nation is sufficient, but the United States has been providing a good program and the bill before us is to improve and make it better.

It should be pointed out that it has been the intent of Congress to meet in part the expense of tuition, fees, books, supplies, and subsistence. There are, of course, other education related costs, and there are also other sources available to Vietnam veterans not available to veterans of World War II. Some of these are educational assistance to veterans and other students through the Department of Health, Education, and Welfare with such programs as basic opportunity grants, supplemental educational opportunity grants, college work-study programs, the National Direct Student Loan program and the Guaranteed Student Loan Program, and others.

It should be pointed out that to date, total expenditures on behalf of veterans enrolled in training under the three GI bill programs amounts to more than $40 billion. For fiscal year 1977 the cost of GI bill educational assistance is estimated to be $4.3 billion.

During fiscal year 1976, almost 3 million veterans, service personnel, and dependents received training under the GI bill. Overall, 54 percent of the veteran students polled in a 1976 GAO study indicated they would not have undertaken training without the GI bill assistance. It is a matter of common knowledge that the program has assisted and continues to provide assistance in obtaining an education to most of those who have served their country. It is significant that Vietnam-era veterans have participated in the VA educational assistance program at a rate of over 64 percent, and this rate of participation is higher than for the World War II GI bill and the Korean conflict GI bill.

S. 457 proposes to increase the education and training rates for veterans and their dependents in the amount of approximately 6.6 percent for all education and training programs handled by the Veterans' Administration—the current estimate of the increase in the cost-of-living between October 1, 1976, the effective date of the last GI bill increase, and October 1, 1977, the effective date of the increase provided in this bill.

S. 457 would increase from $292 per month to $311 per month the amount a veteran without dependents would receive in institutional training on a full-time basis. Benefits for a veteran with one dependent would be increased from $347 to $370 per month. The rate for a veteran with two dependents would be increased from $396 to $422 per month.

S. 457 would establish a program of accelerated educational assistance payments making it possible for certain veterans and eligible persons attending a higher cost program of education to receive a greater amount of monthly GI bill educational assistance.

The committee believes that an accelerated program designed to provide additional GI bill assistance is needed to aid those veterans without access to low-cost educational institutions and those veterans enrolled in or desirous of enrolling in a high-cost program of education. The committee determined that the most equitable method of providing such assistance is the accelerated benefit program. All veterans would continue to be treated similarly with the Federal Government providing equal benefits for equal service to the Nation. The committee anticipates that under an accelerated benefit program more veterans, particularly unemployed and underemployed veterans, should be better able to take advantage of the GI bill program.

In connection with the accelerated program, this bill would establish a special loan program whereby the veteran would be able to receive his money in the form of a loan "out front" at a time when the veteran usually needs the assistance most. In other words, the education loan program is to help eligible veterans participating in the accelerated benefits program in meeting their expenses pending the payment of the accelerated benefits.

The bill would extend the period of time a veteran has to utilize his or her GI bill benefits when the veteran has a mental or physical disability or impairment, not the result of his own misconduct, which the Administrator finds prevented the veteran from initiating or completing a course of study.

The bill seeks to deal with a number of complaints and criticisms from educators and educational institutions and others concerned with the education of veterans.

Title III of S. 457 contains the following education and training amendments:

First. Requires Administrator, in promulgation of any rule, regulation, guideline or any amendment thereto, to provide a citation to the particular section of statutory law upon which it is based; second, provides eligible veterans with more extensive VA educational counseling services, and requires the Administrator to carry out outreach programs to acquaint all eligible veterans with availability and advantages of such counseling; third, eliminates requirement that DOD file with Congress progress reports on the implementation of the predis-

charge education program (PREP); fourth, increases by 10 percent amount of money State approving agencies are reimbursed for expenses incurred in approving educational institutions for purposes of GI bill enrollment; fifth, requires State approving agencies to report annually to Administrator on their activities, approvals and disapprovals during preceding year; sixth, authorizes approval by Administrator of a combined correspondence-residence course not meeting the requirement that the correspondence portion normally take at least 6 months to complete, if Administrator finds there is a reasonable relationship between the charge for each segment of the course and the total charge for the course; seventh, requires Administrator to include, as part of the veterans' application form for advance pay, a notice of the period of time between date of advance payment and the scheduled date of the first monthly benefit payment for which the veteran is applying; eighth, requires Administrator to include with the advance payment a notice to veteran, of the period of time between the date of the advance payment and the scheduled date of the first monthly payment of education assistance allowance for which the veteran is applying; ninth, increases the amount of reporting fees paid to reimburse educational institutions for costs incurred in filing with the VA required reports on veterans and eligible persons enrolled in such institutions; tenth, requires payment of $5 to educational institutions for each full-time veteran or eligible person enrolled who satisfactorily completes the school term, eleventh, prohibits Administrator from attempting to collect any administratively determined institutional liability for overpayments, by offsetting the amount of reporting fees to which an institution may be entitled;

Twelfth, specifies that under no circumstances shall section 1785 of title 38, U.S. Code—pertaining to institutional liability for veteran overpayments—or any other provision of that title, be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree; thirteenth, reduces number of clock hours which an accredited institutional trade or technical course must offer to assure that the veterans enrolled therein are eligible for full-time GI bill benefits; fourteenth, limits to 5 the number of hours of supervised study which nonaccredited institutional trade or technical courses are allowed to count in determining compliance with the required clock hours provisions; fifteenth, exempts course with vocational objectives from application of the 2-year rule where Administrator determines (a) that institution offering the courses has been in existence for 2 years or more and has demonstrated its effectiveness in achieving the completion of its courses by its students and the employment of persons who have been its students in jobs for which they were trained, and (b) after consultation with the Labor Secretary, that there is a clear need to train persons for employment in such vocational objective in terms of national priorities; sixteenth, authorizes Administrator to waive the 2-year rule in instances invloving branch campuses where Administrator determines that it would be in the interest of the eligible veteran and the Federal Government; seventeenth, exempts any institution with an enrollment of veterans which comprises 35 percent or less of the total student enrollment from the requirement of course-by-course computation of the "85–15" rule, except that where the Administrator has cause to believe that the GI bill enrollment in particular courses exceeds 85 percent of the total course enrollment, he can require computation for the particular course and enforce the "85–15" rule—the so-called 85–15 rule, in section 1673(d) of title 38 provides that Administrator shall not approve enrollment of any eligible veterans, not already enrolled, in any course for any period during which he finds that more than 85 percent of the students are having all or part of their tuition paid by the educational institution, the VA, and/or by grants from any Federal agency, except that the Administrator may waive that requirement, if it is in the interest of the eligible veteran and the Federal Government; eighteenth, makes the "85–15" rule inapplicable to overseas residential courses; nineteenth, requires Administrator, in consultation with Education Commissioner, to conduct a study, and submit to Congress by August 1, 1978, a report examining the need for including in the 85–15 computation those students in receipt of grants from any Federal department or agencies and the problems of such institutions including such a computation of those students with Federal grants from agencies other than the VA;

Twentieth, makes inapplicable, until 6 months after the filing of the report, the provisions in the "85–15" rule requiring inclusion of the number of students in receipt of Federal grants when determining compliance by educational institutions with the "85–15" rule; twenty-first, mandates the Administrator, in consultation with other agencies, to study methods of improving the process by which education institutions and continue to be approved for the GI bill, and requires that the study include the need for legislative and administration action; twenty-second, suspends, during the study, implementation of satisfactory progress amendments for any accredited institutions submitting catalogs to the Administrator which are in compliance with the law; twenty-third, requires Administrator to bring to the attention of proper accrediting bodies any course catalogs or bulletins which he believes may not be in compliance with the standards of the accrediting or licensing body; twenty-fourth, requires Administrator to transfer from funds appropriated for the readjustment benefits account such sums as are necessary—but not more than $500,000—for the conduct of the study on improving the process for approving institutions for GI bill; twenty-fifth, provides Administrator with authority to provide relief to institutions suffering undue hardship; twenty-sixth, provides that any action to terminate GI bill assistance must be based upon clear evidence in the possession of the Administrator that the veteran was not eligible for assistance, require Administrator to give written notice of suspension or termination of assistance, and require Administrator to give written notice to veteran that he is entitled to a statement of the reasons for termination or suspension and an opportunity to be heard; twenty-seventh, directs Administrator to report to Congress by March 1, 1978, on recommendations for the veterans vocational rehabilitation program; and twenty-eighth, entitles eligible veterans to an additional $1,000 of home loan guarantee—and $1,900 in direct loans: to install in their homes solar heating and/or cooling, to improve their homes with residential energy conservation measures.

Mr. President, I submit that this GI bill is fair and equitable and will provide additional assistance to Vietnam veterans and their dependents. The Congressional Budget Office estimates that the 5-year cost resulting from the enactment of the committe bill would be $827 million in fiscal year 1978; $921 million in fiscal year 1979; $725 million in fiscal year 1980; $532 million in fiscal year 1981; and $383 million in fiscal year 1982.

Mr. President, before I yield to my colleagues, I express the satisfaction I have personally derived from working with the distinguished chairman of our committee, Senator ALAN CRANSTON of California, and my colleagues on both sides of the aisle, and my additional appreciation to members of the committee staff on both sides of the aisle who, in my opinion, have done an outstanding job of preparing the material and the legislation for the committee.

So I yield the floor saying that it has been a great pleasure to work with my distinguished friend from California, ALAN CRANSTON.

Mr. CRANSTON. First, Mr. President, I thank my colleague very much for his generous remarks and for his wonderful cooperation.

Mr. RANDOLPH. Mr. President, we are considering legislation which would revise and improve the GI bill which is the largest single Federal program providing postsecondary education.

S. 457, the GI Bill Improvements Act of 1977, was unanimously reported from the Veterans' Affairs Committee in July.

One of the main provisions for the measure would increase the amount of education assistance allowance available to the veteran by 6.6 percent. Since 1970 the GI bill benefits have been increased 92 percent. This sounds like a substantial amount but the increased benefits in the past 7 years have not assured that the increases would keep pace with the rate of inflation. The Congressional Budget Office estimates that the increase in the cost of living between October 1, 1977, and October 1, 1978, will be 6.6 percent.

It should be noted that with each increase in educational assistance rates, participation in the program has increased. To date, Vietnam era veterans have participated in the program at a rate of 64.3 percent.

In West Virginia the increased rates of participation between the World War II program and the current Vietnam era bill is 19.5 percent. The post Korean conflict and Vietnam era law was amended in 1967, 1970, 1972, 1974, and 1976 and to date has assisted 6.75 million veterans and nearly 254,000 survivors and dependents. Recognizing the need to assist those veterans bearing a heavier burden of expense in obtaining an education the committee unanimously supports the accelerated payment provision.

It is felt that we must help those veterans without access to low-cost educational institutions and those veterans enrolled in or wanting to enroll in a high cost program of education. Under this accelerated provision all veterans would continue to be treated fairly. Each veteran would continue to receive a maximum of 45 months of educational assistance. This provision will help those having tuition and fees costs exceeding $1,000 per school term.

I am aware that there are proposals that would help assist those attending medium-cost institutions. This would necessitate the expenditure of far more dollars than are currently available to the committee under the second concurrent resolution on the budget for fiscal 1978.

I commend Chairman ALAN CRANSTON and the ranking minority members, Senator STAFFORD and Senator THURMOND, and Senator DURKIN for their diligent dedication to furthering the benefits of the GI bill by their cooperation in the development of this measure. Our thanks also to the Veterans' Affairs staff members, Jonathan Steinberg and Jack Wickes.

UP AMENDMENT NO. 953

(Purpose: To provide for an increase in the amount of work-study allowance and to make a technical modification to insure that statutory language meets appropriations and budgetary requirements, to assure proper delivery of loans made in connection with accelerated benefits in accordance with section 1780(d) of title 38, and for other reasons.)

Mr. CRANSTON. I send to the desk for consideration an unprinted amendment which I propose on behalf of the committee.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposed unprinted amendment numbered 953, for himself, Mr. TALMADGE, Mr. RANDOLPH, Mr. STONE, Mr. DURKIN, Mr. MATSUNAGA, Mr. STAFFORD, Mr. THURMOND, Mr. HANSEN, and Mr. STEVENS.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 6, between lines 16 and 17, insert the following:

VETERAN-STUDENT SERVICES

SEC. 105. Subsection (a) of section 1685 of title 38, United States Code, is amended by

(1) striking out in the second sentence "in the amount of $625" and inserting in lieu thereof "in an amount equal to either the amount of the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 times two hundred and fifty or $625, whichever is the higher,"; and

(2) striking out the third and fourth sentences and inserting in lieu thereof the following: "An agreement may be entered into for the performance of services for periods of less than two hundred and fifty hours. The amount of the work-study allowance to be paid under any such agreement shall be determined by multiplying the number of hours of work performed by the veteran-student under such agreement times either the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 during the period the work is to be performed or $250, whichever is the higher. A veteran-student shall be paid in advance an amount equal to 40 per centum of the total amount of the work-study allowance agreed to be paid under the agreement in return for the veteran-student's agreement to perform the number of hours of work specified in the agreement.".

On page 14, line 3, strike out "payment.'." and insert in lieu thereof "payment.", and between lines 2 and 3, insert the following:

"(5) Payment of a loan made under this subsection shall be drawn in favor of the eligible veteran and mailed promptly to the educational institution in which such veteran is enrolled. Such institution shall deliver such payment to the eligible veteran as soon as practicable after receipt thereof. Upon delivery of such payment to the eligible veteran, such educational institution shall promptly submit to the Administrator a certification, on such form as the Administrator shall prescribe, of such delivery, and such delivery shall be deemed to be an advance payment under section 1780(d)(5) of this title for purposes of section 1784(b) of this title.".

On page 22, line 1, strike out "institutions" and insert in lieu thereof "institution".

On page 24, line 3, strike out "to".

On page 24, line 4, strike out "The" and insert in lieu thereof "In accordance with applicable law and procedure, the", and strike out "transfer" and insert in lieu thereof "make available"; and on line 5, strike out "for the readjustment benefits account of" and insert in lieu thereof "to".

On page 22, lines 10 and 11, strike out "located outside the United States" and insert in lieu thereof "not located in a State"; on page 25, line 10, strike out "outside the United States" and insert in lieu thereof "at a location not in a State"; and on page 25, line 11, strike out "the continental United States" and insert in lieu thereof "a State".

On page 29, line 9, strike out "administer" and insert in lieu thereof "administer".

On page 32, line 23, strike out "304(3)" the first time it appears.

Mr. CRANSTON. This amendment would, first, add a new section 105 to S. 457, to amend section 1685 of title 38, United States Code, veteran-student services, to increase the amount of the work-study allowance provided by that section. The amendment would reflect the imminent changes expected in section 6(a) of the Fair Labor Standards Act of 1938 as a result of the conference report on H.R. 3744 approved this morning. It would provide that the amount of the hourly GI bill work-study allowance would be raised from $2.50 per hour to the amount now approved by both Houses of Congress in H.R. 3744—$2.65 an hour, effective January 1, 1978, and would be tied to future increases in the federally required minimum hourly wage. Thus, the amount of the section 1685 work-study allowance would be no less than the minimum wage, and when such wage is increased, the work-study allowance would be correspondingly increased. This is especially important since the minimum wage measures approved by the House and the Senate would increase the levels by increments over a period of time. As a result of the agreement reached in conference, the amount of hourly minimum wage will increase effective January 1, 1978, to $2.65 per hour; on January 1, 1979, to $2.90 per hour; on January 1, 1980, to $3.10 per hour; and on January 1, 1981, to $3.35 per hour.

Enactment of this provision would result in a fiscal year 1978 cost of approximately $800,000. Estimated fiscal year 1979 costs are $2 million; 1980, $2.5 million; 1981, $2.6 million; and 1982, $2 million.

Mr. President, the amendment would also make a clarifying change in the acceleration provisions in section 201 of the bill, on page 14, to provide that the loan payment for accelerated benefits will be mailed to the school in the same way as for advance payments under present law; and technical corrections in the bill, one, on page 24, to assure that the funding of the major VA study of the postsecondary course approval process is obtained in a way consistent with applicable budgetary and appropriations requirements; another, on pages 25 and 26, to correct a technical mistake in references to "United States"; and other changes to correct misprints.

I know of no opposition to the committee amendment, and I suggest we proceed to it at once.

The ACTING PRESIDENT pro tempore. Does the Senator yield back his time?

Mr. CRANSTON. Yes, I yield back my time on this side.

Mr. STAFFORD. I yield back the time on the minority side.

The ACTING PRESIDENT pro tempore. All time being yielded back, the question is on agreeing to amendment No. 953.

The amendment was agreed to.

AMENDMENT NO. 1433

(Purpose: To extend, in certain instances, the eligibility period—or delimiting period—for veterans enrolled in training under the GI bill.)

Mr. DURKIN. Mr. President, I call up my amendment No. 1433 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN), for himself and others, proposes an amendment numbered 1433.

Mr. DURKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 14, insert "(a)" after "SEC. 203.", and between lines 16 and 17, insert the following new subsection:

"(b) Section 1662 of title 38, United States Code, is amended by inserting '(1)' after '(a)' and inserting at the end of such section the following new paragraph:

"'(2)(A) Notwithstanding the provisions of paragraph (1), any veteran shall be permitted to use any of such veteran's unused educational entitlement under this chapter after the delimiting date otherwise applicable to such veteran, as provided in paragraph (1), if such veteran was pursuing an approved program of education at the time of the expiration of such veteran's eligibility and such veteran was—

"'(i) enrolled on a full-time basis, or

"'(ii) on a part-time basis if such veteran was (aa) employed in a public safety occupation, (bb) receiving educational benefits, a loan, or compensation under any program provided for in the Omnibus Crime Control and Safe Streets Act of 1968, and (cc) enrolled under this chapter on not less than a half-time basis in a program of education appropriately related to such veteran's public safety occupation.

"'(B) Notwithstanding any other provision of this chapter or chapter 36 of this title, any veteran whose delimiting period is extended under this paragraph—

"'(i) may continue to use any unused entitlement under this paragraph as long as the veteran continues to be enrolled on a full-time basis (or on a part-time basis, but in no event less than a half-time basis, if such veteran was a part-time student at the time of expiration of such veteran's eligibility and was permitted to continue using such veteran's unused entitlement under the provisions of clause (ii) of subparagraph (A) of this paragraph) in pursuit of the approved program of education in which such veteran was enrolled at the time of expiration of such veteran's eligibility until such entitlement is exhausted, until the expiration of two years, or until such veteran has completed the approved program of education in which such veteran was enrolled at the end of the delimiting period referred to in paragraph (1), whichever occurs first;

"'(ii) shall be entitled in the eleventh year of eligibility to an educational assistance allowance equal to one-half the amount of educational assistance allowance authorized for an eligible veteran whose delimiting period has not expired or been extended by this paragraph; and

"'(iii) shall be entitled in the twelfth year of eligibility to an educational assistance equal to one-third the amount of educational assistance allowance authorized for an eligible veteran whose delimiting period has not expired or been extended by this paragraph.'.

"(b) Section 1712 is amended by redesignating subsection (f) as (g) and inserting after subsection (e) the following new subsection:

"'(f) Any eligible person shall be entitled to an additional period of eligibility beyond the maximum period provided for in this section pursuant to the same terms and conditions set forth with respect to an eligible veteran in section 1662(a)(2) except that the tenth year of eligibility for purposes of this subsection for such person shall be the last year of such person's period of eligibility and the eleventh and twelfth years shall be the first and second years, respectively, following such last year.'".

Mr. STAFFORD. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. DURKIN. I yield.

Mr. STAFFORD. Mr. President, I ask unanimous consent that Jack Andrews, Mike Shorr, Shelley Edelman, and David Morse of Senator JAVITS' staff, and George Kuhn of Senator MOYNIHAN's staff have the privilege of the floor during the consideration of the pending business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, for many people of this Nation and throughout the world the war of Vietnam is but a memory of the past, relegated to its place in history. But for those young veterans who actually fought in battles in the jungles and marshes of Southeast Asia and returned home only to face the critics of the war, the tragedy of Vietnam remains a present reality. The latest labor statistics indicate that the unemployment rate for Vietnam era veterans, ages 20 to 24, is a staggering 18.1 percent, whereas the rate for nonveterans of the same age is 8.9 percent. We must not forget our debt to these veterans who were forced to fight an unpopular war in Indochina and again at home. Americans of every political persuasion, conservative, and liberal alike, agree that perhaps the deepest tragedy of the war remains our unfulfilled promise to the Vietnam era veteran.

Mr. President, this legislation and the amendment we now offer will go far to fulfilling the promise we have made to the Vietnam veterans. The GI education bill has been, perhaps, the single most successful Federal program in the history of this Nation. On May 31, 1976, however, 483,000 veterans lost their GI education benefits while in the middle of education and training as a result of the expiration of their delimiting period. Of those, over 300,000 were full-time students, many of whom are now unable to complete their education. In order to allow these students to complete the educational programs that they have begun, I am proud to offer this amendment along with the distinguished chairman of the Senate Veteran's Affairs Committee, Senator CRANSTON, my distinguished colleagues on that committee, Senators STONE and MATSUNAGA, and my distinguished colleagues Senator EASTLAND, CANNON, MCINTYRE, CLARK, ALLEN, WILLIAMS, ABOUREZK, HATHAWAY, FORD, RIEGLE, INOUYE, HART, HUDDLESTON, and HASKELL which will extend the delimiting date in limited circumstances.

My amendment which passed the Senate in the 95th Congress and the legislation I introduced earlier this year, provided for a full 3-year extension of the delimiting period. Although I would prefer that provision, this amendment is drafted with an awareness of the budgetary and fiscal limitations under which our committee must operate. This body must be fully cognizant of these budgetary constraints, if the Veteran's Affairs Committee will be able to bring to the floor during this Congress, a meaningful pension reform bill which concerns all of us.

The amendment we are introducing, will extend the delimiting date for 2 years only for those veterans who were full-time students at the time their benefits expired, and who will continue in a full-time education program. Benefits will be provided at a rate of 50 percent in the first year of the extension and 33 percent in the second year. The only exception to the full-time requirement is where the veteran is employed in a public safety occupation and is a part-time student in an LEAA education program. We stress that this is not a blanket 2-year extension of the delimiting date, but rather is designed to allow those who were full-time students to finish their education, those who would otherwise be unable to do so as a result of the expiration of their benefits. This amendment is much more limited than the provision extending the delimiting date which passed the Senate, but died in the House, last session.

In 1966, 6 million post-Korean veterans who had been discharged between 1955 and 1966 were granted educational benefits retroactively. Originally, this post-Korean group had 8 years to use their benefits. But during most of those years, benefits were so ridiculously low that participation was nearly impossible for most veterans. In 1972, Congress increased benefits by 12 percent, and in 1974 again by 23 percent. Participation increased 12 and 23 percent respectively. But because so many years had been lost, because of inadequate benefits, the delimiting period was extended to 10 years for this group and for all future veterans.

A failure to extend the delimiting date for full-time students so as to allow the veteran to complete his or her educational program will defeat the very aim of the GI education bill as a readjustment device. There can be nothing more frustrating to a veteran who is working seriously in an educational program with the hope of return to the mainstream of American society than to lose his benefits and be unable to finish that training. A limited extension of the delimiting date will be good for the serious veteran full-time student, good for our depressed economy, good for the educational community, and good for the Government. A limited 2-year extension of the delimiting period for full-time students simply makes good on an initial investment of Government funds, and of the time and energies of serious veteran students.

This provision is supported by the National Association of Concerned Veterans, the American Council on Education, the American Association of State Colleges and Universities, the American Association of Community and Junior Colleges, and the National League of Cities.

I hope that all of my colleagues in this distinguished body will join us in an attempt to fulfill our promise to the Vietnam era veteran.

Mr. President, I ask unanimous consent that a table showing the 1976 participation rates be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

1976 PARTICIPATION RATES

State	Vietnam veteran participation rate: Rank	Vietnam veteran participation rate: Percent	Number of schools less than $500 [1]	State GI bill payments (fiscal years 1968–76)	Rank by amount of GI expenditures	Vietnam veteran population	State rank of Vietnam veteran population
North Dakota	1	83.1	4	$73,260,000	42	18,000	47
South Dakota	2	75.8	0	70,344,000	45	18,000	48
New Mexico	3	73.5	5	133,069,000	37	37,000	39
Arizona	4	72.9	8	331,725,000	23	81,000	31
Hawaii	5	71.8	8	143,048,000	36	32,000	41
California	6	66.9	69	3,173,570,000	1	891,000	1
Alabama	7	66.7	11	410,780,000	15	110,000	24
North Carolina	8	64.3	44	537,879,000	9	172,000	16
Colorado	9–10	64.2	3	384,883,000	17	107,000	25
South Carolina	9–10	64.2	10	290,811,000	26	97,000	29
Tennessee	11	57.8	12	400,236,000	16	145,000	20
Washington	12	57.0	24	479,665,000	12	177,000	15
Nebraska	13	56.7	6	146,468,000	35	55,000	35
Louisiana	14	56.6	6	307,021,000	26	115,000	22
Florida	15–16	56.5	31	825,071,000	5	284,000	8
Wyoming	15–16	56.5	8	31,136,000	49	13,000	50
Montana	17	56.2	3	70,647,000	44	28,000	43
Oklahoma	18	55.9	11	325,173,000	24	111,000	23
Georgia	19	55.4	30	508,434,000	10	188,000	12
Arkansas	20	55.3	10	176,842,000	32	66,000	32
Texas	21–23	54.7	60	1,235,637,000	2	441,000	3
Mississippi	21–23	54.7	8	150,990,000	34	57,000	33
Maine	21–23	54.7	7	91,919,000	40	37,000	38
Missouri	24–25	54.4	13	483,093,000	11	178,000	14
Idaho	24–25	54.4	6	71,746,000	43	29,000	42
Kansas	26	54.0	11	200,670,000	31	82,000	30
Utah	27	53.2	5	153,975,000	33	48,000	36
Rhode Island	28	52.6	1	115,185,000	39	40,000	37
Oregon	29	52.4	11	262,789,000	29	101,000	27
West Virginia	30	52.1	15	125,152,000	38	56,000	34
Michigan	31	51.9	17	762,480,000	7	325,000	7
Nevada	32	51.0	0	63,793,000	46	25,000	44
Minnesota	33	50.7	14	373,209,000	19	164,000	18
Kentucky	34	50.5	25	249,356,000	28	105,000	26
Wisconsin	35	50.1	14	362,710,000	20	160,000	19
Virginia	36–37	49.9	24	374,404,000	18	188,000	13
Delaware	36–37	49.9	4	53,711,000	47	24,000	45
New York	38	49.1	24	1,124,349,000	3	561,000	2
Illinois	39	48.1	22	900,584,000	4	385,000	6
Iowa	40	47.9	19	210,163,000	30	100,000	28
Alaska	41	47.3	6	31,385,000	48	14,000	49
Maryland	42	44.8	14	361,091,000	21	170,000	17
New Hampshire	43	43.6	6	73,427,000	41	35,000	40
Ohio	44	43.1	4	747,161,000	8	400,000	5
Pennsylvania	45	43.0	9	781,276,000	6	433,000	4
Connecticut	46	42.9	12	230,062,000	29	115,000	21
Indiana	47	42.0	1	350,087,000	22	202,000	11
Massachusetts	48	41.6	21	464,041,000	13	226,000	10
New Jersey	49	38.3	12	418,551,000	14	256,000	9
Vermont	50	34.6	0	26,647,000	50	19,000	49

[1] For 9-mo school year—approximately $750 for year-round tuition.

Mr. DURKIN. Mr. President, I would like to reiterate and add as cosponsors, to make sure that all the people are on, Senators CRANSTON, STONE, MATSUNAGA, EASTLAND, CANNON, MCINTYRE, CLARK, ALLEN, WILLIAMS, ABOUREZK, HATHAWAY, FORD, RIEGLE, INOUYE, HART, HUDDLESTON, and HASKELL.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. DURKIN. I yield.

Mr. THURMOND. I will be glad to add my name to this amendment.

Mr. DURKIN. I would be happy to have the Senator from South Carolina as a cosponsor.

The PRESIDING OFFICER (Mr. MOYNIHAN). Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I would like to speak just briefly in support of this amendment which I cosponsor. The amendment offered is the same as that which Senator DURKIN and I introduced, as part of amendment No. 448, earlier this year. When considered by the full committee, this amendment was deleted from the committee bill by a 5-to-4 vote.

I believe that many of the people who have had the most difficulty in adjusting to society after having served in the Armed Forces are those who did not get into the "system" early enough. This measure would provide to these individuals an additional opportunity for them to complete their education. To force many of these veterans to interrupt their education, because of the termination of the delimiting date would be unwise.

I believe strongly that moneys spent in order to assist these veterans in completing their programs of education will be a good investment and a wise expenditure.

In 1966, when the post-Korean conflict GI bill was first enacted, the amount of allowance provided—$100 a month—was less than the amount originally provided under the Korean conflict GI bill enacted into law in 1952. Many veterans discharged before 1970 found they just could not go to school under those circumstances and, as a result, they did not get started. It was not until 1970—4 years after the date of enactment—when benefit rates were increased by 35 percent—$175 per month—that the GI bill began to provide, to some extent, sufficient assistance to mitigate the expenses of obtaining an education.

In addition, it is likely that for many years many or most of these veterans—especially those discharged between 1955 and 1966—were unaware of their entitlement to benefits.

In 1976, veterans were granted an 8-year delimiting period. In 1974, this period was extended to 10 years—an additional 2 years. My colleagues will recall that in 1974, the GI bill allowances were substantially increased—from $220 a a month for a single veteran to $270 a month. As a result of this increase and the publicity surrounding the 2-year expansion in the delimiting period, many veterans became aware of their short remaining delimiting period and commenced their education.

Mr. President, I recognize that the GI bill is not meant as a lifelong benefit. However, in light of the attending circumstances, I believe quite strongly that it would be wise to enable those veterans who were and are enrolled in full-time training at the time their delimiting date passed or passes, to be given the opportunity to continue full-time study in order to complete their education. I believe such expenditures would be a sound investment.

Thus, for the reasons specified and others voiced by my colleagues, I urge adoption of this amendment. I wish to congratulate my colleague from New Hampshire (Mr. DURKIN) for his outstanding and steadfast efforts on behalf of those whose delimiting period has passed. He has been advocating and working to achieve a delimiting date ex-

tension since he first came to the Senate, and has been a truly worthy champion of this cause.

Mr. DURKIN. What amendment 1433 does is to extend the delimiting date for 2 years only for those veterans who are full-time students at the time their benefits expired, and who continue in a full-time education program.

Benefits will be provided at a rate of 50 percent in the first year of extension, and 33 percent in the second year. The only exception to the full-time requirement is where the veteran is employed in a public safety capacity and is a part-time student in the LEAA education program.

We stress this is not a blanket 2-year extension date but rather designed to help those who otherwise would be unable to fulfill their education as a result of the expiration of the benefits.

This amendment was adopted by the Senate last year. In fact, a more complete extension of the delimiting date was adopted by the Senate last year but, unfortunately, it died in the House in the last few minutes of the session.

I point out the amendment in the committee was narrowly set aside 5 to 4 in the committee, because of the desire, I think, on the part of some for more information. I think that information has been forthcoming. Mr. President, at this point I reserve the remainder of my time.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. DURKIN. I am happy to yield.

Mr. MATSUNAGA. Mr. President, I rise in strong support of the amendment offered by my good friend and colleague, the Senator from New Hampshire (Mr. DURKIN), to extend the delimiting period by 2 years for certain veterans. As a cosponsor of amendment No. 1433, I want to emphasize that this is a limited extension which is designed to meet the readjustment needs of those veterans who are and have been earnestly pursuing a full-time program of education. These are veterans who are being denied the opportunity to complete their education because of the expiration of their benefits under the GI bill educational assistance program.

This amendment—which I supported in committee and which was rejected by a vote of 5 to 4—is a reasonable extension of the delimiting period.

The amendment would extend the delimiting period by only 2 additional years. Benefits in the first year of extension would be restricted to 50 percent, and to 33 percent in the second year of extension. Moreover, the amendment is applicable only to veterans who were enrolled as full-time students in an approved education program at the time of the expiration of their delimiting date. The full-time status of these eligible veterans is indicative of their commitment to pursue a program of education and training which will facilitate a more successful transition to gainful employment and living in our peacetime society.

The purpose of veterans education and readjustment programs is to assist the veteran in making the transition from military to nonmilitary life, and to restore to the veteran the educational and training opportunities which were either lost or denied because of wartime service. There are those who contend that 10 years constitute an ample time for a veteran to make this transition from military to civilian life. I believe that for the Vietnam-era veteran, especially, the controversy surrounding that war created numerous and peculiar difficulties and hardships for them to initiate, maintain, and/or complete their program of education and training within the restrictive 10-year time frame.

Unlike our veterans of World War I, World War II, and the Korean conflict, our returning servicemen from the Vietnam combat were confronted with a highly depressed economy and a society prejudiced against them. Employers were reluctant to hire them. The August 1977 unemployment figure for Vietnam-era veterans between the ages of 20 through 34 was 7.8 percent. For those veterans between the ages of 20 through 24, the August unemployment rate was 14.4 percent as compared to 10.5 percent for nonveterans in the similar age group.

The need for a college education and training has never been more pronounced as during the period before and after the Vietnam era. Of the 6,902,146 post-Korean conflict and Vietnam-era veterans who have used their GI bill education benefits through November 1976, approximately 57 percent have taken college level courses. Thirty-five percent were engaged in postsecondary education not leading to a standard college degree.

With the rise in monthly education benefit levels approved by the Congress in 1970, 1972, and in 1974, participation rates of veterans utilizing their GI bill educational assistance allowances have also increased. To this date, Vietnam-era veterans have participated in VA educational assistance programs at a rate of 64.3 percent—greater than the participation rate of 59.1 percent among post-Korean conflict veterans, and greater than the final participation rate of 50.5 percent for World War II GI bill veterans and 43.4 percent for Korean conflict veterans.

It is notable that under the present GI bill, the college-level participation rate of Vietnam-era veterans of 35 percent is more than twice that of the World War II veterans' rate of 14.4 percent, and also exceeds the 22 percent participation rate of Korean conflict GI bill veterans.

Recent figures indicate that the number of veterans in training under the GI bill are declining. To some degree, the decline in participation rate is attributed to the inability of veterans to complete their education due to the expiration of their delimiting date and consequent loss of educational benefits.

By the end of November 1976, nationwide, approximately 1,149,177 veterans were in training under the GI bill, as compared to 1,739,495 veterans in November 1975. Between November 1975 and November 1976, in the State of Hawaii, there was an 18-percent decrease in the number of residents in training under the GI bill.

With the expiration of the delimiting date on May 31, 1976, an estimated 483,000 veterans who were enrolled in educational programs under the GI bill lost their entitlement to education benefits. In many instances these veterans, upon their discharge, were prevented from initiating or continuing their education programs. Justifiable reasons include conflicting work-study schedules, pressing family obligations, economic hardships, poor health, and the very special problems inherent in making the readjustment to civilian life.

Adoption of this amendment to provide a limited, 2-year extension of the delimiting period for veterans of full-time status as students in higher learning institutions will enable thousands of veterans to complete an education that is both valuable and vital to their future and to the future benefit of our country. It should be stressed that for every dollar spent for veterans education under the GI bill, the Federal Government has received from $3 to $6 in tax revenue paid by those veterans with better education and higher paying jobs.

I urge my Senate colleagues to vote "aye" on the Durkin-Matsunaga amendment.

Mr. DURKIN. Mr. President, I thank the Senator.

I yield to the Senator from Oklahoma. I saw him on his feet. In my prepared statement it covered the budget allocation. This falls well within the amount under category 700, falls within the budget, as I am sure the Senator from Oklahoma knows.

Mr. BELLMON. Mr. President, was I recognized on my own time?

Mr. STAFFORD. I would be happy to yield 15 minutes of the opposition's time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BELLMON. Mr. President, I would like to ask a question of the Senator from New Hampshire at a point later on. Before I do that, I would like to point out that during the time we were developing the 1978 fiscal year budget it became clear there was not enough money available to fund all the veterans' initiatives which had been proposed.

The second budget resolution has provided $19.9 billion of budget authority, and $20.2 billion in outlays. This is an increase of $800 million in budget authority and an increase of $1.1 billion in outlays over the President's budget. That is a very generous treatment of this function.

Within the congressional budget totals is room for—and I will list these programs: The continued funding of all existing veterans' programs; actual cost-of-living increases for all veterans' compensation, pensions, and GI bill program beneficiaries; hospital construction and medical care legislation; and new GI bill benefits and pension reform legislation.

Those are the four categories. Funding existing programs, cost-of-living increases, hospital construction, and the new GI bill benefits and pension reform legislation, but there is no mention of this program for changing the delimiting provisions.

The second budget resolution left room for $1.5 billion in budget authority and $1.4 billion in outlays for new entitlement legislation. It was assumed that these amounts would allow for cost-of-living increases for all veterans entitlement programs with a minimum of $0.5 billion for real program growth. To date, Senate-passed legislation totals $277 million in budget authority and $422 million in outlays, leaving $1,075 million in budget authority and outlays for new entitlements, including pension reform legislation this item was acknowledged to be of high-priority to the Veterans' Affairs Committee as indicated in its March 15 report and subsequent letters to the Budget Committee. The Congressional Budget Office now estimates the entitlement cost of S. 457 to be $820 million in budget authority and outlays for fiscal 1978, thus leaving $255 million available for pension reform or other new entitlement initiatives.

All I want to do is bring to the attention of my colleagues that any further amendments which increase GI bill benefits could substantially reduce the possibility of passing other major entitlement legislation measures such as pension reform, or could even exceed the budget allocation for the veterans' benefits and services function. The amendment by the distinguished Senator from New Hampshire (Mr. DURKIN) would restore the delimiting date provision that was in the original version of S. 457. If adopted, this amendment would cost $200 million, and use up virtually all the room left in this function except $55 million, which would be left for other entitlement legislation, unless offered as a substitute for the accelerated entitlement provision of the bill.

The question is that, because of the high priority placed on pension reform legislation by members of the Veterans' Committee, I wonder if they have worked out a pension reform provision that is going to be offered to the Senate, or whether they have made the decision to go for the delimiting provision such as Senator DURKIN's amendment provided for, and will not be bringing pension legislation to the Senate this year. There is room for one or the other, but not both.

Mr. HEINZ. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BELLMON. I yield.

Mr. HEINZ. I ask unanimous consent that Mark Bisnow of my staff be accorded the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Will the Senator from New Hampshire respond to the question, please?

Mr. DURKIN. Yes, I would be happy to.

First, I make a similar request for Craig Wolfson of Senator STONE's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. The Senator's figures are correct; there is $254 million left, and the CBO informs us that this proposal would cost $200 million, leaving the $54 million.

But the chairman of our Veterans' Committee, Senator CRANSTON, has asked that I allow him to reply on the pension question, so I defer to my chairman, the distinguished Senator from California.

Mr. BELLMON. Could we get the attention of the Senator from California on this question, then, The question is, if the Senator will allow me, will the committee attempt to obtain both pension reform legislation and the Durkin amendment in 1978, the point being that there is not money enough in the budget for both?

Mr. CRANSTON. Mr. President, first let me say that we did advise the Budget Committee, on which I serve, in a March 15, 1977, report, that we were quite apt to come out with delimiting legislation. Specifically, our report stated:

> Considerable support continues to be expressed in the committe and in Congress for legislation to extend the present 10-year delimiting period. It is likely that in this session of Congress the committee will favorably respond to requests to consider legislation which would extend this delimiting period.

So we did call attention at that time to that possibility.

With regard to pension reform, that the report stated:

> The Committee expects that legislation reforming the present pension program along the lines of the 94th Congress' S. 2635 will be passed . . . enactment would cost an estimated $500 million in fiscal year 1978, assuming a mid-fiscal-year effective date of April 1, 1978.

That estimate was based on the best information then available from the Congressional Budget Office.

But passage of the Durkin amendment—an improvement in the GI bill program which the committee clearly foresaw and highlighted—does not preclude enactment of pension reform.

My colleague from New Hampshire has worked hard to draft an extension of the delimiting period to assure that it would fall within the levels of funding established by the first and second concurrent resolutions on the budget. He has done that.

The committee specified in its first crosswalk that it would be allocating to the Health and Readjustment Subcommittee sufficient funds to allow Senate consideration of the delimiting date amendment. It has so specified in its second crosswalk, and in the amended second crosswalk filed today.

I would now like to explain where the committee stands with respect to pension reform.

A major priority of the Veterans' Affairs Committee in the 95th Congress has been, and will remain, the equitable restructuring of the need-based pension program. In Public Law 94–432, enacted in September 1976, the Congress declared that the present pension program—

First. Does not provide sufficient assistance to meet the needs of some eligible veterans and survivors;

Second. Has developed some inconsistencies, inequities, and anomalies which prevent it from operating in the most efficient and equitable manner; and

Third. Subjects many pensioners annually to reductions in their pensions.

Previously, in December 1975, the Senate had unanimously passed S. 2635, a comprehensive pension reform measure. However, the House did not act on this measure before the end of the 94th Congress, with the result that the inequities, inconsistencies, and anomalies of the present program persist. When I became chairman of the committee, I instructed staff to examine the previous pension-reform measure, S. 2635, and to draft an equitable restructuring measure based on the principles set forth in the committee report on S. 2635 (No. 94–532).

In carrying out its responsibility, the staff has adopted the central concept of S. 2635, but has altered the provisions of that bill in many substantive and technical respects. S. 2635, you may recall, was based on the concept of the guaranteed annual income. A basic annual income standard is set for an eligible veteran or surviving spouse reduced dollar-for-dollar by outside income. The income standard for a veteran without dependents in S. 2635 was $2,700 per annum, considerably above the maximum pension payable at that time. S. 2635 also equalized benefits between surviving spouses and veterans, and provided for substantially increased dependents' allowances. It reduced the number of income exclusions in current law and made other substantive changes consistent with the principles of a need-based income maintenance system. Finally, it provided for annual automatic cost-of-living increases, at the same percentages as that adopted for social security, for those pensioners electing the "reform pension" and for those choosing to remain under current law—or "old law."

While S. 2635 probably would have greatly improved the pension program, it was evident to committee staff that it was deficient in a number of ways, and they worked at length to assure that the new pension restructuring bill would operate in all respects in an equitable manner. Clearly, it was necessary to increase the income standards to take into account changes since 1975 in the Consumer Price Index and the poverty threshold. Rather than simply multiplying by the percentage increase, however, staff examined the relationships between various income standards—for example, the ratio between the income standard for a veteran alone and one who has one dependent. Staff also examined the

equalization of benefits between a veteran and surviving spouse and recommended certain modifications. The additional amount payable for additional dependents was also scrutinized, as well as the exclusions from income. The staff paid special attention to the difficulties caused by the lack of coordination between payments under social security and the veterans' pension program, which under current law may result in a pensioner who also has social security benefits failing to receive the full benefit of a cost-of-living increase in his or her social security benefits. The bill as drafted provides for annual cost-of-living adjustments in the new program, administered in such a way that such an effect cannot occur. In every respect, this bill is not only a great improvement over the present pension system but, in my estimation, far more equitable than was S. 2635.

This process required many months of staff time, and about eight drafts. The staff of the committee has consulted at every step with the staff of all members of the committee, and on numerous occasions with representatives of veterans organizations.

In the course of considering various provisions of the many drafts, staff requested informal cost estimates from CBO. Since April 1977, CBO has provided the committee with about eight such estimates on various proposals.

About 2 weeks ago, the bill, approaching final form, was circulated, with the most recent CBO cost estimate then available, to the members of the committee with requests to consider it for cosponsorship. Six members of the committee agreed to cosponsor. Shortly thereafter, on October 11, 1977, CBO informed the chief counsel of the committee that all previous estimates, upon which the committee staff had relied in preparing the final draft of the bill, contained serious errors and were inoperative, and that a corrected estimate was in process. The previous estimate of the cost of the final draft version was $207.1 million for the first full fiscal year and it showed declining costs over the next 3 fiscal years. The corrected estimate showed a fiscal year 1978 cost of $169.8 million, with $597.2 million for fiscal year 1979—about three times that of the previous estimate—and sharply increasing costs for the next 3 fiscal years up to $1.18 billion in fiscal year 1982.

So, rather plainly, we still are not certain of our ground, and are having to review the matter in the light of continuing CBO changes.

We have since—on October 17, 1977—received a second estimate from CBO correcting the estimate of October 11, and now showing a fiscal year 1982 cost of $663.3 million. As you can imagine, our faith in the reliability of the CBO estimates is quite shaken at the moment.

We have a lot of confusion in our calculations for reasons beyond our control, and I have requested, as a technical service from the administration, a cost estimate for purposes of comparison with the CBO estimate. This estimate will be prepared using both a short-term—5 years—computer model—similar to that used by CBO—and a long-range model developed by OMB and VA working together.

Regarding the Durkin amendment, there is sufficient room in the function 700 level to accommodate that amendment.

Mr. BELLMON. Does the Senator from California, based on the information he has given, expect that pension reform legislation will be reported to the Senate by January 1, 1978? I ask the question because, as I am sure the Senator realizes, unless legislation is reported by January 1, it would have to have the effective date of October 1 or later.

Mr. CRANSTON. It is not possible to do it before January 1 for the reasons I have indicated. We will aim to report it after May 15, and that means—under the Budget Act—that we will not have anything earlier than an October 1, 1978, effective date.

Mr. BELLMON. So the committee does not anticipate both the Durkin amendment and pension reform being in fiscal year 1978.

Mr. STAFFORD. Will the Senator yield briefly to me?

Mr. CRANSTON. I yield.

Mr. STAFFORD. I want to confirm my understanding of the situation as has been expressed by the distinguished chairman of the committee, and reiterate that the committee, and the committee staff in particular, has had a very difficult time in trying to get accurate figures, accurate projections, to develop equitable and responsible figures for any future pension reform the committee might wish to present.

Mr. BELLMON. Mr. President, let me point out that this situation, I believe, is typical of what has happened in the Senate in the past. We often go into programs without thoroughly understanding the costs, and we are appalled later on to see how much money we will spend. I would like to congratulate the chairman of the Veterans' Committee and the distinguished ranking member for getting the facts and for being candid in telling the Senate that the costs may have risen to higher figures than expected, and, on this basis, will want to review the program further.

Mr. CRANSTON. I thank my distinguished colleague on the Budget Committee for his very generous remarks.

Mr. BELLMON. Mr. President, however, certain facts regarding S. 457 are worth my summarizing.

First. S. 457, as reported, presents no major budget problems—that is, it fits within the existing budget resolution for fiscal year 1978.

Second. There is one major piece of veterans legislation which has not yet reached the floor of the Senate, and that legislation involves pension reform.

Third. On numerous previous occasions the Veterans' Committee, including in particular the committee's chairman, Senator CRANSTON, has urged the Budget Committee in setting fiscal year 1978 totals to be sure and leave room for pension reform, a very high priority item. Earlier this year the Veterans' Committee wrote a "Dear Colleague" letter as part of our debate on the first budget resolution, and that "Dear Colleague" letter listed as the first major area requiring additional funds the area of pension reform. Let me quote:

> The 94th Congress, in Public Law 94-432, found inadequacies and inequities in the veterans pension system. The Committee plans to proceed with a reform measure similar to that which passed the Senate last year (S. 2635) in order to provide a system under which pension reductions would not occur when Social Security cost-of-living increases are made, to improve assistance to the large number of veterans below the poverty line, and to elimintae inequities in the present structure before an expected wave of World War II veterans enters the program.

The Budget Committee and the Congress, in setting totals for the veterans function, took into account the expressed desires of the Veterans' Committee and left room for pension reform. Passage of S. 457, as reported, would still leave about $256 million in the budget, and that amount would accommodate the anticipated cost of pension reform.

Fourth. On the floor today there is to be proposed an amendment sponsored by Senator DURKIN which would extend the delimiting date to 12 years. This amendment was defeated inside the Veterans' Committee, and if adopted here on the floor, would add $200 million to the cost in fiscal year 1978. Technically, there is room for this amendment, but there is no room for anything else; namely, pension reform.

Fifth. There is only one possibility for accommodating the Durkin amendment and pension reform without breaking the fiscal year 1978 budget, and that involves juggling the effective date of pension reform, moving the costs to 1979 and thus hiding the true budget impact of this entitlement legislation. Such a gimmick clearly violates the spirit of the Budget Act and appears unnecessary. The Senate was told to give pension reform a high priority. We accommodated the desires of the Veterans' Committee and its chairman by leaving room for pension reform. Now, we run the risk of allowing gimmickry to damage fiscal responsibility in the cutyears.

During certain seasons, Senators seem surprised and frustrated by the limited ability to cut into budget totals because Federal spending involves entitlement programs put into law in some prior year. Well, here is a perfect example. Both delimiting and pension reform are entitlement programs. If we hide the true impact of these programs, we are merely adding to our 1979 frustrations.

Members of the Veterans' Committee and the Senate can certainly choose to spend the available funds in a different manner than previously expected. I am not opposed to that. I merely ask that if we choose extension of the delimiting period rather than pension reform, let us not try to have both programs by hid-

ing the true cost. Let us not play games with the budget cost—if a program is truly worthy, let us evaluate it in the light of its true cost.

It is only fair in view of the above facts to tell my colleagues that in my opinion, we are not voting for or against an extension of the delimiting period when we vote on the Durkin amendment, but rather we are voting for which of the two programs we would rather have—an extension of the delimiting period or pension reform? Budgeting is not done in a vacuum, it involves choices and on the Durkin amendment we face one of those choices. I will vote against the Durkin amendment and will urge my colleagues to do the same.

Mr. STAFFORD. I am happy to yield to the distinguished Senator from South Carolina, Mr. President.

The PRESIDING OFFICER. The Senator is recognized.

Mr. THURMOND. Mr. President, I wish to add my endorsement to this proposal and to explain my position on what has always been a difficult issue in the area of veterans legislation. On July 22, when the Veterans' Affairs Committee marked up S. 457, I opposed an additional extension of the current 10 year delimiting period. My reason for doing so was that I considered other initiatives in the area of veterans legislation, particularly pension reform, as occupying greater priority for the limited funds available to the committee. It has recently developed that cost estimates furnished by the Congressional Budget Office on the committee's pension reform proposal were inadequate to permit action by the committee in this important area this year. Because of this development, approximately $200 million, previously committed to pension reform, will now be available to meet the cost of the delimiting proposal now before the Senate.

There can be no question of the value that the GI bill has meant to our Nation. I am also aware of the mounting readjustment problems faced by the veterans of the Vietnam war who will be benefited greatly by this extension. However, I am committed to the proposition of according first priority to the greatest need. I still feel that pension reform remains among the greatest needs in the area of veterans legislation and regret that the committee was unable to move in this important area at this time.

I am confident, however, that the Nation will realize a meaningful return for the investment which this amendment proposes to make. The veterans of Vietnam have paid a great price. It is among our most solemn responsibilities to assure that everything that can be done, is done to assure their satisfactory readjustment into our society.

I urge that this deserving proposal receive the full support of my colleagues.

Mr. HART. Mr. President, I would like to commend the distinguished members of the Senate Veterans' Affairs Committee for their continued efforts to provide for the readjustment needs of Vietnam-era veterans.

I would also like to urge my colleagues to support an important amendment offered by the able chairman of this committee (Mr. CRANSTON) and the distinguished Senator from New Hampshire (Mr. DURKIN) which would extend for 2 years the delimiting period for veterans who are attending an educational institute full-time, but who have not completed their course of instruction within 10 years after separation from military service.

Under the Cranston-Durkin amendment, benefits paid during the first year of the extended period would be paid at 50 percent of the standard rate and 33 percent in the second year.

I believe this extension of GI bill educational benefits to veterans attending school full-time, who face a loss of earned educational benefits because of the current delimiting date, is a necessary action to assist many Vietnam-era veterans who could not otherwise afford to continue their education.

During the Vietnam war, the selective service laws placed an unfair burden on less fortunate members of our society. Over 50 percent of the draft age males in this country legally avoided military service during this conflict. Most of these young men spent the war years in the relative comfort of a college campus, while others of lesser affluence or opportunity were faced with the task of fighting an unpopular war.

Because so many young men were able to avoid military service, the Department of Defense lowered its minimal acceptance standards for military service by initiating its "Project 100,000" in 1966. Under this program, hundreds of thousands of educationally disadvantaged young men were thrust into military service. The casualty statistics of the Vietnam war demonstrate the cruel inequity of that policy. Draftees accounted for over 60 percent of the Army casualties during the conflict by 1969. Blacks accounted for over 20 percent of this number, despite the fact that they comprised only 12 percent of the Armed Forces population at the time.

For those who returned from Vietnam, many faced severe readjustment problems which included high unemployment, an unsympathetic society and inadequate educational opportunities. For those veterans who were educationally disadvantaged before entering the service, the readjustment to civilian life became an even more difficult problem.

Mr. President, this Nation has an obligation to insure that the veteran whose life was disrupted by the Vietnam war has an opportunity to receive vocational or college training to help compete on an equal footing with his or her peers. Clearly, we have not fulfilled our responsibilities in this regard. According to a Bureau of Labor Statistics unemployment report for the third quarter of this year, the Vietnam-era veteran is faced with a significantly higher rate of unemployment than the nonveteran. The September unemployment rate among Vietnam-era veterans aged 20 to 34 is 7.7 percent. For the recently discharged veteran aged 20 to 24, the unemployment rate is 20.1 percent. This compares with an unemployment rate of 9.1 percent for nonveterans in this age category. For young blacks recently discharged from the service, the unemployment rate has reached a startling 30.5 percent.

Mr. President, extending the delimiting period by 2 years at a reduced rate is the least we can do to provide those veterans pursuing an education an opportunity to complete their training. Only in this way will they be able to obtain meaningful employment and provide a secure future for themselves and their families.

Therefore, I urge my colleagues to support the Cranston-Durkin amendment.

Mr. DURKIN. I thank the chairman of the committee and the Senator from South Carolina. I am prepared to yield back the remainder of my time, if everyone else is.

Mr. STAFFORD. Mr. President, I have no other request for time on this amendment. I am prepared to yield back the remainder of my time.

Mr. CRANSTON. Mr. President, I am prepared to yield back my time. I cannot say that the committee accepts the amendment though I will vote for the amendment. I think it is a very good amendment. I supported it in committee, and yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURKIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 954

(Purpose: To provide veterans' benefits to women pilots of World War II.)

Mr. GOLDWATER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. GOLDWATER) proposes an unprinted amendment numbered 954.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is ordered.

The amendment is as follows:

On page 32, between lines 13 and 14, insert a new title as follows:

"TITLE IV—WOMEN'S AIR FORCES SERVICE PILOTS

"SEC. 401. (a) Section 106 of title 388, United States Code, is amended by adding at the end thereof a new subsection as follows:

"'(f) Service as a member of the Women's Air Forces Service Pilots (a group of Federal civilian employees attached to the United States Army Air Force during World War II) shall be considered active duty for the purposes of all laws administered by the

Veterans' Administration. Any person who served as a Federal employee in the Women's Air Forces Service Pilots shall be deemed to have been discharged or released from active duty on the date her Federal employment as a pilot in such organization terminated, as determined by the Administrator after consultation with the Secretary of the Army.'.

"(b) No benefits shall be paid to any person for any period prior to the date of enactment of this title as a result of the amendment made by subsection (a)."

On page 32, line 14, strike out "Title IV" and insert in lieu thereof "Title V".

On page 32, line 15, strike out "SEC. 401" and insert in lieu thereof "SEC. 501".

On page 32, line 22, strike out "and".

On page 3, line 1, after "310" insert a comma and the following: "and the provisions of Title IV".

Mr. CRANSTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. GOLDWATER. I yield.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Mr. Chester Finn, a member of the staff of the present occupant of the chair, Senator MOYNIHAN, be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, might I proceed for 5 minutes?

The PRESIDING OFFICER. The Senator from Arizona has 30 minutes.

Mr. GOLDWATER. Mr. President, this amendment passed last year. I do not believe it needs any lengthy explanation.

My amendment would bring the WASP's under the benefits of the VA.

These ladies, known as the WASP's, or the Women's Air Forces Service Pilots, have several champions in the Congress. Over 150 Members of the House have sponsored, cosponsored, or publicly announced their support of the WASP legislation. I am privileged to have introduced a similar bill in the other body which is cosponsored by 29 other Senators.

Mr. President, I believe these ladies have proven beyond any doubt that they are entitled to be called veterans.

Although they volunteered for service as civilian pilots with the Army Air Corps, they were for all practical purposes a part of the military service.

They were trained to be military officers. Their training from the start included no less than 66 hours in military instruction. This special training was extended to 137 hours in March of 1944.

Army regulations provided that the girls had to meet the same physical standards as male pilots. After graduation as flying cadets, they went to transition training with the Ferrying Command. According to Air Corps directives, they were given transition to progressive types of aircraft "under the same standards of individual experience and ability as applied to any other pilot."

All check rides were given by Air Corps officers, using the same service-pilot standards that applied to men.

As cadets, the women received about the same compensation as male students except for not receiving insurance benefits. After assignment to operational duties, women pilots received somewhat less than a second lieutenant flight officer did. The women had to pay for their own quarters and meals, and did not enjoy any right to advancement in pay depending upon their length of service.

As cadets, the WASP's were required to live in barracks on the training base. Regular inspections were made by the Air Corps. They were required to follow as closely as possible the same training schedules established for male flying cadets.

Women cadets were treated in illness by Air Corps flight surgeons. Dentists from an Army base hospital visited their training base regularly.

After graduation, uniforms were provided women pilots as in the case of all other flying personnel. They were required to wear this uniform by Air Corps regulations.

The WASP were comparable to military officers in many other respects. They were sworn in with the same oath of office as given male officers. They stood formal inspection. They could not leave base without a pass. And, they were on duty 24 hours a day by written military memorandum.

Unlike other civilians, women pilots were subject to military discipline. They were not given a court-martial, but Air Corps regulations established military procedures in cases involving discipline of WASP's.

These regulations provided that cases involving disciplinary action for infraction of a flying regulation, or involving the possible discharge of a WASP from the service, would be brought before a military board of three officers, whose recommendations would then be presented to the commanding officer of the military base for his final decision.

In addition to being subject to military discipline, women pilots served on flight safety boards convened to punish other military pilots.

As far as their service is concerned, women pilots performed every kind of flying operation possible with the Continental United States and Canada. They served with the Air Transport Command where they flew 77 types of airplanes, including the multi-engined B–26 and B–29 Super Fortress.

They were used to tow targets for ground troops and airplanes to shoot at. They were used in the weather wing. They did tracking and searchlight missions, simulated strafing, smoke-laying, radio control flying, basic and instrument instruction, and engineering test flying.

If there is any difference between their flying and that of male officers, it is that the ferrying done by women pilots was more dangerous. The official history of women pilots in the Air Transport Command states "that throughout their career the women ferry pilots, for a variety of reasons, concentrated on types of ferrying essentially more hazardous than done by their male colleagues."

The women pilots were asked to fly a preponderance of light, short-range aircraft, concentrating on pursuit planes, although when allowed to do so, they proved their abilities at handling heavier aircraft. In comparison, a large proportion of male pilots at all times were delivering long-range aircraft cross-country.

As the Ferry Command history explains:

> In good weather, any beginner can hold the stick in straight and level flight; the dangers lie in landings and take-offs, which are much more numerous for the light aircraft. The pilot of the little plane has no navigator to tell him where he is, no co-pilot to relieve him, and lacks many instrument aids. Unforecast bad weather which would hardly trouble a B–17 can be disastrous to an L–5.

Thus, the WASP specialized in the delivery of types of aircraft which were especially dangerous to operate. The sad truth is that 38 WASP's lost their lives serving their country.

In this context, I might compare a current Veterans' Administration television plug for its services.

This commercial has a cabbie discussing veterans benefits with a mechanic at a repair shop. The cabbie is telling the mechanic that you do not have to be in any war, but merely in the service for 6 months in the motor pool to get veterans benefits.

Now, here are women pilots who served in wartime at very dangerous work and who are not entitled to veterans benefits because of a technicality they could not prevent, the fact that they were women. In comparison, the VA is today touting the fact that a person is a veteran who did not serve in any war and did no more than ride around for 6 months in a safe job with the motor pool.

This discrimination does not make any sense to me, and I think we ought to give these girls the status they have earned in wartime.

Mr. President, I said the only reason these women were not commissioned as officers is that they were women. This is true.

You see, Air Corps headquarters wanted to militarize the WASP from the start, but repeatedly were told they lacked authority to do so.

For example, on January 11, 1944, the Deputy Chief of Air Staff asked for a study to be made "concerning the legality of commissioning women pilots directly into the Army."

The official answer concluded that women could not be commissioned as pilots because of one reason: They were women.

Congress had authorized the Army to make temporary appointments as officers "from among qualified persons," but the Air Corps was bound by a ruling made by the Comptroller General, who decided that the law "refers to and contemplates men exclusively" and could not be used "as authority for commissioning women as officers in the Army." The Comptroller General argued that it would be "revolutionary" to include women as "persons."

Now, there is reason enough for passing the bill before you. Women could be commissioned as typists, file clerks or nurses, but when they wanted to fly aircraft, women were not even considered to be "persons" in the eyes of the law.

This is the injustice we are now trying to correct.

Mr. President, in order to correct this gap in the law, the Air Corps and the War Department strongly pushed for enactment of legislation to commission women pilots. Air Corps historical studies report the plan for militarization "was continuously a live one until congressional disapproval killed it."

In fact, the Director for Women Pilots, Jacqueline Cochran, was assigned the specific duty of drawing up plans for militarization. Her knowledge that the WASP were destined for militarization can be attributed to the girls under her direction.

It is true, militarization would give the Air Corps greater control over the girls. But this is not the main reason it was sought. According to the official histories, military headquarters wanted to treat women the same as men.

The Air Transport Command history reads as follows:

> Once commissioned, continuity of service would be ensured; as they would be administered under the same procedures as male officers, duplication and differences would be eliminated; discipline would be tightened; in general, their status would be regularized. Women fliers did the same work as army officers. It was work involving real danger of death or serious injury. Military status would give them the advantages of military insurance, death benefits, hospitalization, pensions, and other aids the lack of which, in fact, constituted a form of discrimination against them. In 1942, the Ferrying Division was rapidly commissioning its male civilian pilots; it seemed only logical to do the same with the women.

These are the reasons for seeking militarization of women pilots. In the words of the military service, it was logical. And it would remove discrimination against women.

Mr. President, I urge that the Senate act favorably on the WASP legislation and thereby remedy a past injustice that has been left uncorrected all these years.

Mr. President, this involves the Women's Air Forces Service Pilots who were trained as pilots, receiving the same training as male pilots during World War II, and who were with the Ferrying Command or the Air Transport Command. It was my pleasure to have been an operations officer of a squadron to which these women were attached. When they were first organized, the efforts to obtain commissions for them by Gen. Hap Arnold failed. Repeatedly since that time we have attempted to get them recognized in order to have them receive Veterans' Administration benefits.

Mr. President, 39 of these girls were killed in the process of their flying during World War II. Their funeral expenses had to be borne by their families. They received no veterans' benefits. They were voluntary. They received almost the same pay as a second lieutenant. They were sworn in with the same oath that all of us took who served our country. They flew formations under orders. We had to make 201 files, which is the personnel report we made out on all officers. When they were sent on delivery flights, they flew under the same field orders issued by their commander as all male pilots.

Mr. President, this makes sense to me. At the most, if we take how many veterans amongst each 1,000 avail themselves of veterans' benefits, the remainder of some 800 of these girls might cost $80,000 a year.

Mr. President, I have 29 cosponsors of this legislation in the Senate and there are 150 who are sponsoring similar legislation in the House. I ask unanimous consent to have printed in the RECORD at this point the cosponsors of S. 247, which is the WASP bill.

There being no objection, the list of cosponsors was ordered to be printed in the RECORD, as follows:

TWENTY-NINE COSPONSORS OF THE WASP BILL, S. 247

Hathaway, Bentsen, Williams, Schmitt, Domenici, Hansen, Randolph, Nelson, Bayh, Metcalf, Bellmon, McIntyre, Dole, Tower.

Hatch, McClure, Anderson, Humphrey, Kennedy, Inouye, Garn, Javits, Helms, Case, Pell, Laxalt, Melcher, Baker, Bartlett.

Mr. GOLDWATER. I will not proceed further, Mr. President, unless someone happens to have a question.

I will say that the chairman was very sympathetic this year. He held very lengthy hearings, listening to all sides. I do not feel he is personally against this, but I feel he has technical problems about it.

I might say in anticipation of any argument that last year this Congress passed a bill which gave veterans' benefits to all Polish people who fought in the Polish Army and who are now American citizens.

I think we can do this much for our own American girls who were citizens during World War II.

Mr. DOLE. Will the Senator yield?

Mr. GOLDWATER. I yield to my friend from Kansas.

Mr. DOLE. I certainly support the amendment of the distinguished Senator from Arizona. I became interested because of his leadership.

Mr. President, for 33 years the United States has neglected to correct a glaring injustice by granting active duty veterans' status to the Women's Air Forces Service Pilots who served their country so valiantly in World War II. This discrepancy has been before Congress at regular intervals since 1944, but we have failed to act.

For this reason, I am cosponsoring the amendment offered by the Senator from Arizona (Mr. GOLDWATER) which would recognize the service of the WASP's and make them eligible for veterans' benefits. This amendment is being offered today to the GI benefits legislation being considered.

It will be recalled by some of my colleagues that only last year we passed H.R. 71, a bill to provide certain veterans' benefits to any citizen of Poland or Czechoslovakia who fought on the side of the Allies during World War II and who has been a citizen of the United States for at least 10 years. An amendment by the Senator from Arizona (Mr. GOLDWATER) was adopted by the Senate. That amendment would have provided the same eligibility for veterans' benefits to the WASP's—women who fought on the side of the Allies and who were born American citizens. Four days later, the WASP amendment was rejected by the House, one of the stated reasons being that no hearings had been held on the question. Those hearings have now been held. The Senate Veterans' Affairs Committee held hearings on May 25; the House Veterans' Affairs Committee held hearings on September 13.

GREAT ACHIEVEMENTS BUT NO RECOGNITION

Mr. President, the record of the WASP's contains ample evidence of often heroic achievements under the most hazardous conditions without exceptions being asked or given because these pilots were women. Unfortunately, it also contains a history of deplorable inequities.

For instance, on October 2, 1944, at Victorville, Calif., an Army Air Corps B–25 bomber crashed and burned. The Air Corps lieutenant pilot, the WASP copilot, and the crew chief, an Air Corps sergeant, were all killed.

The two men received full military honors and their families received insurance payments and other veterans' privileges.

The WASP and her family received nothing.

This WASP was one of 38 who died while flying with the Army Air Corps. In each case the same treatment—or lack of treatment—was experienced by the WASP and those family members who survived her.

It is our badge of national dishonor that on more than one occasion these military pilots "passed the hat" to help defray burial costs of former comrades. Parents and relatives could not even display a gold star because the WASP's rated none of the death or separation benefits of their designated military counterparts.

And, while they took the same oath and flew the same airplanes in performance of the same hazardous flight missions, attended the same drill formations, and were subject to the same regulations and disciplines of their male counterparts, they were paid 20 percent less than male pilots in the Army Air Corps.

WASP'S BELIEVED THEY WOULD BE MILITARIZED

In spite of the danger and death experienced by this group of patriots, the fact is that the surviving WASP's—there are some 800 of these gallant women alive today—accepted these differences willingly because they believed them to be temporary. They anticipated the eventual formal militarization of their unit. When they took the oath, the WASP's

believed they would be commissioned later into full military service.

As the Senator from Arizona (Senator GOLDWATER) pointed out so convincingly when he introduced S. 247, the WASP program proved its merit. The Army Air Corps recommended to Congress in 1944 that the WASP's be officially militarized. This bill was approved by the House Military Affairs Committee and was reported favorably to the House of Representatives. The bill failed to pass, however, due mainly to the opposition of a well-organized lobby of civilian male pilots. The record of that debate is available and revealing. It could not have occurred today. Without the support of Congress, the Army realized it was unfair to allow these women to continue their duties. The Army had no choice but to abolish the organization.

WASP'S STAND APART FROM OTHER WORLD WAR II SERVICE GROUPS

There are still those who oppose WASP recognition. The main reason given is that recognition of the WASP's would force similar recognition of hundreds of World War II splinter groups who served with but not in our Armed Forces.

I do not agree. To me there are too many ways in which the WASP's stand apart from other civilian groups which could and might petition for recognition.

The WASP's were organized and trained from the outset to become a part of the Army Air Corps after being proven operationally effective.

The organization was tested and made to prove its military capabilities before being militarized.

During recruitment of personnel, new members were informed that they were to be militarized.

Members were required to take the same oath of office that the male officers took.

The WASP's were officially sponsored for militarization by the U.S. Armed Forces during the war years.

A special staff officers school was organized in preparation for commissioning its officers.

WASP's were decorated by military orders in military ceremonies. One woman received the Air Medal, a decoration which, by regulation, can only be given to military personnel.

Mr. President, it is my hope that the Senate will act favorably to give long overdue recognition to the Women's Air Forces Service Pilots.

Mr. THURMOND. I ask to be added as a cosponsor, Mr. President.

Mr. GOLDWATER. Mr. President, I ask that the Senator from South Carolina (Mr. THURMOND) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, I reserve the remainder of my time.

Mr. CRANSTON. Mr. President, I rise in opposition to the amendment. No one here, I think, disagrees with the Senator about the valiant service performed by the WASP's during World War II.

The demands and hazards of the flying duty performed by the WASP's are beyond dispute. They logged some 60 million air miles and incurred 38 fatalities. Duty assignments were issued by orders from Army Air Forces headquarters. They were required to wear uniforms. Provisions were made for subsistence allowances and sometimes military quarters at the duty stations.

During the wars in which the United States has been engaged, many other civilians were subject to hazards and dangers while rendering valuable services in support of the Nation's defense. Notable among these groups performing hazardous duty were civilian flying instructors of the Army Air Force, civilian pilots who flew military aircraft under the Air Transport Command, and pilots of the Civil Air Patrol, as well as the Women Air Forces Service pilots. Other civilians who have served on hazardous duty include members of the merchant marine, auxiliary military police, construction foremen with the engineer department, certain Red Cross personnel, certain individuals employed with American Expeditionary Forces in telephone operating units of the Signal Corps and in the Postal Service, civilian interpreters in the Republic of Vietnam, war correspondents, and other civilians serving in such capacities as submarine cable communications experts.

During World War I, other civilians served in the American Secret Service and as employees of Army Ordnance and Signal Corps. Many others rendered service in other capacities which, although perhaps less hazardous, were nonetheless vital to our war efforts. Legislation has been introduced in past Congresses to extend Veterans' Administration benefits to these and certain other civilians who rendered service during a period of war, but, to date, none has been enacted.

Whatever similarities to military service the employment WASP's bore, fundamental distinction remained. As civil servants, they were eligible for Federal employees' compensation for job-related injuries, and, in the event of their death, their surviving spouses and children became eligible for death benefits under this same program. They were issued civilian identification cards, and, as civilians, were docked the value of their Army quarters or subsistence allowances. Their rate of pay was $150 per month during their 3 months' training and $250 per month thereafter, plus overtime. This compares with the $75 per month base pay of aviation cadets and of $125 per month of second lieutenants in effect at that time.

The two most significant ways in which the WASP's, as civilians, differed from the enlisted and commissioned members of the Army Air Forces proper pertained to the disciplinary procedures to which they were subject and the nature of their employment commitment. As civil servants, they were not subject to the military justice system, including summary, special, and general court-martial proceedings, or to military administrative discharge regulations. Disciplinary actions against WASP members, including discharges, were governed by civil service regulations. The WASP director, a civilian, had the final decision regarding all civil service disciplinary actions.

Mr. President, as civilians, WASP's were able to resign from the program at any time. Air Force historical study No. 55, on page 36, indicates that of the 1066 WASP's who began training, 107—about 10 percent—resigned. This does not include those who "washed out" or those who received medical discharges. As those among us who are veterans are fully aware, the inability of military active-duty personnel to resign is, indeed, a most significant, unique characteristic of military service, and permeates all aspects of military life, particularly when, in time of war, one is obligated to serve "for the duration."

Mr. President, the militarization bill introduced into the 78th Congress would have provided an opportunity for the WASP's to enter into active duty as military personnel subject to full military discipline and other terms and condition of military service. But Congress rejected that approach in 1944, and those conditions of service were never imposed on the WASP's. I do not disagree that a principal reason for its defeat was the intensive lobbying by the male civilian pilots employed by the Air Force, who would become subject to the draft and to service overseas when their efforts as civilians were not needed.

But I think that the argument based on the Air Force's legal incapacity to commission the women pilots has another side. The main reason the Air Force found it necessary to propose militarization of the WASP's was to bring them under military discipline. Indeed, it is clear from the record that both Air Force officials and the WASP director believed that it was essential to achieve the controls that militarization would bring. Thus, the quasi-military discipline and regulations under which the WASP's served were practical expedients, preliminary to the eventual militarization sought by the Air Force, and not evidence of "de facto" military status.

Mr. President, when World War II began, a woman could not join the Army except as a nurse. Not until 1943, when the Women's Army Corps bill was enacted by Congress, was it legally possible for a woman other than a nurse to be "part of the Army." At that time, the Air Force was still part of the Army, known as the Army Air Force. It was the most successful service in stimulating women to join, and about 30,000 "Air WACS," as they were called, including about 7,600 commissioned officers, served in a military capacity for the Army Air Force. Many of these women served overseas in hazardous conditions, and some lost their lives. Thus, the charge that "sex discrimination" was the reason the WASP's were not militarized is not a

charge to be laid at the door of the U.S. Army Air Force.

I believe it would be a disservice of the highest magnitude to the veterans of this country if Congress should enact legislation which undermines the powerful and cogent rationale that underlies veterans' benefits—that veterans, by virtue of their service, are entitled not only to our deepest respect, but also a repayment in the form of veterans' benefits for service-connected disabilities, basic economic security, health care, education, assistance in acquiring a home and other readjustment benefits, and burials. These benefits have never been bestowed lightly and, except in certain very exceptional and highly restricted circumstances, they are not bestowed on anyone other than a person who was on active duty in the Armed Forces of the United States, with all of the concomitant obligations, restrictions on personal freedom, and subjection to military authority and discipline which such service, in the best of circumstances, entails.

Mr. President, the precedent-setting effect of granting veterans' benefits to persons classified as civilians would be extremely risky. The Committee on Veterans' Affairs has received mail from individuals who were formerly civilian pilots or in the merchant marine during World War II. Most of this mail is very favorable to the WASP position, and the writers point out that if the WASPS succeed in the Congress, they intend to be next in line. I do not have a precise estimate of the numbers potentially involved, but one estimate of the number of merchant marine personnel still living who served aboard ship under Navy regulations during World War II in hazardous areas is 100,000.

Neither title 38 nor the Veterans' Administration discriminates on the basis of sex. About 600,000 women veterans are eligible for veterans' benefits, and about one-half served during World War II. At the hearing on May 25, 1977, Dorothy Starbuck, the Chief Benefits Director, testified in opposition to S. 247 that she had personally devoted many long hours in preparing the VA report on S. 247, and neither she nor the staff of the VA General Counsel's Office could find a single feature distinguishing the WASP's from other civilian employees of the U.S. Government during that period or from other civilians who participated in the war effort.

Mr. President, these women were not deceived by any action of the Government as to their service. No evidence of a recruiting officer's promise of militarization as an inducement to join the WASP's has been submitted to the committee. I am satisfied that the Air Force acted in a most enlightened fashion in providing these women with valuable training and allowing them an opportunity to serve as civilian pilots for the air transport command.

We should not now rewrite history by "deeming" their service—valiant though it was—as military service, which it was not.

Let me make one final point. The Senator from Arizona states that the cost would not be more than $80,000 in his amendment. I agree, if we are talking only about his amendment. What disturbs me, is what will happen when some of these other groups come forward and get amendments passed? I think we are talking about many millions of dollars, which will be the ultimate consequential cost of adopting this amendment. I shall not raise the point of order that this is not germane. I leave it now in the lap of the Senate. I will vote "no".

Mr. MELCHER. Will the Senator yield for a unanimous-consent request?

Mr. CRANSTON. Yes, I yield.

Mr. MELCHER. I ask unanimous consent that Mary Gereau of my staff may be accorded the privilege of the floor during the balance of debate on this measure and all votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the name of the junior Senator from New York (Mr. MOYNIHAN), current occupant of the chair, be added as cosponsor and that the name of Senator STEVENS of Alaska be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Very, very briefly, Mr. President, I can agree with everything the chairman has said. If these other groups he has mentioned want to come in and apply for this, I shall support them. I think any person who supports his country during a time that the country needs support is entitled to the benefits that we provide to those who went through the formality of being drafted or enlisting or attending the schools and so forth. But they have not. I have taken occasion, several times now, to try to get these benefits given to our women pilots.

I might say that the first women pilots I had assigned to my group were completely volunteers. They did not wear uniforms. They wore what they wanted to wear. They came to work when they wanted to. The only requirement was that each had over 400 hours and a 400-horsepower aircraft, which was hard to find.

It was rather natural when General Arnold and Jackie Cochran started to move this program out into the broad field of women that wanted to fly, that they probably did not think at first of their not being made officers or enlisted men. Although General Arnold tried through 1944, until almost the time of his death, to get this changed, the effort has been going on constantly since 1944.

Mr. President, contrary to what the chairman has told us, and I will only read one sentence, this was an order issued by headquarters, Fifth Ferrying Group, Ferrying Division, Air Transport Command, Love Field, in 1943:

During time of war, all persons accompanying or serving with the Armies of the United States in the field, whether within or without the territorial jurisdiction of the United States, are subject to military law.

Mr. President, I ask unanimous consent that this entire order be printed at this point in the RECORD, because these girls were subject to court martial according to this document.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEADQUARTERS, 5TH FERRYING GROUP, FERRYING DIVISION, AIR TRANSPORT COMMAND,
Love Field, Texas, March 15, 1943.

MEMORANDUM

Subject Civilian Personnel Subject to Military Law.

To All civilian personnel.

The United States is at War. As a result of your employment at this Post, you are "serving with the Armies of the United States".

For your information and guidance, we quote from a memorandum received from Army Air Forces, Headquarters Air Transport Command, Washington, D.C., dated February 26, 1943:

"1. During time of war, all persons accompanying or serving with the Armies of the United States in the field, whether within or without the territorial jurisdiction of the United States, are subject to military law. (A.W. 2)

2. Within the limitations specified by A.W. 2, civilians on duty with the Air Transport Command, as well as civilian employees of a contractor doing work under the supervision of the Air Transport Command, are subject to military law. Such personnel may be tried by court martial if they violate any applicable provisions of the Articles of War. The following are not applicable to civilians: A.W. 54, 55, 56, 57, 60, 62, 65, 67, 71, 72, 75, 84, 85, 87 and 95.

3. Whether in a given case recourse should be had to trial by court martial or to administrative action is a matter within the discretion of the Commanding Officer concerned.

4. A civilian employee of the War Department, or a civilian employee of a War Department contractor, while accompanying or serving with the armies in the field, should not be allowed to resign if the loss of his services would prejudice the military establishment.

5. Even though the resignation of such a civilian is accepted, he may nevertheless be subject to military law if he in fact still accompanies or serves with the Armies of the United States in the field."

For the Commanding Officer:

C. R. LEDBETTER,
Personnel Officer.

Mr. GOLDWATER. Mr. President, let me close by saying that the only thing wrong with these girls is that they were girls.

Up until very recent years, we never allowed women in the armed services. We looked down on them. I have yet to admit my first girl to an academy. I may give in sometime before I am through, but I am not inclined that way.

But I will say this, we graduated 10 girls at Williams Air Force Base last month, a training base in my State. I have flown formation with them. I observed them and they are just as good as any men we have.

I say the same thing about the girls I flew with in World War II.

I do not think any man wants to see a woman go to combat, but they may be on the verge of it and we will have that fight when that comes along.

I urge my colleagues in this body to override the arguments of the chairman, arguments which I will buy, and which I will help him overcome, should the time ever arise.

But I will yield back the remainder of my time, if my opposition is willing to, and then we can have an up or down vote.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CRANSTON. Yes, I would like to make one statement.

Mr. President, the administration testified that these WASPS were not subject to military law. They could resign, quite a few did resign, and none were court-martialed.

There is a difference of opinion on this, obviously.

Mr. GOLDWATER. I might observe that they were very well behaved.

Mr. CRANSTON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Arizona.

So the amendment was agreed to.

Mr. GOLDWATER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 955

(Purpose: To amend S. 457; add new section 204 to give two-year extension of delimiting date to needy Vietnam era veterans.)

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 955.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is ordered.

The amendment is as follows:

SEC. 204. (a) Section 1662 of title 38, United States Code is amended by inserting at the end thereof the following new subsection;

"(f)(1) Notwithstanding the provisions of subsections (a) and (c), the Administrator may authorize an extension of the ten-year delimiting period in the case of any eligible veteran who served on active duty, any part of which occurred after August 4, 1964, if—

"(A) such veteran demonstrates that he or she could not reasonably initiate or complete a program of education within the ten-year delimiting period;

"(B) an extension of the delimiting period is necessary to enable such veteran to initiate or complete such veteran's program of education; and

"(C) such veteran is or will be enrolled in a program of educational instruction that will provide vocational readjustment and restore lost educational opportunities or aid such veteran in attaining the vocational and educational status to which such veteran might normally have aspired and obtained had such veteran not served such veteran's country; and

"(D) such veteran demonstrates that, on the date of application for the extension of the delimiting date under this subsection, he or she is unemployed or underemployed with an income at or below the Intermediate Level Consumption Budget, as defined by the Bureau of Labor Statistics.

"(2) Under no circumstance may the extension of the delimiting period exceed the time required to complete the veteran's program of education or two years after the effective date of this provision, whichever is the lesser period of time.".

(b) The provisions of this section shall become effective January 1, 1978.

Mr. MELCHER. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MELCHER. Mr. President, in calling up amendment 1415, and I have sent a modified amendment to the desk, the amendment is sponsored by Senators STEVENS, RIEGLE, MCGOVERN, HOLLINGS, CLARK, HUDDLESTON, ANDERSON, TOWER, and myself.

This modified amendment No. 1415 to S. 457 is a very limited extension of the delimiting date to a group of deserving Vietnam era veterans who have been virtually denied the opportunity to utilize their educational entitlement because of circumstances that existed at the time of their discharge.

I want to make it clear, Mr. President, that it is not a blanket 2-year extension covering all veterans whose time has expired.

Those service personnel who were discharged after August 5, 1964, the date of the Gulf of Tonkin resolution, and before 1970 when the increased subsistence payments were enacted, could not, in many instances use their educational benefits. The law in effect for that period would have given their $130 per month out of which they were expected to pay for tuition, books and other expenses.

Mr. President, even back then, $130 a month to pay for tuition and living expenses was such that many veterans found it impossible to utilize their GI benefits.

This was totally unrealistic, except for a veteran who had a full-time job and could attend night classes, or who, for other reasons, had assets that could be used.

The fact that only 10 percent of the educationally disadvantaged veterans discharged during this period fully utilized their educational benefits is eloquent evidence that the vast majority, after investigating the matter, abandoned any effort to pursue the educational benefits they had honorably earned.

Our amendment, which is cosponsored by Senators STEVENS, RIEGLE, MCGOVERN, HOLLINGS, CLARK, HUDDLESTON, ANDERSON, and TOWER, will give veterans—who have not utilized their full entitlement, whose time has expired, who can demonstrate need, and who were discharged between 1964 and December 31, 1969, up to an additional 2-year period in which to enter or complete an educational program which will equip them to earn a living.

Now, earlier, in adopting the amendment offered by the Senator from New Hampshire, my good friend (Mr. DURKIN), the requirement for the delimiting period was that the veteran had to be enrolled at the time. This is a difference I am seeking to rectify. This permits those veterans who found it impossible at that time to enter, or who did enter and then found it impossible to continue, another chance at it.

The determination of need—and that is a part of the criteria on which the veterans of this era could apply for this—will be based on the criteria outlined in the modified amendment. The veteran is required to demonstrate that he or she could not reasonably initiate or complete a program of education during the 10-year delimiting period, that an extension of the delimiting period is necessary to enable the veteran to initiate or complete a program of education, and that the veteran is or will be enrolled in a program of educational instruction that will provide vocational readjustment and restore lost educational status to which he or she might reasonably have aspired had his or her career not been interrupted by military service.

Because of the budget situation, I am adding a further condition limiting the eligibility under this amendment to those veterans unemployed or who are underemployed with an income at or below the intermediate level consumption budget as defined by the Bureau of Labor Statistics.

Veterans discharged between 1968 and 1970 would have their extra time for using the benefit provided by this amendment proportionately reduced, since they still may have some time to utilize their benefits under the present law. The program provided by this amendment would self-destruct by 1980 or shortly thereafter. It is a limited 2-year program for a very limited but deserving group of veterans.

The intermediate consumption level budget of the Bureau of Labor Statistics is taken from the most recent report of BLS which contains the data for 1976.

Mr. President, I ask unanimous consent to have this table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE C.— ANNUAL CONSUMPTION BUDGETS FOR SELECTED FAMILY TYPES, URBAN UNITED STATES, AUTUMN 1976[1]

Family size, type, and age	Lower level	Intermediate level	Higher level
Single person, under 35 yr	$2,860	$4,330	$5,970
Husband and wife under 35 yr:			
No children	4,000	6,060	8,350
1 child under 6	5,060	7,670	10,570
2 children, older under 6	5,880	8,910	12,270
Husband and wife 35 to 54 yrs:			
1 child, 6 to 15 yr	6,690	10,140	13,980
2 children, older 6 to 15 yr[2]	8,162	12,370	17,048
3 children, oldest 6 to 15 yr	9,470	14,350	19,780
Husband and wife, 65 yr and over[3]	4,160	6,310	8,690
Single person, 65 yr and over[4]	2,290	3,460	4,770

[1] For details on estimating procedures, see "Revised Equivalence Scale," BLS Bulletin 1570-2.
[2] Costs for the BLS budgets for a 4-person family from which estimates for other family types are derived.
[3] Estimated from the equivalence scale value of 51 percent of the base (4-person) family. Costs based on detailed BLS budgets for a retired couple may differ slightly from estimates obtained by the scale values.
[4] Estimated from the equivalence scale value of 28 percent of the base (4-person) family. May differ slightly from estimates obtained by applying a ratio of 55 percent to the BLS budget for a retired couple.

Mr. MELCHER. Mr. President, the table shows that a single veteran under 35 years of age would have to have an income of less than $4,330; a married veteran with no children would have to have an income under $6,060; a married veteran with one child, $7,670 and a married veteran with two children, $8,910. That all refers to income during the preceding 12 months.

I selected the intermediate consumption level budget, rather than the poverty level, since I do not believe we should limit veterans' benefits to those qualified for welfare. Certainly, the income levels cited are not luxurious. The GI benefits will provide no incentive to quit work or to remain unemployed. The veteran, in most cases, will continue to work full or part-time and use his educational benefit to pay for his or her tuition, books, tools, travel, lab fees, and so forth.

Use of the intermediate consumption level budget, according to the Bureau of Labor Statistics "Handbook of Methods" (USDL Bulletin 1910-76), in this way does not set a precedent, something we have used before in previous legislation. The publication states:

> Budgets also provide benchmarks for administrative determinations, as required by a number of existing laws or policies of social, welfare and educational agencies: e.g. to establish criteria for public assistance, public housing, support services for individuals in job development programs, subsidized medical or mental health, guidance services, or college scholarship aid.

Mr. President, this amendment, I am confident, is well within the budget limitation adopted earlier this year. I must say that there is some doubt from the CBO as to the costs of the Durkin amendment plus the costs of this amendment, interrelated to each other, because there is overlapping. There is some doubt. However, I can state with confidence that if it does exceed the budget, it is a minor amount.

There are 67,500 potentially eligible veterans covered by this amendment. Certainly, not all of them will avail themselves of this opportunity. No one can accurately estimate how many will even try to take advantage of this opportunity.

An unofficial estimate of the cost of this modified amendment, based on data available to staff of the Congressional Budget Office, is from 70 million to 100 million for fiscal year 1978. That is based on the fact that the amendment takes effect January 1, 1978. and, if adopted, will be in effect for 9 months of that fiscal year. My requests for data from the Veterans' Administration on which to base a more accurate estimate of cost have been unanswered, except to tell me that a comprehensive report is being prepared to be released in a couple of weeks. I would hope they have the data, but they have not made it available to me.

I feel, as do the cosponsors, that we have a moral obligation to these veterans who served with honor, many in the battlefields of Vietnam. Yet, they were denied, for economic reasons, the opportunity to pursue their educational opportunities during the time of discharge and during the time of the usual limiting period.

I remind Senators again of the unique problems of the Vietnam veteran. They returned, not to be welcomed as conquering heroes but to be scorned by their peers, suspected by some of their neighbors and some potential employers of being, at worst, some sort of wild people. Some of them were thought to be exposed to the use of drugs, to the point of it having become a habit. Really, they were serving their country, as they had sworn to do. We owe these men and women much more than this amendment can begin to repay. If I had my way and if we were not under such budgetary restraints as we are, I would like to do much more than this.

But, I am a realist. I recognize the budget problem, although in this case I do not believe we should be blinded by it. I recognize the opposition of the national VFW and the National American Legion to any extension of the delimiting date, an opposition I totally fail to comprehend. I am most pleased that the Montana VFW and the Montana American Legion both unanimously endorsed the principle of extension of the delimiting date. I believe most rank and file members of these two great organizations would also approve this amendment if it were clearly explained.

I am also most pleased to have the support of the National Education Association for my amendment. I am aware that the NEA has been in the forefront of every fight for every GI educational bill which has ever passed, and their support is gratifying, indeed. I ask unanimous consent that the letter from Mr. James Green, assistant director for legislation of the National Education Association be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL EDUCATION ASSOCIATION,
Washington, D.C., October 12, 1977.

Hon. JOHN MELCHER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MELCHER: The National Education Association is in support of your amendment No. 1415 to Senate 457, 1st session, 95th Congress. Your remarks printed in the Congressional Record of October 4th were convincing.

We believe it desirable to provide the two-year period in which needy and deserving Vietnam veterans may take advantage of effective readjustment programs. This makes sense in terms of equity, justice, and in attacking the high rate of unemployment that exists in the group covered by the proposed educational benefits.

Other members of the Senate are being requested to join the effort.

Sincerely,

JAMES W. GREEN,
Assistant Director for Legislation.

Mr. MELCHER. Mr. President, this amendment should not be thought of merely in terms of appropriations. Many of these veterans, through no fault of their own, did not have the economic opportunity. The $130 a month to pay for the books and the tuition and the living expenses did not do anything. If they started, many of them dropped out. Many of them never even started. This is not something that is beyond the grasp of the needs for this group. It is much better than CETA, which often is just a 1-year dead end. It is much better than being on welfare. It is much better than finding themselves held back for the rest of their lives. This gives them an opportunity to go on and develop themselves.

The needy veterans served by this amendment will be removed from the unemployment and welfare rolls. They will not be limited to dead-end, 1-year CETA jobs, they will become taxpayers of the future and, as has been true with all who were educated under previous GI education bills, will repay five times over in taxes what the cost of their training has been. Of equal importance, however, is the psychological lift we can give these veterans, even in this limited way, by letting them know that, however, belatedly, we are making an effort to, in some degree, right the wrongs that have existed for them since their discharge.

I urge my colleagues to accept my modified amendment 1415 to S. 457.

I reserve the remainder of my time.

Mr. CRANSTON. Mr. President, as a result of the adoption earlier of the Durkin amendment, it is estimated that this amendment would put us approximately $70 million to $100 million over the budget, as I understand it, by the conservative estimate of the CBO. As a member of the Budget Committee, I am authorized to express the opposition of both Senator MUSKIE, the chairman, and Senator BELLMON, the ranking minority member of that committee, to this amendment.

I oppose this amendment for that reason and because I feel that it unfairly discriminates between equally deserving veterans and creates a tenuous classification of need upon which delimiting benefits would be premised.

I am opposed to the adoption of amendment No. 1415, offered by my colleague from the State of Montana (Mr. MELCHER). I recognize his keen interest in and concern for Vietnam era veterans, and I congratulate him for it. During hearings held in June by the Subcommittee on Health and Readjustment of the Committee on Veterans' Affairs in regard to the education program, Senator MELCHER was the only Senator who appeared before the committee to speak on behalf of changes he felt were needed in the GI bill program.

Mr. President, the amendment proposes to cover some needy veterans and exclude many other equally needy veterans. In 1966, the Congress enacted a cold war GI bill and extended retroactive eligibility to those veterans who had served on or after January 31, 1955. For instance, a veteran who worked full time at a menial task but sought to improve himself by going to school part time would not be eligible. A veteran who did neither; but rather lived on unemployment compensation or welfare would be eligible. The industry is penalized.

Senator MELCHER would extend eligibility for an extension of the delimiting date only to those veterans who served on or after August 4, 1964, and prior to January 1, 1970. I oppose this distinction insofar as pre-1964 veterans are concerned.

In 1966, the amount of the allowances provided under the GI bill was insufficient for all eligible veterans, not just those who served after August 4, 1964. To the extent the VA failed to pursue vigorous outreach efforts, all eligible veterans have been affected. And to the extent that some veterans have as a result been unable to complete their education, all eligible veterans are involved.

I also cannot accept the distinction that the Melcher amendment proposes between veterans who served in different years. The amendment would grant no delimiting date extension to enormous numbers of veterans who left service at the peak of the Vietnam war only to find very inadequate GI bill benefit levels until the October 1, 1972, increase to $220 per month for a single full-time trainee with no dependents.

I prefer the theory of the Durkin amendment already adopted that if a veteran is delimited at the end of his 10th year while in full-time study, it makes good sense for the Federal Government to provide an incentive for that veteran to continue full-time study and reach his educational or vocational objective. That is sound public policy both in terms of protecting the value of our initial investment in that veteran and in terms of giving that veteran a better chance to achieve self-sufficiency and dignity as a contributing member of society.

In sum, I find this amendment inequitable. In contrast, the Durkin amendment No. 1443 does not suffer from the deficiencies noted and is thus the preferable way of affording necessary relief. I urge defeat of amendment No. 1415.

Mr. TOWER. Mr. President, I am pleased to cosponsor the amendment of Senator MELCHER to S. 457, the GI Bill Improvement Act of 1977. The Senator's amendment is designed to provide needy Vietnam-era veterans with a 2-year extension of the current 10-year delimiting period.

I wish to commend the chairman of the Veterans' Affairs Committee and members of the committee on both sides of the aisle for their excellent work on this important veterans legislation. It clearly reflects the interest and support that Members of this body have extended to our country's deserving Vietnam veterans.

Mr. President, there is complete agreement among my colleagues that the Vietnam-era veteran returned home after serving his Nation fully unprepared to face and cope with the surprisingly strong and often bitter emotions that Vietnam generated within so many Americans. Where these attitudes and feelings were directed against America's returning veterans, it was sadly a tragic misplacement of undeserving blame.

I believe it is this background that my colleagues need to keep in mind in our discussions of this amendment by the Senator from Montana. It focuses directly upon the needy Vietnam-era veterans in proposing to extend by 2 years the period for receiving educational benefits.

There is no argument here that veterans covered by this amendment are deserving while all other veterans are not. Rather, this amendment offers the Senate an opportunity to extend a reasonable, modest, and honorable helping hand to Vietnam-era veterans who may have been the most severely affected, over the longest period of time, by the prevailing attitudes in this country at the time they attempted to return to normal civilian life.

In my State, great numbers of Texans have proudly answered our Nation's call to duty time and time again, without exception. Veterans in my State who are also members of the Mexican-American and the black communities have served as Texans with equally outstanding distinction and valor. It is this particular veteran, perhaps as much as any other in my State, that may be in special need of the opportunity the Senate can provide him with this amendment.

Mr. President, the Vietnam experience has left its indelible mark on our Nation. This amendment offers us the chance to lighten that mark at least a little for those Vietnam-era veterans who may have been the least-prepared, upon returning home, to cope with a frightening national phenomena. It is fair and it is just; and I urge my colleagues to support this amendment.

Mr. STAFFORD. Mr. President, I heartily concur with the chairman of the committee. With regret, I also must oppose the amendment, for the reasons stated by the chairman of the full committee.

Mr. CRANSTON. Mr. President, before yielding back time, I was requested by a Senator—and agreed to do this—to see whether there is any opposition to putting over this rollcall vote and making it back to back with another rollcall vote.

Do any Senators object?

The PRESIDING OFFICER. Is there objection?

Mr. RANDOLPH. We should have the rollcall vote now.

Mr. CRANSTON. There are Senators who object, so I will not make the request. And I yield back my time.

The PRESIDING OFFICER. Objection is heard.

Mr. MELCHER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum for a very brief moment.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, in view of the fact that the two Senators who wanted to vote now had to leave, I now ask unanimous consent that this rollcall occur not at the end of consideration on this amendment but rather occur back-to-back at the time we vote on the Javits-Moynihan amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I presume the vote on this amendment will occur after the vote on the Moynihan-Javits amendment. We would be discussing that amendment at that time and it would be logical to vote on that first.

The PRESIDING OFFICER. Is that the Senator's request?

Mr. CRANSTON. That is my request, and I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SARBANES). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. TALMADGE. Mr. President, the request I am about to make has been cleared all the way around. We will substitute provisions of a Senate-passed bill for a House bill pending at the desk, accept an amendment and take it to conference. It has already been approved by the Committee on Finance and the Senate and, I believe, the entire matter will take less than 5 minutes.

I ask unanimous consent that the pending matter be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

RURAL HEALTH CLINIC SERVICES

Mr. TALMADGE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8422.

The Presiding Officer laid before the Senate H.R. 8422, an act to amend titles XVIII and XIX of the Social Security Act to provide payment for rural health clinic services, and for other purposes.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the bill which has been held at the desk.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice, and the Senate will now proceed to its immediate consideration.

Mr. TALMADGE. As I pointed out when making my unanimous consent request previously, H.R. 8422 is a House proposal designed to authorize and improve medicare and medicaid reimbursement for certain health care services in rural clinics.

The Finance Committee and the Senate approved similar provisions as an amendment to H.R. 422 a tariff bill approved by the Senate on September 16.

It is our intention to offer the rural clinic provisions of H.R. 422 and a provision dealing with a Public Health Service Hospital in Texas as an amendment for the text of the House bill H.R. 8422.

By doing this, both the full House and Senate versions of the legislation will be in conference.

UP AMENDMENT NO. 956

Mr. TALMADGE. I now offer an appropriate amendment to H.R. 8422 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment sent to the desk by the Senator from Georgia.

The legislative clerk read as follows:

The Senator from Georgia (Mr. TALMADGE) proposes an unprinted amendment numbered 956.

Mr. TALMADGE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

TITLE II—RURAL HEALTH CLINIC SERVICES

MEDICARE AMENDMENTS

Sec. 201. (a) Section 1832(a) of the Social Security Act is amended—

(1) by striking out "paragraph (2)(B)" in paragraph (1) and inserting in lieu thereof "subparagraphs (B) and (D) of paragraph (2)"; and

(2) by striking out the period at the end of paragraph (2)(B) and inserting in lieu thereof "; and" and by adding the following new subparagraph at the end of paragraph (2);

"(D) rural health clinic services."

(b) Section 1833(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by inserting "(except those services described in subparagraph (D) of section 1832(a)(2))" in paragraph (2) after "1832(a)(2)";

(3) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and"; and

(4) by inserting the following new paragraph after paragraph (2):

"(3) in the case of services described in section 1832(a)(2)(D), 80 percent of costs which are reasonable and related to the cost of furnishing such services or on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861(v)(1)(A)."

(c) Section 1833 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i) The Secretary is authorized to waive the provisions of subsection (b) of this section with respect to rural health clinic services and require in lieu thereof copayments by an individual receiving such services in cases in which he determines that such an alternative system is less costly. Such copayments shall not exceed $3 per visit to a rural health clinic, shall not exceed $60 per calendar year.".

(d) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"Rural Health Clinic Services

"(aa)(1) The term 'rural health clinic services' means—

"(A) physicians' services and such services and supplies as are covered under subsection (s)(2)(A) if furnished as an incident to a physician's professional service,

"(B) such services furnished by a physician assistant or nurse practitioner as he is legally authorized to provide in the jurisdiction in which he performs such services, and such services and supplies furnished as an incident to his service, as would otherwise be covered if furnished by a physician or as an incident to a physician's service, and

"(C) in the case of a rural health clinic located in an area in which there exists a shortage of home health services (as defined in subsection (m)) due to a shortage of home health agencies (as defined in (o)), as determined by the Secretary, such services as would constitute home health services if furnished by a home health agency (without regard to the number of such services furnished by such rural health clinic), if such clinic meets such other conditions as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished such services by such clinic,

when furnished by a rural health clinic to an individual as a primary care patient.

"(2) The term 'rural health clinic' means a facility which—

"(A) is primarily engaged in providing rural health clinic services;

"(B) has an arrangement (consistent with the provisions of State and local law relative to the practice, performance, and delivery of health services) with one or more physicians (as defined in subsection (r)(1)) under which provision is made for the periodic review by such physicians of rural health clinic services for which payment may be made under this title furnished by physician assistants and nurse practitioners, and for the supervision and guidance by such physicians of physician assistants and nurse practitioners;

"(C) provides for the preparation by the supervising physicians, physician assistants, and nurse practitioners of medical orders for care and treatment of clinic patients, and the availability of such physicians for such referral and consultation for patients as is necessary, and for advice and assistance in the management of medical emergencies;

"(D) maintains clinical records on all patients;

"(E) has arrangements with one or more hospitals (as defined in subsection (e)) for the referral or admission of patients requiring inpatient services or such diagnostic or other specialized services as are not available at the clinic;

"(F) has written policies to govern the management of the clinic and all the services it provides;

"(G) has appropriate procedures or arrangements, in compliance with applicable State and Federal law, for storing, administering, and dispensing drugs and biologicals;

"(H) has appropriate procedures for utilization review;

"(I) directly provides routine diagnostic services (as prescribed by the Secretary) consistent with the provisions of State and local law relative to the practice, performance, and delivery of health services, and has prompt access to additional diagnostic services from facilities meeting requirements under this title; and

"(J) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of the individuals who are furnished services by the clinic.

For purposes of this title, such term includes only a facility which (i) is located in (I) a rural area which is designated by the Secretary under section 1302(7) of the Public Health Service Act as having a medically underserviced population, (II) an area (other than an urbanized area, as defined by the Bureau of the Census) in which the supply of medical services is not sufficient to meet the needs of individuals residing therein, or (III) an urbanized area (as so defined) if the majority of the patients served by such facility reside in an area described in clause (I) or (II), (ii) has filed an agreement with the Secretary by which it agrees not to charge any individual or other person for items or services for which such individual is entitled to have payment made under this title, except for the amount of any deductible or coinsurance amount imposed with respect to such items or services (not in excess of the amount customarily charged for such items and services by such clinic), pursuant to subsections (a), (b), and (i) of section 1833, (iii) employs a physician assistant or nurse practitioner, and (iv) is not a rehabilitation agency or a facility which is primarily for the care and treatment of mental diseases.

"(3) The term 'physician assistant' or the term 'nurse practitioner' means, for the purposes of this subsection, a physician assistant or nurse practitioner who performs, under the supervision of a physician (as defined in subsection (r)(1)), such services, as he is legally authorized to perform (in the State in which he performs such services) in accordance with State law (or the State regulatory mechanism provided by State law) and who meets such training, education, and experience requirements (or any combination thereof) as the Secretary may prescribe in regulations.".

(c) Section 1862(a)(3) of such Act is amended by striking out "in such cases" and inserting in lieu thereof "in the case of rural health clinic services, as defined in section 1861(aa)(1), and in other cases".

(d) Section 1861(s)(2) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (C)(ii);

(2) by inserting "and" at the end of subparagraph (D); and

(3) by adding the following new subparagraph at the end thereof:

"(E) rural health clinic services;".

(e) Section 1864(a) of such Act is amended—

(1) by inserting "or whether a facility therein is a rural health clinic as defined in section 1861(aa)(2)," in the first sentence after "home health agency,";

(2) by inserting "rural health clinic," in the second sentence after "nursing facility,"; and

(3) by inserting "rural health clinic," in the last sentence after "facility," each time it appears therein.

(f) Section 1122(b)(1) of the Social Security Act is amended by inserting after the term "health care facility" the following: "(including a rural health clinic as defined in section 1861(aa)(2) of this Act)".

MEDICAID AMENDMENTS

SEC. 202. (a) Paragraph (2) of section 1905 (a) of the Social Security Act is amended to read as follows:

"(2)(A) outpatient hospital services and (B) consistent with State law permitting such services, rural health clinic services (as defined in subsection (l)) and any other ambulatory services which are offered by a rural health clinic (as defined in subsection (l)) and which are otherwise included in the plan;".

(b) Section 1905 of such Act is amended by adding after subsection (k) the following new subsection:

"(l) The terms 'rural health clinic services' and 'rural health clinic' have the meanings given such terms in section 1861(aa) of this Act.".

(c) Section 1902(a) of such Act is amended—

(1) by striking out the semicolon at the end of paragraph (13) and inserting in lieu thereof ", and", and by adding at the end of such paragraph the following new subparagraph:

"(F) for payment for services described in section 1905(a)(2)(B) provided by a rural health clinic under the plan of 100 percent of costs which are reasonable and related to the cost of furnishing such services, on such other tests of reasonableness as the Secretary may prescribe in regulations under section 1833(a)(3) or, in the case of services to which those regulations do not apply, on such tests of reasonableness as the Secretary may prescribe in regulations under this subparagraph"; and

(2) by inserting ", or by reason of the fact that the plan provides for payment for rural health clinic services only if those services are provided by a rural health clinic" before the semicolon at the end of paragraph (23).

(d) Section 1910 of such Act is amended—

(1) by amending the heading to read as follows: "CERTIFICATION AND APPROVAL OF SKILLED NURSING FACILITIES AND RURAL HEALTH CLINICS";

(2) by striking out "(a)" and inserting in lieu thereof "(a)(1)";

(3) by striking out "(b)" and inserting in lieu thereof "(2)"; and

(4) by adding at the end thereof the following new subsection:

"(b)(1) Whenever the Secretary certifies a facility in a State to be qualified as a rural health clinic under title XVIII, such facility shall be deemed to meet the standards for certification as a rural health clinic for purposes of providing rural health clinic services under this title.

"(2) The Secretary shall notify the State agency administering the medical assistance plan of his approval or disapproval of any facility which has applied for certification by him as a qualified rural health clinic.".

(e) Section 1866(c)(2) of such Act is amended by striking out "section 1910" and inserting in lieu thereof "section 1910(a)".

DEMONSTRATION PROJECTS

SEC. 203. (a) The Secretary of Health, Education, and Welfare shall provide, through demonstration projects, reimbursement on a cost basis for services provided by physician-directed clinics in urban medically underserved areas for which payment may be made under title XVIII of the Social Security Act and, notwithstanding any other provision of title XVIII, for services provided by physician assistants and nurse practitioners employed by such clinics which would otherwise be covered under such title if provided by a physician.

(b) The demonstration projects developed under subsection (a) shall be of sufficient scope and carried out on a broad enough scale to allow the Secretary to evaluate fully—

(1) the relative advantages and disadvantages of reimbursement on the basis of costs and fee-for-service for physician-directed clinics employing physician assistants and nurse practitioners;

(2) the appropriate method of determing the compensation for physician services on a cost basis for the purposes of reimbursement of services provided in such clinics;

(3) the appropriate definition for such clinics;

(4) the appropriate criteria to use for the purposes of designating urban medically underserved areas; and

(5) such other possible changes in the present provisions of title XVIII of the Social Security Act as might be appropriate for the efficient and cost-effective reimbursement of services provided in such clinics.

(c) Grants, payments under contracts, and other expenditures made for demonstration projects under this section shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. With respect to any such grant, payment, or other expenditure, the amount to be paid from each trust fund shall be determined by the Secretary, giving due regard to the purpose of the demonstration projects.

(d) The Secretary shall submit to the Congress, no later than January 1, 1981, a complete, detailed report on the demonstration projects conducted under subsection (b). Such report shall include any recommendations for legislative changes which the Secretary finds necessary or desirable as a result of carrying out such demonstration projects.

REPORT BY THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE ON MENTAL HEALTH CENTERS

SEC. 204. (a) The Secretary of Health, Education, and Welfare shall submit to the Congress, no later than April 1, 1978, a report on the advantages and disadvantages of extending coverage under title XVIII of the Social Security Act to urban or rural mental health centers.

(b) The report submitted under subsection (a) shall include evaluations of—

(1) the need for title XVIII coverage of services provided by mental health centers;

(2) the extent of present utilization of such centers by individuals eligible for benefits under title XVIII;

(3) alternatives to services provided by such centers presently available to individuals eligible for benefits under title XVIII;

(4) the appropriate definition for such centers;

(5) the types of treatment provided by such centers;

(6) present Federal and State funding for such centers;

(7) the extent of coverage by private insurance plans for services provided by such centers;

(8) present and projected costs of services provided by such centers;

(9) available methods for assuring proper utilization of such centers;

(10) the effect of allowing coverage for services provided by such centers on other providers and practitioners; and

(11) the need for any demonstration projects for further evaluation of the need for coverage for services provided by such centers.

EFFECTIVE DATES

SEC. 205. (a) The amendments made by section 201 of this Act shall apply to services rendered on or after the first day of the third calendar month which begins after the date of enactment of this Act.

(b)(1) The amendments made by section 202 of this Act shall (except as otherwise provided in paragraph (2)) apply to medical assistance provided under a State plan approved under title XIX of the Social Security Act on and after the first day of the first calendar quarter that begins more than six months after the date of enactment of this Act.

(2) Notwithstanding the provisions of paragraph (1), in any case in which legislation is required in order to conform a State plan for medical assistance with the requirements imposed by reason of the amendments made by section 202 of this Act (as determined by the Secretary), such State plan shall not be regarded as failing to comply with the requirements of title XIX of the Social Security Act solely on the basis of such failure to meet the requirements imposed by such amendments at any time prior to the first day of the first calendar quarter that begins after the close of the first regular session of the State legislature which begins after the date of enactment of this Act.

SPACE CENTER MEMORIAL HOSPITAL, NASSU BAY, TEXAS

SEC. 207. The Secretary of Health, Education, and Welfare is hereby directed to acquire the Space Center Memorial Hospital in Nassau Bay, Texas, for the purpose of transferring the activities and functions from the Public Health Service Hospital in Galveston, Texas, to such facility and upon completion of such transfer the Secretary is authorized to close the Public Health Service Hospital in Galveston, Texas.

Mr. TALMADGE. The distinguished Senator from Wisconsin has an amendment which was previously approved by the Committee on Finance.

UP AMENDMENT NO. 957

(Purpose: To provide for access to certain tax return information by the National Institute for Occupational Safety and Health.)

Mr. NELSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) proposes an unprinted amendment numbered 957.

Mr. NELSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . Access to certain tax return information by the National Institute for Occupational Safety and Health.

Section 6103(m) of the Internal Revenue Code of 1954 (relating to disclosure of taxpayer identity information) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and substituting ", and"; and

(3) by adding at the end thereof the following new paragraph

"(3) upon written request, to disclose the mailing address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health solely for the purposes of locating and determining the vital status of workers who are, or may have been, exposed to occupational hazards and referring sick or injured workers for medical care and treatment.".

Mr. NELSON. Mr. President, an amendment that I am calling up to H.R. 8422 would allow the National Institute of Occupational Safety and Health (NIOSH) to continue its program of obtaining from the Internal Revenue Service (IRS) addresses, based on the last date of filing income tax forms, of persons previously employed in occupations exposing them to known or suspected occupational hazards—such as carcinogens.

The amendment has been approved previously by the Senate Finance Committee and by the full Senate. A similar amendment has been approved by the House Ways and Means Committee on a package of miscellaneous tax amendments.

Unfortunately, in each instance, the measure has been tied up either by a conference—presently, it is part of the black lung bill, S. 1538, in conference—or lack of time for both Houses to act—it was approved by the full Senate at the end of the last session.

The amendment is noncontroversial. It corrects an inadvertent oversight in the Tax Reform Act of 1976. The administration and the Congress have recognized the need to make the correction as soon as possible.

The amendment involves no invasion of privacy. It simply provides that NIOSH may continue a previous program of obtaining from the IRS addresses only, in order to facilitate the NIOSH program of identifying and determining mortality or health status of occupationally exposed workers.

Using other sources, such as credit bureaus, to search out workers at risk is more expensive, more invasive of privacy, more time-consuming, and less reliable.

The NIOSH program is designed to improve public health and occupational safety. To date, some 136,500 workers have been identified, and 4,081 referred for appropriate medical treatment.

NIOSH is attempting to isolate occupationally related causes of mortality in coal miners, metal miners, public utility employees, cotton mill workers, dairymen, and oil shale workers, among others. It is also attempting to identify workers who have been exposed to such hazardous substances as arsenic, asbestos, and benzidine.

Each day that the Congress fails to correct the legislative oversight, this worthwhile program costs the taxpayers more money.

It increases the cost from 30 cents per search to approximately $20 per search, adding an estimated $2.7 million to the cost of the program for fiscal 1977.

The Tax Reform Act of 1976 prevents, with specific exceptions, outside access to IRS record information. This is a laudable and necessary protection of private records. However, in drafting the limited exceptions to the act, Congress inadvertently failed to recognize the needs of the NIOSH identification program, which are consistent with Congress' intent to improve public health and occupational safety, and which do not invade private records.

It is our understanding that the bill manager has no objection to the amendment. HEW urges its passage at the earliest possible time. I would hope that the measure would be adopted.

The PRESIDING OFFICER. Is the amendment of the Senator from Wisconsin which he sent to the desk proposed as an amendment to the amendment offered by the Senator from Georgia?

Mr. TALMADGE. As a subsequent amendment. Mr. President, it is not an amendment in lieu thereof but in addition to.

The PRESIDING OFFICER. It is an amendment to.

Mr. TALMADGE. Yes, it is an amendment to the amendment I offered on behalf of the Committee on Finance.

Mr. President, I suggest that the amendment the Senator proposes has been agreed to by the Committee on Finance. It has been agreed to by the minority members thereof, and I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Georgia, as amended by the amendment of the Senator from Wisconsin.

The amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 8422) was read the third time, and passed.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the bill, H.R. 8422, be printed with the amendments of the Senate numbered, and that in the engrossment of the amendments of the Senate to the bill the Secretary of the Senate be authorized to make all necessary technical and clerical changes and corrections, including corrections in section, subsection, et cetera, designations, and cross-references thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, I move that the Senate insist on its amendments to H.R. 8422 and agree to the request of the House of Representatives for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The PRESIDING OFFICER. It is the Chair's understanding that the House of Representatives has not yet requested a conference. Will the Senator amend his motion?

Mr. TALMADGE. Yes. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG, Mr. TALMADGE, Mr. HATHAWAY, Mr. DOLE, and Mr. PACKWOOD conferees on the part of the Senate.

GI BILL IMPROVEMENT ACT OF 1977

Mr. TALMADGE. Mr. President, I ask unanimous consent that the Senate resume the consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate resumed the consideration of S. 457.

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. ROBERT C. BYRD. The time to be equally divided.

The PRESIDING OFFICER. The time for the quorum call will be equally divided between the two sides. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 958

Mr. CRANSTON. Mr. President, because of the need to ascertain some budget figures relating to the pending Melcher amendment. I ask unanimous consent that that amendment be set aside temporarily, and that the Senate now proceed to the consideration of the Javits-Moynihan amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. JAVITS. This amendment is submitted on behalf of Senators JAVITS, MOYNIHAN, BROOKE, KENNEDY, CHAFEE, METZENBAUM, BAYH, and RIEGLE.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and others, proposes an unprinted amendment numbered 958.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, beginning with line 11, strike out all down through line 3 on page 14 and insert in lieu thereof the following:

Sec. 101. The table contained in section 1504(b) of title 38 United States Code, is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$241	$298	$351	$26
Three-quarter time	181	224	263	19
Half-time	120	149	176	13
Farm cooperative, apprentice, or other on-job training:				
Full-time	210	254	293	19"

VETERANS' EDUCATIONAL ASSISTANCE

Sec. 102. Chapter 34 of title 38, United States Code, is amended by—

(1) striking out in the last sentence of section 1677(b) "$270" and inserting in lieu thereof "$281";

(2) amending the table contained in paragraph (1) of section 1682(a) of title 38, United States Code, to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$304	$361	$412	$25
Three-quarter time	228	270	309	19
Half-time	152	181	206	12
Cooperative	244	287	326	19".

(3) striking out in section 1682(b) "$292" and inserting in lieu thereof "$304";

(4) amending the table contained in paragraph (2) of section 1682(c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$244	$287	$326	$19
Three-quarter-time	183	215	244	15
Half-time	123	144	163	9".

(5) striking out in section 1692 (b) "$65" and "$780" and inserting in lieu thereof "$67" and "$811", respectively; and

(6) striking out in section 1696 (b) "$292" and inserting in lieu thereof "$304".

SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

Sec. 103. Chapter 35 of title 38, United States Code, is amended by—

(1) striking out in section 1732 (b) "$235" and inserting in lieu thereof "$244"; and

(2) striking out in section 1742 (a) "$292", "$92", "$92", and "$9.76" and inserting in lieu thereof "$304", "$96", "$96", and $10.15", respectively.

CORRESPONDENCE COURSES, ON-JOB TRAINING, AND EDUCATION LOANS

Sec. 104. Chapter 36 of title 38, United States Code, is amended by—

(1) striking out in section 1783 (a) (2) "$292" and inserting in lieu thereof ": $304;

(2) amending the table contained in paragraph (1) of section 1787 (b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$220	$248	$270	$11
Second 6 months	165	192	215	11
Third 6 months	110	137	160	11
Fourth and any succeeding 6-month periods	55	82	105	11".
Periods of training				

and

(3) striking out in paragraph (3) of section 1798(b) "$292" and inserting in lieu thereof "$304".

TITLE II—SUPPLEMENTAL TUITION ALLOWANCE AND DELIMITING PERIOD EXTENSION

Sec. 201. Section 1682 of title 38, United States Code, is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) a new subsection (d) as follows:

"(d)(1) In addition to the educational assistance allowance payable to veterans under this chapter (except in the case of servicemen on active duty, programs pursued on less than a halftime basis, or flight training) there shall be paid to each veteran who qualifies hereunder a supplemental tuition allowance.

"(2) The amount of supplemental tuition allowance payable to any veteran for any ordinary school year may not exceed $700, and will be set by having—

"(A) the veteran pay the first $400 of the tuition cost owed and payable by the veteran for that year, and

"(B) the Administrator pay 70 per centum of the next $1,000 of the tuition cost owed and payable by the veteran for that school year.

"(3)(A) Application for supplemental tuition assistance under this subsection shall be made to the Administrator by the veteran in such form and manner as the Administrator shall prescribe.

"(B) The Administrator shall send to each veteran entitled to supplemental tuition assistance a voucher setting forth the amount of such assistance to which the veteran is entitled for the school year concerned.

"(C) Upon presentation of the voucher by the veteran at the start of each semester or trimester to the educational institution in which he is enrolled, the institution shall forward the voucher to the Administrator together with—

"(i) an itemization of all tuition costs for the school year concerned which will be charged to the veteran by the institution, and

"(ii) such assurances from the institution as the Administrator may require that—

"(I) the amount of tuition charged the veteran by the institution does not exceed the amount of tuition charged to nonveteran students for the same or comparable educational instruction and does not exceed the tuition charges which were in effect on, or announced by, the institution prior to July 1, 1977, plus in any year, beginning July 1, 1978, a percentage increase in such tuition charges equal to not more than the percentage increase in the Consumer Price Index, published by the Bureau of Labor Statistics, Department of Labor, which has occurred since July 1 of the preceding year, and

"(II) all fees and other charges imposed by the institution to the veteran for tuition purposes (regardless whether such fees and charges are designated as tuition costs) are included within the itemization required under clause (i).

"(D) After determining that the requirements set forth in paragraph (C) have been met, the Administrator shall pay, on behalf of veteran concerned, to the educational institution an amount equal to the supplemental tuition assistance specified in the voucher, and such amount shall be credited by the institution to the account of the veteran.

"(4) The effective date of coverage of this provision shall begin on January 1, 1978.

The PRESIDING OFFICER. There is 1 hour of debate time on the amendment under the unanimous-consent order, to be equally divided between the author of the amendment and the manager of the bill. Who yields time?

Mr. JAVITS. I yield myself 5 minutes.

Mr. President, this amendment is based upon a bill (S. 1899) which I introduced on July 20, 1977, which had 25 cosponsors. A list of those cosponsors, Mr. President, will appear in the RECORD.

This amendment and similar to that bill (S. 1899), provided for the payment of 70 percent of a veteran's tuition costs above $400, with a maximum additional payment of $700 per school year. It provided also for an increase in the veteran's educational benefits of 4 percent, except for veterans who are under vocational rehabilitation and therefore pay no tuition. For them, we allowed the increase to remain at the 6.6 percent which is contained in this bill.

The difference between the bill and our amendment is as follows: The bill provides that where a veteran pays in excess of $1,000 in tuition, as far as the tuition cost is concerned, then he may use up his 45 months entitlement at twice the normal rate per month, in order to pay the excess tuition. Of course, the excess being up to the amount of his entitlement. That is coupled in the pending bill with a 6.6-percent increase in the veteran's educational entitlement amount that he gets every month.

Our bill, in order to attain a more equitable result—and I will explain the reason in a moment—reduces that increase from 6.6 percent to 4 percent, except for veterans who are under voca-

tional rehabilitation, in order to permit a straight tuition payment to be made of 70 percent of tuition in excess of $400 with a maximum additional payment of $700.

Hence, the amount which the bill costs as now pending before us is roughly $805 million, and the amount of the amendment which substitutes for that scheme, the scheme I have described, costs $814 million. Thus, the difference is between $805 million and $814 million. It is a very minor difference attributable to the fact that we maintain the increase of 6.6 percent of the entitlement of the veteran under the vocational rehabilitation.

In order to maintain that amount, Mr. President, we have had to reduce from 6.6 percent to 4 percent the across-the-board increase.

Now, Mr. President, this reduction, in view of the fact that the overwhelming majority of the veterans do get higher education, and that there has been a great discrimination in the way higher education opportunity has worked out, is fully justified, for this reason: The tuition in public colleges, and most of the States have public colleges, runs above $400 but under $1,000. For example, in my State, the figure is somewhere between $500 and $800. That is generally true in most of the States of the Union.

Thus, Mr. President, I offer for myself and Senators MOYNIHAN, BROOKE, METZENBAUM, KENNEDY, CHAFEE, RIEGLE, and BAYH an amendment to S. 457, the GI Bill Improvement Act, to substitute a tuition assistance program for the accelerated benefits provision in S. 457 as reported.

This amendment is based upon S. 1899, introduced July 20, 1977, and sponsored by Senators JAVITS, HUMPHREY, MOYNIHAN, BAYH, GLENN, HUDDLESTON, MATHIAS, CLARK, DOLE, KENNEDY, CHAFEE, FORD, WILLIAMS, RIEGLE, RIBICOFF, HEINZ, BROOKE, CASE, JACKSON, MCGOVERN, HATHAWAY, WEICKER, ABOUREZK, METZENBAUM, PERCY, and ANDERSON.

Our amendment would provide for payment of 70 percent of a veteran's tuition costs above $400, with a maximum additional payment of $700 per school year. S. 457, as reported, would provide accelerated payments of benefits only to veterans whose tuition charges are above $1,000.

I see difficulties with the accelerated benefits provision in S. 457 as follows: It provides assistance to veterans in public institutions in only four States; it does not provide assistance in the tuition range in which most veterans enroll; it provides assistance to only 12 percent of currently enrolled veterans.

My tuition assistance amendment will provide: Assistance to veterans in public educational institutions in 45 States—as well as for those enrolled in private institutions in all States—assistance within the tuition range in which most veterans enroll; and assistance to 65 percent of veterans currently enrolled.

Our proposal includes an across-the-board increase in benefits of 4 percent, or $12 per month for the single veteran. S. 457 as reported includes an across-the-board increase of 6.6 percent, or $19 per month for the single veteran. This $7 per month difference in the increase of monthly benefits allows for significant assistance to be directed to almost 1 million more veterans than under the accelerated payment provision of S. 457.

The voucher system that is the mechanism for the tuition payment assistance would give a veteran a certificate along with his check that would be good for payment of part of his tuition when presented by the school to the Federal Government. This would prevent the use of the GI bill as an income supplement program, which some critics contend it could be used for.

A tuition assistance provision, similar to my proposal, received the support of the Senate as part of the 1974 bill.

The Congressional Budget Office estimates the cost to be essentially the same: $805 million for S. 457 as reported $808 million for S. 457 with our amendment.

I believe our tuition assistance amendment will provide much needed relief to many veterans rather than to merely a few, can be administered simply and without abuse, and assures better and more equitable educational opportunities for our Nation's Vietnam veterans.

Today's GI bill, unlike World War II's legislation which gave all veterans the same amount of money to live on and then paid their tuition wherever their ability and desire took them—up to a maximum grant of $500 per year—leaves veterans with wildly differing sums for subsistence. Every World War II veteran could attend his State university and have $75 a month to live on. Today's veterans with equal military service are often left in drastically difficult circumstances. For example, a veteran seeking to go to the University of New York at Farmingdale must pay $925 in tuition. A veteran in California can attend California State University at Fullerton for $190. The California veteran thus has $735 more to live on than does the New York veteran. That $735 amounts to 25 percent of the total GI bill under the proposed new benefits scale. Thus, the California veteran will have $2,600 a year to live on, whereas the New York veteran has $1,865. Similar figures apply to a Michigan veteran attending Wayne State University who must pay $930 in tuition and the Ohio veteran trying to attend Kent State University who must pay $855. The committee's bill fails to help these veterans.

I think our tuition proposal will help many more veterans and is fundamentally fairer because it attempts to restore the World War II principle of treating all veterans alike. The idea that giving equal dollars to all is an equitable solution is fallacious. It is like suggesting that all veterans should be given the same dollars for medical treatment and the same number of days they can stay in the hospital. Some with complicated diseases would be thrown out, while others with simple ailments would have credits they could never use. We must deal with the person. The disabled veterans education program does this by paying tuition, and by paying all veterans equal sums for living expenses.

The GI bill is not just a bonus for military service. If that were all it was meant to be, then it would be outrageous that veterans in Pennsylvania and Texas, whose numbers are almost equal, used $156,000,000 and $318,000,000, respectively, in GI bill benefits in fiscal year 1976—see the attached charts. But, the GI bill is much more than a bonus. It is the chance to change a person's life. Therefore, I hope that the leadership of the Senate Veterans' Committee will consider subsituting a tuition assistance provision for the accelerated payments plan and that my colleagues will read the attached editorial which supports our views so that they, too, will help see that justice is done for the people who served this Nation under most thankless circumstances.

While the committee report gives us page after page of discussion, it fails to mention something central to the consideration of most Federal legislation; namely, what share of the dollars goes to each State? The record under this GI bill is not encouraging, for the seven largest States have close to 50 percent of the veterans and the 15 largest States even more. But, among those largest States are the 49th, 48th, 47th, 46th, 45th, 42d, 39th, 36th, 35th, 33d, 32d, and 31st in terms of payments on a per capita basis. This means that large concentrations of veterans have been severely hampered in their efforts to use the GI bill. One of the prime jobs of a Senator is to see that the citizens of his State are treated fairly by Federal legislation. I do not believe that Vietnam veterans in my State, and many others, have been treated fairly by this GI bill and I think the whole Senate needs to focus on this question. Therefore, I am inserting the payments data which I believe should have been in the committee report for all to study.

One of the ironies of the across-the-board increase is that it may give money to veterans that are already overcompensated and not correct the needs of those who are undercompensated or who cannot use the GI bill at all. Congressman ALBERT QUIE suggests in testimony that he gave to the House Veterans' Committee on September 15 that we may already be overpaying a veteran attending some public junior college. GI bill benefits cover his expenses for tuition, room, board, transportation, books, and personal items and the veteran stands to make a $240 profit. The average tuition and fees are $389. A person paying less money would make an even greater profit. The across-the-board increase will give another $162 in profit to those veterans who already have too much compensation from the GI bill. Clearly, this is an unwise use of the taxpayers' dollars.

The committee report attempts to justify the present program by correlating State expenditures on higher education and Vietnam-era GI bill rates. There are two things wrong with this analysis. One is that it fails to give States with a history of reliance on private education, any credit for those expenditures in considering State expenditures. The fact that a large percentage of property

in the city of Boston consists of tax exempt private institutions which thrusts a heavy burden of tax payments on the citizens and business is given no credit in this analysis nor is the private initiative so often cited by the people who oppose this kind of corrective legislation I am offering.

Second, by analyzing State expenditures and neglecting to point out that the GI bill was not written as matching legislation, the report overlooks another important fact. If State effort had been intended to be crucial to whether or not the veterans were able to use the GI bill, then the committee should have written the legislation as matching legislation, thereby putting State and local governments on notice that a system of low-cost State educational colleges and junior colleges was a prerequisite to a veteran's entitlement to education benefits for his service to his country. Instead, this legislation was written as though everyone would be able to participate without any matching requirements.

The full Senate took cognizance of the problem of the inequality of GI bill opportunities despite equal service in 1974, by passing a tuition equalizer provision that assisted veterans whose tuition costs were between $100 and $1,000, thereby attempting to see that all veterans could attend their State institutions on more or less equal terms. That legislation, like the World War II GI bill, is a good precedent for us today. With this conviction, I am offering my tuition assistance amendment, and urge my colleagues to give it most favorable consideration.

The Veterans' Committee shows that there was a wider range of use between States under today's GI bill than there was under the World War II bill. With the exception of South Dakota, North Dakota, and Hawaii which are small States, the range is about the same as it was after World War II. But, much more importantly, the large States which have close to 50 percent of the veterans both then and now, show much wider ranges than they did before. For example, the following tables illustrate this:

WORLD WAR II AND VIETNAM WAR GI BILL STATISTICS IN LARGE STATES

States ranked by 2- and 4-yr college GI bill use rates	2- and 4-yr college GI bill use rates (percent)		Use rate for any purpose (percent)		Viet vet population	
	Today	World War II	Today	World War II	Today	World War II
California	53.9	17.3	69.9	46.4	911,000	1,253,000
Texas	38.7	17.7	56.9	58.5	451,000	774,000
Michigan	32.6	13.0	53.2	40.4	333,000	681,000
New York	31.5	16.5	51.3	49.4	570,000	1,598,000
Illinois	30.4	15.1	49.2	47.3	393,000	935,000
Ohio	24.2	14.5	44.6	44.7	410,000	858,000
Pennsylvania	20.0	11.3	43.4	50.5	442,000	1,164,000

These figures are important because whereas after World War II 17.7 veterans out of 100 went to college in Texas, the difference between the high and low States was only 6 persons. Under today's GI bill almost 54 out of every 100 Vietnam era veterans have gone to college in California and only 20 in Pennsylvania, a difference of 34 persons. In like fashion, while 58 out of every 100 Texans used the GI bill for any purpose, in Pennsylvania, the lowest State, 40 did. Under today's GI bill, the range is from 43 to 70, or a difference of 27 persons per hundred. Thus it is hard to argue that these figures are the same. It is also interesting to note that under the World War II GI bill, when New York's private education system and Massachusetts' private education system were open to veterans, their use for colleges was equal to that of California and Texas.

Perhaps the administration will read these statements. I have been most disappointed with the Veterans' Administration's position. The VA has consistently stated that veterans who "choose" to go to high-tuition schools should not be treated differently. A veteran who lives in a State which has only high-tuition institutions to choose from has no real choice other than to move away from his State and from his family and friends where he can best get a job, or undertake a heavy burden of debt which his counterpart in a low-tuition State need not assume. We did not, in writing this GI bill legislation, want to force our veterans to make that choice—which is no choice—but a penalty. I cannot understand the administration's persistence in this position. I hope that the VA and President Carter will examine carefully these issues.

It is my judgment that our tuition assistance proposal is the most equitable and effective utilization of tax dollars to assure equal educational opportunities for our Nation's Vietnam veterans.

Mr. President, I would like to bring to my colleagues' attention a recent editorial from the Washington Post, and include for the RECORD several tables which show relative costs and utilization rates among veterans in the Nation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 17, 1977]

EQUALIZING VETERANS' EDUCATION

The disparity in education benefits to veterans continues to hamper, and even suppress in many cases, the educational goals of ex-servicemen. A recent study by a congressional coalition of Northeast and Midwest members found that, since 1963, an equal number of veterans in the South and West have received nearly $12 billion in benefits, against $8 billion for veterans in the Northeast and Midwest. The difference is in the lower tuition costs in the Sunbelt, where more low-cost public education is available; many eligible veterans simply can't afford the higher tuitions in the Northeast and Midwest, even with the GI Bill's help. Those who drafted the current GI Bill may not have wished to put veterans in some parts of the country at a disadvantage, but that is much the way it has worked out.

The question is what to do about it. One approach, advanced by the Veterans Administration, is an across-the-board increase in education benefits. Legislation passed by the Senate Veterans Affairs Committee offers a 6.6 per cent increase. As generous as this may appear, it serves to continue the inequities that make it easier for veterans in one area of the country to get an education than it is for veterans in other areas.

A second approach, advanced by Sen. Alan Cranston (D-Calif.) and also contained in the committee's bill, would allow veterans whose tuitions exceed $1,000 to use their 45 months worth of benefits at a faster rate. That makes it easier to pay high tuitions but it also means that the money runs out sooner. Although this approach is better than the straight 6.6 per cent across-the-board increase, it still leaves a number of problems unsolved. In helping veterans whose tuition goes beyond $1,000, the Cranston approach doesn't eliminate the disadvantage of veterans in colleges in Michigan, Ohio, New York or other Midwestern or Northeastern states. They still have almost $1,000 less to live on than their California counterparts, because the latter have little tuition to pay.

To remedy this, Sens. Jacob Javits (R-N.Y.) and Daniel P. Moynihan (D-N.Y.) are offering an amendment that would reduce the 6.6 per cent increase to four per cent and apply the savings of $200 million (according to estimates by the Congressional Budget Office) toward easing the tuition burden of veterans in colleges and technical schools in many more states. This strikes us as addressing the issue from a broader perspective—which is to say that more veterans are likely to be served. It also promises to be a better use of federal funds because it focuses the available money on those most needing it.

A second possible outlet for money saved by reducing the across-the-board increase is an extension of time during which veterans can take advantage of their benefits. From 1966 to 1972, benefits were much too low to be of much use by many veterans who served in Vietnam. Extending the eligibility period would allow these veterans to avail themselves of an educational opportunity that, for all practical purposes, was closed to them.

Either Sen. Cranston's approach or the Javits-Moynihan plan would assuredly be more positive than the across-the-board increase adopted by the House. With a conference committee struggle likely to occur, the Carter administration has an opportunity to move forcefully from its narrow position to one that will distribute whatever funds are available to more veterans—more equitably.

The time for the administration to move is now, while the bill is still before the Senate. And the argument for doing so is all the stronger in the light of the President's recent refusal to veto a bill that severely weakens his program to help veterans, principally those of the Vietnam war, to "upgrade" other-than-honorable discharges and thus restore their entitlements to GI benefits, and improve their chances of getting jobs. The principal beneficiaries of the increased education benefits, it should be emphasized, would also be veterans of Vietnam. We are talking, in other words, about still another part of the unfinished business of the Vietnam war.

SUMMARY COMPARISION OF S. 457's ACCELERATED TUITION PROVISION AND PROPOSED JAVITS SUBSTITUTE (S. 1899 AMENDED)

S. 457 AS REPORTED

(a) Costs $605 million.

(b) Acceleration available to 12.4 percent of veterans currently enrolled.

(c) Acceleration available to veterans in public institutions in 4 states.

(d) Acceleration available to full-time students only.

(e) 6.6 percent across-the-board increase in benefits (approx. $19 additional per month/single vet).

S. 457 WITH PROPOSED AMENDMENT (S. 1899 AMENDED)

(a) Costs $808 million.

(b) Tuition assistance available to 65 percent of veterans currently enrolled.

(c) Tuition assistance available to veterans in public institutions in 45 states.

(d) Tuition assistance to both full- and part-time students.

(e) 4.0 percent across-the-board increase in benefits (approx. $12 additional per month/single vet).

A SKETCH OF THE ALTERNATIVE PLANS FOR S. 457

[The figures used are the latest available from CBO, as of Oct. 7, 1977]

Across-the-board increase options (title I)	All enrolled students: affected and induced	New payments schedule, amounts per year		Amount lost per year compared to 6.6 percent rate, married with child	Cost (fiscal year 1978) (millions)
		Single	Married		
At 6.6 percent, effective Oct. 1, 1977	1,850,000 plus 110,000 (100 percent)	$2,799	$3,330	$3,798	$510
At 5 percent, effective Oct. 1, 1977	1,850,000 plus 83,600 (100 percent)	$2,763/—$36	$3,276/—$54	$3,744/—$54	386
At 4 percent, effective Oct. 1, 1977	1,850,000 plus 67,100	$2,736/—$63	$3,249/—$81	$3,699/—$99	310

Note: Every percentage point by which the across-the-board level is decreased makes available $77,000,000.

Costs of administrative provisions (title III) (noncontroversial), $14,000,000.

Tuition/acceleration options (title II)	Number of students [1]	Percent	Number of States whose schools would benefit: Public	Number of States whose schools would benefit: Private	Cost (fiscal year 1978 (millions)
1. S. 457, as reported:					
(a) 6.6 percent across-the-board increase:					
(E)	1,850,000	100.0	All	All	$510
(I)	110,000	2.6			
(b) Accelerated plan:					
Only full-time students eligible:					
(E)	230,000	12.4	4	All	295
(I)	63,000	1.5			
Pays 100 percent of tuition above $1,000, but may not exceed (during school year)	(2)	(2)	(2)	(2)	(2)
Total					805
2. Javits' original proposal (S. 1899):					
(a) 6.6 percent across-the-board increase:					
(E)	1,850,000	100.0	All	All	510
(I)	110,000	2.6			
(b) Tuition equalizer plan: Both full- and part-time students eligible; pays 80 percent of tuition between $400 and $1,400 yearly; no other limitations:					
(E)	1,208,000	65.0	45	All	550
(I)	145,000	3.4			
Total					1,060
3. Javits' new proposal (S. 1899, amended):					
(a) 4 percent across-the-board increase:					
(E)	1,850,000	100.0	All	All	310
(I)	83,600	2.0			
(b) Tuition equalizer plan: Both full- and part-time students eligible; pays 70 percent of tuition between $400 and $1,400, to a maximum of $700 yearly assistance; no other limitations:					
(E)	1,208,000	65.0	45	All	498
(I)	130,000	3.1			
Total					808

[1] Number of students benefited during fiscal year 1978, of 1,850,000 enrolled (E). Also, number of students induced to utilize benefits, of 4,150,000 currently not enrolled (I).

[2] May not exceed:
(1) Difference between $1,000 and vet's yearly tuition.
(2) An amount equal to vet's normal GI bill yearly entitlement.
(3) ½ of the maximum number of months the vet is eligible to accelerate.

For example: If vet is in a 27-mo law program, he has 18 mo entitlement remaining to him, out of 45 mo total. A married vet with no children could receive up to $3,330 per year for 2 yrs, or 9 mo worth of benefits each year—in addition to his normal yearly entitlement of $3,330.

HYPOTHETICAL CASES

	2-yr program		4-yr program	
	S. 457, reported	Javits, amended	S. 457, reported	Javits, amended
Tuition is $600:				
Single:				
Normal yearly entitlement	$2,799	$2,736	$2,799	$2,736
Tuition assistance	0	140	0	140
Total per year	2,799	2,876	2,799	2,876
Married:				
Normal yearly entitlement	3,330	3,249	3,330	3,249
Tuition assistance	0	140	0	140
Total per year	3,330	3,389	3,330	3,389
Married with Child:				
Normal yearly entitlement	3,798	3,699	3,798	3,699
Tuition assistance	0	140	0	140
Total per year	3,798	3,839	3,798	3,839
Tuition is $1,000:				
Single:				
Normal yearly entitlement	2,799	2,736	2,799	2,736
Tuition assistance	0	420	0	420
Total per year	2,799	3,156	2,799	3,156
Married:				
Normal yearly entitlement	3,330	3,249	3,330	3,249
Tuition assistance	0	420	0	420
Total per year	3,330	3,669	3,330	3,669
Married with child:				
Normal yearly entitlement	3,798	3,699	3,798	3,699
Tuition assistance	0	420	0	420
Total per year	3,798	4,119	3,798	4,119
Tuition is $1,500:				
Single:				
Normal yearly entitlement	2,799	2,736	2,799	2,736
Tuition assistance	500	700	500	700
Total per year	3,299	3,436	3,299	3,436
Married:				
Normal yearly entitlement	3,330	3,249	3,330	3,249
Tuition assistance	500	700	500	700
Total per year	3,830	3,949	3,830	3,949
Married with child:				
Normal yearly entitlement	3,798	3,699	3,798	3,699
Tuition assistance	500	700	500	700
Total per year	4,298	4,399	4,298	4,399

Footnotes at end of table.

HYPOTHETICAL CASES—Continued

	2-yr program		4-yr program	
	S. 457, reported	Javits, amended	S. 457, reported	Javits, amended
Tuition is $3,500:				
Single:				
Normal yearly entitlement	2,799	2,736	2,799	2,736
Tuition assistance	2,500	700	[1] 699	[2] 700
Total per year	5,299	3,436	3,498	3,436
Married:				
Normal yearly entitlement	3,330	3,249	3,330	3,249
Tuition assistance	2,500	700	[1] 832	[2] 700
Total per year	5,830	3,949	4,162	3,949
Married with children:				
Normal yearly entitlement	3,798	3,699	3,798	3,699
Tuition assistance	2,500	700	[1] 949	[2] 700
Total per year	6,298	4,399	4,747	4,399

[1] Per year, for 4 yr or, twice this amount for 2 yr only.

[2] Per year, for 4 yr.

REMARKS

A. Across-the-board increase:

(1) The difference between 6.6 percent and 4.0 percent amounts to only $99 per year less money for the married vet with one child—and only $63 per year less for the single vet. Yet the change makes possible payments amounting to hundreds of dollars more per veteran in the crucial tuition range of $400–$1500.

(2) The level of 6.6 percent reflects the CPI increase for October 76–October 77. The level of 4.0 percent precisely reflects both (a) the rise in tuition rates across the country for 1976/77 to 1977/78 school years and (b) the Congress' previous (1976) across-the-board increase, which amounted to 4.0 percent per year over a period of two years. A 4.0 percent increase, therefore, fully meets tuition increases and is consistent with recent Congressional policy.

B. Tuition/Acceleration:

(1) S. 457 offers no meaningful assistance at lower and middle tuition levels, where 80+ percent of the veterans enroll.

S. 457 offers substantial assistance to a very few vets at the highest cost institutions—the higher the cost and shorter the program, the better under S. 457 as reported.

The primary target for a veterans education bill which seeks to induce more students into using their benefits—especially in areas where the use rate is especially low—is the tuition range from $400/$500 to $1500/$1700.

S. 457 offers little or no help over most of this range and no more help at the upper end of this range than does S. 1899 (amended).

(2) Both S. 457 and S. 1899 (amended) would provide assistance to vets in all private schools.

S. 457, however, aids veterans in public schools in only four States.

S. 457, its tuition threshold lowered to $800, aids veterans in public schools in only nine States.

S. 1899 (amended) aids veterans in public schools in forty-five States.

(3) S. 457 provides extra help to only 12 percent of the vets currently enrolled—and these at the higher cost schools.

S. 457, its threshold lowered to $800, increases the number helped to only 15 percent.

S. 1899 (amended) provides extra help to fully 65 percent of veterans currently enrolled—and in those institutions most vets attend.

(4) S. 457 assists less than ⅕ of the currently enrolled vets who would receive assistance from S. 1899, induces into using their benefits over 40,000 fewer vets, and yet costs the same.

GI BILL PAYMENTS BY STATE GIVING TOTALS AND PAYMENTS ON A PER CAPITA BASIS—FISCAL YEAR 1976

Rank	State	Payments on per capita basis, fiscal year 1976	Viet vet population	State GI bill—Fiscal year 1976	
				Rank	Payments
1	Hawaii	1,281	32,000	34	$41,000,000
2	Arizona	1,148	81,000	20	93,000,000
3	Alabama	1,073	110,000	13	118,000,000
4	South Dakota	1,056	18,000	43	19,000,000
5	North Carolina	924	172,000	8	159,000,000
6	South Carolina	918	97,000	21	89,000,000
7	North Dakota	889	18,000	45	16,000,000
8	California	886	891,000	1	789,000,000
9	Colorado	879	107,000	19	94,000,000
10	Rhode Island	800	40,000	38	32,000,000
11	Florida	771	284,000	4	219,000,000
12	Nevada	760	25,000	42	19,000,000
13	Maine	757	37,000	39	28,000,000
14	New Mexico	757	37,000	40	28,000,000
15	Missouri	736	178,000	10	131,000,000
16	Tennessee	731	145,000	15	106,000,000
17	Texas	723	441,000	2	319,000,000
18	Mississippi	719	57,000	33	41,000,000
19	Utah	708	48,000	37	34,000,000
20	Oklahoma	703	111,000	25	78,000,000
21	Georgia	691	188,000	11	130,000,000
22	Arkansas	682	66,000	31	45,000,000
23	Kentucky	676	105,000	26	71,000,000
24	New Hampshire	629	35,000	41	22,000,000
25	Delaware	625	24,000	47	15,000,000
26	Nebraska	618	55,000	36	34,000,000
27	Maryland	618	170,000	16	105,000,000
28	Washington	610	177,000	14	108,000,000
29	Louisiana	609	115,000	27	70,000,000
30	West Virginia	607	56,000	35	34,000,000
31	Michigan	600	325,000	6	195,000,000
32	Oregon	574	101,000	28	58,000,000
33	Alaska	571	14,000	48	8,000,000
34	Idaho	551	29,000	44	16,000,000
35	Virginia	548	188,000	17	103,000,000
36	Massachusetts	540	226,000	12	122,000,000
37	Wyoming	539	13,000	49	7,000,000
38	Montana	536	28,000	46	15,000,000
39	Illinois	525	385,000	5	202,000,000
40	Kansas	524	82,000	32	43,000,000
41	Wisconsin	500	160,000	23	80,000,000
42	New York	483	561,000	3	271,000,000
43	Minnesota	476	164,000	24	78,000,000
44	Iowa	450	100,000	30	45,000,000
45	Connecticut	435	115,000	29	50,000,000
46	Ohio	428	400,000	7	171,000,000
47	Indiana	421	202,000	22	85,000,000
48	New Jersey	375	256,000	18	96,000,000
49	Pennsylvania	360	433,000	9	156,000,000
50	Vermont	316	19,000	50	6,000,000

Source of total payments—VA data submitted to CSA for Federal Outlays, published by the U.S. Treasury—Vet population from DVB information.

GI BILL PAYMENTS BY STATE—GIVING TOTALS AND PAYMENTS ON A PER CAPITA BASIS (FISCAL YEARS 1968–76)

Rank	State	Viet vet population	State GI bill (fiscal years 1968–76)		Capita basis (fiscal years 1968–76)	
			Rank	Payments	Rank	Payments
1	California	891,000	1	$3,173,570,000	8	$3,562
2	New York	561,000	3	1,124,349,000	43	2,004
3	Texas	441,000	2	1,235,637,000	15	2,802
4	Pennsylvania	433,000	6	781,276,000	47	1,804
5	Ohio	400,000	8	747,161,000	46	1,868
6	Illinois	385,000	4	900,584,000	33	2,339
7	Michigan	325,000	7	762,480,000	32	2,346
8	Florida	284,000	5	825,071,000	13	2,905
9	New Jersey	256,000	14	418,551,000	49	1,635
10	Massachusetts	226,000	13	464,041,000	42	2,053
11	Indiana	202,000	22	350,087,000	48	1,733
12	Georgia	188,000	10	508,434,000	19	2,704
13	Virginia	188,000	18	374,404,000	45	1,992
14	Missouri	178,000	11	483,093,000	17	2,714
15	Washington	177,000	12	479,665,000	18	2,710
16	North Carolina	172,000	9	537,879,000	10	3,127
17	Maryland	170,000	21	361,091,000	39	2,124
18	Minnesota	164,000	19	373,209,000	34	2,276
19	Wisconsin	160,000	20	362,710,000	35	2,267
20	Tennessee	145,000	16	400,236,000	16	2,760
21	Connecticut	115,000	29	230,062,000	44	2,001
22	Louisiana	115,000	26	307,021,000	21	2,670
23	Oklahoma	111,000	24	325,173,000	12	2,929
24	Alabama	110,000	15	410,780,000	5	3,734
25	Colorado	107,000	17	384,883,000	6	3,597
26	Kentucky	105,000	28	249,356,000	31	2,375

Rank	State	Viet vet population	State GI bill (fiscal years 1968–76) Rank	State GI bill (fiscal years 1968–76) Payments	Capita basis (fiscal years 1968–76) Rank	Capita basis (fiscal years 1968–76) Payments
27	Oregon	101,900	29	262,789,000	24	2,602
28	Iowa	100,000	30	210,163,000	40	2,102
29	South Carolina	97,000	26	290,811,000	11	2,998
30	Kansas	82,000	31	206,670,000	29	2,447
31	Arizona	81,000	23	331,725,000	2	4,095
32	Arkansas	66,000	32	176,842,000	20	2,679
33	Mississippi	57,000	34	150,990,000	23	2,649
34	West Virginia	56,000	38	125,152,000	37	2,235
35	Nebraska	55,000	35	146,468,000	22	2,663
36	Utah	48,000	33	153,975,000	9	3,208
37	Rhode Island	40,000	39	115,185,000	14	2,880
38	Maine	37,000	40	91,919,000	27	2,484
39	New Mexico	37,000	37	133,069,000	7	3,596
40	New Hampshire	35,000	41	73,472,000	41	2,098
41	Hawaii	32,000	36	143,048,000	1	4,470
42	Idaho	29,000	43	71,746,000	28	2,474
43	Montana	28,900	44	70,647,000	26	2,523
44	Nevada	25,000	46	63,793,000	25	2,552
45	Delaware	24,000	47	53,711,000	38	2,238
46	Vermont	19,000	50	26,647,000	50	1,402
47	North Dakota	18,000	42	73,260,000	3	4,070
48	South Dakota	18,000	45	70,344,000	4	3,908
49	Alaska	14,000	48	31,385,000	36	2,242
50	Wyoming	13,000	49	31,136,000	30	2,395

Source: Federal outlays compiled annually for U.S. Treasury by OEO/CSA and VA's Department of Veterans Benefits information bulletin.

Note: Fiscal year 1976 figures from unpublished VA data.

CUMULATIVE GI BILL USE RATES FOR COLLEGE AND JUNIOR COLLEGE

Rank	State	1976 Viet vet population	Junior and 4-yr college GI bill use rate Rank	Junior and 4-yr college GI bill use rate Percent
1	Arizona	84,000	1	55.3
2	California	911,000	2	53.9
3	Hawaii	33,000	3	53.5
4	South Dakota	18,000	4	48.5
5	North Dakota	17,000	5	48.3
6	New Mexico	38,000	6	45.4
7	Colorado	111,000	7	43.6
8	Washington	181,000	8	39.8
9	Alabama	113,000	9	39.7
10	North Carolina	176,000	10	39.7
11	Utah	49,000	11	38.7
12	Texas	451,000	12	38.7
13	Oklahoma	114,000	13	37.4
14	Oregon	105,000	14	37.1
15	Rhode Island	41,000	15	37.0
16	Wyoming	13,000	16	36.8
17	Idaho	28,000	17	36.6
18	Florida	293,000	18	36.2
19	South Carolina	100,000	19	36.2
20	Kansas	83,000	20	34.4
21	Nevada	25,000	21	33.9
22	Virginia	191,000	22	33.4
23	Delaware	24,000	23	33.2
24	Nebraska	55,000	24	32.9
25	Tennessee	148,000	25	32.6
26	Michigan	333,000	26	32.6
27	Mississippi	57,000	27	32.6
28	Missouri	183,000	28	32.2
29	Montana	28,000	29	31.7
30	New York	570,000	30	31.5
31	Illinois	393,000	31	30.4
32	Kentucky	108,000	32	30.2
33	Alaska	14,000	33	29.9
34	Massachusetts	231,000	34	29.9
35	Maine	38,000	35	29.7
36	New Hampshire	36,000	36	28.9
37	West Virginia	57,000	37	28.9
38	Louisiana	118,000	38	28.8
39	Maryland	174,000	39	28.8
40	Georgia	192,000	40	27.2
41	Arkansas	67,000	41	26.4
42	Wisconsin	164,000	42	26.2
43	Connecticut	118,000	43	24.3
44	Ohio	410,000	44	24.2
45	Iowa	102,000	45	24.1
46	Minnesota	169,000	46	23.9
47	New Jersey	262,000	47	22.1
48	Pennsylvania	442,000	48	20.0
49	Indiana	207,000	49	20.0
50	Vermont	19,000	50	17.0
	Total	7,894,000		
	Average			33.7

WORLD WAR II GI BILL USE RATES FOR COLLEGE AND JUNIOR COLLEGE AND FOR ALL PURPOSES

States ranked by GI bill college participation rate	Junior and 4-yr college GI bill use rate Rank	Junior and 4-yr college GI bill use rate Percent	Total GI bill use rate Rank	Total GI bill use rate Percent	World War II veteran population
Utah	1	26.8	7	63.9	72,000
Colorado	2	26.4	11	62.1	140,000
Oklahoma	3	18.7	9	63.1	214,000
Texas	4	17.7	15	58.5	774,000
Massachusetts	5	17.5	33	46.8	527,000
California	6	17.3	36	46.4	1,253,000
Washington	7	17.0	28	48.2	230,000
New York	8	16.5	25	49.4	1,598,000
Oregon	9	16.3	37	46.4	166,000
Kansas	10	16.1	31	47.4	185,000
Mississippi	11	16.0	1	73.5	162,000
New Mexico	12	15.3	18	51.9	72,000
Illinois	13	15.1	32	47.3	935,000
Minnesota	14	15.0	29	48.0	297,000
Arizona	15	14.8	24	49.6	79,000
Louisiana	16	14.7	6	64.9	239,000
Maryland	17	14.7	22	50.4	242,000
Wisconsin	18	14.7	40	42.9	307,000
Ohio	19	14.4	39	44.7	858,000
Wyoming	20	14.3	19	51.4	28,000
Iowa	21	14.2	21	50.5	220,000
Connecticut	22	14.0	42	42.7	205,000
Nebraska	23	13.9	17	55.0	119,000
North Dakota	24	13.8	30	47.5	48,000
Indiana	25	13.7	45	40.6	398,000
Missouri	26	13.3	13	58.8	387,000
Rhode Island	27	13.1	50	34.9	94,000
Michigan	28	13.0	46	40.4	681,000
Montana	29	12.9	27	49.0	59,000
Alabama	30	12.8	3	67.6	253,000
Idaho	31	12.7	12	60.0	55,000
Vermont	32	12.5	23	50.0	32,000
Delaware	33	12.4	26	49.0	28,000
Florida	34	12.4	16	55.6	308,000
Tennessee	35	12.4	2	67.9	299,000
Nevada	36	12.2	41	42.8	18,000
Georgia	37	11.9	4	65.9	290,000
Pennsylvania	38	11.3	20	50.5	1,164,000
Arkansas	39	11.2	5	65.7	156,000
Alaska	40	11.1	8	63.3	9,000
New Jersey	41	10.2	49	37.8	555,000
South Carolina	42	10.1	10	62.6	163,000
North Carolina	43	9.9	14	58.6	338,000
South Dakota	44	9.9	38	44.7	57,000
Kentucky	45	9.8	35	46.5	245,000
New Hampshire	46	9.8	44	42.4	55,000
West Virginia	47	9.7	47	38.7	190,000
Hawaii	48	9.0	43	42.5	39,000
Virginia	49	8.6	48	38.5	302,000
Maine	50	7.5	34	46.6	83,000
Total		13.8		51.5	15,229,000

STATE GI BILL PAYMENTS AND VETERAN POPULATION COMPARED TO CALIFORNIA—FISCAL YEARS 1968–76

	GI bill payments, fiscal years 1968–76	State payments as percent of California payments	State vet population as percent of California vet population	Additional State GI bill payments if used at California rate
1 California	$3,173,600,000	100.0	100.0	
2 New York	1,124,300,000	35.4	63.0	$875,914,000
3 Texas	1,235,600,000	38.9	49.5	336,400,000
4 Pennsylvania	781,300,000	24.6	48.6	761,600,000
5 Ohio	747,200,000	23.5	44.9	679,150,000
6 Illinois	900,600,000	28.4	43.2	469,690,000

STATE GI BILL PAYMENTS AND VETERAN POPULATION COMPARED TO CALIFORNIA—FISCAL YEARS 1968-76—Continued

		GI bill payments, fiscal years 1968–76	State payments as percent of California payments	State vet population as percent of California vet population	Additional State GI bill payments if used at California rate
7	Michigan	762,500,000	24.0	36.5	396,700,000
8	Florida	825,100,000	26.0	31.9	187,272,000
9	New Jersey	418,500,000	13.2	29.7	523,644,000
10	Massachusetts	464,000,000	14.6	25.4	342,750,000
11	Indiana	350,100,000	11.0	22.7	371,311,000
12	Georgia	508,400,000	16.0	21.1	161,854,000
13	Virginia	374,400,000	11.8	21.1	295,145,000
14	Missouri	483,100,000	15.2	20.0	152,333,000
15	Washington	479,700,000	15.1	19.9	152,333,000
16	North Carolina	537,900,000	16.9	19.3	76,166,000
17	Maryland	361,100,000	11.4	19.0	241,194,000
18	Minnesota	373,200,000	11.8	18.4	209,458,000
19	Wisconsin	362,700,000	11.4	18.0	209,458,000
20	Tennessee	400,200,000	12.6	16.3	117,423,000
21	Connecticut	230,100,000	7.2	12.9	180,895,000
22	Louisiana	307,000,000	9.7	12.9	101,555,000
23	Oklahoma	325,200,000	10.3	12.5	69,819,000
24	Alabama	410,800,000	12.9	12.4	
25	Colorado	384,900,000	12.1	12.0	
26	Kentucky	249,400,000	7.9	11.8	123,770,000
27	Oregon	262,800,000	8.3	11.3	95,208,000
28	Iowa	210,200,000	6.6	11.2	145,986,000
29	South Carolina	290,800,000	9.2	10.9	53,951,000
30	Kansas	200,700,000	6.3	9.2	92,034,000
31	Arizona	331,700,000	10.5	9.1	
32	Arkansas	176,800,000	5.6	7.4	57,125,000
33	Mississippi	151,000,000	4.8	6.4	50,778,000
34	West Virginia	125,200,000	3.9	6.3	76,166,000
35	Nebraska	146,500,000	4.6	6.2	50,778,000
36	Utah	154,000,000	4.9	5.4	15,868,000
37	Rhode Island	115,200,000	3.6	4.5	28,562,000
38	Maine	91,900,000	2.3	4.2	60,298,000
39	New Mexico	133,100,000	4.2	4.2	
40	New Hampshire	73,400,000	2.3	3.9	50,778,000
41	Hawaii	143,000,000	4.5	3.6	
42	Idaho	71,700,000	2.3	3.3	31,736,000
43	Montana	70,600,000	2.2	3.1	28,562,000
44	Nevada	63,800,000	2.0	2.8	25,389,000
45	Delaware	53,700,000	1.7	2.7	31,736,000
46	Vermont	26,600,000	.8	2.1	41,257,000
47	North Dakota	73,300,000	2.3	2.0	
48	South Dakota	70,300,000	2.2	2.0	
49	Alaska	31,400,000	1.0	1.6	19,042,000
50	Wyoming	31,100,000	1.0	1.5	15,868,000

By the way, I emphasize that today's GI bill is a different plan than we had for World War II veterans. At that time, we paid the tuition up to $500. Now we do not do that, but we give them a flat entitlement.

Under this flat entitlement, what happens is that veterans in States like California, where there is no tuition, for all practical purposes, or a couple hundred dollars at the most, have a free ride. They get the most out of their entitlement. But in States like my own, it becomes literally impossible for the veteran to use his higher education benefits because the tuition simply eats up his entitlement. Hence, he does not take advantage of his higher education opportunities.

That has worked out, Mr. President, in such a way that 54 percent of the veterans in California use their entitlement, but when we get down to New York, Massachusetts, Illinois, Kentucky, a whole mass of other major States, the use of the entitlement is 30 percent or less, almost half of that in these other States.

It is in order to equalize that opportunity that Senator MOYNIHAN and I, and our colleagues, numerous as I have described, have offered this amendment.

Mr. President, the way the bill is drawn, which Senator CRANSTON and Senator DURKIN essentially have fashioned, is certainly an improvement over the present situation. The difficulty is that it is only an improvement for a few States, only four, as we figure it, whereas the improvement which we seek to make would be an improvement for GI's in public schools in some 45 States out of the 50. That is the difference between the two plans. The Senate should very definitely make its choice.

Now, Mr. President, we have prepared a chart which any Member can consult, which shows what happens to a single veteran at various State universities in all of the 50 States under our amendment and under the bill as it stands today. That chart shows, taking the normal State university—and we actually identify in each State a State university—that there are for the most part, only four States whose public institutions will get any benefit out of this bill as it stands. All of the others get no benefits, absolutely zero, on this analysis.

Mr. President, I ask unanimous consent to have printed in the RECORD the table to which I have referred:

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF TUITION BENEFITS TO SINGLE VETERANS UNDER JAVITS AMENDMENT AND S. 457 AT VARIOUS STATE UNIVERSITIES

	Javits Amendment	*S. 457*
U. of Alabama	$7	0
U. of Alaska, Fairbanks	78.40	0
No. Arizona U	0	0
U. of Arkansas, Fayetteville	70	0
Cal. State U., Long Beach	0	0
U. of California, Irvine	359	0
U. of Colorado, Denver	40.60	0
U. of Connecticut, Storre	392	0
U. of Delaware	404.60	0
D.C. Teachers' College	0	0
Florida State University	210	0
U. of Georgia, Athens	186.20	0
U. of Hawaii, Moroa	54.60	0
U. of Idaho	42	0
U. of Illinois, Urbana	218.40	0
U. of Indiana, Bloomington	225.40	0
U. of Iowa	245	0
U. of Kansas	196	0
U. of Kentucky	56	0
Louisiana State U	28	0
U. of Maine, Orono	262.50	0
U. of Maryland, College Park	268.80	0
Worcester State College, Mass.	140	0
U. of Michigan, Ann Arbor	358.40	0
U. of Minnesota, Duluth	385	0
U. of Mississippi	212.10	0
U. of Missouri, Columbia	170.80	0
U. of Montana	104.30	0
U. of Nebraska, Lincoln	228.20	0
U. of Nevada	105	0
U. of New Hampshire	499.10	$133
Rutgers U., New Brunswick, N.J.	385	0
U. of New Mexico	84	0
State U. of New York, Albany	245	0
Cornell U., state statutory schools	700	1,000
U. of North Carolina, Chapel Hill	54.60	0
U. of North Dakota, Grand Forks	89.60	0
Ohio State U	308	0
U. of Oklahoma	96.60	0
U. of Oregon	245	0
Temple U., Pennsylvania	630	300
U. of Rhode Island	387.80	0
U. of South Carolina	119	0
U. of South Dakota	182	0
U. of Tennessee, Knoxville	66.50	0
U. of Texas, Austin	0	0
Utah State U	77	0
U. of Vermont	668.50	355
U. of Virginia, Charlottesville	269.50	0
U. of Washington	114.80	0
West Virginia University	17.50	0
U. of Wisconsin, Green Bay	189	0

SOURCE.—Student Expenses at Postsecondary Institutions, CEEB.

Excerpted in Chronicle of Higher Education 3/28/77, pp. 13–16.

Under our amendment, as I have described it, the benefit is a very real one because the tuition falls in that slot which is not covered by this bill, but which is covered by our amendment, to wit, from $400 up to $1,100, with a maximum entitlement of $700 in additional tuition for the individual student.

That is the issue, Mr. President, the issue which we present to the Senate. The idea of the GI bill is to encourage, not to discourage, veterans to take advantage of their higher education opportunity. Yet the record shows this has failed miserably because of this tuition pattern which I have described, with a high enjoyment by the GI of his higher education opportunity in the States I have named, starting with Arizona and California, and the low going way down to around 20 percent of actual utilization based upon these categories of tuition payments which are required in order to go to State universities.

I hope very much the Senate will look with favor upon this amendment. I yield 6 minutes to my colleague from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. I thank my colleague very much.

Mr. President, the question before us is one of equity, both for individuals and for our region and State. It is surprising that for a quarter century the Congress somehow has not addressed itself to this question.

I believe it is the case, Mr. President, that the distinguished chairman of the Veterans' Committee in the Senate is a veteran of the Second World War, an

Army veteran. I believe his distinguished colleague, the ranking minority member, is a Navy veteran. Senator JAVITS was in the Army in the Second World War. I was in the Navy in the Second World War. I suspect all four of us first came upon the GI bill in its original form and with its purpose intact. Its purpose was to provide to the veterans of that war an equal opportunity for education, at institutions of their own choice. We all had that opportunity. There was a clear distinction made between the payment we received for our own living expenses, and the tuition paid to the institution we attended.

It worked well. It certainly gave persons such as myself an opportunity to go on to finish undergraduate school, to go to graduate school, and to go on further, which we otherwise would not have had.

It certainly was an arrangement that had the overwhelming support of the American people and the veterans' community.

In 1952 it was changed. I do not suppose the change was made to combine both tuition and living expense benefits. I cannot imagine that Senator STAFFORD in Vermont would have thought that when the change was made the result 25 years later would be that the veterans of the State of Vermont would have the lowest rate of participation of any State in the Union, any more than I suppose the distinguished chairman of the committee would have imagined that this would result in California having the second highest rate, or that the difference between these two States would amount to one of more than three times, 52 percent as against 16 percent.

But this is what has happened; we now have a regional imbalance of the most extraordinary kind. Just this week, in the Washington Post, a long and supporting editorial, which I ask to have printed in the RECORD, Mr. President, noted that since 1968 the veterans of the Northeast and Middle West have received only $8 billion worth of veterans' benefits as against $12 billion for the South and West itself.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

EQUALIZING VETERANS EDUCATION

The disparity in education benefits to veterans continues to hamper, and even suppress in many cases, the educational goals of ex-servicemen. A recent study by a congressional coalition of Northeast and Midwest members found that since 1968 an equal number of veterans in the South and West have received nearly $12 billion in benefits, against $8 billion for veterans in the Northeast and Midwest. The difference is in the lower tuition costs in the Sunbelt, where more low-cost public education is available; many eligible veterans simply can't afford the higher tuitions in the Northeast and Midwest, even with the GI Bill's help. Those who drafted the current GI Bill may not have wished to put veterans in some parts of the country at a disadvantage, but that is much the way it has worked out.

The question is what to do about it. One approach, advanced by the Veterans Administration, is an across-the-board increase in education benefits. Legislation passed by the Senate Veterans Affairs Committee offers a 6.6 percent increase. As generous as this may appear, it serves to continue the inequities that make it easier for veterans in one area of the country to get an education than it is for veterans in other areas.

A second approach, advanced by Sen. Alan Cranston (D-Calif.) and also contained in the committee's bill, would allow veterans whose tuitions exceed $1,000 to use their 45 months worth of benefits at a faster rate. That makes it easier to pay high tuitions but it also means that the money runs out sooner. Although this approach is better than the straight 6.6 percent across-the-board increase, it still leaves a number of problems unsolved. In helping veterans whose tuition goes beyond $1,000, the Cranston approach doesn't eliminate the disadvantage of veterans in colleges in Michigan, Ohio, New York or other Midwestern or Northeastern states. They still have almost $1,000 less to live on than their California counterparts, because the latter have little tuition to pay.

To remedy this, Sens. Jacob Javits (R-N.Y.) and Daniel P. Moynihan (D-N.Y.) are offering an amendment that would reduce the 6.6 per cent increase to four per cent and apply the savings of $200 million (according to estimates by the Congressional Budget Office) toward easing the tuition burden of veterans in colleges and technical schools in many more states. This strikes us as addressing the issue from a broader perspective—which is to say that more veterans are likely to be served. It also promises to be a better use of federal funds because it focuses the available money on those most needing it.

A second possible outlet for money saved by reducing the across-the-board increase is an extension of time during which veterans can take advantage of their benefits. From 1966 to 1972, benefits were much too low to be of much use by many veterans who served in Vietnam. Extending the eligibility period would allow these veterans to avail themselves of an educational opportunity that, for all practical purposes, was closed to them.

Either Sen. Cranston's approach or the Javits-Moynihan plan would assuredly be more positive than the across-the-board increase adopted by the House. With a conference committee struggle likely to occur, the Carter administration has an opportunity to move forcefully from its narrow position to one that will distribute whatever funds are available to more veterans—more equitably.

The time for the administration to move is now, while the bill is still before the Senate. And the argument for doing so is all the stronger in the light of the President's recent refusal to veto a bill that severely weakens his program to help veterans, principally those of the Vietnam war, to "upgrade" other-than-honorable discharges and thus restore their entitlements to GI benefits, and improve their chances of getting jobs. The principal beneficiaries of the increased education benefits, it should be emphasized, would also be veterans of Vietnam. We are talking, in other words, about still another part of the unfinished business of the Vietnam war.

Mr. MOYNIHAN. In my own State of New York, Mr. President, the operation of the GI bill in the past 25 years has served to diminish the opportunities of veterans for education. This is characteristic of the impact of this whole measure. It is not an accident that the seven Northeastern States, which have 20 percent of the Vietnam era veterans of this country, receive only 10 percent of the GI bill benefits. We must ask why.

Mr. President, no educational assistance program in history can begin to match in scope the GI bill, in all its incarnations over three decades. I think this splendid record is continued in the bill before us, S. 457, which I consider meritorious in most respects.

I am particularly pleased with the so-called "acceleration" provision, which accepts both that the education expenses faced by different veterans can vary considerably and that the veterans' educational benefits program should respond to this reality. The notion of accelerated benefits is a step in the right direction, but I would argue that the acceleration provision of S. 457, while unobjectionable so far as it goes, is so limited in application as to be unacceptable. S. 457, as reported, makes a promise—that it will attend to the variable educational needs of veterans—and then fails to deliver on that promise.

I speak today in support of the amendment, proposed by my able colleague, the distinguished senior Senator from New York, which would substitute a tuition equalization program for the accelerated benefits provision of S. 457. He and I join with Senators BROOKE, KENNEDY, and METZENBAUM—in offering this amendment which will extend tuition relief to more than five times the number of student veterans as would receive relief under S. 457. Our amendment would provide relief to veterans attending public educational institutions in 45 States rather than in only the four States allowed by S. 457. Our amendment would include not only full-time students, as does S. 457, but part-time students as well, thus not denying relief to those whose financial needs are already so great as to force them to work. Our amendment's provisions would, according to the Congressional Budget Office, induce nearly 20,000 more veterans to use their GI benefits than would S. 457 as reported.

Last, our amendment would cost no more than S. 457 as reported.

I should like to speak to the arguments made against our proposal. It cannot be contested that our amendment would mean a huge increase in the numbers of students and States receiving tuition relief.

Yet, it is argued that these additional veterans, totalling almost 1 million this year, do not need any such assistance. And it is argued that unequal benefit payments should not be made to veterans who served their country equally. The first is a factual argument; the second, one of principle. I suggest that the facts stand in favor of our proposal, and that opposition to our proposal on principle is simply mistaken. I shall address both points.

The factual problem is straightforward: a set monthly education payment to all veterans is not equitable because veterans face widely varying educational costs. An example one could cite is that of the single veteran attending Temple University in Philadelphia and of another single veteran attending California State University in Sacramento. The veteran at Temple must spend 50 percent of

his yearly entitlement for tuition, leaving him with less than $150 per month for living expenses; the veteran at Cal. State, on the other hand, spends only 7.5 percent of his yearly entitlement on tuition, and has more than $270 per month remaining on which to live. Turning to my own State of New York, a veteran at the State University at Buffalo must pay nearly 40 percent of his annual entitlement for tuition and must make do with about $180 per month to defray living costs. Yet a veteran at the University of Arizona pays but 17 percent of his entitlement toward tuition and can put over $240 per month toward other costs. Is it any wonder, then, that fewer than 20 percent of Pennsylvania's and only 30 percent of New York's veterans use their benefits, while the rate of use is 52 percent in California and 54 percent in Arizona?

I suggest that something evidently is quite wrong when rates of veteran participation uniformly fall below the national average in the Northeast and Midwest, while other regions of the country enjoy rates uniformly higher than the national average. One cannot easily overlook the fact that the veterans in the seven Northeastern States, who amount to 20 percent of the Nation's Vietnam veterans, last year received only 10 percent of the GI bill payments.

The facts of the matter support our proposal: The need for equalized tuition assistance is as real for those veterans whose tuitions are below $1,000 per year as for those above. This is all quite straightforward: tuitions vary, and so should assistance.

What is less straightforward, in my opinion, is the argument of principle, the argument that our tuition assistance plan grants unequal benefits for equal service. It is agreed that we must provide equal benefits to veterans. But why is it claimed that our proposal would do anything different?

It seems that the ground of the argument is that, unlike an acceleration plan which simply allows a veteran to speed up the payment of his statutory entitlement, our plan would actually grant different benefit to veterans with different costs. But reliance is made here on a most unusual notion of the benefit intended by the GI bill to be conferred equally on all veterans.

In fact, the purpose of the GI bill was at its inception, is now, and I trust shall remain that of assisting veterans to obtain an education. Applied equally, this means providing an equal opportunity to all veterans to further their learning and improve their skills. Equal opportunity for education surely does not mean denying to veterans in some areas the chance to attend their own State's institutions, remaining thereby near their families and communities, and becoming ever more productive members of their native States.

The GI bill was never meant to be a pension program, compensating veterans for time served by making monthly payments to them. The benefit conferred equally by the GI bill is not a monthly check. Indeed, if it were, an increase in the payments schedule could be seen as an increase in certain veterans' benefits over the benefits received a short time earlier by other veterans. A change in the monthly entitlement would, if money were the benefit we intended to confer, rightly raise the cry "unequal benefits for equal service" throughout this honored forum.

But we heard no such cry when we raised the monthly entitlement, by stages, from $100 per month in the early 1960's to the present $292 per month for the single veteran. There was no charge made because it was understood by all that, if the cost of education itself had increased, then the payments made to veterans should also increase. The actual "benefit" remained the same—an equal opportunity to seek an education. Payments were raised to allow the veteran to keep up with the rising cost of education in America.

I suggest to my colleagues that there is no fundamental distinction to be drawn between having provided veterans in different decades with differing entitlements and, now, providing veterans of the same era, albeit in different settings or educational programs, with differing amounts of financial relief—so long as the purpose of the varying relief is the bona fide one of assisting veterans equally to meet the costs of an education. In fact, one need not extend thoughts back to other eras; one need only look at the payments tables in the various chapters of title 38, governing veterans' benefits. We give different amounts to veterans in vocational rehabilitation as opposed to college; we give the veteran in the on-job training program less than we do the veteran in the farm cooperative program. And we do this because their needs are different.

The principle underlying the GI bill is clear: Our assistance to veterans must provide an equal opportunity for each to pursue an education. S. 457, as reported, does reflect an understanding of this principle. For the first time since the Korean war, provision is made in the GI bill for veterans whose tuition costs differ to receive variable tuition assistance, beyond their monthly entitlements, to offset costs.

I am perplexed, therefore, when I hear it argued that we must not turn to a tuition equalization program, because it provides different rates of assistance to veterans facing different educational costs. I am doubly perplexed when I hear this argued by distinguished colleagues who, in their own proposal, accept the need for variable tuition relief, but who then choose to grant such relief to veterans in public institutions in only four States of the Union and, overall, to only 12 percent of veterans currently enrolled in training. It is as if the burden of varying costs has been deemed nonexistent for 88 percent of our Nation's veterans. I simply do not believe it is right to adopt a plan which would pay so few veterans what strikes me as an uncommonly generous amount—up to twice their normal yearly entitlement—while allowing to the overwhelming majority of veterans no relief at all.

The amendment before us would, for the same cost, grant tuition assistance to more than 65 percent of currently enrolled veterans and expand the coverage of veterans assisted and who attend public institutions to include those in 45 States. These figures speak for themselves.

I urge the Senate to consider carefully its actions on this amendment. I believe it to be manifestly the more equitable provision, and to provide equal educational opportunity for all veterans.

Mr. CRANSTON. Mr. President, I oppose the amendment offered by my colleague from New York for a number of reasons.

The committee bill, reported unanimously by the Veterans' Affairs Committee, includes an accelerated program designed to ameliorate inequities in the current GI bill program. That program, found at sections 201 and 202 of the committee bill, is, in the committee's judgment, superior to the program's amendment.

The committee believes that a program designed to provide an avenue to additional GI bill assistance is needed to aid those veterans without access to low-cost educational institutions and those veterans enrolled in, or desirous of enrolling in, a high-cost program of education.

After due consideration, the committee determined that the most equitable method of providing such assistance is the accelerated benefit program contained in the committee bill. Under an accelerated program, all veterans would continue to be treated similarly by the Federal Government; that is, each veteran, as a result of his service, is entitled to a maximum of 45 months of educational assistance entitlement at the same rate. The accelerated program merely changes, in certain instances, the general rule that the benefits have to be used 1 month at a time.

The committee has structured its program in order to provide the greatest amount of assistance to those veteran-students bearing a heavier than average burden of expenditures in obtaining an education—those having to pay a total of $1,000 or greater per school year for tuition and fees.

In addition, in order for a veteran to be eligible for assistance under the committee's program, the veteran must qualify for a VA loan on the basis of need, as outlined in section 1798 of title 38. Thus, the committee's program takes into consideration the veteran's needs and the actual cost to the veteran of attending the particular college or university in which he is enrolled. In this regard, I would like to quote from a recent article by Chester E. Finn concerning the GI bill program:

> Various provisions—whether the veteran is single or married, the number of his dependents, the amount of time he spent in uniform, et cetera—govern the size of an individual's stipend and the number of months he receives it, but two key variables commonly found in other students' aid programmes are conspicuously absent from these calculations: financial need—i.e., the recipient's ability to pay for college himself, and the cost of attending a particular college or university.

This is exactly the concept which is incorporated into the committee's acceleration proposal which is not included in the amendment of the Senators from New York.

The committee bill seeks to address inequities existing within the GI bill program. Specifically, it is apparent to the committee that, as a result of the uniform payment formula, many veterans have not elected to attend certain high-cost educational institutions. At the end of November 1976, only 13.8 percent of veterans enrolled in training under the GI bill were enrolled in private institutions of higher learning. This low figure suggests that the lack of sufficient benefits, in many instances, precluded attendance at such private institutions. A recent article by Norman Birnbaum in the Educational Record is pertinent.

If lower income students are relegated to community colleges, middle income students to State universities, and high income students to the private elite sector, our institutions of higher education are not invariably the mechanism of democratization we like to believe.

Under the committee proposal, for example, a married veteran in Maine could, under some circumstances, obtain greater amounts of assistance to attend a private institution, such as Bates where, in 1977–78, the average tuition will be $3,960, and where, between July 1976 and December 1976, only 11 veterans were enrolled.

Under the Javits-Moynihan amendment, in order to fund the tuition subsidy proposal, the GI bill increase would be reduced to only 4 percent, rather than the 6.6 percent increase unanimously recommended by the committee. The trouble with that reduction is that 6.6 percent is the increase in the cost of living as measured by the Consumer Price Index since the effective date of the GI bill benefit increase in October 1976.

Many veterans are not interested in attending a residential educational institution. For example, over the 11-year period during which the current GI bill has been in effect, almost 25 percent—and 21 percent last year—of those veteran-residents of New York who have participated in the GI bill program were enrolled in programs of on-job training and correspondence. These equally deserving veterans would be disadvantaged in order that veterans attending a residential educational institution might be advantaged. I stress that the tuition subsidy proposal does not target available Federal dollars to those who shoulder the greatest financial burden. That is, I think, a major reason for my concern about the proposed amendment.

We fully realize that if we were to lower the $1,000 threshold figure contained in the accelerated proposal, we could increase the base of eligible veterans. However, I point out that the committee has the same problem in attempting to restructure the veterans pension program. The committee would be interested in providing assistance to greater numbers of veterans, and, by increasing the levels of the income limitations, it could do that. Unfortunately, there are budgetary limitations, and hard decisions will have to be made in that program and in this one. Thus, in the case of the GI bill, the committee determined that expenditures of available funds should be made to assist those veterans most in need and bearing the largest and most disproportionate burden in terms of cost. We have defined that need threshold to be $1,000 in tuition and fee cost. Establishing that threshold enabled us to stay within our functional spending limitations and assist veterans bearing the heaviest cost of education.

The $400 threshold proposed by our colleagues from New York is just too low. And I say this even though the accelerated payment proposal with its $1,000 threshold would be of minimal assistance to the vast majority of the 170,997 California residents enrolled in training under the GI bill at the end of November 1976. A $400 threshold would help them a lot more. However, the best evidence is that the vast majority of those enrolled in institutions of higher learning under the GI bill are managing now to go to school with the approximately $3,000 to $4,000 per school year now provided under the GI bill. I do not believe we should provide them with additional support at the expense of those who are precluded from education or training by the high costs entailed.

Further, the tuition subsidy proposal contains few, if any, devices designed to curb control. The payment of the additional moneys to the institution, rather than to the veteran, is no guarantee. Institutional abuse of the program has been evident, not only in the World War II program but also in the current GI bill program. The committee's hearing records and reports includes much testimony in this regard. Recently, for example, a barber school in Chicago was found enrolling hundreds, even thousands, more veterans than it had room to teach.

Under the accelerated program the veteran would become entitled to additional moneys only upon the satisfactory completion of the term for which the benefits are to be paid. In addition, a veteran can accelerate only in an institution which has certified that 35 percent or less of its student body is in receipt GI bill benefits.

Finally, I speak to the points that have been raised concerning the varying GI bill participation rates.

Admittedly, there are differences from State to State in the numbers of veteran residents in such States who have participated in the GI bill program. We must remember, however, that under the current uniform payment program, 64.3 percent of Vietnam-era veterans have participated in the VA educational assistance program, as compared to a participation rate for the World War II GI bill of 50.5 percent, and the Korean conflict GI bill of 43.4 percent. Although I am skeptical as to whether we should consider these participation rates as themselves an adequate indicator of effectiveness, I do believe that it is a basis upon which the three GI bills can be compared. These participation rates could be interpreted to indicate that the current GI bill has been comparatively successful.

I think it important to realize in this regard—and again, this is a key point—that there has been a significant correlation between GI bill participation and increases in the amounts of educational assistance allowance provided. I think that this correlation is especially important in light of the proposed reduction of the increases provided in the committee bill which the Senators from New York are proposing. Differences in State participation rates under the GI bill are not unique to the current GI bill program. Under the World War II program, there were wide disparities in participation rates among the States: the State of Mississippi had a 72.1-percent participation rate, more than twice that of the State of Virginia.

Moreover, the participation rate in some States, alleged to have a deficit of accessible low-cost educational institutions, is better under the current GI bill than under the World War II program. For example, Rhode Island's participation rate for the World War II program was 34.4 percent; whereas, under the current Vietnam-era GI bill program, the participation rate is 54.3 percent.

The post-World War II participation for the State of Maine was 47.6 percent; the Vietnam-era participation rate is 57.5 percent. The participation rate for the State of Delaware under the World War II program was 44.1 percent; under the Vietnam-era bill, 57.2. The State of Michigan World War II participation rate was 45.5 percent; under the Vietnam-era program, it is 53.2 percent.

There is no easy explanation for these kinds of variations in State participation rates, it does seem likely that the varying State participation rates are to some extent a function of the amount of resources which individual State and local communities have committed to the development of adequate accessible low-cost post-secondary education programs.

A study conducted by the Veterans' Administration, pursuant to section 105 of Public Law 93–508, in November 1975, reported:

More than half of GI bill trainees in residence schools on a half-time or greater basis selected their schools on the basis of geographic location.

The number of veterans surveyed who listed this as the most important reason was more than five times greater than the number who cited low cost of tuition as being the primary reason for selection of the school. Thus, providing relatively modest tuition subsidy assistance is not going to resolve the basic problem which is, as a recent report by the Carnegie Foundation for the advancement of teaching pointed out, that there is a deficiency of accessible low-cost institutions in many States—many of which have low veteran participation rates. Thus, participation rates are a function of many factors, and nothing in either amendment is going to produce a totally adequate answer, especially regarding the availability of reasonably priced education.

The GI bill program is a good program. It is not a perfect one. I welcome the assistance of my colleagues in seek-

ing to improve the program. I just do not agree with the way this particular amendment proposes to do it is advisable.

For the reasons I have outlined, I believe that the accelerated proposal unanimously recommended by the committee charged with matters in regard to veterans is superior.

Let me point out finally that the chart described by my colleague from New York fails to take into consideration the differences in the rates of benefits paid under the committee bill and the lower rate proposed to be paid by the pending amendment. I note that for a number of the State institutions listed on the chart—for example, Alabama, Idaho, Kentucky, and Tennessee—veterans in attendance would in fact be financially "better off" under the committee bill than under the pending amendment.

Mr. JAVITS. Will the Senator yield for a question?

Mr. CRANSTON. Of course.

Mr. JAVITS. Mr. President, I yield myself 2 minutes so we do not intrude upon the Senator's time.

Mr. CRANSTON. Fine.

Mr. JAVITS. The thing that puzzles me is this. The Senator says the $400 is too low, and it seemed to me clearly intimated that $1,000 is too high. Now, what is the Senator's expertise on that subject?

I do not pretend to be an expert on the GI bill. I am sure the Senator has worked with it and is much more expert in that than I am.

I would like his view as to what we ought to do that is fair because it struck us, with so very few States really benefitting, that there was something very wrong with this program, especially with the very awkward nonuse slant which we found in our own States.

Now, if $400 is too low, and I got the clear intimation that $1,000 just helps some private schools in some particular States which could be helped anyhow, what is a fair shot at this to help most of the States and to try to, naturally, improve their utilization of their GI bill rights?

Mr. CRANSTON. The committee would rather target available money on those individuals who are not likely to be able to get an education without this assistance. They are the ones who need it the most.

There is no magic figure; $1,000 seems to us, obviously, preferable and more helpful than $400.

We can say that we would be willing, as the Senator knows we would, to try to work something out around $750 that would be consistent with the Function 700 budget ceiling; but it would have to utilize the acceleration, not the subsidy, concept, it could not be capped, and it could not entail any reduction from the across-the-board, 6.6-rate increase.

Mr. JAVITS. That figure, it turns out, I begged the Senator to confer with us on that.

Mr. CRANSTON. We did already, extensively, as the Senator knows.

Mr. JAVITS. We could not work it out. I have no complaints. But it seems to me that is the answer. If the committee wants us to go the route of this accelerated payment and, therefore, to target to the individual, we have to get some figure that reaches most of our States, and that figure should be something between the figures which we have been discussing.

Our base figure, apparently, is $500. The Senator's base figure is $1,000.

Normally, we do that in conference all the time, we would split it.

The difficulty is that it does not respond to the cold relative number, to wit, the normal tuition in the State institutions.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. JAVITS. I yield myself another minute.

It does not correspond to the normal tuition in the State institutions, which I understand runs between $500 and $800.

If we could find a reasonable approach to this, we have got to go to conference with the House anyhow, which has nothing, it has not even got the self-starting quality the Senator's own bill has.

I said when I began that this is certainly an improvement over what they have offered us.

Mr. CRANSTON. I appreciate that. We will be able to get to conference one way or the other on this kind of proposal as soon as we pass this bill. The question is what kind.

Mr. JAVITS. I would be very interested, and I believe Senator MOYNIHAN would be in working something out.

I yield 2 minutes to the Senator.

Mr. MOYNIHAN. I thank my distinguished senior colleague. I would like to echo his sentiments precisely.

Mr. President, the Senate is proud of its Veterans' Committee and proud of the two men who run it. We rise concerned, and I ask the chairman of the committee to hear me on this.

Does the chairman of the Veterans' Committee want the GI bill, with all that it has meant to the country, to the Members of the Senate, to him, to me, to all of us here, to be stigmatized as one of our Sun Belt ripoffs?

Certainly, he does not. That is why we wish to cooperate and arrive at a GI Bill Improvements Act which is as fair as possible to all veterans, countrywide.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. CRANSTON. In response to the Senator's question, I say that I do not want it called that, and I do not think it merits being called that.

My interest is—and I think our interest should be—in seeing that Government funds are used to serve all veterans equitably and to help those who need help the most.

Mr. MOYNIHAN. Yet the facts of your proposal are otherwise.

Mr. CRANSTON. I disagree with that. Moreover, I am not necessarily serving the particular needs of California's veterans by the amendment I am offering here.

Mr. MOYNIHAN. Certainly not.

Mr. CRANSTON. I think that the program in the committee bill is the best and fairest use to make of the funds for veterans everywhere, regardless of the State in which they happen to live. Seven hundred and fifty dollars happens to be the approximate average amount that veterans now pay out of there GI bill assistance for the total cost of tuition when they go to a 4-year institution of higher learning. Many of those people need less help than people who may not get any education at all. That may be the result if we fail to provide a real cost-of-living increase in the amount of the educational assistance allowances.

Mr. MOYNIHAN. I beg the Senator, nonetheless, to consider that, although no one has intended it, the inexorable movement of expenditure under the GI bill since 1952 has been to the profound disadvantage of the Northern and Midwestern States.

I yield to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from New York.

Mr. President, I do not think we want to call this the Sun Belt bill, but I do not think we want to call it a CARE package for the State of New York, either.

I am afraid that if the amendment of the Senator from New York is adopted, in effect, it will gut much of the work that this committee has done. I commend the Senators from New York for aggressively representing their State. However, in effect, it becomes a CARE package for the moderate-priced public institutions of the State of New York.

With respect to the Northeast and the Midwest, we all received a letter indicating that the Northeast-Midwest coordinating committee, or council, whatever it is called, endorsed this amendment. I think the record will show that the Northeast-Midwest committee never met and never endorsed anything, and that letter was misleading, at best.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CRANSTON. I yield to the Senator from New Hampshire such time as he needs.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. DURKIN. I thank the Senator from California.

My problem with the amendment of the Senators from New York is that the cost is prohibitively high—$495 million. It would push the Veterans' Committee far over the budget allocation. There is only $54 million left. In order to adopt this amendment, we would have to take the money from the cost-of-living increase which is needed by every veteran in school.

To further fund the amendment of the Senators from New York, we would have to gut the accelerated tuition provision. The accelerated tuition provision is in the bill. So that in those areas where there are high-cost public institutions, as opposed to the moderate-cost public institutions and the high-cost private institutions, the veterans cannot get in.

I point out some figures with respect to 1976. The State of Maryland ranked 42d out of 50 for veterans' participation in programs. New Hampshire is 43d, Ohio is 44th, Pennsylvania is 45th, Connecticut is 46th, Indiana is 47th, Massachusetts is 48th, New Jersey is 49th, and Vermont is 50th.

That is because there was no accelerated tuition provision. We fought that battle. We passed it in the Senate last year, it was dropped in the House, and we adopted it today.

To fund the amendment of the Senators from New York would require us to gut the accelerated tuition provision, which is not only going to help white-collar students but also is designed to help those who have to go to high-cost technical schools, to provide the blue-collar expertise we sorely need in the Northeast, Midwest, Sun Belt, and all across the country.

So, aside from the cost, it has the unintended effect of gutting the provision which would rectify to a tremendous degree the imbalance we find in New England, Maryland, Pennsylvania, and many other parts of the Northeast.

I understand that New York is blessed with moderate-priced public institutions which would be helped by the amendment of the Senator from New York, and I commend him for it. But I do not think we can unduly help the schools of New York and sacrifice the accelerated tuition program, which does much to help the whole of the Northeast.

I yield back the remainder of my time.

Mr. CRANSTON. Mr. President, I should like to read excerpts from communications in regard to the amendment and the factors that are relevant to this amendment.

The American Legion communicated the following view:

The American Legion supports S. 457 as reported by the Senate Committee on Veterans' Affairs on October 3. This measure, the G.I. Bill Improvement Act of 1977, has the strong backing of our organization for several reasons. The 6.6 percent across-the-board increase in the education and training allowances is particularly important due to recent substantial increases in tuition costs alone. We urge the Senate not to entertain any move to reduce the increases now contained in S. 457.

Additionally, we support the provisions that establish authority for accelerated payment of educational assistance allowances.

The Veterans of Foreign Wars:

Mr. Chairman, the Veterans of Foreign Wars is unalterably opposed to reducing the 6.6 percent cost of living increase to 4 percent which would not in fact be a cost of living increase, to finance a program which would be a vast departure from the basic philosophy of all three GI Bills.

The Disabled American Veterans:

The Disabled American Veterans firmly adheres to the well-established principle of according equal benefits for equal service, and we do not view the veterans' educational program as a device to subsidize high cost schools or state educational systems.

We therefore cannot support the proposal to pay supplemental tuition allowances to a certain class of veterans for the purpose of offsetting the differences in state educational costs. And we strongly oppose any move that would reduce the 6.6 percent adjustment in veterans' educational allowances to anything less than the full cost-of-living adjustment proposed by the Senate Committee on Veterans' Affairs.

The following advice arrived from the American Association of State Colleges and Universities:

It is my understanding that efforts may be made to amend the Senate Veterans Committee bill amending the G.I. Bill, S. 457, to eliminate the acceleration feature, reduce benefits from 6.6 percent to 4 percent, and transfer an estimated $200 million taken from all veterans in the country to benefit the small group of veterans attending higher-tuition institutions.

Such an amendment is not really necessary to meet the costs of education at higher-tuition public institutions in the Northeast and Middle West, given the benefit level proposed in S. 457. This bill proposes payments to an unmarried veteran attending college full-time for $311 a month or $2799 for a nine-month academic year. This is enough or practically enough to attend even the most expensive state universities in the Northeast. Veterans with wives and children would receive still more. Those in need of further funds can obtain veterans loans, or otherwise find the relatively small additional sums needed.

The American Association of Community and Junior Colleges had this comment:

We can see no merit in the proposal outlined in newspaper reports today that would reduce all veteran benefits from the 6.6% proposed in both the House and Senate bills to increase the payments to the small number of veterans selecting high cost institutions.

So, these organizations believe they have the facts and that the facts and equities are in support of the committee bill.

Mr. JAVITS. Mr. President, I yield myself 3 minutes. How much more time do we have after I yield myself 3 minutes?

The PRESIDING OFFICER. At the expiration of the Senator's 3 minutes, he will have 5 minutes remaining.

Mr. JAVITS. Mr. President, I should like to deal with a few points which have been raised.

One, we already have discussed the question of the amount of $1,000, which confines the benefit of this accelerated payment only to high-cost institutions outside the State public higher education institution range. That is what excludes the benefit for all the States to which we have referred.

The second argument which is made is on the budget. There, we must take direct issue. We have had this analyzed by the Budget Committee, and the fact is that you come out in exactly the same place with our amendment that you do with S. 457.

There is $1.1 billion remaining as an allowance for this overall activity in the second budget resolution. Both our amendment and S. 457 use up about $1 billion of that, even when you add the $200 million which is taken up by extended time for use, which already has been incorporated in the bill. So the difference really is nothing. There are perhaps $9 million between the two.

Finally, if there is anything to the position which has been taken by the chairman of the committee, then why is that not reflected in the basic sum which, on the accelerated basis, will make it possible for our GI's to go to college, too, and to have a relatively greater utilization of these rights?

We have made that proposal, and it seems to me to be an eminently fair and sound one. Utilizing the same techniques, thousands more will be given an opportunity if that figure is lower.

It does not cost any more money. It is the same money. The money will simply be used up either more slowly or more quickly under the acceleration provision. And the $750 figure which has been mentioned is unrealistic for the reasons that I have stated.

Therefore, Mr. President, if we want to get something in conference which breaks this matrix, and benefits an appreciable number of States, we have to adopt this amendment. Then the matter will be at issue. If we do what we are asked to do by the sponsors of this bill, it will not be at issue.

Mr. President, I yield such time as he may desire to my colleague from New York.

Mr. MOYNIHAN. I thank my senior colleague.

I simply wish to repeat this for the chairman and ranking member of the committee to say to them that there is a regional storm brewing in this country and it is going to make for divisions we have not known and will not like. And in the name of all that is holy, ought the great GI bill be brought into this argument? If ever there were a symbol of nationhood, it has been the GI bill. It is in a genuine hope that it should not come to be seen as a source of regional imbalance, as much for that purpose as for the redress of the genuine imbalances we know to exist, that we ask the support of this Chamber for our amendment.

Mr. JAVITS. Mr. President, will the Senator yield to me so we may get the yeas and nays?

Mr. MOYNIHAN. I yield.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays on the amendment are ordered.

Who yields time?

Mr. STAFFORD. Mr. President, I wonder if the chairman of the committee will yield me 2 or 3 minutes on the bill.

Mr. MOYNIHAN. Of course, I yield whatever time the Senator needs.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. I thank the Senator for yielding.

Mr. President, I do not find myself in a happy position here in opposition to my long-time good friend, the senior Senator from New York. But in this case, it simply has to be.

For those veterans choosing to attend higher cost schools, there are a number of other Federal assistance programs available to veterans which provide additional assistance. Examples are the basic educational opportunity grant and supplemental educational opportunity grant programs, and the various student loan programs administered by the Department of Health, Education, and Welfare. And where there is additional need for educational funds, over and above monthly assistance allowances and the programs just mentioned, there is available, through our veteran-student

loan program (38 U.S.C. 1798), eligibility for low interest, direct Federal loans in amounts up to $1,500 for an academic year—more where the individual also attends summer school.

The Veterans' Administration revised its regulations this year so that the procedures for obtaining a loan is much simpler and easier for the veteran. A compelling reason for raising the maximum loan amount last year was to provide additional assistance to veterans attending higher cost institutions to help meet higher education and living expenses at those institutions.

Veteran-students enrolled as full-time students may agree to perform services and receive an additional allowance. A student who agrees to work 250 hours in a work study program receives $625. A student who agrees to work a lesser number of hours gets a proportionately lesser amount. We, of the committee, are proposing an increase in keeping with the recently passed minimum wage changes.

In considering the amendment before the Senate at this time—the Javits-Moynihan amendment—we should look closely at all factors of it. The amendment includes an across-the-board increase in benefits of 4 percent. S. 457 includes an across-the-board increase in benefits of 6.6 percent. This increase goes to those under on-the-job training, those taking correspondence courses, those taking flight training, those attending other residence schools, as well as attending college. All would be affected by the proposed reduction from 6.6 percent increase down to 4 percent increase. It is submitted that although the proposed tuition subsidy would benefit some, the proposed plan would not be beneficial to others. Vocational students and many who need the educational advantages the most would be hurt the worst under the proposed amendment.

The present GI bill and its immediate predecessors have been based upon the principle of the Federal Government providing equal benefits for equal service to the Nation. The committee's proposed acceleration program is consistent with this principle.

The committee is well aware that programs designed to assist those veterans enrolled in "medium cost" institutions would necessitate the expenditure of far more dollars than are currently available to Congress under the second concurrent resolution on the budget for fiscal year 1978. It should be questioned, also, whether it would be proper to expend Federal dollars at the expense of other veterans' programs on those veteran-students not required to spend large sums of money for purposes of education.

Mr. THURMOND. Mr President, I am opposed to this amendment offered by my distinguished colleagues from New York.

The basic rationale for the tuition assistance proposal is founded upon the premise that the current GI bill program, and the changes sought to be effected by S. 457, do not and will not provide all veterans with the same equal opportunity to obtain an education. Advocates of this position then attempt to substantiate it by pointing to the low participation rates in the GI bill program in the Eastern and Midwestern States, as compared to the relatively higher rates in the Sun Belt States of the South and West. The cause for this low participation rate is then laid at the feet of the Federal Government which has failed to tailor the GI bill to accommodate the needs of veterans in States where the high cost of tuition effectively prohibits their attending school on the GI bill.

Analyzing the disparate participation rates for veterans on the GI bill among the States leads inevitably to the old problem of deciding which causes one should assign as being responsible for this phenomenon. I cannot, in any real sense, lay the blame for this problem on Congress lack of responsiveness to veterans' educational needs. The States share a definite responsibility in this area. Moreover, the committee report to S. 457 demonstrates a relationship, in many instances, between participation rates under the GI bill and the extent to which a State uses tax revenues to subsidize the cost of public education.

South Carolina presents a good example of the point which I am trying to make. In my State approximately 68 percent of the Vietnam-era veterans have participated under the GI bill; 36 percent of those attended college. By comparison, however, South Carolina ranks 12th in the Nation for total expenditures for higher education as a percentage of State personal income—a total of 1.2 percent. Furthermore, for every $1 in tuition paid by students at public institutions, approximately $3 are paid by the State.

Mr. President, many other Members of the Senate can point to similar statistics concerning their States which are indicative of the measure of the commitment of the States to offset the rising costs of higher education. In short, I think that the high participation under the GI bill among veterans in South Carolina has resulted largely because of timely and effective planning by the State and because its citizens have chosen to pay the price for educating its veterans. Statistics from the report to S. 457 indicate that the 10-year increase in appropriations of State tax funds in South Carolina for operating expenses of higher education amounted to 895 percent, the highest in the Nation.

In addition to the foregoing, Mr. President, under the present amendment, much of the cost required under the tuition equalizer proposal would be borne by veterans in training under vocational and on-the-job training programs who would receive only a 4-percent increase in their benefits. In my years of working with veterans legislation, I can think of no principle more important than that which demands that all veterans should be treated equally.

I think the effect of the acceleration proposal, as contained in S. 457, would be consistent with this important principle. I think the proposal as contained in the amendment now before the Senate would violate it.

Mr. President, again I wish to emphasize that I appreciate the concerns of those proposing this amendment, but I think the bill, as reported out of the Veterans' Affairs Committee, is fair and deserves the unqualified support of my colleagues.

Mr. STAFFORD. Mr. President, I shall close by simply saying this. I think that the committee feels, as I do, that as a result of enactment of the accelerated benefit program more veterans, particularly unemployed and underemployed, should be better able to take advantage of the GI bill program.

I believe, Mr. President, that the veterans of America will be best served by the bill as the Committee on Veterans' Affairs has written it.

I have to confess to the distinguished senior Senator from New York that there is a temptation here to be provincial in considering this matter, but it is a temptation to which I am going to respond by saying, "Get thee behind me."

I believe that we must afford equal treatment to all of the veterans who have served this country and have given equal service to the Nation in time of need.

For that reason, I particularly support the bill as our committee has written it.

There has been, as the chairman has indicated, a 6.6-percent increase in the cost of living. Should we adopt the proposal of the two distinguished Senators from New York, we would take 2.6 points of that increase away from all of the veterans in the States where the higher cost of tuition might result under their bill in more funds to them and less to the rest of the veterans of the Nation. I think all of the veterans who are in our educational institutions or who are eligible and about to go should get the same increase, 6.6 percent. I reluctantly must express the hope that the Senate will reject the amendment.

I yield back whatever time I have to the opposition.

Mr. CRANSTON. I am prepared to yield back my time.

Mr. JAVITS. Mr. President, I yield myself 1 additional minute.

Mr. President, according to our figures, the committee bill will benefit about 12.4 percent of the veterans on this accelerated provision; whereas our tuition equalizer plan would benefit about 65 percent of the veterans.

I think it is only fair to put that on record because of any impression that might exist that we are trying to benefit some small number of veterans.

Mr. President, I am prepared to yield back my time as well.

Mr. CRANSTON. I am prepared to yield back time here and so do.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is——

Mr. CRANSTON. Mr. President, I believe we now revert to the Melcher amendment under a prior order.

Mr. JAVITS. Mr. President, under those circumstances, do I have any time remaining? I think I have a minute or two.

The ACTING PRESIDENT pro tempore. The Senator from New York has 3 minutes left. But I might say to the Senator from California, under the previous order we are to complete action on this amendment prior to going back to the Melcher amendment.

Mr. CRANSTON. The only reason, and I think there may be a good reason to try to put the rollcalls together, is that the energy conference committee is in session now. If we could interrupt them for three back-to-back rollcalls on these two amendments and passage we would interfere less with their work than if we bring them over now and then go briefly to the Melcher amendment and then have another rollcall. I do not think it will affect the outcome of the vote.

Mr. JAVITS. What is the time on the Melcher amendment that is needed?

Mr. CRANSTON. How much time remains on the Melcher amendment? It is going to be very short.

The ACTING PRESIDENT pro tempore. There are 25 minutes remaining on the Melcher amendment.

Mr. MELCHER. Will the Senator yield?

Mr. CRANSTON. I yield.

Mr. MELCHER. There is no need to take more than 2 or 3 or 5 minutes on the Melcher amendment.

Mr. CRANSTON. I agree to do it swiftly. Let us do that and vote on all three.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. JAVITS. Mr. President, I have no objection but I do reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from New York reserves the remainder of his time, which is 3 minutes.

Mr. CRANSTON. I reserve 1 minute of my time.

The ACTING PRESIDENT pro tempore. The Senator from California reserves 1 minute of his time.

The Senator from Montana.

UP AMENDMENT NO. 955—AS MODIFIED

Mr. MELCHER. Mr. President, when I was describing the amendment that we offered, I described it as one that would affect certain Vietnam veterans who are not now enrolled in school or who were enrolled in school but whose family incomes were such that they would fit into a certain intermediate part of that table of the Bureau of Labor Statistics.

In order to clearly define that that is the purpose of the amendment, I ask unanimous consent to modify it and such modification is at the desk now.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. The amendment is so modified.

The modified amendment is as follows:

On page 14, after line 16 insert the following new section:

SEC. 204. (a) Section 1662 of title 38, United States Code is amended by inserting at the end thereof the following new subsection:

"(f) (1) Notwithstanding the provisions of subsections (a) and (c), the Administrator may authorize an extension of the ten-year delimiting period in the case of any eligible veteran who served on active duty, any part of which occurred after August 4, 1964, if—

"(A) such veteran demonstrates that he or she could not reasonably initiate or complete a program of education within the ten-year delimiting period;

"(B) an extension of the delimiting period is necessary to enable such veteran to initiate or complete such veteran's program of education; and

"(C) such veteran is or will be enrolled in a program of educational instruction that will provide vocational readjustment and restore lost educational opportunities or aid such veteran in attaining the vocational and educational status to which such veteran might normally have aspired and obtained had such veteran not served such veteran's country; and

"(D) such veteran demonstrates that, for the twelve months preceding the date of application for the extension of the delimiting date under this subsection, the family income did not exceed the Intermediate Level Consumption Budget, as defined by the Bureau of Labor Statistics.

"(2) Under no circumstance may the extension of the delimiting period exceed the time required to complete the veteran's program of education or two years after the effective date of this provision, whichever is the lesser period of time.".

(b) The provisions of this section shall become effective January 1, 1978.

Mr. MELCHER. Mr. President, in going over very carefully with the Congressional Budget Office the effect of the Durkin amendment previously agreed to, and this amendment if it were agreed to, what would be the cost, keeping in mind that there would be certain overlapping—some of the veterans that would be covered in the Durkin amendment are also covered in the amendment I have before the Senate now—we have taken that situation to the Congressional Budget Office and they have responded on the overlapping being of such nature that the total cost of the two budgets during the coming fiscal year would be within the budget. I now ask the chairman of the committee, Senator CRANSTON, if that is not the case.

I have noted that, taking into consideration the cost of the Durkin amendment, and the Melcher amendment, if it were adopted, and keeping in mind there would be certain overlapping language between the two, the costs of the two combined would be within the budget for this fiscal year.

Mr. CRANSTON. CBO now advises informally there are sufficient funds within the veterans function to accommodate the amendment as modified. I must advise the Senate, however, the CBO has yet to see the language.

Mr. MELCHER. I would ask the Senator, and the distinguished chairman of the Veterans' Committee, if under those circumstances the chairman is willing to accept the amendment.

Mr. CRANSTON. I am afraid I cannot because of the other concerns I have expressed; such as discriminating between equally deserving veterans in the amount of aid we provide and establishing an unworkable and inequitable so-called need standard.

Mr. MELCHER. Mr. President, I regret the chairman taking that position. But I want to clearly tell the Senate that the needs are there, the merits are there, and the budget is there. That being the case—I would yield to the distinguished chairman of the Budget Committee for his comments.

Mr. MUSKIE. May I say, in deference to my good friend from California, Senator CRANSTON, as well as my good friend from Montana, Senator MELCHER, I regret to say that as these amendments have been modified in language it is very difficult to stay on top of the budget implications. But as of 5 minutes ago the word from my staff was this probably breached the ceiling, to the best of the information available to us, following the modifications of these amendments and that, at this moment, I would not be arrogant enough to suggest I have a hard and fast figure. But I know that this bill has been skirting with the ceiling all day long as we considered these amendments.

I wish I were in position to give the Senator a hard and fast figure, but because of the doubt on that score I find myself not in a position to support the Melcher amendment.

Mr. MELCHER. Mr. President, there is no hard and fast figure for these amounts.

Mr. MUSKIE. Mr. President, will the Senator yield at that point?

Mr. MELCHER. Yes, I yield.

Mr. MUSKIE. I hope the Senator is not making the point that the budget resolution is such that there is never a hard and fast ceiling.

Mr. MELCHER. No, I would not make that point.

Mr. MUSKIE. But that is a point that could be made if one wants to rationalize at any given moment, and one could add components of the budget functions and conclude that there is room for something else. That is always true of every function at any point until the last legislative measure of the year is basically acted upon.

But if one waits until that point, then one is never in a position to exercise budgetary discipline. That is the message I have tried to convey to the Senate for some 3 years now.

Mr. MELCHER. I accept the chairman's admonition, and I think it is valid. But my point is there are no hard and fast figures on what it is going to cost in this case because we do not know exactly which veterans will respond.

Mr. MUSKIE. That is true of every entitlement program, Senator.

Mr. MELCHER. That is correct.

Mr. MUSKIE. And yet we have to cost out entitlement programs if we are going to have budget ceilings.

Mr. MELCHER. That is correct.

With that admonition and those guidelines, we go to the Congressional Budget Office and say, "Project the best figure you can get." It may be that this does not even come close to taking the amount of money they have projected, but they have given us their best advice, and we have worked diligently within that framework describing the needs and doing our utmost to take care of the needs of many of those veterans, as many as we can. Now we have modified the amendment to make it clear just which veteran would be eligible. There is no question that under this modification on that eligibility limitation those veterans are in need, and if they so choose to exercise their rights under the terms of this amendment, the country would be well-served because exploring for and accomplishing their educational opportunities would help the country.

Mr. President, there is a request by Senator Stevens to enter into some col-

loquy, and it is rather short, and I would like to do that at this time.

I yield to the Senator from Alaska.

Mr. STEVENS. I thank the Senator from Montana.

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. First let me say that I am pleased to be a cosponsor of this amendment to extend the period for eligible Vietnam veterans to use their education benefits.

For the record, I would like the good Senator from Montana to clarify that this amendment would also extend the period for flight training benefits. As my colleagues are aware, educational benefits for farm cooperative, flight, apprentice or other on-the-job training were not included in the original GI bill but later included in the program. The period for these benefits expired on August 31, 1977 or 10 years after being discharged from the service, whichever is later.

The flight training program is particularly important in Alaska where airplanes are the standard mode of transportation. My home State of Alaska, one-fifth of the size of the entire United States, consists of 357 million acres of land. Right now, there are only 2,744 miles of paved roads in Alaska. The District of Columbia and Montgomery County, Md., together contain over 2,800 miles of paved roads.

In my State, many areas are accessible only by air; therefore, flight training is essential. Alaska has approximately 200 State-maintained airports. According to a recent article in Air Force Magazine, Alaska has 400 times as many private planes per capita as the national average. Additionally, due to Alaska's harsh winters and frequent inclement weather conditions, veterans in my State are generally limited to the summer season for flight training.

Many of my constituents got caught in the flight training delimiting period time crunch. There are 10 Veterans' Administration approved flight schools in Alaska. To illustrate my point, Alaska Airco, the only Veterans' Administration approved flight training school in Fairbanks, serves not only area veterans, but also active duty military at Fort Wainwright and Eielson Air Force Base. Veterans are forced to compete with the active duty military members for enrollment in this school. Pursuant to the enforcement of the 85–15 percent veteran-civilian ratio, many qualified veterans are not eligible to enroll in this training. As their flight training benefits were expiring, they remained on the waiting list or were in the middle of their courses.

As my colleagues may know, the Veterans' Administration requires at least one-half of their vocational graduates from the preceding 24 months to be employed in an occupation directly related to their training. According to Brent English, Alaska's Airco's chief pilot, graduates in each of the courses have passed the VA's occupational graduate employment report with flying colors. Alaska Airco's courses have exceeded the 50-percent requirement. The airplane single engine C float rating course had 71 percent of their graduates employed in a flight oriented occupation; multi-engine course, 100 percent; certified flight instructor, 100 percent; multi-engine flight instructor, 100 percent; and commercial flight course, 100 percent.

It is my understanding, Mr. MELCHER, that this amendment would extend the delimiting period for eligible veterans to pursue vocational flight training.

Mr. MELCHER. The Senator is correct. Any eligible veteran under the amendment who can demonstrate need could be enrolled in a flight training program which would lead to employment.

I recognize the unique situation in Alaska, and perhaps Hawaii, two very air-minded States. The use of the opportunity afforded in this amendment would be very limited elsewhere. It should be stressed that this extension would not cover a veteran who seeks flight training for recreational purposes and who is employed full time in other work. It is limited to flight training, as in every other program to needy veterans who are engaging in a program leading to full-time productive employment.

Mr. STEVENS. I thank the Senator. I congratulate you on proposing this amendment and am pleased to be a cosponsor. The plight of the veterans who served in the early days of the Vietnam combat era must be addressed. At the time of their discharge, the cold war GI bill in effect at that time provided unrealistic benefits. We adjusted them in 1970 and will do so again in the bill now before the Senate. I feel that we owe the veterans this one-time chance to take advantage of the benefits that they earned through honorable service to their country.

Mr. MELCHER. Mr. President, I ask the Senate to approve the amendment.

I ask it for a group that has been disillusioned at times, for a group that just happened to come on the scene when the GI bill benefits were enough to pursue an educational opportunity, and for a group, under these tests, who will become more productive and more advantageous for the country if they do pursue their opportunities afforded under the amendment. I hope the Senate will agree to it.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mr. CRANSTON. On the cost question, Mr. President, it is my impression, based upon telephone conversations with CBO that the amendment, as modified, probably fits within the budget ceiling.

I oppose the amendment, however—I can say this in about three sentences—because it proposes to cover some needy veterans and exclude many others who are equally deserving.

For instance, a veteran who worked full time at a fairly menial task for $6,100 or so but sought to improve himself by going to school part time would not be eligible.

A veteran who did neither but rather lived off unemployment compensation or welfare would be eligible. Individual initiative would be penalized. The income test contained in the modified amendment is just not equitable.

I do not see how we can justify paying one equally deserving veteran 100 percent of benefits and another only 50 percent and 33 percent.

Second, I do not see how we can justify paying benefits to a veteran who has not been working, and how we can deny benefits to a veteran whose spouse and he have both worked in order to earn say, $6,061 per year.

I am prepared to yield back time so that we can proceed to vote after we use up the time on the Moynihan and Javits amendment.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. MELCHER. Mr. President, I will only use a moment or 2 to say that the task melding this amendment with the Durkin amendment to the best advantage of all veterans is obviously a task that would be undertaken in tandem. I think both amendments are worthy.

I am delighted at the acceptance of the Durkin amendment, and I hope the Senate will find it within itself to accept the amendment we have offered.

I yield back the remainder of my time.

Mr. CRANSTON. I yield back the remainder of my time.

There is a bit of time remaining on the Moynihan-Javits amendment.

The ACTING PRESIDENT pro tempore. The proponents have 3 minutes left and the opponents have 1 minute.

Who yields time?

Mr. JAVITS. I yield myself 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

UP AMENDMENT NO. 958

Mr. JAVITS. Mr. President, just to sum up our argument in hopes that there are other Members who are here who were not here before, the point we are trying to make is we are trying to reach the public institutions in the great bulk of the States whose tuition is in the area of $500 to $800.

In order to reach them and not to exclude them, we have somewhat reduced the overall increase, from 6.6 percent to 4 percent, in order to accommodate payments beginning above tuition, and taking it up to a maximum of a $700 additional payment, with that as a cap.

Mr. President, in the course of the debate we developed that it was considered that the $1,000 tuition level deprives many of the States' public schools of this fund, and therefore many veterans, and that the underutilization which is characteristic of a great number of States in the country could be materially cured by a plan such as we propose.

Recognizing that we must go to conference in this matter with the House of Representatives, which has nothing, just a continuation of the present situation, we feel that the basis which we have offered will give us a much better opportunity to work equity and encourage greater usage of the GI bill without invading the budget, or changing the basic figures within the budget, than the proposal which the committee has brought in. Therefore, we urge its support by Senators.

Mr. CRANSTON. Mr. President, I will take only 1 minute to say that this

amendment is opposed by the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the American Association of State Colleges and Universities, and the American Association of Community and Junior Colleges, because it cuts the cost-of-living increase by almost 40 percent to all veterans seeking to get help under the GI bill, and it tends to give help for those who need help the least at the expense of those who need it the most.

The PRESIDING OFFICER. Does the Sentor yield back the remainder of his time?

Mr. CRANSTON. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from New York yield back the remainder of his time?

Mr. JAVITS. Yes.

Mr. CRANSTON. Mr. President, let me point out at this point that we will have at least two back-to-back votes. I know of no other amendments; are there any other amendments to be proposed?

Mr. JAVITS. Yes; if our amendment fails, I intend to offer another one.

Mr. CRANSTON. At any rate, we will have two back-to-back votes now, so I ask unanimous consent that the second vote take only 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The first rollcall vote will occur on the question of agreeing to the amendment of the Senator from New York (Mr. JAVITS). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Michigan (Mr. RIEGLE), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 18, nays 73, as follows:

[Rollcall Vote No. 568 Leg.]

YEAS—18

Bayh	Eagleton	Moynihan
Biden	Hayakawa	Pell
Brooke	Heinz	Roth
Case	Javits	Schweiker
Chafee	Kennedy	Weicker
Danforth	Metzenbaum	Williams

NAYS—73

Allen	Bentsen	Byrd, Robert C.
Anderson	Bumpers	Cannon
Baker	Burdick	Chiles
Bartlett	Byrd, Harry F., Jr.	Church
Bellmon		Clark
Cranston	Helms	Pearson
Culver	Hollings	Percy
Curtis	Huddleston	Proxmire
DeConcini	Inouye	Ribicoff
Dole	Jackson	Sarbanes
Domenici	Johnston	Sasser
Durkin	Laxalt	Schmitt
Eastland	Leahy	Scott
Ford	Long	Sparkman
Garn	Lugar	Stafford
Glenn	Magnuson	Stennis
Goldwater	Matsunaga	Stevens
Gravel	McClure	Stevenson
Griffin	McIntyre	Stone
Hansen	Melcher	Talmadge
Hart	Morgan	Tower
Haskell	Muskie	Wallop
Hatch	Nelson	Young
Hatfield	Nunn	Zorinsky
Hathaway	Packwood	

NOT VOTING—9

Abourezk	McClellan	Randolph
Humphrey	McGovern	Riegle
Mathias	Metcalf	Thurmond

So Mr. JAVITS' UP amendment (No. 958) was rejected.

The ACTING PRESIDENT pro tempore. The question now recurs on the amendment offered by the Senator from Montana. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. SPARKMAN (after having voted in the negative). I have a pair with the Senator from South Dakota (Mr. MCGOVERN) who is sick and unable to be here. If he were here, he would vote "aye." I have previously voted "nay." I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "nay."

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE) would vote "yea."

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 41, nays 49, as follows:

[Rollcall Vote No. 569 Leg.]

YEAS—41

Anderson	Ford	Melcher
Bayh	Glenn	Metzenbaum
Bentsen	Gravel	Nelson
Biden	Hart	Pell
Brooke	Hatfield	Proxmire
Chiles	Hathaway	Ribicoff
Church	Heinz	Roth
Clark	Hollings	Sarbanes
Culver	Jackson	Stevens
DeConcini	Kennedy	Tower
Dole	Magnuson	Wallop
Durkin	Matsunaga	Weicker
Eagleton	McClure	Young
Eastland	McIntyre	

NAYS—49

Allen	Bellmon	Byrd, Harry F., Jr.
Baker	Bumpers	Byrd, Robert C.
Bartlett	Burdick	Cannon
Case	Helms	Pearson
Chafee	Huddleston	Percy
Cranston	Inouye	Sasser
Curtis	Javits	Schmitt
Danforth	Johnston	Schweiker
Domenici	Laxalt	Scott
Garn	Leahy	Stafford
Goldwater	Long	Stennis
Griffin	Lugar	Stevenson
Hansen	Morgan	Stone
Haskell	Moynihan	Talmadge
Hatch	Muskie	Williams
Hayakawa	Nunn	Zorinsky
	Packwood	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Sparkman, against

NOT VOTING—9

Abourezk	McClellan	Randolph
Humphrey	McGovern	Riegle
Mathias	Metcalf	Thurmond

So the amendment was rejected.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 959

(Purpose: To expand coverage of the accelerated payment program)

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Mr. MOYNIHAN, Mr. CRANSTON and Mr. DURKIN, proposes an unprinted amendment numbered 959.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 9, strike out "$1000" and insert in lieu thereof "$700"; and on page 10, line 4, insert "an amount equal to 66⅔ per centum of" after "(B)", and on line 5, strike out "$1,000" and insert in lieu thereof "$700".

Mr. JAVITS. Mr. President, I am joined in this amendment by the manager of the bill, Senator CRANSTON; by Senator MOYNIHAN, my colleague from New York; and by Senator DURKIN.

This amendment provides that where the tuition is above $700 per annum, the accelerated plan under the bill shall apply to the extent of two-thirds of the excess. That keeps everything within the budget. It is something for the States which have public colleges where tuition generally ranges between $500 and $800 and is, we think, a reasonable compromise between the two points of view which have been debated ardently, and it benefits a great many more States than are now benefitted under the bill.

Mr. CRANSTON. Mr. President, in the spirit of accommodation, as far as I am concerned, I think we can accept this amendment and not have a rollcall vote.

Mr. STAFFORD. Mr. President, we also are prepared to accept the amendment. I think this is an agreeable way to bring this matter to a conclusion, and I see no cause for a rollcall vote.

Mr. JAVITS. I yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the amendment offered by the Senator from New York.

The amendment was agreed to.

ADDITIONAL STATEMENTS SUBMITTED

Mr. BROOKE. Mr. President, I cannot overstate the Federal Government's obligation to equip our Nation's veterans with the "tools" they need to find fulfilling and productive work. Nor can I overstate the importance of education in the attainment of that goal. I have always supported programs to improve and to expand educational benefits for all our veterans and I am pleased that the bill we are considering today, Senate bill 457, the Veterans' Education Benefits Act, would expand those educational benefits. However, while I believe this bill contains many worthwhile provisions, I also feel it has some shortcomings which work to the detriment of some veterans. And, therefore, I am supportive of efforts to correct those defects.

S. 457 provides an across-the-board cost-of-living increase in the amount of educational assistance allowance granted under the GI bill. This increase, which is retroactive to October 1, 1977, will protect a veteran's current course of study from the ravages of inflation.

The bill will also correct the existing problems with our 85/15 program and our 2-year program for overseas education programs. These reforms will prove beneficial for many schools which have large overseas programs, especially universities in the Northeast.

At the present time, the "2-year rule" creates a "Catch 22" situation for college level programs on military bases in foreign countries. As my colleagues know, this rule prohibits the payment of veterans assistance to persons enrolled in programs of study which have been in existence for less than 2 years. If education institutions apply for the exemption from the rule which is provided in the law for certain courses, civilian and foreign nationals can be prohibited from enrolling in their courses. Not only might this result in as much as a 25-percent loss in enrollment, but it effectively violates the terms of the contracts which these schools have with the Department of Defense and the understanding reached with host countries.

And if, on the other hand, educational institutions comply with the rule's provisions, military bases can be adversely affected. For then, no person eligible for veterans assistance can receive benefits if enrolled in courses at new military bases for the first 2 years of operation.

The Veterans Education Benefits Act corrects these deficiencies by authorizing the Administrator of the Veterans' Administration to waive the 2-year rule for branch campuses if he determines that the waiver would be in the best interests of eligible veterans and of the Federal Government. I am confident that this provision will eliminate the problems currently burdening universities with overseas programs for veterans.

Also, since the legislation we are considering makes the 85/15 rule inapplicable for courses offered by American universities abroad, then universities such as Boston University, which has 73 percent of its students at foreign study centers receiving veterans' assistance, would not be penalized as the number of its civilian students approaches the 15-percent level.

The legislation also includes other provisions which will benefit both veterans and education institutions. These provisions would:

Increase the educational counseling currently provided for veterans who are eligible for VA benefits;

Continue to exclude basic educational opportunity grants (BEOGs) and secondary education opportunity grants (SEOG's) in determining benefits until a study is completed on the need to count BEOG's and SEOG's in the 85/15 determination and on the method to count them if necessary;

Require a study to be conducted and recommendations to be submitted on possible administrative and legislative changes in the veterans' vocational rehabilitation program; and

Increase by 10 percent the amount of expense money reimbursed to State approving agencies for expenses incurred for approving educational institutions for purposes of GI bill enrollment.

However, while I am pleased these measures have been included in this bill, I am disappointed with two actions taken by the Veterans' Affairs Committee. One of these actions was the 5-to-4 decision to exclude a provision to extend the delimiting period for veterans who want to pursue their education. The other action was to include a provision for accelerated payments instead of a tuition equalization formula for veterans.

Not very long ago, 483,000 veterans lost their GI education benefits, because their delimiting period expired. Many of these veterans were full-time students, and all of them were in the process of completing their education and training programs. I think it is unfair for us to cut off their benefits and, in many cases, shatter the dreams of our veterans for eventually improving their chances in the job market they face today. Therefore, I favor extending benefits for veterans for a 2-year period.

Critics of extending education benefits argue that money for veterans should be spent on other veterans programs. I agree that we must increase our programs for medical care and treatment, pensions, and compensations. But, we must not sacrifice educational benefits to achieve these other goals.

A second argument against extending benefits is that we have not extended education benefits for veterans of other eras. However, I think that we must consider the particular circumstances which warrant extension today. Schools were experiencing a time of turmoil in the late 1960's. Student costs were escalating, veterans were not welcomed on some campuses and some veterans had a difficult time adjusting to society upon their return from Vietnam. For these reasons, many veterans delayed entering school.

These distinctions justify the efforts to extend benefits for all veterans. However, if we are unable to pass a provision to extend benefits for all veterans in need who were discharged after August 4, 1964, the date of the Tonkin Gulf Resolution, then I support the provision to extend benefits for the 400,000 veterans who are currently full-time students and must be allowed to finish their education. The proposal to do this is modest. It would provide only 50 percent of the regular benefits during the first extension year and 33 percent during the second year.

I also feel that the proposal to institute a tuition equalization formula will help more veterans than the bill's accelerated payments provision. The equalization formula, which is similar to legislation which I am cosponsoring in the Senate, would pay 70 percent of the veteran's tuition above $400, with a maximum tuition assistance payment of $700. The accelerated payments provision would do nothing more than allow a veteran to accelerate his GI bill benefits to the extent that he has a sufficient number of months of entitlement to complete his course of study.

Although the latter proposal will help some students attending schools with higher tuition and fees, it will not assist those veterans who lack enough months of entitlements for meeting costs during the academic school year. In fact, the accelerated payments provision is estimated to provide assistance to only 13 percent of currently enrolled veterans and only in public institutions in four States. However, the equalization formula would increase the number of eligible veterans to 65 percent and extend benefits to public institutions in 45 States.

The tuition equalization formula would allow all students to attend schools regardless of their State of residence. We would thus be ending the current discrimination against veterans in the Midwest and the Eastern States. Since 1968, veterans from the Midwest and Eastern States have received $8 billion in benefits, while veterans from the South and West have received nearly $12 billion.

And, I am certain this change would improve the situation for veterans in Massachusetts. For, while my State ranks 10th in population for Vietnam-era veterans, it ranks 33d for its college participation rate under the GI bill. Only 28.9 percent of the veterans in Massachusetts are currently enrolled in programs at schools under the GI bill. The equalization formula would rectify this injustice and would increase educational opportunities in the future.

Therefore, I enthusiastically support Senator JAVITS' amendment authorizing a tuition equalization formula and I urge my colleagues to support equitable and viable provisions to assist all of our veterans.

Mr. GLENN. Mr. President, I have become aware of a problem which has recently developed in Ohio, and I assume elsewhere, involving the payment of educational benefits to veterans this winter. It has developed that a number of educational institutions in my State have

rearranged their academic schedules providing for a lengthened semester/quarter break in order to avoid possible curtailments of energy supplies, in the event of another severe winter, or to realize substantial energy savings, which I believe would be consistent with the national goal of energy conservation. However, as a result of this rescheduling many veterans will not receive a month's benefits, for the scheduled break will exceed the VA limit of 30 days. This has caused considerable uncertainty and concern among student veterans. Current VA regulations, as I understand them, provide for the continuation of benefits during a break period longer than 30 days in the event of an emergency or pursuant to an Executive order. However, as interpreted by the VA to date, these regulations do not provide relief for the veterans attending those schools in Ohio which have so far applied to the VA for such relief.

In studying the bill, which is presently before the Senate, and the accompanying report from the Veterans Affairs Committee, I noted that in the report on page 131 under the heading "VA Energy Conservation Impact" the committee instructs the VA as to its thinking on this matter, saying in part:

Specifically, the Committee believes that the VA should continue payments to involved veterans and eligible persons during periods when a school is temporarily closed when the school has made a strong showing of a clear likelihood that such closing would avert an emergency due to shortages or would result in substantial reductions in the amount of energy consumed by the school while not adversely affecting the quality of the training provided.

I would like at this time to associate myself with the committee suggestion and I trust that the VA will take heed of this suggestion and be receptive to the needs of veterans in this situation. I interpret this language as suggesting that the VA apply the criteria for making decisions on the payments of benefits in such situations liberally. I hope and trust that they will do so.

The students cannot all get temporary jobs. Student veterans should not bear the brunt of something that's administrative, out of their control, and can be remedied with an understanding application of the intent of the law.

Mr. CRANSTON. Mr. President, the committee is aware of the problems articulated by my colleague from Ohio (Mr. GLENN). I appreciate his interest in this matter. I know that the junior Senator from Ohio (Mr. METZENBAUM) also has a keen interest in this matter.

I also appreciate his careful scrutiny of the report accompanying S. 457. The committee did express concern in regard to the efforts undertaken by institutions to conserve energy through calendar scheduling. We agree that the involved veteran students should not bear the brunt of an administrative decision quite beyond their control.

It is my understanding that the Veterans' Administration is preparing a draft of an Executive order in order that student veterans enrolled in schools such as those described by my colleague from Ohio (Mr. GLENN) will not suffer a termination of benefits when certain institutions arrange their academic schedule to make major conservations of fuel, as long as the closing does not exceed 45 days. I believe that issuance of an Executive order would be the wisest resolution of this problem.

I can assure my colleague that the Veterans' Affairs Committee will actively monitor this area. Not only are we concerned about the welfare of the involved student veterans, but I also believe that we should establish policies conducive to the most efficient use of our available energy. I thank the Senator for raising this important issue, and pledge close cooperation with him in following up on this with the Veterans' Administration.

NEED TO EQUALIZE VETERANS EDUCATION BENEFITS

Mr. BAYH. Mr. President, I want to take this opportunity to associate myself with the remarks today made in support of the tuition equalization amendment to S. 457, the GI Bill Improvement Act of 1977. This proposal which I have cosponsored will provide additional assistance for a great many veterans seeking to complete educational programs who are not presently covered in the committee's bill. The change which we are seeking to make in S. 457 would provide a tuition subsidy rather than an accelerated payment of education benefits under the GI bill as a means of improving the present program. This amendment would provide for payment of 70 percent of a veteran's tuition cost above $400, with a maximum additional payment of $700 per school year.

Under S. 457 as reported, the accelerated payment plan will really help only those veterans whose tuition charges are above $1,000. For veterans enrolled in State colleges and universities this would mean help in only four States and extend additional assistance to only 12 percent of those veterans currently enrolled. The amendment we are supporting would extend coverage to 65 percent of enrolled veterans in public institutions in 45 States.

Mr. President, from the standpoint of fairness, this change in present law is essential to veterans participating in programs of higher education. Clearly, we must structure programs geared to individual requirements if we are to accomplish the goal of the GI bill which is to provide meaningful readjustment assistance on a fair basis to those who have served under the most thankless circumstances. The experience of the Vietnam-era veteran underlines the importance of our performance in this area.

For Indiana, this particular change being considered today is important from the standpoint of Federal dollars coming back to the State. One of the prime duties of a U.S. Senator is to see that the citizens of his State are treated fairly by Federal programs. While Indiana ranks 11th in Vietnam veteran population (202,000), it ranks 22d in Federal payments to the State under the GI bill from fiscal years 1968 to 1976 and an appallingly low 48th in payments on a per capita basis. In fiscal year 1976, Indiana ranked 47th in terms of per capita GI bill payments by State. That same year only 20 out of every 100 eligible Hoosiers availed themselves of junior and 4-year college benefits under the GI bill. This put Indiana 49th in this category. The 20-percent participation rate is especially disturbing when compared to California where nearly 54 out of every 100 veterans take advantage of GI educational assistance.

Mr. President, in addition to more adequately addressing the needs of the Vietnam-era veteran in adopting this amendment providing tuition equalization, the Senate will also be acting in a fiscally responsible manner. By reducing the across-the-board increase from 6.6 percent provided in the committee bill to 4 percent in the amendment before us, we will be providing revenues to support the tuition subsidy program. Opponents of this amendment may argue that limiting this increase may hurt veterans, but let us take a look at a case in point. For a student at Indiana University receiving VA education benefits, his monthly subsistence check will be increased by $12 per month rather than by $19. For a 9-month school year this would mean a difference of $63 per year. That same student under the committee bill, however, will receive no direct support to cover the cost of tuition. Under our amendment he would be entitled to 70 percent of the difference between $400 and his tuition which is about $720 per year. This works out to about $224 in additional assistance applied directly to tuition. We would be providing him with a total increase in educational assistance of $332 for the school year if we calculate as well the 4-percent across-the-board increase. This is nearly twice as much assistance as provided by the increase in the committee bill.

The following are tuition subsidies which would be available to veterans enrolled in higher education in Indiana. These figures are based on the 70-percent formula provided by the amendment offered her today. We should keep in mind that no direct assistance for tuition payment would be provided if the committee bill now passes in its present form:

Ancilla College	$238
Anderson College	700
Bethel College	700
Butler University	700
Deaconess Hospital	700
Evansville	
Earlham College	700
Franklin College	700
Goshen College	700
Holy Cross Jr. College	413
Indiana College of Business and Technology	700
Indiana Institute of Technology	700
Indiana Northern University	549
Indiana State University	175
Indiana University	225
International Junior College of Business	700
Lockyear Business College	700
Manchester College	700
Marion College	700
Northwood Institute	700
Oakland City College	700
Purdue University	245
Rose Hulman Institute	700
St. Joseph's College	700
St. Mary's College	700
St. Meinrad College	700
St. Meinrad School of Theology	700

Taylor University	700
Tri-State University	700
University of Evansville	700
University of Notre Dame	700
Valparaiso University	700
Vincennes University	280
Wabash College	700
Wishard Memorial Hospital	383

Mr. President, it is clear that tuition equalization is an idea whose time must come. There can be little doubt that this change in the veterans education program is a real step in the right direction of providing the right kind of help. It will help redress the disparity of treatment of veterans in various parts of the country be recognizing the important role that private educational institutions have played in the Midwest and Northeast.

One thing which this amendment will not do will be to encourage veterans to go to school simply to collect a subsistence allowance for education. As I noted, the low participation rate already indicates that this is not the case in Indiana. Nor will it "bust the budget" since the reduction of the across-the-board increase will go for a sensible redirection for the program.

Mr. President, I hope the Senate will concure with my judgment and that of my colleagues here today and that the amendment before the Senate will pass.

Mr. DURKIN. Mr. President, for the 2 years that I have been a Member of this distinguished body I have stressed my belief that the GI educational bill is perhaps the single-most effective Federal program in the history of our Government. Since its enactment in 1944, the GI bill has aided millions of veterans in their readjustment to civilian life. In the relatively short period of 33 years, the World War II GI bill, the Korean conflict GI bill, and the post-Korean conflict GI bill and Vietnam-era GI bill have provided assistance to almost 17 million veterans and other eligible survivors and dependents. Currently, this program, which is designed to assist those who have served our country in obtaining an education, is the largest single Federal program providing postsecondary educational assistance.

As a member of the Senate Veterans' Affairs since I first came to Congress, I have been committed to the continuation of a strong and effective GI bill for post-Korean and Vietnam-era veterans. Throughout this period I have been cognizant of the fact that in the absence of GI bill benefits, from one-half to two-thirds of the current veteran-student population would not otherwise have entered training. I have also been fully cognizant of and sensitive to the particular readjustment difficulties that are common to our Vietnam-era veterans. I ask unanimous consent that two articles from the Washington Post be included in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

VETERANS OF A LOST WAR

(By Colman McCarthy)

At hearings last Wednesday before the Senate subcommittee on veterans affairs, John P. Wilson, a psychologist from Cleveland State University, offered some staggering findings on how life is going for a group of 346 veterans from the Cleveland area. Wilson's study, funded by the Disabled American Veterans Association, sought to discover the personal impact of the war among a sampling of combat and noncombat veterans who were white and black and from all economic groups.

Wilson's study, called the "Forgotten Warrior Research Project on Vietnam Veterans," supplies some new information, however unsettling, to those in the old-line veterans groups, and their boosters in Congress, who believe that Vietnam was no different from earlier wars. When Wilson sought modest grant money—$20,000—for his research from the American Legion and the Veterans of Foreign Wars, he had no success.

He told Cleveland Magazine: "It was obvious that the subject was one that did not appeal to the interest of these groups. I think some may have guessed what we would come up with. . . . More than anything else this study will show the American public what happened in Vietnam. They have no idea of the human toll it took. By facing the reality of what the war did to the men who served there we can learn about society itself. My suspicion, at this time, is that we as a society feel ashamed, embarrassed and guilty about the war. Perhaps the Vietnam veteran is the scapegoat who gets blamed for our collective guilt. All we want to do is forget, and in the process we ignore everything associated with the conflict, most of all the men who fought it."

Reporting that the typical soldier in Vietnam was a late adolescent or young adult still in "the developmental period of identity formation," Wilson shows how that formation has been progressing since the war. Among black combat veterans, unemployment is 48 per cent; among whites, 39 per cent. Thirty one per cent of black, and 22 per cent of white, combat veterans are divorced. Forty one per cent of both groups have alcohol problems. Forty five per cent report poor family relationships. Fifty nine per cent of the blacks, and 67 per cent of the whites, have drug problems.

With these excesses of turmoil and tragedy in veterans' postwar lives, the answers to some of the "attitude" questions are not surprising. When asked, "If there were another Vietnam tomorrow, would you serve in the military?" 95 percent of the combat veterans stated "absolutely not." More than 90 percent do not trust the government. Wilson reports that "most of the men currently believe that the war was fought for economic purposes and that they were exploited by political leaders." If the men have bitter feelings about being duped by those who sent them into Vietnam, they also suffer from what Wilson calls "negative self-esteem." Thirty-seven percent of the black combat veterans, and 28 per cent of the whites, have negative attitudes about themselves.

The statistics tell, still again, that the burdens of readjustment have fallen more harshly on the black veterans. Wilson concludes that "for the lucky veteran, typically a white middle-class person with some college education and family support to help pay for higher education, the process of identity integration and finding a niche in society was not as difficult as it was for the poor black veteran without these benefits or opportunities. For the black veterans, life since Vietnam has been one hassle after another. A vicious cycle of Catch 22s has been the rule."

As an example Wilson cited the GI Bill, it is, he said, "inadequate to subsist on and simultaneously raise a family." Without additional job training or education, he said the black veteran finds only menial jobs available—or none at all. Without education and good employment they are refused commercial credit to purchase houses. In turn, "lack of employment and a decent standard of living generate psychological stress that then spins off into interpersonal conflict, drug use and crime."

Readjustment from the Vietnam War thus leads to either battles against society or, if those can be contained, personal battles against the self. Earlier studies on readjustment problems suggest that the inner effects of war are prolonged and surface randomly. Vietnam veterans constitute 9 per cent of the Veterans Administration hospital population, but 20 per cent of the suicides in those hospitals. Another survey found that Vietnam veterans "have a higher rate of single-car, single-passenger fatalities than any other group in the U.S."

Despite the studies and statistics, it appears that many in Congress and the country don't want to be told the Vietnam experience was something special, because that obliges them to reflect on why it was special. And the answer to that, of course, is not just that it was the nation's longest, most expensive and second-largest war, but also that, after all that effort, the war was ignominously lost. With the exception of eight Vietnam-era veterans, all war veterans in Congress are from World War II or the Korean War. Because their perceptions were shaped by their own readjustment periods—they returned as heroes to a grateful nation ready to reward them—many members see little need for passing legislation to provide more and broader services to Vietnam veterans and to be large-minded about their eligibility. Rep. G. V. (Sonny) Montgomery (D-Miss.) said, "I do not see the difference between the Vietnam war, the Korean war or World War II. They are all wars. The persons fighting the wars cannot tell any difference." Such an attitude, grounded either in ignorance or callousness, can only further alienate and depress the Vietnam veterans.

But it can't silence them. Ralph C. Thomas III, a Vietnam veteran and director of the discharge review division of the Harvard Law School Committee on Military Justice, told the House Committee on Veterans Affairs yesterday that he and his comrades had a stark awareness that this war was different.

During the Vietnam years, Thomas said, "the war's morality and even legality were questioned daily [and] debated on the floor of Congress as well as editorialized in the news media. . . . Such a climate couldn't endure without affecting the morale of the servicemen both within and without the country of Vietnam. We began questioning our own mora's and principles and I can assure you that our political discussions were not less heated in the hills of Vietnam than yours were in the halls of Congress. I observed arguments concerning the validity of the Vietnam war that brought GI's to the brink of fisticuffs with one another. Such disagreements often led to a serviceman's demise. An unpopular political opinion to the wrong superior officer was usually the beginning of the wheels' being set in motion for a less than honorable discharge—regardless of the individual's competency or job performance. It is probably safe to say that during the Vietnam era more bad discharges were sparked by political considerations than during any other American war."

In the Winter 1975 issue of the journal of Contemporary Psychotherapy, Victor DeFazio wrote that "the psychological climate of the war, the public's response to [veterans'] homecoming, the fact that most entered the armed forces during late adolescence, their moral doubt and the survival experience seem to account for [the Vietnam veterans'] unique difficulties and attitudes." Still to be

explored are the psychological problems created by the newest obstacle to healthy and quick readjustment: politicians like Montgomery who are now as indifferent to the war's messy aftermath as once they were passionate for its escalation.

VIETNAM VETERANS AND THE GI BILL

The Congress is discovering, and rightly so, that the unfinished business having to do with equity and reasonable opportunity for the veterans of the Vietnam era cannot be wished away. The other day we talked about the efforts of sensitive and responsible members of Congress to rescue the administration's program for speedier review of less-than-honorable discharges. Today, as the Senate Veterans Affairs Committee begins to debate amendments to improve the GI Bill, we would like to take note of another effort by those in Congress who recognize the importance of working for fair and humane solutions to the particular problems confronting the veterans of Vietnam as a consequence of the particular nature of that conflict.

Sens. Alan Cranston (D-Calif.), John Durkin (D-N.H.), Jacob Javits (R-N.Y.) and Hubert Humphrey (D-Minn.) are aware of the flaws in the current provisions of the GI Bill But doing repair work on this legislation is not one of the appealing pursuits in Congress. For one thing, the GI Bill is perhaps the best known of the veterans' programs, which means that its failures receive the most publicity. For another, when Vietnam veterans are involved in the failures, a kind of general, anti-Vietnam prejudice sets in.

A few years ago, when abuses involving Vietnam veterans began to be reported—overpayments, payments to those who didn't attend classes, creation of training courses that had no substance—the critics seemed not to remember that similar abuses occurred after World War II and Korea; only the glowing successes of those programs were well remembered. That almost nobody seemed to remember any *successes* of the GI Bill for Vietnam veterans may have something to do with a general inclination on the part of politicians as well as the public not to want to be reminded about anything having to do with the first war America lost.

In any case, Sens. Cranston and Durkin have set out, first of all, to correct some of the abuses that have come to light. This is expected to be handled without great difficulty by balancing the needs of the schools with a prudent use of federal funds. Other problems will not be resolved so easily. For example, the GI Bill as it is now operating favors veterans in states that have educational systems providing low-cost schools—unlike the World War II program, which gave all veterans equal amounts to live on. An example of this, as Stuart Feldman has pointed out in a report to the National League of Cities and the U.S. Conference of Mayors, is that "a veteran at Temple University, the public college in Philadelphia, would have to pay $1,498 for tuition fees and books. A veteran attending San Francisco State would have only to pay $200 tuition. When coupled with expenditures for average book and supply costs, this means that the California vet, who may have served in the same company with the Philadelphia vet, has to spend only 15.1 per cent of his yearly GI Bill benefits for education costs—while the Philadelphia vet has to spend 57 per cent of his benefits. The California vet has $122 more per month to apply to his living expenses."

Sen. Cranston would take a step toward correcting these inequities by allowing veterans whose tuition is more than $1,000 a year to use their benefits at a faster rate to cover the differences. This is the "acceleration provision," which was part of the World War II GI Bill. It has the support of the VFW and American Legion. An alternative, which also has merit and which passed the Senate in 1974, is being offered by Sens. Javits and Humphrey. It would pay 80 per cent of a veteran's tuition between $400 and $1,400. The Javits-Humphrey proposal would help veterans who are now locked out of high-cost schools that may be the only ones in their area. A third alternative, favored by the Veterans Administration, is to provide a five per cent increase in educational benefits. But this does little to affect the geographical inequities.

Another proposal, offered by Sens. Cranston and Durkin, would allow veterans whose benefits have run out to pick them up again so they can complete their training or schooling. This would extend the delimiting period that cut off benefits to veterans whose time has or will run out 10 years after eligibility began.

Although the GI Bill legislation is in only the markup period in the Senate, it is important that a strong bill emerge now. In the past, the leadership of the House Veterans Committee has resisted such proposals as the tuition-equalization plan, accelerated payments and delimiting-date removal. The President has an obvious role to play in the debate. In his campaign, he spoke out in behalf of Vietnam veterans. He now has the opportunity to involve his administration in ensuring that the money that it has already committed goes to those legislative approaches that promise to serve veterans with the greatest need.

Mr. DURKIN. In reporting S. 969 last session which was enacted as 94–502, the Senate Veterans' Affairs Committee went a long way in making the GI bill a stronger and more equitable program. However, criticisms from individual veterans, the veterans' organizations, and post-secondary institutions vitally concerned with veterans educations have indicated that serious deficiencies remain in the post-Korean conflict and Vietnam-era GI bill. Earlier this session I introduced four separate bills which were designed to remedy many of these deficiencies. Having become aware of the financial and budgeting constraints that the committee must operate under, the distinguished chairman of the Veterans' Affairs Committee, Senator CRANSTON, and I revised those four bills incorporated other provisions essential to the improvement of the GI bill, and introduced the legislation presently before this body.

Although many of the provisions do not go as far as I would have liked, this legislation will provide a substantial improvement to the GI bill. The legislation was further weakened, however, when the committee, by a 5-to-4 vote, struck that provision which would have extended the GI bill delimiting date for the 2 years for those veterans enrolled as full-time students who lost their benefits due to the passage of the delimiting date and who desired to continue in full-time educational program. Even though the legislation fails in these significant regards, there remain provisions of a vital nature which require immediate consideration, support, and passage. I would briefly like to comment on a number of these provisions.

One of the most significant sections of the bill is that provision which provides for a new accelerated benefits program. Accelerated tuition is aimed at helping several groups of Vietnam-era veterans.

First. Unemployed veterans, who cannot afford to attend college or vocational school with GI bill benefits of current levels;

Second. Veterans living in States without readily available low-cost community colleges;

Third. Veterans enrolled in graduate schools; and

Fourth. Veterans now underemployed who find they cannot afford to give up their present employment to attend school under the GI bill in order to qualify for better jobs.

Accelerated tuition is specifically designed to help veterans in States that do not have low-cost colleges. In those States, it is often too expensive for the veteran to attend school with only his GI benefits. South Dakota, Vermont, and Nevada do not have any schools which cost less than $750 for a year's tuition. North Dakota, New Mexico, Arizona, Hawaii, Colorado, Nebraska, Louisiana, Wyoming, Montana, Mississippi, Maine, Idaho, Utah, Rhode Island, Delaware, Alaska, New Hampshire, Indiana, Ohio, and Pennsylvania all have less than 10 schools where the cost is less than $750.

The Veterans' Affairs Committee has worked hard to insure that the accelerated payments are directed to students seriously pursuing their course of study and will not be subject to abuse. This legislation has included many restrictions on accelerated tuition which are designed to prevent potential abuses with the program. The provision allows for a loan to be given the veteran at the beginning of the term and the accelerated tuition is paid to the veteran to repay the loan after the veteran has satisfactorily completed the term.

Entitlement to accelerated tuition is limited to full-time students in institutions where costs are greater than $1,000 and where there are less than 35 percent veterans. In any school term, the veteran can accelerate only half of his eligible months and he is eligible for acceleration of entitlement only to the extent that he has more months than is necessary for a degree. The provision is designed to allow the most equitable distribution of scarce resources. The accelerated program will not allow a veteran more entitlement, but rather will change the general rule that benefits have to be used 1 month at a time.

A second major element of the legislation is to guarantee that effective comprehensive counseling service be provided to all veterans who desire such services. Such counseling services are provided in order to aid the veterans in reaching a determination in regard to his educational or vocational goals and to aid the veteran in overcoming his personal readjustment problems. This provision further directs the administrator to carry out an active outreach program to encourage veterans to utilize such counseling services.

This provision recognizes the fact that since the GI bill was first passed through

June 1974, only 4.65 percent of the veterans who have trained under the program have been counseled. And only 2.9 percent of educationally disadvantaged veterans in training had ever received counseling. Comprehensive counseling will enable the veterans to: First, arrive at sound decisions about educational and vocational goals, and second, plan a program of education or training that will enable the veteran to attain a chosen goal.

A third major element of this bill is to provide a 6.6-percent increase in the amounts of GI bill educational assistance allowances. The GI bill when enacted was intended to cover the costs of the veteran-student for tuition, fees, books, supplies, subsistence, and other such costs. A worsening economy with increasing inflation has seriously diluted the beneficial aspects of the GI bill educational program. Benefit increases has not kept pace with the rate of inflation, and the rising costs of higher education. This provision is designed to ameliorate the burden some tuition and fee increases which have become prevalent in the institution of higher learning.

Much of our efforts in designing Public Law 94–502 was an attempt to curb the abuses that we realized existed in the GI bill programs. Since enactment of 94–502 we have learned that in many instances in our zeal to prevent abuse we have fashioned rules that are too rigid or are overinclusive in their operation. We have included in the GI bill Improvement Act of 1977 a number of measures which are more closely fashioned to curbing abuse without depriving veterans of a valuable educational experience where no abuse in fact exists.

I refer specifically to those provisions which: First, grant the Administrator the authoriy to waive the 1-year rule when it is in the best interest of the veteran and of the Federal Government; second, mandates that a study be conducted and reported in regard to the "satisfactory progress" study requirement and suspends the satisfactory progress requirement until completion of the study; third, mandates that such study include a comprehensive examination and evaluation of the need for and effectiveness of the "seat time" requirement and suggests that the Administrator establish regulations to waive this requirement in certain instances; and fourth, exempts any institution with an enrollment of veterans in receipt of educational assistance allowance which comprises 35 percent or less of the total enrollement from the requirements of separate course-by-course computation of the 85–15 rule. These measures should in no way be interpreted to illustrate a withdrawal from our commitment to curb abuse, but rather must be understood as a sensitivity to the genuine problems encountered by legitimate educational institutions which seek to provide veterans with a valuable educational experience.

Mr. President, although this legislation does not provide benefits to the extent that I originally had advocated and fails to include the provision extending the delimiting period under certain conditions, the bill provides numerous valuable provisions which will strengthen and make more effective the GI educational program. Unemployment among Vietnam era veterans remains dangerously high. This legislation will go a long way to provide the post-Korean veteran with the full educational opportunity necessary to any worthwhile employment.

Mr. THURMOND. Mr. President, S. 457 is another product of the Veterans' Affairs Committee under its capable chairman, Senator CRANSTON which is designed to meet the changing educational needs of our veterans population. I also wish to commend the efforts of the committee staff, particularly Jack Wickes. for their exhaustive efforts in the development of this legislation.

As reported, S. 457 provides a 6.6 percent cost-of-living increase to veterans and other eligible persons training under chapters 31, 34, 35, and 36, of title 38. The act also provides for the acceleration of educational assistance payments for eligible persons attending higher cost programs of education. Additionally, title II of the act provides for an extension of the 10-year delimiting period for certain veterans who were prevented from initiating or completing a course of study by virtue of a mental or physical disability not the result of the veteran's misconduct.

Since the enactment last year of the Veterans Education and Employment Assistance Act of 1976—Public Law 94–502—the committee has been besieged by complaints from educational institutions as a result of the substantive changes effected by that act. Certain provisions of S. 457 are designed to provide equitable and administrative relief to certain institutions aggrieved by certain provisions of Public Law 94–502.

Specifically, the act provides for a 10-percent increase in the amount of money paid State approving agencies for expenses incident to the GI bill education program. Also increased are the amounts paid to reimburse educational institutions for the costs incident to filing certain reports with the Veterans' Administration involving GI bill participation.

Mr. President, the most frequent complaints which the committee has received over the past year have involved the application of the 85–15 rule and the 2-year rule. S. 457 provides administrative and equitable relief under these two requirements by exempting, under certain circumstances, courses with vocational objectives from the application of the 2-year rule and exempts any institution with a veterans enrollment of 35 percent or less from the requirement of course-by-course computation of the 85–15 rule. The act also suspends, until after the completion of a study in 1978, the inclusion of students in receipt of Federal grants for purposes of computing the 85–15 ratio.

Finally, S. 457 would authorize the Administrator of Veterans' Affairs to provide equitable relief to certain educational institutions in receipt of veterans educational subsistence checks pursuant to power of attorney arrangements with former students, which the institutions are unable to negotiate due to the prohibition in existing law as contained in section 701 of Public Law 94–502.

Mr. President, S. 457 would appear to be a realistic response to the needs of the Nation's veterans and other eligible persons training under the GI bill education program. It is among the best evidence to measure the commitment of our Nation to those who responded in times of greatest need.

I commend S. 457 to my colleagues and urge their full support of this measure.

Mr. DOLE. Mr. President, the only thing more difficult for a serviceman than adjustment to military life is the readjustment to civilian life after completion of military duty. Mr. President, we are all aware the GI education bill has been, perhaps, the single most successful Federal program in the history of this Nation.

The Senator from Kansas strongly believes the deserving Vietnam veteran should continue to be afforded assistance as he or she pursues rejoining our society as educated and productive American citizens.

However, as we all know, this program ceased for an estimated 450,000 veterans enrolled in educational programs who lost their entitlement to benefits in May 1976 as a result of the expiration of the 10-year "delimiting" period.

S. 457: ADDRESSING THE PROBLEM

The measure the Senate is considering today, S. 457, is aimed at correcting problems that have arisen with the GI bill in recent years. Most of these problems can be attributed to the unique status of Vietnam war veterans. Just as that war was unprecedented in our history, the particular problems of Americans who fought that war have never been encountered before. As the Senate works to correct some of the abuses of the system, the Senator from Kansas hopes that old prejudices can be put aside and that the needs of these veterans be the focus of our debate.

The Committee on Veterans' Affairs has reported a bill that points out the urgent needs of the veterans who took advantage of the bill. A rate increase to offset the seemingly endless spiral of inflation is included. Some increase is certainly needed if the benefits are to remain realistic.

AN EXTENSION

In 1970, the President's Committee on Vietnam Veterans stated that 1.06 million of the 3.8 million eligible Vietnam-era veterans had used the GI bill education or training benefits. Additional data also showed the participation in the GI bill training was inverse to need. Nearly 50 percent of the veterans who had college training at the time of discharge had the best prospects for immediate employment, and also sought to upgrade their education under the GI bill. However, those who had serious education deficiencies showed a low participation rate of 10 percent.

It is very clear to the Senator from Kansas that many of the most needy and deserving Vietnam veterans could not afford to enter education and training programs at the completion of their service. Readjustment benefits were simply not enough to provide meaningful

support, especially married veterans with dependents.

Mr. President, I believe this measure before the Senate today begins to seriously address the deficiencies in the current GI education bill. I urge my colleagues to join me in fulfilling our obligation to the Vietnam veteran by voting for its adoption.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays on final passage of the House bill, H.R. 8701.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays at this time?

Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, there will be one other vote later today, on the adoption of the foreign assistance conference report.

Mr. CRANSTON. Mr. President, I am prepared to yield back the remaining time, if no one else has anything else to bring up.

I yield back the time.

Mr. STAFFORD. Mr. President, if there are no speakers on this side nor further amendments, I yield back the remaining time I have.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, in the nature of a substitute, as amended, was agreed to.

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 8701, a bill to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons, to make improvements in the educational assistance programs, and for other purposes.

I ask unanimous consent that the bill be considered as having been read twice and that the Senate proceed to its immediate consideration.

The Chair laid before the Senate a message from the House on H.R. 8701, a bill to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons, to make improvements in the educational assistance programs, and for other purposes.

The ACTING PRESIDENT pro tempore. Without objection, the bill will be considered as having been read twice, and the Senate will proceed to its immediate consideration.

Mr. CRANSTON. Mr. President, I move that H.R. 8701 be amended by striking all after the enacting clause and inserting in lieu thereof the text of S. 457, as amended.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Michigan (Mr. RIEGLE), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 570 Leg.]

YEAS—91

Allen	Garn	Morgan
Anderson	Glenn	Moynihan
Baker	Goldwater	Muskie
Bartlett	Gravel	Nelson
Bayh	Griffin	Nunn
Bellmon	Hansen	Packwood
Bentsen	Hart	Pearson
Biden	Haskell	Pell
Brooke	Hatch	Percy
Bumpers	Hatfield	Proxmire
Burdick	Hathaway	Ribicoff
Byrd, Harry F., Jr.	Hayakawa	Roth
	Heinz	Sarbanes
Byrd, Robert C.	Helms	Sasser
Cannon	Hollings	Schmitt
Case	Huddleston	Schweiker
Chafee	Inouye	Scott
Chiles	Jackson	Sparkman
Church	Javits	Stafford
Clark	Johnston	Stennis
Cranston	Kennedy	Stevens
Culver	Laxalt	Stevenson
Curtis	Leahy	Stone
Danforth	Long	Talmadge
DeConcini	Lugar	Tower
Dole	Magnuson	Wallop
Domenici	Matsunaga	Weicker
Durkin	McClure	Williams
Eagleton	McIntyre	Young
Eastland	Melcher	Zorinsky
Ford	Metzenbaum	

NAYS—0

NOT VOTING—9

Abourezk	McClellan	Randolph
Humphrey	McGovern	Riegle
Mathias	Metcalf	Thurmond

So the bill (H.R. 8701), as amended, was passed.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendment to H.R. 8701.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I move that S. 457 be indefinitely postponed.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I take just a moment to congratulate Senator CRANSTON and Senator STAFFORD on bringing before the Senate and shepherding to passage the GI Bill Improvement Act of 1977.

I hope that we will never forget, and I know that these two Senators will never forget, the tremendous debt of gratitude that this Nation owes to those men and women who have served well in our Armed Forces. The contribution they have made to our country is incalculable.

What is also important to remember, however, and what some people may forget, is that the provision of certain benefits to veterans in an effort to ease their transition back to a civilian society is not something that can simply be done on a one-time basis and then forgotten. With changing social and economic conditions, it is necessary to constantly review these benefits to insure that they continue to provide an effective means of assisting veterans as they return to civilian life. As chairman and ranking member of the Veterans' Affairs Committee, Senator CRANSTON and Senator STAFFORD, respectively, have done just that.

The GI Bill Improvement Act of 1977 represents only the latest of their efforts to insure that we not forget our obligation to repay in some way the debt we owe our veterans, and I congratulate Senator CRANSTON and Senator STAFFORD on its on its passage.

APPOINTMENT OF CONFEREES—H.R. 3387

Mr. LONG. Mr. President, at the desk is H.R. 3387 which was passed on Friday by the Senate.

I move that the Senate insist on its amendments, request a conference with the House thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Acting President pro tempore (Mr. MATSUNAGA) appointed Mr. LONG, Mr. MOYNIHAN, Mr. HATHAWAY, Mr. DOLE, and Mr. DANFORTH conferees on the part of the Senate.

FOREIGN ASSISTANCE—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order of the Senate, the clerk will report the conference report on H.R. 7797.

Mr. INOUYE. Mr. President, I submit a report of the committee of conference on H.R. 7797 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the

amendments of the Senate to the bill (H.R. 7797) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 12, 1977.)

Mr. ROBERT C. BYRD. Mr. President, I am advised that there will be a request for the yeas and nays on the adoption of the conference report and, therefore, on behalf of that Senator, I want to ask for the yeas and nays so that all Senators may be advised.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. Under the previous order of the Senate, there will be 1 hour of debate equally divided between the Senator from Hawaii (Mr. INOUYE) and the Senator from Pennsylvania (Mr. SCHWEIKER).

Mr. BROOKE addressed the Chair.

Mr. SCHWEIKER. I yield Senator BROOKE 4 minutes.

Mr. BROOKE. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized for 4 minutes.

Mr. BROOKE. Mr. President, I thank my distinguished colleague.

Mr. President, I shall vote for this conference report, even though I am seriously troubled by actions taken by the administration during consideration of this measure. My vote shall be positive because there are many worthwhile initiatives funded by this bill that should proceed with further delay. These include funding for U.S. Middle East programs; funding for assistance to Portugal; funding for assistance to the victims of earthquakes in Italy; refugee assistance funding including that made available to refugees from the Soviet Union and Eastern Europe; and funding for many worthwhile development efforts in many of the world's poorest lands.

Any hesitancy I have regarding this compromise between the House and Senate, other than the normal hesitancy stemming from a desire that the Senate position had remained dominant throughout the bill, stems from the letter the President sent to the chairman of the Foreign Operations Subcommittee in the House. In that letter, a copy of which I ask unanimous consent to be included at the end of my remarks, the President agreed to instruct our delegates to the various international financial institutions to vote against loans to seven specific countries that had been singled out for special attention in the House version of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. BROOKE. In addition, he agreed to instruct our delegates to vote against loans for the production of three commodities that the House had identified as possibly injurious to American producers. Such a letter from the President of the United States to an individual Congressman is unprecedented as far as I have been able to determine. And as one deeply involved in efforts by the Congress and the Executive to produce responsible foreign assistance initiatives, I believe the President has made a serious error by this action. This is the case for several reasons.

First, he has completely bypassed the formal congressional decisionmaking process by his action, for none of us today will have the opportunity to vote "yes" or "no" on whether we believe that such an automatic "no" vote should characterize our dealings in the international financial institutions on loans to these seven countries. I, for one, do not accept the President's letter as a binding commitment and hope that he will seek to have its intent abrogated by a subsequent understanding with the Congress. I say this, not because I necessarily agree that loans should be made to the seven countries mentioned in the House version, but because I believe that a certain degree of flexibility is needed in furthering our interests within the IFI structure. The President's letter sacrifices too much of that flexibility.

Secondly, by his action the President has opened the way for other countries to attach preconditions to their contributions to the IFI's. It is not hard to conceive of a situation where other contributors would exclude funds they provide to the IFI's from being used for any loans to a specific country or to states having close relations with that country. In a sense, the President's action may tempt others to engage in primary, secondary and tertiary boycotts of a country through the IFI mechanism.

Third, the precedent set by agreeing to instruct U.S. delegates to vote against loans for the production of certain commodities will come back to haunt the President and the Congress. Is it conceivable that other U.S. commodity producers, threatened or perceiving themselves to be threatened by external competition, are not encouraged to press their arguments for "protection" even more forcefully than at present in light of the President's letter?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BROOKE. I ask for 2 additional minutes.

Mr. SCHWEIKER. I yield the Senator from Massachusetts 2 additional minutes.

Mr. BROOKE. Finally, the President's action is one more example of his propensity to undercut those in the Congress who find merit in certain of his administration's proposals and are willing to fight for their passage. The Senate is only too painfully aware of this propensity. His action on the foreign assistance appropriations bill further reduces the willingness in the Congress to take seriously the programs he proposes.

Mr. President, I want to make it clear that I have the greatest respect for the distinguished chairman and ranking minority member of this subcommittee. I know they have done everything they possibly could to give us a strong foreign aid bill. I know how they feel; I serve on that subcommittee, and I have had the distinct pleasure and privilege of serving as the ranking minority member of that subcommittee previously. I know the work they have done, and I commend them for it.

But then to have them undercut by the President of the United States in trying to get a foreign aid bill through I think is unconscionable, and that has prompted me to make this very strong statement today, and send this message to the White House, which I hope they will hear clearly, and not attempt to undercut our efforts as we face this important issue, not only this year but in the years ahead.

EXHIBIT 1

THE WHITE HOUSE,
Washington.

Hon. CLARENCE D. LONG,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, U.S. House of Representatives, Washington, D.C.

To Chairman Clarence Long:

Secretary Blumenthal has informed me of your constructive efforts to achieve a successful resolution of the problems posed by the amendments to the foreign aid appropriations bill restricting the use of U.S. contributions to the international development banks.

I deeply appreciate your helpful suggestions and the role you have played thus far in steering this vitally important legislation through the House.

As I stated in our meeting last Friday, I fully agree with you and your colleagues in the House that U.S. assistance through the banks must take full account of the human rights policies of recipient countries. Accordingly, I will shortly sign into law the recently passed authorizing legislation for U.S. participation in the international development banks which require that the U.S. representatives to the banks oppose loans to gross violators (except where those loans are directed specifically to programs which serve the basic human needs of citizens of such countries).

Additionally, as we discussed earlier, I shall instruct the U.S. Executive Directors in the banks to oppose and vote against, throughout FY 1978, any loans to the seven countries mentioned in the House amendments. Our representatives will also oppose and vote against loans for the production of the three commodities where such production is for export and could injure producers in the United States. You may be certain that I shall closely watch and review the lending practices of the banks during this fiscal year.

For the longer run, I have directed the Secretary of the Treasury, in consultation with the leadership and appropriate committee of the Congress, to undertake a thorough study of how the whole range of U.S. objectives, including the type envisaged in these amendments, can best be pursued in the banks. I would expect that the results of this appraisal could help guide our efforts for FY 1979 and beyond, in partnership between the Administration and the Congress.

I would hope that these steps would enable the House to avoid adopting any of the restrictive amendments, previously passed, in the final foreign assistance appropriations bill for FY 1978.

I appreciate your support and counsel on these critically important issues confronting our foreign policy.

Sincerely,

JIMMY CARTER.

Mr. INOUYE. Mr. President, the bill now before the Senate emerged from conference only after protracted and intensive deliberations; it is a carefully crafted compromise between the House and the Senate—and the executive branch. It is a compromise which was hammered out on the anvil of necessity; while the Senate position prevailed on many important issues, it was necessary to yield to the House on restrictions on assistance to certain countries in order to reach a conference agreement. Nonetheless, the bill represents, I believe, the best possible effort on the part of the conferees to achieve a practicable balance between the economic and political realities of our times and the growing concern for fundamental human rights.

As is well known, when the conference committee first reported on its attempts to reconcile the differences between the House and the Senate versions of the bill, 10 issues remained unresolved. After the passage of time, it was possible to reflect on the matters which were in disagreement and to view them in the context of the whole bill. The compelling importance of the bill as a whole to our assistance efforts and to the conduct of American foreign policy became evident to all and, when the conferees met for the second time, agreement was reached on all items.

Mr. President, yesterday, on the House floor, the House conferees were overruled on one item—amendment No. 47. The House voted to insist on its position. By this action, the House refused to accept the Senate amendment which would have provided the President of the United States the authority to waive the prohibition on direct assistance to Mozambique or Angola.

Under the terms of the Senate amendment, in order to waive the prohibition on such assistance, the President would have been required, first, to make a determination that direct assistance to Mozambique or Angola would further the foreign policy interests of the United States. Secondly, he would have been required to seek and receive the concurrence of both Houses of Congress.

With the House refusal to accept the Senate amendment, the prohibition on direct assistance to Mozambique or Angola stands. If the President were to determine that direct assistance to either or both of those countries, either now or in the future, would further the foreign policy interests of the United States, he would have to seek further congressional action granting him the authority to provide such assistance.

There is, to my mind, no major differences between the two positions. Under the Senate position the President would have been required to seek the concurrence of both Houses of Congress; under the House prohibition, the President will have to seek the concurrence of both Houses of Congress expressed through legislation. They are essentially the same. Therefore, at the proper time I will move that the Senate recede from its amendment.

Mr. President, it is true that, in conference, concessions were made on both sides—important concessions. But, I believe that were we to focus our attention only on the items which were in disagreement we would be committing a grievous error. There is much of significance in this bill:

It provides a generous and humanitarian response to the desperate need for assistance in the impoverished nations of the world;

It provides vital elements of security assistance to our friends and allies and seeks to lay the economic foundations for peace in the Middle East.

It provides for a constructive and responsible relationship with Africa, both through the Sahel development program and the southern Africa special requirements fund.

Mr. President, this bill represents a thoughtful approach to the problems of development. While the amounts it provides for the so-called functional development assistance accounts—food and nutrition, population planning, health, education, and human resources development, and technical assistance—exceed by $75,000,000 the amounts provided for these accounts last year, the bill does not simply throw dollars at difficult problems. In each instance, for each appropriation account, careful study has been given both to the need for U.S. assistance and to the ability of the various agencies and departments to carry on efficient and effective assistance programs.

In addition, largely at the initiative of the Senate, the bill has important provisions which improve and safeguard congressional oversight of our assistance programs. Senate initiatives which cleared conference include:

Tightening the terms of U.S. development and security assistance loans. Henceforth, U.S. lending through its assistance programs will reflect the varying potential for improvement among the national economies of aid recipients. In the past all of our assistance loans were for 40 years; now some will be for 30 years, others for 20 years. The countries receiving our assistance differ greatly in their prospects for economic growth. Clearly, the terms of our assistance should reflect this diversity.

Controlling the use of reappropriated prior-year funds.—From now on, the Congress may be assured that unobligated balances brought forward from prior years (and reobligations made during the year) will be used to provide assistance under the same appropriations account and for the same purposes for which they were originally appropriated. In the past, these funds could be shifted from one account to another without the Congress even being informed. Now we have stopped this practice. The Appropriations Committees of both Houses of Congress will have to be notified 15 days in advance of reprogramed obligations of such funds.

Maintaining congressional control over the ultimate use of appropriated funds.—For many years the foreign assistance program was presented on an "illustrative basis." Program presentations made to the Congress were not inclusive of all projects and purposes for which funds were to be obligated. The Congress, therefore, had incomplete knowledge of the ultimate purpose for which it was being asked to appropriate funds.

Moreover, the agencies and departments which administer foreign assistance funds could under the procedure which then prevailed reprogram funds at will, without even informing the Congress.

For fiscal year 1978, the administration has followed the practice which was initiated in fiscal year 1975 of detailing the specifics of individual items for which funds were to be obligated. The foreign assistance appropriations bill again this year carries the requirement that the Appropriations Committees be notified in advance of the obligation of all reprogramed funds. The managers on the part of the House and the managers on the part of the Senate agreed to include this provision with the firm expectation that the executive branch will follow the historical pattern of honoring objections to the obligation of funds for reprogramings. That there may be full understanding of the intent of the conferees, I ask unanimous consent that the pertinent portion of the joint explanatory statement of the conferees be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT

Amendment No. 28: Restores language proposed by the House which requires that the various agencies and departments funded in this bill notify the Appropriations Committees of both Houses 15 days prior to the obligation of reprogramed funds.

The managers on the part of the Senate and the managers on the part of the House have agreed to this action with the firm expectation that the Executive Branch will follow the historical pattern of honoring objections to the obligation of funds for activities, programs, projects, type of material assistance, countries or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligations under any of the specific headings mentioned in this section.

The managers agree that any activity, program, project type of materiel assistance, or other operation specifically set forth by recipient or country and by amount to be obligated in fiscal year 1978 in the fiscal year 1978 Congressional Presentation Document shall be deemed to have been justified and the Committees informed. Similarly, amounts not in excess of the amounts proposed therein for obligation in fiscal year 1978 shall be deemed to have been justified and the Committees informed.

Any activity, program, project, type of materiel assistance, or other operation not specifically set forth by recipient or country and by amounts to be obligated in fiscal year 1978 in the fiscal year 1978 Congressional Presentation Document shall be deemed not to have been justified and the Committees not informed. Similarly, amounts in excess of the amounts proposed therein for obligation in fiscal year 1978 shall be deemed to not have been justified and the Committees not informed.

Mr. INOUYE. Mr. President, in my remarks I have attempted to give emphasis to the importance of the foreign assistance and related programs appropriations bill to our national policies and to suggest some of the constructive measures taken by the Appropriations

Committees to safeguard congressional oversight.

I believe that the actions taken by the committee on conference are responsible actions. As I said at the outset, we have had to make some concessions in order to reach agreement on the larger issues, but we have made some notable achievements. I hope that the Senate will support the achievements of the Senate conferees and vote approval of the bill.

Mr. President, I move that the conference be agreed to.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr SCHWEIKER. Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. SCHWEIKER. Mr. President, as outlined by the chairman of the subcommittee, this conference report is finally back to the Senate after two hard conference meetings with the House. The conference agreement appropriates $6,772,000,000, which is $829,000,000 under the administration's budget.

Mr. President, the so-called compromise that was reached on several controversial and important language items was gained under unusual circumstances and the result was not very satisfactory. Before I explain the difficulty I have with this Conference report, I want to make it clear that none of the criticism I will be voicing reflects on the chairman of our subcommittee, the distinguished Senator from Hawaii. In fact, he did an outstanding job throughout the consideration of this bill. However, actions by the House and the administration, especially the latter, are not to be commended. While obviously there was genuine disagreement, the manner in which this disagreement was resolved was most unfortunate.

The issues which took most of our attention and created the most controversy were a result of several amendments added to the bill by the House of Representatives. The first class of amendments prohibited any funds in this bill, directly or indirectly from going to seven countries and prohibited funds made available to the international financial institutions from being used to establish or expand the production of sugar, palm oil, or citrus crops. The second class of amendments added by the House prohibited various military assistance funds from going to Argentina, Ethiopia, Uruguay, Brazil, El Salvador, Guatemala, and reduced such assistance going to the Philippines.

The effect of the so-called compromise allows our indirect assistance to several left of center countries but does not allow bilaterial assistance to some right of center countries, most of which have been historic and good friends of the United States. This is an unfortunate double standard and certainly a fair compromise would have been to treat both groups of countries in the same manner.

The second class of House amendments, barring military assistance to the various Latin American countries and Ethiopia, was done supposedly on human rights grounds. The House evidently thought that they had the wisdom to single out these countries as human rights violators to a degree sufficient to make a part of our foreign policy their exclusion from receiving American assistance. This was quite a feat considering such countries as Panama, Columbia, South Korea, and others were not likewise excluded. Unfortunately, these amendments represent more the inability of Congress to deal with this issue than it does formulation of a rationale policy on human rights. Is the House more sensitive to human rights issues than the Senate? Obviously, the answer is "no" but the Senate certainly has been more responsible in its approach to this issue. At the strong urging of the administration, and with a near unanimous voice, the Senate Appropriations Committee deleted these amendments and instead called upon the administration to develop a uniform policy rather than willy-nilly and capricious cutting off of aid to various countries because of real or supposed human rights violations. I strongly supported this position because it makes sense. Unfortunately, the House position prevailed and Argentina, Uruguay, Brazil, El Salvador, and Guatemala are cut off for at least this fiscal year regardless of any internal political change which may occur, and regardless of what other judgments we make about other countries who, in my opinion, would be far more serious violators of human rights than some of these countries.

The first class of amendments I mentioned prohibited both direct and indirect assistance to various countries because of human rights and political concerns. This amendment would have prohibited any U.S. funds from going to these countries either directly through our bilateral program or indirectly through the international financial institutions or U.N. agencies which receive funds in this bill. The Senate did not disagree with the House prohibition on our bilateral assistance to these countries but resisted the prohibition on indirect assistance because of what the Senate saw as a harmful effect on the international financial institutions. The administration likewise strongly resisted these amendments. The reason for the Senate's position on this matter was the assertion by the President of the World Bank and representatives of the other development banks that such a restriction would require the institutions to refuse our contributions. The effect of this might well have meant the demise of the banks. Therefore, the Senate deleted the word "indirectly" from the House amendments. While I do not want to see one dime go to the countries named in the House amendments, I am not prepared to take what may be a dangerous route to insure such an end.

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes have expired.

Mr. SCHWEIKER. I yield myself 3 additional minutes.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 3 additional minutes.

Mr. SCHWEIKER. The author of these amendments, Congressman YOUNG, is sincere and correct in trying to get a better accountability of how U.S. funds are used through the IFI's. However, it is my hope that we will be able to find another route to go in order to reach Congressman YOUNG's admirable goal.

Mr. President, the Senate's position, despite the provisions of this conference report, did not prevail. The administration, as is becoming common around here, "Pulled the rug out from under us." This was done by an incredible letter signed by President Carter to Representative CLARENCE LONG, chairman of the House Appropriations Subcommittee on Foreign Operations. In that letter the President stated that he would "instruct the U.S. executive directors in the banks to oppose and vote against, throughout fiscal year 1978, any loans to the seven countries mentioned in the House amendments. Our Representatives will also oppose and vote against loans for the production of the three commodities where such production is for export and could injure producers in the United States." Many of us went out on a limb in support of the administration's original position and each step along the way were told forcefully by the administration that we were following the responsible course. Perhaps the lesson in this matter is that the way to deal with this administration successfully is through adversity and not cooperation.

Mr. President, one of the particular statements in the President's letter that disturbs me is his assertion that our Representatives will vote "no" on loans through these banks which would harm the domestic producers of citrus crops, sugar and palm oil, and/or producers of similar or competing agricultural commodities. An editorial in the Baltimore Sun of July 14, 1977 cautioned that such a provision was "protectionism that could proliferate." Surely if the administration could bring itself to protect sugar, citrus crops, and palm oil from IFI loans for export to this country, it would have no objection, for example, if I sought to add steel, mushrooms, television sets, electronic equipment and shoes.

I have a mind to do that in view of the administration's concept that we are going to protect these crops.

Perhaps the chairman might be interested in seeing that macadamia nuts are also protected. Let me assure the administration that I am very serious about this matter. While I do not want to be accused of doing the very things I am criticizing, neither do I want to be put in the position of going by a different set of rules than everyone else and a double standard.

Mr. President, aside from Mr. Carter's letter to Chairman LONG, the other disturbing factor which enabled this conference report to reach the Senate floor was the way in which my Republican counterparts were treated in the House. Perhaps this is an internal matter which I should not comment on but it has been brought out into the public and therefore I believe it can be discussed. Last week, when we had our second conference meeting, the House proposed the

final compromise which was accepted and it was not until that meeting that Congressman YOUNG and other Republicans knew what it contained. Obviously, there is nothing the Senate can do about this sort of situation, but it was indicative of the way this whole matter was handled. I do want to quickly point out that there was no such partisan action on this side of the Capitol.

I compliment the chairman on the very fair and bipartisan way he has always conducted this committee.

Mr. President, if the administration's methods and uncertainties about its foreign policy continues, they will have a great deal of difficulty in Congress. I will try to be cooperative but I can assure the administration that I am going to be very careful before I commit myself to support their programs in the future.

I again wish to emphasize and state my appreciation to the chairman of our subcommittee, the Senator from Hawaii. I might add that as a member of the President's party, he has a more difficult role than I did in this situation.

Mr. JAVITS. Will the Senator yield me 2 minutes?

Mr. SCHWEIKER. I yield 2 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, we see a fait accompli here. As Senator SCHWEIKER and Senator BROOKE, I shall vote for the conference report. I wish to join with them in expressing appreciation, not so much for ourselves—he knows that and has for years—but for the people of our country and the peace of the world for the way in which Senator INOUYE has put himself out to bring this about. I feel that I really bespeak their best interest when I say that to the Senator.

Mr. President, what is most regrettable—because, after all, we understand that this is a 1-year proposition and that the President's letter to Chairman CLARENCE LONG over in the other body says, "Throughout fiscal year '78," and so on—is the notice which we are serving upon our President that if he disables himself from carrying on a foreign policy which has to be based upon the opportunity to give as well as receive, it is going to make it more difficult for the United States to keep the peace and to gain human rights which it is trying to gain in the world.

As an example, if these countries—Uganda, Laos, Cambodia—know in advance that nothing is going to happen as far as they are concerned that is any good, if the Philippines, Argentina, Brazil, El Salvador, and Guatemala also feel that there is no discretion left in dealing with human rights as far as the United States is concerned, what incentive is there to improve?

The ACTING PRESIDENT pro tempore. The Senator's 2 minutes have expired.

Mr. JAVITS. May I have 1 more minute?

Mr. SCHWEIKER. I yield another minute.

Mr. JAVITS. If there is a stick, where is there a carrot? I hope very much that, by these expressions, Mr. President, our President may be moved to think about this. He was very well equipped to gain the nomination and to win the Presidency. The question is, what about doing the job? That is a collaborative effort in which our participation, in terms of support or lack of it and in terms of how we handle things and what advice and consent we give, are very important.

Mr. President, it is my privilege, as a U.S. Senator, to say to the President of the United States that the worst thing we can do in this world situation is to tie our hands in advance. It is better, if necessary, to fight some of these things through to the end in order to avoid the kind of paralysis which will set in if, on front after front, the United States immobilizes itself in respect of its ability to move intelligently in foreign policy.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DOMENICI. Will the Senator from Pennsylvania yield 1 minute to the Senator from New Mexico?

Mr. SCHWEIKER. I am delighted to yield.

Mr. DOMENICI. Mr. President, I compliment the Senator from Pennsylvania. I heard his remarks. I shall vote against the conference report. I think my record in the past indicates that I do not do this easily, but I think he has pointed up some things—and I now do not speak of the partisan issues. I think he is right in bringing those up. Rather, I speak of the issues that he raised with reference to a double standard as to human rights treatment in various countries. I think this is something we all have to understand. I compliment him for the very specific way in which he laid out this issue.

I do not think human rights are violated any differently by a dictator than they are by the kind of leaders that exist in South Vietnam. I think both are the same. I do not think the United States can afford to put itself in that kind of posture, where it treats either differently. Most assuredly, if we treat the rightist one differently from the leftist, we at least ought to ask ourselves the question, which one is more apt to be our friend if they both are bad?

When we treat South Vietnam and countries like that, which have communistic collective dictators that violate human rights, and give any preferential treatment to them versus another kind of dictatorial regime that violates the same kind of human rights, in this Senator's opinion, it destines those who resist communism absolutely to a position where they know no one will help them. For if they resist it as rightists, they are lost to the only free power in the world, the United States of America and they look to no one. Well, if it is the other kind, it appears that, after they have done their job and taken over, they can work with the United States in the interest of furthering human rights in their country. Over the long haul, that puts us and those who want to defend, by whatever means they have at their disposal, against communism, in a position where they can look to no one.

I compliment the Senator from Pennsylvania for his remarks.

Mr. JAVITS. Will the Senator yield for a unanimous consent request?

Mr. SCHWEIKER. Yes, I yield.

Mr. JAVITS. Mr. President, I ask unanimous consent that Barbara Washburn and Beverly Charles of my staff may have the privilege of the floor during this debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who yields time?

Mr. SCHWEIKER. I yield 2 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, although I will not raise an objection to the conference report on the Foreign Assistance Appropriations bill, I am truly disappointed that it does not contain restrictions on use of American funds for aid to Vietnam, Laos, Cuba, Uganda, or Angola, by way of the international lending institutions. Even though we know that Congress would never approve direct aid to any of these governments under present circumstances, we continue to pour annual contributions into international funding organizations which in turn pass it on. I think it is objectionable to do indirectly what we would not think of doing directly.

Earlier this year, the Senator from Kansas proposed an amendment to the international lending institutions authorization bill which would have stipulated that none of our contributions to such organizations could be used in providing aid to Vietnam, Cambodia, or Laos. That amendment was cosponsored by 10 U.S. Senators, and passed the Senate on a vote of 58 to 32. That amendment was later rejected in conference. That is the kind of consideration we have had.

A few weeks later, the House of Representatives attached a similar amendment to this bill, encompassing Cuba, Angola, Uganda, and Mozambique as well. The vote was a strong 295 to 115. Once again, the effort was effectively overruled in conference, after the President intervened by promising to have U.S. Representatives to the international banks vote against aid to the seven countries. However, I do not think any of us are really convinced that this accomplishes what both the Senate and the House have mandated.

A PASSIVE ROLE FOR THE UNITED STATES

What the President's "compromise" really means is that we will passively accept continued use of American funds for bolstering these repressive regimes. We will not actively vote in support of the aid, but neither will we actively oppose it. So, we will stand quietly by while the international lending institutions—the World Bank, International Monetary Fund, and others—approve the assistance.

It is regrettable that the clearly expressed will of both Houses of Congress will in this way be thwarted.

It seems to me that, since we have expressed our will in both the House and the Senate, we ought to carry it through. If the President is unwilling to place formal restrictions on U.S. contributions to the international banks, then I hope he will be willing to instruct American representatives to take a more aggressive

role in opposing assistance programs to selected governments—those designated in Senate and House legislation. Those representatives should actively speak against such aid proposals on humanitarian and ethical grounds. Perhaps they could sponsor resolutions within the organizations decrying the oppressive governments in Vietnam, Cambodia, Cuba, Uganda, and elsewhere. But they should by no means remain passive. To do so would be to undermine the intent and the mandate of Congress, and the consensus of most Americans on this issue.

I just happen to believe that those who represent our Government should speak out actively against such loans, not just say, well, I am against it; we have been instructed to vote against it but we really are for it.

It seems to me that we do not really accomplish much of anything that way. I hope that, as we look around at some of the repressive regimes, particularly the one in Cambodia that comes to my mind and the one in Uganda, we might give this very serious consideration. It is going to take aggressive action by Congress if we hope to achieve any success.

Mr. CASE. Mr. President, the conference report on the foreign aid appropriations bill creates a dilemma for me and, I think, for many other Members of the Senate. The provisions of this legislation are, on balance, acceptable. However, an agreement between the President of the United States and the chairman of a House subcommittee changes the substance and effect of the legislation.

I refer to the letter which President Carter sent to the chairman of the House Appropriations Subcommittee on Foreign Operations in which the President agreed to instruct U.S. representatives to international financial institutions to vote against loans to seven countries and against projects involving three commodities.

Mr. President, in my view, the substance of that agreement does not serve the interests of the United States. That agreement ignores the long, and unsuccessful history of predetermined "no" voted by U.S. Executive Directors in these institutions. The United States does not have a majority of the votes on the boards of any of these banks save one, the IDB. Our votes alone do not block loans. Our predetermined "no" vote only serves to reduce our influence as loans are considered. Everyone knows our position—they do not have to work for our vote. Our position is already established.

Furthermore, this agreement does not take account of the fact that conditions in any one of the seven countries may change in the next year. Neither the President nor the Subcommittee on Foreign Operations of the House of Representatives can predict what will happen in any of those countries in the next 12 months.

How would this agreement serve our interests if, as many of us hope, a new government comes to power in Uganda?

How would this agreement serve our interests if international development loans could help to achieve peace in Southern Africa?

In addition to being poor public policy, the President's letter has effectively preempted the process by which our laws are made.

Members of both Houses are denied an opportunity to vote on this policy within the context of the conference report.

Members of the Senate and the House who, with the strong support of the administration, opposed the provisions included in this agreement have been abandoned without a fare-thee-well from the White House.

Members of the committees responsible for the legislation authorizing the appropriation of these funds were not informed about this agreement before it was reached, let alone afforded the opportunity to express their views on its merits.

Mr. President, I cannot cast a vote against a letter from the President of the United States to the chairman of a House committee. So I will vote for this conference report. However, if that agreement were part of the legislation which we consider today, I would vote against that legislation.

I ask unanimous consent to place into the RECORD a copy of President Carter's letter and a Dear Colleague letter circulated in early June which more fully explains the adverse impact of mandatory "no" votes on the U.S. role in international financial institutions. I joined my colleagues Senators SPARKMAN, JAVITS, HUMPHREY, PERCY, CRANSTON, MATHIAS, STEVENSON, and BIDEN in signing this letter.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, October 6, 1977.

Hon. CLARENCE D. LONG,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, U.S. House of Representatives, Washington, D.C.

TO CHAIRMAN CLARENCE LONG: Secretary Blumenthal has informed me of your constructive efforts to achieve a successful resolution of the problems posed by the amendments to the foreign aid appropriations bill restricting the use of U.S. contributions to the international development banks.

I deeply appreciate your helpful suggestions and the role you have played thus far in steering this vitally important legislation through the House.

As I stated in our meeting last Friday, I fully agree with you and your colleagues in the House that U.S. assistance through the banks must take full account of the human rights policies of recipient countries. Accordingly, I will shortly sign into law the recently passed authorizing legislation for U.S. participation in the international development banks which require that the U.S. representatives to the banks oppose loans to gross violators (except where those loans are directed specifically to programs which serve the basic human needs of citizens of such countries).

Additionally, as we discussed earlier, I shall instruct the U.S. Executive Directors in the banks to oppose and vote against, throughout FY 1978, any loans to the seven countries mentioned in the House amendments. Our representatives will also oppose and vote against loans for the production of the three commodities where such production is for export and could injure producers in the United States. You may be certain that I shall closely watch and review the lending practices of the banks during this fiscal year.

For the longer run, I have directed the Secretary of the Treasury, in consultation with the leadership and appropriate committee of the Congress, to undertake a thorough study of how the whole range of U.S. objectives, including the type envisaged in these amendments, can best be pursued in the banks. I would expect that the results of this appraisal could help guide our efforts for FY 1979 and beyond, in partnership between the Administration and the Congress.

I would hope that these steps would enable the House to avoid adopting any of the restrictive amendments, previously passed, in the final foreign assistance appropriations bill for FY 1978.

I appreciate your support and counsel on these critically important issues confronting our foreign policy.

Sincerely,

JIMMY CARTER.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

DEAR COLLEAGUE: We are writing to urge you to support H.R. 5262, which authorizes $5.225 billion over the next three to four years for continued U.S. participation in six international financial institutions (IFIs), and to resist any modification of the strong human rights provision in Title VII of the bill.

It is important that the United States Congress authorize the full requests for these institutions. The requests are based on internationally negotiated agreements; failure by the United States to participate in these institutions at the negotiated levels could require renegotiations of some of the agreements. It would raise questions about the seriousness of the United States commitment to world economic prosperity as reaffirmed by the President in London. The economies of the developing countries are now closely tied to the United States and other industrial nations through trade, private investment, commercial bank lending, the supply of raw materials, and participation in international economic arrangements. Their prosperity is linked to ours, and ours to theirs.

These institutions permit the U.S. to share the development assistance burden with other developed countries, while reducing the political overtones associated with bilateral assistance. The U.S. share in the current replenishment of these institutions averages less than 25 percent. Our share has been declining steadily over the years.

The $5.2 billion represents the U.S. share of overall international contributions to these institutions:

(a) $4,081 million for the World Bank Group;

International Bank for Reconstruction and Development (IBRD) $1,570 million (over 3 years);

International Development Association (IDA) $2,400 million (over 3 years); and

International Finance Corporation (IFC) $112 million (over 3 years).

(b) $994 million for the Asian Bank and Fund (ADB) and (ADF);

Bank—$814.2 million (over 4 years); and

Fund—$180 million (over 3 years).

(c) $150 million for the African Development Fund (AFDF) (over 3 years beginning in FY 1979).

The request includes $654 million in callable capital—collateral for IFI borrowings in commercial money markets; this is highly unlikely to result in U.S. Government outlays but must nevertheless be authorized.

Most of the debate about H.R. 5262 has focused on the issue of human rights. The human rights language in Title VII of the Senate bill was developed in concert with the Executive Branch and the House Banking Committee. Similar language is con-

tained in the House version of H.R. 5262. The major difference is that the House language requires a no-vote in specific instances.

Title VII reinforces and provides strong Congressional support for the Administration's stance on human rights. It requires the U.S. Executive Directors, by all their actions in the Banks, to promote the cause of human rights in the Banks' member countries. It states further that both bilateral actions relating to human rights and the channeling of assistance to the neediest people should be taken into consideration when developing a human rights policy in the Banks.

Past experience indicates that mandated no-votes have a negative impact on the institutions involved. Loans continue to be made because the United States does not have a veto power, but the United States has less opportunity to play an influential role in the consultation process since its vote is pre-determined. Up to now other countries have refrained from mandating particular votes by their directors; continued U.S. moves in this direction could lead to similar mandates by other countries. Finally, a required no-vote implies that the Congress does not believe the Administration is fully committed to promoting human rights.

We are strongly committed to an effective human rights approach. The Administration shares this commitment and opposes mandated no-votes. Title VII is a strong and comprehensive provision worthy of the support of all who are concerned about human rights.

We urge you to join us, the Administration and many others who support passage of this bill and its human rights title.

Sincerely,

Clifford P. Case, John Sparkman, Jacob K. Javits, Hubert H. Humphrey, Charles H. Percy, Alan Cranston, Charles McC. Mathias, Adlai E. Stevenson III, and Joseph R. Biden, Jr.

INTERNATIONAL FINANCIAL INSTITUTIONS AND THE UNITED STATES

Mr. PERCY. Mr. President, from the Bretton Woods agreement which established the World Bank, through the creation of the International Development Association—which was largely a Senate initiative—to the establishment of regional development banks, the United States has encouraged other nations to join in an effort to provide development assistance to poor nations. This multilateral aid effort was in our own interest in two basic respects. First, because other nations would share the burden of providing development assitance. Today, members of international financial institutions contribute about $3 for every $1 of ours. Second, because many recipient nations are more willing to accept stringent criteria for use of aid from multilateral organization than from a bilateral donor, our development resources are used more effectively.

Because I believe that international financial institutions have made an important contribution to development efforts and to our own national interests, I am deeply concerned about the implications of a letter which President Carter sent to the chairman of the House conferees on the foreign aid appropriations bill. President Carter has agreed to direct U.S. representatives to international financial institutions to oppose loans to a list of seven countries and for projects involving three commodities.

Mr. President, I do not approve of each and every loan which has been made by an international financial institution. And I certainly do not believe that the United States should provide assistance to Vietnam, Cambodia, Uganda, and other countries on this list—in fact, I have supported legislation which prohibits bilateral assistance to them. But the agreement which the President has made will not prevent one dime from going to any country on that list. All that agreement will do is seriously reduce the effectiveness of our representatives in those institutions. We have had experience with predetermined "no" votes—and we have found that when our position was known in advance, nobody would listen to our executive directors as the loans worked their way through the institutions.

Mr. President, I regret that President Carter made the agreement with the House conferees. I regret that the House and Senate had no opportunity to vote on this proposal. I regret that members of the authorizing committees were not consulted about this agreement, especially in view of the fact that the authorization legislation provides well thought out procedures for opposing aid to countries which engage in gross volaions of the human rights of their citizens.

Finally, I regret that the President has tied his own hands to respond to what we all hope will be changes in the conduct of governments in Southeast Asia and Africa.

I will support this conference report with little enthusiasm, with the hope that this agreement will not set a precedent for the future, and with the hope that the executive branch will provide more effective support for its own initiatives next year.

Mr. CLARK. Mr. President, Mr. HUMPHREY asked me to put his remarks on this appropriations bill into the RECORD. They are consistent with my own concern about the "compromise" reflected in this legislation. I have long been a strong supporter of human rights but mandatory no votes against loans to an arbitrary list of countries and commodities is not, in my opinion, a good way to protect human rights. I am especially concerned that the President has agreed to oppose assistance for Mozambique and Angola and that the House has dropped the Presidential waiver which would have made it possible to provide direct assistance to these countries. Bank membership could be a very positive thing for the economies of these poor countries, and would encourage important links to the Western countries. Furthermore, this decision is inconsistent with our current policy of cooperation with the frontline States in the Rhodesia negotiations. This is part of the reason why I sponsored an amendment which would allow the President to waive the prohibition against direct assistance to Mozambique.

I do support this bill, Mr. President, but I want to express my deep concern about the executive branch's policy reversal.

Mr. President, I ask unanimous consent that Senator HUMPHREY's statement may be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

As we all know the foreign assistance appropriations process has been long and difficult—again. Enactment of foreign aid appropriations even defied deadlines established by the Budget Act. We had to pass a continuing resolution so that AID employees could be paid and even Peace Corps volunteers receive living allowances.

I am pleased that this bill no longer includes provisions which would make it impossible for the International Financial Institutions to accept our contributions. Both Houses of Congress deliberated at length about continued United States participation in these organizations and duly authorized it by substantial margins—194–156 in the House and 59–30 in the Senate. I am concerned, however, about the process by which agreement to delete prohibitions against indirect assistance was reached. Before either House had a chance to express its will about the items in diagreement in the Conference Report, the President committed the United States to vote against loans to seven countries and for the production of three commodities all throughout fiscal 1978. This is a reversal of Executive Branch policy which has consistently opposed mandatory no-votes of all kinds. This policy reversal was expressed in a letter to the Chairman of the Appropriation Subcommittee of the House of Representatives.

I am concerned about this process and seriously question the wisdom of this policy reversal. Members of my Subcommittee on Foreign Assistance together with the Executive Branch have consistently argued that mandatory "no" votes simply tie the hands of the U.S. representatives to these institutions. Our "no" vote alone cannot defeat a loan, but knowledge that we must vote no makes it irrelevant that other countries consult with us about that loan. If we are concerned about lending to particular countries the least effective means to influence that policy is to tie the hands of U.S. representatives in respect to decisions concerning that country. In support of Administration policy, the Senate has gone on record four times opposing "no" votes. Now the President has accepted this procedure.

Second, the President agreed to unqualified "no" votes. This will circumvent procedures currently being developed by this Administration to determine whether governments are, in fact, in gross violation of internationally recognized human rights. It also prevents the United States from considering whether to support projects which will directly benefit needy people in those countries. This is inconsistent with our New Directions policy to assist needy people and the urgings of Congress that international financial institutions do so as well.

When the list of barred countries is examined more closely it becomes clear that a pledge to vote "no" against loans to at least 4 of them is not very useful. Mozambique, Angola, and Cuba are not even members of these institutions and Uganda has received no assistance from the banks in several years. Further, it may be in the interest of the United States to support bank membership for Mozambique and Angola if this will help to stabilize their economies. Again, the Senate previously indicated that it did not approve of a blanket prohibition against *direct* assistance to Mozambique and Angola by voting to allow the President to waive that prohibition. Mandatory "no" votes are clearly inconsistent with that decision.

I am also worried about the pledge to vote against loans for the production of palm oil, sugar and citrus. This opens a pandora's box for the addition of other commodities. Part of the purpose of U.S. development assistance is to help countries get off the dole—become more self-reliant. Yet the United States now

plans to oppose assistance for production designed to accomplish just that.

I support passage of this bill; we need appropriations legislation and this bill no longer contains many of the provisions I opposed. Nevertheless, I am disappointed with the policy outcome because I firmly believe, and had clearly understood that the President believed, that unqualified mandated "no" votes in the international financial institutions are poor and even harmful policy tools. I do not regard this action as a precedent for appropriations legislation next year, and I shall seriously consider opposing the foreign aid appropriations bill next year, if these provisions are written into it.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. INOUYE. Mr. President, before asking for the vote, as chairman of the Appropriations Subcommittee on Foreign Operations I would like to express my gratitude to four of the people who have done yeoman work in bringing this bill to this point. I am speaking of Bill Jordan, Richard Collins, Jim Bond, and Helen Dackis. To all of them, we owe a great debt.

I also want to thank all of my colleagues on the committee, particularly the Senator from Pennsylvania, Mr. SCHWEIKER.

Mr. President, I ask for the vote.

Mr. SCHWEIKER. I yield back the remainder of my time.

Mr. INOUYE. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Michigan (Mr. RIEGLE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Michigan (Mr. RIEGLE) would each vote "yea."

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) and the Senator from North Dakota (Mr. YOUNG) would each vote "nay."

The result was announced—yeas 53, nays 33, as follows:

[Rollcall Vote No. 571 Leg.]

YEAS—53

Anderson	Ford	Moynihan
Baker	Glenn	Muskie
Bayh	Gravel	Nelson
Bentsen	Hart	Packwood
Biden	Haskell	Pearson
Brooke	Hathaway	Pell
Bumpers	Heinz	Percy
Case	Huddleston	Ribicoff
Chafee	Inouye	Sarbanes
Chiles	Jackson	Sasser
Church	Javits	Schweiker
Clark	Kennedy	Sparkman
Cranston	Leahy	Stafford
Culver	Magnuson	Stevenson
Danforth	Matsunaga	Stone
DeConcini	McIntyre	Weicker
Durkin	Metzenbaum	Williams
Eagleton	Morgan	

NAYS—33

Allen	Garn	Nunn
Bartlett	Hansen	Proxmire
Bellmon	Hatch	Roth
Burdick	Hatfield	Schmitt
Byrd, Harry F., Jr.	Hayakawa	Scott
	Helms	Stevens
Byrd, Robert C.	Hollings	Talmadge
Cannon	Johnston	Tower
Curtis	Long	Wallop
Dole	Lugar	Zorinsky
Domenici	McClure	
Eastland	Melcher	

NOT VOTING—14

Abourezk	Mathias	Riegle
Goldwater	McClellan	Stennis
Griffin	McGovern	Thurmond
Humphrey	Metcalf	Young
Laxalt	Randolph	

So the conference report was agreed to.

The ACTING PRESIDENT pro tempore. The clerk will report the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

: *Provided*, That $2,000,000 shall be available for the World Health Organization Onchocerciasis Control Program

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

: *Provided*, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 per centum of the total contributions to such program

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 21 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $37,100,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

The Mutual Security Appropriation Act, 1956, is amended by striking out section 108 thereof, effective as of October 1, 1977.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 36 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

: *Provided further*, That not to exceed $700,000 of funds provided to the Agency for International Development by this Act shall be available for hiring experts and consultants pursuant to 5 U.S.C. 3109 and of this amount not to exceed $100,000 shall be available for hiring experts and consultants who are retired employees of the Agency for International Development: *Provided further*, That none of the funds made available by this Act shall be available for leasing, purchasing, renovating, or furnishing of housing or office space in Cairo, Egypt, except through the Foreign Building Operations of the Department of State: *Provided further*, That not to exceed $125,000 of the funds made available by this Act shall be available for the Administrator's Development Seminar of the Agency for International Development.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 49 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 115. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committee of both Houses of the Congress.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 61 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $38,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 74 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 503C. Of the funds appropriated or made available pursuant to this Act, not more than $18,100,000 shall be used for military assistance, not more than $1,850,000 shall be used for military assistance, not more than $1,850,000 shall be used for foreign military credit sales, and not more than $700,000 shall be used for international military education and training to the Government of the Philippines.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 81 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 508. Notwithstanding the budget authority levels of $523,000,000 for the Inter-American Development Bank and $400,000,000 for the International Bank for Reconstruction and Development provided elsewhere in this Act, not more than $480,000,000 shall be made available by this Act for obligation or expenditure for a United States contribution to the Inter-American Development Bank and not more than $380,000,000 shall be made available by this Act for obligation or expenditure for a United States contribution to the International Bank for Reconstruction and Development: *Provided*, That this section shall apply only to the establishment of budget authority levels for the aforementioned Banks and shall not alter limitations, restrictions or other language provisions elsewhere in this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 82 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 509. None of the funds appropriated or otherwise made available by this Act to the Export-Import Bank and funds appropriated by this Act for direct foreign assistance may be obligated for any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism, unless the President of the United States finds that the national security requires otherwise.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 83 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 510. It is the sense of the Congress that the Secretary of State should prepare and submit to the Speaker of the House of Representatives and to the President of the Senate—

(1) not later than six months after the date of enactment of this section, a report on the adequacy of insurance provided by the accredited diplomatic missions to the United States to cover lossor injury arising from the wrongful acts or omissions of the employees of such missions in the United States;

(2) not later than one year after the date of enactment of this section, a report on what efforts the President and the Secretary of State have made to encourage the provision of such coverage; and

(3) not later than six months after the date of enactment of this section, a report on what the Secretary of State has done to encourage the Government of Panama to make satisfactory compensation to Dr. Halla Brown for loss or injury arising out of the accident of April 20, 1974.

Mr. INOUYE. Mr. President, I move that the Senate agree to the amendments of the House to the amendments of the Senate numbered 6, 20, 21, 27, 36, 49, 61, 74, 81, 82, and 83.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

Mr. INOUYE. Mr. President, I move that the Senate recede from its amendment numbered 47.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

PANAMA CANAL TREATIES

Mr. SCOTT. Mr. President, as indicated on several occasions in the past, I am opposed to the ratification of the proposed Panama Canal treaties and this position is in line with the views that have been expressed by the people of Virginia in correspondence and telephone calls to our office. In fact, roughly 96 percent of the people contacting the office are opposed to ratification. Yet, evidence continues to accumulate that the President intends to utilize the full force of his office as Chief Executive to change the views of individual Senators and to change the opinions of the American people. To my mind this will prove to be a difficult task and I would like to cite as an example a copy of a letter received from a Virginia constituent. Let me read the letter omitting the name and address of the writer and also omitting identifying portions of a telegram enclosed with the letter. The letter reads as follows:

OCTOBER 12, 1977.

Hon. WILLIAM LLOYD SCOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCOTT: As a registered and active voter of Virginia I am writing to ask that you vote against ratification of the Panama Canal Treaties. I must also request that you not use my name in this matter as I have been told indirectly to support these treaties by General David C. Jones, Air Force Chief of Staff.

I am enclosing a copy of a message that General Jones sent to all commanders. Paragraph 5 makes it quite clear that we as military personnel are expected to support these treaties.

Although I can not speak out publicly against the Panama Canal Treaties, I will not speak out in support of them either. Because of my position in the military, I would appreciate it if you and your staff not reveal how you received the enclosed message.

Sincerely,

The unclassied telegram has a number of identifying features indicating the wide distribution it received within the These features removed, it reads as folspecic command to which it was referred. lows:

For Commanders from General Jones.
Subject: Panama Canal Treaties

1. On 10 Aug. 1977 Panamanian and U.S. negotiators announced agreement in principle on a conceptual framework for two new treaties. One, the neutrality treaty, provides for the permanent neutrality of the canal; the second, the Panama Canal Treaty, deals with the operation and defense of the canal. Both treaties would enter into effect after ratification and document exchange processes are complete. The neutrality treaty will be of indefinite duration, whereas the Panama Conol Treaty will terminate in all aspects on 31 December 1999.

2. The Panama Canal is a major defense asset, the use of which enhances United States capability for timely reinforcement of United States forces. Its strategic military advantage lies in the economy and flexibility it provides to accelerate the shift of military forces and logistic support by sea between the Atlantic and Pacific Oceans and to overseas area. United States military interests in the Panama Canal are in its use, not its ownership. The proposed treaties would assure that access to and security of the Panama Canal are protected in time of war and peace.

3. As President Carter has stated, "We will have operating control and the right to protect and defend the Panama Canal with our own military forces until the end of this century. Under a separate neutrality treaty we will have the right to assure the maintenance of the permanent neutrality of the canal as we may deem necessary."

4. The Air Force actively participated in the development of all defense related aspects of the proposed treaties, and fully supports them. They would provide a basis for development of a continuing friendly relationship between the United States and Panama which would be of significant importance in insuring that the Panama Canal would be available to the United States when needed. Once the U.S. no longer operates the canal, the proposed neutrality treaty would provide an adequate basis for safeguarding our interests in the canal.

5. It is important that our personnel, particularly our senior people, understand our support for the proposed treaties.

Now, Mr. President, if the Air Force Chief of Staff, Gen. David C. Jones, has sent telegrams to all of his commanders and the President has indicated he intends to educate the American people in the Panama Canal Treaty so that they will insist that it be ratified by the Senate, is it not reasonable to assume that this telegram from the Air Force Chief of Staff is a part of the educational process and that the Chiefs of Staff of our other military services, as well as the heads of our civilian departments and agencies are also utilizing the vast apparatus of the Federal Government to influence public opinion so that it will parallel that of our Chief Executive.

I have been led to believe over the years that ours is a representative form of Government, where elected officials, whether they be Members of the U.S. Senate or President of the United States, act on behalf of the people who elect them to office and that the ultimate will or sovereignty resides in the people of the country collectively not in the Members of the U.S. Senate or in the President of the United States.

Frankly, I hope the President will have a change of heart and come to recognize that we do have popular sovereignty in this country and that he too is subject to the sovereign will of the people. They have made it very plain in their communications, both orally and in writing to their elected representatives, that they do not want this treaty ratified. A change on his part would indicate that the President himself is growing in wisdom and stature and that he too is capable of being educated.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, without any call of the calendar or resolutions coming over under the rule.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILLS

A message from the President of the United States announced that on October 18, 1977, he approved and signed the following bills:

S. 1060. An act to amend the Act of February 9, 1821, to restate the charter of the George Washington University.

S. 1522. An act to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972.

U.S. SINAI SUPPORT MISSION—PM 125

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit herewith the Fourth Report of the United States Sinai Support Mission. It highlights the Mission's operation of the United States early warning system in the Sinai and the relationship of the system to the overall disengagement arrangements of the Agreement signed by Egypt and Israel on September 4, 1975—the Sinai II Agreement. This report is provided to the Congress in conformity with Section 4 of Public Law 94–110 of October 13, 1975.

Since the beginning of operations on February 22, 1976, there have been no serious intrusions into the area of the early warning system by either party. Some 40 minor or accidental intrusions have been detected and reported to both sides and to the United Nations, but none of them appears to have had any hostile purpose.

The Director of the Sinai Support Mission raised with senior Egyptian and Israeli officials the congressional interest in the feasibility of substituting nationals of other countries for some of the Americans working in the Sinai. They expressed strong opposition to this proposal as, in their view, such a change would create difficult problems for their governments and risk upsetting arrangements which are now working to their complete satisfaction. Both parties continue to make clear their full support for the role of the United States in maintaining the disengagement arrangements in the Sinai.

At a time when we are engaged in intensive discussions to help Israel and the Arab States make further progress in the search for a lasting peace, it is essential that the United States meet fully its commitments under the Sinai II Agreement. The Sinai Support Mission is an important element in meeting these responsibilities, and I urge the Congress to continue its support for this peacekeeping mission.

JIMMY CARTER.

THE WHITE HOUSE, *October 19, 1977.*

MESSAGES FROM THE HOUSE

At 9:36 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House has passed, without amendment, the following bills:

S. 393. An act to provide for the study of certain lands to determine their suitability for designation as wilderness in accordance with the Wilderness Act of 1964, and for other purposes; and

S. 2089. An act to establish within the Department of Justice the position of Associate Attorney General.

The House has agreed to, without amendment, the concurrent resolution (S. Con. Res. 58) to correct the engrossment of Senate amendments to H.R. 4018.

The House agrees to the amendments of the Senate to the bill—H.R. 7769—to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia.

The House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 5858. An act to amend the Tariff Schedules of the United States to provide for duty-free treatment with respect to certain petroleum imported from Canada if equivalent amounts of domestic or duty-paid foreign petroleum of the same type is exported to Canada;

H.R. 6966. An act to amend title 10 of the United States Code to provide a more equitable standard for awarding the gold star lapel button; and

H.R. 9090. An act to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949.

At 11:05 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7797) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes; that the House recedes from its disagreements to the amendments of the Senate numbered 11, 13, 15, 22, 24, 26, 29, 31, 33, 54, 57, 59, 64, 66, 80, and 84 and concurs therein; that the House recedes from its disagreement to the amendments of the Senate numbered 6, 20, 21, 27, 36, 49, 61, 74, 81, 82, and 83 and concurs therein, each with an amendment; and that the House insists upon its disagreement to the amendment of the Senate numbered 47.

At 1:21 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that:

The House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 3090. An act for the relief of Fidel Grosso-Padilla;

H.R. 4401. An act for the relief of Kwi Sok Buckingham (nee Kim);

H.R. 5643. An act to implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property; and

H.R. 9512. An act to amend the Higher Education Act of 1965 to include the Trust Territory of the Pacific Islands in the definition of the term "State" for the purpose of participation in programs authorized by that Act.

The House has passed the bill (S. 1184) to amend section 7(e) of the Fishermen's Protective Act of 1967, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The House has passed the bill (S. 1316) to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out State cooperative programs under the Endangered Species Act of 1973, with amendments in which it request the concurrence of the Senate.

The House has passed the bill (S. 1750) to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for 18 months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods, with amendments in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The Speaker has signed the enrolled bill (S. 2089) to establish within the Department of Justice the position of Associate Attorney General.

The enrolled bill was subsequently signed by the President pro tempore.

At 3:22 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 8149. An act to provide customs procedural reform, and for other purposes;

H.R. 8422. An act to amend titles XVIII and XIX of the Social Security Act to provide payment for rural health clinic services, and for other purposes; and

H.R. 9418. An act to amend the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition to medical schools' receiving capitation grants under such act, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 4:19 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 393. An act to provide for the study of certain lands to determine their suitability for designation as wilderness in accordance with the Wilderness Act of 1964, and for other purposes.

H.R. 7769. An act to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia, and to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided, and for other purposes.

H.J. Res. 573. Joint resolution commemorating General Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions which were referred as indicated.

POM–315. Resolution No. 187 adopted by the Legislation of the Territory of Guam relative to endorsing the passage of H.R.

6550, as amended, to permit the Government of Guam, among other purposes, to purchase a fully equipped new hospital on Guam; to the Committee on Energy and Natural Resources:

RESOLUTION No. 187

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, interested and concerned parties have been working to upgrade the total medical care facilities within the Territory of Guam for a number of years; and

"Whereas, a modern and private acute care medical facility has recently been completed and is now providing health care services to the territory; and

"Whereas, acute care services are also provided through the Guam Memorial Hospital, an autonomous facility of the Government of Guam which is accredited by the Joint Commission on Hospital Accreditation and managed by an expert hospital management firm; and

"Whereas, although the physical plant of the Guam Memorial Hospital is marginal and in need of extensive rehabilitation and renovation, a majority of the people of the territory have expressed a desire to obtain medical services through the Guam Memorial Hospital; and

"Whereas, prior projections concerning the medical needs of the population of the Territory of Guam have been found to be unrealistic and overstated due to changed economic conditions in the territory and resulting in underutilization of the private medical facility, the Medical Center of the Marianas; and

"Whereas, the Medical Center of the Marianas have expressed a desire to sell their new and modern facility to the Guam Memorial Hospital Authority; and

"Whereas, purchase of the new Medical Center of the Marianas facility by the Guam Memorial Hospital will further improve health care and lower health care cost; and

"Whereas, a territorial appropriation authorization measure (H.R. 6550) is now pending in Conference Committee to provide federal guarantees so that the Government of Guam can purchase a 'fully equipped new hospital in Guam', the Medical Center of the Marianas; now, therefore, be it

"Resolved, that the Fourteenth Guam Legislature hereby endorses the passage of H.R. 6550, as amended, to enable the Government of Guam to purchase a fully equipped new hospital on Guam; and be it further

"Resolved, that the Fourteenth Guam Legislature hereby respectfully requests President Jimmy Carter to sign H.R. 6550 into law; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States of America; to the Speaker of the U.S. House of Representatives; to the President Pro Tempore of the United States Congress; to Congressman Philip Burton; to Secretary Henry M. Jackson; to Senator Bennett Johnston; to the Secretary of the Interior; to Congressman A. B. Won Pat; to the Chairman of the Board, Medical Center of the Marianas; to the Chairman of the Board of Trustees, Guam Memorial Hospital; to Bishop Felixberto Flores; and to the Governor of Guam."

POM–316. Senate Concurrent Resolution No. 25 adopted by the Legislature of the Territory of American Samoa requesting Congress to upgrade the status of their delegate to that equivalent with the delegates from Guam and the Virgin Islands; to the Committee on Energy and Natural Resources:

"SENATE CONCURRENT RESOLUTION 25

"Whereas, the Delegate-at-Large from the Government of American Samoa is every bit as important to the people of the Territory and the Federal Congress as those Delegates from other Territories; and

"Whereas, in the evolving duties of our Delegate's operation, now 7 years in the law, it is now clear that an equivalent status with those Delegates from our sister Territories of Guam and the Virgin Islands would be both appropriate, timely, and necessary.

Now, therefore, be it resolved by the Senate of the Territory of American Samoa, the House of Representatives concurring:

"That, the Congress is respectfully requested to amend 48 USC 1711–15 to include a nonvoting delegate to Congress from American Samoa; and be it further

"Resolved, That the Secretary of the Senate send copies of this resolution to the Honorable Henry M. Jackson, Chairman of the Senate Committee on Energy and Natural Resources; Honorable Phillip Burton, Chairman of the House Subcommittee on National Parks and Insular Affairs; Honorable H. Rex Lee, Governor of American Samoa; the Honorable Francis R. Valeo, Secretary of the Senate; the Honorable Edmund L. Henshaw, Jr., Clerk of the House of Representatives; and the Honorable A. P. Lutali, Delegate-at-Large."

POM–317. Senate Joint Resolution No. 40 adopted by the Legislature of the State of Wisconsin memorializing the Interstate Commerce Commission to postpone for two years its decision on whether to grant the application of the Chicago and Northwestern Railroad to abandon the rail line between Gillett, Wisconsin and Scott Lake, Michigan; to the Committee on Commerce, Science, and Transportation:

"SENATE JOINT RESOLUTION 40

"Whereas, Chicago and Northwestern Transportation Company has applied to the interstate commerce to abandon service between Gillett, Wisconsin and Scott Lake, Michigan; and

"Whereas, the area served by the rail line is a rural area, the industries of which are dependent on the rail line for transportation; and

"Whereas, possibly the world's largest deposit of metalliferous minerals has been discovered in the area served by the rail line and mining and related industries in the near future may require the services of the rail line; and

"Whereas, preservation of rail services is a sound energy conservation measure necessitated by current energy shortages; now, therefore, be it

"Resolved by the senate, the assembly concurring, that the interstate commerce commission is urged to postpone for 2 years its decision on whether to grant Chicago and Northwestern Company's application to abandon the rail line between Gillett, Wisconsin and Scott Lake, Michigan; and, be it further

"Resolved, that duly attested copies of this resolution be transmitted to the secretary of the interstate commerce commission, the President of the United States, the secretary of the U.S. Senate, the chief clerk of the U.S. house of representatives and to each member of the congressional delegation from this state."

POM–318. Senate Concurrent Resolution No. 23 adopted the Legislature of the State of Ohio memorializing the President and the Congress of the United States to abandon consideration of any legislation establishing a water conservation program that does not take into account the dependence of Ohio's economy on its ability to utilize its abundant water resources fully; to the Committee on Environment and Public Works:

"SENATE CONCURRENT RESOLUTION 23

"Resolved by the Senate (the House concurring),

"Whereas, the availability and growth of industrial employment depends upon the ability of the State of Ohio and the entire Great Lakes region to utilize its abundant water resources fully; and

"Whereas, the quality of life of all the residents of Ohio and the Great Lakes region is directly related to the ability of its people to utilize its abundant water resources fully; and

"Whereas, the United States Environmental Protection Agency is currently preparing a water conservation program; and

"Whereas, the proposed water conservation program would require an arbitrary, uniform 15% reduction in water usage by each and every municipal corporation in the United States; and

"Whereas, Municipal corporations that do not reduce water consumption by 15% receive cuts in federal service construction; and

"Whereas, Arbitrary, uniform, mandated conservation measures of this type deny people the benefit of the use of the resource, rather than encourage genuine conservation; and

"Whereas, The implementation of the proposed water conservation program would result in a substantial decrease in the revenues of municipal water supply systems; and

"Whereas, The resulting reduction in municipal water revenues would necessitate a substantial increase in the water rates paid by all customers of municipal water supply systems; and

"Whereas, The increase in water rates resulting from the proposed water conservation program would reduce the competitive position of business and industry in Ohio and the Great Lakes region by preventing these states from fully utilizing their greatest and most abundant resource, water; and

"Whereas, A reduction in water consumption in the Great Lakes region would not and, moreover, could not relieve the acute shortages of water currently being experienced in other regions of the United States; therefore be it

"Resolved, That we, the members of the Senate of the State of Ohio, the members of the House of Representatives concurring, in adopting this Resolution, memorialize the President, the Congress of the United States, and the Administration of the United States Environmental Protection Agency to abandon consideration of any water conservation legislation or program requiring the states or their political subdivisions to reduce water usage by a uniform percentage, that fails to take into account interregional differences in the abundance of the water resource, and that fails to take into account the dependence of commerce and industry in Ohio and the Great Lakes region on its ability to utilize fully its most abundant and versatile natural resource, water; and be it further

"Resolved, That the Secretary of State transmit properly authenticated copies of this Resolution to the President of the United States; the Administrator of the United States Environmental Protection Agency; the President Pro Tempore of the United States Senate; the Speaker of the United States House of Representatives; the two United States Senators from Ohio; and each member of the United States House of Representatives from Ohio."

POM–319. House Joint Memorial No. 2 adopted by the Legislature of the State of Oregon urging the Congress of the United States to pass legislation to provide adequate funding for community water supply improvement to meet the standards imposed pursuant to the federal legislation; to the Committee on Environment and Public Works:

"HOUSE JOINT MEMORIAL 2

"Whereas the standards for drinking water to be imposed upon community water sup-

ply systems pursuant to the [Safe Drinking Water Act of 1974] will greatly increase the cost of providing drinking water without providing to the public commensurate health benefits; and

"Whereas the federal legislation included no funding provision for implementation of these standards at the state level; and

"Whereas no state water quality program has been adopted to implement the federal standards; now, therefore,

"Be It Resolved by the Legislative Assembly of the State of Oregon:

"(1) The Congress of the United States is urged to pass legislation that will provide adequate funding for community water supply improvement to meet the standards imposed pursuant to the federal legislation.

"(2) A copy of this memorial shall be sent to the presiding officer of each house of the Congress and to each member of the Oregon Congressional Delegation."

POM-320. House Joint Memorial No. 3 adopted by the Legislature of the State of Oregon memorializing the Congress of the United States to preserve, protect and maintain a social security system for the people of the United States; to the Committee on Finance:

"HOUSE JOINT MEMORIAL 3

"Whereas since the inception of the social security system there has been an increasing necessity for the types of assistance provided by the social security system; and

"Whereas since the inception of the social security system, there has been an increasing reliance on the types of assistance provided by the social security system; and

"Whereas the social security system provides a social benefit to all peoples of the United States; and

"Whereas there is no other socially acceptable and readily available system for providing the benefits in the manner provided for by the social security system; now, therefore,

"Be It Resolved by the Legislative Assembly of the State of Oregon:

"(1) The Congress of the United States is memorialized to preserve, protect and maintain a social security system for the people of the United States of America.

"(2) A copy of this memorial shall be transmitted to the Speaker of the House of Representatives of the United States of America, to the President Pro Tempore of the Senate of the United States of America, and to each member of the Oregon Congressional Delegation."

POM-321. Assembly Joint Resolution No. 23 adopted by Legislature of the State of California relative to workers' compensation; to the Committee on Human Resources:

"ASSEMBLY JOINT RESOLUTION NO. 23

"Whereas, There is considerable national support to maintain and enhance a viable fishing industry in this country; and

"Whereas, National concern has been expressed by legislation to aid the construction of commercial fishing boats and by proposed legislation to provide funds both for commercial fishing boat construction and for onshore commercial processing facilities; and

"Whereas, Recreational boating provides necessary recreational opportunity to millions of Americans; and

"Whereas, Recreational boating is an important industry providing jobs and income through boatyards, boat manufacturers, marinas, and numerous support activities; and

"Whereas, The Department of Labor interpretation of the 1972 amendments to the Longshoremen's and Harbor Workers' Compensation Act extends the coverage of such act to persons engaged in marine activities not previously covered by the Longshoremen's and Harbor Workers' Act; and

"Whereas, This interpretation includes, but is not limited to, the activities of fishhouses and boatyards servicing the fishing industry and recreational boating industry; and

"Whereas, Fish companies and boatyards are now forced to carry, in addition to state workers' compensation insurance, longshoremen's and harbor workers' insurance coverage for their employees; and

"Whereas, Longshoremen's and harbor workers' compensation insurance coverage is either excessively priced or unobtainable; and

"Whereas, The imposition of this coverage has created a severe hardship on fish companies and boatyards; and

"Whereas, Private insurance carriers have canceled the insurance coverage for many fishhouses and boatyards; and

"Whereas, Some boatyards have been forced out of business, not being able to insure employees, while others are going without compensation coverage for employees and others carrying such coverage have been forced to pay rates in excess of 600 percent of 1974 insurance premiums; and

"Whereas, This increased cost of doing business will force boatyards either to go out of business, curtail their services, or pass their increased costs to fishermen and recreational boating, thereby making it exceedingly difficult to have fishing vessels constructed or repaired; and

"Whereas, This increased cost of doing business will force fish companies either to go out of business, curtail their services, or pass their increased costs on, thereby decreasing the price for fish paid to fishermen and increasing the price of fish to the consumer; now, therefore, be it

"Resolved, by the Assembly and Senate of the State of California, jointly, That the State of California petitions Congress to amend the Longshoremen's and Harbor Workers' Compensation Act immediately to exempt from it the commercial fishing industry, the recreational boating industry, and their respective support activities in those states having mandatory workers' compensation coverage for employees providing a prompt and comprehensive system of compensation for injuries, diseases, or deaths arising from and in the course of employment; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-322. Assembly Joint Resolution No. 32 adopted by the Legislature of the State of California relative to vocational training; to the Committee on Human Resources:

"ASSEMBLY JOINT RESOLUTION NO. 32

"Whereas, Unemployment and underemployment have caused and continue to cause hardships on individuals and families in our country; and

"Whereas, The youth in America suffer from severe unemployment rates and desperately need skills to secure employment; and

"Whereas, Many employers are willing to hire people who have the requisite skills to perform the jobs offered and those individuals who are unemployed or underemployed could secure employment if they had such skills; and

"Whereas, Many of those unemployed and underemployed do not have the resources to pay for the vocational training needed to obtain employment and they currently are unable to borrow funds to make payments for such training; and

"Whereas, The Comprehensive Employment and Training Act of 1973 provides grants and stipends for those seeking vocational and trade school education to improve their job skills, but does not provide loans to those willing to impove their employment skills by attending an accredited vocational or trade school; and

"Whereas, A revolving fund account providing moneys to those who qualify under current definitions of financially destitute would be beneficial because as people repaid their loans, others would be able to borrow moneys to attend these schools; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend the Comprehensive Employment and Training Act of 1973 so as to provide federal funding for a loan program to those financially destitute individuals who could effectively upgrade their skills by attending vocational schools and trade schools; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Labor of the United States."

POM-323. Assembly Joint Resolution No. 15 adopted by the Legislature of the State of California relative to bilingual education; to the Committee on Human Resources:

"ASSEMBLY JOINT RESOLUTION NO. 15

"Whereas, The Congress of the United States is currently rewriting the Billingual Education Act, Title VII of the Elementary and Secondary Education Act (P.L. 90-247); and

"Whereas, The Bilingual Education Act has provided funds for demonstration bilingual instructional programs from its first year of operation, principally at the early grades of the elementary school level; and

"Whereas, Title VII funds have served as a primer and encouraged state legislatures and local school districts to use nonfederal dollars to develop, implement, and improve bilingual instructional programs at the local school district level; and

"Whereas, There exists an extreme shortage of qualified certificated bilingual-crosscultural, biliterate teachers who can teach in English and a language other than English; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to insure continual funding of the Bilingual Education Act of Title VII of the Elementary and Secondary Education Act through the passage of legislation extending its life; and be it further

"Resolved, That the Bilingual Education Act be made an entitlement program to meet the unique educational needs of limited-English-speaking pupils; and be it further

"Resolved, That preference be given to funding bilingual instructional programs for limited-English-speaking pupils that complement state categorical moneys, when available, for bilingual instruction programs; and be it further

"Resolved, That more moneys be provided for bilingual teacher preparation for certificated and noncertificated individuals; and be it further

"Resolved, That moneys be available for research and demonstration in bilingual education; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the President pro Tempore of the Senate, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-324. A petition from Brendan T. Byrne, a citizen of Trenton, New Jersey submitting a proposal for consideration to make New Jersey a demonstration state to test the employment and training component of welfare reform; to the Committee on Human Resources.

POM-325. Assembly Joint Resolution No. 8 adopted by the legislature of the State of California relative to incendiary fires; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION No. 8

"Whereas, The number of incendiary fires in the United States is increasing at an alarming rate; and

"Whereas, In 1975 the reported number of incendiary fires in the United States increased by over 25 percent from the reported number of such fires in the previous year; and

"Whereas, Incendiary fires accounted for over 600 million dollars in property losses and more than 1,000 deaths in the United States during 1975, and in California alone property loss approached 10 million dollars with 17 reported deaths; and

"Whereas, Under the jurisdiction of the Federal Bureau of Investigation in the United States Department of Justice, the Uniform Crime Reporting System is maintained to provide a reliable and valid national reporting crime system; and

"Whereas, Nationally required reporting of incendiary fires in the uniform crime statistics and reclassifying incendiary fires under the Uniform Crime Reporting System as a major crime or Part I crime would be of great value in stopping this costly and deadly crime; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Attorney General of the United States and the Director of the Federal Bureau of Investigation to reclassify or declare incendiary fires as a Part I crime under the Uniform Crime Reporting System; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Attorney General of the United States, and to the Director of the Federal Bureau of Investigation."

POM-326. Assembly Joint Resolution No. 39 adopted by the Legislature of the State of California relative to child abduction; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION No. 39

"Whereas, Each year it is estimated that one hundred thousand minor children in the United States are maliciously taken, enticed away, detained or concealed by persons not having a right to their custody from a parent, guardian, or other person having the lawful charge of such child; and

"Whereas, Many of these minor children so maliciously taken, enticed away, detained or concealed are residents of the State of California or transported into the State of California; and

"Whereas, Despite the fact that California and other states have enacted legislation providing for the criminal prosecution of the abductors of such minor children and the return of abducted children to their legal custodian, the jurisdiction limitations of state courts and the cost of locating the abductor in cases of interstate flight are often prohibitive to the effective enforcement of such laws; and

"Whereas, Existing California law has limited application in various situations involving child abduction, such as detainment or concealment of a child without good cause by a person having a right to legal custody with the intent to deprive the other person having legal custody of the right of physical custody; and

"Whereas, Such detainment or concealment from the child's legal custodian is in many instances detrimental to the physical, mental, and emotional welfare of the minor child; and

"Whereas, A federal statute providing for a uniform definition of child abduction, penalties therefor, requiring the return of an abducted child to his or her legal custodian, and providing for enforcement of such provisions on a national basis may be the only effective method of bringing these abductors to trial on a criminal charge before a court of competent jurisdiction while providing for the child's return to the legal custodian; and

"Whereas, The health, safety, and welfare of minor children of the State of California and other states of the United States of America are at stake because of this situation; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to give serious consideration to the problem of child abduction as it exists throughout the country; and be it further

"Resolved, That the Legislature of the State of California hereby expresses its support for the enactment of federal legislation providing for speedy return of an abducted child to his or her legal custodian and criminal prosecution of the abductor; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-327. House Concurrent Resolution No. 44 adopted by the Legislature of the Territory of American Samoa commending Senator Spark Matsunaga of Hawaii for sponsoring a bill to allow American Samoa to join in the Junior Reserve Officers Training Corps in secondary schools; ordered to lie on the table:

"HOUSE CONCURRENT RESOLUTION 44

"Whereas, American Samoa has always been one of the, if not the, leading per capita patriotic jurisdictions of the United States of America when considering military enlistments, and

"Whereas, it seem entirely justified to include our youth in this patriotic and useful endeavor at the secondary school level with entrance into a Junior Reserve Officers' Training Corps.

"Now, therefore, be it resolved by the House of Representatives of the territory of American Samoa, the Senate concurring:

"That, Senator Spark Matsunaga of our sister insular jurisdiction, the Aloha State of Hawaii, is graciously thanked and commends for sponsoring S. 1607 of the 95th Congress which allows U.S. Nationals to participate in the Junior ROTC programs in secondary schools; and

"Be it further resolved, that the Chief Clerk of the House is directed to send copies of this resolution to: the Honorable Spark Matsunaga, U.S. Senate; the Honorable H. Rex Lee, Governor of American Samoa; Mr. Francis R. Valeo, Secretary of the United States Senate; and the Delegate-at-Large to the U.S. Government, A. P. Lutali."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry:

With an amendment:

S. Res. 271. A resolution to establish a Commission on Domestic and International Hunger and Malnutrition (title amended) (Rept. No. 95-503).

By Mr. SPARKMAN, from the Committee on Foreign Relations:

With an amendment:

S. 1771. A bill to amend the Foreign Assistance Act of 1961, as amended, and for other purposes (together with minority views) (title amendment) (Rept. No. 95-505).

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Report of the Committee on Veterans' Affairs pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 95-506).

By Mr. CANNON, from the Committee on Rules and Administration:

Without amendment:

S. Res. 296. An original resolution to pay a gratuity to Marjorie Iverson; Eugene Bergstrom; Jack Bergstrom; Lorraine Powers; Robert Bergstrom; Patricia Hurt; Harriett McCollum; Barbara Hickman; and Marilyn Fernandes.

S. Res. 272. A resolution increasing the amount which may be expended by the Select Committee on Small Business for the procurement of the services of individual consultants or organizations thereof (Rept. No. 95-507).

S. Res. 297. An original resolution authorizing supplemental expenditures by the Committee on Armed Services, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Foreign Relations for inquiries and investigations (Rept. No. 95-508).

S. Res. 298. An original resolution authorizing additional expenditures by the Committee on Rules and Administration for routine purposes (Rept. No. 95-509).

By Mr. BAYH, from the Committee on the Judiciary:

Without amendment:

S. 2208. A bill to amend the Federal Charter of the Big Brothers of America to include Big Sisters International, Incorporated, and for other purposes (Rept. No. 95-510).

S. Res. 234. A resolution to refer the bill (S. 1953) entitled "A bill for the relief of Rawleigh Moses and Company, Incorporated" to the Chief Commissioner of the U.S. Court of Claims for a report thereon (Rept. No. 95-511).

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Without amendment:

S. Con. Res. 44. A concurrent resolution to authorize the Secretary of the Interior to accept donations of suitable markers recognizing the contributions of General Thaddeus Kosciuszko (Rept. No. 95-512).

By Mr. HATHAWAY, from the Committee on Human Resources:

Without recommendation:

H.R. 7. An act to authorize a career education program for elementary and secondary schools, and for other purposes (Rept. No. 95-513).

COMMITTEE REPORT SUBMITTED DURING ADJOURNMENT

Mr. ROBERT C. BYRD (for Mr. MCCLELLAN), from the Committee on Appropriations, on October 18, 1977, during the adjournment of the Senate, submitted a report entitled "Allocation to Subcommittees of Budget Totals From the Second Concurrent Resolution for Fiscal Year 1978," which was ordered to be printed (Rept. No. 95-502).

SCHOOL LUNCH AMENDMENTS—H.R. 1139—CONFERENCE REPORT (REPT. NO. 95-504)

Mr. DOLE. Mr. President, on behalf of Senator GEORGE MCGOVERN, I am today filing the report of the committee of conference on H.R. 1139, a bill which makes amendments to the National School Lunch Act and the Child Nutrition Act of 1966.

There is a great interest in the legislation. In order to assure that there are an adequate number of copies of the conference report, I ask unanimous consent that the report be printed as filed in the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

GI BILL IMPROVEMENT ACT OF 1977—REPT. NO. 95-468, PART II

Mr. CRANSTON, from the Committee on Veterans' Affairs, submitted a supplemental report to accompany the bill (S. 457) the GI Bill Improvement Act of 1977, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Commerce, Science, and Transportation:

Gillian Martin, Sorenson, of New York; and

Sharon P. Rockefeller, of West Virginia, to be members of the Board of Directors of the Corporation for Public Broadcasting.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EASTLAND, from the Committee on the Judiciary:

Robert J. Del Tufo, of New Jersey, to be U.S. attorney for the district of New Jersey.

James S. Brady, of Michigan, to be U.S. attorney for the western district of Michigan.

Ronald L. Rencher, of Utah, to be U.S. attorney for the district of Utah.

Robert T. O'Leary, of Montana, to be U.S. attorney for the district of Montana.

Rufus A. Lewis, of Alabama, to be U.S. marshal for the middle district of Alabama.

Richard D. Dutremble, of Maine, to be U.S. marshal for the district of Maine.

Edward D. Schaeffer, of Pennsylvania, to be U.S. marshal for the eastern district of Pennsylvania.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

John F. O'Leary, of New Mexico, to be Deputy Secretary of Energy.

Dale D. Myers, of California, to be Under Secretary of Energy.

Alvin L. Alm, of the District of Columbia, to be an Assistant Secretary of Energy (Policy and Evaluation).

Harry E. Bergold, Jr., of Florida, to be an Assistant Secretary of Energy (International Affairs).

Phillip Samuel Hughes, of Maryland, to be an Assistant Secretary of Energy (Intergovernmental and Institutional Relations).

David J. Bardin, of New Jersey, to be Administrator of the Economic Regulatory Administration.

Charles B. Curtis, of Maryland; Don Sanders Smith, of Arkansas; George R. Hall, of Virginia; Matthew Holden, Jr., of Wisconsin; and Georgiana H. Sheldon, of Virginia, to be members of the Federal Energy Regulatory Commission.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. SPARKMAN, from the Committee on Foreign Relations:

David D. Newsom, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Philippines.

Theodore M. Hesburgh, of Indiana, for the rank of Ambassador during the tenure of his service as Chairman of the U.S. Delegation to the U.N. Conference on Science and Technology for Development.

John E. Downs, of Missouri, for the rank of minister during the tenure of his service as the Representative of the United States of America on the Council of the International Civil Aviation Organization.

O. Rudolph Aggrey, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania.

Barry M. Blechman, of Virginia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Rev. Theodore M. Hesburgh, C.S.C.

Post: Head of U.S. Delegation to U.N. Conference on Science, Technology, and Development.

Contributions, amount, date, and donee: (If none, write none)

1. Self, none.
2. Spouse.
3. Children and Spouses Names.
4. Parents Names.
5. Grandparents Names.
6. Brothers and Spouses Names, Mr. and Mrs. James L. Hesburgh—none.

Sisters and Spouses Names, Mrs. Elizabeth O'Neill—none, and Mr. and Mrs. John Jackson—none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: John E. Downs.

Nominated: Prospective.

Post: Representative-International Civil Aviation Organization.

Contributions, amount, date, and donee:

1. Self, $100.00, July 1976, Jim Symington, United States Senate (Primary) and $100.00, July 1976, Charles Broomfield, United States Congress (Primary) and $50.00. October 1976, Mick Buehler of Carter-Mondale Committee (peanuts for rally)
2. Spouse—Not applicable.
3. Children and Spouses—Not applicable.
4. Parents—Not applicable.
5. Grandparents—Not applicable.
6. Brothers and Spouses—Not applicable.
7. Sisters and Spouses—Not applicable.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: O. Rudolph Aggrey.

Post: Ambassador to Romania.

Contributions, amount, date, and donee:

1. Self—None.
2. Spouse: Francoise Aggrey—None.
3. Children and Spouses Names: Roxane Aggrey—None.
4. Parents Names: Deceased.
5. Grandparents Names: Deceased.
6. Brothers and Spouses Names: Kwegyir and Thelma Aggrey—None.
7. Sisters and Spouses Names: Mrs. S. W. Lancaster and Husband—None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: David Dunlop Newsom.

Post: Manila.

Contributions, amount, date, and donee:

1. Self—None.
2. Spouse—None.
3. Children and Spouses Names—None.
4. Parents Names—None.
5. Grandparents Names—None.
6. Brothers and Spouses Names—None.
7. Sisters and Spouses Names—None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Mr. SPARKMAN. Mr. President, from the Committee on Foreign Relations, I also report favorably sundry nominations in the Diplomatic and Foreign Service which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 30, 1977, at the end of the Senate proceedings.)

By Mr. EASTLAND, from the Committee on the Judiciary:

Eugene H. Nickerson, of New York, to be U.S. district judge for the eastern district of New York.

Damon J. Keith, of Michigan, to be U.S. circuit judge for the sixth circuit.

HOUSE BILLS REFERRED

The following bills were each read twice by title and referred as indicated:

H.R. 5858. An act to amend the Tariff Schedules of the United States to provide for duty-free treatment with respect to certain petroleum imported from Canada if equivalent amounts of domestic or duty-paid foreign petroleum of the same type is exported to Canada; to the Committee on Finance.

H.R. 6966. An act to amend title 10 of the United States Code to provide a more equitable standard for awarding the gold star lapel button; to the Committee on Armed Services.

H.R. 9090. An act to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949; held at desk.

H.R. 3090. An act for the relief of Fidel Grosso-Padilla; to the Committee on the Judiciary.

H.R. 4401. An act for the relief of Kwi Sok Buckingham (nee Kim); to the Committee on the Judiciary.

H.R. 5643. An act to implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property; to the Committee on Finance.

H.R. 9512. An act to amend the Higher Education Act of 1965 to include the Trust Territory of the Pacific Islands in the definition of the term "State" for the purpose of participation in programs authorized by that act; held at desk.

H.R. 8149. An act to provide customs procedural reform, and for other purposes; to the Committee on Finance.

H.R. 8422. An act to amend titles XVIII and XIX of the Social Security Act to provide payment for rural health clinic services, and for other purposes; held at desk.

H.R. 9418. An act to amend the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition to medical schools' receiving capitation grants under such act, and for other purposes; to the Committee on Human Resources.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, October 19, 1977, he presented to the President of the United States the enrolled bill (S. 2089) to establish within the Department of Justice the position of Associate Attorney General.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. FORD:

S. 2215. A bill for the relief of Wilhelmina Octavo Lucila; to the Committee on the Judiciary.

By Mr. CURTIS:

S. 2216. A bill to amend the Internal Revenue Code of 1954 to equalize the treatment of charitable contributions and investment tax credits for certain cooperatives and their members; to the Committee on Finance.

By Mr. HEINZ:

S. 2217. A bill for the relief of John Chesney; to the Committee on the Judiciary.

By Mr. STONE (for himself, Mr. ALLEN, Mr. HAYAKAWA, Mr. BENTSEN, Mr. MATSUNAGA, Mr. HUMPHREY, Mr. SPARKMAN, and Mr. TALMADGE):

S. 2218. A bill to establish a national aquaculture policy, assess the status of the aquaculture industry, establish a strategy to promote the development of aquaculture in the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATHAWAY:

S. 2219. A bill directing the Secretary of Energy to take certain actions with respect to home insulation materials; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CANNON:

S. 2220. A bill to authorize the Secretary of the Treasury to designate an Assistant Secretary to serve in his place as a member of the Library of Congress Trust Fund Board; to the Committee on Rules and Administration.

By Mr. HANSEN (for himself and Mr. WALLOP):

S. 2221. A bill to direct the Secretary of the Interior to study means of developing sources for a municipal water supply for the city of Riverton, Wyo.; to the Committee on Environment and Public Works.

By Mr. DOMENICI (for himself, Mr. JACKSON, Mr. MCCLURE, Mr. MAGNUSON, Mr. HAYAKAWA, Mr. YOUNG, Mr. BENTSEN, Mr. BARTLETT, Mr. STEVENS, Mr. HANSEN, Mr. PACKWOOD, Mr. HATFIELD, Mr. WALLOP, Mr. TOWER, Mr. HATCH, Mr. GARN, Mr. LAXALT, and Mr. SCHMITT):

S.J. Res. 93. A joint resolution relating to the excess land provisions and residency requirements of the Federal reclamation laws, as amended and supplemented; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STONE (for himself, Mr. ALLEN, Mr. BENTSEN, Mr. MATSUNAGA, Mr. HAYAKAWA, Mr. HUMPHREY, Mr. SPARKMAN, and Mr. TALMADGE):

S. 2218. A bill to establish a national acquaculture policy, assess the status of the acquaculture industry, establish a strategy to promote the development of aquaculture in the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. STONE. Mr. President, I am very pleased to introduce a bill entitled the "Aquaculture Policy Act of 1977," legislation that will assist and encourage the Nation's aquaculture industry by establishing a national policy on aquaculture, and by coordinating the various aquaculture activities of the Federal Government.

The need for this legislation is great. Not a day goes by that we do not hear about world hunger, malnutrition, and especially the scarcity of high quality protein. Yet aquaculture—or fish farming—remains undeveloped due to bureaucratic fragmentation and simple neglect.

Mr. President, fish are an excellent source of food protein. Fish also are among the most efficient food converters. A well-managed 1-acre pond will yield 3,000 pounds of catfish every 18 months. However, this resource is not being tapped.

In the United States, fish farming, primarily of trout, catfish, oysters, salmon, and crawfish, account for 73,000 metric tons per year—or about 3 percent of total U.S. fish production. Worldwide, about 10 percent of the total fish production comes from aquaculture.

For example, my home State of Florida contains the first and only full-scale commercial shrimp farming venture that has ever been undertaken in this country. Marifarms, Inc., of Panama City, Fla., covers 3,000 acres and can produce 5 million pounds of shrimp annually. This is equivalent to the catch of 25 to 30 average shrimp trawlers operating year round. This pioneer shrimp farm has shown just how productive aquaculture can be.

Many Members have recognized the potentials of aquaculture and have actively sought ways to encourage its development. Senator EASTLAND has long been a champion of aquaculture. Senator TALMADGE gave new impetus to aquaculture in the farm bill this year.

In March of this year, Senator LLOYD BENTSEN introduced the National Aquaculture Assistance Act of 1977, S. 1043, which is the most far-reaching effort so far. Senator BENTSEN's initiative underscores the need to provide a basic framework for the development and promotion of fish farming. I share this conviction and cosponsored Senator BENTSEN's bill. I have continued to study the way to achieve most effectively our mutual objective of bolstering aquaculture in the United States. I have reached one firm conclusion different from that in S. 1043: That the Department of Agriculture should be designated as the lead agency in aquaculture assistance.

Aquaculture and agriculture are like the left and right hands of food production. Both involve the propagation and husbandry of biological species. Both require careful management, attention to nutrition, reproduction, and disease control. Each faces similar problems in product processing, marketing, and economics. These are areas in which USDA has successfully assisted agricultural producers—the right hand of food production—for more than 100 years. Only minor fine tuning is needed to adapt this knowledge and expertise to acquaculture—our neglected left hand of food production.

In practice, USDA already is the lead agency for aquaculture. In fiscal year 1976, the Soil Conservation Service provided technical assistance for 2,376 feet of fish raceways. The Cooperative State Research Service supported more than 50 aquaculture research projects at State agricultural experiment stations. The Extension Service is actively engaged in fish pond management in 26 States and offers programs on commercial fish farming on marine resources. The Farmer Cooperative Service is providing technical assistance for marketing and cooperative development to acquaculture and fishery groups.

The Farmers Home Administration has loan programs specifically for aquaculture development and the sister agency, the Farm Credit Administration, is actively involved in aquaculture finance.

Moreover, 80 percent of the aquacultural production in the United States is

by aquacultural producers who are also agricultural producers. Fish farming is only a part of the overall farm production activities of these "food" producers. In Louisiana, for example, a large number of rice farmers produce crawfish as a second crop. Most of our "catfish" farmers are also corn, bean, or cotton farmers or cattlemen. A trout "ranch" is very often also a cattle ranch.

The link between USDA and aquaculture is further strengthened by the Food and Agriculture Act of 1977. This act cites aquaculture as a basic function of the Department of Agriculture, underscores the Secretary's authority to conduct aquaculture research and extension and make loans to fish farmers, and authorizes the Secretary to cooperate with Federal, State, and other public agencies and nonprofit organizations in developing plans for the conservation and utilization of water for aquaculture purposes. We must remember that the Department of Agriculture also possesses a unique delivery system in the extension service with field offices in nearly every county of the Nation.

Mr. President, let me underscore my basic reason for introducing this bill. It is to find a way to aid aquaculture. I know that Senator BENTSEN shares this objective and I am very happy that he is a cosponsor of this bill.

Let me briefly discuss the provisions of the Aquaculture Policy Act of 1977.

This legislation builds upon the aquaculture authorities included in the Food and Agriculture Act of 1977. It makes the Department of Agriculture the lead agency for aquaculture and directs the Secretary of Agriculture to effectively conduct an aquaculture assessment. If we are to move forward, we need to know where we are.

This assessment will serve as the basis of a national aquaculture strategy to strengthen and redirect Federal programs for aquaculture. The bill also directs the Secretary to provide fish farmers with advisory, educational, marketing, and technical assistance, and to establish and maintain an aquaculture information system.

The bill establishes a grant program and authorizes the Secretary to enter into contracts with educational institutions and other qualified organizations or individuals for purposes of aquaculture research and development.

Finally, the bill amends the Federal Crop Insurance Act to permit the Secretary to underwrite crop insurance policies on aquaculture operations.

Mr. President, I believe this legislation will initiate a coherent Federal program to make use of a major but underused food source. It is the most logical complement to our existing farm program.

It is in this spirit that I anticipate thorough hearings by the Committee on Agriculture, Nutrition, and Forestry on aquaculture using as vehicles, not only this bill, but also S. 1043.

Mr. ALLEN. Mr. President, I am delighted to cosponsor the Aquaculture Policy Act of 1977, as introduced by my distinguished colleague Mr. STONE.

We have in Alabama at Auburn University, the International Center for Aquaculture. This center came into being, because the Alabama Agricultural Experiment Station has been increasingly involved in aquaculture research since 1934. This research began during the depression of the 1930's when a high percentage of our population was concentrated on farms without refrigeration. In the South, there were long periods, especially during the summer, when there was no meat available to the farmer. The director of the Alabama Agricultural Experiment Station reasoned that a farm pond producing fish on every farm would be a ready source of animal protein and, at the same time, provide family recreation.

The early work in this area concentrated on pond construction and today there are nearly 3 million farm ponds in this Nation that have been constructed using the principles designed by the Alabama Agricultural Experiment Station.

Auburn University today sees the results of their early research being used in the management of some 70 percent of these farm ponds, using a balanced population of predator and prey—bass and sunfish. In recent years, the researchers have turned much of their research attention to the production of fed species that are grown for the purpose of food production. Catfish have received the most attention and these are now being proliferously produced, reaching a volume of some 70 million pounds. These are now being marketed throughout the Central part of the United States as supply permits.

Most recently, Auburn University aquaculture research has been directed to polyculture—the growing of two or more species together. Researchers have found that by stocking ponds with fish having different feeding habits along with the catfish, per acre yield of high quality fish can be increased at least 50 percent.

Not only has Auburn University been a world leader in aquacultural research, this institution has trained, especially at the graduate level, most of the acquaculture scientists in the United States and the world. The work and research at Auburn has shown the world the great potential for aquaculture. Today, over 5 billion tons of fish are produced by aquaculture. Auburn scientists predict this volume will increase rapidly with a strong program of research and education. It is my belief that this will be the case with the Department of Agriculture being the lead agency with regard to aquaculture research and coordination. With the ever-increasing growth in world population, it is imperative that we learn more about harvesting food from our fresh water ponds and from the oceans as well.

By Mr. HATHAWAY:

S. 2219. A bill directing the Secretary of Energy to take certain actions with respect to home insulation materials; to the Committee on Banking, Housing, and Urban Affairs.

MONITORING ALLOCATION OF INSULATION

Mr. HATHAWAY. Mr. President, today I am introducing legislation which is needed throughout this country, but most particularly in the colder areas of the Northern tier.

The bill mandates that the Secretary of Energy monitor the quantity and allocation of insulation supplies. As we all know, home insulation demand has far outstripped existing supplies and future production. I am sure that we have all received letters from our constituents about shortages of insulation.

An editorial from the Bangor Daily News of October 12, 1977, states:

> Just as President Carter's energy program was falling apart in Congress, and the shameful filibuster was taking place in the U.S. Senate, Democratic Majority Leader Robert Byrd of Virginia threw up his hands and asked whether anyone had any suggestions.
>
> Maine has one, Senator Byrd.
>
> Use your influence and leadership position to help retail outlets in Maine obtain some fiberglass insulation.
>
> Few places in the country undergo colder winters than Maine. The Northeast is supposed to have a winter that will be 15% colder this year than last. Thousands of Maine families are trying to help themselves and the country save energy and cost by insulating their homes. And yet there is hardly any fiberglass insulation available in our stores.
>
> Federally assisted programs designed to help Maine's low income people button up their homes with insulation still haven't received insulation shipments promised since last June. What should they do, insulate these homes by laying Federal dollars between the studs, instead of fiberglass? That might get some action.
>
> If there is a production problem for insulation manufacturers and demand is outstripping the supply, why can't Congress divert insulation shipments from less cold climates to the Northeast?
>
> When there's a flood or some other natural disaster, the federal government doesn't hesitate to extend a helping hand.
>
> Under the circumstances of higher and higher fuel prices and the likelihood of a long, cold winter in Maine, the current unavailability of fiberglass rolled insulation is the next thing to a disaster.
>
> If attention at the national level is not forthcoming, and our political-economic system can't resolve such a seemingly simple supply-production problem, how in the world will this country ever truly address the larger energy predicament headon?

Studies by the Department of Commerce have indicated that inadequate supplies and localized tight markets can be expected until at least 1980.

Accordingly, the legislation which I am introducing today also allows the Secretary of Energy limited authority to allocate insulation supplies in event of regional disparities or spot shortages. This is not an authorization for a bureaucratic machine; it is a limited program to solve severe short-term problems.

As my fellow Senators know, the prices of insulation have escalated dramatically. From 1967 to June 1977, the price of insulation materials has increased 236 percent. Limited supply and almost unlimited demand drive prices upward.

The bill I am introducing authorizes the Council on Wage and Price Stability to establish temporary price ceilings on insulation materials. These price ceilings are not being built into perpetuity; the authority even to impose temporary ceil-

ings expires within 12 months of the date of enactment.

We have read newspaper accounts of unsafe insulation and inadequate quality controls on the manufacture of insulation products.

Therefore, I have also included a provision which requires the Consumer Product Safety Commission to publish quality standards for home insulation within 60 days of the date of enactment.

Mr. President, these measures are designed to solve the temporary abberations in the insulation industry which are seriously injuring the Northern tier of this country. They are not designed to inhibit the existing insulation industry or impede its future expansion.

This bill is needed for the short-run. It is essential to the well-being of millions of our citizens. I urge its immediate passage to alleviate hardship on those who are attempting to cut their energy consumption even as snow begins falling.

I ask that certain correspondence with Maine constituents, the Federal Trade Commission, and the White House be included in the RECORD along with the text of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2219

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Energy shall take such action as may be necessary to enable him to establish and carry out a program of monitoring the supply and demand of home insulation materials and the various rationing and other systems utilized by home insulation manufacturing and supply firms in allocating such materials throughout the United States.

(b)(1) The Secretary of Energy shall, within sixty days following the date of the enactment of this Act, promulgate a regulation providing for the allocation to end users of home insulation materials in order to assure that adequate insulation materials are available to meet the demand for home insulation in every region of the United States, especially in those areas which the Secretary determines have the most severe climates and the least supply of home insulation materials at a time when the need therefor is the greatest. In providing for such allocations, the Secretary shall take into account, among other matters—

(A) the severity of climate;

(B) the need to get such materials to areas having the greatest need prior to winter or summer, and the need to get such materials to areas having the most severe climates on a priority basis;

(C) the existing supplies of such materials in an area;

(D) the relative cost of home heating and cooling in such area;

(E) the need to coordinate such allocation with Federal weatherization programs in order to insure low-income families are assisted first.

(2) Such allocation shall be put into effect at such times and for such periods as the Secretary of Energy determines necessary in order to assure a healthful dwelling environment.

(c) The Council on Wage and Price Stability is authorized to establish temporary price ceilings on home insulation materials and, to the extent determined necessary by the Council, to put such ceilings in effect in such manner and for such periods as the Council shall prescribe. The provisions of this subsection shall expire upon the expiration of the twelve month period following the date of the enactment of this Act.

(d) The Consumer Product Safety Commission, within sixty days following the date of the enactment of this Act, is authorized and directed to issue regulations establishing quality standards required to be met by manufacturers of home insulation materials. Such standards shall apply to such materials and shall be in effect for such period or periods as shall be prescribed in such regulations.

(e) As used in this section, the term "home insulation materials" includes items primarily designed to improve the heating or cooling efficiency of a dwelling, such as ceiling, wall, floor, and duct insulation, storm windows and doors, and caulking and weatherstripping, but not including mechanical equipment.

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

U.S. SENATE,
Washington, D.C., October 13, 1977.

Hon. JIMMY CARTER,
President of the United States,
White House, Washington, D.C.

DEAR MR. PRESIDENT: I wish to bring to your attention a serious situation bordering on a crisis for many Maine residents. Recent interest in dwelling insulation has caused supply shortages on an already tight market.

Insulation suppliers in Maine tell me that they have been out of some types of insulation materials for months and have been unable to obtain additional supplies. Constitutents are contacting my offices in Maine seeking assistance in what they believe to be an artificial shortage. Northen Maine, the first part of the nation to see the sunrise is also often the first to feel the effects of winter. Snow first fell in Maine by the second week in September. Maine was severely effected last winter by high heating fuel costs and many constitutents have been conscientious in their efforts to act upon your suggestion that they insulate their homes. They are convinced of the benefit of home insulation, but they are increasingly frustrated by the lack of needed materials with which they can do so.

I have been concerned for some time that the increased emphasis on the advantage of home insulation would cause unreasonable demands on a market supply situation which has already been recognized to be inadequate for demands even in the absence of a tax incentive. The Council on Wage and Price Stability prepared a study outlining similar predictions. The fiberglas insulation industry's own trade association, The National Mineral Wool Insulation Association, submitted to the Subcommittee on the Consumer of the Senate Commerce, Science and Transportation Committee that the "mineral fiber industry is operating in a 'sold out' condition due to an unprecedented demand for insulation products both in new construction and retrofitting".

The U.S. Department of Commerce in a survey report on "U.S. Residential Insulation Industrial Capacity and Projections for Retrofitting U.S. Housing Inventory" on August 12, 1977, addressed the question of the insulation industry's capacity to meet the anticipated increase in demand for insulation materials. This study relays that ". . . at present, most manufacturers of fiberglas and rock wool insulation are placing existing customers on allocation, based on past purchases, and are not accepting new customers" and that not until 1981 will there be an adequate supply.

I have been advised by Owens-Corning, one of the major manufacturers of mineral wool (fiberglas) insulation that their nationwide rationing system was working to the detriment of the State of Maine. But that they are bound to the system and are "limited" in what they can do. Not only has there apparently been no input from the private sector into the development of these allocation systems by the industrial manufacturers, there is no way to monitor the allocation systems to determine if Maine or any area or state with extreme cold climate is getting even what the manufacturer's own allotment says it should get.

I request you exercise your authority under the Energy Policy Conservation Act of 1975 and institute a means by which the federal government can assure the Congress and the public that insulation materials are being distributed fairly to areas of the country such as Maine that are most effected by the long, cold winters and high heating fuel costs.

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.

SEPTEMBER 22, 1977.

Mr. MICHAEL PERTSCHUK,
Chairman, Federal Trade Commission, Washington, D.C.

DEAR MR. CHAIRMAN: I have been contacted by several constituents from the State of Maine regarding their inability to obtain insulation materials in the state, and more particularly in northern Maine.

The proposal that there be tax incentives for residential insulation has resulted in several studies as to the adequacy of the insulation market to meet the expected demand. I understand that the industry itself has instituted systems of customers allocation in order to deal with increased demand. In this regard, the allegation has been made that materials are being deliberately withheld from certain areas while there are adequate supplies for other market areas.

The potential for price and market manipulation in this situation is apparent, as was indicated in a June, 1977, study by the Council on Wage and Price Stability. In light of the high heating oil costs in Maine and the long and severe winters, I would appreciate it if you could do an initial investigation as rapidly as possible so that if there is any basis for these allegations, corrective action may be taken in time to supply the insulation market in Maine prior to this winter's severe weather.

I hope that you will be able to give this your prompt attention. If I can provide you with any further information, please do not hesitate to contact my office.

With best regards.

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.

FEDERAL TRADE COMMISSION,
Washington, D.C., October 11, 1977.

Re: Inability to obtain insulation materials in the State of Maine.

Hon. WILLIAM D. HATHAWAY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATHAWAY: This is in response to your September 22 letter regarding shortages of insulation materials in Maine, particularly the northern part of the state.

On June 27, 1977, the Commission's Bureau of Competition commenced a formal investigation of the insulation industry. Fear of shortages resulting from stimulated demand for insulation was an important factor leading to the commencement of the investigation.

The staff has determined that approximately 75 percent of the home insulation sold in the United States consists of fiberglass insulation, which is produced by only three companies, Owens-Corning Fibreglas Corporation, Johns-Manville Corporation,

and CertainTeed Corporation. Entry into this industry is difficult due to its sophisticated technology, access to which may be blocked by patents, and its high capital requirements.

Cellulose, or chemically treated macerated paper, is an important competitor of fiberglass for home insulation. Capital and technology barriers to entry into this industry are minimal, and producers number in the hundreds. However, expansion of cellulose insulation production is being severely curtailed by a shortage of boric acid. Boric acid is mixed with cellulose to make it sufficiently noncombustible for use in home insulation. According to the Energy Research and Development Administration, there is no effective substitute for boric acid as a fire-retardant in cellulose insulation. Boric acid is produced in the United States by only three companies, United States Borax and Chemical Corporation, Kerr-McGee Corporation, and Stauffer Chemical Company.

The staff has learned that insulation is generally in short supply throughout the country. A recent survey of the National Association of Homebuilders reported widespread shortages of all major residential insulation products, with three quarters of all respondents on allocation from suppliers. One focus of the Bureau's investigation is to determine whether these shortages have been artificially created by the fiberglass insulation industry and the boric acid producers. The information you have provided regarding conditions in Maine will be quite helpful to the staff in this aspect of the investigation, and will receive careful attention.

Thank you for bringing this matter to our attention. If members of your staff have further information or questions regarding the Bureau's investigation, please have them contact staff attorney Joseph M. Mattingly at 724–1430 or staff attorney Barbara K. Shapiro at 724–1326.

Sincerely,

MICHAEL PERTSCHUK,
Chairman.

[Excerpts from Portland Press Herald, October 14, 1977]

INSULATION CALL WARMS SUPPLIERS

(By Elaine Apostola)

Maine residents are heeding the word of energy officials who have warned them to insulate their homes for the winter ahead.

In fact, they have listened so well there is hardly any insulation left.

Larry Hughes, owner of a Waterville Insulation Co. at Waterville, said in his 10 years in business it is the first year he has had trouble getting insulation. He said he insulates about 200 homes a year within a 75-mile radius of the city.

Hughes said he, too, is having more trouble acquiring fiberglass roll insulation, "probably because more construction workers use it in new homes as well."

Janet Peters, director of a Community Services project called Weatherization, partially funded by the Federal Energy Administration, said the insulation shortage has hit that project, too.

Aroostook County has the worst shortage, she said.

Local project directors in Houlton, Presque Isle and Fort Kent have been waiting since June for 17 truckloads of insulation, she said. They also are having more trouble acquiring roll or bat insulation, she added.

By Mr. CANNON:

S. 2220. A bill to authorize the Secretary of the Treasury to designate an Assistant Secretary to serve in his place as a member of the Library of Congress Trust Fund Board; to the Committee on Rules and Administration.

Mr. CANNON. Mr. President, today I am introducing legislation to amend the Library of Congress Trust Fund Board Act. When the Trust Fund Board was established in 1925, the Secretary of the Treasury was designated a member of the Board. No provision was made for the Secretary to designate an alternate to act in his stead should he be unable to attend the meeting.

At the last meeting of the Trust Fund Board, the membership recommended that legislation be sought to remedy this situation. The legislation I have introduced would give the Secretary of the Treasury authority to designate an Assistant Secretary to act in his place on the Board.

By Mr. HANSEN (for himself and Mr. WALLOP):

S. 2221. A bill to direct the Secretary of the Interior to study means of developing sources for a municipal water supply for the City of Riverton, Wyoming; to the Committee on Environment and Public Works.

Mr. HANSEN. Mr. President, over the past few years, water supply problems involving those living in the Wind River Basin of Wyoming have increased dramatically. Despite numerous local efforts to resolve these difficulties, no solutions appear feasible. These difficulties have been aggravated by the drought now gripping the West.

At the present time, the State of Wyoming continues to suffer through one of its worst droughts in history. This past winter, snow pack at many locations was at its lowest level ever, and stream flows were far below normal. According to the Palmer Drought Severity Index, large portions of Wyoming, as late as August, were experiencing moderate to severe to extreme drought conditions.

Prior to the August recess, Congress appropriated for fiscal year 1978, $50,000, in order that the Bureau of Reclamation of the Department of the Interior would be capable of initiating an appraisal investigation into the matter of the Wind River Basin water supply. Upon completion of the study, the Bureau would be in a position to conduct an investigation of the most promising alternatives.

Today, I join with Senator WALLOP in submitting a bill which would authorize the Bureau of Reclamation, upon completion of the appraisal investigation recently funded, to proceed directly into a study of alternative water sources for the Wind River Basin of Wyoming. I believe such a study is essential in order to permit the residents of this portion of Wyoming to plan for the future and to permit them to deal efficiently and effectively with their water needs.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2221

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall make an investigation and study for the purpose of recommending sources for water supply for the Wind River Basin, Wyoming. Such investigation and study shall include—

(1) the practicability, economically and otherwise, of developing underground or surface sources, or both, and

(2) the practicability of a multiple purpose project providing water not only for municipal but also for industrial and agricultural needs in the surrounding area, including but not limited to the Midvale, LeClair and Riverton Valley Irrigation Districts.

SEC. 2. Within two years from the date of the enactment of this Act, the Secretary of the Interior shall submit to the Congress a report containing his findings and recommendations resulting from the study and investigation conducted pursuant to this Act.

SEC. 3. There is authorized to be appropriated such sum as may be necessary to carry out the provisions of this Act.

By Mr. DOMENICI (for himself, Mr. JACKSON, Mr. MAGNUSON, Mr. HANSEN, Mr. MCCLURE, Mr. HAYAKAWA, Mr. YOUNG, Mr. BENTSEN, Mr. BARTLETT, Mr. STEVENS, Mr. PACKWOOD, Mr. HATFIELD, Mr. WALLOP, Mr. TOWER, Mr. HATCH, Mr. GARN, Mr. LAXALT, and Mr. SCHMITT):

S.J. Res. 93. A joint resolution relating to the excess land provisions and residency requirements of the Federal reclamation laws, as amended and supplemented; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I send to the desk a joint resolution relating to excess land provisions and residency requirements of Federal reclamation laws. I am pleased to be joined in the introduction of this joint resolution by Senators JACKSON, MCCLURE, HAYAKAWA, YOUNG, BENSEN, BARTLETT, STEVENS, PACKWOOD, HATFIELD, WALLOP, TOWER, HATCH, GARN, SCHMITT, LAXALT, MAGNUSON, and HANSEN.

On August 25, 1977, the Secretary of the Interior published in the Federal Register proposed regulations to establish policies and procedures for the implementation of the Federal laws that define Bureau of Reclamation projects. This is a subject about which there has been a great deal of misinformation and controversy, particularly in recent years, and the proposed regulations have sparked even further controversy and concern.

These proposed regulations are an attempt to achieve what Secretary Andrus understands to have been the primary purpose of Federal reclamation programs—to place small farmers on land served by water from reclamation projects. There is no doubt that reclamation laws have that objective, but the basic law has not been fundamentally altered since 1902, when agricultural and economic conditions were far different than they are today.

President Carter has recognized this reality and he and many other leaders have expressed support for legislative modification to accommodate present-day realities. The President, in fact, has indicated that the administration will prepare and send to the Congress his recommendations for modernization of

the statutory framework of reclamation law.

In addition, Mr. President, there are numerous legislative proposals pending in both Houses intended to deal with some or all of the many complex issues involved. It is fair to say that nearly everyone agrees that the Congress must conduct a thorough and thoughtful review of existing law and modify as required to make the most effective use of our Nation's precious water and land resources. We simply cannot continue to rely on laws intended for times and circumstances far different than exist today.

Such a review and modification process will take a good deal of time, possibly up to a year. There are people and businesses with legitimate interests who are understandably concerned that their interests will be adversely and irrevocably affected by administrative action before the Congress completes its review and modification of the basic law. The proposed regulations mentioned above are cited as a concrete example of this possibility.

Under these circumstances, I am introducing this Senate joint resolution designed to maintain the status quo during the period of 1 year following its adoption, giving the Congress that time to act. This will assure that legitimate private interests are maintained and protected while insuring that valid public purposes are also served while the legislative review is being conducted.

This joint resolution is rather simple. It merely provides for a 1-year moratorium on the termination of water deliveries from reclamation projects or forced sale of excess lands due to questions relating to either the excess land provisions or residency requirements of existing reclamation laws.

The joint resolution further requires that voluntary sales of excess land be likewise suspended for either 1 year or until the regulations now under development have become effective. This particular provision is intended to insure that no present owner of excess land could receive any unforeseen gain or unfair profit from this resolution. This is fully in keeping with the primary objective of the joint resolution—to maintain the status quo without adversely affecting any valid public or private interests and without giving unfair advantage to anyone, while providing time for legislative review of all the proposals, including President Carter's.

Mr. President, for those who are concerned about court action, let me say that, to the best of my knowledge and my belief, this joint resolution is fully consistent with all relevant judicial decisions. The Federal district court decision which generated the present rulemaking procedures by the Bureau of Reclamation, for example, does not require that water deliveries be terminated or excess lands disposed of by any specific date.

In summary, then, Mr. President, let me state again what we intend by this joint resolution and what we do not intend.

We intend to prohibit for the period of 1 year, termination of water deliveries from Federal reclamation projects on account of either the acreage limitation provisions or residency requirements of Federal reclamation law.

We intend to prohibit for the period of 1 year, forced sale of excess lands served by Federal reclamation projects on account of either the acreage limitation provisions or residency requirements of Federal reclamation law.

We intend to suspend voluntary sale of excess lands for either 1 year or until the effective date of the final regulations now under development by the Department of the Interior.

We intend to essentially maintain the status quo so that no one is given any unfair advantage by enactment of the joint resolution.

We do not intend to give any excess landowners or nonresident owners any advantage or benefit not existing under current laws and regulations.

We do not intend to permanently change the basic laws nor relieve the Congress of its duty to review those laws in a timely fashion.

We do not intend to commit the Congress or any Member to a particular position on the major policy and procedural issues involved.

We do not intend to exempt any project area, irrigation district, or any group or individual from application of Federal reclamation law.

Mr. President, it is my hope that we can quickly pass this joint resolution or any similar legislative measure which would achieve the same purpose. I urge my colleagues to give their support, recognizing that it is an honest and genuine attempt to create an atmosphere in which a comprehensive review and responsible modification of existing law can proceed. I ask unanimous consent that the joint resolution be printed at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 93

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the Secretary of the Interior, during the twelve-month period following the date of the adoption of this joint resolution shall not withhold water deliveries from any beneficiary of a Federal Reclamation Project for the purpose of enforcing the acreage limitation provisions or residency requirements of the Federal reclamation laws as amended and supplemented.

SEC. 2. During the twelve-month period following the date of this joint resolution, neither the Secretary of the Interior nor the Attorney General shall, by his own motion, initiate any legal or administrative proceeding intended to require the sale or other disposition of privately-owned lands within Federal reclamation projects for the purpose of achieving conformity with the acreage limitation provisions or residency requirements of such reclamation laws.

SEC. 3. During the twelve-month period following the date of this joint resolution, the Secretary of the Interior shall not approve the sale of excess lands, unless during such twelve-month period, final regulations developed pursuant to the publication of proposed regulations announced in the Federal Register, dated August 25, 1977 (43 C.F.R. 426), relating to excess land provisions of such reclamation laws, become effective. Owners of excess land whose recordable contracts expire during the period specified in this section shall be given an additional six months after the end of such period to dispose of such lands.

SEC. 4. Nothing in this joint resolution shall be construed to amend, repeal, or extend the effect of the existing provisions of such reclamation laws except as provided herein or to affect any pending litigation or legal decision except to defer Federal action as provided herein.

Mr. CRANSTON. Mr. President, I note that my distinguished colleague from New Mexico, Mr. DOMENICI, and a number of cosponsors have just introduced a Senate joint resolution relating to the excess land provisions and residency requirements of Federal reclamation law, as amended and supplemented.

Senator DOMENICI and I and our respective staffs have spent the last several days attempting to reach agreement on the language of this resolution. Unfortunately, we failed to reach such agreement, and accordingly, I am not a cosponsors of the resolution. I cannot support the resolution in its present form.

The resolution would, for 1 year following the date of enactment, prohibit the Secretary of Interior from withholding water deliveries from any beneficiary of a Federal reclamation project for the purpose of enforcing the acreage limitation and residency requirements of reclamation law. It would also prohibit the Secretary from approving the sale of any excess lands during this moratorium unless final regulations are developed pursuant to the publication of proposed regulations announced in the Federal Register on August 25, 1977 (43 C.F.R. 426). Finally, those owners of excess lands who have signed recordable contracts for the disposition of such lands shall have an additional 6 months if their recordable contract expires during the period of the moratorium.

My basic concern is that if Congress determines it is in the public interest to impose a 1-year moratorium on the enforcement of Federal reclamation law, it must be certain that the opportunity for private gain during the 1-year moratorium is eliminated.

This is not a new controversy. Indeed, in my own State of California, this controversy has existed for decades. It has recently flared up again as the result of several unrelated events: the August 25, 1977, publication of the Department of the Interior's proposed regulations, and the almost simultaneous decision of the Ninth Circuit Court of Appeals that the acreage limitation and residency provisions of Federal reclamation law do apply to the landowners of the Imperial Valley in California. Also related is a similar decision by the ninth circuit that such acreage limitation and residency provisions also apply to the landowners within California's Kings River Water Association.

Mr. President, there is no doubt that there is considerable confusion and misinformation surrounding these events. For this reason, I believe there is merit to the idea of a cooling off period. The responsibility for resolving this controversy

will certainly fall upon the Congress. A number of bills have already been introduced which would amend our Federal reclamation laws. These deserve to be heard in an atmosphere of rational deliberation. A year's delay in the implementation of the proposed regulations could provide the Congress with the time to gather the necessary facts to make an enlightened judgment on this issue.

Unfortunately, by prohibiting the Secretary of Interior from using his only tool of enforcement—the withholding of water deliveries—the joint resolution offered by my friend from New Mexico goes beyond what I think is necessary to provide a period of calm and rational deliberation. I would prefer to delay the effective date of the final regulations, giving the Congress time to determine what, if any, reforms may be necessary for our reclamation laws to operate fairly and effectively. During this period, the Secretary should be prohibited from approving any sales or transfers of excess lands or any subsequent sales or transfers of such lands unless the Secretary finds that such sales or transfers are in compliance with the regulations.

I intend to propose in the next day or so either my own resolution on this issue or an amendment to the Domenici resolution. I believe it will accommodate the concerns of my colleague from New Mexico and others, and I hope that we can reach an agreement at that time.

ADDITIONAL COSPONSORS

S. 753

At the request of Mr. ROBERT C. BYRD, on behalf of Mr. HUMPHREY, the Senator from Mississippi (Mr. EASTLAND) and the Senator from Massachusetts (Mr. BROOKE) were added as cosponsors of S. 753, disability benefits for the blind.

S. 991

At the request of Mr. RIBICOFF, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 991, to establish a separate Department of Education.

S. 1501

At the request of Mr. GARN, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 1501, the Truth in Lending Simplification Act of 1977.

S. 1709

At the request of Mr. TOWER, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1709, to amend the Emergency Petroleum Allocation Act.

S. 1974 AND AMENDMENT NO. 849 TO S. 1974

At the request of Mr. NELSON, the Senator from Georgia (Mr. NUNN), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 1974, the Regulatory Flexibility Act, and amendment No. 849 to S. 1974.

S. 2167

At the request of Mr. DOMENICI, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 2167, relating to the price of copper.

S. 2201

At the request of Mr. BAYH, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 2201, the Alcohol Fuel Incentive Act of 1978.

S. 2204

At the request of Mr. GRAVEL, the Senator from Indiana (Mr. BAYH), the Senator from New Jersey (Mr. CASE), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 2204, a bill to amend the Internal Revenue Code.

SENATE JOINT RESOLUTION 29

Mr. BURDICK. Mr. President, I ask unanimous consent that the Senator from Indiana (Mr. LUGAR) be added as a cosponsor of Senate Joint Resolution 29, to authorize the President to issue a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURDICK. Mr. President, I would like the record to show that Senator LUGAR was a strong supporter of my National Family Week proposal. It was an unfortunate oversight that his name was not added as a cosponsor earlier this year. Just so the record is clear, however, I ask that his name be added as a cosponsor now.

SENATE RESOLUTION 242

At the request of Mr. HATCH, the Senator from Alaska (Mr. STEVENS) was added as cosponsor of Senate Resolution 242, relating to the Internal Revenue Service policy toward fringe benefits.

SENATE RESOLUTION 292

At the request of Mr. SCHWEIKER, the Senator from Nevada (Mr. LAXALT) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of Senate Resolution 292, directing the President to urge the Special Representative for Trade Negotiations to negotiate orderly marketing agreements with Japan and with the European Community reducing the export of steel and steel products to the United States.

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. CRANSTON, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of Senate Concurrent Resolution 26.

SENATE CONCURRENT RESOLUTION 44

At the request of Mr. JACKSON, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of Senate Concurrent Resolution 44, recognizing the contributions of Gen. Thaddeus Kosciuszko.

SENATE CONCURRENT RESOLUTION 51

At the request of Mr. ROBERT C. BYRD, on behalf of Mr. HUMPHREY, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of Senate Concurrent Resolution 51, relating to Americans Missing in Action.

AMENDMENT NO. 1433

At the request of Mr. DURKIN, the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of amendment No. 1433 intended to be proposed to S. 457 to amend section 1662 (a) of title 38, United States Code, to extend the delimiting period for completion for certain veterans and under certain conditions.

SENATE RESOLUTIONS 296, 297, 298—ORIGINAL RESOLUTIONS REPORTED

(Placed on the Calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolutions:

S. RES. 296

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Marjorie Iverson; Eugene Bergstrom; Jack Bergstrom; Lorraine Powers; Robert Bergstrom; Patricia Hurt; Harriett McCollum; Barbara Hickman and Marilyn Fernandes, brothers and sisters of Charles W. Bergstrom, an employee of the Senate at the time of his death, a sum to each equal to one-ninth of one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

S. RES. 297

Resolved, That Section 2 of Senate Resolution 142, 95th Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$475,000" and inserting in lieu thereof "$483,700".

SEC. 2. Section 2 of Senate Resolution 158, 95th Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$775,000" and inserting in lieu thereof "$797,000".

SEC. 3. Section 2 of Senate Resolution 157, 95th Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$858,500" and inserting in lieu thereof "$875,000".

SEC. 4. Section 2 of Senate Resolution 156, 95th Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$905,000" and inserting in lieu thereof "$918,100".

S. RES. 298

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, during the 95th Congress, $30,000 in addition to the amounts, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946, and in Senate Resolution 128, 95th Congress agreed to April 1, 1977.

SENATE CONCURRENT RESOLUTION 59—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO METROLEOS MEXICANOS

(Referred to the Committee on Banking, Housing, and Urban Affairs.)

Mr. STEVENSON submitted the following concurrent resolution:

S. CON. RES. 59

To express the sense of the Congress that the Export-Import Bank of the United States should not provide financing to Petroleos Mexicanos, Mexico's government-owned oil and gas agency, unless and until the American public can be assured of obtaining reasonably-priced natural gas imports from development and construction of the proposed Cactus-Monterrey-Reynosa pipeline in Mexico.

Whereas the Export-Import Bank of the United States, pursuant to the requirements of Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, notified the Congress on September 9, 1977, of its intention to provide financing to Petroleos Mexicanos (PEMEX), Mexico's government-owned oil and gas agency, to assist in the purchase of U.S. goods and services to be used in PEMEX operations and in construction of a natural gas pipeline;

Whereas by letter of September 28, 1977 to the Congress, Chairman John L. Moore, Jr. of the Export-Import Bank indicated that, under a tentative price formula contained in a "Memorandum of Intentions" signed August 3, 1977, by PEMEX and the six U.S. gas transmission companies which are prepared to purchase the gas, the price at which gas from the proposed pipeline would be delivered to the U.S. companies would be based on the price of No. 2 fuel oil delivered at New York harbor, yielding a present price at the border of approximately $2.60 per thousand cubic feet of gas;

Whereas, in its negotiations, the Export-Import Bank has failed to give sufficient attention to the amount and price of natural gas imports to the United States that may result from Export-Import Bank financing of this project;

Whereas, the price currently being proposed for U.S. imports of Mexican natural gas to be delivered from the proposed pipeline is significantly greater than prices prevailing for current non-liquefied imports of natural gas and prices permitted for domestically-produced natural gas;

Whereas financing by the Export-Import Bank of the United States of the PEMEX natural gas project at such unreasonable prices for United States energy imports could set a dangerous precedent for prices of other U.S. energy imports—especially those that might be involved in other export financing by the Export-Import Bank;

Whereas, the Secretary of Energy must approve the price at which natural gas from the proposed pipeline may be imported into the United States; and,

Whereas, the American public has a right to be assured that financial resources of the United States are not used to develop and construct foreign energy projects that unwarrantedly increase the cost of U.S. energy imports;

Now, therefore, be it Resolved by the Senate (the House of Representatives concurring),

That it is the sense of the Congress that the Export-Import Bank of the United States not provide financing to Petroleos Mexicanos (PEMEX), to assist in the export of U.S. goods and services involved in the development of PEMEX's operations and construction of a natural gas pipeline, unless and until it is established: first, that substantial natural gas supplies will be made available to U.S. purchasers from the proposed pipeline; second, that the Secretary of Energy has approved the price at which such natural gas supplies may be imported into the U.S.; and third, the Congress is assured of the reasonableness and fairness of such import prices in light of other prices currently prevailing for non-liquefied natural gas imports and prices permitted domestic producers of natural gas supplies within the United States.

Mr. STEVENSON. Mr. President, I am submitting a concurrent resolution expressing the sense of the Congress that the Export-Import Bank of the United States not provide financing to Petroleos Mexicanos—PEMEX—Mexico's Government-owned oil and gas agency, unless and until the American public can be assured of obtaining reasonably priced natural gas imports from construction of the proposed Mexican natural gas pipeline.

As set forth in the resolution, the Eximbank, pursuant to section 2(b)(3) of the Export-Import Bank of 1945, as amended, notified the Congress on September 9, 1977, of its intention to provide almost $600 million worth of credits to PEMEX to assist in the purchase of U.S. goods and services to be used in PEMEX operations and in the construction of a natural gas pipeline.

In reviewing this notification, it seemed clear to me that substantial benefits would accrue to the United States from financing of this project; first, it could have a major effect on increasing exports of U.S. goods and services at a time when our current account deficit is projected to be some $18–$20 billion for 1977; and, second, it would provide the United States with another energy source in a friendly, bordering country, thus reducing our reliance on oil and gas imports from the Middle East and North Africa. The addition of this supply to world energy resources could also have a salutary effect on energy prices. I was, therefore, concerned about the absence of information concerning the price at which natural gas from the proposed pipeline would be transmitted to the United States.

In response to my concerns, Chairman John L. Moore of the Eximbank sent me a letter dated September 28, 1977, describing the pricing arrangements involved in the financing.

After looking further into this matter, I became troubled by a defect in Eximbank's analysis of this proposal. Eximbank appears to have taken a rather narrow banker's view of the project—whether the prices charged for the natural gas developed would be sufficient to retire on schedule the credits extended to PEMEX. The 1974 Amendments to the Eximbank Act established, I feel, a clear congressional direction that the Eximbank shed its pin-stripe banker's suit and look at all Eximbank financing in the broader mantle of the national interest. A key element in such determination about a project such as this is whether it will yield new energy supplies to the United States at a fair and reasonable price. Such a price should not encourage higher world prices—to say the least. But the price formula currently under consideration for U.S. imports of gas from the pipeline is tied to imports of No. 2 fuel oil at New York harbor, resulting in a price of roughly $2.60 per thousand cubic feet. In my judgment, this price is unreasonable. It is higher than present prices for imported natural gas and unregulated domestic gas. I do not believe Eximbank should go ahead with its financing until we are assured of a reasonable price for U.S. imports of gas from the project.

If we let this financing slip by under the current terms, then the gates are wide open for other foreign countries to seek higher prices for exports to the United States of energy supplies. Where, as here, through the Eximbank financing, we have some means of influencing the U.S. import price in return for substantial U.S. credit or development assistance, we should do so. I am disappointed by Eximbank's failure to do so in this case.

The resolution I am submitting thus has two purposes: first, to advise Eximbank that in this and future projects involving the development of energy resources abroad, the Congress will give careful attention to the concommittant energy supplies that may flow to the United States and the price at which those supplies will be made available. Second, the Congress does not believe the Eximbank should go ahead with this particular project until the Secretary of Energy has had an opportunity to approve the price of gas to be imported from this project and until the American public can be assured that it is a fair and reasonable price.

Mr. President, I ask unanimous consent that the letter of September 28 from Mr. Moore be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., September 28, 1977.

DEAR MR. CHAIRMAN: This is in response to certain questions posed by your staff relating to the price of natural gas which would be transmitted to the United States by the proposed Cactus-Monterrey-Reynosa pipeline. Eximbank financing for the U.S. exports to be used in construction of that pipeline has been sought by PEMEX, the Mexican government petroleum corporation.

A tentative price formula is contained in a "Memorandum of Intentions" signed August 3, 1977 by PEMEX and the six U.S. gas transmission companies which are prepared to purchase the gas. The formula is based on the price of No. 2 fuel oil delivered at New York harbor, translated on the basis of heating value (BTU's). At present this formula yields a price at the border of approximately $2.60 per thousand cubic feet of gas.

In our analysis of the PEMEX loan application, Eximbank made calculations of revenues and debt service requirements by PEMEX under various gas prices. Even at the price of $1.75 per thousand cubic feet (the price proposed by the President and presently under consideration by Congress for regulated new U.S. wells) there would be ample funds to cover operating costs of the pipeline and principal and interest payments by PEMEX on the proposed Eximbank loan.

Eximbank is not in a position to predict the final price which will be contained in the contract. However, we have satisfied ourselves that there is serious interest on the part of U.S. buyers and PEMEX to execute definitive contracts, and that their ideas as to price are not far apart. We understand that further negotiations as to price will be taking place in the next few weeks, during which time PEMEX will also negotiate financing for the Mexican costs of the pipeline project. Eximbank would not be disbursing its funds until there is agreement on the gas price because the Eximbank loan agreement will require, as a condition precedent to disbursement, that PEMEX have obtained financing for substantially all of the project costs. The long-term private financing required to cover approximately $800 million of these costs will not be available until there is a gas price agreement.

We are confident that the price negotiations and the negotiations for the balance of the costs of the project will proceed rapidly. We understand that PEMEX itself is similarly confident and is prepared to arrange bridge financing for the initial deliveries of pipe and other equipment as soon as it learns that the Eximbank credit for the pipeline project has been authorized.

As to the impact of the price of Mexican gas on the U.S. consumer, we believe that the availability of gas will be more important than the exact price. Gas from Mexico will be mixed with gas from old and new U.S. wells so its impact on consumer prices will be diluted. The U.S. purchased Mexican gas last winter at $2.25 per thousand cubic feet and will probably do so again this winter. Cana-

dian gas being imported into the U.S. is also supplied at this price.

By being able to bring gas from the Mexican Reforma field, the Cactus-Monterrey-Reynosa pipeline would add a new source of energy to those now utilized by the United States and thus enable this country to be less dependent on oil and gas imported from North Africa and the Middle East.

Sincerely,

JOHN L. MOORE, Jr.

AMENDMENTS SUBMITTED FOR PRINTING

WATERWAY USER CHARGES—H.R. 8309

AMENDMENT NO. 1460

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI. Mr. President, I send to the desk an amendment to H.R. 8309. This amendment would incorporate into H.R. 8309 language that is virtually identical to provisions adopted by the Senate on June 22 of this year as a part of H.R. 5885. These provisions involve the construction of a new locks and dam 26 on the Mississippi River at Alton, Ill., the implementation of an effective system of waterway user charges, and a variety of unrelated water resources projects.

I recognize that the issues of user charges and locks and dam 26 may by now be tiring ones for many of my colleagues. We thought we had resolved these points last June 22. But our action was shunned by the House, which ignored our request for a conference on the Senate-passed proposal for a comprehensive waterway user charge.

Nothing has changed since June 22. The Army Corps of Engineers is still spending hundreds of millions of dollars yearly as a 100 percent subsidy for the big barge companies. The barge companies continue to moan and groan when it is suggested they pay anything approaching a reasonable or fair share of these costs. And the users of other types of Federal water projects—irrigators, hydropower users, industrial water users—still send in their checks to the Federal Government to pay back their share of the costs of these taxpayer-provided benefits. Only the big barge companies continue on the free ride.

My amendment offers the Senate the opportunity to stand again behind the principle that such luxuries should be partially repaid, while assuring a more balanced national transportation policy.

Specifically, my amendment amends both title I and title III of H.R. 8309, leaving title II untouched, except for a minor, conforming amendment. The language added to titles I and III is essentially identical to what the Senate adopted on June 22, 1977.

First, the amendment authorizes the immediate reconstruction of locks and dam 26, at an estimated cost of $421 million. But the authorization is the language of the Senate-passed bill, with the requirements for a comprehensive Upper Mississippi River master plan.

Second, the amendment authorizes the Secretary of Transportation to develop, subject to congressional veto, a system of waterway user charges to be phased-in, beginning in fiscal year 1980. This is similar to what the Senate passed on June 22, except for one change I shall explain in a moment. The amendment still has a provision saying that no user charge can exceed 1 percent of the value of the commodity shipped, even after the full phase-in. The user charges are phased-in to assure that the barge industry has time to absorb and adjust to these charges. And there are regular studies providing assessments of the impacts.

Let me explain the one difference between this amendment and the amendment we adopted in June. At that time, the Senate approved a 10-year phase-in, beginning in fiscal year 1980. This amendment extends the phase-in by 1 additional year, to an 11-year period, beginning in fiscal year 1980. The extra year is provided by freezing the progression in the user-charge rate during year 2 at the level recovered in year 1. After year 2, the scale of charges moves up in a manner identical to what the Senate approved last June, obtaining full recovery of operation and maintenance costs, and 50 percent recovery of new construction costs in the 11th and final year of phase-in, fiscal year 1990.

As I mentioned, this amendment specifically incorporates the House's fuel-tax proposal. In our June action, the Senate adopted a dollar-for-dollar offset against the level of user charges should a fuel tax be enacted. Now that the fuel tax is a part of this House bill, the fuel tax of 4 cents a gallon—or later 6 cents a gallon—will be credited, on a dollar-for-dollar basis, against the sums owed toward user charge. This assures against double charging. The fuel tax costs come off the top, with DOT establishing the remainder to be due, based on the percentage levels specified in the amendment.

Some of those who opposed this amendment last June argued that the Secretary of DOT should have the flexibility to utilize a fuel tax. Under the amendment I am presenting today, the fuel tax is included. But this amendment also allows for a more flexible charge system, using lockage fees and license fees, the type of fees the DOT studies have shown would have the least adverse impact on the waterway carriers.

The key to this amendment, and the ingredient missing in the House-passed bill, is that recovery must be based on a percentage of expenditures. It must not be independent, as it is in the House bill. Under the House bill, waterway expenditures might balloon to a couple of billion dollars a year, or drop to zero. No matter what they do, under the House bill, the barge companies would continue to chip in a paltry 4 pennies a gallon in taxes. That 4 cents a gallon equals about 6 percent or so of present Corps expenditures on the inland waterways.

If user charges are to be meaningful—as they are on other modes of the transportation, on hydropower, and on water supply—they must be tied to expenditures. Highway taxes are tied directly to expenditures, because gas taxes paid to the trust fund are the only basic source of Federal expenditures. Creation of a waterway fuel tax bearing no relation to expenditures would be a delusion. But if the level of recovery is tied to the level of expenditures, then the waterways industry itself will help to act as a public watchdog against waste, a watchdog against gold plating of projects.

Mr. President, a basic issue of this amendment involves transportation equity. Another basic issue is the need to reduce the tax burden on the American family and halt the free ride given a few favored companies. These issues were resolved last June 22, when the Senate adopted my amendment by a 71 to 20 vote.

What really is at issue now is whether the Senate, as a body, should insist again upon that position, or whether we will allow the House to circumvent our position, to make an end run around our June request for a conference. If we fail to repass this amendment, I believe, we may encourage the House to avoid other tough issues in this manner.

This does not mean, of course, that compromise from my amendment would not be necessary in the eventual conference. Of course it will be. But that is the proper function of a conference. The Senate should not bypass the conference process and our traditions just to please the barge companies.

And there is one final point, Mr. President. The administration has made it clear that President Carter will not sign a bill for the reconstruction of locks and dams 26 unless it is accompanied by a reasonable and "substantial" system of user charges. My amendment provides the assurances we can get a bill the President will sign.

Mr. President, in an effort to explain the details of user charges, I have prepared a comparison between this amendment and the bill adopted by the Senate in June (H.R. 5885). I hope that my colleagues will have an opportunity to study it, as well as portions of the explanation taken from a report filed earlier this year by the Committee on Environment and Public Works. While this report fails to discuss the new 1-percent cap on user charges or the extra year of the 11-year approach, it does discuss the basic rationale for the amendment, although the section notations differ somewhat. Therefore, Mr. President, I ask unanimous consent that the comparison, the amendment, and pertinent portions of that committee report be printed in the order listed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1460

On page 1, line 3, delete all through line 17 on page 11, and insert the following:

"TITLE I—INLAND NAVIGATION IMPROVEMENTS

"SEC. 101. This title may be cited as the "Inland Navigation Improvement Act of 1977.

"SEC. 102. (a) The Congress finds that construction of an inland navigational system that imposes no costs on the direct beneficiaries of such system is unfair to the operators and users of competing modes of transportation and creates distortions in transportation usage that are wasteful of the Nation's resources. The Congress further finds that certain improvements, including the reconstruction of locks and dam 26, Mississippi River, Alton, Illinois, are necessary for the effective operation of the Nation's inland waterway system.

"(b) The Congress declares that national economic development requires the maintenance of an adequate inland waterway system but, as a matter of equity and efficiency, that the commercial users of this inland waterways system should contribute a portion of the Federal navigation-related costs involved in building, operating, maintaining, and rehabilitating such waterways.

"(c) It is, therefore, the purpose of this Act both to establish a system of user charges that will promote greater equity and efficiency among all modes and demonstrate the economic feasibility of projects on the inland waterways of the United States, providing a market test for their need, and to authorize the reconstruction of locks and dam 26, Mississippi River, Alton, Illinois, as a way to promote the more efficient operation of the existing waterway system.

"SEC. 103. (a) Not later than ten months after the date of enactment of this Act, the Secretary of Transportation shall, after consultation with the Secretary of the Army, and after conducting public hearings and permitting not less than forty-five days for public comment, publish in the Federal Register preliminary regulations on a proposed system of user charges (including a method of collection) intended to recover that portion of the Federal navigation-related costs of the operation, maintenance, new construction, and rehabilitation of the inland waterways of the United States described in subsection (e) of this section. After receiving comments on the preliminary regulations required by this subsection, the Secretary shall, on January 1, 1979, promulgate final regulations that establish a schedule and method of collection of user charges to be paid by commercial users of the inland waterways of the United States and submit such regulations to the Congress, together with provisions allowing full credit against user charges owed for the tax established under title II of this Act. Notwithstanding any other provision of law, such charges shall become effective on October 1, 1979, unless disapproved under the terms of subsection (b) of this section, and, after they become effective, shall not be modified to any significant degree unless such modification is submitted to Congress under the terms of subsection (b) of this section. In establishing user charges under this section, the Secretary of Transportation is directed to assure that user charges that apply to any particular existing segment of the inland waterways of the United States shall be set at a level so as not to cause serious economic disruption among the commercial users of such segment. The Secretary of Transportation is also required to establish the scale of user charges under this section so that, even after full implementation of this section, no user charge affecting a particular type of shipment exceeds 1 per centum of the value of such shipment, including transportation costs, based on recent average prices.

"(b)(1) The final regulations first submitted to the Congress under subsection (a) of this section shall take effect as provided in such subsection, unless, during the ninety-day period beginning on the date the Secretary of Transportation submits such regulations to the Congress, the Congress adopts a concurrent resolution disapproving such regulations.

"(2) In the event the Congress disapproves such regulations, or any significant modification thereto subsequently submitted to it, the Secretary of Transportation shall, within ninety days after the date of adoption of the concurrent resolution disapproving such regulations or significant modifications, submit revised regulations or significant modifications, as the case may be. Such revised regulations or significant modifications shall take effect one hundred and eighty days after the date they are submitted to the Congress unless, during the first ninety days after the date of such submittal, the Congress adopts a concurrent resolution disapproving such revised regulations or significant modifications.

"(c) The schedule of user charges promulgated under this section shall, to the extent reasonable and equitable, be assessed annually on the basis of (1) the costs of operating, maintaining, constructing, and rehabilitating the inland waterways of the United States, and various segments thereof, during the preceding fiscal year; (2) the volume of traffic; (3) seasonal and other repetitive peak demands for use of the inland waterways of the United States; and any other factors that the Secretary of Transportation finds reasonable and equitable.

"(d) The Secretary of Transportation, in promulgating final regulations under this section, is authorized to utilize, but is not limited to, one or more of the following mechanisms as a way to recover a portion of the Federal navigation-related costs from the users of the systems; (1) license fees; (2) congestion charges; (3) charges based on ton-miles over a given segment; (4) lockage fees; and (5) charges based on the capacity of cargo vessels, loaded and unloaded, over various segments of the inland waterways of the United States. No charge shall be collected from, or imputed to, the use of any inland waterway that is not operated and maintained by the United States.

"(e)(1) Final user charges shall be adequate to recover (A) 100 per centum of the Federal navigation-related expenditures of the Secretary of the Army, acting through the Chief of Engineers, on the operation and maintenance of the inland waterways of the United States in accordance with paragraph (2) of this subsection, and (B) 50 per centum of the Federal navigation-related capital expenditures on new construction and rehabilitation of the inland waterways of the United States in accordance with paragraph (3) of this subsection.

"(2) During the first and second years that user charges established under this section are effective, such charges shall be equal to 20 per centum of the total expenditures described in subparagraph (A) of paragraph (1) of this subsection (provided that a tax of 4 cents a gallon established and collected under Title II of this Act shall be considered as fulfilling the requirements of this paragraph during the first and second years of implementation) and shall be increased by 20 per centum of such total expenditures for each of the succeeding four years until 100 per centum of such total expenditures is reached.

"(3) During the seventh year that user charges established under this section are effective, such charges shall, in addition to the charges in subparagraph (A) of paragraph (1) of this subsection, be equal to 10 per centum of the total expenditures described in subparagraph (B) of paragraph (1) of this subsection, and shall be increased by 10 per centum of such total annual expenditures during each of the succeeding four years until the maximum annual rate of 50 per centum of such total expenditure is reached.

"(f) Revenues collected each year under Title II of this Act, as well as any other Federal tax enacted subsequent to enactment of this Act that may be imposed by the United States, as a tax for the purpose of repayment of the Federal costs of the inland waterway of the United States and imposed exclusively on vessels subject to this section, shall be considered as an offset or deduction against fulfilling the total cost recovery requirements for each year after the second year of implementation of the regulations under this section.

"(g) Funds collected under this section shall be deposited in the general fund of the Treasury.

SEC. 104. Failure to pay any user charges established under this Act shall subject the violator to a forfeiture of not more than $5,000 per day, and prohibit the violator from the use of any lock on the inland waterways of the United States that is operated and maintained by the United States during the period of violation of this Act. Such forfeiture shall be collected by the Secretary of the Army, acting through the Chief of Engineers.

"SEC. 105. No later than three years after the effective date of the regulations established under section 103 of this Act, and each two years thereafter, the Secretary of Transportation, in cooperation with the Secretary of the Army, shall submit to the Congress a report on the implementation of section 103 of this Act. Such report shall describe—

(a) the economic impact of user charges on the commercial users of, and consumers of goods capable of being shipped on the inland waterways of the United States;

(b) the economic impact of user charges on a regional and national basis;

(c) the effectiveness of user charges in establishing a more balanced national transportation system;

(d) the effectiveness of user charges in promoting the more efficient use of public investments in the Nation's system of waterborne transportation and reliance on the privato sector; and

(e) the effectiveness of user charges in providing for the balanced use of the Nation's water resources.

"SEC. 106. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace locks and dam 26, Mississippi River, Alton, Illinois and Missouri, by constructing a new dam and a single, one-hundred-and-ten-foot by one-thousand-two-hundred-foot lock at a location approximately two miles downstream from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated July 31, 1976, at an estimated cost of $421,000,000.

"(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to replace, at Federal expense as a part of project costs authorized in subsection (a) terrestrial wildlife habitat inundated as a result of the construction of the project on an acre-for-acre basis in the respective States of Missouri and Illinois and to manage such lands as are thus acquired by the Secretary for wildlife mitigation purposes. The Secretary is further authorized to provide project-related recreation development on or in the vicinity of Ellis Island, Missouri, that requires no separable project lands and includes facilities such as roads, parking lots, walks, picnic areas, a boat launching ramp, and a beach, at an estimated cost of $4,000,000 to be cost shared with the State of Missouri and administered

in accordance with the provisions of the Federal Water Project Recreation Act (Public Law 89–72) and undertaken independently of the navigation features of the project.

"(c) The channel above Cairo, Illinois, on the Mississippi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

"(d) There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsections (a) and (b) of this section for fiscal year 1978 and succeeding fiscal years. Any funds which have been allocated to a replacement project for locks and dam 26, prior to enactment of this Act, shall be available for the project authorized in this section and shall remain available until expended.

"SEC. 107. (a) There is hereby created an Upper Mississippi River System Council (hereinafter referred to as "Council") consisting of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of the Army, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the President's Council on Environmental Quality, and the Governors of the States of Wisconsin, Minnesota, Iowa, Missouri, and Illinois. The Secretary of the Interior shall serve as Chairman of the Council.

"(b) The Congress hereby authorizes and directs the Council to prepare a comprehensive master plan for the management of the Upper Mississippi River System in cooperation with the appropriate Federal, State, and local officials. A preliminary plan shall be prepared by January 1, 1981. The plan shall be subject to public hearings in each affected State. The Council shall review all comments presented at such hearings and submitted in writing to the Council and shall make any appropriate revisions in the preliminary plan, and shall, by January 1, 1982, submit to the Congress for approval a final master plan. Public participation in the development, revision, and enforcement of said plan shall be provided for, encouraged, and assisted by the Council. The Council shall, within one hundred and fifty days of enactment of this Act, publish final regulations in the Federal Register specifying minimum guidelines for public participation in such processes. Approval of the final master plan shall be granted only by enactment of the Congress. Changes to the master plan proposed by the Council shall require enactment by the Congress to become effective. All related activities inconsistent with the master plan or guidelines shall be deemed unlawful.

"(c) The master plan authorized under subsection (b) of this section shall identify the various economic, recreational, and environmnetal objectives of the Upper Mississippi River System, recommend guide lines to achieve such objectives, and propose methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

"(d) For the purposes of developing the comprehensive master plan, the Council is authorized and directed to conduct such studies as it deems necessary to carry out its responsibilities under this section, with provision that it utilize, to the fullest extent possible, the resources and results of the Upper Mississippi River resources managements (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94–587) and of other ongoing or past studies. The Council shall request appropriate Federal, State, or local agencies to prepare such studies, and any Federal agency so requested is authorized to conduct any such study for the purpose of this section. Studies conducted pursuant to this section shall include, but not be limited to the following:

"(1) The Secretary of the Army shall provide the Secretary of the Interior to undertake a study to determine: (a) the carrying capacity of the Upper Mississippi River System, (b) the long- and short-term systematic ecological impacts of: (1) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (2) present operation and maintenance programs, (3) the means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife, and (4) a specific analysis of the immediate and sytematic environmental effects of any second lock at Alton, Illinois, and provide for the mitigation and enhancement of such resources and shall submit his report containing his conclusions and recommendations to the Congress and the Secretary of the Army.

"(2) The Secretary of the Army shall provide for the Secretary of Transportation to undertake studies to determine: (a) the relationship of any expansion of navigational capacity on the Upper Mississippi River System to national transportation policy, (b) the direct and indirect effects of any expansion of navigational capacity on the Nation's railroads and on shippers dependent upon rail service, and (c) the transportation costs and benefits to the Nation to be derived from any expansion of navigational capacity on said River System. The Council, acting through the Secretary of Transportation, is directed to immediately initiate a specific evaluation of the need for a second lock at Alton, Illinois, and the direct and indirect systemic effects and needs for such a second lock at Alton, Illinois.

"(3) Studies and demonstration programs, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the floodplain. Said program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

"(4) Development for the Upper Mississippi River System of a computerized analytical inventory and system analysis to facilitate evaluation of the comparative environmental effects of alternative management proposals.

"(e) Guidelines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, alternate uses of dredged material, barge fleeting, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation, and management of the wildlife and fish refuges within any contiguous to the Upper Mississippi River System.

"(f) To carry out the provisions of this section, there are authorized to be appropriated to the Council $20,000,000. The Council is authorized to transfer funds to such Federal, State, or local government agencies as it deems necessary to carry out the studies and analysis authorized in this section.

"(g) The Upper Mississippi River System consists of those river reaches containing commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River and Waterway, Illinois; and Kaskaskia River, Illinois.

"(h) Except for the provisions of section 106 of this Act, and necessary operation and maintenance activities, no replacement, construction, or rehabilitation that expands the navigation capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been approved by the Congress.

"(i) The lock and dam authorized pursuant to section 106 of this Act shall be designed and constructed to provide for possible future expansion. All other construction activities initiated by the Secretary of the Army on the Upper Mississippi River north of Cairo, Illinois, and on the Illinois River north of Grafton, Illinois, shall be initiated only in accordance with the guidelines set forth in the master plan.

"SEC. 108. The Secretary of the Army, acting through the Chief of Engineers and in consultation with the Secretary of Transportation, shall within one hundred and twenty days of the date of enactment of this Act, promulgate final regulations in the Federal Register implementing nonstructural improvements designed to minimize congestion, and thereby extend the useful economic life of all locking facilities on the Illinois River and Mississippi River. Such improvements shall include, but shall not be limited to, specifications covering tow size and configuration, lockage priorities, traffic scheduling, and lockage aids such as switchboats.

SEC. 109. As used in this Act, the term—

(a) "user charges" means a charge established by the Secretary of Transportation, under the authority of section 103 of this Act, to be paid by the owner or operator of shallow-draft cargo vessels that use the inland waterways of the United States for commercial purposes;

(b) "inland waterway of the United States" means any improved waterway operated and maintained by the United States, the improvements to which are primarily for the use of commercial vessels other than ocean-going vessels, and does not include the Great Lakes, their interconnecting channels, and the Saint Lawrence Seaway; and

(c) "commercial users" means common, contract, or other carriers for hire and owners or operators of private shallow-draft cargo vessels.

On page 13, line 15, beginning with the word "which" delete all through line 18, and insert in lieu thereof the following: "as determined under the definition for the inland waterway of the United States in Section 109(b) of this Act.".

On page 14, beginning on line 13, delete all through line 5 on page 17, and insert in lieu thereof the following:

"TITLE III—WATER RESOURCES PROJECTS

"SEC. 301. Sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to all projects authorized in this section. The following works of improvement for the benefit of navigation and the control of destructive flood waters and other purposes are hereby adopted and authorized to be prosecuted by

the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated.

"SOUTH ATLANTIC COASTAL REGION

The project for beach erosion control at Jekyll Island, Glynn County, Georgia: House Document Numbered 94–533, at an estimated cost of $3,399,000.

"The project for navigation for the Atlantic Intracoastal Waterway Bridges, Virginia and North Carolina, authorized by section 101 of the Rivers and Harbors Act of 1970 (84 Stat. 1818) is hereby modified in accordance with the recommendations of the Chief of Engineers in House Document numbered 94–597 with respect to Hobucken, Core Creek, and Fairfield bridges at an estimated cost of $18,700,000.

MIDDLE ATLANTIC COASTAL REGION

The project for beach erosion control at Coney Island, Borough of Brooklyn, New York; Final report of the Chief of Engineers, dated August 18, 1976, at an estimated cost of $2,019,000.

RAHWAY RIVER BASIN

The project for flood control on Robinson's Branch at Clark, Scotch Plains, and Rahway, New Jersey: Final report of the Chief of Engineers, dated October 10, 1976, at an estimated cost of $11,702,000.

The project for flood control on the main stem of the Rahway River and Van Winkles Brook, Springfield, New Jersey: Final report of the Chief of Engineers, dated October 24, 1975, at an estimated cost of $7,345,000.

CHEHALIS RIVER BASIN

The project for flood control on the Chehalis River at South Aberdeen and Cosmopolis, Washington: Final report of the Chief of Engineers, dated February 8, 1977, at an estimated cost of $11,486,000.

KODIAK HARBOR

The project for navigation improvements at Kodiak Harbor, Alaska: Final report of the Chief of Engineers, dated September 7, 1976, at an estimated cost of $7,874,000.

TERRITORY OF GUAM

The project for flood control on the Agana River, Territory of Guam: Final report of the Chief of Engineers, dated Marcn 14, 1977, at an estimated cost of $3,260,000.

SEC. 302. (a) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the phase I design memorandum stage of advanced engineering and design of the following water resources development projects, substantially in accordance with, and subject to the conditions recommended by the Chief of Engineers, in the reports hereinafter designated.

CONNECTICUT RIVER BASIN

The project for water supply in Massachusetts, diverting water from the Millers River Basin to Quabbin Reservoir, near Springfield, Massachusetts: Final report of the Chief of Engineers, dated September 10, 1976, at an estimated cost of $400,000.

The project for water supply in Massachusetts, diverting water from the Connecticut River Basin by way of the Northfield Mountain project to Quabbin Reservoir: Final report of the Chief of Engineers, dated September 10, 1976, at an estimated cost of $400,000.

PUGET SOUND

The project for navigation on the Blair and Silcum Waterways, Tacoma Harbor, Washington: Final report of the Chief of Engineers, dated February 8, 1977, at an estimated cost of $200,000.

CHEHALIS RIVER BASIN

The project for navigation at Grays Harbor, Washington: In accordance with the final report of the Chief of Engineers, at an estimated cost of $1,000,000. This shall take effect upon submittal to the Secretary of the Army by the Chief of Engineers and notification to Congress of the approval of the Chief of Engineers.

GULFPORT HARBOR

The project for channel deepening for navigation at Gulfport Harbor, Mississippi, in accordance with the final report of the Chief of Engineers, at estimated cost of $1,805,000. This shall take effect upon submittal to the Secretary of the Army by the Chief of Engineers and notification to Congress of the approval of the Chief of Engineers.

"(b) The Secretary of the Army is authorized to undertake advanced engineering and design for the projects in subsection (a) of this section after completion of the phase I design memorandum stage of such projects. Such advanced engineering and design may be undertaken only upon a funding by the Chief of Engineers, transmitted to the Committees on Environment and Public Works of the Senate and Public Works and Transportation of the House of Representatives, that the project is without substantial controversy, that it is substantially in accordance with and subject to the conditions recommended for such project in this section, and that the advanced engineering and design will be compatible with any project modifications which may be under consideration. There is authorized to carry out this subsection not to exceed $5,000,000. No funds appropriated under this subsection may be used for land acquisition or commencement of construction.

"(c) Whenever the Chief of Engineers transmits his recommendations for a water resources development project to the Secretary of the Army for transmittal to the Congress, as authorized in the first section of the Act of December 22, 1944, the Chief of Engineers is authorized to undertake the phase I design memorandum stage of advanced engineering and design of such project if the Chief of Engineers finds and transmits to the Committee on Public Works and Transportation of the House of Representatives and Environment and Public Works of the Senate, that the project is without substantial controversy and justifies further engineering, economic, and environmental investigations. Authorization for such phase I work for a project shall terminate on the date of enactment of the first Water Resources Development Act enacted after the date such work is first authorized. There is authorized to carry out this subsection not to exceed $4,000,000 per fiscal year for each of the fiscal years 1978 and 1979.

"(d) Sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to all projects authorized in this section. The following works of improvement for the benefit of navigation and the control of destructive floodwaters and other purposes are hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated.

"SEC. 303. Section 7 of the River Basin Monetary Authorization and Miscellaneous Civil Works Amendment Act of 1970 (84 Stat. 310), as amended by section 48 of the Water Resources Development Act of 1974 (88 Stat. 12), is further amended to read as follows:

"SEC. 7. (a) The project for Libby Dam, Kootenai River, Montana, is hereby modified to provide that an amount not to exceed $6,500,000 is authorized for mitigation of fish losses attributed to the Libby Dam project, including the reregulating dam and any additional hydropower units that may be installed.

"(b) Funds authorized for mitigation pursuant to subsection (a) shall be transferred to the State of Montana for construction or expansion of fish hatcheries of the State of Montana.".

"SEC. 304. Section 181(a)(2) of the Water Resources Development Act of 1976, approved October 22, 1976 (Public Law 94–587), is amended by striking out "(A)" after "constructed" and the following: ", and (B) unless such construction is not in conflict with the report of the Secretary of the Army, acting through the Chief of Engineers, submitted pursuant to section 85 of the Water Resources Development Act of 1974".

"SEC. 305. Whenever the Secretary of the Army, acting through the Chief of Engineers, or the Secretary of Agriculture, acting under Public Law 83–566, as amended, submits a project to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives that can be anticipated to provide benefits, more than 10 per centum of which are produced by an increase in anticipated land value to a single nonpublic corporation or individual, the Secretary of the Army or the Secretary of Agriculture, as appropriate, shall, prior to the construction of such project, require that the local sponsor of such project enter into an agreement with the Secretary of the Army or the Secretary of Agriculture, as appropriate, that provides that the sponsor contributes, either prior to construction or when such benefits are realized, 50 per centum of the project's costs allocated to such benefits.

"SEC. 306. (a) The authorization of phase I engineering and design contained in section 101(a) of the Water Resources Development Act of 1976 (Public Law 94–587, 90 Stat. 2918) for flood protection for Jefferson City on Wears Creek, Missouri, is hereby terminated.

"(b) The project for flood protection for Jefferson City on Wears Creek, Missouri, as described in the report of the Chief of Engineers dated October 21, 1975, is hereby authorized at an estimated cost of $29,110,000.

"SEC. 307. Any report that is submitted to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary of the Army, acting through the Chief of Engineers, or the Secretary of Agriculture, acting under Public Law 83–566, as amended, which includes construction of a water impoundment facility, shall include information on the possibility of failure of such facility due to geologic or design factors, the potential impact of the failure of such facility, and information on the design features that would prevent, lessen, or mitigate such possibility of failure or the impact of failure.

SEC. 308. Section 134(a) of the Water Resources Development Act of 1976 (Public Law 94–587, 90 Stat. 2929) is amended by striking "1977" from the last sentence and inserting in lieu thereof "1985".

SEC. 309. The Secretary of the Army, acting through the Chief of Engineers, is authorized to investigate, study, and recommend remedial measures with respect to flood control, bank stabilization, sedimentation, and related purposes on the Homochitto and Buffalo Rivers, Saint Catherine and Coles Creeks, Bayou Pierre, and other major

tributaries draining into the Mississippi River between Bayou Pierre and the Buffalo River in the State of Mississippi.

SEC. 310. (a) There is hereby established a Water Resources Mitigation Advisory Board (hereafter referred to as the "Board"), which is authorized to evaluate complaints of any existing or potential adverse impact of any proposed or existing water resources project undertaken by the Secretary of the Army, acting through the Chief of Engineers, and to make recommendations on any requested mitigation.

(b) The Broad shall be comprised of three members. One member shall be a Federal employee serving at the pleasure of the President. Two members shall be appointed by the President from the general public for terms of three years. Such public members, while attending meetings of the Board, shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently. Anyone who has been an employee of the United States Army Corps of Engineers shall be ineligible to serve as a public member of the Board.

(c)(1) The Board shall meet at least four times annually to review matters referred to it by any State or local public agency, the Secretary of the Army, the Committee on Environment and Public Works of the Senate, or the Committee on Public Works and Transportation of the House of Representatives. At such meetings, the Board is authorized to review all information relating to any request for mitigation of an authorized project, and to recommend changes in the project that can be achieved administratively or by appropriate legislation. Any recommendation by the Board shall include a statement evaluating the equity of the mitigation request; an estimate, if appropriate, of the cost of such alteration and the effect such cost would have on the relation of total project benefits to cost; and an explanation of how the mitigation request meets or fails to meet established national water resources policy. Recommendations by the Board are advisory and not subject to judicial review.

(2) A copy of any recommendation by the Board under paragraph (1) of this subsection shall be transmitted to the Secretary of the Army and to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives, as well as any interested State or local public agency. Following a review of any such recommendation, the Secretary of the Army shall notify the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives of any decision or proposal based upon such recommendation, together with a statement detailing any disagreement with the Board's recommendation.

(d) For the purposes of this section, "mitigation" means any change in project operations, any construction of new facilities or devices that would alleviate any anticipated or actual damages, or other adverse and definable unintended effects, or any change in requirements for local interests to provide, pay for, or share in the costs of any features of any project undertaken by the Secretary of the Army, acting through the Chief of Engineers.

(e) The Board shall, from time to time, report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on issues and problem areas brought before it for advisory opinions, together with any recommended changes in the procedures or practices of the Secretary of the Army, acting through the Chief of Engineers, that would alleviate such problems in future projects.

(f) The sum of $250,000, beginning in the fiscal year ending September 30, 1978, is authorized to be appropriated each fiscal year to carry out this section.

SEC. 311. (a) The authorization for the Victory Lake project for flood control and other purposes on the Moose River, town of Victory, Essex County, Vermont, contained in the Flood Control Act of 1936 as amended by the Flood Control Acts of 1938 and 1941, is hereby terminated.

(b) The authorization for the Lafayette Dam and Reservoir and the Big Pine Dam and Reservoir on the Wabash River, Indiana, contained in section 204 of the Flood Control Act of 1965 (795 Stat. 1081), is hereby terminated.

(c)(1) The authorization of the Kickapoo River, Wisconsin, flood control project, provided by section 203 of the Flood Control Act of 1962 (76 Stat. 1173, 1190) is hereby terminated.

(2) The Secretary of the Army, acting through the Chief of Engineers, shall immediately undertake such modification and landscaping of the uncompleted project for safety, aesthetic, and ecological purposes as the Secretary deems necessary. Such modification shall include, but shall not be limited to, demolition and removal of the outlet control structure and the right abutment.

(3)(i) The Secretary of the Army, acting through the Chief of Engineers, shall take no action to dispose of works and interests in lands related to the project which are under his jurisdiction for eighteen months following the date of enactment of this Act.

(ii) If Congress, by law, has not otherwise provided for the disposal of the project lands within eighteen months of date of enactment of this Act, the Secretary of the Army, acting through the Chief of Engineers, shall immediately proceed to dispose of such lands and interests under his jurisdiction pursuant to the applicable provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484).

SEC. 312. This section may be cited as the "Water Supply Act of 1977".

(a) Because many regions of the Nation confront water shortages that can be expected to continue or to increase, and because such shortages are, in part, aggravated by a lack of any coordinated, national policy for the efficient and productive use and reuse of water, the Congress declares that there is a national interest in the development of new water supplies, on an economical basis, for domestic, municipal, industrial, and other public purposes.

"(b)(1) In carrying out a policy to encourage a more efficient use and supply of water as a way to benefit municipal, industrial, and agricultural development, wetland preservation, fish and wildlife protection, and other national purposes, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to survey, plan, construct, and operate projects for the storage of water needed to meet present and anticipated demand, and for its transportation to regions of the Nation with present or anticipated water shortages: *Provided*, That each such project must be specifically authorized by law enacted subsequent to this Act.

"(2) The costs allocated to water supply in any project constructed as a result of the authority of subsection (a) of this section shall be repayable, with interest, by the water users over a period of not more than fifty years from the date that water is first delivered, pursuant to contracts with municipalities or other public organizations except as provided in subsection (d). Such contracts shall be precedent to the commencement of construction of any unit or stage of the project. The contracting organization shall be responsible for the disposal and sale of water surplus to its requirements, but revenues therefrom shall be used only for payment of operation and maintenance costs, interest, and retirement of the obligation assumed in the contract.

"(c) The interest rate used for computing interest during construction and interest on the unpaid balance of the costs of the project allocated to municipal water supply shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue.

"(d) The Secretary of the Army, acting through the Chief of Engineers, is authorized to recommend modified cost-sharing and repayment schedules for that portion of the water supplied under this section to a municipal system serving a rural community, whether incorporated or unincorporated, with a population of less than ten thousand, which is not part of a larger population center.

"SEC. 313. The plan for the harbor improvement at Honolulu Harbor, Oahu, Hawaii, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1092) is hereby modified to delete the requirement that local interests contribute in cash, prior to initiation of construction, a lump sum amounting to 2.6 per centum of the estimated first cost of the general navigation facilities for the project, ascribed to land enhancement through deposition of dredged material.

"SEC. 314. Section 4 of the Act of July 5, 1884 (23 Stat. 147), as amended by the Act of March 3, 1909 (33 U.S.C. 5), is hereby amended to read as follows:

"SEC. 4. The Secretary of the Army, acting through the Chief of Engineers, is authorized to operate, maintain, and keep in repair and rehabilitate any project for the benefit of navigation belonging to the United States or that may be hereafter acquired or constructed: *Provided*, That whenever, in the judgment of the Secretary of the Army, the condition of any of the aforesaid works is such that its reconstruction or replacement is essential to efficient and economical maintenance and operation, as herein provided for, the Secretary may proceed with such work: *Provided further*, That the reconstruction or replacement does not increase the facility's scope or capacity or change the location of an existing facility: *And provided further*, That nothing herein contained shall be held to apply to the Panama Canal.".

"SEC. 315. Notwithstanding the provisions of section 1 of the Act of June 21, 1940, entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such bridges, and for other purposes" (54 Stat. 497), as amended, the Port of Houston Authority Bridge over Greens Bayou approximately 2.8 miles upstream of the confluence of Green Bayou, Texas, and the Houston Ship Channel is hereby declared to be a lawful bridge eligible for replacement under such Act.

"SEC. 316. (a) Section 3 of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946, as amended, is amended by striking out "$1,000,000" and inserting in lieu thereof "$2,000,000".

"(b) The amendment made by this section shall not apply to any project under contract for construction on the date of enactment of this Act, except in those cases where the authorized project includes periodic beach nourishment in accordance with section 1(c) of the Act approved July 28, 1956.

"SEC. 317. (a) Any resolution previously or hereafter adopted by the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives for review of flood control and river and harbor reports is automatically deauthorized if no funds are expended for such survey within five years following its approval.

"(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to submit to the Congress, within six months of enactment of this section, a list of all existing survey studies that have an inactive or deferred status. All surveys on such list may be deauthorized within ninety days thereafter by resolution of either the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives.

"SEC. 318. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to make a study in cooperation with the government of the Trust Territory of the Pacific Islands for the purpose of providing a plan for the development, utilization, and conservation of water and related land resources of such territory. Such study shall include appropriate consideration of the needs for flood protection, wise use of flood plain lands, navigation facilities, hydroelectric power generation, regional water supply and waste water management facilities systems, general recreation facilities, enhancement and control of water quality, enhancement and conservation of fish and wildlife, and other measures for environmental enhancement, economic and human resources development, and shall be compatible with comprehensive development plans formulated by local planning agencies and other interested Federal agencies.

"SEC. 319. (a) In order to alleviate the critical conditions created by a natural disaster in April 1977, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to design and construct, at full Federal expense, flood control measures including, but not limited to, levees, floodwalls, cut-offs, and other appurtenant facilities, and to provide modifications to existing flood protection structures as appropriate, at or in the vicinity of Pikeville, Kentucky, on the Levisa Fork of the Big Sandy River; Pineville, Kentucky, on the Cumberland River; and Williamson and Matewan, West Virginia, on the Tug Fork of the Big Sandy River, that the Chief of Engineers determines are necessary and advisable to afford these communities and other flood damaged localities and their immediate environs on both the Levisa and Tug Fork of the Big Sandy River and Cumberland River a level of protection against flooding at least sufficient to prevent any future losses to these communities from the likelihood of flooding such as occurred in April 1977, at an estimated cost of $100,000,000: *Provided*, That non-Federal interests shall hold and save the United States free from damages due to the construction works, and maintain and operate all the works after their completion in accordance with regulations prescribed by the Secretary of the Army.

"(b) With respect to the works authorized by subsection (a) of this section, an economic analysis of the projects is hereby waived.

"SEC. 320. When submitting any report on a project which includes benefits for recreation, the Secretary of the Army, acting through the Chief of Engineers, or the Secretary of Agriculture, under authority of Public Law 83–566, as amended, shall describe the benefits of other, similar recreational facilities within the general area of the project, and develop a unit value for recreational attendance which is consistent with the unit values used to justify existing recreation facilities.

"SEC. 321. Section 208 of the Flood Control Act of 1954 (68 Stat. 1256, 1266), as amended, is hereby further amended by adding "(a)" after "SEC. 208." and adding a new subsection "(b)" as follows:

"(b) Upon request of the Governor of a State, or appropriate official of local government, the Secretary of the Army, acting through the Chief of Engineers, is further authorized to provide designs, plans and specifications, and such other technical assistance as he deems advisable, at Federal expense, to such State or political subdivision for its use in carrying out projects, for removing accumulated snags and other debris, and clearing and straightening channels in navigable streams and tributaries thereof.".

"SEC. 322. (a) The Stamford Harbor, Connecticut navigation project which was adopted by the River and Harbor Act of 1919 is hereby modified to provide that for the upcoming maintenance dredging, only, non-Federal interests shall furnish without cost to the United States an area located between the harbor's East Branch Channel and Kosciszko Park for the disposal of the material dredged and contribute 25 per centum of the costs of constructing a dike to retain the sediments. Non-Federal interests shall also acquire all easements and rights-of-way required for construction at the site and hold the United States free of damages incurred during construction. Immediately following completion of the dredging the dike structure will be conveyed to the city of Stamford for future maintenance.

"(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of Connecticut, interstate agency, municipality, and other appropriate political subdivisions of the State and industrial concerns are participating in and in compliance with an approved plan for the Stamford Harbor area for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

"SEC. 323. The Secretary of the Army, acting through the Chief of Engineers, is authorized to perform intermittent dredging and such other work as may be required on the Yazoo River in Mississippi, from Greenwood South, to remove natural shoals as they occur, at an annual average cost of $200,000, allowing commerce to continue: *Provided*, That responsible local interests furnish assurances satisfactory to the Chief of Engineers that they will (a) provide without cost to the United States all lands, easements, and rights-of-way required for dredging and disposal of dredged materials; (b) accomplish without cost to the United States such alterations, relocations, and/or rearrangement of facilities as required for dredging and disposal of dredged materials; (c) hold and save the United States free from damages due to the dredging and disposal of dredged materials, excluding damages due to the fault or negligence of the United States or its contractors; (d) comply with the applicable provisions of the United Relocations Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91–646, 84 Stat. 1894); and (e) comply with all other Federal and State laws and regulations applicable to the dredging and disposal of dredged materials.

"SEC. 324. (a) Section 203(e) of the Water Resources Development Act of 1976 (Public Law 94–587, 90 Stat. 2946) is amended to read as follows: "The Secretary is authorized to make expenditures from the fund for the phase I design memorandum stage of advanced engineering and design for any project that meets the requirements of subsection (a)(2) of this section, if appropriate non-Federal public authorities, approved by the Secretary, agree with the Secretary, in writing, to repay the Secretary for all the separable and joint costs of preparing such design memorandum, if such report is favorable and the appropriate non-Federal authorities are able, on the basis of the report, to borrow money to pay such costs based on the security of the project or its revenues. Following the completion of the phase I design memorandum stage of advanced engineering and design under this subsection the Secretary shall not transmit any favorable report to Congress prior to being repaid in full by the appropriate non-Federal public authorities for the costs incurred during such phase I. The Secretary is also authorized to make expenditures from non-Federal funds deposited in the fund (as an advance against construction costs) for costs incurred during such phase I if the Secretary agrees with the appropriate non-Federal authorities to reimburse said costs if the report is not favorable and the appropriate non-Federal authorities are therefore not able to borrow money to pay such costs based on the security of the project or its revenues: *Provided*, That payments by the Secretary under this subsection for phase I reimbursement shall be subject to appropriations Acts.";

"(b) Section 203(g)(1) is amended by striking "anticipated" in the first sentence and by adding at the end of the third sentence ", as determined in the agreement between the Secretary and the non-Federal authorizing";

"(c) Section 203(g)(2) is amended to read as follows:

"(A) In consideration of the obligations to be assumed by non-Federal public authorities under the provisions of this section and in recognition of the substantial investments which will be made by these authorities in reliance on the program established by this section, the United States shall assume the responsibility for paying for all costs over those fixed in the agreement with the non-Federal public authorities, if such costs are occasioned (1) by acts of God, (2) failure on the part of the Secretary, acting through the Chief of Engineers, to adhere to the agreed schedule of work or a failure of design or (3) are otherwise necessary to be paid by the United States to permit operation of the project in accordance with the initial determination of feasibility: *Provided*, That payments by the Secretary of such costs shall be subject to appropriations acts.

"(B) Any Federal funds required to complete the project pursuant to subparagraph (A)(3) of subsection (g) shall be repaid to the Treasury with interest by the non-Federal public authorities from revenues received from the sale of power. Payments shall commence following retirement of all bonds issued by the non-Federal public authorities, for the project. Interest payable under this subparagraph shall be at the rate the Federal Government must pay on such obligations at the time of payment pursuant to subparagraph (A)(3) with accural of interest beginning after all prior bonds are retired.";

and

"(d) Section 203(h) is amended by inserting "and (2)" after "(g)(1)" in the first sentence.

"(e) Section 203 of the Water Resources

Development Act of 1976 (Public Law 94-587, 90 Stat. 2946) is amended as follows—

"(1) subsection (a)(1) is amended by striking "in Alaska";

"(2) subsection (b) is amended by striking "Alaska" in the first sentence; and

"(3) subsection (i) is amended by striking "Alaska".

"SEC. 325. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make a study of the possible rehabilitation of the hydroelectric potential at former industrial sites, millraces, or other types of facilities constructed in the past, and the possible conversion of such sites for use as new, small hydroelectric projects that will serve rural areas or communities. The Secretary of the Army, acting through the Chief of Engineers, is further authorized and directed to provide technical assistance to local public agencies or cooperative in any such rehabilitation at sites identified under this section, or that would qualify under the terms of this section.

"SEC. 326. (a) That those portions of the Trent River in the city of New Bern, county of Craven, State of North Carolina, bounded and described as follows, are hereby declared to be nonnavigable waters of the United States within the meaning of the laws of the United States:

"All of those tracts or parcels of land lying and being in Craven County, North Carolina, in the city of New Bern between the high water mark of Trent River as it formerly existed, and the bulkhead marking the southern boundary of the lands of the New Bern Redevelopment Commission Project Numbered NCR-71, and more particularly described as follows:

"TRACT ONE

Beginning at a point which lies south 12 degrees 12 minutes west 499.296 feet from the southwest corner of the intersection of Tryon Palace Drive and United States Highway North 70; and running thence along the former high water mark of Trent River, the following courses and distances:

north 79 degrees 07 minutes 24 seconds west 2.65 feet;

north 8 degrees 20 minutes east 12.45 feet;

north 44 degrees 57 minutes west 30.00 feet;

north 89 degrees 45 minutes west 22.00 feet;

south 66 degrees 45 minutes west 35.00 feet;

south 12 degrees 25 minutes west 76.00 feet;

north 76 degrees 35 minutes west 40.00 feet;

north 7 degrees 20 minutes east 54.00 feet;

north 24 degrees 45 minutes east 43.00 feet;

north 24 degrees 45 minutes west 29.00 feet;

north 53 degrees 30 minutes west 26.00 feet;

north 15 degrees 00 minutes east 21.00 feet;

north 77 degrees 15 minutes west 15.00 feet;

north 10 degrees 00 minutes east 19.00 feet;

north 83 degrees 45 minutes west 28.00 feet;

south 37 degrees 55 minutes west 26.00 feet;

south 20 degrees 45 minutes west 26.00 feet;

south 10 degrees 00 minutes west 30.00 feet;

south 49 degrees 45 minutes west 34.00 feet;

north 84 degrees 55 minutes west 24.00 feet;

north 12 degrees 10 minutes east 100.00 feet;

east 7.00 feet; north 11 degrees 00 minutes east 56.00 feet;

north 28 degrees 15 minutes west 34.00 feet;

north 89 degrees 35 minutes west 15.00 feet;

south 17 degrees 40 minutes west 23.00 feet;

south 12 degrees 45 minutes west 44.00 feet;

north 78 degrees 30 minutes west 85.00 feet;

south 11 degrees 00 minutes west 74.00 feet;

south 79 degrees 35 minutes east 9.00 feet;

south 6 degrees 30 minutes west 39.00 feet;

north 84 degrees 35 minutes west 41.00 feet;

north 9 degrees 35 minutes east 124.00 feet;

north 76 degrees 50 minutes west 54.00 feet;

south 11 degrees 00 minutes west 108.00 feet;

south 84 degrees 00 minutes west 32.00 feet;

north 7 degrees 30 minutes east 71.00 feet;

north 72 degrees 00 minutes west 32.00 feet;

north 7 degrees 35 minutes east 39.00 feet;

north 79 degrees 50 minutes west 29.00 feet;

south 13 degrees 20 minutes west 37.00 feet;

south 42 degrees 50 minutes west 22.00 feet;

north 64 degrees 15 minutes west 13.00 feet;

south 57 degrees 20 minutes west 14.00 feet;

north 82 degrees 15 minutes west 60.00 feet;

north 80 degrees 00 minutes west 108.00 feet:

north 52 degrees 30 minutes west 40.00 feet;

north 80 degrees 50 minutes west 32.00 feet;

north 79 degrees 00 minutes west 32.00 feet;

north 9 degrees 30 minutes east 16.00 feet;

north 86 degrees 00 minutes west 17.00 feet;

south 15 degrees 15 minutes west 40.00 feet;

north 77 degrees 00 minutes west 54.00 feet;

south 11 degrees 10 minutes west 157.00 feet;

south 78 degrees 35 minutes east 5.00 feet; and

south 9 degrees 40 minutes west 87.92 feet to the outer edge of the existing bulkhead of the New Bern Redevelopment Commission;

thence with the outer edge of said bulkhead the following courses and distances:

South 85 degrees 59 minutes 41 seconds east 34.92 feet;

north 48 degrees 37 minutes 43 seconds east 135.44 feet;

south 86 degrees 14 minutes 57 seconds east 574.09 feet;

south 41 degrees 01 minutes 58 seconds east 134.16 feet;

south 86 degrees 11 minutes 18 seconds east 62.96 feet;

north 48 degrees 44 minutes 56 seconds east 124.48 feet and north 79 degrees 07 minutes 24 seconds west 2.99 feet to the place of beginning, containing 2.83 acres.

TRACT TWO

Beginning at a point in the eastern line of Middle Street at its intersection with the former high water mark of Trent River, said place of beginning being south 9 degrees 41 minutes west 702.783 feet along the eastern line of Middle Street from the southeast corner of Middle Street and Tryon Palace Drive, and running thence from this place of beginning along the former high water mark of Trent River north 82 degrees 46 minutes 30 seconds west 12.256 feet;

thence north 9 degrees 48 minutes east 101.36 feet;

thence north 78 degrees 41 minutes west 36.37 feet;

thence south 9 degrees 11 minutes west 110.69 feet to the outer edge of the existing bulkhead of the New Bern Redevelopment Commission;

thence with the outer edge of the existing bulkhead of the Aew Bern Redevelopment Commission south 85 degrees 59 minutes 41 seconds east 120.50 feet to a point where the existing bulkhead intersects the former high water mark of Trent River;

thence north 82 degrees 46 minutes 30 seconds west 72.544 feet along the former high water mark of Trent River, to the place of beginning; containing 0.09 acre.

TRACT THREE

Beginning at a point which is located south 80 degrees 00 minutes east 50 feet, south 9 degrees 50 minutes west 313.31 feet;

south 5 degrees 54 minutes 24 seconds west 155.79 feet;

south 2 degrees 08 minutes east 46.035 feet and south 6 degrees 20 minutes 48 seconds east 1.86 feet from the intersection of the southern line of Tryon Palace Drive and the center line of the Atlantic and North Carolina Railroad; and running thence from this place of beginning with the outer edge of the existing bulkhead of the New Bern Redevelopment Commission the following courses and distances:

south 86 degrees 41 minutes 04 seconds east 18.78 feet;

thence south 41 degrees 08 minutes 50 seconds east 337.44 feet and south 85 degrees 59 minutes 41 seconds east 40.01 feet;

and running thence with the former high water mark of Trent River the following courses and distances:

north 9 degrees 34 minutes east 165.69 feet;

north 79 degrees 25 minutes west 69.00 feet;

north 74 degrees 05 minutes west 73.00 feet;

north 8 degrees 58 minutes east 162.00 feet;

north 47 degrees 30 minutes west 65.00 feet;

south 11 degrees 20 minutes west 101.50 feet;

north 80 degrees 20 minutes west 21.00 feet;

north 9 degrees 50 minutes east 133.00 feet;

north 35 degrees 45 minutes west 33.00 feet;

north 28 degrees 20 minutes west 32.00 feet;

north 59 degrees 28 minutes 42 seconds west 9.76 feet;

south 2 degrees 00 minutes west 69.00 feet;

south 9 degrees 40 minutes west 91.00 feet;

south 89 degrees 10 minutes west 13.00 feet;

south 20 degrees 10 minutes west 39.00 feet;

south 47 degrees 10 minutes west 58.36 feet; and

south 6 degrees 20 minutes 48 seconds east 1.86 feet to the place of beginning; containing 1.20 acres.

"Being that portion of the waters of Trent River which were bulkheaded and filled under permit bearing date January 16, 1970, addressed to the Redevelopment Commission of the City of New Bern, issued by the Wilmington District, Corps of Engineers, by authority of the Secretary of the Army.

"(b) The declaration in subsection (a) of this section shall apply only to portions of the above described area which are either bulkheaded and filled, or occupied by permanent pile-supported structures, plans for such work having been approved by the Secretary of the Army, acting through the Chief of Engineers.

"SEC. 327. Nothing in any prior Act of Congress, committee report, or congressional

document, shall be construed as requiring the State of Tennessee in connection with the mitigation of wildlife losses attributable to the West Tennessee tributaries feature, Mississippi River and tributaries project authorized by the Flood Control Acts of June 30, 1948, November 7, 1966, and March 7, 1974, to furnish assurances that it will hold and save the United States free from any claims for damages resulting from such mitigation.

"SEC. 328. (a) The authorization for the Kaw Lake project, Arkansas River, Oklahoma contained in section 203 of the Flood Control Act of 1962 (Public Law 87–874) is hereby amended to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to design, construct, and provide treatment facilities and a regional conveyance system of water from Kaw Lake for the ownership, use, operation, and maintenance of non-Federal public members of the Kaw Reservoir Authority at an estimated cost of $82,000,000.

"(b) Non-Federal public members acting through the Kaw Reservoir Authority, who are benefitted by the facilities to be constructed at initial Federal costs under this Act, shall repay such costs and the Federal costs of any interim maintenance of the facilities in accordance with the principles of the Water Supply Act of 1958 (Public Law 85–500): *Provided*, That the allocation and initiation of these repayment requirements shall be scheduled by the Secretary of the Army, as he determines to be equitable, considering factors such as the date of initiation and extent of usage of the facilities.

"SEC. 329. The project for flood control on Beargrass Creek in Jefferson County, Kentucky, is hereby authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the final report of the Chief of Engineers, at an estimated cost of $2,900,000. Sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to this project. This shall take effect upon submittal to the Secretary of the Army by the Chief of Engineers and notification to Congress of the approval of the Chief of Engineers.

"SEC. 330. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to prosecute the plan for Trimble Wildlife Area replacement, in substantial accordance with the feasibility report, dated September 1976, with such changes as may be within the discretion of the Chief of Engineers, at an estimated cost of $3,970,000.

"SEC. 331. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to take necessary remedial measures to assure structural integrity and flood control capacity of the Trilby Wash Detention Basin (McMicken Dam) and Outlet Channel, Maricopa County, Gila River Basin, Arizona, constructed under authority of section 304 of Public Law 83–209 (67 Stat. 449) approval August 7, 1953, at an estimated cost of $7,000,000.

"(b) The Secretary of the Army, acting through the Chief of Engineers, shall make a study of such plans as he may deem reasonable and appropriate for the rehabilitation or reconstruction of McMicken Dam in Trilby Wash area at an estimated cost of $250,000.

"(c) All authority of the Secretary of the Air Force over such detention basin and channel is transferred to the Secretary of the Army.

"Sec. 332. The project for the town of Niobrara, Nebraska, as authorized by section 213 of the Flood Control Act of 1970 (84 Stat. 1824, 1829) is hereby modified to authorize and direct the Secretary of of the Army, acting through the Chief of Engineers, to relocate existing Nebraska Highway Number 12 through the relocated town of Niobrara, Nebraska, with necessary connections to Nebraska Highway Number 14, at an estimated cost of $1,600,000.

"SEC. 333. The Saint Francis River Basin Project, Arkansas and Missouri, as authorized by the Act of June 15, 1936 (49 Stat. 1508), is modified to require the Secretary of the Army, acting through the Chief of Engineers, to study improvements for flood control purposes in Saint Francis Lake and Floodways in Poinsett County, Arkansas, in accordance with the reconnaissance report thereon by the Corps of Engineers, dated April 15, 1977. Such study shall be transmitted to the Congress ten months after enactment of this Act.

"SEC. 334. (a) Section 8 of the Act entitled "An Act to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin reclamation project in Idaho, and for other purposes" (90 Stat. 1211), approved September 7, 1976, is amended to read as follows:

"SEC. 8. (a) Beginning on December 31, 1977, and each year thereafter until the completion of the claims program, the Secretary shall make an annual report to the Congress of all claims submitted to him under this Act, listing each amount claimed, a brief description of the claim, and the status or disposition of the claim including the amount of each administrative payment and award under the Act. Such report shall not be disclosed to the public in a form which would reveal the names of the claimants and shall be maintained in such a manner as will protect the privacy of such claimants.

"(b) Information acquired by the Secretary from or about claimants under this Act shall (1) be maintained in such a manner as will protect the privacy of such claimants and the confidentiality of information provided by such claimants, and (2) shall not be required to be disclosed under section 552 of title 5, United States Code, but shall be deemed a record which is contained in a system of records for purposes of section 552a of such title.".

"(b) The amendments made by this section shall be effective as if enacted on September 7, 1976.

SEC. 335. The project of Jackson Hole Snake River local protection and levees, Wyoming, authorized by the River and Harbor Act of 1950 (Public Law 81–516), is hereby modified to provide that the operation and maintenance of the project shall be the responsibility of the Secretary of the Army, acting through the Chief of Engineers.

"SEC. 336. (a) The water resources development project for Harlan County Lake on the Republican River, Nebraska, authorized by the Act of August 18, 1941 (Public Law 228, Seventy-seventh Congress), as amended, is further amended to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to replace, renovate, and upgrade the existing Federal facilities of the project, and provide for maintenance and operation of those facilities.

(b) The work authorized by this section shall include purchase of a dredge, dredging channels, construction of breakwaters, replacement and extension of outdated water access facilities, the performance of necessary bank stabilization and appropriate filing activities, and such other items as are identified in connection with these activities located at Gremlin Cove, Patterson Harbor, Hunter Cove, and Methodist Cove/Pheasant Point in the June 1977, report of the Army Corps of Engineers.

(c) All work and activities authorized by this section shall be carried out at Federal expense, at a first cost presently estimated to be $4,811,100.

SEC. 337. The Act entitled 'An Act to authorize construction of the Mississippi River-Gulf Outlet', approved March 29, 1956 (Public Law 84–455, 70 Stat. 65), as amended by section 186 of Public Law 94–587 (90 Stat. 2941), is further amended by deleting all after the colon following the phrase 'cost of $88,000,000' and substituting therefor the following: "Provided, That the same having been found economically justified by obsolescence of the existing industrial canal lock and increased traffic, the replacement and expansion of said lock or the construction of an additional lock in the area of the existing lock is hereby approved, said new lock to have minimum dimensions, of one thousand two hundred feet long, one hundred and fifty feet wide, and fifty feet over sills, with immediate connecting channels, thirty-six feet by five hundred feet except that width may be reduced to not less than three hundred feet between the Mississippi River and Florida Avenue if in the opinion of the Chief of Engineers such reduction is necessary to avoid unacceptably severe relocations, and that in recognition of the importance of this connection to the Nation's economy and defense, the Chief of Engineers will assure beneficial completion at the earliest possible date: Provided further, That the conditions of local cooperation specified in House Document Numbered 245, Eighty-second Congress, shall likewise apply to the construction of said lock and connecting channels, except that the additional costs, as determined by the Chief of Engineers, of lands, easements, and rights-of-way acquisition and relocations of residences, industries and utilities beyond those of the Meraux site shall be borne by the United States: And provided further, That such conditions of local cooperation shall not apply to the relocation, replacement, modification, or construction of bridges or to the substitution of tunnels (at a cost not to exceed $94,500,000) required as a result of the construction of said lock and connecting channels if the Secretary of the Army, after consultation with the Secretary of Transportation, determines prior to the construction of such bridges or to the substitution of tunnels that the Federal Government will not assume the cost of such work in accordance with section 132(a) of the Federal-Aid Highway Act of 1976 (Public Law 94–280); and before construction of the bridges may be initiated the non-Federal public bodies involved shall agree pursuant to section 221 of the Flood Control Act of 1970 (Public Law 91–611) to (a) hold and save the United States free from damages resulting from construction of the bridges or the substitution of tunnels and their approaches, (b) subject to reimbursement as aforesaid, provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the bridges and their approaches, and (c) maintain and operate the bridges or tunnels and their approaches after construction is completed.

SEC. 338. (a) The project for navigation improvements in Mobile Harbor, Theodore Ship Channel, Alabama, approved by resolutions of the Committee on Public Works of Representatives dated December 15, 1970, and modified by section 112 of the Water Resources Development Act of 1976, is hereby further modified to provide that the non-Federal interests shall contribute 25 per centum of the costs of areas required for initial and subsequent disposal of spoil, and of necessary retaining dikes, bulkheads, and embankments therefor.

(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of Alabama, interstate agency, municipality, and other appropriate political subdivisions of the State and industrial concerns are participating in and in compliance with an approval plan for the general geographical area of the dredging

activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

SEC. 339. Section 5 of the Flood Control Act approved August 18, 1941 (33 U.S.C. 701n) is amended by inserting at the end thereof the following: "The Chief of Engineers is also authorized to accomplish advance measures using amounts in the emergency fund, when in his discretion local and State efforts are unable to complete emergency work for control of lava flow, in order to provide the minimum necessary protection to prevent loss of life and serious damages to improved property when such volcanic activity is reasonably imminent.".

SEC. 340. The Secretary of the Army is authorized to transfer funds to the relevant State agencies for the construction of fish hatcheries authorized under the Lower Snake River Fish and Wildlife Compensation Plan authorized under section 102 of Public Law 94–587 (90 Stat. 2971), the Water Resources Development Act of 1976 enacted on October 22, 1976.

SEC. 341. The Mississippi River-Gulf Outlet, as authorized by Public Law 84–455, is hereby redesignated as the "Allen J. Ellender Ship-Channel" and any Federal law, regulation, map, or other document referring to such outlet shall be held to refer to the outlet as the Allen J. Ellender Ship Channel.

TITLE IV—RIVER BASIN MONETARY AUTHORIZATIONS

SEC. 401. In addition to previous authorizations, there is hereby authorized to be appropriated for the prosecution of the comprehensive plan of development of each river basin under the jurisdiction of the Secretary of the Army referred to in the first column below, which was basically authorized by the Act referred to by date of enactment in the second column below, an amount not to exceed that shown opposite such river basin in the third column below:

Basin	*Act of Congress*	*Amount*
Alabama-Coosa River Basin	Mar. 2, 1945	$6,000,000
Arkansas River Basin	June 28, 1938	3,000,000
Brazos River Basin	Sept. 3, 1954	31,000,000
Columbia River Basin	May 17, 1950	14,000,000
Mississippi River and Tributaries	May 15, 1928	130,000,000
Missouri River Basin	June 28, 1938	96,000,000
North Branch, Susquehanna River Basin	July 3, 1958	47,000,000
Ohio River Basin	June 22, 1936	28,000,000
Ouachita River Basin	May 17, 1950	1,000,000
San Joaquin River Basin	Dec. 22, 1944	78,000,000
South Platte River Basin	May 17, 1950	9,000,000

SEC. 402. The above authorization for the Columbia River Basin shall include an amount not to exceed $1,000,000, which shall be available for the local flood protection projects authorized by section 204 of the Flood Control Act of 1950 (64 Stat. 180), thereby increasing the total authorization for said local flood protection projects to a sum not to exceed $16,000,000.

SEC. 403. The total amount authorized to be appropriated by this title shall not exceed $443,000,000.

SEC. 404. This title may be cited as the "River Basin Monetary Authorization Act of 1977".

TITLE V—MACROECONOMIC INLAND FREIGHT TRANSPORTATION STUDY

SEC. 501. This title may be cited as "The Comparative Macroeconomic Inland Freight Transportation Study Act of 1977".

SEC. 502. The Congress finds that there is a need to determine the competitive effect of Federal and State subsidies, direct and indirect, and taxes on the different modes of inland freight transportation.

SEC. 503. The Secretary of Transportation is directed to conduct a thorough and complete study regarding the economic impact and competitive effects of taxes, subsidies, user fees, and other similar charges on the different modes of inland freight transportation. Such study shall include an analysis of the amount and competitive effect of Federal and State subsidies, direct and indirect, and taxes on the different modes of inland freight transportation, and the types of user charge, if any, that would be equitable to all modes.

SEC. 504. The Secretary of Transportation shall submit to the President and the Congress a final report containing the results of the study conducted under subsection 503 within eighteen months after the date of enactment of this Act. Such report shall include such recommended legislation and administrative actions as the Secretary deems necessary and appropriate.

SEC. 505. There are authorized to be appropriated not more than $1,000,000 to the Secretary of Transportation to carry out the purposes of this section.

COMPARISON OF THE NEW DOMENICI AMENDMENT TO H.R. 8309 ON WATERWAY USER CHARGES WITH THE BILL ALREADY ADOPTED BY THE SENATE (H.R. 5885)

NEW DOMENICI AMENDMENT	H.R. 5885
Title I:	
(1) Authorizes new Locks and Dam 26, together with requirement for an Upper Mississippi River Master Plan.	(1) Identical.
(2) Creates an 11-year phase-in of a comprehensive waterway user charges as follows:	(2) Established a 10-year phase-in of user charges as follows:
F.Y. 1980: 4¢/gallon tax (in lieu of 20 percent recovery on operations and maintenance costs)	F.Y. 1980: 20 percent of O&M
F.Y. 1981: 4¢/gallon tax (in lieu of 20 percent of O&M)	F.Y. 1981: 40 percent of O&M
F.Y. 1982: 40 percent of O&M (with credit for 6 cents tax)	F.Y. 1982: 60 percent of O&M
F.Y. 1983: 60 percent of O&M (with credit for 6 cents tax)	F.Y. 1983: 80 percent of O&M
F.Y. 1984: 80 percent of O&M (with credit for 6 cents tax)	F.Y. 1984: 100 percent of O&M
F.Y. 1985: 100 percent of O&M (with credit for 6 cents tax)	F.Y. 1985: 100 percent of O&M+10 percent capital
F.Y. 1986: 100 percent of O&M+10 percent of capital (with credit for 6 cents tax)	F.Y. 1986: 100 percent of O&M+20 percent capital
F.Y. 1987: 100 percent of O&M+20 percent of capital (with credit for 6 cents tax)	F.Y. 1987: 100 percent of O&M+30 percent capital
F.Y. 1988: 100 percent of O&M+30 percent of capital (with credit for 6 cents tax)	F.Y. 1988: 100 percent O&M+40 percent capital
F.Y. 1989: 100 percent of O&M+40 percent of capital (with credit for 6 cents tax)	F.Y. 1989 and thereafter: 100 percent O&M+50 percent capital
F.Y. 1990 and thereafter: 100 percent O&M+50 percent of capital (with credit for 6 cents tax)	
(3) Provides for a possible Congressional Veto of user charges prior to implementation.	(3) Identical.
(4) Provides that user charges, even after the full phase-in, can be no more than 1 percent of the value of the delivered price of the commodity.	(4) Identical.
(5) DOT impacts study to Congress in 1982 and every two years thereafter.	(5) Similar, but only provided for a 1982 report.
Title II: Accepts the House's provision for a fuel tax on waterway carriers, starting in F.Y. 1980 at 4 cents a gallon, rising to 6 cents in F.Y. 1982, with dollar for dollar credit against the comprehensive user charges in Title I.	No similar provision.
Title III: Includes various water resources projects, unrelated to Locks and Dam 26.	Identical.
Title IV: Includes additional river basin monetary authorizations.	Identical.
Title V: Includes the Sen. Melcher macroeconomic transportation study.	Identical.

GENERAL STATEMENT

Two of the more controversial issues to come before the Committee on Environment and Public Works are addressed in this bill: authorization of the reconstruction of Locks and Dam 26 on the Mississippi River at Alton, Ill., and the imposition of waterway user charges.

It is the view of the Committee that these two issues must be resolved together, because inland waterways are the sole exception to the principle of both water resources and national transportation policy that direct beneficiaries repay a portion of the Federal costs. These issues are, in fact, linked. They are different facets of the same issue: How the Federal Government can best promote an efficient inland navigation system that is equitable to other transportation forms and the Federal taxpayer. The administration has endorsed the linking of these two issues.

The issue of replacement of Locks and Dam 26 is not new to the Committee on Environment and Public Works. The controversy surrounding this proposed project came to the attention of the committee in 1975 when the Federal district court in the District of Columbia ruled against the Secretary of the Army's authorization for replacement.

During the ensuing time, a great deal of discussions were devoted by the Committee to the proposed rehabilitation or replacement of the facility at Alton, Ill. In 1976, the Committee held 5 days of hearings and authorized a replacement lock and dam as recommended by the Secretary of the Army and the Chief of Engineers together with a system of user charges similar to this bill.

The Senate was unable to approve the Committee's recommended legislation on Locks and Dam 26 and user charges during the closing days of the 94th Congress. Following adjournment, the Committee continued to consider proposed alternative methods of providing a safe and efficient lock and dam at this point on the Mississippi River. All recommended alternatives were carefully considered and hearings conducted again this year to obtain additional views of interested parties and those of the new Carter administration.

The proposed replacement of Locks and Dam 26 raised questions regarding policies of the Army Corps of Engineers with respect to repair or replacement of facilities which are no longer structurally sound or economically efficient. Prior to 1975, the corps replaced obsolete facilities under the authority of the act of March 3, 1909. If the Secretary of the Army approved, based on a finding that a reconstruction was essential for continued use and consistent with other proposed improvements for the system, work could go forward without specific authorization, subject only to the appropriation of funds.

This authority was challenged in the courts and the Secretary of the Army has since taken the position that he will request specific authority for projects such as locks and dam 26. This bill provides the authorization for this project.

But the Committee recognizes that the question of Locks and Dam 26 is not an isolated issue. It must be addressed and resolved in the context of an overall inland navigation program, which also addresses the question of who is to pay.

According to calculations of the Corps of Engineers, two-thirds of the annual "benefits" from a rebuilt locks and dam 26 are due to "delay reduction." That is a $53,411,000 annual benefit to barge operators, and it is a taxpayer-provided benefit from just this one project. It is the committee's view that those taxpayer-provided benefits should be, in part, recovered by the Federal Government not simply accrued by the barge operators. A system of waterway user charges achieves this objective.

Since Congress initiated the inland navigation program in 1824, considerable sums of money have been appropriated for improving and maintaining the navigable waterways of the United States. The committee has determined that water transportation continues to have an important and useful role in the national economy and is an integral part of the Nation's transportation system. A viable waterway system is important not only to shippers but also to consumers of goods. It is clearly in the national interest to have an inland waterway network in sufficient repair to move goods economically and efficiently from producer to consumer.

According to a study by the Congressional Budget Office, the inland waterway system users received a Federal subsidy exceeding 40 percent of the industry's revenues. The rail, air, and highway modes received subsidies from the general fund in the range of 1 to 3 percent of industry revenues. In contrast to other modes, waterway users make no contribution to operating and maintaining their rights of way.

Taxpayer-provided improvements to a single mode necessarily create imbalances. Because of this relationship, the committee approved the provision authorizing collection of user charges on the inland waterways. Such charges are to be imposed over a 10-year period and are designed eventually to collect 100 percent of the operation and maintenance costs and 50 percent of the new construction costs for the inland system. The committee believes balanced transportation and fairness require that the commercial users of the federally supported transportation facilities should pay a portion of the costs of developing and maintaining these facilities in the future.

It will be increasingly hard to win taxpayer, and thus political, approval of continued financing for new work on the waterways without some form of user charge. A gradual imposition of a reasonable user charge system meets that problem.

The waterways industry testified that it believed there was need for more study before action was taken to implement a waterway user charge. The committee believes that a number of safe guards are built into this legislation to protect the interests of the waterway industry and the pubic, while creating an action mechanism establishing user charges. Moreover, the bill, based on testimony from concerned waterway interests, provided protection of marginal waterways from economic hardship.

During the period lasting from enactment until January 1, 1979 the Department of Transportation will conduct hearings, issue draft legislations, review comments, and study this issue before issuing final regulations. Once these regulations are sent to Congress, they are subject to a special provision allowing Congress time to reject or amend them.

At the end of fiscal year 1982, 3 years after the effective date of the charges, the administration will report to the Congress and the public on the actual effects, allowing for a possible mid-course correction. The committee believes this is a reasonable approach and one that will protect taxpayers and consumers.

WATERWAY USER CHARGES

Section 303 establishes, for the first time in our Nation's history, a system of user charges to be paid by the commercial cargo vessels that use the 25,000 miles of federally built and maintained inland waterways. Federal waterway expenditures are now a full Federal subsidy to the barge operators with no cost recovery. The schedule of charges in the bill, to be implemented in phases over a decade beginning October 1, 1979, eventually would recover 100 percent of the Federal costs of waterway operations and maintenance and 50 percent of new waterway construction costs, based on the appropriations in the preceding fiscal year. This section applies only to commercial, shallow-draft vessels. It does not apply to recreational vessels, which already pay a fuel tax, nor does it apply to international traffic. Specifically excluded from the charge system are waterways not operated and maintained by the Federal Government, such as the New York State Barge Canal, which is operated by the State of New York.

IMPLEMENTATION

On January 1, 1979, administrative regulations setting a specific user charge schedule will be submitted to the Congress for review. Prior to that time, there is a period of 10 months when the Secretary of Transportation, in consultation with the Secretary of the Army, will study alternatives and publish preliminary user-charge regulations. During that period, not less than 45 days must be allowed for public comment and at least one public hearing must be held on alternatives to allow all interested parties to comment.

General guidance is provided to the Secretary on how to establish user charges that are reasonable and equitable.

The Secretary must consider such factors as traffic volumes and seasonal peaks in setting charges, and he may establish user charges that utilize techniques such as licensing fees, congestion charges, ton-mile charges, lockage fees, capacity fees, or any other equitable system or combination thereof. The Secretary must set the charges so they do not impose any unreasonable economic burden on the users of any specific waterway segment. Thus, while variations in the charges on various segments are permitted, they must be undertaken with care to assure they will not cause the closing of any segment or economic hardship on any particular use. The Secretary could also determine that a nearly uniform system—such as license fees or lockage fees—would be the most effective, practical, and reasonable way of developing a user charge system that recovers a portion of the annual investment of the taxpayers. The committee was impressed by arguments for possible congestion tolls as a way to provide cost recovery while improving waterway efficiency

Following promulgation of final regulations on January 1, 1979, a period of 60 days is provided to give the Congress an opportunity to review the charges and their impact, and to disapprove or pass legislation to amend the regulations by joint resolution. This period of 60 days provides time to examine the actual effects on waterways users and the balance between competing forms of transportation. Such a well-controlled, cautious legislative experiment is preferable to additional theoretical studies in determining what the real economic impact of user charges will be.

The bill includes a procedure for resubmittal and consideration of amended regulations, similar to the timetable in the initial congressional veto procedure. This also extends to any significant changes in the regulations, such as a restructuring that would eliminate or add any maior form of cost recovery, or sharply alter the cost impacts on any waterway segment or group of users. Resubmittal is not necessary for minor, conforming changes that may be needed periodically to assure the efficient and equitable collection of user charges.

On October 1, 1979, if the regulations are not disapproved, the percentage of annual costs noted below will be collected from the commercial users of the inland waterways.

The schedule is based on estimates by the Corps that it spent $140 million for operating and maintaining the inland waterways and $240 million for construction on the inland waterways during fiscal year 1976.

Fiscal year	Operation and maintenance percentage	Construction percentage	Estimated dollar recovery
1978	(1)	----	----------
1979	(1)	----	----------
1980	20	----	$28,000,000
1981	40	----	56,000,000
1982 [2]	60	----	84,000,000
1983	80	----	112,000,000
1984	100	----	140,000,000
1985	100	+10	164,000,000
1986	100	+20	188,000,000
1987	100	+30	212,000,000
1988	100	+40	236,000,000
1989 and thereafter	100	+50	260,000,000

[1] No recovery.
[2] Study due to advise Congress on impact of initial phase-in.

REASONS FOR THE PROVISION

The initial phase of national waterway improvements has been accomplished at full Federal expense: Some $4 billion to build the system, plus approximately an equal sum to operate and maintain it.

While free waterway transportation was a legitimate Federal interest when there was need to find a mode of transportation to compete with the railroad monopolies, partially-free waterways are sound public policy today. The expenses are growing dramatically, major replacements and expansions are contemplated and competing modes are experiencing financial difficulty.

In a real sense, the United States appears ready to embark on a major program to rehabilitate its inland waterways, now consisting of 25,000 miles of improved waterways and 212 navigational locks and dams. Costs estimated at $3.4 billion in lock building remain to complete projects now authorized. Projects valued at billions of dollars more are under consideration. As the Nation enters this second phase—the phase of major reconstruction typified by the authorization in this bill to rebuild locks and dam 26 at Alton, Ill.—the question of who pays for those improvements must be addressed.

The committee believes that participation by the users in the financing of waterway operations and improvements will lead to a more realistic assessment of the needs for improvements, since the users will no longer be asking for something "free." It is expected that users will focus their attention on those new projects that will offer real benefits. Once such an improvement is paid for, even in part, by the users, the Congress can be assured that the expenses are more likely to be in the Nation's interest. A user charge will provide a real-world market test of a proposed project. If the users are willing to repay a portion of the cost of the project, even if spread throughout the system, then the Congress can, with far greater confidence, assume the project is economically viable. By minimizing the current subsidy advantage to the waterway users, the committee also believes it will result in a more rational national approach to transportation policy.

The barge industry has more than doubled its national market share in recent years. If this had been achieved strictly through efficiency, this increase would be commendable. But as important in this growth has been the existence of a free right of way provided to the industry, at the expense of competitors who must either finance their own right of way or pay taxes toward its upkeep.

Complete Federal financing of waterway construction and operation has led to several problems. The traffic delays at Locks and Dam 26 are symptomatic of the larger issues at stake. The capacity problem is a direct function of free funding. As long as a free system is provided, delays and future capacity problems are to be expected.

STUDIES AND ANTICIPATED RESULTS

President Carter is the eighth successive President to support the imposition of waterway user charges. Because of this broad interest, many recent studies have been made of waterway user charges and their possible impact. For example, the 1973 report of the National Water Commission recommended user charges for full recovery of operation, maintenance, and capital costs:

"There is no longer any rational justification for assumption by the Federal Treasury of the entire cost of construction, operating, and maintaining navigable waterways."

In September 1975, Transportation Secretary Coleman stated in the study of National Transportation Policy:

"Economic efficiency and consideration of equity also lead in the direction of some form of cost sharing. Insofar as it is practicable and administratively feasible, the identifiable beneficiaries of federally improved and maintained waterways should bear some share of development and operating costs through a system of user charges."

A November 1975 report by the General Accounting Office found only minimal impact and many benefits from imposition of user charges to recover operation and maintenance costs.

The Department of Transportation June 1976 study of "Regional Market, Industry and Transportation Impacts of Waterway User Charges" concluded that: "Predictions of substantial, generalized impacts on water carriers as the result of user charges appear unsupported. . . ."

A December 1976 study for the Corps of Engineers "Potential Impacts of Selected Inland Waterway User Charges," found little noticeable effect on most waterways from cost recovery systems.

Probably the most thorough review was the three-volume study issued in March 1977, by the Department of Transportation. "Modal Traffic Impacts of Waterway User Charges."

Among its conclusions:

"It was found that delivered commodity price impacts rarely exceeded 1 or 2 percent for 100 percent recovery of Federal O.M. & R. (operation, maintenance, and repair) expenditures and were more commonly only a fraction of 1 percent. Projected market forces other than user charges were generally found to have a more substantial impact than navigation cost recovery. . . .

"In general, these price and income effects were measured in fractions of 1 percent, although certain commodities may experience slightly larger increases. . . .

"Although segment tolls are relatively high in comparison to other rivers, coal-traffic on the Monongahela, Allegheny, and Kanawha Rivers should not be adversely affected by user charges. Average barge haulage of coal is between 10 and 25 miles on the rivers. Overall impacts of user charges on final delivered price are minimal and less than 5 percent of barge rates.

"A phased implementation of user charges would limit absorption of the tolls by barge and terminal operators by allowing natural traffic growth to offset any traffic diversion caused by the tolls and by permitting the orderly retirement of uneconomic facilities and equipment.

"User charges for the recovery of 100 percent of Federal O.M. & R. expenditures on the inland waterway system would have small impacts on the cost of producing steel in the areas bordering the river system—a fraction of 1 percent of total costs even for the worst case."

The question of impact was the center of the committee's inquiry during its hearings. William Vickerey, professor of political economics at Columbia University and a leading transportation economist, in testimony before the Committee on Environment and Public Works stated:

"User charges are not costs to the society. They are transfers. Any revenue that is obtained by user charges is going to be used in some other way to reduce taxes somewhere else. The net effect is going to be to benefit consumers."

Harry Gobrecht, director of transportation and physical distribution of the U.S. Gypsum Co., which ships both on company-owned barges and by rail, was asked during Committee hearings if user charges would "have a big negative impact on your overall company's transportation costs?" He responded:

"No. I firmly believe, and the reason I am here, is that with the imposition of the user charges, it is going to have the effect of allowing the railroads to compete more equitably throughout the United States. I believe that if this occurs, then there is going to be an advantage in railroad freight rates that will far offset the modest increases in the imposition of the user charges."

In short, Mr. Gobrecht noted the possibility that the cost to consumer of any modest increase in barge rates will be more than offset by improved rail rates in those areas where rail is the only mode of transportation. Accordingly, the consumers of the Nation may actually benefit from the imposition of user charges. When coupled with savings to the taxpayer, user charges become a precondition to sound public policy with respect to inland navigation.

Testimony was received from groups strongly opposing user charges. Robert F. Stauffer, general counsel, National Coal Association testified:

"Such charges would not only impede the orderly development and distribution of this vast, low-cost source of energy, but it would also have extensive adverse impact on the coal industry itself, on industries dependent upon coal, and on America's consumers of energy . . . If user charges are imposed, we certainly see the cost of about 125 million tons of coal going up."

The members considered more likely the arguments involving barged coal costs stated in the March 1977 study of the Department of Transportation:

"Overall impacts of user charges on final delivered price are minimal and less than 5 percent of barge rates . . . Diversion to alternative distribution patterns is unlikely given that average user charges on coal traffic are only 11 cents per ton at 100 percent recovery levels."

Testimony showed that the price of coal had risen 125 percent over the last 3 years, with coal demand still rising. If a 125-percent price increase had not damaged coal usage, the committee is persuaded that the cost impact of waterway user charges, averaging less than 1 percent of the value of coal

after the full decade-long phase-in, is likely to have a negligible adverse impact on the coal industry.

Section 304 makes any commercial user of the inland waterways that fails to pay a required user charge subject to a civil fine of up to $5,000 a day, plus a prohibition against the use of any Federally operated and maintained lock during the period of violation.

Section 305 requires the Secretary of Transportation, in cooperation with the Secretary of Army, to submit to Congress by October 1, 1982, 3 years after the date the user charges become effective, a report on the implementation of section 4 to provide the Congress with the information it would need to make a possible midcourse correction, if appropriate. The Committee believes this is an important section that assures reasonable implementation of user charges.

This examination will cover the impacts, if any, on the commercial users of the waterways and the consumers of goods that are capable of being shipped on the inland waterways, and the impacts, if any, in a regional or national basis. The study will analyze the effectiveness of user charges in fostering a more balanced national transportation system, and the effectiveness of user charges in promoting more efficient public investment, balanced use of water resources, and reliance on the private sector.

Section 306 automatically reduces the user charges collected under this act by the amount of any fuel tax or other special tax imposed on the commercial barge companies using the inland waterway. This would provide automatic assurance against double charges, should the Congress determine at a later date that a fuel tax on barges is appropriate.

LOCKS AND DAM 26

Section 307 authorizes the reconstruction of Locks and Dam 26 on the Mississippi River at Alton, Ill., by replacing it with a new dam and a single, 1,200-foot lock, with contingencies for a second lock, at an estimated cost of $421 million.

The existing Locks and Dam 26 is located about 18 miles upstream from St. Louis, Mo., and serves as a key element in the Nation's inland waterway system. It is situated at a central location in the inland navigation system: All waterborne commerce shipped between the Ohio River, the lower Mississippi River, the Missouri River, and the Gulf Intracoastal Waterway and the upper Mississippi River or the Illinois River must pass through these locks.

The present structure, completed in 1938, has two lock chambers: One 600 feet long and the other 360 feet long. Major problems are currently associated with this structure, centered on its deteriorating conditions and its capacity in relation to future traffic growth on the river. The structure has experienced settlement and some loss of foundation material.

While the facility is not in danger of collapse, the costs of maintenance are growing. River traffic at Locks and Dam 26 reached about 53 million tons in 1974, and is expected, by the Corps of Engineers, to reach the project's estimated physical capacity of 73 million tons in the mid-1980's. Traffic delays are expected to increase significantly as capacity is approached. But the committee believes that reconstruction, which will take 8 to 10 years, can be achieved, if started now, before the capacity of the existing site is reached. The Department of Transportation, assuming a continued trend to larger more efficient barges, and operational improvements, estimates capacity at the present locks "prudently in the range of 75–85 million tons per year * * * It seems likely that the capacity of a single 1,200-lock in the new dam is well in excess of 100 million tons per year."

The Corps of Engineers has reviewed this problem for many years. It studied the option of rehabilitating the existing structure. It examined reconstruction with a variety of sites and locations. The solution recommended by the Chief of Engineers and approved by the committee was chosen over rehabilitation of the existing facility, which utilized a scheme of a canal and new temporary lock on the Missouri shore.

Corps recommended plan

	October 1976 price level
Estimate cost: [1]	
Federal cost	$419,000,000
Non-Federal cost	2,000,000
Total	421,000,000

[1] Rounded.

Project Economics (6⅜ percent October 1976 costs.)

	Federal	Non-Federal	Total
Annual charges:			
Interest and amortization [1]	$34,518,000	$140,000	$34,658,000
Operation and maintenance	924,000	232,000	1,156,000
Replacements	107,000	-------	107,000
Economic losses	130,000	-------	130,000
Total	35,679,000	372,000	36,051,000
Net annual charges [2]	----------	-------	32,179,000

[1] Includes interest during construction.

[2] Gross annual costs less O. & M. costs no longer required at the present facility.

	October 1976 price level
Annual benefits:	
Transportation rate savings	$20,270,000
Delay reduction	53,411,000
Recreation	375,000
Area redevelopment	3,281,000
Total	77,337,000
Benefit-cost ratio	[1] 2.4

[1] Previously stated BCR was 3.9. This was reduced by inclusion of local transportation costs, revision of projections and updated prices. In order to make all costs comparable we have added local haulage of grain to the waters edge which had not been previously included. In addition, projections were revised as part of the review process, for coal and petroleum to reflect the current energy situation.

The committee recognizes that there has been much discussion on what form of corrective action should be undertaken. There was opposition to the 18-foot sill depth of the new proposal, which was viewed as a first step toward a 12-foot channel on the Upper Mississippi. It was argued that this will result in irreparable harm to the Upper Mississippi aquatic environment. The railroad industry has objected to the economics, especially as it applies to the loss of railway traffic. Committee members directed the General Accounting Office to make an independent report on the possibility of rehabilitation in lieu of new construction.

The railroad industry strongly opposed reconstruction of Locks and Dam 26, as leading eventually to an entire reconstruction and expansion of the Upper Mississippi system, and argued that it would potentially divert hundreds of millions of dollars in potential rail revenues to the "free" waterways. Environmentalists argued that Locks and Dam 26 would be the opening wedge not only to a rebuilding of the Upper Mississippi facilities but to its deepening, vastly increasing traffic and pollution on the river, which is currently maintained at a depth of 9 feet.

In a March 1977 report to the Committee on Environment and Public Works, the Department of Transportation said:

"The impact of the proposed single 1200-foot lock on railroad revenues does not appear to be significant. A single 12-foot lock at Alton, Ill., will not cause significant diversion of existing rail traffic to the waterways."

The committee finds that proposals recommended by the Chief of Engineers appear to provide a logical approach to relieve the concerns for increased waterway depth, environmental impacts, and bulk commodity transportation economics. For example, the corps is directed to replace and manage at Federal expense, the wildlife habitat that will be inundated as a result of the construction of the project, on an acre for acre basis, in Missouri and Illinois. The corps is also authorized to provide project-related recreation development at Ellis Island, Mo., and include facilities such as roads, parking lots, walks, picnic areas, a boat launching ramp, and a beach. The estimated cost is $4 million, of which the State of Missouri will provide half the funds. These lands will be administered in accordance with the provisions of the Federal Water Project Recreation Act.

The Mississippi River channel above its confluence with the Illinois River is estab-

lished at no greater than nine feet, and no Federal official is authorized to study the feasibility of deepening the navigation channels in the Minnesota River, the Black River, or the Saint Croix River unless specifically authorized by a future act of Congress.

With these safeguards, the committee believes the immediate reconstruction of Locks and Dam 26 is in the national interest.

DISCLOSURE OF LOBBYING ACTIVITIES—S. 1785

AMENDMENT NO. 1461

(Ordered to be printed and referred to the Committee on Governmental Affairs.)

Mr. DOMENICI. Mr. President, I submit an amendment to S. 1785 to prohibit contingent fee contracts with respect to lobbying representatives.

The following States in their statutory provisions presently prohibit contingent fee arrangements with respect to the success or outcome of lobbying efforts. Although not intended to represent an exhaustive compilation, a list of such States includes: Alabama, Alaska, Arizona, California, Colorado, Georgia, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, and Wisconsin.

It should also be noted that Federal law presently prohibits, except in specified circumstances, agreements for payments to agents or other persons which are contingent upon the securing of a Federal Government contract.

The existence or rumor of the existence of contingent lobbying contracts insinuates a payoff for influencing legislation or administrative action. This is a cloud the legislative process can do without. It does no credit to either those responsible for enacting legislation, nor to those engaged in informing and persuading the Congress. Accordingly I offer this amendment to insure that this type of allegation will never attach to any lobby activity or legislative or administrative action.

NOTICES OF HEARINGS

NOMINATION

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, October 26, 1977, at 9:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

Gilbert S. Merritt, of Tennessee, to be U.S. circuit judge for the sixth circuit vice William E. Miller, deceased.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

REORGANIZATION PLAN NO. 2

Mr. RIBICOFF. Mr. President, the Governmental Affairs Committee will hold 1 day of hearings on Tuesday, October 25, 1977, on Reorganization Plan No. 2 of 1977, relating to international communications, educational and cultural activities of the United States. The hearing will commence at 10 a.m. in room 3302 of the Dirksen Senate Office Building. Testimony will be received from both administration and outside witnesses.

NOMINATION OF MICHAEL J. EGAN TO BE ASSOCIATE ATTORNEY GENERAL

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, October 26, 1977, at 9:30 a.m., in room 2228, Dirksen Senate Office Building on Michael J. Egan, of Georgia, Associate Attorney General-designate.

Any persons desiring to offer testimony shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

TECHNICAL CORRECTIONS ACT OF 1977

Mr. HARRY F. BYRD, JR. Mr. President, as chairman of the Subcommittee on Taxes and Debt Management of the Committee on Finance, I announce that hearings will be held on October 26 and October 28, 1977, on H.R. 6715, the Technical Corrections Act of 1977. The hearings will be held in room 2221, Dirksen Senate Office Building.

Hearings on October 26 will begin at 9 a.m. and will be limited to Treasury Department witnesses. Hearings for public witnesses will be held October 28, beginning at 9 a.m. Additional hearings on a subsequent date will be scheduled if necessary.

This bill would generally make technical amendments to the Tax Reform Act of 1976 (Public Law 94-455) intended to clarify and conform various provisions adopted by the 1976 act. The purpose of the bill, in general, is to clarify a list of issues raised by the 1976 Tax Reform Act.

Overall, the provisions of the bill are estimated to result in an aggregate revenue loss of $17 million for fiscal 1978, and losses of $7 million to $8 million a year thereafter.

Several provisions of the bill benefit specific taxpayers. One provision relates to the transitional rule for recapture of possession source losses to correct inadvertent omissions in the 1976 Tax Reform Act. The taxpayer intended to be benefited is PPG, Inc. Budget receipts will be reduced by approximately $2 million in fiscal year 1978. There is possibility that it could decrease budget receipts by up to $10 million after 1980.

Another provision relates to the recapture of gain on disposition of stock in a DISC and will benefit the Evra Corp. by making the 1976 law effective as of December 31, 1976. It is estimated that this provision will reduce budget receipts by less than $1 million per year.

The bill also contains a provision dealing with the foreign tax credit in case of oil extraction income earned pursuant to certain production sharing contracts. The provision is intended to benefit two independent oil producers. Tidewater Marine Inc., and the Reading & Bates Co., by changing inequities for fiscal year taxpayers created as a result of the 1976 act. It is estimated that this provision would decrease budget receipts by $5 million in fiscal year 1978 only.

The bill contains a provision dealing with the source of income received on the liquidation of a foreign corporation. A taxpayer to be benefited is General Electric Co. However, the provision has general application and will benefit other taxpayers as well.

The bill provides that income received on the liquidation of a foreign corporation will be treated as foreign source income provided that the liquidated corporation did most of its business overseas. It is estimated that this provision will result in a revenue loss of less than $5 million annually.

The House-passed legislation is technical and with more provisions than will be digested in these remarks. Senators are encouraged to study the legislation carefully.

NOMINATION OF PIERRE N. LEVAL, OF NEW YORK TO BE DISTRICT JUDGE

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, October 26, 1977, at 9:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

Pierre N. Leval, of New York, to be U.S. district judge for the southern district of New York vice Donald B. Bonsal, retired.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

ADDITIONAL STATEMENTS

IMPENDING DISTURBANCE IN SOUTH AFRICA

● Mr. CLARK. Mr. President, two recent events in South Africa have stirred considerable controversy: First, the demolition last August of the shanty homes of 10,000 squatters in Cape Town who had the legal right to work in the urban center, but not the legal right to live with their families; and second, the tragic death of Steve Biko.

Biko's death is still surrounded in mystery, because of the failure of the South African Government to disclose the results of the autopsy. On September 16, I sent a letter to Prime Minister B. J. Vorster requesting that an impartial inquiry be made into Biko's death. I have received no reply to this letter. However, the state pathologist in the Biko case has announced that there will be no judicial investigation, simply an inquest which may be indefinitely postponed and which, in any case, would

simply establish the medical explanation of the cause of death, not the full circumstances which led to it.

These events suggest that the authorities in South Africa are either being given the fullest autonomy to act without central direction or control, or that a pattern of increased repression is being deliberately promoted. An American who conducted research in South Africa and who recently returned to the United States has written an article presenting his personal views on the matter. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TORN BY APARTHEID

(By Andrew Silk)

MONTCLAIR, N.J.—During my last months in South Africa, I felt that men there were beginning to lose control of the social order. Unreason engulfed complex problems of blacks and whites, leading the country toward great violence.

On Aug. 11, a squatter camp outside Cape Town was destroyed. In the weeks before bulldozers and mechanical shovels were brought in and the dwellings of 10,000 people were knocked down. I spent many hours talking to men and women in the camp about their lives and country.

They were largely villagers who had come long distances to the city because they could no longer survive on the land. It is easy to have sympathy for the new urban poor, whether in Cape Town, Calcutta, Santiago or any developing city. But what disturbed and moved me so about these people outside Capetown was that most of the men were legally employed but illegally living with their families.

The Government required the women and children to stay up-country, and offered husbands and fathers beds in single-sex dormitories to prevent the increase of Africans in Cape Town and preserve the myth that the country's blacks are only temporary city residents. In defiance, men, determined to keep their families together, built tin shelters on empty land. Finally, they could be moved only by force. Yet even after their community was gone, most still refused to leave Cape Town. Policemen and local officials raided church grounds where some families had taken refuge. At one, women were arrested at 4 A.M.; at another, instead, their tents were confiscated.

As the city and nation were recovering from the impact of the demolition, the young black leader Steve Biko died in detention. I never met him but I knew the feel of the black townships well enough to realize that without his thought and inspiration and the "black consciousness" movement he led, there would be little to direct or contain black frustration and rage.

What was so shattering was not only the loss of a man of courage and firm intellect, not even the statement of the Minister of Police James Kruger that his death "leaves me cold." It was the realization, with the leak of preliminary post-mortem findings, that the country's white leaders had been unable or unwilling to protect an important black leader from fatal beating.

These two events were not unique. Two weeks after the squatter camp was knocked down, a second, smaller one was also flattened. A third was expected to be removed soon. The harassment of the churches continues. Steve Biko was the 21st man in 18 months to die in jail without being charged.

As an observer who counted both Afrikaner nationalists and their bitterest opponents, black and white, as my friends, I was torn by what was happening to a country that I had begun to love. As South African men and women of feeling and reason see their future being determined by the demolition crew and the security police, they respond with anguish and hostility. I was among 2,000 whites and blacks who came together twice in 30 days in the center of Cape Town—first to protest the breakup of homes and families and then to mourn Steve Biko. At these meetings, people spoke of more than moral concern. For many there was a recognition that their country was being torn apart by economic and political forces greater than the Government could comprehend or hold back.

They saw that the refusal for so long to allow Africans to become permanent residents of the cities and to participate fully in the nation's growth had made it impossible now for blacks to satisfy even minimal demands for food, shelter and work. And the refusal to allow blacks to participate fully in the political system has created an arrogant white power that does not negotiate with a black leadership unwilling to compromise integrity.

What frightened these blacks and whites so deeply was the knowledge that, as these crises reached their full intensity, white force would be met by black—a terrorism of control would meet a terrorism of resistance: There are already arsenals in the townships.

These people felt that without fierce external support, the few remaining internal constraints on the unreason could not hold. It was clear to them that if the United States and the West compromised with the white leadership and accepted changes not central to South Africa's political and economic life, these countries would gradually be drawn into South Africa's crises and be forced to condone the terrorism of control.

If, however, they honed their attack, and used all power to protect people like the squatters, and Biko, who resist the bulldozers, the security police and the machinegun—and are thus most vulnerable—it might be possible for these men and women to hold on to reason longer and to live to rebuild their country. ●

GOVERNMENT TREND

Mr. SCOTT. Mr. President, I ask unanimous consent that a copy of our October newsletter reporting to the people of Virginia be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

● Mr. SCOTT. Mr. President, this newsletter now being mailed was prepared shortly after the close of the fiscal year on September 30, 1977, and we included a statement on the back page that approximately 60 percent of all funds authorized for use by our office or $408,737.82 were not expended and to the fact that we had also returned $878,272.93 to the Treasury from time of taking office as a Senator through October 31 of last year. This, of course, amounts to considerably over $1 million in authorizations not expended by the Senate office. I am sure the conscientiousness of our staff, which incidentally is well paid, plays a major part in the savings we have been able to make while serving the more than 5,000,000 Virginians.

EXHIBIT 1

GOVERNMENT TREND

Congress is nearing completion of this year's session. Therefore, it may be a good time to reflect upon whether its activities have had a beneficial effect upon citizens generally. Our standard of living, developed over the years, was based upon the nation's vast natural resources, a favorable climate, and a system of government that permits individuals to increase their knowledge, their skills, and to develop their abilities.

American business and industry have also been able to develop within an economic and governmental climate that encouraged growth and production. There came a time, however, around the turn of the century when some business and industrial leaders became indifferent to the general welfare, and limited constraints were necessary to retain the free competitive market and to prevent monopolistic control of our economic system.

It appears, however, that in recent years we have reached the point where government has created burdens of paperwork, regulation, environmental constraints, tax laws that discourage industrial expansion, and other measures that actually reduce our incentive and ability to produce more goods and services.

The thought has been suggested that it is positive rather than negative to be concerned about the huge budget deficits, constant inflation, excessive regulations, a welfare system that is encouraging Americans to choose dependency rather than self-help, energy programs that limit production rather than increase it, government bureaucrats making decisions that could better be made by citizens themselves, demanding more power over our lives and new taxes for unnecessary programs. In other words, isn't it time for Americans to reconsider the proper role of government and while not completely returning to a concept of individualism, finding a comfortable middle course where each, to the extent possible, can care for his own personal welfare and that of his family, participate more fully in private voluntary organizations, and not look to government for more and more solutions of essentially personal problems? This would appear to be the positive and compassionate position for a Senator to take toward constituents who must pay the cost of government. Your comments and suggestions are most welcome.

AIR BAGS

On June 30th the Secretary of Transportation determined that all cars manufactured in the United States should have air bags or passive restraints by the 1984 model year. Lap belts also will continue to be required in new cars. Although intended to protect passengers, this regulation compels purchasers of automobiles to buy the air bags whether or not they want the equipment. Estimated added costs to new cars equipped with air bags range from $100 to $300. An automobile manufacturer estimated the cost of replacing the air bag system, after use, to be more than $600. While Congressional attempts to override the decision failed this year, it is likely the matter will be reconsidered after regulations become effective.

IMMIGRATION

Proposals to curb the rising illegal alien population have been introduced into the House and Senate in recent years. An estimated 6 to 8 million illegal aliens now reside in this country, with perhaps upwards of 3 million holding employment in 1976, according to Justice Department figures. A Senate bill on which hearings were held in 1976 was not enacted, and while the White House sent to Congress a new proposal last week to be introduced as an Administration bill, no further action to come to grips with the flood of job-seeking aliens is expected this year.

And yet we are told that more than 4 million permanent resident aliens and nearly

500,000 nonpermanent resident aliens—the "legal aliens"—live in the U.S. Each year, some 400,000 new legal immigrants enter the country, and some 7 million nonimmigrant visas are issued. Further, some 125,000 aliens annually become naturalized citizens of the United States, and in one decade ending in 1974, 25,000 foreign children were adopted by U.S. parents. These figures add up: 4 million legal immigrants; 2 or 3 million naturalized citizens; millions more visiting on temporary visas; and perhaps as many as 8 million illegal aliens, many of whom are holding jobs and receiving social services and welfare assistance intended for citizens and lawful immigrants.

It is understood that many immigration problems are the result of gaps in the law. For example, while immigration is numerically limited by annual hemispheric and individual country ceilings, the Attorney General can ignore these ceilings though his emergency "parole" authority and bring into the country hundreds of thousands of refugees. Accordingly, I am preparing a measure to limit the Attorney General's parole authority so that those paroled into the United States will be included in the national quota for immigration purposes.

CHILD ABUSE

One of the many concerns of the Congress involves the production, sale and distribution of pornographic films and other literature which feature children of tender age. Extensive hearings on the subject by both Houses of Congress have brought out the widespread use and exploitation of young children for illicit purpose.

Most people, of course, condemn such practices and realize the potential harm to children. Perhaps child pornography is a symptom of the general moral breakdown within our society. While a conference between the House and the Senate will be necessary to determine the final wording of the bill, the major thrust is to forbid the production and distribution of film or literature portraying minors engaging in "sexually explicit conduct". The distributors and retailers also would be violating this criminal statute and be subject to fine or imprisonment.

SOCIAL SECURITY CHANGE

The Administration's Social Security proposals have been considered by the House Ways and Means Committee which has recommended as one phase of its bill that compulsory coverage under Social Security be extended by 1982 to include six to seven million federal, state and local public employees and those employed by nonprofit organizations. In addition, the bill includes tax rate increases and a proposal for automatic loans to the Social Security trust funds from general revenues whenever the assets of the funds drop below a certain level.

The measure provides for further study of methods of combining Social Security coverage for government employees with Civil Service retirement benefits. It contemplates a study by 1980 of ways to combine federal employee retirement systems with Social Security insurance so that benefits will not be reduced nor government employees' contributions increased. While the Senate may not act on Social Security until next year, the Finance Committee is currently considering the subject. Of course government employees will not be immediately affected but some action along these lines could be adopted in future years.

SALT

The interim Strategic Arms Limitation Treaty (SALT) agreement with the Soviet Union expired on October 3, 1977. This agreement limited the ceiling on the number of intercontinental ballistic missiles allowed the Soviet Union and the United States. Before agreeing to an extension, formal or informal, it would appear that Congress should consider in depth whether an extension or new agreement is in our national interest and such specific matters as whether fixed U.S. intercontinental ballistic missiles would survive if attacked by the Soviet Union.

LEGAL ASSISTANCE

One of the measures considered by the Senate several weeks ago related to the government furnishing legal assistance to persons otherwise unable to afford the services of attorneys. A corporation to provide the services, governed by a Board of Directors appointed by the President, was established for a three-year period by an Act of Congress in 1974. It has nine regional offices, provides funds for 300 legal service programs serving the various states and localities. The programs provide for counselling within a wide range of civil controversies but do not ordinarily provide for representation in criminal cases. The Legal Services Corporation was established to replace similar programs administered through the Office of Economic Opportunity which had been subjected to considerable criticism for a variety of reasons, including participation in political matters, demonstrations, and what many believe to be radical activities. The Senate bill originally provided for an extension of the term of the Corporation for a five-year period and authorized $225 million to be appropriated for the current fiscal year, with such annual sums as necessary for the remaining four years of the authorizations. The bill as reported by the committee would have also amended the law to provide that staff attorneys would not be covered by the Hatch Act that limits political activities for government employees during their off-duty hours.

At the present time there are approximately 3,000 full-time lawyers and 1,200 legal assistants to the lawyers employed by the government corporation. After several days of debate, a number of amendments were adopted, one of which would reduce the term of the authorization from five to three years, and a second that would reduce the authorization of expenditures for the current year to $205 million and such sums as may be necessary for each of the two succeeding fiscal years. My comments during the debate are available for distribution should you desire a copy.

Of course we take pride in the impartiality of our courts and, yet, the services of competent attorneys are often necessary to prevent injustices. In the past, and probably at the present time some persons who need legal services do without them because of their inability to pay. On the other hand, lawyers have donated their services to the poor; legal aid societies have provided services to the needy for several generations; bar associations have endeavored to assist those unable to pay; and many individual, charitable and religious groups have attempted to assist. In my judgment, a staff of 3,000 lawyers and 1,200 paralegal assistants paid from Federal funds to assist in civil matters is far too many and especially when it is considered that the government also pays attorneys' fees for indigent people accused of crime.

Authority of Federal judges to appoint attorneys for those accused of violation of Federal offenses has been granted by the Congress, and it is understood that many states, including Virginia, have similar provisions for payment of court-appointed attorneys from public funds. The number and cost of court-appointed attorneys continue to rise, and it would appear that while preserving the right of needy persons to have attorneys provided for them, the public must guard against abuses whereby the government itself may be handicapped in the performance of official functions through challenges by publicly financed attorneys, as well as the bringing of unnecessary suits and reducing incentives of private or volunteer groups to provide necessary legal assistance in worthy cases.

OFFICE EXPENSES

The Senate Disbursing Office has furnished a statistical report for the fiscal year beginning October 1, 1976, and ending September 30, 1977, indicating the amount of funds authorized to be expended by our Senate office; the amount actually spent; and the unexpended balance. These expenditures include the salaries of staff assistants, expenses of both the Richmond and Washington offices, stationery, transportation, telephone, telegrams, and miscellaneous expenses. For all purposes during this 12-month period, we were authorized to expend a total of $683,515.36; we actually spent $274,777.54, and returned $408,737.82, or approximately 60 per cent of all authorized funds to the Treasury this year. As indicated in last year's newsletter, we had returned $878,272.93 or 45.4 per cent, to the Treasury from the time of taking office in the Senate until October 31 of last year, and are pleased that the annual saving this year is greater than any of the first four years. In fairness it should be indicated that having a staff that practices fiscal responsibility makes this savings possible.

CONSTITUENT VIEWS

Our office receives considerable mail and telephone calls from constituents expressing their views on issues confronting the Congress. This is helpful in voting and otherwise representing you. A current issue is the proposed Canal Treaties. On this subject the office has received more than 3,200 letters against ratification of the treaties and fewer than 150 in favor of them.

The letters and phone calls indicate that at this time around 96 per cent of the people are against the treaties and want us to continue ownership and control of the Canal Zone. While it is unlikely that the Senate will act on the treaties before adjourning, there is a good possibility that we will be considering the matter early next year. We welcome all views on the matter and upon request will send you copies of my statements in opposition to the treaties. ●

PANAMA CANAL TREATY CRITICISM

● Mr. HARRY F. BYRD, JR. Mr. President, an editorial from the August 15 edition of the Charleston, S.C., Evening Post has recently come to my attention.

This thoughtful editorial addresses several of the arguments which have been put forward by proponents of the proposed Panama Canal Treaties and puts them in a useful perspective. R. L. Schneadley is editor of the editorial page of the Post.

I ask unanimous consent that the text of the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE PANAMA CANAL

The draft treaty with Panama, initialed last week by Ambassador Ellsworth Bunker and Sol Linowitz provides for U.S. surrender of the Panama Canal within 23 years. Brig. Gen. Omar Torrijos Herrera's outrageous demands for tribute have been scaled down somewhat, but the United States will still furnish hundreds of millions in "aid," plus payments of $50 million through the life of the treaty.

What a pity our country did not have such men bargaining for it in 1804. Our small differences with the Barbary pirates could have been smoothed away, and Lt. Stephen De-

catur would have been spared a lot of trouble.

President Jimmy Carter has asked members of Congress to withhold criticism of the draft treaty until they have had the opportunity to study it carefully. "I believe you will be gratified by the results," he said.

The treaty should be studied carefully, and then it should be soundly rejected.

It will guarantee neither the security of the canal nor its neutrality. The best guarantee of that in the future, as in the past, rests in the honor, integrity and power of the United States.

Panama has no valid claim in international law to require the United States to surrender its rights in the Canal Zone. The supposed validity of that claim has been manufactured largely out of whole cloth.

Much is made of the provision in Article 3 of the 1903 Hays-Bunau-Varilla Treaty which grants the United States, in perpetuity, executive, legislative and judicial powers in the Canal Zone AS IF it were sovereign. The "as if" clause is cited as evidence of Panama's retention of "real" or "titular" sovereignty by those anxious to "educate" the Congress and the American people concerning the justice of Panama's case.

The educators are less than honest, however, by almost never quoting the remainder of Article 3, which reads ". . . to the entire exclusion of the exercise by the Republic of Panama of any sovereign rights, power or authority."

They are less than honest, also, in contending that the canal is no longer vital to our "two-ocean" Navy. Four former chiefs of naval operations have publicly disclaimed that, and have argued that the canal is in fact more important to our diminished fleet than at any other time in recent history. Americans do not need to take the admirals' word for it. All they need do is count the number of ships in service and compare the Navy's strength today with what it was five years ago. And ALL the Navy's remaining ships, except for its 13 largest carriers, can still transit the canal.

The educators, finally, are less than honest in describing the canal as a "dwindling asset." In the years that lie immediately ahead, the Panama Canal will become increasingly important as a conduit for Alaskan oil on its way to East Coast refineries.

In one thing only are the educators honest. The continued use and security of the Panama Canal is more important to the United States than the continued ownership of it. And here, fundamental differences exist. Can a leftist Panamanian dictator provide greater security for the canal than the United States can? We have come to a pretty pass in this country when such a question must indeed receive serious consideration.

Thirty-four senators can block the new treaty. We hope they find the courage and wisdom to do so. ●

DO NOT SCRAP A GOOD MINING LAW

Mr. GARN. Mr. President, a number of bills have been introduced in this Congress seriously modifying the 1872 mining law. The proposal which has received the most attention would simply replace the present patent system with a system of leases, under which the Federal Government would retain full control over land being mined by private industry.

A subcommittee of the House Interior Committee has been holding hearings on these bills, and this morning, Gov. Scott Matheson of Utah testified before the subcommittee. Governor Matheson's testimony is extremely interesting, in that he challenges the basic premise of the bills introduced: That the mining law ought to be replaced. Instead, Governor Matheson argues persuasively, there is nothing fundamentally wrong with the present law. It may need some revision, and minor modification, but it has served us well, and can continue to do so in the future.

Mr. President, this issue will soon be before the Senate, and I think in preparation it would be well for Senators to have the benefit of Governor Matheson's testimony. Accordingly I ask unanimous consent that his statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF GOV. SCOTT M. MATHESON

I. INTRODUCTION AND OVERVIEW

A. The Congress should be skeptical about any proposal to further expand federal control over hardrock mining. There must be a clear demonstration by advocates of leasing that the current location system cannot continue to bring about mineral exploration and production in an economically and environmentally acceptable manner. The bureaucracy in Washington, D.C. is often assumed to be the disinterested, benevolent guardian of the general welfare, the people best suited to represent a truly national interest. Actually, the advocacy of expanded power by the federal executive branch should be viewed by Congress with the same skepticism with which it examines proposals from any other parochial self-interest. The executive branch's call for laws that expand its powers is as self-serving as industry's advocacy for increased levels of profits. A bureaucracy measures its success by the scope of its power, the number of employees it has, and the size of its budgets.

B. The burden of proof for replacing the location system with a leasing system in hardrock mining rests with those who argue for such sweeping change. These advocates have correctly identified problems with the Mining Law of 1872, but they have not yet demonstrated that abandonment of the general location system is necessary.

II

An examination of the concepts which are used to justify revision of the Mining Law of 1872 in the President's environmental message to Congress on May 23, 1977, suggests that some limited change is called for, but not radical overhaul.

A. A leasing system for publically owned hardrock minerals is the first reform advocated. Title to federal lands can be retained by the federal government under a location system. The land can simply be returned to federal ownership after mining and reclamation of the land have been completed. This approach is in keeping with multiple-use principles. During the period in which exploration and development are under way, mining is the dominant use of the land. After reclamation the land can be utilized for other purposes.

B. The second principle enunciated is explicit Federal discretionary authority over mineral exploration and development on the public lands. As the Governor of a state where approximately two-thirds of the land is already owned and controlled by the Federal Government, I believe that what is called for is more stringent control of federal land management agencies, not greater discretion for them. The Congress would be well-advised to devote a significant amount of time in the coming years to regular, systematic oversight of recently enacted land management regulation. This committee could profitably hold oversight field hearings on a monthly basis as regulations are issued under the Federal Land Policy and Management Act of 1976 and the Surface Mining Control and Reclamation Act of 1977. I think you would find that regulations issued pursuant to those acts are often contrary to congressional intent, and that the land agencies often lack the adequate resources and expertise to administer the laws in a sensible and timely fashion.

A recent study by the Mountain Plains Federal Regional Council, "The Permitting Process for Surface Mining Federal Coal with Recommendations for Improvement" confirms some of the popular complaints about existing federal leasing systems:

"The flow chart for the permitting process is eighteen feet long and that covers only federal permitting, not state, local, private, and Indian reservation requirements.

"No single agency, company, or entity understands the total process.

"Twelve federal agencies are involved in licensing and permitting for surface coal mining.

"The total elapsed time from preliminary exploration to developing a mining plan is 11.8 years.

"Administrative time ranges from 39 percent to 86 percent of the total time."

Additionally, the eight year delay in full scale federal coal leasing raises serious questions about this approach. I believe that similar detailed studies of geothermal, oil and gas, and nuclear leasing programs would produce similar confirmation of the widespread complaints about delays in those federal processes.

Before Congress imposes a leasing system on hard-rock minerals, it should find out why existing programs are ensnared in endless delays and red-tape. This administration's proposal to reform the mining law has potential for significant delays in the prospecting, exploration, and leasing process. The bill allows tremendous discretion and creates real uncertainty, what might be termed the front-end loading of direct and indirect costs. The requirements imposed on the miner range from strict specific acreage limitations to a vague requirement that prospecting activities can cause only minimal disturbance to the environment. The Congress should strictly limit the discretion of the secretary to withhold prospecting permits, exploration licenses, and leases. Consider the impact of just one section of the Administration's proposal. Under Section 106(c) the bill says that the secretary shall issue a lease if he determines that the proposed operation: (1) is compatible with the land use plan for the area, (2) will not violate any applicable laws and regulations; and (3) will have an overall value which, in the Secretary's judgment, exceeds its overall costs. Gentlemen, I ask you for a moment to look at this process from the point of view of the miner, small or large. Would you be willing to invest the time and capital to prospect and explore an area unless you had a reasonable certainty for obtaining a lease? Why would any economically rational operator go to the trouble and expense of prospecting in an area, competitively bid on an exploration license, and then conduct exploration operations on the land, if the Secretary can then withhold a lease? If the Secretary believes that an operation is likely to violate a land use plan, he should state that opinion before prospecting and exploration begins. If the Secretary believes that an operation is likely to be in violation of any existing laws and regulations, then he should state that opinion before prospecting and exploration begin. Once a lease is issued, it should not be subjected to revisions due to future changes in laws and regulation—unless there is an absolutely vital national purpose to be served—not just a policy shift on the part of

Congress or the federal bureaucracy. If in the Secretary's judgment the operation will not have a net social benefit, why should we substitute his judgment for the judgment of the man or company willing to risk time and money to develop the ore body—as long as the operation is carried out in an environmentally sound manner. The genius of the location system is that it operates on the principal of self-initiation, where individual effort and judgment interact with economic forces to form a largely self-governing system. A person or corporation must have a reasonable opportunity to develop and mine a mineral deposit and a reliable surety that mining can take place on terms clearly set before investments of time and capital are made. The mining industry must not be made dependent on the alleged wisdom and benevolence of the federal bureaucracy for its ability to carry out operations. The kind of discretion allowed in Section 106 of this proposal could have a chilling impact on domestic mineral production.

If there is to be any significant revision of the existing systems, Congress should strictly and specifically define the procedures to be followed, impose performance and time limits on the Secretary and carry out close oversight on a continuous basis to make certain that the law is operating in a fair and efficient manner.

C. The third and fourth concepts detailed as justification for the revision of the Mining Law of 1872 are the unquestioned need for strict environmental protection, reclamation of mineral areas, and prior approval of operating and mining plans before commencement of operations. These are goals of environmental protection and can be achieved under existing state and federal legislation. One pattern that has evolved from Congressional policy is that of allowing the states to enforce environmental and reclamation standards on their own lands, if the states' standards are at least as strict as the federal governments. The State of Utah in 1975 enacted a Mined Lands Reclamation Act that requires the operator to have a reclamation plan, to post a bond or surety to guarantee reclamation and to provide surface protection during mining operations. The trend in most of the states in which mining occurs has been laws that impose stringent surface protection and reclamation standards. An integral part of this process in Utah and many other states has been the requirement to file operation and reclamation plans before mining begins.

Perhaps there are some inadequacies in some state laws. But there are existing federal laws and regulations to control the environmental impact of hard-rock mining under the National Park Service Regulations and the Forest Service Regulations. The Bureau of Land Management has issued proposed regulations in regard to surface management, citing Section 302(b) of the BLM Organic Act, and other laws, as sources of authority authorizing these regulations. However, I am not persuaded that these regulations reflect Congressional intent. In the House-Senate Conference on the Organic Act, the conferees adopted language that deleted a requirement for land reclamation as a condition of use. Instead, the more general language of requiring action only where appropriate to prevent unnecessary or undue degradation of the land was adopted. Such actions by the BLM in Utah will not be needed because we have the laws and resources and the political will necessary to protect the land; and I think many, if not most of the Governors could make the same statement in regard to the situation in their respective states.

The key issue here is for the committee to determine the adequacy of state reclamation laws; the burden of proof is on those who assert a need for a federal law in this area. The Congress may finally establish minimum reclamation requirements, but the authority for administering those standards should be left to the states. The cooperative agreements provided for in Section 307 of the BLM Organic Act should not be optional. Within the last year, six Western States (Utah, Wyoming, Montana, Colorado, New Mexico, and North Dakota) have executed cooperative agreements with DOI to enforce coal reclamation laws on federal lands. As long as state laws are as strict as federal reclamation standards, the discretion and flexibility in administration of those laws should be left to the states.

D. The fifth policy stated in the President's message is a requirement for royalties on public lands. Actually the federal, state, and local governments already receive tax revenue from operations carried out on the lands, such as income taxes and sales taxes on equipment used in mining activity. A royalty may make some operations unprofitable and other activities less profitable, so it is not clear that the result would be a net increase in revenue to all levels of government. But a further problem is that royalties are simply an added cost of production that in many cases will be passed on to the consumer in the form of higher prices of final goods made out of mineral resources. The idea that there would be a net increase in the public's welfare from imposition of a royalty approach is not self-evidently true. Here again the burden of proof rests on those who advocate this policy.

E. The final requirement calls for the integration of mining into land use plans being developed for the public lands. The fact is that it is very difficult to balance plans for surface usage with subsurface activities because the occurrence of mineralization is unpredictable. Geology is as much an art as it is a science. The history of the minerals and mining industry in this country is one of constant change and evolution in methodology, technology, and market conditions. Today a geologist may go back and look at an area that was examined in the past and labeled as having little mineral value. New knowledge or new techniques may make it feasible to locate mineralization that was not apparent before, or to develop identified ore bodies that in an earlier period couldn't be economically developed because of inadequate market demand, limited technology, or both.

The official state national policy as enunciated in the Mining and Minerals Policy Act of 1970 and reaffirmed in Section 102(a), subparagraph (12) of the BLM Organic Act is to encourage the development of domestic sources of minerals because it is essential to the nation's welfare. Yet the reality of current prevailing practice is that other laws are enacted and administered to accommodate other desired objectives—such as land use planning, surface reclamation, and environmental protection—and then treat mining, if at all, in such a manner as will not interfere with attainment of primary goals. The emphasis should be to recognize that development of minerals is itself a priority national need and to find means whereby the impact of meeting other objectives will have as few adverse effects on mining as is reasonably possible.

I believe that the Mining Law of 1872 has worked well in achieving the development of domestic supplies of minerals. The location system does not require a bureaucracy to plan and carry out its operation. It is based upon the principle of self-initiation. The small miner, the part-time and weekend prospector can use ingenuity and effort in place of capital in hopes of finding and developing a valuable ore body. Especially in the West the small miner has a crucial role in our mining industry. The small miners themselves feel that transition to a competitive bidding system will, in fact, be anti-competitive because permits, payments, and paperwork involved in a leasing system favor the large organization over individual and small companies. This is very undesirable for developing and mining small but workable deposits of base and precious metals, including the type of uranium deposit that frequently is found in Utah.

There are problems with the law, but it seems they can be handled with some limited but important changes. The diligent development of mining claims can be more effectively encouraged by escalating labor requirements or cash payments in lieu. This is anticipated by the Ruppe Bill, H.B. 5831, in that annual labor requirements would commence at $5.00 per acre and increase $5.00 per acre each five years until after fifteen years $20.00 per acre worth of labor, or cash payment in lieu, would be required each year to hold a mining claim. Additionally, failure to file an affidavit of annual labor or make a payment in lieu of annual labor would cause the claim to be null and void. Material false statements would make the mining claim voidable under the proper discovery proceedings carried out by the U.S. or by a subsequent locator.

One of the greatest problems has been the confusion regarding conflicting and inactive mining claims. This is being more or less ameliorated under the recordation provisions of the BLM Organic Act, Section 314. Failure to comply with Section 314 will constitute conclusive evidence that the claim has been abandoned. There is controversy concerning the recordation regulations put out by the BLM, and there is real question as to whether BLM has adequate resources to handle the job within the given time frame. But existing law provides a mechanism for handling the problem.

What we are left with then is a set of six reasons for changing the Mining Act of 1872, none of which offer a justification for substituting a leasing system for the present location system. I'm afraid that we see another example of direct federal expansion of power into a functioning, basically self-regulating system without an apparent necessary public purpose. The Federal Government seems to distrust any activity that can carry on without federal approval and supervision, and federal land agencies are particularly sensitive to private, state, and local operations carried on basically independent of their control. It is not that private, state, and local interests cannot operate independently on public lands in a manner compatible with national policy and the general welfare—they often have and continue to do so. It is that this relative independence is an affront to the bottom line on bureaucratic self-interest—power and control, and the accompanying by-products of more laws to administer, more peoples' lives to regulate and the expanded staffs and budgets necessary to accomplish the alleged public purpose.

What I am arguing for is some limited modification in the Mining Act of 1872, but retention of the location system of mineral rights. And what is really called for is not more land law revisions from the Congress, but systematic, detailed, continuous oversight and scrutiny of the federal bureaucracy's administration of existing laws and evolving regulations yet to be promulgated under the numerous recent changes made in our laws. That oversight should be aimed at assuring maximum state and local participation in policy formation and execution, and insuring that true concepts of multiple use or pursued.

SENATE RESOLUTION 222—RESOLUTION TO DISAPPROVE THE REORGANIZATION PLAN NO. 1

Mr. HATHAWAY. Mr. President, as all of my colleagues are aware, the President submitted his first reorganization plan to Congress on July 15 of this year.

This plan was submitted pursuant to the provisions of Public Law 95–17, which gives the President authority and discretion to reorganize the programs and departments within the executive branch, if certain conditions and procedures are met, as set forth in the law.

This first plan dealt exclusively with the organization and structure of the White House itself, and the Executive Office of the President. It was intended primarily to strengthen the management of policy issues within that structure. At the same time it reduces the number of personnel and reduces the number of units within the White House and the EOP.

I am in support of these goals and of virtually all of the provisions of the reorganization plan.

There is, however, one provision of the plan regarding which I have very serious reservations and concerns—namely, the provisions abolishing the Office of Drug Abuse Policy within the White House.

I testified before the Senate Committee on Governmental Affairs on this issue on July 26, 1977. In order that my colleagues might understand the basis for my concern over this issue, I ask uanimous consent that my testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR WILLIAM D. HATHAWAY

Mr. Chairman, I appreciate having the opportunity to testify before your committee this morning regarding the President's reorganization proposal which was submitted to Congress on July 15 of this year.

I am pleased that this committee has seen fit to hold these hearings, and intends to scrutinize carefully the President's proposal, as is required by the Reorganization Act of 1977.

Under the terms of that act, the President is authorized to submit to Congress reorganization plans affecting the executive branch of the government. But the act preserves and protects the constitutional duty of the Congress to enact laws affecting the collection and disbursement of federal revenues, the promotion of interestate commerce and so on.

The integrity of Congress in this vital area, as delineated in the constitution, is preserved by allowing either House of Congress to veto reorganization plans by passing a resolution of disapproval within 60 days (of continuous session of Congress). The President may amend his plan within 30 days of submission, and may withdraw it within 45 days.

This structure is a sound one, and I commend the distinguished chairman of this committee for his diligent work as architect of these provisions.

At the outset, I should stress that much of what is contained in the President's proposal is laudable, and is properly outside the direct purview of Congress.

For example, the President's actions with respect to abolishing his domestic council, and establishing a new policy management system in the executive office of the President are matters largely of internal White House management and probably ought not to concern this committee or the Senate as a whole. The provisions of the Reorganization Act of 1977 were not intended to give us jurisdiction or veto power over such matters. In addition, the overall goals of the plan, the reduction of costs for the executive office of the President by $6,000,000 have my support and endorsement.

However, as chairman of the subcommittee on Alcoholism and Drug Abuse, I do feel impelled to comment on one particullar aspect of the proposal, namely the discontinuation of the Office of Drug Abuse Policy, and the transfer of its functions to a single senior advisor in the White House.

I realize that my questioning this proposal would lead some to conclude that I was simply protecting my own legislative turf and prerogatives. I obviously cannot categorically deny this charge. But at the same time, I believe that the legislative history of ODAP yields an inescapble conclusion that the Congress has clearly written this office and its functions squarely into Federal law, for sound reasons. And this office ought not to be discontinued, abolished, transferred, or whatever, unless we are properly convinced that this change of structure is necessary and beneficial, and not simply cosmetic.

Mr. Chairman, it was only a year and a half ago that I met with you and other distinguished members of your committee in joint conference with the House on the amendments to the Drug Abuse and Treatment Act of 1972. In those deliberations we drafted legislation establishing an office of drug abuse policy within the Executive Office of the President.

In this legislation we stipulated a number of attributes for this office, and went into great detail. We required that the Director and Deputy Director of this office be nominated by the President, subject to the advice and consent of the Senate. This legislation stipulated the employment of other officers and employees, and listed the allowable civil service status of these individuals. Consultants were also to be employed.

The functions of the Director, and the office generally, were set forth in detail. Broadly, his function was to coordinate and evaluate all of the efforts of the various departments and agencies of the Federal Government, and to insure that a coherent Presidential policy emerged. An annual report had to be submitted to Congress.

All of these legislative actions were deemed necessary by us at that time to make sure that these matters received appropriate attention at the highest levels of the White House and to coordinate and rationalize the myriad programs in the drug abuse field.

Prior to our action in this regard, these functions had been undertaken by a task force of the Office of Management and Budget, and the special action Office on Drug Abuse Policy was phased out.

This task force was not subject to Senate confirmation, and therefore not accountable to Congress. We were concerned that without a clear, designated, identifiable individual in the White House itself, the most important issues of Drug Abuse Policy would be ignored or given extremely short shrift.

The notion of Drug Abuse Policy necessarily involves the interaction of a great number of Federal departments.

In treatment and prevention, the Department of Health, Education and Welfare comes to mind first, but the Veterans' Administration is also strongly involved, as is the Department of Defense. The Department of Labor is involved in vocational and rehabilitation programs and so on.

On the enforcement side, since drug abuse is in many instances also a crime, the Department of Justice is the most clearly identifiab'e entity. But the Treasury Department and probably others are involved.

Drug abuse is also an international problem, so the State Department is involved. Treaties must be negotiated, and the United Nations is concerned.

Domestically, State and local officials are properly and justifiably concerned with our drug abuse policy, in both enforcement and treatment.

All of these elements make the problem of drug abuse a unique one in our Federal system and point out the need for the structure we established together in the early part of 1976.

President Ford signed this measure into law on March 19, 1976, and since that time ODAP has gotten off to a good start in its extremely difficult and complex task.

President Carter determined to implement this law early on in his administration. He submitted full-funding budget requests of $2 million per year over the next 2 fiscal years.

On March 14 of this year the President issued a memorandum on the activization of ODAP to the Secretaries of State, Treasury, Defense, Labor, HEW, Transportation, the Attorney General, the representative to the U.N., the Director of OMB, the Director of the CIA, and the Administrator of the Veterans' Administration asking for their full cooperation.

In this memorandum, the President set out the role he saw for ODAP:

"The Office of Drug Abuse Policy shall be responsible for carrying out the congressional mandate specified in the law. In addition, and to the maximum extent permitted by law, the Director of ODAP is hereby directed to fulfill the following responsibilities:

"(1) Recommend Government-wide improvements in the organization and management of Federal drug abuse prevention and control functions, and recommend a plan to implement the recommended changes;

"(2) Study and recommend changes in the resource and program priorities among all agencies concerned with drug abuse prevention and control;

"(3) Assume the lead role in studying and proposing changes in the organization and management of Federal drug abuse prevention and control functions, as part of my promise to reorganize and strengthen Government operations; and

"(4) Provide policy direction and coordination among the law enforcement, international and treatment/prevention programs to assure a cohesive and effective strategy that both responds to immediate issues and provides a framework for longer term resolution of problems."

Dr. Peter Bourne was confirmed as the first Director of ODAP in the late spring of this year. Since that time he has assembled an extremely competent and versatile staff, including, among others, the former counsel of the special action Office on Drug Abuse Policy, who also had experience working with the U.N. in Geneva, and the former police chief of Berkeley, California. Presently, the Office has a staff of 10 individuals.

The staff is in place and is prepared to fulfill the mandate established in Public Law 94–237. Already it has turned out a number of sound studies on the problem. But obviously, there is much more yet to be done.

The law and the accompanying reports clearly imply a strong professional staff which will be directly accountable to the Congress and to the Senate in particular. It also mandates that the Director be an individual with the ear of the President who will work solely on these vital problems.

The President's plan can only be interpreted as substantially undermining, and all but gutting this structure.

The senior adviser to be substituted for the Director would no doubt have many other duties to undertake, and would lack the backup and staff necessary to do the job in drug abuse policy.

I hope that the President will re-examine his proposal in light of the legislative history to which I have alluded and will give strong consideration to amending his proposal.

I am hopeful that at the same time this committee will ask hard questions of the administration when its witnesses appear, regarding savings and goals of this plan.

At this point in time I am not prepared

to say that the President's proposal ought to be disapproved. But rather, based on the evidence presented thus far, it appears to be unwise and contradictory to our recent actions.

Mr. HATHAWAY. Mr. President, I felt at that time and continue to feel that the President's proposal to abolish ODAP is contrary to the best interests of our national drug abuse policy. During the hearings of the Governmental Affairs Committee at which administration witnesses testified I had the further opportunity to ask questions of these witnesses and to submit questions for the record, which were subsequently answered by these witnesses. All of this material is available as part of the hearing transcript.

Throughout this interchange it was my view that the existence of a single identifiable entity within the White House, headed by a director subject to confirmation by the Senate, was critically important to rationalize and coordinate the many different, sometimes competing, Federal departments and agencies involved in programs and policies designed to combat our Nation's very serious drug abuse problem.

For example, in the enforcement area, there are seven Federal departments and eight Federal agencies involved in border management alone. This jurisdictional miasma is but one example of the conditions which called for the establishment of a permanent White House office with the authority and the resources to intervene, assert leadership, and establish priorities.

In the education, treatment, and rehabilitation areas, the dispersal of programs and authority is an equally serious problem.

ODAP was created by statute to fill this coordination role, and under the leadership of Dr. Peter Bourne and a very able and talented staff, it has accomplished a great deal in a very short period of time. The ODAP border management study offers an excellent synopsis and analysis of the reasons drug smuggling and allied activities are so difficult to contain, and sets forth an agenda for greater accountability and improvement. Other studies on treatment and rehabilitation services are forthcoming.

Despite the apparent need for this structure and its record of accomplishment thus far, the President's reorganization plan saw fit to eliminate it.

It is the viewpoint of officials of the Office of Management and Budget, with whom I have discussed these issues in great detail, that the new structure of the White House will, overall, foster, and improve the analysis of drug abuse policy issues and will promote more expeditious and definitive treatment of these issues within this policy structure. Through their responses to my submitted questions and through my personal discussions with them, these officials have reiterated their view that the separate office within the White House, but outside the new policy management structure, could be detrimental to the handling of drug abuse issues.

I appreciate their viewpoint and believe they are sincere in holding it. I further appreciate their willingness to stipulate that Dr. Bourne will continue to be available to testify before Congress and will continue to play a key role in formulating our national policy in this area. In this regard I ask unanimous consent that the text of a letter I recently received from Acting Director of OMB, James T. McIntyre, Jr., be printed in the RECORD at this point:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANGEMENT AND BUDGET,
Washington, D.C., September 28, 1977.

Hon. WILLIAM D. HATHAWAY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATHAWAY: I understand that you are concerned about the disposition of the Office of Drug Abuse Policy (ODAP) in Reorganization Plan No. 1. This letter explains the arrangements we plan to make for handling ODAP functions and answers questions that have been raised about it.

In proposing the abolition of ODAP as a statutory unit, the EOP reorganization group recognized the value of its work and made provision for each of its functions to continue:

ODAP's policy development and coordination functions will be handled within the new policy management system which is to be used for most domestic issues. The basis of the system is the formation of interagency working groups, coordinated by the Domestic Policy Staff, to recommend policy and handle specific problems. The system will link the skills and experience in line agencies with the Presidential perspective in the Executive Office. In the drug abuse area, Domestic Policy Staff members will work with the revitalized Strategy Council on Drug Abuse to make the system a reality. Because of the President's personal commitment to more effective action in the drug abuse area, a White House adviser will continue to provide strong policy guidance.

We anticipate that ODAP's current reorganization work will be completed in January 1978. However, the Office could continue until April 1 if additional time is needed to complete its work. After the Office is terminated, its reorganization responsibilities will be assumed by the President's Reorganization Project, in cooperation with the President's drug and health adviser.

The President's decision on ODAP is in no sense, an attempt to deemphasize drug abuse problems. He has asked Dr. Bourne to take the lead in formulating a comprehensive national drug abuse policy, including planning, enforcement and other critical issues. His August 2, 1977, message to the Congress on drug abuse stressed his continued deep personal concern about the effects of narcotics and the need to act. The President has also assured the Congress that Dr. Bourne will be available to testify as he has been.

In summary, we believe that the new arrangements for carrying out ODAP functions will improve the effectiveness of drug abuse policy development and coordination. The system will place the drug issue in the mainstream of Presidential decision making within the new policy management system and reorganization efforts, thus better integrating it with related concerns. By retaining a visible White House adviser, priority will be given to the issue and coordination will be assured. I hope that you and your colleagues will view the ODAP reorganization in the context of the new arrangements that the President proposes.

Enclosed are answers to commonly asked questions. If I can provide further information, I will be happy to do so.

Sincerely,

JAMES H. MCINTYRE, Jr.,
Acting Director.

Mr. HATHAWAY. Mr. President, while I appreciate these expressions of concern on the part of the administration, I disagree with these conclusions and believe that whatever the alleged internal management benefits which flow from this reorganized structure, they will be ultimately overridden by the concomitant decline in the ability to mobilize effectively a unified administration response to drug abuse throughout the entirety of the Federal Government.

If the reorganization plan before us were amendable I would amend it to continue ODAP. But it is not. The only way to preserve ODAP is to vote down the plan in its entirety, thus barring the President from carrying out the salutary aspects of his reorganization, as well as this questionable one.

This being the case, I will not encourage my colleagues in such a course. I can assure them, however, that I shall give close scrutiny to the new reorganized White House structure as it affects the treatment of all policy issues, but with particular attention to drug abuse.

It is my intention to hold hearings of the Alcoholism and Drug Abuse Subcommittee in the early part of next year to examine closely the accomplishments of ODAP at that point and to determine whether it appears that its statutory mandate could better be met in the new White House structure or whether it ought to be retained and continued further. In the latter event, I shall be prepared to push for new legislation toward that end.

TRIBUTE TO SENATOR HUMPHREY

Mr. DOMENICI. Mr. President, I would like to take this opportunity to pay tribute to my respected and distinguished colleague, the Senator from Minnesota, HUBERT H. HUMPHREY. It is fitting that the Senate has passed a resolution to name the new Department of Health, Education, and Welfare building after such a devoted and generous public servant.

I have known Senator HUMPHREY a relatively short period of time compared to several of my colleagues who have worked with him for many years. Nevertheless, I, too, have always admired him for the enthusiasm and dedication which characterize his Senate career. Although we are on different sides of the political aisle, I cannot help but admire the tenacity with which he clings to his ideals and the boldness with which he attempts to change the established order of things.

It is entirely appropriate that the new HEW building be named after Senator HUMPHREY, since he has been in the forefront of progressive social legislation for decades. The Senate's overwhelming passage of this resolution further attests to the esteem in which Senator HUMPHREY is held by his colleagues and by the American people.

ENERGY

Mr. GRAVEL. Mr. President, I am concerned about some currently circulated misconceptions dealing with the economics underlying the supply and de-

livery of energy in our Nation. The laws of supply and demand cannot be abrogated by congressional fiat. Neither the President, nor Congress—nor the legions of Department of Energy bureaucrats—can guarantee us adequate supplies of energy if we are not willing to pay the market price for that energy.

The free market system has made this country the most powerful economic force in the world. The predominance of our economy has resulted from our reliance on the power of the market to balance supply and demand through the price mechanism. Why then, is the energy market any different from the markets for other essential goods? I submit that it is not, that we cannot control the price of oil or gas at prices below the market—and still expect to have a sufficient supply of either. Those who promise us such false hopes mislead us by implying that there is a more effective system for balancing the supply and demand of energy in our economy. We have had a controlled market for gas since 1954, and for oil since 1973. The controlled market has not worked. Our failure to appreciate the free market system of economics fundamental to this Nation has led us to the energy crisis which some now propose we solve with the same methods of control which have failed us in the past.

Mr. President, we talk of an increase of natural gas prices to $1.75 per Mcf as sufficient to allow "fair" profit to domestic producers, but we are currently signing contracts to import gas from Mexico at $2.62 per Mcf and to ship gas from Algeria at over $4 per Mcf. We are keeping domestic prices down and using that low price to subsidize foreign energy production. We have an energy program before us which would continue to subsidize foreign production of oil and gas.

Mr. President, we are willing to pay $13.50 per barrel for one-half of our domestically produced oil. Where is the sense in that? It is little wonder that our domestic production continues to decline. Not 10 years ago we were a net exporter of oil—now we import one-half of our needs. Is an oil company un-American because it refuses to produce oil at a loss; because it shuts in wells that price controls preclude from operating at a profit? Are we to ask American consumers and the stockholders of American oil companies to continue to subsidize the importation of foreign oil?

We must stop using our domestic oil companies as the whipping boys in this debate over energy supplies. We must stop alleging the existence of excess profits when none exist. If the concern is that oil and gas companies will reap outrageous profits from their reserves if they are allowed world price for their goods, we can solve that problem. We can tax away those profits through an excess profits tax. But, the producers of energy in our country should be allowed to operate within the market system. They should receive market price for their products, and use their income for exploration and development. Then, if they are not reinvesting their earnings, to the extent those earnings are unreasonably high, they should be taxed away. Coupled with deregulation of oil and gas prices, such a tax would provide the incentives for increased production while insuring against excess profits.

Mr. President, I have time and again suggested such a reasonable approach to our energy supply problems. I have done so again this year in the Finance Committee. But the authors of the national energy plan cannot see beyond the short range low prices for energy generated by continuing controls. It does not seem to be important that our choice now is not between low priced and high priced oil and gas, but between high priced oil and gas and none at all.

I have talked with sincere men, professionals in the oil industry, who have come to me with painstakingly compiled data on existing wells showing how, under the existing system and under the President's proposed program, they will be forced to close in wells, some producing as much as 500 barrels of oil per day; and only because the companies cannot break even on those wells. Once those wells are shut in, Mr. President, they cannot be cheaply reopened and there may be a permanent loss of oil. In effect, we are forcing the decline of the only sure supply of domestic oil we have available.

We here in the Senate are working to save the national energy plan. We know that no system of laws and regulations can adequately deal with the complexities of the market. We know that politics and bureaucracies cannot fairly and efficiently price goods or allocate resources. That has been our basic tenet in American policy. Common sense demands that we in the Nation's capital stop trying to mislead Americans into the belief that fundamental economic principles can be suspended. In energy, as in all things there is no "free lunch." It is time we told Americans the truth—that the laws of supply and demand still operate, are operating today, and that the sooner we return to a market economy for energy the sooner the crisis will be over—and the "moral equivalent of war" will be won.

FEEDLOTS VERSUS HUMANITARIANS

Mr. WALLOP. Mr. President, there is a great deal of emotionalism and confusion surrounding the issue of world hunger and the need for food surplus countries to offer different forms of food assistance. One of the proposed means of saving the world from starvation is for the United States and other beef producing countries to turn their beef away from the feedlots so that this grain can be used to feed the world.

This is a simplistic solution to a complex problem that needs to be examined more deeply. Journalistic speculation on solutions to world hunger must be replaced by solid economic and nutritional analysis of the sources of world hunger. Most important of all, each citizen has a responsibility to understand the problems of hunger, and try to separate emotions from fact.

Miss Pam Ware of Sheridan, Wyo. has given me the opportunity to review a paper that she has written on the ill-conceived notion that the world would benefit if the United States would stop feeding grain to cattle. I would like to share this paper with my colleagues in the Senate and extend my thanks to Miss Ware for examining this important area of research.

Mr. President, I ask unanimous consent that the paper be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

FEEDLOTS VERSUS HUMANITARIANS

(By Pam Ware)

Throughout time, the inhabitants of the earth have led a long and oftentimes unsuccessful struggle for space and nourishment. Man has not been any exception. Thomas Robert Malthus, an English political economist in the late 1700's, wrote the famous "Essay on the Principles of Population." In his essay, Malthus stated what is known as the Malthusian Doctrine. In general the doctrine says that:

"... the increase of population advances at a geometrical, the increase of the means or life at an arithmetical, ratio; that this condition of things renders the condition of the poor more and more hopeless; that unless famine or war interfere to diminish population the means of life will eventually prove inadequate; that discouragement of early and improvident marriages and the cultivation of self restraint must be employed to avert the danger."

Today, in 1977, most nations still have made only feeble attempts to control population, Japan being the only one which has reached total zero population growth. Better average medical care, which slows death rates and raises live birth rates, has helped the total world population to grow at a more alarming rate than ever before. To make matters worse, man has few new frontiers of fertile land to cultivate for more food supplies. Optimists are often quoted as saying that "something will turn up," or "we will reap the wealth of the oceans to feed our population." Optimism, however, will not make anything turn up, nor will it stop the pollution of rivers, seas, and oceans. Conceivably, by the time man has developed the technology to grow food sources in the oceans, they will be too polluted to support those food crops. Many people have suggested many different ways to feed the exploding population, the most recent being elimination of the "wasteful" feedlot production of beef in the United States.

Advocates of this philosophy contend that feedlot beef "consumes" valuable grains which could be better utilized as food sources for humans. This assumption comes from a basic misunderstanding of the feedlot and beef industry. Cathy Kaufman, a free lance writer living in Washington, D.C., is in favor of turning more animals out to pasture to feed on grasses and weeds instead of "expensive grains and concentrates." "Thus," she says, "land now in corn (77% of which goes to animals,') could produce wheat, rice, or other grains designed for human consumption." The only problem with this idea is the fact that grazing land is not unlimited, and land which will grow corn is probably not fit for growing anything else. Suggested conversion to completely grass-fed beef to alleviate worldwide food shortages would have negative long-term effects in economic and nutritional advancements, and is not a logical, feasible approach to the problem.

Advocates of grass-fed beef are admittedly far-sighted, and are working in the best interests of mankind. However, perhaps they are a bit too far-sighted, too idealistic. They see a world of unified nations at a level of zero population growth, and plenty of food to go around. If the world ever achieves this

ideal goal, it won't be in the near future, nor will it come through merely turning United States cattle (and cattlemen) out to pasture. Foresight is wonderful, but only if all factors are considered. For instance, advocates for grass-fed beef apparently have not looked into the economic disruption which could be caused by a major change of this nature. They accuse the rancher-feedlot operator of being "wasteful," and suggest that grass-fed beef is cheaper to produce than feedlot beef. C. W. McMillan, in a speech at the Rockefeller Foundation Conference, had an interesting comment of this. He said,

"This mistaken assumption apparently is based on a lack of understanding of cattle and beef production. There are several reasons not to stop grain feeding altogether in the U.S. One reason is based on simple economics."

The feedlot operation came into existence in the U.S. because of a grain surplus, lowering the price of grain, making it profitable and sensible to feed grain to steers rather than pasturing them. More, better quality beef can be produced more quickly in a feedlot operation. Grass-fed beef has a slower rate of growth, and smaller total meat yield per animal. No one can blame the cattleman for wanting to improve his product so it would bring a better price in the American free-enterprise system. Another aspect is the fact that grazing land is limited. According to C. W. McMillan,

"Grazing capacity is limited, and if all cattle were kept on grass and roughage until they were ready for market, at 2½ to 3 years old, our basic cow herd would have to be cut back, per capita beef supplies probably would be reduced by at least one third, and prices would be higher."

Another misconception is the blame of the feedlot operator for higher grain prices. In a T.V. appearance, former Secretary of Agriculture Earl Butz stated that labor costs account for 40% of a loaf of bread and if the price of grain were to go up one dollar a bushel, the price of a loaf of bread should go up only 1½ cents. Inflationary costs of grain, which may put it out of reach for some people in underdeveloped countries, is caused by monetary inflation, not use of grains in feedlots The blame, if blame must be placed on someone, should be placed on the administrative bureaucracies involved in the processing, shipping, exporting and importing of the grain. Also, a change of this magnitude will come as a great hardship to cattlemen. They have set up their operations as economically as possible according to their own personal situation. A complete change would effectively put many cattlemen out of business. Roy L. Posterman, professor of international law at the University of Washington suggests,

"The private banking industry must help farmers and cattlemen begin projects which would result in reseeding and refertilizing land for more efficient forage crop usage.

"The Federal government would have to give tax breaks to farmers and ranchers cooperating in these projects."

The only future for this solution is dismal at best. First, the conversion itself will cause a drop in production which will cause a rise in the price to the consumer. Second, if banks give special help to farmers and ranchers, other customers may end up paying for it in higher interest rates or service charges. The same could happen on the federal level. Tax breaks for cattle raisers will only mean higher taxes for others. More and more governmental intervention only hampers the free enterprise system, making matters worse instead of better. Clearly, the United States has difficult decisions to make about the future: whether or not it is worth the economic difficulties to try to feed the millions of starving people in the world, and whether or not it is up to us to do so.

Presently the U.S. and Mexico are the only nations which are willing to send cheap or free food aid to starving nations. Other exporters expect hard cash for their products. Consequently, the U.S. is often expected to hand out more food aid than other countries, putting the burden on the American taxpayer. However, a controversy heard more and more often today is the one over the question of whether or not Americans are responsible for virtually feeding the entire world. Frances Moore Lappé, in an article in Harper's Magazine, claims that "spaceship earth is like any other big ship, divided into three sections: rich, not-so-rich, and poor. When the ship goes down, the poor are usually left to drown."

This implies that not only America, but all rich industrialized nations are responsible for feeding those who cannot feed themselves. Nathan Cohn, in an article in Saturday Review, expresses fears of "desensitization" of countries which are capable of helping India's "starving millions." On a recent trip to New Delhi, he witnessed demonstrations by Indian people. "They were protesting lifeboat analogies and the notion that some people have the right to decide whether others should live or die." In a later article, Cohn said, "Two billion hungry people are not going to accept the verdict of the well fed that they must go under in the long-term interests of the species." Problems of lifeboat analogies and two billion hungry people are going to be solved by doing away with the American feedlot? This is doubtful. In the first place, the failure of food relief programs is not the fault of the cattleman, but the fault of those who run those programs. According to Frances Lappé,

". . . 'food aid' is a misleading term because it carries with it the notion that our food is being allocated according to need. In fact, the lions' share goes to buying solicital friends. Of the $1 billion food aid budget, only 20% is destined for the many famine-stricken countries. The rest is going to such countries as South Vietnam, Cambodia, Chile, Jordan, Syria, and Egypt."

Other incidents have been recorded in nations receiving food aid, where the petty officials are the ones who prosper, not the hungry. When handing out the food aid commodities, the officials tend to charge a little extra for the grain, then pocket the profit. Also, market, storage, and shipping facilities are grossly inadequate in most underdeveloped countries. Often the rats are better fed than the people. Another oddity of international affairs is the fact that many richer industrialized nations prefer to import grain rather than grow their own. This makes tough competition for poorer nations. In 1966, the average country in Africa and Latin America grew less food per person than it did ten years before, and many have since become heavy grain importers. Also, between 1960 and 1963, the U.S.S.R. exported grain, but since 1963, they have imported as much wheat as India. Perhaps even if shutting down feedlots made more grain available, it still might not go to those who really need it. Besides, is present food aid really helping? "No," says Dr. Phillip Handler, eminent scientist and president of the National Academy of Sciences. According to Dr. Handler, "Assistance which barely manages to keep people alive and hungry and without hope leaves them in just the state in which there is no incentive for family planning, thereby feeding population growth rather than checking it."

C. W. Cook, in his speech "The World Food and Population Crisis," brought up a valid thought. On the subject of poverty and hunger in the United States, he said, "It is my belief that this country's first obligation is to the U.S. public, all 213 million of us." A random sample of 12,000 men, women, and children in American low-income areas, found seven cases of extremely severe marasmus and kwashiorkor, eighteen of rickets, and evidence of wide-spread goiter. Nearly 17% of the 12,000 were described as "real risks" nutritionally. These astounding facts prove that U.S. "food aid" should be sent to its own people instead of overseas.

Food shortages have reached world-wide proportions, yet "experts" expect cattlemen to alleviate the situation by turning cattle out to pasture. Perhaps a look at the merits and limitations of the cattle industry will help clear up this misconception.

First of all, cattle don't "consume valuable grains." They, through a remarkable four-stomached digestive system, convert grains into a far more efficient protein. David Pimentel, William Dritshcilo, John Kutzman, and John Krummel pooled their talents to write a well researched article in Science. According to their findings,

"Animal proteins are of higher quality than plant proteins because proteins from animal sources are composed of relatively large amounts of the eight essential amino acids required by man. Eggs, milk, and meat, for example, provide all the essential amino acids in a single source of protein food. Also, valuable minerals and vitamins are supplied by these products. . . . For example, proteins provided by rice, wheat, and corn are low in lysine . . . Other nutrients, such as vitamin B12 and some of the essential trace minerals may be lacking in a vegetarian diet. Young children need more than vegetable food sources."

According to the former observations, beef is an extremely important part of any diet. A second misconception is that feedlot beef eats only "valuable grains." This isn't true at all. Feedlots can, and will use anything which is economically feasible, from alfalfa pellets to hydrolyzed chicken feathers. Even treated newspapers have been used on occasion as feed for feedlot cattle. Another fact which is all too often forgotten is the limited supply of arable land on the earth. The Presidential Scientific Advisory Committee has computed the amount of potentially arable land on earth to be 7.86 billion acres. This figure represents only 24% of the total ice-free land area, but is more than triple the area which is actually planted and harvested. However, the term "potentially arable" can be misleading. Actually, almost all land which can be cultivated without major improvements in irrigation and fertilization is being used now. Even presently arable land is rapidly becoming scarce in the United States because of widespread urbanization. Therefore, even if the cattleman wanted to turn his cattle onto pastures, chances are there wouldn't be enough land to go around. Now with increased pressure for more coal, miles of rangeland in Wyoming is being ripped up for the coal underneath, decreasing even more the available pasture land.

In general, a drastic change of this nature, without research by people who are truly knowledgeable in the subject, could be disastrous. The economics of cattle and agricultural planning is seemingly not fully understood by those in influential positions. Washington officials are easily influenced in something they know little about, and often cannot resist the temptation to use grain as a foreign relations handhold. World-wide food shortages are a very real, very current problem and cannot be ignored. The only way to solve these problems is to hang up age-old prejudices and employ some logical thinking.

WOMEN'S RIGHTS HAZE

Mr. LEAHY. Mr. President, many specious arguments have been raised in opposition to the Equal Rights Amendment. Opponents of this very necessary and worthwhile constitutional amendment have argued that ERA is superfluous because laws already exist to guarantee equal rights to women under the law and that the problems which ERA proponents cite to support their position do not affect a real majority of women anyway.

Aside from being self-contradictory, these arguments fly in the face of the facts. The fact is that there are at least 9 or 10 statutes on the books right now that should protect women, but which do not because they are not being enforced. If for no other reason, passage of ERA is needed to put the psychological force of the U.S. Constitution behind this enforcement effort.

Mr. President, an editorial which appeared in the Barre, Vt., Times Argus recently gets right to the heart of the issue, and offers what I believe is a very fair and objective view of this whole question. I ask unanimous consent that a copy of the editorial "Women's Rights Haze," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WOMEN'S RIGHTS HAZE

One of the most difficult challenges still facing women's rights activists at the state and local levels is to convince policy makers, lawmakers, and, in many cases, women themselves, that there is a real problem.

One of the most hollow arguments against the Equal Rights Amendment, often voiced by women, is that there is no real need for a special constitutional amendment for women because: 1) there are already individual laws on the books designed to do the same thing, or 2) problems ERA supporters talk about don't affect a real majority of women.

In believing this, women's rights critics are too often overreacting to the worse of the radical rhetoric in the women's rights movement, and paying too little attention to their own very real problems as women.

Pointed examples of this can be found in the International Women's Year survey conducted in Vermont at the organization's Women's Town Meeting in February, and separate findings just released by the American Bar Association involving the law's discriminatory treatment of female juvenile offenders.

The federally financed International Women's Year survey was answered by 283 of the approximately 1,000 women attending the Montpelier meeting, more than a respectable response rate for a survey of this kind. The findings generally reinforced the belief that women are suffering more personal abuse in silence than they are ever willing to talk about to police authorities or even to their own friends and families, and that an even greater number of women in Vermont have never even attended a meeting specifically addressing women's problems. Of those women responding to the survey, 10 per cent reported having been raped at some time in their lives, 10 per cent said they had been beaten by their spouses, 17 per cent had had abortions, 45 percent said they had never attended a women's meeting before.

Moreover, a full 85 per cent of those responding were 25 years old or older, with the largest percentage—67 per cent—in the volatile 25–44 age category.

Take issue with the scientific accuracy of this sampling if you want to, but also consider this: Never has a survey like this been conducted on a statewide, anonymous basis in Vermont.

Is it any wonder that the public has such a hard time perceiving a women's rights problem in Vermont when so many women are reluctant to report their troubles in public, avoid organizations that might help them talk about their problems, and have never been extensively surveyed on a statewide, anonymous basis about what their problems are?

Given this information gap, it's no wonder either that the more limited surveys that are conducted—such as the International Women's Year Poll—look so much like just the tip of the iceberg.

The information problem is compounded in Vermont by the fact that Governor's Commission on the Status of Women has never had enough financial support to make an extensive survey of this kind in Vermont.

Reinforcing the value of comprehensive surveys, meanwhile, is the American Bar Association's just-released national survey showing judicial discrimination against female juvenile offenders continues unabated in the courts. This survey confirmed earlier findings that a larger proportion of female juveniles than males is likely to be sentenced to confinement for the same juvenile offenses, and that females are more likely to serve their time in a jail rather than in a juvenile rehabilitation program.

Disregard for a minute the stridency and over-blown emotionalism of big-city radical feminists and ask yourself this: How can Vermont view its women's rights problems as minimal when Vermont has never asked enough women what their problems are.

INCOME FIGURES DECEPTIVE

Mr. HELMS. Mr. President, a few weeks ago, a Member of Congress from New Jersey went to North Carolina, ostensibly in his capacity as a Congressman "seeking information" in connection with legislation, but actually on a mission that had every appearance of injecting himself into a North Carolina issue.

The gentleman is entitled to his opinions. Freedom being what it is in this country, he has the right, I suppose, to derogate my section of the country by using questionable characteristics of "working conditions" in North Carolina. In any event, using the taxpayers' funds presumably, he came to my State to conduct "ad hoc hearings" which were so biased and one-sided that they bordered on the absurd.

The political support that the gentleman receives from labor unions is a matter of record. Again, that is his right. On the other hand, it is interesting that the gentleman apparently is not fooling a great many people.

Not long after those ad hoc hearings in my State, I met a man who recently had moved his family from New Jersey to North Carolina. I asked him how he liked North Carolina. I wish the Congressman from New Jersey could have heard the response.

He said:

Senator, we feel like we've moved to Heaven. The climate here, the attitude of the people, the friendliness, the cost of living, the opportunities to enjoy life—it's just great.

Then he discussed at some length the subject of how much more disposable income he has in North Carolina. "Actually," he said, "my income dollar-wise is a little bit less here, but the cost of living is far lower. So we have a disposable income far greater than we did in New Jersey."

All of this came to mind, Mr. President, when I ran across an article published in the Charlotte News sometime back. It was written by John W. Moore. In a very significant way, Mr. Moore rebuts some of the views expressed by the distinguished Congressman from New Jersey.

I think my colleagues might be interested in Mr. Moore's article, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INCOME FIGURES DECEPTIVE, DON'T SUPPORT ARGUMENT FOR MORE UNIONS

(By John W. Moore)

Mr. H. L. Mencken is credited with observing that for every complicated question, there is a simple answer—which never works. And so it is with the question of income levels in North Carolina.

There has been numerous articles in the past several weeks which have addressed themselves to the "cheap" labor in this state. In general, they seem to suggest that the remedy may be to introduce organized labor into the North Carolina industrial community. There is, in fact, ample evidence that such a cure may well be worse than the disease.

For example, in the last five years such union intensive areas as New England have lost some 9 per cent of their manufacturing jobs, and the areas of New York, Pennsylvania and New Jersey have experienced losses of almost 14 per cent. At the same time, the Southwest and Southeast have gained in manufacturing employment by 67 per cent and 43 per cent respectively. To suggest that North Carolina should change its policies and emulate "losers" would seem questionable at the very least.

Much use has been made of the Labor Department figures showing that North Carolina has the lowest manufacturing wage rates in the nation. Indeed, these figures themselves prove deceptive. In February of this year the Charlotte Observer carried a story regarding the fuel shortage which pointed out, ". . . The Southeast and Southwest are doing . . . even better than generally believed, once figures other than raw income are considered . . . once cost of living was considered, 'real earnings' (amount to) 97 per cent of the national average."

A May, 1976, issue of Business Week points out even more graphically the deceptive result of using raw figures. The article shows that while "real income" has increased some 57 to 65 per cent in the East and Midwest over the last five years, in the Southeast such income has increased an impressive 114 per cent.

But possibly the most damaging evidence against using raw figures comes from the First Chicago World Report published in May of this year by Economist Alan Raynolds. According to the study, North Carolina's per capita "real income" after state and local taxes amounts to $3,738. This com-

pares favorably with such union-intensive states as New York with $3,493, Rhode Island with $3,535, and Wisconsin with $3,670. In fact, North Carolina exceeds the average for all the East and Midwest combined ($3,705).

Most people are mainly concerned with spendable income after taxes. And, it would appear that from this point of view, North Carolinians are somewhat better off than the Department of Labor figures would imply. This is even more impressive when consideration is made of the fact that almost half of our manufacturing employment is in textiles and related industries, which are by nature labor-intensive and semi-skilled. In fact, even with today's wages and prices import barriers are required to protect this industry.

A union publication would seem a strange place indeed to find logical reasons for industrial migration to the South. Nevertheless, an article which appeared in American Machinist recently pointed out, "We suspect that the real secret weapon with which the South is attracting industry . . . is the willingness to work and the openness to fresh ideas that characterizes labor in non-industrial areas."

And the article continues, "(up here) when new contracts are being drawn, the battle is usually fought over wages plus new fringe and work rules. Rarely is there any serious effort by management to eliminate any of the old ones." And finally, according to the writer, "This produces a work force that would rather see the employer go out of business than to surrender a single one of those cherished restrictions . . . and unless union members and their leaders learn to accept the need for changes that will keep the plant efficient, both the old industrial areas and the unions they support are as doomed as dinosaurs."

Looking into the matter beyond the superficial facts, it begins to appear that it may not be so much a case of industry moving toward low wages in the South. But, rather that they are in fact moving away from the excesses and irresponsibilities of the big labor union. It would seem that with continuing interest from other areas of this country and that of Western Europe as well, the Southeast is rapidly attaining an enviable position. It is no longer a case of cultivating any kind of industry that can be persuaded to locate here, regardless of how unattractive the skills and wages are. Such things as the contaminating effect of a given plant can now be considered. The increasing number of firms who are wanting to come into the area offers a choice as to which ones would better serve the long-range interest of our people.

The leaders of the Roxboro area obviously recognize this, although it would seem that it has not made itself known to our governor. Wise decisions in this matter would be prudent for North Carolina. It is important also to recognize what Business Week has called, "The Second War Between The States."

The first volley has already been fired in the form of President Careter's administration bill which would change the labor laws. While some writers are soft-peddling the legislation as some minor adjustments in the law to keep management from taking advantage of their workers. U.S. News And World Report has more aptly described it as "legislation to unionize the South."

Leaders of the industrial Northeast and Midwest in tandem with big labor unions are backing the legislation. For the leaders in question, it is a matter of stopping the southern migration of industry by making the Southeast and Southwest as unattractive as they have allowed their own areas to become. For labor, it is a simple matter of more members—more power.

If the South wins, then the leaders of other areas will be forced to get their own houses in order, and the economic future of this nation will be a bright one. If on the other hand the South loses, then the United States will undoubtedly become as non-competitive in world trade as England has.

In short, the economic future of our children may well depend on who wins the "war."

HAROLD STASSEN AT 70: WHAT MIGHT HAVE BEEN

Mr. ANDERSON. Mr. President, for too many years Harold Stassen has been depicted by the media simply as a man who is a perennial candidate for President of the United States.

Those of us from Minnesota, whether we are members of the Democratic-Farmer-Labor Party or the Republican Party, know better.

Harold Stassen was one of Minnesota's most distinguished Governors at an astonishingly young age. He served as president of one of the Nation's greatest universities, the University of Pennsylvania. And he served in President Eisenhower's administration with skill and distinction.

Harold Stassen should be recognized for his long and in many ways remarkable career as a public servant.

I am most pleased that Messrs. Jack Germond and Jules Witcover took time from their noteworthy analysis of contemporary politics to reflect on Governor Stassen's career. Such an appraisal is long overdue. I ask unanimous consent that this excellent article, "Harold Stassen At 70: What Might Have Been" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HAROLD STASSEN AT 70: WHAT MIGHT HAVE BEEN

(By Jack W. Germond and Jules Witcover)

BRETTON WOODS, N.H.—At the annual Republican Governors Conference here the last few days, the air was filled with the usual political cliches. Except for one. Nobody said he wasn't running for president "because I don't want to be another Harold Stassen."

The reason, you see, was that Harold Stassen himself, the perennial presidential candidate, was here. He was one of several former Republican governors invited to justify not holding a conference in a phone booth. There are only 12 Republican governors in office now, and two of them didn't come.

As a matter of fact, Harold Stassen says he doesn't plan to run again in 1980, but of course he may. He has run—or has his name offered as a gag—in most presidential elections since 1948. In that year, he was a serious candidate, winning several primaries but losing out at the party convention in Philadelphia to Thomas E. Dewey.

To their credit, the sitting GOP governors didn't treat the 70-year-old Stassen as a joke. They gave him a seat with them at the conference table and abstained from the funny remarks politicians are wont to make about him when Harold Stassen isn't present. He was, after all, a three-term governor of Minnesota, first elected in 1938 at the age of 31, then the youngest man ever to serve as a state governor.

The thing about this legend in his own time is how good he looks after all these years. He is a big man, well over six feet tall and broad-shouldered, with a large head and features, and he walks ramrod straight, without the slightest trace of approaching old age. A toupee makes him look years younger than 70.

He likes to talk about the time he spoke to a high school class in Texas, and after recalling all his years as a loser in politics, "a boy looked up at me and said, 'How come you're still alive?' " That's a natural question he says, considering that he has been active in politics for nearly 50 years. "Having started out in politics so young," he says, "I guess I seem older than I am."

He knows, of course, how other politicians ridicule him but, he says, "you take all of these things in stride. You keep your sense of humor. You're prepared for that. When I first ran for governor, people said I was leading a diaper brigade. But I was able to make an important contribution in Minnesota."

He says his only "real" race for the Republican presidential nomination was in 1948. Four years later, he says, he ran—and Warren Burger, now the Chief Justice of the Supreme Court, was his campaign manager—and paved the way for the nomination of Dwight D. Eisenhower.

Before Stassen was known as the perennial candidate, he was one of seven U.S representatives to the San Francisco conference at which the United Nations was born. He takes pride in that, as well as in his five years as Eisenhower's director of foreign aid. There was nothing funny about either of those tasks.

And, although it was considered to be a joke at the time, Harold Stassen tried his damnedest in 1956 to get Eisenhower to kick one Richard M. Nixon from his ticket. That attempt created a mild stir at the time, and had Stassen succeeded, Bob Woodward and Carl Bernstein might still be covering fires in suburban Maryland.

You might expect that a politician who has been the butt of so much ridicule would be crowing right now about his foresight concerning Nixon. But, surprisingly, he declines even to discuss what it was about Nixon back then that inspired him to launch the dump-Nixon drive.

He prefers to talk about how he was among the first to oppose the American involvement in Indochina. "In 1964," he says, "I felt that Vietnam war was a deep tragedy. The young generation knew they were not alone in opposing the war."

Now, he says, he is trying to help rebuild the Republican party placing special emphasis on attracting young people. Also, Stassen would like to see the United Nations updated and has prepared a draft of a new charter. Meanwhile he continues to earn a living as a lawyer in Philadelphia dealing in international affairs. He lives with his wife in suburban Valley Forge.

And while most politicians laugh at him, he believes he sets a positive example for young people of the kind the Republican party needs now.

"I don't consider inside me I am a loser," he says. And so, although Harold Stassen says he doesn't plan to run again in 1980, don't bet your grocery money on it.

BING CROSBY

Mr. BAKER. Mr. President, I would like to comment briefly on the death Friday of Bing Crosby.

I did not know Mr. Crosby—but his was a personality that you felt you knew, that you knew you would like. Bing Crosby was one of those very special pub-

lic people for whom you are certain you would have as much affection and respect for the person as you have for the public figure and his talent.

Somehow he represented the very best of our image of America—for what it is and for what we hope it can be. He has been a part of that image for as long as I can remember, and he will stay a part of that image for a very long time.

Over the weekend the Washington Post printed a number of articles on Bing Crosby; I commend them to my colleagues and ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

BING CROSBY

Though he was born Harry Lillis Crosby, the millions of people around the world who could instantly recognize that smoooooth baritone knew him by more endearing names. Bing. Der Bingle. The Groaner. Le Bing. And though Bing Crosby died Friday on a golf course in Spain at the age of 73, there lives Bing the Legend: the casual, pipe-smoking, glib-lipped, father-figure in the flamboyant attire.

To today's small children, perhaps, he may be best known as the dad with all that orange juice for his family in the TV ads—or as the name of a golf tournament. His original bub-bub-bub-a-boo, croon-and-whistle renditions of "When the Blue of the Night Meets the Gold of the Day" and other ballads may ring funny in the Age of Rock—too gentle, perhaps, too sentimental for today's young. But the time was when young people fell in love—and people of all ages did their Christmas shopping—to his accompaniment. For a full half century, he was one of those rare, enduring super-entertainers of show business who somehow manage to capture—and hold—entire generations of fans.

The Crosby singing style slid with ease through so many music modes, from his perennials, "Silent Night" and "White Christmas," through the delightful silliness of the "Road" pictures with his pal Bob Hope and Dorothy Lamour and later to stompin' Dixieland fun with Louis Armstrong in "High Society." Just as effortlessly as he seemed to glide into any kind of music, Bing adapted to all the forms that entertainment was to take, from phonograph record sales of more than 300 million through nearly 60 movies (an Oscar for "Going My Way") and on into households via television specials.

Behind his cool, well-now-looky-here demeanor was a hard-working man of many talents. He was a successful business executive, a sportsman-entrepreneur, a father of two families (four children by Dixie Lee, who died in 1952, and three by Kathy Grant). And while he did not make a big fuss about it, he was also apparently a considerable philanthropist.

But most of all, Bing Crosby was your reliable family friend, ever available and able to make everyone around him feel comfortable. That's why you wanted to believe that he'd somehow be around forever—and why, thanks to a rich legacy of recorded performances, we rather think he will be.

LUCKY US, MR. CROSBY

(By Tom Shales)

Bing Crosby's reign outlasted all of the heirs apparent. They came they went, they did or didn't acknowledge what they owed him, but even when Crosby's own popularity softened and his record sales slipped, he remained somehow, somewhere, comfortingly there. He wasn't merely a star, nor merely the greatest star. He was an abiding presence.

You realized what the sound of his voice meant to you when you heard it from a gaudy jukebox in a two-bit bar on that lonely holiday away from home. You heard "White Christmas" and you were home again. You could warm your hands on the sound of his voice.

What was wonderful was the way he could inspire sentimental binges without giving in to sentimentality himself. He kept his dignity even when we went to pieces, and his blitheness and jauntiness became more than just trademarks or habits; they were statements on the advisability of not getting carried away.

"All I do is, I just do the same old thing every time," Bing Crosby told an interviewer in 1975, "except each time it's a different song."

A year later he tried analyzing his style for The London Times. "I wanted to sing conversationally, to reach people with the meaning," he said. "I don't think of a song in terms of notes. I try to think of what it purports to say lyrically. That way it sounds more natural, and anything natural is more listenable."

Crosby was more natural and more listenable than any other singer. This was music blithe as friendly chatter, free of bombast or pose, direct and intimate and personal.

In liberating songs from pretentious artsiness and formal cant, he ironically helped make popular song one of the greatest arts of all, all the greater for its utter accessibility—an art closed to no one. Crosby was a democratizer, an exemplary egalitarian, and he became a singing spokesman as well, a summation of American pop as well as its immaculate practitioner.

In his 50-year career, The London Times noted, Crosby's voice was "heard more often by more people than that of any mortal in history."

Yet he remained the most unassuming of institutions.

When, during a celebration of his 50th anniversary in show business, he took an unfortunate tumble from a tricky stage in Pasadena last spring, photographers besieged the stage and looked down at Crosby, lying injured in a pit below them. They were asked not to take any photographs of him at that time, and they obliged. Bing Crosby was a head of state; he kept his dignity, and we willingly cooperated in the maintenance of this legend.

Crosby was able to triumph at a stroll, to conquer casually and without looking the aspiring conquerer. There is almost no evidence to support wayward suspicions that his breeziness and nonchalance were fakes; there seems genuine modesty in his decision to title an autobiography, "Call Me Lucky."

You would never have caught him clawing his way into gossip columns or elbowing for attention on talk shows. He didn't drag his emotional problems through the newspapers, and he didn't posture when he sang emotional songs. Yet he could trigger an emotional response more deftly and efficiently than some performers with hearts on their sleeves and sobs in their throats.

In the movies, particularly the Road pictures he made with Bob Hope, Crosby showed a genuine comedic gift that was relaxed and spontaneous. In an interview last year, Hope recalled that the clowning on the set was so legitimately jolly that, "Guys used to fight to get to work on the pictures."

Then Hope sighed nostalgically and said, "God it was fun."

There were vague plans to do one more Road picture, to be called "The Road to Tomorrow," but this project never materialized (though Hope said a script had been written), and Crosby once joked that the picture should have been titled "The Road to Oblivion."

Oblivion was and probably always will be quite beyond his grasp.

In "The Country Girl," more than in his priest movies ("Going My Way," "The Bells of St. Mary's"), Crosby proved his abilities as a dramatic actor, though he didn't endanger his acting technique with acting lessons; he hadn't endangered his singing technique with singing lessons either. But in key moments of "Country Girl," as the alcoholic husband of Grace Kelly, Crosby may have called upon his own early bouts with the bottle in making this portrayal, convincing and alarming.

It's easier and more pleasant to remember him romping with Hope, however. This was a public show-biz friendship that remained entertaining and never grew forced or fatuous. In the Road pictures, the jokes were often at Crosby's expense. During one of the films, Hope suddenly hears violins welling up on the soundtrack. He looks into the cameras and says, "Okay folks, you can go out for popcorn now. He's going to sing again."

One respected Crosby particularly for the things about his life that he kept private. Though he played a priest at least three times in the movies, his Catholicism remained something personal; he never really tried to drag God into the act in self-aggrandizing show-biz style. He didn't tell audiences they were "beautiful" nor congratulate us for having the good taste to love him. He preferred to think he was the fortunate one; he was swinging on a star.

In recent years, after a long period of virtual retirement, Crosby stepped softly back into the spotlight. Sometimes he turned up in unlikely places. When one of his favorite subjects, tequila, was discussed in the rock magazine Rolling Stone, Crosby wrote a friendly letter to the editor disputing a few points about that delicacy. It was published and Crosby's signature followed by an editor's note for the disbelieving "This is the real Bing Crosby."

Late last year, Crosby's career was dissected in of all forums The Village Voice, where writer Gary Giddins chastized Crosby somewhat for having forsaken pure jazz in order to occupy the middle-of-the-road and win over his sweeping populist constituency.

Then Giddens suggested that Crosby was not only a troubador but an ombudsman. "He reminds me of a line in an old Carl Reiner-Mel Brooks routine about a pop singer who says of his audience. 'I am them, they are me, we are all singing, I have the mouth.'"

Giddins called Crosby "the ultimate pop icon" and concluded, "He is us, and we are him, only he has the mouth."

There will probably never be another singer as widely popular as Crosby. Part of the fallout of the media explosion is a fractionalized electorate; the great audience has become many audiences. Where Crosby's influence will end we can never know, however. Whenever a singer tries to speak to us individually, and not the mob beneath a pedestal, Bing Crosby's legacy will be perpetuated.

"I'll never have a hit again," Crosby once told The Los Angeles Times. "There's no chance. I'll keep on singing as long as there's a market. I'd just like to do a job well and keep in touch with the industry. It's been my life for 50 years. It's been a long, long pull and I've had great results. I can't complain if it stops tomorrow."

It stopped yesterday. But he is still us, and we are still him, and we will be for many Christmases to come.

BING CROSBY DIES AT 73

(By Jean R. Hailey)

Bing Crosby, the relaxed, easy-going, golden-voiced baritone whose career as a singer and actor spanned five decades, died yesterday of a heart attack after playing golf in Madrid, Spain. He was 73.

He collapsed after finishing 18 holes at La Moraleja golf club in Madrid's suburbs and was rushed to a Red Cross hospital in the city, where he was pronounced dead on arrival.

Crosby had been playing golf with Spanish champions Manuel Pinero, Valentin Barrios and Cesar de Zulueta when he was stricken.

In addition to being a singer with a golden voice, Crosby was also a song-and-dance man, master of the ad lib and an Oscar-winning actor. Radio brought Crosby to national prominence in the 1930s, and he became the most popular show business figure for a generation of people, both in this country and abroad.

The same qualities that propelled him to stardom proved durable, and he became a legendary figure in the world of entertainment.

He also became a millionaire, married two beautiful show business personalities, fathered two families, and made a name for himself in sports.

Dubbed "The Groaner" (which he preferred to crooner), "Der Bingle" (bestowed by the Germans), and plain old "Dad" (imposed by Hope), Crosby was one of the 10 top money-making stars for many years.

An enthusiastic golfer, Crosby had gone to Spain to relax after a tour of Britain that had included a sell-out performance at London's Palladium.

He was to have joined in a partridge hunt today and then had planned to fly to the Spanish island of Majorca on Monday for more golf.

His family was not with him in Spain. His second wife, actress Kathryn Grant, had returned two days earlier from Britain to their home in Hillsborough, Calif., a suburb on the peninsula south of San Francisco.

Trudy Berger, a cook at the Hillsborough home said:

"He had been feeling fine—we were expecting him back in a day or two."

Crosby had suffered a back injury earlier this year in a fall from the stage while taping a television show in Los Angeles to celebrate his 50th year in show business.

Berger said the only family member at home at the time was Crosby's youngest son, Nathaniel.

"We just picked him up from school. He's very distressed naturally," she said. Mrs. Crosby arrived at the home shortly afterward.

Crosby's daughter, Mary Frances, 17, was rehearsing for a part in a Shakesperian play at the American Conservatory Theater in San Francisco and headed home immediately when she heard of his death.

His longtime friend, golf companion and fellow entertainer, comedian Bob Hope, was at the Waldorf Astoria in New York when he was told of Crosby's death.

"I don't believe it. I'm absolutely numb. I saw him a couple of months ago and he seemed fine . . . I can't understand what happened. I guess he was more hurt in that fall than we realized," Hope said.

Hope was scheduled to make a benefit appearance in Morristown, N.J., last night but cancelled it.

"I just can't get funny tonight," he said. "It's just not in me. I'm getting calls from all over the world, but I just can't talk."

Expressions of grief came from other old friends.

"It's a terrible shock to me. He was one of the greatest," said comedian George Burns.

Frank Sinatra, a fellow actor and singer said:

"The death of Bing Crosby is almost more than I can take. He was the father of my career, the idol of my youth and a dear friend of my maturity. Bing leaves a gaping hole in our music and in the lives of everyone who had ever loved him. And that's just about everybody."

First Lady Rosalynn Carter also expressed grief through her press secretary, Mary Hoyt.

"Only yesterday she (Mrs. Carter) sent him a letter asking him to sing some of his wonderful Christmas songs at the traditional Christmas party for the press on Dec. 17," Mrs. Hoyt said.

There were other future plans afoot for the celebrated crooner who was a millionaire many times over but allowed as how "I'll go on singing . . . as long as I'm asked."

Hope said that contract details had been worked out to make a sequel to the famous "Road" pictures with Dorothy Lamour that came on the screen in the 1940s. It was to be called "The Road to the Fountain of Youth."

He added that he and Crosby also had been scheduled to tape an exchange of quips on Oct. 24 for a TV special saluting Hope's 40 years in films.

When he began in films, Crosby did not project the image of a matinee idol.

To compensate for the famous Crosby jug ears, which he refused to have taped back, there were the blue eyes and the winsome smile.

Most of all there was the voice.

It had brought Crosby nationwide popularity by way of radio in 1932. It brought him further fame by way of motion pictures and then carried him into television in the 1950s.

The voice also entered an untold number of homes around the world by way of recordings. By latest count, Crosby record sales had totaled well over the 300 million mark and "White Christmas" and "Silent Night" were still selling.

To what did he attribute his extraordinary success?

"Hard work and Lady Luck," Crosby once replied. He emphasized that in an autobiography, "Call Me Lucky," published in 1953.

If luck played a role, it was in the choice of partners in show business.

This dated back to the 1920s, when Crosby, Al Rinker, and Harry Barris formed the Rhythm Boys and sang with Paul Whiteman's band.

It continued in the 1940s, when he joined with Hope and Lamour in six "Road" films—"Roads to Singapore, Zanibar, Morocco, Utopia, Rio and Bali."

It took him to "Going My Way," a 1944 film in which he costarred with Barry Fitzgerald and won an academy Award for his portrayal of a priest.

Luck remained with him in later years, when he came out of what was never officially a retirement to team with his second family in Christmas television specials and the selling of orange juice.

Crosby also found luck by his side in 1974, when a growth removed by surgery from his lung was found to be nonmalignant, and again this year when he suffered only minor injuries in the concert stage fall.

Born Harry Lillis Crosby in Tacoma, Wash., he was one of seven children of Harry Lowe Crosby, a brewery bookkeeper, and Kate Harrigan Crosby.

The family moved to Spokane while he was a child and he attended grade school and Gonzaga High School there. He also earned the nickname of Bing from his fondness for a comic strip called the Bingville Bugle, featuring a character called Bingo.

Crosby had his first and only singing lessons while in grade school. They ended when his teacher tried to make him do breathing and tone exercises.

Later he took oratory and elocution at the Jesuit high school, which helped him develop the "phrasing" that later made his singing clear and easy to understand.

In his classes he recited many of of Robert W. Service's poems, such as "The Spell of the Yukon" and "The Shooting of Dan McGrew." He did the classic "Horatius at the Bridge" and "Spartacus to the Gladiators." "I took those eloquent lines in my teeth and shook them as a terrier shakes a bone," he wrote later. They also brought him awards.

During his school days, Crosby worked at a number of jobs, delivering newspapers, thinning apples, janitoring at a working man's club and doing topography at a loggers' camp.

"Dad was in shock most of the time," he once explained. "As soon as he finished paying for a sewing machine, he'd buy a victrola, or lawn mower, or one of us would need new clothes. We soon found out there wasn't a lot of money on hand for baseball bats or sodas. Whatever we got, we earned."

Always casual seeming to do things without effort, Crosby often gave the impression of being downright lazy. But it was only a pose. Actually, he was a hard worker.

He entered Gonzaga University in Spokane in 1921, and eventually switched to the study of law, working part-time for a local law firm.

But he also had joined a college band, called the Musicaladers, which played at local dances and private parties. He played drums and sang. Another member of the band was Al Rinker, who played piano.

They decided to quit school and go on the road. Billed as "Two Boys and a Piano," they went to Los Angeles. There Crosby had his first brush with Lady Luck.

It was Rinker's sister, known professionally as Mildred Bailey, who became famous as a jazz and blues singer. She helped them get billings.

They were in Los Angeles when Paul Whiteman heard them and hired them for his band in 1927. They went on to Chicago with him, and the audience liked them.

Then the band hit New York and Crosby and Rinker fell flat. Crosby said later he never did understand why. A short time after that, Whiteman added Harry Barris to his organization and the Rhythm Boys were born.

They made a big hit with "Mississippi Mud," and put together a repertoire of numbers that nobody else was singing. In 1930, they went to Hollywood with the Whiteman band to film "The King of Jazz."

In the meantime, Crosby admitted later, the trio wasn't doing anything about learning new songs. There was a falling out with Whiteman and a parting of ways in Seattle.

It was back to Los Angeles, where they joined Gus Arnheim's band at the cocoanut Grove. It was then that Barris composed the songs for some of Crosby's biggest hit records.

These included "I Surrender Dear," "Just One More Time" and "Wrap Your Troubles in Dreams." Crosby also helped compose a ballad that became his radio theme song.

"When the Blue of the Night Meets the Gold of the Day" left today's grandmothers sighing before their radio sets. So did the boo-boo-boo-booing and whistling that Crosby produced to vary the choruses. He later abandoned that style.

He also appeared in a number of Mack Sennett movie shorts. He went to New York,

where he broadcast for the first time on a nationwide network.

He appeared at the Paramount Theater, where he set a record—a 29-week run singing five and six shows daily. He was an emcee at the Capitol Theater, where he met a young comedian, Bob Hope.

Between theater, radio and recording dates, he also almost managed to ruin his voice. His overworked vocal chords developed nodes and a raspy hoarseness. Two weeks of rest cured his problem but left his voice a permanent tone or so lower.

In the meantime, Crosby had met and married Wilma Winifred Wyatt, better known by her professional name of Dixie Lee. She was an established star of several Broadway musical comedies and a rising screen star.

She had accompanied him to New York, and when they returned to Hollywood in 1932, she decided to give up her budding career and become a homemaker.

Because of his success on radio, it was Crosby's turn to try for film stardom. Paramount Pictures asked him to appear in "The Big Broadcast," a movie featuring prominent radio entertainers.

He reached stardom with Paramount and stayed there, appearing in such hits as "College Humor" with George Burns and Gracie Allen, "Doing Hollywood" with Marion Davies, and "We're Not Dressing" with Carole Lombard.

He also signed a contract with the newly formed Decca Records and produced consistent best sellers. They included such all-time favorites as "Swinging on a Star," "Sweet Leilani" and "Don't Fence Me In."

In 1935, Crosby became the star of the Kraft Music Hall, a weekly radio show that was aired for a decade. The style was relaxed and conversational. His guests include such concert artists as Chaliapin and Piatigorsky.

Later Crosby instituted the taping of his shows. This not only allowed him the freedom to edit, but also to produce shows in advance so he could get away for his three major hobbies.

He was devoted to fishing, hunting and golfing (he mastered all three) next to his now growing family. There were four sons, Gary, named after his friend, Gary Cooper, then the twins Dennis and Phillip, and finally Lindsay.

The boys later tried show business but were never as successful as their famous father.

The Crosbys lived for years in the Toluca Lake district of the San Fernando Valley. When their home there was destroyed by fire, they moved to an estate in Holmby Hills, near Beverly Hills.

They also had homes in Pebble Beach, Calif., where the annual Crosby golf tournament is still held, at Hayden Lake, Idaho, and in Palm Springs, Calif. For years, they spent summers at their huge cattle ranch in Elko, Nev.

After making several other films in the late 1930s, Crosby teamed up with Hope in the first of the very successful "Road" movies.

They were a natural. Both were adept at ad-libbing and frequently departed from the script to come up with their best lines. Glamorous Dorothy Lamour provided much of the incentive.

The "Road" pictures marked the start of Hope and Crosby publicly heckling each other in jest. It spilled over from films and the stage to the golf tournaments in which they often appeared together.

Crosby might refer to Hope "of the non-classic profile and the unlissome midsection." Hope called Crosby "skin-head."

Each comfortable in his own wealth, they could afford to take pot shots at each other's money. Said Hope of Crosby:

"He doesn't pay taxes. He just calls up the Treasury and asks 'em how much they need."

Actually, Crosby once said he gave 30 per cent of his earnings to charity and taxes didn't leave much more.

While making some of the "Road" pictures, Crosby also appeared in a number of other films, "Birth of the Blues," "Holiday Inn" and "Here Come the Waves."

Then in 1944, film director Leo McCarey approached him with a new idea, the role of a young priest opposite an old one to be played by Barry Fitzgerald in "Going My Way."

Crosby balked at first, declaring he didn't think the Catholic Church would stand for that kind of casting. McCarey prevailed and Crosby appeared in what became one of the singers' most highly praised movies. It won him the Oscar.

He repeated his role as a priest a year later in "Bells of St. Mary's" with Ingrid Bergman.

Those films were followed in turn by more musicals—"Anything Goes," "Blue Skies," "A Connecticut Yankee," "Riding High" and "Mr. Music."

Then came "Holiday Inn" with Fred Astaire, and its Irving Berlin song, "White Christmas," which ranked second only to Crosby's "Silent Night" in his parade of best selling records.

In 1954, Crosby portrayed an alcoholic actor in "The Country Girl," in which Grace Kelly won an Oscar. He then left Paramount to free-lance. Later, he made "High Society" with Kelly and Sinatra for MGM. All told, he starred in 57 movies.

In the early part of World War II, he formed Crosby Camp Shows and traveled more than 50,000 miles entertaining troops. In 1944, he made a four-month tour of battlefields in France. The story was told that he actually found himself at one point inside the German lines.

Crosby made his television debut in 1952, when he appeared on a "telethon" with Hope to raise money for the United States Olympic Fund.

A newspaper critic noted that "Bing's relaxed style and easy-going ways were made to order for home viewing."

He continued to appear on television in specials that often teamed him with Hope through the 1950s and '60s, and into the '70s. Many of the performances gave them both a chance to show off not only their wisecracks but the old soft shoe.

Dixie Lee died of cancer on Nov. 1, 1952, three days before her 41st birthday, and the nation mourned with Crosby and their sons.

Three years later, he began a two-year courtship of Olive Kathleen Grandstaff, of Houston, Tex., better known as Kathryn Grant. She was an actress at Paramount, where they met.

The public eagerly followed the courtship. She was almost 30 years younger than he, and five months younger than his oldest son.

Just 10 days after their marriage in 1957, Crosby took his bride to Spokane, where he dedicated a $700,000 library he had given to his old school, Gonzaga University. The school, in turn, awarded him an honorary doctorate of music.

Except for occasional acting, the new Mrs. Crosby gave up her screen career. She became the mother of Crosby's second set of children. Harry Lillis, born in 1958. Mary Frances, born in 1959, and Nathaniel Patrick, born in 1961.

This second family was a closely knit as had been the first. When the children grew a little older the entire family made dozens of television commercials on frozen orange juice. Each year, the family appeared on a Christmas television special.

Crosby's autobiography was written in collaboration with Peter Martin of The Saturday Evening Post. It appeared in eight installments in the magazine and was published in book form by Simon and Schuster.

Later, Kathryn Crosby wrote her own book, "Bing and Other Things."

Family unity had always been important to Crosby. His brother, Everett, became his manager early in his career, and another brother, Larry, handled his public relations.

His father had supervised his fan mail and handled his checking accounts until his death in 1950. Another brother, Bob, became well known as a singer and band leader.

The family was involved in such projects as Bing Crosby Enterprises and the Crosby Research Foundation. They were into everything—oil wells, distribution for frozen orange juice, toy dogs, a luxurious trailer village in Palm Springs, real estate and TV.

Crosby also devoted much of his time and money to sports. He once owned 15 per cent of the Pittsburgh Pirates baseball team and about 5½ per cent of the Detroit Tigers.

He began acquiring race horses in 1955, and formed a racing and training partnership, the Bing-Li stable, with Howard Lindsay, which at one time numbered 21 horses.

In the mid-1930s, Crosby also helped establish and became president of the Del Mar racetrack in San Diego County. He sold his nearly half-million-dollar interest in 1946.

But golf was his greatest avocation. Starting in 1937, he sponsored a pro-amateur golf tournament annually at Del Mar and then at Pebble Beach. He paid all the expenses, including the prize money, with proceeds going to youth recreation centers and other charities.

His exhibition golf matches with Bob Hope raised thousands of dollars for charities. In addition, during World War II they often auctioned off their clubs, golf clothes and other equipment after their matches in an effort to sell war bonds.

Crosby's flamboyant dress often made him the butt of colorful jokes. He said he chose some of the amazing color combinations only because he was color blind. But, there were others who thought he intended a "take-off" on Hollywood fashions.

His wealth also was the subject of frequent jokes. One of the favorite stories told about him involved the fire that destroyed his house in the San Fernando Valley.

Poking through the ashes, it was said, Crosby came up with $2,000 in cash, which he had retrieved from the toe of a sports shoe in his charred dressing room.

Crosby took them all with a grin and came up with an easy-going answer.

"The things I have done are the things I have wanted to do. Doing them was no great sacrifice, and I have been heavily paid for having fun while I did them. So I don't know that my story contains an inspirational point of view. However, it is certainly shot full of another American commodity—luck."

U.S. MIDDLE EAST POLICY

Mr. HARRY F. BYRD, JR. Mr. President, U.S. policy toward the Middle East has remained fairly constant during the past several years with the principles of U.N. Resolutions 242 and 338 forming the basis of that policy.

Suddenly, on October 1, the United States made an announcement which seemed to signal a major change in U.S. policy toward the Middle East and a departure from the principles of U.N. Resolutions 242 and 338.

In a joint statement with the Soviet Union on objectives for a Middle East settlement, the United States appeared to embrace proposals which had consistently been rejected by Israel and which were inconsistent with previous U.S. policy.

In one sudden and unexpected step the Carter administration infuriated Israel, hardened the position of the Arabs, and undermined U.S. credibility as a mediator.

Further, the joint statement reintroduced into the Middle East the influence of the Soviet Union, which down through the years has been a source of discord and belligerence in the region.

The administration policy statement also prompted a roar of protest from a broad range of Americans.

The statement was criticized for conspicuously avoiding mention of U.N. Resolutions 242 and 338 which had been the very cornerstone of U.S. policy with regard to the Middle East.

For myself, I am particularly concerned that it appears to give implicit recognition to the terrorist PLO as the representative of the Palestinian people. Many feel, too, that it implies recognition of the legitimacy of an independent and sovereign Palestinian State. Both of these positions are contrary to past United States policy.

I feel it wrong to attempt to force Israel to negotiate with the PLO, a terrorist organization committed to the destruction of Israel.

On October 4, just 4 days after the joint statement, President Carter reaffirmed the U.S. commitment to the principles of U.N. Resolutions 242 and 338 and indicated that the United States did not intend to impose a settlement on the nations of the Middle East. However, the President did not put to rest the concerns about the seeming recognition of the PLO or the Palestinian State.

On October 10, announcement was made of agreement between the United States and Israel on a "working paper" concerning arrangements for reconvening the Geneva Conference. This had been interpreted by Israel as a sign of U.S. agreement that the PLO will not be officially represented at the Geneva Conference.

The State Department, however, has now publicly disagreed with Israel's interpretation and a State Department spokesman said "the working paper doesn't foreclose anything."

The sum total of all this is that no one knows exactly where the Carter administration stands. Administration policy statements have been erratic, vague and inconsistent and they have meant different things to different people.

The one clear result of all this, however, is that administration actions have clearly strengthened the hand of the Soviet Union in the Middle East. This is most undesirable.

Consider the record of the Soviet Union in the region

In 1955, the Russians initiated the arms buildup in the Middle East. They remain the largest arm supplier in the region.

In 1973, they conspired with Egypt and Syria in the planning of the 1973 Yom Kippur attack on Israel.

At about the same time, they were encouraging the Arab oil embargo against the West.

To give the Soviet Union an enhanced position in the Middle East is to invite repetition of this kind of irresponsible, meddlesome behavior, with potentially tragic consequences.

Clarification—and reexamination—of the administration's position is urgently needed.

SENATOR JAMES PEARSON

Mr. DOLE. Mr. President, over the past weekend, our esteemed colleague, JIM PEARSON, announced that he would not seek reelection to the 96th Congress. When he retires in January 1979, JIM PEARSON will have completed a quarter of a century of service to the people of Kansas and the Nation—as city councilman, a member of the Kansas State Senate, and, for 17 years, a U.S. Senator. Throughout his public career, his has been a reasoned, independent, and respected voice, one who has always put commitment to principle above ambitions for personal advancement.

JIM PEARSON is a Republican. Yet the respect and admiration for him in this Chamber transcends party labels. On every issue he has made his position known, articulated it well, and worked diligently and respectfully with his colleagues on both sides of the aisle.

While I, too, praise his record of public service and look forward to further contributions to the betterment of our State and Nation, it is his friendship I value most. When he leaves the Senate 15 months from now we will lose an outstanding Senator. But I know I join my colleagues in looking forward to his continued friendship for a long, long time to come.

REORGANIZATION TURNS OUT TO BE A TOUGH PROBLEM

Mr. PROXMIRE. Mr. President, the administration's plans for achieving economies through reorganization in the economic development area are "more smoke than substance thus far."

As we all know, this administration has ambitious plans for cutting through the reams of redtape generated by the Federal bureaucracy and reducing the number of Federal agencies.

President Carter deserves high marks for his laudable desire to reduce the burgeoning Federal agency structure, but he is discovering just how tough it is to fight a widespread entrenched bureaucracy. As a consequence, the administration's reorganization efforts to date have been less than impressive.

Let me be specific. A meeting was recently called by the Economic Development Division of the President's reorganization project to explain to key Hill staffers what steps were being taken to review the organization and structure of the major Federal local development programs. There are now dozens of programs scattered throughout the Government affecting local development.

But the review group itself is a study in bureaucratic procedure run amok. A paper passed out at that meeting explained that:

> The day-to-day operation of the project will be the responsibility of the Study Leader, who will be aided by two coordinators, a public awareness staff, and six functional group leaders, each of whom will have responsibility for a core research staff in one of the six major program areas.

Can we expect this cadre of bureaucrats to cut the bureaucracy? The portents are not promising. First, it appears that the group will be spending a majority of its time looking at policy goals, not how to better implement current policy. Of course, they will coordinate their efforts with yet another policy group, a Cabinet-level Task Force on Urban and Regional Policy.

But how about the specific Carter goals of reducing the number of Federal agencies? As the President's representatives said, the group will be "very sensitive" to the need for working with the programs and agencies currently existing. As for cutting the Federal payroll, this is not one of the task force's objectives.

There is another area which badly needs reorganizing and simplifying. Three different agencies now regulate the banking industry—the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency. The first is a seven-person board, an agent of the Congress and independent of the executive branch. The second is a three-person independent regulatory agency which includes the Comptroller of the Currency. The third is in the Treasury Department, and the Comptroller reports to the Secretary of the Treasury.

The result is a Rube Goldberg system of regulation in which each agency competes with the other to see which can be the most lenient for fear of losing its members to the competing agency.

There is more duplication, overlapping, and wasted energy in these three agencies than in any other single area in the Government.

Yet they doggedly resist reorganization, and apparently there has not even been a recommendation to the President to simplify this structure.

HUD itself is a further example. HUD officials are now proposing a modest reorganization which appears to have many good points. The principles seem correct. But will it result in a HUD staffing cutback? Here are the facts:

At the end of fiscal 1976 the Department had 14,942 permanent employees. It is estimated that there were slots for 15,570 permanent civil servants by the end of fiscal 1977. And by the end of the current fiscal year—next September 30—the taxpayers under the Carter plan would be footing the bill for another 420 bureaucrats, or a total of 15,990 employees.

In other words, permanent employment at HUD will have increased by over 1,000 positions at a time when HUD has eliminated more than a dozen categorical grant programs and replaced them with a community development block grant effort which means one-stop shopping for the cities and should mean less effort for HUD.

In fairness to President Carter it should be added that originally HUD had plans to hire an additional 800 people by the end of fiscal 1978, but the administration made a cutback. However, the trend is still up—an employment increase of more than 7 percent in 3 years.

There is now a clear danger that the administration has been captured by the bureaucracy. It may never free itself sufficiently to fulfill those cost cutting reorganization reform promises that were a highlight of the President's election campaign. I wish him well in his continuing fight. But I think it is time to recognize the increasing futility with which it is being waged.

A BIOGRAPHY OF JEFFERSON DAVIS

Mr. BAKER. Mr. President, the Senate joint resolution restoring citizenship to Jefferson Davis, former U.S. Congressman, U.S. Senator, and President of the Confederate States of America, was passed by the Senate on April 27 of this year, and is now pending before the House Judiciary Committee.

In connection with this resolution redressing old wrongs and in the spirit of unity between the North and the South, I would like to call my colleagues' attention to a new biography of Jefferson Davis published by one of my constituents, Herman S. Frey, of Tennessee. Mr. Frey, I might note, has twice been a candidate for the Democratic nomination to represent our State in the Senate.

Mr. Frey's books has been truly a labor of love. As he states in his introduction, Jefferson Davis "has too long been ignored by the historian and the public."

I join him in his hope that the life and career of this remarkable American figure will become better known and appreciated.

ROBERT H. JENNISON

Mr. DOLE. Mr. President, Kansas lost one of its truly outstanding business and political leaders when Bob Jennison passed away Sunday in Denver, Colo. Bob Jennison was one of those rare individuals who combined successful careers in politics, in business, and volunteer service.

During the 1960's he served the Healy area citizens with distinction in the Kansas House of Representatives rising to become Speaker of the Kansas House. Long respected as one of the State's top bankers, he was elected president of the Kansas Bankers Association. And he was officially recognized by the National Weather Service for more than a third of a century as a cooperative weather observer. Bob Jennison was a lifelong resident of Healy, Kans., and was president of banks at Healy, Ransom, and Scott City, Kans.

His State, his city, and his profession will miss Bob Jennison. I join all of Bob's friends and neighbors in expressing my condolences to his wife, Tillie, and his entire family.

MAHATMA GANDHI AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, October 2 marked the birthday of Mahatma Gandhi—one of history's greatest warriors for human rights. From the time he completed his education until his assassination in 1948, Gandhi devoted his life to an uncompromising search for the truth. This search eventually led him to the conclusion that a policy of nonviolence, respect for one's adversary, and refusal to accept any compromise of truth is not only morally better but is actually more effective in solving disputes than is the use of force. Armed with the tool of nonviolent protest, Gandhi fought untiringly to end colonial oppression and uphold the rights and respect of minorities.

When India finally gained independence, many of Gandhi's beliefs and convictions found their way into the new constitution, and in its first year of self-rule, this struggling democracy showed the strength of its commitment. In the wake of World War II, India was one of only three nations which approached the United Nations and asked that it address seriously the international problems of genocide.

The Convention that resulted, which the United States took a big role in drafting and which has awaited Senate ratification for the past 28 years, bears out Gandhi's commitment to the truth. The Genocide Convention simply states that, regardless of the reasons or the military force behind it, acts of genocide can never be right. In addition, its signatories agree that the best way to handle the possibility of such acts is not to intervene in each case and take the law into their own hands, but to establish an international standard which states unequivocally how justice is to be achieved.

Mr. President, our U.S. Constitution and judicial system bear witness to the fact that we believe in the rule of law and the peaceful settlement of disputes. I am convinced that our Nation's interests can best be served by helping establish an international framework of laws consistent with these beliefs. Mahatma Gandhi's birthday should serve as a strong reminder that our failure to ratify the Genocide Convention means that we have not taken one of the crucial steps in constructing that framework. I call on my colleagues to correct this tragic situation and ratify the Convention immediately.

ROBERT T. STEVENS RECEIVES THE SYLVANUS THAYER AWARD

Mr. THURMOND. Mr. President, on October 4, 1977, my good friend and one of the Nation's distinguished public servants and leaders, Robert T. Stevens, received the Sylvanus Thayer Award at the U.S. Military Academy.

Bob Stevens' record and achievements as an eminent leader of American industry are well known. His devotion to the U.S. Army began as a soldier in World War I. He served as one of our most capable Secretaries of the Army during the troubling period of the Korean war. As a private citizen, he has maintained a lively interest in Army affairs and has been a sympathetic and knowledgeable spokesman for the Army in the civilian world. The Sylvanus Thayer Award is a fitting tribute to so loyal a citizen-soldier.

On the occasion of receiving the award, Bob Stevens delivered an excellent address on the need to maintain an adequate defense posture. He spoke eloquently of the place the Army occupies in American life.

The Sylvanus Thayer Award has been presented annually since 1958 to an outstanding citizen of the United States whose service and accomplishments in the national interest exemplify personal devotion to the ideals expressed in the West Point motto: "Duty, Honor, Country."

Mr. President, "Duty, Honor, Country" are demanding words to live by. They call for the best in us. That is what Bob Stevens has given, to the enduring benefit of his fellow citizens.

Bob Stevens joins a unique company of eminent and patriotic Americans who have received this honor and his name lends additional prestige to the award. West Point honored itself by honoring this great American who is a true patriot and my good friend.

Mr. President, Bob Stevens has a number of other friends in the Senate and I know they would like to read his acceptance address. Accordingly, Mr. President, I ask unanimous consent that the citation for the 1977 Sylvanus Thayer Award, an explanation of the award, a list of past recipients, a short biography of Robert T. Stevens, a short biography of Sylvanus Thayer, and the text of the acceptance address be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

1977 SYLVANUS THAYER AWARD: CITATION—ROBERT T. STEVENS

As distinguished public servant and industrial leader, the Honorable Robert T. Stevens has rendered a lifetime of outstanding service to the United States and its citizens. In multiple fields of endeavor and in positions of extraordinary responsibility, Robert T. Stevens has exemplified, through his accomplishments in the national interest and manner of achievement, the ideals of West Point expressed in the motto, "Duty, Honor, Country."

Beginning with military service as a second lieutenant of artillery during World War I, Robert T. Stevens' public and private service has spanned more than a quarter of our nation's history. During that period he was responsible for developing and operating one of the largest and most diversified industrial organizations in the world. He served

on the National Defense Advisory Commission, as Chairman of the Business Council for the Department of Commerce, as Director and Chairman of the Federal Reserve Bank of New York, as Civilian Aide to the Secretary of the Army, as a member of the Board of Visitors to the United States Military Academy and as Secretary of the Army. To each of these important governmental posts, he brought a unique knowledge of American industrial capability and power, a selfless dedication to the welfare of his country and its military forces and a combination of courage and integrity which has become a symbol and example of the finest in public service.

Robert T. Stevens' life and achievements have been especially interrelated with the United States Army. His service to the Army, whether performed on active duty in two wars, as the senior, responsible civilian or as friend, has been marked by an unusually deep concern for the capability of the Army to perform its mission and for the welfare of men and women in uniform. Throughout his life, he has applied his special talents and energy to the promotion of the Army and its people in the national interest.

Through his lifetime of service to his country, Robert T. Stevens has made a significant and lasting contribution to the welfare and security of the United States. His invariable response to the call of duty and his willingness to serve when needed symbolize and reflect the values expressed in the West Point motto. Accordingly, the Association of Graduates of the United States Military Academy hereby awards the 1977 Sylvanus Thayer Award to Robert T. Stevens.

THE SYLVANUS THAYER AWARD

Since 1958, the Association of Graduates of the United States Military Academy has presented the Sylvanus Thayer Award to an outstanding citizen of the United States whose service and accomplishments in the national interest exemplify personal devotion to the ideals expressed in the West Point motto, "Duty, Honor, Country."

The award is named in honor of Sylvanus Thayer, Class of 1808, the 33d graduate of the Academy, who nine years later became its fifth Superintendent. Serving in this capacity until 1833. Thayer instituted at West Point those principles of academic and military education, based upon the integration of character and knowledge, which have remained an essential element of the Military Academy.

Sylvanus Thayer was elected in 1965 to New York University's Hall of Fame for Great Americans as the "Father of Technology in the United States." Under his direction the United States Military Academy became the first technological school in America; and his curriculum, textbooks, and engineer graduates were in great demand among the nation's colleges and scientific institutions as they developed throughout the 19th century.

SYLVANUS THAYER AWARD RECIPIENTS

Dr. Ernest O. Lawrence, 1958.
The Honorable John Foster Dulles, 1959.
The Honorable Henry Cabot Lodge, 1960.
President Dwight D. Eisenhower, 1961.
General of the Army Douglas MacArthur, 1962.
The Honorable John J. McCloy, 1963.
The Honorable Robert A. Lovett, 1964.
Dr. James B. Conant, 1965.
The Honorable Carl Vinson, 1966.
Francis Cardinal Spellman, 1967.
Mr. Bob Hope, 1968.
The Honorable Dean Rusk, 1969.
The Honorable Ellsworth Bunker, 1970.
Mr. Neil A. Armstrong, 1971.
Dr. William F. Graham, 1972.
General of the Army Omar N. Bradley, 1973.
The Honorable Robert D. Murphy, 1974.
Governor W. Averell Harriman, 1975.
The Honorable Gordon Gray, 1976.

ROBERT T. STEVENS

Robert T. Stevens was born in Fanwood, New Jersey. Graduating from Yale in 1921, he entered the textile industry when he joined the family firm of J. P. Stevens & Co., Inc. Following eight years in both manufacturing and merchandising, he was elected President in 1929 upon the death of his father, John P. Stevens, Sr. He served as President from January, 1929, to January, 1942, when he began active duty in the Army. Upon his return from service in 1945 he was elected Chairman of the Board, an office which he held through 1952, when he was designated Secretary of the Army by President-elect Eisenhower. He returned to the textile industry in September, 1955, and was again elected President of J. P. Stevens & Co., Inc. On August 1, 1969, he relinquished the Presidency but retained an active position as Chairman of the Executive Committee. In September, 1971, he completed fifty years service with the Company. During his years in the textile business he has seen J. P. Stevens & Co., Inc. grow to be one of the largest and most diversified textile organizations in the world. He became Director Emeritus as of August 1, 1974.

Mr. Stevens was head of the Textile Section of the National Defense Advisory Commission in 1940. He has been a member of the Business Council for the Department of Commerce since 1941 and served as Chairman in 1951 and 1952. Mr. Stevens served as Director of the Federal Reserve Bank of New York from 1934 to January, 1942. In 1948 he was designated a Director and Chairman of the Bank, a post in which he served until he joined the Eisenhower Administration as Secretary of the Army in January of 1953. He served as Chairman of the Laymen's Committee of Religion in American Life from May, 1957, to August, 1961, and as Chairman of the Non-Sectarian Community Committee of the United Jewish Appeal of Greater New York from 1969–1972. He is a Trustee of the George C. Marshall Research Foundation, a member of the Directors Advisory Council of the Morgan Guaranty Trust Company of New York, Director Emeritus of the General Electric Company and served as a Trustee of the Mutual Life Insurance Company of New York. He is a Director and past President of the American Textile Manufacturer's Institute, Inc. and serves as a Trustee and Vice-President of the Supreme Court Historical Society.

Mr. Stevens' association with the United States Army began in World War I, when he served as a 2nd lieutenant of Field Artillery. In 1941, he attended a special course at the Command and General Staff College, Fort Leavenworth, Kansas, graduating the day before Pearl Harbor. He served as a colonel in the Office of the Quartermaster General in 1942 and from 1943 through 1945 was Deputy Director of Purchases. He was awarded the Legion of Merit and the Distinguished Service Medal. Upon his resignation as Secretary of the Army in July, 1955, he was awarded the Exceptional Civilian Service Medal of the U.S. Air Force, the Navy Distinguished Public Service Award and the Medal of Freedom. He served as Civilian Aide-at-Large to the Secretary of the Army and from 1961 through 1963 as a member of the Board of Visitors to the United States Military Academy. He is a member of the West Point Fund Committee.

In addition to his A.B. and honorary M.A. degrees from Yale, Mr. Stevens holds many other degrees and awards. He was married on October 6, 1923, to Dorothy Goodwin Whitney and they have four sons, Robert T., Jr., Whitney, William G. and Thomas E.

SYLVANUS THAYER OF WEST POINT

Sylvanus Thayer, acknowledged as "The Father of the Military Academy," was born in Braintree, Massachusetts, on June 9, 1785, and died there on September 7, 1872, at the age of 87. He was the son of Nathaniel and Dorcas (Faxon) Thayer, and the 7th generation in direct line from Richard Thayer, a Puritan immigrant who settled in Braintree about 1635. Sylvanus Thayer attended Dartmouth College from 1803 to the early part of 1807, when he entered the United States Military Academy, which had then been in existence five years. Thayer was graduated from the Military Academy in 1808 and commissioned a second lieutenant in the Corps of Engineers. Following the War of 1812, he was sent to Europe by the Secretary of War to study military education and engineering at l'Ecole Polytechnique in France. While in Europe, Thayer gathered together a library of nearly 1,000 volumes on military art, engineering, and mathematics, as well as a large collection of maps of the Napoleonic Campaigns. Most of these books are still preserved in the West Point Library.

On July 28, 1817, Sylvanus Thayer assumed the duties of Superintendent of the United States Military Academy, a position he held until relieved from his duties at his own request on July 1, 1833. At the time of his retirement from the United States Army in 1863, he held the rank of brevet brigadier general; however, he is referred to generally as "Colonel Sylvanus Thayer, The Father of the United States Military Academy."

Following his tour as Superintendent of the Military Academy and until his retirement from the Army in 1863. Thayer was engineer in charge of the construction of fortifications at the entrance to Boston Harbor and of the improvement of harbors along the entire New England coast. After his retirement he established and endowed (in 1867) the Thayer School of Engineering at Dartmouth College and provided funds for a public library in his native town of Braintree, Massachusetts. In his will he left funds for still another school, also to be located in Braintree. This was to become the Thayer Academy of today.

Thayer's major contribution to the nation was the educational system he instituted at the Academy, which was based on absolute honesty and complete integrity, on a curriculum consistent with the demands made on a man in the military profession, and on the principle that every cadet must exercise his intellectual faculties to the utmost. During the 16 years of Thayer's administration, the Academy grew from a disorganized rudimentary school to a recognized permanent school of science, and at the same time a bulwark of defense for a growing nation.

Sylvanus Thayer ranks as one of the greatest educators the country has produced. As a military engineer and as an educator, he has had profound and far-reaching influence on educational standards throughout the United States. The United States Military Academy, founded in 1802 and reorganized by Thayer in 1817, was the first engineering school to be established in this country. The first civilian engineering school founded in the United States, Rensselaer Polytechnic Institute of Troy, New York, was established in 1824 and graduated its first four civil engineers in 1835. The next two civilian schools of this type—Lawrence School of Harvard, founded in 1846 and Sheffield Scientific School of Yale, founded in 1847—chose West Point graduates to fill their chairs of civil engineering: Henry L. Eustis, USMA Class of 1842, at the Law-

rence School, and William A. Norton, Class of 1831, at Sheffield.

As an academic institution, the United States Military Academy today offers a balanced curriculum of the sciences and the humanities leading upon graduation to a Bachelor of Science degree and a commission as an officer in the United States Army.

A key factor in the West Point system of education is the participation of each cadet in each subject at each class session. This system, instituted by Thayer, still stands as the basis of the academic program at the Academy. Thayer also insisted on small classes, a rule still followed, with an average of from 10 to 14 cadets at each class session.

The academic curriculum, which reflects the changing requirements of the military profession and advances in the field of higher education, consists of two complementary parts: a core program which is essentially prescribed, and an elective program. The core program contains the elements of a broad, general education and is designed to give the cadet a fundamental knowledge of the arts and sciences. The elective program enables the cadet to experience a reasonable degree of concentration in areas in which he may have special interests or aptitudes.

The core program and the elective program are, of course, closely linked to one another in the sense that the latter is an extension of the former. Thus, the elective program offers the cadet a number of courses in each of four broad areas which have a substantial basis in the core curriculum. These are the Basic Sciences, the Applied Sciences and Engineering, the Humanities, and National Security and Public Affairs.

Hence, West Point, even as it continues to upgrade its academic and military programs to keep pace with the time, still builds on the time-tested and firm foundation established by Sylvanus Thayer—a system for the development of soldier/leaders based on excellence of character and excellence of knowledge.

ADDRESS BY THE HONORABLE ROBERT T. STEVENS

General Goodpaster, General Saltzman, Mr. Hoffman, Members of the Corps, Distinguished Guests: The Association of Graduates has rendered me a great and memorable honor in this award. Adding my name as the 20th in the distinguished company of such great Americans as former President Dwight Eisenhower, former Secretaries of State John Foster Dulles and Dean Rusk, great Commanders like Douglas MacArthur and Omar Bradley—to name but a few who have been selected for the Sylvanus Thayer Award in the past—is, in itself, an honor very special to me.

And, speaking of honor, I have heard all the talk and read all the papers about the situation that West Point has been going through. My first thought was how Sylvanus Thayer would have reacted to the doomsayers of today. Compared with the chaos he found when he took over as Superintendent in 1817—surely you are aware that he even had to advertise in the newspapers to get cadets to come back to the Academy—he would have thought today's Academy problems quite modest by comparison. So would the rest of us, if we had his perspective.

And that's what I want to talk briefly with you about today—putting today's problems into the proper perspective. It is human nature to assume that one's particular time or era is unique, that the problems you face have never been faced before, that the challenges lying ahead are unparalleled in history.

Take the matter of the divisiveness of the Vietnam war as an example. To many it was the most traumatic experience of their lives, and its effects still linger on. But what would Sylvanus Thayer have to say about that? How it must have torn his heart, when he retired in 1863, to see his former students killing each other on the field of battle. Consider the case of my own grandfather's cousin, Isaac Stevens, who entered the Academy just a year after Sylvanus Thayer stepped down as Superintendent, and who graduated at the top of the Class of 1839.

With him at the Academy were such distinguished soldiers as D. H. Hill, James Longstreet, P. T. G. Beauregard, Braxton Bragg, and many others. All were to become generals and all were destined to wage war against their own classmates. Some, including General Stevens himself, gave their lives in battle, in his case at Chantilly. Imagine, if you will, trying to convince these soldiers of the "divisiveness" of Vietnam.

Or take the matter of "divisiveness" in our Government. Today there are those who would have you think that corruption in Government and abuses of power are something new, and that the only defense is an alert and aggressive media. Sylvanus Thayer knew better, as he, with the help of Secretary of War Calhoun and President Monroe, broke the corrupting influence that some persons in and out of Congress had applied to shield their appointees from academic and disciplinary standards and regulations.

And I found out too when Secretary of the Army. In 1954, when "McCarthyism" was in full flower, it was not the media but the Army that stopped these abuses of the Army in their tracks. That was a tough go but someone in the civilian leadership of the military had to meet the issue. As Secretary of the Army it fell to my lot to take on that difficult mission, and I will never regret doing so or forget how the Army's involvement began.

The first I heard about real trouble was when General Matthew B. Ridgway, the Army's distinguished Chief of Staff at that time, came through the door connecting our two offices in the Pentagon and told me of his great concern over a most serious incident that had happened the day before. Senator McCarthy had dealt contemptuously with a combat-decorated Army officer in a one-man Senate Committee Hearing in New York the previous day. The officer was told he was not fit to wear the uniform. General Ridgway was deeply, and rightfully, concerned as to the possible effects on service morale.

The issue seemed so clear that there could be only one course of action. I took that action and it was only doing my duty as I saw it. Joe Welch, the genial lawyer from Boston who represented the Army in the Hearings, called it "a moment in history." Looking back over the years, it seems clear that our country needed the cleansing effect of that moment.

Another example of perspective is the matter of facing an uncertain future. Again consider the case of General Thayer. In his 55 years active service the Army fought wars with Great Britain, with Mexico, with the Indians in Florida and on the Plains, and was torn apart by the Civil War.

This matter of an uncertain future has also been true in my time. When I was a young man one seeming certainty was that America would never get involved in a European war. President after president had made that a basic tenet of American foreign policy, from George Washington in 1796 to Woodrow Wilson in 1916. The Army flag had some 94 battle streamers—most of them from the Civil War and the Indian Wars. American citizens in general were convinced that was more than enough.

Yet, sixty years ago, on the evening of April 2, 1917, I found myself standing in a crowd outside our National Capitol Building in Washington. Everyone was waiting for the arrival of the President, Woodrow Wilson. Presently, he arrived by car and disappeared inside. He delivered his war speech, which was not long, and then returned to the White House, while Congress went about the business of declaring war. Four days later war was declared.

Eighteen years old, a senior at Andover, which General Stevens had attended as a boy, I still remember a mounted cavalryman calling to one of his buddies, saying, "I wonder what these guys in this crowd are going to look like in uniform." It wasn't long before I found out. I found out again twenty-four years later when returning to active duty in World War II. With volunteer active, though not heroic, service in two world wars and as Secretary of the Army in the latter stages of the Korean War, my purpose as a citizen has been to keep up with Army matters and be helpful when possible.

The surprise of my being appointed Secretary of the Army by President Eisenhower is typical of the unexpected assignments that will come to you members of today's Cadet Corps over the years ahead. I was fortunate, in assuming my duties, to have the opportunity of working closely with General "Lightning Joe" Collins, an Academy graduate, who was Chief of Staff at that time.

Each of us can be proud of the Army's visit to the Vietnam theater in June of 1965, a very crucial time, on the invitation of former distinguished Superintendent of the Academy and Chief of Staff—General (then Ambassador) Maxwell D. Taylor. In his absence from the theater, I was the guest of another good friend—also a former Superintendent of the Academy and Chief of Staff—General William C. Westmoreland. I visited all four Corps areas and, as an Army man at heart, but more importantly, as an American, was very proud of what I saw.

Each of us can be proud of the Army's Vietnam record. The Army went to Vietnam on the orders of its civilian leaders. You should never forget that this is what the American Army exists to do—to express the will of the American people as interpreted by the people's elected representatives in the White House and the Congress.

Unfortunately, there is another problem—part of our heritage—that you should help to overcome and that is unpreparedness for war in time of peace. This was true in Sylvanus Thayer's time and it has been true in my time.

I must say I am not fully happy about our defense capabilities. On the one hand it is not yet clear that we can operate successfully for the long pull with a volunteer Army. Our Reserve forces are widely undermanned right now. On the other hand, the Army is a long way from being adequately modernized and equipped with superior weapons on hand.

If the continuing discussions with the Soviets are not proved clearly productive in the arms limitation field, then, in my opinion, our defense efforts should be stepped up and I am confident such a move would be supported by a large majority of Americans. The security of the United States, which will increasingly involve responsibilities for more and more of you in today's Cadet Corps, must be backed up with firepower consistent with the needs of the time. In the future, as in the past, the country will look to West Point to supply its share of tomorrow's dependable leaders. The long gray line will continue to be a priceless asset of the United States.

In my lifetime the battle streamers on the Army flag have doubled, from 94 to 187, and, far from avoiding military support for Europe, we now have an Army with its primary focus in Europe and with substantial

numbers of its soldiers deployed forward in bases overseas—a situation unthinkable in my youth. We cannot know what the future will hold in your lifetime, but historical perspective warns us of the ever-present likelihood that unpreparedness is apt to be an invitation to war.

I hope these examples have shown that the period in which you live is not all that unique, that big problems and big challenges are nothing new. They are different but are challenges just the same. This is one of the reasons the Sylvanus Thayer Award is so important.

Keeping the spirit of Sylvanus Thayer alive with the award I received today not only honors the man who made the Military Academy what it is—the father of the Academy and the founder of the Nation's first engineering school—it also gives perspective on today's problems. The value of perspective is that you can know that the future, by definition, is unknowable. You can expect the unexpected. Realizing this, you can then prepare yourself to meet the challenges that lie ahead.

Preparation entails the proper mixture of two elements—continuity and change. Continuity means basing your preparation on a bedrock of values and a recognition of the lessons of the past. West Point gives you such a foundation, summed up perfectly in your motto, "Duty, Honor, Country." Without a sense of duty, without honor, without a love of country, you cannot hope to be prepared for the problems of the future.

And West Point also sets you on the road to deal with the second factor-change. The education that you receive here, as well as the invaluable experience of learning how to deal with other human beings, will give you the flexibility and open-mindedness that you must have to deal with tomorrow's problems.

As Sylvanus Thayer would have told you, West Point is just the beginning. The accumulation of knowledge should be a life-long endeavor with you, as it was with him. The same is true of personal honor. Let me say how pleased I am that the Army has reaffirmed the Honor Code at the Military Academy. In this 175th Anniversary Year of West Point the American people look with pride upon the quality of the officers and leaders the Academy has produced in the past and with confidence in the leadership it will produce in the future.

As I reflect on this great honor that has just been bestowed on me, I cannot help but think that Sylvanus Thayer would be proud of the United States of America that he served so well, proud of the part that the Military Academy has played in America's success, and proud of you young men and women in the Corps of Cadets today who carry on the traditions that he began so long ago.

I believe he would think that his life and his service were well spent and none of us could ask for more.

Thank you.

HISTORICAL PRESERVATION

Mr. HOLLINGS. Mr. President, earlier this year my friend and colleague on the Senate Appropriations Committee, PATRICK LEAHY led the effort to increase Federal support for historic preservation. In terms of the potential of historic preservation for enriching the lives of present and future generations of Americans, the impact of Mr. LEAHY's efforts cannot be overstated. I know in my native city of Charleston, S.C., historic preservation is truly a tie that binds our citizens and is the impetus for the current revitalization of the Charleston area.

Recently, Senator LEAHY spoke to the Vermont Labor Council and highlighted one of the most important and least recognized aspects of historic preservation—that it is the most labor-intensive area in the construction industry. I commend his remarks to my Senate colleagues.

Mr. President, I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SENATOR LEAHY'S SPEECH TO THE VERMONT STATE LABOR COUNCIL ANNUAL CONVENTION

Perhaps my speech tonight should be a "traditional labor speech". Maybe I should reaffirm my support of minimum wage, public works jobs and other familiar legislative goals of organized labor. But you already know that I stand with you on those matters.

Instead, the labor speech I am going to make tonight is on historic preservation, and if you think that topic is better suited to historical societies and garden clubs, you should know that historic preservation projects are between 50 and 100 percent more labor intensive than demolition and new construction.

Historic preservation means many things, preservation of our national heritage, revitalization of our aging towns and cities—but historic preservation also means jobs.

And if we are to find a real solution to what I believe is this country's number one domestic problem—meaningful, permanent jobs, we have to explore all potential avenues, not just the "traditional" job creating methods.

Historic preservation is a program that despite limited funding has proven its capacity for taking the problems of urban decay, resource shortages and unemployment and turning them into a solution.

For many years, preservation was identified as a piecemeal effort to restore individual monuments, landmarks, battlefields and homes associated with figures or events of national importance.

Today, as the result of a tremendous grassroots effort throughout the country, the concept has been greatly expanded to include the restoration of residential neighborhoods such as Capitol Hill in Washington, D.C. and commercial districts like Pioneer Square in Seattle. Older but still sound structures are being adapted to new uses such as Boston's Old City Hall which now houses private offices and a restaurant.

Vermonters have been at the forefront of this movement, and as a result there are many excellent examples of older structures which have been restored or adapted to new uses within the state.

The Village Renaissance Project in Bradford will restore the Low Mansion and Pritchard House to provide senior citizen housing and other community services. The restoration of the downtown commercial district in Rutland will put back into use nearly 40,000 square feet of previously vacant commercial space. The project has generated such local interest and support that two private dollars are being put up for every federal dollar even though the required ratio is only one to one.

In Brattleboro, the old Union Station, which was slated to be torn down to make way for a parking lot, was painstakingly restored through the financial and physical efforts of many local citizens and converted into the community museum and cultural center which the town needed.

Perhaps some of you have eaten at the new Ice House Restaurant down the street. If you are not from Burlington you may not know that that building has been everything from an ice house to a mattress factory. Now it is as nice a restaurant as I have visited. Or perhaps if you had more time you could go to a play at the restored Royall Tyler Theater on the UVM campus. And in Vergennes, the old Stevens House Hotel is being converted into another restaurant and new housing. Those of you from Middlebury are probably familiar with the beautiful job being done on the restoration of the Frog Hollow Mill which will house shops and offices.

The preservation of these structures and others around Vermont is valuable historically, culturally, and socially, but there are side benefits of at least equal importance.

For example, by choosing conservation and rehabilitation over demolition and new construction, those who adapt old buildings to new purposes bring new life to areas previously in decline. This new emphasis on adaptive uses of older historic areas as tourist attractions and shopping and office centers results in more dollars for local treasuries and new, permanent jobs in inner cities. Restoration and preservation can also help meet housing needs while strengthening community ties.

Also, restoration conserves raw materials consumed by new construction, and the energy needs are far less during the restoration process and subsequent operation of the structure.

And that brings us to the bottom line. An analysis by the Advisory Council on Historic Preservation of projects funded under the Economic Development Act found that demolition and new construction yielded an average of 70 jobs per one million dollars expended while renovation, including historic preservation, created 109 jobs per million dollars—half again as many.

The Vermont Office of Historic Preservation has reported even better results from preservation projects funded under the Economic Development Act.

The State office received a grant of one million two hundred thousand dollars. As further witness to the vitality of the preservation movement in Vermont, the state was able to attract over two million dollars in private and local matching funds, nearly twice what the EDA requires under its usual 50/50 matching requirements.

As a result of this 18 month project, which is just now ending, over 400 new jobs will have been created at a cost of just over three million dollars. That is labor intensity approaching 80 percent. I am told that the labor intensity of new construction is usually between 30 and 40 percent.

Furthermore, over 40 percent of the workers on the projects came from the ranks of the previously unemployed.

To cite another example, and another side benefit, the Rutland downtown project which I mentioned earlier required three hundred and fifty thousand dollars to generate 60 new, permanent jobs. However, welfare for those same 60 people would have cost $360,000. In Rutland, therefore, it proved $10,000 cheaper to provide 60 meaningful jobs to individuals than it would have cost to have them sit idle dependent upon unemployment. Which is the better return on your tax dollars?

The regular funding mechanism for historic preservation projects is the National Historic Preservation Trust Fund. This fund's revenues derive from payments made to the Treasury for Outer Continental Shelf mineral leases.

And despite the proven promise of historic preservation, and the fact that a substantial surplus exists in the fund, Congress has appropriated the full authorized amount for historic preservation only twice

since 1966. In fiscal year 1977, despite a backlog of three hundred million dollars in project requests, only 17.5 million dollars was appropriated. And in case anyone questions the sincerity of the 300 million dollar backlog, remember that, as I said earlier, this is a matching funds program and thus the states or local entities, public or private, must put up at least an equal amount of their own money.

Citing that backlog, I was able to persuade my colleagues on the Appropriations Committee and in the full Senate to set the spending level for fiscal year 1978 at eighty million dollars, nearly a fivefold increase over the previous year. Unfortunately, at the insistence of the House of Representatives, whose members have not yet seen the light on preservation, the final level was set at 45 million dollars.

Even that represents a substantial increase, but given the program's potential, the fact that increased funding comes from mineral leases and not the taxes of individuals, and the proven job-creating capacity of this program, it is tragic that we are not spending more.

And that brings me back to my original point. There are programs beyond the usual scope of our job creating efforts that hold great promise for putting all Americans back to work. Historic preservation is just one. There are more. But like historic preservation, their potential is often not fully realized.

That is where you can help, as individuals and as members of the labor movement. I plan to seek full funding for historic preservation next year. Together we might just pull it off. Working alone, I probably cannot do it.

Working on preservation, and all the programs like it, we have an opportunity to take that collection of problems that we face and turn them into a solution.

I look forward to working with you to that end.

Thank you.

J. FLOYD BREEDING

Mr. DOLE. Mr. President, I was deeply saddened to learn of the death of former Kansas Congressman J. Floyd Breeding. Although Floyd and I were political adversaries, we were friends and served together—representing the people of western Kansas—in the U.S. House of Representatives.

Floyd Breeding was an outspoken advocate for the interest of the American farmer during his service on the House Agriculture Committee. And even after he left the Congress in 1963, his interest in American agriculture continued as he toured nearly 70 nations in Europe and Africa promoting U.S. agriculture products at the request of Presidents Kennedy and Johnson.

Floyd Breeding was a credit to his Nation, his State, his congressional district, and his political party. I join with his many friends in southwest Kansas and around the Nation in expressing my condolences to his wife and family.

MORATORIUM NEEDED ON ARMS SALES TO SAUDI ARABIA AND IRAN

Mr. PROXMIRE. Mr. President, it is time that Congress impose a 1-year moratorium on all military sales to Saudi Arabia and Iran.

Both countries have consumed U.S. weaponry at a rate and amount far in excess of their normal defensive requirements. As a result, they will soon become the dominant military powers in the Middle East.

There is a natural rivalry between these two giants, such as over oil deposits in the Persian Gulf. When coupled with the threat Saudi Arabia might pose to long term Israeli security, continued U.S. support of every military request from these two oil cartel giants needs to be reassessed.

From 1972–76 Saudi Arabia entered into agreements to purchase $8.3 billion of U.S. military hardware and services. Nine hundred twelve Defense Department personnel and almost 3,000 contractor personnel are stationed in Saudi Arabia as advisors.

This is more equipment and construction than can be adequately absorbed by the Saudis—thus establishing a long term requirement for U.S. assistance and contractor presence.

The total arms sales to Iran since 1972 total a staggering $16.9 billion. This kind of massive buildup will require the presence of 50,000 to 60,000 Americans by 1980. On top of this will come the $1.4 billion for AWACS in fiscal year 1978 plus a reported $3 bililon-plus sale of new fighter aircraft.

This means that Iran will continue a minimum of $10 billion just in the 2 fiscal years 1977–78.

There are no military conditions that justify this huge expenditure. Iran's goal seems to be to establish an overwhelming military force in the Middle East. Many of the weapons supplied by the United States are of the latest available technology such as the AWACS, DD–963 destroyers, and F–16 fighters. Clearly these weapons have a significant offensive capability in addition to their defensive characteristics.

All this adds up to a wide open arms sales policy by the United States that is not based on military need. U.S. policies are creating an imbalance that could one day erupt into intensive warfare with U.S. weapons being used on both sides.

Before one more military item is sent to either Saudi Arabia or Iran, the Congress should legislate a cooling off period to reassess what the long term effects such huge shipments will have on the political, military, and economic stability of the Middle East.

When an appropriate bill comes before the Congress, I will offer this 1-year moratorium amendment.

STATHY J. VERENES

Mr. THURMOND. Mr. President, South Carolina lost one of its great builders. Stathy J. Verenes had been a member of the State development board for 10½ years and, at the time of his death, was industrial coordinator for the city of Aiken. He had been so successful in attracting industry to his State and community that, just last year, the Aiken City Council voted to name the local industrial park in his honor. It was a tragic hour for South Carolina when, on Wednesday, September 28, a sudden illness cut short his productive life at 63 years.

Stathy Verenes was a man of broad vision. He laid ambitious plans to achieve lofty goals. Underneath his dreams, however, lay the solid foundation of years of experience. He began his business career at the age of 16 when he and his brother, newly orphaned, assumed the control of the family grocery and ice concern. In helping to build this small business into the large and successful Aiken Distributing Co., he learned every aspect, and performed every chore, of commercial enterprise. In short, he knew his way around a stockroom as well as a board room.

Diversity of experience gave 'him a rare understanding of people. The executives of the largest corporations and the proprietors of small-town stores felt equally comfortable dealing with him. They knew that he knew their problems, their needs, and their concerns. His engaging personality added further to his effectiveness as a businessman and negotiator.

Businessmen are sometimes considered to be motivated primarily by self-interest, but Stathy Verenes was a humanitarian if ever there was one. His business prowess yielded significant and continuing benefits to countless thousands in my State. Our increasing prosperity and increasing economic opportunity can be attributed largely to the new business that has come into South Carolina in recent years, and that, in turn, can be attributed largely to the efforts of Stathy Verenes.

Stathy Verenes, I should point out, did not believe in industrialization at any cost. He was vitally concerned with the protection of the environment and the preservation of community values. The industrial development of South Carolina has been accomplished with remarkably little ecological damage or social disruption. That is the way Stathy Verenes wanted it. A man with an acute sense of civic responsibility, he demanded this same quality of his business associates and colleagues.

The people of Aiken county, the friends and neighbors of Stathy Verenes, demonstrated their regard for him on many occasions and in many ways. I have already mentioned Verenes Industrial Park. In addition, the Aiken Chamber of Commerce named him their first "Man of the Year" in 1953. Last fall, his admirers sponsored an appreciation dinner which was attended by businessmen and public officials from throughout the State. As I had the good fortune to be among his friends, I was there. It gives me great pleasure to remember him on that occasion—healthy, vital, and obviously deeply moved by the public display of esteem and affection.

It is hard for many South Carolinians, myself included, to get used to the idea that Stathy Verenes is gone, particularly since his death was so unexpected. I extend my sincere condolences to his widow, Mrs. Ann Major Verenes; his two sons, James L. Verenes and Hugh L. Verenes; his sister, Mrs. Catherine V. Pattis; and his brother, Arthur Verenes. They are a close family and a strong

family, and I know they will be of great help, each to the others, at this time of grief. I hope they will also find consolation in their knowledge of all that Stathy Verenes accomplished in this world. As they travel around their city and county, they will see on every side the evidence of his good works. These good works are a rich and enduring legacy, and will keep his memory alive, and reflect honor on his name, for years to come.

Mr. President, at the time of the death of Stathy Verenes, a number of South Carolina newspapers published accounts of his life and career. In order that my colleagues may have access to the additional information which they contain, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Fom the Augusta Chonicle, Sept. 29, 1977]

S. J. VERENES, CIVIC LEADER, PROMINENT BUSINESSMAN, DIES

AIKEN.—Stathy J. Verenes, 63, prominent Aiken businessman and industrial coordinator for the city of Aiken, died Wednesday at Aiken Community Hospital after a short illness.

Services will be held at 11 a.m. Friday at St. Thaddeus Episcopal Church with Father Howard M. Hickey officiating.

Mr. Verenes devoted his life to industrial development and the creation of jobs for the people of his state and county. Business industrial and governmental leaders have honored him for his ability to attract and bring industry into the state.

He was a member of the State Development Board for ten and a half years. He continued to pursue his interest in industrial development after he left the state board, and turned his attention to his native Aiken.

He is credited with playing a major role in attracting small, clean industry to the city's industrial park. In 1976, Aiken City Council renamed the industrial park, City of Aiken Verenes Industrial Park.

At a dinner last September honoring Mr. Verenes for contributions to the city and county, Sen. Strom Thurmond said he knew of no one "who has taken more interest in building this state, county and city than Stathy Verenes."

"He could have brought a lot more people into the county," Graniteville president Phinizy Timmerman said, "but he's just as outspoken not to bring the wrong industry in. It had to be the right type. It had to be compatible with the kind of people we had."

Mr. Verenes lived all his life in Aiken with the exception of service in World War II and attendance at The Citadel.

The son of James and Xanthe Gregoriaki Verenes, he was orphaned at age 16. He and his brother took over the family business, a wholesale grocery and ice business.

At the time of his death, Mr. Verenes and his brother owned and operated the Aiken Distributing Co.

He was a member of the board of directors for Security Federal Savings & Loan and Bankers Trust, on the board of trustees for Aiken Community Hospital, a member of the Aiken Rotary Club and a member of the First Presbyterian Church of Aiken. He was selected the first "Man of the Year" by the Aiken Chamber of Commerce in 1953.

Surviving are his widow, Mrs. Ann Major Verenes; two sons, James L. Verenes and Hugh L. Verenes of Aiken; a sister, Mrs. Catherine V. Pattis of Aiken, and a brother, Arthur Verenes of Aiken.

Friends may call at the residence at 1023 South Boundary Ave. or the George Funeral Home.

Contributions may be made to the Rotary Student Loan Fund or The Citadel Education Foundation.

[From the Aiken Standard, Sept. 30, 1977]

Although his condition was known to be grave, the death of Stathy J. Verenes this week following surgery is a shock to Aiken Countians and to persons in many parts of the state.

"He can't be replaced," remarked Aiken Mayor H. Odell Weeks, grieving also on the loss of several other outstanding citizens during the past year.

No other person had played so large a role in the industrial development of Aiken County. Mr. Verenes' influence extended far beyond county lines. He served for 10 years on the State Development Board, and he continued his efforts to bring industry to the state long after he left that board.

He was engrossed in an industrial development project from his hospital bed even the day before he underwent surgery.

Mr. Verenes' involvement in civic life has been mentioned elsewhere. It was climaxed by a banquet last year when the city's industrial park was named in his honor. He himself had played a leading role in development of the park, now the home of several thriving industries.

His aim in seeking new industries was to attract companies that would be a credit to the state and that would be compatible with the state, its existing industries and its way of life. Mr. Verenes continued to support those industries and to be concerned for the welfare of their employees long after they settled in South Carolina.

He loved people, and there were few to whom he could say "no." He helped hundreds of persons to find employment and he went to bat for individuals who sought his help with various personal problems.

"He had a heart of gold, and he helped the black and the white, the poor and all," recalled one public official. Integrity, sincerity and loyalty were all qualities that could be identified with Mr. Verenes.

"He could never turn down a request for help," said former State Development Board Director Bonner Manley, a close personal friend. "His good works were never for personal gain. He was a true Southern gentleman."

"Final rites for Mr. Verenes were to be held this morning at St. Thaddeus Episcopal Church, with his old friend, the Rev. Howard Hickey, officiating. Among the hundreds attending—and in any crowd assembled in Aiken—it is probable that a sizable percentage are persons whose residence in Aiken can be attributed to Mr. Verenes' efforts in bringing new industry to the area.

The city, county and state have lost a great citizen. We extend our sympathies to his wife and family and to all who mourn his passing.

[From the Augusta Chronicle, Oct. 1, 1977]

STATHY J. VERENES

Aiken County and this area suffered a decided loss in the death Wednesday of Stathy J. Verenes. He was an outstanding man who filled the duties and responsibilities of good citizenship in the finest sense of their meaning.

Mr. Verenes, an Aiken native, never hesitated to assume those responsibilities. They became evident through his contributions to the industrial development of Aiken County and, in a measure, to South Carolina as a whole. He helped to achieve this not only in his official capacity as a member of the South Carolina Development Board (which he served on for 10 years), but as a private citizen interested in the economic and cultural development of his own state and community.

Stathy Verenes was a personable man who easily won friends and was admired by hundreds of Aiken Countians—and Augustans—who had enjoyed his friendship over the years. He will be sorely missed by all of them.

[From the Columbia State, Sept. 29, 1977]

STATHY J. VERENES, 63, BUSINESS LEADER, DIES

AIKEN.—Stathy J. Verenes, 63, a former member of the S.C. State Development Board, died Wednesday in Aiken Community Hospital.

Mr. Verenes was born in Aiken County, a son of the late James and Xantha Gregoriaki Verenes. He was a World War II veteran and a member of the Aiken Rotary Club.

He was a member of the board of trustees of the old Aiken County Hospital, a member of the board of directors of Bankers Trust, and a member of the Aiken County Chamber of Commerce, of which he was voted man of the year for 1953.

Surviving are his widow, Mrs. Ann Major Verenes; two sons, James L. and Hugh L. Verenes; a sister, Mrs. Katherine V. Pattis; and a brother, Arthur Verenes, all of Aiken.

Services will be 11 a.m. Friday at St. Thaddeus Episcopal Church. Burial will be in Bethany Cemetery.

The family suggests that those who wish may make memorials to the Rotary Club Student Loan Fund or The Citadel Education Foundation.

George Funeral Home is in charge.

[From the Columbia Record, Sept. 29, 1977]

STATHY VERENES SERVICES FRIDAY

AIKEN.—Funeral services for Stathy J. Verenes will be held at 11 a.m. Friday at St. Thaddeus Episcopal Church.

Mr. Verenes, 63, a former member of the S.C. State Development Board, died Wednesday in Aiken Community Hospital.

Mr. Verenes was born in Aiken County, a son of the late James and Xantha Gregoriaki Verenes. He was a World War II veteran and a member of the Aiken Rotary Club.

He was a member of the board of trustees of the old Aiken County Hospital, a member of the board of directors of Bankers Trust, and a member of the Aiken County Chamber of Commerce, of which he was voted Man of the Year for 1953.

Surviving are his wife, Mrs. Ann Major Verenes; two sons, James L. and Hugh L. Verenes; a sister, Mrs. Katherine V. Pattis; and a brother, Arthur Verenes, all of Aiken.

Memorials may be made to the Rotary Club Student Loan Fund or The Citadel Education Foundation.

George Funeral Home is in charge.

[From the Aiken Standard, Sept. 29, 1977]

STATHY J. VERENES, 63, DIES; FUNERAL SERVICES TOMORROW

Stathy J. Verenes, 63, a leading Aiken County businessman and a man who is responsible for helping to industrialize the area, died yesterday afternoon.

Ironically, Mr. Verenes died on the eve of Aiken's Makin', a salute to Aiken County industry which is being sponsored by the Aiken Chamber of Commerce. The majority of those industries participating are the very ones Mr. Verenes helped to locate in the county.

Funeral services for Mr. Verenes will be held at 11 a.m. tomorrow at St. Thaddeus Episcopal Church. The Rev. Howard M. Hickey will officiate.

Mr. Verenes, owner of Aiken Distributing Co., but best known for his efforts to bring industry to Aiken County, has been in intensive care at the Aiken Community Hospital for the past two weeks.

On Friday, Sept. 16, he underwent surgery.

Verenes, a native of Aiken, has been credited with providing the motivating force behind Aiken County's industrial growth. During his 10½ year tenure on the South Carolina Development Board, Verenes was instru-

mental in guiding the overall industrial program for the state.

Verenes' list of accomplishments includes the establishment of the Aiken Industrial Park just outside Aiken. It also consists of several industries brought here under the auspices and encouragement of Verenes.

It wasn't just any industry, though, that Verenes wanted for his home town. It had to be special. In a recent interview, Verenes commented that he very carefully scrutinized every poetential industrial candidate. Verenes said he carefully avoided any industry which would present a pollution danger to the area.

For Verenes, industry hunting, in his own words, was a hobby. A hobby that kept him busy and involved in every heartbeat of Aiken County. Whether it was at his familiar table at the Ramada Inn where he lunched almost daily or somewhere along Aiken's streets—Verenes was promoting the city and county.

Verenes was active in numerous civic organizations and functions. No facet of Aiken's life was overlooked by Verenes.

Among his many honors was a banquet held last fall at which it was announced that the industrial park would be named for him.

The audience of about 250 guests at that banquet included national and state political personalities as well as numerous area civic leaders.

U.S. Sen. Strom Thurmond called Verenes "a practical man, a man who gets the job done." Thurmond also remarks, "Aiken has made progress and no man has done more to make this happen than Stathy."

Long-time friend U.S. Sen. Ernest F. Hollings said, "If we only had more fellows like Stathy, we could do most anything."

Later, at an Aiken City Council meeting, a majority vote confirmed the action to rename the industrial park. At that time, several business leaders reflected about Verenes' contributions to Aiken. Mandel Surasky commented, "Stathy and other took it among themselves to bring industry to Aiken at a time when the town had two crops—cotton and Yankees."

Mr. Verenes lived all of his life in Aiken with the exception of service in World War II and attendance at The Citadel.

He was a son of James and Xanthe Gregoriaki Verenes, but was orphaned at age 16. He and his brother took over the family business, a wholesale grocery and ice business.

Mr. Verenes and his brother owned and operated the Aiken Distributing Co., at the time of his death.

He was a member of the board of directors for Security Federal Savings and Loan and Bankers Trust, on the board of trustees for Aiken Community Hospital, a member of the First Presbyterian Church of Aiken and a member of the Aiken Rotary Club.

Mr. Verenes was selected the first "Man of the Year" by the Aiken Chamber of Commerce in 1953.

Surviving are: his widow, Mrs. Ann Major Verenes; two sons, James L. Verenes and Hugh L. Verenes of Aiken; a sister, Mrs. Catherine V. Pattis of Aiken; and a brother, Arthur Verenes of Aiken.

Friends may call at the residence at 1023 South Boundary Ave. or the George Funeral Home.

Those wishing may make contributions to the Rotary Student Loan Fund or The Citadel Education Foundation.

NOMINATION OF JOHN F. O'LEARY

Mr. JACKSON. Mr. President, yesterday the Committee on Energy and Natural Resources voted to report favorably to the Senate the nomination of John F. O'Leary to be Deputy Secretary of the new Department of Energy.

Earlier this year the Senate approved the President's nomination of Mr. O'Leary as Administrator of the Federal Energy Administration. Prior to his service as FEA's Administrator Mr. O'Leary had held major energy posts with the State of New Mexico and various agencies of the Federal Government including the Department of the Interior, the Federal Power Commission and the Atomic Energy Commission.

While Mr. O'Leary's nomination as Deputy Secretary was pending before the committee, questions were raised about the failure of the Atomic Energy Commission staff in 1973 to notify the Atomic Safety Licensing Board promptly of the discovery of a fault at the North Anna site where four nuclear reactors were being constructed by the Virginia Electric Power Co. Mr. O'Leary was Director of Licensing for the Commission during this period.

It appears that the AEC staff was informed by VEPCO of the discovery of the fault on May 17, 1973, but did not notify the Licensing Board until August 3, 1973. The Nuclear Regulatory Commission, in a 1976 opinion on the issue of whether or not VEPCO made material false statements to the AEC, found the staff's delay in the case "unacceptable" and noted that procedures had been changed to prevent a recurrence of such delay. Mr. O'Leary supported the change in procedures and conceded in testimony before the committee that the Board could have been advised more promptly of the discovery of the fault.

However, there is no evidence that Mr. O'Leary was involved in any effort to conceal the existence of the fault. On the contrary, the testimony of Assistant Attorney General James W. Moorman to Senator, HART's Subcommittee on Nuclear Regulation last Thursday was that the Department of Justice had "no evidence that Mr. O'Leary condoned the conduct of VEPCO or acted in any way that was improper. The evidence we have is that he concurred in a decision to inform the Atomic Safety and Licensing Board of the fault, and that would appear to be proper."

Mr. President, I ask unanimous consent that the statement on this subject submitted to the committee by Mr. O'Leary be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF JOHN F. O'LEARY

It is my understanding that a Department of Justice staff memorandum has raised questions concerning the actions taken by the AEC and in particular the staff of the Directorate of Licensing from the period of May 17, 1973, to August 3, 1973. These questions have surfaced regarding the handling of an investigation concerning the existence of a "fault" at the North Anna site of four nuclear reactors being constructed by VEPCO. Basically, the memorandum raises questions concerning an alleged concealment by the AEC staff of the existence of this fault and further alleges that the failure of the staff to immediately notify the Atomic Safety Licensing Board (ASLB) somehow interfered with the ability of the Department of Justice to prosecute VEPCO under a criminal statute for making false statements to the Government. My information concerning the chronology and actions taken with regard to this matter is as follows:

1. On or about May 17, 1973, a Mr. Ashley Baum from VEPCO made a call to Albert Schwencer, Chief of the Pressurized Water Reactors, Branch No. 4, Directorate of Licensing for the AEC. Notes of that conversation indicate that Mr. Schwencer was told that VEPCO had discovered a "chlorite seam" under the excavation for the North Anna units 3 and 4. Baum also informed Mr. Schwencer that photographs indicated that the seam appeared to be rock folding. He indicated that Dames and Moore, who were the geological experts hired by VEPCO on the project, had been called into evaluate the finding. VEPCO anticipated that they would be ready for a site visit by the AEC staff in about two weeks. Part of the delay was to allow better preparation of the site to expose the extent of the geologic feature.

2. In accordance with this timetable, a site visit was made by AEC officials, including a Geologist from the U.S.G.S. and a Geologist on the AEC staff on June 18, 1973. A summary of that field investigation indicated that the "chlorite seam" showed indications of movement, and therefore, appeared to constitute a fault.

3. A report on this trip was then prepared on June 21, 1973, and filed in the Public Document Room on June 26, 1973.

4. The AEC Geologist Mr. Cardone, was in Europe on a business-related trip from June 21, 1973, to July 5, 1973.

5. In late June or early July, at a periodic bluebook meeting, this matter was probably first brought to my attention and according to the Department of Justice memorandum, I directed the staff to advise the ASLB which was then considering the application for the construction permit on units 3 and 4. I have no firsthand recollection of this matter at this time.

6. Apparently, the staff determined the appropriate method for bringing this to the ASLB's attention was through the filing of an affidavit by the AEC Geologist along with the trip report made in connection with the June 18 field inspection.

7. After returning from Europe, Mr. Cardone initiated drafting of the affidavit which was completed in first draft form on approximately July 18, 1973. This was circulated through the agency to be put into proper legal form on July 20, 1973. The final draft of the affidavit was signed by Mr. Cardone on July 31, 1973, and officially filed with the ASLB on August 3, 1973.

In this period of time the Licensing Directorate had under its jurisdiction some 80 nuclear power plant applications. It was a daily occurrence to receive information by telephone calls or otherwise concerning some aspect of a program which might affect the public health or safety or the performance of a nuclear station. It was general practice at that time for the staff to initiate an inquiry into all such allegations in order to assess the magnitude of any problem presented and reach a tentative conclusion as to a future course of action. Where this initial inquiry established a reasonable likelihood that a problem in fact did exist, the Licensing Directorate would inform the Commission or the applicable Board such as the ASLB and proceed with in-depth staff review and analysis. This is apparently what occurred in this case, although, as indicated in the Department of Justice memorandum, I did believe that the ASLB should be notified.

It was during this period, and partially as a result of the North Anna experience, that this general procedure was modified and thereafter information such as that involved in the North Anna/VEPCO case were to be brought to the ASLB's attention prior to any significant staff investigation being made.

I fully supported this change in procedure, believing that it would enhance the public perception of the agency's conduct of it responsibilities to protect the public health and safety. The fact remains, however, that none of the plants at the North Anna site were due to become operational for a period in excess of two years. Consequently, the existence of a possible fault at the site did not pose an immediate health and safety problem. Further, it was common geological knoweldge that in the Piedmont, there is little likelihood of any "capable" fault, i.e., one capable of further movement within the criteria applied by the AEC. A long and detailed investigation of the fault, including public hearings held during subsequent months, sustained this intial impression.

On the basis of this reconstruction of events and my memory, I can categorically state there was no element of concealment involved in the failure of the Licensing Directorate staff to notify the ASLB earlier of the existence of this potential fault.

As I have previously stated, the trip report was placed in the Public Document Room and steps were taken to prepare an appropriate affidavit to be filed with the Licensing Board fully to apprise it not only of the existence of the fault, but of staff's initial assessment of its significance and the further steps which were being taken to evaluate whether the fault posed a safety threat.

It is difficult for me to understand in what way this delay impeded the ability of the Justice Department successfully to prosecute a case against VEPCO for concealment of a material fact from the AEC. The simple fact is that VEPCO did call to the AEC's attention the potential existence of a fault on May 17, 1973, and this was confirmed by the on-site inspection on June 18, 1973. Whatever the legal significance may have been of subsequent filings by VEPCO which continued to maintain the absence of a fault on the site, it is my understanding that the fact of a delay in bringing the matter to the attention of the ASLB—as opposed to the knowledge of the true facts that previously had been communicated by VEPCO to the AEC staff—was essentially irrelevant to whether this case could be prosecuted. As I have previously said, however, I do believe that staff did not act as quickly as should have been the case and as quickly as they now act in such matters.

The Justice memorandum also criticizes the AEC and the staff for not immediately suspending construction on the site. At this time, construction was 80% complete on units 1 and 2, whereas units 3 and 4 which were the subject of the initial discovery of the fault, were only in the initial excavation stage. Under the then applicable regulations, the applicant had the right to begin site preparation while the application for a construction permit was pending. The hearing record was still open on the application for a construction permit for units 3 and 4, and was to remain open until at least the end of August 1973 while awaiting a water quality permit from the State of Virginia. Consequently, it is simply inaccurate to say that the AEC staff is to be faulted for not seeking to reopen the hearings since they had not been closed in the first place.

Under applicable laws and regulations of the agency, the procedure for halting construction involved issuance of an order to show cause why construction should not be halted. Such action necessitates staff justification as to why construction should be ordered halted in the interest of protecting the public health and safety. It is my opinion, however, that during the time period we are discussing here, i.e., May 17, 1973, through August 3, 1973, there simply was insufficient evidence to justify issuing such an order and in the absence of such an order the construction could not have been ordered stopped despite assertions in the Department of Justice staff memorandum that such action should have been taken immediately

In the fall of 1973, the staff did ask the Licensing Board to consider this fault in conjunction with the still pending application for construction permit for units 3 and 4, and further that the Board direct VEPCO to show cause why construction on units 1 and 2 should not be suspended. Ultimately, construction at the site was allowed to continue on the basis that the fault was not "capable," which judgment was upheld by the 4th Circuit Court of Appeals in subsequent litigation.

In summary, there is no substance to the charge that the AEC staff participated in a concealment with respect to its activities from May 17, 1973, through August 3, 1973. Further, I believe it is inaccurate to suggest simply that this 2½ month period during which the staff investigated the situation and prepared appropriate documents for filing with the ASLB frustrated the ability of the Justice Department to prosecute whatever criminal case might have been presented by the false VEPCO filing, made after the staff had actual knowledge of the matters omitted from that filing. Finally, as noted by the April 1976 decision of the Appeal Board and the November 1976 Order of the Commission, the staff did change its internal operating procedures in order to bring such problems to the attention of the ASLB at an earlier state of its investigations, a move in which I fully concur. I hope that this answers any questions that the Committee has concerning this matter.

SENATOR THURMOND'S LEADERSHIP IN THE PANAMA CANAL ISSUE

Mr. HATCH. Mr. President, the newly proposed treaties with Panama have stirred up a considerable amount of discussion here in the Senate. I am pleased that so many Senators are finally taking a keen interest in this subject. Debate is long overdue.

For many years, our distinguished colleague from South Carolina (Mr. THURMOND) has endeavored to direct the Senate's attention to the crisis that our State Department was creating in Panama. It was Senator THURMOND, for instance, who, in anticipation of these treaties, took the lead in 1975 by introducing Senate Resolution 97, with 38 cosponsors. This legislation, which the State Department chose to ignore, put the State Department on notice that there was widespread opposition in the Senate, and among the American people, to the surrender of the Panama Canal. Many of the difficulties that we now face in Panama could have been avoided, in my judgment, had the State Department heeded the advice of Senator THURMOND.

It was also Senator THURMOND who, in 1974, offered S. 2330, a bill to modernize the operations of the Panama Canal. This creative legislation is based on the unassailable assumption that modernization would not only benefit the Panamanians and all nations which rely on this important waterway, but is, indeed, the best solution to our problems in Panama from an engineering, navigational, political, and military standpoint.

Major modernization of the existing canal, as Senator THURMOND has explained, can and should be done under the existing treaty of 1903. Developed within the Panama Canal organization after World War II, the Terminal Lake-third locks plan would provide a third lane of larger locks for larger vessels, the physical removal of the bottleneck locks at Pedro Miguel, the consolidation of all Pacific locks south of Miraflores, and the creation of a Pacific terminal lake to correspond with the eminently superior layout of the Atlantic end at Gatun. This work would enable uninterrupted summit level navigation from the Atlantic locks to the Pacific locks, and greatly simplify marine operations. Approximately $171 million has already been spent on this project.

In addition to aiding normal commercial shipping and enabling the transit of larger ships and tankers, the completion of the Terminal Lake-third locks plan would also benefit both the United States and Panama with increased employment. It is the least expensive and the most practical alternative to the proposed surrender of the canal and the construction of a new sea-level canal. What is more, it is highly doubtful that this modernization will ever take place if the canal is transferred to the Panamanians.

Reiterating the need for completion of the Terminial Lake-third locks project, Senator THURMOND recently delivered an important address on the Panama Canal Treaties before the U.S. Chamber of Commerce International Policy Committee in Washington, D.C.

Mr. President, I would like to share this address with my colleagues, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR STROM THURMOND

It is a distinct honor to be here this morning to present to the Chamber my reasons for opposing the treaties with Panama. I am pleased you recognize the need to participate in this national debate, as oftentimes lack of participation by a group of your stature is misread as a position of acquiescence.

My interest in the Panama Canal is longstanding. Over the years I have introduced several bills to modernize the Panama Canal. In the 94th Congress, I offered a resolution signed by 38 other Senators opposing the surrender of this waterway to Panama. Last August, I visited the Canal Zone for briefings and study to ascertain any changes since my previous visit several years before.

While I recognize the need for some adjustments with Panama concerning the Panama Canal, I see the retention of U.S. control as basic to the protection of our interest.

My 1976 resolution was more than sufficient warning to both the Ford and Carter Administrations relative to the Senate's concern in this matter. The treaties have been signed with great fanfare in an atmosphere of threats and violence by Panama. Panamanian chief negotiator Escobar Bethancourt went so far as to say ". . . This country (Panama) will take a course of violence" if the treaties are not ratified.

At no time in my memory have such threats and pressure been exerted on the Senate as is the case with these treaties. In making our decision, however, we must rationally decide what is in the best interest of our Nation, irrespective of the pressures and threats directed toward us.

Recently, treaty proponents have made a number of arguments to attempt to justify

ratification. I would like to comment on some of these points:

USE VS. CONTROL

The central argument made, as enunciated by Defense Secretary Harold Brown, is that "use of the Canal is more important than ownership."

My position is that only through ownership can we be assured of control over this vital waterway. Once ratification takes place, sovereignty is surrendered. At that time the rights of Panama in Canal affairs will become dominant, as ownership by them means eventual control, which in turns governs use. I do not feel a small nation of 1.7 million people, with a history of 59 government changes since 1903, has the stability or economic strength to manage and finance a waterway of the Panama Canal's complexity.

U.S. RIGHTS OF PASSAGE

Treaty proponents also argue expeditious passage rights for our ships in time of emergencies adequately protects our interests.

Why then did our negotiators and the Defense Department seek "priority passage" during the negotiations? Despite our position as the world power most affected by the use of the Canal, the Panama officials say our ships are not guaranteed a place at the head of the line in emergencies. On this point, Admiral Thomas Moorer, former Joint Chiefs Chairman, declared Monday, "I submit that ownership and control, on one hand, and priority passage and defense, on the other, are synonymous."

INTERVENTION RIGHTS

Treaty proponents argue further that our rights to use the Canal are guaranteed under the Neutrality Treaty because the Treaty itself does not rule out U.S. intervention to assure its availability.

Even Treaty advocates, such as General Maxwell Taylor and Admiral Elmo Zumwalt, described the Treaty provisions on this subject as "ambiguous" and "fuzzy."

Admiral Zumwalt went so far as to suggest we attach a separate Resolution to the Treaty to nail down U.S. rights to step in if Canal movement was impaired.

PANAMA'S GOVERNMENT

Treaty proponents also argue that the Panamanian dictator Torrijos has the support of his people.

Why then have there been no free elections during Torrijos' 9-year reign, which has pushed the national debt from $167 million to over $1.5 billion, and brought economic stagnation to Panama? One might also ask, Does the Panamanian government have the political strength or will to resist outside interference? Once sovereignty is given to Panama, will that government remain friendly to the U.S.? If U.S.-Panama relations are bad, then the only other great power to which they could turn would be the Soviet Union, through its figurehead Castro.

ANOTHER VIETNAM

As I stated earlier, the Treaty has been presented to the Senate under the implied threat that if we do not ratify, we will be inviting another Vietnam.

More likely, if we relinquish control of the Canal, we will have another Cuba to our South. Vietnam was a foreign nation distant from the U.S., while the Canal is in our Hemisphere and we have operated it for the benefit of Panama and the world. The Panama Canal Zone and the Canal are U.S. territory; Vietnam was not.

HUMAN RIGHTS

Treaty proponents also argue our credibility on human rights is involved.

That point raises the question as to why then are we being asked to make a national hero out of the Torrijos government? The respected liberal organization, Freedom House, which the State Department has cited in its annual report to Congress, rates Panama as "not free." It States that, on both civil and political rights, Panama has one of the worst records in the world.

COST OF THE GIVEAWAY

Treaty proponents claim the U.S. should be willing to pay Panama up to $1.5 billion during the process of transferring control since we have paid many other foreign governments billions for base rights.

In other countries where we have base rights, we are merely renting their land. In Panama, we bought the land from the Panama Government, paid all landowners and even squatters, plus paying the French Canal Company and Colombia. In the Wilson v. Shaw case, the U.S. Supreme Court stated the Canal is without doubt U.S. property.

JOINT CHIEFS' POSITION

Proponents argue that the Joint Chiefs of Staff favor the Treaty. This is true, but most retired officers do not support it. Shortly a list of those military leaders opposed to the Treaty will be released, and I assure you it will be a long one.

Furthermore, the Treaty is a political issue, while Canal use is mainly a Navy issue. Four past Navy Chiefs oppose the Treaty. One of this group, Admiral Moorer, served as the past Chairman of the Joint Chiefs. Admiral John McCain, Commander-in-Chief of our Pacific forces during the height of the Vietnam War, has stated, "it is my conviction that U.S. interests are best served by keeping the Canal." This Committee should also note it is significant that to date not one active duty military officer has publicly opposed the Treaty.

COST TO SHIPPERS

Another point, and a key one to businessmen, addresses the claim by Treaty advocates that increased tolls will finance the additional payments to Panama.

They seem to forget that Canal passage costs have increased 45% in the past three years and the Canal is still operating at a deficit. In addition, while the increased use of the Canal to transfer oil from Alaska to the East Coast will mean more business for the Canal, it also means higher tolls to shippers and higher oil costs. The U.S. business community and the American taxpayer will be saddled with that expense. In fact, the Chairman of the Merchant Shipping Council, Mr. W. J. Amoss, Jr., has switched from an advocate of a Treaty to an opponent of this Treaty. He said the increased toll costs will spell "sheer disaster for operators east of the Canal", which incidentally means shippers on the Eastern Seaboard.

The weakness of these nine arguments by Treaty advocates is further compounded when we consider other issues which have been raised.

Six months after ratification of the Treaty, the Canal Zone ceases to exist and about 65 percent of the land and 10 of the 14 U.S. bases are given to Panama. The remaining land adjoining the Canal itself is under limited U.S. control for the purpose of operating the Canal. We then oblige ourselves to begin paying the Panama government huge sums in various ways, totalling up to nearly $1.5 billion over the next 22 years.

NEUTRALITY TREATY AMBIGUOUS

One of my most significant concerns is the *ambiguity* contained in the Neutrality Treaty. This deserves special attention. Ambassador Linowitz and others have maintained that no limits were spelled out in the Treaty, so we will be free to take whatever steps are necessary to protect the neutrality of the Canal. These remarks might be reassuring to the American public, except for the comments made by Chief Negotiator Bethancourt on these provisions to the Panama Assembly on August 19. He stated:

"Those people believe that the right to intervene is granted, but nobody grants the big powers the right to intervene. They intervene wherever they damn well please with or without a pact."

Additionally, in an August 24, 1977 radio broadcast, Mr. Bethancourt is quoted as saying:

"The pact does not established that the United States has the right to intervene in Panama. This word (intervention) was discussed and eliminated . . ."

Later he stated: ". . . the neutrality pact does not provide that the United States will say when neutrality is violated."

Indeed, Articles IV and V of the Neutrality Treaty are so ambiguous as to lend themselves to various interpretations. This reason alone is sufficient to reject the Treaties.

BROAD CONCERNS

These are some of the specific concerns I have relative to these Treaties. There are other broader issues involved. Will our ratification of these treaties be seen as a pattern of withdrawal in view of our retreat in Korea, Southeast Asia and possibly Taiwan? This misguided direction of our foreign policy engenders consternation on the part of our Allies and audacity on the part of our adversaries.

This type of audacity has even been highlighted by the reckless and provocative statements of Mr. Bethancourt and others about violence.

We cannot hope to deal effectively with other Nations as a world leader if we yield to blackmail. That is the only word to describe the threats of violence and sabotage which treaty proponents are broadcasting far and wide, and using as their chief argument for ratification. If the Senate were to ratify a treaty in the face of such threats, it would show the world a new policy alien to our national character and our history and which would invite further exploitation.

POSITIVE ALTERNATIVES

Before closing I wish to make clear I am not opposed to a new arrangement with Panama. In the past, I have supportel the Terminal Lake-Third Lock Modernization Plan. This would provide for approximately $2.5 billion in capital investments over a 5 to 10 year period. Such a major step will provide an opportunity for mutual cooperation and an even greater partnership between the people of the United States and the people of Panama.

Another part of the Treaty with which I find fault is the provision prohibiting our construction of a sea-level canal prior to the year 2000, except in Panama or only with the permission of Panama. In this instance, we have surrendered an option which may be forced upon us.

CANAL GREAT ACHIEVEMENT

The Panama Canal stands as a monument to American foresight, ingenuity, and perseverance. Author David McCullough, who recently published "The Path Between the Seas," a history of the Panama Canal, has written:

"It is the physical expression of a boundless confidence, one which believed tomorrow will be better. If an archaeologist were to come across only the locks and the cuts in that jungle, his conclusion would be: 'What a civilization it must have been to build this!

Adds McCullough:

"Many people feel that by relinquishing the canal we are saying something profound about ourselves, that we have reached a turning point in our growth as a nation. Will we go forward as a people with our skill and great machines, or have we become a people who are pulling in and withdrawing?"

In conclusion, neither our interests nor the interests of the people of Panama are served by the treaties. The only outcome of ratification can be danger ahead.

URBAN POLICY REVISITED

Mr. MOYNIHAN. Mr. President, on Monday, October 17, 1977, I had the opportunity to address a meeting of the Union League Club in New York City. On that occasion I discussed the enduring difficulties of creating a national urban policy.

I ask unanimous consent that the text of my remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

URBAN POLICY REVISITED

(Address by Senator DANIEL PATRICK MOYNIHAN)

A fair amount of attention is being paid just now to the question of a national urban policy. In April, 1977, as a candidate for the Presidency, Jimmy Carter pledged that an administration he headed would have a "coordinated urban policy committeed to the development of a partnership with the cities." Just twelve days ago, after touring the South Bronx, President Carter spoke of his commitment to "an overall strategy to improve the quality of life and strengthen the economy base of this nation's cities." He has established an Urban and Regional Policy Group to advise him on this undertaking.

Eight years ago, at an equivalent point in a new administration, it fell to me to carry out a similar exercise. I had been serving as director of the Joint Center for Urban Studies of M.I.T. and Harvard when the newly elected President asked if I would come to Washington as his Assistant for Urban Affairs. I believe it is fair to say that I was asked to do this in a professional capacity, for I had no political connection with the new administration. In that sense, the advice I gave was apolitical, reflecting what I deemed to be the best professional judgment of the time. It might be of some interest, then, to look back at what I proposed eight years ago in terms of what has transpired since.

On the grounds that eleven points were too many and nine too few, I proposed ten general principles.

1. The poverty and social isolation of minority groups in central cities is the single most serious problem of the American city today. It must be attacked with urgency, with a greater commitment of resources, than has heretofore been the case, and with programs designed especially for this purpose.

I would see little reason to change my judgment that this should be our first priority, and I would if anything increase the emphasis on "social isolation". Eight years has, I believe, further enlarged the social distance between the worst off groups in our cities and the population at large. I believe this to be fundamentally an issue of social class, which is not always helped by the seeming compulsion we have to attach ethnic and racial labels to social divisions which really are not of that nature.

I first presented my proposals in the spring of 1969. That summer, in response to this first point, the administration proposed a guaranteed income under the general rubric of welfare reform. This was almost enacted. The present administration has come forward with a comparable proposal. I am in favor of welfare reform and hope to have some part in enacting the President's program. No one, however, should have any illusions that welfare reform will change anything in, let us say, the South Bronx. For the South Bronx and for inner cities generally, the single most important element of a successful urban policy will be the level of male employment. This is a position I have held without any significant change since I served on the task force that developed President Johnson's "war on poverty." I lost then, and have pretty much lost ever since.

2. Economic and social forces in urban areas are not self-balancing. Imbalances in industry, transportation, housing, social services and similar elements of urban life frequently tend to become more rather than less pronounced, and this tendency is often abetted by public policies. The concept of urban balance may be tentatively set forth: a social condition in which forces tending to produce imbalance induce counterforces that simultaneously admit change while maintaining equilibrium. It must be the constant object of federal officials whose programs affect urban areas—and there are few whose do not—to seek such equilibrium.

This is a complicated thought, and grows more so as our ability to examine the economies of political subdivisions grows more sophisticated—and as we learn more about the limits of the economists' art.

In a long and detailed statement this past July, I addressed myself to the economic condition of New York State as a whole and, in particular, sought to examine what might be termed the "balance of payments" between New York and Washington. I found striking evidence of a severe disequilibrium, if one supposes, as I do, that New York should receive a fraction of federal disbursements that corresponds roughly to the share of federal revenues that it supplies. Had that been the case in 1976, New York would have received $7.4 billion more than it actually received: enough, it is fair to say, to entirely alter its fiscal conditions and the prospects of its political subdivisions, notably the City of New York. If we had got back what you might call the "average rate of return" for other states we would have been $17 billion better off. If we had got the California rate of return, we would have received $32 billion more than we did!

We are not yet able to apply such a "balance of payments analysis" to individual cities. But it is now clear to me that we must acquire that ability if we are seriously interested in the equilibrium of which I speak, indeed in understanding the governmental forces that affect our urban condition.

Here I would add perhaps a parochial point. A favorite alibi of those who have presided over the disaster of New York City government over the past decade is that "all urban America" is in a crisis. This is not true. Indeed it attains to the condition of a political life. It may make us feel better to tell this lie to one another, but in the end it is mere self-deception. Our urban problems are not unique, but neither are they general. At most they are Northeastern. They reflect a singular combination of extraordinary local mismanagement and a huge imbalance of payments with the federal fisc.

3. At least part of the relative ineffectiveness of the efforts of urban government to respond to urban problems derives from the fragmented and obsolescent structure of urban government itself. The federal government should constantly encourage and provide incentives for the reorganization of local government in response to the reality of metropolitan conditions. The objective of the federal government should be that local government be stronger and more effective, more visible, accessible, and meaningful to local inhabitants. To this end the federal government should discourage the creation of paragovernments designed to deal with special problems by evading or avoiding the jurisdiction of established local authorities, and should encourage effective decentralization.

We have made some progress, at least with respect to federal policy, in this regard. Increasingly, we seem to be turning back, as I believe we should, to the general purpose governments—cities, towns, counties, and the like—at the local level, rather than contributing to the creation of more "paragovernments".

4. A primary object of federal urban policy must be to restore the fiscal vitality of urban government, with the particular object of ensuring that local governments normally have enough resources on hand or available to make local initiative in public affairs a reality.

The main events in this realm, and quite large events they are, have been the advent of general revenue sharing and of community development block grants. The nation has, I believe, accepted the idea that the federal government can—and should—distribute at least a portion of the funds it gathers to state and local governing units for purposes of their own devising.

I would point out that revenue sharing was proposed in the same Presidential message that proposed welfare reform, and a general return of manpower programs to State management. Whatever else went on in 1969 there was an acceptance of the idea that policy is an interconnected process.

If we are to be criticized, it is for not anticipating the fiscal collapse of New York City. On the other hand, we knew there was a problem that required a national response.

5. Federal urban policy should seek to equalize the provision of public services as among different jurisdictions in metropolitan areas.

I don't see much progress here, partly because we have so little data. I expect that a major issue of the years ahead will be the effort to obtain court orders for the equalization of educational expenditure. The great challenge of this effort will be to bring about equity without greatly increasing the level of educational expenditure which is already very considerable in a City such as New York. This will require a degree of restraint which we are not very good at, and is an area where national data would very much inform a national debate.

6. The federal government must assert a specific interest in the movement of people, displaced by technology or driven by poverty, from rural to urban areas, and also in the movement from densely populated central cities to suburban areas.

In the years since this was written, the growth of the suburbs has continued but the move from South to North, for so long a pattern in American life, has not. In no small part this must be a response to the economic growth of the South, and the economic stagnation of Northern cities.

Yet the point I made bears repetition: these are matters of utmost importance for social policy, and a federal interest must be asserted. None has. There are, of course, federal programs which have an enormous impact on population shifts. Without the availability of VA and FHA mortages, the explosive growth of the suburbs would have been greatly reduced. Likewise, suburbs are possible only when transportation networks make commutation possible. Thus the Interstate Highway Program was essential for the growth of the suburbs. It is possible that history will remember the 1960's as the decade in which we found ourselves with new roads and urban chaos. In this sense, one can say that the federal government has had an unwitting policy, which was to make suburbs grow and cities decline. If this is no longer our goal—or if it never was, and we now recognize it is nonetheless what we are doing—it is time to revamp the programs which lead to this result.

7. State government has an indispensible role in the management of urban affairs, and must be supported and encouraged by the Federal Government in the performance of this role.

Perhaps the one solid change for the better that can be hoped for from New York City's fiscal collapse is that the State government will continue to pay close atten-

tion to the condition of the economy of the City. But there is still no general understanding in New York of the degree to which the City's problems represent derelictions of State responsibilities. I would only offer the thought that the City is itself largely responsible for this, having for generations insisted on retaining to itself functions which elsewhere in the nation have long since become the responsibility of State government.

8. The Federal Government must develop and put into practice far more effective systems than now exist, whereby state and local governments, and private interests can be led to achieve the goals of federal programs.

Just before becoming chairman of the Council of Economic Advisers, Charles Schultze gave the Godkin lectures at Harvard with precisely this theme, so that we may conclude that today, as eight years ago, there is at least one person in the executive branch who believes it. So far, however, no administration has done much in this respect, and this is the fundamental problem of government. If what one hears is true, the Department of Housing and Urban Development is set on just the opposite course.

9. The Federal Government must provide more and better information concerning urban affairs, and should sponsor extensive and sustained research into urban problems.

Little has been done here, which makes one suspicious, for there is not much cost involved. My impression is that research in urban issues has entered a phase where it no longer confirms the conventional wisdom, and so is seen as threatening by governments and pressure groups alike. This of course is good news because it may mean we are going to learn some things we need to know. On the other hand, it will also mean a good deal of bitterness and some dishonesty.

10. The Federal Government, by its own example, and by incentives, should seek the development of a far heightened sense of the finite resources of the natural environment, and the fundamental importance of aesthetics in successful urban growth.

I put this matter last eight years ago, with little expectation that it would be the one area of urban policy where there would be the greatest change in the years that immediately followed. Much of this change has been for the good, but none should fail to observe the almost anti-urban bias of much environmental legislation. Certainly our present Federal regulations make increasingly problematic the economic development of core city areas. If I had any one prediction to make of the President's Urban and Regional Policy Group it is that it will come forward with a batch of proposals for building factories in the South Bronx, as it were, most of which projects will be unable to obtain approval under Federal environmental regulation

And now to one final revision: I have come to the view that eleven points are not, after all, too many, and I offer it herewith.

11. There is nothing the matter with government in American cities that cannot be cured by less of it.

Urban policy must absolutely proceed from the proposition that there is truly a "sickness of over government" in most of our older cities, and the cure cannot be yet more government.

Any day now the administration will be coming forward with its national urban policy. It will be interesting to observe the areas of convergence and divergence with my thoughts, now almost a decade old. For my part, all I ask is that the administration truly think in policy terms. A housing program is not an urban policy. A public service jobs program is not an urban policy. An urban bank is not an urban policy. What is needed is a coherent judgment as to what aspects of urban life really can be affected by government policies, and a common understanding of how government will thereupon behave. There is at present little evidence of this, but then the administration is scarcely a year old.

IRS TAXATION OF FRINGE BENEFITS

Mr. HATCH. Mr. President, I am pleased to announce that TED STEVENS, the distinguished minority whip, has joined in cosponsoring Senate Resolution 242. This resolution expresses the Senate's displeasure toward any policy of the IRS which changes through administrative interpretation longstanding applications of the internal revenue laws. The resolution states that—

It is the sense of the Senate that the IRS refrain from changing long-standing applications of the Internal Revenue laws, including its policy with respect to taxation of benefits (other than cash remuneration) given to employees, without submission to Congress of any such proposed changes.

Mr. President, the distinguished Senator from Alaska, Mr. STEVENS, has written to me that he has "received some comments from Alaskans that Commissioner Kurtz may be overstepping his bounds by proposing to tax fringe benefits as income. Besides adding to the already heavy tax burden that employees must bear, this proposal, by its application, would infringe upon a long-standing policy that such tax changes be submitted to Congress for review." I am certain that all of my colleagues would find this same concern in the minds of their own constituents.

I believe that the Senate should move forward with Senate Resolution 242 before it becomes necessary to prepare legislation to void the higher taxes that the IRS is legislating on our constituents. The IRS has announced its intention of moving forward with the taxation of employee fringe benefits such as free parking spaces, store discounts for retail employees, travel passes for rail and airline employees, and so forth. I pointed out to the Senate on August 4 that employees cannot pay these taxes in kind by turning over part of their parking space to the IRS. They have to pay them in money out of their current income level. The IRS action on fringe benefits is equivalent to raising the tax rates on existing income levels.

Mr. President, this is a nonpartisan resolution. It has union support. It reminds the IRS that revenue measures originate in the Congress. I ask all of my colleagues to join with me and Senators CURTIS, DOMENICI, GARN, GOLDWATER, HAYAKAWA, HELMS, SCHMITT, STEVENS, THURMOND, TOWER, and YOUNG in support of Senate Resolution 242.

NEW TEST FOR PSEUDORABIES

Mr. CLARK. Mr. President, the number of cases of pseudorabies, a disease nearly always fatal to baby pigs, have increased dramatically in the past 2 years. About three times as many cases were confirmed in the first half of this year as in all of 1975. I am therefore happy to report an important advance in control of this disease by scientists of USDA's Agricultural Research Service at Ames, Iowa. They have developed an accurate diagnostic test that is simpler, faster, and less exepensive to perform than the test now in use. Representatives of veterinary diagnostic laboratories were trained in use of the test at Ames on September 20–21. After further evaluation by various laboratories it should contribute significantly to our armament against this costly disease. Mr. President, I ask unanimous consent to have printed in the RECORD a report on the test from FarmWeek published at Bloomington, Ill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEVELOPS NEW TEST FOR PSEUDORABIES

A new test for diagnosing pseudorabies in swine is accurate and simpler, faster, and less expensive to perform than the test now in use, according to its developers—U.S. Department of Agriculture scientists.

The microimmunodiffusion test (MIDT), detects pseudorabies virus antibodies in blood serum from infected swine. Preliminary results are available in 24 hours, with final reading in 48 hours. The virus neutralization (VN) test now used requires several days for completion, considerable expertise, and a laboratory equipped for tissue culture procedures.

The MIDT was developed at the National Animal Disease Center in Ames, Iowa.

An accurate, rapid, economical diagnostic test is needed for detection, control and eventual eradication of pseudorabies, also known as Aujeszky's disease, the scientists said. Incidence and losses have increased dramatically in the past two years. USDA reports 706 laboratory-confirmed cases in 22 states during the first 6 months of 1977, compared with 714 in 1976, 225 in 1975, and 125 in 1974.

In susceptible suckling pigs, pseudorabies virus infection produces acute inflamation, paralysis, coma, and death within 24 hours of onset.

The researchers compared sensitivity of the MIDT and the VN tests in assaying 2,203 swine serums obtained from 33 herds in Iowa, Indiana, and Nebraska and from Iowa packing plants. An equal percentage of serums was positive in each test—419 serums by VN and 421 by MIDT.

DEPARTMENT OF ENERGY NOMINEES

Mr. JACKSON. Mr. President, yesterday the Committee on Energy and Natural Resources approved six nominees to posts in the new Department of Energy and five nominees to serve on the Federal Energy Regulatory Commission.

The nominations approved were those of John F. O'Leary to be Deputy Secretary of Energy, Dale D. Myers to be Under Secretary of Energy, Alvin L. Alm to be Assistant Secretary of Energy for Policy and Evaluation, Harry E. Bergold, Jr., to be Assistant Secretary of Energy for International Affairs, Phillip Samuel Hughes to be Assistant Secretary of Energy for Intergovernmental and Institutional Relations, David J. Bardin to be Administrator of the Economic Regulatory Administration, and to the Federal Energy Regulatory Commission, Charles B. Curtis, George R. Hall, Georgiana H. Sheldon, Don Sanders Smith, and Matthew Holden, Jr.

I ask unanimous consent that biographical sketches of the nominees and other data be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOHN F. O'LEARY

George Washington University, A.B. (Economics), 1950.

Commodity Industry Analyst, Bureau of Mines, 1950–52, Prepared Mineral Handbook—Zinc; Management Intern, 1951–52; Economist, Senior Staff Economist for Office of Assistant Secretary for Mineral Resources, 1952–62, Interior. From 1962–67 served as Deputy Assistant Secretary of Interior—Mineral Resources (Bureau of Mines, Geological Survey, Minerals and Solid Fuels, Oil and Gas, Oil Import Administration, Coal Research; U.S. Representative OECD Oil/Energy Committees, NATO Oil Committee, Oil Committee of I.L.O.; Federal Oil Shale policy, shelf Leasing policy, etc.).

Chief, Bureau for Natural Gas, Federal Power Commission, March 1967–October 1968 (regulatory issues, utilities and transmission, natural gas, energy, etc. Returned to Department of Interior as Director, Bureau of Mines, 1968–70 (Coal Mine Safety Act, 1969, coal/gas conversion program, oil imports, environmental impacts, R&D). Distinguished Service Awards, Interior and FPC.

Energy Consultant, 1970–73 in petroleum, gas, and coal. Director Licensing, AEC 1972–74 (nuclear plants, safety, environment). In October 1974, became Technical Director, Energy Resources, and Environment Division, MITRE Corporation. In 1975, accepted the position of Energy Administrator for the State of New Mexico. In 1977 appointed as Administrator of the Federal Energy Administration.

BIOGRAPHY

Education

A.B. Economics, George Washington University, 1950.

Honors

Distinguished Service Award, U.S. Department of Interior, 1967.

Distinguished Service Award, Federal Power Commission, 1968.

Employment

February 1977 to Present—Administrator, Federal Energy Administration.

Responsible for administration of the Agency established by the Congress to administer energy related environmental, conservation, developmental and regulatory programs and to assist in the development of National energy policy.

November 1975 to February 1977—Administrator, Energy Resources Board, State of New Mexico.

Responsible for the development and implementation of the State's energy plan.

October 1974 to November 1975—Technical Director, Energy Resources and the Environment Division, MITRE Corporation.

Responsible for the direction and management of work conducted by MITRE in the energy, resources, and environment field.

June 1974 to October 1974—Energy Consultant.

Private consultant working with government agencies and other organizations including the MITRE Corporation, advising on energy matters in general, and the role of nuclear energy in the future in particular.

June 1972 to June 1974—Director of Licensing, U.S. Atomic Energy Commission.

Directed the staff of approximately 500 professionals, with the Atomic Energy Commission responsible for licensing of commercial nuclear generating plants, fuel cycle facilities and nuclear materials. Had responsibility for the timely completion of comprehensive safety, environmental and antitrust reviews. Serve as a principal advisor to the Commission in its activities related to creation of a nuclear generating industry.

March 1970 to June 1972—Energy Consultant.

Self-employed as a consultant in energy matters working with a number of firms in the petroleum, natural gas and coal industries. Provided extensive advice with regard to the overall energy position of the United States and conducted specific studies related to new commercial opportunities including the development of new coal mining capacity; construction of facilities for the production of synthetic natural gas, construction of facilities for production of synthetic coke and development of L&G facilities. Served as a Director to several companies in the energy field. During this period prepared for publication several papers relating to various aspects of the impending energy shortage.

October 1968 to February 1970—Director, Bureau of Mines.

Provided executive direction to program involving annual expenditures of more than $100 million, and approximately 4,500 employees. The Bureau then conducted physical and economic research to the value of approximately $50 million a year. As Director was active in developing and securing passage of the Coal Mining Safety Act of 1969 and obtained authorization for the Bureau to initiate a major coal/gas conversion program. Initiated numerous economic studies relating to the mineral industry including comprehensive analyses of the oil import program and of the physical and social problems associated with mining activities. These included the landpark analyses of post-mining influences in Appalachia and a major study of the environmental impacts of the extractive industries. The initiation of these environmental and social studies marked a departure from past practices of the Bureau. During tenure secured funding support for a major R&D effort aimed at improving coal mining technology to minimize the social and environmental costs traditionally associated with this activity.

March 1967 to October 1968—Chief, Bureau of Natural Gas, Federal Power Commission.

Duties included development of capability within the Bureau of Natural Gas for analysis of complex regulatory issues relating to public utility rates and services of the producing and transmission industries. Position involved direction of activities of highly specialized experts in various fields of natural gas regulation. In addition to program development and supervisory activities, incumbent served as principal adviser and consultant to the Federal Power Commission with respect to natural gas matters, including their relationship to the alternative energy resources and to the national economy. Duties also included extensive consultation and negotiation with representatives of regulated utilities affected by the Natural Gas Act, including companies in interstate commerce and local distributor companies. In the course of this assignment obtained thorough familiarity with the attitudes and methods of doing business utilized by utility companies.

May 1962 to March 1967—Deputy Assistant Secretary—Mineral Resources, U.S. Department of the Interior.

Assisted the Secretary and the Assistant Secretary in exercising direction and supervision over the Bureau of Mines, Geological Survey, Office of Minerals and Solid Fuels, Office of Oil and Gas, Oil Import Administration, and Office of Coal Research. In this position, took substantive responsibility for formulation and implementation of programs related to international petroleum relationships of the United States, serving as U.S. representative to OECD Oil and Energy Committees, NATO Oil Committee and the Oil Committee of the I.L.O. played an active role in development of Federal oil shale policy, coal export policy, formulation of Energy R&D programs within the Department, and related matters.

June 1952 to May 1962—Served as Economist and later as Senior Staff Economist in the Office of the Secretary of the Interior for Mineral Resources.

Conducted and supervised economic studies relating to individual mineral and energy industries, particularly, the non-ferrous minerals industry. Served as one of five international experts on lead and zinc providing guidance to the International Lead/Zinc Study Group. Participated as a U.S. representative at the initial meeting of the International Copper Study Group. Provided economic advice to the Secretary of the Interior with respect to the development of mineral resource programs, including programs related to acquisition and disposition of strategic stockpiles. Served as a departmental representative to the Presidential Advisory Committee on Mineral Policy and prepared final drafts of the recommendations of that group, served as departmental representative on the International Advisory Committee on Export Policy.

July 1951 to May 1952—Management Intern.

Served as management intern in the Department of Interior's third management training program.

July 1950 to July 1951—Commodity Industry Analyst—U.S. Bureau of Mines.

In this capacity prepared the volume "Minerals Handbook—Zinc" and was responsible for preparation of chapters on lead and zinc for inclusion in Bureau of Mines Annual Mineral Yearbook.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Energy and Natural Resources requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

Assets

Cash on hand and in banks, $30,000.

Real estate interests—add schedule, $450,000.

Personal property, $60,000.

Life insurance—cash value, $10,000.

Total assets, $550,000.

Liabilities

Notes payable to banks—unsecured, $15,000.

Real estate mortgages payable—add schedule, $144,000.

Total liabilities, $159,000.

Net worth, $391,000.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. None.

2. Are any assets pledged? (Add schedule.) No.

3. Are you currently a party to any legal action? Yes—Suing builders for over-runs on new house built in Santa Fe, New Mexico.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? Federal audit, either 1956 or 1958. Random audit.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: John Francis O'Leary.

Position to which nominated: Deputy Secretary, Dept. of Energy.

Date of nomination: Sept. 13, 1977.

Date of birth: June 23, 1926.

Place of birth: Reno, Nevada.

Marital status: Married.

Full name of spouse: Patricia Eagleston O'Leary.

Name and ages of children: David, 16; Karena, 12; Marc, 11.

Education: Geo. Washington Univ., 1946–51, A.B.—Economics, 1950.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

7/50–6/52 Community Industry Analyst, U.S. Bureau of Mines.

6/52–5/62 Staff member, Office of Assistant Secretary of the Interior, Mineral Resources, Dept. of the Interior.

5/62–3/67 Deputy Assistant Secretary of the Interior, Mineral Resources, Dept. of the Interior.

3/67–10/68 Chief, Bureau of Natural Gas, Federal Power Commission.

10/68–3/70 Director, U.S. Bureau of Mines.

7/70–7/70 Specialist, Dept. of the Interior, Federal Water Quality.

3/70–6/72 Consultant.

6/72–6/74 Director of Licensing, Atomic Energy Commission.

7/74–10/74 Consultant.

10/74–11/75 Technical Director, Mitre Corporation, McLean, Va.

11/75–2/77 Administrator, Energy Resources Board, State of New Mexico, Santa Fe, New Mexico.

2/77—Present Administrator, Federal Energy Administration.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Distinguished Service Award, Department of the Interior, 1967.

Distinguished Service Award, Federal Power Commission, 1968.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Cosmos Club, 1967 to date.

Chesapeake Bay Foundation, 1970 to date.

Published writings:

A State Energy Plan for New Mexico, University of New Mexico Printing Plant, 1977.

"Coal-Energy of the Past for Future," *The Changing Economics of World Energy*, edited by Bernard J. Abrahamson, Westview Press, 1976.

"Nuclear Energy and Public Policy Issues," *Energy Supply and Government Policy*, edited by Robert J. Kalter and William A. Vogely, Cornell University Press, 1976.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate. My present affiliation with FEA will terminate when the Department of Energy is implemented.

2. As far as can be foreseen whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. None.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealing with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None.

2. List any investments, obligations, liabilities, or other relationship which might involve potential conflicts of interest with the position to which you have been nominated. None.

3. Describe any busines relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the possition to which you have been nominated. None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy. None.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items. Not applicable.

SCHEDULE FINANCIAL STATEMENT

Shady Oaks Manor, Maryland Residence, Maryland National Bank, Annapolis, Maryland, $34,000.

Santa Fe, New Mexico Residence, Mutual Building and Loan, Santa Fe, New Mexico, $95,000.

Honey Cove, Calvert County, Maryland (Building Lot), Calvert National Bank, Maryland, $15,000.

Total, $144,000.

QUALIFICATIONS STATEMENT

Since my graduation from George Washington University in 1950 (B.A. in Economics), I have been continuously engaged in resource related activities. From 1950 to 1967, I served in various capacities in the Department of the Interior. From 1950 to 1952, I was with the Bureau of Mines and thereafter was Senior Staff Economist for the Office of the Assistant Secretary for Mineral Resources. From 1962 to 1967, I acted as the Deputy Assistant Secretary of Interior—Mineral Resources. During this period with Interior, I acted as the U.S. Representative to the OECD Oil Energy Committees, and was a member of the NATO Oil Committee, the Oil Committee of the ILO, and committees considering Federal Oil Shale Policy, and International Shelf Leasing Policy, and during a portion of this period I was responsible for the day-to-day administration of the Mandatory Oil Import Control Program.

In March 1967, I became Chief, Bureau of Natural Gas, Federal Power Commission, dealing with the production, transmission, and distribution of natural gas and the regulation of natural gas utilities. In October 1968, I returned to the Department of the Interior as Director, Bureau of Mines, and served in that capacity until 1970. During that time I participated in the drafting of the Coal Mine Safety Act of 1969, and was responsible for the energy data, research, environmental and development programs administered by the Bureau.

From 1970 to 1972 I was self-employed as a consultant in energy matters working with a number of firms in the petroleum, natural gas, and coal industries. In this capacity, I provided extensive advice with regard to the overall energy position of the United States and conducted specific studies related to new commercial opportunities including the development of new coal mining capacity.

In June 1972, I became the Director of Licensing of the U.S. Atomic Energy Commission. I directed the professional staff responsible for licensing commercial nuclear generating plants, fuel cycle facilities and nuclear materials, and for the timely completion of comprehensive safety, environmental and antitrust reviews. I also acted as a principal advisor to the Commission in its activities related to the creation of a nuclear generating industry.

From July 1974 to October 1974, I returned to the private sector as an energy consultant working with government agencies and other organizations, including the Mitre Corporation, advising on general energy matters and the role of nuclear energy in the future. In October 1974, I became a Technical Director for Energy Resources and Environmental Division of the Mitre Corporation, a not-for-profit Federal contract research center. I was responsible for the direction and management of work conducted by Mitre in the energy resources and environmental field.

In November 1975, I was nominated to act as the Administrator for the recently created Energy Resources Board of the State of New Mexico. I served in that capacity until February 1977 and was responsible for the development and implementation of the State's comprehensive energy plan.

From February 1977 to the present, I have served as Administrator of the Federal Energy Administration with the responsibility of the energy related environmental, conservation, developmental, and regulatory programs of that Agency. I have also been extensively involved in the development of the National Energy Plan submitted in April by President Carter.

This range of experience has given me an understanding of all the major basic energy sources, including coal, natural gas, oil, and nuclear. Further, I believe that my experience with energy matters at both the State and Federal level, as well as in the private sector, will be of value to the government in reaching decisions which afford a proper balance between the wide range of legitimate concerns which must be considered in the development and implementation of a National Energy Policy.

RESUME

Dale Dehaven Myers, 1109 Palos Verdes Drive West, Palos Verdes Estates, California 90274, A/C 213–375–2611.

1974–Present:

Rockwell International—El Segundo, California, Corporate Vice President and President of the North American Aircraft Operations. Directly responsible for overall technical and administration for six divisions—Atomics International, Los Angeles Division, Columbus Aircraft Division, General Aviation Division, Sabreliner Division and Tulsa Division.

1970–1974—National Aeronautics & Space Administration, Washington, D.C., Associate Administrator for Manned Space Flight. Re-

sponsible for the planning, direction, execution and evaluation of NASA's overall manned space flight program.

1943–1970 — Rockwell International — Southern California.

1969–1970—Vice President and Program Manager, Space Shuttle. Responsible for overall Shuttle program activities.

1964–1969—Vice President and General Manager, CSM Program. Complete responsibility for the Apollo Command and Service Modules activities at North American Rockwell.

1963–1964—Assistant Division Director, Space Division, North American Rockwell.

1957–1963—Vice President and WS–131B Weapon System Manager, North American Aviation, Inc.

1946–1957—Chief Engineer, Missile Development Division of North American Aviation, Inc.

1943–1946—Aeronautical Engineer, North American Aviation, Inc.

EDUCATION

Southwest High School, 1935–1939, Kansas City, Missouri.

Kansas City Junior College, 1939–1940, Kansas City, Missouri.

University of Washington, 1940–1943, BASE, Seattle, Washington.

Whitworth College, 1970, Honorary Ph. D.

MEMBERSHIPS

American Institute of Aeronautics & Astronautics, Fellow.

American Astronautics Society, Fellow.

National Academy of Engineering, Member.

California Chamber of Commerce, Board of Directors.

California Roundtable, Member.

AWARDS AND CERTIFICATIONS

1977—Meritorious Service Award, Compton Schools.

1976—Dedication, Leadership, Achievement Award, Los Angeles City Schools.

1974—NASA Distinguished Service Medal.

1971—NASA Distinguished Service Medal.

1970—Honorary Doctorate, Whitworth College.

1969—NASA Public Service Award.

1969—NASA Certificate of Appreciation.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Energy and Natural Resources requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

Assets

Cash on hand in banks, $42,500.

U.S. Government securities—add schedule, bonds, $10,000.

Listed securities—add schedule, $41,050.

Unlisted securities—add schedule, $750,000.

Accounts and notes receivable: $55,000.

Real estate interests—add schedule, $780,050.

Personal property, $40,000.

Life insurance—cash value, $15,000.

Other assets—itemize: Savings plan, $28,000.

Total assets, $1,761,000.

Liabilities

Real estate mortgages payable—add schedule, $276,050.

Total liabilities, $276,050.

Net worth, $1,485,550.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. See Attachment (1).

2. Are any assets pledged? (Add schedule.) No.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? Questioned a couple of minor items—answered to their satisfaction.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Dale D. Myers.

Position to which nominated: Under Secretary of Energy.

Date of nomination: September 13, 1977.

Date of birth: 8 Jan. 1922.

Place of birth: Kansas City, Missouri.

Marital status: Married.

Full name of spouse: Marjorie W. Myers.

Name and ages of children: Janet Louise Myers—32 yrs.; Barbara M. Curtis—30 yrs.

Education:

Southwest High School, 1935–1939.

Kansas City Jr. College, 1939–1940.

Univ. of Washington, 1940–1943; B.S. Aero Eng., 1943.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

Aerodynamicist, North American Aviation, Los Angeles, Calif. 1943–1946.

Chief Aero and Flt Test, North American Aviation, Los Angeles 1947–1954.

Asst. Dir. Aerophysics Dept., North American Aviation, Los Angeles 1947–1954.

Chief Engineer, Missile Div., NAA 1956–1957.

Program Manager, Hound Dog Missile, Missile Div., NAA 1957–1960.

Vice Pres. and Prog. Mgr., Hound Dog Missile, Missile Div., NAA 1960–1964.

Vice Pres. and Prog. Mgr., Apollo Program, Space Division, North American Rockwell Corp. 1964.

Vice Pres. and Prog. Mgr., CSM Program, Space Div., NA Rockwell Corp. 1964–1969.

Vice Pres. and Prog. Mgr., Space Shuttle, NA Rockwell Corp. 1969–1970.

Assoc. Admin. for Manned Space Flight, NASA 1970–1974.

Pres. North American A/C Oper., Rockwell International 1974–1977.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

NASA Public Service Award, 1969.

NASA Distinguished Service Medal, 1971.

NASA Distinguished Service Medal, 1974.

Honorary Doctors Degree—Whitworth College, Spokane, Wash.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Sigma Alpha Epsilon, President—Wash. Alpha Chapter, 1943.

Presbyterian Church, Elder, 1956—.

Am. Inst. of Astro and Aero, Fellow, 1971.

Am. Astronautical Society, Fellow, 1974.

National Assoc. of Engineers, Member, 1975.

United Way Funding Drive, Division Chairman, 1976.

AIAA, Board Member, 1977.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written.

Various articles on Space.

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet) See Attachment (2).

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate. Yes, See Attachment (1).

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. No.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.—

Retirement benefits. They are independent of stock value and are based on past salary and years of service. According to law, Secretary of DOE has agreed to my holding retirement life insurance and major medical.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated. As of August 31, stock in Rockwell. Stock options. Stock in utilities. All to be sold in the first month of government employment.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated—

From 1964 to 1960, I was Vice President of Rockwell's Space Division and Program Manager of the Apollo Program. From 1970 to 1974, I was Associate Administrator of the National Aeronautics and Space Administration and since 1974, I have been a Vice President of Rockwell International Corporation and President of its North American Aircraft Operations. In these positions, I have been responsib'e for a number of principal aerospace programs and as President of Rockwell's North American Aircraft Operations, my responsibilities included the business of its Atomics International Division. The principal business of Atomics International has been with the Atomic Energy Commission and the Energy Research and Development Administration. While I do not believe these past responsibilities would constitute a conflict of interest, I have agreed in a letter to the President that I will refrain from participating in

any particular matter in which Rockwell had a direct and substantial interest.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy—

I have never been a lobbyist within the meaning of the Federal Regulation of Lobbying Act. However, in the various positions with Rockwell which I have held, I have had contact from time to time with various members of the Senate and the House and with Congressional staff people and frequently with various Executive Department people in connection with Government programs for which I have been responsible.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items—

All Rockwell and utility stocks will be sold within one month after the commencement of my Government employment. As I indicated above, I have agreed in my letter to the President that I will not participate in any particular matter in which Rockwell had a direct and substantial interest.

QUALIFICATIONS

General Manager of major multi-programs activities.

At Rockwell International, I managed the Command and Service Module for Apollo program through Apollo 11.

I was then asked to join NASA as Associate Administrator for Manned Space Flight. I managed Apollo 13 through 17, the Skylab program, and initiated the Apollo-Soyuz program and the Space Shuttle Programs.

I returned to Rockwell International in 1974 where I was a Vice President of the Corporation and President, North American Aircraft Operations. I have had seven divisions reporting to me, including the Los Angeles Aircraft Division, the B–1 Division, the Tulsa Division, the Columbus Aircraft Division, Atomics International, the General Aviation Division and the Sabreliner Division. Sales in 1977 will be $950 million.

During my NASA tenure, I was awarded a Public Service Award and two Distinguished Service Medals.

The B–1 program was awarded the Collier Trophy in 1977 as the outstanding aeronautical achievement of the year.

I have had experience in the energy field through general management of the Atomics International Division.

FINANCIAL STATEMENT FOR DALE D. MYERS AS OF AUGUST 1977 (ADDED SCHEDULES)

Assets

U.S. Government Bonds (approx)	$10,000
Listed securities:	
Rockwell stock (1,100 shrs.) to be liquidated	35,000
Puget Sound P&L (46 shrs.) to be liquidated	750
Kansas City P&L (73 shrs.) to be liquidated	2,000
AT&T (25 shrs.)	1,500
New York Telephone bond	1,000
AT&T bond	800
Total	41,050
Unlisted securities:	
Continental, Inc. (1,240)	750,000
Real Estate Interests:	
Peacock Hill land investment	1,000
Home, 1109 Palos Verdes Blvd., P.V. Ests. CA	500,000
House, 1112 Neptune, Leucadia, CA	105,000
Lot, Captain's Cove, VA	10,000
Summerfield Apts., Seattle	119,250
Viewpark Apts	44,800
Total	780,050

Liabilities

Home, 1109 Palos Verdes Blvd., Mortgages payable	112,000
Summerfield Apts., Seattle	119,250
Viewpoint Apts., Seattle	44,800
Total	276,050

VOEGELIN & BARTON,
Los Angeles, Calif., September 1, 1977.

Mr. DALE D. MYERS,
Palos Verdes Drive West, Palos Verdes Estates, California.

DEAR DALE: Enclosed are copies of correspondence as follows:

(1) Letter of September 1, 1977 from Charles E. Hart to Michael Cardozo;

(2) Letter dated August 29, 1977 from the president of Rockwell International to you; and

(3) Letter dated August 31, 1977 from you in reply.

Particular reference is made to the waiver of your rights under the Rockwell Incentive Compensation Plan described in (1) beginning toward the bottom of page 3.

We have reviewed the enclosures and are satisfied that they reflect the facts and understandings which are set forth in them. We are of the opinion that you are not entitled to, and have waived, any rights you might otherwise have had under the Rockwell Incentive Compensation Plan for the fiscal year ending September 30, 1977. You have advised us that you will be completely retired from Rockwell before you assume any post as an officer or an employee of the Executive Branch of the United States Government, and that upon assumption of that post, you will have no other gainful employment.

Based on the foregoing, we are of the opinion that after your retirement and when you become a government employee, you will not be in violation of the provisions of Section 209 of Title 18 of the United States Code. In particular, we are of the opinion that upon your retirement as above described, you will have no rights to receive any amount under the Rockwell Incentive Compensation Plan described in (3) above. Our opinion in this latter respect is based upon the understandings reflected in the two letters dated August 29 and August 31, 1977 above described. You have effectively waived your rights to any award under the Plan in exchange for the severance payment described in the August 29th letter.

Your sincerely,

ROBERT M. BARTON.

Enclosures.

ROCKWELL INTERNATIONAL,
El Segundo, Calif., September 1, 1977.

MICHAEL CARDOZO, ESQ.,
Associate Counsel to the President, the White House, Washington, D.C.

DEAR MR. CARDOZO: Pursuant to our telephone conversation of August 29, 1977, I am writing to confirm the information which I furnished you with respect to various benefit plans of Rockwell International Corporation in which Mr. Dale D. Myers is a participant.

Mr. Myers will retire under the Rockwell retirement plan applicable to him prior to entering the employment of the Department of Energy. He is 56 years old and it is his present intention to postpone receiving benefits until age 60 in order to avoid the actuarial reduction which would otherwise be made pursuant to that plan. This arrangement is available to all employees age 55 and over who elect early retirement. At age 60 he will be entitled to receive a retirement benefit of approximately $3,200 per month.

Mr. Myers is a participant in the Rockwell Savings Plan. Mr. Myers' contributions to the plan are invested in diversified securities and Rockwell's contributions are invested in Rockwell stock. Following his retirement Mr. Myers will be paid the value of his own contributions in cash and the Rockwell contributions in Rockwell stock. These payments cannot be made until after Mr. Myers retires and, therefore, he will receive them after he has entered the employment of the Department of Energy. Mr. Myers has advised me that he intends to sell such Rockwell stock as soon as the certificates are delivered to him.

Mr. Myers holds options to purchase stock at various prices under Rockwell's Stock Option Plan. Under the terms of that plan, holders of options may exercise them within three months following retirement. Mr. Myers has advised me that he intends to exercise these options immediately following his retirement and to dispose of the Rockwell stock so acquired as soon as the stock certificates are delivered to him. However, the stock certificates will not be received until after he has entered the employment of the Department of Energy.

Mr. Myers is a participant in the Rockwell group life insurance plan. Following his retirement he is eligible to maintain life insurance in the amount of three times the annual salary which he was receiving immediately prior to retirement. An employee who retires early pays a premium until age 65 which is less than the full cost of such insurance to Rockwell. When the retired employee reaches age 65, Rockwell pays the premium for the full amount of insurance for the retired employee but the amount of coverage is reduced by a constant dollar amount each year until his 70th birthday at which time 25% or $50,000 (whichever is less) will be continued for the balance of his life. Any employee who retires early and does not elect to continue participation cannot reinstate participation at a later date. Mr. Myers has advised me that he intends to continue to participate in this plan following his retirement.

Mr. Myers is a participant in the Rockwell group health insurance plan which covers hospital expense, surgical and medical expense, and major medical insurance. He is eligible to continue his participation following his retirement by paying a premium of $15.00 per month which is less than the cost to Rockwell of providing such insurance.

Upon reaching age 65 the entire premium is paid for by Rockwell. Any employee who retires early and does not elect to continue participation cannot reinstate his participation at a later date. Mr. Myers has advised me that he intends to continue to participate in this plan.

The benefits described in the two preceding paragraphs are available to all employees of Rockwell covered by the plans who elect to retire early.

It is my understanding that waivers of the requirements of Section 602 of the Department of Energy Organization Act will be granted Mr. Myers by the Secretary with respect to each matter described above, and I would appreciate it if you would confirm either to me or directly to Mr. Myers that such waivers will be granted.

As I advised you over the telephone, Mr. Myers has agreed to waive all rights to any payments which he might otherwise be entitled to receive under Rockwell's Performance Award Plan.

In addition to the foregoing, Mr. Myers is eligible to receive awards under the Rockwell Incentive Compensation Plan for the fiscal year ending September 30, 1977. Ordinarily, an award with respect to that fiscal year would be made in December, 1977 and paid in January, 1978. Mr. Myers received an award with respect to the Rockwell fiscal year ending September 30, 1976 in the amount of $45,000 which was made in December, 1976 and paid in January, 1977. Based upon the performance of the Company during the first three quarters of fiscal year 1977 I would expect the amount available for awards to eligible employees relating to fiscal year 1977 to be larger than the amount that was available with respect

to fiscal year 1976. You have advised us that it would not be appropriate for Rockwell to make an Incentive Compensation Award to Mr. Myers after he has entered the employment of the Government, even though it related to services rendered to the Company prior to September 30, 1977.

Accordingly, Mr. Myers has waived any right which he may have to be considered for such an award for fiscal year 1977, and Rockwell has agreed to make a severance payment in the amount of $50,000 to Mr. Myers in lieu of the award which he might otherwise have received. The severance payment would be made upon his retirement and prior to assuming his new position with the Department of Energy.

I enclose an exchange of correspondence between Mr. Robert Anderson, President and Chief Executive Officer of Rockwell, and Mr. Myers reflecting this arrangement. As we discussed over the telephone, Mr. Myers' personal counsel, Mr. Robert Barton of the firm of Voegelin & Barton, Los Angeles, California, will provide Mr. Myers with an opinion that the acceptance of this severance payment will not violate Section 209 of Title 18 of the United States Code. A copy of that opinion will be furnished to you. I would appreciate it if you would confirm either to me or directly to Mr. Myers that this severance payment arrangement is acceptable.

I am grateful for your courtesy in taking the time to discuss this matter with me.

Sincerely yours,

CHARLES E. HART.

Enclosures.

ROCKWELL INTERNATIONAL,
Pittsburgh, Pa., August 29, 1977.

Mr. DALE D. MYERS,
Palos Verdes Drive West, Palos Verdes Estates, Calif.

DEAR DALE: You have advised us that you intend to retire on or about October 1, 1977 to accept a position with the Department of Energy. This is to inform you that in such event the Company will make you a severance payment in the sum of $50,000 on the date of your retirement. This payment relates to your past services to the Company and is in recognition of the fact that you will not receive any award under the Company's Incentive Compensation Plan for services performed during the fiscal year ending September 30, 1977.

Sincerely,

R. ANDERSON.

ROCKWELL INTERNATIONAL,
El Segundo, Calif., August 31, 1977.

Mr. ROBERT ANDERSON,
President and Chief Executive Officer, Rockwell International Corp., Corporate Offices, Pittsburgh, Pa.

DEAR BOB: Thank you for your letter of August 29, 1977. In view of the severance payment which will be made by Rockwell, I hereby waive any right which I may have to be considered for an award under the Company's Incentive Compensation Plan for services performed during the fiscal year ending September 30, 1977.

Sincerely,

DALE D. MYERS.

ALVIN L. ALM

Mr. Alm joined the Energy Policy and Planning Staff in January 1977. He has been involved in the development of the President's National Energy Plan and other energy policy matters.

In July 1973, Mr. Alm joined the Environmental Protection Agency as Assistant Administrator for Planning and Management. He was responsible for agency-wide evaluation of programs, standards, regulations, and policies. He was also in charge of resources management (planning, budgeting, grants administration, and progress reporting); overall administration (management and organization, personnel, data systems, support services, contracts management and security); and the office of audit.

From 1970 to 1973, Mr. Alm was Staff Director for Program Development with the Council on Environmental Quality (CEQ), where he supervised most of the professional staff. His responsibilities included staff coordination of legislative and administrative initiatives, preparation of CEQ annual reports, management of study programs, and oversight of impacts on Federal programs.

Prior to that time, he was with the U.S. Bureau of the Budget (now the Office of Management and Budget) for seven years as a budget examiner. From 1961 to 1963, Mr. Alm served as a management intern and contract administrator with the U.S. Atomic Energy Commission.

Mr. Alm was selected to receive the 1975 Arthur S. Fleming award as "One of the Ten Outstanding Young Men and Women in the Federal Service." He received his B.S. from the University of Denver in 1960 and his M.P.A. from Syracuse University in 1961.

Born in 1937, Mr. Alm now resides in Washington, D.C., with his wife, Ronnie, and daughter, Jessica.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Energy and Natural Resources requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement for Completion by Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

Assets

Cash on hand and in banks, $3,000.

U.S. Government securities—add schedule, $1,125.

Real estate interests—add schedule, $104,500.

Personal property, $25,000.

Life insurance—cash value, $1,967.

Total assets, $135,592.

Liabilities

Accounts payable, $450.

Real estate mortgages payable—add schedule, $30,000.

Total liabilities, $30,450.

Net worth, $105,142.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. None.

2. Are any assets pledged? (Add schedule.) No.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

Yes—Routine tax audit for 1972—IRS disallowed one interest item, wanted us to pay $150.00 in additional taxes. Taxes prepared by American Tax Service. We originally filed separate returns—after audit we filed a joint return and received a refund of $500.00.

DETAILED SCHEDULES

	Assets	*Liabilities*
U.S. Government securities: U.S. savings bonds, series E	$1,125.00	
Real estate:		
House current value	100,000.00	
Current mortgage on house		$30,000
Other property	4,500.00	

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Alm, Alvin.

Position to which nominated: Assistant Secretary of Energy (Policy and Evaluation).

Date of nomination: September 13, 1977.

Date of birth: 27, January 1937.

Place of birth: Denver, Colorado.

Marital status: Married.

Full name of spouse: Ronnie Marie Alm.

Name and ages of children: Jessica Alm—age 3.

Education: Institution, dates attended. degrees received, and dates of degrees:

Byers Junior High, 1949–1950.

Smiley Junior High, 1950–1952.

East High School, 1952–1954.

South High School, 1954–1956.

University of Denver, 1956–1960, B.A., 1960.

Syracuse University, 1960–1961, M.P.A., 1961.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement:

EPA Nominee for the Rockefeller Public Service Award, (1975, 1976).

Arthur S. Fleming Award, as "One of the Ten Most Outstanding Young Men and Women" in the Executive Branch (1975).

Outstanding Senior Man, University of Denver (1960).

Who's Who in America.

Who's Who in Government.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization, office held (if any), and dates:

Young Professional Forum, Board of Directors, current.

Municipal Finance Forum of Washington, Treasurer, approximately 1969.

American Society for Public Administration, current.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written:

Extensive involvement in all publications of the Council on Environmental Quality. Responsible for outline and production of all CEQ publications.

Numerous public speeches and seminars, some of which were subsequently published.

Future employment relationships: 1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate: Not applicable.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization: Not applicable.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest: 1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated: None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated: None.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated: Not applicable.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy: Not applicable.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items: Not applicable.

QUALIFICATIONS FOR POSITION

My experience and qualifications for the position as Assistant Secretary of Energy (Policy and Evaluation) rest on substantive, functional, and general management experience.

Substantively, a number of positions I have held deal directly or indirectly with energy issues. I began my professional career as a Management Intern with the United States Atomic Energy Commission, gaining experience with the nuclear reactor program. From 1966 to 1970, I was the principal Budget Examiner in the Bureau of the Budget for a number of natural resource programs, including the Tennessee Valley Authority, the largest electric utility in the U.S. From 1970 to 1973, as Staff Director for Program Development for the Council on Environmental Quality, I dealt with a wide variety of energy issues. For example, CEQ provided assistance to AEC and the Department of the Interior in preparing environmental impact statements to meet the requirements of the National Environmental Policy Act. From 1973 to 1977, I was Assistant Administrator for Planning and Management of the Environmental Protection Agency. Among other functions, I was the Agency's coordinator for energy policy.

The functional experience during my career is much more closely related to the responsibilities of the Assistant Secretary of Energy (Policy and Evaluation). My years at the Bureau of the Budget gave me experience in budgeting and analysis of program issues. During my years at CEQ, I gained experience in managing a policy organization and developing legislative and administrative initiatives. At EPA, I was responsible for both the Agency's budget and the policy analysis and evaluation functions.

Finally, I have management experience in a number of diverse situations. My chief management experience comes from EPA where I supervised 1,100 employees with functions ranging from audit, budget, program analysis, manpower training and general administration. That position not only provided me an opportunity to gain general management experience, but also to understand the management problems of a large agency with a significant field structure. During my tenure at EPA, I received the Arthur S. Flemming Award as "One of the Ten Outstanding Young Men & Women in the Federal Service."

Finally, my experience at the Office of Energy Policy and Planning has involved me with a wide range of energy policy issues. Beyond gaining substantive knowledge, this experience also has given me an appreciation of data and analytical needs in energy policy development and implementation.

I believe the substantive, functional and management experience outlined above gives me the background to function effectively as the Assistant Secretary of Energy (Policy and Evaluation).

EMPLOYMENT RECORD

January 1977 to present—The White House, Energy Policy and Planning Staff—Washington, D.C.—Responsible for coordinating the development and review of policy initiatives.

July 1973 to January 1977—Assistant Administrator for Planning and Management, Environmental Protection Agency—Washington, D.C.—Responsible for program planning and evaluation, coordination of EPA's energy policy, economic analysis, standards and regulations analysis and coordination, resources management, audit, grants management, and all internal administration. Supervised about 1100 staff in four locations and provided policy guidance to regional management divisions (which report to regional administrators). Administered a budget of about $80 million covering staff costs, contract studies, and agency support activities.

February 1970 to July 1973—Staff Director for Program Development, Council on Environmental Quality—Washington, D.C.—Responsible to the Council for development of program initiatives to improve environmental quality; CEQ publications, including the CEQ Annual Reports; CEQ's study program; and analysis of environmental impacts arising from environmental impact statements. Supervised most of the professional staff and was the principal staff member in charge of developing initiatives for environmental legislation.

March 1966 to February 1970—Supervisory Budget Examiner, U.S. Bureau of the Budget, Natural Resources Programs—Washington, D.C.—Supervised a three-person budget examining unit dealing with the Federal Water Pollution Control Administration, Tennessee Valley Authority, Water Resources Council, Panama Canal Company and Government, Delaware River Basin Commission and interstate compacts. Involved with water pollution legislation and policy throughout this period and served on a number of task forces to develop Presidential initiatives.

June 1963 to March 1966—Budget Examiner, International Programs, U.S. Bureau of the Budget—Washington, D.C.—Member of a unit examining programs of the State Department and other international agencies, with specific responsibilities for parts of the State Department's salaries and expense budget, refugee programs, Arms Control and Disarmament Agency and the Tariff Commission.

March 1963 to June 1963—Budget Analyst, Office of Budget Review, U.S. Bureau of the Budget—Washington, D.C.—Responsible for preparing overall analyses of budget authority, outlays and trends.

July 1961 to March 1963—Management Intern and Contract Negotiator, U.S. Atomic Energy Commission—New York Operations Office—New York, New York—Participated in the Commission's one-year management intern program, which included a number of rotational assignments. After the intern program, negotiated and administered a number of contracts and prepared a handbook for selection of contractors.

HARRY E. BERGOLD, JR.

Date of birth: November 11, 1931.

Place of birth: New York.

Legal residence: 405 North Ocean Boulevard, Pompano Beach, Florida.

Education: Secondary education in New York grammar, junior high, and high schools. B.A.—Yale—1953—History. M.A.—Yale—1957—History.

Professional:

Foreign Service—1957.

1958–59—Economist, Bureau of Economic Affairs, Department of State.

1960–62—Third Secretary, American Embassy, Teguciagalpa, Honduras.

1962–64—Second Secretary, American Embassy, Mexico City.

1964–65—Mexican Desk Office, Department of State.

1965–66—Special Assistant to Under Secretary of State for Economic Affairs.

1966–67—Special Project Officer for Deputy Under Secretary of State for Management.

1967–72—First Secretary and Special Assistant to Ambassador for Political-Military Affairs, American Embassy, Madrid, Spain.

1972—Political Counselor, American Embassy, Panama.

1973–75—Deputy Assistant Secretary (ISA) for European and NATO Affairs, Department of Defense.

1976—Principle Deputy Assistant Secretary (LA) for Congressional Relations, Department of Defense.

1977—International Affairs Advisor, Energy Policy and Planning Staff.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Energy and Natural Resources requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

Assets

Cash on hand and in banks, 5,375.

* Listed securities—add schedule, 6,575.

Personal property, 2,500.

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* 1,315 shares of Keystone K–2 Mutual fund.

Life insurance—cash value, 55,000.
Other assets—itemize,
Total assets, 69,450.

Liabilities

Other debts—itemize: Alimony—$1000.00 per month.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers: None.

2. Are any assets pledged? (Add schedule.) No.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? No.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Bergold, Harry Earl, Jr.

Position to which nominated: Assistant Secretary, DOE.

Date of nomination: September 13, 1977.

Date of birth: 11, November 1931.

Place of birth: Olean, New York.

Marital status: Divorced.

Education: Institution, dates attended, degrees received, and dates of degrees:

Yale, 1949–53, BA, June 1953.

Yale, 1953–54.

Yale, 1956–57, MA, June 1957.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

1957-Present—Department of State.

1957–59—Economic Officer, Bureau of Economic Affairs, Dept. of State.

1960–62—Economic Officer, American Embassy, Tegucigalpa, Honduras.

1962–64—Political Officer, American Embassy, Mexico.

1964–67—Political and Economic Officer, Bureau of Inter-American Affairs and Office of the Under Secretary for Economic Affairs, Department of State.

1967–72—Political Military Officer, American Embassy, Madrid.

1972—Political Councellor, American Embassy, Panama.

1972–75—Deputy Assistant Secretary (ISA) for European and NATO Affairs Department of Defense.

1976, Principle Deputy Assistant Secretary (LA), Department of Defense.

1977, International Affairs Advisor, Energy Policy and Planning Staff.

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet)

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate: Not applicable.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization: Not applicable.

3. Has anybody made you a commitment to a job after you leave government: No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated: None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated: None.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated: None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy: None other than normal and proper activities during my service in 1976 as Principle Deputy Assistant Secretary for Legislative Affairs in the Department of Defense.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items: Not applicable.

My foreign service career has combined economic and political experience with a heavy emphasis in recent years in political-military issues. I view energy in strategic terms. There is no problem which, if not dealt with effectively, can more surely threaten world peace and stability in the 1980's. I think it important that the Department of Energy's efforts on the international side be directed with those overall international realities at the center of attention.

I found, during my nearly four years at the Department of Defense, as a foreign service officer, that I am well placed to work effectively with the Department of State, other Departments and the Congress in formulating and carrying out policy. It is essential that our international efforts in energy be carefully fashioned, first at the national level and, subsequently, effectively coordinated and carried through internationally either in a multilateral or bilateral framework whichever is more promising. I have extensive experience both in bilateral and multilateral diplomacy and, I think, bring to the job the credentials and ability to get it done.

BIOGRAPHICAL SKETCH OF PHILLIP S. ("SAM") HUGHES

Born: February 26, 1917.

Education: B.A. in Sociology, University of Washington, 1938; Graduate work, University of Washington, 1940.

Military Service: U.S. Army—1943; U.S. Navy—1944–45.

Work Experience: Boeing Aircraft—Seattle, Washington—1946; Veterans Administration, 1946–49; U.S. Bureau of the Budget, 1949–1969; Retired from Bureau of the Budget in 1969 as Deputy Director after 21 years' service; Appointed Acting President of the National Institute of Public Affairs, 1969–1970; Senior Fellow, The Brookings Institution in charge of Public Management Studies Project—1971–72: Appointed Director, Office of Federal Elections, U.S. General Accounting Office, May 1972; Served in that capacity until December 1973; Appointed Assistant Comptroller General, December 1973. Major areas of special interest: Energy, Materials: Shortages, including Food, Congressional Budget; Retired from the General Accounting Office—January 1977; Consultant to Development & Resources Corporation and the Smithsonian Institution.

Marital Status: Married the late Jean Evans Hughes (deceased November 1975), four children: Suzanne Rhodes, Patricia Winters, Shirley Reese, and the late Michael Robert Hughes. Remarried—Aileen R. Hughes, December 1976.

Awards: National Civil Service League Career Service Award; Bureau of the Budget's Award for Exceptional Service; and Rockefeller Public Service Award in the field of Administration.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

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In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

(Aileen R. and Phillip S. Hughes)

	Value
Real estate:	
Home (purchase price early '77)	$97,500
Less Mortgage	32,500
	65,000
Beach property (estimated value)	75,000
Securities: Aileen R.	
AT&T common	6,100
Nuveen (Tax exempt mutual fund)	5,200
Adams County, Miss	5,000
Other	1,500
Phillip S.	
T. Rowe Price Growth Fund	9.000
GSA Bonds	10,000
Armco Steel	5,000
Other:	
Short term loan to daughter and son-in-law to facilitate house purchase	22,000
Personal Property	50,000
Life Insurance cash value	20,000
Pension or Retirement plans:	
CSC	(30+ years credit)
TIAA–CREF	(nominal)
Cash and Bank Accounts	31,000
Total (Excluding Retirement)	304,800

2. Are any assets pledged? (Add schedule.) None

3. Are you currently a party to any legal action? No

4. Have you ever declared bankruptcy? No

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? Charitable contributions audited—No change. Inquiries with respect to estate of wife—matter resolved

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Hughes, Phillip Samuel.

Position to which nominated: Assistant Secretary Intergovernmental & Instit. Affairs.

Date of nomination: September 1977.

Date of birth: 26 Feb. 1917.

Place of birth: Chicago, Illinois.

Marital status: Married.

Full name of spouse: Aileen Ritchie Hughes.

Name and ages of children: Suzanne Hughes Rhodes, 37; Patricia Hughes Winters, 36; and Shirley Hughes Reese, 31.

Education: Institution, dates attended, de-

grees received, dates of degrees. University of Washington, 1934–38, BA, 1938; University of Washington (Seattle), 1939; University of Washington, 1947.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates. July 1977 to August 1977, Smithsonian Institution, Wash., D.C. Consultant (Senator Henry M. Jackson, Chairman, Audit Review Comm., Board of Regents): June 1977, ERDA Washington, D.C. Consultant (James R. Schlesinger): February 1977 to April 1977, Development & Resources Corp. Iran, Consultant (John Macy, Jr.); December 1973 to January 1977, U.S. GAO-Washington, D.C. Ass't Comptroller (Elmer B. Staats); May 1972 to December 1973, U.S. GAO-Wash. D.C. Director, Office of Federal Elections (Elmer B. Staats); 1971 to 1972, Brookings Institution—Research, 1775 Mass Ave. N.W. Washington, D.C.; 1969 to 1971, Acting Pres., Nat'l Inst. of Public Affairs, 1225 Conn. Ave. N.W. Washington, D.C.; March 1966 to 1969, Bureau of the Budget—Wash. D.C. Deputy Director (Director, Charles J Zwick & Chas. L. Schultz); July 1958 to March 1966, Bureau of the Budget, Wash. D.C. Asst. Director, Legislative Reference (Directors, Maurice Stans, David Bell, Kermit Gordon and Charles Schultze); October 1955 to July 1958, Bureau of the Budget, Wash. D.C. Deputy Asst. Director, Legislative Reference (Roger Jones); March 1949 to October 1955, Bureau of the Budget Wash. D.C. Budget Examiner; March 1946 to March 1949, Veterans Administration, Seattle, Wash.; January 1946 to March 1946, Boeing Aircraft, Seattle, Wash.; December 1945 to January 1946, L. M. Roberson, Seattle, Wash.; May 1944 to December 1945, U.S Navy; August 1943 to May 1944, War Manpower Commission, Seattle, Wash.; March 1943 to July 1943, U.S. Army; January 1940 to March 1943, Wash. State Dept. of Soc. Sec. Olympia, Wash.; October 1930 to January 1940, Washington State Highway Dept. Olympia, Wash.; June 1938 to October 1938, Unemployed.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations. OIC Washington, D.C., board member, 1973 to date; Beacon Press, chairman of board, 1972 to date; Delta Upsilon Fraternity, none, 1935 to date; Unitarian Universalist Assn. of America, none, 1951 to date; American Society for Public Administration, none, 1950 to date; National Academy of Public Administration, none, 1971 to date; ACLU, none, 1960s to date; Wilderness Society, none, 1950s to date; Potomac Appalachian Trail Club, none, 1950s to date.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written: None.

Qualifications: State fully your qualifications to serve in the position to which you have been named: Bureau of Budget work included eight years as Assistant Director for Legislative Reference, and 3½ years as Deputy Director; Deputy Director service included work with Regional Councils and State and local governments; Work as Assistant Comptroller General included significant involvement in energy area.

Future employment relationships: 1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate: Not applicable. 2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization: Not applicable. 3. Has anybody made you a commitment to a job after you leave government? No. 4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest: 1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated: Not applicable. 2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated: None.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated: Not applicable. 4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy: Have testified for GAO and Bureau of the Budget in line of duty. 5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items: Not applicable.

David Jonas Bardin

David Jonas Bardin was born in New York City in 1933. He is married to the former Livia Goldeen and they have four children: Jacob Eli Bardin, age 15; Matthew Chain Bardin, age 12; Joseph Raphael Bardin, age 10; and, Sarah Adele Bardin, age 6.

Education: Columbia College, 1950 to 1954, A.B. 1954. Columbia University Law School, 1953 to 1956, LL.B., 1956 (converted to J.D. 1969).

Professional Experiences: Soldier, U.S. Army, Transportation Research and Engineering Command, Fort Eustis, Virginia, 1956 to 1958; Lecturer, University of Virginia (Extension), Williamsburg, Virginia, 1958; Trial attorney, Assistant General Counsel, Deputy General Counsel, U.S. Federal Power Commission, Washington, D.C., 1958–1969; Assistant Attorney General of Israel, Jerusalm, Israel, 1970 to 1972. Counsel, Israel National Council for Research & Development, Jerusalem, Israel, 1972 to 1973. Lecturer, Bar-Ilan Law School (Ramat Gan, Israel) and Tel Aviv University Law School (Ramat Aviv, Israel), 1972 to 1974. Counsel, Environmental Protection Service of Israel, Jerusalem, Israel, 1974 to 1974. Self-employed attorney and consultant, Jerusalem, Israel, and Washington, D.C. (c/o Spiegel & McDiarmid), 1972 to 1974. Commissioner, State of New Jersey, Department of Environmental Protection, May 1974 to April 1977. Deputy Administrator, Federal Energy Administration, April 1977 to date.

Memberships: Member American Bar Association, Federal Bar Association, Federal Power Bar Association, District of Columbia Bar Association, Israel Chamber of Advocates, Bar of New York State.

Fellowships and Awards: Harlan Fiske Stone Scholarship (Columbia Law School); New York State Regents Scholarship; National Merit Scholarship (honorary); Younger Federal Lawyer Award (Federal Bar Association); Special Service Awards (FPC); Outstanding Performance Rating (U.S. Civil Service Commission).

Information Requested of Presidential Nominees

Rule 9 of the Rules of the U.S. Senate Committee on Energy and National Resources requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

Assets

Cash on hand and in banks, $29,700.

U.S. Government securities—Add schedule, $12,025.

Unlisted securities—add schedule, $16,800.

Real estate interests—add schedule, $61,600.

Personal property, $11,900.

Life insurance—cash value, $2,800.

Other assets—itemize: U.S. Govt pension fund, $12,000.

Total assets, $146,825.

Accounts payable, $822.

Real estate mortgages payable—add schedule, $5,030.

Tuition to fall due, $3,048.

Total liabilities, $8,900.

Net worth, $139,075.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. None.

Financial Statement—Schedule (self, wife, four children)

U.S. Government Securities:	
Treasury notes	$12,000
U.S. Savings Bond	25
Total	12,025
Unlisted securities:	
Certificate of deposit N.J. National Bank	13,000
State of Israel Bond	3,750
Bank Leami Bond	50
Total	16,800
Real Estate: Two condominium Apartments Jerusalem, Israel	61,600
Real estate mortgage payable Bank Adanim, Tel Aviv	5,030

2. Are any assets pledged? (Add schedule). None.

3. Are you currently a party to any legal action? No. As a State official, I was involved in court cases as either the plaintiff or the defendant on material related to the New Jersey Department of Environmental Protection's constitutional and statutory responsibilities.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? Yes. No liability.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Bardin, David Jonas.

Position to which nominated: Administrator, Economic Regulatory Administration, Dept. of Energy.

Date of nomination: Sept. 13, 1977.

Date of birth: 2 June 1933.

Place of birth: New York, New York.

Marital status: Married.

Full name of spouse: Livia Goldeen.

Name and ages of children: Jacob Eli Bardin, 15; Matthew Chaim Bardin, 12; Joseph Raphael Bardin, 10; Sara Adele Bardin, 6.

Education: Institution, dates attended, degrees received, dates of degrees. Columbia College, 1950–54, A.B., 1954; Columbia University Law School, 1953–56; LL.B., 1956 (converted to J.D. 1969).

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates. Student assistant, Professor Walter Gellhorn, Columbia University Law School, New York, New York 1955; Soldier, U.S. Army, Transportation Research & Engineering Command. Fort Eustis, Virginia 1956–58; Lecturer, University of Virginia (Extension), Williamsburg, Virginia. Trial Attorney; assistant general counsel; deputy general counsel, Federal Power Commission, Washington, D.C. 1958–69; Assistant, Attorney General of Israel, Jerusalem, Israel 1970–72 Counsel, Israel National Council for Research and Development, Jerusalem, Israel 1972–73; Lecturer, Bar-Ilan Law School (Ramat Gan. Israel) and Tel Aviv Univ. Law School (Ramat Aviv, Israel) 1972–74; Counsel, Environmental Protection Service of Israel, Jerusalem, Israel 1973–74; Self-employed attorney and consultant, Jerusalem Israel and Washington, D.C. (c/o Spiegel & McDiarmid); Commissioner, State of New Jersey, Department of Environmental Protection 1974–1977; Deputy Administrator—Federal Energy Administration Washington, D.C.-April 1977-Present.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement: Harlan Fiske Stone Scholarship (Columbia Law School); New York State Regents Scholarship; National Merit Scholarship (honorary); Younger Federal Lawyer Award (Federal Bar Association); Special Service Awards (FPC); Outstanding Performance Rating (U.S. Civil Service Commission).

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations. American Bar Association, Federal Bar Association, Federal Power Bar Association, District of Columbia Bar Association, Israel Chamber of Advocates, Bar of New York State.

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written: "Organization, responsibilities and authority within the Government of Israel respecting environmental quality and protection" in Government Organization for Dealing With the Environment, Advanced Technology Ltd., Tel Aviv, 1973; Materials on Accounting for Lawyers (Hebrew) Law Facility of Bar-Ilan University, Ramat-Gan, 1973 (mimeograph); Bulletin—Energy in Israel. Environmental Protection Service, Jerusalem, 1973; "The Control of Electric Utilities in Israel" in Public Administration in Israel & Abroad 1971. Jerusalem, 1972; "Law and Administration" in Air Pollution in Israel (Hebrew). Israel National Committee on the Biosphere, Jerusalem, 1972; How To Survey Israeli Law (pamphlet). Jerusalem, 1971; Selected articles on energy, environmental law in Bioshera (Hebrew). Jerusalem, 1971–1974.

Qualifications:

State fully your qualifications to serve in the position to which you have been named: Section 206(a) of the Department of Energy Organization Act, P.L. 95–91, provides that: "Such Administrator shall be, by demonstrated ability, background, training, or experience, an individual who is specially qualified to assess fairly the needs and concerns of all interests affected by Federal energy policy." Most of my career, including federal and state government, and consulting abroad, has involved regulation aimed at striking a fair balance among affected interests.

Future employment relationships: 1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate: N.A.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization: No.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? N.A. Serves at pleasure of the President.

Potential conflicts of interest: 1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated. None.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated. None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy: As Deputy Administrator of the Federal Energy Administration, I have testified before Congressional Committees in support of Administration energy policies and programs. Before April, 1977, on behalf of the State of New Jersey, I testified before Congressional Committees, communicated with their Chairmen, members and staff, and advised the New Jersey delegation.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items: I anticipate no conflicts. If situations arise that raise a question, I shall abide by the dictates of conscience and advice of the Attorney General or agency general counsel.

CHARLES B. CURTIS

Personal information:

Born: April 27, 1940.

Married: Rochelle E. Bates; one child, Brent Arthur.

Address: Federal Power Commission, 825 N. Capitol, N.E., Washington, D.C. 20426. 9500 Ewing Drive, Bethesda, Maryland 20034.

Telephone: 202/275–4152 (office); 301/530–5563 (home).

Professional experience:

August 1977 to present: Chairman, Federal Power Commission.

January 1977 to July 1977: Van Ness, Curtis, Feldman & Sutchliffe.

November 1976 to January 1977: Carter-Mondale Transition Team—Federal. Energy Administration Liaison Officer.

June 1971 to November 1976:

Counsel, Committee on Interstate and Foreign Commerce—U.S. House of Representatives, Washington, D.C.

General responsibilities with respect to matters committed to the Committee's jurisdiction with special emphasis on energy and securities regulation. Principal staff responsibility in the House of Representatives for a number of recent laws including:

Consumer Product Safety Act.

Motor Vehicle Insurance and Cost Savings Act.

Emergency Petroleum Allocation Act of 1973.

Energy Supply and Environmental Coordination Act of 1974.

Securities Acts Amendments of 1975.

Energy Policy and Conservation Act of 1975.

Energy Conservation and Production Act of 1976.

May 1967 to June 1971:

Securities and Exchange Commission Special Counsel, Division of Trading and Markets; Chief Branch of Regulation and Inspections; and Attorney-Advisor (Finance).

As Attorney-Advisor (Finance) responsible for giving legal advice to regional offices, rendering interpretations of provisions of the securities laws and of the rules and regulations of the Commission. Primarily involved in regulation of the national securities exchanges, the National Association of Securities Dealers and broker-dealer participants in the securities markets.

As Chief of the Branch of Regulation and Inspections, supervised the work of ten attorney-advisors and three securities analysts as well as supporting peronnel.

As Special Counsel, worked directly with the Commission and the Director of the Division. Duties required the preparation of memoranda on various subjects to serve as a basis for Commission policy decisions. Supervised task forces asigned to draw implementing regulations for Commission decisions under the Securities Exchange Act of 1934.

June 1965 to May 1967:

Staff Attorney (later Supervising Staff Attorney) Comptroller of the Currency, Treasury Department.

Answered written and oral inquiries respecting interpretations of Comptroller's regulations and provisions of Federal banking laws. Drafted regulations and administrative opinions of the Comptroller and assisted in the preparation of appellate briefs and motions in cases involving appeals from rulings of the Comptroller in bank merger and branch bank cases. Supervisory responsibilities for the work of seven other attorneys.

Education:

Legal: Boston University Law School, 1962–1965, LL.B., *cum laude*, Law Review, Member of Editorial Board, P. Dennison Smith, Jr., and Joseph L. Rome scholarship awards. Graduated among top ten in class of 178.

Undergraduate: University of Massachusetts, Amherst, Massachusetts, 1958–1962, A.B., B.S. Elected to Senior Men's Honor Society. Permanent Class Vice President.

Admitted to practice:

Commonwealth of Massachusetts—1965.

District of Columbia—1976.

Professional business references furnished upon request.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Energy and Natural Resources

requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

(As of September 10, 1977)

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household. (Figures are rounded to the nearest dollar.)

ASSETS

Cash on hand and in banks,[1] $35,044.

Real estate interests—add schedule, $87,000.

Personal property,[2] $12,261.

Life insurance—cash value,[3] $450.

Other assets—itemize:

(a) Employee contribution to Government retirement plan, receivable on demand (estimated), $19,000.

(b) Distribution of capital account from law partnership,[4] none.

(c) See Note 5 below.

Total assets,* $153,755.

LIABILITIES

Notes payable to banks—unsecured.[5]

Accounts payable,[6] $1,000.

Real estate mortgages payable—add schedule,[7] $25,000.

Total liabilities, $26,000.

Net worth, $127,655.

(See notes attached.)

NOTES

*Excluding distribution of capital account of law partnership.

[1] Schedule A attached.

[2] Schedule C attached.

[3] Policy number BOS3-11-258-573; Prudential Insurance Company of America—cash surrender value of $260 plus undertermined accumulated dividends estimated to be $190.

[4] Distribution from capital account from severed law partnership cannot be valued at this time. The firm has retained an independent Certified Public Accountant to calculate my distributive share. It is roughly estimated that this distributive share will range between $25,000–$40,000. This accounting will be made within the next thirty days. I intend to file the accounting with the Senate Energy Committee.

[5] Charles B. Curtis is jointly and severally liable on a note in the amount of $8,605.40 plus interest, payable to the National Bank of Washington, due September 20, 1977, which is offset by a note receivable held by the law partnership due and payable on the same date in an equivalent amount. The offsetting obligations will be extinguished as of September 20, 1977.

[6] Outstanding bills payable for current and ordinary household and living expenses.

[7] See Schedule B.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Coincident with my confirmation by the Senate to become Chairman of the Federal Power Commission, I severed all current and future relationships with the firm of Van Ness, Curtis, Feldman & Sutcliffe. The firm has retained an independent Certified Public Accountant to calculate my distributive share in the capital account in the firm occasioned by the severance of my partner relationship. It is roughly estimated that this distributive share will range between $25,000–$40,000. It is not possible at this moment in time, however, to specifically quantify the amount. This accounting will be made within the next thirty days. I intend to file the accounting with the Senate Energy Committee. As a point of emphasis, I should point out that the measuring of the distributive share of the capital account is to be made on the basis of billing outstanding and unbilled-for services of the law firm as they existed up to (but not beyond) my termination date of August 1, 1977.

2. Are any assets pledged? (Add schedule.) Yes; residence (See Schedule B), automobile (See Schedule C).

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? No.

AFFIDAVIT

District of Columbia.

Mr. Charles B. Curtis, being duly sworn, hereby states that he has read and signed the foregoing Financial Statement and that the information provided therein is, to the best of his knowledge and belief, current, accurate, and complete.

CHARLES B. CURTIS.

Subscribe and sworn before me this 19th day of September, 1977.

Jennie P. Shelton, Notary Public.

My Commission Expires August 31, 1979.

Schedule A—Cash on hand and in banks

Checking: Suburban Trust Co., Hyattsville, Md., Acct. 43-1309-8-3101	$3,724.15
Checking: National Bank of Washington, P.O. Box 2844, Washington, D.C., Acct. 3-831-33-7-01	5,101.00
Savings: Wright Patman Congressional, Employees Federal Credit Union, Longworth House Office Building, Washington, D.C. 20515	26,218.74
Total	35,043.89

Schedule B—Real estate interests

Residence 9500 Ewing Drive, Bethesda, Md.:	
Fair market value*	$82,000
Mortgage indebtedness, Interstate Federal Savings Association**	25,000
Equity	57,000
2nd trust, property located at Hollins Drive, Bethesda, Md.: Bethesda, Md.:	
$5,000 at 9% due January 1978	5,000
Fair market value of security*	94,000
1st mortgage**	35,000
Equity security 2nd mortgage	60,000
Total	62,000

*Estimated values.

**Rounded to the nearest $1,000.

Schedule C—Personal property

Automobiles:	
1971 Audi, fair market value*	$1,500
1975 Opel:	
Fair market value*	3,200
Indebtedness (Wright Patman Congressional Employees Credit Union)	2,439
Equity	761
Miscellaneous (unspecified furniture, clothing, etc.)**	10,000
Total	12,261

*Estimated value.

**Current estimated value (replacement cost estimated to be $25,000).

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Curtis, Charles Brent.

Position to which nominated: Chairman, Federal Energy Regulatory Commission.

Date of nomination: September 13, 1977.

Date of birth: April 27, 1940.

Place of birth: Upper Darby, Pennsylvania.

Marital status: Married.

Full name of spouse: Rochelle Elaine Bates Curtis.

Name and ages of children: Brent Arthur-Bates Curtis, Age: 8.

Education: degrees

Boston University Law School, 1962–65, LL.B., cum laude, 1965.

University of Massachusetts, 1958–62, A.B., B.S., 1962.

Belmont High School, September 1955 to June 1958.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

Aug. 1977 to Present: Federal Power Commission, Chairman.

Jan. 1977 to July 1977: Van Ness, Curtis, Feldman & Sutcliffe.

Nov. 1976 to Jan. 1977: Carter-Mondale Transition Team.

Federal Energy Administration Liaison Officer.

June 1971 to Nov. 1976: Counsel, Committee on Interstate and Foreign Commerce—U.S. House of Representatives, Washington, D.C. General responsibilities with respect to matters committed to the Committee's jurisdiction with special emphasis on energy and securities regulation. Principal staff responsibility in the House of Representatives for a number of recent laws including:

Consumer Product Safey Act.

Motor Vehicle Insurance and Cost Savings Act.

Emergency Petroleum Allocation Act of 1973.

Energy Supply and Environmental Coordination Act of 1974.

Securities Acts Amendments of 1975.

Energy Policy and Conservation Act of 1975.

Energy Conservation and Production Act of 1976.

May 1967 to June 1971: Securities and Exchange Commission—Special Counsel, Division of Trading and Markets; Chief, Branch of Regulation and Inspections; and Attorney-Advisor (Finance). As Attorney-Advisor (Finance) responsible for giving legal advice to regional offices, rendering interpretations of provisions of the securities laws and of the rules and regulations of the Commission. Primarily involved in regulation of the national securities exchanges, the National Association of Securities Dealers and broker-dealer.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Boston University Law School, LL.B, cum laude, Law Review, Member of Editorial Board, P. Dennison Smith, Jr., and Joseph L. Rome Scholarship awards.

University of Massachusetts, Amherst, Massachusetts. Elected to Senior Men's Honor Society, Permanent Class Vice President, Veterans of Foreign Wars and American Legion Scholarship awards.

Letters of commendation: Comptroller of the Currency, U.S. Treasury; Chairman, Securities and Exchange Commission.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

D.C. Bar Association, None, November 1976 to present.

Federal Bar Association, Member, Exec. Council 1975 to present. Securities Law Section, 1975–77.

American Bar Association, None, 1965 to present.

American Judicature Association, None, 1975 to 1976.

St. Luke's House, Inc., Member, Board of Directors, 1975 to present.

Employment History:

Participant in the securities markets.

As Chief of the Branch of Regulation and Inspections, supervised the work of ten attorney-advisors and three securities analysts as well as supporting personnel.

As Special Counsel, worked directly with the Commission and the Director of the Division. Duties required the preparation of memoranda on various subjects to serve as a basis for Commission policy decisions. Supervised task forces assigned to draw impiementing regulations for Commission decisions under the Securities Exchange Act of 1934.

June 1965 to May 1967: Staff Attorney (later Supervising Staff Attorney) Comptroller of the Currency, Treasury Department.

Answered written and oral inquiries respecting interpretations of the Comptroller's regulations and provisions of Federal banking laws. Drafted regulations and administrative opinions of the Comptroller and assisted in the preparation of appellate briefs and motions in cases involving appeals from rulings of the Comptroller in bank merger and branch bank cases. Supervisory responsibilities for the work of seven other attorneys.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. I have not had direct and sole authorship responsibility for any published articles or reports. However, I have written numerous committee reports in connection with my responsibilities as counsel to U.S. House Committee on Interstate and Foreign Commerce related to energy, securities and consumer safety and other matters. Also, as assistant note editor of the Boston University Law School Law Review, I participated in the writing of several articles for that law review.

Qualifications: State fully your qualifications to serve in the position to which you have been named.

Future employment relationships: 1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate. Such severance will occur by operation of law.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. No.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest: 1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None, see note respecting distribution of capital account of law partnership.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated. None.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an aegnt, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated. See attached sheet titled "Potential Conflicts of Interest: Responses to items 3, 4 and 5."

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy. Same as for 3.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items. Same as for 3.

GOVERNMENT EXPERIENCE

August 1977 to present: Federal Power Commission, Chairman.

November 1976 to January 1977: Carter-Mondale Transition Team. Federal Energy Administration Liaison Officer.

June 1971 to November 1976:

Counsel, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

General responsibilities with respect to matters committed to the Committee's jurisdiction with special emphasis on energy and securities regulation. Principal staff responsibility in the House of Representatives for a number of recent laws including:

Consumer Product Safety Act.

Motor Vehicle Insurance and Cost Savings Act.

Emergency Petroleum Allocation Act of 1973.

Energy Supply and Environmental Coordination Act of 1974.

Securities Acts Amendments of 1975.

Energy Policy and Conservation Act of 1975.

Energy Conservation and Production Act of 1976.

May 1967 to June 1971:

Securities and Exchange Commission, Special Counsel, Division of Trading and Markets; Chief, Branch of Regulation and Inspections; and Attorney-Advisor (Finance).

As Attorney-Advisor (Finance) responsible for giving legal advice to regional offices, rendering interpretations of provisions of the securities laws and of the rules and regulations of the Commission. Primarily involved in regulation of the national securities exchanges, the National Association of Securities Dealers and broker-dealer participants in the securities markets.

As Chief of the Branch of Regulation and Inspections supervised the work of ten attorney-advisors and three securities analysts as well as supporting personnel.

As Special Counsel, worked directly with the Commission and the Director of the Division. Duties required the preparation of memoranda on various subjects to serve as a basis for Commission policy decisions. Supervised task forces assigned to draw implementing regulations for Commission decisions under the Securities Exchange Act of 1934.

June 1965 to May 1967:

Staff Attorney (later Supervising Staff Attorney) Comptroller of the Currency, Treasury Department.

Answered written and oral inquiries respecting interpretations of Comptroller's regulations and provisions of Federal banking laws. Drafted regulations and administrative opinions of the Comptroller and assisted in the preparation of appellate briefs and motions in cases involving appeals from rulings of the Comptroller in bank merger and branch bank cases. Supervisory responsibilities for the work of seven other attorneys.

June 1964 to September 1964:

Attorney General, Commonwealth of Massachusetts, Law Clerk, Criminal Division.

QUALIFICATIONS

For virtually my entire professional experience, I have been privileged to hold various positions of responsibility for the federal government. I have served within an executive department as a staff attorney for the Comptroller of the Currency of the U.S. Department of Treasury. For four years I was employed by an independent regulatory commission in positions of ascending responsibility. My experience with the Securities and Exchange Commission, well recognized as perhaps the most competent of federal agencies, has been instructive in understanding the dynamics of working with a collegial body charged with the administration of economic policies and regulatory programs. I have been trained in administrative law and have had supervisory experience. That endeavor coupled with my service as counsel to the Interstate and Foreign Commerce Committee of the House of Representatives (which has jurisdictional responsibility for the oversight of many of the independent regulatory agencies) has inbued me with an understanding of the expectancies of the Congress and the legal requirements pertaining to the independence of judgment called for in the generic acts establishing independent regulatory commissions. I know of the full conviction and purpose of the Congress in sheltering these regulatory functions from partisan influence. I pledge to fully honor that commitment in the office for which I have been nominated.

In the past five years the Congress has considered and acted upon several major initatives in the energy field. Specifically, these have included: The Emergency Petroleum Allocation Act of 1973, The Energy Supply and Environmental Coordination Act of 1974, The Energy Policy and Conservation Act of 1975, and the Energy Conservation and Production Act of 1976. In the course of congressional deliberations on these and other legislative matters I have obtained a broad background in energy policy decision-making and an appreciation for the complexity and difficulties which confront government in this most important area.

Most recently I have served as Chairman of the Federal Power Commission. The Federal Energy Regulatory Commission to which I have been nominated will accede to the majority of the current functions and jurisdictional responsibilities of the Federal Power Commission.

POTENTIAL CONFLICTS OF INTEREST: RESPONSES TO ITEMS 3, 4, AND 5

As previously indicated, virtually my entire professional experience has involved government service. From July 1965 to July 1967 I served on the legal staff of the Comptroller of the Currency. In June 1967 I began a four-year stint in various legal capacities with the Securities and Exchange Commission. For the period May 1971 through November 1976, I was engaged as Counsel to the Committee on Interstate and Foreign Commerce, U.S. House of Representatives. From November 1976 through January 20, 1977, I served as

Federal Energy Administration Liaison Officer on the Carter-Mondale Transition Team and, most recently, I have served as Chairman of the Federal Power Commission. I do not believe that my activities in these positions in any way constitute or could result in a possible conflict of interest in the position for which I am being considered. Moreover, I have not engaged in any business relationship, dealing or financial transaction during that period (i.e., July 1965 through January 20, 1977 and from August 1977 to the present) which, in my opinion, could in any way constitute or result in a possible conflict of interest in the position for which I am being considered.

From January 21, 1977 to July 1977, I was engaged in the practice of law as a member of the firm of Van Ness, Curtis, Feldman & Sutcliffe. In this capacity, I established certain client relationships which pose potential conflicts. My responses to items (3), (4) and (5) attempt to describe those client relationships and the manner in which I would propose to resolve any potential conflict of interest. For convenience, my response will consider the questions en bloc.

I would propose to excuse myself, while a member of the Commission, from the consideration of any matter which may come before that Commission which specifically and directly affects that interest of any client of the firm of Van Ness, Feldman & Sutcliffe for a period of one year beginning with August 1977 at which time I severed my relationship with the firm. I would propose to *permanently* disqualify myself from the consideration of any matter which specifically and directly affects a client for which I had principal responsibility while engaged in the practice of law and with respect to which I furnished advice or represented the client before any administrative agency or the Congress.

The following describes these client relationships, the specific activities engaged in on behalf of the client, and the potential conflict of interest, if any, which may attend my discharge of the responsibilities to be vested in me as a member of the Federal Energy Regulatory Commission.

1. American Institute for Certified Public Accountants:

a. Description: General consultative relationship with respect to administering agency actions and legislation affecting the accounting profession including its role and responsibilities with respect to municipal disclosures, illegal or questionable payments by corporate officials, promulgation of accounting standards and principles, relationship with government regulatory bodies and other related matters. Representation included appearances before the Congress and administrative agencies.

b. Specific Activities: I made appearances on behalf of the client before the Congress being duly registered under the Lobby Registration Act in support of modifications to legislation dealing with the role and responsibilities of accountants with respect to questionable and illegal corporate payments and with respect to providers of health services under the Medicaid and Medicare programs. I also made appearances before the Congress in connection with the need for and content of Federal regulation of the accounting profession.

c Potential Conflict of Interest: None perceived.

2. Pacific Gas and Electric Company:

a. Description: General consultative relationship with particular interest in the selection of a system for the transportation of Alaska natural gas to serve California and western states. Relationship involved appearances on behalf of the client before administrative agencies only.

b. Specific Activities: I made appearances before administrative agencies in support of a Presidential decision under the Alaska Natural Gas Transportation Act to authorize the construction of a pipeline system for the transportation of Alaska natural gas which includes direct pipeline delivery facilities for the distribution of a portion of such gas to California and western state markets. I made no appearances on behalf of this client before the Congress nor did I appear on behalf of this client before any administrative agency with respect to any other matter.

c. Potential Conflict of Interest: A question of conflict of interest could be raised with respect to the selection of a system for the transportation of Alaska natural gas to serve California and western state markets, if this decision is not made by the President under the Alaska Natural Gas Act but left to the Federal Energy Regulatory Commission. Accordingly, if this occurs, I would propose to disqualify myself permanently from consideration of any such matter.

3. Central and South West Corporation:

a. Description: Specific consultative relationship with respect to the interconnection of electric utilities in the State of Texas in interstate commerce. Relationship involved appearances on behalf of the client in support of legislation proposed by the President in the National Energy Act to provide a means of fostering such interconnection.

b. Specific Activities: I made appearances before the Congress being duly registered under the Lobby Registration Act in support of provisions of the President's bill designed to foster interconnection of electric utilities. The client's interest was specifically confined to the problem which exists in the State of Texas. I made no other appearances on behalf of the client with respect to any other matter nor did I appear before any administrative agency on behalf of this client.

c. Potential Conflict of Interest: I believe there exists a potential conflict of interest with respect to Federal Energy Regulatory Commission consideration of any proposed interconnection of electric utilities in the State of Texas with affiliates of the Central and South West system operating in Oklahoma, Louisiana and Arkansas. Accordingly, I would propose to permanently disqualify myself from consideration of this issue which specifically involves the compelled interconnection of affiliated entities of Central and South West Corporation with electric utilities in the State of Texas.

4. Manufacturing Chemists Association:

a. Description: General consultative relationship with respect to national energy policy. Relationship did not involve or contemplate appearances before the Congress or administrative agencies.

b. Specific Activities: I acted in an advisory and consultative capacity only. I made no appearances before the Congress or administrative agencies.

c. Potential Conflict of Interest: None perceived.

5. American Bakers Association:

a. Description: General consultative relationship concerning national energy policy. Relationship contemplated appearances before the Congress on behalf of the Association (terminated June 17). The relationship did not involve appearances before administrative agencies.

b. Specific Activities: I made appearances before the Congress being duly registered under the Lobby Registration Act in support of legislation which proposes to provide emergency allocations and curtailment protection for essential agricultural uses of natural gas. As noted above, I terminated on June 17, the lobby registration on behalf of this client. I continued to serve the client in a consultative capacity. I made no appearances on behalf of this client before administrative agencies.

c. Potential Conflict of Interest: Some potential exists. I would propose to permanently disqualify myself from consideration of any matter which contemplates the creation of a separate priority for the allocation of natural gas to, or the protection from curtailment of, the baking industry or other food processors as a separate class.

6. Wheelabrator-Frye Inc.:

a. Description: General consultative relationship with respect to matters concerning solvent refined coal process technology, resource from waste recovery systems and synthetic gas from coal. Relationship involved appearances before the Congress and administrative agencies.

b. Specific Activities: I made appearances before the Congress being duly registered under the Lobby Registration Act in support of legislation to provide Federal financial assistance for the demonstration of solvent refined coal process technology. I also made appearances concerning the possible modification of proposed amendments to the Clean Air Act to clarify the application of new source performance standards to sources which avail themselves of solvent refined coal process products. I had discussions with members of administrative agencies concerning these matters but made no formal appearances before these agencies.

c. Potential Conflict of Interest: None perceived.

7. Dupont-National Distillers (joint venture):

a. Description: Specific consultative relationship concerning proposed construction order to be issued with respect to syngas facility located in Texas. Relationship contemplated appearance before administrative agency. The matter is now closed and the relationship has been terminated.

b. Specific Activities: I made appearances before the Federal Energy Administration on behalf of this client concerning a notice of intent to issue a construction order under the Energy Supply and Environmental Coordination Act with respect to a proposed syngas facility located in Texas.

c. Potential Conflict of Interest: None perceived.

8. The Business Roundtable:

a. Description: General consultative relationship only concerning national energy policy. No appearances before the Congress or administrative agencies were undertaken or are contemplated.

b. Specific Activities: None engaged in beyond a general advisory and consultative relationship.

c. Potential Conflict of Interest: None perceived.

With respect to the following clients, other members of the firm of Van Ness, Feldman & Sutcliffe had principal responsibility. In no case did I engage in any activity on behalf of such clients for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. I did render advice to the Arctic Slope Regional Corporation concerning their interest in connection with legislation proposed under Section 17(d)(2) of the Alaska Native Claims Settlement Act, and to the Northern Tier Pipeline Company concerning their interest in gaining approval of a proposed pipeline for the distribution of surplus Alaska crude oil from the West Coast to the Northern Tier and Midwestern States. In this latter regard, I also rendered advice to Northern Tier Pipeline Company concerning the prospect of obtaining legislation to expedite the permitting and construction process of such a pipeline system. Also, I rendered advice to Kidder-Peabody and Company concerning the financing of home insulation and conservation programs for residences.

Other client relationships for which other members of the firm had principal client responsibility:

1. Northern Tier Pipeline Company.
2. North Slope Borough.
3. Allstate Insurance.
4. Consumers Action Now.
5. Wolf Trap Foundation.
6. Association of Local Transport Airlines.
7. National Park Concessions, Inc.
8. Republic Geothermal, Inc.
9. Arctic Slope Regional Corporation.
10. Kidder-Peabody & Co.
11. Committee for Consumers No-Fault.
12. Texaco, Inc. (Consultative only respecting coal lands located in alluvial valleys, refinery competition and coal conversion.
13. Seatrain-Alaska Consolidated Shipping, Inc.
14. Montana Power Company.
15. Western Crude Oil, Inc.
16. National Committee for Automobile Crash Protection.

I do not believe that any of the above-listed client relationships pose a true conflict of interest inasmuch as the clients either have no business before the Federal Energy Regulatory Commission or with respect to jurisdictional matters to be assigned to that Commission, or, if they do, it is with respect to issues beyond the firm's existing client relationships. However, in an excess of caution and as noted earlier in this response, I would propose to excuse myself for a period of one year with respect to any matter before the Federal Energy Regulatory Commission which directly and specifically affected the interest of any of these clients, should the issue present itself.

PAST CLIENT RELATIONSHIPS

The law firm of Van Ness, Feldman & Sutcliffe had a brief client relationship with Texas Eastern Transmission Company concerning their interest in an application for waiver under the Jones Act to permit the transportation of LPG in a foreign flag vessel from a port in Texas to facilities in New Jersey during last winter's emergency. This matter does not involve the jurisdiction of the Federal Energy Regulatory Commission and the representation of the client was transitory and limited to this specific purpose. I believe no potential conflict of interest exists although Texas Eastern Transmission Company is regulated by the Commission with respect to other aspects of its business.

GEORGE R. HALL

Dr. George R. Hall received his B.A. Degree from Claremont Men's College and his M.A. and PhD Degrees in Economics from Harvard University. He has a diversity of teaching, research and government experience with the University of Virginia, the Federal Reserve System, RAND, AEC, and the Department of Defense. For eight years, he was senior staff analyst and project leader with RAND Corporation, and prior to his appointment with OSD, he served as an Economic Advisor to the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission. At DOD, he was Deputy Director (Resource Analysis), Office of the Director, Planning and Evaluation.

He, his wife, Florence Fray Hall and their four children, Elizabeth, Margaret, Andrew and George, live in McLean, Virginia.

RÉSUMÉ

Office address: Office of the Director, Planning and Evaluation, Department of Defense, Washington, D.C. 20301 (202) 695-0528.

Home address: 2010 Powhatan Street, Falls Church, Virginia 22043 (703) 536-5810.

Education: Claremont Men's College, B.A.; Harvard University, M.A., Ph.D.

Employment: Deputy Director, (Resource Analysis), ODP&E (formerly Deputy Assistant Secretary of Defense Resource Analysis, OASD (PA&E)), Department of Defense, Washington, D.C. 20301, Sept. 1974 to Present.

Economic Advisor, Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545, Jan. 1973 to Sept. 1974.

Senior Economic (formerly Economist), Management Sciences Department, The RAND Corporation, 1700 Main Street, Santa Monica, California 90406, 1964 to Jan. 1973.

Economist, Board of Governors, Federal Reserve System, Washington, D.C., 1963 to 1964.

Assistant Professor of Economics, University of Virginia, Charlottesville, Virginia 1959 to 1963.

PERSONAL DATA

Born 1930, Pasadena, California, married, 4 children.

SELECTED PUBLICATIONS

"Risk and Corporate Rates of Return," (with I. N. Fisher), *Quarterly Journal of Economics*, February 1969. (A reply to a comment on this article by R. E. Caves and B. S. Yamey appeared in the Q.J.E., August 1971.)

"Transfers of United States Aerospace Technology to Japan," (with R. E. Johnson) in R. Veronon, (Ed.), *The Technology Factor in International Trade*, National Bureau of Economic Research, 1970.

"Defense Procurement and Public Utility Regulation," *Land Economics*, May 1968.

"Strategy and Organization in Public Land Policy," *Natural Resources Journal*, April 1967.

"Bank Holding Company Regulation," *Southern Economic Journal*, April 1965.

"Good Faith, Discrimination and Market Organization," (with Charles F. Phillips, Jr.), *Southern Economic Journal*, October 1963.

"The Salk Vaccine Case: Parallelism, Conspiracy and Other Hypotheses," (with Almarin Phillips), *Virginia Law Review*, Spring 1962.

"Anticompetitive Impacts of Expanded Bank Service Lines," p-4594, The RAND Corporation, 1971 (prepared for President's Commission on Financial Structure and Regulation).

Case Studies in Educational Performance Contracting, (with others, R-900-HEW), The RAND Corporation, December 1971.

Change in Education (with P. Carpenter-Huffman and G. C. Sumner) Ballinger Publishing Co., Cambridge, Mass. 1974.

"Are There Unusually Effective Schools" (with Robert E. Klitgaard), *The Journal of Human Resources*, Vol. X, 1974.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Energy and Natural Resources requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household. George Hall and Florence F. Hall, June 10, 1977.

Assets

Cash on hand and in banks, $7,700.
Listed securities—add schedule* $6,192.
Real estate interests—residence, $100,000.
Personal property, $25,000.
Partnership in undeveloped land (acquisition cost), $9,872.
Total assets, $148,764.

Liabilities

Real estate mortgages payable—add schedule (residence), $59,000.
Amount payable on land partnership, $7,922.
Total liabilities, $66,922.
Net worth, $81,842.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm membership or from former employers, clients, and customers. None.

2. Are any assets pledged? (Add schedule.) None, except for residence which is mortgaged and undeveloped land in which I am a partner.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? No.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Hall, George Robert.
Position to which nominated: Member, Federal Energy Regulatory Commission.
Date of nomination: September 13, 1977.
Date of birth: September 9, 1930.
Place of birth: Pasadena, California.
Marital status: Married.
Full name of spouse: Florence Ann Fray Hall.
Names and ages of children: Elizabeth Ellen, 15, George John, 10, Margaret Jackson, 13, Andrew Fray, 10.

EDUCATION

Institution, dates attended, degrees received, and dates of degrees:
Claremont Men's College, 1948–1951, B.A., 1951.
Harvard University, 1951–1953, M.A., 1953.
Harvard University, 1957–1959, Ph.D., 1960.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates. See attachment 2.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement. Distinguished Civilian Service Medal—U.S. Department of Defense.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization, office held (if any), and dates.

American Economic Association, none, 1954–present.

PUBLISHED WRITINGS

List the titles, publishers and dates of any books, articles, or reports you have written. See attachment 3.

QUALIFICATIONS

State fully your qualifications to serve in the position to which you have been named. (attach sheet) See attachment 4.

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*See Attachment 1.

FUTURE EMPLOYMENT RELATIONSHIPS

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate. Yes.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. None.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

POTENTIAL CONFLICTS OF INTEREST

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated. Union Carbide Corporation, Central Telephone and Utilities.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated. None. Other than as an employee, my dealings with the Federal Government have been as researcher or research director for the RAND Corporation, which is a Governmental contractor.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy. None.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items. Will sell stock listed in item 2, page 6, or any other stock judged to be a potential conflict of interest.

ATTACHMENT 1—STOCK OWNED BY GEORGE R. AND/OR FLORENCE F. HALL

	Estimated Market Value
Central Telephone and Utilities (64 shares)	200.00
Titan Group (100 shares)	200.00
Union Carbide (25 shares)	1,275.00
TI Corp. (11 shares)	190.00
Bullock Fund (about 250 shares)	2,013.00
Greyhound Corp. (44 shares)	594.00
Total	6,912.00

ATTACHMENT 3—BIBLICGRAPHY: GEORGE R. HALL

Articles and books

"Transfers of United States Aerospace Technology to Japan" in R. Vernon, (Ed.), *The Technology Factor in International Trade*. National Bureau of Economic Research, 1970.

"Risk and Corporate Rates of Return," (with I. N. Fisher), *Quarterly Journal of Economics*, February 1969.

"Defense Procurement and Public Utility Regulation," *Land Economics*, May 1968.

"Strategy and Organization in Public Land Policy," *National Resources Journal*, April 1967.

"Bank Holding Company Regulation," *Southern Economics Journal*, April 1965.

"Antimerger Criteria: Power, Concentration, Foreclosure and Size," (with C. F. Phillips, Jr.), *Villanova Law Review*, Winter 1966.

"Research into Banking Structure and Competition," with R. C. Holland and others), *Federal Reserve Bulletin*, November 1964.

"Product Quality and Public Land Management," *Land Economics*, February 1964.

"Good Faith, Discrimination and Market Organization," (with Charles F. Phillips, Jr.), *Southern Economic Journal*, October 1963.

"The Myth and Reality of Multiple Use Forestry," *Natural Resources Journal*, October 1963.

"Fundamental Aspects of Cheap Power," *Public Utilities Fortnightly*, August 1, 1963.

"Market Definition and Antitrust Policy," *Washington and Lee Law Review*, Spring 1963.

"Recreation and Economic Development," *Decisions for Progress*, Agricultural Policy Institute, N.C. State, Raleigh, N.C., Spring 1963.

"Suolo, citta e governo," *Rivista di diritto finanziario a scienze delle finanze*, June 1962.

"The Economics of Slavery and the Coming of the Civil War," *The Bulletin of the Loudon County (Va.) Historical Society*, Vol. 3, 1962.

"Public Policy for the Great Outdoors," *Challenge*, July 1961.

"Conservation as a Public Policy Goal," *Yale Review*, Spring 1962.

Merger Litigation, 1951–1960," (with C.F. Phillips, Jr.) *Antitrust Bulletin*, January-February 1961.

"The Case for a Department of Natural Resources," *Natural Resources Journal*, November 1961, (with others under pseudonym of Mister Z).

"The Salk-Vaccine Case: Parallelism, Conspiracy and Other Hypotheses," (with Almarin Phillips), *Virginia Law Review*, 1960.

Case Studies in Education Performance Contracting, (with others, R-900-HEW, The Rand Corporation), December 1971.

Change in Education (with P. Carpenter-Huffman and G. C. Sumner) Ballinger Publishing Co., Cambridge, Mass. 1974.

Are There Unusually Effective Schools," (with Robert E. Klitgaard), *The Journal of Human Resources*, Vol. X, 1974.

"A Statistical Search for Unusually Effective Schools" (with Robert E. Klitgaard) in Farley and Mosteller (eds) *Statistic and Public Policy*. Addison-Wesley Publishing Company, Reading, Mass. 1977.

RAND PUBLICATIONS

RM-4500-PR, "A Review of Air Force Procurement, 1962-1964, (with R. E. Johnson), May 1965.

RM-4570, "Public Policy Toward Subcontracting," (with R. E. Johnson), May 1965.

P-3403, "Strategy and Organization in Public Land Policy," June 1966.

P-3475, "Land Use Information," November 1966.

P-3508, "Defense Procurement and Public Utility Regulation," January 1967.

P-3567, "Measures of Banking Competition and Convenience: Problems Real and Unreal," March 1967.

R-450-PR, "Aircraft Co-Production and Procurement Strategy," (with R. E. Johnson), May 1967.

P-3725, "Risk and Corporate Rates of Return," (with I. N. Fisher), November 1967.

RM-5439-PR, "Recent Air Force Procurement," (with G. Brunner), April 1968.

RM-5440-PR, "Risk and the Aerospace Rate of Return," (with I. N. Fisher), November 1967.

P-3796, "Competition in the Procurement of Military Hard Goods," (with R. E. Johnson), February 1968.

RM-5991-PR, "Development Strategies for the FX," (with G. K. Smith, R. E. Erickson, R. L. Perry), May 1968.

P-3796-1, "Competition in the Procurement of Military Hard Goods" (with R. E. Johnson), June 1968.

P-3875, "Transfers of United States Aerospace Technology to Japan," (with R. E. Johnson), June 1968.

RM-5610-PR, "Defense Profit Policy in the United States and the United Kingdom," (with I. N. Fisher), September 17, 1968.

P-4085, "Some Impacts of One-Bank Holding Companies," May 1969.

P-4105, "Interaction of Procurement Decisions in Weapon System Acquisition Projects," June 1969.

RM-6072-PR, "System Acquisition Experience," (R. Perry, D. DiSalvo, A. Harman, G. Levenson, G. Smith, J. Stucker), November 1969.

RM-6183-PR, "The Impact on Defense Contract Fees of the Weighted Guidelines Profit System," January 1970.

P-4558, "The Rand/HEW Study of Performance Contracting in Education," February 1971.

P-4559, "Risk and Corporate Rates of Return: Reply," March 1971.

P-4594, "Anticompetitive Impacts of Expanded Bank Service Lines," March 1971.

R-699-HEW, "The Performance Contracting Concept in Education," The Rand Corporation, May 1971 (Co-authored).

R-900-HEW, "Case Studies in Educational Performance Contracting," The Rand Corporation, December 1971, (co-authored).

MISCELLANEOUS

Testimony for Senate Subcommittee on Antitrust and Monopoly in U.S. Congress, Senate Committee on the Judiciary, Subcommittee on Antitrust and Monopoly, Competition in Defense Procurement, 90th Congress, 2nd Session, 1969.

"Economic and Legal Aspects of Merger Litigation, 1951–1962" (with Charles F. Phillips, Jr.), Business Review, University of Houston, Fall, 1963.

ATTACHMENT 2—EMPLOYMENT RECORD: GEORGE R. HALL

1. Special Assistant to Mr. James R. Schlesinger, Office of Energy Policy and Planning, Executive Office of the President, Washington, D.C. January 1977—Present.

Participated in the development of the National Energy Plan and the National Energy Act of 1977. Had special responsibilities in the areas of public utilities, competition, energy information and coal policy.

2. Deputy Director (Resource Analysis), Office of Director, Planning and Evaluation, U.S. Department of Defense. (This portion was at one time designated Deputy Assistant Secretary of Defense (Resource Analysis) in the Office of the Assistant Secretary of Defense Program Analysis and Evaluation) September 1974—January 1977.

Directed research, analysis and cost estimates for the defense program. Was responsible for major inputs to the Department of Defense planning and programming activities.

3. Economic Advisor to the Atomic Safety and Licensing Board, U.S. Atomic Energy Commission, Washington, D.C. January 1973–September 1974.

Served as a member of hearing boards adjudicating antitrust complaints in the electric utility industry in connection with applications for licenses to construct nuclear power plants. Also had administrative responsibilities with the ASLBP functions in the area. Participated in a study of possible reorganization of Federal energy regulations.

4. Senior Economist (Formerly Economist), RAND Corporation, Santa Monica, California, September 1964–January 1973.

Organized, directed and conducted systems analyses and policy research in a number of areas including regulation of Federal procurements, security markets and education. Also had administrative responsibilities.

During this period of my own time, I occasionally served as an expert witness and advisor to the Antitrust Division of the U.S.

Department of Justice. I was also, on occasion, a consultant to several governmental organizations and a private law firm.

5. Economist, Banking Markets Units Board of Governors, U.S. Federal Reserve System. July 1963–September 1964.

Conducted research on banking markets, regulation, and the application of the antitrust laws to banking.

6. Assistant Professor of Economics, University of Virginia, Charlottesville, Virginia, July 1959–August 1963.

Taught graduate and undergraduate courses in industrial organization, government regulation of business and natural resource economics and policy. Directed dissertations and conducted research in these areas.

7. Teaching Fellow in Economics, Harvard University, January 1957–June 1959.

Assisted in various undergraduate courses in economics.

8. Acting Deputy as Supply Officer, U.S. Naval Reserve, October 1953–January 1957.

Served on ships of the Pacific Fleet.

QUALIFICATION STATEMENT OF GEORGE R. HALL

I believe that my professional training and experience qualify me to be a member of the Federal Energy Regulatory Commission (FERC). My studies for the Ph.D. in economics concentrated in the area of industrial organization. My dissertation analyzed a topic in the economics of natural resource conservation.

As a teacher, I instructed graduate and undergraduate university courses in public utility economics, industrial organization, and the economics of natural resources. My research activities centered in the same fields.

My research and administrative responsibilities at the Federal Reserve Board and the Rand Corporation concerned a variety of regulatory problems. A central concern of this work was the development of innovative methods of government regulation of prices and profits. I also believe that my activities during this period as an antitrust consultant and witness for the Justice Department provide useful background.

My service on the Atomic Safety and Licensing Board Panel (ASLBP) of the Atomic Energy Commission provided experiences that I think will be extremely useful as a member of the FERC. Substantively, I had to deal with many of basic wholesale electric power issues that will also concern the FERC. I was especially concerned with problems of competition, the relationship between public and private power entities, pooling, interconnections and wheeling. Service on the ASLB panel also provided important background in the issues of power siting, environmental concerns, nuclear safety and safeguards, and the economics of nuclear power and other fuels. Procedurally, service on hearing boards provided experience in the requirements for due process, judicial conduct, and methods of conducting rule making and quasi judicial proceedings.

My Department of Defense experience was not directly related to energy or utility regulation. However, it provided training in long-range planning, budgeting and civil service administration that could be useful to the FERC.

Finally, as member of the Office of Energy Policy and Planning, I gained very valuable experience that should contribute to the FERC's activities. As one of the participants in the development of the National Energy Plan, I have had an unusual opportunity to acquire an understanding of the nation's energy situation, including oil and gas problems, and the options for improving our energy situation. I have been particularly concerned with public policy towards utilities and have gained a new appreciation of policy issues in this area. I have also been extensively involved with the issue of utility rate modernization with which the FERC will be involved. Another pertinent area, with which I have had particular responsibility is synthetic natural gas.

Finally, I believe that service as a FERC commissioner will require not only professional competence, but an independence of mind, a willingness to insist that all pertinent facts involved in a decision be placed upon the public record, and a commitment to insure that regulatory decisions be made in a fair and just manner. I believe that I have the personal qualities of character to meet such high standards.

GEORGIANA SHELDON

Synopsis: Twenty-five years of successful achievement in academic, business, and intergovernmental affairs, federal personnel management; legislative as well as executive competence.

Employment history: March 1976 to June 15, 1977: Acting Chairman and Vice Chairman, U.S. Civil Service Commission, Washington, D.C. 20415.

Confirmed by the U.S. Senate on February 26 and sworn in as Vice Chairman on March 1, 1976.

As Vice Chairman of the Commission, second ranking policy official in the Federal Government in matters pertaining to the employment utilization, performance and rights of approximately 2.8 million Federal civilian employees.

Acting Chairman, February 1, 1977, to June 15, 1977. Line management authority for 7,000 employees of the Civil Service Commission. Appeared before House Appropriations Committee in defense of seven billion dollar budget.

1975–1976: Director, Office of Foreign Disaster Relief and Deputy Coordinator for International Disaster Assistance, Agency for International Development, Washington, D.C. 20423.

Formulated government policy for the evolving U.S. role in international disaster assistance, directed U.S. foreign emergency relief efforts and world-wide disaster preparedness. Relief efforts required coordination of U.S. Government response with major elements of the U.S. public and private foreign disaster relief community. Developed and implemented immediate and long-range plans for disaster preparedness and prevention, seeking the support and cooperation of the world's foreign disaster relief community.

1939–1975: Deputy Director, Defense Civil Preparedness Agency, the Pentagon, Washington, D.C. 20301.

Responsible to the Director, DCPA, for overall policy formulation, direction, coordination, control and administration of nationwide defense civil preparedness programs. Liaison with Congress, Department of Defense, and other Federal/state agencies and private institutions. Responsible for advice and assistance to NATO and other nations for development and improvement of internal and international emergency preparedness programs. Principal advisor for internal management of DCPA with direct responsibility for personnel management programs, public information and education programs. Served as Co-Chairperson, DoD Committee for the International Women's Year Program (world-wide DoD program). Served as Acting Director in Director's absence. Position required ability to: effectively manage a complex and geographically dispersed agency; meet and deal with various levels and types of officials within and outside of government; analyze complex problems, and make sound, difficult decisions; and communicate effectively with individuals, small and large groups.

1969: Special Recruiter, the Peace Corps, Washington, D.C.

Temporary assignment—Talent search for the Agency.

1953–1969: Executive Secretary and Personal Assistant, Honorable Rogers C. B. Morton, M.C., U.S. House of Representatives, Washington, D.C. 20515.

Served as executive and personal assistant to Member of Congress (MC). Responsible for schedule and time management (personal and professional invitations, speeches and engagements); supervise Congressional mail and personal correspondence; design brochures for campaign. Responsible for constituent relations as they directly affected MC; field work in community as necessity arose; media contacts in Washington, D.C. and his district. Required full knowledge of and participation in work of MC and ability to deal with all levels and types of individuals as well as special interest groups.

1961–1962: Executive Secretary, Foundation for Specialized Group Housing Washington, D.C.

Organization primarily for housing for the elderly. Position involved research, public relations, knowledge and application of Federal Housing Act as it related to housing for the elderly; as well as management of the office. Wrote and edited presentations for clients for the Federal Government.

1961: Vice President, Sorin-Hall, Inc., 1725 K Street, N.W., Washington, D.C.

Responsible for securing public relations and advertising accounts for newly established agency. Account executive.

1956–1961: Assistant to Special Assistant to Chairman, Republican National Committee. Washington, D.C. 20006.

Duties primarily administrative; complete authority in absence of the Assistant in political matters and community relations affecting the twelve Southern States; liaison with governmental agencies and offices on the Hill; interviewed all job applicants and party officials. Traveled extensively. Handled press and public relations for Republican Chairman in Virginia.

1954–1956: Registrar and Director of Admissions, Stetson University College of Law, St. Petersburg, Florida.

Supervision of all applications for admission, records on all students in residence, general administration of the curriculum and academic problems in instructional area. Liaison between University and press, radio and television.

1953–1954: Personnel Director, Boca Raton Hotel and Club, Boca Raton, Florida.

Responsible for personnel relations and personnel policy for seven hundred employees; in addition, part of the time was spent in convention sales for all Schine Hotels; planned events for conventions.

GENERAL INFORMATION

Education: Avon High School, Avon, New York; Keuka College, Keuka Park, New York, B.A. 1945; Cornell University, M.S. 1949; Federal Executive Institute, Charlottesville, Virginia, 1972.

Recognitions: Fellowship to Cornell University, Alumni Award for Professionalism, Keuka College, Consultant, Personnel Publications, The Brookings Institution, Who's Who in America, Who's Who in Government, Who's Who in American Women, Department of Defense Distinguished Civilian Service Medal by Secretary Laird, 1973, Bronze Palm added to the Department of Defense Distinguished Civilian Service Medal by Secretary Schlesinger, 1976.

Boards and Committees: Board of Trustees, Keuka College, Board of Trustees, Federal Woman's Award, Inc., Representative on Employee-Management Relations Commission of the Foreign Service Board, Member, President's Commission on Personnel Interchange, Member, Federal Committee on Ecology, Co-Chairperson, Department of Defense International Women's Year Committee, 1975.

Memberships—Professional: International Personnel Management Association, Executive Women in Government.

Personal: The Capitol Hill Club.

Personal Data: Excellent health, single, free to travel.

References: Hon. Melvin R. Laird, Vice President, Reader's Digest, 5703 Kirkwood Drive, Washington, D.C. 20016.

Hon. Hadlai Hull (Former Assistant Secretary of the Army for Financial Management). 5001 Rockwood Parkway, N.W., Washington, D.C. 20016.

Hon. I. Lee Potter, Chairman of the Board, Jelleff's, 3120 North Wakefield Street, Arlington, VA 22207.

Hon. John E. Davis (Former Governor of North Dakota), 404 Apollo Avenue, Bismarck, North Dakota.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Energy and Natural Resources requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

Assets

Cash on hand and in banks, $6,323.73.

U.S. Government securities—add schedule, $3,000.00.

Addenda A: Listed securities—add schedule, $2,752.00.

Personal property, $50,000.00.

Teachers Retirement (Beneficiary), $211.56.

Civil Service Retirement, $24,696.00.

Total assets, $86,983.29.

Addenda A: Listed Securities 44 shares AT&T $2,752.00.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. None.

Liabilities

None.

Net worth, $86,983.29.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Sheldon, Georgiana H.

Position to which nominated: Member, Federal Energy Regulatory Commission.

Date of nomination: September 13, 1977.

Date of birth: December 2, 1923.

Place of birth: Lawrenceville, Pennsylvania.

Marital status: Single.

EDUCATION

Institution, dates attended, degrees received, and dates of degrees

Avon High School, 1937–1941, Academic, June 1941.

Keuka College, 1941–1945, B.A. Degree, June 1949.

Cornell University, 1948–1949, M.S. Degree, June 1949.

Federal Executive Institute, 1972, No Degree.

EMPLOYMENT RECORD

See "Employment History."

HONORS AND AWARDS

Fellowship to Cornell University.

Alumni Award for Professionalism, Keuka College.

Who's Who in America, Government and American Women.

Department of Defense Distinguished Civilian Service Medal, 1973, Sec. Laird.

Bronze Palm added to above award by Sec. Schlesinger—1976.

MEMBERSHIPS

Organization and dates

International Personal Mgt. Ass'n., Present.

Executive Women in Gov't., Present.

Board of Trustees, Keuka College, 1976– .

QUALIFICATIONS

See "Qualifications."

FUTURE EMPLOYMENT RELATIONSHIPS

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate. Such severance will occur by operation of law.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. No.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

POTENTIAL CONFLICTS OF INTEREST

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealing with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None.

2. List any investments, obligations, liabilities, or other other relationships which might involve potential conflicts of interest with the position to which you have been nominated. None.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated. None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy. Only that which was necessitated by my previous Federal positions.

EMPLOYMENT HISTORY

August 1977 to Present: Member, Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Confirmed by the U.S. Senate on August 4, 1977 and sworn in as Member on August 11, 1977.

March 1976–June 1977: Acting Chairman and Vice Chairman, U.S. Civil Service Commission, Washington, D.C. 20415. Confirmed by the U.S. Senate on February 26 and sworn in as Vice Chairman on March 1, 1976. As Vice Chairman of the Commission, second ranking policy official in the Federal Government in matters pertaining to the employment utilization, performance and rights of approximately 2.8 million Federal civilian employees. Acting Chairman, February 1, 1977 to present. Line management authority for 7,000 employees of the Civil Service Commission.

Director, Office of Foreign Disaster Relief and Deputy, Coordinator for International Disaster Assistance, Agency for International Development, Washington, D.C. 20423. Formulated government policy for the evolving U.S. role in international disaster assistance, directed U.S. foreign emergency relief efforts and world-wide disaster preparedness. Relief efforts required coordination of U.S. government response with major elements of the U.S. public and private foreign disaster relief community. Developed and implemented immediate and long range plans for disaster preparedness and prevention, seeking the support and cooperation of the world's foreign disaster relief community.

1975–1976: Deputy Director, Defense Civil Preparedness Agency, the Pentagon, Washington, D.C. 20301. Responsible to the Director, DCPA, for overall policy formulation, direction, coordination, control and administration of nationwide defense civil preparedness programs. Liaison with Congress, Department of Defense, and other Federal/State agencies and private institutions. Responsible for advice and assistance to NATO and other nations for development and improvement of internal and international emergency preparedness programs. Principal advisor for internal management of DCPA with direct responsibility for personnel management programs, public information and education programs. Served as Co-Chairperson, DoD Committee for the International Women's Year Program (world-wide DoD program). Served as Acting Director in Director's absence. Position required ability to: effectively manage a complex and geographically dispersed agency; meet and deal with various levels and types of officials within and outside of government; analyze complex problems, and make sound, difficult decisions; and communicate effectively with individuals, small and large groups.

Special Recruiter, the Peace Corps, Washington, D.C. Temporary assignment, talent search for the agency.

Executive Secretary and Personal Assistant, Honorable Rogers C. B. Morton, M.C., U.S. House of Representatives, Washington, D.C. 20515. Served as executive and personal assistant to Member of Congress (MC). Responsible for schedule and time management (personal and professional invitations, speeches and engagements); supervise Congressional mail and personal correspondence; design brochures for campaign. Responsible for constituent relations as they directly affected MC; field work in community as necessity arise; media contacts in Washington, D.C. and his district. Required full knowledge of and participation in work of MC and ability to deal with all levels and types of individuals as well as special interest groups.

Executive Secretary, Foundation for Specialized Group Housing, Washington, D.C. Organization primarily for housing for the elderly. Position involved research, public relations, knowledge and application of Federal Housing Act as it related to housing for the elderly; as well as management of the office. Wrote and edited presentations for clients for the Federal Government.

Vice President, Sorin-Hall, Inc., 1725 K Street, N.W., Washington, D.C. 20006. Re-

sponsible for securing public relations and advertising accounts for newly established agency. Account executive.

Assistant to Special Assistant to Chairman, Republican National Committee, Washington, D.C. 20006. Duties primarily administrative; complete authority in absence of the Assistant in political matters and community relations affecting the twelve Southern States; liaison with governmental agencies and offices on the Hill; interview all job applicants and party officials. Travelled extensively. Handled press and public relations for Republican Chairman in Virginia.

Registrar and Director of Admissions, Stetson University College of Law, St. Petersburg, Florida 33707. Supervision of all applicants for admission, records on all students in residence, general administration of the curriculum and academic problems in instructional area. Liaison between University and press, radio and television.

Personnel Director, Boca Raton Hotel and Club, Boca Raton, Florida 33432. Responsible for personnel relations and personnel policy for seven hundred employees; in addition, part of the time was spent in convention sales for all Schine Hotels; planned events for conventions.

QUALIFICATIONS

The Federal Energy Regulatory Commission is an independent regulatory agency which was established by Title IV of the Department of Energy Organization Act.

At present and for the past several weeks I have served as a Member of the Federal Power Commission. Prior to that time I served as Vice Chairman of the Civil Service Commission, I was the second ranking policy official in matters pertaining to the employment utilization, performance and rights of approximately 2.8 million Federal employees.

As Acting Chairman of the Commission, I had line management authority for 7,000 employees of the Civil Service Commission.

As Deputy Director of the Defense Civil Preparedness Agency it was necessary to be able to effectively manage a complex and geographically dispersed agency; meet and deal with various levels and types of officials within and outside Government; analyze complex problems, and make difficult decisions.

During the past twenty-five years my experience in the academic world, business and government has given me the background needed to bring objectivity and openmindedness to this position. My credentials are a recently acquired exposure to energy regulation, experience in the Administration of both regulatory law and legislative mandates and a willingness to apply this experience to the complicated questions the Commission will have to address.

While more direct experience could be advantageous, I believe my background does not limit me to one point of view. I am confident I will be able to bring openness, candor and objectivity to the Federal Energy Regulatory Commission.

BIOGRAPHY: DON S. SMITH, COMMISSIONER

Sworn Into Office: December 13, 1973.

Term Expires: June 22, 1978.

Don S. Smith, of Little Rock, Arkansas, was born October 9, 1937, in Ouchita County, Arkansas. He grew up and attended public schools in Stephens, Arkansas. He attended the University of New Mexico and received his B.A. in 1960, majoring in Economics, from the University of Arkansas. He received his LL.B. in 1962 from the University of Arkansas School of Law where he was Editor-in-Chief of the Arkansas Law Review. During 1962–1963, he was a teaching Fellow at the University of Illinois School of Law.

From 1963 to 1967, Mr. Smith was Assistant Professor, then Associate Professor, of Law at the Emory University School of Law in Atlanta, Georgia. He was the Arkansas Securities Commissioner from 1967 to 1969. From 1969 until he joined the Federal Power Commission, Mr. Smith served as a member of the Arkansas Public Service Commission.

Mr. Smith has served as Arkansas Member and Chairman of the Southern Interstate Nuclear Board; Chairman of the Laws and Regulations Committee of the Southern Governors' Conference Task Force on Nuclear Power Policy; and, Arkansas Member of the Steering Committee of the Southern Regional Environmental Conservation Council.

President Nixon named Mr. Smith to the FPC on October 30, 1973, and his nomination was confirmed by the U.S. Senate on November 28, 1973. He served as Vice Chairman for the Calendar Year 1975, and was reelected Vice Chairman for the latter half of 1977.

He is a member of the Arkansas Bar Association, a member of the Executive Committee of the National Association of Regulatory Utility Commissioners and designated official FPC Observer on the Interstate Oil Compact Commission.

Mr. Smith is married to the former Sue Jobe of Sikeston, Missouri, and the couple has three children, Gordon, Perry, and Matthew. The family resides in Chevy Chase, Maryland.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Energy and Natural Resources requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

Assets

Cash on hand and in banks, $10,145.91.

Real estate interests—add schedule, $73,000.

Personal property, $15,000.

Life insurance—cash value, $9,000.

College Retirement Fund, 70 accumulation units, $3,000.

(Claimed 1976 tax refund; $3,138).

Total assets, $110,145.91.

Liabilities

Notes payable to banks—secured, $14,500.90.

Notes payable to others, $510.04

Accounts payable, $4,400.

Total liabilities, $19,410.94.

Net worth, $90,734.97.

(No immediate members of my family have independent assets which cumulate over $1,500.)

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers: None.

2. Are any assets pledged? (Add schedule.)

Savings account of $1,071.05 pledged against loan of $8,132.49, Union National Bank of Little Rock.

Savings account of $3,078.46 pledged against loan of $3,800, 1st State Bank & Trust, Conway, Ark.

Passbook savings account of $3,578.97 pledged against loan of $2,568.41, Decatur Federal Savings & Loan, Atlanta, Ga.

3. Are you currently a party to any legal action? In my official capacity as a member of the Federal Power Commission, I am nominally a party to a number of proceedings.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? No.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Smith, Don Sanders.

Position to which nominated: Commissioner, Federal Energy Regulatory Commission.

Date of nomination: September 28, 1977.

Date of birth: October 9, 1939.

Place of birth: Camden, Arkansas.

Marital status: Married.

Full name of spouse: Former Dorothy Sue Jobe.

Name and ages of children: Gordon (13), Perry (12), and Matthew (8).

Education: Institution, dates attended, degrees received, and dates of degrees:

University of New Mexico, 1955–57.

University of Arkansas, 1957–59, B.A., 1959.

University of Arkansas, College of Law, 1959–62, LL.B., 1962.

University of Illinois, College of Law, 1962–63, (Graduate Fellow).

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates:

1963–67—Emory University School of Law; Atlanta, Georgia; Assistant, then Associate, Professor of Law.

1967–69—Arkansas Securities Commissioner, Savings & Loan Supervisor, Credit Union Supervisor; Arkansas Bank Department; Little Rock, Arkansas.

1969–73—Arkansas Public Service Commission; Little Rock, Arkansas; Commissioner.

1973–Present—Federal Power Commission; Washington, D.C.; Commissioner, Vice Chairman of Commission.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement:

Naval ROTC Scholarship, University of New Mexico.

University of Arkansas Student Senate; Delta Theta Pi Scholarship Award, University of Arkansas College of Law.

Editor-In-Chief, Arkansas Law Review.

Research Grant, State Securities Law Study.

Teaching Fellowship, University of Illinois College of Law.

Research Fellowship, University of Illinois College of Law.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization, office held (if any), and dates:

Arkansas Bar Association, 1962–present.

Southern Interstate Nuclear Board, Chairman (1973), 1970–1973.

National Association of Regulatory Utility Commissioners, member, Executive Committee, present.

Interstate Oil Compact, FPC Observer, present.

Legal Aid Bureau of Pulaski County, Arkansas, member, Board of Directors, 1967–1969.

Published writing: List the titles, publishers and dates of any books, articles, or reports you have written:

Numerous Law Review Articles and Notes including:

1. Battery in Medical Torts. Cleveland-Marshall Law Review, 16:22, January 1967.

2. Long Needed Revision in the Law of Negligence. Journal of the Bar Association of the State of Kansas, 39:13, Summer 1970.

A Federal Regulator's View. American Gas Association Monthly, Volume 57, February 1975.

U.S. Congress, Senate Committee on Commerce. Hearings, 93rd Congress, 1st Session, on nomination of Don S. Smith to be a member of the Federal Power Commission, September-December 1973.

U.S. Congress, House Committee on Interstate and Foreign Commerce, Subcommittee on Oversight and Investigations. Hearings, 94th Congress, 1st & 2nd Sessions, on Natural Gas Supplies, June 1975-January 1976.

U.S. Congress, House Committee on Interstate and Foreign Commerce, Subcommittee on Energy and Power. Hearings 94th Congress, 2nd Session, on Long-term Natural Gas Legislation, January-February 1976.

The Goals of President Carter's Administration before the Financial Analysts Federation, June 29–30, 1977, published in The Wall Street Transcript, Volume LVII, Number 6, August 8, 1977. Innumerable Regulatory Opinions and Orders.

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet)

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate: Will continue as an official of the United States Government.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization: No.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any finanial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated: None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated: None.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated:

As a member of the Arkansas Public Service Commission (1969–73), I appeared before the Federal Power Commission in several cases representing the Arkansas Commission and the State of Arkansas. It is possible that one docket (a curtailment case) is still alive and might survive transfer into the Federal Energy Regulatory Commission.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy:

I have participated extensively in the legislative process during the past 10 years, by testifying before Congress and State Legislatures, responding informally and formally to inquiries from members of the House and Senate, and drafted and commented on legislation. All such activities stemmed from my official duties as Arkansas Securities Commissioner, Arkansas Public Service Commission, or as Commissioner, Federal Power Commission.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items:

See (3) above I would continue to abstain from participation in the case.

MATTHEW HOLDEN, JR.

[VITA (Detail)]

Born: Mound Bayou, Mississippi—September 12, 1931.

Married, 2 children.

Education:

Public Schools, Mississippi and Chicago, Illinois (to 1946).

University of Chicago, 1946–50.

Roosevelt University, 1950–52, B.A., Political Science; History minor.

Northwestern University, 1953–55, M.A., Political Science.

Northwestern University, 1958–61, Ph. D., Political Science; Anthropology minor.

Present position:

Commissioner, Public Service Commission of Wisconsin, May 1975 (term expires March 1981).

(a) Commission Liaison Representative to Nuclear Regulatory Commission, September 1976– .

(b) Member, Ad Hoc Committee on National Energy Policy, National Association of Regulatory Officials, (appointed 1975).

(c) Member, Gas Committee, National Association of Regulatory Utility Commissioners (appointed 1975).

(d) Secretary-Treasurer-Elect, Midwest Association of Railroad and Utilities Commissioners (elected 1976).

Previous positions:

Organization/Institution, period, and position:

Ohio Legislative Service, Commission, Columbus, O., Summer 1954, Summer 1955, Research Associate.

U.S. Army, 1955–57, Artillery (Korea, 1956–57).

Cleveland Metropolitan Services Commission (METRO), 1957–58, Research Assistant.

Cuyahoga County Charter Commission, Cleveland, O., 1959 (Jan.–Oct.) Staff Consultant.

University of Illinois, Oct. 1959–Jan. 1961, Research Associate, Institute of Government & Public Affairs.

Northwestern University, Feb.–June 1961, Lecturer, Political Science, Evening Division.

Wayne State University, June 1961–63, 1936–69, Instructor, Assistant Professor, Associate Professor, Professor.

University of Vermont, Summer 1963, Visiting Assistant Professor.

University of Pittsburgh, 1963–66, Assistant Professor.

University of Wisconsin, 1969–to date, Professor:

(a) Sometime Research Associate, Institute for Research on Poverty.

(b) Leonardo Scholar, 1973.

(c) On Leave, Public Service Commission, June 1975–to date.

Public and community activities:

Pittsburgh Urban League:

Committee on Education and Youth Incentives, Member, 1964–66.

Board of Directors, Member, 1965–66.

Pennsylvania Negro Democratic Committee, Charter Member, 1965–66.

Bagley Community Council, Detroit, Michigan:

Member, Board of Directors, 1967–69.

President, 1968–69.

Wayne County, Michigan:

Committee of Ninety-Nine on County Home Rule, 1966–67.

Member (and Vice-Chairman, Subcommittee on Intergovernmental Relations).

Southeast Michigan Council of Governments.

Advisory Council on Regional Planning, 1968–69.

National Urban League:

Education Advisory Committee, Member, 1968–.

Member, National Delegate Assembly, 1971, 1972, 1973.

Madison Urban League:

Board of Directors, 1971–74.

Chairman, Nominating Committee, 1974.

U.S. Air Quality Advisory Board, 1971–74.

State of Wisconsin, Bureau of Personnel sometime member of oral examinations boards, 1972 and 1973.

State of Wisconsin: Citizens' Study Committee on Metropolitan Problems (by appointment of Governor), 1971–73.

Professional associations and societies:

American Political Science Association:

Committee on Professional Ethics.

Committee on Finance.

Section Chairman, Public Policy and Administration, Annual Meeting, 1972.

Council, 1972–74.

Chairman, Election Committee, 1974.

Vice-President (elected 1976).

Midwest Political Science Association: Council, 1972–75.

Policy Studies Organization: Council, 1973–75.

Inter-University Consortium for Political Research: Council, 1974–75.

Social Science Research Council: Board of Directors, 1969–72.

American Society for Public Administration.

Wisconsin Capital Chapter:

Advisory Council, 1973.

Chairman, Committee on Bylaws, 1973–74.

Editorial boards or editorial advisory boards:

American Behavioral Scientist.

American Politics Quarterly.

Ethnicity.

Policy Analysis.

Consultation:

Ford Foundation (re social science analysis in urban conflict).

Greater Cleveland Associated Foundation.

National Council of Churches.

National Committee of Negro Churchmen.

New Detroit, Inc.

Resources for the Future, Inc.

U.S. Public Health Service.

U.S. Senate Subcommittee on Employment, Manpower, and Poverty.

Urban Institute, and other public and private agencies.

Visiting committees:

Social and Behavioral Sciences, Case Western Reserve University, 1972–74.

Political Science Department, City College of New York, 1974.

University governance activity:

University of Pittsburgh:

Social Science Seminar Committee, 1964–66.

Chairman, Social Science Seminar Committee, 1965–66.

Dean's Committee on Social Science Research Institute, 1965.

Wayne State University:

Political Science Department:

Graduate Committee, 1966–67.

Personnel Committee, 1966–69.

Chairman, Committee on Department Chairmanship Selection, 1967–68.

Chairman, Faculty Seminar on Graduate Curriculum, 1967.

Center for Urban Studies:

Chairman, Ad Hoc Research Committee, 1967.

Directorship Search Committee, 1968.

Management Committee, 1969 (member without portfolio at rank of associate director).

General:

University Committee on African Studies, 1969.

Committee on Student Publications, 1962–63.

University of Wisconsin-Madison:

Committee on Studies and Instruction in Race Relations.

Contemporary Trends Course Committee, College of Letters of Science, 1969.

High School Relations Committee, College of Letters and Science, 1969.

Evaluation Committee to prepare the three-year report on Department of Afro-American Studies, 1973–74.

Executive Committee, Department of Afro-American Studies, by Appointment of the Dean, with many of the normal duties of a department chairman.

Chairman, Advanced Opportunity Fellowships Committee (served fall term of '73 only and resigned due to workload).

Political Science Department, Committee on Future of Graduate Program, 1971.

Chairman, Public Administration Field Committee, Political Science Department.

University of Wisconsin System: Chairman, Search and Screen Committee for Provost for University Outreach, November 1973–May 1974.

Bibliography (Author):

"Achieving Order and Stability: The Future of Black-White Relations," in Harvey S. Perloff (ed.), *The Future of the U.S. Government: Toward the Year 2000*, New York: George Braziller, 1971, 78–99.

"Black Politics and the New Urban Politics," *Review of Black Political Economy*, (Winter 1972).

"Committee Politics Under Primitive Uncertainty," *Midwest Journal of Political Science*, 9:3 (August, 1965), 235–253.

County Government in Ohio, Cleveland: Cleveland Metropolitan Services Commission, 1958.

"Decision-Making on a Metropolitan Government Proposition," In Scott A. Greer et al. (eds.), *The New Urbanization*, New York: St. Martin's Press, 315–338.

The Divisible Republic, New York: Abelard-Schuman, 1973 (Hardcover combined edition of *Politics of Black "Nation" and White Man's Burden*).

"Ethnic Accommodation in a Historical Case," *Comparative Studies in Society and History*, 8:2 (January, 1966), 1968–180.

"The Governance of the Metropolis as a Problem in Diplomacy, *Journal of Politics*, 26:3 (August, 1964), 627–647.

"'Imperialism' in Bureaucracy," *American Political Science Review*, 70:4 (December 1966), 943–951.

Inter-Governmental Agreements in Cleveland Metropolitan Area, Cleveland: Metropolitan Services Commission, 1958.

"Judgment and 'the Right questions,'" *American Politics Quarterly*, April 1973.

"Law and Order in the Metropolitan Area," Pittsburgh: University of Pittsburgh, University-Urban Interface Program.

"Litigation and the Political Order," *Western Political Quarterly*, 16:4 (December, 1963), 771–781.

"Maintaining Order in Urban Areas," *Proceedings of the 1967 Urban Policy Conference*, Iowa City: Institute of Public Affairs, University of Iowa, 1968, 5–12.

"The Modernization of Urban Law and Order," (Review Essay), *Urban Affairs Quarterly*, December, 1966, pp. 92–101.

"On the Misunderstanding of Important Phenomena," *Urban Affairs Quarterly*, September, 1968, pp. 111–129.

"On Strategies of Pedagogic Reform," *Graduate Comment*, 9:4 (1966), 253–259.

"Party Politics and Ethnic Politics," in Clyde J. Wingfield (ed.), *Political Science—Some New Perspectives*, El Paso: University of Texas at El Paso—Texas Western Press, 1967, 117——

"The Politics of Urbanization," *Urban Affairs Annual Review*, Harlan Hahn, (ed.), Beverely Hills: Sage Publications, Inc., pp. 557–600.

"Politics and Voluntary Social Action: Some Rules of Thumb, *Journal of Voluntary Action Research* 2:1 (January 1973), 48–59.

"Politics and Weather Modification," in W.R.D. Sewell, et al *Modifying the Weather*, Victoria, B.C., Canada: Western Geographical Series No. 9, 1973, 261–322.

The Politics of the Black "Nation", New York: Intext, 1974.

"Politics, Public Order, and Pluralism," in James R. Klonos and Robert I. Mendelsohn (eds.), *The Politics of Local Justice*, Boston: Little, Brown and Company, 1970, pp. 238–255.

Pollution Control as a Bargaining Process, Ithaca: Cornell University, Water Resources Center, October, 1966, (Publication No. 9).

"Public Policy Implications (Discussion)," in Morris E. Garnsey and James R. Hibbs (eds.), *Social Sciences and the Environment: Conference on the Present and Potential Contribution of the Social Sciences to Research and Policy Formulation in the Quality of the Physical Environment*, Boulder: University of Colorado Press, 1967, 93–97.

"The Quality of Urban Order," in Henry J. Schmandt (ed.), *The Quality of Urban Life*, Los Angeles: Sage Publications, Inc., 1969, 431–455.

"The Republic in Crisis: Reflections on Race and Politics," In Reza Rezazedeh (ed.), *Symposium on Civil Rights*, Platteville, Wisconsin: Wisconsin State University, 1965, 24–51.

The White Man's Burden, New York: Intext, 1974.

"Policy Content and the Regulatory Process," American Behavioral Scientist, September-October 1975.

Varieties of Political Conservatism, Beverly Hills: Sage Publications, 1974 (originally published as a number of American Behavioral Scientist, 1973).

(With Dennis L. Dresang), *What Government Does*, Beverly Hills: Sage Publications, Inc., 1974.

Information Requested of Presidential Nominees

Rule 9 of the Rules of the U.S. Senate Committee on Energy and Natural Resources requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

Financial Statement

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

Assets

Cash on hand and in banks, $1,183.77.

Unlisted securities—add schedule, $500.

Accounts and notes receivable: Due from others, $500.

Real estate interests—add schedule, $61,700.

Personal property, $9,550.

Life insurance—cash value, Other assets—itemize: Wisconsin pension rights if divested, $9,200.

Total assets, $82,633.77.

Liabilities

Notes payable to others, $2,400.

Accounts payable, $4,760.14.

Real estate mortgages payable—add schedule, $29,505.66.

Other debts—itemize: Univ. of Wis. Cred. Un., $6,423.33.

Total liabilities, $43,089.13.

Net worth, $39,544.64.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers.

None. However, exactness requires that two items be mentioned that do not have any other clearly specific place on this form. I have royalty rights in three books under contract with Thomas Y. Crowell Co. So long as these remain in print, they will produce approximately $200 to $500 per annum. Moreover, unless otherwise specifically required, I do intend to retain my rights as a tenure professor, which will enable me to return at the end of my term, to the University of Wisconsin-Madison.

Addendum to Financial Statement

Question 1

Assets

Unlisted securities: $500.00 is the nominal value of five shares in the Nakoma Golf Club, Inc., and would be sold if I resigned from the Club. I indicate them for the sake of completeness, though they are not securities in the sense of being traded.

Real estate interests: The amount shown equals the 1977 assessed valuation of my residence, and is $9,000.00 greater than the amount originally reported to the Executive Office of the President. The difference is that a property reassessment occurred in the interval.

Wisconsin pension rights: If I were required to resign *in toto*, then I would have the right to withdraw this amount from the retirement system, if I choose to do so. Ordinarily, this would not be preferable.

Liabilities

Accounts payable: The amount shown is the sum of all outstanding accounts (credit cards, department stores, household purchases, etc.) by me and/or my wife, if we were obliged to pay off in full as of today's date. As of today's date, $2,103.66 of that is susceptible to revolving charges or other arrangements and would not normally be paid off as of today's date.

Real estate mortgages, etc: The real estate mortgage in the amount of $29,505.66 is held by First Wisconsin National Bank, Madison, Wisconsin. This is the mortgage on the property listed under "Assets."

2. Are any assets pledged? (Add schedule.) Except as indicated in Item 1, "no."

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? Is so, what resulted from the audit? 1962: Disallowed claim of dependent status for my mother, whose home I was then providing for, due to inadequate showing in view of the fact that she and my father were still married, though in separate residences. No other audits by IRS.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Holden, Matthews, Jr.

Position to which nominated: Member, Federal Energy Regulatory Commission.

Date of nomination: September 1977.

Date of birth: September 12, 1931.

Place of birth: Mound Bayou, Mississippi.

Marital status: Married.

Full name of spouse: Dorothy Amanda (Howard) Holden.

Name and ages of children: Paul Christopher Hendricks (stepson): 21 and John Matthew Alexander Holden: 13:

Education: Institution, dates attended, degrees received, and dates of degrees:

University of Chicago, 1946–50.

Roosevelt University, 1950–52, B.A., 1952.

Northwestern University, 1953–55, M.A., 1956.

Northwestern University, 1958–61, Ph. D., 1961.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates:

Research Associate, Ohio Legislative Service Commission, Columbus, Ohio (Summer 1954; Summer 1955).

Research Assistant, Cleveland Metropolitan Services Commission, Cleveland, Ohio, 1957–58.

Staff Consultant, Cuyahoga County Charter Commission, Cleveland, Ohio, 1959.

Research Associate, Institute of Government and Public Affairs, University of Illinois, 1959–1961.

Lecturer (part-time), Northwestern University, 1961.

Assistant Professor, Wayne State University, 1961–63.

Assistant Professor, University of Pittsburgh, 1963–66.

Associate Professor (then Professor), Wayne State University, 1966–69.

Professor, University of Wisconsin, 1969–to date.

Commissioner, Public Service Commission of Wisconsin, 1975–to date (on leave from University).

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations:

Organization, office held (if any), and dates:

American Political Science Assn., Ethics Comm., 1969–70; Finance Comm., 1971; Section Chair., 1972; Council, 1972–74; Election Chmn., 1974; and Vice President, 1977.

Midwest Pol. Sci. Assn., Council, 1972–75.

Policy Studies Organization, Council, 1973–75.

Inter-University Consortium for Political Research, Council, 1974–75.

Social Science Research Council, Director, 1969–72.

Amer. Soc. for Public Admin., Wisconsin Capital Chap., Council, 1973, and Chmn., Bylaws Com., 1973–74.

ADDENDUM TO MEMBERSHIPS

Organization, office held (if any), and dates:

Bagley Community Council (Detroit, Michigan). President, 1968–69.

National Association for the Advancement of Colored People (intermittent since about 1946).

President, University of Chicago College Chapter, circa 1948.

Executive Committee, Madison (Wis.) Branch, 1970.

National Urban League, Education Committee, circa 1969–72.

Pittsburgh Urban League, Education Committee Board 1964–65 and 1965–66.

Madison Urban League, Board, 1971–74.

Pennsylvania Negro Democratic Committee (Founding member), circa 1964.

Democratic Party of Wisconsin.

St. Andrew's Episcopal Church, Madison, Wisconsin.

Russwurm Institute, President, 1963 ca. [Note: This was a not-for-profit corporated, chartered under the laws of the State of Michigan, which never functioned at all.]

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written:

(1) "Achieving Order and Stability: The Future of Black-White Relations," in Harvey S. Perloff (ed.), *The Future of the U.S. Government: Toward The Year 2000*, New York: Braziller, 1971, 78–99.

(2) "Black Politics and the New Urban Politics," *Review of Black Political Economy* (Winter, 1972).

(3) "Committee Politics Under Primitive Uncertainty," *Midwest Journal of Political Science*, 9:3 (August 1965) 235–253.

(4) "Decision-Making on a Metropolitan Government Proposition," in Scott A. Greer (et. al. (eds.)), *The New Urbanization*, New York: St. Martin's Press, 1965, 315–338.

(5) *The Divisible Republic*, New York: Abelard-Schuman, 1973.

(6) "Ethnic Accommodation in a Historical Case," *Comparative Studies in Society and History*, 8:2 (1966), 1968–180.

(7) "The Governance of the Metropolis as a Problem in Diplomacy," *Journal of Politics* 26:2 (1964), 627–617.

(8) "'Imperlism' in Bureaucracy," *American Political Science Review* (70:4) (1966), 943–951.

(9) *Inter-Governmental Agreements in the Cleveland Metropolitan Area*, Cleveland: Cleveland Metropolitan Services Commission, 1958.

(10) "Judgment and 'The Right Questions,'" American Politics Quarterly 1:1 (1973).

(11) "Law and Order in the Cleveland Metropolitan Area," Pittsburgh: University of Pittsburgh, University-Urban Interface Program, 1971.

(12) "Litigation and the Political Order," *Western Political Quarterly* 16:4 (1963), 771–781.

(13) "Maintaining Order in Urban Areas," *Proceedings of the 1976 Urban Policy Conference*, Iowa City: Institute of Public Affairs, University of Iowa, 1968, 5–12.

(14) "The Modernization of Urban Law and Order," (Review Essay), *Urban Affairs Quarterly* (1966), 92–101.

(15) "On the Misunderstanding of Important Phenomena," *Urban Affairs Quarterly* (1968), 111–129.

(16) "On Strategies of Pedagogic Reform," *Graduate Curriculum* (Wayne State University), 9:6 (1966), 253–259.

(17) "Party Politics and Ethnic Politics, in Clyde J. Wingfield (ed.), *Political Science—Some New Perspectives*, El Paso: University of Texas at El Paso-Texas Western Press, 1967, 117–131.

(18) "The Politics of Urbanization," *Urban Affairs Annual Review*, Harlan Hahn (ed.), Beverly Hills: Sage Publications, Inc., 1972, 557–600.

(19) "Politics and Voluntary Social Action: Some Rules of Thumb," *Journal of Voluntary Action Research* 2:1 (1973), 48–59.

(20) "Politics and Weather Modification," in W.R.D. Sewell (ed.), *Modifying the Weather*, Victoria, B.C.: Western Geographical Series No. 9, 1973, 261–322.

(21) "Politics, Public Order, and Pluralism," in James R. Klonoski and Robert I. Mendelsohn (eds.), *The Politics of Local Justice*, Boston: Little, Brown and Company, 1970, 238–255.

(22) *Pollution Control As A Bargaining Process*, Ithaca: Cornell University, Water Resources Center (Publication No. 9), 1966. Mimeo.

(23) "Public Policy Implications (Discussion)," in Morris E. Garnsey and James R. Hibbs (eds.), *Social Sciences and the Environment*, Boulder: University of Colorado Press, 1967, 93–97.

(24) "The Quality of Urban Order," in Henry J. Schmandt (ed.), *The Quality of Urban Life*, Los Angeles: Sage Publications, Inc., 1969, 431–455.

(25) "The Republic in Crisis," in Reza Rezazadeh (ed.), *Symposium on Civil Rights*, Platteville, Wisconsin: Wisconsin State University, 1965, 24–51.

(26) (Editor), "Policy Content and the Regulatory Process," *American Behavioral Scientist*, September-October 1975 issue.

(27) (Contributor with Wesley Foell, Paul G. Hays, James MacDonald, Van R. Potter and Jan Vansina), *Resources and Decisions*, Lexington: Duxbury Press, 1975.

(28) (Editor), *Varieties of Political Conservatism*, Beverly Hills: Sage Publications, Inc., 1974. (This volume was originally published as a number of the *American Behavorial Scientists*.)

(29) (Editor, with Dennis L. Dresang), *What Government Does*, Beverly Hills: Sage Publications, Inc., 1974.

Qualifications: State fully your qualifications to serve in the position to which you have been named. (Attach sheet.)

Future employment relationships: 1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate: If necessary, in the judgment of the Committee, I would resign from the University of Wisconsin-Madison, which is the only relationship to which the question applies, in my circumstances.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization: Yes. My understanding is that, under the policies of my Department, leave is granted and will normally be renewed for a faculty member.

3. Has anybody made you a commitment to a job after you leave government? No. No such commitment or possibility has even been discused, except tangentially in relation to the answer given in Question #2.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates,

clients or customers who will be affected by policies which you will influence in the position to which you have been nominated: None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated: None.

Qualifications: I should feel somewhat modest about declaring claims of qualifications, since those judgments must be made by others. However, for the information of the Committee I should appreciate the opportunity to make the following points.

1. As a general proposition, I have studied and taught American government for the past sixteen years, with a strong emphasis on public administration and the regulatory process, and achieving desirable public results out of that process.

2. For the past decade or a little more, starting with a temporary assignment with Resources for the Future, Inc., in 1965, a part of my professional effort has been to study the relationships between resources, environmental and energy issues in the interest of balanced policies.

3. My most specific qualifications related to the present position arise specifically from my service on the Public Service Commission of Wisconsin. In the Wisconsin commission—as, to judge from contacts with my counterparts in other states, is the case elsewhere—we have substantial experience in operating as delegated bodies, exercising a power granted to us by statute and subject to judicial review. At the same time, we have the obligation to consider how wisely to exercise such delegated power in a constructive manner to achieve signficant policy goals.

4. In addition to the generic problems of regulation, the state utilities commissions (with one exception) have been strongly impacted by the energy crisis and the need to react constructively to that crisis at the state level, and within the basic principles of the Federal state relationship. In particular, the state commissions have the experience of being immediately and directly exposed to consumer concerns about prices, to the need to make judgments about what financial aspects of the regulated utilities are in the public interest, and about such matters as how to administer in detail available gas supply under conditions of constraint.

5. I would be glad to respond in further detail as the Committee might desire, but my general response is that I trust immediately preceding experience as a regulator, as one with immediate experience of the impacts of energy decisions on the end consumer, and as one with some appreciation of the Federal-state interface problems would allow me to make a contribution in the public interest.

ADDENDUM: FUTURE EMPLOYMENT RELATIONSHIPS

Question No. 1: My initial interpretation is that this would not be necessary, unless the Committee so adjudges, since my tenure appointment (acquired at the time of my going to the University of Wisconsin in 1969) is in no way contingent on my performance of duty while in the state regulatory commission, and would—on the face of it—have no closer relationship to performance of duty in a Federal regulatory agency. I have always viewed my public service as something after which I would return to my normal scholarly pursuits.

Question No. 2: Absent by reason of state government service or Federal government service.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated: None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy: I am not clear as to the scope of the question and will indicate that I have, from time to time, written to Members of Congress on my own motion as a private citizen. The only specific activity, apart from that as a part of my present job, was that in 1969, I participated as a volunteer member of the Education Committee of the National Urban League in explaining some of our educational policy concerns to some members of the House Education Committee and to the then Assistant to the President for Domestic Affairs.

As a state commissioner I have been in frequent contact with Federal agencies and officials for the purpose of conveying an understanding of energy problems as perceived and experienced in a relatively small state with no significant energy resources of its own.

In particular, this has meant some contact with the Administrator of FEA as a member of the NARUC Ad Hoc Energy Policy Committee, contact with various officials on question of electric planning and electricity demand, and with the Federal Power Commission on natural gas policy (especially curtailment procedures). More recently, this has meant some contact with the Energy Policy and Planning staff in regard to potential financial issues in Alaskan gas transportation, at the invitation of that staff. It has also meant a good deal of effort, on my own initiative, in trying to understand both Congressional and Executive approaches to conservation, since the Wisconsin Public Service Commission has been considering and acting on a major insulation problem that has to take the Federal parameters as given.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items:

The relevance appears to me to be to question 2, as to future employment prospects, and I would abide the judgment of the Committee as to whether my preference is compatible with the office.

Apart from that, I can only say that it is my rule to follow the dictates and duties of whatever situation I occupy, and it is apparent that as a Federal official, I could have no commitment to any interest except that of the United States.

I would repeat that the question seems to me to arise, however, chiefly as a matter of conflict with private rights and interest in on-going decision-making, and this seems to me not in prospect in my case.

SUBVERTING THE LAW ON MINUTEMAN III

Mr. GARN. Mr. President, on October 17, I stated for the RECORD that the Carter administration was subverting the law on B–1 by disregarding the explicit terms of the Impoundment Control Act of 1974. Under this act, the President is obligated to resume the expenditure of any funds withheld from obligation during such 45-day period, unless the Congress within such period, enacted legislation approving the rescission of funds. Despite the provisions of the act and the House Appropriations Committee recommendation that no congressional action be taken to rescind the funds previously appropriated for the B–1, President Carter has failed in authorizing the Air Force and Rockwell back into active production.

Mr. President, the Chief Executive Officer of the Federal Government continues to subvert the law under the Impoundment Control Act by his failure to obligate funds for yet another national defense program, Minuteman III missiles. On October 15, the 45-day waiting period expired under the Budget Act's provisions, but prompt action in the expenditure of funds, including "start work" orders, has not been forthcoming. Dilatory tactics employed by the Carter administration are costing the taxpayers of this country $500,000 per day in "start up" costs.

Continuous congressional interest has been demonstrated in urging the President to avoid violating either the spirit or the intent of the law, as noted in the following telegram of September 28, 1977:

SEPTEMBER 28, 1977.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Today the House Appropriations Committee voted to reject the rescission of $105 million of previously appropriated funds for procurement of additional Minuteman III missiles.

We urge you to direct the Secretary of Defense to immediately issue a "start work" order. Prompt action to resume work on this vital national defense program will save millions of taxpayer dollars in "startup" costs and reemploy thousands of defense workers.

Sincerely,

Howard Baker, Orrin G. Hatch, Strom Thurmond, Barry Goldwater, John Tower, S. I. Hayakawa.

Robert C. Byrd, Jake Garn, Dewey Bartlett, Henry M. Jackson, Howard W. Cannon, Warren G. Magnuson.

On October 18, 1977, the Secretary of Defense directed that the Department of Defense respond:

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., October 18, 1977.

Hon. JAKE GARN,
U.S. Senate.

DEAR SENATOR GARN: Knowing of your concern regarding the Minuteman III FY 1977 production program, this is to advise you of current activities in this program.

When the President proposed rescission of $105 million in connection with termination of the FY 1977 Minuteman III production program, these funds were placed in reserve by the Office of Management and Budget. In accordance with the procedures of the Impoundment Control Act of 1974, these funds have been released to the Air Force for obligation.

The Secretary of the Air Force has been asked to examine the actions required to initiate production of Minuteman III missiles and components with the FY 1977 funds. All necessary steps will be taken to obligate these funds in the most efficient manner possible.

We hope this information will be useful. If we can be of further assistance in this matter, please do not hesitate to contact us.

Sincerely,

CHARLES C. BLANTON,
Major General, USAF Director,
Legislative Liaison.

Unfortunately, this response reflects the same "holding status" and dilatory tactics displayed in the stall on B–1 funds. that is confirmation that: First, the $105 million rejected for rescission

was made available by the Office of Management and Budget for obligation; second, the Secretary of Defense has taken steps to utilize this budget authority in the Minuteman program; third, the Secretary of Defense requested the Secretary of the Air Force to "examine the actions required to initiate production of Minuteman III missiles and components and; fourth, "all necessary steps will be taken to obligate—in the most efficient manner."

In urging President Carter to obligate the $105 million without further delay, a telegram was sent to him on October 18, 1977, which reads as follows:

OCTOBER 18, 1977.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Under the provisions of the Impoundment Control Act of 1974, the $105 million of previously appropriated funds for procurement of additional Minuteman III missiles should be obligated without further delay. This requirement follows the expiration of the prescribed 45-day waiting period and the rejection of the Minuteman III rescission by the House Appropriations Committee.

As the Chief Executive Officer of the Federal Government, we urge that you immediately make available for obligation the funds previously appropriated and, as the Commander-in-Chief, ensure that the Secretary of Defense issues at once the "start work" orders for this vital national defense program. Your prompt action will save the taxpayers of this country millions of dollars in "start-up" costs and reemploy nearly eight thousand defense workers.

Sincerely,

Clifford P. Case, S. I. Hayakawa, James A. McClure, Jake Garn, Orrin G. Hatch, Paul Laxalt, Dewey F. Eartlett.

Mr. President, I believe it important that each of my distinguished colleagues be made aware of the growing concern in President Carter's subverting the law, and the pattern of deliberate intent. I therefore ask unanimous consent that these facts be printed in the RECORD.

SAVINGS AND EFFICIENCY IN GOVERNMENT PRINTING PROGRAM

Mr. CANNON. Mr. President, as chairman of the Joint Committee on Printing, I should like to call attention to a recently initiated program of the committee that already is saving taxpayer money and improving efficiency in some aspects of the Government printing program.

In a memorandum to all departments and agencies in the Federal Establishment, the heads of those departments and agencies were informed about the savings possible by converting certain computer output material to microform. At the same time, I requested departments and agencies to "fully evaluate the potential for even greater savings in conversion of conventionally printed matter to microform, wherever possible and practicable."

An example of how well that is beginning to work is shown from a report from just one agency, the U.S. Postal Service. In a letter, October 5, 1977, Postmaster General Benjamin F. Bailar states, in part:

This will supplement my letter of September 15 concerning the conversion of U.S. Postal Service internal publications to microform.

We have converted the publication of our last two rate hearings, briefs and decisions to microfiche. The previous two hearings were typeset and published in perfect bound volumes at a cost of $398,000. The last two rate cases, which were about the same bulk, cost only $6,000, a savings of $392,000. The microfiche decks are sold by the Public Printer in lieu of hard copy. . . .

Another, somewhat related program of the Joint Committee on Printing, implemented in the last month or so, authorizes and encourages the use of micrographics technology in the nationwide depository library program. Already, 550 titles have been converted to microfiche, resulting in more than a quarter million distribution of Government documents in microfiche rather than printed form. Savings on these conversions are expected, initially, to exceed $50,000 a month.

Additional hardcopy conversions are being planned for the depository library program which is expected to reduce the conventional printing costs by approximately $500,000 a year.

OKLAHOMA PAGE ON TV TEAM

Mr. BELLMON. Mr. President, a team of students from the Capitol Page School is competing in the quarterfinals of the NBC–TV quiz show, "It's Academic."

The team, representing the smallest school ever to participate in the nationally televised high school competition, advanced to the quarterfinals by defeating two other teams last Saturday, October 15. A total of 81 schools were involved in the first round.

Mr. President, I am proud to call attention to the fact that one member of the team, Jennifer Gay of Ponca City, Okla., is serving as a Senate page under my sponsorship. The other members are Tom Daniels, the team captain, and Peter Neil, both of whom are House pages. The alternates are Holly Glenn, Chris Clark, and Noreen Beatley, who also are House pages.

It should be noted that Jennifer is the only Senate page in this group of exceptional students. She is ably qualified to represent the Senate pages in this highly competitive test of knowledge. At the completion of her sophomore year at Ponca City High School last spring, Jennifer had a 3.47 grade point average. She has participated in numerous scholastic competitions at Oklahoma State University and Northern Oklahoma College and won many awards for her knowledge of American and world history.

As a delegate to the annual Mock United National Forum sponsored by Oklahoma State University, Jennifer shared an award for one of the best and most active delegations. Last February she won third place in the American Legion Oratorical Contest for her speech on "The Constitution of the United States."

Jennifer, who is the daughter of Mrs. Richard L. Gay, has been active in the Ponca City High School band and orchestra, served on the staff of her high school newspaper, and was president of the Ponca City Teen-Age Republicans.

Mr. President, Jennifer Gay and her young colleagues, as well as their coach, Leo Balducci of the Page School faculty, are to be congratulated for the honor they have brought to themselves and to the Congress. I invite my fellow Members of the Senate to watch "It's Academic" at 11 a.m. Sunday, November 20 on channel 4 in Washington, and to join in wishing the Capitol Page School the best of luck in the remaining rounds of competition.

CONCERNING INTERPRETATION OF PROVISIONS OF THE PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations resumed its consideration of the proposed Panama Canal agreements this morning by taking additional testimony from conegotiators Ellsworth Bunker and Sol Linowitz.

Our purpose in asking the conegotiators to come back at this point was to give the members an opportunity to discuss with them the clarifying statement pertaining to the neutrality agreement which the White House released Friday, October 14, following General Torrijos' brief return visit to this country.

This morning, the committee devoted 2 full hours to examining the "Statement of Understanding" and discussing its meaning with Messrs. Bunker and Linowitz. This was a very positive and useful meeting and as chairman of the committee I want to say that, so far as I am concerned, it served to clarify all of the major, as well as some of the minor, differences of interpretation that have surfaced since the signing of the agreements. As a result, I am hopeful that Senators will be satisfied after examining the statement and the discussion of it this morning that there are now no differences of interpretation between the United States and Panama. I think this morning's hearing record makes it quite clear that we are all on the same wave length.

For the information of the Senate, I ask unanimous consent that a copy of the "Statement of Understanding," along with a copy of the transcript of a press conference held October 18 by Panamanian negotiator Romulo Escobar Bethancourt, be printed in the RECORD. I ask my colleagues to study this material very carefully because I believe it will serve to answer many of the questions that have arisen about the interpretation of the proposed Panama Canal pacts.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF UNDERSTANDING

Under the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (the Neutrality Treaty), Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and con-

sequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

This does not mean, nor shall it be interpreted as a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.

The Neutrality Treaty provides that the vessels of war and auxiliary vessels of the United States and Panama will be entitled to transit the Canal expeditiously. This is intended, and it shall so be interpreted, to assure the transit of such vessels through the Canal as quickly as possible, without any impediment, with expedited treatment, and in case of need or emergency, to go to the head of the line of vessels in order to transit the Canal rapidly.

PANAMA: ESCOBAR TELLS PRESS OF CARTER-TORRIJOS MEETING

(Opening remarks by Panamanian negotiator Romulo Escobar Bethancourt at news conference held at journalists house.)

Good afternoon, distinguished journalists. We have called this news conference on instructions from General Torrijos and the national government, the purpose being to provide information on the meeting held in Washington between President Carter and General Torrijos.

While General Torrijos was on his tour of Israel and West Europe, he was invited by President Carter to stop over in Washington on his return trip to have a talk. President Carter was interested in two things: First, to exchange views with General Torrijos on his tour of Israel and West Europe, and to obtain the reaction of those countries or their rulers regarding the treaties signed between Panama and the United States. The second point was for the two heads of state to meet to clarify some matters which were causing confusion in Panama as well as in the United States. Specifically, this referred to two points, both of which are part of the Canal Neutrality Treaty.

In Washington, the two heads of state first held a private meeting during which they discussed the general's trip to Israel and Europe. Subsequently, they held a broader meeting between President Carter and his adviser and General Torrijos and his advisers. The following matters arose at this meeting: President Carter pointed out that, in spite of the fact that both he and General Torrijos clearly understood the points concerning the Neutrality Treaty, the following had occurred: The U.S. Senate Foreign Affairs Committee was interpreting Articles IV and VI of the Neutrality Treaty in a manner different or contrary to the way it was being interpreted in Panama by us, the government's spokesmen, and that this was causing confusion in both countries.

General Torrijos expressed the same view and said he was very pleased to hold this meeting, because if a concrete interpretation was to be forthcoming on these problems, he wanted the interpretation to be made before 23 October, the date of the plebiscite in Panama. The two heads of state, with the participation of their respective advisers, continued the meeting and went right into the items in question.

The first of these topics was Article IV of the Neutrality Treaty, which states that both Panama and the United States pledge to maintain the neutrality (of the canal—FRIS) so that the canal may remain open peacefully and in a nondiscriminatory manner to all ships. This language had been perfectly understood by the negotiators and the rulers of both countries, but the confusion arose with regard to the following: Whether or not the United States had the clear and indisputable right to defend the canal in order to keep it open to the world's ships, on the one hand, and whether, on the other hand, this involved the right to intervene in the domestic affairs of the Republic of Panama.

Why did the problem arise? Because some Senators in the United States maintained that the language used in Article IV effectively gave the United States the right of defense against attacks on the Panama Canal in violation of the Neutrality Treaty. They extended this to mean that, as a consequence of this right of defense, they had the right to intervene in the Republic of Panama.

On the other hand, ever since the first public and official explanation in our country on 19 August, to the assembly of Corregimento Representatives, we said that the intent of article IV was to point out that, in effect, Panama and the United States had the right to defend the canal against attack in order to keep it open for transit by all the world's nations, but that the scope of this right of defense at no time could be extended to mean the right to intervene within the Republic of Panama.

After the two heads of State managed to define these basic facts, we were able to divide the problem in such a way as to be able to clarify it. The objections being made in the Foreign Relations Committee of the U.S. Senate, on the one hand, and the objections in Panama, on the other, would have no reason to exist once the two heads of state managed to develop this thinking and this common interpretation.

During the talks between President Carter and General Torrijos and at the meeting, the U.S. President reiterated that at no time had his country interpreted article IV to mean the right of intervention in Panama's internal affairs: that it had always interpreted this as a right of defense against any attacks on the canal in violation of the neutrality treaty; and that the U.S. interest was fundamentally based on the fact and need that the canal must remain peaceful and permanently open to traffic by all ships of all nations of the world. In this sense the Panama Canal constitutes an interoceanic waterway that is vital not only to U.S. commerce and shipping, but to many countries of the world as well.

Therefore, this was President Carter's reasoning. In addition, he very wisely pointed out that his country was not currently in a position to engage in intervention, because it already has had experience with intervention in the internal affairs of other countries. General Torrijos recognized in President Carter a very moral stance regarding the political conduct of his government and of the United States, based precisely on the criterion that, although his country is a great power, it is turning away from the type of intervention that it carried out in the past in Vietnam, Santo Domingo and a number of other places in the world.

We honestly believe that the two heads of State developed a stronger understanding at this meeting, not only in regard to settling the negotiation and treaty issue, but also in regard to the political conception of the new relations that must prevail between our two countries and between the United States and the other countries of the American continent.

A single interpretation was then agreed upon so that no conflicting interpretation or standard would be expressed in the United States and Panama regarding article IV. The two heads of state agree that the correct interpretation of article IV is based on two facts: That attacks or acts of aggression against the Panama Canal grant to Panama and to the United States the right to defend it, in order to prevent such attacks, and so that the canal may remain neutral, open and peaceful for all nations. In addition, at no time does such defense involve, refer to or grant to the United States the right to intervene in Panama's internal affairs.

On the initiative of General Torrijos and President Carter to clarify the concept further, it was even pointed out that, in addition, any action taken by the United States to maintain the canal being open to all nations would never be an action aimed against the territorial integrity or the political independence of the Republic of Panama. We believe that in this way, through the unification of this stand, a real separation is made between the problem of the canal's defense against attacks and acts of aggression, and the act of intervention which we Panamanians have always rejected and which we have said was never embodied in the neutrality treaty. This position has now been strengthened with the unified interpretation by the two heads of state on this problem.

In this regard this becomes specific, since President Carter said this textually. What I am going to do here is repeat how this stand was reached to prevent continued confusion in Panama and in the United States with regard to the scope of article IV of the neutrality treaty.

According to the treaty on permanent neutrality and the operation of the Panama Canal—in parentheses, the neutrality treaty—Panama and the United States have the responsibility of insuring that the canal will remain secure and open to ships of all nations. The correct interpretation of this principle is that each of the two countries, according to its respective constitutional procedures, will defend the canal against any threat to its neutrality and consequently will have the right to act in case of aggression or threat directed against the canal or against the peaceful transit of ships through the canal.

You can see that this first part specifically states the right to defend the canal by Panama and by the United States, specifically to keep the canal open, and to prevent any obstruction of the transit of ships. The unified interpretation continues in the following manner: It does not mean and will not be interpreted as meaning a U.S. right to intervene in Panama's internal affairs. Any action by the United States will be directed at insuring that the canal remains open, secure and accessible, and will never be directed against the territorial integrity or political independence of Panama.

You can see that in this specific case, the two heads of state managed to unify their stands regarding the true scope of Article IV: That is, to defend the Canal against attacks or aggression directed at closing it or at obstructing the passage of ships. The actions which Panama or the United States could take are directed toward this specific purpose. But in the case of the United States, no action can ever be directed toward the territorial integrity or political independence of Panama, which is precisely what we Panamanians are defending and have been maintaining since the signing of the Torrijos-Carter treaty.

On the second point—in this case related to Article VI of the neutrality treaty—the transit of U.S. and Panamanian warships in an expeditious manner through the canal, the two heads of State clearly stated what exactly was meant by expeditious passage through the canal by U.S. and Panamanian warships. They discussed this problem and pointed out that, fundamentally, expeditious passage means quick transit, without obstacles with the least possible processing. In addition, it was pointed out that in case of an emergency or necessity, in such specific cases expeditious passage would permit the warships of both countries—but naturally primarily those of the United States, because

we do not yet have warships—to go to the head of the line of ships awaiting transit, the purpose being to go through the Canal quickly.

General Torrijos said yes, he did consider this necessary and appropriate because one of the things we did not agree with was that the warships should spend too much time in Panamanian territorial waters, much less in cases of emergencies or necessity.

Why? Because a prolonged delay could make that ship an object of reprisal within our territorial waters. Therefore, the sooner it left, the more secure our country would be. Second, warships which would remain for a long time in our country's territorial waters would have negative social consequences, because they generally carry large crews and a large number of soldiers, and a prolonged stay would disrupt normal life in our cities.

Those who are old enough to remember what occurred in Panama during World War II will understand exactly what kind of problem is caused by a prolonged presence of foreign troops in our territory—social problems, problems of disrespect for women, drunkenness, fights, scandals and so forth. Therefore, in the case of necessity or in the event of war, having warships go through the Canal quickly not only fulfills an aspiration of the United States—which, naturally, in an emergency wants its ships to transit the Canal quickly—but also is to the advantage of Panama, which does not want such ships to remain in its territorial waters. On this basis, therefore, a uniform interpretation of the true meaning of expeditious passage through the Canal was achieved.

It is unified in the following manner: The neutrality treaty provides that U.S. and Panamanian warships and auxiliary vessels will have the right to transit the Canal in an expeditious manner. The intention is, and it will be so interpreted, to insure the transit of those ships through the Canal as quickly as possible, without obstacles, with simplified processing and in case of necessity or emergency, to go to the head of the line in order to transit the Canal quickly.

This is therefore the meaning which the two rulers have now accepted as the single interpretation of the expeditious transit of warships of the United States and Panama. Besides,—and this is most important—since the general was returning from his tour of Israel and West European states, he consulted the various chiefs of state on the scope of this problem of expeditious passage and how it could affect these nations support of the neutrality treaty. In this respect, ,those whom he consulted told him that they were not concerned about this; that the problem would arise only if the Canal were closed: that having U.S. warships pass first was no problem; that the serious problem, they reiterated, was if the Canal were closed; because a large percentage of those nations economies are based on the transit of their vessels through the Panama Canal; and that one of the reasons why they congratulated Panama and the United States for having reached a peaceful settlement was not merely because of their solidarity with our country's just cause, but also because of their great concern that the Canal remain permanently open, as their economies would be seriously affected otherwise.

Consequently, we can tell this distinguished group of journalists that as a result of the meeting between President Carter and General Torrijos in Washington, we have made it possible for the contents of Article IV of the neutrality treaty to be specifically interpreted by the two chiefs of Government who signed the treaties.

I believe an important step has been taken in really clarifying what had become cause for great concern to us Panamanians and the U.S. Senators. To us, the vital part is clearly explained and reiterated by President Carter: that the article neither had been interpreted, nor would be interpreted, and cannot be interpreted, as a U.S. right of intervention in our internal affairs, and that U.S. actions cannot affect our territorial integrity and political independence.

Later I am going to distribute this same sheet, although you already know its contents since it was published recently in the papers. I wanted to hold this news conference to explain to you how this unification of positions was reached and, in addition, to answer any questions you may want to ask.

Question. My question is very brief. Is it a fact, as U.S. news agencies have reported, that a joint communique had been signed?

Answer. No, there was no joint communique. What I am reading to you is an interpretation reached by the two chiefs of state. It is, however, an interpretation which neither one signed because it was not deemed necessary since they had signed the treaty. As signatories of the treaty and as chiefs of state, they were merely giving their interpretation of two articles of the neutrality treaty. When General Torrijos said he had not signed a single autograph, he meant just that, since no document was signed. In these negotiations there is nothing that is secret. If they had signed something, such a signed document would have been released immediately to the Panamanian press for publication.

When we speak of an interpretation by the two signatories of the treaty we merely mean that the two chiefs of government are saying: What we signed means this. They do not have to sign a statement saying we interpret it in this manner simply because the document which includes the text of the articles was signed by them. In fact, it is just as President Carter had said previously, that when the United States says it can defend the canal against attacks and aggressions and when Panama says that this did not mean the right of intervention, they are both actually speaking about the same thing (as heard) as being certain. What they did was meet for him to confirm to his Senate, his people, and we, to our people, the interpretation of what they had signed.

Question. Some Senators are asking that the interpretation be included as part of the treaty, as they consider it important to understanding the scope of the text. Would Panama accept this 5 days before the plebiscite?

Answer. That would be a decision for the general (Torrijos—PPIS) to make. However, we cannot abide by what the Senators want because they have their own problems and procedures there, their own legal system. In fact, I believe they have already concluded the period of hearings. Nevertheless, we cannot adapt our procedures to that of the U.S. Senate. Each country has its own procedure, and ours is through a plebiscite which is scheduled to be held on 23 October. When General Torrijos met with President Carter on this specific issue, they were not adding anything at all to the treaty; they were merely confirming an interpretation which the two countries had already made in article 4 of the neutrality treaty but which, in both countries, did not seem to be very clear.

Question. Latin America is a region of political instability. Article 4 of the neutrality treaty guarantees the defense of canal by Panama and the United States. However, if a government should emerge which is hostile toward the United States as a result of the canal, dc you believe that the United States would intervene in Panama to put down the violent nature of such a government?

Answer. No. That is precisely why the interpretation points out the political independence, that this will not affect the political independence. This means that the Republic of Panama could have governments which are friendly or hostile toward the United States in the future, which we cannot know. But the commitment of Panama as a state with regard to the United States and in relation to all the other countries of the world and those that adhere (to the neutrality treaty—ERIS) is to keep the canal open. It does not mean to be friendly toward any particular country. It means that it must keep the canal open even if it is an enemy of that country. This is the real meaning of the concept of neutrality. Therefore, regardless of the kind of political regime which emerges in Panama, it can never close the canal, not just in the case of the United States, it cannot close the canal to any of the other countries. I would say that it cannot close the canal even if it wanted to since Panama's necessity in the case of the canal is precisely that it remain open. Otherwise, the ships would not transit the canal and would not pay tolls.

Therefore, one cannot make the neutrality treaty dependent on the type of political regime that may exist in Panama or in the United States. The regimen of neutrality demands that the canal remain open not only to the U.S. flag, but to all flags of the world, without discrimination.

Question. (In English) you told us about how you thought Panamanians would vote in the plebiscite. I would like your opinion on whether you think the U.S. Senate will ratify the treaty, and I also want to know if you still feel the way you felt in August, when you said that if it does not ratify the treaty, Panama will take a course of violence, a road to violence.

Answer. When I am asked questions connected with the negotiations, I like them to be asked in Spanish.

(Unidentified person in English) Ann Susie, Ann Susie, would you be so kind to say that in Spanish, please?

(Question in English) I can't. (Words indistinct).

(Unidentified person in English) If you make that question a little shorter, I will try.

(Questioner repeats question, unidentified person in the group translates into Spanish).

Answer. Regarding your question about whether The U.S. Senate will or will not ratify the treaty, Susie, I cannot answer that because I am not a Senator, and since I am not a Senator, I cannot determine what the U.S. Senate's decision will be. I do believe that President Carter's Administration, several Senators, as well as various civic and labor organizations in the United States are making a major effort to convince the Senators of the advisability of reaching a "negotiated solution with Panama in connection" with the treaty.

Regarding your question about whether Panama will choose the path of violence if the Senate does not ratify the treaty, I cannot answer that either for a very simple reason: one cannot predict the future. One does not know what the fate of the people is. We do know that the Panamanian people want to be liberated, but we also know that the Panamanian people and government have always sought the peaceful path in this process of liberation. They have always used peaceful means. They have always tried to reach an agreement that is mutually acceptable to our two countries. We cannot say that Panama will choose the path of violence because if we did we would be guessing. We believe that in this new relationship, it is more feasible to seek the path of negotiations than the path of violence.

Question. Dr. Bethancourt, I would simply like to get this clear: Has the test of the articles which motivated the meeting between Carter and Torrijos been in any way altered after their talks?

Answer. Which articles?

Question. Article IV of the Neutrality Treaty.

Answer. Oh, I see. No, no they have not been altered in any way. Those articles have not been touched, those articles retain their

wording, those articles are including in the Neutrality Treaty. The problem were regarding what you have asked is that, in connection with articles IV and VI, the two leaders have said: This article IV and this article VI mean the following . . . in other words, the method of interpretation of the articles, not their alteration.

Furthermore, what they have said is what has been said all along, the only difference is that now they got together to say it in order to unify the interpretation of the two articles in both countries.

Question. Dr. Bethancourt, there is great concern—concern which I share with all Panamanians—regarding which country in the future will interpret or decide if neutrality has been violated or has been or is being threatened, particularly because of the interventionist nature of the United States in the past, a history of intervention which Panama itself has suffered from, as we are an occupied country. Only today the newspaper La Republica reported that U.S. troops and advisers are in Nicaragua fighting the Sandinst Front guerrillas. We would like to know if there are any mechanisms or if there will be any method of consultation between the two countries in such an event. In other words, has this been foreseen, has this been discussed, or is this written down anywhere in the treaty?

Answer. There is no exact method of interpretation on how violations of the neutrality treaty will be determined. Generally, in these treaties one cannot go into a multitude of juridical details. In this case they would be procedural details concerned with juridical procedures. If one did this, one would never conclude a treaty. One would have to draft several codes.

Therefore, it cannot be specifically indicated in the neutrality treaty that the method of interpretation will be this way or that. The general treaty includes an article which states that in case of a discrepancy between the two sides concerning the interpretation of an article, they will reach an agreement between themselves or, if necessary, they will appoint an arbiter to decide the issue. This is the general way these situations are handled.

On this basis Panama concluded a treaty with the United States, after that unilateral declaration, a treaty which reiterates the maintenance of neutrality. But this is not an ambiguous neutrality. It is the neutrality specifically mentioned there. Therefore, if something were to occur in Darien, for example, this would have nothing to do with the canal. Thousands of things could occur on the Isthmus of Panama, as in all other countries of the world. The neutrality treaty indicates a specific situation. It applies to the canal. So as to make it possible for ships to transit. If, for example, in Darien or in some part of the country the government of the Republic of Panama should stop a ship for A, B or C reasons, this is something which has absolutely nothing to do with the Panama Canal. What Panama will not do, under the neutrality treaty, is prevent a ship that is coming exclusively to transit the canal from doing so. This is the meaning (of the neutrality treaty—FBIS).

Therefore, in order to discuss violations of the concept of neutrality established in this treaty one has to look directly at the objective on which the treaty is based: That is, to keep the canal from being closed, thus preventing the passage of ships, and to prevent any hindrances to the passage of ships which come to transit the canal. This is the key to how the scope of the concept of neutrality is measured. But this is not outlined in the treaty concerning the canal. If we used the method you mentioned, we would have to add to each article the procedure by which the article would be implemented. This would be highly impossible. This is not done even in codes. You see, for example, that the penal code lists the crimes, the criminals and the subjects. It is another code, the judicial code, which indicates what procedures are used to judge those crimes and apply the corresponding punishment. If the penal code, in addition to defining crimes and criminals, were to include the procedures, it would not be a functional code.

The same thing applies to treaties. Treaties indicate the points of agreement—the subject, the substance of this subject. The procedure (interrupts sentence—FBIS). For example, here in these treaties you will see that many of these things are developed by different procedures: For example, procedures to be developed by the commission which will administer the Panama Canal, procedures to be developed by the Joint Board for the Defense of Canal. But these procedures are not specifically outlined. What the treaties gives is the subject matter which is being agreed upon by the two countries and the clause which I mentioned to you concerning what procedures are followed for (sentence left unfinished—FBIS).

(Question indistinct.)

Answer. Those are different problems. One thing has nothing to do with the other. As far as the expiration date is concerned. It is clearly established. It is known to be 31 December 1999, and noon, Panama time. There is an article which states this and which cannot be disputed.

The other article concerns the date of expiration on which the canal is returned to Panama, with no cost, except as agreed upon by the two parties. (Sentence as heard—FBIS) why (the phrase—FBIS) except as agreed upon by the two parties? Because, let us suppose that in 1996 or in 1999, with 1 or 2 years remaining before the treaty between Panama and the United States expires—this is a hypothetical case—that is, 2 years before the treaty expires, there should be the need to make an investment for X, Y, or Z reasons related to the functioning of the canal. Then the United States could say to Panama: Well, 1 year remains before our administration ends, but in this year it will be necessary to invest, let us say $5 million and we believe that to make such an investment now, when we have 1 year to go, is absurd from the point of view of our economy. Panama could then decide to say: Go ahead and invest the $5 billion and when you turn over the Canal, we will recognize this debt of $5 milion. This is a hypothetical case. That is why one says except as agreed upon by the two parties, because the matter is not closed, because one does not know what contingencies may occur. However, one says except as agreed upon by the two parties because if they do not agree on anything, then the canal has to be returned free of costs to the Republic of Panama. If Panama were to say: "No, do not make the investment, or if you do it will be at your expense because we are not going to recognize this sum, then there would be no agreement. When one stipulates except as agreed upon by the two parties, this means the two parties must reach an agreement in this regard.

But this was nothing to do with the treaty termination date. Because as to the treaty termination date, if it were not a fixed date or if it were a fixed date but with the possiility of extension, this would appear in this article and it would say 31 December 1999, except for whatever the parties might otherwise agree upon. It would say so there, but it does not say so because the termination of U.S. control is emphatic with regard to U.S. presence here in Panama: At noon on 31 December 1999, Panama time period, nothing else is said.

The other refers rather to a problem of an economic nature, a problem of some investment that might have to be made at the last minute when there is only a short time left before Panama recovers the canal. In this case the two parties will have to agree on whether Panama agrees to assume the debt or not. That would be a problem between the two countries. However, about wanting to take what one article states and give it a meaning in another article, this does not make sense. This does not make sense because they are different subjects and each article contains what one wants it to contain. When that article is related to another article, it is so stated. You can see this in the treaty. When administration or defense is mentioned, reference is made to the schedules. You have to refer to the schedules because the articles state that these schedules will expand on the contents of that article. When one article is related to another, it is stated that the article is related to another article.

In law practice we cannot prevent attempts at all kinds of interpretations. This cannot be prevented. Furthermore, the lawyer always has a tendency to do this. This is why we have courts where, when a prisoner is being tried, one lawyer is accusing him and another is defending him over the same issue.

However, there is another matter, which is commonsense. Commonsense is superior to law. Commonsense is what tells you when something is clear. Commonsense cannot be twisted or changed no matter how much you argue against it. For example, if you hit an egg with a hammer and the egg breaks, there is no lawyer in the world who can deny it. Nevertheless, commonsense will tell you that if you hit it with a hammer, the egg will break.

Therefore, this problem must be clear with regard to the fact that these documents are open to many interpretations. However, we do have commonsense and this indicates to you that there is a termination date in this treaty. It is clearly stated in one of its article which is devoted to, and even has as its title, the termination date. This article says that it expires on 31 December 1999 at noon Panama time and nothing else. It does not say that it is related to another article, or that one has to look in an annex for more information, or that one has to seek an exchange of notes to explain it, or that one has to seek a subsequent agreement or a subsequent interpretation. This article shows that it can stand on its own, that it does not need interpolations or another article to indicate whether or not it applies.

What is occurring now is an attempt to seek interpretations in order to create uncertainty—to create uncertainty with regard to this problem, so that people will think: Is it true or not that it expires on December 31, 1999? That is the aim, because we are 3 or 4 days away from the plebiscite. There are lawyers who have said that the Hay-Bunau-Varilla treaty is better than this one. They have said this, but they have not taken the Hay-Bunau-Varilla Treaty and read it to the people article by article. They have not done this. They have said the Hay-Bunau-Varilla Treaty is better than this. Let us keep that one. Moreover, this is degrading, but they have gone that far. And worse things will happen.

However, one thing is being forgotten. They are forgetting—in an attempt to think of themselves as very intelligent, or in believing that one can play with all kinds of ideas—one important thing, which is the common man. The common man is used to living with commonsense daily, and he cannot be deceived. He cannot be asked the kind of question which Plato asked in attacking sophists, such as, tell me the meaning of a man who is not a man, who is sitting in a tree which is not a tree and hitting the tree with a stone which is not a stone. This is for the sophists, this is not for the common man.

Question. My question refers to next Sunday's plebiscite. What percentage of the people will vote yes, in the opinion of the government?

Answer. I cannot answer that because I have not consulted the government concerning such a percentage. However, based on my very personal opinion, starting with the fact that everyone who votes yes will be voting for a new treaty and that everyone who votes no will be voting for keeping the Hay-Bunau-Varilla treaty, I believe that a large percentage of our people will vote yes. Naturally, I am not a prophet and cannot tell you exactly what that percentage will be.

Question. Comrade, I would like to know why the Republic of Panama in Article VII says: The Republic of Panama will adopt the measures necessary to insure that no other use of the land and water of the canal basin will exhaust the supply of water necessary for the continuous and efficient management, functioning and maintenance of the canal and will not interfere with the U.S. rights to use the waters of the canal basin. Panama needs water for its people to live. The Panamanian pays for his water. The Panamanian needs electricity. Why does Panama subsidize a country, which I respect but which is the world's largest economic power, and why do we give it our water?

Answer. I am going to divide your question into two parts, the one about the Panamanian people needing water and the other concerning why we took the decision not to deforest or not to interfere with the waters for use in the canal. First of all, the two points are not contradictory because the maintenance of the hydrographic basin is import to provide water for our people and for the operation of the canal. Second, we must protect the hydrographic basin in this case, in relation to the canal, because otherwise we would have to close it. If there is not water, the canal must be closed. That is a great truth. And it is not a question of subsidizing the United States in that respect. The fact is that the canal constitutes, according to our geographic position, one of our resources, part of our wealth, to develop our country. That is why we are struggling to put a termination date on the treaty with the United States, so that the canal will become our property. This is also the reason why during the 23-year-period we have agreed with the United States to receive approximately $80 milion a year instead of the present ridiculous sum of $2.6 million.

Since it is an economic resource, we must first maintain that economic resource, take care of that economic resource, and obtain the greatest possible benefit for our country and our people. If, according to your theory, we deforest the hydrographic basin, that would be tantamount to Venezuela setting fire to its oil wells. If Venezuela sets fire to its oil wells, it would destroy one of the principal sources of its wealth.

That measure is directed at conserving sufficient water for the operation of the canal, not just now that the United States has it, but also after it is turned over to us. Furthermore, it would be absurd for us to deforest the hydrographic basin, for us to alter the water situation, or not to try to better the water situation because then we would not only have no water for the canal, but we would not have water for our country.

For instance, take the case of Panama, so as not to talk about other countries. What has happened in certain regions of our country? Indiscriminate deforestation, the felling of trees, the turning of places which years ago had abundant vegetation into barren areas has resulted in diminished rainwater reserves and a decrease in our water levels. It has resulted in an alteration of our annual rain levels to the point that last year we had one of our country's worst droughts.

By protecting our hydrographic basin, we are not engaging in anything blasphemous or doing this because the gringos have such pretty faces. We are not interested in having the canal close down. We are interested in seeing it function and in having the canal. . . .

Question. But then why do they not pay for the water? It says here that they will use the water free of charge. How come we have to pay for it?

Answer. We pay for its consumption.

Question. That should be free of charge because they consume it, too.

Answer. For its consumption, we pay for its consumption. The water. . . .

Question. They consume it, too . . .

Answer. Enough!

SOUTH AFRICA ORDERS ARRESTS; SHUTS TWO BLACK NEWSPAPERS

Mr. CASE. Mr. President, the South African Government's shutdown of at least three newspapers—including two leading black newspapers is a deplorable action and a cause for deep concern.

The unrest and police actions following the death in prison last month of Steve Biko, a young black leader, have been a source of increasing dismay to those of us who support a peaceful resolution of the conflicts in southern Africa.

I am particularly worried that the South African Government may be so taken up with the concept that the outbreaks of unrest are orchestrated in some way that it continues to fail to adequately recognize and meet the legitimate concerns of the nonwhite population.

As one who has urged the State Department to keep open the Rhodesian Information Office in Washington and opposed attempts to use UNESCO to curb press freedom, I am deeply concerned about the actions taken against South African publications and journalists as well as other organizations and individuals. I hope the South African Government will reconsider its actions and take steps to lessen rather than widen the tensions.

I ask unanimous consent to have printed in the RECORD an article from today's Washington Star on the developments in South Africa.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOUTH AFRICA ORDERS ARRESTS, SHUTS 2 BLACK NEWSPAPERS

JOHANNESBURG.—The South African government today banned 18 black and interracial organizations, shut down the country's two leading black newspapers and arrested the editor of one of the papers.

Raiding security police arrested at least 10 other prominent black leaders in the biggest crackdown since the early 1960s.

Among them was Dr. Nthato Motlana, chairman of an ad hoc group trying to bring black rule to troubled Soweto township. Police in Durban and Cape Town, South Africa's other two major cities, also raided the homes and offices of students, lawyers, priests and scholars.

Justice and Prisons Minister James T. Kruger charged that the banded organizations and papers were working to create a "revolutionary climate" among South Africa's voteless black majority.

The newspapers banned were the World, published in Johannesburg, and its Sunday counterpart, the Weekend World. They are the first major newspapers to be shut down by the government. The World has a circulation of 150,000, the second largest in the country, but it is estimated to have at least 1 million readers.

Plainclothesmen arrested the editor of the daily paper, Percy Qoboza, shortly after noon. A secretary who witnessed Qoboza's arrest said, "They dragged him away as if he had killed somebody. I'll never forget it. It was too much."

Sources said Qoboza was detained under a section of the Internal Security act that permits police to hold suspects indefinitely without trial.

The last editions of The World to hit the street carried a front-page story demanding the release of three of its reporters who have been in jail without trial for up to 232 days.

The banned organizations included the Black People's Convention, whose honorary president, Steve Biko, died in jail Sept. 12, setting off a new wave of black anti-government feeling and an international outcry.

Others were the all-black South African Students Organization, which Biko founded; the interdenominational, multi-racial Christian Institute, the Black Women's Federation, the Soweto Students' Representative Council, the Union of Black Journalists, the Black Parents' Association, the National Youth Organization and other black youth and student organizations.

All militant black political organizations already are banned in white-ruled South Africa.

Rene de Villiers, a former editor of the Johannesburg Star and opponent of the government who is retiring from parliament, said the banning of the papers was a "the beginning of the end of press freedom in South Africa."

The government's leading opponent in parliament, Helen Suzman, said the sweeping bans were a "complete admission by the government that it is unable to govern the country without resorting to absolute despotism."

Suzman said instead of doing what they were doing legally, the banned organizations would turn into underground movements that would be far more dangerous to the government.

SENATOR HUMPHREY TESTIFIES BEFORE HOUSE SUBCOMMITTEE ON FAMILY FARMS, RURAL DEVELOPMENT, AND SPECIAL STUDIES

Mr. ANDERSON. Mr. President, last weekend, Minnesota Congressman, RICK NOLAN, held field hearings in Marshall, Minn., on behalf of the House Subcommittee on Family Farms, Rural Development, and Special Studies. Our distinguished senior Senator, HUBERT H. HUMPHREY, submitted a detailed statement on the plight of the family farmer which I believe should be required reading for all those concerned with American agriculture.

For 30 years Senator HUMPHREY has been a leader in the struggle to keep the family farm the strong centerpiece of rural America. He has accomplished much, but knows that much more remains to be done. Most importantly, Senator HUMPHREY emphasized the need for Congress to consider promptly S. 598 which he and I introduced last February.

This is the Family Farm Security Act which can help assure that young farmers will be able to survive the ordeals that confront all farmers, but especially those who are just beginning to work a farm of their own. As Senator HUMPHREY points out, Minnesota enacted a similar bill during my term as Governor. Our experience with the law has been favorable, and it is time we expanded the

program by calling on the great resources of the Federal Government.

Mr. President, I ask unanimous consent that the text of Senator HUMPHREY's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR HUBERT H. HUMPHREY

Mr. Chairman, I would like to begin my comments by complimenting your distinguished leadership on the issue of family farms.

There are several forces that threaten the institution of the family farm.

Family farms are a cherished part of American life, important to the economy of rural America and to the social fabric of this nation. Unfortunately, the future of family farms is in jeopardy. Saving the integrity of the family farm unit will take the full attention of both rural Americans and key policy makers.

Mr. Chairman, you know the full value of what we call the family farm. You have fought a number of forces which have threatened its existence, the Ag-Land Trust being the most recent which comes to mind. Those of us who care about rural America owe you a debt of gratitude for your efforts to head off the invasion of banking conglomerates into American agriculture. This battle, I note, is just one of your important efforts for family farmers.

The next few years will mark an important turning point in the battle of family farms against a number of threats, including nonfarm corporations, those who seek to enter farming for tax shelter or real estate purposes, and those forces fostering vertical integration.

Mr. Chairman, I was proud to join forces with you during Conference consideration of the Food and Agriculture Act of 1977, to direct the Secretary of Agriculture to do a study of farm support payments to nonfarm corporations, to tenants of land held by nonfarm corporations, and to analyze the impact of eliminating these payments.

The Administration is required to report to the Congress with this study no later than January 1, 1979. It is vitally important that Congress immediately review this study to determine what courses are available to the legislative branch in further reducing incentives for destruction of family farms.

It is indeed appropriate that the first segment of these hearings are held in Minnesota, Mr. Chairman. As you know, the "Land of 10,000 Lakes" has seen a sharp and worrisome decline in the number of family farm operations. This is particularly true in the dairy industry. In 1968, Minnesota farmers were milking 1,031,000 cows. almost two hundred thousand more than they are milking today—865,000 cows.

The reason, Mr. Chairman, that Minnesotans are milking less cows is because more than a fifth of our dairy farmers have been driven out of agriculture in just the past ten years. It is true that part of this decline has been offset in increased production per cow, but it is equally true that a large number of dairymen have left this field because of the entry of mammoth operations—one well known case being a 5,000 cow herd in Arizona. And this size of herd is becoming less exceptional. I understand that there is at least six dairy operations in Florida that have a minimum of 3,000 cows each!

This leads to an interesting problem. All of these large dairy operations are, in a sense, family farming operations. They are family farms in that they are managed by single families. However, the "real" farming obviously has to be done by hired hands.

While I have not fully decided on what constitutes a family farming operation, these multi-thousand cow herds clearly are not. In fact, these huge operations undermine the family farmers of the Upper Midwest by denying them profitable markets in the South and West.

I am not the only one who knows more what a family farm is not, than what it is. Apparently there is considerable doubt throughout the government. For example, the Internal Revenue Service and Census Bureau use different definitions in terms of acreage, gross income and percentage of income derived from farming.

As you know Mr. Chairman, the Congress and the Census Bureau have been debating just this issue for quite some time. Since 1959, the Census Bureau has defined a farm as any place that had agricultural sales of $250 or which contained at least 10 acres and had annual agricultural sales of $50 or more. Using this criteria, we have 2.8 million farms.

Census is now talking about a new definition. The new definition would include farms with not less than $1,000 of annual sales in agricultural products. If this definition is established, then we would count at least 500,000 less farms in America.

The fact is that there are a large number of small farms left in this country. In fact, 63 percent of the farms in this nation earn $20,000 or less in annual sales. While there is a large number of small farms, these farm units have a very small percentage of farm income. In fact, farms with $20,000 annual sales or less account for only 16 percent of farm income.

It is very difficult to talk about a standard size for American farms. There is nothing monolithic about American agriculture. Our agriculture is amazingly diverse, ranging from almond groves in Western California to sugar beet farms in Minnesota to tobacco operations in North Carolina. All of these growers, I am sure, have a different opinion about what constitutes a family farm in their particular area.

It is this very diversity which makes the formulation of family farms policy particularly difficult. While this is an enormous problem, there are some avenues which we should explore. There are things we can do to encourage individuals to enter or remain in farming. Also, there are probably some policies which we should watch very closely for possible adverse impact on the family farm.

One of the most significant factors driving the small farmer out of existence is our land tax policies. In many regions of the country farmers are now being assessed for the potential rather than actual use of their land. In areas close to cities, this has had a severe impact. Taxes become an outrageous expense for many areas, even to the point of forcing small operators to sell their land.

Another potential problem has to do with our system of target prices. The USDA reports that our target prices under the farm bill recently signed into law will cover something close to the cost of production and land. To the large, rich land owner, this will mean an excess of revenue over the cost of production.

What will these rich farmers do with this excess revenue? Some economists are predicting that they will use it to buy even more land. Who will they be buying it from? From the young or middle-aged farmer who does not have the advantages of economies of scale that large operators have? For this unfortunate farmer, these new target prices are simply not enough.

One concept that has been discussed in some circles may warrant attention. Some economists are suggesting that family farmers receive a larger target price payment than large farmers. Both the legal and economic aspects of such a proposal have to be explored. It is not clear if we in the Congress could adopt such a plan at this point in time.

Congress has taken a number of steps in recent years which would strengthen the hand of family farmers. Congress has passed strong conservation measures which have helped us create the agricultural productivity we have today. The recently revamped storage facility loan program is a step in the right direction, and our disaster aid program should soon be greatly improved.

There is, though, much more to be done. A recent effort by Senator Anderson and myself is an important step. On February 3 of this year, we introduced S. 598, the Family Farm Security Act.

This effort, modeled on the plan enacted by the State of Minnesota, would create a new loan guarantee program to individuals who wish to purchase farms but who are unable to do so without Federal assistance.

S. 598 has yet to be considered by the Senate, primarily because of its involvement with the farm bill. I am hopeful that we can receive favorable consideration of this legislation sometime in early 1978.

Mr. Chairman, I would again like to commend your leadership in calling this hearing. We have a long way to go to develop the type of family farm policy that we should have. I believe that you are on the right track. Accomplishing this task will be difficult, but the price will be worth the objective, to enhance the economic and social fabric of what I hope we can once again proudly call Rural America.

THE ADMINISTRATION'S VIEWS ON WATERWAY USER CHARGES

Mr. DOMENICI. Mr. President, I believe that all Members of the Senate have today received a letter from Brock Adams, the Secretary of Transportation, giving the administration's views on the issue of a waterway user charge and its relation to a new locks and dam 26.

I believe it is fair to state that Mr. Adams and the administration have stated their strong support for the amendment to H.R. 8309 that I submitted earlier today.

Because of the importance of this letter to the debate we will have on the user charge issue, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., October 18, 1977.

DEAR SENATOR: I reported to you earlier of the President's firm intention to disapprove any bill authorizing construction of a new locks and dam facility at site 26 in Alton, Illinois, if the bill does not contain a provision establishing waterway user charges along the inland waterway system. Recent events require me to clarify the Administration's position on this issue.

As you know, we supported the waterway user charge legislation that the Senate passed. This bill would phase in a substantial user fee over a ten-year period. The House of Representatives has passed waterway user charge legislation which differs markedly from the Senate version. The House would authorize a six cent fuel tax on inland waterway commercial vessels. The House version would recover only a relatively small portion of operation and maintenance costs and new construction costs.

Because of the closed rule on the House bill and in order to insure Congressional action on this issue, on September 28, 1977, I wrote to Members of the House of Representatives indicating that the Administration would support the bill in the House, but that the Administration would work in the

Senate for a higher recovery of waterway operation and construction costs. The user charge and level of recovery contained in the House bill is inadequate. In order to bring the necessary degree of equity to Federal government policy concerning the inland waterway system, legislation should be enacted which authorizes substantial waterway user charges.

Because this matter is so important to the development of a comprehensive transportation policy, I think that the Congress should be aware of the President's intention not to sign any bill authorizing a new Locks and Dam 26 which does not provide for waterway user charges that will recover a substantial portion of the operation and maintenance and new construction costs.

Sincerely,

BROCK ADAMS.

INITIATIVE

Mr. GRAVEL. Mr. President, the Baltimore Sun published an article concerning the national initiative amendment (S.J. Res. 67), which I have sponsored along with Senators HATFIELD and ABOUREZK.

This article gives a very good account of some of the history behind the initiative process, as well as an account of the effort that is at present being spent on this amendment.

Considering the great promise that the initiative process holds for giving the citizens of the United States a true voice in their Government, I feel this article is particularly relevant to Congress today. I would hope that my colleagues will share my view of the importance of this reform of our constitutional Government.

Mr. President, I ask unanimous consent that the text of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A WAY TO LET THE PEOPLE MAKE SOME OF THE LAWS

(By Michael Nelson)

The greatest paradox of modern American politics is that despite our history of ever-expanding democratic rights—to vote, to speak freely, to choose officials and so on—Americans feel less in control of their government than perhaps ever before.

Evidence for this is all too abundant. Each of the three presidents who preceded Jimmy Carter lost the people's trust and support; garbagemen actually came to outrank the White House in public confidence, according to polls by Louis Harris. Only once in the history of modern survey research has popular approval of Congress gone over 50 per cent. Federal court decisions have been openly defied in some regions of the country. Voter turnout has been dangerously low—fewer than 2 in 5 cast ballots in the last congressional election. At the heart of all this, pollsters inform us, many people feel politically powerless and distrust those who are powerful.

A group called Initiative America thinks it has at least a partial solution to this problem: a constitutional amendment that would introduce an element of direct democracy into the federal government. The amendment would allow citizens to initiate federal laws themselves, and enact them through their votes in national elections. Senator James Abourezk (D., S.D.) recently introduced it in Congress. Here is how it would work:

Citizens initiating a new law would have 18 months to collect petitions with valid signatures equal in number to 3 per cent of the votes cast in the preceding presidential election—at present that would be 2.45 million The Justice Department would then check the signatures for validity. If it certified them within 120 days of the next national election, the proposed initiative would go on the ballot right away, otherwise, it would have to wait two years until the next election.

The initiative, if passed by a simple majority of voters, would become law 30 days after the election. Like any other legislation, it would be subject to judicial review and congressional override, though the latter would require a two-thirds vote of each house of Congress and presidential concurrence. Finally, initiatives could not be used to declare war, call up troops, or propose constitutional amendments.

Although Senator Abourezk's amendment is the first to propose that initiatives be incorporated into national politics, there is nothing new or radical about the idea. Since South Dakota first adopted the process into its state constitution in 1898, 22 states (Maryland is not one of them) have followed its lead. In fact, Mr. Abourezk's political career began with a successful initiative drive he led in defense of South Dakota's rural electrification system. Switzerland has used the practice since the early 19th Century, and some trace it back to the plebiscitums of the ancient Roman republic.

Roger Telschow and Bill Harrington, leaders of Initiative America, feel that these years of experience with the initiative attest to its benefits. "The great advantage of the initiative," says Mr. Telschow, "is that it gives citizens a last resort against special-interest groups. These groups have an unequal voice in Congress because they can afford to hire full-time lobbyists. Sometimes they are able to paralyze the legislative process. The initiative gives people a way of busting up those logjams when they develop."

Mr. Harrington points to several examples of how this has worked in the states: a tough retail credit law in Washington, the unicameral legislature plan in Nebraska, and the Missouri Plan for selecting judges.

Critics of the amendment argue that if it were passed, election ballots would become long and unwieldy, that the process would be dominated by ideological extremists, and that citizens are not qualified to decide issues of public policy.

Some of these fears appear to be undercut by the 3 per cent requirement, which, according to Kevin Murray of Senator Abourezk's staff, realistically means that proponents of an initiative would have to collect 5 million signatures in order to be assured of having the necessary 2.45 million valid ones. The magnitude of the effort would thwart extremists and hold down the number of initiatives on a ballot to one or two in each election, he estimates. Again, Mr. Murray points to the experience of the states as evidence.

The strongest objection to the idea of citizen-initiated legislation, however, is in essence an objection to democracy itself. The idea that people are too ignorant or selfish to be trusted with complex political decisions is enjoying a grand revival today. Scholars as varied and distinguished as Arnold Toynbee, Robert Heilbroner, and Samuel Huntington have suggested that the business of government has become too complex and its resources too scarce to be trusted to an avaricious, unenlightened electorate.

To say that public policy is complex is one thing, but to say that it cannot be discussed intelligibly by leaders and decided intelligently by the people is something else again. In a sense, the initiative is simply another check in our systems of checks and balances; instead of one branch of the government being a check against another, the initiative is a final check against the institutions by the people on whose authority those institutions rest.

Prospects for passage of Senator Abourezk's amendment in the 95th Congress are dim, and his impending retirement means that some other sponsor will have to be found. The possibility that a more ambitious plan for referendum democracy will be enacted in the foreseeable future is dimmer still.

But it is important that we at least think about these and other possibilities for reforming our system. The critical need to resolve the great paradox of American politics—that people feel less in control of their government even as they have acquired more democratic rights—requires this. Perhaps the source of this feeling lies in the fact that most of those rights—primaries, direct election of senators, extended suffrage to blacks, women, and the young and so on—though they have added popular control over the selection of elected officials, have made the elected members of our government less important and the unelected bureaucracy more important. Thus democratic reforms have broadened control over people who are less in control themselves. This being the case, the time for seeking fundamental solutions is at hand.

FEC REGULATIONS RE INDEPENDENT EXPENDITURES

Mr. CANNON. Mr. President, the Federal Election Commission has recently requested public comment on its regulations governing the making of independent expenditures in support of Federal candidates. The deadline for comment to the Commission is November 30, 1977.

I ask unanimous consent that the Request for Comments which appeared in the October 18, 1977 Federal Register be printed in the RECORD.

There being no objection, the Request for Comments was ordered to be printed in the RECORD, as follows:

REQUEST FOR COMMENTS

Agency: Federal Election Commission.

Action: Proposed regulations.

Summary: This notice contains a request for public comment regarding the regulations on independent expenditures. This action is taken to implement the provisions of the Federal Election Campaign Act of 1971.

Dates: Close of comment period is November 30, 1977.

Address: Send comments to Federal Election Commission, Office of General Counsel, 1325 K Street NW., Washington, D.C. 20463.

For further information contact: Walter Moore at 202-523-4102.

Supplementary information: The Commission requests public comment regarding the regulations governing the making of independent expenditures in support of federal candidates. Pertinent existing regulations appear at Title 11 of the Code of Federal Regulations, Part 109. See also 2 U.S.C., Section 431(p), and 2 U.S.C., Section 441a (a)(7)(B)(i).

The period for receipt of written comments will close November 30, 1977. Submissions should be made to the Office of General Counsel, Federal Election Commission, 1325 K Street, NW., Wash., D.C. 20463, and will be made available to the public in the Office of Public Records.

The United States Supreme Court, in *Buckley* v. *Valeo*, 424 U.S. 1, 46-47, n. 53 (January 30, 1976), noted that 18 U.S.C. Section 608(c)(2)(B) of the Federal Election Campaign Act Amendments of 1974 (current version at 2 U.S.C. Section 441a(b)(2)(B)(1976)) provided that certain expenditures which were "authorized or requested by the

candidate, an authorized committee of the candidate, or an agent of the candidate" were to be treated as contributions by the expender and were therefore subject to the contribution limits of the Act. The Court's test for determining when individual expenditures were contributions rather than independent expenditures was whether the expenditures were "placed in cooperation with or without the consent of a candidate, his agents, or an authorized committee of the candidate * * *"

In interpreting the Act's provisions regarding independent expenditures, in light of the language in *Buckley*, the Commission has stressed the relationship of and contacts between the spender and the candidate (or committee or agent) in support of whom the expenditure is made. The Commission's present regulation Part 109.1(b)(4)(i) describes two factual situations where this relationship or contact gives rise to a presumption that an expenditure is not independent (and thus is treated as a contribution-in-kind to the candidate). The situations are those where the expenditure in question is:

(A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made;

(B) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate or the candidate committee or agent.

The focus of the proposed discussion regarding the regulations or independent expenditures concerns the question of whether there might be other specific sets of facts which indicate a relationship between expender and candidate such that cooperation with or consent of the candidate is presumed to exist. Public response must be precise in describing the circumstances surrounding this presumption of cooperation and consent and must bear in mind the constitutional protection given by the First Amendment to the spending of money for political speech.

The Commission invites public comment on all aspects of the subject of independent expenditures, as well as responses to the specific questions set forth below:

(1) Do the present regulations offer sufficient guidance to a person who wishes to know whether a contemplated expenditure is independent?

(2) The statute defines an "independent expenditure" as an expenditure "expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate and which is not made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate."

What types of expenditures constitute express advocacy of the election or defeat of a clearly identified candidate?

(3) The evidentiary device of a presumption is currently utilized in regulating independent expenditures. Should the factual situations which give rise to a presumption that an expenditure is not independent include those where:

(a) There has been substantial or significant contact between the expending person and the candidate, committee, or agents; or

(b) an individual in a decision-making position within a committee which makes an expenditure, or an individual making an expenditure, has actively participated in or at the time of the expenditure is actively participating in the financing or management of that candidate's campaign?

(4) The present regulations do not distinguish independent expenditures made by committees from those made by individuals. Are there constitutional or other considerations which require or allow different treatment?

(5) Should the definition of "agent" as set forth in regulation 109.1(b)(5) be expanded (or narrowed)? If it should be expanded, should it include any person who is an agent under the common law of agency, including an employee or an independent contractor?

Dated: October 11, 1977.

THOMAS E. HARRIS,
Chairman for the Federal Election Commission.

[FR Doc 77-30300 Filed 10-17-77;8:45 am]

JOHN WAYNE AND THE PANAMA CANAL TREATIES

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent that a statement by him, as well as the text of correspondence he has received from John Wayne to which this statement makes reference, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the text of correspondence was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HUMPHREY

Last week, I received a letter from John Wayne and his statement reviewing the Panama Canal Treaties. Since Mr. Wayne has had close ties to the Republic of Panama going back to the 1940's, I think his views on the discussions now focusing on the Panama Canal Treaties deserve our attention.

While I would urge my colleagues to give close attention to Mr. Wayne's statement, I would like to call their attention to his conclusion:

"The new Treaty modernizes an outmoded relation with a friendly and hospitable country. It also solves an international question with our other Latin American neighbors, and finally the Treaty protects and legitimates fundamental interests and desires of our Country."

I found Mr. Wayne's analysis of the new treaties particularly thoughtful. He is a man of impressive integrity and patriotism for his country. Therefore, his views are most relevant.

BEVERLY HILLS, CALIF., *October 11, 1977*

Senator HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Enclosed is a statement regarding the Panama Canal Treaty.

As usual, our dear provocative press misquoted me. This has increased my mail by letters from people who are concerned about my reaction to the Treaty. The enclosed is the answer that I am sending to them.

I would appreciate it if you would read the enclosed review which I have made. Through friends and a few years of experience, I have had the opportunity to know a little about the situation down there. I might add that I have friends on both sides of the political spectrum. They are all still living the same life in the same manner as they were before the Torrijos change of government eight or so years ago. Their personal liberties do not seem too badly interfered with. None of them are in jail, and they have perhaps a little more respect for the law.

At any rate, the statement enclosed is a point of view that I think is worthy of your attention.

Sincerely,

JOHN WAYNE.

Enclosure.

STATEMENT REGARDING PANAMA CANAL TREATY

My interest in Panama goes back to the 40's. I have friends on both sides of their political spectrum. As a matter of fact, my first introduction to the Panamanian situation was in the 30's when Harmodio Arias was president. He was probably the best liked figure in all of South America and one of the very few presidents who has ever completed a term up to and since that time. His wife and his son Tito, then about 12 years old, visited me in California. Another son Tony was Godfather to one of my daughters. I am only going into these personal things to show you that I have had reasons to give attention to our relationships down there.

I have followed the Panamanian situation since the time the State Department insured us losing good relationships with Panama by changing their policy and charging extremely high prices for tuition for the children of several Panamanian families to go to Canal Zone schools. These families were continually involved in the leadership and administration in Panama. I think it would have been quite obvious with their children attending our schools that they would have our point of view. I wrote a letter to our Administration at that time to apprise them of this situation. Nothing was done.

You say that it is a blow to you to learn from the press that I favor the surrender of the Panama Canal. I certainly did not. I was appalled when General Eisenhower did just that and gave the sovereignty of the Canal away by allowing the Panamanian flag to fly there; but at that time, neither Congress, nor the press, nor the conservatives uttered any kind of cry. I did, but it was a voice in the wilderness.

In checking to find the reason for President Eisenhower's actions, I found out that although we had the rights to the ownership and jurisdiction of the Canal that Panama had not surrendered sovereignty of same. I also found out that the United States in the Arias-Roosevelt Treaty of 1936, ratified by our Congress in 1939, recognized the sovereignty of Panama in the Canal Zone as it was originally stated in the 1903 agreement.

Under negotiations during the Kennedy Administration, it was further agreed that any place within the civil area that the American flag flew, there must be a Panamanian flag raised.

Our people in the Zone tried to avoid this by removing flag poles. This started irrational actions by both sides. During those student riots which took place in 1964, our then president, Lyndon B. Johnson told the world that there would be a gradual return of the Canal to Panamanian possession. There were still no outcries from the people who are now complaining, but the above acts plus common decency to the dignity of Panama demanded a re-evaluation of our Treaty.

Now, let's take the Treaty for what it is. We do not give up one active military installation for the next quarter of a century. We do transfer to Panama in the civil Canal area such governmental activities as police and fire protection, civil administration, post offices, courts, customs, garbage collection, and maintenance of certain areas which are not necessary to manage the Canal. The Canal will continue to be run by an American agency. The Board of Directors of that entity will be comprised of nine members—five members of the Board, American—and four Panamanians who will be selected by the United States from a list proposed by Panama. This Board of Directors will not have any authority on our military bases which we will have there for a quarter of a century to insure this Treaty.

The Treaty insures all American citizens working in the Canal their continuing jobs to retirement and the continued uses of their rented homes at the present rate which averages around $150 per month including all their utilities, garbage collection, sewerage, upkeep of the grounds and maintenance in-

cluding gardening lawns and painting of buildings. This is guaranteed to each until retirement or completion of their contracts.

When the Canal Company transfers these responsibilities to Panama, they will also transfer $10,000,000 a year of the toll charges to take care of them. I doubt if this will cover the costs. So does our government. Therefore, this United States Canal Company Agency which will still be running the Canal for the next 20 years will be instructed to raise the toll charges 30 cents per ton or about 1/100 of a cent and a half per pound to be given to Panama to cover such contingencies as inflation and to insure the above responsibilities plus rental for the 120,000 acres which these United States will continue to hold for its military installations and also the use of a 4,000 square kilometer water shed as a water reservoir to take care of our civil and military needs in the area. This added toll charge could amount to $40,000,000 in the years to come; but not one cent of it will come out of our pockets.

None of this will cost the American taxpayer one cent. We will not be required to pay $1 to Panama when this Treaty is put into effect.

I explained to the press when I was interrogated that I am only one of 200,000,000 private citizens of the United States and that I am not presuming to establish our foreign policy. I suggested that perhaps the facts as I have presented them to you might be put in a more enlightening manner to our citizens.

Regarding Communism, quite obviously, there are some Communists in General Torrijos' administration as there have been and probably still are in ours. Back in the days of McCarthy, it was proven that a great number of people in our government were Communists. For his high-handed manner with the use of the Committee, he was censored; but the truth of his findings were never questioned.

There will always be accusations and counter-accusations in this area. General Torrijos has never followed the Marxist line. Even in his speech when he visited Cuba, he stated that Castro had insured schooling and developed a system of feeding his people but at a high social cost. Because of this he stated that what was aspirin for Cuba was not necessarily the right medicine for Panama which is putting it about as plainly as possible when you are visiting in a foreign country that you are not agreeing with their methods.

Such rumors and accusations mushroom to a degree that it is hard for anyone to defend themselves. General Torrijos' government has not followed the Marxist line. He does have his Escobar Bethancourt as we have our Andrew Young, neither of whom were elected by either populus. A quarter of a century from now—when and if this agreement is carried out to the letter of the law—and we decide that it is proper to remove military installations, Escobar Bethancourt will be an old and forgotten character; and Young will probably be relegated to some posh job in our civil service from which he cannot be fired or taken care of by some liberal foundation as was Hiss.

I hope that the pragmatic view that I have of this sitaution is understandable. I have carefully studied the Treaty, and I support it based on my belief that America looks always to the future and that our people have demonstrated qualities of justice and reason for 200 years. That attitude has made our country a great Nation. The new Treaty modernizes an outmoded relation with a friendly and hospitable country. It also solves an international question with our other Latin American neighbors, and finally the Treaty protects and legitimates fundamental interests and desires of our Country.

KING COAL

Mr. PERCY. Mr. President, I think it is universally recognized that coal is a vitally important source of energy that has not been fully utilized. It is a great resource if it is used in an environmentally sound way. Encouraging conversion to coal, which is in abundant supply throughout the United States would help dramatically reduce our dependence on foreign oil.

On October 2, 1977, the Chicago Sun-Times printed an article by Charles N. Wheeler III about the coal industry and the importance of coal conversion to Illinois, the source of the largest supply of high-energy coal in the country. The article discusses the problems as well as the benefits of greater use of coal. I ask unanimous consent for Charles Wheeler's article to be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KING COAL: COMEBACK IN CARDS FOR AN ENERGY GIANT

(By Charles N. Wheeler III)

SPRINGFIELD, ILL.—Sooty, grimy King Coal is poised for a comeback, courted by an energy-hungry nation remembering last winter's shortages. And Illinois, blessed with the largest supply of high-energy coal of any state, has a vital stake in an industry resurgence.

Signs of a renaissance abound:

Coal forms the keystone of President Carter's energy program.

Demand for Illinois coal will increase more than 50 per cent by 1985, with increased use in the South and the Southeast, one state study concluded.

In the next decade, electric utilities in Illinois plan to add coal-fired generating capacity equal to some 40 per cent of Commonwealth Edison's current net generating capability. Most of the new equipment will use Illinois coal.

Some half-dozen industrial concerns, including Caterpillar Tractor and A. E. Staley Manufacturing, are contemplating switching back to coal to heat and power their plants.

Twenty-two new coal mines are under construction in the state, and billions of tons of coal reserves have been purchased by energy companies in recent months.

The state has available some $70 million to underwrite research into coal gasification and other new technologies.

There are major hurdles, however, before Illinois coal's bright future can be realized.

Most formidable is Illinois coal's high-sulphur content. That makes it difficult, although not impossible, to burn and still meet federal and state air-pollution regulations.

Illinois coal faces stiff competition from low-sulphur, but also low-energy, Western coal and from nuclear power.

Coal lies under about 65 percent of Illinois appearing in all or parts of 86 counties (though none closer to Chicago than some 50 miles to the southwest).

The state's total estimated reserves of some 162 billion tons of bituminous coal contain an energy-producing potential equal to one-sixth of the national total from coal.

Of total production, estimated at some 57 million tons this year, some 82 per cent goes for electrical power generation, with industry using an additional 10 per cent. Most of the rest is converted into coke for steel-making.

Spokesmen for the coal industry and for the public utilities that are its largest customers complain that strict air-pollution regulations have throttled development of the state's coal resources.

"We can't comply with the environmental regulations," said Otis J. Gibson, president of the Illinois Coal Operators Assn. The association contends the regulations have cost the state's economy thousands of jobs and millions of dollars.

The state's environmental officials, however, argue Illinois can have clean air and burn its coal, too.

The chief culprit is sulphur dioxide, a compound formed when sulphur-containing coal is burned. It has been associated with throat and lung irritation and increased acidity in rainfall.

Unfortunately, most of Illinois' coal reserves are high-sulphur, containing an average of 3.5 per cent sulphur. Some sulphur can be removed by washing the coal, but not enough. To meet emission standards, state enforcement agencies have been pushing the use of scrubbers to remove sulphur from smokestack gases. But scrubbers are expensive and industry experts claim they are not effective.

One new coal-fired plant that won't have scrubbers, an Illinois Power Co. facility at Havana, Ill., will use low-sulphur Western coal, which also fuels most coal-fired power plants in metropolitan areas.

Though low in sulphur, the Western coal does not burn as hot as Illinois coal; so greater quantities are needed to produce a given amount of energy.

Future power plants will have to install scrubbers regardless of the sulphur content of the coal they burn under federal legislation signed last month by Carter.

Another looming environmental problem is posed by recently enacted federal strip-mine regulations.

The state now has one of the best reclamation programs in the nation, Illinois Mines Director Brad Evilsizer noted, but the far-reaching requirements of the new federal statute could hamper production from Illinois strip mines, which last year produced almost half the coal mined here.

Besides environmental concerns, some industry experts also worry whether enough skilled manpower will be available to meet ambitious goals for increased production.

The 22 new mines now under construction will require about 5,500 new miners to operate them, for example, and the miners will have to be highly trained.

To help produce trained personnel, three community colleges in coal-producing areas of the state are offering coal-mining technique courses in cooperation with the industry and the state Department of Mines and Minerals.

Despite the problems, state officials, industry spokesmen and energy experts share a strong faith in a bright future for Illinois coal.

Various processes are now being developed to convert coal into synthetic gaseous or liquid fuels. Though its impact probably is a decade away, most experts believe, the new technology is certain to increase the demand for Illinois coal.

"If you're optimistic about this country meeting its energy demands, then you have to be optimistic about the future of coal," declared Jack S. Simon, chief of the Illinois State Geological Survey.

"And Illinois has the coal."

THE PRESIDENT'S REORGANIZATION PLAN NO. 1

Mr. HOLLINGS. Mr. President, at midnight on October 19, Reorganization Plan No. 1 of 1977, relating to the Execu-

tive Office of the President, will go into effect. Consistent with President Carter's campaign promise to reorganize and streamline the executive branch of Government, this plan is the first of a number of plans which the President intends to propose to the Congress. Understandably, it is a difficult task to attempt to reorganize functions of Government. It would be virtually impossible to expect that such a reorganization effort would, when completed, please everyone. However, with respect to this first reorganization plan, I have had serious reservations from the beginning with respect to its proposed elimination of the Office of Telecommunications Policy within the Executive Office of the President and the transfer of the functions, chiefly to the Department of Commerce but also within the Executive Office, to the domestic policy staff and the Office of Management and Budget.

We all fully recognize that the Office of Telecommunications Policy has not had a shining history. It has been fraught with problems, and it has been criticized by many in and out of Government as not having lived up to its expectations or potentials. However, the problems which have confronted the Office of Telecommunications Policy have not been a function of its location within the White House, but rather a result of a concerted effort by the Nixon administration to turn broadcast communications to its own political purposes. That effort would have taken place regardless of whether OTP had been located in the White House or elsewhere, evidence similar activities at that time within various agencies of the executive branch also manipulated by White House personnel. The broadcast effort was not successful and subsequent activities by OTP were beginning to establish OTP's substantive credibility and capability.

The problems which the House Government Operations Committee is currently having in delineating on its own how policy formulation will be carried out illustrates the difficulty that one has in carving up a function such as telecommunications policy, and attempting, as it were to render unto Caesar what is Caesar's. In House Report 95–661, on Reorganization Plan No. 1, at page 12, the committee expresses its concern over the possibility of duplication and its concern over having a single voice in the executive branch responsible for making communications policy. Parenthetically, I must note, however, that I disagree completely with the conclusion of the House committee that the policy voice should be in the White House because their interpretation ignores the clear language of the reorganization plan and because the one voice on communications policy should be the head of the reorganized communications policy effort; namely the now-to-be Assistant Secretary for Telecommunications within the Commerce Department, not an individual beyond our ability to call before us during our oversight activities. Further, I predict a myriad of difficulties caused by new, competing entities entering the scene, for example, with respect to spectrum allocation, difficulties between OMB and Commerce caused by reserving, necessarily, appellate jurisdiction within OMB. Other conflicts will arise in procurement, national defense, and other significant policy areas, as various entities in the White House and elsewhere jockey for stature and recognition.

Despite my misgivings as to the appropriateness, the advisability, or the feasibility of transferring communications policy to the Commerce Department, in deference to the President who should be able to control the structure of his own office, I did not oppose the proposal to remove OTP from the White House. However, in the ensuing discussions of how this removal should take place, I repeatedly expressed my caution that in order for communications policy not to suffer in the process of transfer, certain safeguards should be contained in the reorganization plan and accompanying documents.

For many years, I have been involved in energy policy within the Congress, and I see many similarities between energy policy and communications policy. In both cases, the policy implications and the effects thereof are all-pervasive. In both cases, the need for overall policy has been long ignored. In both cases, policy formulation should be centralized in an entity which enjoys visibility, coherence, and sufficient political credibility to be able to accomplish its goals of policy formulation and implementation. No one would ever suggest that energy policy should be formulated by an Assistant Secretary at the Department of the Interior.

Yet, here in the area of communications, just as important in the long run to this country, just as all-pervasive and just as fraught with political, practical and technological consequences, we are proposing to delegate communications policy to an Assistant Secretary of Commerce.

If communications functions are to be transferred out of the White House and into a line agency, then I think it is essential that the person to whom the responsibilities will be transferred have sufficient visibility and stature to be able to carry out his mandate. To this end, I had proposed the establishment within the Commerce Department of an Administration for Telecommunications Policy to be headed by an Administrator.

Over the years, the Commerce Committee has had the opportunity of working with NOAA, an administration within the Commerce Department charged with formulating and implementing oceans policy. We have seen the advantages associated with an entity so organized. It may seem like a subtle distinction between an Assistant Secretary and an Administrator, but those wise in the ways of Washington and its bureaucratic labryrinths will quickly discern that it is an important and significant distinction. One perceives an Administrator as having a higher stature than an assistant secretary. One treats him as having a bigger voice. Consequently, his pronouncements are given more attention by those who should attend. An entity called an Administration is treated as a coherent entity and has a sense of identity, a sense of purpose, which facilitates its carrying out its functions. As the office of an Assistant Secretary, one shares legal talent, budget staff, and so forth with the rest of the Department. Unlike many of our European allies, we have long ignored the realities of communications policy. In many countries, such as Great Britain and Sweden, the individual charged with formulating communications policy enjoys a Cabinet-level position.

We have voiced our concerns and offered our insights with respects to reorganization, but apparently they have fallen on the deaf ears of a group charged only with accomplishing a paper reorganization, not with living with the consequences of that reorganization. We fear that the group charged with reorganization responsibility has had little experience with communications issues, manifests no sensitivities to or interest in what is at stake, and will move on to other endeavors leaving in their wake the shambles of communications policy.

Even if one assumes a certain degree of political stubbornness that once having proposed an Assistant Secretary, one is unwilling to back down from that proposal regardless of the merits of the alternative of an Administrator, it would still be possible at least to strengthen the hand of the new Assistant Secretary. First, one could allow the Secretary of Commerce to create an Administration under the Assistant Secretary, just as has been done in the past for the Assistant Secretary for Maritime Affairs, who heads up the Maritime Administration. However, we are told indirectly that OMB "opposes" such an effort as being an unnecessary increase in bureaucracy. One can only wonder at the naivete which leads to that sort of a judgment. The OMB could also have strengthened the Assistant Secretary's hand by allowing the transfer of adequate staff slots and by encouraging the preparation of a fiscal year 1979 budget which would enable the new Assistant Secretary to bring a few new people into the reorganized effort in order to begin to build a decent organization.

As it stands at the present time, OTP consists of 41 people. As insisted upon by OMB, nine of those slots will remain within the Executive Office of the President—three in the domestic policy staff, three in the central support staff, and three going to OMB to handle spectrum allocation appeals. Of the remaining 32 individuals, only 19 will be transferred to the Department of Commerce. The Commerce Department has urged OMB to reconsider this position at least to the extent of transferring the additional 13 positions, which otherwise would be eliminated. But thus far OMB has remained intransigent. In addition, and even assuming the transfer of all 32 positions, the proposed budget for fiscal year 1979 contemplates no increase in personnel within the new communications

policy function in the Commerce Department.

The practical consequence of these budget allocation decisions is that the new Assistant Secretary will be hired, and there will be no staff vacancies other than those created by natural attrition with which he can build an organization attuned to his perception of how the functions delegated to him should be carried out.

Another essential safeguard which should have been contained in the reorganization plan and its attendant executive order is a clear delineation of policymaking functions of the head of the new communications policy entity within the Commerce Department. We were promised by the reorganization staff a draft executive order to be delivered to us in August so that we would be confident that the new Assistant Secretary would have clearly delineated functions and responsibilities. Two months later and on the eve of the effective date of the reorganization plan, we have yet to see the approved executive order. In drafts which have been sporadically shared with us, we see that OMB will be given policy responsibility in the procurement field.

Such a situation is totally inconsistent with the responsibilities which OMB enjoys in other areas. At no time has it been contemplated that OMB should have a line responsibility, yet the reorganization plan contemplates that the Director of OMB will have responsibility for standard-setting and policy directive formulation in the area of procurement and management with the Assistant Secretary participating in the process. We continue to be reassured by OMB that nothing is contemplated by this other than what OMB has been responsible for doing in the past with respect to all agencies. Given the history of OMB indifference to congressional interests during prior administrations and given the attitude and the actions of present OMB staff, one can have less than strong confidence in these assurances.

The net result of the actions taken by OMB and by other groups involved in formulating and implementing the reorganization plan causes me to conclude that communications policy will suffer unless their attitudes and resultant course of action change. Under those circumstances, I voice my opposition to the reorganization plan. I fear for this new Assistant Secretary, for he will be given a thankless task: Charged with formulating a communications policy, but with questionable ability and breadth to develop policy, with no staff of his own choosing with which to implement the policy, with OMB unwilling to give him budget freedom, with various entities jockeying to nip at his heels, with OMB and others unwilling to accord him a stature commensurate with the responsibilities he is undertaking, and unwilling to give him even a coherent administration with which to attempt to carry out his responsibilities. There are dark days ahead for meaningful communications policy, and we will see the consequences manifest themselves from international conference tables to board rooms to American homes—and we will be the lesser for it.

Mr. President, I had asked my staff to prepare a memorandum delineating to some extent the types of problems and issues which will be confronting us in the communications area in the next few years. I have shared this memorandum with members of OMB and the White House policy staff, as well as with our own Government Operations Committee. I ask unanimous consent to have printed in the RECORD a copy of that memorandum. In addition, Mr. President, I would like to thank the chairman of the Senate Governmental Affairs Committee, Senator RIBICOFF, and his staff for their consideration of our concerns during the pendency of the reorganization plan. In no way do I intend my remarks here today to reflect upon their good efforts to assist us. Senator RIBICOFF and his staff have demonstrated a genuine perception of the issues involved and have attempted to support us in every way that they could. We do appreciate that very much.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM FROM THE SENATE COMMUNICATIONS SUBCOMMITTEE STAFF ON THE NEED FOR AN EXECUTIVE AGENCY TO COORDINATE A NATIONAL TELECOMMUNICATIONS POLICY

This memorandum concerns the need to consolidate the fragmented and often overlapping efforts of Federal agencies involved in telecommunications functions. At last count there were at least 13 separate agencies doing telecommunications research,[1] and one estimate ascribes general involvement in the field to a total of 40 separate entities within the Federal government.[2] While this separation of efforts has in some cases been justified by specialized needs of the departments involved, the lack of coordination has often led to duplication of projects with more general application. Moreover, the scatteration of expertise has left the Executive branch without a strong, authoritative voice in the formulation of communications policy.

The Federal Communications Commission has done an adequate job in some areas, notably common carrier regulation, but in others it has displayed vacillation and confusion. Much of the blame should be placed not on the Commission itself but on the Congress and the Executive, which have failed to provide adequate guidance to the FCC in its policy deliberations. No rational citizen would consider delegating the entire task of formulating transportation policy to the ICC and the CAB, yet to a large extent we have left the FCC unaided in its efforts to develop a national communications policy.

The consequences of failure in this area would be more serious for the United States than for any other nation, because we are the first country in history to find more than half of its work force engaged not in farming or manufacturing but in the processing of information. Many see the transition as our century's sequel to the Industrial Revolution: Some call it the Information Revolution, others, the Post-Industrial Society, but whatever the terminology they use, all agree that electronic communication will be the engine of change.[3]

The purpose of this memorandum is threefold: (1) To delineate some of the issues which the rapid and accelerating pace of communications technology will be pressing upon government policy makers in the years ahead. (2) To describe ways in which the Executive branch, together with the Congress, can supplement and guide the efforts of the FCC in shaping an American communications policy. (3) To examine the specific organizational alternatives available to the Executive as it seeks to rationalize and consolidate its involvement in electronic information services.

FORTHCOMING ISSUES IN COMMUNICATIONS

New technologies will have a major impact on telecommunications in the coming decade, not only by offering new and more efficient services, but also by posing a competitive and possibly disruptive threat to existing systems. As the discussion below reveals, all raise issues which extend far beyond the competence of the FCC or any other single government agency.

Electronic Mail. One century ago, when the delivery of mail was already routine, Alexander Bell produced an electronic miracle—a device which could transmit the spoken word by wire. Today the situation is reversed: Telephone calls are routine, but the delivery of a letter on time at a reasonable cost is regarded by many as a minor miracle.

The change in roles can largely be attributed to the differential impact of technology. Of all the costs incurred by the U.S. Postal Service, 85 percent is related to human labor. Since its main activity involves the physical movement of items, it is also sensitive to energy costs, which have risen steeply in recent years. Telephone companies, on the other hand, are capital-intensive enterprises which have benefited from recent advances in electronic technology.

Electronics will eventually provide a solution to the problem of mail delivery as well, but in the short run it could pose a severe threat to the Postal Service. The difficulty is essentially as follows: Residential mail, especially for rural areas, is presently being subsidized by high-volume, pre-sorted business mail. Telecommunications technologies are being developed which will siphon business mail away from the Postal Service by providing a more rapid and, in many cases, less expensive means of delivering such messages.

While the overall volume of mail declines—one projection sees a 30 percent fall in the next decade—the number of separate delivery points served by the Postal Service will continue to increase.[4] The result will be rapidly increasing unit costs for parcel and letter deliveries.

A resolution to the dilemma is by no means clear, and there is at present no Federal agency leading a combined effort to find it. Electronic funds transfer networks are being planned by the Federal Reserve Board and the Treasury without regard for U.S. Postal Service research in facsimile letter transmissions. Meanwhile, the FCC is authorizing digital data networks for a variety of private carriers. This lush profusion of initiatives will bring great benefit to business, but in the short run it could mean higher costs and diminished service for ordinary users of the Postal Service. The complex process of transition should be managed not by chance but by a coordinating Executive agency.

Direct Broadcast Satellites. Transmission of television signals from satellites directly to rooftop antennas offers the possibility of unparalleled diversity in nationally broadcast programing, but some say it could also destroy our present system of local television stations. The opportunity and the danger are not subjects of concern for the remote future; they are upon us now, as the following items demonstrate:

Item 1: In January of 1978 the government of Japan will activate a satellite capable of broadcasting two channels to receivers throughout mainland Japan. The signals can be picked up by parabolic antennas

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measuring 1.6 meters in diameter and, together with associated electronics, costing less than $200 in mass production. Initial developmental costs were high, but the General Electric Corporation has indicated to Congressional staff that it is now capable of manufacturing additional satellites at a unit cost of $12 million, each capable of blanketing a United States time zone.

Item 2: The World Administrative Radio Conference, meeting in February of this year, allocated frequency space for broadcasting-satellite service in Regions 1 and 3 of the International Telecommunications Union (Europe, Africa, Asia and the Pacific area.) The June 20 issue of Broadcasting magazine reports that U.S. negotiators were "successful" in postponing implementation of a similar plan for Region 2 (North and South America), although an analogous plan for that area is due not later than 1982.

So far the FCC has taken no initiatives to investigate the issues presented by direct satellite broadcasting. Such inaction may be due to simple inertia, but a more likely explanation could be a perception by the Commission that we are facing a momentous issue, one which may be beyond the purview of it or any other small group of specialists. Balancing the benefits of local television stations against those of national programming diversity is not a matter of expert opinion; it is in the highest sense a political issue, a question of national will, which should be addressed by the people through their elected representatives.

As an adjudicatory agency, the FCC has been purposely insulated from the democratic process; it could well be seven years before the new administration has an opportunity to fill the Commission with appointees reflecting the latest electoral mandate. In the meantime, Congress and the Executive should not shirk their responsibility to examine the risks and potential benefits of issues like those posed by direct satellite broadcasting. A strong Executive agency should be created to bring such problems into focus for public consideration and public decision.

Fiber Optics. Optical fiber is a kind of glass filament which will eventually enable telephone companies to deliver color TV as well as voice signals to subscribers' homes. In addition to two-way videophone service, it will make feasible the establishment of local videotape and video disc libraries, with movies and electronic books accessible on demand. With the exception of mobile radio, it could render obsolete almost every local telecommunications service in use today, including broadcasting stations, cable TV, and the existing telephone plant.

Needless to say, the new technology will encounter ferocious resistance from entrenched business interests. AT&T may emphasize its use for overloaded trunk lines but downplay its application to subscriber loops. One reason is as transparent as the fiber itself: The telephone giant has invested more than $123 billion in existing plant and financed much of it on the assumption that it will remain intact for decades to come; it may determine that it cannot afford simply to junk its existing equipment and start all over.

Obviously, the solution to the problem is not simply to require the telephone companies to switch to fiber. Even when fiber's cost falls below that of copper wires, the public interest would not be served by an instantaneous conversion. Since telephone companies are allowed to set their charges on a rate-of-return basis, the general public would be called upon to absorb the cost of writing off the old equipment as well as installing the new fiber systems.

An analogy from the transportation industry illustrates the complexity of the problem: Railroad companies were not allowed to enter the trucking business, much less receive trucking monopolies, for fear that they would impede the rate of innovation in order to protect their existing investment. Yet the policies which were adopted have led to chaos in the railroad industry. The present policy, or lack of it, toward optical fiber could protect the financial integrity of AT&T, yet it could also leave us years behind other countries in applying the new technology.

There is no simple solution to the problem. The answer can only come after the Executive has assembled a staff with sufficient mandate and competence to address such issues.

Spectrum Allocation. In the early days of radio, spectrum space was allocated in much the same way that land was allocated to frontier settlers under the Homesteaders Act: It was simply given away or licensed to anyone who demonstrated an intent to use it. Like land, unused spectrum space is becoming scarce, yet we are still parceling it out in the same old way, with no clear guidelines for distinguishing among competing applicants.

Many economists have suggested that spectrum space, especially spectrum used for purposes other than broadcast television or radio stations, be allocated by market mechanisms, that is, auctioned off to the highest bidders. Electronic engineers, however, insist that there is in fact plenty of spectrum space available for all of us, if we would only use it more efficiently.

Government, they say, should not confine itself to the passive role of handing out spectrum to applicants; it should aggressively pursue research and development of new, spectrum-efficient radio systems. Research alone is not the complete answer, however; it must develop means of effectuating the transition away from older, less efficient equipment while minimizing the economic damage to its owners. Such a role cannot be filled by an adjudicatory and rulemaking body like the FCC; it demands a strong and activist Executive agency.

Land Mobile Radio. The problems in this area stem in large part from our overcrowded spectrum, yet their solution could come in the form of highly sophisticated technologies which do far more than simply minimize the amount of radio bandwidth used. For example, the Advanced Research Projects Agency (ARPA) has been doing defense-related research into the possibility of establishing radio telephone networks with the following characteristics:

(1) They would transmit their messages in digital form, thereby making them usable by computers and encodable for confidential conversations.

(2) They would allow the simultaneous use of bandwidth by many users, following many of the techniques which enable computers to communicate simultaneously with large numbers of terminals.

(3) They would use low-power transceiving stations grouped in separate cells, with mobile users being "handed" from one cell to the next while moving through a city.

Applied to civilian uses, such systems might well eliminate the frequency congestion problems associated with traditional technology. Because of their high quality of voice reproduction, they could also have an important side effect: Eliminating any need for our present wire-bound telephone system. Equipped with portable telephones which could be carried about like transistor radios, citizens would have little need for hardwired, house-bound instruments.

That in turn raises a question which was addressed earlier in our discussion of fiber optics: What impact will this have on the telephone industry?

Privacy. Computers and digital data networks have vastly improved the efficiency with which information is collected and disseminated, but they also create new opportunities for purposeful or unthinking invasions of privacy. Experts believe that cryptographic standards can be developed to foil all but the most expensive wiretapping techniques for digital data flows; the main problem, they say, is the use of information by authorized personnel. As the cost of data storage and transmission has declined, there has been a natural tendency on the part of government and business bureaucracies to request more and more information from their clients. Protection of privacy in the electronic age will require more than effective technical standards for message coding; it demands continued vigilance by a responsible oversight agency to ensure that unnecessary personal information is never requested and never entered into the data networks. The FCC can play a limited role through its jurisdiction over the private sector, but it is not empowered to control the actions of Executive branch departments. A strong Executive agency role is needed.

Rural Communications. In 1952 the FCC made a decision which had a critical impact on rural television viewers: It rejected a proposal by the now-defunct Dumont Television Network that it adopt a policy of authorizing, in as many areas as possible, four strong, regional VHF television stations. Instead, the Commission decided to allocate as many localized, low-powered frequencies as possible. One result was the demise of the fourth network; another was enforced scarcity for rural areas.

The 1952 plan called for about 2,000 stations serving some 1,300 communities, but in many rural areas the advertising base proved too small to support the authorized stations. Fewer than half of the planned stations actually went on the air, and the affected communities were forced to go without. As late as 1974, a study found that 1.2 million U.S. households were not receiving adequate television service on any channel; 2.4 million received only one channel, and another 2.2 million picked up two stations.[5]

Various solutions have been proposed but none yet implemented. They include: subsidized cable television, broadcast repeater stations (referred to as "translators" by the cognoscenti), and direct broadcast satellites. At this late date, it is clear that mere regulatory actions will not provide an effective remedy to the problem. A comprehensive plan needs to be mapped out and pursued with the same vigor which was necessary to bring electricity and telephone service to America's open spaces. Only the Executive is capable of implementing such a program.

Cable Television. A former FCC chairman once described the Commission's cable rules as "the most complex set of regulations ever devised by the mind of man." Although an explanation may arguably be found in the fertile imagination of the agency's legal staff, the rules are in large part a reflection of complex issues with uncertain answers. No one really knows, for example, how many signals a cable can import from distant cities without inflicting substantial damage on local brodcasters. No one knows the extent to which cable growth would be depressed if Congress were to require owners to lease channels to outside parties at regulated rates. The Commission's pay cable rules, recently struck down by the District of Columbia Court of Appeals,[6] seem destined for review by the Supreme Court, but still no one knows how many sports events could be siphoned away from broadcasters by pay systems.

Objective answers to those questions cannot come from advocacy proceedings before the Commission, and complete answers cannot come from Congress's own small staff. The cable controversies amply demonstrate that communications, no less than energy or

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transportation or securities regulation, demands a strong working relationship between Congress and an activist Executive.

International Communications. No area illustrates more starkly the problems which can be created by fragmentation of authority in communications. Most foreign telecommunications systems are government-owned and are authorized to appear as sole national representatives at the negotiating table. In contrast, the American side of the table at, say, a session on transatlantic cables, will include representatives from the FCC, OTP, the State Department, and each of the private U.S. carriers. In March of 1976 the unwieldy negotiating machinery broke down, and the European governments refused to activate further circuits on the largest transatlantic cable until one of the issues at stake was resolved. The boycott continued through June of 1976.

In most negotiations with foreign governments the State Department acts as our country's representative, but its personnel are career diplomats with no special knowledge or expertise in telecommunications. Today the competing advantages of satellites and cables are creating especially complex issues. Other nations have for too long faced a disorganized and uncoordinated America in communications negotiations. The President should take the necessary actions to ensure that we will have a knowledgeable and authoritative voice at future conferences.

WHAT THE EXECUTIVE BRANCH CAN DO TO SHAPE COMMUNICATIONS POLICY

As the above discussion illustrates, there are some major issues in communications policy which do not fall within the competence of the FCC. Even for those problems which are technically within the Commission's jurisdiction, the Carter administration should not simply defer to the agency's collegial opinions. It should instead equip itself to take initiatives in several areas:

(1) Government procurement. The Executive branch can most directly affect policy by the means in which it uses telecommunications systems for its own purposes. Thus, for example, the Federal government can exert major influence through considered exercise of its own massive purchasing power, which now approximates $10 billion a year in the procurement of communications and electronic systems and services.[7] Such purchases can play a major role in the development of new technologies.

Fiber optics illustrates the principle. A member of the Senate Communications Subcommittee staff addressed an inquiry to Dr. Charles Kao, the physicist whose seminal article in the 1960's first outlined the theoretical potential of fiber and thereby stimulated massive investments in basic research by companies like AT & T, Corning Glass, and ITT. Kao responded as follows: "You asked if there were any technological breakthroughs on the horizon which could lower prices by an order of magnitude. The answer is that you don't need a technological breakthrough to lower prices by an order of magnitude. All you need is mass production."

Thus, a coordinated procurement policy by the Federal government could dramatically lower the cost of new technologies like fiber optics and thereby hasten their availability to the general public.

(2) Government research. A coordinated program of research could reveal broader applications for communications technologies outside the specialized uses for which they have originally been developed by discrete agencies. Thus, for example, the Department of Treasury's work in electronic funds transfer could have direct application to the Postal Service's efforts to develop electronic mailing systems. DOD's research in fiber optics and satellite communications could be used for many civilian purposes.

(3) Advising the FCC. The administration should undertake policy research to advise the Commission on the probable impact of its broader rulemaking procedures. Today the FCC is largely dependent on studies prepared by the industries it regulates. Last year, for example, the House Subcommittee on Oversight and Investigations asked Chairman Wiley what studies the Commission had in its possession showing that cable television would significantly injure broadcast television at the time it promulgated rules restricting cable's importation of signals from distant cities. Mr. Wiley responded by providing a list of 11 studies, 8 of which were prepared by or under contract to broadcasters, and 2 of which were prepared under contract to a broadcast law firm.[8]

One possible solution would be to increase the FCC's research budget, but the courtroom atmosphere of the Commission's advocacy proceedings may be ill-suited to independent, objective analysis. Economics and similar disciplines would seem to provide a better paradigm for long-range policy planning, an activity which can best be conducted in an agency removed from the immediate distractions of rulemakings and adjudications.

(4) Advising the Congress. Electronic mail, satellite broadcasting, cable television, and other major developments will call for legislative initiatives in the years ahead. All raise complex issues which cannot be fully explored by Congress alone. In energy and in other fields the present administration can bring together the nation's most brilliant intellects in formulating legislation; it should not hesitate to apply this boldness and imagination in dealing with communications. The Congress expects as much, and the American people, plunging at light speed into a new era of electronic information technology, deserve no less.

ORGANIZATIONAL ALTERNATIVES

In implementing his decision to remove OTP from the Executive Office, the President must address a serious potential danger: that the new agency responsible for formulating a national communications policy will find its voice muffled by layers of bureaucracy. It must be able to get through to the President, but more important, it must be given sufficient stature that it will be able to get through to the public.

New communications technologies in the years ahead will have the technical potential to transform many aspects of our culture for the better, but those changes could be delayed and in some cases entirely stifled by vested interests. In other cases change could benefit the few while taking away from many. The process of finding the distinction between the two should be made in the full glare of publicity, not only to ensure the integrity of the process, but also to stimulate a genuine process of choice by the people themselves. Experts can tell us what we will gain and what we will lose by change; only the people can tell us whether the gains are worthwhile.

For that reason any new communications agency should in no case be located below the sub-cabinet level. We specifically recommend that, should OTP be removed from the Executive Office and relocated in the Commerce Department, it be reconstituted as a National Telecommunications Administration. In light of its longstanding role in providing technical support to OTP, the Commerce Department's existing Office of Telecommunications (OT) should also be merged into the Administration. The newly formed NTA should at a minimum be conferred the same powers granted to OTP in Executive Order No. 11556 and Reorganization Plan No. 1 of 1970, together with the responsibilities assigned to OT under Department Organization Order 30–5A. With the staffs of OTP and OT as a core, the new agency should be able to make at least a beginning in its new role as a coordinator of American communications policy. This agency could easily be located within the Commerce Department, if that is deemed the best administrative arrangement, and in such a case would be comparable to NOAA.

FOOTNOTES

[1] *Hearings on Executive Office of the President Before the Subcommittee on the Treasury, Postal Service, and General Government Appropriations of the Committee on Appropriations*, 95th Cong., 1st Sess. 424. The Office of Telecommunications Policy supplied the following list of agencies, described as engaging in telecommunications policy research activities in fiscal year 1975 (est.):

Office of Telecommunications Policy	$2,400,000
Research budget	(1,200)
Policy Support Division	(1,200)
Department of Commerce	460,000
Department of Defense	13,050,000
Advanced Research Projects Agency	(13,000)
Defense Communications Agency	(50)
Department of Health, Education, and Welfare	2,140,000
Department of Housing and Urban Development	40,000
Department of Justice	45,000
Department of State	400,000
Department of Transportation	50,000
Federal Communications Commission	750,000
Federal Energy Administration	500,000
National Endowment for the Humanities	75,000
National Aeronautics and Space Administration	14,700,000
Communications satellite program	(11,700)
Technical consultation and support studies	(3,000)
National Science Foundation	4,000,000
Office of Technology Assessment	40,000
U.S. Information Agency	150,000
U.S. Postal Service	120,000

[2] House Subcommittee on Communications of the Committee on Interstate and Foreign Commerce, *Options Papers*, H.R. Comm. Print 95–13, 95th Cong., 1st Sess. 618. No list is contained in the House report, but lists obtained from other sources show an aggregate total exceeding forty different agencies and offices involved in telecommunications, after accounting for agencies contained in more than one list. Appendix A below, compiled by the White House, shows 32 offices; Appendix B reproduces a list compiled by the Comptroller General of the United States in September of 1976 in response to a request from the House Communications Subcommittee. It shows that a total of 18 Federal organizations funded some aspect of cable television. Appendix C contains lists supplied to the Senate Communications Subcommittee by the Cable Communications Resource Center, a minority-oriented public interest organization in Washington, D.C.

[3] A good brief summary of issues arising in the communications revolution is provided in David Burnham, "Nation Facing Crucial Decisions Over Policies on Communications," *The New York Times*, July 8, 1977, page 1. The article is reproduced below in Appendix D.

[4] Arthur D. Little, Inc., *Telecommunications and Society, 1976–1991*, Report to the Office of Telecommunications Policy, Executive of the President (June 22, 1976), p. 17.

[5] Denver Research Institute, *Broadband Communications in Rural Areas: National Cost Estimates and Case Study* (Denver: University of Denver, 1974), cited in Paul W. MacAvoy (ed.) Deregulation of Cable

Television (Washington: American Enterprise Institute for Public Policy Research, 1977), p. 4 n. 10.

[6] Home Box Office v. Federal Communications Commission, 40 RR 2d 283 (D.C. Cir. 1977).

[7] Paul Milich (project coordinator), *Outline for a National Telecommunications Policy Statement*, working paper of the Policy Research Division, Office of Telecommunications, Department of Commerce, September 22, 1976, p. 6.

[8] *Hearings Before the Subcommitee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce*, 94th Cong., 2d Sess., ser. 94-84, vol. V, at 425-426 (1976).

APPENDIX A: THE WHITE HOUSE LIST

FEDERAL AGENCIES INVOLVED IN COMMUNICATIONS POLICY AND MAJOR APPOINTMENTS

Some positions not listed in the "Plum Book" (Policy and Supporting Positions, House Post Office and Civil Service Committee Print, November 8, 1976) are included, when it is known they normally change with Administrations. These are marked with an asterisk.

The following is a survey of federal agencies and policy and supporting positions subject to direct Presidential appointment or appointee selection excepted from the competitive civil service* that have important functions in directing national policy in the telecommunications field. The listing is developed from sources such as the "Plum Book" and the U.S. Government Organizational Manual under four headings:

1. Executive Office of the President
2. Executive Branch Agencies
3. Independent Federal Agencies and Commissions
4. Quasi-Governmental Agencies with Presidential Appointees

Telecommunications functions and key positions, compensation level, and present incumbents are listed under each heading. Attached to this memorandum are charts breaking down these agency functions into regulatory, grant making, consumer participation support and other sub-categories.

A. Executive Office of the President (EOP)

(1) (Office of Telecommunications Policy) (OTP)

Telecommunications Functions: Establishes executive branch policies, including proposals for regulation or spectrum management to FCC, legislation to Congress, coordinates federal portion of spectrum (one-half) and federal research and development.

Key positions:

Director (Level III)—William J. Thaler (Acting).

Deputy Director (Level IV)—Vacant.

*General Counsel—Robert Ross.

(2) Domestic Council.

Telecommunications Functions: Coordinates and integrates telecommunications with other domestic policy recommendations to President, reviews telecommunications policies as integrated with other domestic programs.

(3) Office of Management and Budget (OMB).

Telecommunications Functions: Reviews and approves budget, including mission by mission personnel requirements, of FCC and other independent regulatory agencies with telecommunications functions, as well as Executive Branch agencies with such functions; clears and coordinates federal agency comments on telecommunications legislation FCC wishes to propose to Congress.

Key positions.

Associate Director, Economics and Government Division (Level IV)—Daniel P. Kearney.

*Deputy Associate Director, Economics and Government Division—Joyce Walker.

B. Executive branch agencies.

(1) Department of Commerce.

Telecommunications Functions: Has Office of Telecommunications (OT) that provides technical staff support to OTP, conducts research on telecommunications; Office of Minority Business Enterprise (OMBE) could more actively stimulate minority purchase of broadcast, cable outlets.

Key positions.

Assistant Secretary for Science and Technology—Betsy Ancher-Johnson.

Director, Office of Telecommunications (GS-18)—John M. Richardson.

Director, Office of Minority Business Enterprise (GS-18)—Alex M. Armendaris.

(2) Department of Health, Education, and Welfare (HEW).

Telecommunications Functions:

(a) Office of Telecommunications Policy: This office, within the Office of the HEW Secretary, is the HEW spokesperson on communications policy.

Key positions.

Assistant Secretary for Planning and Evaluation (Level IV)—William A. Morrill.

Director, Office of Telecommunications Policy—Howard Hupe (Acting).

(b) Office of Assistant Secretary for Education Supervises the Office of Education, which supervises the Educational Broadcast Facilities Act of 1962, providing substantial grants to allow public television and radio stations to begin operations and/or make substantial upgrading in equipment. (Has been urged to provide preference to minority nonprofit applicants), withhold grant funds to discriminating public stations. Now has added authority to conduct satellite/other new technology demonstration projects with 1962 Act funds. OE also provides substantial grants for production of broadcast programs (e.g., Sesame Street) and public service announcements for both commercial and public broadcasting (recent emphasis on bilingual programming and programming to ease implementation of desegregation in schools.)

Key positions.

Assistant Secretary for Education (Level IV)—Virginia Y. Trotter.

Deputy Assistant Secretary for Education (GS-18)—Robert P. Hanrahan.

Commissioner of Education (Level V)—Joe Maldonado.

Director, Office of Library and Learning Resources—Dick W. Hays.

Branch Chief, Educational Broadcasting Facilities Branch—John Cameron.

(c) Office of Civil Rights (OCR): Has authority to enforce Title VI of the Civil Rights Act as to HEW grantees, including public broadcasters, as well as broadcast or cable programs grantees of National Foundation on the Arts and Humanities (by delegation).

Key positions.

Director, Office of Civil Rights (GS-18)—Martin H. Gerry, IV.

(d) Office of Consumer Affairs: Consumer education programs should include consumers of broadcast and common carrier services, but does not at present (hopefully to be transferred to separate Consumer Protection Agency).

(e) National Institutes (National Institutes of Education, Health, Mental Health, Drug Abuse, Alcoholism)—Fund research on positive or negative role of broadcast media in their subject areas, such as Surgeon's General's Report on Violence.

(3) Department of State.

Telecommunications Functions: Leadership in international telecommunications issues such as allocation of the electromagnetic spectrum and use of direct broadcast satellites for international programming; Educational and Cultural Affairs office also sponsors International Exchange Program that includes many foreign media visitors.

Key positions.

Assistant Secretary for Economic and Business Affairs (Level IV)—Joseph A. Greenwald.

Deputy Assistant Secretary, Transportation and Telecommunications ($37,000)—Julius Katz.

(Most independent commentators have called for an upgrading of this mission and creation of an Assistant Secretary for International Telecommunications.)

Assistant Secretary for Educational and Cultural Affairs (Level IV)—Joe Duffey.

International Organizations and Advisory Commissions: The State Department also designates delegates to the UN International Telecommunications Union (Designated each UN session) and to its World Administrative Radio Conferences (WARC's).

(4) Department of Justice.

Telecommunications Functions.

(a) Antitrust Division: Brings antimonopoly suits against common carriers (AT&T), television networks; intervenes at FCC and court on competition matters (cable competition with broadcasting, newspaper-television crossownership); represents FCC in court on appeals of FCC policy decisions (and can and does take adverse positions to FCC); testifies before Congress on competitive effects of FCC actions.

Key positions.

Assistant Attorney General (Antitrust Division (Level IV)—Donald I. Baker.

Deputy Assistant (GS-18)—Vacant.

Deputy Assistant (GS-17)—Jonathan C. Rose.

(b) Civil Rights Division: Interprets application of Title VI of Civil Rights Act of 1964 as applied to public broadcasting HEW and CPB grantees, and enforces in court.

Key positions.

Assistant Attorney General (Civil Rights Division) (Level IV)—J. Stanley Pottinger.

Deputy Assistant Attorney General (GS-18)—James P. Turner.

Deputy Assistant Attorney General (GS-17)—Frank M. Dunbaugh, III.

(c) Solicitor General's Office: Passes on Justice Department Position in appeals of FCC decisions.

Key positions.

Solicitor General (Level III)—

(d) Community Relations Service (CRS): Formerly active in assisting in on-site resolution of minority community group/broadcaster disputes.

Key positions.

Director (Level IV)—Benjamin F. Holman.

(5) Department of Labor.

Telecommunications Mission.

Office of Federal Contract Compliance Programs (OFCC): Has authority to monitor and cut off federal contract privileges of broadcast/cable/common carrier companies that discriminate in employment.

Key positions.

Director OFCC (GS-16)—Lawrence Z. Lorber.

(6) Department of Defense.

Telecommunications Mission: DOD coordinates all worldwide telecommunications systems used for defense, conducts extensive advanced R. & D. in telecommunications technology, and uses much of the spectrum. DOD also intervenes before FCC in common carrier matters as a major customer.

Key positions.

Director, Telecommunications and Command and Control Systems—

Principal Deputy Director (GS-18)—John P. Stenbit.

Deputy Director (GS-18)—William Wisman.

(7) Department of Agriculture:

Telecommunications Functions: Rural Electrification Administration (REA) has

authority to make loans and give management and technical assistance for provisions of telephone service to rural areas, through loans from the Rural Electrification and Telephone Revolving Fund; REA is being urged, to expand program to include subsidy of rural cable development to insure rural access to broadband services.

Key positions.

Assistant Secretary for Rural Development (Level IV)—William H. Walker, III.

(8) Department of Housing and Urban Development.

Telecommunications Functions: Under Housing and Community Development Act of 1974, HUD makes community development block grants for improvement of public services. This program could provide the urban counterpart to the REA to stimulate inner-city cable service development. New Communities Program provides guarantees to allow developers to raise capital for new communities, which in some instances have included cable from the outset as a basic public utility.

Key positions.

Assistant Secretary for Community Planning and Development (Level IV)—David O. Meeker.

General Manager, Community Development Corporation (Level IV)—Vacant.

Administrator, New Communities Administration (GS–16)—James F. Dausch.

Assistant Secretary for Consumer Affairs and Regulatory Functions (Level IV)—Constance B. Newman.

(9) General Services Administration (GSA).

Telecommunications Functions: GSA operates the Federal Supply Service and the Automated Data and Telecommunications Service which operates the Federal Telecommunications Service (FTS), including both a voice and data transmission network and provides consultation to other federal agency telecommunications procurement in these areas.

Key positions.

Administrator (Level III)—Jack Eckerd.

*Director, Office of Automatic Data Processing Management.

*Commissioner, Automated Data and Telecommunications Service.

(10) National Aeronautics and Space Administration (NASA).

Telecommunications Functions: Major telecommunications research and development, launches satellites.

Key positions.

Director of Communications Program ($37,800)—Richard B. Marsten.

Director, Network Systems Development Programs ($37,800)—Federal B. Bryant.

Director, Network Operations and Communications Programs ($37,800)—Charles A. Taylor.

(11) United States Information Agency (USIA).

Telecommunications Functions: To promote a better understanding of the United States abroad through use of radio, television, print and movies. Operates Voice of America (VOA) broadcasting facilities to analyze American and foreign news, present cultural image of U.S. Utilizes commercial and public broadcasting programs when made available.

Key positions.

Director (Level II).

Deputy Director (Level IV)—Eugene Kopp.

Assistant Director, Broadcasting (GS–18)—Kenneth R. Giddens.

Assistant Director, Motion Picture and Television Service (GS–18)—Robert S. Scott.

General Counsel (GS–18)—George Haley.

C. Independent Agencies and Governmentally Appointed Commissions.

(1) Federal Communications Commission (FCC).

Telecommunications Functions: Regulation of private corporations providing the public with services on the nongovernmental half of the electromagnetic spectrum (radio and television), through cable and wire, and via satellite (linked with or replacing existing broadcast, cable, or common carrier services). Combines judicial, legislative, and administrative functions under Communications Act of 1934 mandate to regulate broadcasting in the "public interest" (FCC regulates cable as "ancillary" thereto, by Supreme Court interpretation) and to regulate common carriers to see that they provide adequate service at reasonable rates.

Key positions.

Chairman (Level III)—Richard E. Wiley (term expires June 30, 1977).

Six Commissioners (Level IV)—Vacancies: Benjamin L. Hooks (by June 30, 1977); Margita E. White (June 30, 1978).

General Counsel (GS–18)—Werner K. Hartenberger.

Deputy General Counsel (GS–17)—Lawrence Secrest.

Chief, Office of Plans & Policy (GS–16)—Dale N. Hatfield.

Chief, Broadcast Bureau (GS–18)—Wallace E. Johnson.

*Deputy Chief, Broadcast Bureau—Paul W. Putney.

*Chief, Common Carrier Bureau—Walter R. Hinchman.

*Deputy Chief, Common Carrier Bureau—Joe Marino.

*Chief, Cable Bureau—James Hodgson.

*Deputy Chief, Cable Bureau—Jerrold L. Jacobs.

*Executive Director—Richard D. Lichtwardt.

(2) Federal Trade Commission (FTC).

Telecommunications Functions: Prevention of deceptive trade practices via broadcast advertising (active in advertising directed to children, FCC fairness doctrine rulemakings); promotion of competition in the marketplace (advocate before FCC and Congress of cable deregulation).

Key positions.

Chairman (Level III)—Calvin Collier (term expires 1982).

Four Commissioners (Level IV)—One Vacancy now, no more until 1980.

General Counsel (GS–18)—Robert Lewis.

Director, Office of Policy Planning and Evaluation (GS–17)—Vacant.

*Director, Bureau of Consumer Protection—Margery Waxman Smith (Acting).

*Deputy Director, Bureau of Consumer Protection—Margery Waxman Smith.

*Director, Bureau of Competition—Owen M. Johnson, Jr.

(3) Equal Employment Opportunity Commission (EEOC).

Telecommunications Functions: Enforces Title VII of the Civil Rights Act of 1964 against private and public telecommunications entities. Has been active participant in FCC proceedings and appeals therefrom (notably AT&T consent agreement, some broadcast renewals).

Key positions.

Chairman (Level III)—Vacant (term expiring July, 1978).

Vice Chairman (Level IV)—Ethel Bent Walsh (term expires 1980).

Three Commissioners (Level IV)—Vacancy; Colston A. Lewis (R) (term expires July 1, 1977).

General Counsel (Level V)—Abner W. Sibal.

Executive Director (GS–17)—Vacant.

(4) Commission on Civil Rights.

Telecommunications Functions: Investigation and publication of reports on effectiveness of federal agency civil rights enforcement efforts, addressed to Executive Branch and Congress; has conducted several investigations of FCC, HEW, and other telecommunications agencies; participate in FCC rulemakings on EEO.

Key positions.

Chairman (without compensation) Arthur S. Flemming (R) (no fixed term).

Five Members ($153.46 per diem)—One vacancy plus Frankie M. Freeman (D); J. Stephen Horn (R); Manuel Ruiz (R); Murray Saltzman (D) (no fixed term).

Staff Director (Level V)—John A. Buggs.

(5) Administrative Conference of the United States.

Telecommunications Functions: Studies general federal agency practices and recommends changes in agency rulemakings and adjudication procedures.

Key positions.

Chairman (Level II)—Robert Anthony. (5 year term expiring August, 1979).

Executive Secretary (GS–18)—Richard K. Berg.

Executive Director (GS–17)—Emmett J. Gavin.

10 Council Members: Appointed by President for three year terms (no more than one-half to be Federal officials) without compensation.

72 Conference Members (36 agency or department heads, 36 private attorneys, law professors, members of public appointed by Conference Chairman, with Council approval, for two year terms.

(6) National Science Foundation (NSF).

Telecommunications Functions: Funds technological and social science research in areas relevant to telecommunications regulation and policy development.

Key positions.

Director (Level II)—Vacant (6 year term).

Deputy Director (Level III)—Richard C. Atkinson (term ends June, 1980).

National Science Board (16 members, including Chairman and Vice Chairman)—$100 per diem—no term expire until May, 1978.

(7) National Foundation on the Arts and the Humanities.

Telecommunications Functions: Funds substantial public broadcasting programing on both national and state/local levels.

Key personnel.

(a) National Endowment for the Humanities.

Chairman (Level III).

Deputy Chairman (GS–18)—Robert J. Kingston.

Director, Division of Public Programs (GS–16)—John H. Barcroft.

25 National Council Members ($135 per diem)—6 year terms, 8 expiring January, 1978.

(b) National Endowment for the Arts.

Chairman (Level III)—Nancy Hanks (4 year term expires October, 1977).

Deputy Chairman (GS–18)—Michael W. Straight.

Director, Public Media Programs (GS–15)—Vacant.

25 National Council Members ($135 per diem)—6 year terms, 8 expired in September, 1976, awaiting appointments.

(8) National Commission on Electronic Funds Transfers.

Telecommunications Functions: To investigate and report to Congress and the Executive on the interface of banking and new electronic technology: how it should be regulated (federal or state); voluntary or involuntary system; preservation of competition. To complete report in 1977.

Key positions.

13 Commissioners ($150 per diem).

Executive Director ($37,500)—John B. Benton.

Research Director ($37,800)—Wayne I. Boucher.

(9) Commission on Postal Service.

Telecommunications Functions: To investigate the effect on mail volume of electronic funds transfers system (EFTS) and the feasibility of Post Office operation of such system. To report by March 15, 1977.

Key positions.

7 Commissioners—3 appointed by President, 2 by Senate, 2 by House.

(10) Privacy Protection Study Commission.

Telecommunications Functions: Investigate and report on privacy impact of existing and new technology.

Key positions.

Three Commissioners ($145.36 per diem)

Executive Director (GS–18)—Carole W. Parsons.

General Counsel (GS–17)—Ronald L. Plesser.

(All appointments expire July 1977).

D. Private Entities With Presidential Appointees.

(1) Corporation for Public Broadcasting (CPB).

Telecommunications Functions: Created under the Public Broadcasting Act of 1967 production of local and national public broadcasting programming, the operation of a national interconnection network of local public broadcasting stations, and conduct of research, demonstration, and training (including minority and women's training) programs directed to improvement of public broadcasting. Cannot itself operate stations, produce programs, or operate network (does latter through Public Broadcasting Service (PBS)). Designed to act as buffer between government and independent public stations.

Key positions.

15 Board members ($100 per day plus governmental per diem—6 year terms).

Terms Expired April 1, 1976 (serving until successors named):

Robert Benjamin (D)—Chairman.

Thomas More (R)—Vice Chairman.

Virginia Duncan (D).

Terms Expiring April, 1978:

Amos Hostetter (I).

Michael Gammino (D).

Gloria Anderson (D).

Joseph Hughes (R).

Louis Terrazas (R).

All other executive and staff positions appointed by CPB Board.

(2) Communications Satellite Corporation (COMSAT).

Telecommunications Functions: For profit corporation designated U.S. representative to INTELSAT (International Satellite Consortium); operates INTELSAT under contract; enters through subsidiary, COMSAT General, into domestic satellite carrier activities such as COMSTAR (AT&T), MARISAT (Navy), AEROSAT (civil Mobile aviation), and SBS (AETNA–IBM).

Key positions.

3 Members of 15-Person Board of Directors are appointed by President for 3 year terms:

George Meany—sits until 1978.

Vacancy in term until 1979.

Vacancy in term until 1980.

APPENDIX B: LIST FROM INFORMATION REPORTED BY FEDERAL ORGANIZATIONS ON THE PURPOSE, DURATION, AND COST ASSOCIATED WITH CABLE TELEVISION, REPORT OF THE COMPTROLLER GENERAL TO THE HOUSE COMMUNICATIONS SUBCOMMITTEE, SEPT. 15, 1976

SUMMARY OF FEDERAL ORGANIZATIONS IDENTIFIED AS FUNDING CABLE TELEVISION

Federal organizations	Type of funding	Amount
Department of Housing and Urban Development	Contracts	$494, 200
Corporation for Public Broadcasting	Contracts	85, 400
Office of Telecommunications Policy	Contracts	398, 406
National Science Foundation	Grants	4, 584, 666
Department of Health, Education, and Welfare	Grants	1, 370, 522
	Contracts	1, 755, 976
National Foundation on the Arts and the Humanities	Grants	550, 103
Federal Communications Commission	Contracts	52, 084
Department of Commerce	Contracts	1, 927, 721
	Grants	2, 000
Bureau of Indian Affairs	Grants	40, 000
Department of Defense		
Department of Labor		
General Services Administration		
Department of Transportation	None	None
Veterans' Administration		
Environmental Protection Agency		
United States Postal Service		
Total funding for contracts and grants		11, 261, 078
Small Business Administration	Guaranteed loans	9, 542, 900
Department of Agriculture	Guaranteed loans	190, 000
Total funding for guaranteed loans		9, 732, 900

APPENDIX C: LISTS SUPPLIED BY THE CABLE COMMUNICATIONS RESOURCE CENTER OF THE BOOKER T. WASHINGTON FOUNDATION, WASHINGTON, D.C.

FEDERAL INVOLVEMENT IN TELECOMMUNICATIONS ACTIVITIES

Federal agency	Regulation	Development of public policy	R & A	Funds, R. & D.	Operating projects	Funds, programing	EEO
Executive Office of the President:							
Office of Telecommunications Policy		X	X	X			
Domestic Council		X					
Office of Management and Budget		X					
Special Assistant to the President for Consumer Affairs							
Executive Branch Agencies:							
Department of Commerce		X	X	X	X		X
Department of Health, Education, and Welfare:							
Office of Telecommunications		X	X	X		X	X
Office of Telecommunications Policy		X		X			
Office of Education		X		X	X	X	
Office of Civil Rights	X	X	X			X	
Office of Consumer Affairs							
Deputy Assistant Secretary, Transportation and Telecommunications	X	X	X				
U.N. International Telecommunications Union							
Department of Justice		X	X	X	X		X
Department of Labor							X
Department of Defense	X	X	X	X	X	X	
Department of the Treasury	X	X					
Assistant Secretary for Rural Development		X	X		X		
Rural Electrification Administration (REA) head			X	X			
Department of Housing and Urban Development (HUD)		X	X	X	X		
Independent Agencies:							
Federal Communications Commission	X	X	X				X
Federal Trade Commission (FTC)	X	X	X				
Equal Employment Opportunity Commission (EEOC)		X					X
Commission on Civil Rights		X					X
Administrative Conference of the United States							
National Science Foundation		X	X	X	X		X
National Foundation on the Arts and Humanities		X	X	X	X	X	
General Services Administration (GSA)		X	X				
Small Business Administration (SBA)		X			X		
National Aeronautics and Space Administration (NASA)		X	X	X	X		
Department of State		X	X	X	X	X	
Board of International Broadcasting							
Civil Service Commission		X					X
National Commission on Electronic Funds Transfers		X	X				
Smithsonian Institution						X	
Privacy Protection Study Commission		X	X				
Private Entities with Presidential Appointees:							
Corporation for Public Broadcasting (CPB)		X	X	X	X	X	X
Communications Satellite Corporation			X	X	X		
Legal Services Corporation		X	X				X

AGENCY	TELECOMMUNICATIONS INVOLVEMENT	MINORITY ISSUES
Executive Office of the President		
Office of Telecommunications Policy	Overview of all telecommunications policy establishes Executive telecommunications policy.	Agency in best position to establish and effectuate policies to produce tangible results for minority communities.
Domestic Council	Coordinates and integrates telecommunications policy with other domestic policy recommendations to President.	Office best situated to view telecommunications.
Office of Management and Budget	Reviews and approves budget of all independent and Executive agencies with telecommunication functions.	Critical control point in gaining access to federal budget.
Special Assistant to the President for Consumer Affairs	Extensive potential involvement but limited activity in past.	Limited minority orientation.
Executive Branch Agencies		
Department of Commerce, OMBE	Coordinates federal programs to benefit minority entrepreneurs.	Resources and capability to achieve effective results are too limited.
Office of Telecommunications, Department of Health, Education & Welfare	Research and technical support function.	Limited minority orientation.
Office of Telecommunications	Research and technical support function.	Limited minority orientation.
Office of Telecommunications Policy	Telecommunication policy for HEW.	Limited minority orientation.
Office of Education	Makes grants for broadcast and satellite educational uses.	Limited minority orientation.
Office of Civil Rights	Has enforcement authority for Title VI of Civil Rights Act for HEW.	Have done some useful things.
Office of Consumer Affairs	Limited past involvement in telecommunications.	Have done some useful things.
Deputy Assistant Secretary, Transportation & Telecommunications	Key policy position on international telecommunications issues.	Important to Third World issues.
UN International Telecommunications Union		No apparent minority input.
Department of Justice	One of the most important positions for determining national and international issues relating to telecommunications development.	Important in opening up minority ownership opportunities in established industries.
Department of Labor	Broad EEO authority and manpower training grants for telecommunications industries.	Limited minority orientation.
Department of Defense	Coordinates worldwide defense telecommunications, also extensive R & D.	
Department of the Treasury	Jurisdiction over tax matters influences ownership structure of telecommunications industries.	
Assistant Secretary for Rural Development	Has authority and funds to finance and make management and technical assistance available and rural telecommunications systems.	
Rural Electrification Administration (REA) head	Has authority and funds to finance and make management and technical assistance available and rural telecommunications systems.	
Department of Housing and Urban Development (HUD)	Has authority and funds for planning and improvement of public services which could include telecommunications service delivery.	Limited minority orientation.
Independent Agencies		
Federal Communications Commission	The federal regulator of private corporations providing communications.	Agency in best position to have impact on EEO practices and general public interest.
Federal Trade Commission (FTC)	Federal regulator of trade practices via broadcast advertising.	
Equal Employment Opportunity Commission (EEOC)	Enforces Title VII against private and public telecommunications entities.	Agency can have the most impact on employment among the communication entities.
Commission on Civil Rights	Oversees the effectiveness of civil rights in the telecommunications agencies.	Agency reports to the executive branch and congress on the effectiveness of civil rights in telecommunications agencies.
Administrative Conference of the U.S.	Generally recommends changes to agency rulemaking process.	Rarely deals in consumer interest but could have impact on the process of rulemaking effecting minorities.
National Science Foundation	Funds research in areas relevant to telecommunications.	Agency in good position to have impact on demonstration projects in telecommunications.
National Foundation on the Arts and Humanities	Funds primarily public broadcasting programming on national/state and local levels.	Agency has potential funding sources for public access and local origination.
General Services Administration (GSA)	Operates (FTS) and provides consultation to federal agencies in telecommunications procurement.	Agency can play a strong role in technological development, competition and nondiscrimination in the private telecommunication service sector.
Small Business Administration (SBA)	Insures small business to received federal contracts, loans and loans guarantees.	Agency currently bars loans to minority firms to purchase or operate broadcast ventures.
National Aeronautics and Space Administration (NASA)	Research and development technology for the future.	The agency uses public funds for R&D. Limited minority participation.
Department of State	Dissemination of information abroad. Research and analysis of telecommunications policy as related to Third World nations.	Can have significant impact on Third World nations.
Board of International Broadcasting.		
Civil Service Commission	Has final decision over discrimination and affirmative action programs in the telecommunications industry.	Could be beneficial to the minority employment question in the broadcast industry.
National Commission on Electronic Funds Transfers	Reports to Congress and Executive on interface of banking and electronic technology.	

AGENCY	TELECOMMUNICATIONS INVOLVEMENT	MINORITY ISSUES
Smithsonian Institution	Recently established a telecommunications office.	
Privacy Protection Study Commission	Investigates privacy impact of existing and new technology (e.g. two-way cable service).	
Private Entities with Presidential Appointees Corporation for Public Broadcasting (CPB)	Receives and regrants federal funds for the production of local and national public broadcasting programming.	Is becoming more sensitive to minority issues. In 1976 established Dept. of Human Resources to address concerns of minorities and women.
Communications Satellite Corporation	For profit corporation designated U.S. rep. to the International Satellite Consortium.	Limited minority orientation.
Legal Services Corporation	Federal subsidized legal services program for minorities.	Beneficial as a legal outlet for minorities seeking opportunities in telecommunications.

[From the New York Times, July 8, 1977]

NATION FACING CRUCIAL DECISIONS OVER POLICIES ON COMMUNICATIONS

(By David Burnham)

WASHINGTON, July 7 — Fundamental changes in the way that Americans communicate are forcing the Federal Government to make policy decisions that could alter the fortunes of the nation's largest communication organizations and the lives of most citizens.

The pending decisions confronting the Carter Administration, Congress and the Federal Communications Commission involve a complex balancing of such questions as the competing rights of large corporations, the possible demise of the United States Postal Service, delicate diplomatic negotiations over the use of the air waves by individual nations and the importance of privacy to individual citizens.

The communication changes, made possible by the increasing use of several technologies, are expected to transform the way that many Americans conduct their lives; how they send written messages, pay their bills, talk to their politicians, get their pay, obtain medical care and receive entertainment, news and other information in their homes.

According to interviews with scores of communication experts and reports by dozens of different agencies, commissions and consultants, some of the most difficult pending questions awaiting resolution are the following:

How is the Carter Administration going to shape the executive branch agencies under its control to deal with communications issues? At present, according to several officials, Mr. Carter is planning to abolish the existing White House Office of Telecommunications Policy and scatter its functions among a few Presidential assistants and the Commerce Department.

Should Congress follow the lead of the House Communications Subcommittee and attempt a total revision of the Communications Act of 1934, the basic framework for regulation of all communications in the United States and a document that many experts contend has been largely outmoded and is now slowing the application of the most advanced technologies?

Should the Federal Communications Commission continue its policy of gradually subjecting the American Telephone and Telegraph Company to increasing competition in the sale of specific kinds of telephone equipment and communication services?

Should Congress grant the United States Postal Service a legal monopoly on electronic mail similar to the one it enjoys with conventional mail in the hope that such an extension could subsidize the sagging fortunes of the Postal Service and guarantee the continuation of first-class mail delivery? Or should electronic mail, like the telephone, be operated by private industry?

Should there be a single clearing house within the Federal Government to serve as a highly efficient central switching point for the steadily increasing volume of financial transactions completed by electronics and computers, or would such a clearing house pose a threat to individual liberty?

"Communications now has the potential to change the way Americans live more than any other sector of the American economy," said one White House staff official.

"But there seems to be a close parallel between communications today and energy 20 years ago. You could see the energy problem was coming back in 1957, but because there weren't any gas lines then, it was impossible to get a consensus that it was something that required careful consideration."

Another factor contributing to the difficulty of developing communications policy is the sheer size of the industry. According to such experts as Marc U. Porat, an economist now working with the Aspen Institute, more than half of the wages paid in the United States and nearly half of the nation's $1.8 trillion gross national product "originate with the production, processing and distribution of information goods and services."

In a recent article, Dr. Porat argued that while "information occupations" accounted for only 10 percent of the work force at the turn of the century, they now represent "45 percent of all jobs in the United States."

While there are economists who argue with some of Dr. Porat's definitions, there is no question that communication encompasses a huge sector of the American economy and some of the largest and most powerful institutions: the National Letter Carriers Association, the International Business Machines Corporation, the advertising industry, the three television networks, the Communication Workers of America, the movie industry and Ma Bell's empire.

SOCIAL PROBLEMS RAISED

Beyond sheer size, the new technologies raise difficult social problems, according to many experts.

The development of electronic systems for the transfer of funds, in which cash and checks are replaced by blips on a computer, has been made possible by the availability of increasingly cheap and reliable computers in banks, insurance companies and retail establishments. The growth of relatively small electronic funds systems has suggested the need for a national clearing house where all such transactions could be sorted out and possibly stored.

The Federal Reserve System, for example, recently initiated an experimental project in which its customary role as a clearing house for banks was broadened to include the handling of tapes carrying transactions of individual electronic-fund transfers.

Last year, John M. Eger, then acting director of the White House Office of Telecommunications, challenged the Federal Reserve plan on the ground that it might one day be used to build centralized Government files on the buying habits and movements of individual citizens.

The Federal Reserve plan, Mr. Eger said in a brief filed in opposition to it, could ultimately give the Federal Government "a highly effective tool for keeping track of people and enforcing 'correct' behavior."

Representative Lionel Van Deerlin, the chairman of the House Communications Subcommittee, discussed some of the stakes involved in the decisions awaiting resolution.

"What we have now in communications is government by court edict," the California Democrat said. "The 1934 Communications Act, in large part a rewrite of the 1887 Interstate Commerce Act, is hopelessly out of date. There is no overall policy statement from Congress, and the F.C.C.'s regulations therefore are frequently arbitrary and capricious."

Mr. Van Deerlin said that a major result of the outdated law and faltering regulation was that competition was being discouraged throughout the communications industry, and that the American people were therefore being deprived of "better, faster and cheaper communications."

Representative Timothy E. Wirth, a Colorado Democrat who is a member of the Communications Subcommittee, talked about other aspects of the situation in a speech last fall to the Institute for Telecommunication Sciences.

"There is very little recognition of the social significance of the computer and communication revolution," he said. "The unspoken fact is, in today's society, that information is power, and the terms of access to information determine who has influence and who reaps benefits in our society.

"Think of that for a moment. We are talking about economic power, about social and intellectual standing and about political participation. All are fundamentally affected by the availability of knowledge, which depends upon information which is rooted in technology."

HIGH SKILLS REQUIRED

A White House staff member discussed the same issue in somewhat different terms. Noting that the increasingly complicated communications environment was going to require "very high skills" to operate, the official speculated that this "may make it even harder than it is today for important segments of our society to take part in the economy."

In an effort to develop a more informed consensus about some of these issues, the House Communications Subcommittee two months ago published a 486-page staff report that tried to define some of the key communications issues and the possible steps that Congress might take to resolve them.

Various chapters in the report dealt with the use of the radio spectrum, broadcasting, domestic telephone service, international telecommunications cable television and privacy.

The subcommittee, which has been holding hearings on these issues, now hopes to complete by December a draft proposal for rewriting the 1934 Communications Act.

Richard E. Wiley, the outgoing chairman of the F.C.C., said in a recent interview that the commission's effort to develop new

policies "may slow down the introduction of new services."

"I would like to have more national direction, we could use policy guidance," he said, noting that the 1934 Act naturally contained no reference to recent technologies.

Three key technologies are involved in the communication revolution. First is the computer, which each year grows cheaper, more reliable and smaller. In a report published several years ago by the Conference Board, a nonprofit business research organization, it was reported that since the early 1950's, the physical size of computers has diminished by a factor of about 1,000, the costs have dropped a hundredfold and the capacity has grown by a factor of 1,500.

A recent article in Science magazine described the results of these changes. In 1950, the Federal Government ordered its first two big computers. Today, the article said, there are 220,000 computers in the United States, 40 percent of them medium or large size, manned by 2.5 million computer professionals.

The second key technical development is the high-altitude communication satellite, which can transmit directly to roof-top antennas. The potential of direct broadcasting from satellite has prompted Japan to consider developing a single transmitting station in space for all its people. In a world where large numbers of nations in Africa, South America and Asia are unable to afford conventional television broadcast stations, the social and educational possibilities are enormous.

In another application, a company established by I.B.M. and Aetna Insurance has won permission from the F.C.C. to launch a satellite that would permit corporations to transmit data between offices and factories all over the United States without ever picking up a telephone or going near a post office.

The third and possible most significant new technology is fiber optics communications, which is now being pursued by A. T. & T., the International Telephone and Telegraph Corporation, Siemans A.G. of Germany, Nippon Electric and Corning Glass. According to virtually all experts, fiber optics is expected to cost less than coaxial cable, be far smaller and lighter and be capable of transmitting far more information.

Fiber optics deals with the transmission of light and images, as around bends and curves, through a flexible bundle of plastic optical fibers.

Assuming the resolution of the remaining technical problems, such as how to achieve simple splices, many experts believe that within a few years A.T. & T. can begin a program to replace the copper telephone wire running into almost every building with fiber optics, which would be able to carry two-way television, a variety of two-way teletype services, dozens of conventional television channels and telephone messages.

The combined impact of these new technologies on the way Americans live will be enormous, most experts agree.

"If you link fiber optics with a teletype machine, you could do much of your banking from home, some of your shopping from home, buy airline tickets from home and maybe even work at home," said Richard Neustadt, one of several White House staff members now spending much of their time on communication issues.

The new communication technologies, he said, could also mean major improvements in the delivery of various social services, especially in rural areas where vast distances could be erased by electronics in the delivery of medical and school services.

Representative Van Deerlin sees the new communication systems leading to profound changes in politics, with candidates campaigning over citizens' band radio and elected officials being able to have "town meetings" via two-way cable television that would allow give-and-take conversations with all constituents who cared to turn on their sets.

But beyond the specific changes expected in the way that Americans bank, shop and obtain information and news, some experts believe that the communication and information and information revolution may ultimately strongly influence some of the basic values of society.

In an essay published several years ago, John McHale, director of the Center for Integrative Studies, State University of New York, speculated that the rapid growth of communications might affect the value of real property.

With more and more wealth being generated by information and communication technologies that, unlike coal and oil and uranium, cannot be used up, material property will no longer be the sole basis of economic power, Mr. McHale suggested.

In the industrial age, he said, wealth resided in visible assets such as land, buildings, machines and animals. But with the increasing value of information processing, physical properties "already have less and less intrinsic wealth values themselves."

PROFILE OF SECRETARY BERGLAND

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent that a statement by him, as well as the text of an article to which this statement makes reference, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

Secretary of Agriculture Robert Bergland has demonstrated dedication and strong conviction throughout the initial months of his leadership of USDA.

Upon his appointment, Secretary Bergland immediately faced a critical situation: farm prices were falling rapidly, and one out of every ten farmers faced bankruptcy.

But Secretary Bergland did not overpromise the nation's farmers. Instead, he has told America's farmers the straight facts of this difficult situation. He has advocated a strong supply management program. He has refused to offer target prices and loan levels that would encourage excessive production, thereby exacerbating this situation.

But he has never slackened in his efforts to help America's farmers.

He has sought to strengthen farm credit, improve rural housing programs and expand overseas' markets.

Secretary Bergland believes that farm income must be derived from the marketplace if such income is to be real. He has clearly defined his support for price support payments directed at cases where supply and demand are out of kilter and farm income is dangerously low.

Secretary Bergland knows farmers need markets and a sound supply management policy. He is dedicated to finding new markets and to instituting an effective supply management program.

Bob Bergland, whom I have known for many years, is one of the most effective advocates of American agriculture that I have ever known. Coming from the Red River Valley of Minnesota, he knows farming and the people who have given us the most productive agriculture in the world.

Mr. President, Bob Bergland is truly an exceptional man. An article portraying this outstanding American was published in the October 4 issue of the Christian Science Monitor. In an effort to share a glimpse of this important Cabinet member, I would like to give my colleagues an opportunity to read this article

[From the Christian Science Monitor, Oct. 4. 1977]

A FARMER'S OUTLOOK: NO TIME FOR GREED

(By Louise Sweeney)

WASHINGTON.—He looks as if he's spent a lifetime facing into a stiff wind without flinching, not hunching against the wind but welcoming it, his blue-gray eyes narrowed on a distant horizon.

It is the sort of face you might expect to find in one of Thomas Hart Benton's paintings of prairies storms, the face of Bob Bergland, the Minnesota farmer who is Secretary of Agriculture.

Sometimes the wind comes out of the west. It did one day in 1975 when he was Representative Bergland, Minnesota Democrat, taking a stand he knew was right but lonely on the House Agriculture Committee. The hearing was packed with Minnesota farmers who wanted higher prices and targets on that year's farm bill. The man who is now chairman of the Agricuture Committee, Rep. Thomas S. Foley (D) of Washington, remembers that the increase would have been "totally unrealistic," so Mr. Bergland offered an amendment moderating it in the hope of getting the bill through.

"There was fist shaking and murmuring and anger among them. . . . It was a whole roomfull of his constituents, and they were obviously outraged at what he did," Mr. Foley says. "They were people who didn't understand he was doing it for the purpose of getting a bill out on the floor that would pass. He didn't flinch from doing what was right, whether or not it was popular."

Secretary Bergland talks fast and bites off his words as though he were eating beef jerky. But there's no mistaking the message he is sending out to those used to the policies of former Secretary Earl Butz. "Times have changed. . . . I think the well-heeled commercial agribusiness enterprises of this country can take care of themselves. They don't need me," he says.

He is a man who curles his lip at materialism and speaks warmly of the Spartan but happy childhood he had as a Minnesota immigrant farmer's son during the depression. "Happiness is not for sale. It's a state of mind. Find it. And I bring that philosophy here to the administration of this department. Occasionally some greedy person will criticize something I've done, because I'm not enriching them to suit them. I don't waste time quarreling with them, but I pay no attention. I mean none. Anyone whose advice is derived from greed won't get the time of day from me. I'll listen. But that's all. And I don't listen very well to those people.

CONSUMER ADVOCATE ADDED

"The people who come here with a notion that's based on a belief that there's more to this life than getting rich and that we have a responsibility, politically and morally, a responsibility to share that which we have with those who are less fortunate, will not only be given an audience but be welcomed with open arms."

Under Mr. Bergland the U.S. Department of Agriculture has its first consumer advocate, Carol Foreman. He also has changed the budget to increase support for a protein supplement program for poor pregnant mothers. There are plans to "use food aid as a development tool, not a political club . . . in the field of foreign affairs," he says.

Bob Bergland is a tall, fit, terse man with gray hair who thinks of himself as "low key, not a screamer." "Be prepared" is the work-

ing motto of this man, who prides himself on always doing his homework. And Mr. Foley says he can best be described in "Boy Scout adjectives: honest, kind, decent, compassionate.'

Mr. Bergland is a Lutheran, of Norwegian descent, and friends speak of his quiet devotion to his church. His minister, Pastor Duane Carlson, calls him "a man of great principle."

Secretary Bergland describes himself as nonpartisan, a negotiator. But Sen. Robert Dole, a Bergland-watcher on the Senate Agriculture Committee, calls him "very partisan"—as well as "knowledgeable and industrious." The Republican Senator from Kansas gives him points for his performance. "It's a tough job but he's coming along all right."

RANGE OF EXPERIENCE

Sen. Wendell R. Anderson (D) of Minnesota has known Mr. Bergland a long time and sees him as a "pragmatic, incredibly hard-working, tough" guy who has spent many years "trying to make a living from the soil." But he also spent six years in the House, making a name for himself on the Agriculture Committee, six years as an agriculture undersecretary with Orville Freeman, and two or three years down in Florida where he worked as a construction laborer and carpenter after graduating from the University of Minnesota's two-year School of Agriculture.

He still has his 600-acre wheat and grass seed farm in Roseau, Minnesota, rented out to a son-in-law. After his four years as secretary is up, you won't see him for the dust he kicks up, getting back to it.

He misses springtime, the planting season, "the business of getting up early in the morning and being able to see the horizon and smelling life." He calls his farm his "security blanket," says that "it will never make me rich but will always provide me with the necessary comforts and the necessities." Even that has been a long time coming for the man who remembers five years when his family had no indoor plumbing in their farmhouse, and who saved for years for a shotgun.

This spare man presides over a marble and stone fortress of a building, its exterior trimmed with black wrought iron and quotations including one by George Washington who said: "With reference to either individual or national welfare, agriculture is of primary importance." An interior courtyard of blond brick, adrip with a central fountain and flags of all the states, is sunk in the middle of the building.

A RELAXED OFFICE

In the secretary's own office it is more relaxed. There are Minnesota scenes, sailing paintings, a giant gilt peanut shell full of peanuts on the coffee table. The secretary drapes his black-booted legs over a leather chair as he talks. He wears gray pants, a rosy beige shirt, and navy tie, slightly askew.

Sitting there, he admits to a passion for sailing, which he pursues on his 26-foot sloop in Chesapeake Bay. "That's the one place I can go and completely relax, not bring my burdens." He says he subscribes to three sailing magazines and reads every book on it he can find. Right now he's building a model airplane with his 15-year-old son, Franklin, one of the Berglands' six children. He also admits to a weakness for a macaroni hot dish his wife makes, laced with vegetables, and to playing the guitar, hunting, listening to mood music, fishing for walleyed pike, and refinishing furniture.

"He just seems happier, not as frustrated as when he was in Congress," says Mrs. Bergland of her husband's new role as Secretary of Agriculture. Mr. Bergland himself says, "I'm very secure in the job. If someone has done a good thing here, I'm prepared to pay public tribute to them, give credit. I'm not afraid. I'm not afraid of Jimmy Carter. I'm not afraid of the work, 'Cause you see I spent 30 years preparing for this job."

UNEMPLOYMENT DOWN IN HUNTSVILLE, ALA.

Mr. SPARKMAN. Mr. President, we are all disturbed by the high unemployment throughout the country. With this in mind I greatly enjoyed reading an article in my hometown paper, the Huntsville, Ala., Times, a few days ago. At a time when the unemployment throughout the country was a problem in the Huntsville metropolitan area we had the lowest unemployment rate since 1974. At the same time Alabama as a whole has an unemployment rate of 6.6 percent.

I ask unanimous consent that the news article clipped from the Huntsville Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HUNTSVILLE METROPOLITAN AREA RECORDS LOWEST UNEMPLOYMENT RATE SINCE 1974

(By Skip Vaughn)

The unemployment rate for the Huntsville metropolitan area was 5.1 per cent in August, the lowest figure since the May 1974 rate of 4.8 per cent.

Local labor market analyst Abott Wood attributed the low unemployment to "improvements in the area's economy." The three-county area includes Madison, Limestone, and Marshall counties.

The previous low rate for this year was 5.5 per cent recorded in May. That was the first month the rate registered below the 6 per cent level since the 5.7 rate of October 1974.

Wood said a combination of factors caused the big drop in jobless totals from July, which had a 7.2 per cent rate. One reason, he said, is that the civilian labor force dropped from 127,200 to 125,600 as unemployed students and parttime workers returned to school. In addition, workers on unpaid summer vacation, recorded as unemployed during July, returned to work.

Other reasons unemployment dropped from 9,100 to 6,400 during the month, Wood said, include small gains recorded in nonfarm wage and salary employment. There were increases in the machinery component field (including electrical), the apparel industry, construction, and trade.

Statewide, unemployment dropped 10,300 over the month as the jobless rate fell to 5.6 from July's 6.3 per cent. This was mainly attributed to workers returning from unpaid vacations. The comparable national rate was 7.1 per cent.

Alabama's civilian labor force dropped 5,400 in August to total 1,535,900. According to the Alabama Department of Industrial Relations, the decline was due to "a substantial downturn in the seasonally high number of unemployed" during June and July. Employment rose 4,900 since July and 48,400 since August 1976.

Manufacturing employment rose 3,400 to total 355,700, with most of the gain in the apparel industry. Nonmanufacturing employment went down 2,300 to total 911,300. This was mainly due to a slowdown in govcrnment-sponsored summer employment.

The Huntsville area figures are also impressive compared last year. In August '76, the civilian labor force totaled 123,700 with 8,600 unemployed for a rate of 6.9 per cent. Wood pointed out that 4,100 more people are employed this year.

TERMINATION OF THE LOCKHEED LOAN GUARANTEE

Mr. CANNON. Mr. President, in 1971 the Lockheed loan guarantee by the Government was an extremely controversial issue and passed by only a 4-vote margin. I supported providing that guarantee for the company because I was concerned about the effect that the Lockheed bankruptcy would have had on our national defense program, and also in part, because I thought the Government was largely responsible for the financial problems Lockheed suffered. The C–5A airplane and Cheyenne helicopter programs caused the company major financial losses due in large part to use of the now discredited "total package" concept of procurement.

I was most pleased to see that Lockheed fortunes have improved to the point where the company no longer needs the Government guarantee to support its line of credit with the banks. The company has terminated its loan guarantee and now is back solely in the private banking sector.

I would like to point out to my colleagues that Lockheed never did borrow from the U.S. Treasury under the loan guarantee program and, further, the Treasury will make approximately a $30 million profit from the guarantee program.

An article in the October 1977, issue of Fortune magazine gives a succinct summary of the history of the guarantee program, and I recommend it to the attention of my colleagues.

Mr. President, I am glad to see that this has turned out successfully for the U.S. Government and Lockheed Corp., and I also am glad to see the Government no longer involved in Lockheed's financial operations. I ask unanimous consent that the Fortune article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A "BAD DEBT THAT WAS PROFITABLE FOR EVERYBODY

(By Linda Grant Martin)

The federal loan guarantees that have been Lockheed's lifeboat since 1971 were launched into waves of controversy and misunderstanding at a time when the Pentagons leading defense contractor looked as though it was about to go under. Lockheed is no longer in danger of swamping, and by the end of the year the guarantees will be ended—with the company's twenty-four banks and the U.S. Treasury much the richer.

When the Emergency Loan Guarantee Act squeaked through Congress by only four votes, Lockheed was grappling with a cash squeeze so severe that it needed vast new lines of credit in addition to the $400 million it already owed. But its bankers refused to lend it more money without firm assurance that they could eventually recover the additional investment. The bill provided that assurance by having the government guarantee repayment of new loans totaling as much as $250 million.

It was not by any means a cost-free prop. The legislation specified that the total charge for the financing should equal the amount that Lockheed, in its sounder days, would have had to pay in the free market—the prime rate to prime plus 1 percent.

A RISK THAT WASN'T

To avoid giving the company's creditors a windfall, the Emergency Loan Guarantee Board set up to administer the program devised a two-tier formula. Lockheed issued nine-month guarantee notes at interest rates appropriate for risk-free loans; over the six years, the rates ranged from 4.3 percent to 10.1 percent. Then the board set a variable

"guarantee fee," to be levied by the government.

Added together, bank and government charges ranged from 7.3 percent to 13.1 percent, during a period when the prime rate ranged from 4.8 percent to 12 percent. On top of all this, the banks and the government split a "commitment fee" of ½ percent of any unused portion of the $250 million. In the end the commitment fee alone came to nearly $3 million.

As it turned out, Lockheed needed nearly every one of the government-guaranteed dollars. Over the term of the loan, the company's borrowings climbed for a short time to a nerve-wracking $645 million, of which the government underwrote $245 million. Today Lockheed has repaid all but $80 million of the guarantee notes. By the end of this year it plans to reduce that figure to about $20 million, which the company hopes to convert to a short-term revolving credit.

Curiously, some of Lockheed's present leaders are somewhat ambivalent about the guarantee program. They acknowledge that it kept the company alive, but complain that the intangible cost was high—making the company, as one senior executive puts it, "a readily available victim to anyone who wanted to get into our innards."

The thirty-two-year-old secretary of the Emergency Loan Guarantee Board, Brian Freeman, still receives queries from Congressmen who seem unaware that the federal government has never loaned a dollar directly to Lockhed—even though these same Congressmen voted on the original legislation. The little-known truth is that the Treasury actually earned a tidy profit. The guarantee and commitment fees paid by Lockheed netted the government nearly $27 million. Even critical lawmakers find it hard to fault that return on a risk Washington lawyers called *"de minimis"*—in plain language, almost nonexistent. After all, the government held a first lien on Lockheed property valued far in excess of the guaranteed loans.

Freeman believes that all members of the uneasy alliance—Lockheed, the banks, the Defense Department, and the Treasury—benefited "because the self-interest of all the actors was preserved." He explains: "Lockheed survived, the banks stayed with the company, Defense preserved an important supplier, and the program earned money for the government.

THE BONANZA TO COME

What seems clear now is that the banks stand to reap the most profit from Lockheed's past plight. The consortium, led by Bankers Trust and Bank of America, won significant benefits: protection of the $400 million that might otherwise have been lost, interest on that amount, interest on the risk-free notes, and $1.5 million from the commitment fee on money that was not loaned.

The banks' full bonanza has yet to be realized. Last year Lockheed and the banks agreed on a restructuring that strengthened the company's balance sheet. Of the $400-million non-guaranteed debt, the banks converted $50 million to equity and $350 million to a term loan. Earlier they had lowered their interest rate for a year and a half, to 4 percent; prime was then about 6.4 percent to 8 percent. Only recently did the rate return to prime plus 1 percent.

To win such concessions in its time of need, Lockheed obviously had to reward the banks. Part of the prize was an issue of ten-year warrants to purchase 3.5 million shares of common stock at what now looks like bargain prices. If exercised, those warrants would give the banks a stunning 23.5 percent of Lockheed's equity. Since the warrants carried rights to buy at $7 and $10, and the stock has recently been around $18, the banks could realize an immediate profit of $30 million or more. Furthermore, in exchange for converting part of the debt to equity, the banks received 500,000 shares of $9.50 cumulative preferred shares. To date, dividends accrued on these shares total $4.5 million.

"In all," says Brian Freeman, "the banks appear to have earned a handsome return on what some people believe was essentially a bad debt."

MINICOMPUTER CRIME: THE NEED FOR SWIFT CONGRESSIONAL ACTION

Mr. PERCY. Mr. President, I recently made mention in the RECORD of the danger of computer crimes—the use of computers to perpetrate ingenious thefts of millions of dollars. This type of crime is extremely difficult to combat. Computer thefts are hard to detect and few law enforcement officials are sufficiently trained in computer technology to track down the criminals. Present laws do not provide the public with adequate protection against computer theft.

In June of this year, my distinguished colleague, Senator RIBICOFF introduced S. 1766, the Federal Computer Systems Protection Act of 1977. I am pleased to be a cosponsor of this bill, which would impose heavy prison terms and stiff fines for thieves who use the computer systems of the Federal Government, financial institutions, and other entities to steal or manipulate information, financial instruments, and other property.

A recent article in the Wall Street Journal, "Desktop Deceptions," by Hal Lancaster, further emphasizes the importance of combating computer crimes. The rapid proliferation of minidesk computers, and their ease of operation for all employees, is creating a "massive new potential for embezzlements and other frauds." The discovery of some computer crimes, states the author, "is a matter of the wildest luck." The article is further evidence of the urgent need for legislation to aid law enforcement agencies in their apprehension of computer criminals.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RISE OF MINICOMPUTERS, EASE OF RUNNING THEM FACILITATE NEW FRAUDS

(By Hal Lancaster)

Here come the minicomputers—and, right behind them, here come the crooks.

Sales of the small, relatively inexpensive computers are taking off. International Data Corp., a Waltham, Mass., publishing and market research consulting firm, estimates that 200,000 minis are in use now; about 60,000 are due to be shipped this year. By 1980, International Data expects annual sales to total about 115,000 units.

That is good news for computer makers, but not for auditors, law-enforcement agencies and others concerned with computer crime. They say the rapid proliferation of minicomputers, and their ease of operation by nonspecialist personnel from vice presidents down to secretaries, is creating a massive new potential for embezzlements and other frauds.

This risk is particularly alarming to accounting firms, which in recent years have become targets for lawsuits by stockholders in corporate fraud cases. The Securities and Exchange Commission, as well, has pushed the firms to detect and report fraud. Though accountants are working on countermeasures against computer scams, they concede that the advent of the minis is complicating the job. And the worst is yet to come. "There are going to be a lot of shocks and horror stories out there," says Carl Pabst, a computer expert with Touche, Ross & Co.

SALESMAN'S PLOY

Some horror stories have surfaced already. Not long ago, for example, a salesman at a small West Coast manufacturing concern told a secretary, who operated a minicomputer as part of her duties, to make a seemingly innocuous change in the computer's program. She did so without question.

The computer originally had been programmed not to accept orders for the company's goods at a price below a set minimum. The change ordered by the salesman lowered that minimum—and permitted him to rack up big commissions by making sales at bargain-basement prices that undercut his competitors. His company, however, lost $75,000, the difference between the original minimum price and his sales price. The company's auditor stumbled across the computer-program change when checking another transaction.

It's common practice at many companies now to give lower-level personnel crash courses in minicomputers, hand them instruction manuals and turn them loose as operators. This is possible because the computer makers have made minis almost as easy to use as electric typewriters or ordinary calculators. It's also common for companies to have several minis, sometimes scores of them, dispersed around on desktops; each mini has its own operator or operators.

FRAUD MADE EASIER

This scattering of computers and computer operations "spreads security resources over a wider area and presents a more serious problem," says Donn Parker of the Stanford Research Institute, a leading researcher in computer crime. A single data-processing center staffed by a few professionals is far easier to police; collusion between an outsider and a data-processing employe is generally necessary to pull off a fraud, experts say. "If someone walks into the computer room with a new program for the machine, people are going to ask why," says one accountant who works with data processing. "But now, with several people manning their own terminals, who's to know?"

Consider, for example, the simple embezzlement arranged by a young junior accountant for an aerospace company who manned its minicomputer system. He was paying himself an extra $1,000 a month by creating fictitious employes and having the computer issue them checks; posing as the "employes," he simply cashed the checks himself. The fraud went undetected for two years, and was uncovered only after a company officer became curious when he noticed some unfamiliar names while glancing through a pile of canceled checks.

It took a Southern California hospital a year to unearth the finaglings of another young accountant who used his access to its minicomputers in a tax scheme. He ordered the machine to transfer small sums, never more than $4 total per person, from the federal withholding tax accounts of his fellow employes to his own. At the end of the year his W–2 form showed a huge tax deduction that entitled him to a fat refund; his colleagues' forms showed deductions that were only a few dollars less, than they should have been.

JANITOR'S UNUSUAL ROLE

This scheme was discovered only after a hospital janitor, for reasons unknown, added up the tax deductions on all his paychecks for the year and discovered the small dis-

crepancy between that total and the one on his W–2 form.

Because many such cases, if not most, are discovered accidentally or through the confessions of guilt-ridden participants, worried investigators wonder how many schemes aren't detected. The discovery of some computer crimes is a matter of the wildest luck.

Tate DeWeese, a Justice Department attorney, told a Senate committee about one bank employee who used a computer to siphon $2.5 million in customer accounts over several years, in a fraud undetected by any auditor or bank officer. The scheme was discovered only when New York City police raided a gambling operation—and discovered that one of its principal clients was the bank employee, who was betting $30,000 a week on an $11,000-a-year salary.

The willingness of top managements to hand over critical computer functions to underlings without themselves bothering to learn much about the systems facilitates crime, data-processing experts say. "The level of trust of employees is much too high," Mr. Pabst of Touche Ross says.

Charles Finley Jr., a computer consultant, relates one case of a company that bought a minicomputer system and turned it over to a lower-level official. "The vendor who sold the system talked to the company president only once," Mr. Finley says, and the executive wasn't aware of the system's capabilities. When he requested various computer-run reports, he was told by the official that they couldn't be done. Eventually, an outside consultant uncovered a $50,000 embezzlement by the underling; the reports requested by his boss were indeed feasible—and would have disclosed the theft.

DANGER OF BROADER MARKET

The potential for fraud is further magnified because the limited capacity and low price of minicomputers has opened a big new market among unsophisticated companies that earlier didn't need or couldn't afford big, high-capacity computer systems. Now, with some machines selling for a fraction of the cost of big systems, customers without any previous experience are diving into data processing—and getting hurt, because of both fraud and mistakes in using the new minis.

"The first-time user doesn't understand that problems are likely to come up," says Ivan Socher, general manager of the Commercial Systems division of Computer Automation Inc., a maker of minicomputers. "Experienced users operate differently. They expect the problems, and they're more likely to have taken precautions."

When fraud does occur, most victims hush it up. Rarely does a company press criminal charges when it uncovers a misuse of a computer. The freewheeling salesman who rigged his company's computer to accept low-cost bids, for example, got off with nothing more than a reprimand; he was judged too valuable to lose. The aerospace concern's accountant was fired after making restitution. The hospital accountant was discharged, but he got a favorable recommendation to avoid the possibility of a lawsuit in case he couldn't find another job.

One reason that computer crimes remain largely secret is the employer's reluctance to admit his gullibility. "It's like rape," says Gary Keefe, a computer expert with the accounting firm of Peat, Marwick, Mitchell & Co. "Management feels it's been beaten and doesn't want people to know it." A more practical reason is that employers don't want to risk stockholders suits charging negligence in allowing the crime to happen.

According to auditors, and manufacturers and others, many customers *are* negligent. They refuse to employ enough physical security or internal controls to reduce the potential for computer misuse, even though such controls are available.

Non-alterable programming "microchips" can be used in some systems, for example. Other systems can be rigged to alert the security department if the computer gets more than an average number of inquiries in a specified period of time; this can indicate that a tinkerer is trying various access codes to get into the machine's data. Computers can also be programmed to close down at a specified hour, precluding after-hours finagling.

But a full-blown program of physical and internal security and controls can be costly. "Operating efficiency and controls are counterproductive," says Mr. Pabst of Touche Ross, adding that many companies simply prefer to gamble that losses won't exceed the cost of effective policing.

Some auditing firms, however, are starting to insist that computer-using clients take some minimum safeguards, and they decline to work for those that won't. At the very least, they advise them on the installation of controls. The major firms also are developing their own computer specialists to work with audit teams, and they themselves are making more use of computers in conducting such audits.

LAGGING BEHIND THE CROOKS

They still have much to learn. "There's a lot of stumbling by the auditors; it takes one or two frauds before they catch on," says Mr. Socher of Computer Automation. Accountants conceded that their efforts still lag behind the advance of computer technology and that they remain vulnerable to computer fraud. "We're always in a catch-up mode," one auditor says.

Other critics are harsher. "There's an investment in personnel and training that audit firms aren't willing to make," the head of a computer-equipment manufacturer charges. "All you get from them is a whole lot of chin-scratching."

But even the most up-to-date auditing and the most rigorous internal controls and security, wouldn't stop fraud; no system is foolproof, industry sources maintain, and the real goal is to minimize losses. Says James Fosberg, senior vice president of Microdata Corp., a minicomputer maker: "If the controller is going to rip off the company, he'll do it with or without a minicomputer. The mini is no different than a manual system or any other computer system. The people who have access to the information have the same ability to perpetrate fraud."

UNEMPLOYMENT AND THE NATION'S $22 BILLION CRIMINAL JUSTICE PRICE TAG

Mr. WILLIAMS. Mr. President, on behalf of Mr. HUMPHREY, I submit the following statement and ask unanimous consent that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

During the past ten years the nation has quadrupled its annual investment in its criminal justice system—from $4.5 billion in 1967 to approximately $22 billion today—in an unsuccessful effort to check the rising level of crime.

Absent any real change in circumstances, it is expected that these expenditures for the arrest, prosecution, conviction and imprisonment of criminals, will continue to increase at an even faster rate in the years ahead—without significantly reducing the level of criminal activity.

These are some of the astounding and alarming findings presented in testimony at hearings on crime and unemployment, held by Representative John Conyers of Detroit, Chairman of the Judiciary Subcommittee on Crime.

The criminal justice system expenditure figures were presented during the hearing by Leonard A. Tropin, Vice President, National Council on Crime and Delinquency. They are part of a picture of futility and enormous waste that he described to the Subcommittee.

It is Mr. Tropin's conviction that one of the most effective and cost efficient ways of combating crime is to provide meaningful job opportunities for disadvantaged people who now see criminal activity as the only avenue open to them to lift themselves out of poverty and the hopelessness that poverty breeds.

In other words, Mr. President, the Nation must move toward a full employment economy and provide the educational and job training opportunities needed by the disadvantaged to compete in the labor market before there will be a real change for the better in the level of crime in the country.

Mr. President, this is an extremely important subject which Representative Conyers is bringing to the attention of Congress and the Nation. The following excerpts from Mr. Tropin's statement bear directly on these matters.

"The experience of the past decade has not diminished the fervor with which some public officials still attempt to reduce crime by the expansion of the criminal justice system. The aggregate cost of Federal and State correctional facilities building or in the planning stage is now in the area of $8 billion for the next ten years. And by the time the bond issues are paid for, the cost of such capital construction will be several times the initial figure."

"I doubt very much whether these new facilities will help reduce the incidence of crime. In fact, there is some evidence to show that the enlargement of an already huge prison establishment may exacerbate rather than help solve the problem."

"I think it is far more productive for the Congress and State legislatures to look at other approaches to crime control than merely enlarging the system. Such approaches relate to those factors which are causatively connected with crime. Among them are unemployment, racism, poor education, family instability, and alienation."

"It is necessary to say at the outset that we cannot point to any of the factors I have just mentioned and link them in a direct, one-to-one relationship with the committing of crime. Social scientists cannot predict that given reductions in any one of these factors will automatically result in a proportionate decrease in the incidence of crime."

"Yet there is enough reliable research to show that a definite causative connection exists. To be more specific: there is a connection between street crime—robberies, muggings, burglary and so on—and the so called root causes. The connection between other types of crime—all of which cost the Nation billions, is far less direct, although there is still a connection."

"Chief among all the causative factors, I would place unemployment. Research conducted by the Federal Bureau of Prisons clearly shows that of all the variables examined by the bureau, unemployment relates most positively with Federal prison population. When unemployment among men 20 years or over goes up or down, so does the Federal prison population. There is a time lag of about 15 months which covers the time from arrest to eventual post conviction confinement. Now, we are not necessarily equating higher imprisonment rates with higher crime rates, but that is a conclusion which may be drawn."

"William Nagel, director of the Institute of Corrections of the American Foundation, concludes from a nationwide survey he has just completed that there is a strong positive correlation between the unemployment rate of a State and its crime rate. He further finds that there is a correlation between poverty and imprisonment. This may occur, he notes,

even though a State which has a high incidence of poverty may have a low crime rate."

"This may seem to be a contradiction, but it isn't. In a State which has much poverty, there may be relatively full employment. A great many people may be working at wages so low that they cannot take care of their basic needs. That's poverty. Another State may have greater wealth but it may also have a great many unemployed. And it is from the unemployed that we see so many entrants into the criminal justice system. So while States which are poor seem to have low crime rates, I don't think any rational person would advocate poverty as the cure for crime."

"Other researchers show the connnection between unemployment and crime. One study for example finds that the unemployment rate for ex-offenders is three times as high as that of the general public. Since considerable crime is committed by recidivists (persons repeatedly convicted), a job, therefore, is the essential element for helping keep that kind of person from committing more crime."

"That premise is confirmed by a study at the Center for Justice Policy of Duke University. This study showed that parolees who were able to find jobs were less likely to commit crime than those who could not find jobs."

"The positive connection between unemployment and crime is not a phenomenon restricted to the United States. Researchers in Canada also report this experience. Studies in England and Scotland show that whenever there is a downturn in the economy, there is a sharp increase in most categories of reported crime."

"And one final example: 'Wildcat' is a supported work project of the Vera Institute of New York. It provides jobs for released offenders. Research done on this project finds that supported work reduced the incidence of rearrest for offenders below what it would be for offenders who had no jobs. This is especially true for the first six months after the person has been released from prison."

"Other examples could be reported which have much the same findings. Having a job, they show, is one of the best means of helping an ex-offender stay out of trouble. And more important, having a job is one of the best means of preventing a person from getting involved in crime in the first instance."

"Many social factors foster criminogenic tendencies. I have noted some earlier: unemployment, racism, poor education, and so on. All of these are problems which require expanded action programs. But if I had to select what ought to be done first, I believe it would be to provide jobs for those who lack them—jobs that pay a reasonable wage—jobs that have a purpose—jobs that provide a ladder out of the despair that afflicts millions—especially the minorities, and the young."

"The point I want to stress to this Committee is that the Nation must begin to concentrate its resources on the causes of crime rather than on expanding the system that deals with it. And although the criminal justice system certainly needs reform and improvement, it is not in the last analysis the device to significantly reduce crime in America. Tinkering with the system cannot produce that result."

"There are those who believe that the system can put a lid on crime. They advocate mandatory sentences, they ask for more punitive prison terms, they plead for doubled police forces, they urge the appointment for tougher judges, and so on. I believe that these approaches cannot accomplish what their advocates hope for."

"One reason for this belief is that the criminal justice system deals with only a very small fraction of those who break the law. The number of offenders who are never apprehended, indeed whose crimes are never even reported, is vast. It eclipses by far the number who are brought to justice."

"Lloyd Cutler, former director of the National Commission on the Causes and Prevention of Violence—the Eisenhower Commission—used to dramatically illustrate how minimally the criminal justice system dealt with the criminal. He pointed out that of all reported crimes, only 12 percent led to the arrest of anyone. And, of course, there are many more crimes committed than are reported. Only six percent, said Cutler, led to a conviction. And finally, only about one and a half percent ever resulted in anyone going to jail. No wonder, said Cutler, the criminal justice system did not effectively deal with crime."

"We ought to seek massive improvement in our criminal and juvenile justice system. We need law enforcement departments that are more effective and responsive than at present. We need courts in which an offender may be tried swiftly and fairly. We need correctional programs which avoid over-reliance on the prison as the appropriate punishment for ordinary property crimes, the great majority of crimes committed in the country."

"But we ought to also keep in mind that as much as a better system is needed, it will only have a limited effect on the incidence of crime. The roots of crime are deep in American society and removing them requires programs which deal with the country's most basic social and economic problems."

"I therefore urge that all possible steps be taken to stimulate the economy so as to open jobs for the unemployed, especially the young unemployed. If the private sector cannot develop enough jobs for those who need them, government then should become the employer of last resort."

Mr. President, after he had finished his statement, Mr. Tropin was asked if the view he articulated was gaining increasing acceptance in our society. He replied:

"Well in some instances it is not. In fact, it's gone the other way."

"For example, the recent mayoralty primary in New York City saw candidates debating the capital punishment issue. Now, I think these are decent men debating this matter. But they were, I think, eager to alleviate the anxiety and fear of the people of New York City, and so they were saying as eloquently as they could, 'we've got to get tough and capital punishment is one way'."

"The fact that capital punishment has no bearing on the mayoralty issue, or the mayor's capacity to deal with the problem, seemed to make no difference at all."

"I must say this attitude is not simply one of politicians. There are academics and others who take the same point of view. I do not think it is the right course."

"If we are going to concentrate our relatively rare resources into building a bigger system, a tougher system, a more punitive system while disregarding the causes of crime, we are just going to wind up with a bigger system in which we will be dealing with more clients."

"The public education process is a very difficult one because the instinctive reaction of the man on the streets to crime is to say, 'we have got to get tougher'. And it is very difficult for him to explain that the more money you plug into programs that help the marginal man, the better off you will be because he sees it the other way; you are simply taking away money that might be used in programs that benefit him. He sees an imbalance, too much attention paid to the transgressor, not enough to the ordinary, decent citizen."

"If we are going to take a burglar, let's say, who has stolen two color television sets worth perhaps $1,000, and put him away in Greenhaven or some place in New York in an effort to punish him, you will have to pay $13,000 a year. That's the cost for that inmate, the operational costs of the institution, and another $13,000 in administration, for a total of $26,000 per year per inmate in New York State. For two years, of course, it would be double that—$52,000."

"Now, is it the best thing to do? To spend $52,000 in dealing with that man who has stolen perhaps $1,000 worth of somebody else's property; is that the best way to deal with him? Is that in the interest of the public?"

"I doubt that it is. We have no reliable evidence to show that that kind of function for that kind of offender really deters others from that kind of crime."

Mr. President, the hearings being conducted by Representative Conyers indicate without question that the most effective way of fighting crime is to prevent it from occurring. Preventing crime means providing an opportunity for the disadvantaged to qualify for a meaningful job in an expanding, stable economy. The only way to do this is to get this country moving as quickly as possible toward full employment.

B–1 BOMBER

Mr. HAYAKAWA. Mr. President, this past week the House of Representatives deleted $20 million from the fiscal year 1978 Defense supplemental authorization bill for initiating an R. & D. program to develop the FB–111H, a "stretched" version of the tactical F–111 aircraft. This program was also rejected by the House Appropriations Committee as well. These actions are in addition to the fact that the House Appropriations Committee had already earlier rejected the President's proposal to rescind $463.4 million for B–1 aircraft Nos. 5 and 6 that were appropriated in fiscal year 1977.

So once again the Congress has sent a clear message to the President—it does not "buy" his rationale for canceling the B–1. And is it any wonder? We spend millions of dollars to come up with an aircraft to handle the manned penetration mission. Then the President cancels this program and persuades the Congress to go along with him because he says we do not need a manned, penetrating bomber—the cruise missile can do it all. And now he turns around and says to us that well, yes, maybe we will need a new bomber and that he supports spending $20 million to initiate a study to develop the FB–111H.

I think the President had better tell us exactly what he does want. Because if he thinks we need a manned, penetrating bomber, which I strongly feel we do, then we should purchase the most cost-effective aircraft to do the job—the B–1. Testimony before the Congress indicates that to develop, purchase, and operate a fleet of FB–111H aircraft would be 50 percent more costly than to operate an equally effective number of B–1 aircraft.

This most recent action by the House provides further evidence that Congress does not share the President's perspective on the FB–111H. I therefore, strongly urge the President to lift the termination order affecting fiscal year 1977 funds on the B–1 so that aircraft Nos. 5 and 6 can be completed. Continued delays will only lead to more inefficiencies and increased costs.

ORGANIZATION OF THE DEPARTMENT OF ENERGY

Mr. PERCY. Mr. President, I have been most impressed with the speed and efficiency with which Secretary of Energy James Schlesinger implemented the Department of Energy organizational legislation. The new Department is now intact and operational. At last, one centrally located, unified body will oversee our energy policy and programs. It can now properly coordinate energy policy with the Congress, with other departments, and with the private sector.

Earlier this year I cosponsored the President's energy organization legislation. As ranking minority member of the Governmental Affairs Committee I intend to continue our oversight responsibilities in connection with the organizational aspects of DOE.

In particular, I have been interested in Secretary Schlesinger's approach to the areas of conservation, solar energy, decentralized energy technologies, and consumer protection. While the administration's overall organizational record on these issues so far is admirable, there are a number of significant area that concern me.

Conservation has an appropriately high priority in the new Department. This is due to the creation of the post of Assistant Secretary for Conservation and Solar Applications, as well as to the legislative assignment of primary responsibility for conservation to the Under Secretary.

But, at this time, I am uncertain as to whether or not the background of the nominee for Under Secretary, Mr. Dale Myers, has prepared him adequately for his responsibilities in the area of conservation policy. I plan to pay particular attention to his implementation of conservation policy should the Senate approve his nomination.

Solar energy and decentralized programs have been brought together under one roof, that of Conservation and Solar Applications, where they may receive appropriate emphasis. But the organizational plan has placed all photovoltaic, wind and biomass programs under Energy Technologies. Secretary Schlesinger informs me this action is "in no way intended to imply delay in the introduction of these technologies." However I feel the placement of these programs under the DOE division which deals solely with long-term research shows energy research officials may have written off the immediate applicability of these technologies, and thus shows a misunderstanding of their potential. I still strongly urge Secretary Schlesinger to reconsider his decision.

It is important that consumer affairs be given appropriate recognition at DOE from the start. Secretary Schlesinger informs me that the Assistant Secretary for Intergovernmental and Institutional Affairs will handle input from consumer groups, and that the Assistant Secretary for Policy and Evaluation will consider carefully the consumer impact of his decisions. While both these officials report to the Deputy Secretary, I am concerned that there is no single official who is specifically accountable for advocacy of consumers' interests in departmental decisions.

Mr. President, I ask unanimous consent that the text of my three letters of August 12, September 1, and September 16 to Dr. Schlesinger, together with his September 1, October 5, and October 11 responses to my letters, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., August 12, 1977.

Hon. JAMES SCHLESINGER,
Assistant to the President,
The White House,
Washington, D.C.

DEAR JIM: I am most pleased and gratified, as I am certain you are, that the Department of Energy is finally a reality. I offer my deepest congratulations to you upon your confirmation as the first Secretary of Energy.

As you know, the Government Affairs Committee has responsibility to oversee the organization of this new Department. For this reason I would be grateful if you would send me the recommendations of the organizational task forces on the DOE structure.

I would also appreciate your answers to these specific questions:

What institutional framework will be established to implement the conservation responsibilities of the Under Secretary?

What organizational protections will be instituted to redress the current ERDA bias toward high-technology options, and to promote decentralized energy applications?

Will consumer protection be consolidated, or will it be divided among several functional areas?

What framework will deal with the question of energy industry competition?

There is, of course, a need on your part to make rapid decisions on major issues. I therefore ask to be kept up to date, so that my comments, if any, will be germane to the process as you undertake it. Please contact me, or have your staff contact Chris Palmer (224–1462) or Ron Lanoue (224–2174).

Your attention to this request is much appreciated.

Warm personal regards,

CHARLES H. PERCY,
U.S. Senator.

U.S. SENATE,
Washington, D.C., September 1, 1977.

Mr. JAMES R. SCHLESINGER,
Secretary of Energy,
The White House,
Washington, D.C.

DEAR JIM: Our staffs have been in contact in regard to my letter to you of August 12. I am pleased to learn that your office is addressing the issues raised in that inquiry. I look forward to receiving a report on those matters.

During Congressional consideration of the Department of Energy, the problems of consumer protection and consumer representation were left for later resolution. Now that you are engaged in the detailed creation of the Department of Energy, I hope you will address the structure for dealing with this issue. In that regard, I have several concerns:

It is my understanding that an Assistant Secretary for External Relations will handle input from citizen groups. Will the occupant of that office also be in charge of promoting the consumer viewpoint before you, other DOE policymakers, and the Federal Energy Regulatory Commission? I am concerned that advocacy of consumer positions will be split up among program areas, or will not be a specialized function.

The Administration has opposed giving the Federal Trade Commission authority to initiate rulemaking concerning consumer protection aspects of the solar and conservation industries, since FEA would have this authority under the proposed National Energy Act. FEA has also indicated it would work with the FTC in developing rules regarding unfair or deceptive practices in this area. Where in DOE will these issues be handled?

What role will Advisory Committees play in the DOE decision-making process? How will adequate representation of all interested groups on Advisory Committees be assured?

How will the Administration implement funding of intervenors in DOE and FERC proceedings?

I look forward to receiving your reply. Please contact me, or have your staff contact Chris Palmer (224–1462) or Ron Lanoue (224–2174).

Warm personal regards,

CHARLES H. PERCY,
U.S. Senate.

U.S. SENATE,
Washington, D.C., September 16, 1977.

Hon. JAMES SCHLESINGER,
Secretary of Energy,
The White House,
Washington, D.C.

DEAR JIM: I was very pleased to receive your letter of September 1, responding to my queries concerning the Department of Energy organization. I also appreciate the staff-level briefing that Tenny Johnson of the Activation Task Force provided to Congressional aides on September 7. You and the President are to be commended for the speed and efficiency with which you are implementing the DOE legislation.

Your letter welcomed my views on transition planning. I have several points I wish to raise in light of your September 1 letter, the September 7 briefing, and the August 31 DOE organizational plans furnished to me.

I wholeheartedly approve of the role given to the Under Secretary in regard to energy conservation. The centralization of end-use conservation and solar programs under an Assistant Secretary, with the placement of electric conversion efficiency elsewhere, reflect what is to my mind a commendable orientation of the conservation program toward individual end users. I look forward to seeing these DOE programs in action.

I commend the special treatment for decentralized solar systems, and the promised introduction of an Office of Small-Scale Technology. The structure of the Conservation and Solar Applications may go a long way toward rectifying the alleged historical bias toward high-technology, centralized energy technologies in the Energy Research and Development Administration.

I am pleased that energy industry competition will be a special responsibility of the Assistant Secretary for Planning and Evaluation. This assures both accountability and a high priority for this function.

Unfortunately, I feel the placement of photovoltaics, wind systems, and biomass under Energy Technologies reflects a serious misunderstanding of these technologies. The list of Energy Technology projects slated for early transfer fails to include any of the above. I agree that more long-term research is needed on solar cells, windmills, and biomass, but all three can today be used commercially in many applications. It is wrong to write these off as energy sources before the late 1990's.

I am also concerned by your statement that consumer protection "will be made a concern of every official." The consumer function of Intergovernmental and Institutional Relations seems one of public relations, not advocacy. To make every official responsible for this may mean no official will have reason to promote consumer interests.

Finally, I question the placement of the

fledgling Energy Extension Service under Intergovernmental and Institutional Relations. The Extension Service will of course be primarily an outreach organization, but it will also play a key role in the promotion of conservation. I suggest further review of whether EES might more properly belong under Conservation and Solar Applications.

I wish you success as you take on the responsibilities of Secretary of Energy. I am sure you will carve out an enviable record of achievement.

Warm personal regards,

CHARLES H. PERCY,
U.S. Senator.

THE WHITE HOUSE,
Washington, D.C., September 1, 1977.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR CHUCK: Thank you for your congratulations on my confirmation as Secretary of Energy. Through the Department of Energy we hope to make the energy programs of the President and the Congress fully effective.

You ask for the recommendations of the organizational task forces on the DOE structure and also raise several specific questions about our plans for the new Department. Much preliminary staff work has been done, but further work will be required before overall organization options have been fully explored. I will be glad to provide our plan to you just as soon as this work has proceeded to a more advanced stage.

With regard to your specific questions, first, our current expectation is that the Under Secretary will exercise his energy conservation responsibilities under the Act primarily by means of conservation policy guidance to the Department, particularly to the Assistant Secretary to whom Section 203 (a)(9) of the Act assigns energy conservation programs functions. Also, we are studying the need for specialized staff support to the Under Secretary for this purpose.

With regard to decentralized energy applications, our preferred option at this time is to group together the programs for decentralized energy applications, including an Office of Small Scale Technology, and place them in an organization which will be separate from the major high-technology programs. Because both the decentralized applications and the other programs will be visible and separate, the proper balance can be struck in the program reviews which will provide the basis for Secretarial decision.

With regard to consumers, our preferred approach at this time is to group together functions relating to the involvement of consumers in the decision process and those relating to consumer affairs generally. Consumer protection, to which you specifically refer, will probably be made a concern of every official. The planning process could also reflect this assignment to assure that Departmental programs will include consumer protection as a factor in decision-making.

Competition, similarly, is regarded in our current thinking as a function of policy-making and a factor always to be considered in the Department's methodology for decision-making. The official responsible for policy and evaluation is expected to be assigned a special responsibility to assure adequate consideration of competition policy as the Department makes specific decisions.

When our planning is further advanced, I will, of course, be glad to discuss any matters of interest with you. In the meantime, I would appreciate receiving any specific recommendations you would like to make.

Sincerely,

JAMES R. SCHLESINGER,
Secretary of Energy.

DEPARTMENT OF ENERGY,
Washington, D.C., October 11, 1977.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR CHUCK: Thank you for your letter of September 16 regarding the organization of the Department of Energy.

I am pleased that the organization of the solar program within the Department is in general agreement with your views on the subject. And I want to assure you that the one remaining issue of concern to you—placement of photovoltaics and similar programs under the Assistant Secretary for Energy Technology—is in no way intended to imply delay in the introduction of these technologies. It is our intent to move individual projects and applications within these areas into the Assistant Secretary for Conservation and Solar Applications as quickly as possible. I believe we share this objective and will work together to ensure its realization.

Your continued interest in the Department of Energy is most appreciated.

Sincerely,

JAMES R. SCHLESINGER,
Secretary.

THE WHITE HOUSE,
Washington, D.C., October 5, 1977.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your letter of September 1, 1977, which sets forth several concerns in addition to those to which I responded in my letter to you of September 1, 1977.

First, you ask about responsibility for promoting the consumer viewpoint. Within the Department of Energy, consumer affairs functions are assigned to the Assistant Secretary for Intergovernmental and Institutional Relations. This official is responsible, in the words of Section 203 of the Department of Energy Organization Act, for "protection of the consuming public in the energy policy-making processes and assisting the Secretary in the formulation and analysis of policies, rules and regulations relating to . . . consumer affairs." The Assistant Secretary provides the window through which consumers will address their concerns to the Department (other than through the formal rule-making process). Further, the Assistant Secretary assures that specific issues raised by consumers are addressed by appropriate officials in the Department and that the action taken is communicated to those concerned.

As a separate matter, the Assistant Secretary for Policy and Evaluation has an explicit responsibility to assure that existing and proposed Departmental policies and programs are analyzed and evaluated in terms of their effect on consumers.

Through these assignments of responsibility, consumer needs will be recognized and promoted within the Department. However, with regard to more formal advocacy of a consumer viewpoint, the Department supports the proposed Consumer Protection Agency legislation as embodied in S. 1262, which would establish a separate agency for advocating such a viewpoint.

Next, you inquire about consumer protection in the developing solar and conservation industries. Within the Department, the Assistant Secretary for Conservation and Solar Applications has the substantive responsibility in this area. The Assistant Secretary for Intergovernmental and Institutional Relations will convey consumer concerns to the officials carrying out this responsibility and monitor their responses to these concerns.

With regard to advisory committees, your third area of inquiry, we believe that such committees afford one way of providing for interchange of views between the Department and all other entities and interests. In addition, the Department will, at times, need specialized expertise not available internally. Good management requires that the interests and expertise of all groups be considered in decision-making. The Department will strictly adhere to the provisions of the Advisory Committee Act and the regulations of the Office of Management and Budget to assure adequate representation of all interested groups. The Assistant Secretary for Intergovernmental and Institutional Relations has the responsibility in this area.

Lastly, you ask about funding for intervenor groups before the Department and the Federal Energy Regulatory Commission. This matter will be considered by the Department after its activation, in the light of Congressional decisions about the broad question of Federal funding for intervenors.

Please let me know if you need any further information.

Sincerely,

JAMES R. SCHLESINGER,
Secretary of Energy.

THE ADVANCED HARRIER

Mr. BARTLETT. Mr. President, over the years, the U.S. Marine Corps has sought to improve its ability to provide close air support to Marine ground units in combat. Marine pilots have been flying the A–4 Skyhawk since 1956 and the F–4 Phantom since 1961. These high performance aircraft, although they are getting old, performed well in combat during the Vietnam war and continue to provide most of the tactical air support for the Marine Corps.

Presently, there are 5 squadrons of A–4's and 12 squadrons of F–4's in the active Marine Corps. These high performance aircraft can operate either from a land base with a long runway or from a large aircraft carrier with a powerful catapult. Because the ground forces of the U.S. Marine Corps cannot always be assured of operating within range of large air bases, and because carrier based air support may not always be available due to the small number of U.S. carriers and their vulnerability to attack, the Marine Corps also maintains three squadrons of the amazing AV–8A Harrier attack aircraft, which can take off and land vertically. The Harrier is deployed forward with Marine combat units, employing roads, clearings, and other flat surfaces as temporary forward bases.

The Marine Corps has continuously sought to improve its ability to provide air support to Marines in combat at great distances from bases supporting conventional aircraft. The advent of the helicopter has meant that Marine Corps pilots are now able to airlift supplies to forward positions. The helicopter has also brought to mobile Marine forces modern attack helicopters, such as the AH–1J Cobra which can be very effective against many targets where heavy enemy air defenses do not exist. However helicopter technology has not advanced sufficiently to permit the development of helicopter attack systems combining high speed and a longer combat radius.

During the 1950's, the United States sought to develop vertical/short take off and landing (V/STOL) aircraft which

would be able to operate without runways, just as a helicopter can, but which would be capable of the high speeds which helicopters cannot achieve because of their dependence on rotors for lift. During the early days of V/STOL experimentation, many techniques were tried, nearly all worked, but none seemed suitable for deployment with combat forces at that time. During the 1960's, however, great progress was made in V/STOL technology. In Great Britain, the world's first V/STOL fighter was deployed with the Royal Air Force in 1967. This was the Hawker Siddeley Harrier.

Recognizing the importance of this British achievement, the USMC examined the Harrier and placed an initial order for 12 aircraft in 1969. Subsequently, the Marine Corps ordered 102 of these AV–8A Harrier aircraft, including 8 trainers. The first AV–8A was delivered to the Marine Corps on January 26, 1971. For the last 7 years, this "A" model of the Harrier has provided the Marine Corps with additional combat capability and with extensive experience in V/STOL operations which will prove to be of great value in the future when all of the services find themselves operating ever greater numbers of V/STOL aircraft.

Today, the Marine Corps has three squadrons of AV–8A Harriers, each with 20 aircraft. Two squadrons are located at Cherry Point, N.C., and one squadron is located at Yuma, Ariz. Each squadron is organizationally capable of dispatching a six-aircraft detachment to operate independently of the parent unit. One such detachment is now deployed to Okinawa, in the Pacific. For the Marine Corps, the major advantage of the V/STOL Harrier is the flexible approach to bases and logistics which it provides.

Initially, the Harrier would be deployed to a land base or aircraft carrier some 50 to 100 miles from the main battle area. An extensive supply of fuel, parts, and ammunition would permit sustained operations from these main bases. Use of available runway space for short takeoffs, instead of the fuel-consuming vertical takeoffs, would give each Harrier longer range and greater payload.

For the Marine Corps, the main advantages of the V/STOL Harrier are the ability to deploy forward in order to provide air support more quickly and the ability to disperse in order to reduce the aircraft's vulnerability to enemy air attack. To achieve these objectives, the Marine Corps plans to deploy 6 to 10 aircraft to facilities established along roads or near grass fields some 20 to 50 miles behind the forward edge of the battle area (FEBA). These "facilities" would have some ability to refuel, rearm, and maintain the Harrier aircraft.

For maximum dispersal and for the shortest reaction times, one to four AV–8A aircraft would be moved to "forward sites" in the vicinity or ground units they support. A cleared area approximately 72-feet square is all that is needed. These forward sites might, or might not, be able to refuel or rearm the aircraft. They are simply temporary bases designed to cut down response times and improve coordination with the ground combat forces. Aircraft deployed from these forward sites would, most likely, return to "facilities" or to main bases in order to obtain repairs and to refuel and rearm.

Other Harriers, at the bases and facilities would then move up to the forward sites to support the ground units. This "leap frog" reinforcement insures that close air support will be immediately available at all times, and it eliminates the need for the expensive, and often ineffective, use of the "air loiter" procedure which has attack aircraft constantly in the air awaiting missions which may or may not develop. The "ground loiter" capability of the AV–8A Harrier is exactly what the Marine Corps needs for close ground support.

For a single seat, light attack aircraft, the AV–8A is quite capable. It is normally equipped with two 30mm guns and can carry bombs, missiles, or rockets on five different weapons points. The Harrier has a maximum speed of over 700 miles per hour and can exceed the speed of sound in a dive.

Although the Harrier is not intended as an air combat fighter, it can be used in that role. Each Marine Corps Harrier carries two Sidewinder air-to-air missiles which are intended for self defense. This armament, combined with the tremendous maneuverability of the Harrier, have proven extremely successful in air-to-air combat exercises. The Harrier, when matched against the Navy's sophisticated F–14 aircraft, proved vastly superior in dogfighting ability.

Because of the large amount of fuel consumed in a vertical takeoff, V/STOL aircraft such as the Harrier are not known for having exceptionally long range. Still, the range on the AV–8A is respectable. With external tanks, the AV–8A can fly over 1,600 miles. With a single air refueling, the "A" model Harrier can remain aloft for 7 hours or fly 3,400 miles. The Harrier "A" can take off with a 3,000-pound bombload from a 1,000-foot runway and fly 414 miles, drop its bombs and return. From a 1,500-foot runway, it can carry 8,000 pounds 255 miles and return. When the Harrier "A" takes off vertically, however, it can carry 3,000 pounds only 57 miles and return. This is sufficient for many Marine missions, but it limits the flexible use of V/STOL aircraft. This is the major limitation of the AV–8A Harrier.

In order to overcome the range restrictions on the AV–8A Harrier, the Marine Corps has been developing an Advanced Harrier, the AV–8B, which is capable of doubling either the range or the payload, whichever is preferred for a particular mission. This remarkable improvement in performance will be accomplished using the basic Harrier design and the same Pegasus 11 engine. The modifications which make the greater ranges and payloads possible are mainly refinements in the aerodynamic design associated with vertical take-off, although 330 pounds in weight will be saved through the use of modern epoxy composite materials. For example, larger inlets on the engine, improved airflow around the wings, and the addition of lift improvement devices which capture the reflected jet exhaust under the Harrier in order to increase lift have all helped achieve the great improvements in range and payload.

In order to maximize the advantages made possible by these improvements in lift, the "B" model Advanced Harrier will have seven weapons points instead of five and will have a strengthened landing gear to deal with the extra load. A super accurate angle rate bombing system (ARBS) is also to be added to insure the most effective use of the Advanced Harrier's additional payload which will total nearly 9,000 pounds. An improved pilot's cockpit and additional electronic countermeasure equipment make the Harrier B a plane far superior to its predecessor, the AV–8A Harrier.

In addition, other minor changes have enhanced the performance, reliability, and safety of the Advanced Harrier. The Advanced Harrier is the evolutionary product of 20 years of design and testing of a revolutionary aircraft which has provided new approaches to tactical air support. The Advanced Harrier represents an important example of how an existing aircraft can be modified to incorporate new technologies and become an extremely cost-effective weapons system.

Mr. President, I ask unanimous consent that at the close of my remarks, an article on Harrier V/STOL operations, which appeared in the Marine Corps Gazette in May and an article which appeared in the Washington Post in September, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

V/STOL WILL DO THE JOB FROM CARRIERS, SEA PLATFORMS, AIRFIELDS—OR PARTS OF ALL—EVEN ROADS, PADS OR WHATEVER

(By Lt. Col. J. W. Orr and Lt. Col. R. E. O'Dare)

[Figures in text not printed in RECORD]

The Marine Corps is committed to the development of the AV–8B V/STOL aircraft for its future light attack weapons system. This decision was based on a thorough operational appraisal of its V/STOL forerunner, the British-made AV–8A Harrier. Although the AV–8A is certainly not the do-all and end-all to V/STOL aviation, it is a first step, and has more than proven the validity of the concept. Primarily, it provides the Marine Corps with an aircraft which is not dependent on aircraft carriers or on the Short Airfield for Tactical Support (SATS) system. It has operated from existing amphibious ships such as the LPH and LPD, and has recently completed an extended cruise aboard the attack carrier *Franklin D. Roosevelt*. This basing flexibility, when applied to the close air support (CAS) mission enables earlier phasing ashore of Marine Corps CAS aircraft than is possible with conventional aircraft.

In the January issue of the Marine Corps Gazette Lt. Col. J. L. Cunningham asked the question: Can the Marine Corps really use V/STOL aircraft? The major problem that Lt. Col. Cunningham addressed was that inadequate numbers of amphibious shipping were available (a problem which would not be solved by eliminating V/STOL). In addition, he questioned the ability of amphibious shipping to support AV–8 operations. The support capability has, indeed, been verified and documented and will be discussed later in this article. Our intent

here is three-fold: to explain the basing and logistics concept; to discuss shipboard operations; and to look at the AV-8B as a close air support aircraft.

THE BASING CONCEPT

A review of the essential parts of the close air support cycle shows that much of the flying time equates to transit time (also loiter time if the aircraft employs an airborne loiter mode). In general, flight time also influences the unscheduled maintenance required during turnaround prior to the next sortie. The term "maintenance man-hours per flight hour" (MMH/FH) is used widely and expresses the idea that the longer an airplane flies the more it is likely to need maintenance.

Related to overall aircraft effectiveness, the major factors in the cycle imply that an aircraft should be based as near the target as prudent for four reasons:

The aircraft can carry more ordnance when the radius is short (less fuel required for transit time).

The transit time per cycle is reduced; this tends to increase the sorties per day per aircraft.

The maintenance time per cycle is reduced, since less flight time is accrued.

Target value is normally greater if it is attacked as soon as possible after detection.

Additionally, and probably most important to the ground commander, basing nearer the target reduces the response time between mission request and accomplishment.

Basing flexbility of V/STOL aircraft allows employment from bases afloat or ashore. Location of the bases will be contingent on operational circumstances, but can generally be categorized as sea bases, sea platforms, main bases, facilities or forward sites.

Sea bases

Sea bases (LPH and LHA ships) bear close resemblance to aircraft carriers, but they are designed for helicopter use and transportation of the landing force. Detachments of AV-8's can operate aboard these ships along with helicopters (or depending on availability, one ship could be used exclusively for an AV-8 squadron). The LPH and LHA have flight decks of approximately 600 and 800 feet, respectively, and provide the option of a short takeoff (STO) which increases the payload capability of the AV-8.

A sea base will have the capability to sustain air operations for extended periods of time including intermediate level maintenance, as well as organizational maintenance. Ordnance stowage, buildup and rearming capabilities are somewhat limited, but ship alterations are not entirely beyond reason. In any event, underway replenishment is routinely accomplished. When operating as detachments from more than one sea base, the intermediate level maintenance will be on only one ship, but organizational maintenance will be with each detachment.

Sea platform

The vertical takeoff (VTO) capability of the AV-8 enables operations from some of the other ships within the assault force that have helicopter landing platforms. Obviously the size and location of the landing platform must be consistent with AV-8 landing requirements. For operations aboard a sea platform, only minimal support may be available, such as fuel and ordnance. The AV-8 will cycle out of the sea base to the sea platform where it will ground loiter while awaiting mission assignment. When employed, sea platforms are utilized in much the same way as forward sites.

As more control of the beachhead is attained, AV-8 operations may be phased ashore. The types of shore bases are described below.

Main base

A main base will have the capability to provide complete support for an AV-8 squadron. This includes organizational and intermediate level maintenance and the required ground support equipment, repair facilities, and logistics support necessary to sustain flight operations over extended periods of time. The main base will provide the capability to operate under day, night and all-weather conditions.

Whenever possible a main base will be located at available airfields; however, if none exist, an AV-8 main base will be established and consist of a 1,500-foot runway (minimum), suitable parking area for twenty AV-8 aircraft, a supply area including unloading zones for resupply helicopters and billeting for 400 to 500 men. Under some circumstances, the AV-8 may share a main base with other aircraft.

Facility

As the area of combat operations expands, it may be desirable to locate detachments of AV-8 aircraft closer to supported ground units. This type of installation is designated as an AV-8 facility.

Under combat conditions, the facility should have a minimum runway of 600 feet by 78 feet, suitable parking for six to ten AV-8 aircraft, supply storage areas, and billeting However, it is considered desirable to use an existing airstrip suitable for AV-8 operations. In any case, it should be possible to establish a facility within a 72-hour period. Organizational maintenance and combat sortie recycling will be provided at the facility. Intermediate level maintenance will be performed on aircraft and components at the main base. Operations from the facility will be under day and night, visual flight (VFR) conditions.

Forward site

Under special circumstances it may be desirable to locate individual AV-8 aircraft close to the ground forces for rapid response and direct liaison with forward air controllers. (The aircraft has UHF plus VHF (FM) operation a forward site is considered to be a ground loiter station, and will be established approximately twenty nautical miles from enemy forces.

Under combat conditions, a single AV-8 requires a forward site having a minimum 72 by 72 feet (96 by 96 feet is desired) suitable landing and takeoff surface. Parking area for additional aircraft is desirable to permit employment of aircraft in sections. Where possible, an existing landing site should be utilized to eliminate the need to build a pad area. Actual construction of an AM-2 forward site required four hours during Exercise VERSATILE WARRIOR in 1972. Figure 2 depicts a typical forward site installation. Although limited organizational maintenance could be provided at the forward site, it may be desirable to provide fuel and limited ordnance replenishment; however, the extent will be in accord with the tactical situation. Operations from a forward site will be under day VFR conditions only.

It may be possible to utilize an abandoned airstrip or a segment of road for a forward site, thus utilizing short take off and landing (STOL) to increase the payload. Nonetheless, the forward site must be out of range of enemy artillery and in relatively secure areas which do not require excessive ground forces to protect the base and aircraft.

Levels of support may vary for operating at any of the bases. Figure 3 summarizes the general concept of maintenance capabilities available.

Logistics

While it is logistically appealing to make the amphibious landing where airfields already exist, it is strategically prudent to have a choice. Air operations ashore will probably require some construction or repair even if we occupy an existing airfield. If extensive rebuilding is required, the runway obviously can be operational sooner if our aircraft require a 1,500-foot runway instead of the 5,200 feet required for auxiliary expeditionary airfields. This releases limited assets that can be applied to priority construction throughout the force.

Presumably, an enemy-held airfield in the intended amphibious operational area (AOA) would be a major objective in itself prior to D-Day. With no ground forces ashore, the only available means to neutralize the airfield would be pre-D-Day interdiction strikes. If we succeed in capturing the field, we can be sure that major rebuilding will be required. Thus, V/STOL aircraft operating from the uncratered portions of the runway (or taxiways), may be the only fixed wing aircraft usable for days, maybe even weeks, from that airfield. The sooner Marine air begins operating ashore, the sooner other fleet aviation assets can be reassigned to higher priority missions (assuming that we could count on two CV's attack carriers—one-sixth of the Navy's assets, for post-D-Day support).

If the battle progresses satisfactorily, the forward edge of the battle area (FEBA) may move rapidly. Forward sites, facilities and main bases may move accordingly; the required equipment may or may not be transportable by road. Support for AV-8 operations, and ultimately support of the land battle, could well depend on the ability to move the necessary equipment. Table I summarizes typical requirements to accomplish facility or main base buildup and the number of sorties/trips required by the candidate options:

TABLE I.—*Requirements for facility/main base bui'd-up*

Option:	*Main base (880 tons)*	*Facility (235 tons)*
Truck, M-35	352	130
CH-53D	85	30
CH-53E	55	20

Fuel requirements

Approximately 5,000 pounds of internal fuel may be used per sortie, depending on the mode of operation. Based on the four sorties per day required in the 1972 Sortie Rate Validation Test, each aircraft may require 20,000 pounds of fuel a day. (The AV-8A actually demonstrated a sustained sortie rate of six sorties per day and a surge rate of ten per day during this test.) Translating this to a twenty-aircraft squadron, a total of 400,000 pounds (200 tons) of fuel a day would be required. Obviously the exact sortie mission profile may reduce or increase this total requirement. In addition, an AV-8A may use up to 500 pounds of water a sortie which, considering four sorties per day and a twenty-aircraft squadron, could total 40,000 pounds per day.

Depending on the tactical situation, some fuel may be desirable or required at a forward site. Fuel can be transported to a forward site by either helicopters or trucks, and can be stored there in either trailers or the helicopter expeditionary refueling system (HERS).

Ordnance requirements

As has been demonstrated in operations to date, a representative ordnance payload of 3,000 pounds can be carried in the VTO mode. Thus, an AV-8A can expend 12,000 pounds of ordnance a day at four sorties a day while operating thusly. At this rate a twenty-aircraft squadron could expend 240,000 pounds of ordnance a day.

It is important to point out here that major troop movements ashore will have been accomplished prior to the onset of logistical requirements shown above. Thus, the helicopter option of AV-8 basing build-up should be well within the lift capability of the amphibious force.

Fuel and ordnance requirements will be no greater for V/STOL than for an equivalent

conventional jet aircraft operating from the same airfield. More often, it can be expected that conventional aircraft will be based farther from the FEBA, and will require more fuel per sortie.

Yet another perspective on supporting V/STOL operations ashore considers the equipment and supplies that *don't* have to be transported in order to conduct close air support. Approximately two-thirds less runway matting is required for a V/STOL base; there are no catapults, no arresting gear and no ground support equipment for aircraft starting. If conventional aircraft eventually operate ashore, the additional support will be required, but it need not take up valuable cargo space in amphibious or early follow-on shipping.

SHIPBOARD OPERATIONAL EMPLOYMENT

The nature of an amphibious operation dictates that land areas and distances will be small by aircraft standards. A beachhead twenty by twenty nautical miles is considered as the initial phase. Prior to moving ashore, it is anticipated that the AV-8 will operate from sea bases. If the conditions are such that the sea base can operate within thirty nautical miles of the beachhead, then AV-8 basing within a nominal fifty nautical miles of the target areas is assured even before the maintenance activity is phased ashore.

During ship-to-shore operations, an AV-8 detachment may operate aboard an LPH along with assault helicopters. It has been demonstrated time and again during amphibious landing exercises (PHIBLEX's) that helicopters and AV-8A aircraft operations aboard ship are not unduly restrictive.

This aspect of the concept was one of the primary reasons why a detachment of AV-8A's was deployed with the 32nd Marine Amphibious Unit aboard the helicopter carrier *Guam* as part of Mediterranean Amphibious Ready Group (MARG) 2-74. Marine Medium Helicopter Squadron 263 operated seven CH-46's, five CH-53's and two UH-1N's, along with six AV-8A's from Detachment B, Marine Attack Squadron 513. This was the first extended deployment where the landing force commander had organic fixed wing assets.

During the ship-to-shore movement, it was common practice to spot five AV-8's on the flight deck of an LPH (with minimum interference to the spotting of CH-46's and CH-53's). Once the transport helos were airborne, the AV-8's launched in rapid succession via STO (full fuel and ordnance), and still arrived at the landing zones prior to the helicopters. When the on-call waves began moving, it was possible to use the forward two-thirds of the flight deck for helicopter operations (external lifts included) while keeping four AV-8's loaded for VTO from the aft one-third of the deck. Therefore, as it turns out, during those times when the maximum payload was important (beach and landing zone preparations and helo escort), the full deck was available to the AV-8's for STO's.

With the troops ashore, the AV-8's launched vertically in response to specific CAS target requests, and the VTO payload was adequate (remember, the LPH may be just over the horizon from the AOA or even anchored within sight of the beach). The forward air controller (FAC) made mission requests on the tactical air request (TAR) net. AV-8 pilots sat in their cockpits in Condition I alert status, monitoring the TAR frequency on the FM radio. When a request for CAS was made, the AV-8 pilot copied down the mission data and located the target area on his map. He was prepared to start the aircraft and launch within two to three minutes when directed by *Guam*'s air officer. The responsiveness of this kind of command and control cannot be matched by conventional attack aircraft based on distant aircraft carriers.

An interesting observation was made during PHIBLEX 2-75A (when AV-8 VTO operations were emphasized). In most instances, when a rapid launch was required for an on-call CAS mission, the deck condition would have allowed a STO in only one additional minute without artificial evolutions to clear the deck.

For this deployment, MARG 2-74 had the luxury of six ships instead of the usual five (a second LST was added). The additional ship provided more living space, which allowed *Guam* to carry only one infantry company instead of two. This was not a reduction caused by the presence of AV-8's, but merely a fact of life that permitted lower than normal loading of personnel and cargo on each ship.

Another peculiarity of MARG 2-74 was that the AV-8's replaced AH-1J Cobras on a one-for-one basis. Deck loading on *Guam* was then relatively consistent with previous MARG's. This was not to imply that the AV-8's could do the close-in fire support (CIFS) mission of the Cobra. Indeed, the gunship is superior in that role to any fixed wing aircraft.

On the other hand, suppressing enemy fighters, surface-to-air missiles (SAM), armor or other hard targets requires the speed, agility, standoff distance and weapons capability of the fixed wing jet. Beach and landing zone preparations are best left to these aircraft. Choosing a "best mix" of fixed wing, V/STOL aircraft and helicopters for a given scenario would depend on many factors, but could include Cobra's *and* AV-8's. The accessibility of attack carriers or land-based fixed wing aviation assets to support amphibious operations would certainly influence the "mix" decision aboard the amphibs, but demand for their presence elsewhere (or pure time distance constraints) could deny the landing force commander these luxuries. As the LHA assumes more of the amphibious mission in the fleet, a larger, more versatile aircraft mix can be expected.

During MARG 2-74, for example, attack carrier fixed wing assets were available for only one PHIBLEX. We should not, therefore, arbitrarily discard the only technology which could provide the landing force commander with his own fixed wing assets for a critical portion of the amphibious operation.

The virtually constant Russian surveillance of MARG 2-74's operations indicated a new level of interest in amphibious operational capability, heretofore only routinely observed.

OPERATIONAL EFFECTIVENESS

An operational effectiveness measure of close air support aircraft is the expected targets killed each day by each aircraft. To determine this measure, it is necessary to evaluate individual aircraft in terms of the following parameters:

Sortie rate—number of sorties that can be flown per day per aircraft.

Responsiveness—military value of the target when the target is actually attacked.

Probability of kill—delivery accuracy and amount of ordnance placed on target.

In a DoD-sponsored CAS effectiveness study, the AV-8, operating from a desert strip in Twentynine Palms, California, continually provided five-minute response times from target request to first-pass attack with the targets located approximately ten miles from the strip.

Probability of kill is a function of a particular weapon against a specific target. The calculated number of weapons required to kill a particular type of target depends on this probability equation plus the predicted delivery accuracy of the aircraft system. In close air support, the ground forces in close contact with the enemy might impose restrictions on the size or number of weapons delivered because of fragmentation patterns. Generally speaking, in CAS, "more" is not necessarily "better" in terms of ordnance.

The AV-8A, of course, has its limitations in ordnance-carrying ability, particularly in the vertical take off mode. We in the V/STOL community have stressed the VTO capability to the point that we have earned the reputation of a short-legged little airplane that won't go far or carry much. Not so. The authors, and many other pilots, have flown from coast to coast (both ways) with only one refueling stop. Another example is the flight from Naval Air Facility, Kadena, Okinawa to Naval Air Station, Cubi Point, Philippines, which is routinely made by AV-8's without aerial refueling.

It has already been mentioned that the AV-8A has delivered a 3000-pound ordnance load to a fifty nautical mile radius from a VTO. The VTO may be required in some cases, but it is acknowledged to be an inefficient method of getting ordnance airborne if even a little takeoff roll is available. Literally thousands of sites all over the world provide this option to operate AV-8's, from ordinary roads to missionary airstrips in isolated places.

AIRCRAFT IMPROVEMENTS

At the present time, the triple ejector rack (TER) is not cleared for flight on the AV-8A aircraft due to funding constraints for flight testing. In 1978, as the AV-8A begins a conversion program to the AV-8C, the multiple stores limitation will be remedied along with other known deficiencies, such as defensive electronic countermeasures (DECM), radar warning and a chaff/flare dispensing system.

Representative loads with a TER-configured AV-8 are:

12 MK-82 (500#) bombs; or
12 LAU-68 or 10 LAU-10 rocket pods; or
a mix of bombs and rockets.

The AV-8B will have an even greater capability if it is needed. Figure 4 compares ordnance loads of today with the AV-8B. Figure 5 shows the range and payloads achievable by the AV-8B. With engine growth, the Pegasus 11+ engine would improve the capability even more.

With regard to the requirement for conventional fighter assets, we Marines have not had an enemy bomb dropped on us since World War II. We become, therefore, somewhat complacent about enemy offensive air capability. The authors belong to an apparent minority which believes that we need the antiair capability, but not at the expense of our attack or assault transport arms. The AV-8 does have a substantial capability to defend itself against enemy fighters, but it is not a supersonic interceptor nor does it have the sensors and weapons systems for such a mission. Some people see the fighter requirement constraining us to conventional aircraft and runways. We propose that the Navy and Marine Corps take another tack, that we get moving with development of a V/STOL fighter. While we're at it, let's take a look at V/STOL tanker, electronic countermeasures and reconnaissance machines to further release us from our reliance on large, expensive, time constraining airfields and aircraft carriers.

There are implications that V/STOL airplanes are more vulnerable to heat-seeking missiles than conventional aircraft. Without getting overly technical or exceeding classification criteria, it should be kept in mind that a diffused plume from AV-8 nozzles may present a less distinct infrared (IR) target than the "hot spot" jet exhaust of a conventional airplane. The IR missileer on the ground must still acquire his target visually. The AV-8 is a small, smokeless, irregularly shaped and highly maneuverable aircraft. It presents a small cross-section to any battlefield radar, and with its high thrust is capable of accelerating to high subsonic speeds quickly. All these characteristics complicate the enemy gunners' problems, whether they are using visual, radar, or IR tracking methods. The AV-8B will have the newest DECM package available throughout the fleet.

There is also an implication that Marine development of V/STOL assets might commit us to a Navy sea control mission. While this could occur on a random basis, it should never be the overriding deterrent to pursuing V/STOL. Such logic in past years would have put Marine helicopter development beyond reach. Helos occasionally provide fleet logistic services when we have the assets available, and rightly so.

The Navy's current plan envisions a shift to V/STOL and small shipping, initially, as a sea control measure. Technology clearly points to a successful transition over time.

Admittedly, AV-8's aboard amphibious shipping don't give the ready group a standalone defensive capability during open ocean operations. Neither do they give an overwhelming power projection force to singlehandedly affect the outcome of a conflict, but they are a strong factor of "presence." As such, they must surely be considered a deterrent.

It must be conceded that world interest in the Soviet YAK-36 aboard the aircraft carrier *Kiev* has been intense. In reverse, then, if there's nothing to be gained from V/STOL, why is there so much excitement about the *Kiev* and her V/STOL aircraft? The answer is, of course, that the Russians have gained additional air power at sea; flexibility, mobility and dispersion of assets.

With the reduction in the number of large flight decks available in our own fleet, and their dedication to higher priority missions, V/STOL could eventually become the only fixed wing aviation that we find at sea.

MARINES FIGHTING FOR AIR

(By George C. Wilson)

The Marines are in a new kind of fight, this one with Defense Secretary Harold Brown over their right to a modern air force.

Marine leaders contend that their air force is the extra punch they need to combat heavier but slower enemy forces, with the Warsaw Pact the threat now being cited.

Brown and his deputies counter that the corps, which through the years has prided itself on going lean, can go leaner and cheaper when it comes to planes.

The outcome of this battle will shape the future of the Marine Corps, with critics contending that its air wings are already taking too much money away from the ground forces, which should get top priority.

This new battle, being fought with budget analyses and counteranalyses written in the old Marine Corps headquarters alongside Arlington Cemetery and in Pentagon offices, will be joined in a formal way next week.

Marine Corps Commandant Louis H. Wilson, Navy Secretary W. Graham Claytor Jr. and Adm. James L. Holloway, chief of naval operations, are scheduled to meet with Brown Wednesday to appeal budget cuts he has tentatively decided to make in their separate air forces.

For both Marine and Navy leaders, Brown's most worrisome actions were those taken against the new generation of plane called VSTOL for vertical and short take-off and landing.

Marine leaders concede that they probably will not be jumping off landing barges to secure a beachhead in this age of "smart" weapons. So they instead envision flying troops over the beach by helicopter and supporting them with flying artillery—planes armed with bombs, rockets and guns.

The plane Marine leaders have been counting on most to give them that extra punch from the air in the future is a new model of the V/SOL Harrier designated as the AV-8B.

But Brown, in drafting what is called a presidential decision memorandum, decided the Marines could get along with the A-4 Skyhawk attack plane for supporting infantry rather than buy the new Harrier any time soon.

This would save money in the defense budget, which, despite such cuts, will keep going up in the future.

In another action which upset the Marine leadership, Brown recommended in his presidential decision memorandum drafted for President Carter that the Marines reduce their F-4 Phantom squadrons from 12 to nine.

If this reduction is imposed, Marine leaders contend that the nation's current shortage of planes for air defense will become even more severe. The Marine F-4s are used primarily for escorting bomb-laden attack planes to their targets. Each Marine squadron consists of 12 F-4s.

The combination of being forced to rely on the A-4s instead of the advanced Harrier and making do with fewer F-4 squadrons is being interpreted by some military officials as the Pentagon's first step toward tailoring the Marine air force for small wars rather than beef it up for a NATO rule.

Marine leaders have been trying to demonstrate that they are powerful enough to fight Soviet forces in Europe, with a NATO exercise in Turkey late this month the next time they will try to make this point.

Navy Secretary Claytor intends to support the Marines' appeal to Brown to restore Harrier money. Claytor is emerging as the Pentagon's leading advocate of proceeding full speed ahead on V/STOL.

Claytor and his Navy allies also are trying to get Brown to restore the cut made in the Navy's five-year V/STOL research budget. The Navy wants $1.2 billion. Brown so far has approved $550 million.

As the battle of Marine and Navy aviation budget is joined, these are the main choices as set forth in secret memos:

NAVY APRIL PROPOSAL

Plane	Purchases by fiscal years— 1979	1980	1981	1982	1983
F-14	42	42	42	36	0
F-18		9	30	72	108
AV-8B [1]			12	24	54
A-6E	15	12	12	5	0

BROWN'S TENTATIVE CHOICES

F-14	36	36	36	36	18
F-18	2	9	30	72	108
A-4M [2]	24	24	24	24	0
A-6	12	12	12	12	?
AV-8B (Purchases postponed.)					

NAVY'S COUNTERPROPOSAL

F-14	60	60	60	60	60
A-7	36	36	36	36	36
AV-8B			12	24	54
A-6E	15	12	12	5	0
F-18 (Program cancelled.)					

[1] Navy buys these for the Marines.
[2] For Marines.

THE FUTURE NAVY NEEDS THE ADVANCED HARRIER V/STOL AIRCRAFT

Mr. HART. Mr. President, one of the most important defense questions now facing the administration is whether the AV-8B Advanced Harrier V/STOL aircraft program will be continued. Upon this decision will hinge much of the fate of the Navy in the 1980's. Although it is not an issue with high public visibility, in fact it is probably as important as the B-1 bomber and the Panama Canal.

The Advanced Harrier is an improved version of the existing Harrier vertical or short takeoff and landing—V/STOL—aircraft now in service with the Marine Corps. While the Harrier is a British-built aircraft, the Advanced Harrier will be built in the United States. It will be the only American V/STOL until the late 1980's or early 1990's.

The Advanced Harrier is currently planned for acquisition by the Marine Corps. The Marines need a V/STOL aircraft for close air support; its freedom from increasingly vulnerable runways and its responsiveness to the ground commander make it valuable in this role. So long as Marine close air support continues to appear viable in the face of hostile frontline air defenses, the Marines will need a V/STOL close air support aircraft.

The Marine Corps now uses the AV-8A Harrier to provide close air support. However, the Harrier, which is the West's first operational V/STOL, has somewhat limited range/payload capabilities. The Advanced Harrier will provide sufficient range-payload capability to be a fully cost-effective aircraft. Vertical takeoff performance is increased by 1,800 pounds; more importantly, performance with a short takeoff run is improved by 6,000 pounds. With a short takeoff, the Advanced Harrier can deliver 4,000 pounds of ordnance to a distance of 600 nautical miles, flying an operational mission profile. The Harrier has already shown considerable capability as an air defense fighter; the Advanced Harrier will be improved in this respect.

Although the Advanced Harrier is currently a Marine Corps aircraft, our real requirement for it is as a naval aircraft. Currently, our naval aircraft are all dependent on catapult launch and arrested recovery. This restricts them to very large and very expensive aircraft carriers, such as those of the *Nimitz* class.

These aircraft carriers are enormously costly. The carrier alone costs upward of $2 billion. Its escorts, if they are nuclear powered, cost at least another $2 billion.

At the same time that these large carriers are becoming more costly, they also are also becoming more vulnerable. With the proliferation of effective antiship missiles in the Soviet and other navies, the chance that any individual ship will be disabled or destroyed has risen greatly. If our naval aircraft depend on very expensive carriers, which can only be afforded in small numbers, our at-sea aircraft capability will be less and less survivable. We will in effect be putting our eggs in ever fewer baskets, at the same time that each basket is more likely to be broken.

V/STOL aircraft give us an opportunity to reverse the trend toward greater vulnerability by dispersing our naval aircraft onto a larger number of individually smaller, cheaper ships. V/STOL aircraft can operate from ships as small as frigates and destroyers. For the lifecycle cost of one *Nimitz* class carrier, we can afford four 25,000-ton V/STOL carriers (VSS). By building VSS instead of *Nimitz* or CVV class carriers, we can

put our valuable eggs—our sea-based aircraft—into a much larger number of baskets.

The Advanced Harrier is the only V/STOL aircraft which can enable us to move in this direction in the near future. The Navy's planned type A and type B V/STOL's will not be in service until the late 1980's or 1990's; the Advanced Harrier will be ready in late 1982. If we delay dispersing our naval aircraft until the late 1980's or the 1990's—when we should have begun doing so in the 1960's, as the nature of the Soviet threat to the carrier became clear—we will have substantially undermined our naval aircraft capability to survive a contest with an opposing major power.

The Advanced Harrier is sufficiently capable to be an effective naval aircraft. I have already mentioned its very impressive range/payload characteristics, and the good performance of the existing Harrier in air defense. The tests of the *U.S.S. Guam* in the role of sea control ship demonstrated the utility of the Harrier in anti-submarine warfare. Its quick response time and high speed, compared to a helicopter, enabled it to be far more effective in certain roles than the LAMPS.

In its action on the fiscal year 1978 defense authorization bill the Senate acted to move in the direction of smaller carriers. It directed that a series of options on the carrier question be created. including the VSS V/STOL carrier, of which the Senate report said:

Although this type of ship is not shown in the current Navy Five Year Shipbuilding Program, funding for seven such ships was included in the Program presented in 1975, and one was in the Program presented in 1976. The committee believes that the development of VSTOL aviation ships should proceed at least at the same pace as the proposed CVV medium conventional carrier.

If the administration acts to terminate the Advanced Harrier program, as reportedly is being considered, it will deny the Senate the option of the VSS until the late 1980's. Without the Advanced Harrier, a VSS authorized in fiscal year 1979 could be equipped only with the inferior AV–8A or the British Sea Harrier. Neither possesses the performance necessary for a fully effective naval aircraft. If the VSS program cannot move ahead because the Advanced Harrier program has been killed, it may be very difficult to move ahead with any aircraft carrier program, or with planned programs for future carrier escorts.

Thus, the Advanced Harrier is needed by the Marine Corps, by the Navy, and by the Congress. While the Navy has not yet formally acknowledged an interest in the Advanced Harrier, recent test on the aircraft carrier *Franklin D. Roosevelt* showed the contribution V/STOL aircraft can make to carrier operations. According to a recent article in the Naval Institute Proceedings, these tests demonstrated that:

The Combat value of the AV–8a (the current Harrier), whether operating from a country road or the deck of a CV, lies in its flexibility. Using thrust vectoring during takeoff and landing, Harrier operations require minimal deck space compared to conventional aircraft . . . the Harrier has no need of the expensive, elaborate, and vulnerable catapult and arresting gear systems, without which the CTOL aircraft cannot operate.

Mr. President, I ask unanimous consent that the article, "VSTOL and the CV," by Lt. Col. John T. Tyler, USMC and Capt. Andrew H. Boquet, USMC, from the October issue of the Naval Institute Proceedings, be printed at this point in the RECORD for the further information of the Senate.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

V/STOL AND THE CV

(By Lieutenant Colonel John T. Tyler, U.S. Marine Corps, Commanding Officer of Marine Attack Squadron 231 and Captain Andrew H. Boquet, U.S. Marine Corps, AV–8A Harrier Pilot; both authors were attached to VMA–231 during its deployment on board the USS *Franklin D. Roosevelt* (CV–42))

[NOTE.—April 1977 marked the return of the USS *Franklin D. Roosevelt* (CV–42) from an historic Mediterranean cruise which saw the introduction of vertical or short takeoff and landing (V/STOL) aircraft to CVs and may have been the *"Rosie's"* and E–1B's last hurrah. Although much statistic gathering and analysis remains to be accomplished relative to the deployment, it is the intent of this article to examine the Harrier CV experience in a chronological manner, and to highlight some operational benefits derived from using Harriers on CVs.]

In late June 1976, Marine Attack Squadron–231 left its home base, Cherry Point, North Carolina, and flew to Cecil Field, Florida, to join Carrier Air Wing-19. The West Coast air wing was preparing for an upcoming Mediterranean cruise on board the *Roosevelt*.

Generally, the augmenting of naval squadrons with Marine Corps aircraft is not unique, since Marine squadrons have often operated from carriers. However, the 14 aircraft of VMA–231 were not the usual complement of Marine F–4s, A–6s, or A–4s which have flown from CVs in the recent past. Instead, they were vertical/short takeoff and landing AV–8A Harriers.

Although Marine Harriers previously had extensive shipboard experience on board LPHs and LPDs as early as 1971, the AV–8A had never been integrated into the cyclic operations of a CV. Thus, in mid-1976, the *Roosevelt* sailed on the first build-up cruise with two F–4 squadrons (VFs 51 and 111), three A–7 squadrons (VAs 155, 215, and 153), an E–1B detachment (RVAW–110), a Pacific Fleet combat support helo detachment (HC–1), and a squadron of AV–8A Harriers (VMA–231).

During the summer months Carrier Air Wing–19 conducted its carrier qualification period, followed by Types 1, 2, and 3 training, which led toward the Operational Readiness Evaluation (ORE) in late August. Since the dictates of cyclic operations necessitated 1.5–hour flight periods for the conventional takeoff and landing (CTOL) aircraft, the Harrier was employed within that framework. Generally, the AV–8As would launch last and recover first, thereby averaging a cycle time of approximately 1.6 hours airborne. Occasionally, the Harriers would launch first, rapidly accomplish a mission, and proceed to the top of the stack of aircraft which were already airborne. On such "yo-yo" flights the average flight time was approximately 45 minutes. In both instances a rolling short takeoff was accomplished using 300–650 feet of deck. Occasionally vertical takeoffs were made; however, such maneuvers necessarily required reduced fuel and/or payloads due to total reliance on engine jet lift.

In the landing phase, the AV–8A executed the standard jet approach until it stabilized in a hover over the landing zone, at which time it descended vertically to a touchdown. Generally the primary landing zones were either just forward of the #4 wire (spot 3), or aft of the #1 wire (spot 4), depending on the amount of deck available for landing.

Even though the above procedures made the Harrier quite compatible with cyclic operations, certain benefits were immediately obvious vis-a-vis CTOL jet operations. First of all, the Harrier is self-starting and thereby required that no power units be available for that purpose. Second, there was no delay in launch caused by catapult hook-up since the aircraft does not use such a system. Third, on recovery only a small amount of deck space (50 feet radius) was required, thereby effectively increasing the amount of deck available for aircraft spotting. Fourth, on recovery there were virtually no bolters (or waveoffs) since the following Harriers delayed aft, or abeam, the ship while the preceding aircraft landed. Fifth, the AV–8A had no need of the arresting gear system since the Harrier adheres to the V/STOL adage that ". . . it is better to stop and land, than to land and try to stop." Finally, the Harrier's unique thrust-vectoring system made deck handling easier since it was possible to back the aircraft into position under its own power. Therefore, even in the initial stages of Harrier integration into cyclic operations its advantages were becoming obvious to those involved.

Following completion of Type 3 training in early August, the *Roosevelt* prepared for the final examination of its combat effectiveness, the ORE. The opening scenario had the ship sailing from an anchorage following receipt of messages indicating that attack was imminent. Exiting the harbor the *Roosevelt* had to pass through a minefield prior to entering open seas. In transiting the minefield the ship's course was unalterable, as was her slow speed. Consequently, the relative wind was from 40° starboard at 15 knots. Under such conditions the A–7s and F–4s could not be launched or recovered, thus the AV–8s were on alert status. Soon after entering the minefield, the ship detected hostile surface threats closing rapidly, and the Harriers were ordered to launch. Three minutes later, the first AV–8A launched vertically into the relative wind. Soon four AV–8s were conducting simulated strikes against the targets, and 20 minutes later they recovered. The AV–8A demonstrated its value as a viable component of the carrier air wing, and the *Roosevelt* passed the ORE with the VMA–231 taking top honors among the jet squadrons on board.

During the Atlantic crossing the Harriers used only the axial deck area, since the aft angle-deck portion of the ship was packed with aircraft. Both rolling and vertical takeoffs were accomplished, with standard jet-landing approaches being flown until the AV–8A was aft of the ship; at that time the pilot simply flew alongside the port side of the *"Rosie"* and across the deck to land aft of the jet blast deflectors (JBD) on the same area from which they had just launched. None of the Harriers operations conducted crossing the Atlantic required any ship course deviations. On one occasion the wind-over-the-deck (WOD) was a 15-knot tailwind. Consequently, Harrier pilots made their landing approaches from the bow of the ship and continued to land into the wind. This feat, while posing no difficulties for the AV–8A pilots, demonstrated the flexibility of the V/STOL concept and was repeated many times subsequently. Given a WOD from any direction, which could not be aligned down the deck due to ship's heading limitations, the Harrier could, and did, approach the ship from any one of the 360° possibilities and land.

In mid-October, as the *Roosevelt* approached Rota, Spain, two Harriers took off

vertically 75 miles out and landed at Rota for a two-day air demonstration. Following completion of the demonstration the aircraft returned to the ship which was at anchor in the Bay of Cadiz. With the relative winds coming from 60° starboard, the Harriers decelerated into the winds and landed, amidships, adjacent to the number two elevator, since the remainder of the ship's deck was spotted with aircraft.

From mid-October to the end of November, the *Roosevelt* operated around Italy, with port calls to Naples and Catania. While at sea, the ongoing examination of V/STOL flexibility continued as the air department, acting on CVW-19 and squadron recommendations, scheduled Harrier takeoffs and landings off cycle. One variation occurred after a normal recovery, when the CTOL aircraft were parked forward just prior to their respot aft. On this occasion, with the deck fouled forward, the AV-8As launched using a 300-foot rolling takeoff on the angle deck. The small outrigger tires of the Harrier prevent takoffs and landings over raised arresting wires, which could not be lowered on the *Roosevelt*, so it was not possible to use the entire angle deck without removing the wires, an option the CTOL pilots did not appreciate. Also during this period AV-8As conducted flight operations while the *Roosevelt* was at anchor in port. Multiple maintenance checks flights were flown using vertical takeoffs from any spot on the deck that afforded a minimum of a 50-foot radius area clear of obstructions. For recovery the Harriers simply returned to land on whatever point from which they had launched.

From late November through the end of December, VMA-231 participated in an operation that not only demonstrated the operational flexibility and maintainability of the V/STOL concept, but also predicted future applications of the concept. Tasked to transfer from the *Roosevelt* while at anchor at Catania to the USS *Guam* (LPH-9), the squadron flew on board the *Guam* in Augusta Bay, after which the ship set sail for operations in the Indian Ocean. Within ten days the squadron was flying in the Indian Ocean, having transited the Suez Canal, Red Sea, and the Gulf of Aden. While in the Indian Ocean VMA-231 Harriers participated in Kenya's Independence Day celebrations at Nairobi, Kenya's capitol.

After departing Kenya, the Harriers were placed on deck alert as the *Guam* proceeded north along the eastern coast of Africa. The problems associated with Uganda at that time are all too familiar. On several occasions the AV-8As were launched against unidentified air contacts, but none came any closer to the *Guam* than 35 miles. However, the combination of Harrier and ground-controlled intercept gave the LPH a potent airborne defense capability. After spending Christmas in Alexandria, Egypt, the *Guam* returned to Augusta Bay, preceded by a Harrier fly-off and return to the *Roosevelt* which was conducting routine air operations in the vicinity.

During January and February 1977, the AV-8As were used as in the previous months, except when they flew from the *Guam* once again, as well as from the USS *Trenton* (LPD-14). Supporting Marine infantry units in an amphibious exercise, VMA-231 Harriers staged from the *Guam* and used the 196 by 75 foot flight deck of the *Trenton* for refueling while conducting close air support strikes against enemy forces on the beachhead. Such employment of the AV-8A was in consonance with the original intents of the Marine Corps' visionaries who selected the Harrier in the early 1970s: obtain an aircraft that can operate near Marine ground forces so the time between tactical air requests and ordnance delivery is short.

In mid-March a war-at-sea exercise was conducted against the USS *John F. Kennedy* (CV-67), with the *Roosevelt* part of the aggressor forces. Generally, the AV-8As were used in an attack or surface reconnaissance role taking off first and recovering 1.2 hours later, just after, or during, the previous respot aft. In many cases the ship was steaming either downward or crosswind during the Harrier landings after which a turn into wind was made for the CTOL aircraft to land. In one instance, when the axial deck was fouled with the just recovered aircraft, the Harriers were given a five-minute alert to launch. The Harriers took off from the angle deck on an air-intercept mission and recovered after the respot aft on the number two spot by the JBDs. Again the landings were made while the ship was maneuvering crosswind to avoid enemy forces.

During this operation the *Trenton* was used again, this time as a deck-alert platform for AV-8As in an air-defense role. Flying from the *Trenton*, the Harriers took off vertically and made ship-controlled intercepts of enemy aircraft threatening the *Roosevelt* task force. As a day, fair-weather fighter-interceptor the Harrier demonstrated an excellent air-to-air capability since it can carry the latest AIM-9 Sidewinder air-to-air missile, as well as its own 30-mm. Aden cannons with lead-computing gunsight. In fact, many Navy and Marine fighter squadrons consider the AV-8A one of the best adversary aircraft in the fleet today due to its high thrust-to-weight ratio, small size, and maneuverability using thrust vectoring.

In the final days of March, while the *Roosevelt* conducted refueling operations with the escorting destroyers en route to Palma, VMA-231 Harriers flew multiple reconnaissance and air-to-air sorties and recovered. Certainly the ship's heading was not easily altered under such circumstances, but the Harrier's takeoff and landing flexibility required no deviations in the carrier's course or speed.

The remaining flying days of the deployment in early April saw the *Roosevelt* continuing to conduct routine air operations with the CTOL V/STOL aircraft, employing the lessons learned over nine months of integrated cyclic operations. By the end of the final line period nearly every conceivable type of takeoff/recovery option had been flown as part of the V/STOL integration program. Takeoffs and landings had been accomplished upwind, downwind, crosswind, and before, during, and after respots.

In essence, the Harrier demonstrated that the V/STOL concept could temper the rigid framework of cyclic operations because of its takeoff and landing flexibility. A carrier of V/STOL aircraft would not have to limit its operations to cycle times and the associated requirement for specific ship direction, but rather such a carrier could launch and recover whenever she so desired, and she could steam wherever she wished at any time. During the cruise VMA-231 Harriers often landed on spots 3 or 4, and proceeded to park themselves along side the edges of the angle deck to await refueling and rearming. Using thrust reversal the AV-8A could, and did, require no ground support tractors for respotting as the pilot merely backed the aircraft into the proper position. Only when CTOL recoveries followed V/STOL recoveries did it become necessary to proceed forward to the axial deck and await the respot aft. With an all-V/STOL deck it would be possible to continue an uninterrupted seqeunce of takeoffs forward and landings aft, since deck fouling due to respot requirements would not be binding. Basically, the V/STOL concept can allow the CV and the aircraft to be almost independent of one another, whereas CTOL aircraft requirements virtually dictate cycle times and associated ship movement.

In April 1977 the 10-month experiment with V/STOL CV operations ended when the Harriers launched from the *Roosevelt* for the final time. But this short trial proved two important points: (1) the Harrier can be smoothly integrated into the cyclic operations of a CV; and (2) the Harrier provided the CV with a combat capability that did not exist by using only CTOL aircraft.

OUR NATION'S NEED FOR THE ADVANCED HARRIER

Mr. WILLIAMS. Mr. President, I would like to express my support for the Advanced Harrier program.

At present, our only V/STOL aircraft is the AV-8A Harrier, which is built in Great Britain. The AV-8B Advanced Harrier will be built in the United States by McDonnell Douglas. This potential for employment by our American citizens is a very important consideration to me as chairman of the Senate Labor Subcommittee. In fact, based on our experience with the F-15 and F-18 programs, it will mean $150 million in new business for the State of New Jersey alone. Given the inordinate needs of our economy, the jobs represented by the investment can come none too soon.

Not only will this mean more jobs for Americans, but it will insure that we have the technology and the manufacturing capability for V/STOL aircraft in the United States. I believe it is important for our economy and for our national defense that we have a defense industry which includes all vital aspects of modern military technology.

The critical role for V/STOL aircraft in our future national defense requirements makes it especially necessary that we have an American V/STOL. The Advanced Harrier, although technically a Marine Corps aircraft, shows great potential in several naval roles. One of the most important tasks facing the Navy is antisubmarine warfare. In the tests conducted by the Navy of the *U.S.S. Guam* in the role of a sea control ship, the existing Harrier proved extremely valuable in the ASW task. The greatly increased payload of the Advanced Harrier, 6,000 pounds with a short deck run, will make it a more costeffective investment than the AV-8A for this and other roles.

If the Advanced Harrier program were terminated, the United States would be dependent on other nations for V/STOL aircraft until the early 1990's, when the Navy's Type A and Type B V/STOL's should enter service. We would yield the promising VSTOL field to Great Britain and the Soviet Union. It is somewhat disquieting to note that the new Soviet aircraft carrier, the *Kiev*, carries a V/STOL aircraft, the YAK-36. I do not believe that we would serve our national interest to surrender all progress in this field to other nations. Accordingly, I hope that the Advanced Harrier program will be allowed to proceed, to give our Nation the technology to produce operational Advanced Harriers by the early 1980's.

THE ADVANCED HARRIER PROGRAM

Mr. LEAHY. Mr. President, many sources have recently reported that elements within the Department of Defense have proposed terminating the AV-8B Advanced Harrier V/STOL aircraft program.

In my view, this would be highly unwise. While the Advanced Harrier is cur-

rently planned as a Marine Corps aircraft, its real importance in the future will be as a naval aircraft. The Advanced Harrier is currently the only aircraft which will enable us to move away from the large, expensive *Nimitz*-class or CVV-class aircraft carriers to smaller, less expensive carriers. Those smaller carriers, being too small to launch and recover conventional Navy jet aircraft, will require V/STOL aircraft.

As most of my colleagues are aware, I have for some time opposed construction of additional large aircraft carriers. These ships are tremendously expensive. Each *Nimitz*-class ship costs approximately $2 billion. The life-cycle cost of the ship has been estimated at about $17.5 billion by the Navy, and that does not include inflation and the escort vessels that are needed to protect the carrier.

When we are considering the issues of aircraft carriers and V/STOL aircrafts, we must first consider the fact that the primary mission of the U.S. Navy is sea control; that is, maintaining U.S. supremacy on key shipping lanes that carry supplies of raw materials to this country and manufactured goods to our trading partners, and in the North Atlantic Ocean, which is vital to our defense of NATO. Recent dramatic improvements in the Soviet Navy, particularly in their submarine fleet, directly challenge our ability to maintain that control.

While the large *Nimitz*-class aircraft carriers are effective in projecting power ashore with their attack aircraft, their utility in sea control is open to question. They carry very few antisubmarine aircraft in their normal aircraft complement, even though the submarine is the principal sea control threat. And because they are so expensive, they can only be afforded in small numbers; the current fleet has only 12 carriers. A small number of ships can only be in a few places at any given time, while a hostile force can strike in areas where no carriers are present.

We could save money and increase our effectiveness if we could build smaller, less expensive aircraft carriers in large numbers. Such a ship might be the proposed V/STOL Support Ship (VSS), seven of which were proposed in the 5-year shipbuilding program presented to Congress in 1975. The VSS, at approximately 25,000 tons, would cost only one-fourth as much as a *Nimitz*, in life cycle cost terms. However, that small ship requires a V/STOL aircraft, and the Advanced Harrier is the only V/STOL aircraft that could be ready for deployment in the next decade.

Denying ourselves the V/STOL option would commit us to building another *Nmitz*-class carrier or a slightly smaller version. Such an expensive commitment would deprive the Navy of funds that could be better spent on procurement of greater numbers of smaller V/STOL carriers, which would enable the Navy to patrol larger areas of the oceans, and more attack submarines, the best weapon to challenge the growing Soviet submarine threat.

The Advanced Harrier is the only aircraft which would permit us to move away from the supercarrier in the near future, because it is the only V/STOL aircraft planned for production in the United States before the late 1980's or early 1990's. If the Advanced Harrier program is terminated, we will have only the choice between the large, very expensive, and increasingly vulnerable supercarrier or no carriers at all, for at least another decade. I believe that it would be extremely unwise to place us in this situation, and I therefore hope that the Advanced Harrier V/STOL aircraft program will continue.

THE ADVANCED HARRIER

Mr. HATCH. Mr. President, I am deeply concerned about recent news emanating from the Department of Defense. It appears that Secretary of Defense Brown has attempted to stop the development of the Advanced Harrier program. The Advanced Harrier (AV-8B) is the continuation of the only vertical or short takeoff and landing aircraft in the free world. The present V/Stol aircraft, the AV-8A, is manufactured in Great Britain. Plans within the Department of the Navy call for the production of the Advanced Harrier to be done here in the United States. McDonnell Aircraft has been awarded contract as the primary contractor in the development of the AV-8B. Continued development of this valuable plane would not only allow the Marine Corps and Navy to develop a mode of aircraft that is recognized as the type of plane of the future as we turn away from the big carrier concept, but will infuse dollars into our economy as this will be a U.S.-produced plane.

While much has been made of the small differences between officials in the Navy and the Marien Corps over the development of the AV-8B, I find it reassuring to see that Navy Secretary W. Graham Claytor, Jr., has joined forces with Marine Corps Commandant Louis H. Wilson in support of the V/Stol program. Secretary Claytor has realized that the V/Stol concept of aircraft is important to our countries future security. Secretary Brown has decided to stop development of the AV-8B and force the Marines to continue to use the A-4 Skyhawk Attack plane for close support in combat operations. We live in an age of fast changing modes of warfare and the increase in the amount of guerilla warfare, as evidenced in Vietnam, make us realize that we must have the capability to deploy forces in many remote spots in the world. We can no longer afford the time nor the luxury of basing our planes from fully developed airfields. Under combat conditions, the AV-8B will be able to operate from a forward site as small as 72 by 72 feet. This will allow ground forces to receive the maximum air support necessary to effectively carry out their mission. The Marine Corps view close air support in the same way in which they view tanks, mortars, and artillery. Tactical air support must be integrated into the ground scheme of maneuver as one of the ground commander's supporting arms.

The AV-8B has come under considerable attack for the number of accidents that the plane has been involved in during the past few years. The new version of the plane, the AV-8B, has been designed to overcome the deficiencies of the former. The new Harrier will perform a complete mission in a shorter period of time than any conventional airplane in our inventory. It does this from unconventional air base facilities, thus exposing it to the increased hazards of takeoff, and mission accomplishment without an increase in flight hours. This tends to skew the accident rate against the V/STOL aircraft in favor of the conventional aircraft when the number of flight hours is used as the measurement base. I point out that of the 26 accidents since the introduction of the AV-8B in 1971, the majority of them have been the result of pilot error when in the conventional mode; only 8 of the accidents have been caused while in the V/STOL mode. This accident rate compares favorably with the F-4, A-4, and the F-8 rates for the first 7 years after introduction.

Mr. President, I feel that we can no longer forestall the development of this crucial plane. Its ability to operate in the frontlines of the battle greatly increases the utility of all of our combat units. I feel that the administration must reverse the apparent trend that they have charted on this plane. Additional support for this plane appeared in the October edition of Sea Power. Mr. Vincent T. Hirsch, president of the Navy League, urges the adoption and funding of this program. I ask unanimous consent that Mr. Hirsch's editorial be placed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE ADMINISTRATION'S TRACK RECORD

These days of early fall have been momentous ones for the Navy and Marine Corps, although there is little public awareness of that fact. For now is budget-planning time in the Defense Department. The budget in question is for the fiscal year 1979 commencing 1 October 1978. Hearings on it will commence early next year, since 1978 is an election year and Congress will seek to adjourn early so there will be time for electioneering.

Already, stories emanating from the Pentagon are carrying disquieting news for the sea services. It was reported in SEA POWER by Editor Emeritus L. Edgar Prina last month that proposed cuts by the administration in the budget threaten naval air strength in the years to come; the cuts being reviewed would have delayed for some years development of the Navy's vertical/short takeoff and landing aircraft, cut back the Marines' plan to purchase substantial numbers of an upgraded version of their Harrier aircraft, reduced the numbers of Marine aircraft squadrons, let the program for the Navy's new fighter, the F-18, and an attack version of it slip for at least a year, and even scuttled the proposed building of a new class of highly effective amphibious ships, the Landing Ship Docks (LSDs).

That's pretty drastic action, even without explanation. It becomes nearly catastrophic if one stops to consider its long-range connotations.

Despite the unswerving and eloquently stated position taken by the Chief of Naval Operations, Admiral James L. Holloway III, that a fourth Nimitz-class carrier was and is needed, the Congress preferred to have the Navy study the feasibility of building smaller, less capable platforms. Fortunately, a

rescission bill to recoup the long-lead money previously appropriated for power plant components for the fourth Nimitz was largely unsuccessful. Still, despite vigorous recommendations from the House Armed Services Committee, the Congress did nothing to provide additional funds to move this much-needed ship toward completion. The Navy also received its marching orders to move out smartly in development of a VSTOL aircraft. Both projects obviously bear directly upon the defense of the United States, and each also will involve the expenditure of very large sums of money.

Since the smaller carriers would not be able to operate as many conventional aircraft from their decks as the larger Nimitz class could, it follows that the sooner the Navy and the aircraft industry could develop a suitable VSTOL the more ably the Navy could carry out its mission because more of those aircraft, with more striking power, could operate from the decks of the smaller carriers. And, in the long run, the taxpayer could be spared the expenditure of funds for the construction of aircraft platforms which require catapults, arresting gear, and associated equipment needed to launch and recover conventional aircraft.

Accordingly, the Navy planned an orderly development program for a VSTOL, even though it recognized that long before it reached the fleet the two smaller carriers probably would have been built at a combined cost of several billion dollars, but with markedly less capability than the Nimitz. Thus, the Navy's consternation over the proposal to drastically reduce funds for VSTOL development was certainly understandable, since that proposal would have left the Navy without a VSTOL coming on, with two smaller carriers incapable of operating large numbers of conventional jet aircraft no large-deck carrier being considered, and the F–18 program in some jeopardy.

So it was with considerable relief that the Navy learned its reclamation to have VSTOL development funds restored to the new budget was successful. However, the lack of enthusiasm in DoD for the F–18 still prevails; as a consequence, that program still will lag.

Meanwhile, the Marines fared less well. Their plans to acquire advanced Harriers more rapidly and in greater numbers may be dampened considerably—in part, no doubt, because of the high accident rate of the AV–8A version of the Harrier now being flown in close-support roles. The Corps also has been told to acquire more A–4s, an aircraft that saw yeoman service in Vietnam but which still is a 24-year old aircraft. Some day the Navy and Marines will have the new sea lift represented by the LSD 41 class—but, unfortunately, not as soon as they hoped.

What is more disturbing to us than the cuts themselves is the thinking—or absence of it—that lay behind them. One must assume that Defense Secretary Harold Brown and his program planners realize full well that a sweeping cutback in VSTOL funds—coupled with: (1) failure to accelerate procurement of the F–14 and F–18; (2) an absence of additional large-deck carriers; and (3) the still-not-fully-guaranteed presence of two still-undesigned smaller-deck carriers—could only result in the Navy's air arm being markedly less effective in the years immediately ahead.

What then? Use land-based air to pick up the slack and provide support for the fleet? Eliminate the power projection role of the Navy by simply reducing the size and capability of the air arm? A combination of both? We wish we knew.

Inherent in these actions is the unfortunate lack of recognition of an often stated and eminently reasonable argument advanced by Admiral Holloway—that the thin edge of naval superiority held by the United States over the Soviet Union comes from our ability to deploy high-performance tactical aircraft at sea, day or night, under any weather conditions. Anyone who has seen the weaponry aboard the new generation of Soviet warships cannot fail to be impressed both by their capability and the weight of Admiral Holloway's logic.

And what is behind the proposed drastic reductions in programs affecting the Marine Corps, reductions that at one stage included the recommendation that three squadrons of Marine aircraft be eliminated? If the Corps' proven close-air support is undercut, who provides it? Or does anyone? And if the capability of the Navy to move Marines to a point of conflict is reduced, does that signify a forthcoming policy based on a doctrine of "If you can't move Marines, and you can't give them air support, who needs Marines"?

We hope our fears are unfounded. But the track record of this administration in its support (or non-support) of the Navy and Marine Corps doesn't inspire much confidence. No support for another Nimitz carrier. A stretchout of one of the two markedly new ship programs in the Navy, the surface effect ship, and an attempt to bring about a rescission of funds appropriated for the other, the patrol hydrofoil missile craft. Inadequate funding for aircraft procurement, which has caused some in the Navy to envisage giving up on the F–18 because it is allegedly too costly and too many other budget items are needed. A long-range shipbuilding program that still is neither clearly defined nor large enough. And now the proposed cutbacks cited above.

If the principal happenings of recent years that have had the greatest immediate effect on Americans have proven anything, it is the importance of having adequate maritime strength. If we cannot keep open our sea lanes of communication, our economy strangles. That was made abundantly clear by the oil boycott a few years ago. And a Navy with a weakened air arm—and consequently less able to protect itself at sea, or able to mount forces to secure a land target from which interdicting forces could sail or fly—is not likely to be able to insure that those lanes stay open. Not in the face of a still growing (in capabilities, if not numbers) Soviet Navy whose fleet of nuclear submarines is the most formidable in the world.

We reiterate our hope that our fears are unfounded. But we'll be awaiting with the keenest interest the formal budget presented to the Congress in January. Should it fail to provide adequately for the Navy and Marine Corps, then the Congress must assume that responsibility. To shirk it could well be irrevocably damaging to the future of the country.

AV–8B V/STOL FIGHTER PROGRAM

Mr. GARN. Mr. President, I am concerned about reports that Defense Secretary Brown intends to terminate the AV–8B V/STOL fighter program. At a time when the Soviet Union is deploying its Yak–36 Forger supersonic, V/STOL aircraft on its aircraft carrier *Kiev*, it is questionable whether the United States should end its Advanced Harrier project when no other similar V/STOL aircraft is near at hand.

The Advanced Harrier, which would have twice the range of the current Harrier, would be built in the United States, not in Great Britain. The Marine Corps would like to buy 360 of these V/STOL aircraft, at a relatively low cost of $5.3 million per plane in fiscal year 1977 dollars. It is possible that other services may also purchase the Harrier, because it will be the only Western V/STOL attack aircraft available until the late 1980's.

The Advanced Harrier can take off from a wide variety of runways, ranging from carrier flight decks to helicopter pads on ships to clearings inland close to the battlefield. All that is needed is a 72-foot by 72-foot area. The V/STOL capability of the Harrier greatly reduces the time necessary to respond to requests by ground commanders for close air support. Offshore, the plane can take off much more quickly than can conventional fixed-wing aircraft. V/STOL aircraft do not have to wait in line for a catapult launch. Inland, the plan can be landed close to the front line and then respond quickly from there to provide tactical support to ground troops. This also results in a great savings in fuel, because flights are shorter and there is no need to remain in the air circling the battlefield.

Because of the wide variety of landing sites which this plane can utilize, the Harrier can be scattered at different locations rather than clustering at large air bases. This makes them less vulnerable to attack. The range and load of the AV–8B are excellent for a plane of its size, and are improvements over the present AV–8A. The Advanced Harrier can lift 7,000 pounds vertically or take off from a short runway with 9,000 pounds in weapons. Without a bombload, the Advanced Harrier can fly to Europe without refueling and land in a parking lot when it gets there. Also, because of its excellent maneuverability, the Harrier will be able to defend itself quite easily against attacking fighters. The AV–8A has shown itself to be a more effective fighter in close-in air combat than the Navy's F–14.

It is important that we maintain the Harrier V/STOL capability for the Marine Corps. Not only is V/STOL important to the Marine Corps, but the Marine experience with the Harrier will provide the other services with the means by which they can evaluate their own future V/STOL programs and the present Soviet V/STOL effort. Mr. President, in order to show how far the Soviet Union has come in developing V/STOL combat aircraft, I ask unanimous consent that the 1976–1977 "Jane's All the World's Aircraft" entry on the Yak-36 Forger be printed in the RECORD. Although the Yak–36 apparently is not able to take off using the full length of a short runway, it is capable of taking off vertically. It is also a supersonic aircraft. Also, at the end of my remarks, I ask unanimous consent that an article from Air International entitled "V/STOL: An Idea Whose Time Has Come" be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

JANE'S ALL THE WORLD'S AIRCRAFT

YAKOVLEV YAK–36 (?)

NATO reporting name: Forger

This is the V/TOL combat aircraft deployed by the Soviet Navy on the *Kiev*, first of its new class of 40,000 ton carrier/cruisers to put to sea. It has been referred to as the Yak-36

by the U.S. Department of Defense; its NATO reporting name is *Forger*.

Two versions have been observed on the *Kiev*, as follows:

Forger-A. Basic single-seat combat aircraft. About ten or twelve appear to be operational on the *Kiev*, in addition to Kamov Ka–25 anti-submarine helicopters. Primary operational roles are assumed to be attack and reconnaissance.

Forger-B. Two-seat training version, of which one example was seen on the *Kiev*. A second cockpit is located forward of the normal cockpit, with the blister canopy at a lower level, as on the training version of the MiG–25. To compensate for the longer nose, a 'plug' is inserted in the fuselage aft of the wing, lengthening the constant-section portion without requiring modification of the tapering rear fuselage assembly. In other respects this version appears to be identical to *Forger-A*, but has no ranging radar or weapon pylons.

The likelihood that an aircraft of this type was under development in the Soviet Union was first confirmed in 1974 by Admiral Thomas H. Moorer, then Chairman of the U.S. Joint Chiefs of Staff. In his annual report, he said of the *Kiev*: "This ship is over 900 ft. in length and should displace 30–40,000 tons. The deck configuration and the lack of catapults or arresting gear indicate that this ship apparently is designed to operate V/STOL aircraft and helicopters. It should be capable of carrying 25 V/STOL aircraft or 36 helicopters. It is believed, however, that a mixture of new V/STOL tactical aircraft and *Hormone* (Ka–25) helicopters is the most likely complement".

The 1975–76 *Jane's* contained the remark that "A strike/reconnaissance V/STOL aircraft is thought to have been evolved from the Yak–36 (*Freehand*) by the Yakovlev bureau, utilising a mixture of vectored thrust and direct jet-lift". This belief was confirmed when the *Kiev* entered the Mediterranean in July 1976 and subsequently operated its complement of *Forgers* extensively during passage through that sea and the Atlantic en route to Murmansk. These aircraft are assumed to be operated by a development squadron.

The general appearance of the single-seat *Forger-A* is shown in several of the accompanying illustrations. Its basic configuration is conventional, except that V/TOL capability has permitted the mid-set wings to be made relatively small in area. They fold upward at approximately mid-span, for stowage on board ship. No leading-edge devices are fitted, but the entire trailing-edge of each wing is made up of an aileron on the outboard (folding) panel and a large Fowler-type flap on the inboard panel. Sweepback is approximately 45° on the leading-edge, and there is considerable anhedral from the wing roots.

All tail surfaces are swept, with conventional rudder and elevators. 'Puffer-jet' stability control orifices are apparent above and below the tailcone and at each wingtip, but there is no indication of a nose jet.

Each leg of the trailing-link tricycle landing gear carries a single wheel. The nose gear retracts rearward, the main units forward into the fuselage. A small bumper is fitted under the upward-curving rear fuselage.

Precise details of the engine installation are unknown. Primary propulsion appears to be by a single large turbojet, exhausting through a single pair of vectoring side-nozzles aft of the wing. No afterburner is fitted. The large lateral air intake ducts do not appear to embody splitter plates.

Two lift-jets are installed in tandem in the fuselage immediately aft of the cockpit, under a rearward-hinged louvered door of the kind fitted to the Mikoyan and Sukhoi STOL prototypes demonstrated in 1967. The position of the corresponding underfuselage doors implies that the lift-jets are mounted at an angle, in such a way that their thrust is exerted both upward and slightly forward. As the main vectored-thrust nozzles also turn up to 10° forward of vertical during take-off and landing, the total of four exhaust effluxes can be envisaged as forming a V under the fuselage. There appears to be a small intake for cooling air at the front of the dorsal fin fairing.

Observers of deck flying by *Forger-As* from the *Kiev* report that the aircraft appeared to be extremely stable during take-off and landing. Take-offs were made vertically, with a smooth conversion about 5 to 6 m (15–20 ft) above the deck, followed by a fairly shallow climb-out as forward speed increased. Landings were so precise that some form of control from the ship during take-off and approach has been suggested, perhaps in association with laser devices lining each side of the rear deck. The purpose of the aircraft's small dielectric nose cap is as yet conjectural.

At no time was a STOL take-off observed, as practised by the Hawker Siddeley Harrier/AV–8A combat aircraft of the Royal Air Force and US Marine Corps to increase their load-carrying capability. It is suggested that anything but direct vertical take-off might be difficult for the pilot of *Forger-A*, as take-off with forward speed over the deck would impose formidable stability and safety problems. The Soviet aircraft must also lack the Harrier's ability to increase its combat manoeuvrability by the use of thrust vectoring in forward flight (VIFF).

Initial estimates put the thrust of *Forger-A's* primary power plant at around 75 kN (17,000 lb), and the thrust of each lift-jet at 25kN (5,600 lb). This would appear adequate to permit a considerable weight of fuel and weapons to be carried. Gun pods and rocket packs have been photographed on four plyons under the aircraft's inner wing panels on deck, but no stores have yet been seen on these stations in flight. Performance of *Forger-A* is estimated to include a maximum level speed of Mach 1·8 at altitude:

Dimensions, external (estimated): Wing span: 7·00 m (23 ft 0 in).
Length overall:
Forger–A: 15·00 m (49 ft 3 in).
Forger–B: 17·66 m (58 ft 0 in).
Weight (estimated): Max T–O weight:
Forger–A: 10,000 kg (22,059 lb).

V/STOL—An Idea Whose Time Has Come
(By Roy Braybrook)

The vagaries of fame being what they are, few readers would associate the name of C Edgar Simpson with the invention of what is today the most important form of V/STOL powerplant, any more than they would know that in 1921 a gentleman called Guillaume patented the axial-flow gas turbine engine. (Rule One is not to think too far ahead of your time: posthumous laurels never buttered anyone's parsnips!) The fact is that little more than five years after Orville first got daylight under the skids of his Wright Flyer No. 1, this Simpson hombre was penning one off to the editor of The Aero, filling the world in on ducted fans with thrust vectoring. His idea was that the aircraft's engine would drive fans expelling air through curved "draught funnels" in the sides of the fuselage, the funnels being rotatable to provide lift or forward thrust, or a combination of the two.

Using such a combination, the aircraft would take off (he predicted optimistically) after only a few yards' forward roll. At the end of the flight the funnels would be pointed downward for a vertical landing. Driving home his argument with irrefutable logic, Simpson added something to the effect that if birds were birdbrained enough to return to earth in the manner of conventional aircraft, they would inevitably break their landing gear or turn over! Early in 1911, a British patent on a similar scheme for airships was granted to civil engineer James Robertson Porter, who may have realised that for Simpson's concept to work for heavier-than-air machines, it would require a thrust/weight ratio that was 50 years ahead of the state of the art. Porter's patent describes a radial-flow fan discharging air via two or more lateral nozzles curved through 90 deg. and (as before) rotatable to provide thrust in whatever direction was required.

The idea of vectoring thrust by tilting a piston engine with propeller attached was tried in New Zealand in Richard Pearse's two-seat aircraft, and in the UK by Vickers in the HMA No 9 airship. However, jet propulsion made thrust vectoring much simpler mechanically, a fact that was recognised in a WW II German patent application by von Wolff, covering jet deflection by cascades and bending jetpipes. This document presaged not only V/STOL, but also the use of thrust vectoring in flight for enhanced maneuverability.

Over the years the term "V/STOL" has generally come to refer to fixed wing aircraft that are capable of vertical/short take-off and landing, to the exclusion of rotary-wing aircraft, aerostats, and other aberrations. On this definition VTO was first demonstrated in WW II by Germany's rocket-powered tail-sitting Bachem Natter, although this was technologically more akin to the later zero-length launch category, having no effective means of low-speed control. However, it was not until 1969 that the world's first high performance V/STOL aircraft (the Hawker Siddeley Harrier) entered operational service, some 60 years after the publication of Simpson's letter.

One of the strange things about V/STOL is that, although production totalling 139 Harriers) for the RAF was augmented by the US Navy purchasing 118 AV–8As on behalf of the US Marine Corps and *Armada Española*, the remainder of the ground attack market just sat back and completely ignored the aircraft's existence. Whoever said customers would beat a path to your door to buy a better mousetrap knew nothing whatever about military aircraft!

Equally strange is the fact that within the last twelve months the prospects for V/STOL have been completely transformed (for the better) in many important respects. It isn't simply that HSA now has more Harriers on order than in the last several years. Nor is it that the Soviet Navy is working up its first V/STOL carrier (a sort of rich man's *Invincible*), or that McDonnell Douglas has been authorised to commence work on a Harrier derivative (AV–8B), which it is anticipated will ultimately replace both the A–4 and AV–8A. It isn't that France's PH–75 carrier project has suddenly become the PA–75 (*porte-hélicoptère* becomes *porte-avion*), nor that Italy's Cantieri has designed a Harrier carrier, as has Y–ARD in Australia and every major shipyard in the UK. It isn't even that the US Navy has embarked on a programme covering three new categories of aircraft, that will provide the service's air arm with the option of going V/STOL *in toto* early next century.

More than any of these programmes, what really grabs me is that the US Air Force (the traditional arch-enemy of this class of aircraft) is now actually funding industry to study V/STOL fighters and transports suitable for employment by Tactical Air Command from 1990 onward. It used to be that—if there was anything to be relied upon in aviation—it was Lufthansa buying its tubes from Seattle and the USAF fighting to the death against V/STOL. Now I find that the Red Baron's outfit is operating DC–10s and A300s, that every hot-rod fighter designer in the US is suddenly drawing jet lift projects and that you simply can't depend on anything any more!

WHAT WENT WRONG?

The long wait for Harrier export sales to materialise, followed by this recent transformation in the outlook for V/STOL, clearly warrant examination. Did the market fail to respond in the early 1970s because the Harrier was basically the wrong aircraft, or because it was marketed in the wrong way? Has the sudden upswing in the last year been largely a reaction to Soviet disclosures, or is it evidence of fundamental changes in worldwide market demands caused by other factors?

Without wishing to sound too much like a running dog for the fat cats of the V/STOL business, in my view the Harrier is basically the right aircraft for the V/STOL export market. I believe that the late Sir Sidney Camm was absolutely correct in his refusal to support anything but the simplest practical V/STOL powerplant concept. I also believe that the comparatively high bypass of the R–R Pegasus engine provides through its low erosion jets an unique capability to operate from natural surfaces, effectively giving combat operations even more basing flexibility than was enjoyed by piston-engined fighters. I am convinced that for many scenarios in which low level flying predominates, the performance penalties associated with the use of an unreheated turbofan are more than offset by the advantages arising from this flexibility.

Readers may find this glowing testimonial to the Harrier something of a surprise, coming from one who claims responsibility for the West's *only* advanced technology V/STOL fighter project to date. However, experience has proved that Harriers can be operated in most areas of the world with little site preparation, whereas my own project was intended only to use specially prepared sites in Europe I recall a press report of Germany's VJ 101 having operated on occasion from "unprepared concrete", which gives some inkling of what would be required for a V/STOL aircraft with *really* high energy jets!

One of the fundamental weaknesses of Britain's supersonic P.1154 project (of which the theatres of operation were to have included the Middle East and Far East) was that its ground erosion problem could only be assessed by building the aircraft and flying it. Taking this factor in combination with the P.1154's dependence on the very expensive AW 681 V/STOL transport for logistic support at forward sites, there is not the slightest doubt in my mind that the RAF is much better off with the Harrier.

The switch in procurement policy away from the P.1154 came in 1965. I have tremendous admiration for the way that John Fozard and his design team then transformed the yuck-look Kestrel trials aircraft into the very handsome (pre-Snoopy) Harrier. The analogy that comes to mind is what Joe Smith did for the Spitfire: some of the subsequent Marks remain exquisite more than 30 years later (Rule Two is that designing a good-looking V/STOL fighter is murder, and a good-looking two-seater is impossible).

With hindsight, one can say that the Harrier would have benefited from more wing area in achieving better manueverability with the high bomb-loads now available, and that a raised cockpit (as on the Sea Harrier) would have answered criticism of its rear view. It is also arguable that a better undercarriage layout could have been found and that the engine nozzles should have been drooped, but whether there would have been an overall gain from either change can only be conjectured. For example, drooping the nozzles would have incurred the disadvantage of reducing the valuable IR-screening effect of the underwing stores. HSA might have achieved a slightly better VTO weight by persisting with development of the inflatable intake lip, but such minor improvements have little real bearing on the overall saleability of the aircraft.

Accepting that the basic design was correct, what of the aircraft's operational capabilities? In the early days of the Harrier, word went around the market that it had no warload or radius of action. The background to this was that the Pegasus was then not fully developed and that many people outside V/STOL (including the Russians, strangely enough) had it firmly fixed in their minds that the Harrier was designed to perform its normal mission from VTO. This led to a long-lasting and widely held (yet completely misleading) impression of the aircraft's real capability. There was even a US exercise in which Navy carriers steaming 400 mm (740 km) offshore were felt to be totally secure, since the USMC "enemy" on land had only puddle-jumping AV–8As. The story goes that the ships' crews were actually sunbathing on deck when the Harriers made their first pass!

The other respect in which the aircraft's public image has never caught up with its real operational capability is in thrust vectoring in forward flight (VIFF). For close-in dogfights at low levels this gives the Harrier a kill-ratio against "dedicated fighters that is completely out of keeping with a bald comparison of performance figures. In effect, the pilot has a control which is invisible to his opponent yet which can produce sudden changes in speed, attitude, pitch rate, and flight path direction that are totally at variance with conventional aircraft behaviour. The pilot of the opposing aircraft therefore finds that the Harrier moves unpredictably, and has an unnerving habit of making square-turns and of forcing overshoots. Nevertheless, VIFF has remained a closed book because it was developed as a combat technique only by the USMC and is still the most highly classified feature of the Harrier.

THE MARKETING MESSAGE

The question was put earlier, whether the Harrier has been marketed in the wrong way. I can think of no evidence for this, aside from criticism in Germany that HSA pressed too hard in the early days, before the project was really at a viable stage. My only adverse comment on the sales programme is that it might have been better to have marketed the aircraft as a modified, export-orientated "Harrier International", suited to either land-based or sea-based operation, with magnesium and liquid oxygen deleted, a simpler nav-attack system, and the nose redesigned to accept a variety of light weight radars. The short answer to this suggestion is that it is impossable to point to a single potential customer and say that this aircraft would have won an order where promotion of the standard RAF Harrier failed.

Digressing slightly, one of the results of the modern emphasis on export sales is that it places new demands on the manufacturer's organisational structure. At the time of the previous aircraft generation (eg. Hunter) the aircraft was designed purely to meet the requirements of the prime customer and other sales were virtually an incidental fall-out. As a result, the RAF was effectively the project manager and to a large extent the service even sold the aircraft!

The new environment differs basically in that exports are a vital consideration from the outset and that the airframe manufacturer shoulders the greatest share of the sales burden. As a result, for the first time in military aviation history the manufacturer is nowadays really responsible for project management. In my view, it follows that the airframe company must in each case appoint a project manager with overall control of design, construction, flight test operations and sales. British Aerospace may well decide to fill such slots with professional managers, but it can be argued that it is a better principle to teach aircraft men about management than to teach managers about aircraft.

It is something of a hobby-horse with me that the British aerospace industry is not training young people for future top jobs in project management. There are plenty of bright specimens around, but they are not being given the necessary breadth of experience in the four areas listed above. The short answer to this criticism is that if industry moved its staff around to broaden them out for project management, it might as well hand out blue uniforms and call itself the Royal Air Force! I am not a great believer in short answers.

To recap, it is contended that the Harrier is basically the right aircraft for the V/STOL market, and that there is nothing wrong with the way it has been "sold", but its public image has never caught up with its real operational capability. The fact that none of this discussion really explains the previous lack of Harrier sales may imply that the market itself was simply not ready for V/STOL.

There is probably a good deal of truth in this idea. The V/STOL concept was so revolutionary when the Harrier entered service that most operators were content to sit back and watch developments. In addition, there was undoubtedly a wide-spread gut-reaction abroad that procurement of a V/STOL fighter implied that other types in the force structure would be of no value in war.

There were some potential operators who argued that they saw no prospect of war in their area, or that V/STOL was only necessary in a nuclear conflict. Another case was Switzerland, which, in the 1940s, had constructed what might be termed "fortress airfields" in the mountains, with hangars and flak emplacements cut into the rock face. The argument that such airfields cannot be put out of operation by bombing sounds reasonable enough, until stand-off PGM are used. At the opposite extreme, countries which critically needed V/STOL for operational flexibility and immunity from runway bombing were often ruled out by political considerations.

Of the many factors which came into play, perhaps the most significant in the early 1970s were the natural reluctance among operators to be pioneers, and the general demand for multi-purpose aircraft. In looking at the factors which brought about the recent change in outlook for V/STOL, the most obvious are the growing appreciation of the vulnerability of conventional airbases to stand-off attack, the wearing out of old aircraft carriers used by the smaller navies, and the ski-jump maritime take-off technique, which almost halves the Harrier's deck run requirement. However, it is also arguable that a very important factor has been the swing in demand (as a result of the lessons of the Vietnam War) away from multi-purpose aircraft toward more specialised types, such as the Harrier.

FIRST OF THE NEW WAVE

A major influence on service attitudes to V/STOL has undoubtedly been the entry into operation with the Soviet Navy's Northern Fleet of the Forger. Before discussing the aircraft's role and comparing it with the Harrier, a brief analysis of the design may be in order. At first sight the mid-set wing suggests there are two small propulsion engines located side-by-side below the wing spars. However, a more careful examination indicates that the fuselage lacks the depth for this arrangement and the intake proportions certainly imply that a single main engine is used with the wing halves bolted to heavy ring frames. The vast amounts of smoke that pour from the two rotatable nozzles under the trailing edge root are reminiscent of the dirty efflux from an Su–7 Fitter. Hence it is reasonable to assume that this main engine is a Lyulka AL–21 turbojet. With afterburner removed, this engine will

produce a testbed thrust of around 17,500 lb (7 935 kg).

The two lift engines located in tandem behind the cockpit are more difficult to assess. However, it may be inferred from the size of the various aircraft fitted with lift engines at the Domodedovo Show of 1967 that the Soviet Union has developed an engine of at least 8,000 lb (3 360 kgp). The Forger's total testbed thrust available for jet lift is therefore approximately 33,500 lb (15 195 kgp), or roughly 50 per cent more than that of the Pegasus used in Harriers currently in service or projected.

On the other hand the Forger's structure and powerplant are obviously considerably heavier than those of any Harrier. Basic weight plus pilot must be roughly 16,500 lb (7 480 kg). My own guess (from an earlier conversation with Soviet project engineers) is that the aircraft is designed to perform its standard mission from VTO at a sea level ambient of at least 86° F (30° C). Indeed, it is quite possible that the initial requirement was based on land operations, with VTO under the much more demanding hot-high conditions used in designing Soviet military helicopters. The point of this is that in all probability the usable take-off weight does not reflect the very high thrust installed.

With allowances for intake losses and recirculation, and for power off-takes and attitude control requirements, the standard disposable load probably consists of no more than 5,000 lb (2,265 kg) of internal fuel and 2,000 lb (900 kg) of warload. With this load it may fly a close support mission of 130 nm (240 km) in a LO-LO profile, or 200 nm (370 km) HI-LO. In reconnaissance, it may reach 300 nm (555 km) at altitude, carrying a sensor pod and external tanks. In air defense with lightweight missiles, it may be able to patrol for one hour at 100 nm (185 km). *The Forger* has been "clocked" on radar in level flight in the region of M=1.05.

Aside from having a marginally better level speed than the Harrier, it can lift heavier loads from VTO, and is therefore basically more flexible in its use of helicopter pads and other small decks. However, all the evidence points to the fact that it is not intended to take advantage of STO, hence it loses out to the Harrier in warload/radius where deck runs of above perhaps 200 ft (60 m) are available. The Harrier also has a far simpler powerplant, and is therefore much better, not only in maintenance and reliability, but in safety.

In transitional flight, the *Forger's* most striking difference from the Harrier is that the Soviet aircraft appears to be flying "on rails". It is obviously equipped with a high-authority autostab; indeed, it may even be flown fully automatically at low speeds. One reason for this additional complexity is that, whereas the Harrier's turbofan (being designed specifically for a V/STOL aircraft) has contra-rotating spools to eliminate gyroscopic effects, the three turbojets of the *Forger* have no such feature and consequently produce precessional moments. For example, a pitch demand will produce yaw and roll! The basic flying characteristics at low speeds are further complicated by large pitching moments associated with starting up and shutting down the lift engines. Hence the aircraft is probably totally unflyable with the black boxes inoperative.

Aside from its better VTO performance, the *Forger* wins over the Sea Harrier in timescale (a four-year lead) and in compatibility with helicopter-size deck lifts, since its conventional undercarriage allows a wing fold. On the other hand, the British aircraft is far better in a dogfight, having VIFF, a lower wing loading and better SEP (Specific Excess Power) over most of the speed range. The Sea Harrier also wins on warload/radius for close support whenever a reasonable deck run is available. It also has much better external stores capacity and an excellent dual-mode radar. Thanks to its small size and smoke-free exhaust, the Harrier in flight is almost as invisible as an F-5. The *Forger* is about as invisible as a wing of F-4s in afterburner! Equally important, the Harrier's engineering simplicity results in far less maintenance personnel and facilities on the ship, and a far higher percentage of aircraft available to fly.

Although the performance of the *Forger* can be estimated fairly easily, its primary role is something of a mystery. With warload limited to four pylons crammed together under a diminutive folded wing, it can hardly be intended to excel in close support or strike. Likewise the lack of a worthwhile search radar (it only has radar ranging and an IR-sensor) limits its usefulness in reconnaissance and air defence. It has been suggested that the *Forger* provides midcourse guidance for the ship's SS-N-12 missiles, but this theory is difficult to swallow.

The Soviet classification for ships such as the *Kiev* and *Moskva* is believed to be "anti-submarine cruiser" (ie, the same as that for Britain's *Invincible*-class). Since a large proportion of Soviet submarines are with the Northern Fleet, it may very well be that the *Kiev's* role is to ensure that the "wolfpacks" can break out into the Atlantic through the choke points between Greenland, Iceland and the UK. The main threats to these wolfpacks are NATO killer submarines, carrier-based S-3s and land-based P-3s and Nimrods. It follows that the *Kiev's* Ka-25 helicopters are to defend the wolfpacks against underwater attack, that the SS-N-12 missiles are to sink the US carriers and that the tasks of the *Forger* are to find these carriers and to intercept the P-3s and Nimrods. It currently appears ill-equipped for either job, unless it has effective passive detection devices.

At present the Harrier and *Forger* are the only known high performance V/STOL aircraft in service, although they are to be joined by the Sea Harrier in 1980 and (probably) by the AV-8B around 1984. We are now seeing a whole rash of weird and not-so-wonderful V/STOL designs emerge in America. I cannot imagine that the readers of this journal will need any assistance in predicting which of these projects will go down in history as genuine jumping jets and which will be remembered merely as no-hope hoppers!

AV-8B HARRIER

Mr. DANFORTH. Mr. President, I would like to make a few clarifying remarks about the Advanced Harrier aircraft being developed for the U.S. Marine Corps. This is the so-called AV-8B. There has been some confusion about this New V/STOL—vertical or short takeoff and landing—aircraft.

The Marine Corps has been operating the "A" model of the Harrier since January 1971, and has had nearly 7 years' experience with this aircraft. Before that, the British had 3 years' experience operating the aircraft and had about 6 years' experience before that with a similar prototype. All in all, the basic Harrier design is 20 years old.

The Advanced Harrier, the AV-8B, which is being designed and developed by McDonnell Douglas in the United States, is a direct descendant of the AV-8A, the Western world's only operational V/STOL fixed-wing aircraft. The modifications being made to the basic Harrier design, which was initiated in the 1950's, in order to create the Advanced Harrier are evolutionary, not revolutionary. Although the AV-8B will be able to fly twice as far, or carry twice the payload, of the "A" model of the Harrier, this great improvement is brought about by minor refinements in the aerodynamic design and by the use of modern lightweight composite materials. The Harrier "B" will use the same engine as the Harrier "A." The most revolutionary aspect of the Harrier aircraft is not its V/STOL design, but rather the Marine Corps doctrine of deploying this aircraft in direct support of combat troops on the ground.

The Advanced Harrier deserves the support of the Congress, not because it is V/STOL, but because it is ideal for the Marine Corps mission. V/STOL technology has been with us a long time and will continue to advance in the future. Many new uses for V/STOL will undoubtedly be seen. Clearly, however, V/STOL is not now ready for application to all types of aircraft. Vertical takeoff consumes too much fuel for V/STOL to be used on aircraft whose sole mission is, for example, strategic airlift. Likewise, supersonic, air defense interceptors, and manned bombers would probably lose more than they would gain if made V/STOL with today's technology. Advanced technologies may change the situation, but, for the present, V/STOL is best applied to those missions where range is not a major consideration and where the ability to operate off unimproved airstrips, roads, grassy fields, parking lots, clearings, and the like are most important.

In adopting the AV-8A, and in seeing the great improvements possible with the "B" model Harrier, the Marine Corps has identified a very clear need to reduce reaction time in order to provide more immediate, and cost-effective, close air support for ground commanders. For the Marine Corps, the AV-8B is the means by which it strengthens the interaction of its ground and air elements. In becoming the first American air arm to experiment with operational V/STOL, the Marine Corps showed a dedication to their mission which is commendable. The experiment has been a success. Now, the Marine Corps would like to expand their force of V/STOL aircraft—to make their next modernization step also a step toward greater use of V/STOL aircraft. Their proposal is quite reasonable. They intend to purchase an advanced version of the proven Harrier which will incorporate proven technologies and design innovations which will double the range or payload of the Harrier. This is not a risky venture; it is commonsense.

WHY WE NEED THE ADVANCED HARRIER V/STOL AIRCRAFT

Mr. HAYAKAWA. Mr. President, the administration has reportedly made a tentative decision to cancel the AV-8B Advanced Harrier program. The Advanced Harrier is an improvement of the existing Harrier V/STOL—for vertical or short takeoff and landing—aircraft now in service with the U.S. Marine Corps, the Royal Air Force, and the Spanish Navy. The Harrier, which is the free world's only V/STOL combat aircraft, is

built in Great Britain; however, the Advanced Harrier will be built in the United States.

Both Great Britain and Spain plan to employ the Harrier as a naval aircraft. It is in this role that the Advanced Harrier is of particular interest, not only for the United States, but for many other Western nations which have or soon will have small aircraft-carrying ships in their navies.

Because the Harrier and the Advanced Harrier are V/STOL aircraft, they do not require large aircraft carriers with catapults and arresting gear. They can be flown from ships as small as frigates and destroyers.

The capability and flexibility of any ship is greatly increased by having aircraft on board. Such aircraft can serve as reconnaissance and guidance systems for shipboard cruise missiles. They can intercept attacking bombers before the bombers can launch their own antiship missiles. They can turn even a small ship into an effective projection platform, thus into a more effective diplomatic tool. Because the speed of an aircraft such as the Advanced Harrier is superior to that of a helicopter, it can increase the responsiveness of a small ship in antisubmarine warfare. Tests of the Harrier on board the U.S.S. *Guam* and the U.S.S. *Franklin D. Roosevelt* have demonstrated all of these uses of naval V/STOL aircraft.

While the current Harrier can function in many of these roles, the Advanced Harrier will be far more capable. It has a payload almost 6,000 pounds greater than the current Harrier, given a short takeoff.

I do not believe it would be prudent for the United States to cancel the Advanced Harrier program. Doing so would leave the United States with no U.S.-built V/STOL aircraft until the late 1980's or 1990's. We would be abandoning the naval V/STOL field at the very time when many other nations, including the Soviet Union, are moving into it very rapidly and forcefully. The promise of V/STOL is too great for us to neglect it, and I hope the administration will not cancel the Advanced Harrier program.

Mr. President, I think that it is important for everyone to understand that V/STOL has been operational with the U.S. Marine Corps for 7 years. I ask unanimous consent that an article by Mr. Lindsay Peacock entitled "V/STOL on the Big Carriers" be printed in the RECORD. This article illustrates quite nicely the success the Marine Corps has had in taking V/STOL to sea.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

V/STOL ON THE BIG CARRIERS

(By Lindsay Peacock)

Half of the eight new aircraft currently in the conceptual design stage with US Naval Air Systems Command are expected to be V/Stol types, although none is likely to enter operational service until the 1990s at the earliest. In the meantime, much of the task of formulating possible operating methods has fallen to the Hawker Siddeley Harrier, which, as the US Marine Corps' AV-8A, recently completed the first operational deployment of a V/Stol aircraft aboard a US Navy attack carrier.

USS *Franklin D. Roosevelt* (CV-42) has now returned to Mayport, Fla., after a highly successful six-month tour of duty with the Mediterranean Sixth Fleet. During this cruise some 14 AV-8As of Marine Attack Squadron VMA-231 operated alongside the F-4 Phantoms and A-7 Corsairs of Carrier Air Wing 19.

Since entering service with the Marine Corps in April 1971, the AV-8A has been to sea several times, playing a key role in the lengthy series of trials from the USS *Guam* (LPH-9) between 1972 and 1974, when this vessel served as the Interim Sea Control Ship. Intended for use in what were euphemistically described as "low-threat" areas, the definitive Sea Control Ship was envisaged as a simplified aircraft carrier designed to operate a small mixed force of fixed-wing V/Stol aircraft and helicopters. This was seen as a means of maintaining some measure of strike/ASW capability over a greater area of the world's oceans.

Though the project was eventually abandoned, small numbers of AV-8As and SH-3Hs operated from *Guam* throughout the evaluation period. The ship subsequently returned to its original duties as an amphibious assault vessel and made one further cruise with the AV-8A operating in support of Marine helicopter-borne assault forces, its usual USMC role.

Salt-water corrosion was the subject of one of the major lessons learned aboard *Guam*. In an attempt to eliminate this costly and time-consuming problem, all 14 of VMA-231's aircraft were completely stripped down and treated with preservative before starting the *Roosevelt* cruise. Results from the two inspections which had been made by March this year indicated that this had been successful in controlling corrosion. A further, more thorough, examination was to be made following the squadron's return to Cherry Point in mid-April.

Other preparations for the deployment included a work-up to operational readiness during a series of mini-cruises off the eastern seaboard of the USA from late June to September 1976. The *Roosevelt* then sailed for the Mediterranean on October 4, 1976.

One of the most important attributes of the V/Stol aircraft is its ability to do without the catapults and arrester gear required by conventional aircraft. The resulting simplified launch and recovery procedures mean that operations can be conducted at a far greater pace than is normally possible.

Most missions from the *Roosevelt* began with a Stol take-off from the forward area of the flight deck; average roll was 450ft, with a maximum of 650ft available. A wind over deck (WOD) of 16kt was required when operating with a typical fuel load of 5,800lb, rising to 27kt (well within the *Roosevelt's* capabilities) when the maximum of 6,800lb was carried.

For a short take-off the AV-8A was taxied into position (using a 650ft white line for visual reference) abeam the forward end of the island superstructure and brought to a halt with the brakes fully on. After a brief series of checks and upon receipt of a signal from the Flight Deck Officer, the engine was brought to full power with the nozzles in the fully aft position. As soon as the aircraft was felt to be skidding, the brakes were released and the AV-8A then accelerated down the deck. At a point shortly before the bow, the nozzles were rotated to a pre-selected 55 degrees to provide engine lift during the transition to wingborne flight.

Overall operating weight penalties made vertical take-offs generally unprofitable, although the AV-8A did operate in this mode on a number of occasions during the cruise. A typical Vtol sortie with a 3,400lb fuel load gives a duration of only 20min, so it is not surprising that the use of Harrier to provide some defensive cover during in-port periods has been virtually ruled out.

Missions invariably terminated with a vertical landing at one of four points: forward deck near the bow, forward deck just aft of the port jetblast deflector, port deck-edge elevator, and the fantail aft of the arrester wires. The recovery method most frequently used followed the practices adopted for conventional tail-hook aircraft. After the traditional fly-by and break to port, the AV-8A flew normal downwind and base legs before lining up for finals about three-quarters of a mile aft of the carrier. The transition from conventional to thrust-borne flight was then started and the aircraft brought to a "hover" relative to the carrier at a height of 50ft.

JET BLAST

To avoid blasting the flight deck with jet efflux, the AV-8As usually positioned themselves abeam of the carrier when landing on the forward three locations. Having reached the selected site, the aircraft then moved across before setting down. Landings made on the fantail usually followed a straight-in approach.

If standard approach patterns were impossible for any reason, three other recovery methods were available: downward, cross-deck from port, and cross-deck from starboard. In these cases the techniques adopted—apart from the transition to the hover always having to be made into wind—were virtually the same as those for a normal approach.

Each recovery was closely monitored by the LSO (Landing Signals Officer) located in Primary Flight Control (Prifly), who remained in radio contact throughout the landing sequence. In the case of a cross-deck recovery from starboard, however, his usefulness was limited by the fact that the aircraft was hidden by the superstructure until shortly before touchdown. As usual, the LSO marked aircrews on their landing performance.

Before the cruise the AV-8A's ability to operate for extended periods as part of a full conventional air wing was questioned within the USN. The type's short endurance, which many felt would severely disrupt the activities of other wing elements, was seen as the main limitation. In practice, however, the aircraft confounded its critics by successfully blending into the USN's cyclic pattern of operations.

Air operations from the *Roosevelt* revolved around a 90min launch/recovery cycle, and in the early stages of the deployment it was usual for the Harrier to launch last and recover first. But in-flight refueling from one of nine embarked A-7B Corsair "buddy" tankers later overcame the endurance problem. It was then discovered that the in-flight refueling probe seriously affected performance. Viffing (Vectoring in Forward Flight). The probes were therefore removed, necessitating a complete revision of operating methods. Under the new procedure the Harrier was launched first, recovering in mid-cycle some 45min later, and it was by no means unusual for AV-8As to land in the middle of the re-spot period.

About half of the Harrier sorties flown from the *Roosevelt* reflected the traditional Marine Corps role of close air support for ground troops, with the most commonly used ordnance being the Mk76 25lb practice bomb. Five were usually carried by each aicraft engaged in visual bombing training, with a single Mk58 smoke float being dropped for use as a target in the absence of proper range facilities.

Ordnance cleared for use by the AV-8A when operating in the close air support role includes the Mk81 Snakeye 250lb bomb, Mk77 550lb firebomb, Zuni 5in unguided air-to-ground rockets and the LAU-69 2·75in FFAR pod. Use of the 30mm Aden gun pods is temporarily restricted while they are modified—

by eliminating the need to keep a live round in the breech—to meet USMC safety requirements. Only two of the AV–8As aboard the *Roosevelt* had been converted by last month, and so gunnery training did not feature prominently in daily operations.

The increased emphasis placed upon air combat was readily apparent, with the remaining missions involving simulated air combat manœuvering against either another AV–8A or Phantoms from one of the two fighter squadrons also embarked in the *Roosevelt* (VF–51/111). Previous trials have revealed that the Harrier does not fare too well when flown as a conventional aircraft. Use of Viffing, however, significantly improves its chances of emerging victorious. In a recent evaluation against the F–14A Tomcat, AV–8As won 14 out of 19 engagements, with a further two resulting in draws. Principal armament for air-to-air combat is the infrared AIM–9G Sidewinder.

Particularly valuable is the Harrier's ability to operate from both amphibious assault ships and the landing platforms of smaller vessels incapable of handling conventional combat aircraft. Two periods of cross-deck operation were carried out during the cruise, the first involving three aircraft which undertook several sorties from the USS *Guam* in support of a Marine amphibious exercise in Sardinia. Overall tactical control was the responsibility of the *Leahy*-class guided-missile cruiser USS *Richmond K. Turner* (CG–20).

Following transit to *Guam*, each aircraft flew one close air support (CAS) sortie, and returned to *Guam* for rearming and refuelling before departing on a second CAS mission culminating in a landing on the USS *Trenton* (LPD–14). The final CAS sortie started with a vertical take-off from *Trenton* and ended with a return to *Guam*.

The second deployment, also aboard *Guam*, involved 13 aircraft which sailed with the ship through the Suez Canal and Red Sea into the Indian Ocean, whence they were flown to Nairobi to participate in the Kenya Independence Day celebrations. During the return journey three or four days were spent on simulated air combat manœuvering missions, with aircrews being scrambled from the ready room.

Maintenance performance aboard the *Roosevelt* was, according to several of the 180-odd support personnel, "largely routine". At least ten of the 14 AV–8As were usually serviceable at any time, allowing pilots to fly as many as three sorties per day. During February VMA–231 recorded an above-average total of 346 flight hours in some 432 sorties, for a maintenance man-hour per flight hour (MMH/FH) ratio of 34·2:1. The supply of spares caused concern before the cruise, but earlier problems are now gradually being overcome and no trouble was experienced during the deployment.

The *Roosevelt* cruise has succeeded in its primary aim of proving that there is a place aboard aircraft carriers for V/Stol aircraft, and there can be little doubt that it has done much to clear the way for further deployments. Many of the lessons learned aboard the *Roosevelt* will play a significant part in formulating operating methods for the new US Navy V/Stol aircraft which should enter service toward the end of the century.

THE FARM PROGRAM

Mr. NELSON. Mr. President, every time the farm program comes before the Congress there is a great hue and cry from much of the press and the public claiming that farmers are unjustly subsidized by the American taxpayer. Many people write asking why the taxpayer should pay hard-earned money to subsidize the price farmers receive for their products. They frequently send critical newspaper editorials to support their position.

The fact of the matter is that there must be some kind of farm program that assures some stability in the price the farmer receives for his products.

It is not a matter of "subsidizing" the farmer. Any fair evaluation of what return the farmer gets for his investment and his labor forces the conclusion that it is the farmer who is "subsidizing" the consumers, not the other way around.

Because there is so much public misunderstanding about farm problems and farm programs, I wish to put on record this statement on the matter with the particular hope that my many colleagues in the Congress who do not represent agricultural constituencies will find it of some value.

Most of the statement deals with the problems of dairy farmers, but their experience is not atypical. To set the mood I would like to quote from a statement prepared by the U.S. Department of Agriculture that describes to consumers what the situation is. The USDA statement from which this material was taken is titled "Five Acres Between You and Starvation":

There is just over a billion acres of farmland in the United States. That is an average of 5 acres per person. So, each of us depends on 5 acres of land for our food and some of our clothing and lumber.

How much is 5 acres? Well, the playing boundaries of a football field cover just over an acre. So, 5 acres is slightly less than five football fields. But the 5 acres you depend on aren't all flat and suited to be cultivated for growing crops. Just over two of the football fields—2.2 acres—are cropland.

A farmer has to spend about 26 hours per year working on that 5 acres to produce your wood and fiber. It's hard work and takes a lot of skill. It is important to you that he has enough incentive to do it, and do it well.

A farmer has an investment of $2,294 in physical assets in that average 5 acres that grows your food and fiber. The farmer has made the investment because he wants to make a profit taking care of that investment and the 5 acres. For this, you, as an average consumer, would pay the farmer $427.54 last year. He gets about 40 cents out of each dollar you spend for farm-produced food.

The farmer used that $427.54 to pay $353.17 in production expenses. That left $74.37 for the farmer who took care of the 5 acres, and who took care of one-fifth interest in a beef cow and one-nineteenth interest in a dairy cow.

How much is $74.37? Well, a 3½ percent return on the $2,294 investment in physical assets made on your behalf is $80.29. So, the farmer who was looking after your average 5 acres of land didn't get back quite 3½ percent cash on his investment—and he threw in his labor. If you put $2,294 in a savings account—where there is no risk—you'd be rightfully upset if you didn't receive at least a 5-percent return of $114.70 on your investment at the end of the year.

USDA ACTION

A short time ago Secretary of Agriculture Bob Bergland raised the price farmers get for their milk.

He set the milk price support at 83 percent of parity. This means he assured the Nation's dairy farmers that they would receive no less than 83 percent of the price that farmers got for their milk during a baseline period some 75 years ago when, it has been agreed, farmers received a reasonable income for their milk.

If the normal market price for milk falls below 83 percent of parity, the Federal Government will step in and begin to buy milk products, like butter, cheese, and nonfat dry milk, at a price that will give farmers 83 percent of parity.

That, in essence, is how the Federal milk price support system works.

The effect of the Secretary's action will be to increase the income of Wisconsin dairy farmers from $8.93 per 100 pounds for all-milk before the action to $9.45. It may go a few cents higher when the full effect is felt. To date it has not reached above $9.15.

Before Bergland's action the retail price of a gallon of milk ranged from $1.05 to $1.15 in Wisconsin. The average was $1.10. As a result of the secretary's action the average price would climb to $1.16 if all of it were passed on to the consumer. Wholesalers may not do this, however, just as they have not passed on fully recent increases in the price of butter and American cheese so as not to discourage consumption.

The reaction among people unacquainted with dairy industry conditions was predictable. Certain newspapers criticized the action as callous treatment of the buying public which "fanned the fires of inflation." The administration was accused of paying off a "political debt" to dairy farmers who in many areas, including Wisconsin, supported President Carter in the election.

The criticism betrayed abysmal ignorance about the economics of the dairy industry and the American consumer's stake in it, the significant factors behind the price increase.

The United States has about 285,000 dairy farms. And that is an interesting statistic. Dairy farmers are supposed to have a lot of political "clout." If you consider the fact that there are 2 million people in labor unions and more than 12 million small businesses in the United States, that clout diminishes rapidly. So when Congress passes laws that aid dairy farmers it is responding not so much to the political power of these farmers as to a concern about the Nation's food supply.

About 48,500 dairy farmers reside in Wisconsin, making it the largest producer of milk in the United States—"America's Dairyland," as our license plates proclaim.

Chances are that evening will find the farmer and his wife poring over the books, plotting strategies on how to make the place even a modest financial success. The truth is that much of the time the price the farmer receives for his milk does not equal the real cost of producing it.

In 1975, for example, the Wisconsin farmer received $8.17 per hundredweight at the all-milk price. But his actual production cost was $9.79. He absorbed the loss by not paying himself or his family any wages, by foregoing profit on a sub-

stantial capital investment, and by putting off necessary expenditures.

The main problem for the dairy farmer—and for the consumer—is unpredictability.

How would you like it if you had absolutely no control over the price of a product you manufactured, or if your wages fluctuated continually?

That is how it is in the milk business. Wisconsin farmers got $6.80 a hundredweight in January, 1975; $9.08 in December, 1975; $8.25 in February, 1976; $8.99 a month later, and about $8.65 today.

This makes rational planning of either business or family budgets almost impossible.

There are the constant efforts by consumer-oriented groups to bring down the prices of foodstuffs. A lot of this effort focuses on milk because it is a large and important item in our diets. Typical of these efforts was a conference in December 1975, by the Community Nutrition Institute specifically on dairy prices. The problems of the farmer were virtually ignored.

Another influence is the mass media, which generally displays a one-sided knowledge of the dairy industry. Many influential newspapers strongly attacked Secretary Bergland's decision to raise the price of milk, displaying extraordinary ignorance about the situation of the dairy farmer in the process.

If the dairy farmer has to work 365 days a year including Chistmas, Thanksgiving and other holidays, why does he continue? He does it because that is what he likes to do; that is his heritage; that is what he does best; he loves the land as all farmers do; he cherishes his independence; he likes to see things grow; he knows his work is useful and necessary.

And why does Congress continue to maintain such a dairy support program?

In a sense the last question is the wrong question. When one efficiently produces a good product for a low return on one's labor, and frequently with little or no return for investment or management, it is the producer, the farmer who is paying the subsidy, not the consumer.

So the question ought to be: "Why should the dairy farmer be required to continue subsidizing the consumer?"

Thousands of dairy farmers have decided they could not continue with present income. They have quit. In Wisconsin in the last 25 years far more have quit than have stayed.

And so it is quite clear why Congress continues the support and protection system. It is to prevent more farmers from going out of business in order to assure a constant supply of a vital food at a fair price.

The real explanation for the decline in dairy farms is that financial uncertainty and arduous hours have combined to cause thousands of dairy farmers to give up.

Perhaps more important in the long term is the fact that young farm boys cannot get the financing to go into farming so we are losing them too.

They have turned to other agricultural pursuits—such as cattle-feeding or grain growing—or they have sold out, moved to urban areas and gotten 40-hour-a-week jobs with cost-of-living raises and pensions.

If this trend continues unabated someday we will have conglomerate corporate agriculture which will not serve the interests of the consumer or the country.

DAIRY CONFERENCE

In the past few years several conferences have been held regarding dairy pricing procedures. I was particularly pleased to address one held here in Washington on December 15, 1976, because it was sponsored jointly by the National Milk Producers Federation, the U.S. Department of Agriculture, and the Community Nutrition Institute.

My invitation to speak at this conference was prefaced with the question,

How would Congress look at any legislation dealing with changes in the nature of dairy cooperatives and the federal milk marketing system?

My answer is that most Members of Congress would look at the question from a position of profound ignorance while those who understand the issue would ask, just what is the nature of the changes proposed? My general answer to that question is that I would support any workable proposal that would assure the dairy farmer a return at least equal to the cost of production. Dairy farmers are used to hard work, long hours and cows that produce milk 7 days a week including Christmas. They and their families will work for low wages or no wages as long as the milk price will pay the cost of production. They are perfectly willing to gamble on some "good years" that will reward them with some income for their labor, some for their managerial skills and some return on their investment. If achievement of that modest objective could be advanced through some improvements in marketing orders or cooperatives I am for it. Any proposal that would weaken the market position of the dairy farmer I would oppose.

It is the view of many consumers—perhaps a substantial majority—that retail prices can be appreciably reduced by further squeezing the dairly farmer. They believe that the dairy support program is an indefensible expenditure of taxpayers' money to subsidize the farmer. Not infrequently consumers, city folks, members of Congress, ask me why they should continue to subsidize the dairy farmer. My response puzzles them. I point out that they are asking the wrong question. The right question is: How much longer can the dairy farmer be expected to continue to subsidize the consumer? When one efficiently produces a good product for a low return for one's labor and frequently little or no return for investment or management, it is the producer who is paying the subsidy, not the consumer.

TWO DAIRY FARMS

What is it like to be a dairy farmer in Wisconsin? Is the work difficult or easy? Do you make very much money? Is it an easygoing life?

Recently the Farmers Union Milk Marketing Cooperative, headquartered in Madison, identified two dairy farms in Marathon County—the heart of the State dairy industry—that were typical of the 48,500 dairy farms in the State.

Collectively these 48,500 farms produce over one-seventh of the Nation's total milk supply, more than farms of any other State. They make an exceptionally important contribution to our food supply because almost 25 percent of the protein needed in the American diet comes from milk.

The availability of so much milk in Wisconsin makes it a leader in another field, the production of cheese. About 40 percent of the Nation's total supply originates in our State.

Each of the two typical families was asked and agreed to provide the cooperative with income and expense data for 1976.

SMITH FAMILY

One family—let us call them the Smiths for purposes of this report—milked 34 cows, a popular sized herd on Wisconsin dairy farms.

Mr. and Mrs. Smith get up at 5:30 a.m. and, together, begin to milk the herd at 6 a.m., finishing at 8. They take an hour for breakfast and household duties. Then Mr. Smith leaves for the field to plow or for town to pick up feed, while Mrs. Smith launches into the household chores. The work cycle pauses at noon lunch hour, the runs again from 1 p.m. to 5. After another hour break, the evening milking begins at 6 p.m. and continues until 8 p.m. Again, husband and wife work as a team.

On the average workday farmer Smith works 11 to 12 hours, and his wife 4 to 5 in farm-related activities. During the haying and seeding seasons Mr. Smith works an additional 4 hours daily and Mrs. Smith an additional 5 to 6.

The children pitch in around the fringes. But most of their time is consumed by school, homework, and youth activities.

Sunday is not a day of rest on any dairy farm. It still means several hours of work for the family. Day in, day out, year in, year out, the cows must be milked and fed and milking equipment cleaned. Chores never stop. If farmer Smith hopes to take any days off during the year, he must arrange to have his cows milked by relatives, friends, or children staying home.

People who do not know what the life of a family is like oftentimes imagine it as idyllic. From their passing car they get but a brief glimpse of green and gold fields, a bright barn, and a pleasant home nestled among tall trees in a quiet valley.

In reality Mr. Smith, despite the outward calm of his circumstances, spends his life living with uncertainty. He cannot control the production of his cows. He cannot throw a switch and turn them off like a machine when the market becomes glutted and prices plummet.

He cannot predict or control the effects of weather. In an autumn of 1974, for example, an early killing frost hit the prime agriculture areas of central Wisconsin, cutting corn production from the normal 85 bushels an acre to 68.

Excessive moisture in the spring of 1975 hampered planting and destroyed crops. The worst ice storm in State history struck in March 1976.

Then came the now-famous drought, affecting the entire State. During the 1976 growing season (spring through September) precipitation ranged from 12.2 inches below normal in the Northwest to 4.9 inches below in the Southeast—the driest year on record. Production of corn—vital to the livestock industry—dropped from a normal 200 million bushels to about 150 million; oats from 75 million to 55 million; hay from 11 million tons to about 8.5 million. About 2,000 Wisconsin family farms went out of business.

What financial return does farmer Smith and his wife get for these labors, this need for constant attention to duty, for financial uncertainties and potential for disaster?

According to the exact accounting made by Farmers Union Milk Marketing Cooperative, the Smith family had a net gain of $7,794 from their operations in 1976. And it is important to note that neither Mr. and Mrs. Smith nor their children took any wages in 1976. Their wages were the $7,794.

The income-expense statement which accompanies this report gives all the figures for the Smiths in 1976. The cooperative did not attempt to draw a net worth for the Smiths. But a study last year, based on data gathered by the Wisconsin Department of Agriculture and the University of Wisconsin, resulted in a portrait of a typical Wisconsin dairy farm family remarkably like the Smiths. This study was based on the land values of a farm in Marathon County that milked 40 cows daily. The capital investment of the farm in land, buildings, livestock, and equipment was approximately $185,000.

On that basis, farmer Smith and his wife either received 4.2 percent return on investment and no wages—or no return on investment and about $1.70 per hour for their over 100 hours workweek.

JONES FAMILY

If this seems bad, the situation of the second Marathon County farm family studied by the cooperative was terrible.

The Jones family, as we shall call them, spent $48,073 to run their 42 cow farm against income of $47,346 for a net loss of $727. And their life was just as hard as the Smiths'—up at 5:30 a.m., done at 9 p.m., with hours added for special seasons, with the never-ending milking, and with fear of weather and the unpredictable cost-income roller coaster. A complete financial report for the Jones' farm also accompanies this story.

Unfortunately the two stories you have just read are not unusual cases. They are typical of the dairy industry in Wisconsin and in the United States. And the situation has been like this for years.

"All farmers have it rough," wrote the columnist James J. Kilpatrick. "But some have it rougher than others.

"These days, if you are into milk, you are into misery."

American dairy farmers have been living with boom-bust cycles for years.

Having recognized all this it must be acknowledged that most dairy farmers have not been able to live with conditions and bank on the future. They have simply been forced to quit.

In 1952 there were about 132,000 dairy farms in Wisconsin. Today there are 48,500. That means that over 70,000 went out of production.

These Wisconsin dairy farmers are part of a larger picture of farmers generally. In 1954 there were 5.9 million farms in the United States. In 1976 there were an estimated 2.7 million.

The decline of the family farm raises a most important question that goes to the heart of social and cultural values at stake not only for the farm family but for American consumers. These values are important to us all. Involved is the great question of the stewardship of our land and food for our people.

THE BALANCE SHEET

The Smith Family—1976

Income:	
Milk	$35,918
Cattle and cows	1,982
Miscellaneous (premiums)	429
Total	38,335
Expenses:	
Machinery repair and small tools	2,293
Feed purchased	11,297
Seeds and crop expenses	1,152
Fertilizer and lime	3,142
Machine hire (custom work)	214
Milk hauling	583
Livestock expenses (veterinary, breeding, medicine)	1,633
Gas, oil	751
Real estate and personal property taxes	1,007
Insurance	824
Utilities	1,072
Auto expense	737
Interest	3,766
Hired labor	110
Supplies	1,412
Miscellaneous	548
Total	30,541

The Jones family—1976

Income:	
Milk	$43,575.00
Cattle	646.00
Grain	264.00
Other farm income (machine hire)	515.00
Federal gas tax credit	115.00
Patronage dividends	2,151.00
Refund	80.00
Total	47,346.00
Expenses:	
Machinery repair and small tools	2,933.37
Dairy feed	15,534.59
Seeds, other crop expense	1,328.40
Fertilizer and lime	3,270.42
Machine hire (custom work)	716.78
Trucking	7.00
Veterinary and medicine	252.19
Other livestock expense	835.31
Gas and oil for farm	1,187.28
Taxes and insurance	2,057.13
Farm utilities	1,669.39
Farm use of pickup truck	182.90
Interest	9,456.00
Cash rent and other farm expense	1,069.28
Freight and trucking	573.00
Outstanding feed accounts	7,000.00
Total	48,073.04

IN THE SUPERMARKET

American consumers eat better while spending less of their expendable income on food than any other nation. Many curiosities occur. For example:

When Secretary Bergland set the price support for milk at 83 percent of parity last spring, there was a general belief that the consumer would pay a lot more for milk in the store. Interestingly, at that time a half-gallon of homogenized milk in the Washington area cost 83 cents. In October a half-gallon cost 75 cents, a reduction of 8 cents. Obviously, other factors than the support program indicate what the consumer will pay for milk in the supermarket.

Of course, Federal funds have been spent meanwhile in an attempt to secure the designated support level, but in fact the 83 percent level has not been achieved. As of September 15, 1977, dairy farmers were receiving 76 percent of parity for all milk and 81 percent for milk used exclusively for dairy products, such as cheese.

Sadly, the parity level for all farm commodities had dropped by September 15 to 63 percent, the lowest since March 1933.

And this is the picture, according to the USDA (as of June 1976), of the percentages of expendable income spent in various parts of the world for food:

Nation:	*Percent*
India	64
Brazil	47
Russia	40
Yugoslavia	39
U.K.	30
France	26
W. Germany	24
United States	17

CO-OPS ESSENTIAL

How does milk get from the farmer to the grocery store shelf?

The most common device is the cooperative.

The cooperative is an organization founded by farmers to sell the milk they produce. Before the creation of cooperatives individual farmers sold their milk to dairies which, in turn, processed it and sold it to consumers directly or through retail stores.

The typical dairy industry cooperative work is like this:

Farmer-members pay in capital to purchase such items for it as buildings, milk holding tanks, and trucks to transport milk from the farm to the cooperative and on to the dairy.

The farmer sends his milk to the cooperative which, in turn, sends it to the dairy. The cooperative establishes relationships with a number of dairies and other milk consumers, such as cheese and baking companies or manufacturers of powdered milk.

The cooperative thus is able to be a "traffic cop" for milk, preventing chaos in the market and insuring a constant market for the farmer. In the "flush" season, when milk production soars, there might not be a market for all the product in established fluid milk outlets. The cooperative is able to divert the excess into the production of other uses not tied to the calendar.

If an individual farmer attempted to market his milk alone, he would not be able to serve both as a "production superintendent" on his farm and as a "traveling salesman." He would be tied to local markets, as he was in the past. The cooperative can perform the sales func-

tion and develop markets hundreds of miles away.

The dairy usually pays the cooperative which, in turn, pays the farmer-members, after deducting a percentage for operating expenses. If there is money left over at the end of the year between the money deduction and the actual expenses, the excess can be retained for expansion, or distributed to the farmer-members. In the latter case, the members pay income taxes on it.

So, in essence, the cooperative is a rational instrument that allows the farmer to function in a modern marketing situation and gives him financial stability. It can do what the individual farmer cannot—apply the management time and skills necessary to establish stable markets. The cooperative also functions as a bargaining agent for farmers in dealing with dairies and other consumers of milk.

Only one-third of the products of the Nation's farms and only one-fifth of the materials they purchase move through cooperatives. And while the largest farmer cooperative in the country probably would rank among the top 50 corporations, the combined sales of all 7,645 U.S. farmer cooperatives was less than the sales of the single largest industrial corporation in the country, General Motors.

Critics frequently declare that dairy cooperatives control 75 percent of the milk market, and that this is monopolistic. But there are 631 separate cooperatives and many of them compete. Furthermore, these cooperatives, as a combined group, process only 28 percent of the milk supply.

All of this undermines the charge that cooperatives have an unfair advantage because of the Capper-Volstead, which allows farmers to form cooperatives without being in violation of antitrust laws.

In final analysis, the cooperative is good for the consumer, because it introduces rationality into the milk marketing business, and encourages dairy farmers to stay in production.

MILK BY THE MINUTE

Has the price of milk gone up?

It depends on how you look at it.

In 1950 the cost in Wisconsin of a half gallon of milk was 32 cents. Today it is between 60 cents and 70 cents.

So the price went up, right?

Well maybe not. The average American had to work almost 16 minutes in 1950 to purchase a half gallon of milk. Today he has to work less than 10 minutes for it.

So did the price of milk go up? It's an interesting question. In terms of a person's toil, the price dropped 37.5 percent.

Let us continue this exercise.

Before the recent support level for milk the average cost of a gallon in Wisconsin was $1.10. If the full price hike is passed on to consumers, milk will average $1.16 a gallon in Wisconsin—up 5.4 percent.

The U.S. Department of Agriculture reports that in the last decade the price of milk has increased less than the cost of all other foods, and less than the rise in the Consumer Price Index.

A longer view produces a different impression. In 1950 the average American spent 22.4 percent of his income for food. In 1975 food costs had dropped to 17.1 percent of income—the lowest of any nation in the world.

GAO CHALLENGE ON MENTAL RETARDATION: MORE CAN BE DONE

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. HUMPHREY, I submit the following statement and the material attached thereto and ask unanimous consent that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The material ordered to be printed in the RECORD is as follows:

STATEMENT BY SENATOR HUMPHREY

Nobody knows for sure how many millions of lives are wasted because of mental retardation, nor is there an objective measure of the economic injury and heartache that result. But the cost is enormous.

Authorities estimate that over six million persons are mentally retarded and that 100,000 new cases occur each year. In 1974, the Department of Health, Education and Welfare estimated the national cost as between 8.5 and 9 billion dollars annually.

We pride ourselves that there is a new and enlightened approach to our treatment of handicapped individuals and, in particular, those who are mentally retarded. Sensitive and positive media treatment of mentally handicapped persons has grown in frequency.

There is increasing recognition that retarded individuals are more like us than they are different; that they need, just as we all do, love, joy, activity, a chance to grow and progress; a chance, wherever possible, to become independent and contributing members of their community.

The rights and aspirations of handicapped persons have been codified in such legislation as the Education for all Handicapped Children Act, the Developmental Disabilities Act, and amendments to the Rehabilitation Act of 1973, including the landmark prohibitions against discrimination in federally-funded programs.

Part of this progress reflects a heightened public sense of justice and compassion; but a great part has been the pragmatic recognition that every American who can become independent and productive is not only happier but also is less likely to be dependent on costly public welfare programs.

Earlier this year, at the dedication of an excellent facility for severely handicapped individuals in Minnesota, I spoke of these changing trends. And I concluded that we must now focus additional efforts and resources on the goal of preventing mental retardation.

This goal has, in fact, been official federal policy for years, but it has not received the coordinated emphasis required to make it a dynamic factor in our health programs. The preventive initiative has been focused and hesitant, without clear direction or defined goals.

Speaking to this situation is an excellent and timely report submitted on October 3, 1977 by the Comptroller General, "Preventing Mental Retardation—More Can Be Done."

Although this report is distributed to all Congressional offices, I know that sometimes documents slip by unnoticed. I want to call attention to this very useful survey that can help mobilize and invigorate our efforts to prevent mental retardation, and to recommend to all my colleagues that they read it carefully. It points out that knowledge, authority, organization and resources exist for a coordinated and effective campaign against this distressing human, social and economic problem.

Although the entire report is of interest, I ask only that the Digest be reprinted here. It summarizes in a clear and succinct manner the reasonable goal of this nation to cut in half the incidence of mental retardation by the end of the century. In analyzing weaknesses that have delayed progress, and in identifying some of the primary organic and environmental factors causing retardation, the report provides a solid base for a renewed legislative and administrative commitment.

To achieve our goal, the knowledge and techniques already available to our biomedical and behavioral sciences must be coupled with a decisive and determined effort.

Some metabolic disorders are among the causes that can be corrected if they are promptly identified and treated. For that purpose, I offered legislation in the last Congress to require all federally assisted hospitals to perform tests on newborn infants to detect metabolic disorders that can retard brain development. While this bill did not pass, a federal blueprint for genetic disease programs was enacted in 1976 as the comprehensive National Sickle Cell Anemia, Cooley's Anemia, Tay-Sachs, and Genetic Diseases Act. The new law provides for research, training, testing, counseling, and information and education programs with respect to genetic diseases, including those not specifically listed.

I was gratified to note that the GAO report recommends the use of this legislation as a vehicle for a program to evaluate, assist, and expand state and regional screening programs.

Our hope for the future must be to eliminate to a great extent the incidence of mental retardation. But we can not forget those six million Americans who need our immediate attention and concern. One of the more sensitive treatments of retardation, written by John Deaton, appears in a recent issue of the Texas Monthly. Deaton writes with tenderness and candor of the ways in which a family must adapt to their special child; and the ways in which that child enriches the family experience.

COMPTROLLER GENERAL'S REPORT TO THE CONGRESS: PREVENTING MENTAL RETARDATION—MORE CAN BE DONE

In November 1971 the President established a national goal: to reduce by half the incidence of mental retardation by the end of the century. Despite this goal:

No agency of the Department of Health, Education, and Welfare (HEW) has been made responsible for seeing that the goal is put into practice, coordinating efforts, clarifying agency roles and resource commitments, or measuring progress in meeting the goal.

Prevention of mental retardation has not been designated an objective by the Department's agencies responsible for prevention.

Systems have not been established or methods developed to assess progress in achieving the goal.

Many authorities believe that about 6 million Americans are retarded and as many as 4 million of the children expected to be born by the year 2000 will be mentally retarded.

HEW estimates that mental retardation costs the Nation between $6.5 and $9 billion annually in care, treatment, and lost productivity. HEW alone spent over $1.7 billion on the mentally retarded in fiscal year 1976.

Of the many causes of mental retardation which have been identified, GAO selected a few for which preventive techniques are available to determine what else can be done. Many causes of retardation also have other ill effects. Thus, if the incidence of retardation is reduced, these problems may also be prevented, possibly saving lives, and avoiding human suffering. Following are the causes GAO selected.

METABOLIC DISORDERS

Mental retardation caused by inherited metabolic disorders can often be prevented if the afflicted infant is identified and treated shortly after birth. Almost all States have programs for testing a blood sample from newborn infants to detect phenylketonuria.[1] To reach all newborn infants, improvements are needed in many of these programs. Also, only a limited number of States are testing for six other treatable metabolic disorders which can be identified from the same blood sample.

Although these metabolic disorders are not common, the monetary savings that result from avoiding costs of caring for the retarded greatly exceed the cost of screening all newborn infants and treating them. Also, by using automated laboratory methods applied on a large scale, tests for other disorders can be made on the blood sample drawn for phenylketonuria testing at little or no additional cost . . .

PREMATURITY AND LOW BIRTH WEIGHT

Comprehensive prenatal care can help prevent low birth weight and prematurity, reducing the incidence of mental retardation. However, many women receive no prenatal care and many more do not obtain prenatal care until very late in pregnancy.

Health officials in each State visited said additional prenatal care was needed. However, in these States the extent of the unmet need for prenatal care, location of those areas most in need, or the effect prenatal care programs have had on reducing mental retardation have not been sufficiently analyzed.

HEW has not evaluated State programs to assess how they affect the population served or to make sure that resources are being used most effectively . . .

CHROMOSOME ABNORMALITIES

Chromosome abnormalities are estimated to account for about 16 percent of the clinically caused cases of mental retardation. Down's syndrome, one of the commonest of such abnormalities, appears in about 5,000 births each year and, although current information is not available, it has accounted for 15 to 20 percent of the institutionalized mentally retarded.

Treatment of chromosome abnormalities is limited; thus, medical genetics concentrates on preventing retardation through genetic counseling and testing. However, only a small portion of those who could benefit from these services receive them. Neither HEW nor the States attempted to find out if persons needing the service are screened or served. Geneticists interviewed generally thought that a disproportionately small number of those who obtain genetic services were from lower socioeconomic groups.

Federally funded family planning programs and possibly others could provide the needed outreach, identification, and services to lower income families. Federally funded maternity and infant care projects were referring high-risk clients for genetic services; however, the family planning programs in those States generally did not.

RUBELLA AND MEASLES

Mental retardation caused by rubella and measles can be prevented by aggressive vaccination programs. But, because rubella and measles immunization levels are low, expanded efforts to immunize children and test women of childbearing age for susceptibility to rubella are needed. Better data is needed on immunity levels in local areas. Certain Federal programs—such as Medicaid's Early and Periodic Screening, Diagnosis, and Treatment; Head Start; and family planning—could help improve surveillance data and raise immunity levels . . .

LEAD POISONING

HEW estimates that 600,000 children have elevated blood lead levels. More widespread screening is needed to determine the extent of the lead poisoning problem. A recent breakthrough in testing techniques has made it possible to do more testing inexpensively.

However, except in certain known high-risk areas, lead poisoning is not recognized as a problem and screening is not routinely done. Reporting requirements are inadequate to determine the extent of screening or the results in locales where screening is done . . .

RH HEMOLYTIC DISEASE

Mental retardation and other complications caused by Rh hemolytic disease can be prevented by identifying women with Rh negative blood types and providing them with immunoglobulin when they bear Rh positive children or have abortions. Although the extent of the problem is not known, many women apparently are not receiving the immunoglobulin.

States need comprehensive systems for testing pregnant women for Rh incompatability, reporting disease incidence, and reporting immunoglobulin utilization. Only five States had mechanisms for fully monitoring Rh hemolytic disease, only seven required either premarital or prenatal blood typing, and only six had special programs for reporting immunoglobulin use. In lieu of State laws requiring such tests, the family planning programs could assist by including Rh blood typing as a routine part of family planning services . . .

EARLY CHILDHOOD EXPERIENCES

About 75 percent of the incidence of mental retardation is attributed to environmental conditions during early childhood. Although the relationship between poor living conditions and mental retardation is still not fully understood, many projects are studying this.

So far, this work has not been organized at either the Federal or state level. HEW agencies did not feel it was their responsibility to collect and evaluate the results of various programs directed at preventing psychosocial retardation or implementing those that are the most efficient and effective. As a result, little is known about the full extent of ongoing programs, the number of people being reached, or whether or not the techniques being used are effective and could be more widely applied . . .

RECOMMENDATIONS

The Secretary of HEW should (1) designate a focal point in the Department to implement a national prevention strategy, monitor and coordinate the efforts of the various HEW agencies and offices, and develop a method of determining the progress being made in reaching the goal and (2) make the prevention of mental retardation an objective in HEW's operational planning system. . .

This report makes several recommendations to the Secretary on actions that could be taken to increase HEW's efforts to reduce mental retardation caused by metabolic disorders, insufficient prenatal care, genetic disorders, rubella and measles, lead poisoning, Rh hemolytic disease, and poor early childhood experiences. . .

AGENCY COMMENTS

HEW generally agreed with GAO's findings and recommendations and stated that the conclusions were valid and the recommendations worthy of implementation.

HEW told GAO that it would designate the Office of Assistant Secretary for Health as the focal point in the Department for mental retardation prevention. It agreed that, whether or not its operational planning system is continued, the relevant issues would be monitored by the agency tracking system. . .

[1] A metabolic disorder caused by the inability to produce the enzyme which ordinarily metabolizes a particular protein in foods.

JENNIE

(By John Deaton)

The traits of Down's syndrome include mental retardation, short stature, and stubby limbs, but it was the slanted eyes and a Mongolian-like fold of the upper eyelid that caught the fancy of a nineteenth-century English doctor.

Langdon Down, familiar with the then new work of Charles Darwin on the evolution of species, described the condition that came to bear his name in a paper titled "Ethnic Classifications of Idiots." In it he concluded that the mongoloid represented a genetic regression to the supposedly more primitive Mongolian race. He was wrong, but some people accepted his theory, and in 1924, F. G. Crookshank took Down's theory one step further; in a book titled *The Mongol in Our Midst* he wrote that the mongoloid was not a throwback to a primitive Oriental human being, but rather to the orangutan. Even today the straight flexion crease found on the palms of many mongoloids is known in medical parlance as the simian line, in reference to a similar crease found on the palms of apes.

Jennie is more like a monkey. Just now as I was typing this, she scampered into the study, put her hands on her hips and said, "Hi, Da!" She crinkled her half-moon eyes and gave me a bright, Brushfield-spotted smile (Brushfield spots, whites places in the irises of mongoloids, represent defects in the eye-coloring layer). As she was whirling to leave, I gave her a kiss on the head. She smiled and brushed it off. It's not that she doesn't like to be kissed. She loves to be kissed, but she brushes all kisses off. It's what her brothers and sister do when Jennie kisses them, and Jennie's picked it up.

Jennie's eight, and she is mentally and physically retarded. Full grown, she'll stand no more than five feet. Her mental age now is about four, but it may increase to that of a child of seven or eight. She is perceptive in many ways. She can recognize the way to the store or to Mona's house (where she stays before and after school), and her memory is excellent. She never forgets a meal and can remember which toys and books belong to her. She's also capable of holding a grudge when she feels she's been slighted, and she's perfectly normal in her ability as the youngest child to tattle on her brothers and sister if they've mistreated her (which is rare).

Food is a big item in her day. The first thing she does in the morning after her mother's hug is say, "Seerul." Once, when she kept gaining weight, despite our efforts to restrict her food intake, we became suspicious that she was eating too much at school. My wife, Mimi, and I spoke to Jennie's teacher, and were told proudly, "Oh now, Jennie—she's one of my good eaters. She'll even clean off the others' plates." That, we tried tactfully to explain, was just the problem.

The thing they teach you about birth defects during medical training is that when one is present, look for others. A child with a clubfoot may have a cleft palate as well: one with congenital cataracts may also have a heart murmur. In Jennie's case, she had duodenal atresia, a condition that often occurs with mongolism. The first part of her small intestine was a blind, obstructed pouch rather than a clear passageway from stomach to colon. From birth, she vomited

all her nourishment. Strange that nature should accompany its imperfection with a self-destruct mechanism, and yet, maybe not so strange either.

Although it was months before Jennie's mongoloid condition would be confirmed, the diagnosis of her bowel obstruction was made two days after she was born. Our pediatrician recommended immediate surgery, and by nine o'clock that night she was in the operating room. The bypass was successful, and soon Jennie was greedily taking milk.

A week after she left the hospital, we moved from Sacramento to Madison, Wisconsin, where for a year I did research in medical genetics. We discovered that John Opitz, a well-known medical geneticist, had recently moved to Madison. He saw Jennie and confirmed the diagnosis of mongolism. Optiz held Jennie in his arms as he counseled us. "She sleeps a lot, doesn't she?" he asked. My wife nodded. Opitz smiled. "Mongoloids are such good babies." He didn't seem to want to stop holding Jennie, but holding her was difficult. Floppiness is one of the features of a newborn mongoloid. It's due to an underdeveloped nervous system, and Jennie had it in full measure. She'd slip right out of your lap if you didn't hold her closely. "You know she won't live as long as your other children," Dr. Opitz cautioned, "but love her and keep her with you." The average age of death of institutionalized mongoloids is about 30 to 35 years. While I was doing medical work at a state school in South Texas I encountered several mongoloids in their late sixties and early seventies in good health. Recent studies show that mongoloids who survive past age five have a good chance of living to adulthood.

We were grateful for Opitz' advice, because we'd been told earlier to put Jennie in an institution. It was a temptation, since I myself had been taught in medical school to recommend institutionalization for all retarded children. "You can't do anything for the child," the pediatrics professor had said, "so do something for the parents." In fact, you can do a lot for a mongoloid child, and for children who are retarded from other causes. You start with love and do most of the same things you would in raising a normal child. We have found that the fears we had about a handicapped child not fitting into the family were unwarranted.

Jennie is the hub of our family. Her brothers and sisters accept her as a special person but not as a sluggish retardate. When Roger, the oldest and most serious of our children, was eight, I asked him to write down what he thought of Jennie, who was then a year and a half. Here is what he wrote: "She was born in 1969. I didn't see her till about a month after she was born. The first thing she learned to do was clap her hands. Second she learned to say 'bye.' It was not till 1970 that she learned to pucker up when you did. Boy! That sure made our family happy! Jennie is mental retarded. Yet, I like her just the way she is. She has not learned to walk, but I think she want to very much. And learn a lot more things, too. She learns very fast for a mental retarded child."

Jennie rides her "ri-tickle," plays on her swing set, loves hide-and-seek, and can do a fair job of watering the yard. She "reads," cleans up after herself, and watches TV. She is not a victim of "mongolian idiocy"—a term that still appears in modern medical texts and one that is not only offensive but also wrong. In the first place, the mongoloid is not a throwback. The eyes of a person with Down's syndrome are slanted and partially covered by a skin fold that is suggestive of the eye fold in a person of Oriental extraction. However, in the Oriental the fold of skin extends from the bridge of the nose all the way across the eye. Indeed, it partially covers the upper eyelid. The eye fold of a mongoloid child is much shorter, starting at the bridge of the nose and ending just above the corner of the eye. It resembles a small pinch of skin that didn't get tucked in, and it often disappears by the time the child is an adolescent. The notion of "idiocy" is misleading, too. A few people with mongolism are able to learn to read and write. And most are not so severely retarded to merit being called "idiot." The modern practice is not to use words like "idiot," "imbecile," or "moron" when referring to retarded persons. The more specific and less offensive terms are "profound," "moderate," or "mild" mental retardation.

The cause of mongolism is a genetic accident. A normal fertilized egg of a human contains 46 chromosomes; a mongoloid begins with one extra. Within each chromosome there are thousands of genes containing the hereditary material DNA. Even one defective gene can cause abnormal traits in an individual, so you can imagine the problems an entire extra chromosome in each cell might cause. It isn't understood exactly how the additional hereditary material produces the features of monogolism. We do now that the extra chromosome is a number 21 chromosome, a relatively obscure-looking structure when compared in a microsopic field with the rest of the cell's chromosomes. Chromosomes occur in pairs, and the extra 21 added to the cell's two normal 21's creates a trio; hence, the genetic name for mongolism is trisomy 21.

How is mongolism transmitted? In most cases a genetic mix-up occurs in either the egg or the sperm, which brings one extra chromosome to the new person. This extra chromosome is more likely to be present in the egg than the sperm. A woman is born with all the eggs she will ever have, and these continuously undergo division in her ovaries during her reproductive years. The more years in which the eggs have to divide, the greater the likelihood of a genetic accident occuring. Thus, from 30 on, the chances of a woman having a mongoloid double every five years. A pregnant woman 45 or older runs a 1 in 65 risk of having a mongoloid baby, compared to a 1 in 1500 risk if she becomes pregnant prior to age 30. By contrast, the father's age has no bearing on whether a pregnancy will result in a mongoloid child. A man's sperm cells at the time of ejaculation are no more than about six weeks old, and much younger if the man ejaculates cften.

The chromosome defect responsible for mongolism was discovered by Jerome LeJeune and his coworkers in Paris in 1959, and only since then have doctors been able to distinguish with certainty between mongolism and cretinism, a similar-looking defect of the newborn. Cretinism results from a failure of the thyroid gland, and the condition can be cured by giving the infant thyroid hormone. Quacks continue to take advantage of this onetime confusion, and now and then I read of a "miracle way" to cure mongolism by giving the child thyroid hormone.

Jennie fits into the moderate range of retardation. Like many persons with Down's syndrome, she is trainable but not educable. She can learn a few reading and writing skills, but she will never be literate. For the record, she walked at age two, said her first word (bye!) at eight months, and didn't begin using simple sentences, until she was six. Her social skills and ability to mimic have always outstripped her verbal achievements. One morning Mimi hiccuped just as she went in to awaken Jennie. It made a loud Ho-Whup sound. Jennie didn't seem to pay any attention, but the next morning when Mimi went in to get her, she woke up and said, "Ho-Whup!" Then she grinned. She will say, "I do it!" and leap in front of you to carry in the groceries, set the table, pour the tea. She can make a monster face and run through the house frightening people or become a snake and slither across the floor nipping at your feet. About the only thing she lags on is dressing herself.

She's also not the cleanest of children. To keep her from wetting the sheets, her mother dresses her in double diapers. The faint smell of ammonia hangs in the air of her room. It doesn't bother Jennie, but it has bothered others. When Jennie was three, we put her in a preschool nursery. Before long we began getting hints that she wasn't "fitting in." Mimi would leave for her job about 7 a.m., and I'd take Jennie by the preschool on my way to work about an hour or so later. In that time Jennie might have a bathroom accident, get syrup in her long brown hair, or decide to draw on herself with Crayolas. Because mongoloids are prone to colds, she often had a runny nose—and the unladylike habit or wiping it on her dress. The head of the school finally wrote to us saying that it wasn't much fun to pick up a child who had food in her hair and a dirty face and often needed a bath. We took Jennie out of the school.

When Jennie was five she started going to public school. Her world blossomed. She rides the bus and is in a class with others like herself. Her teachers have taken the businesslike attitude that Jennie is a student who is capable of learning. They've taught her to count to ten (sometimes she makes it to twenty) and to recite her body parts. She got an identification bracelet at school and learned her name and address. One day she came home and said, "Commere!" After we had all gathered around, she took a crayon and sheet of paper and very laboriously wrote out the letters: J-E-N-N-I-E. Then she put her hands on her hips and beamed.

We had wanted to keep one of her school group pictures, but Jennie didn't cooperate. She wore the picture out. Jennie would proudly name each person in it over and over, starting with her teacher and tracing her fingers to the faces of each of her classmates. She recited the names for us and, when no one listened anymore, she would sit down and name them for herself. She took the picture to bed with her and would find it first thing next morning. She carried it everywhere. Within a week the faces were blurred, and Jennie's litany turned into a puzzled recital as she searched in vain for the missing persons.

TV is special to her. She likes ballgames, enjoys clapping and cheering with the fans, and she gets irritated if we try to change the channel when she's watching football or baseball. Her favorite program is *Emergency*. "Woo-woo," she calls it, circling her hand above her head to imitate the flashing red light. I don't know how much she understands of the program, but she cries during the commercials.

Little things are what you remember about her. The way she can drop off to sleep suddenly as if she were shot, and the way she marches through the house on a cold morning trailing her sheet behind her like a queen on the way to her coronation. She's not all sweetness. She can be grouchy in the morning; often she comes out of her room looking like the wrath. She can be stubborn, bossy, sulky. She even has her own profanity, which she resorts to on special occasions: "Cock-ka-me!" We discourage her from saying it. Usually, though, Jennie is happy. She enjoys the little things—undressing to take a bath, eating watermelon, going for drives in her car, being left alone to explore the refrigerator. Most of all, she loves people. She likes to be around them, tickle them, talk to them, laugh with them. Give her a chance, and she'll take off after the other kids and play with them for hours and hours just like she is one of them. Which, of course, she is.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Robert P. LaRoche, of California, to be U.S. marshal for the eastern district of California for the term of 4 years vice Arthur F. Van Court.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Wednesday, October 26, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ORDER FOR H.R. 9512 TO BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the House on H.R. 9512 be held at the desk, pending further disposition.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS DISCHARGED FROM FURTHER CONSIDERATION OF H.R. 2817

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 2817.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TINICUM NATIONAL ENVIRONMENTAL CENTER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2817.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2817) to provide for certain additions to the Tinicum National Environmental Center.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HEINZ. Mr. President. First, I want to thank the majority leader and the member's of the Senate Public Works and Environment Committee, and especially its distinguished chairman, Senator RANDOLPH, for making it possible to consider H.R. 2817 at this time.

The legislation which we are about to consider tonight is one of particular interest to myself and the citizens of Pennsylvania. H.R. 2817 would authorize the appropriation of $7.25 million for the preservation of the last remaining saltwater marshland in the Commonwealth of Pennsylvania. In 1972, Congress created the Tinicum National Environmental Center. The refuge's 1,200 acres provide a unique outdoor laboratory for the purpose of exploration and development of new techniques in the field of environmental education and interpretation. Tinicum is the first environmental center in the United States. With the passage of this legislation the Interior Department will be able to expand the present area, and also fulfill the intent of the original legislation.

The citizens in and around the Delaware County area have made the Tinicum National Environmental Center a local priority. Not only have individuals banded together to form a citizen's group for the purpose of raising money locally, but additionally Delaware County officials have pledged to eliminate four sewage treatment plants, that discharge treated waste into the lagoon, at a cost to the county of $8.42 million. In closing, I recognize the people who have worked so diligently and ardously to make this dream a reality. The citizen's group, Concerned Area Residents for Preservation of Tinicum Marsh (CARP), the League of Women Voters, and the Delaware County officials are to be commended for the fine effort that they have expended on behalf of all of the residents of Pennsylvania. Their time and effort has assured our State of a fine facility of which we can all be most proud.

Without the timely passage of this bill that tonight's action makes possible, Tinicum marshland areas now available for inclusion would be irrevocably destroved. In fact, at this very moment, a land fill permit for 78 acres of vital marshland is now pending before the Pennsylvania Department of Environmental Resources. This action, therefore, comes none too soon and I thank my colleagues for their sensitive response to my request for the very expeditious handling of this matter.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 2817) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STRATEGIC ARMS LIMITATIONS TALKS II

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 457, Senate Concurrent Resolution 56.

The ACTING PRESIDENT pro tempore. The clerk will state the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 56) expressing the concurrence of the Senate and the House of Representatives with respect to Presidential action affecting the limitation of strategic armaments.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. McCLURE. Mr. President, I take this time only to thank the committee for the consideration that it gave to the amendment which I had offered in the Chamber and which has been incorporated in the resolution.

I am appreciative of the action that was taken by the committee. I think that action in incorporating the amendment which I offered as well as the one that was offered by Senator ALLEN not only strengthened and improved the resolution but made it acceptable to some of us who otherwise would have had trouble with the resolution.

I thank the Chair and the Senator from Alabama.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SPARKMAN. Mr. President, this resolution really is a recognition of the progress that has been made in the SALT talks and this simply recognizes that.

We are indebted particularly to the Secretary of State, Mr. Vance, and to our representatives of ACDA, the Arms Control Agency, for the good work that has been done in working out solutions with reference to the SALT talks.

I feel that real progress has been made, and I hope that the Senate will give favorable consideration to the concurrent resolution.

I move its approval.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

Whereas the Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures with Respect to the Limitation of Strategic Offensive Arms expired on October 3, 1977;

Whereas a temporary further observance of the limitations of the interim agreement will provide time for further negotiations, consistent with Public Law 92-484, toward a treaty limiting strategic offensive arms;

Whereas the Congress desires that the United States negotiate a treaty supportive of United States national security without the burden and pressure of imminent deadlines;

Whereas the Arms Control and Disarmament Act contemplates close cooperation and consultation between the executive and legislative branches on matters of important substance;

Whereas the interests of the United States are best served by a mutual recognition, in a spirit of comity, by the Congress and the Executive, of the importance of close consultation, cooperation, and adherence to the constitutional and statutory sharing of responsibility in the conduct of foreign affairs;

Whereas the administration has stated its unilateral intent that, while the strategic arms limitation negotiations are being completed, the United States intends not to take any action inconsistent with the interim

agreement: *Provided*, That the Soviet Union exercises similar restraint; and

Whereas the Administration has expressly represented to Congress that the aforesaid declaration of intent is nonbinding and nonobligatory upon the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the President is authorized to proceed in accordance with the declaration of intent of the Secretary of State of September 23, 1977, and the Senate and the House of Representatives of the United States concur: *Provided, however*, That nothing herein shall or may be construed to prevent any action or prohibit any weapons' system development, procurement, or deployment heretofore or hereafter authorized or provided for by the Congress of the United States; be it further

Resolved, That the Secretary of State shall at least once every six months during negotiations for a SALT II Agreement report to the Congress on the exact status of negotiations for such SALT II Agreement.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPARKMAN. I thank the Chair.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, following the order for the recognition of Mr. ALLEN on tomorrow, is there not an order previously entered to proceed to the consideration of Calendar Order No. 449, H.R. 3454, the wilderness bill?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9 o'clock tomorrow morning and, after the two leaders or their designees have been recognized under the standing order, Mr. ALLEN will be recognized for not to exceed 15 minutes, and after that the Senate will take up H.R. 3454, the wilderness bill and other matters, following that or during the day, that have been cleared for action in the meantime.

So I think Senators can expect rollcall votes tomorrow and possibly a session which will stay until a reasonably late hour.

Mr. President, the Senate is about to stand in recess following the skillful management of that motion from the Chair, and I, as usual, shall view with awe and admiration the performance of the distinguished Presiding Officer who presides over the Senate with a degree of skill, efficiency, and dignity as rare as a day in June.

So that occurrence is about to happen.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. I wish to inquire sometime whether the manly art of yodeling is used in the Hawaiian Islands because I think the Presiding Officer can call from one island to the other.

The ACTING PRESIDENT pro tempore. The Chair is flattered to the point of being speechless.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore (Mr. MATSUNAGA). The question is on agreeing to the motion of the Senator from West Virginia. As many as are in favor of the motion will say "aye"; those opposed "no."

The motion is agreed to, and, accordingly, the Senate stands in recess until the hour of 9 o'clock tomorrow morning.

Thereupon, at 7:29 p.m. the Senate recessed until Thursday, October 20, 1977, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 19, 1977:

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Walter N. Heine, of Pennsylvania, to be Director of the Office of Surface Mining Reclamation and Enforcement (new position).

NATIONAL RAILROAD PASSENGER CORPORATION

The following-named persons to be members of the Board of Directors of the National Railroad Passenger Corporation for the terms indicated:

For the remainder of the term expiring July 18, 1978:

Frank H. Neel, of Georgia, vice Edward L. Ullman, deceased.

James R. Mills, of California, vice Gerald D. Morgan, deceased.

For a term expiring July 18, 1980:

Harry T. Edwards, of Michigan, vice Joseph V. MacDonald, term expired.

Charles Luna, of Texas (reappointment).

For a term expiring July 18, 1981:

Anthony Haswell, of Illinois, vice Donald P. Jacobs, term expired.

Ronald G. Nathan, of the District of Columbia, vice Frank S. Besson, Jr., term expired.

DEPARTMENT OF JUSTICE

Michael J. Egan, of Georgia, to be Associate Attorney General (new position).

DEPARTMENT OF STATE

Edward E. Masters, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Indonesia.

CORPORATION FOR PUBLIC BROADCASTING

Irby Turner, Jr., of Mississippi, to be a member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1982, vice Virginia Bauer Duncan, term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 19, 1977:

DEPARTMENT OF JUSTICE

Ralph C. Bishop, of Alabama, to be U.S. marshal for the northern district of Alabama for the term of 4 years.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Charles F. C. Ruff, of the District of Columbia, to be Deputy Inspector General, Department of Health, Education, and Welfare.

U.S. INTERNATIONAL TRADE COMMISSION

William R. Alberger, of Oregon, to be a member of the U.S. International Trade Commission for the term expiring December 16, 1985.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

PROVIDING MORE JOBS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. ASHBROOK. Mr. Speaker, concern is growing over the economic problems facing our country. Some industries are being hit with large layoffs of workers.

Recently Fred Hout, a good friend and the retired chairman of Peabody Barnes, Inc., of Mansfield, Ohio, addressed these problems. As Mr. Hout stated:

Job opportunities and job security are seriously threatened because of lack of increasing productivity. . .

His views on this question and what he describes as "the punitive attitude" of the Federal Government toward industry deserve to be considered by all concerned with the economic problems of our Nation.

At this point I include excerpts from Mr. Hout's speech:

PROVIDING MORE JOBS

(By Fred B. Hout)

We are particularly sensitive to some of the economic problems confronting us today where some companies and industries are faced with massive layoffs and the continuing unemployment percentage figures continue to deeply concern us.

The Youngstown Sheet & Tube situation has been well publicized and the loss of more than 5,000 jobs attributed to inability to compete with imports not only because of the "dumping practices" of Japanese, but because of the deteriorating productivity in this eastern Ohio facility. The after-the-fact situation is that we are rushing Federal Aid to these employees who are losing their jobs because of a condition far beyond their control. But this emergency relief so urgently needed now doesn't begin to attack the root of the problem.

Again, we see a situation in Bridgeport, Connecticut where Bridgeport Brass, a com-

pany that began before the Civil War and maintained a position of strength over many years, is now in a desperate situation due to non-competitive, high cost production conditions. Several months ago, management considered closing the plant due to losses amounting to over $16 million over the last 2½ years. Recently as a result of some excellent cooperation, management and labor with a moratorium declared on increases over the next three years on direct wages as well as fringe benefits, this plant will continue to operate. But, again this is a desperation move.

Both these instances and many others point to the seriousness of the problems that exist in this country where job opportunities and job security are seriously threatened because of lack of increasing productivity which is vital to the success of these manufacturing enterprises, and, in addition, a very important factor in helping to keep inflation under control (if productivity can increase to the equivalent of wage increases, you have no inflation).

Labor generally is accused of being the culprit in the loss of productivity. But labor is only one contributing factor. Certainly it is important that we preserve the work ethic in this country and that a man gives an "honest day's labor for an honest day's pay." And, unfortunately, there are many contracts that set up arbitrary barriers that discourage this. However, the most significant factor in increased productivity in any industrial operation is the equipment with which the employee has to work. Good, high speed machines are the principal factor in increasing productivity. With the availability of numerically controlled, multiple speed turret lathes, obviously a machine operator can turn out better work faster than if he is asked to do the same job with a simple, slow speed engine lathe. This applies to all types of material forming equipment, cutting tools, fabrication, weldments, material finishes and the entire gamut of manufacturing processing.

The other major factor is material handling and efficient plant arrangement, minimizing the labor required to move raw materials through the manufacturing processes to finished goods products—the efficient flow of material through a plant.

Now we come to the heart of the problem we face in this country, particularly in attempting to compete with Japanese manufacturers. It takes capital investments in any business enterprise to provide the best equipment to increase workers' efficiencies—productivity. To purchase capital equipment it takes profits-retained earnings to justify the expenditures for more efficient production equipment. Corporations throughout the country are faced with higher and higher debt-equity ratios resulting from deteriorating profits. To remain fiscally sound, there is a limit to how highly leveraged with debt a company can go.

An added load is placed on the American manufacturers as a result of air pollution control and water pollution control legislation. The need for this legislation was irrefutable. Everyone—the consumer, the industrial worker, industrial management, in fact, all America—believes fervently that we want to eliminate so far as practical pollution wherever it exists. However, the purchase of pollution control equipment is a major capital expenditure for which generally there is no increased productivity (with a few exceptions such as chemical plants where salvaging does return some value).

So there are the problems we face particularly in attempting to compete in the world market where our unfavorable balance of trade cries out for more and more efficiencies in American plants to not only provide additional jobs but also to sustain the value of the American dollar by bringing our international trade in balance.

There is one very important, major correction that must be applied and generally provides the major portion of the answer to these problems we have been discussing. The answer is government cooperation. Our Federal Government seems to have a penchant for approaching all economic problems with a punitive attitude that generates penalties for industries not complying with air and water pollution demands. Where there is a municipality involved, the Water Pollution Control Act provides 75% Federal funds to be matched by 25% locally. Where industrial pollution is involved, the approach by the government is "let's penalize them if they don't install the most practicable and the most technologically advanced pollution control equipment in a designated period of time". Certainly industries are reluctant to spend the kinds of dollars involved when there is no productive improvement resulting and whch means only raising prices and passing on to the consumer, the cost of this pollution control equipment—and again contributing to our inability to adequately compete in world trade. How much better it would be for our Federal Government to offer cooperation and methods of helping industry in eliminating both air and water pollution. This is the way they do it in Japan. As a matter of fact, the success of the Japanese remarkable economic progress since World War II is in a large measure due to a government/business joint effort of accomplishing results by cooperation—not by penalties.

It takes the production of goods and services to provide jobs for the American people and this can only result from a healthy economic climate in which to operate. Recently the reluctance of industries to commit for additional capital equipment expenditures because of the uncertainty of government's policies is a case in point that is restricting job opportunities and could be portending a stormy economic road ahead.

It seems so simple—from the government's side instead of considering all business and industry as "enemies," change the basic philosophy and the basic approach and attitude to one of "what can we do together to create more job opportunities and improve generally the life for everyone."

This approach would express itself in legislation that offers inducements and incentives for investment in productive equipment that improves efficiencies. Tax abatements, credits should be improved and expanded to make this possible. Not only does the consumer benefit from improved productivity which means lower prices, but from a tax standpoint the government likewise over the long haul benefits from increased revenues.

If we adopt this changed approach, one of government/business collaboration and cooperation, of working together for productivity improvement—our private enterprise system can successfully compete in international trade and we can move more and more toward free trade throughout the world. Then we can work more effectively toward the reduction and elimination of protective tariffs and trade barriers. Free world trade is an ideal ultimate goal. However, for us to successfully compete in world trade, we need the right kind of economic climate—government/business cooperation—to advance our abilities to improve productivity and thereby assure greater job opportunities and security that come from a free and healthy economic society.

CONGRESSMAN JOHN CONYERS' ADVICE TO THE CARTER ADMINISTRATION IN TIMES OF ADVERSITY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. CONYERS. Mr. Speaker, in the very beginning of the Carter administration, publicly and privately I suggested that Jimmy Carter had placed himself in check with his opening moves in the national political chess game of economic stimulus legislation. By combining a total commitment to balancing the budget by 1981, reducing unemployment to 4.75 percent, reducing inflation to 4 percent, and a moral equivalent of war on the energy crisis, the President was overcommitted from the start. Something had to give and more than likely it would be the President's promises, his credibility or both. Pat Caddell, in his working paper prepared before Jimmy Carter took office, among other things warned the President to concentrate on a few key symbolic actions, stick to them and ride out the transition into a difficult Presidential tenure. In other words, set priorities, buy time, and cool it for the first 6 months while dealing with the Nixon-Ford legacy and a potentially recalcitrant Congress.

Perhaps if President Carter had taken this prudent advice, the talk around town of a "one-term President" could be easily traced back to Republic National Headquarters futilely fanning burnt embers. After all the man has only been in office less than a year. Instead, Carter attacked almost every major issue on all fronts at once. It would have been bad enough if the President had simply thrown the 111-page book of campaign "Promises, Promises" at Congress, which is what he seemed to be doing. He oversold and overcommitted himself to each legislative initiative, staking his prestige on their success, and then backed off when they engendered the inevitable political opposition. For some strange reason, the Carter people were not prepared for the strong political opposition. We can chalk some of this off to a President and his staff ensemble unfamiliar with the shark-infested waters of Washington politics. But the fact remains that too many controversial matters were handled badly.

Daily I hear the corridors of Congress buzzing with innumerable grievances about White House gafs, most of them easily avoided by the stock-in-trade techniques of day-to-day communications between the White House and Congress. Consequently, Members of Congress buried under a seemingly indiscriminate avalanche of administration legislation, which would try their patience and energies even under the best of circumstances, are dealing with these matters—energy, welfare reform, canal treaties, minimum wage, et cetera—with a chip on their collective shoulders that

spells even more trouble in the future than the press reports on today.

To the casual observer of this scene, it might appear that the Carter administration has launched a steady stream of bold legislative initiatives that caught Congress off guard. In fact, the negative reaction from Congress and alienated constituencies and interest groups to this spate of legislation reflects deep skepticism as to whether Mr. Carter and his advisers really know what they are doing. I seriously doubt that bold and coherent legislative proposals to deal with unemployment, urban problems, the energy crisis, world economic problems, or whatever would have damaged the President's credibility anywhere near as badly as the incoherent and disconnected collection of bills thrust on Congress by Mr. Carter accompanied by overblown rhetoric and pledges to go directly to the people if these "tablets from Sinai" were treated with disrespect.

Ironically, for an administration seemingly obsessed with garnering business confidence as the cornerstone of its economic policies and political rhetoric, business confidence in the administration has markedly declined in the last 6 months. At a recent meeting of more than 100 of the nation's top corporate executives the repeated theme was for more consistent and precise policies. Business capital spending in the current so-called recovery period has been growing at only half the normal pace, these executives noted. They complained that the lack of certainty on many economic issues was depressing business and that the Carter administration's honeymoon with business has ended.

Unfortunately for Mr. Carter the honeymoon has also ended with blacks on employment programs and urban policies; Jews on the Middle East; unions on import restrictions; southerners on the Panama Canal treaty and regulation of natural gas prices; farmers on depression-level prices; and public opinion in general on the performance of the Carter administration, especially on the handling of economic issues such as inflation.

For a President who has consistently attributed his success to public perceptions of his "competence," the multiple and virtually simultaneous cancellation of honeymoons is a serious blow to Mr. Carter's image. The Bert Lance imbroglio didn't help matters much but it was only one of several straws threatening to break the camel's back. At the rate at which the President's support currently is eroding, it will fall off the chart in the foreseeable future if Mr. Carter is unable to significantly improve his performance in office. For blacks who have been counting heavily on the administration's support for legislative enactment of the Hawkins-Humphrey bill (H.R. 50), the administration under siege certainly is not a cause for rejoicing. On the contrary, black leaders have good reasons to be concerned that the President's support of H.R. 50 will be interpreted as yet another blunder by a hyperactive, scattershot President.

The Carter administration needs to have a string of extraordinary successes in order to overcome or make up for past losses. The key to restoration of confidence, in Congress and elsewhere, resides in a thorough reassessment of priorities. Ideally, President Carter's commitment to support of the Hawkins-Humphrey bill, if and when it finally comes, should not be perceived by Congress or the Nation as merely another leg-jerking response to "liberal and black pressure." On the contrary, it should emerge from the very reassessment of administration priorities that is required to make a fresh and sound start toward recovery of national confidence.

TVA—PUBLIC RESPONSIBILITY AGAINST THE SNAIL DARTER

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. BEVILL. Mr. Speaker, the Endangered Species Act of 1973 was seen as an important tool to help bring balance to national decisionmaking concerning economic growth and environmental protection.

The effectiveness of this tool has been greatly reduced by the decision of the Sixth Circuit Court of Appeals in the case of Hill against Tennessee Valley Authority, January 31, 1977. Given the act, as interpreted by the court, special interest groups could conceivably set out with confidence to stop any federally funded or licensed project currently under way or proposed in the United States.

Mr. Aubrey J. Wagner, chairman of the Tennessee Valley Authority, recently addressed the Southeast Public Relations Institute at the University of Georgia on the serious impact the Endangered Species Act has had on the Tellico Dam project in Tennessee. I strongly recommend that my colleagues read carefully Chairman Wagner's remarks:

TVA—PUBLIC RESPONSIBILITY VERSUS THE SNAIL DARTER

One of the most commonly heard criticisms of Government these days is that it has become unresponsive to the "public." Government, some say, has "lost touch with the people." Government doesn't care about the needs of the "common man." Government is too big, too distant, too aloof. And so on.

TVA, as a Federal agency, is not immune to such criticism. In fact, it sometimes seems to us that we get more than our fair share. Without being defensive, I would like to suggest a reason why.

TVA has a continuing responsibility assigned by Congress to help the people in the Tennessee Valley region manage, develop, and utilize their resources. We are committed on the one hand to a strong program of resource conservation and development and a safe and clean environment. On the other hand, we are equally committed and have a statutory obligation to provide a continuing adequate supply of electricity at prices the consumers in the region can afford. Both of these commitments are critical.

Thus, the problem the Nation faces today—essential, healthy economic growth without unacceptably damaging the natural environment—comes to focus in TVA. Under one management. It makes for some interesting times. Some challenging decisions.

Because of this unique dual responsibility that Congress assigned to TVA, we must take a balanced approach in meeting the divergent needs of the people in the Tennessee Valley. In seeking this balance between environmental needs and the consumer's economic interest, TVA receives a considerable amount of advice and counsel from different groups. And we are glad to have it, because it includes some good ideas or alternatives that should be considered.

But when you take a collective view of the advice that these groups have to offer, you find that many of their ideas are competing, conflicting, or mutually exclusive. Many of them don't much like nuclear power, or mining coal, or burning coal, or building dams. Some say that TVA electric rates are too high, and thereby detrimental to the economic and social health of the region. By the same token, others say that rates are too low, at least for some classes of power customers.

When TVA declines to go along with some of these proposals and positions, we are accused of being "unresponsive" to the public. But to whom shall we be responsive? Total responsiveness to one viewpoint may be total rejection of all the others. Too often, a charge that we have been unresponsive means that our response has had to be "no" to a specific request. Sometimes we have to say "no" in the broad public interest as we see it. And I should stress here that some of the criticism we receive is justified. We are human and are just as prone to error as anyone else.

As I have already stated, TVA's approach to meeting the divergent needs of the Valley is one of balance. And that's not to say we always find the right balance. But the course we seek is the one that will provide the greatest good for the greatest number of people over the longest time. This is our constant goal for responsiveness, and I believe TVA has discharged that responsibility over the years with good effect. It hasn't been easy. Because of the multipurpose role assigned to TVA by the Congress, our way has been a narrow path in a wide spectrum—many times more difficult and less popular than if we had been given a single task, or a narrowly limited assignment.

But the fact remains that TVA is the only organization of its kind in this country specifically created to apply the principles of balanced perspective to the interlocking problems man faces as he attempts to work with, rather than against, nature. As I have said, these are problems of the real world, the total world, the everyday world in which we all must live and work. To be able to deal with them in totality, as TVA must, is a challenging task.

With this in mind, let me discuss with you what happens when we as a Nation lose this balanced perspective. The example which comes most readily to my mind is the current controversy surrounding TVA's Tellico Dam and Reservoir project on the Little Tennessee River in east Tennessee.

Construction of this project began 10 years ago. Earlier, the project, its values and costs were extensively discussed and debated locally in the region. Then it was subjected to the most searching scrutiny by the Administration and the Congress in the appropriations process. Finally, in 1966, TVA was given the go-ahead and construction began the following year. Today it stands virtually complete. More than $105 million of the project's estimated $116 million cost has been invested toward realization of the project benefits, and those benefits are substantial. They include:

126,000 acre-feet of flood control storage to help protect downstream communities, principally Chattanooga, Tennessee.

The production of 200 million kilowatthours of electric energy in an average year.

The creation of a navigation channel which will provide opportunities for commercial and industrial development. We estimate that 4,000 basic industrial jobs and 2,600 trades and services jobs will be created along the reservoir over a 25-year development period.

At the continued urging of the Congress, TVA has pushed completion of the Tellico project so that these and other benefits could be realized as quickly as possible. However, last January the United States Court of Appeals for the Sixth Circuit reversed the Federal District Court in Knoxville and held that TVA may not impound Tellico Reservoir because this would destroy the habitat of the snail darter, a 3-inch minnow which was designated an endangered species by the U.S. Department of the Interior under the provisions of the Endangered Species Act.

So today, after a decade of construction and after Congress has authorized TVA to spend more than $105 million to achieve the benefits of the project, Tellico reservoir sits empty.

It has been stopped by an Endangerd Species Act that did not become law until six years after the project was begun.

It has been stopped by an endangered species which was not even discovered until 6 years and was not put on the endangered species list until 8 years after the project was begun.

It has been stopped even though TVA has done everything possible to reconcile the continued existence of the snail darter with the completion of the project, including an apparently successful transplant of the fish to another river. (Parenthetically, you should understand that the snail darter is one of 116 darters found in the United States, 77 of them in the Sate of Tennessee.)

Something has gone awry. On a national level, the Sixth Circuit's decision means that once a determination has been made that a Federal project, or even a private project that receives Federal funds or a Federal permit, would adversely affect any endangered or threatened species or its critical habitat in any way, the project must automatically give way. This is true regardless of the state of completion and despite repeated and specific instructions from the Congress to go ahead, being fully informed about the conflict. Somewhere, a sense of public responsibility is missing.

We do not believe this was the intent of Congress when it passed the Endangered Species Act in 1973. Rather, we believe the act was an attempt to add balance to a world where the scales had tipped in favor of economic growth and development to meet man's needs without regard to the loss of significant species of fish, wildlife, and plants. We believed the act required Federal agencies to take reasonable measures, in consultation with the Secretary of the Interior, to conserve endangered or threatened species of fish and wildlife. Our experience under the act, however, has been far different from our expectations; and, we believe, from the expectations of Congress in passing the act.

The 1973 act, rather than adding needed conservation goals to balance the preservation of endangered species with economic growth and development, has come full swing to prohibit that growth and development, regardless of the needs of man, the importance of the particular project, the importance of the species, the stage of completion or amount of public or private funds invested in a project. The needs of endangered species must always prevail. The needs of man must always give way. The national impact of this decision could be disastrous.

Let me stress here that TVA is firmly committed to the conservation of our Nation's natural resources, including the protection of endangered species and their habitats, as one important part of the human environment. With the advancement of the ecological sciences, man has obtained an increased awareness of the importance of all life forms, and of the value of preserving natural plant and animal systems. In this country, we have begun massive programs to clean up our land, air, and water resources, and to incorporate environmental concerns into the planning of our development programs. These are healthy changes—and we support them.

But it also is a fact that the pressures of a growing population, coupled with our deep and compelling belief in the basic right of all people to have adequate shelter, food and fiber, is going to require continued development even as we strive to protect our natural resources. Conservation must proceed with a sense of balance. It must not lose sight of its ultimate goal—the preservation and enhancement of the human environment. This is the spirit in which the Tellico project was initially proposed, the spirit in which it was built, and the spirit in which it will be used. Symbolic of that spirit is a letter I received in 1964 from Mr. Guy Buckner, Superintendent of Schools in Lenoir City, Tennessee, which said in part:

"It has been my privilege to know the needs, the heartaches, and the ambitions of most of these young people. A large percentage of this year's 152 graduates of Lenoir City High School will attend colleges, universities, and technical schools. A great many of these will want to return to Lenoir City to live, but because of a lack of business enterprises, this will be impossible. This condition has existed during the 21 years that I have been here. According to the study made of Population and Economy, of Lenoir City, Loudon, and Loudon County, the population growth of Loudon County has not been as rapid in recent years as it has been in the past. This is due, not so much (to) decrease in births, (as to) net outmigration of the productive age groups. Efforts to attract new industries and to expand existing industries need to be made to provide jobs in the county for county residents."

The purposes for which Tallico was begun a decade ago—and which prompted Mr. Buckner's letter—are still the same. The people of the three east Tennessee counties most directly affected by the Tellico project still need jobs—there were 3,300 on the unemployment rolls there last year. And while Tellico Reservoir sits empty, young people are still leaving these counties looking for work.

The region's need for low-cost electric power hasn't changed either. The water to be stored behind Tellico Dam would enable the existing Fort Lincoln Dam on the main Tennessee River to generate an additional 200 million kilowatthours in an average year without having to construct a powerhouse or switchyard. And it is pollution-free energy from a renewable energy source—the kind we desperately need. That's enough energy to warm about 20,000 electrically heated homes. Put another way, it would take 90,000 tons of coal, or 15 million gallons of oil, or 1.8 billion cubic feet of natural gas to produce as much electricity.

There's also still a need in the region for flood control, and Tellico sits in a geographic location which gives TVA the control where we need it most. This was acutely demonstrated in March of 1973 when Tellico, if it had been in operation, would have reduced a Chattanooga flood crest by two feet and prevented some $15 million in flood damages. Yet, on the eve of the Valley's winter flood season, TVA is unable to prepare Tellico's storage capacity for use.

Let me emphasize again that TVA fully supports the basic philosophy behind the Endangered Species Act. Maintaining diversity of life is a very important element of the overall preservation of the human environment. But the total human environment also includes a warm home, a satisfied family, good food, rewarding employment, and many other necessities. We must seek to maintain a quality environment, while at the same time providing the needs of man. We need to preserve and protect our resources, even as we develop them.

I have said that TVA's constant goal for responsiveness is to attempt to find solutions to problems which will provide the greatest good for the greatest number of people over the longest time. I am convinced that the Endangered Species Act, as presently interpreted by the courts, is not responsive to the needs of the people of the Tennessee Valley region and the Nation as a whole. Instead, I believe it has become a tool which, in the hands of some, can be used to stop almost any development, public or private. I am satisfied that those who have employed it are not interested in protecting the snail darter. Rather, they want to stop the Tellico project.

The Tellico problem must be resolved in a way that deals responsibly with the public interest. This can be done in one of three ways:

1. The Secretary of Interior could remove the Little Tennessee River from the critical habitat list. We have asked him to do this.

2. The Supreme Court could reverse the Sixth Circuit Court of Appeals' decision holding, instead, with the Federal District Court judge. We have appealed to the Supreme Court.

3 Congress could amend the Endangered Species Act. We have testified in favor of its amendment.

Any of these three courses would resolve the Tellico situation. However, it seems clear to me that in the long run, the Endangered Species Act must be amended so that it will accomplish its intended purpose and, at the same time, not be used simply to stop the wheels of progress.

The Congress has made a start. They should complete action promptly—before another flood season brings suffering that Tellico could relieve, before another winter brings hardships that Tellico electric heat could soften, before another graduating class and yet another is forced to leave the region seeking jobs that Tellico could provide. Congress must hear these needs and act. Now!

This is of prime importance, not only to Tellico and undertakings like it across the Nation, but to the maintenance of a healthy, growing economy in the Nation as a whole. We must not—we cannot—lose sight of our ultimate responsibility—restoring man to his proper place in our list of environmental priorities. To do less would be to court disaster.

TROOPERS RECEIVE LIFESAVING HONORS

HON. DAVID L. CORNWELL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. CORNWELL. Mr. Speaker, the following article appeared in the September 23 edition of the Evansville, Ind.,

Courier. I would like to take this opportunity to commend Troopers Montgomery and Davis for their heroic efforts, and to share the experience with my colleagues:

The youngster was pulled, without breath or heartbeat, from the bottom of the pool, by the young lifeguard. Everyone, including the lifeguard, froze.

Indiana State Trooper Paul Montgomery, vacationing at the St. Louis area resort with his family, was headed toward the pool when he heard the commotion.

"Call the police, call the police," people were screaming as they huddled around the limp figure on the side of the pool.

Although he had no jurisdiction in Missouri, Sgt. Montgomery knew quick action on his part was needed.

Using lifesaving techniques taught every state trooper, Montgomery went to work on the boy. After 15 feverish minutes, the boy was revived and on his way to the hospital. He has since recovered.

For his action, Montgomery and Trooper Jerry Davis, also credited with saving a life, were honored Thursday by the West Side Optimist Club.

The troopers were presented the newly created Optimists International Humanitarian Award in noon ceremonies at Helen's Fine Foods.

Davis, 27, of Fort Branch, is credited with saving the life of 3-year-old Tony Neighbors of Evansville, seriously injured in a car-truck accident on U.S. 41 near I-64 on February 20.

Davis was able to revive the child before an ambulance arrived.

Montgomery is credited with saving the life of eight-year-old Scott Irwin of Atalissa, Iowa. The Irwin family was vacationing at the campgrounds in Eureka, Mo., which is near St. Louis.

During his 12 years as an Indiana State Trooper, Montgomery has saved two lives. He counts these lifesaving incidents, both involving children, as the highlights of his career.

REPORT FROM COMMITTEE ON STATUS OF MINORITY ELECTED OFFICIALS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. CLAY. Mr. Speaker, I wish to take this opportunity to share with my colleagues an important news release from the Committee on the Status of Minority Elected Officials:

REPORT

Systematic and nation-wide harassment of Black elected officials is charged in a report issued today by the National Association of Human Rights Workers (NAHRW). The report, entitled "The Dilemma of Black Politics: A Report on Harassment of Black Elected Officials," is the result of a two year study by NAHRW's Committee on the Status of Minority Elected Officials.

The report cites over 100 Black officials who have been victims of various forms of harassment. The officials cited represent all regions of the country, all levels of office, and both urban and rural areas. Research findings indicate, though, that "the higher the level of office, or the more outspoken the official, or the greater the influence and power, the higher the incidence of harassment."

Black officials identified as having been targets of attack include the late U.S. Representative Adam Clayton Powell, U.S. Representative William Clay, Lieutenant Governor George Brown, Lieutenant Governor Mervyn Dymally, and Secretary of State DeLores Tucker; Mayors Maynard Jackson, Richard Hatcher, Coleman Young, "Jay" Cooper, and Charles Evers; former Mayors Carl Stokes, Clarence Lightner and Charles Joseph; State Senators Julian Bond and Clarence Mitchell; former State Senator Leroy Johnson; State Representatives Alvin Holmes, Thomas Reed and Hosea Williams; and Sheriff Lucius Amerson.

Principal perpetrators of the attacks on Black elected officials are identified as 1) the white press; 2) the intelligence community and enforcement agencies; 3) the corporate structure; and 4) representatives and allies of the corporate structure positioned in the executive and legislative branches of the United States government.

The research did not determine that a single national or international conspiracy exists to destroy the institution of Black politics; however, neither did it determine that there is not such a conspiracy. Documentation was obtained of distinct patterns of harassment, and in at least some instances the harassment is without doubt the result of conspiratorial activity.

The case studies provide evidence of conspiracy "within certain newspapers; among certain businesses and corporations; between Federal agencies; and among intelligence, law enforcement and judicial operations. Further, the media, corporate interests, the government, and intelligence agencies—as a matter of routine—cooperate with one another in a manner that discredits and contains" the efforts of selected Black officials. "The speculation," notes the report, "is that conspiracy extends internationally in that it involves matters of energy resources in Third World nations, and the relation of American Black politicians to those nations."

The most prevalent tactics employed to discredit Black officials are lack of coverage, biased coverage, investigations, and unfounded criminal accusations by the white media; audits and investigations by the IRS; surveillance, bugging, burglaries and covert disruptive activity by intelligence agencies; and inquiries, Grand Jury investigations and allegations by law enforcement agencies. These activities not uncommonly amount to vicious, vindictive witchhunts which have the effect of damaging or destroying the credibility of the officials involved, though there is never any finding of wrong-doing. Other tactics which impose inordinate pressures on Black officials and thereby reduce their effectiveness include smear campaigns; intimidation of voters and constituents; recall efforts; charges of "reverse discrimination"; imposing of economic hardship through necessitating payment of attorney fees, causing damage to business endeavors, and contributing to loss of good credit ratings; legislative censure; defamation of family members, friends, and associates; and threats of personal injury or death.

The character, volume and intensity of these tactics is far in excess of what might be normally and reasonably expected by virtue of being a candidate for or holder of a public office. In fact, "in nearly every aspect, Black officials are judged by a double standard. They are required to be more scrupulous, more above reproach, more competent, more effective than their white counterparts."

The harassment is not a new phenomenon, as evidenced by the treatment accorded Adam Clayton Powell. Black officials were being harassed throughout the Sixties when Black militant organizations were being attacked and destroyed. Harassment was occurring throughout the Nixon era, when Black officials were included on the "enemies list" and targeted for IRS investigations.

The harassment has not ceased, however, since Nixon left office. On the contrary, it has continued to mount as increasing numbers of Blacks are elected to public office and achieve positions of influence.

Nor is the harassment merely a product of the "new post-Watergate morality" that currently prevails. Rather, the cry of "corruption" has become a smokescreen for conducting racist and discriminatory attacks on Black officials, much as the accusation of "Communism" was used in the past to discredit civil rights leaders and organizations.

While government agents have spied on and harassed Black officials as if they are "subversive elements" and a threat to "national security," the media have attacked Black officials on the excuse that they are entrenched and corrupt members of the traditional political system. The government and the press thus form an alliance in the effect of their actions—though they sometimes use polar rationalizations—that serves the interests of business and corporate entities desirous of maintaining the economic status quo.

Under the present circumstances, Black officials face a "no win" situation. The task of responding to the unique and urgent needs of Black constituencies becomes inordinately difficult—if not impossible. The dilemma that is posed is whether Black politics can and will persist as the vanguard of the Civil Rights Movement.

"Black politics" is defined as "that newly established, still emerging body-politic that is committed to precluding the fulfillment of racist national and international policy." Not all Black politicians are representative of the institution of Black politics. It is those who are engaged in making fundamental alterations in power relationships and, concurrently, in the distribution of economic resources, who are most prone to be harassed. The ultimate motivation for the harassment, the report concludes, is the threat posed by the emergence of the Black political movement to the status quo. But whatever the impetus—conscious or unconscious racism, or protection of power and economic interests—the effect of harassment is to jeopardize the objectives of Black politics of justice and equality.

An association with the mounting attacks on affirmative action programs is unavoidable. Accordingly, the report includes discussion of the roles of former liberals, neoconservatives, white extremists, and white social scientists with regard to the prevailing public mood, the charges of "reverse discrimination," and the patterns of harassment of elected Black officials.

Furthermore, the report notes that evidence is surfacing suggesting that the harassment is not restricted to elected officials, but extends to Black appointed officials and to Black professionals. Indeed, it appears to extend to Black leadership generally, the obvious case in point being U.N. Ambassador Andrew Young.

The confluence of harassment of Black leadership, charges of "reverse discrimination," and the horrendous unemployment rates in the Black community, asserts the report, constitute a crisis situation and an ominous threat to advancement of human rights in this nation.

With the objective of precluding regression in the arena of human rights, the report reviews briefly the historical struggle by Blacks to achieve equality and the ob-

stacles that have been encountered. It then summarizes the character and effectiveness of the harassment occurring today, the context in which it occurs, defenses against harassment, and prospects for the future. Discussion is included of the various issues and entities involved in the harassment. The report concludes with a series of recommendations for action directed toward various audiences—the Federal government, Black elected officials, the religious community, human rights workers and organizations, and the public at large.

ADDITIONAL INFORMATION

The National Association of Human Rights Workers is a thirty-year-old, non-profit, tax exempt organization whose membership consists of professional and lay persons engaged in human rights activity. The Committee on the Status of Minority Elected Officials was established by NAHRW in October 1975 for the purpose of addressing the issue of harassment of Black and other minority elected officials. The study was directed and the report prepared by Mary R. Warner, Committee Chairperson.

"BLACK PROGRESS" MYTH AND GHETTO REALITY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. CONYERS. Mr. Speaker, the Washington Star and the Washington Post in the past few days have been reporting conflicting versions of the status of negotiations between Congressman HAWKINS and Senator HUMPHREY with the Carter administration on H.R. 50, the Full Employment and Balanced Growth Act. Somehow the Star reporter, Ron Sarro, was given the impression "by one of the negotiators" that a "new version" of the Hawkins-Humphrey bill seeks to reduce unemployment to 4.75 percent 3 years after the legislation is enacted. The 4.75 percent unemployment rate represents the goal that the Carter administration committed itself to early this year in connection with launching its economic stimulus program.

The Hawkins-Humphrey bill introduced during the last Congress called for reducing the national unemployment rate to 3 percent within 4 years. Unless congressional negotiators have made fundamental concessions on the unemployment goal, there is no reason to believe that the two sides are much closer today than they were 6 months ago or a month ago when the President instructed his top domestic policy staff to work out an agreement on H.R. 50 with HAWKINS, HUMPHREY, and their staffs.

The negotiations thus far point up the fact that the Carter administration is not prepared to take major new initiatives to remedy the disastrous unemployment situation in this country, especially among blacks. There are more than 1 million back adults unemployed, one-quarter of whom are married and supporting families—or trying to support them. This figure is more than 50 percent higher than 3 years ago. The real level of black teenage unemployment exceeds 60 percent. Almost 30 percent of "discouraged workers" are black—those who have given up looking for work because job seeking has proven futile.

In addition, blacks comprise one-fifth of the part-time workers who actually want full time work. If discouraged workers and involuntary part-time workers are counted as unemployed, the real rate of black unemployment is well above 20 percent. Against this background, protracted dickering about unemployment targets, essentially for political reasons, and what constitutes "last resort" jobs is a form of cruel and unusual punishment on a mass scale that has to raise very serious questions about the President's commitment to human rights in this country.

The blackout in New York brought about the sudden rediscovery of the ghettos in America and yet another sanctimonious outpouring of unemployment statistics and sociological pontificating. But that is over with now except as a metaphor for economic disaster among black Americans. Vernon Jordan's speech at the National Urban League Conference in Washington this summer tore the lid off of the administration's ignoring the black unemployment crisis in this country. The Carter administration would prefer to view Vernon Jordan's remarks as a momentary aberration. By now the Vernon Jordan affair has more or less blown over. President Carter visited the South Bronx recently and was appalled by what he saw. He had visited the South Bronx once before, during the campaign, and perhaps the second visit made more of an impression on him. The President talked about building "recreation institutions" if housing construction is not feasible in the South Bronx, and not once did he mention the word "jobs." With more than half of the South Bronx's population unemployed, this could hardly be called an oversight. A week later, the President reiterated that his energy program is still the first priority of his administration.

The fact that more than a million blacks in 25 cities form an underclass, with 4 out of 10 never having the opportunity to experience full-time work, has been lost on the President. These blacks will have 2 to 3 million children who are destined to form the next generation of the urban underclass—the next black generation declared surplus and expendable. In these same inner city areas, murder is the greatest cause of death for black males 16 to 44 years of age. And thus the American dream becomes the ghetto nightmare. The legacy of slavery and racism is alive and well in America—built right into the American system of distributing economic rewards and political punishments.

Joel Dreyfuss, formerly a reporter for the New York Post and the Washington Post, in an article in the Progressive (November 1977), has captured the plight of black Americans in its full political context. This fine article deserves to be read by my colleagues in Congress and by a much larger audience:

"BLACK PROGRESS" MYTH AND GHETTO REALITY

It took a power blackout and the looting of New York City for America to rediscover its ghettos. The sense of *deja vu* was strong, a replay of the shock and surprise of the mid-1960s: reporters standing nervously on the streets of Harlem and Bedford-Stuyvesant, reciting the indices of crime, poverty, and unemployment; black spokesmen making the headlines again; sociologists pontificating on cue once again.

Just like the time before, it took a massive dose of urban violence to draw attention to the underclass, to make America realize that the relative urban peace of the last few years has been a fragile truce. While a number of social critics scoffed at "root causes" as an apology for the looters, they were forced to concede that although the times have changed, the grievances remain the same.

What made New York's long night of July 13 even more frightening was the realization that alongside the opportunists were members of a new generation of slum dwellers: young, tough, wild youths whose lawlessness did not begin or end with the blackout.

Ten years ago, President Johnson appointed his National Advisory Commission on Civil Disorder, a group of prominent Americans who would warn that America was "moving toward two societies—one black, one white—separate and unequal." Their prophecy has become fact, but neither class is completely black or completely white. Many educated middle-class blacks have moved into the mainstream, but a large number—perhaps a majority—have not benefited from the civil rights movement. They are still poor and continue to live in Harlem, Watts, the South Bronx, and Detroit's inner core.

Most of the indices of poverty, illegitimacy, unemployment, and drug abuse that were a national scandal in the 1960s are worse now. Even those blacks who are considered successful, mainly because they have jobs, are losing ground to their white counterparts. The Labor Department reports a growing gap between white and black income, with the wages of white workers increasing twice as rapidly as those of blacks.

Such bleak statistics could be interpreted as the legacy of another era were it not for the presence of the young. Half the black population is less than twenty-four years old, and for most inner-city youths the future promises little. Ten years ago, unemployment among young blacks was between 35 and 50 percent, a figure that has not changed substantially since that time. A new generation is moving quickly toward a repetition of the old cycle of poverty and crime.

Crime is the greatest urban concern of our time, and young blacks play a major role in that phenomenon. According to the FBI, half of those arrested for violent crimes are under the age of eighteen. Almost 50 percent of these juveniles are black. While the population of New York City has declined since 1950, the number of youths under sixteen arrested is almost ten times what it was a quarter century ago. One writer has called young blacks an "endangered species" and warned that an entire generation of black inner-city youths could be lost to lawlessness, violence, and unemployment.

Blacks have long been aware of the ease with which racially identifiable problems can be made to serve racist ends, so discussions of the problem have been subdued. But the realization that blacks are the most frequent victims of the urban crime wave has led to loud condemnation of young black criminals by black groups. A number of states have recently passed laws lowering the age for treating juvenile criminals as adults, and there has been little protest from black legislators or community groups.

One economist estimates that a million young blacks in twenty-five major cities form an underclass that simply has no future in America. Most of those who commit violent crimes, robberies, and muggings come from this underclass: they find themselves classified as expendables by a society that also wants them to behave.

Jay is an eighteen-year-old Detroit high school dropout who is trying to make a future for himself against the odds. He has completed a Chrysler Corp. training program for the hard-core unemployed, but the course did not provide a job. "I was in the gangs from the time I was twelve," he says. "I did everything. I broke into houses, holdups, snatching purses. It was something to do. I used to go to the recreation centers and play basketball, but after a while you get bored with it."

Jay's parents came from the South and settled in Detroit's East Side, where his father held a series of intermittent jobs. Jay joined a street gang. "I was willing to do anything for the gang, anything. I was willing to kill for them." He shakes his head now, acknowledging the foolhardness of his commitments a few years ago. "Everybody belonged. It was protection. It was something to do together."

"But when my father died I was fifteen. I figured I had to do something for my life. I dropped out of school last year and went to Chrysler. Now I'm looking for a job." Jay is one unit in a mass of statistics. But he is also flesh and blood, an articulate, affable, and open youth who understands the possibilities. "I always knew what was right or wrong," says Jay of his criminal past, "but I did it anyway."

Jay is luckier than most of his friends. He has no drug habit. He has never been in jail, and he has renounced the lifestyle of his friends, who play at being men in communities where there are few men to imitate or admire. The greatest cause of death among the young men of Jay's generation is murder. Those who symbolize success in Detroit's East Side, or Harlem, or any other ghetto are the pimps and hustlers. They have a piece of the American dream which the Jays of the ghetto still want. Ask any of them what they want and the answer is the same. "Money. I want a nice car, clothes, a job, you know." The only problem is how to come by these things.

I have watched a group of young toughs work a football game in San Francisco. They move through the milling mass of spectators, dressed for work in sneakers and old clothes. They open pocketbooks expertly, lift wallets without breaking stride. One of them stops a few feet from me to riffle a billfold. He looks up and sees me watching. He turns his attention back to the wallet without alarm or concern. His cold, disinterested look makes me aware that there is no kinship of race here, no concern about what I think, no fear of what I might do. We are more than generations apart. The door to the mainstream has opened a crack for blacks of my generation who had the background and the preparation, but another door has been slammed shut.

One of the great victories of the civil rights movement—the right to live where one choses—has sealed the fate of most black communities. The inner city has become the exclusive preserve of those who cannot afford to leave. It remains the domain of the losers: the old, the poor, the blacks who couldn't make it out. Until the late 1960s, all aspects of black life were contained in the black community. There had always been the pimps and hustlers and criminals, but there were also the doctors and lawyers and shopkeepers, the postmen and Pullman porters who made up the "black middle class" even if they didn't have the money that went with the status.

They lived in the ghettos and they were in contact with blacks at all economic and social levels. But when opportunities opened up in the 1960s, they followed the population trends out of the inner cities, into neighborhoods that had been exclusively white and into the suburbs that became the new evidence of success.

Jim Boyce, an urban sociologist at the Merrill-Palmer Institute, a child development center in Detroit, believes the breakdown of black communities has severely damaged inner-city blacks. "What has been neglected," says Boyce, "is the impact of this dislocation on youths in these communities. They lose the sense of the past and they lose support of the family—and they need both so badly." Boyce also believes that the political rhetoric of the 1960s was harmful to young blacks.

The irony in all this is that even the role of the black middle class is not secure, despite much propaganda to the contrary. Richard Scammon and Benjamin Wattenberg launched the campaign to redefine black success in 1973 in Commentary. They accused black leaders of covering up the fact that the majority of blacks had moved into the middle class—a class defined in terms that would not apply to whites and created by adroit statistical manipulation. Although other economists devastated their contentions, the new definition of Black America had been set.

Time magazine followed with a cover story on the black middle class and, in lemming-like fashion, so did the rest of the media establishment. CBS News went so far as to define a family of four living on $8,000 as "middle class." The attraction of the black middle-class concept was obvious. It allowed America to say the racial problem had been solved. Blacks were making it, as the television commercials, magazines, and news stories implied. We could move on to the next social issue without looking back—and without paying any attention to the poor. After all, the belief that the poor are somehow responsible for their fate has long been an important pillar of American mythology.

But disturbing statistics emerged in the 1970s. The income gap between white and black was getting wider. The number of blacks at major colleges was declining after a peak in 1971. Any of these figures should have prompted a hard look at black progress, but America wasn't interested. The impression was that blacks were, if anything, getting too much. Stories about reverse discrimination suits became the major "racial" story. The Supreme Court sidestepped Marco Defunis, but this year decided to hear Bakke. The idea that white males were the most oppressed group when it came to employment caught on, and we began to see and hear repeated references to that fact.

A recent report by the Equal Employment Opportunity Commission (EEOC) provides some startlingly contrary facts. The 1977 study, "Black Experiences vs. Black Expectations," reveals that between 1969 and 1974, the number of blacks listed as officials and managers in reports to the commission rose from 1.4 to 2.9 per cent. That leaves 97 per cent of jobs in those categories to whites. During that same five-year period, the number of black professionals and technicians increased by one percentage point. Says the report, "Black professional employment in professional jobs has almost stabilized since the employment gap did not materially change between 1969 and 1974."

The EEOC report also notes that the "earnings of whites increased faster than those of blacks" in those white-collar job categories. This reflects the impression shared by many black professionals that resistance to blacks at the professional level has markedly increased in recent years. Such resistance is best reflected in university faculties, who have fought a guerrilla war against the integration of their ivied bastions with a fervor that would have been scandalous in the corporate world.

During his successful battle for tenure at the University of California at Berkeley, black sociologist Harry Edwards obtained some revealing statistics about employment practices on the Berkeley campus: He found that only thirteen of the university's 1,408 tenured faculty were black; that 63 per cent of whites obtained tenure, but only 23 per cent of blacks; that black undergraduate enrollment has dropped by half in five years and will drop to 1963 levels next year.

Universities are better protected than other industries because they can invoke "academic standards," but little effort has been made to find out just how much enthusiasm they are putting into changing their ethnic makeup. Although the University of California's chancellor overruled a faculty committee to grant Edwards tenure, no attempt has been made to explain why no other black instructor was hired by the sociology department during the six years Edwards was in the department. If Edwards had been dismissed, it would have been another five years before the next black instructor became eligible for tenure.

The greatest obstacle for blacks is the awareness among whites that opportunities in America are limited and growing more scarce. Our professional schools can no longer accommodate all those who want to—and could—become doctors, lawyers, and educators. There are not enough jobs for Ph.D.s, yet our universities are full of optimists. The American dream of home ownership is slipping away from all but the most affluent, and at the core of all our insecurities is the unarticulated fear that, at some point, there may not be room for all who want to belong to the middle class.

But our myths and traditions die hard. Vietnam showed us we were no longer invincible in war, but we still cling to the idea that all our domestic problems can be solved. The Japanese and Arabs have exposed many of us to our first taste of economic subjugation—an uncomfortable condition we have, in the past, imposed on most of the world.

Throughout history, man has modified his myths to bring rationality to his environment. In our time, political ideology has usurped the role of religion. The neoconservatives have been most active in providing a theology for our new world of limits. They would validate the status quo by denying the aspirations of blacks, the poor, and the so-called Third World, because these aspirations call for a new economic order. To deny the validity of such claims one has to deny the history of oppression and exploitation.

That was the tactic of Daniel Moynihan in his assault on Third World nations at the United Nations. Reaction to the television program Roots followed the same lines: The defense against the horrors of racism and slavery was that they ended 100 years ago and that whites, therefore, need feel no guilt.

In the last decade, a number of scholars have debunked the theory of the slave legacy of pathology in black communities. They have pointed to the real problem: systematic discrimination and exclusion from educational opportunities, labor unions, industrial employment, and other facets of American life in this century. Some of the people who practiced, condoned, and enforced discrimination during the last twenty years still occupy positions of power in America. Because our country has refused to face up to

its racial attitudes, we have little knowledge of the degree of change that has taken place in the past two decades. A CBS News poll found in 1974 that the majority of Americans believed blacks to be at the bottom levels of our society because they didn't work hard enough.

Blaming the victim has always been in vogue, but it takes on new significance when we must divide a shrinking American pie. If there isn't enough for everybody, who will benefit from limited opportunities? Naturally, the middle and upper classes want to perpetuate themselves; after all, the American ideal is to pass the gains you have made on to your children.

For the first time, rich and poor blacks have fallen out of touch. "They" suddenly has the same meaning to well off blacks as it does to the white middle class. Black parents send their children to private schools for the same reasons that whites do: because they believe their children will get a better education. When Atlanta's school system was ordered to desegregate, black middle-class parents engineered a plan that involved limited busing and black administrative control of the school system. Just like their white counterparts, blacks oppose low-income housing and drug programs in their neighborhoods because they fear property values will decline.

In the past, the black middle class provided leadership to the black poor because they shared common grievances. Now, the struggle against the subtleties of corporate and intellectual racism calls for quite different tactics from those appropriate to a struggle for jobs, decent schools, and personal safety. The black organizations which served as a unifying force in the civil rights era have been decimated by assassination, government manipulation, and ideological disputes. The NAACP and the Urban League depended on white support for their legislative and social programs; when whites turned their attention to Vietnam, then Watergate, then feminism, these organizations were seriously weakened. The Southern Christian Leadership Conference foundered after the death of Martin Luther King Jr. not because his successors were ineffective, but because America's concern had shifted elsewhere.

A minority movement, short of waging war, needs support from some segments of the majority to be effective. The mass media, for example, carried the message from blacks and even "created" black leaders. Once the media stopped performing this role, black leaders ceased to exist, for blacks as well as whites, because we had no alternative media with enough impact. The old black institutions—the newspapers, radio, churches, neighborhoods—had been weakened by integration. The news was one flagrant example. The mass media integrated in the 1960s and asked black journalists to provide a "black perspective." In the 1970s, that role is superfluous, and there is little coverage of the normal aspects of black life or the struggle for equality in the day-to-day routine of American media.

Television and films have returned to the old, comfortable stereotypes of blacks as servants, pimps, hustlers, and prostitutes. Few blacks are on the screen in our most popular films—*Annie Hall, Jaws, Star Wars*. Even *Rocky* sets up a cardboard black villain to be the victim of the white American hero.

A look at The New York Times, the New York Review of Books, the slick magazines, and the book publishing industry ("Roots" notwithstanding) shows that blacks have hardly penetrated the American psyche. White intellectuals have turned to "broader" (read: white) issues. We are not only visible but mute. Few blacks get an opportunity to share their perspective on these "broader" issues with their white colleagues. One example is the outrage at Andy Young's commitments on Africa: His perspective reflects a conservative black point of view on world affairs, it is new only to those whites who have stopped talking to blacks about issues.

Because there are no spokesmen for the black poor, their grievances are left outside the national consciousness. Even history is being rewritten to reduce the importance of the black presence in the 1960s. Morris Dickstein's recollections of the era in "Gates of Eden" relegates blacks to a posturing role with little understanding of the profound impact that they had on all aspects of American life. Stephen Birmingham's "Certain People," allegedly a study of the black upper class, portrays this group as pathetic imitators of the white majority; to call this book racist would be the mildest of criticisms and pointless. What is important is that a respectable publishing firm chooses to provide a forum to a "scholar of black history" who tells us that blacks have fewer children because they don't want to be reminded of being black.

The black middle class is floundering, but not because it is aping white attitudes or hating itself. Because blacks no longer have the "moral" impact they had in the 1960s, their ability to change the system is severely limited. Vernon Jordan has been warning about neglect of racial issues since 1971, but such comments were not worth frontpage coverage until the looting. New York's night of benign violence had the same impact on news of black teen-age unemployment. The sudden concern would make us forget that the figures have remained virtually constant for a decade.

Much black energy has been expended in futile efforts to raise national concern, but the new national mood on race has discouraged such efforts. The dream of the 1960s was to achieve integration, to have a voice and a role in national affairs, to be part of the larger community at all levels. But many blacks underestimated the resistance and the resiliency of the system. Blacks who went into government, business, and other fields found themselves absorbed with little opportunity to have their views, their thoughts, and their ideas affect the system they had fought so long to enter. Those who insisted on their own views and vision were labeled troublemakers, incompetents, and militants, and soon found themselves outside. Understandably, many blacks opted for the more modest goals of personal advancement and personal satisfaction—just like their white contemporaries.

But a decision based on the bitter reality of powerlessness was also a decision to abandon concern for the black poor. It leaves the poor without leaders and without ideology. They move from one generation to the next on welfare, from one slum to another, raising children who will be prepared for life in the underclass by schools that no longer pretend to teach. Four out of ten young black and brown people in the ghettos will never have a job that provides them with a livelihood or enables them to support a family. Those are the human dimension of a teenage unemployment rate of almost 40 per cent.

The great political abyss of our time is the lack of real political alternatives in America, and the resulting inability to make changes in the present economic system. There is no political Left and no true radical movement. Though the sins of American democracy have fallen most heavily on blacks and the poor, radical political movements among these groups are limited to small groups of intellectuals and professionals.

In the Carter era, the liberal tinkerers of the 1960s have been discredited by the consensus of opinion that the War on Poverty didn't work. Yet most of the economic gains by blacks took place during that era. The shift to conservative economic policy reflects the increasingly monolithic tone of ideology at the political level. With each election, it becomes more difficult to tell the difference between our major political candidates. One result is that a majority of Americans have stopped participating in the political process. For minority groups which already possess little political clout, participation in this trend could be politically suicidal.

A decade ago, most whites understood the violence of the urban riots because there was a parallel political message: Blacks would no longer accept second-class status. Now we have progressed to a point where lawlessness occurs on a broad scale without political content, without anger, without purpose other than personal gratification. Why are we so surprised that the poor have adopted the ends of the affluent majority? While the advertisers continue to tell us all of the luxuries mandated by the good life, can we expect the poor to resist the means of acquiring these goods?

Young blacks and Puerto Ricans, stamped as surplus in a land of plenty, have formed their own societies, gangs, and clubs with their own values and standards of behavior. Some of these values are protective, some are destructive, many are criminal. But the dreams of the poor are still the American dream: the good life, the big car, nice clothes, money.

The great miracle in the ghetto is that young people still overcome the obstacles, still learn despite the best efforts of the schools, still dream despite the odds. It is astonishing that so few young people are willing to commit crimes when they clearly see the true dimensions of their future. Yet, the majority of inner-city young people are law-abiding, hopeful, and patient. But no one leads them, and if they were ever to become destructive, there would be no one to tell them to stop.

The night of July 13, 1977 was frightening because we saw people act against all conventions of law and decency. But what should alarm us more is the slumbering monster among us: a group of people declared surplus by our society who have freed themselves of the rules of that society. The degree of lawlessness in this country goes far deeper than stolen television sets and burned-out storefronts. It calls for more profound solutions than prison terms for those few looters unlucky enough to be caught, or token job programs aimed at pacification.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 20, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 21

8:00 a.m.
Finance
Health Subcommittee
To resume hearings on S. 1391 and 1470, hospital cost containment bills, and H.R. 8423, to improve Medicare administration and operation of coverage for patients suffering from kidney failure.
1114 Dirksen Building

9:00 a.m.
Armed Services
Arms Control Subcommittee
To resume closed hearings to receive testimony from Secretary of State Vance on the current status of the SALT II negotiations.
S-407, Capitol

Select Indian Affairs
To hold hearings on S.J. Res. 86, to extinguish title, if any, claimed by the Mashpee Tribe to property presently occupied by homeowners in Mashpee, Massachusetts.
6202 Dirksen Building

9:30 a.m.
Judiciary
Criminal Laws and Procedures
To hold hearings on S. 1487, to eliminate racketeering in the sale and distribution of cigarettes.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

Finance
To resume consideration of the proposed National Energy Tax Act (as embodied in H.R. 8444), and proposals affecting Social Security financing.
2221 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
Until noon 4232 Dirksen Building

2:00 p.m.
Finance
To hold hearings on proposals to establish waterway user charges and to replace locks and dam 26, Alton, Illinois. (embodied in H.R. 8309).
2221 Dirksen Building

OCTOBER 25

9:00 a.m.
Energy and Natural Resources
To resume hearings on the proposed Alaska natural gas pipeline route.
Room to be announced.

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume mark up of legislation proposing simplification of the truth in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

Judiciary
To mark up S. 1437, to codify, revise, and reform the Federal criminal laws.
S-126, Capitol

OCTOBER 26

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To consider S. 1874, to allow consumers and other parties who have dealt directly with an antitrust violator to recover their damages under the antitrust laws.
1224 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on the nomination of Tyrone Brown, of the District of Columbia, to be a Member of the Federal Communications Commission.
5110 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

Judiciary
To continue markup of S. 1437, to codify, revise, and reform the Federal criminal laws.
S-126, Capitol

10:15 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To hold oversight hearings on ICC's price regulation in the motor common carrier industry.
1224 Dirksen Building

OCTOBER 27

9:00 a.m.
Human Resources
To resume hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
4232 Dirksen Building

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To continue oversight hearings on ICC's price regulation in the motor common carrier industry.
1224 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

11:00 a.m.
*Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

OCTOBER 28

9:30 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

Judiciary
Criminal Laws and Procedures
To resume hearings on S. 2013, to require the additional labeling of explosive materials for the purpose of identification and detection.
6202 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

10:30 a.m.
Commerce, Science, and Transportation
To resume hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S.-flag vessels.
5110 Dirksen Building

OCTOBER 31

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1885, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 1

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 2

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

NOVEMBER 3

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 4

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 8

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

NOVEMBER 9

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building
Judiciary
Constitution Subcommittee
To hold hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2226 Dirksen Building

NOVEMBER 10

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building
Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 14

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 15

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 16

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 17

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 18

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 15

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the United Nations conference on science and technology for development in 1979.
Until 5:00 p.m. 5110 Dirksen Building

SENATE—*Thursday, October 20, 1977*

(Legislative day of Wednesday, October 19, 1977)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, in whose keeping are the destinies of men and nations, come upon our human and fallible minds with a power and wisdom higher than our own. As we labor in this Chamber, in committee rooms and offices, we beseech Thee to uphold us and guide us to the decisions which are right and good. Show us how to be wise stewards of the resources of nature which Thou hast given us.

May Thy presence so pervade our efforts that our work may be an offering to Thee. Overrule our mistakes, redeem our failures, and crown this day with the benediction of Thy peace.

We pray in the name of Him who was servant of all. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 20, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Wednesday, October 19, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I reserve my time for the moment.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I yield my time under the standing order to the distinguished Senator from Alaska, the minority whip.

Mr. STEVENS. Mr. President, there are two items.

TELEVISION ADVERTISING AIMED AT CHILDREN

Mr. STEVENS. I heard with interest the announcement that Michael Pertschuk, chairman of the Federal Trade Commission and former staff director of the Senate Commerce Committee, intends to take action dealing with the problem of using television advertising attractive to children for the purpose of selling products to adults. In my opinion, this kind of advertising is the most pernicious in America, and I hope that there will be firm bipartisan support for Chairman Pertschuk's efforts in this regard. I commend the chairman of the FTC and urge him to come forward with any legislative suggestions that might be needed in order to prevent further use of such television advertising in the future.

If there is one subject, more than any other, that has been brought to my attention by residents of Alaska as television expands into some of the small communities there, it is the complete and overwhelming reaction of parents against this type of advertising. Many of our communities are just now coming into the age of television, and they are now beginning to see the totality of what many of us have grown accustomed to in just a very brief period of time.

I think that the television advertisers must be put on notice that the Federal Government intends to use all its power to prevent the television advertising medium from utilizing the subconscious and conscious attitudes of children in order to sell products to adults.

ALASKA PUBLIC LANDS LEGISLATION

Mr. STEVENS. Mr. President, there is a heightening awareness throughout the country of the importance of Alaska to

the national economic security of America. The Senate will be called upon in the next 18 months to consider major pieces of legislation which deal with the future of vast amounts of Alaska public lands. It is possible that Congress might act without first obtaining a complete analysis and inventory of mineral, oil and gas, agricultural, and other resource potential contained within these lands. This would be a tragedy for both Alaska and the rest of the Nation, and as interest in the so-called Alaskan d–2 issue grows, more and more comment from the South 48 calls attention to this fact.

Additionally, more and more it is noted that the acreages dealt with are extremely vast and to enact such legislation would be simply to move too quickly and for no good reason. Over 90 percent of Alaska is and will remain in a state of de facto wilderness. No legislative action can alter the circumstances of nature. Consequently, to move in a wholesale fashion to place these lands in a wilderness classification without sufficient knowledge as to the opportunity costs lost through such a rush to judgment makes no sense.

Recently the concerns that many Americans now have regarding a precipitate decision on the Alaska d–2 lands issue were expressed in an article published in a bulletin entitled "The Voice of Business," which is issued by the Chamber of Commerce of the United States. I commend this article to the attention of the Members of the Senate, and ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SACRIFICES TO THE WILDERNESS IDOL

WASHINGTON.—You can imagine the outcry that would result if a group of private companies were caught conspiring to withhold from the American people major reserves of petroleum and natural gas, as well as other scarce resources.

Well, there is such a "conspiracy," but private enterprise has nothing to do with it. The plans are being cooked up by some members of Congress, in league with the more zealous elements of the environmental movement.

The idea is to "protect" vast stretches of Alaska by preventing any kind of economic use that might conceivably benefit a human being. The most extreme of the bills on the subject—H.R. 39, by Rep. Morris Udall (D-Ariz.)—would put a "Wilderness: No Trespassing" sign on 146 million acres of Alaska. That's an area equal to a 75-mile-wide strip of land across America from the Atlantic to the Pacific.

By some estimates, up to 40% of these lands have oil and gas potential. The restrictions in H.R. 39 could prevent the development of resources that might amount to as much as 26% of our domestic crude oil supply and 10% of our gas supply in the 1990–2000 period. That is, if these reserve estimates are correct, up to 2.5 million barrels of oil and 1.5 billion cubic feet of natural gas per day would be denied to energy-short consumers. Both fuels together are equivalent to 3.5 million barrels of oil per day, or 40% of current U.S. consumption, which is more energy than is supposed to be saved by the entire Carter Administration National Energy Plan.

Nor are oil and gas the only valuable resources likely to be affected. Alaska is also rich in timber, coal, iron ore, copper, platinum, lead, mercury, nickel, phosphate rock and titanium.

Blocking the full development of these American resources would further aggravate two problems that are already serious: Rising prices and growing dependence on foreign supplies.

The unreasonable extent of H.R. 39 prompted an Administration counterproposal, presented to Congress in mid-September by Interior Secretary Cecil Andrus. This plan would withdraw 92 million acres from use, rather than 146 million. Its effect on mineral development would be proportionally smaller, although 92 million acres is still a lot of acres.

A third proposal has been developed by Sen. Ted Stevens (R-Alaska) and the States governor, Jay Hammond. It is by far the most sensible of the three.

Under the Stevens plan, 25 million acres would be placed in protected categories. A new designation would be created for another 57 million acres. Natural resources on these lands could be developed, but only under the joint supervision of the Federal Government and a special Alaska Land Classification Commission. These authorities would insure that no permanent environmental damage results from mining or other extractive activity.

I am not prepared to endorse any of this legislation without reservation. But I certainly favor the principle embodied in the Stevens bill: It is possible to safeguard the environment adequately without denying ourselves needed resources.

Once the drilling rig is removed, an oil or gas well is practically invisible. Wilderness is not "destroyed" by the presence of these activities, when they are carried on with a proper concern for the environment—and it is certainly within the power of the government to guarantee that.

To insist that wilderness be preserved unchanged forever, regardless of our other needs, is an elitist attitude best suited to those who can afford to vacation in Alaska, and who don't have to worry much about the size of their heating bill.

Mr. STEVENS. I thank the majority leader.

Mr. BAKER. The minority leader. I hope the future majority leader.

Mr. ROBERT C. BYRD. I ask that that be stricken from the RECORD.

[Laughter.]

Mr. ROBERT C. BYRD. Mr. President, I hope the RECORD will show that there is a lot of laughter.

The ACTING PRESIDENT pro tempore. So ordered.

Mr. BAKER. And that there was more on that side than this side.

Mr. ROBERT C. BYRD. Naturally. Mr. President, I yield back the remainder of my time.

Mr. BAKER. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

THE PANAMA CANAL TREATIES NO. 18

Mr. ALLEN. Mr. President, on several occasions I have brought to the attention of the Senate the various devices and schemes proposed by our negotiators to deliver cash to the Panamanian dictator without the necessity of including those means and methods in the terms of the treaties and without the necessity of seeking, through the constitutional process, appropriations for such purposes in the form of legislation originating in the House of Representatives. In short, Mr. President, I have already previously and frequently expressed my own sense of outrage at the many and varied methods employed to circumvent the Constitution both with respect to appropriations and with respect to the right of the Senate to advise and consent to treaties without action by the House of Representatives providing for the disposition of the property of the United States, that is, the Canal Zone and the Panama Canal. But unfortunately, there is more to discover.

We have seen how soft loan agreements are proposed to be used to funnel sums to the Panamanian dictator; we have seen how the successor corporation to the Panama Canal Company would be pillaged by mandated payments to Panama; we have seen how commerce will be burdened by increased tolls levied to provide for loan repayment to the large international banks; we have seen how the present Panama Canal Company would be stripped of its most profitable assets, such as the Panama Canal Railroad and the Panama Canal refueling facilities, in order to provide ready cash direct to General Torrijos; we even have seen how U.S. taxpayers would be asked to pay $10 million per year to Panama for the privilege of being subjected to the oppression of the so-called legal system of the dictator—and certainly that is the height of irony, Mr. President, that upon our delivery up to Panama of U.S. territory and property, we would thereafter pay Panama to oppress our own 37,000 U.S. citizens now living in the Canal Zone.

Mr. President, we have seen all these things, and we have accepted the opinion of Nicolas Ardito Barletta, Panamanian Minister of Economic Planning, that the projected cash flow over the 23-year term of the Canal Treaty will be $2.262 billion in 1977 dollars. All this, Mr. President, without a single appropriation and in large measure without even Senate advice or consent.

You know, Mr. President, the principal check on the power of the executive branch, a check heretofore carefully and jealously guarded by the Congress, is the power to appropriate or, more properly, the power to refuse to appropriate from the Treasury.

I see the distinguished Senator from Idaho (Mr. CHURCH), the second-ranking majority member of the Foreign Relations Committee. He has been a strong advocate through the years of the Congress using the power to control the purse strings of the Nation to influence foreign policy. Unquestionably, the war in Vietnam was brought to a close because Congress refused to appropriate further the carrying on of that war. So we have power, which has been carefully and jealously guarded by the Congress, to appropriate, or, more appropriately, in this case, we should have the power to refuse to appropriate, from the Treasury.

The deliberate circumvention of Congress in forking over these vast sums to a reprehensible dictator is beyond the pale, cannot on any grounds be sup-

ported, and would certainly itself alone be grounds for defeat of any elected official who permitted the people of the United States to be plundered by the unthinking for the benefit of the unjust.

Mr. President, in our prior discussions of these rip-offs, we may have overlooked by accident an item amounting to some $319 million which our negotiators propose to, in effect, extract from American workers and American taxpayers. To be sure, in the grandiose schemes conceived down there at the Department of State, $319 million must look like a drop in the bucket. But frankly, Mr. President, it galls me that our negotiators must have figured we here in the Senate would not even notice this particular strategy.

Mr. President, the Panama Canal Company is a corporate entity run as a business and subject to the Corporation Control Act of 1950. At present, the unrecovered investment of the Company is $319 million. That is what the Canal Company owes the U.S. Treasury as the balance of the cost for building the canal.

This unrecovered investment is, in effect, a debt owed to the U.S. Treasury. Since the opening of the Panama Canal, this debt has produced over the years some $642,080,000 in interest payments from the Canal Company into the U.S. Treasury. Additionally, Mr. President, $40 million of the principal sum initially owed to the Treasury has also over the years been repaid. These payments of principal have occurred as follows: $10 million in 1955; $5 million in 1956; $10 million in 1960; $10 million in 1968; and $5 million in 1969. Annual interest payments have also been quite substantial, and in 1976, Mr. President, the Panama Canal Company paid to the Treasury $16,600,000 in interest on the present outstanding unpaid principal of $319 million.

So, Mr. President, the operator of the canal owes the U.S. Treasury $319 million. What we are doing under the treaties, is giving Panama this canal on which $319 million is still owed free from any indebtedness whatsoever, giving them free and clear title, not requiring the $319 million to be paid.

This is a business, Mr. President, a business which has a liability, a business which has over the years reduced its debt and has paid interest into the Treasury for the benefit of U.S. taxpayers.

Certainly, if Panama should take over the canal under these treaties, why should they not be required to pay off the mortgage, so to speak? If a person has a house on which there is a mortgage and that person gives the house to someone, would it not be proper for them to pay off the existing mortgage on the house rather than to make a gift of the house free and clear?

That is what we are being called upon to do. The Canal Company, the operator of the canal, owes the U.S. Treasury, owes the American people, $319 million. But as we give the canal to them under the treaties, we do not require this $319 million to be paid.

The operation of the Panama Canal is a profitable business. They are able to keep up their interest payments; they are able to make their principal payments. If we give the canal to them, why not give it to them subject to this indebtedness so that the U.S. Treasury could at lease get back a portion of the cost of the canal?

Do not give it to them free and clear; give it to them subject to existing mortgage, shall we say.

But let us look, Mr. President, at what our negotiators have worked out with the Panamanians. Bear in mind, Mr. President, that our negotiators are proposing to give away the Panama Canal Zone, the Panama Canal, all the plant and facilities belonging to the Panama Canal Company—our negotiators are planning to more or less give away the whole operation lock, stock and barrel. Yet, Mr. President, as part of this process and in addition to the $2.262 billion in 1977 dollars already slated for delivery to the dictator, our negotiators have worked out a way to stick the American taxpayer with this $319 million debt. Our negotiators propose to set up an entirely new operating entity in Panama to carry out the present business being conducted by the Panama Canal Company. This new operating entity would be called the Panama Canal Commission. It is just a change of words, but they can start off owing no money and canceling this $319 million debt for this new company.

It would more or less spring to life upon implementation of these treaties, somewhat as Athena sprang from the head of Zeus. With no prior history and as a corporate entity unto itself, this new proposed Panama Canal Commission would get nearly all the assets of the Panama Canal but none of the liabilities.

If a person sells a business to somebody, it is sold subject to its indebtedness, or take account of the indebtedness into consideration on the price to be paid. But no price is to be paid here. It is going to be a free gift with the cancelation of the mortgage, in effect, which is now on the canal.

Of course, Mr. President, some of the assets of the Panama Canal Company would be ripped off right at the beginning and given directly to the Dictator, but the great bulk of the assets of the Panama Canal Company would be transferred to this new Panama Canal Commission; the $319 million debt, however, would remain a liability of the defunct Panama Canal Company.

It would not have any income or any assets, but they would owe the money. This debt would not be transferred to the operating company, the Panama Canal Commission.

Mr. President, there is no ambiguity about these provisions. They are very clear as to what is going to happen. This is certainly the case of a needed amendment to the treaties to at least provide that this new commission which is going to take over will assume this indebtedness of $319 million to the people of the United States.

So, really, the Panama Canal Company owes this money and it should be paid. It should be paid out of the revenue. They are making enough money to continue paying the interest and, gradually, to reduce the principal. That is not being required, though, in the treaty. I think that is certainly one basis for an amendment that I hope the Senate will adopt.

So they get the canal, Mr. President, they get the business, but they do not get the debt. The United States taxpayer—you know who he is, Mr. President. He is the man that always foots the bill; he is the man out there working on a dock trying to earn a living for his family; he is the man in a cornfield in Iowa working in the hot sun; he is the man in a steel mill in Youngstown, Ohio, sweating to produce steel so that other workers can assemble automobiles. And, Mr. President, he is the man that, every time the Department of State gets its fingers in the pie, has to pay. So the taxpayer is going to have to pay this $300 million and it is not going to come out of the revenues of the canal. They go to this new commission, which, in effect, is saying that they go to Panama.

And whom does he have to pay, Mr. President? In this case, he has to pay a repressive, petty gangster dictator. In this case, he has to pay an elitist gangster government which makes no effort on behalf of its own destitute people but which is perpetually preoccupied with the pursuit of individual personal profit by whatever means, apparently even illegal means resulting in the death and suffering of our own citizens in this country.

But I am digressing, Mr. President, from my purpose, because even though I find disgusting the suggestion that our Nation ought to give this gangster regime one of our most valuable national assets while, at the same time, paying to it billions in U.S. funds, my real purpose in speaking this morning is simply to raise the impropriety—as a matter of simple business ethics—my purpose is simply to raise the clear impropriety of delivering all of the assets of one company to another new company and thereafter saddling the stockholders of the old company with all the debts, all the liabilities, and none of the benefits.

But I do not suppose that fact ever occurred to anyone down there at the Department of State. I do not suppose they have given any thought as to what business the Panama Canal Company could go into to cover its $319 million debt to U.S. taxpayers. With no assets and no business to operate, it is going to be pretty rough to come up with that kind of money. It is going to take a real miracle worker just to come up with the annual interest of $16 million from a company with no income and no assets.

Obviously, Mr. President, the Panama Canal Company would be bankrupt if these treaties are ratified, and the owners of the Panama Canal Company, the people of the United States, would again be left holding the bag.

What did our negotiators obtain for this $319 million concession? What benefits are likely to accrue from saddling U.S. taxpayers with this unpaid liability? Frankly, Mr. President, I can find nothing whatsoever anywhere in the treaties to justify the assumption of this debt or of the payment to Panama of the other tremendous sums proposed to be paid. We have gained no concessions whatsoever from the Panamanians. We have gained no rights which we did not al-

ready possess under the existing treaty structure. Our negotiators have given in on every issue and our negotiators have even proposed that we assume the debts of the potentially profitable business we are presenting to Panama.

These treaties lack mutuality of contract; these treaties are unsupported by consideration; these treaties are, as they have been identified from the outset, a simple giveaway. One almost questions the necessity for having a treaty at all if these are the sort of proposals being advanced by the Department of State. It is all give and absolutely no take.

There is one final footnote to this particular deception which I have made the subject of my speech this morning. Inasmuch as the new Panama Canal Commission would be free from debt and would possess perhaps the most valuable commercial asset in the world, the Panama Canal, would we not very soon see demands made by our Panamanian partners that the newly acquired assets of the Panama Canal Commission be pledged as collateral for loans from the U.S. Treasury or from the always-accommodating international commercial banks, using international bond sales or other devices designed to raise capital to feed the appetite for profit of the Panamanian dictatorship and international banks.

Mr. President, in my judgment based on my study of Panama's record in the international capital market, we would expect to see dictator Torrijos knocking on the door of the large banks almost immediately, if he has not already pledged the revenues of our Canal to secure new loans to cover the massive debt owed by his bankrupt regime. In this process, Mr. President, we can expect neither the bankruptcy of dictator Torrijos nor the bankruptcy of the international banks, but we could expect further demands on the U.S. Treasury to cover the spendthrift activities of both.

HAWAIIAN NATIVE CLAIMS SETTLEMENT COMMISSION

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared with the minority. I ask unanimous consent that the Senate proceed to the consideration of calendar No. 458, a joint resolution establishing the Hawaiian Native Claims Settlement Commission.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The Senate proceeded to consider the joint resolution (S.J. Res. 4) establishing the Hawaiian Native Claims Settlement Study Commission, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike all after the resolving clause and insert the following:

That the Congress hereby declares that a wrong has been committed against the Aboriginal Hawaiians which the United States is obligated to endeavor to remedy; that no wrong such as this committed eighty-four years ago in far different circumstances to a specific people few of whom survive today can be fully rectified in this or future Congresses; that the Congress, however, is desirous of determining whether a suitable remedy for such wrong can be fashioned; and that the Congress wishes to establish a commission of Aboriginal Hawaiians and other citizens to advise it on all matters pertaining to the best manner in which to provide such remedy.

ABORIGINAL HAWAIIAN CLAIMS SETTLEMENT STUDY COMMISSION

SEC. 2. (a) There is hereby established the Aboriginal Hawaiian Claims Settlement Study Commission (hereinafter referred to as the "Commission").

(b) (1) The Commission shall be composed of fifteen members appointed by the President, of whom eight shall be from a list of not less than eighteen persons submitted to the President by the Governor of Hawaii. No less than nine of the members shall be of the blood of Aboriginal Hawaiians who inhabited the Hawaiian Islands prior to 1778 (hereinafter "Aboriginal blood"), three of whom shall be of one-half degree or more of Aboriginal blood, three of whom shall be of one-quarter or more degree of Aboriginal blood, and three of whom shall be of any degree of Aboriginal blood. Each of the islands of Hawaii, Kauai, Lanai, Maui, Molokia, and Oahu shall be represented on the Commission by at least one member of Aboriginal blood who is an inhabitant thereof, and all persons of any degree of Aboriginal blood who are not residents of the State of Hawaii shall be represented by a member of any degree of Aboriginal blood who is not a resident of the State of Hawaii. The President, prior to appointing the members of the Commission, and the Governor, prior to submitting recommendations for members, shall consult Aboriginal Hawaiian organizations and the Aboriginal Hawaiian community in each of the islands named in this paragraph (1).

(2) The Commission shall elect a Chairman and Vice Chairman from among its members.

(3) Eight members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings.

(4) Vacancies in the membership of the Commission shall not affect the powers of the remaining members to execute the functions of the Commission and shall be filled in the same manner as in the case of the original appointments.

(5) Each member of the Commission shall receive $100 for each day such member is engaged in the actual performance of duties vested in the Commission. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as shall be provided from time to time by regulations adopted by the Committee on House Administration of the United States House of Representatives.

(c) The first meeting of the Commission shall be called by the President within the sixty-calendar-day period following the date of approval of this resolution.

(d) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, a general counsel, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

(e) Each Federal department, agency, and instrumentality is authorized to furnish to the Commission such data, reports, information, and other resources as the Chairman of the Commission may request.

DUTIES OF THE COMMISSION

SEC. 3. The Commission shall—

(1) conduct a study of the culture, needs, and concerns of the Aboriginal Hawaiians; the nature of the wrong committed against, and the extent of the injuries to, the Aboriginal Hawaiians by reason of the actions set forth in the preamble of this resolution; and various means to remedy such wrong;

(2) hold such public hearings with public notice as it deems necessary to further such study, but not less than one hearing in each of the islands of Hawaii, Kauai, Lanai, Maui, Molokai, and Oahu in the State of Hawaii and at another site elsewhere in the United States where a substantial number of persons of Aboriginal blood resides;

(3) provide public information concerning the actions set forth in the preamble wherever possible in advance of public hearings and such other methods employed by the Commission to obtain public participation in the study;

(4) publish, within one year of enactment of this resolution, a draft report of the findings of the study and make said report available to appropriate Federal and State agencies, Aboriginal Hawaiian organizations, and the public;

(5) solicit written comment from such agencies and organizations and the public;

(6) consider such comments in preparing the final report of the findings of the study; and

(7) submit to the President and the Committee on Energy and Natural Resources of the Senate and Committee on Interior and Insular Affairs of the House of Representatives, within six months of the publication of the draft report, the final report of the findings of such study, such report to include all written comments on the draft report submitted to the Commission.

COMMISSION RECOMMENDATIONS

SEC. 4. (a) The report required by section 3 shall provide recommendations for a remedy. Such recommendations shall include—

(1) the distribution, expenditure, investment, or other use of funds as a component of any such remedy, including, where appropriate, innovative uses of the funds which will permit such moneys to be employed successively for the benefit of Aboriginal Hawaiians, such funds to be appropriated in equal increments over a period of years;

(2) the provision of land as a component of any such remedy through any method, including the surplusing of Federal land and amendments to the Hawaiian Homes Commission Act of 1920 (42 Stat. 109): Provided, That, should the surplusing of Federal lands be recommended as a component of any such remedy, the Commission shall propose a method or methods for resolving, whenever a tract of such land is offered, whether such tract shall be conveyed to the State under applicable law or the Aboriginal Hawaiians under a subsequent Act to provide for such remedy;

(3) such other recommendations concerning the components set forth in clauses (1) and (2) of this subsection as the Commission deems appropriate;

(4) the preservation and enhancement of Aboriginal Hawaiian culture and life styles and the education of Aboriginal Hawaiians as principal purposes of any such remedy;

(5) the blood quantum or other requirements for eligibility to receive the benefits of any remedy, and, if the Commission deems appropriate, to receive specific benefits or shares of benefits;

(6) the form or forms of organization best suited to receive, distribute, or administer the benefits of any remedy; and

(7) other matters concerning any such remedy, including, but not limited to, alienability and tax status of the benefits of any such remedy, provision of technical assistance to Aboriginal Hawaiians on the use of such benefits, and the reporting to the Federal Government and the Aboriginal Hawaiians of the disposition of such benefits.

(b) Any such recommendation shall, to the extent possible, be designed to assure that any such remedy—

(1) will be a final settlement of all claims of Aboriginal Hawaiians against the United States arising from the actions set forth in the preamble of this resolution;

(2) will be capable of prompt implementation with a minimum of litigation;

(3) will be in conformity with the real economic and social needs of the Aboriginal Hawaiians;

(4) is fashioned and will be implemented with the maximum participation of Aboriginal Hawaiians;

(5) will not create a wardship or trusteeship;

(6) will not diminish any right, privilege, or obligation of the Aboriginal Hawaiians as citizens of the United States or the State of Hawaii; and

(7) will not relieve, or diminish any obligation of the United States or the State of Hawaii to protect and promote the rights and welfare of Aboriginal Hawaiians as citizens of the United States or the State of Hawaii.

TERMINATION OF THE COMMISSION

SEC. 5. Except as provided in subsection (b) of section 7, upon the expiration of the sixty-day period following the submission of the report required by section 3, the Commission shall cease to exist.

SAVINGS CLAUSES

SEC. 6. No provision of this joint resolution shall be construed as—

(1) constituting a jurisdictional act, conferring jurisdiction to sue, or granting implied consent to Aboriginal Hawaiians to sue the United States or any of its officers with respect to claims arising from the actions set forth in the preamble of this resolution; or

(2) constituting a precedent for reopening, renegotiating, or legislating upon any past settlement involving land claims or other matters with any Native organization or any tribe, band, or identifiable group of American Indians.

AUTHORIZATION

SEC. 7. (a) There are hereby authorized to be appropriated for fiscal years 1979 and 1980 such sums as are necessary to carry out the provisions of this resolution. Until October 1, 1978, salaries and expenses of the Commission shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman. To the extent that any payments are made from the contingent fund of the Senate prior to the time appropriation is made, such payments shall be chargeable against the authorization provided herein.

(b) The Secretary of the Treasury shall reserve a reasonable portion of the funds appropriated pursuant to subsection (a) of this section for the purpose of providing payment for the transportation, subsistence, and reasonable expenses of the members of the Commission in testifying before the Congress with respect to their duties and activities while serving on the Commission or to such matters as may involve the findings of the study of the Commission after the expiration of the Commission pursuant to section 5.

Mr. MATSUNAGA. Mr. President, I thank the distinguished majority leader and the distinguished minority leader for their invaluable assistance and cooperation in making possible the early and expeditious consideration of Senate Joint Resolution 4 by this body. This bill is considered by a great many of the people of my State of Hawaii to be the most important proposal pending before the U.S. Congress. Senate Joint Resolution 4, which my senior colleague from Hawaii, Senator INOUYE, and I introduced early in the present session, addresses a truly grievous wrong committed against the original inhabitants of the Hawaiian Islands, the native Hawaiians, fully 84 years ago in 1893.

Prior to that year, the State of Hawaii had existed as the Kingdom of Hawaii beginning in 1795, when the islands were first unified under the rule of Kamehameha the Great—whose statue presently stands in Statuary Hall. However, in that year, the lawful Government of Hawaii, which had been in being for nearly 100 years, was overthrown by a group of non-Hawaiian residents, acting in concert with the U.S. Minister to Hawaii, who himself was acting without the authority of the U.S. Congress or President.

By this single blatant act, the lawfully constituted monarchy of Hawaii was dispossessed of those millions of acres of land which were owned either by the monarch, or by the Hawaiian Government in trust for the Hawaiian people. More importantly, as a result of this revolution, the Hawaiian people were dispossessed of their birthright, of their highly distinct culture, and effectively of control over their own destiny. It has been only recently that native Hawaiians have begun to reemerge with pride, from the intervening years of frustration and neglect, to rediscover their own roots and to commit themselves to the restoration of their own very special culture.

That the 1893 "revolution" resulted in what one Hawaiian historian has called the "ultimate dispossessing," and that in all likelihood it would not have occurred had it not been for the unauthorized actions of representatives of the United States, are historical conclusions not easily refuted. A brief review of the history will so indicate.

On January 14, 1893, a group of non-Hawaiian residents of Hawaii who desired the annexation of Hawaii to the United States organized the so-called "Committee of Safety," whose goal was the overthrow of the kingdom of Hawaii. Three days later, with the assurance of the U.S. Minister, John Stevens, that he would recognize a provisional government if it could show de facto control of affairs, and with the unauthorized presence of U.S. Marines at key locations in Honolulu, the committee compelled the reigning monarch of Hawaii, Queen Liliuokalani, to resign. She did so under protest and out of concern for her subjects, strongly believing that once the U.S. Government learned of the facts of her resignation, she would be reinstated. She never was.

A month later, in the closing days of the Harrison Presidency, a draft treaty proposing the annexation of Hawaii to the United States which had been worked out by representatives of the provisional government of Hawaii and of the United States was submitted to the U.S. Senate. However, incoming President Grover Cleveland, who had heard disquieting reports regarding the possible assistance of United States representatives and armed troops in the Hawaiian overthrow, withdrew the proposed treaty upon taking office. He assigned James Blount of Georgia, former chairman of the House Committee on Foreign Relations, the task of traveling to Hawaii as his special commissioner to study the circumstances of the so-called revolution and report back to him on what had actually transpired.

Blount's subsequent report was a condemning one. Based on it, Secretary of State Walter Q. Gresham advised the President that Minister Stevens had, in fact, aided the overthrow of the Hawaiian monarchy. He recommended that the treaty of annexation not be resubmitted to the Congress, and that the Hawaiian monarchy be restored.

President Cleveland's December 18, 1893 message to the Congress, based on the report of his special commissioner and Secretary of State, stands as the best evidence of our country's regrettable involvement in an incident which was the single greatest cause of the demise of the Hawaiian monarchy. The President's own words speak best:

> . . . by an act of war, committed with the participation of a diplomatic representative of the United States and without the authority of Congress, the government of a feeble, friendly and confiding people has been overthrown . . . a substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires that we endeavor to repair . . . the United States cannot fail to vindicate its sense of justice by an earnest effort to make all possible reparation . . .

In 1898, with the new Republic of Hawaii, supported by U.S. Armed Forces, firmly in place and with a new administration in Washington, the issue of the illegal overthrow of the Hawaiian monarchy took a back seat to the manifest destiny spirit of the times, and Hawaii was annexed. The provisions of the treaty only added further to the travesty of 5 years earlier. For under the treaty, the Republic of Hawaii ceded to the United States "the absolute fee and ownership of all public, government and crown lands . . . belonging to the government of the Hawaiian Islands, together with every right and appurtenance thereto appertaining." Thus, the former lands of the Hawaiian monarchy and of the people of Hawaii as vested in their government, taken by force in 1893, were obtained by the U.S. Government without any compensation to their rightful owners, the Hawaiian people. To this day, we have not heeded the urging of President Cleveland that this tremendous wrong, which has cost a people so dearly, be rectified.

Mr. President, the proposal which the Hawaii congressional delegation has submitted to the Congress for its consideration represents a first step toward the ultimate extension of justice to the native Hawaiian people. Senate Joint Resolution 4 and its companion measure, House Joint Resolution 526, sponsored by Hawaii's two U.S. Representatives, the Honorable CECIL HEFTEL and the

Honorable DANIEL K. AKAKA—the latter of whom is the first native Hawaiian voting Member of the U.S. Congress—propose two initial steps toward compliance with President Cleveland's exhortation. First, the bills provide for congressional recognition of the wrongs done the Hawaiian people in 1898 and subsequently, the obligation of the U.S. Government to endeavor to provide some remedy. Second, the bills propose the establishment of the aboriginal Hawaiian claims settlement study commission to conduct an exhaustive examination of the native claims issue, and to report back to Congress with recommendations for remedial action by the U.S. Government. The report of such a commission would be absolutely vital to what we trust will be an in depth consideration by Congress of reparatory legislation following its submission.

The proposal for the establishment of such a commission was first forwarded by Senator INOUYE in the 94th Congress. What was at the time the Senate Committee on Interior and Insular Affairs held extensive hearings on his bill (S.J. Res. 155) in Hawaii in February of last year. Subsequently, the committee reported the measure unanimously, but there was an insufficient amount of time remaining in the 94th Congress to move the proposal further.

During the present session, the pending measure and its companion measure, House Joint Resolution 526, were the subjects of joint hearings in Hawaii in July of this year by the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs. The hearings yielded many extremely valuable suggestions for improving the bills.

Subsequently, I incorporated several of the proposed amendments into an amendment in the nature of a substitute. On October 10 of this year, the Committee on Energy and Natural Resources uanimously approved my motion to report the bill, as amended to include the substitute, to the full Senate, with the recommendation that it be passed.

As reported, the major provisions of Senate Joint Resolution 4 are as follows:

Provides congressional recognition of the wrongs done native Hawaiians in 1893;

States Congress' intent that it desires to see whether a remedy can be fashioned;

Provides for the creation of the Aboriginal Hawaiian Claims Settlement Study Commission;

Provides that the composition of the Commission be as follows: 15 members, at least 9 of whom are to be native Hawaiian. Three of 50 percent or more native blood, three of 25 percent or more native blood, and three of any degree of native blood; each of the islands of Hawaii, Maui, Lanai, Molokai, Oahu, and Kauai is to be represented by a native Hawaiian resident; one native Hawaiian is to be a resident of an area of the United States other than Hawaii;

Provides that the Commission is to publish a draft report on its finding within 1 year after the date of enactment of the resolution, with a 6-month comment period to follow prior to submission of a final report to Congress;

Specifies that in the course of its investigation, the Commission is to hold at least one public hearing on each of the islands of Hawaii, Maui, Lanai, Molokai, Oahu, and Kauai, and at least one at a location in the United States outside of Hawaii where a substantial number of native Hawaiians reside; and

Specifies that the Commission shall conduct a public information effort in connection with its deliberations.

Mr. Chairman, native Hawaiians have waited too long for the wrongs committed against them to be redressed. The bill before the Senate today recognizes that after such a period of time has elapsed, those wrongs cannot be fully remedied. But it states that we have an obligation to try. Toward such an effort, it is essential that further information be gathered with regard to the nature of the wrong committed and the extent to which reparatory action might be undertaken by the U.S. Government. It is equally essential that the native Hawaiian be given a voice in this matter. The proposed Commission would be invaluable to this effort; its cost—estimated by the Congressional Budget Office at $850,000—minimal. On behalf of native Hawaiians and all of the people of the Aloha State, I ask the Senate's expeditious approval of this measure in the spirit of aloha, which the Hawaiians have made a gift to the world.

Mahalo nui loa.

Mr. INOUYE. Mr. President, I rise in support of Senate Joint Resolution 4, the Aboriginal Hawaiian Claims Settlement Study Commission. The establishment of this Commission is a matter of great interest to me personally and of great importance, not only to the Hawaiian people of my State but to all of the residents of our islands.

In 1971, the Congress passed the Alaskan Native Claims Settlement Act. The passage of that legislation and the settlement of the longstanding claims of the Alaskan Natives provided for in that legislation stimulated additional interest in the claims of the Aboriginal Hawaiians. For that reason, I requested a study by the Library of Congress comparing the Alaskan Native claims with those of the Hawaiians. While there were differences, the similarities were considerable and I became convinced that the Hawaiian people had a claim which deserved further examination. Pursuant to that Library of Congress study, I arranged meetings with various groups of Aboriginal Hawaiians in my State to discuss the matter of native land claims. The Aboriginal Hawaiians themselves organized to try to bring additional attention to their cause.

Draft legislation was prepared by the ALOHA Association, which was established as an umbrella association including representatives of many of the organizations of Native Hawaiians. That draft had much to recommend it and was introduced into the House of Representatives by Hawaii's two Representatives. I felt, however, that a proposal calling for specific reparations and establishing the vehicle through which those reparations would be conveyed to the Aboriginal Hawaiian claimants had no real chance of successful passage. Some interim step was essential if we were going to get serious attention by the Congress to the unmet obligation of the United States to the Hawaiian people. For this reason, I introduced legislation in the 94th Congress, Senate Joint Resolution 155, to establish a Commission composed of prestigious Hawaiians and non-Hawaiians who would study the problem further and make specific recommendations to the Congress. Hearings were held on Senate Joint Resolution 155 which were presided over by Senator J. BENNETT JOHNSTON.

Those hearings were most helpful in convincing not only Senator JOHNSTON but his colleagues on the Interior Committee that the claim of the Aboriginal Hawaiians was a valid one and that the establishment of a Commission to study the issue and to make recommendations to the Congress was a reasonable approach. That measure was reported out by the Senate Interior Committee in the closing weeks of the 94th Congress. Unfortunately, there was insufficient time for further favorable action, however.

With the beginning of the 95th Congress, Senate Joint Resolution 4 was introduced in the form in which it had been reported by the previous Congress and with the cosponsorship of my colleague, Senator MATSUNAGA. The fortunes of this legislation were further enhanced by the fact that Senator MATSUNAGA received assignment to the new Energy and Natural Resources Committee which retained jurisdiction over this legislation. Hearings were again held in Hawaii—joint hearings this time with the House—and with Senator ABOUREZK participating. Senate Joint Resolution 4 as reported from committee benefits greatly from changes incorporated in the measure as a result of the testimony provided in those hearings.

First, the membership on the Commission was changed from 11 to 15 members and the number of the Aboriginal Hawaiians to be appointed by the President upon recommendation by the Governor of Hawaii was increased from 6 to 8. Further, the measure provided that each of the Islands of Hawaii, Kauai, Lanai, Maui, Molokai, and Oahu shall be represented on the Commission by not less than one member. Additionally one member of the Commission of Aboriginal Hawaiian blood shall be named to represent those Hawaiians no longer living in the Hawaiian Islands.

The amended version of Senate Joint Resolution 4, as reported by the committee, provided further that the Commission shall hold public hearings in Hawaii to gather further information from the Hawaiian people in the process of their study and deliberations. A draft report shall be made public within 1 year of enactment of the resolution and the public shall then have 6 months for further comments on the report before a final report is submitted to the Congress for action.

I believe these are significant and helpful changes. I am hopeful that it will

result in a prestigious and broad-based Commission which can, within the time provided, come forth with recommendations to the Congress which will have the support not only of the Aboriginal Hawaiian people and all of the residents of Hawaii but which can command the respect of the Congress and spur the Congress to act to redress the legitimate grievances which have existed ever since 1893.

The congressional findings contained in Senate Joint Resolution 4 reaffirm a position taken by President Grover Cleveland in 1893 when, in a message to Congress, he denounced the actions by which the Government of the Kingdom of Hawaii was overthrown by a group of U.S. citizens with the support of the U.S. Minister. In denouncing that action, President Cleveland stated his belief that the United States had an obligation to "make all possible reparation" for the wrong which had been perpetrated. Queen Liliuokalani of the Kingdom of Hawaii made application for redress but such redress was not forthcoming and the United States instead moved to acquire ownership of the Hawaiian Islands which was finally consummated with the annexation of Hawaii in 1898. To this day, those wrongs have not been repaired.

While the wrongs which were committed can never be fully righted, substantial action can be taken, and I believe strongly such action should be taken, to redress the legitimate grievances of the Aboriginal Hawaiian people.

This resolution not only establishes the moral responsibility for the Federal Government to redress these grievances but establishes a Commission and imposes on that Commission duties to achieve that end. It will be the purpose of this Commission to conduct a study of the culture, needs, and concerns of Aboriginal Hawaiians including the extent and nature of the wrong committed against them as a result of the events of 1893 and possible means for remedying those wrongs. The resolution specifies that the Commission must consider: Utilization of any funds or lands awarded in a manner which benefits Aboriginal Hawaiians; means of preserving the Aboriginal Hawaiian life style; and means of providing for the education of these Native Hawaiians. Further, the Commission will be required to make recommendations relative to the blood quantum or other requirements for eligibility, the manner in which any recommended remedy is to be administered and such other matters as the Commission may deem desirable to be included in any remedy. To the extent possible, that remedy should be a final settlement of Aboriginal Hawaiian claims arising out of the events of 1893. It should be so designed as to address the real needs of the Aboriginal Hawaiians and assure maximum participation by Aboriginal Hawaiians, creating no wardship or trusteeship. Obviously, such legislation will not relieve the United States of its responsibility to Aboriginal Hawaiians as citizens.

I believe the time is long overdue that we in the U.S. Senate take this first step to redress the legitimate grievances of the Aboriginal Hawaiians. It is not possible for those of us in the Senate to consider a detailed legislative vehicle for that redress without the recommendations of a prestigious Commission. It is my hope that the Congress will act expeditiously to assure this first step then, the establishment of the Aboriginal Hawaiian Claims Settlement Study Commission which can then proceed forthwith that we may expedite the final resolution of the grievances of the Hawaiian people.

The Hawaiian people are restive. Demonstrations seeking the return of lands to the Hawaiian people occur almost weekly in Hawaii. Unfortunately, two Hawaiians lost their lives earlier this year in their effort to attract attention to the grievances of the Hawaiian people. Others have run afoul of the law and have been convicted for actions which they have taken in an effort to attract attention to grievances which they have too long endured in silence.

For these reasons, I urge my colleagues to vote for Senate Joint Resolution 4 to establish the Aboriginal Hawaiian Claims Settlement Study Commission.

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was amended so as to read:

Whereas in the year 1893 the United States Minister accredited to the sovereign and independent Kingdom of Hawaii, acting wholly without the authority or knowledge of the Congress or the President, unlawfully conspired with a small group of non-Hawaiian residents of that kingdom, including citizens of the United States, to overthrow the indigenous and lawful government of Hawaii; and

Whereas in pursuance of such conspiracy the United States Minister and the naval representative of the United States, also acting without authority, caused Armed Forces of the United States to be put ashore and deployed in support of the overthrow of that indigenous and lawful government; and the United States Minister thereupon extended diplomatic recognition to a provisional government formed by the conspirators without the consent of the people or of the lawful government of Hawaii, which provisional government was sustained solely by the Armed Forces of the United States; and

Whereas, on December 18, 1893, in a message to the Congress, President Grover Cleveland did report fully and accurately on these illegal actions, which statement acknowledged that "by an act of war, committed with the participation of a diplomatic representative of the United States and without the authority of the Congress, the government of a feeble but friendly and confiding people has been overthrown", that "a substantial wrong has thus been done with a due regard for our national character as well as the rights of the injured people requires that we endeavor to repair", and that "the United States cannot fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation"; and

Whereas a claim for repair of these wrongs to the Hawaiian people was presented to the Government of the United States of America by Queen Lili-uokalani, the lawful monarch of Hawaii, and on July 15, 1893, a petition for redress was also presented by the Hawaiian Patriotic League, representing Aboriginal Hawaiians; and

Whereas, in 1898, Hawaii was annexed to the United States, and by such annexation, among other things, the United States acquired ownership of vast landholdings that had been common property of the Aboriginal Hawaiians prior to the overthrow of their indigenous government; and

Whereas some eighty-four years have now passed without the wrongs done Aboriginal Hawaiians having been repaired: Now, therefore, be it

The title was amended so as to read:

A joint resolution establishing the Aboriginal Hawaiian Claims Settlement Study Commission, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the executive calendar, under "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 541, the nomination of Sharon P. Rockefeller, of West Virginia, to be a member of the Corporation for Public Broadcasting.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, we are pleased to join the majority leader in asking for consideration at this time of this calendar order.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will state the nomination.

CORPORATION FOR PUBLIC BROADCASTING

The assistant legislative clerk read the nomination of Sharon P. Rockefeller, of West Virginia, to be a member of the Corporation for Public Broadcasting.

Mr. ROBERT C. BYRD. Mr. President, for the record, let me say that it was a pleasure for the two West Virginia Senators to have spoken before the committee in its process of approving the nomination of Mrs. Rockefeller. Senator RANDOLPH and I join with great pride in supporting the nomination, and it is with that same great pride that we join today in supporting the confirmation of the nomination, feeling that Mrs. Rockefeller is very able and will do an exemplary job as a member of the Corporation for Public Broadcasting board.

I want to express my personal appreciation to the minority leader for helping to clear this nomination for expeditious action by the Senate today.

Mr. BAKER. Mr. President, I join the majority leader in expressing my congratulations to Mrs. Rockefeller, the wife of the distinguished Governor of West Virginia and also, in the ecumenical spirit, the daughter of one of the Members on this side of the aisle of this Chamber. Of course, I refer to the distinguished senior Senator from Illinois (Mr. PERCY). It is a great pleasure to have a person of this distinction presented to the Senate for confirmation.

We are happy to join in that move.

Mr. ROBERT C. BYRD. I thank the minority leader.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

POSTPONEMENT OF CONSIDERATION OF S. RES. 222

Mr. ROBERT C. BYRD. Mr. President, the time having expired under the law, I ask unanimous consent that Calendar Order No. 430, Senate Resolution 222, to disapprove the Reorganization Plan numbered 1, be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF TIME FOR FILING REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Finance Committee may have until 5 p.m. on tomorrow, Friday, October 21, to file its report on the energy tax bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF TIME FOR COMMITTEE MEETING

Mr. CHURCH. Mr. President, I ask unanimous consent to have the Special Committee on Aging continue its hearing on "Senior Centers and the Older Americans Act" past the 11 a.m. rule established by the Senate's 9 a.m. opening time today. The hearing is a factfinding discussion on issues related to extension of the Older Americans Act.

Witnesses from several States are on hand. The hearing has already been postponed once; and I would appreciate the Senate's cooperation in making it possible to take testimony today until approximately 12 noon.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

EXTENSION OF TIME FOR COMMITTEE MEETING

(Later the following occurred:)

Mr. HART. Mr. President, at the request of the leadership, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate until noon today to consider the Aviation Reform Act.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ENDANGERED AMERICAN WILDERNESS ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 3454, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 3454) to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designation, to further the purposes of the Wilderness Act of 1964, and for other purposes.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment. to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Endangered American Wilderness Act of 1977".

STATEMENT OF FINDINGS AND POLICY

SECTION 1. (a) The Congress finds that—

(1) many areas of undeveloped national forest land possess and exhibit outstanding natural characteristics giving them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) certain of these undeveloped national forest lands meet all statutory criteria for suitability as wilderness as established by subsection 2(c) of the Wilderness Act (78 Stat. 890), but are not adequately protected and lack statutory designation pursuant to the Wilderness Act as units of the National Wilderness Preservation System;

(3) these and other undeveloped national forest lands exhibiting wilderness values are immediately threatened by pressures of a growing and more mobile population, large-scale industrial and economic growth, and development and uses inconsistent with the protection, maintenance, restoration, and enhancement of their wilderness character; and

(4) among such immediately threatened areas are lands not being adequately protected or fully studied for wilderness suitability by the agency responsible for their administration.

(b) Therefore, the Congress finds and declares that it is in the national interest that certain of these endangered areas be promptly designated as wilderness within the National Wilderness Preservation System, in order to preserve such areas as an enduring resource of wilderness which shall be managed to promote and perpetuate the wilderness character of the land and its specific multiple values for watershed preservation, wildlife habitat protection, scenic and historic preservation, scientific research and educational use, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people of present and future generations.

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purpose of the Wilderness Act, the following lands (hereinafter referred to as "wilderness areas"), as generally depicted on maps appropriately referenced, dated October 1977, are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

(a) certain lands in the Coronado National Forest, Arizona, which comprise about fifty-six thousand four hundred and thirty acres, are generally depicted on a map entitled "Pusch Ridge Wilderness Area—Proposed", and shall be known as the Pusch Ridge Wilderness;

(b) certain lands in the Inyo and Sequoia National Forests, California, which compromise about three hundred and thirty-three thousand one hundred acres, are generally depicted on a map entitled "Golden Trout Wilderness Area—Proposed", and shall be known as the Golden Trout Wilderness;

(c) certain lands in and adjacent to the Los Padres National Forest, California, which comprise about twenty-one thousand two hundred and fifty acres, are generally depicted on a map entitled "Santa Lucia Wilderness Area—Proposed", and shall be known as the Santa Lucia Wilderness: *Provided*, That the tract identified on said map as "Wilderness Reserve" is designated as wilderness, subject only to the removal of the existing and temporary nonconforming improvement, at which time the Secretary of Agriculture (hereinafter referred to as the "Secretary") is directed to publish notice thereof in the Federal Register. Pending such notice, and subject only to the maintenance of the existing nonconforming improvement, said tract shall be managed as wilderness in accordance with section 5 of this Act. In order to guarantee the continued viability of the Santa Lucia watershed and to insure the continued health and safety of the communities serviced by such watershed, the management plan for the Santa Lucia area wilderness will authorize the Forest Service to take whatever appropriate actions are necessary for fire prevention and watershed protection including but not limited to acceptable fire presuppression and fire suppression measures and techniques. Any special provisions contained in the management plan for the Santa Lucia Wilderness area will be incorporated in the planning for the Los Padres National Forest: *Provided*, That the Forest Service is authorized to continue fire presuppression, fire suppression measures and techniques, and watershed maintenance pending completion of the management plan for the Santa Lucia area;

(d) certain lands in the Los Padres National Forest, California, which comprise about sixty-one thousand acres, are generally depicted on a map entitled "Ventana Wilderness Additions—Proposed", and which are hereby incorporated in, and shall be deemed to be a part of, the Ventana Wilderness as designated by Public Law 91-58. In order to guarantee the continued viability of the Ventana watershed and to insure the continued health and safety of the communities serviced by such watershed, the management plan for the Ventana area to be prepared following designation as wilderness will authorize the Forest Service to take whatever appropriate actions are necessary for fire prevention and watershed protection including but not limited to acceptable fire presuppression and fire suppression measures and techniques. Any special provisions contained in the management plan for the Ventana Wilderness area will be incorporated in the planning for the Los Padres National Forest;

(e) certain lands in the White River National Forest, Colorado, which comprise approximately eighty thousand acres, are generally depicted on a map entitled "Hunter-Fryingpan Wilderness Area—Proposed", and shall be known as the Hunter-Fryingpan Wilderness: *Provided*, That no right, or claim of right, to the diversion and use of the waters of Hunter Creek, the Fryingpan or Roaring Fork Rivers, or any tributaries of

said creeks or rivers, by the Fryingpan-Arkansas Project, Public Law 87-590, Eighty-seventh Congress, and the reauthorization thereof by Public Law 93-493, Ninety-third Congress, under the laws of the State of Colorado, shall be prejudiced, expanded, diminished, altered, or affected by this Act: *Provided further*, That nothing in this Act shall be construed to expand, abate, impair, impede, or interfere with the construction, maintenance, or repair of said Fryingpan-Arkansas Project facilities, nor the operation thereof, pursuant to the Operating Principles, House Document Numbered 130, Eighty-seventh Congress, and pursuant to the water laws of the State of Colorado;

(f) certain lands in the Cibola National Forest, New Mexico, which comprise about thirty-seven thousand acres, are generally depicted on a map entitled "Manzano Mountain Wilderness Area—Proposed", and shall be known as the Manzano Mountain Wilderness;

(g) certain lands in the Cibola National Forest, New Mexico, which comprise about thirty thousand nine hundred and thirty acres, are generally depicted on a map entitled "Sandia Mountain Wilderness Area (North and South Units)—Proposed", and shall be known as the Sandia Mountain Wilderness;

(h) certain lands in the Santa Fe and Carson National Forests, New Mexico, which comprise approximately fifty thousand three hundred acres, are generally depicted on a map entitled "Chama River Canyon Wilderness Area", and shall be known as the Chama River Canyon Wilderness; and

(i) certain lands in the Wasatch and Uinta National Forests, Utah, which comprise about twenty-nine thousand five hundred and sixty-seven acres, are generally depicted on a map entitled "Lone Peak Wilderness Area—Proposed", and shall be known as the Lone Peak Wilderness: *Provided*, That the Forest Service is directed to utilize whatever sanitary facilities are necessary (including but not limited to vault toilets, which may require service by helicopter) to insure the continued health and safety of the communities serviced by the Lone Peak watershed; furthermore, nothing in this Act shall be construed to limit motorized access and road maintenance by local municipalities for those minimum maintenance activities necessary to guarantee the continued viability of whatsoever watershed facilities currently exist, or which may be necessary in the future to prevent the degradation of the water supply in the Lone Peak area.

OREGON OMNIBUS WILDERNESS ACT OF 1977

SEC. 3. In furtherance of the purposes of this Act and the Wilderness Act, the following lands (hereinafter referred to as "wilderness areas") as generally depicted on maps appropriately referenced, dated October 1977, are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

(a) certain lands in the Siskiyou National Forest, Oregon, which comprise about eighty-two thousand, four hundred acres, are generally depicted on a map entitled "Kalmiopsis Wilderness Additions—Proposed", and which are hereby incorporated in and shall be deemed to be a part of the Kalmiopsis Wilderness as designated by Public Law 88-577;

(b) certain lands in the Umatilla National Forest, Oregon and Washington, which comprise about one hundred and eighty-five thousands acres, are generally depicted on a may entitled "Wenaha-Tucannon Wilderness—Proposed", and shall be known as the Wenaha-Tucannon Wilderness;

(c) certain lands in the Mount Hood National Forest, Oregon, which comprise about thirty-three thousand acres, are generally depicted on a map entitled "Mount Hood (Zigzag) Proposed Wilderness Additions", and which are hereby incorporated in, and shall be deemed to be a part of the Mount Hood Wilderness as designated by Public Law 88-577; and

(d) certain lands in the Willamette National Forest, Oregon, which comprise about forty-five thousand four hundred acres, are generally depicted on a map entitled "French Pete Creek and Other Proposed Additions, Three Sisters Wilderness", and which are hereby incorporated in, and shall be deemed to be a part of, the Three Sisters Wilderness as designated by Public Law 88-577.

GOSPEL-HUMP AREA

SEC. 4. (a)(1) In furtherance of the purposes of the Wilderness Act, certain lands in the Nezperce National Forest, Idaho, which comprise about two hundred and six thousand acres, as generally depicted under the category "Wilderness" on a map entitled "Gospel-Hump Planning Unit" and dated October 1977, are hereby designated as wilderness and therefore, as components of the National Wilderness Preservation System.

(2) Certain other contiguous roadless lands which comprise about ninety-two thousand acres, as generally depicted on said map as "Management Areas" shall be managed in accordance with the multipurpose resource development plan required by this section.

(3) Certain other contiguous roadless lands which comprise about forty-five thousand acres, as generally depicted on said map as "Development Areas" shall be immediately available for resource utilization under the existing applicable Forest Service land management plans.

(b)(1) Within ninety days after enactment of this Act, the Secretary shall appoint a seven-member Advisory Committee on the management of the Gospel-Hump Area (hereinafter referred to as the "Committee") who shall advise the Secretary as to the progress of the fish and game research program, and the multipurpose resource development plan required by this section, and who shall appraise the results of the research program and development plan on an ongoing basis.

(2) The Committee shall be comprised of two members of the timber industry who purchase timber from the Nezperce National Forest, two members from organizations who are actively engaged in seeking the preservation of wilderness lands, and three members from the general public who otherwise have a significant interest in the resources and management of the Gospel-Hump area.

(3) Committee members shall serve without pay except that while away from their homes or regular places of business in performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed under section 5703(b) of title 5 of the United States Code.

(4) The Secretary shall provide that the Committee shall meet as soon as practicable after all the members are appointed, but in no case later than one hundred and fifty days after the enactment of this Act. Subsequently, the Committee shall meet every one hundred and eighty days, or as often as the Secretary deems necessary.

(5) The Committee shall terminate one hundred and fifty days after transmittal of the completed multipurpose resource development plan required under this section.

(c)(1) The Secretary shall cooperate with agencies and institutions of the State of Idaho, and with the Secretary of the Interior, in conducting a comprehensive fish and game research program within the Gospel-Hump Area and surrounding Federal lands in north-central Idaho. The Secretary shall assure that this research program includes detailed investigations concerning resident and anadromous fisheries resources (including quality relationships) and the status, distribution, movements, and management of game populations, in order to provide findings and recommendations concerning integration of land management and development with the protection and enhancement of these fish and game resources.

(2) To carry out the comprehensive fish and game research program, the Secretary is authorized to make grants of funds to agencies and institutions of the State of Idaho and to provide the assistance of personnel from agencies under his jurisdiction.

(3) The Secretary shall assure that the comprehensive fish and game research program is scheduled and progressing on a timely basis so that findings and recommendations are fully integrated in preparation of the multipurpose resource development plan required by this section.

(d)(1) Within four years after enactment of this Act, the Secretary shall implement a multipurpose development plan for development of the Federal lands identified on the map referenced in this section as "Management Areas".

(2) The multipurpose resource development plan shall comply with the provisions of the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476; 16 U.S.C. 1601) as amended, and shall conform in all respects to the provisions of the National Forest Management Act of 1976 (90 Stat. 2949; 16 U.S.C. 1600), including the regulations, guidelines, and standards promulgated pursuant to that Act. In preparing the multipurpose resource development plan, the Secretary shall take particular care to gather and integrate detailed field data on soil types and soil hazards, and to consider timber volumes, timber site classes, and productivity. The current findings and recommendations of the comprehensive fish and game research program and other available information shall be integrated into the preparation of the multipurpose resource development plan. The multipurpose resource development plan may be periodically revised to accommodate new information as it becomes available.

(3) In preparing the multipurpose resource development plan, the Secretary shall assure adequate public involvement, and he shall make full use of the recommendations of the Advisory Committee established by this section.

(4) One year after the date of enactment of this Act and every year thereafter, the Secretary shall review the multipurpose resource development plan being prepared in accordance with this section to determine which lands, if any, might be scheduled for development prior to the completion of the multipurpose resource development plan.

(5) The Secretary shall publish a notice of the completion of the multipurpose resource development plan or a portion thereof in the Federal Register and shall transmit it to the President and to the Senate and House of Representatives. The completed multipurpose resource development plan or relevant portions thereof shall be implemented by the Secretary no earlier than ninety days and no later than one hundred and fifty calendar days from the date of such transmittal.

(e)(1) The Secretary shall prepare a wilderness management plan for the Gospel-Hump Wilderness, taking into account the findings of the comprehensive fish and game research program. In preparing this wilderness management plan, the Secretary shall consider the possible impacts of over-snow motorized vehicle use on the single Bear Grass Ridge Trail between Square Mountain and Hump Lake and may, by secretarial order, allow such use under controlled

and regulated conditions: Provided, That such use may be allowed only upon a written finding by the Secretary that (A) resident and migratory wildlife will not be adversely affected by such use; (B) wilderness values and water quality will not be unduly degraded, directly or indirectly, by such use; (C) due consideration will be given to conflicts with nonmechanized wilderness use; and (D) adequate provision is made for effective control of such use on a consistent and practical basis.

(2) If the Secretary allows the use of oversnow motorized vehicles on the single Bear Grass Ridge Trail under the terms and conditions of subsection (e)(1) of this section, then two years after the effective date of the secretarial order, he shall submit to the Senate and House of Representatives, a report on the effects of this use on (A) resident and migratory wildlife; (B) wilderness values; (C) water quality; (D) other nonmechanized uses of the Gospel-Hump Wilderness; and (E) on such other matters as he deems relevant.

(f) Within thirty days after the date of enactment of this Act, the Secretary shall include the timber resources on the land identified on the map referenced in this section as "Development Areas" and "Management Areas" within the annual allowable timber harvest level for the Nezperce National Forest.

(g) Nothing in this Act shall prevent within the Gospel-Hump Wilderness Area any activity, including prospecting, for the purpose of gathering information about mineral or other resources, if such activity is carried on in a manner compatible with the preservation of the wilderness environment. Furthermore, in accordance with such program as the Secretary of the Interior shall develop and conduct in consultation with the Secretary, the Gospel-Hump Wilderness Area shall be surveyed on a planned, recurring basis consistent with the concept of wilderness preservation by the Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present, and the results of such surveys shall be made available to the public and submitted to the President and the Congress.

(h) There are hereby authorized to be appropriated after October 1, 1978, such funds as may be necessary to carry out the comprehensive fish and game research program and the plan authorized under this section. Appropriations requests by the President to implement the plan shall express in qualitative and quantitative terms the most rapid and judicious manner and methods to achieve the purposes of this Act. Amounts appropriated to carry out this Act shall be expended in accordance with the Budget Reform and Impoundment Control Act of 1974 (88 Stat. 297).

ADMINISTRATION OF WILDERNESS AREAS

SEC. 5. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act: *Provided further*, That with respect to the Gospel-Hump Wilderness Area designated by section 4(a)(1) of this Act, all references under section 4(d)(3) of the Wilderness Act of 1964 to December 31, 1988, shall be deemed to be December 31, 1988, and any reference to January 1, 1984, shall be deemed to be January 1, 1989: *Provided, however*, That all activities resulting from the exercise of valid existing mineral rights on patented or unpatented mining claims within the Gospel-Hump Wilderness Area shall be subject to regulations prescribed by the Secretary as he deems necessary or desirable for the preservation and management of this area.

FILING OF MAPS AND DESCRIPTIONS

SEC. 6. As soon as practicable after enactment of this Act, a map and a legal description of each wilderness area shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

The ACTING PRESIDENT pro tempore. The time for debate on this bill is limited to 4 hours, to be equally divided and controlled by the Senator from Idaho (Mr. CHURCH) and the Senator from Wyoming (Mr. HANSEN), with 1 hour on any amendment in the first degree except an amendment by the Senator from New Mexico (Mr. DOMENICI), on which there shall be 2 hours; with 30 minutes on any amendment in the second degree and with 20 minutes on any debatable motion, appeal, or point of order.

The Senator from Idaho is recognized.

Mr. CHURCH. Mr. President, I ask unanimous consent that Thomas Williams, Daniel Dreyfus, Tom Imeson, Ted Orf, and Jeanne Delsener of the committee staff and Fred Hutchison of my staff, be granted the privilege of the floor during the consideration of H.R. 3454 and any votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 960

(Purpose: Technical Amendments)

Mr. CHURCH. Mr. President, I send to the desk three technical amendments to H.R. 3454 and ask that they be considered en bloc. I ask unanimous consent also that the reading of the amendments be dispensed with.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) proposes unprinted amendment No. 960 of a technical nature.

The amendment is as follows:

On page 23, line 12, strike the word "final".

On page 25, line 22, after the word "the" insert "multi-purpose resource development".

On page 25, line 23, strike "the plan" and insert in lieu thereof "these activities".

Mr. CHURCH. Mr. President, these amendments are purely technical, having to do simply with certain word corrections, and they have been cleared on both sides. Their purpose is to correct drafting errors as they appear in the printed bill. I move the adoption of these technical amendments en bloc.

The ACTING PRESIDENT pro tempore. Does the Senator yield back his time?

Mr. CHURCH. I yield back the remainder of my time on the amendments.

Mr. HANSEN. Mr. President, I ask unanimous consent that Tony Bevinetto of my staff and Steve Crow of Senator HATFIELD's staff be granted privilege of the floor during debate and any votes on this issue.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

All time having been yielded back, the question is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CHURCH. Mr. President, H.R. 3454, as reported by the Senate Committee on Energy and Natural Resources, would add 14 units to the National Wilderness Preservation System. The 14 areas comprise some 1.25 million acres of national forest lands. Each of these areas possesses outstanding wilderness values and will make an excellent addition to the Nation's wilderness system.

These 14 areas include: 56,430 acres in the Coronado National Forest, Ariz., to be known as the Pusch Ridge Wilderness; 333,100 acres of land in California just south of Sequoia National Park to be known as the Golden Trout Wilderness; 21,250 acres of the Los Padres Forest in California to be designated as the Santa Lucia Wilderness area; 4 additions totaling 61,000 acres to the existing Ventana Wilderness also in the Los Padres; an 80,000 acre wilderness in the White River National Forest in Colorado, to become the Hunter-Fryingpan Wilderness; 37,000 acres of land near Albuquerque, N. Mex., in the Cibola Forest, to be known as the Monzano Mountain Wilderness; 30,930 acres of the Cibola also located near Albuquerque, which will be called the Sandia Mountain Wilderness; 29,567 acres outside Salt Lake City, Utah, to be called the Lone Peak Wilderness; 3 areas in Oregon, previously passed by the Senate in S.658, the Oregon Omnibus Wilderness Act: an 82,400-acre addition to the Kalmiopsis Wilderness, a 33,000-acre addition to the Mt. Hood Wilderness area, and a 185,000-acre wilderness along the Washington-Oregon border, to be known as the Wenaha-Tucannon Wilderness; an area in Oregon's Willamette National Forest known as the French Pete additions to the Three Sisters Wilderness; and finally a 206,000-acre wilderness within my State of Idaho, to be known as the Gospel-Hump Wilderness.

In 1964, Congress enacted the Wilderness Act after more than 8 years of careful consideration. That law created the National Wilderness Preservation System, to be comprised of Federal land areas preserved by decision of Congress as wilderness. The lands involved are Federal lands, in several categories, but all are to be managed under a common policy: to perpetuate the natural character of the land and its ecological community of life, in order to secure for all Americans the significant benefits and values which wilderness gives to our lives and our culture.

Since passage of the Wilderness Act in 1964, the Secretary of Agriculture has completed the mandated review of all areas classified as "primitive" within the national forest system and made recom-

mendations to Congress as to their suitability for inclusion in the National Wilderness Preservation System. The Wilderness Act did not require the Secretary of Agriculture to review the remaining 56 million acres of roadless and undeveloped lands in the national forest system—the so-called de facto wilderness areas—which were not officially classified as "primitive" in 1964.

"De facto wilderness" is that portion of the public domain which has remained roadless and undeveloped through no special protection or program, but merely because it has not been developed. It was not until 1972 that the Forest Service initiated a roadless area review and evaluation (RARE) of these lands to determine which areas, if any, merited further wilderness study. Of the 1,449 roadless areas, comprising some 56 million acres, identified during the 1972 RARE process, 274 were ultimately targeted by the Forest Service for further study as to their potential for inclusion in the wilderness system. The remaining 1,175 roadless areas containing over 44 million acres of de facto wilderness, plus hundreds of square miles of additional roadless lands overlooked by the Forest Service, were not considered for potential wilderness designation.

Several problems have been recognized in connection with this process, problems which have led to a new review and evaluation known as RARE II. In some cases, single large tracts of land with wilderness potential were arbitrarily subdivided by the Forest Service into a number of separate smaller units. Segmented in this way, the overall wilderness qualities of the total area were never properly considered in the land use planning process. The Gospel-Hump area in Idaho is a prime example of this faulty fragmented planning.

GOSPEL-HUMP

Section 4 of H.R. 3454, as reported by the Energy and Natural Resources Committee, deals with the 343,000-acre Gospel-Hump roadless area in north central Idaho. Because the terms of this section are somewhat different from the remainder of the bill, I would like to take a few minutes to explain them.

The Gospel-Hump roadless area is a large chunk of land located in Idaho County between the South Fork of the Clearwater River and the breaks along the main stem of the Salmon River. Gospel-Hump takes its name from the region's most prominent features: Gospel Peak and Buffalo Hump Mountain. This diverse area boasts many features, varying from rugged, glacier-capped peaks to heavily forested, moderately sloped plateaus. Throughout the region, a wide variety of wildlife resides: moose, elk, deer, bighorn sheep, mountain goat, black bear, and cougar abound. A number of species of small game birds, such as blue grouse, spruce grouse, ruffed grouse, chukar partridge, and mountain quail, can be found here. The Gospel-Hump area also contains numerous lakes and streams that support significant populations of resident and anadromous fish. Parts of the region are thickly forested with merchantable stands of ponderosa pine, Douglas fir, Grand fir, Englemann spruce, lodgepole pine, and subalpine fir. In short, Gospel-Hump is a superb part of Idaho, containing a large variety of resources.

In other cases, Forest Service land use plans failed to focus on one particular roadless area. A number of separate areas were lumped together, and the public presently with an artificially extreme choice: preserve all, or none at all. Few people favored either extreme, yet the Forest Service planning process, in some instances, posed such unacceptable alternatives, created confusion, resistance, indecision, and further delay.

It is the purpose of the Endangered American Wilderness Act to put this whole problem into better focus and to expedite at least a part of the wilderness decisions to be made.

Mr. President, the areas designated for wilderness in H.R. 3454, have been the subject of extensive hearings, both here and in the field. In total, the House Interior and Insular Affairs Committee and the Senate Energy and Natural Resources Committee conducted 8 days of public hearings in Washington and 4 days of field hearings. In this process, both committees gave careful consideration to the balancing of wilderness values with economic development. In some instances, areas were deleted, without prejudice, from the bill, as originally introduced, so that more careful study could take place. In other cases, both committees agreed to make selective deletions to accommodate various extractive uses, such as timber harvesting and mining. In general, however, I am very pleased with the areas in the bill, as reported, and feel the committee has struck a reasonable balance between wilderness and nonwilderness values.

THE CONTROVERSY

When, in 1972, the Forest Service settled a law suit out of court, brought under section 102(c) of the National Environmental Policy Act, it agreed to prepare an environmental impact statement before initiating any activity which would degrade the wilderness potential of any roadless area in the National Forests. As an adjunct to that agreement, an inventory of the roadless tracts within the national forest system was undertaken in 1972–73.

During this first roadless area review and evaluation (RARE I), the Forest Service looked at the Gospel-Hump area and decided to subdivide it. Accordingly, when the Nezperce and Payette National Forests began their planning efforts for this region, they segmented Gospel-Hump into eight separate "planning units" and started preparing individual plans for each unit.

Such a piecemeal approach drew criticism from a number of sources. Several organizations, including Idaho conservation groups and the Idaho Department of Fish and Game, expressed their opposition to this fragmentation, arguing that Gospel-Hump was a single roadless tract and should be considered as such for planning purposes.

Eventually, Idaho conservationists filed administrative appeals on two of the land management plans, Mill Creek and Rainy Day. Through these appeals, they asked the Regional Forester in Missoula, and then the Chief of the Forest Service, to review the procedural approach taken and judge whether or not it met the national standards for planning required under established rules and regulations.

While these appeals raised legitimate concerns, they also had the unfortunate side-effect of delaying decisions on which the future of the wood-products industry in Idaho County depended.

Ever since the roadless areas were frozen by the 1972 court settlement, local sawmills in Idaho and throughout the West have been unable to plan for the future. Up until 1972, the Forest Service had operated on the assumption that most of the merchantable stands of timber in these roadless areas would eventually be harvested. However, the settlement entered into by the Forest Service completely changed the picture. By its terms, environmental impact statements had to be completed before any timber sales could occur or any roads built within an inventoried roadless area. Thus, these areas were, in effect, placed in limbo until land-use plans could be completed and approved.

Many of the sawmills in Idaho, such as those in Elk City, Riggins, and Grangeville, are dependent upon the national forests for their supply of saw logs. In Idaho County, like most of north Idaho, the Forest Service is a virtual monopoly owner and seller of timber. If a sawmill operator in one of these towns cannot buy enough timber from the Forest Service to meet his needs, then he will be forced to close his mill and lay off his crews. In Grangeville, or Elk City, or Riggins, where the local sawmill is the sole industrial employer, closure of the mill would send an economic shock wave through the whole town, undermining the other businesses as well.

In a decision handed down on March 8 of this year, the Chief of the Forest Service ruled on the Rainy Day and Mill Creek appeals, saying that the piecemeal planning process did not comply with the established standards he had set. He directed that the planning start anew and collectively evaluate all of the adjacent roadless units within the Gospel-Hump area. This evaluation, presently underway, is aimed at assessing the wilderness potential of the whole area.

While the appeal in this case laid to rest the issue of piecemeal planning, it is not likely that the new plan, when finally formulated, will resolve the controversy over Gospel-Hump. The new plan, like the old, will be immune neither to appeal, nor to prolonged litigation in the courts.

For example, the Idaho Department of Fish and Game has consistently argued that basic land use decisions for the most sensitive portions of the Gospel-Hump area should not be made until a detailed fish and game research project is undertaken. According to the Department's best estimates, such a project would take 4 years to complete. However, the revised planning process includes no such comprehensive fish and game research

project, despite the provisions of the National Forest Management Act of 1976, which require that all Forest Service planning obtain such data. Similarly, the same conservationists who filed the earlier appeals are currently challenging the adequacy of the basic soils and timber productivity data for some of the lands within the Gospel-Hump area. Therefore, there is the very real prospect that the new plan being developed by the Forest Service will be subjected to further appeals and more delay. To prevent that from happening, the Committee on Energy and Natural Resources, without a dissenting vote, added the Gospel-Hump amendment to this legislation. The story of how this amendment was conceived is instructive, so I would like, Mr. President, to take a few more minutes to describe what happened.

THE NEGOTIATIONS

In March of this year, I was asked by the wilderness research center at the University of Idaho to present the first lecture in the center's wilderness resource distinguished lectureship series. After presenting this speech, which dealt with how wilderness must be considered as one part of a larger land use spectrum, I met with about 50 members of the greater Grangeville Chamber of Commerce to discuss the timber supply shortage in Idaho County.

During that meeting, I was asked to explain the rationale for the Endangered Wilderness Act. I replied that I felt it was important for Congress to do some long-range thinking about the final size of the Wilderness System. I said that the practice of adding to the wilderness on a tract-by-tract basis had obscured the need for a comprehensive view of the national system we intend to build. I felt that omnibus bills, like the one we are considering today, which will incorporate a number of areas at once, are obviously necessary. By speeding up the inclusion of areas as to which there is widespread agreement, the study of remaining areas can be expedited and the needed decisions sooner made.

After hearing that explanation, one of the chamber members asked me if I might help them resolve the Gospel-Hump problem by incorporating the core of the area into the wilderness system, while freeing up the peripheral lands for timber harvest and development. What they sought was a more expeditious resolution of their land allocation problem, and they wondered out loud about the possibility of securing a legislative solution. I considered their plea, knowing that the gamble was great, but that the prevention of an economic collapse in Idaho County made the political risks worth taking.

So I convened a meeting in April between certain representatives of interested conservation groups and spokesmen designated by the task force of the Grangeville Chamber of Commerce. I asked knowledgeable officials of the Idaho Fish and Game Department and the Forest Service to attend, as well as resource specialists from the faculty of the College of Forestry, Wildlife, and Range Sciences of the University of Idaho.

That first meeting, which I attended, was held in Grangeville, the town most affected by a lack of decision as to the future use of Gospel-Hump. This meeting was both amicable and productive. It soon became clear that both the wood products industry, represented by the chamber of commerce, and the conservationists had more in common than either side had expected and that some agreement might be reached.

At the first meeting it was decided that about 45,000 acres of the most productive timber lands could be excluded from further study, and thus returned to a multiple-use classification that would allow logging to occur. It was also agreed that the access roads leading into the Gospel-Hump area should remain open. Because much of the area is high and remote, assurance that the existing roads will be maintained, and not closed, is extremely important. Without the roads, this region would be very inaccessible.

Subsequently, the two groups met on several other occasions and were able to reach what both parties considered to be an acceptable plan for the area. The committee report details very well the spirit and substance of these negotiating sessions.

I quote a portion of that report:

What ensued was a genuine dialog between groups which are often too hastily cast as opponents in the process of allocating the usage of Federal lands. At (the) first meeting, and in five subsequent day-long sessions, these groups found much in common—for example, a deep interest in protecting the native fish and wildlife of the region and their essential habitat. They found much that could be agreed upon in terms of the interests of both groups—for example, the desirability of both preserving important wildlands and assuring the economic health and stability of the local sawmills and the towns which those mills support. Each group started from a fixed position, but as communication increased, understanding grew. Accommodation began to appear. A basic formula for a possible compromise agreement was outlined, limited to the lands north of the main Salmon River. Preliminary lines were drawn on maps by each group, discussed in detail, and then shifted and relocated by compromise and consensus. For instance, the size of the proposed wilderness area went through a considerable evolution, and its size was ultimately reduced considerably from the area originally sought by the conservation groups. Similarly, the keen interest of the local civic and business leaders in the welfare of wildlife and fish found expression in their agreement that further resource data should be gathered, and that a comprehensive fish and wildlife research program should be required, as the State agency sought . . .

Finally, after many day-long meetings, and literally months of hard work, the groups reached a basic compromise, consisting of the framework and tentative wording for legislation and a detailed boundary map showing the manner in which the negotiators proposed to allocate the land within the Gospel-Hump roadless area.

THE COMPROMISE

Mr. President, the compromise agreement worked out by the two groups, although later modified as a result of public hearings held in Washington, and in Grangeville, Idaho, is the basis for section 4 of this bill.

Under the terms of the compromise agreement, approximately 220,000 acres of the Gospel-Hump area, consisting mostly of the high alpine country and the Salmon River breaks would be classified as wilderness, and would be known as the Gospel-Hump Wilderness Area.

The most heavily forested portions of the region would be allocated for timber harvest and development. The negotiators included 123,000 acres in this category, of which 45,000 acres were made immediately available for timber sales, while the remainder of the lands to be developed, would first be subjected to a detailed resource study. The part to be studied would then be opened for development under a Forest Service plan that would allow timber sales and road-building, in a manner best designed to protect the water quality and the exceptional fish and wildlife resources of the area.

A seven-member citizen advisory committee would be set up to help the Forest Service plan the development activities.

The Forest Service would be directed to cooperate with the State of Idaho and the Department of Interior in conducting a comprehensive fish and game research program within the entire Gospel-Hump area and surrounding Federal lands. This research program would involve detailed investigations of resident and anadromous fish populations, and the status, distribution, movements and management of game populations, including the elk and bighorn sheep herds. Results from this research would be integrated into the plan for harvesting the bulk of the timber growing on the land surrounding the Gospel-Hump Wilderness.

Within a month from the date of enactment of the bill, the timber contained in all the areas intended for multiple-use management, would be restored to the annual allowable cut calculations for the Nezperce National Forest. This would ease much of the pressure to cut trees within less productive parts of that national forest, and help assure a sustained annual cut of sufficient size to maintain a healthy wood-products industry in Idaho County.

REVISION OF THE COMPROMISE

The compromise agreement between the business leaders and the conservationists was not the end of the process. I said, from the very beginning, that any plan worked out would be considered as a starting point, to be further refined at public hearings held in Idaho, where all interested parties could come and speak their minds. Thus, the Senate Subcommittee on Parks and Recreation held a hearing in Grangeville in August, attended by hundreds of local citizens, at which 75 people testified. After the hearing in Grangeville and a subsequent hearing in Washington, all the testimony and evidence gathered was carefully weighed by the Energy and Natural Resources Committee during its deliberations on Gospel-Hump. It was decided to keep the basic framework of the compromise agreement intact, but also to make some changes.

The committee felt that the compromise did not give enough attention to the

mineral issue. Therefore, a detailed directive was added to the bill, reemphasizing the provisions of the Wilderness Act regarding prospecting, as well as that act's mandate for recurring mineral surveys to be conducted by the Bureau of Mines and Geological Survey. In addition, the committee adopted an amendment offered by Senator McCLURE to permit a 5-year extension of the wilderness mining and mineral location phaseout provisions of the 1964 Wilderness Act, as it applied to the Gospel-Hump Wilderness.

The committee also made some boundary changes suggested by the Forest Service, and in response to testimony received during the hearings, agreed to delete some 14,000 acres of land from the southeast corner of the proposed wilderness, placing these lands in the category to be developed after the soil and wildlife studies are completed.

The committee also agreed to language that would allow for experimental future snowmobile travel along the trail from Square Mountain to Hump Lake. However, this could only occur if the Secretary of Agriculture determined that such travel would not adversely affect the wildlife in the area, unduly degrade the quality of the wilderness or wastershed, could be controlled on a consistent and practical basis, and would not conflict with nonmechanized winter use of the wilderness. If the Secretary decided to allow such travel, he would be required to report to Congress on the effects of such snowmobile travel, 2 years after the experiment began.

In closing, Mr. President, I offer my thanks to the many people who have worked so diligently to find a formula to break the deadlock over Gospel-Hump. They have proved that it is possible, even in the face of heated controversy, to put together a reasonable plan which accommodates the differing interests of our citizenry, all of whom are owners of the national forests. They have helped turn a new corner in the management of those forests by showing that the volatile issues surrounding the use of roadless areas can be resolved by local people working together toward a common goal. They are the architects of tomorrow, and we owe them our compliments and thanks.

Mr. President, I ask unanimous consent that a copy of the March 8, 1977, ruling handed down by Forest Service Chief John McGuire relating to the Mill Creek and Rainy Day appeals be printed in the RECORD.

There being no objection, the ruling was ordered to be printed in the RECORD, as follows:

DECISION OF THE CHIEF, ADMINISTRATIVE APPEAL, RAINY DAY UNIT PLAN, MILL CREEK UNIT PLAN, NEZPERCE NATIONAL FOREST, NORTHERN REGION (R–1)

This is a consolidated administrative appeal (pursuant to Part 211.2 of the Code of Federal Regulations) and concerns two land use plans and associated environmental impact statements for the Rainy Day and Mill Creek Units of the Nezperce National Forest, Region 1, Idaho. Appellants are the Sierra Club and associated environmentally concerned organizations. Interveners are Wickes Forest Industries and numerous individuals and organizations in and around the area of Grangeville, Idaho. On June 17, 1976, the Regional Forester upheld the decision of the Forest Supervisor approving the Rainy Day Unit Plan, and on September 23, 1976, he similarly upheld the decision approving the Mill Creek Plan. We have consolidated these two similar appeals for a single decision.

The area in question contains over 400,000 acres of roadless or essentially roadless forest land which the appellants refer to as the "Gospel Hump Wilderness Study Area." The appellants make numerous contentions which can be summarized. They basically contend that this large contiguous roadless area has not been considered for its wilderness study potential as an entity. Rather, that the Forest Service has made a piecemeal study of wilderness potential in each of the separate planning units which comprise the Gospel Hump area. The Mill Creek and Rainy Day Units form part of the northern outer periphery of this proposed wilderness study area. Further, they contend that a study of this entire area, including roadless areas lying south of the Salmon River in the Payette National Forest, is mandated by Forest Service policy and applicable laws and regulations. It is further alleged that there was an inadequate resource data base in the environmental statements to make the land management allocations which were proposed.

There are over 30 interveners in this appeal. Their contentions are essentially the same, that is, that the present planning process is a comprehensive job which adequately assesses the environmental impacts of the proposed land allocations. Furthermore, the wilderness potentials for the roadless areas were considered and properly excluded from further wilderness study. They contend that further delays as a result of administrative appeals or redundant planning efforts will have a serious economic impact because of the reduction in the harvest of sawtimber.

Planning for and administering any area with multiple resource values including both wilderness potential and opportunities for economic development is complex. We do not intend to discuss each and every issue in this matter, but only those significant and germane to the decision. For the reasons outlined below, I am sustaining the Regional Forester's decisions in part and reversing other parts of those decisions.

We have carefully reviewed the environmental statements for the unit plans under appeal and find that wildlife and other data were sufficient to reach the decisions made for resource allocations. Further data will be gathered and utilized in subsequent program and project environmental analysis reports and statements. With respect to water quality, the resource allocations proposed in these plans do not violate applicable water quality laws. We recently dealt with the water quality issue for Idaho in an administrative decision issued December 27, 1976, on the Elk Summit Unit Plan for the Clearwater National Forest. Therein, we stated that with respect to EPA approved State and antidegradation policies found in the Idaho Water Pollution Control Act and elsewhere, we intend to comply with those policies. The plans in question do not directly authorize land-disturbing activities which could result in a violation of applicable law. An environmental analysis report will be prepared prior to such activity and that is where a determination of compliance with water quality laws will be made. Thus, the Regional Forester's decision is sustained for those portions of the Rainy Day and Mill Creek Units which do not involve roadless, undeveloped areas.

A more difficult question concerns the planning approach used to consider potential wilderness study of the nonselected roadless areas. The Nezperce National Forest planning effort involved a division of the forest into several planning units. Several of these units are comprised in whole or part by inventoried roadless areas. In the planning process, the wilderness suitability of each of these roadless areas was considered in and of itself and compared by quality ranking to adjacent roadless areas. In the case of Mill Creek, the unit ranking was compared to the total contiguous roadless area north of the Salmon River. However, the total contiguous roadless area was never considered either for its wilderness study suitability as a single entity nor was consideration given the effects of adding or subtracting various roadless components from the whole.

There are constraints upon decisions in this matter. The 1972 court case of Sierra Club v. Butz, (Civil No. 72–1455, U.S.D.C., N.D. California), questioned the Forest Service roadless area review and evaluation being undertaken at that time. At the time of that dispute, the Chief of the Forest Service directed that before any action is taken that would change the wilderness character of any inventoried roadless area, an environmental statement would be prepared. The plan or project on which the environmental statement is prepared would consider the alternative of wilderness, and the statement would accord the public opportunity to express opinions on the matter. Thus, we consider wilderness as an alternative in an environmental statement for a unit plan which includes an inventoried roadless area.

Section 8262 of the Forest Service Manual provides in part that wilderness consideration for all adjacent Federally-owned roadless areas should be made in the unit plan. Our policy further directs the consideration and analysis of the interrelationships between such contiguous roadless areas. To properly comply with this policy in the Nezperce National Forest requires consideration of the entire contiguous roadless area as a whole without regard to the boundaries of individual planning units or inventoried roadless areas. Due to the large composite of roadless areas in the Nezperce National Forest, the present planning approach there does not now adequately provide for the consideration of the wilderness potential of the total area.

Having determined that an overall review of the wilderness study potential for the entire contiguous roadless area is desirable, the next issue is whether this contiguity extends southward across the Salmon River to roadless areas there. There are logical reasons for previous decisions to stop planning consideration at the river. The river is the administrative boundary between two Forest Service Regions and the two National Forests, as well as a traditional boundary between north and south Idaho. Also, the Salmon River has a considerable volume of motorized boat traffic. Motorized boat traffic is not relevant to the issue of contiguity of roadless areas because it is an activity as opposed to a physical characteristic of the land. It is also clear that such motorized boat traffic is not deemed by Congress to be necessarily inimical to wilderness classification as evidenced by Section 4(d)(1) of the Wilderness Act of 1964 (P.L. 88–577), which may allow for the continuation of such use. Accordingly, it is our determination that such an overall view of the wilderness considerations for roadless areas must extend to contiguous roadless areas south across the Salmon River into the Payette National Forest. As the above factors need additional clarity and presentation, I am prescribing the following measures to be taken:

(1) The Regional Forester of the Northern Region, in consultation with the Regional Forester in the Intermountain Region, will evaluate as soon as practicable, the wilderness potential for the contiguous roadless areas of which the Rainy Day and Mill Creek Planning Units comprise a part. This area will include appropriate roadless areas on both sides of the Salmon River, but not in-

cluding those lands already studied in the Idaho and Salmon River Breaks Primitive Area reviews. This planning effort will evaluate the interrelationship of the contiguous roadless areas to existing and potential wilderness, wilderness study areas, and nonselected roadless areas from local, regional and national viewpoints.

(2) The objective for this evaluation will be to determine how much of the total contiguous roadless area, if any, appears to possess an exemplary potential for wilderness study area designation considering other resource values present. If any potential wilderness study area is identified and proposed, it will be considered by the Chief, Forest Service. At the discretion of the Regional Forester, this evaluation may be made through an appropriate plan and environmental statement in the context of either a forest level plan, a revised existing unit plan, or a newly defined planning unit. NEPA procedures pursuant to FSM 8400 will be followed.

To comply with this direction consideration will be given to the entire contiguous roadless area as a whole without regard to the boundaries of individual planning units or inventoried roadless areas. This evaluation may be accomplished through:

(a) Revision of the existing unit plan EIS to include alternatives presenting various potential wilderness study designations within the entire contiguous roadless area.

(b) Preparation of a single land management plan for the entire contiguous roadless area disregarding existing unit boundaries.

(c) Preparation of land management plans for planning units that encompass the contiguous roadless area.

(d) Such other approach as the Regional Forester and Chief may agree upon to accomplish essentially the same objectives.

(3) Management activities inconsistent with maintaining the wilderness character of the defined area(s) will be held in abeyance in the identified roadless area pending completion of the overall study to consider wilderness potential. Exception to this will be emergency situations such as fire and insect control, where private rights must be provided for, and where a contractual commitment was made before July 1, 1972. Exercise of rights under the general mining laws will be managed in accordance with 36 CFR 252. Rights of ingress and egress to private inholdings will be recognized.

(4) Implementation of the Rainy Day and Mill Creek Plans may proceed on the nonroadless areas of the two units.

(5) The Chief will maintain jurisdiction of administrative appeals concerning this overall evaluaton to consider wilderness potential.

Mr. CHURCH. Mr. President, I ask unanimous consent that the portion of the Senate report on H.R. 3454 dealing with the Gospel-Hump area in north-central Idaho be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

EXPLANATION OF THE GOSPEL-HUMP AREA

H.R. 3454, as amended, includes provisions (section 4) relating to the Gospel-Hump area in north-central Idaho. The committee approved the basic concept of the Gospel-Hump amendment originally introduced by Senator Church (Senate amendment No. 826 to S. 1180), after making several significant changes. Because of the unusual background and circumstances surrounding this section of the bill, a more detailed explanation is in order.

BACKGROUND

During the first roadless area review program in 1972–73, the Forest Service inventoried as roadless a large area of land lying between the South Fork of the Clearwater River and the river breaks on the south side of the main Salmon River. Altogether, this area comprised more than 450,000 acres in an unbroken tract of roadless land which is, in turn, contiguous to additional roadless land to the east. However, the Forest Service chose to sub-divide this single roadless tract into eight distinct, separately named "roadless areas," which were separately evaluated in all later proceedings. None of these fragments were selected by the Chief of the Forest Service for further, more detailed wilderness study.

Subsequently, new land use planning efforts were initiated for this region, by both the Nezperce and Payette National Forests. Here again, the Forest Service chose to subdivide the overall area among nine separate "planning units," each of which was subject to separate individual land use planning.

As this piecemeal process of inventory and planning proceeded, for what is widely regarded as a single contiguous tract of roadless land, the process became the subject of increasing criticism. This criticism came not only from the public, but from Idaho's Department of Fish and Game, from the Department of the Interior, and from other expert agencies. Clearly, they argued, fragmented analysis and piecemeal decisions could not lead to fair consideration to the overall values of the total area. Despite this criticism, the Forest Service proceeded with its piecemeal approach.

Ultimately, Idaho conservation groups, including the Idaho Environmental Council and the local chapter of the Sierra Club, brought a formal administrative appeal, asking the higher officials of the Forest Service to judge whether this piecemeal approach complied with the existing standards and regulations governing Forest Service land use planning. These appeals included the Warren unit plan, the Rainy Day unit plan, and the Mill Creek unit plan. Though brought by conservation groups, the appeals had the continuing support of the Idaho Department of Fish and Game and its professional resource managers. A large number of civic and business groups in the local town of Grangeville, Idaho, formally intervened in the appeals, seeking to defend the Forest Service approach.

As a result of the appeal process, some development activities within the overall roadless area were held up by the Chief, pending his decision. Notable among these was a large proposed timber sale in the northwest corner of the area, the Honker sale. Thus, the appeal, while quite legitimately contesting the legal adequacy of the locally-prepared land use plans, had the effect of raising the level of uncertainty about land allocations.

In March of 1977, the Chief of the Forest Service issued a detailed ruling on the combined Rainy Day unit plan and Mill Creek unit plan appeals (having previously overturned the Warren unit plan). In his ruling, the Chief agreed with the appellants and found that the piecemeal planning process did not comply with the established minimum standards for land use planning on the National Forests. He therefore overturned the unsatisfactory plans and ordered the planning process revised so as to take into account the total contiguous roadless area. Because he reached his decision on this procedural point, the Chief did not rule in detail on the substantive allegations which the conservation groups and fish and game experts had raised about inadequate resource data for the Gospel-Hump region.

In his March 8, 1977, decision, the Chief said:

The Nezperce National Forest planning effort involved a division of the forest into several planning units. Several of these units are comprised in whole or in part by inventoried roadless areas. In the planning process, the wilderness suitability of each of these roadless areas was considered in and of itself and compared by quality ranking to adjacent roadless areas. In the case of Mill Creek, the unit ranking was compared to the total contiguous roadless area north of the Salmon River. However, the total contiguous roadless area was never considered either for its wilderness study suitability as a single entity, nor was consideration given the effects of adding or subtracting various roadless components from the whole.

* * * * *

"Section 8262 of the Forest Service Manual provides in part that wilderness consideration for all adjacent federally owned roadless areas should be made in the unit plan. Our policy further directs the consideration and analysis of the interrelationships between such contiguous roadless areas. To properly comply with this policy in the Nezperce National Forest requires consideration of the entire contiguous roadless areas as a whole without regard to the boundaries of individual planning units or inventoried roadless areas. Due to the large composite of roadless areas in the Nezperce National Forest, the present planning approach there does not now adequately provide for the consideration of the wilderness potential of the total area."

It is important to note that the Chief's decision in these appeals did not deal with the legal question of whether the plans complied with the environmental impact statement requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91–190). Indeed, that issue was not directly raised in the appeals. Rather, the Chief simply concluded that the piecemeal planning approach and the quality of planning work did not fulfill the standards and policies for National Forest planning which have been established in the Forest Service Manual and in other regulations and directives. In other words, the Chief found, through the appeals, that these particular plans did not measure up to the standards he had set.

In accordance with the Chief's order, the Forest Service has begun a revised planning procedure for the overall Gospel-Hump area. However, while this new process may lay to rest the issue of piecemeal planning, various individuals feel it is organized on so rapid a timetable as to raise serious doubts about the likelihood that the final product will prove acceptable to all interested parties. The Idaho Department of Fish and Game, for example, has consistently maintained that basic land allocations for the sensitive portions of the Gospel-Hump area should not be made prior to completion of a detailed fish and wildlife research program. According to their best estimates, that program will require four years to complete. Yet, the revised planning process now underway includes no such comprehensive wildlife and fisheries research program even in light of the Forest Management Act of 1976. Similarly, conservation groups in Idaho have challenged the adequacy of the basic soils data and timber productivity data presently available for some of these lands. Here again, these groups feel the new planning process is operating on so accelerated a schedule that improved data is not being developed. The Committee believes, therefore, that there is a very real prospect that these issues would arise again in further appeals or in judicial review.

The issues mentioned above raises legitimate concerns. Regardless of the eventual outcome, the interim result would be more delay and uncertainty, while issues over the adequacy of the new plan and the data underlying it are being argued. In the meantime, timber sales within the roadless area would remain frozen, thus placing the econ-

omy of the region—which is directly linked to a steady timber supply from the National Forests—in a great deal of jeopardy.

THE NEGOTIATIONS

Against this background, concerned civic leaders of the Grangeville area sought a more constructive solution. They appealed to Senator Church to determine whether some more expeditious resolution of the basic land allocation issue for the Gospel-Hump area could be worked out. As a result, Senator Church convened a meeting in April, in Grangeville, between selected representatives of Idaho conservation groups and the designated representatives of the Natural Resources Task Force of the Grangeville Chamber of Commerce. Knowledgeable officials of the Forest Service and the Idaho Department of Fish and Game attended to provide expert assistance, as did professional resource specialists from the faculty of the University of Idaho.

What ensued was a genuine dialog between groups which are often too hastily cast as opponents in the process of allocating the usage of Federal lands. At that first meeting, and in five subsequent day-long sessions, these groups found much in common—for example a deep interest in protecting the native fish and wildlife of the region and their essential habitat. They found much that could be agreed upon in terms of the interests of both groups—for example, the desirability of both preserving important wildlands and assuring the economic health and stability of the local sawmills and the towns which these mills support. Each group started from a fixed position, but as communication increased, understanding grew. Accommodation began to appear. A basic formula for a possible compromise agreement was outlined, limited to the lands north of the main Salmon River. Preliminary lines were drawn on maps by each group, discussed in detail, and then shifted and relocated by compromise and consensus. For instance, the size of the proposed wilderness area went through a considerable evolution, and its size was ultimately reduced considerably from the area originally sought by the conservation groups. Similarly, the keen interest of the local civic and business leaders in the welfare of wildlife and fish found expression in their agreement that further resource data should be gathered, and that a comprehensive fish and wildlife research program should be required, as the State agency sought. The Idaho Department of Fish and Game, while believing that the wilderness ultimately worked out was too small, gave its strong endorsement. All parties involved agreed it would be more productive, and lead to better land management, to proceed immediately with research to gather additional and more sophisticated fish and wildlife, soils, and timber productivity data, rather than risk prolonged delays while fighting over whether existing data is sufficient.

Finally, after many day long meetings, and literally months of hard work, the groups reached a basic compromise, consisting of the framework and tentative wording for legislation and a detailed boundary map showing the manner in which the negotiators proposed to allocate the land within the Gospel-Hump roadless area. Under the terms of the compromise, the most heavily forested portions of the region would be allocated for timber harvest and development, some 123,000 acres were included by the negotiators in this category, with 45,000 acres to be made available immediately for timber sale (including most of the delayed Honker sale), while the remainder of the land to be developed would first be subject to the detailed, site specific data inventories mentioned above. The rest of the Gospel-Hump area consisting mostly of the high alpine areas and breaks of the Salmon River would be classified as wilderness under the terms of the Wilderness Act of 1964, as the Gospel-Hump Wilderness Area. Thus, some of the most spectacular wildlands of northern Idaho would be statutorily protected for the future in their natural state, and other contiguous, productive timber lands would be made available for multi-purpose development, thereby helping to assure a steady supply of logs for local sawmills.

COMMITTEE REVISION OF THE COMPROMISE

This compromise agreement between the private parties was not the end of the process. Rather, it simply provided a carefully worked-out starting point. The committee subjected the proposal to thorough public hearings, including a full day hearing in Grangeville open to all local citizens. A number of alternatives were suggested and considered. Senator Church gave the proposal further wide circulation and received additional comment. All the testimony and comments have been carefully weighed by the committee. The reported bill, for Gospel-Hump, uses the basic framework of the compromise agreement but departs from it in several significant respects, in response to the testimony and comments received:

(1) The committee felt that the compromise gave inadequate direction pertaining to minerals, and therefore added a detailed directive in subsection 4(f) reemphasizing the provisions of the Wilderness Act regarding prospecting, as well as that Act's mandate for "planned, recurring" mineral surveys to be conducted by the Federal Government's expert mineral agencies, the Geological Survey and the Bureau of Mines. In addition, section 5 of the bill was amended to allow a 5-year extension of the wilderness mining and mineral location "phaseout" provisions of the 1964 Wilderness Act only for the Gospel-Hump Wilderness.

(2) The committee made a number of changes in the boundaries proposed by the negotiators. These changes included refinements that were suggested by the Forest Service. In response to testimony received during the hearings, the committee deleted some significant lands from the southeast corner of the proposed wilderness, placing these lands instead in the management category to receive more detailed study.

(3) The committee agreed to language that would allow for possible future snowmobile travel along the trail (No. 313) from Square Mountain to Hump Lake, but only if the Secretary of Agriculture determined that such travel would not adversely affect wildlife in the area, unduly degrade the quality of the wilderness or the watershed, could be controlled on a consistent and practical basis, and gave due consideration to conflicts with non-mechanized winter use of the wilderness. If the Secretary decided to allow such travel, he would be required to report to Congress on the effects of such over-snow travel 2 years after these limited activities were commenced.

BOUNDARY CHANGES MADE BY THE COMMITTEE

Generally, the committee has found the boundary lines developed by the negotiating process to be desirable. While a final map will be drawn by the Forest Service, as the bill requires, the committee notes that the boundary has been drawn with unusual precision on a series of topographic sheet maps agreed to by the groups involved. It is this very detailed map, with the changes made by the committee, which is referenced as the official boundary map in the text of the bill.

Prior to ordering H.R. 3454 reported, the committee asked the Forest Service to suggest any refinements of the proposed wilderness boundary it felt would be desirable. In all, the Forest Service suggested 18 changes, some quite minor. Upon examination, it was determined that a number of the Forest Service refinements were already incorporated on the more detailed maps originally prepared by the compromise negotiators. This included refinements at Halls Gulch, Marten Hill, and Big Creek.

In the vicinity of the patented mining lands at Humptown and Concord, the refinements suggested by the Forest Service would have resulted in including parts of some private, patented lands in the wilderness. It was agreed as a part of the compromise that none of these patented lands would be included. Hence, these refinements were not accepted.

The Forest Service proposed to exclude a large area in the vicinity of the Slate Lakes and Little Round Top, but the committee found the original compromise line in this area entirely defensible, and the exclusion was not adopted. Finally, the Forest Service proposed to add to the wilderness lands adjacent to Square Mountain and Anchor Meadows. In this area, the larger exclusion was agreed to in the compromise to permit motorized use and hunting camps, so this addition to the wilderness was not adopted by the committee.

In addition, on the basis of testimony received during the Grangeville and Washington, D.C. hearings, the committee has excluded a significant area from the southeast corner of the proposed Gospel-Hump Wilderness. This land lies along the Salmon River, east of the drainage of Crooked Creek and west of the road from Jersey Mountain to Mackay Bar on the river. The revised boundary is located along a prominent ridge parallel to, but including within the wilderness for protection, Forest Service trail No. 214. This line also excludes from the wilderness certain timber stands around the top of Jersey Mountain, and is located along a consistent contour of elevation to avoid Crooked Creek itself.

After a review of the resources of this excluded land the committee included it in the land management category which will be subject to more detailed resource data gathering and management planning. With the possible exception of some timber operations near the top of Jersey Mountain (which would only be undertaken if consistent with the management plan and with sound principles of multiple use-sustained yield forestry), the committee does not intend or expect that there will be any development within the excluded area west of the Mackay Bar Road. This land is of particular concern due to fragile soils, steep slopes, susceptibility of waters to degradation by silting, and prime wildlife values, notably for the resident bighorn sheep.

The committee has recently been made aware of a study conducted for the Forest Service in 1976 by the College of Forestry, Wildlife, and Range Sciences of the University of Idaho about the bighorn sheep populations of this area.[1] That study shows that between 75 and 100 sheep roam the area, using winter range on the break lands and summer range in the timber west and southwest of Jersey Mountain. Thus, the committee urges the Forest Service to carefully weigh the habitat needs of these bighorn sheep in developing the management plan for the area.

OTHER CONCERNS RAISED BY THE COMMITTEE

As a fundamental part of the compromise agreement which led to the Gospel-Hump proposal, all parties recognized the importance of maintaining access into the proposed Gospel-Hump Wilderness Area. Traditionally, local citizens and other users of this area have enjoyed access to the high

[1] Lauer, J. L., Reconnaissance Study Survey of Bighorn Sheep Population and Habits—Red River Ranger District, Nez Perce National Forest, Idaho. Under a cooperative agreement between the Nez Perce National Forest and the College of Forestry, Wildlife, and Range Sciences, University of Idaho, June 1976.

country through three established roads: the Gospel Peak-Square Mountain Road on the west, the Wild Horse Lake Road on the East, and the Sourdough Peak Road on the north. Each of these three roads offers both recreational advantages for motorists and roadside picnickers and campers, and important trail-heads for hiking and horseback parties entering the wilderness. During the winter months, these roads have been used by snowmobiles and cross-country skiers.

It is the intent of the parties to the Gospel-Hump agreement, and the intent of this committee, that these three established access roads remain open for their traditional uses. Accordingly, the boundaries of the Gospel-Hump Wilderness have been carefully drawn to exclude these roads and associated road-side recreation sites. Therefore, the continued maintenance of these three roads is to be specifically provided for in the land management plans and wilderness management plan to be developed by the Forest Service.

Furthermore, the committee directs the Forest Service to establish snowmobile corridors on these access roads, to mark those corridors so as to provide safe winter access to this area by snowmobiles, and to designate by appropriate signs along these roads the boundaries of the Gospel-Hump Wilderness. This will assure winter access to this area by those who desire it, while at the same time protecting the wilderness area itself from unauthorized motorized vehicle use.

During the markup of the Endangered American Wilderness Act, the committee accepted an amendment offered by Senator McClure which would allow possible future use of the Bear Grass Ridge Trail (U.S.F.S. Trail No. 313) in the proposed Gospel-Hump Wilderness by a limited number of over-snow motorized vehicles. This trail presently is traversed by a small number of hearty individuals, who drive into the Square Mountain or Hump Lake areas and then cross the proposed wilderness. Although there was a good deal of discussion among committee members about this proposal, on balance it was decided to direct the Secretary of Agriculture during the preparation of his wilderness management plan and after the completion of the fish and game research program to consider the impacts, costs and benefits of this special snowmobile use. After that consideration, the Secretary could, if he so desired, allow over-snow travel on this single route, if he found that such travel: (1) would not adversely affect the migratory or resident wildlife of the area; (2) would not unduly degrade the Wilderness or the water quality of the area; (3) would not unduly conflict with nonmechanized uses of this area; and (4) could be controlled by the Forest Service on a consistent and practical basis. If such special use of this area were allowed by the Secretary, he would be required after two years of such use to report to Congress on the effects of such over-snow travel activities. This reporting procedure will give the House and Senate the opportunity to review this special use of the Gospel-Hump Wilderness, if the Secretary allows it, before the use becomes totally established.

Recognizing that a portion of the Gospel-Hump roadless area had a history of mining, some existing patented mining claims, and potential mineralization, a portion of the roadless area in the vicinity of Buffalo Hump Mountain was specifically excluded from the terms of the agreement. The parties to the Gospel-Hump agreement felt that this area should be managed by the Forest Service in a manner which would allow these mining claims to be developed if this proves commercially feasible. The committee concurs with this decision.

The committee also feels that additional information on the mineral potential of the Gospel-Hump Wilderness area would be useful to the Forest Service in drawing up their wilderness management plan. Therefore, specific language was included in the bill to assure that a detailed periodic mineral survey be conducted by the Bureau of Mines and the Geological Survey within the wilderness area.

During the markup of the bill, Senator McClure offered an amendment, which was accepted by the committee, to extend, by 5 years, the deadline for location of mining claims contained in the Wilderness Act, insofar as those provisions would relate to the Gospel-Hump Wilderness. This provision has the effect of allowing mining claims to be located within the proposed wilderness until December 31, 1988. The amendment also makes January 1, 1989, the date at which the minerals in the Gospel-Hump area would no longer be available for appropriation under the mining laws. The effective date of such withdrawal from appropriation under the terms of the Wilderness Act is currently January 1, 1984. The McClure amendment was accepted by the committee to give prospectors additional time to assess the mineral potential of the area.

The southern boundary of the proposed Gospel-Hump Wilderness, and other contiguous areas in this bill lie on the main stem of the Salmon River. The committee recognizes that the ultimate classification of these lands is related very directly to the ultimate classification of the Salmon River as a component of the Wild and Scenic Rivers System. If the main Salmon is eventually designated a component of the Wild and Scenic Rivers System, then the committee expects a management corridor to be drawn on either side of the river. The committee further expects this corridor to be managed under the regulations promulgated by the Forest Service pursuant to the Wild and Scenic Rivers Act, and not by the regulations promulgated by the Forest Service pursuant to the Wilderness Act of 1964.

The committee also accepted a change suggested by Senator Hatfield to section 4(a)(3) of the bill to assure that the resources in the so-called "development areas" would, upon enactment, be made immediately available for development under the then existing applicable Forest Service land use plan. The economic life-blood of Idaho County, like many other areas of the west, is the flow of timber from the national forests. For the past several years, the predictability of the flow has been seriously impaired. A principal source of this impairment has been the widespread and increasing uncertainty as to how the roadless areas in and around Idaho County would be managed. By accepting the Hatfield amendment, the Committee wanted to make it clear, beyond a shadow of a doubt, that the terms of this legislation require the Secretary to implement the existing applicable land management plan developed by the Forest Service for those portions of the Gospel-Hump area referenced as "development areas". This means that further administrative appeals of the land use plans for the area will be avoided, and scheduled timber sales can, and are expected by the committee, to be sold.

Similarly, the committee expects the Forest Service to cease all further study it might contemplate undertaking with regard to the suitability and desirability of congressional designation of the lands within the "development" and "management" areas as components of the National Wilderness Preservation System.

Mr. CHURCH. Mr. President, I ask unanimous consent that several newspaper articles and editorials from Idaho papers concerning the Gospel-Hump area be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Lewiston, (Idaho) Morning Tribune, May 1, 1977

GOSPEL-HUMP HOPE

The approach now being followed by environmentalists, the timber industry and Sen. Frank Church in trying to work out the future management of the Gospel-Hump region of Idaho County is not only best for the forest, but best for the residents of the region.

For at least the time being, the snarling among competing interests is on the back burner and there is a good-faith attempt on both sides to work out the compromises which will come sooner or later anyway. Thanks in part to these negotiations, there is hope for an early consensus.

Some years ago, Idaho entered a new era, abandoning forever the concept that development is almost invariably the higher use of any wild region, and recognizing instead that there must be a balanced use of the public lands. If development continued indefinitely to have the upper hand, there would eventually be nothing left—for recreation or for development. Conversely, if every corner of Idaho worth saving were locked away for the future there would be no economic present.

And so we sat down together many times in recent years over the future of a river or a forest and begun the process of deciding which portions of the public lands can be put to productive use and which are too precious to manhandle.

The procedure is always the same. It begins with industry demanding massive use of a special region and with the environmental movement insisting on preserving nearly everything.

But as the legislation is written, sorting out the region's future, the wrangling begins to die down and the compromises begin to fall into place. Both sides come to realize that, even if they had any right, they cannot have it all and they might as well begin the process of give and take. They must do that because the general public will accept nothing less. Most Idahoans are neither totally committed to the timber industry nor to pure conservation, but interested in both, although inclined to err on the side of conservation in recent years. The fact is that a settlement which is one-sided in favor of either conservation or development is unacceptable to a majority of the Idaho electorate.

The two extremes in these arguments can do themselves the great favor of reaching the compromise point, the sobering-up point, early in the game. The two extremes in the Gospel-Hump controversy have been gently prodded by Church toward an earlier willingness to compromise. If they keep on that course they will not only be doing themselves a favor, but the rest of us as well. Everyone wants a reasonable settlement. No one wants the pointless trauma of a prolonged hassle.—B.H.

[From the Idaho Statesman, July 14, 1977]

GOSPEL HUMP COMPROMISE REACHED AFTER 10-HOUR MEET

(By Steve Ahrens)

GRANGEVILLE.—A marathon 10-hour session extending into the early morning hours Wednesday produced a compromise that could end the controversy over management of 300,000 acres of the Gospel Hump roadless area north of the Salmon River.

Representatives of the Grangeville Chamber of Commerce and Idaho conservation groups agreed to recommend to Congress that timber harvesting be allowed on 120,000 acres of prime timber land in the Nez Perce

National Forest, with the remaining 180,000 acres to be designated as wilderness.

Both sides agreed on boundaries for the two areas in a session that began at 5 p.m. Tuesday and lasted until 3 a.m. Wednesday.

The compromise also:

Recommends existing patented mining claims in the Buffalo Hump region be excluded from either the wilderness or timber sale area.

Requests the U.S. Forest Service, the Interior Department, the Idaho Fish & Game Department and the University of Idaho to study timber resources, wildlife and soil conditions in the 120,000 acres where timber sales would be allowed to protect water quality and wildlife resources while harvesting timber.

The decision ends negotiations between the two sides that began when Sen. Frank Church, D-Idaho, brought them together in April. Other negotiations reportedly are nearing success on another 150,000 acres in the Gospel Hump area south of the Salmon River.

Church said once a decision is reached on the remaining area, he will introduce legislation to put the compromise management plans into effect.

"This is a bright day," Church said when informed of the Grangeville compromise. "The agreement between conservationists and local representatives proves it is possible to resolve volatile issues on the future use of Idaho's remaining roadless areas in a rational manner.

Dan Lechefsky, Idaho representative of the Wilderness Society, said the compromise means "a priceless piece of wild country may soon be classified as wilderness, assuming we don't run into any hang-ups in the halls of Congress in getting a bill passed.

He said the plan also resolves a potential long-term conflict, "which could have gone to the courts and could have resulted in indefinite delays." He also said Idahoans may have set a "unique and very special example for people elsewhere in the country in that controversies involving public lands and public resources can be resolved at the local or statewide level."

Herb Blewett, director of the Grangeville Chamber of Commerce, was enthusiastic about the economic implications of the compromise for the Idaho County area.

He said the area has "some future to look forward to right now. Our future would have been kind of dim if we didn't have some allowable cut coming up in the next few years," he said.

Lechefsky said some wilderness advocates will be disappointed because the boundaries do not include all the wild land that potentially could have been classified as wilderness—primarily land Grangeville residents wanted to put into some form of timber development.

"There also was a substantial accommodation made by the conservationists to the mining industry in leaving the patented mining holdings out of the wilderness proposal despite the fact they are located in perhaps the most scenic part of the Gospel Hump area (near the old mining town of Humptown)," Lechefsky said.

He said the compromise boundaries may require a slight change to allow certain timber sales that already have been set up in the southwest corner of the Gospel Hump area, "but this is just a minor oversight."

He said both sides had at least one representative who knew the area well, and both sides "consisted largely of people who had never done anything like this before. We could all basically sit down at the beginning and joke about how naive we felt going into the process, and how anxious we were to try it, to work things out as beginners have to work anything out."

He credited Church with "being very instrumental in keeping us going."

Church, though, said he only "got the ball rolling. The local participants must be given credit for reaching this agreement."

Included in the negotiations were Blewett, Jack Olson, Jack Marek, Terry Vanderwall and Oren Robinson, all members of the Grangeville Chamber of Commerce Task Force; Doug Scott, northwest representative of the Sierra Club; Dennis Baird, Moscow, president of the Northern Rockies Chapter of the Sierra Club; Lechefsky; and Morton Brigham, Lewiston, a director of the Idaho Environmental Council.

[From the Lewiston (Idaho) Morning Tribune, Aug. 14, 1977]

GRANGEVILLE'S BETTER WAY

Amid all the understandably negative reaction to Congressman Steve Symm's recent tongue lashing of the Grangeville Chamber of Commerce Natural Resources Task Force, a positive aspect must not be forgotten:

How proud that task force should be of what it has done.

And we don't mean the specifics of the plan the task force is developing for how best to divide the Gospel-Hump region among its competing interests. The principal accomplishment of the task force is the creation of a sober and dispassionate climate for the consideration of a frequently heated issue. It is a civilized technique that can deal rationally not only with this one issue but with the many issues to come.

At this point it matters little whether all the conservationist-versus-development parties to the attempt are satisfied with the result; indeed, it is the nature of compromise that none will be fully satisfied. Nor would it even matter in this context if 20 years from now virtually everyone might believe the task force erred in its principal conclusions on Gospel-Hump.

What matters is that the task force has found a better way to resolve regional differences.

The residents of this region have long practiced with great gusto that democratic concept that everyone has a right to utter an opinion. That right has been frequently pushed to the limits over the years with slanderous name calling and with occasional verbal brandishing of deer rifles. It is sometimes difficult to decide whether this region is engaged in the discussion of an issue or in a shouting match.

From Grangeville, with some of its former city council fights, to Lewiston Orchards, with its irrigation and annexation turmoil, to Moscow-Pullman with some of its terribly superior environmentalists, this region has more often ranted than reasoned together.

The Grangeville Chamber of Commerce Natural Resources Task Force has found a way to bleed some heat from regional discussions and leave the light. It has sat loggers and environmentalists across the table from each other, persuaded them to behave in a civilized fashion most of the time and even led them to a friendly appreciation of each other quite apart from their continued disagreement. It's called tolerance.

So the members of that task force, who may feel a little wounded now because the congressman and some other our-way-or nothing types gave them a little going over last week, should also focus on the positive and realize how very proud they can be of the civilizing effect of their example on this region—and how tall they stand today by comparison with their cities.—B.H.

[From the St. Maries (Idaho) Gazette Aug. 18, 1977]

GRANGEVILLE METHOD MAY BE SOLUTION

Last week Senator Frank Church introduced legislation which would implement the land use agreement for the Gospel-Hump area worked out among conservationists, preservationists and industry people. The entire process may point the way to resolve the conflict about western lands which has been going on for years among these groups.

An evaluation of the sources of roadless area in the national forests is going on right now. It's to be a study of federal lands and the best use they can be put to. That's fine. But during the study period, all planning, all work and all use are suspended. Perhaps the Gospel-Hump process can be repeated in many areas to end this suspended animation.

The legislation which Senator Church introduced is the result of an agreement by divergent forces who thought, at first, that there was no basis at all for agreement among them. Before the meetings began, it was thought there would be 90 per cent disagreement. But, according to the reports I have received, when the conservationists, preservationists and industry people got together, they found they were in agreement on about 90 percent of the items to be considered.

Under discussion in the Gospel-Hump talks were problems which had to do with possible wilderness areas, roadless areas, timber producing areas, further study areas—everything that you would think would bring diametrically opposite opinions from those concerned. But after a series of meetings, an agreement was pounded out to which all could acquiesce.

This may be the process to follow throughout the West. Experts and advisors are fine—but when it's all done, they can put on their hats and walk away. Rather than relying on more years of study, opinion by experts, advice by specialists, etc., perhaps it would be better for those near the problems—loggers, Sierra Clubbers, miners, businessmen, workers, conservationists—to meet, discuss ideas, argue, disagree, but to finally pound out an agreement on how a particular area of our public land should be handled—at least in the short term.

Then, when agreement is reached, let that agreement go to the Congress and be made into law. Not an immutable law, but a process by which living can continue.

How the Grangeville experiment finally works out could be important to all of us.

[From the Idahoan, Aug. 24, 1977]

EVANS SUPPORTS COMPROMISE IN GOSPEL-HUMP TESTIMONY

GRANGEVILLE, IDAHO.—The designation of the Gospel Hump area in Central Idaho as an Endangered American Wilderness area, and a compromise between preservationists and multiple-use advocates, was endorsed Wednesday by Gov. John Evans.

Evans, testifying before the Subcommittee on Parks and Recreation of the Energy and Natural Resources Committee, said delay in implementing the compromise will not assist either in the economy or protection of the area.

"Legal and administrative procedures had for too long left the future of the Gospel Hump acreage in question," Evans said. "Now a workable and realistic solution has been reached."

Evans said through the compromise, some of the resources in the area will be preserved and some areas will be studied to determine what designation they should receive.

Evans said besides the addition of wilderness to the national system, the classification provides some very concrete advantages.

"To Idaho and the Pacific Northwest, water is our most precious natural resource," Evans said. "Relatively undisturbed watersheds fuel those great river systems that generate our electrical energy, irrigate the land, and provide us with diverse recreational opportunities. Water is essential to our economy and the Gospel Hump watershed is essential to the Clearwater River Drainage," he said.

Evans said while wilderness designation does lock up some resources, it also enhances other values of the area.

"The appreciation of scenic attractions, wildlife, hunting, fishing, and outdoor recreational pursuits are very important and are of major significance to the economy of this state," the governor said.

Evans said recreational pursuits are often a higher and better use for the resources of certain lands.

The governor added while wilderness designation is the best use for some land, other areas are best designed for complete resource utilization and timber harvest.

In his testimony, Evans criticized the forest service, saying it made several serious errors in judgment as it undertook the planning process.

"The composite of roadless areas was not considered as one unit. This resulted in the appeals process that has delayed the completion of the planning" Evan said. "Those appeals and subsequent actions opened the way to what could have been, and without this legislation could still become, a lengthy tangle of litigation and administrative action," Evans said.

[From the Lewiston (Idaho) Morning Tribune, Aug. 25, 1977]

SEVENTY-FIVE TESTIFY AT HEARING

(By Gary S. Sharpe)

GRANGEVILLE.—A singing witness, angry mineralogist and a strong accusation that Frank Church's wilderness advocacy in Congress is threatening Idaho lumber mills were all parts of a marathon Senate subcommittee hearing at Grangeville Wednesday on the volatile Gospel-Hump management plan.

A rainbow of Gem State politicos, including Gov. John V. Evans, and common folk gathered for the parks and recreation subcommittee hearing over which Sen. Church presided. Some 75 persons from the crowd of more than 300 testified during the nine-hour session.

Mineralogists complained that the 340,000-acre roadless tract north of the Salmon River in Idaho County appears to be rich in ore but much of the region is headed toward a wilderness designation. Mining is not allowed in wilderness.

Earl Bennett of the University of Idaho College of Mines said that without an extensive mineral study of the area valuable metals will be lost.

The hearing was called to discuss a land use management compromise drafted by members of the Grangeville Chamber of Commerce and environmentalists.

Under the plan some 220,000 acres of the 340,000 roadless acres north of the Salmon River in Idaho County would be classed wilderness. The remaining 120,000 would be open to logging, mining and motorized recreation.

The proposed use of another 150,000 acres south of the Salmon in Valley County still is being negotiated at McCall.

The compromise for the northern tract was nearly three months in the making. About 90 per cent of the harvestable timber in the region is in the multiple use area. Proposed wilderness is largely sparsely timbered rocky hills near the breaks of the Salmon River.

Gov. Evans reiterated his endorsement of the compromise, an agreement that has drawn fire from the rank and file who feel their jobs are endangered.

Congressman Steve Symms, a conservative Republican firebrand, bumped heads with Church by proxy Wednesday. His aide, Grangeville native Larry Wasem, delivered Symms' remarks and threw in a few of his own.

Symms said the wilderness proposal would result in "instant poverty."

Wasem charged that Church's proposal to establish a national wilderness system is threatening to choke off the tree supply to Idaho lumber mills.

"This protracted and endless delay . . . that's what has to be ended," Church said of the criticism. "I understand how you keep issues alive. But what the people of this community need is a solution. Wilderness is an important part of our heritage. I am proud of my role in the Wilderness act and I would say that again any where, any time."

Idaho's junior senator, Republican James A. McClure, helped Church conduct the nine-hour hearing Wednesday. He told the gathering that he hasn't made up his mind on the management plan for the Gospel Peak-Buffalo Hump region. He questioned several witnesses about the accuracy of projections about where harvestable trees lie.

Iris H. Seyfried of Riggins, a multiple use advocate, set her criticisms of the management plan to music and sang them to the senators.

"Tell the land grabbing thieves get out of Idaho," she sang. "Congress away our rights in Idaho, Idaho, Idaho."

[From the Lewiston (Idaho) Morning Tribune, September 11, 1977]

INSIDE PRESERVATIONISTS

In national politics, when one side or the other runs out of arguments, it is the custom to fall back on name calling. If you can't make your point with logic, then tear down your opponents by questioning their devotion. "Patriotism," said Samuel Johnson, "is the last refuge of a scoundrel."

A similar weakness is creeping into the arguments over Gospel-Hump and other environmental issues in Idaho. Opponents of the Gospel-Hump compromise are starting to use the words "preservationist" and "outsider" interchangeably.

Perhaps some of them actually believe that the attempt to protect some of the forest from the clumsy hand of humankind is largely the work of people outside Idaho's borders. They talk about "these Sierra Clubbers coming in here and telling us what to do with our land." If that is representative of their true beliefs, rather than merely an attempt to be disparaging, then they should be given to understand that they are mistaken.

Idahoans may differ over how much of a forest to preserve or how much of Hells Canyon to protect against dams or commercial development, but make no mistake about it: rather large numbers of Idahoans, to greater and lesser degrees, want something left standing of Idaho as they knew it as children. Native Idahoans who insist that some of their state be saved find it a bit disconcerting to be dismissed as "outside preservationists," especially when some of those putting that label on them moved here four years ago from West Virginia.

Let's lay that nonsense to rest. People elsewhere have the right to some interest in what happens to the federal forests of Idaho, just as Idahoans have some equal rights with the residents of Wyoming in the wise management of Yellowstone National Park. But to the extent that the federal forests of Idaho are a special interest of Idahoans, it is useful to note that however many people elsewhere are concerned with the future of natural Idaho, there are more Idahoans immediately concerned than anyone else.

Those who would like to chew up more of the forest may very well resent "the preservationists" who differ with them in that goal. However, they will find that most of those who differ with them are Idahoans—inside preservationists.

But it is true that "preservationist" Idahoans have been influenced by outsiders. Idahoans have been heavily influenced by traveling to southern California and to the East and seeing what a mess those states have made of their natural heritage. The inside preservationists are the many Idahoans who are determined that the same mistake won't be repeated in a state that is still worth saving.

[From the Idaho Statesman, Oct. 7, 1977]

SENATE PANEL OK'S WILDERNESS REGION FOR GOSPEL HUMP

(By Bill Dietrich)

WASHINGTON.—The Senate Energy and Natural Resources Committee approved a new 206,000-acre Gospel Hump Wilderness in north-central Idaho Thursday.

Sen. Frank Church, D-Idaho, called it a "precedent" that could pave the way for rapid decisions on other Idaho environmental disputes.

Gospel Hump is part of a national measure approved by the committee, that adds 14 wilderness areas in seven states totaling 1.2 million acres.

The bill as approved not only designates a Gospel Hump wilderness 17,000 acres smaller than first proposed, but adds another 137,000 acres of National Forest timber into the total the U.S. Forest Service will use to calculate future timber cuts in Idaho County.

The practical effect of that, Church and Sen. James McClure, R-Idaho, said, will be to prevent lumber-mill closures in the Grangeville area.

Removing that much acreage from the limbo of federal study is estimated to add 15 to 25 million board feet of available timber a year to the 144 million already allowed cut each year in the Nez Perce National Forest.

As a result, the Grangeville wood supply should not evaporate.

The two senators warned, however, that other Idaho mill towns may be threatened soon. Their strategy for the next two years, they said, is to seek wilderness compromises similar to that at Gospel Hump wherever vital federal timber supplies are being held captive by unending studies.

"We will have more wilderness in Idaho," McClure acknowledged. But he pleaded for a "middle ground" and an end to repeated bureaucratic reviews that produce neither wilderness nor wood.

McClure also suggested the Senate pay more attention to mining interests and off-road vehicle users at Gospel Hump. Adopted in response were two compromises:

That the opportunity to establish mineral claims in the Gospel Hump Wilderness be extended from the present 1983 deadline to 1988.

That snowmobile users be allowed to continue use of Bear Grass Ridge through the middle of the wilderness to connect two popular snowmobile routes. However, the Secretary of Agriculture can halt the snowmobiling if it causes environmental damage, and a report on the environmental effect must be made to Congress in two years.

Sen. Mark Hatfield, R-Ore., insisted on the two-year report to insure other wildernesses will not be opened to snowmobiles. A McClure aide suggested that even with the corridor, the closure of the rest of the wilderness to off-road vehicles will be the most controversial part of the Gospel Hump plan.

"The 137,000 acres," Church explained, "contains 90 per cent of the merchantable timber in the area." That acreage is divided into two portions: 45,000 acres open to harvest as soon as the bill passes, and 92,000 more to be studied.

However, since the 92,000 acres is counted in the total amount of wood available, the U.S. Forest Service will be able to allow more rapid cutting on the rest of the Nez Perce forest. Church predicted those 92,000 acres would be opened to timber harvest when the studies are completed.

Subtracted from the wilderness portion of Gospel Hump Thursday was a geographic "toe" in the southern part to calm fears that there would be an unbroken wilderness band splitting the central part of the state where

no roads or off-road vehicles could pass. Elimination of the toe should leave a gap between Gospel Hump and other possible wilderness acreage to the south.

The committee vote took the Gospel Hump compromise forged by the Grangeville Chamber of Commerce and environmentalists through the first step in the legislative process.

Not only was it unusual for the lines to be drawn by the people involved instead of the federal bureaucracy, but it also immediately opens land to timber harvesting that might otherwise have been tied up in study.

McClure said it was important that Congress begin acting quickly. "We've had the time to procrastinate and study but now that time is up and towns in Idaho are running out of timber," he said.

Church said the businessmen-environmentalist kind of meeting that arrived at the Gospel Hump boundary might be used next to decide wilderness boundaries in the Idaho Primitive Area.

Both agreed with Hatfield that a better definition of "wilderness" was needed to allow facilities like privies or winter use of snowmobiles into some wild areas. The alternative, Hatfield suggested, might be a new recreation category "somewhere between the lockup and the chainsaw."

[From the Idaho Statesman, Oct. 13, 1977]

GOSPEL HUMP AGAIN

The Idaho Environmental Council's anger at the Gospel-Hump wilderness bill is out of order. The council would do well to keep its own counsel for a whole on the issue.

The bill had its origins in a negotiated agreement between environmental interests and the Grangeville Chamber of Commerce. The intent was to release quickly the good timber land so that the economy of the area would not suffer further, yet protect fragile wilderness areas of the Nez Perce and Payette National Forests.

After the original compromise was hammered out, public hearings were held. During these public hearings, a great deal of criticism was leveled at the negotiating process because off-road vehicle users and mining interests were excluded. The criticism was unfounded. The original compromise was a draft. The public hearings allowed all groups to have their say and attempt to influence the legislation presented to Congress.

Now the IEC is upset because changes were made to reflect public sentiment expressed in those hearings. The IEC criticism reflects a desire to have the cake and eat it, too. As Sen. Frank Church, D-Idaho, said, if no changes could be made in the original compromise, then the public hearings would have been a farce, and the criticism expressed by Rep. Steve Symms, R-Idaho, and others about the exclusivity of the negotiations would have held merit.

The off road and mining interests had to be included in either the original negotiations or in the public hearings. In no way could they be refused a chance to influence the legislation all the way down the line.

As for the changes made in the legislation, the IEC has gone just a bit overboard in characterizing them as "emasculation on top of compromise for the sake of politics."

"The next thing you know," an IEC spokesman said, "they'll want to use chainsaws, Jeeps and every other motorized contraption, until the National Wilderness Preservation System is nothing but a playground for motor addicts."

That language, is a bit strong to characterize one snowmobile route in one wilderness area. No one has proposed, or is likely to propose, wholesale assaults on wilderness areas by motorized vehicles. Even in this case, checks are imposed to insure the area is not damaged. If it is, the trail can be closed.

We agree with Sens. Church and James McClure, R-Idaho, that there are adequate safeguards for wildlife, fish and soils in the legislation. In that regard, the legislation is acceptable.

Mr. CHURCH. Mr. President. I ask unanimous consent that the section-by-section analysis of H.R. 3454, as amended, which appears in the Senate report on this bill, be printed in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

SECTION 1.—FINDINGS AND POLICY

This section sets out congressional findings relating to the need to add lands to the National Wilderness Preservation System. These findings are: (1) that many undeveloped public lands have outstanding natural characteristics and are capable of providing an enduring resource of wilderness for future Americans; (2) that certain of these lands may be of wilderness caliber but lack formal statutory protection; (3) that many of these lands are threatened by pressures of a growing and mobile population and in some instances by plans for development and uses in conflict and existing wilderness qualities; and (4) that these threatened lands are not being adequately protected by the Federal agency responsible for their administration.

On the basis of these findings, Congress has determined that these lands need formal statutory protection to preserve their wilderness values.

SECTION 2.—DESIGNATION OF WILDERNESS AREA

Section 2 designates the following areas as wilderness and therefore as components of the National Wilderness Preservation System.

(*a*) *Pusch Ridge Wilderness, Ariz.*—This 56,430 acre wilderness is located in the Coronado National Forests. The area provides a scenic backdrop for the city of Tucson, and its close proximity to the city provides an opportunity to preserve an outstanding primitive recreation experience for the residents of this rapidly growing area. The committee agreed to the several deletions made by the House to exclude an existing archery range and to provide land for the development of four trailheads for the purpose of improved access to the wilderness.

(*b*) *Golden Trout Wilderness, Calif.*—The 333,100 acre Golden Trout Wilderness is located in the Sequoia and Inyo National Forests adjacent to the southern boundary of Sequoia National Park. It is a relatively gentle landscape in contrast to the more rugged glaciated terrain of the Sierra Nevada to the north. The Golden Trout Wilderness is within a three hour drive of the Los Angeles metropolitan area, and is popular for hiking, horseback riding, hunting and fishing.

The name derives from the fact that this is the homeland of the golden trout, perhaps the most beautiful of all trout. The golden trout was designated as the California State fish in 1947. Its habitat consist of the small streams connecting open meadows throughout much of the proposed wilderness.

The committee heard testimony supporting a wide range of proposals for this area ranging from no wilderness at all proposed by Senator Hayakawa to the 416,800 acre wilderness supported by Senator Alan Cranston and the State of California. Although the House Interior Subcommittee on Indian Affairs and Public Lands recommended a wilderness essentially identical to this larger proposal, the House Interior and Insular Affairs Committee, and the House itself, adopted a 179,625 acre Golden Trout proposal.

Much of the controversy over the boundaries of this proposed wilderness focuses on the golden trout, and in particular the subspecies known as the Little Kern golden trout which is found throughout the drainage of the Little Kern River. On September 1, 1977, the U.S. Fish and Wildlife Service proposed to add the Little Kern golden trout to the list of threatened species and to designate much of the disputed area as critical habitat because "forestry management plans now under consideration call for logging activities in a large portion of the drainage basin in which the trout occurs. This would result in an alteration of existing water quality by increasing temperature and siltation which would seriously threaten the survival of the Little Kern golden trout." Hybridization with non-native species and over fishing have also contributed to the decline in numbers and size of the golden trout in other areas outside the proposal into which roads have been constructed.

The committee recognizes that there are timber values throughout much of the 333,100 acres recommended for wilderness designation. However, since the current timber management plan (TMP) for the Sequoia National Forest is almost 20 years old, it is difficult to accurately assess the precise impact of wilderness designation on the amount of timber which will actually no longer be available to local mills. Given the fact that the affected mills are currently operating at an installed mill capacity equal to or in excess of what the forest can now produce using an outdated TMP, it may well be that some adverse timber-related economic impact will occur in the area regardless of wilderness designation once the new TMP is released later this year.

Similarly, should, as the Department of the Interior recommends, a large portion of the lower Little Kern drainage be designated as Critical Habitat pursuant to the provisions of the Endangered Species Act of 1973, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of this habitat. Such action, even without wilderness designation, may well require the Forest Service to carefully reassess the amount of timber actually available for harvest in this area

To promote increased timber production, the Congress has been increasing funds for intensive forestry practices in the National Forests which should reduce the pressure to cut timber in remote and expensive to reach roadless areas. Intensive forestry methods should be encouraged which will increase the yield on lands already committed to timber harvesting. In addition, other areas containing lands which are more accessible, less expensive to harvest, and have high quality timber should be surveyed in an effort to determine which of them can best be utilized and managed to produce forest products which will serve the long-term public interest. Such intensive management should result in the creation of many new jobs by virtue of increased tree planting, precommercial thinning, and other labor intensive employment.

At the request of the State of California, the committee made minor adjustments in the wilderness boundary in the Horseshoe Meadows Area so that the right-of-way for the county road providing access to the area plus 320 acres consisting of the NW ¼, Section 14, and the NE ¼, Section 15, T.17S., R.35E. will be excluded from the wilderness, in order to provide for parking, day use, a backpacking staging area and to provide a site for relocating a pack station. The exclusion of a larger area in the Horseshoe Meadow Area to allow for the construction of a large campground as originally proposed by the Forest Service was not agreed to by the committee.

The committee concluded that continued operation of the Golden Trout Camp located on Forest Service lands within the proposed

wilderness is consistent with the provisions of the Wilderness Act and an appropriate use of this area. This primitive camp facility, consisting of a half dozen log cabins, a corral, plus a number of tent platforms, is used in the summer by the Thatcher School, the Audubon Society, and by disadvantaged children receiving conservation education. Access is only by foot or horseback. The committee feels that the Forest Service should continue to renew the permit for this important facility.

(c) *Santa Lucia Wilderness, Calif.*—Located in the Los Padres National Forest and only 12 miles north of the City of San Luis Obispo, the 21,250 Santa Lucia Wilderness will provide a high quality wilderness experience for area residents. In addition to outstanding scenic values, the area contains the only known stand of knobcone pine between Monterey and the San Bernardino Mountains and one of the most expensive stands of bigcone pine in existence.

The proposed Santa Lucia Wilderness is traversed by a 115-kilovolt electric transmission line. This facility is operated under a 50-year easement from the Forest Service which expires in 2001. The "Wilderness Reserve" provision of H.R. 3454, as amended, recognizes the existence of this transmission line and the need for continuing maintenance of the transmission line, while providing for the automatic inclusion of the "reserve to the wilderness if the transmission line is ever removed. The committee directs that maintenance of the line be conducted in a manner consistent with past practices. The committee wishes to make clear that the FAA site, the CDF electronic site, and the Forest Service lookout located near the proposed boundary are not included within the wilderness.

Due to the extreme hazard of forest fires in the Los Padres National Forest, the committee adopted the special management language for the Santa Lucia and Ventana Wilderness areas approved by the House authorizing the Forest Service "to take whatever appropriate actions are necessary for fire prevention and watershed protection included but not limited to acceptable fire presuppression and fire suppression measures and techniques". The uses authorized by such special management language should not be construed by any agency of judicial authority as being precluded in other wilderness areas, but should be considered as a direction and reaffirmation of congressional policy. (See "Wilderness Management" section of this report)

(d) *Ventana Wilderness Additions, Calif.*—These four additions (totaling 61,000 acres) to the existing 95,152-acre Ventana Wilderness will round out the wildernes potential in California's famed Big Sur region. The Cone Peak addition (largest of the four additions) gives permanent protection to a ridge and series of mountains which rise out of the Pacific Ocean and afford a spectacular view of both ocean and rugged interior mountains of California. The entire area is easily accessible from many boundary roads, has a good trail system, and is very popular for hiking and camping.

The committee excluded 75 acres including the summit of Junipero Serra Peak plus a corridor for an access road in order to allow for the possible future construction of an astronomical observatory on this site. An additional exclusion of 5 acres was approved in order to permit vehicular access over a route of one-half to one mile long to the property of Dr. Gerald Petkus who is in the process of establishing a modest facility for treating and sheltering injured wildlife.

(e) *Hunter-Fryingpan Wilderness, Colo.*—The 80,000-acre proposed wilderness area includes the 67,000 acres approved in the House-passed version as well as a 13,000-acre addition in the "Deadman Gulch" and "Spruce Creek" areas. It is the committee's understanding that this 80,000-acre proposed wilderness corresponds to an area which the Forest Service, pursuant to their unit planning process, will recommend for wilderness study later this year. The committee also agreed to adopt language contained in the House-passed bill which specifically provides that the designation of this area as wilderness is not intended to prejudice, alter or affect in any way any rights, or claims of right, to the diversion and use of waters from Hunter Creek on the Fryingpan and Roaring Fork Rivers and/or, in any way, to interfere with the construction, maintenance or repair of the Fryingpan-Arkansas water project.

The committee recognizes that, at the present time, there is litigation concerning the Fryingpan-Arkansas project. This litigation includes challenges relating to the National Environmental Policy Act of 1969 and protests in Water court in Colorado. The language in this bill does not address the issues involved in such litigation.

(f) *Manzano Mountain Wilderness, N. Mex.*—This 37,000-acre wilderness is located along the west slope of the Manzano Mountains about 27 miles southeast of Albuquerque in the Cibola National Forest. The area was selected for further wilderness study during the Forest Service's 1972 RARE review, and the Forest Service now feels enough is known about it to recommend immediate wilderness designation. Like the Sandia Mountain area directly to the North, the Manzano Mountain Wilderness will provide the residents of, and visitors to, the Albuquerque area with a pristine wilderness experience in close proximity to the city.

(g) *Sandia Mountain Wilderness, N. Mex.*—The Sandia Mountains, located directly above the city of Albuquerque, are its scenic backdrop, prime recreation area, and partial source of underground water. Recreational use is on the increase and includes hiking, climbing, backpacking, cross-country skiing, snowshoeing and bowhunting. The committee feels that this 30,930-acre area, along with the Lone Peak proposal near Salt Lake City, will constitute an especially important addition to the Wilderness System in that it is so readily accessible to the residents and visitors of a large metropolitan area. The "sights and sounds" of nearby Albuquerque, formerly considered a bar to wilderness designation by the Forest Service, should, on the contrary, heighten the public's awareness and appreciation of the areas' outstanding wilderness values.

The committee agreed to adopt the several minor deletion and/or additions approved in the House-passed bill, the net effect of which is a 236-acre addition to the markup, the committee considered adding 6,578 acres of contiguous privately owned land (known as the Elena Gallegos grant lands) to the proposed Sandia Wilderness. Although the committee agreed that the tract might be an excellent candidate for wilderness designation some time in the future, it felt that such a decision would be premature as there is currently legislation pending in Congress, to add this tract to the Cibola National Forest.

(h) *Chama River Canyon Wilderness, N. Mex.*—The Chama River is one of New Mexico's most popular rivers for wilderness boating, and was designated as a New Mexico Scenic and Pastoral River in 1977. The 50,300 acre area to be protected by the wilderness designation in H.R. 3454, as amended, is dominated by sandstone cliffs, bowls, and amphitheaters.

The committee recommendation, which corresponds with that of the House-passed version, deletes 150 acres in the very northern portion of the proposal, and 50 acres in the Gallina, to insure continued access to private lands not entirely surrounded by the wilderness but nevertheless dependent on the wilderness lands in the original proposal for access. The committee-recommended boundary like that of the House, removes 400 acres covered under an existing timber sale contract.

Correspondence from the Forest Service indicates that there are no timber sales—existing, planned, or past—within the present wilderness boundaries of H.R. 3454, as amended. However, the committee heard conflicting testimony to the effect that the exterior boundaries of some timber sales may, in fact, lie within the proposal. The committee did not adjust the boundaries of the wilderness on the basis of these allegations pending receipt of additional information. If adjustments are deemed desirable, the committee agreed that this could be accomplished prior to final enactment.

(i) *Lone Peak Wilderness, Utah.*—Like the Sandia Mountains wilderness, this spectacular 29,567 acre wilderness in the Wasatch Mountains forms the scenic backdrop for a major metropolitan area, in this case, Salt Lake City, Utah. The area is within a 90-minute ride of 80 percent of Utah's population.

In addition to being extremely popular for hiking, hunting, climbing, fishing, alpine ski touring, cross-country skiing, and other recreational uses, the area supplies 25 percent of the water needs of Salt Lake City. Access to the area is easy from all sides and is enhanced by the existence of several high altitude jeep trails lying outside the wilderness boundaries. The Snowbird Corp. ski tram also provides high altitude access.

The committee agreed to adopt the boundaries approved by the House in their version of the Endangered American Wilderness Act. The committee specifically included special management language to insure that vault toilets or other sanitary facilities (which may require service by helicopter) could be placed in the wilderness area, and that motorized access and road maintenance necessary for access to existing or future watershed facilities, would be permitted. As already indicated, the uses authorized by this special management language should not be construed by any agency or judicial authority as being precluded in other wilderness areas, but should be considered as a direction and reaffirmation of congressional policy.

SECTION 3.—OREGON OMNIBUS WILDERNESS ACT

On June 20, 1977, the Senate passed S. 658, the Oregon Omnibus Wilderness Act. As passed the Senate, the bill would designate three areas entirely within the State of Oregon as wilderness. These are: (1) The Kalmiopsis Additions (82,400 acres); (2) the Mt. Hood Additions (33,000 acres); and (3) the Boulder Creek Wilderness (19,200 acres). A fourth area, the Hidden Wilderness study area would be designated for wilderness study. Finally, S. 658 would designate an 185,000 acre area in Oregon and Washington, the Wenaha-Tucannon, as wilderness.

In considering the Endangered American Wilderness Act, the committee agreed to incorporate three of these areas into H.R. 3454, as amended: (1) the Kalmiopsis Additions; (2) the Mt. Hood Additions; and (3) the Wenaha-Tucannon Wilderness. The committee also agreed to recommend a fourth area in the State of Oregon for wilderness designation—the French Pete Creek Additions to the Three Sisters Wilderness (45,400 acres).

In consolidating these two bills in order to provide a single, consistent vehicle for a number of proposed Oregon wilderness areas and to expedite final action, two areas included in S. 658 were not added to H.R. 3454, as amended. These areas are the proposed Hidden Wilderness Study area and the proposed Boulder Creek wilderness area. For both these areas, the committee agreed to direct the Forest Service to conduct a complete wilderness study following the established study procedures set forth in the 1964 Wilderness Act. The areas to be studied in

both instances are designated by maps referenced and reprinted in the Senate report accompanying S. 658, Senate Report No. 95-329. Of course, should the Forest Service, during its RARE II process, identify roadless lands contiguous to the areas generally depicted on these maps, such lands should be similarly reviewed. It is the intent of the committee that these studies be completed and the President's recommendations transmitted to Congress within 2 years from the date of enactment of this Act so that the Congress will have an opportunity to act expeditiously on these areas. Management of the areas during the study period is to conform with the provisions of S. 658, as passed the Senate.

SECTION 4.—GOSPEL-HUMP AREA [1]

Section 4(a)(1) designates by map reference the "Gospel-Hump Wilderness," comprising about 206,000 acres, on the Nezperce National Forest in the State of Idaho. The proposed Gospel-Hump Wilderness will be a component of the National Wilderness Preservation System.

Section 4(a)(2) identifies, also by map reference, three tracts totaling 92,000 acres and denoted as "management areas", which will be managed in accordance with the multipurpose resource development plan defined later in section 4.

Section 4(a)(3) identifies, also by map reference, several tracts totaling 45,000 acres and denoted as "development areas", which shall be available for immediate resource utilization in accordance with existing applicable Forest Service land management plans. The phrase "existing applicable" is intended to make reference to the currently effective land management plans, but is not to be construed as in any way limiting or prejudicing the on-going planning functions of the Forest Service and the changes and or revisions which all such plans normally undergo in conformance with the laws governing the administration and management of the national forests.

Section (4)(b) provides for a seven-member Advisory Committee on management of the Gospel-Hump Area.

Section 4(b)(1) requires that the Secretary appoint the Advisory Committee within 90 days after enactment of the Act. The Advisory Committee is to advise the Secretary as to the progress of the fish and game research program, and the multipurpose resource development plan called for elsewhere in this section and shall appraise the results of the research program and the development plan on an ongoing basis.

Section 4(b)(2) requires that two of the members of the Advisory Committee be persons from the timber industry who purchase timber from the Nezperce National Forest; that two members be from organizations actively engaged in seeking the preservation of wilderness land; and that three members be from the general public who otherwise have a significant interest in the resources and management of the Gospel-Hump Area.

Section 4(b)(3) provides for allowance of travel expenses, including per diem in lieu of subsistence, for the members of the Advisory Committee while away from their homes or regular places of business in performance of services for the Committee. The allowance for these expenses is to be provided in the same manner as for persons employed intermittently in the Government service as governed by section 5703(b) of title 5 of the United States Code.

Section 4(b)(4) states that the Secretary shall insure that the Advisory Committee meets as soon as practicable after all the members are appointed, but not later than 150 days after the enactment of the act. Subsequent meetings must be held every 180 days, or as often as the Secretary deems necessary.

Section 4(b)(5) directs that the Advisory Committee shall terminate 150 days after the transmittal of the completed multipurpose resource development plan prepared pursuant to this section.

Section 4(c) provides for the preparation of a comprehensive fish and game research program for the Gospel-Hump Area and surrounding Federal lands in north-central Idaho.

Section 4(c)(1) directs the Secretary to cooperate with agencies and institutions of the State of Idaho and with the Secretary of the Interior in conducting the comprehensive fish and game research program. The committee recognized the need—long expressed by Idaho's Department of Fish and Game—for such a detailed study as a prerequisite to intelligent land allocation and resource management decisions in this overall area. A cooperative program, utilizing expertise and resources of the Department of Agriculture, the Fish and Wildlife Service of the Department of the Interior, the Idaho Department of Fish and Game, and the resource specialists from such institutions as the University of Idaho, will best insure a comprehensive and thoroughly detailed program. The Secretary is directed to insure that this research program includes detailed investigations concerning resident and anadromous fisheries resources (including water quality relationships) and the status, distribution, movements, and management of game populations, in order to provide findings and recommendations concerning integration of land management and development with the protection and enhancement of these fish and game resources.

Section 4(c)(2) authorizes the Secretary, for the purpose of carrying out the research program, to make grants of funds to agencies and institutions of the State of Idaho and to provide the assistance of personnel from agencies under his jurisdiction. The committee intends that personnel from appropriate agencies under the jurisdiction of the Secretary of the Interior will also be made available to assist in this cooperative program.

Section 4(c)(3) directs the Secretary to insure that the research program is completed in a timely fashion so that its findings and recommendations are fully integrated in the preparation of the multipurpose resource development plan required by subsection 4(d). Similarly, the findings of this research program should assist in the preparation of the wildernes management plan required in section 4(e).

Section 4(d) requires the Secretary of Agriculture to develop within 4 years a multipurpose resource development plan laying out the location and manner of developments—such as road construction and logging—within the so-called "management areas" of the Gospel-Hump area. The plan must comply with provisions of relevant laws governing the management of the national forests, including the Multiple Use-Sustained Yield Act, the Forest and Rangeland Renewable Resources Planning Act, and the National Forest Management Act, and the regulations, guidelines, and standards promulgated under each of those acts. It is intended that this plan will require the Forest Service to gather detailed field data on soil types and soil hazards, and information on timber volumes, timber site classes, and productivity. Findings and recommendations coming from the comprehensive fish and wildlife data are also to be used in the development of this management plan. It is further intended that this is not to be a static plan, but it is to be revised from time to time to incorporate any new data that might be available.

The preparation of this multipurpose resource development plan is to be done within full view of all interested parties, with open participation by the public sector, and should give careful consideration to the ideas and recommendations of the Advisory Committee.

The plan is to be reviewed each year during its preparation in order to determine what kind of developments might be scheduled in a particular area before the completion of the final plan. Notice of completion of the plan (or portions of the plan) is to be published in the Federal Register, and the plan (or relevant portion) is to be transmitted to both houses of Congress for a 90-day review period. The plan (or portion) can be implemented after this review.

Section 4(e) requires the Secretary to prepare a wilderness management plan for the Gospel-Hump Wilderness, incorporating into the plan findings of the fish and game research program. In preparing the wilderness management plan, the Secretary must consider the possible impacts of allowing over-snow motorized vehicles to use the trail (No. 313) between Square Mountain and Hump Lake which traverses the wilderness. He may then issue an order, if he desires, allowing such use under certain conditions. However, before doing so, he must issue a written finding that resident and migratory wildlife in the area would not be adversely affected by such use, that wilderness values and water quality would not be unduly degraded, that due consideration is given to other, nonmechanized use of the wilderness, and that adequate provision is made for effective control of this over-snow vehicle use. If the Secretary decides to allow this over-snow travel along this one trail, he is required to report to Congress after 2 years on the effects of such travel on the area's wildlife, the wilderness values of the area, local water quality, other nonmechanized uses, and other relevant matters.

Section 4(f) requires the timber resources within both the management and the development areas be included in the calculation of the annual allowable timber cut for the Nezperce National Forest within 30 days after the bill's enactment, thus acknowledging that the timber resources in those areas are to be harvested eventually.

Section 4(g) is a reiteration of the language of the Wilderness Act relating to mining and mineral location. It is included here to restate the intent of the committee that some mining activities can occur in the Gospel-Hump Wilderness Area. The section also requires a detailed, recurring study of the mineral potential of this area by the Geological Survey and the Bureau of Mines, acknowledging the potential mineralization of the area.

Section 4(h) authorizes appropriations for the fish and game research program, and the multipurpose resource development plan. Although for budgetary reasons the language limits this authorization until after October 1, 1978, the committee fully expects the Departments of the Interior and Agriculture to seek the reprograming of funds at an earlier time, under their normal reprograming procedures, so that both these priority programs might begin as rapidly as possible.

SECTION 5.—ADMINISTRATION OF WILDERNESS AREAS

This section provides that, subject to valid existing rights, wilderness areas designated by this Act are to be managed in accordance with the provisions of the Wilderness Act of 1964. However, in the case of the proposed Gospel-Hump wilderness area, the Committee agreed to extend the deadline for location of mining claims contained in the Wilderness Act for a 5-year period. This provision has the effect of allowing mineral claims to be located within the proposed Gospel-Hump wilderness until December 31, 1988.

[1] A more detailed explanation of the Gospel-Hump area is found at the end of the Section-by-Section Analysis.

The amendment also makes January 1, 1989, the date at which the minerals in the Gospel-Hump area would no longer be available for appropriation under the mining laws. The effective date of such withdrawal from appropriations under the terms of the Wilderness Act is January 1, 1984. The committee also agreed to adopt language identical to that contained in Public Law 94-429, the so-called "Mining in the Parks Act", providing that activities resulting from the exercise of valid existing mineral rights on patented or unpatented mining claims within the proposed Gospel-Hump Wilderness shall be subject to regulations prescribed by the Secretary as he deems necessary for the preservation and management of the area.

SECTION 6.—FILING OF MAPS AND DESCRIPTIONS

This section contains language common to all wilderness legislation requiring the filing of accurate maps and descriptions of wilderness areas in the bill with the House Committee on Interior and Insular Affairs and the Senate Energy and Natural Resources Committee.

Mr. HANSEN. Mr. President, although I support the legislation considered by the Senate today, I have severe reservations about the current mode of considering wilderness legislation. An omnibus wilderness bill presupposes that agreements have been reached by all interested parties in the legislation and therefore the elements of controversy are removed and that the "strength in numbers" theory will come into play. By involving areas that are of special interest to a number of Members of Congress the bill has a greater chance to be favorably considered than a bill which deals with one area alone. I realize the press of Senate business works against the proposition that wilderness classification should be considered on a case-by-case basis, and that without omnibus consideration there would be precious little wilderness established.

However, as often happens, omnibus wilderness legislation as it starts through the legislative pipeline with what appears to be complete agreement in areas, boundaries, uses and purposes tend to unravel. What happens is that corrections, deletions and additions are difficult to make without sinking the whole bill and all the areas.

I compliment Senator CHURCH in his management of this bill in trying to avoid this issue. But it has occurred in considering the Golden Trout Wilderness. The problem occured last session concerning the Fitzpatrick Wilderness and in a park omnibus bill as it related to the Manmass National Historic Site. There has to be a better way to give the proper consideration to wilderness proposals and the congressional review necessary.

I heartily support and compliment the distinguished Senators from Idaho and Oregon for their statements which they will make concerning wilderness management and referred to in the committee report. They make it quite clear that minimum sanitation facilities, fire protection necessities, and administrative needs are in fact allowed in established wilderness. Wilderness use is up in geometric proportions. The simple designation acts as a magnet to draw people in. We must have the clear understanding that the needed systems and facilities are allowed to handle this increased use. With additional visitor use comes possible impact on other uses and wilderness values. Watershed, wildlife, grazing are all legal uses in wilderness, yet high visitation without control and minimum facalities may well affect these other values and uses

We must, in this era, consider much more carefully how the national interests are satisfied in the needs for wilderness and the needs for other resources from the public lands. It seems to me that our energy needs and problems, a concern which has fully occupied the congressional calendar this year, should be weighed very carefully as we establish the tradeoffs. Timber supply and its effect on timber dependent communities must be considered in consideration of wilderness classification.

The concept of wilderness is basically a sound and valuable one. It is a concept that a nation rich in natural and wild areas with a supporting economic system should embrace. I ask no abandonment of that concept, but rather a realistic evaluation of our total needs in balance. Our dependence on foreign energy resources must be diminished. Too much land in limbo, in question, without decision for too long exacts a price from the Nation. We must sharpen these decisionmaking tools to place the lands that should be in wilderness in wilderness and those that should be used for multiple use in a multiple use classification.

Again, I wish to compliment Senators CHURCH, HATFIELD, DOMENICI, and MCCLURE for their hard work in bringing this legislation into being.

Mr. HATFIELD. Mr. President, I ask unanimous consent that Beverly Charles, of Senator JAVIT'S staff, and Bob Cooper, of Senator BARTLETT'S staff, be accorded the privilege of the floor during the debate and votes on this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I want to compliment my colleagues on the Senate Energy and Natural Resources Committee, and particularly Senator CHURCH, for the expeditious action on this important legislation. Because of your long background of leadership in developing the Wilderness Act of 1964, Senator CHURCH, I believe it is highly appropriate that you should be leading an effort at this time to expand the National Wilderness Preservation System.

Mr. President, achieving a reasonable balance between environmental protection and economic growth is a subject that has major claims upon my time and the time of other Members of the Congress at this particular point in history. I think the tension and strong reactions that we are sensing between competing ideologies and groups must be openly discussed and freely debated. I do not purport to have easy or simple answers. But I do feel that we are not going to reach the balance or the solution to many of these problems, which are real problems, until we get out of the "either/or" situation or the polarization which tends to surround this particular subject.

In my recent efforts to expand Oregon's wilderness program under the Oregon Omnibus Wilderness Act, I have been caught up in the middle of this controversy as it relates to the Forest Service, which ranges from a chain saw mentality to a lockup mentality to create one large Federal park. Each side has viewed the other as having evil intentions while it alone has the public interest at heart. Each side has resorted to the either/or approach. The environmentalists, on the one hand, say that either we set aside all the roadless area now or lose the resource forever. In contrast, some of the timber operators assert that we must completely stop wilderness or experience severe economic losses. I believe the real answer is somewhere in between.

The results have been that there is no clear policy today to guide the Forest Service except that each group wants more: More wilderness, more wildlife, more recreation, and more timber. It is true that there is a need for all these uses of the national forests, but these decisions can be made to the ultimate satisfaction and solution of the real problems only, in my opinion, when we seek the balance and turn our back to the extremists on one side or the other.

I believe that we have a responsibility to preserve more of our unique natural areas for present and future generations, but there cannot be enormous expansion of wilderness during a period of shrinking timber supply. While better forest management can help overcome the economic concerns, we have the responsibility to protect our jobs and our economy—we cannot enjoy wilderness on an unemployment compensation check. I might add at this point that I feel that we have gone a long way in providing better forest management over the last few years. Those of us on the Appropriations Committees in Congress have added money each year to the Forest Service budget for multiple use and sustained yield management. As an example, in last year's appropriation bill for fiscal year 1978, the Congress added over $240 million to the Forest Service budget. This increase, which was within the budget ceiling, was a quantum jump for more effective management of our renewable resources. And it should signal a more adequate and balanced approach to forest management in the future.

I believe that my modified Oregon Omnibus Wilderness Act, which has been added as section 3 of this act, is this kind of balanced approach. This bill has been developed over the last 5 years. It has been the subject of both field hearings in Oregon and additional hearings in Washington, D.C. I have revised the bill many times based upon the testimony, data, and input of the people within the State.

The final version includes four areas in Oregon: The Wenaha-Tucannon Area, the additions to the Kalmiopsis Wilderness, the Mount Hood-Zigzag additions to the Mount Hood Wilderness, and a French Pete Creek Wilderness. In addition, the Senate report contains language to direct the Forest Service to study two other areas in Oregon which were included in my original proposal—Boulder Creek and Hidden Wilderness.

There will be further changes in the proposal, of course, during the conference committee between the House and the Senate, but I believe that we can reach agreement on these areas in Oregon.

In any event, Mr. President, I remain convinced that we can protect more areas of wilderness without economic loss. Let me emphasize that the RPA forestry goals have indicated very clearly and many forestry experts believe that it is possible to have more timber and more wilderness. Maintenance of the commercial land base is critical, of course, but I think that we must recognize that responsible wilderness expansion will not eliminate jobs or cause economic disruption. Although I still have concerns about the size of the Golden Trout Area and other serious problems with the snowmobile amendment in this act, I believe that this bill represents a responsible balancing of both environmental and economic factors.

Mr. President, I do not intend to dwell at length on the unique characteristics that have been added to this bill through the amendment known as the Gospel-Hump amendment. The Senators from Idaho, Senator CHURCH and Senator MCCLURE, have sponsored this amendment in the committee, but I think it should be emphasized here on the floor that it does provide for two precedent-setting policies: One, it does provide, as Senator CHURCH has already outlined in his opening remarks, a precedent as it relates to creating instant multiple use concurrent with instant wilderness.

(Mr. SASSER assumed the chair.)

I think it will provide us with a better measure of how we can best approach this problem in the future, and I am very hopeful that this pilot project, in effect—what we might call a pilot project—will give us additional information and data and experience, because I think its purpose and its thrust are very sound.

In fact, I had hoped that we might expand it to include other areas than Gospel-Hump, because in the State of Oregon there is similar concern to that surrounding the Gospel-Hump area in the State of Idaho.

The third amendment relates to the introduction of the snowmobile into a designated wilderness area. We have had a very strict interpretation of the 1964 Wilderness Act over the years since it has been on the statute books. It has been such a strict interpretation that it has become almost ludicrous at times, and has reached limitations beyond the realm of logic. I would only cite two examples to illustrate the point.

When I first came to the Senate, I introduced a bill to add acreage to the Mount Jefferson Wilderness, which included the beautiful and unique Marion Lake. This was an area situated very close to a rather busy highway, and people, even people who were aged or handicapped, were able to walk into the new designated wilderness area. There were well-beaten paths and much traffic on those paths of people going to and from the Marion Lake.

Because of heavy use of this path area, there had been erected, before the wilderness designation, very primitive sanitary facilities. But because in the Wilderness Act of 1964 the wording was that there shall be no structures in the wilderness areas, the Forest Service immediately caused to be removed these very basic and needed sanitary facilities, and yet we had at the same time this heavy use by this great number of people who trekked through the path to the Marion Lake area day in and day out and, of course, you can imagine without any graphic pictures being painted by me the kind of unpleasant environment that developed as a result of the removal of these primitive facilities. This was an utterly and completely illogical thing to do, and yet it happened because of the strict interpretation of the Wilderness Act by the Forest Service.

The second example I want to use by way of illustration is one which involves the Three Sisters Wilderness Area in the State of Oregon. A couple of years ago, when a group of students in the Outward Bound program had gone up into this wilderness for a camping experience, a very tragic incident occurred in which one of the students was killed.

There was a request made to fly a helicopter into the wilderness area to remove the body of this dead student. The Forest Service refused, using the logic that this was an intrusion into the wilderness when there was no emergency. If it had been the injury of a student, an emergency would have existed and the helicopter would have been permitted, but the emergency was over, the student was dead, so consequently they could bring the student's body out in other ways than by helicopter.

Of course, after making this known to the Forest Service here in Washington, we were able to get a reversal of the local policy; but, again, this is merely an illustration of the strict interpretation placed on the Wilderness Act of 1964.

Now we have had a very strong indication, through a memorandum and other strong testimony given by Dr. Cutler, Assistant Secretary of Agriculture, that there will be a new and more liberal interpretation made of the Wilderness Act as it relates to the development of facilities near publicly used areas, which is why I opposed the original proposition of developing the French Pete Creek addition, and that we could also expect other interpretations which would lead, perhaps, to the development of access roads for combating forest fires.

I commend this more logical and liberal interpretation of the Wilderness Act of 1964, but I wonder, in my own mind, whether this interpretation does not also cover the use of snowmobiles as referred to in the Gospel-Hump amendment.

I know there is a very careful criterion set out in this exemption. It is based on a careful study of the terrain, the geography, the ecology, and all the other elements necessary to make an appropriate and careful study, and in all probability the proposal would not in any way harm the ecology or the environment by permitting the use of snowmobiles, because they have been used in that area in the past, as I understand.

All I am saying today is that this does raise, I think, a very questionable exemption and the setting of a precedent under the Wilderness Act that, under the more liberal interpretation by the Forest Service, I do not think should permit the introduction of snowmobiles.

I only call that to the attention of the Senate at this time. I opposed it in the committee. I do not intend to move further on that front at this point on the Senate floor, except, as I say, to call attention to the issue.

I do ask unanimous consent to have printed in the RECORD at this point letters that I have received from various organizations, the Sierra Club, the Citizens for America's Endangered Wilderness, the Oregon Environmental Council, the Friends of the Earth, and the Wilderness Society, that have expressed concern about this particular precedent we are setting in the exemption of the Gospel-Hump area for the use of snowmobiles.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.
October 18, 1977.

Hon. MARK O. HATFIELD,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR MARK: Thank you for your request for the views of the Sierra Club on subsection 4(e) of the Endangered American Wilderness Act (H.R. 3454), as reported. This subsection provides for authorization of possible future snowmobile use on a specific trail within the proposed Gospel-Hump Wilderness.

The Sierra Club strongly opposes subsection 4(e), and firmly believes that all of it except the first sentence should be stricken from the bill.

Snowmobiles and wilderness are completely incompatible. The whole purpose of protecting wilderness is, among other things, to offset the trend toward growing mechanization in the rest of the country.

This subsection 4(e) provision of H.R. 3454 pertains to the Gospel-Hump Wilderness in Idaho. As you know, that section of H.R. 3454 is the result of a singular and progressive compromise reached between conservationists and local interests. You yourself have emphasized the importance of this section of the bill as a possible precedent for future resolutions of often difficult land use issues. We also strongly endorse this process and hope to see it as a model for future disputes.

Subsection 4(e) establishes, however, damaging, dangerous and weakening of established concepts and provisions of law and it was not included in the compromise worked out by the various Idaho groups. It was not discussed at all during the Committee's hearings on the bill. If this subsection had been discussed, the nationwide outcry from conservation-minded people would have been very adverse.

It is a fact that Idaho has many more million acres of public lands open to motorized recreation use than are presently preserved as wilderness. To allow snowmobile use on this one trail will not make a great difference in the amount of trail mileage used for motorized vehicles—but it will certainly seriously impair wilderness values and the overall aesthetic quality of the Gospel-Hump Wilderness.

We are grateful for your excellent leadership on this matter, and in the outstanding accomplishments for Oregon wilderness which you have achieved this year. You have done a wonderful job, Mark.

Sincerely,

BROCK EVANS.

WASHINGTON, D.C.,
October 18, 1977.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATFIELD: I am writing in response to your request of our views on subsection 4(e) of H.R. 3454, the Endangered American Wilderness Act, as reported by the Senate Energy and Natural Resources Committee. This subsection authorizes possible snowmobile use in the proposed Gospel-Hump Wilderness in the state of Idaho on the Bear Grass Ridge Trail between Square Mountain and Hump Lake. Citizens for America's Endangered Wilderness strongly opposes subsection 4(e). We believe this provision should be amended out of the bill.

We believe recreational snowmobile use is entirely incompatible with wilderness preservation. The use of motorized equipment for recreation is simply antithetical to the wilderness concept. Similarly, it is contrary to the Wilderness Act of 1964 which generally prohibits such use. Further, as the umbrella organization of many national, state and local organizations which has coordinated the effort to get the Endangered American Wilderness Act through the Congress, we take particular objection to the inclusion of subsection 4(e) in H.R. 3454.

As you may know, section 4 relating to the Gospel-Hump Wilderness in Idaho implements an unprecedented compromise agreement between local community and business interests and conservationists. This delicately balanced agreement has tremendous importance to other timber vs. wilderness conflicts in the National Forest System throughout the nation. It is a testimonial to the fact that very controversial land allocation issues can be resolved to everyone's benefit. But, what is distressing to us is that snowmobile use in the Gospel-Hump Wilderness was not a part of the compromise agreement worked out by diverse Idaho groups. It was not even discussed during the hearings on this legislation held by the Committee on Energy and Natural Resources. A very substantial area of the total roadless area is not to be designated as wilderness as a part of the compromise agreement to provide for various uses including snowmobiling not compatible with wilderness designation. Given the adequate opportunity for snowmobilers to use a significant part of the greater Gospel-Hump roadless area as well as millions of acres of other public lands in Idaho, we feel there is no legitimate need for allowing snowmobiles in the proposed wilderness.

We fully support your efforts to strike this unfortunate provision. We greatly appreciate your leadership in this matter as well as on behalf of areas in your state. We sincerely hope subsection 4(e) is struck from the bill on the Senate floor or if not there in the Senate-House conference on H.R. 3454.

Sincerely yours,

CHARLES M. CLUSEN,
Coordinator.

SAN FRANCISCO, CAILIF.,
October 18, 1977.

Re Gospel-Hump snowmobile amendment.

Hon. MARK O. HATFIELD,
Senate Committee on Energy and Natural Resources, Senate Office Building, Washington, D.C.

Attention: Tom Imeson.

DEAR MARK: In response to your letter of October 12, the Sierra Club position is that the Wilderness Act is the basic guiding policy. Precedents of the kind which this proposed amendment would encourage were never envisioned by the framers of the 1964 Act and therefore are unnecessary and destructive of the concept of wilderness itself. Under the Act there is no way an area can be Congressionally mandated Wilderness and at the same time allow a snowmobile trail which requires motorized equipment use, even under the qualifying criteria proposed.

Motorized uses for recreation purposes are clearly not permitted under the Act. And while Congress certainly has the authority to amend the Act in specific circumstances, it must face the fact that an amendment of this kind is substantially altering the original idea of wilderness as established by that body. An amendment for snowmobiles opens the door for other kinds of exceptions, such as the use of other forms of motorized recreation vehicles (e.g., trail bikes, dune buggies). This would introduce man-made objects foreign to wilderness which, in addition to their potential disturbance of wildlife and alteration of the wilderness resource, are destructive of the "wilderness experience"—the central tenet of which is the inviolability of "solitude or a primitive and unconfined type of recreation." (Sec. 2(c)(2).) It should be pointed out, of course, that motorized recreation use of wilderness is not to be confused with the health and safety reasons (Sec. 4 (c)) for protecting the wilderness resource, including the possible infectious diseases to human beings through contamination of water resources, which may require the emergency uses of motorized equipment as outlined by Assistant Secretary Cutler in the August 11, 1977, memorandum to John McGuire.

Even if the Forest Service could meet all the restricting criteria suggested by the proposed amendment, the enforcement of whatever restrictions the agency deemed necessary to carry out this Congressional exception to the Wilderness Act would be virtually certain of failure, since the nearest ranger station is many miles from the proposed trail across Bear Grass Ridge. Only "roving" wilderness guards (on snowmobiles) could provide this policing—a concept which is itself inimical to the "freedom" man seeks in a wilderness environment.

Here are some excerpts from the general wilderness policy adopted by the Sierra Club's Board of Directors in 1970:

Man should be welcome in any wilderness area only on the conditions that he accepts it as wilderness and does not damage it, and only in such numbers as an individual area can withstand without noticeable impairment. Only recreational and scientific facilities compatible with preservation of an area should be allowed in any wilderness.

. . . [Wilderness] affords human relaxation and enjoyment. Wilderness provides a refuge from urban harrassment, deepens man's appreciation of his natural origins, and increases his understanding of the rigors faced by his pioneer forefathers.

Facilities should not exist solely for man's convenience, and none can be tolerated that will attract man into the wilderness for reasons other than appreciation of the wilderness itself.

. . . Once admitted entry, a visitor should ordinarily experience no further restrictions on travel, because for man, wilderness values are those of isolation, contemplation, and unprogrammed recreation. In certain cases, however, interior zoning restrictions may be necessary to protect a portion of wilderness from overuse.

I am sending this reply through the courtesy of Congressman Weaver's Eugene teletype so that you may have the advantage of the Club's views immediately.

A complete copy of the Club's existing wilderness policy will be in the mail to you tomorrow.

I urge you to stand firm in your resolve to protect the wilderness concept as envisioned by the champions of the landmark legislation of 1964.

Sincerely,

HOLWAY R. JONES,
Chairman, National Wilderness Committee.

PORTLAND, OREG.,
October 17, 1977.

Hon. MARK HATFIELD,
U.S. Senate, Russell Office Building,
Washington, D.C.

DEAR MARK: We very much appreciate the opportunity to comment on the amendment to the Endangered American Wilderness Act (H.R. 3454) relating to snowmobile use in the Gospel-Hump Wilderness.

The OEC has always tried to be reasonable and accommodating when attempting to resolve conflicts of user interests in Wilderness Areas. However, we are appalled that the Senate would even consider a proposal to allow recreational vehicles in a Wilderness Area. Such an amendment would undermine the very principles upon which the Wilderness Act was founded.

You and the other members of the Energy and Natural Resources Committee know, as well as we, that Wilderness is intended to provide "opportunities for solitude" where man can relate to nature on its own terms. In our opinion, the intrusion of snowmobiles into Gospel-Hump Wilderness would violate both the spirit and the letter of the law.

Congress must not allow our emerging Wilderness System to degenerate into just another recreation area where man's machines shape the land rather than the land being left to shape man's mind, body and soul.

Sincerely,

LARRY WILLIAMS,
Executive Director.

OCTOBER 18, 1977.

Senator MARK O. HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATFIELD: Thank you for requesting our views on subsection 4(e) of the Endangered American Wilderness Act (H.R. 3454), as reported which permits the authorization of future snowmobile use on the "Bear Grass Ridge Trail" between Square Mountain and Hump Lake in the proposed Gospel-Hump Wilderness. Friends of the Earth shares your concern over subsection 4(e) and except for the first sentence which authorizes the preparation of a standard Wilderness Management Plan, is totally opposed to this provision.

Certainly the original framers of the Wilderness Act had no intention of ever permitting the use of snowmobiles or any other motorized recreational vehicles in Wilderness Areas. All the subsequent Wilderness Legislation since the passing of the Act, Congress has confirmed this principle. Snowmobiles and wilderness cannot exist together. Studies have clearly showed that snowmobile use can create severe noise problems, damage to both snow (hence to water quality) and soil, damage to vegetation, and have a severe impact on wildlife. Even if such damage were not extremely likely, such motorized use is simply contradictory to all that our concept of wilderness stands for.

We urge your continued opposition to subsection 4(e) and are confident that many Senators will join you in opposition to its provisions. We want to thank you for your efforts and leadership in both Oregon and National Wilderness issues.

Sincererly,

DALE R. JONES,
Northwest Representative.

WASHINGTON, D.C.,
October 17, 1977.

Senator MARK O. HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATFIELD: Thank you for your letter of October 12 asking for the views of The Wilderness Society on subsection 4

(e) of the Endangered American Wilderness Act, as reported by the Senate Committee. This subsection would allow possible snowmobile use on a specific trail within the proposed Gospel-Hump Wilderness in Idaho.

The Wilderness Society strongly opposes subsection 4(e), and believes all but its first sentence should be deleted from the bill before final passage. This first sentence merely authorizes the preparation of the usual wilderness management plan.

Snowmobiles and wilderness are incompatible. The major reason for preserving "an enduring resource of wilderness", is to "assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States.

Section 4 of the Act, which prescribes the management and uses of wilderness areas states that, "except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act . . . there shall be . . . no use of motor vehicles . . ."

As you know, the Gospel-Hump section of the bill has resulted from a unique and progressive compromise reached between conservationists and local development interests. At the Committee markup on October 6, you emphasized the importance of this section of the bill as a precedent for future resolutions of often difficult land use controversies.

However, subsection 4(e) is a precedent of exactly the other kind: it is destructive and weakening of established concepts and provisions of law. *This subsection was not included in the compromise worked out by the Idaho groups.* It was not discussed in any way during the Committee's hearings on the bill. Had it been, the nationwide reaction from conservation-minded people would have been very intense.

Gospel-Hump will make a valuable addition to our National Wilderness Preservation System. Much of the roadless tract north of the Salmon River will not be designated as wilderness, because through the compromise it was agreed that some of this land should be left open to uses incompatible with wilderness—including snowmobile use and the use of other kinds of ORV's. In view of this agreement the wilderness portion should not be treated as a "second class wilderness" by including a blatantly incompatible use. Nor should the potential for such a use be allowed.

In Idaho, as in other states, many more millions of acres of public lands are open to motorized recreational use than are presently preserved as wilderness. The allowance of snowmobile user but it will clearly diminish make much of a difference to the average snowobile user but it will clearly diminish wilderness values and the overall quality of the Gospel-Hump Wilderness. The long-range implications for the Wilderness System are perhaps even more serious.

Senator, as you know the debate over the correct interpretation of the Wilderness Act and its management provisions, has raged for over a decade. Thanks to your efforts most of that argument has now been resolved, and Congress has directed correct interpretations to the Forest Service. It seems ironical that just as these issues are being resolved the very integrity of our National Wilderness Preservation System is threatened by the serious precedent of the Gospel-Hump snowmobile amendment.

We urge you to continue your fight against this inappropriate provision. We hope that you will be joined by many Senators in opposition to subsection 4(e) of the Endangered American Wilderness Act, and that it will be strickened from the bill, either on the floor of the Senate or during the Senate-House conference.

We are grateful for your leadership in this matter, as in the achievements for Oregon wilderness which you have accomplished this year. You may be assured of our support and cooperation in every way.

Best regards,

CELIA M. HUNTER,
Executive Director.

Mr. CHURCH. Mr. President, first of all I want to thank the distinguished senior Senator from Oregon for his consistent help, and, indeed, for his constructive criticism in connection with the committee proceedings that have brought this bill to the Senate floor.

It is always a pleasure to work with Senator HATFIELD, whom I regard as one of the statesman of the West, whose knowledge of natural resource matters is not exceeded by any other Member of this body.

Mr. President, for the most part, I agree with Senator HATFIELD's opposition to the extreme "purity" doctrine that the Forest Service has applied to the management of wilderness areas in the past. His examples demonstrate just how far beyond commonsense the Forest Service has carried this doctrine. They have created situations so extreme that both the House and the Senate committees have included in their reports which accompany this legislation commentaries and directives which we hope will lead to a more reasonable interpretation of the Wilderness Act.

In the Senate report, the commentary starts on page 7 and continues through page 9, under the heading "Wilderness Management." Since it should form an important part of the legislative history of this bill, I ask unanimous consent that this portion of the committee report (No. 95-490) be printed in the RECORD at this point.

There being no objection, the excerpt from the report was ordered to be printed in the RECORD, as follows:

EXCERPT

A. WILDERNESS MANAGEMENT

During the committee hearings and mark-up of the Endangered American Wilderness Act, there was considerable discussion regarding the broad question of wilderness management on national forest lands. These discussions took place both in the context of Forest Service management of existing statutorily designated wilderness areas as well as Forest Service selection criteria for administratively designated wilderness study areas during the RARE process. Generally, the committee believes that the so-called "purity" concept of wilderness long adhered to by the Forest Service, is unnecessarily restrictive and should be abandoned. The committee feels that the Wilderness Act of 1964 provides considerable flexibility for the land management agency and urges the Forest Service to administer the Act in that spirit.

In some instances, the strictest interpretations of the Wilderness Act has led to the formulation of criteria which have clearly prejudiced the potential recommendation of an area for further wilderness consideration. In others, it has led to public opposition to wilderness proposals based on erroneous interpretations of what is or is not permissible in wilderness areas under provisions of the 1964 Wilderness Act.

The committee believes it is important to strongly emphasize these key points regarding the interpretation of the Wilderness Act, as there has been continuing confusion. For example, during committee hearings on wilderness legislation in 1972, Senator Church (who served as the floor manager of the 1964 Wilderness Act) clearly enunciated the fundamental thrust of the Act's provisions governing the management of facilities and installations:

The issue is not whether necessary management facilities and activities are prohibited; they are not—the test is whether they are in fact necessary.

Citing subsection 4(c) of the Act, Senator Church noted that:

This provision allows for necessary minimum sanitation facilities in order to protect the wilderness and public health. It allows for various fire protection necessities, such as fire towers, helispots and fire rings in primitive camps. It allows for the development of protected potable water supplies. All of these elements of management activity are permissible within designated wilderness, if kept to the minimum "necessary to meet minimum requirements for the administration of the area."

In its report on the Mt. Jefferson Wilderness established in 1968, the committee made specific reference to certain installations at Marion Lake. In recognizing that some of the existing installations would be phased out, that Report may have contributed to some misunderstanding. To assure clarity on these issues, the committee wishes to re-emphasize that hand water pumps, rustic fire rings, and sanitary facilities (including privies, pit or vault toilets) may be provided and maintained in wilderness areas—including the Mt. Jefferson Wilderness. The test simply rests on the question of whether such installations are "necessary" and "minimum" for the proper administration of the area, for the protection of the public, or as management tool for the protection of the wilderness area.

The committee was pleased to receive testimony from Assistant Secretary Rupert Cutler, during the hearings on the Endangered American Wilderness Act, indicating that the Department is well aware of the committee's position regarding the so-called "purity" issue and that the Administration supports a less stringent interpretation of the Wilderness Act. The committee feels that Secretary Cutler's memorandum to the Chief of the Forest Service, dated August 11, 1977, setting forth some "clarification" of the Department's wilderness management policy represents a very positive first step in this regard. The committee looks forward to working closely with the new Administration in resolving many of the problems that have arisen in recent years in connection with the management of national forest wilderness areas and interpretation of the 1964 Wilderness Act.

Mr. CHURCH. I also ask unanimous consent, Mr. President, that excerpts from an address which I delivered at the University of Idaho earlier this year, entitled "Wilderness in a Balanced Land Use Framework," dealing with the "purity" issue, be printed here in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

WILDERNESS IN A BALANCED LAND USE FRAMEWORK

THE PURITY ISSUE

My final comments tonight concern the issue of wilderness purity. Time after time, when we discuss wilderness, questions are raised about how developed an area can be and still qualify as wilderness, or what kinds of activities within a wilderness area are consistent with the purposes of the Wilderness Act. I believe, and many citizens agree with me, that the agencies are applying pro-

visions of the Wilderness Act too strictly and thus misconstruing the intent of Congress as to how these areas should be managed.

One of my long-time friends, Ted Trueblood, challenged the purity doctrine of the Forest Service in the September 1975 issue of Field & Stream. As Ted put it, the Forest Service with its purist doctrine is trying to scuttle the Wilderness Act. In arguing the case, Ted refers to requirements which make outfitter operations difficult, to fish and wildlife management activities which limit the enjoyment of hunters and fishermen, to the exclusion of deserving Idaho areas from wilderness classification because they contain minor evidence of man's prior activities, and perhaps most tragic of all, to the burning of historic cabins to eliminate the evidence of earlier human habitation.

Such policies are misguided. If Congress had intended that wilderness be administered in so stringent a manner, we would never have written the law as we did. We wouldn't have provided for the possibility of insect, disease and fire control. We wouldn't have allowed private inholdings to remain. We wouldn't have excluded condemnation as the means for forcibly acquiring developed ranches within wilderness areas—a practice allowed on ordinary national forest lands from which wilderness is created. We wouldn't have made wilderness classification subject to existing private rights such as mining and grazing. We wouldn't have provided for the continuation of nonconforming uses where they were established—including the use of motor boats in part of the Boundary Waters Canoe Area and the use of air-fields in the primitive areas here in Idaho. As these examples clearly demonstrate, it was not the intent of Congress that wilderness be administered in so pure a fashion as to needlessly restrict its customary public use and enjoyment. Quite the contrary, Congress fully intended that wilderness should be managed to allow its use by a wide spectrum of Americans.

There is need for a rule of reason in interpreting the act, of course, because wilderness values are to be protected. As I stated in 1972 while chairing a hearing of the Subcommitte on Public Lands:

. . . The Wilderness Act was not deliberately contrived to hamstring reasonable and necessary management activities. We intend to permit the managing agencies . . . latitude . . . where the purpose is to protect the wilderness, its resources and the public visitors within the area . . . [including, for example] minimum sanitation facilities . . . fire protection necessities . . . [and] the development of potable water supplies . . . The issue is not whether necessary management facilities are prohibited; they are not. The test is whether they are necessary.

Thus, the wilderness management framework intended by Congress was that the agencies do only what is necessary. The facilities just mentioned may be required—and restrictions on use may sometimes be needed to protect especially fragile locations. But in adopting regulations, common sense is required. For example, I can understand the Forest Service urging outfitters and guides to make their camps conform to the spirit of a wilderness experience for their clients; but it seems insane to allow wooden tent floors in their camps, only to require them to be packed out of the area each fall before they disappear below the snow and then carried back in again after the spring thaw!

In summary, if purity is to be an issue in the management of wilderness, let it focus on preserving the natural integrity of the wilderness environment—and not on needless restriction of facilities necessary to protect the area while providing for human use and enjoyment.

Mr. CHURCH. Finally, Mr. President, let me say a word or two about the experimental provision in the bill relating to the limited use of snowmobiles along one trail in the Gospel-Hump Wilderness.

I am aware of the reasons why the conservation groups which strongly back this legislation nevertheless oppose this particular provision of the bill. They are fearful that if we cross the line against the use of motorized vehicles in wilderness areas by permitting snowmobiles to use the trail along the Bear Grass Ridge between Square Mountain and Hump Lake—even though the bill is very careful to condition that use upon findings by the Secretary that it will not interfere with water quality or wilderness values, with wildlife, or with nonmotorized uses of the region—the precedent might lead to other motorized use of wilderness areas throughout the country.

I can understand their concern, but it seems to me that, as with any other program there may be room for experimentation here. Too much rigidity can prevent wilderness areas from being used by significant segments of the public.

In the case of Gospel-Hump, the high altitude and relative inaccessibility of this portion of the wilderness means that in the wintertime virtually no one will use it unless this exception is made for the limited and controlled use of snowmobiles.

It happens that only by snowmobile is it possible to gain access to this part of the wilderness for many months of the year. Therefore, the use of these vehicles should not interfere with anyone else's enjoyment of the wilderness area during these winter months.

Furthermore, I would point out that the original Wilderness Act made exceptions for some motorized vehicles by providing that in those primitive areas where motorboats and airplanes had customarily been used, they could continue to be utilitzed under appropriate regulations developed by the Secretary. So what we are doing here with respect to snowmobiles is, in my view, nothing more than a modest extension of the exception that was written into the Wilderness Act in the first place.

I fully believe that motorized vehicles ought not to be permitted in wilderness areas at times of the year when they would interfere with the wilderness experience of those people who hike into the wilderness or who travel by horseback, in order to get away from automobiles, motorcycles, and other forms of motorized travel.

I also understand that in high and fragile summit areas the use of off-road vehicles can have a very damaging erosive effect upon the soils, and that one of the purposes for preserving high areas as wilderness is to maintain and protect vital watersheds. But I suggest, Mr. President, that during the wintertime when these soils are covered by 6 to 8 feet of snow, the use of snowmobiles will not have any erosive effect, and should not inflict any damage on the watershed, and, as I have already explained in the case of the Gospel-Hump Wilderness, their use should not interfere with the wilderness experience of other people during the winter.

These are the reasons which led the committee to believe that this experiment could be made if the Secretary so desires, and that it does not constitute a precedent that would lead to the widespread use of motor vehicles in wilderness areas.

Having said that, I again compliment the distinguished Senator from Oregon for his help and his support in bringing the Endangered American Wilderness Act to the floor. Its passage and enactment into law will very likely represent the most important statutory accomplishment for conservation in this session of the Congress.

Mr. DOMENICI. Will the Senator from Wyoming yield me 5 minutes on his time?

Mr. HANSEN. I yield.

Mr. DOMENICI. Mr. President, I, too, commend the floor managers for the excellent work on this wilderness bill. I think the fact that we have no study areas in it but rather have been very precise indicates a growing concern for the multi-use concept of our forests. Yet we have taken some very giant steps in this bill to protect for the future some beautiful areas of our country which are indeed wilderness.

One of the areas in my State is the Chama River Canyon Wilderness. I think the Senator from Idaho is aware of the problem we have with it. We were about to mark up the bill when we had word that perhaps a small piece of that was in active logging. It has been very difficult for us to ascertain that precisely, but it now comes to me from the Forest Service that approximately 150 to 200 acres of the Chama River Canyon Wilderness are indeed part of an active logging and cutting operation. We are unable to describe specifically that 150 to 200 acres.

I want to support the bill, and I do not want the Chama Wilderness removed. I do so with the understanding that the floor manager of the bill supports the exclusion of that 150 to 200 acres, and that the Forest Service has assured both him and me that this area will be deleted when the final boundary is delineated. Therefore, I shall not propose an amendment. I support the inclusion of Chama River Canyon Wilderness, along with the two other wildernesses in New Mexico.

Mr. CHURCH. Mr. President, the explanation that the distinguished Senator from New Mexico has just given fully accords with my understanding of the situation, and I support the position that the Senator has taken.

This particular proposed wilderness, the Chama River Canyon Wilderness, will remain in the bill, but when the final boundary lines are delineated, it is understood between us, and it is part of the legislative history of this act, that the Forest Service will take whatever measures are necessary to draw the boundary lines in such a way as to exclude from the wilderness this relatively small acreage, consisting of between 150 and 200 acres.

Mr. DOMENICI. I thank the Senator from Idaho.

For more legislative specificity, the area that is being logged is known by the Forest Service as the Camino sale. It is that particular sale that the Senator

from Idaho and I have been referring to that will delete approximately 150 to 200 acres in the final amount.

I thank the Senator from Idaho.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. DOMENICI. Is the bill open to amendment at this point?

The PRESIDING OFFICER. The bill is open to amendment.

Mr. DOMENICI. Mr. President, a further parliamentary inquiry: Do I have, as the Senator from Mexico, 2 hours for a nongermane amendment reserved in the order on this bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. A further inquiry: How is that 2 hours to be divided?

The PRESIDING OFFICER. The Senator from New Mexico will have 1 hour on the amendment and the manager of the bill will have 1 hour.

UP AMENDMENT NO. 961

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 961.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Notwithstanding any other provision of law, the Administrator of General Services shall (1) sell 30,000 tons of tin from the stocks of the national stockpile (established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h–1)) or the supplemental stockpile (established under section 104(b) of the Agricultural Trade Development and Assistance Act of 1954), or from both such stockpiles, and (2) use the proceeds of such sale to purchase a quantity of copper not in excess of 250,000 tons. Any copper purchased under authority of this Act shall be added to and made a part of the national stockpile referred to above.

Mr. DOMENICI. Mr. President, I do not want to proceed with all of my argument until Senators that are opposed to this amendment are aware that it is now up. I do understand that Senator HART, of Colorado, the chairman of the Subcommittee on Armed Services that handles stockpiling of strategic material, is opposed. I am going to make a few opening remarks and yield to my colleague from New Mexico, in the hope that the Senator from Colorado will arrive so we can debate this item. Let me quickly say to the Senate why I am adding this amendment to this bill and what it does.

Mr. President, in the last month, we have heard a great deal about the problems our steel industry is having competing, employees being laid off, certain of our steel plants being closed. Right along with that discussion has been a discussion equally important to some of us, but perhaps a bit different only in scope; that is, in size. That is a discussion about the status of the copper business in the United States, the effect of a surplus of copper on the world market, the effect of dumping of copper into the American market which has already resulted in copper selling on the American marketplace at the lowest price in history, with more than 9,000 employees already out of work in the State of Arizona, with the present price of copper being substantially below that at which American copper manufacturers and smelters can produce it, much less sell at a profit. Very simply, Mr. President, I say to my friends in the Senate, what my amendment does is say that this is an opportune time for the Administrator of General Services to do two things, and they are very simple things. They would be very effective to help out. The two things are that they shall have authority to sell from the strategic stockpile 30,000 tons of tin, and use the money that they get from that 30,000 tons of tin to buy, on the open market, up to 250,000 tons of copper.

I know that this is not an ordinary procedure, to bring this amendment to the floor at this time, but the Senate will soon be going out. We shall not be back until next January. Now is the time to effect this kind of transfer and acquisition.

The salient facts are these: Copper is at its lowest price and there is little or none of it in the stockpile. Most assuredly, we shall acquire some in the not too distant future. Tin is in abundance in the stockpile and is at the highest price it has ever been. It is an opportune time to dispose of a small quantity of our tin at the highest price and buy copper, which we shall eventually buy, at the lowest price and put it in our strategic stockpile.

Basically, we could already sell tin. There is no prohibition against that. But the basic problem is this: If we sell tin, we cannot use the proceeds of that to buy copper. We would have to go through a legislative process to give to the Federal Government the authority to buy that copper. So, in a sense, this appears to be something very different and maybe even dramatic. But the fact is that, if we had that strategic stockpile setup, where we could exchange—when we sell something, buy something else—there is little doubt on this Senator's mind that this is precisely what would be done today. The effect would be to stabilize the market in copper.

We shall never buy it cheaper for our stockpile. It would give some certainty and some vigor to the American copper industry, which is basically very fragile. It would give some assurance to the thousands of working people, who work for the copper industry in my State and many other States in this country. As I indicated, many have already been laid off. Many of the smelters and mines are on part-time work or their work has been cut back, and there is great uncertainty, which need not be the case. This very simple amendment, which will not cost the Treasury anything, would go a long way toward helping with that situation.

Having said that, I want to reserve most of my time to discuss the matter with Senator HART and others, but my good friend from New Mexico (Mr. SCHMITT) wants to address the issue for a few moments. I yield 5 minutes to him.

Mr. SCHMITT. I thank the Senator, my distinguished colleague from the northern part of New Mexico. I happen to come from the southern part of the State, from the copper county of the State of New Mexico, Grant County, named after a distinguished Civil War general and President of the United States. That was my birthplace. My birthplace happened to be surrounded by the longest standing copper mine in the State of New Mexico and, as a matter of fact, Mr. President, historically, one of the oldest, if not, possibly, the oldest worked deposits of copper in this country.

There was considerable Indian trade in copper prior to the appearance of the white man in the southwestern part of the United States. The Spanish took up the task and mined copper in the Santa Rita mine when they appeared in New Mexico in the 1500's. Then, with the development of New Mexico as a territory and a State, the mines in the Santa Rita area became extremely important to the local economy and have contributed throughout the years to the economy of the country. The Santa Rita mine, now worked by the Kennecott Copper Corp., and the newer deposits, such as the open pit mine at Tyrone, worked by the Phelps-Dodge Corp., are both essential to the economy of southwestern New Mexico and of my home county, Grant County.

Now, the people of this county are suffering and, potentially, will suffer even more as a consequence of factors over which they have very little or no control. World copper production has been high, and most of that production at lower cost than it is possible to mine in the United States, particularly in the Southwestern United States.

The history of copper prices, from an economic geologist's point of view, has been cyclic and will continue to be cyclic.

When prices are low, demand goes up and shortages appear, and gradually the prices rise. More production is stimulated by the increase in demand and price and we reach a point of overproduction. This is the essence of the free enterprise system. It is one of the prices we pay for being free, for having a free economic system, that the system will be cyclic if it is allowed to work.

In our zeal to protect ourselves, we sometimes try to dampen out those cycles. But again, historically, we have been singularly unsuccessful in doing so. We have tended more often to accent the cycles, to make the lows lower and the highs higher.

In order to avoid those extremely detrimental situations, we tried more and more to depend on Government control and, basically, I think it is safe to say it has not worked.

However, the senior Senator from New Mexico (Mr. DOMENICI) has come up with an excellent idea; a temporary solution to our problem, but one in which we buy some time, some time in which we can attempt to rectify some of the root

causes for the very low, depressed state of the copper industry.

Because of our high dependency on the imports of copper, we run the risk of having this strategic mineral, strategic to our national defense and our national economy, be embargoed, much the same as energy has been embargoed and controlled by the OPEC cartel.

We cannot afford, with any strategic mineral or resource, to become so dependent on foreign sources that our economy can be damaged as a consequence of such an embargo or control.

There are many things we should be doing to relieve our dependency on foreign imports of strategic materials and strategic energy.

We have had long debates in this body, and will continue to have long debates, about what we can do with respect to increased domestic production of oil and natural gas. The important thing is that we must have the capability of producing increased quantities of strategic domestic resources.

With copper, we do have a tremendous potential in this country for production. However, at the present time that production is being curtailed. I think it is important that we realize that a resource base in our strategic stockpile, a resource base of copper, is in our national interest. It not only is in our national interest, but it also will provide, in purchasing that stockpile, the temporary relief to communities in the southwestern United States, and elsewhere in this country, that are dependent upon the mineral resource of copper—workers who are dependent on that resource, schools are dependent upon it, the business community that serves those people that is dependent upon it.

Maybe we tend to forget in this temporary case, where unemployment goes up and the economy is depressed, the cost to Government goes up, at least for a period, while we search for other solutions to the depression in the copper industry.

I think it is extremely important that the Senate act affirmatively on the proposal of Senator DOMENICI, that is, to trade tin, some of the tin in our stockpile, for copper.

I commend the Senator for his initiative in this area. I hope that prior to our recess the Senate will, in fact, act on this proposal, and, as I said before, buy us that time in Grant County, and elsewhere in this country, that we need in order to resolve a more fundamental problem that is afflicting our copper industry.

Mr. DOMENICI. Mr. President, I thank Senator SCHMITT for his remarks. As usual, he understands the issue very well. I commend him for his statement.

Mr. President, I want to thank a number of other Senators who have actively supported this amendment and hope they have an opportunity to come and speak to it. There are so many conferences and hearings this morning that some of them are not here.

In particular, I want to thank the senior Senator from Nevada (Mr. CANNON), the junior Senator from Nevada (Mr. LAXALT), and the junior Senator from Arizona (Mr. DECONCINI), who are helping in this cause.

Mr. President, let me say that we have not come here with this proposal just pulling figures out of the air, or ideas out of the air. Copper is one of the essential commodities needed by this Nation's material stockpile, a stockpile which all Senators should understand has been totally without copper since 1974.

Earlier this month, President Carter reaffirmed major elements of this strategic and critical material stockpile policy developed in 1976. A moratorium imposed last February on requests for new acquisitions and disposals was also lifted.

As a result of this action by the President, the Nation's stockpile objective for copper is 1.299 million tons, and we have zero now.

So it appears to me that now is the time to begin meeting that objective by the immediate purchase by the Government of 250,000 tons. This would be done, under the barter amendment I introduced, by selling 30,000 tons of tin.

Mr. President, on that score, that is not an arbitrary decision, either. It is generally understood that tin is at the highest price it has ever been. I think that would be the time for anyone, including the Federal Government, to dispose of it. It is there in abundance, such that 30,000 tons would do no harm to the strategic level of inventory of tin.

Mr. President, I respect the committee system. I know that the distinguished chairman of the Armed Services Committee (Mr. STENNIS) is here, and Senator HART, my good friend, who is the chairman of the subcommittee of the Armed Services Committee that handles this subject matter.

I say to both of them, it is not customary for this Senator to come to the floor, even late in the session, and try to circumvent the system. But I am disturbed. I am worried that the opportunity before us will not be before us for very long, that the facts will change to the detriment of the American working men and women and the copper industry.

When I look at the facts, it appears to me there will be no more ideal time than now to give authority to those who manage our strategic stockpile, to do what I think is very basic, very ordinary and, in this particular instance, without prohibitions, that would do it right now is my hunch.

I believe that if the law was not curtailing them, they would sell tin today. I believe that if they were to sell tin today, they most assuredly would buy copper today. There is no more ideal situation suited to the interests of the American people and a domestic industry that is in trouble. There is no more ideal situation than this one—a determination by our President that we need to put copper in the stockpile again, with an inventory of zero at this point. Copper is at the lowest price it will be and has been. Tin is in the stockpile in abundance and at the highest price it ever has been.

If the Federal Government ran that stockpile in a marketplace manner, I believe that tomorrow morning they would begin selling tin and shortly thereafter they would begin to buy copper. That would be done if the goal was to put copper in the stockpile, which I understand the President has reaffirmed recently, pursuant to a 1976 plan to make that stockpile more certain, more flexible, and more in tune with our times.

Although I have said that, no criticism is intended of the Armed Services Committee for not having acted more expeditiously. Problems such as this come about, as the chairman of the committee knows. They come about quickly. I do not expect anyone to have anticipated it and to have had any hearings, but neither do I believe that this barter amendment will do any harm to the overall policy and to the hearings which the Senator intends to undertake in order to look into the total stockpile situation.

I believe that, in the first instance, this will be done if the facts are still as they are today. My concern is that next January, February, or March, the facts will not be as they are today. I am afraid that we will have more copper mines closed, more smelters closed, more decisions by the American copper industry that might be irrevocable, which will jeopardize our production while it puts thousands more people out of work.

So I hope the committee members, including the Senator from Mississippi and the Senator from Colorado, understand my motives. I believe we should do this, but I understand their position; and I will yield the floor at this time, so that I can hear their views as to how we are to proceed.

I reserve the remainder of my time.

Mr. CHURCH. Mr. President, this amendment, as I understand it, provides for the sale of 30,000 tons of tin from the strategic stockpile in exchange for the purchase of 250,000 tons of copper for the strategic stockpile. This may be a good idea or it may be a bad idea. I have no way of knowing. The argument for the proposition has been presented for the first time on the floor of the Senate today. It is my understanding that hearings have not yet been held. Also, I am told that, at present market prices, these commodities are worth about $670 million.

What I do know is that the amendment has no place in this bill. This is an endangered wilderness bill. There may be endangered industries in America, but this bill deals with endangered wilderness. It is a very important bill. In fact, I think it is perhaps the most important conservation measure to be offered in this session of Congress.

Therefore, I would not want to see this bill impeded or the prospects for its enactment undermined by the attachment of an amendment which, by the acknowledgement of all concerned, is not germane and which, in my opinion, could occasion very serious difficulties in conference. I further understand that there may be difficulties relating to the rules of the House, should the amendment survive conference.

For these reasons, Mr. President, I hope that the Senate will reject this amendment, although I am mindful of

the reasons why the Senator from New Mexico has advocated its adoption so strenuously.

Mr. DOMENICI. Mr. President, I should like to respond to my good friend from Idaho.

First, I have not taken lightly the issue he raises. In fact, I have conferred with him at length about the problem he raises here. I want the record to be very clear. I, too, am a staunch advocate of the main bill, the endangered wilderness bill, that is before us. I have worked very hard on it. There are three major areas in my State that are going to be included.

I have very mixed feelings. I know that we need to do something to help the copper people, including their thousands of employees. I am concerned that if we do not do it this year, it might be too late.

I offer the amendment here because our rules permit me to offer it. However, I do so with the assurance to the Senator from Idaho that if it is adopted by the Senate and if we go to conference, and if it appears that this amendment might result in delay in the House or might prevent the passage of the wilderness bill this year, I do not intend to hold up the wilderness bill on that score.

It is my understanding, however, that there are many House Members—albeit they have some rules to be concerned about there—who are very concerned about this issue, also, and who would like to see something initiated with reference to the purchase of copper by the Federal Government for its stockpile. I am aware of their interest. I do this with the understanding that it might fit what they think is needed at some point in our conference. If not, the Senator has my assurance that I will not hold up the bill on that score.

Mr. HART. Mr. President, I shall yield to the committee chairman, the Senator from Mississippi, for his remarks on this measure. At an appropriate time, I will ask a few questions of the sponsor of the amendment, the Senator from New Mexico, and add a few words of my own to the record. However, I think the chairman of the Armed Services Committee has some strong views on this matter which have to do with appropriate jurisdiction. I will yield to him, and then I will have a discussion with the Senator from New Mexico.

Mr. STENNIS. Mr. President, as I understand it, time is controlled.

The PRESIDING OFFICER. The Senator from Idaho controls the time.

Mr. CHURCH. I yield such time as the Senator desires.

Mr. STENNIS. I thank the Senator. Will the Senator yield 6 minutes?

Mr. CHURCH. I yield.

Mr. STENNIS. Mr. President, there is a "dear colleague" letter, dated today, signed by the Senator from Colorado and me, as a matter of information to the Members. We intended to include in it the statement that we are in no way indifferent to the plight of the copper industry and the problem that is posed to the Senator's State or any other State. We are willing to join in anything we think is sound and proper that would tend to meet that problem.

However, Mr. President, with great respect to the author of the amendment and those interested in it, this is not the time nor the way to get to this problem. No one has to ask permission of me to do anything around here, but I did not know anything about this matter until late yesterday afternoon, and I do not think our committee knows anything about it.

The Senator from Colorado might have been advised a little earlier, but he was not persuaded to go along with the amendment, regardless of how much merit it may have right now.

Mr. President, there could not be a better illustration than the one we have here that the Senate operates through its committees in large measure. This is a highly important matter. At this time, we have three Senators on one side of the aisle and four on the majority side. There is a debate going on with respect to an amendment on which there have not been hearings. There has been no report and no consideration by committee members. There has been no weighing of the facts, no writing of a report, no giving of a conclusion by the committee members without the benefit of excellent staff work that is available in this field, no recommendation, no nothing, we might say, that is ordinarily considered necessary in important parliamentary decisions, and this is an important one.

Another thing, Mr. President, we take very seriously the bill that has been introduced. Certainly we have not declined to hold hearings on these matters. There is not a more alert member of our committee than the Senator from Colorado. This bill was introduced only on the 20th of September, according to the memorandum I have before me, and this is the 20th day of October, a month, or maybe that date is a little off, a little less than a month.

I emphasize here now that this is an important matter not only to the copper industry but, as to this stockpiling itself, there are really many billions of dollars worth in the stockpile of strategic material, and military preparedness for the security of the Nation is the reason we have stockpiles.

The amount of work that is carried on in the course of a year is tremendous. It has been handled heretofore by the able Senator from Nevada, Mr. CANNON, who has done an outstanding job, and the subcommittee is now being chaired by the Senator from Colorado.

So I say in this case, as in all cases, beware of handling matters of this kind on floor amendments where no hearings have been held, none in the House that I know of, none in the Senate certainly, no recommendations, just the earnestness and the sincerity of the proponents. And that would go a long way with me on many matters. But it cannot go all the way in agreeing to an amendment of this kind, regardless of jurisdiction, regardless of the ordinary procedures, regardless of the fact there has been no dilatory methods by anyone, and nothing like that will go with our committee. The Senator will get a hearing; he will have a day in court. Bring on the facts and let us get at this thing in a way where it can be handled. I think, if the Senate agrees to this amendment, following our pattern, we would have to go to conference and the Senate conferees would have to insist on it. It would be beyond the control of those who introduce it.

I know it would hurt our system, and I am afraid it would hurt the merits of the bill to have it brought in here on a bill that is not related. There is no consanguinity or affinity between the wilderness bill and this matter here of the stockpiling.

So I fully understand the situation in the State of the great Senator from the West here. He is a great worker and do not ever discount him. He can also get votes in this Chamber.

I am glad the Senator from Colorado has had a chance to give this matter his attention, and I know he is well prepared.

I thank the Senator from Idaho for yielding the time, and I think he is eminently sound in his position on the amendment because he is fighting for the bill.

Mr. CHURCH. I thank the Senator very much.

I ask unanimous consent that Mr. Cleve Corbett, of my staff, be accorded the privilege of the floor during the consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, will the Senator from Idaho yield 10 minutes in opposition?

Mr. CHURCH. I am happy to yield to the Senator.

Mr. HART. I ask unanimous consent that Mr. Jim Smith, of the Armed Services Committee staff, and Mr. Peter Gold, of my staff, be accorded the privilege of the floor during consideration of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. If the Senator from New Mexico, the sponsor of the amendment would be agreeable, I would for the purposes of making the record and establishing the fact with his cooperation in response to certain questions having to do with the applicability of this amendment, if he would respond to those questions.

Mr. DOMENICI. I am pleased to respond. I will try.

Mr. HART. The Senator from Idaho has mentioned certain figures, the monetary amounts involved in this amendment. I wonder if the Senator from New Mexico could confirm those. About how much money would be involved if this amendment were to be agreed to in terms of both the sale of tin and the purchase of copper?

Mr. DOMENICI. I do not have a computer here. But I will cite the arithmetic and anyone can draw a conclusion. My amendment would authorize the sale of 30,000 tons of tin which is at present value $5.75 a pound. In exchange 250,000 tons of copper would be purchased at between 55 cents and 60 cents a pound.

Mr. HART. I think the mathematics work out. If my calculations are correct, there would be about $370 million in-

volved in the sale of the tin at roughly current market prices and somewhere in the neighborhood of $300 million in terms of purchase of copper, bringing the entire transaction about to the level that the Senator from Idaho mentioned earlier and that is in the neighborhood of $650 to $700 million; $670 million, I think, is more precise.

I call to the Senator's attention that, although his amendment does not specify, tin is usually discussed on the market in terms of long tons.

Mr. DOMENICI. What?

Mr. HART. In terms of long tons.

Mr. DOMENICI. Right.

Mr. HART. And copper in terms of short terms.

In the colloquy that has taken place already it has been clarified that there have been absolutely no hearings held on this amendment. Is that the correct understanding of the Senator from Colorado?

Mr. DOMENICI. I know of none. That is correct.

Might I clarify my answer to the previous question? It is the intention of the sponsors of the amendment that it be as close to a barter as possible so we do not intend more tin to be sold or more copper to be purchased than the dollars that the tin to be sold would yield. And that is our intention, and we do not intend that there be additional money made available to buy copper than that which is made available from the sale of tin. If the arithmetic is wrong, we would certainly indicate that is our clear intention.

Mr. HART. I certainly understand the principle which the Senator from New Mexico intends here. However, I do not think the use of the term "barter" is appropriate in the sense that there is a trade with a single partner. This is a sell and buy arrangement which will involve certain undoubtedly different partners. A barter in the stockpile language has a particular connotation, and I do not think that is what specifically is contemplated by the sponsors here.

Could I ask the Senator from New Mexico what the administration position is on this amendment?

(Mr. ALLEN assumed the chair.)

Mr. DOMENICI. We have been trying for about 2 weeks to determine the administration's position. We know that the President is seriously concerned about the plight of the copper industry. I will say informally I have heard that both the Secretary of Commerce and the Secretary of the Interior favor this approach. I do not say this is the official position of the administration. But in discussing it with them, my understanding of their position is that they think something has to be done and this might be the most forthright way to do it. It is up to the President to give the administration position, and I do not have any position from him at this point.

Mr. HART. Let me just note that on the original bill, the Senator's original bill, S. 2167, we have submitted to the administration, our committee does not have the official response either. We do have some unofficial, informal contact with several Government agencies involved and, based on that informal contact, it is our understanding that the State Department, General Services Administration, and the Department of Defense do not favor this amendment. In fact, they oppose it. Again I want to stress that is unofficial and informal.

Now, if the Senator would continue, this amendment, in the opinion of the Senator from Colorado, does not really protect tin and copper markets. Normally, bills to dispose of and acquire strategic stockpiled materials require that any action not unduly disrupt—and that is the usual term of art—the commodity market in the commodity involved.

What would be the intention of the principal sponsor with regard to protection of the market from disruption by the abnormal activities involved in this buy-and-sell arrangement?

Mr. DOMENICI. I say to my good friend from Colorado, I have been informed by those in the copper business and those in the tin business that this kind of activity in those two metals would not tend to disrupt the market, but with reference to copper it would stabilize the market rather than letting it continue in a condition of destabilization.

From everything I have been able to find out, if the Senator is asking whether or not copper prices will be disrupted in an upward way, we understand it will not. Certainly it will not go down any more, but it will not go up appreciably. At least, it will leave it where it is or a few cents higher, and our copper people will not be out of work.

So I think it will meet that test. But I can give the Senator nothing more than what people have told me.

Mr. HART. The normal rule of thumb, it is my understanding, in the disposition of commodities of this sort is you can in normal market conditions dispose of about 10 percent of annual consumption. The General Services Administration says the maximum annual tin disposal is estimated to be about 10,000 to 12,000 tons without adversely affecting the market.

I wonder if the Senator has any idea of how fast we can dispose of 30,000 tons of tin without disrupting the market?

Mr. DOMENICI. No; I do not, other than the general statement I have just given to the Senator. I have no further information on it.

Mr. HART. It is my understanding there is an excess of about 1 million to 1.5 million tons of copper in inventories now. Would the Senator's judgment be that the purchase of about 250,000 tons by the Government would significantly solve the copper producers' problem?

Mr. DOMENICI. It would not significantly solve it, but it would certainly prevent it from getting any worse, and it might move it upward just slightly where we begin to put some people back to work.

Senator, on the tin let me suggest to you—and I have no expertise beyond that which some people whose views I trust, have given me in the last couple of weeks—that I think we have the most ideal situation. The world is saying tin prices are getting so high that anybody who needs it cannot afford it. The world market is saying the only way to stabilize tin prices is for America to dump some of its stockpiled tin. That is on the one hand. Indonesia is telling us that, everyone is telling us that.

On the other hand, we have no copper, and it continues to go down in price, and we are going to buy some one of these days. When the Senator finishes his oversight hearings I believe we will be down here on the floor passing a new strategic stockpile bill, and we will be buying copper, and it will be 6 months from now, and maybe we will be paying 10 cents more, maybe a nickel less.

In the meantime, instead of 9,000 people unemployed in the State of the Senator from Arizona, there will be 20,000, and they will be in New Mexico, and the smelters will be closed down in Senator EAGLETON's State, and then what will happen? We will buy it then.

Mr. DECONCINI. Mr. President, will the Senator from Colorado yield?

Mr. HART. The point is if you have 1 million to 1.5 million tons of inventory in the stockpile already, are 250,000 tons going to make any difference in terms of the economics of the situation?

The PRESIDING OFFICER (Mr. ALLEN). The time of the Senator from Colorado has expired.

Mr. HART. Mr. President, will the Senator from Idaho yield me 10 minutes?

Mr. CHURCH. I yield 10 minutes to the Senator from Colorado.

Mr. DECONCINI. Mr. President, will the Senator from Colorado yield?

Mr. HART. I yield.

Mr. DECONCINI. The Senator asks a very good question. The Senator from Colorado asked the distinguished Senator from New Mexico offering this amendment whether the effect of 250,000 tons on the market would have any appreciable influence in view of the inventory of 1.5 million tons.

I have talked to people in the industry and in labor and they say yes. The reason is psychological.

Anything a major power like the United States does in the economic field is a major economic effort. This would be a major economic effort, and it would be quite rapidly implemented, it would have a psychological effect and a notice and message to the rest of the world that the United States is going to be concerned about its workers and its economy and its copper industry. That is what I think is important, just like the introduction of a bill to raise the present tariff on copper. There is one now, only it is set at the price of 24 cents per pound, to raise that to 70 cents per pound. If the Congress, one of the Houses of Congress, would pass that it would have a psychological effect I am told, and I think it it is a valid consideration, although it would not immediately eliminate the excess which the Senator states is present.

Mr. HART. I appreciate the remarks of the Senator from Arizona, but I want to point out, as I have already done, that there are other ways of sending signals. There are import quotas, purchases that can be made under the Defense Production Act, and there are a number of

other steps the administration or Congress can take without taking this step which, I think, is, as the Senator from Arizona has admitted, rather a symbolic one but not a real one.

I also want to point out and ask either the principal sponsor of the amendment or the Senator from Arizona what guarantees are there that holders of the current excess inventory would be willing to sell at a depressed price of 60 cents per pound or would we merely be encouraging imports from Chile and Zaire or other foreign producers?

Mr. DECONCINI. If I may partly answer that, first, let me go to the Senator's question, the first question, about stockpiling of the 250,000 tons, should this be the vehicle to do it. We have a very, very deteriorating set of economic circumstances in a number of States. In the State of Arizona there are over 9,000 unemployed copper workers today, and it is ever-rising, and our State is the largest State. This is happening in other States, and it is going to continue, and many, many other fallout effects will result.

So there are other approaches, and we are attempting to get the administration, attempting to get Congress, to act on. This is one that can be done now.

The second quesion was what?

Mr. HART. As to what would be the incentive for the holders of the present inventory to sell.

Mr. DECONCINI. Yes. I have been advised there are present stockpiles in the United States that would be available to be purchased if the funds were there and the Government was prepared to do it. That is what the industry representatives said in a statement to us at a meeting we had with Congressman UDALL and the president of the various copper companies.

Mr. HART. I think the Senator would admit that for Congress or the Senate to act on this it would take a little more, perhaps witnesses before committees and under oath and other things, than just representations that there might be some sellers out there willing to go along.

Mr. DECONCINI. Let me assure the Senator from Colorado if we were not in an emergency situation, in my judgment, and certainly in the opinion of other people, such as the distinguished Senator from New Mexico, I would agree. But when you have the economic problems in steel and copper and ever-rising unemployment the time to act is now, in my judgment.

Mr. HART. Could I ask the Senator from New Mexico one or two other procedural questions: In his judgment, would we need an appropriation bill before the copper could be purchased?

Mr. DOMENICI. From what I have been informed we would not. If this amendment is agreed to in the form in which I introduced it there would be no appropriation necessary. The money from tin would be used for copper and the proper accounting made.

I have also confirmed that it does no violence to the budgetary process that we have been following in various bills in the Senate.

Mr. HART. Mr. President, just a brief statement in the remaining time, if the Senator from Idaho would yield. I am required to express very vigorous opposition to this amendment. From the exchange of questions and answers we have had in the last few minutes, it seems clear that the proposed amendment involves tremendous expenditures of money, and the ramifications of the amendment with respect to two commodity markets have not even been looked into.

My greatest objection to the amendment is to the manner in which it is being rushed through without the benefit of the normal legislative process, which the Senator from Mississippi has already commented on.

This amendment is in the form of a bill which was introduced in late September and is pending before the Subcommittee on Military Construction and Stockpiling, along with a number of other stockpile bills. These are all important bills, involving large amounts of money and involving serious national defense questions, which deserve to be properly investigated. There have been no hearings on the bill. The administration has taken no position on the bill, although, as I have indicated, we have had informal contacts with the Departments of Defense and State and the General Services Administration, which have all voiced informally some objection or other to this amendment.

I am not at all convinced that the amendment would accomplish what its sponsors intend. The economic impact of the tin and copper transactions proposed could lead to wild speculation and enormous fluctuation in the markets of these two commodities. Furthermore, I am not convinced that, in the long term, it would be helpful to the producers to release the large reserve of copper, which have been estimated to be between 1 million and 1.5 million tons.

So basically, Mr. President, my objections are three: first, this is a matter under the jurisdiction of the Committee on Armed Services, and that committee has a responsibility to go into it in depth, which it intends to do early next year.

Second, this is a complex matter, involving hundreds of millions of dollars, and the Senate has not been afforded an opportunity to hold hearings.

Third, this amendment will not do anything for the copper producers, and may in fact make their situation even more serious.

I thank the Senator from Idaho for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, how much time do I have remaining on my amendment?

The PRESIDING OFFICER. The Senator has 39 minutes remaining.

Mr. DOMENICI. Does the Senator from Arizona wish some time?

Mr. DECONCINI. Yes; may I have 5 minutes?

Mr. DOMENICI. I yield 5 minutes to the Senator from Arizona.

Mr. DECONCINI. I thank the Senator.

I would like to respond just briefly to two or three of the points raised by the Senator from Colorado.

No. 1 is the jurisdiction. I understand that. I have had bills in that I felt should have hearings in the Subcommittee on the Judiciary which I chair. I have the greatest respect for the distinguished Senator from Tennessee, the chairman of the Armed Services Committee, and I understand his feelings. But certainly there have been many, many examples, including recent precedents, where we have added amendments and voted in favor of amendments that have not gone through the total, full legislative process, the reasons being many.

One reason is an emergency. Here we have an emergency, with 9,000 unemployed in Arizona, employees in the copper industry, most of them members of the United Steel Workers union. That is an emergency in our State.

There are also other States that have significant unemployment. It is estimated now that there are 20,000 United Steel workers unemployed due to copper layoffs. Why? Because of an abundant quantity of copper, of about 1,200,000 tons, now available in the market.

Something must be done. If we wait 6 more months, we may have another 9,000 unemployed families directly related to the copper industry. I do not think anyone here needs an explanation of the statistics of the fallout that would have on other industries and businesses, and on the communities involved.

As far as cost is concerned, there is no direct appropriation involved here. The money is there, in a revolving fund. It is an easy way to attempt to solve the problem, without the tremendous expense of using taxpayer dollars that have to be appropriated this year. The money is there. The Senator from New Mexico has put together an amendment that will require the sale of tin, and that money will in turn be used to purchase copper.

It is a good deal for the United States. The copper price in the United States is now slightly above 54 cents. To make money on copper in the United States, it has to be at the price of 70 cents, minimum.

I feel that great damage could be done by the fact that this body and the administration may not act soon enough. People who have been employed, who are hard-working Americans, who pay taxes—it is almost an insult for them to go on welfare and unemployment. They do it, out of the necessity to feed their families, but they do not want to. They want to work. Is there any better place for us to put people to work and support the work ethic of this country than by using an existing revolving fund to help an industry and help put Americans to work? Temporarily, yes, while hearings are held and while there are long-term approaches.

I submit to the Senate that this is very reasonable, notwithstanding the arguments of the Senator from Colorado and the Senator from Tennessee. I hope Senators realize that this is a plea by Americans who are out of work, asking that we go around the traditional processes of legislation in order to help people help themselves.

I thank the Senator from New Mexico.

Mr. CANNON. Mr. President, I rise in support of the amendment designed to purchase copper for the national stockpile.

The proposal is a simple and effective means of providing relief to a badly ailing copper industry. The purchase will remove some of the worldwide excess copper stocks and help stabilize sagging copper prices. Faced with worldwide overproduction and a disappointing level of consumption, the copper industry has faced an inexorable, if slow, decline in copper prices since the end of 1973, from a high point of $1.20 per pound to less than 60 cents today. The purchase of copper would be financed through the sale of existing stockpile surplus tin stocks and thus would avoid the need for an appropriation. Tin prices are high at present and the commodity, which is in short supply, is badly needed by industry.

As former chairman of the stockpile subcommittee, I recognize the need for a thorough review of our stockpile policy. This amendment is not meant to interfere with the oversight functions of that committee. However, because the stockpile includes no copper at present, and there are over 170 thousand tons of tin in excess of our security needs, the time is right for affording some relief to the copper industry. And time is critical. It seems to me, Mr. President, that the amendment before us is a reasonable and responsible approach.

Copper is one of the key raw materials in which our Nation is presently self-sufficient—and the number of such commodities in which we are self-sufficient is a precious few today. We also consume more copper than any other nation in the world. To maintain our self-sufficiency it will be necessary to generate sufficient capital for our domestic industry to remain competitive. Much of the industry is falling considerably short and the capability for expanding productive capacity has been reduced.

In my own State of Nevada, Anaconda's Victoria Copper Mine has suspended production indefinitely, affecting some 150 employees. Another Anaconda facility at Yerington has curtailed production by 40 percent and put another 150 employees out of work. It may suspend all production by next summer. The Kennecott plant at McGill has cut back from a 7- to a 5-day production schedule, reducing total employees by almost 250. The same dreary economic picture exists wherever copper is produced. Mines are either closing or may be forced to close in the future. I feel we cannot delay to take action, particularly where effective governmental assistance is easily and painlessly available.

Mr. DOMENICI. Mr. President, the Senator from Nevada is rather well-informed on these issues. He was the chairman of the subcommittee, in years past, to which the distinguished Senator from Arizona has succeeded. I think he makes a very good point that this is a simple, effective means of providing assistance to a badly ailing industry and its workers.

Mr. President, I am going to talk with the chairman of the Armed Services Committee here on the Senate floor in a minute, and see if we can work something out. But I am glad that this matter has received someone's attention today. I apologize to the Senator from Mississippi; I did discuss this with him in detail, but I would say that I agree with my friend from Arizona that frequently a crisis arrives. I believe this is a crisis. I think this approach is an easy way to help us meet the crisis.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. DOMENICI. Indeed I am glad to yield.

Mr. MELCHER. I thank the Senator for yielding. I wish to express my concern for our State of Montana, which has always been identified with copper.

Indeed there is a crisis involving the circumstances that surround the copper industry now, and the families that work in the smelters and in the mining of copper are extremely hard-pressed. While we would like to follow the procedures that are usual and timely, we are faced now with such a crisis that I must commend the Senator from New Mexico for bringing this matter to the attention of the Senate, and express my heartfelt encouragement toward the favorable consideration of this amendment.

Mr. DOMENICI. I thank the Senator.

Mr. DECONCINI. Mr. President, will the Senator from New Mexico yield me 1 more minute?

Mr. DOMENICI. I yield.

Mr. DECONCINI. Mr. President, I apologize to the Senator from Mississippi for my reference to him as the Senator from Tennessee. It was as a result of my emotional concern for the unemployed people of the southwest part of the United States, and those who will become unemployed, that I misidentified his State.

Mr. HART. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield to the Senator from Colorado.

Mr. HART. I also commend the sponsors and supporters of the amendment for their genuine concern, and I believe it is genuine, for the people of their States and for the people who are in trouble. I believe it would be too simplistic to think of it as an industry bailout measure, in light of the number of people who are involved.

I believe those who oppose the measure should understand that, in the spirit in which it is offered, they should have no problem in supporting the amendment and being wholly sympathetic to it. I believe the purposes, as I have stated and as the Senator from Mississippi has stated, have to do with the orderly procedures of the Senate and the economic impact overall, with substantive questions concerning this approach.

I believe the Senator from New Mexico understands that we are sympathetic, and the commitment to early consideration in 1978 is a genuine one. This is a part of a much broader problem which this Senator has responsibilities for, and this Senator intends to discharge those responsibilities as quickly but in as orderly manner as possible.

(Mr. NUNN assumed the chair.)

Mr. DOMENICI. I thank the Senator.

I want to reveal, while the good chairman of the full committee is here, another reason we ought to have hearings on this. When the chairman holds hearings, he should ask the Federal Government about the 1974 copper caper, which is what I will call it. We had copper frozen for domestic producers. That was part of the American economic policy. It was frozen somewhere between 60 and 70 cents. We said. "That is all you will get for your copper."

We took copper we had stockpiled for strategic purposes and dumped it on the domestic market at $1.20. That is a good insult to the American producer.

We said to them, "Let your Federal Government make a profit on this stockpile while we freeze your price below the world market and we sell our stockpile at $1.20.'" Then we invited the foreign market to come in here at higher prices and fill the shortage created by frozen prices.

That dilemma goes away and then we come along and have this one confronting them. Neither the Executive nor the Congress, and I say that with all deference to both the Executive and the Congress, will do anything about the dilemma which is now on copper for 80 to 85 percent of their capital expenditures being for environmental cleanup. We favor that environmental cleanup.

We have not had a public hearing to see if the countries overseas are putting any environmental controls on their copper smelters. Yes, we want our smelters to put it on. We pass laws, and the chairman and I support those laws, to put on that cleanup equipment. Then we finance underdeveloped countries to build copper smelters. I am for that. Let us help them in their economy. But do we ever ask one of those countries, "Are you going to put controls on your smelters?"

Do we ever condition any of our foreign loans or participation in foreign loans to cleaning up the world environment, or do we just want Americans to clean up ours and then make our products not competitive with the others?

We have not asked those questions.

We know that the underdeveloped countries are nationalizing all of their copper companies. That is their business; it is not my business. But they are doing it. They have a completely different motive in working their people. I say to the chairman they work their people year round, even if they are not going to make a profit on copper, because to have them working is better than not to have them working. If the government loses money, it is better to have the people in those countries working and lose money on copper, but at least have them employed. How can our copper industry continue to compete?

I came here knowing those facts transcend five or six committees. I ask, when are we going to ask those kind of questions? These are not all committees of the chairman.

Certainly, we have to ask this question: Should we soon buy copper for our strategic stockpile? As I understand it, the

Armed Services Committee is saying to us today, Senator STENNIS and Senator HART, that they need time, that they want to have hearings.

Might I ask the chairman of the subcommittee when might we have those hearings?

Mr. HART. Let me respond first of all by pointing out that the new administration has come up with its own general, overall stockpile proposal in the last 10 or 14 days. Of course, we have already held hearings on the stockpile in our committee. We have had a number of witnesses, primarily from the Department of Defense, and also Congressman BENNETT from the House side, who has a longstanding interest in this whole area.

What we have been trying to do is to sort out, among a variety of policies, two or three basic policies, including one put forward by the Senator from Idaho (Mr. MCCLURE), which I believe has the support of the mining industry. Those questions approach the entire stockpile and what the policy for stockpiling ought to be for this country. They have broad economic ramifications throughout a variety of industries. We want to look at those in the next 60 days and try to arrive at a congressional policy, or a Senate policy, as quickly as we can in 1978, understanding that many of the industries affected by the stockpile are industries of the sort which have these back-to-the-wall economic problems.

It is the intention of this Senator or the committee chairman to delay this matter, stall it, or anything else. I believe we understand there has to be a national policy on this matter, whether it is the administration's or someone else's, and it has to be resolved as quickly as possible. That is our goal. But we cannot do it industry-by-industry or commodity-by-commodity. That is the problem.

Mr. MELCHER. Will the Senator yield?

Mr. DOMENICI. I have one additional remark and then I will yield to the Senator from Montana on my time.

As part of these remarks I wanted to say to the President and the administration that while Congress might not have the tools to act quickly in this area, I hope that every possible Executive availability is exercised quickly if there are some authorities vested in the President under certain laws where he can help this industry and keep our people working. I believe we have established today that we are genuinely concerned. We are here to help the President come up with a policy which will alleviate this crisis as much as possible. But even while the Congress is in recess, I hope the President understands that we are concerned, and that we are asking him to do whatever he can to alleviate the situation.

I will be glad to yield to the Senator from Montana.

Mr. MELCHER. I thank the Senator for yielding.

I want to say that while this session of Congress may adjourn sometime in November, with Thanksgiving and Christmas coming on the people in the copper industry who have faced layoffs, who are now unemployed, or those who may soon be unemployed, are not much impressed with the adjournment date of this session of Congress.

If the Senator from Colorado will permit me to ask him a question, could there be an assurance from the Senator that, understanding the gravity of the situation in the copper industry, the hearings could start this fall?

Mr. HART. I certainly want to try to accommodate not only my colleagues but, as I have indicated, those who I agree are really the concerned people in the communities and the industry. We are well into the fall already. What we are really talking about are the remaining 2 months, November and December. We all have our own individual commitments and schedules which we have to keep. I believe within the balance of that schedule, if we can have half-day or full-day hearings on this particular industry problem, vis-a-vis the stockpile, I will be more than willing to do so.

I want to point out that the jurisdiction of this subcommittee covers 93 commodities covering in value 8 billions of dollars or more. We cannot act, in my judgment, on one of these commodities without an overall stockpile policy.

Regardless of holding the hearing and hearing the witnesses, which I understand would be helpful to the Senator from Montana as well as to us, we still have the problem of getting into 1978 before we can resolve what that overall policy should be.

So I say that, if it is at all possible, within this Senator's schedule in the remaining 60 or 75 days of this year, that we can get hearings on this particular commodity, I would be more than willing to try to do so. But I do not think we can, obviously, try to think in terms of any action on that commodity until we have that policy settled.

Mr. MELCHER. I think it would be helpful if the process could be expedited as much as possible and if the process of hearings is started yet before the end of this year, we shall be just that much farther along.

I thank the Senator.

Mr. DECONCINI. Will the Senator from New Mexico yield 2 minutes?

Mr. DOMENICI. Yes.

Mr. DECONCINI. I want to express my thanks to the Senators from Mississippi and Colorado for their interest and willingness to appreciate how important this problem is. I realize the problems of scheduling the committee and getting the witnesses there and the magnitude of this entire problem. But it is rewarding to me to have the distinguished chairman of the Armed Services Committee (Mr. STENNIS) here to listen to the plea—and that is really what it is, a plea on behalf of unemployed Americans.

I have introduced, or will introduce today, an environmental tariff on imported copper, based on a fluctuating price, of what the cost is in this country to maintain and comply with the requirements of the Environmental Protection Agency and other safety and environmental regulations that increase the price of copper in this country, it is estimated, anywhere from 15 to 17 cents per pound. Other countries do not have to compete with that type of additional cost.

I am for those costs, but I am for the copper industry in the United States being able to be on parity and have really free trade. This is important, I think, and the price will go down if governments in fact spend money in environmental protection.

I think the dialog today has been excellent, and I sincerely mean my appreciation to the Senators from Colorado and Mississippi for understanding this problem and exercising their objections, as is only proper. I am grateful that they, in fact, intend to move aggressively, at least after the first of the year, to hold some hearings. We cannot afford only to take one avenue to attempt to get to this ever-increasing problem. We need to approach every possible avenue that there is.

The Senator from New Mexico has come up with what I consider a very logical short-term approach. I think his plea to the administration is one that I have joined in with him, for obtaining some immediate action and, hopefully, some long-term action as well.

I thank the Senator from New Mexico.

Mr. CHURCH. Mr. President.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. STENNIS. Will the Senator yield to me just a couple of minutes?

Mr. CHURCH. I am happy to yield.

Mr. STENNIS. I thank the chairman.

Mr. President, I shall not repeat what I have said, very much, anyway, but I want to emphasize that I am in no way offended because this amendment was introduced, and the fact that the Senator did not have a chance to mention it to me, or it was not mentioned to me, does not offend me at all. I do want to protect the jurisdiction of the committee under the present mandate of the rules of the Senate. None of us made those rules alone. They are the rules of all.

The jurisdiction and responsibilty lies with the Senate Committee on Armed Services and the Senate Committee on Appropriations, because these matters have to be appropriated, money from selling the tin, unless this law expressly covers it, going into the Treasury and the general fund, to be appropriated out only by Congress. Those matters can be settled later, and I think we have made a start here on the Senators' problem. I commend all of them for that.

I think the Executive, though, will have to take a position, because it takes two to really act in this field, Congress and the Executive.

Also, when there are hearings, other relevant matters are going to come in. There is no way to keep them out. There is no way to pass this amendment and get it through conference without their coming in. They will all be there to block the amendment—I mean by that others who have interests in the stockpile.

So this is a fine start. It looks like it is going in with everybody in a good

humor, and the amendment being voted down and promises made. I stand with the Senator from Colorado. He has already said he will do the best he can and that is a whole lot. His best is good enough.

Again, I am concerned about copper, along with all of the rest. I did not sign this letter here. There was not time to rewrite it. But I want to put in for copper.

Mr. CHURCH. Mr. President, for reasons I previously mentioned, namely, that the amendment is not germane to the bill and could jeopardize its enactment, I strongly urge the Senate to table the amendment. I understand that the distinguished Senator from Colorado is going to make a tabling motion. Before he does that, I wish to make one final comment.

It is amazing, the things you can learn while sitting on the floor of the Senate. This has been my first opportunity to peruse the most recent GSA figures on the stockpile inventory that we have built up over the years, consisting, as the Senator from Colorado has mentioned, of 93 different commodities. I say to the distinguished Senator from New Mexico that he has made at least a prima facie case. I must say that, because, as I glance at this table, I notice that we have a national goal for the stockpile of 1,299,000 short tons of copper, but we have in our inventory only 20,433 short tons of copper, making for a deficit of 1,278,567 short tons.

On the other hand, when it comes to tin, we have a national goal of 32,499 long tons. Our inventory, however, consists of 202,842 long tons, or in other words, we have an excess of 170,343 long tons. Something, on the face of it, appears to be out of balance here and something should be done about it.

I also noticed some other interesting items, and when the Senator takes up his study of this matter, I would call his attention to some of them. For example, we have a lot of castor oil in this inventory. Castor oil is item No. 16. I am relieved to know that there is no acknowledged national need for it, but we do have 5,009,697 pounds of it on hand, worth $6.4 million.

Mr. HART. If the Senator will yield, there might be some debate as to the national need.

Mr. CHURCH. How the Federal Government would administer to that need raises serious problems. [Laughter].

There are two other items I would call to the Senator's attention. The first is item No. 34, industrial diamonds. The goal that we have established is 5,559,000 carats. Yet we presently have 19,999,000 carats on hand, or nearly four times the goal, and they are worth $116 million. Secondly, there is iodine, item No. 41, where again, we have more than twice as much in the inventory as the goal and that inventory is worth more than $20 million.

These are just a few items, picked at random from the inventory, but I think it underscores the need for the study that the Senator from Colorado has agreed to undertake. I am entirely in sympathy with the Senator from New Mexico on the prima facie case he has made. I know that the studies promised here today will help to unravel some of these puzzling figures and lead to what I hope will be a better management of the National stockpile.

I am happy to support the Senator from Colorado in the motion that he is now about to make to table this amendment as being not germane to the bill, and I hope he will do so.

Mr. DOMENICI. Mr. President, I do not think the motion is in order at this point. We have yielded back our time. How much time is remaining?

The PRESIDING OFFICER. The Senator is correct that the tabling motion would not be in order until the time is either used or yielded back.

Mr. DOMENICI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Mexico has 17 minutes.

Mr. DOMENICI. And on the opposition side?

The PRESIDING OFFICER. Twenty-six minutes.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum and charge it to my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Will the Senator yield for a unanimous-consent request?

Mr. DOMENICI. I am pleased to.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Romano Romani and Jim Magner be granted privilege of the floor during debate on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. Will the Senator yield?

Mr. DOMENICI. Yes.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that Mary Goedde of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Will the Senator yield?

Mr. DOMENICI. Yes.

Mr. CANNON. Mr. President, I ask unanimous consent that Kelton Abbott of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, it is my pleasure to support the amendment offered by my friend from New Mexico, Senator DOMENICI, to help solve a serious crisis in the copper industry.

Mr. President, the amendment would sell 30,000 tons of tin from the national stockpile and use this money for the purchase of 250,000 tons of copper. As I understand it, it would not cost a dollar out of the Treasury.

Mr. President, this proposal would be a bargain for the Government. It would allow the United States to acquire needed copper for the strategic stockpile at a bargain price.

Copper is a durable commodity. It will not deteriorate in the stockpile.

Now, this amendment would not solve the copper industry's problems overnight, but it would go a long way in improving market conditions.

Mr. President, the copper industry is facing the worst trouble it has been in for many decades. In Arizona alone, there are 9,000 unemployed mine workers in an industry that normally provides one out of every eight jobs in the State.

This trouble is not the fault of our industry. The major source of trouble is the foreign glut on the copper market which is caused by government-owned and government-operated foreign mines that are producing at maximum capacity without regard to market conditions.

This means our private companies are not facing traditional free enterprise competition. The excess foreign production overhangs the market by about one million tons above the normal inventory level.

Although domestic consumption is on the rise and may equal the fourth best year on record this year, the foreign excess inventory is so gigantic, it has forced copper prices below the point where our mines can be operated comfortably.

Now, I would ask, why should the entire burden of reducing the overhang, which they did not cause, be placed upon American mines?

Our industry has already cut production back to about 60 percent of capacity. Yet, foreign producers, who supplied 22 percent of refined copper in the United States last year, are running at or near 100 percent production.

On top of this foreign governmental competition, which is severely distorting normal market conditions, our industry is saddled with the cost of compliance with environmental controls and employee safety regulations which do not exist at all abroad.

Since our Government is responsible for these costs, which add 15 cents a pound to the cost of smelting and refining copper, it is only logical that our Government should take some action in helping to restore the American industry to the competitive position it has lost because of those regulations.

Now, I am not saying existing environmental and safety rules are all bad. But I am suggesting that the Government should assume part of the burden of expensive new environmental requirements that are giving a great cost-of-production advantage to foreign, government-owned producers.

Mr. President, this amendment will help to restore some balance in the uneven competition between American companies and foreign governments by removing part of the glut on the market, and I urge a favorable vote on it.

Mr. LAXALT. Mr. President, I am pleased to cosponsor Senator DOMENICI's amendment in regard to copper and tin stockpiling. At the present, the strategic stockpile has no holdings of copper, all of the 1,250,000 tons on hand at the beginning of 1963 having been sold in accordance with requests from the administrative agencies. In a hearing before the Congress on September 9, 1977, a spokes-

man for the General Services Administration emphasized the strategic necessity for copper in the strategic stockpile. Mr. President, in my view, a copper stockpile is vital for our national security.

There will be no better time than the present to acquire copper for the stockpile. The price is low and ample stocks are overhanging the market; so ample, in fact, that the U.S. producers have had to cut back sharply on their rate of production. In fact, Mr. President, recently one of the major copper producers in my State—the Yerington mine at Yerington, Nev.—announced a drastic curtailment in its rate of operation.

At the same time that GSA has indicated that it needs copper for the stockpile, it has also said that the quantity of tin in the stockpile is in excess of U.S. security needs. In fact, there is pending legislation to release 5,000 tons of tin as a U.S. contribution to the International Tin Agreement. The price of tin is at an all time high.

Production of tin originates for the most part in developing countries which are not, themselves, consumers of tin. It is interesting to observe that in an interview earlier this month the Minister of Mines in Indonesia, one of the major sources of tin, strongly advocated a release of tin from the U.S. strategic stockpile.

It is obvious that the governments of tin producing countries recognize that the present high price may constitute a long-term threat to the markets of tin by inducing substitution. Therefore, I do not anticipate that a release of tin from the strategic stockpile at this time would cause opposition on the part of the producing countries. And, GSA has told us that it has more tin than it needs for our security.

Just as this is an opportune time to buy copper, so, equally is it an opportune time to sell tin. Therefore, I am happy to join with Senator DOMENICI in regard to this proposal.

Mr. DOMENICI. Mr. President, I yield back the remainder of my time on the amendment.

Mr. CHURCH. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back on the amendment.

Mr. HART. Mr. President, I move to table the amendment of the Senator from New Mexico and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion to lay on the table the amendment of the Senator from New Mexico.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Michigan (Mr. GRIFFIN), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The result was announced—yeas 48, nays 44, as follows:

[Rollcall Vote No. 572 Leg.]

YEAS—48

Allen	Haskell	Pell
Bayh	Hatfield	Percy
Bellmon	Hathaway	Proxmire
Biden	Heinz	Ribicoff
Brooke	Huddleston	Roth
Burdick	Inouye	Sarbanes
Byrd, Harry F., Jr.	Jackson	Scott
	Kennedy	Sparkman
Byrd, Robert C.	Leahy	Stennis
Chiles	Long	Stevens
Church	Magnuson	Stevenson
Clark	Mathias	Stone
Cranston	Matsunaga	Talmadge
Culver	McIntyre	Weicker
Eagleton	Muskie	Zorinsky
Glenn	Nunn	
Hart	Packwood	

NAYS—44

Anderson	Garn	Metzenbaum
Baker	Goldwater	Moynihan
Bartlett	Gravel	Nelson
Bentsen	Hansen	Pearson
Bumpers	Hatch	Randolph
Cannon	Hayakawa	Riegle
Chafee	Helms	Sasser
Curtis	Hollings	Schmitt
Danforth	Javits	Schweiker
DeConcini	Johnston	Stafford
Dole	Laxalt	Tower
Domenici	Lugar	Wallop
Durkin	McClure	Williams
Eastland	Melcher	Young
Ford	Metcalf	

NOT VOTING—8

Abourezk	Humphrey	Morgan
Case	McClellan	Thurmond
Griffin	McGovern	

So the motion to table Mr. DOMENICI's amendment (No. 961) was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion to lay on the table the amendment of the Senator from New Mexico was agreed to.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. MATSUNAGA). Are there further amendments to be proposed?

Mr. HAYAKAWA addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. Mr. President, if there are no further amendments, I wish to speak again if a Senator will yield me time.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. May we have order, Mr. President?

The PRESIDING OFFICER. The point of order is well taken. The Senate will be in order.

The Senate will be in order. Senators will please cease conversation in the Chamber.

Who yields time to the Senator from California?

Mr. HANSEN. Mr. President, how much time does the Senator from California desire?

Mr. HAYAKAWA. About 30 minutes.

Mr. HANSEN. I yield 30 minutes to the distinguished Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 30 minutes.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HAYAKAWA. I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar beginning with the judiciary on page 2.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished acting Republican leader will agree, I ask unanimous consent that all the nominations beginning with the judiciary on page 2 going through page 3 be considered and confirmed en bloc.

Mr. STEVENS. There is no objection.

The second assistant legislative clerk read the nominations, as follows:

THE JUDICIARY

Eugene H. Nickerson, of New York, to be U.S. district judge for the eastern district of New York.

DEPARTMENT OF STATE

David D. Newsom, of California, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Philippines.

O. Rudolph Aggrey, of the District of Columbia, a Foreign Service information officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania.

Theodore M. Hesburgh, of Indiana, for the rank indicated during the tenure of his service as Chairman of the U.S. Delegation to the United Nations Conference on Science and Technology for Development, to be Ambassador.

John E. Downs, of Missouri, for the rank indicated during the tenure of his service as the U.S. Representative on the Council of the International Civil Aviation Organization, to be Minister.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Barry M. Blechman, of Virginia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

THE JUDICIARY

Damon J. Keith, of Michigan, to be U.S. circuit judge for the 6th circuit.

DEPARTMENT OF JUSTICE

Ronald L. Rencher, of Utah, to be U.S. Attorney for the district of Utah for the term of 4 years.

Robert J. Del Tufo, of New Jersey, to be U.S. attorney for the district of New Jersey for the term of 4 years.

Robert T. O'Leary, of Montana, to be U.S. attorney for the district of Montana for the term of 4 years.

James S. Brady, of Michigan, to be U.S. attorney for the western district of Michigan for the term of 4 years.

Edward D. Schaeffer, of Pennsylvania, to be U.S. marshal for the eastern district of Pennsylvania for the term of 4 years.

Richard D. Dutremble, of Maine, to be U.S. marshal for the district of Maine for the term of 4 years.

Rufus A. Lewis, of Alabama, to be U.S. marshal for the middle district of Alabama for the term of 4 years.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE DIPLOMATIC AND FOREIGN SERVICE

Diplomatic and Foreign Service nominations beginning John H. C. Gervers, to be a Foreign Service officer of class 4, a consular officer, and a Secretary in the Diplomatic Service of the United States of America, and ending Jay S. Stricklin, to be a consular officer of the United States of America, which nominations were received by the Senate and appeared in the Congressional Record on Sept. 30, 1977.

Mr. ALLEN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Alabama reserves the right to object.

Mr. ALLEN. I shall not object.

I do wish to comment on the nomination of Mr. Rufus A. Lewis, of Alabama, to be a U.S. marshal for the middle district of Alabama for a term of 4 years. This is the first black to be named as U.S. marshal in more than 100 years in Alabama, and I commend the President on nominating Mr. Rufus A. Lewis. He is a member of the Alabama State Legislature, a prominent businessman in Montgomery, Ala., and I might state, parenthetically, that he was an active civil rights leader there in Montgomery during the time that Rev. Martin Luther King was a pastor at one of the churches in Montgomery, and he was one of the leaders in the bus boycott movement there.

I want to point this out to emphasize the vast change in public opinion that has taken place in Alabama in the last 10 or 15 years, and Mr. Lewis was recommended by my distinguished senior colleague, Mr. SPARKMAN, and I, to occupy this important position. I might state, to show the high regard in which he is held in this district, that to the best of my recollection I have not received one single complaint from the citizenry of the middle district which includes Montgomery, the cradle of the Confederacy, on this appointment.

Mr. Lewis is 69 years of age. I do not know what effect the bill we just passed the other day would have on his retirement, but the President has waived the age requirement, the age limitation, already with respect to Mr. Lewis, so he can serve out his entire 4-year term.

But I believe this is an excellent appointment the President has made. It meets with the approval of Senator SPARKMAN and myself and, apparently, meets with the approval of the people of the middle district of Alabama, so I do commend Mr. Lewis to the Senate.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. ALLEN. I would be delighted to yield.

Mr. BROOKE. Mr. President, I thank my colleague from Alabama for yielding. I wish to commend the distinguished Senator from Alabama (Mr. ALLEN) and the distinguished senior Senator from Alabama (Mr. SPARKMAN) for making this recommendation of Rufus A. Lewis to the President of the United States as a U.S. marshal.

As the Senator from Alabama has said, this is the first appointment of a black marshal from the State of Alabama since reconstruction days.

Mr. ALLEN. That is correct.

Mr. BROOKE. Is that not correct?

Mr. ALLEN. Yes.

Mr. BROOKE. And the fact that Mr. Rufus Lewis was an active civil rights supporter in Alabama during the days of Martin Luther King I think makes this appointment even more historic.

So not only do I commend the two distinguished Senators from Alabama, but the people of Alabama and, I think, this shows, as you have indicated from the fact you had no adverse response at all to this appointment, how race relations in the State of Alabama and, hopefully, in this country have improved in the last decade.

So I again commend my distinguished colleagues for his appointment and I look forward to great service by Mr. Rufus Lewis as a U.S. marshal for the middle district of Alabama.

Mr. ALLEN. I thank the distinguished Senator from Massachusetts.

Mr. President, I ask unanimous consent that an article from the February 5, 1977, edition of the Birmingham News, relating to Mr. Lewis be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MAN RECOMMENDED FOR MARSHAL IS A VETERAN RIGHTS CAMPAIGNER

(By Stan Bailey)

MONTGOMERY.—Long before Martin Luther King became known the world over as a campaigner for black rights, the man recommended to become the next U.S. marshal in Montgomery was quietly teaching blacks to register and vote.

"That's the best part about it. I worked and worked and worked, not because I could see 20 years ago that I would be a U.S. marshal or get some reward, but because I believed it was right," said State Rep. Rufus Lewis.

"I didn't know that day I got arrested outside the courthouse for urging black folks to vote that I'd be a marshal. I didn't know that two weeks ago," Lewis said.

"I might have worked all my life and got nothing for it, it would have been the same. I did it because it was right. It's just kind of nice to be rewarded besides."

Lewis said he was surprised he was chosen for the marshal's post because he made a trip to Washington on another candidate's behalf—Montgomery City Councilman Herman Harris.

The other contender for the job was Macon County Sheriff Lucius Amerson.

"Sen. Allen didn't want one of them and Sen. Sparkman didn't want the other. I was the compromise candidate," Lewis said.

Lewis said he has helped both Alabama Senators in prior campaigns.

He is serving the second year of his first term in the Alabama House, where he says he has a "fairly good record of voting for people in need and for education folks in need."

He looks back on his days as a protest leader and says he concentrated always on urging blacks to register and exercise the power of the ballot.

"I believe in orderly protest then and now," he said.

Lewis was chairman of the Montgomery Improvement Association's Transportation Committee when the bus boycott in Montgomery kicked off the civil rights movement. He was arrested along with other black leaders.

He also was instrumental in bringing the first federal registrars to Alabama "where they found discrimination against blacks."

Lewis, who runs a funeral home in Montgomery, also was one of the founders of the Alabama Democratic Conference, still the most politically potent group of blacks in the state.

Lewis gives his age as "past 65," says he was born and reared in Montgomery, and attended high school and junior college at Alabama State.

He is married to the former Jule Clayton, and they have one daughter, a resident of Colorado Springs, Colo.

The PRESIDING OFFICER. Is there objection to the confirmation of the nominations? The Chair hears none and, accordingly, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider en bloc the vote by which the nominations were confirmed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I make that motion.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, the Senate will return to legislative business.

Mr. ROBERT C. BYRD. Mr. President, I again thank the Senator from California, the Senator from Alabama, the acting Republican leader, and the Senator from Idaho.

ENDANGERED AMERICAN WILDERNESS ACT OF 1977

The Senate continued with the consideration of H.R. 3454.

Mr. HAYAKAWA. Mr. President, I wish to return to consideration of the Endangered American Wilderness Act which is H.R. 3454.

It is an omnibus wilderness bill involving 14 areas, three of which are in the State of California. One of these areas in California is very controversial. The people of the area do not support it, and I think they need a spokesman right here in the Senate. That is why I am opposed to such a massive

wilderness set-aside for the Golden Trout area.

There have been many acrage possibilities for a wilderness set-aside for the Golden Trout area ranging from 0 acres to 416,000 acres, including middle figures of 179,000 and 333,000 acres.

After considerable debate over this controversy during the Committee on Energy and Natural Resources markup on H.R. 3454, the committee finally reported out a bill with 333,000 acres for the Golden Trout Wilderness.

I asked the committee members to compromise on this issue at 179,000 acres for the Golden Trout, the same figure as in the House-passed bill. The committee voted against this by a 7 to 9 vote and decided against lowering the 333,000 acre figure to 179,000 acres.

There is a difference between the House and Senate as to the acreage to be set aside for this wilderness. The House has decided on a figure of 179,000 acres; the Senate is proceeding toward a 330,000-acre figure in committee. Since the House and Senate figures on this area differ it will be a matter to be worked out in conference, and I hope the final boundaries of the proposed Golden Trout area will allow the timber industry to be protected, in addition to the fish in this area.

This whole debate has to do with a relatively small area in the State of California and whether or not it should be made a wilderness. But since implications of this are quite important for our economy and for our whole policy toward wilderness and preservation of natural life, and so on, the Chair will forgive me if I proceed on this at some length.

The Golden Trout area, located on the Sequoia and Inyo National Forests of this area, 33,000 acres is presently in the reported bill for the Golden Trout area. This area is 520.47 square miles—or three-fourths the size of the State of Rhode Island, and eight times the size of the District of Columbia. Of this area, 130,000 acres is commercial forestland.

There is a total of 130,000 acres of commercial forestland in this area, or 2.5 billion board feet of timber. This is enough wood to house another 9,500 people each year. The annual allowable cut lost in this area with a 333,000-acre wilderness set-aside is 30 million board feet of timber, or one-third of the total available supply from the area.

We have Secretary Patricia Harris of the Department of Housing and Urban Development receiving a major write-up in the Washington Post by calling for a Federal Government investigation of why the price of lumber is increasing so rapidly. Along with increasing housing needs, the price of wood for housing has risen 90 percent in the past 2 years—90 percent. And while Ms. Harris calls for a Government investigation of why lumber prices keep going up—other members of the same Government sit here in the House and the Senate Chambers of the U.S. Congress and pass bill after bill that locks up valuable timber land, never to be cut again.

Some conservationists tell me that these legislative acts are reversible, and that we could always change an area back—but I have been unable to find any instance in which this has ever occurred. And why today's poor business climate, it is highly unlikely that such action will ever take place.

Mr. President, I really want to emphasize the quantities of timber that will be taken out of production—this is very important. And I think that the people who vote on this legislation should be aware of exactly how their vote will affect the economy. During the committee's consideration of this matter, one of the Senators on the committee stated that there was little merchantable timber in the areas to be set aside. Now this is true for some of the proposed wilderness areas in the bill, but my friend's remarks certainly do not apply to the Golden Trout area.

This legislation will have a considerable impact on the area—the direct loss of employment will be 300 to 400 timber-related jobs, all to the U.S. Forest Service. The estimated indirect employment loss exceeds 750 jobs—which is very extensive, especially when unemployment is a major concern of this Congress. I have received telegram after telegram from the people who live in this area, those who will be forced to take their children out of school, move to another area and try to find another job as a result of this legislation. The direct payroll loss with the 333,000 acre wilderness will be at least $1.5 million annually.

The Federal revenue loss as a result of reduced timber sales in the area will be $2 million annually. The county revenue loss will be $0.5 million annually. Time and again we pass legislation that robs people of their incomes—in the place of the potential Federal revenue of a couple of million dollars annually, this Congress puts hundreds of people out of jobs, increases the number of people receiving unemployment compensation—so instead of paying taxes we increase the responsibility of other taxpayers who must shoulder the burden of each new unemployed person.

There are currently three timber companies in the area who compete against each other for the timber sales on the U.S. forest lands—the American Forest Products, Louisiana-Pacific Corp., and Sierra Forest Projects. People have been lumbering in this area since the late 1920's. There is not an alternative source of timber available, so their jobs depend on the timber sales on U.S. forest lands. The loss of one-third of the allowable cut will result in the closing of business for one of the companies in the area, or will seriously curtail the work of all the mills.

There are five mills in the area, and they rely 95 percent on the national forests for their timber supply—there is almost no timber on private lands. The mills have been built to accommodate the timber supply sold on an annual basis in the area, and they need so much timber per year to run efficiently. Usually the companies bid for the timber a year to a year and a half before it will eventually be processed in the mills. Because of this we will not see the direct results of this act of Congress for a year or a year and a half. At that time it may be the mill in Johnsondale that runs out of timber, or it may be that all of the mills in the area will each suffer a part of the result. Whichever way we end up, this legislative action will catch up with us over time land.

The U.S. Forest Service has spent between $250,000 to $300,000 to do the land management study for this area. They held a series of public meetings over a 3-year period so that the public could have a major impact on the plan for the future management of the area. The plan addresses the Little Kern area, and is the basis for the administration's 179,000 acre recommendation for wilderness in this area. The Forest Service took into consideration the forested lands; they considered the growth on those lands, the soil conditions, the slope of the land, and so forth. If the 333,000 acres remains as the final figure in the bill, this will result in a reduction of 20 to 25 million board feet of timber per year of the 118 million board feet that is normally sold.

Many people will argue that certain lands that we so freely toss into the hopper for this omnibus wilderness legislation are not quite appropriate for such a designation. In other words, some of the so-called wilderness land that is planned for wilderness areas does not fit the definition of wilderness at all. Nevertheless, people seem to be willing to stretch the rules a little bit, and to call it a wilderness anyway. They say that yes, this land is wilderness all right, and we must abide by the strict rules imposed on this type of designation under our laws.

They might say that in this particular piece of wilderness, however, we just happen to have a few buildings, and we may have a road or something else that does not really belong here. We can just change the boundaries a bit so that they include all of the land except the road—having the boundaries take a deep dip into the area so as not to include the road in the wilderness. Or it does not seem to matter that the primary users of the area like to come into it on off-road vehicles—jeeps, snow-mobiles, or motorcycles. I have a problem with this kind of approach—I think we are going around setting aside too many areas as wilderness, without giving them sufficient thought. Throwing together omnibus wilderness bills that include so many different areas results in insufficient review of each parcel by the Congress, and makes it very difficult to exclude one or two of the areas in the bill that may be inappropriate.

All of the land under discussion for the Golden Trout area, the 333,000 acre set-aside is roadless—that is there have been no roads constructed on the land to disqualify it for a wilderness designation. However, there are many current uses, and potential uses of the land that would not be permitted under wilderness.

There are seven potential ski sites in the area—seven of them. If the area were to remain as U.S. Forest Service land,

but not formally classified as wilderness, I am not saying that all seven of these areas would necessarily be developed as ski areas, but even if some of the areas would be so developed, it would open the area up for a great deal of recreational use that it will not receive as wilderness. There are about 2 million skiers who could use that area from the State of California alone, and that is 10 percent of the population of California. This figure does not even include the number of people from other areas of the country who would visit the area and use ski facilities. I have received letters from Far Western Ski Association members who have applauded my position against locking up this land in wilderness. We should be leaving these options open for the future, not preventing any development whatsoever to reserve the land for the use of a minority of the members of the population.

We also currently have a very large number of people who drive off-road vehicles in the area—a very popular use which will no longer be permitted under a formal wilderness classification. Within the 333,000 acre area in the last year, there was a total of 135,000 visitor days of hikers. There was an equal number of visitor days for people on motorcycles, 135,000, the same as hiking use. For four-wheel drive use, there was a total of approximately half the use of motorcycle use. So if we compare the amount of use of the area for hikers, a use that is compatible with a wilderness designation, to the amount of use that is not compatible with a formal wilderness designation, those using motorized vehicles of some sort in the area number 50 percent higher than those who simply like to hike in the area.

Mr. President, these figures I cite are counted after the Forest Service has excluded some trails for use where off-road vehicle use may cause some resource damage. Contrary to some people's opinion, the U.S. Forest Service daily demonstrates an effort to protect the wildlife in our national forests. In this particular area, off-road vehicle use has been curtailed in order to prevent soil erosion or damage to plants, et cetera. At this time between 30 and 40 percent of the land in the 333,000 acre Golden Trout area is open to either type of off-road vehicle.

The Little Kern Golden Trout has been identified as a separate species of Golden Trout special to this area. This particular fish does need some protection, and the Forest Service has long recognized this fact. A wilderness classification for this area may even make it more difficult for the Forest Service to implement protection of this species. The process they now rely upon consists of building stream barriers and then chemically treating the water above the barriers to eradicate the rough fish. The following year that portion of the sream is stocked with a pure strain of Little Kern Golden Trout. With the rough fish out of the water, the Golden Trout have a much higher chance of surviving.

Although this type of action is not prohibited under the strict definition of wilderness, it is very difficult to perform. The Forest Service employees will have to spend a great deal of time writing up their case to show that it is absolutely necessary to use this type of program to protect a wilderness resource. Afer much delay and going through the bureaucratic channels all the way to final approval from the Washington office, their plan might get approved. Such a delay of 1 to 2 years could be very detrimental, it could result in damage to the very resource we are aiming to protect. This type of delay is not only time consuming, but it is also expensive, at a time when the Forest Service is already short on manpower.

The Golden Trout area is also a major deer range; during the summer months, deer pass through the area, which is part of their migration route. As the brush in the area grows older, the leaves are less palatable to the deer. The Forest Service now has a program called wildlife habitat manipulation. Using what is referred to as a cool fire, they burn the top of the brush. New brush will sprout new growth that is succulent to the deer, and they are provided with sufficient food sources. Under the Wilderness Act, such burning of the brush is prohibited.

Another use in the area that is not as frequently discussed is that a portion of the 333,000-acre area is presently used for cattle grazing. Now if this entire area ends up being classified as wilderness, the cattle can still legally graze on the land, but no new fences or water troughs can be put in a wilderness area. When the Wilderness Act was passed in 1964, the act recognized that cattle grazing can continue in such areas. However, another problem arises because many people hiking into wilderness areas object to such use of the land, saying that cattle are not compatible with a wilderness experience.

Although present cattle uses may still be permitted, no additional fences or water troughs can be added in these areas. Present grazing uses could be jeopardized by the complaints of hikers. So we see here that it is not simply the timber industry that is affected by such legislative action.

Another serious consequence of this bill has to do with a very serious problem in my State of California—water supply. This week while we are experiencing temperatures in the 40's, the area of the Golden Trout is having weather in the 90's. We have had 2 consecutive years of severe drought in my State. There is a potential for water use in the Golden Trout area that could be very important in years to come, and yet it will be impossible to implement under a wilderness classification. During the 1940's and 1950's the Army Corps of Engineers and the Bureau of Reclamation put in a number of dams in the area on the major rivers in the Sierras. Eighty percent of the water from this Golden Trout area flows in to the Kern River drainage and eventually into Lake Isabella Reservoir on the Kern River has been providing water for Bakersfield.

Then there is the Success Reservoir, on the Tule River, that provides water for the agricultural crops in the San Joaquin Valley.

In the future, through the use of dams, the flow of water could be enhanced—through manipulation practices such as using certain cutting practices, building snow fences; the flow of water can be increased in certain areas. By building snow fences, greater amounts of snow can be collected in some places, allowing it to melt later in the spring. This could be very important for our water supply in the area, in light of California's past history of droughts. Most of this type of practice requires structures and man made changes in the topography, practices that are not permitted in a wilderness area. The practice of weather modification can be utilized in a wilderness area as long as it does not change the ecological balance, but this means not being able to increase the water flow by more than 10 percent.

There are also mineral mining interests in these forests. There are some valid tungsten and copper, although their full potential is not known. Tungsten is a very valuable mineral used for strengthening steel. It is frequently used in the aerospace industry. The price of tungsten has risen 300 to 400 percent in the last year. Any potential mineral resources will be permanently lost, as mining is certainly not permitted within a wilderness.

Although not enough study has been conducted on this usage, there are many hot springs there which are a potential energy use, just as the geysers of Northern California are used as an energy resource. These hot springs have been mapped and identified as being all over the western half of the 333,000 acres, and they are being looked into by the Energy Research and Development Administration for thermal energy potentials. The prospects of development are not known, but wilderness designation would end any future development of this energy resource.

In order to protect the Little Kern Golden Trout, the Fish and Wildlife Service has recently issued a proposed rule on the habitat of the Little Kern Golden Trout and how the species is threatened. The U.S. Forest Service with the cooperation of the California Department of Fish and Game could be very successful in protecting the Little Kern Golden Trout by building the correct barriers and providing the pure strain of Golden Trout in the stream.

The golden trout are easily caught by fishermen, as I know from personal experience, as compared with other kinds of fish. Building roads into the area, and making it easily accessible would result in increased fishing activity in the Kern River. Instead of puttng limits on the number of fish allowed to be caught, or regulating the use of barbs on hooks, the Department of Fish and Game would rather keep people out of the area, and make it more difficult to fish there. That way they do not have to spend the money enforcing fishing rules to protect the golden trout.

The Forest Service has developed an alternative wilderness proposal for the Little Kern area that they could always fall back on if necessary. This was intended for use as a safeguard to protect the Little Kern golden trout if all else fails—up to this time it has never been

enforced. The multiple use plan did not provide adequate protection, as this was not necessary.

Instead of using a practical solution to the problem of a scarcity of a certain species of fish by careful management, the California Department of Fish and Game, and many Members of the Congress choose to lock up the area in wilderness, and that way keep out most of the people who would normally use the area. Is this the way to practically manage our natural resources? Look them up in wilderness classification so that most people will not have access to the land? These federally owned national forest lands are owned by all of the taxpayers of this country, and they should be accessible to and the land should be accessible to them.

As I mentioned in my testimony before the Senate Committee on Energy and Natural Resources, many people do not have access to massive wilderness areas. This includes the very young and the elderly, the handicapped, and those who do not have more than a day to hike into these areas. We are setting aside hundreds of thousands of acres of land in California and all across the country for the use of a small, limited group of people who are able, physically and economically, to take advantage of these privileges.

The Golden Trout is not the only area that I am concerned about. All across the Nation the roadless areas are being evaluated in what is commonly referred to as the RARE II process—the roadless area review and evaluation project. The ultimate goal of this process seems to be getting as much land as possible into the wilderness system.

I want to take this opportunity to express the major concerns many of my constituents have on the RARE II process. I speak also for myself, as I am very concerned about this matter. The greatest complaint I have received on this matter is that so many people feel that the program is slanted to encourage the public to propose wilderness areas rather than the modification of existing wilderness areas, or as an unbiased survey as to the public's preference for or against wilderness on existing roadless areas. The U.S. Forest Service does not have the authority to relax the criteria for wilderness as defined in the Wilderness Preservation System Act of 1964. However, many of the boundaries are being changed to include everything except a road or a building, et cetera and thus call an area wilderness that doesn't necessarily qualify.

In 1973 we completed the RARE I process, and yet here we are only 4 years later with RARE II. I believe that this entire process was completed several years ago, and to go back and reevaluate these roadless costs time and money for the Forest Service, and is an inconvenience to those involved. Once again those involved in the timber industry have to worry whether or not their jobs will be lost. Then there is the question of the future—will we have RARE III and RARE IV follow in a few years?

I realize that the Forest Service is anxious to get many of the land questions resolved so that when they are trying to develop land management plans they are not plagued by litigation and delaying tactics on the part of those who oppose multiple use management. In this regard, I hope that we can quickly resolve these questions and get on with things. My concern, as I have already stated, is that the RARE II is not a wilderness forum. I want to be certain that the question of land management is approached objectively, and that the people whose livelihood depends on the resources of our national forests are given equal consideration.

I want to be on record as having these concerns that RARE II not be treated as an opportunity to get as much land into the wilderness system as possible. There are other uses of the land. The U.S. Forest Service knows it, the taxpayers know it, and we know it.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Idaho has 77 minutes remaining.

Mr. CHURCH. Mr. President, I intend to use only a few minutes of that time. I want to say a word or two about the Golden Trout Wilderness as incorporated in the bill.

I appreciate the concerns which have been expressed by the distinguished junior Senator from California. He originally appeared before the Energy and Natural Resources Committee to oppose any wilderness in this region, and later appeared a second time to speak for the 179,000 acre Golden Trout Wilderness area contained in the House version of the bill.

The committee tried, as much as possible, to take into account the views of the Senators in the States where wilderness areas were to be included. Only in the case of California was there a serious difference in the position taken by the two Senators.

The senior Senator from California (Mr. CRANSTON) appeared before the committee to advocate a Golden Trout Wilderness area compromising 416,000 acres. Later, that same figure was endorsed by the State of California. The acreage of the Golden Trout area as it appears in the bill reported by the committee, is 333,100 acres, which is an acreage thought to be of sufficient size by the committee. That figure is considerably less than Senator CRANSTON and the State of California had advocated, though more than the area advocated by the junior Senator from California and as contained in the House-passed version of the bill.

The testimony taken by the committee indicated that there was concern about the lower Little Kern drainage, where there are approximately 8 to 10 million board feet of timber. It happens that this is also an area in which the Little Kern Golden Trout are to be found. This species of trout has been proposed for the threatened list under the Endangered Species Act.

One of the purposes, of course, to be served by establishing this wilderness is to preserve this threatened specie. The principal objection to the Golden Trout Wilderness has come from the wood products industry. However, there has been some confusion as to the degree to which that industry would be affected by the wilderness proposal contained in this bill. The timber management plan for the Sequoia National Forest is almost 20 years old, and it needs an appropriate updating. As a result, meaningful figures as to how much timber can be harvested—as opposed to how much timber is located and growing on the proposed wilderness site—are hard to obtain. But almost everyone agrees that a new timber management plan for the Sequoia will reduce the allowable cut of this national forest anyway, regardless of the wilderness designation we consider here today. It is my understanding that the mills in the area are already operating at the capacity of the forest to reproduce under the old plan. There may well be job dislocations in the area in the next few years, even if no wilderness were established at all.

Mr. President, I believe the committee did its best to find a position between the two positions taken by the Senators from California, which would accomplish the objectives of preserving the Golden Trout and protecting the wilderness values that are to be found in this area.

I think that, since Senator CRANSTON cannot be here on the floor at this time, in fairness to his position, I ought to read into the RECORD what he had to say about the Golden Trout Wilderness area when he appeared before the committee:

Finally, I would like to comment on the Golden Trout wilderness proposal. The proposed Golden Trout wilderness area is located within the Sequoia and Inyo National Forests immediately south of Sequoia National Park and within a three-hour drive of Los Angeles. In the heart of the proposed wilderness are the Kern and Little Kern Rivers. These rivers are the native habitat of California's state fish, the golden trout, and a subspecie called the Little Kern golden trout. This fish developed its unique golden brown coloring in isolation from other trout species because of the remoteness of the area.

The Forest Service has proposed to study the northern half of the Golden Trout area for possible wilderness classification, but the balance of the area is not protected in any special way and is subject to multiple use management. Timber sales are presently under consideration in the Little Kern area. The golden trout cannot survive heavy fishing pressure or siltation of the small streams in which they are found. Logging and the construction of timber access roads would increase these problems and seriously endanger the existence of the golden trout.

I would like to point out that the Little Kern golden trout is already significantly threatened. On September 1 of this year, the U.S. Fish and Wildlife Service, Department of Interior, announced in the Federal Register its proposal to add the Little Kern golden trout to the list of threatened spe-

cies and identified critical fish habitat in the proposed Golden Trout wilderness area.

Furthermore, the Secretary of Resources for the State of California has conveyed to me his very great concern that the Little Kern golden trout will not be adequately protected unless a minimum of 333,000 acres is designated as wilderness as proposed in H.R. 3454.

As I indicated, Mr. President, following this testimony, the State of California endorsed an even larger area, 416,000 acres.

Finally, I believe that the views of those Members of the Committee on the Interior and Insular Affairs, which handled this bill on the other side of the Capitol, who took issue with the majority of the committee on the size of the proposed Golden Trout wilderness area, should also be taken into account. The vote in the House committee on the question of size, as between 333,100 acres contained in the Senate bill and the 179,000 acres finally approved in the House bill, was close. It was a vote of 20 to 24 in favor of the smaller acreage. Those who believed this decision to be in error included their supplemental views in the House report on this bill. I should like to read one pertinent section of those views into the RECORD:

Opponents of an adequate compromise Golden Trout Wilderness have painted a grossly exaggerated and inaccurate picture of the impacts such a designation would have on the timber industry. The Forest Service has already indicated its intention to cut timber sales in the Sequoia National Forest to the 90- to 100-million board feet per year (mmbf/yr)-level in the next few years, down from the current 118.1 mmbf/yr, whether or not any wilderness is designated. Compared to this decline, the actual impact of wilderness designation for the disputed areas is even smaller. No existing timber sales would be affected by the larger proposed wilderness. The Krebs' compromise would have deleted 83,900 acres of the Golden Trout Wilderness recommended by the Subcommittee on Indian Affairs and Public Lands thus making available an additional 3 mmfb/yr for timber harvest. We believe that the minor impact of wilderness designation on potential timber harvest is more than counterbalanced by the opportunity to protect a significant sample of the old-growth timber so that future generations may experience a virgin Sierra forest.

In summation, Mr. President, all I can say is that the committee did its best to reconcile these opposing views. I believe that when this matter goes to conference, it will be possible for the two houses to finally decide on the appropriate size of this particular wilderness, taking all of these factors into account.

Mr. President, I have no further remarks to make about the bill. If there are no further amendments, I hope we can go to third reading.

Mr. GARN. Mr. President, I have some brief comments I would like to make.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. I ask for 5 minutes. The minority manager is not here.

Mr. CHURCH. I am happy to yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Utah is recognized for 5 minutes.

Mr. GARN. I thank the Senator from Idaho.

Mr. President, this legislation contains a section which deals with the Lone Peak area in Utah. Under the provision, the Lone Peak will be declared as wilderness. This section was taken from a bill introduced by Senator HATCH and myself, and I would like to take a minute to discuss Lone Peak.

Lone Peak stands next to the largest population center in Utah. It is, in fact, right on the boundary line between Salt Lake and Utah Counties, the two most populous counties in the State. From the top of Lone Peak, one can look out over the Salt Lake and Utah Valleys, home of almost three-quarters of a million people. I find it inconceivable that this area, beautiful as it is, and it is very beautiful, could be considered a wilderness area.

Since passage of the Wilderness Act in 1964, there has been some debate over the nature of wilderness. By and large, the Forest Service has taken a fairly restrictive, "purist" approach. The Forest Service has said that where there is strong evidence of man, in the form of roads, buildings, waterworks, and so on, or where man's airplanes and cars are immediately visible, you can have no wilderness. Under that interpretation of the 1964 act, the Forest Service recommended that Lone Peak be classified as "scenic," which would mean that development would be prohibited, but that certain essential functions of watershed management could be carried out.

There are no buildings, as such, in Lone Peak. But there are some small dams, and some terracing to prevent erosion. Besides, the area is very heavily used, due to its proximity to Salt Lake City, and the Forest Service feels that vault toilets will have to be used in the future, to prevent health hazards to the city water supply. These toilets themselves may not be inconsistent with wilderness management, but they would have to be flown in and out with helicopters.

Certain environmental groups have taken a looser interpretation of wilderness, and argued that any essential use is permitted. Under that interpretation, helicopters could be used, the dams and terracing do not detract, and their maintenance, even with mechanized equipment, would be permitted.

Now, I happen to think that this is a very elusive definition of wilderness, and one which environmentalists will some day regret. Virtually every parcel of land being designated as wilderness by this legislation contains some structure, or road, or fire hazard, or health hazard which makes it sure that under the normal workings of the 1964 act it would not be wilderness. That is why this bill was introduced, because the 1964 act would not bring these parcels in. My point is simply that these parcels do not belong in. It is not a question of acting legislatively to pick up some tracts that everyone agrees should be wilderness. The fact is that virtually every one of these designations is opposed by significant groups, and for very good reasons.

Imagine some future time, when somebody wants to build a dam in the midst of the most pristine wilderness in the country. The land manager, backed up by the Sierra Club, would say, "you can not have a dam in the middle of a wilderness." Because of this legislation, the response would be obvious:

"Of course you can," the dam builder would say. "Look at Lone Peak. It has a dam in it." "Look at Hunter-Fryingpan. It has a waterworks right in the middle of it." And so on. The land manager might still refuse, but he would not be doing it on the basis of principle, but on the basis of arbitrary power. I thought we set this country up to avoid arbitrary power and establish a system of predictable laws.

At my request, the committee has agreed to language in the bill which preserves the essential management functions on Lone Peak necessary to protect the city watershed. On that basis, I support Lone Peak Wilderness. At the same time, of course, the restrictions make plain what I have known all along: Lone Peak will not be a wilderness. You can call it what you want, but as Abraham Lincoln said, calling a tail a leg does not make it one. Calling Lone Peak a wilderness will not make it one either. I do want to make it clear that I have serious reservations about this bill.

Mr. President, I happen to be particularly familiar with this area. Besides being mayor of Salt Lake City, I was city water commissioner for 7 years.

This Lone Peak area is one of the watershed areas providing water to 400,000 people every day.

As mayor, I signed resolutions to the Congress opposing Lone Peak being designated wilderness several years ago, on the basis that my primary responsibility was to deliver clean water to the people of that valley and under wilderness we would not be able to do so.

I just wanted to make the point very clearly today that although I support Lone Peak Wilderness, because of the restrictions the committee put in so that Salt Lake City could still manage their watershed, just calling it wilderness does not make it so, and that is what is wrong with this bill today.

Legislatively we are saying these areas are wilderness. They are not. They will not be. They cannot be.

The evidence of man is there. When we designate one, as Abraham Lincoln said, we cannot turn into a wilderness an area where we can stand and look down on the homes, buildings, and industry of 750,000 people.

The PRESIDING OFFICER (Mr. STEVENSON). Are there further amendments?

Mr. WALLOP. Will the Senator from Idaho yield for 10 minutes?

Mr. CHURCH. Yes, I yield to the distinguished Senator from Wyoming.

Mr. WALLOP. I thank the Senator.

Mr. President, I want to express support in a general way for the endangered American wilderness bill before the Senate today, and for the overall concept of wilderness. In a rather specific way I would also like to comment on the bills reported from the committee.

Generally speaking, wilderness has significant values for this country which the Senate and the Congress have recognized for a long time. Under the leadership of the distinguished Senator from Idaho we have here and elsewhere established a number of valuable wilderness areas throughout the Nation.

Wilderness itself is a multiple use of scenic lands with wildlife, historic, scientific, educational, and recreational values. Therefore, wilderness is not restricted only to single use, or to no use, as some opponents would sometimes suggest.

There is a need for this Congress to continue to consider deserving wilderness areas in this country. I think the focus of this Congress should be directed particularly to the eastern part of the United States, and to Alaska and other States presently lacking adequate wilderness protection.

Congress alone has the authority to designate wilderness areas, and should continue to do so on a case-by-case basis. My one uncomfortable feeling with this bill is that it is omnibus legislation, and consideration of individual areas can be difficult with such a format. However, I also recognize that it is sometimes the only way to deal with many areas expeditiously.

I would like to point out one thing about wilderness. I have grown up around it, in it, near it, and spent most of my life in primitive areas before the Wilderness Act began, and wilderness is a headlight. It shows up as wilderness on the maps, and attracts attention like a candle attracts moths, burning there in the middle of a map.

We have people come to my community of Sheridan, go to a local sporting goods store, and ask how to get up to the primitive area. The locals try to divert them in all ways, say that there are many other areas of wonderful fishing and wonderful camping with good access all over our Big Horn National Forest, but they will not be diverted.

Frankly, Cloud Peak is a small primitive area and it becomes a real burden, not a service to the area, to be so designated on the map.

I wish now to turn attention to language on page 9 of the Senate report on this bill dealing with RARE II. I hope that the Senate, the House, and the Forest Service pay particular attention to this language.

It states:

> The committee joins the House Interior and Insular Affairs Committee in strongly urging that the RARE II program be completed in a timely but thorough fashion.

Mr. President, there is nothing more important to the whole concept of wilderness in this country right now than to do that in a timely and thorough fashion.

RARE II has cemented in my State, and I suspect in a number of other Western States, an antiwilderness sentiment the likes of which I have not seen since I have been living among people who support, in general, the concept of wilderness. It puts a newly expanded definition of roadless areas in management limbo, freezing certain traditional uses, and it is impossible for mining, timber, livestock, and recreational uses to exist with this for the length of time contemplated in certain testimony before the Energy and National Resources Committee recently.

RARE II workshops this summer made meaningful public input virtually impossible. Many Forest Service users, including mining and timber interests, were not notified of the workshops or were given little time to evaluate the impact of RARE II and prepare testimony. I hear constantly that public comments were ignored, with the result that there are hard feelings everywhere throughout my State.

Even Wyoming environmental leaders have said that RARE II may be more trouble than it is worth, and advocate continuing to consider wilderness carefully, on a case by case basis.

Furthermore, RARE II will not solve the problems of land management allocation quickly enough.

I quote from a statement by Mr. Zane Smith, Assistant Secretary Cutler's assistant on RARE II. He is talking about the Forest Service's plan to propose to Congress by the end of 1978 which RARE II areas should be wilderness areas, which should be multiple use areas, and which should be in a middle group needing further study. He states:

> This band in the middle may be much, much wider than we would like, but if we could resolve 10 percent on either side—if there is such consensus—that is what we want to identify in RARE II, not to try to solve all the controversies in this middle area.

It is this admittance that only 20 percent of the RARE II lands will be resolved in the next year which greatly worries me and worries others.

As the distinguished Senator from Idaho (Mr. McCLURE) aptly noted at the roundtable conference recently, a 20-percent solution is no solution at all. It still leaves us with 80 percent of the problem, along with all the other land allocation problems from RARE I, land use planning, and court disputes.

Therefore, I have asked Secretary Bergland to allow multiple use to continue through the RARE II period. If RARE II will really take only until the end of 1978, there will not be that much timbering and other activity anyway. If it will extend longer, we must allow multiple use.

The timber industry in the country is being profoundly affected by RARE II, and the livestock and mineral industries may be as well. While the timber industry did ask Assistant Secretary Cutler for some prompt planning decision to end ongoing land use indecision, it is horrified with the new definition of "roadless" areas and a virtual freeze on many timber operations for an indefinite period of time.

Forest Service figures indicate that of the total 187 million acres in the national forest system 12.5 million acres are now wilderness, and 67 million acres are in roadless areas. Roughly one-third of our national forests is not now available for all multiple uses as mandated by Congress through many laws.

In my State of Wyoming RARE I identified 2,764,000 acres, and RARE II encompasses 4,149,000 acres. I am told that RARE II plus existing wilderness and primitive areas account for 80.3 percent of all national forest land in Wyoming, leaving only 17.9 percent for multiple use at this moment.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Louisiana-Pacific Corp., which operates a timber mill in Dubois, Wyo.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LOUISIANA-PACIFIC CORP.,
Dubois, Wyo., August 27, 1977.

Hon. MALCOLM WALLOP,
U.S. Senator, Russell Office Building, Washington, D.C.

DEAR MALCOLM: Wyoming's timber industry is now faced with a new and dangerous problem called RARE II. RARE II stands for a new Roadless Area Review and Evaluation by the Forest Service which is being performed under direction from Assistant Secretary of Agriculture Rupert M. Cutler, who feels that the Forest Service's interpretation of the 1964 Wilderness Act has been too pure. The 1964 Wilderness Act defined Wilderness "as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped federal land retaining its primeval character and influence, without permanent improvements or human habitation,". The Forest Service, using Mr. Cutlers criteria, is now considering lands for roadless-wilderness which have had timber harvesting, roads constructed, and other developments. Four-wheel drive roads are not considered to be roads under RARE II criteria. RARE II has had the net effect of setting aside 80 percent of the 3,500,000 acre Bridger-Teton National Forest, 85 percent of the 2,432,000 acre Shoshone National Forest and 74 percent of the 1,115,000 acre Big Horn National Forest. The Forest Service has agreed with environmentalist organizations that development of roadless areas will be halted until land use plans are completed for the areas involved. In Forest Service Region II, Regional Forester Craig Rupp has also withdrawn from the programmed cut volumes the timber volumes included in these roadless areas. This decision, covered in the attached letter, can only serve one purpose; that is to reduce timber harvesting in the Rocky Mountains. RARE II has changed forest service philosophy under the Organic Act of 1897 which states the purpose of establishing National Forests was "to improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of water flow, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States".

Now under RARE II criteria all National Forest lands, where the impact of development is slight, are to be considered as roadless for consideration as Wilderness and further development is excluded until Wilderness values have been considered. We both know that most of this land being considered as Roadless under RARE II will return to Multiple Use, however, why should our industries existence be threatened until that decision is made?

The Roadless Area Review and Evaluation is a farce and is an evaluation in name only. The criteria used could include most all the Western Forest in roadless classification.

Under criteria for including private lands in Roadless; if they had included state ownership along with Federal ownership the Forest Service could have put a boundary around both the States of Wyoming and Idaho. Forest Service Work Sheet I which considers Possible Criteria for Evaluating Potential Wilderness is full of loaded questions. It is obvious that there will be no further evaluation by the Forest Service. I have enclosed copies of my response to Worksheet I and II but I know that our concerns are being ignored. The Forest Service has told us, in their workshops, that Congress will make the decisions and we both know that this will take years.

RARE II has apparently evolved because of the inability of the Forest Service to arrive at a final decision. After spending hundreds of thousands of dollars completing Environmental Impact Statements, which include the public's input and the statements are accepted by the Environmental Protection Agency, lawsuits from Environmental Organizations continue to plague Forest Service Management. At some point these decisions are going to have to be made and apparently the timber industry is expected to close our doors, layoff our employees and wait.

Please find enclosed a map showing what has happened to Wyomings National Forests and some other information pertinent to the situation.

Sincerely yours

R. L. BAKER,
Chief Forester.

U.S. DEPARTMENT OF AGRICULTURE,
Lakewood, Colo., August 5, 1977.

TIMBER PURCHASERS AND OTHER INTERESTED PARTIES

GENTLEMEN: You were previously furnished information concerning the Request for Administrative Review of the revised Timber Management Plans for the Arapaho, Routt, Grand Mesa-Uncompahgre, Gunnison, Rio Grande and San Juan National Forests.

The Request for Administrative Review was made under authority of 36 CFR 211.2. On July 27, 1977, appellants withdrew and dismissed their pending appeal. I have agreed to this dismissal.

My agreement to the dismissal of this appeal requires several actions on the part of Region 2. Firstly, the potential yields for all National Forests within Region 2 will be calculated by regulated component with commercial forest land in nonselected roadless areas, as identified prior to July 1, 1977, excluded from the regulated base. The potential yield so calculated (with nonselected roadless areas excluded) will serve as a ceiling for the annual regulated programed harvest for each National Forest until land management decisions for individual nonselected roadless areas are completed.

A first approximation of this annual regulated programed harvest ceiling has been made using RAM computer projections and pro-rata computations and is enclosed.

The total Regional annual regulated programed harvest ceiling established as a result of these computations will be about 440–450 MMBF for the Standard and Special components and about 700 MMBF for the Standard, Special and Marginal components. Region 2 has in the past several years been harvesting about 285 MMBF annually. This first approximation is being refined using RAM projections for all Region 2 National Forests with recently revised Timber Management Plans. I will furnish you a copy of the revised regulated programed harvest ceiling shortly after August 20, 1977.

Secondly, all timber sales currently scheduled within nonselected roadless areas shall be removed from five year timber sale action plans and no new sales will be scheduled in these nonselected roadless areas until the land management planning process is completed.

The record of this appeal, including the Agreement and Notice of Dismissal of Pending Appeal may be reviewed at the office of the Regional Forester, 11177 West 8th Avenue, Lakewood, Colorado 80225.

Sincerely,

CRAIG W. RUPP,
Regional Forester.

Mr. WALLOP. Mr. President, as the letter states, Bridger-Teton National Forest has 80 percent of its land in RARE II areas; the Shoshone National Forest, 85 percent; and Big Horn National Forest, 74 percent.

Star Studs, a timber firm in Afton, Wyo., recently was down to a 40-day supply of timber, and it still does not know if it can make it until spring. If not, 100 townspeople and 175 loggers will be out of jobs, and this is about the sum total of that community.

Meanwhile, there is enough dead timber within a 100-mile radius to last that community and that company about 5 years. Other operators are being forced to go hundreds of miles to achieve timber sales, and many cannot see making it beyond the next year or two.

In the meantime, HUD Secretary Patricia Harris has asked the Council on Wage and Price Control to study why lumber prices are going up.

I ask unanimous consent to have an article on this subject printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the San Francisco Examiner, Sept. 18, 1977]

LUMBER PRICESS A KNOTTY PROBLEM

Lumber prices that for no apparent reason galloped out of sight this summer are receiving the close personal attention of the National Association of Home Builders.

The sudden and steep increases are being investigated by the Council on Wage and Price Stability at the request of Housing and Urban Development Secretary Patricia Harris.

The Secretary called for the investigation after conducting a survey of her own.

Action to end the price increases is now centered in the Council on Wage and Price Stability.

The Council's staff, at the request of Arquilla, was briefed last week on the situation by New Jersey Builder Barry Rosengarten, who is chairman of NAHB's Task Force on Lumber Prices.

Rosengarten strongly urged the council's director, Barry Bosworth, to "dig deeply into the pricing practices of the lumber industry."

Rosengarten made these additional points during the discussion:

There is no apparent basis for lumber industry claims that demand is pushing prices higher. "As far as we can determine," Rosengarten said, "there are no shortages of lumber or plywood anywhere. You can get it at a price."

The council should seek answers to such questions as how prices are being established and what role the futures market has played in the current upswing.

About a dozen or so manufacturers control 50 per cent of the nation's plywood production. "Does this concentration of production lead to price manipulation?" Rosengarten asked.

Rosengarten also urged the council to take a careful look at bidding practices at federal timber sales. "It may be that only companies that can establish a need for federal timber should be allowed to bid," he said.

Bosworth told Rosengarten that the council's study should be completed in a few weeks and that NAHB would be given an opportunity to supply additional information and advice.

Bosworth said the Council is deeply concerned over the short- and long-run implications of rising lumber prices.

Mr. WALLOP. Mr. President, there is a mineral bind as well. In my State, there is a new and very prosperous mineral discovery in the Overthrust Belt in western Wyoming and extending to Canada and underlying the Bridger-Teton National Forest. The Overthrust Belt has been called another Prudhoe Bay, and Bridger-Teton has leased 2 million acres out of 3.4 million acres in the whole forest. However, the lessees of oil and gas permits are understandably worried about the future, for there is great uncertainty as to whether or not they will be allowed to exercise those leases because of RARE II and other planning uncertainties.

The BLM-issued leases are up in 1979. However, the lessees hesitate to develop because environmental groups may bring suit on RARE II lands. Yet the lessees continue to pay $1 an acre for the leasing rights on these lands. This is another example of poor planning with respect to the use allocation problems on Forest Service lands, and the indecision is unfair to the public and to industry.

The Gospel-Hump solution in this bill, I think, is a tremendous and positive step forward. Hopefully it can set a precedent which could help resolve the land use problems for many forest areas in this country quickly. Future solutions of this kind must be sure to include all interest groups in the deliberations, including organized labor, environmentalists, timber, mining, off-road vehicles, livestock, recreational, and other groups.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WALLOP. Mr. President, will the Senator yield me 2 additional minutes?

Mr. CHURCH. I yield.

Mr. WALLOP. The Gospel-Hump idea is not the solution for every area, perhaps, but it is one excellent approach for guaranteeing both wilderness and multiple-use areas. The Forest Service has broached the idea of doing this on a State-by-State or forest-by-forest idea, and I hope they take it up.

It is senseless for this country to go on arguing about Forest Service land uses. Cooperation between environmentalists and industrialists and other users of the national forests is essential if we are to make any wise decisions on how to use these lands.

RARE II is well-intentioned, but it is an overcompensation for past mistakes, and must be concluded in a timely fashion.

Mr. President, I ask unanimous consent to have printed in the RECORD two letters—one to Secretary Bergland, asking him to permit continued multiple-use during RARE II, and one from the Wyoming Stock Growers Association, which generally displays the tenor and depth of antiwilderness sentiment that has been developed by RARE II.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 21, 1977.

Hon. BOB BERGLAND,
Secretary, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: Having spent a good deal of time reviewing the RARE II effort and the Area Planning Guides for the Rocky Mountain region, I feel compelled to comment upon these recent Forest Service policies. I might add that my comments are based upon extensive conversation with timber industry representatives, wilderness advocates, Forest Service personnel, and my constituents throughout Wyoming, as well as personal reports on recent workshops on these issues in my state.

While I have no major objection to either a more thorough inventory of our roadless areas or to regional planning by the Forest Service, I am growing increasingly alarmed at the direction RARE II and the Area Planning Guides for the Rocky Mountain Region are taking. Many feel that RARE I was somewhat inadequate in its assessment of potential wilderness areas within our National Forest and Grasslands system, and I feel the Forest Service should have the prerogative to initiate another study if it so wishes. Likewise, wilderness management has been inconsistent and problematic since passage of the 1964 Wilderness Act, and I am glad to see the Forest Service re-evaluating its wilderness management procedures. Nor do I object to regional planning. However, the Forest Service's current approach toward these matters is an overreaction to environmental concerns, and as such it threatens balanced management as well as traditional multiple use values.

RARE II as now being implemented will take much too long to complete, and should be accelerated. There is no reason why a reassessment of roadless areas should be stretched over a lengthy period, and no one can afford or should have to sit in a state of management limbo for any period of time. Furthermore, it is essential that the Forest Service permit existing uses of forest lands to continue during this evaluation period. Neither local industries nor community economies can afford to hold operations while roadless areas sit locked up from necessary use during this time. There are entire communities in my state dependent on forest products, notably timber, and to arbitrarily cut off their supplies threatens their existence and the livelihoods of many people.

I am particularly concerned that planning decisions are being made without giving full consideration to public input, and that the Forest Service is making the public input procedure in certain cases unnecessarily difficult. I know that Wyoming residents have turned out by the hundreds across my state to protest vast new expenses of wilderness in Wyoming. However, these citizens complain with increasing frequency that the Forest Service makes commenting difficult, and ignores their suggestions. I believe that objectivity is the best means to fair and wise planning, but when my constituents tell me that the Forest Service has preconceived decisions regarding public lands, it does not give me confidence in the decision-making process. I hope the Forest Service is complying with the spirit of the law rather than the letter of it in soliciting public input.

The Area Planning Guides for Wyoming concern me greatly. The premise that the Rocky Mountain region is valuable above all else for its scenic, recreational, and wildlife values fails to take local and regional public opinion, economic realities, and energy needs into account. I realize that these Guides are preliminary, but I cannot strongly enough urge the Forest Service to reconsider its tentative conclusions. I assure you that I will vigorously oppose unwise efforts to double and triple the amount of wilderness in my state unless the Wyoming public supports such additions.

There is a rightful place for wilderness in our National Forest and Grasslands system. The Wilderness Act recognized the valuable scenic, wildlife, recreational, historic, scientific, and natural resources values inherent in wilderness areas outside the realm of man's management. However, such wilderness areas should be individually considered on a careful, case by case basis for their wilderness qualities by the Forest Service, the public, and finally Congress. I would hope that RARE II will produce more wilderness in states other than Wyoming which have little wilderness presently and whose residents desire such areas.

I would therefore ask that you direct the Forest Service to do the following:

1. Accelerate the RARE II inventory and planning process so as to allow prompt but careful completion.

2. Order that planned and traditional timber operations and all other normal multiple uses of National Forest and Grassland areas continue without interference during the RARE II effort.

3. Make enough local timber available to timber industries so as to not economically impair their existences and threaten local economies.

4. Personally ensure that local public input is facilitated, considered, and reflected in RARE II and area planning management decisions to the greatest extent possible.

In conclusion, Congress has passed a number of laws which direct the Forest Service to manage its resources for multiple and sustained use in a complementary manner. The Forest Service must remember that good multiple use management can and should enhance key environmental values. Environmentalists and industrialists must stop regarding each other as natural adversaries, and start cooperating in working towards a functional balance of a healthy environment, a prosperous economy, and a dependable energy supply. I hope that the Forest Service can set an example in fostering such cooperation for the mutual benefit of our people and our resources. Otherwise I am convinced that many people will continue to oppose new and deserving wilderness areas, and we will have once again swung far to one side of a sensible and balanced approach to forest land management.

I would appreciate your consideration of these matters.

Sincerely,

MALCOLM WALLOP,
U.S. Senator.

WYOMING STOCK GROWERS ASSOCIATION,
Cheyenne, Wyo., September 15, 1977.

Hon. MALCOLM WALLOP,
U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR WALLOP: The Wyoming Stock Growers Association's Forest Lands Committee met recently in Casper, Wyoming, and by unanimous decision resolved to oppose the concept of increased wilderness designation of our Wyoming National Forest Lands. The Rare II workshops held throughout the state indicated that most Wyoming citizens are opposed to increased wilderness designation within our state. This is a broad based opposition coming from local chambers of commerce, wild life organizations, senior citizen groups, timber organizations, mineral development groups, livestock organizations, and many, many other organized groups. The opposition to increased wilderness stems from the reduction of business activities in the local economies caused by change in the type of activities that could be carried on in the national forests as a result of wilderness designation. The multiple use concept of our forest lands would be greatly inhibited by these designations and consequently local economies would experience greatly reduced tax revenues which they depend upon for their ability to provide local services and improvements.

Roadless Area Evaluation II, although merely an inventory of potential roadless areas implies that these designated areas would be prime candidates for wilderness designation. The State of Wyoming already has more designated wilderness than any other state and it was the opinion of the Wyoming Stock Growers Association Committee that additional wilderness should be spread throughout the United States rather than be concentrated in small areas in the West. Our Committee felt that even though grazing is allowed in wilderness areas, there is no question that it is much more difficult to operate livestock under this designation and it is one more step towards "limited-use" designation of these lands. Livestock grazing would definitely be subservient to "recreation and wildlife uses" under wilderness designation, and the restrictions could eventually reduce or totally eliminate grazing in these areas. The National Forests have been well managed in our state and the livestock producer would be a certain loser if the wilderness areas were greatly expanded. In some areas of the state the RARE II Inventory will most probably include 90 percent or more of the National Forest lands in those areas, which would drastically alter the entire local economies which are dependent on these lands for their existence and tax base.

In conclusion, the Wyoming Stock Growers Association Committee was critical of the RARE II workshop procedure in that a true hearing on the subject has not been held. The evaluation worksheets were definitely designed to encourage participants to favor increased wilderness designation—they failed to even mention grazing—timbering or other "multiple uses" and the worksheets do not even require a signature. It is quite obvious that a flood of these worksheets can and probably will come in at the last moment from unknown sources. The Committee objects strenuously to this "stacked deck" procedure and calls for local public hearings within areas to be affected by RARE II before the final report goes to Congress in 1978. These local public hearings are essential so that all may know the attitude of the people most affected by these recommendations to Congress. It has often been said that "wilderness designation" is merely a neon sign to the entire public to get out here and look at the land. We ask, "How much more pressure can these forest lands stand?" How can we justify the concentration of so much wilderness in areas so far from the general public? and, How can additional wilderness in Wyoming be justified in light of the overall energy crisis?

If a public hearing is held perhaps our people will have a chance to ask the USDA Forest personnel these questions. The Committee respectfully requests that you assist us in obtaining widely held public hearings on these RARE II matters as soon as possible so that local citizens are given a fair chance to express their views.

Sincerely,

DEAN T. PROSSER, Jr.,
(For Nels J. Smith, Chairman).

Mr. WALLOP. Mr. President, I thank the distinguished Senator from Idaho for his courtesy in allowing me to attend the recent roundtable hearing he held. I hope I can work with him and his committee and others in trying to bring about a resolution of these problems, so that the forests of this country can become a useful part of the economy and the Nation once again.

Mr. CHURCH. Mr. President, I thank the Senator for his remarks. I agree wholeheartedly with him when he says that the RARE II program must be completed in a timely fashion, thereby ending the present uncertainty that surrounds the management of millions of acres of national forest lands.

The problem he describes in his State of Wyoming is mirrored in Idaho and other Western States.

As the Senator knows, the provision in this bill relating to Gospel-Hump represents an attempt to make a legislative decision about the management of a region which contains both upland wilderness and lower peripheral areas on which merchantable timber is found in quantity.

It was the stalemate that had been created by the bureaucratic process with appeals and threats of court litigation that led to such terrible delays in classifying this land as to constitute an imminent threat to the small mills on which several of the communities in Idaho County depend. Indeed, lumbering is the principal industry of Idaho County and other parts of my State. This bureaucratic impasse was creating a very serious problem which the Forest Service seems unable to resolve. So we have attempted here to legislate a solution which not only creates a wilderness in the summit reaches of the Gospel-Hump area, but also requires the restoration of other lands surrounding the wilderness, to multiple use management. This will in turn permit that acreage to be added to the annual allowable cut for the county, thus assuring that the local mills will get sufficient Federal timber in the future.

Mr. WALLOP. I think the Senator is exactly right in this approach.

One of the things that concerns me greatly is that as we keep this great body of land, this 80 percent plus, in limbo, the Forest Service is inadvertently creating the most significant environmental impact in the forests because it is collapsing into the smallest possible acreage the entire timber management of the country. This makes timber operations highly visible, and is much more destructive environmentally than if we really did get this resolved legislatively and otherwise, and many of the lands back to multiple use.

I congratulate the Senator on his Gospel Hump approach, and I hope we use it and get on with the business of freeing the country's forests.

I thank the Senator.

Mr. DECONCINI. Mr. President, I would like to make several very brief comments in support of the legislation before us at this time.

I would first like to commend the distinguished floor manager for his great concern for preserving resources for future generations in a reasonable and balanced manner. I commend him for his attentiveness to, and consideration for, the particular concerns of the individual States.

I also thank him for his courtesy in inviting me to the subcommittee hearings and for listening to my recommendations at that time. He has given full support to my request that the Pusch Ridge area be included as wilderness, and has supported my request that wilderness status for the Galiuro additions be deleted from this bill.

The House passed version of H.R. 3454 would instantly add 55,210 acres to the present Galiuro Wilderness Area. I cannot support such an expansion at this time because the area has not been studied sufficiently. Also, local residents have complained, rightfully, that no hearings have been held on this proposal and that they have not been otherwise involved.

During the hearing on this legislation, I recommended the Galiuro additions be included in the bill as a study area. The committee has not included any areas to be studied in this bill, and I can understand the reluctance to duplicate the efforts currently being made by the Forest Service.

However, I believed, and still believe, that a detailed study of this area, following the procedures set forth in the Wilderness Act, and including local hearings, would do much to identify those additions that should be included in this particular wilderness area. It is important that the Galiuro additions be given individual attention and not be merely lumped in with the controversial RARE II process. I sincerely hope, Mr. President, that the Forest Service will make this extra effort.

Mr. McCLURE. Mr. President, the bill before us today, in many respects, simply expresses some agreed upon goals for resource allocation and management on public lands in several States. As such, it is both noteworthy and important. But I am afraid a more fundamental and even more important factor will be almost totally missed by those who simply note the passage of this legislation without focusing on some underlying developments in land management policy. Let me bring that matter into sharp focus by discussing just one of the areas involved in this bill.

My remarks are about the addition of the Gospel-Hump instant wilderness proposal located on the Nez Perce National Forest in central Idaho, but they concern a national problem of overriding importance. I want my colleagues to understand the circumstances that precipitated the Gospel-Hump issue and the economic crisis that descended on one community. It is important, not just because it happened in my State, but because there are many other similar situations located in the Western States that contain the bulk of natural resources that we draw from the national forests. The decisions that have been suggested for land use allocation in the Gospel-Hump area—and, in the future, for similar issues, will have an impact on the consumer who ultimately uses the products and services derived from the many resources located within our national forests.

We are talking about more than just 450,000 acres of the Nez Perce National Forest. We are talking about people—jobs, a lifetime investment by many families, community stability, recreational opportunities, and beyond that, a feeling of trust that our system of government can provide a policy which insures a steady flow of needed natural resources while providing for a traditional way of life.

Somewhere along the line the trust has tarnished. The flow of sustained-yield natural resources has been interrupted, decisions have been delayed, jobs are now in jeopardy, and a legislative solution to a natural resource issue has been invited because of the lack of administrative decision.

The 93d and 94th Congress provided direction to the U.S. Forest Service through the Resources Planning Act, as amended by the National Forest Management Act of 1976, for long-range unit plans on Federal lands. This orderly process, with public involvement, was designed to eliminate the very crisis situation that created the Gospel-Hump issue. Plans have been administratively and legally challenged. Decisions have been delayed. Resource managers have run out of alternative places to plan timber harvest, and now we are out of time.

This is the background of where we stand today. But we are entering a new era of struggle, of understanding, of opportunity in the development of public policy dealing with natural resources. The Gospel-Hump controversy has all of the elements which characterize the emerging challenge—an embattled and threatened community pushed against the reality of real economic disaster, a planning process that has gone on for years without yielding management decisions, the gradual consumption of all Federal timber which could move through the sale process, the diversion to non-Federal sources until they have been used, and finally, the fact that time has run out. No alternatives remain. All the options have been pursued. And still no decision in sight. That community and the industry upon which it is dependent are faced with just one harsh reality—make an agreement or die. Compromise or go out of business.

Those interested in wilderness preservation, while holding most of the aces, recognized that they could not push too far without severe backlash and they, too, recognized the need for compromise. But while negotiation and compromise under these circumstances may produce decisions, it certainly is not the way to resolve tough public policy issues.

Is this situation characteristic of other areas? How many areas of our country have 3 years of timber supply under contract? How many have less? How many have to look forward for timber supply in the next 3 to 5 years that are now in currently roadless areas? Let me give you, as an example, the figures for the Nez Perce National Forest, the area in which the Gospel Peak and Buffalo Hump are located.

Five-year timber plan projection [1]

[In percent]

Fiscal year 1978—104.8 MMBF	19
Fiscal year 1979— 98.5 MMBF	44
Fiscal year 1980—100.5 MMBF	36
Fiscal year 1981—106.4 MMBF	40

[1] Total sell plan of which 20 MMBF in present roadless RARE II.

The 2-year projection for all forests in Idaho is as follows:

FISCAL YEAR 1978 AND 1979 TIMBER SALES BY FOREST IN IDAHO, WITH PORTION OF THOSE SALES FALLING IN ROADLESS AREAS

Area	Fiscal year	Tota. timber sell (million board feet)	Volume falling in roadless	
			Million board feet	Percent
Clearwater	1978	179.0	12.0	7
Do	1979	165.0	20.0	12
Panhandle	1978	308.5	35.9	12
Do	1979	305.0	10.9	4
Nez Perce	1978	104.8	20.0	19
Do	1979	98.5	43.0	44
Boise	1978	97.6	0	0
Do	1979	88.5	0	0
Payette	1978	94.6	43.2	46
Do	1979	77.8	32.5	42
Targhee	1978	73.0	3.0	4
Do	1979	70.6	0	0
Salmon	1978	34.0	7.3	21
Do	1979	39.5	13.5	34
Caribou	1978	10.0	6.5	65
Do	1979	10.0	8.5	85
Sawtooth	1978	21.2	20.0	94
Do	1979	24.2	20.0	83
Challis	1978	6.0	.8	13
Do	1979	6.6	1.8	27

Mr. President, what happens if those planning processes are not completed and the planned sales cannot move into inventory? If there is any delay in the schedule, the imbalance between supply and demand will grow. Look again at the Nez Perce National Forest. The timber industry dependent upon the timber in that forest has an installed mill capacity of 127 million board feet per year. The allowable cut has been established by the Forest Service at 122 million board feet per year. But that is optimum—the best you can hope for if everything goes as planned. Just recently the Forest Service announced that they would not be able to meet those goals and the volumes planned would have to be reduced by 25 percent.

Instead of being nearly 5 percent short, the supply shortage grows to 30 percent. That reveals the impact that is just now beginning to be felt in communities in Idaho.

It is possible to do a better job of managing the commercial forest lands and we can increase the yield of timber from all forests on public lands. We must if we are to minimize the pressure for development of lands which might more suitably be left to other uses. We must if we are going to meet the Nation's needs for timber products. But we have restricted the funds for resource management and imposed personnel ceilings on management agencies faced with increasing demands. We continue to take actions which reduce the capacity of the professional forest manager to do the increasingly more technical and more difficult job of assessing and managing those resources. And now we are told that the Office of Management and Budget has directed that fund requests be reduced by 30 percent for next year!

These constraints of time and money and personnel ceilings, as well as the complexity of the problems confronting us, tell me that Grangeville's problem is not unique, that it is a realistic expectation for all of Idaho and the Mountain States. There will be more Grangevilles. There will be more areas faced with a shrinking supply on the public domain and an increasing demand on non-Federal lands. These latter lands must not be abused in order to cope with the shortages created by governmental policy and paralysis.

And yet we are going to be called on to deal with it because we have created an administrative structure that simply cannot function rapidly enough to meet the demands on our national resources.

I favor a different solution to deal with this question of interminable delay. The Congress has opened the process to public participation and I have supported that action even though it is time consuming. But we can no longer afford both public involvement and an appellate procedure that halts decisions for endless years and requires a suspension of all management until the process is completed. I have no desire to cut off the right to appeal but I do think it is not outside the realm of possibility to change the immediate consequences.

I suggest that the status quo be maintained through all steps in the administrative appeal to the completion of the planning process but that the plan could then be implemented without stay even though appealed in the courts, until it had been determined by a final order in a court of competent jurisdiction. That would at least allow us to breathe in the interim.

We have been forced to battle in the wrong terms. The battles over resource allocation have been in the areas where the conflicts are greatest and renewable and nonrenewable resource utilization values are the highest. We should try to reverse that process by identifying the areas in which the conflicts are minimal rather than maximum. We should make resource allocations to those uses which have the least conflict with other uses rather than choose to fight all the battles where the conflict is greatest. We can no longer follow the trail we have been following because we do not have the luxury of resources abundant enough to allow us to continue to operate while the process grinds on as usual.

We will be forced, just as the community of Grangeville was forced, to look at a situation of such urgency that it must be compromised under the harsh reality of economic disaster. That is a reasonable forecast of our course over the next 5 years. If it sounds gloomy, I must confess that in many ways it is. I do not foresee Congress appropriating the necessary money, the Forest Service being able to revise their procedures rapidly enough, the Congress cutting off the delays in courts by legislative solution rapidly enough to deal with the problem.

We must inevitably face the fact that the continued utilization of forest products in the State of Idaho will be increasingly in currently roadless areas. That means we will face delays we cannot afford, and, inevitably, reductions in annual allowable cut that is beyond the capacity of industry to absorb. While I would wish it otherwise, I believe some economic dislocation will be visited on Idaho in the next 5 years.

It is not impossible to avoid this economic catastrophe and these human tragedies, but I am not certain that we will. There are some developments that are more than straws at which drowning men grasp. Whether RARE II succeeds or not, the effort is emphatic evidence that Secretary Cutler recognizes the need for a solution.

The Secretary of Housing and Urban Development is demanding an investigation of the timber industry to find out why lumber prices have shot up in the past year. I am sure she will find that every time housing starts have risen above 1½ million units a year the supply/demand relationship has driven prices up. As demand rises and relative supply shrinks, prices rise. Housing starts have risen to the rate of nearly 2 million per year and prices are rising just as they did in 1973 and 1968. As Secretary Harris looks into the problem she will find that industry has created the supply, but not the shortage. To the extent that supply is available, the industry can take the credit. To the extent there is a shortage, she will have to look elsewhere to establish the blame. She will find that this Nation does not have enough timber in our inventory to sustain housing starts at the level of 2 million per year for 3 years. There could be enough programed cut to maintain the housing industry at that level, but there is not.

Our national housing goal was established a few years ago at 26 million housing units over a 10-year period, or 2.6 million units per year. We have not come close to that goal but what is important in the context of our discussion today is that we cannot come close to that goal with the current restrictions on timber production from our public lands in the United States. Secretary Harris will have the opportunity to make an objective evaluation, and I am confident that she can come to no other conclusion than that this Nation must take steps to increase the availability of timber that flows into the industries of the United States.

The question is often asked, "How much wilderness should we have?" That is both an obvious and a proper question. It is just as logical and should be equally obvious that we should ask, "How much commercial forest should we have?" Should not we start from an inventory of the needs of this country and an inventory of available resources to meet those needs? Then it would be possible to see where the points of conflict are if, indeed, our resource base is inadequate to meet our future needs. It would then be possible to begin to rationalize the policies of Government around the appropriate allocation of resources.

The assessment of timber resources is an easy task compared to that of compiling an inventory of our mineral resources. This country is approaching a minerals crisis that will be just as difficult for us to assimilate as the oil crisis has been. More and more of the resources that are essential to the continuation of the economic vitality of this country and the production of goods and services to meet the needs of our people are being found outside our country and less and less is being found inside the United States. We are doing almost

nothing as a nation to determine either our future needs or our future capacity to meet those needs. The result will inevitably be that in one or several of those mineral resources we will face the crisis we now face in the availability of oil. The Gospel-Hump is a good example of our careless disregard for that problem.

A third way in which Gospel-Hump is absolutely typical of the problem we are going to be dealing with in the next few years is the recreation demand upon that resource. More and more people are using Idaho as their home. More and more people who have not lived and do not live in Idaho are using Idaho as their recreation area. The demand for the use of public resource for recreation is growing. We have 800,000 people in Idaho. There are 220,000 motorized recreation vehicles registered in Idaho. That is a pretty good chunk of the population represented in motorized recreation vehicles. That conflict surfaced very definitely in Gospel-Hump. That conflict will surface more and more on every acre of our public lands. We have some choices to make. How are we going to permit and where are we going to permit the use of public lands for that kind of recreational use? Under what conditions? What are the trade-offs involved in reducing the land base where they can go and increasing their impact in the areas where they do go? Those are serious problems that this country, this State, our community must face in a much more direct way in every year that we are looking at in the next several years.

Many job holders have written to me about the Gospel Hump question. These same workers are also backpackers, off-road vehicle users, fishermen, and hunters. They are genuinely concerned about the quality management of our forests for many uses. But without a job, all other interests fade into the background.

Few would argue that there are not certain lands best suited for wilderness designation, and I agree that there are. But most of us would also agree that we need a strong and dependable timber base, a mineral base, a grazing base, a recreational base for a variety of pursuits, as well as a key habitat for game and non-game animals. And I agree with that point of view.

All of these needs are spelled out in the Resources Planning Act. But this is not going to satisfy the worker who is looking at the end of his economic life. I have been promised by the Forest Service that they will complete the planning process in sufficient time to allow timber sales on the Nez Perce National Forest to mills who employ Idaho workers in the summer of 1978. Yet the same Forest Service has been unable to complete its roadless area plans during the past 5 years since the program was initiated.

We must have more than a promise when we are dealing with the very economic survival of many of Idaho's communities. As with all national forests, the Nez Perce is involved in a planning process that is designed to designate lands and their capabilities in the production of goods and services for the stockman, recreationist, timberman, miner, water user, and others. All these groups have a legitimate place in the consideration for management of our national forests.

Following an agreement between the Forest Service and the Sierra Club before Judge Conte in 1972, environmental impact statements (EIS) were mandated prior to development on identified roadless areas on national forest lands. For each forest unit, the Nez Perce had to submit such an EIS. The Gospel-Hump area is composed of several such units, all of which are contiguous to the Idaho and Salmon River Breaks Primitive Areas. Some of the unit plans had been completed when they were administratively appealed to the Forest Service on the grounds that they were deficient. The complaint charged the roadless areas were not considered in the EIS in their totality; in other words, all contiguous areas next to the Idaho and Salmon River Breaks Primitive Areas should be considered together in one massive EIS covering about half a million acres.

Timber sales had been planned on the assumption that the smaller units had been cleared for development. When the Chief of the Forest Service agreed with the arguments of the appeal, he remanded the previously approved plans back to the Nez Perce with the direction that the entire roadless area be considered in one contiguous plan. This set back the timing for timber sales offerings to such an extent that the sawmills in nearby Grangeville were put in desperate straits for timber supply, The Nez Perce Forest announced they had no alternative developed area to offer substitute timber sales. (It takes about 5 years to fully prepare a timber sale in a new area.)

The Grangeville Chamber of Commerce approached my colleague, Senator CHURCH, in the spring of this year with the dilemma. It was suggested that a group be formed consisting of environmentalists and chamber of commerce members to see if a solution to the impasse could be found. Following several meetings, they came up with a solution involving an area proposed for instant wilderness, an area to be immediately released for management, and a third area to be available for management following careful consideration of resources with emphasis on fish and wildlife values. On August 5, 1977, I introduced an alternate approach for resolving the Gospel-Hump issue, S. 2035, which called for a wilderness study, rather than instant wilderness, with the other provisions of the compromise agreement remaining the same on the same day the compromise was introduced by Senator CHURCH and myself as S. 2051. Field hearings were held in Grangeville on August 24, with subsequent hearings in Washington, D.C., before the Energy and Natural Resources Committee.

Much favorable comment came out of the hearings to the end that a way had finally been found to resolve the endless delays associated with national forest resource management. On the other hand, criticism was leveled at the makeup of the negotiating group. Some charged that it did not include all interested parties, and that recreation users with a special interest in motorized vehicles, as well as the mining interests were not sufficiently involved. Also, a time-is-of-the-essence pressure emerged, as testimony presented at Grangeville suggested that if the negotiated package was not accepted, further delays could be expected, bringing additional pressure on the wood raw material situation for the sawmills at Grangeville.

On October 6, the committee marked up the Endangered American Wilderness Act, and the Gospel-Hump instant wilderness proposal was added to it. I would have preferred, of course, that the text of my bill calling for a wilderness study be approved instead. It should be carefully noted that the committee, like the House Interior and Insular Affairs Committee, deleted all wilderness study areas from the bill. This made it even more clear that a wilderness study approach would not be accepted by the committee. Nevertheless, I am pleased that the committee accepted a significant boundary change to free up additional timber in the southeast portion of the area of some 14,000 acres.

Also, I am pleased the committee accepted my proposal for a 5-year extension of provisions of the Wilderness Act as it applies to mineral location in the Gospel-Hump area. Additionally, in response to recreational vehicle interests, the committee authorized snow machine use on a limited basis in a corridor across the wilderness under carefully controlled conditions.

It is significant to note that the administration opposed this legislation in favor of letting the land use planning process proceed and resolve the issue in this manner. Yet, the same land use planning process was unable to satisfactorily prevent the kind of raw material and time crisis that occurred at Grangeville.

We must recognize that there are many legitimate uses that need to be accommodated through access to our national forests. One use—in this instance, wilderness—needs to be balanced with other legitimate users involving food and fiber production, other recreation uses, and access to needed minerals. It is time to recognize that in protecting our environment we must not only protect our natural environment, but also our economic, community, social, and jobs environment as well.

The Grangeville dilemma which resulted in the crisis atmosphere that characterized the negotiations makes one thing clear to me—that we cannot continue to operate on a crisis-to-crisis basis in natural resource management. Communities cannot stand it; workers cannot stand it; the investment community cannot stand it; as well as others too numerous to list, including this Senator. I believe through the Senate oversight hearing process we can achieve the kind of objective in spelling out the ultimate size of the wilderness system that will meld with the land base needed for production of other goods and services, all leading to a balanced Forest Service program. The timing of this oversight could be rather soon, and logically fit in with

the Forest Service RARE II report to Congress.

Additional areas of concern that need attention in any oversight hearing include the planning process itself. Planning need not be an end in itself, but it should approach an orderly, timely process that recognizes changing needs and a balanced program. We must also focus on the situation where the entire forest plan is held up because of an administrative or judicial appeal. The present situation results in too many needed programs being held hostage while a dispute runs its appeal process.

I do not think that I am going to say we cannot meet the challenge. I think we are going to have some adjustments to make that we do not like to make. I think some of it is going to be unpleasant. But I think we can do a far better job if we understand what the nature of the problem is and we will take a cold, hard, calculating, dispassionate look at the kinds of problems that confront this country and this State. If we will do that we will maximize our success and minimize the areas of our failure to meet the future problems. And I think we can do better than we are doing now.

ORDER TO PROCEED TO CONSIDERATION OF H.R. 4297 TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon disposition of this measure the Senate proceed to the consideration of Calendar Order No. 456, H.R. 4297, an act to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENDANGERED AMERICAN WILDERNESS ACT OF 1977

The Senate continued with the consideration of H.R. 3454.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays on final passage of the bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Vote.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. CHURCH. Mr. President, I yield back the remainder of my time.

Mr. HANSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that, if present, and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Michigan (Mr. GRIFFIN), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The result was announced—yeas 89, nays 3, as follows:

[Rollcall Vote No. 573 Leg.]

YEAS—89

Allen	Garn	Morgan
Anderson	Glenn	Moynihan
Baker	Gravel	Muskie
Bartlett	Hansen	Nelson
Bayh	Hart	Nunn
Bellmon	Haskell	Packwood
Bentsen	Hatch	Pearson
Biden	Hatfield	Pell
Brooke	Hathaway	Percy
Bumpers	Heinz	Proxmire
Burdick	Helms	Randolph
Byrd, Harry F., Jr.	Hollings	Ribicoff
	Huddleston	Riegle
Byrd, Robert C.	Inouye	Roth
Cannon	Jackson	Sarbanes
Chafee	Javits	Sasser
Chiles	Johnston	Schmitt
Church	Kennedy	Schweiker
Clark	Laxalt	Sparkman
Cranston	Leahy	Stafford
Culver	Long	Stennis
Curtis	Lugar	Stevens
Danforth	Magnuson	Stevenson
DeConcini	Mathias	Stone
Dole	Matsunaga	Talmadge
Domenici	McClure	Wallop
Durkin	McIntyre	Weicker
Eagleton	Melcher	Williams
Eastland	Metcalf	Young
Ford	Metzenbaum	Zorinsky

NAYS—3

Goldwater	Hayakawa	Scott

NOT VOTING—8

Abourezk	Humphrey	Thurmond
Case	McClellan	Tower
Griffin	McGovern	

So the bill (H.R. 3454), as amended, was passed.

The title was amended so as to read:

An act to designate certain endangered public lands for preservation as wilderness, and for other purposes.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT AMENDMENTS

THE PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 4297, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4297) to amend the Marine Protection, Reserach, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978.

Mr. HOLLINGS. Mr. President, while the Senate Commerce Committee no longer has jurisdiction over title I of that act, the part which regulates the dumping of land-generated wastes at sea, the committee does assert jursidiction over titles II and III (as does the Environment Committee). Title II deals with marine research in general, not just that related to ocean dumping. Title III establishes a general program of creating marine sanctuaries. We believe the provisions in H.R. 4297 dealing with titles II and III are acceptable.

I believe the Senate should pass H.R. 4297 and indefinitely postpone S. 1527 and S. 1425. The Senate Committee on Environment and Public Works, which has jurisdiction over title I of the act, concurs in this approach.

Mr. President, I am waiting for the arrival of my counterpart on the other side of the aisle to be here and make his statement.

This measure may be passed, I think, on a voice vote, unless someone asks for the yeas and nays. It is just the authorization act of the ocean dumping program, entitled the Marine Protection, Research, and Sanctuaries Act.

Mr. ROTH. Mr. President, the purpose of the amendment I had intended to propose is to remove any economic incentive which an ocean dumper might have to violate orders to stop ocean dumping. It does this by automatically imposing on the dumper a penalty equal to the economic benefit realized from failure to comply with an order to halt or reduce ocean dumping.

As the Senators from Maine and Vermont may recall, the Marine Protection, Research, and Sanctuaries Act was enacted in late 1972. It represented the adoption of a national policy that contamination of the great natural assets of the oceans would not be tolerated. Specifically, the law's purpose was to "prevent or strictly limit the dumping into oceans waters of any material which would adversely affect human health, welfare or amenities, or the marine environment, ecological systems, or economic potentialities." Pursuant to

the authority conferred on it by this law, the Environmental Protection Agency has ordered the city of Philadelphia—which dumps 140 million pounds of sewage sludge off the Delaware and Maryland coast each year—to halt all ocean dumping by 1981, and cut it in half by 1979.

It is worth noting, I believe, that ocean dumping is considerably less expensive than the various land disposal alternatives. The cheapest land disposal method is landfilling, which is twice as expensive as ocean dumping. The more environmentally acceptable alternatives such as pyrolosis are three to four times the cost of ocean dumping. Assuming that ocean dumping costs approximately $33 per dry ton, a city such as Philadelphia can save millions of dollars a year by ocean dumping sewage sludge.

The savings, of course, are illusory. The people upstream may be saving money, but that is because the people downstream are bearing the cost. In my view, money being saved by Philadelphia is coming out of the pockets of Delaware, Maryland, and New Jersey taxpayers. The ultimate results of ocean dumping are demonstrated in the New York Bight, where a sludge blanket several feet deep has accumulated.

Mr. MUSKIE. I am aware, and I think the other members of our committee also know, of the problems which are caused by ocean dumping. Indeed, I believe the public concern over ocean dumping is the principal reason that the bill as passed by the other Chamber includes a requirement that dumping cease by 1981. I think this is a serious problem and we most certainly would have addressed it this session, but for the urgent need to enact the water and air legislation, which has consumed all of our time.

Mr. STAFFORD. This is certainly a serious problem, and I think the Senator from Delaware is offering a possible solution which should be studied carefully. As he probably knows, noncompliance penalties are included in two other environmental pollution areas. We have already written such penalties into our clean air legislation and, assuming that there is no change in the proposed amendments to the Clean Water Act, the same will happen in that area. So there is certainly precedent for what the Senator is suggesting.

Mr. ROTH. Absolutely, I would like to say that this penalty is my own idea, but I must confess I appropriated it from a bill reported by your committee, I believe the air amendments.

It is precisely because this idea is not novel that I hope public hearings can be held early in the next session, perhaps January or February.

Mr. MUSKIE. I think that is possible. It is clear that we must address this problem next year so some concrete action can be taken, and our chances of actually enacting something will be improved by an early start. I could agree to hearings in January or February, if that is acceptable to the Senator from Vermont.

Mr. STAFFORD. I discussed this matter earlier today with the Senator from Delaware and certainly see no problems right now with holding hearings when we return next year. I would agree to that.

Mr. ROTH. I would appreciate that and, if it is agreed, will withdraw my amendment so that the Senate can move on to other pressing business. But I would ask unanimous consent that my amendment be printed in the RECORD at this point so it will be available to others for reference.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the end of the bill, add the following:

SEC. 2. Section 105 of the Marine Protection, Research, and Sanctuaries Act of 1972 is amended by adding at the end thereof the following:

"(i)(1) Any ocean dumping permit issued under section 102 of this Act, or any condition of which requires the permitholder to cease or reduce ocean dumping by a date certain, shall be amended to include a delayed compliance penalty, calculated and established pursuant to this section. Such penalty shall be imposed on any permitholder who does not cease or reduce ocean dumping by the date specified or in the amount required in said permit unless the reason or reasons for the permitholder's noncompliance were beyond the control of the permitholder.

"(2) As an enforceable interim step under a permit, any condition of which requires the permitholder to cease or reduce ocean dumping by a date certain, issued under section 102 of this Act, the permitholder shall furnish to the Administrator information containing a detailed description of the technology or systems proposed to achieve compliance and the estimated cost of compliance, including capital costs, debt service costs, the estimated schedule of expenditures to comply, and the estimated annual costs of operation and maintenance of any technology or systems required in order to maintain such compliance, together with such information as the Administrator may require on the economic value which a delay in compliance may have for the permitholder.

"(3) A notice of receipt of information pursuant to paragraph (2) shall be published in the newspapers in general circulation in each affected State, and such notice shall set forth where copies of the information are available for inspection and, for a reasonable charge, copying.

"(4) Within sixty days following the date of publication of the notice issued under paragraph (3) of this subsection there shall be published in the newspapers in general circulation in each affected State (and, as appropriate, the Federal Register) the proposed delayed compliance penalty applicable to the permitholder, with an announcement of an opportunity for a public hearing on such action.

"(5) Such proposed delayed compliance penalty, determined in accordance with guidelines published by the Administrator, shall be a monthly payment in an amount no less than the monthly equivalent of the capital costs of compliance and debt service over a normal amortization period, not to exceed ten years, operation and maintenance costs foregone as a result of noncompliance, and the economic value which a delay in compliance may have for the permitholder.

"(6) The Administrator shall take final action establishing such delayed compliance penalty within sixty days after the date of publication of the proposed penalty under paragraph (4).

"(7) In the event a permitholder contests the delayed compliance penalty established under this subsection, the permitholder may within sixty days after publication seek review of such penalty in the appropriate United States district court.

"(8) Except as provided in paragraph (9), in no event shall any challenge or review taken under this subsection operate to stay or otherwise delay the obligation of a permitholder not in compliance to commerce monthly payment of the delayed compliance penalty as determined by the Administrator, pending the outcome of any such review.

"(9) In any challenge of the imposition of the penalty based on an allegation that the failure to comply was due to reasons beyond the control of the permitholder, the obligation to commence monthly payment of the delayed compliance penalty may be stayed pending the outcome of such challenge: *Provided*, That, as a condition of such stay, the permitholder shall post a bond or other surety in an amount equal to the potential liability for such penalty during the period of the stay.

"(10) If a permitholder is successful in any challenge or review proceedings under this subsection, the court may award such relief as necessary, including cancellation of the bond, rebate of any payments, or adjustment of the amount of payments required by the order.

"(11) Willful failure to make any payment required by an order under this subsection of section 102 of this Act or to submit information required under this section shall, in addition to liability for such payments, subject the permitholer to a penalty under subsection (b).

"(12) Any person who violates any other provision of this subchapter, or of the regulations promulgated under this subchapter, or a permit issued under this subchapter, shall be liable to a civil penalty of not more than $50,000 for each violation to be assessed by the Administrator. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing of such violation. In determining the amount of the penalty, the gravity of the violation, prior violations, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation shall be considered by said Administrator. For good cause shown, the Administrator may remit or mitigate such penalty. Upon failure of the offending party to pay the penalty, the Administrator may request the Attorney General to commence an action in the appropriate district court of the United States for such relief as may be appropriate.".

Mr. MOYNIHAN. Mr. President, there are coastal cities that have few alternatives to the deposition of sewage sludge in the ocean. New York City is one of them: It simply does not have presently available alternatives to ocean dumping; nor, do I expect it to have an alternative by December 31, 1981, the deadline imposed by this act.

In cases such as this, a municipality should be afforded the time to find a viable alternative to ocean dumping. It is my understanding that section 4(b) would provide such an extension beyond the deadline. Section 4(b) defines the term "sewage sludge" with respect to the anticipated impact of its dumping on "human health, welfare, amenitics, or the marine environment, ecological systems, or economic potentialities." If the Administrator finds that the ocean dumping of waste does not unreasonably affect any of these characteristics of the water, then he may grant an extension beyond the date in section 4(a).

Is my understanding correct?

Mr. MUSKIE. Yes, the Senator's interpretation of the act is correct. However,

I must stress to the Senator from New York, that the test in the bill is a strict one. The sludge may not have a deleterious impact on the marine environment. The key word in section 4(b), open for the Administrator's interpretation, is "unreasonably."

Mr. MOYNIHAN. I understand. I thank the distinguished Senator from Maine.

Mr. KENNEDY. Mr. President, I would like to inquire into the meaning of "sewage sludge." In New England, we have some of the finest fishing in the world in the Georges Bank area. This area is naturally enriched with nutrients for the fish that abide in that area by ocean water which is carried over the Continental Shelf. It is further enriched by dissolved materials coming from our rivers and from decomposing fish. Many scientists have told us that man could further enrich the area by the proper dispersal of organic waste in these fishing grounds. I am not talking about lump deposits. But I am talking about the proper spreading of such wastes away from any beach or recreational areas, where those wastes would be helpful to the fish in the area, or at least would not have a harmful affect. I assume that this kind of disposal would not constitute the type of waste which is covered in the definition in section 4(b) of H.R. 4297.

Mr. HOLLINGS. The Senator is correct in his assumption.

Mr. SARBANES. Mr. President, I rise in support of H.R. 4297, authorizing appropriations for fiscal 1978 to carry out the Marine Protection Research and Sanctuaries Act of 1972. I wish to express my particular support for the amendment in the bill which prohibits the dumping of harmful sewage sludge in the ocean after December 31, 1981.

Mr. President, since 1973, sewage sludge from the city of Philadelphia has been dumped at a site 35 miles offshore of Ocean City, Md. This site was selected by the Environmental Protection Agency without any prior assessment of the environmental effects on the area which the dumping would have, let alone a complete environmental impact statement. In addition, the site was designated by EPA for ocean dumping with the full knowledge that it was part of an important commercial and sports fishing area.

The continued use of the site offshore of Maryland has lead to the deterioration of the marine environment. Samples of benthic organisms and sediments from the site have revealed high accumulations of heavy metals, high organic carbon counts, high fecal coliforms in shellfish, and a high mortality rate for Mahogany clams in the area.

The environmental degradation of the site resulting from the continued dumping has brought about the inevitable: The closure of the site to shellfish harvesting by the Food and Drug Administration. This has had a direct, adverse impact on the commercial and sports fishing industry of Ocean City, Md. In addition, the continued dumping raises the haunting fear of Marylanders that the sludge may wash up on the beautiful beaches of Ocean City, our State's premier ocean resort.

Mr. President, it is clear that if the dumping of sewage sludge offshore of Maryland and other east coast States is to be halted, a deadline must be established. Many of the municipalities now dumping have not undertaken, in a serious way, the effort to find alternative disposal methods for the increasing amount of sewage sludge which they are generating.

Since ocean dumping remains a cheap way to dispose of this sludge, there will be great pressure to keep dumping it in the ocean after any administratively set deadline. The 1981 deadline for all dumping of harmful sewage sludge will provide clear notice that these municipalities will have to develop alternatives so that ocean dumping will end once and for all.

OCEAN DUMPING

Mr. MATHIAS. Mr. President, the important amendment to the Sanctuaries Act before us today requires the Environmental Protection Agency to end the dumping of sewage sludge into ocean waters after 1981. Many of my constituents have voiced their concern with the House language of this bill which limits such a ban to sewage sludge that "unreasonably degrade(s) or endanger(s) human health, welfare, amenities, or the marine environment, ecological systems, or economic potentialities." In 1978 alone, the EPA has authorized the city of Philadelphia to dump 95 million gallons of sewage sludge at the Cape May site. How sewage sludge dumped in such huge quantities could be anything but "unreasonably degrading" to human health and the environment is difficult to imagine. Under the present law, there is a presumption that the dumping of sewage sludge offshore is inherently harmful. This amendment would require that the opponents of ocean dumping prove that such dumping is not degrading to the environment.

I must express my concern over EPA's continued granting of sewage dumping permits for the "Philadelphia" or "Cape May" site as an ocean dumping site. This area is only 35 miles off the Maryland and Delaware coasts on the Continental Shelf. The evidence accumulated over the last 4 years leaves no room for doubt that the dumping of sewage sludge wastes by Philadelphia and Camden has had a serious adverse impact on the marine environment at the Cape May site. Specifically, I note that—

The site, a rich commercial shellfishery, has now been closed by the Food and Drug Administration. To date, the FDA has closed over one-fifth of this Nation's shellfishing beds due to pollution of the beds, making the shellfish unfit for human consumption. The FDA as well as the State of Maryland testified before the EPA Region III Administrator that while ocean quohogs are not now being harvested at the dump site, it is only a matter of time until the increasing demand for this species leads to commercial exploitation in and around the site. This is of special concern inasmuch as this species of clams would be eaten raw or only partially cooked and thereby would have particular potential for transmitting enteric organisms to man. Maryland also presented data which indicated that sea scallops are currently being harvested and that in the usual method of processing on board ship, the entrails of the scallops are dumped overboard where they become food for higher orders of marine life. It is also a well-known and documented fact that the area is widely used for commercial and sport fishing.

There is ominous evidence of a buildup of dangerous, persistent heavy metals, PCB's, and other toxic substances.

EPA must require cities and companies who view the Atlantic Ocean as their "infinite sink" to pursue vigorously alternatives to ocean dumping. Maryland believes that those alternatives are available now. We can point to our successful experience in trenching and composting municipal sewage sludge from the Blue Plains sewage treatment facility here in the District of Columbia.

Until land-based alternatives can be implemented, EPA must permit dumping only at those ocean sites where the environmental harm will be minimized to the fullest degree possible. That was the fundamental purpose of the Marine Protection, Preservation, and Sanctuaries Act passed by Congress in 1972. The act required EPA to consider a number of specific criteria in choosing ocean dumping sites. Congress put a specific provision in the act requiring EPA to "utilize wherever feasible locations beyond the edge of the Continental Shelf." That provision represents a judgment by Congress, a judgment that has been borne out in fact, that in most situations dumping off the edge of the Continental Shelf will cause less environmental harm than dumping in the near shore area where productive fisheries are located and where the risk to human beings is greater.

The Ocean Dumping Act is now over 4 years old. During that time, Maryland has consistently warned at public hearings and in the courts that dumping by Camden, Philadelphia, and chemical manufacturers at the Cape May site has caused serious degredation of the marine environment. EPA's own monitoring studies confirm Maryland's concerns, and EPA should be commended for moving Camden's dumping to the "106 site" which is located off the edge of the Continental Shelf.

I would think that the evidence of actual environmental harm at the Cape May site and the availability of the "106 close the Cape May site immediately. EPA has full power under the Ocean Dumping Act to do so.

Many of my colleagues represent landlocked States that treat and dispose of their sewage sludge using land-based sites and appropriate technology. They may therefore have a difficult time understanding the controversy concerning offshore dumping. But for those of us from States bordering the oceans it is an extremely serious threat to our marine life, human health, and our economies.

I know that my colleagues would share my concern if they knew of the volume and variety of toxic materials that are

dumped daily onto the Continental Shelf.

Ultimately, this debris finds its way through the ecological chain to our beaches or onto our dinner tables in the fish we eat.

I ask unanimous consent that three newspaper accounts appear in the RECORD at this point.

The first, from the Baltimore Sun of October 18, 1977, describes how a severe storm last week washed sewage sludge onto the beach at Ocean City.

The second, from the Washington Post, of September 20, 1977, reports on a continuation of a permit by the EPA that allows Philadelphia to continue to dump sludge 35 miles off the Maryland-Delaware coast.

The third, from the Washington Post of December 28, 1976, describes what is being dumped and who is being harmed off-shore, along the coast from New York to Maryland.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Oct. 18, 1977]

STORM PUTS SLUDGE ON RESORT BEACH

OCEAN CITY.—The severe storm that struck here during the weekend dredged large amounts of sewage sludge from the ocean and deposited it on the beach from the inlet here to the Delaware line, officials said yesterday.

Mayor Harry W. Kelley told a meeting of the City Council here last night that, "It [the sludge] was over the beach. It came in in pieces. It's all over the beach."

He said Ocean City has collected between 450 and 500 pounds of the substance, described as "in solid pieces, greasy and odorous, about 2 inches thick and 5 inches across."

He presented a letter from the Department of Natural Resources, which the mayor said presents the "highly disturbing conclusion" that "our best estimate of the identity of this material is sewage sludge."

"It sure smells like it," Councilman William H. Purnell said.

Ocean City has been fighting an Environmental Protection Agency ruling allowing Philadelphia to dump its wastes in the ocean off Ocean City.

Mr. Kelley, in repeated hearings on that subject, warned that the sewage sludge could be washed ashore in any major storm. Last night, he said the appearance of the sludge following the weekend storm supported his contentions.

"It's only common sense to know" it would come ashore, he said.

Mr. Kelley last night said Ocean City probably will sue the EPA and Philadelphia because of the damage.

The Natural Resources letter stated that the sludge had been tested by labs in Kennett Square, Pa., which examined the samples by infrared spectrophotometry and also compared them with sludge from a Midwestern city.

The report said the samples were "more suggestive of animal or vegetable fats."

In the last few years, the dumping of sewage sludge off Maryland has increased to 190 million gallons, according to figures released in 1976. At that time, EPA figures indicated a sludge blanket off Maryland from 2 to 4 miles wide and 10 miles long, composed exclusively of waste matter generated by Pennsylvania and New Jersey.

The battle between Ocean City and Philadelphia over the dumping has gone on for years, and at times has been bitter. During one hearing, an assistant Maryland attorney general and a representative from Philadelphia became so embroiled in an argument that one threatened to "punch out" the other—it was never learned which one made the threat.

Just last month, the EPA gave Philadelphia another one-year extension on continued dumping 35 miles off the Maryland-Delaware coast.

The EPA has set a January, 1981, deadline for Philadelphia to halt all dumping.

The new permit allows Philadelphia to dump 95 million pounds of sludge in the next 12 months compared to 116 million last year and 140 million two years ago. The latest permit expires June 4, 1978.

[From The Washington Post, Sept. 20, 1977]

SEA DISPOSAL OF PHILADELPHIA WASTE SET

(By Felicity Barringer)

The Environmental Protection Agency's Philadelphia regional office has issued a new permit allowing the city of Philadelphia to dump its sewage sludge at a site 35 miles off the Maryland-Delaware coast.

The decision, made last week by the newly appointed EPA regional administrator Jack J. Schramm, has infuriated Maryland officials and rekindled the long-running debate over the use of the so-called "Cape May" site for sludge disposal.

In response to the EPA's action, Warren Rich, an assistant attorney general for the state of Maryland, has written the presiding judge of the federal Circuit Court in Richmond, asking "that Philadelphia be forced to dump its wastes at a separate site 106 miles out at sea.

Maryland officials have contended for several years that the disposal of sludge at the Cape May site is costing the Maryland shellfishing industry millions of dollars annually because of damage caused by pollution, and poses a threat to the resort beaches of the Maryland and Delaware coasts.

The federal Food and Drug Administration has already forbidden the taking of any shellfish from an area adjacent to the dump site.

The dispute over the site reached the Fourth U.S. Circuit Court of Appeals in March when Maryland asked that no more sludge dumping be permitted there. Earlier, the City of Camden had decided after a long fight to abandon that site and dump at Site 106, off the Continental Shelf.

But Philadelphia, the other major user of the Cape May site, still resisted making the change. In May, a three-judge panel of the Circuit Court in Richmond ordered the EPA to conduct a "full inquiry" into whether the Cape May site "should be designated as a dumping site by anyone for any purpose."

In the following months, two separate hearings were held on the issue of ocean dumping—one, by the national office of the Environmental Protection Agency, took place in late May; another, sponsored by the regional office based in Philadelphia, was held in early July.

The result of this latter hearing was a two-pronged recommendation by hearing examiner George D. Pence. On the one hand, he said, the balance of the evidence indicates that dumping at the Cape May site should eventually be switched to Site 106—so-called because it is 106 miles from a marker in New York Harbor. The city has balked at using this site because of the increased costs involved.

Meanwhile, he said, since Philadelphia has no site on land to use as an alternative dumping site, the city should have its permit reissued, but with provisions forcing them to phase out the dumping over a 3½-year period, ending it by January, 1981.

Schramm last week acted on the second part of Pence's proposal. Pence explained yesterday that Schramm has no authority to order a change in dumping sites—only the EPA's national administrator, Douglas Costle, can do that.

However, Maryland's Warren Rich said yesterday that "I think the Fourth Circuit wanted (the EPA) to make a final determination as to site selection before another permit was issued."

Rich's letter to Judge F. Clement Haynsworth Jr., asks that the court rule that use of the Cape May site for dumping does not conform to federal law. He also complained that the "procedures and attitudes" of the EPA was "curious and conflicting."

"We ask for interim relief requiring that Philadelphia dump at the 106 site off the Continental Shelf, pending a review of the selection process," Rich added in his letter. No date for a hearing has been set.

Under its new permit, Philadelphia may dump 95 million gallons of sewage at the site in the next year, 70 million gallons in the following 40 million gallons in 1979–80, and 10 million gallons in the final year, which ends in January, 1981. At present, the city is dumping 116 million gallons annually at the Cape May site.

AGENCY PLANS STUDY OF EFFECTS—THE OCEAN: A WASTE DUMP—III

(By Hal Willard)

The ocean is forgiving; it is huge and self-cleansing. It absorbs the indignities inflicted upon it by mankind and thus far anyway, nothing drastic has happened as a result.

But there is concern for the future.

The Environmental Protection Agency is worried primarily about the residue of toxic metals left in human sewage sludge, which for years has been dumped in large quantities 40 miles off Ocean City, Md. and 12 miles off Sandy Hook, N.J., in the entrance to New York Harbor. Both sites still are being used, but are being phased out and all dumping must cease by 1981, EPA says.

Also banned, is the dumping of waste from the manufacture of material for chemical warfare and high level radioactive waste from nuclear power plants or military use.

However, chemical waste—mostly acids from the duPont operations in Delaware—is dumped at a site six or seven miles north of the Ocean City sewage dump site. It extends perhaps five miles closer to shore. And, chemical waste from New York is dumped at a site 90 miles east of Cape May, N.J. The chemical dumping is to stop in 1980.

Some radioactive waste has also been dumped in the ocean in the past.

All of this dumping was allowed without enough scientific evidence to fully prove the safety of the action—just as the go-ahead for oil exploration off the East Coast was given without scientific approval.

And now it is being stopped—also without definitive scientific evidence that it should be, according to marine biologists. It may be that some type of waste disposal would not be damaging.

The most vigorous protests about the dumping of human sewage sludge have come from Ocean City leaders. They fear any possibility that sludge might wash ashore among the revelers in the surf who give the city its living.

EPA and other government agencies have been monitoring the dumping in an effort to learn how far it spreads and its effect on the environment. Allen Wastler at EPA headquarters in Washington said the agency is preparing to put out a contract to scientists for an environmental impact study of the dump sites area.

Some pollution data is available about the four-decades-old sewage sludge dump site off Sandy Hook, N.J.

John B. Pearce of the National Marine Fisheries Service laboratory at Sandy Hook said in an article in a New York Academy of Sciences publication in 1974 that "disposal operations have had a noticeable effect" on creatures living on the bottom and on the

"physiochemical nature of the sediments." He said the sludge caused "greatly elevated levels of heavy metals and other contaminants."

He said the effects were felt over an area of 20 square miles and the number and variety of living organisms normally found on the ocean bottom was reduced. Specifically there was a more than one-third reduction in the number of crabs.

In addition, other scientists at the laboratory found that a fin rot disease has affected at least 22 species of fish in the area, including bluefish, and "studies indicate a bacterial cause." The scientists pointed out the presence of "sewage and industrial wastes" and said that "we suspect pollution had a role in the disease."

Articles in the Marine Pollution Bulletin also blame the sludge for an "incidence of shell disease in shrimp as high as 30 per cent in certain localities" and for similar bad effects—the cracking of shells, causing flesh to decay—in crabs and lobsters.

Another Bulletin article, in 1973, cited "concentrations of chromium, copper, lead, nickel and zinc . . . 10 to 100 times greater near waste disposal areas" off New York.

Herbert L. Windom, associate professor of oceanography at George's Skidaway Institute of Oceanography said heavy metals such as mercury, copper, cadmium, zinc and nickel get into the water from a variety of sources: from industries, from sewage, from the air (put there by fuel burning).

Ultimately, the metals settle on the ocean floor. That affects creatures that live on the bottom—such as a variety of ocean clam called quahog, and scallops—and phytoplankton and zooplankton, minuscule plant and animal waterlife larger fish feed on. Thus metals again enter the food chain and eventually get to humans.

How much of what kind of metals get where how fast and cause how much damage is what Windom is trying to find out.

Windom said copper, and other heavy metals, can have "drastic" effects on plankton, cutting its production, and therefore cutting production of sea life on up the food chain so that ultimately there would be less seafood for people.

Consequently, Windom said, the effect on people more likely would be economic rather than toxic, because it would be difficult for people to get enough copper to interfere with the body's chemical balance.

Because the amount of sludge to be dumped at the New York site had been expected to increase before the phase-out was ordered, alternative dump sites—in deeper water and further offshore—were proposed.

However, a recommendation from the National Oceanic and Atmospheric Administration's Environmental Research Laboratories says it would be better environmentally to continue using the existing sites.

Sewage sludge "would be dispersed even more widely" by dumping at the greater depths, ranging from about 120 feet to 180 feet, than at the shallower existing site, about 60 feet, the report said.

"Small or low-density sewage sludge particles may be impeded (from settling to the bottom) by the density" of the water, primarily in late spring, summer and early fall and thus "stay in the upper and middle parts of the water column for several days or longer. Thus . . . the material would tend to be dispersed over a wide area . . . "

But the concern about the existing site caused the 1981 cut-off decision. In mid-June, meteorological and atmospheric conditions that EPA experts described as "unusual" occurred in the New York area. A strong wind washed "tar balls," "sewage trash" and a "little" sewage—not sludge itself—up on the shores of Fire Island, to the total distress of persons who encountered the pollution. Some beaches were closed for a time.

Tar balls were the result of an earlier oil spill in the Hackensack River in New Jersey and under normal conditions, an EPA spokesman said, they would not have been found on the beaches.

EPA's Allen Wastler said tar balls could be mistaken for sewage sludge by bathers or other persons not used to seeing either one.

Wastler said New York still dumps "close to 400 million gallons of raw sewage" into the water every day. Much of that goes into the inner harbor, which is about 40 miles from Fire Island. Sewage would not wash that far without disintegrating in the water, Wastler said.

Wastler said EPA employees at the laboratory in Edison, N.J., reported that milk cartons found on the beaches had come from Texas, indicating that garbage had been dumped overboard by a ship.

Other debris came from the Hudson River, which was at a high level and was experiencing high tides and strong on-shore winds, Wastler said. Winds and currents carried the debris out to the Long Island beaches.

Peter Hacker, a professor at Johns Hopkins University's Chesapeake Bay Institute, who has studied the ocean's actions for years, pointed out that last summer there were "anomalous winds for a period of about 20 days" over the continental shelf area and instead of the wind "fluctuating in direction every few days" it blew steadily northward.

The result was that some waste material suspended in the water and lying on the ocean floor ended up on shore. Under normal wind conditions, the material would have simply washed back and forth or stayed put, Hacker said. A steady wind to the south would have simply blown waste out to sea.

The movement of waste could include the material dumped off the coasts of Maryland and Delaware, Hacker said.

EPA is seeking information about the site of that dumping and surrounding area in an effort to guard against the sort of trouble Long Island had last summer. Part of the study is to be a detailed charting of the water movement in the area—tides, currents and wave actions.

Hacker and a Johns Hopkins colleague, William Boicourt, already have a substantial amount of information about water action and are gathering more. They have led expeditions into the area for several years and have compiled the only detailed data on water action there.

Their studies show that masses of water on the continental shelf are moved long distances in short periods of time; sometimes as much as three miles per hour—near the surface.

Also of concern to scientists are the deposits of radioactive waste beyond the continental shelf in about 9,000 feet of water about 155 miles off Ocean City.

According to an EPA report, it was dumped there in steel drums between 1946 and 1970 and traces of it have leaked out. The report said there was no evidence yet of danger to human health.

The drums contain low-level radioactive waste—the wastes from industrial processes that although not trivial are nothing compared to the wastes generated by the use of uranium in nuclear power plants in the generation of electricity. That waste contains plutonium, a lethal substance that for all practical purposes will be with us forever. It can't be destroyed and has a half-life of 24,000 years, meaning half of it will be still potent then.

Mr. MATHIAS. Mr. President, time is running out on the ocean environment. When we so clearly know that ocean dumping is harmful to the ecological chain, there is no excuse for our continuing to endanger the health of both the marine and human environment. For the EPA, time, as well as the patience of its Mid-Atlantic constituency, is running out.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I move the adoption of the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. HOLLINGS. I move to reconsider the vote by which the bill was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I move that S. 1527 and S. 1425 be indefinitely postponed.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I wish to commend the manager, Senator HOLLINGS, the minority manager, Senator PEARSON, and the work of both the Commerce Committee and the Environment and Public Works Committee which has led to the passage today of H.R. 4297, the Marine Protection, Research, and Sanctuaries Act.

This is major legislation dealing with ocean dumping, and has required months of difficult work on the part of Chairman MAGNUSON, the ranking minority member, Senator PEARSON, and all the members of the Commerce Committee, and Chairman RANDOLPH, the ranking minority member, Senator STAFFORD, Senator MUSKIE, and all members of the Environment and Public Works Committee.

I congratulate all Senators for their efforts which secured passage of this important measure.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERIM REGULATORY REFORM ACT—FEDERAL TRADE COMMISSION AND CONSUMER PRODUCT SAFETY COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 178.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1533) to amend the Federal Trade Commission Act to authorize appropriations for the Federal Trade Commission, to require the Commission to recodify its rules; to require the Consumer Product Safety Commission to recodify its rules, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. FORD. Mr. President, since there will be several bills from the Commerce Committee this afternoon, I ask unanimous consent that Ed Merlis, Tom Allison, Dan Jaffee, and Bud Walsh from the staff of that committee be accorded the privilege of the floor during the consideration of and voting on such measures.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PEARSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, we now have before us S. 1533, the Federal Trade Commission-Consumer Products Safety Commission interim regulatory reform bill. This bill is the fifth in a series which has been reported by the Committee on Commerce, Science, and Transportation affecting the independent regulatory agencies subject to the jurisdiction of the committee.

We have already passed similar bills for the Interstate Commerce Commission, the Federal Maritime Commission, the Federal Power Commission, and the Federal Communications Commission.

Mr. President, the interim regulatory reform bills are the product of several years of oversight activities conducted by the Committee on Commerce, Science, and Transportation, and its predecessor, the Committee on Commerce. During these investigations, the need for regulatory reform of the independent regulatory agencies was explored in depth. As a result of these investigations, the committee reported S. 3308 in the 94th Congress. This legislation, which passed the Senate in May 1976, would have made a number of procedural changes in the way independent regulatory agencies, subject to the Committee's jurisdiction, conduct their activities. Each of the changes had been independently considered and enacted with respect to one agency or another, however, the committee felt that the soundness of these provisions was such that we could proceed with recommending to the Senate that they be enacted for the seven agencies under consideration.

These are only interim steps in the long and complex process of regulatory reform, but they are necessary steps. In the 95th Congress, the committee again considered the Interim Regulatory Reform Act, S. 263. Hearings on this measure were conducted in April 1977, and all who wished to testify were given the opportunity to testify. Others, wishing to submit comments, were permitted to do so and those are included in the hearing record. On May 16, S. 263 was reported, as well as a number of original bills, each one dealing with a different regulatory agency. This procedure was adopted by the committee in order to avoid problems in referral in the House of Representatives. For example, some of the agencies involved are within the jurisdiction of the House Committee on Interstate and Foreign Commerce, while others are within the jurisdiction of either the House Committees on Public Works and Transportation or Merchant Marine and Fisheries.

The Senate has already passed S. 263, the law revision provisions of the Interim Regulatory Reform Act. This bill grows out of section 312 of the Railroad Revitalization and Regulatory Reform Act of 1976, which authorized and directed the Interstate Commerce Commission to prepare and submit to Congress a final draft of a proposed modernization and revision of the Interstate Commerce Act, and a proposed codification of all acts supplementary to the Interstate Commerce Act. The final draft submitted by the ICC must be designed to simplify the present law and to harmonize regulation with respect to the various transportation modes regulated by the ICC. The committee has been of the belief that the organic acts administered by the other independent regulatory agencies are also in need of review and revision. Indeed, one of these agencies, the Federal Maritime Commission, does not have such an act to define its powers, duties, and responsibilities. Although the Maritime Commission was created 16 years ago, it still operates under the authority of a reorganization plan pursuant to which it administers transferred functions rather than powers granted to it by act of Congress. This provision of the Interim Regulatory Reform Act was reported by the committee in S. 263, as it is apparently within the jurisdiction of only the Committee on the Judiciary in the House of Representatives. Other provisions, however, of the Interim Regulatory Reform Act are more limited in scope and amend the reorganization plan or the organic act of the agencies. As a result, these provisions have been combined into separate bills for each agency.

Basically, the bills contain seven major provisions. These are: First, rules recodification; second, timely consideration of petitions; third, congressional access to information; fourth, representation in civil actions; fifth, avoidance of conflict of interest; sixth, appointment and tenure of the Chairman; and seventh, authorization of appropriations. The rules recodification provision requires each agency to submit to the Congress a proposal setting forth the recodification of all of the rules which the agency has issued and which are, as of the date of the submission, in effect or proposed. The recodification rules may recommend the transfer, consolidation, modification, and/or deletion of particular rules—or portions of rules—in the interest of clarity of presentation, comprehensibility, elimination of redundancy, simplicity, and similar objectives. After certain periods for comments, the rules, as proposed to be recodified in a final proposal, shall take effect as the recodified rules of the agency, effective 180 days after submission of the final proposal. That would be approximately 2 years and 4 months after the date of enactment. Of course, any rules could be voided or repealed by act of Congress or joint resolution of the Congress.

The committee has been concerned with the failure of agencies to respond to petitions for issuance, amendment, or repeal of rules which agencies are empowered to issue. As a result, the timely consideration of petitions provision of the bills, which has previously been enacted and applies to the Consumer Product Safety Commission and the Interstate Commerce Commission, would require the Commission to grant, deny, or take other appropriate action for each petition within 120 days after it is received. Additionally, the bills provide a remedy if the agency should fail to grant, deny, or take other appropriate action within the 120-day period.

The independent regulatory agencies are distinctive entities, for a number of reasons. The independent regulatory agencies are a statutory exception, at least to some extent, to the doctrine of separation of powers since the typical agency exercises quasi-legislative (rulemaking), quasi-judicial (adjudicatory), and executive (enforcement) functions, pursuant to the mandate of Congress. Second, the independent regulatory agency is, for the purposes for which it is created, independent of the authority of the executive branch. As Mr. Justice Sutherland declared in *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935):

Thus, the language of the Act, the legislative reports, and the general purposes of the legislation as reflected by the debates, all combine to demonstrate the congressional intent to create a body of experts who shall gain experience by length of service, a body which shall be independent of executive authority, except in its selection, and free to exercise its judgment without the leave or hinderance of any other official or any other department of the government.

The committee believes that the unique position of the independent regulatory agencies, and the unique responsibility of the Congress which created them, require that there be no impediment to communication between the agencies and the Congress.

A provision is thus included to amend the statutes to provide that whenever an agency submits certain information to the President or the Office of Management and Budget, it shall concurrently transmit that information to the Congress. The unique responsibility of the Congress toward each of these agencies, which have been termed "arms of Congress" requires unimpeded access to the views of the agencies without any prior

review or clearance by the executive branch. At the same time, the executive branch should be informed of transmissions which it may wish to counter or concur in through its own recommendations or comments.

The committee has been concerned about the importance of avoidance of conflicts of interest and the appearance of conflicts of interest. These are particularly important in independent regulatory agencies. Increasing confidence in the regulatory agencies is an important goal of the regulatory reform movement. Prohibiting a person who has been a Commissioner or a policymaking employee from representing clients in a professional capacity before his colleagues on the same Commission, for a limited period of time, eliminates a potential abuse and represents a step toward the achievement of this goal. As a result, the bills contain a provision which would prohibit a regulatory Commissioner from representation before the Commission in a professional capacity for 2 years after leaving the agency. Senators RIBICOFF and PERCY, who have worked diligently on this issue in the Committee on Governmental Affairs, have suggested some language which would improve the provisions on avoidance of conflict of interest which are contained in the bills, and these will be offered shortly.

The bills contain a provision providing that the chairman of the regulatory agency shall be appointed by the President and shall be subject to the advice and consent of the Senate. The Chairman shall serve at the pleasure of the President, as is currently the case in all agencies except the Consumer Product Safety Commission. However, other than the National Transportation Safety Board, the Chairman is not voted upon by the Senate for that position, he is voted upon and confirmed as an individual commissioner. Thus, the Congress will have an opportunity to consider an individual who may be completely qualified to serve as a commissioner or has so served as a commissioner, but may not be qualified to serve as chairman of a regulatory agency.

Authorizations for appropriations are provided for fiscal years 1978, 1979, 1980, and 1981. The Committee on Commerce has determined that enacting a statutory authorization for each independent regulatory agency will enhance the oversight process and better enable the committee to fulfill its responsibilities to conduct oversight investigations. By its very nature, the authorization process makes it incumbent upon the committee to monitor on a continuing basis, and to examine in depth, the activities of the Commission in a cyclical manner. The authorizations provided in the bill are based upon projections of needs during the 4-year period. Should these authorizations be low, it is incumbent upon the Committee to examine the activities of the Commission at such time as it becomes evident that the authorizations are too low, and to determine whether or not the agency is engaged in activities which meet the expectations of the committee and the Congress. Additionally, the cyclical authorization process provides an excellent opportunity for the committee to consider the continuing activities of the commission with respect to its responsibilities.

I note here that this is an important step toward "Sunset," a concept which has been raised by many Members of the Senate and by the administration as well.

Mr. President, if there are no other general statements, I would like to proceed with the amendments as there are a number of amendments similar or identical to those adopted during consideration of the companion bills on June 28, 1977, affecting the other agencies, which I would like to dispose of.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 962

(Purpose: To insure that persons nominated to serve on the Commissions are qualified by reason of training, background, or experience, and to avoid the appearance of a conflict of interest for Commissioners and employees for a period of time after leaving the employ of the Commissions.)

Mr. FORD. Mr. President, I send to the desk an amendment on behalf of Mr. RIBICOFF and Mr. PERCY and ask its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD), for Mr. PERCY and Mr. RIBICOFF, proposes an unprinted amendment numbered 962.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 23, and on page 4, line 6, 12, 20, and 22, insert "or class of rules" immediately after "rule", each time such word appears.

On page 5, line 12, insert "and not judicial review" immediately after "only".

On page 11, line 21, insert "QUALIFICATIONS OF MEMBERS;" immediately before "APPOINTMENT".

On page 11, immediately before line 23, insert the following:

"SEC. 105. (a) Subsection (a) of the first section of the Federal Trade Commission Act (15 U.S.C. 41), as designated by this Act, is further amended by inserting after the first sentence thereof the following: "The President shall nominate persons for the Commission, who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. In nominating persons for the Commission, the President shall insure that Commission membership is well balanced, with a broad representation of various talents, backgrounds, occupations, and experience appropriate to the functions of the Commission.".

On page 11, line 23, delete "SEC. 105. (a)" and insert in lieu thereof "(b)".

On page 12, strike out lines 18 through 23, and insert in lieu thereof the following: "mission classified as a GS–16 or higher shall—

"(1) for a period of 2 years beginning on the last date of service as such member of the Commission or employee—

"(A) act as agent or attorney for or otherwise represent anyone other than the United States in any formal or informal appearance before, or

"(B) make any written or oral communication on behalf of anyone other than the United States to, and with the intent to influence the action of,

the Commission, or any officer or employee thereof, in connection with any proceeding or other particular matter involving a specific party or parties which was under his official responsibility as a Commissioner or employee within a period of 1 year prior to the termination of such responsibility, or

"(2) for a period of 1 year beginning on the last date of service as such member of the Commission or employee—

"(A) make any appearance or attendance before, or

"(B) make any written or oral communication to, and with the intent to influence the action of

the Commission, or any officer or employee thereof, on any particular matter which is pending before the Commission.".

On page 13, immediately after line 3, insert the following:

"(c) Subsection (a) of the first section of the Federal Trade Commission Act, is further amended by inserting after the words 'or malfeasance in office.' the following: 'Once appointed, a Commissioner may serve until the conclusion of his term of office without regard to the provisions of section 8335, title 5, United States Code.'.

"(d) Section 2 of the Federal Trade Commission Act (15 U.S.C. 42) is amended by—

"(1) designating the first, second, third, fourth, and fifth paragraphs thereof, as '(a)', '(b)', '(d)', '(e)', and '(f)', respectively, and

"(2) inserting immediately after subsection (b) thereof, as so designated, the following new subsection:

"'(c) Appointment of an employee of the Commission to any position in categories GS–16, GS–17, and GS–18 may be made by the Commission without regard to any provision of title 5, United States Code, other than section 3324 thereof where applicable, governing appointments to positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by any officer or agency of the Federal Government other than the Commission.' ".

On page 15, lines 14 and 21, and on page 16, lines 2, 10, and 12, insert "or class of rules" immediately after "rule" each time such word appears.

On page 17, line 2, insert "and not judicial review" immediately after "only".

On page 20, line 13, strike out "as a GS–15 or" and all that follows through and including line 18, and insert in lieu thereof the following: "as a GS–16 or higher, shall—

"(1) for a period of 2 years beginning on the last date of service as such member of the Commission or employee—

"(A) act as agent or attorney for or otherwise represent anyone other than the United States in any formal or informal appearance before, or

"(B) make any written or oral communication on behalf of anyone other than the United States to, and with the intent to influence the action of

the Commission, or any officer or employee thereof, in connection with any proceeding or other particular matter involving a specific party or parties which was under his official responsibility as a Commissioner or employee within a period of 1 year prior to the termination of such responsibility, or

"(2) for a period of 1 year beginning on the last date of service as such member of the Commission or employee—

"(A) make any appearance or attendance before, or

"(B) make any written or oral communication to, and with the intent to influence the action of

the Commission, or any officer or employee thereof, on any particular matter which is pending before the Commission.".

On page 21, line 5, after "Senate.", insert the following: "The President shall nominate persons for the Commission, who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. In nominating persons for the Commission, the President shall insure that Commission membership is well balanced, with broad representation of various talents, backgrounds, occupations, and experience appropriate to the functions of the Commission. Once appointed, a Commissioner may serve until the conclusion of his term of office without regard to the provisions of section 8335, title 5, United States Code.".

Mr. FORD. Mr. President, after the Committee on Commerce, Science, and Transportation reported the interim regulatory reform bills, conversations ensued with the staffs of Mr. RIBICOFF and Mr. PERCY and other members of the Committee on Governmental Affairs, to reconcile the language reported by the Committee on Commerce, Science, and Transportation with the views of the Committee on Governmental Affairs which have developed through the regulatory reform studies conducted by the committees jointly and independently. As a result of those deliberations, a number of amendments have been prepared by Senators RIBICOFF and PERCY which the Committee on Commerce, Science, and Transportation is willing to acecpt. Let me go over these, in that they apply to each of the bills, although not necessarily in the same place in each bill.

In the rules recodification provision, we require that certain impact statements be included with the agency's submission of its recodified rules. As drafted, these impact statements would be required for each rule. This was not the intent of the committee, and so the first amendment proposed by Senators RIBICOFF and PERCY, is that immediately after "rule" we insert "or class of rules." Additionally, there is some concern as to the reviewing test for the adequacy of the impact statements. It was the intention of the committee that these impact statements be reviewed solely by the Congress. To insure that that is the case, the Ribicoff-Percy amendment proposes to insert "and not judicial review" after the statement concerning congressional review.

Another amendment proposed by Senators RIBICOFF and PERCY has to do with the conflict of interest provisions. The Governmental Affairs Committee has suggested that the language be tightened so that it be more comprehensive and not allow for loopholes which might otherwise be the case. Additionally, the Ribicoff-Percy amendment would raise the application of the conflict of interest standard to GS-16 or higher rather than GS-15 as proposed in the version reported by the Commerce Committee. This amendment would conform the bills with S. 555 which the Senate has already passed. Another important amendment proposed by Senators RIBICOFF and PERCY is an amendment which would retain the independence of the independent regulatory agencies by not subjecting super grade positions to OMB clearance. Of course, these positions would still be subject to clearance as to qualifications by the Civil Service Commission, but there would be no political clearance of the appointments.

A further concern addressed by the Ribicoff-Percy amendments is the qualifications of nominees. The Ribicoff-Percy amendment proposes that persons nominated to a commission be persons who by reason of training, education, or experience are qualified to carry out the functions of the commission and also that Commission membership should be well balanced with a broad representation of various talents, backgrounds, occupants, and experience.

Lastly, provisions of section 8335 of title V provides that a Federal employee who reaches the age of 70 or has completed 15 years of service must retire unless a waiver is granted by the President. Since this has the effect of putting a commissioner, who might have a 7-year term but turns 70 at the end of his third year of service, on an annually renewable basis, the independence of the agency is considerably diminished. The last amendment proposed would waive the provisions for commissioners, and leave the decision as to whether or not a Commissioner should continue to serve over the age of 70 in the hands of Congress at the time of advise and consent to the nomination.

Mr. President, if there is no concern over these amendments, I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 963

(Purpose: To expand the range of civil sanctions which the courts may impose for violations of Federal Trade Commission rules or orders, to provide congressional access to budgetary information, and to make technical corrections in several Acts administered by the Federal Trade Commission.)

Mr. FORD. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an unprinted amendment numbered 963.

Mr. FORD. Mr. President, I ask unanimous consent that further readings of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, immediately after line 17, insert the following:

PERSONNEL

SEC. 107. Section 2 of the Federal Trade Commission Act (15 U.S.C. 42) is amended by—

(1) designating the first, second, third, fourth, and fifth paragraphs thereof, as (a), (b), (e), (f), and (g), respectively, and

(2) inserting immediately after subsection (b) thereof, as so designated, the following two new subsections:

"(c) In addition to the other authority conferred by this section, the Commission is authorized, in furtherance of its responsibilities to establish, assign the duties, and fix the compensation for not more than 25 attorney, economist, special expert, and outside counsel positions. Individuals may be appointed to such positions by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except such individuals shall be paid at rates not in excess of the maximum rate (that may be set from time to time) for GS-18, but not less than the minimum rate (that may be set from time to time) for GS-16, of the General Schedule under section 5332 of such title.

"(d) Any appointment or removal of an employee of the Commission to or from any position in categories GS-16, GS-17, and GS-18 may be made by the Commission without regard to any provision of title 5, United States Code, other than section 3324 thereof where applicable, governing appointments to, and removals from, positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by any officer or agency of the Federal Government other than the Commission.".

REVIEW OF CEASE AND DESIST ORDERS

SEC. 108. The first sentence of section 5(c) of the Federal Trade Commission Act (15 U.S.C. 45(c)) is amended to read as follows: "Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or any act or practice may obtain a review of such order in the court of appeals of the United States for the circuit within which such person, partnership, or corporation resides or maintains its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in the court within 60 days after the date of the service of such order, a written petition praying that the order of the Commission be set aside.".

EFFECTIVE DATE OF CEASE AND DESIST ORDERS

SEC. 109. (a) Section 5(g) of the Federal Trade Commission Act (15 U.S.C. 45(g)) is amended (1) by striking out paragraph (4) thereof; and (2) by amending paragraphs (2) and (3) to read as follows:

"(2) Upon the 60th day after such order is served, if a petition for review has been duly filed, except that any such order may be stayed, in whole or in part, subject to such conditions as may be appropriate, by—

"(A) the Commission;

"(B) an appropriate court of appeals of the United States, if a petition for review of such order is pending in such court, except that the court shall not grant a stay during the 30-day period beginning on the date the order was served (or during the 10-day period following the Commission's receipt of the stay application to the court, if received after the end of such 30-day period) unless the Commission has indicated whether or to what extent it would grant the stay sought; or

"(C) the Supreme Court, if an applicable petition for certiorari is pending; or

"(3) For the purpose of section 19(d), if a petition for review of the Commission order has been filed—

"(A) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed or the petition for review dismissed by the court of appeals and no petition for certiorari has been duly filed;

"(B) upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review dismissed by the court of appeals; or

"(C) upon the 30th day after the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review dismissed.".

(b) The amendments made by subsection (a) shall apply only with respect to cease and desist orders of the Federal Trade Commission served under section 5 of the Federal Trade Commission Act after the date of the enactment of this Act.

PROCEEDING TO ENFORCE COMPULSORY PROCESS

SEC. 110. Section 9 of the Federal Trade Commission Act (15 U.S.C. 49) is amended by—

(1) designating the first, second, fifth, and sixth paragraphs thereof as (a), (b), (d), and (e), respectively;

(2) striking out the second sentence in subsection (b) thereof, as so designated;

(3) striking out the fourth paragraph thereof; and

(4) amending the third paragraph thereof, to read as follows:

"(c) In case of failure to comply with any provision of a subpena or access order issued pursuant to this section or of an order issued to any other provision of this Act (other than a cease and desist order issued under section 5 of this Act), the Commission may invoke the aid of a district court of the United States in requiring compliance with such subpena or order. If an action under this subsection is brought against one person, partnership, or corporation, such action shall be brought in the district court of the United States within the jurisdiction of which such person, partnership, or corporation resides or transacts business. If such an action is brought against two or more persons, partnerships, or corporations, such action may be brought in any district court of the United States within the jurisdiction of which the inquiry of the Commission is being conducted. Any of the district courts of the United States may, in the case of such refusal to obey, issue an order requiring compliance with such subpena or order, and any failure to obey such order of the court may be punished by such court as a contempt thereof."

PENALTIES FOR NONCOMPLIANCE WITH COMPULSORY PROCESS

SEC. 111. (a) Section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended by—

(1) striking out "SEC. 10. That any" and inserting in lieu thereof "SEC. 10. (a) Any",

(2) designating the second, third, and fourth paragraphs, respectively, thereof, as (b), (c)(1), and (f), respectively,

(3) striking out the first sentence of subsection (c) thereof, as so designated, and inserting in lieu thereof the following: "Except as provided in subsection (d), if any person, partnership, or corporation fails to comply with any subpena or order issued by the Commission under this Act (other than a cease and desist order issued under section 5 of this Act) and if such failure continues for 30 days after service on such person, partnership, or corporation of a notice of such default, such person, partnership, or corporation shall be liable to the United States for a civil penalty of not more than $5,000, as the court may determine, for each day that such failure continues after such 30th day. The amount of such civil penalty shall be payable into the Treasury of the United States, and shall be recoverable in a civil action by and in the name of the Commission, by any of its attorneys designated by it for such purposes, brought in a district court of the United States. If such a civil action is brought against one person, partnership, or corporation, it shall be brought in the district court of the United States within the jurisdiction of which such person, partnership, or corporation resides or transacts business. If such a civil action is brought against two or more persons, partnership, or corporations, such civil action may be brought in any district court of the United States for a district within which the inquiry of the Commission being carried on.", and

(4) inserting immediately after subsection (c) thereof, as so designated, the following:

"(d) No court shall have jurisdiction over any action or claim seeking—

"(1) to stay the accumulation of any penalties authorized by subsection (c) for failure to comply with any order or subpena, or any part of any order or subpena, referred to in such subsection; or

"(2) to challenge the validity of, or enjoin the enforcement of, any such order or subpena (including any part thereof);

unless the action is brought or the claim is made by a person, partnership, or corporation upon which a notice of default respecting such order or subpena has been served.

"(e) No court shall hold invalid, or issue an order enjoining the Commission or the United States from enforcing, any order or subpena referred to in subsection (c), or any requirement thereof, unless the party subject to such order, subpena, or requirement first demonstrates that—

"(1) such order, subpena, or requirement is, with respect to such party, unduly burdensome;

"(2) the information sought by such order, subpena, or requirement is not reasonably relevant to an inquiry being conducted by the Commission; or

"(3) the Commission has no authority to conduct the inquiry with respect to which such order or subpena was issued.

The Commission shall have authority to conduct investigations and to adjudicate complaints consistent with the applicable provisions of this Act, unless such investigation or adjudication is expressly prohibited by this Act.".

(b)(1) The amendment made by subsection (a)(3) shall apply only with respect to failures to comply with a subpena or order described in section 10(c) of the Federal Trade Commission Act insofar as they occur or continue after the date of the enactment of this Act.

(2) The amendment made by subsection (a)(4) shall apply with respect to any pending action or any action brought or claim made after the date of the enactment of this Act, respecting a subpena or order described in section 10(c) of the Federal Trade Commission Act.

(c) Section 16(a)(2)(D) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)(D)) is amended to read as follows:

"(D) relating to the enforceability or validity of a subpena, order (other than a cease and desist order), or other compulsory process issued by the Commission;".

GRANTING OF EQUITABLE RELIEF

SEC. 112. (a) Section 13 of the Federal Trade Commission Act (15 U.S.C. 53) is amended by redesignating subsection (c) as subsection (d), and by inserting immediately after subsection (b) the following new subsection:

"(c)(1) Whenever the Commission has reason to believe—

"(A) that any person, partnership, or corporation is violating any provision of law enforced by the Commission, and

"(B) that, for the purpose of preserving the assets of such person, partnership, or corporation to make such restitution or provide such other consumer redress as may be required by the Commission or by a court in an action under section 19, the granting of equitable relief (other than injunctive relief under subsection (a) or (b)) is necessary pending the issuance of a complaint by the Commission and until—

"(i) the date the Commission dismisses the complaint,

"(ii) the date the complaint is set aside by a court on review, or

"(iii) the date the order of the Commission made on the complaint has become final for purposes of section 19(d), whichever first occurs,

the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States for the granting of such equitable relief (other than injunctive relief under subsection (a) or subsection (b)) as the court considers appropriate, including the appointment of a trustee or receiver to control the disposition by the person, partnership, or corporation involved of any money or property during the period referred to in paragraph (2).

"(2) A court shall have authority to grant the equitable relief sought by the Commission as specified in paragraph (1) only after notice to the defendant and upon a proper showing by the Commission that—

"(A) there is a likelihood that a court will find that the defendant has violated or is violating a provision of law enforced by the Commission; and

"(B) such equitable relief is necessary to preserve the assets of the defendant to make such restitution or provide such other consumer redress as may be required by the Commission or by a court in an action under section 19;

except that if a complaint is not filed within any period, not exceeding 20 days, the court may specify after such equitable relief is granted, the order granting such equitable relief shall cease to be in effect. Any action for equitable relief brought under this subsection shall be brought in the district court of the United States for the district in which the person, partnership, or corporation involved resides or transacts business.".

(b) Section 16(a)(2)(A) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)(A)) is amended by adding "or other equitable" after the word "injunctive".

(c) The last sentence of section 19(b) of the Federal Trade Commission Act (15 U.S.C. 57b(b)) is amended by inserting immediately after "the payment of damages," the following: "the appointment of a trustee or receiver to administer any such refund, return, or payment, and to control the disposition of any money or property obtained by such person, partnership, or corporation pending disposition of such action,".

TECHNICAL AND MISCELLANEOUS AMENDMENTS

SEC. 113. (a) Sections 5(m)(1)(A) and 5(m)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 45(m)(1)(A); 45(m)(1)(B)) each are amended by adding at the end thereof the following new sentence: "In such actions, the district courts of the United States are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate.".

(b) Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by adding at the end thereof the following new paragraphs:

"(i) To accept gifts and voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes of the United States (31 U.S.C. 665(b)).".

(c)(1) Subsection (a) of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) as so designated by this Act, is amended—

(i) by inserting immediately after "for the purposes of this Act" the following: ", or any other provision of law enforced by the Commission,"; and

(ii) by inserting "or other physical" immediately after "documentary" each place it appears therein.

(2) Subsection (b) of such section 9, as so designated by this Act and as amended by

inserting "or other physical" immediately after "documentary".

(3) Subsection (c) of such section 9, as so designated by this Act, is amended by inserting "or other physical" immediately after "documentary".

(4) Subsection (e) of such section 8, as so designated by this Act, is amended by inserting "or physical" immediately after "documentary" in the last sentence thereof.

(d)(1) The fourth sentence of section 5 (b) of the Federal Trade Commission Act (15 U.S.C. 45(b)) is amended by inserting immediately after "writing" the following: ", or shall be recorded through the use of any electronic or mechanical recording device,".

(2) The third sentence of subsection (e) of section 9 of the Federal Trade Commission Act (15 U.S.C. 49), as so designated by this Act, is amended by inserting immediately after "writing" the following ", or shall be recorded through the use of any electronic or mechanical recording device,".

(e) Section 5 of the Wool Products Labeling Act of 1939 (15 U.S.C. 68c) is amended by striking out the term "wood" in the second paragraph thereof and inserting in lieu thereof "wool".

(f) Section 9(b)(1) of the Fur Products Labeling Act (15 U.S.C. 69g(b)(1)) is amended by striking out "volating" and inserting in lieu thereof "violating".

(g) Section 12(a)(2) of the Textile Fiber Products Identification Act (15 U.S.C. 70j(a)(2)) is amended to read as follows: "(2) outer coverings of furniture, mattresses, and box springs, except that the Commission may require care labeling with respect to outer coverings of furniture,".

(h) Section 16(a)(1)(A) of the Federal Trade Commission Act (15 U.S.C. 56(a)(1)(A)) is amended by (1) striking out "involving this Act (including an action to collect a civil penalty)"; and (2) inserting "or proceeding" immediately after "such action".

(i) Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended by—

(1) striking out "of such action in" and inserting in lieu thereof "therein in";

(2) deleting "(A)", "(B)", "(C)", and "(D)" and inserting in lieu thereof, "(B)", "(C)", "(D)", and "(E)", respectively, and

(3) inserting the following new paragraph:

"(A) under section 5 of this Act (for the collection of civil penalties);".

(j) Section 16(a)(2)(D) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)(D)), as redesignated by subsection (i) of this Act, is amended by (1) striking out "of a rule prescribed by the Commission," and inserting in lieu thereof "concerning the issuance, validity, or violation of a Commission rule,", and (2) striking out "issued under section 5 of this Act" and inserting in lieu thereof "or petition requesting the Commission to take action with respect to a rulemaking in adjudication".

APPLICATION OF CERTAIN PROVISIONS TO SAVINGS AND LOAN ASSOCIATIONS

SEC. 115. (a) Section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)) is amended by inserting "savings and loan institutions (to the extent the Federal Home Loan Bank Board is authorized by law to prohibit such institutions from engaging in the acts or practices declared unlawful by paragraph (1)),," immediately after "banks,".

(b) Section 18(f)(1) of the Federal Trade Commission Act (15 U.S.C. 56a(f)(1)) is amended—

(1) in the first sentence thereof, by inserting "or savings and loan institutions described in paragraph (3)" immediately after "banks", the first time it appears therein;

(2) in the first sentence thereof, by inserting "or (3)" immediately after "(2)";

(3) in the first sentence thereof, by inserting "or savings and loan institutions" immediately after "banks", the last time it appears therein;

(4) in the second sentence thereof, by inserting "(with respect to banks) and the Federal Home Loan Bank Board (with respect to savings and loan institutions described in paragraph (3))" immediately after "System"; and

(5) in the last sentence thereof—

(i) by inserting "each" before "such Board" the first time it appears therein;

(ii) by inserting "either" before "such Board" the second time it appears therein;

(iii) by inserting "or savings and loan institution described in paragraph (3), as the case may be," immediately after "banks" the first time it appears therein;

(iv) by inserting "or savings and loan institutions, as the case may be," immediately after "banks" the second time it appears therein; and

(v) by inserting "of Governors of the Federal Reserve System" after "the Board".

(c) Section 18(f) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(2)) is amended by renumbering paragraphs (3), (4), and (5), thereof, as (4), (5), and (6), respectively; and by inserting immediately after paragraph (2) thereof the following new paragraph:

"(3) Compliance with regulations prescribed under this subsection for savings and loan institutions which are members of the Federal Home Loan Bank Board, or the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, shall be enforced by the division of consumer affairs established by the Federal Home Loan Bank Board.".

(d) Section 18(f)(4) of the Federal Trade Commission Act, as renumbered by this section, is further amended by (1) inserting "or (3)" immediately after "(2)", both times it appears therein; and (2) striking out "that paragraph" and inserting in lieu thereof "either paragraph", both times it appears therein.

Mr. FORD. Mr. President, the amendment I have sent to the desk embodies a substantial portion of S. 1288. Because of our interest in expediting consideration of this legislation, the amendment does not contain the controversial class action provision of S. 1288, section 11, nor does it contain the authorization, or the petitions for rule-making provisions. Thus we have dropped three sections of S. 1288 in the amendment now before the Senate.

Mr. President, this amendment is designed to reform certain Federal Trade Commission Act procedures, to insure that FTC actions are disposed of expeditiously, to insulate the FTC from political clearances in the legislative, budgetary, and personnel areas, to expand the range of civil sanctions which the courts may impose for violations of FTC rules or orders, to remove an impediment in the Textile Fiber Products Identification Act, to make certain technical corrections in the FTC act, the Wool Products Labeling Act, and the Fur Products Identification Act.

The legislation represents jurisdictional, administrative, and procedural reforms of the FTC. The amendment would prevent "forum shopping" by limiting appeals of Commission orders to the court of appeals in the circuit within which the defendant resides or maintains its principal place of business. The amendment also would parallel the action taken by the 92nd Congress in enacting the Consumer Product Safety Act which insulated the Consumer Product Safety Commission from political clearance for personnel. The amendment would require the simultaneous transmission of budgetary and legislative recommendations to the President or the Office of Management and Budget (OMB) and the Congress. The amendment would make cease and desist orders of the Commission effective 60 days after the issuance of such orders subject to a stay issued by the Commission or the appropriate court of appeals, or the Supreme Court when an applicable petition for certiorari is pending.

The amendment should improve the Commission's ability to obtain information by compulsory process by imposing penalties for failure to reply in a timely manner with the Commission's process and providing statutory amendments reflecting decisional law on the issue of ripeness of suits to enjoin enforcement of the Commission's compulsory process. The bill would authorize the Commission to seek equitable relief when the Commission has reason to believe: First, that any person, partnership, or corporation is violating any provision of law enforced by the Commission, and second, that the granting of equitable relief is necessary pending the issuance of the complaint by the Commission and until such complaint is dismissed by the Commission or set aside by the court on review or until the order of the Commission has become final.

Such equitable relief, other than injunctive relief which is not specifically authorized in section 13(a) and 13(b) of the FTC Act, may include the appointment of a trustee or receiver to control the disposition of any money or property. The problem to which this amendment is addressed concerns the siphoning away of assets from an entity which may be or is the subject of a Commission complaint. Last, the bill establishes the responsibility of the Federal Home Loan Bank Board for issuing rules concerning unfair or deceptive acts or practices in a manner similar to the rules currently issued by the Federal Reserve Board for banks subject to its jurisdiction.

On two occasions in the 94th Congress, the Senate passed similar legislation. Additionally, on a third occasion, some of the provisions relating to personnel were passed by the Senate in consideration of S. 1136 of the 94th Congress. I might point out that S. 1136 was sponsored by 45 Members of the Senate. This amendment is thus the product of several years of work. In addition to the hearings and passage of the bulk of the bill on two occasions in the 94th Congress, the Committee on Commerce, Science, and Transportation held further hearings on the legislation during the 95th Congress, and ordered the bill reported without objection in mid-May.

Mr. President, I move the adoption of the amendment, and I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. FORD. Mr. President, I am ready for third reading.

Mr. DOLE. Mr. President, I am pleased to support legislation that would help modernize the procedures of the Federal Trade Commission and put them in a better position to enforce their mandate, which is to protect the American consumer from various unfair trade practices.

In recent years, the Federal Trade Commission has become more active in protecting the interests of a great many Americans. The legislation which we are considering today is needed to assist the FTC in their efforts. As one familiar with the Commission, I can say that they are a hard-working group dedicated to the best interests of the American people.

In addition to providing authorization for the Federal Trade Commission, this bill provides for a recodification of the FTC rules, protects against the problems commonly perceived with the so-called revolving door, modifies the oversight relationship between Congress and the FTC, and gives the FTC additional tools to enforce its mandate.

One needed provision of this legislation is that which allows the FTC to seek equitable relief from a court during the time the Commission is pursuing administrative adjudication. This is a needed tool in light of the practice whereby certain kinds of businesses, upon hearing that they might have to pay certain fines, and so forth, could liquidate and leave behind only an empty corporate shell which would be "judgment proof" and immune from FTC enforcement. I trust that the FTC will use this tool with moderation in instances where it is truly necessary to protect the interests of consumers.

PRIVATE RIGHTS OF ACTION—CLASS ACTION SUITS

Fortunately, one provision which was not included in the bill is section 11 of S. 1288, which would have provided a private right of action to enforce the laws which the FTC is now charged with enforcing. This provision was properly attacked by many elements of business as a mistake. While the private right of action and class-action suits certainly have an important and proper place in the American scheme of law enforcement, we need to be careful to avoid vexatious litigation which does more harm to the American consumer than it does good. I am afraid that section 11 was such a provision, and am pleased to see that it is not in today's bill.

By eliminating private rights of action, and combining the provisions of S. 1288 and S. 1533, the managers have produced legislation which is well conceived and should provide needed changes in the FTC's charter. Among other things, this legislation mandates that FTC actions shall be disposed of expeditiously. H.R. 3816 does this by requiring that the Commission grant or deny petitions for issuance, amendment, or repeal of rules within 120 days after the date the petition is received by the Commission. I hope that we will succeed in mandating similar speed and dispatch among our other regulatory bodies.

FORUM SHOPPING

Another problem which this bill addresses is that of "forum shopping" by parties bringing appeals from FTC orders. This legislation limits such appeals to the court of appeals in the circuit within which the defendant resides or maintains its principal place of business. Just as a businessman must be protected from vexatious litigation, and must be given prompt consideration of matters before the FTC, he should not be able to shop around for a judge among the various circuits. Just as the interests of one side should be protected from harmful judicial entanglement, that same side should not be able to use the judicial appeal system to unreasonable advantage.

I am pleased to join my colleagues on the Commerce Committee in their support for this important piece of legislation. I trust that this legislation will help the FTC carry out their fine work and will give them the tools needed to protect American consumers while protecting honest business from the ill-effects of a business climate in which unfair trade practices flourish. Certainly, such an environment hurts both honest citizens and honest businessmen. Strengthening and improving the FTC is an important step toward preserving the kind of business practices that best serve the interests of all Americans.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CULVER). Without objection, it is so ordered.

Mr. FORD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3816, Calendar Order No. 454.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes.

The Senate proceeded to consider the bill.

Mr. FORD. Mr. President, I move to strike all after the enacting clause of the House bill and to substitute the language of S. 1533 as amended, therefor.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kentucky.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the yeas and nays on the Senate bill be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask for the yeas and nays on the House bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. FORD. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from New York (Mr. MOYNIHAN) would each vote "yea."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

On this vote, the Senator from New Jersey (Mr. CASE) is paired with the Senator from South Carolina (Mr. THURMOND). If present and voting, the Senator from New Jersey would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 574 Leg.]

YEAS—90

Allen	Cranston	Hatfield
Anderson	Culver	Hathaway
Baker	Curtis	Hayakawa
Bartlett	Danforth	Heinz
Bayh	DeConcini	Helms
Bellmon	Dole	Hollings
Bentsen	Domenici	Huddleston
Biden	Durkin	Inouye
Brooke	Fagleton	Jackson
Bumpers	Eastland	Javits
Burdick	Ford	Johnston
Byrd,	Garn	Kennedy
Harry F., Jr.	Glenn	Leahy
Byrd, Robert C.	Gravel	Long
Cannon	Griffin	Lugar
Chafee	Hansen	Magnuson
Chiles	Hart	Mathias
Church	Haskell	Matsunaga
Clark	Hatch	McClure

McIntyre	Proxmire	Stennis
Melcher	Randolph	Stevens
Metcalf	Ribicoff	Stevenson
Metzenbaum	Riegle	Stone
Morgan	Roth	Talmadge
Muskie	Sarbanes	Wallop
Nelson	Sasser	Weicker
Nunn	Schmitt	Williams
Packwood	Schweiker	Young
Pearson	Scott	Zorinsky
Pell	Sparkman	
Percy	Stafford	

NAYS—0

NOT VOTING—10

Abourezk	Laxalt	Thurmond
Case	McClellan	Tower
Goldwater	McGovern	
Humphrey	Moynihan	

So the bill (H.R. 3816) was passed, as follows:

That this Act may be cited as the "Interim Regulatory Reform Act—Federal Trade Commission and Consumer Product Safety Commission".

TITLE I—FEDERAL TRADE COMMISSION

RULES RECODIFICATION

SEC. 102. The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended (1) by redesignating sections 20 and 21 thereof as 21 and 22, respectively; and (2) by inserting immediately after section 19 thereof the following new section:

"SEC. 20. (a) Within 480 days after the date of enactment of this section, the Chairman of the Commission shall develop, prepare, and submit to the Congress an initial proposal setting forth a recodification of all the rules which such Commission has issued and which are in effect or proposed, as of the date of such submission. Each such recodification proposal shall, to the extent practicable and appropriate—

"(1) recommend the transfer, consolidation, modification, and deletion of particular rules and portions thereof, including reasons therefor;

"(2) recommend changes and modifications in the organization of such rules and in the technical presentation and structure thereof;

"(3) be designed to coordinate, to make more understandable, and to modernize such rules in order to facilitate effective and fair administration thereof; and

"(4) include a comprehensive index to the rules in the recodification, cross-referenced by subject matter.

Each such recodification proposal shall include the text of such rules, proposed to be recodified, in their entirety and a comparative text of the proposed changes in existing rules.

"(b) Within 660 days after the date of enactment of this subsection, the Chairman of the Commission shall develop, prepare, and submit to the Congress, in accordance with the requirements described in subsection (a), a final proposal setting forth a recodification of all of the rules which such agency has issued and which are in effect or proposed, as of the date of such submission. Such submission shall reflect (1) an evaluation of the recommendations and comments received from any source; and (2) the results of additional study and review by the Commission and its employees and consultants. Such rules shall take effect 180 days after the date of submission of such final proposal.

"(c) To the extent practicable and appropriate, the Chairman of the Commission shall submit along with each recodification proposal submitted to the Congress under this section—

"(1) an economic impact analysis which takes into account, for each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered), the cost impact on and benefits to consumers, wage earners, businesses, markets, and Federal, State, and local governments, and the effects on productivity, competition, supplies of important manufactured products or services, employment, and energy resource supply and demand;

"(2) a paperwork impact analysis, for each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered), containing an estimate of the numbers of, and a description of the classes of, persons that would be required to file reports, maintain records, and fulfill any of the information-gathering requirements under each such rule or class of rules; the nature and amount of the information required to be filed in such reports, and the frequency of such reports; the nature and number of records that would have to be kept by such persons, and the man-hours and costs required or incurred to keep such records and make such reports; and steps being taken by the Commission to insure that there is no unnecessary duplication in recordkeeping and report filing resulting from the issuance of each such rule or class of rules;

"(3) a judicial impact analysis showing the probable consequences of each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered) on the operation, workload, and efficiency of the Federal courts, including an analysis of the cost impact on and benefits to court administration, changes in judicial procedure, effects on jurisdiction, and demands on court personnel; and

"(4) such other explanatory and supporting statements and materials as the Commission determines necessary and appropriate for congressional consideration of each such recodification proposal.

The material submitted to the Congress under this subsection shall not be considered a part of the rulemaking process instituted by the Commission under this section, and the sufficiency of such material shall be subject to congressional review only and not judicial review. In the event the Commission finds that it is impractical or inappropriate to submit the information required under paragraphs (1) through (3) of this subsection, the Commission shall submit a statement as to why it cannot so comply.

"(d) Each appropriate authorizing committee of the Congress shall, in the exercise of its oversight responsibility, examine, study, and take other appropriate action with respect to the initial and final recodification proposal submitted to the Congress under this section and referred to such committee.

"(e) The text of each initial recodification proposal submitted under subsection (a), and of each final recodification proposal submitted under subsection (b), shall be published in the Federal Register pursuant to section 553 of title 5, United States Code, and written comments thereon shall be invited. Any rule issued by the Commission which is not included in the recodified rules which take effect pursuant to subsection (b), by the time required, shall be of no force and effect after such date. The provisions of chapter 7 of title 5, United States Code, shall apply to rules repromulgated under this section.

"(f) As used in this section, the term 'rule' includes the whole or any part of a statement of general applicability which is issued or promulgated by the Commission for future effect and which is designed to—

"(1) implement, interpret, or prescribe law or policy (including any rule for the approval or prescription of rates);

"(2) describe the central and field organization of the Commission, and the established places at which, and the employees from whom, and the method whereby, the public may obtain information, make submittals or requests, or obtain decisions;

"(3) describe the general course and method by which the functions of the Commission are channeled and determined, including the nature and requirements of all formal and informal procedures available;

"(4) describe any rules of procedure, forms available or the places where forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations; and

"(5) contain and describe all statements of general policy or interpretations of general applicability formulated and adopted by the Commission.

This term does not include any order, as such term is defined in section 551(6) of title, 5, United States Code, except to the extent that any order includes a statement of policy, or an interpretation of a policy or substantive law or rule, of general applicability for future effect.".

TIMELY CONSIDERATION OF PETITIONS

SEC. 103. Section 18(b) of the Federal Trade Commission Act (15 U.S.C. 57a(b)) is amended (1) by inserting "(1)" immediately after "(b)" and (2) by inserting at the end thereof the following new paragraph:

"(2)(A) Whenever, pursuant to section 553(e) of title 5, United States Code, an interested person (including a governmental entity) files a petition with the Commission (other than a petition for rehearing) for the commencement of a proceeding for the issuance, amendment or repeal of an order, rule, or regulation under any statute or other lawful authority administered by or applicable to the Commission, the Commission shall grant or deny such petition within 120 days after the date of receipt of such petition. If the Commission grants such a petition, it shall commence an appropriate proceeding as soon thereafter as practicable. If the Commission denies such a petition or takes no action on such petition within the 120-day period, it shall set forth, and publish in the Federal Register its reasons for such denial or inaction.

"(B) If the Commission denies a petition to which subparagraph (A) applies (or if it takes no action thereon within the 120-day period established by such subparagraph), the petitioner may commence a civil action in an appropriate United States Court of Appeals for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate, within 60 days after the date of expiration of such 120-day period.

"(C) If the petitioner, in a civil action commenced under subparagraph (B), demonstrates to the satisfaction of the court (by a preponderance of the evidence in the record before the Commission) that (i) the failure of the Commission to grant a petition to which subparagraph (A) applies is arbitrary and capricious; (ii) the action requested in such petition is necessary; (iii) the failure of the Commission to take such action will result in the continuation of practices which are not consistent with or in accordance with this Act or any other statute or lawful authority administered by or applicable to the Commission; and (iv) the action requested in such petition is in the public interest, such court shall order the Commission to initiate such action.

"(D) A court shall have no authority under this paragraph to compel the Commission to take any action other than the initiation of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under this Act or any other statute or lawful authority administered by or applicable to the Commission.

"(E) As used in this paragraph, the term 'Commission' includes any division, individual Commissioner, administrative law judge, employee board, or any other person authorized to act on behalf of the Commis-

sion in any part of any proceeding for the issuance, amendment, or repeal of an order, rule, or regulation.".

CONGRESSIONAL ACCESS TO INFORMATION

SEC. 104. The first section of the Federal Trade Commission Act (15 U.S.C. 41) is amended (1) by inserting "(a)" in the first sentence thereof immediately after "That"; (2) by designating the second paragraph thereof as (b); and (3) by adding at the end thereof the following new subsection:

"(c)(1) Whenever the Commission submits any budget estimate, request, or information to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such budget estimate, request, or information to the Congress.

"(2) Whenever the Commission submits any legislative recommendations, testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit any legislative recommendations, testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"(3) Whenever a duly authorized committee of the Congress which has responsibility for the authorization of appropriations for the Commission makes a written request for documents in the possession or subject to the control of the Commission, the Commission shall, within 10 days after the date of receipt of such request, submit such documents (or copies thereof) to such committee. If the Commission does not have any such documents in its possession, or if the Commission (for good cause) cannot make the requested documents available within the 10-day period, it shall so notify such committee within such 10-day period. Any such notice shall state the anticipated date by which such documents will be obtained and submitted to such committee, or a statement as to the reasons why such documents are not in the possession of the Commission, and information as to where such documents are located. This paragraph shall not be deemed to restrict any other authority of either House of Congress, or any committee or subcommittee thereof, to obtain documents from any Federal agency, department, or entity. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, including a copy of any of the foregoing.

"(4) Transmission of any information, report, or other document to the Congress under the provisions of this section shall not constitute an offense under section 1905 of title 18, United States Code. The provisions of subsection 1905 shall apply, however, to the transmission of any such information, report, or other document by any employee or officer of the Congress (other than a Member of Congress), or of any Member or committee of the Congress, to any person other than another such employee or officer, a Member of Congress or the Commission.".

QUALIFICATIONS OF MEMBERS; APPOINTMENT AND TENURE OF CHAIRMAN; AVOIDANCE OF CONFLICT OF INTEREST

SEC. 105. (a) Subsection (a) of the first section of the Federal Trade Commission Act (15 U.S.C. 41), as designated by this Act, is further amended by inserting after the first sentence thereof the following: "The President shall nominate persons for the Commission, who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. In nominating persons for the Commission, the President shall insure that Commission membership is well balanced, with a broad representation of various talents, backgrounds, occupations, and experience appropriate to the functions of the Commission.".

(b) Subsection (a) of the first section of the Federal Trade Commission Act (15 U.S.C. 41), as designated by this Act, is further amended by striking out "The Commission shall choose" and all that follows down through and including "membership." and inserting in lieu thereof the following: "The President shall appoint one of the Commissioners as the Chairman of the Commission, by and with the advice and consent of the Senate. The Chairman shall serve as Chairman at the pleasure of the President. An individual may be appointed as a Commissioner at the same time he is appointed as Chairman.".

(b)(1) Subsection (a) of the first section of the Federal Trade Commission Act (15 U.S.C. 41(a)), as amended by this Act, is further amended by striking out "No Commissioner shall engage in any other business, vocation, or employment." and inserting in lieu thereof "No Commissioner shall engage in any other business, vocation, profession, or employment while serving as a Commissioner, and no person who is appointed to a term as a Commissioner after the date of enactment of this sentence, and no employee of the Commission classified as a GS–16 or higher shall—

"(1) for a period of 2 years beginning on the last date of service as such member of the Commission or employee—

"(A) act as agent or attorney for or otherwise represent anyone other than the United States in any formal or informal appearance before, or

"(B) make any written or oral communication on behalf of anyone other than the United States to, and with the intent to influence the action of

the Commission, or any officer or employee thereof, in connection with any proceeding or other particular matter involving a specific party or parties which was under his official responsibility as a Commissioner or employee within a period of 1 year prior to the termination of such responsibility, or

"(2) for a period of 1 year beginning on the last date of service as such member of the Commission or employee—

"(A) make any appearance or attendance before, or

"(B) make any written or oral communication to, and with the intent to influence the action of

the Commission, or any officer or employee thereof, on any particular matter which is pending before the Commission."

(2) The amendment made by paragraph (1) shall apply to employees of the Commission specified in that amendment on and after the beginning of the thirteenth complete calendar month occurring immediately after the date of enactment of this Act.

(c) Subsection (a) of the first section of the Federal Trade Commission Act, is further amended by inserting after the words "or malfeasance in office." the following: "Once appointed, a Commissioner may serve until the conclusion of his term of office without regard to the provisions of section 8335, title 5, United States Code.".

(d) Section 2 of the Federal Trade Commission Act (15 U.S.C. 42) is amended by—

(1) designating the first, second, third, fourth, and fifth paragraphs thereof, as "(a)", "(b)", "(d)", "(e)", and "(f)", respectively, and

(2) inserting immediately after subsection (b) thereof, as so designated, the following new subsection:

"(c) Any appointment of an employee of the Commission to any position in categories GS–16, GS–17, and GS–18 may be made by the Commission without regard to any provision of title 5, United States Code, other than section 3324 thereof where applicable, governing appointments to positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by any officer or agency of the Federal Government other than the Commission.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 106. Section 21 of the Federal Trade Commission Act (15 U.S.C. 58), as so redesignated by this Act, is amended by (1) striking out "and" immediately after "1976;"; and (2) striking out "1977. For fiscal years ending after 1977, there may be appropriated to carry out such functions, powers, and duties, only such sums as the Congress may hereafter authorize by law." and inserting in lieu thereof "1977; not to exceed $65,000,000 for the fiscal year ending on September 30, 1978; not to exceed $70,000,000 for the fiscal year ending on September 30, 1979; not to exceed $75,000,000 for the fiscal year ending on September 30, 1980; and not to exceed $80,000,000 for the fiscal year ending on September 30, 1981.".

PERSONNEL

SEC. 107. Section 2 of the Federal Trade Commission Act (15 U.S.C. 42) is amended by—

(1) designating the first, second, third, fourth, and fifth paragraphs thereof, as (a), (b), (e), (f), and (g), respectively, and

(2) inserting immediately after subsection (b) thereof, as so designated, the following two new subsections:

"(c) In addition to the other authority conferred by this section, the Commission is authorized, in furtherance of its responsibilities to establish, assign the duties, and fix the compensation for not more than 25 attorney, economist, special expert, and outside counsel positions. Individuals may be appointed to such positions by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except such individuals shall be paid at rates not in excess of the maximum rate (that may be set from time to time) for GS–18, but not less than the minimum rate (that may be set from time to time) for GS–16, of the General Schedule under section 5332 of such title.

"(d) Any appointment or removal of an employee of the Commission to or from any position in categories GS–16, GS–17, and GS–18 may be made by the Commission without regard to any provision of title 5, United States Code, other than section 3324 thereof where applicable, governing appointments to, and removals from, positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by any officer or agency of the Federal Government other than the Commission.".

REVIEW OF CEASE AND DESIST ORDERS

SEC. 108. The first sentence of section 5(c) of the Federal Trade Commission Act (15 U.S.C. 45(c)) is amended to read as follows: "Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or any act or practice may obtain a review of such order in the court of appeals of the United States for the circuit within which such person, partnership, or corporation resides or maintains its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in the court within 60 days after the date of the service of such order, a written petition praying that the order of the Commission be set aside.".

EFFECTIVE DATE OF CEASE AND DESIST ORDERS

SEC. 109. (a) Section 5(g) of the Federal Trade Commission Act (15 U.S.C. 45(g)) is amended (1) by striking out paragraph (4) thereof; and (2) by amending paragraphs (2) and (3) to read as follows:

"(2) Upon the 60th day after such order is served, if a petition for review has been duly filed, except that any such order may be stayed, in whole or in part, subject to such conditions as may be appropriate, by—

"(A) the Commission;

"(B) an appropriate court of appeals of the United States, if a petition for review of such order is pending in such court, except that the court shall not grant a stay during the 30-day period beginning on the date the order was served (or during the 10-day period following the Commission's receipt of the stay application to the court, if received after the end of such 30-day period) unless the Commission has indicated whether or to what extent it would grant the stay sought; or

"(C) the Supreme Court, if an applicable petition for certiorari is pending; or

"(3) For the purpose of section 19(d), if a petition for review of the Commission order has been filed—

"(A) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed or the petition for review dismissed by the court of appeals and no petition for certiorari has been duly filed;

"(B) upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review dismissed by the court of appeals; or

"(C) upon the 30th day after the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review dismissed.".

(b) The amendments made by subsection (a) shall apply only with respect to cease and desist orders of the Federal Trade Commission served under section 5 of the Federal Trade Commission Act after the date of the enactment of this Act.

PROCEEDING TO ENFORCE COMPULSORY PROCESS

SEC. 110. Section 9 of the Federal Trade Commission Act (15 U.S.C. 49) is amended by—

(1) designating the first, second, fifth, and sixth paragraphs thereof as (a), (b), (d), and (e), respectively;

(2) striking out the second sentence in subsection (b) thereof, as so designated;

(3) striking out the fourth paragraph thereof; and

(4) amending the third paragraph thereof, to read as follows:

"(c) In case of failure to comply with any provision of a subpena or access order issued pursuant to this section or of an order issued pursuant to any other provision of this Act (other than a cease and desist order issued under section 5 of this Act), the Commission may invoke the aid of a district court of the United States in requiring compliance with such subpena or order. If an action under this subsection is brought against one person, partnership, or corporation, such action shall be brought in the district court of the United States within the jurisdiction of which such person, partnership, or corporation resides or transacts business. If such an action is brought against two or more persons, partnerships, or corporations, such action may be brought in any district court of the United States within the jurisdiction of which the inquiry of the Commission is being conducted. Any of the district courts of the United States may, in the case of such refusal to obey, issue an order requiring compliance with such subpena or order, and any failure to obey such order of the court may be punished by such court as a contempt thereof."

PENALTIES FOR NONCOMPLIANCE WITH COMPULSORY PROCESS

SEC. 111. (a) Section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended by—

(1) striking out "SEC. 10. That any" and inserting in lieu thereof "SEC. 10. (a) Any",

(2) designating the second, third, and fourth paragraphs, respectively, thereof, as (b), (c)(1), and (f), respectively,

(3) striking out the first sentence of subsection (c) thereof, as so designated, and inserting in lieu thereof the following: "Except as provided in subsection (d), if any person, partnership, or corporation fails to comply with any subpena or order issued by the Commission under this Act (other than a cease and desist order issued under section 5 of this Act) and if such failure continues for 30 days after service on such person, partnership, or corporation of a notice of such default, such person, partnership, or corporation shall be liable to the United States for a civil penalty of not more than $5,000, as the court may determine, for each day that such failure continues after such 30th day. The amount of such civil penalty shall be payable into the Treasury of the United States, and shall be recoverable in a civil action by and in the name of the Commission, by any of its attorneys designated by it for such purposes, brought in a district court of the United States. If such a civil action is brought against one person, partnership, or corporation, it shall be brought in the district court of the United States within the jurisdiction of which such person, partnership, or corporation resides or transacts business. If such a civil action is brought against two or more persons, partnership, or corporations, such civil action may be brought in any district court of the United States for a district within which the inquiry of the Commission being carried on.", and

(4) inserting immediately after subsection (c) thereof, as so designated, the following:

"(d) No court shall have jurisdiction over any action or claim seeking—

"(1) to stay the accumulation of any penalties authorized by subsection (c) for failure to comply with any order or subpena, or any part of any order or subpena, referred to in such subsection; or

"(2) to challenge the validity of, or enjoin the enforcement of, any such order or subpena (including any part thereof);

unless the action is brought or the claim is made by a person, partnership, or corporation upon which a notice of default respecting such order or subpena has been served.

"(e) No court shall hold invalid, or issue an order enjoining the Commission or the United States from enforcing, any order or subpena referred to in subsection (c), or any requirement thereof, unless the party subject to such order, subpena, or requirement first demonstrates that—

"(1) such order, subpena, or requirement is, with respect to such party, unduly burdensome;

"(2) the information sought by such order, subpena, or requirement is not reasonably relevant to an inquiry being conducted by the Commission; or

"(3) the Commission has no authority to conduct the inquiry with respect to which such order or subpena was issued.

The Commission shall have authority to conduct investigations and to adjudicate complaints consistent with the applicable provisions of this Act, unless such investigation or adjudication is expressly prohibited by this Act.".

(b)(1) The amendment made by subsection (a)(3) shall apply only with respect to failures to comply with a subpena or order described in section 10(c) of the Federal Trade Commission Act insofar as they occur or continue after the date of the enactment of this Act.

(2) The amendment made by subsection (a)(4) shall apply with respect to any pending action or any action brought or claim made after the date of the enactment of this Act, respecting a subpena or order described in section 10(c) of the Federal Trade Commission Act.

(c) Section 16(a)(2)(D) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)(D)) is amended to read as follows:

"(D) relating to the enforceability or validity of a subpena, order (other than a cease and desist order), or other compulsory process issued by the Commission;".

GRANTING OF EQUITABLE RELIEF

SEC. 112. (a) Section 13 of the Federal Trade Commission Act (15 U.S.C. 53) is amended by redesignating subsection (c) as subsection (d), and by inserting immediately after subsection (b) the following new subsection:

"(c)(1) Whenever the Commission has reason to believe—

"(A) that any person, partnership, or corporation is violating any provision of law enforced by the Commission, and

"(B) that, for the purpose of preserving the assets of such person, partnership, or corporation to make such restitution or provide such other consumer redress as may be required by the Commission or by a court in an action under section 19, the granting of equitable relief (other than injunctive relief under subsection (a) or (b)) is necessary pending the issuance of a complaint by the Commission and until—

"(i) the date the Commission dismisses the complaint,

"(ii) the date the complaint is set aside by a court on review, or

"(iii) the date the Commission made on the complaint has become final for purposes of section 19(d), whichever first occurs,

the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States for the granting of such equitable relief (other than injunctive relief under subsection (a) or subsection (b)) as the court considers appropriate, including the appointment of a trustee or receiver to control the disposition by the person, partnership, or corporation involved of any money or property during the period referred to in paragraph (2).

"(2) A court shall have authority to grant the equitable relief sought by the Commission as specified in paragraph (1) only after notice to the defendant and upon a proper showing by the Commission that—

"(A) there is a likelihood that a court will find that the defendant has violated or is violating a provision of law enforced by the Commission; and

"(B) such equitable relief is necessary to preserve the assets of the defendant to make such restitution or provide such other consumer redress as may be required by the Commission or by a court in an action under section 19;

except that if a complaint is not filed within any period, not exceeding 20 days, the court may specify after such equitable relief is granted, the order granting such equitable relief shall cease to be in effect. Any action for equitable relief brought under this subsection shall be brought in the district court of the United States for the district in which the person, partnership, or corporation involved resides or transacts business.".

(b) Section 16(a)(2)(A) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)(A)) is amended by adding "or other equitable" after the word "injunctive".

(c) The last sentence of section 19(b) of the Federal Trade Commission Act (15 U.S.C. 57b(b)) is amended by inserting immediately after "the payment of damages," the following: "the appointment of a trustee or receiver to administer any such refund, re-

turn, or payment, and to control the disposition of any money or property obtained by such person, partnership, or corporation pending disposition of such action,".

TECHNICAL AND MISCELLANEOUS AMENDMENTS

SEC. 113. (a) Sections 5(m)(1)(A) and 5(m)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 45(m)(1)(A); 45(m)(1)(B)) each are amended by adding at the end thereof the following new sentence: "In such actions, the district courts of the United States are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate.".

(b) Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by adding at the end thereof the following new paragraphs:

"(i) To accept gifts and voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes of the United States (31 U.S.C. 665(b)).".

(c)(1) Subsection (a) of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) as so designated by this Act, is amended—

(i) by inserting immediately after "for the purposes of this Act" the following: ", or any other provision of law enforced by the Commission."; and

(ii) by inserting "or other physical" immediately after "documentary" each place it appears therein.

(2) Subsection (b) of such section 9, as so designated by this Act and as amended by section 7, is further amended by inserting "or other physical" immediately after "documentary".

(3) Subsection (c) of such section 9, as so designated by this Act, is amended by inserting "or other physical" immediately after "documentary".

(4) Subsection (e) of such section 9, as so designated by this Act, is amended by inserting "or physical" immediately after "documentary" in the last sentence thereof.

(d)(1) The fourth sentence of section 5(b) of the Federal Trade Commission Act (15 U.S.C. 45(b)) is amended by inserting immediately after "writing" the following: ", or shall be recorded through the use of any electronic or mechanical recording device,".

(2) The third sentence of subsection (e) of section 9 of the Federal Trade Commission Act (15 U.S.C. 49), as so designated by this Act, is amended by inserting immediately after "writing" the following ", or shall be recorded through the use of any electronic or mechanical recording device,".

(e) Section 5 of the Wool Products Labeling Act of 1939 (15 U.S.C. 68c) is amended by striking out the term "wood" in the second paragraph and inserting in lieu thereof "wool".

(f) Section 9(b)(1) of the Fur Products Labeling Act (15 U.S.C. 69g(b)(1)) is amended by striking out "volating" and inserting in lieu thereof "violating".

(g) Section 12(a)(2) of the Textile Fiber Products Identification Act (15 U.S.C. 70j(a)(2)) is amended to read as follows: "(2) outer coverings of furniture, mattresses, and box springs, except that the Commission may require care labeling with respect to outer coverings of furniture;".

(h) Section 16(a)(1)(A) of the Federal Trade Commission Act (15 U.S.C. 56(a)(1)(A)) is amended by (1) striking out "involving this Act (including an action to collect a civil penalty)"; and (2) inserting "or proceeding" immediately after "such action".

(i) Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended by—

(1) striking out "of such action in" and inserting in lieu thereof "therein in";

(2) deleting "(A)", "(B)", "(C)", and "(D)" and inserting in lieu thereof, "(B)", "(C)", "(D)", and "(E)", respectively, and

(3) inserting the following new paragraph:

"(A) under section 5 of this Act (for the collection of civil penalties);".

(j) Section 16(a)(2)(D) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)(D)), as redesignated by subsection (i) of this Act, is amended by (1) striking out "of a rule prescribed by the Commission," and inserting in lieu thereof "concerning the issuance, validity, or violation of a Commission rule,", and (2) striking out "issued under section 5 of this Act" and inserting in lieu thereof "or petition requesting the Commission to take action with respect to a rulemaking in adjudication".

APPLICATION OF CERTAIN PROVISIONS TO SAVINGS AND LOAN ASSOCIATIONS

SEC. 115. (a) Section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)) is amended by inserting "savings and loan institutions (to the extent the Federal Home Loan Bank Board is authorized by law to prohibit such institutions from engaging in the acts or practices declared unlawful by paragraph (1)),," immediately after "banks,".

(b) Section 18(f)(1) of the Federal Trade Commission Act (15 U.S.C. 56a(f)(1)) is amended—

(1) in the first sentence thereof, by inserting "or savings and loan institutions described in paragraph (3)" immediately after "banks", the first time it appears therein;

(2) in the first sentence thereof, by inserting "or (3)" immediately after "(2)";

(3) in the first sentence thereof, by inserting "or savings and loan institutions" immediately after "banks", the last time it appears therein;

(4) in the second sentence thereof, by inserting "(with respect to banks) and the Federal Home Loan Bank Board (with respect to savings and loan institutions described in paragraph (3))" immediately after "System"; and

(5) in the last sentence thereof—

(i) by inserting "each" before "such Board" the first time it appears therein;

(ii) by inserting "either" before "such Board the second time it appears therein;

(iii) by inserting "or savings and loan institution described in paragraph (3), as the case may be," immediately after "banks" the first time it appears therein;

(iv) by inserting "or savings and loan institutions, as the case may be," immediately after "banks" the second time it appears therein; and

(v) by inserting "of Governors of the Federal Reserve System" after "the Board".

(c) Section 18(f) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(2)) is amended by renumbering paragraphs (3), (4), and (5), thereof, as (4), (5) and (6), respectively; and by inserting immediately after paragraph (2) thereof the following new paragraph:

"(3) Compliance with regulations prescribed under this subsection for savings and loan institutions which are members of the Federal Home Loan Bank Board, or the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, shall be enforced by the division of consumer affairs established by the Federal Home Loan Bank Board.".

(d) Section 18(f)(4) of the Federal Trade Commission Act, as renumbered by this section, is further amended by (1) inserting "or (3)" immediately after "(2)", both times it appears therein; and (2) striking out "that paragraph" and inserting in lieu thereof "either paragraph", both times it appears therein.

TITLE II—CONSUMER PRODUCT SAFETY COMMISSION IMPROVEMENTS

RULES RECODIFICATION

SEC. 201. Section 27 of the Consumer Product Safety Commission Act (15 U.S.C. 2076), as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(m)(1) Within 480 days after the date of enactment of this subsection, the Chairman of the Commission shall develop, prepare, and submit to the Congress an initial proposal setting forth a recodification of all of the rules which such Commission has issued and which are in effect or proposed, as of the date of such submission. Each such recodification proposal shall, to the extent practicable and appropriate—

"(A) recommend the transfer, consolidation, modification, and deletion of particular rules and portions thereof, including reasons therefor;

"(B) recommend changes and modfications in the organization of such rules and in the technical presentation and structure thereof;

"(C) be designed to coordinate, to make more understandable, and to modernize such rules in order to facilitate effective and fair administration thereof; and

"(D) include a comprehensive index to the rules in the recodification cross referenced by subject matter.

Each such recodification proposal shall include the text of such rules, as proposed to be recodified, in their entirety; a comparative text of the proposed changes in existing rules; and explanatory and supporting statements and materials.

"(2) Within 660 days after the date of enactment of this subsection, the Chairman of the Commission shall develop, prepare, and submit to the Congress, in accordance with the requirements described in paragraph (1), a final proposal setting forth a recodification of all of the rules which such agency has issued and which are in effect or proposed, as of the date of such submission. Such submission shall reflect (1) an evaluation of the recommendations and comments received from any source; and (2) the results of additional study and review by the Commission and its employees and consultants. Such rules shall take effect 180 days after the date of submission of such final proposal.

"(3) To the extent practicable and appropriate, the Chairman of the Commission shall submit along with each recodification proposal submitted to the Congress under this subsection—

"(A) an economic impact analysis which takes into account, for each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered), the cost impact on and benefits to consumers, wage earners, businesses, markets and Federal, State, and local governments, and the effects on productivity, competition, supplies of important manufactured products or services, employment, and energy resource supply and demand;

"(B) a paperwork impact analysis, for each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered), containing an estimate of the numbers of, and a description of the classes of, persons that would be required to file reports, maintain records, and fulfill any of the information gathering requirements under each such rule or class of rules; the nature and amount of the information required to be filed in such reports, and the frequency of such reports; the nature and number of records that would have to be kept by such persons, and the man-hours and costs required or incurred to keep such records and make such reports; and steps being taken by the Commission to insure that there is no unnecessary duplication in recordkeeping and report filing resulting from the issuance of each such rule or class of rules;

"(C) a judicial impact analysis showing the probable consequences of each rule or class of rules proposed to be recodified in

such proposal (including any alternatives considered) on the operation, workload, and efficiency of the Federal courts, including an analysis of the cost impact on and benefits to court administration, changes in judicial procedure, effects on jurisdiction, and demands on court personnel; and

"(D) such other explanatory and supporting statements and materials as the Commission determines necessary and appropriate for congressional consideration of each such recodification proposal.

The material submitted to the Congress under this subsection shall not be considered a part of the rulemaking process instituted by the Commission under this subsection, and the sufficiency of such material shall be subject to congressional review only and not judicial review. In the event the Commission finds that it would be impracticable or inappropriate to submit the information required by subparagraphs (A) through (C) of this paragraph, it shall submit a statement as to why it cannot so comply.

"(4) Each appropriate authorizing committee of the Congress shall, in the exercise of its oversight responsibility, examine, study, and take other appropriate action with respect to each initial and final recodification proposal submitted to the Congress under this subsection and referred to such committee.

"(5) The text of each initial recodification proposal submitted under paragraph (1), and of each final recodification proposal submitted under paragraph (2), shall be published in the Federal Register pursuant to section 553 of title 5, United States Code, and written comments thereon shall be invited. Any rule issued by the Commission which is not included in the recodified rules which take effect pursuant to paragraph (2), by the time required, shall be of no force and effect after such date. The provisions of chapter 7 of title 5, United States Code, shall apply to rules repromulgated under this subsection.

"(6) As used in this subsection, the term 'rule' includes the whole or any part of a statement of general applicability which is issued or promulgated by the Commission for future effect and which is designed to—

"(A) implement, interpret, or prescribe law or policy (including any rule for the approval or prescription of rates);

"(B) describe the central and field organization of the Commission, and the established places at which, and the employees from whom, and the method whereby, the public may obtain information, make submittals or requests, or obtain decisions;

"(C) describe the general course and method by which the functions of the Commission are channeled and determined, including the nature and requirements of all formal and informal procedures available;

"(D) describe any rules of procedure, forms available or the places where forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examination; and

"(E) contain and describe all statements of general policy or interpretations of general applicability formulated and adopted by the Commission.

This term does not include any order, as such term is defined in section 551(6) of title 5, United States Code, except to the extent that any order includes a statement of policy, or an interpretation of a policy or substantive law or rule, of general applicability for future effect.".

CONGRESSIONAL ACCESS TO INFORMATION

SEC. 202. Section 27(k) of the Consumer Product Safety Act (15 U.S.C. 2076(k)) is amended by adding at the end thereof the following new paragraph:

"(3) Whenever a duly authorized committee of the Congress which has responsibility for the authorization of appropriations for the Commission makes a written request for documents in the possession or subject to the control of the Commission, the Commission shall, within 10 days after the date of receipt of such request, submit such documents (or copies thereof) to such committee. If the Commission does not have any such documents in its possession, or if the Commission (for good cause) cannot make the requested documents available within the 10-day period, it shall so notify such committee within such 10-day period. Any such notice shall state the anticipated date by which such documents will be obtained and submitted to such committee, or a statement as to the reasons why such documents are not in the possession of the Commission, and information as to where such documents are located. This paragraph shall not be deemed to restrict any other authority of either House of Congress, or any committee or subcommittee thereof, to obtain documents from any Federal agency. department, or entity For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum. or other record, including a copy of any of the foregoing.".

AVOIDANCE OF CONFLICT OF INTEREST

SEC. 203. (a) Section 4(c) of the Consumer Product Safety Act (15 U.S.C. 2053(c)) is amended by striking out the last sentence thereof and inserting in lieu thereof the following: "No Commissioner shall engage in any other business, vocation, profession, or employment while serving as a Commissioner, and no person who is appointed to a term as a Commissioner after the date of enactment of this sentence, and no employee of the Commission classified as a GS-16 or higher, shall—

"(1) for a period of 2 years beginning on the last date of service as such member of the Commission or employee—

"(A) act as agent or attorney for or otherwise represent anyone other than the United States in any formal or informal appearance before, or

"(B) make any written or oral communication on behalf of anyone other than the United States to, and with the intent to influence the action of the Commission, or any officer or employee thereof, in connection with any proceeding or other particular matter involving a specific party or parties which was under his official responsibility as a Commissioner or employee within a period of 1 year prior to the termination of such responsibility, or

"(2) for a period of 1 year beginning on the last date of service as such member of the Commission or employee—

"(A) make any appearance or attendance before, or

"(B) make any written or oral communication to, and with the intent to influence the action of the Commission, or any officer or employee thereof, on any particular matter which is pending before the Commission.".

(b) The amendment made by subsection (a) shall apply to employees of the Commission specified in the amendment on and after the beginning of the thirteenth complete calendar month occurring immediately after the date of enactment of this Act.

APPOINTMENT AND TENURE OF CHAIRMAN

SEC. 204. Section 4(a) of the Consumer Product Safety Act (15 U.S.C. 2053(a)), is amended by deleting all after "consent" through "Commissioner." and inserting in lieu thereof the following: "of the Senate. The President shall nominate persons for the Commission, who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. In nominating persons for the Commission, the President shall insure that Commission, membership is well balanced with broad representation of various talents, backgrounds, occupations, and experience appropriate to the functions of the Commission. Once appointed, a Commissioner may serve until the conclusion of his term of office without regard to the provisions of section 8335, title 5, United States Code. The President shall appoint one of the Commissioners as the Chairman of the Commission, by and with the advice and consent of the Senate. The Chairman shall serve as Chairman at the pleasure of the President. An individual may be appointed as a Commissioner at the same time he is appointed as Chairman.".

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical or clerical corrections in the engrossment of H.R. 3816.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that S. 1288 and S. 1533 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 3816 as passed be printed for the use of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, Mr. FORD, the manager of H.R. 3816, the Federal Trade Commission bill, and the minority manager, Mr. PEARSON, are to be congratulated for the prompt passage of this important legislation.

When a bill passes very quickly on the Senate floor, it is often overlooked that a great amount of work has gone before such action.

I commend Mr. MAGNUSON, the chairman of the Commerce Committee for this measure, and all members of the committee for their long and diligent work on this bill.

EXECUTIVE SESSION—CORPORATION FOR PUBLIC BROADCASTING

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. HOLLINGS, I ask unanimous consent that the Senate go into executive session to consider the nomination of Mrs. Gillian Martin Sorenson to be a member of the Corporation for Public Broadcasting.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

The second assistant legislative clerk read the nomination of Gillian Martin Sorenson, of New York, to be a member of the Corporation for Public Broadcasting.

Mr. BAKER. Mr. President, I do not object. I only wish to inform the distinguished majority leader that this nomination has been cleared on our calendar, and we have no objection to the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF ENERGY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of nominations under "Department of Energy."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I say to the majority leader that all the nominations under the heading "Department of Energy"—Calendar Nos. 542 through 550 on the Executive Calendar—with the exception of one nomination, Calendar No. 547, are cleared for consideration on this side.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nominations under "Department of Energy," with that single exception, Calendar No. 547.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DURKIN. Mr. President, reserving the right to object, I am not rising in opposition to these particular nominees or to the nomination of Mr. Curtis, which has been set aside.

We are presently involved in the important task of creating a national energy plan. Crucial to the success of such a plan is the strong support of Congress and the American public. A national energy plan must be just that—a plan representing all segments of our society. In this regard I am deeply concerned about the lack of diverse representation in the selection of Department of Energy nominees. Participation of women and minorities is essential if we are to overcome the continuing public cynicism and skepticism toward the gravity of our national energy problem.

That is why the confirmation of these 11 key nominees we will vote on today is an important part of the prescription of our success. Qualified as they are to perform their energy-related duties, these nominees will be expected by the American public to consider their interests as they make important decisions and establish new policies that will affect 200 million Americans.

Particularly obvious in these appointments is the token representation of women. Perhaps in no other policy area than energy is the need greater to gain the trust and support of all our citizens. Yet of the 15 highest ranking Department of Energy nominees so far submitted for Senate confirmation only one is a woman.

I need not detail the vital role women, as well as minority citizens will play in solving our energy problems. But we need to recognize that public trust and faith in Government is a key ingredient for our success. Without better representation of the majority sex, we cannot expect to win the public's recognition of our energy problem.

I commend the administration for its campaign promises of better opportunities for women and minorities. Unfortunately, if these promises are not kept, we will be worse off than if they were not made. I note that during the last administration, 9 percent of President Nixon's appointments were women, and 14 percent of President Ford's appointments were women. So far, according to the Congressional Research Service, 13 percent of President Carter's appointments are women, and only 7 percent of his energy nominees are women.

I believe we can do better. Clearly this record does not represent the full potential of women in the energy field. Women have demonstrated their unlimited potential in contributing to the solution of our energy woes. From oil roughnecks to atomic scientists, women have been and will be called upon to share in the effort to combat our problem. The only question that remains is when.

I trust the administration will move quickly to rectify this inequity. It is my deep concern and sincere hope that there will be better representation of women, as well as all minority groups—blacks, Spanish-speaking citizens, and Native Americans—in future department of energy appointments. For without better represenation and input from a cross section of our great population, we will not succeed in meeting our first goal: Gaining the public's trust and support.

Mr. JACKSON. Mr. President, I commend the distinguished Senator from New Hampshire (Mr. DURKIN) for a very fine statement. I join him in a strong recommendation that an effort be made to bring more women into the appointive positions that specifically in this case involve Senate confirmation. It is not just jobs per se, but it involves the policymaking positions.

Mr. President, the calendar shows—and we have reported from the committee—11 nominations. All these positions are very important. I point out to my colleagues that we have 9 or 10 additional names that will be submitted to our committee and to the Senate for approval of their nominations. I hope we can take expeditious action here this afternoon on all 11, so that the Department of Energy really can be set up in a way in which they can start to move on the important programs that are involved within the jurisdiction of the Department of Energy.

The PRESIDING OFFICER. The nominations will be stated.

The second assistant legislative clerk read the nomination of Dale D. Myers, of California, to be Under Secretary of Energy.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of John F. O'Leary, of New Mexico, to be Deputy Secretary of Energy.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read a nomination of Alvin L. Alm, of the District of Columbia, to be an Assistant Secretary of Energy (Policy and Evaluation).

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of Harry E. Bergold, Jr., of Florida, to be an Assistant Secretary of Energy (International Affairs).

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of David J. Bardin, of New Jersey, to be Administrator of the Economic Regulatory Administration.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the next nominee in order.

Mr. BAKER. Mr. President, reserving the right to object, I am prepared to say now that the distinguished senior Senator from Oregon is in the Chamber, and I believe that we may be in a position to proceed without any objection from our side. I yield to him at this point.

Mr. HATFIELD. I thank the majority leader and the minority leader for giving me an opportunity to make a few comments relating to the nomination of Mr. Charles D. Curtis, of Maryland, to be a member of the Federal Energy Regulatory Commission for a term of 2 years.

Mr. President, we held a rather extensive hearing on all these nominations;

and I say, to begin with, that I supported the nomination of Mr. Curtis by my affirmative vote in the committee.

And I brought to the attention of the committee the rather unique circumstance surrounding Mr. Curtis, and I wish to also make this the record in the Chamber.

I think we are all aware that the changing party attitudes in this country have been rather marked by a shift to the status of independent by more and more of our American people, that is, to identify as independents rather than as either Republican or Democrat.

In fact, the latest survey I have seen indicates that the party preference now shows the Democratic, No. 1, Independent, No. 2, and my party, the Republican Party, No. 3 in preference.

I think this all, of course, brings to mind the particular law that set up this regulatory agency and the way in which the nominations have been sent up to the Hill by President Carter.

I refer to the fact that Mr. Curtis is registered as an Independent. The law clearly stated that not more than three should be of the same political party and in this case we have three Democrats, one Republican, and one Independent, Mr. Curtis. So, technically, the President is in full compliance with the law.

I do not in any way challenge the President's right to act as he did, but I do feel that it is not in the spirit of the law. I think when we are drafting legislation in the future as it relates to the bipartisan character we want to establish for various regulatory agencies and commissions then we should be aware of this particular situation we face today.

Mr. President, I would not bring this to the attention of the Senate except for a very interesting thing that occurred in the Commerce Committee some 2 years ago as it related to a Republican President. It was a time when a Republican President sent up, in compliance with the law, the nomination of a Democrat to be a member of a particular agency where the law called for both parties to be represented. Because this particular Democrat had made a financial contribution to the Nixon campaign, the majority party attitude on the Commerce Committee was that he did not qualify to be a Democratic nominee to an agency that called for a Democrat appointment because by contributing to a Republican campaign he had disqualified himself from in effect being a representative of the Democratic Party.

Let me remind the Senate that Mr. Curtis today, the name we are considering for this regulatory agency, was not only a staff person for the majority party in the House of Representatives, but he was a part of President Carter's transition team.

I think it is very obvious that his status is as Independent by registration but his sympathies are obviously with the Democratic administration.

Again I emphasize the point that I think his credentials are excellent. He has excellent credentials.

I do not fall for the kind of excuse we hear from time to time when we talk about the rights of a minority party in this Senate body when the majority says, "Well, certain staff people or certain people are professionals; they are neither Democratic nor Republican, they are professionals."

That is just another code word for hiding behind the fact that the majority party can control the staff nominations or the staff hiring.

I only want to bring this point to bear today on this issue, and we are going to face this perhaps down the road. I am going to vote for Mr. Curtis, but I think the Senate should be fully aware that Mr. Curtis started out as a Republican, became an Independent, but has been very active and identified with Democratic activity both in Congress and in the President's transition team, and he is presented here today as an Independent member of this commission, fully in compliance with the law. The legal question of the law is not at all an issue at hand but rather, in my opinion, it is the spirit of the law and based upon the precedents set by the Commerce Committee under the command of the majority party some 2 years ago and the whole different attitude expressed at that time when it was a Republican President.

I thank both the majority and minority leaders again for this opportunity to make these few remarks, and I might say that the minority leader is on the floor. He had informed me of a matter relating to this issue that he had undertaken earlier, and I will let him speak for himself at this time if he cares to do so.

Mr. BAKER. Mr. President, I thank the distinguished Senator from Oregon.

If I could only add one or two brief comments to that, I am prepared to proceed to the consideration of this nomination. This matter is a matter of some importance. It is a matter of principle, I believe. I felt so keenly about it that I wrote to Secretary Schlesinger and pointed out to him much of the same things that have been pointed out by the Senator from Oregon.

There is no doubt this man is qualified in my opinion. I think he is clearly qualified. But there is also no doubt that this nomination circumvents the intention of the statute, not the literal language of the statute, but the intent of it.

I am sorry to see this sort of precedent established. Were this man sent to us as a nominee for representing the majority point of view, there would not be the slightest doubt that it was appropriate and proper, but nominating people for boards and commissions who are of the President's party and the balance who are independents seems to me circumvents not only the intention of the statute, but the very basis for the two-party system in the Government of the United States.

Mr. President, I have no further remarks, and I am prepared to proceed with the consideration of this nomination.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF ENERGY

The second assistant legislative clerk read the nomination of Charles B. Curtis, of Maryland, to be a member of the Federal Energy Regulatory Commission for a term of 2 years.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The assistant legislative clerk read the nomination of George R. Hall, of Virginia, to be a member of the Federal Energy Regulatory Commission for a term of 3 years.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of Georgiana H. Sheldon, of Virginia, to be a member of the Federal Energy Regulatory Commission for a term of 3 years.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of Phillip Samuel Hughes, of Maryland, to be an Assistant Secretary of Energy (Intergovernmental and Institutional Relations).

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of Matthew Holden, Jr., of Wisconsin, to be a member of the Federal Energy Regulatory Commission for a term of 4 years.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of Don Sanders Smith, of Arkansas, to be a member of the Federal Energy Regulatory Commission for a term of 2 years.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Administrative Practice and Procedures Subcommittee of the Judiciary Committee be authorized to meet during the session of the Senate today to continue its agricultural research priority hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT TO THE FEDERAL CHARTER OF THE BIG BROTHERS OF AMERICA TO INCLUDE BIG SISTERS INTERNATIONAL, INC.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 466, S. 2208.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2308) to amend the Federal charter of the Big Brothers of America to include Big Sisters International Incorporated and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

Mr. BAYH. Mr. President, I shall be brief.

As the distinguished Presiding Officer knows, as the chairman of the Senate Subcommittee on Juvenile Delinquency, two of the most effective national organizations that have been successful in dealing with the problems of young people are the organizations of Big Brother and Big Sister. They have provided on many occasions that ingredient of concern, care, compassion, and indeed love, that when missing can lead to disastrous results.

The measures now before us is responsive to a request made by both of these organizations to be permitted to be chartered jointly.

I urge my colleagues in the Senate to accept this recommendation, and I appreciate the special cooperation on the part of the majority and minority leaders which makes it possible for us to pass this legislation in this timely fashion.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read the third time; was read the third time and passed as follows:

S. 2208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act entitled "An Act to incorporate the Big Brothers of America", approved September 2, 1958 (36 U.S.C. 881 et seq.) is amended—

(1) by inserting "(a)" before "the following";

(2) by striking out "Big Brothers of America" and inserting in lieu thereof "Big Brothers-Big Sisters of America"; and

(3) by adding at the end thereof the following new subsection:

"(b) This Act may be cited as the 'Big Brothers—Big Sisters of America'."

(b) Section 3 of such Act (36 U.S.C. 883) is amended—

(1) by striking out "boys" and inserting in lieu thereof "individuals"; and

(2) by striking out "and Canada".

(c) Section 5(a) of such Act (36 U.S.C. 885(a)) is amended by striking out "and in Canada to the extent permitted by Canadian laws".

(d) Section 7(a) of such Act (36 U.S.C. 887(a)) is amended by striking out "section 16" and inserting in lieu thereof "section 16(a)".

(e) Section 15 of such Act (36 U.S.C. 895) is amended—

(1) by striking out "the name, The Big Brothers of America" and inserting in lieu thereof the following: "any of the following names: The Big Brothers of America; Big Sisters International, Incorporated; Big Sisters of America; Big Brothers; Big Sisters; Big Brothers—Big Sisters of America; and Big Sisters—Big Brothers"; and

(2) by striking out "section 16 of this title" and inserting in lieu thereof the following: "section 16(a) of this Act, and by the District of Columbia corporation, Big Sisters International, Incorporated, described in section 16(b) of this Act,".

(f) Section 16 of such Act (36 U.S.C. 896) is amended—

(1) by inserting "(a)" before "The corporation"; and

(2) by adding at the end thereof the following new subsection:

"(b) The corporation may acquire the assets of Big Sisters International, Incorporated, a corporation organized under the laws of the District of Columbia, upon discharging or satisfactorily providing for the payment and discharge of all the liability of such corporation and upon complying with all laws of the District of Columbia applicable thereto.".

SEC. 2. Paragraph (11) of the first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101(11)) is amended to read as follows:

"(11) Big Brothers—Big Sisters of America.".

Mr. BAYH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSFER OF MEASURES TO UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are two measures on the calendar which may be transferred to the Unanimous Consent Calendar. They are Calendar Orders No. 455 and No. 459, and I ask the clerk to so transfer them.

The PRESIDING OFFICER. They will be so transferred.

CORRECTION OF ENGROSSMENT OF SENATE RESOLUTION 267

Mr. ROBERT C. BYRD. Mr. President, on September 22, 1977, the Senate passed Senate Resolution 267, to pay a gratuity to Ernest G. Catucci, and others. There were three typographical errors in that resolution as well as the wrong initial for the middle name of one of the persons. I ask unanimous consent that these corrections be made in that resolution, and that the resolution as thus corrected be reprinted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 1771

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 1771, the OPIC bill, is called up and made the pending business, there be a 2-hour limitation of time for debate thereon, to be equally divided between and controlled by Mr. SPARKMAN and Mr. CASE; that there be a time limitation of any amendment of one-half hour; that there be a time limitation on any debatable motion, appeal, or point of order, of 20 minutes; and that the agreement be in the usual form.

Mr. BAKER. Mr. President, reserving the right to object, and I do not plan to object, I might say to the majority leader that we have tried very hard to clear a time agreement on this measure in this form, and I have been able, frankly, to clear it with those who are directly involved, so far as I know, with the exception of the distinguished Senator from New Jersey (Mr. CASE). I wonder if the majority leader would consider reframing his request so that it could be subject to an objection by Mr. CASE on the reconvening of the Senate, if he has an objection.

Mr. ROBERT C. BYRD. Yes. Mr. President, I so modify my request.

The PRESIDING OFFICER (Mr. MELCHER). Is there objection? It is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 1771 (Order No. 461), a bill to amend the Foreign Assistance Act of 1961, as amended, and for other purposes, debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively by the Senator from Alabama (Mr. SPARKMAN) and the Senator from New Jersey (Mr. CASE): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Ordered further, That the provisions of this agreement are subject to the objections of the Senator from New Jersey (Mr. CASE).

TIME-LIMITATION AGREEMENT—H.R. 9090

Mr. ROBERT C. BYRD. I ask unanimous consent that at such time as H.R. 9090 is called up and made the pending business, there be a limitation thereon of 1 hour, to be equally divided between and controlled by the Senator from Georgia (Mr. TALMADGE) and the Senator from Kansas (Mr. DOLE); that there be a time limitation on any amendment thereto, debatable motion, appeal, or point of order of 20 minutes; and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 9090, to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949, debate on any amendment, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Georgia (Mr. TALMADGE) and the Senator from Kansas (Mr. DOLE): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with no call of the calendar and no resolution coming over under the rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 12:13 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House has passed the bill (H.R. 6715) to correct technical and clerical mistakes in the tax laws, in which it requests the concurrence of the Senate.

The House disagrees to the amendment of the Senate to the bill (H.R. 6666) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Kastenmeier, Mr. Danielson, Mr. Drinan, Mr. Santini, Mr. Ertel, Mr. Railsback, and Mr. Butler were appointed managers of the conference on the part of the House.

At 1:44 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, and for other purposes.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes.

The House has agreed to the concurrent resolution (H. Con. Res. 384) authorizing corrections in the enrollment of S. 1811, in which it requests the concurrence of the Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHURCH, from the Committee on Energy and Natural Resources:

Without amendment:

S. 791. A bill to authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho (Rept. No. 95–514).

With an amendment:

S. 1318. A bill to permit the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purpose (Rept. No. 95–515).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources:

With amendments:

S. 553. A bill to enlarge the boundary of the Cibola National Forest (Rept. No. 95–516).

By Mr. METCALF, from the Committee on Energy and Natural Resources:

Without amendment:

H.R. 1403. An act to authorize the Secretary of the Interior to convey the interest of the United States in certain lands in Adams County, Mississippi, notwithstanding a limitation in the Color-of-Title Act (45 Stat. 1069, as amended; 43 U.S.C. 1068) (Rept. No. 95–517).

H.R. 2527. An act to authorize the Secretary of Agriculture to convey certain lands in the Sierra National Forest, California, to the Madera Cemetery District (Rept. No. 95–518).

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Without amendment:

S. 2033. A bill to provide for conveyance of certain lands in the Wenatchee National Forest, Washington, by the Secretary of Agriculture (Rept. No. 95–519).

By Mr. HASKELL, from the Committee on Energy and Natural Resources:

Without amendment:

S. 2101. A bill to modify the boundary of the White River National Forest in the State of Colorado (Rept. No. 95–520).

By Mr. LAXALT, from the Committee on Energy and Natural Resources:

With an amendment:

S. 917. A bill to provide for the conveyance of certain lands adjacent to the Gund Ranch, Grass Valley, Nevada, to the University of Nevada (Rept. No. 95–521).

H.R. 4979. An act to direct the Secretary of the Interior to convey certain public and acquired lands in the State of Nevada to the county of Mineral, Nevada (Rept. No. 95–522).

By Mr. BARTLETT, from the Committee on Energy and Natural Resources:

With an amendment:

S. 920. A bill relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma (Rept. No. 95–523).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Wallace P. Bowen, of Oregon, to be U.S. Marshal for the District of Oregon.

Isaac George Hylton, of Virginia, to be U.S. Marshal for the Eastern District of Virginia.

Harry H. Marshall, of Illinois, to be U.S. Marshall for the Southern District of Illinois.

Archie P. Sherar, of Washington, to be U.S. Marshal for the Eastern District of Washington.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, October 20, 1977, he presented to the President of the United States the following enrolled bill:

S. 393. An act to provide for the study of certain lands to determine their suitability

for designation as wilderness in accordance with the Wilderness Act of 1964, and for other purposes.

HOUSE BILL REFERRED

The following bill was read twice by title and referred to the Committee on Finance:

H.R. 6705. An act to correct technical and clerical mistakes in the tax laws.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. GOLDWATER:

S. 2222. A bill to incorporate World War I Overseas Flyers, Incorporated; to the Committee on the Judiciary.

By Mr. BAYH:

S. 2223. A bill to discourage the use of painful devices in the trapping of mammals and birds; to the Committee on Environment and Public Works.

By Mr. MAGNUSON (for himself and Mr. HOLLINGS):

S. 2224. A bill to establish a national ocean policy, to set forth the missions of the National Oceanic and Atmospheric Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MAGNUSON:

S. 2225. A bill to amend the Coastal Zone Management Act of 1972 in order to define the meaning of official state policy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BAYH:

S. 2226. A bill to authorize a national policy and program with respect to wild predatory mammals; to prohibit the poisoning of mammals and birds on the public lands of the United States; to regulate the manufacture, sale, and possession of certain chemical toxicants, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HARRY F. BYRD, JR. (for himself and Mr. DOLE):

S. 2227. A bill to postpone the effective date of the carryover basis provisions of the Internal Revenue Code of 1954; and

S. 2228. A bill to amend the Internal Revenue Code of 1954 to make certain changes in the estate and gift tax provisions amended or added by the Tax Reform Act of 1976; to the Committee on Finance.

By Mr. CHAFEE:

S. 2229. A bill to amend title 18, United States Code, so as to make unlawful the taking of certain equipment from federally documented vessels, and for other purposes; to the Committee on the Judiciary.

By Mr. TALMADGE (by request):

S. 2230. A bill to amend the Federal Crop Insurance Act; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MATHIAS:

S. 2231. A bill to repeal the requirements of the Public Health Service Act which require the reservation of class positions for United States citizens who have completed 2 years of medical training outside the United States; to the Committee on Human Resources.

By Mr. LEAHY:

S. 2232. A bill to amend title 5, United States Code, to promote proper and efficient activities of the Government, and to protect Federal employees disclosing situations in which such activities are not proper or efficient; to the Committee on Governmental Affairs.

By Mr. DECONCINI (for himself, Mr. DOMENICI, and Mr. GOLDWATER):

S. 2233. A bill to increase the duty on imported copper by an amount which offsets the cost incurred by copper producers in the United States in meeting domestic environmental requirements; to the Committee on Finance.

By Mr. HELMS:

S.J. Res. 94. A joint resolution ordering the President of the United States, the Secretary of Agriculture, and other officials to develop and implement a comprehensive program for foreign sales of American agricultural commodities, in order to protect the welfare of American farmers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GOLDWATER:

S. 2222. A bill to incorporate World War I Overseas Flyers, Incorporated; to the Committee on the Judiciary.

Mr. GOLDWATER. Mr. President, I am honored today to introduce legislation to provide a Federal charter for World War I Overseas Flyers, one of our Nation's proud veterans' organizations.

Members of this group all saw action over the skies of Europe during the Great War during the period between April 6, 1917, and November 11, 1918. They were citizens of the United States at the time of their enlistment and each served overseas as a flyer in the naval, marine or military services of any of the governments associated with the United States in the First World War.

The surviving flyers joined together several years ago to create an organization devoted to the following purposes: "To promote peace and goodwill among the peoples of the United States and all the nations of the earth; to preserve the memories and incidents of the Air Service of the Great War 1907–1918; to cement the ties of love and comradeship born of service; and to consecrate the efforts of its members to mutual helpfulness and service to their country."

Mr. President, I believe it is fitting and proper that Congress grant recognition to the World War I Overseas Flyers as a group worthy of incorporation under a Federal, national charter and I urge my colleagues to support the bill.

By Mr. BAYH:

S. 2223. A bill to discourage the use of painful devices in the trapping of mammals and birds; to the Committee on Environment and Public Works.

Mr. BAYH. Mr. President, I have long been concerned with the unnecessary pain inflicted upon animals caught in traps set for the purpose of taking furs or for predator control.

In the 92d and 93d Congresses I introduced legislation to discourage the use of painful trapping devices. For the first time, during the 94th Congress, the Subcommittee on Fisheries, Wildlife Conservation, and the Environment of the Committee on Merchant Marine and Fisheries, held 2 days of hearings on several bills which had been introduced on this issue. I, along with 75 other interested people, submitted testimony which raised questions on both sides of the controversy.

Because of the number of issues that were brought up during the hearings, I am introducing today a modified, and much improved, bill to discourage the use of painful trapping devices.

I believe that the bill will not harm the trapping industry but at the same time will insure that only the most humane methods of trapping will be used.

I want to emphasize that the bill will not inhibit predator control programs of farmers. The bill itself states in its findings that—

> It is the policy of Congress to prevent this unnecessary suffering through discouraging the use of such traps and devices, but in a manner which shall not prejudice the right of private landowners to protect private property or domestic animals against damage and depradation.

The steel jaw leg hold trap is the device that causes the most concern for me and others concerned with the mistreatment of animals. This device, the most widely used trap in the United States, was developed in the 1820's. The leg-hold trap is designed to capture and hold an animal until the trapper arrives to kill it.

Two factors make leg-hold traps work. First, the jaws of the trap close quickly in order to prevent the animal from removing its foot and escaping. Second, the traps must have sufficient resistance to prying so the animal cannot spread the jaws and free itself.

In time the leg of the animal caught in a steel jaw trap may become numb from loss of blood circulation. When first captured, however, the animal is subject to intense agony. Even after the blood circulation has been slowed, there will be intermittent periods of pain and numbness as long as the trap remains locked around the animal's leg.

As painful as the leg-hold trap is in its clamping and holding action, its greatest cruelty lies in the fact that the trapped animal is held fast for hours, perhaps even days, before being killed or released, or dying slowly on its own.

The animal's initial reaction to trapping often will be repeated attempts to bite or pull the affected limb free, resulting in torn ligaments and flesh, broken teeth, and other injuries. In many instances, animals will chew off their legs in order to escape. Known as "wring-offs" the wounded escapees are easy prey for other animals. Those that avoid predators face a slow death from gangrene, shock, loss of blood, and infection.

The suffering of trapped animals is not confined to furbearers; the steel jaw does not discriminate. Dogs, cats, birds, deer, domestic stock, and even endangered species are being caught and killed in these devices. The Canadian Government has reported that the number of unwanted birds and mammals "accidently" caught in leg-hold traps is twice the catch of target animals.

Trapping is primarily conducted by amateurs who are interested in recreation or a source of supplemental income. According to Argus Archives, a publication on humane issues, the single great-

est portion of trappers in the United States consists of high school students. Only 1 percent of all trappers can be classified as experienced professionals. Thus, for the most part trapping is a hobby, for weekend sportsmen whose traps are left unattended during much of the week, and for children who are unlikely to check their lines during the inclement weather which usually accompanies trapping seasons.

It is recognized that a market for wild animal pelts does exist, and that it would not be possible for the United States to ban leg-hold traps unless inexpensive, alternative traps are available. There are commercially available traps capable of less painfully capturing or instantaneously killing animals. For instance, the Conibear series of traps is competitive with leg-hold and other traps, but their purpose and design are radically different from those of the leg-hold; the Conibear is designed to kill an animal instantly by breaking its back or neck.

The feasibility of banning leg-hold traps is already well established. The States of Florida and Hawaii have taken such action and in New Jersey and Alabama the use of leg-hold traps is so restricted as to require an almost total dependence on instant kill and humane capture devices. In addition, several other States have considered similar legislation in recent years.

While there has not been enough experience to fully evaluate the impact of such laws in the United States, other countries provide us with ample evidence that wildlife management programs will not be significantly retarded by passage of this legislation. Eleven countries prohibit the use of leg-hold traps, including England, West Germany, Chile, and Denmark.

More humane trapping methods can and must be adopted. For too long government and wildlife management agencies have ignored and evaded the question of humane trapping. It is time to begin to promote the development and use of painless, selective methods of wildlife control and leave behind the antiquated methods of the past.

The bill I am introducing today is very similar to H.R. 5292 introduced by Congressman GLENN ANDERSON of California and sponsored by 75 of his colleagues.

The bill would establish an advisory commission of seven members appointed by the Chairman of the Council on Environmental Quality to advise the Secretary of Interior with respect to regulations promulgated under this act. Such regulations shall prescribe acceptable methods of trapping and shall designate the specific traps designed to capture in the most humane manner possible.

In addition to establishing national trapping standards, the bill has several other provisions:

First, only acceptable means of trapping as prescribed by the Secretary and the Advisory Board would be allowed on Federal lands.

Second, the bill would prohibit the interstate commerce of unapproved traps.

Third, it would prohibit the interstate commerce of products taken from animals captured with unapproved traps.

Fourth, this legislation would require that a trap must be checked once every 24 hours and that identification markings appear on each one. I include the visitation provision because my own State of Indiana and 21 other States require it. Also 27 States require the name, address, and phone number of the trapper to be clearly indicated on the trapping device.

Fifth, each trapper will be required to take and pass a proficiency test in order to obtain a permit to trap. The opponents of trapping legislation have always maintained that when trapping is carried out by knowledgeable people who practice the correct methods of trapping, the animals do not suffer for prolonged periods. Inexperienced occasional trappers are the culprits. The addition of this section will insure that trappers will know good trapping techniques and rules and regulations governing the sport. Persons under 16 years of age would have to be accompanied by an adult with such a permit when they trap.

The sixth provision of my bill would assist the States in complying with the requirements of the act and to prohibit any Federal agency from engaging in any Federal or State program which encourages the trapping or capturing of wild mammals or birds for recreational or commercial purposes.

Seventh, I propose that $500,000 be appropriated for research into trapping. Opinions as to the best trapping methods are numerous and varied. Even though the trapping industry is hundreds of years old, very little research has been done to ascertain the best methods.

An issue which always arises when trapping is discussed is the right of the States to govern their own wildlife. I would point out that Congress has seen fit to protect animals in the past with such legislation as the Endangered Species Act and the Animal Welfare Act and I believe it is only consistent that Congress make clear that in a civilized society such as ours only humane methods of trapping should be tolerated.

Many will think we have gone too far in regulating this activity, others will think that we have not done enough. I believe that this bill is a fair compromise. Trapping will continue, but only under the most humane methods possible.

I hope, Mr. President, the Senate will be willing to act soon on this basic, but too long neglected, issue.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress finds and declares that vast numbers of wild and domestic mammals and birds, including family pets and valuable hunting dogs, are needlessly maimed and exposed to prolonged and painful suffering through the use of steel leghold traps, and other painful, sublethal devices used to trap or otherwise capture mammals and birds. It is the policy of Congress to prevent this unnecessary suffering through discouraging the use of such traps and devices, but in a manner which shall not prejudice the right of private landowners to protect private property, or domestic animals on private property, against damage and depredation.

SEC. 2. As used in this Act, the term—

(1) "trap" means any trap, snare, net, or other device designed to trap or capture any mammal or bird;

(2) "approved trap" means the most humane capture method available for any species as determined by the Secretary's review of trapping, research data, demonstrating that the device causes the minimum of pain and distress;

(3) "person" means any individual, partnership, association, corporation, or other entity; and

(4) "interstate or foreign commerce" shall have the same meaning as that provided under section 10 of title 18, United States Code.

SEC. 3. (a)(1) As soon as practicable following the date of the enactment of this Act, but in no event later than one hundred and twenty days following such date, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall, in consultation with the affected heads of other departments and agencies of the United States, issue, and revise from time to time, regulations relating to the trapping and capturing of mammals and birds thereon. Such regulations shall prescribe acceptable means and methods for trapping and capturing mammals and birds on the Federal lands in a humane manner. Such regulations shall contain standards and criteria setting forth the type of trap determined by the Secretary to be the most humane capture method available, and which, to the extent practicable, minimizes the possibility of trapping mammals and birds not intended for capture. Regulations promulgated pursuant to this section shall be published in the Federal Register. The Secretary is authorized to conduct such tests as may be necessary to enable him to carry out his duties under this Act.

(2) Any person violating any such regulation shall be fined not more than $500 or imprisoned not more than one year, or both.

(b)(1) An advisory commission of seven members shall be appointed by the Chairman of the Council on Environmental Quality, to consult with, and to advise and make recommendations to, the Secretary with respect to traps designed or intended for use in trapping or capturing mammals or birds, including regulations of the Secretary. The commission shall further supervise any and all tests carried out pursuant to subsection (a) of this section.

(2) Members of such commission shall receive no compensation as such for their service as members of the commission but may be reimbursed for expenses actually incurred by them in the performance of their duties under this Act.

SEC. 4. (a)(1) Any person engaged in the trapping or capturing of mammals and birds on Federal lands is required to pass a proficiency test to obtain a permit for such activities.

(2) Persons under the age of 16 years are prohibited from the trapping or capturing of mammals and birds on Federal lands unless accompanied by an adult who has obtained a permit for such activity.

(b) Whoever sells, ships, transports, or carriers, or causes to be sold, shipped, transported, or carried, in interstate or foreign commerce, any trap designed or intended for use in trapping or capturing mammals or birds, or both, which is not an approved trap, shall be fined not more than $5,000 or imprisoned not more than one year, or both;

and such trap shall be forfeited to the United States.

(c)(1) Interstate or foreign shipment of any hide, skin, or feathers taken from a mammal or bird which has been captured on any lands with a trap other than an approved trap, or any product made from such hide, skin, or feathers, shall be prohibited. The Secretary of the Interior shall publish regulations for the enforcement of this subsection. Any person violating the regulations of this subsection shall be fined not more than $5,000 or imprisoned not more than one year, or both; and such hides, skins, feathers, or products thereof shall be forfeited to the United States.

(d) Whoever, upon any of the Federal lands, places or causes to be placed any trap other than an approved trap for the purpose of trapping or otherwise capturing any mammal or bird, or who, having so placed or caused to be so placed an approved trap, fails to inspect and empty such trap or fails to cause such trap to be inspected or emptied according to regulations promulgated by the Secretary of the Interior, shall be fined not more than $5,000 or imprisoned not more than one year, or both; and such trap shall be forfeited to the United States. The Secretary of the Interior shall publish regulations for the enforcement of this subsection. Such regulation shall designate the minimum period during which devices for trapping and capturing animals and birds are to be inspected and emptied. In any event, the goal of the Secretary is to provide for inspection and clearance of trapping and capturing devices at least once per 24-hour period in those areas designated by the Secretary. Such regulations shall designate that each device for trapping or capturing of wildlife be clearly marked with the name, address, and phone number of the person owning the device. Such regulations shall provide for reporting the number of all wildlife trapped or captured by species, including those nontarget species not retained for use.

SEC. 5. In any violation of subsection (d) of section 4 of this Act involving the placing or causing to be placed of any trap other than an approved trap upon any of the Federal lands, the appropriate Secretary shall, with respect to any person so convicted of such violation, immediately take such action as may be necessary to suspend, revoke, or otherwise terminate any lease, license, contract, permit, or other agreement involved in or connected with such violation, between such person and the United States.

SEC. 6. (a) On and after the effective date of this section, no action involving the trapping or capturing of animals and birds shall be carried out on ony Federal lands unless such action is (1) otherwise authorized by or pursuant to any Federal law, (2) carried out in accordance with a program or activity conducted or supervised by Federal or State personnel, designed for the purpose of conserving or controlling, predatory or other wild animals or birds, (3) carried out by means of an approved trap, and (4) in compliance with regulations promulgated pursuant to sections 3 and 4 of this Act.

(b) Any person violating this section shall be fined not more than $5,000 or imprisoned not more than one year, or both.

SEC. 7. On and after the effective date of this section, no Federal agency shall (1) engage in any program or activity which aids, subsidizes, or encourages the trapping or capturing of wild mammals or birds for recreational or commercial purposes, or (2) assist, financially or otherwise, any State or political subdivision thereof in connection with any program or activity of that State or subdivision involving the trapping or capturing of wild mammals or birds for recreational or commercial purposes.

SEC. 8. Notwithstanding the provisions of section 7 of this Act, the Secretary is authorized to enter into cooperative agreements with any affected State or political subdivision of a State pursuant to which the Secretary shall be authorized to assist such State or subdivision financially or otherwise to enable it to comply with the requirements of this Act. Such financial assistance may be provided in such amounts, in such manner, and subject to such conditions as the Secretary may prescribe.

SEC. 9. (a) Subsection (a) of section 4, sections 5 and 6, regulations promulgated by the Secretary pursuant to sections 3 and 4 shall take effect upon the expiration of the one-hundred-and-eighty-day period following the date of the enactment of this Act.

(b) Subsections (b), (c)(1), and (d) of section 4 shall take effect upon the expiration of the twenty-four-month period following the date of the enactment of this Act.

SEC. 10. The Attorney General of the United States is authorized to pay any individual an amount not to exceed $10,000 for information and services furnished by such individual concerning any violation of this Act. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this section.

SEC. 11. There are authorized to be appropriated such sums as may be necessary to carry out the foregoing provisions of this Act.

SEC. 12. There is authorized to be appropriated to the Secretary of the Interior the sum of $500,000 for use by him in conducting research into the development of methods of instant killing, completely painless restraint, or other humane means of capture or control, of wild mammals and birds, and to evaluate existing methods of such capture and control.

By Mr. MAGNUSON (for himself and Mr. HOLLINGS):

S. 2224. A bill to establish a national ocean policy, to set forth the missions of the National Oceanic and Atmospheric Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MAGNUSON. Mr. President, I introduce for appropriate referral a bill to establish a national ocean policy, to set forth emissions of the National Oceanic and Atmospheric Administration, and for other purposes.

This proposed legislation is best described as an "organic act" for the National Oceanic and Atmospheric Administration (NOAA), an agency which is located in the Department of Commerce. NOAA was created by Reorganization Plan No. 4 of 1970. Pursuant to the provisions of chapter 9 of title V of the United States Code, which then applied but are no longer in effect, President Nixon submitted to the Congress a reorganization plan that brought together a number of the many separate ocean-related agencies and functions of the Federal Government. This "umbrella" unit, the National Oceanic and Atmospheric Administration, was similar to the agency recommended by the Stratton Commission in its report entitled "Our Nation and the Sea." In 1969, the Commission had recommended a separate, independent National Oceanic and Atmospheric Agency, but political exigency resulted in the location of NOAA in the Department of Commerce.

As a result of this very terse statement of reorganization, concern about gaps in the basic authority of NOAA, such as the ability to purchase property on its own behalf, has plagued the Agency since its creation. Therefore, I believe there is a need to establish a single, comprehensive statute from which the National Oceanic and Atmospheric Administration can derive basic authority for its operations, together with the various specific legislative enactments concerning NOAA.

The idea of an organic act is one of several generated by the Senate's national ocean policy study. The Department of Commerce is currently undertaking preparatory work for a new Presidential oceans initiative, which we expect will be forthcoming early next year. In addition, the President's reorganization effort is underway and NOAA is one of those units being considered for a further reshuffling of Federal agencies. Finally, those of us concerned about ocean policy here in the Senate believe that it is time that we undertook a major reassessment of our Nation's ocean policy and, in particular, the status and health of our chief civilian oceans agency, NOAA. One of the vehicles we can use to express our views on this matter is an organic act similar to that which I am introducing today.

However, at the outset I would like to state clearly that our intention in the legislation I am introducing today is simply to create a comprehessive law which brings together all the basic and routine authorities that the National Oceanic and Atmospheric Administration now has, or should have, and only those authorities. Otherwise, the agency must rely on special ad hoc enactments of authority for other lesser entities which are now under its umbrella. The formulation of national ocean policy has long suffered from the disparate processes, fractionalization, and duplication of effort throughout our Government. It has been my experience that the creation of a strong agency with responsibility for ocean policy matters is the most effective way to get those matters addressed. Otherwise, the natural agency bickering and competition can result in disfunctional policy—which does not benefit our Nation at all.

Finally, I would like to reiterate that this proposal is simply the beginning of our effort of NOAA oversight, and considerable refinement is necessary before this legislation could be presented to the President for his signature. We intend no disruption of the efforts of the administration to analyze reorganization in the Government. But we believe, however, that NOAA needs an organic act, as every other agency in this Government now possesses, in order to carry out its policymaking functions more effectively.

Mr. President, I ask unanimous consent that the bill be printed at the point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Oceanic and Atmospheric Administration Organic Act".

TITLE I—DECLARATION OF A NATIONAL OCEAN POLICY

SEC. 101. DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds and declares the following:

(1) The oceans and their coastal margins are of enormous value to the United States and to the world because of the availability of ocean and coastal resources, the capacity of the ocean for transporting commerce, the relationship between the oceans and weather systems, the need for national security; the necessity of protecting the environment, as well as other significant uses of the ocean.

(2) The oceans and coastal resources could, through the development and wise application of management skills, science and technology, and effective policy, satisfy many human needs and contribute to national and international goals and aspirations.

(3) Marine science activities and oceanic affairs are being conducted by twenty-one organizations in six departments and five agencies, which results in inadequate cooperation and coordination of national programs and plans.

(4) Most civilian ocean, coastal, and atmospheric programs and functions of the Federal Government should be the responsibility of a single lead agency with adequate authority and resources to develop and carry out sound national policies for such activities.

(5) The ocean and coastal activities, programs, and functions of the Federal Government should be conducted so as to contribute materially to one or more of the following objectives:

(A) The enhanced management, conservation, protection, development, and utilization of ocean and coastal resources.

(B) Protection of the ocean and coastal environment, and the prevention, control, and reduction of pollution.

(C) The wise management of marine fisheries and development of the Nation's commercial and recreational fishing industries.

(D) The expansion of knowledge of the ocean and coastal environment, its processes, and the effects of man-induced changes upon that environment.

(E) Close consultation and cooperation with State and local governments in dealing with problems associated with coastal zone management.

(F) Providing quality oceanic and atmospheric services to all user groups efficiently and economically.

(G) The establishment of a Federal policy-making process which avoids duplication of effort and insures cooperation among all interested Federal agencies.

(H) Wide dissemination of information about the ocean, its resources and coastal margins through advisory services, education, and public information.

(I) Advancement of education and training in marine science and technology, ocean policy, and other specialized areas relating to ocean management or development.

(J) Cooperation by the United States with other nations and groups of nations and international organizations in ocean policy when deemed to be in the interest of the Nation.

(K) The strengthening of national well-being and security.

(b) PURPOSES.—It is therefore declared to be the purpose of the Congress in this Act—

(1) to set forth a clear statement of national objectives in regard to the ocean and the Nation's coastal margin;

(2) to designate the National Oceanic and Atmospheric Administration as the lead civilian agency with responsibility for coordinating and carrying out national ocean policy in order to improve the understanding, assessment, development, utilization, conservation, and protection of ocean and coastal resources, and the atmosphere.

(c) POLICY.—It is further declared to be the policy of the Congress in this Act that—

(1) the Federal Government, in cooperation with State and local governments, foreign states, and public, private, and international organizations, utilize its capabilities to create and maintain conditions under which ocean and coastal, and the atmosphere resources may be utilized without harming the environment so as to fulfill the needs of present and future generations.

(2) the ocean and coastal resources within the sovereign jurisdiction of the United States, being common property resources, are held in trust by the Federal Government for the benefit of all the citizens of the United States;

(3) Federal programs which relate directly or indirectly to the allocation, use, management, conservation, protection, or enhancement of ocean and coastal resources, and the atmosphere must be consistent with one another in application, and coordination and cooperation among administering agencies is vital;

(4) the national interest will be best realized if the ocean and coastal resources and the marine environment are periodically and systematically inventoried and assessed and their present and future uses projected through a scientific planning process; and

(5) results of civilian and unclassified military atmospheric and oceanographic research and technology, which is supported by Federal grants, loans, or contracts, should be made promptly available to other Federal agencies, State and local governments, and the private sector in a manner which will hasten and promote the utilization of such knowledge and technology for the benefit of the United States.

SEC. 102. DEFINITIONS.

Without altering in any way the meaning of the following terms as used in any other statute (whether or not such statute is referred to in, or amended by, this Act), as used in this Act, unless the context otherwise requires:

(1) The term "activities, programs, and functions" means all responsibilities for the administration of laws and programs assigned to the National Oceanic and Atmospheric Administration by statute, reorganization plan, delegation, or by this Act.

(2) The term "Administration" means the National Oceanic and Atmospheric Administration.

(3) The term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

(4) The term "coastal environment" means the coastal zone as defined in section 304(2) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(a)).

(5) The term "coastal resource" means any living, nonliving, or manmade resource of, or any other tangible or intangible, actual or potential, resource located in, derived from, or traceable to, the coastal environment. Such term includes the habitat of any such living resources, the coastal space, the ecosystems, the nutrient-rich areas, and the other components of the coastal environment which contribute to or provide (or which are capable of contributing to or providing) recreational, scenic, esthetic, historic, cultural, ecological, habitational, commercial, economic, or conservation values. Living resources include natural and cultural plant life, fish, shellfish, marine mammals, and wildlife. Nonliving resources include energy sources, minerals, and chemical substances.

(6) The term "marine environment" means the coastal environment, the seabed, subsoil, and waters of the territorial sea of the United States; the waters of the fisheries conservation zone of the United States; the waters of the high seas; and the seabed and subsoil of and beyond the Outer Continental Shelf.

(7) The term "ocean resource" means the marine environment and any living, nonliving, or manmade resource of, or any other tangible or intangible, actual or potential, resource located in, derived from, or traceable to, the marine environment. Such term includes the habitat of any such living resources, the coastal space, the ecosystems, the nutrient-rich areas, and other components of the marine environment which contribute to or provide (or which are capable of contributing to or providing) recreational, scenic, esthetic, historical, cultural, ecological, habitational, commercial, economic, or conservation values. Living resources include natural and cultural plantlife, fish, shellfish, marine mammals, and wildlife. Nonliving resources include energy sources, minerals, and chemical substances.

(8) The term "Secretary" means the Secretary of Commerce.

TITLE II—THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SEC. 201. ESTABLISHMENT.

There is hereby established in the Department of Commerce an agency which shall be known as the National Oceanic and Atmospheric Administration.

SEC. 202. OFFICERS.

(a) ADMINISTRATOR.—There shall be at the head of the Administration an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level III of the Executive Pay Rates (5 U.S.C. 5314). The Administrator shall have a broad background, professional knowledge, and substantial experience in ocean or atmospheric affairs, including, but not limited to, any field relating to marine or atmospheric science and technology, biological sciences, engineering, as well as education, economics, government affairs, planning, law, or international affairs.

(b) DEPUTY ADMINISTRATOR.—There shall be in the Administration a Deputy Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315). The Deputy Administrator shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

(c) ASSOCIATE ADMINISTRATOR.—There shall be in the Administration an Associate Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for level IV of the Executive Pay Rates (6 U.S.C. 5315). The Associate Administrator shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator and Deputy Administrator.

(d) ASSISTANT ADMINISTRATOR FOR COASTAL ZONE MANAGEMENT.—There shall be in the Administration an Assistant Administrator for Coastal Zone Management who shall be appointed by the President by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5316). Such assistant administrator shall be an individual who is, by reason of background and experience, especially qualified to direct the implementation and administration of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(e) ADDITIONAL ASSISTANT ADMINISTRATORS.—There shall be in the Administration four additional Assistant Administrators who shall perform such functions as the Administrator shall from time to time assign or delegate. Each such Assistant Administrator shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate now or hereafter provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(f) GENERAL COUNSEL.—There shall be in the Administration a General Counsel appointed by the President, by and with the advice and consent of the Senate, who shall be compensated at the rate now or hereafter provided for level V of the Executive Pay Rates (5 U.S.C. 5316). The General Counsel shall serve as the chief legal officer for all legal matters which may arise in connection with the conduct of the functions of the Administration.

(g) COMMISSIONED OFFICERS.—(1) The President may appoint in the Administration, by and with the advice and consent of the Senate, two commissioned officers to serve at any one time as the designated heads of two principal constituent organizational entities of the Administration, or the President may designate one such officer as the head of such an organizational entity and the other as the head of the commissioned corps of the Administration. Any such designation shall create a vacancy on the active list and the officer while serving under this subsection shall have the rank, pay, and allowances of a rear admiral (upper half).

(2) Any commissioned officer of the Administration who has served under subsection (c) or paragraph (1) and is retired while so serving or is retired after the completion of such service while serving in a lower rank or grade, shall be retired with the rank, pay, and allowances authorized by law for the highest grade and rank held by him; but any such officer, upon termination of his appointment in a rank above that of captain, shall, unless appointed or assigned to some other position for which a higher rank or grade is provided, revert to the grade and number he would have occupied had he not served in a rank above that of captain and such officer shall be an extra number in that grade.

SEC. 203. TRANSFERS TO THE ADMINISTRATOR

The following are hereby transferred to the Administrator:

(a) All functions vested by law in the Bureau of Commercial Fisheries of the Department of the Interior or in its head, together with all functions vested by law in the Secretary of the Interior of the Department of the Interior which are administered through that Bureau or are primarily related to the Bureau, exclusive of functions with respect to (1) Great Lakes fishery research and activities related to the Great Lakes Fisheries Commission, (2) Missouri River Reservoir research, (3) the Gulf Breeze Biological Laboratory of the said Bureau at Gulf Breeze, Florida, and (4) Trans-Alaska pipeline investigations.

(b) The functions vested in the Secretary of the Interior by the Act of September 22, 1959 (Public Law 86–359, 73 Stat. 642, 16 U.S.C. 760e–760g; relating to migratory marine species of game fish).

(c) The functions vested by law in the Secretary of the Interior, or in the Department of the Interior or in any officer or instrumentality of that Department, which are administered through the Marine Minerals Technology Center of the Bureau of Mines.

(d) All functions vested in the National Science Foundation by the National Sea Grant College and Program Act of 1966 (80 Stat. 908), as amended (33 U.S.C. 1121 et seq.).

(e) Those functions vested in the Secretary of Defense or in any officer, employee, or organizational entity of the Department of Defense by the provision of Public Law 91–144, (83 Stat. 326), under the heading "Operation and maintenance, general" with respect to "surveys and charting of northern and northwestern lakes and connecting waters," or by other law, which come under the mission assigned as of July 1, 1969, to the United States Army Engineer District, Lake Survey, Corps of Engineers, Department of the Army and relate to (1) the conduct of hydrographic surveys of the Great Lakes and their outflow rivers, Lake Champlain, New York State Barge Canals, and the Minnesota-Ontario border lakes, and the compilation and publication of navigation charts, including recreational aspects, and the Great Lakes Pilot for the benefit and use of the public, (2) the conception, planning, and conduct of basic research and development in the fields of water motion, water characteristics, water quantity, and ice and snow, and (3) the publication of data and the results of research projects in forms useful to the Corps of Engineers and the public, and the operation of a Regional Data Center for the collection, coordination, analysis, and the furnishing to interested agencies of data relating to water resources of the Great Lakes.

(f) So much of the functions of the transferor officers and agencies referred to in or affected by the foregoing provisions of this section as is incidental to or necessary for the performance by the Administrator of the functions transferred by those provisions or relates primarily to those functions. The transfers to the Administrator made by this section shall be deemed to include the transfer of authority, provided by law, to prescribe regulations relating primarily to the transferred functions.

SEC. 204. RESPONSIBILITIES OF THE ADMINISTRATOR.

The responsibilities of the Administrator shall include, but are not limited to—

(1) such functions, powers, and duties as are transferred to him under section 203;

(2) activities, programs, and functions relating to ocean and atmospheric monitoring and prediction, weather forecasting, and storm warnings, pursuant to chapter 9 of title 15, United States Code;

(3) administering all activities, programs, and functions assigned to the Administration;

(4) providing charts for the safety of marine and air navigation, a network of geodetic control, and observe, chart, and measure the marine environment and ocean resources;

(5) preparing and maintaining on a continuing basis an inventory of ocean and coastal resources;

(6) undertaking a program of ocean and atmosphere research and development;

(7) collecting and disseminating information relating to the oceans and the atmosphere, and their use and protection, to all interested parties;

(8) undertaking activities involving the integration of domestic and international policy relating to the oceans and the atmosphere, including the provision of technical advice to the President on international negotiations involving ocean resources, ocean technologies, and climate matters;

(9) assure incorporation of national environmental goals in the formulation and implementation of ocean and atmospheric programs;

(10) provide for, encourage, and assist public participation in the development and implementation of ocean and atmospheric programs;

(11) environmental research and development activities that are necessary to advance the Nation's ocean engineering and technology expertise, including the development and operation of manned research submersibles, underwater laboratories, data buoys, and improved instruments and calibration methods, and the advancement of undersea diving techniques;

(12) encouraging progress in ocean engineering activities, in order to implement a wide ranging program to meet basic ocean engineering needs;

(13) developing and improving geodetic and mapping methods and studies of geophysical phenomena such as crustal movement, earth tides, and the circulation of water in estuarine and coastal waters;

(14) collecting, analyzing, and disseminating environmental data, in support of environmental research and development, including data in the field of climatology, oceanography, geology, geophysics, and solar-terrestrial relationships; and

(15) administering satellite systems, with cooperation of the National Aeronautics and Space Administration, that can monitor global and regional atmospheric weather conditions and related oceanic, solar, hydrological, and other environmental conditions, collect information required for research on weather, climate, and related environmental matters, and monitor the extent of man-induced changes in the lower and upper atmosphere and the related environment.

SEC. 205. GENERAL POWERS.

(a) PERSONNEL AND SERVICES.—The Administrator is authorized—

(1) in addition to the officers provided for by section 202, and subject to the applicable provisions of title 5, United States Code, governing classification and general schedule pay rates, to select, appoint, employ, and fix the compensation of such other assistant administrators, officers, and employees, including attorneys, as are necessary to perform the functions now or hereafter vested in him and to prescribe their powers and duties;

(2) to obtain expert and consultant services as provided by section 3109 of title 5 of the United States Code;

(3) to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5 of the United State Code;

(4) to utilize, on a reimbursable basis, the services of any personnel made available by any department, agency, or instrumentality, including any independent agency of the Government;

(5) to establish advisory boards, in accordance with the provisions of the Federal Advisory Committee Act (Public Law 92–463), to advise with and make recommendations to the Administrator on legislation, policies, administration, research and other matters;

(6) to employ persons who are not citizens of the United States in expert, scientific, technical, or professional capacities whenever he deems it in the public interest; and

(7) notwithstanding any other provisions of this Act, including paragraph (1) of this subsection, to establish and fix the compensation for eight new positions within the Administration without regard to the competitive provisions of chapter 51 of title 5, United States Code, at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title. Any persons appointed to such positions shall serve at the pleasure of the Administrator. Positions authorized by this paragraph shall be in addition to the number of positions otherwise authorized by law.

(b) FACILITIES.—Except for public buildings as defined in the Public Buildings Act of 1959, as amended, and with respect to leased space subject to the provisions of Reorganization Plan Numbered 18 of 1950, the Administrator is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain facilities and real property as the Administrator deems to be necessary in

and outside of the District of Columbia. Such authority shall apply only to facilities required for the maintenance and operation of laboratories, research and testing sites and facilities, quarters, and related accommodations for employees and dependents of employees of the Administration, and such other special-purpose real property as the Administrator deems to be necessary in and outside the District of Columbia. Title to any property or interest therein, real, personal, or mixed, acquired pursuant to this section, shall be in the United States.

(c) EMPLOYEE SERVICES.—(1) The Administrator is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

(A) Emergency medical services and supplies.

(B) Food and other subsistence supplies.

(C) Messing facilities.

(D) Audiovisual equipment, accessories, and supplies for recreation and training.

(E) Reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons.

(F) Living and working quarters and facilities.

(G) Transportation for school-age dependents of employees to the nearest appropriate educational facilities.

(2) The furnishing of medical treatment under subparagraph (A) of paragraph (1) and the furnishing of services and supplies under paragraphs (B) and (C) of paragraph (1) shall be at prices reflecting reasonable value as determined by the Administrator.

(3) Proceeds derived from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Administrator to pay directly the cost of such work or services, to repay or make advances to appropriations or funds which do or will bear all or a part of such cost, or to refund excess sums when necessary; except that such payments may be credited to a service or working capital fund otherwise established by law, and used under the law governing such funds, if the fund is available for use by the Administrator for performing the work or services for which payment is received.

(d) COPYRIGHTS AND PATENTS.—The Administrator is authorized to acquire any of the following described rights if the property acquired thereby is for use in, or is useful to, the performance of functions vested in him:

(1) Copyrights, patents, and applications for patents, designs, processes, specifications, and data.

(2) Licenses under copyrights, patents, and applications for patents.

(3) Releases, before suit is brought, for past infringement of patents or copyrights.

(e) GIFTS AND BEQUESTS.—The Administrator is authorized to accept, hold, administer, and utilize gifts, and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Administration. Gifts and bequests of money and proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Administrator. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift or bequest to the United States.

SEC. 206. WORKING CAPITAL FUND.

(a) ESTABLISHMENT.—There is hereby established a working capital fund (hereinafter referred to as the "fund") for the purpose of carrying out the activities of the National Oceanic and Atmospheric Administration. This fund shall be available without fiscal year limitation for expenses necessary for furnishing, in accordance with the Federal Property and Administrative Services Act of 1949 (63 Stat. 377, as amended), and regulations promulgated thereunder, supplies and equipment services in support of the activities of the Administration, including but not limited to, the purchase or construction of facilities, equipment, and services within the limitations set forth in appropriations made for the Administration.

(b) CONTENTS.—(1) The initial capital of the fund shall consist of appropriations made for the purposes specified in subsection (a) together with the fair and reasonable value at the fund's inception of the inventories, equipment, receivables and other assets, less liabilities, transferred to the fund. The Secretary is authorized to make such subsequent transfers to the fund as may be deemed appropriate in connection with the activities to be carried on through the fund.

(2) The fund shall be credited with payments from appropriations and funds of the Administration, other agencies of the Department of Commerce, other Federal agencies, and other sources, as authorized by law, at rates approximately equal to the cost of furnishing the facilities, supplies, equipment, and services (including depreciation and accrued annual leave). Such payments may be made in advance in connection with firm orders, or by way of reimbursement.

SEC. 207. STUDIES, COOPERATIVE AGREEMENTS, AND CONTRIBUTIONS.

(a) IN GENERAL.—The Secretary may conduct such activities, including investigations, studies, and experiments, as may be necessary within the Administration, in cooperation with other Federal agencies or other persons for the purpose of complying with the requirements of this Act.

(b) COOPERATIVE ARRANGEMENTS.—Subject to the provisions of applicable law, the Secretary may enter into contracts and cooperative agreements involving the activities of the Administration as authorized by law.

SEC. 208. RULES AND REGULATIONS.

The Secretary, with respect to the activities of the Administration, shall promulgate rules and regulations to carry out the purposes of this Act. The promulgation of such rules and regulations shall be governed by the provisions of chapter 5 of title 5, United States Code.

SEC. 209. ANNUAL REPORT.

(a) The Secretary shall submit to the President a report each year which shall include but not be limited to—

(1) a comprehensive description of the ocean programs and the accomplishment of all agencies and departments of the United States;

(2) an evaluation of such ocean programs and accomplishments in terms of the objectives set forth in the Program and Statement of Policy provided for in sections 302 and 303 of this Act, respectively;

(3) an analysis of the Federal budget allocated to ocean programs including estimates of the funding requirements of each such agency or department for ocean programs during the succeeding fiscal year; and

(4) recommendations for legislation that is necessary or desirable for the attainment of the objectives set forth in the Program and Statement of Policy provided for in sections 302 and 303 of this Act respectively.

(b) The President shall transmit the annual report pursuant to this section to the Speaker of the House of Representatives and the President of the Senate not later than December 31 of each calendar year.

(c) Each Federal agency and department shall cooperate by providing such data and information without cost as may be requested by the Secretary for the purpose of this section. Each Federal agency and department shall provide services and personnel on a cost reimbursable basis at the request of the Secretary for the purpose of accomplishing the requirements of this section.

SEC. 210. AUTHORIZATION OF APPROPRIATION.

(a) IN GENERAL.—There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act. After October 1, 1978, no sums shall be appropriated to carry out any activity, program, or function under this or any other Act unless—

(1) such sums are specifically authorized to be appropriated as of the date of the enactment of this Act; or

(2) are authorized to be appropriated in accordance with subsection (b).

(b) BIANNUAL AUTHORIZATION.—Consistent with section 607 of the Congressional Budget Act of 1974 (31 U.S.C. 1301) and beginning May 15, 1978, the Secretary shall submit to the Speaker of the House of Representatives and the President of the Senate a request for the authorization of funds for all activities, programs, and functions of the Administration for the 2 fiscal years beginning October 1, 1979, and shall submit similar requests every 2 years after such date.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. TRANSFERS.

All personnel, positions, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions specified by the Reorganization Plan Number 4 (84 Stat. 2090), or subsequent delegations by the Secretary of Commerce, are hereby transferred to the Administration established by this Act. The personnel transferred under this subsection shall be so transferred without reduction in classification or compensation except, that after such transfer, such personnel shall be subject to reductions in classifications or compensation in the same manner, to the same extent, and according to the same procedure as other employees of the United States classified and compensated according to the General Schedule in title 5, United States Code.

SEC. 302. INTERIM APPOINTMENTS.

In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act, the President may designate any officer, whose appointment was required to be made, by and with the advice and consent of the Senate, and who was such an officer immediately prior to the effective date of the Act, to act in such office until the office is filled as provided in this Act. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

SEC. 303. SAVINGS PROVISIONS.

(a) CONTINUE EFFECT.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Administration after the date of enactment of this Act, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Administrator or other authorized officials, a court of competent jurisdiction, or by operation of law.

(b) PENDING ACTIONS.—(1) The provisions of this Act shall not affect any proceedings

or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) the Administrator is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Administration.

(c) EFFECTS ON SUITS.—Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) ABATEMENT.—(1) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(2) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Administrator or any other official, then such suit shall be continued with the Administrator or other official, as the case may be, substituted.

SEC. 304. SEVERABILITY.

If any provision of the Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 305. CONFORMING AMENDMENTS.

(a) Title I of the Marine Resources and Engineering Development Act of 1966 (80 Stat. 203) is hereby repealed.

(b) Reorganization Plan Numbered 4 of October 3, 1970 (84 Stat. 2090) is hereby superseded.

(c) Section 5316 of title 5, United States Code, is amended by striking "associate" in paragraph 140 and inserting "assistant" in lieu thereof.

(d) Section 1511a of title 15, United States Code, is deleted.

SEC. 306. SUNSET PROVISIONS.

(a) COMPREHENSIVE REVIEW.—Not later than May 15, 1979, and every 5 years thereafter, the President shall prepare and submit to the Congress a comprehensive review of each program of the Administration. Each such review shall be made available to the committee or committees of the Senate and House of Representatives having jurisdiction with respect to the annual authorization of funds for each program for the fiscal year beginning October 1, 1979.

(b) DETAIL.—Each comprehensive review prepared for submission under subsection (a) shall include—

(1) the name of the component of the Administration responsible for administering the program;

(2) an identification of the objectives intended for the program and the problem or need which the program was intended to address;

(3) an identification of any other programs having similar or potentially conflicting or duplicative objectives;

(4) an assessment of alternative methods of achieving the purposes of the program;

(5) a justification for the authorization of new budget authority, and an explanation of the manner in which it conforms to and integrates with other efforts;

(6) an assessment of the degree to which the original objectives of the program have been achieved, expressed in terms of the performance, impact, or accomplishments of the program and of the problem or need which it was intended to address, and employing the procedures or methods of analysis appropriate to the type or character of the program;

(7) a statement of the performance and accomplishments of the program in each of the previous four completed fiscal years and of the budgetary costs incurred in the operation of the program;

(8) a statement of the number and types of beneficiaries or persons served by the program;

(9) an assessment of the effect of the program on the national economy, including, but not limited to, the effects on competition, economic stability, employment, unemployment, productivity, and price inflation, including costs to consumers and to businesses;

(10) an assessment of the impact of the program on the Nation's health and safety;

(11) an assessment of the degree to which the overall administration of the program, as expressed in the rules, regulations, orders, standards, criteria, and decisions of the officers executing the program, are believed to meet the objectives of the Congress in establishing the program;

(12) a projection of the anticipated needs for accomplishing the objectives of the program, including an estimate if applicable of the date on which, and the conditions under which, the program may fulfill such objectives;

(13) an analysis of the services which could be provided and performance which could be achieved if the program were continued at a level less than, equal to, or greater than the existing level; and

(14) recommendations for necessary transitional requirements in the event that funding for such program is discontinued, including proposals for such executives or legislative action as may be necessary to prevent such discontinuation from being unduly disruptive.

SEC. 307. SUNSHINE IN GOVERNMENT.

(a) CONFLICTS.—Each officer or employee of the Administrator who—

(1) performs any function or duty under this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit, lease, right-of-way, or contract under, or (B) applies for or acquires any land or interests therein under, or (C) is otherwise subject to the provisions of, this Act,

shall, beginning on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) DEFINITIONS.—The Administrator shall—

(1) act within 90 days after the date of enactment of this Act—

(A) to define the term "known financial interests" for the purposes of susection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) EXEMPTIONS.—In the rules prescribed in subsection (b) of this section, the Administrator may identify specific positions within the Administration which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) PENALTY.—Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than $2,500 or imprisoned not more than 1 year, or both.

By Mr. MAGNUSON:

S. 2225. A bill to amend the Coastal Zone Management Act of 1972 in order to define the meaning of official State policy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MAGNUSON. Mr. President, I introduce for appropriate referral a bill to amend the Coastal Zone Management Act of 1972. The purpose of the bill is to clarify the meaning of the act as to what constitutes State policy under section 306, governing management programs which may be approved by the Secretary of Commerce.

Throughout the act, reference is made to the "states" as the entity of concern in the various requirements and procedures of the statute. For instance, section 306 (c) sets forth the requirement that—

The Secretary shall find that: (1) The state has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary.

However, other provisions refer to the Governor of the State. Section 306(c)(4), which states that the management program and any changes thereto must be reviewed and approved by the Governor of the State, is an example. As a result there is uncertainty as to what in fact may constitute official State policy in a management program and, therefore, what ought to be approved by the Secretary of Commerce under section 306 and made binding on Federal agencies through the "consistency" clause found in section 307(c)(3). If the legislative language is not clarified, the Department of Commerce may end up refereeing disputes between Governors and State legislatures ad infinitum.

The amendment I propose in this bill would require that management plans constitute official State policy, as evidenced by law, or regulation, as appropriate under the laws of the State involved.

I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 306(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455(c)) is amended by adding the following new paragraph at the end thereof:

"(10) For any management program, or any amendment to any approved management program, submitted after November 1, 1977, the contents of the management program constitutes official state policy as evidence by the laws of the coastal state involved.".

SEC. 2. The first sentence of section 306(g) of the Coastal Zone Management Act (16 U.S.C. 1455) is amended by deleting the words "required procedures described" and inserting in lieu thereof the words "requirements set forth".

SEC. 3. Section 5(b) of Public Law 95–136 is amended—

(1) by inserting the word "such" after the words "terminal, dock, or other"; and

(2) by striking the period at the end thereof and inserting the words "or Oregon.".

By Mr. BAYH:

S. 2226. A bill to authorize a national policy and program with respect to wild predatory mammals; to prohibit the poisoning of mammals and birds on the public lands of the United States; to regulate the manufacture, sale, and possession of certain chemical toxicants, and for other purposes; to the Committee on Environment and Public Works.

Mr. BAYH. Mr. President, today I am introducing the Antipoisoning Act of 1977. The problem of animal poisoning continues to be very important, and I believe that prompt enactment of legislation is imperative.

Mr. President, my bill has three main purposes. First, to outlaw the manufacture, sale or use of particularly toxic poisons; second, to prohibit the routine use of poisoning on Federal lands; and third, to encourage the development of alternative methods of predator control, as well as their utilization by individual States. There would be exceptions to the poisoning prohibition on Federal lands, but any use of poison would require a detailed written justification by the Secretary of Agriculture or the Secretary of the Interior, following ample opportunity for public discussion.

Proposals to terminate poisoning programs on public lands have aroused highly emotional debate during the past few years—debate intensified by the lack of hard facts. Unfortunately, there are still no detailed statistics on the extent of domestic animal losses due to predation; nor is there clean information on the effectiveness of various predator control techniques—including poisons.

We know that the use of indiscriminate poisons has led to the death of many nontargeted animals and has disrupted the predation cycle more than is necessary. The fact that many of the poisons are not biodegradable is most disturbing, as it raises the probability that large amounts of the poisons have been accumulating in our water supplies and can eventually affect humans. In short, it is clear that past programs are unsatisfactory.

History suggests there is a clear consensus in favor of finding alternatives to poisoning. In 1972 a bill to establish alternative methods of predator control passed the House of Representatives. Two days of hearings were held on the bill I introduced that year, though no action was taken.

Also in 1972, the President issued Executive Order 11643 restricting the use of chemical toxicants for predator control on Federal lands and in Federal programs to certified emergency situations. The Environmental Protection Agency issued suspension and cancellation notices for the registration of all products containing cyanide, strychnine, and sodium monofluoracetate-1080. All uses of thallium sulfate, a rodenticide widely misused for predator control, were prohibited at the same time. The order was based primarily on evidence that the use of these pesticides posed an imminent hazard to nontargeted animals as well as humans. The availability of nonchemical alternatives for predator control and the lack of evidence that these poisons actually reduced livestock losses to predators were also important considerations.

Although I commended these steps at the time, I also believe that such fundamental protections require the authority and permanence of law. Executive and agency orders are repealed too easily. This was the case in July 1975, when President Ford issued an Executive order to modify the original Nixon order of 1972. The use of sodium cyanide on Federal lands was allowed without the requirement of finding that an emergency existed.

On May 28, 1976, despite the pleas from environmentalists, the use of sodium cyanide was permanently authorized. In December of 1976 President Ford was urged by the acting Secretary of Agriculture and livestock and ranching interests to lift the ban on the use of the powerful poisons. President Ford then directed that the 1972 Executive order be reexamined. The Administrator of the Environmental Protection Agency, numerous environmentalists and scientists protested against lifting the ban. Fortunately, the President decided against taking any further action.

However, the ban could have been easily lifted. For that reason, I believe it is doubly important to have the ban become a permanent part of the law. I hope Congress will act promptly to prevent by statute the use of poisons that adulterate our environment.

The bill I am introducing today has been modified to reflect the most recent information available.

Under the provisions of my proposal, a public hearing would be required before the emergency use of poisons is permitted on public lands. Poisons would be allowed only in instances where their use is necessary to protect human health or safety; to preserve one or more wildlife species threatened with extinction; or to prevent substantial irretrievable damage to nationally significant natural resources.

Further, the bill authorized the Environmental Protection Agency to purchase from producers the compounds and chemicals banned under the bill. Under FIFRA—Federal Insecticide, Fungicide, and Rodenticide Act—the Agency is required to pay indemnities to producers who suffer losses as a result of the cancellation of the registration of their products. The parallel section of my bill is designed to serve as an indemnity payment mechanism at the same time that it removes excess stocks of the pesticides from the market. Since registration for these poisons has already been canceled under FIFRA, indemnities presumably have been paid where necessary. However, rather than run the risk of working a financial hardship on any producer, the authorization for payment should be established while recognizing that any actual expense would be minimal.

As to the larger question of whether a statutory prohibition on the manufacture or use of these poisons for predator control is necessary, I believe that my bill will make congressional intent clearer than previous administrative actions to those who wish to use poisons on private lands and to those who request special permission for a "limited emergency" poisoning program. A statutory ban will also encourage more research in alternative predator control techniques, since it would put to rest any lingering hopes that the Environmental Protection Agency might repeal its order at some future date. Since it now seems highly unlikely that the Environmental Protection Agency will, in fact, rescind its order, we can end fruitless speculation on this point and move more effectively to other means of predator control by enacting this bill.

I believe that though the Federal Government should continue to help fund research and to establish uniform standards for State predator control programs, we should also terminate the Federal role in the operation and funding of predator control programs over a reasonable period of time. The time period established in my bill is 3 years. This is important since, in view of the Government's past willingness to protect livestock on public lands, we bear a responsibility to livestock producers to help them find effective alternatives to poisoning. Finally, my bill authorizes $4 million to be spent for the first year of the program.

Mr. President, I hope that my colleagues will support my efforts to permanently halt the indiscriminate poisoning on our public lands.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antipoisoning Act of 1977", and that it is the policy of Congress

to recognize that the wolf, the coyote, the mountain lion, the lynx, the bobcat, the several species of bear, and other large, wild carnivores native to North America and commonly known as predatory mammals are among the wildlife resources of interest and value to the people of the United States.

DEFINITIONS

SEC. 2. For purposes of this Act—

(a) "public lands" means all publicly owned lands of the United States;

(b) the term "person" means any individual, organization, or association, including any department, agency, or instrumentality of the Federal Government, a State government, or a political subdivision thereof;

(c) the term "State" means the several States of the Union, Puerto Rico, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the District of Columbia, but shall not include any political subdivision of the foregoing entities;

(d) the term "chemical toxicant" means any chemical substance which, when ingested, inhaled, or absorbed, or when applied to, or injected into the body, in relatively small amounts, by its chemical action may cause significant bodily malfunction, injury, illness, or death to animals or man;

(e) the term "predatory animal" means any mammal, bird, or reptile which habitually preys upon other animals;

(f) the term "depredating animals" means any nonpredatory mammal or reptile causing damage to agriculture crops or natural resources;

(g) the term "secondary poisoning effect" means the result attributable to a chemical toxicant which, after being ingested, inhaled, or absorbed by or into, or when applied to or injected into a mammal, bird, or reptile, is retained in its tissue, or otherwise retained in such a manner and quantity that the tissue itself or retaining part if thereafter ingested by man or another mammal, bird, or reptile, produces the effects set forth in subsection (d) hereof; and

(h) the term "field use" means any use on lands not in or immediately adjacent to occupied buildings.

PUBLIC LANDS

SEC. 3. (a) Except as provided in subsection (b) of this section, no person shall—

(1) make field use of any chemical toxicant on any Federal lands for the purpose of killing predatory animals; or

(2) make field use on such lands of any chemical toxicant which causes any secondary poisoning effect for the purpose of killing other mammals, birds, or reptiles.

(b) In any specific instance where either the Secretary of the Interior or the Secretary of Agriculture believes, because of unusual and extraordinary circumstances, that it is imperative to use poisons on public lands for animal control, he shall place a Notice of Intention in the Federal Register at least sixty days prior to the proposed beginning of the program and shall give a public hearing to anyone who wishes to protest the poisoning; the program shall not be begun until a review of the protest is made by the Secretary of the Interior or Secretary of Agriculture, as the case may be, and a detailed explanation of the need of the program is placed in the Federal Register. The use of poison under such a program must be essential—

(1) to the protection of human health or safety;

(2) to the preservation of one or more wildlife species threatened with extinction or likely within the foreseeable future to become so threatened; or

(3) to the prevention of substantial irretrievable damage to nationally significant natural resources.

(c) In such emergencies, in the absence of an approved program for control of predatory and depredating animals for the State in question, the Secretary of the Interior is authorized to provide technical assistance to a State agency, or to direct Federal personnel to oversee the emergency program.

(d) Any person, including officials, employees, and agents of the United States or any State, who violates the provisions of this section shall, upon conviction for the first offense, be subject to a fine not to exceed $500 or imprisonment not to exceed six months, or both; upon conviction of a second or subsequent offense, violators shall be subject to a fine not to exceed $10,000, or imprisonment not to exceed twelve months, or both.

(e) There are hereby authorized to be appropriated for the purposes of this section not to exceed $400,000 for each fiscal year occurring after fiscal year 1977.

ALTERNATIVE METHODS OF PREDATOR CONTROL

SEC. 4. (a) In order to assist the States in controlling damage caused by predatory and depredating animals and in order to encourage the use by States of methods which are consistent with accepted principles of wildlife management and the maintenance of environmental quality, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to conduct directly or by agreement with qualified agencies or institutions, public and private, a program of research which shall concern the control and conservation of predatory and depredating animals and the abatement of damage caused by such animals. Research objectives, and the program of research authorized by this subsection, shall be developed by the Secretary in cooperation with each of the affected States.

(b) The program of research authorized by subsection (a) hereof shall include, but need not be limited to—

(1) the testing of methods used for the control of predator and depredating animals and the abatement of damage caused by such animals;

(2) the development of effective methods for predator control and the abatement of damage caused by predatory and depredating animals which contribute to the maintenance of environmental quality and which conserve, to the greatest degree possible, the Nation's wildlife resources, including predatory animals;

(3) a continuing inventory, in cooperation with the States, of the Nation's predatory animals, and the identification of those species which are or may become threatened with extinction; and

(4) the development of means by which to disseminate to States the findings of studies conducted pursuant to this section.

(c) The Secretary is authorized to conduct such demonstrations of methods developed pursuant to subsection (b) and to provide such other extension services, including training of State personnel, as may be reasonably requested by the duly authorized wildlife agency of any State.

(d) There are hereby authorized to be appropriated for the purposes of this section not to exceed $600,000 for each fiscal year occurring after fiscal year 1977.

SEC. 5. (a) In furtherance of the purposes of this Act, the Secretary is authorized to provide in the three fiscal years following enactment financial assistance to any State which may annually propose to administer a program for the control of predatory and depredating animals. To qualify for assistance under this section, any such State program must be found by the Secretary to meet such standards as he may, by regulation, establish except that—

(1) the Secretary shall not approve any such State program which entails the field use of chemical toxicants for the purpose of killing predatory animals or the field use of any chemical toxicant which causes any secondary poisoning effect for the purposes of killing other mammals, birds, or reptiles; and

(2) the Secretary may approve a temporary State program which entails such emergency use of chemical toxicants as he may authorize, in each specific case, for the protection of human health or safety; the preservation of one or more wildlife species threatened with extinction or likely within the foreseeable future to become so threatened, or for the prevention of substantial irretrievable damage to nationally significant natural resources. Such approval will not be made until in each specific case he makes a written finding, following consultation with the Secretaries of the Interior, Agriculture, and Health, Education, and Welfare, and Administrator of the Environmental Protection Agency, that an emergency exists that cannot be dealt with by any means which do not involve the use of chemical toxicants. Prior to his decision to approve or disapprove, the Secretary shall publish notice in the Federal Register of each proposed emergency use being considered under this section. Such notice shall invite the submission from interested parties, within thirty days after the date of notice, of written data and/or views with respect to the proposed emergency use.

(b) An annual payment under subsection (a) hereof may be made to any State in such amount as the Secretary may determine except that—

(1) no such annual payment shall exceed an amount equal to 75 per centum in the first year, 50 per centum in the second year, or 25 per centum in the third year, of the cost of the program approved under subsection (a) hereof;

(2) no such annual payment to any State shall exceed $300,000 in the first fiscal year following enactment, $200,000 in the third fiscal year following enactment;

(3) no payment otherwise authorized by this section shall be made to a State whose share, in whole or part, of the cost of the program approved under subsection (a) hereof is to be paid from funds not appropriated by its legislature; and

(4) not more than 10 per centum of the State share may be from funds derived from sale of hunting, fishing, and trapping licenses or permits.

(c) There is hereby authorized to be appropriated for the purposes of this section $3,000,000 in fiscal year 1978, $2,000,000 in fiscal year 1979, and $1,000,000 in fiscal year 1980.

CONTROL OF POISONS

SEC. 6. (a) It shall be unlawful to manufacture, distribute, offer for sale, hold for sale, sell, ship, deliver for shipment, deliver, receive or use any compound of thallium sulfate, sodium cyanide, strychnine, or sodium monofluoracetate for field use in predator control programs.

(b) In addition to existing authority under the Federal Insecticide, Fungicide, and Rodenticide Act, the Environmental Protection Agency shall establish a system of recordkeeping and licensing to record the possession and use of all compounds and chemicals encompassed in subsection (a).

(c) The Environmental Protection Agency is authorized to purchase the compounds and chemicals in section (a) from any persons who possess them upon enactment of this Act but whose continued possession becomes unlawful under the Act or regulations issued thereunder.

(d) Any person convicted of any violation of subsection (a), or of any regulation promulgated thereunder, shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

SEC. 7. Heads of Federal departments, agencies, or establishments are hereby authorized

to issue such regulations as may be necessary to carry out the purposes of this Act.

SEC. 8. There is hereby repealed in its entirety the Act of March 2, 1931 (7 U.S.C. 426–426(b)), pertaining to the eradication and control of predatory and other wild animals.

SEC. 9. Nothing in this Act shall be construed as superseding or limiting the authorities and responsibilities of the Administrator of the Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

SEC. 10. Except as otherwise provided in sections 3, 4, and 6 hereof, there is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. HARRY F. BYRD, JR. (for himself and Mr. DOLE):

S. 2227. A bill to postpone the effective date of the carryover basis provisions of the Internal Revenue Code of 1954; and

S. 2228. A bill to amend the Internal Revenue Code of 1954 to make certain changes in the estate and gift tax provisions amended or added by the Tax Reform Act of 1976; to the Committee on Finance.

Mr. HARRY F. BYRD. JR. Mr. President, today, I, along with Senator DOLE of Kansas, am introducing S. 2227, and S. 2228. These measures are designed to provide immediate relief for pressing problems in the estate tax law created by the 1976 Tax Reform Act.

In 1976, the Congress enacted a so-called Tax Reform Act.

I refer to the act as so-called tax reform because not only did it make extensive revisions in our tax laws, but it also greatly increased the complexity of these laws. In fact, it has been estimated that the complexity of our tax code was doubled by the 1976 act.

In the estate tax field, Congress adopted a carryover basis concept for assets transferred by a decedent. This was a radical departure from previous law and, for the first time, introduced an income tax component into the taxation of estates. This is because, under the old law, assets were "stepped up" to their fair market value at death, and no income tax on their appreciation to the date of death was incurred.

The carryover basis provisions of the 1976 law were based upon the theory that a decedent, by dying, opened a loophole in the tax law which should be closed. That theory is, indeed, a most unusual one.

This radical change in our tax law was never considered by the Senate either in Finance Committee hearings and deliberations on tax reform or by the Senate when the tax reform bill came before it for consideration.

It, instead, was drafted by the conference committee between the House and the Senate and then sent back to both bodies for approval. Neither the Senate nor the House had considered this part of the legislation prior to the conference report.

With this background, it is my hope that both the House and the Senate will have the opportunity to reconsider and return to the estate tax law which existed prior to the enactment of the carryover basis part of the law. It is my understanding that the House Ways and Means Committee has already held hearings on this question and is prepared to take action in the early part of next year on the question of the outright repeal of carryover basis.

Also, the distinguished Senator from Nebraska, Senator CURTIS, has introduced legislation in the Senate for the repeal of the carryover basis portion of the estate tax law.

I am in support of his legislation and hope that it will be quickly enacted by the Congress.

However, I am also mindful that there is a need for immediate attention to some very pressing problems associated with the estate tax law as enacted in 1976.

First, there is a need to simplify the amazing complexity of the law.

For example, in proposing the carryover basis provisions, the House Ways and Means Committee recognized that to have these provisions retroactively applied to assets held before December 31, 1976, would be inequitable. To correct this problem the law was designed to provide for a so-called fresh start and give assets a basis equivalent to their value as of December 31, 1976.

While in theory such a fresh-start concept may seem possible, in practice the concept has proved to be a nightmare for taxpayers and fiduciaries handling estates. For assets which are not marketable securities, four complex calculations are required to establish a fresh start basis.

Furthermore, under the fresh-start rule, taxpayers who own nonmarketable securities and real estate are treated unfairly as compared to taxpayers who own assets with an established market value as of December 31, 1976.

Not only is the law complex, it also does not conform to other parts of the estate tax law designed to provide for estate tax relief for middle-income taxpayers. For the estate tax, the 1976 law provided for a phased-in exemption, in the form of a credit, which would equal $47,000 by 1981. The equivalent exemption would be $175,000.

While increasing the estate tax exemption to help to reduce the estate tax burden on many estates, these very estates would still be covered under the carryover basis rules for income tax purposes.

The carryover basis provisions, as they now stand, create many inequities, particularly for small businesses when the principal owner dies. At a time when liquidity is needed to pay estate taxes, these estates are confronted with a double tax, an income tax as well as an estate tax.

I am convinced that the difficulties associated with carryover basis must be addressed as quickly as possible. There is a need for greater simplicity, uniformity, and equity in the current estate tax law.

S. 2227 meets with this need directly by postponing the effective date for carryover basis until December 31, 1978. This delay will permit Congress to study the problems associated with carryover basis and develop a simpler approach to carryover basis.

S. 2228 deals with the present law and seeks to make it more workable.

It contains amendments relating to the carryover basis provisions, inclusion of transfers made within 3 years of death for estate tax purposes, the special estate tax valuation rules for farms and other closely held businesses, the allowance of a decedent's unused net operating and capital loss carryovers to an estate, the treatment of redemptions of closely held stock to pay death taxes and the extended payment rules for estate with a closely held business.

I feel that S. 2228 should be introduced at this time so that full hearings may be held and a record made on it as quickly as possible. However, I frankly feel that S. 2227 is preferable to S. 2228.

I am pleased to be associated with Senator DOLE in presenting this legislation.

The following is a section-by-section analysis of S. 2228 which I read into the RECORD, at this point.

SECTION-BY-SECTION ANALYSIS

Section 1 provides that the act may be cited as the "Estate and Gift Tax Amendments Act of 1977."

Section 2 provides that, unless otherwise indicated, an amendment or repeal of a section or other provision is in reference to a section or other provision of the Internal Revenue Code of 1954.

Section 3(a) provides an exception from the definition of carryover basis property for property reflecting adjusted basis of property held on December 31, 1976. The "fresh start" basis adjustment for property held on December 31, 1976, is repealed.

Section 3(b) increases the $60,000 minimum basis adjustment to conform to the exemption equivalent of the unified estate and gift tax credit. The applicable amount is to be reduced by the fair market value of any property eligible for the "grandfather" exception added by section 3(a) of the bill. The applicable amount is $120,000 for 1977, $134,000 for 1978, $147,000 for 1979, $161,000 for 1980, and $175,000 for 1981 and succeeding years.

Section 3(c)(1) provides for a single basis adjustment for death taxes attributable to appreciation of carryover basis property included in the gross estate for Federal estate tax purposes.

Ssection 3(c)(2) provides for making the basis adjustment for death taxes attributable to appreciation at the marginal estate tax rate. Similar changes are made for death taxes attributable to income in respect of a decedent and for gift taxes attributable to the appreciation of gift property.

Section 3(c)(3) provides that the basis adjustment for death taxes attributable to appreciation is to be allocated to all appreciated carryover basis property—including property passing to a surviving spouse or a charity.

Section 3(d) provides that the minimum basis adjustment is to be made before the adjustment for death taxes attributable to appreciation.

Section 3(e) makes conforming amendments.

Section 3(f)(1) provides that the executor is not required to file a carry-

over basis information return, or to furnish a statement to the beneficiaries receiving the property, if the decedent's gross estate is less than the exemption equivalent for the unified estate and gift tax credit. The exception would apply if the decedent's gross estate were less than $120,000 in the case of a decedent dying in 1977. This amount is phased in to $175,000 for 1981 and succeeding years.

Section 3(f)(2) provides that art work inherited from the creator is to be treated as a capital asset.

Section 3(f)(3) provides that crops and livestock which are carryover basis property are to be treated as capital assets.

Section 4 provides that the gross estate includes gift taxes paid and life insurance contracts transferred within 3 years of death. All other transfers within 3 years of death are not included in the gross estate under code section 2035.

Section 5 provides that eligibility for estate tax special valuation for farm and closely held business real property is not to be lost because of the material participation requirements if the decedent or the surviving spouse had materially participated in the operations of the farm or business for 20 years. Recapture of the estate tax savings would not result from the operation by an agent if the qualified heir is a minor, a student, a handicapped person, or a surviving spouse who had attained age 62.

Section 6 provides that the estate succeeds to the decedent's unused net operating or capital loss carryovers.

Section 7(a) provides that the capital gains treatment for redemptions of stock of a closely held business is extended to cover the income taxes attributable to redemptions to pay death taxes.

Section 7(b) provides that capital gains treatment for redemptions to pay death taxes is to apply if the value of the stock included in the gross estate is more than 35 percent of the value of the gross estate or 50 percent of the gross estate reduced by debts and administration expenses.

Section 8 provides that the definition of a closely held business is to be the same for purposes of sections 6166 and 6166A—relating to extensions of time for payment of estate tax attributable to a closely held business.

Section 9 provides that the amendments are to be effective with respect to decedents dying after December 31, 1976.

Mr. DOLE. Mr. President the bills introduced today seek to restore congressional intent in providing estate tax relief to small businessmen and farmers. The estate tax revisions passed last year in the Tax Reform Act have severely complicated estate tax calculations and in some cases, caused an economic hardship on many estates and beneficiaries.

PRIOR LAW

Under prior law, the cost or other basis of the property acquired from a decedent was "stepped-up" to its fair market value at the date of death. Section 2005 of the Tax Reform Act of 1976 added section 1023 to the Internal Revenue Code. Simply stated, that section provides that with certain modification, a decedent's predeath Federal income tax basis will now carry over to his estate and ultimately to the beneficiary irrespective of the value reflected in his Federal income tax return.

The Senator from Kansas is pleased to have the distinguished senior Senator from Virginia join in helping solve the tax problems caused by section 2005 of the Tax Reform Act of 1976.

KANSAS SURVEY

The new law is riddled with transitional rules. It is complicated and very difficult to understand—even for a qualified attorney or certified public accountant. Several months ago I sent a letter to Kansas attorneys and certified public accountants requesting their opinions and insights on a number of tax matters.

There was almost complete agreement among the respondents that the carryover basis provisions are arbitrary, inequitable, and that enormous costs are involved to comply with the law.

COMPLEX COMPLICATIONS

Mr. President, the population affected by the provision, in many instances cannot afford the legal specialists to interpret the law. In some cases, it can take hours of research and calculations to determine the basis of a single asset.

The calculations to be made are incredible. Even after the basis is established the new law provides for four possible adjustments to basis. Each adjustment turns on calculations made in the preceding adjustment.

The adjustments must be made with respect to each asset. Even a modest estate will have a number of different assets. Moreover, there may not be one but several bases for a single asset since the adjustments in value are made only for the purpose of determining gain, not loss.

NO SENATE CONSIDERATION

Mr. President, the Senate in passing the estate tax reforms last year did not adequately consider the changes in carryover basis. When the Senate voted for final passage of the tax legislation in August 1976, there were only a few estate tax modifications in the bill. The Senate conferees accepted, as a substitute for its version, sweeping changes initiated by the House Ways and Means Committee. Hence, when the Senate voted on the conference report, it voted on broad, far-reaching changes never considered in either the Finance Committee or on the floor of the Senate.

Mr. President, this lack of consideration is apparent. The bills introduced today by the Senator from Kansas and the Senator from Virginia would ease the incredible nightmare caused by carryover basis.

LAW UNWORKABLE

The carryover basis provision raises many complex issues the resolution of which will require considerable study. I believe the present law is essentially unworkable. Hearings held by the Subcommittee on Taxation and Debt Management have established, as public record, the inordinate technical and practical difficulties involved.

2-YEAR DEFERRAL

Mr. President, the first bill introduced today would defer for 2 years the enactment of carryover basis. This is the most desirable of the two bills introduced today.

There have been reports that the administration's forthcoming tax reform proposals may include a recommendation to replace the carryover basis provisions with rules making death a recognition event for income tax purposes. If such a proposal is enacted within the next year or two, the enormously complex machinery of carryover basis would be operational only for a relatively brief time. This situation would be highly disruptive and wasteful of the resources of taxpayers, their representatives, and those responsible for administering and enforcing the internal revenue laws.

The second bill, is an alternative to the two deferral proposal. In the event that deferral of carryover basis cannot be obtained, then Congress must act to fill the holes in the present law. Since hearings have been scheduled next week, I believe that the Finance Committee should have both measures before them.

Mr. President, the second bill essentially provides that the basis of all property held on December 31, 1976 shall be determined under the old law. In addition, the minimum basis for assets is stepped up from the present $60,000 to a level equal to the $175,000 estate tax credit.

I ask unanimous consent that the bills be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Paragraphs (1) and (2) of section 2005(f) of the Tax Reform Act of 1976 (relating to effective dates for carryover basis) are amended by striking out "1976" each place it appears and inserting in lieu thereof "1978".

S. 2228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 2. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 3. AMENDMENTS RELATING TO CARRYOVER BASIS FOR CERTAIN PROPERTY.

(a) Carryover Basis Property Not to Include Property Reflecting Adjusted Basis of Property Held on December 31, 1976.—

(1) In general.—Section 1023(b)(2) (relating to the definition of carryover basis property) is amended—

(A) by striking out "and" at the end of subparagraph (E);

(B) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(G) except as provided in paragraph (4), any other property the adjusted basis of which immediately before the death of the

decedent reflects the adjusted basis of any property on December 31, 1976.".

(2) Improvements to property reflecting an adjusted basis on December 31, 1976.—Section 1023(b) (relating to definition of carryover basis property) is amended by adding at the end thereof the following new paragraph:

"(4) Substantial improvements.—Under regulations prescribed by the Secretary, if there is a substantial improvement of any property, such substantial improvement shall be treated as a separate property for purposes of paragraph (2)(G). Similar rules shall apply with respect to transfers to a corporation, partnership, or trust."

(3) Technical, clarifying, and conforming changes.—Section 1023 (relating to carryover basis for certain property acquired from a decedent dying after December 31, 1976) is amended by striking out subsection (h).

(b) Increase in Minimum Bases of Carryover Basis Property.—Section 1023(d) (relating to $60,000 minimum for bases of carryover basis properties) is amended to read as follows:

"(d) Minimum Bases of Carryover Basis Properties.—

"(1) In general.—If the applicable amount determined under paragraph (2) exceeds the aggregate bases of all carryover basis property, the basis of each appreciated carryover basis property (or, under regulations prescribed by the Secretary, each class of appreciated carryover basis property) shall be increased by an amount which bears the same ratio to the amount of such excess as—

"(A) the net appreciation in value of such property (or class), bears to

"(B) the net appreciation in value of all such property.

"(2) Applicable amount.—

"(A) For purposes of paragraph (1), the applicable amount shall be the amount by which $175,000 exceeds the fair market value of all property which is not treated as carryover basis property solely by reason of subsection (b)(2)(G).

"(B) In the case of a decedent dying before 1981, subparagraph (A) shall be applied—

"(i) in the case of a decedent dying during 1977, by substituting '$120,000' for '$175,000',

"(ii) in the case of a decedent dying during 1978, by substituting '$134,000' for '$175,000',

"(iii) in the case of a decedent dying during 1979, by substituting '$147,000' for '$175,000', and

"(iv) in the case of a decedent dying during 1980, by substituting '$161,000' for '$175,000'.

"(3) Special rule for personal or household effect.—For purposes of paragraph (1), the basis of any property which is a personal or household effect shall be treated as not greater than the fair market value of such property.

"(4) Nonresident not citizen.—This subsection shall not apply to any carryover basis property acquired from any decedent who was (at the time of his death) a nonresident not a citizen of the United States.".

(c) Adjustment to Basis for Death Taxes Attributable to Appreciation.—

(1) Single death tax adjustment.—

(A) Section 1023(c) (relating to increase in basis for Federal and State estate taxes attributable to appreciation) is amended to read as follows:

"(c) Increase in Basis for Death Taxes.—The basis of each appreciated carryover basis property or, under regulations prescribed by the Secretary, each class of appreciated carryover basis property (determined after any adjustment under subsection (d)) which is included in the gross estate for purposes of chapter 11, in the hands of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the Federal and State estate taxes attributable to appreciation as—

"(1) the net appreciation in value of such property or class of property, bears to

"(2) the net appreciation in value of all such property.".

(B) Section 1023 (relating to carryover basis for certain property acquired from a decedent dying after December 31, 1976) is amended by striking out subsection (e) and redesignating subsections (f), (g) and (i) as subsections (e), (f) and (g), respectively.

(2) Basis adjustment and deduction from income in respect of a decedent to be determined at marginal rates.—

(A) Paragraph (3) of section 1023(e) (as redesignated by section 3(c)(1)(B)) is amended to read as follows:

"(3) Federal and State estate taxes attributable to appreciation.—For purposes of subsection (c), the term 'Federal and State estate taxes attributable to appreciation' means—

"(A) the excess of the tax imposed by section 2001 or 2101, reduced by the credits against such tax except the credit allowable under section 2011, over such tax reduced by such credits determined without including the net appreciation with respect to appreciated carryover basis property, and

"(B) If the amount of estate, inheritance, legacy, or succession taxes actually paid to any State or the District of Columbia exceeds the credit allowable under section 2011, an amount which bears the same ratio to such excess as—

"(i) the amount determined under subparagraph (A), bears to

"(ii) the tax imposed by section 2001 or 2101, reduced by the credits against such tax except the credit allowable under section 2011.".

(B) Amendments relating to section 691.—

(i) Section 691(c)(2)(A) (relating to deduction for estate tax in case of income in respect of decedent) is amended to read as follows:

"(A) The term 'estate tax' means—

"(i) the tax imposed by section 2001 or 2101, reduced by the credits against such tax, and

"(ii) any estate, inheritance, legacy or succession taxes, for which the estate is liable, actually paid by the estate to any State or the District of Columbia."

(ii) Section 691(c)(2)(C) is amended to read as follows:

"(C) The estate tax attributable to such net value shall be an amount equal to the excess of

"(i) the estate tax computed without including the net appreciation with respect to appreciated carryover basis property, over

(ii) the estate tax computed without including in the gross estate the sum of such net value and the net appreciation with respect to appreciated carryover basis property."

(C) Amendment relating to section 1015—

(i) Section 1015(d)(6)(A) (relating to basis increase for gift tax paid) is amended to read as follows:

"(A) In general.—In the case of any gift made after December 31, 1976, the increase in the basis provided by this subsection with respect to any gift tax paid under chapter 12 shall be an amount equal to the excess of the gift tax for the calendar quarter over such gift tax computed without regard to the net appreciation in value of the gift."

(ii) Section 1015(d)(6) is amended by adding the following at the end thereof:

"(C) State gift tax.—Under regulations prescribed by the Secretary, an adjustment to basis for any gift tax paid to a State or the District of Columbia shall be made in accordance with the principles of this paragraph."

(3) Basis adjustment at marginal rate to be made for all appreciated property.—Subsection (e) of section 1023 (as redesignated by section 3(c)(1)(B) is amended by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

(d) Minimum Basis Adjustment to be Made Before Death Tax Adjustment.—Paragraph (2) of section 1023(e) (as redesignated by section 3(c)(1)(B)) is amended to read as follows:

"(2) Net appreciation.—For purposes of subsection (d), the net appreciation in value of any property is the amount by which the fair market value of such property exceeds the adjusted basis of such property immediately before the death of the decedent. For purposes of subsection (c) such adjusted basis shall be increased by the amount of any adjustment under subsection (d)."

(e) Conforming amendments.—

(1) Paragraph (1) of section 1023(e) (as redesignated by section 3(c)(1)(B)) is amended by striking out ", (d), and (e)" in the heading and text and inserting in lieu thereof "and (d)".

(2) Paragraph (4) of section 1023(f) (as redesignated by section 3(c)(1)(B)) is amended by striking out ", (d), and (e)" and nserting in lieu thereof "and (d)".

(f) Other amendments relating to carryover basis.—

(1) Information reporting—Section 6039A (relating to information regarding carryover basis property) is amended by adding at the end thereof the following:

"(c) Exception.—

"(1) This section shall not apply where the gross estate at the death of the decedent is less than $175,000.

"(2) In the case of a decedent dying before 1981, paragraph (1) shall be applied—

"(A) in the case of a decedent dying during 1977, by substituting '$120,000' for '$175,000',

"(B) in the case of a decedent dying during 1978, by substituting '$134,000' for '$175,000',

"(C) in the case of a decedent dying during 1979, by substituting '$147,000' for '$175,000', and

"(D) in the case of a decedent dying during 1980, by substituting '$161,000' for '$175,000'."

(2) Artists, etc.—Subparagraph (C) of section 1221(3) (relating to definition of a capital asset) is amended by inserting "(other than under section 1023 (relating to carryover basis))" after "the basis of such property is determined".

(3) Crops and livestock.—

(A) Section 1221(1) (relating to the definition of a capital asset) is amended by inserting "(other than crops or animals whose basis is determined under section 1023 (relating to carryover basis))" after "trade or business";

(B) Paragraph (3) of section 1231(b) (relating to definition of property used in the trade or business) is amended by adding the following at the end thereof: "The 24-month and 12-month holding periods under subparagraph (A) and (B) shall not apply in the case of property whose basis is determined under section 1023 (relating to carryover basis)".

(4) Automatic long-term status for gain and losses on carryover basis property.—Subparagraph (A) of section 1223(1) (relating to holding period) is amended by inserting "or 1023" after "section 1014".

SEC. 4. EXCLUSION FROM GROSS ESTATE OF GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) In General.—Section 2035 (relating to adjustments for gifts made within 3 years of decedent's death) is amended to read as follows:

"SEC. 2035. ADJUSTMENTS FOR TAX ON GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

"The amount of the gross estate (determined without regard to this section) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse after December 31, 1976, and during the 3-year period ending on the date of the decedent's death.".

(b) Life Estate.—Section 2036(a) (relating to transfers with retained life estate) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, a decedent shall be considered to have possessed at his death a retained estate if at any time after December 31, 1976, and during the three-year period ending on the date of decedent's death, the decedent possessed such estate.".

(c) Life Insurance.—Section 2042(2) (relating to proceeds of life insurance) is amended by adding at the end thereof the following new sentence: "For purposes of the first sentence of this paragraph, a decedent shall be considered to have possessed at his death incidents of ownership of any policy of insurance on the life of the decedent if at any time after December 31, 1976, and during the 3-year period ending on the date of the decedent's death, the decedent possessed such incidents of ownership.".

(d) Conforming Amendment.—

(1) The table of sections for part II of subchapter A of chapter 11 is amended by striking out the item relating to section 2035 and inserting in lieu thereof the following new item:

"SEC. 2035. ADJUSTMENTS FOR TAX ON GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.".

(2) Section 1023(b)(2)(D) (relating to certain property not carryover basis property) is amended by striking out "2035, 2038," and inserting in lieu thereof "2038".

(3 Section 2041 (relating to powers of appointment) is amended—

(A) by striking out "2035" in paragraph (1)(B) and (2) of subsection (a) and inserting in lieu thereof "2036", and

(B) by striking out "2035, 2036," in subsection (a)(3) and inserting in lieu thereof "2036".

(4) Section 2043 (relating to transfers for insufficient consideration) is amended by striking out "2035" and inserting in lieu thereof "2036".

(5) Section 2044 (relating to prior interests) is amended by striking out "2034" and inserting in lieu thereof "2034 and 2036".

(6) Section 2107 (relating to expatriation to avoid tax) is amended by striking out "2035" and inserting in lieu thereof "2036".

(7) Section 2602(e) (relating to amount of tax on generation-skipping transfers) is amended by inserting ", as in effect on the day before the date of the enactment of the Estate and Gift Tax Amendments Act of 1977," and after "2035".

(8) Section 6324(a)(2) (relating to special liens for estate and gift taxes) is amended by striking out "2034" and inserting in lieu thereof "2034 and 2036".

SEC. 5. CHANGES IN MATERIAL PARTICIPATION REQUIREMENT FOR SPECIAL USE VALUATION OF CERTAIN FARM AND OTHER REAL PROPERTY.

(a) Section 2032A(b)(1) (relating to qualified real property) is amended by adding at the end thereof the following sentence: "For purposes of this paragraph, the material participation requirement of subparagraph (C)(ii) shall be deemed to be met if there was material participation by the decedent or his spouse in the operation of the farm or other business for any 20 years prior to the death of the decedent."

(b) Section 2032A(c)(7) (relating to cessation of qualified use) is amended by adding after subparagraph (b) thereof the following new subparagraph:

"(C) For purposes of subparagraph (B)(ii) the activities of an agent or fiduciary will be deemed to be material participation by a qualified heir with respect to a year if the activities are performed for a qualified heir who is—

"(i) a person who has not attained age 21,

"(ii) a student (as defined in section 151(e)(4)),

"(iii) a person who is under a physical or mental disability that prevents him from materially participating in the operation of the farm or other business, or

"(iv) a spouse of the decedent who has attained age 62."

SEC. 6. ALLOWANCE OF NET OPERATING AND CAPITAL LOSS CARRYOVERS TO AN ESTATE.

(a) In General.—Section 642 (relating to special rules for credits and deductions for estates and trusts) is amended by redesignating subsection (k) as (l) and by inserting after subsection (j) the following new subsection:

"(k) Unused Loss Carryovers Available to Estate.—

"(1) In general.—If, for the last taxable year of the decedent, the decedent has a net operating loss carryover under section 172 or a capital loss carryover under section 1212, then such carryover shall be allowed as a deduction, in accordance with regulations prescribed by the Secretary, to the estate of the decedent.

"(2) Exception.—Paragraph (1) shall not apply with respect to any net operating loss carryover or capital loss carryover which was incurred with respect to any property which reflects the adjusted basis of property held on December 31, 1976, by the decedent. For purposes of this paragraph, the portion of a loss which is attributable to property which reflects the adjusted basis of property held on December 31, 1976, shall be considered to have been carried to the earliest of the decedent's taxable years to which a loss was allowable as a carryback or carryover and such portion shall be considered used before any other loss which is included in the total amount of such loss.".

(b) Conforming Amendment.—Section 57(b)(2)(B) (relating to excess itemized deductions) is amended by inserting "642(k)," after "642(f),".

SEC. 7. TREATMENT OF CERTAIN STOCK REDEMPTIONS.

(a) Maximum Redemption under Section 303.—Section 303(a) (relating to distributions in redemption of stock to pay death taxes) is amended by adding at the end thereof the following new subsection:

"(e) Special Rules for Income Taxes on Qualified Redemptions.—

"(1) In general.—If subsection (a) applies with respect to a distribution to a shareholder, the amount of the distribution which (but for this subsection) qualifies under subsection (a) with respect to such shareholder shall be increased by an amount equal to the additional taxes imposed by this chapter for the taxable year by reason of the inclusion in the shareholder's gross income of that portion of the distribution which qualifies under subsection (a) without regard to this subsection.

"(2) Gain computed on basis of estate tax valuation.—For purposes of this subsection, the amount realized by the shareholder on the distribution qualifying under subsection (a) shall be treated as not exceeding the amount take into account with respect to the stock for purposes of chapter 11 (determined without regard to section 2032A).

"(3) Redemptions to pay generation-skipping transfer tax.—For purposes of this subsection—

"(A) a distribution which qualifies by reason of subsection (d) shall be treated as a distribution which qualifies under subsection (a), and

"(B) paragraph (2) shall be applied by substituting 'chapter 13' for 'chapter 11'."

(b) Relationship of Stock to gross estate.—

(1) In general.—Section 303(b)(2)(A) (relating to relationship of stock to decedent's estate) is amended to read as follows:

"(A) In general.—Subsection (a) shall apply to a distribution by a corporation only if the value (for Federal estate tax purposes) of all stock of such corporation which is included in determining the value of the decedent's gross estate is either—

"(i) more than 35 percent of the value of the gross estate of such decedent, or

"(ii) more than 50 percent of the excess of the value of the gross estate of such decedent over the sum of the amounts allocable as a deduction under section 2053 or 2054."

(2) Technical amendment.—Section 303(b)(2)(B) is amended by striking out "50 percent requirement" and inserting in lieu theref "35 and 50 percent requirements."

SEC. 8. MISCELLANEOUS AMENDMENTS RELATING TO ESTATE AND GIFT TAXES.

Amendment relating to section 6166A—Section 6166A(c) (relating to extension of time for payment of estate tax) is amended to read as follows:

"(c) Closely Held Business.—For purposes of this section, the term 'interest in a closely held business' has the meaning set forth in paragraph (1) of section 6166(b)."

SEC. 9. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to decedents dying after December 31, 1976.

By Mr. TALMADGE (by request):

S. 2230. A bill to amend the Federal Crop Insurance Act; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. TALMADGE. Mr. President, today I am introducing, at the request of the administration, a bill to increase the capital stock of the Federal crop insurance Corp. from $150 million to $200 million.

As explained in Secretary Bergland's letter of October 19 to the President of the Senate, the need for additional capital stock arises from severe drought conditions persisting in areas of the midwest and the southeast. Passage of the legislation and additional appropriations for the subscription of the stock are imperative in order to permit the Federal Crop Insurance Corporation to meet its obligations to insured farmers who suffer crop losses.

I ask unanimous consent that the text of the bill and Secretary Bergland's letter of October 19 to the President of the Senate (including a table showing the details of the corporation's capital position and the proposed bill's effect on budget authority and outlays) be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 504(a) of the Federal Crop Insurance Act (52 Stat. 72, as amended; 7 U.S.C. 1504(a)) is amended to read as follows:

"SEC. 504. (a) The Corporation shall have a capital stock of $200,000,000 subscribed by the United States of America, payment for which shall, with the approval of the Secretary of Agriculture, be subject to call in whole or in part by the Board of Directors of the Corporation.".

DEPARTMENT OF AGRICULTURE,
Washington, D.C., October 19, 1977.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a proposed bill to amend the Federal Crop Insurance Act as amended (7 U.S.C. 1501–1520) to authorize an additional $50 million in capital stock.

The Department of Agriculture recommends that the draft bill be enacted.

Presently under the Federal Crop Insurance Act, the Corporation is authorized $150 million in capital stock. Of this amount the full $150 million is issued and outstanding.

The need for additional capital stock arises from severe drought conditions persisting in areas of the Midwest and the Southeast. Early loss estimates on 1977 crops indicate the Corporation will be required to pay indemnities of about $168.2 million with premium income estimated at about $102 million. Most of the indemnity payments will be required prior to December 31 and should additional losses occur, or these early estimates be understated, the Corporation would be unable to meet contractual commitments to farmers early in December. The projected depletion of capital by that date is based upon past history which indicates about 80 percent of the indemnity payments are made prior to December 31 while about 69 percent of the estimated premiums are collected. Applying these percentages to the current estimates, $134.6 million of indemnities and $6.0 million of loss adjustments costs will be offset by only $70.4 million premium collections, causing a drain on capital of $70.2 million. Therefore, the additional stock will be required in order to continue operations and meet existing contractual commitments.

Details of the Corporation's capital position, and the proposed legislation's effect on budget authority and outlays are shown in the schedules attached. Enactment of this legislation will also require approval by the Congress of a supplemental appropriation to release the additional authorized stock.

Section 102(2)(c) of P.L. 91–190 does not apply to this legislation; therefore, an environmental statement is not enclosed.

An identical letter has been sent to the Speaker of the House.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

BOB BERGLAND,
Secretary.

Attachments.

U.S. DEPARTMENT OF AGRICULTURE, FEDERAL CROP INSURANCE CORPORATION—STATUS OF CAPITAL, FISCAL YEAR 1978

[In thousands]

	Without additional capital	With additional capital
Estimated net capital beginning of year, Oct. 1, 1977	$63,000	$63,000
Additions:		
Estimated premium collections—crop year 1977	102,000	102,000
Additional authority requested (subscription to capital stock)		50,000
Total available	165,000	215,000
Deductions:		
Estimated indemnity payments—crop year 1977	[1] 168,200	[1] 168,200
Administrative and operating expenses, fiscal year 1977	11,413	11,413
Direct loss adjustment cost	7,600	7,600
Total deductions	187,213	187,213
Estimated net capital end-of-year, Sept. 30, 1978	−22,213	27,787

[1] In the event of heavy losses on citrus and additional losses on other commodities, the indemnity estimates would increase accordingly. These estimates are based on current crop situations.

U.S. DEPARTMENT OF AGRICULTURE, LEGISLATIVE PROJECTIONS

[In thousands of dollars]

	1978	1979	1980	1981	1982	1983
Existing Legislation						
Budget authority	12,000	12,000	12,000	12,000	12,000	12,000
Budget outlays	75,000	18,247	18,247	18,247	18,247	18,247
Proposed Legislation						
Budget authority	62,000	12,000	12,000	12,000	12,000	12,000
Budget outlays	97,213	18,247	18,247	18,247	18,247	18,247
Net Change						
Budget authority	50,000					
Budget outlays	22,213					

By Mr. MATHIAS:

S. 2231. A bill to repeal the requirements of the Public Health Service Act which require the reservation of class positions for United States citizens who have completed 2 years of medical training outside the United States; to the Committee on Human Resources.

Mr. MATHIAS. Mr. President, I am introducing a bill that will repeal a provision of Public Law 94–484, the Health Manpower Act. That provision requires medical schools to admit into their senior or junior classes American students who have attended foreign medical schools and who have been designated as qualified by the Secretary of HEW. Schools that fail to admit such students become ineligible for capitation grants authorized by Public Law 94–484.

Medical schools have been forced into an untenable position by this law. They have recently expanded their enrollment under the incentives and mandates within the law. The capitation grants have played an important role in making this expansion possible. But, now they are told that such money is dependent upon their relinquishing one of the most cherished aspects of academic freedom—the ability to set their own admissions standards. Some schools have decided that the price is too high. The Johns Hopkins University in Baltimore is one of the schools that has chosen to refuse capitation grants under those terms, on the grounds that acquiescence would compromise the academic integrity of the university.

The motives behind this provision are understandable. Because U.S. medical schools could not accept all qualified applicants, many highly qualified and strongly motivated American citizens have been forced over the years to go out of the country to seek their medical education abroad. At the same time, because our country suffered a severe shortage of doctors and had to fill that need, special visa preference was being given to foreign nationals who could pass a national medical examination. The illogic of such a system was obvious, but the solution reached is harmful to the continued quality of medical education and is a dangerous precedent in Federal control of education policy.

Not only are schools forced to accept a quota of students they have not examined under their admission standards, but they are also forced to expand class sizes artificially to accommodate the new students. Such a sudden increase in students overtaxes facilities, professors and school administrators.

I believe that we should take a new look and work out a more acceptable solution. Doctor shortages still exist in many parts of the United States. We must encourage medical schools to expand and encourage doctors to work in the shortage areas. Section 771B of Public Law 94–484 is the wrong approach.

I ask unanimous consent that the statement of the Johns Hopkins University's administration explaining their reasons for not accepting capitation grants be printed in the RECORD at this point.

I also ask unanimous consent that the text of the bill I have introduced be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 771(b)(3) of the Public Health Service Act is repealed.

STATEMENT

The Johns Hopkins University School of Medicine, in filing its 1978–79 application with the United States Department of Health, Education and Welfare for continued support under the program of capitation grants for the education of medical students, has indicated non-acceptance of a newly added condition of eligibility for the program.

This new condition, enacted by Congress as Section 771B, Title VII, Public Law 94–484 in October 1976, requires medical schools seeking renewed capitation grants to agree to accept in their junior and senior years a government-set quota of United States citizens who have begun their medical studies abroad and who meet certain criteria set by the federal government. Such students will be added to the junior and senior medical school classes in numbers allocated to each medical school by the Secretary of Health, Education and Welfare. Students deemed eligible by the Secretary may not be denied admission as transfers by medical schools on the basis of their academic qualifications.

In the opinion of The Johns Hopkins University, this statutory provision, which makes a program of financial assistance contingent upon acceptance of a mandated quota of students whose eligibility is determined solely by the federal government, violates the rights of the university under the First and Fifth Amendments of the Constitution of the United States. Further, it in-

vades the academic integrity of the university as recognized by former Supreme Court Justice Frankfurter: "The four essential freedoms of a university are the right to determine for itself on academic grounds who may teach, what may be taught and how it shall be taught, and who may be admitted to study." *Sweezy* v. *New Hampshire*, 354 U.S. 234, 263 (1957).

In addition this statutory provision mandates unreasonable and undesirable further increases in the number of Johns Hopkins medical students. The capitation program of federal assistance to medical schools was initiated to stimulate increases in class size. In response The Johns Hopkins University School of Medicine increased the size of its entering class from 95 to 120 between 1970 and 1973, producing a thirty percent increase in enrollment and in the number of physicians graduated each year. Further expansion of the junior and senior medical school classes, which are primarily devoted to clinical training, would result in less effective instruction because of the limited number of opportunities for bedside teaching. Such expansion would also have an adverse effect on the quality of patient care in the teaching hospitals, because clinical experience would have to be provided for a substantially larger number of students.

Unless this statutory provision is repealed, significantly amended, or set aside by the courts, non-acceptance of it by The Johns Hopkins University School of Medicine will presumably make the School ineligible to continue to receive per capita assistance from the federal government for the education of medical students, and would, therefore, sacrifice between $400,000 and $700,000 of such annual report for 1978–79 and possibly future years. Despite the harshness of this possibility, The Johns Hopkins University after careful deliberation, and on the basis of full endorsement in particular by medical students and the governing bodies of the medical faculty, takes the position that preservation of Constitutional rights and academic integrity leaves no alternative to non-acceptance. The Johns Hopkins University is not prepared to abdicate to government the right to select its students, nor for that matter, its faculty, courses of study, and degree requirements.

The Johns Hopkins University School of Medicine does consider transfer applications into the junior and senior years from students who have begun their medical studies abroad, but will continue to limit admissions to numbers consistent with the highest quality of instruction and patient care to individuals selected according to its own admissions procedures.

It is the hope of The Johns Hopkins University that the newly added and unacceptable condition of eligibility for capitation grants to medical schools will be repealed, modified or set aside. If this proves not to be the case and non-acceptance results in the loss of capitation assistance, the resulting financial burden will not be placed on the medical students of the university by means of tuition increases. While a tuition increase will be necessary in 1978–79 and perhaps in future years, such increase will be based on the inflation of costs in medical education in general and will not be made larger to compensate for loss of capitation. Instead, such new budgetary restraints will have to be imposed by the School of Medicine as are possible without decrease in the quality of education. In addition a special appeal will be necessary to alumni, foundations and corporate and individual friends to provide increased support of excellence in medical education at Johns Hopkins consistent with Constitutional rights and academic integrity.

By Mr. LEAHY:

S. 2232. A bill to amend title 5, United States Code, to promote proper and efficient activities of the Government, and to protect Federal employees disclosing situations in which such activities are not proper or efficient; to the Committee on Governmental Affairs.

Mr. LEAHY. Mr. President, whistleblowers are honorable men and women. They are Federal employees who will not remain silent when exposed to examples of Government waste, abuse, and illegal acts. They do not want to destroy the Government, they want to save it.

What we are trying to do in this bill is provide Federal employees with a safe forum in which their fears and allegations can be reviewed, investigated and resolved.

The work my office has done over the past several months . . . the old cases which we have reviewed, the new cases we have opened up and scores of interviews we have conducted with whistleblowers, their fellow employees, their supervisors, their attorneys, and others has impressed upon me that although this is an extremely complex issue, it is one we must confront.

The key to whistleblowing is breaking through the cloak of anonymity which shields our bureaucracy from accountability. There are people out there running this Government. They are GS–18's, 17's, 16's, 15's, or whatever. They are in charge of and can be held accountable for their departments, agencies, bureaus, and offices.

Most of the people are honest, dedicated, public servants. I really believe that.

What we are attempting to do with this bill is insure that those people in policymaking positions are aware of and can be held accountable for the problems seen by the Federal employee who serves as a "frontline soldier."

Right now, the bureaucracy encourages neither disclosure nor accountability. To borrow from Sam Rayburn, in the bureaucracy to get along you have to go along, translates in bureaucrate as keep your mouth shut, your ears plugged, and your eyes in blinders.

The Federal employee who reveals waste or corruption is seldom rewarded by the bureaucracy, in fact, he or she is usually destroyed by it. A whistleblower has rocked the boat, upset internal order, made trouble. The bureaucracy does not seem to care if the substantive issue raised was valid. That is not the problem, the problem is what to do with the employee.

The core of the whistleblowing problem is twofold—questioning the incentives upon which Government agencies operate as well as the principle of bureaucratic loyalty. Unlike private industry, the public sector is not not run for profit. Operational incentives are clearly defined in business. Employees who uncover waste or mismanagement are rewarded for increasing efficiency and profits. This law of productivity does not exist in the public sector where the principal requirement for advancement is to work quietly.

The Federal bureaucrat is faced with a question of allegiance. He is pressured by his supervisors to adopt the spirit of "team play" placing loyalty to colleagues and agency first. Congress, however, has called for a different allegiance with the passage of the Code of Ethics for Government Service by the 85th Congress. This measure directs Federal personnel to place ". . . loyalty to the highest moral principles and to country above loyalty to persons, party or government department." Clearly, this dual allegiance is difficult to maintain during the best of times and nearly impossible when conflicts arise.

This point was made clear to me as we looked at specific cases during our inquiry into whistleblowing. Almost without exception, the problem originally raised by a whistleblower very quickly became a secondary or even irrevelant issue as the bureaucracy decided how to handle the person who created the disturbance. We have got to change this. This bill is a beginning.

Not all Federal employees who claim to be whistleblowers are sincere, dedicated public servants. They grab at anything to divert attention from their incompetency or poor performance. And although we should recognize that this is true, we should also recognize that it is true in a minority of whistleblower cases. It is also relatively easy to determine the sincerity of a whistleblower's actions and motives.

The board we are calling for in this legislation will be capable of making that determination, addressing the real whistleblowers' problems and bringing about expeditious actions to resolve those problems.

At present the sincere whistleblower's experience is colored by confusion, hypocrisy and uncertainty. A Federal employee motivated by a personal or professional code of ethics attempts to correct a problem at the risk of his career, financial security and reputation.

In the interest of good government and in fairness to Federal employees we have got to take immediate action to have whistleblowing accepted as an honorable act.

I am, therefore, introducing the Federal Disclosure and Accountability Act of 1977. My distinguished colleagues in the House, Mr. UDALL and Mr. SIMON are taking similar action in that body.

By Mr. DECONCINI (for himself, Mr. DOMENICI, and Mr. GOLDWATER):

S. 2233. A bill to increase the duty on imported copper by an amount which offsets the cost incurred by copper producers in the United States in meeting domestic environmental requirements; to the Committee on Finance.

Mr. DECONCINI. Mr. President, together with my distinguished colleague from New Mexico (Mr. DOMENICI) and the very distinguished senior Senator from my own State of Arizona (Mr. GOLDWATER), I am introducing legislation of great potential significance to the western copper producing States and the Nation as a whole. It is the Copper Environmental Equalization Act of 1977.

We are faced, as everyone is surely

aware, with a crisis of major proportions in the American copper industry. The effect of this crisis is to erode the productive capability of the copper industry and to throw into disarray the lives of thousands of men and women whose livelihood—directly or indirectly—hinges on copper. As the world price of copper has steadily declined, American producers have been faced with the unpleasant choice of either sustaining ever greater losses on the sale of copper produced below cost or to cut back on production.

For a short period it was not unreasonable to expect the industry to suffer its losses. But as the crisis has become more protracted with little signs of abatement in the near future, they have made substantial cutbacks in production. This has taken three forms: Mines have been closed altogether; some workers have been laid off in other mines; or, workers have been put on shortened work weeks.

While there are no entirely accurate figures, it appears from reports from various Government agencies, the labor unions, and companies that about 20,000 workers have been laid off. It is estimated that between 9,000 and 12,000 have been in my own State of Arizona which has been hardest hit because it produces 64 percent of the Nation's copper. The situation has become intolerable, and I believe we have a responsibility to our constituents to take affirmative action.

The legislation we are introducing today is being introduced in the House of Representatives by my friend and fellow Arizonan, Congressman MORRIS UDALL. The purpose of the legislation is to equalize the competitive position of the American copper industry vis-a-vis the world copper industry.

Until recently, American industry has been extremely competitive. Although American ores are generally lower grade than that found in some of the foreign producing nations, we have compensated through the much higher productivity of American labor. That is a tribute both to management and labor. However, the Federal Government has, in recent years, imposed a number of very legitimate requirements on the copper industry. These requirements were designed to protect our God-given environment so that our children will have pure air to breathe and natural beauty to behold.

But the imposition of these requirements has been expensive. It has increased the cost of domestically produced copper. Those increases have given foreign copper producers a competitive advantage which is not inherent, but artificial. The legislation we introduce simply seeks to equalize the costs of American copper and foreign copper where the differences are the result of environmental requirements.

An additional tariff of 10 cents per pound is imposed upon copper produced in countries which do not adhere to the same pollution standards as the United States. That figure can be adjusted upwards or downwards depending upon each country's efforts in the area of pollution control. If a country's efforts are similar to our own, no additional tariff would be imposed. If, conversely, those efforts are virtually nonexistent—as is the case in many of those countries which export copper—the tariff would be at least 10 cents a pound and possibly higher if the President makes such a finding.

The Copper Environmental Equalization Act of 1977 is legislation that is worthwhile. It serves the objective of protecting the American copper industry in a way and for reasons it should be protected. This is not an indiscriminate tariff imposed to cut off world trade. It is a rational tariff designed to compensate for increased costs associated with the environment. In fact, it is our hope that this legislation will encourage foreign governments to adopt standards similar to our own and, in the process, make a substantial contribution toward protecting the world's environment.

I ask unanimous consent, Mr. President, to have the text of the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Copper Environmental Equalization Act of 1977".

SEC. 2. The purposes of this Act are—

(1) to enhance the world's environment by encouraging foreign copper producers to adopt environmental measures substantially equivalent to those employed in the United States; and

(2) to offset the cost advantage obained by foreign copper producers who do not employ environmental measures substantially equivalent to those imposed on domestic copper producers.

TITLE I—AMENDMENTS TO THE TARIFF SCHEDULES OF THE UNITED STATES

SEC. 101. The Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof a new part 4 as follows:

PART 4.—ENVIRONMENTAL EQUALIZATION DUTIES

Item	Articles	Rates of duty 1	Rates of duty 2
	Part 4 headnotes: 1. The duties provided for in this part are cumulative duties which apply in addition to the duties, if any, otherwise imposed on the articles involved. Unless otherwise stated, the duties provided for in this part are effective until suspended or terminated. 2. The duties provided for by items 960.00 and 962.00 may be adjusted as provided in section 201 of the Copper Environmental Equalization Act of 1977.		
960.00	Copper bearing ores and materials (provided for in items 602.28, 602.30, 603.49, 603.50, 603.54, and 603.55 of part 1, schedule 6)	10¢ per pound on copper content.	10¢ per pound on copper content.
962.00	Copper, its alloys, and their so-called basic shapes and forms (provided for in items 612.02 through 612.06, inclusive, and items 612.15 through 613.18, inclusive, of part 2C, schedule 6)	10¢ per pound on copper content.	10¢ per pound on copper content.

TITLE II—ADJUSTMENTS TO COPPER EQUALIZATION DUTY

SEC. 201. (a) The President shall, under the circumstances described in subsection (b), adjust the duty imposed on an article of copper by section 101 of this Act.

(b) The President shall, based upon determinations of the various environmental costs of production by the Administrator of the Environmental Protection Agency (hereinafter in this Act referred to as the Administrator) under section 203—

(1) increase the duty imposed by section 101 on an article of copper by an amount equal to the amount by which the excess of—

(A) the United States environmental costs of production, over

(B) the foreign environmental cost of production,

of such article exceeds 10¢ per pound;

(2) decrease the duty imposed by section 101 on an article of copper, by an amount equal to the amount by which the excess of—

(A) the United States environmental cost of production, over

(B) the foreign environmental cost of production,

of such article exceeds 10 cents per pound.

SEC. 202. (a) The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall by regulation prescribe a procedure by which interested parties may propose an adjustment in the rate of duty which is imposed on an article of copper by section 101. If the Secretary finds pursuant to such procedure that there may be cause to make an adjustment under section 201, he shall request the Administrator to make a determination under section 203 of each of the environmental costs of production required to be made by such section.

(b) The Secretary shall promulgate any necessary regulations for the assessment and collection of duties imposed by this Act. In the collection of such duties, there shall be an identification of each portion of a shipment which may be subject to a different rate of duty under this Act so that the appropriate duty may be applied accordingly. If a shipment contains portions of articles of copper subject to the duty imposed by section 101 which, because of commingling, cannot be readily identified for purposes of imposing duties, the Secretary shall collect a duty on such portions equal to the highest duty which may be imposed on any portion of such shipment.

SEC. 203. (a) The Administrator shall by regulation prescribe a method or methods for the determination of environmental costs of production for the articles of copper subject to the duty imposed by section 101, which shall include a method or methods for the determination of the foreign environmental cost of production of such an article of copper in cases in which environmental

costs of production have been incurred in more than one country.

(b) When requested by the Secretary under section 202, the Administrator shall, applying the methods prescribed under subsection (a), determine—

(1) the environmental cost of production for each phase of the processing of each article for which such request is made, with respect to each country in which such processing occurs, and

(2) the comparable environmental cost of production of such article in the United States for each such phase.

The foreign environmental cost of production shall be computed with respect to each such article for each combination of countries in which such article may be processed for importation into the United States.

SEC. 204. The President shall have no authority under any provision of law to reduce the duty which is imposed on articles of copper by section 101, except as provided in this title.

SEC. 205. For purposes of this title—

(1) Environmental cost of production.—The term "environmental cost of production" means the cost incurred in mining, milling, smelting, refining, or in any other phase of the processing of an article of copper which is subject to the duty imposed by section 101, or which would be subject to such duty if imported into the United States, which is attributable to compliance with a law or regulation of the country in which such process occurs which is for the purpose of protecting the environment.

(2) United States environmental cost of production.—The term "United States environmental cost of production" means the aggregate of the environmental costs of production of an article of copper which would be subject to the duty imposed by section 101 if it were imported into the United States, for which each phase of the processing occurs in the United States.

(3) Foreign environmental cost of production.—The term "foreign environmental cost of production" means the aggregate of the environmental costs of production of an article of copper subject to the duty imposed by section 101 which is imported into the United States.

TITLE III—AMENDMENT TO THE TRADE ACT OF 1974

SEC. 301. Subsection (c)(1) of section 503 of the Trade Act of 1974 is amended—

(1) in subparagraph (F), by striking out "and";

(2) in subparagraph (G), by striking out the period at the end thereof, and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(H) copper articles which are subject to the duty imposed by section 101 of the Copper Environmental Equalization Act of 1977."

TITLE IV—EFFECTIVE DATE

SEC. 401. The provisions of this Act shall be effective with respect to articles subject to the duty imposed by section 101 which are imported into the United States after the date of the enactment of this Act.

By Mr. HELMS:

S.J. Res. 94. A joint resolution ordering the President of the United States, the Secretary of Agriculture, and other officials to develop and implement a comprehensive program for foreign sales of American agricultural commodities, in order to protect the welfare of American farmers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. HELMS. Mr. President, I am introducing a joint resolution today that would require the President to formulate and implement a plan to expand American agricultural exports and report the plan formulated and implemented to the Congress by April 30, 1978. Congressman ROBERT E. BAUMAN is introducing a similar joint resolution in the House of Representatives.

Since 1972 farmers have become increasingly dependent upon export markets. Last year we exported 45 percent of our soybeans, 27 percent of our tobacco, 27 percent of our corn, as well as a high percentage of many of our other commodities.

In 1973 the Congress adopted a farm program which moved away from high Government price supports to a program where the farmers were dependent upon the marketplace for their income. Under the new program farm income reached record levels, principally due to increased agricultural commodity exports. Not only did farm income increase to all time highs in 1973, 1974, 1975, and 1976, but the cost of the farm programs to the taxpayers averaged less than $700 million in 1974, 1975, and 1976 compared to an average of over $3 billion for the 3 years preceding 1974.

Unfortunately, agricultural exports are declining. Commodity surpluses are beginning to build again as they did in the 1960's. Consequently, farmers' income is declining and the cost of the farm programs has been projected to run as high as $7 billion next year. If exports do not increase, farmers will once again be dependent upon Government subsidies for their income and not the marketplace.

It is essential that the administration maximize the use of its resources to develop a plan to promote the sale of agricultural commodities to our foreign customers. As I have pointed out, an aggressive export policy is necessary to maintain farm income and minimize farm program cost, but agriculture exports are also an important component in our balance of trade.

I urge the Senate to take prompt action on this resolution to require the President to formulate and implement a program to increase agricultural exports.

I ask unanimous consent that the Senate joint resolution be printed in the RECORD at the conclusion of my remarks.

There being no objection, joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES 94

Whereas American agriculture and the production of food and fiber, worth $82,000,000,000 last year, constitute the most basic and indispensable industry in the economy of the United States, without which the Nation's domestic and international position would be seriously jeopardized; and

Whereas historically the economic distress of American agriculture has preceded and deepened national and international economic dislocations and depressions; and

Whereas the net income after cost of production for American farmers in 1977 is projected by the United States Department of Agriculture to be less, when adjusted for inflation, than farmers received in 1936, the lowest net income in forty-one years, with two million seven hundred and fifty thousand American farmers sharing a net income of only $10,700,000,000, or an average net income worth $5,721 for each farmer in 1976 dollars; and

Whereas the total debt owed by American farmers has increased from $81,800,000,000 in 1974 to an estimated $102,100,000,000 currently, causing many thousands of farmers to sell fixed assets, borrow heavily against the future income, and many to face bankruptcy; and

Whereas the deficit in the United States balance of international payments is expected to be nearly $25,000,000,000 in 1977 and American agricultural exports are the major export commodity of the Nation; and

Whereas the majority of American farmers traditionally prefer a free market approach to farming and the economy; and

Whereas there exists abroad numerous opportunities for sales of American agricultural commodities which if pursued and properly developed could result in a reduction of existing surpluses of wheat, corn, rice, cotton, tobacco, peanuts, beef, pork, poultry and other commodities, thus producing a rise in agricultural commodity prices which have plunged below actual costs of production: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States hereby directs the President of the United States, the Secretary of Agriculture, and all appropriate officials of the United States Department of Agriculture, the Foreign Agricultural Service, and the Department of State to formulate and implement a plan for the expansion of sales of American agricultural commodities abroad, including increased Public Law 480 sales as well as private international transfers of food; and be it further

Resolved, That the Congress hereby directs agricultural attachés and officials at United States embassies to seek out and report to the Secretary of Agriculture all possible opportunities for agricultural commodity sales in the nations in which they are located; and be it further

Resolved, That the President of the United States shall transmit to the Congress a report of the plan formulated and implemented under the authority of this resolution no later than April 30, 1978.

ADDITIONAL COSPONSORS

S. 201

At the request of Mr. BURDICK, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 201, a bill to amend title 39 of the United States Code to establish an Arbitration Board to settle disputes between certain organizations and the U.S. Postal Service.

S. 1990

At his own request, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1990, to establish a Department of International Trade and Development.

S. 2128

At the request of Mr. INOUYE, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2128, to amend the Internal Revenue Code.

SENATE CONCURRENT RESOLUTION 41

At the request of Mr. HELMS, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of Senate Concurrent Resolution 41, to promote effective treatment of epilepsy.

NOTICES OF HEARINGS

Mr. HARRY F. BYRD, JR. Mr. President, as chairman of the Subcommittee on Taxation and Debt Management of the Finance Committee, I wish to announce that hearings will be held on October 27, and on October 28, 1977, on S. 1954, S. 2227, and S. 2228, and other bills which may be introduced dealing with the subject of carryover basis. The hearings will be held in room 2221 Dirksen Senate Office Building.

Hearings on October 27 will begin at 9 a.m. and will be limited to Treasury Department witnesses. Hearings for public witnesses will be held October 28, as part of the hearings on H.R. 6715, the Technical Corrections Act of 1977. Additional hearings on a subsequent date will be scheduled if necessary.

The chief sponsor of S. 1954 is Senator CARL CURTIS of Nebraska. S. 1954 provides for the elimination of the carryover basis provisions of the estate tax law, enacted in 1976.

S. 2227 and S. 2228 are sponsored by Senator HARRY F. BYRD, Jr., of Virginia and Senator ROBERT DOLE of Kansas. S. 2227 defers the effective date of the carryover basis provisions until December 31, 1978. S. 2228 includes several technical provisions designed to eliminate the complexities associated with carryover basis and make the law more workable.

These measures are of general application and are intended to be of benefit to all taxpayers. Each of the bills has little, if any, revenue loss through 1981.

The subcommittee understands that other Senators may be introducing legislation dealing with carryover basis which is similar to the bills now to be considered. This legislation will also be incorporated as part of the hearings.

SUBCOMMITTEE ON CIVIL SERVICE AND GENERAL SERVICES

Mr. SASSER. Mr. President, I wish to announce that the Subcommittee on Civil Service and General Services of the Governmental Affairs Committee will hold a hearing on October 28 at 9:30 a.m. in room 1318 of the Dirksen Office Building regarding H.R. 3447, H.R. 3755, and S. 1559 relating to civil service annuities, Senate Resolution 244 relating to a study of Federal retirement systems, and H.R. 6975 relating to a change in the name and number of hearing examiners which may be established by the Civil Service Commission.

INTEGRATED PEST MANAGEMENT

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry will hold hearings on integrated pest management on October 31, and November 1, from 9 to 12 on each day in room 322 Russell Building.

Integrated pest management is a management technique for controlling crop damage by insects and other pests. IPM is a management system which includes use of biological controls, management and cultivation practices and judicious use of pesticides. The intent of our hearings is to look at IPM's current status, benefits, problems, and future. Those testifying will be limited to invited witnesses and groups. Written testimony is welcome and will be added to the hearing record.

For further information, please call Dale Stansbury at the committee staff (224-2035).

FREIGHT RATE COMPETITION

Mr. KENNEDY. Mr. President, on Thursday and Friday of next week, October 27 and 28, the Subcommittee on Antitrust and Monopoly will examine the issue of rate competition among motor carriers of freight. The subcommittee expects to be hearing testimony from representatives of rate conferences, motor carriers, shippers of freight, and from citizens organizations. It will also hear from A. Daniel O'Neal, Chairman of the Interstate Commerce Commission, and John H. Shenefield, Assistant Attorney General of the Antitrust Division, U.S. Department of Justice.

The hearings will take place in room 1224 of the Dirksen Building, and will begin at 10 a.m. on October 27, and at 9:30 a.m. on October 28.

ADDITIONAL STATEMENTS

GOLDEN FLEECE AWARD FOR OCTOBER

Mr. PROXMIRE. Mr. President, I am today giving the Golden Fleece of the Month Award for October to the Department of Labor. They get the award for granting a $384,948 contract to hire 101 persons under the Comprehensive Employment and Training Act (CETA) to do a door-to-door survey to count the dogs, cats and horses at the 160,000 houses and apartments in Ventura County, Calif. While article I, section 2 of the Constitution requires a decennial census of the people, spending hard-earned taxpayers' money to count the animals is not required by either the Founding Fathers or commonsense.

THOUSANDS OF USEFUL JOBS NEED TO BE DONE, COUNTING ANIMALS NOT ONE OF THEM

While there are thousands of useful jobs that need to be done in every American community, counting the dogs, cats and horses is not one of them.

CETA funds are not only supposed to provide jobs, they are supposed to satisfy some unmet, pressing local need. According to the proposal submitted to the Department of Labor, the important local need to be satisfied involved finding out how many dogs were not immunized against rabies. Preventing the biting of humans by rabid animals is an important and serious objective; however, the animal regulation director of Ventura County admitted to my staff that there had not been a case of rabies among dogs or cats in the county in over a decade. It is not the counted or uncounted dogs, cats and horses which are the main carriers of rabies but certain wild animals.

The survey will be conducted over a 6-month period in order to determine the population and distribution of canines, felines, and equines owned and living in homes and apartments in the county. Monkeys, parakeets, fish, snakes, and other animal pets are not included; at least not in this year's survey. I hope the Department of Labor next year does not finance the counting of bats, rats, squirrels and skunks on the superficial grounds that doing so may help prevent an outbreak of rabies.

Salaries will run from $3.25 per hour for the census takers to $256 per week for the administrative aides who will supervise the project.

Criticisms were raised by both private citizens and Federal officials against this project, but local officials doggedly maintained their bite on the Federal taxpayers.

These officials maintain that needed local revenue would be raised through the sale of licenses to the owners of unregistered dogs. If this were a cost effective method of raising funds, local dogcatchers would have started pounding on every American door long ago. Obviously, the survey will use a great amount of Federal tax dollars in order to raise relatively few dollars for a local government. That is clearly a case of robbing Peter to pay Paul.

NEED TO RAISE REVENUES IMPOSES FISCAL DISCIPLINES

Here is a perfect example of what can happen when the unit of government which spends money is not the same as the one which has to raise it in the first place. The need to raise the revenues that are spent locally imposes a discipline on a unit of government that was clearly missing in this case.

Why did not the Department of Labor do more to stop this "horsing around" with the taxpayers' money? The excuse of the Department of Labor is that under CETA the State and local prime sponsors have the authority and responsibility to determine the priorities of local projects. According to them as long as the amount of money spent does not exceed the allocation of funds to the local area, the Department says it cannot, or at least will not, second guess the local officials.

This is no justification for spending the money at all. Rather, it points up the lack of control and the mindless use of Federal funds as they are dished out by Federal departments.

As the contract was only recently awarded and the work just started, I call upon the Department of Labor to stop this project now before any more Federal dollars are wasted.

Doggone it, if Federal agencies are unwilling to stop this type of mangy project, I say the whole Federal structure may be going to the dogs.

NYSE RULE 390

Mr. PACKWOOD. Mr. President, there has recently been a rising tide of criticism directed toward the Securities and Exchange Commission's announced intention of eliminating New York Stock Exchange rule 390—and similar rules. This proposal would permit "off-board" securities transactions which means that brokerage houses would be able to trade securities from their own inventories without going to the floor of an exchange.

There are a number of problems with such a plan. The very existence of stock exchanges would be threatened; many small and medium sized securities dealers would be forced out of business; new brokerage house monopolies would be created; and our longstanding system of capital formation would be endangered.

The first question we need to ask is why this action needs to be taken. Almost everyone agrees that the present system works quite well, and history would tend to bear this out.

As a former member of the Banking Committee, it appears to me that this rulemaking stems from a basic misunderstanding by the Securities and Exchange Commission of the intent behind the Securities Acts Amendments of 1975. Having been involved in the formation of that legislation, I recall that one of the main recommendations was that the SEC take steps toward the establishment of a national market system.

Such a system would be an electronic, computerized interconnection available to all brokers which would be connected to the floors of all stock exchanges. At any moment, a broker would be able to ascertain the latest selling price for a listed security no matter what exchange it was being traded on. This would enable the broker to determine where he could obtain the best price for his client, and he could then place the order with that exchange.

Progress toward such a system has been very slow, at least partly due to lack of action by the SEC. What the bill actually called for was the creation of "communication and data processing facilities—which—will foster efficiency, enhance competition, increase the information available to brokers, dealers and investors, facilitate the offsetting of investor's orders, and contribute to the best execution of such orders." Somehow, the SEC surmised that this recommendation can be best fulfilled by the elimination of rule 390 and similar restrictions.

Not only is this a mistaken assumption, but it would be unwise to even consider allowing off-board trading prior to such time that a national market system was already in place. Without this sophisticated communications system, brokers would be isolated from one another, and would, in effect, become private exchanges where the only available price would be the one that particular house offered. The consumer could open accounts with a number of firms and then call each to see what their price was, but this would obviously be extremely inconvenient. We must insure continued competition in securities transactions, and the simplest way of doing so is to leave the system as is.

Let us consider some of the specific effects which are anticipated should this rulemaking be allowed to stand. First, as I said, the existence of this country's stock exchanges would be threatened. Over 90 percent of securities transactions currently take place on exchange floors. Without rule 390, brokerage firms would be able to purchase and maintain inventories in any listed stock. Since they would be buying and selling from these inventories, there would be no need for a centrally located trading forum, thereby eliminating the exchanges.

Brokerage houses would also begin to go out of business or merge since the small and medium sized firms would lack the necessary capitalization to compete with the large houses which would be able to make markets in virtually any stock. There has been a marked trend toward consolidation in the last 10 years, but the pace would become extremely rapid without rule 390. Some observers have speculated that instead of having several hundred firms as we do now, the total would drop to 20 or 30 within a decade. Such predictions would seem to counter the SEC's contention that their rulemaking would help to foster competition. And without competition, it cannot be claimed that the consumer would benefit.

Another question which needs to be thoroughly investigated concerns the effect this rulemaking would have on business' ability to raise capital.

Traditionally, when profits are insufficient to cover the cost of new plants and equipment, industry has raised money through stock offerings. This system has proven very effective in general, and it is unlikely that large corporations would have difficulties in placing their stock even with only 20 or 30 firms to choose from. But what about the small and medium sized corporations; will they be able to successfully offer stock as a means of acquiring the capital necessary for expansion? Will the few remaining brokerage houses see any reason to use their funds to underwrite a stock that is not heavily traded? At least three observers say probably not; the New York Times, Barron's, and the New York Daily News have all presented editorials questioning this very point. We are all aware that the economic recovery is not progressing as rapidly as we would like, and corporate profits are not likely to provide all the capital necessary for expansion. This is even more true for smaller, newer companies. If they are not able to raise money through stock offerings, then what other avenue is open?

I am not saying that the present market structure is perfect; beneficial changes can be made. For instance, the concept of a national, electronic market system should be pursued. There are also other improvements which could be made which would benefit the consumer. I will not even deny the possibility that off-board transactions could work at some future point, no one knows for sure. But I do firmly believe that the risks involved in the elimination of rule 390 are not worth whatever possible benefits may accrue. To take a chance on throwing the securities industry into chaos for the sake of experimentation would be foolhardy.

The existing market system is effective and reliable. This, to my way of thinking, is the best argument in favor of leaving things as they are.

PANAMA CANAL TREATIES

Mr. THURMOND. Mr. President, the administration is currently engaging in a vigorous campaign to sell the proposed Panama Canal treaties because of threats of what might happen in Panama if the treaties are defeated. Treaty proponents are constantly pointing out that there will be violence, terrorism, sabotage, and maybe even another Vietnam if the treaties are not ratified.

I would like to call attention to an article in the Wall Street Journal by Roger Fontaine entitled, "Scare Talk and the Canal," dated August 22, 1977.

Mr. Fontaine accurately forecasts in this article the tactics the administration would use in selling the treaties. He does an excellent job of rebutting the "scare talk" reasons for giving up the canal.

In addition, I would like to point out an article in the October 20, 1977, edition of the Chicago Tribune entitled "Why Public Rejects the Canal Pact," by Louis Harris. This article indicates that according to the latest Harris survey, the vast majority of Americans in every section of the country are opposed to Senate ratification of these treaties.

Mr. President, I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Aug. 22, 1977]

SCARE TALK AND THE CANAL

(By Roger W. Fontaine)

Negotiators for the Carter administration have reached an "agreement in principle" with Panama on the "basic elements" of a new treaty on the Panama Canal.

Although the exact language has not yet been fully drafted, the main features call for transfer of the canal and the 533-square mile Canal Zone to Panamanian control in 23 years. The military presence of the U.S. would end by the year 2000, after which we would continue to have the unilateral right to insure an open and neutral canal. This latter provision clearly implies the right to military intervention, although the Carter administration does not like to use that term. A major controversy will undoubtedly flare up over this point.

But what is interesting about the proposed treaty is not its novelty but its utter familiarity to those who have had the patience to follow the negotiations over the last few years. The supporting arguments are also familiar, and they will now be echoed by most of our foreign policy establishment, including Gerald Ford and Henry Kissinger. Yet these arguments are still open to serious criticism, not, as our protreaty pamphleteers would have it, the criticism of the uninformed, the jingoistic and the merely nostalgic.

Three scare arguments are especially prominent, and need especially to be reviewed. First, that the canal is vulnerable to sabotage. Second, that a full-blown guerrilla war might break out in Panama. And last, that in such an event the United States would be condemned by all of Latin America, if not by the entire Third World.

The Carter administration, facing a suspicious Senate and public opinion, will probably rely on these arguments in its campaign for ratification. Suggesting that the U.S. is being subjected to extortion by tiny Panama is accurate enough, but the truly important part of the equation is that we Americans are engaging in acts of self-extortion. We are frightening ourselves with disaster scenarios which although superficially plausible have never been thoroughly dissected.

FEAR OF SABOTAGE

First, the fear of sabotage. Although the canal is and always has been vulnerable, wrecking it is obviously to no one's advantage, and least of all to that of the Panamanians. Since North American capital would be required to restore operations, Panama would remain as dependent as ever on the United States. Furthermore, a treaty which delays full control until the year 2000 seems unlikely to stay the hand of the young and impatient saboteur.

Second, guerrilla warfare. The specter of another Vietnam is an effective weapon, no doubt, in persuading a war-weary American public to surrender its rights on the isthmus. But the extent of the problem remains to be analyzed properly.

The potential does exist for small urban terrorist squads, recruited from Panama's large student population, to make lightning raids into the zone. They might stage robberies, kidnappings and assaults on police or civilian functionaries in the zone as well as in Panama itself. U.S. military and police units would find it tempting to chase these raiders back into Panamanian territory, thus provoking nationalist outcries.

Yet a truly serious insurgency is unlikely. Panama is not Vietnam in size or resources, nor does it have a nearby neighbor willing to aid the "liberation struggle." Furthermore, the Panamanian chief, General Omar Torrijos Herrera, is unlikely to provide the training and logistical support necessary to transform urban terror squads into full-fledged rural insurgents. Declaring war, even sub rosa war, on a superpower is still a dicey business.

Moreover, Gen. Torrijos may well find it more in his interest to stamp out, than to encourage insurgents. The regime remains extraordinarily dependent on foreign investment, foreign banks and, yes, foreign tourists—none of whom would enjoy working and playing in Belfast-style surroundings.

Finally, Gen. Torrijos is even less likely to enlist outside material support, even from such friends as Fidel Castro and Muammar Khadafy. The risks are too great and these gentlemen have too many other preoccupations. The Cuban leader, moreover, knows very well that Latin American guerrillas have an extraordinary rate of failure. Their only hope would be to wear down U.S. public opinion through a sustained campaign of terror, not a wholly irrational hope, but far from the worst case scenario of the treaty's supporters.

The third major pro-treaty argument is the fear of alienating world opinion, a familiar scenario which arises whenever there is a question of using force to insure American interests. Ambassador Sol Linowitz, one of the treaty negotiators, has even stated that the new treaty will "prove" us magnanimous to a skeptical (third) world. Yet if this world is not convinced of U.S. benevolence after our rebuilding of post-war Europe and our billions of foreign aid dollars to scores of underdeveloped countries, one more act of charity will not convince it. This treaty might just as well reinforce the notion that America is acting, not from generosity but from weakness.

To criticize this argument is to question the notion that what others may think must control our policy. No serious man should be concerned with critical opinion of Panama emanating from Conakry or Kampala, or much less Moscow.

Yet Latin America is a somewhat different case since, with the exception of Cuba, none of its countries are our sworn enemies. The depth of our ties with this region is matched only by those with Western Europe. Yet even though no Latin American regime publicly supports the United States, the depth of pro-Panamanian feeling varies considerably from country to country. It is strongest in Venezuela, Colombia and possibly Mexico; it is weakest in the southern cone of South America. For example, Brazilians, heavy users of the canal, have privately expressed deep misgivings over Panamanian control.

ONLY FIVE NATIONS

Despite Gen. Torrijo's numerous meetings with regional leaders, the last one held in Bogota early this month, he has managed to get the collective support of only five other nations.

Moreover, a surrender of the canal is not likely to gain us lasting respect or affection. And why should it when the obvious way to deal with us is to make more demands in as unfriendly a fashion as possible?

Beyond these arguments, our reluctance to hang onto the canal reflects a sense of uneasiness, of guilt at maintaining what is so glibly described as a "colonial enclave." Our presence simply can't be squared with the radical anticolonial (to wit, antiwestern) sentiment that is now the common intellectual coin of the globe.

Yet it must be pointed out that Panama has benefited mightily from a resource that it alone could not exploit. It is a fact of life that the canal is a major international waterway that simply cannot be operated, much less defended, by one of the smallest countries in Christendom. That it would strike many as arrogant to state these facts is a mark of the extent to which we have absorbed the doctrine of international egalitarianism. National duty is not easily transferred nor fundamental geopolitical facts altered by political bombast.

The United States must retain the major role in running and defending the canal. It is still open to question how precisely to define that role, as well as the nature and extent of Panama's contribution. What should not be open to debate is the right of this country and the other users to an open and secure passageway between the planet's two principal oceans.

In spite of the attempts to secure ratification through scare arguments, this treaty does not fit these requirements.

[From the Chicago Tribune, Oct. 20, 1977]

HARRIS SURVEY: WHY PUBLIC REJECTS THE CANAL PACT

(By Louis Harris)

By 51 to 26 per cent, Americans are opposed to the United States Senate approving the treaty with Panama that President Carter and the Panamanian government recently signed. The treaty is rejected by a wide margin in every section of the country: by 49 to 31 per cent in the East, by 54 to 25 per cent in the Midwest, by 52 to 22 per cent in the South, and by 49 to 31 per cent in the West. However, among college-educated people, opposition to the treaty is a much narrower 45 to 39 per cent.

According to the latest Harris Survey of 1,536 adults nationwide, here are some of the reasons people give for opposing the treaty:

A 65-to-22 per cent majority feels that "the U.S. was given ownership of the Panama Canal in return for our building it there originally, so it is perfectly proper for us to keep owning it."

A 65-to-17 per cent majority believes "it is wrong for the U.S. to give up the Panama Canal under the threat of guerrilla warfare against our troops there."

By 64 to 11 per cent, people also think that "the present ruler of Panama threw out the elected government, and it is possible that a new dictator will take over there and say he will not agree to the treaty after we have agreed to give up control."

By 53 to 29 per cent, a majority feels that "if the U.S. gives in to pressure to give up the Panama Canal, Castro and the Communists will take it as a sign that we can be pushed around in other parts of Latin America."

By 67 to 17 per cent, a sizable majority believes "it adds insult to injury by making the U.S. pay $50 million a year until the year 2000 in addition to then giving up control of the canal."

In addition, several of the key arguments put forth by the Carter administration in behalf of the treaty are also rejected by the public:

By 61 to 24 per cent, a majority disagrees with the contention that "it is wrong for the U.S. to own the Panama Canal, which goes right through the middle of another independent country, Panama."

By 52 to 24 per cent, a majority also disagrees that "times have changed, and throughout Latin America, continued U.S. control of the Panama Canal is pointed to as an example of this country wanting to have unfair control over smaller countries in this hemisphere."

By 53 to 26 per cent, a majority objects to the idea that "the Panama Canal is not as important as it once was, since big supertankers and aircraft carriers can't go through it, so it is a mistake to make such a fight over our keeping control of it."

There are two general arguments favoring the treaty that meet with public approval:

By 62 to 15 per cent, people are reassured that "the U.S. will still have complete access in the future for its ships to go through the Panama Canal."

By 52 to 28 per cent, a majority also feels that "by agreeing to give back control of the canal to Panama, we are sending a message to the rest of the world that we can be fair and generous to much smaller nations."

Ironically, despite their general disapproval, Americans do not find the chief provisions of the treaty objectionable:

A 60-to-64 per cent majority supports the idea that "the U.S. will maintain control of the Panama Canal until the year 2000."

A 61-to-21 per cent majority favors "the U.S. having military troops stationed in the Panama Canal Zone until the year 2000."

A 63-to-17 per cent majority approves the provision that "Panama guarantees that, after the year 2000, the Panama Canal will be kept 'neutral,' open to every country, including the U.S. to use for its ships."

By a 55 to 24 per cent, a majority approves the provision that "the U.S. will be allowed to defend the Panama Canal after the year 2000 to be sure that all nations can send their ships through it."

By 51 to 28 per cent, a majority favors the clause providing that "the Panamanians will be trained to run the canal and given increasing responsibility for running it from now to the year 2000."

By 61 to 18 per cent, a majority also approves the provision that "Americans who live and work in the Canal Zone will continue to enjoy full American rights, and if they break Panamanian law, they will serve sentences in American prisons."

However, one key provision of the treaty meets with definite disagreement:

By 64 to 17 per cent, a majority disagrees with the provision that "each year until the year 2000, the U.S. will pay the government of Panama $50 million for the right to control the Panama Canal."

All of this lays bare the pressure points of the Panama Canal Treaty controversy. But we have here a case where the overall feeling of the American people is more important than the sum of the parts. Most Americans oppose the treaty for a simple reason: They remain unconvinced that it is really necessary for this country to give up control of the canal.

MAJOR SCULPTURE BY DI SUVERO COMMISSIONED FOR HIRSHHORN

Mr. PELL. Mr. President, I am happy to bring to the attention of my colleagues an important contribution to our Nation's Capitol and to the cultural well-being of our country which is being made by the Institute of Scrap Iron and Steel.

The institute has commissioned the creation of a major work of art by the internationally known American sculptor Mark di Suvero for presentation to the Hirshhorn Museum and Sculpture Garden of the Smithsonian Institution.

This gift sets a special precedent, and one which I highly commend. In an address in Boston earlier this year, I had the opportunity of recognizing the importance of this gift and of saying to representatives of the institute:

For the first time, a trade association such as yours is making a gift of a major work of art to our Government. In doing so your Institute demonstrates that American industry can enter into significant partnership with the government to celebrate the values of the arts.

One of the features of the Scrap Iron and Steel Institute is that it is comprised of 1,530 individual corporations. It is a family oriented institute in the best traditions of American enterprise.

As chairman of the Senate Subcommittee on Education, Arts and Humanities, I hope that the excellent example being set by the institute will be emulated by other organizations as we further develop the partnership between government and industry in behalf of the arts, and I ask unanimous consent that the text of the announcement of the commissioning by the Smithsonian be printed in the RECORD.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

MAJOR SCULPTURE BY DI SUVERO COMMISSIONED FOR HIRSHHORN

In commemoration of its 50th anniversary, the Institute of Scrap Iron and Steel, Inc., has commissioned the internationally known American artist Mark di Suvero to create a major work of sculpture for presentation to the Smithsonian's Hirshhorn Museum and Sculpture Garden.

The sculpture will be dedicated as a gift to the American people in a ceremony at the Museum planned for June 1978.

"We appreciate the thoughtfulness and generosity of a leading national trade association in arranging for such a permanent and far-sighted contribution to the cultural life of the Nation," said S. Dillon Ripley, Secretary of the Smithsonian. "This is, indeed, a significant gift to the Smithsonian's collections."

Abram Lerner, director of the Hirshhorn Museum and Sculpture Garden, called the gift "an event of great importance to the museum community." He said: "The Institute has set a pioneering and positive example. In the continuing exploration by the Nation's business and cultural communities of better means to work productively together, it will be widely noted and long remembered."

Mr. Lerner said that the intended site for the work is the Hirshhorn's entrance plaza, near Jefferson Drive on the National Mall.

In announcing the commission, Joseph S. Schapiro of Los Angeles, Calif., president of the association, said the Institute's board of directors was extremely proud that the Museum's director had termed the gift "one of the most important acquisitions to be received since the Museum's opening in 1974."

"Our members, most of whose parents and grandparents were immigrants to this country, felt they wanted to give an expression of thanks to the people of this country who gave them an opportunity to build an industry," Mr. Schapiro explained.

Mark di Suvero, himself an immigrant, was born in China in 1933 and came to the United States in 1941. His studios are in northern California and New York City.

Working in metal as well as other materials, Mr. di Suvero has won international acclaim over the past decade. He was recently honored by a one-man exhibition at Paris' Tuileries Gardens in 1975, the first to be afforded a living artist of any nationality. In the winter of 1975–76, 15 of di Suvero's monumental sculptures were displayed outdoors throughout New York City as part of a major exhibition of his work presented by the Whitney Museum of American Art.

Di Suvero's monumental sculptures frequently employ massive construction beams and other iron and steel scrap materials welded into three-dimensional compositions.

Mr. Schapiro said: "We believe that the creation of a new sculpture from iron and steel scrap by a living master such as Mark di Suvero will bring great pleasure and inspiration to the millions of Americans who visit Washington each year. We see it as more than a commemoration of our association's five decades. We see it as a lasting gift for generations to come."

The Institute of Scrap Iron and Steel, Inc., founded in 1928, is a national association of more than 1,500 firms, predominantly processors and brokers of ferrous and non-ferrous scrap. These firms handle, process, and ship approximately 95 percent of all ferrous scrap consumed in the United States or exported. The Institute's national headquarters are in Washington, D.C.

H.R. 8309—THE ILLUSIONS OF THE HOUSE'S BARGE TAX

Mr. DOMENICI. Mr. President, the House has met the challenge of waterway user charges by sending us what could be termed an illusion. H.R. 8309 talks of user charges. It talks of equity. But when you really look at it carefully, it is a very small and modest first step.

It is as if United States Steel suddenly decided to tow its large barges with a rowboat. Simple, but ineffective. And the House bill has the looks of a leaky rowboat to boot.

Of course my colleagues are aware that the House bill recovers only a modest sum, less than 10 percent of Federal inland waterways expenditures. And my colleagues are aware of the administration's stated determination to veto recovery levels as low as those in the House bill. But let me first explain for the benefit of my colleagues why the House's 4 cents-a-gallon waterway fuel tax may also lack substance, even if it is nice "on principle."

First, the bill specifies exactly which waterways are to be covered by the tax. That sounds reasonable, but it turns out to be quite leaky. The list of waterways just happens to exclude a couple of major river ports with heavy barge traffic and barge fueling facilities. The House tax covers the Mississippi River only as far south as Baton Rouge. Thus a fleet of barges fueling in New Orleans might be able to avoid paying any tax at all on voyage to St. Louis. Is that fair? Under our Senate-passed bill, which I have introduced as an amendment to H.R. 8309, the user charges are based on the barge companies' use of the waterway and various locks, not where they buy their fuel. Other barge ports, such as Portland, Ore., carry similar exclusions.

Other leaks in the House bill are produced by the exclusion of entire waterways. All new waterways are excluded from the House bill, for example the Tennessee-Tombigbee Waterway, the first lock of which is scheduled to be in operation next year, is not covered. Nor is the extension of the Red River Waterway from Shreveport into Texas. Does this mean that every time a lock is opened, the House bill would have to be amended? How cumbersome.

The Yazoo River is excluded—all 165 miles from the Mississippi River to Greenwood, Miss., even though the Federal Government will be taking over its maintenance. There are numerous small waterway segments in Louisiana, such as the 79 miles from Napoleonville, La., to the gulf, the Bayou Lafourche and the Lafourche Jump Waterway that are excluded. The upper 40 miles of the White River in Arkansas are excluded.

And I must point out what I trust is a technical error in the House bill, excluding all waterways from the House levy. On page 13, line 17, the House tax states that the tax applies to the waterways in "section 103." "Section 104" is the section listing the waterways. Thus, unless there is a change, no taxes at all would be collected under the House language.

But more significant that this exercise is what might be termed nitpicking is the fact that the House's bill raises a wholly inadequate sum in relation to the hundreds of millions spent yearly by the taxpayers for the sole benefit of the barge industry. Right now, the barge industry is probably the most subsidized industry in the Nation, on the basis of its revenues. It receives a direct taxpayer subsidy of 41 percent of its annual revenues, repaying nothing, according to the Congressional Budget Office. The House bill reduces that bonanza to a 37 percent subsidy of revenues.

By contrast, the subsidy to other transportation modes is negligible as a percentage of their revenues. Is that equity? I think not.

The Carter administration has told the Congress that it will veto any user charge as low as the one contained in the House bill. President Carter is taking a balanced approach on the inland navigation program. He is dead right, and I commend him for his position.

Mr. President, the amendment I introduced yesterday will bring greater equity to the family taxpayer of this Nation and to all modes of transportation. It will give us the flexibility we need to go to conference with the House to reach a compromise that is truly reasonable and effective. It will do no justice to this body. I believe we should not resolve this issue for a year or two. We should resolve it once and for all.

To give my colleagues a perspective on the special status of the barge industry, I am including a list that shows how

other types of Federal water projects are repaid, and how the waterways are not repaid.

I ask unanimous consent that this chart be printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

COST SHARING

(1) Hydropower (paid by rural co-ops and others), complete repayment of construction costs allocated to power, plus all operation and maintenance costs.

(2) Water supply: municipal and industrial (paid by cities and industries), complete repayment of allocated costs, with interest.

Irrigation (paid by farmers), approximately 50 percent recovery on construction costs, plus all maintenance costs.

(3) Navigation (to be paid by the barge companies).

Current situation, nothing.

House bill, maximum of 10 percent of Federal costs.

Senate bill (after full phase-in), 50 percent of capital costs and 100 percent of operations and maintenance.

NEW INDEX SHOWS PERSONAL AND CORPORATE INFLUENCE ON FEDERAL ADVISORY COMMITTEES

Mr. METCALF. Mr. President, the new three-way index to the membership of Federal advisory committees reveals patterns of personal, corporate, and other institutional influence on these groups, which advise the Federal Government in virtually every area of policymaking.

Research by the Subcommittee on Reports, Accounting and Management discloses that 173 persons serve on anywhere from 4 to 12 advisory committees. Of these, 109 persons were on 4 committees, 23 serve on 5 committees, 19 serve on 6 committees, 14 persons serve on 7, and 8 persons serve on 8 or more committees.

It also discloses that 28 large companies, led by American Telephone & Telegraph, each claim between 20 and 120 representatives on advisory committees; that 14 universities, led by the University of California, each claim between 93 and 394 representatives on advisory committees; and that the AFL–CIO itself claims 104, with 4 affiliated unions each claiming between 20 and 24 representatives on advisory committees.

In the "associations" category, the subcommittee study discloses that the Air Transport Association of America claims 21 positions on advisory committees, and the American Radio Relay League—amateur ham radio operators—claims 20.

And it discloses that the League of Women Voters now claims 15 positions on advisory committees, down from 25 a year earlier.

The source of this information is an alphabetized three-way index to the membership of the 1,159 Federal advisory committees, commissions, councils, boards, and other panels in existence as of December 31, 1976. The fifth annual report of Federal advisory committees, transmitted by the President to the Congress in March, puts total membership at 23,375 persons.

As required by the Federal Advisory Committee Act (Public Law 92–463), that report contains the name of every advisory committee, the date of and authority for its creation, its termination date, or the date it is to make a report, its functions, a reference to the reports it has submitted, a statement of whether it is an ad hoc or continuing body, the dates of its meetings, the names and occupations of its current members, and the total estimated cost to the United States to fund, service, supply, and maintain the committee.

In all, the report in summary form and the unbound supporting documents submitted by agencies in connection with it span 4,831 pages.

Since the act provides that the membership of an advisory committee shall be "fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee," the subcommittee asked the Congressional Research Service to oversee preparation of an index of the names and affiliations of the current advisory committee members identified in the fifth annual report. It has just been published.

The index provides three alphabetized listings of the membership information contained in the fifth annual report, making it possible to look up the 23,375 individual members by name or by affiliation, or to determine at a glance the names and affiliations of all the members of any given advisory committee. The listings are as follows:

First. By affiliation, then by member name and then by committee code (see glossary for the full name and code of each advisory committee);

Second. By member name, then by affiliation and then by the committee on which s(he) serves; and

Third. By committee code, then by member name and by affiliation.

The third listing, by committee code, includes two subcategories at the end: Committees for which no membership information was submitted (in most cases that is because no members had been appointed as of December 31, 1976), and committees that were terminated during 1976 and for which no membership information was due.

THE INDEX AS A REFERENCE TOOL

Because of its three-way listing, the index will serve as a valuable reference for the Congress and the public. However, users of the index should bear in mind that—

First. The index is only as accurate as the information contained in the fifth annual report. Therefore, errors in the original source documents will also appear in the index.

Second. An attempt has been made to simplify affiliation listings and committee codes. Related committees have been grouped under a common code for ease of finding, so that the Commerce Department's advisory committees for multilateral trade negotiations, for example, all bear a DCOM-MTN designation, followed by a letter code distinguishing each committee from the others. Thus, the Industry Sector Advisory Committee on Aerospace Equipment for Multilateral Trade Negotiations is coded DCOM-MTN-AE.

Third. Another change is the elimination of professional and honorary titles, such as professor, doctor, M.D., and the honorable. Use of such titles in past years caused problems in computerization of the information in the annual report, and eliminating them this year simplified the coding process substantially.

Fourth. Appendix A includes the text of the Federal Advisory Committee Act as amended by the Government in the Sunshine Act (Public Law 94–409).

COMPARISONS: TEXAS UP, HARVARD DOWN

Mr. President, the subcommittee did similar research on the membership indexes for the third and fourth annual reports of Federal advisory committees, making comparisons possible.

At the end of 1975 there were 168 persons serving on four or more advisory committees, down from 196 at the end of 1974. In 1976, then, there was a slight rise in multiple service. Extenuating circumstances should be noted for Government officials who serve on several committees: Often they serve ex officio, and the law requires that there "shall be designated an officer or employee of the Federal Government to chair or attend each meeting of each advisory committee."

In the corporations category, firms are ranked by their number of advisory committee representatives in all 3 years. Union Carbide and Arco are new to the list of leaders in 1976, while TRW has dropped out.

In the universities category, California leads for the third straight year. Texas, which was third in 1975 with 128, climbs to second with 160, while Harvard which was second in 1975 with 159, drops to third with 140.

Interestingly, corporate representatives dominate the list of persons serving on four or more advisory committees. Of the 173 persons holding four or more advisory positions, 74 come from corporations, 33 from labor unions, and 12 from universities.

Mr. President, the General Services Administration, which prepares the annual report of Federal advisory committees, did its most thorough and accurate job yet. It also provided financial support to CRS for overseeing preparation of the index. In turn, CRS and the contractor who prepares the information in the annual report for input to CRS computers did their best job yet.

Nonetheless, there are many instances in the index of firms not being identified as subsidiaries of parent corporations. Subcommittee staff made some consolidations in the course of its study, but no doubt failed to attribute the advisory committee positions of some subsidiaries to their parent corporations. This means the number of positions ascribed to some corporations is probably understated.

By the same token, a corporate merger can cause a sharp rise in the number of advisory positions credited to one firm. For example, Rockwell International several years ago acquired Collins Radio, which had quite a few representatives on advisory committees. As a result, Rock-

well jumped to fifth from 15th on the list of leaders.

FAIR BALANCE AND FRESH VIEWPOINTS

These patterns of personal, corporate, and other institutional representation on advisory committees reveal a continuity and concentration, raising this question: Should agencies consider rotating their advisers in order to obtain fresh viewpoints?

Agencies should find this study and the index most helpful not only in answering this question, but in carrying out President Carter's policy that advisory committees "have truly balanced membership."

The index also should help the standing committees of the Congress to evaluate the advisory committees that are under their legislative jurisdiction.

Certainly, the index will have more value—not less—because of the President's advisory committee reduction program, which began with a Government-wide, zero-base review of all committees that he ordered in February. In August he announced that of the 1,189 committees reviewed, a total of 480, or 40 percent, would be eliminated through termination or consolidation. The index then has more value because—

First. The terminations and consolidations could well eliminate more than 8,000 advisory committee positions. Depending on how they are implemented, the cuts and consolidations could result in even stronger patterns of personal, corporate, and institutional influence.

Second. In fact, the President's reduction program is not being put into effect very quickly at some agencies—for example, the Department of Health, Education, and Welfare. That means the index functions as a fairly reliable guide to who's who on advisory committees in 1977.

Third. Where the President's reduction program has been implemented, it sometimes does not result in a net reduction in advisory committee membership. For example, the National Science Foundation has more members for its new lineup of 14 advisory committees than it had for its old lineup of 36 committees.

The subcommittee will distribute the index to Members of Congress, the press and to public interest groups. Others may buy it for $11.75 from the Superintendent of Documents and should refer to stock number 052–070–04238–9.

Mr. President, I ask unanimous consent to have printed in the RECORD the results of the subcommittee's study of multiple representation on Federal advisory committees.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CORPORATIONS (WITH 20 OR MORE POSITIONS ON FEDERAL ADVISORY COMMITTEES)

Company	1974 Rank	1974 Number	1975 Rank	1975 Number	1976 Rank	1976 Number
American Telephone & Telegraph	1	95	1	130	1	120
RCA	1	95	2	105	2	94
General Electric	4	80	4	74	3	74
Communications Satellite	5	64	3	81	4	60
Rockwell International Corp	15	29	5	57	5	50
International Telephone & Telegraph	3	86	6	53	6	44
Exxon	6	48	8	39	7	38
Western Union International	10	35	10	36	8	35
Boeing	9	36	9	38	9	33
General Telephone & Electronics	25	22	17	25	9	33
Motorola	21	25	16	26	11	32
Ford Motor	16	28	11	30	12	29
International Business Machines	7	40	7	45	13	27
Aeronautical Radio	21	25	12	29	14	26
General Motors	11	33	13	28	14	26
E. I. du Pont de Nemours	24	24	14	27	16	25
Lockheed Aircraft	14	20	20	24	16	25
Mitre	8	37	14	27	16	25
United Airlines	21	25	24	21	16	25
Westinghouse	11	33	20	24	16	25
Union Carbide	(1)	------	(1)	------	21	23
American Broadcasting Co	(1)	------	25	20	22	22
R & D Associates	27	21	22	22	22	22
Mobil Corp	19	26	17	25	22	22
Arco	(1)	------	(1)	------	25	20
Hughes Aircraft	18	27	17	25	25	20
Shell Oil	(1)	------	25	20	25	20
U.S. Steel	(1)	------	25	20	25	20

1 Not among corporations with 20 or more advisory committee positions.

UNIVERSITIES (WITH 90 OR MORE POSITIONS ON FEDERAL ADVISORY COMMITTEES)

Company	Rank	Number
University of California	1	394
University of Texas	2	160
Harvard University	3	140
University of Washington	4	123
University of Michigan	5	118
Johns Hopkins	6	114
Massachusetts Institute of Technology	7	113
University of Wisconsin	8	104
State University of New York	9	101
Yale University	10	100
Columbia University	11	96
Stanford University	12	96
University of Illinois	13	93
University of Minnesota	14	93

UNIONS

[With 20 or more positions on Federal advisory committees]

AFL–CIO ---------- 104
International Brotherhood of Electrical Workers ---------- 24
United Steelworkers of America ---------- 24
Amalgamated Clothing and Textile Workers Union (merged Amalgamated Clothing Workers of America and Textile Workers Union of America ---------- 21
Communications Workers of America ---------- 21

[Name/affiliation and number]

Abel, I. W., AFL–CIO–USA ---------- 4
Adams, John, Pharmaceutical Manufacturers Assoc ---------- 6
Ahern, Eileen, Continental Group, Inc ---------- 4
Andrus, Roy K., Western Union International, Inc ---------- 4
Bach, Norman G., Motorola, Inc ---------- 4
Ball, John, Public Broadcasting System ---------- 4
Barbely, Earl S., Federal Communications Commission ---------- 7
Bartlett, George W., National Assoc. of Broadcasters ---------- 9
Bell, Richard E., Department of Agriculture ---------- 4
Benham, Edward E., IT&T Corporation ---------- 5
Blaker, Herbert T., Rockwell International ---------- 9
Blaylock, Kenneth T., AFL–CIO–AFGE ---------- 6
Boorstin, Daniel J., Library of Congress ---------- 4
Borman, William M., Motorola, Inc ---------- 5
Brown, Burton P., General Electric ---------- 4
Brown, Carl F., Ford Motor Co ---------- 4
Brubaker Otis F., AFL–CIO–USA ---------- 4
Brunstein, Samuel A., California Institute of Technology ---------- 4
Burkhart, Francis X., International Brotherhood of Painters and Allied Trades ---------- 6
Canestrari, Gisto, ITT World Communications ---------- 6
Carry, Charles R., Tuna Research Foundation, Inc ---------- 4
Cattuci, Henry G., Western Union International, Inc ---------- 7
Chamberlain, Adrian, R., Colorado State University ---------- 4
Citarella, Joseph F., General Telephone and Electronics Corp ---------- 4
Cohen, Stanley I., Department of Commerce ---------- 4
Cornfield, Jerome, George Washington University ---------- 5
Crafe, Roger D., U.S. Steel Corp ---------- 5
Cranmer, Victor H., AT&T Co ---------- 6
Crowell, Raymond B., Federal Communications Commission ---------- 5
Debra, Daniel, Stanford University ---------- 4
Deck, Edward N., General Electric ---------- 4
Dehaas, Thijs, Department of Commerce ---------- 4
Dorian, Charles, Comsat General Corp ---------- 9
Driscoll, Edward J., National Air Carrier Association, Inc ---------- 4
Dunlop, Dale M., AFL–CIO–IBEW ---------- 4
Dykstra, Jacob J., Point Judith Fisherman's Cooperative Assoc ---------- 4
Easley, Roy W., Assoc. of Maximum Service Telecasters, Inc ---------- 5
Ebel, James A., Cornhusker T.V. Corp ---------- 6
Fear, James L., Department of Transportation ---------- 4
Felando, August J., American Tunaboat Association ---------- 4
Feltner, Richard L., Department of Agriculture ---------- 11
Fine, Harry, Federal Communications Commission ---------- 6
Fisher, Ronny G., AFL–CIO–URW ---------- 4
Fitzsimmons, Frank E., Teamsters ---------- 4
Flay, Alexander H., Institute for Defense Analyses ---------- 4
Foster, Orrington, C., AT&T Co ---------- 4
Fredrickson, Donald S., National Institutes of Health ---------- 11
Freeman, Arthur L., State Department ---------- 4
Freibaum, Jerome, National Aeronautics and Space Administration ---------- 5
Froh, Walter O., AFL–CIO–APWU ---------- 4
Fubini, Eugene G., E. G. Fubini Consultants, Ltd ---------- 4
Fullerton, Charles E., State Department of Fish and Game (CA.) ---------- 4
Gatti, Joseph M., Department of Transportation ---------- 7
Georgine, Robert A., AFL–CIO ---------- 4
Gibson, Owen B., AT&T Co ---------- 6
Glunt, E. Merle, American Radio Relay League ---------- 11
Gould, Richard G., Satellite Systems Engineering, Inc ---------- 6
Grumblatt, Joseph J., General Telephone & Electronics Corp ---------- 4
Hagedorn, George G., National Association of Manufacturers ---------- 4
Hagen, John P., Penn State ---------- 4

UNIONS—Continued

[Name/Affiliation and Number]

Hall, Paul, AFL–CIO–SIU 4
Hardt, Hugo A., Tracor, Inc 7
Hargis, William J., Jr., Virginia Institute of Marine Science 4
Hawkes, William J., Jr., A.C. Nielson Co. 4
Hawkins, Willis M., Lockheed Aircraft 5
Hempton, Gordon F., Federal Communications Commission 6
Higdon, Thomas N., Department of Defense 4
Highton, Francis E., Economic Consultant 7
Holzer, Johann, Department of Defense 6
Horn, William, National Business Aircraft Association 4
Hubbard, Arthur G., Department of Defense 4
Huffcutt, Gordon L., Department of State 4
Hupe, Howard H., Health, Education & Welfare 4
Hurwitz, Irvin, Federal Communications Commission 4
Jager, Elizabeth R., AFL–CIO 4
Jahn, Laurence R., Wildlife Management Institute 4
Jansky, Donald M., U.S. Office of Telecommunications Policy 4
Kajander, John, Pennzoil Co 4
Kamber, Victor S., AFL–CIO 4
Kamman, Alan B., Arthur D. Little, Inc. 4
Kanig, Joseph L., Proprietary Association 4
Kassens, Harold L., A. D. Ring & Assoc. 7
Kelleher, John J., Systematics General Corp 7
Keller, William H., AT&T Co 4
Keys, Carlton A., Department of Transportation 4
Kimball, Harold G., Department of Commerce 4
Kimble, Charles C., AFL–CIO–IUEW 5
Knouse, George, National Aeronautics and Space Administration 4
Kratz, Jeremiah F., Energy Research and Development Administration 7
Laplante, Fredrick E., Jr., RCA Global Communications, Inc 4
Lepkowski, Ronald J., Federal Communications Commission 4
Leslie, Helen K., K&W Supply House, Inc 4
Lokken, Harold E., Fishing Vessel Owners Association 5
Long, Robert W., Department of Agriculture 5
Loope, Nicholas R., AFL–CIO–CJA 5
Lukowski, Leo J., General Telephone & Electronics 4
Lyons, John H., AFL–CIO–BSOIW 4
Macdonald, Raymond W., AFL–CIO–AIW 4
Maloney, Shiela M., AT&T Co 5
Mark, Hans M., National Aeronautics and Space Administration 4
McGuire, George F., Western Union 4
McShane, Brendan A., General Electric Co. 6
McCarthy, John F., Jr., Massachusetts Institute of Technology 4
McKernan, Donald L., Univ. of Washington 4
McNaughten, Neal K., Federal Communications Commission 4
Meacham, Charles H., State of Alaska 5
Meaney, Martin, RCA–NBC 10
Metzger, Sidney, Communications Satellite Corp 5
Miller, John E., National Aeronautics and Space Administration 4
Miller, Vera, AFL–CIO–ACWA 4
Mills, William N., Department of Defense 7
Molinari, Mario J., Department of Commerce 5
Moody, O. William, AFL–CIO–SIU 4
Moore, Warren H., U.S. Army 4
Mulhern, Francis J., Department of Agriculture 6
Neson, Norton, New York University Medical Center 5
Nesti, Anthony J., National Electrical Manufacturers Assoc 6
Newell, Reginald, AFL–CIO–IAM 5
O'Connor, Robert A., CBS, Inc 4
O'Donnell, John J., AFL–CIO–ALPA 4
Ockert, Roy A., AFL–CIO–IWA 4
Oswald, Rudolph A., AFL–CIO 5
Parker, James D., CBS, Inc 7
Perkel, George, AFL–CIO–ACWA 6
Perkins, Courtland D., National Academy of Engineering 4
Perry, William J., Electromagnetic Systems Lab 4
Pickens, R. Andrew, Northrop Page Corp. 4
Pillard, Charles H., AFL–CIO–IBEW 6
Post, John, Business Roundtable 4
Potts, James B., Communications Satellite Corp 4
Potts, William J., Haley, Bader & Potts 4
Pracht, Raymond, Department of State 4
Probst, Samuel E., Office of Telecommunications Policy 4
Quinby, Gilbert F., Narco Scientific Industries 4
Reese, Bruce A., Purdue University 5
Reichardt, Paul E., Washington Gaslight Co. 4
Reinhart, Edward E., California Institute of Technology 6
Renner, John J., Advanced Technological Systems, Inc 4
Rettig, Roger M., National Federation of Independent Unions 4
Richards, Warren G., U.S. Information Agency 4
Richardson, Elliot L., Department of Commerce 5
Roberts, Markley, AFL–CIO 6
Royal, John J., Fisherman & Allied Workers Union 5
Samora, Julian, University of Notre Dame 4
Samuels, Sheldon W., AFL–CIO–IUDL 4
Schneider, Stanley S., Aeronautical Radio, Inc 6
Serafin, John, American Broadcasting Co., Inc 12
Sheets, James R., AFL–CIO–LIUNA 4
Shepherd, Robert E., Department of Commerce 4
Simonds, Raymond E., RCA Corp 11
Smith, Carl E., Smith Electronics 5
Smith, Harry R., I.T.T. MacKay Marine 4
Smith, Hillyer S., Aeronautical Radio, Inc 7
Smith, Neil M., Smith & Powstenko 5
Sodolski, John, Electronic Industries, Association 7
Spector, Engene P., AFL–CIO–NMU 6
Teper, Lazare, AFL–CIO–ILGWU 7
Truffer, Arthur C., Frederick Electrontics Corp 4
Upton, Arthur C., State University of New York Stoney Brook 4
Van Drimmelen, Frederick E., Foxboro Co 4
Vigue, Kenneth J., ITT 5
Walker, Donald L., Motorola, Inc 6
Ward, Martin J., AFL–CIO 5
Ware, Willis H., Rand Corp 4
Warner, Robert T., Aircraft Owners & Pilots Association 4
Weimtraub Norman A., International Brotherhood of Teamsters 4
Weppler, H. Edward, AT&T Co 10
White, Frank C., Air Transport Association of America 8
Williams, Francis K., Federal Communications Commission 6
Wogan, Gerald N., Massachusetts Institute of Technology 5
Woodcock, Leonard, United Auto Workers 4
Yeh, Leang P., L.P. Yeh & Associates 4
Yoest, Gerald P., American Institute of Merchant Shipping 6

THREATS TO TEXTILE INDUSTRY CITED BY TIMMERMAN

Mr. THURMOND. Mr. President, Robert P. Timmerman, president of the Graniteville Co. and the American Textile Manufacturers Institute, has issued a warning that serious problems now face the U.S. textile industry.

In a speech in Aiken, S.C. October 11, Mr. Timmerman cited textile imports, labor unions, and Government interference as the chief dangers to the textile industry.

Sharply critical of Congress and the Carter administration, Mr. Timmerman's statements deserve the attention of this body. As a Member of Congress it is my intention to promote actions which will help meet the problems cited by Mr. Timmerman.

Mr. President, I ask unanimous consent that an article titled, "Timmerman Sees Threat to Textiles" which appeared in the October 12, 1977, issue of the Aiken Standard newspaper, and an editorial titled, "Textile Crisis" which appeared in the October 15, 1977, issue of the Augusta Chronicle newspaper, Augusta, Ga., be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Aiken Standard, Oct. 12, 1977]

TIMMERMAN SEES THREATS TO TEXTILES

(By Ruth Walker)

"The businessman cannot be silent any more. We've got to speak out," Graniteville Company President Robert P. Timmerman told the Fifty-Plus Club at its luncheon meeting yesterday.

He said he saw grave threats to the American textile industry from textile imports, labor unions, and government interference, especially from regulatory agencies and the Carter administration.

Timmerman, a Warrenville native and a Clemson graduate, told the club, "The American textile industry is the most efficient (among textile industries) in the world—but it's necessarily a labor intensive industry, in spite of all the modernization we try to do. And we're getting clobbered from foreign imports—textiles made in Korea, Taiwan, Hong Kong, and places like that, where the wage scales are only about a tenth what they are here."

Because of this situation, he said, the Graniteville Company has no plans for expansion.

He spoke against the Carter administration policy of allowing imports to increase by 6 percent each year, at a time when the domestic textile industry is growing only 3 percent annually, and said that he had seen research to indicate that the consumer doesn't really get a break on prices anyway when he buys garments of imported fabrics. "It's the middleman who makes the profit," Timmerman said.

He also had extremely harsh words for the Labor Reform Bill, recently passed by the House and soon to be considered by the Senate. "This is a punitive bill, no more a reform than anything else in Congress," he said.

It would permit union organizers onto the premises of industrial plants to organize, would permit organization of plant security personnel, and would shorten union election periods to about 15 days. "Usually you (management) can get a settlement in about 25 days." Under this bill, the National Labor Relations Board would be increased from five to seven members. "The textile industry is the only one in this country that is not

organized, and this is nothing but an anti-South, anti-Sun Belt, anti-textile bill."

"The name of the game is U.S. jobs, and the Carter administration should realize that. The textile-apparel complex is the largest employer in this country, providing 2.3 million jobs, two out of three of them to females, and 22 percent of them to members of the minority race."

He mentioned later that he was unhappy that wage scales were so low in the textile industry, especially at the entry level, but said low wages were necessary to keep goods competitive. "At the supervisory level, though, I don't think we have any reason to apologize for our salaries."

The Graniteville Company, he said, is the largest civilian employer in Aiken and Richmond counties, and has a weekly payroll of $1.4 million.

Timmerman went on to stress the danger of socialism, as he sees it: "One thing worries me—that we're going the way of England and Belgium. These countries have gone so socialistic that they can't compete with us today.

"But we still have a good country, one we can be proud of."

Timmerman opened the floor for questions, and someone remarked that he was surprised that Timmerman hadn't mentioned regulatory agencies.

"Don't get me started on those—I could talk till Thanksgiving!" He did cite a couple of specific problems, byssinosis and Tris.

"We've had less than $1 billion profit last year, but this year we will be required to spend $2.8 billion to lower the levels of cotton dust in our mills." Timmerman said. The cotton dust is supposed to be the cause of byssinosis, or brown lung.

He also blamed the Tris flap on the government. About five years ago, the government required children's sleepwear to be treated with this flame-retardant chemical, even though the textile industry said it hadn't had time to test the substance adequately.

Now it has been indicated that children chewing on garments treated with the substance could get cancer. Tris garments have been taken off the market.

"And what can you do with the stuff?" Timmerman asked rhetorically. "You can't burn it. You can't send it overseas. They've got TV and radio over there, and they know what the problem is."

He also criticized the Carter energy program. He favors free market prices for energy rather than the taxation and conservation approach Carter has taken. Timmerman is also skeptical of conversion to coal; not too many years ago, he said, his company had to convert from coal to oil and gas to cut pollution.

[From the Augusta Chronicle, Oct. 15, 1977]

TEXTILE CRISIS

Perhaps the understatement of the year was the declaration by Robert P. Timmerman, president of the Graniteville Co., that government controls are making it "difficult" for the Nation's textile industry.

The president of the American Textile Manufacturers Institute told an Aiken civic club last Tuesday that such controls are causing the industry to become less effective and are lowering the profit for textile industries in other countries.

The situation is all that Mr. Timmerman says.

Bureaucratic agencies are also costing the textile industry dearly. Several operations at Graniteville, for example, utilize coal for heat. But environmental regulations call for a costly conversion to natural gas and oil. And, ironically, because of shortages in those fuels, some areas are now being forced to convert back to coal!

So here is a situation which calls for action.

Under so-called Multifiber Arrangements worked out under a worldwide trade agreement, America and other importers can unilaterally restrain imports that disrupt their markets. Communist China, however, was never a party to this pact—and imports from Peking are at an all-time high. Last year, according to the ATMI, imports amounted to over 25 million square yards—nearly double the total from the year before.

In Augusta alone, four major mills are Carolina-based—and Georgia and the Carolinas account for a huge chunk of the Nation's textile industry. If foreign competition—especially from Red China—should reach the acute stage in the next few years, relief from the import effect would be an urgent necessity for the economic well-being of this area.

With millions of textile jobs hanging in the balance, the Congress hopefully will not stand idly by. Restraint of foreign imports is a difficult move with many foreign policy implications. But indifference to American unemployment is worse.

PEACE IN THE MIDDLE EAST

Mr. BAYH. Mr. President, recently considerable controversy was generated because of a joint United States-Soviet declaration on the Mideast. Many individuals have expressed concern to me that the official policy of the U.S. Government has changed and, in collusion with the Soviet Union, the superpowers are taking the first step toward imposing a solution to the Arab-Israel dispute. Those familiar with the intricacies of this issue know that no course of action could be more dangerous than creating the impression that the United States is prepared to force Israel into negotiating directly with those who are dedicated to her destruction. Unfortunately, the United States-Soviet declaration created such an impression.

Mr. President, U.N. Resolutions 242 and 338 have been agreed upon as the basic framework for Middle East peace. As my colleagues know, U.N. Security Council Resolution 242 adopted on November 22, 1967, calls for the "termination of all claims or states of belligerency and respect for and acknowledgment of the sovereignty, territorial integrity, and political independence of every state in the area and their right to live within secure and recognized boundaries free from threats or acts of force. . . ." UNSC Resolution 338 approved on October 21, 1973, reasserted these principles. To proceed on a formula other than outlined in these resolutions would represent a dangerous ambiguity suggesting that acceptance of the legitimacy of Israel—of her right to exist—is not a precondition of a Mideast settlement.

President Carter and his advisers did meet with Foreign Minister Dayan at the United Nations to discuss this vital issue. On October 6 there was a meeting at the White House between Members of the House of Representatives concerned about the United States-Soviet declaration and the apparent shift of U.S. policy many feared this represented. I understand that our colleagues in the House who attended the meeting emerged somewhat reassured by the President's explanation of U.S. conduct in this matter. It is my hope that the President will at the earliest opportunity explain the purpose of the declaration to the American people as well. Such public reaffirmation of our continuing support for Israel would be a constructive step in reassuring our Israeli allies that the United States intends to remain firm in our commitment to the State of Israel.

The procedural accords reported between the United States and Israel are encouraging. We all hope these developments will lead to a productive negotiating session at Geneva this winter. The flexibility on the part of the Israel Government in dealing with the issue of Palestinian representation at these talks has been important and is evidence of the deep desire by Israeli leaders for a just and lasting peace in the Middle East. But this flexibility must not be interpreted as a sign of weakness. Nor should it be construed to support the myth that the United States can force Israel to negotiate her own destruction. I am concerned that this fear has been fostered. Therefore, it is important that the President and all of us who are concerned for peace in the Middle East move to clear the air of this apprehension.

Mr. President, it is my hope that the strong and vigorous support expressed in this country for Israel serves as a clear and certain message to all. A strong and secure Israel is an indispensable element of any just and lasting settlement in the Middle East. It is essential that our commitment to this principle should not waver or equivocate.

PROMPT ACTION ON STEEL PROBLEMS

Mr. HEINZ. Mr. President, with more than 13,000 steelworkers laid off in recent weeks, it is clear that the industry is in perilous straits.

Not only are the jobs of tens of thousands of steelworkers hanging in the balance, but our national economy could be seriously hurt by additional steel layoffs. Many of the solutions being discussed, such as tax incentives and modernization incentives, are essentially long term solutions that will have little impact on the thousands of workers who could get pink-slipped in the next few weeks.

The steel industry and workers need help now, and President Carter can give us that help now. The President can safeguard the future of thousands of workers across Pennsylvania, and the Nation, with the swift and decisive steps I am urging him to take.

One area where immediate action can be taken is precisely in the area the President mentioned at last week's White House steel meeting—vigorous enforcement of existing trade laws. Such enforcement—through the quick completion of pending cases—will go far toward bringing a prompt end to the unfair trade practices that have been victimizing our industry and causing extensive lay-offs. Such enforcement will help to equalize domestic supply and demand levels, and thereby assist the industry in maintaining current capacity.

Specifically, there are three actions the President should take immediately.

First, he should announce retention of the specialty steel quotas. Last week the International Trade Commission voted on its recommendation to the President in this case and decided 3 to 1 that removal of the quotas would have a serious adverse effect on the industry. In the face of that judgment, and the President's statement last week about the need to more aggressively enforce our trade laws, he should certainly retain the quotas for their prescribed 3-year period.

Second, the President should instruct the Treasury Department to make its initial findings in the United States Steel dumping complaint against Japan in 60 days, instead of the usual 6 or 9 months, the Treasury Department announced on October 19 that it would accept the complaint for investigation. In view of the critical situation in the steel industry today, and the fundamental importance of this case to our future trade relations in steel with Japan, it is imperative that Treasury follow the President's mandate of last week and move ahead quickly with this investigation and its findings.

Third, the President should direct Special Trade Representative Strauss to reopen the buried American Iron and Steel Institute, section 301, trade discrimination case and direct the Treasury Department to reopen its countervailing duty case against the European steel community.

The American Iron and Steel Institute filed a complaint on October 6, 1976, alleging that the Japanese and European steel makers had made a secret agreement restraining steel trade which has had the effect of increasing Japanese imports to the United States. The Special Trade Representative (Ambassador Strauss) has taken no action on this case even though it is more than a year old.

Mr. President, the steel crisis is now, and President Carter can help solve it now. I call on him to immediately take these actions I have suggested to ease the crisis and restore the industry to economic health.

"101ST SENATOR" WAS ROCKNE'S PROTEGE

Mr. JACKSON. Mr. President, the distinguished Sergeant at Arms of the U.S. Senate, Frank Nordhoff Hoffmann, is presently under consideration for the nomination to the National Football Foundation's Hall of Fame.

Nordy Hoffmann is a native of the State of Washington, who later was an All-American guard at Notre Dame under Knute Rockne.

Many of my colleagues, as well as myself, have written to the National Football Foundation's Honors Court, which is headed by Mr. Fred Russell, of the Nashville Banner, expressing our support for his nomination.

Nordy, who did not play football while a high school student, was discovered by Rockne walking across the Notre Dame campus. His size and agility caught the eye of the famed football coach.

Nordy is still a physical giant as well as a man of professional stature. I am proud of his achievements over the years and of our close relationship.

Recently, in the Seattle Times, Vince O'Keefe, the executive sports editor, and an outstanding newspaper man, wrote a very fine column entitled, "101st Senator was Rockne's Protege." He recites anecdotes from the impressive career of Nordy Hoffmann.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Seattle Times, Oct. 9, 1977]

"101ST SENATOR" WAS ROCKNE'S PROTEGE

(By Vince O'Keefe)

Frank Nordhoff Hoffmann is a big man in the United States Senate, both from a physical standpoint and in the stature of his job, sergeant-at-arms—an innocuous-sounding title which actually means he has charge of a security force of 2,100 persons.

He is equality big in the archives of Notre Dame, where he was an All-America guard, a hand-made protege of Knute Rockne.

Ask most Seattle football fans to identify Nordy Hoffmann, and the answer will be 'Nordy Who?"

Following are our own Tales of Hoffmann, with assists from Frank Hewlett, The Seattle Times' Washington, D.C., correspondent, and Paul J. Clark, Seattle writer and historian:

Hoffmann was born on Queen Anne Hill in December, 1969. His father was a founder of the McDermott-Hoffmann Department Store, the original Bon Marche.

He attended high school at St. Martin's Lacey, which in those years did not field a football team at the prep level. In the fall of 1927 he entered Notre Dame, intent only on earning a law degree.

His roommate in South Bend was Tommy Yarr of Chimacum, who had caught the eye of Notre Dame grid scouts even in that tiny Northwest Washington community.

They encountered Rockne on the campus one afternoon. Here's what one account of that meeting says:

"Rockne looked up at the brawny youth from Seattle, hefted one of his ham-sized hands and asked: 'Why aren't you out for freshman football?'

"Hoffmann: 'I've never played, Coach. We didn't have a team in high school.'

"Rockne: 'Report to the practice field at 2 o'clock. We will teach you the game.' "

Rockne evidently redshirted the Washington pair in '28, but they turned up on the varsity squad the next three years. Both were named All-America in 1931, Yarr at center, Hoffmann at guard.

Notre Dame had the horses in the Hoffmann-Yarr years: Marty Brill, Frank Carideo, Moon Mullins, Bucky O'Connor, Marchy Schwartz, Joe Savoldi—a seemingly bottomless well of talent. The Irish were national champions in 1929 and 1930. Rockne died in an airplane crash early in 1931 and Hunk Anderson took over.

Nordy played for the East in the 1932 Shrine game at San Francisco. On the second-half kickoff, an old clipping relates, Nordy tackled Merle Hufford of the Washington Huskies on the 10-yard line . . . hitting him so hard on the muddy field that they slid back into the end zone. Hoffmann helped the groggy Hufford to his feet.

"Thanks," Hufford muttered, "but listen: We're playing to HELP crippled children, not to cripple more of them."

Nordy got his law degree in 1933. He coached under Anderson and others for a while, then went into private business. He soon was a prominent figure in organized labor and eventually was legislative director of the United Steelworkers of America.

There were three years of Navy duty on the deadly North Atlantic convoy routes, then a return to the Steelworkers. He became an influential figure in the Democratic Party, rubbing elbows with John F. and Robert Kennedy, Edmund Muskie, Hubert Humphrey, Scoop and Maggie.

He served eight years as executive director of the Democratic Senatorial Campaign Committee and last fall was named Senate sergeant-at-arms.

Nordy was nominated for the National Football Foundation's College Hall of Fame last January. While his Senate friends were amazed that he wasn't voted in, Nordy refused to downgrade any of the 12 who were chosen. They were fine people, long overdue for the honor, said Nordy; he could wait.

Hoffmann has at least one strong booster in the House. That would be another rugged guard and linebacker, Norm Dicks of Washington's 6th District. Ex-Husky Dicks, 36, is little more than half Hoffmann's age.

Nordy, says Frank Hewlett, is sometimes known as the "101st senator . . . he has charge of a police department of 2,100 persons, 600 of them directly under him."

And, if so directed by the Senate, he could put the arm on the President, something he and Tommy Yarr and Seattle's Monsignor Philip Duffy never dreamed of when they were standing under the Golden Dome 50 years ago.

PANAMA CANAL NEWS COVERAGE IN WASHINGTON POST

Mr. THURMOND. Mr. President, It is disappointing to me that the largest circulation newspaper in our Nation's Capital, the Washington Post, has apparently allowed its editorial support of the Panama Canal Treaty to influence its news coverage on this important issue.

As the Foreign Relations Committee conducted its hearings on the canal treaty each day, I have noticed that comments by proponents of the treaty always received greater play than the views of opponents. The Post has appeared to consistently follow a biased and uneven policy in its news coverage of the treaty hearings.

This slanted coverage came to a head last Friday, October 14, when testimony by former Secretaries of State Dean Rusk and Henry Kissinger in favor of the treaty was headlined without one single word that other important witnesses even appeared that day in opposition.

On that same day, October 14, leaders of the American Legion, the Veterans of Foreign Wars, the American Veterans of World War II, Korea, and Vietnam, and the Reserve Officers Association all testified against the treaty.

Further, Maj. Gen. Milnor Roberts, director of the ROA, revealed in those hearings, that 309 retired generals and admirals had notified him of their opposition to the treaty.

Consistent with their one-sided coverage of this issue the Post totally ignored this impressive list of treaty opponents which included Gen. Lyman Lemnitzer, Adm. John McCain, Brig. Gen. John Eisenhower, and other respected military leaders.

Mr. President, a newspaper has an obligation to inform its readers about both sides of an issue irrespective of its editorial policy. The Post is wrong when it ignores arguments on the other side of this issue, and I believe the Congress and the people of this area are too smart to be misinformed or misled by such tactics.

In closing, I ask unanimous consent that the ROA news release titled "309 Generals, Admirals Against Panama Canal Treaties, ROA Survey Shows," a story the Post totally ignored, be printed in the RECORD.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

309 GENERALS, ADMIRALS AGAINST PANAMA CANAL TREATIES, ROA SURVEY SHOWS

WASHINGTON, D.C., October 18.—Gen. Lyman L. Lemnitzer, former NATO Commander; Adm. John C. McCain, the former Commander in Chief, Pacific; Gen. Charles L. Boite, former Vice Chief of Staff, U.S. Army; Maj. Gen. Earnest L. "Mike" Massad, former Deputy Assistant Secretary of Defense; Maj. Gen. Kenneth O. Sanborn, former Commander, U.S. Air Forces—South, Panama; and Brig. Gen. John S. D. Eisenhower, USAR, son of the late President Eisenhower, are among the 309 flag rank officers who have gone on record opposed to Panama Canal Treaties signed by President Carter on September 7. Only 7 expressed their support.

Included are generals and admirals of all the services—regular, Reserve and National Guard—who voiced their opposition through the Reserve Officers Association of the United States (ROA), chartered by Congress to advise on matters of national defense.

Their position—free of political constraint—was cited Oct. 14 by Maj. Gen. J. Milnor Roberts, ROA Executive Director, in testimony before the Senate Committee on Foreign Relations.

"We had asked our members who are not "muzzled" to speak up so that our fellow citizens are not misled into the conviction that all military leaders think the treaties are the best thing since landing on the moon" General Roberts said. "Regardless of their personal opinions, what you hear from the current Chiefs of Staff is what the Administration wants you to hear. They could not possibly object publicly with their civilian bosses, including President Carter who signed the treaties," Gen. Roberts said. "In supporting the treaty, the joint chiefs have differed from the great majority of their military colleagues who are free to express their opinion."

Among other military leaders in opposition to the Panama Canal treaties were:

Lt. Gen. Robert W. Colglazier, Jr., AUS (Ret.), former Deputy Chief of Staff—Logistics.

Lt. Gen. Stanley "Swede" Larsen, USA (Ret.), former Deputy Commander-in-Chief, Chief of Staff, U.S. Army—Pacific.

Vice Adm. J. F. Bolger, USN (Ret.), former Deputy Chief of Naval Personnel.

Maj. Gen. Glenn C. Ames, AUS (Ret.), nationally recognized leader, also, in the National Guard Assocation, Association of the United States Army, and former Adjutant General of California.

Maj. Gen. Homer I. "Pete" Lewis, USAFR, former Chief of Air Force Reserve.

And even a Carter, Maj. Gen. Leslie D. Carter, USA (Ret.), of Midlothian, Va.

ALABAMA

Maj. Gen. George F. Hammer, USAR, Tuscaloosa.

Brig. Gen. W. W. Duffey, USAR, Ret. Birmingham.

Brig. Gen. Lewis C. Pattillo, USAR, Hartselle.

ARIZONA

Maj. Gen. Benjamin W. Fridge, USAF, Temple.

ARKANSAS

Maj. Gen. Herman H. Hankins, AUS Ret., Arkadelphia.

Brig. Gen. Thomas F. Butt, USAR, Fayetteville.

CALIFORNIA

Lt. Gen. Stanley R. Larsen, USA Ret., San Francisco.

RADM R. D. Adams, USNR Ret. San Francisco.

Maj. Gen. Glenn C. Ames, AUS Ret., Woodland Hills.

Maj. Gen. William H. Baumer, USAR, La Jolla.

RADM Anthony A. Braccia, USNR, Orinda.

Maj. Gen. C. Lyn Fox, AUS Ret. San Francisco.

RADM John E. Harlin, USNR Ret., Fullerton.

Maj. Gen. W. J. Hixson, AUS Ret., Oceanside.

Maj. Gen. Henry K. Kellogg, AUS, Ret. Los Altos.

RADM William McCloy, USNR, Newport Beach.

Maj. Gen. Douglas J. Peacher, USMCR, La Jolla.

RADM Carl E. Watson, USNR Ret., Richmond.

Brig. Gen. Fred C. Faupel, Jr., USAF Ret. Chatsworth.

Brig. Gen. Philip J. Donovan, USAR Santa Monica.

Brig. Gen. Stewart L. Hall, AUS Ret., San Diego.

Brig. Gen. William H. Klenke, Jr., USMC Ret., Pauma Valley.

Brig Gen. Michael L. Matte, USAFR Ret., San Diego.

Brig. Gen. A. J. Maxham, NG Ret., Long Beach.

Brig Gen. Charles McCormick, Jr., USAR Ret., Rancho Mirage.

Brig. Gen. Keith E. McWilliams, ARNG, La Jolla.

Brig. Gen. Wallace H. Nickell, USAR, W. Sacramento.

CONNECTICUT

Brig. Gen. Alphonse J. V. Fiedorczyk, USA Ret. Stamford.

Brig. Gen. James D. Hewett, USAR, Kensington.

Brig. Gen. John J. King, AUS Ret., Hartford.

DELAWARE

Brig. Gen. Albert W. Adams, USAR Ret., Bethany Beach.

DISTRICT OF COLUMBIA

Adm. John S. McCain, Jr., USN Ret.
Maj. Gen. Lowell J. Bradford, USAR Ret.
Maj. Gen. Robert E. L. Eaton, USAF Ret.
Brig Gen. Nicholas E. Allen, USAFR Ret.
Brig. Gen. James H. Kidder, AUS Ret.
Brig. Gen. Thomas H. King, USAF Ret.
Brig. Gen. Eugene Phillips, USAR.

FLORIDA

RADM Carlos C. Cardeza, USNR Ret., Sanibel.

RADM George J. Coleman, USNR, Miami.

Maj. Gen. Richard H. Cooper, USAR, Orlando.

Maj. Gen. Chester P. Hartford, USAR, Naranja.

RADM John P. Ingle, Jr., USNR Ret., Jacksonville.

RADM James R. McCormack, USN Ret., Port Charlotte.

Brig. Gen. Malcolm K. Beyer, USMC Ret., Jupiter.

Brig. Gen. Edward S. Branigan, Jr., AUS Ret., Clearwater Beach.

Brig. Gen. Charles D. Briggs, Jr., USAF Ret., Indialantic.

Brig. Gen. Edsel O. Clark, USAFR, Daytona Beach.

Brig. Gen. Thomas Fuller, AUS Ret., Gainesville.

Brig. Gen. Gerald A. Hart, USAFR, Plantation.

Brig. Gen. David C. Hastings, USAR Ret., Jacksonville.

Brig. Gen. Eugene Muller, AUS Ret., Boca Raton.

Brig. Gen. Philip D. Myers, AUS Ret., Coral Gables.

Brig. Gen. James D. Randall, USAR, Brandon.

Brig. Gen. Wilbur A. Smith, USAFR Ret., Indian Rocks Beach.

Brig. Gen. Louis F. Stuebe, USAR Ret., Tallahassee.

GEORGIA

Maj. Gen. Earl O. Anderson, USAF Ret., Atlanta.

RADM Hugh H. Howell, Jr., USNR, Atlanta.

Brig. Gen. A. F. Brandstatter, USAR, St. Simon Island.

Brig. Gen. Prentiss Courson, AUS Ret., Savannah.

Brig. Gen. David E. Mayer, AUS Ret., Groveton.

ILLINOIS

Maj. Gen. L. J. Conti, USMCR, Arlington Heights.

Maj. Gen. Francis P. Kane, AUS Ret., Chicago.

Maj. Gen Julius Klein, AUS Ret., Chicago.

Maj. Gen. Cyrille P. LaPorte, USAR, Flossmoor.

Brig. Gen. Lawrence H. Allen, Jr., USAR, Des Plaines.

Brig Gen. W. R. Allen, AUS Ret., Algonquin.

Brig. Gen. L. V. Anderson, USAR, Glenview.

Brig. Gen. John C. Brogan, USAR, Golf.

Brig. Gen. O. C. Hudson, AUS Ret., Princeton.

Brig. Gen. Robert L. Johnson, USAR, Palatine.

Brig. Gen. Alfred K. Nelson, USAR, Chicago Heights.

INDIANA

Maj. Gen. Leston N. Carmichael. USAR, Columbus.

Brig. Gen. John O. Bradshaw, USAF Ret., West Lafayette.

Brig. Gen. Robert M. Leich, USAR, Evansville.

Brig. Gen. Duncan N. P. Pritchett, USAF Ret., Indianapolis.

Brig. Gen. Robert P. Porter, NG, Fort Wayne.

IOWA

Maj. Gen. Merrill B. Evans, USAR, Prole.

Brig. Gen. R. A. Lancaster, USAR Ret., Des Moines.

KENTUCKY

Maj. Gen. C. Beach, Jr., USAR, Beattyville.

Maj. Gen. Benjamin J. Butler, USAR Ret., Louisville.

LOUISIANA

Maj. Gen. C. F. Duchein, USMCR Ret., Baton Rouge.

Brig. Gen. Melvin I. Bookman, AUS Ret., Metairie.

Brig. Gen. Angelo L. Ferranti, ARNG Ret., Baton Rouge.

Brig. Gen. Russell T. LeBlanc, USAR, River Ridge.

MAINE

Brig. Gen. William F. McGonagle, AUS Ret., Hollis.

MARYLAND

RADM Charles J. Costello, USNR Ret., Bethesda.

Maj. Gen. Benjamin L. Hunton, USAR, Hyattsville.

RADM William P. Stephens, USNR Ret., Annapolis.

Brig. Gen. C. L. Sayre, AUS Ret., Leonardtown.

Brig. Gen. W. E. Thompson, Jr., ANG Ret., Whiteford.

MASSACHUSETTS

Maj. Gen. John J. Maginnis, AUS Ret., Worcester.
Brig. Gen. Costas L. Caraganis, AUS Ret., Lowell.
Brig. Gen. Richard C. Carrera, ARNG, New Bedford.

MICHIGAN

Maj. Gen. Alden G. Glauch, USAF, Traverse City.

MINNESOTA

Brig. Gen. Edward D. Clapp, USAR, St. Paul.
Maj. Gen. Norbert J. Hennen, USAR, Minneapolis.

MISSISSIPPI

RADM Edward F. Beyer, USNR Ret., Bay St. Louis.
Brig. Gen. William D. McCain, USAR, Hattiesburg.
Brig. Gen. Edmund W. Montgomery, II, USAR Ret., Jackson.

MISSOURI

Maj. Gen. William H. Blakefield, USA Ret., Boonville.
Maj. Gen. William A. Dietrich, USAF Ret., Kansas City.
Maj. Gen. Herbert T. Johnson, AUS Ret., Ferguson.
Maj. Gen. Raymond F. McNally, Jr., USAR Ret., St. Louis.
Brig. Gen. Robert E. Adams, USAR, Kansas City.
Brig. Gen. Bill C. Branson, USAR, St. Louis.
Brig. Gen. John S. Gulledge, USAF Ret., Carl Junction.
Brig. Gen. John T. Pegg, AUS Ret., Vicksburg.

NEBRASKA

Brig. Gen. Richard C. Allgood, Jr., USAR Ret., Lincoln.

NEW HAMPSHIRE

RADM Carl G. Gesen, USNR Ret., Concord.
Brig. Gen. Edward Haseltine, USAFR Ret., Reeds Ferry.
Brig. Gen. Boleslaw H. Pokigo, AUS Ret., Goffstown.

NEW JERSEY

Brig. Gen. E. J. Breen, USAR, Edgewater.
Brig. Gen. Rogers B. Finch, USAR Ret., Little Silver.

NEW YORK

VADM J. F. Bolger, USN Ret., East Hampton.
Maj. Gen. J. W. Kaine, Aus Ret., E. Williston.
Maj. Gen. Charles C. Nast., NG Ret., New York.
Maj. Gen. Laddie L. Stahl, USAR, Rexford.
Brig. Gen. Walter F. Alt, USAR Ret., Buffalo.
Brig. Gen. Charles D. Barrett, USAR, Painted Post.
Brig. Gen. Hugh J. Cox, AUS Ret., New York.
Brig. Gen. Edward J. Czerniuk, AUS, Flushing.
Brig. Gen. John Dorsey, AUS Ret., New York.
Brig. Gen. Murray Kitt, USAR, Niagara Falls.
Brig. Gen. Howard O'Connor, USAR Ret., Croton on Hudson.

NORTH CAROLINA

RADM Edward U. Austin, USNR, Charlotte.
Brig. Gen. Alex B. Andrews, USAF Ret., Raleigh.
Brig. Gen. James K. Durham, USAR, Smithfield.

NORTH DAKOTA

Maj. Gen. LaClair A. Melhouse, USAR Ret., Bismarck.

OHIO

RADM I. H. Cammarn, USNR Ret., Columbus.
RADM Richard Freundlich, USNR, Cleveland.
Maj. Gen. James L. Murray, USAFR, Perrysburg.
Brig. Gen. James M. Abraham, USAR, Gahanna.
Brig. Gen. Carlton S. Dargusch, USAR Ret., Columbus.
Brig. Gen. James A. Gleason, USAR, Cleveland.
Brig. Gen. Ronald S. Huey, ANG, Kettering.
Brig. Gen. Donald Lynn, USAR, Youngstown.
Brig. Gen. Howard Payne, Jr., USAF Ret., Dayton.

OKLAHOMA

Maj. Gen. Ernest L. Massad, USAR Ret., Ardmore.
Maj. Gen. Hal Muldrow, Norman.
Brig. Gen. Edward M. Frye, USAR Ret., Stillwater.
Brig. Gen. Leslie W. Lane, USAR Ret., Tulsa.

OREGON

Maj. Gen. Ladd F. Hunt, USAR, Beaverton.
RADM Thomas J. Killian, USNR Ret., Portland.
Brig. Gen. Victor H. English, USAR, Beaverton.

PENNSYLVANIA

Maj. Gen. Harry K. Fluck, USAR Ret., Camp Hill.
Maj. Gen. William E. Miller, USAR Ret., Camp Hill.
RADM Charles E. Rieben, Jr., USNR Ret., Upper Darby.
Brig. Gen. Clarence D. Bell, ARNG, Media.
Brig. Gen. Thomas N. Corbin, AUS Ret., Camp Hill.
Brig. Gen. Joseph C. Dolan, USAR, Johnstown.
Brig. Gen. John S. D. Eisenhower, USAR, Valley Forge.
Brig. Gen. Thomas P. Fox, AUS Ret., Bryn Mawr.
Brig. Gen. George R. Gallagher, USAR Ret., Pittsburgh.
Brig. Gen. James S. Gallagher, USAR, Latrobe.
Brig. Gen. William B. Gold, Jr., USAR, Jenkintown.
Brig. Gen. Walter D. Griffith, ANG, Johnstown.
Brig. Gen. John F. Linehan, Jr., USAR, Philadelphia.
Brig. Gen. John H. McLain, USAR Ret., Edgewood.
Brig. Gen. W. A. Morgan, USAR Ret., Altoona.
Brig. Gen. Gus G. Nagy, ANG, Duquesne.
Brig. Gen. James N. Robertson, ARNG Ret., Media.
Brig. Gen. Watson C. Stoner, Jr., NG Ret., Waynesboro.

SOUTH CAROLINA

Maj. Gen. Don O. Darrow, USAF Ret., Myrtle Beach.
Maj. Gen. Robert M. Jones, AUS Ret.. Clemson.
Maj. Gen. C. D. Merrill, USAR, Hilton Head Island.
Maj. Gen. Donald A. Yongue, USAR, Orangeburg.
Brig. Gen. Forrest A. Abbott, USAR, Greenville.
Brig. Gen. Grady Brooks, USAR Ret., Lyman.
Brig. Gen. Charles P. Deane, USAR, Hilton Head Island.

TENNESSEE

RADM Moore Moore, Jr., USNR, Memphis.
Brig. Gen. W. D. Tidwell, Jr., USAR, Madison.

TEXAS

Lt. Gen. Robert W. Colglozier, AUS Ret., San Antonio.
Maj. Gen. Edward I. Creed, USAR, San Antonio.
Maj. Gen. John H. Foster, USAFR Ret., San Antonio.
Maj. Gen. H. W. Hardy, USMCR, Houston.
Maj. Gen. Stuart Haynsworth, USAF Ret., Houston.
RADM Dallas F. Jordan, USNR Ret., Dallas.
Maj. Gen. Homer I. Lewis, USAFR, Eagle Pass.
Maj. Gen. Richard Mulberry, USMCR, Dallas.
Maj. Gen. Warren E. Myers, USAR Ret., San Antonio.
RADM C. H. Taylor, USNR Ret., Houston.
Brig. Gen. Raymond Astumian, USAR, Rockwall.
Brig. Gen. A. S. Brussell, USAR Ret., Kemp.
Brig. Gen. O. D. Butler, USAR, College Station.
Brig. Gen. A. B. Crowther, USAR, San Antonio.
Brig. Gen. Richard E. Fisher, AUS Ret., Marble Falls.
Brig. Gen. Joe N. Frazar, Jr., AUS Ret., Eagle Lake.
Brig. Gen. John H. Grimm, USAFR, Houston.
Brig. Gen. Harry Huff II, USAFR, San Antonio.
Brig. Gen. Ben J. Mangina, USAF Ret., Denison.
Brig. Gen. Eugene J. Mincks, USAR, Houston.
Brig. Gen. James H. McPartlin, USAFR, Richardson.
Brig. Gen. C. R. Sublett, AUS Ret., Dallas.

UTAH

Maj. Gen. Ray D. Free, AUS Ret., Salt Lake City.

VIRGINIA

Gen. Charles L. Bolte, USA Ret., Alexandria.
RADM Richard Black, USNR Ret., Woodbridge.
RADM Martin D. Carmody, USN, Alexandria.
Maj. Gen. L. D. Carter, USA Ret., Midlothian.
Maj. Gen. Carl J. Dueser, AUS Ret., Boyce.
Maj. Gen. F. H. Garber, USAR, Richmond.
Maj. Gen. Samuel R. Gay, Jr., USAR, Lynchburg.
Maj. Gen. Richard C. Hagan, USAFR Ret., Annandale.
RADM W. C. Hughes, USNR Ret., Falls Church.
RADM Alexander Jackson, Jr., USN Ret., Rapidan.
RADM John B. Johnson, USNR Ret., Vienna.
Maj. Gen. Charles E. Loucks, USA Ret., Arlington.
Maj. Gen. Milton A. Pilcher, AUS Ret., McLean.
Maj. Gen. J. Milnor Roberts, USAR, Arlington.
Maj. Gen. John J. Milnor Roberts, USAR, Arlington.
Maj. Gen. John S. Warner, USAFR, Arlington.
Brig. Gen. M. T. Ball, ARNG Ret., Richmond.
Brig. Gen. Harry Disston, ANG Ret., Keswick.
Brig. Gen. William H. Martin, Jr., ARNG, Richmond.
Brig. Gen. John W. Morgan, USAR, Hampton.

WASHINGTON

Brig. Gen. Max K. Bitts, USAR Ret., Langley.
Brig. Gen. W. B. Hamilton, USAR Ret., Tacoma.
Brig. Gen. James B. Mason, AUS Ret., Tacoma.

WEST VIRGINIA

Brig. Gen. Merril W. Goss, USAR Ret., Winfield.

WISCONSIN

Maj. Gen. H. R. Hackbarth, USAR, Hartford.
Brig. Gen. Roger H. Lehman, USAR, Brookfield.
Brig. Gen. Roy W. Peters, AUS Ret., West Bend.

CALIFORNIA

RADM Charles Tighe, USCG Ret., San Diego.
RADM Scott Whitehouse, USNR Ret., Corona Del Mar.
RADM Edwin M. Wilson, Jr., USNR, Santa Rosa.
Brig. Gen. Joseph G. Reban, USAR Ret., Huntington Beach.
Brig. Gen. Luther W. Sweetser, Jr., USAF Ret., La Canada.

FLORIDA

VADM A. F. Schade, USN Ret., Port Charlotte.
Brig. Gen. S. B. Wuertenberger, AUS Ret., Cape Canaveral.

GEORGIA

Brig. Gen. A. Lester Henderson, USAR Ret., Savannah.

INDIANA

Brig. Gen. Robert H. Simmert, USAR, Jasonville.

MISSOURI

Brig. Gen. Richard S. Payne, AUS, Charlotte.

NEW JERSEY

Maj. Gen. John L. Winston, USMCR Ret., Gladstone.

NORTH CAROLINA

Brig. Gen. Richard S. Payne, AUS, Charlotte.

PENNSYLVANIA

Brig. Gen. Charles S. Hendericks, ANG, Altoona.
Brig. Gen. Robert M. Sheaffer, NG Ret., New Cumberland.

SOUTH CAROLINA

Maj. Gen. Thomas J. Thorne, USAR Ret., Charleston.

TEXAS

Maj. Gen. Kenneth O. Sanborn, USAF Ret., San Antonio.

VIRGINIA

RADM Henry J. Wuensch, USCG, Petersburg.
Brig. Gen. William E. Reynolds, AUS Ret., Salem.
Brig. Gen. James A. White, USAR, Salem.

WISCONSIN

Brig. Gen. William J. Crandall, USAFR Ret., Madison.
Brig. Gen. Leo R. Weinshel, USAR Ret., Milwaukee.

CALIFORNIA

Maj. Gen. Wendell B. Sell, USAF Ret., Encino.

INDIANA

Maj. Gen. Howard S. Wilcox, USAR Ret., Indianapolis.
Brig. Gen. Joseph A. Thomas, USAFR, Indianapolis.

MARYLAND

RADM Judson L. Smith, USNR Ret., Baltimore.

MICHIGAN

RADM George A. Weaver, USNR Ret., Sterling Hts.

MISSOURI

Brig. Gen. Robert L. Shirkey, USAR, Kansas City.
Brig. Gen. Leigh R Wilson, ARNG, Maryville.

NEW YORK

RADM Samuel S. Wald, USNR, New York.
Brig. Gen. E. J. Strong, NG, Ret., Staten Island.

NORTH CAROLINA

RADM Arthur H. Padula, USNR, Oxford.

OHIO

Brig. Gen. William W. Davis, AUS Ret., Westerville.

PENNSYLVANIA

Brig. Gen. Albert B. Starr, USAFR Ret., Pittsburgh.

ARIZONA

Brig. Gen. Robert McMath, USAF Ret., Scottsdale.

ARKANSAS

RADM Leslie L. Reid, USNR, Rogers.

CALIFORNIA

Maj. Gen. Stuart D. Menist, AUS Ret., Kentfield.
RADM Charles Paxton, USNR Ret., Encino.
Brig. Gen. Donald N. Moore, USAR Ret., Wofford Heights.

COLORADO

Brig. Gen. Robert R. Owen, USAR Ret., Evergreen.

DISTRICT OF COLUMBIA

Gen. L. L. Lemnitzer, USA Ret.

FLORIDA

RADM Robert P. Owens, USNR Ret., Miami.
Brig. Gen. George S. Purple, AUS Ret., Clearwater.
Brig. Gen. Patrick A. Rickard, USAF Ret., Ft. Myers.

KANSAS

Brig. Gen. Roger E. Whitcomb, USAR Ret., Wichita.

LOUISIANA

RADM John D. McCubbin, USCG Ret., New Orleans.
RADM M. Wayne Stoffle, USCGR, Metairie.

MINNESOTA

Brig. Gen. Cyril C. Sheehan, USMCR Ret., St. Paul.

NEW HAMPSHIRE

Brig. Gen. Donald P. Dressler, USAFR, Hollis.

NEW YORK

Brig. Gen. Lester W. Grawunder, USAR, E. Aurora.

OHIO

Brig. Gen. Alden E. Stilson, Jr., USAR, Johnstown.

PENNSYLVANIA

Brig. Gen. Henry T. Waller, USMCR, Lumberville.

TEXAS

RADM O. A. Lively, USCGR, Dallas.
Brig. Gen. George Frimpter, USAFR, San Antonio.
Brig. Gen. James T. Roberts, AUS Ret., San Angelo.
Brig. Gen. Roger L. Zeller, USAFR, San Antonio.

VIRGINIA

Maj. Gen. Willard P. Milby, USAR, Richmond.
Maj. Gen. W. Thomas Rice, USAR Ret., Richmond.
RADM Hugh Warren, USNR Ret., Charlottesville.
Brig. Gen. Harry H. Treadaway, USAR, Richmond.

WASHINGTON

Brig. Gen. Albert G. Peterson, USAR Ret., Seattle.

ARIZONA

Brig. Gen. Frank I. Pethick, USAR Ret., Sun City.

CALIFORNIA

RADM Frank Raab, USNR, Los Angeles.
Maj. Gen. Edwin B. Taylor, USAR, Sacramento.
Brig. Gen. Jack Jew, USAR, San Francisco.

FLORIDA

Brig. Gen. Robert A. Berman, USAF Ret., Ocala.
Brig. Gen. F. L. Vidal, USAFR, Satellite Beach.
Brig. Gen. Fred J. VonDaacke, USAR, Lakeland.

HAWAII

Maj. Gen. Robert L. Stevenson, USAR Ret., Honolulu.

ILLINOIS

Gen. Horace F. Wulf, USAR, Calumet City.
Maj. Gen. Daniel J. Manning, USAR, Clarendon Hills.
Brig. Gen. Carl F. Steinhoff, USAR Ret., Chicago.

MINNESOTA

Brig. Gen. Gustaf P. Olson, AUS Ret., Sartell.

MISSOURI

Maj. Gen. Donal L. Turkal, USAR, St. Louis.

MONTANA

Brig. Gen. Emil Eschenburg, USAR, Helena.

NEW YORK

Brig. Gen. Mortimer O'Kane, Woodside.

OKLAHOMA

Maj. Gen. Walter L. Starks, USAR, Stillwater.

PENNSYLVANIA

Brig. Gen. Edwin D. Miller, USAR Ret., West Chester.

SOUTH DAKOTA

Brig. Gen. Henry A. Smith, Jr., AUS Ret., Onida.

TEXAS

Maj. Gen. George P. Munson, Jr., USAR Ret., Houston.
Brig. Gen. Mike P. Cokinos, USAR, Beaumont.

WASHINGTON

RADM Frederick A. Wiggin, USNR Ret., Seattle.

WYOMING

Maj. Gen. George O. Pearson, USAR Ret., Sheridan.

ARIZONA

Brig. Gen. Marcus Westervelt, USA Ret., Tempe.

ILLINOIS

Maj. Gen. Ted W. Sorensen, USAFR, La Grange.

NEW MEXICO

Brig. Gen. Coryton M. Woodbury, USAR, Farmington.

PENNSYLVANIA

Maj. Gen. Frederick A. Welsh, USAR, Rydal.

UTAH

Brig. Gen. Sterling R. Ryser, USAR, Salt Lake City.

WASHINGTON

Brig. Gen. Jack H. King, USAR, Vancouver

TENNESSEE

Brig. Gen. Herman A. Norton, USAR, Nashville.

WASHINGTON, D.C.

Maj. Gen. Michael P. Ryan, USMC, Ret.

TRIBUTE TO SENATOR HUBERT HUMPHREY

Mr. PELL. Mr. President, Mrs. Virginia Doris of Pawtucket, R.I., has composed a very beautiful poem in praise of a great statesman and esteemed friend, Senator HUBERT HUMPHREY. It gives me great pleasure to share her poem, "Song of a Statesman," with my colleagues. I ask unanimous consent it be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

SONG OF A STATESMAN

(By Virginia Louise Doris)

Who is the statesman sent to clearly lead,
To make these mystic-marble temples sing,
What manly tred "Hero-like indeed"
Through corridor's time, the truest ring?

He who with courage marks, a spirit mould,
With girded strength and burning light,
Faithful to Senate duties he must enfold,
Who smiles and lends a guiding might.

Heed to manhood's labour moving strong,
Full in our front can hold honors of call,
With such a grace 'mid friends belong,
The torch of leaping cheers to hallow all!

We will speak of years and service praise,
Starlit season-hymns so keen, so his own,
Whelming within a Nation's breast displays,
Radiant tribute to probity's mind as known.

T'is sweet to crown with soldier's skies,
The laurel brow and pilgrim's battle-join,
To lock with gleaming power in his eyes,
That sunshine calm and shepherd's loin!

O, stalwart traveller! You ask no meed
From shield of fate, nor clustering flame,
As trust in God shall meet your need;
Our unstemmed prayers are yours to claim.

Who is the statesman come to wisely lead,
To make these mystic-marble arcades sing,
What manly soul "Lion-like indeed"
Through corridor's wind, the purest ring?

Inscribed to: The Honorable Hubert H. Humphrey, Senator from Minnesota, Senate Office Building, Washington, D.C.

THE ADVANCED HARRIER PROGRAM

Mr. HELMS. Mr. President, I strongly support the advanced Harrier program. I am convinced that we need this aircraft for two important reasons. First, it is essential if the Marine Corps is to maintain an effective close air support capability in the 1980's. The advanced Harrier is a V/STOL aircraft. While its performance is improved if it can use a runway for a rolling take-off, it can take off and land vertically, like a helicopter.

The ability of the advanced Harrier to operate without a runway is exceedingly important to the Marine mission. If the Marines must wait, after an amphibious landing, until a runway can be built, they will not have adequate, responsive close air support during the crucial initial days of a campaign. It is during precisely that time that the fighting is likely to be the hardest, and the Marines will have the greatest need for their supporting aircraft.

The second reason is that we need an effective V/STOL aircraft for the Navy in the early 1980's.

In its report on the fiscal year 1978 Defense authorization bill, the Senate Armed Services Committee moved to create a series of options on the aircraft carrier question. Two of those options involved the use of V/STOL aircraft—the medium-sized CVV carrier and the smaller VSS carrier. The VSS depends almost entirely on V/STOL.

If we are to meet the serious Soviet naval challenge effectively, we must increase our naval air capability. One of the best suggestions in meeting this challenge is to build a greater number of aircraft-carrying ships. This can be done by building smaller carriers. But these carriers can only be effective if we have a V/STOL aircraft, such as the advanced Harrier, in the 1980's.

If the advanced Harrier program should be terminated, it is true we could still make use of the present AV–8A Harrier. However, its capability is far inferior to the advanced Harrier. If we are to be able to strike Soviet surface ships and intercept Soviet "backfire" aircraft outside their missile range, we need the advanced Harrier.

Both naval and Marine Corps requirements dictate that we go ahead as rapidly as possible with the advanced Harrier program. It would be penny-wise and pound-foolish in the extreme for us to kill this relatively modest program, when doing so would deprive the Marines of an effective close air support capability, and the Navy of the opportunity to put significantly more aircraft carriers at sea to meet the Soviet naval threat.

I am not unaware of criticism of the Harrier as a result of its rather frequent crashes. However, I am convinced that the large majority of these accidents have not resulted from mechanical failure, but from pilot error. Of the 26 crashes to date, only 4 have occurred because of a failure of the airplane. Of the remainder, 18 were pilot error, 2 were the fault of maintenance crews, 1 resulted from a collision with a bird, and the cause of 1 crash is unknown. I understand that the reason for the numerous pilot errors was the mistake on the part of the Marine Corps in putting "green" pilots in the Harrier—a very sophisticated aircraft. The Marines are now moving to assign their more experienced pilots to the Harrier squadrons.

Any new idea or program will have its initial "bugs." I see no reason, Mr. President, to abandon a program vital to our national defense because of a few setbacks, however personally tragic these setbacks may have been to the personnel involved. I urge that the administration reconsider its decision to abandon the Harrier program.

WASHINGTON WORKSHOPS CONGRESSIONAL SEMINAR

Mr. INOUYE. Mr. President, earlier this year I had the pleasure of addressing a group of young student leaders from all across the United States. These fine scholars were all participating in the Washington Workshops Congressional Seminar, a 1-week study seminar conducted during the winter, spring, and summer focusing on the legislative process.

At this time I would like to commend the founding director, Mr. Leo S. Tonkin, and the dedicated staff of the program for offering this successful program continuously for the past 10 years. October 25 will mark the 10th anniversary of the Washington Workshops Foundation.

Since 1968, more than 11,000 young Americans have had the opportunity to study in our Nation's Capital as part of this unique program. As you may recall, the summer of 1968 was a most trying time for our Federal City, yet the first sessions of the Washington Workshops were a tremendous success. The seminars, 2 weeks in duration at this time, were offered in cooperation with Georgetown University. Close to 300 students participated over the course of this first summer. From 1969 to 1975, the students were housed at Mount Vernon College and gradually the program expanded to winter seminar offerings, enrolling close to 1,000 students annually. During our Bicentennial celebration, the program moved to its present location, Marymount College of Virginia with 10 seminar sessions registering 130 students each seminar week.

This is an exceptional opportunity for students to personally present to the leaders and policymakers of Government their concerns and feelings about America, and, in turn, receive answers reflecting the highest level of government thought. May I wish the Washington Workshops Foundation continued success in the future and may the foundation receive the support of my colleagues which it so ably deserves.

SENATOR HANSEN ON THE PANAMA CANAL TREATIES

Mr. THURMOND. Mr. President, our distinguished colleague from Wyoming, Senator HANSEN, has presented an excellent statement on the Panama Canal treaties to the Senate Foreign Relations Committee. I have read Senator HANSEN's statement, and find it a convincing argument against treaty ratification.

He has eloquently put the current treaty debate in its proper perspective by stating:

These treaties are the wrong treaties, at the wrong time, for all the wrong reasons.

Mr. President, as one who has been an opponent of treaty ratification, I urge all my colleagues to study the statement our distinguished colleague has presented to the Foreign Relations Committee. CLIFF HANSEN is a man of keen intellect, whose views are respected by all of us in the Senate. His analysis will be most beneficial to all Members of the Senate.

Mr. President, in order to share this excellent statement with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR HANSEN

Mr. Chairman, and members of the Committee: I greatly appreciate this opportunity to express my views before this Committee on the Panama Canal Treaties. My position over the last ten years is a matter of public record. I have always maintained I would oppose any treaty under which the U.S. relinquishes total control of the Canal Zone, its defense positions and the rights to operate the Canal. I have not altered my position.

Some weeks ago I told President Carter I would withhold judgment until I had the opportunity to study and to familiarize myself with the terms of both the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the

Panama Canal. But I have now concluded such a study and made a decision. I remain opposed to both treaties as they are presently drawn.

THE WRONG TREATY FOR THE WRONG REASONS

The fact that a new treaty has finally been negotiated comes as little surprise. Talks have been going on sporadically for many years under several administrations. I will not suggest that these talks should not have occurred, in light of several years of political turmoil and economic hardships within Panama. I will not say a new treaty is not entirely necessary. I will not deny that a reevaluation of the situation may have been advisable in the interests of cooperation between the two countries.

The question of sovereign rights has been debated extensively. Therefore, I will not address myself to that issue. I believe there are far more important aspects of these Treaties upon which to base my opposition.

What concerns me are the conditions under which the United States has negotiated these treaties. We have reacted to threats of violence from the leftists within Panama, and we have been led to believe our withdrawal from the Canal Zone is being favored by the Latin American community as a whole. The new treaties have been held up to us as a chance to set an example for the world in demonstrating our sincerity with regard to the sovereign rights of individual governments. Our presence in Panama has been pictured as the last example of colonialism in the Western Hemisphere. We are expected time after time to feel guilty for our presence there. We have been told it is time to make amends for our past errors. I do not buy that It is dishonest to play on the conscience of the American people and to thus ignore the fundamental questions involved.

This is not the issue. Charles Maechling stated in a recent editorial that "Treatment of the Panama Canal as a Latin American political symbol rather than as a global strategic and economic asset has distorted important treaty issue." The Panama Canal Zone is far too important an issue to be held up as a testing ground; a kind of acid test. As a result of this approach, we have negotiated from a position of weakness; we have remained on the defensive throughout the recent months as talks progressed, and I believe we have capitulated on every major issue to the demands of the Panamanian Government. These treaties are the wrong treaties, at the wrong time, for all the wrong reasons.

UNRESOLVED QUESTIONS

I am concerned about the role the media has played in this drama. Time and again human rights issues involving the personal and political freedom of the Panamanian people have been ignored or minimized by the media in an effort to avoid setbacks in the treaty negotiations. There have been charges and countercharges, but all have received scant attention and no comment from the State Department. The charges may all be unsubstantiated. But that has not yet been thoroughly resolved.

There have been as well, allegations involving the bugging of Panamanian quarters. Though the charges seem to have been dealt with, I wonder if they have completely resolved. I am concerned that the Attorney General sought to intervene when the Senate Judiciary Subcommittee on Separation of Powers subpoenaed those records which may have clarified the situation. While I realize there may be some question of committee jurisdiction involved, I would hope the Sentae Intelligence Committee has been completely satisfied in its investigation of the matter. It would be unfortunate if the incident did in fact have any influence on the negotiations, one way or another.

I am concerned about the way the Administration chose to publicize the signing of the treaties.

The U.S. Constitution guarantees to the Senate equal participation in the adoption of treaties with foreign nations. This is an essential element in assuring that the American people have an input in the contracts made with other nations. Far from presenting a treaty to the United States Senate on which we would advise and consent, President Carter has attempted to present the Senate with a "fait accompli."

I have since been very pleased with the extent to which this Committee has gone in receiving testimony of all those interested in this vital issue.

Ratification remains the sole prerogative of the United States Senate.

There is some serious question as to whether the House of Representatives will in fact have an opportunity to exercise its Constitutional right to decide on the disposition of U.S. property within the Canal Zone. The Attorney General has taken it upon himself to assert that House approval is not needed. I cannot agree. I would hope the Administration does not insist on maintaining that position.

Members of the Armed Services, both active duty and retired status, are very divided over the Canal issue. Heavy support for the treaties is coming from senior officers currently serving, while those senior officers no longer serving are opposed to the terms of both treaties. I have long been one of the most ardent supporters of our defense establishment and have always believed in the exceptionally high caliber and integrity of our commanding officers. However, I cannot completely ignore that unfortunate situation recently when a commanding officer was immediately and publicly relieved of his duty when he expressed his doubts concerning the wisdom of one aspect of the Administration's foreign policy. While we must rely on members of our armed forces on matters involving our national defense I believe it is important that in light of recent events we keep in mind conflicting pressures under which such officers function.

Testimony from within the Administration has also differed with regard to the defensibility of the canal. The State Department has contended that the Canal is indefensible, as if that were some kind of logical argument to give up a fight before it begins. In advocating this position, the State Department has carried its propaganda to the American people in a most regrettable manner.

While the State Department has espoused the indefensibility of the Panama Canal, the Defense Department has confirmed what our common sense had already told us, that the Canal is indeed defensible. Obviously, it has occurred to the Administration recently that if we are entering into a treaty which gives us the right to defend the canal, it cannot be maintained that the canal is indefensible Whether or not the canal is defensible is a matter which the State Department and the Defense Department ought to settle between themselves before the debate goes much further.

All the reasons put forth in support of the treaties have not convinced me. Representative Robert Dornan of California, in responding to those testifying in favor of ratification, said, "If a rejection of this treaty comes, it will not be an ungenerous act but a statement that we (the United States) have very little to apologize for. So far you've only given us two reasons for this treaty; that the Latin American people will love us more if we do it and to prevent the bloodshed of thousands of Panamanians if we don't do it." He is correct in his assessment of the arguments being used in favor of these treaties. They are weak, indeed.

ALTERNATIVES

It is extremely unfortunate the Administration is determined by means of this treaty to relinquish all practical control and rights of defense in the Panama Canal Zone.

Despite a widely publicized show of support, there are also serious reservations among the Latin American countries with regard to the terms of the treaties. At the gathering of the Organization of American States in Granada this year, that organization voted 19–0 for a resolution stating that canal tolls should reflect only the actual operating costs of the waterway. Panama did not vote and the United States abstained. I do not believe all of Latin America wants the United States out of the Canal Zone and again, I cite the State Department for perpetuating this false impression as a means to gain support for its policies. The countries of Latin America have as much to lose as the United States should the tolls be raised or access to the Canal limited.

The entire negotiation process was based on the threat of violence and deteriorating relations with the Latin American community, resulting in a treaty full of ambiguities and under which U.S. rights are not adequately protected.

Therefore, I have cosponsored six amendments and two reservations which Senator Dole has had the foresight to introduce. These reservations, and the amendments especially, would correct what I regard as the most serious weakness in the treaties.

The first amendment I have cosponsored with Senator Dole would reinstate the right of the United States to negotiate with any other State for the right to construct an interoceanic canal through that State. Any treaty which provides for less will be inadequate.

Article XII of the Panama Canal Treaty contains a provision which would allow the United States to build a second canal, if we should ever wish to do so, only in the country of Panama. At the same time, the treaty contains no commitment on the part of Panama to agree to permit us to construct that canal, should we decide to do so. Yet we are prevented from constructing one elsewhere. This provision is totally unacceptable. Why we would agree to build a second canal only in the country which has demanded possession of our first canal, is totally incomprehensible. I cannot believe our negotiators accepted such a provision, knowing full well the implications.

Article XIII of the Panama Canal Treaty deals with what has aptly been described as "ransom" or "conscience money." Currently, Panama receives a $2.3 million annual annuity. Under the terms of this treaty, the annual annuity would increase to between $70 and $80 million. A clause in this Article also binds our Government to negotiate an economic loan package amounting to almost $345 million.

The second Dole amendment which I have cosponsored reduces Panama's share of the canal's annual operating revenues from 30 cents per net ton to 15 cents per net ton for each vessel transiting the canal. It would further eliminate the biennial adjustment of this rate according to changes in the U.S. wholesale price index. Finally, the amendment would eliminate that provision which would supply Panama with up to $10 million per year depending upon revenues. The amendment also provides that during any period in which the canal is inoperable, the fixed annuity shall cease, regardless of why the canal is closed.

Article XI of the Panama Canal Treaty provides for the 'orderly transition' of jurisdiction over the Canal Zone. The Administration is emphasizing a 23-year period in which this will occur. In actual fact, as soon as the treaty enters into force, the Republic

of Panama shall gain full jurisdiction over the Canal Zone. A complete transfer of U.S. judicial, administrative and regulatory authority will be accomplished within 30 months.

In my opinion, this does not constitute an orderly transition. I believe there are very few American citizens who will remain in the Canal Zone, knowing they will be under the jurisdiction of the Republic of Panama. Large numbers may return to the United States, leaving a void in the manpower support of the operations of the Canal.

The third amendment which I cosponsored would allow the Panama Canal consultative committee to study the situation after the treaty takes effect and make a recommendation as to when the period of transition should actually end. However, January 1, 1990, will be the earliest time at which that would take place. Any treaty which subjects our U.S. citizens to Panamanian law and civil and criminal justice within 30 months after the treaty enters into force is totally impractical. Transfer of the administration of the Panama Canal Commission from United States to Panamanian leadership takes place on January 1, 1990, and it is only logical the two dates be coordinated.

I have cosponsored a fourth amendment to add a new Article XV to the Panama Canal Treaty which stresses the importance of maintaining and properly observing internationally recognized human rights, including civil and political rights in the Canal Zone. As I noted earlier, there remains a great deal of unresolved questions involving charges of civil and political human rights violations. The Administration and the State Department cannot operate under a double standard on the human rights issues, in the name of expediency when it comes to concluding a treaty with the government of Panama.

Article IV of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, I believe, is the weakest article of the treaty. There is nothing in Article IV which assures that the United States can unilaterally intervene in the defense of the canal whenever necessary, regardless of how the Administration has sought to explain the section. And, as has been so recently illustrated, the Panamanians have explained this article to their people in opposite terms. Panamanian negotiator Escobar Bethancourt stated in August, "The neutrality pact does not provide that the United States will say when that neutrality is violated." As has been already noted, Panamanian interpretation is at least 50 per cent of the definition. Reinforcing the misunderstanding, Senator Dole recently released a cable in which Lopez Guevara, one of the Panamanian treaty negotiators, stated "Intervention is simply forbidden by international law. Panama cannot agree to the right of the United States to intervene." If this is in fact the definition, the treaty is unacceptable. I would hope the Administration settles the matter as expeditiously as possible.

The fifth amendment which I have cosponsored with Senator Dole adds a provision specifically guaranteeing U.S. authority to intervene militarily on behalf of the canal when we determine its neutrality to be threatened, whether from the outside, or the inside, which could very well be the case.

Article VI of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal includes a provision which grants the United States "expeditious" passage through the canal in times of crisis. This provision alone is an admission which negates that argument espoused by proponents of the Treaty who would deny the strategic importance of the Canal during a time of crisis. However, the word "expeditious" is inadequate and open to subjective interpretation, as it has already been, by the Panamanian government. In August, Escobar Bethancourt said in a public broadcast to the people of Panama, "Expeditious passage does not mean privileged passage. As a matter of fact, the concept of privileged passage was rejected." Lopez Guevara reiterated those sentiments in the cable released recently saying expeditious passage does not mean the United States ships may "go to the head of the line." If this is in fact the case, we have been grossly misled by the Administration.

I have cosponsored a sixth amendment which would specifically stipulate that during a period of crisis, American war vessels and auxiliary vessels will be entitled to privileged passage through the canal. Without this amendment, the treaty is unacceptable.

In addition to these six amendments which I have cosponsored with Senator Dole which would improve upon the treaties considerably, I have cosponsored with him, two reservations to the resolutions of ratification.

The first reservation would require that Panama demonstrate, during the duration of the treaty, significant progress toward observing the internationally recognized human rights of its citizens.

The second reservation would reaffirm the Constitutional responsibility of the House of Representatives to participate in transfer of ownership of the Canal Zone territory. As I stated above, I am disappointed in the Attorney General's statement that House consideration of the treaties is not necessary, and I applaud the efforts of those Congressmen who filed suit recently in U.S. District Court seeking a reaffirmation of their Constitutional right.

In addition, I wholeheartedly support those Senators and State law officers who filed suit this week asking the United States Supreme Court to uphold the exclusive right of Congress to dispose of federal property under Article IV of the Constitution.

Mr. Chairman, I commend Senator Dole for having taken the initiative on these important issues, and I am pleased to be a cosponsor of these amendments.

In my opinion, this entire matter of negotiating the treaties has been mishandled from the start. I would hope the Senate Foreign Relations Committee, in its usual thoroughness and attention to detail, will refrain from reporting out these treaties before all the remaining questions are answered.

THE HELSINKI ACCORD AND GENOCIDE

Mr. PROXMIRE. Mr. President, for the last 10 years I have stressed the importance of ratifying the Genocide Treaty. The justifications for the treaty itself are numerous. Yet, the reasons why it is so important for the United States to ratify the treaty are not based solely on the merits of the treaty itself. Another compelling reason is that by ratifying the treaty, the United States will add to its credibility as one of the major proponents of human rights in the world.

It renewed my confidence in the U.S. stand on human rights when Arthur J. Goldberg spoke out on Thursday, October 13, against violations by Eastern European countries of human rights provisions in the Helsinki accord. As our chief U.S. delegate to the Belgrade Conference to review the Helsinki accord, Goldberg pointed out numerous violations of that accord. These included barriers to the free movement of people and ideas between East and West, preventing the reunification of families, denying exit visas to Jews, harassing visa applicants, and limiting the circulation of Western publications.

Goldberg is to be strongly commended for such a forceful presentation, especially considering that the Soviet Union and even Western delegates urged deemphasizing human rights issues.

Yet, I wonder how much credibility Goldberg's words carry in view of the Senate's repeated failure to ratify one of the most basic human rights tenets, the Genocide Treaty. As Goldberg so eloquently illustrated, human rights are always an issue.

We can never forget our commitment to the protection of basic human rights for all men and women of all nationalities, ethnic backgrounds, and religious convictions around the world. I am puzzled by the contrast between the exemplary actions of the United States on Thursday, October 13, and our failure to ratify the Genocide Treaty. Our failure on this score has made the job of men such as Goldberg more difficult and their efforts less convincing. This is yet another reason for quick action by the Senate in ratifying the Genocide Treaty.

NANCY HANKS

Mr. PERCY. Mr. President, for over a decade the National Endowment for the Arts has played an important role in moulding this Nation's cultural character. It has provided the encouragement and support necessary for the arts to flourish in America. By responding to the ever-increasing demand for the arts, in all of its expressions, the Endowment has initiated, nourished, and expanded a broad range of cultural programs. The driving force behind the Endowment for the last 8 years has been its chairman, Nancy Hanks.

This month, Nancy Hanks stepped down as the chairman of the Endowment. As a friend, admirer, and supporter for Miss Hanks, I would like to express my appreciation to her for the substantive contributions she has made toward enriching the lives of so many people who have been touched by her efforts.

Under Nancy Hanks' leadership, the Endowment has not only broadened its assistance to individual artists, institutions, and communities, but also it has increased the level of private donations and local matching funds. In Congress, we are well aware of her dogged persistence in seeking increased annual Federal support for the Endowment.

On October 3, 1977, the Christian Science Monitor carried an editorial on Nancy Hank's impact on our lives. I concur with the Monitor's view of Nancy Hanks "if not the mother of the current arts in America, certainly their really great aunt." We will miss this dedicated and gifted chairman, but her untiring efforts to meet the public's demand for the arts will not be forgotten.

Mr. President, I ask unanimous consent that the Christian Science Monitor's editorial on Nancy Hanks be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NANCY HANKS AND THE ARTS

Let us now praise Nancy Hanks. If your child takes music lessons, the teaching may be a little or a lot better because of Miss Hanks. If you watch TV, go to the ballet, visit museums, your options were expanded because of Miss Hanks. If you come from Sioux City, Iowa, where the council of arts and sciences got a visual arts grant; if you come from a metropolitan inner city where a building mural has brightened your day; if your life has been touched in any of countless ways by the arts of America—chances are that Nancy Hanks has been in the picture somewhere.

In other words, Miss Hanks has presided over an eight-year flowering of federal support for the arts with pervasive effects in places small and large throughout the United States. With the expiration of her second term this week, she leaves a record that will not be easily matched by whomever President Carter chooses to succeed her.

Mr. Carter's own publicized enjoyment of the arts provides a valuable intangible support for them. He has promised not to do anything "to impair the autonomy of the arts or the proper priority they deserve." He has in effect challenged himself to come up with the best possible replacement for Miss Hanks as chairman of the National Endowment for the Arts.

Miss Hanks has had some criticism for spreading the arts in sometimes diluted form at the possible expense of investment in top-level creative activity. But bringing the arts to more people and their support to more parts of the country was not only politically wise in maintaining congressional favor—it was surely a legitimate use of taxpayers' money by the federal government.

At any rate, our view is that Miss Hanks has struck a nice balance between disseminating the arts, fostering individual talent, and keeping afloat various institutions that otherwise would have faded under the crush of increased costs beyond the prices customers will pay.

Rather unexpectedly under Republican President Nixon, Miss Hanks helped keep the budget going up—from $16 million a year to almost $100 million. The recent system of challenge grants puts it up to cities and institutions to stimulate long-range programs by matching each $1 from the federal Treasury with $3 from the private sector. Miss Hanks also was always quick to point out that federal arts expenditures not only encourage private giving but indirectly lead to economic gains through the business in printing, restaurants, tourism, and so forth that is increased by arts activity.

This is not historical figure Nancy Hanks, the mother of Abraham Lincoln, we have been talking about. It is Nancy Hanks very much of today—if not the mother of the current arts in America, certainly their really great aunt.

THE UNEMPLOYMENT RATE AMONG VIETNAM VETERANS

Mr. MATHIAS. Mr. President, as we approach Veterans' Day and prepare to honor those who gave so much and risked even more by carrying the burden of our country's wars, we should take note of the misfortune that seems to have befallen the 9 million veterans of our most recent war. Vietnam veterans suffer most severely from unemployment. The unemployment rate among those veterans aged 20 to 24 is 18.1 percent. Among non-veterans of the same age group the rate is only 8.9 percent.

Psychologists say that they are now noticing the severe effects the war had on those young men. The fact that they came home largely unnoticed and unthanked exacerbated the pressures they faced in trying to get back into the mainstream. A GI bill has been in force to help with the readjustment, but it has not been as important to these young veterans as education benefits were to those who came back from World War II.

Not enough of them have been able to take advantage of the Vietnam GI bill, and to correct that problem the Senate passed yesterday the GI Bill Improvement Act, S. 457. I am very pleased that the Senate has acted to improve one of the most important means of solving the unemployment problem of young veterans and giving them the means to readjust to the society that has not adequately acknowledged their contributions.

S. 457 increases the educational assistance allowances by 6.6 percent and allows the veteran-student to increase that monthly amount even further by drawing on future rights to these benefits. I cosponsored an amendment introduced by Senator JAVITS and Senator MOYNIHAN that would have further liberalized the benefits of veterans whose education costs were higher because they lived in States with higher tuition costs. That amendment was rejected but the bill takes a step in that direction by allowing the accelerated use of future benefits.

It is important to note, however, that one of the reasons that Vietnam veterans have not used their educational benefits is that the benefits have not been adequate to meet increasingly high tuition costs all over the country. That difficulty is even greater in States whose tuition costs are higher than average. Statistics show that the rate of use of benefits is greater in States like California where over 52 percent of the veterans have used benefits than in States like Pennsylvania where only 20 percent have taken advantage of them.

I would like to see all veterans get an equal opportunity at education, regardless of the peculiarities of the region, and I will continue to support and work for the kinds of proposals that do so.

We owe those young men a lot more than the neglect and silence that they have received.

DICKEY-LINCOLN IS BEST OF ENERGY ALTERNATIVES

Mr. MUSKIE. Mr. President, the Dickey-Lincoln School hydroelectric project on the St. John River in northern Maine is now entering the public comment phase of review under the National Environmental Policy Act. A draft environmental impact statement was released by the Corps of Engineers on September 1 and the first public hearing is at Fort Kent, Maine on October 20.

The Dickey-Lincoln project was conceived as part of a package of proposals developed early in the 1960's by Secretary of Interior Udall to produce a plan for the balanced use of the resources of northern and eastern Maine. The early concepts for utilizing those resources included a national park, preservation of the Allagash River as the single most important white water canoeing stream in the East and development of the energy resources of the free flowing waters of the St. John River and the tidal power of Passamaquoddy Bay.

My concern then and now was that these tremendous resources be developed in a balanced way that would preserve environmental and recreational values but also provide benefits to the people in some of the most depressed parts of Maine and to the economy of our State and region. We sought to preserve the most valued canoeing river on the east coast and after years of work we achieved that objective through the legislature of Maine. When we sought to develop energy resources we found that the Passamaquoddy tidal power project could not, at that time, yield adequate annual benefits to justify the cost of construction. I challenge whether that will be the final word on "Quoddy," but it was the result achieved in the 1960's when oil-fired generators looked cheap and nuclear power looked promising. It may still be the result today, although we all have to recognize that ultimately the equation will swing in favor of renewable energy sources such as tidal power and hydropower.

When we examined the upper St. John River as a source of hydro-electric power we found that the river could serve to fill gaps created by the tidal cycle at the Passamaquoddy project. We also found that the project on its own was the most promising hydro site in the Northeast and held the promise of returns far exceeding the cost of investment.

The first site considered for hydropower on the St. John was below the confluence of the Allagash River and the St. John River. The project would have produced even more power at that site but because of our interest in preserving white water canoeing on the Allagash the project was redesigned as a two-dam project with the larger dam and impoundment above the confluence at Dickey, Maine, and smaller dam at Lincoln School. The potential power production was reduced in a trade-off with recreational and environmental interests to achieve balanced development of the resources. White water canoeing on the Allagash was preserved by that early compromise which is so easily ignored today by those whose interests were served.

We are now 12 years beyond the time when Dickey-Lincoln was first authorized through the combined efforts of Senator Margaret Chase Smith and myself in the Senate and Maine Congressman Stanley Tupper and then Congressman BILL HATHAWAY in the House. The project encountered heavy resistance from the private power interests in the Northeast in the years immediately after authorization. Progress toward construction was blocked. The Arab oil embargo and the sudden confrontation with the energy crises permitted us to renew

congressional support for the project and appropriate funds to complete planning and to compile the environmental impact statement required under NEPA.

We are now approaching the final phase of a long environmental review of the Dickey-Lincoln project. And we are faced again with some difficult balancing judgments. It is absolutely critical that we make those judgments carefully with a full understanding of the real trade-offs involved. I am deeply concerned that in some quarters judgment has been reached without adequate attention to the real choices before us.

Prof. Richard Hill of the University of Maine in Orono has been deeply involved in energy issues in Maine and closely involved in searching for renewable alternate energy sources. He is a member of Governor Longley's Advisory Committee on Dickey-Lincoln and as such he has not yet reached a final decision on the project. Professor Hill recently spoke out, however, to express his great dismay with the approach critics of Dickey-Lincoln have taken and particularly the press coverage of the draft environmental impact statement.

I share his frustration. The decisions we must make about the Dickey-Lincoln project and our energy future are too important to be made in the kind of atmosphere he describes. We must realize that our choice is not whether we need new power generating facilities. Our choice is which to build. I continue to believe the Dickey-Lincoln project meets the test of balance between development and the preservation of environmental values. And I believe it is economically and environmentally preferable to alternative generating facilities.

I ask unanimous consent that the transcript of an interview of Professor Hill by Bill Legere on the Maine Public Broadcasting Network's "Maine Things Considered" be printed in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

TRANSCRIPT

LEGERE. Over the past few months and especially since the release of the Environmental Impact Statement by the Army Corps of Engineers there has been an emotional consensus of opinion against the construction of Dickey Lincoln Hydroelectric project in Northern Maine. Today we talked with regular contributor Richard Hill, who incidentally is a member of the governor's advisory committee on that project, who had some thoughts about what he read in the draft Environmental Impact Statement and thoughts about the Project in general.

Q. Does the EIS in your mind present an accurate picture of what will happen and does the discussion that has ensued reflect accurately what is in the EIS?

A. Now that this emerging consensus you referred to is here, I sort of had the feeling that all of us are like little children living on a diet of candy and we have now been told by our mothers that we don't have to go to the dentist.

Bill, I'm very upset by the quality of the discussion associated with the decision either to build or not build Dickey. The press coverage of the EIS has been, I think, very myopic. It's picked, to me, the very small issues and played them up because these are the issues I guess that they feel the general public can understand.

Nowhere do I see, for example, an indication of where the millions of barrels of oil are going to come from that are going to replace the energy that Dickey will not produce starting, say, in 1986. The Army Corps of Engineers looked at some 24 different alternatives for generating electricity on a face-to-face with Dickey and the only alternative they could come down on was simple cycle gas turbines burning No. 2 fuel oil. And as we know now, No. 2 fuel oil, the material we burn in home furnaces, is getting more expensive and harder to come by. And what is going to be the cost of availability of this fuel in 1986?

These issues simply weren't addressed. All that were addressed was simply what happens to the deer yards and what happens to a small number of people which, of course, should not be a matter of indifference. But the real trade offs, in my estimation, were not examined. There is another thing about this, Bill, I think is terribly important. And here, I want to say very emphatically that after Brooks Hamilton's presentations you always disavow the station's responsibility to what Brooks says and here, I think, I demand equal treatment that you disavow this. All right, this is my own opinion and not that of the station.

The one thing that everyone seems to agree on is that Dickey is a bad deal because it doesn't do much for Maine. The fact that it does very little for Maine is proof. There will be some inflation-free, relatively low-cost energy available to other interested counties from the Dickey School Dam. There will be some decent power available for the rest of the state, but it is true that the bulk of the energy would go to Massachusetts and to Southern New England. This as a reason for not doing it is, to me, the reason for doing it.

The United States is going to become wracked with a regional tension over energy. Massachusetts, for example, has 700 million tons of hard coal in the so-called Narragansett Basin. The governor of Louisiana has asked his chief of energy office to examine the constitutionality of the holding of petroleum products within Louisiana and not shipping them out of the state so he can protect jobs in Louisiana.

And here we're doing the same thing. We're saying that we've got a resource that is endless; that is nonpolluting; that is renewable, etc.; but is going to mess up a little bit of our way of life and frankly, "no thank you we're not interested".

And also there is considerable discussion, Bill, of our participation in a power system that might be developed in the Bay of Fundy. Well, of course, there are 350 million kilowatt hours of energy available to the Canadians on the down-river St. John if we should pond the headwaters of Dickey. That energy is not now available to the Canadians because of the rapid fluctuations in flow in the St. John.

Bill I have not yet really come to a conclusion as I'm going to have to as a member of the Governor's Committee as to whether the St. John Dam should be built or not built but the one thing that does disturb me is I don't think the issues are being looked at and I don't think the alternatives are being properly considered.

Q. The environmental groups say that the Army Corp of Engineers haven't considered the alternatives either. They haven't presented a detailed enough analysis of what the alternative to building are.

A. Well I have the EIS in front of me here. They list 24 alternatives which they analyze in some detail and show why each one has been rejected. Well one of the alternatives they looked at was conventional pumped hydro. Here a reservoir is constructed on top of a mountain and a lower reservoir is constructed in the valley and during periods of low energy use a pump is used to raise the water from low elevation to high elevation. Then when the peak power demand is upon us we reverse the pump and make it a turbine and get the energy back.

These things can be highly insulting to the environment. These things are very expensive of energy because you must build big baseloading machines in order to supply the energy for the pumped hydro. Sites are quite difficult to come by—that have the capacity—and by and large the Army Corps of Engineers did not see fit to consider a conventional pumped hydro as an alternative to Dickey.

Although the proposal for Dickey would include some pump capacity, the Army Corps contractor also looked at lead acid storage batteries as a possibility for storing offpeak energy to be used again during peak periods. This was analyzed in some detail and rejected. They looked at flywheels, at super-conducting magnets, at thermal storage, at underground compressed air storage, and this is one, Bill frankly, I never heard of. The idea is that during the times of low power consumption we find an abandoned mine or a big hole in the ground and simply pump it full of compressed air then when the peak demand comes you open the hole and let the compressed gas come back through a turbine and get the energy back that way.

They also looked at underground pumped hydro to see whether or not that system might be applied. Well it goes on for pages and pages and the whole EIS is about 35,000 pages of documentation.

I read quite carefully the areas dealing with power alternatives and I, of course, haven't plowed through all of the 35,000 pages. But I'm convinced the Army Corps has done a proper job in saying that at the moment there seems to be no alternative to Dickey except simple cycle gas turbines. Oh yes, they did look, of course at wind energy and solar voltage, solar thermal, etc. And for good and sound technical reasons these were rejected as alternatives.

Now there is one big alternative that they did talk about which may be kind of a sleeper in the arrangement. And that is the management of load, having some system whereby we simply iron out our electric power consumption of the peak requirements.

This can be done in a variety of ways. For example, we can do it with sheer price. We can have electric meters with 2 dials on them and during periods of peak consumption the electric power can be registered on a second set of dials and the power priced on that dial would be 5 or 6 times as high as the energy price at the hours that are not on peak consumption.

There is a way of relaying power. For example, you can have a little black box in your house that when you cut on the dishwasher the hot water heater automatically cuts off so that you never draw more than 3 or 4 kilowatts in a home at a given time so you can level load that way.

But the potential for leveling begins to interfere with what we refer to as our life style so on one hand we say a few people are going to be denied the right to, say, canoe on the St. John if we build the Dickey Station. But if we don't build the Dickey Station it's going to have to be some fairly substantial changes in the way we consume electricity in order to avoid peak power consumption.

Now there is one alternative that occurs to me that was not written on the EIS and has not been discussed in any of the alternatives and that is the impact of the possible electric automobile on the way we consume electricity. For example, if in the year 2000 we have a significant number of electric power vehicles and each family has two sets of batteries; one on charge and one in the vehicle it would be a very simple technological problem to arrange the charging of the used batteries so that the charging coincided with the off peak power demands so

that during the night, from 10:00 in the morning until noon, those periods when energy was not being demanded by industry, by homeowners, etc.—the power company would then dump energy into storage batteries for vehicles. This may result in load leveling that peak load requirements of a facility like Dickey would not be required.

But unless we foresee some tremendous load leveling devices like the extensive use of electric vehicles or the extensive interference of the way we use electricity by metering we'll always be faced with peak load requirements. And according to the Army Corps of Engineers it's Dickey or it's simple cycle gas turbines.

Q. The Corps also said that there was hydro potential in other areas of Northern England that have not been developed yet, and there is even a place in Maine where there might be a potential for hydro stations.

A. Yes, there are several hydro stations in Maine that add up to as many megawatts as there are at Dickey and these are already catalogued by the FPC and listed in the EIS. Now there is one at Pierce Pond on the Kennebec in Maine which is 220 megawatts which would give us 460 gigawatts a year. One at Pamcook on the Androscoggin River in New Hampshire with 300 megawatts; one at Williamsville on West River in Vermont—it's 145 megawatts; there are 2 developments on Cold Stream on the Kennebec River in Maine. All of these add up to be a capability greater than Dickey. I haven't looked at any of these in detail, Bill, but I suspect the environmental impact of building these stations in terms of the communities that would be flooded and the deer yards destroyed, etc. is probably greater than the proposed Dickey power site.

There are a lot of very small hydro sites that could be developed in Maine but the trouble with these is they are not reliable. That is, the anchor ice in the Fall will make them non-operating, low water in August will reduce the power available. The spring run-off will raise the tail water so that they are not useful. So small hydro sites that are often talked about as an alternative are simply fuel saving devices; that is, when they run they will save fuel but they won't reduce the need for capacity. We will have to build stations and have them available so that when small hydro sites are not available we will have some power available in the grid somewhere.

TAX POLICY AND CAPITAL FORMATION

Mr. HATCH. Mr. President, shortly the administration's tax reform proposals will be before us. When we debate this issue, we need to be aware that tax reform cannot be separated from economic growth, productivity, employment, inflation, and living standards. It is not possible to alter tax laws without altering savings, investment, capital formation, labor productivity, the level of wages, the number of job opportunities, and the price level. If we go into the issue of tax reform blind to its impact on all of these other matters, we may seriously damage the job opportunities and wage levels of millions of Americans.

I have come across an article by a distinguished expert, Prof. C. Lowell Harriss of Columbia University and the Tax Foundation, which spells out in clear language these various interconnections. The article would certainly improve the quality of our debate and reduce the damage we are likely to inflict on the American people in the process of tax reform. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAPITAL SHORTAGE ISSUES BEARING ON FUTURE TAX POLICY

(By C. Lowell Harriss)

Should tax revision be designed to reduce barriers to capital formation? Less than four years ago bottlenecks in production were plaguing businesses with growing frequency. Price increases and delays in getting delivery were hampering efficiency in production and the ability to hold prices in line. Rising—then soaring—interest rates reflected an almost unprecedented tightness in financial markets. Capital shortage was a very real thing, close at hand.

Moreover, serious projections into the 1980's pointed to trouble. Needs for capital facilities compared with the probable availabilities of savings showed a gap. The shortfall was estimated at nearly $1 billion a week to 1985 by a widely publicized New York Stock Exchange study (1974). More than minor disappointments would result from such a deficiency.

One response was identified with the business community. Managers and their financial advisers could point to improvements that would come from tax changes which would enable companies to hold on to more of their pre-tax earnings. A rise in the availability of cash would help financing. And, obviously, tax cuts to increase in the prospective after-tax profitability of investment would enhance incentives. Such conclusions seem undeniably persuasive.

A reinforcing argument, long dormant, gained attention. The two-tier taxation of dividends was seen, not only as an obstacle to investment in equities, but also as inequitable and unfair.[1] (The same condemnation applies to some degree to the taxation of capital gains which grow out of the plowing back of retained corporate earnings.) During his campaign President Carter identified the double taxation of dividends as a defect to be condemned and reformed. Other leaders have also identified themselves with what is a strategic potential—reducing burdens on the equity capital of corporations. It involves the heart of mankind's organization for production.

CAPITAL SHORTAGE—REALITY OR BUGABOO?

Does the future hold a shortage of capital—for the economy as a whole or for business? By around 1976 serious concern seemed to have dropped. For one thing, declining interest rates and the disappearance of bottlenecks during the recession weakened any sense of imminence.

Discussion got somewhat sidetracked into debate on definitions. What do terms such as shortage and need really mean? Some economists have appeared willing to dismiss the whole matter by noting that *any* shortage can be eliminated by prices high enough to close any gap between supply and demand. Markets can always adjust. True.

Interest rates and the costs of equity funds can get high enough to balance supply and demand in capital markets just as prices bring adjustments in the markets for grain or autos or shoes. But is the balance at a better or a less desirable level? That is the question Americans should be trying to answer.

Even the poorest of economies do get along with far less capital per person than Americans will have. And in the years ahead we shall have far more more capital than most of the world. Americans can make do with whatever new capital they will supply by new savings from even the most adverse tax structure. That conclusion, however, does not provide a fully satisfactory guide for either personal or governmental policy. Our well-being and that of our children will be more attractive, the larger the capital base. Capital is a human thing, an aspect about which I shall say more later.

Recent figures from another approach have provided reasons for concern. Gross capital formation as a percentage of Gross National Product has been substantially below the level over the long period 1869–1928—then 20.1 percent compared with 15.2 percent for 1966–1975 (15.8 for 1946–1975). A decline of nearly one fourth is significant.

Far more deserving of concern has been the change in net capital formation. The 1966–1975 rate of 6.8 percent of Net National Product was less than 60 percent of the 1869–1928 rate.

PROJECTIONS

At least 11 sets of projections have been published. Some show essential balance between investment and saving. As a group their conclusions differ enough, not only to confuse but also to provide support for those predisposed to say, There is not really any solid reason for modifying governmental policy." No full-scale discussion of the estimates would be in order, but a few observations can help in making judgments on tax policy.

The time horizons of the projections differ, some ending with the 1970's. For more than a year we have seen the expansion of output from existing facilities and with almost no capital bottlenecks. Any resulting sense of security will be brief. The horizon of policy discussions which involve the economy's capital base should look more nearly to half a century than to half a decade. Unfortunately, however, attaching dollar numbers to aggregates for the next 10 to 15 years—a period not really long in a family's or a country's life—has its hazards, especially with inflation looming. Even percentages of gross national product, an alternative measure, are inevitably subject to distortion because of inflation and difficult for many of us to understand.

Looking into a future of perhaps decades, I am convinced that the American people will expect a level of living which requires capital in increasingly large amounts per person. A tilt of governmental policy to reduce existing obstacles to private investment in production facilities can help to reduce prospects of disturbing shortfalls. In fewer years than those since World War II the obligations already provised in the Social Security program will present strains we can yet sense only vaguely. Each worker may then be required to provide around 40 percent of the payments to a retired person—a heavy burden; the more capital available to assist the active workers, the less the weight they will feel.

Keynes' quip, "In the long run we are all dead," has been cited time and again in rationalizing a (strong) basis of the near-term over longer-run considerations. It continues to exert influence even though as applied to humanity—we in the meaningful sense—the assertion is palpably false. It distracts from a more basic fact: Sacrifices now to build the capital base will enable us, not only those who do the saving but our heirs indefinitely, to enjoy a better level of living, on and on indefinitely.

The adding of estimates of capital required various industries, regions, energy, legally imposed outlays (notably for environmental and health-safety purposes), housing, and so on—the laundry list approach—is criticized, and justifiably. Nothing sacrosanct attaches to either the physical items envisaged in such lists or to the presumed

[1] To the extent that the corporate law is in fact passed on to consumers, and thus no burden to suppliers of capital, it comes in for evaluation as a consumption (sales) tax.

timing, e.g., 1979 as against 1982. Changes in technology and in relative prices will make many specific features obsolete. So will new laws and regulations. Nonetheless, the general magnitudes do give useful indications of what must be done to meet apparent expectations.

A few questions will suggest the reasons why estimating is difficult and findings subject to modification. What will be the actual growth of the labor force, especially of the number of women seeking jobs? How much capital will be needed for each $1 per year of earnings? How much capacity (of various qualities) do firms actually have now? How will they seek to expand and modernize? How will technological changes and developments abroad affect, say, capital needs of the 1980's? How will changes in governmentally imposed needs for environmental and health-safety purposes alter the outlook? Will businesses need more or less in cash and other liquid assets per unit of business?

When, if ever, will businesses (and government) account adequately for inflation and cease the consumption of capital by overstating earnings? To what extent will shifting population add to needs for capital in some areas, while leaving that in other places partially unutilized? How much will governmental budget deficits draw upon available savings? What extra demands for capital will grow out of the energy situation?

And of crucial long-run significance, what will be the savings practices in the decades ahead?

Uncertainties in the projections are real and large.

The economist's conclusion that supply and demand will balance as market forces convert a prospective shortage into higher prices does not dispose of the subject. The issue of concern should be the results in terms of higher or lower rates of betterment of living standards. More capital means more real income.

AN OFFICIAL ESTIMATE

The Bureau of Economic Analysis of the U.S. Department of Commerce presented in early 1976 the results of detailed analysis of the outlook through 1980. The Bureau calls attention to many uncertainties of its methods and to frustrating deficiencies of the underlying data. Business nonresidential fixed investment must exceed the historical rate (as a percentage of Gross National Product) if we are to meet the goals for full employment levels of output, and the goals for both pollution abatement and decreasing dependence on foreign sources of petroleum, while also the customary expectations for increasing productivity. The additional need will be considerably more than one percent of GNP (the precise figure depending upon details of comparison).

Such an amount—one percent—may not seem large. But it is more than one-tenth of the longer-term percentage of GNP devoted to gross business investment—approximately $1.5 billion a month required addition to net saving. The extra demands arise largely from environmental and special energy goals. When the capital requirements of President Carter's energy proposals are substituted for those used, the totals will change—quite probably upward.

The study did not undertake to look 10 and 15 years ahead. Nor did it deal with housing.

WAYS AND MEANS COMMITTEE REPORT

Tax Policy And Capital Formation prepared by the staff of the Joint Committee on Taxation (1977) devotes only two pages to the need for capital formation. They draw upon other studies to conclude, ". . . several important widely held social goals would be increased capital accumulation."

Among other things the study emphasizes a lag between the rise in the labor force and the growth of plant and equipment. The growth rate in plant and equipment per worker dropped from 2.6 percent in 1965–70 to 1.6 percent in 1970–75. The annual increase in worker productivity fell by more than half—from 2.4 to 1.0 percent.

Inevitably, the rise in real wages has dropped. Continuing disappointment is to be expected unless there is an increase in the average amount (quality considered) of plant and equipment per worker.

Part of the discouraging record on worker productivity results from governmentally imposed uses of new capital. Much goes for environmental and safety purposes. Almost none of the benefits appear in output as it is measured. Rarely if ever will workers consider such advances as income to be taken into account in bargaining for money wages.

WEDGE BETWEEN PRODUCTIVITY OF CAPITAL AND REWARDS TO THE SAVER

The inadequacy of capital, especially in the corporate sector, can be demonstrated from another approach. It utilizes the concept of the wedge between what new investment capital produces and what the person supplying it can expect to receive. The corporate income tax constitutes a generally unrecognized but large impediment to market processes.

Much new equipment yields 25 to 30 percent before tax, sometimes more. The actual returns differ, and our data on the real pretax yields of additions to new facilities are far from complete and satisfactory. Beyond any question, however, and ignoring the amounts required for environmental and other governmentally dictated purposes, new productive facilities used in business typically produce yields which to most of us would seem surprisingly high. But government gets there first and takes in federal and state taxes around half of the yield financed by equity capital.

Basic economic forces cannot exert their proper influence on incentives. Even average, as distinguished from incremental, yields exceed 10 percent net for the corporate economy. Because of corporate taxes, however, the suppliers of capital (debt and equity) can receive only a portion of the true yield.

The saver will look at what he can get. To the extent that savings and investment are responsive to prospective rewards, the drain for taxes will lead us to curtail the funds available for business investment. Taxes prevent the productivity of capital from exerting the influence appropriate to its true potential for bettering levels of living.

SOCIAL SECURITY FINANCING: RETIREMENT INCOME WITHOUT A CAPITAL BASE

To live without producing—in retirement—one can draw upon a capital base built up during years of work. That capital—the real resources financed by dollar savings—will produce income in the years of accumulation and then after retirement even though a portion of the capital may be used up each year to support consumption. A second possible source of retirement income can be gifts from children or others.

A third can be forced payments from others. Such is our Social Security system. While working, we pay taxes for persons already retired. Then comes our turn. The process involves no saving, no building of a personal or a national capital base. The assurance we feel in Social Security benefits reduces materially the inducement to save.

Capital formation is less, year after year, than if retirement were to be dependent upon our own assets.

Government has established a benefit-tax relation which frees the individual from one inducement to save. Fewer dollars become available for investment to finance growth in productive facilities. The result will not be labeled capital shortage. But the effects are very real, albeit not identifiable.

THE BENEFITS OF CAPITAL

Capital is a human thing, not merely bricks and mortar or dollar figures on balance sheets. Sometimes, it seems, capital is associated with the rich and with them only. Or perhaps with huge corporations as entities, great aggregations far more powerful than any of us and presumably able to take care of themselves.

"Isn't the capital-shortage argument" we may hear, "just a rather poorly concealed disguise for tax relief for the wealthy and prosperous?" The thought underlying this question is probably the basis of skepticism about the motives of advocates of tax change to reduce obstacles to capital formation. The skepticism is then extended, without responsible analysis, to the merits of the case.

So let us face the realities. Enlargements of the economy's capital base benefit not only those who do the saving. The benefits spread widely—in increased employee productivity, new products and services, more housing, energy sources, environmental improvement, stronger competitive position in world markets, and so on. Capital goods take loads from our backs. Buildings and utility facilities and machines serve us as we enjoy leisure or sleep.

Saving and investment enable workers to produce more and better goods and services with less burdensome effort. As consumers, all of us depend on the economy's capital base because what becomes available depends upon more than pure labor. Levels of living today are much to be preferred to those a century, a generation, or merely a decade ago. Improvements beyond count and measure rest heavily upon increases in capital.

The wages plus fringe of a job around the median will frequently require well over $30,000 of capital. Better jobs are typically associated with very much more. Capital equipment of such amounts is needed for the productivity which enables the employer to pay such wages.

More and better capital facilities lead to higher payments to producers—wages, interest, and profit. The family which has added to its savings account or bought some shares of stock enjoys higher income.

Who, however, gets most of the increase of money of incomes as the economy grows? Human beings in their capacities as workers—labor—rather than as suppliers of capital! In 1976 compensation of employees was $733 billion above 1960. After-tax profits had gone up around $58 billion and net interest by $72 billion.

As industrial facilities are improved and enlarged, the suppliers of capital get a small portion of the fruits. Laborers' real incomes (broadly defined) go up by much more than the incomes of those who supply the capital. (How little trickles up to shareholders!) For example, how do wage rates per hour plus fringes compare with those of the past? From 1947 to 1976, private nonagricultural hourly earnings (after adjusting for inflation) rose by more than 70 percent.[2] Fringes, I expect, increased relatively more. Over longer periods, the real income of workers has multiplied.

What has happened to the *real* returns to capital, per dollar per year? After adjust-

[2] Improved education and training plus other factors properly treated as human capital account for some of the rise in hourly earnings and fringes. Not all of the improvement in real compensation can be attributed to more and better tangible capital facilities. My point is not to enter a discussion of the relative contribution of the factors which have accounted for the rise in person-hour productivity that underlies the increase in earnings. Unquestionably, plant and equipment are of crucial significance.

ment for inflation, neither (1) interest rates nor (2) dividend rates plus reinvested earnings per dollar invested seem to have risen appreciably over time. With proper adjustments for inflation, after-tax corporate profits per dollar invested at risk are probably significantly less than through much of our history. Certainly, there has been no increase comparable to that for wages.

The point of overwhelming significance, however, is that capital facilities benefit human beings in their capacities as workers and as consumers. Benefits also go to those who save and provide the dollars that are essential for investment. Everyone gains as the economy's capital base expands. One aspect warrants special comment.

Despite propagandistic allegations that capital and labor are rivals, they *support* each other. All of us who work need productive tools to realize the potential of our abilities.

ADVANCE OF KNOWLEDGE: TECHNOLOGICAL PROGRESS

Quite generally, technological advance gets translated into actual benefits for mankind through new capital facilities. Scientific progress and the expansion of knowledge in the broadest sense play vital roles in economic betterment. The fruits of technological progress become practically useful, not when they are proved in the laboratory, but only when new facilities operate. Typically, improvements in manufacturing, marketing, communications, and servicing rest upon capital goods which embody new technology.

Cost reduction and quality improvement each grow out of research of many types—and then capital investment. Productivity improvement—so crucial in raising living standards—depends upon the introduction of new types of facilities (capital deepening) as well as upon the provision of more of older forms of capital per worker (capital broadening).

Thus, savings used to pay for new capital goods can bring advantages which exceed those from the addition of more equipment. The new things tend to be the best quality, the most advanced types. The whole society receives a technological dividend from better instruments of production and from the new consumer goods and services.

THE DROP IN NET CAPITAL FORMATION

For economic progress, net capital formation means far more than the gross figures. The difference is the amount of investment for replacing existing facilities. Since we now have a big capital base, depreciation totals may seem large. But they do not add. Of course, the quality of new facilities will typically be higher as technological progress is reflected. But the prices are higher. So the $1,000 of depreciation will not necessarily buy any more true productive capacity; with inflation there is often a net decline in what each dollar will purchase.

The net national saving rate dropped from 8.3 percent of net national product in 1946–55 to 6.5 percent in 1966–75. Personal saving as a percentage of disposable personal income went up. The rate of corporate saving was approximately the same in the two periods. The big change was the government (Federal-state-local) sector. From a small net saver in the decade immediately after World War II it became a large dissaver in 1966–75. Net budget deficits absorbed the equivalent of two thirds of all corporate saving.

TAX REFORM TO ENCOURAGE CAPITAL FORMATION

Two goals and possibilities must be distinguished: (1) raising the total net saving and capital formation of the *economy as a whole;* (2) enlarging the capital formation in specific sectors (manufacturing, housing, energy supply, urban centers, and so on). It is easier to propose tax changes for the latter than for capital formation in the economy as a whole. Space limits call for condensing conclusions.

1. A crucial problem for tax and capital formation is the growth of Federal spending. Any person seeking responsible tax policy must be concerned about the size—even the existence—of Federal budget deficits. Rising national income will enlarge revenues from the existing tax structure without higher rates. If the increase in spending can be controlled effectively, the deficit will eventually disappear. But Federal spending is a form of consumption (of public services plus private purchases out of such transfer payments as Social Security). What is consumed, whether collectively or privately, is not available for capital formation. Elementary! But often overlooked. Collective consumption (governmental expenditure) is a rival to capital formation. The better we restrain the rise in Federal spending, the more promising our prospects for improving the capital base.

2. Financing governmental deficits or business borrowing by money creation—accommodative monetary policy—does not create capital. Except for possibilities during periods of substantial underutilization of productive capacity, capital cannot be created out of the thin air of new bank credit.

3. Reform of the two-tier taxation of dividends can take any of several forms. Assuming that the total revenue is not to be reduced appreciably, the alternatives likely to receive serious consideration can have considerably different effects on both corporations (and on their ability and inducement to save) and on shareholders.[3]

4. Raising the investment tax credit, increasing the deductions for depreciation (by timing changes, adjustment for inflation, or even allowing more than the cost of a piece of equipment as a deductible tax expense) would enlarge capital formation in the portions of the economy affected—the business sector—without necessarily increasing total capital. To do the latter, more saving is needed. If the Treasury's receipts go down because businesses pay less tax, Federal borrowing to make up the loss will draw funds from the capital market; some other part of the economy must do with less. After a time—who can say how long?—the economy may generate enough more income as a result of the reductions of business taxes to offset the initial revenue decline. But uncertainties are substantial.

5. Reduction in the 48 percent corporate tax rate would increase the prospects of after-tax earnings. Equity investment in corporations would become more attractive. Many benefits are to be expected from a (substantial) cut in the high corporate rate. More capital would flow to the sectors portion of the economy with highest productivity. But as with the changes noted in number 4, one cannot assert with confidence that total saving and capital formation would rise appreciably in the first few years. Nevertheless, one would run little risk in betting that this change in the economic structure would have beneficial effects for the expansion of incomes.

6. One or another modification to encourage saving, e.g., liberalizing Keogh and related retirement plans, would doubtless enlarge the flow of funds into such entities. To what extent, however, would there be merely a diversion of savings from other placements as distinguished from a net increase?

7. Reducing taxes which fall most directly on capital as such—estate and gift taxes and the taxes on capital gains—would probably be rather high powered as regards saving. Changes to make up the revenue loss would almost certainly fall in part, perhaps largely, on consumption. No firm estimate could be made without specifying the other associated changes, if any.

8. Shift from a tax on personal income to one on family spending above a personal exemption would exempt net saving.[4] The tax could be progressive, quite unlike retail sales and a tax on value added. The Treasury's major study, Blueprints for Basic Tax Reform (1977), presents the possibilities. They deserve serious consideration, most especially if there is agreement that more capital formation is desirable.

[3] The Tax Foundation expects to make available after the end of summer 1977 the results of new econometric studies. For a large assortment of possible approaches to the two-tier taxation they will show the probable distribution of tax reductions and tax increases. From these estimates it will be possible to make some judgments about the probable effects of specific changes on behavior and on saving.

[4] The present system taxes earnings and other income from which saving is made. Then taxes are applied again on the dividends and interest from the saving. A large tax bias toward consumption results.

DEPARTMENT OF INTERNATIONAL TRADE AND INVESTMENT

Mr. INOUYE. Mr. President, I have decided to cosponsor S. 1990, a bill to create a Department of International Trade and Investment, introduced by Senators ROTH and RIBICOFF.

I agreed to cosponsor S. 1990, because I think it is clear that our international economic decisionmaking processes are in disarray and that we are suffering from a lack of coordination in the formulation, implementation, and administration of our international trade and investment programs.

There has been no one single body which is specifically responsible for coordinating agency opinions, monitoring international economic developments or preparing background information for the President since the dissolution of the Council for International Economic Policy. Agency divisions on trade and investment policy, Third-World relations, East-West policy, and so forth, are apparent to all and are confusing our business community and foreign allies.

Of particular recent interest has been the debate on the implications of our staggeringly bad trade deficit. The Treasury Department, which has no responsibility for administering any export promotion program, has actively argued for the termination of the DISC program, encouraged a downward float in the value of the dollar on the ill-founded premise that this alone could alleviate our trade problem, and generally counseled benign neglect and complacency.

The Department of Commerce and a growing number of private economists, financial institutions, and corporate executives disagree and have urged the President to take constructive action to prevent the widening of this deficit. There is a need on this and other issues for a better mechanism through which information can be gathered and policy options developed.

Reorganization is not a panacea, and the creation of a new department would not end the bureaucratic disagreements and policy conflicts. A new agency will be only as creative, responsive, and capable as the people with which it is staffed. Moreover, the other Departments or the Congress itself might undermine the effectiveness of such a new department.

In an age of economic interdependence, I recognize the fact that the do-

mestic and international economies are inextricably linked. Domestic programs and objectives can be crucially affected by foreign events, and thus virtually every agency also has an international interest. At the end of our evaluation of this proposal, therefore, it may be decided that a new department may be too cumbersome and unnecessary. Indeed, I am heartened by the fact that the Department of Commerce appears to have attracted new, thoughtful, and able leadership and that the Eximbank has been more responsive to American exporters' needs.

Any measure as ambitious and far-reaching as this legislation will, of course, be subject to many changes during its consideration. I believe that there are many amendments which could strengthen and improve the bill.

Nevertheless, I think that this bill will serve as a useful vehicle to stimulate discussion about this issue. For too long we have labored under the illusion that our economy is well sheltered from international storms and that our economic and technological leadership is unassailable. Recent events should have dissuaded us of those views.

I look forward to active participation in the hearings and in the consideration of this bill. I hope that it will rouse the Executive to expedite its own reorganization plans and share with us its thinking on this crucial question.

I also ask unanimous consent to print an article that appeared in the October 18, 1977, issue of the Wall Street Journal, which notes our declining national research efforts and the detrimental effects this will have on our balance of trade. I commend it to my colleagues who are not yet concerned about our diminishing technological leadership.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MANY CONCERNS STRESS PRODUCT DEVELOPMENT AND REDUCE RESEARCH

(By Mitchell C. Lynch)

BOSTON.—The "R" is slipping from R&D, and many scientists, economists and foreign-trade specialists figure that spells trouble.

They discern an ominous change in the nation's scientific posture: Industry is curbing slow-payoff, basic research aimed at finding new products and instead is favoring hard-nosed, quick-payoff development of existing technology.

If this trend continues, some experts fret, the U.S. eventually could lose its standing as both the world's most innovative country and the biggest exporter of high-technology goods. Others worry that scientists aren't getting the elbowroom to, say, come up with synthetic fuels to replace petroleum. The problem has spread even to universities, long considered the birthplace of basic research.

"I don't hear many of my industrial contemporaries talking about exciting new major discoveries that they think will shake the world," sighs N. B. Hannay, head of research at Bell Laboratories, an arm of American Telephone & Telegraph Co. Thomas A. Vanderslice, who oversees research at General Electric Co., also is concerned. "There are trends that, unless corrected, could lead to a rapidly maturing crisis," he says.

REAL OUTLAYS STAGNANT

The switch in R&D emphasis has taken place at a time when the total of such spending in the U.S. has turned essentially stagnant. American companies are spending more money on R&D, of course; one private study found that industry expenditures on R&D last year rose more than 11 percent from 1975 to $16.2 billion. However, the higher outlays have barely kept pace with inflation. "Strip away the higher costs, and you don't have much of an increase in the real amount of R&D being done today," says Michael Boretsky, senior policy analyst at the Commerce Department. And Otto Eckstein, who heads an economic research firm near Boston, says spending is lagging behind the pace that would be expected during a rebound from the 1974–75 recession.

Perhaps even more ominously, R&D spending in the U.S. is beginning to slacken in comparison with the rest of the world. One government study estimates that the U.S. currently does only about 20 percent of the world's R&D, down sharply from 50 percent about 10 years ago. The National Science Foundation says U.S. expenditures for R&D have slipped to about 2 percent of gross national product from more than 3 percent in 1965 and currently trail the 2.3 percent level in West Germany and estimates of more than 3 percent in the Soviet Union. The federal government adds that the number of patents it granted to foreign inventors in 1975 reached 35 percent of the total, against only 17 percent in 1961.

And while many U.S. companies are holding down R&D spending, a lot of them readily concede that the lion's share of such expenditures now is going to developing and improving current products rather than coming up with new ones. Indeed, many concerns say, in effect, that they are working hard just to hang on to their market share of present product lines.

Raytheon Co. is blunt about it. "Very definitely we have gotten away from long-term general research," a spokesman for the big, diversified company says. "All the research we now are doing is applied research with well-defined goals, better focus on business objectives, and a promise of payback within a reasonable period of time."

REASONS FOR SWITCH

Executives and economists alike attribute the new, quick-payoff approach to R&D to the still-high rate of inflation, the shortage of capital funds during the current slump in the stock market, sharp competition here and abroad for existing high-technology markets, and uncertainty about government regulations and policies.

"During periods of uncertainty, companies aren't in any mood for high risks," says Alan Greenspan, a former chairman of the President's Council of Economic Advisers. "Uncertainty is plaguing the investment community, and it is far more pervasive than it was a decade ago." Under these circumstances, for example, "it is no wonder this country hasn't done much research into synthetic fuels," Mr. Greenspan says. "The payoff is too far down the road."

Richard E. Heckert, senior vice president who oversees R&D at Du Pont Co., specifically cites the impact that federal policies are having on coal-gasification proposals. "Who the hell is going to develop expensive coal processing when natural gas is selling at half its real market price?" he asks. With gas prices held down by federal regulations. Mr. Heckert says, industry is concerned about "whether it could even get a buyer for any higher-priced synthetic fuels." And George Gols, chief economist at Arthur D. Little Inc., a research and consulting firm, suggests that there is a deeper problem, "that industry, in the long run, doesn't really believe that fuel is going to be much more expensive or scarce."

Du Pont, itself, whose $353 million R&D budget last year puts it among the biggest in industry, has realigned its program drastically. In recent years, the big chemical company has dropped about 22 of what it considers "new adventures" in R&D and is working on only two or three. Indeed, only 22 percent of Du Pont's R&D budget went to basic and new-venture research last year, compared with 38 percent in 1972. In the same four years, spending for what Du Pont calls "improvements for existing businesses" climbed to 78 percent from 62 percent.

This new policy means "much lower risks and much higher rewards," Mr. Heckert says. In a way, he adds, the company has given up "looking for another nylon or Dacron," two synthetic fibers that were developed by Du Pont researchers and marked major breakthroughs. Du Pont isn't searching for more extensions of plastics and synthetics because "there aren't any simple combinations left," Mr. Heckert says. "There are only so many ways you can mix around the basic molecules."

In the long run, companies like Du Pont might prefer to license technology developed by other companies, Mr. Heckert indicates.

Indeed, many companies clearly are irked because foreign manufacturers have proven adept at picking up U.S. technology through licensing agreements, improving it and then exporting high-technology products back to the U.S. As just such a case, William H. Davidson, a professor at the Harvard School of Business, cites the television industry. U.S. companies brought out the first practical TV sets in the 1940s and dominated the world market through the mid-1950s. But now foreign producers, particularly the Japanese, have moved into the business and hold a big chunk of the U.S. TV-set market.

According to Prof. Davidson, some foreign producers, after seizing upon existing technology, go a step further: "They get control of extensions of that technology," he says. The current extension of TV technology, he says, is the video cassette, a recording device enabling the viewer to see shows recorded earlier. "The Japanese clearly are poised to take the biggest share of that potentially huge market," he says.

Prof. Davidson adds that he wouldn't be surprised to see foreign manufacturers make big inroads in the U.S. markets for office copiers, electric typewriters, outboard motors and electric organs. (Using a Hammond Organ Co. license, Yamaha of Japan already has begun exporting a competitive electric organ, the professor says.)

ZENITH'S LAYOFFS

U.S. companies often lose their technological lead because, Prof. Davidson says, they are so preoccupied with keeping their share of the current-technology product market. Other observers say much research work merely involves a hunt for ways to make current products more cheaply or an attempt to accumulate so many patents in a given field as to hamper potential competitors.

A few days after Prof. Davidson was interviewed, Zenith Radio Corp.—almost as though on cue—announced that it is laying off 25 percent of its work force, including a large number of researchers. The reason: competition from Japanese TV-set makers. The Research Department is being brought into the Product Development Department, a Zenith spokeman said. Research projects that "aren't directly related to the immediate product line (color-television sets) are being eliminated," the spokesman added. "We're dropping some research projects where the payoff was 20 years from now. They weren't making a contribution to our needs now."

Many corporate executives, economists and academics also complain that government regulation and red tape are strangling basic research in the U.S. Foreign governments, in contrast, nurture industrial research, U.S. businessmen say.

These governments have less-stringent antitrust laws and, in fact, often urge domestic companies to share technology and production operations. For example, under

pressure from Paris, the Peugeot S.A. auto maker last year acquired control of Citroen S.A., another French auto maker, which was in deep financial trouble. Peugeot's job was to bring Citroen under its wing and create one streamlined auto-making operation. The U.S. Justice Department's Antitrust Division, on the other hand, prohibits American auto makers from even exchanging information or knowhow, much less combining production operations.

DRUG REGULATIONS

Foreign governments also impose fewer regulations that slow the introduction of new products. This difference is most apparent in the pharmaceuticals field.

Du Pont's Mr. Heckert says that in this country the average corporate cost of bringing a new drug from the laboratory to the pharmacy is $10 million. "Think about introducing 50 of them," he says sardonically. To get Food and Drug Administration clearance for a muscle relaxant called Dantrium in 1972, the Norwick-Eaton Pharmaceuticals division of Morton-Norwick Products Inc. submitted to the agency 456 volumes of technical material, with each volume two inches thick—literally a ton of documents.

An FDA spokesman says the average new-drug application today takes up about 70 volumes of technical material. And the processing of such applications can take years. One reason is a bureaucratic problem: An FDA employe risks little by delaying an application, but he can get into trouble by clearing a drug that later is implicated in dangerous side effects. Furthermore, the new Toxic Substances Control Act is greatly increasing the testing required before chemical products can be marketed.

DROP AT UNIVERSITIES

The apparent decline in basic research at universities, many of which have been severely hurt by inflation, also is troubling many scientists. Based on 1972 dollars, universities' basic-research outlays have slipped to about $399 million this year from $417 million in 1971, according to the National Science Foundation.

Walter E. Goldblith, provost of the Massachusetts Institute of Technology, puts part of the blame on what he calls "a nightmare" federal funding system. Compared with the looser block grants of bygone years, money now is doled out only for tightly controlled projects, Mr. Goldblith says. By insisting on multifarious reports and other forms of accountability on basic-research projects, Washington has "fragmented the study of nature until it has become meaningless," he complains. "Scientists? Our people have had to become more like accountants," Mr. Goldblith snorts.

It is difficult to determine the extent to which this basic-research lag is hurting the nation's trade figures. However, technology clearly is important to U.S. exports. The Commerce Department says that while the U.S. was incurring a $5.88 billion deficit in merchandise trade last year, its exports of technology-intensive manufactured goods were outrunning such imports by $26 billion.

"What alarms me is the trend we're seeing now and what effect it may have on our trade picture later," says Edward M. Graham, a professor at MIT's Sloan School of Business. "Right now it's a problem not quite a crisis."

"UNFAIR" COMPARISONS

But not everyone is alarmed. Some economists, including Mr. Gols of Arthur D. Little, says research comparisons with, say, the late 1960s are "unfair" because the government and corporations then were spending huge amounts of money on research related to defense and the space program.

Frank Press, President Carter's science adviser, agrees. "A certain amount of deterioration is inevitable," Mr. Press says. "The first thing we have to realize is that the boom years of the 1960s have passed." Furthermore, he warns that the statistics are "still too imprecise; we need to break down the figures sector by sector to find out where the problems really are."

To Mr. Press, the answer isn't a flood of federal funds into basic research. "We have to be careful," he says. "We don't want to overload the system."

LEGISLATIVE RESTRICTIONS ON HUMANITARIAN ASSISTANCE

Mr. KENNEDY. Mr. President, for the record, I want to voice my strong dismay over the "compromise" reached by the House and Senate conferees on the foreign assistance appropriations bill (H.R. 7797), which the Senate adopted yesterday. The conferees have commendably acted to eliminate some regrettable and destructive legislative restrictions on U.S. contributions to international development institutions. However, they failed to strike out other restrictive language that bars American contributions to urgently needed humanitarian assistance programs in Southeast Asia, Southern Africa, and elsewhere.

It is only because of the overriding importance of this omnibus foreign assistance appropriations bill that I voted in favor of a conference report containing provisions barring even indirect humanitarian assistance to people in need. I have always felt that one of the finest American traditions has been our Nation's concern for people in need—wherever those needs may exist. A change in political geography, or the repressive acts of a government, have never diminished the claims of hungry and needy people for America's helping hand. This is especially so where there are, in fact, ongoing and effective international programs meeting basic human needs.

But the legislation that has come out of the conference committee tarnishes this proud humanitarian tradition of the United States. It effectively bars our ability to contribute to humanitarian programs such as those now underway in southern Africa by the International Committee of the Red Cross and the U.N. High Commissioner for Refugees—two of the most respected international humanitarian organizations in the world.

By this legislation the American people cannot support the humanitarian work of these organizations in areas of desperate need. And hungry children in Southeast Asia, being fed by UNICEF, the International Red Cross, UNHCR, and other agencies, will be denied American food—even as the food stockpiles in the Midwest overflow, depressing prices, and going to waste.

Mr. President, I deeply regret this legislative development, and I hope we in Congress will soon correct this abrogation of America's traditional concern for humanitarian needs. While I have actively supported legislative efforts to give meaning to our concerns for human rights, and to bar direct American military aid, security-supporting assistance, or certain kinds of direct economic aid to countries guilty of the gross violation of human rights, I have deplored efforts to restrict American assistance that meets basic human needs and which denies humanitarian aid to people facing natural or manmade disasters.

Mr. President, I urge the Appropriations Committee to take speedy action to remove these restrictions on humanitarian assistance, and I hope the administration will strongly support such action.

SUPPORT FOR THE DICKEY-LINCOLN PROJECT

Mr. MUSKIE. Mr. President, on behalf of Senator HATHAWAY and myself, I submitted testimony today to an Army Corps of Engineers public hearing in Fort Kent, Maine, reaffirming our support for the Dickey-Lincoln School hydroelectric power project. I ask unanimous consent that our testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR EDMUND S. MUSKIE AT PUBLIC HEARING ON THE PROPOSED DICKEY-LINCOLN SCHOOL LAKES HYDROELECTRIC PROJECT, OCTOBER 20, 1977

I appreciate greatly this opportunity to add my comments on the draft environmental impact statement on Dickey-Lincoln and to do what I can to help focus the issues before the people of Maine and the U.S. Government as we approach the time when we must decide whether to begin construction on this project. I do so on behalf of Senator Bill Hathaway and myself.

I find myself wearing a number of hats as I review the draft environmental statement prepared by the Corps of Engineers: First and foremost as a Senator from Maine and former Governor; as Chairman of the Environmental Pollution Subcommittee; as ranking member of Senate Public Works Committee; as the sponsor of provisions in the National Environmental Policy Act which created the process in which we are now participating; as one of those who together with President Kennedy, Secretary of Interior Udall, Senator Hathaway, Senator Margaret Chase Smith, and others first focused federal attention on the resources of northern and eastern Maine; as a supporter of the development of hydroelectric power in the St. John and the preservation of the Allagash Waterway; and as one who has devoted his political life to balancing our need for economic opportunity with our need to protect the environmental values Maine people cherish. I feel comfortable in each of these roles today as I reassert my strong conviction that the Dickey-Lincoln School Hydroelectric Project remains one of the most valuable energy resources available to Maine and our region. I find no major arguments in the draft environmental impact statement to dissuade me from my conviction that it is the most attractive alternative available to us.

Some press accounts of the draft environmental impact statement suggest that major new adverse impacts are revealed in that document. On the contrary, there are no surprises. Certainly, there are human, environmental, and economic costs associated with the project. But there are also great benefits. I am convinced that most objective analysts would conclude that the trade offs associated with Dickey-Lincoln are more acceptable than those the alternatives would force upon us.

Opponents of Dickey-Lincoln say that Maine public opinion has turned against the project. I will not enter a battle of the polls. There is no doubt that the relentless attack on this project has had an impact and has succeeded in raising questions in people's minds. That result may be healthy. Any major project should be scrutinized with a good deal of skepticism.

What is not healthy however, and what will not contribute to an informed and rational approach to this project, is the irresponsible approach of many who oppose

it—an approach which refuses to weigh the real alternatives before us—which focuses on and exaggerates admittedly adverse consequences while ignoring steps to avoid or lessen those impacts, and which minimizes the major benefits available to Maine and the Country.

I have kept silent on Dickey-Lincoln for some time now—perhaps too long—because I felt it essential that the processes of the National Environmental Policy Act be permitted to work. Those who actively oppose the project, purportedly out of concern for environmental values, have not shared my respect for the environmental impact process. Their minds were made up before the process began. They opposed funding to complete the review we are now undertaking and they urged President Carter to kill the project on the basis of half truths, distortions and misstatements. Bill Hathaway and I were able to reach the President and on the basis of a full briefing on Dickey-Lincoln he reversed his position and supported the appropriations to continue studies on the project. It appears we now face the task of balancing the record Maine people have to review on this project.

I welcome the challenge. I have confidence in the fairness and judgment of Maine people and I am confident that after careful reexamination Dickey-Lincoln will be accepted on its merits.

Let us look at what the draft environmental impact statement tells us about impacts associated with the project, compare them with the problems of alternatives and examine the benefits.

Perhaps the first step is to ask ourselves what values are implied by the arguments against Dickey-Lincoln. Do the people of Maine share those values? Are they willing to have those values dictate major decisions for our future?

As I read through the Draft Environmental Impact Statement I find some curious statements which reflect the values of the unknown author. I was surprised and disturbed by the implications that new jobs and higher wages create problems for a community and are to be avoided. I was surprised to learn that new and better housing can be "expected to create a sense of real loss in the occupants" and, thus, is a major adverse impact. I was surprised by the suggestion that it is better for thousands of Maine citizens to be forced into major changes in their life-style and standard of living than for a few privileged canoeists to lose access to the St. John River for a few days each summer. These and others we encounter throughout the debate on this project do not reflect the values on which I base difficult decisions about the best use of Maine's resources. I do not believe they are the values of Maine people.

The first impact listed in section five of the draft statement is the flooding of 88,000 acres of Maine woods as the river behind the dams backs up to form a man made lake. The loss of forest land is never welcomed but certainly this impact should be no surprise. Maine is a state of 20 million acres of which nearly 90% of 17,700,000 acres are forested. So we are talking of a lake which will flood less than one half of one percent of the forest land in Maine—0.49% to be more precise. The timber loss is a significant consideration in a state whose economy is based on forest resources but not so dramatic as to dissuade us from proceeding. For comparison let us recall that Baxter State Park removes 200,000 acres of forest land from routine production. The Allagash Wilderness Waterway sets aside 23,000 acres. The referendum vote last year by the people of Maine to create the Bigelow Mountain Preserve set aside 40,000 acres of forest land as a public preserve. The successful recapture of 400,000 acres of public lots will permit the state to preserve additional acres. None of these are precisely comparable to the action proposed for Dickey-Lincoln but they do provide some perspective. Maine people have indicated in these cases and others their willingness to allocate major portions of our forest lands for preferred uses. The choice before us is not dramatically different.

We can replace 2.3 million barrels of oil or 16.6 billion cubic feet of natural gas on an annual basis by flooding less than one half of one percent of our forest lands. It would be unrealistic and irresponsible for us to turn away from that choice in the absence of a better alternative. And no better alternative has been offered.

Much has been made in the press of reports that after the year 2,000 demand for wood may exceed the growth rate and the acres lost from production might cost millions of dollars in lost economic activity. I don't have to remind people in Northern Aroostook that the economic benefit of wood cut in these forests is too often enjoyed across the border in Canadian mills and too seldom by Maine citizens. But the real failure of that argument is exposed when one projects the value of oil after year 2,000. We will have to buy an additional 2.3 million barrels per year if Dickey-Lincoln is not built.

We have all seen reports of plans by our paper companies to construct hydro plants as an energy source for the 1980's and beyond. I find their willingness to trade timberland for reliable power as a better indication of the actual trade-offs involved than the hyperbolic speculation of those who grasp at any argument to denigrate Dikey-Lincoln Certainly the value of our forest resource will increase. But, if Maine people are going to benefit from the resource, we need energy to drive the industries which provide the jobs. We can no longer depend on oil alone for that energy.

The alteration of ground water levels presents a concern which needs further amplification. But the draft itself points out on page 4–2 that the relocation of resident ground water demand in the immediate vicinity of the reservoir would be limited.

Fog during the early morning hours in late summer is listed as an adverse impact. But anyone familiar with Maine lakes can appreciate the minimal inconvenience this phenomenon will present, particularly in the remote area in which it is located.

The relocation of 161 households from the impounded area presents a problem which is troubling on a personal level. As a principal sponsor of the Uniform Relocation Assistance Act of 1970 I worked to assure that families whose homes are taken through government action—whether for highway construction, urban renewal or as here, a major public works project—would be provided replacement homes as good or better than those they had to leave. The federal government is authorized to provide substantial payment above the fair market value of the property taken, to assure that all are treated fairly. I have inquired directly of the Corps of Engineers on this matter and have been advised that solutions are being sought for the relocation of each affected resident. No insurmountable problems are expected. I assure you that if this project goes forward I will personally work to guarantee that all the families concerned receive the benefits under the law. There should be no doubt in anyone's mind that Congress intended all individuals displaced by the project to be generously treated in restoring them to a comparable dwelling and standard of living.

The impact on the timber resources in the area of the reservoir is a legitimate and anticipated concern but the impact is clearly manageable. The construction and filling period would provide opportunities to harvest the timber in the impoundment area and to adjust woods management plans.

The loss of tax revenues to the towns and the state on lands covered by the impoundment cannot be avoided but will almost certainly be mitigated and offset through increases in tax revenues to the towns and state from property taxes on development and improvements in the area and significantly higher taxes associated with the jobs and incomes related to the project.

The loss of whitewater canoeing on the St. John River is implicit in the conversion of the river into a manmade lake. It is not a loss which any of us take lightly but it is an essential trade-off involved in any hydroelectric development. The balance was struck in the 60's when we adjusted the project site to preserve the Allagash Wilderness Waterway. It is a regrettable loss but we cannot save every river and in a state such as Maine, with vast expanses of forests, lakes and rivers, but scarce energy resources, Dickey-Lincoln may be one of the best bargains we can strike.

Recreational opportunities will become available on the reservoir after Dickey fills and there is every reason to expect that fishing and boating on the lake will provide considerably greater recreational opportunity than the river now offers. Appendix G to the draft in Exhibit II anticipates greater recreational use of the area if Dickey-Lincoln is built with recreational facilities than if the dam is not built and the river left undisturbed. For 1995, ten years after the impoundment would occur, the study projects that the area would experience 65,300 visitor days of recreation as opposed to 31,400 visitor days if the project is not built and to a current load of 17,800.

As was clearly anticipated, the wildlife population of the reservoir area will have to migrate or will be lost. The draft notes that the area of Northern Aroostook may be able to accommodate members of many displaced species. Other species will decline in numbers during construction and impoundment as hunting pressure mounts and habitat is lost.

The impact on downstream waters of construction activities is a concern inherent in the construction of any hydro-electric project. We have a responsibility to minimize the impact and to preserve water quality. But the long term benefit of the project is to avoid the devastating floods and erosion that has accompanied spring runoffs with disastrous consequences for river communities on both sides of the border.

The exposure of shoreline following drawdown has been attacked for years as the "bathtub" ring of Dickey-Lincoln. Those who use this argument against Dickey conveniently ignore the fact that during a normal year the pool would drop only 1.5 feet from June to October with minute daily fluctuations of only 2 to 3 inches. The phenomenon is not uncommon in other Maine lakes and not generally disruptive to the recreational use of the lake. Those who are familiar with the St. John know that ice sheering and flood erosion regularly expose strips down each side of the river that may exceed the area exposed on the shores of Dickey lake during summer drawdown.

I cannot believe that deer and moose will find the ice on Dickey reservoir any more difficult to manage than the ice on Eagle Lake and while I sympathize with their plight there is little we can do short of providing them with studded shoes or snowmobiles. And I am more concerned with the homeowner or businessman down river who faces an invasion of ice flows and river water during spring floods.

Similarly the disruptions in tax planning of those who enjoy a major net return on their investment in land flooded by Dickey-Lincoln fail to arouse my sympathy. The tax exposure of any major land holder is determined by myriad developments and while they might wish governmental decisions to be influenced by their private tax considerations, we have an obligation to the broader public interest.

The purported loss of $206 to $311 million in direct and indirect costs over the next 100 years is a new twist on old arguments

about the value of the wood resource in the flooded area. The assertion certainly raises more questions than it answers, including, initially, the accuracy of the projections involved. If one wishes to pursue this approach one might more legitimately ask what the value of our forest resources will be if we do not have the energy necessary to process our wood. What are the opportunity costs if a mill closes due to the lack of oil or high energy costs? We could ask again what will be the value in 100 years of the 2.3 million barrels of oil Dickey-Lincoln will save annually? At today's cost per barrel it projects out to over $3 billion, but I do not expect today's cost to hold for 10 years and certainly not for 100 years.

There are adverse consequences associated with Dickey. There do not seem to be any that we did not anticipate when we began this process. And there seem to be balancing or mitigating elements associated with most of the negative impacts.

Let us turn to the benefits which Dickey-Lincoln will produce. Let us consider the energy potential. Let us ask how we might maximize the energy benefits associated with the project. Let us consider the economic benefits to the area and the state—jobs in the short term, and in the long term, improvements in the economic climate which a reliable source of power can offer. Let us consider the flood control benefits to the people of the St. John Valley who have experienced devastating floods twice in this decade.

It is now estimated that it will cost the federal government $533,000,000 to build Dickey-Lincoln School dams. Add to that construction costs, operations costs, maintenance costs, and transmission costs. Charge interest either at the authorized rate of 3¼% or the prevailing rate of 6¾%. Add them up. And still, the project will pay for itself from the power generated and yield a dividend.

That's a good deal for the federal government. As a member of the Senate Public Works Committee I can testify that it is better than the great majority of power projects we have built and as Chairman of the Senate Budget Committee I can assure that it yields a very favorable direct and indirect return from the dollars invested. I suspect that few public investments at the local, state or federal level could meet the test which has been applied to Dickey-Lincoln and yield the results which Dickey promises.

With Dickey the tax dollars invested in the project are returned to the government with interest and Maine and the Country receive a bonus—an energy resource which is completely renewable, non-polluting, free from the pressures of international oil politics and inflation. Given the opportunity and the capital, what oil consumer would hesitate to buy the next 100 year supply of oil at today's price? Dickey-Lincoln gives us that opportunity with the federal government providing the capital. And it gives us more. It gives us jobs for Maine people building the facility and supporting those who build it. Those construction jobs will not last forever. No construction job does. Construction workers don't expect them to. But while the facility is being constructed Maine men and women will have opportunities for hundreds of well paying positions that otherwise would not be available. At the peak of construction over 1800 workers will be directly employed on the project, 500–600 support positions would be available.

We are wise to anticipate potential problems associated with a boom-bust cycle but federal programs are available to help communities adjust to these demands and careful planning and assistance can help make the transitions in and out of the construction phase orderly.

Of the 900,000 kilowatts of capacity which will be available from Dickey-Lincoln—including downstream energy from Canadian plants—200,000 kw will be marketed in Maine and 700,000 kw as peaking power in New England outside of Maine. Dickey's uniquely valuable capabilities as a peaking power facility enables it to provide approximately 17% of New England's projected peaking power needs when it comes on line in the 80's, helping to eliminate the projected shortage in peaking capacity in the Northeast.

The foremost question on the minds of all of us here today is the benefit which Maine people will derive from this project. Of the 900,000 kilowatts available from Dickey-Lincoln 200,000 would be directly available for sales in Maine and 700,000 kilowatts are proposed for sale outside of Maine. All of us would like to see the benefits to Maine maximized and increased shares might ultimately be made available to customers in Maine. There are indications that private industries and utilities in Maine would like additional access to the power produced by Dickey. That of course would be something to pursue. But let us understand that, even with the present distribution breakdown, and under present pricing formula, the Eastern Maine Coop has been able to project annual savings to Maine consumers of over $12,280,000 each year. If the pricing formula is adjusted to more accurately reflect the fact that the energy which powers Dickey-Lincoln—falling water—is free, then the savings to Maine consumers would be even greater and the price of peaking power sold out of state would remain extremely favorable.

I believe Bob Clark from the Eastern Maine Co-op will elaborate on this point but let there be no question in any one's mind that this project offers Maine consumers a major source of electrical energy, that is renewable, reliable, and inflation proof. Dickey-Lincoln will not roll back electric rates for consumers around the state. I don't believe Dickey-Lincoln, Passamaquoddy, and small hydro sites development altogether would produce that effect. We are talking about whether we will have a dependable source of power immune from the pressure of declining oil supplies. Dickey-Lincoln offers us that in spades.

Although our first concern is Maine I do not agree with those who ignore the benefits to other states in our region. I have always considered my position as a U.S. Senator from Maine to include responsibility not only for my state but also to our region and the country. Dickey-Lincoln serves all three interests and in serving all three serves the people of Maine again as New Englanders and Americans.

The press has given considerable attention in recent months to some apparent disparities in federal expenditures among various regions of the country. The sun belt-frost belt controversy has focused most directly on defense spending and the favored position enjoyed by the South and West in that regard. The Maremont contract and the proposal to reduce Loring Air Force Base have been elements in that debate.

The most striking disparity one can point to in the regional expenditure of federal dollars with direct regional economic consequences is the federal development of electric generating facilities. If one took a map of the United States and blocked out regions of the country which enjoy federal power services the only area unserved would be the Northeast. Anyone who has watched the development of regions following the introduction of federal power understands the tremendous impetus to economic growth provided. A comparison of regional electric rates reveals the penalty we pay in utility rates. Dickey-Lincoln will not provide complete redress but it is the only site in the Northeast suitable for federal hydro development and it will make a significant contribution.

Another rebuttal to those who argue that we should look exclusively to the direct benefits to Maine as we evaluate this project was eloquently stated by Professor Hill on Maine Public Broadcasting Networks—"Maine Things Considered." Professor Hill is an engineering professor at the University of Maine Orono who has been closely involved in the search for alternate energy sources. I believe he is widely respected by people on both sides of this issue. Speaking to concerns about the Balkanization of our country over the energy issue Professor Hill responded:

"There will be some decent power available for the rest of the state, but it is true that the bulk of the energy would go to Massachusetts and to Southern New England. This as a reason for not doing it is, to me, the reason for doing it.

"The United States is going to become wracked with a regional tension over energy. Massachusetts, for example, has 700 million tons of hard coal in the so-called Narragansett Basin. The governor of Louisiana has asked his chief of energy office to examine the constitutionality of the holding of petroleum products within Louisiana and not shipping them out of the state so he can protect jobs in Louisiana.

"And here we're doing the same thing. We're saying that we've got a resource that is endless; that is nonpolluting; that is renewable, etc.; but is going to mess up a little bit of our way of life and frankly, 'no thank you we're not interested.'

"And also there is considerable discussion of our participation in a power system that might be developed in the Bay of Fundy. Well, of course, there are 350 million kilowatt hours of energy available to the Canadians on the down-river St. John if we should pond the headwaters of Dickey. That energy is not now available to the Canadians because of the rapid fluctuations in flow in the St. John.

"I have not yet really come to a conclusion as I'm going to have to as a member of the Governor's Committee as to whether the St. John Dam should be built or not build but the one thing that does disturb me is I don't think the issues are being looked at and I don't think the alternatives are being properly considered."

Professor Hill also discussed possible alternatives to Dickey-Lincoln. His words summarize well my understanding of the choices before us. Let me quote him once again in response to an interviewer's recitation of environmentalist challenges that the alternatives to Dickey-Lincoln have not been well considered.

"Well I have the EIS in front of me here. They list 24 alternatives which they analyze in some detail and show why each one has been rejected. Well one of the alternatives they looked at was conventional pumped hydro. Here a reservoir is constructed on top of a mountain and a lower reservoir is constructed in the valley and during periods of low energy use, a pump is used to raise the water from low elevation to high elevation. Then when the peak power demand is upon us we reverse the pump and make it a turbine and get the energy back.

"These things can be highly insulting to the environment. These things are very expensive of energy because you must build big baseloading machines in order to supply the energy for the pumped hydro. Sites are quite difficult to come by—that have the capacity—and by and large the Army Corps of Engineers did not see fit to consider a conventional pumped hydro as an alternative to Dickey.

"Although the proposal for Dickey would include some pump capacity, the Army Corps contractor also looked at lead acid storage batteries as a possibility for storing offpeak energy to be used again during peak periods. This was analyzed in some detail and rejected. They looked at flywheels, at superconducting magnets, at thermal storage, at underground compressed air storage, and this is one, Bill frankly, I never heard of. The idea is that during the times of low power

consumption we find an abandoned mine or a big hole in the ground and simply pump it full of compressed air then when the peak demand comes you open the hole and let the compressed gas come back through a turbine and get the energy back that way.

"They also looked at underground pumped hydro to see whether or not that system might be applied. Well it goes on for pages and pages and the whole EIS is about 35,000 pages of documentation.

"I read quite carefully the areas dealing with power alternatives and I, of course, haven't plowed through all of the 35,000 pages. But I'm convinced the Army Corps has done a proper job in saying that at the moment there seems to be no alternative to Dickey except simple cycle gas turbines."

This statement has consumed much of the hearing's time and has not yet begun to detail my reactions to the tactics and arguments of those who oppose Dickey-Lincoln, but I will stop now and reserve my remaining comments for subsequent hearings. If I have today succeeded in conveying the message that there are no easy decisions in our energy future, that we can no longer afford the luxury of unrestrained attacks on every energy proposal without serious balancing judgments. If I have caught the attention of Maine people enough to convince you that Dickey-Lincoln is being given the bum's rush and deserves a more responsible approach I have accomplished my purpose for today. There is much more to be told and I will be back to tell it.

STATEMENT OF SENATOR WILLIAM D. HATHAWAY ON DICKEY-LINCOLN SCHOOL LAKES HYDROELECTRIC PROJECT, FORT KENT, MAINE, OCTOBER 20, 1977

I welcome this opportunity to present some brief thoughts at the first public hearing on the draft Environmental Impact Statement on Dickey-Lincoln. A statement has been presented on behalf of Senator Muskie and myself, and I would like to submit these remarks on our behalf as well.

I am confident that this hearing process will provide the information necessary to ensure that a balanced judgment is made on the benefits and costs of the Dickey-Lincoln project. I continue to feel that its benefits are substantial, and that they must be carefully weighed against the environmental impacts outlined in the draft EIS. Recent intense coverage of the newly released draft has resulted in a somewhat distorted focus only on those adverse impacts, both real and imagined, to the detriment of a discussion of the benefits which will accrue to Maine and New England.

Development of Dickey-Lincoln is the development of a native energy resource which can replace the equivalent of 2.3 million barrels of oil per year. The need for energy resources alternative to oil is apparent; at present the U.S. imports over 40 percent of its oil needs, and petroleum accounts for nearly 50 percent of our overall energy consumption. New England, and Maine, are particularly dependent upon oil and oil imports. Our national dependency upon the less secure foreign oil sources has grown steadily since the embargo of 1973–4, and with it our vulnerability to severe supply interruptions.

Dickey-Lincoln represents a clean and renewable alternative source of energy. The waters of the St. John are a fuel resource whose cost will not rise in response to economic and political pressures; the economic cost of a hydroelectric project is in the initial construction. Fuel costs thereafter will be stable, and maintenance relatively simple and inexpensive.

Maine will be a primary recipient of this energy resource, with 44 percent of the energy allocated for use within the state. The peaking power which will be available in the rest of New England as well as that in Maine represents a minimum of 17 percent of New England's overall peaking power needs in the mid-1980s. Peaking power is necessary to ensure that maximum power demands are met at the time of day or year when the highest demand is put upon the electrical system. It is ordinarily one of the most expensive components of a generating system. Hydroelectric power, however, is one of the more desirable sources of peak energy, with its quick start-up time, flexibility and cost-free fuel supply.

In addition to this peaking power, there will be baseload power available to the State of Maine from the project. 100 percent of Maine's projected public power needs can be met in the mid-1980s from Dickey-Lincoln at costs considerably below other available alternatives.

In simplest terms, Maine's share of the Dickey-Lincoln power is the amount of energy which could supply over 60,000 average households per year.

As a secure energy resource, Dickey-Lincoln represents economic development for the state of Maine. In the short-term—some 7 or 8 years—there will be direct construction jobs from the project. The Corps of Engineers estimates that there will be a peak labor force of some 1,900 people and approximately $100 million in direct payrolls for men and women of this region. Several millions of dollars of additional economic activity will in turn be generated by such an economic stimulus.

Much has been said in the state about the potential socio-economic impact of such an infusion of funds and jobs into the Valley. The draft EIS in one brief section raises the possibility of increased social problems such as alcoholism and prostitution. This brief reference has resulted in fears of a boom and bust cycle which would devastate the cultural and social structure of the Valley. This has been exaggerated. Maine is not thousands of miles of frozen tundra; people are not going to be coming from all over the world to work on the Dickey-Lincoln project as they did the Alaska pipeline. Any such analogy, as has been suggested, is simply inappropriate. And as the draft EIS points out, the vast majority of the workers will be from the state, and I would expect that nearly all will come from the New England region.

Finally, the social, cultural and economic impact of long-term unemployment such as that experienced in all of Maine, and more particularly in northern Maine, must be weighed against these more remote possible adverse impacts which might result from raising the economy of this area. To someone who is unemployed, prosperity may indeed be an "adverse" impact which would be welcomed.

As a federal project, the economics of Dickey-Lincoln have been extensively analyzed. No other federal programs undergo such rigorous economic analysis. The traditional cost benefit analysis of the Corps of Engineers weighs the financial costs and benefits of the project, using a discount factor to bring the future stream of benefits and the immediate costs into the same time frame. The discount factor has been the subject of much controversy. Opponents allege it is artificially low, resulting in a more favorable cost benefit ratio than is justified. It should be remembered, however, that this economic analysis is not the only possible one which could be used; and that the discount factor relates to when benefits and costs occur. The higher the discount factor in general, the greater the emphasis upon more immediate benefits as opposed to benefits which will be forthcoming in the future. With that understanding, perhaps no discount rate at all should be used on a project involving development of a renewable energy resource, which cannot help but become more valuable in future years.

In any case, Dickey-Lincoln has a favorable cost benefit ratio under any of the various economic analyses used by the Corps. The Corps may also do a life cycle analysis of Dickey-Lincoln, comparable to that which has recently been started for the Quoddy tidal power project. Under life-cycle analysis, Dickey's benefits may be even more substantial.

Further, the public investment in the project is in fact repaid over a 50-year period through the rate schedule. Since nearly all of the costs of the Dickey project are allocable to the generation of hydro power, nearly all of its costs will be repaid. At the same time, those rates will be at or below the current electrical rates for New England. Current projections for rate increases indicate that these savings will become increasingly substantial in future years. One estimate is that Dickey-Lincoln can save consumers in Maine alone some $12,000,000 annually from the projected power costs for other energy resources. Simply expanded over the 100-year life of the project, that represents a savings of 1.2 billion dollars. That should be compared to the potential economic loss from timber over the life of the project which the draft EIS places at maximum at $311,000,000.

This is a savings in power costs which is 4 times the maximum estimated potential loss of economic benefit from the inundation of the forested acres.

There are several points which should be made to place some of the adverse impacts into better perspective. For example, the loss of forest from the project represents approximately ½ of 1% of the state's forested area, and only 2% of that of Aroostook County alone. The 278 miles of streams and brooks which will be flooded are only 14% of all the streams and rivers in the St. John River Basin above the dams. In relationship to all of Maine's streams and rivers, this amount is only a fraction of a percentage point.

That does not reflect the quality of the river, however, and the loss of whitewater canoeing on this river is an unavoidable impact. This loss should be put into perspective too; the river is available for whitewater canoeing only a short period of the year; there were only 2,328 canoeing visitor days in 1975; and only 19% of these were from the State of Maine itself. It has been asked why Maine should develop an energy resource to benefit the rest of New England; perhaps, it is just as fair to ask why we should preserve it so that our wood can be cut for Canadian sawmills, and our river be canoed by non-residents.

This is not to imply that there are not major environmental tradeoffs which must be made should Dickey-Lincoln be constructed, nor to downgrade the significance of the choices which present themselves. There is no doubt that a balancing must be made between which energy resources we will develop for the future.

All of our most readily available choices involve environmental risks, from oil spills to air pollution to nuclear waste disposal.

The more exotic energy resources are promising but will not provide any significant energy supplies until well after the turn of the century.

Conservation must continue to be emphasized. But the reality is that Maine's electrical growth rate has increased again from the low of 1975. In the first 9 months of this year alone, Central Maine Power Company had a 7.8% growth rate, well above the 5.4% annual rate of growth now projected for New England. 1976 also showed a high growth rate, well above the rate preceding the oil embargo. Conservation can bring down our rate of growth; it cannot, however, prevent growth in demand itself. Conservation and economic development must also be brought into balance; recession is an effective conservation tool, but it is clearly not a desirable one.

Dickey-Lincoln at its simplest represents a valuable domestic energy resource, which in turn represents secure and stable eco-

nomic development and jobs for people. That is the basic context in which the debate on the draft EIS should be placed. Dickey-Lincoln would be the largest single public investment in the future of New England which has ever been made. It is an investment once made which will not be withdrawn or closed as a result of later policy changes. It is an investment in the future of the State of Maine, and of New England. It is an investment in a stable and more prosperous future for our children and grandchildren. It is an investment in energy, jobs, and freedom from devastating floods. It is an investment which involves risks, and which will necessarily involve some irreversible commitments of resources.

It is an investment, most of all, which needs to be viewed in the perspective of our present resource use, and our projected resource needs.

The people of Maine deserve no less than such a balanced judgment on a project of this significance, and I am confident that they are capable of rendering no less than such a balanced judgment.

ANNOUNCEMENT OF POSITION ON H.R. 8701

Mr. THURMOND. Mr. President, due to a printing error my position on final passage of the GI bill amendments, H.R. 8701, was inadvertently omitted from the CONGRESSIONAL RECORD of October 19. My position should have been stated in favor of the bill.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

G. William Hunter, of California, to be U.S. attorney for the northern district of California for the term of 4 years vice James L. Browning, Jr.

Herman Sillas, Jr., of California, to be U.S. attorney for the eastern district of California for the term of 4 years vice D. Dwayne Keyes.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Thursday, October 27, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

PRIVILEGE OF THE FLOOR

Mr. HART. Mr. President, I ask unanimous consent that Mr. Kevin Cornell, of my staff, may have the privilege of the floor during the consideration of the ERDA conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. I ask unanimous consent that during the consideration of the conference report on S. 1811 the following staff members be given the privilege of the floor: Ben Yamagata, Willis Smith, Granville Smith, and Charles Trabandt.

The PRESIDING OFFICER. Without objection, it is so ordered.

ERDA AUTHORIZATIONS—CONFERENCE REPORT

Mr. CHURCH. Mr. President, I submit a report of the committee of conference on S. 1811 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MELCHER). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 19, 1977.)

Mr. CHURCH. Mr. President, this conference report was filed to replace the Senate Conference Report 95–482, which was passed by the Senate on Wednesday, October 12, 1977, by a voice vote. However, on Friday, October 14, the conference report on S. 1811 was lost in the House during its consideration for adoption because a point of order was raised and sustained by the Speaker. The point of order was based upon a belief that the conference committee had exceeded its authority in the provision contained in section 106 of the conference report. In an amendment to section 106 of Public Law 91–273, as amended, the conference committee included a new subsection (d) which contained four paragraphs. The point of order was sustained with regard to paragraph (3), which provided for the siting of the Clinch River breeder reactor project at the Clinch River location, unless that site was found to be unacceptable from the standpoint of radiological safety and health.

In light of the concerns which led to the point of order, the House, by unanimous consent, asked that the conference be reconvened, and Senate conferees were reappointed on Monday, October 17. The language of section 106 of the conference report has been altered to insure that it is within the scope of the conference with regard to germaneness and the authority of the conferees. I understand that the Parliamentarians in both Houses believe this language is now within the scope of the bill. The only other changes in the bill were of a technical nature to correct the errors found in the previous conference report.

Mr. President, I believe the conference report is a proper and good compromise between the House and the Senate provisions in S. 1811. The issue surrounding the point of order raised in the House has been resolved, and I urge the adoption of the conference report.

Mr. HART. Mr. President, one provision in the conference report, relating to the liquid metal fast breeder reactor to be constructed at Clinch River, has been the object of considerable discussion in both the Senate and the House. That debate has focused on the language which directs "the breeder reactor project shall be located at Clinch River and to the maximum extent possible shall be designed, constructed and operated in accordance with existing project arrangements, objectives, and schedules."

Mr. President, I believe the intent of the conference is clear. They want the plant to be located at Clinch River and they do not want the project to be slowed down. And, while I may not agree with that policy objective, I can well appreciate why the conferees might want to adopt such a policy.

Nevertheless, Mr. President, I am heartened by the fact that the language which appeared in the original conference report, language which prompted the House to reject that report and prompted me to seriously question the report in the Senate, has been revised in the version before us now. This language, along with the statement of managers, stresses the point that "the intent of section 106(d)(3) is not to affect the authority of the Nuclear Regulatory Commission in any respect."

Mr. President, I strongly support this intention of the conferees. It would be very unwise for this legislation to modify the Commission's authority and obligations to insure that if a liquid metal fast breeder reactor is built, it will be the safest possible design with the smallest possible adverse impact on the environment. In February 1977 the Nuclear Regulatory Commission issued a document called the "final environmental statement related to the construction of the Clinch River breeder reactor."

However, in spite of the word "final" in the title of that document, the NRC has not completed its environmental assessment of the Clinch River project as required by the Atomic Energy Act and the National Environmental Policy Act. The next step in the development of NRC's environmental assessment involves a public hearing where interested parties are given the opportunity to comment on the Clinch River proposal. And, subsequent to that hearing, the "final environmental statement" may or may not be amended by the licensing board to incorporate any information.

Mr. President, I believe that this process is vital to insure that public health and safety is adequately protected. I, and many of my colleagues, would strongly oppose a provision in the ERDA conference report if it attempted to place any limitation on the public hearing process or limit the adoption of any revisions to the Commisson's environmental assessment which might arise from those hearings. For this reason, I strongly support the intent of the conferees that NRC's authority shall not be affected in any respect.

Mr. President, any attempt to shortcut this environmental assessment process by limiting the scope of those hearings or the use of any new information gained would be a serious public policy mistake.

Several years ago, the Congress took that route when it limited the environmental assessment process regarding the Alaskan pipeline. This action expedited the construction of the Alaskan pipeline in spite of the fact that some studies indicated that both from an environmental and an economic viewpoint alternate proposals might have been more acceptable.

Now, we are hearing reports of an oil glut on the west coast—that the Alaska pipeline, whose environmental and economic assessment the Congress cut short, is delivering oil to the wrong place.

I suggest, Mr. President, that if we had let the environmental assessment of the Alaskan pipeline take its full course, that this situation would not have developed, that the west coast oil supply situation would have been fully addressed and that appropriate modifications in the project would have been made and we would not be faced with our current dilemma of too much oil on the west coast and inadequate supplies for the other parts of the Nation.

Mr. President, in regard to the manager's statement of the conferees that it is not their intention to affect NRC's authority in any respect and not to affect previous law and intent with respect to the Clinch River site, I would like to call my colleagues' attention to a ruling by the Commission issued on August 27, 1976, which outlines the scope of the NRC's environmental assessment of the Clinch River project.

In this opinion the Commission ruled that—

> Alternatives for meeting programmatic objectives and alternative sites are relevant issues, but their consideration need go no further than establish whether or not substantially better alternatives are likely to be available.

In its explanation accompanying this ruling the Commission stated:

> We reject the applicant's (ERDA's) contention that we need not give any consideration to alternatives to the Clinch River project, as proposed, that might vary significantly in terms of design features, location and other factors. NEPA itself requires consideration of alternatives to major Federal actions, and the licensing of Clinch River is, concededly, such an action.

Mr. President, with this statement the Commission is stating concisely and clearly what its obligations and authorities are under existing law. I commend the conferees for modifying the legislative language in the conference report and the statement of managers to make it perfectly clear that they are not intending to modify existing NRC's authority in any respect so that the previous ruling by the Commission will stand.

Mr. BAKER. Mr. President, I have a few questions with respect to the conference report which I should like to address to the distinguished floor manager of the conference report. I would particularly draw his attention to section 106 (d) (3), and ask if I am correct in understanding that the intent of that section is not to abridge the authority of the NRC to make health and safety or common defense and security findings for the facility at the Clinch River site, but also not to abridge existing authorization acts and congressional intent with respect to location of the project at the Clinch River site.

Mr. CHURCH. Yes, I would say to the Senator that the intent of the conferees was precisely as the Senator has indicated by his question.

Mr. BAKER. I thank the Senator from Idano. To put it another way and in other words, we do intend to pursue the Clinch River breeder reactor project as rapidly as possible and maximize the achievement of the established project objectives, whatever the future course and timing of the liquid metal fast breeder reactor program.

Mr. CHURCH. Yes, the Senator is correct.

Mr. BAKER. Still further, Mr. President, if I could ask the distinguished Senator from Idaho, whatever the future course and timing of the liquid metal fast breeder program, do we intend to locate the facility at the Clinch River site, unless that site is determined to be unsuitable from the standpoints of radiological health and safety or the common defense and security?

Mr. CHURCH. I think Congress has already made that plain. It forms a part of existing law, which is changed in no respect by this conference report.

Mr. BAKER. I thank the distinguished chairman. I wonder if I could have just a moment before we proceed.

Mr. CHURCH. Certainly.

Mr. BAKER. Mr. President, if I could ask the distinguished manager of the conference report to clarify another matter for me, and on another subject, Title V, as I understand it, provides that uranium enrichment services criteria and prices cannot be changed until after the changes have been submitted to Congress and a period of 60 days, during which Congress is in continuous session, has passed. Can the gentleman tell me if the term "continuous session" in title V of the bill has the same meaning as it does in section 108 of the bill?

Mr. CHURCH. Yes, it does. For both sections the definition of continuous session can be found in the Impoundment Control Act of 1974.

Mr. BAKER. I thank the distinguished Senator.

Mr. President, if I may, I know that certain questions had occurred to the distinguished junior Senator from Idaho in this connection, and I understand he is on his way to the floor at this time.

I wonder if it might be agreeable to the distinguished manager of the conference report and the majority leader if we have a brief quorum call at this time so we can check into that matter a little further.

Mr. CHURCH. It is agreeable with me.

Mr. BAKER. Mr. President, with that in view, then, so that we can check on the whereabouts of the Senator from Idaho, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, it has been brought to my attention that the distinguished Senator from Colorado (Mr. HART) has made certain remarks in conjunction with the conference report. Dealing in detail with the substance of his remarks in that respect, I would point out, and I am sure the distinguished Senator from Idaho would agree, that while we all respect the opinions of the Senator from Colorado he is not a conferee and his statement appearing in the RECORD does not necessarily represent the views of the conferees. Furthermore, it is not the position and statement on behalf of the managers of the conference report. Would the Senator from Idaho agree with me in that respect?

Mr. CHURCH. I believe I am the spokesman for the conferees. I would have to agree with the Senator's observation.

Mr. BAKER. Mr. President, I see the Junior Senator from Idaho is now in the Chamber.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. I thank the Senator. I appreciate the opportunity to raise some questions which need to be asked for the record in regard to the intention of section 106(d)(3).

Do you agree that the conferees intend that CRBR project shall be pursued to the maximum extent possible in accordance with existing pre-April 1977 project arrangements, objectives, and schedules, irrespective of the structure, pace, timing, and objective of the LMFBR program?

Mr. CHURCH. Yes, that is correct.

Mr. McCLURE. Do you agree further that the conferees expect that, irrespective of the structure, pace, timing, and objectives of the LMFBR program, we intend that the Clinch River site shall be preserved, unless the site is found to be unsuitable from the standpoints of the public health or common defense and security?

Mr. CHURCH. Yes. I just had a similar question put to me a few moments ago. The answer to the question is yes.

Mr. McCLURE. In other words, NRC's authority under existing law to make health and safety or common defense and security findings for the facility at the Clinch River site is in no way affected, but unless NRC were to make unfavorable findings on those specific factors the facilities shall be located at the Clinch River site in accordance with existing law.

Mr. CHURCH. The Senator is correct.

Mr. McCLURE. In other words, the issue of site selection is settled by this language but NRC is free to make any and all determinations concerning the acceptability of the Clinch River site.

Mr. CHURCH. Yes. As I mentioned before, the wording in the bill in no way

changes existing law with respect to the project. The answer to the Senator's question would be in the affirmative.

Mr. McCLURE. I thank my colleague from Idaho. I believe it important that the record be made as clear as possible as to what the result was of the action taken in the original action by the committee and the original conference and again in the second conference after the House completed its action. I thank my colleague from Idaho.

Mr. CHURCH. I believe the questions put by Senator McCLURE and the distinguished minority leader, together with my answers, should have nailed this matter down in a copper-riveted fashion.

Mr. HART. Will the Senator yield for a question?

Mr. CHURCH. Yes.

Mr. HART. This will further the copper riveting process. I take it in the statement of the Senator from Idaho on the part of the managers and in response to the questions raised, that it was not the intent of the conferees or the distinguished floor manager to limit the established Nuclear Regulatory Commission on environmental assessment authority in any way by this legislation.

Mr. CHURCH. The conference report makes it clear that the NRC's authority under existing law is not affected with regard to the CRBR project.

Mr. HART. I also understand the distinguished minority leader commented with regard to remarks by the Senator from Colorado. I think it should be obvious to the distinguished floor manager and the minority leader that nothing an individual Senator, particularly one who is not a conferee, might say in this regard should be put forward by that Senator as attempting to influence the outcome or interpretation, but, rather, I was merely inserting at this point in the consideration my own view on the actions the conferees had taken. I appreciate the response of the Senator from Idaho.

Mr. CHURCH. The Senator's questions are welcome. He has the same interest as others in the Senate in this particular subject. Furthermore, he has a jurisdictional interest by virtue of the committees on which he serves. I can assure him that the present wording of the conference report in no way trespasses upon those jurisdictional concerns.

Mr. HART. I thank the Senator.

Mr. DURKIN. I would like to ask the distinguished Senator from Idaho a question regarding the scope of section 207 of the conference report which authorizes loan guarantees for the conversion of coal, oil shale, biomass and other domestic resources into synthetic fuels and energy.

Mr. CHURCH. I would be happy to answer the Senator's question.

Mr. DURKIN. As the Senator knows, I have been particularly interested in the direct conversion of timber and forest waste products into energy, including electricity. Could the Senator please tell me if the conversion of timber and its associated waste products into electricity is covered in subsection 207(b)(1)?

Mr. CHURCH. Yes.

ERDA LAND TRANSFER FOR TETON VICTIMS

Mr. McCLURE. Mr. President, I am pleased to address the issue of section 210 of the conference report which deals with the proposed sale of Idaho nuclear engineering land to farmers affected by the Teton Dam disaster on June 5, 1976. Congress has been extremely concerned about the welfare of the Idahoans involved and has passed several pieces of legislation assisting victims. It is gratifying to see this concern repeated by the Senate and ERDA conferees as they have agreed to this proposal which helps specific farmers whose land was destroyed by the flood. The willingness of the conferees to help these farmers is most appreciated by the sponsors of the bill and especially the farmers affected.

As many Members of this body may recall, Congress and the administration acted quickly to pass legislation which allowed for the full compensation to these disaster victims for the damage done to their property. That legislation, through a claims program being administered by the Bureau of Reclamation, has provided much relief to Idahoans. There are a small handful of farmers, however, whose farms were in the immediate path of the flood and are now under deposits of gravel or stripped to bedrock. To continue farming on this land is impossible, and while they have been compensated for the loss of their land, they must have the opportunity to reinvest that money in other farmland.

Because of the unavailability of comparable farmland in the flood area, this bill is necessary to allow the farmers to purchase land. The INEL site provided the only suitable land in the area and for all practical purposes is not vital to the ERDA Idaho research laboratory.

This legislation was introduced in the Senate as S. 1202 on March 31, 1976, and because of the emergency nature of the situation it was passed as an amendment to the ERDA authorization bill. Time is even more critical if these farmers are to be able to get their farming operations back in order and the implementation of the bill must be immediate. The conferees agree that it was the emergency status that warranted its passage as an amendment to the ERDA bill and they also indicated in report language that the action taken by this legislation does not constitute a major Federal action and thus should be exempt from the NEPA requirements. They strongly encourage that this exemption, under the existing authority of NEPA, be considered by the administration.

The bill provides that "irrigable land transferred to a single ownership" shall be limited in acreage as determined by the Secretary under the provisions of the bill. It is clear that the term "single ownership" should be construed with relation to married couples to permit each spouse to qualify under this provision. Federal reclamation statutes and court decisions applying ownership limitations under those laws make this provision, and the committee had this in mind when passing this legislation. It is well understood that 160 acres of irrigated land does not constitute an economically viable unit for farming purposes in the West today. When the Senate and the conferees agreed to this section, they did so with the desire to give these farmers the opportunity to continue making a living from farming, which clearly requires that they be able to purchase sufficient land to do so.

It is the further hope that the Bureau of Reclamation, in carrying out the provisions under this section, will consider utilizing the existing claims offices in the area for administration purposes. The need to work closely with the farmers in the Teton area is imperative if this proposal is to accomplish the intent of getting them back in farming as soon as possible. I will do whatever I can in assisting in expediting this process.

Mr. RIBICOFF. I would like to ask the Senator from Washington about the effect of section 104 of the conference report on S. 1811. The legislation Congress passed this year creating the Department of Energy provides that the Federal Energy Regulatory Commission, rather than the Secretary, shall be responsible for all quasi-judicial proceedings required by law to be decided on the record after an opportunity for a hearing. Notwithstanding this provision in the Department of Energy Act, section 104, gives the Secretary the option of exercising jurisdiction over any formal on-the-record proceeding arising under laws formerly administered by the Energy Research and Development Administration, is this amendment intended to alter in any significant way the responsibilities Congress has given the Federal Energy Regulatory Commission?

Mr. JACKSON. The answer to your question is a definite "No". Section 104 only authorizes the Secretary to exercise jurisdiction over a limited number of matters related to energy research and development functions which are the Secretary's exclusive responsibility. It thus does not intrude in any way on the jurisdiction of the Commission over energy regulatory matters.

As chairman of the Energy and Natural Resources Committee I would be pleased to exchange further views with the distinguished chairman of the Governmental Affairs Committee with respect to the variety of formal on-the-record proceedings that would come under the purview of this section. I would think that the amendment would cover such proceedings as the following:

Mandatory licensing of certain patents.

Determination of reasonable royalty fee under certain mandatory licenses; payment of just compensation for certain inventions or discoveries; payment of award for certain inventions or discoveries.

And, grant of exclusive or partially exclusive license in an invention, title to which is vested in the United States.

Mr. RIBICOFF. Is this section a precedent for limiting in any way, the present responsibility of the Commission for major energy pricing decisions, and related licensing and other regulatory actions?

Mr. JACKSON. No it is not. I fully share with the Senator from Connecticut the view that the present jurisdiction of the new Federal Energy Regulatory Commission should not be limited or diluted. The proper jurisdiction of the

Federal Energy Regulatory Commission was, of course, a matter of extensive discussion at the time the Department was created. The jurisdiction of the Secretary and the Commission established by the act resulted from a careful overall review of the functions transferred to the new Department. Congress rightly decided, in my view, that an independent commission should have the primary responsibility for major pricing decisions in the oil, natural gas, and wholesale electricity areas, as well as in related licensing and other economic regulatory areas. This section 104 of the bill (S. 1811) is not intended to change that responsibility of the Commission.

Mr. RIBICOFF. I thank the Senator.

Mr. CHURCH. Mr. President, if there are no further comments, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING CORRECTIONS IN THE ENROLLMENT OF S. 1811

Mr. CHURCH. Mr. President, I ask for the immediate considerations of House Concurrent Resolution 384, authorizing corrections in the enrollment of S. 1811.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 384) was considered and agreed to.

Mr. CHURCH. Mr. President, I ask unanimous consent that action on Senate Concurrent Resolution 55 be vitiated and the resolution be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. I thank the Chair.

Mr. McCLURE. Mr. President, I ask unanimous consent that the vote by which House Concurrent Resolution 384 was agreed to be reconsidered.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I do not know what it is.

I have no objection.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I should announce, for the benefit of the cloakrooms, that they might inform the Members of the Senate that there will be no more rollcall votes today.

COMMITTEE MEETING DURING SENATE SESSION ON TUESDAY, OCTOBER 25, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Commerce, Science, and Transportation Committee be authorized to meet until 12 noon on Tuesday, October 25, 1977, for the purpose of reporting the aviation regulatory reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, the Senate is awaiting the taking up of another conference report. So, in the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CULVER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EPA AUTHORIZATIONS, 1978—CONFERENCE REPORT

Mr. CULVER. Mr. President, I submit a report of the committee of conference on H.R. 5101, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MELCHER). The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5101) to authorize appropriations for activities of the Environmental Protection Agency, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today.)

Mr. CULVER. Mr. President, the Senate is currently considering the conference report for H.R. 5101, the Environmental Research, Development, and Demonstration Act of 1977. In addition to authorizing appropriations for Environmental Research and Development (R. & D.) by the Environmental Protection Agency (EPA) for fiscal year 1978, this bill makes various structural improvements in the Agency's current research program. As chairman of the Senate Subcommittee on Resource Protection, which oversees all environmental research and development, I am hopeful that my colleagues will approve the provisions of this report.

In the past, funding for environmental research has simply been one section of separate legislation authorizing or amending EPA's regular program functions. The measure before us now is the first attempt by the Senate to develop an individual, comprehensive bill covering all of the Environmental Protection Agency's research and development funds, and I am confident we can build upon this progress next year. To a great extent, H.R. 5101 consolidates EPA's research authorizations under one bill. It does not include funds, however, for basic R. & D. activities related to solid waste management, noise control, and air pollution because these research efforts have already been authorized in legislation extending the corresponding regulatory programs at EPA.

The recent reorganization of the Senate committee system under Senate Resolution 4 vested the Committee on Environment and Public Works with jurisdiction over all environmental research and development, and it is essential that congressional oversight be properly coordinated if we are going to have an effective environmental program. By following this practice, we can more rationally review this major Federal expenditure for many environmental research programs.

A total authorization of $253,603,000 for environmental research, development, and demonstration activities in fiscal year 1978 is recommended by the conferees. I should note, Mr. President, that the $35,000,000 authorization for air-related research in this report represents a supplemental budget request for the national energy plan submitted by the administration after the Clean Air Act Amendments of 1977 had been signed into law (Public Law 95-95). The 1977 amendments to the Clean Air Act authorized a total of $120,000,000 for research. Broken down according to specific activities, the following research authorizations are included in the conference report for H.R. 5101:

Air	$35,000,000
Water	92,000,000
Drinking water	16,000,000
Drinking water demonstrations	25,000,000
Pesticides	10,800,000
Toxic substances	8,200,000
Radiation	830,000
Interdisciplinary	31,273,000
Program management	19,000,000
Long-term research	10,000,000
Training	2,000,000
Regional air studies	3,000,000

Mr. President, I would like to describe briefly other provisions of the conference report, particularly those concerning certain structural changes in EPA's research program. The conferees recognize the significance of research regarding the feasibility of various resource recovery operations as a means of increasing our energy sources and reducing our wasteful use of resources. The Resource Conservation and Recovery Act of 1976—(Public Law 94-580)—authorized $43 million for fiscal year 1978 research in the field of solid waste management, and EPA is currently conducting such studies at the Ames, Iowa, municipal refuse-derived fuel—(RDF)—plant, which is the first of its kind in a smaller city. I recently visited the Ames Resource

Recovery Center, and I was impressed by the progress that has been made there. This facility provides a unique opportunity for EPA to improve our understanding of the advantages of this process, and it would be useful for EPA to improve our understanding of the advantages of this process, and it would be useful for EPA to conduct further research at this facility regarding the applications of the refuse-derived fuel technique in small- and medium-sized cities. The conferees have, therefore, decided that the Environmental Protection Agency should utilize $1.1 million of the $43 million authorized for fiscal year 1978 research in the Resource Conservation and Recovery Act for studies at the Ames center in order to resolve short-term problems inhibiting the development of effective resource recovery operations.

Mr. President, due to the complexity of ecological problems, the laws enacted by Congress to deal with these issues are often equally complex. Important decisions relating to the enforcement of these environmental programs must be made on the basis of highly technical data and through regulations on which there is not always full agreement. Much of the criticism of the Environmental Protection Agency might be avoided by assuring that the decisions of the Administrator are fully supported by technical information which has been reviewed by independent, competent scientific authorities. Some qualified group within EPA should have the opportunity to review conflicting claims and advise the Administrator on the adequacy and reliability of the technical basis for rules and regulations.

Accordingly, the conference report for H.R. 5101 provides a statutory mandate for the Science Advisory Board at the Environmental Protection Agency. The function of this board is to provide scientific and technical advice to the Administrator regarding any criteria, documents, standards, or other regulations concerning environmental matters under his authority. The Board was established by administrative action in January 1974, and will be terminated in January 1978, unless otherwise extended. Mr. President, I would like to stress that this provision is not intended to disrupt the ongoing activities of the existing Science Advisory Board, but rather to give it a more comprehensive and permanent basis.

Environmental research and development is a $1.8 billion investment annually by the Federal Government and is performed by many agencies and departments. Unfortunately, there is little coordination of these various programs, resulting in duplication of effort and poor exchange of data among various agencies. Appropriate steps must be taken to sort out these competing programs if we are going to have a rational agenda of research. This legislation directs the Council on Environmental Quality (CEQ), in consultation with the Office of Science and Technology Policy, to undertake a joint study of all aspects of the coordination of environmental research that is conducted by the Federal Government. The chairman of the CEQ will report to the Congress and the President by May 31, 1978, with recommendations for improving the coordination of this research and to recommend the necessary legislative actions to achieve the desired efficiencies. The Administrator of EPA is also required to assure that the Agency's own research programs are properly coordinated with those of other Federal agencies.

Environmental degradation usually has delayed consequences, Mr. President, and a deleterious effect on health or the ecosystem may not be fully realized for several years after the pollution first appears. By the time the effects are detected, the damage may be irreversible. To be effective, an environmental protection strategy must have the capacity to anticipate adverse consequences before widespread damage is done. Though the importance of foresight is recognized, traditionally the exigencies of the regulatory requirements of the Environmental Protection Agency have too often precluded the necessary emphasis on long-range research.

Recently the Office of Technology Assessment (OTA) and the National Academy of Sciences (NAS) have criticized the inability of EPA to conduct anticipatory research effectively. The Office of Technology assessment's 1976 review of the Agency's 5-year research agenda concluded that this plan of research did "not indicate a clearly defined commitment to long-range environmental research." The 1977 report by the National Academy of Sciences, "research and development in the Environmental Protection Agency," maintained that "EPA must also perform research designed to facilitate anticipation of environmental problems if it is ever to overcome 'the current crisis syndrome'." Additionally, this problem has been further identified at hearings conducted by the Senate Resource Protection Subcommittee earlier this year and by the Senate Panel on Environmental Science and Technology in 1976.

To address this major shortcoming, the conference committee has approved lanugage from the Senate-passed bill providing funding especially for long-range environmental research. To assure an ongoing anticipatory prespective, $10 million is especially authorized for such research by EPA in fiscal year 1978. Additionally, we have agreed to require that not less than 15 percent of the Agency's program-related research and development funds be used for long-range research in fiscal year 1978. For instance, 15 percent of the $92,500,000 authorized in this legislation for water-related R. & D. projects must have a long-term focus. Such activities as ecological baseline studies and epidemiological analyses, among others, would be eligible for this funding.

Mr. President, there should be a permanent structure within the Agency to assure a sustained long-range research program. Consequently, this legislation directs the Administrator of EPA to study and make recommendations to Congress and the President by March 31, 1978, on the feasibility of establishing a national environmental laboratory or laboratories for long-term research. The Agency will take into consideration in this report the specific types of research to be conducted and methods for assuring the appropriate organizational structure for this research.

As chairman of the Resource Protection Subcommittee, I want to express my appreciation to the other Senate conferees, Senator MUSKIE and Senator WALLOP, and also to the chairman of the Committee on Environment and Public Works, Senator RANDOLPH, for their dedication and assistance. While the Subcommittee will continue its oversight of EPA's environmental R. & D. program next year, I believe the joint House-Senate conference committee has developed a conference report which appropriately reflects the interests of the Senate and begins to address certain problems with environmental research and development.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. CULVER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas.

SENATE CONCURRENT RESOLUTION 38—TO DISAPPROVE OF THE ACTION OF THE PRESIDENT ON MAY 4, 1977

Mr. DOLE. Mr. President, the Senator from Kansas intended, pursuant to section 152(c) of the Trade Act of 1974, to move to discharge the Committee on Finance from further consideration of Senate Concurrent Resolution 38, which was the concurrent resolution to disapprove the action of the President on May 4, 1977. I ask unanimous consent that a copy of that resolution be printed at this point in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Congress does not approve the action taken by, or the determination of, the President under section 203 of the Trade Act of 1974 transmitted to the Congress on May 4, 1977.

Mr. DOLE. Mr. President, since that time, I have been in contact with officials from the U.S. Department of Agriculture, specifically John C. White, the

Deputy Secretary of the Department of Agriculture, in an effort to work out some agreement to avoid the necessity of calling up the resolution and then having an extensive debate.

I am now satisfied that the Department of Agriculture does intend to implement the so-called de la Garza amendment approved earlier by the House and the Senate and signed into law by President Carter.

The motion I would have offered was to stop the tremendous flood of sugar imported into this country at ruinous price levels, and as I have stated it will no longer be necessary.

The administration has agreed to implement the sugar program mandated in the Food and Agriculture Act of 1977. The congressional intent of earlier implementation of the loan and purchase program and increased duties and/or import fees when added to the current duty, to enable raw sugar to sell in the domestic market at not less than the effective support price of at least 13.5 cents per pound, will finally be operative.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a letter received just moments ago, October 20, 1977, from John C. White. Deputy Secretary of Agriculture, which commits the administration to the earliest possible implementation of this program, hopefully before November 8, 1977.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., October 20, 1977.

Hon. ROBERT J. DOLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOLE: You and many other members of the Senate have expressed your strong interest in the earliest possible implementation of the sugar price support provisions of the farm bill.

The Department's expedited schedule for implementation of the loan and purchase program required by the de la Garza amendment to the Food and Agriculture Act of 1977 envisioned publication of final regulations by December 7.

However, it is now our intention to waive certain procedural constraints generally required for less urgent matters. We believe we can advance our timetable even further. It is our intention to implement the aforementioned loan and purchase program not later than November 8, 1977.

For example, we will eliminate a period we had intended to use to hold public hearings on minimum wage rates and use other, faster methods to seek advice on setting minimum wages for sugar workers.

The President and Secretary Bergland are committed to a strong effort to bring about workable price relief for our sugar producers. To this end, I am pleased to state my personal commitment and that of the Secretary to implementation of this program at the earliest possible date.

Sincerely,

JOHN C. WHITE,
Deputy Secretary.

Mr. DOLE. Mr. President, after working out details of this letter in conversations with Dale Sherwin of my staff, Deputy Secretary White also confirmed the intention of Secretary Bergland to implement the sugar support program in accordance with the expressed intention of the conferees by imposing import fees or duties to effectuate not less than 13.5 cents per pound support price or other import measures only if absolutely essential.

With this letter and these assurances, I withdraw my motion. We finally have a sugar price support program that will guarantee sugar beet growers and sugar cane producers a price at least equivalent of 13.5 cents per pound in the marketplace. I am pleased that we were able to work out this problem with the administration and I hope this is a forerunner of a cooperative working relationship with Congress on legislation in the future to help economic problems of the Nation. I say to the administration officials that I appreciate their cooperation and the courtesy extended to me.

I also say to Secretary Bergland and Deputy Secretary White that this is a matter of great interest to many Senators—Democrats and Republicans—and to many producers of beet sugar and cane sugar all across America.

I have the support in my efforts—or would have had the support—of the distinguished chairman of the Finance Committee, Senator LONG, the distinguished senior Senator from Minnesota (Mr. HUMPHREY), the distinguished senior Senator from South Dakota (Mr. MCGOVERN), the distinguished senior Senator from Nebraska (Mr. CURTIS), the distinguished senior Senator from Wyoming (Mr. HANSEN), and the distinguished Senator from Idaho (Mr. MCCLURE).

Mr. President, because of the intent now of the Department to carry out the mandate of Congress, to carry out the farm legislation, I think we have reached a satisfactory agreement. I am satisfied; and I am satisfied that Secretary White, Secretary Bergland, and others charged with the responsibility of administering the sugar program will proceed now in good faith they have expressed, and it will be of great benefit to America's producers of sugar beets and sugar cane.

I am satisfied that it is also a step in the right direction, because America's sugar producers, whether cane or beet, are in distress, as are many other farmers across this Nation; and I hope the quick implementation of this sugar program will mean a great deal.

I see in the Chamber the distinguished Senator from Montana (Mr. MELCHER) whose name I failed to mention. He has been very helpful in this matter.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. MELCHER. Mr. President, I join the Senator from Kansas in his great interest in making sure that the amendment is implemented by the administration. It is the least we can do for the sugar producers of this country. When we give them some assurance—even though it is a low price stability—that there is going to be some price stability, we are acting not only on their behalf but also on behalf of all consumers in this country. Without some stability, we would continually lose our domestic producers; and without our domestic producers, we would be completely manipulated by whatever the world market happens to be for sugar.

I commend the Senator from Texas for his great interest, and I was proud to join him in behalf of the producers.

Mr. DOLE. I thank my distinguished colleague.

Based on the letter submitted by Mr. White, I hope they can implement the program earlier than November 8, 1977. That is barely 3 weeks from now. It will be of great assistance to the American sugar producers.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 455 and 469.

Mr. BAKER. Mr. President, reserving the right to object, I only wish to say to the majority leader that, while we previously had agreed to the transfer of these two calendar order numbers to the Unanimous Consent Calendar, the reason for that was the 3-day rule. I am now happy to report that we have been able to obtain agreement to waive 1 day of the 3-day rule, and we have no objection.

CAREER EDUCATION PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 469 first.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7) to authorize a career education program for elementary and secondary schools, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HATHAWAY. Mr. President, S. 1328, the Career Education Incentive Act was reported unanimously and favorably by the Committee on Human Resources. Its language will be substituted for that of H.R. 7 for purposes of going to conference with the House. S. 1328 provides Federal funds to State and local educational agencies to implement comprehensive career education programs in elementary and secondary schools. S. 1328 also provides Federal funds to postsecondary institutions of higher education, to public agencies, and to private nonprofit entities for career education demonstration projects at the postsecondary level.

The purpose of the legislation is to insure that at every level, education will be more closely related to the world of work and to the career preferences of individuals by providing students with greater awareness, exploration, decision-making, and planning skills regarding career opportunities and requirements. In this way, the bill is intended to promote equal opportunity among all students with particular attention to the elimination of bias and stereotyping on account of race, sex, age, economic status, or handicap.

The vital need for this legislation and the strong support behind it is quite clear. It is cosponsored by a large number of my distinguished colleagues, including the chairman of the Human Resources Committee (Mr. WILLIAMS), by the chairman of the Subcommittee on Education, Arts, and Humanities (Mr. PELL), by the ranking minority member of the committee (Mr. JAVITS), by the Education Subcommittee's ranking minority member (Mr. STAFFORD), by the Senator from West Virginia (Mr. RANDOLPH), by the Senator from Massachusetts (Mr. KENNEDY), by the Senator from Wisconsin (Mr. NELSON), by the Senator from Missouri (Mr. EAGLETON), by the Senator from California (Mr CRANSTON), by the Senator from Michigan (Mr. RIEGLE), by the Senator from Pennsylvania (Mr. SCHWEIKER), by the Senator from Utah (Mr. HATCH), by the Senator from Rhode Island (Mr. CHAFEE) and by the Senator from California (Mr. HAYAKAWA).

This unanimous support from the members of the Committee on Human Resources is most gratifying and indicates the importance of this legislation and the scope of the problem which it addresses. It is also cosponsored by one Senator from Colorado (Mr. HART).

The bill calls for a short-term Federal commitment to elementary and secondary career education implementation which will peak and then decline over its 5-year life. At the end of this time frame, all Federal involvement will cease, and career education programs will be conducted solely with State and local resources.

For elementary and secondary programs, the authorization levels are as follows: $50 million in fiscal year 1979, $100 million in fiscal years 1980 and 1981, $50 million in fiscal year 1982, and $25 million in fiscal year 1983. Over this period the required commitment of State and local funds will gradually increase. From these funds, 5 percent is reserved for administration at the Federal level and for model programs, 1 percent for evaluation, and 1 percent for career education information. Subject to these reservations the remaining Federal funds are allotted to the States on the basis of 5 to 18-year-old population, except that each State shall receive a minimum of $125,000 annually provided it fulfills other Federal requirements imposed.

The bill requires each State, except for minimum allotment States, to use not more than 25 percent of the funds it receives in fiscal year 1979 for State administration and leadership activities, and not more than 15 percent for such purposes during the remaining period of Federal participation. The balance of Federal funds must be distributed to local educational agencies. States, except minimum allotment States, are required to employ designated personnel to administer the career education program, and are strongly encouraged to employ other personnel. Minimum allotment States are granted the discretion to utilize Federal funds received as they see fit, provided such uses comply with the requirements of the bill. All States are required to provide increasing percentages of non-Federal funds over the 5 years of the bill.

Permissible State-level uses include the conduct of inservice training institutes for teachers, the dissemination of career education materials, the conduct of State-level evaluation, the collaboration with various elements of State and local communities, and the modification of teacher-training curricula.

Uses by the local education agencies include instilling career education concepts into the classroom, implementing comprehensive career guidance and counseling programs, fostering collaborative relationships with various elements of the local community, implementing work experience programs, employing local coordinators, providing in-service training, conducting institutes for parents, members of school boards and community leaders, purchasing materials, operating career education resource centers, and conducting evaluations.

Each State applying for funds is required to submit annual applications, a one-time State plan, and subsequent amendments to the plan as necessary. The State educational agency is the administering agency.

The bill also provides an annual authorization of $15 million for post-secondary education demonstration projects, through grants, contracts, or other arrangements to postsecondary institutions, public agencies, or private nonprofit entities. Such projects must have national significance or unusual promise in promoting career education at the postsecondary level.

The bill requires annual evaluation by the Commissioner of Education to determine those methods of career education that best fulfill the broad purposes of the act, that best promote career skills, that eliminate stereotyping, and which do so on the most cost-effective basis.

The Office of Career Education in the U.S. Office of Education is the administering unit at the Federal level. The National Institute of Education and the National Advisory Council on Career Education are encouraged to continue their prior efforts in career education.

Mr. President, this bill, which I introduced on April 20, 1977, has its origins in a measure which I sponsored in the Senate last year as a separate title of S. 2657, the Education Amendments of 1976. At the suggestion of Chairman CARL PERKINS of the House Education and Labor Committee, however, the Senate title was reduced by the conference committee to a single year authorization of $10 million, for the fiscal year 1978, for State career education planning and Federal information gathering purposes. Chairman PERKINS and his House colleagues made that request because the House did not have a career education bill of its own in that conference, and they wanted the opportunity to work on such a measure themselves in the Education and Labor Committee. They did so in exemplary fashion, as is demonstrated by the fact that the resulting legislation, H.R. 7, passed the House by the overwhelming vote of 398 to 14 last spring.

Because of the strong House support for H.R. 7, I waited until their action was final to introduce a companion measure in the Senate last April, in order to be able to incorporate certain of its elements into that bill.

I did so because it was clear to me last year that the career education goals of Congressman PERKINS are substantially the same as my own, and thus it seemed advisable to avoid unnecessary duplication of effort wherever possible.

Still, there are several key differences between S. 1328 and H.R. 7, and it would be useful to point them out at this time, prior to conference.

Perhaps the most significant difference between S. 1328 and H.R. 7 involves the authorization of demonstration grants for postsecondary education. Under H.R. 7, federally supported career education is to be limited to elementary and secondary schools. However, such a limitation ignores one of the central problems career education is seeking to solve: That too many graduates or leavers of our entire educational system, up to and including postsecondary, are quite simply ill prepared to enter the world of work. And while applying career education to postsecondary settings can admittedly be more difficult to accomplish than at the elementary or secondary level, some of our best and most comprehensive experimental career education programs to date have been developed in postsecondary settings.

In addition, the effective years and authorization levels in S. 1328 are somewhat different from those of H.R. 7. For example, H.R. 7 does not apply to specifically designated fiscal years, but rather to a floating 5-year period which begins in the first year in which funds are appropriated. S. 1328 refers specifically to the fiscal years 1979 through 1983, since current Office of Education planning authorizations for career education will run out at the end of fiscal 1978.

A number of additional improvements were made after hearings and in one course of markup, Chairman WILLIAMS' suggestions and improvements on evaluation are noteworthy in this regard.

Further Senator JAVITS had useful improvements in the occupational information provisions. In addition, Senator PELL provided strong support and offered a number of improvements, as did Senator STAFFORD. I am most grateful for their assistance.

S. 1328 as reported also includes additional authority for the Commissioner to

make model and demonstration grants, conduct evaluation studies, and perform information gathering and dissemination functions, which authority is not specifically contained in H.R. 7.

I look forward to a useful and productive conference on these differences and am sure that the resulting legislation will lead to the implementation of career eduction in the most beneficial fashion.

WHAT IS CAREER EDUCATION?

There are a number of definitions for "career education," but each of them is intended to define a concept and a strategy for addressing a fundamental problem—the lack of adequate career orientation in many traditional educational programs and institutions and the need for more such orientation and focus, both now and in the future. A specific definition is less important than providing States and localities with means and methods for coping with and counteracting this problem. Of course, education has an inherent value to the individual and to society as a whole, by fostering self-fulfillment through increasing awareness of collective human knowledge and experience. But, this overall goal would be complemented by relating educational activities of students while in school with their educational needs when they leave school.

Several of the definitions and statements put forth recently in this area are worth consideration in the light of its legisiative proposals. For example, the Council of Chief of State School Officers has approved the following tentative definition of career education:

Career education is essentially an instructional strategy, aimed at improving educational outcomes by relating teaching and learning activities to the concept of career development. Career education extends the academic world to the world of work. In scope, Career education encompasses educational experiences beginning with early childhood and continuing throughout the individual's productive life. A complete program of Career education includes awareness of self and the world of work, broad orientation to occupations (profesional and nonprofessional), in-depth exploration of selected clusters, career preparation, an understanding of the economic system of which jobs are a part, and placement for all students.

The National Advisory Council on Career Education has endorsed the definition of career education found in the Office of Education Policy Statement on Career Education which defined the term as follows:

Career education is the totality of experiences through which one learns about and prepares to engage in work as part of her or his way of living.

In the Special Projects Act, part of the Education Amendments of 1974 (Public Law 93-380), Congress defined career education as follows:

The term "career education" means an education process designed—

(1) To increase the relationship between schools and society as a whole;

(2) To provide opportunities for counseling, guidance and career development for all children;

(3) To relate the subject matter of the curricula of schools to the needs of persons to function in society;

(4) To extend the concept of the education process beyond the school into the area of employment and the community;

(5) To foster flexibility in attitudes, skills, and knowledge in order to enable persons to cope with accelerating change and obsolescence;

(6) To make education more relevant to employment and functioning in society;

(7) To eliminate any distinction between education for vocational purposes and general or academic education.

HISTORY OF CAREER EDUCATION

Career education in the form we know it today had its inception as a formal educational program in the late 1960's. At the beginning of the current decade, it was given a high priority among federally funded educational research programs by Commissioner of Education Sidney P. Marland.

In enacting the Vocational Education Amendments of 1968 (20 U.S.C. 1241 et seq.) Congress first emphasized the need to bridge a gap that was felt to exist between education and work. Early in 1971, Commissioner Marland coined the term "career education" and elevated it to the status of major educational reform.

The Education Amendments of 1972 established the National Institute of Education, NIE, as separate from the Office of Education, OE, and both departments adopted career education as a priority item. In the case of NIE, career education research was written into its enabling legislation. In OE, the first career education research and development programs were funded under parts C and D of the Vocational Education Act, and new statutory authority was created by the Special Projects Act as part of the Education Amendments of 1974 (Public Law 93-380), which authorized additional demonstration programs and created within OE an Office of Career Education.

FUNDING HISTORY OF CAREER EDUCATION

Federal funds allocated for research and demonstration under the various statutory authorities are as follows:

The Vocational Education Act. Prior to its amendments in Public Law 94-482, part C of this act authorized projects for research and training, and part D authorized model programs and projects. Under these authorities, over 100 research and model career education projects have been established at local education agencies—LEA's—in the 50 States. A 1976 GAO study could find no apparent distinctions between projects funded under part C and those using part D dollars.

During fiscal year 1972-75, OE obligated approximately $36 million to the States under part C and about $38.5 million under part D for career education programs. In fiscal year 1976 these programs were cut back considerably, with no funds spent under part C and only $8 million under part D for career education.

NIE EXPENDITURES

Beginning in mid-1971, OE initiated four multiyear career education projects under the authority of the Cooperative Research Act. In August 1972, these were transferred to NIE. Through fiscal year 1975, NIE estimates that approximately $42 million of its appropriations were allocated to the four projects.

In addition, NIE has taken on several projects initially started up by OE under its educational laboratory and research and development center programs, spending $7.6 million through fiscal year 1975. Finally, NIE had originated 85 new career education projects of its own through the end of fiscal year 1975, spending another $7.6 million. Approximately $14 million was spent on all NIE career education projects in fiscal year 1976, and an equal amount is estimated for fiscal year 1977.

OFFICE OF CAREER EDUCATION

The third major source of Federal career education funding has been the Special Projects Act, enacted in the education amendments of 1974. Those amendments authorized $15 million each year for career education, of which approximately $10 million has been spent in each fiscal year since the enactment of those amendments.

NON-FEDERAL SPENDING

Projects and programs funded under each of these authorities have varied widely, and few generalizations can be made about successes or failures from the Federal perspective. However, it is important to note that State and local governments have contributed considerable resources of their own in this area. Part C and D funds referred to have been matched on a dollar-for-dollar basis. And many States and LEA's have enacted legislation and/or initiated additional career education programs of their own.

As of the end of fiscal year 1975, for example, OE had cited nine States as having made signficant progress in career education. Even a State as small as Arizona had set aside over $22 million of its own education funds for this purpose.

NEW AUTHORIZATIONS

Finally, the Education Amendments of 1976 (Public Law 94-482) contains a new authorization, for fiscal year 1978 only, of $10 million to be used for comprehensive State planning for career education, and for Federal information gathering, storage, and dispensing. Up to $2 million may be set aside for this latter purpose. The balance is to be distributed to the States, with at least $100,000 going to each State and the remainder distributed on the basis of population.

NEED FOR CAREER EDUCATION

As our schools are subjected to increased criticism, and as the youth of our Nation are victims of intolerable levels of unemployment, it is clear that we must move as forcefully and expeditiously as possible to make career education a reality for every American.

A number of criticisms have been leveled at our educational system from a variety of sources. A large number of them center around the failure of education to relate more satisfactorily to the world of work and to career needs. The National Advisory Council on Career Ed-

ucation, established by section 406 of the Special Projects Act, has summarized these criticisms as follows:

First. Too many persons leaving our educational system are deficient in the basic academic skills required for adaptability in today's rapidly changing society.

Second. Too many students fail to see meaningful relationships between what they are being asked to learn in school and what they will do when they leave the educational system. This is true of both those who remain to graduate and those who drop out of the educational system.

Third. American education, as currently structured, best meets the educational needs of that minority of persons who will someday become college graduates. It fails to place equal emphasis on meeting the educational needs of that vast majority of students who will never be college graduates.

Fourth. American education has not kept pace with the rapidity of change in the postindustrial occupational society. As a result, when worker qualifications are compared with job requirements, we find overeducated and undereducated workers present in large numbers. Both the boredom of the overeducated worker and the frustration of the undereducated worker have contributed to growing worker alienation in the total occupational society.

Fifth. Too many persons leave our educational system at both the secondary and collegiate levels unequipped with the vocational skills, the self-understanding and career decisionmaking skills, or the work attitudes that are essential for making a successful transition from school to work.

Sixth. The growing need for and presence of women in the work force has not been reflected adequately in either the educational or the career options typically pictured for girls enrolled in our educational systems.

Seventh. The growing needs for continuing and recurrent education of adults are not being met adequately by our current systems of public education.

Eighth. Insufficient attention has been given to learning opportunities which exist outside the structure of formal education and are increasingly needed by both young and adults in our society.

Ninth. The general public, including parents and the business-industry-labor community, has not been given an adequate role in formulation of educational policy.

Tenth. American education, as currently structured, does not adequately meet the needs of minority or economically disadvantaged persons in our society.

Eleventh. Post high school education has given insufficient emphasis to occupational educational programs in harmony with academic programs.

Each of these criticisms has some validity, and a number of disturbing statistics and phenomena lend support and credence to such criticisms.

Although the average American already changes careers five to seven times in the course of his or her working life, a February 1977 study of the national assessment of education progress showed that of 17-year-olds surveyed, only 36 percent could correctly complete a job application and only 54 percent could identify correctly the training and qualifications required for certain occupations. An HEW-commissioned study indicated that perhaps as many as one in five adults is functionally illiterate in basic coping skills necessary to perform simple daily tasks.

The American college testing program assessment found that 78 percent of 11th grade students indicated a need for increased career guidance and counseling assistance. Over three-fourths of all secondary school students are enrolled in a college preparatory course of study while only 2 out of every 10 jobs between now and 1980 will require a college degree. Data indicate that one-fourth of a typical high school class drops out before graduation and 50 percent of those who enter college do not receive a bachelor's degree.

Current unemployment levels among all teenagers, and particularly among black teenagers, are at intolerably high levels. August 1977 statistics showed unemployment among teenagers was 17.5 percent and among black teenagers was 40.0 percent.

An analysis of unemployment figures in the spring of 1977 showed that over 3 million Americans between the ages of 16 and 24 were unemployed. This total represented half of the Nation's unemployment at that time, and offers further evidence that this age group is unskilled and unprepared for the job market.

A Rhode Island study found that although there are over 30,000 job titles, most young people could barely identify 100 jobs. The chamber of commerce testified before the committee that in 1930 approximately 30 percent of all jobs were unskilled, but that today only 5 percent fit this characteristic. The chamber further predicted that of the youngsters first entering school today two out of three will when they enter the labor market take jobs which do not now exist.

At the postsecondary level of education, students and their families often devote a great deal of financial resources and years of effort toward achieving certification and training to engage in particular professions and occupations only to find out at the conclusion of such activity that realistic opportunities either do not exist, and may in fact never have existed, or that they are inadequately qualified to achieve their goals.

Of course, I do not wish to denigrate the value of the pursuit of higher education in terms of self-fulfillment. At the same time, however, a 1972 Gallup poll found that, when asked why they wanted their children to "get an education," 44 percent of the parents responded, "to get better jobs" and 38 percent said "to make more money, achieve financial success." Given this expectation from education, the results have often been disappointing, both from the perspective of parents and students.

For example, a Department of Labor study found that of the 55,000 students graduating from college with bachelor's degrees in psychology last spring, only 4,500 would find jobs related to their field. Similar, though not quite so dramatic examples could be found with regard to students who study law and other fields. At the same time, opportunities are readily available in other fields such as health-allied paraprofessional fields, but often go unfilled, to the detriment of society as a whole.

All of these phenomena are not the result of any failure of education but rather are symptomatic of more widespread changes in our society as a whole, which education by itself may be unable to rectify. Further, these examples do not lead to a conclusion that educational systems are necessarily doing a worse job than in the past, but rather are more likely the result of an overall situation that requires more from education at every level in our rapidly changing society.

This legislation calling for implementation of career education at the elementary and secondary levels and demonstration at the post-secondary levels, will make all of these difficulties and market misallocations to disappear. Further, career education is not intended to push students out of unpromising or unlikely career pursuits through any sort of mandatory procedure of allocating slots or determining occupational quotas. To do so would clearly be contrary to principles of freedom of choice and equality of opportunity.

On the contrary, career education is intended to open opportunities and broaden awareness among students of all ages, and particularly among students who in the past have been victimized by stereotyping or bias in terms of perceived career opportunities.

But at the same time providing all students with a much more complete picture of available career options, with a clearer understanding of the range and opportunity within those options, and with the skills and awareness to competently pursue those options, can only serve to minimize individual disappointment and misdirection, and thereby promote successful pursuit of individual career preferences.

ACCOMPLISHMENTS OF CAREER EDUCATION

Approximately $200 million in Federal funds have been utilized in these pilot programs and demonstrations since 1972. Over this time period States and local educational districts have demonstrated a strong interest and commitment to such programs, within the constraints of limited resources.

By 1976, two-thirds of the States had formal career education policies, and 14 had enacted specific legislation for career education; 55 out of 57 States and outlying areas had appointed career education coordinations and in 36 of these States, the career education coordinator was a full-time official supported solely from State and local resources. Very recently, a number of States have gone ahead at drawing out 5-year State plans for the implementation of career education throughout their school systems.

Within limited budgets, States and local districts have averaged per student

expenditures of $1.89 per student for career education, according to an Office of Education national survey. But for those States with a formalized career education policy this total rose to $2.71. In these areas, 40 percent of the expenditures for career education were from State funds, 37 percent from local funds, and 22 percent from Federal funds.

This same OE survey determined that in 1975 52 percent of all students in the country were in districts in which nearly all of the students in at least one grade level were involved in career education activities and concluded that career education had permeated all geographic regions equally.

In testimony heard both in Washington, D.C., and in Maine, there was a very high level of enthusiasm expressed with respect to the past accomplishments and future prospect of career education by teachers, other educational personnel, students, parents, and those from the community at large. This enthusiasm is buttressed by evaluation results which demonstrate that these programs have increased career awareness and skills.

A recent monograph of the Office of Education, titled "A Review of Career Education Evaluation Studies" summarized some of the results obtained thus far in career education programs.

Programs throughout the Nation have been found to increase the awareness of students at all grade levels of career opportunities and requirements. For example, in Prince George's County, Md., students at grades 6, 7, 11, and 12 who were enrolled in career education programs demonstrated a significantly higher knowledge of the world of work than those in a control group. Similar results were shown in studies in Monroe, N.C., and Wichita, Kans.

In career decisionmaking skills, a Pima County, Ariz., study found that students with a high exposure to career education were able, in much greater numbers and degree, to recognize and demonstrate decisionmaking skills associated with various occupational roles and could at the same time recognize the degree of responsibility in those jobs. Similar results were obtained in Georgia, Nevada, and New Jersey.

Other evaluations have been similarly positive. A National Institute of Education review of 13 career education evaluations conducted between 1972 and 1974 found that career education promoted work attitudes, occupational information, career maturing, and self-concept. A Partners in Career Education study conducted by Dr. Elvis Arterbury showed dramatic results in the State of Vermont. This study found that prior to initiation of a career education program the students affected were below the national norms on all 15 career skill areas included in a work values inventory test. After 1 year in a career education program, these students exceeded national norms in two-thirds of the areas measured. An evaluation of Lincoln County, W. Va., programs found that students in the career education curriculum scored 18 percent higher in occupational awareness tests than their regular curriculum counterparts.

While the direct purpose of career education is to foster these types of skills and abilities, it is also clear that the methods and techniques of career education can have a positive impact on basic educational skills.

The most promising evaluation results indicate a positive relationship between the degree to which career education concepts have been implemented and the performance of students with respect to tests measuring basic educational skills. A May 1977 Office of Career Education analysis found that of 38 studies reviewed which measured this relationship half showed a statistically significant relationship, and 16 showed a moderate relationship.

In recent testimony before the Subcommittee on Education, Arts and Humanities, Willard Wirtz, former Secretary of Labor, and chairman of the College Board Advisory Committee which issued the report on the decline in SAT scores, indicated that his committee had found that students who work part-time between 6 and 15 hours per week have scored higher and have shown less decline in their scores on the scholastic aptitude test than their colleagues.

While the direct purpose of career education programs is to foster awareness, exploration and decisionmaking skills, it is likely that a heightening of these skills would have a spillover benefit of increasing individual academic motivation and performance. Further, the teaching of basic skills, particularly the three R's, with reference to real world situations, seems to be especially successful among students who have had prior difficulties in these areas. For example, an Indiana State Department of Education study evaluated a career education program for 40 11th grade students with so-called hard-core reading problems. These students evidenced such a dramatic reversal of their attitude about reading that the district involved has subsequently supported the program solely with local funds. We do not pretend that career education by itself is a panacea for all educational problems, but find these results most promising and look forward to further evaluation.

Based on the demonstration of career education thus far, the public appears to support this new instructional strategy by an overwhelming margin. While no recent national polling has occurred, a 1973 Gallup poll asked whether schools should "give more emphasis to study of trades, professions, and businesses to help students decide on a career?" Ninety percent said yes.

NEED FOR A MORE EXTENSIVE FEDERAL EFFORT

Despite the positive achievements and experience with the pilot programs funded thus far, and the willingness of a number of States to implement career education on their own, there are a number of factors which indicate the need for further Federal funding of a catalytic, short-term nature.

While 52 percent of the Nation's students are in districts where at least one of the career education goals has been implemented, only 21 percent are in districts where over half of these 15 goals have been implemented, and only 3 percent in districts where all the goals have been implemented. Over 15 million elementary school children have yet to be exposed to career education.

Teachers are in need of inservice training and career education materials. Over half the school districts have some program of staff development but these programs involve only one-fifth of the teachers in such districts, and in 1974 only 8 percent of teachers nationwide had experienced inservice training.

As pointed out in testimony by Mrs. Marion Bagley, career education coordinator for the State of Maine:

> Teachers are ready and anxious to become involved . . . they appreciate that Career Education is the key to helping us better attain the basic goals and purposes of education, but the story I hear throughout the State is, "Where do I find material? How do I infuse the concept into all my subject areas?"

Teacher training educational institutions are in particular need of assistance. Recently only 10 percent had developed a formal policy and less than half offered any sort of inservice training relating to career education. And less than 7 percent of the budgets of these institutions were allotted to career education.

A glaring need for special attention and Federal assistance is that of special student population. The OE survey found that larger districts were 50 percent more likely to have implemented career education than smaller districts the Need of minority groups must be addressed.

The OE survey indicated that only 25 percent of elementary school pupils and 36 percent of high school students are in districts making special provisions for efforts to eliminate sex bias in career education, and only 49 percent with respect to the handicapped.

Current career education materials require further attention to begin to address these needs on a comprehensive basis. OE survey data show that 58 percent of commercially available career educational material evidenced some race bias, and 75 percent some sex bias. There is very little material available specifically related to the handicapped.

Given all these needs, additional Federal funding of a catalytic, "booster-shot" nature would appear to be necessary and desirable. While some States are prepared to go ahead on their own, and a number of local districts are already involved in implementation, there is a need to provide for a short-time Federal initiative to provide the remaining States and local districts with a portion of the needed start-up funds to achieve implementation.

Further, the need for post-secondary educational emphasis on career education is acute and growing.

If career education is going to be successful and to be "infused" into each classroom, this policy goal must be implemented at the grass-roots level and ultimately State and local funds, and direction must be relied upon. But then at the same time there is a proper Federal role for providing initial funding

for these activities, for coordinating the development of State and local planning, and for evaluating and disseminating the results obtained.

S. 1328 is structured to guarantee that the Federal involvement will be a productive and short-lived one. The authorization funds are purposely structured to phase in, build up to a certain level, and then phase out. Meanwhile, the non-Federal portion of funding is gradually increased. At the end of 5 years the program will be run solely with non-Federal funds.

The ratio of funding already utilized in areas which have ongoing programs shows that this is feasible and likely to succeed. The State of Arizona has already demonstrated its willingness to devote over $22 million to career education.

We are on the verge of implementing a fundamental reform to our American system of education—we can and should return it to a focus on the skills and attitudes necessary to make our young people equipped to enter the world of work.

Career education recognizes the proposition that this can only be accomplished by introducing them to that world of work at a very early stage in their educational career, and by providing them with an understanding as their education progresses of how that world works.

Career education has a number of definitions, all of which boil down this process.

Career education is, of course, not a panacea to our Nation's unemployment problems for youth. Nor does it promise to solve all of our educational difficulties.

But, as pointed out by Ken Hoyt, head of the Office of Career Education, it does offer a promising beginning and a strong hope for achieving both of these goals. It does this by requiring that our children receive in school the basic skills they need to be employed, by requiring that education be more directly linked to available employment opportunities and by giving students the job-seeking and job-holding skills they need to cope with change.

Career education has an additional, and equally important, dimension which has been inadequately emphasized up to this point in the literature explaining it.

Career education offers great potential to improve the lives and productivity of our children, but at the same time it has an important role for all adults and for parents, senior citizens, and others who are not students and are not teachers.

By involving employers in conducting part-time seminars for high school students, by having retired citizens explain their prior jobs and present activities to junior high school students, and by having elementary school students visit work sites, it is clear that those imparting the knowledge involved can benefit just as much as those receiving it.

We have known for a long time that education is too important a matter to be left solely to the teachers, administrators, and students. But in career education we have a means to mobilize and leverage the resources of an entire community to provide and have a stake in the education of its children.

As a result of this process, it is clear that these individuals and their communities will retain a greater appreciation for and understanding of our educational system—and that system will be far better for their involvement.

Mr. WILLIAMS. Mr. President, I am pleased to offer my enthusiastic support to S. 1328, the Career Education Incentive Act of 1977. The Committee on Human Resources reported this measure unanimously, and each Member of the committee serves as a cosponsor of it.

This unusual demonstration of support for career education goes beyond the uniformly felt need for increased attention to the development of individual skills and occupations. It is an indication that the legislation itself has been devised in the most appropriate possible fashion.

Simply put, S. 1328 places the Federal role in such efforts as a time-limited boost to the State and local education authorities properly entrusted with managing education curricula. At the same time, S. 1328 recognizes that new currents of growth and constructive change have been flowing through professional education. The Career Education Incentives Act of 1977 systhesizes the best tested and accepted elements of those currents of educational reform. It encourages their adaptation to the conditions faced uniquely by States and their constituent local school districts.

Recently, I had the privilege of viewing a demonstration of the potentials of career education. Educators from Ocean County, N.J. traveled to Washington and provided an audio-visual display of their nationally-recognized model program. The essence of that program is that alienation of students from their learning can be prevented and cured by properly designed career education programs.

Such programs require teachers to consider new ways to interest and reach their students. And this is done largely with the resources at hand in the local community. Schools have begun to relate to each other and to the business and laboring community around them. Barriers between education and the world of work are being replaced with connections of understanding and possibility. Elementary and high schools are meshing better with vocational schools and community colleges. Each of these institutions has begun to focus on the whole student. The potentials for involving the whole family are great.

The citizens of Ocean County, N.J., have reason for pride and high expectations of career education. It is my hope that, through the tools provided by S. 1328, improved career education will be equally successful in dealing with the intense problems faced by students in areas of high unemployment and guarded future hopes.

Career education is not a panacea, of course. Educational reform and growth must find additional ways to enhance quality, achieve parent involvement and create working avenues to jobs, occupations and professions. These areas will receive increasing attention from the Committee on Human Resources in the days ahead. The Career Education Incentive Act, however, is an important initiative in attempting to achieve these essential objectives.

As chairman of the Committee on Human Resources I have been pleased to play a role in bringing this measure to the Senate floor. I wish to note however, that credit for the excellent provisions and stewardship of this legislation must go to my distinguished colleague from Maine, Senator BILL HATHAWAY. As a Member of the Committee on Human Resources, Senator HATHAWAY introduced this legislation, carefully presided over its improvement in light of testimony and national experience. He has demonstrated great leadership in bringing this measure before this body.

It is with the strongest endorsement that I commend S. 1328 to the Senate for its favorable consideration.

Mr. STAFFORD. Mr. President, S. 1328 has the benefit of the unanimous cosponsorship of all Senators serving on the Committee on Human Resources in both parties. Its counterpart, H.R. 7, passed the House by 398 to 14. The constituencies supporting career education legislation include labor organizations, the U.S. Chamber of Commerce, and a great number of National and State education associations.

Our proposed legislation follows the National Institute of Education's very favorable conclusions concerning the success of 13 career education demonstration programs across the country, including one in my home State of Vermont. The U.S. Office of Education investment in these and other demonstration programs has been approximately $200 million.

In light of this momentum, most States, including Vermont, have developed comprehensive career education plans. So, we are really ready for the implementation of this legislation.

The purpose of this legislation is catalytic, to help the States and local school districts to implement career education in their schools. Appropriations authorized under S. 1328 would be for 5 years: $50 million for the first year, $100 million for the second year, and the same sum for the third year, $50 million in the fourth year, and $25 million in the final year. At the end of that time the States should have well established programs, and there would be no further Federal funding.

S. 1328 responds to a clear need, builds on demonstrated success, is matched by planning at the State level, and provides for diminishing Federal funding as the State programs become established. For all these reasons it is a pleasure to support this bill.

Mr. ROBERT C. BYRD. Mr. President, I move, on behalf of Mr. HATHAWAY, that all after the enacting clause be stricken and that the language of S. 1328, Calendar No. 455, be inserted in lieu thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engross-

ment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 7) was read a third time and passed, as follows:

That this Act may be cited as the "Career Education Incentive Act".

DECLARATIONS

SEC. 2. The Congress declares that—

(1) a major purpose of education is to prepare every individual for a career suitable to that individual's preference,

(2) career education should be an integral part of the Nation's educational process which serves as preparation for work,

(3) career education holds promise of improving the quality of education and opening career opportunities for all students by relating education to their life aspirations; and

(4) educational agencies and institutions (including agencies and institutions of elementary and secondary education, higher education, adult education, employment training and retraining, and vocational educational) should make every effort to fulfill that purpose.

PURPOSE

SEC. 3. It is the purpose of this Act to provide Federal financial incentives to States for five years to enable States and local educational agencies and institutions of postsecondary education, including collaborative arrangements with the appropriate agencies and organizations, to develop, implement, and strengthen career education programs for individuals, in order to improve the awareness, exploration, decisionmaking, and planning skills of individuals about career opportunities, career preparation, and career development, and to promote equal opportunity for individuals in making career choices through the elimination of bias and stereotyping, including bias and stereotyping on account of race, sex, age, economic status, or handicap.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. There are authorized to be appropriated $50,000,000 for fiscal year 1979, $100,000,000 for fiscal year 1980, $100,000,000 for fiscal year 1981, $50,000,000 for fiscal year 1982, and $25,000,000 for fiscal year 1983 to carry out the provisions of this Act, other than section 12 of this Act.

ALLOTMENTS

SEC. 5. (a)(1) From the sums appropriated pursuant to section 4 for each fiscal year which are not reserved under paragraph (2) of this subsection, the Commissioner shall allot to each State an amount which bears the same ratio to such sums as such State's population aged five to eighteen, inclusive, bears to the total population, aged five to eighteen, inclusive, of all the States, except that no State shall be allotted from such sums for each fiscal year an amount less than $125,000.

(2) From the sums appropriated pursuant to section 4 for each fiscal year, the Commissioner may reserve—

(A) an amount not to exceed 5 per centum each year for the administration of this Act and for making model program grants pursuant to section 10,

(B) an amount not to exceed 1 per centum each year for the purpose of carrying out the information program pursuant to section 11 of this Act,

(C) an amount not to exceed 1 per centum each year for the purpose of carrying out the evaluation program pursuant to section 12 of this Act, and

(D) an amount not to exceed 1 per centum for the purpose of making payments to the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands for their respective needs in career education.

(b)(1) Any funds allotted to a State under paragraph (1) of subsection (a) for which a State has not applied or for which a State application has not been approved shall be reallotted by ratably increasing the allocations of each of the States which have approved applications.

(2) If the sums appropriated for any fiscal year are not sufficient to make the allotments of the minimum amounts specified in paragraph (1) of subsection (a), such minimum amounts shall be ratably reduced. If additional sums become available during a fiscal year for which such allotments were reduced, such allotments shall be increased on the same basis as they were reduced.

(c) Notwithstanding any other provision of this Act, any State which receives, in any fiscal year, the minimum allotment prescribed under paragraph (1) of subsection (a) of this section, does not have to comply with the provisions of section 6(a), relating to within State distribution, the provisions of section 7 to the extent that the provisions of that section relate to within State distribution, the provisions of section 7(8) relating to staff, or the provisions of section 9 to the extent that such provisions relate to the within State distribution of funds between the State educational agency and the local educational agencies within the State. The provisions of the preceding sentence shall not be construed to permit the expenditure of funds by any State to which this subsection applies for any use other than the uses described in section 9 of this Act.

WITHIN STATE DISTRIBUTION

SEC. 6. (a)(1) Any State receiving funds for the fiscal year 1979 may reserve not more than 25 per centum of such funds for the purposes described in paragraphs (1), (2), and (4) of section 9(a). Not less than 75 per centum of such funds shall be distributed by the State to local educational agencies within that State for the purposes described in paragraph (3) of section 9(a).

(2) Any State receiving funds for the fiscal year 1980 and for each fiscal year thereafter may reserve not more than 15 per centum of such funds for the purposes described in paragraphs (1), (2), and (4) of section 9(a). Not less than 85 per centum of such funds shall be distributed by the State to local educational agencies within that State for the purposes described in paragraph (3) of section 9(a).

(b) Consistent with the proportionate number of students enrolled in private elementary and secondary schools within the State, the State with respect to purposes described in paragraph (2) of section 9(a), and the local educational agencies with respect to the purposes described in paragraph (3) of section 9(a), as the case may be, shall, after consultation with the appropriate nonprofit private school officials, make provision to assure that there is effective participation on an equitable basis of such students and teachers in nonprofit private elementary and secondary schools within the appropriate school district.

STATE APPLICATIONS

SEC. 7. Any State desiring to receive its allotment for each fiscal year under this Act shall, through its State educational agency, submit to the Commissioner an annual application. Each such application shall include assurances that—

(1) the State educational agency will use payments made under this Act in accordance with the provisions of section 9;

(2) the State educational agency will make every possible effort to integrate career education into the regular education programs offered in elementary and secondary schools in the State;

(3) the State educational agency will require local educational agencies within the State to carry out career education programs assisted under this Act in such a manner as will affect all instructional programs in elementary and secondary education, and not carry out such programs solely as a part of the vocational education program;

(4) the State educational agency will identify all local educational agencies which desire to develop or expand their career education programs, and such agency will develop a plan in accordance with section 8;

(5) the State educational agency will comply with the provisions of section 6 with respect to the distribution of funds to local educational agencies within the State;

(6) the chief executive of the State has been notified of the State's application for such funds;

(7)(A) the State will expend, from its own sources, for any fiscal year for which funds are received under this Act, an amount equal to or exceeding the amount which such State expended for career education during the fiscal year preceding the fiscal year for which the determination is made;

(B) the State will pay from non-Federal sources the non-Federal share of the costs of carrying out the application for fiscal year 1980 and for each of the three succeeding fiscal years;

(8) the State educational agency will not allocate payments under this Act among local educational agencies within the State on the basis of per capita enrollment or through matching of local expenditures on a uniform percentage basis, or deny funds to any local educational agency if the applicable jurisdiction in which such agency is located is making a reasonable tax effort solely because such agency is unable to pay the non-Federal share of the costs of programs assisted under this Act;

(9) the State educational agency will employ such staff as is necessary to provide for the administration of this Act and programs of career education assisted under this Act, including a State coordinator having prior experience in the field of career education and at least one individual experienced with respect to problems of discrimination in the labor market and stereotyping affecting career education (including bias and stereotyping on account of race, sex, age, economic status, or handicap), and where feasible, the staff will include at least one professional trained in guidance and counseling to work jointly in the office of the principal staff person responsible for such administration and coordination and in the office of the State educational agency responsible for guidance and counseling, if such office exists.

STATE PLAN

SEC. 8. (a) Each State desiring to receive funds appropriated pursuant to this Act for the fiscal year 1980 and each fiscal year thereafter, shall, at the time of submission of its first annual application for the fiscal year 1980, submit to the Commissioner, a State plan. Each State plan shall—

(1) set forth the objectives the State will seek to achieve by the end of each fiscal year through fiscal year 1983 in implementing the purposes of this Act, with special emphasis on overcoming sex bias and stereotyping;

(2) set out the methods by which the State will seek each year to achieve the objectives with all resources available, and describe the methods by which the funds received under this Act will be used, in accordance with section 9, to contribute to achieving such objectives;

(3) set forth policies and procedures which the State will follow to assure equal access of all students (including the handicapped and members of both sexes) to career education programs carried out under the State plan; and

(4) provide proposed criteria to the Commissioner for the evaluation of the extent to which the State will achieve the objectives set out in the State plan.

(b) Each State shall, for each fiscal year after the year in which the plan is submitted, review the plan in the light of experience with the financial assistance furnished under this Act, and shall submit such amendments to the plan as may be necessary.

USE OF FUNDS

SEC. 9. (a) Subject to the provisions of sections 6 and 10, funds received under this Act may be used only to pay the Federal share of the costs of—

(1) employing such additional State educational agency personnel as may be required for the administration and coordination of programs assisted under this Act;

(2) providing State leadership for career education, directly or through arrangements with public agencies and private organizations (including institutions of higher education), in—

(A) conducting inservice institutes for educational personnel;

(B) training local career education coordinators;

(C) collecting, evaluating, and disseminating career education materials on an intrastate and interstate basis with special emphasis on overcoming sex bias and stereotyping;

(D) conducting statewide needs assessment and evaluation studies;

(E) conducting statewide career education leadership conferences;

(F) engaging in collaborative relationships with other agencies of State government and with public agencies and private organizations representing business, labor, industry and the professions and organizations representing the handicapped, minority groups, women, and older Americans; and

(G) promoting the adaptation of teacher-training curricula to the concept of career education by institutions of higher education located in the State;

(3) making payments to local educational agencies for comprehensive programs including—

(A) instilling career education concepts and approaches in classrooms;

(B) developing and implementing comprehensive career guidance, counseling, placement, and followup services utilizing counselors, teachers, parents, and community resource personnel;

(C) developing and implementing collaborative relationships with organizations representing the handicapped, minority groups, and women and with all other elements of the community, including the use of personnel from such organizations and that community;

(D) developing and implementing work experiences for students whose primary purpose is career exploration, if such work experiences are related to existing or potential career opportunities and do not displace other workers who perform such work;

(E) employing and training coordinators of career education in local educational agencies or in combinations of such agencies;

(F) providing inservice education for educational personnel, especially teachers, counselors, and school administrators designed to help such personnel to understand career education, to acquire competencies in the field of career education and to acquaint such personnel with the changing work patterns of men and women, ways of overcoming sex stereotyping in career education, and ways of assisting women and men to broaden their career horizons;

(G) conducting institutes for members of boards of local educational agencies, community leaders, and parents concerning the nature and goals of career education;

(H) purchasing instructional materials and supplies for career education activities;

(I) establishing and operating career education resource centers serving both students and the general public;

(J) conducting needs assessments and evaluations; and

(4) reviewing and revising the State plan.

(b) The State shall make payments to local educational agencies for the purposes described in paragraph (3) of subsection (a) from funds received under this Act upon applications approved by the State educational agency. Such payments shall, to the extent practicable, be made on an equitable basis in accordance with criteria established by the State educational agency, having due regard for the special needs of local educational agencies serving areas of high incidence and prevalence of youth and adult unemployment, serving sparsely populated areas or serving relatively few students.

(c)(1) To the extent consistent with the number of children enrolled in private nonprofit elementary and secondary schools within the State, with respect to services described under paragraph (2) of subsection (a), and within the school district, with respect to payments made to a local educational agency for the purposes described in paragraph (3) of such subsection, after consultation with appropriate private school officials, provision shall be made for the effective participation on an equitable basis of such children and the teachers of such children in the services and programs assisted under this Act.

(2)(A) The control funds provided under this Act and title to materials and equipment therewith shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer such funds and property.

(B) The provisions of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this Act to accommodate students and teachers in nonprofit private schools not be commingled with State or local funds.

MODEL PROGRAMS

SEC 10. From funds reserved under section 5(a)(2)(A) of this Act, the Commissioner is authorized to make grants directly to State and local educational agencies, institutions of postsecondary education, and other nonprofit agencies and organizations to support projects, including projects of proven effectiveness, to demonstrate the most effective methods and techniques in career education and to develop exemplary career education models particularly projects designed to eliminate bias and stereotyping an account of race, sex, or handicap.

CAREER EDUCATION INFORMATION

SEC. 11. (a) In consultation with members of the National Occupational Information Coordinating Committee, the Commissioner shall examine the occupational information needs of individuals and organizations eligible for participation in programs assisted by this Act. The examination shall consider the present activities of the National Occupational Information Coordinating Committee, the State Occupational Information Coordinating Committees, and other occupational information activities of the Office of Education, the National Institute of Education, the Bureau of Labor Statistics, the Employment and Training Administration, and such other Federal agencies as the Commissioner deems appropriate. Upon the conclusion of the examination, the Commissioner shall, either directly or by way of grant, contract or other arrangement, furnish information to interested parties on Federal programs which gather, analyze and disseminate occupational and career information.

(b) The Commissioner shall, either directly or by way of grant, contract or other arrangement, disseminate information to interested parties on exemplary career education programs, including but not limited to programs assisted under this Act.

EVALUATION

SEC. 12. (a) The Commissioner is authorized to conduct, either directly or by way of grant, contract, or other arrangement, a program of evaluation designed to provide answers to the following questions:

(1) What methods of career education, or combinations of such methods, developed under programs assisted under this Act, most effectively promote and achieve the purposes of this Act?

(2) What methods of career education, or combinations of such methods, developed under programs assisted under this Act, most effectively eliminate bias and stereotyping on the basis of race, sex, age, economic status or handicap?

(3) What methods of career education, or combinations of such methods, developed under programs assisted under this Act, most effectively promote career exploration, planning, and decisionmaking among students living in areas of high incidence and prevalence of unemployment and in sparsely populated areas?

(4) What methods of career education, or combinations of such methods, developed under programs assisted under this Act, are cost-beneficial and cost-effective, as determined in the course of conducting the evaluation required by this section?

(b) The Commissioner shall transmit, as part of the annual report, a report on the evaluation activities conducted under subsection (a) of this section including the progress made, and the results obtained from such evaluation activities.

POSTSECONDARY EDUCATIONAL DEMONSTRATION PROJECTS

SEC. 13. (a) The Commissioner is authorized to arrange by way of grant, contract, or other arrangement with institutions of higher education, public agencies and nonprofit private organizations for the conduct of postsecondary educational career demonstration projects which—

(1) may have national significance or be of special value in promoting the field of career education in postsecondary educational programs,

(2) have unusual promise of promoting postsecondary career guidance and counseling programs, particularly postsecondary guidance and counseling programs designed to overcome bias and stereotyping on account of race, sex, age, economic status, or handicap, or

(3) show promise of strengthening career guidance, counseling, placement, and follow-up services.

(b) The Commissioner shall approve arrangements under subsection (a) of this section if he finds—

(1) that the funds for which assistance is sought will be used for one of the purposes set forth in subsection (a) of this section, and.

(2) that effective procedures, including objective measurements, will be adopted for evaluating at least annually the effectiveness of the project.

(c) For the purpose of carrying out the provisions of this section there is authorized to be appropriated $15,000,000 for the fiscal year 1979 and for each fiscal year ending prior to October 1, 1983.

PAYMENTS

SEC. 14. (a) The Commissioner shall pay to each State which the Commissioner finds—

(1) has an application for the fiscal year 1979 and each fiscal year thereafter in compliance with section 7; and

(2) is in compliance with section 8 for the fiscal year 1980 and each fiscal year thereafter,

the Federal share of the cost of carrying out such application for each such year.

(b) The Federal share of the payments made under this Act from a State's allotment shall be 100 per centum for the fiscal year 1979, not more than 75 per centum for fiscal years 1980 and 1981, not more than 50 per centum for the fiscal year 1982, and not more than 25 per centum for the fiscal year 1983.

ADMINISTRATION

SEC. 15. (a)(1) The Office of Career Education created pursuant to section 406 of the Education Amendments of 1974 shall be the administering agency within the Office of Education for the review of the State plans, applications, and reports submitted pursuant to this Act. In addition, the Office of Career Education shall perform a national leadership role in furthering the purposes of this Act.

(2) The Office of Career Education shall provide technical assistance to all participating State educational agencies and to Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(b) The National Advisory Council on Career Education created pursuant to section 406 of the Education Amendments of 1974 shall perform the same functions with respect to the programs authorized under this Act as the Council is authorized to perform with respect to the programs authorized under that section.

(c) Nothing in this Act shall be construed to prohibit the National Institute of Education from continuing to carry out its functions in the field of career education. The Assistant Secretary of Health, Education, and Welfare for Education shall assure such cooperation as the Assistant Secretary deems appropriate between the Office of Education and the Institute to identify research and development priorities and, either directly or through arrangements with public agencies and private organizations (including institutions of higher education), to disseminate the results of the research and development undertaken by the Institute.

(d) The Office of Education shall provide the Office of Career Education and the National Advisory Council on Career Education with sufficient staff and resources required to carry out their responsibilities under this Act and under section 406 of the Education Amendments of 1974.

(e) Section 406(g)(1)(B) of the Education Amendments of 1974 is amended to read as follows:

"(B) not less than fifteen public members broadly representative of the fields of education, guidance, and counseling, the arts, the humanities, the sciences, community services, business and industry, and the general public, including (i) members of organizations of handicapped persons, minority groups knowledgeable with respect to discrimination in employment and stereotyping affecting career choices, and women who are knowledgeable with respect to sex discrimination and stereotyping, and (ii) not less than two members who shall be representative of labor and of business, respectively.".

DEFINITIONS

SEC. 16. For purposes of this Act the term—

(1) "career education" means programs and activities through which educational agencies and institutions, and educators, counselors, and other individuals, seek to improve the awareness of students of all ages of career opportunities which are available to them, and to improve the ability of such students to take advantage of such opportunities, and includes activities which involve career awareness, exploration, planning, and decisionmaking, and which are designed to eliminate bias and stereotyping, including bias or stereotyping on account of race, sex, age economic status or handicap;

(2) "Commissioner" means the Commissioner of Education;

(3) "handicapped" means mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired persons, or persons with specific learning disabilities who by reason thereof require special education and related services;

(4) "local educational agency" has the meaning given such term by section 801(f) of the Elementary and Secondary Education Act of 1965;

(5) "State" means the several States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(6) "State educational agency" has the meaning given such term by section 801(k) of the Elementary and Secondary Education Act of 1965.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar No. 455, S. 1328, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, I move that the Senate insist on upon its amendment to H.R. 7, request a conference with the House of Representatives on the disagreeing votes of the two Houses on H.R. 7, and that the Chair be authorized to appoint conferees on behalf of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. WILLIAMS, Mr. PELL, Mr. RANDOLPH, Mr. KENNEDY, Mr. EAGLETON, Mr. HATHAWAY, Mr. JAVITS, Mr. STAFFORD, Mr. SCHWEIKER, and Mr. HAYAKAWA conferees on the part of the Senate.

Mr. HATHAWAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ZORINSKY). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEE ON FINANCE TO FILE REPORT ON ENERGY TAX BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Finance Committee have until 7 p.m. on Friday to report the energy tax bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEE ON FINANCE TO REPORT A MEASURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Finance Committee have until midnight Friday to report the financing of social services extension measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEE ON ENERGY AND NATURAL RESOURCES TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources have until midnight tomorrow night to file committee reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR RECOGNITION OF SENATOR PERCY AND SENATOR BAKER ON TUESDAY, OCTOBER 25, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday Mr. PERCY and Mr. BAKER be recognized each for not to exceed 15 minutes after the two leaders or their designees have been recognized under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR SENATORS TO INSERT STATEMENTS IN THE RECORD AND TO INTRODUCE MEASURES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may have until 6 p.m. today to insert statements in the RECORD and to introduce bills and resolutions, petitions and memorials.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW—PRO FORMA SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 11 a.m. tomorrow; that it convene only for no more than 30 seconds, with no transaction of business, and for the purpose only of tomorrow being a pro forma session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS TOMORROW UNTIL 8:30 A.M. ON TUESDAY, OCTOBER 25, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its pro forma session

on tomorrow it stands in recess until the hour of 8:30 a.m. on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF CERTAIN MEASURES ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the consummation of the orders for the recognition of Senators on Tuesday, the Senate proceed to the consideration of H.R. 9090 a bill to exempt disaster payments in connection with certain 1977 crops and that upon the disposition of that measure the Senate proceed to the consideration of the energy tax bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the energy tax measure at that time be considered and be made the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FOR 5 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes.

There being no objection, the Senate, at 3:58 p.m., recessed until 4:03 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FORD).

FEDERAL AVIATION ACT AMENDMENTS

Mr. CANNON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6010.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives insisting upon its amendment to the amendment of the Senate to the bill (H.R. 6010) to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. CANNON. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

UP AMENDMENT NO. 964

Mr. CANNON. Mr. President, I send to the desk an amendment which is in the nature of a substitute and urge its adoption.

The PRESIDING OFFICER. Is the Senator moving to concur with the House amendment with an amendment?

Mr. CANNON. With an amendment.

The PRESIDING OFFICER. Without objection, the action of concurring with the House amendment will be vitiated.

The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an unprinted amendment number 964.

In lieu of the matter proposed to be inserted by said amendment, insert:

SEC. 8. (a) Section 403(b)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(b)(1)) is amended by striking out "to ministers of religion on a space available basis." and inserting in lieu thereof "on a space-available basis to any minister of religion, any person who is sixty years of age or older and retired, any person who is sixty-five years of age or older, and to any handicapped person and any attendant required by such handicapped person. For the purposes of this subsection, the term 'handicapped person' means any person who has severely impaired vision or hearing, and any other physically or mentally handicapped person, as defined by the Board. For purposes of this subsection, the term 'retired' means no longer gainfully employed as defined by the Board.".

(b) Within six months after the date of enactment of this section, the Board shall study and report to Congress on the feasibility and economic impact of air carriers and foreign air carriers providing reduced-rate transportation on a space-available basis to persons twenty-one years of age or younger.

SEC. 9. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) Notwithstanding any other provision of this Act, any citizen of the United States who undertakes, within the State of California or the State of Florida, the carriage of persons or property as a common carrier for compensation or hire with aircraft capable of carrying thirty or more persons pursuant to authority granted by the public utilities commission of such State is authorized—

"(i) to establish service for persons and property which includes transportation by such citizen over its routes in California and transportation by an air carrier or foreign air carrier in air transportation; and

"(ii) subject to the requirements of section 412 of this title, to enter into an agreement with any air carrier or foreign air carrier for the establishment of joint fares, rates, and services for such through service.

"(B) The joint fares or rates established under clause (ii) of subparagraph (A) of this paragraph shall be the lowest of—

"(i) the sum of the applicable fare or rate for service in California approved by such Public Utilities Commission and the applicable fare or rate for that part of the through service provided by the air carrier or foreign air carrier;

"(ii) a joint fare or rate established and filed in accordance with section 403 of this Act; or

"(iii) a joint fare or rate established by the Board in accordance with section 1002 of this Act.".

SEC. 10. (a) The first sentence of section 403(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1373) is amended to read as follows: "No change shall be made in any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, specified in any effective tariff—

"(1) of any air carrier, or foreign air carrier, directly engaged in the operation of aircraft if such rate, fare, or charge is for the carriage of property in air transportation, except after sixty days' notice of the proposed change filed, posted, and published in accordance with subsection (a) of this section; and

"(2)(A) of any air carrier, or foreign air carrier, if such rate, fare, or charge is for the carriage of persons in air transportation, or (B) of any air carrier or foreign air carrier, not directly engaged in the operation of aircraft if such rate, fare, or charge is for the carriage of property in air transportation, except after forty-five days' notice of the proposed change filed, posted, and published in accordance with subsection (a) of this section.".

(b) The first sentence of section 1002(g) of such Act (49 U.S.C. 1482) is amended by inserting "at least fifteen days before the day on which such tariff would otherwise go into effect" immediately after "and delivering to the air carrier affected thereby".

SEC. 11. (a) The amendment made by subsection (a) of section 10 of this Act shall apply to any tariff change filed by any air carrier or foreign air carrier in accordance with section 403(c) of the Federal Aviation Act of 1958 after the thirtieth day after the date of enactment of this section.

(b) The amendment made by subsection (b) of section 10 of this Act shall apply to any tariff change filed by any carrier for interstate or overseas air transportation in accordance with section 403(c) of the Federal Aviation Act of 1958 after the thirtieth day after the date of enactment of this section.

SEC. 12. (a) Section 406(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1376(b)) is amended by adding at the end thereof the following new sentence: "In determining compensation for any local service air carrier for the year 1966 in accordance with the provisions of this subsection, the Board shall apply Local Service Class Subsidy Rate III-A as set forth in Board order E-23850 (44 CAB 637 et seq.), except that the Board shall not apply that part of such order which requires the Board to take into account any decrease in the Federal income tax liability of such carrier for such year resulting from any net operating loss carryback pursuant to section 172 of the Internal Revenue Code of 1954.".

(b) In the event that the Civil Aeronautics Board in determining the amount of compensation to be paid to any local service air carrier for the year 1966 in accordance with the provisions of section 406(b) of the Federal Aviation Act of 1958 took into account any decrease in the Federal income tax liability for such air carrier for such year resulting from any net operating loss carryback pursuant to section 172 of the Internal Revenue Code of 1954, the Board shall redetermine the compensation to be paid to such air carrier in and shall make payment to such air carrier of any amount owed to such carrier as provided in such redetermination.

SEC. 13. Section 406(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1376) is amended by inserting at the end thereof the following new sentences: "Nothing in this section shall prohibit the Board from making payments as compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, for the period August 1, 1973, through July 31, 1975, where such payments have already been provided by Board order, to the holder of a certificate authorizing the transportation of mail by aircraft, to the account or for the benefit of any air carrier designated an 'air taxi operator' by the Board, which provided air transportation between points named in the holder's certificate in satisfaction of an express condition to the suspension by Board order of the holder's certificate authority to engage in air transportation between those points. In no event shall such payments differ from the amount previously provided by such Board order.".

SEC. 14. Section 501(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(b)) is amended to read as follows:

"Eligibility for Registration

"(b) An aircraft shall be eligible for registration if, but only if—

"(1)(A) it is—

"(i) owned by a citizen of the United States (other than a corporation) or by an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States; or

"(ii) owned by a corporation lawfully organized and doing business under the laws of the United States or any State thereof so long as such aircraft is based and primarily used in the United States; and

"(B) it is not registered under the laws of any foreign country; or

"(2) it is an aircraft of the Federal Government, or of a State, territory, or possession of the United States or the District of Columbia or a political subdivision thereof.

For purposes of this subsection, the Secretary of Transportation shall, by regulation, define the term 'based and primarily used in the United States'.".

SEC. 15. (a) Section 601(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1421), relating to emergency locator transmitters, is amended as follows:

(1) In paragraph (1), immediately before ", minimum standards" insert the following: "and except as provided in paragraph (3) of this subsection".

(2) By adding at the end thereof the following new paragraph:

"(3) The Administrator shall issue regulations which permit, subject to such limitations and conditions as he prescribes in such regulations, the operation of any aircraft equipped with an emergency locator transmitter during any period for which such transmitter has been removed from such aircraft for inspection, repair, modification, or replacement.".

(b)(1) Section 601 of such Act is amended by relettering subsection (d), relating to aviation fuel standards, as subsection (e).

(2) Any reference to such relettered subsection (e) shall be relettered accordingly.

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 601. General safety powers and duties."

is amended by striking out

"(d) Aviation fuel standards."

and inserting in lieu thereof the following:

"(d) Emergency locator transmitters.

"(e) Aviation fuel standards.".

SEC. 16. (a) Section 102 of the Federal Aviation Act of 1958 is amended by inserting under the center heading the following subsection heading:

"General Factors for Consideration".

(b) Section 102 of such Act is amended—

(1) by striking out "In the exercise and performance of its powers and duties under this Act," and inserting in lieu thereof "(a) In the exercise and performance of its powers and duties under this Act,";

(2) by redesignating existing clauses (a) through (f) as (1) through (6), respectively; and

(3) by adding at the end thereof the following new subsection:

"Factors for All-Cargo Air Service

"(b) In addition to the declaration of policy set forth in subsection (a) of this section, the Board, in the exercise and performance of its powers and duties under this Act with respect to all-cargo air service shall consider the following, among other things, as being in the public interest:

"(1) The encouragement and development of an expedited all-cargo air service system, provided by private enterprise, responsive to (A) the present and future needs of shippers, (B) the commerce of the United States, and (C) the national defense.

"(2) The encouragement and development of an integrated transportation system relying upon competitive market forces to determine the extent, variety, quality, and price of such services.

"(3) The provision of services without unjust discriminations, undue preferences or advantages, unfair or deceptive practices, or predatory pricing.".

(c) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE I—GENERAL PROVISIONS"

is amended by striking out

"SEC. 102. Declaration of Policy: The Board."

and inserting in lieu thereof

"SEC. 102. Declaration of Policy; The Board.

"(a) General factors for consideration.

"(b) Factors for all-cargo air service.".

SEC. 17. (a) Title IV of the Federal Aviation Act of 1958 (49 U.S.C. 1371 et seq.) is amended by adding at the end thereof the following new section:

"Certificate for All-Cargo Air Service

"Application

"SEC. 418. (a)(1) Any citizen of the United States who has a valid certificate issued under section 401(d)(1) of this title and who provided scheduled all-cargo air service (other than for interruptions caused by labor disputes) from January 1, 1977, through the date of enactment of this section may, during the forty-five-day period which begins on the date of enactment of this section, submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

"(2) Any citizen of the United States who (A) operates pursuant to an exemption granted by the Board under section 416 of this title, and (B) provided scheduled all-cargo air service continuously (other than for interruptions caused by labor disputes) during the 12-month period ending on the date of enactment of this section, or whose predecessor in interest provided such service during such period, may, during the forty-five-day period which begins on the date of enactment of this section, submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

"(3) After the three hundred and sixty-fifth day which begins after the date of enactment of this section, any citizen of the United States may submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

"Issuance and Revocation of Certificate

"(b)(1)(A) Not later than sixty days after any application is submitted pursuant to paragraph (1) or (2) of subsection (a) of this section, the Board shall issue a certificate under this section authorizing the all-cargo air service covered by the application.

"(B) No later than one hundred and eighty days after any application is submitted pursuant to paragraph (3) of subsection (a) of this section, the Board shall issue a certificate under this section authorizing the whole or any part of the all-cargo air service covered by the application unless it finds that the applicant is not fit, willing, and able to provide such service and to comply with any rules and regulations promulgated by the Board.

"(2) Any certificate issued by the Board under this section may contain such reasonable conditions and limitations as the Board deems necessary, except that such terms and conditions shall not restrict the points which may be served, or the rates which may be charged, by the holder of such certificate.

"(3) Notwithstanding any other provision of this title, no certificate issued under this section shall be deemed as authorizing the holder to conduct operations between points within the State of Alaska unless, and then only to the extent which, the Board by rule or order, from time to time, may have authorized such operations, except that, this subsection shall not apply to the holder of such a certificate whose principal place of business is located within the State of Alaska or, to any air carrier who before July 1, 1977, was classified by the Board as an Alaskan air carrier under part 292 of the Board's economic regulations.

"(4) If any all-cargo air service authorized by a certificate issued under this subsection is not performed to the minimum extent prescribed by the Board, it may by order, entered after notice and opportunity for a hearing, direct that such certificate shall, thereafter, cease to be effective to the extent of such service.

"Exemptions

"(c) Any applicant who is issued a certificate under this section shall, with respect to any all-cargo air service provided in accordance with such certificate, be exempt from the requirements of section 401(a) of this Act, and any other section of this Act which the Board by rule determines appropriate, and any rule, regulation, or procedure issued pursuant to any such section.

"AIR CARRIER STATUS

"(d) Any applicant who is issued a certificate under this section shall be an air carrier for the purposes of this Act, except to the extent such carrier is exempt from any requirement of the Act pursuant to this section.".

(b) Section 101 of such Act (49 U.S.C. 1301) is amended by—

(1) renumbering paragraphs (11) through (38), and any references thereto, as paragraphs (12) through (39), respectively; and

(2) inserting immediately after paragraph (10), the following new paragraph:

"(11) 'All-cargo air service' means—

"(A) the carriage by aircraft of only (i) property as a common carrier for compensation or hire, or (ii) mail, or both, in commerce between a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same territory or possession of the United States, or the District of Columbia;

"(B) the carriage by aircraft of only (i) property as a common carrier for compensation or hire, or (ii) mail, or both, in commerce between a place in any State of the United States or the District of Columbia and any place in the Commonwealth of Puerto Rico or the Virgin Islands or between a place in the Commonwealth of Puerto Rico and a place in the Virgin Islands;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.".

(c) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATIONS"

is amended by adding at the end thereof

"SEC. 418. Certificate for all-cargo air service.

"(a) Application.

"(b) Issuance and revocation of certificate.

"(c) Exemptions.

"(d) Air carrier status.".

SEC. 18. (a) Subsection (d) of section 1002 of the Federal Aviation Act of 1958 (49 U.S.C. 1482(d)) is amended by—

(1) striking out "Whenever," and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection, whenever,";

(2) striking out "interstate" and inserting in lieu thereof "interstate air transportation of persons";

(3) striking out "effective: *Provided*, That as to rates, fares, and charges for overseas air transportation, the Board shall determine and prescribe only a just and reasonable maximum or minimum, or maximum and minimum rate, fare, or charge." and inserting in lieu thereof "effective."; and

(4) adding at the end thereof the following new paragraphs:

"(2) With respect to rates, fares, and charges for overseas air transportation, the Board shall determine and prescribe only a just and reasonable maximum or minimum, or maximum and minimum, rate, fare, or charge.

"(3) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate or charge demanded, charged, collected, or received by any air carrier for interstate air transportation of property or any classification, rule, regulation, or practice affecting such rate or charge, or the value of the service thereunder, is or will be unjustly discriminatory, or unduly preferential, or unduly prejudicial, or predatory the Board shall alter such rate, charge, classification, rule, regulation, or practice to the extent necessary to correct such discrimination, preference, prejudice, or predatory practice and make an order that the air carrier or foreign air carrier shall discontinue demanding, charging, collecting, or receiving any such discriminatory, preferential, prejudicial, or predatory rate or charge or enforcing any such discriminatory, preferential, prejudicial or predatory classification, rule, regulation, or practice.".

(b) The last sentence of subsection (g) of such section 1002 is amended to read as follows: "If the proceeding has not been concluded and an order made within the period of suspension, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect at the end of such period, except that this subsection shall not apply to any initial tariff filed by any air carrier. The Board shall not suspend any proposed tariff under this subsection because of the proposed rate, fare, or charge stated therein unless the Board is empowered to find such proposed rate, fare, or charge unjust or unreasonable and empowered to determine and prescribe the lawful rate, fare, or charge under subsection (d) of this section.".

(c) The first sentence of subsection (h) of such section 1002 is amended by striking out "air transportation" and inserting in lieu thereof "interstate air transportation of persons or overseas or foreign air transportation".

(d) Subsection (i) of such section 1002 is amended by striking out "interstate" and inserting in lieu thereof "interstate air transportation of persons".

(e)(1) Such section 1002 is amended by adding at the end thereof the following new subsection:

"Definitions

"(k)(1) For purposes of this section, the term 'interstate air transportation of property' means—

"(A) the carriage by aircraft of property as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same territory or possession of the United States, or the District of Columbia;

"(B) the carriage by aircraft of property as a common carrier for compensation or hire, in commerce between a place in any State of the United States or the District of Columbia and any place in the Commonwealth of Puerto Rico or the Virgin Islands or between a place in the Commonwealth of Puerto Rico and a place in the Virgin Islands;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

"(2) For purposes of this section, the term 'overseas air transportation' means—

"(A) the carriage by aircraft of persons as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and any place in a territory or possession of the United States; or between a place in a territory or possession of the United States, and a place in any other territory or possession of the United States;

"(B) the carriage by aircraft of property as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and any place in a territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands); or between a place in a territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands), and a place in any other territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands);

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.".

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"SEC. 1002. Complaints to and investigations by the Administrator and the Board."

is amended by adding at the end thereof

"(k) Definitions.".

SEC. 19. Notwithstanding section 16 of the Federal Airport Act (as in effect on April 26, 1950), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of subsection (b) of this section, to grant releases from any of the terms, conditions, reservations, and restrictions contained in Patent Number 1,128,955, dated April 26, 1950, by which the United States gave and granted a patent in certain property to the city of Redmond, Oregon, for airport purposes.

(b) Any release granted by the Secretary of Transportation under subsection (a) of this section shall be subject to the following conditions:

(1) The city of Redmond, Oregon, shall agree that in conveying any interest in the property which the United States granted the city by Patent Number 1,128,955, dated April 26, 1950, the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

Mr. CANNON. Mr. President, the amendment I have offered encompasses the House amendment and adds in addition, several items which have been considered and passed by the Senate earlier. The bill itself deals with the aviation war risk insurance program.

This program provides a means by which commercial air service important to the United States may be continued despite the unavailabilty of commercial insurance on reasonable terms or conditions because of war or other hostilities in foreign countries. This bill extends the DOT Secretary's authority to write such insurance for 5 years.

However, in addition to an extension of the present war risk insurance program, this bill provides expanded authority to deal adequately with situations in which insurance against risks other than "war risks" may be needed to permit continuance of needed air service. Traditional war risk insurance clauses do not include risks such as hijacking, terrorism, civil disturbances and similar problems when they occur outside the context of a war. When commercial insurance against such risks is unavailable, carriers may be forced to terminate air service needed for reasons of foreign policy. This bill gives the Secretary authority to provide insurance coverage for risks other than "war risks," thereby assuring that required air service can be continued.

This authority is carefully limited. The Secretary may issue this insurance only for periods of time, initially not to exceed 60 days, when the President determines that the insurance is needed to maintain air service required for reasons of foreign policy. The Secretary's decision will be made after consultation with either the Secretary of State or the Secretary of Defense. As in the present war risk program, the Secretary of Transportation must determine that commercial insurance is unavailable on reasonable terms and conditions and the President must give his approval before insurance may be issued. These safeguards insure that the "other risks" program will not be used except in the relatively infrequent cases of real need.

This new authority was recommended by a Presidential study (submitted March 22, 1976) required by Public Law 94-90, and is supported by the airline industry and the current administration.

Now, let me explain each provision of the amendment.

First, the amendment provides discretionary authority to airlines to offer reduced rate transportation to the elderly and the handicapped on a space-available basis. Under current law, only ministers of religion may be offered such reduced rate transportation. Providing the airlines this authority will prove to be of great benefit to both the elderly and the handicapped, many of whom do not have the funds or income to travel at the regular fares. This is a concept that has passed the Senate on two other occasions but has never been enacted into law.

Second, the amendment would permit airlines operating wholly within the State of California and the State of Florida to engage in interline transactions with interstate airlines for the better facilitation of passenger and baggage movements and would permit the adoption of joint fares and rates between intrastate airlines and CAB certificated airlines.

As my colleagues are aware, the State of California has the most advanced

system of intrastate airline transportation linking the State's cities together through two principal airlines. A similar but newer system has been developed in Florida. Under Federal law these airlines are not allowed to engage in interline facilitation as are interstate airlines without first obtaining a certificate from the Civil Aeronautics Board. This amendment will provide convenience and a variety of service options to travelers which do not now exist.

Third, the amendment will require airlines to give the public and the CAB 45 days of advance notice on tariff changes and will require that the CAB approve or disapprove such changes at least 15 days before the tariff effective date. Under present law the airlines file tariff changes 30 days in advance of effective date and sometimes the Board does not act on them until a day or two before they are to become effective. Such last-minute action often results in massive confusion of travel agents, airline ticket personnel and the traveling public as to the correct fare. This amendment will provide for a more orderly procedure with adequate advance notice when airlines seek to raise or lower their fares.

Fourth, the bill would require the CAB to refund to two local service air carriers about $500,000 in subsidy for small community airline service withheld by the Board under an interpretation of law which was later overturned by a U.S. court of appeals. The CAB had claimed that subsidy should be reduced by decreases in U.S. income taxes paid as a result of a net operating loss carryback pursuant to section 172 of the Internal Revenue Code of 1954.

Fifth, the CAB would be prohibited from seeking to collect subsidy paid to a commuter airline who was awarded subsidy on an experimental basis under terms of a subsidy program later invalidated by court action. The subsidy has already been spent by the airline in providing small community air service in the Midwestern United States and the United States has received good service for the subsidy payments which should not now be required to be repaid.

Sixth, the amendment would amend an arcane provision of law which prohibits aliens and foreign corporations from registering aircraft in the United States. The elimination of this provision could result in more favorable possibilities for sale of U.S.-manufactured aircraft both to foreign nationals residing in the United States and foreign corporations doing businesss in the United States.

Seventh, the amendment would provide authority to the FAA Administrator to exempt small aircraft operators from the requirement that they must at all times have an operative emergency locator transmitter aboard their aircraft. The amendment would permit operation of such aircraft without the ELT if it were being serviced or repaired. Under present law, such an exemption is not permissible.

Eighth, the amendment would deregulate the all-cargo air transportation mode.

The need for domestic, all-cargo deregulation is long overdue. The present regulatory scheme produces inefficient use of fuel and aircraft while creating an artificial pricing structure that does not and cannot meet existing economic realities. Passengers and all-cargo operations are inherently different, yet they have been governed by the same regulatory system since the inception of the Federal Aviation Act. Historically, as all-cargo air transportation expanded, it had to adapt itself to the regulatory environment rather than adapt to the demands of the marketplace. This antithetical approach to all-cargo transportation has led to unjustified discrimination against cargo carriers.

The need for reform in this area is fourfold; it encompasses entry, pricing, route systems, and aircraft size. On the matter of entry, there is no conceivable justification for stringent entry standards. The carriage of cargo by air is and always will be a supplemental system of freight transportation. The demand for expeditious freight handling of high value goods is, by definition, limited. Certainly the marketplace is the proper environment to determine the entry standards. Safety will not be jeopardized by deregulation. The FAA stringently exercises its regulatory function over the cargo carriers and the existing FAR's for safety would not be compromised.

The same argument carries over into the area of pricing freedom. The only standards that are necessary for rate regulation are the restraints that in setting rates, discrimination, preferences and predatory pricing be watchdogged. The market forces can adequately determine the cost of all-cargo air transportation. Unlike passenger fare regulation, when the cost of shipping goods by air is too steep, the consumer can turn to the various modes of surface freight transportation. This automatic method of policing in the rate area is the primary benefit of market generated regulation, and cannot result from artificially imposed pricing restrictions.

In line with keeping the marketplace the principal regulator, the lifting of route restrictions to provide unlimited geographical freedom is an indispensible requirement of successful, cost responsive air cargo service. To achieve the maximum potential from aircraft as well as fuel, the removal of point restriction is a necessity. Clearly, the rationale for route restrictions imposed on certificated passenger airlines to cope with the saturated markets or under serviced markets does not exist in the cargo business. Their continuation in the all-cargo area is, therefore, certainly unwarranted.

Aircraft size restrictions are also outdated as they create greater inefficiency than they are designed to do away with. It is elementary business logic to realize that it costs more to operate five smaller aircraft to fly the same route than it does to operate one larger aircraft over that distance.

Because of the existing regulations, some all-cargo air carriers have been forced into the international marketplace to achieve a reasonable rate of return. This trend away from development of the domestic market is a sad commentary on the effectiveness of our regulatory structure. It has resulted in artificially high prices that consumers are forced to pay for the carriage of cargo by air and has unjustifiably limited the growth and development. The amendment will permit U.S. all-cargo carriers such as Flying Tiger line, Federal Express, Seaboard World, Airlift International, and other smaller air taxi firms to obtain, within 45 days, certificates to operate all-cargo services to any point within the United States. This should immediately improve the opportunity for many smaller cities for the first time to obtain all-cargo airline services.

Finally, the bill would allow the city of Redmond, Oreg., to dispose of surplus airport property not needed for airport purposes, as provided by in S. 2100 which passed the Senate several weeks ago.

Mr. President, these amendments have been considered and passed by the Senate in one form or another over the past several years but have never been considered before as a package. I have received assurances from the House leadership that these proposals, many of which originated in the House, are acceptable and that if passed by the Senate, will be accepted by the House without the need to go to conference. For this reason, and because each is a worthy measure, I urge the Senate to adopt my amendment and pass this bill so that these matters may be enacted into law in 1977.

Mr. PACKWOOD. Mr. President, an issue has arisen which I feel all Senators should be aware of. The Federal Aviation Administration has proposed regulations which would have the effect of eliminating almost all existing air ambulance service in this country. The regulations are so restrictive that it is estimated that 475 of the 500 air ambulance operators now at work would be unable to comply and would necessarily be forced to shut down.

For example, off-airways night flying would be prohibited. This means that nighttime rescue services, which comprise about half the total emergencies involved here, would have to be stopped. Obviously, it is an absurdity to expect a seriously injured person to wait until morning before being transported to the medical care he or she desperately needs.

The expressed intent of this proposed regulation is to provide more safety precautions for the air ambulance industry. What the effect would be, however, is far different; the lives of numerous accident victims would be threatened.

Mr. CANNON. Mr. President, I would like to thank the Senator from Oregon for bringing up this important matter. I, too, have been contacted about the problems this rulemaking would cause. Air ambulance service is something most of us will never need because we have access to quality medical care. However, for those Americans who reside in distant rural areas, or who should for some other reason meet with an accident in a remote region, this type of service can be the difference between life and death. My home State of Nevada is very large and sparsely populated. It is not possible to provide every locality with

skilled, readily available medical facilities. In the event of an emergency I would want these services to be available, and the technical restrictions which the FAA is proposing would surely mean the elimination of access to such services for many rural residents, not only in Nevada, but all other States as well. The air ambulance problem is not the only questionable section of this proposed rule.

The NPRM also contains a provision which would effectively ban the use of today's primary commuter aircraft after 1984. Over 300 Beech 99's, de Havilland Twin Otters, and Swearingen Metro's, among others, would be banned as commuter aircraft because they would not meet the 1984 takeoff performance requirements. However, the FAA provides no documentation in its NPRM which would appear to justify such a drastic action. In fact, the General Aviation Manufacturers Association in the United States claims that those aircraft have as good a mechanical performance record as the larger jet aircraft, which of course hold an enviable safety record.

The NPRM has already put a stop to commuter aircraft sales because no one wants an airplane they have to throw away in 1984.

I am additionally concerned because at the same time the FAA has been issuing these proposed commuter safety regulations of at least partially questionable value, the agency has yet to act on a petition filed last March by commuter aircraft operators to amend SFAR–23 (A), in order to raise the weight limit on commuter aircraft solely for the addition of safety items—extra fuel reserves, greater system redundancy, and additional avionics.

Mr. STEVENS. I would also like to comment on this crucial issue which has been raised by the Senator from Oregon. As Senator CANNON pointed out, all States would be adversely affected by this rulemaking, but perhaps my home State of Alaska would suffer the most. There are thousands of square miles in Alaska which are sparsely populated, and which have no high-quality medical facilities. Also, travel is often difficult by any means other than air. It is vital that the residents of my State not be denied what is oftentimes their only lifeline in case of emergency. If safety is, indeed, the basis for the issuance of these new regulations, we should stop to consider whether more lives will be saved or lost as a result of their promulgation. The air ambulance industry has an excellent record of effective and safe service. Few, if any, lives have been lost in the past 30 years due to negligence or technical shortcomings which might be remedied by these regulations.

What surely would happen, however, would be the loss of many lives throughout the Nation due to the fact that quick, reliable transport service was not available. We must realize that risk is an inherent part of the air ambulance business. And when lives are at stake, it is often reasonable to take certain risks. I am sure that anyone who is gravely injured and who is facing certain death would not mind taking a chance in order to save his or her life. And I think it is commendable that there are people willing to share those risks by offering transport to the seriously injured. We should help them by not allowing the FAA to issue rules which will put them out of business.

Mr. PACKWOOD. I thank my colleagues for their very thoughtful comments on this problem which faces all of us. What I would like to suggest is that we contact Mr. Langhorne Bond, Administrator of the Federal Aviation Administration, and ask that we be provided with a point-by-point justification of these proposed regulations. It would also be useful to know what the FAA's timetable currently is for the issuance of these regulations.

As my colleagues have pointed out so clearly, the hazards and disadvantages of this proposal far outweigh any possible benefits, and it seems only proper that an explanation of this action be provided.

Mr. STEVENS. I want to ask the distinguished chairman of our subcommittee a couple of questions to make certain that we understand certain provisions of the amendment. It was discussed at length in the Commerce Committee this morning.

Is our understanding correct that all-cargo operations of regularly scheduled carriers would also be deregulated so long as such carriers hold a certificate from the CAB authorizing the all-cargo operations?

I am told, for instance, that American Airlines has three 747 freight aircraft in all-cargo service. The cargo operations would be deregulated and they are permitted to obtain all-cargo authority anywhere in the United States under the new law. Is that correct?

Mr. CANNON. Yes; if they presently operate all-cargo services, they would be in the same situation as the all-cargo carriers.

Mr. STEVENS. I thank the Senator from Nevada.

In addition to that, would the Senator be willing to make the record clear that cargo rates will be required to be filed with the CAB, but the CAB could not suspend rates? The rates would only be determined unlawful if the CAB finds such rates to be unjustly discriminatory or predatory, or that the rates amounted to undue preference or unfair deceptive practice under existing regulations?

Mr. CANNON. The Senator is correct. The Board would not have responsibility to determine the reasonableness of the rates and could, therefore, only find rates unlawful in the circumstances which the Senator mentioned. If a predatory rate was filed solely for the purpose of trying to drive someone out of the market, the Board could step in and declare the rate unlawful.

Mr. STEVENS. I thank the Senator.

With regard to the colloquy we have had with the Senator from Oregon, my State depends so heavily on air transportation, helicopters, air taxis, scheduled airlines, all forms of air transportation for mercy missions, that I am quite hopeful that we will take up the problem of the FAA regulations as soon as possible.

Mr. President, I commend the chairman of the subcommittee for taking this action.

I had intended to take up two other amendments, one dealing with what I still consider to be a discriminatory age provision under the guise of a safety regulation of the FAA, and also a question concerning the labor practices as applied in a recent Teamster decision. But in view of the problems of obtaining unanimous consent, it was impossible to take them up at this time. I will try to pursue them at a later date.

I do appreciate the Senator from Nevada's support of the proposal to try to do away with the age 60 arbitrary retirement provision of the existing safety regulations.

Mr. CANNON. If my colleague will yield, I am completely in sympathy with him on the pilot retirement issue. At the time Mr. Bond came before the committee for a confirmation hearing, I received from him assurance he would check into that problem if he were confirmed as Administrator.

He did thereafter check into it and came back with the decision that the age limit should be maintained.

I disagree with him. I agree with the Senator from Alaska. I think if a pilot is otherwise qualified, physically qualified at 60 to continue to fly as a pilot of commercial aircraft carrying passengers, that he ought to be able to do so as long as he can prove his physical fitness.

I would support the move of the Senator from Alaska to say that age alone cannot be used for a disqualifying factor at age 60, or some other age.

Mr. STEVENS. I thank the Senator.

As he knows, we heard the objection that it might prevent younger pilots from moving into the left seat and becoming first pilots.

I think that the arbitrary decision that a person becomes unqualified to be a pilot on the moment of his becoming 60 years of age is ludicrous.

I do believe, since almost all of these pilots are organized, they have the ability to take any stands as far as seniority and opportunity for new members is concerned. It seems to me that this would have been the proper time to tackle that problem. But, under the circumstances, I will offer it again in the next session when we have a better opportunity to not need a unanimous-consent agreement.

Again, Mr. President, the matter was discussed, as the distinguished occupant of the chair at this time knows, in our Commerce Committee. It has been fully explored. There are no objections on this side to any provisions that would be concerned by the Senator from Nevada's amendment to the amendment.

Mr. CANNON. Mr. President, if my colleague will yield further, I may say that in the colloquy we have had, in which I completely agree, it does not make sense for the Administrator to issue a proposed rule that would outlaw the Beech 99's, the de Havillands, and the Swearingen Metro after 1984 because of the 1984 takeoff performance requirement that would make these very fine commuter aircraft unusable.

I share his concern because those aircraft are used very extensively in his State. I assure him we will get a meeting with the Administrator to try to resolve this matter.

Mr. STEVENS. I thank the Senator from Nevada.

Mr. CRANSTON. Did the committee intend by this amendment to change in any way the labor law status of employees of any trucking company which may obtain a certificate as a all-cargo air carrier?

The Senate Commerce Committee did not intend to make any change in any existing employee-employer relationship in the trucking industry when it acted to deregulate all-cargo air services.

We know of no interest of any trucking company to seek an all-cargo airline certificate. If, in the future, a trucking company seeks all-cargo airline authority and receives it, then employees of that company would come under provisions of the Railway Labor Act. If that occurs, and if the Railway Labor Act is not sufficient to deal with trucking employees, I would urge the Senate Labor Committee to look into the question to see if amendments to that labor statute are needed.

The committee will have more than a year to look into this problem inasmuch as trucking companies would not be eligible to apply for such certificates until about January 1978.

Mr. CANNON. Mr. President, there is one feature of the part of this bill relating to aircraft registration that differs slightly from the bill on this subject that was passed by the Senate earlier this year. The proposed modification would allow the Secretary of Transportation to issue rules which would help define when and in what circumstances an aircraft can be considered to be primarily operated in the United States. While this new provision has been included to allow the Department to take care of any problems in this area that might arise, it is not the intent of the authors of the bill to require that DOT issue any rules under this provision prior to registering aircraft under the new procedures.

In other words, the DOT can register qualifying aircraft immediately upon enactment of this bill without regard to whether they have yet issued any rules under this new provision. Applicants can submit evidence on this point and perhaps after gaining experience under this new amendment, the Department will be in a better position to consider whether any rules are necessary under this part of the amendment. The new addition to H.R. 735 as it passed the Senate is not meant to delay the registration of aircraft after enactment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada to concur in the amendment of the House, to the amendment of the Senate to the said bill with an amendment.

The motion was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on the motion to table the motion to reconsider the vote by which the motion to concur in the House amendment to the Senate amendment with an amendment was agreed to.

The motion to lay on the table was agreed to.

THE BOWHEAD WHALE

Mr. STEVENS. Mr. President, I am saddened to announce that the Department of State has issued a statement on bowhead whales. I brought this matter before the Senate on several occasions to point out the plight of the Alaska Eskimo and the need for the Alaska Eskimo to continue their traditional pattern of subsistence hunting for bowhead whales.

In this release, the Department of State announced that it will not protest the zero quota determination made by the International Whaling Commission. This is indeed unfortunate.

The distinguished chairman of the Senate Commerce Committee, my good friend from Washington, Senator MAGNUSON, and the vice chairman of the National Ocean Policy Study, also my good friend, the Senator from South Carolina (Mr. HOLLINGS), and I had asked for the privilege of meeting with the President to discuss with him the implication such as this, which we understood might be taken by the Department of State. The Department of State made and announced its decision, before the White House could arrange an appointment for the three of us to discuss the matter with the President of the United States.

We have since received an apology from the scheduling people in the White House. I certainly can understand how scheduling problems can occur, with so many matters pending before the President at this time. However, in my history of Government service, I have never seen an action which disregards the human rights of a significant segment of Americans as much as this State Department position does.

In an attempt to pursue the stated policy of the United States of trying to terminate the taking of whales for commercial purposes, the Department of State has yielded to foreign pressure to curtail the taking of whales for subsistence purposes—for the purposes of food for Native Alaskan Eskimos who live in the very extreme northern, Arctic portions of my State, which has to be the most remote, isolated portion of the United States. These people follow a way of life that is traditional, that is absolutely essential to their culture, and that has not been shown to be detrimental to the bowhead whales.

We have had a great deal of problems in trying to convince the environmental community of the facts of this matter. The Eskimos realize that they are the first people who would be harmed if the bowhead whales became extinct. They, of all people, are interested in securing a program to continue and not in any way jeopardize the existence of the bowhead whale.

This is a matter that is very close to me. As a matter of fact, my wife, on four occasions, has gone to the Eskimo portion of our State and has participated in the activities of the whaling camps. One of the most interesting aspects of Alaskan society can be viewed in the spring or fall by those present at the time when the Eskimo people move out to the edge of the ice and set up their camps to watch for the bowhead whales.

One of the difficulties we have experienced results from the fact that at the time the International Whaling Commission was established, there was no discussion of subsistence hunting of whales in the legislative history of the treaty ratification.

That was because there was never an intent to apply the Whaling Treaty to aboriginal, subsistence hunting.

The United States has spearheaded the move to stop the commercial taking of whales, to stop taking whales to make perfume and other things that we could produce without destroying these magnificent mammals for commercial purposes. However, to take them for subsistances is an entirely different matter.

While I accept the apology of the people who were attempting to schedule the meeting with the President of the United States, I do not absolve the President of the United States from the decision that has been made by his administration, which I think is the worst in the history of human rights in this country. The Alaskan Eskimo are the only people in this country who have a wild animal such as this which is absolutely necessary to their continued survival.

We have not extended our culture out to these whaling villages. They do not have meat markets there. They have no substitute for the food values and nutritional elements they take from the whale.

Until the administration finds a way to reverse this decision, I think it has to bear the burden of having started probably one of the most difficult periods in the history of Eskimo-non-Eskimo relationships, not only in my State but in the country as well. The ramifications of this decision may well extend into other areas of the Arctic community.

It is a very unfortunate decision and one, as I said, that I am deeply saddened to read.

Mr. President, I ask unanimous consent that the statement of the Department of State released at 4 p.m. today, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT ON BOWHEAD WHALES

In order both to protect Eskimo subsistence hunting and to maintain and improve international cooperation to protect whales, the U.S. has decided not to present an objection at this time to a recent International Whaling Commission (IWC) action regarding bowhead whales.

In June, 1977, the IWC removed the existing exemption for aboriginal hunting of bowhead whales until further action and continued the classification of the bowhead as a "protection stock", thereby imposing a

one-year zero quota on taking of bowhead whales. For Native Alaskan Eskimos, termination of whaling would cause a sudden disruption of their way of life. Therefore, in response to the IWC action, the U.S. government is developing a program to obtain IWC approval of Eskimo subsistence hunting based upon the establishment of a scientific research program and conservation regime.

The Administration will take the following steps to implement this program:

1. Seek the cooperation of the Eskimo community in instituting an expanded program of scientific research on bowhead whale stocks.

2. Seek the cooperation of the Eskimo community in establishing a bowhead whale conservation regime which will adequately limit the number of whales killed and eliminate or minimize the number of whales hit but not recovered (and thus possibly killed).

3. Undertake informal consultations with members of the IWC and its Scientific Committee to seek their support for a subsistence hunt for Eskimos based on this scientific research and conservation program.

4. Ask the Scientific Committee of the IWC at its next meeting in November to consider the proposed U.S. research and conservation program.

5. Actively seek IWC approval of an Eskimo subsistence hunt at the special meeting in December where the IWC will be reconsidering the bowhead whale issue.

6. Evaluate the results of the December meeting and take appropriate action based upon the alternatives available.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the leadership had hoped to be able to proceed tomorrow to the OPIC bill, but Mr. JAVITS, for good reasons of his own, and understandably, wished not to proceed with that bill tomorrow. So the leadership has nothing proposed for tomorrow. Therefore, it would be my purpose to go over from today until Tuesday next, hoping that committees may utilize tomorrow for work and that conferees may also get some work done on the matters in conference.

Mr. President, on Tuesday the Senate will start its work on the energy tax bill. I hope that the Senate will be able to complete its work on that measure next week. If it is able to do that, I should think that there will be a good prospect for the Senate to complete its floor work on remaining measures that have to be taken up—and there are a few. I suppose the supplemental appropriations bill will be coming along, and there are a few others. But I hope that the Senate will be able to complete its floor work by or before Saturday, November 5. If it is able to do that, it would be my intention, then, to go into 3-day recesses awaiting the completion of the work in conference on the various matters there. It will be possible, then, to come in every third day and take up whatever conference reports are ready to be acted upon and, hopefully, the conferees will be able, in that kind of situation, to concentrate on their work and not be interrupted by quorum calls and rollcalls here in the Senate and thus expedite their labors. I talked with the Speaker of the House yesterday and made that proposal. He seemed to think well of it. So if both the House and the Senate can do this, then the conferees from both Houses will be able to apply their full energies and full time to the energy measures that are in conference, and other conferees could be able to do likewise in connection with other measures that are in conference.

I have discussed this with the distinguished minority leader who will want to make some comments thereon.

This would mean, Mr. President, that next week and the following week the Senate would likely have some lengthy sessions in order to meet that kind of proposed deadline for our Senate floor work. That would mean we might have some late sessions and there would certainly be rollcall votes daily. It will require a lot of hard work on the part of all of us, but I believe we can meet that.

Mr. BAKER. Mr. President, I am especially glad to hear the majority leader's appraisal of the situation for next week and the week following. He and I have had the opportunity to discuss this matter previously, and I thank him for that opportunity.

I might say parenthetically that it has not always been the case that the minority leader has been as fully informed of the scheduling intent of the majority as he has this session. I wish to personally thank the majority leader for that consideration.

I hope that we have been able to reciprocate in kind by trying to expedite the business of the Senate where that is possible.

But I think this is a good arrangement. I think, even, that there is some chance we might improve a little on the November 5 date. I particularly noted the majority leader suggested that on or before November 5 we might finish our floor work and begin the system of 3-day recesses awaiting the fulfillment of the responsibility of the conference committee.

I would reinforce that hope that we might improve on that situation a little.

Mr. President, I can only say that while we missed our October 7 ambition, still and all the Senate has done very well. I think, even to get to this point, considering the difficult problems we have had to address.

I think the majority leader is entitled to a vote of thanks for his diligence in managing the scheduling and affairs of the Senate in a way that has permitted us to reach this point.

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader is most gracious and kind in his remarks. I, of course, reciprocate by thanking him for the extra cooperation I have received throughout the session from him in the efforts to schedule our work and to complete the work of the Senate and do it well and get it done on time.

Mr. BAKER. Mr. President, if the majority leader will let me interrupt for just a moment, I meant to say and did not say for the benefit of those who may read these remarks in the RECORD, that I have asked for a whip check on our side of any amendments intended to be offered to the energy tax bill, when it is reported to the Senate. If the leadership on this side can be apprised as soon as possible of the intention of any Senator on this side to offer amendments, and the nature of those amendments, it would help us expedite matters and consideration of this bill.

Mr. ROBERT C. BYRD. Mr. President, the minority leader's efforts in that regard are much appreciated and they will be very helpful, I think, in helping the Senate arrive at its conclusion on that energy tax bill.

I think I should at this time state for the benefit of Senators that the Senate will convene in January on Tuesday, the 17th.

Mr. President, tomorrow the Senate will meet in a pro forma session at 11 a.m. There will be no business transacted, no speeches made, and upon the completion of that pro forma session, which is expected to last 30 seconds, or thereabouts, the Senate will stand in recess until Tuesday morning at 8:30 a.m.

There are two orders for the recognition of Senators PERCY and BAKER, not to exceed 15 minutes each. After that the Senate will take up H.R. 9090 under a time agreement which is limited to 1 hour, and I would assume that a rollcall vote may occur on that measure.

Upon the disposition of that measure, the Senate will proceed to the consideration of the energy tax bill which will be the unfinished business, and the Senate will stay in early and late until it completes action on that bill next week.

I would think that Senators would be well advised to be prepared for rollcall votes daily beginning early and extending late.

Mr. BAKER. Mr. President, will the majority leader yield to me for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. I listened with interest to the description of next week's activities, and I wonder if the majority leader has an estimate of whether or not there might be a Saturday session next week.

Mr. ROBERT C. BYRD. I think it would depend upon whether or not the Senate completes the energy tax package before Saturday, and I think it is a good question. I am glad the distinguished minority leader asked it. But if the Senate were not to finish the bill on Friday, I think a Saturday session would be likely, and it might even be necessary, anyhow, if we hope to complete our work by November 5, but hopefully we can finish the tax measure before the close of business on Friday.

Mr. BAKER. Mr. President, I thank the majority leader.

Mr. ROBERT C. BYRD. I thank the minority leader.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 11 a.m. tomorrow morning.

The motion was agreed to; and at 4:53 p.m., the Senate adjourned until Friday, October 21, 1977, at 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 20, 1977:

CORPORATION FOR PUBLIC BROADCASTING

Sharon P. Rockefeller, of West Virginia, to be a member of the board of directors of the Corporation for Public Broadcasting for a term expiring March 26, 1982.

DEPARTMENT OF STATE

David D. Newsom, of California, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Philippines.

O. Rudolph Aggrey, of the District of Columbia, a Foreign Service information officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania.

Theodore M. Hesburgh, of Indiana, for the rank of Ambassador during the tenure of his service as chairman of the United States Delegation to the United Nations Conference on Science and Technology for Development.

John E. Downs, of Missouri, for the rank of Minister during the tenure of his service as the Representative of the United States of America on the Council of the International Civil Aviation Organization.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Barry M. Blechman, of Virginia, to be an Assistant Director fo the U.S. Arms Control and Disarmament Agency.

DEPARTMENT OF JUSTICE

Ronald L. Rencher, of Utah, to be U.S. attorney for the district of Utah for the term of 4 years.

Robert J. Del Tufo, of New Jersey, to be U.S. attorney for the district of New Jersey for the term of 4 years.

Robert T. O'Leary, of Montana, to be U.S. attorney for the district of Montana for the term of 4 years.

James S. Brady, of Michigan, to be U.S. attorney for the western district of Michigan for the term of 4 years.

Edward D. Schaeffer, of Pennsylvania, to be U.S. marshal for the eastern district of Pennsylvania for the term of 4 years.

Richard D. Dutremble, of Maine, to be U.S. marshal for the district of Maine for the term of 4 years.

Rufus A. Lewis, of Alabama, to be U.S. marshal for the middle district of Alabama for the term of 4 years.

CORPORATION FOR PUBLIC BROADCASTING

Gillian Martin Sorensen, of New York, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1982.

DEPARTMENT OF ENERGY

Dale D. Myers, of California, to be Under Secretary of Energy.

John F. O'Leary, of New Mexico, to be Deputy Secretary of Energy.

Alvin L. Alm, of the District of Columbia, to be an Assistant Secretary of Energy (Policy and Evaluation).

Harry E. Bergold, Jr., of Florida, to be an Assistant Secretary of Energy (International Affairs).

David J. Bardin, of New Jersey, to be Administrator of the Economic Regulatory Administration.

The following-named persons to be members of the Federal Energy Regulatory Commission for the terms indicated:

Charles B. Curtis, of Maryland, for a term of 2 years.

George R. Hall, of Virginia, for a term of 3 years.

Georgiana H. Sheldon, of Virginia, for a term of 3 years.

Phillip Samuel Hughes, of Maryland, to be an Assistant Secretary of Energy (Intergovernmental and Institutional Relations).

Matthew Holden, Jr., of Wisconsin, to be a member of the Federal Energy Regulatory Commission for a term of 4 years.

Don Sanders Smith, of Arkansas, to be a member of the Federal Energy Regulatory Commission for a term of 2 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Eugene H. Nickerson, of New York, to be U.S. district judge for the eastern district of New York.

Damon J. Keith, of Michigan, to be U.S. circuit judge for the Sixth Circuit.

DEPARTMENT OF STATE

Diplomatic and Foreign Service nominations beginning John H. C. Gervers, to be a Foreign Service officer of class 4, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America, and ending Jay S. Stricklin, to be a Consular Officer of the United States of America, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 30, 1977.

HOUSE OF REPRESENTATIVES—*Thursday, October 20, 1977*

The House met at 10 o'clock a.m.

Father Frank J. Sanfelippo, national chaplain of Catholic War Veterans, Milwaukee, Wis., offered the following prayer:

O Heavenly Father, as we assemble today in this arena of articulation and achievement, we lift our hearts to You!

As Divine Auditor You calculate well our every endeavor as architects of a better America.

Spare us from becoming intoxicated with the excessive exuberance of our own inexhaustible verbosity!

Help us, O Lord, to see ourselves as others see us, thus avoiding self-deception and hypocrisy.

Teach us that to lead means to serve! Instill in us those sound principles and staunch standards which will guide our responsible and productive actions.

May our earnest efforts and dedication bring about a new lift to the face of our Nation, and a new dignity to our people.

This we pray in the name of our Lord! Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 2817. An act to provide for certain additions to the Tinicum National Environmental Center.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7797) entitled "An act making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes," and that the Senate recedes from its amendment No. 47 to the foregoing bill.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested bills of the House of the following titles:

H.R. 3387. An act to continue until the close of June 30, 1979, the existing suspension of duty on synthetic rutile;

H.R. 5383. An act to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such act, and for other purposes; and

H.R. 8422. An act to amend titles XVIII and XIX of the Social Security Act to provide payment for rural health clinic services, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3387) entitled "An act to continue until the close of June 30, 1979, the existing suspension of duty on synthetic rutile," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. MOYNIHAN, Mr. HATHAWAY, Mr. DOLE, and Mr. DANFORTH to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5383) entitled "An act to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such Act, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. NELSON, Mr. RIEGLE, Mr. KENNEDY, Mr. JAVITS, Mr. SCHWEIKER, Mr. STAFFORD, and Mr. CHAFEE to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 8422) entitled "An act to amend titles XVIII and XIX of the Social Security Act to provide payment for rural health clinic services, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. HATHAWAY, Mr. DOLE, and Mr. PACKWOOD to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 56. Concurrent resolution expressing the concurrence of the Senate and the House of Representatives with respect to Presidential action affecting the limitation of strategic armaments.

THE REVEREND FRANK J. SANFELIPPO

(Mr. ZABLOCKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZABLOCKI. Mr. Speaker, the Reverend Frank J. Sanfelippo who led us in prayer today was born in Milwaukee, Wis. Congressman REUSS and I are privileged and honored to have him as a distinguished citizen in our community.

Father Sanfelippo has served as pastor of old St. Mary's Catholic Church in downtown Milwaukee—city hall parish—for almost 12 years. He is presently the most esteemed national chaplain of the Catholic War Veterans and will be participating in the Veterans' Day ceremonies at Arlington National Cemetery next week.

Father Sanfelippo's background in community service began when he was a young seminarian. At St. Francis Seminary in Milwaukee he became interested in the migrant cause in Wisconsin and he has selflessly served the Spanish speaking community ever since.

Mr. Speaker, in addition to serving as pastor of the oldest active Catholic parish in the city, and leading the Catholic War Veterans, Father Sanfelippo is the chaplain to the Port of Milwaukee. In this capacity he founded the International Seamen's Center of Milwaukee which offers warmth and hospitality to merchant sailors from many countries. He is affectionately called on a first-name basis as "Father Frank" by these sailors.

In serving his fellow veterans and his community, Father Sanfelippo has demonstrated time and time again his conviction to the Judeo-Christian values and the good works he espouses as truly a servant of God and his country.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT TODAY DURING 5-MINUTE RULE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may be permitted to sit today during the 5-minute rule.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from New York?

There was no objection.

APPOINTMENT OF CONFERENCES ON H.R. 6666, LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1977

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6666) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference requested by the Senate.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Legal Services Corporation Act Amendments of 1977".

FINANCING

SEC. 2. Section 1010(a) of the Legal Services Corporation Act (42 U.S.C. 2996i(a)) is amended by striking out "and" in the first sentence thereof and inserting before the period at the end of such sentence a comma and "$205,000,000 for the fiscal year 1978, and such sums as may be necessary for each of the two succeeding fiscal years".

MEMBERSHIP OF GOVERNING BODIES

SEC. 3. (a) Section 1004(a) of the Legal Services Corporation Act (42 U.S.C. 2996c(a)) is amended by inserting at the end thereof the following new sentence: "At least three persons appointed to fill vacancies occurring after January 1, 1977, and before July 30, 1978, shall be, when selected for appointment, eligible clients who may be representatives of associations or organizations of eligible clients and at least one such person shall be appointed to fill a vacancy occurring prior to January 1, 1978. Following July 30, 1978, at least three members of the Board shall be eligible clients. The membership of the Board shall be appointed so as to be generally representative of the organized bar, significant segments of the client community, attorneys providing legal assistance to eligible clients, and the general public.".

(b) Section 1007(c) of the Legal Services Corporation Act (42 U.S.C. 2996f(c)) is amended by striking out "and which includes at least one individual eligible to receive legal assistance under this title." and inserting in lieu thereof "and at least one-third of which consists of persons who are, when selected, eligible clients who may be representatives of associations or organizations of eligible clients.".

SUNSHINE PROVISION

SEC. 4. Section 1004(g) of the Legal Services Corporation (42 U.S.C. 2996c(g)) is amended by striking out all that follows "open" and inserting in lieu thereof "and shall be subject to the requirements and provisions of section 552B of title 5, United States Code (relating to open meeting).".

SUPPORT ASSISTANCE

SEC. 5. (a) Paragraph (3) of section 1006(a) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(3)) is amended by striking out "and not" and inserting in lieu thereof a comma and "or".

(b) Section 1006(a)(3)(A) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(3)(A)) is amended by inserting at the end thereof the following: "except that broad general legal or policy research unrelated to representation of eligible clients may not be undertaken by grant or contract,".

POWERS, DUTIES, AND LIMITATIONS OF THE CORPORATION AND RECIPIENTS

SEC. 6. (a) Section 1006(b)(1) of the Legal Services Corporation Act (42 U.S.C. 2996e(b)(1)) is amended by inserting "(A)" after "SEC. 1006. (b)(1)" and by adding at the end thereof the following new subparagraph:

"(B) No question of whether representation is authorized under this title, or the rules, regulations, or guidelines promulgated pursuant to this title, shall be considered in any proceeding in which a person is represented by a recipient or an employee of a recipient; such questions shall be referred to the Corporation for review and disposition. This subparagraph shall not preclude judicial review of a decision of the Corporation under this subparagraph.".

(b) Section 1006(c)(1) of the Legal Services Corporation Act (42 U.S.C. 2996e(c)(1)) is amended by inserting after "litigation" the following: "unless the Corporation or a recipient of the Corporation is a party, or a recipient is representing an eligible client in such litigation, and shall not participate on behalf of any client other than itself; or".

(c) Section 1006(d) of the Legal Services Corporation Act (41 U.S.C. 2996e(d)) is amended by adding at the end thereof the following new paragraph:

"(6) Attorneys employed by a recipient shall be appointed to provide legal assistance without reasonable compensation only when such appointment is made pursuant to a statute, rule, or practice applied generally to attorneys practicing in the court where the appointment is made.".

ACTIVITIES OF STAFF ATTORNEYS

SEC. 7. (a) Paragraph (2) of section 1006(e) of the Legal Services Corporation Act (42 U.S.C. 2996e(e)(2)) is amended by inserting "and staff attorneys" immediately after "Corporation".

(b) Section 1007(a)(6) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(6)) is amended by striking out the matter following clause (C).

ASSISTANCE CRITERIA

SEC. 8. (a) Paragraph (2)(B)(iv) of section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(B)(iv)) is amended to read as follows:

"(iv) such other factors as relate to financial inability to afford legal assistance, which shall include evidence of a prior determination that such individual's lack of income results from refusal or unwillingness, without good cause, to seek or accept an appropriate employment situation; and".

(b)(1) Paragraph (2)(C) of section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(C) is amended to read as follows:

"(C) insure that (i) recipients, consistent with goals established by the Corporation, adopt procedures for determining and implementing priorities for the provision of such assistance, taking into account the relative needs of eligible clients for such assistance (including such outreach, training, and support services as may be necessary), including particularly the needs for service on the part of significant segments of the population of eligible clients with special difficulties of access to legal services or special legal problems (including elderly persons, handicapped individuals, veterans, native Americans, migrants or seasonal farmworkers, and persons with limited English-speaking abilities); and (ii) appropriate training and support services are provided in order to provide such assistance to such significant segments of the population of eligible clients;".

(2) Section 1008(c) of the Legal Services Corporation Act (42 U.S.C. 2996g(c)) is amended by adding at the end thereof the following new sentence: "Such report shall include a description of services provided pursuant to section 1007(a)(2)(C) (i) and (ii).".

(c) Paragraph (5)(A) of section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(5)(A)) is amended to read as follows:

"(A) representation by an attorney (or a recipient employee supervised by such an attorney) for any eligible client is necessary to the provision of legal advice and repre-

sentation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible); or".

(d) Paragraph (8) of section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(8)) is amended by striking out all after "title" and inserting in lieu thereof the following: "and, to the extent such preference is consistent with the laws of the United States respecting discrimination in employment, give preference in filling such positions to qualified persons who reside in the community to be served, except such preference shall not be required if the recipient certifies to the corporation that the position to be filled requires expertise in a particular field of law or proficiency in a language other than English, that the person proposed to fill the position meets such requirements, and that no qualified person can be found in the community who meets such requirements and will accept employment with the project;".

(e) Section 1007(f) of the Legal Services Corporation Act (42 U.S.C. 2996f(f)) is amended by striking all after "Governor" and inserting in lieu thereof: ", the State bar association of any State, and the principal local bar associations (if there be any) of any community, where legal assistance will thereby be initiated, of such grant, contract, or project. Notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.".

LIMITATION ON USE OF FUNDS

SEC. 9. (a) Section 1007(b)(1) of the Legal Services Corporation Act (42 U.S.C. 2996f(b)(1)) is amended to read as follows:

"(1) to provide (A) legal assistance (except in accordance with guidelines promulgated by the Corporation) with respect to any fee-generating case (which guidelines shall not preclude the provision of legal assistance in cases in which a client seeks only statutory benefits and appropriate private representation is not available) or in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act and the action is brought against an officer of the court or against a law enforcement official for the purpose of challenging the validity of the criminal conviction, or (B) legal assistance in any criminal proceeding, except to provide assistance to a person charged with an offense involving hunting, fishing, trapping, or gathering fruits of the land, when the principal defense asserted involves rights arising from a treaty with native Americans, or from a statute or Executive order establishing such rights, or to a person charged with a misdemeanor (or its equivalent) or lesser offense in an Indian tribal court;".

(b) Section 1007(b) of the Legal Services Corporation Act (42 U.S.C. 2996f(b)) is amended by repealing paragraph (42) and paragraph (7).

(c) Section 1007(b)(9) of the Legal Services Corporation Act (42 U.S.C. 2996f(b)(9)) is amended by adding before the period at the end thereof a comma and "except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that status as a conscientious objector was wrongfully denied prior to July 1, 1973, under the Military Selective Service Act or prior corresponding law".

(d) Section 1007(b) of the Legal Services Corporation Act (42 U.S.C. 2996f(b)) is amended by redesignating paragraph (5) as paragraph (4), paragraph (6) as paragraph (5), paragraph (8) as paragraph (6), and paragraph (9) (as amended by subsection (c) of this section) as paragraph (7).

MODEL PROJECTS

SEC. 10. The Legal Services Corporation Act (42 U.S.C. 2996f(g)) is amended by adding after section 1007(g) the following new subsection:

"(h) The Corporation may make grants or contracts for the purpose of paying all or part of the cost of developing or operating (or both) national, statewide, regional, county, city, or community model projects which will expand or improve the delivery of legal services to significant segments of the population of eligible clients with special difficulties of access to legal services or special legal problems, including elderly persons, handicapped individuals, veterans, native Americans, migrants or seasonal farmworkers, persons with limited English-speaking abilities, and indigent persons in sparsely-populated areas where a harsh climate and an inadequate transportation system are significant impediments to receipt of legal services. Not more than 3 per centum of the sums appropriated under section 1010(a) for any fiscal year shall be used for projects under this section.".

AUDITS AND RECORDKEEPING

SEC. 11. Paragraph (2) of section 1009(b) of Legal Services Corporation Act (42 U.S.C. 2996h(b)(2)) is amended by striking out the period at the end of the last sentence and inserting in lieu thereof "throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, papers, or property for a longer period under section 117(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 67(b))."

DECLARATION OF PURPOSE

SEC. 12. Section 1001 of the Legal Services Corporation Act (42 U.S.C. 2996) is amended by inserting before the semicolon at the end of paragraph (3) "and assist in improving opportunities for low-income persons consistent with the purposes of this Act".

HEARING EXAMINERS

SEC. 13. Section 1011(2) of the Legal Services Corporation Act (42 U.S.C. 2996j(2)) is amended by inserting before the period at the end thereof a comma and "and, when requested, such hearing shall be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Corporation to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Corporation in accordance with the procedures established in regulations promulgated by the Corporation.".

EQUAL ACCESS TO COURTS

SEC. 14. (a) This section may be cited as the "Equal Access to Courts Act of 1977".

(1) The Congress finds that serious inequities and inequalities exist between the Federal Government and certain individuals, partnerships, corporations, and labor and other organizations in terms of the relative ease with which each is able, without suffering extreme economic hardship, to prevail or to secure the vindication of its rights in civil actions and in administrative proceedings.

(2)(A) It is the purpose of this Act to diminish such inequities and inequalities by providing for the payment by the United States of attorney fees, expert witness fees, and other costs in specified situations.

(B)(1) Section 2412 of title 28, United States Code, is amended to read as follows:

"§ 2412. Attorney and witness fees and costs

"(a) Except as otherwise provided in subsections (b) and (c) of this section and in section 2678 of this title, a judgment for costs, as provided in section 1920 of this title (but not including the fees and expenses of attorneys), may be awarded to the prevailing party in any civil action brought by or against the United States in any court having jurisdiction of such action.

"(b)(1) A judgment for costs, as provided in section 1920 of this title, for the reasonable expenses of any witness or expert witnesses, for the reasonable cost of any study, analysis, engineering report, test or project which the court finds necessary to the litigation of the action, and for reasonable attorney fees, based upon the actual time expended by any attorney of a party and his staff in advising and representing such party, such fees to be determined at the recipients usual rate of compensation, but not to exceed the lower of the prevailing market rate of $90 per hour, shall be awarded to any party, other than the United States or any agency or official thereof, who prevails in any civil action, including an action for judicial review of agency action brought by or against the United States, or any agency or official thereof, in any court having jurisdiction of such action.

"(2) For purposes of this subsection, the term 'party means (1) a small-business concern as defined in section 2 of the Small Business Act (15 U.S.C. 632), or (2) an individual, partnership, corporation, or labor or any other private organization having assets valued at less than $1,000,000 and annual receipts or income of less than $100,000 in each of the five years immediately preceding the filing of the civil action in question

"(c) In any civil action, including an action for judicial review of agency action, instituted by or against the United States, or any agency or official thereof, in which a party other than the United States or any agency or official thereof—

"(1) prevails partially, such party shall be awarded a judgment for costs and fees, as provided in subsections (a) and (b), to the extent to which he prevails; or

"(2) does not prevail, such party may be awarded a judgment for costs and fees, as provided in subsections (a) and (b), in any case in which the court finds that such an award would be in the interest of justice.

"(d) Any amount awarded for costs or fees shall be in addition to the compensation, if any, awarded in any judgment.

"(e) Any judgment against the United States for costs or fees shall be paid as provided in sections 2414 and 2517 of this title.".

(2) The table of sections of chapter 161 of title 28, United States Code, is amended by striking out the item relating to section 2412 and inserting in lieu thereof the following:

"2412. Attorney and witness fees and costs."

(C) Subsection (a) of section 2517 of title 28, United States Code, is amended to read as follows:

"(a) Any final judgment, including any final judgment for costs and fees, which is rendered by the Court of Claims against the United States shall be paid out of any general appropriation therefor, on presentation to the General Accounting Office of a certification of such judgment, by the clerk and the chief judge of such court.".

(D) Section 2678 of title 28, United States Code, is amended to read as follows:

"(a) If any judgment is rendered, or if any settlement, award, compromise, or recommendation is made in favor of award, compromise, or recommendation is made in favor of any party other than the United States, after the United States or a Federal agency has received notice that such party has retained an attorney, including the name of such attorney, such party shall be awarded reasonable attorney fees, based upon the actual time expended by such attorney

and his staff in advising and representing such party, such fees to be determined at the recipient's usual rate of compensation, but not to exceed the lower of the prevailing market rate or $90 per hour, and all costs (including witness fees, studies, analyses, engineering reports, tests, and projects) necessary to the litigation. In any case in which such party does not prevail or only prevails partially, the court may award such costs and fees as it finds, in its discretion, would be in the interests of justice.

"(b) Any amount awarded under this section for costs and fees shall be in addition to the compensation awarded in any judgment, settlement, award, compromise, or recommendation.

"(c) For purposes of this section, the term 'party' means (1) a small-business concern as defined in section 2 of the Small Business Act (15 U.S.C. 632), or (2) an individual, partnership, corporation, labor or any other private organization having assets valued at less than $1,000,000 and having annual receipts or income of less than $100,000 in each of the five years immediately preceding the filing of the civil action in question.".

(E)(1) Subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 504. Costs and fees of parties

"(a) A party (other than the United States or any agency or official thereof) shall be paid by any agency conducting an agency proceeding an award for costs and fees incurred by such party in order to participate in such proceeding, if such party—

"(1) is successful in defending against the imposition by such agency of any sanction; or

"(2) is successful, in any agency proceeding in which such agency is the moving party, in opposing the issuance of, or in proposing an amendment to, any agency order which would—

"(A) affect the freedom of such party;

"(B) withhold relief from such party;

"(C) impose a penalty or fine on such party;

"(D) require the destruction, taking, seizure, or withholding of property of such party;

"(E) assess damages, reimbursement, restitution, compensation, costs, charges, or fees against such party;

"(F) require, revoke, or suspend a license of such party; or

"(G) otherwise compel or restrict such party; or

"(3) appeals or seeks judicial review of any agency action and substantially prevails, or is subject to the agency action appealed or reviewed.

"(b) For the purpose of this section—

"(1) the definitions in section 551 of the title shall apply except as otherwise provided in paragraph (3);

"(2) 'award for costs and fees' shall include the reasonable expenses of any witness or expert witness, the reasonable cost of any study, analysis, engineering report, test, or project which the agency conducting any agency proceeding finds necessary to the resolution of such proceeding, and reasonable attorney or agent fees based upon the actual time expended by such attorney or agent and his staff in advising or representing any party, such fees to be determined at the recipient's usual rate of compensation, but not to exceed the lower of the prevailing market rate or $90 per hour; and

"(3) 'party' means a party as defined in section 551 of this title who is also (A) a small-business concern as defined in section 2 of the Small Business Act (15 U.S.C. 632), or (B) an individual, partnership, corporation, labor or any other private organization having assets valued at less than $1,000,000 and annual receipts or income of less than $100,000 in each of the five years immediately preceding the initiation of the agency proceeding in question.".

(2) The table of sections of subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following:

"504. Costs and fees of parties.".

(b) The amendments made by this section shall have no effect on or after the day which is three years after the date of enactment of this Act.

EFFECTIVE DATES

SEC. 15. (a)(1) The amendment made by section 2(a) of this Act shall be effective with respect to fiscal years beginning after September 30, 1977.

(2) The amendment made by section 3(b) of this Act shall be effective six months after the first day of the first calendar month following the date of enactment of this Act.

(b) The amendments made by provisions of this Act other than sections 2(a) and 3(b) shall be effective on the date of enactment of this Act.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PREFERENTIAL MOTION OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. WYLIE moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill H.R. 6666, be instructed to insist on the following provision as it was passed by the House: "That no funds made available to the Corporation may be used to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system."

The SPEAKER. The gentleman from Ohio is recognized for 1 hour.

Mr. WYLIE. Mr. Speaker, I do not intend to take the full hour. All of us know the issue involved here and it has been debated rather thoroughly; but I do feel that a point should be made and I think that I am probably the person to make that point, since I was the one who offered the original amendment, which would restore statutory language which was removed in the other body and which would preclude Legal Services Corporation counsel from participating in forced schoolbusing cases to achieve a racial balance.

Now, Mr. Speaker, the Senate is at it again. On June 27 the House adopted this amendment which I offered by a rather overwhelming vote. The amendment which I offered and which I suggest we adopt today in the form of these instructions to our conferees does not change the law and it does not make new law. I want to make that clear. All it does is restore language which is found in the 1974 Legal Services Corporation Act which would prohibit the use of any funds authorized for the Legal Services Corporation for legal counsel in forced schoolbusing cases.

Now, it seems to me this is not the time and it is not the place to authorize the Legal Services Corporation to bring its lawyers into forced busing lawsuits. The Legal Services Corporation is not all that popular, let us face it. Forced busing is very controversial. The emotional mix, I submit, helps neither cause, regardless of which side you are on.

In my own city of Columbus we are going through the pains of a court-ordered busing which literally closes many neighborhood schools. In a recent questionnaire I submitted this question to my constituents:

Do you favor a constitutional amendment that would prohibit the busing of students to achieve a racial balance?

Eighty percent of the over 20,000 people who responded said "yes." Sixteen percent said "no." Four percent said "undecided." Many of those who said "no" or "undecided" said, "We are against forced busing to achieve a racial balance, but we question that changing the Constitution is the right approach."

So it was even more than 4 to 1 against busing to achieve racial balance; but parents with small children are frustrated by this Federal court order which has made a decision which directly affects them and their children and through which process they have had no say. Someone has brought a lawsuit against the board of education and the parents stand on the sidelines and watch this court order being forced on them and they have nothing to say about it. They have no choice against a situation which they regard as unjust, unless it is through their Representative in Congress. That is what they have been telling me.

I have told them that the representative process works, but these people must feel that it works. Otherwise, our Nation is in trouble, I submit.

Now, the impression must not be left that the heavy hand of Congress is also against these people. Congress is going to hire lawyers through the Legal Services Corporation to work against people who are opposed to forced busing. They would then feel that they have no place to turn, and I submit that frustration like that can cause a lot of problems. It is bad enough for these people to feel that they have no recourse through the court system, but if they feel that they have no legal recourse through the legislative process, then we are really in for trouble. They must feel that someone is listening and trying to correct a mistake through the legislative branch.

This limitation on the Legal Services Corporation lawyers has been on the law books for 3 years now. This is a poor time and a poor place to change the law and put Legal Services Corporation lawyers into the forced busing school field to achieve a racial balance. The House should stick by its position which it enunciated on June 27, and tell our conferees to do the same in the conference with the Senate.

An aye vote will send that message to them. I ask for an aye vote.

Mr. MOTTL. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I will be glad to yield to the gentleman from Ohio.

Mr. MOTTL. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Columbus, Ohio. I think we have taken a position, a very important position, on the Legal Services Corporation, that these funds should not be used for desegregation cases.

I would ask my colleagues in the House of Representatives to vote overwhelm-

ingly in support of the motion, and help the gentleman from Ohio with his motion. Again, I would like to compliment the gentleman from Columbus for bringing up this privileged motion, and I entreat my colleagues in the House to support overwhelmingly the gentleman in his motion.

Mr. WYLIE. I thank the gentleman from Cleveland for his contribution and his support, and I want to commend him for his fight in this area. I think that through this legislative representative process we are telling our constituents that all is not lost, that maybe there is a place and a time where some compromise can be worked out; that they are not going to be steamrollered into something that most of the people do not feel is right.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to my colleague from Ohio.

Mr. DEVINE. I thank the gentleman for yielding to me. I rise in support of the preferential motion of the gentleman from Ohio to instruct the conferees in this particular matter. I wish also to commend my colleague from the greater Columbus area and his awareness to the problems created by the recent decisions of the U.S. district court in that area having to do with forced busing for the purposes of integration.

We kind of lose sight of the issue of education by judges ordering busing. It is estimated that it will cost between $19 million and $23 million for the Columbus Board of Education to implement the busing order of the U.S. district judge, and the people really feel that they did not have a voice in this matter. They want their money spent for education, not transportation. There are also energy conservation problems.

I would therefore urge our colleagues to support the preferential motion offered by the gentleman in the well, to express the views of this Congress that we should not use funds to pay for lawyers who will go forth in the area that seems to be contrary to the wishes of the overwhelming majority of the American people.

Mr. WYLIE. I sincerely appreciate the gentleman's contribution, and I want to thank my good friend and colleague from Columbus, Ohio (Mr. DEVINE), for his magnificent support on this motion.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield.

Mr. WYLIE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Speaker, I want to congratulate the gentleman for his motion. I think we seem to see a pattern in the Congress. I have done a considerable amount of research in the Congress on the busing issue. There have been about 18 votes over the last 8 years, where the House has taken a position in big print and little by little has retreated from it.

Mr. Speaker, I remember my amendment in 1971. We were in conference for 3 months, and finally we came back with some innocuous language to let the Members off the hook. I think the American people know precisely what is happening here. This is a very crucial vote. We should instruct the conferees not to back down on its position; either that, or to honestly come out and say to the American people that the majority of the Members of the House of Representatives fully support and finance forced busing.

Mr. WYLIE. I thank the gentleman for emphasizing the importance of this vote right now. The gentleman has made the point that the House has taken a strong position. The other body knocked our amendment out. We are back here to appoint conferees. I am afraid the conferees who are going to be appointed are not necessarily going to try to sustain the House position. I am apprehensive that they will not, unless we instruct them that they should, at least in this first conference.

Mr. HUBBARD. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Kentucky.

Mr. HUBBARD. I thank the gentleman for yielding.

Mr. Speaker, I would also like to congratulate the gentleman from Ohio (Mr. WYLIE) and urge my colleagues to support this preferential motion. I do know, through extensive questionnaires and opinion polls taken in my own district of Kentucky, that 96 percent of the people I represent are vigorously opposed to court-ordered busing. The tragedies of forced busing in Louisville, Ky., are well known throughout the Commonwealth of Kentucky and perhaps throughout the entire Nation.

Mr. Speaker, again I urge my colleagues to support the preferential motion offered by the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. I appreciate and thank the gentleman for his contribution and helpful support.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Ohio.

Mr. DEVINE. I thank the gentleman for yielding.

Mr. Speaker, I cannot refrain from taking this opportunity to not only support the preferential motion offered by the gentleman in the well, but also to point out that those persons who are concerned about this busing issue should be reminded that our colleague, the gentleman from Ohio (Mr. MOTTL), has a discharge petition at the Clerk's desk. There are just about 200 signatures on it on this very issue of forced busing for purposes of integration. Those Members who have not availed themselves of the opportunity to sign this should be advised that it is right up there at the Clerk's desk, and they should do so. We only need less than two dozen signatures, which will enable every Member of this Congress to go on record for or against forced busing for purposes of integration.

Mr. WYLIE. Mr. Speaker, I yield 15 minutes to the gentleman from Wisconsin (Mr. KASTENMEIER) for purposes of debate.

Mr. KASTENMEIER. Mr. Speaker, I will not use 15 minutes. I will use only 2 minutes. I have no intention of redebating a question which has already been debated and on which the House has spoken on June 27, of this year, in terms of the Legal Services Corporation debate. At that time, the House voted 208 to 174 to restore the restriction on desegregation. And that is what we are talking about. Not school busing, but desegregation cases. The House conferees are obliged to support the House position, but this particular motion is useless. In conferring with the gentleman from Ohio privately, I had indicated to him that it has no force or effect. It does not bind the conferees. The House has already spoken on this question. This is a waste of time, except for the rhetoric that may be devoted to the question. Even the manager of the bill in the Senate recognizes that the House has a position on this question, defined by a recorded vote on June 27. Whether this motion is agreed to or not—and I shall oppose the motion because I think it is an imposition on the time of the House. This motion, as I said before, has no effect. For that reason, I shall oppose it.

For that reason, I shall oppose it and urge the House to reject the motion, notwithstanding the fact that the House conferees will go to the conference representing the House position with respect to the language in question.

Mr. Speaker, I ask for a "no" vote on the preferential motion.

Mr. DRINAN. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Speaker, I thank the gentleman for yielding.

I wish to associate myself with the remarks of the gentleman from Wisconsin (Mr. KASTENMEIER). As a member of the subcommittee that drafted this legislation and as a member who in due course might be appointed a conferee, I simply want to echo what the gentleman from Wisconsin has said: The conferees will be bound by the House vote. It was not an overwhelming vote. The vote was 208 to 174; this House is deeply divided on this question. The Senate went the other way by a vote of 55 to 39.

So I associate myself with the remarks of the gentleman from Wisconsin (Mr. KASTENMEIER). This is a useless vote; it is not binding. It means really nothing.

I plead with the Members not to waste the time of the House in instructing the conferees when the conferees are already bound by the rule of the House to follow the wishes of the House.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, let me ask the gentleman, how does he intend to react in the conference? What is the gentleman going to do on this question in the conference? How will he vote?

Mr. DRINAN. Mr. Speaker, as the gentleman knows, we are bound by the expressed wish of the House.

Mr. WYLIE. The gentleman is going to vote to retain the language of the present law?

Mr. DRINAN. I understand there is some chance for a compromise. We do not want an impasse. There was a com-

promise proposed in this House some time ago indicating that possibly legal services attorneys could be permitted to counsel but not to litigate in these cases. I have no idea what the options will be.

Obviously, Mr. Speaker, we do not want an impasse. I think the gentleman's motion here is likely to induce an impasse, something that no Member of this House or the other body would desire.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, what the gentleman from Wisconsin (Mr. KASTENMEIER) and the gentleman from Massachusetts (Mr. DRINAN) have said indicates the attitude of at least two members of the conference committee on this question, and that is why I am here today offering this preferential motion.

The rules of the House, of course, provide for this procedure, and it has been used time and time again to instruct conferees. I do not feel that there should be any implication raised that there is anything personal or derogatory by my attempt to press for retention of the amendment which I offered on the House floor and which was adopted by this House.

Mr. Speaker, I move the previous question on the preferential motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. WRIGHT). The question is on the preferential motion to instruct conferees.

The question was taken; and the Speaker pro tempore announced that the Chair was in doubt.

Mr. WYLIE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device; and there were—yeas 230, nays 186, not voting 18, as follows:

[Roll No. 674]

YEAS—230

Abdnor	Chappell	Flood
Alexander	Clausen, Don H.	Florio
Ambro	Clawson, Del	Flowers
Andrews, N.C.	Cleveland	Flynt
Annunzio	Cochran	Forsythe
Applegate	Coleman	Fountain
Archer	Collins, Tex.	Frenzel
Armstrong	Corcoran	Frey
Ashbrook	Coughlin	Fuqua
Badham	Crane	Gammage
Bafalis	Cunningham	Gaydos
Barnard	Daniel, Dan	Gephardt
Beard, Tenn.	Daniel, R. W.	Gibbons
Bennett	Delaney	Ginn
Bevill	Derwinski	Glickman
Biaggi	Devine	Goldwater
Blanchard	Dickinson	Goodling
Bowen	Dingell	Gradison
Breaux	Dornan	Grassley
Brinkley	Downey	Gudger
Brodhead	Duncan, Tenn.	Guyer
Broomfield	Edwards, Ala.	Hagedorn
Brown, Mich.	Edwards, Okla.	Hall
Broyhill	Eilberg	Hammer-schmidt
Buchanan	Emery	Hanley
Burgener	English	Hansen
Burke, Fla.	Erlenborn	Harsha
Burke, Mass.	Evans, Del.	Hefner
Burleson, Tex.	Evans, Ga.	Hightower
Butler	Evans, Ind.	Hillis
Byron	Fary	Holland
Caputo	Fish	Holt
Carter	Fithian	Hubbard
Cavanaugh	Flippo	Huckaby
Cederberg		

Hughes	Mitchell, N.Y.	Shuster
Hyde	Moakley	Sikes
Ichord	Mollohan	Skelton
Ireland	Montgomery	Slack
Jacobs	Moore	Smith, Nebr.
Jenkins	Moorhead, Calif.	Snyder
Johnson, Colo.	Mottl	Spellman
Jones, N.C.	Murphy, Pa.	Spence
Jones, Okla.	Murtha	Stangeland
Jones, Tenn.	Myers, John	Stanton
Kasten	Myers, Michael	Stump
Kazen	Natcher	Symms
Kelly	Neal	Taylor
Kemp	Nedzi	Teague
Ketchum	Nichols	Thone
Kindness	O'Brien	Thornton
Lagomarsino	Oakar	Traxler
Latta	Pettis	Treen
Le Fante	Pickle	Trible
Leach	Poage	Vander Jagt
Lederer	Pursell	Waggonner
Lent	Quayle	Walker
Levitas	Quie	Walsh
Livingston	Quillen	Wampler
Lloyd, Tenn.	Rahall	Watkins
Long, La.	Regula	White
Lott	Rhodes	Whitehurst
Lujan	Rinaldo	Whitley
Luken	Roberts	Whitten
McDade	Robinson	Wilson, Bob
McDonald	Rogers	Wilson, Tex.
McEwen	Rooney	Winn
McKay	Rousselot	Wright
Mahon	Rudd	Wydler
Mann	Runnels	Wylie
Marlenee	Russo	Yatron
Marriott	Ryan	Young, Alaska
Martin	Satterfield	Young, Fla.
Mathis	Sawyer	Young, Mo.
Michel	Schulze	Young, Tex.
Milford	Sebelius	Zablocki
Miller, Ohio	Shipley	Zeferetti
Minish		

NAYS—186

Addabbo	Fenwick	Murphy, N.Y.
Akaka	Findley	Myers, Gary
Allen	Fisher	Nix
Ammerman	Foley	Nolan
Anderson, Calif.	Ford, Mich.	Nowak
Anderson, Ill.	Ford, Tenn.	Oberstar
Ashley	Fowler	Obey
Aspin	Fraser	Ottinger
AuCoin	Giaimo	Panetta
Badillo	Gilman	Patten
Baldus	Gonzalez	Patterson
Baucus	Gore	Pattison
Bedell	Hamilton	Pease
Beilenson	Hannaford	Perkins
Benjamin	Harkin	Pike
Bingham	Harrington	Pressler
Blouin	Harris	Preyer
Boggs	Hawkins	Price
Boland	Heckler	Pritchard
Bolling	Heftel	Railsback
Bonior	Holtzman	Rangel
Bonker	Horton	Reuss
Brademas	Howard	Richmond
Breckinridge	Jeffords	Risenhoover
Brooks	Jenrette	Rodino
Brown, Calif.	Johnson, Calif.	Roe
Burke, Calif.	Jordan	Roncalio
Burlison, Mo.	Kastenmeier	Rose
Burton, John	Keys	Rosenthal
Burton, Phillip	Kildee	Rostenkowski
Carney	Koch	Roybal
Carr	Kostmayer	Ruppe
Chisholm	Krebs	Santini
Clay	Krueger	Scheuer
Cohen	LaFalce	Schroeder
Conable	Lehman	Selberling
Conte	Lloyd, Calif.	Sharp
Conyers	Long, Md.	Simon
Corman	Lundine	Sisk
Cornell	McClory	Smith, Iowa
Cornwell	McCloskey	Solarz
Cotter	McCormack	St Germain
D'Amours	McFall	Staggers
Danielson	McHugh	Stark
Davis	McKinney	Steed
de la Garza	Madigan	Steers
Dellums	Maguire	Steiger
Dent	Markey	Stokes
Derrick	Marks	Stratton
Dicks	Mattox	Studds
Drinan	Mazzoli	Thompson
Duncan, Oreg.	Meeds	Tsongas
Early	Meyner	Tucker
Eckhardt	Mikulski	Udall
Edgar	Miller, Calif.	Ullman
Edwards, Calif.	Mineta	Van Deerlin
Ertel	Moffett	Vanik
Evans, Colo.	Moorhead, Pa.	Vento
Fascell	Moss	Volkmer
	Murphy, Ill.	Walgren
	Waxman	Wiggins
	Weaver	Wilson, C. H.
	Weiss	Wirth
		Yates

NOT VOTING—18

Andrews, N. Dak.	Dodd	Sarasin
Bauman	Hollenbeck	Skubitz
Beard, R.I.	Leggett	Stockman
Brown, Ohio	Metcalfe	Whalen
Collins, Ill.	Mikva	Wolff
Diggs	Mitchell, Md.	
	Pepper	

The Clerk announced the following pairs:

On this vote:

Mr. Bauman for, with Mr. Mitchell of Maryland against.

Mr. Andrews of North Dakota for, with Mr. Whalen against.

Mr. Skubitz for, with Mr. Hollenbeck against.

Mr. Brown of Ohio for, with Mr. Pepper against.

Until further notice:

Mr. Mikva with Mr. Dodd.

Mr. Beard of Rhode Island with Mr. Diggs.

Ms. Collins of Illinois with Mr. Metcalfe.

Mr. Leggett with Mr. Wolff.

Mr. ROSTENKOWSKI changed his vote from "yea" to "nay."

Mr. THONE changed his vote from "nay" to "yea."

So the preferential motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. WRIGHT). Without objection, the Chair appoints the following conferees: Messrs. KASTENMEIER, DANIELSON, DRINAN, SANTINI, ERTEL, RAILSBACK, and BUTLER.

There was no objection.

PERSONAL EXPLANATION

Mr. SIMON. Mr. Speaker, because of a meeting I had on the Senate side during the vote on the conference report on the bill, H.R. 3744, Fair Labor Standards Amendments of 1977, I was not present for the voting. Had I been present I would have supported the conference report.

PERSONAL EXPLANATION

Mr. LONG of Louisiana. Mr. Speaker, I had intended to vote in favor of the conference report on the bill (H.R. 3744), Fair Labor Standards Amendments of 1977. I am recorded as having voted "no." I wish that my true intention be set forth in the RECORD.

PERSONAL EXPLANATION

Mr. BAUMAN. Mr. Speaker, earlier I was detained because of travel difficulties. Had I been present and voting on the motion of the gentleman from Ohio (Mr. WYLIE) to instruct the conferees on H.R. 6666 to insist upon his amendment, I would have voted "aye."

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 9179, OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1977

Mr. BOLLING, from the Committee on Rules, submitted a privileged report

(Rept. No. 95–726) on the resolution (H. Res. 848) providing for consideration of H.R. 9179 to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation, which was referred to the House Calendar and ordered to be printed.

PERSONAL EXPLANATION

Mr. BURKE of Massachusetts. Mr. Speaker, on June 16, 1977, I was inadvertently paired incorrectly on an amendment to section 208 of the Labor-HEW appropriations, H.R. 7555.

Had I been present for rollcall No. 350, I would have recorded my vote in favor of the Mottl amendment.

ENERGY TRANSPORTATION SECURITY ACT OF 1977

(Mr. McCLOSKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, I asked for the privilege to address the House for 1 minute because I wanted to apologize to the House. I bore a major responsibility to the House yesterday. I had asked all of my colleagues to support my position on a very controversial bill. It was imperative that there be a recorded vote on that bill in view of the controversy, and I was delinquent in failing to meet that responsibility, I want to apologize.

I also want to thank the gentleman from Maryland (Mr. BAUMAN), whose timely intervention I think prevented what could have been a disaster for the House.

I want particularly to pay my respects to the gentleman from New York (Mr. MURPHY) for the gentlemanly manner in which he handled a situation which was clearly a great disappointment to him personally.

I want to pledge to the House that the Merchant Marine and Fisheries Committee will, I hope, come back to the House in the near future with a comprehensive and constructive new national maritime policy.

PERSONAL EXPLANATION

Mr. STARK. Mr. Speaker, yesterday on rollcall No. 671, final passage of H.R. 1037 relating to cargo preference, I was absent from the Chamber. I was meeting with my staff and failed to hear the bell.

Mr. Speaker, had I been present, I would have voted "nay," as I have previously stated both in public and in private.

SUPPRESSION IN SOUTH AFRICA

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, the most recent crackdown in South Africa on dissent greatly concerns me, and I call the attention of this House to the impropriety of such action.

One can only imagine the political gain that Prime Minister John Vorster's decision will in the near term provide, but the ultimate consequence further complicates and frustrates legitimate freedoms of all South Africans.

The attempt to suppress basic human rights in South Africa adds to the growing list of violations that have recently occurred in this beleaguered nation. These actions are backward steps in attempting to resolve the political controversy that exists and the restoration of a sound social framework in South Africa.

The fear that persists in light of these actions is that moderate dissent is being suppressed and that this will lead to a totalitarian regime or violent reaction by black South Africans.

I am pleased to note the U.S. State Department has reacted and is intent upon a thorough review of the specifics.

This morning's Washington Post contains a thoughtful analysis based on these recent events which further points up the ramifications of these actions.

SOUTH AFRICA PROVES AGAIN—NO NATION CAN BE HALF DEMOCRACY AND HALF TYRANNY

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, in my 7 years in Congress I have never taken the well to denounce the government of an independent foreign nation. But there are times when outrage does such violence to one's ordinary sense of decency that he cannot—and should not—refrain from speaking out.

Mr. Speaker, the latest actions of the Government of the Union of South Africa are not only an affront to human decency, but they demonstrate a time-honored principle: A nation cannot have half democracy and half totalitarianism. Or, as Lincoln said:

> No nation can remain half slave and half free.

South Africa has destroyed the liberties of all of its people in the name of apartheid.

ON SOUTH AFRICAN BANNINGS AND ARRESTS

(Mr. BONKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONKER. Mr. Speaker, we have just received deeply disturbing news from South Africa. The South African Government yesterday apparently initiated a new drive to eradicate the black consciousness movement, and suppress several other responsible groups and individuals in South Africa. While the information received thus far is highly fragmented, at least 18 organizations have been banned, several newspapers, including the World, have been closed down, many people's homes have been raided, and several individuals have been arrested, including Dr. Nthato Motlana of the Committee of Ten, and possibly Percy Qoboza, editor of the World. I and several of my colleagues in the House and Senate were going to meet with these individuals at a conference this weekend.

I am deeply shocked and saddened by this totally unjustified action by the South African Government. Undoubtedly this will polarize the situation further. Such actions are a sign of weakness rather than strength of the Government's position. The bannings and arrests also follow the death of Steve Biko while in detention, which generated major international concern. In the wake of yesterday's events, the delay in releasing results of the autopsy examinations becomes extremely serious and perplexing.

These latest moves are also an affront to people who have been working toward a nonviolent resolution to the conflicts which beset the country. Recently we received news reports of improved communications between Afrikaaners and Black leaders as exemplified in meetings between Dr. Gerrit Viljoen of the Rands Afrikaans University and Dr. Motlana. Evidently some South African leaders have not yet learned a major lesson of history—that intemperate and arbitrary suppression of dissent only fuels the flames of revolution.

I pray that the time may yet not be too late for reason and understanding to prevail over chaos and hatred in South Africa.

DOUBLE VISION IN VIEWING WITH ALARM

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute.)

Mr. ASHBROOK. Mr. Speaker, I take this time because I think it is appropriate once in a while to point out the double vision of many Members. What we view with alarm in one country, we often overlook in another.

On a scale of 1 to 10, what is happening in South Africa right now has to be about 3, but I would point out that what has been going on in Communist China in the last two decades would certainly be 9, 9½, or 10 on the same scale. Where is the indignation in this body? There is very little. The systematic murder and slaughter of between 10 million and 15 million countrymen by the Communists, strangely enough, appears to be overlooked by many Members of this body who now rush to have every type of aid, trade, and opening up of relations with that country.

I think all of us are concerned about what is happening in South Africa, but what is happening to the vision of the Members of this body when they can overlook and not have indignation for what is happening in Communist countries, but all of a sudden, through some new found concern, view with alarm what is happening in South Africa. South Africa compares very well with other African states. Where is the con-

cern for undemocratic actions in the scores of black-ruled dictatorships?

CONFERENCE REPORT ON H.R. 3744, FAIR LABOR STANDARDS AMENDMENTS OF 1977

Mr. PHILLIP BURTON. Mr. Speaker, I call up the conference report on the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 17, 1977.)

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman assure us that there will be full and complete discussion on this issue and that there will be no attempt to hurry this up?

Mr. PHILLIP BURTON. The rules will provide that this side has 30 minutes and the other side has 30 minutes. I am willing to provide time on this side for those who request it, and I am sure the same will be true of our colleague from Illinois (Mr. ERLENBORN).

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. PHILLIP BURTON) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I would first like to commend our House conferees, the distinguished gentleman from Kentucky (Mr. PERKINS) and Congressman GAYDOS of Pennsylvania, Congressman CLAY of Missouri, Congressman MARIO BIAGGI of New York, and Congressman LEO ZEFERETTI of New York; as well as the distinguished Members on the other side of the aisle, Congressman AL QUIE of Minnesota, Congressman JOHN ERLENBORN of Illinois and Congressman ASHBROOK of Ohio, for their individual and unique contributions to this conference committee report.

It might help, initially, if we note what the report does not do. Neither the House bill nor the committee report in any way increased any coverage for the farms in this country that are exempt under current law. The amendment relating to theme parks and the action of the House with reference to theme parks was sustained and not involved in the discussions of, nor affected by, the conference committee recommendations. The conference committee made an effort to heed the plea of the gentleman from Washington (Mr. MEEDS) with reference to the situation posed in our Northwest, as well as the situation brought to our attention by our colleagues from Maine and affirmed in the conference acceptance of the Hathaway amendment of the other body.

Mr. MEEDS. Mr. Speaker, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Speaker, I take this opportunity to speak in support of the conference report on the Fair Labor Standards Amendments of 1977. The conferees are to be commended for their work in producing a fair and effective compromise.

Of particular interest to me, and to many of my constituents from the State of Washington, is the section concerning agricultural hand-harvest laborers. Up until 1974, when the Fair Labor Standards Act was last amended, youngsters under the age of 12 were permitted to work in the strawberry fields in my area under certain circumstances. With the support of many of my colleagues, we have succeeded, with this section, in restoring the right of youngsters to help out in the fields.

The House version placed no restriction on the age of pickers, although it contained a number of other conditions which I authored to guard against abuse. The Senate version, however, set the minimum age at 10 and the conferees have accepted that age minimum. I have met with farmers in my district and, by and large, they are supportive of the 10-year-age minimum. By reducing the age just 2 years, we have greatly expanded the labor force from which these farmers draw. Unless youngsters under the age of 10 are accompanied by a parent, most farmers do not welcome them on the field because they need too much supervision.

Several conditions were placed on the amendment by both the House and Senate to guard against abuses. I support these conditions because the intent is to prevent a return to the situation of years ago when youngsters were kept out of school and were forced to work in the fields. This section returns the decision-making to the youngsters and their parents, in concert, of course, with the protective conditions to guard against abuse.

I am sure we will see many 10- and 11-year-old youngsters helping with the strawberry harvest in my district next summer. Traditionally, youngsters of that age group have helped with the harvest. No mechanical equipment is used and there is no evidence of pesticide or other chemical agents at harvest time which might be harmful to a youngster's health.

The declining number of acres used to produce strawberries and declining production so graphically demonstrates these youngsters are needed and older youngsters, who often can find more gainful work, are not available for helping in the harvest.

To clarify one particular condition, I would like to point out the mere presence of youngsters above the age of 12 in the area's population or in the fields does not preclude youngsters under that age from also working in the fields. The question is whether youngsters above 12 have made themselves available for the harvest by volunteering to work and whether, in the farmer's view, they are available in sufficient numbers.

Further, I am pleased to see a provision, which I believe is keeping with President Carter's program to simplify Government, which will allow the Secretary of Labor to grant exceptions to groups of employers such as associations of growers from a particular geographic location. This will make it easier from an administrative point, and will reduce the burden farmers are faced with at harvest time while still keeping in step with the intent of the condition which is to insure workers 16 and over are not being displaced and youngsters under 12 are not being abused.

Mr. PHILLIP BURTON. Mr. Speaker, the next fundamental policy decision that had to be treated by the conferees was whether or not we have a 3-year or a 4-year bill. After thoroughly discussing this matter, I think it fair to state that, for a variety of conflicting impulses, with one side arguing that perhaps a 3-year bill would be better because this matter could then be brought up again in what has traditionally been considered to be the most favorable time frame, in a Presidential election year, those of us who have been proponents of this basic legislation thought there was a good deal to commend that course of action.

On the other hand, there were those who stated that we might find ourselves in a position that the time for consideration again would put the minimum wage bill up to 1980 with the very important farm bill up a year later. There were those who felt that this mutuality of concern for the overall American economy might be better served if those matters were renewed again in the same year.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. PHILLIP BURTON) has expired.

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself 5 additional minutes.

Then there were those who noted that although the increases at this point may or may not look like much—because of inflation and to what unknown extent we may have it—perhaps the employer community is better off knowing for sure what its wage rates will be through the course of this bill.

Again I say I think it is fair to state that the conferees, more perhaps by consensus than by definitive vote, opted to look at the 4-year time frame. Within that time frame, the following accommodation between the two Houses was made:

We receded to the Senate in the sec-

ond year for a nickel, raising our rate from $2.85 to $2.90. The Senate receded to our demand that in the third year we cut exactly in half the difference between the two wage rates, the House version being $3.05 and the Senate $3.15. The House accepted the Senate version but insisted that a nickel be taken off the last year. I think it fair to state that given the options before us, this was an honorable treatment of the differences.

There was one major thrust of the House bill that we lost—the so-called conglomerate provision—it was a provision that could have increased coverage for 5 to 7 million more workers than were in the Senate bill. Although we tried, we were unsuccessful in holding that provision.

We did agree to adopt an amendment offered by Senators HELMS and CRANSTON and others to recognize the special problems that religious or nonprofit educational conference centers have, and section 13(a)(3) was amended to reflect that consideration.

On the tip credits—and I am sure my colleague, the gentleman from Minnesota (Mr. QUIE), will want to expand on this—the House had a 50-percent provision, preserving the status quo. The Senate had a 30-percent provision, reflecting a change in the status quo. We came out with slightly better than an even split. Our colleague, the gentleman from Minnesota (Mr. QUIE), may expand on that.

More particularly, we delay for a year before there would be any change in the law, and then in two 1-year steps we would reduce the tip credit to 45 and then 40 percent.

With respect to the tip credit, I personally believe this archaic and inequitable credit against a tipped employee's wage entitlement should be completely eliminated. We should phase it out as we have phased out other unfair exemptions from coverage. The conference agreement at least edges in this direction.

On the issue of small business, many Members of this House have over the years expressed an interest in this matter. The conference committee changed the current law from a $250,000 per annum test to a $362,500 test.

In addition, the conference committee accepted the Senate proposal that the four current subminimum youth slots be increased to six, and we completely simplify the certification process by requiring a card, on which the employer need only note the name, address, and business of the applicant employer; the list of the date the applicant began business; and a certification that such employment will not reduce full-time employment of noncertificated persons. Upon mailing, that is deemed to be certification.

Mr. Speaker, we think this will enormously improve the job opportunities for students in terms of the small business establishment.

With reference to section 9(a) of the amendments we add a new higher dollar volume test for coverage of enterprises "comprised exclusively of one or more retail or service establishments." In adding a grandfather provision during conference to prohibit any reduction in wages by businesses uncovered as a result of this amendment, the word "exclusively" was not repeated in the description of the particular enterprises involved. It was felt that the reference in the section 9(c) grandfather clause back to section 9(a) (which becomes section 3(s)(2) of the act) was sufficient for consistency and that it was simply not necessary to again fully describe the particular type of enterprise involved. Nothing was intended by this slight change in language in section 9(c).

Another point that should be emphasized in this context is that the grandfather effect of section 9(c) is to protect all of the employees—current and prospective—of a once-covered enterprise, and thereby guarantee to each and all of them at least the minimum wage rate in effect before the enterprise became uncovered by the increase in the dollar amounts. It is not limited only to protecting only the specific employees who were covered; the effect of that limitation would have been to encourage firing that worker in order to hire another without regard to any wage protection whatsoever.

It should also be noted at this point that some of the coverage lost by this amendment will not be lost in practical effect because of the more stringent provisions in many State laws. Obviously, to the extent that an applicable State law affords greater protection to a worker in any fair labor standards respect, that greater protection will apply. The converse is also obviously the rule in the case of a Federal provision affording greater protection. With respect to our coverage of concessioners.

I was, and remain, of the opinion that the preponderance of these employees are covered under the Service Contracts Act. The Labor Department currently takes exception to this position. To the extent the current Labor Department position prevails, the coverage in this legislation is of primary importance. If the Labor Department ultimately accedes in its current position, and decides the Service Contracts Act does apply to these employees, then this coverage takes on a supplemental nature.

Mr. ERLENBORN. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, as the Members will note from the conference report, I signed the conference report; and I intend to vote for it here on the floor.

Let me address myself to three basic parts of the bill.

The first with respect to which we were in disagreement, which is, I think, of significance, is on the wage itself. For the first year both bodies were at $2.65. The second year we were at $2.85, and the other body was at $2.90.

Mr. Speaker, it seems to me, as we look at the economy and how it is going to move, I do not find the $2.90 objectionable.

As of January 1 of 1980 we were at $3.05, and the other body was at $3.15. We split it, making it $3.10; and then in the last year we went to $3.35 instead of $3.40, as it was in the other body. I would have preferred that we would have been at $3.30 instead of $3.35, hopeful that this Congress can do something about inflation, meaning that it would not need to move that high at that time.

Mr. Speaker, I am not really unhappy about the wage as much as I am at this whole process under which we were never able to enact a youth differential. We missed it by one vote in the House, and I think that is going to cause a problem with the young people. However, the other body did not include a youth differential. They did increase from four to six the number of students for whom certificates may be issued under section 14(b), which makes it a little better for the students to get jobs under the youth differential, and also simplified certification reducing the paperwork and making the hiring of students easier under the Senate amendment.

However, I want to add that we are really addressing ourselves to the wrong groups of young people when we address students. We should think about the teenagers who dropped out of school, and who really need help in getting their first job.

On the tip credit, we came close to being halfway between the two. We made it 50 percent the first year, as in the present law, 45 percent the second year, and 40 percent the third year and thereafter. It is halfway between where the House and Senate were on tip credit. I would like to have seen the 40-percent figure adopted for the fourth year instead of the third year, but in this conference gave more than half way in all major disagreements.

Mr. Speaker, the real problem I have and that, I believe, other Members are going to have is on the small business exemption. The other body went to $275,000 as an exemption for the first year, and we were at $500,000. If we had split the difference, we would have been at $362,500 in the first year. However, we wait until the very end of 1981 before we go to $362,500. If we had split it on the last year between the House and Senate, we would have been at $412,500. Therefore, the difficulty I had is that when we go to $362,500 on December 31, 1981, should I refuse to agree to the conference report because of a $50,000 difference on that date or, really, a $12,500 difference since I could have accepted $375,000 on July 1 of 1981? Consequently, we lose the $12,500 and 3 months before $362,500 goes into effect.

My decision was that we ought to move this legislation, and I did not find that enough for me to break my pick on it.

However, we have to, I think, make the determination as to whether we want to uncover the number of employees we do by increasing this whole business exemption—and we will uncover a substantial number of employees—or whether we are more concerned about who lose their jobs because of the increase in the minimum wage which an increase in the small business exemption would help.

On balance, I came out as deciding

that I would vote for the conference report.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. What is the estimate of the Labor Department as to how much unemployment might be created through this bill?

Mr. QUIE. Since the gentleman is on the budget committee perhaps he could tell us that better than I can. The estimate from the Department of Labor on this as to those who would be uncovered, they call it uncovered, estimate we would uncover about a quarter million for every $25,000 increase in the small business exemption.

Mr. ROUSSELOT. There is some resistance by the CBO to make an exact prediction. It is somewhat difficult on the basis of the econometric models which the Congressional Budget Office uses, to come up with an exact figure.

I would disagree with my colleague that we should call it "uncovering" workers. I would call it mandating workers and employers into a fixed wage position. That is what we do. We mandate, by Federal decree what the employers have to do, and a minimum that a so-called cover employee "must" accept, which creates a frozen position.

The Carter Labor Department informs the House this bill will throw 90,000 workers into unemployment lines. but that is a very minimal estimate. It could well be over 100,000 on January 1.

Mr. ERLENBORN. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. QUAYLE).

Mr. QUAYLE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, there is no argument that the new minimum wage law will cause unemployment.

Administration officials indicate that the unemployment resulting from the new minimum wage law will be about 100,000. The hardest hit group of unemployed will be the teenagers and, in particular, teenagers from minority groups.

Mr. Speaker, let me share with you the quotation from a black economist, Thomas Sowell, who said:

> Extremely high unemployment rates among black teenagers have been so highly publicized in recent years, and so automatically attributed to employer discrimination that certain historical facts must be noted. Large racial differences in teenage unemployment are of relatively recent vintage. In the late 1940s and early 1950's, there were no such large differences, and indeed, black youngsters 16 and 17 years old had consistently lower unemployment rates than whites in the same age brackets.

Mr. Speaker, this is a significant statement and it needs to be emphasized that black youngsters 16 to 17 years old had consistently lower unemployment rates than whites in the same age brackets. The professor goes on to comment that certainly no one is going to proclaim there is more employment discrimination now than there was 16 or 17 years ago. Perhaps the difference could be that the minimum wage had not begun the rapid rise that has been a factor in our recent history.

I am sure that we are all concerned with reducing poverty and allowing an individual to get a fair rate for his or her work. The only question is how do we achieve that goal? I strongly feel that the end result of this bill would be counterproductive.

Teenagers need to have the opportunity to enter the market force to prove their ability to their employer. They have got to have this opportunity to prove their worth to themselves. It is estimated that 90 percent of those working at minimum wage at the present time are teenagers. The teenage employment does not mean displacement of adult workers. We must bear in mind that teenage employees are secondary wage earners. Usually their parents have a job or receive welfare allocations.

Another hard-hit sector of our society will be our small businesses. A recent poll conducted of small business in America showed that of the respondents about 46 percent are literally reducing the number of employees outright; 79 percent declared they will hold up hiring new employees; 48 percent would purchase labor-saving devices to replace present or future employees.

Also, even more alarming, 48 percent said they would cut the number of hours per week that employees work. Furthermore, 80 percent indicated that there would be a price increase in the products they sell.

In addition to the failure to deal effectively with the need for a youth differential, the House-Senate conferees weakened important provisions dealing with the small business exemption and the size of minimum wage increases.

The House-passed bill included an amendment which raised the small business exemption to $500,000 effective next year. However, the conference accepted essentially the Senate position for a smaller three-step increase which will raise the exemption only to $362,500 in 1982 which is about the same as $250,000 in 1977 if present inflation continues.

In regard to the minimum wage increases, the House approved a three-step increase in the present $2.30 hourly minimum which would rise to $3.05 minimum in 1980. The conferees accepted essentially the Senate version in providing for increases to $3.35 per hour by 1981. By accepting this version, we are inviting more inflation, higher consumer prices, and more unemployment.

Mr. ERLENBORN. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I did not sign this conference report and I intend to oppose it. I was one of the three conferees who supported the House position consistently throughout the conference.

I would say on any scale that the Senate came up with 75 to 80 percent of what they wanted and we got roughly 20 percent.

Let us look at some of the areas where we yielded. We yielded, of course, in the matter of the wage rate. We went to a fourth year from $3.05 to $3.35. That was substantial yielding on the part of the House.

Many people thought we had won a victory when we defeated indexing but what happened, in fact, is we indexed it for 4 years.

With reference to tip credit, the House voted overwhelmingly to have no retreat from the 50-percent tip credit, by over 100 votes, yet we yielded to 40 percent, halfway between our position and the Senate position. But in the area of enterprise exemption we made the largest single concession and yielded our position. Enterprise coverage, as written in the House version, was in the following language: An enterprise whose annual gross volume of sales made or business done is not less than $500,000.

The Senate position was limited only to retailers or service establishments. So we yielded to the Senate on that right off. So that was the first one we yielded, on, the second thing was our $500,000 exemption would go into effect right now, not 1979, not 1980, not the end of 1981, but right now. So we yielded, secondly, on that major point.

As if these were not bad enough, look at the way we yielded on the amount. Our enterprise exemption was $500,000, their enterprise exemption was $325,000. We did not even get a 50–50 split on that, half the difference between $325,000 and $500,000, because that would make us come out at $412,500. We even lost a 50–50 split on that one by $50,000.

Our majority conferees yielded and agreed on $362,500—not right now, not with the coverage that the House bill contained of any enterprise doing business of $500,000. So there were three major concessions: First, the time. Instead of right now as in the House version, but delaying to the end of 1981. Second, in the coverage we had any kind of business or enterprise. We yielded to the Senate version which cut down the exemption considerably. Third, on top of that, to give insult to injury, we did not even split the difference between the $500,000 and $325,000, the majority yielded to a figure of $362,000.

I would have to say in all candor that one of our major obstacles was a member of my own party from the State of New York. He was about as adamant as anyone could be, and if there was some failure that we had, it was because of the senior Senator from New York who was the least yielding conferee of all. He was the hardest hurdle to get over, frankly.

I would say to my good friend, the gentleman from California, we disagreed in many areas. I would have to say my friend, the gentleman from California (Mr. PHILLIP BURTON), having the votes, probably did on a couple of occasions try to be conciliatory and go as far as he could. But the point still remains that the House's position was fundamentally undercut by 70 to 80 percent, however one wants to look at it in any test. I feel a little bit like I did when I first went on the Committee on Education and Labor in 1961, I well recall during debates when Adam Clayton Powell would look over to his right and say, "Well, you talk all you want to; I have the votes." That is basically what the situation was in the conference. When all was said and done, the votes were there to yield to the Senate

position. I think it ought to be honestly stated for the record that that is precisely what happened.

Mr. Speaker, I yield back the remainder of my time.

Mr. PHILLIP BURTON. I yield 3 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I rise to ask for a "no" vote on the conference report to H.R. 3744. My position is not asking for a no vote in increasing the minimum wage this year, for I have previously supported minimum wage. By not discharging our conferees, the House is merely asking the Senate to meet with us again.

It seems to me that the House should make it clear that policy decisions we made on the minimum-wage bill are to be reflected in the final conference report. The conferees also added a fourth year for minimum wage—up to $3.35—and that is about the same as indexing.

Because of the little change from the Senate amendment on retail and service establishments when compared to the House position on the same subject, I could not bring myself to sign the conference report.

In review, the House, on September 15, adopted an amendment I proposed to raise the threshold of coverage for independently owned and operated retail and service establishments from $250,000 to $500,000 annual gross sales. The House position was that this change in the threshold was to be effective in 1978.

After some rather fancy parliamentary procedures in the Senate, where an amendment like mine was never voted on, the Senate agreed to raise the threshold from $250,000 to $275,000 in mid-1978, and then to $325,000 in mid-1980.

The conference agreed immediately to grandfather everyone making the minimum wage now in—in other words, no one could be cut below the minimum wage either under the House proposal or the Senate proposal.

Please let me make this clear; if we go back to conference, it is agreed by all the conferees that no action raising the threshold will knock anyone below the minimum wage.

But the conference then proceeded to emasculate the House position on the exemption amendment. The conference agreed to an increase to $275,000 in mid-1978—this was the Senate position—an increase to $325,000 in mid-1980—this was the Senate position—and an increase to $362,000 in 1982. This small increase in 1982 is what is called the Senate compromise on this provision. I do not call it much of a compromise.

Mr. Speaker, there is no need to go over all the arguments as to why my amendment raising the threshold to $500,000 is needed. The House has already voted on the issue, and agrees that despite all the rhetoric about how harsh my amendment is, the amendment is a fair amendment, particularly when present workers are protected.

Let us look at the facts, not the scare talk—in 1961 the exemption was first established at $1,000,000 for a small number of establishments. In 1966 the exemption was set at $250,000 for most of the businesses covered by my amendment. A small number had a $500,000 exemption which was to phase down to $250,000. So it is clear that about 10 years ago, Congress said we want to be helpful to the small retail and service establishments.

Inflation in 10 years has made that exemption worth much less in today's dollars. My amendment is to restore the original exemption. If the adjustment is not made, in 3 years, the 1966 figure would be about $115,000.

Another way to put it would be to point out that $250,000 has been inflated to—at least—a $468,000 level in 1977. So really, all my amendment does is keep us up with inflation whereas the Senate and House position does not keep us up with inflation.

So in conclusion I ask the House to take a few more days on minimum wage and come to a position that is more in line with the original House position on the threshold level.

Mr. Speaker, my interest in this amendment did not come from big business. It came because I was contacted by a small Texaco service station operator—Frank Holder—who said his small business was being put out of business because the exemption threshold level was meaningless.

If we had just split the difference we would be getting at least $375,000, but the conferees gave us the $362,000 level stretched out over 4 years, so we do not get anything for 1978 when it is drastically needed, and this will not let us get even half of what we asked until 4 to 5 years from now.

Also I think we ought to be mindful of this additional fact, and I hope the Members will listen. The hue and cry when we had the bill up 2 weeks ago, when I offered my amendment, was we would take out from under minimum wage coverage 3.8 million people. On the surface of that assertion, it would be hard to vote to take these people out. The gentleman from Ohio offered his amendment which would have broadened the coverage but he would have granted a sort of grandfather clause. When the conferees met they have included a grandfather clause in this bill, so the contention we are taking out 3.8 million people from coverage is not valid. That is not true. Reports in this morning's paper says we might take out maybe 185,000. But some 3.5 million have not been affected.

Mr. ERLENBORN. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. JOHN L. BURTON. Mr. Speaker, if the gentleman will yield, the gentleman from California was under the impression the gentleman from Illinois was going to yield additional time to the gentleman from Texas.

Mr. ROUSSELOT. Why doesn't the gentleman from California (Mr. BURTON) yield to Mr. PICKLE? I would be delighted to yield briefly to my colleague from Texas if he wanted to finish his remarks because he was cut off in the middle of his point.

Mr. PICKLE. I believe the gentleman from Illinois is going to yield me some additional time.

Mr. ROUSSELOT. Mr. Chairman, I was sure my colleague, the gentleman from California (Mr. BURTON) would be glad to yield additional time. He has additional time left.

Mr. Speaker, I am very much concerned that the House conferees did not do a better job in fighting for the position of the $500,000 level exemption for small business.

I believe that the gentleman from Texas, who voted for final passage of that bill when it was in the House, makes an excellent point that this bill in its present condition should be called the Unemployment Act of 1977. And what workers will it impact the most? It will impact blacks, minorities, youth, apprentices, and the elderly. Those are the people we are attacking with this conference bill by erasing real unemployment.

We are not helping people that we are supposed to be helping. I cannot understand my colleagues who think that we can just vote in this conference report and be so insensitive to the unemployment that this bill will cause at the grassroots level if we pass it in its present form.

Let me be specific. According to a study conducted by Professors Tully, Graves, and Crumm of the University of Chicago, and Professor Mincer of Columbia University, the following situations will occur:

In raising the minimum wage to $3.35 by 1981 will increase unemployment by over 600,000—

And this bill will additionally—

Increase discouraged workers by over 1.2 million (for a net increase in unemployment of approximately 1.9 million)—

If we pass this bill. According to this same study—

Teenage unemployment will go up 5 percent or 370,000 individuals.

Further—inflation will go up at least 3 percent.

I ask my colleagues: Do they want to be known as the people who have mandated our country a new wave of unemployment at such a substantial level?

My colleague, the gentleman from Michigan (Mr. FORD) is shaking his head yes, he would like to, and so that is fine, maybe he would. And also we would increase inflation by that amount. I cannot genuinely believe that my colleagues want to do that.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I would be delighted to yield to my colleague from Michigan because I referred to him.

Mr. FORD of Michigan. So the record would not be incomplete, I would be willing to have that shown in the record that I was shaking my head provided the record always shows it is the gentleman in the well who is making the accusation.

Mr. ROUSSELOT. Mr. Speaker, I just said that the gentleman shook his head yes that he is evidently willing to have that kind of unemployment imposed on our society, and maybe the gentleman is, and that is part of my accusation. How can we so callously disregard the mandated impact that will occur on un-

employment as the result of the passage of this bill?

Now, when you ask the Congressional Budget Office to try to project what unemployment will be as a result of this bill, they have a great unwillingness to try to predict it. It is my judgment on the basis of discussions that have occured in our House Budget Committee that it will be even higher than the figures that I have given.

So although I realize that the loaded votes were on the side of the majority as they went to conference on this bill. I think it is wrong to totally disregard the amendment of the gentleman from Texas (Mr. PICKLE) that tried to give consideration to minority groups, to apprentice groups, to the elderly that want to enter the labor market. Most important Mr. PICKLE's now gutted amendment would have aided the small businessmen of this country to cope with an already overregulated, federally controlled economy.

Mr. Speaker, I am sorry that my colleagues have so disregarded the unemployment impact so obviously forced into the labor market. Unless we send this back to conference, I think there will be an obvious and substantial unemployment impact. I do not think that is our intention.

The SPEAKER pro tempore. Does the gentleman from California desire to yield additional time?

Mr. PHILLIP BURTON. Mr. Speaker, not at this time. I only have one further request.

Mr. ERLENBORN. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. The gentleman's point of order is not in order, but the Chair will recognize the gentleman from Mississippi (Mr. MONTGOMERY) to move a call of the House.

CALL OF THE HOUSE

Mr. MONTGOMERY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 675]

Andrews, N.C.	Harsha	Murphy, N.Y.
Andrews, N. Dak.	Hollenbeck	Pepper
Archer	Jacobs	Railsback
Beard, Tenn.	Kastenmeier	Rose
Burton, John	Kemp	Roybal
Butler	Koch	Santini
Cederberg	Krueger	Sarasin
Conyers	Long, La.	Scheuer
Davis	McCloskey	Seiberling
Dingell	Markey	Stockman
Dodd	Mathis	Udall
Drinan	Meeds	Ullman
Flowers	Metcalfe	Whalen
Flynt	Mitchell, Md.	Wilson, Tex.
Foley	Moakley	Wolff
	Moss	Young, Alaska

The SPEAKER pro tempore. On this rollcall 387 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 3744, FAIR LABOR STANDARDS AMENDMENTS OF 1977

The SPEAKER pro tempore. At the time the point of no-quorum was made, the gentleman from Illinois (Mr. ERLENBORN) had yielded 5 minutes to the gentleman from Texas (Mr. PICKLE).

The gentleman from Texas (Mr. PICKLE) is recognized for 5 minutes.

Mr. PICKLE. Mr. Speaker, I appreciate the insistence on the Chair's part in asking that the House be quiet. I think that we are going to have one of the most important votes that we will cast this year, and I would hope that Members who are conversing will give us an opportunity to present our views.

Let me repeat the situation as I see it.

When the House passed the minimum wage bill, I offered an amendment that would raise the exemption for small business from $250,000 to $500,000. That amendment passed by almost 40 votes. It was a good, strong vote indicating that the House thought that certain small business ought to be exempted. We have always had an exemption for small business. At one time we had a $1 million exemption, and then it dropped back to $250,000; but the intent of the Congress, as admitted by both sides of the aisle, has always been that we wanted to exempt small business, as defined.

Mr. Speaker, I was simply raising the $250,000 level up to $500,000 because, according to the Congressional Legislative Service, the $500,000 I was asking for—and which the House approved—is the equivalent of what $250,000 was back in 1968. It has been 10 years since we have updated it. The members of the committee admit that they have not kept current with the exemption. As a consequence, literally thousands and thousands of people have been brought in under the minimum wage whom we never intended to bring in; they have literally been sucked in under it.

Mr. Speaker, the contention was made during the debate that we were going to take out from under coverage now 3.8 million people.

Listen to this: In the bill there is a grandfather clause that says present workers will not be reduced in their pay level, so the argument, that we taking out 3.8 million people, is not a valid one. If any member of the committee disagrees with that on either side, I want him to say so and I will yield to him.

The fact is that we do not reduce anybody's pay at this point. That is important. The old argument that we are going to take out 3.8 million persons is not a factual argument; for the future, yes, but now that is not the case.

Mr. Speaker, the gentleman from Ohio (Mr. ASHBROOK) provided for that in his amendment. We are not trying to say that an employer is going to come in and reduce a man's pay. I do not think any employer will do it, but they are actually grandfathered in.

Let us bear in mind that if this exemption is raised, we can help youths because the smaller establishments can hire these younger people if this exemption is raised.

Mr. Speaker, we came to the conference and said that the present law is $250,000 and we asked for $500,000. If we had split the difference, then we would have gotten at least $375,000 by 1978. However, what did the conferees do? They gave us $275,000 next year and $362,000 4 years from now. Thay make it effective in July in the following year in most instances, so they really stretch it out to 5 years. We got less than half, and we do not get it for 5 years.

Mr. Speaker, let me give the Members an example of what this will mean. I think those persons who have dealings with small businesses should listen to me, especially those who may think this is for big business and that we are really playing into the hands of the large manufacturing companies.

I got involved in this controversy because a Texaco service station man in Austin—Mr. Frank Holder—wrote me and said:

> I have got nine employees. I have had to lay off four of them. The prices have doubled. My tires that I used to sell for $40 sell for $80. My battery prices have doubled. My gasoline that I used to sell for 30 cents sells for 65 cents and 70 cents.

And he said:

> My dollar volume has doubled, and the $250,000 doesn't mean much any more. I will have to lay off people, and may have to go out of business.

Mr. Holder laid off those people and later he went out of business and, I might say, sadly, that man has since died. He was a good man; a good small businessman. I do not say he died because of the minimum wage, but I am sure that laid heavily on his heart.

What does this mean? Let me give you an example: If you had a Texaco service station and you sold 30 tires every month, just 30 tires at a $40 additional price each, that would be around $1,200 to $1,500. Add a few other sales in accessories and gasoline and that easily reaches $2,000. Twelve times that would put you over the amount—$25,000—and you would lose the exemption because in 1978 you would be over the limit of $275,000. If you sold as many as 30 tires a month, and little extra, you would lose your exemption.

That is not what we ought to permit. But that is what this bill does.

The SPEAKER. The time of the gentleman has expired.

Mr. ERLENBORN. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER pro tempore (Mr. DERRICK). The gentleman from Illinois has 8 minutes remaining.

Mr. ERLENBORN. Mr. Speaker, I yield 1 additional minute to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding.

I hope my example shows the Members that this help does to the little man. If you want to do something for small business this bill is not the way to do it.

So, the parliamentary procedure is

this: The Senate has acted on the bill. This is an old bag that the gentleman from California plays from, and he is a wily fox, but the conferees are discharged so we cannot go back to conference. We cannot recommit because the conferees are discharged. We cannot have a vote on the previous question because there are no items in disagreement. Thus, the House is faced with an unfair vote—either yes or no—on a minimum wage bill.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. Not at this moment.

Mr. PHILLIP BURTON. Mr. Speaker, I would ask the gentleman to yield since the gentleman mentioned my name.

Mr. PICKLE. I yield to the gentleman from California.

Mr. PHILLIP BURTON. It is not merely because you called me a "wily fox," but I hope the gentleman will not destroy my credibility of being in opposition to capital punishment. I hate to believe I supported legislation that produced homicide on your Texaco friend.

Mr. PICKLE. Mr. Speaker, on my own time I will ponder that comparison. And I do not know whether the gentleman is objecting to my calling him "wily" or "a fox" but, either way, and I would use some other animal names—the situation is this, we cannot go to conference—except to ask for a new conference.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. PHILLIP BURTON. Mr. Speaker, I yield 1 additional minute to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman.

Mr. Speaker, we cannot go to conference because the Senate has acted, there is no conference. I cannot ask for the previous question because there is no items in disagreement, we have got an up or down vote, yes or no.

I contend, though, and I support minimum wage, I contend that a no vote puts us back just in the posture that we were, we can go to a new conference and we can insist on the House policy. If we do not, then this committee, such as the Committee on Education and Labor, which has some reputation in this field can always put us in a situation where we do not have a chance to express our opinion again about this one small business amendment. I say the House ought to have a chance to express its will. We say small business exemptions ought to be raised and that is all I am asking. Let us go back to conference and raise it to the level agreed to by the House.

Mr. RISENHOOVER. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Oklahoma.

Mr. RISENHOOVER. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Texas (Mr. PICKLE). I think the gentleman is very correct. It looks to me that we should at least get the same shake on this small business exemption floor that we did before and that other points in disagreement received.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. PHILLIP BURTON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, I rise in support of the conference committee report. It is not everything that any one of us would want it to be. None of us can dictate precise terms to all the other Members or to those in the other body.

For one thing, I profoundly agree with my colleague the gentleman from Texas (Mr. PICKLE) in his efforts to increase the exemption for small business. I supported the gentleman's amendment to double that exemption. Largely because of his efforts, the exemption has been raised. This conference committee report represents the first increase in the small business exemption in the past 11 years. Manifestly, it was overdue.

The most obvious change from the House bill, of course, is the addition of 1 year to the schedule of minimum wage adjustments. In addition to that, there is a slight downward revision of the tip credit from 50 percent to 45 percent in 1979, and 40 percent in 1980. There is a new provision allowing children 10 years old and above to be exempted from minimum wage coverage for hand harvest work of 8 weeks a year.

Otherwise this conference report reflects the judgment of the House. It embodies all the other features for which we voted when we overwhelmingly approved the minimum wage bill.

I recognize that there are Members who just simply do not believe in a minimum wage. There are Members who, after almost 40 years of experience with minimum wage coverage for the lowest people on the economic totem pole, still contend that the minimum wage will create unemployment and that it is unfair to business.

Unfair to business? Let us recognize that most businessmen want to pay their employees a livable wage. This applies across the board with the exception of the smallest businesses. It seems to me that it affords protection for that enlightened businessman who wants to share with his employees a better life. It protects him against the kinds of unfair competition that could be offered by a competitor who believed that all he owes to humankind and to his employees is the very bare minimum that the market will allow.

It is a truism, moreover, that business as a whole can enjoy no lasting prosperity except as the great bulk of American wage earners are sufficiently well paid that they can purchase the goods which business offers for sale.

Does the minimum wage create unemployment? In 1938 when the first minimum wage bill was adopted, it was argued that it would create massive unemployment. Looking back over those 39 years, who among us could argue but that the consistent movement of events in the social structure of the United States has been upward? It has shared the good things of life with a greater and ever greater number of our people. It has spread the base of American purchasing power and fueled the engines of prosperity. This is but a further, and rather modest, step in that direction.

I urge the Members to support this conference committee report.

Mr. PHILLIP BURTON. Mr. Speaker, I yield 5 minutes to the chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, first I want to commend all the conferees on our side headed by the gentleman from California (Mr. PHILLIP BURTON) and on the minority side headed by the gentleman from Minnesota (Mr. QUIE).

Mr. Speaker, the House-Senate conference committee report on H.R. 3744, the Fair Labor Standards Amendments of 1977, is a fair compromise between the House bill and the Senate amendment.

That compromise involves a minimum wage increase to $2.65 an hour on January 1 next year, to $2.90, $3.10 and $3.35 on January 1 of each of the next 3 years. This was more than the House provided for 1979 and thereafter. On the other hand, we shaved a nickel an hour off the last two steps of the Senate amendment.

The House bill provided for a Minimum Wage Study Commission to be appointed by the President to study a number of specific economic and employment effects of changes in the minimum wage and overtime provisions. The Senate amendment did not provide for a commission, but directed the Secretary of Labor to study the nature and extent of noncompliance with the act and the social and economic characteristics of workers affected by the minimum wage. The compromise provides for an eight-member Commission, appointed two members each by the Secretaries of Labor, Commerce, Agriculture, and Health, Education, and Welfare. The Commission is directed to study and report on virtually every question that has ever been asked about the Fair Labor Standards Act—its effect on ameliorating poverty; its inflationary impact, if any; the effect of increases in the minimum wage on wages paid employees earning in excess of the rate prescribed by the act; the employment and unemployment effects, if any, of a youth subminimum; the economic and employment effects, if any, of the minimum wage itself; and of the overtime provisions. These and many, many other questions the Commission is directed to report on so that, before the Congress deals again with amendments to the Fair Labor Standards Act, we will have new, concrete and authoritative data on which to base our judgments.

The House bill changed the definition of tipped employee from one who customarily receives more than $20 per month in tips to one who receives more than $30 per month in tips. The Senate amendment had no comparable provision. The House had retained the tip credit at 50 percent of the applicable minimum wage. The Senate would have reduced the tip credit over a period of 4 years to 30 percent. The conference committee adopted the House provision with respect to the definition of tipped em-

ployees and compromised the tip credit at 40 percent, which is to be arrived at over a 4-year period.

The conferees did not accept the House provision which would have removed any wage and overtime exemption for employees of conglomerates, but this subject was made a specific item for study by the Commission.

The amendment of our colleague from the State of Washington, LLOYD MEEDS, permitting the Secretary of Labor to waive child labor restrictions for the employment of children in certain agricultural hand harvest situations was retained in substance although the conferees kept a number of the more specific protections incorporated in the Senate amendment.

Under the House bill the test for coverage of employees for the individual enterprise was raised from the current $250,000 per year to $500,000 per year. The Senate amendment would have changed the test only for enterprises operating retail and service establishments. On July 1, 1978, only those enterprises grossing $275,000 or more would have been covered, and on July 1, 1980, the required dollar volume would have been set at $325,000. The conference agreement increases the dollar volume test for enterprises comprised of one or more retail or service establishments to $362,500 in three steps.

A few Senate provisions were adopted without compromise, namely, the existing exemption for babysitters who are employed on a casual basis was retained. Employees of organized camps and religious or nonprofit educational conference centers operated on a seasonal basis would be exempted.

The Senate provision permitting an employer to increase the number of students under the certificate plan was increased from four to six. The regulations relating to the employment of students are required to be simplified. The Secretary was directed to use simplified forms for small business concerns seeking to use the special certificates of employment for students.

In all other respects the House provisions prevailed and the conference agreement adopted the House language.

It was a fair and reasonable compromise as attested by the fact that it enjoys bipartisan support among both House and Senate conferees.

Finally, I could not close without a word of praise for our old friend from Pennsylvania, JOHN DENT. We are all grateful that he could be with us here today. This is a John Dent bill. He, more than anyone, has made this conference report possible. He, more than anyone, has been concerned and worked for America's most needy workers. All who enjoy the protection of the Fair Labor Standards Act owe JOHN DENT a debt of gratitude. All of us have today, likewise, are in his debt.

Mr. PHILLIP BURTON. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Speaker, I commend the conferees and urge adoption of this conference report.

As Members know, we are beginning to look at the President's proposals for welfare reform and what it is going to cost. It is going to cost a lot of money unless we put people to work at living wages. This conference report has brought back a proposal which will get people up to the poverty level if they work, at least in the future. If we do not do that we will have to give welfare to people who work full time just so they can keep body and soul together. That is not good sense or good economics.

I urge the Members to vote for the conference report.

Mr. ERLENBORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the conference report and ask my colleagues to vote against the conference report. This conference report represents about an 85-percent Senate bill and the other 15 percent the House version. The 15 percent is in those matters that are not terribly important in the first place. Let us just look at the various issues that were before the conference.

On the wage rate itself, there were 4 years to be considered by the conference: 1978, 1979, 1980, and 1981. In the first year there was no difference between the two bills, so there was nothing to adjust. In the second year, the Senate version was adopted. We gave in. In the third year the Senate came down a nickel and we went up a nickel, so that is about halfway. In the fourth year we had none, the conference adopted a provision, and took just a nickel below the Senate figure.

The top figure on the rate that the House approved with the adoption of the Erlenborn amendment was $3.05. The Senate approved $3.40. That is a 30-percent figure over what the House approved. The difference between the House and the Senate and our final figure is 85 percent of the Senate version.

I would say the conferees did not do their job in trying to uphold the House position.

On the small business exemption, it has already been very adequately argued by the gentleman from Texas (Mr. PICKLE) that obviously we are nowhere near halfway between the dollar figure that the House adopted and that adopted by the Senate. The Senate was $325,000. We were $500,000. The so-called compromise was $362,500; but 4 years in the future when it means very little more than the $250,000 in the present law.

On the tip credit, the House had a 102-vote margin in the adoption of the Quie amendment to protect the tip credit as it is today at 50 percent. The conferees caved in and cut back the tip credit.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank my colleague for yielding. Mr. Speaker, our colleagues should understand that the House position on tip credits was totally destroyed in this conference.

Mr. ERLENBORN. Absolutely, and there was a 100-vote margin on the adoption of that amendment. That shows the strong feeling on the part of the House and that strong feeling was not adequately represented in the conference.

Why would not the House conferees stand up for an amendment that had a 100-vote margin? I will tell you why. Not one of the Democratic conferees on that issue voted for that position, not one of them. They wanted to keep the exemption at $250,000. That was their position. When the House spoke, what they said quietly to themselves and to each other was, "Well, don't worry about it. We'll take care of it in conference."

That is not unusual. That has been going on for years, to the point back in 1972 on a minimum wage bill the House refused to send the bill to conference because we did not have a fair shake by having conferees who represented the House position. As a result of that, a rule was adopted which is now part of the official rules of the House that says a majority of the conferees must be those who support the House position. Unfortunately, it goes on to say, "as determined by the Speaker."

Well, how did the Speaker choose conferees that stood up for the House position?

I hope you all look at this chart. Out of seven Democratic House conferees, with the exception of the gentleman from Texas (Mr. PICKLE), who was only in conference on one issue, only one voted in favor of the House position on small business during the consideration of the bill. Just look at that, all those minuses. Every one of them was not in favor of what ultimately was the House position. They did not worry too much about it. I contend the rules of the House are not being complied with when we send conferees to conference who do nothing to sustain the House position, maybe a little cosmetic thing here and there so they can say they did not just cave in on every issue; but when they go 85 percent of the way to the Senate provisions, I say the House has not had a fair shake.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I cannot yield to the gentleman, unless the gentleman gives me additional time.

Mr. Speaker, let me make one additional point. Then I will yield to the gentleman from Texas.

Remember this. There is a way to see that the intent of the House rules is carried out. You do not have to kill the bill. If you vote down the conference report, the bill is not dead. The bill is still alive. We just return to the point where we were before we sent the bill to conference. We return to the position where the Senate has a version, the House has a version, and those who are authorized to do so can move or ask unanimous consent to disagree with the amendments made in the Senate and to ask for a conference. There is a way to see that the House can be honestly represented in the conference.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding. One of the speakers a few minutes ago left the impression that we

really did not grandfather present workers. Let me read from the CONGRESSIONAL RECORD, part of the conference report:

Those uncovered by the change in the level stay at the minimum wage, in effect, when the change takes place.

So, the contention that we are taking out 3.8 million people from under minimum wage is not a valid point. Members ought to remember that.

Also, if we go to $3.35 from $2.30 today, that is $3.35 stretched out over 4 years.

Mr. ERLENBORN. That is a 45-percent increase in minimum wage.

Mr. PICKLE. Let me say this: Next week we are going to be asked to vote on a social security bill. They are going to say, with reference to the trigger, that we can borrow from the General Treasury, but they say that there will be a 4- or 5-percent inflation factor. Here, the committee says we are going to have up to 45-percent inflation factor. One cannot be for both and be consistent. I say a Member can be for a minimum wage, but he can vote no on this and go back to conference.

Mr. ERLENBORN. I thank the gentleman.

Mr. CLEVELAND. Mr. Speaker, I voted in favor of the minimum wage bill when the House passed it September 15. I did so with some reluctance, as I indicated in a statement I made at that time; it was not until amendments had been offered to remove the indexing provision and substitute a three-step increase to $3.05, and to retain the 50-percent tip credit, that I could support H.R. 3744.

I cannot in good conscience, however, vote in favor of the conference report now under consideration. The provisions adopted by the conferees are much more in line with the Senate version of the bill, which I consider unacceptable. Apparently it was set up that way, because upon examination of the positions on the major issues taken by the Democratic House conferees, one finds that they voted almost universally in opposition to the positions taken by the full House. These members failed in their responsibility to advocate the views of the House membership, and quickly folded in favor of the Senate provisions.

This conference report goes far beyond the stand taken by the House last month in three crucial areas. Most important, it grants an ultimate minimum wage that is 30 cents higher than that in the House bill, by providing a four-step boost to $3.35. In view of the opinions of many respected economists that increasing the minimum wage also increases unemployment, especially among teenagers, I cannot support such a large increase as contained in this final bill.

Second, the House had voted to retain the 50-percent tip credit, a vote I strongly supported, yet the conference report reflects the much more damaging Senate position. It would reduce the tip credit to 40 percent by 1980, which I am convinced would force restaurant owners and others either to raise prices or lay off employees.

Finally, the conference report is much more favorable to the Senate position regarding the small business exemption, by increasing the maximum qualifying dollar volume from its present $250,000 to only $362,000, and that over 4 years. The House version would have increased, upon passage, the exemption to businesses doing less than $500,000 in volume.

For these reasons, Mr. Speaker, I must cast my vote in opposition to the conference report. I hope my colleagues will join me to defeat the report, so a new conference can be established that will better represent the positions adopted by the House.

Mr. ALEXANDER. Mr. Speaker, the conference agreement on minimum wage before us today is neither acceptable nor equitable to the Nation's small businessman and farmer. Already trapped by continually rising costs, the farmer and the small businessman will bear the brunt of this "compromise," a product almost totally of the Senate's making.

Rejecting the House provision for a one-time increase in the small business exemption from the current $250,000 to $500,000, the conference settled on the Senate approach to phasing-in an increase to $362,500 over 4 years.

Given continued inflation, this modest, phased-in increase in the small business exemption will likely put thousands of small enterprises in no better position in 1982 than they are in 1977.

While House provisions increased the minimum wage to a top rate of $3.05 in 1981 and the Senate increased the wage to a top rate of $3.40, the conference "split the difference" at $3.35. Mr. Speaker, this is hardly a compromise.

If the family farm and small business are to survive, and I believe it is in the Nation's best interest that they do, then it is up to the Congress to insure a climate whereby these cornerstones of our free enterprise system can exist.

I favor an increase in the minimum wage. I supported the House bill which was a balanced approach toward insuring the Nation's working force a fair wage. I will continue to support minimum wage legislation that is responsible and equitable. The Senate's bill, served up to us in this conference report, is neither. I am constrained to vote no.

Mr. BIAGGI. Mr. Speaker, as one of the House conferees, I am proud to urge support of the conference report to H.R. 3744. Passage of this legislation will again demonstrate this Congress commitment to improving the economic security of the American worker.

The key feature of this legislation is the increase in the minimum wage. Effective January 1, the wage rate will rise to $2.65 an hour. By the year 1981 the wage rate will reach $3.35. It is essential that the minimum wage reflect the true cost of living. Present wage rates are insufficient. It is estimated that as many as 40 percent of persons under the present minimum wage are living at or below poverty levels. If we are successful in our efforts to reduce inflation, the increases in the wage figures will be of greater significance.

We have compromised with respect to the tip credit allowance. As a product of compromise, not everyone is satisfied but it can be said that we took all factors into consideration in determining the reduction to 45 percent in 1979 and 40 percent in 1980.

It is important that our legislative efforts reward the virtue of work. Our Nation has always prided itself on its work ethic but the effects of two decades of inflation have had especially devastating effects on workers covered under the minimum wage. We have presented sensible and economically sound legislation. It deserves support and early Presidential approval.

Mr. CORRADA. Mr. Speaker, I rise in support of the conference report accompanying the 1977 amendments to the Fair Labor Standards Act which, I believe, embodies a compromise promoting fairness to our working people without unduly jeopardizing economic development.

With respect to Puerto Rico, this compromise represents the best evidence that Governor Romero-Barceló and I intend to fulfill our pledge to the working men and women of Puerto Rico; namely, to seek full wage parity with the mainland in the shortest possible time, without damaging our continuing industrial development efforts. I do not believe this compromise will result in higher unemployment; rather, it will result in the enhancement of our people's purchasing power leading to an improvement in their overall quality of life.

As we near the eighth decade of this century, Puerto Rico must break away from our traditional dependence on low-wage industries. Our people expect and deserve that we do better by them. This we have committed ourselves to do. In urging your approval of this conference report I, for one, fulfill this commitment.

This is the first time that the Government of Puerto Rico and the labor movement have not been at loggerheads over the question of minimum wages. While we shall always take into account the needs of our industrial development in any wage consideration, our principal concern must always be the welfare of our workers.

I commend the conferees for their diligence and fairness in achieving this compromise.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this conference report under consideration.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DENT. Mr. Speaker, I would hope that no one would ask me to yield because I have a lot of time to make up. When I left, this piece of legislation was already drafted, and certain refinements had to be made in it. Mr. PHILLIP BURTON took over the chairmanship, and performed a remarkable job in this situation.

As I see it, this is the best we can get, but we do not want to leave here without full understanding of what we intended to do. First it was a very serious mistake not to have given further con-

sideration to indexing. We go through this battle every 4 to 5 to 6 years.

And we continued to deal with minimum wage in this way, causing disruption in the economy, repeating the same arguments that have been proven false time and time again: the argument that it causes inflation, the argument that it cuts employment. Do the Members realize that this law has a provision that requires the Secretary of Labor to submit a report on the inflationary and employment aspects to the Congress? I cannot find one Secretary of Labor, either under a Democratic or Republican administration, who has found there was inflation or unemployment because of passage of the act.

The truth of the matter is—and this is the point that I want to drive home.

People must be able to work full time under minimum wage and carry their family, without going on welfare.

During all of these arguments, all of us have failed to realize that we must have a minimum wage based upon the needs of a head of family with two children. If that person cannot stay off of welfare, there is no way that we can carry the load of welfare in this country. We cannot blame a head of family with two, three or four children for not taking a minimum-wage job if he can earn more on welfare.

While it might seem just a short time ago that Congress passed the fair labor standard amendments that increased the minimum wage rate from the $1.60 an hour level to the current $2.30, let me remind my colleagues that since the Fair Labor Standards Amendments of 1974 were enacted in April 1974, economic conditions in America have gone through a number of external shocks, dislocations, distortions, and disruptions. And, in the process, over 3 million low-wage workers at any one time, with perhaps twice as many in the total period, have had their earnings eroded by the continuous price inflation resulting from these national and international economic problems.

It is somewhat ironic that in the same year we passed the last increase in the minimum wage, the Nation suffered from a skyrocketing price level that finally registered an inflation rate of 12.2 percent. In the following 2 years, 1975 and 1976, the Consumer Price Index climbed by 7 and 4.8 percent, respectively. And, in 1977 it appears we will ultimately experience an inflation rate of close to 7 percent.

In 1974 we argued that the 43-percent increase in the minimum wage rate we were legislating would compensate low-wage workers for the ravages of inflation past. Yet, from May 1974 to the end of this year, consumer prices will have climbed by more than 28 percent, again returning our Nation's working poor into the depths of financial despair.

And now, we are raising the hourly minimum wage rate to $2.65 to become effective on January 1, 1978, an increase of 15 percent. Let me point out that this 15-percent increase will be half the rate of inflation we have experienced in this country since the minimum wage rate was last raised.

Let me also point out that the $2.65 rate scheduled for 1978 would generate an annual salary—for those fortunate enough to work continuously for 1 whole year—of about $5,400, an income that would be far below the family-of-four $5,876 poverty level set for 1976, let alone for 1978.

Mr. Speaker, these figures speak primarily to two main issues: One, the minimum wage rate must be increased in 1978 to at least $2.65 an hour; and two, the additional 3 years of increases to $2.90 in 1978; to $3.10 in 1979; and to $3.35 in 1981 are an absolute necessity if the purpose and intent of the Fair Labor Standards Act as originally defined in 1938 are to be maintained.

Millions of hard-working minimum-wage jobholders in America today, as well as the millions more following them in the next several years, are depending on this Congress to keep the promises of a generation not yet past.

I urge my colleagues, Mr. Speaker, to look beyond their partisan postures and, instead, help us all fulfill not only our legislative obligation but our moral one as well by quickly voting to adopt this conference report.

MINIMUM WAGE STUDY COMMISSION

In a major attempt to deal with the issues that inherently prevail in each debate on the Fair Labor Standards Act, the conference committee adopted the House provision that mandates a thorough and extensive study of the Fair Labor Standards Act, so that when this body is ready again to consider increasing the minimum wage rate, we will hopefully have for our use the most definitive analysis and compilation of data to date on the Fair Labor Standards Act. The Secretaries of the Departments of Labor, HEW, Commerce and Agriculture shall each appoint two persons to serve on the Commission. The Chair of the Commission will be selected by the appointees—the House bill provided for Presidential appointment; the Senate bill required the Secretary of Labor to conduct additional studies. The Commission's study will include, but certainly not be limited to:

First, the social, political, and economic ramifications of the minimum wage, overtime, and other requirements of the Fair Labor Standards Act;

Second, the beneficial effects of the minimum wage, including its effect in ameliorating poverty among working citizens;

Third, the inflationary impact—if any—of increases in the minimum wage prescribed by that act;

Fourth, the effect—if any—such increases have on wages paid employees at a rate in excess of the rate prescribed by that act;

Fifth, the economic consequence—if any—of authorizing an automatic increase in the rate prescribed in that act on the basis of an increase in a wage, price, or other index;

Sixth, the employment and unemployment effects—if any—of providing a different minimum wage rate for youth, and the employment and unemployment effects—if any—on handicapped and aged individuals of an increase in such rate and of providing a different minimum wage rate for such individuals;

Seventh, the effect—if any—of the full-time student certification program on employment and unemployment;

Eighth, the employment and unemployment effects—if any—of the minimum wage;

Ninth, the exemptions from the minimum wage and overtime requirements of that act;

Tenth, the relationship—if any—between the Federal minimum wage rates and public assistance programs, including the extent to which employees at such rates are also eligible to receive food stamps and other public assistance;

Eleventh, the overall level of noncompliance with that act; and

Twelfth, the demographic profile of minimum wage workers.

The conference in attempting to deal with the House passed "conglomerate" provision, also required the Minimum Wage Study Commission to conduct a study concerning the extent to which the exemptions from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938 may apply to employees of conglomerates, and to make a report, within 1 year after the date of the appointment of the members of the Commission, of the results of such study.

TIP CREDIT

As you know, the House retained the present tip credit of 50 percent in its bill. The Senate, however, in its bill, reduced the tip credit to 30 percent. The conference committee adopted a reduction in the tip credit to 40 percent; additionally, as provided in the House bill, the definition of a tipped employee is changed.

Existing law defines a tipped employee to mean any employee who is engaged in an occupation in which he customarily and regularly receives more than $20 a month in tips. Section 3 of the House bill raises that figure to $30 a month. The Senate amendment did not contain a comparable provision.

The change proposed by H.R. 3744 in the tip credit provision of the Fair Labor Standards Act is an equitable compromise between the Senate version of the 30-percent tip credit and the present 50-percent tip credit provision as retained by the House.

In July 1977, the average hourly earnings of production or nonsupervisory workers in the total private nonagricultural work force was $5.23. It is logical to assume that workers employed in jobs at lower wage levels, normally aspire to earning levels that are somewhat comparable to the average earning levels of their fellow workers in the total economy. For service-type employees, however, many are engaged in occupations which, although qualified as "tipped employees" under the law, earn very little through the tipping process. For these workers, the present law appears to confine them for exceptionally long periods of time to a subsistence wage and little if any more.

Let me point out, Mr. Speaker, that the focus of the tip credit proposal in the conference report is a phase down of 10 percent over a 3-year period. This will directly benefit the large group of tipped employees working in a number of service occupations for whom the average

hourly wage prevailing in the United States is only an elusive hope. Earning far below this amount, these workers look to us for some equity in the labor marketplace.

The gradual change proposed by the conference report, together with the small increase in the dollar amount contained in the definition of "tipped employee", will mitigate the impact on affected employers and will allow them to slowly absorb the modest increases in cash wages to which tipped employees will be eventually entitled. It is a small move towards eliminating the basically inequitable treatment of tipped employees.

Mr. Speaker, in keeping with the basic thrust of minimum wage law, we owe the low-paid workers in America this opportunity—the opportunity not only to clear a basic minimum wage but to aspire to higher earnings through their own diligence and application. The changes in the tip credit provisions of the conference report will meet our obligation to both these workers and their employers.

EMPLOYEES OF CONCESSIONERS IN THE NATIONAL PARKS, REFUGES AND FORESTS

The conference committee adopted the House provision to extend coverage to those employees of concessioners in the national parks, refuges, and forests. There is no basis for continuing the special exception because these concessioners operate on Federal land and the Federal Government should require them to meet fair labor standards. The conference report requires these concessionaires to pay employees at least the minimum wage for each hour worked and time-and-one-half their regular rate of pay for all hours over 56 in a week. While this does not completely eliminate the overtime exemption the committee considers it a significant improvement. This amendment would affect some 2,500 contracts involving about 20,000 employees. The existing exemption from section 6 as it applies to private entities engaged in providing services and facilities directly related to skiing is preserved.

SHADE-GROWN TOBACCO

In 1974, the Congress repealed the minimum wage, but not the overtime, exemption provided shade grown tobacco growers in 1961. The Conference Report repeals that overtime exemption. The Supreme Court, in handing down the decision in Mitchell against Budd, emphasized that processing leaf tobacco for cigar wrappers substantially changes the natural state of the tobacco and turns it into an industry product, and that farmers who grow that type of tobacco do not ordinarily perform for themselves the kind of processing which is carried on in the bulking plants.

This conference committee is aware of no adverse effects of the repeal of the minimum wage exemption for these employees in 1974 and is convinced that the repeal of the overtime exemption would be beneficial to the workers and could be adjusted to with ease. Shade grown tobacco employees are now afforded the full protection of the Fair Labor Standards Act.

HOTELS, MOTELS, AND RESTAURANTS

In addition to the repealing the overtime exemptions described above, the conference report repeals the limited overtime exemption (13(b)(8)) currently available for employees of hotels, motels and restaurants, other than hotel maids and custodial employees. Currently, 2.4 million of these workers are subject to a 46-hour per week workweek standard. This means that, unlike most other employees, they do not receive premium pay for overtime work until after they have worked a 46-hour week.

The 1974 amendments initially set a 48-hour standard for these workers and provided that the standard would be reduced to 46 hours after 1 year. Since May 1, 1975, the basic overtime standard for these employees has been 46 hours. The industry has apparently adjusted easily to the imposition of a limited overtime requirement since May 1974. The time has come to eliminate the limited overtime exemption.

COTTON GINNING AND SUGAR EMPLOYEES

The conference report phases down—but does not eliminate—the partial exemption from overtime now available for employees of cotton gin and sugar cane and sugar beet establishments.

The overtime exemption is revised so that overtime pay for employment in excess of 10 hours in a day and 48 hours in a workweek, for the entire 14 workweek period is required.

BABYSITTERS

The existing exemption, limited to babysitters who are employed on a casual basis, is retained.

AGRICULTURAL HAND HARVEST LABORERS

The conference substitute, with the additional provisions, adopts the essential provisions of the House bill pertaining to hand harvest laborers. Several improvements were made so as to insure the protection of our Nation's children, and avoid any hint of retrogression to the terrible evils of child labor. For example, the Secretary of Labor cannot grant a waiver unless it is based on objective data submitted by the applicant; the waiver cannot apply to anyone under 10; the child may not be employed for more than 8 weeks a year; the Secretary must find that the crop to be harvested is one with a particularly short growing season; the Secretary must find that exposure to pesticides or other chemicals will not have an adverse effect on the health or well being of employees; individuals 12 and over are not available for employment.

The Secretary is to use his authority as required to secure the necessary information, whether by regulation or other manner, on which to base an informed, and objective, granting or denial of a waiver. The burden of proof is on the employer to show that these conditions are met. Our children are important to us, and it is their health and well-being that must be a priority in any decision the Secretary makes. The congressional mandate is clear on this.

ENTERPRISE COVERAGE

The test for coverage of employees only for enterprises comprised of retail and service establishments is changed.

The dollar volume test for enterprises comprised exclusively of one or more retail or service establishments to $362,500 in three steps is now as follows:

July 1, 1978	$275,000
July 1, 1980	325,000
Dec. 31, 1981	362,500

Those uncovered by the change in the level stay at the minimum wage in effect when the change takes effect; the change in the test for coverage of such employees is not to result in a reduction in wages or loss of overtime compensation.

Such an increase is designed to help this country's small businesses accommodate the inflationary forces of the past few years, while not uncovering any employees now afforded protection by the Fair Labor Standards Act.

REMEDIES

Also included in this bill is a change in the procedure for suits against employers regarding enforcement of the act. As it is now, the Secretary of Labor is required to bring all suits against employers, a lengthy and inefficient process. This amendment now allows employees to bring their own suits against employers and authorizes appropriate legal or equitable relief against any employer who discharges or otherwise discriminates against employees seeking to enforce the act.

STUDENTS

The number of students that can be hired at 85 percent of the applicable minimum wage rate by means of self-certification is raised from four to six.

While all of us are well aware of the high rate of unemployment confronting our teenagers today—17.5 percent in August—no one claims that the youth unemployment problem in the United States can be explained away by the minimum wage law. Even in those countries which have long used a lower minimum wage for youth, teenage unemployment normally runs higher than that of adults.

The fact that my colleagues and I have been bombarded with so many different conflicting reports as to the potential impact of a youth subminimum should be proof enough that the estimates that economists have come up with have been largely speculative. This year again, the Congress has decided against a youth subminimum wage rate.

However, consistent with congressional attempts to encourage small businesses to employ youth, without displacing older workers, we are increasing the number of full-time students that can be hired by means of the self-certification process at 85 percent of the applicable minimum wage from four to six.

SMALL BUSINESS PAPERWORK REDUCTION

Consistent, and concurrent, with the ability to hire more students, is the provision that provides for a reduction in paperwork for those small businesses which hire six or less students. Rather than being required to submit a multi-paged application form, the business person will submit the following:

First, a list of the name, address, and business of the applicant employer;

Second, a listing of the date the applicant began business; and

Third, the certification that the employment of such full-time students will not reduce the full-time employment opportunities of persons other than persons employed under special certificates.

Mr. Speaker, I feel that this bill is a good one and I urge my colleagues to vote for final passage.

The SPEAKER pro tempore. All time has expired.

Mr. PHILLIP BURTON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tem announced that the ayes appeared to have it.

Mr. PHILLIP BURTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device; and there were—yeas 236, nays 187, not voting 11, as follows:

[Roll No. 676]

YEAS—236

Addabbo	Fascell	Moss
Akaka	Fisher	Murphy, Ill.
Allen	Fithian	Murphy, N.Y.
Ambro	Flippo	Murphy, Pa.
Ammerman	Flood	Murtha
Anderson, Calif.	Florio	Myers, Michael
	Flowers	Natcher
Andrews, N.C.	Foley	Neal
Annunzio	Ford, Mich.	Nedzi
Applegate	Ford, Tenn.	Nix
Ashley	Fountain	Nolan
Aspin	Fowler	Nowak
AuCoin	Fraser	Oakar
Badillo	Gaydos	Oberstar
Baldus	Giaimo	Obey
Baucus	Gibbons	Ottinger
Beard, R.I.	Gilman	Panetta
Beilenson	Glickman	Patten
Benjamin	Gonzalez	Patterson
Bevill	Gore	Pattison
Biaggi	Gudger	Pease
Bingham	Hamilton	Perkins
Blanchard	Hannaford	Preyer
Blouin	Harrington	Price
Boland	Harris	Pritchard
Bolling	Hawkins	Quie
Bonior	Heckler	Quillen
Bonker	Hefner	Rahall
Brademas	Heftel	Rangel
Breckinridge	Holtzman	Reuss
Brodhead	Howard	Richmond
Brooks	Jacobs	Rinaldo
Brown, Calif.	Jeffords	Rodino
Broyhill	Jenrette	Roe
Buchanan	Johnson, Calif.	Roncalio
Burke, Calif.	Jones, N.C.	Rooney
Burke, Mass.	Jones, Tenn.	Rose
Burlison, Mo.	Jordan	Rosenthal
Burton, John	Kastenmeier	Rostenkowski
Burton, Phillip	Kazen	Roybal
Caputo	Keys	Russo
Carney	Kildee	Ryan
Carr	Koch	Santini
Cavanaugh	Kostmayer	Scheuer
Chisholm	Krebs	Schroeder
Clay	Krueger	Seiberling
Cohen	LaFalce	Sharp
Collins, Ill.	Le Fante	Shipley
Conte	Lederer	Sisk
Conyers	Leggett	Skelton
Corman	Lehman	Slack
Cornell	Lloyd, Calif.	Smith, Iowa
Cotter	Lloyd, Tenn.	Solarz
D'Amours	Long, Md.	Spellman
Danielson	Luken	St Germain
Davis	McCormack	Staggers
de la Garza	McDade	Stark
Delaney	McFall	Stokes
Dellums	McKay	Stratton
Dent	Madigan	Studds
Derrick	Maguire	Thompson
Diggs	Markey	Thornton
Dicks	Marks	Traxler
Dingell	Mazzoli	Tsongas
Downey	Meeds	Tucker
Drinan	Meyner	Udall
Duncan, Oreg.	Mikulski	Ullman
Early	Mikva	Van Deerlin
Eckhardt	Miller, Calif.	Vanik
Edgar	Mineta	Vento
Edwards, Calif.	Minish	Volkmer
Eilberg	Mitchell, Md.	Walgren
Emery	Moakley	Waxman
Ertel	Moffett	Weaver
Evans, Colo.	Mollohan	Weiss
Fary	Moorhead, Pa.	Whitley
Wilson, C. H.	Yates	Young, Mo.
Wirth	Yatron	Zablocki
Wright	Young, Alaska	Zeferetti

NAYS—187

Abdnor	Ginn	Myers, Gary
Alexander	Goldwater	Myers, John
Anderson, Ill.	Goodling	Nichols
Archer	Gradison	O'Brien
Armstrong	Grassley	Pettis
Ashbrook	Guyer	Pickle
Badham	Hagedorn	Poage
Bafalis	Hall	Pressler
Barnard	Hammer-schmidt	Pursell
Bauman		Quayle
Beard, Tenn.	Hanley	Railsback
Bedell	Hansen	Regula
Bennett	Harkin	Rhodes
Boggs	Harsha	Risenhoover
Bowen	Hightower	Roberts
Breaux	Hillis	Robinson
Brinkley	Holland	Rogers
Broomfield	Holt	Rousselot
Brown, Mich.	Horton	Rudd
Brown, Ohio	Hubbard	Runnels
Burgener	Huckaby	Ruppe
Burke, Fla.	Hughes	Satterfield
Burleson, Tex.	Hyde	Sawyer
Butler	Ichord	Schulze
Byron	Ireland	Sebelius
Carter	Jenkins	Shuster
Cederberg	Johnson, Colo.	Sikes
Chappell	Jones, Okla.	Skubitz
Clausen, Don H.	Kasten	Smith, Nebr.
	Kelly	Snyder
Clawson, Del	Kemp	Spence
Cleveland	Ketchum	Stangeland
Cochran	Kindness	Stanton
Coleman	Lagomarsino	Steed
Collins, Tex.	Latta	Steers
Conable	Leach	Steiger
Corcoran	Lent	Stump
Cornwell	Levitas	Symms
Coughlin	Livingston	Taylor
Crane	Long, La.	Teague
Cunningham	Lott	Thone
Daniel, Dan	Lujan	Treen
Daniel, R. W.	Lundine	Trible
Derwinski	McClory	Vander Jagt
Devine	McCloskey	Waggonner
Dickinson	McDonald	Walker
Dornan	McEwen	Walsh
Duncan, Tenn.	McHugh	Wampler
Edwards, Ala.	McKinney	Watkins
Edwards, Okla.	Mahon	White
English	Mann	Whitehurst
Erlenborn	Marlenee	Whitten
Evans, Del.	Marriott	Wiggins
Evans, Ga.	Martin	Wilson, Bob
Evans, Ind.	Mathis	Wilson, Tex.
Fenwick	Mattox	Winn
Findley	Michel	Wydler
Fish	Milford	Wylie
Flynt	Miller, Ohio	Young, Fla.
Forsythe	Mitchell, N.Y.	Young, Tex.
Frenzel	Montgomery	
Frey	Moore	
Fuqua	Moorhead, Calif.	
Gammage		
Gephardt	Mottl	

NOT VOTING—11

Andrews, N. Dak.	Metcalfe	Simon
	Pepper	Stockman
Dodd	Pike	Whalen
Hollenbeck	Sarasin	Wolff

The Clerk announced the following pairs:

Mr. Wolff with Mr. Andrews of North Dakota.

Mr. Dodd with Mr. Stockman.

Mr. Pepper with Mr. Pike.

Mr. Sarasin with Mr. Metcalfe.

Mr. Hollenbeck with Mr. Simon.

Mr. McHUGH changed his vote from "yea" to "nay."

Messrs. ROSE, JONES of Tennessee, GORE, and JONES of North Carolina changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. BOGGS. Mr. Speaker, I intended voting in favor of the conference report on the fair labor standards amendment. I am recorded as voting "no." I ask unanimous consent that this statement appear immediately following the vote.

The SPEAKER. Is there objection to the request of the gentlewoman from Louisiana?

There was no objection.

GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, in an attempt to expedite the conference report and give everybody a chance to put what they want to in the RECORD, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill on which we are about to consider the conference report, S. 1811, authorizing appropriations for ERDA.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON S. 1811, ERDA AUTHORIZATION ACT OF 1978—CIVILIAN APPLICATIONS

Mr. TEAGUE. Mr. Speaker, I call up the conference report on the Senate bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 as amended, and for other purposes and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 17, 1977.)

Mr. TEAGUE (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. TEAGUE) will be recognized for 30 minutes and the gentleman from New York (Mr. WYDLER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. TEAGUE).

Mr. TEAGUE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report which I bring to the floor today represents the product of some very hard work by many people in resolving the differences between the Senate bill and the House amendment.

I want to take this opportunity to

publicly commend the able Senator from Idaho, the Honorable FRANK CHURCH, and also all the members of the conference committee for an outstanding performance in representing their colleagues This conference truly represented a good and fair compromise incorporating many disparate views on a number of controversial issues.

The authorization bill calls for an expenditure of approximately $6.2 billion for the conduct of this Nation's energy research and development program efforts. The compromise figure is approximately $400 million less than the House bill, but $292 million more than President Carter's revised budget request. I feel that the major funding agreed upon represents proper balance of energy research and development, for it takes into account emerging new technologies and developmental funding for proven energy concepts. At this point in the record, Mr. Speaker, I wish to place in the RECORD a table which provides the totals by program area associated with this bill.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, FISCAL YEAR 1978 PROGRAM SUMMARY (REFLECTING CONFERENCE ACTIONS)

[In thousands of dollars]

	Fiscal year 1978		
	House authorization	Senate authorization	Conference allowance
Fossil energy development	903,650	972,650	854,450
Geothermal energy development	126,400	131,800	127,000
Conservation research and development	592,270	369,770	397,470
Solar energy development	417,300	378,000	393,800
Nuclear programs:			
Light water reactors	368,759	387,809	377,809
Waste management	206,500	195,500	201,500
Liquid metal fast breeder reactor	732,285	652,285	657,285
Other advanced reactor concepts	89,600	74,600	89,600
Advanced fuel cycle concepts	105,900	94,400	107,900
Nuclear energy assessments	23,300	23,100	23,300
Uranium enrichment	1,275,335	1,202,165	1,200,760
Magnetic fusion	368,100	348,900	371,305
Environmental research and safety	278,018	267,118	276,118
Basic energy sciences	198,835	192,535	195,475
High energy physics	249,650	236,150	248,150
Nuclear physics	83,069	89,069	89,069
Nuclear space applications	35,100	0	35,100
Program management and support	326,113	375,089	334,280
General plant projects	44,265	44,265	44,265
Construction, planning and design	10,000	10,000	10,009
Changes in inventories, etc	126,300	126,300	126,300
Transfers to CEQ	500	500	500
Total ERDA authorization	6,561,249	6,172,005	6,161,445
Less:			
Enrichment revenues	−845,820	−845,820	−845,820
Miscellaneous revenues	−100,720	−100,720	−100,720
Total	5,614,709	5,225,465	5,214,905

I would like now to make special mention of some significant actions taken by the conference committee during its deliberations.

FOSSIL FUELS

Demonstration plants: The conferees agreed to authorize construction of a solvent refined coal solids demonstration plant to produce solid fuels.

High Btu coal gasification test facility: The conferees agreed to proceed with a feasibility study for a high Btu coal gasification test facility. This facility would demonstrate and evaluate several second- and third-generation gasification technologies in a single installation.

NUCLEAR ENERGY

The conferees agreed to major nonproliferation research and development activity in concern with the President's request dealing with such things as: One, standardization of light water reactors; two, nuclear waste management facilities; and three, alternative fuel cycle studies.

Clinch River breeder reactor project: The conferees settled on $80 million for the Clinch River breeder reactor demonstration project. The conference agreement would permit the licensing procedure to continue, and clarifies the conferees' intent that existing law is applicable to the Clinch River project.

Barnwell Reprocessing Plant: The conference agreement includes funds for studying possible uses for the Barnwell, S.C., Reprocessing Plant that would promote nonproliferation objectives. Funds could be used to study the improvement of safeguards to prevent the diversion of nuclear fuels to make weapons. Within 6 months after funds are appropriated, ERDA is directed to report to Congress with recommendations of possible uses of the plant.

URANIUM PRICING

The conference agreement requires ERDA to submit to Congress proposed changes in the price it charges for enriched uranium. One House may veto the proposed price change with a 60-day layover period.

AUTO R. & D.

The conferees agreed to a new title III entitled "Automotive Propulsion Research and Development." The purpose is to develop alternatives to the internal combustion engine that could produce cleaner, more efficient automobile engines.

PHOTOVOLTAIC CELLS

The conferees agreed to add moneys to encourage the mass production of photovoltaic cells which convert sunlight directly to electricity. The moneys would study mass production techniques and aso provides for the Federal Government to purchase photovoltaic cells for sites where they would cost the same or less than competing energy sources over the life of the cells.

CONSERVATION—MUNICIPAL WASTE

The conference agreement permits demonstration grants to municipalities to turn wastes into useful forms of energy.

ELECTRIC VEHICLES

The conferees accepted a new title VII entitled, the electric and hybrid vehicle research, development, and demonstration program, which calls for a ceiling of 400 electric vehicles to be purchased by the Federal Government in fiscal year 1978. It also changes the demonstration schedule so that vehicle research is in phase with the demonstration program.

LOAN GUARANTEES

The conferees agreed to provide general loan guarantee authority for ERDA to construct demonstration plants in such technologies as coal gasification, oil shale, and renewable energy technologies. New plants costing over $50 million would have to receive congressional approval by authorization and appropriation before receiving a Federal guarantee. The conferees also agreed to special provision for biomass loan guarantees.

Mr. Speaker, in response to several inquiries regarding whether timber wastes fall under the loan guarantee provisions of this bill, I am moved to make my position known.

I should like to see timber wastes in some way included under the loan guarantee provisions so that we can fully demonstrate the energy potential of timber wastes which have no higher economic value.

Timber culls which normally would be left as waste should be fully examined as a potential energy sources either in direct power generation or as a feedstock for the production of alternate fuels. I hope the Department of Energy will follow this policy.

Mr. Speaker, in closing, let me say there were many other areas that received considerable attention in this deliberation and although not mentioned specifically here, I want to assure my colleagues that all the items outlined in the table were given the utmost consideration. We all have worked long and hard to bring to the new Department of Energy a fiscally responsible foundation for its research and development programs, and I urge the House to support this bill, and I strongly urge the President to sign it into law at the earliest opportunity.

Thank you, Mr. Speaker.

Mr. UDALL. Mr. Speaker, will the gentleman yield 1 minute?

Mr. TEAGUE. Mr. Speaker, I yield to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I shall have no points of order on this matter today.

Mr. TEAGUE. We express our appreciation.

Mr. UDALL. Mr. Speaker, it is our understanding that neither the ERDA authorization bill nor accompanying conference report requires the NRC to expedite licensing of the Clinch River breeder reactor. Nor does the bill or conference report eliminate the responsibility of the NRC to compare the merits of the Clinch River site with other sites at which this reactor might be con-

structed. That, is, the bill or conference report does not preclude a determination by the NRC that the Clinch River site is less suitable than others. As chairman of the Interior Committee I intend to make sure that the NRC review process is as thorough as that accorded other projects. I also intend to make sure that the NRC's priorities are not put out of balance by virtue of its dedicating resources to the Clinch River project.

I thank the gentleman from Texas for yielding.

Mr. TEAGUE. Mr. Speaker, the statement of the managers on the Clinch River breeder reactor issue clearly reflects the intent of the conferees.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Speaker, I notice on page 2 of the conference report that under "Magnetohydrodynamics," $70.8 million is authorized for expenditure, but the proviso goes on to say:

That at least 5 percent of the amount appropriated for magnetohydrodynamics shall be expended for closed cycle technology.

Apparently that is a mandate. Can the chairman tell us why that language was in the form of a mandate for that expenditure rather than making it discretionary? Will this require the expenditure at a particular location?

Mr. TEAGUE. Let me yield to the gentleman from Alabama (Mr. FLOWERS).

Mr. FLOWERS. Mr. Speaker, it will not require expenditure at a particular location.

Mr. YATES. What is the purpose of the proviso, the mandate then?

Mr. FLOWERS. To insure, as the conference report says, that 5 percent of the amount appropriated would be expended for closed cycle technology.

Mr. YATES. That is obvious, but I am asking: Why was that done?

Mr. FLOWERS. If the gentleman will yield to the gentleman from Pennsylvania (Mr. GARY A. MYERS) I believe he would respond.

Mr. GARY A. MYERS. Mr. Speaker, if the gentleman will yield, it is my recollection it was done by an amendment I offered in the committee. It addressed the concern that most of the work was going forward almost totally on the open cycle and if we did not keep a base program in closed cycle as an option so we might find ourselves in the very unfortunate position of not being able to go to a closed cycle if the open cycle did not prove to be successful. There is some scientific concern whether we should be so optimistic about the open cycle and that we should not put all our eggs in that one basket without at least maintaining the base program and that is why the 5 percent is mandated.

Mr. STARK. Mr. Speaker, will the chairman yield for a question?

Mr. TEAGUE. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, I want to thank the chairman for his help and his patience and his consideration in solving a parochial problem in the Ninth Congressional District of California involving the Lawrence Livermore Radiation Laboratory.

Mr. TEAGUE. Mr. Speaker, we appreciate the gentleman's work. It was the committee's action and not the chairman's.

Mr. STARK. As you know, during consideration of this legislation I withdrew my amendment regarding an employee grievance procedure at the Lawrence Livermore Laboratory. I did so because the University of California which administers the lab had recently announced a new set of guidelines for relations with employee organizations which are similar to what was required in the amendment.

I am very anxious to see the implementation of policy under these guidelines take place in an equitable manner in the very near future. For the last several years my Livermore office has been involved in a large amount of casework stemming from the lack of a fair and clean-cut labor/management policy at the lab. It was casework and subsequent research into the situation which led me to draft the amendment.

I am very pleased that an administrative solution was possible as the most workable and effective labor policy is achieved through voluntary agreements rather in response to legislative demands. Nevertheless, if unfortunately it becomes apparent that an appropriate policy in keeping with commonly accepted labor practices is not developed under these guidelines would the committee agree to look into the matter?

Mr. TEAGUE. The committee recognizes the concern of the gentleman of California concerning the employee relations at the Lawrence Livermore Laboratory. The committee plans to perform oversight in this area. If it is thought appropriate to hold hearings, we will do that. Certainly, the committee recognizes the importance of maintaining good employer/employee relations at our national laboratories, and we will continue to take an interest in this subject at all our laboratories and particularly at Lawrence Livermore Laboratory.

Mr. STARK. Mr. Chairman, I also want to thank the gentleman for including in the conference report language directing ERDA to restrict the air shipment of plutonium to containers capable of withstanding high-speed air accidents.

This has long been a matter of great concern to me as this most toxic substance is shipped in and out of the district I represent in packaging that would be unable to withstand an impact more than one-fifth as severe as that which could occur. As I understand it, ERDA will have a safe container completed this month. Its use should reduce greatly the dangers inherent in the air transportation of plutonium. I am very pleased that the conferees agreed to the intent of the Stark-Wirth amendment and have directed ERDA to use these new containers for all air transportation of plutonium.

Mrs. LLOYD of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE. I will yield to the gentlewoman from Tennessee.

Mrs. LLOYD of Tennessee. Mr. Speaker, I wish to raise several points to make certain that my understanding of the intent of section 106(d)(3) is correct and for the purpose of clarifying the intent of the Congress. Am I correct in understanding that the CRBRP shall be pursued to the maximum extent possible in accordance with existing—pre-April 1977—project arrangements, objectives and schedules, irrespective of the structure, pace, timing, and objectives of the LMFRB program?

Am I also correct in understanding that irrespective of the structure, pace, timing, and objectives of the LMFBR program, we intend that the Clinch River site shall be preserved, unless the site is found to be unsuitable from the standpoints of the public health and safety or common defense and security? And am I correct in understanding that the intent of section 106(d)(3) is not to abridge the authority of the NRC to make health and safety or common defense and security findings for the facility at the Clinch River site, but also not to abridge existing authorization acts and congressional intent with respect to location of the project at the Clinch River site?

Mr. FLOWERS. Mr. Speaker, will the gentlewoman yield?

Mrs. LLOYD of Tennessee. I would be happy to yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Speaker, yes, we intend to pursue CRBRP as rapidly as possible and maximize the achievement of the established project objectives, whatever the future course and timing of the LMFBR program, whatever the future course and timing of the LMFBR program, we intend to locate the facility at the Clinch River site, unless that site is determined to be unsuitable from the standpoints of radiological health and safety or the common defense and security, NRC's authority under existing law to make health and safety or common defense and security findings for the facility at the Clinch River site is in no way affected, but unless NRC were to make unfavorable findings on those specific factors, the facility shall be located at the Clinch River site in accordance with existing law. The issue of site selection is settled by this language, but NRC is free to make any and all determinations concerning the acceptability of the Clinch River site.

Mrs. LLOYD of Tennessee. Mr. Speaker, the House vote to authorize $150 million clearly indicated an intention to proceed with the CRBRP at undiminished speed and to preserve the project arrangements and objectives intact. While the Senate vote did not reflect the same urgency, the Baker amendment to section 106 indicated a clear intention to preserve the project arrangements and objectives, and to minimize additional unrecoverable delays. Consistent with both the House and Senate actions, the conferees intend to remedy the effect of the Administrator's and administration's actions with regard to CRBRP and the LMFBR program and to maintain the viability of all project arrangements and objectives, including licensing.

In accepting a compromise figure of $80 million, the conferees intend that the project shall be located as provided under existing law, and to the maximum extent possible it shall be designed, constructed, and operated in accordance with the existing—pre-April 1977—project arrangements, objectives, and schedules.

Existing law is clear and unequivocal. Since the inception of the demonstration plant project, the Congress has repeatedly affirmed that the project be located at the Clinch River site. In 1972 the Congress fully authorized the CRBRP based upon project arrangements, program justification data sheets, and statutory criteria which specified location at the Clinch River site. This is referenced in Public Law No. 92–84; also see report on hearings before the Joint Committee on Atomic Energy on the basis for the proposed arrangement for the LMFBR demonstration plant, 92d Congress, 2 session—September 7, 8, and 12, 1972—hereafter JCAE hearings, at IV–V. It is also referenced in USNRC final environmental statement, CRBRP, NUREG–0024, section 9, 1977.

In 1975, after extensive hearings before the Joint Committee on Atomic Energy and other congressional committees with concurrent jurisdiction, Congress again voted to continue the CRBRP under existing arrangements. This is referenced in Public Law 94–187; also, CONGRESSIONAL RECORD, volume 121, pages 26509, 41621, 19968; and the joint report of the House Committee on Science and Technology and the JCAE, 94th Congress, 1st session, House Report No. 94–294 at 32–35 (1975)—hereinafter joint report—JCAE authorization report, 94th Congress, 1st session, Senate Report No. 94–104 at 17–20 (1975)—hereinafter JCAE report. Again in 1976, after completion of an extensive review of the need for the CRBRP and LMFBR program, Congress fully authorized the CRBRP based upon revised project arrangements which realined the respective management responsibilities of the project participants, but which still specified location at the Clinch River site. This is referenced in the CONGRESSIONAL RECORD of June 25, 1976, pages 20690–99 and the CONGRESSIONAL RECORD of June 15, 1976, pages 18132–94. Thus, there is simply no room in the history of CRBRP authorization acts for location of the facility at other than the Clinch River site.

In spite of this unequivocal legislative history, during the course of developing the CRBRP environmental statement, NRC determined that it should attempt to backfit history, and decide whether the Clinch River site was substantially better than other alternative sites on ERDA-owned lands; most notably, the Hanford and Savannah River sites. NRC's analysis, which is contained in its final environmental statement (FES) for CRBRP, concluded that the alternative ERDA sites were not substantially better. In reaching the conclusion, NRC discounted the cost differentials for relocation to the present, and determined that there was only $60 million theoretical difference for relocation. In year of expenditure dollars, which is how Congress appropriates, the difference was nearly $1 billion. NRC found a slight reduction in worst case accident risk at the larger alternative sites, but concluded that relocation would not enable the Administrator to support LMFBR program decision points with substantial CRBRP operating experience; in particular, the Administrator's 1968 decision point for commercialization of LMFBR technology.

After NRC's February 1977 FES issued its favorable findings on the Clinch River site, the Administrator and administration took actions which placed these findings in severe jeopardy. First, the Administrator suspended all licensing hearings and activities. Second, the administration indicated that the CRBRP may not be needed, and the LMFBR program might be substantially stretched-out. These actions injected delays in the order of 9 to 12 months in the CRBRP schedule, threatened the 1986 decision point, and created a possibility that, if licensing were resumed, NRC's analysis would lead to site relocation and invalidation of the project arrangements underlying all prior year authorization acts.

The GAO analysis contained in the Comptroller General's June 23, 1977 opinion, which is referenced in section 106 of the Senate bill, indicates that relocation would increase project costs by $1.1 to $1.3 billion and delay operation by 5 to 6 years.

The conferees clearly intend that the facility shall be located at the Clinch River site, notwithstanding the structure, pace, timing, and objectives of the LMFBR program. Consistent with existing law—all CRBRP authorization acts—the conferees intend to affirm NRC's conclusions insofar as they establish the Clinch River site as the project location, and to overturn the potential impact of the administration's actions.

Furthermore, the conferees intend that, in order to maintain licensability as a viable objective, the Secretary and all other appropriate Federal agencies shall take all such steps as are necessary to assure that the earliest possible decisions on a limited work authorization and construction permit are obtained. In this regard, there is no intention to force the NRC into a hasty, ill-advised decision or to limit the authority of the NRC to make determinations concerning the public health and safety or common defense and security for the facility at the Clinch River site. Congress has always contemplated location of the project at the Clinch River site and has repeatedly affirmed that determination in all CRBRP authorization acts. NRC's authority must not be interpreted in conflict with this existing body of law, and the conferee's report avoids any potential for conflict by assuring that this authority cannot be stretched in its interpretation so as to require relocation of the site. It guarantees that the Clinch River site will itself be suitable from the safety and common defense and security standpoints, while also avoiding any risk of incurring the enormous cost increases—$1.1 to $1.3 billion—and additional unrecoverable delays—5–6 years—which would follow from relocation. These estimates of cost and delay are contained in the Comptroller General's June 23, 1977, opinion, which is referenced in section 106(b) of the Senate bill and section 106 of the conference bill.

Mr. WYDLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge Members of the House to approve the conference report. The House conferees did an excellent job in upholding the House positions. I think the bill is a very constructive one. I urge every Member to support it.

Mr. Speaker, I think that this bill gives the Department of Energy the tools to do its work in research development and demonstration.

There were significant actions taken by the conferees in every major program area.

In fossil energy, the conference initiative to study a high-Btu test facility is a major step to insure supporting technology for a demonstration program which has had some difficulties. The generic loan guarantee authority for alternative fuels from coal should provide industry the incentive to launch these higher-risk demonstration projects. It is mandatory that we lessen our dependence on foreign imports in the next decade.

In nuclear energy the conferees not only directed that the Clinch River project go ahead but they funded a package of nonproliferation initiatives in keeping with the administration's concerns. This package included $13 million for activity on alternative fuel cycle R. & D. and safeguards at the Barnwell plant. It is important that we keep open the option that some forms of plutonium reprocessing will eventually take place at that facility. We cannot turn our back on the breeder and reprocessing.

The conferees also authorized $12.4 million for light water reactor plant standardization. If we are to increase nuclear generating capacity at least twelvefold by the year 2000, as the administration assumes, then licensing of these plants must proceed at a much faster pace.

The conferees adopted Senate language which prohibits DOE from using any funds for foreign spent fuel without congressional approval. It is critical that the Congress be involved in this aspect of nonproliferation policy.

The conference agreed that DOE must also submit proposed changes in uranium pricing subject to a one-House veto. Since our uranium supply is so critical to both the future of nuclear power and need for the breeder it is only reasonable to insist on this.

In the conservation R. & D. program the conferees adopted three House initiatives with some modification. The conference agreement permits demo grants to municipalities to turn waste into useful forms of energy. I am keenly interested in this approach after having lived with the problems of waste treatment in the New York area and having fought to minimize the effects of sewage sludge disposal off Long Island.

In the automative R. & D. area I am pleased to see the conferees endorse advanced engine work with Government

again playing its proper role in the high-risk end. I think this action underscores the congressional interest in having much more efficient engines in the fleet rather than worrying about penalizing gas guzzlers or simply mandating standards.

I am pleased that the conferees "stretched out" the purchase and demonstration schedule for electric vehicles. It is important that this embryonic industry not be set back by precluding the entry of the next generation of advanced technology vehicles in the program.

In high energy physics I am particularly pleased that the conferees adopted my committee initiative to include $10.5 million for construction of the Isabelle facility at Brookhaven National Lab. This facility is the next major tool for probing the fundamental structure of matter.

Mr. Speaker, if the energy challenge is to be truly treated as the "moral equivalent of war" then this bill provides our troops in DOE with the supplies and ammunition to do battle. It is a very good bill.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. Mr. Speaker, I take this time to address a question to our distinguished colleague, the gentleman from Alabama (Mr. FLOWERS), the subcommittee chairman.

Mr. Speaker, it is my understanding that the Conference Committee has not changed the scope of the study associated with the high Btu coal gasification test facility in reducing the House amendment to the Senate bill by $10,000,000. Rather, the reduction represents a reassessment of what can reasonably be accomplished on this project in fiscal year 1978.

It is crucial in determining the best possible concept and economics for the facility, to determine the advantages and disadvantages of housing each of the emerging coal conversion technologies at the facility. It may well be at the end of the study, that we conclude that it makes sense only to group gasification technologies at the facility, but it would be prejudging the results of the study to begin A. & E. work under the assumption that colocation of gasification, liquefaction, and solids technologies is unreasonable economically.

Mr. FLOWERS. The gentleman is correct. The actions of the conferees did not change the scope of the conceptual design work on the facility. The effort will still include, as the House Report on the bill indicated: "a study to evaluate the colocation of other coal conversion technologies, such as advanced low and medium Btu gasification technologies and advanced liquefaction processes, at the facility site."

Mr. WYDLER. Mr. Speaker, I have no further requests for time.

Mr. TEAGUE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Speaker, I would like to know about the electric vehicle program. I notice what seems to be another mandate that appears in the report on page 53:

> The demonstration period shall extend through the fiscal year 1986, with purchase or leasing continuing through the fiscal year 1984. During the demonstration period the Administrator shall demonstrate 7500 to 10,000 electric and hybrid vehicles.

Is it the intention of the committee that at least 10,000 vehicles, 7,500 to 10,000 vehicles are to be purchased within the next 8 years?

Mr. TEAGUE. Before I yield to the gentleman from Washington, I would like to tell the gentleman from Illinois that this was argued in the conference for about 2 hours.

Mr. YATES. I am glad the gentleman is telling us something about the conference.

Mr. TEAGUE. I yield to the gentleman from Washington (Mr. MCCORMACK).

Mr. McCORMACK. I will be glad to try to answer the question of the gentleman from Illinois. The bill provides a minimum of 7,500 vehicles will be purchased under the program, but that 10,000 may be purchased. The bill calls for a minimum of 7,500, and a maximum of 10,000 to be demonstrated.

Mr. YATES. Well, suppose that the programs at the particular time set forth in the report do not warrant the purchase of that number of vehicles? Suppose the vehicles have not shown themselves to warrant that amount being purchased? Does the language require them to be purchased anyway?

Mr. McCORMACK. The bill provides that anytime the Secretary of Energy believes that the requirements of the bill are not realistic, he may appear before the committee and inform us of his proposed modifications of the plan, which the committee may accept or reject. Further than that, the gentleman will recognize that the program is a continuing one, and that there will be continuing oversight hearings. Also, the program will be subject to modification in subsequent authorization legislation.

Mr. YATES. So that the program is locked in. Let me ask the gentleman another question. Suppose the Appropriations Committee in its examination of the amounts to be made available for appropriation under this bill determines that this program does not warrant the purchase of those vehicles; is it the committee's intention that the Appropriations Committee cannot cut the appropriation in order to achieve that reduction?

Mr. McCORMACK. Unless the law is changed, such funds are appropriated will be used first for the purchase of the vehicles as spelled out in the law.

Mr. YATES. So that this, in effect, this is backdoor financing?

Mr. McCORMACK. The bill provides for the purchase of a specific number of vehicles over a number of years. I should observe that this is what we voted for last year. These were the provisions of the bill which the House passed over the President's veto a year ago last September and the provisions of the program were accepted by this House before, earlier this year.

Mr. YATES. So that the gentleman is stating that, as far as the appropriations for this program is concerned, they are already fixed, that the Appropriations Committee has no responsibility with respect to this program, that all the Appropriations Committee can do then is to appropriate the money automatically. Is that what the gentleman is saying?

Mr. McCORMACK. If I may answer the gentleman more exactly, the law provides that whatever money that is appropriated for this program in the future, will be used first for the purchase of the electric vehicles as called for in the law.

Mr. YATES. What does that mean? The answer to my question is yes?

Mr. McCORMACK. No, the answer is not yes. Obviously, if the Congress appropriates no funds at all for electric vehicle research, development, and demonstration it would be impossible to buy any vehicles. On the other hand, if the Congress appropriates any number of dollars for the electric vehicle program, then priority for the purchase of vehicles comes ahead of research and development in this area.

Mr. YATES. Is the gentleman saying that with respect to another ERDA program, like coal gasification or the Clinch River program, for example, the funds are to be made available first for the electric car program, rather than the other program?

Mr. McCORMACK. I do not know the exact limitations on the transfer of funds, but I would point out to the gentleman that, under current law, the bill that was passed over the President's veto more than a year ago contained the provisions to which he seems to object, but were then even more restrictive.

Mr. YATES. It passed by one or two votes, I will say to the gentleman.

Mr. McCORMACK. The bill was passed over the President's veto by a 3-to-1 majority in the House, and by almost that margin in the Senate. It included the provisions to which the gentleman seems to object. They are a part of the existing law.

Mr. YATES. Yes. If I understand the gentleman correctly, the existing law is that the Committee on Appropriations has no discretion with respect to this program at all; is that correct? I certainly do not agree with that position.

Mr. McCORMACK. It depends upon whether the Committee on Appropriations appropriates enough money for the program.

Mr. YATES. Then the Committee on Appropriations may fund only a part of the program or not at all; is that correct?

Mr. McCORMACK. If the Committee on Appropriations funds only part of the program, as it did this year, the money will go first to the purchase of vehicles.

Mr. YATES. It is my judgment, then, that means the Appropriations Committee does have discretion in allocating funding for the program as it did this year.

Mr. FUQUA. Mr. Speaker, I rise in strong support of the conference report on S. 1811, the Authorization Act for Fiscal Year 1978 for energy research and development in the new Department of Energy.

This authorization contains approximately $6.2 billion for the conduct of our

Nation's energy research and development programs. These authorized funds will be the primary source of funding for the line programs in the new Department of Energy in the coming fiscal year.

I would like to take this opportunity to commend the distinguished chairman of the conference, the Honorable OLIN E. TEAGUE, chairman of the Committee on Science and Technology and the Senator from Idaho, the Honorable FRANK CHURCH, on an outstanding accomplishment in shepherding this legislation to this final passage today. As we all are aware, this particular bill was not an easy one. It was steeped in controversy with deeply held feelings on the part of many Members involved in several issues. Despite this fact, however, due to the two gentlemen mentioned above as well as the other conferees who worked with reason on the various issues and sought compromise which allowed these very complex matters to be resolved.

The bill is a good bill, for it contains funds for increased emphasis on our Nation's renewable resource technologies such as solar, ocean thermal, gradient, geothermal and nuclear power, as well as intense research in the fossil fuels areas of coal combustion, gasification, et cetera. The conferees struck a balance which will provide a necessary mix of energy technologies for the future with which we can proceed to ultimately make the transition from a fossil-based energy economy to a renewable resource-based economy in the next century.

Mr. Speaker, I am proud of the work of the conferees, the Committee on Science and Technology, and the House of Representatives for their support and patience in deciding this legislation, and I urge each and every Member of this great body to support the adoption of the conference report.

Mr. TEAGUE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 366, nays 52, not voting 16, as follows:

[Roll No. 677]

YEAS—366

Abdnor	Aspin	Blouin
Addabbo	AuCoin	Boggs
Akaka	Badham	Boland
Allen	Bafalis	Bolling
Ambro	Baldus	Bonker
Ammerman	Barnard	Bowen
Anderson, Calif.	Baucus	Brademas
	Bauman	Breaux
Andrews, N.C.	Beard, R.I.	Breckinridge
Annunzio	Beard, Tenn.	Brinkley
Applegate	Benjamin	Brooks
Archer	Bennett	Broomfield
Armstrong	Bevill	Brown, Mich.
Ashbrook	Biaggi	Brown, Ohio
Ashley	Blanchard	Broyhill
Buchanan	Hammer-schmidt	Natcher
Burgener		Neal
Burke, Calif.	Hanley	Nedzi
Burke, Fla.	Hannaford	Nichols
Burke, Mass.	Hansen	Nix
Burleson, Tex.	Harkin	Nowak
Burlison, Mo.	Harris	O'Brien
Butler	Harsha	Oakar
Byron	Hawkins	Oberstar
Caputo	Heckler	Panetta
Carney	Hefner	Patten
Carter	Heftel	Patterson
Cederberg	Hightower	Pease
Chappell	Hillis	Perkins
Chisholm	Holland	Pettis
Clausen, Don H.	Holt	Pickle
	Howard	Pike
Clawson, Del	Hubbard	Poage
Cleveland	Huckaby	Pressler
Cochran	Hughes	Preyer
Cohen	Hyde	Price
Coleman	Ichord	Pritchard
Collins, Ill.	Ireland	Pursell
Collins, Tex.	Jeffords	Quayle
Conable	Jenkins	Quie
Conte	Jenrette	Quillen
Corcoran	Johnson, Calif.	Railsback
Corman	Johnson, Colo.	Rangel
Cornell	Jones, N.C.	Regula
Cornwell	Jones, Okla.	Reuss
Cotter	Jones, Tenn.	Rhodes
Cunningham	Jordan	Rinaldo
D'Amours	Kasten	Risenhoover
Daniel, Dan	Kazen	Roberts
Daniel, R. W.	Kelly	Robinson
Danielson	Kemp	Rodino
Davis	Ketchum	Roe
de la Garza	Kildee	Rogers
Delaney	Kindness	Rooney
Dent	Koch	Rose
Derrick	Krueger	Rostenkowski
Derwinski	Lagomarsino	Rousselot
Devine	Latta	Rudd
Dickinson	Le Fante	Runnels
Dicks	Leach	Ruppe
Diggs	Lederer	Russo
Dingell	Leggett	Santini
Dornan	Lehman	Satterfield
Drinan	Lent	Sawyer
Duncan, Oreg.	Levitas	Scheuer
Duncan, Tenn.	Livingston	Schulze
Early	Lloyd, Calif.	Sebelius
Edgar	Lloyd, Tenn.	Sharp
Edwards, Ala.	Long, La.	Shipley
Edwards, Calif.	Long, Md.	Shuster
Edwards, Okla.	Lott	Sikes
Eilberg	Lujan	Simon
Emery	Luken	Sisk
English	Lundine	Skelton
Erlenborn	McClory	Skubitz
Ertel	McCloskey	Slack
Evans, Colo.	McCormack	Smith, Iowa
Evans, Del.	McDade	Smith, Nebr.
Evans, Ga.	McDonald	Snyder
Evans, Ind.	McEwen	St Germain
Fary	McFall	Staggers
Fascell	McHugh	Stangeland
Fenwick	McKay	Stanton
Fish	McKinney	Steed
Fisher	Madigan	Steers
Fithian	Mahon	Stratton
Flippo	Mann	Stump
Flood	Marks	Symms
Florio	Marlenee	Taylor
Flowers	Marriott	Teague
Flynt	Martin	Thompson
Foley	Mathis	Thone
Ford, Mich.	Mattox	Thornton
Ford, Tenn.	Mazzoli	Traxler
Forsythe	Meeds	Treen
Fountain	Meyner	Trible
Fowler	Michel	Tsongas
Fraser	Mikva	Tucker
Frenzel	Milford	Udall
Frey	Miller, Ohio	Ullman
Fuqua	Mineta	Van Deerlin
Gammage	Minish	Vander Jagt
Gaydos	Mitchell, Md.	Vento
Gephardt	Mitchell, N.Y.	Volkmer
Giaimo	Moakley	Waggonner
Gibbons	Mollohan	Walgren
Gilman	Montgomery	Walker
Ginn	Moore	Walsh
Glickman	Moorhead, Calif.	Wampler
Goldwater		Watkins
Gonzalez	Moorhead, Pa.	White
Goodling	Moss	Whitehurst
Gore	Motti	Whitley
Gradison	Murphy, Ill.	Whitten
Grassley	Murphy, N.Y.	Wiggins
Gudger	Murphy, Pa.	Wilson, Bob
Guyer	Murtha	Wilson, C. H.
Hagedorn	Myers, Gary	Wilson, Tex.
Hall	Myers, John	Winn
Hamilton	Myers, Michael	Wirth
Wright	Young, Alaska	Zablocki
Wydler	Young, Fla.	Zeferetti
Wylie	Young, Mo.	
Yatron	Young, Tex.	

NAYS—52

Badillo	Holtzman	Roncalio
Bedell	Jacobs	Rosenthal
Beilenson	Kastenmeier	Roybal
Bingham	Keys	Ryan
Bonior	Kostmayer	Schroeder
Brodhead	Krebs	Seiberling
Brown, Calif.	LaFalce	Solarz
Burton, John	Maguire	Stark
Burton, Phillip	Markey	Steiger
Carr	Mikulski	Stokes
Conyers	Miller, Calif.	Studds
Coughlin	Moffett	Vanik
Crane	Nolan	Waxman
Dellums	Obey	Weaver
Downey	Ottinger	Weiss
Eckhardt	Pattison	Yates
Findley	Rahall	
Harrington	Richmond	

NOT VOTING—16

Alexander	Dodd	Spellman
Anderson, Ill.	Hollenbeck	Spence
Andrews, N. Dak.	Horton	Stockman
	Metcalfe	Whalen
Cavanaugh	Pepper	Wolff
Clay	Sarasin	

The Clerk announced the following pairs:

Mr. Wolff with Mr. Anderson of Illinois.
Mr. Pepper with Mr. Hollenbeck
Mrs. Spellman with Mr. Sarasin.
Mr. Alexander with Mr. Andrews of North Dakota.
Mr. Clay with Mr. Horton.
Mr. Dodd with Mr. Cavanaugh.
Mr. Metcalfe with Mr. Whalen.
Mr. Spence with Mr. Stockman.

Mr. FINDLEY changed his vote from "yea" to "nay."

Mr. WAMPLER changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DIRECTING SECRETARY OF THE SENATE TO MAKE CERTAIN CORRECTIONS IN THE ENROLLMENT OF S. 1811, ERDA AUTHORIZATION ACT OF 1978—CIVILIAN APPLICATIONS

Mr. TEAGUE. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 384) directing the Secretary of the Senate to make certain corrections in the enrollment of the Senate bill (S. 1811), ERDA Authorization Act of 1978—civilian applications, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 387

Resolved by the House of Representatives (the Senate concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 1811), "ERDA Authorization Act of 1978—Civilian Applications", shall make the following corrections:

1. In the beginning of the bill, in the first sentence, strike the word "ERDA", and insert in lieu thereof the words "Department of Energy";

2. In the beginning of the bill, in the second sentence, strike the words, "Energy Research and Development Administration" and insert in lieu thereof the words "Department of Energy";

3. In section 101, amend the bill as follows:

(a) in subsection 101(1)(F) in the proviso, strike the word "Administrator", and insert in lieu thereof the words "Secretary of Energy";

(b) in subsection 101(5), strike the word "Administrator", and insert in lieu thereof the words "Department of Energy";

(c) in subsection 101(15)(C) in the proviso, strike the words "Energy Research and Development Administration", and insert in lieu thereof the words "Department of Energy"; and,

(d) in subsection 101, under the title "All Other Programs" subsection (iii)(b), strike the word "ERDA", and insert in lieu thereof the words, "Department of Energy";

4. In section 105, amend the bill as follows:

(a) in subsection 105(a) in the first sentence, strike the words "Administrator of the Energy Research and Development Administration", and insert in lieu thereof the words "Secretary of Energy"; and,

(b) in subsection 105(c), strike the word "Administrator", and insert in lieu thereof the words "Secretary of Energy";

5. In section 106(3), which amends Public Law 94–187, section 103(d), strike the word "Administrator" in section 103(d)(1) of Public Law 94–187, and insert in lieu thereof the words "Secretary of Energy";

6. In section 108 of the bill in the first sentence, strike the words "Energy Research and Development Administration", and insert in lieu thereof the words "Department of Energy";

7. In section 202, amend the bill as follows:

(a) in subsection 202(a), strike the word "Administration", and insert in lieu thereof the words "Secretary of Energy"; and

(b) in subsection 202(b), strike the word "Administration", and insert in lieu thereof the words "Secretary of Energy";

8. In section 203 of the bill, in the first sentence, strike the word "Administrator", and insert in lieu thereof the words "Secretary of Energy"; and in the third sentence, strike the word "Administrator", and insert in lieu hereof the words "Secretary of Energy";

9. In section 204, amend the bill as follows:

(a) in subsection 204(a), strike the word "Administrator" and insert in lieu thereof the words "Secretary of Energy"; and

(b) in subsection 204(b), strike the word "Administrator" and insert in lieu thereof the words "Secretary of Energy";

10. In section 208, amend the bill as follows:

(a) in subsection 208(a), strike "Administrator of the Energy Research and Development Administration" and insert in lieu thereof "Secretary of the Department of Energy";

(b) in subsection 208(a)(2) strike "Administrator" and insert in lieu thereof "Secretary of Energy";

11. In Section 210, amend the bill as follows:

(a) in subsection 210(a), strike "Energy Research and Development Administration" and insert in lieu thereof "Department of Energy";

(b) in subsection 210(b), strike "Energy Research and Development Administration" and insert in lieu thereof "Department of Energy";

(c) in subsections 210(d) and 210(e), strike "Energy Research and Development Administration" in all four places and insert in lieu thereof "Department of Energy" in all four places;

12. In Title III of the bill strike the word "Administrator" or "Administration" whenever that word appears, except in section 303(5), 306(d) where the word "Administrator" refers to the Administrator of the Environmental Protection Agency, and section 307(b) where the word "Administrator" refers to the Administrator of the Environmental Protection Agency, and insert in lieu thereof the words "Secretary of Energy" and in the same title strike the words "Energy Research and Development Administration" whenever those words appear and insert in lieu thereof the words "Department of Energy";

13. In Section 108 of the bill, in the first proviso, after the word "Provided", add the word "That".

In the second proviso, after the words *"Provided further,"* add the word "That".

14. In Section 207 of the bill, in the new section 19 of the Federal Non-Nuclear Energy Research and Development Act in section 19(e)(3), change the word "parcel" to the word "panel".

In the new Subsection 19(1)(1)(viii)(III), after the words "the granting of Federal", strike the words "loan guarantees under this Act does not impede".

In the new Subsection 19(1)(2)(B), change the word "presiding" to the word "preceding".

15. In Subsection(b)(2), after the words "section numbered (8)", strike the words "and the south half".

In Section 210(g), change the site, "94 Stat. 1211" to "90 Stat. 1211".

16. In Title III, Section 311(a), change the new subsection designation from "(d)" to "(e)".

Mr. TEAGUE (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the concurrent resolution be dispensed with, that it be printed in the RECORD, and that I be permitted to explain the purpose of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE. Mr. Speaker, the House recently created the Department of Energy and throughout the bill S. 1181 we used the term "ERDA" instead of "Department of Energy," and we used the term "Administrator" instead of "Secretary." All this concurrent resolution does is to make technical changes, changing "ERDA" to the "Department of Energy" and changing "Administrator" to "Secretary of Energy." That is the sum total of what the concurrent resolution does.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

SUPPLEMENTAL APPROPRIATIONS BILL, 1978

Mr. MAHON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 9375) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 9375, with Mr. GIBBONS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, October 19, 1977, the Clerk had read through line 19 on page 11. The Clerk will continue to read.

The Clerk read as follows:

Related agencies.

AMENDMENT OFFERED BY MR. SLACK

Mr. SLACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SLACK: On page 12 after line 12, insert

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

Not to exceed $1,000 of the funds appropriated under this heading in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1977, shall be available for official reception and representation expenses.

Not to exceed $6,000 of the funds appropriated under this heading in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1978, shall be available for official reception and representation expenses.

Mr. SLACK. Mr. Chairman, the Commission on Security and Cooperation in Europe was created by the Congress last year to monitor the implementation of the Helsinki Accords. Through research, study missions abroad, hearings, and direct participation in the Belgrade meetings, the Commission endeavors to further the goals set forth in the Helsinki Agreement, especially those provisions related to human rights and the greater movement of people, information and ideas across national borders.

While carrying out their duties, the members of the Commission have maintained regular contact with foreign governments, diplomats, and private groups and organizations throughout the United States and Europe. Twelve Members of the Congress are members of the Commission and are members of the U.S. official delegation at the Belgrade Conference, which began recently and will continue until early next year. The amendment which I offer today will enable the Commission to have a modest representation allowance from funds already appropriated for fiscal years 1977 and 1978. I urge adoption of the amendment.

Mr. CEDERBERG. Mr. Chairman, we have no objection to the amendment. In fact, we support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. SLACK).

The amendment was agreed to.

The CHAIRMAN. The Clerk will continue to read.

The Clerk read as follows:

SMALL BUSINESS ADMINISTRATION

DISASTER LOAN FUND

For additional capital for the "Disaster loan fund", $725,000,000, to remain available without fiscal year limitation.

AMENDMENT OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I offered an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Iowa: On page 12, line 16, strike "$725,000,000" and insert "$1,400,000,000".

Mr. SMITH of Iowa. Mr. Chairman, the committee bill, as has been indicated, includes $725 million for the disaster loan program. The committee report, which was printed some time ago, indicated that we knew this would not be enough money, but the administration had not yet made the request for the amount of money that they will need. Since the bill was reported, the administration has made a formal request for the $1.4 billion, and that is the amount that is included in this amendment.

Mr. Chairman, way back when the 1978 budget was first presented, the administration asked for only $20 million for this program. We said to them: "Obviously that is not enough money." Well, it was obvious from the beginning that they were just playing games. This is just another one of those examples where OMB puts just a small amount of money in their budget, assuming that Congress will put in whatever is needed. They do that with a number of programs, such as the milk program and other ones. It makes their budget look better than it is.

The committee in this case took the position they should make the request and we should not be putting money in over the budget and they should share the responsibility and make the request.

Back when the budget resolution was on the floor, I spoke to the chairman of the Budget Committee and told him they needed a larger amount of money.

The number of disasters also has been larger than we expected. We have had the New York civil disaster, the Pennsylvania flood, the Kansas City flood, drought throughout the country, the West Virginia flood, Guam flood, and the Kentucky and Virginia floods.

Most of this requested money has been obligated, that is most of the applications have been approved, but the payment is on a work progress basis, and so we need the additional money to go ahead and make the payments on a progress basis.

For example, in New York they need another $32 million to make the additional payments on those loans.

I would also like to point out that these are loans. They are not gifts. They are loans. Most of this money will come back to the Treasury. It makes the outlay look bad in this particular fiscal year, because it is direct loan money, but as a matter of fact almost all the money will come back. And an argument can be made that in fact, more money will come back than was loaned because we are going to keep some people in business that otherwise would not pay taxes.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Michigan (Mr. TRAXLER).

Mr. TRAXLER. Mr. Chairman, would the gentleman advise me as to whether farmers and rural small businesses would be eligible for these disaster loans from the SBA?

Mr. SMITH of Iowa. Yes, we have provided in the last year that the Small Business Administration, including their disaster program, can no longer discriminate against small business and farmers. They were doing that before.

Mr. TRAXLER. Mr. Chairman, if the gentleman will yield further, I commend the gentleman for his amendment and say in my opinion it is desperately needed. My agricultural area in Michigan's Eighth District suffered from incredible amounts of rain over the past 6 weeks and the farmers there are truly in dire economic circumstances, and this kind of assistance is needed and needed now. I intend to ask Michigan's Governor to certify farm areas in our State to the SBA, so that will hopefully grant disaster designation to Michigan's Eighth District.

I join with the gentleman in this effort.

Mr. SMITH of Iowa. I thank the gentleman from Michigan.

Mr. SLACK. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from West Virginia.

Mr. SLACK. Mr. Chairman, as I understand it, the $1.4 billion is a budgeted item?

Mr. SMITH of Iowa. It is a budgeted item. October 7 they made the request officially.

Mr. SLACK. As chairman of the subcommittee which deals with appropriations for this program, I support this amendment and thank the gentleman for yielding.

I ask for support on this amendment.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, it is correct, as the gentleman from Iowa stated, that this is a budgeted item. We have an urgent request from the administration that the funds be approved as soon as possible. I am in strong support of the bill and of the amendment. I thank the gentleman.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Michigan (Mr. CEDERBERG).

Mr. CEDERBERG. Mr. Chairman, it is my understanding that the other body put this amount in the District of Columbia appropriation bill by a substantial vote.

Mr. SMITH of Iowa. Yes, but the point is, it is desperately needed as soon as possible, because they are almost out of funds, and the idea is that it should be kept in whichever bill comes back from conference first.

Mr. CEDERBERG. The situation, as we discussed it in the State, Justice, Commerce, and the Judiciary Subcommittee, is that it is better to put it in this supplemental so that SBA can take prompt action on the disaster loans, rather than wait for another supplemental after the first of the year. We would have to appropriate these funds after the first of the year anyway.

Mr. SMITH of Iowa. That is correct.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(On request of Mr. CEDERBERG, and by unanimous consent, Mr. SMITH of Iowa was allowed to proceed for 2 additional minutes.)

Mr. CEDERBERG. Mr. Chairman, if the gentleman will yield further, so we are in this parliamentary situation, that if something should happen to this supplemental down the road somewhere, we are still protected by having this $1.4 billion in the District of Columbia appropriation which is now currently in conference.

Mr. SMITH of Iowa. That is correct.

Mr. CEDERBERG. And if it can be resolved in the conference committee under the gentleman from Kentucky, we would have no problem with this. These funds can be in whichever bill comes back first from conference.

Mr. Chairman, if the gentleman will yield further, I have no objection to the amendment.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I think we should clear up a few things. Obviously, we have this fund in the legislation we have passed. I think we should be aware of what this legislation does. This legislation gives 3 percent loans to farmers who have had losses with no cash or credit elsewhere, so that any farmer who has had a loss, whether he needs the money or not, is going to benefit from coming in and getting the money.

I happen to be one who believes that we should charge the cost of money from the Government. The gentleman says we will get paid back. That is true, but we should get all our costs paid back, because we will not get the full cost of the money to us paid back. As I understand, apparently that was in the gentleman's legislation, that it would be costing money to the Government. I, for one, hope that will be changed at some time in the future, so that we can make it as a viable program where only people who need it come to us for the money and people who do not need it will not come for the money, simply because they get a paid interest subsidy and can take this money and invest it somewhere else at a higher interest rate.

Mr. SMITH of Iowa. Mr. Chairman, I would like to point out, if they do not need it, they have the ability to pay it back in 15 days. The SBA is going to set a time when they have to pay it back. It can be for a number of years, but if an applicant does not need the money, they do not have a right to it for more than a few days.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. SMITH) has expired.

(At the request of Mr. BEDELL, and by unanimous consent, Mr. SMITH of Iowa was allowed to proceed for 1 additional minute.)

Mr BEDELL. Mr. Chairman, if the gentleman will yield further, I hope we understand that if somebody can get a loan for 15 days at 3 percent, we have to go through all the paperwork and all the manpower to do it, the same as for a longer term. It would certainly seem to me to be much better if, indeed, that person does not need the loan, rather than go all through that for the short term, that we put an interest rate on it where he will no come in when he does not need it.

Mr. SMITH of Iowa. I do not think any businessman is going to go through all that paper work and all the redtape just to get a few dollars in interest subsidy.

Mr. GIAIMO. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I think we should recognize full well what we are doing here with this amendment which sounds so good and which is going to help us to bail out people who suffer disasters, particularly farmers. I want to do my share to help farmers who suffer disasters as well as nonfarmers who suffer disasters, but what we are doing here is opening up a money pump on a program which up until this time was funded at the rate of about $100 million to $150 million a year for disasters. Then we did two things by recent legislation—in 1976 and then this past February.

First, we included farmers within the definition of those eligible for this type of loan. Theretofore, farmers had their own Farmers Home Administration program from which they could seek recourse. In that legislation there was a means test: whether or not the farmer needed assistance from the Federal Government. In addition to that, it had a higher rate of interest, a rate of interest roughly equivalent to what the Treasury pays for money.

Then early this year in legislation that went through the House—although I was not here, apparently many of us did not notice it, since there were no votes against it—the interest rate was reduced both for the Farmers Home Administration and for this program, SBA disaster loans, to 3 percent. The result is that farmers are going to the SBA disaster loan window to get their money, not only because there they have 3-percent interest rate but, more importantly, there is no means test.

It does not matter how much money one has; it does not matter how wealthy one is; one can get a 3-percent loan from Uncle Sam. Uncle Sam is paying the difference in interest rates. The result is that SBA is flooded with applications. The result is that a program which has existed and has been carried on from year to year at a funding level of about $100 million to $150 million is now suddenly a program that will cost us $1.4 million to take us from October 1, 1977, to January 31, 1978.

They will be in with a spring supplemental, you can bet on it. The estimated annual cost of this program will be not in the $100 million to $150 million range but most likely in the area of $3 billion or more.

Now, I ask you, are we so affluent; is our budget in such great shape that we can think in terms of adding this kind of expenditure? Is this one of our high priority items, or should we say that there should be a means test, that the interest rates should be comparable to those the Treasury has to pay?

I think that there is bad authorizing legislation here, and I would like to ask the chairman of the Small Business Committee whether his committee intends to do anything about the authorizing legislation, both as to interest rates and as a means test.

Mr. SMITH of Iowa. As far as interest rates are concerned, it is our intention to consider whether it should be 3 percent or 5 percent. As far as credit worthiness test, which is not really a means test, we run into this problem, and I changed my mind somewhat after I listened to people from West Virginia and Pennsylvania and other places.

Take, for example, a town in West Virginia wiped out by a flood. There was a grocer there who had four grocery stores. He does not need money; he can go to the bank and borrow money at 9 percent.

Mr. GIAIMO. How does the gentleman know he can?

Mr. SMITH of Iowa. He said so.

Mr. GIAIMO. How does the gentleman know the farmer cannot?

Mr. SMITH of Iowa. The same thing. The farmer is a small businessman.

Mr. GIAIMO. How does the gentleman know the farmer cannot borrow money like anyone else?

Mr. SMITH of Iowa. Some of them could.

Mr. GIAIMO. Then why should they be eligible for a 3-percent loan?

Mr. SMITH of Iowa. The point I am trying to make now is that this grocer said, "Sure, I can borrow money at 9 percent, but I am not going to that community and put up another store. I will go to some urban center," so we leave the community without the facility they had before. So, in the long run, if we really want to do something for a community that has had a disaster, we cannot have a means test and all that.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

(By unanimous consent Mr. GIAIMO was allowed to proceed for 2 additional minutes.)

Mr. GIAIMO. I just cannot understand why, in a disaster loan program, we are talking about a program now that I think the gentleman will concede is certainly going to run into the billions of dollars—in loans admittedly, but nevertheless the expenditure is a cost to the Government insofar as the interest rate differential exists. I cannot conceive why the gentleman's committee would not want to make sure that loans go only to those who need them but not to those who do not need them. All farmers in this country are not poor.

Mr. SMITH of Iowa. I do not know why the gentleman wants to pick out farmers. They are small businessmen like everybody else. Is the gentleman complaining that because we had more disasters, or we are not discriminating against farmers?

Mr. GIAIMO. I am not picking out farmers except that when we have a program which has been in the realm of $100 million or $150 million a year, that is one thing; but the moment we get the farmers into it it has become a $3 billion program, and that is something else. I think this Congress ought to look at the legislation, look at the whole disaster program and try to get some sort of control over it, because if we go down this road there is absolutely no end.

There is one other factor: under the SBA program I believe two-thirds of the counties in the United States qualify as disaster counties.

Mr. SMITH of Iowa. That is under declaration by the Farm and Home Administration.

Mr. GIAIMO. But there are two-thirds of the counties that are eligible, as I understand it, for this kind of money.

Mr. SMITH of Iowa. Not for Small Business Administration.

Mr. GIAIMO. How many are there, about 2,400 counties?

Mr. SMITH of Iowa. There are places in 11 States. They had a disaster in California, one in Florida, one in Pennsylvania, and then there are certain States that have had droughts. It is not two-thirds of the counties.

Mr. GIAIMO. I just think we have taken that program, a small program, to help people with disaster and have now turned it into a massive, multibillion-dollar program where it is not going to be a standard or a measurement as to whether the borrower actually needs the money. And for us to do that, when at the same time we have a deficit in this country of $60 billion and the Treasury is paying 6½ percent and 7 percent interest, I think it is ridiculous.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. GIAIMO) has expired.

(On request of Mr. SMITH of Iowa and by unanimous consent, Mr. GIAIMO was allowed to proceed for 2 additional minutes.)

Mr. SMITH of Iowa. If the gentleman will yield further, I would like to point out that we settled finally on 3 percent. I would not argue too much whether it is

3 or 5 percent, but the important thing in this program is that whoever has a disaster can get relief immediately. When you have credit worthiness, they will not do that. They fiddle around for 2 or 3 months and they do not do anything for that community.

Mr. GIAIMO. I guarantee that, with 3-percent loans, they will get applications immediately, and they will be falling over each other to go down and file applications.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. I thank the gentleman for yielding.

Mr. Chairman, we had a substantial disaster with concentrated destruction around the city of Johnstown. We had 50,000 people outside their homes. We have 40 percent of the businesses that are not going to reopen in Johnstown, even though this is available to them at a very low interest rate. They are not going to reopen because they feel they cannot make it, and there are all kinds of problems. But one of the biggest complaints they have, even under the disaster regulation, is the redtape involved in making the decision on the loan. Let me assure the gentleman from Connecticut that they are very careful in the consideration of these loans, even during a disaster. I was highly commendable to the SBA and to the organization that handled all of these different Government programs. I say to the gentleman that they were careful in the consideration of the loan. We had to put advertisements in the newspaper in order to try to induce businessmen to take advantage of the loans available to them.

Mr. GIAIMO. Perhaps one of the reasons is that the businessman who has built and lived in a flood plain suddenly decides he would like to live on a little higher elevation.

Mr. MURTHA. If the gentleman will yield further, in that particular case we had not had a flood since the 1930's because of a viaduct that was built through Johnstown, and we were assured under normal circumstances that we were free of flooding. Before that, we had floods every year.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. GIAIMO) has again expired.

(By unanimous consent, Mr. GIAIMO was allowed to proceed for 2 additional minutes.)

Mr. GIAIMO. Mr. Chairman, I recognize how difficult it is to ever persuade this body not to vote another goodie for our people. Let me just tell the Members that we are at the same time voting additional payouts by this Government which is $60 billion in debt this year. We are in trouble in our social security accounts. We are going to have to take drastic action to see that that program is funded. We have many other vital concerns that have to be funded. We have difficulty in funding them. At the same time, we are told that we may have to reduce taxes in order to further stimulate an economy that is not growing as rapidly as we would like. I am not the biggest conservative who has ever stood in this well, and I have voted for many of these programs and many of these expenditures. But let me tell the Members that if we think we are going to fool the American people by saying that we can take care of all of their problems, that whatever happens to them we have a program for it, and we are going to take a program of $100 million a year and build it up to $3 billion, and at the same time we are going to cut taxes for them, and if we think we can run a government or a nation that way, we better wake up in this body and we better wake up quickly, because we just cannot do it and we are fooling the public.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, I notice the budget request for countercyclical was increased by $1 billion earlier this year.

Members of the Committee on the Budget fell over one another to get the credit for increasing those funds. That is money that goes to mayors to put in their slush funds; it just adds to their funds. If we can give them $3 billion, we can certainly give some help to those people who are in need and who have suffered from disasters.

Mr. GIAIMO. Mr. Chairman, does one slush fund justify starting a new one? That is what we are doing today with this.

For heaven's sake, let us not start a new $3 billion program. Let us have the committee go back to its drawing boards and come back with a meaningful disaster program, one that will help those who are truly in need but will not give money to people who do not need money from the Federal Government at a 3-percent loan rate.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. GIAIMO) has expired.

(On request of Mr. BEDELL and by unanimous consent, Mr. GIAIMO was allowed to proceed for 2 additional minutes.)

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, first of all, I would like to commend the gentleman in the well. I think one of the problems we have in this body is that all the Members want to give more money to their people, and we have to realize we cannot constantly do that.

We cannot constantly lower taxes and continue to operate our Government.

My question to the gentleman is this: The legislation which is now on the books is legislation which I happen to think is wrong. It is still on the books, and we are now coming in for funding for that legislation. I happen to believe we should go further than the committee chairman has indicated. I do not believe we ought to give 5 percent money. I think it ought to be given at the cost of money to the Government. I agree with the chairman of the committee, that there ought to be some provision for credit elsewhere.

But my question is this: Since it is already on the books, what happens if we do not vote for this money to fund the legislation we have, rightfully or wrongfully, already passed? I want to know when I vote, what my choices are.

Mr. GIAIMO. Mr. Chairman, I will give the gentleman my judgment, and I stand to be corrected if I am wrong.

I do not think this is an entitlement program. I think this is a program that is subject to appropriations and if the appropriations are not made, the loans cannot be made. I, therefore, think we have the opportunity here to curtail this program and not make an appropriation.

This is only the beginning. This $1.4 billion will only take them, by their own admission down at the OMB, until the end of January, and then they are going to be back up here for more.

Mr. BEDELL. But if we were to do that, would we not be saying then to people who truly need the funds, to small businesses that really need the funds, that they would not be able to come and get this money because we had refused to fund the program? I am trying to find out so I will know how to vote.

Mr. GIAIMO. Mr. Chairman, if they really need the funds, they can go to the Farmers Home Administration and make application. Second, if we vote this down today—and I am sure this House will not do that—the committee could go back and rewrite legislation and come back before the House relatively quickly.

There are many things we can do. All I am saying is that we are handing out $3 billion in a new program that, quite frankly, was not well thought out. Many of us did not realize that because we thought it was a small disaster program, but now, by the very size of the program, it is a different kettle of fish and we ought to try to get control of it.

Mr. CEDERBERG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Iowa (Mr. SMITH). I do not think any Member of this body can accuse me of being a big spender, because I have tried to be awfully careful and cautious in everything I have done as far as the Federal money is concerned.

But I doubt very much if there is any segment of the whole American economy that works harder for its money than the farmer. From everything that I know, I am convinced farmers are the hardest workers. They have to have tremendous investments, and when disaster strikes, they need help.

We help everybody else when disaster strikes. There are people in the district of my colleague, the gentleman from Michigan (Mr. TRAXLER), who are in bad

shape. I have some who are in bad shape in my district. These are hard-working farmers. Some of them have made money over the years, but it does not take much of a disaster to put a fellow in trouble. And when these farmers go broke or cannot make it, that has an impact on the entire economy.

I get a little unhappy when someone refers to the agricultural community as being "these wealthy farmers." Some of them have made money, but these people who work the soil work hard. They do not work just a 40-hour week; they work a 60- or 70-hour week, and sometimes they work 7 days a week.

So when they are hit with a disaster, they need help. We take care of everybody else when disaster strikes. We take care of disasters around the world. What is wrong with helping people who have suffered from disasters in the farm areas, whether it is the result of a drought or because there has been too much rain?

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I want to associate myself with the remarks of the distinguished gentleman in the well and with those of the gentleman from Pennsylvania (Mr. MURTHA).

The entire part of my district was declared a Federal disaster area following severe flooding back in April. The Small Business Administration is to be commended for the work they did in providing businessmen with the incentive they needed to move back rather than to move out of the area or to move out of the country.

At that same time we were being asked to vote billions of dollars for disaster assistance abroad, yet people who live a mere 6 hours from Washington, D.C., could not get help. They were not asking for handouts from their Government. They were asking for incentives, for boosts, so they could move back into where they lived all their lives. They could not move back in above the flood plain level. There was no housing available above the flood plain level. This was an impossibility due to the rugged terrain of Appalachia.

Mr. Chairman, these people are not asking for handouts; they are asking for incentives through the Small Business Administration program.

Mr. Chairman, the moneys we are asking for here are not so outrageous when we consider the billions of dollars we dole out abroad each year. Indeed, the mayor of Vulcan, W. Va., in Mingo County in my district has applied to Russia for financial assistance.

Some of my colleagues may remember the situation took place in my congressional district of West Virginia last April, which was the devastating flood that almost wiped out my entire district. Since then successful efforts have taken place to rebuild the towns of Williamson and Matewan, and this is all due to legislation I introduced that lowered the interest rates on SBA disaster loans.

H.R. 9375, which we debate here today, is the final step in making the comeback efforts of West Virginia residents a reality. Homeowners and businessmen have been given a much-needed boost in their attempts to make southern West Virginia a fine place to live again. I commend the distinguished chairman of the Small Business, Mr. NEAL SMITH, and the distinguished majority leader of the Senate, ROBERT C. BYRD for their hard work and assistance to me in these comeback efforts.

Mr. CEDERBERG. Mr. Chairman, I thank the gentleman.

I suppose the gentleman's farmers are about like mine: They do not like to get into debt. These disasters are something that no one wants, but they have this problem. I think we can help them get on their feet; and, if we do, it is in the best interests, I think, of the entire economy.

Mr. Chairman, I met with some of my farmers last weekend when I was back in the district. Even without disasters, the farmers are having enough trouble today to get by. The farmer's costs are soaring while the prices for his crops are going down. He is having a difficult time existing today.

Mr. Chairman, I would hope that we could support this amendment. I understand the financial implications, but the American farmer is the hardest working man in our economy, bar none, and he needs all the help he can get.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Georgia.

Mr. MATHIS. Mr. Chairman, I thank the gentleman for yielding.

I want to commend him on the statement he has made and commend the gentleman from Iowa (Mr. SMITH) for offering this amendment.

Mr. Chairman, it seems to me very strange that at times when we have had appropriations dealing with emergencies the year before, we never heard this kind of debate. It seems a little peculiar. I think it is, despite the disclaimer of the distinguished gentleman from Connecticut.

The American farmer, as the gentleman so rightfully points out, is in dire straits today. So are the banks, the implement dealers, the seed and feed and fertilizer dealers.

I do think that the gentleman from Connecticut is correct when he says there should be a means test. I hope that the committee will come back with some kind of meaningful test that we can use in the future. In the meantime, however, these people are hurting today; and the quicker we get this money delivered, the better off the entire economy of this country is going to be.

Mr. OBEY. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, there are probably not six times that I have disagreed with the gentleman from Connecticut. He is absolutely right when he says the administration of disaster programs for rural America is in chaos. It is.

I have had some counties in my area which have had a combination of freezes and heavy rains followed by the most severe droughts in our history. I have had some individual farms in my district which have been hit by disasters 4 years running, and so I know something about how disaster programs are administered. They are chaotic, and nowhere are they more chaotic than in the Farmers Home Administration which the gentleman from Connecticut suggests farmers rely upon for their disaster assistance.

Mr. Chairman, I have had an occasion where I had over 3,000 farmers in two counties alone who should have been declared eligible for assistance, and because of idiotic mismanagement of the Farmers Home Administration, they were not made eligible, although later FHA admitted they should have been.

I want to tell you something about the general income situation that farmers face. Not many areas in my district have been declared disaster areas this year. There is very little of this money that will be available to my farmers this year. But other parts of the country have been hurt by things such as drought. I think the Members ought to know what we are really talking about when we talk about helping these people. I want to give you some figures because I think there is a great myth in this country about what farmers really are, about how much they really make and about what living standard they are accustomed to.

The average farmer in my district has about 42 cows, not 400, not 500, not the huge herds that people picture when they talk about the lobbying organizations around here, the average farmer in my district has 42 cows.

I can show you the financial statements for two farmers in my home county from last year. One of them had an income of $38,000 and the other had an income of $43,500 gross. But by the time you deduct expenses, legitimate business expenses, not taking out any money for wages, not taking out any money for needed capital investment, not taking out any additional money to pay the salaries of the wife and the kids who work right along with those farmers every day, one of those farmers netted the grand total of $7,000, after getting up at 5 o'clock in the morning and working 12 hours a day. Why, he even works harder than a Congressman works. Yet he made $7,000 last year. The other farmer had a net loss of 575 bucks.

Mr. STEIGER. Mr. Chairman, will my colleague yield at that point?

Mr. OBEY. I will be happy to after I complete my statement.

The gentleman from Connnecticut asked how long can we go on the way this country is going? I want to ask you another question. In 1952 there were 132,000 farmers in the State of Wisconsin, dairy farmers. Now there are 48,500. That means that over 70,000 of them have gone out of production. How long can that go on? There is a reason for that, and the reason for that is that they do not even take in enough money to cover the cost of production for their products. The only way they manage to stay in business is by not taking out any salary. The only way they continue to stay in business is by not making the investments that they ought to make. They when they get above the average

age of a farmer in my district, which is 58, they quit and their land often goes out of production.

For every person in this country there is only 5 acres of tillable land available, and we have less each year because farmers are going out of business and turning their farmland into suburban parking lots and shopping centers, and we are losing the great food producing resources of this country because we are not making it profitable enough for people to stay in rural America.

There is a lot wrong with this program but giving farmers the help they need and the assistance they need now, not next year is not one of them and I urge a vote for the amendment.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, I want to associate myself with the remarks of my colleague, the gentleman from Wisconsin. I might say that the problems faced in the seventh district are not that much different from those in the sixth district. There are not too many martini lunches going on, and we recognize the same problems the gentleman does. The gentleman has made a very good point, and I agree with the gentleman and urge support of the amendment.

Mr. OBEY. Mr. Chairman, the average hourly wage for farmers in my district is $1.70 an hour. Those of you who come from urban districts would be crying all over this floor and you would be bleeding all over this floor, and ministers, priests, and newspaper editors would be crying all over this floor if urban workers had the same hourly income.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. OBEY. Surely.

Mr. GIAIMO. I thank the gentleman for yielding.

We who come from urban areas are not ignorant of poverty. I recognize that many farmers in America are poor, and I recognize that many of them are working under terrible conditions. I would like to help them, and I think that we could design legislation here that would help those who need help. But why do we always have to pass class legislation which says regardless of whether you need it or not, we are going to give it to you? Second, not only are we going to lend it to you, but we are going to lend it to you at a subsidized interest rate.

In the urban areas or in the nonfarm areas there are millions of people who know hardship equally as well as the farmers do. So let us not talk about the farmer of America as if he were some unusual kind of person who suffers hardship.

Mr. OBEY. If the gentleman will allow me, let me answer him. First of all, let me point out that 60 percent of the substandard housing in the country is in the rural areas; it is not in urban areas.

Second, as I indicated earlier, I am not defending the construction of the program which is being funded today. What I am saying is that at this time it is the only route available, and with all of its defects, it is the only way that we can get real help to real people. And much as we might like to change the administration's program, we have an obligation to do that.

Mr. GIAIMO. If the gentleman will yield further, I recognize the immediacy of this problem. I am hoping that they would go to the Farmers Home Administration. I know there is red tape there, but the difference is if they go to the Farmers Home Administration with its red tape, they have to meet a requirement.

Mr. OBEY. And they have to wait in some cases up to 2 years to get their applications processed, and by that time they are out of business because their creditors will not wait.

Mr. GIAIMO. But the answer is not to start a multi-billion-dollar program.

Mr. OBEY. What the gentleman advocates means that we are going to have a thousand more farmers in my State out of business by the end of next year.

Mr. GIAIMO. I submit the gentleman can speed up the Farmers Home Administration. But instead of that, we have here an SBA operation where they can just go and ask for it and get it.

Mr. OBEY. I will welcome the gentleman's help in trying to get the help we have been trying to get for 2 years to do just that.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

First of all, I suppose we all have to immediately make some kind of disclaimer, those who rise to question the gentleman from Iowa; otherwise it might look like we are opposed to disaster loans, which I am not, I have usually voted for them. But this is a $750 million add-on that I say is not necessary. The SBA already has in its hands a substantial appropriation.

I would like to discuss with the gentleman part of the problem that we have had in this disaster loan program. The best example I can give the Members is what happened in California under the earthquaked disaster loan program and additionally why I believe that there is enough money presently with SBA to cover what is needed for the disasters that have occurred this year. If you vote against this Smith amendment, you will know that the House has already provided adequately for disasters that have occurred this year.

I want to describe what happened in California during the earthquake we had in 1971. We had a man who came in and applied under this SBA program. It was a little different then because, frankly, it was much more "flexible" and administratively loose program than it is now. But there is not a means test in this current program to determine whether disaster relief is really needed. That is why my chairman on the House Budget Committee is trying to speak on this issue. We had a man in California who came in and applied for a disaster loan after the earthquake that occurred in 1971 to recover a loss for 29 palms that supposedly had been damaged. When the auditors went out to look, the palms were still standing. He got $10,000 under this very loosely administered disaster program to replace palm trees that were still standing.

I am not going to claim that the program is quite as bad as that today. It is not. Anybody who has had a real disaster, whether it was a flood or whatever the problem, knows the money is available under this program with the $750 million we have already appropriated this year.

I want to say that we are very mindful of agricultural products in California. Agriculture is our largest business in California. Californians understand what damage can occur in all types of disasters. So I do not want the gentleman from Iowa, (Mr. SMITH) now to stand up and claim, "I know more about agriculture than you do, but" I want to say that this program is not tight enough. Most Members want to help the people in Wisconsin who have had problems and who have gone out of business because of a disaster. All the reasons why farms have been merged in Wisconsin do not relate to disasters alone; those mergers have also occurred because farmers can sell their land for a much higher price today than they could a few years ago, so they want the capital gains. That is fine, but do not try to imply that all mergers of farms occur because of disasters.

The gentleman (Mr. OBEY) indicated that somehow by voting for this amendment we are going to help the poor small farmer in Wisconsin—who is by the way getting some pretty good subsidies for his milk products. The senior Senator from Wisconsin (Mr. PROXMIRE) sees to that.

Let me say that just is not true.

Mr. SMITH. of Iowa. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will in a moment. I know the gentleman has had plenty of time in which to make the arguments for his amendment. We had the argument in the Budget Committee and my chairman is correct on this issue, I believe, and that is this.

The reason many of those farmers merged and the farm population continues to go down is because it becomes more profitable to operate in a larger economic unit. It is not all attributable to disasters. That is pure bunk.

Now I can understand my colleague, the gentleman from Georgia (Mr. MATHIS) speaking for this amendment. His farmers have had a tough time in the peanut business in Georgia. They had a very severe drought. I can understand why the peanut farmers who are the best subsidized in this country—I can understand how the peanut farmers have had a tough time in that drought stricken area.

But the loans under this SBA disaster program are at the most favorable rate of 3 percent.

Tell me where we can get that in a normal transaction. That is a favorable rate. No wonder the farmers are coming in in droves for this program. We had people before the Budget Committee describing in detail how every-

body runs in to get in on this 3-percent loan program. I do not blame them.

If my colleague, the gentleman from Iowa, really wants to do something and to offer an amendment to see that this money is put out at least for the same rate we have to pay for it at the U.S. Treasury, I will support that amendment. Will my colleague offer that amendment to see that these programs pay the same interest rate as everybody else has to pay, because the Treasury has to borrow, because we have to borrow it to get it?

Mr. SMITH of Iowa. That was my original position.

Mr. ROUSSELOT. Well, offer it.

Mr. SMITH of Iowa. There is no place to have that amendment in this bill.

Mr. ROUSSELOT. We can do that in this appropriation. That would be a limitation on an appropriation. We can put the limitation in, to say at least the applicants will be charged a more reasonable rate.

Mr. SMITH of Iowa. Will the gentleman yield now?

Mr. ROUSSELOT. I will be delighted to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, that is not so at all. The gentleman knows we cannot put it on this bill. I was chairman of the committee that passed a bill a year ago.

Mr. ROUSSELOT. On the small business, I remember that. We asked whether it was drastically changed when it came back from the conference.

Mr. SMITH of Iowa. That was a year ago. Now we have the different situation where we have to adjust it.

Let me answer some of the other things the gentleman brought up. In 1971 they had the forgiveness at $5,000.

Mr. ROUSSELOT. That was wrong and we changed those conditions.

Mr. SMITH of Iowa. We do not have it any more.

Mr. ROUSSELOT. I know. I participated in encouraging those changes.

Mr. SMITH of Iowa. Now we have said some persons can borrow money for their principal residence if it was destroyed in a disaster, and the other category happens to be businessmen if they are to stay in business.

Mr. ROUSSELOT. Right.

Mr. SMITH of Iowa. And they get a progress loan, so that they get part of the loan, and as they get back in business they complete the loan. So it is not so that if we vote against this we are voting against only those who do not have the loans. There is $65,000 of this which goes to the businessmen in Kansas.

Mr. ROUSSELOT. I understand that. It is my understanding the $750 million we have already appropriated more than adequately covers the Kansas City disasters.

Mr. SMITH of Iowa. That is not so.

Mr. ROUSSELOT. That is the understanding we have, and the Budget Committee has checked it carefully.

I want to say to the gentleman, my effort here today in this discussion is to not stop those who genuinely have a disaster need and can prove it in an application. I agree with that. I disagree that it has to be at a 3-percent loan rate. No. 2, I disagree that we do not have enough already appropriated. Why do we want to double the amount already appropriated?

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, if the gentleman from Iowa will resume, I would like to continue this discussion.

Why is the gentleman not prepared to offer an amendment today to require that this additional money he is requesting—the additional $750 million—be loaned out at the prime rate?

Mr. SMITH of Iowa. No. It cannot be offered today. It is not possible under the parliamentary situation. However we are going to have an amendment for presentation I think on the House floor soon.

Mr. ROUSSELOT. The gentleman will take it up in the committee?

Mr. SMITH of Iowa. We are doing that.

Mr. ROUSSELOT. And the gentleman can assure us he will come back with a bill sometime very soon that will require that this money be paid out at least at the prime rate, at least the rate for which the Government has to borrow it?

Mr. SMITH of Iowa. No.

Mr. ROUSSELOT. He cannot do that?

Mr. SMITH of Iowa. I cannot say that.

Mr. ROUSSELOT. The gentleman certainly has an awful lot of influence and impact.

Mr. SMITH of Iowa. But I am going to propose to raise it to 5 percent.

Mr. ROUSSELOT. Why not the prime rate, or at the going market rate at which the U.S. Treasury is forced to borrow?

Mr. SMITH of Iowa. Let me give the gentleman an example.

Mr. ROUSSELOT. I would be delighted to have an example. I hope it is better than the palm tree episode we had in California.

Mr. SMITH of Iowa. Take the little old lady who lives in West Virginia and makes only $75 a week. She lives in a little old house worth about $15,000.

Mr. ROUSSELOT. Including the cost of the land, it is worth $15,000?

Mr. SMITH of Iowa. Yes. It is wiped out. There is not even a cinder block left, so she needs a mobile home. She can have a credit test at the bank and they will loan her the money at 12 percent. It takes half her income to make those payments. She deserves a 5-percent loan to get her mobil home.

Mr. ROUSSELOT. Fine; she would clearly pass a means test under the SBA program and no administration would turn her down.

Mr. SMITH of Iowa. She has only a $75-a-week income.

Mr. ROUSSELOT. We have been hit in California and probably other places where this program was badly abused in some instances.

Mr. SMITH of Iowa. The program has been changed.

Mr. ROUSSELOT. The program has been changed, but not adequately enough to protect against taxpayers' dollars being misused; especially when we have to go further into debt, as we would if the gentleman's amendment passes. We will have to go further into debt for the doubling the amount in the amendment the gentleman is proposing.

Second, this is not our last shot at this extra funding. This is a supplemental bill. If the $750 million ran out, we could clearly provide the appropriations for next year.

Mr. SMITH of Iowa. Why next year? We need this money between now and next year.

Mr. ROUSSELOT. The gentleman's claim is that the present money will run out; my claim is that it will not. The amendment is unnecessary. We have not even discussed loans available under other U.S. Government programs. I urge my colleagues to vote this down.

Mr. PATTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of my colleague, the gentleman from Connecticut, the head of the Budget Committee.

I hate supplementals. This is no way to run the Congress. If there is anything I hate, it is to add a $1.4 billion amendment like this. We never had a vote in the full committee. We had no hearings.

Let us find out how the administration stands. This amendment should not even be legal. If you want reform, these amendments should not be allowed.

Mr. Chairman, this amendment should be voted down.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto conclude in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Chair first recognizes the gentleman from New York (Mr. PIKE).

Mr. PIKE. Mr. Chairman, I think in the arguments about American agriculture we have a little bit lost sight of the fact that this is an increase in disaster loans to the Small Business Administration.

In my district people get their home loans from the Farmers Home Administration, because the Federal Housing Administration is not satisfactory.

Now, we are saying because the farm programs are not satisfactory, we have to go to the Small Business Administration to get loans for farmers.

I think we are just piling bureaucracy on top of bureaucracy. We are calling things disasters which really are not disasters. Nobody quarrels with the Johnstown flood, but we are getting so every time the weather turns bad in the country it becomes a disaster and we rush to the Federal Government for disaster assistance.

I think we are galloping off to another huge increase in our deficit.

Mr. Chairman, I hope the amendment is defeated.

The CHAIRMAN. The gentleman from California (Mr. MINETA) is recognized.

(By unanimous consent, Mr. GIAIMO yielded his time to Mr. MINETA).

Mr. MINETA. Mr. Chairman, as my colleague from Connecticut, ROBERT GIAIMO, the chairman of the Budget Committee, has pointed out, there are some

serious questions that remain to be answered about this SBA disaster loan program.

Last year, when farmers were first made eligible for disaster assistance under this program, I am not sure any of us realized the extraordinary demands that would be placed on it. These demands now threaten to add $2 or $3 billions to our already enormous budget deficit. These are demands that can only be met at the expense of other pressing national needs.

Whenever such an addition to the deficit is contemplated, we should be aware of the budgetary implications of our action. What we are doing here today is precisely what the Budget Act was enacted to forestall: The making of individual spending decisions with no regard to the ramifications of those decisions to the total budget.

Mr. Chairman, at the time of the second budget resolution—only a little more than a month ago—we budgeted about $300 million for this program.

Now we are faced with this supplemental request to raise that figure to $1.4 billion. We are also told to expect further requests which may run as high as $2 or $3 billions.

Mr. Chairman, I understand that the drought conditions in recent months in the Southeastern States has plunged many farmers into dire financial straits. I certainly do not want these people to be forced out of business—in fact, I will probably vote for this amendment. But whenever we anticipate a multibillion dollar bulge in the budget we should be asking—and answering—questions that will inform us of the overall ramifications of the decision.

First, if we intend to integrate SBA into our agricultural assistance program, should not we have some information on the long-term implications of that decision? For instance, if SBA is going to spend five-sixths of its budget on farmers, how will that effect their other programs?

Second, if the farmers are not adequately assisted by the emergency assistance and farm credit programs of the Department of Agriculture—why not?

As we all know, the SBA was created to help small manufacturing and retail firms—not farms. In my opinion, it is the Department of Agriculture that has experience in dealing with farmers—SBA's capacity should not be strained to serve a constituency they have little experience with.

Third, why are the interest rates on this loan program held below cost—and what are the implications of that?

While it is true that private lenders cannot meet the credit needs of these drought victims—if loans are offered to all eligible borrowers, those who ordinarily operate with high levels of credit will have a strong incentive to borrow as much as possible under this disaster loan program. Further, whenever there is some local adversity, there is likely to be great pressure placed on State Governors and the SBA Administrator to declare the situation a disaster.

Fourth, there are reports that this SBA disaster loan program has expanded so rapidly that it is difficult to insure that the loans are going only for essential purposes and to those in need.

Mr. Chairman, all of these unanswered questions add up to a funding mechanism with the potential to spend billions of dollars with little or no congressional or executive control.

Thus, while I realize there are many drought-stricken farmers throughout the country who must be assisted, I would hope that if we are going to be faced with even more supplemental appropriations for the SBA disaster loan program—that over the next few months the Small Business Committee will carefully scrutinize the program—examine some of its long-term budget implications and look into the administration of the loan program to see if costs cannot be held down. To the maximum extent possible, new SBA costs must be held within the existing budget totals.

The CHAIRMAN. The gentleman from California (Mr. DANIELSON) is recognized.

Mr. DANIELSON. Mr. Chairman, here I am in the well in my seventh year in the Congress, having heard this debate for the seventh time. I would wager that if I stayed 7 more years, I would hear it 7 times more.

The world is prone to suffer disasters. Yet the reason we are sitting here with this debate, deciding whether or not we are going to give away some more tax money, is because we have not worked out a solution to the disaster problem. There is a solution, not worked out by public agencies, not worked out by private enterprise. That is simply to have a disaster insurance program to cover all of the disasters we are prone to suffer.

We have earthquakes; we have floods; we have hurricanes; we have tornadoes; we have tidal waves; we have drought; we have snow; we have lightning; dams burst. You name them. Disasters happen every year, and we come up with this same remedy—go to the general fund and dish out a little money.

We had an earthquake in California. We had Hurricane Agnes which wiped out part of Pennsylvania. We get the Johnstown flood every year or so. It is like Halley's Comet, it is going to come back again and come back again and come back again.

Let us do something. Let us be responsible about it and put together some kind of reasonable disaster insurance program. I put in a bill to that effect 4 years ago, and it was laughed at. Now I am laughing right back at you. It is time we do something about it.

The CHAIRMAN. The gentleman from Texas (Mr. MAHON) is recognized.

Mr. MAHON. Mr. Chairman, I do not think we have any course available to us at the moment except to adopt this amendment. I believe it should be adopted and that it will be adopted.

At the same time, let me say that I think we have to get a better handle on this program. There needs to be changes in the basic authorizing legislation and there needs to be changes in the administration of the program. But in view of where the program stands at this time, we have no other course to follow than to help these people to survive

Mr. Chairman, I support the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. SMITH) to close debate.

Mr. SMITH of Iowa. Mr. Chairman, I only want to make a couple of points in closing. First, there has been a lot of conversation about farmers here. The only thing that has changed, so far as farmers are concerned, is that the program no longer discriminates against small businessmen who happen to be farmers. This program is not just for farmers. This is for small businessmen in urban areas, as well as in rural areas, wherever they happen to be, when disaster strikes. A big chunk of this loan money is going, for example, to Kansas City, because of a flood down there. Another thing I want to point out is that this money is needed at this time. The well is almost dry. They have made first payments on some of their loans. Disaster victims need additional installments of this loan money between now and January. It is not so that we can vote against this and still fund those who already have been declared eligible for a loan. They must have this money in order to make the balance of payments on their loans.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Iowa said in the course of his debate that he intends to offer an amendment and consider 5 percent. I compliment him on that. I think we ought to look at that. The Committee on Agriculture will have a markup session next week on similar FHA legislation. I hope we can work together and work out a reasonable amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. SMITH).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SMITH of Iowa. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 318, noes 102, not voting 14, as follows:

[Roll No. 678]

AYES—318

Abdnor	Bonker	Chisholm
Addabbo	Bowen	Clausen,
Akaka	Brademas	Don H.
Alexander	Breaux	Clay
Allen	Breckinridge	Cochran
Ambro	Brinkley	Cohen
Ammerman	Brodhead	Coleman
Andrews, N.C.	Brooks	Collins, Ill.
Applegate	Brown, Calif.	Conte
Armstrong	Brown, Mich.	Corcoran
Aspin	Brown, Ohio	Corman
AuCoin	Buchanan	Cornell
Badillo	Burgener	Cornwell
Bafalis	Burke, Calif.	Cotter
Baldus	Burke, Mass.	Coughlin
Barnard	Burleson, Tex.	Daniel, R. W.
Baucus	Burlison, Mo.	Danielson
Bauman	Burton, John	Davis
Beard, R.I.	Burton, Phillip	de la Garza
Bevill	Caputo	Delaney
Biaggi	Carney	Dellums
Bingham	Carter	Dent
Blouin	Cavanaugh	Derrick
Boggs	Cederberg	Dickinson
Bolling	Chappell	Dicks

Diggs	Kazen	Railsback
Dingell	Keys	Rangel
Downey	Kildee	Richmond
Drinan	Koch	Risenhoover
Duncan, Oreg.	Kostmayer	Roberts
Duncan, Tenn.	Krebs	Roe
Early	Krueger	Roncalio
Eckhardt	LaFalce	Rooney
Edwards, Ala.	Lagomarsino	Rose
Edwards, Calif.	Latta	Rosenthal
Edwards, Okla.	Le Fante	Rudd
Eilberg	Leach	Runnels
Emery	Lederer	Ruppe
English	Leggett	Russo
Ertel	Levitas	Ryan
Evans, Colo.	Livingston	Santini
Evans, Del.	Lloyd, Calif.	Sawyer
Evans, Ga.	Lloyd, Tenn.	Scheuer
Evans, Ind.	Long, La.	Schroeder
Fascell	Long, Md.	Schulze
Fithian	Lott	Sebelius
Flippo	Lujan	Sharp
Flood	Luken	Shipley
Florio	McClory	Shuster
Flowers	McCloskey	Sikes
Flynt	McCormack	Sisk
Foley	McDade	Skelton
Ford, Mich.	McEwen	Slack
Ford, Tenn.	McFall	Smith, Iowa
Forsythe	McHugh	Smith, Nebr.
Fountain	McKay	Snyder
Fowler	Maguire	Solarz
Fraser	Mahon	Spellman
Frenzel	Markey	Spence
Frey	Marks	Staggers
Fuqua	Marlenee	Stangeland
Gammage	Marriott	Stanton
Gaydos	Martin	Stark
Gilman	Mathis	Steed
Ginn	Meeds	Steers
Glickman	Meyner	Steiger
Gonzalez	Mikulski	Stokes
Goodling	Mikva	Studds
Gore	Milford	Stump
Gradison	Miller, Ohio	Taylor
Grassley	Mineta	Thompson
Gudger	Mitchell, Md.	Thone
Guyer	Mitchell, N.Y.	Thornton
Hagedorn	Moffett	Traxler
Hall	Mollohan	Treen
Hamilton	Montgomery	Trible
Hammer-schmidt	Moore	Tsongas
	Moss	Udall
Hanley	Mottl	Ullman
Hannaford	Murphy, Pa.	Van Deerlin
Harkin	Murtha	Vander Jagt
Harrington	Myers, Gary	Vento
Harsha	Myers, John	Waggonner
Hawkins	Myers, Michael	Walgren
Heckler	Natcher	Walker
Hefner	Neal	Walsh
Heftel	Nichols	Wampler
Hightower	Nix	Watkins
Hillis	Nolan	Waxman
Holland	Nowak	Weaver
Holtzman	Oakar	Weiss
Horton	Oberstar	White
Howard	Obey	Whitley
Hubbard	Ottinger	Whitten
Huckaby	Panetta	Wilson, Bob
Ichord	Perkins	Wilson, Tex.
Ire'and	Pettis	Winn
Jeffords	Pickle	Wirth
Jenkins	Poage	Wright
Jenrette	Pressler	Wylie
Johnson, Calif.	Preyer	Yatron
Johnson, Colo.	Price	Young, Alaska
Jones, N.C.	Pursell	Young, Mo.
Jones, Okla.	Quayle	Young, Tex.
Jones, Tenn.	Quie	Zablocki
Jordan	Quillen	Zeferetti
Kasten	Rahall	

NOES—102

Anderson, Calif.	Byron	Fisher
	Carr	Gephardt
Anderson, Ill.	Clawson, Del	Giaimo
Annunzio	Cleveland	Gibbons
Archer	Collins, Tex.	Goldwater
Ashbrook	Conable	Hansen
Ashley	Conyers	Harris
Badham	Crane	Holt
Beard, Tenn.	Cunningham	Hughes
Bedell	D'Amours	Hyde
Bellenson	Daniel, Dan	Jacobs
Benjamin	Derwinski	Kastenmeier
Bennett	Devine	Kelly
Blanchard	Dornan	Kemp
Boland	Edgar	Ketchum
Bonior	Erlenborn	Lehman
Broomfield	Fary	Lent
Broyhill	Fenwick	Lundine
Burke, Fla.	Findley	McDonald
Butler	Fish	McKinney
Madigan	Patten	Satterfield
Mann	Patterson	Selberling
Mattox	Pattison	Simon
Mazzoli	Pease	St Germain
Michel	Pike	Stratton
Miller, Calif.	Pritchard	Symms
Minish	Regula	Vanik
Moakley	Reuss	Volkmer
Moorhead, Calif.	Rhodes	Whitehurst
	Rinaldo	Wiggins
Moorhead, Pa.	Robinson	Wilson, C. H.
Murphy, Ill.	Rodino	Wydler
Murphy, N.Y.	Rogers	Yates
Nedzi	Rostenkowski	Young, Fla.
O'Brien	Roussel.ot	

NOT VOTING—14

Andrews, N. Dak.	Metcalfe	Stockman
	Pepper	Teague
Dodd	Roybal	Tucker
Hollenbeck	Sarasin	Whalen
Kindness	Skubitz	Wolff

Messrs. LIVINGSTON, SAWYER, OTTINGER, RUDD, and LATTA changed their vote from "no" to "aye."

Messrs. DAN DANIEL, BUTLER, BEARD of Tennessee, MAZZOLI, BADHAM, and ASHBROOK changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the Chairman of the Subcommittee on Public Works, the gentleman from Alabama (Mr. BEVILL), if he would engage in a brief colloquy with me to clarify the intent of the committee yesterday in its amendments concerning the funding for the Clinch River breeder reactor project.

Mr. BEVILL. If the gentleman will yield, I would be delighted to.

Mr. McCORMACK. Yesterday, the House accepted the Appropriations Committee's amendments concerning the Clinch River breeder reactor program, appropriating $80 million for continuation of the Clinch River project during fiscal year 1978.

Is it the position of the chairman of the subcommittee that the $80 million appropriated for the Breeder Reactor project at Clinch River, Tenn., is intended to be used as provided in the authorization legislation approved earlier today in the conference committee report on S. 1811; that is, that the $80 million is intended to be used for continuation of the Clinch River breeder project, and that none of the funds appropriated in this bill before us today shall be used to terminate, or delay the Clinch River breeder reactor project in any way?

Mr. BEVILL. Yes; the gentleman is correct.

Mr. McCORMACK. I thank the gentleman.

The CHAIRMAN. The Clerk will read.

The Clerk continued to read.

AMENDMENT OFFERED BY MR. STEED

Mr. STEED. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEED: On page 13, after line 14, insert the following:

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For an additional amount for Allowances and Office Staff for Former Presidents to carry out the provisions of Public Law 95-138, approved October 18, 1977, $54,000.

Mr. STEED. Mr. Chairman, the authority for this item is contained in a bill recently passed by the Congress and signed into law by the President on Tuesday of this week. This amendment makes available an additional $54,000 for former President Ford so that his transition staff can remain intact until the end of this fiscal year.

Since it has so recently passed and is fresh in the minds of the Members, I do not think it requires any further explanation.

Mr. CEDERBERG. Mr. Chairman, the minority supports the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. STEED).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft Procurement, Air Force", $33,000,000, to remain available for obligation until September 30, 1980.

The Clerk read as follows:

AMENDMENT OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CHAPPELL: Page 14, line 8, after "Air Force", strike out "$33,000,000".

Mr. CHAPPELL. Mr. Chariman, I offer this amendment for myself and the gentleman from Alabama (Mr. EDWARDS). We wish to make it clear at the very beginning that this matter is strictly a nonpartisan matter and a matter touching only upon the defense of this country and one about which we are keenly concerned.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Chairman, I concur in the comments of the gentleman. This is a bipartisan amendment. I, of course, support the gentleman in his amendment. I will speak later on.

Mr. CHAPPELL. I thank the gentleman from Alabama.

Mr. MAHON. Mr. Chairman, will the gentleman from Florida yield?

Mr. CHAPPELL. I yield to the distinguished chairman of the Appropriations Committee.

Mr. MAHON. Mr. Chairman, this is what is called "Get-Away Day" in the House and the announced getaway hour is 5:30. It is going to be necessary if we are going to give proper consideration to this bill, to realize that we cannot speak at great length. That is going to apply to all of us, so I think we need to bear in mind that we are working against that deadline. It is unfortunate, but I think we should bear that in mind at the beginning.

Mr. CHAPPELL. I thank the gentleman from Texas.

Mr. Chairman, the vitally important national issue we are discussing today

was faced and met by President John F. Kennedy when he said on January 20, 1961, in his inaugural address:

Only when our arms are sufficient beyond doubt can we be certain that they will never be used.

Just a short year later he proved the wisdom of that statement during the Cuban missile crisis. Could our President make that same decision today?

Mr. Chairman, the simple truth is that through our actions and initiatives we have dissipated the overwhelming strategic nuclear superiority we enjoyed during the 1960's. This was vividly brought home by the Secretary of Defense in his posture statement in support of the fiscal year 1977 defense appropriations when he stated that we needed to increase defense spending in order to maintain strategic parity with the Soviets. The situation we find ourselves in today is one of inferiority in almost every defense category. For example, in strategic forces the Soviets have:

Seventy-three times more air defense radars.

Eight times the number of medium range bombers.

Two times the missile throw weight.

Ninety-four percent more nuclear megatonnage.

Seventy-eight percent more ballistic missile submarines.

Fifty-one percent more ICBM's.

Thirty percent more submarine-launched cruise missiles.

By limiting ourselves to a maximum range of 1,500 nautical miles on ALCM's at the SALT negotiations we will have forced ourselves into an absolute manned penetrator requirement. Without a penetrator we simply cannot reach the high value, hard targets. With a constrained cruise missile range and cancellation of the B–1, the Soviets must be laughing all the way to the SALT table.

Mr. Chairman, at this point I will insert the following statistical displays showing a comparison of Soviet and United States military strength be included in the RECORD. The first display was printed in the October 1976 issue of Action published by the VFW. The second display is an excerpt from a study prepared by John M. Collins, senior specialist in national defense with the Congressional Research Service of the Library of Congress entitled "American and Soviet Armed Services, Strengths Compared, 1970–76." One can only view these comparisons with sobering concern. Every American should be made aware of our deteriorating military posture vis-a-vis the Soviets.

Mr. Chairman, the purpose of this amendment is clear and straightforward. It merely restores the $1,431,400,000 for production of five B–1 bombers which this body, by a three vote margin, deleted on September 8, 1977, during consideration of the conference report on H.R. 7933, Department of Defense Appropriation Act, 1978.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(By unanimous consent, Mr. CHAPPELL was allowed to proceed for an additional 3 minutes.)

Mr. Chairman, this body has considered the fate of the B–1 bomber on an annual basis since 1975 and up until the President's June 30 decision to cancel production of the B–1, this body reaffirmed its support for the B–1 on, at least, five occasions. After the President's decision and by a close vote of 202 to 199, three votes, for the first time we denied funds for the production of five B–1's in fiscal year 1978.

At the time that vote was taken there was a large number of my colleagues, myself included, who were not aware that the DOD would within weeks request funds to start a new development program for a manned penetrating bomber to provide the President with the option he asked for to produce a manned penetrating bomber should the need arise. Mr. Chairman, there is no need to rehash all the arguments on why this nation needs a penetrating bomber capable of solving the Soviet air defenses in the 1980's and 1990's—I think the need is well understood by a majority of the Members of this body.

However, there are those in Department of Defense and even some Members of this body who have cast this issue in the light of the cruise missile versus the B–1. This is simply not the case—the cruise missile, when it becomes operational and completes its development cycle in 1980 or 1981, will complement the B–1. This is particularly true in the context of the ongoing SALT negotiations which limits the range of the cruise missile to 1,500 nautical miles. Clearly, both the administration, including the Air Force and the Secretary of Defense, have affirmed the need for a manned penetrating bomber—the only difference is that Secretary Brown believes you can spend $25 to $35 million per copy on the aging B–52 to give it a penetration capability—every creditable witness who has appeared before the Defense Subcommittee has testified that the B–52 is too old and ineffective to survive the Soviet air defense capability.

Most studies show that the B–52 would lose 80 to 90 percent of its force without reaching the target. The B–1 on the other hand, would only lose 10 percent of its force. The 1,500 nautical miles cruise missile range limitation in the SALT talks makes it absolutely essential that we have a viable manned penetrating bomber capability to get within range of the high value, hardened targets in the Soviet Union. In a memorandum to the Secretary of Defense in March of this year the Joint Chiefs of Staff stated that the cruise missile would possess attractive operational characteristics when employed as a complement to a penetrating bomber force, but that a force composed exclusively of cruise missiles would have limitations.

The CHAIRMAN. The time of the gentleman from Florida has again expired.

(At the request of Mr. SIKES, and by unanimous consent, Mr. CHAPPELL was allowed to proceed for an additional 2 minutes.)

Mr. CHAPPELL. Mr. Chairman, if B–1 production is to be terminated then it should be done after a SALT agreement not before. Furthermore, without an effective penetrating bomber to deliver cruise missiles the Soviets have the capability today with their supersonic Foxbat fighters to intercept any stand-off missile carrier out to 800 nautical miles from the U.S.S.R. With tankers this barrier could be moved out to 1,600 nautical miles.

If, as Secretary Brown says, the only thing wrong with the B–1 is its cost—that its technical performance is excellent—then certainly risking the survival of this great Nation because we are unwilling to spend less than one-half of 1 percent of the Federal budget for the most advanced strategic bomber in the world makes no sense at all. If the quality of life in this Nation is worth improving, then it must be worth preserving. With the B–1, M–X and a realistic air defense network we can do much to redress the imbalance of strategic forces which now exists. Approval of this amendment will be a positive step to bring us back to parity with the Soviets.

If we want to be a part of moving this country farther from a nuclear strategy of assured deterrence to one of minimum, questionable deterrence, then we should vote "no" on this amendment. If, on the other hand, we want to take a positive step to turn this country back toward parity with the Soviets—then we should vote "aye" on this amendment. My personal belief is we should take the wise counsel of John Kennedy and reassert:

Only when our arms are sufficient beyond doubt can we be certain that they will never be used.

This is a time for clear and decisive action. The American people deserve no less.

I urge the adoption of the amendment.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(On request of Mr. DOWNEY and by unanimous consent Mr. CHAPPELL was allowed to proceed for 2 minutes.)

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I yield.

Mr. DOWNEY. I thank my friend for yielding.

The gentleman mentions that the Foxbat, with refueling capabilities with tankers, would have an 800 to 1,600 nautical miles interception range. Presumably, the Foxbat would be used to intercept the B–52 or the standoff bomber at high altitudes between 800 and 1,600 nautical miles. Is that not correct?

Mr. CHAPPELL. That would certainly be true in today's scenario, and probably for some time in the future, but eventually that is not so.

Mr. DOWNEY. Could the gentleman tell me, in that high altitude mode, what the difference would be between a B–52, a B–1 or a standoff cruise missile facing a Foxbat at high altitude?

Mr. CHAPPELL. I do not know that there would be any great difference if one

attempts to set the B–1 at high altitude, but the very purpose is to penetrate at low altitude. I would say the difference is in terms of finding it, that the enemy would have much more difficulty in finding the B–1 because of its radar-jamming capabilities.

Mr. DOWNEY. The gentleman full well knows that at 800 to 1,600 miles from the Soviet border, that the B–1 does not fly at low level altitude because if it started to penetrate at that level, it would not have enough fuel to reach any targets in the Soviet Union. So, how can the gentleman tell me that a standoff bomber or the B–52 or the B–1 is any less vulnerable at high altitude, because they are all equally vulnerable. The B–1 is no different than the B–52 or a standoff bomber.

Mr. CHAPPELL. The gentleman knows better than that. He knows perfectly well that the B–1 is virtually twice as fast as the B–52. It is supersonic where the other bomber is not.

Mr. DOWNEY. At mach 1 or mach 2 it will run out of fuel before it reaches the U.S.S.R.

Mr. CHAPPELL. As the gentleman full well knows further, the B–1 does have the capability to come down to low altitude for penetration. He knows that very well.

The gentleman knows full well that the B–1 bomber carries from 3½ to 5 times the payload when it gets there. There is no question that the B–1 bomber can do a better job.

Mr. EDWARDS of Alabama. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Florida has given a very scholarly presentation of the B–1. I want to put it in little more practical terms. Mr. Chairman, what is the history of it? Why are we really here today?

To refresh the memory of the Members, we had our fiscal year 1978 appropriation bill on the floor earlier this year. At that time we did not know what President Carter's decision was going to be on the B–1. This House, by a substantial margin, voted to continue or to start production of the B–1 bomber. Subsequent to that, the bill went to the Senate, and the President made his decision to terminate production. The Senate then did vote to terminate production, and in conference we brought the bill back in disagreement on this issue. It was when the bill came back to the House from conference that we voted by three votes to concur in the termination of the B–1.

What has happened since then? Almost immediately the FB–111H came on the scene, and we had quite a debate about that recently in the House. I shall not belabor that. But it was brought on the scene as, in effect, the answer to the now terminated B–1. At the same time or shortly thereafter, we were advised that the administration had laid on the SALT table a proposal that would limit the cruise missile, which was the heart and soul of the President's alternative when he said he would terminate the B–1. He laid on the table at SALT a proposal that would limit the Cruise missile to 2,500 kilometers or 1,350 nautical miles. This really left many of the Members of the House with some great concern. I must say that many of the Members, who supported the President on the vote when the B–1 was terminated in the House by a three-vote margin, have come to me and said, "We feel as though we have been misled and we think we ought to have another chance to vote on the B–1."

And that, for all intents and purposes, is why we are back here today: to give the Members a chance to vote on terminating or not terminating the B–1 bomber, in view of the information that we have received subsequent to the time that the President announced that he wanted the B–1 terminated. It is just that simple.

Mr. Chairman, we have spent a lot of money in this country on bombers. We go back to the B–70, when we spent about $1,300,000,000 on the B–70 in the late 1950's and early 1960's. We have spent or will spend close to $4 billion on the B–1 and it has been terminated. I asked someone a while ago, "Where is the B–70?" We had two prototypes. And they said they are in the museum. Now they want to put the B–1 in the museum. The B–52 is about ready for the museum.

So I raise a logical question: Whither the Triad? Where will we go on the third leg of the Triad? And I think the answer is the B–1 bomber. It has been and it still is the very best penetrating bomber available. I do believe that, in view of what we know now, in view of what has come to pass since the House action, that the Members of this House are in fact entitled to another vote on the question of the B–1.

Mr. Chairman, let me make one further point, and I will be glad to yield.

The amount we are talking about is $1,400,000,000, in round numbers. At the time we were trying to produce the B–1, that would have built five B–1's. Because of the action of the administration in terminating the B–1 prior to action by the House, many people have been laid off; and if we start production we will have to hire people back.

The end result of that is that the $1.4 million today will only buy 3½ B–1's. We are not even talking about 5; we are talking about 3½. If we continue to dilly-dally around with this much-needed bomber, then we are going to be talking about fewer than 3½ bombers.

Mr. Chairman, I am saying to the Members that if they believe we need a penetrating bomber, we must go forward with it now and quit playing games with it and get it in use.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. EDWARDS) has expired.

(On request of Mr. FINDLEY and by unanimous consent, Mr. EDWARDS of Alabama was allowed to proceed for 2 additional minutes.)

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I listened to the gentleman's comments about the position of some Members who have in the past opposed the development of the B–1 bomber and have reconsidered their position. I am in that category.

I want to tell the gentleman that I have decided to support the development of the B–1 bomber, and this is a change in position on my part. I have decided to change my position entirely because of the position of the administration on the SALT negotiations.

I feel that the cruise-missile technology is vitally needed by our Nation, and especially by our NATO allies. It troubles me greatly to realize that the administration has laid on the table proposals that will severely restrict the use of this technology in our own interest and in the interest of our allies. For that reason, I feel that we have no course but to proceed with the development of the B–1 bomber.

Mr. Chairman, I thank the gentleman for yielding.

Mr. EDWARDS of Alabama. Mr. Chairman, I thank the gentleman for his comments.

It will be argued perhaps today that the 2,500-kilometer limit on the cruise missile is sufficient. It is arguable that today it may be sufficient, but there is nobody who argues that in 2 or 3 years or in a few years out in the future it is going to be sufficient. In fact, the Pentagon is already talking about the need for a 3,500-kilometer limit instead of a 2,500-kilometer limit.

Mr. FINDLEY. But the SALT proposal is for a 600-kilometer limitation in NATO application, which is very much to the disadvantage of ourselves and our NATO allies. It exposes our entire western and eastern seaboards, where much of our military and industrial complex is concentrated, to the cruise missiles that the Soviets will undoubtedly have in time.

Mr. EDWARDS of Alabama. Mr. Chairman, I have pointed out that this is the proposal we have laid on the table, and when we get through compromising, I do not know where we will be.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. EDWARDS) has again expired.

(On the request of Mr. LAGOMARSINO) and by unanimous consent, Mr. EDWARDS of Alabama was allowed to proceed for 2 additional minutes.)

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the amendment to restore funding for the B–1 bomber. We have heard a lot of argument today, much of it highly technical. But what it all boils down to is this. Should this Congress stand idly by while a vital part of our national strategic defense is junked?

The fact that we are sitting here quibbling over five airplanes at the very moment that the administration is negotiating strategic arms limitations with the Soviet Union indicates how far we have strayed from the central issue. And that central issue, ladies and gentlemen, is the future security of the United States.

Are we truly willing to gamble with that security on the basis of the evidence at hand?

Let us review the facts. When President Carter recommended against the B–1 bomber in June he gave the impression that the choice was between the Cruise missile and the B–1, and he came down on the side of the Cruise missile. But the fact is there has never been any competition between the B–1 and the Cruise missile. We have always planned to go ahead with the Cruise missile, whether the B–1 flew or not. So the real argument is which aircraft is best to carry the missile. The truth of this point came home this month when the President indicated he is looking at the FB–111H as a launch vehicle for the Cruise missile.

So now that the cat is out of the bag, the question arises: If we do need a penetrating bomber for the Cruise missile after all, then why not the B–1?

The B–1 is admittedly our best penetrating bomber by far. It has been fully tested. The production team is in place. It is available now.

The FB–111H does not even exist except on paper. It would cost half a billion dollars just to develop and test two prototypes. If we are going to spend that kind of money after all, does it not make sense to give our Cruise missile the best possible delivery vehicle, one that we have already spent taxpayers' money to develop? As President Carter has himself asked, "Why not the best?"

Mr. Chairman, Webster's defines a gamble as making a bet on an uncertain outcome, playing a game. I submit that the American people did not send us here to play games or gamble with their future security. If there is any doubt, we should play it safe—by preserving our options. And certainly we should not throw away an ace when our negotiators are apparently about to reach a SALT agreement with the Russians.

In the Cruise missile, we have a real advantage over the Soviets. What they are trying to do is to handicap us by not allowing us to use that weapon to its fullest potential, in every combination. Let us not give up the B–1, our trump card, before the hand is played.

Mr. Chairman, I want to praise the gentleman from Florida (Mr. CHAPPELL) for offering this amendment. I want to state that I completely agree with what my colleague, the gentleman from Illinois (Mr. FINDLEY), has said.

I think we are in a very, very dangerous position vis-a-vis the SALT agreements that are now being proposed and discussed and perhaps even finalized. I think that if we do not have the capability of developing the B–1 bomber, we are going to find ourselves in very serious trouble.

I just found out a little while ago—and it may be common knowledge to other Members on the floor—that the last five tests of the Tomahawk missile have been complete failures, and that there has not been a successful testing of that Cruise missile since April. I am sure that will not remain the case. I am sure the Cruise missile will be effective, but we cannot put all our eggs in one basket.

We need a penetrating bomber, and if we are going to have one, we should have the very best one we can get. Without question, that is the B–1.

Mr. EDWARDS of Alabama. Mr. Chairman, let me follow up on that and say that there certainly has not been anybody in the administration, to my knowledge, who has argued that we do not need a penetrating bomber. There may be some doubt about what they think we should have, but they certainly have not said we do not need one.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, the surprise decision by Carter to cancel production of the B–1 strategic bomber has had devastating effects on the U.S. negotiating posture in SALT and has imposed many difficulties in reaching a SALT agreement that insures U.S. national security and deterrent strength during the next 10 years.

The Soviets insisted on a Cruise missile range limitation of 1,500 statute miles. This range limitation will prohibit the air-launched Cruise missiles from reaching the deep inland targets in Russia; many of these are the very high-value, hardened targets such as reloadable ICBM silos (SS–17 and SS–18 silos) and command and control centers. In addition, the lack of a penetrating bomber eliminates our ability to deliver high-megaton "lay-down" bombs necessary to overcome Soviet civil defense measures and hardened strategic facilities.

It has been asserted by opponents of the B–1 that the SALT range limitations on the Cruise missile have no strategic significance. However, the Secretary of Defense responded in closed testimony before the House Appropriations Committee that a large fraction of the Soviet target base could not be reached with a Cruise missile with a 1,500 mile range. Reloadable Soviet missile silos for the SS–17 and SS–18 ICBM's are along the Trans-Siberian Railroad in south-central U.S.S.R. These very high value targets will be immuned from attack by the 1,500 mile range limited standoff Cruise missile. Furthermore, as the Soviet air defenses are improved and extended, the target coverage will be drastically reduced.

It is also asserted by opponents of the B–1 that the 1,500 mile Cruise missile range limit can be revised later in the SALT talks. Really now? Does anyone seriously believe that the Soviets will agree to permit the United States to increase the range of its Cruise missile to offset advances in the reach of Soviet air defenses and to increase target coverage—especially to high-value targets? Why would the Soviets who are hardball negotiators cooperate in an element of an agreement which would undermine their own strategic forces, especially when we are rapidly running out of negotiating leverage. We lost this kind of leverage when Carter canceled the B–1. In the early 1980's the Soviet Union will be in even stronger posture vis-a-vis the United States and there would be no incentive for them to negotiate.

Consequently, the range limit on the Cruise missile greatly diminishes its usefullness and increases the requirement for a heavy long range penetrating bomber like the B–1.

Mr. Chairman, in addition to what has been said, let me state that I have a map of the Soviet Union, a copy of which I will leave on each table. I have done this to point out that if in the SALT agreement we come out with a 1,500-mile range air launched Cruise missile, there is a big free zone down deep inside a part of Russia that the Cruise missile could not reach.

We would then be asking our B–52 crews to fly clear across the continent and deep into Russia in the event the Great Nightfall comes.

Mr. EDWARDS of Alabama. Mr. Chairman, there is no question that if we make a decision to limit our attack capabilities, all the Russians will have to do is to restructure their defense system.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. EDWARDS) has again expired.

(On request of Mr. CEDERBERG and by unanimous consent, Mr. EDWARDS of Alabama was allowed to proceed for 2 additional minutes.)

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Michigan.

Mr. CEDERBERG. Mr. Chairman, I do not believe that we would find ourselves in the position in which we are today had it not been for the fact—and I understand that these things do happen—that the President got himself so far committed last year that he felt he could not do anything else this year. I think the evidence of that is very clear because when he made the decision not to go into production he said, "This is the most difficult decision I have ever had to make."

Mr. Chairman, that indicates to me that when he got down to the facts, the facts were that we really ought to have a manned penetrating bomber. Then what happened after the fact? We find ourselves in a situation where they are flirting with the idea—some are denying it and so forth—but the evidence seems pretty clear that they are flirting with the idea that they want a manned penetrating bomber, but want to use the F–111 as, and we have heard the term used, a "son of a B–1." That is the situation we are in today.

Mr. Chairman, it ought to be very clear that if we take the action here, I do not think the President will be very unhappy about this because anyone who really

analyzes the situation can understand very clearly that the consensus within the military is that we need a manned penetrating bomber, and now to get one the indication is that they want to go along and stretch the F–111. I think everybody agrees that if we are going to have a manned penetrating bomber, it ought to be the B–1. We spent over $3 billion on it. We have a couple of them flying now.

Mr. Chairman, that is the way to go rather than to go the other way; and to put all our eggs in, say, the missile basket just does not make any sense for the defense of this country. That is what we are all interested in.

I appreciate the fact that other people have differences of opinion; but it seems to me, in light of the facts, that this is what we ought to do.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. EDWARDS) has expired.

(On request of Mr. ALEXANDER and by unanimous consent, Mr. EDWARDS of Alabama was allowed to proceed for 1 additional minute.)

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Chairman, the gentleman has referred in his remarks to a SALT range limitation of the Cruise missile of 2,500 kilometers, and other remarks on the floor have indicated a range limitation of the Cruise missile of 1,550 nautical miles.

Are they one and the same?

Mr. EDWARDS of Alabama. It is my calculation that the 2,500-kilometer limitation is equivalent to a 1,350 nautical-mile limitation.

Mr. ALEXANDER. Is it the gentleman's impression that that is the position of the U.S. negotiator at the Strategic Arms Limitation talks?

Mr. EDWARDS of Alabama. I am informed that the administration has, in fact, laid that proposal on the table at SALT.

Mr. ALEXANDER. So that if the Cruise missile is developed, it would have a range limitation by treaty, which is proposed to be ratified in the U.S. Senate, of 1,350 nautical miles or 1,550 statute miles; is that correct?

Mr. EDWARDS of Alabama. Of 1,350 nautical miles for the air launched Cruise missile, that is correct.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. EDWARDS) has expired.

(On request of Mr. BEARD of Tennessee and by unanimous consent, Mr. EDWARDS of Alabama was allowed to proceed for 1 additional minute.)

Mr. BEARD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Tennessee.

Mr. BEARD of Tennessee. Mr. Chairman, the Cruise missile, by sea and by land, would be limited to 350 miles, so there is no help in that respect.

Mr. EDWARDS of Alabama. I cannot confirm the gentleman's distances. I do understand that the limitation on sea launched and ground launched Cruise missiles is more severe than the air-launched Cruise missile; but I think in this particular case, in order to be fair, we really ought to talk about the air-launched Cruise missile.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Alabama. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, I rise in support of the amendment. As a strong supporter of the B–1, I am dismayed at recent developments which indicate that the President made his decision based on inadequate information supplied to him from the Department of Defense. The B–1 issue seems to be another example where the right hand of the present administration does not know what the left hand is doing.

The recent developments which I refer to evince the fact that the Department of Defense still believes that a penetration bomber is necessary if the United States is to adequately defend itself. The now well-publicized statement of Gen. Alton Slay, USAF Deputy Chief of Staff for Research and Development, Department of the Air Force, before the House Armed Services Committee on September 14, cannot be denied. Although the President, and anti-B–1 forces, have tried their best to rationalize what was said, the fact is B–52's simply cannot meet today's requirements for a missile-carrying bomber. Neither can the Boeing 747, the DC–10, or the C5A. We need the B–1. Without it, the United States will lose the only deterrent between peace and a major nuclear war. Since the United States abandoned the ABM system, our only protection against a Soviet attack is a strong military posture capable of rendering major damage to the Soviet Union.

When the decision to cancel the production of the B–1 was made, the Nation was told that we did not need a penetration bomber. We were told that the Cruise missile could be developed to a point where it would eliminate the necessity of such a bomber. However, it is becoming more and more apparent that the Cruise missile alone cannot, and will not, provide the United States with an adequate military force. It is obvious, now even apparently to the Air Force, that a penetration bomber is essential.

If we are to build a penetration bomber, it should be the B–1. This airplane was designed from the very beginning to meet the requirements of an airplane capable to permeate the Soviet defense system. The B–1 is designed to carry the necessary electronic equipment to protect it against radar detection. I could go on however, the arguments in favor of the B–1 have been expressed adequately in the past and there is no need to get involved in a detailed discussion of its capabilities. There is absolutely no question that the B–1 would place a tremendous amount of additional pressure on the Soviet's defense system. To eliminate that pressure will allow the Soviets to develop a defense system capable of destroying any Cruise missile we might develop.

The FB–111 cannot replace the B–1. The FB–111 is an older airplane developed during the early 1960's. Even if this Congress were to appropriate the funding of the FB–111H, as requested by the President, the United States would not have an adequate penetration bomber. The FB–111 was not designed to be a penetration bomber. Any attempt to rely on it as such, would be a drastic mistake. The substantial modifications which would be necessary to equip the FB–111 with necessary electronic equipment and sufficient numbers of Cruise missiles, would require the development of new engines, or use of the engines from the B–1. Major wing modifications would also be necessary.

Even with all of these improvements, the United States would be left with an old plane incapable of performing the necessary functions of a penetration bomber.

It is becoming obvious that, in retrospect, the decision to cancel the B–1 vis-a-vis the modification of any existing airplane, to perform the functions which the B–1 was designed to carry out, was a mistake. Further, any amount of foresight makes it just as obvious that the FB–111H will not fulfill the function of a penetration bomber.

This Congress has a responsibility, a constitutional mandate, to protect the security of the American people. That mandate requires that production of the B–1 be approved.

Mr. BURLISON of Missouri. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the President's B–1 decision of June 30, supported by the Secretary of Defense in his news conference the following day, was justified to Congress and to the world on the basis that the Cruise missile supplanted the need for a penetration bomber through the 1980's and beyond.

In our debate on the authorization bill here several days ago, I related, in some detail, the precise language of those statements. I am not going to take the time of the House now to go over that again.

Inherent in this decision of the President was an assumption that there would be no serious limitations on the effective range of the Cruise missiles in the strategic arms limitation talks with the Soviet Union. This assumption was substantiated when Secretary Brown included the following remarks in his statement to our Subcommittee on Defense Appropriations on September 15, 1977. Let me quote:

> Since we are orienting our strategic nuclear capability in the direction of cruise missiles, we have to continue to assure that our position on cruise missiles in SALT does not interfere with incorporation of cruise missiles into the strategic bomber force.

About that time, that is, September 15, the administration appeared to begin hedging its decision not only on the B–1 but on presenting the FB–111H as an additional option.

The first official reference to the FB–111H came in that September 15 testimony before our subcommittee when Secretary Brown said that the administration was prepared to accept the $20 million that had been forced on it by the authorizing committee, the Armed Services Authorizing Committee.

Five days later Dr. Perry, head of the Defense Research and Development Section of the Department, came down to our subcommittee and reiterated the desirability of pursuing the option of the FB–111H along with the B–1 option.

When President Carter on October 7 wrote our colleague, the gentleman from Michigan (Mr. CARR), on the subject, he echoed precisely the same thing that Dr. Perry and Secretary Brown had said; that is, he wanted funds for development of the FB–111H. All this troubles and confuses me.

My anxiety over the President's waivering on the bomber-cruise missile decision has been increased by rumors of impending SALT II range limitations on air-launched cruise missiles while the Russians will be allowed to go ahead with the Backfire bomber.

Not only that, I notice from a news item in yesterday's Baltimore Sun and in the Los Angeles Times, and I am sure many other newspapers since that time, that not only is the administration agreeing to a 1,500-mile limitation on the air-launched cruise missile, but a 360-mile limitation on the land-based cruise missile as well.

Rumors of a 1,500-mile limit for cruise missiles would seem to invalidate any assumptions that the President would take a hard line with the Soviets in assuring the SALT restrictions do not interfere with the incorporation of cruise missiles into the strategic bomber force.

This apparent weakness by the administration in SALT negotiations is further compounded by indications that some of the leaders over in the other body, on the other side of the Capitol, are going soft on cruise missiles, because of the difficulty in weapons verification and proliferation, thus endangering the SALT negotiations.

In summary, Mr. Chairman, it seems that the administration has worked itself into a box. It has canceled the B–1 production in favor of cruise missiles; it has apparently agreed to a limitation of the cruise missile ranges; it has apparently agreed to continued Soviet production of its own manned penetrating bomber, the Backfire; and now it is hedging on the U.S.-manned penetrating bomber question by looking at the FB–111H option as well as trying to hang on to the B–1 option. Frankly, all this raises serious questions as to the adequacy of our proposed national defense posture in the 1980's and beyond.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. BURLISON of Missouri was allowed to proceed for 1 additional minute.)

Mr. BURLISON of Missouri. Mr. Chairman, if we are to produce a new penetrating bomber, the B–1 ought to be it. There is no argument but what it is the far superior weapons system. There is no argument, but what we are now approaching $4 billion in research, development, engineering, and all of the rest that goes into the production of a weapons system. If the President should eventually opt for the stretch FB–111H, we are going to find our new penetrating bomber of the 1980's and 1990's and beyond to be a conglomeration of an ancient airframe, that is, the FB–111, functioning with reworked wings, reworked fuselage, and powered by a new B–1 engine. That is not what this Nation needs as its air-breathing leg of the Triad deterrent, Mr. Chairman, I support the amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ICHORD. Mr. Chairman, I ask unanimous consent that the gentleman have 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

Mr. EVANS of Colorado. Reserving the right to object, Mr. Chairman, and I do not think that I shall object, we have a lot of enthusiastic advocates here who are articulate and eager to speak, but I would like to hear something from the other side.

The CHAIRMAN. The Chair is abiding by the rules.

Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding.

I want to compliment the gentleman. The gentleman, as he pointed out, has really not changed his position. The facts have changed. The administration made the decision that canceled the B–1 bomber, and they have not come up with any viable alternative.

Mr. BURLISON of Missouri. Let me say in response to the gentleman that I am among those—and there is just a handful of us—who switched to support the President on his decision of June 30. I feel that I maintain a consistent position now in going back to support the B–1 bomber, because of what has happened since June 30 of 1977.

Mr. ICHORD. I agree wholeheartedly with the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. STEIGER, and by unanimous consent, Mr. BURLISON of Missouri was allowed to proceed for 1 additional minute.)

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I yield to the gentleman from Wisconsin.

Mr. STEIGER. I thank the gentleman for yielding.

Mr. Chairman, I am one of those who, as did the gentleman in the well, switched my own position and voted with the President of the United States in opposition to the B–1 bomber. I did so, frankly, because I believed the President and was of an opinion that we ought to give him the opportunity to exercise his judgment, and he used it in coming down as he did.

I must say, Mr. Chairman, that I now feel deceived by the administration, because of what has happened since then. I share with the gentleman from Missouri a feeling that the time now comes when I shall vote for the B–1 bomber, and I shall vote that way on this amendment.

I appreciate the gentleman's yielding.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. DOWNEY, and by unanimous consent, Mr. BURLISON of Missouri was allowed to proceed for 1 additional minute.)

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I yield to the gentleman from New York.

Mr. DOWNEY. I thank the gentleman for yielding.

I voted with him and was upset, as he was, with the President's decision to study the FB–111. But I might add to the committee that that is all the President wanted to do was study it, and I guess as Commander in Chief he should reserve himself certain options, although I did not agree with him.

We seem to be talking in this Chamber today as though the ongoing SALT negotiations and the President's decision with respect to the B–1 bomber are not made in some sort of cohesive way. The fact is that they are. The President, the Secretary of Defense, and the Secretary of State confer with our chief SALT negotiators in an ongoing process of trying to determine what it is we want to present at the negotiating table. All during these debates and all during the period of time that President Carter decided not to make the B–1, the question of range limitation of the ALCM was, I am sure, foremost in his mind and foremost in the Secretary of Defense's mind who is to make many of the crucial decisions about what we negotiate at SALT.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

(By unanimous consent, Mr. BURLISON of Missouri was allowed to proceed for 1 additional minute.)

Mr. BURLISON of Missouri. Mr. Chairman, I cannot yield further to the gentleman.

I want to respond to what I think was the principal point he made, and that is that all the President wants with the FB–111 is just to have an option. That is not a very good reason, because the Secretary of Defense on September 15 and the head of the R. & D. of the Defense Department on September 20 testified before our subcommittee that they wanted the FB–111 as an additional option to the B–1. They testified at that

time that the B–1 option remained available for 2 to 3 years.

I strongly favor retaining that B–1 option if we do not build the bomber, but the thought or idea or concept that we need the additional option of an FB–111 under the criteria and weaknesses earlier mentioned is ludicrous.

The request for the FB–111 tells me that the administration is not as certain now as it was on June 30 that a penetrating bomber is not needed.

Mr. RHODES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment we are now considering is a crucial milestone in the orderly development of an adequate national defense. It will provide $1.4 billion for production of the B–1 bombers.

We have long since adopted a triad concept in our national defense in order to give the United States a flexible and efficient defense capability. One of the key elements in this plan is a fleet of supersonic long-range manned bombers. I feel it would be most unwise for this Congress to cripple that triad approach by failing to continue production of our latest and best bomber. Certainly missiles play a very important part in the overall triad system, but the cruise missile is still under development and we cannot afford full dependence upon a system that is not in place yet.

I believe that a clear and vital need has been shown for a supersonic manned bomber fleet. Certainly the Soviet Union is moving ahead rapidly with production of its Mach-2 bomber. It would be tragic for us to let our national defense lapse and to lose critical time by delaying production on our essential manned bombers. I urge my colleagues to consider the safety and defense of the American people, and the people of the free world, and to support this amendment. If we must revise our defense needs, let us do it from a position of preparedness and strength, not from a position of deficiency or weakness.

Mr. Chairman, let me say also this much. There are two uses for the B–1. One is as a penetration bomber, to which I have just addressed myself. Second, and I think the most important, is as a probable carrier for the cruise missile. If it is true—and I do not know what the SALT negotiators are doing, I suppose, any more than anybody else in this room does—but if it is true that one of the bargaining chips on the SALT table is the range of the cruise missile, indeed we should have the capability of the B–1 bomber if we indeed limit the cruise missile range to 1,350 nautical miles. That means to me that in order for that cruise missile to hit the targets inside the Soviet Union or wherever else they might be aimed, they are going to have to come very close to the defense perimeter of that nation.

Mr. Chairman, the B–52 and wide-bodied airplanes look like the Empire State Building on a radar scope. If you sent them in as cruise missile carriers then you are sending our crews on a kamikaze mission, because very few will get back.

The United States has never done that and I hope we never have to do it. But one of the very difficult decisions we would have to make is whether to do it if we do not have the capability of a plane like the B–1. The B–1, as a cruise missile carrier, has a very small image on a radar scope, it is a supersonic bomber and is, therefore, a much less tempting target for the air defense system of any other nation.

Mr. Chairman, I note that already many people who are in the production team for the B–1 have been let out and been moved. I think it would be an absolute tragedy if we were not to go ahead with production of this airplane and, therefore, to lose the production team. This is one of the reasons it is so important that we act today.

Also, it seems to me if the President is going to have the maximum capability of negotiating what I hope will be a SALT II treaty which will be in the best interests of the free world, that he have this airplane to help him negotiate from a position of strength.

So, Mr. Chairman, I hope, and I even pray, that this amendment will be adopted today, the country needs it.

Mr. ADDABBO. Mr. Chairman I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I wish to congratulate the proponents of this amendment, because they would have us believe through some magic, through some hocus-pocus, that today here on a supplemental bill we can resurrect a B–1 bomber contract. That contract was cancelled by the President of the United States. The Congress gave him the right to cancel that contract.

What is being asked today is to resurrect that production, which means you must restart that production line. That means you cannot go with the $1.4 billion for five B–1's, because you need restart money. So you might be able to buy four B–1's and that comes to better than $250 million a plane.

Now, today we are in a hocus-pocus situation again about a FB–111, the SALT talks, about a 1,500-mile limitation. Any cruise missile than can go 1,500 miles can hit any spot—I repeat, any spot in Russia. It can hit any spot in Russia. The gentlemen from the Armed Services Committee know that. They have received the same briefings we have received.

We are talking about a B–1 bomber, not going into the arsenal today, but going into the arsenal 4, 5, 6, 7 years from now, in the same time frame that we are trying to move the Cruise missile and perhaps earlier. That is what the supplemental is all about.

President Carter did not ask for FB–111 money. Secretary Brown did not ask for FB–111 money. The proponents of the B–1, those within the Air Force who continue to dream about a large bomber, asked for that money. Sure, the Secretary of Defense said, "If you give it to me, we are going to use it."

Today we have before us the President's request. He has told the American people we will continue R. & D. on the B–1, and we are continuing R. & D. on the B–1. We have over $400 million to continue the R. & D. on the B–1. The President of the United States has asked for the option after we have completed R. & D. to let us see where we are, let us proceed now and accelerate R. & D. on the cruise missile.

He sent the request for this supplemental for $300 million to accelerate the R. & D. on these cruise missiles. That is in this supplemental. We have in this supplemental, under defense appropriations, the money as the President has requested for the B–52, for the cruise missiles. What we are being asked for today is an add-on of $1.4 billion—$1.4 billion to add on.

When we had the 1978 defense appropriation bill, this question was debated. The Congress decided to proceed with the President's wish to cancel production. We took the $1.4 billion that was in the 1978 defense appropriation bill and used that money in that bill to buy more planes and other weapons. So, the original $1.4 billion this Congress only a month ago—only a month ago—decided to use to buy other planes, other missiles, and other R. & D. Today, we are being asked to add onto a supplemental bill.

If the Members want to make this a fight, then the next defense appropriation bill in 1979 is where they make it. When we measure the B–1 against all our other weapons systems, that is when that debate should be made.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent Mr. ADDABBO was allowed to proceed for 2 additional minutes.)

Mr. ADDABBO. I will tell my Democratic colleagues that it appears to be strange that suddenly the Republican leadership has taken such a great interest in this battle, where we suddenly hear Republicans changing their vote. This is not—is not—and it should not be made, a partisan issue. This is an issue to try and possibly, in the minds of some, to embarrass our President. Members of the committee, we are possibly jeopardizing this supplemental, which has in it the money to proceed for acceleration in our cruise missile R. & D. program.

We have added other valuable programs in this supplemental bill, and if we add on today an additional $1.4 billion—we already have in this supplemental almost $7 billion—to build possibly five, maybe four B–1's at $250 million, which is what we are being asked for today, it will very likely cause the rejection and very possible veto of this supplemental with all its needed programs.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to my colleague from New York.

Mr. STRATTON. The gentleman said that the request for the added money for the FB–111H came from the Air Force and not from the Secretary of

Defense. I just want to advise the gentleman, because I was in that committee meeting when we got a call from the Air Force. They wanted to request $70 million for the FB–111H, but they said that Mr. Brown had told them that they could only request $20 million. So, the Secretary of Defense had obviously approved the FB–111H money before the House Armed Services Committee put it into the bill.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(On request of Mr. KETCHUM and by unanimous consent Mr. ADDABBO was allowed to proceed for 1 additional minute.)

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield.

Mr. KETCHUM. I thank the gentleman for yielding. I do want to correct one part of his statement wherein he said that the proponents of the B–1 bomber—and I am one—were the people who were striving for the money for the FB–111H. The amendment offered by the gentleman from California (Mr. LLOYD), which I supported, was to strike the money from the bill; to take the $20 million out. So, I really do not believe that the gentleman can make the statement that the proponents of the B–1 bomber asked for that money.

Mr. ADDABBO. I agree with the gentleman that might not apply to all.

Mr. KETCHUM. I thank the gentleman.

Mr. ROBINSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in favor of the amendment.

Mr. Chairman, the gentleman from New York in his comments, referring particularly to the Members on his side of the aisle, has suggested that it would not be appropriate to vote against this amendment because it would embarrass the President. I suggest to the Members that the President has embarrassed this Congress by what he has done, in terms of leading us to believe that we were going to lean on the cruise missile, that it was going to be the weapon that was going to balance our deterrence in ability to combat any situation that we might face. Then by turning around and having his administration come in here with a proposal not only for another penetrating bomber, but by backing consideration of a SALT agreement that will indeed reduce the range of the cruise missile, he has further confused us.

Magic or hocus-pocus has been mentioned by the gentleman from New York. I think a little flim-flammery has gone on too, with respect to the way this matter has been handled. We all know what happened on September 8, when this House by a bare three votes decided to go along with the cancellation of the B–1 program. Three votes. It was that close. And then on September 15, appearing before our subcommittee, Secretary Brown said that as early as early March, and I quote,

> The Joint Chiefs of Staff acknowledged that based on major bomber modernization studies the air-launched Cruise missile would possess attractive operational characteristics when employed as a complement to a penetrating bomber force, but that a force composed exclusively of Cruise missiles would have limitations.

So as early as March, the Secretary knew what the Joint Chiefs of Staff thought of an all cruise missile concept. But was this communicated to us? Indeed it was not. And then on October 7, less than a month after our votes on September 8, the President wrote to one of our Members, and I quote in part from that letter:

> The penetrating bomber continues to be part of our strategic triad.

Did anybody say that on behalf of the President before we voted on this matter on September 8?

And he goes on to say, again in part:

> Because of the stakes involved, I believe we must insure against the possibility, however remote, that we might have to produce a new penetrating bomber.

And then when General Slay and Dr. Perry came before us, they came prepared with diagrams and descriptions of a substitute airplane, the R. & D. on which is, if we go to production on it, $575 million just to get going on R. & D. This is not for production. This is just for research and development.

How many of the Members would have voted that way on September 8 if this information had existed at that time?

I tell my fellow Members that minds on both sides of the aisle have been changed, and this is the reason that we bring back again the option of considering the production of the best manned bomber that the world has ever seen, the best insurance that our country can have that not only will be able to penetrate, but we will be able to get that cruise missile close enough to launch in order to reach all of the targets of necessity in the Soviet Union, because the statistics that have been given to us reflect that only 70 percent of those targets can be reached if we are stuck with a limitation of 1,500 miles.

I say to the Members also, with regard to the fact that this B–1 line has closed down, remember that the President closed down the line ahead of the time that he had any kind of permission from the Congress to do so, ahead of the time that the rescission was acted upon, and this should not have been done, based on the information available. However, since the line has only been closed a relatively short time, it has not deteriorated and the people to man it are still, in the main, available for duty.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. ROBINSON) has expired.

(On request of Mr. KETCHUM and by unanimous consent, Mr. ROBINSON was allowed to proceed for 2 additional minutes.)

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. ROBINSON. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment. I wholeheartedly associate myself with the remarks of the gentleman in the well and with the remarks of those who have preceded him and spoken in favor of this amendment.

I have risen many times on this floor to support the B–1 bomber. I shall not enter further into the debate, other than to say what I am saying at the present moment. All that I could say has been said, and I sincerely hope that this Congress reverses the decision it made on September 8.

Mr. CARR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise obviously in opposition to this amendment.

I think that all of us agree with the quotation that the gentleman from Florida cited from our late President, John F. Kennedy, when he was talking about the need for sufficient arms so that we would never have to use them.

But I submit to the Members that the test of whether we have sufficiency is not that of the most paranoid of our citizens. Today we have overwhelming strength and overwhelming superiority in most categories.

The fact that our deterrence is strong is evident because it works. The Soviets are not on the way to superiority over the United States.

The gentleman from Florida was very good at making quantitative comparisons in pointing out that the Soviets have more submarines than we do and have more missiles than we do. But the gentleman neglected to tell us that the Soviets lag sadly behind us in technology, and that only 10 percent of their submarines are on station at any one time while 51 percent of ours are on station at all times. He neglected to tell us that our technological reliability is much greater than that of the Soviet Union.

The gentleman also neglected to tell us about the asymmetry as between the defense needs of the Soviet Union and the defense needs of the United States. Hence, those simplistic, quantitative comparisons serve to mislead us.

Furthermore, we are not talking about just $1.43 billion; we are talking about $20 billion and perhaps more than that. We cannot let this out of the bag. The proponents of this amendment are not interested in 3.5 planes or 5 planes; they are interested in having a fleet of 244 bombers.

That is not going to add to our defense, because the B–1 is an idea whose time has passed. The division in this House is between those Members who support that statement and those Members who are looking back toward the idea of putting men over targets, a concept that the President of the United States has rejected, the Secretary of Defense has rejected, and the Senate of the United States has rejected. And 50 percent of this House has come to agree with that determination.

So we are not talking about winning for the B–1 today. I know that the proponents of the B–1, many of whom have contractors and subcontractors and jobs at stake in their districts, want to preserve the B–1 production line. I think many of these Members are motivated by their desire for a strong national defense. I happen to disagree with their precepts of what makes a strong national defense.

I am here to submit to the Members today that the President is solidly against the B–1, the Secretary of Defense is solidly against the B–1, the Senate is solidly against the B–1, and 50 percent of us in this House are solidly against the B–1. So if there is a victory to be won today, it is a battle and not the war that will be won.

The fact of the matter is that we will end the B–1. The B–1 is no longer a viable option in the 1980's and the 1990's.

Mr. Chairman, I plead with those Members who are undecided to consider closing the door today. We are not helping our Nation's defense. We are not improving the job situation for those who have jobs at stake. We are just prolonging the agony because the President is determined, the Secretary of Defense is determined, the other body is determined, and those of us who are opposed to the B–1 in the House are determined to fight on.

Mr. Chairman, I urge the Members to vote against the amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from California.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. CARR was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding.

I wonder how the gentleman can be so absolutely convinced that the Secretary of Defense is "that solid against the B–1 bomber" when, even in current testimony, he is not solidly against it.

I happen to know the gentleman who is Secretary of Defense because he used to be president of CalTech; and up until 3 months ago, he was solidly for the B–1 bomber, as the gentleman well knows. Furthermore, when he was Secretary of the Air Force, he was very much for it.

I think we must recognize that President Carter who appointed him, turned him around on this issue and that the Secretary of Defense is clearly not operating wholly as he might have previously felt were it not for President Carter's decision.

Therefore, I do not think it is fair to put the Secretary of Defense, who is capable of speaking for himself, in the category of being solidly against the B–1 bomber. I do not think that is a fair statement.

Mr. CARR. Mr. Chairman, I will reclaim my time and respond to the gentleman by pointing out that the record shows—and it is abundantly clear in the record—that the Secretary of Defense arrived at his own decision on this matter. He has been asked that question a number of times. The Secretary of Defense has far too much integrity and he is far too great a scientist—and I believe he is going to be a very great Secretary of Defense—to give the President advice that he really did not believe in. I do not think the gentleman from California meant to imply that.

The record is abundantly clear that the Secretary of Defense wants this amendment voted down, and there is no doubt about it.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I think what the gentleman from California (Mr. ROUSSELOT) is saying is that there is not as much solid evidence that the Secretary of Defense is opposed to the B–1 as the gentleman in the well has suggested. He seems to have changed his position enough to question how adamant he is. A few weeks ago, the Secretary of Defense was willing to allow for only one-half the production money for the air-launched cruise missile in the fiscal year 1978 budget. I serve on the Subcommittee on Defense of the Committee on Appropriations and there was not a great deal of support in this administration for the air-launched cruise missile production for this fiscal year budget prior to the decision to kill the B–1, but now they want all of the "eggs" in the cruise missile basket. So how can the gentleman suggest the Secretary of Defense is as sure of himself as he has stated earlier?

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has again expired.

(By unanimous consent, Mr. CARR was allowed to proceed for 2 additional minutes.)

Mr. CARR. Mr. Chairman, I would say to the chairman that our Secretary of Defense is an eminent scientist and a true intellectual. He does not see the world in black and white.

Under the prudent leadership of the United States and of himself in the Department of Defense, he sees that options should be studied. That is what he has provided. That is his position with regard to the B–1 bomber. That is his position with regard to the FB–111H, and that is his position with regard to studying any other option that might put a man over a target, as the President's letter said, no matter how remote the possibility is that we might have to do that.

The Secretary of Defense and the administration have merely wanted to keep these options open for a study and only for a study. However, let there be no doubt that the proponents of the B–1 have been very clever here today in trying to confuse what I think is Executive and Commander in Chief prudence with regard to continued study of options and military contingencies so as to somehow or other turn that into a softening the President's resolve to have this amendment voted down. There is no doubt that the President wants this amendment voted down and does not want the B–1 bomber.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I think the President probably learned a political lesson during the campaign when he made a reference to excluding U.S. troops from Yugoslavia.

At that time he got a tremendous amount of heat from those who were opposing him to the effect that he should never, under any circumstances, preclude all options.

I agree with the gentleman that is obviously all the gentleman was attempting to do but, most importantly, what the gentleman from California considers about Secretary Brown, and I think I am privy to some of the decisionmaking process, it is my understanding that the President was presented by the Secretary of Defense a broad series of options.

Mr. CARR. Correct.

Mr. DOWNEY. The B–1 with a mixed force, the cruise missile and the B–1 with the B–52.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. DOWNEY and by unanimous consent, Mr. CARR was allowed to proceed for 2 additional minutes.)

Mr. DOWNEY. So that the President was advised of a number of options from which to choose. He could have chosen the B–1, he could have chosen the cruise missile and the course that he did choose but, most importantly, the options that he was presented with were options that did not vary in terms of ability or capabilities, they were equally good. The President chose his particular option and, in my view, as far as I could see, he chose an option that would not only be good for this time frame but an option that will be good for the future time frame.

Mr. CARR. I thank the gentleman for his remarks and I urge the Members to vote down this white turkey.

Mr. SIKES. Mr. Chairman, I move to strike the requisite number of words.

(Mr. SIKES asked and was given permission to revise and extend his remarks.)

Mr. Chairman, the President has called a number of Members of the House in an effort to defeat the B–1 amendment. Others have been called by department heads and reminded that there are funds or projects in this bill for their districts which could be tied up indefinitely if the B–1 amendment were adopted. This is particularly true in the case of SBA funds. Such a delay is, in fact, not in prospect. This is a heavy-handed procedure. Possibly the administration feels it cannot afford to lose another battle in Congress. It is unfortunate that the administration has not been more effec-

tive in its dealings with the Congress. It is not a happy situation for our country when the administration and the Congress fail to find a common ground by deliberation, not by confrontation, to resolve the Nation's problems. In particular, we need to work together to insure adequate forces and weapons for America's defense.

Congress also has a responsibility for defense. How fruitful it could have been if the administration had worked with the Congress in this instance. The need for a new manned bomber that can survive against the sophisticated defenses of the mid-1980's is obvious. It is a case of being able to penetrate the defenses of Europe without catastrophic losses. No existing American bomber can do it. The need is supported by the Nation's leading military experts. The President's own military advisers urged him to approve the B–1.

Apparently the B–1 decision was political. We are not seeking to win political battles on defense with the White House. On both sides of the aisle we want an effective defense. I am confident that the President wants that, too. But the President does not give us a choice. His advisers cannot make up their minds. He canceled the B–1. Then the Department of Defense said, and still says, they would like to develop a stretch version of the FB–111. Secretary Brown said on yesterday:

We shall emphasize the development of an MX, a movable ICBM.

All year they have been saying we do not need an MX, even though Russia has them. The MX is a potent weapon. Too many choices are hypothetical. They are on paper only. They are weapons of the future. We need strength now. The B–1 is an actuality. It is a highly modern, powerful, effective weapon. Today it is the B–1 or nothing, except delays and uncertainty. To throw the B–1 into discard now would be wasteful in money and extremely costly to the defense of our country in the critical years immediately ahead. It is the responsibility of Congress to exercise the voice given us by the Constitution to provide for our Nation's security.

If the House fails to approve this amendment, we have little left with which to bargain. The Senate will assume that they can approve the rescission on the fiscal year 1977 budget by deappropriating funds already provided. The Russians will laugh all the way to the next disarmament conference.

The world knows the Russians are building five Backfire bombers a month—not five a year—five a month. The Backfire is inferior to the B–1, but it is an advanced bomber capable of inflicting heavy damage on U.S. targets from bases behind the Iron Curtain. That is another chip for the Russians in the contest for survival.

The administration should be concerned that the Russians, in previous SALT talks, have always tried to obtain concessions on the use of the B–1. Now our country proposes to discard this major bargaining chip for future disarmament talks. Remember—the cruise missile, on which so much reliance is placed for the mid-1980's when it has been tested and perfected, already is a negotiable item for the coming SALT talks.

There are many who feel that America has been practicing unilateral disarmament in both conventional and strategic weapons. U.S. forces are at their lowest figure since the Korean war in manpower, in naval ships, in combat aircraft; this despite a very rapid increase in numbers in each category in the Russian forces.

The strategic force picture is only a little less gloomy. In the aftermath of SALT I the term "parity" was replaced by "essential equivalence" which symbolized acceptance by the United States of Soviet numerical superiority. In the last 5 years, the Soviets have added to their qualitative advantage. At present, the term "essential equivalence" is at best a euphenism for marginal U.S. inferiority; at worst, it reflects U.S. acquiescence to Soviet strategic superiority.

The B–1 is needed to help insure the survival of our country. We are confronted with an ominous and a mounting superiority in Russian military power. Opponents of the B–1 amendment tell us that we already possess the capability to kill everybody everywhere behind enemy lines at least once, maybe twice. They do not stress the fact that historically it has been American policy not to strike the first blow. If an enemy can kill off much of the American populace and most of our military capability with a single blow, there would be little point in retaliating with what is left. It could mean capitulation. That is an ugly thought but it is basic. That is what the enemy is counting on. America is playing out the second-best poker hand to its inevitable conclusion. We ask today that you give our country a better chance to avoid a crippling first strike against us. Let us not be architects of disaster. Acquiring this aircraft will be a signal to Russia and to our allies that we are not sleeping while Russia arms.

The CHAIRMAN. The time of the gentleman from Florida (Mr. SIKES) has expired.

(On request of Mr. HAGEDORN and by unanimous consent, Mr. SIKES was allowed to proceed for 2 additional minutes.)

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Chairman, I want to commend the gentleman from Florida on a fine statement and outline of this administration's vacillation on a number of issues that affect this Nation's defenses and most importantly the issue of the B–1.

But looking at the MX missile and the manned penetrating bombers and cruise missiles, we also have before us today the statements of the men who serve as our Salt II negotiators, and that ought to give us all reason to pause, to reconsider the action which this House took a few weeks ago, and to affirmatively support the B–1 bomber.

The gentleman from Missouri (Mr. BURLISON) stated a while ago that the President put himself in a box, but rather than that, I think he put himself in quicksand and the more squirming around this administration does the more they are sinking. Therefore it becomes our obligation to bail him out and make a decision here today.

Mr. SIKES. I thank the gentleman for his contribution.

Mr. ICHORD. Mr. Chairman, I rise in support of this amendment.

There is no need for lengthy rhetoric as virtually all Members already have decided how they will vote and it is not my intent to bore you with all of the oft repeated arguments for the B–1. However, I would like to briefly discuss what I consider the key question which will be decided today, that being whether there exists a requirement for a manned penetrating bomber.

Based on the facts, it is my strong belief that there is and there shall remain a requirement for such an aircraft at least until the year 2000.

The facts are there—

The President and the DOD have stated this requirement through retention of the B–52H as a penetrator through the 1980's and by virtue of having retained, through completion of R. & D., the B–1 as an option for ultimate deployment.

Strategic planners at SAC attest to the requirement.

Air Force witnesses, humbled by the B–1 decision, testify to the requirement and advance the less capable FB–111H as an alternative.

Even the Soviets acknowledge the requirement and are producing the Backfire.

In retrospect it is interesting to note that not since the requirement for a replacement to the B–52 was established in 1954 has any one ruled out the requirement for a manned penetrating bomber. Even in 1962 when then Secretary of Defense McNamara advised the Congress and the public that B–70 production was not warranted, that missiles, ICBM's, could do the job more efficiently. and that the B–70 would be an extremely expensive aircraft, he still supported continuation of the three prototype XB–70 program.

It is somewhat ironic that 15 years and $7 billion later President Carter and Secretary Brown would conclude that cruise missiles can do the job more efficiently and that the B–1 was an extremely expensive aircraft. Yet despite that conclusion, they have kept open the B–1 option and have retained an outdated, marginally capable B–52 in the role of a penetrating bomber.

What have we gained from 23 years of effort and the expenditure of over $7 billion? We have learned that there is a requirement for a manned penetrating bomber and that such an aircraft will be expensive.

Further delay in responding to the requirement for a modern manned penetrator is destined to further increase the cost of an acknowledged expensive aircraft.

I for one cannot look my constituents in the face and say that we have spent 23

years and $7 billion of your money and have not bought any defense capability. It is high time we stop this gross waste of our limited resources. Defense does not come cheap. However, the B–1 produced now will satisfy an existing requirement, will bring an end to 23 years of indecision, vacillation and waste, will provide the taxpayer a return on his investment of $7 billion, and will give us the world's best strategic bomber.

I urge your support of this amendment.

Mr. ALEXANDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Virginia (Mr. DAN DANIEL).

Mr. DAN DANIEL. Mr. Chairman, I rise in support of the amendment. I want to make it clear from the onset that I am a strong supporter of Cruise missile technology. I believe, however, that we should be pursuing this technology as a complement to, and not a replacement for, the B–1 bomber. In my mind's eye, the most effective upgrade of our aging B–52 fleet would be a force of penetrating B–1 bombers augmented with a standoff Cruise missile force.

At the start of our recent hearings on this supplemental request, I said I believed the cancellation of the B–1 was the most dangerous national security decision made since I have been a Member of Congress. Subsequent revelations have given some validity to that conclusion. While I do not believe the President is pursuing a course of unilateral nuclear disarmament, he certainly appears to be recommending that we practice unilateral nuclear arms restraint.

Look at the facts. There is now clear evidence that the Soviets are in the process of deploying a supersonic, intercontinental bomber of their own, the Backfire. In addition, Mr. Chairman, let me quote what Secretary of Defense Harold Brown recently said in reference to the Soviet's strategic buildup. I quote:

> But all of us must recognize that the Soviets have underway a number of large, impressive, and costly strategic programs to strengthen their offensive capabilities, their active defenses, and their passive defense system. They are not just studying the problem; they keep working on it.
>
> To give you just one indication of the effort—and of the momentum behind it—the Soviets are now deploying a fourth generation of ICBMs at a rate of between 100 and 150 a year. These missiles are, almost uniformly, first-class in terms of their accuracy and payload.
>
> At the same time that the Soviets have four new ICBMs under development, they are continuing work on the SS–16, their mobile ICBM, and they are modifying four other missiles. Exactly why the Soviets are pushing so hard to improve their strategic nuclear capabilities is uncertain.

Although Dr. Brown may be uncertain as to why the Soviets are pushing so hard to improve their strategic nuclear capabilities, Mr. Chairman, there is no doubt in my mind. I believe the Soviets are striving to gain nuclear superiority over the United States, and I believe the President's B–1 decision puts them a step closer to their goal.

I support this supplemental request, Mr. Chairman, but I am deeply saddened and dismayed over our President's decision regarding the B–1 bomber. I think he has made a grievous mistake.

Mr. ALEXANDER. Mr. Chairman, while I would like to take all of my time, I think it is more essential for the cause to quickly get to a vote on this matter.

I would yield to the gentleman from California (Mr. LLOYD).

Mr. LLOYD of California. Mr. Chairman, I thank my colleague for yielding.

Obviously I am in support of the amendment. I am in support of the B–1.

I would like to make one point, if my colleague will yield further. That is, I think one of the things that has not been considered in all of this is the attitude of the air crews that are going to have to operate this equipment, both men and women.

I think we will find that they do not want to fly the B–52 in the combat environment. I think we would find they would rather fly the B–1, because no matter how we work this out they are going to have to penetrate in order to get the weapons into the target area.

Based on that thought, what gives the greatest chance of survival? Those Members who have been in a combat situation recognize the tougher the situation, the greater the chance is for attrition, the less inspired some troops can be when they know the attrition rates are going to be high.

If we give a fair chance to those people to do what they ought to do, then we will not only give them a chance of survival but also give them a chance for greater mission success.

I think this is one of the points that needs to be brought out: We need to give our young men and women the best chance of survival they have with the very best equipment commensurate with the needs of this Nation, and asking the young people today to fly the same kind of equipment their fathers did is an incredible request, particularly in the highly destructive environment that would prevail in the event they have to go on those missions.

Mr. Chairman, I am sure every one is fully aware where I stand on the B–1.

Now that you know where I am coming from let me tell you what I am not doing.

I am not here to embarrass the President. I am not here because my district gets a slice of the "pie." These are not worthy of response.

I am here because I firmly believe that the B–1 is the correct option as a penetrating cruise missile carrier.

By now you have heard statistics concerning the military application—the economic feasibility and the aerodynamic concepts of the three options—and I am not going to regale you with more facts and figures—suffice to say I have some limited understanding in these areas.

Simply stated my point is: What do the crews who have to fight this equipment want? They do not want the B–52 in comparison to the other options. Why? The equipment is old—in design and old in systems, and old in air frame hours. While it can perform its mission it will do so with heavy casualties. I do mean American lives. The aviators do not want the wide bodied jet because the basic aerodynamic limitations make it very little better than the B–52, and it requires extensive modifications over the basic air carrier design.

That leaves the B–1. While not the perfect solution, because nothing is perfect in the combat threat environment, you have one heck of a lot better chance of target mission success and subsequent survival.

And aviators who know they have a chance of survival are more aggressive and have a better chance of mission success.

Let us give these young men and women a fighting chance. Because we owe anyone in this kind of service not the cheapest but the most effective weapons system at least in the minds of those who must do the fighting.

Mr. ALEXANDER. Mr. Chairman, while I am, as all the rest of the Members who have spoken in support of the amendment, concerned about the President's decision to attempt to replace the reliable manned bomber with an unproven and untried Cruise missile, these recent reports that have been revealed over the last week of a U.S. position to limit the range of the Cruise missile is nothing short of alarming.

Mr. Chairman, as we again consider this issue of providing funding for the B–1 manned penetrating bomber, I think it crucial to examine the implications of the new arms limitation environment we will shortly be entering.

There are several elements of the forthcoming SALT II agreement, already agreed upon by the United States and the Soviet Union, which bear directly on the future of the B–1. I wish to examine one of these elements in particular.

The proposed new SALT accord places a 1,550 statute mile limitation on the Cruise missile, which severely limits its usefulness as a strategic weapon. The Soviets, who have three times the nuclear missile warhead delivery capability of the United States can readily extend their defenses 1,550 miles, rendering our Cruise missiles vulnerable to their attack.

The limitation of 1,550 statute miles for these missiles limits the target coverage we can achieve, in comparison to a manned penetrating bomber. In fact, according to testimony of the Secretary of Defense, if the United States does not receive the permission of Sweden to overfly its territory with a Cruise missile carrier, a very large fraction of Soviet targets cannot be attacked, as they could be with a manned bomber.

In short, the 1,550 statute mile limitation means that the United States will have to:

Forego some Soviet targets; and

Produce a carrier hardened against

high-voltage nuclear blasts in order to dogleg Soviet defenses.

The B–52, 747, or DC–10 do not qualify as such as carrier. The only Cruise missile carrier that can provide the standoff launch capability of 1,550 miles is the B–1.

We now depend on the strategic bomber for delivering more than half of our nuclear warheads. To refuse to modernize our strategic bomber force means we unilaterally reduce our national defense without getting the Soviet Union to take equal action.

I would like, at this point, to share with my colleagues some of the observations that retired Commander in Chief of the Strategic Air Command, Gen. Russell E. Dougherty, has made about the issue before us today.

In testimony before the Senate Armed Services Committee in early 1976, General Dougherty testified that denial of timely production and rapid introduction of a modern, manned strategic penetrating delivery system into our Nation's operational inventory could mean that our Nation's deterrent force mix would soon be seriously deficient in its ability to maintain an essential balance—real or perceived—with the strategic forces of the Soviet Union.

In recent correspondence with a Member of this body, my colleague BOB DORNAN of California, General Dougherty reiterated that concern:

> Lack of a modern, manned penetrating delivery system is going to make every other aspect of our strategic decisions more difficult for we will not have the assured flexibility that comes with a penetrating bomber.
>
> I find little to suggest that the vigor of the Soviet investment in strong total forces will diminish—particularly, their investments in strong strategic nuclear forces.
>
> If ongoing Soviet programs are not matched and offset by firm, continuing U.S. actions, a serious imbalance could (and probably will) result by the mid-1980s or so.

Mr. Chairman, this Congress must insure that the Nation will have long-term capability to deter war. Our present capabilities, coupled with the known and the unknowns of a new arms lmitation envronment make it necessary that we now go ahead and build the B–1 so that our deterrent capability may be retained without dimunition.

Mr. KEMP. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I very briefly want to follow up on what my colleague, the gentleman from Arkansas, has expressed about his concern over the range limitations on the cruise missile that have been negotiated by the administration in the recent round of SALT.

Mr. Chairman, since the President canceled the B–1 on June 30, the contours of his defense program have emerged more clearly and I believe, require support for the B–1 manned penetrating bomber. The President is prepared to take greater risks with our SALT posture which necessitates a more robust defense capability within SALT limitations. Moreover, the uncertainties about other elements of our strategic posture such as the threat to Minuteman, the slow-motion decisions on the M–X, and the extremely limited Cruise missile posture make B–1 a much more important weapon system alternative than we thought in late June.

The Congress has rejected the President's proposal to initiate R. & D. on the FB–111H. As a result, a modern penetrator will be needed; the B–1 is ready for production, and we should therefore proceed with construction without delay.

Mr. Chairman, to those of us who want to see a SALT II pact negotiated that is in the best interest of the United States and peace, it was a terrible blow to learn the terms that the Carter administration is ready to accept to achieve a SALT II agreement, for these terms not only are unequal in every important respect, are primarily unverifiable, but also serve to increase the risk of nuclear war rather than diminish it.

Take the case of the ICBM limitations, and in particular the MIRV sublimit. The President has totally abandoned his position adopted only last March in connection with Secretary Vance's mission to Moscow of reducing the Soviet threat to American land based forces. In March, the President proposed that the Soviet Union limit its deployment of SS–18 ICBM's to no more than 150 of their total quota of 308 "heavy" ICBM's. Parenthetically, it should be noted that the agreement prohibits the United States from deploying any heavy missiles because the limitations on missile silo volume were carried over from the unequal terms of SALT I. This worthy step toward heavy missile limitation has been abandoned in favor of a quick SALT agreement. Now the United States has agreed to no limitations on SS–18 deployments within the 308 "heavy" missile sublimit. Although this is but one of many elements agreed to by the President, let us look at what this change means.

In March, the President proposed that 150 SS–18's and 400 SS–19's could be deployed. Given what missile accuracy has been demonstrated by the Soviet Union to date in its MIRV program, the March proposal would have meant that the Soviets could have warheads with sufficient accuracy, reliability, and number to destroy targets of the blast resistance equivalent to the Minuteman III silos. By abandoning his "comprehensive proposal, the President has nearly doubled the number of Minuteman III-type silo targets which could be destroyed by Soviet forces; from as few as 1,583 targets (if low yield weapons are used and only a few warheads are mounted on each missile), to as many as 4,331 targets with a blast resistance of 1,000 pounds per square inch are capable of being destroyed. This figure is more than four times the number of such targets in the United States.

The import of this calculation is that the President has agreed to terms which not only eliminate the Minuteman ICBM system as a viable element of our deterrent in the 1980's, but also undermines his plan to use 747-type aircraft to carry Cruise missiles because these aircraft can use only 150 bases or less in the entire United States because of the great weight of the aircraft. Rather than decreasing nuclear risks associated with Soviet forces, our arms control policy has become an instrument for increasing the vulnerability of American forces. The Soviet Union now has a conspicuous advantage in striking first in a crisis, because our negotiating posture has permitted the Soviets to deploy a first strike force capable of eliminating a major fraction of our deterrent force, leaving only a small portion of the bomber force which may get off the ground before a first strike, and the two-thirds of the submarine force which was deployed away from port. This is an unacceptably weak reed upon which to deter either nuclear war or nuclear blackmail. These dreadful circumstances are not a consequence of a law of nature; it is a self-inflicted wound growing out of a misplaced zeal to reach an arms control agreement with the Soviet Union.

The administration has agreed to range constraints on cruise missiles which are unverifiable for technical reasons, and further promises to so severely constrain our own Cruise missile program that we will be unable to reach some of the most important targets in the Soviet Union unless our Cruise missile carriers obtain overflight permission from Sweden.

The limitations on the Soviet Backfire bomber—asking the Soviets to retain production at the present rate of 2 to 4 per month, and asking them not to deploy the Backfire at bases suitable for intercontinental attack flies in the face of any reasonable attempt to verify Soviet compliance with the terms of an agreement. Moreover, the recent Defense Intelligence Agency report on current Backfire capabilities give it 15 percent greater range than the B–1 and 8 percent greater range than the B–52 with one aerial refueling. The administration's terms on the Backfire reflect the utter bankruptcy of our negotiating position, for the United States has insisted for nearly 5 years that the Backfire be included in any ceiling on strategic delivery vehicles.

To summarize, I am appalled at the extent of the collapse of our SALT negotiating posture. We are headed for an agreement which will increase the risk of nuclear war, and codify Soviet strategic nuclear superiority with the unmeasurable consequences for our diplomacy such a condition implies. I am convinced that the Congress will not ratify such a one-sided agreement, and I will make every effort to see that SALT II is not ratified until its terms are modified to provide for equality for the United States.

Mr. DOWNEY. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the amendment.

Mr. Chairman, I promise not to use the full 5 minutes. I think my position has been made clear in many trips to the well in the past on this particular issue.

Mr. Chairman, what we are faced with today is an option to buy three and one-half to five B–1 bombers. It is essentially a subterfuge when you consider the words of my colleague, the gentleman from Michigan (Mr. CARR), that what the proponents of the B–1 would like to do is continue the production line of this aircraft and go out and build a full complement of B–1 bombers, because building five B–1's, assuming we could get them for this amount, would really make very little sense unless we kept the line open for future spare parts or unless we converted it into a Cruise missile carrier. In either case there are few advantages to do either of these, since a wide-body cruise missile carrier has three times the payload of the B–1, as a missile option.

I want to address something that my friend, the gentleman from New York (Mr. KEMP), addressed about the range limitations and the Salt negotiations, because I think it is important to consider the Cruise missile versus the B–1. It is pretty clear at this time that the administration has offered, and the Soviets may or may not accept, a 2,500-kilometer range limitation on the Cruise missile.

Now, that would impact a wide body or a B–52 to some extent. Based on current estimates—and these are made by the Department of Defense—we would have between 80- and 85-percent target coverage with a 2500 kilometer range, so that the argument that is made for why we need a penetrator because we cannot reach all the targets is simply not true.

When that is viewed in light of the fact that this SALT II agreement would be a 3-year agreement, and at the end of that period the United States, based on what the Soviet Union does with its perimeter air defense, would have the option of increasing the range or leaving the range the same, that particular argument that there is going to be this major concession is a bogus argument. We get adequate target coverage with the Cruise missile.

The argument that we would use five B–1's or three and one-half B–1's for Cruise missile carriers to deliver missiles is also a rather strange one when we consider the fact that they can carry no more than 20 Cruise missiles on a B–1, or 24 missiles depending on configuration of the wing, and a wide-bodied jet could carry as many as 64. So, for those people who argue that we should leave the B–1 in the inventory and have that be a credible deterrent, I find it very strange, considering the fact that the option would provide more defense at less cost.

Plainly, the most important thing to keep in mind is that what we are doing is buying five planes that the President does not want or the other body does not want, and I dare say the majority of this body does not want. I would hope that the committee would reject this rather intemperate amendment.

Mr. DORNAN. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

My colleagues, there has been some pressure to limit time, but there are still several important areas to cover. I have tried to do as much research as is possible for this discussion today. I have flown 6 hours on a B–52 mission, 4 hours in the FB–111A, met with the commanding officer of the Air Force Systems Command, a long meeting with the former Commander of the Strategic Air Command, correspondence with other Air Force commanders. These are the people who are the experts. We pay them to be. They die for us if we or they make mistakes of judgment.

I think the Member who made the remark that a general, Omar Bradley, had been placed in the gallery deliberately to influence this debate might like to take back that insensitive comment. This may be the last visit by our only living five-star general to this Chamber. It is an honor for us to have him here. I see him often because he lives in the adjoining congressional district. I know how hard he has worked to keep our Nation strong. The decision on this B–1 is as important to him as it is to all who want our military services to have the best defense systems we can give them. It was General Bradley's commander in World War II, President Eisenhower, who best made the point of how serious military strength is toward keeping the peace.

Ike said—

> Until war is eliminated from international relations, unpreparedness for it is well nigh as criminal as war itself.

And we will not be prepared if we cripple part of our Triad.

The Cruise missile is not a competitor or replacement for the B–1. There has been a lot of misstatement on this floor that Secretary Brown is solid in his decision against the B–1. This just is not so. I was invited to attend a meeting of new Members with the Secretary yesterday and many of the Members conceded that he was shaky on this decision—unsure. He is as unsure and disturbed over this decision as anything he has had to analyze in his distinguished career.

Two of the Democratic Members conceded that they also felt that he was not on solid ground in his own arguments and that he certainly was not solidly for the President's decision.

Yes, he is former Defense Director of Research and Engineering (DDRE), a former Air Force Secretary, and former president of one of our greatest universities, Cal Tech.

And that is exactly why he is so disturbed and unsure. He knows better.

This man was in on the ground floor, after the high-altitude B–70 was rejected, on giving us this B–1 manned penetrator, and it was a great blow to him, as it was to the entire U.S. Air Force and the strategic Triad partners to lose the modernization of our manned penetrator. The Cruise missile is not ready. It is barely into its R. & D. program.

The Navy Cruise missile—Tomahawk—has failed 6 out of 24 tests. That is not just a 25-percent failure. It is not like a football player throwing 24 passes into the end zone and having 6 interceptions. It is far worse because the early tests were simple steps. Such as can the ball hold air, is it in the right shape, can I throw it 10 feet, 15 feet, or 20 feet. The Tomahawk pased the early easy tests. The long complex passes into the end zone, these six failures have been in the latest tests.

When we look at the ALCM–B, it is worse, that has not even flown. It is the ALCM–A that was designed to be on three rotary racks in the B–1's bomb bay, and that cruise missile has been canceled. But the B–1, already a Cruise missile carrier, can be made to carry the 19-foot ALCM–B and/or the 18-foot Tomahawk missile if and when they prove themselves. So far no Cruise missile ever on paper has shown the range capability to penetrate what is known as the "ICBM belt" deep in the Soviet Union. The area from trans-Baikal and Turkestan to what the Soviets call the Far Eastern Military District. Cruise missiles just simply cannot make those ranges. The maps we have on the leadership desks show the Cruise missiles launching from our aircraft 300 miles off the Soviet coast, and still not making the deep targets and we will never get as close as 300 miles. The SS–16, 17, 18, and 19 silos in those deep areas cannot be left untargeted because they are a reload refire threat.

The reason I have brought this picture behind me from a war—World War II—that may seem a long time ago is that this scene shows where Adolph Hitler ordered huge six-engine Messerschmidt giant transports, his version of a commercial 747 passenger plane stuffed like a Christmas goose with Cruise missiles, to attempt an offensive reinforcement of his Afrika Corps. Only instead of missiles the six-engine giants were stuffed with Italian troops. They all died at sea. Thousands of them. British long-range fighters shot down every single one of these massive 747-type aircraft, and not a single German air crew member or Italian soldier ever reached the African coast.

My point is—Soviet pilots, with an FIO, their next generation of follow-on interceptors—and keep in mind that their Backfire is easily adapted to the long-range interceptor role—would absolutely fly as far out to sea as humanly possible and farther to knock down every one of our huge 747 Cruise missile carriers. Jackpot targets that will never, never reach their targets. The Soviet Mig-25's now have shaped, supersonic-tested fuel tanks that give them an incredible range. Similar to our F–15 Eagle also tested with shaped long-range fuel tanks. We cannot put 747's or DC–10's within 1,000 miles or more of Soviet airspace. Are we going to expect less of their pilots than our P–38 fighter pilots who threw the Japanese naval effort into chaos in the Pacific in World War II by flying a supposedly impossible mission hundreds of miles out to sea and shooting down the highest ranking Japanese officer, Admiral Yamamoto.

Will Soviet pilots have less dedication than Gen. Jimmy Doolittle and his

men when with 16 Army bombers in 1942 they took off from the deck of a carrier—never done before—left that carrier *Hornet*, on what some people called an impossible or Kamikaze mission—to fly almost a thousand miles over water to hit Tokyo. Believe me the Soviet pilots will have that kind of discipline and determination. They will fly out with a vengeance and hunt down every fat, soft, large-radar image, stuffed Cruise missile carrying 747 we send against them.

Only the B–1 was designed to avoid fighter attacks and penetrate or launch Cruise missiles or short range attack missiles (SRAM's) from a standoff position. If we do not reinstate full B–1 funding and stop this inane discussion of stuffing wide bodied civilian planes with unproved missiles, then we are betraying our morale commitment to our countrymen to keep this Nation powerful so that we are never attacked. Heed carefully these words of Gen. Russell E. Dougherty, recently retired Commander in Chief of SAC taken from a letter he sent me last week on this critical issue of whether we maintain a manned aircraft as part of our triad:

Lack of a modern, manned penetrating delivery system is going to make every other aspect of our strategic decisions more difficult for we will not have the assured flexibility that comes with a penetrating bomber.

If I look to the next decade, I find little to suggest that the vigor of the Soviet investment in strong total forces will diminish—particularly, their investments in strong strategic nuclear forces. I think it's a pointless argument as to whether the Soviets are involved in an all-out drive to be "number one", but I think it's sufficiently clear as to be noncontroversial that the Soviets are not willing to settle for being "number two."

. . . if we are denied timely production and rapid introduction of a modern, manned strategic penetrating delivery system into our operational inventory, our nation's deterrent force mix soon will be seriously deficient in its ability to maintain an essential balance—real or perceived—with the strategic forces of the Soviet Union.

And, in any event, the cruise missile will be a far more capable weapon system development in conjunction with a modern penetrator than it would be without such a penetrator.

I considered the B–1 production decision the single most important weapon system decision in front of our Administration and our Congress last year.

If Representative Carr is right, and if the President really intended to terminate the concept of including a modern strategic penetrating system in our strategic arsenal, then that is the real issue in front of the Congress and the people of the United States. If so, that possibility poses fundamental issues that are not merely important but could well be vital to our future ability to remain second to no other nation or group of nations in a future world. And this issue, I would observe, is too important to be left fallow in the recent minority report of the House Armed Services Committee or in exchanges of correspondence. It should be run out on 'center stage' for all to see, to examine and to debate. In my view, there shouldn't be any amiguity on the issue of the future of a long-range manned penetrating delivery system; this issue is too important for us to allow it to remain cloudy and ambiguous.

As to the Soviet Strategy for U.S. strategic forces without the B–1 . . . one thing will be certain: they will do everything in their power to keep us from having a capable and competent sustitute for the B–1.

It took the tragedy of World War II to prove General Billy Mitchell right in his judgments. Martyrdom in the nuclear age is too great a price for any of us, or our Nation, to pay for fatal errors in judgment concerning the diversity and strength of our central strategic systems in the future.

Please do not disregard the expert testimony of people like this.

I urge you to support the Chappell amendment.

The CHAIRMAN. The time of the gentleman from California (Mr. DORNAN) has expired.

Mr. JOHN L. BURTON. Mr. Chairman, ask unanimous consent that the gentleman from California (Mr. DORNAN) be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ALEXANDER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. JOHN L. BURTON. Mr. Chairman, I ask unanimous consent that the gentleman be allowed to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ALEXANDER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. JOHN L. BURTON. Mr. Chairman, I ask unanimous consent that the gentleman be allowed to proceed for an additional 30 seconds.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ALEXANDER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I know that the hour is late, and I will try to keep my remarks short. We have had a number of indications today that Members are changing their minds because there has been a good deal of confusion in just what was involved in this particular issue.

I think that perhaps the main confusion stemmed from the impression that was given when the President decided to recommend the elimination of the B–1, and indicated that it was a case of choosing between the B–1 and the Cruise missile. He said that the Cruise missile is cheaper and has a smaller radar cross-section; so why should we not go for the Cruise missile instead of the B–1?

The fact of the matter is that that is not the real choice. We always planned to go for the Cruise missile, whether the B–1 ever flew or not. The real question is: What kind of a plane is the proper plane and the best plane to carry the Cruise missile? That is the question, whether it is the B–52, the FB–111H, the B–1, the DC–10, or perhaps the DC–3.

So a number of Members have been upset because they thought it was a question of the Cruise missile versus the B–1, when in fact it is a question of which plane we really need and which plane can do the job of delivering the Cruise missile.

The second point I want to make is this: What did the civilians in the Defense Department, the technical experts, actually recommend?

I think the gentleman from New York (Mr. DOWNEY) probably came closer to it, but he did not really tell us the full story. He said the Secretary of Defense put before the President a number of options. He did not tell us what the civilian technical, scientific leadership—not the men in uniform, who may want all the weapons they can get—but what the civilians, including the Secretary, actually recommended. The gentleman did not tell us what he and the other technical people actually recommended to the President as the No. 1 option.

The recommendation was a mix of the B–1 and other planes with the Cruise missile; and that was the one that was turned down by the President.

The third point I want to make is this: Somebody has said that we offered a proposal in the SALT talks to limit the Cruise missile to 2,500 kilometers. But that is not the latest development. The latest development, to those of us who have been reading the papers, is that the Russians have now already accepted that proposal, and the President has told us we are moving toward an agreement on SALT. On those precise terms, and with all the leaks that have come out, the 2,500-kilometer limit is scheduled to be written into the treaty. Whether the Senate will ratify it is something else again.

The commanding general of the Strategic Air Command indicated to us the other day that with a combination of B–52's and Cruise missiles limited to 2,500 kilometers, we could just about reach Moscow; and so all the other very valuable targets beyond Moscow would be beyond the range of what was supposed to be one key leg of our triad.

So, Mr. Chairman, I think the decision we have to make here today should be based upon that great philosophy, which I think still stands up today when it comes to selecting a plane to carry the Cruise missile, and that is: Why not the best?

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield briefly?

Mr. STRATTON. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman (Mr. STRATTON) following up on the point our colleague, the gentleman from New York (Mr. DOWNEY), was trying to make. It is my understanding that one of the prime options given to the President was in fact a complete mix which included the B–1 bomber.

Mr. STRATTON. Absolutely.

Mr. ROUSSELOT. So the point the gentleman is making is that we need to continue that full mix. Recommended to the President.

Mr. STRATTON. And Mr. Brown and others still believe that the B–1 is much the better option.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I wonder if there is any Member in this room who thinks the Cruise missile limitation agreement will be kept by the Soviets. They have stretched every ambiguity of SALT I to its limit. We will keep the limitation, and they will not.

Mr. STRATTON. Mr. Chairman, the gentleman is absolutely correct.

Of course, we cannot verify such a limit, but, as a matter of fact, Secretary Brown himself was expressing fear only a little while ago that we would accept the 2,500-kilometer limitation in SALT and thus complicate the combination which the President favored.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from New York (Mr. STRATTON) and just say that those of us on the committee who have visited the Strategic Air Command in Omaha recognize the fact that every warhead that we have is targeted, and the B–52 is required to deliver a substantial portion of those targeted warheads, and there is no way a B–52 can penetrate sufficiently to deliver an operational nuclear warhead today. Therefore we are literally throwing away warheads by not having a penetrating bomber. The President has said we must have a penetrating bomber—and we should, but it just is not B–52 and it should be B–1.

The CHAIRMAN. The time of the gentleman from New York (Mr. STRATTON) has expired.

Mr. ADDABBO. Mr. Chairman, I ask unanimous consent that the gentleman from New York (Mr. STRATTON) may be permitted to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. ALEXANDER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MITCHELL of New York. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, there are many reasons why we must have a penetrating bomber. I would like to address just one. If we wish to prevent nuclear war—and discourage Soviet aggression—we must maintain the strategic balance. We have learned that we enjoy rough equivalence with the Soviet Union in conventional weaponry. Let us examine the strategic balance today and see how the B–1 could contribute to that balance.

There are two components involved. The first is weaponry, the second is the ability of a nation to protect itself from enemy weaponry. This is called civil defense.

Depending on whose estimate you take, we apparently enjoy rough equivalence in strategic weaponry. But in our ability to defend ourselves against an enemy attack, we are sadly deficient. Where the Soviet Union has an excellent civil defense program, ours is in tragic disarray.

The Soviet's successful system contains two parts: First, the evacuation of most of its population—moving people away from probable targets; the second is to move those remaining to hardened shelters. With this excellent civil defense system, the Soviet Union can render our nuclear weaponry far less effective because they can protect themselves from it.

In spite of many dedicated professionals, the United States does not have much of any program. If and when we do develop one, the way to protect the major part of our population is probably through evacuation. Truly hardened shelters are very costly and tend to be rendered ineffective because of the power—the tremendous megatonnage of Soviet weapons.

With the Cruise missile we apparently will have great accuracy and many individual weapons, but the explosive portion of the Cruise missile weighs a little over 200 pounds—200 pounds. Dr. Conrad V. Chester, Chief of the Emergency Technology Section of the Health Physics Division at Oak Ridge National Laboratory, a longtime expert in civil defense, estimates that the cruise missile explosive is not adequate to destroy Soviet shelters—not powerful enough to deny Soviets this protection. He points out the B–1 can carry 28 tons—56,000 pounds—of bombs and deliver heavy gravity bombs, bombs that are capable of destroying Soviet shelters and thus cancelling out this portion of Soviet civil defense program and by so doing helping to restore the strategic balance.

If we agree we need a penetrating bomber why not the FB–111–H? First of all, the FB–111–H is only an idea on a drawing board. Tentative plans seem to call for a major remodeling of the FB–111–H. There is talk about using a new engine—ironically enough the B–1 engine, a new tail section, a wing design, a stretch job on the fuselage. We really do not know precisely what its performance would be with all these changes.

The primary reason for scrapping the B–1 was apparently for cost effectiveness. But when we heard Air Force experts testify in our Armed Services Committee we learned that though the FB–111–H would probably cost about one-half the B–1, it would only carry about one-half as much as the B–1.

We learned that the FB–111–H would be as survivable, and would have about the same speed and range as the B–1, however it would cost far more to operate since we would need twice the number of tankers, far more individuals for operating and servicing the greater number of aircraft—and far more fields to operate from. So to deliver the same number of tons of explosives as the B–1 it would cost far more with the FB–111–H.

All in all it would seem we were doing something pretty ridiculous by scrapping the B–1 for the FB–111–H. We would be substituting a more costly operation for a program we scrapped because it was too costly. We would be substituting an airplane that is only a design on a drawing board for one of proven operational capability—to maintain the strategic balance we need a penetrating balance—we have one in the B–1. It is the logical choice.

I urge my colleagues to vote for the B–1 by supporting the Chappell amendment.

Mr. MIKVA. Mr. Chairman, I want to add my opposition to the amendment offered to the supplemental fiscal year 1978 appropriations bill regarding funding for the B–1 bomber. This amendment, which will add $1.4 billion for production of five B–1 bombers, is one last attempt to fund a project which the President and both houses of Congress have agreed should not be undertaken. It is difficult for me to believe that a number of my colleagues would insist on bringing the B–1 to the floor again through the use of the supplemental appropriations. The arguments against the B–1 have been made over and over again—it is the most expensive weapon ever designed, a grossly wasteful project that misallocates our defense resources, and contributes very little to our deterrent forces. There are other alternatives to the B–1 which are more efficient and effective. Cruise missiles, for example, have been shown to be far less expensive and even more likely to penetrate Soviet defenses than the manned bomber. The Cruise missile is designed to be launched from an aircraft with standoff or penetrating capabilities—B–52's, or wide-bodied 747's.

Defense Secretary Brown has stated that beginning now through the late 1980's the B–52 can be inexpensively upgraded and will be able to penetrate Soviet defense to launch Cruise missiles to most Soviet targets. Production of the B–1, even if it were started today, could not catch up to that capability for many years. Furthermore, even if the B–1 were to be used to launch Cruise missiles, there is a substantial reduction in the payload power that one B–1 can deliver. And again, the cost is unbelievably high.

The appropriation which is being asked for today will pay for production of five B–1's. To upgrade the B–52 and fit it with Cruise missiles will cost an estimated $25 million per aircraft—far less than the price tag for the B–1. What contribution will five planes make, anyway? Five B–1's will bring the "fleet" to eight. Secretary Brown has said that the B–1 is not worth buying unless it is bought as a force of at least 100 planes. Not only will we paying for an enormously expensive five planes, but we will be paying for places which cannot even provide an adequate force.

Finally, Mr. Speaker, I object to this move by supporters of the B–1 to restore funding through the supplemental process. Following the decision by the President to discontinue the program, the House voted over a month ago to end

B–1 production. Though B–1 supporters lost through the regular legislative and appropriation process, they now seek to provide money through backdoor funding on this supplemental bill, which is supposed to be for emergency of "loose-end" measures only. If this appropriation is granted, not only will it embarrass the White House, but it will also set a bad precedent in the House. Debate has been concluded on the merits of the B–1, and the House has voted against it. The supplemental appropriation is not the time to reconsider funding for a program deleted earlier. Supplemental means just that—supplemental—not one more round on a dead issue. What alarms me is that the supplemental appropriation process will in the future be looked upon as a way to get around the regular authorization and appropriation process.

I urge my colleagues to vote against this amendment on two grounds—the already determined inefficiency of the B–1, and the alarming precedent which this procedure threatens to set.

Mr. LUKEN. Mr. Chairman, on June 30 many of us in Congress were disappointed when President Carter halted production of the B–1 in favor of the Cruise missile program.

In his recommendations against the production of the B–1, the President also stated that the B–1 testing and development program should center on, and provide for the needed technical base in the event that alternative systems run into difficulty. He also spoke of his intention to continue the Triad including a bomber fleet using the Cruise missile as one of its armament.

The House Committee on Armed Services after subsequent hearings concluded that neither the antiquated B–52 nor a modified commercial Cruise missile carrier are cost or performance effective; that unit cost per such aircraft would be as high as the current flyaway cost of the B–1, and that possible SALT constraints on Cruise missile range would further limit performance of the Cruise missile aircraft.

Even though we are all in favor of the Cruise missile program, we will short-sell the penetrating component of our national defense system if we settle for a Cruise missile carrier which will cripple the effectiveness of the Cruise missile weaponry.

The United States needs the B–1 as a strategic manned bomber and as a Cruise missile carrier, in order to maintain sufficient flexibility for U.S. strategic forces. The B–1 provides a viable counterforce to the Soviet Union's new Backfire bomber, giving the United States a stronger position in arms limitation talks. Also, the Soviet Union will not be able to develop air defenses capable of stopping the B–1 during the plane's lifetime without jeopardizing other defense programs.

Thus, the administration's plan to revitalize the bombing component of our national defense Triad will be greatly hampered unless we vote today for the B–1. I urge my fellow Members of the House to vote for the amendment to include $1.4 billion for production of five B–1 bombers. To defeat this amendment would be disastrous to our national security.

Mr. GIAIMO. Mr. Chairman, I rise in strong opposition to the amendment. My opposition to this amendment is based on four arguments:

First. This action will ultimately bust the budget.

Second. The funds provided will buy 3½ aircraft which violates the principle of full funding which is a congressionally directed policy designed to maintain discipline in the funding of weapons systems.

Third. It is the most expensive way to build these already expensive aircraft.

Fourth. If this amendment is passed, this bill will start funding for several strategic options, B–1, B–52 modification program and cruise missile acceleration, which will result in billions of dollars in increases in the defense budget in the next 5 years, over and above the increases currently included in the 5-year defense plan. I would like to discuss each of these items in greater detail.

THIS ACTION WILL ULTIMATELY BUST THE BUDGET

The second budget resolution specifically excluded production funds for the B–1 bomber. If this amendment is passed, the projected totals will exceed the ceiling by $1.5 billion in budget authority and $0.3 billion in outlays since there are some items in the resolution which have not been acted upon yet by the Congress, a point of order cannot be raised at this time. However, at some point in the future, a point of order would be raised against a later bill. Depending on timing of these bills, the most likely candidates are the pay raise supplemental, public service jobs bill or veterans legislation. All of these items have been provided for in the resolution while funding for the B–1 has been specifically excluded.

If we are to have any discipline in managing the Federal budget, it must be exercised in instances like this. We simply cannot accommodate big unbudgeted programs without displacing programs for which Congress has provided the funds in the resolution.

VIOLATION OF THE FULL FUNDING PRINCIPLE

Since the early 1950's Congress has repeatedly directed the Pentagon to include the full procurement cost of all major weapons systems in its authorization/appropriation requests. The original fiscal year 1978 authorization approved $1.4 billion for five B–1 aircraft. Subsequently, these funds were stricken from the appropriations bill. This amendment is limited to $1.4 billion to conform to the authorization. However, because of the work stoppage on the B–1, $1.4 billion will only buy 3½ aircraft. I frankly do not know what one-half of an aircraft is, but obviously it is not fully funded.

I submit that this amendment is financially unsound and based on emotion rather than hard fiscal realities. If passed, it will make a sham of the congressionally directed full funding policy and consequently erode any discipline which the concept provides. You can be sure the Pentagon will exploit our inconsistency in this regard.

MOST EXPENSIVE WAY TO BUILD AIRCRAFT

President Carter canceled the B–1 program because it was too expensive. At that time the three production aircraft funded in fiscal year 1977 and the five aircraft in fiscal year 1978 were estimated to cost a total of $2.5 billion. Current estimates are that we can get two aircraft in fiscal year 1977 and 3½ aircraft in 1978 for $100 million more than originally budgeted. However, if we were to fund the original program of three and five aircraft today, it would cost at least $3.2 billion based on Air Force estimates. In other words, the estimated cost of the February program of eight production aircraft has increased by $700 million or over 25 percent in less than 10 months.

It would be financially irresponsible to pass this amendment. No one has a clear idea of what the ultimate costs of these aircraft will be, nor does a rational program exist. All contracts will have to be renegotiated. What we do know is that if we were to carry out the original fiscal year 1977 and 1978 program of eight aircraft it would be at least 25 percent higher than the cost estimated last February. This kind of increase can be expected to continue through the years.

I must say I am surprised at my fiscally conservative colleagues who are pushing this amendment. If it was too expensive before, it is more expensive now.

FIVE-YEAR FINANCIAL IMPACT

My last point is that when the President canceled the B–1, he immediately sent up a request for funds to accelerate the cruise missile program and expand the B–52 modification program. This bill includes first year funds for these programs. The extension of these programs at the accelerated rate will add several billion dollars to the defense budget over the next 5 years beyond our current planning. If these B–1's are added, we should continue the program because 3½ B–1's do not provide any meaningful capability in and of themselves. Therefore, if this amendment passes, we can look forward to tremendous increases in the defense budget over and above those currently planned. In fact, we conceivably could lock ourselves into doubling our strategic forces budget in the next few years. This would negate any notion of setting priorities in our budget considerations, our task of regaining control of the budget will be infinitely more difficult.

In summary, I say that this amendment is a budget buster, is financially unsound and tends to destroy future control of the DOD budget.

I urge you to vote against it.

Mr. CHAPPELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, would it be in order for me to attempt to limit debate? We know that a lot of people want to catch airplanes. They want to leave. We would like to get this matter to a vote.

Therefore, Mr. Chairman, I ask unanimous consent that all debate on this amendment and any amendments thereto end at 4:45 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. GIAIMO. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. CHAPPELL. Mr. Chairman, I move that all debate on this amendment and all amendments thereto end at 4:45 p.m.

The CHAIRMAN. The question is on the motion offered by the gentleman from Florida (Mr. CHAPPELL).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. GIAIMO. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Over 100 Members are present, a quorum.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Connecticut (Mr. GIAIMO) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 212, noes 187, not voting 35, as follows:

[Roll No. 679]

AYES—212

Abdnor	Devine	Jones, N.C.
Akaka	Dickinson	Jones, Okla.
Alexander	Dicks	Jones, Tenn.
Anderson, Calif.	Dornan	Jordan
Andrews, N.C.	Duncan, Oreg.	Kazen
Applegate	Duncan, Tenn.	Kemp
Archer	Edwards, Ala.	Ketchum
Armstrong	Eilberg	Krueger
Ashbrook	English	Lagomarsino
Ashley	Fascell	Latta
Badham	Findley	Le Fante
Bafalis	Flippo	Lederer
Barnard	Flood	Levitas
Beard, R.I.	Florio	Livingston
Beard, Tenn.	Flowers	Lloyd, Calif.
Benjamin	Flynt	Lloyd, Tenn.
Bennett	Ford, Tenn.	Long, La.
Bevill	Forsythe	Lott
Bingham	Fountain	Lujan
Bonker	Fowler	Luken
Bowen	Frey	McClory
Breaux	Gammage	McCormack
Breckinridge	Gaydos	McDade
Brinkley	Gibbons	McDonald
Broomfield	Ginn	McFall
Brown, Calif.	Goldwater	McKay
Brown, Mich.	Gonzalez	Mann
Brown, Ohio	Goodling	Marlenee
Broyhill	Gradison	Marriott
Burgener	Grassley	Martin
Burke, Fla.	Gudger	Meeds
Burleson, Tex.	Guyer	Meyner
Burlison, Mo.	Hagedorn	Michel
Butler	Hall	Milford
Byron	Hanley	Mitchell, N.Y.
Carney	Hannaford	Mollohan
Carter	Hansen	Montgomery
Cederberg	Harsha	Moorhead, Calif.
Chappell	Hawkins	Mottl
Clausen, Don H.	Hefner	Murphy, Ill.
Clawson, Del	Heftel	Murphy, Pa.
Cleveland	Hillis	Murtha
Cochran	Holland	Myers, Gary
Conable	Holt	Myers, John
Coughlin	Horton	Myers, Michael
Cunningham	Hubbard	Nichols
Daniel, Dan	Huckaby	Nix
Daniel, R. W.	Hyde	O'Brien
Danielson	Ichord	Oakar
Davis	Ireland	Pettis
Delaney	Jenkins	Pritchard
Derwinski	Jenrette	Quie
	Johnson, Calif.	Quillen
	Johnson, Colo.	Rhodes
	Jones, Okla.	Risenhoover
	Jones, Tenn.	Roberts
	Kazen	Robinson
	Kemp	Rogers
	Ketchum	Rose
	Krueger	Rousselot
	Lagomarsino	Rudd
	Latta	Runnels
	Le Fante	Ryan
	Lederer	Santini
	Levitas	Satterfield
	Livingston	Sawyer
	Lloyd, Calif.	Shipley
	Lloyd, Tenn.	Shuster
	Long, La.	Sikes
	Lott	Sisk
	Lujan	Skelton
	Luken	Slack
	McClory	Smith, Iowa
	McCormack	Smith, Nebr.
	McDade	Snyder
	McDonald	Solarz
	McFall	Spence
	McKay	Staggers
	Mann	Stanton
	Marlenee	Steed
	Marriott	Stratton
	Martin	Stump
	Meeds	Symms
	Meyner	Taylor
	Michel	Treen
	Milford	Trible
	Mitchell, N.Y.	Udall
	Mollohan	Ullman
	Montgomery	Vander Jagt
	Moorhead, Calif.	Waggonner
	Mottl	Walsh
	Murphy, Ill.	Watkins
	Murphy, Pa.	White
	Murtha	Whitehurst
	Myers, Gary	Whitley
	Myers, John	Wiggins
	Myers, Michael	Wilson, Bob
	Nichols	Wilson, C. H.
	Nix	Wilson, Tex.
	O'Brien	Winn
	Oakar	Wylie
	Pettis	Yatron
	Pritchard	Young, Alaska
	Quie	Young, Mo.
	Quillen	Young, Tex.
		Zeferetti

NOES—187

Addabbo	Gephardt	Pease
Allen	Giaimo	Perkins
Ambro	Gilman	Pickle
Ammerman	Glickman	Pike
Anderson, Ill.	Gore	Poage
Annunzio	Hamilton	Pressler
Aspin	Hammer-schmidt	Preyer
AuCoin	Harkin	Price
Badillo	Harrington	Quayle
Baldus	Harris	Rahall
Baucus	Holtzman	Railsback
Bauman	Howard	Rangel
Bedell	Hughes	Regula
Beilenson	Jacobs	Reuss
Biaggi	Jeffords	Richmond
Blanchard	Kasten	Rinaldo
Boggs	Kastenmeier	Rodino
Boland	Kelly	Roe
Bolling	Keys	Roncallo
Bonior	Kildee	Rooney
Brademas	Kindness	Rosenthal
Brodhead	Kostmayer	Rostenkowski
Brooks	Krebs	Roybal
Buchanan	LaFalce	Ruppe
Burton, John	Leach	Russo
Caputo	Leggett	Scheuer
Carr	Lehman	Schroeder
Cavanaugh	Lent	Schulze
Chisholm	Long, Md.	Sebelius
Cohen	Lundine	Seiberling
Coleman	McCloskey	Sharp
Collins, Ill.	McEwen	Simon
Collins, Tex.	McHugh	Spellman
Conte	McKinney	Stangeland
Conyers	Maguire	Stark
Corcoran	Mahon	Steers
Cornell	Markey	Steiger
Cornwell	Marks	Stockman
Cotter	Mattox	Stokes
Crane	Mazzoli	Studds
D'Amours	Mikulski	Teague
Dellums	Mikva	Thone
Derrick	Miller, Calif.	Thornton
Dingell	Miller, Ohio	Traxler
Downey	Mineta	Tsongas
Drinan	Mitchell, Md.	Tucker
Early	Moakley	Van Deerlin
Eckhardt	Moffett	Vanik
Edgar	Moore	Vento
Edwards, Calif.	Moorhead, Pa.	Volkmer
Edwards, Okla.	Moss	Walgren
Emery	Natcher	Walker
Erlenborn	Neal	Wampler
Ertel	Nedzi	Waxman
Evans, Del.	Nowak	Weaver
Evans, Ind.	Oberstar	Weiss
Fary	Obey	Whitten
Fenwick	Ottinger	Wirth
Fisher	Panetta	Wright
Fithian	Patten	Wydler
Ford, Mich.	Patterson	Yates
Fraser	Pattison	Zablocki
Frenzel		

NOT VOTING—35

Andrews, N. Dak.	Evans, Colo.	Minish
Blouin	Evans, Ga.	Murphy, N.Y.
Burke, Calif.	Fish	Nolan
Burke, Mass.	Foley	Pepper
Burton, Phillip	Fuqua	Pursell
Clay	Heckler	Sarasin
Corman	Hightower	Skubitz
de la Garza	Hollenbeck	St Germain
Dent	Koch	Thompson
Diggs	Madigan	Whalen
Dodd	Mathis	Wolff
	Metcalfe	Young, Fla.

Mrs. FENWICK and Messrs. WIRTH, LEHMAN, VOLKMER, KELLY, PIKE, DINGELL, TRAXLER, and MOSS changed their vote from "aye" to "no."

Mr. McDONALD and Mr. COCHRAN of Mississippi changed their vote from "no" to "aye."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, I shall presently make a motion that the Committee rise.

Mr. Chairman, we have been tolerant in trying to give everybody an opportunity to be heard without cutting anybody off. As chairman of the Committee on Appropriations, I have not spoken in regard to the amendment, because I have been permitting others to speak and I have not had the opportunity to speak. The Speaker has not spoken and the Speaker is scheduled to speak. The time is running out. Members want to go home. This is not, in my opinion, the time to vote on this issue.

Therefore, Mr. Chairman, I move under these circumstances that the Committee do now rise; but pending that motion I will ask unanimous consent that when we reconvene on Tuesday the debate be limited on the amendment to 1 hour and that the 1 hour be equally divided between the gentleman from Alabama (Mr. EDWARDS) and myself, and I make that unanimous consent request.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that when the Committee resumes its sitting, that debate on this amendment and all amendments thereto be limited to 1 hour, the time to be equally divided between the gentleman from Alabama (Mr. EDWARDS) and the gentleman from Texas (Mr. MAHON).

Is there objection to the request of the gentleman from Texas?

Mr. RHODES. Mr. Chairman, reserving the right to object, I would like to propound a parliamentary inquiry to the Chair.

PARLIAMENTARY INQUIRY

Mr. RHODES. As I understand, the vote on the motion which just occurred limited debate on the Chappell amendment and all amendments thereto to 4:45 p.m. today.

The CHAIRMAN. The gentleman is correct. That time has arrived.

Mr. RHODES. That being the parliamentary situation, does the situation change if indeed the motion of the gentleman succeeds and we go over until Tuesday, or is the limitation on the Chappell amendment still in full force and effect.

The CHAIRMAN. The limitation would still be in force, and can only be changed by unanimous consent.

Mr. RHODES. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard to the unanimous-consent request of the gentleman from Texas.

The gentleman from Texas has made a preferential motion that the Committee do now rise. That motion is a preferential motion. It is not debatable.

The question is on the motion offered by the gentleman from Texas (Mr. MAHON) that the Committee do now rise.

The question was taken; and the Chairman announced that the noes appeared to have it.

The CHAIRMAN. The gentleman from Texas was on his feet but the chair could not hear the gentleman. No business has intervened. Does the gentleman from Texas wish to ask for a recorded vote?

The gentleman from Texas, the chairman of the committee, has been on his feet. The gentleman from Texas, if he wishes to ask for a recorded vote, can do so at this time.

Mr. MAHON. Mr. Chairman, I demand a recorded vote.

PARLIAMENTARY INQUIRY

Mr. MAHON. Mr. Chairman, a parliamentary inquiry.

Mr. RHODES. Regular order.

The CHAIRMAN. The Chair will, of course, entertain a parliamentary inquiry.

Mr. RHODES. Mr. Chairman, what is the regular order?

The CHAIRMAN. The regular order is that the Chair ruled that on a voice vote the motion to rise was rejected.

The Chair can entertain legitimate parliamentary inquiries, but no other business until the pending motion is disposed of. Then, the regular order would have to be that unless another preferential motion was made, the vote would be taken on the Chappell amendment.

Mr. MAHON. Mr. Chairman, I again emphasize and restate my request for a recorded vote on the motion.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 215, not voting 29, as follows:

[Roll No. 680]

AYES—190

Addabbo	Dellums	Howard
Allen	Derrick	Hughes
Ammerman	Dicks	Ireland
Annunzio	Dingell	Jacobs
Ashley	Downey	Jeffords
Aspin	Drinan	Jenkins
AuCoin	Early	Johnson, Calif.
Badillo	Eckhardt	Johnson, Colo.
Baldus	Edgar	Jordan
Barnard	Edwards, Calif.	Kastenmeier
Baucus	Eilberg	Keys
Beard, R.I.	Ertel	Kildee
Bedell	Fary	Kostmayer
Beilenson	Fascell	Krebs
Benjamin	Fenwick	LaFalce
Bingham	Fisher	Le Fante
Blanchard	Fithian	Lederer
Blouin	Flood	Leggett
Boggs	Florio	Lehman
Bolling	Flowers	Levitas
Bonior	Foley	Long, La.
Bonker	Ford, Mich.	Long, Md.
Brademas	Ford, Tenn.	Lundine
Brodhead	Fraser	McCloskey
Brooks	Gaydos	McCormack
Brown, Calif.	Gephardt	McHugh
Burton, John	Giaimo	McKay
Carney	Gibbons	Maguire
Carr	Ginn	Mahon
Cavanaugh	Glickman	Markey
Chisholm	Gore	Mattox
Collins, Ill.	Hall	Mazzoli
Conte	Hamilton	Meeds
Conyers	Harkin	Meyner
Cornell	Harrington	Mikulski
Cornwell	Harris	Mikva
D'Amours	Holtzman	Miller, Calif.
Delaney	Horton	Mineta
Mitchell, Md.	Pike	Solarz
Moakley	Pressler	Spellman
Moffett	Preyer	Staggers
Moorhead, Pa.	Quayle	Stark
Moss	Rangel	Stokes
Mottl	Reuss	Studds
Murphy, Ill.	Richmond	Thompson
Murphy, N.Y.	Rodino	Thornton
Murphy, Pa.	Roe	Traxler
Myers, Michael	Rogers	Tsongas
Natcher	Roncalio	Tucker
Neal	Rooney	Udall
Nedzi	Rose	Vander Jagt
Nix	Rosenthal	Vanik
Nolan	Rostenkowski	Vento
Nowak	Roybal	Volkmer
Oakar	Runnels	Walgren
Oberstar	Russo	Waxman
Obey	Ryan	Weaver
Ottinger	Santini	Weiss
Panetta	Scheuer	Whitten
Patten	Schroeder	Wirth
Pattison	Seiberling	Wright
Pease	Sharp	Yates
Perkins	Simon	
Pickle	Smith, Iowa	

NOES—215

Abdnor	Forsythe	Murtha
Akaka	Fountain	Myers, Gary
Alexander	Fowler	Myers, John
Ambro	Frenzel	Nichols
Anderson, Calif.	Frey	O'Brien
	Gilman	Patterson
Anderson, Ill.	Goldwater	Pettis
Andrews, N.C.	Gonzalez	Poage
Applegate	Goodling	Price
Archer	Gradison	Pritchard
Armstrong	Grassley	Quie
Ashbrook	Gudger	Quillen
Badham	Guyer	Rahall
Bafalis	Hagedorn	Railsback
Bauman	Hammer-schmidt	Regula
Beard, Tenn.		Rhodes
Bennett	Hanley	Rinaldo
Bevill	Hannaford	Risenhoover
Biaggi	Hansen	Roberts
Bowen	Harsha	Robinson
Breaux	Hawkins	Rousselot
Breckinridge	Hefner	Rudd
Brinkley	Heftel	Ruppe
Broomfield	Hillis	Satterfield
Brown, Mich.	Holland	Sawyer
Brown, Ohio	Holt	Schulze
Broyhill	Hubbard	Sebelius
Buchanan	Huckaby	Shipley
Burgener	Hyde	Shuster
Burke, Fla.	Ichord	Sikes
Burleson, Tex.	Jenrette	Sisk
Burlison, Mo.	Jones, N.C.	Skelton
Burton, Phillip	Jones, Okla.	Skubitz
Butler	Jones, Tenn.	Slack
Byron	Kasten	Smith, Nebr.
Caputo	Kazen	Snyder
Carter	Kelly	Spence
Cederberg	Kemp	Stangeland
Chappell	Ketchum	Stanton
Clausen, Don H.	Kindness	Steed
	Krueger	Steers
Clawson, Del	Lagomarsino	Steiger
Cleveland	Latta	Stockman
Cochran	Leach	Stratton
Cohen	Lent	Stump
Coleman	Livingston	Symms
Collins, Tex.	Lloyd, Calif.	Taylor
Conable	Lloyd, Tenn.	Thone
Corcoran	Lott	Treen
Coughlin	Lujan	Trible
Crane	Luken	Ullman
Cunningham	McClory	Van Deerlin
Daniel, Dan	McDade	Waggonner
Daniel, R. W.	McDonald	Walker
Danielson	McEwen	Walsh
Davis	McFall	Wampler
de la Garza	McKinney	Watkins
Derwinski	Madigan	White
Devine	Mann	Whitehurst
Dickinson	Marks	Whitley
Dornan	Marlenee	Wiggins
Duncan, Oreg.	Marriott	Wilson, Bob
Duncan, Tenn.	Martin	Wilson, C. H.
Edwards, Ala.	Mathis	Wilson, Tex.
Edwards, Okla.	Michel	Winn
Emery	Milford	Wydler
English	Miller, Ohio	Wylie
Erlenborn	Mitchell, N.Y.	Yatron
Evans, Del.	Mollohan	Young, Alaska
Evans, Ind.	Montgomery	Young, Mo.
Findley	Moore	Young, Tex.
Flippo	Moorhead, Calif.	Zablocki
Flynt		Zeferetti

NOT VOTING—29

Andrews, N. Dak.	Dodd	Metcalfe
	Evans, Colo.	Minish
Boland	Evans, Ga.	Pepper
Burke, Calif.	Fish	Pursell
Burke, Mass.	Fuqua	Sarasin
Clay	Gammage	St Germain
Corman	Heckler	Teague
Cotter	Hightower	Whalen
Dent	Hollenbeck	Wolff
Diggs	Koch	Young, Fla.

Mr. PHILLIP BURTON and Mr. JENRETTE changed their vote from "aye" to "nay."

So the motion was rejected.

The result of the vote was announced as above recorded.

Mr. EDWARDS of Alabama. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment be extended for 10 minutes for the purpose of giving the Speaker and the chairman of the full committee an opportunity to be heard.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. Time for debate on the pending amendment will be extended for 10 minutes, the time to be divided between the Speaker and the chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON).

PARLIAMENTARY INQUIRY

Mr. ALEXANDER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ALEXANDER. Mr. Chairman, it is my impression that following the 10 minutes of debate, which will be equally divided, that we will then vote on the Chappell amendment?

The CHAIRMAN (Mr. GIBBONS). That is correct.

Mr. ALEXANDER. I thank the Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. MAHON) for 5 minutes.

Mr. MAHON. Mr. Chairman, when this amendment was offered, I had no idea that I would have the opportunity to speak to such a full House in opposition to it and I am very glad that the gentleman from Alabama (Mr. EDWARDS) has given me this opportunity. I had not spoken before in order to try to give my colleagues ample opportunity to speak.

I have pretty good credentials when it comes to being for a strong defense. For 28 years I have piloted through the House more than $2 trillion in funds for our national defense, and the success of that effort speaks for itself.

I do not see now why the emphasis is all being put on looking at national defense through a little knothole as though the bomber was everything that was going to save us from war or win the war if war should come. Are people thinking about the past—World War II—when the bomber was the primary weapon? Does not everybody in this House know that the primary weapon of the future is the intercontinental bal-

listic missile? Do we not know that if war comes there will be an exchange of intercontinental ballistic missiles? Do we not know that those missiles that we have that will be launched from submarines will be able to destroy the Soviet Union several times over?

Do we not know that the only purpose of a bomber is to do the cleanup job? And after the atomic exchange, we could probably do the cleanup job in an ox cart.

We are not relying upon the B–1 bomber or the F–111 or any other aircraft as a primary strategic weapon of this Nation. It is true that the Cruise missile is the wave of the future. Developments have come about recently that make it the wave of the future, that make it a weapon that if launched from hundreds of miles away, hundreds of Cruise missiles could destroy the Soviet Union if it had not already been destroyed by ICBM's and ship-launched ballistic missiles. So it seems to me we should not bury our head in the sand and ignore the facts of life. Remember, that the only purpose of the B–1 bomber is as a cleanup weapon, and there will not be much to clean up if that war comes. So that, it seems to me, is the major thing that we need to be considering at this time.

I realize that we have already voted for $1.4 billion for SBA loans today. Now here is $1.4 billion for the B–1 bomber, a $28 billion program. It seems to me that a vote for the B–1 cannot accomplish anything significant. The President would not sign the bill, in my judgment. The other body would not agree to it.

What are we trying to do? It does provide us an opportunity to rebuff the President, if that is what the House desires. But I know there is a far stronger and more significant and important issue today. Why should we launch this $28 billion program that we voted last month to cancel as we gave the Department of Defense $442 million to continue the research and development of the B–1?

I hope that the House will vote down the Chappell amendment.

Mr. Chairman, I yield the remainder of my time to the Speaker of the House, the distinguished gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Now, more than ever appreciate how tall the gentleman stands.

Let me say this. I thought we made a clear choice on the bomber a year ago when we postponed action in order to allow the President of the United States—whether he be of the Republican Party or the Democratic Party—to make a decision with regard to the B–1 bomber. I thought the feeling was truly that we wanted the President of the United States, the man who was elected by all of the people, to make an informed judgment after he had talked to the Department of Defense, and after he had talked with those who know about the safety of this Nation.

I urge the Members on my side of the aisle, the Democrats, to stay with the decision of their President who was elected last November. He made this decision. I know it was a hard and trying decision.

Fellows have come up to me and said, "You know, I have not been able to get jobs," or, "Jobs have been eliminated from my area," or, "I lost a dam in my area." Put those considerations aside. We are voting on the national interest of this country, on what is best. We elected a man as Commander in Chief, and that Commander in Chief is the President of the United States. Does any one of us think that he would not act in the best interests of this Nation at all times?

I say to you: Discount any little thing on which you feel in your heart that you have not been treated right by the administration—with respect to a dam or a job. Look at the overall, national picture.

It is time for us to break with the traditions of the past in funding systems just because such endorsements give the political appearance of support to the defense of the Nation.

That is what it looks like. Yes, you can go home and say: "I voted for the B–1."

GEORGE MAHON—what a beautiful address he gave to this Congress.

We are thinkers. We know that the war weapon of the future is the guided missile. Make no mistake about it.

Is it not a mistake to waste this $1,400,000,000, when we ought to be putting it into the type of weapon we are going to use for the next 20 years?

I do not think I will change many minds, but I appeal to you. You gave the President of the United States the chance to make this decision. He made it in honesty and fairness after a complete study. His actions were in the best interest of the defense of this Nation.

We know that the votes are not in the Senate. We know that there is going to be a conference and the bill will be delayed. We know that there is so much in this bill for the small businessman, for the farmer, for soil erosion, and for many other projects. All this amendment does is delay the bill. You know that this bill is going to be ultimately vetoed if it has the B–1 in it and so there is not going to be a continuation of the B–1.

I say to you: Stay with the President of the United States, the man who is the leader of our party.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida (Mr. CHAPPELL).

The question was taken.

RECORDED VOTE

Mr. EDWARDS of Alabama. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 194, noes 204, answered "present" 2, not voting 34, as follows:

[Roll No. 681]

AYES—194

Abdnor	Armstrong	Bennett
Alexander	Ashbrook	Bevill
Anderson, Calif.	Badham	Bowen
Applegate	Bafalis	Breaux
Archer	Bauman	Breckinridge
	Beard, Tenn.	Broomfield
Brown, Mich.	Hillis	Quillen
Brown, Ohio	Holland	Rahall
Broyhill	Holt	Regula
Buchanan	Hubbard	Rhodes
Burgener	Huckaby	Rinaldo
Burke, Fla.	Hyde	Risenhoover
Burleson, Tex.	Ichord	Roberts
Burlison, Mo.	Jenrette	Robinson
Butler	Johnson, Calif.	Roe
Byron	Jones, N.C.	Rousselot
Carter	Jones, Okla.	Rudd
Cederberg	Kasten	Runnels
Chappell	Kazen	Ruppe
Clausen, Don H.	Kelly	Satterfield
	Kemp	Sawyer
Clawson, Del	Ketchum	Schulze
Cleveland	Kindness	Sebelius
Cochran	Krueger	Shipley
Coleman	Lagomarsino	Shuster
Collins, Tex.	Latta	Sikes
Conable	Lent	Sisk
Corcoran	Levitas	Skelton
Crane	Livingston	Skubitz
Cunningham	Lloyd, Calif.	Slack
Daniel, Dan	Lloyd, Tenn.	Smith, Nebr.
Daniel, R. W.	Lott	Snyder
Danielson	Lujan	Spence
Davis	Luken	Staggers
de la Garza	McClory	Stangeland
Derwinski	McDade	Stanton
Devine	McDonald	Steed
Dickinson	McEwen	Steiger
Dornan	McFall	Stockman
Duncan, Tenn.	McKay	Stratton
Edwards, Ala.	Madigan	Stump
Edwards, Okla.	Mann	Symms
Emery	Marlenee	Taylor
English	Marriott	Thone
Erlenborn	Martin	Treen
Findley	Michel	Waggonner
Flippo	Milford	Walker
Flood	Miller, Ohio	Walsh
Flynt	Mitchell, N.Y.	Wampler
Fountain	Mollohan	Watkins
Frenzel	Montgomery	White
Frey	Moore	Whitehurst
Gilman	Moorhead, Calif.	Whitley
Goldwater		Whitten
Gonzalez	Murtha	Wiggins
Gradison	Myers, Gary	Wilson, Bob
Gudger	Myers, John	Wilson, C. H.
Guyer	Nichols	Wilson, Tex.
Hagedorn	O'Brien	Winn
Hall	Oakar	Wydler
Hammer-schmidt	Patterson	Wylie
	Pettis	Yatron
Hannaford	Pickle	Young, Alaska
Hansen	Poage	Young, Mo.
Harsha	Price	Young, Tex.
Hawkins	Quie	Zablocki

NOES—204

Addabbo	Cohen	Gibbons
Akaka	Collins, Ill.	Ginn
Allen	Conte	Glickman
Ambro	Conyers	Goodling
Ammerman	Cornell	Gore
Anderson, Ill.	Cornwell	Grassley
Andrews, N.C.	Coughlin	Hamilton
Annunzio	D'Amours	Hanley
Ashley	Delaney	Harkin
Aspin	Dellums	Harrington
AuCoin	Derrick	Harris
Badillo	Dicks	Hefner
Baldus	Diggs	Heftel
Barnard	Dingell	Holtzman
Baucus	Downey	Horton
Beard, R.I.	Drinan	Howard
Bedell	Early	Hughes
Beilenson	Eckhardt	Ireland
Benjamin	Edgar	Jacobs
Biaggi	Edwards, Calif.	Jeffords
Bingham	Eilberg	Johnson, Colo.
Blanchard	Ertel	Jones, Tenn.
Blouin	Evans, Del.	Jordan
Boggs	Evans, Ind.	Kastenmeier
Bolling	Fary	Keys
Bonior	Fascell	Kildee
Bonker	Fenwick	Kostmayer
Brademas	Fisher	Krebs
Brinkley	Fithian	LaFalce
Brodhead	Florio	Le Fante
Brooks	Flowers	Leach
Brown, Calif.	Foley	Lederer
Burton, John	Ford, Mich.	Leggett
Burton, Phillip	Ford, Tenn.	Long, La.
Caputo	Fowler	Long, Md.
Carney	Fraser	Lundine
Carr	Gaydos	McCloskey
Cavanaugh	Gephardt	McCormack
Chisholm	Giaimo	McHugh

McKinney	Obey	Stark
Maguire	Ottinger	Steers
Mahon	Panetta	Stokes
Markey	Patten	Studds
Marks	Pattison	Thompson
Mathis	Pease	Thornton
Mattox	Perkins	Traxler
Mazzoli	Pike	Tsongas
Meeds	Pressler	Tucker
Meyner	Preyer	Udall
Mikulski	Pritchard	Ullman
Mikva	Quayle	Van Deerlin
Miller, Calif.	Railsback	Vanik
Mineta	Rangel	Vento
Mitchell, Md.	Reuss	Volkmer
Moakley	Richmond	Walgren
Moffett	Rodino	Waxman
Moorhead, Pa.	Rogers	Weaver
Moss	Roncalio	Weiss
Murphy, Ill.	Rooney	Wirth
Murphy, N.Y.	Rose	Wright
Murphy, Pa.	Rosenthal	Yates
Myers, Michael	Rostenkowski	Zeferetti
Natcher	Roybal	Santini
Neal	Russo	Scheuer
Nedzi	Ryan	Schroeder
Nix	Smith, Iowa	Seiberling
Nolan	Solarz	Sharp
Oberstar	Spellman	Simon

ANSWERED "PRESENT"—2

Duncan, Oreg. Forsythe

NOT VOTING—34

Andrews, N. Dak.	Fish	Nowak
Boland	Fuqua	Pepper
Burke, Calif.	Gammage	Pursell
Burke, Mass.	Heckler	Sarasin
Clay	Hightower	St Germain
Corman	Hollenbeck	Teague
Cotter	Jenkins	Trible
Dent	Koch	Vander Jagt
Dodd	Lehman	Whalen
Evans, Colo.	Metcalfe	Wolff
Evans, Ga.	Minish	Young, Fla.
	Mottl	

The Clerk announced the following pairs:

On this vote:

Mrs. Burke of California for, with Mr. Duncan of Oregon against.

Mr. Young of Florida for, with Mr. Forsythe against.

Mr. Dent for, with Mr. Corman against.

Mr. Gammage for, with Mr. Burke of Massachusetts against.

Mr. Fuqua for, with Mr. Wolff against.

Mr. Andrews of North Dakota for, with Mrs. Heckler against.

Mr. Hollenbeck for, with Mr. Sarasin against.

Mr. Trible for, with Mr. Whalen against.

Mr. Vander Jagt for, with Mr. Dodd, against.

Mr. Teague for, with Mr. Koch against.

Until further notice:

Mr. Boland with Mr. Clay.

Mr. Cotter with Mr. Lehman.

Mr. Evans of Colorado with Mr. Metcalfe.

Mr. Fish with Mr. Minish.

Mr. Mottl with Mr. Nowak.

Mr. Pursell with Mr. Pepper.

Mr. Jenkins with Mr. Lehman.

Mr. Hightower wtih Mr. St Germain.

Mr. DUNCAN of Oregon. Mr. Chairman, I have a live pair with the gentlewoman from California (Mrs. BURKE). If she were present she would have voted "aye." I voted "no." I withdraw my vote and vote "present."

Mr. FORSYTHE. Mr. Chairman, I have a live pair with the gentleman from Florida (Mr. YOUNG). If he were present he would have voted "aye." I voted "no." I withdraw my vote and vote "present."

Mr. DUNCAN of Oregon and Mr. FORSYTHE changed their vote from "no" to "present."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

PREFERENTIAL MOTION OFFERED BY MR. EDWARDS OF ALABAMA

Mr. EDWARDS of Alabama. Mr. Chairman, I move that the committee do now rise.

The CHAIRMAN. The gentleman from Alabama (Mr. EDWARDS) has offered a preferential motion that the committee do now rise.

The question is on the preferential motion that the committee do now rise offered by the gentleman from Alabama (Mr. EDWARDS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. EDWARDS of Alabama. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. The Chair will first take this vote by division.

The committee divided; and there were—ayes 186; noes 93.

The CHAIRMAN. The committee will rise.

RECORDED VOTE

Mr. VOLKMER. Mr. Chairman, I deman a recorded vote.

The CHAIRMAN. A recorded vote has been demanded by the gentleman from Missouri (Mr. VOLKMER).

So many as are in favor of taking this vote by recorded vote will stand and remain standing until counted.

PARLIAMENTARY INQUIRY

Mr. MAHON. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas (Mr. MAHON) has a parliamentary inquiry, and the gentleman will state it.

Mr. MAHON. Mr. Chairman, I understand that the motion is that the committee do now rise, but we only lack about a page and a half of completing the reading of the bill.

Mr. ASHBROOK. Regular order, Mr. Chairman.

Mr. ROUSSELOT. Regular order.

The CHAIRMAN. The regular order is being followed. The gentleman from Texas (Mr. MAHON) has a parliamentary inquiry, and the gentleman is being recognized for his parliamentary inquiry.

Mr. MAHON. Mr. Chairman, the parliamentary inquiry is this: Would it not be possible to read through the title? There is only about half a page remaining. Then we would have this matter behind us, and perhaps then we could rise.

The CHAIRMAN. The Chair will make this statement: The Chair first announced that the ayes had it on the preferential motion to rise. Then there was a vote by division. The gentleman from Missouri (Mr. VOLKMER) has now demanded a recorded vote on the preferential motion that the committee do now rise. The Chair will count all those Members standing on the demand for a recorded vote.

Evidently a sufficient number have arisen.

A recorded vote is ordered.

Those in favor of the preferential motion that the Committee do now rise will vote "aye," and those opposed will vote "no."

The vote was taken by electronic device, and there were—ayes 169, noes 205, not voting 60, as follows:

[Roll No. 682]

AYES—169

Abdnor	Gilman	Myers, John
Alexander	Gonzalez	O'Brien
Anderson, Calif.	Goodling	Perkins
Applegate	Gore	Pettis
Archer	Gradison	Pressler
Armstrong	Grassley	Pritchard
Ashbrook	Guyer	Quayle
Badham	Hagedorn	Quie
Bafalis	Hall	Quillen
Bauman	Hannaford	Railsback
Beard, Tenn.	Hansen	Regula
Bennett	Harsha	Rhodes
Bevill	Hawkins	Rinaldo
Biaggi	Hillis	Risenhoover
Bowen	Holt	Roberts
Breaux	Horton	Robinson
Broomfield	Hubbard	Roe
Brown, Mich.	Huckaby	Rousselot
Brown, Ohio	Hyde	Rudd
Broyhill	Jeffords	Ruppe
Buchanan	Jenrette	Satterfield
Burgener	Johnson, Calif.	Schulze
Burlison, Mo.	Jones, N.C.	Sebelius
Butler	Jordan	Shuster
Byron	Kasten	Sisk
Carter	Kazen	Skelton
Cavanaugh	Kelly	Skubitz
Cederberg	Kemp	Slack
Chappell	Ketchum	Smith, Nebr.
Clausen, Don H.	Kindness	Snyder
Clawson, Del	Krueger	Spence
Cleveland	Lagomarsino	Staggers
Cochran	Latta	Stangeland
Coleman	Leach	Stanton
Collins, Tex.	Lent	Steers
Conable	Livingston	Steiger
Conte	Lloyd, Tenn.	Stockman
Corcoran	Lott	Stratton
Coughlin	Lujan	Stump
Cunningham	Luken	Symms
Daniel, Dan	McClory	Taylor
Daniel, R. W.	McDade	Thone
de la Garza	McDonald	Treen
Derwinski	McEwen	Waggonner
Devine	McFall	Walker
Dickinson	Madigan	Walsh
Dornan	Marks	Watkins
Duncan, Tenn.	Marlenee	Whitehurst
Edwards, Ala.	Marriott	Whitley
Edwards, Okla.	Martin	Wiggins
Emery	Michel	Wilson, C. H.
Erlenborn	Milford	Wylie
Findley	Miller, Ohio	Young, Alaska
Flynt	Mitchell, N.Y.	Young, Mo.
Forsythe	Montgomery	
Frenzel	Moore	
Gaydos	Moorhead, Calif.	
	Myers, Gary	

NOES—205

Addabbo	Caputo	Fisher
Akaka	Carney	Fithian
Ambro	Carr	Flippo
Ammerman	Chisholm	Flood
Andrews, N.C.	Cohen	Flowers
Annunzio	Collins, Ill.	Foley
Ashley	Conyers	Ford, Mich.
Aspin	Cornell	Ford, Tenn.
AuCoin	Cornwell	Fountain
Baldus	D'Amours	Fowler
Barnard	Danielson	Fraser
Baucus	Davis	Gephardt
Beard, R.I.	Delaney	Giaimo
Bedell	Dellums	Gibbons
Beilenson	Derrick	Ginn
Benjamin	Diggs	Glickman
Bingham	Dingell	Gudger
Blanchard	Downey	Hamilton
Blouin	Drinan	Hammer-schmidt
Boggs	Duncan, Oreg.	Hanley
Bolling	Eckhardt	Harkin
Bonior	Edgar	Harrington
Bonker	Edwards, Calif.	Harris
Breckinridge	Eilberg	Hefner
Brinkley	English	Heftel
Brodhead	Ertel	Holland
Brown, Calif.	Evans, Ind.	Holtzman
Burleson, Tex.	Fary	Howard
Burton, John	Fascell	Hughes
Burton, Phillip	Fenwick	

Ichord	Mollohan	Schroeder
Johnson, Colo.	Moorhead, Pa.	Seiberling
Jones, Okla.	Moss	Sharp
Jones, Tenn.	Murphy, Ill.	Shipley
Kastenmeier	Murphy, N.Y.	Sikes
Keys	Murphy, Pa.	Simon
Kildee	Natcher	Smith, Iowa
Kostmayer	Neal	Solarz
Krebs	Nedzi	Spellman
LaFalce	Nolan	Stark
Le Fante	Oakar	Steed
Lederer	Oberstar	Stokes
Leggett	Obey	Studds
Levitas	Ottinger	Thompson
Lloyd, Calif.	Panetta	Thornton
Long, La.	Patten	Tsongas
Long, Md.	Patterson	Tucker
Lundine	Pattison	Udall
McCloskey	Pease	Ullman
McCormack	Pickle	Van Deerlin
McHugh	Pike	Vanik
McKay	Poage	Vento
McKinney	Preyer	Volkmer
Maguire	Price	Walgren
Mahon	Rahall	Wampler
Mann	Rangel	Waxman
Markey	Reuss	Weaver
Mathis	Rodino	Weiss
Mattox	Rogers	White
Mazzoli	Roncalio	Whitten
Meeds	Rooney	Wilson, Bob
Meyner	Rose	Wilson, Tex.
Mikulski	Rosenthal	Wirth
Mikva	Rostenkowski	Wright
Miller, Calif.	Roybal	Yates
Mineta	Runnels	Yatron
Mitchell, Md.	Russo	Young, Tex.
Moakley	Santini	Zablocki
Moffett	Scheuer	

NOT VOTING—60

Allen	Evans, Ga.	Nix
Anderson, Ill.	Fish	Nowak
Andrews, N. Dak.	Florio	Pepper
Badillo	Frey	Pursell
Boland	Fuqua	Richmond
Brademas	Gammage	Ryan
Brooks	Goldwater	Sarasin
Burke, Calif.	Heckler	Sawyer
Burke, Fla.	Hightower	St Germain
Burke, Mass.	Hollenbeck	Teague
Clay	Ireland	Traxler
Corman	Jacobs	Trible
Cotter	Jenkins	Vander Jagt
Crane	Koch	Whalen
Dent	Lehman	Winn
Dicks	Metcalfe	Wolff
Dodd	Minish	Wydler
Early	Motti	Young, Fla.
Evans, Colo.	Murtha	Zeferetti
Evans, Del.	Myers, Michael	
	Nichols	

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

Mr. COUGHLIN. Mr. Chairman, I rise in support of H.R. 9375, the $6,847,465,000 fiscal year 1978 supplemental appropriations bill, and would like to call the attention of my colleagues to the Housing and Urban Development-independent agencies chapter. Under the always distinguished leadership of EDWARD P. BOLAND, the HUD Subcommittee is recommending $4,630,500,000 in new budget (obligation) authority to continue several worthwhile Environmental Protection Agency and Veterans' Administration programs.

The bulk of this money, $4,500 million, is for EPA wastewater treatment plant construction grants. At this very time, only $1,380 million (excluding section 206(a) funds) remain available for distribution across 50 States and 6 Territories. By January 1978 at least 25 States and territories will have exhausted their share of the 1972 $18 billion and all others will have slowed their grant program to a virtual halt. The States and territories needing additional funds are: California, Connecticut, Georgia, Hawaii, Illinois, Indiana, Maine, Massachusetts, Pennsylvania, Vermont, Wisconsin, Michigan, Missouri, Nebraska, Nevada, New Hampshire, New York, Rhode Island, South Carolina, Texas, Oregon, Guam, Virgin Islands, American Samoa, and Pacific Trust Islands.

Without this money, there will be a further delay in compliance with secondary treatment requirements and a lessening of the ability of EPA to enforce the requirements under Public Law 92-500. In addition, since project planning is a costly and time-consuming undertaking, States may have to revise present plans and will surely be reluctant to proceed in the future until funds are at hand.

Given the critical need for an orderly funding process, I am very disappointed that the rule does not protect the $4,500 million from being removed by a point of order. Although the Rules Committee did not accept my request for a rule to accomplish this end, I am pleased that, at least, an understanding was reached with subcommittee Chairman BOLAND and representatives from the authorizing committee. Should the wastewater treatment plant construction grant money be successfully challenged, the House will be able to recede in conference to an amount sufficient to keep the program going, especially in the 25 States and territories which will run out of money in January. This compromise is one which recognizes both the dilemma stemming from the continuing House-Senate dispute over the authorizing legislation and the need to move forward with this program.

Also in the bill is $69 million for EPA section 208 areawide water quality planning grant program. Section 208 plans specify sewage treatment locations, methods, and size; propose solutions for minimizing pollution resulting from storm water washing across land; study the impact of fertilizer, organic wastes, and oil; and designate Government agencies responsible for the plans' implementation, and financing.

A similar request was denied last spring with the suggestion that the Government cease appealing lower court decisions ordering release of $137 million of impounded section 208 moneys. Subsequently, the U.S. Court of Appeals reversed the lower court, held the money had lapsed, but ordered funding from future appropriations for agencies hurt by the impoundment. This $69 million is only for new or expanded planning efforts. The court decision will be addressed by the committee at a later date.

Mr. MIKVA. Mr. Chairman, I supported the amendment offered by the gentleman from New York (Mr. OTTINGER), to H.R. 9375, supplemental appropriations, to increase the appropriated funds for the Energy Research and Development Administration to bring the small grants for appropriate technology program up to its authorized level for fiscal year 1978.

The Center for Urban Affairs at Northwestern University, which is located in my district, has been working with community organizations in Chicago to develop appropriate energy technologies. These technologies are aimed not only at providing efficient, economical, alternative energy sources, but are also designed to give local communities a measure of control over primary sources which affect the lives of their people.

For example, the Center for Urban Affairs and the Christian Action Ministry have recently assisted local residents to build a rooftop greenhouse on Chicago's West Side. The greenhouse will soon be producing fresh fruits and vegetables year-round in an area of the city—like all too-many-other areas in other cities—where supermarkets are few and far between. The greenhouse will not only produce as much as four full crops a year, but it will also act as a solar collector to help heat the building below.

If one thinks about our energy needs solely in terms of massive pipeline projects and capital intensive powerplants, one might easily dismiss urban farming and other forms of community-based, appropriate technology as mere exotica.

But to do so misses what ought to be a central consideration in the national debate on energy. We should be asking not only how much energy we will need in the years ahead, but also how new energy systems can promote a sense of community, and well-being and independence of the local residents.

That is what the growing appropriate technology movement has begun to address, and that is what is significant about demonstration projects such as the one on Chicago's West Side. There senior citizens are playing a useful role in tending the greenhouse crops, acting as urban farmers rather than being farmed out. There is where a community greenhouse might teach youngsters and young mothers more about the relationship between nutrition and good health than schools or doctors can ever teach.

It is too early to say that we are approaching the time when an aerial view of the urban landscape will reveal hundreds of rooftop greenhouses. And we are only now beginning to see community projects in which relatively simple technology, appropriate to the needs and resources of the community, is being used to build solar collectors and to recapture waste heat.

But the early returns are promising. The potential of appropriate technology for meeting both energy and other community needs is worthy of our support, and I urge that the amendment be adopted that would increase funding by $5 million to the level authorized by the recent ERDA authorization conference.

Mr. GILMAN. Mr. Chairman, I supported the amendment when it was offered by my distinguished colleague from Iowa (Mr. SMITH) which would raise from $725 million to $1.4 billion the funds for the physical disaster loan program of the Small Business Administration.

Mr. Chairman, I have long advocated increased assistance and more flexible and equitable terms for our Nation's small businessmen, and included within that group I am referring also to our Nation's farmers.

As the Carter administration recently indicated in a message to Congress, recent revisions in the amount of assistance required this year to meet the plight of

our disaster-stricken small businesses and farms dictate that the SBA physical disaster loan fund be increased to meet the escalating rate of loan applications for disaster assistance.

As the Administrator of SBA indicated at recent hearings, approximately two-thirds of the United States is involved in some form of disaster activity, primarily drought relief programs. The increase in funds that this amendment would provide would considerably help meet the demands for loans brought on by drought, floods, storms, and other disasters.

I urge my colleagues to support this well-reasoned amendment and respond effectively to the call for help that our farmers and small businessmen have been forced to issue due to the widespread incidence of disaster.

Mr. MAHON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose, and the Speaker having resumed the chair, Mr. GIBBONS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9375) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 9375, now under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 384. Concurrent resolution authorizing corrections in the enrollment of S. 1811.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1811) entitled "An act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5101) entitled "An act to authorize appropriations for activities of the Environmental Protection Agency, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senator with an amendment to a bill of the Senate of the following title:

H.R. 6010. An act to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE REPORTS ON H.R. 8346, H.R. 8992, H.R. 8993, S. 2052, AND H.R. 8777

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight tomorrow, Friday, October 21, 1977, to file reports on the following bills:

H.R. 8346, to amend the Urban Mass Transportation Act of 1964 to revise the program of Federal operating assistance provided under section 17;

H.R. 8992, to change the name of the Executive Protective Service to "United States Secret Service Uniformed Division";

H.R. 8993, to designate the Secret Service Training Center as the "James J. Rowley Secret Service Training Center";

S. 2052, to extend the supervision of the U.S. Capitol Police to certain facilities leased by the Office of Technology Assessment; and

H.R. 8777, to amend the Appalachian Regional Development Act of 1965 to permit an extension of the period of assistance for child development programs while a study is conducted on methods of phasing out Federal assistance to these programs.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader as to the program for the balance of the week, if any.

Mr. WRIGHT. Mr. Speaker, will the distinguished minority leader yield?

Mr. RHODES. Mr. Speaker, I am happy to yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, there is no remaining legislative business to be taken up today. It will be our purpose on tomorrow, Friday, to have only a pro forma session.

There will be no session on Monday, it being a national holiday to observe Veterans' Day.

On Tuesday, the House will meet at noon. We will call the Private Calendar.

There are eight bills scheduled on the Suspension Calendar. They are as follows:

H.R. 8803, Appalachian Trail amendment to National Trails Act;

H.R. 8059, sexual exploitation of minors;

H.R. 8358, law school depository libraries;

H.R. 9251, tax treatment extension;

H.R. 7442, utility pole attachments;

H.R. 7278, mariner trade-in bill;

H.R. 8346, urban mass transit revision; and

H.R. 1612, prisoner exchange treaties.

Also on Tuesday we will vote and complete consideration of H.R. 9375, the supplemental appropriations bill.

On Wednesday the House will meet at noon. We will spend that day considering H.R. 9346, Social Security Financing Amendments of 1977. That bill comes to the House under a modified open rule with 3½ hours of general debate. It will be the purpose of the leadership that the House shall stay in session on Wednesday until that bill is completed and all amendments thereto are acted upon, regardless of the hour, so it may be a late session Wednesday.

On Thursday and Friday the House will meet at 10 a.m. On those 2 days we intend to consider the following three bills:

H.R. 8200, uniform bankruptcy law, which comes under a recommended open rule with 2 hours of general debate.

House Resolution 821, House radio and TV coverage, subject to a rule being reported.

H.R. 1614, Outer Continental Shelf Lands Act of 1977, subject to a rule being granted.

The House will adjourn by 3 p.m. on Friday of next week and by 7 p.m. on all other days, except Wednesday.

It is in order to note that we intend to stay in session until 7 o'clock on all days except Wednesday, if it is necessary to complete the business of the day; and we intend to stay as long as necessary on Wednesday.

Of course, conference reports may be brought up at any time and any further program will be announced later.

Mr. RHODES. Mr. Speaker, may I ask the distinguished majority leader if House Resolution 821 will be brought up under a rule or will it be brought up as a privileged matter?

Mr. WRIGHT. Mr. Speaker, if the distinguished gentleman will yield further, House Resolution 821 would be a privileged resolution. It is subject to being reported by the Committee on Rules, but it is a matter of original jurisdiction with the Committee on Rules and would be a privileged matter. It is my impression it simply would come to the House as a privileged resolution directly from the Committee on Rules.

Mr. RHODES. Mr. Speaker, I want to take this opportunity to express my appreciation and congratulations to the Speaker and to the majority leadership for the plans which the Speaker announced concerning the schedule of the House after November 4. It seems to me that the plan is eminently wise. The conferees on the energy bill, I am sure, have not been able to concentrate on their

work, because of the necessity of going back and forth between votes on the floor of the House and in the Senate. As I understand, it is the purpose of the leadership, as well as the administration, to finish the energy bill before adjournment sine die. I think the program which the Speaker announced will certainly enhance and further that purpose. As far as I am personally concerned, I agree with it wholeheartedly.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, can the majority leader tell us that it is definite then that we are going to adjourn pending final outcome of the conference on November 4?

Mr. WRIGHT. As definitely as anything can be said at this moment. It is the plan of the leadership that if the conference committee on the energy bill has not completed its work and reported those bills to the House and the Senate by November 4, the House, as the Senate has already decided, would then go into a series of 3-day recesses with pro forma sessions so as to permit the Members of that committee to continue their work uninterrupted and unimpeded.

Then, the House will come back into session, as the Senate I am told intends to do, to act on the conference committee report.

Mr. RHODES. I assume that there will be ample notice given to the Members prior to their being back here for part of the time that is necessary for them to be back to act on the conference report?

Mr. WRIGHT. If the gentleman will yield further, certainly the Members may rest assured of that.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my minority leader yielding.

Can the majority leader assure us that, assuming we went into that kind of suspended animation after November 4, that in those pro forma meetings there would be no unanimous-consent requests or any clever things like that?

Mr. WRIGHT. If the gentleman would yield further, I think the gentleman from California could better give such an assurance.

Mr. ROUSSELOT. I just thought I would ask.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield.

Mr. BROWN of Ohio. I wonder if anybody in the leadership can tell me how long those members on the conference committee will be held hostage?

Mr. RHODES. I say to the gentleman from Ohio that those of us who are not held in hostage will have kind thoughts about him.

Mr. BROWN of Ohio. If any Members go to any interesting places such as Germany, maybe they can get word to that team that does rescue work and get us out; either that or apparently we always have another choice, to shoot the pilot.

Mr. WRIGHT. It is pleasant that we live in an age in which, wherever we are, probably we could follow the deliberation of the gentleman's conference committee by television, and we take comfort in that.

Mr. BROWN of Ohio. I say to the majority leader that I would appreciate a postcard from him and anybody else who is having a wonderful time.

ADJOURNMENT FROM FRIDAY, OCTOBER 21, 1977, TO TUESDAY, OCTOBER 25, 1977

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Friday, October 21, 1977, it stand adjourned until 12 o'clock noon on Tuesday, October 25, 1977.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM THE SENATE AND SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS NOTWITHSTANDING ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, October 25, 1977, the clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order on Calendar Wednesday, October 26, 1977, may be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDING TITLE XIII OF FEDERAL AVIATION ACT OF 1958

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6010) to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes, with a Senate amendment to the House amendment to the Senate amendment thereto, and concur in the Senate amendment to the House amendment to the Senate amendment.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. AuCOIN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

APPOINTMENT OF CONFEREES ON H.R. 6010, TO AMEND TITLE XIII OF THE FEDERAL AVIATION ACT OF 1958

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6010) to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes, with a Senate amendment to the House amendment to the Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, and I will not object, is the gentleman asking to go to conference?

Mr. ANDERSON of California. Mr. Speaker, if the gentleman will yield, all we are asking is to go to conference; yes.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. JOHNSON of California, ANDERSON of California, RONCALIO, HARSHA, and SNYDER.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE REPORT ON H.R. 8803

Mr. SEBELIUS. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until midnight tomorrow, Friday, October 21, 1977, to file a report on H.R. 8803.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

PERSONAL EXPLANATION

Mr. MIKVA. Mr. Speaker, I was unable to be present on the floor for rollcall No. 674, the vote on the motion to instruct the conferees on the bill H.R. 6666. Had I been present, I would have voted "no."

DISTORTIONS IN MOBIL OIL CORP. ADVERTISING CAMPAIGN

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANLEY. Mr. Speaker, I would like to make my colleagues aware of a new advertising campaign initiated by Mobil Oil Corp. It is designed to enhance the media image Mobil has been pursuing since the Arab oil embargo gave the big oil companies such a black eye. Mobil's latest effort is a campaign targeted at constituents of individual congressional districts in selected media markets of the country. It contains a

number of distortions concerning congressional efforts to develop a comprehensive energy plan, and Mobil's own performance in meeting the Nation's energy needs.

Mobil, quite properly, sees our short-term energy problems as primarily a shortfall of deliverable supplies, and states that Congress is doing too little to encourage the increased production and development of energy resources. Mobil also feels that Government regulations impose too many difficulties on the development of coal. Quite frankly, I feel this disregards the fine work performed by this body in passing H.R. 8444, the National Energy Act. Granted, there is an oil equalization tax that will raise the cost of purchased oil while maintaining a regulated price, but even under this plan oil companies can expect substantial additional revenues. With a "why settle for less when you can get the whole hog" attitude, Mobil also seems to ignore the House's action in setting a $1.75 per 1,000 cubic feet price for new natural gas supplies. This will bring the oil companies billions in new profits, but what they are really after is the estimated $10 billion a year consumers would surrender to oil company coffers under total deregulation, a not-so-subtle form of highway robbery which the House, in its wisdom, has refused to go along with.

Obviously, these misstatements are the tactics the oil industry has employed throughout history in presenting its case for unbridled profits, and are part and parcel of the controversy which surrounds any congressional effort in the realm of energy or taxes. Mobil has always maintained that "if you give us the incentives, we will do the job." Well, let us peer beneath the veil and see if Mobil's performance matches its words. To do this, it was my feeling that Mobil's exploration budget would best reflect its efforts to bring more deliverable energy to our shores over the short term. I checked with the Library of Congress and came up with some very interesting figures.

In 1973, the year of the Arab oil embargo, Mobil spent $138 million on exploration, $95 million here in the United States, and an additional $43 million overseas. In 1974, Mobil spent an additional $51 million on exploration. However, flying in the face of the national policy advocating energy independence, Mobil upped its 1974 overseas exploration budget to $98 million, while actually reducing its domestic budget by $4 million to $91 million. In 1975, Mobil again boosted its exploration spending, but again it was the overseas effort that received the lion's share. Overseas exploration went up $27 million ($125 million total) while domestic exploration rose to $115 million. Finally, in 1976, Mobil actually curtailed its effort, dropping total exploration costs some $32 million down to $208 million, adding only an additional $1 million domestically, while cutting back to $92 million overseas.

When we combine all these figures we end up with $725 million on exploration, which sounds like a heck of a lot of money. Now, logically, the next step would be to compare this with the company's profits' base for those years. But, rather than embarrass Mobil completely, I felt we should look at just one aspect of what it has been doing with the truly fabulous profits it has reaped since 1973. I am referring, of course, to a very sore subject to Mobil lobbyists, and that is the company's acquisition of Marcor Corp., the holding company for the Montgomery Ward department store chain. Purchased at the height of the Arab oil embargo, using windfall profits, Mobil expended $1.707 billion for complete acquisition of Marcor, a staggering 222 percent over what it was willing to spend on realizing its highly touted advertising campaigns to bring us more oil and gas. So there we have it. The Mobil Oil Corp.'s hypocrisy is transparent. The company's goals are sky-high profits and an expanded corporate empire. Its professed concern for the travails of the American people is largely nonexistent.

In closing, I would like to spend just a moment in rebuttal to another Mobil charge that there is too much redtape connected with opening a coal mine, and environmental tradeoffs are necessary to encourage rapid development of coal. While not stating it, Mobil's concerns seem directed at the strip-mining legislation we passed this year, and the albeit lengthy procedures and costs associated with complying with Federal mine safety standards. Mobil Oil has reserves of 2,500 million tons, mostly located in the Gillette, Wyo., area. Bureau of Mines statistics tell us bituminous coal and lignite were selling at an average price of $8.53 a short ton in 1973 (f.o.b. mines) and, thanks to the Arab oil embargo, are today selling at $20 per short ton. Certainly production costs have gone up, but not 225 percent in 4 years.

Mobil is sitting on a gold mine, but it is reluctant to spend the 5 cents a ton needed to restore the millions of acres of already strip-mined gutted land and the additional sums needed to assure that Wyoming does not become another Appalachia. Given the lucrative profits involved here, are we being unreasonable on strip mining? And given the terrible safety record of the mining industry, can we really abandon the bills and regulations so laboriously constructed merely to keep the giants of the corporate boardrooms smiling? I think not, and I think the record of Congress in these areas and the support we have received from the citizens of the United States clearly indicate that in these matters we are pursuing the best and most responsible course.

THE UNITED STATES AT BELGRADE

The SPEAKER pro tempore (Mr. FOLEY). Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 15 minutes.

Mr. FASCELL. Mr. Speaker, the Belgrade Conference to review implementation of the 1975 Helsinki Accord is now in its third week of work. While the initial proceedings have been reported in the press at some length, I think it appropriate, as chairman of the Commission on Security and Cooperation in Europe, to give our colleagues a participant's view of the meeting and its prospects.

The 1975 Final Act—the document now being discussed by its 35 signatories in Belgrade—has already proved to be a far more significant diplomatic event than either its sponsors or its detractors realized 2 years ago. Although it is not a treaty and has no binding force on the United States, the Soviet Union, or the other nations which spent more than 2 years hammering out its language, it has become a yardstick against which to measure progress in improving East-West relations and, particularly, change in the rigid and repressive practices of the Warsaw Pact states toward their own peoples' claims to fundamental freedoms. The accord formalized a set of intentions, proclaimed at a very high political level, which—taken together—provide a framework for adjusting East-West differences in trade and commercial matters and in humanitarian and information-flow practices. Most significant of all, the Final Act established the question of human rights as a legitimate issue for discussion among the signatory states. It made it possible and appropriate for one sovereign state to question another on compliance with international standards of conduct toward political and religious expression.

That questioning is part of the purpose of the Conference which opened in Belgrade October 4 and seems very likely to continue, with a month's break around Christmastime, until mid-February. Thanks to the role the Commission has played in overseeing the implementation of the accord and to the cooperation the Commission has received from the White House and the Department of State in that endeavor, I was privileged to attend the Belgrade Conference for a few days after its opening as vice-chairman of the delegation. All the members of the Commission have been designated as members of the U.S. delegation, and many of us plan to return to Belgrade to take up those responsibilities after Congress has adjourned. Already, however, we have found that the groundwork done by the Commission—particularly the report to Congress of August 1, 1977—has been of great value to U.S. diplomacy in Belgrade and to the other delegations there. The information the Commission compiled in its hearing and research constitutes, I was told in Belgrade, a basic working document for the Conference.

The United States is fortunate that at Belgrade its delegation is headed by a man both wise and passionate, Arthur J. Goldberg. His experience in our executive branch, on the Supreme Court, and at the United Nations gives us a voice and a presence in Belgrade eminently suited to the advocacy of the human rights values the Carter administration has properly restored to the arsenal of U.S. foreign policy. His first address to the Conference on October 6 was an eloquent statement of U.S. concerns with the Helsinki process and U.S. aims at Belgrade.

Justice Goldberg sounded a clear call to advance both the process of East-West understanding and the cause of human rights, arguing the irrefutable

premise that the two are intimately linked. As he said:

. . . A deepening of detente, a healing of the divisions in Europe, cannot be divorced from progress in humanitarian matters and human rights. The pursuit of human rights does not put detente in jeopardy. Rather it can strengthen detente, and provide a firmer basis for both security and cooperation.

His statement was a forceful expression of the American commitment to proceed at Belgrade beyond platitudes to a detailed and documented examination of the record of Helsinki compliance. It was a foretaste of the specificity with which the U.S. delegation intends to conduct that review, and it was a heartening reminder to the American public and the people of Europe that the cause of human rights has an eloquent champion in Belgrade.

Mr. Speaker, I believe all our colleagues can profit from reading the full text of Justice Goldberg's address, and I wish to insert it at this point in my remarks.

In conclusion, Mr. Speaker, let me just explain that the Conference has moved this week into what we would call committee work and what is known in Belgrade as discussions in subsidiary working groups. From now on we will not be reading prepared, formal remarks. The discussions—first the essential look at the record of the last 2 years and then the drafting of a forward-looking report on new and improved measures of implementation—are conducted informally and in closed sessions. But the American delegation is making it a practice to brief interested outsiders on the proceedings, and we already know that the United States has begun to cite specific instances, involving named individuals and countries, of practices which run counter to the spirit and letter of the Final Act.

Those cases are offered as illustrations of patterns of conduct which must be remedied if the Final Act is to become the guide to international conduct we all believe it can be. Some names will be used and others seemingly overlooked in that process. But the point is not that we or any delegates expect problem cases to be resolved at Belgrade. The Conference does not have that power or purpose. Instead, specific cases are raised as examples of behavior the United States deplores, behavior that undercuts the goals of the Helsinki accord. Those cases are raised as part of an inquiry and a dialog which is new to East-West relations. It is in that dialog that I see the greatest promise of Belgrade, and I am confident that the U.S. delegation has begun and will continue its side of the discussion in a fine, clear and purposeful manner.

The delegation is composed of excellent representatives of our society. Assisting Justice Goldberg as deputy chairman of the delegation is Ambassador Albert W. Sherer, Jr., a first-rate professional diplomat, whose experience with the Helsinki accord goes back to the years when it was negotiated in Geneva and when he led the U.S. team working on that tortuous drafting process. Bud Sherer's skill, experience and temperament are examples of the U.S. Foreign Service at its very best, added strength to the cause for which we are working at Belgrade. In addition, the delegation has an exemplary staff drawn both from the staff of the Helsinki Commission and the expertise of the Department of State.

The work is well underway, and though it will be long and, to outsiders perhaps, puzzling, I can assure this House that it is well begun and in good hands.

OPENING STATEMENT

(By Ambassador Arthur J. Goldberg, Chairman of the Delegation of the United States of America, Belgrade, October 6, 1977)

Mr. Chairman, fellow delegates, on behalf of the American delegation, permit me to express our sincere thanks to our hosts, the Government of Yugoslavia. We are more than grateful for the facilities and support they have so generously provided for the conduct of our work. It is particularly symbolic that this Conference is held in a nation which has done so much for so long to promote security and cooperation in Europe.

Two years and two months ago the leaders of our 35 nations assembled in Helsinki to conclude—with their solemn approval—the Final Act of the Conference on Security and Cooperation in Europe.

This week we are beginning in Belgrade a new phase of the process they initiated. We are embarking on a mutual examination of our experiences in implementing the Final Act. We are also seeking together new means of solidifying and building from the foundations laid in Helsinki.

Our task is part of a great and ancient enterprise: the search for security, the advancement of cooperation in Europe. This Conference is one more step toward that high goal, one part of the broader process of reducing risks of confrontation in Europe and of replacing them with opportunities for cooperation.

This meeting is both an expression and a result of considerable improvements in East-West relations. In turn, what we accomplish here in the coming months can have a direct impact on the further development of detente.

I have been designated by President Carter to speak here as the representative of the United States Secretary of State. I carry with me the President's deep, personal commitment to advance the goals of the Final Act and the work of which it is such an important element. He is dedicated to working constructively with all nations represented here, to help fulfill the Final Act's commitment to improved European security and cooperation.

Two corollary principles make the Helsinki approach unique. One is our rule of consensus, the recognition that every nation should take part on an equal footing in decisions which affect the future of Europe. The second is also crucial: the tie, formalized by the Final Act, between the freedom and welfare of each of our nations, and the freedom and welfare of each of our individual citizens. Let me reaffirm in the most positive terms the wholehearted commitment of the United States government to the pursuit of detente. Let me also restate our view that a deepening of detente, a healing of the divisions in Europe, cannot be divorced from progress in humanitarian matters and human rights. The pursuit of human rights does not put detente in jeopardy. Rather, it can strengthen detente, and provide a firmer basis for both security and cooperation.

The United States wants to build upon and enlarge the scope of East-West understanding. For my Government is convinced that this Conference in Belgrade must not be the end of the CSCE process. Rather, it must be an occasion to inject fresh momentum into that process. The true test of the work we do together lies not only in the conclusions we reach. It lies also in the higher goals we set and in the energy with which we set about meeting them.

My Government will do its best to provide new impetus to the CSCE process, both here in Belgrade and in our over-all policies towards Europe and the world.

We will conduct the review of implementation on the basis of the unity of all sections of the Final Act and the equal value of all the principles.

We will make clear our intention to honor the political commitments in this document and to utilize fully the practical opportunities which it opens.

We will discuss concrete problems, of both past and future implementation.

And we will conduct our policies in Europe fully aware of the fact that CSCE can only bear part of the burden for guarding the peace. There must also be progress in other efforts at detente; and the benefits of our efforts must be applied throughout Europe. Berlin, for example, remains a basic testing place of detente. This divided city must continue to receive the benefits of the Final Act. Berlin must prosper under the Quadripartite Agreement, free from crisis, if detente and CSCE are to succeed.

Just as the United States goal for Europe is one of peace, so at this Conference we seek no confrontation. We have no desire to trade debating points. Instead, we want to exchange ideas on how better to implement the Final Act. We seek a thorough, non-polemical, straightforward, and detailed review of implementation. And through that review, we seek to help formulate new measures which can give added concrete expression and momentum to the basic commitments of the Final Act.

GENERAL ASSESSMENT

The first obligation we all share is to conduct a candid review of the promises each of us has made, the promises we have kept, and the promises we have yet to fulfill.

The assessment my country has made of the over-all record of participating states over the last 26 months shows encouraging evidence of progress. But the progress displayed is not progress enough. It still falls short of the goals of the Final Act and, just as important, of the high expectations the Final Act aroused. Those expectations remain valid, and we must all be frank in judging that many of them remain unmet.

Let me comment first on what my own country has done to implement the Final Act. In general, the Act codified standards which reflect American policy in dealing with other nations and with our own citizens. Nevertheless, in response to the Final Act we have looked closely at our own behavior and—where we have found the need and the means—have acted to improve our conduct. In particular, we took two steps regarding the Final Act pledge to "facilitate freer movement and contacts." First, President Carter this year removed all restrictions on travel abroad by American citizens. Second, with President Carter's support, Congress recently relaxed our visa requirements, so that people wishing to visit the United States will not be excluded because of political affiliation or belief, except in the rarest instances.

Moreover, in the field of human rights, President Carter yesterday redeemed a pledge he gave last spring by signing the International Covenants on Human Rights at the United Nations. American adherence to those pacts has been a matter of personal concern to me and to many others for a decade.

The President is pledged to pursue ratification of the Covenants. Meanwhile, his action yesterday is in earnest of our good faith and a proof of the positive impact the Final Act is having in the United States.

In the spheres of commercial, cultural, educational and scientific exchanges, we have done much and have much yet to do. For example, the United States Government has made a special effort to inform our businessmen about provisions of the Final Act affecting their opportunities to enter and work in markets with which they have not always been sufficiently familiar. This year, we signed our first cultural, educational, and scientific cooperation agreements with Hungary and Bulgaria; and we concluded negotiations on a similar agreement with Czechoslovakia. With the Soviet Union, we renewed several scientific cooperation arrangements.

Meanwhile, in some other signatory nations, we have seen a well-intentioned and productive effort to implement the principles and provisions of the Final Act. In some nations in the East, advances have been only modest, and are still far below the Final Act's standards. And there are individual cases under the Final Act where forward motion has been stalled or even reversed.

Under the stimulus of the Final Act, some progress has been made in bettering relations among the participating states. The exchange of goods, knowledge, people, and ideas has expanded in some measure. Substantial obstacles do remain to travel and the flow of information between one part of Europe and another, but these have already diminished somewhat. This improvement can be seen simply in the numbers of people who have been able to leave old homes for new ones in Europe, America, and Israel. These results mean real individual happiness, and we here must reaffirm our resolve to speed that development.

Likewise, in translating our shared political undertakings to the area of military security, the Final Act has brought another kind of exchange, promising but incomplete. Confidence-building measures, involving advance notification of maneuvers and exchange of observers, have made openness a virtue in a field where secrecy was once instinctive. We have laid a foundation on which this meeting can productively build.

Thus we can see some progress.

We can see it in terms of individuals and families reunited after being separated by war, accident, and history. But we must recall the many who remain apart.

We can see progress in business contacts that become business contracts. But we cannot overlook the still inadequate supply of relevant economic data on which the growth of business confidence depends.

We can see progress in books translated, performers applauded, students instructed, and scientific theories tested. But here, too, the openness and ease of contact promised at Helsinki has been only partly realized.

Thus, we cannot be satisfied with the record of implementation. The standard we have set together should be even higher, if the goals of the Final Act are to be realized.

Let me illustrate some areas in which we in the United States feel old practices have not been changed sufficiently to meet the new imperatives of the Helsinki spirit.

In educational exchange programs, it is not enough to increase the number of scholars involved; rather, a prerequisite for such an increase is improved freedom for scholars and their research. What value is there, for example, in financing a student's work abroad, when for months he is denied admission to an essential archive, and when, having finally been admitted one day, he is not permitted back the next—even to collect his notes?

Also, in seeking "to facilitate the freer and wider dissemination of information of all kinds," we cannot point convincingly to progress while international broadcasts are subjected to continuing interference.

Similarly, while steps have been taken to ease travel and working conditions for journalists, those advances are jeopardized when visas are made conditional on a correspondent's agreeing not to contact certain sources of information and opinion.

Finally, while real progress has been made in reuniting divided families and concluding binational marriages, satisfaction with those developments must be balanced by regret that many long-standing cases remain unresolved, that the resolution of routine cases is too often arbitrary and capricious, and that new bureaucratic obstacles are imposed on people seeking to join relatives abroad. This runs counter to the Helsinki promise "gradually to simplify" exit procedures. It is also hard to see the workings of the "positive and humanitarian spirit" when an ill and aged husband is denied, after long years of separation, the company of his nearly blind wife and their daughter.

Equally difficult to understand are broader restrictions on the right of individuals to travel or emigrate. That right is established in Article 13 of the Universal Declaration of Human Rights: "Everyone has the right to leave any country, including his own, and to return to his country." All of us have pledged in the Final Act to "act in conformity" with that Universal Declaration, and we have given specific emphasis to that promise in the Final Act's provisions on family reunification.

HUMAN RIGHTS AND DETENTE

The two years since the Helsinki summit are particularly short when we set them against the historic divisions we are trying, through the Final Act, to bridge. Some of the deepest differences among the participating states lie in views on the status of the individual in relation to the state. The issue of human rights represents the widest gap between the ideals and practices of East and West. It is a sensitive subject on the international agenda, but one which can be dealt with in an understanding manner, and which must be discussed in order to facilitate further progress under the Final Act.

Precisely because the distance between our views on human rights is so great, we must all work to narrow the divide. This is not a simple process. In my own country, a mere 15 years ago many Americans were denied the right to vote. But through commitment to an ideal, and constant efforts to reach that ideal, this blemish on the American record was removed. Other serious blemishes remain, and our efforts to remove them also remain constant. The process is inevitably a gradual one, but efforts like ours are what make progress in human rights possible under the Final Act.

In the United States, we also realize that human rights encompass economic and social rights as well as political and civil liberties. It is our view that one set of values cannot be stressed at the expense of the other. Rather, it is the combination of these rights and the respect in which governments hold them all which offer the best promise that all can be attained.

Concern for these rights is not new either to Americans or to the other states taking part in this Conference. It is enshrined in Article 1 of the Charter of the United Nations. It is enshrined in the Universal Declaration of Human Rights. And the Final Act, in Principle VII, binds all the participating states to "recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and cooperation among themselves as among all states."

American policy—evolving from a history of political development with deep roots here in Europe, and nurtured by the efforts of other nations—has long pursued that vision. It is explicit in our Bill of Rights. It animated the Four Freedoms proclaimed by President Franklin Roosevelt—freedom from want and fear, freedom of speech and religion—for which Americans last fought on this continent in the war against fascism. It was also part of the heritage of President Kennedy when, 14 years ago, he launched a fresh initiative for world peace. He asked: "Is not peace in the last analysis a matter of human rights?" And he proposed an "agreement on a freer flow of information and people from East to West and West to East."

When such an agreement was concluded in Helsinki as part of the Final Act, President Ford echoed his predecessors' words. He said: "The founders of my country did not merely say that all Americans should have these rights, but all men everywhere should have these rights."

On many occasions this year, President Carter has set forth his own commitment to the continuity of American policy in the area of human rights—whether political, economic, social, or cultural. At the United Nations last March, he stressed that the "search for peace also means the justice . . . (and) the search for peace and justice means also respect for human dignity . . . I know perhaps as well as anyone that our ideals in the area of human rights have not always been attained in the United States, but the American people have an abiding commitment to the full realization of those ideals. We are determined therefore to deal with our deficiencies quickly and openly."

It is in that same spirit that the United States delegation will speak about human rights and basic freedoms here in Belgrade. We have much to learn from that exchange of views.

Let me illustrate some of our concerns. The Principle VII guarantee of religion and belief means to us that expression of faith must not be penalized by loss or reduction of educational or career opportunities. People should be free to worship without fear or state interference in their choice of ministers, literature, and houses of prayer.

Similarly, the "freedom of thought and conscience" we have all pledged to respect must have breathing space in which to flourish. Its expression should not be censored. Its exponents should not be imprisoned or exiled for making their thoughts known.

Moreover, the "legitimate interests" of "national minorities" in our 35 states require respect for unique cultural and linguistic heritages, and active policies to preserve these traditions and achievements for future generations.

Our governments have assumed the responsibility to "promote and encourage the effective exercise" of these rights. And in Principle VII we subscribed to "the right of the individual to know and act upon his rights and duties" in the field of human rights. The response of citizens to that challenge, alone and in either private or public groupings in many signatory states, has been heartening evidence of the Final Act's healthy impact on all of us. In my own country, we have benefited by the dedication, candor, and commitment of our Commission on Security and Cooperation in Europe. Its valuable work will be reflected in what we do here in Belgrade; and we are honored by having its members as part of our delegation.

All the more, then, we are also obliged to register vigorous disapproval of repressive measures taken in any country against individuals and private groups whose activities relate solely to promoting the Final Act's goals and promises.

Any such repression is contrary to the spirit and the letter of our common pledge. Rather, at this meeting, we should all reaffirm the valuable role to be played by individuals and organizations, in their own

countries and in international associations, to help make that pledge a reality.

CONCLUSION

In the coming weeks, the United States delegation will focus its efforts in a constructive manner on improving relations among the participating states. We are here to help strengthen prospects for cooperation, and to help move closer towards what should be the noblest common goal of this Conference: to give the process of détente a human measure and a humanitarian face.

In that spiirt, the United States delegation will consider and, as appropriate, support new measures to improve implementation of the Final Act. We see opportunities for improvement in the following areas:

Promotion of human rights;

Execution of confidence-building measures;

Qualitative expansion of scientific, economic and commercial data exchanges;

Easing of travel for journalists and businessmen;

Freer access to printed and broadcast information from other countries; and

Fuller opportunities for scholars and scholarship.

This list by no means exhausts our agenda or the specific ideas the United States, with other interested states, will pursue in the coming months. There are also opportunities to promote the exchange of literature, television programs, and culture of all kinds. There are possibilities for exploring, in such appropriate agencies as the UN Economic Commission for Europe, the coordination of approaches to such pervasive problems as environmental pollution. And, there is great potential for expanding trade and for sharing the benefits of technology.

However, our success will be measured not solely by words on paper, but rather by what we all do both here and at home after this meeting ends. Together we must give the process of implementation direction, higher goals, and fresh momentum, to ensure that—when we next meet in a similar assembly—we can record even greater progress.

In our work we will need patience, perseverence and perspective. This Conference in Belgrade is one stage of a dynamic process and a continuing dialogue. And that Helsinki process is part of an even larger effort to build more secure and more humane relations among our nations and peoples.

We are nearer the beginning than the end. The Conference must give the people of the signatory countries and people throughout the world a first report of first progress. It must demonstrate to them our shared commitment to go further. We owe them our best efforts and results better than those so far achieved.

THE UNITED STATES AT BELGRADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GILMAN) is recognized for 15 minutes.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Florida for arranging this special order to discuss the progress of the Belgrade Conference.

Mr. Speaker, as a congressional advisor to the Conference on Security and Cooperation In Europe (CSCE) meeting in Belgrade, Yugoslavia, I was privileged to attend the opening session of the 35-nation review meeting. The Congressional delegation, comprised of Representative JOHN BUCHANAN, Alabama, Representative PATRICIA SCHROEDER, Colorado, Representative THOMAS HARKIN, Iowa, and myself, was led by our distinguished colleague, the very able Chairman of the Commission on Security and Cooperation in Europe, DANTE B. FASCELL, Florida.

The Conference, ironically a Soviet initiative dating back to 1954, initially convened in July of 1973. The following 2 years of negotiations culminated in the signing of the Final Act, on August 1, 1975, by the leaders of the 35 participating nations. The provisions of the CSCE Final Act were placed under four headings, popularly termed "baskets." The four baskets are European security; economic, scientific, technological, and environmental cooperation; humanitarian, cultural, and educational cooperation; and the followup meeting.

By virtue of basket IV, the participating states bound themselves to hold a series of followup meetings, the purpose of which is to review the implementation of the Helsinki accords. The Belgrade Conference is the first of such sessions, begun on October 4 and scheduled to sit through December of this year. Preliminary negotiations to establish the date and agenda for the Conference were conducted in June, 1977.

As one of the original cosponsors of the 1976 Fenwick legislation (P.L. 94–304) that established the joint Legislative Commission on Security and Cooperation in Europe, headed by the gentleman from Florida, Congressman FASCELL, I have closely followed the work of the Commission in monitoring participating states, especially the Soviet and East European governments, implementation of the Helsinki Final Act.

It was under the auspices of the Commission that I was appointed as a congressional member of the American delegation and invited to participate in the opening session of the CSCE review meeting.

Following our arrival in Belgrade on October 7, the fourth day of the 35-nation meeting, the congressional delegation had the opportunity of conferring with essentially all of the delegations attending the conference and engaged them in a most worthwhile exchange of views. It was during the course of our meeting with the U.S.S.R. delegation that I was able to present to them two briefs, setting forth the Soviet Union's failure to abide by both the "human contacts" and "human rights" principles embodied in the Helsinki accords.

The first brief, entitled "Allegation of Noncompliance With Implementation of Helsinki Final Act: United Soviet Socialist Republics' Interruption of International Postal Communication," calls upon the participating states at the CSCE review meeting to initiate a review of the Soviet Union's implementation of the Helsinki Final Act, alleging, specifically, noncompliance with:

First. Basket I, principle X, in that the U.S.S.R. failed to abide by international postal standards prescribed by the Universal Postal Convention—and the Constitution, the general regulations, the Convention and its detailed regulations—to which the Soviet Union is a party; and

Second. Basket III, cooperation in humanitarian and other fields, in that the U.S.S.R. interrupted postal communications between the United States and the Soviet Union, which is inconsistent with the general commitment of participating states to promote cultural and educational exchanges, wider dissemination of information, and the development of human contacts between people.

Mr. Speaker, I insert my brief in full at this point in the RECORD:

CONFERENCE ON SECURITY AND CO-OPERATION IN EUROPE: ALLEGATION OF NONCOMPLIANCE WITH IMPLEMENTATION OF HELSINKI FINAL ACT

(United Soviet Socialist Republics' Interruption of International Postal Communication)

ALLEGATION OF NONCOMPLIANCE WITH IMPLEMENTATION OF HELSINKI FINAL ACT

Since 1970, I, as well as many United States Senators and Congressmen, have been receiving a large volume of constituent complaints from the American Jewish Community regarding the failure of postal officials of the Soviet Union (1) to ensure uninterrupted delivery of United States mail to the citizens of the United Soviet Socialist Republics, and (2) to notify the sender of the interruption of service and reasons therefore.

The Final Act of the Conference on Security and Cooperation in Europe (Helsinki, 1975) sets forth a number of provisions which speak to the issue of interference with the sending of letters and packages between citizens of the signatory States. Specifically, the Preamble of Basket III states that the Conference's participants have adopted the Final Act's provisions:

"Conscious that increased . . . contacts between people . . . will contribue to the attainment of these aims. (i.e., 'to the strengthening of peace and understanding among peoples and to the spiritual enrichment of the human personality without distinction as to race, sex, language and religion.')"

In a clause dealing with Human Contacts, the Final Act also states:

"The participating States . . . make it their aim to facilitate . . . contacts, individually . . . among persons . . . of the participating States, and to contribute to the solution of the humanitarian problems that arise in this connection."

Moreover, the signatories pledged to abide by previously concluded international agreements, such as the Universal Postal Union Convention and the Constitution of the Universal Postal Union which prohibit interference with mail.

Principle X, concerning "Fulfillment in good faith of obligations under international law," provides:

"The participating States will fulfill in good faith their obligations under international law, both these obligations arising from generally recognized principles and rules of international law and those obligations arising from treaties or other agreement in conformity with the International law to which they are parties."

The declarations of intent contained in Basket I and Basket III have in no way been fulfilled in regard to the Jewish minority in the Soviet Union. Human contacts with people in other countries have not been facilitated; on the contrary, serious obstacles have been placed in the way of such contacts. Some of these impediments appear in the form of measures of general application, although they affect the Soviet Jews particularly seriously, giving rise to the suspicion that they were introduced for this very purpose. Others are practices applied to Jews in an arbitrary and discriminatory manner. These new obstacles indicate an effort on the part of the Soviet authorities to isolate the Jewish community in general, and the "activists" in particular, from any contact with the outside world. One such effort has been the deliberate interruption of U.S. mail postmarked for Jewish citizens in the U.S.S.R.

Each year, thousands of postal items, including private communications, packages, *vyzovs* (invitations to join family members abroad), and cultural materials, are sent to Soviet Jews from the United States of America. A large proportion of these items either disappear or are opened, inspected, and/or confiscated by postal officials of the Soviet Union, constituting a direct, illegal interference with the freedom of communications realized here through the international postal system.

HELSINKI FINAL ACT

The matter of uninterrupted postal communication is not dealt with explicitly in the Final Act. As The Guardian (London) commented on February 10, 1976: "The right of private citizens to receive letters through the post may have been thought too elementary for inclusion in the famous Helsinki Final Act. However, the denial of this right is inconsistent with the general principles of free contact and certainly with the spirit of the Final Act."

In an indirect way, however, interference with mail is covered by the Final Act. Such interference is a violation of the Universal Postal Convention to which the U.S.S.R. is a party. This, in turn, constitutes a violation of Principle X of the Final Act regarding "Fulfillment in good faith of obligations under international law" which provides:

"The participating States *will fulfill* in good faith their obligations under international law, both those obligations arising from the generally recognized principles and rules of international law and those *obligations arising from treaties or other agreements*, in conformity with international law, *to which they are parties*."

There is also a second connection between interference with mail and the Final Act. Reference has been made above to the fact that particularly letters containing vyzovs disappear. This necessitates repetition of such invitations for family reunification often five or six times, sometimes causing delays of one year. In other instances the invitations are not delivered to the relatives in the U.S.S.R. but handed over to the OVIR to which the addressee is then summoned. These practices cause serious delay in the reunification of families and great hardship and anguish to family members expecting a vyzov and are, therefore, inconsistent with the general commitment undertaken in Helsinki in sub-section 1.(b) of Basket Three on Reunification of Families to

". . . deal in a positive and humanitarian spirit with the application of persons who wish to be reunited with members of their family."

and further that:

"Until members of the same family are reunited, meetings and contacts between them may take place in accordance with the modalities for contacts on the basis of family ties."

Moreover, because the sub-chapter "Contacts . . . on the basis of family ties" provides for facilitating family visits, family correspondence should *a fortiori* receive the same treatment.

Lastly, it is not irrelevant that the interruption of U.S. mail (documented in the attached Annex) violates also the Constitution and laws of the U.S.S.R. Article 128 of the Constitution of the Soviet Union, guarantees protection of privacy of correspondence; and the criminal legislation of all the Republics of the Soviet Union establish criminal responsibility for such violations of privacy of correspondence (e.g., Article 135 of the Criminal Code of the RSFSR).

Mr. Alexander Sukharev, U.S.S.R. First Deputy Minister of Justice, explained in an interview published in Literaturnaya gazeta (October 27, 1976) that interference with mail and with its privacy is permissible only as part of criminal proceedings. This is what the Minister said in response to a question about the legal norms regulating the search and seizure of correspondence:

"The search and seizure of postal and telegraphic correspondence are investigatory actions, which means that this can be done only after criminal proceedings have been instituted. A search is carried out only on the basis of a motivated decision by an investigator and only with the sanction of a procurator. Correspondence can be held up and seized in postal and telegraphic offices with the sanction of the procurator or by the judgment and also the decision of a court."

Quite clearly, these legal rules have remained paper guarantees which have not been complied with.

The issue of interference with mail has also been raised in the British Parliament, following the loss of numerous registered letters sent by British citizens to Jews in the U.S.S.R. In reply, Mr. Roy Hattersley, then Minister of State for Foreign Affairs, declared on February 12, 1976, that while "under the terms of the Universal Postal Convention the Soviet authorities could confiscate without compensation postal articles whose importation and circulation is prohibited within the Soviet Union, they are required by the Convention to notify the originating Post Office if any article is not delivered or returned to the sender. Her Majesty's Government deplores any interference with freedom of communication, particularly in view of the Final Act of the Conference on Security and Cooperation in Europe." (Hansard, House of Commons, February 12, 1976, col. 310)

UNIVERSAL POSTAL UNION

Currently, the United States, the Soviet Union, and more than 150 countries and territories are signatories to the 1974 Convention of the Universal Postal Union (UPU) establishing common rules applicable to the international postal service.

Although one of the oldest intergovernmental organizations in existence, the Universal Postal Union is not widely known to the public at large. The UPU is situated in Bern, Switzerland. It was established in 1874 by the Bern Treaty. This treaty was the forerunner of the modern multilateral convention governing the international postal service. The latest convention was the Luzon Convention of 1974 that went into effect in 1976.

Under an agreement concluded between the United Nations and the UPU in 1947, the UPU became a specialized agency of the U.N. Any member of the U.N. may accede to the Union, according to current provisions, and also sovereign countries which do not belong to the U.N. may request admission to the UPU. These sovereign countries are then admitted if the request is approved by at least two-thirds of the member countries of the UPU.

The basic Act of the Union is the Constitution, the conditions governing the application of which are specified in General Regulations.

Certain common rules applicable to the international postal service and the provisions governing letter-post services are contained in a Convention supplemented by Detailed Regulations.

The concept of "letter post" applies to five categories of items: letters, postcards, printed matter, literature in raised relief for the blind, and small packets. The Convention fixes the rates, the weight and size limits, and the conditions of acceptance.

In addition, the Convention prescribes the methods for calculating and collecting transit charges for mail passing through the territories of one or more counties. It also establishes regulations for the dispatch of registered correspondence, air-mail correspondence, etc., as well as that of objects the transport of which require special precautions.

The Constitution, the General Regulations, the Convention and its Detailed Regulations are binding on all member countries; and since more than 150 countries and territories come under these Acts, their provisions affect practically the entire population of the world.

As noted, Helsinki Final Act signatories agreed to abide by international law and international agreements to which they have been party, including, by inference, the Universal Postal Convention and the Constitution of the Universal Postal Union.

With regard to Soviet seizure of letters addressed to Jewish activists, it is relevant to note certain provisions of those international agreements.

Article 1 of the Constitution clearly provides for freedom of transit:

Article 1: Scope and objectives of the Union:

"1. The countries adopting this Constitution, comprise, under the title of the Universal Postal Union, a single postal territory for the reciprocal exchange of letter-post items. Freedom of transit is guaranteed throughout the entire territory.

"2. The aim of the Union is to secure the organization and improvement of the postal services and to promote in this sphere the development of international collaboration."

Moreover, the commitment to freedom of transit is forcefully reiterated and elaborated upon in Article 1 of the Convention:

Article 1: Freedom of Transit:

"1. Freedom of transit, the principle which is set forth in Article 1 of the Constitution, shall carry with it the obligation for each postal administration to forward always by the quickest routes which it uses for its own items, closed mails and *a decouvert* letter-post items which are passed to it by another administration."

Regarding ownership of postal items and provisions for seizure, the Convention is also clear and explicit:

Article 5: Ownership of postal items:

"A postal item shall remain the property of the sender until it is delivered to the rightful owner, except when the item has been seized in pursuance of the legislation of the country of destination."

HISTORY OF UNITED STATES-UNITED SOVIET SOCIALIST REPUBLICS INTERNATIONAL MAIL SERVICE (1970–1977)

Unless signatories to the UPU Convention morally adhere to the Constitution, the General Regulations, the Convention and its Detailed Regulations, there is no practical way to enforce prescribed international standards of mail delivery. For despite its impressive credentials, the UPU is essentially powerless.

All member States sign the general agreements as sovereign nations with the UPU acting only as an office of liaison between the different States. The UPU cannot and does not act as a policeman to survey the application of the agreement by member nations. The enforcement of the agreements is the sovereign right of the member states and the CPU can only intermediate upon the request of both parties to a dispute.

Significantly, these international agreements contain stipulations as to what items cannot be sent through the mail. The list of prohibited articles includes: explosives, flammables, other dangerous substances, obscene or immoral articles, and narcotics. In addition, there is one final prohibition, "Articles of which the importation and circulation is prohibited in the country of destination." This final prohibition is in fact a loophole that provides each country with a sovereign right to decide what shall and shall not be permitted to enter the country.

Each member, then, stipulates according to its own standards conditions under which it will accept packages and mail. It is their right to create the conditions under which

they can stipulate what mail they wish to receive, and what mail they will reject.

As a consequence, you may have such vague descriptions as "subversive literature" and "communications which are against the interest of the State," in the States' list of prohibited articles. The interpretation of these restrictions and their application is totally up to the receiving or sending nation even though no such prescription is listed in the UPU.

In addition, these standards can be changed from day to day. The country only need notify the UPU which in turn notifies the public. The change can occur whenever the country wishes to alter the standards.

The delivering country also retains a sovereign right to determine for itself by its own constitutional processes whether a particular letter or parcel offends against a particular prescription of the national law. The UPU has no right whatsoever to say that the criteria which establishes the prohibition is justified or not. This set of circumstances permits a State to quite easily abuse the international mail system.

While the United States Postal Service (U.S.P.S.) has only recently begun compiling a list of inquiries regarding delivery of mail into member countries of the UPU, particularly the Soviet Union, the present level complaints about the discriminatory practices of Soviet postal officials seems to date back to the early 1970's at a time when the United States and the U.S.S.R. were parties to a "bulk billing" arrangement. Under this agreement signed in 1970, registered mail would be exchanged without listing each piece of mail. Liability for any loss would be assumed by the country where the registered item originated. This "bulk billing" arrangement appears to have made it easier for the Soviets to interrupt mail service without the worry of accountability.

Early in 1972, international mailing houses, as well as representatives of the Greater New York Conference on Soviet Jewry, advised the U.S.P.S. of an increase in complaints from the American Jewish community regarding the treatment of mail addressed to Russian Jews. The Jewish community also agreed to provide documentation so a formal inquiry could be lodged with Soviet officials.

During the Universal Postal Union Executive Council meeting at Bern, Switzerland, in May of 1972, Postal Service representatives met informally with representatives from the Russian Ministry of Posts and Telecommunications. The Ministry representatives were informed of complaints received by the Postal Service and provided with examples of inquiries sent to the Soviet Union which had not been answered. The Russian officials indicated that they were unaware of any problems, but promised to look into the matter upon receipt of further documentation to be provided by the Postal Service.

On July 6, 1972, the Postal Service wrote to the Ministry and provided further information regarding complaints about registered mail. The letter also indicated that the Postal Service would have to return to a system of listing all registers to the Soviet Union unless an improvement could be shown in their response to inquiries.

The Soviet Union did not reply to the Postal Service's letter. Consequently, on September 19, 1972, the Postal Service advised the Russian postal authorities by cable that the "bulk billing" agreement was terminated as of October 14, and thereafter it would begin a descriptive listing of all registered items that would require Russians to indicate whether a particular item was: (1) properly delivered; (2) returned to sender; (3) seized; or (4) loss admitted and liability assumed. On September 22, Russian postal authorities cabled a reply which vigorously denied the implications of the Postal Service's July 6th letter that Russian Jews were subject to discriminatory mail service. However, the Soviet Union did accept the return to the descriptive listing of registers.

Between 1972 and 1977, the Postal Service continued to monitor inquiries about registered mail to the Soviet Union and the replies of Russian authorities to inquiries. This effort produced the following statistical information regarding registered mail sent from the United States to the Soviet Union.

In 1976, during a period of seven months, a total of 1716 return receipts were not received by senders who mailed registered mail from the U.S. to the U.S.S.R. During the first five months of 1977, 1347 similar complaints were made where the sender did not receive his return receipt from the addressee acknowledging receipt of that letter. It should be noted that the U.S.S.R. insists that of the 1716 complaints of 1976, 342 of these letters were actually delivered to the proper addressee; and of the 1347 complaints filed in 1977, Soviets insist that action was taken on 693 letters.

In the category of non-receipt whereby the addressee in the Soviet Union has written the U.S. letter writer that his letter has not been received, there were 139 complaints registered within a seven month period of 1976 and 65 complaints made within the first five months of 1977.

In the seven month period of 1976, 234 letters were seized by the Soviet Union and within the first five months of 1977, 168 more letters were seized. The reason given for the seizure was that internal Soviet regulations prohibited the importation of letters with such contents.

Regarding the 1716 letters sent in 1976 where return receipts were not received by the U.S. sender, the U.S.S.R. assumed the responsibility and paid the indemnity to the sender in 413 or less than 25% of the cases. Of the 1347 complaints filed within the first five months of 1977, the U.S.S.R. assumed responsibility and paid the indemnity to the sender in 729 instances or 51% of the violations. This indemnity was paid by the Soviets in accordance with the UPU regulations because in 229 instances the Soviets failed to respond to the U.S. inquiries regarding the letters. Likewise, in the 729 instances where the Soviets again paid indemnities in 1977, 236 indemnities were paid because the Soviet postal authorities failed once again to respond within the six month time limit to U.S. inquiries concerning return receipts not received by U.S. senders.

These inquiries represent approximately 2.87% of total mail volume since May, 1976. This is to be compared with other countries' inquiry figures:

	Percent
Poland	0.29
France	0.14
East and West Germany	0.19

While certainly anguishing for United States citizens unable to correspond with loved ones in the Soviet Union, this discriminatory practice of the Soviet Union against Russian Jews, in clear contravention of the Helsinki Final Act, has also proven to be potentially very expensive for the Untied States.

Since the UPS's Tokyo Convention in 1969, the liability rate for lost registers has been set at forty gold francs ($15.76 in current U.S. dollars). Rapid calculations would indicate that just for the period May, 1976, through February, 1977, the Soviet Union is liable for $14,483.44 and the U.S.P.S. for $1,839.92.

Under terms of the UPU Convention, claims are paid by the country where the registered item originated and then that country must seek indemnification from the country assuming liability. However, there is no enforcement mechanism to assure eventual indemnification. Thus, the U.S. Postal Service could potentially be out $14,000 plus for inquiries paid resulting from the negligence (whether culpable or not) of the Soviet Union. Multiplied by years, the potential expense to the United States is evident.

REVIEW OF IMPLEMENTATION OF HELSINKI FINAL ACT

For the foregoing reasons, I call upon the participating States attending the Conference On Security And Co-operation in Europe, Belgrade, Yugoslavia, 1977, to initiate a review of the Soviet Union's implementation of the Helsinki Final Act.

I allege, specifically, noncompliance with:

1. Basket I, Principle X, in that the U.S.S.R. failed to abide by international postal standards prescribed by the Universal Postal Convention (and the Constitution, the General Regulations, the Convention and its Detailed Regulations) to which the Soviet Union is a party; and

2. Basket III, Co-operation in Humanitarian and Other Fields, in that the U.S.S.R. interrupted postal communications between the United States and the Soviet Union, which is inconsistent with the general commitment of participating States to promote cultural and educational exchanges, wider dissemination of information, and the development of human contacts between people.

Respectfully submitted,

BENJAMIN A. GILMAN,
Member of Congress.

ANNEX

Annex A and Annex B document United States citizens' complaints furnished by the Office of International Postal Affairs, United States Postal Service, and the National Conference on Soviet Jewry.

Annex C details the international postal regulations issued by the Office of International Postal Affairs, United States Postal Service.

Annex D is a series of legal opinions issued by the Office of General Counsel, United States Postal Service, interpreting the regulations of the Office of International Postal Affairs, United States Postal Service.

The second brief, titled, "In Compliance With the Provisions of the Final Act of the Conference on Security and Cooperation in Europe: In the Case of Mark Nashpitz," alleges that the Soviet Union violated the human rights pledges written into the Final Act, in that Mark Nashpitz, a Soviet Jew, was sentenced in 1975 to 5 years in a Siberian work camp for protesting Soviet emigration laws, following legal proceedings that are inconsistent with Soviet law as well as international law—the latter of which the Soviet Union is bound to observe by virtue of basket I, principle X in the accords.

The Nashpitz brief is set forth in full at this point in the RECORD:

CONFERENCE ON SECURITY AND COOPERATION IN EUROPE: ALLEGATION OF NONCOMPLIANCE WITH IMPLEMENTATION OF HELSINKI FINAL ACT

(United Soviet Socialist Republics' violation of the human rights of Mark Nashpitz)

PETITION

To: The Procurator General of the U.S.S.R.
From: Ita Nashpitz, on behalf of herself and her son, Mark Nashpitz, by her attorney, Congressman Benjamin A. Gilman

1. The petitioner, Ita Nashpitz, is a former citizen of the Soviet Union. She emigrated to Israel in August, 1974, and is presently a citizen of Israel.

2. Petitioner is the mother of Mark Nashpitz, a citizen of the Soviet Union internally

exiled to the Siberian village of Tupik, under a judgment of the Moscow City Court entered March 31, 1975, sentencing him to a five-year term of exile, cassation complaint denied.

3. Petitioner, deprived of the benefits of a parental relationship because of her son's exile under the judgment of March 31, 1975, submits this petition by her attorney, Congressman Benjamin A. Gilman, for relief as hereinafter set forth.

4. The undersigned, Benjamin A. Gilman, is a citizen of the United States and a duly accredited attorney under the laws of the State of New York. Furthermore, the undersigned, Benjamin A. Gilman, is a duly elected Congressman from the 26th Congressional District of New York State to the U.S. House of Representatives, Washington, D.C. He is the holder of a power of attorney, sworn to by the petitioner, authorizing him to act as her attorney in this matter. A copy of the power of attorney is attached to this petition as Annex A.

PRAYER FOR RELIEF

5. Petitioner prays that, on the grounds and for the reasons hereinafter set forth, the Procurator General of the U.S.S.R.:

a. exercise his power (*U.S.S.R. Statute on the Procuracy, Articles 23 and 25; Article 371, Code of Criminal Procedure, R.S.F.S.R.*) to protest the judgment of the Moscow City Court under which Mark Nashpitz is exiled and the denial of his cassation complaint from the aforesaid judgment;

b. exercise his power (*U.S.S.R. Statute on the Procuracy, Articles 32 through 37, inclusive*) to inquire into the conditions and circumstances under which Mark Nashpitz is and has been exiled, and take such action as is necessary to ensure observance of the rules established by law for the keeping of exiled persons; and

c. take such other action, including recommendation of executive clemency, as the interest of justice may require.

6. On February 24, 1975, Mark Nashpitz, a Soviet Jew, was arrested and charged with the violation of *Article 190–3, Code of Criminal Law, R.S.F.S.R.*, active partaking in group activities that are disturbing public order." On March 31, 1975, Nashpitz was convicted by the Moscow City Court sitting at the court hall of the Regional Court of the Babushkinsky Region (Lenskaya Street No. 2), instead of their normal court chambers. Chairman of the Court was Judge Bogdanov. Nashpitz was sentenced to five years in internal exile; and following the denial of his cassation complaint, he was ordered removed to Tupik in Siberia where he is currently serving out the remainder of his five-year sentence.

7. On February 24, 1975, Mark Nashpitz, a then twenty-seven year old (27) stomatologist from Moscow, was participating with approximately ten Soviet Jews in a peaceful demonstration, the last (for him) in a series of protests, occurring at different times and in different forms against the policy of the Soviet Union on emigration.

8. The February 24th protest was the consequence of the refusal of the Supreme Soviet of the U.S.S.R. to respond to a petition, earlier accepted by an official of the Supreme Soviet, that had been signed by some three hundred (300) Soviet Jews from all over the U.S.S.R. demanding the release of the "Prisoners of Zion."

9. The demonstration had been planned a few days earlier. Although Nashpitz took part in the strategy sessions and the demonstration itself, as did all the others involved, he was neither one of the leaders nor one of the organizers of the demonstration itself.

10. The protesters gathered at ten in the morning of the 24th in a square between offices of the Supreme Soviet and the Lenin Library. The square is a compact, elevated area, situated on the corner of Karl Marx Prospeckt and Kalinina Prospeckt. The square is normally deserted (as it was on the day of the protest), and the Lenin Library was also closed for the day.

11. The demonstrators were carrying placards asking for the right to emigrate to Israel and to halt harassment following visa applications.[1] The protest lasted approximately twenty to forty seconds before it was broken up by the KGB. The arrests were attributed solely to passing militiamen and conscientious bystanders, some of whom later testified that they were hit by placards carried by the demonstrators, and who also identified Mark Nashpitz as one of the perpetrators of this assault.

12. Those arrested, including Nashpitz, were led away to an office inside the Lenin Library and there detained for about an hour while their documents were inspected and a decision was made regarding the disposition of the demonstrators. It was during this period of time, not before, that custody of the prisoners was transferred from the KGB to the militia. They were then boarded onto a bus and driven to the sobering up station of the Kievsky Region of Moscow.

13. At the sobering up station, Nashpitz and the other prisoners were divided up into different cells, and then questioned one by one. At the same time, different groups of people were brought into their cells where the prisoners were identified and forced to show their faces for the inspection of those present. Later, some of those individuals were called as prosecution witnesses in Nashpitz's trial, even though they had not been present at the time of the arrests in the square.

14. In the evening of the 24th, the prisoners were called one by one before a judge, who was brought to the sobering up station despite the lateness of the hour. All those arrested, except for those who were released by the Judge, were given ten to fifteen day prison sentences; and only Nashpitz and one other (Boris Tsitlenok) were separated from the group and transferred to a preliminary detention cell for further criminal investigation.

15. During this investigation, Nashpitz was held incommunicado on "unspecified charges" in the Preliminary Detention Cell of No. 40, militia-branch, for nine (9) days without any information about the charges or investigation being given to his relatives. Although it became known on the third day following the arrest that a criminal case was open against Nashpitz, his relatives did not know of his whereabouts. The inspector who was obliged to inform them about the facts surrounding the case "was sick," while the Deputy Director of the Investigation Department of the Procurator's office in Moscow said that he never heard of the case; although, it was revealed later that he personally knew quite a bit about the case.

16. During the course of the preliminary investigation that was obligatory in this case, and throughout the proceedings of the court, the requests of Nashpitz and his advocate to call witnesses for the defense were not satisfied. Not one of the witnesses for the defense was questioned. Nor were accidental witnesses or passers-by examined. In fact, only those individuals who were summoned to the sobering up station were called upon to testify, and only then, as witnesses for the prosecution.

17. On the 26th of February, the apartment of Nashpitz's aunt, M. Zaslavakaya, was searched during her absence, purportedly for the purpose of discovering articles or documents that would implicate Nashpitz even further. Curiously, the search came immediately after M. Zaslavakaya had sent a complaint to the Procurator's office in Moscow in connection with the case of her nephew.

18. Once notified of the pending action against Nashpitz, his relatives were then told to secure an advocate for Nashpitz, but only an advocate that possessed a "dopusk" (security clearance). This condition considerably restricted Nashpitz's relatives in their choice of available counsel.

19. On March 30, these same relatives of Nashpitz, unaware that it was the day before the trial, asked Moscow City Court officials for the date and time set for the trial. The head of the special office of the City Court informed them that the trial would be held in closed session, and that his relatives were not entitled to know where or when Court would be held.[2]

20. On the day of the trial, friends and acquaintances of Nashpitz were neither permitted to enter the building nor allowed to observe the proceedings of the trial. Only Nashpitz's aunt attended the trial; and, even then, she was forbidden from making notes of the proceedings while in the courtroom.

21. The verdict of Judge Bogdanov was that the slogans on the placards were of a provocative nature, and that demonstrators violated the public order and interfered with traffic and passers-by.

22. Although prosecuted under Article 190–3, Code of Criminal Law, R.S.F.S.R., Nashpitz was sentenced to five years in internal exile in accordance with Article 43, Code of Criminal Law, R.S.F.S.R., in "mitigation" of his punishment.

PRAYER FOR PROTEST AGAINST THE JUDGMENT

23. The verdict under Article 190–3, Code of Criminal Law, R.S.F.S.R., cannot be sustained. Article 190–3, supra, states:

"The organization of, and, likewise, the active participation in, group actions which violate public order in a coarse manner or which are attended by clear disobedience of the legal demands of representatives of authority or which entail the violation of the work of transport or of state and social institutions or enterprises shall be punished by deprivation of freedom for a term not exceeding three years, or by correctional tasks for a term not exceeding one year, or by a fine not exceeding 100 rubles."

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[1] In 1970, Nashpitz first applied for a visa to emigrate to Israel. Nashpitz was denied his visa on the grounds that his father was a "traitor" for allegedly having illegally left the country in 1956 and that the son would have to answer for the father's actions.

On March 2, 1977, Nashpitz was sentenced to one (1) year corrective labor for refusing to serve in the Soviet Army as a reserve officer. At the time of his conviction, he had presented documents showing that he had renounced his Soviet citizenship in 1971 and that he was officially an Israeli citizen.

In August, 1974, four and one-half months after his mother's emigration to Israel, Nashpitz was told by KGB officials that his own emigration to Israel would be expedited if he agreed to "penetrate the activist leadership circles and try to discredit them, disrupt demonstrations, and find out their means of gathering information on the emigration status of Jews living in the provinces." When he refused, he was threatened with prosecution on charges of "serving as a middle-man for the transfer of Jewish capital to Israel and the illegal selling of diamonds."

[2] In fact, the trial was held in open session, i.e., the relatives were simply deceived by this official. "The examination of cases in all courts shall be open, except in instances when this contradicts the interest of protecting a state secret . . ." (Article 18, Code of Criminal Procedure, R.S.F.S.R.). In addition, the resolution of whether to consider the case in closed judicial session in instances provided for by the Article 18 (sic) . . . shall be made by the court in administrative session (Article 228(8), Code of Criminal Procedure, R.S.F.S.R.).

24. First, we have Nashpitz's own testimony during trial that he came to the Lenin Library alone in order to express his personal protest against his forced detention in the U.S.S.R. The placard which he carried during the brief protest simply read: "Visas Instead of Prisons"—certainly innocuous and innocent enough by itself! The site of the demonstration is a little suare far removed from the part of the road used for traffic. Nashpitz also testified that the protesters did not interfere with either transports or the passers-by. Instead, the demonstrators silently took out their placards and stood around without bothering anyone. When the KGB agents did appear and began to break up the peaceful protest and arrest the activists, he, Nashpitz, surrendered himself and his placard without any resistance, and allowed himself to be silently led away.

25. The state, on the other hand, produced only exculpatory, biased, or flatly contradictory testimony.

26. The first witness, Grushkov, a militiaman, testified that he was on duty at 10:30 while passing near the area of the Lenin Library. As he left the tunnel and went up the stairs (the library building stands above the level of the sidewalk), he observed a group of people in the square in front of the library who were either holding up placards or still unfolding their signs. He approached the group as he thought their action constituted a disturbance of the public order. Coming upon the scene, he noticed a few people who were curious to read the placards. He went up to Nashpitz, took away his sign, and then ordered him to go to the empty bus which was now standing nearby.

27. Grushkov also testified that Nashpitz complied with his order and did not offer any resistance. The militiaman went on to state: that there were no violations of the traffic movement, only curious drivers who had slowed down their cars; that there was no crowd around the demonstrators, only about ten to twelve people; that the movement of passers-by was not obstructed; and the whole action lasted only about two to five minutes.

28. The witness, Chuvileva, was questioned next. Her testimony was to the effect that she and her husband were on leave traveling together to a shop situated not far from the Lenin Library. As they left the tunnel (probably the same tunnel that the first witness, Grushkov, referred to), they were attracted by the sight of several people standing near the library. Having read the text of the placards she ran to the man closest to her, Nashpitz, and pulled the sign out of his hand. Under what claim of authority she undertook this action is not clear from the limited testimony. She then attempted to pull the placard from Nashpitz's hand; but according to her testimony, he resisted. To the Procurator's next question of whether it was true that he had then struck her on the arm, as she had previously testified during the preliminary investigation, she said that she did not remember; but that it seemed to her that he struck her when she was leading him to the bus. In contrast, the witness, Grushkov, had already testified that he alone had led Nashpitz to the bus, having previously stripped him of his placard She then went on to estimate in her testimony that the number of people who had gathered in the square was around twenty and that neither the demonstrators nor the crowd interfered with traffic or passers-by.

29. The witness, Chuvilev (the husband of Chuvileva), was next questioned. He did not personally confront Nashpitz, but testified that he observed the prisoner hit his wife when she tried to take away his placard This directly contradicts both his wife's and Grushkov's testimony.

30. The next witness, Kuznetsova, testified that she had already passed the library when she heard a noise and saw a crowd gathering. She returned, but too late either to see the texts of the placards or to participate in detaining the participants of the demonstration. She was then asked a series of leading questions by the Procurator about her personal attitude which demonstrated an extreme bias toward Russian activists.

31. An eighteen year old witness, Shatiliv, was next. His testimony was similar to Chuvilev's in that he stated that he observed the alleged altercations between Chuvileva and Nashpitz from a distance, and that he heard Nashpitz insulting and hitting Chuvileva.

32. One of the main witnesses was called next—the Inspector of the ORUD GAI (the traffic militia), Gladilin. He testified that he was present at the square during the demonstration; and in his words, it lasted no more than two to five minutes. He did not see any crowds, or violations of traffic, or pedestrian movements. In fact, he testified that because he observed no resistance by the demonstrators, he considered it safe enough to go back to his other duties because he judged that one militiaman was enough to handle the situation.

33. Four of the remaining witnesses who had confirmed the charges against Nashpitz testified at the trial that they did not observe the demonstration very well and did not remember Nashpitz.

34. The summation of Procurator Prazdekova was based largely on the testimony given by her witnesses during the preliminary investigation. She did not, however, refer to the inconsistencies between the testimony given at the trial versus the testimony received during the investigation. Nor did she refer to the obvious contradictions in the testimony of the state's witnesses during the trial itself. She then went on to state that Nashpitz was, in her opinion, a parasite.[a] The advocate of Nashpitz, on the other hand, examined the discrepancies in the testimony of the state, and then went on to delineate the significant differences between the conduct of the accused and the conduct constituting a violation of the provisions of Article 190–3, Code of Criminal Law, R.S.F.S.R.

35. Not once during the course of this examination did either advocate refer to the fact that: (a) the initial arrests were, in truth, performed by KGB agents, not the witnesses as they alleged; (b) that the militia were first given custody of the prisoners only when those arrested had already been taken inside the Lenin Library; and (c) that the witnesses for the prosecution were not actually at the scene of the arrests, but had been selected much later at which time the accused at the sobering up station was singled out to them so that these individuals could then be summoned as witnesses at the present trial.

36. Judge Bogdanov, in his verdict, based his findings only on the testimony that was given during the preliminary investigation.

37. Nashpitz was denied his rights under Article 96, Code of Criminal Procedure, R.S.F.S.R. Article 96–2, supra, states:

"Persons confined under guard may be kept in a cell of preliminary confinement for not more than seventy-two hours."

"If the delivery of persons confined under guard to a separate investigative cell is impossible because of distance or lack of appropriate communications, then they may be kept in a cell of preliminary confinement for up to thirty days."

It was well known at the time that Nashpitz was detained for a period of at least nine days at the Preliminary Detention Cell No. 40, militia branch. Since Preliminary Detention Cell No. 40 is located in Moscow and the accused was arrested in Moscow, it is difficult to perceive how the state can justify extended preliminary confinement because "a separate investigative cell is impossible because of distance or lack of appropriate communication . . ." (Article 96–2, Code of Criminal Law, R.S.F.S.R.).

38. It is also worth asking whether the accused was originally arrested with the prior sanction of either a court or a procurator (Article 11, Code of Criminal Procedure, R.S.F.S.R.). If not, did any agency of inquiry give notice to a procurator within twenty-four hours of the grounds and reasons for detention (Article 122, Code of Criminal Procedure, R.S.F.S.R.)? This is essential to the rights of the accused because, by law, a procurator must, within forty-eight hours from the moment of receiving such notice, approve the confinement under guard or free the prisoner (Article 122, *supra*).

39. Mark Nashpitz was denied his right to a defense under Soviet law. One of the most basic principles of Soviet criminal procedure is the right of a defendant to a defense. This principle is guaranteed by Article 111 of the U.S.S.R. Constitution and by Article 19, Code of Criminal Procedure, R.S.F.S.R. Article 46, Code of Criminal Procedure, R.S.F.S.R., further guarantees:

"The accused . . . the right to know what he is accused of and to give explanations concerning the accusation presented to him; to present evidence; to submit petitions; to become acquainted with all the materials of the case upon completion of the preliminary investigation or inquiry; to have defense counsel from the moment provided for by Article 47 of the present Code; to participate in the judicial examination in the court of first instance; to submit challenges; and to appeal from the actions and decisions of the person conducting the inquiry, the investigator, procurator, and court."

40. After the relatives of Nashpitz were informed to the pending charges against him, they were instructed to secure defense counsel. They were also told he must possess a "dopusk" (security clearance).

41. The right to a defense is a general concept that is expressed in a number of specific rules (Articles 47 and 48, Code of Criminal Procedure, R.S.F.S.R.). Article 48, *supra*, grants the defendant the right to choose his own advocate. In a decision rendered December 17, 1971, the Supreme Court of the U.S.S.R. (panel for criminal cases) held that "depriving the defendant of the possibility of commissioning an advocate according to his own choice required reversal of the conviction." Furthermore, Soviet legislation consistently stresses the broad range of persons from whom the defendant may select an advocate according to his own personal wishes. There is no reference in any of the statutory material, or any of the published regulations, or any of the official commentaries to limitations on the range of advocates who are permitted to appear in "special cases."

42. This requirement of a dopusk, this precondition as you will, effectively limited the defendant's choice of counsel to a narrow, state-approved list of advocates whose sympathies (since they were granted security clearances) very probably would not lie with a Russian activist. This in-bred bias could evenutally interfere with their solemn obligation to pursue all means and methods that would exculpate their client, or to reduce his responsibility, or to render him all necessary legal assistance. And, in fact, limiting the choice of counsel to a list of lawyers officially approved by the state has resulted in numerous instances where a defendant in the Soviet Union was denied the services of an advocate willing to perform the constitutionally prescribed duties of a

[a] Yet, it is a fact that Nashpitz was a stomatologist, who had worked until November, 1974, when he was told in the OVIR that he would soon receive his visa and had only a short time to prepare to leave.

defense counsel as set forth in Article 51, Code of criminal Procedure, R.S.F.S.R.

43. The most essential aspect of a constitutional right to a defense is the right to present evidence at trial (Articles 46 and 51, supra). From the record of the trial, there can be no doubt that the defendant, Nashpitz, was denied his right to present all available evidence, as the Procurator twice objected successfully to the defendant's request and that of his counsel to call certain witnesses—first, at the beginning of the court session, and later, after all the state's witnesses had been examined.

44. The Procurator's objection was based on her opinion that witnesses for the defense, because they were guilty of the same crimes and were currenty serving 10- and 15-day prison sentences, would not be reliable witnesses. There is no support, however, for this opinion in Soviet law. As a consequence, the defendant, Nashpitz, was not allowed to call any witnesses in his behalf.

45. Mark Nashpitz was denied the right of a public trial. Articles 18 and 228, Code of Criminal Procedure, R.S.F.S.R., establish the principle that the examination of cases in all courts shall be open, except in instances where state secrets or minors or sexual offenders are involved. As none of those exceptions are material to the facts of this case, it follows that the defendants should have been tried in open session. However, the actions of the Moscow City Court's officials throughout the investigation and trial of the accused, taken as a whole, effectively limited the defendant's right to a public trial.

46. Consider the following action:

(a) On the day before the trial of Nashpitz was scheduled, the relatives of the defendant inquired of the head of the special office of the City Court where and when the trial would be conducted. The head of the special office told them, in effect, that it was none of their business, and that it didn't make any difference because the trial would be held in closed session.

(b) On the day of the trial itself, relatives, friends, and acquaintances of the accused arrived at the court building around 9 o'clock in the morning (the session was to start at 10:30), but the court-yard was already full of militiamen and members of the People's Guard. The doors of the courtroom were completely blocked. When they asked to be let in they were refused under the pretext that a "sanitary day" was scheduled for the court building (no signs of which were apparent anywhere). At the same time, the militia told the crowd gathered outside that the courtroom was filled-up by the curious residents of the neighboring houses.[1]

(c) Approximately at 9:20 a prison car arrived with Nashpitz and the other accused inside. They were led out by the guard and taken to the courtroom. As they were being transferred, the militiamen formed a tight cordon around the prisoners so that no one in the crowd could speak to them.

(d) A group of foreign correspondents who had arrived later than most of the crowd and who also knew that there would be an open trial asked to be admitted. The militia first asked them to show their press cards, then told them that the building was being cleaned, and then informed them the courtroom was full. Thus, the request of the foreign correspondents to be present at the trial was also rejected.

(e) Prior to the beginning of the court session, the defense counsel for the accused had submitted a request for inviting to the trial a representative of the Embassy of Holland which also represented the interest of Israel in the U.S.S.R. As an answer to the request of a representative of the Embassy of Holland, the Procurator said that the session was an open one and any person could attend it; however, the representative was not permitted into the trial.

(f) Finally, just prior to the commencement of the trial, the aunt of the accused was permitted to enter the courtroom; although she was forbidden from taking any notes of the proceedings while in the courtroom. The aunt of the accused later reported that there were many empty places in the courtroom throughout the session. She also reported that while the building itself was empty—as all other court sessions were cancelled—the cafeteria was indeed open, and she never saw any cleaning women or anyone at all connected with the "sanitary day."

47. Mark Nashpitz was denied rights guaranteed to him by internationally recognized human rights standards, specifically, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Helsinki Final Act of 1975. In particular, I call your attention to the Helsinki Accords wherein the Soviet Union reaffirmed its commitment to the human rights principles in these and other documents. These principles include: (a) the right to leave any country, including one's own (Declaration, Article 13, paragraph 2; Covenant, Article 12, paragraph 2); (b) freedom of thought, conscience, and religion (Declaration, Article 18; Covenant, Article 18, paragraph 1); (c) freedom of opinion and expression (Declaration, Article 19; Covenant, Article 19); (d) the right to fair and public trials in criminal matters (Declaration, Article 10; Covenant, Article 14); and (e) freedom from arbitrary interference with privacy, family, home or correspondence (Declaration, Article 2; Covenant, Article 17). In addition, the Final Act cites reunification of families as an important human rights principle in humanitarian cooperation between nations.

Respectfully submitted.

BENJAMIN A. GILMAN,
Member of Congress.

Mr. Speaker, in addition to the presentation to the Soviet delegation, I also submitted both briefs to the American delegation. I am pleased to report that U.S. delegate Joyce Hughes, a Northwestern University law professor, utilized a portion of my brief in her address to the plenary session on the first day of closed meetings, noting that the Communist barrier to the free exchange of letters and publications represented a continuing pattern of disrespect for the 1975 Helsinki accords.

Ms. Hughes' speech is included in full at this point in the RECORD.

REMARKS BY MS. HUGHES

Mr. Chairman: In presenting the views of the United States, I speak as an accredited permanent member of the delegation. However, it should be noted that I am a private citizen, and not a professional diplomat. Thus, I also represent the broad spectrum of American public opinion on the important questions that will be discussed in this meeting. The people of the United States desire progress under the provisions of the Final Act relating to security in Europe, but we are also keenly interested in implementation of all ten principles enunciated in the initial section, especially in the area of human rights. It is clear, of course, that the Principles represent solemn moral and political undertakings drawn from the body of established international law.

The United States delegation is also clear in its purpose in both these plenary sessions and the organized, sequential and structured talks in the subsidiary working groups. Simply stated, that purpose is to further the goals set forth in the preamble to the Final Act. Those are "to make detente a continuing . . . increasingly viable and comprehensive process"; to contribute "to the strengthening of world peace and security"; and to promote fundamental human rights.

While these high goals and the solemn promises we have all made affect the relations among participating states, they also affect relations between citizens and states and exchanges between individual citizens. If the basic human rights of every citizen of every nation are not observed, there can be no lasting peace; there can be no permanent security; there can be no real cooperation among nations.

While the United States emphasizes the area of human rights, we view the Principles, and the Final Act, as an integral whole. The preample states that all of the Principles are of "primary significance" and that each is to be "respected and put into practice." This delegation will discuss each Principle in great detail in the working bodies. In order to respect our pledge to observe a time limitation, in this statement we must be brief and paint with broad strokes.

We view detente as an important goal, but believe that progress in that area is intertwined with our concern for human rights. We believe that a human face should be placed on the body of detente. As Ambassador Goldberg emphasized in his opening address: "A deepening of detente, a healing of the divisions in Europe, cannot be divorced from progress in humanitarian matters and human rights. The pursuit of human rights does not put detente in jeopardy. Rather, it can strengthen detente, and provide a firmer basis for both security and cooperation."

The Final Act shows that our concept of security is an evolving one. In the confidence-building measures, the Act has provided us with imaginative and practical steps toward a reduction in the tensions caused by military maneuvers. Our talks in Belgrade can contribute to the evolution of the process.

It is a dynamic process, evidenced by the interaction among separate CSCE pledges. The undertakings to respect sovereign equality, the territorial integrity of states and the inviolability of frontiers do not stand alone. They are intimately linked to the equally significant obligation not to accept border changes except those agreed to under international law and those to promote the self-determination of people, and settle disputes peacefully.

The question of peace through disarmament is an important topic, but it cannot be discussed thoroughly in this meeting. We hope that discussion in other forms such as the MBFR talks in Vienna can begin to show real progress after long delays. The President of the United States, in his address to the United Nations last week, declared our willingness to go further than ever before to eliminate the dangers of nuclear testing. In addition, President Carter is pursuing bilateral and multilateral talks to reduce the growth of nuclear armaments.

On the other hand, our talks in this forum can contribute to peace, security and cooperation if we continue to be candid. Since the Helsinki summit we have seen this new candor in the animated international discussion of the application of Principle VII to the conduct of many participating states. Through it our nations are proceeding not only to better understanding of one another, but also to better performance in the protection of the fundamental freedoms of all our citizens.

In the United States we are accustomed to open friendly debate between individuals with conflicting views and from diverse origins, as well as frank exchanges between the public and the government. We believe a

[1] It transpired later that these "so-called" residents present were no more than guards and their commanding officer as well as eight to nine young men dressed in dark suits.

similar exchange of constructive comment among nations is also possible.

In that context, however, the United States delegation is concerned about repressive measures contrary to Principle VII, which have been taken in certain signatory nations. Such actions are not conducive to the good atmosphere which has evolved during the plenary session of this conference. However, we shall have more to say on these matters as our discussions continue.

In the American view, the discussion here and elsewhere is essential to the healthy advancement of the CSCE process. An international agreement such as the Final Act can only live and grow as its signatories question one another, freely commenting on matters of interpretation and practice which are related to the implementation of our undertakings. Such comment and inquiry in no way breaches the promise we also gave—and firmly uphold—not to intervene in matters "falling within the domestic jurisdiction" of other states. The issue of human rights is a matter of principle in the Final Act. Governed now by our international agreement—and others which preceded it—human rights are, by definition, not a matter of domestic jurisdiction alone. And, as all of the participating states have declared in the Final Act, we are determined to respect and put into practice all of the ten principles "irrespective of our political, economic or social systems."

In Principle X, we have agreed that all participating states "will fulfill in good faith their obligations under international law." That commitment is closely bound to the preceding principle on cooperation among states. The rules we live by at home and abroad order our daily existence and secure our prospects of improving it.

In one area the United States sees with deep regret a continuing pattern of disrespect for the pledges we have all made. Let me be specific. In some signatory states, ordinary and registered mail is improperly handled.

When letters do not pass freely between members of the same family—some living in one country and some in another—the process of family reunification is obstructed, not facilitated. When a publisher in New York cannot correspond directly with a literary adviser or author in Moscow, "contacts and cooperation among persons active in the field of culture" are frustrated, not increased. And, when an American friend is unable to obtain delivery of a subscription to the National Geographic Magazine for a Soviet schoolboy or a copy of the World Almanac for a teacher in Czechoslovakia, the flow of information is choked, not widened. These are not hypothetical incidents. These are actual cases. These are facts and we intend to address them forthrightly and with candor because we believe that a thorough review demands such candor and straight talk.

The conduct just described runs contrary to principle IX and also to the "freedom of transit" guaranteed in the Universal Postal Convention. Such actions conflict with the broad pledge of principle X to fulfill obligations under international convenants, as well as provisions elsewhere in the final act.

The United States recognizes, as I said at the beginning of my remarks, that the final act is a unity, all of whose provisions and principles relate to one another. It is also a document of intent, a guide to a gradual process of development and implementation; an evolutionary proceeding.

Based on experience in the United States, I have come to believe in the capacity of individuals and governments to transform words on paper into actual progress and in their potential to make human rights move from the realm of rhetoric to the world of reality. Thus, I join with the United States delegation in looking forward with sincere, but realistic hope, to the continued international application of the principles contained in the final act, and to a more humane, more secure, more confident global society that process promises for us all.

Mr. Speaker, my remarks would not be complete if I did not acknowledge the contributions of several key individuals and organizations, without whose cooperation, the preparation of the brief on the disruption of international communication by the Soviet Union would have been certainly more difficult. In this regard, I would first mention Mr. Ernest Goldblum of Harrison, N.Y., honorary chairman of the Westchester Conference on Soviet Jewry. It was because of Mr. Goldblum's untiring effort and long interest in the field of United States-Soviet communications, that I was made aware of certain facts that demonstrated the Soviet Union's systematic interruption of certain classes of mail that were primarily addressed to the Jewish community in the U.S.S.R. It was also at the initiative of Mr. Goldblum and the Greater New York Conference on Soviet Jewry that several meetings on this subject were held in the office of Congressman HAMILTON FISH, Jr., New York, a long time defender of the rights of Soviet Jews. At these meetings, which were also attended by several of my colleagues from New York, Representative BRUCE CAPUTO and Representative RICHARD OTTINGER, as well as representatives of the Office of International Postal Affairs, U.S. Postal Service, complaints of interference by the Soviet Union with the delivery of mail to Soviet Jews who have applied for emigration visas to Israel were raised and extensively discussed. Documented evidence was also furnished at these meetings by the Greater New York Conference on Soviet Jewry. This material strongly suggested that the Soviet Union is not living up to its obligations as a signatory to the Universal Postal Convention and the Helsinki Accords.

These discussions prompted me to arrange a meeting with officials of the Universal Postal Union in Bern, Switzerland, last March to discuss these alleged mail violations and to seek guidance as to what remedies were available to redress this affront to the integrity of the international mail system. However, it soon became apparent to me during the course of this meeting that the Universal Postal Union was relatively powerless to effect a change of attitude on the part of the Soviet Union. It was for this reason and at this time that I decided to pursue these allegations with documentated support at the CSCE review meeting scheduled for the following fall and winter in Belgrade, Yugoslavia.

I must also acknowledge the contributions of the National Conference on Soviet Jewry, the Greater New York Conference on Soviet Jewry, and the Office of International Postal Affairs, U.S. Postal Service, for the material they furnished that made it possible for me to document in my brief, to the degree that I did, mail violations by the Soviet Union.

Finally, I would like to express my gratitude and admiration to Ambassador Arthur J. Goldberg and the entire U.S. delegation, both for the sensitivity and cooperation they demonstrated in recognizing the importance of the allegations raised in my two briefs and their efforts to pursue these and other humanitarian issues at the CSCE review meeting.

Mr. Speaker, I urge my colleagues in the Congress who may be traveling to Europe during the next 2 months, to visit the CSCE review meeting in Belgrade, which sits through December of this year, as a demonstration of the support and commitment of the Congress for the U.S. position on the implementation of the Helsinki Final Act, as that decision was so superbly defined by Ambassador Goldberg in his opening remarks. I cannot stress too strongly to my colleagues the importance of the negotiations that are currently underway at Belgrade. If, as I hope, these negotiations are to be meaningful; if European security is to be strengthened; if economic, scientific, technological, and environmental cooperation is to be promoted; and if our commitment to humanitarian, cultural, and educational cooperation is to be reaffirmed; then it is incumbent upon the Congress, the Executive, and the American people to contribute, each in his or her own way, so as to insure the lasting success of the Belgrade Conference.

THE UNITED STATES AT BELGRADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. BUCHANAN) is recognized for 15 minutes.

Mr. BUCHANAN. Mr. Speaker, I would like to associate myself with the remarks of our distinguished colleague from Florida and to commend him for his leadership as Chairman of the Commission on Security and Cooperation in Europe.

It was my privilege, as a member of the commission, to participate recently in the Belgrade Conference now underway.

The Conference is providing an excellent forum for the United States to press a number of issues of concern to us, foremost among them the issue of human rights.

While there have been insinuations in the press that the United States is backing down in pressing the case for human rights, I did not find this to be the case. Quite the contrary.

The speeches of Ambassadors Goldberg and Sherer and particularly of Prof. Joyce Hughes certainly left no doubt as to the concern of the United States.

If proper emphasis is to be given to Principle VII of Basket I and Basket III and the human rights aspect, the United States will have to continue to give leadership in that direction.

Literally millions of individuals within the Warsaw Pact countries can ultimately be benefited by our defense of their rights as guaranteed by the Helsinki Final Act.

There are courageous citizens in some of the most repressive countries who have taken a public stand in monitoring compliance of the Helsinki Accords and calling to the attention of the outside world the continuing and blatant violations of human rights.

If we are to "turn promises on paper into realities in the world," as Joyce Hughes said in her speech in Belgrade, then the United States must give leadership in the area of human rights and support to these courageous individuals who are sacrificing their own liberties so that others might have liberty in the future.

We dare not let them down.

While it is not realistic, Mr. Speaker, to expect major and dramatic changes in the course of this Conference, we can and must press for added steps toward realizing the promises of Helsinki. We must keep the process going and we must preserve the integrity of this process.

It was, therefore, appropriate, in my judgment, that our senior U.S. delegate, Justice Arthur Goldberg, delivered the statement outlining the U.S. position on Basket III dealing with cooperation in humanitarian and other fields. His speech, which follows reflects his own lifelong commitment to furthering human rights. As Secretary of Labor, Associate Justice of the Supreme Court, and U.S. Representative to the United Nations, he has always been a force for high moral values in the conduct of Government policy:

STATEMENT OF AMBASSADOR GOLDBERG, OCTOBER 13, 1977

Mr. Chairman: During the open plenary session, one distinguished delegate from the East criticized the West's visa practices which, he stated, compared unfavorably to his own country's practices. As I reported in my opening statement, America's visa policies have been liberalized. Although not perfect, they compare favorably with other countries. I welcome a discussion on this subject and all others on our agenda in the working groups, where we will be eager to discuss any problems, but I do not regard the distinguished delegate's criticism as an affront or as a signal of confrontation. This type of dialogue should be welcomed by all delegates at this conference if we are to make progress. I trust that my remarks will be understood in a constructive spirit, so that we can move away from platitudes and proceed to specifics.

The United States recognizes that all three Baskets are of great importance. The United States considers Basket III as a keystone of the Final Act. Both President Carter, in whose name I speak, and the American public, place high value on the human rights provisions of the Final Act.

The Human Contacts provisions of Basket III—family reunification, family visits, and marriages between nationals of different states—are in our view especially significant. They lend great political force to the most human of impulses—the desire to be with and rejoin spouses, relatives and friends. Where a person is powerless to fulfill that personal dream, our collective commitment gives strength and hope, provided we do our task and implement the specific provisions of the Final Act.

The United States is encouraged by the increase since 1976 in the numbers of people permitted to leave their countries for the purpose of rejoining—or just visiting—relatives in the West, in Israel and in other countries. But has movement truly been facilitated when thousands of members of ethnic groups have been refused permission to rejoin families elsewhere and there is evidence that thousands of others have been discouraged from applying?

The United States recognizes the favorable resolution of some family reunification and marriage cases by several of the signatory states. But, by way of example, Mr. Chairman, are Governments promoting the Act in its full spirit and the further development of contacts when over 2,780 individuals in one signatory country and close to 2,000 in another cannot cross their borders to live with relatives in my own country?

The American delegation would further like to commend efforts that have been made to ease the procedural obstacles confronting those who wish to leave. But is it in the Final Act's "positive and humanitarian spirit" in some signatory states to continue to subject exit visa applicants to long and uncertain delays, to arbitrary and unjustified decisions, and to punitive and discriminatory measures?

I simply cannot understand why a wife and husband should be separated because of capricious government policies, or why applicants in a signatory country are being refused the right to apply. Similarly I also cannot understand why so many are kept in the dark about application procedures. Why, for example, is one man refused the right to leave a country on the grounds of possessing state secrets when someone who had worked with him at the same job possessing the same information is allowed to leave? Further, why should some applicants still be thrown into an impossible Catch-22 situation where they lose their jobs upon applying for exit visas and are then arrested for not working. Is this sensible?

Is it consistent with what we decided at Helsinki? I think not. And is it humane that a man, a woman, or their family should be repeatedly arrested and harassed because they have asked to leave? And is it consistent with the humanitarian provisions of the Final Act to harass or imprison people for peaceful, non-violent political dissent or religious beliefs?

These are the types of problems that continue to concern the government and people of the United States. And these are the types of problems we intend to pursue in specific detail in the working bodies because we consider that is what the Final Act requires us to do. These practices evidence that basic attitudes opposed to the two-way flow of people have in some signatory states not been modified and that state-imposed barriers to greater human contacts have not been removed. People are still prevented from being with people. People ultimately is what the Final Act is all about.

It is each nation's obligation to such individuals to reexamine their situations and remedy them in the "positive and humanitarian spirit" which the Final Act sets as a standard. It is our obligation at this conference, moreover, to agree on new measures to liberalize travel, marriage, and family reunification practices. The rules and decisions must, if Helsinki is afforded its proper weight, be fair, the financial and social costs minimal.

I regret that there is resistance, on the part of certain signatories, to the free, untrammeled flow of ideas and information guaranteed by the Final Act. It has been said, by way of illustration, that hard currency shortages in other states inhibit the purchase of information products from my own country. I recognize the problem these shortages impose, but surely they cannot be an insuperable obstacle to fulfilling the solemn undertakings of what we all have agreed upon.

It is hardly a lack of dollars that motivates the jamming of Western radio broadcasts. Nor can we believe that the same financial problems which are asserted to limit purchases of Western publications also demand storage of them in library stacks closed to all but a privileged few.

In my own country we impose no artificial obstacles to access to information of all kinds and certainly the Final Act contemplates that journalists should not be impeded from performing their duties to the public.

We are pledged in the Final Act to facilitate—not control—cultural and educational exchanges. Yet, practices contrary to both the spirit and letter of the Final Act still persist. We took a survey of Americans participating in one of our exchanges. We found it disturbing to note that less than 20 percent are satisfied with their experience in gaining access to archival material of a scholarly character. Formally accepted to conduct research, and granted official entry, many scholars continue to be sharply restricted in their ability to conduct what is recognized by all standards as solely academic pursuits.

We cannot undertake all measures of implementation at once. It is a step-by-step process. But we must take some concrete measures. We hope other delegations will join us in proceeding in a detailed discussion of mutual accomplishments and shortcomings so that the "thorough review" of implementation will take place in the subsidiary working bodies next week.

We cannot afford to give way to frustration. People all over the world are listening to what we say and do. Nor can we be content with the stale repetition of the conventional wisdom of our respective societies. If ever there was an opportunity to break free of ideological cliches, it lies in the Final Act and the framework of interaction it provides us and our peoples.

Our review of implementation should reveal the situations which cry out for attention wherever they may be, including my own country, and agree on ways to improve them. Where we go in the future depends on our willingness to react to constructive criticism. The action we take in response to the dialogue in working groups will be the measure of our sincerity.

The people of Europe, America, and throughout the world, expect much from us. I hope that we earn the trust they repose in us by the progress we make here.

While much of our concern is on human rights, just as much of the Helsinki Final Act addresses this issue, we are also exploring problems of trade relations, environmental concerns as well as national security and sovereignty.

During the second week of the Conference, the U.S. delegation, through a speech by Ambassador Sherer, outlined the goals we will be pursuing in basket II, which deals with cooperation in economic, commercial and scientific matters.

Ambassador Sherer, who was formerly U.S. Ambassador to Prague and most recently the deputy chief of the U.S. Mission to the United Nations, is particularly experienced and knowledgeable in the field of East-West relations. He is playing a vital role in the United States' efforts in Belgrade as Ambassador Goldberg's second in command. His statement follows:

STATEMENT OF AMBASSADOR SHERER, OCTOBER 12, 1977

Mr. Chairman: Although political and security questions were at the origin of the discussions which led to the Final Act of the Conference on Security and Cooperation in Europe, the areas of commercial and scientific exchange have become a key element in the Final Act. The second section reflects the increasing tempo of these exchanges over the last decade. Furthermore, implementation of its provisions, we believe, can provide an impetus for the fruitful progress we seek in other areas.

Chapter Two of the Final Act provides a vehicle for promoting fruitful economic activities among all CSCE participating states and particularly between those with different social, political and market systems. Mutually beneficial and reciprocal economic relations can provide material benefits to both sides and, as those benefits grow, can smooth contacts and understanding in other spheres. This section sets down a concrete chapter of responsibilities for both Eastern and Western nations based on the understanding that it is in their mutual interest to increase trade, industrial cooperation and scientific exchange.

To be sure, as with other sections of the Final Act, progress is often slow. Its pace should not be discouraging. The United States is sincerely anxious to see improvements in business contacts and facilities, and we have noted important strides in that direction made by some Eastern countries. The provision of adequate economic and commercial information is vital to the success of trade and industrial cooperation. In that sphere, there has been progress, but simply not enough of it.

It must be remembered that Western business interests, in their negotiations regarding trade, joint ventures and cooperative agreements with the East, must get answers to their questions and have other requisite information. If they are frustrated in their endeavors, they will lose interest—to the detriment of the principles and possibilities enunciated in the Final Act.

Successful implementation of section II requires that old habits and traditions should be changed. Improvements in the area will pay substantial dividends to both sides.

Another matter of concern is the insufficiently rapid progress the United States has noted in the promotion of eased, informal contact and collaboration among scientists. The world community of scholars is among our most valuable resources and the language of science is universal. Within that community freedom to converse is essential to progress. Scientific research cannot bring mankind its potential benefits if researchers are kept apart and their conversations muffled.

All the aspects of the second section contain particular questions, of the kind outlined above, which the United States delegation intends to discuss in detail. The dialogue in the subsidiary working groups offer all participants an opportunity to remove misunderstandings and replace them with new, mutual comprehension. The American delegates are confident that the process of talking out our problems is a constructive one, prerequisite to the concrete advances in cooperation the Belgrade Conference can stimulate.

Mr. Chairman, I wish to express my country's deep appreciation for the excellent work of the United Nations Economic Commission for Europe in facilitating implementation of the provisions of the Final Act. The United States looks forward to its further involvement in this process and in particular to the report of the Executive Secretary on environmental topics which will be given at the thirty-third session.

While we have agreed to these goals, we must at the same time recognize the distance that still separates us. Uncertainty, for example, is the enemy of both centrally planned and market economies. In order to lay a firm base for increased trade, Eastern suppliers must make known the availability of their products and services, as well as the prices at which they will be offered. Western suppliers, moreover, require reliable bases from which to forecast end-user needs, developments in the use of imported products and processes, and ability to pay. The progressive and reciprocal reduction of such uncertainties should also be matched by mutual efforts to promote to expand exchanges—quantitatively and qualitatively.

The United States is dedicated to a principle of trade and exchange free from all barriers not inherent in the comparative costs of production and transport. Free trade based on comparative advantage or international division of labor requires that each side benefit more from imports than it loses from exports. The theory of international trade thus ensures that each nation may gain while not imposing sacrifices or unfair costs on others. There is substance to this theory. Our East-West relationships may be nourished by pursuing its fulfillment as prescribed in the Final Act.

And finally, let me note that we have consulted with representatives of our business community and I can report that their interest in expanding trade with the East has not flagged. The Final Act has increased their expectations. They are following our work with interest.

It is for all of these reasons that the United States calls for a sequential and documented review of the provisions of Section Two. It will be through this process, and through the careful examination of new proposals aimed at improving and expanding implementation, that mutually desired progress will be achieved for the benefit of all participating states.

Finally, Mr. Speaker, let me add my voice to the confidence already expressed by the chairman of the Helsinki Commission. Belgrade is only the beginning, but it is a beginning. If it is to be one of a series of steps toward progress in compliance with the Helsinki Final Act, the United States must continue to play a leading role. Millions in countries less free than ours are counting on us. We must continue our struggle for their rights.

THE COSTANZA EXTRAVAGANZA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 5 minutes.

● Mr. CLEVELAND. Mr. Speaker, this morning's Washington Post carries an excellent column on the op-ed page regarding "The Costanza Extravaganza."

Along with other Members of this body, I have found myself in recent years agreeing with the views of Ralph Nader (or his followers) on occasion and disagreeing at other times.

His public citizen litigation group is to be commended for blowing the whistle on what has to be regarded as a questionable operation in the Carter White House.

Simply put, like most people who run for Congress, Ms. Costanza apparently spent $16,000 of her own money. Now, however, she chooses to view it as a "debt." So, 2 months after becoming a top adviser to the President, at a salary of $50,000, she holds a fundraiser for herself.

People who paid $500 to talk to Ms. Costanza and Vice President MONDALE did so to buy access to the White House, and not out of concern over someone who wished to repay herself the $16,000 she had invested in her own election campaign 30 months previously. Ms. Costanza ought to be fired for this disgraceful performance.

The American people ought to ask what happened to the decency and principle that were promised. The Lance affair was bad enough, this latest exposure suggests that somethng is seriously wrong in the Carter White House.

The article by Alan B. Morrison follows:

THE COSTANZA EXTRAVAGANZA

(By Alan B. Morrison)

The news recently broke that White House assistant Midge Costanza held a $500-a-person fundraiser last April to wipe out old campaign debts. Since then, virtually the only questions raised have concerned her failure to file with the Federal Election Commission reports showing who contributed the more than $21,000 that was collected. Whether Costanza had any justification for her tardiness is of passing interest. The important question is whether a top White House aide like Costanza should have conducted such a fundraiser in the first place.

Let's review the facts. In 1974 she ran for Congress from her home city of Rochester, N.Y., and lost. Her campaign accumulated debts of approximately $26,000, including $16,000 owed to the candidate herself. By means of small fundraisers in the Rochester area in 1975, plus her own paying off of other creditors, the campaign's obligations were reduced to $17,615 by the end of 1976—and all but $570 of it was owed to Costanza. It was to repay those obligations to herself that Costanza and her friends decided to hold a fundraiser in April, 1977, 2½ years after the election and two months after she was sworn public liaison. With the approval of the publlic liaison. With the approval of the White House, a $500-a-person party was given in New York City to meet Costanza and the guest of honor, Vice President Walter Mondale. The party was a success, so successful that she now has a $3,400 surplus, after expenses and after repaying herself and her other creditors in full. Although federal election law required her to file reports of her fundraising activities by April 10, she still had not done so on Oct. 10.

But far more fundamental than the filing question is the question of whether she has violated President Carter's own admonition to his administration to avoid even the appearance of impropriety. It should be said at the outset that Costanza's fundraiser violated no law. Because she works in the White House, she is exempt from the Hatch Act's prohibitions, although if she had a similar position in the Departments of Treasury or Commerce, she could have lost her job for sponsoring that kind of party. Because there is no hint of any *quid pro quo* for the contributions, there is no possible basis for an allegation that she has violated the bribery statute. Nor has she broken the law that prohibits a federal employee from receiving any salary supplement for service as a federal official, since the payments to her were not for services rendered, but were outright gifts.

Nevertheless, what Costanza did can only be described as trading on her position in the White House for her own personal benefit. If she wanted to repay her debts, the time to have done so was before she took a position as one of the six top assistants to President Carter. Although the list of partygoers and other supporters is not yet public, it appears that few were local citizens of the Rochester area who might have been interested in her campaign; the others, such as a longshoreman's union in Brooklyn, were presumably far more interested in gaining access to presidential assistant Costanza than in retiring the debt of candidate Costanza. And, to make matters worse, almost all of her "debts" were to herself. Rightly

or wrongly, the impression is that is high government official, earning well over $50,000 a year, invited people with business pending before the government to give her money to help with her financial problems.

One of the ironies of all this is the relation between these events and the problems of former Budget Director Bert Lance was deeply in debt when he entered government, partly because of a prior political campaign. However, those debts were not owned by the Lance campaign to Bert Lance, but were loans from far less forgiving lenders—Atlanta banks. Nonetheless, Lance could have held—but did not—a fundraiser while in office.

Indeed, if he had thrown such a party, he might have raised enough money to avoid having had to go back to the Senate for an extension of time to sell his stock, and thereby avoided the opening of an inquiry that eventually led to his departure from the Office of Management and Budget. It is also worth noting that Bert Lance was forced to resign not for what he did while in office, but for what he did beforehand and, to double the irony, the first White House staffer to call for his resignation was none other than Midge Costanza.

The filing of Costanza's reports with the Federal Election Commission should not be allowed to end this matter. Costanza, whose job is to serve as a listening post for the President with outside groups, has plainly transgressed the bounds of proper conduct by accepting more than $21,000 in ontributions from a range of people who surely will want to stay in the good graces of the only non-Georgian in the upper reaches of the White House. The party last April would not have been held or been so successful if Costanza were not a top federal official.

President Carter and the Congress should immediately take steps to see that this kind of fundraiser is not repeated. By means of executive order and appropriate amendments to the Hatch Act and conflict-of-interest statutes now before the Congress, all federal officials should be clearly and unequivocally prohibited from raising money for campaigns while they are occupying influential positions in the executive branch. ●

UPSIDE-DOWN LOGIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. EDWARDS) is recognized for 10 minutes.

● Mr. EDWARDS of Oklahoma. Mr. Speaker, I wonder if anything could better illustrate the upside-down logic of this administration's energy plan than a situation that has followed from the recent discovery of a new gasfield along the U.S.-Mexican border.

Under the Carter energy plan, domestic producers would get $1.75 per 1,000 cubic feet of gas sold from the American side of the field. However, Mexicans would sell their gas to American consumers for $2.80.

Thus, in order to "protect" consumers from deregulated domestic natural gas, the Government will actually force them to pay higher prices for the Mexican natural gas.

But the Mexican example is only one of many. Consumers throughout the Northeast are being "protected" from deregulated natural gas, which is currently selling for slightly more than $2 per thousand cubic feet. But since there is a shortage, the void must be filled with expensive substitutes such as liquefied natural gas from Algeria, which is currently selling for as high as $4 per thousand cubic feet.

Mr. Speaker, how is this administration "protecting" American consumers by forcing them to pay more for their gas than necessary?

How is this administration creating American jobs when it deliberately subsidizes foreign economies to the detriment of our own, thereby worsening our already serious balance-of-payments deficit?

These are very basic questions, and the answers undermine the administration's claim that equity is the centerpiece of its energy program.

But what is true of natural gas is also true of crude oil. I draw the attention of my colleagues to the following letter to President Carter from Mr. W. T. Blackburn, of Denver. The letter was printed in the Western Oil Reporter and entitled, "I Take All the Risks." It is as good a commentary as I have seen regarding the regressive nature of the administration's energy plan:

I TAKE ALL THE RISKS

THE PRESIDENT,
Hon. JAMES E. CARTER,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: as an independent producer of crude oil and natural gas, I produce these products at various prices set by the federal government.

For oil developed prior to September 1973 and now producing more than 10 bbl/well per day I now receive $5.25/bbl.

Your proposed energy program would increase the price of this oil to $13.50/bbl over a period of three years.

I would continue to receive $5.25/bbl and the government would receive all proceeds over $5.25/bbl. After three years the government would receive $8.25/bbl and I would receive $5.25/bbl. I would pay all expenses out of my $5.25 and would "net" $1.50 to $3.50 (average $2.50/bbl). I would pay all taxes levied by various governments—i.e. school, country, state, federal and so forth.

The government's share of $8.25/bbl would have to be added to the retail price paid by consumers. As a consumer, I would pay my share.

Under certain circumstances, I may receive an inflation increase in my $5.25/bbl price if Congress and the administration approve. This would be limited to the inflation figure not to exceed 10 percent.

In the past our government has supported various products in order to encourage domestic production. I believe you will recall that when the world price of peanuts exceeded the domestic price the government provided a support price. This applies to many other products.

I do not understand how a government can "tax" a product with a net price to me of $2.50/bbl at a rate of $8.25/bbl to the government.

This is the way it looks to me: I find it: I develop it: I operate it: I take all risks: I get $2.50/bbl: The Government gets $8.25/bbl and the price to the consumer goes up.

I do not understand the logic behind this program. I further do not understand how the government has the right to do this.

I get the impression from the present personnel of your proposed $10 billion per year energy department that their attitude to me is: If you don't like it, get out of the business. I do not think this is a good answer.

I sincerely hope that you can explain this procedure to me as I do not understand the logic behind it.

Very truly yours,

W. T. BLACKBURN. ●

HOW STATE AND FEDERAL TAX POLICIES HAVE CONTRIBUTED TO THE DECLINE OF NEW YORK STATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, generally speaking, if you tax something, you get less of it.

If you subsidize something you get more of it.

In New York, we tax work, production, savings and investment, while subsidizing nonwork, consumption, welfare, and debt.

Is it any wonder that we are getting less and less of the former and more and more of the latter?

The basic problem of the New York State economy and the national economy is one and the same: excessive taxation. As President John F. Kennedy said in 1963:

> The main block to full employment is an unrealistically heavy burden of taxation. The time has come to remove it.

Thus President Kennedy proposed the most sweeping tax rate reductions since the 1920s. And the result was that this country experienced the longest sustained period of prosperity in the Nation's history.

That prosperity was eaten away by inflation, which relentlessly pushes people up into higher tax brackets and increases their tax burden. For example, a couple earning $12,000 per year pays 18.8 percent Federal income tax. But every dollar they earn above $12,000 is taxed 25 percent.

This fact, plus the proposed tax increases for energy and social security, will increase Federal income taxes from $150 billion this year to $339 billion by 1982.

This is why many people now believe that the country needs another Kennedy-style tax reduction. As Prof. Paul Samuelson recently said in Newsweek:

> I suggest the effort begin soon to stretch out this recovery in the way that John F. Kennedy . . . acted successfully to make the 1960s the best epoch of the postwar period for jobs, capital formation and profits.

Likewise, at the State level, taxes have increased, both as the result of inflation and legislated tax increases, to the point where New York State has the highest per capita tax burden in America: $1,025 per year.

And because the cost of living is higher in New York, largely because of high taxes, workers have to be paid more in order to get the same real income as someone living in another State where taxes and the cost of living are lower. This means that New Yorkers also pay higher Federal taxes than elsewhere.

The combined State and Federal tax burden in New York is what is responsible for the stagnating economic condition and the loss of jobs: 435,000 since 1970.

As business and individual tax burdens rise it discourages incentive and initiative. Eventually, our most productive citizens have no choice but to leave the State in order to increase their aftertax

income. And since 1970 537,000 people have moved out of New York.

I believe we can reverse these trends if Federal, State, and local tax rates are reduced at least 30 percent across-the-board.

This will restore incentive, encourage economic expansion, create jobs and produce investment. The resulting expansion of the economic base will also produce additional tax revenues and reduce expenditures for welfare and unemployment compensation. This means that tax reduction pays for itself almost immediately.

Any analysis of State and Federal economic problems which ignores the fundamental disincentives of the tax system is doomed to failure. Thus the Governor's plan to float a new $750 million bond issue for economic development and creating a multibillion dollar energy corporation will be counterproductive, because they will only increase the future tax liability of the New York taxpayers.

Therefore, I believe that the best thing the Federal Government can do to help New York State is reduce Federal income tax rates across the board. And the best thing New York State can do to help itself is reduce State income tax rates across the board.

It is no secret to anyone that the economy of New York State has been declining for more than a decade. The real mystery is why our political leaders cannot or will not do something about it.

Between 1970 and 1975 the State had a net loss of 119,000 in population, resulting primarily from the migration of 537,000 people out of New York. Particularly heavy losses in population were recorded in the New York City area. where there was an emigration of 139,000 people from the Bronx, 253,400 from Brooklyn, 77,200 from Manhattan, and 40,100 from Queens. Buffalo also experienced a net migration of 48,400 people from the area between 1970 and 1975.

Over the same period of time, the State had a net loss of 364,000 nonagricultural jobs. The loss of 37,100 additional jobs between April of last year and April of 1977 indicates that the trend has not changed. Once again, the heaviest losses were recorded in New York City, which lost 57,000 jobs between April 1976 and April 1977. This is one reason why New York State has an unemployment rate of about 9 percent, compared to a current national average of about 7 percent.

Although residents of New York State continue to enjoy per capita incomes higher than much of the rest of the country. the combination of higher living costs and higher taxes means that they do not necessarily enjoy a higher disposable income than other areas of the country that are generally considered to be poor. Table I demonstrates that when one adjusts the per capita income in New York State for the cost of living and for Federal, State, and local taxes, the net disposable income is lower than that of Alabama.

As one can see, the single most important factor in the poor position of New York, vis-a-vis the so-called Sun Belt State, is the State and local tax burden. This burden increased 175.5 percent in New York between 1965 and 1975, from $372 per capita to $1,025 per capita. This means that per $1,000 in personal income, the tax bite in New York went up from $118.72 in 1965 to $166.53 in 1975. The following list of changes in the State's tax law shows why this increase was so pronounced:

CHANGES IN STATE'S TAX LAWS

1965—The State sales and use tax was imposed at 2 percent. The cigarette tax was doubled from 5 cents to 10 cents per pack.

1966—A "temporary" 25 percent surtax was added to the stock transfer tax. (This was made permanent in 1968.)

1967—Taxes were increased on banks, corporations, utilities, and insurance companies; also in cigarettes and gasoline. Four new brackets were added to the state income tax. In addition, new taxes were imposed on real estate transfers and fuel.

TABLE I

State	Per capita income 1975 [1]	Federal income tax per capita [2]	Adjusted per capita income [3]	State and local taxes [4]	Net adjusted disposable income
Delaware	$6,748	$1,743	$5,483	$727	$4,756
Illinois	6,789	1,704	5,134	730	4,404
Texas	5,631	1,264	4,828	515	4,313
Connecticut	6,973	1,800	4,951	697	4,254
Maryland	6,474	1,615	4,872	728	4,144
Florida	5,638	1,378	4,643	521	4,122
Virginia	5,785	1,355	4,668	563	4,105
New Jersey	6,722	1,760	4,787	725	4,062
Oklahoma	5,250	1,181	4,497	482	4,015
Ohio	5,810	1,441	4,507	534	3,973
Michigan	6,173	1,539	4,627	782	3,945
Pennsylvania	5,943	1,426	4,506	636	3,870
Indiana	5,653	1,411	4,414	580	3,834
Georgia	5,086	1,217	4,303	508	3,795
West Virginia	4,918	1,091	4,281	533	3,748
Arkansas	4,620	970	4,150	405	3,745
North Carolina	4,952	1,145	4,223	485	3,738
Tennessee	4,895	1,147	4,155	451	3,704
Kentucky	4,871	1,094	4,189	497	3,692
Wisconsin	5,669	1,331	4,389	719	3,670
Louisiana	4,904	1,064	4,229	566	3,663
Alabama	4,643	1,026	3,981	415	3,566
Rhode Island	5,841	1,457	4,180	645	3,535
South Carolina	4,618	1,041	3,976	446	3,530
New York	6,564	1,636	4,518	1,025	3,493
New Hampshire	5,315	1,399	3,818	525	3,293
Maine	4,786	1,075	3,755	511	3,244
Massachusetts	6,114	1,535	3,980	814	3,266
Vermont	4,960	1,167	3,831	699	3,132
Mississippi	4,052	908	3,555	446	3,109

[1] C. L. Jusenius and L. C. Ledebur, "A Myth in the Making: The Southern Economic Challenge and the Northern Economic Decline" (Washington, D.C.: Office of Economic Research, Economic Development Administration, U.S. Department of Commerce, 1976). See also, Congressional Record (Jan. 25, 1977), pp. S1421-31.

[2] "Federal Spending: The North's Loss is the Sunbelt's Gain," National Journal (June 26, 1976), p. 881.

[3] Adjusted for cost of living and Federal income tax per capita. See Jusenius and Ledebur, " Myth in the Making."

[4] Tax Foundation, "Facts and Figures on Government Finance" (New York: Tax Foundation, 1977), p. 150.

Note: I am indebted to Alan Reynolds for suggesting this approach.

1969—The state sales tax was increased from two percent to three percent.

1970—A new business income tax was imposed and a minimum tax for individuals was established.

1971—The state sales tax was increased from three percent to four percent. In addition, taxes were increased on corporations, banks and utilities. Taxes on alcoholic beverages, cigarettes and gasoline were increased, another bracket was added to the personal income tax (bringing it up to the present rate of 15 percent on incomes over $25,000), the minimum tax was doubled, a gift tax was imposed, and a 2.5 percent surcharge was added to the personal income tax.

1975—The stock transfer tax was increased 25 percent. The bank tax was increased from eight percent to 12 percent on net income, and a 30 percent surcharge was imposed on bank tax liability for 1975 and 1976. The corporation franchise tax was increased from 9 percent to 10 percent of net income, and a "one-year" surcharge of 20 percent was added to the corporation franchise tax.

1976—The 2.5 percent surcharge on the personal income tax was extended through March 31, 1977 (Governor Carey later allowed it to expire on January 1, 1977).

At the same time that State taxes were increasing, local taxes were going up even faster—especially in New York City—and inflation was raising individual incomes and pushing people into higher tax brackets. Because the State income tax is steeply graduated, every 1 percent of inflation raises income tax revenues roughly 1.5 percent. This is approximately the same amount by which Federal income tax revenues go up in response to inflation. This more than proportional increase in income taxes resulting from inflation is especially harmful to New Yorkers because their nominal incomes are higher.

This combination of explicit and implicit tax increases has caused considerable hardship on the people of New York State. As table II demonstrates, taxes on a middle-income family of four in Buffalo went up 110.2 percent between 1967 and 1976, while the cost of living rose only 78.5 percent. Thus the increase in taxes is one of the most important components in the steep rise in the cost of living in New York.

The situation in New York City is especially bad. As the table demonstrates, personal income taxes on a middle-income family of four have gone up 143.2 percent in the past decade. And because New York City accounts for almost half of all the population and industry in New York State, whatever problems arise in New York City inevitably affect the rest of the State.

TABLE II

Family of 4	Low level	Intermediate level	High level
Total budget:			
United States	$10,041	$16,236	$23,759
New York City	$10,835	$18,866	$29,677
Buffalo	$10,198	$17,175	$25,017
Percent change in total budget:			
Spring 1967 to fall 1976:			
United States	69.8	78.9	82.1
New York City	80.0	89.1	99.6
Buffalo	76.6	78.5	82.9
Fall 1975 to fall 1976:			
United States	4.7	6.0	6.6
New York City	5.5	7.8	9.6
Buffalo	4.8	5.5	5.9
Personal income tax:			
United States	$825	$2,236	$4,565
New York City	$1,063	$3,162	$7,596
Buffalo	$908	$2,623	$5,460
Percent change in personal income tax:			
Spring 1967 to fall 1976:			
United States	74.4	110.5	131.8
New York City	111.3	143.2	192.4
Buffalo	74.3	110.2	134.7
Fall 1975 to fall 1976:			
United States	5.6	8.7	10.5
New York City	5.5	14.0	19.1
Buffalo	7.2	7.3	8.9

Source: Bureau of Labor Statistics.

Thus, New York City has lost 468,000 jobs since 1970, and more than 328,000 in population. Part of this loss is due to the movement of many companies out of the city. In the early 1960's, for example, over 140 of the Nation's top 500 indus-

trial corporations had their headquarters in New York City. Today that number has been reduced to less than 80. In the past year alone, Union Carbide, Mobile, the Pittston Co., Texasgulf, General Host, Anaconda, and Texaco have either left the city or made firm plans to do so.

When questioned about their decision to move, corporate leaders are virtually unanimous in denouncing the extremely high taxes on individuals in New York City. In a recent survey conducted by the State Senate Labor Committee, Raymond C. Hagel, chairman of Macmillan, said:

In our opinion, the cumulative effect of Federal, State and local taxes on individuals is counterproductive and is a significant factor in depriving business located in New York City of the services of outstanding graduates specializing in business administration and finance. We are experiencing increasing difficulty in our college recruitment programs because these new graduates, seeing little advantage in assuming the heavy New York State/New York City tax burden, prefer to take jobs offered to them for employment with large firms having headquarters out of New York.

This sentiment was echoed by J. A. Keller, chairman of Eltra Corp., who said:

In fact, the taxes on personal incomes have reached a point where there is almost no turning the tide of businesses leaving the State unless something is done to relieve the burden, not increase it. The taxes on business comparatively are not as onerous but here again can hardly be called encouraging. . . . In our case, and in the case of many other companies, we continue to consider leaving this environment for one more palatable for our key employees and the success of our business.

It is interesting to note the emphasis that these executives place on personal income taxes are the worst feature of the New York State business climate, rather than taxes ostensibly imposed on business as such. Of course, all taxes are ultimately borne by individuals. These high personal income tax rates discourage people from wanting to work in New York and makes it necessary for the company to move in order to attract and retain top quality personnel.

Furthermore, even though top level executives may be highly paid, they too are particularly sensitive to tax rates. The Fantus Co., which recently rated New York as having the worst climate for business in the United States, recently estimated that an individual living in the United States, recently New York State earning between $50,000 and $100,000 would increase his disposable income between 7½ and 10 percent just by moving to New Jersey or Connecticut. Of course, they would be able to increase their disposable income by considerably more than this if they moved to a Sun Belt State like Texas, which has no personal income tax. Two companies which have recently moved from the Buffalo area to Florida and Texas—Houdaille and National Gypsum, respectively—have cited this fact as the major reason for their move.

Last year, the Governor's special task force on taxation reported on the adverse effects of high taxes in New York on employment and Government revenue. In its report it said:

High levels of taxation have been a major contributing factor in causing job loss. Headquarters company decision makers and middle management, responding to vastly lower levels of personal taxation elsewhere, have pressured their companies to relocate outside of New York. Manufacturing firms have exhibited a high degree of sensitivity to business taxes, the burden of which may be significantly reduced by leaving New York.

Most of the executives and managers, and many of the skilled employees of corporate headquarters, follow their companies to new locations. Manufacturing firms can find ready pools of labor elsewhere. But the low-paid, unskilled and undereducated are left behind. Thus, ultimately, the loss of business is borne by those least able to pay.

There is evidence that the present tax structure is, in many respects, counterproductive, fostering as it has an exodus of business, industry and individuals, eroding the tax base, and shifting the burden of taxation relentlessly down the income scale. Either New York reduces tax levels now, and preserves what remains of its once prosperous tax base, or New York, by inaction, will suffer an even greater revenue loss through further erosion of its tax base. It is very likely that such inaction will lead to increased tax burdens on lower and middle income families as wealthier and more mobile individuals leave New York and, in many cases, take their businesses with them.

I believe it is very significant that the task force found that Government revenues were being reduced by the erosion of the economic base, caused by high tax rates. In other words, tax rates have risen to the point where they actually produce less tax revenue than would be collected at a lower rate.

This may sound contradictory at first, but can easily be demonstrated.

Imagine the two extremes of taxation: zero percent and 100 percent. Clearly, there will be no tax revenue collected at either point. At zero percent there will be no tax, and at 100 percent there will be nothing to tax because there will be no work or production. Thus there will be no revenue collected at either point.

As one moves from zero percent taxation to 100 percent taxation, there will at first be an increase in tax revenues, as tax rates rise faster than output falls. Eventually, however, revenues will fall as rising tax rates cause production to fall rapidly. Therefore, at some point between the two extremes there is a point which optimizes both revenue and production. This is not a static point and will change with time. During a war, for example, tax rates approaching 100 percent may be tolerated for a short time. But during peacetime it is possible that even a small increase in tax rates may so affect marginal work and investment decisions that tax revenues will fall. It is the job of the wise legislator to determine when taxes are so high as to be counterproductive and reduce them if necessary.

Remember, it was Adam Smith's fourth maxim of taxation that every tax ought to be so contrived so as not to obstruct the industry of the people "and discourage them from applying to certain branches of business which might give maintenance and employment to great multitudes."

Both New York City and New York State are clearly in the counterproductive range. A study by the Southern Regional Economic Board recently said that New York State's overutilization of its tax potential may be as high as 34 percent above the optimum range.

New York City is even more obviously in the counterproductive range. On top of already high State tax rates the city imposes a 5-percent personal income tax and an incredible variety of other taxes, in addition to the property tax. Like New York State, the history of New York City taxation is an almost unbroken upward trend:

HISTORY OF TAXATION

1963—City sales tax increased to 4 percent. City commercial rent occupancy tax imposed at 5 percent.

1965—City sales tax decreased to 3 percent.

1966—Gross receipts tax replaced with general corporation tax at 5.5 percent.

1970—City commercial rent occupancy tax increased to 7.5 percent.

1971—General corporation tax increased to 6.7 percent.

1974—City sales tax increased to 4 percent.

1975—General corporation tax increased to 10.5 percent.

While it is true that, in general, business taxes are not as onerous as the income tax in New York, certain industries are highly sensitive to taxes. In particular, manufacturing firms are very responsive to tax changes. Thus a recent study by Prof. Ronald Grieson of Columbia University recently concluded that the city could get back as much as eight times the revenue for every dollar of taxes reduced on manufacturing firms. In other words, manufacturing employment and production will increase so much from a reduction in taxes that the city will get back eight times more revenue than it presently gets from taxation on manufacturing firms.

The Temporary Commission on City Finances of New York came to a similar conclusion and recommended a $90 million tax cut on manufacturing firms which would pay for itself and increase tax revenues substantially within 3 years. Without such a tax reduction, the commission said, the city will lose $90 million annually within 3 years, as manufacturing employment and production declines.

The financial community is also very sensitive to taxes and has issued warnings that it may desert the city "en masse" unless something is done. A recent report by Citibank, one of the country's largest banks, said:

State and local government in New York have treated the financial sector as a captive industry. The degree to which the industry is captive in New York is defined by the extent to which New York is the center of the investment markets of the Nation and the world, the benefits received by individual financial firms in being headquartered near each other, and inertia. Each and every one of these reasons for remaining in New York is being eroded. Parts of the industry are moving to the suburbs of Long Island and New Jersey, and firms headquartered elsewhere are increasingly finding themselves near population and business centers of the Nation, and in smaller financial centers of their own. There is no longer any reason why a new combined New York and American Stock Exchange has to be located in

New York. There is no reason why the largest U.S. banks have to remain in New York. And there is even less reason why major life insurance firms have to stay in the city.

The report also added:

New York City and New York State have taxed the financial sector with little concern for the possibility that the goose may be killed.

Were the financial community to carry out its threat and move out of New York City, the city and the State governments would stand to lose enormous revenues. One study shows that direct and indirect taxes on the securities industry alone provide 15 percent of all New York City revenues and 10 percent of all New York State revenues.

This is because there are tremendous multipliers at work, in that every industry creates considerable business, employment, and revenue for support industries. In the case of the securities industry, the multiplier most strongly affects printing, advertising, law, accounting, and computer-related firms, with the corresponding generation of tax revenues. The same is true for manufacturing, and, by way of illustration, table III shows how much tax revenue is derived from each manufacturing job.

TABLE III.—*Type of revenue (estimated revenue per employee)*

City income tax	$115
City sales tax [1]	135
Bus and subway tolls [2]	200
Miscellaneous city taxes	15
Residential property taxes [3]	300
Total city personal taxes per employee	765
City business taxes per employee [4]	630
Total city taxes per employee	1,395

[1] With adjustment for difference from state sales tax, i.e., parking tax, entertainment tax, tax on services, etc.

[2] Based on an assumed average of 40 rides per year. (While bus and subway fares are not technically taxes, the City's subsidization of the transit system gives them that effect.)

[3] Assuming an average assessment of $3,000 per employee's family.

[4] Included with these taxes are the fees and charges, especially water charges, levied on manufacturers in New York City.

Source: Temporary Commission on City Finances.

When one considers that New York City has lost 527,000 manufacturing jobs since 1969, one can see that the revenue loss is staggering. And because expenditures must rise proportionally to pay for increased welfare and unemployment compensation for those whose jobs are lost, the effect is to increase the tax burden on those who remain in New York City still further.

Because the rising tax rates only stifle the incentive to work and invest still further, thereby exacerbating an already bad situation, the General Accounting Office recently warned New York City not at attempt to balance its budget by raising taxes. Such an effort, it said, will be counterproductive and will actually produce less revenue. As it said in a report to Congress:

Changes in the City's revenues and expenditures affect its economic base and vice versa. The tax revenues depend upon the City's choice of tax base and tax rate, which are applied to the income or wealth of individuals and businesses. Increases in economic activity generate increases in income and wealth, which in turn generate increased revenues from several sources: personal income tax, corporate income tax, sales tax, and, with a lag, property tax. Increases in economic activity also tend to generate decreases in unemployment compensation and other categories of public assistance.

This interrelatedness between budget and the economy is critical to any policy decision. Budgetary decisions have both direct and indirect effects on the economy. A city action to raise taxes and balance its budget in a given year may or may not accomplish its stated goal for that year; but it may also affect the tax base in later years. This indirect effect may actually lead to smaller future revenues—a result counter to the purpose of the short run action.

A specific example of a tax in New York which is so counterproductive that its reduction would immediately increase tax revenues is the cigarette tax. In New York State there is a 15 cent State tax on cigarettes, and in New York City there is another 8 cents tax on top of this. The disparity between cigarette taxes in New York and other States like North Carolina, where the State tax is only 2 cents per pack, has created a large cigarette smuggling industry. Some estimates say that as many as half of all cigarettes sold in New York City are smuggled in from North Carolina. Thus the New York Times recently said:

Since the State's present taxes took effect in 1972, revenue from cigarette taxes has dropped far below estimates even though smoking has not. The difference is so great that a reduction in the tax rate to put the smugglers out of business would probably produce greater income for the State.

The Citizens Campaign Against Bootleg Cigarettes estimates that a reduction in the State cigarette tax of 1 cent and elimination of the New York City cigarette tax would raise as much as $7.4 million the first year.

In the same way that New York cigarette taxes increase the incentive to smuggle—thereby depriving the government of tax revenues—other taxes, such as the graduated income tax, have similar effects. By reducing the aftertax reward for work and investment, high marginal tax rates reduce the incentive to work, save, produce and invest, while increasing the incentive to find tax shelters or cheat on one's taxes. The result is a reduction in tax-producing activities and an increase in tax-consuming activities.

New York City and New York State are only the most extreme examples of the disincentive effects of high tax rates, because theirs are the highest in the country. The same thing happens whenever Federal tax rates go up as well, as they have in recent years in response to inflation, which pushes people up into higher tax brackets. This is one reason why productivity in the United States has been declining steadily for years.

According to the Congressional Budget Office, Federal income tax revenues go up approximately 1.5 percent for every 1 percent rise in the Consumer Price Index. The New York State income tax has roughly the same sensitivity to inflation.

Thus New Yorkers are particularly damaged by inflation, since their higher nominal incomes push them into higher tax brackets than individuals in other States which have equivalent real incomes, and because inflation causes them to pay more than proportional increases in State income taxes as well.

Rather than concentrating on the importance of Federal and State tax policies in contributing to the decline of New York, too much attention has been paid to differing patterns of Federal spending. It is alleged, by Senator MOYNIHAN, the National Journal, and others that the Federal Government takes more than $7 billion per year out of New York in taxes than it gets back in Government spending, and that this process causes the rest of the country to be subsidized at New York's expense.

In the first place, the figures themselves are doubtful. Senator MOYNIHAN, in fact, admits that Treasury Department figures show that in fiscal year 1976 New York State received $40.66 billion in Federal spending while paying only $36.9 billion in Federal taxes. He then arbitrarily excludes about $14 billion in Federal spending for interest payments to New York banks on the grounds that it does the State no good. But by the same token, New York receives a considerable amount of tax money by taxing the nationwide operations of large corporations which only have their headquarters in New York.

More importantly, however, it is not clear that it really makes any difference whether or not the State experiences a surplus or deficit in terms of some arbitrary accounting of Federal spending and taxing. Since the American economy is totally interrelated, money which is initially spent in one area may or may not impact in that area. For example, in the National Journal's calculations, Government contracts to various corporations were credited to the State in which the company headquarters happened to exist, ignoring the fact that such companies have plants and subcontractors throughout the country. By the same token, one could hardly assume that all taxes paid by General Motors come out of Michigan. Thus the exercise is a futile one.

A thorough study of this matter by the Congressional Budget Office has confirmed this view. A study entitled "Troubled Local Economies and the Distribution of Federal Dollars" concluded:

The spending patterns identified in this chapter appear to be relatively weak. While there are large differences in federal spending among counties, these discrepancies are only marginally related to differences in local economic circumstances.

Evaluation of these spending patterns depends to a large extent on the standard of need selected. If need is measured by rates of growth, then federal spending policies would be judged moderately favorable to needy areas. If income level is the basis for distinguishing areas in need of economic stimulus, however, then federal spending policies seem less favorable, since low-income counties were found to receive less federal funding than did high-income counties. These

contradictory evaluations are inevitable, since many low-growth areas have relatively high incomes, and many low-growth areas are experiencing relatively high rates of growth.

Federal spending patterns could no doubt be changed to reflect better any given measure of need. Grant formulas could be modified or preferences given to needy areas in the selection of public works projects or procurement contractors. But the likely effects of such changes in spending or other policies cannot be predicted with any certainty. The factors influencing the location choices of businesses or individuals are so numerous, and the interrelationship among factors so complex, that researchers have been unable to specify with any degree of precision the effects of federal actions on geographic patterns of economic development. In the absence of such knowledge, it is difficult to identify federal policies that would, in combination with market forces, insure a healthy level of economic development in local areas throughout the country.

Nevertheless, Governor Carey continues to insist that State programs which will attract Federal money are the best means to revitalize New York. Toward this end he has proposed a $750 million economic development bond issue and an Energy Corporation of the Northeast.

The basic premise of the bond issue is that local governments have been unable to raise seed money for projects which would qualify for Federal matching funds. By providing such funds through a bond issue, so the reasoning goes, the State will get back $2 billion in Federal funds. This Federal money, then, will provide employment for New Yorkers.

Such reasoning is fallacious on several grounds:

First. When the sole purpose of a public works project is to attract Federal money the results are nearly always disastrous. For example, we in Buffalo still painfully remember the infamous wall that was built around the McKinley Memorial solely to attract Federal funds. The result was that the city of Buffalo wasted $135,000 in local tax money to get $440,000 in Federal money to build a wall that nobody wanted and ultimately had to be torn down at city expense. More recently, the city of Pompano Beach, Fla., built a firehouse that it had no need for simply to keep a $475,000 Federal grant.

Second. Public works projects, just like private investment projects, ought to be able to stand the test of need. If a project is truly worthy local citizens ought to be willing to fund it through local bond issues or local taxes. Thus an examination of the projects Governor Carey intends to fund through his bond issue finds a large number of such things as tennis courts, parks, swimming pools, bike paths, and other projects which I doubt that local taxpayers would ever consider undertaking if it meant an increase in their taxes.

This does not mean to say that there are not many worthy projects included in the Governor's proposal. But they each should be judged on their own merits, with funds raised specifically for them so that local taxpayers may make clear that they consider the benefits to outweigh the costs, and not go around building things just for the purpose of attracting Federal funds.

Third. No matter how you look at it, bond issues are claims on State revenues at some time in the future. By approving the Governor's economic development bond issue New York taxpayers are committing themselves to pay out $750 million plus interest some time in the future. But since public works projects do not produce future revenues, but rather consume them through upkeep. Once the project is built, whatever stimulative effects it may have on the economy are gone.

Similarly, the Governor's proposal to establish an Energy Corporation of the Northeast—ENCONO—is based on a false notion and will probably end up doing more harm than good.

The false notion underlying ENCONO is that New York's problems stem from the high cost of imported fuel, and that setting up a tax-exempt, quasi-public energy corporation will reduce the cost of energy to the State.

In the first place, the high cost of imported fuel is not the cause of New York's problems. Germany and Japan, for example, import close to 90 percent of their oil from the Middle East but have not suffered because they have continued to follow prudent monetary and fiscal policies. New York, on the other hand, has followed reckless policies for many decades, attempting to spend its way to prosperity, redistribute incomes through high tax rates, and mortgaging its future through debt. This is New York's problem, not the cost of energy.

In any case, there is no reason to believe that ENCONO will be able to provide energy for a lower price. Quite the contrary. The kinds of projects likely to be funded by ENCONO are precisely those projects which are unlikely to operate efficiently and at a profit. Otherwise they would not need ENCONO to get financing. Private lenders would be more than willing to undertake such funding if the project merited such. This fact is tactily admitted by supporters of ENCONO because they expressly provided that the Federal Government would be empowered to buy the output of ENCONO-financed projects. This is, in effect, a price support provision.

There are also serious problems with the proposal to fund ENCONO through Federal Government loan guarantees. This is just a backhanded way of making all taxpayers foot the bill for an enterprise which will benefit only one region of the country.

What, then, can the Federal Government do to help New York out of its economic doldrums?

I have no doubt that the best thing the Federal Government could do is reduce all individual income tax rates across the board. Since it costs more to live in New York than almost anywhere else wages and salaries must be higher to yield the same aftertax purchasing power to workers in New York as workers in other parts of the country where taxes and living costs are lower. Therefore, an across-the-board reduction in Federal income tax rates will be much more beneficial to New York than to the Sun Belt States.

And the expansion of investment, employment, and output which would accompany a reduction in Federal income tax rates would expand State tax revenues, by broadening the tax base, and reduce State expenditures for welfare and unemployment compensation. This would allow the State to match the Federal income tax reduction with a substantial tax rate reduction at the State level.

I believe that the appropriate amount of tax rate reduction, both at the State and Federal level, should be in the 30-percent range. I have introduced such legislation at the Federal level called the Tax Reduction Act, with over 90 cosponsors. I believe that this approach should be duplicated at the State level and I am happy to see that my friend Perry Duryea has spearheaded such an effort in the assembly, and Senators Warren Anderson and Norman Levy in the State senate.

In conclusion, New York State's problems are not insurmountable. It is only necessary to recognize that the tax system is largely to blame for the State's economic problems and adopt a Federal and State program of tax reduction to address this issue.

DISTRIBUTION OF INDIAN CLAIMS COMMISSION TO THE SEMINOLE NATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BURKE) is recognized for 20 minutes.

Mr. BURKE of Florida. Mr. Speaker, Public Law 93–134 was enacted to provide for the use or distribution of Indian judgment funds appropriated in satisfaction of awards of the Indian Claims Commission and the Court of Claims was approved on October 19, 1973. One of the awards was made pursuant to this law by the Indian Claims Commission for $16 million to the Seminole Nation as it existed on September 18, 1823.

The Seminole Tribe of Florida as it originally existed in 1823 has been divided into two segments, namely: the Seminoles of Florida and the Seminoles of Oklahoma. The division of the award between the two segments is therefore in dispute. The members of the Oklahoma delegation in Congress have introduced S. 2000 and H.R. 8910 on behalf of the Seminoles in Oklahoma, proposing a division of about 75 percent to the Oklahoma Seminoles and 25 percent to the Florida Seminoles based solely on population.

Mr. Speaker, it is my opinion that the division proposed by the Oklahoma bills is not fair, just, or equitable in that it fails to take into account the substantial benefits already received by the Oklahoma Seminoles from the United States as contrasted to the benefits received from the Government by the Florida Seminoles. The Oklahoma proposal fails to take into account that although the Florida Seminoles endured great hardships and received nothing from the

United States, the United States paid to the Oklahoma Seminoles "treaty moneys"; granted valuable allotments to each Oklahoma Seminole and expended large sums of public money for hospital and social services, property management and protection, and other benefits.

Mr. Speaker, the bill I have introduced does not provide for a specific distribution of the $16 million in funds. Instead, it would put the matter of a just and equitable distribution before the chief trial judge of the U.S. Court of Claims under 28 U.S.C. 1492 and 2509. Under this established procedure, the judge would hold hearings, take evidence, make findings, and arrive at a proposed distribution of the award that would then be reported to Congress.

The $16 million allocated to the Seminoles has been on deposit in the Treasury since 1976. This award is credited to the Seminole Nation as it existed in Florida on September 18, 1823.

Mr. Speaker, in 1763, Spain turned Florida over to the English. With the departure of the Spaniards the northern Florida Indians and many south Florida Indians moved to Cuba and Vera Cruz, Mexico. During this period, Indian populations in Georgia and Alabama grew, their pressures increased, until about 1750 when part of one tribe, the Oconee, moved south into Florida. They became known as the Seminoles and from time to time were joined by other related groups. The Seminoles established friendly relations with the Spanish and were even more friendly with the British during the occupancy of the State.

From their first movement to Florida until the 1820's, the Seminoles prospered and increased. They became rich in livestock and so powerful that they raided other Indians as far west as the Mississippi. Relationships with different groups of whites were in general peaceful, although Andrew Jackson attacked their towns as far south as the Suwannee River in 1818. When Florida became an American territory in 1821, one of the first concerns of the newcomers was the status of the Indians, particularly their lands. By treaty in 1823, the Seminoles agreed—with certain exceptions—to move to a large tract in the center of the State extending from about Leesburg south to Lake Okeechobee, but not including the gulf coast or the St. Johns River. Other points in the agreement were that the Federal Government would keep whites from Indian land and that the Indians would not harbor runaway slaves.

In the next few years, 1835 to 1842, there was continual dissatisfaction among both whites and Indians; the whites wanted the Indian land, often invading it while the Indians gave offense by harboring runaway slaves. It seems to many, therefore, that the ideal solution would be the movement of the Seminoles out of the State and west of the Mississippi with their brethren, the Creeks. A treaty was signed in 1832 agreeing to a westward movement. It was denounced by some of the signers while other Seminoles felt that they were not represented, thus not compelled to abide by the terms. Tension increased and by 1835 open warfare broke out. Gradually small groups of Seminoles were captured and others surrendered to be shipped west until finally in 1842 only a few hundred Indians remained. The struggle ended informally in 1858.

Modern south Florida and the modern age for the Seminoles were born together in the boom of the 1920's. As long as white men lived in a narrow strip along the coast, the Indian was able to choose his contacts and withdraw whenever he desired seclusion. The final steps in the drainage of the Everglades and the rapid development of the highways in the 1920's culminating in the Tamiami Trail across the Everglades marked the loss of Seminole privacy.

Today there are less than 1,800 Seminoles living in Florida, who are equally divided between reservations and those living off reservations. Some reside on reservations at Hollywood, Brighton, and Big Cypress; others are now organized into a separate tribe and call themselves the Miccosukee Tribe of Indians of Florida and who live on the Tamiami Trail and west of Miami, and those who live in independent villages in the Immokalee area and in the western Fort Pierce area.

Essentially the reservation Indians have accepted the policy of self-determination, attempting to be as self-sufficient as possible and to foster noninterference with their historic culture and traditional way of life while embracing 20th century living.

In August 1957, the Seminole Indians overwhelmingly voted to establish a constitutional government, to administer the political future of the Seminole Tribe of Florida and also voted on establishing a business charter for the creation of the Seminole Tribe of Florida, Inc., to further the economic development of the tribe.

On August 20, 1977, a 20th anniversary celebration was held honoring the success of the tribal organization. Establishment of the constitution and the charter were big steps forward for the Seminoles. Since then modern homes have been established on each of the reservations, with 50 more soon to be constructed on the Hollywood reservation. It is also proposed to add at least that many more on each of the other two reservations very shortly.

The 480 acres represented by the Hollywood Reservation abuts the city of Hollywood in Broward County, and a major part of it is under long-term profitable leases which provides funding for tribal operations.

There are approximately 36,000 acres in the Brighton Reservation and more than 70,700 acres in the Big Cypress Reservation.

Mr. Speaker, the bill I introduced is a fair bill and will provide a fair distribution of the $16 million between the Florida and Oklahoma Seminoles. I sincerely urge my colleagues to review the facts in the interest of fairness—which after all is the purpose of the authorization under the law. I urge my colleagues to join me in its passage.

HOUSE TV NETWORK: BUYING A PIG IN A TUBE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANDERSON) is recognized for 30 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, next Tuesday the Rules Committee is scheduled to consider House Resolution 821 which would amend House Rule I to authorize the Speaker to devise a broadcast system to cover our "legislative proceedings" which would be subject to his direction and control. Live public access to this coverage would be made available through those accredited to the House Radio and Television Correspondents' Galleries and the Speaker would also be authorized to provide for the distribution of recordings to the public.

Mr. Speaker, beyond this brief, 24-line amendment to rule I, the resolution contains no details on the implementation of the new broadcast system. Presumably, those details are spelled out in the report of the Select Committee on Congressional Operations, "Televising the House," issued on September 27, 1977. Based on the results of its closed-circuit, 90-day House broadcast test, the select committee has recommended a permanent, House operated broadcast system, with coverage being made available both to Members through closed circuit lines into the House offices, and to the public through the radio-TV gallery and recordings produced by the Library of Congress. The coverage would be provided by remote controlled, computer-programed, color minicameras in the House galleries.

On October 6, 1977, I inserted remarks in the CONGRESSIONAL RECORD at page E6125 questioning whether the House should establish its own million dollar broadcast network. My concerns centered on whether our product would be usable by commercial and public broadcasters from a technical standpoint, and whether it would actually be used by them because of the policy implications of the House covering itself. As a consequence, I requested testimony from various representatives of the broadcast industry and we received that testimony yesterday in the Rules Committee. We questioned representatives from the major networks, public broadcasting, the executive committee of the radio-TV galleries, and the Radio and Television News Directors Association. While none of the witnesses had had an opportunity to view and evaluate any of the tapes from the test, they seemed to agree that the present lighting level in the Chamber would be sufficient for broadcast purposes, no matter who provided the coverage.

But, on the policy question, the witnesses were unanimous in their conviction that the broadcast coverage should be provided by broadcasters and not the people being covered. Moreover, two of the networks indicated that their union contracts would prohibit them from using more than 3 minutes of coverage

from a nonunion source in any of their programing. While this restriction would not prevent them from using the short clips from our debates for their nightly news programs, it would make it impossible for them to carry any extended coverage of a particularly interesting debate or a special program, or to produce a weekly wrap-up program on House proceedings, or a special on a particular subject drawing extensively on a House debate. Moreover, these labor restrictions might pose a greater problem for certain local stations in large market areas which might tend to use more extensive coverage from a debate on an issue of local importance, involving area Congressmen.

In summary, on this policy issue, it was my impression that while broadcasters probably would use House coverage if it were the only game in town, it would be offensive to their sense of journalistic integrity and, in some instances, they would be severely limited as to how much of the coverage they could use because of their union contracts with broadcast technicians.

Beyond these questions of whether House broadcasts would be usable and used by commercial and public broadcasters, the proposal of the Select Committee on Congressional Operations and House Resolution 821 pose several problems and questions which must be addressed before we rush into such a costly investment.

EXTENT OF COVERAGE

Both the select committee and the resolution would confine broadcast coverage to the "legislative proceedings" of the House, this despite the select committee's emphasis elsewhere in its report for a complete and accurate record of House proceedings. The Ad Hoc Subcommittee on Broadcasting of the Rules Committee, on which I served as ranking minority member in the last Congress, had recommended gavel-to-gavel coverage of House proceedings. Moreover, a majority of the respondents to the questionnaire circulated by the select committee indicated their preference for gavel-to-gavel coverage. And, over 100 House Members have cosponsored broadcast resolutions introduced either by Congressman SISK or myself which call for continuous coverage of the proceedings while the House is in session.

I think it is obvious that we would be denying the public access to the full record of House proceedings if we shut down the system at the conclusion of legislative business. There just may be some newsworthy or educational debate which could take place during the special orders period, for instance. And a privileged matter could be raised at any time while the House is in session, including a declaration of war, a resolution of impeachment, a resolution calling for the punishment or removal of any Member, officer, or employee, a resolution of inquiry of the executive branch. In conclusion, I think it would be a dangerous mistake to limit coverage only to the legislative proceedings of this body.

TERMINATION OF COVERAGE

While the select committee differs from the ad hoc subcommittee on the extent of coverage, both are agreed that the coverage should not be interrupted or terminated except by the invocation of the secret session rule of the House or on the adoption by the House of a resolution, properly reported from the Rules Committee. Notwithstanding this agreement, House Resolution 821 would seem to be ambiguous on this point. The first sentence of the proposed amendment to rule I states:

He (the Speaker) shall devise and implement a system subject to his direction and control for the complete and unedited audio and video broadcasting and recording of the legislative proceedings of the House.

On the one hand, the coverage is to be "complete and unedited," yet, on the other hand, the system will be subject to the "direction and control" of the Speaker. This raises the obvious question as to whether the Speaker might exercise his absolute direction and control over the system to order it to be shut down at will. While this ambiguity may not be intentional, it does raise a legitimate parliamentary question. Obviously, the Speaker is hardly in an objective position to rule on this should the situation arise. For this reason, I think the language needs clarifying to bring it into conformity with the clear guidelines recommended both by the select committee and the ad hoc subcommittee.

ACCESS TO COVERAGE

House Resolution 821 speaks in general terms about the Speaker's responsibility for "the distribution of such broadcasts and recordings * * * to the public and the news media." It goes on to provide that all television and radio stations, networks, services, and systems—including cable systems—which are accredited to the House radio and television correspondents' galleries, and all correspondents so accredited, shall have access to the live coverage. The select committee report also recommends access to live coverage through those accredited to the radio-TV galleries, and the reproduction and distribution of audio and video tapes to the public by "an appropriate entity of the House or * * * the Library of Congress," on a cost-fee basis. Presumably, those stations not accredited to the galleries and therefore not eligible for a live feed could obtain after-the-fact tapes, though it is questionable whether these could be provided in a timely way for broadcast news purposes.

Mr. Speaker, this proposal differs from the recommendation of the Ad Hoc Subcommittee on Broadcasting in the last Congress in several respects. First, under the ad hoc subcommittee's proposal, "all televisions and radio broadcasting stations, networks, services and systems (including cable systems) in the United States and its territories and possessions shall have access * * * to any or all of the live coverage of the proceedings of the House."

Second, while the Library of Congress would take a feed and record it, this could only be distributed to the public through libraries and educational institutions, as part of the interlibrary loan system, for viewing purposes only, and not for further reproduction. The Library of Congress would also make tapes available for public viewing in specified rooms in the Library and in one of the House office buildings.

While the select committee's proposal to make any tapes available to the public, on demand, and for a fee, seems a laudable objective on its face, it is fraught with all manner of potential abuse and misuse. Although the resolution flatly prohibits any use of the coverage or recordings for political or commercial advertising purposes, this rule can hardly carry with it any sanctions for members of the public who are not subject to punishment for violating the Rules of the House. Another problem with this free access provision is the obvious opportunity for Members of the House to order up a copy of a floor speech which they could then have edited, copied and sent to their local broadcast stations. This possibility in turn may only encourage Members to make speeches on the floor which they otherwise would not make, thus distorting our proceedings. Since Members can charge radio and TV tapes made by the House recording studio against their official allowances, we have another example of a possible incumbent protection device at taxpayers' expense.

The position of our ad hoc committee was to prohibit Members from obtaining audio or video copies of their floor speeches for distribution to their local broadcast stations. It was our feeling that if a station is interested enough in a particular debate in the House, it should plug into that debate at its own expense, not the taxpayers'.

Another ambiguous provision in the resolution is its prohibition, on the one hand, against editing the actual broadcasting and recording, but avoidance of this prohibition in reference to distribution. The unlimited public access to such recordings, taken together with the apparent right to request an edited portion of a day's proceedings, is bound to place unbearable demands on the Library of Congress or whatever other entity is designated to distribute such tapes in response to requests.

It seems to me the cleanest and most reasonable way to deal with this problem would be to revert to the limited access proposal of the ad hoc subcommittee regarding the distribution of tapes, and by broadening live access to include all U.S. networks, systems, stations, and services. Any after-the-fact tape distribution to bona fide broadcasters could be handled by one of the users accredited to the galleries. This should not be a responsibility of the House.

COST

The select committee estimates in its report that—

Total costs of a basic broadcast and signal distribution system under both proposals (staff and Architect's) approximate a one-time expenditure of $845,000.

This is based on the staff's estimate of $500,000 for the purchase of cameras

and related equipment, and $345,000 for installation of the one-way, closed-circuit distribution system. These estimates are extremely deceptive and inaccurate in terms of the actual total costs of the proposed system.

First, it should be noted that the Architect's estimate for cameras and associated equipment is $715,000 instead of $500,000. The select committee staff claims a savings of $215,000 in their estimate by eliminating one camera and related equipment. While my own calculations show no more than a $100,000 savings from eliminating one camera and associated equipment, I will nevertheless depend on the select committee estimate for my total cost estimate.

What has been excluded from the select committee's estimate is $197,000 for the two-way closed distribution system which the select committee has recommended and which must be installed at the same time the one-way system is installed; $263,000 for the Library of Congress videotape equipment, stock and personnel, and $15,000 for the public viewing room equipment and personnel. Thus, the true total cost of the system proposed by the select committee comes to more than $1.3 million, not $845,000.

ALTERNATIVES TO HOUSE SYSTEM

While the Ad Hoc Subcommittee on Broadcasting in the 94th Congress fully explored three options for providing broadcast coverage in its final report, the select committee obviously set out with one system in mind—the House operated broadcast system—and proceeded to load the deck against any alternative in its survey of Members. This seven-page questionnaire contained the following question near the end of the questionnaire:

> Where should operating responsibility for TV coverage be placed? (1) With the Speaker at his discretion? (2) With a committee, officer, or other organization of the House? (3) With a network pool, under contract with, and costs being paid by the House?

While the select committee indicates that, "a substantial majority of Members responding to the select committee's questionnaire subscribed to this view" that the House should control the coverage, it should be noted that only 150 Members responded to the questionnaire and, of those, 42 favored giving the Speaker control and another 54 favored giving some other officer or committee operating responsibility. Moreover, it is quite obvious that the question was loaded by misrepresenting the network pool option—wherein the House would have paid an annual fee for a feed but the networks would provide cameras, equipment, and personnel. And the select committee did not even specify the option of having the public broadcasting service provide the coverage.

By contrast, a poll conducted by Congressman PEPPER in the last Congress, reveals 141 of the 346 respondents favored a network pool arrangement, 112 favored public broadcasting coverage, and 70 preferred a House operated system.

It seems to me that we should obtain a better reading of House sentiment on this important issue of who should provide the coverage before we commit ourselves to this House owned and operated broadcast network. Our ad hoc subcommittee recognized the right of the Speaker to make the final decision in view of his prerogatives and authority with respect to the House Chamber, but suggested the device in our resolution of a sense of Congress expression favoring one of the three options. I would hope the House will have this opportunity to express its views through an amendment to the broadcast resolution which hopefully will be reported from the Rules Committee.

CONCLUSION

Mr. Speaker, I have long been a staunch advocate of permitting broadcast coverage of our floor proceedings and commend you on your commitment to this same goal. At the same time, we must take care to go about this in the right way so our action does not just increase public cynicism about this body. I realize there are those who maintain that we will be shown in an unfavorable light if we do not fully control the cameras. I do not agree with that view. The recent Canadian initiation of broadcasting has actually improved the conduct of members in the Parliament. How we look to the public will not depend so much on who controls the cameras as to what legislative actions we take.

If anything will damage our image it will be the public perception that we are somehow filtering or limiting their access to our debates by virtue of our control of the cameras. If anything will anger the public it will be the reluctance of broadcasters to use much of our coverage because we control the system and seem more concerned about providing ourselves with closed-circuit access in our offices. If anything will increase public cynicism it will be the realization that Members are ordering up tapes of their floor speeches and sending these to their local stations at taxpayers' expense. These should be our real concerns as we approach this important decision. If we do not adequately consider and address them, we will be buying a pig in a tube.

SINAI SUPPORT MISSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 5 minutes.

Mr. HAMILTON. Mr. Speaker, the President yesterday transmitted to the Congress the Fourth Report of the Sinai Support Mission describing its activities during the 6-month period through September 1977. This mission, in my view, represents an important and not well publicized foreign policy success of the United States. As you will recall, the Congress, by joint resolution, authorized the President to establish the mission in fulfillment of the commitment of the U.S. Government to operate a tactical early warning system in the Sinai Desert as a part of the disengagement arrangements agreed to by Egypt and Israel in September 1975.

This mission was formally established by Executive order on January 13, 1976, and the United States was able to meet its commitment to achieve full operational surveillance capability by the date set for the final withdrawal in the Sinai—February 22, 1976. This accomplishment would not have been possible without the excellent cooperation of Israel, Egypt, and the United Nations.

The Sinai Field Mission, the overseas arm of the Sinai Support Mission, is manned by 163 American civilian volunteers, 140 of whom are employees of the Government's prime contractor for the project, E-Systems, Inc., of Dallas, Tex. In addition, there are 23 Government employees drawn from the ranks of the Department of State, the Agency for International Development, and the U.S. Information Agency. This total is well below the number of 200 envisaged at the time the Sinai II agreement was signed and the limit set by the Congress in Public Law 94–110, which authorized the President to establish the early warning system.

The U.S. early warning system consists of three manned watch stations and four sensor fields located in the strategic Mitla and Giddi Passes of the Sinai. These passes have been the site of repeated armed conflict in the past. Their mission is to monitor passage through the passes and to report to the parties and to the United Nations Emergency Force, any movement of armed forces into either pass or any preparation for such movement. In addition, the Americans in the Sinai verify the operations of Egyptian and Israeli electronic surveillance stations in the buffer zone.

To date, our records show there have been some 42 minor or accidental intrusions detected and reported to the two sides and to the United Nations Emergency Force.

The total cost of the Sinai Support Mission for fiscal year 1977 will be about $11.4 million, more than 10 percent below the original estimate. The budget for fiscal year 1978 is $12.2 million.

Mr. Speaker, in the 2 years since the United States undertook to establish and operate an early warning system in the Sinai, the mission has made an important contribution to maintaining conditions in the region conducive to further progress toward peace. The fair and effective manner with which the Sinai Field Mission has fulfilled its duties has developed the confidence of Israel and Egypt in the ability of the United States to provide timely tactical alert in the event of a serious violation. The cost of the Sinai Support Mission is a modest price to pay for its accomplishment in promoting stability and further movement toward a just and lasting peace in the Middle East.

It should be noted that two congressional concerns, expressed by many Members in 1975 when the establishment of this mission was debated in the Congress, may not have been borne out by events. First, there was the hope of some that the mission's life and mandate would be limited and that it would not acquire permanency. Second, some Members

wrote into the resolution the view that efforts should be made both to reduce the American presence and correspondingly increase the presence of third country nationals. In fact, the Sinai Mission has won the support of both Israel and Egypt and it has acquired a stronger mandate.

Most people now feel the Middle East peace process will take many months, perhaps years, and the Sinai Mission may be needed for a long time to come. Second, both parties seem to prefer a continued American presence and resist efforts for the substitution of Americans by other nationals. Both these matters—the duration of the mission and its composition—should continue to be followed closely by the Congress.

The American volunteers associated with the Sinai Support Mission have turned in a very good performance often working under difficult conditions. The speed and efficiency with which their tasks were accomplished and the quality of their workmanship are a tribute to American ingenuity and know-how. The Sinai Field Mission is a fitting testimony to our commitment to the cause of peace and to our ability to get a good job done quickly.

SPECIALTY STEEL IMPORT QUOTAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. APPLEGATE) is recognized for 5 minutes.

Mr. APPLEGATE. Mr. Speaker, during the past 2 months, much has been said about the steel industry and the problems relative to it. While these problems are many, I believe one is close to being solved for the specialty steel industry.

Specialty steel import quotas were imposed on June 14, 1976. Under the terms of Presidential Proclamation 4445, the quotas were to be effective for a period of 3 years unless earlier modified or terminated.

On May 25, 1977, the administration requested that the International Trade Commission again review the import situation and render their decision on the basis of what effect any reduction or termination of import quotas may have on domestic specialty steel.

Fortunately, for some 60,000 employees in the United States, the ITC has found that any reduction would cause a severe strain on the economic foundation of the industry. It was not until the first part of 1977 that the specialty steel companies saw any effect of these import quotas. It would certainly be a shame to now change the rules of the game.

It is now up to President Carter to accept the ITC's recommendation to maintain the 3-year restraint, a decision that I and many other Members of this House highly recommend.

If the opinion of the ITC is denied by the President, I fear dramatic repercussions in the economy. The removal of these restrictions would precipitate wholesale dumping of specialty steel into our market, with subsequent consequences of more and more unemployment. I need not remind any one of the mood of the country during the type of a recession this might lead to.

Mr. Speaker, I commend the International Trade Commission on their foresight and wise judgment and urge the President to accept their advice on this matter.

LEGISLATION TO SET UP REVIEW BOARD ON IMPROPER GOVERNMENT ACTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, it has become a given of post-Watergate politics that accountability in Government is a good and desirable thing. In fact, Jimmy Carter was elected President with a promise of a more open Government, a Government as good as the people of America. Recently, Congress has enacted "sunshine" laws to assure that the decision processes of our Government are open to the scrutiny of interested citizens.

There is one area, however, in which our Government has been sadly deficient. When a conscientious Federal employee discovers evidence of lawbreaking, conflict of interest, waste, or mismanagement in his agency, he is strongly discouraged from bringing such a problem into the open. Typically, the employee takes the problem through the proper channels, only to be rebuffed or ignored. If he feels strongly that the matter should be brought to public or congressional attention, he runs a high risk of having reprisal action taken against him by officials in his agency.

The Ernest Fitzgerald case is a prime example. Fitzgerald, a Pentagon analyst working on the C–5A transport plane project, "blew the whistle" on a $2 billion cost overrun before a congressional committee. Further investigation by the committee showed that Fitzgerald was correct, and that the Pentagon had been attempting to cover up the overruns. Shortly after his testimony, Fitzgerald became the victim of a one-man layoff. Years and many court battles later, he is back at the Pentagon, although not in his original job, and he is some $400,000 in debt for legal fees.

My colleague PAUL SIMON and I feel that ethical whistleblowing is a valuable tool to increase accountability in Government. Therefore, today we are introducing legislation designed to provide a channel of communication for Federal employees who wish to report official wrongdoing or mismanagement. Our bill would afford protection to a "whistleblower" who is unfairly punished by his agency because of his revelations.

This past summer, Senator PATRICK LEAHY of Vermont set up a task force to study the scope of the whistleblower problem in Federal agencies. Staff members conducted scores of interviews with whistleblowers and with agency officials in an effort to find out how much Government money might be saved if Federal employees could be encouraged to speak out. The staff attempted to determine how much "whistleblowing" is motivated by an ethical desire to see Government run more responsively, and how much was simply an employee's effort to gain revenge for some imagined wrong at the hands of agency management.

The Senator's report, which will be released in the near future, told us that there is a strong need for this legislation. Too many agency bureaucrats have a vested interest in keeping matters secret; an employee who sees the need for disclosure can only expect to be punished by his superiors. Thus, such potentially serious abuses as lack of proper safety measures in nuclear facilities, collusion between regulated industries and regulatory agencies, and gross overspending on defense contracts are never brought out in the open, where they might be corrected to the benefit of the Government and the taxpayer.

Congress and the press, who are often the first recourse of the frustrated employee, simply cannot act upon the kind of information presented by the whistleblower. Nor can they protect him from the consequences of his honesty. Our bill sets up a Review Board on Improper Government Actions which would investigate reports made by Federal employees about alleged agency abuses. Since proposals issued by the Federal personnel management project seem likely to split the Civil Service Commission into a management arm and a merit system oversight component, we anticipate that the Board created by this bill would become part of the latter group. This would allow the Board a reasonable degree of independence but ready access to agency information as well.

If the Board found cause for concern in an employee's report, it would refer the matter to the Justice Department, the GAO, or another appropriate agency for further investigation, and would require these agencies to report back regularly.

An employee making the initial report, if found by the Board to be acting in good faith, would have clearly defined but limited protection from adverse actions by his agency. If during a 2-year period following his report, he is fired, demoted, transferred to a hardship post or otherwise harassed, he would be entitled to bypass cumbersome, time-consuming civil service appeals and grievance procedures to seek relief directly in the U.S. courts. If sustained, he would be entitled to reasonable legal fees. If there was good reason for the adverse action other than the employee's revelations, then the court would, of course, sustain the agency's action.

Our bill sets up this Board only for a 3-year trial period. At the end of this time, if the Congress thinks the Board is performing a valuable function and has a sufficient workload, then it could vote to reauthorize the Board for an additional time.

President Carter pledged in his campaign that "the Fitzgerald case, where a dedicated civil servant was fired from the Defense Department for reporting cost overruns, must never be repeated." We feel that our bill will assure a new measure of accountability in the workings of our Government, and would provide an open door where future Ernest Fitzgeralds will be welcomed rather than rebuffed.

PACIFIC NORTHEAST ELECTRIC POWER SUPPLY AND CONSERVATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. DICKS) is recognized for 5 minutes.

Mr. DICKS. Mr. Speaker, I am introducing today the Pacific Northwest Electric Power Supply and Conservation Act (H.R. 9020).

Just 3 weeks ago there was introduced in both the House and the Senate legislation to establish the Energy Corporation of the Northeast. The many sponsors of that proposal underline the need to develop regional programs for energy production and conservation. Each region has its own history, characteristics, and resources. These should serve as the basis for energy programs tailored to meet regional needs.

In my own area, the Pacific Northwest Utilities Conference Committee has taken the lead in developing a program which is designed to make the Federal Columbia River Power System serve as the continuing base for our region's future energy supply. The PNUCC is composed of public and private utilities and industries which purchase power directly from the Bonneville Power Administration. In developing the program NPUCC worked with private industry, labor, and public officials. This has led to a program which, among other elements, includes as innovative and far reaching a conservation section as we have found anywhere.

Our hope is that this proposal will soon be the subject of hearings both here and in the region. It is essential, as our colleague Congressman MEEDS has recognized, that we move ahead very quickly to develop a regional power program. In this way we can avoid a devisive battle over shares of our supply of low-cost hydropower, which battle would dramatically and adversely affect our lives, our employment base, and our contribution to the national economy. The regional program will be a logical next step in our long-standing Northwest tradition of cooperation among governments at all levels and all segments of the electric power industry.

MINIMUM WAGE BILL SHOULD BE RETURNED TO CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 5 minutes.

Mr. LEVITAS. Mr. Speaker, today the House passed the conference report on H.R. 3744, the Fair Labor Standards Amendment of 1977, dealing with minimum wage. Although I voted in favor of H.R. 3744 when it came before us on September 15, I did not vote for the version which came from the conference committee today.

However, I must point out that my vote today was not a vote to defeat the minimum wage bill but rather was an effort to send the bill back to the conference committee to see if a new conference report would make the bill closer to the version which passed the House. We need to raise the minimum wage because of the significant rise in the cost of living since the last time the minimum wage was set. People who earn only the minimum wage and who depend on it for survival have been severely strapped by inflation. Their bills have gone up like everybody else's. Right now, a worker would have to earn $2.91 an hour just to reach the poverty level income as determined by the Census Bureau.

The House passed bill adequately addressed this situation without increasing the danger of an inflationary spiral or causing even higher unemployment.

However, what came back from the conference did not reflect those parts of the House passed bill which made it palatable.

The House bill raised the minimum wage gradually for 1978, 1979, and 1980. The conference version raises it again substantially in 1981. We do not know now in 1977 what conditions will be like in 1981. We do not know the inflationary problems we may have at that time. By 1980, it will be time to take another look at this matter, instead of mandating another increase of the magnitude of the conference bill at this time.

The House bill also increased the small business exemption in line with the inflationary pressures since it was last adopted. The conference bill raises it in stages to a final figure that is less than the single increase proposed by the House. Finally, the changes in the tip credit provision were not consistent with the House version.

I want to make it clear that I voted against the conference report, not because I am opposed to increasing the minimum wage, but because I wanted the bill to be sent back to the conference to improve the bill's provisions in line with the House version.

SOME THOUGHTS ON FARM POLICY, GASOHOL AND AFLATOXIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

Mr. NEAL. Mr. Speaker, the energy situation demands that we investigate and, indeed, promote every economically feasible domestic energy resource. Grain alcohol when combined with gasoline is one such resource that holds great promise. It is renewable, efficient, and less polluting than pure gasoline. I would like to share with my colleagues a letter I recently sent to Bob Bergland, the Secretary of Agriculture, outlining some of my thoughts about gasohol and farm policy. I would appreciate any comments my colleagues may have about the ideas expressed in the letter.

Washington, D.C., October 19, 1977.

Hon. BOB BERGLAND,
Secretary of Agriculture,
Washington, D.C.

DEAR BOB: I need not tell you how important energy availability and cost are becoming to the farmer and, indeed, the country. The ability of the farmer to realize a profit is increasingly being influenced by the price he has to pay for energy and energy by-products, as seen in the plight of small Texas farmers due to the increase in the price of intrastate natural gas. It's obvious that we must move as quickly as possible to develop alternative domestic sources of energy.

One such source which holds great promise and significance to the farmer is grain alcohol. Alcohol is increasingly being recognized as a viable major supplement to gasoline. (As a blend it is better known as gasohol.) Studies have shown that a 10 to 20 percent mixture of alcohol with gasoline can be used in today's automobiles with little or no modification to the engine, and it has been estimated that alcohol could save us as much as 200 million gallons of imported oil per day. This increased interest is also reflected in recent Congressional initiatives: in the 1978 fiscal budget ERDA was appropriated $750 thousand to promote wide-scale production of grain alcohol blended fuels. The new farm bill includes a provision authorizing $60 million in loan guarantees for four grain alcohol plants and a Senate Committee approved a 4 cents per gallon federal tax exemption for gasohol.

I'm sure you are well aware of these facts and statistics but I wanted to take this opportunity to suggest one possible way we could use farm policy to further stimulate the development of gasohol and, at the same time, help stabilize the price of farm commodities.

I understand that your department discourages the production of some commodities, such as wheat, by requiring the farmer to hold back 20 per cent of his production protential in order to qualify for price supports. Instead of promoting this 20 per cent reduction, why not let the farmer produce his full potential, then sell the 20 per cent excess production to the government at a price somewhat lower than the support level? This grain then could be used in gasohol production.

The full impact of this year's aflatoxin problem is not yet known, but we know that its effect in drought areas already is putting a heavy burden on both the government and corn producers. The North Carolina Department of Agriculture has suggested to me that corn contaminated by aflatoxin can be converted into ethyl alcohol, but that the residue would remain contaminated. I also understand that contaminated corn can be detoxified by the application of extreme heat and/or ammonia. Might it not be possible to extract the ethyl alcohol and then detoxify the residue so it could be used safely as a livestock feed?

The diversion of excess or unusable grain into the gasohol program would both help develop an alternative source of fuel and help stabilize the commodities market. It also would give us added assurance of sufficient grain for food, in case production requirements were underestimated, or in the event of serious shortages in the world supply.

Thank you very much for your consideration. If I can be helpful in any way, please let me know.

Best wishes,

STEPHEN L. NEAL,
U.S. Congressman.

CRS STUDY ON EFFECTIVE TAX RATES IN COMMERCIAL BANKING: EMERGING CONFLICTS IN TAX POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

Mr. VANIK. Mr. Speaker, recent press reports indicate that President Carter will recommend a tax reform proposal that will significantly reduce Federal taxes paid by corporations. For at least one industry, commercial banking, these tax reductions will be of little consequence. Commercial banks already pay only a small fraction of this income in Federal taxes. According to a Federal Reserve Bank study, the effective tax rates of commercial banks has declined from 37 percent in 1952 to about 15 percent today. In my own study of corporate income taxes for 1975, I found that nine of our largest banks paid only 10.6 percent of their income in Federal taxes. Table 1 presents these results.

Now a study which I requested by the Congressional Research Service raises new issues regarding the tax treatment of the commercial banking industry. The CRS not only identifies the major provisions used by banks to limit their tax liabilities but also indicates that certain tax preferences may be conflicting with one another. Specifically, the tax preferences of the foreign tax credit and accelerated depreciation may be working to reduce the effectiveness of the tax exemption for States and local bonds. This tax exemption is an important and controversial subsidy that the Federal Government gives to State and local governments. In another area, the leasing activities of commercial banks may reduce the impact of tax incentives for capital investment.

Table 2 is taken from the CRS study and illustrates how six major banks reduced their tax liability in 1975.

STATE AND LOCAL TAX-EXEMPT BONDS

The Federal Government allows the interest that a bondholder receives on State and local bonds to be exempt from tax. Depending on the marginal tax rate of the bondholder and the interest rates of taxable and tax-exempt bonds, an investor may be better off buying a tax exempt security. A simple example will explain. Assume an investor has a marginal tax rate of 60 percent. He has a choice of a tax-exempt bond paying interest at a rate of 5 percent or a taxable bond which pays 10 percent. For every $100 invested in the tax exempt, the taxpayer receives $5 in interest. For every $100 invested in a taxable bond the taxpayer has income of $10 on which he must pay tax of $6. His net proceeds would be $4. He would, therefore, be better off buying the tax-exempt bond.

Because of the tax exemption, these bonds do not have to pay as high an interest rate to attract investors. This benefit reduces the financing costs of State and local government. However, commercial banks, because of their heavy investment in the market for these securities, affect the efficiency of the subsidy. In recent years we have seen a trend toward the foreign tax credit and accelerated depreciation as means by which banks reduce their taxes. Hand in hand with this trend is an apparent long-term movement by commercial banks out of the tax-exempt market. As banks reduce their demand for tax exempts, and the supply of bond offerings keeps increasing, State and local governments are forced to increase the interest rates on their debt offerings in order to market them. As the result, the purpose of the tax-exempt subsidy—namely, to reduce the cost of financing State and local government—is defeated.

In short, the changing character of commercial banking threatens to develop conflicts in tax policy which must be resolved. Because more and more commercial banks are opening international operations, more banks are taking advantage of the foreign tax credit to reduce their U.S. tax liabilities. Ostensibly, the foreign tax credit is designed to eliminate the double taxation of foreign source earnings—once when it is earned abroad and once when it is repatriated to the United States. But the foreign tax credit has significant implications for the tax-exempt bond market. As the CRS study notes:

As international activities expand a greater relative share of income of banks is earned abroad and not subject to U.S. tax liability to any great extent. It is in this sense that the foreign tax credit may have reduced bank demand for tax exempt bonds.

BANK'S AND EQUIPMENT LEASING

Another major development in the industry has been the movement of commercial banks into equipment leasing activities. Quite simply, equipment leasing is the marketing of tax incentives. When a company invests in business equipment, the tax code rewards such investments with an investment tax credit and accelerated depreciation schedules. Many companies cannot use these incentives because they already pay little or no tax. The airline industry is a prime example. Lease financing is a way of passing these tax benefits along to commercial banks. The banks buy the equipment, claim the tax benefits, and then lease the equipment at preferential rates to the company using the equipment. According to the CRS study, direct lease financing by banks has grown at a rate of almost 50 percent per year over the last 12 years.

Leasing highlights another potential conflict in tax policy. Leasing activity which is stimulated simply by tax considerations may, in fact, reduce the tax incentives for capital investment. As the CRS study notes:

While leasing activities in the absence of tax incentives would be expected to stem from increased efficiency in this method of operation, those which derive from the tax incentives themselves may reduce the impact of these capital investment incentives. If leasing were a perfectly competitive industry, these tax savings would be passed on to the leasee who would receive the reduction in the cost of capital which is the purpose of capital investment incentives. However, if banks are receiving part of these tax benefits (in the form of above average rates of return on leasing activities), the efficiency of the tax provisions in stimulating investment is hampered.

The results of the CRS study point to two major conclusions. First, tax preferences often conflict with one another and reduce the overall efficiency of incentive programs designed through the tax code. Second, the best way to view the interaction of various tax preferences may be to do an industry-by-industry analysis of how the tax code helps or hinders the business progress in the important economic sectors of our economy.

TABLE 1.—APPROXIMATE EFFECTIVE TAX RATES PAID BY SELECTED LARGE CORPORATIONS—1975

Corporation	Approximate adjusted net income before Federal and foreign income tax [1] (thousands)	Approximate current Federal and foreign income tax (thousands)	Approximate effective worldwide tax rate (percent)	Approximate adjusted net income before Federal income tax [2] (thousands)	Approximate current Federal income tax (thousands)	Approximate U.S. effective tax rate on worldwide income (percent) [3]
COMMERCIAL BANKING LIST						
Bank America Corp	468, 800	160, 000	34. 1	359, 800	51, 000	14. 2
First National City Corp. (Citicorp)	574, 769	215, 884	37. 6	384, 769	25, 884	6. 7
The Chase Manhattan Corp	231, 095	83, 929	36. 3	152, 636	5, 253	3. 4
Manufacturers Hanover Corp	203, 145	27, 056	13. 3	166, 085	(8, 426)	
J. P. Morgan & Co., Inc	289, 061	98, 686	34. 1	219, 450	31, 060	14. 2
Western Bank Corp	91, 105	10, 058	11. 0	86, 905	5, 858	6. 7
Chemical New York Corp	107, 673	11, 190	10. 4	90, 480	(2, 893)	
Bankers Trust New York Corp	80, 393	25, 172	31. 3	65, 172	9, 519	14. 6
Continental-Illinois Corp	210, 435	[4] 83, 550	39. 7	189, 074	[4] 63, 674	33. 7

[1] The adjusted net income before Federal and foreign income tax reported to shareholders is comprised of net income or loss from financial statements with appropriate adjustments made for Federal and foreign income tax expense or refund, income or loss attributable to minority interests, and income or loss from investments in affiliated companies whenever the equity method of accounting was used. In certain cases, the minority interest and/or the—income or loss reported under the equity method was not separately disclosed. In these cases, no adjustment for the minority interest and/or the equity income or loss was made.

[2] The adjusted net income before Federal income tax reported to shareholders is comprised of net income or loss from financial statements with appropriate adjustments made for Federal income tax expense or refund, income or loss attributable to minority interests, and income or loss from investments in affiliated companies whenever the equity method of accounting was used. In certain cases, the minority interest and/or the income or loss reported under the equity method was not separately disclosed. In these cases, no adjustment for the minority interest and/or the equity income or loss was made.

[3] This does not include foreign taxes on this income. Therefore, this is not the total income tax burden on this income. U.S. tax as a percentage of U.S. income is not available from public information sources.

[4] The provision for income taxes may contain State and/or foreign in addition to Federal income taxes.

TABLE 2.—PROVISIONS RECUDING THE EFFECTIVE TAX RATE OF SELECTED COMMERCIAL BANKS

	Bank of America	Citicorp	Manufacturers Hanover	J. P. Morgan	Chemical New York	Bankers Trust
Statutory rate[1]	48.0	48.0	48.0	48.0	48.0	48.0
Investment tax credit	.5		2.4	.1	.7	
Tax exempt interest	14.3	9.7	17.3	18.9	44.0	29.6
Miscellaneous	1.6	3.7	2.9	(4.9)	(.6)	2.8
Accelerated depreciation	5.3	14.8	25.2	7.0	9.9	7.8
Deferred compensation		(1.0)				
Foreign tax credit[2]	15.8	25.7	8.5	16.0	8.1	12.5
Timing difference[3]	(3.6)	(11.6)	(3.8)	(4.1)	(12.5)	(20.1)
U.S. tax rate	14.2	6.7	(5.1)	14.2	(3.2)	14.6

[1] To reconcile these numbers to 48 subtract items in parenthesis from other items.
[2] The value of foreign tax credit is calculated as 52 percent of taxes paid. This approach assumes little or no excess foreign tax credits.
[3] Timing difference represents the difference between taxes paid as measured in the Vanik study (current taxes) and those measured by tax notes which includes some deferred taxes.

THE ADMINISTRATION'S POLICY ON TOBACCO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. FOUNTAIN) is recognized for 5 minutes.

Mr. FOUNTAIN. Mr. Speaker, as dean of the North Carolina congressional delegation, I want to share with my colleagues a copy of a delegation letter sent to the President today which asks him to clarify for us both his administration's policy on tobacco and just who is and is not in charge of that policy.

Several days ago, HEW Secretary Joseph Califano received a report from the HEW Task Force on Smoking which contains several foolish proposals designed to make life tougher for the Nation's tobacco farmers and others whose livelihoods depend in one way or another upon tobacco and tobacco products.

Our reaction to the task force's recommendations, and the reaction in North Carolina, is one of outrage.

Mr. Speaker, this letter makes reference to a previous letter to the President last summer which dealt with the need to protect the tobacco price support program. That letter, along with a similar letter to Secretary Califano, appear on pages 24200–24202 of the RECORD for July 20, 1977.

The letter follows:

HOUSE OF RPRESENTATIVES,
Washington, D.C., October 20, 1977

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Last June, we the undersigned members of the North Carolina Congressional delegation, wrote you of our deep concern about the Secretary of Health, Education and Welfare's remarks on national television in opposition to the Nation's modest and inexpensive tobacco program.

Our letter went to great lengths to set the record straight and to recall your position which differed diametrically with his attack.

While we continue to take comfort in your statement that "I personally see no need to do away with a program (the tobacco support program) which costs the government next to nothing while enabling so many families to earn a living," and we take comfort in the responsible position of Secretary Bob Bergland and the Department of Agriculture, our concern has been deepened by events over the past weekend. The press has revealed that Secretary Califano has received a report from a Task Force of HEW officials which he created to develop anti-smoking initiatives. He did so, according to an HEW spokesman, because he "feels that cigarettes are killers and wants to do everything in his power to discourage smoking in this country." Among the recommendations placed before him is a program to end the tobacco support program and to provide welfare assistance to tobacco farmers.

In our state, the reaction has been one of outrage, to say the least. And we share this sense of outrage.

Our concern, however, goes further than his persistent attack on a program which has wide support and great value. Many of the other recommendations which he is now considering go well beyond his Department's jurisdiction and authority, and require new legislation. Some recommendations would plow old ground, reintroducing measures which have already been considered, and rejected by the Congress. Others would call for action by regulatory agencies in areas where Congress has an interest. Still others would take the Nation down the slippery slope of behavior control and direct government intervention into the individual lifestyle choice of our citizens.

With the already overloaded agenda which has been placed before the Congress, it may be questionable for one Cabinet Secretary to pursue policy goals of his own or those of interest groups to whom he listens So far as we are aware he has not sought the control of our Delegation, or any of our constituents whose economic livelihood depends upon tobacco.

We are also in the dark as to the reason for Secretary Califano's escalation of a government anti-smoking drive at this time. The tobacco industry operates under the constraints which its critics have demanded in terms of warning labels on packages and in advertising, of being banned from broadcast advertising, and of being taxed at the Federal, State and local levels. Moreover, it has in the past two decades cut the "tar" content of cigarettes by more than half. Of course, it has not met the demands of those critics who mask a real desire for prohibition in the name of public health.

We respectfully urge you, in the interest of fairness and effective public policy decision-making, to end the insecurity of our constituents as to what is or is not Administration policy regarding tobacco and who is or is not in charge of it.

Millions of citizens of our state and throughout the country depend heavily upon tobacco and, you will agree, are entitled to know the government's intentions regarding their future.

With kindest regards and best wishes, we are

Sincerely,

L. H. Fountain, Robert Morgan, Jesse A. Helms, James Broyhill, Walter Jones, Ike Andrews, Charles Rose, Stephen L. Neal, Charles Whitley, Richardson Preyer, James Martin, W. G. Hefner, Lamar Gudger, Members of Congress.

FEDERAL RESERVE BANKS MAY PURCHASE NOTES OF MUNICIPALITIES IN CHAPTER 9 PROCEEDING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 15 minutes.

Ms. HOLTZMAN. Mr. Speaker, I have today introduced legislation to allow Federal Reserve banks to purchase notes and other debt instruments issued by a municipality involved in proceedings under chapter 9 of the Bankruptcy Act. This will help to assure that a city involved in a municipal bankruptcy action will be able to raise operating cash in order to provide essential services to its citizens.

The Municipal Bankruptcy Act, which was enacted last year, provides that a city in bankruptcy may issue certificates of indebtedness. Funds raised through these certificates are needed to help a city cope with "seasonal deficits" which arise because the city's revenues do not come in at the precise moment that expenditures must be made. For the same reason, the proposed revision of the municipal bankruptcy laws, contained in H.R. 8200 which has just been reported by the House Judiciary Committee, provides for the obtaining of credit and incurring of debts by a city in bankruptcy.

The sale of certificates of indebtedness or other credit instruments is thus needed to assure that essential municipal services will be provided during a bankruptcy action.

But who will buy the certificates or notes of a bankrupt city? If a city is unable to command sufficient investor confidence to allow it to sell its notes prior to default, it is not likely to be able to sell them afterwards either. And if those notes are not marketable, how can the bankrupt city raise the cash to maintain its police and fire services, its sanitation pickups, its schools, and hospitals?

The legislation I am introducing today offers a simple, fiscally responsible approach to this problem. It explicitly authorizes Federal Reserve banks to purchase the notes of a municipality in bankruptcy.

I would make very clear that this legislation does not require or even permit the Federal Reserve Banks to purchase worthless certificates. Normal standards of fiscal soundness for the purchase of obligations would still apply. Under both the present and proposed provisions of chapter 9 of the Bankruptcy Act, the court should be able to give a petitioning city's new certificates sufficient priority to enable them to meet those standards. What my bill would do, however, is assure that when the psychological impact of insolvency, default, and bankruptcy makes the market unwilling to purchase

the certificates of a city, the Federal Reserve banks may do so if those certificates are otherwise sound.

It is arguable that section 14(b) of the Federal Reserve Act, which my bill would amend, already permits the purchase of municipal obligations in these circumstances. I am, however, unaware of any case in which this occurred. Additionally when New York City faced the imminent prospect of default nearly 2 years ago, I was unable to obtain any assurance from the Federal Reserve Board that it would, or believed it could, permit its banks to purchase the certificates of a bankrupt municipality.

Clearly the lives, health and safety of millions of Americans, which would be endangered if the cities or towns in which they lived could not maintain essential services during bankruptcy, are far too important to be left to some future arbitrary decision by the Federal Reserve Board. The Congress ought to make explicit, as my bill does, the authority of Federal Reserve Banks to purchase the fiscally sound notes of a city in bankruptcy, and thus assure that a municipality's default does not place its citizens in peril.

I urge the passage of this legislation.

The text follows:

H.R. 9702

A bill to amend the Federal Reserve Act to allow Federal reserve banks to purchase and sell obligations issued by municipalities and other political subdivisions which have filed petitions under chapter 9 of the Bankruptcy Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 14(b)(1) of the Federal Reserve Act (12 U.S.C. 355) is amended by inserting "and including counties, districts, political subdivisions, and municipalities which have filed petitions under chapter 9 of the Bankruptcy Act," immediately after "including irrigation, drainage and reclamation districts,".

NORTHEAST REGIONAL ENERGY CORPORATION—"MR. ROCKEFELLER'S PHOENIX"

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, today's Wall Street Journal carried a superb editorial on the subject of proposals for a national or regional energy corporation.

Legislation has been introduced in the other Chamber, the purpose of which would be to establish an Energy Corporation of the Northeast. I oppose the legislation as it has been introduced, because it would be just like the old synthetic fuels legislative proposals—for off-budget financing, double-dip loan guarantees and price supports for large energy facilities the Nation does not need and should not want.

As drafted, the legislation contains no adequate provision for legislative control or review, either by Congress or by the State legislatures; it contains no adequate protection of the public nor any requirement for public participation at any step of the way during the corporation's planning and energy development activities; it contains no adequate protection against conflicts of interest among directors of the corporation; there is no adequate protection of private property; and the corporation would bring higher—not lower—energy costs for the Northeast than we already have.

My good friends and colleagues, Messrs. KEMP, BEARD, JEFFORDS, MAGUIRE, MARKEY, MOFFETT, and WALGREN have joined me in sending a letter to all House Members, in which we outline our problems with the legislation and with the general energy path outlined by its proponents.

The Wall Street Journal editorial deserves the careful consideration of all Members, and I ask that it be inserted in the RECORD at this point:

MR. ROCKEFELLER'S PHOENIX

The notion of a public corporation for energy keeps arising like a phoenix from its own ashes, probably because Nelson Rockefeller inherited not only his grandfather's money, but his drive and persistence. Something like the $100-billion boondoggle Mr. Rockefeller proposed when he was Vice President has now appeared in the Senate version of the energy bill. And Hugh Carey, Mr. Rockefeller's successor once removed as governor of New York, is pushing a special little $5 billion boondoggle just for the Northeast.

The Energy Corporation of the Northeast (ENCONO) is worth a close look, if only to illuminate how such corporations work. ENCONO would be a quasi-public corporation, tax-exempt, to raise private capital for energy projects. Exxon and all the other corporate descendants of the Standard Oil Trust of course already have billions to invest in potentially profitable energy projects. ENCONO would handle the other kind.

Say ENCONO has a plan to turn coal into natural gas and needs only $1 billion to get off the ground. If it merely went to the private capital market and tried to raise that amount it would be laughed off the map. Private investors know that you can't turn coal into gas for less than $4 or $4.50 per thousand cubic feet (mcf). And if some future President keeps his campaign promise and deregulates natural gas, the ordinary stuff might be ankle deep in Schenectady at $2.50 or so.

This problem can be solved if the taxpayers of the Northeast would guarantee to buy all the synthetic gas that ENCONO produces at $4.50, sell it to the pipelines for $2.50, and absorb the loss. But the voters of the Northeast are no dummies. So Mr. Carey and his fellow governors are not asking their taxpayers to ante up for such a scheme. Instead, they are asking the national taxpayers to do so.

The Northeast governors have signed up their Senate allies: Javits and Moynihan of New York, Case and Williams of New Jersey, Pell and Chaffee of Rhode Island, Schweiker and Heinz of Pennsylvania, Ribicoff and Weicker of Connecticut, Stafford of Vermont, Kennedy of Massachusetts, and Riegel of Michigan. But over on the House side, the silliness of the idea has been spotted by an unlikely team of New York Congressmen, Richard Ottinger of Westchester, a liberal Democrat, and Jack Kemp of Buffalo, a conservative Republican.

"Beware the Regional Energy Corporation Boondoggle," reads a circular the Ottinger-Kemp team put out in the House, which has several times already beaten back the national Rockefeller plan. They warn that ENCONO "involves the creation of another independent authority with blank-check, double-dip loan guarantee and price-support powers that can be used in any way, without congressional supervision, including finance of giant energy corporations and utilities in the production of high-technology, capital-intensive energy production facilities."

It would seem that the reality of such schemes is now recognized across a broad ideological spectrum. But there is nothing like persistence, and, even if ENCONO is defeated and the quasi-public national corporation stripped from the Senate bill, we're sure that Nelson Rockefeller will be back again in a new guise.

STATEHOOD FOR PUERTO RICO

(Mr. CORRADA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CORRADA. Mr. Speaker, the Governor of Puerto Rico, Hon. Carlos Romero Barceló, delivered a very important speech before the United Press International Editors and Publishers Confernce recently held in Puerto Rico. Governor Romero's address is of great historical and political significance and will give those who read it a very enlightened insight about our island. I fully support Governor Romero's position in favor of eventual statehood for Puerto Rico, and I am including a full text of his speech in the RECORD:

ADDRESS BY THE HONORABLE CARLOS ROMERO-BARCELÓ, GOVERNOR OF PUERTO RICO

Four hundred eighty five years ago a new world—America—a continent of new hope and vast promise was discovered. This week, many of you will, I sincerely hope, discover or perhaps rediscover, Puerto Rico. . . .

And I use the word "discover" to mean that hopefully you will find and understand new and different things about our island—and, most important of all, our people; our hopes; our challenges; our aspirations; our problems; our dreams.

We are proud of our island; its climate, its beautiful mountains, hills and valleys, tropical rain forests, and magnificent beaches. But, above all, we are proud of our people, our culture, our language, our Spanish, African and Taino heritage. We are proud of our struggle to overcome poverty, disease and ignorance and of how, without mineral resources and with an incredible population density (over 900 persons per square mile, more than fifteen (15) times that of the entire 50 States of the Union), we have provided our people with the highest standard of living and highest per capita income in all of Latin America, when scarcely forty years ago we were known as the Caribbean poorhouse.

But our extraordinary development is seldom, if ever, mentioned today. Instead, the current image of Puerto Rico portrayed by the National and International Press is that of a decadent tropical paradise, where a few enjoy a luxurious life of leisure and the rest are starving, on welfare or exploited. We are portrayed as an exploited colony of Uncle Sam, where violence is rampant. The image of the Puerto Rican in the national press is represented by the young lords, the F-A-L-N bombings and threats, the 1954 shooting of Congress by four fanatics, active members of a very small Fascist Party, and the citizenry living on welfare.

Little or nothing is said of the friendliness and cordial hospitality of Puerto Ricans, of our deep sense of loyalty and honor, our love for our families, our overwhelming love for our children and our unconquerable drive to improve ourselves, and above all to educate our children and to offer them those opportunities which we did not enjoy. These are the traits of our people which are not described in the newspaper, radio and

television reports, but which made possible our remarkable achievements during the last four decades, and allowed us to take advantage of the opportunities which our United States citizenship, our participation in the common market with the 50 States of the Union, and the resources available to us through Federal grants and programs, have provided us.

These are the Puerto Ricans whom I hope you will meet, and about whom I hope you will write when you return home. These are the vast majority of Puerto Ricans, those who make us all so very proud to have been born on this island. These are the people who prompted our most famous composer of popular music, Rafael Hernandez, to say: "Si yo no hubiera nacido en la tierra en que naci, estuviera arrepentido de no haber nacido alli". ("If I had not been born in the land where I was born, then for having not been born there, I would feel forlorn".)

But, wait a minute, I'm getting ahead of myself. To discuss the issue of the political status of Puerto Rico, or our "status dilemma" (as I have so often called it), we should start with a few brief historical facts which might help you to better understand a very complex and highly emotional issue.

During 400 years as a colony of Spain, Puerto Rico evolved into a society unlike any other in the new world. As the age of the Spanish empire withered away, one American colony after another fought for and won its independence. Yet Puerto Rico was the exception; we alone are the only politically self-contained community in the Western Hemisphere where no government has ever been overthrown by force.

To be sure, there have always been some revolutionary elements here, and they persist to this day. But the overwhelming majority of our people have always been peace-loving and, as a people, we have abhorred violence and armed conflict as a means of achieving our political and social goals. I am confident we always shall.

With the initiation of hostilities during the Spanish-American War in 1898, U.S. troops landed in Puerto Rico. The "invading" troops were welcomed warmly by the immense majority of our people. The United States symbolized freedom and hope to a people that for centuries had been alternately abused and neglected by Madrid. This freedom and hopes was rekindled by the words spoken at the time by Major General Nelson A. Miles, commander of the U.S. forces. On July 29, 1898, General Miles issued a proclamation from his military headquarters in Ponce. "We have not come", said Miles, "to make war against a people of a country that for centuries has been oppressed, but, on the contrary, to bring you protection, not only to yourselves but to your property, to promote your prosperity, and to bestow upon you the immunities and blessings of the liberal institutions of our Government".

As a result, shortly thereafter, the two principal political parties which were organized at the turn of the century, both advocated statehood for Puerto Rico. They were the Republican Party and the American Party, whose leaders then were our most respeced political leaders at the time—Dr. Jose Celso Barbosa and Don Luis Muñoz-Rivera.

Gradually, however, official Washington lost interest in us, and Federal policy toward the island began more and more to reflect the economic concerns of influential corporations who bought up our land and gradually converted our small farms into huge sugar cane plantations. The Foraker Act of 1900, the first Puerto Rico Federal Relations Act, was a disappointment to Puerto Ricans and pro-American feelings began to cool fast. As a matter of fact, the American Party was dissolved as a result of that disappointment, and by 1904 a new party, the Unionist Party was formed by Luis Muñoz-Rivera. The Unionist Party agreed to support statehood, independence or autonomy—whichever the people might choose. Since then, the idea of a plebiscite or referendum to decide our political status has been with us. In addition, during those early years under the American flag, our Hispanic cultural heritage—one hundred years older than that of New England—was dismissed as "foreign". A succession of mediocre and or insensitive men were sent here as presidentially-appointed Governors, and an era of benign neglect followed.

Thus, although at the beginning there had been a very strong pro-statehood sentiment on the island, the people and many political leaders began to grow weary of the neglect, and sentiment for independence reached its peak in the late 1930's. Yet, even then, it never approached majority proportions.

Finally, however, during the administration of Franklin D. Roosevelt, Puerto Rico was at last looked upon as an integral part of the United States, and the need for a more enlightened policy toward the island began to be recognized. Although no changes in the island's political system were enacted during the Roosevelt years, the seed of self-government was planned. Roosevelt appoited as Governor one of the men who belonged to the brain trust that spearheaded the new deal, Dr. Rexford Guy Tugwell. He was also one of the architects and most important advisors in the group that helped Muñoz-Rivera's son, Luis Muñoz-Marin, launch an aggressive agrarian reform and economic development program that brought about our extraordinary industrial and economic development. In 1947 we were granted the right to elect our own Governor and in 1952 with congressional consent, we adopted our own constitution.

Luis Muñoz-Marin, who had been President of the Senate of Puerto Rico since 1941, became our first elected Governor in 1948 and continued to dominate the island's politics until the late 1960's.

In 1976, Muñoz-Marin's political hegemony was terminated when the party I now lead, the New Progressive Party, was swept into power. Since then, the island has entered a challenging period of transition.

Because Muñoz-Marin and his closest associates had, in their hearts, been separatists, they felt somewhat uncomfortable—perhaps even guilty—about their decision to enter into a close relationship with the United States Government.

To offset this decision, therefore, they deliberately undertook a long and massive propaganda campaign. Its purpose was to suppress the notion that Puerto Ricans are also Americans.

The damage caused by this attitude toward the realities of our identity as a people has been enormous. Indeed, many of our present political difficulties can be traced directly to this persistent and divisive exercise in spiritual isolationism.

But perhaps the swing of the pendulum towards the other extreme was inevitable after a misinformed and misguided forty-year attempt to Americanize our people.

Our island's economic development program under Luis Muñoz-Marin was predicated upon fully tax exempt and low-wage paying industries. But as Puerto Rico's wage rates and standard of living gradually rose, labor-intensive industries began to move out; in Korea, Taiwan and the Dominican Republic, labor was, and is, much cheaper than in Puerto Rico.

The industrialization program also depended heavily upon the migration of Puerto Rican workers to the mainland, a process which continued throughout the forties, fifties, and sixties, and which kept our labor force from growing overly rapid.

In addition, agriculture was allowed to deteriorate in favor of factory and office work. Laboring in the fields became pejoratively identified with the "old days" and a symbol of exploitation. Thus farm work ceased to be perceived as dignified, and our need to import food increased.

A huge petrochemical complex was constructed in the 1960's to provide better-paying jobs for skilled workers. But its economic viability depended upon abundant supplies of low-cost foreign oil and special concessions by the Federal Government. And since 1973, with the huge increase in the price of foreign oil, our petrochemical industry has been confronted by a series of difficulties.

Meanwhile, as the United States economic boom of the 1950's and 1960's came to an end, the emigration of workers from Puerto Rico ceased as well. Since 1971, more Puerto Ricans have returned to the island each year than have departed, resulting in a sharp increase in the size of our labor force, and thereby inflating our already high unemployment rate.

For all of the preceding reasons, the rationale that gave impetus to "operation bootstrap" of Puerto Rico's postwar economic development is no longer valid.

This administration is therefore confronted with the task of building a new and more solid base for prosperity.

We are working to encourage the establishment of industries that will not only export, but that will also serve the local market. The purpose will be both to provide jobs for our workers, and simultaneously to reduce our dependence upon expensive imported goods and services.

We are developing new programs and improving the existing ones to provide more and better-on-the-job training and special industrial training incentives, so that our young will be prepared for the jobs which can be made available by industry, and so industry can rely on adequately trained productive manpower.

In short, what is required is a whole new orientation toward development. This is a painful and difficult time of adjustment for Puerto Rico's economy, but we are determined to go forward in a deliberate and responsible fashion, and I am confident we will succeed.

In the meantime, it is a little known fact that Puerto Rico purchases more than four billion worth of goods and services from the mainland every year. I believe that when we become a State, by becoming an integral part of the United States' economy, we will not only maintain the rate of commerce that we have now, but actually increase it. These purchases, by the way, can be translated into direct and indirect employment in the several States. One recent study calculated, for example, that purchases from Puerto Rico created about 15,000 direct and indirect jobs in New York; in California, about 10,000 jobs, in Mississippi, 2,000 job; and in Tennessee, 3,000 jobs. In all, Puerto Rican purchases produced about 150,000 jobs throughout the 50 States of the Union.

This is another side of the story which is seldom told. In a recent TV program "(60) Minutes', Puerto Rico was portrayed as a welfare island. They said that we received three billion dollars a year from the U.S. Government, leading the viewers to believe that we were receiving three billion dollars in welfare aid. The truth is something else; the 3 billion dollars is not made up of grants-in-aid; no, on the contrary, that sum represents the total amount of United States Government outlays and expenditures; it includes military and other defense expenditures, the Coast Guard, Post Office, Veterans Administration, veterans payments, social security payments for which we pay social security taxes, U.S. district courts, the U.S. Department of Justice, and all law enforcement agencies and expenditures of all other departments and agencies, plus all Federal grant-in-aids. This was not explained in the "60 Minutes" program. Neither were viewers told that we import about 80 percent of the

goods and services we consume, mostly from the mainland United States, and that we are now importing approximately $4 billion worth of goods from the 50 States of the Union. Certainly then, the question left in the viewsrs minds as to whether the nation could afford Puerto Rico, would be answered differently if these facts were known.

The economic side of the Puerto Rican equation, however, is only one part of the picture. There is also an equally important and complex political aspect.

As I noted earlier, former Governor Luis Muñoz-Marin and his closest associates were always committed to the idea of Puerto Rico as a place apart from the United States: If not independent, at least separate.

What they emphatically did not want was for our people to feel that they could comfortably be both Puerto Ricans and Americans at the same time. Instead the autonomists wanted us to view our American citizenship as merely a convenient technicality: something to fall back on, but not to take pride in.

Myths were promulgated about what statehood would mean to Puerto Rico.

Statehood was depicted as a kind of bogeyman—something we should fear. Statehood, they said, would mean economic disaster because we could not attract industry if employers had to pay Federal minimum wages and also pay taxes. Commonwealth supporters believed, or at least they so indicated to our people, that somehow Puerto Rico had less to offer than other parts of the world; that we were smehow less worthy and would always have to be satisfied with lower wages and a higher cost of living. To them, somehow, Puerto Rico could not compete with the 50 States of the Union. Fortunately, many of us refused to believe we were condemned to always be less and have less; we have refused to accept inferiority; we are demanding and will have equality.

As part of the same campaign of separatist ideas, the notion was fostered that, under statehood, Puerto Ricans would be forced to speak English; to eat french fries and hamburgers instead of rice and beans; to give up our own music and art in exchange for Lawrence Welk and Andy Warhol.

It got to the point where people were saying—Albert Jokingly—that, if we ever became a State, then snow would fall in our mountains. And, at the same time, anti-statehood propagandists repeatedly called our people's attention to the very worst aspects of mainland society.

Years of propaganda took their toll.

By 1952, the year our Commonwealth Constitution was adopted, the prostatehood political party in Puerto Rico was down to just 12-point-9 percent of the vote. Even the independence forces did better than that, polling 19 per cent, as compared with Muñoz-Marin's landslide majority in favor of something in between. In Spanish he called it, "El Estado libre asociado", which literally translated would be "free associated state"; but in English he chose to call it "commonwealth."

In the quarter-century since 1952, however, the picture has changed drastically. From a 19 percent vote in 1952, the independence parties are down to a 7 percent vote; the Commonwealth Party is down from over 60 percent to 45 percent, whereas the Statehood Party is up from 12.9 percent to a 48 percent vote in 1976.

Changes have occurred not only here but also on the mainland.

Puerto Rico's explosive economic growth created a middle class where none had existed before. Our new middle class eagerly embraced many middle class values from the mainland—especially where consumer goods were concerned.

The gap between Puerto Rico and the mainland, in terms of lifestyles and income levels, began to close rapidly. And as a result, Puerto Ricans today have much more in common with other Americans, in terms of the goods and services we have come to expect, than we did in 1952.

We also feel less remote: jet air travel and satellite television are just two of the technological advances that have helped to bring Puerto Rico and the mainland closer together.

The enormous back-and-forth traffic of tourists and Puerto Ricans alike, between the island and the mainland, has further served to bridge the gulf between the two regions. Tourists introduced local Puerto Ricans to mainland ways, just as we have introduced Puerto Rican ways on the mainland. Puerto Ricans returning from years of living on the mainland also brought with them habits they had acquired in the States, particularly work and business habits.

Meanwhile, the United States as a whole was undergoing an unprecedented degree of liberalization.

Minorities began to assert themselves and be heard. Americans of ethnic origin began to take open pride in their roots. Women stepped forward to demand their right to participate as full and equal members of their communities. And, residing on an island, one thousand miles from the North American continent, we Puerto Ricans took special note of some other things that hapepned during those 25 years.

For example:

For the first time in American history, a non-contiguous State, Alaska, was admitted to the Union in January, 1959. In August of that year, Alaska was followed into the Union by our first island State, Hawaii. In that connection, it might be well to recall the words of Joseph R. Farrington, Delegate from Hawaii: "the Union of States in this country is more than a geographic arrangement. It is the Union that comes of common loyalty and common purposes." Puerto Rico, as has been proven time and time again, shares that loyalty and purpose with the United States.

During the last quarter-century, the United States of America has, in a real sense, been transformed.

In 1952, the voters of Puerto Rico endorsed the creation of our present commonwealth political status, a form of semi-autonomous, semi-colonial, association with the United States. But remember the historical context in which that occurred, and remember also that statehood in those days stood very little chance of congressional approval, even if we had requested it. And do not forget that Puerto Ricans are intensely proud.

Compare this situation with President Ford's dramatic invitation last December to all Puerto Ricans to join the Union as the fifty-first State. President Carter has also voiced his administration's support for Puerto Rican self-determination and for statehood, should that be the choice of a majority of our voters.

As a student at Yale in the spring of 1952, I noted how Senator Estes Kefauver won a whole series of Democratic Presidential primaries; but he was not taken seriously as a candidate, because he was from Tennessee: and it was said that "the country wasn't ready for a southerner in the White House". And the same thing was said about Catholics.

But eight years later, Roman Catholic John F. Kennedy was elected President.

Then in 1976, along came Jimmy Carter: not only a Georgian, but a Georgian almost totally unknown outside his home State. And a Georgian whose campaign autobiography begins with these words: "I am a southerner and an American—in that order".

Ladies and gentlemen, today America is ready. Today I can stand before you as a patriotic United States citizen and make the following statement with serenity and sincerity: I am a Puerto Rican and an American—in that order.

My being a Puerto Rican makes me no less an American. And my being an American makes me no less a Puerto Rican.

The people of Puerto Rico are, in the spirit of the United States Constitution, very good Americans. We conduct our local governmental affairs freely and democratically. We have fought and died defending that Constitution. We respect the rights of the individual and we believe in private enterprise.

And in the near future, I am convinced we shall formally petition Congress to grant us the full range of rights and responsibilities that should accompany our American citizenship. And that means statehood. For within our constitutional framework, statehood is the highest expression of political development, and the only status through which we can achieve political equality with our fellow citizens.

My friends, if I were to move to Plains, Georgia, I would be eligible to run for President of the United States. But so long as I continue to reside in my native Puerto Rico without statehood, I cannot even vote for President of the United States.

Puerto Rico likewise has no voting representation in the House of Representatives nor in the U.S. Senate.

Here we should take a moment to explain the difference between commonwealth and statehood. What are the distinctions? Well, under Commonwealth we do not have to pay any Federal income or other taxes except social security and customs duties—and the latter are returned to our local treasury. However, in return for not having to pay Federal taxes, we are excluded from participating fully in many Federal programs; moreover, our local income taxes on the worker and the middle class are higher than the total State and Federal income tax burdens of equivalent wage-earners on the mainland. Also as I have mentioned, in exchange for not having to pay taxes, we are disenfranchised U.S. citizens—we have no vote for President or Vice-President of the Nation of which we are citizens, nor do we have the right to elect representatives and Senators to our national Congress. We are discriminated against for geographical reasons.

If we were a State we would have the right to elect 7 or 8 representatives to the House and, of course, two Senators. We would have more political leverage than 25 of the 50 States of the Union. At what price? Tax advantages? Can political rights and participation be measured in dollars and cents? Do political rights have a price?

Ask here—How can anyone claim to believe in democracy and accept disenfranchisement?

We are disenfranchised American citizens. Our situation is an affront to the principles of American democracy and is a source of embarrassment in the United Nations as the United States is perennially accused of "colonialism". Only by statehood can a sense of political dignity be restored to the Puerto Rican people. Only by statehood will the United States prove that the great principles of democracy which were basic pillars of the founding of our Nation are still vibrant.

"No taxation without representation" is a slogan that dates all the way back to the American Revolution. Because that principle is firmly established in the heritage of the United States, Puerto Rico—lacking voting representatives in the Federal legislature—has always been exempted from Federal taxation. Under statehood, of course, Puerto Ricans would be required to pay Federal income taxes. Those of us who understand the meaning of our citizenship are prepared and more than willing, when the times comes, to share the full burden and responsibilities of citizenship, including taxation.

I understand and fully accept that proposition. At present our local income tax rates are actually higher than Federal income tax rates. The net effect of statehood would not be burdensome from a tax standpoint. The necessary adjustments could be made gradually.

I understand and accept the importance of being able to speak the English language, but at the same time we defend our right to speak Spanish and to strengthen our cultural heritage. The Nation already has 50 English speaking States—it doesn't need another English speaking State—it needs a Spanish speaking State. A State that can help the Nation bridge the gap of misunderstanding with Latin America.

As a State of the Union, Puerto Rico would be under no constitutional obligation to abandon Spanish. Indeed, Spanish is also an official language in New Mexico.

But I not only seek to strengthen and intensify the proper teaching of our Spanish language and our cultural heritage but I also encourage intensified teaching of English. Puerto Rico can and should become a bilingual society, enjoying the richest elements of two great cultures. We can and should serve as a bridge between the Americas—a key point of interchange in diplomacy, commerce, technical expertise, communications, and transportation.

As we move ahead toward the day when Puerto Rico takes its place as an equal partner in the destiny of the Nation of which we all are citizens, there is much that each of you can do to help.

You can help us in fostering increased understanding among your fellow residents of the 50 States. Ignorance about Puerto Rico is widespread throughout the Nation. Indeed, outside the northeast, people frequently don't even know where Puerto Rico is.

You can help.

You can help by reminding your fellow citizens of the many contributions made by Puerto Ricans to American sports, arts, science, music, technology, and politics. The list is long, but I need only mention Roberto Clemente, Junior Codero, Charlie Passarell, Jose Ferrer, Juano Hernandez, Jose Feliciano, Chita Rivera, Rita Moreno, Raul Julia, Jesus Sanroma, Metropolitan Opera star Justino Diaz, and even in statewide local and national politics Herman Badillo, and Maurice Ferrc.

Puerto Ricans have also contributed outstandingly to the defense of our country ever since World War I. As a matter of fact, more than 270,000 Puerto Ricans have served with distinction in our Armed Forces, making Puerto Rico 14th among the States in total number of residents serving in the Armed Forces, although we are only 26th in population. Many died in our Nation's defense, including four who received the Congressional Medal of Honor. We have given up more lives in defense of our Nation, in proportion to our population, than any of the 50 States of the Union—in the First World War, the 2nd World War, the Korean war and the Vietnam war. Many have achieved the highest ranks of leadership. Among those are General Pedro Del Valle, of the U.S. Marine Corps; Admiral Horacio Rivero of the U.S. Navy, later Ambassador to Spain; General Cesar Cordero of the U.S. Army; and General Enrique Mendez, Deputy Surgeon General of the U.S. Army.

You can also help, by encouraging the agencies of each of your States to provide services for the Spanish-speaking. Help Hispanic youngsters to succeed in your school systems. Help them understand the need to learn to speak and write English well without forgetting their Spanish. Demand that where a substantial Hispanic community exists, interpreters be used to avoid misunderstandings; let the people know that they are welcome, and see that they are oriented as to how to make use of the community services to which their citizenship entitles them. And remind all of your readers that Puerto Ricans are fellow Americans, and should be treated as neighbors, not as outsiders.

For two centuries, each generation of well-established Americans has looked upon society's new-comers as something of a nuisance: trouble-makers, charity cases, noisy, different, or just embarassingly poor.

Today it is the Puerto Rican, but yesterday it was the Italian, the Slovak, the Irish, or the Jew.

Each group of newcomers struggles, and eventually they make it in America. And then we look back and reflect proudly on the rich diversity of peoples that has made our Nation great.

Many of us are products of that process. Today it is my people who are experiencing the awkward and painful adjustment that was experienced by your parents, or grandparents or great grandparents.

More than three million of your fellow citizens are preparing to ask you for full participation in forging the destiny of our United States of America.

When the day comes that we make that request official, I hope we shall be able to count on your understanding, your encouragement, and your support.

We are delighted that you have chosen Puerto Rico for your conference and hope that what you learn during your stay will be to our mutual benefit. Our best wishes for a successful conference and our best wishes to each and everyone of you, now and always.

ONE-YEAR MORATORIUM ON BUREAU OF RECLAMATION RULES

(Mr. MEEDS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MEEDS. Mr. Speaker, 29 of my colleagues and I are introducing legislation which will have the effect of providing a 1-year moratorium on the implementation of the rules proposed by the Bureau of Reclamation on August 25, 1977.

It is not my intent to pass judgment on any of the proposed rules, or any other practices of the Bureau in its administration of the Reclamation Act of 1902. Rather, it is my intent to hold the implementation of these proposed rules in abeyance during a period of time so the Congress can conduct an intensive examination of the 1902 act.

The proposed rules are intended to carry forth the letter and intent of the 160-acre limitation.

While there are 180° of opinion on the 160-acre limitation, one has to admit that the efficacy of the program under present day conditions is seriously questioned. The cosponsors of this legislation represent many of the degrees of opinion. But, we are all agreed that a thorough review is necessary. It is time the Congress review the act in its entire history to determine if a new direction is needed. It serves no useful purpose to implement rules based on a premise which may be changed.

As chairman of the Water and Power Resources Subcommittee, of the Committee on Interior and Insular Affairs, it is my intent to commence, as soon as possible, wide-ranging hearings on this matter and to try to bring it to a legislative determination.

WHO IS EMPOWERED TO TERMINATE A TREATY?

(Mr. SIMON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIMON. Mr. Speaker, in political and academic discussions of our China policy, we often hear about the possibility of the United States terminating its treaties with the Republic of China.

I have strong doubts about the advisability of such a unilateral step. While we need to recognize the reality of the People's Republic of China's control of mainland China, we should not abrogate our responsibility and commitment to the Republic of China. In many ways, the continued healthy development of the Government in Taiwan has been one of the major successes of our post-World War II foreign policy. The Republic of China has made great steps forward in both the economic and human liberties fields, although major improvements still need to be made. We should be cautious of undermining both American policy objectives as well as the integrity of American promises.

The sensible policy, it appears to me, is to be ready to extend full diplomatic recognition to the People's Republic of China on the mainland but to recognize that Taiwan is, in fact, a separate country with which we will continue to maintain diplomatic relations and strong ties of friendship. While these are not terms that the People's Republic of China or the Republic of China on Taiwan like, such policies make sense.

Regardless of your approach to the China question, one thing is clear: this is a major issue of political controversy in the United States and it should be settled through procedures assuring the full constitutional role of the Congress.

Because of some discussion that the President might choose to unilaterally abrogate our treaties with the Republic of China, I asked the Congressional Research Service to prepare a study on the issue of treaty abrogation.

The study shows that there is no clear constitutional or historical justification for unilateral presidential action. As the study points out, the issue of treaty abrogation is a "long-standing and largely unresolved political controversy."

Advocates of the President's power to abrogate treaties on his own have pointed to the President's dominance in foreign policy and his sole power to communicate with foreign powers. Article VI of the Constitution, however, mandates that treaties are part of "the supreme law of the land." There is a strong argument that no power exists for the President to change U.S. laws without congressional approval. This seems especially true in light of the constitutional requirement that the President "take care that the laws be faithfully executed."

Historical practice in changing our treaties has been mixed. In most cases, however, there has been some sort of Senate or full congressonal involvment. It would be a controversial and questionable step for the President to move by himself to abrogate our treaties with the Republic of China.

Mr. Speaker, I am inserting in the RECORD the Congressional Research Service study of this issue. While it is a rather lengthy piece, I recommend it to my colleagues. It gives a balanced view of the question of how a treaty may be terminated.

In this controversial area, both we in the Congress and those in the executive branch need to move cautiously, with a full understanding of the practical and constitutional implications of our actions. I hope this study will prove helpful in this regard.

The study follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., September 30, 1977.

To: Honorable Paul Simon, Attention: David Solomon.

From: American Law Division.

Subject: Who is empowered to terminate a treaty?

Reference is made to your inquiry of September 1, 1977, requesting information on the above matter. Specifically, you ask whether the Mutual Defense Treaty with the Republic of China, December 2, 1954, TIAS 3178, 6 UST 433 (1955), can be terminated by the President or whether joint presidential-congressional action is necessary.

I

Your inquiry touches on a long-standing and largely unresolved political legal controversy. "The procedure by which, from the viewpoint of national law and practice, treaties may be terminated involves questions to be resolved in accordance with constitutional and related procedures in each country. The United States Constitution is silent with respect to the power to terminate treaties. The matter was not discussed in the debates of the Constitutional Convention in Philadelphia." Whiteman, 14 *Digest of International Law* 461 (1970). Briefly, "while the Constitution tells us who can make treaties—the President "shall have the Power, by and with the Advice and Consent of the Senate, to make Treaties"—"it does not say who can unmake them." Henkin, *Foreign Affairs and the Constitution* 168 (1972). As a consequence of the Constitution's silence in this regard, "there has been some confusion of doctrine upon the point and a variety in practice." Willoughby, 1 *Constitutional Law of the United States* 323 (1929).

The doctrinal confusion stems in large measure from various seemingly inconsistent or opposing concepts. As explained by one noted commentator:

"From the point of view of American law . . ., the Constitution does not limit the authority to terminate treaties to the possessors of the treatymaking power, i.e., the President and Senate. . . . Article VI vests treaties with the same domestic status as federal statutes, which means that the courts must disregard treaty provisions insofar as they are inconsistent with later acts of Congress. A federal statute inconsistent with the terms of an existing treaty consequently operates to deprive such treaty of its force as law within this country. Under Article VI, the Congress can, in effect, terminate a treaty, so far as its effect in our domestic law is concerned. Such Congressional termination, the Supreme Court has said, "must control in our courts as the later expression of our municipal law, even though it conflicted with the provision of the treaty and the international obligation remained unaffected.

"At the same time, it is clear that, in such a case, the international obligation does remain unaffected. . . . the repeal of a treaty by a later statute is only a matter of American law. Regardless of the abrogation of the municipal effect of a treaty by an overriding statute, the treaty is not abrogated in the international sense. . . ." Schwartz, II *The Powers of Government* 130 (1963).

In addition to effectively terminating a treaty by legislatively negativing its municipal consequences, the Congress may effect a termination in other ways, such as by a declaration of war, see *Bas* v. *Tingy*, 4 Dall. 37 (1800); Wright, *The Control of American Foreign Relations* 256 (1922); cf. Whiteman, 14 *Digest of International Law* at § 41, the Senate's withholding of its advice and consent to a treaty, and, in the case of non self-executing treaties, failing to approve necessary implementing legislation.

All of the foregoing is true notwithstanding that "In so far as a treaty is regarded as an international compact, it seems almost too clear for argument that *Congress* [cf. the Senate], not having been made by the Constitution a participant in the treaty-making power, has no constitutional authority to exercise that power either affirmatively or negatively, that is by creating or destroying international agreements". Willoughly, 1 *Constitutional Law of the United States* at § 324. Moreover, "It may be noted that Congress has no means whereby it may itself give a notice of termination of a treaty to the foreign government concerned, for, under the Constitution, Congress has no power to communicate directly with foreign Powers". *Ibid.* "But it is well for the Senate and for Congress also to remember that it does not lie in our hands alone to give this notice to a foreignn Government. We can not give the notice". Senator Lodge, Chairman on Foreign Relations, 48 *Cong. Rec.* 480 (1911)

To the President is ascribed the role of the "organ of foreign relations". The Supreme Court of the United States described "the very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations". *United States* v. *Curtiss-Wright Export Corp.*, 299 U.S. 304, 320 (1936). As such, the President has the exclusive power to conduct negotiations on behalf of the United States. "He alone negotiates. Into the field of negotiations, the Senate cannot intrude; and Congress is powerless to invade it." 299 U.S. at 319. Although the Congress can effectively terminate a treaty's domestic effect, the power to terminate the outstanding international obligation seems to reside with the President since he alone is able to communicate foreign powers. "The only organ of this Government recognized by foreign Governments is the Executive—the President of the United States. If he does give the notice, it will be given". Senator Lodge, 48 *Cong. Rec.* at 480.

Whether the President alone can terminate a treaty's domestic effect remains an open question. See *Van Derke Weyde* v. *Ocean Co.*, 297 U.S. 114, 117 (1936). As a practical matter, however, the President has this power since the courts have, from the beginning, held that they are conclusively bound by executive determination with regard to whether a treaty is still in effect. See *Terlinden* vs. *Ames*, 184 U.S. 270, 290, (1902); *Charlton* v. *Kelly*, 229 U.S. 477 476 (1913). The same result may apply to a congressional termination, particularly if it is viewed as a declaration of war. See *Bas* v. *Tingy*, 4 Dall. 37 (1800).

The actual practice whereby treaties have been terminated demonstrates considerable variation. "In some cases treaties have been terminated by the President, in accordance with their terms pursuant to action by the Congress. In other cases action was taken by the President pursuant to resolutions of the Senate alone. In still others the initiative was taken by the President, in some cases independently, and in others his action was later notified to one or both Houses of Congress and approved by both Houses. *No settled rule or procedure has been followed.* Whiteman, 14 *Digest of International Law* at § 38 (Emphasis added.) Hackworth quotes the Solicitor of the State Department as saying "that the choice of method would seem to depend either upon the importance of the international question or upon the preference of the Executive." V *Digest of International Law* § 509 (1927).

Indeed, insofar as general conclusions on this subject are concerned, theory and practice unequivocally support the view that the termination of a treaty being a political act, the courts do not terminate treaties. When required to determine whether a treaty still exists for purposes of resolving some ancillary domestic problem (e.g. extradition), the courts are guided by the actions or inactions of the political branches relative thereto. *Charlton* v. *Kelly*, 229 U.S. at 474.

II

Article X of the Mutual Defense Treaty with the Republic of China (Taiwan) provides that it is a treaty of indefinite duration; however each Party may terminate it one year after notice has been given to the other Party.

With regard to the general subject of the termination of treaties, the Assistant Legal Adviser, Department of State, has written as follows:

"It is customary for provisions regarding duration to prescribe that the treaty shall remain in force definitely for a specified period, such as one year, five years, ten years, or twenty years, and shall continue in force thereafter indefinitely, subject to the right of either party to terminate it by giving notice for that purpose to the other party, the notice to take effect at the end of a specified period, say six months or one year, after the date of such notice. There is no rule of international law governing the provisions regarding duration in a treaty. The countries entering into the treaty may incorporate in the treaty such provision on that matter as they may agree to be desirable.

* * * * *

"If it should be agreed by the parties to a bilateral treaty that certain portions thereof shall be terminated or abrogated and that the remainder of the treaty shall remain in force, there is no rule of international law to preclude them from doing this. This would be accomplished by entering into an agreement having the character of a supplementary treaty. Upon entry into force of the latter treaty, the earlier treaty would be effectively modified in accordance with the agreed terms.

"Some treaties do not contain provisions establishing a procedure by which either party may terminate it by unilateral action. In other words, some treaties do not contain provisions relating to termination or abrogation. It is considered that, in such a case, the treaty can be terminated or abrogated only by mutual consent.

"It is to be understood, of course, that modification or amendment of a treaty also requires mutual consent of the two parties. . . .

"There is no rule of international law to prevent a party to a treaty from relinquishing or waiving certain rights accorded to it by such treaty. In general, all such matters are subject to the mutual understanding of the two parties to the treaty." 14 *Digest of International Law* at § 34.

Further,

"The conclusion of a new treaty (that is, the entering into a new treaty) expressly or by necessary implication terminating, either in whole or in part, the provisions of a treaty of prior date is a procedure which appears to have universal acceptance.

* * * * *

"It appears that there is general acceptance in this country of the principle that an act of Congress is to be respected and enforced regardless of treaty provisions on the same subject which may have entered into force prior to the date on which the act became

effective. . . . [citing an opinion of Attorney General Knox, dated October 10, 1901 (*Official Opinions* of the Attorney General, volume 23, page 347)].

"It has been held by the Supreme Court of the United States that Congress, by legislation, can abrogate a treaty between the country and another country, such abrogation being effective municipally,—that is, in so far as the people and authorities of the United States are concerned,—although the treaty may continue binding internationally. . . ." *Whitney* v. *Robertson* (1888), 124 U.S. 190, 194. . . ." *Ibid.*

"International law", it has been asserted, "recognizes the power—though not the right—to break a treaty and abide by the international consequences." Henkin, *Foreign Affairs and the Constitution* at 168. That the government has the constitutional power to terminate treaties on behalf of the United States is clear. See *The Chinese Exclusion Case*, 130 U.S. 581, 602 (1889). The power which inheres in sovereignty is not negated by the Supremacy Clause or any other clause of the Constitution. *Ibid.* Although the other party to a broken agreement has a "legitimate grivance", its avenue of redress is "by the negotiation of a new agreement, or failing peaceful modes of settlement, by more drastic means, should the grivance be deemed a sufficiently serious one." Willoughby, 1 *Constitutional Law of the United States* at § 324. Cf. "A violation of a treaty obligation, as of any other obligation, may give rise to a right in the other party to take *non-forcible* reprisals and these reprisals may properly relate to the defaulting party's rights under the treaty." U.N. International Law Commission, quoted at Whiteman, 14 *Digest of International Law* at § 39. "The question whether our government is justified in disregarding its engagements with another nation is not one for the determination of the courts. . . . This court is not a censor of the morals of other departments of the government. . . ." *The Chinese Exclusion Cases*, 130 U.S. at 602–603.

As indicated, the power to terminate a treaty has been exercised, at one time or other, by the President, the Congress, and by joint action of the President and the Congress or Senate. The "actual practice" has been summarized as follows:

1. Executive action pursuant to prior authorization or direction by the Congress.

2. Executive action pursuant to prior authorization or direction by the Senate.

3. Executive action without prior specific authorization or direction, but with subsequent approval, by the Congress.

4. Executive action without prior specific authorization or direction, but with subsequent approval by the Senate.

5. Executive action without specific prior authorization or direction and without subsequent approval by either the Congress or the Senate. 14 *Digest of International Law* at § 38.

A. Executive action pursuant to prior authorization or direction by the Congress.

The instances in which the Congress, by Joint Resolutions, has authorized or directed the President to terminate treaties "have been considerable." Willoughby, 1 *Constitutional Law of the United States* at § 324:

"In some instances the Congressional action for the denunciation of a treaty has empowered the President "at his discretion" to give the necessary notice to the foreign Governments concerned. In other instances, he has been directed, that is, charged with the duty, of giving the notice. For example the Joint Resolution of Congress of January 18, 1865, relative to the Canadian Reciprocity Treaty, declared that notice of denunciation should be given, and that "the president of the United States is hereby charged with the communication of such notice." Of the same tenor was the Joint Resolution of March 4, 1883, relative to the Treaty of Washington with Great Britain. [This Resolution declared that articles of the treaty ought to be terminated at the earliest time, and that to this end, "the President be and he hereby is, directed to give notice to the government of His Britannic Majesty that the provisions of . . . the articles aforesaid will terminate and be of no force on the expiration of two years next after the time of giving such notice."] *Ibid.*

Similar or related expressions are contained in statutory enactments of the Congress. The Seaman's Act of March 4, 1915, 38 Stat. 1164, 1184, for example, requested and directed the President to give notice of the termination of the treaty provisions in conflict with the Act. Section 16 of that Act expressly provided that "the President be . . . requested and directed . . . to give notice to the several Governments, respectively, that so much as herein described of all such treaties and conventions between the United States and foreign Governments will terminate on the expiration of such periods after notices have been given as may be required in such treaties and conventions."

This method was approved in *Van Der Weyde* v. *Ocean Co.*, 297 U.S. at 118, the Court noting: "From every point of view, it was incumbent upon the President, charged with the conduct of negotiations with foreign governments and also with the duty to take care that the laws of the United States are faithfully executed, to reach a conclusion as to the inconsistency between the provisions of the treaty and the provisions of the new law." It should be noted that the Court's language does not indicate the binding character *vel non* of the statutory direction, but relates only to obligation on the President to distinguish between consistencies and inconsistencies in foreign treaties and the law in question. Moreover, the Court expressly stated that the question of the sufficiency of presidential power alone to terminate treaties was not before it. ". . . the question as to the authority of the Executive in the absence of congressional action, or of action by the treaty-making power, to denounce a treaty of the United States is not here involved." 297 U.S. at 117.

The propriety of congressional action advising or directing the President to notify foreign governments of the termination of treaties between them and the United States, has not gone unchallenged. In 1879 President Hayes vetoed the Chinese Immigration Bill of that year on the ground, *inter alia*, that it instructed him to abrogate certain articles of the existing treaty with China. He said: "As the power of modifying an existing treaty, whether by advising or striking out provisions, is a part of the treaty making power under the Constitution, its exercise is not competent for Congress, nor would the assent of China to this partial abrogation of the treaty make the action of Congress in thus procuring an amendment of a treaty, a competent exercise of authority under the Constitution." Hackworth, V *Digest of International Law at* § 509.

Similarly, in 1920, President Wilson refused to carry out section 34 of the Merchant Marine Act of that year. That section directed the President to terminate any provisions of existing treaties that restricted the right of the United States "to impose discriminating customs duties on imports entering the United States . . . and discriminatory tonnage duties. . . ." A Department of State press release of September 24, 1920, in part, stated:

"The Department of State has been informed by the President that he does not deem the direction, contained in Section 34 . . . an exercise of any constitutional power possessed by the Congress.

* * * * *

"Secretary Colby, commenting on the point made by the President, that Congress had exceeded its powers, called attention to the veto by President Hayes of an Act passed by Congress in 1879. . . . President Hayes declared that 'the power of making new treaties or of modifying existing treaties is not lodged by the Constitution in Congress, but in the President, by and with the advice and consent of the Senate, as shown by the concurrence of two-thirds of that body.'" Hackworth, V *Digest of International Law* at § 509.

As to the different and seemingly contradictory treatment accorded by the President to section 16 of the Seamen's Act and section 34 of the Merchant Marine Act of 1920, it has been observed:

"The situation presented by section 34 of the Merchant Marine Act of June 5, 1920 was different from that presented by the Seamen's Act. . . . The Seamen's Act was inconsistent with treaty provisions, and it was therefore necessary, or at least desirable, for the President to rectify the situation by relieving the United States of its treaty obligations and thus avoiding the odium of treaty violation. The Merchant Marine Act was not inconsistent with treaty obligations. It merely called upon the President to terminate such obligations as served as a deterrent to action by Congress of a discriminatory character as between American and foreign vessels." Hackworth, V *Digest of International Law* at § 509.

B. Executive action pursuant to prior authorization or direction by the Senate.

The State Department has taken the position that the principals who can execute treaties can terminate them. ". . . the power that makes the treaty can likewise revoke it; in other words, that the President, acting in conjunction with the Senate of the United States would be authorized to terminate a treaty to which the United States is a party." Hackworth, V *Digest of International Law* at § 509. This method has received some judicial recognition. "President and Senate may denounce the treaty and thus terminate its life." *Techt* v. *Hughes*, 229 N.Y. 222, 243 (1920).

Willoughby gives the following example of this method of terminating a treaty:

"There has also been one occasion at least upon which the President has denounced a treaty upon the authorization of the Senate, without the cooperation of the House of Representatives being asked or had. In his annual message to Congress the President had asked for authority to give the notice of termination required by the treaty of commerce and navigation of 1826 with Denmark, and this authorization was given to him by the Senate Resolution of March 3, 1856." 1 *Constitutional Law of the United States* at § 324.

As a consequence of its actions in connection with the termination of the 1826 treaty with Denmark, the Senate directed the Foreign Relations Committee to study the need for congressional action in these circumstances. The Committee upheld the authority of the treaty-making power to modify or terminate an existing treaty. The report states: "The Committees are clear in the opinion that it is competent for the President and Senate, acting together, to terminate it in the manner prescribed by the eleventh article without the aid or intervention of legislation by Congress, and that when so terminated it is at an end to every intent, both as a contract between the Governments and as a law of the land." Senate Report No. 97, 34th Cong., 1st Sess., p. 3.

C. Executive action without prior specific authorization or direction, but with subsequent approval of the Congress.

In 1911, President Taft, without congressional direction, gave notice to the Russian Government of the termination of the treaty of 1832 with that country. Thereafter, he communicated his action to the Senate, as part of the treaty-making power of the gov-

ernment for its approval. The Senate Foreign Relations Committee, however, reported a Joint Resolution by which the notice of termination by the President was "adopted and ratified". This Joint Resolution was passed by both Houses of Congress and was signed by the President on December 21, 1911. Hackworth, V *Digest of International Law* at § 509; Willoughby, 1 *Constitutional Law of the United States* at § 324.

D. Executive action without prior specific authorization or direction, but with subsequent approval, by the Senate.

Although all of the aforementioned authorities recognize this method and affirm its use, no examples are given. It should be noted that President Taft in terminating the 1832 treaty with Russia, discussed immediately above, sought to use this mode. Although his action was subsequently approved by joint congressional action, it must be assumed that his initial approach was based upon some precedent.

During the Senate debate on that resolution, Senator Lodge, Chairman, Foreign Relations Committee, endorsed the President's use of this method, He said:

"The President has entire authority to give that notice and to ask for the approval of Congress or approval of the Senate. He takes the view, which is held by very many of the best judges, that the treaty making power is entirely able to terminate a treaty which carries with it no legislation and the President did nothing unusual in this action. 48 *Cong. Rec.* 455 (1911).

* * * * *

"The Senate and the President alone can end an existing treaty by simply agreeing to a new one they can do it without any consultation with any other body, and certainly where no legislation is involved it seems to me that those who represented the high contracting party in the making of a treaty are capable of representing the high contracting party in its unmaking." 48 *Cong. Rec.* 480 (1911).

E. Executive action without specific prior authorization or direction and without subsequent approval by either the Congress or the Senate.

There appears to be a difference of opinion among the commentators as to the first termination of a treaty by a President alone. Two noted writers seem inclined to give President Lincoln that distinction in connection with termination in 1864 of the Great Lakes Agreement. Schwartz, II *The Power of Government* at 406, note 250 Henkin, *Foreign Affairs and the Constitution* at 417, note 132. However, it should be noted that this action by the President was given subsequent congressional endorsement. As described by Willoughby:

"During President Lincoln's administration, Secretary of State Seward gave notice to Great Britain that the United States considered as terminated the Great Lakes Agreement of 1817. A Joint Resolution to that effect having passed the House of Representatives but having failed in the Senate, Congress proceeded to pass a Joint Resolution 'adopting and ratifying' the notice that had been given, 'as if the same had been authorized by Congress.' " 1 *Constitutional Law of the United States* at § 324.

Willoughby and the State Department cite the termination in 1899 of certain clauses in the commercial treaty of 1850 with Switzerland as an early example of the President terminating a treaty on his own. I *Constitutional Law of the United States* at §324; Hackworth, V *Digest of International Law* at §509.

Hackworth gives various examples of the "President acting alone" including termination of the convention with Mexico for the prevention of smuggling signed on December 23, 1925, the convention for the abolition of import and export prohibition and restriction, singed at Geneva on November 8, 1927, the treaty of Commerce and Navigation of 1871 with Italy, and the commercial treaty with Japan signed February 21, 1911. V *Digest of International Law* at §509.

Henkin cites two more recent examples involving President Franklin D. Roosevelt: termination of an extradition treaty with Greece in 1933 because Greece had refused to extradite Mr. Insull, and termination in 1939 of the Treaty of Commerce, Friendship and Navigation with Japan. *Foreign Affairs and the Constitution* at 168.

To the foregoing methods might be added the singular instance of a treaty termination by the Congress. The latter occurred in 1798 when Congress by a Joint Resolution declared the United States "freed and exonerated from the stipulation of the treaties" with France, and "that the same shall not henceforth be regarded legally obligatory on the Government or citizens of the United States." 1 Stat. 578. Willoughby, 1 *Constitutional Law of the United States* at §324. In the report of the Senate Foreign Relations Committee previously referred to, this action by the Congress was viewed as being a declaration of war. Senate Report 97, 34th Cong., 1st Sess. In fact, two days following its passages, the Congress authorized hostilities against France, and in *Bas* v. *Tingy*, 4 Dall. 37, the Supreme Court regarded these acts as declaring war.

IV

The arguments in support of the respective claims of the President and the Congress as regards the proper method to eliminate treaties turn largely on two factors. With respect to the congressional side of the debate, much weight is given to a treaty's status as law pursuant to Article VI, that is, to the distinction between a treaty as an international compact and, under American law, as municipal law. Understandably, arguments in behalf of presidential claims focus prominently on his preeminent position in foreign affairs.

On the former, it has been observed—

"In the course of a 1911 debate on a Presidential termination of a treaty, a Senator asserted that 'A treaty is the supreme law of the land under the language of the Constitution, and the supreme law of the land ought not to be set aside except by legislative action of both Houses.' It is difficult to rebut this assertion with legal reasoning. Certainly, to repeal a law is an exercise of legislative power and since the self-executing provisions of a treaty have the domestic effect of law, the same should be true of authority to terminate such domestic effect." Schwartz, II *The Powers of Government* at 132.

While acknowledging that—

". . . an expression of Congressional will that a treaty be abrogated and a direction to the President to terminate a treaty would perhaps be the most effective and unquestionable method so far as the Government is concerned of terminating a treaty, . . ."

The State Department has taken the position that "the power to denounce a treaty inheres in the President of the United States in his capacity as Chief Executive of a sovereign state."

". . . This capacity . . . is inherent in the sovereign quality of the Government, and carries with it full control over the foreign relations of the nation, except as specifically limited by the Constitution. Without entering into a lengthy discussion of the general and specific arguments leading to this conclusion, it will perhaps be sufficient to quote the conclusion of Professor Willoughby . . .: 'It would seem, indeed, that there is no constitutional obligation upon the part of the Executive to submit his treaty denunciations to the Congress for its approval and ratification, although, as has been seen, this has been several times done.' The author questions even the power of Congress, by joint resolution or otherwise, to direct the President to denounce a treaty, though such directions also have been given, and in some instances followed, though in others the direction has been successfully refused. . . . This conclusion would seem to be entirely in accord with the general spirit of the interpretation of the Constitution in this regard by the Supreme Court of the United States. As indicated, for instance, by the case of *United States* v. *Curtiss-Wright Export Co.*, 299 U.S. p. 304. Hackworth, V Digest of International Law at § 509.

" 'A contention that the action of the President in denouncing a treaty must be submitted to either the Senate or the Congress for ratification presupposes that action by one or the other of them is necessary to give validity to the action of the President. This argument, however, would seem to be questionable for the reason that when the President has given notice of the desire of this Government to terminate a treaty, the failure of the Congress or the Senate to approve does not alter the situation. The notice has already been given and the foreign government may decline to accept withdrawal of such notice. Consequently, the failure of the Congress or the Senate to approve the action of the President would be of no avail. . . .' " Ibid.

RAYMOND J. CELADA,
Senior Specialist in American Public Law.

FOUR-YEAR TERMS FOR U.S. REPRESENTATIVES

(Mr. McCLORY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. McCLORY. Mr. Speaker, I have today introduced a joint resolution to amend the Constitution providing that the terms of office Members of the House of Representatives shall be 4 years. Mindful of the debate which has surrounded this proposition in previous sessions of Congress, I would like to offer my reasons for making this proposal.

The most often advanced arguments are well known to all of us, yet they bear repeating because of the enormity of the problem. Those of us who are closest to the problem realize the high cost of a biennial campaign. We are also aware of the limitations that the biennial campaigns place on our ability to provide necessary services to our Nation and constituents. Moreover, the present 2-year term becomes even more of a burden as the population of our Nation increases, which has a corresponding effect on increasing the costs of each succeeding campaign.

Members of this great body, and particularly freshman Members, barely have an opportunity to acquaint themselves with the rules and procedures of the Congress before they must divert their attention to solidifying a political base just spawned. This necessary and unwelcomed preoccupation, Mr. Speaker, in my opinion, is totally out of consonance with our higher calling to represent our constituents and Nation.

Mr. Speaker, it might be well to look at the debate surrounding the term of office in order to gain a historical perspective. The debate over the term of office for Representatives began in the Constitutional Convention in Philadelphia in 1787 with the competing positions. Elbridge Gerry insisted on a 1-year term. "Where annual election ends, slavery begins" became one of our first

post-Revolution slogans. James Madison offered a 3-year term. He argued on behalf of a 3-year term on the premise that it would take at least 3 years for Members to acquaint themselves with the needs of States other than their own. Furthermore, argued Madison, the best procedure was to consider what was necessary to attain a proper government and then to present the plan to an informed citizenry. When the question was finally called, Madison's proposal for a 3-year term won 7 to 4. However, we find later as part of a compromise, the term was set at 2 years.

Since the Constitutional Convention, several proposals have been offered to increase the term of Representatives. This amendment would prohibit a Member of the House of Representatives from being a candidate for election to the other House during his current terms as a Representative unless he were to resign at least 30 days prior to the election. In proposing a 4-year term for all Members which would commence 2 years after each Presidential election, I do so in the spirit of Madison believing that such a change would enhance the stability and dignity of our House of Representatives. More importantly, our country would become the principal beneficiary. The text of the proposed constitutional amendment follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds) of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE—

"SECTION 1. The terms of Representatives shall be four years and shall commence at noon on the 3rd day of January of the second year after the year of the regular term of the President is to begin.

"SEC. 2. No Member of a House of Congress shall be eligible for election as a Member of the other House for a term which is to begin before the expiration of the term of the office held by him unless, at least thirty days prior to such election, he shall have submitted a resignation from such office which shall become effective no later than the beginning of such term.

"SEC. 3. This article shall take effect on January 3, 1986 if it is ratified prior to January 1, 1985."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. CORMAN (at the request of Mr. WRIGHT) after 4:15 p.m. today, on account of official business.

Mr. HOLLENBECK (at his own request), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. FASCELL, for 15 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. LIVINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. GILMAN for 15 minutes, today.
Mr. BUCHANAN, for 15 minutes, today.
Mr. CLEVELAND, for 5 minutes, today.
Mr. EDWARDS of Oklahoma, for 10 minutes, today.
Mr. KEMP, for 15 minutes, today.
Mr. BURKE of Florida, for 20 minutes, today.
Mr. ANDERSON of Illinois, for 30 minutes, today.

(The following Members (at the request of Mr. PATTERSON of California) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. HAMILTON, for 5 minutes, today.
Mr. APPLEGATE, for 5 minutes, today.
Mr. UDALL, for 5 minutes, today.
Mr. DICKS, for 5 minutes, today.
Mr. LEVITAS, for 5 minutes, today.
Mr. NEAL, for 5 minutes, today.
Mr. VANIK, for 10 minutes, today.
Mr. FOUNTAIN, for 5 minutes, today.
Ms. HOLTZMAN, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FASCELL, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $966.

Mr. CORRADA, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $966.

Mr. ICHORD, to revise and extend his remarks immediately following those of the gentleman from Florida (Mr. SIKES) in the Committee of the Whole today on the supplemental appropriations bill, on the Chappell amendment.

Mr. SIMON, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,047.

Mr. GILMAN, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD, and is estimated by the Public Printer to cost $2,173.50.

Mr. BAUMAN, immediately following the vote on rollcall No. 674.

(The following Members (at the request of Mr. LIVINGSTON) and to include extraneous material:)

Mr. DEVINE.
Mr. DERWINSKI in two instances.
Mr. WHALEN.
Mr. PURSELL.
Mr. RHODES.
Mr. MICHEL.
Mr. JEFFORDS.
Mr. MCKINNEY.
Mr. RINALDO.
Mr. CONABLE.
Mr. CARTER.
Mr. COUGHLIN in two instances.
Mr. GRADISON.
Mr. COLEMAN.
Mr. GILMAN in four instances.
Mr. STEERS.

(The following Members (at the request of Mr. PATTERSON of California) and to include extraneous matter:)

Mr. FARY.
Mr. VOLKMER.
Mr. WAXMAN.
Mrs. KEYS.
Mr. NOLAN.
Mr. TEAGUE.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. APPLEGATE.
Ms. OAKAR.
Mr. DOWNEY.
Mr. UDALL.
Mr. PATTEN.
Mr. DANIELSON.
Mr. VENTO in two instances.
Mr. KILDEE.
Mr. GAYDOS in two instances.
Mr. CORRADA.
Mr. PANETTA.
Mr. DRINAN in two instances.
Mr. ROGERS in five instances.
Mr. PATTISON of New York.
Mr. LEVITAS.
Mr. RANGEL.
Mr. MCCORMACK.
Mr. BAUCUS.
Mr. JENKINS.
Mr. MCDONALD in two instances.
Mr. OBERSTAR.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 56. Concurrent resolution whereas the Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures with Respect to the Limitation of Strategic Offensive Arms expired on October 3, 1977; to the Committee on International Relations.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2817. An act to provide for certain additions to the Tinicum National Environmental Center.

ADJOURNMENT

Mr. PATTERSON of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 22 minutes p.m.), the House adjourned until tomorrow, Friday, October 21, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2578. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Federal Crop Insurance Act and for other purposes; to the Committee on Agriculture.

2579. A letter from the District of Columbia Auditor, transmitting copies of three reports entitled "Comprehensiveness of Calendar 1975 Real Estate Tax Assessment Program," "Limitations of Existing Employment Ceilings," and "Employment Practices in the Assessment Administration," pursuant to section 455 of Public Law 93–198; to the Committee on the District of Columbia.

2580. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of changes in two existing records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2581. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by E. Gregory Kryza and Oliver S. Crosby, Ambassador-designate to Maurinia and Guinea, respectively, and by members of their families, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

2582. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting notice of proposed final regulations governing the Noncommercial Educational Broadcasting Facilities program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Interstate and Foreign Commerce.

2583. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting the annual report for calendar year 1976 on the administration of ocean-dumping activities, pursuant to section 112 of the Marine Protection Research and Sanctuaries Act of 1972 as amended (86 Stat. 1060, 90 Stat. 725); to the Committee on Merchant Marine and Fisheries

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMPSON: Committee on House Administration. Report pursuant to section 302(B) of the Congressional Budget Act of 1974 (Rept. No. 95–725). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 848. Resolution providing for the consideration of H.R. 9179. A bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation (Rept. No. 95–726). Referred to the House Calendar.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 7278. A bill to amend section 510 of the Merchant Marine Act of 1936; with amendment (Rept. No. 95–727). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. KINDNESS: Committee on the Judiciary. H.R 5099. A bill for the relief of Brian Hall and Vera W. Hall. (Rept. No. 95–728). Referred to the Committee of the Whole House.

Mr. HARRIS: Committee on the Judiciary. H.R. 5097. A bill for the relief of Dr. Daryl C. Johnson; with amendment (Rept. No. 95–729). Referred to the Committee of the Whole House.

Mr. DANIELSON: Committee on the Judiciary. H.R. 7162. A bill for the relief of Stephanie Johnson (Rept. No. 95–730). Referred to the Committee of the Whole House.

Mr. HARRIS: Committee on the Judiciary. S. 1269. An act for the relief of Camilla A. Hester; with amendment (Rept. No. 95–731). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. BURKE of California (for herself, Mr. HARRINGTON, Mr. LONG of Louisiana, Mr. PRESSLER, Mr. RUPPE, Mr. SEIBERLING, Mr. WALGREN, and Mr. WALKER):

H.R. 9662. A bill to provide for the establishment of Multipurpose Service Centers for displaced homemakers, and for other purposes; to the Committee on Education and Labor.

By Mr. DERRICK (for himself, Mr. REUSS, Mr. ASHLEY, Mr. FAUNTROY, Mr. STANTON, Mr. HUBBARD, Mr. NEAL, Mr. HANLEY, Mr. MITCHELL of Maryland, Mr. MOORHEAD of Pennsylvania, Ms. OAKAR, Mr. MINISH, Mr. HOLLENBECK, Mr. BARNARD, Mrs. FENWICK, Mr. CAVANAUGH, Mr. VENTO, Mr. MATTOX, Mrs. SPELLMAN, Mr. TSONGAS, Mr. D'AMOURS, Mr. STEERS, Mr. KELLY, Mr. MCKINNEY, and Mr. EVANS of Delaware):

H.R. 9663. A bill to amend the Federal Home Loan Mortgage Corporation Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DICKS (for himself, Mr. FOLEY, and Mr. MCCORMACK):

H.R. 9664. A bill to make the Federal Columbia River Power System available for maximum electric efficiency for future essential power supply, to promote conservation, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Ways and Means.

By Mr. DRINAN (for himself, Mr. BINGHAM, Mr. CONYERS, Mr. EDWARDS of California, Ms. HOLTZMAN, Mr. MIKVA, Mr. SOLARZ, Mr. STARK, Mr. WEISS, Mr. BEDELL, Mr. DELLUMS, Mr. HAWKINS, Mr. KOSTMAYER, Mr. LEHMAN, Mr. MITCHELL of Maryland, Mr. OTTINGER, Mr. ROSENTHAL, Mr. SCHEUER, Mr. SEIBERLING, Mr. STEERS, Mr. BONIOR, and Mr. MOFFETT):

H.R. 9665. A bill to carry out the principles of the Helsinki Final Act pertaining to freedom of travel and emigration, by providing that aliens who are associated with certain political organizations or who advocate certain political beliefs shall not be ineligible to receive visas and excluded from admission into the United States, or deported from the United States, because of such association or beliefs; to the Committee on the Judiciary.

By Mr. MOAKLEY:

H.R. 9666. A bill to amend title XVI of the Social Security Act to provide that interest on bank deposits shall not be considered income for purposes of determining an individual's eligibility for supplemental security income benefits or the amount of such benefits; to the Committee on Ways and Means.

By Mr. PATTISON of New York:

H.R. 9667. A bill to amend the Internal Revenue Code of 1954 to discourage interstate bootlegging of cigarettes by increasing the Federal tax on cigarettes and to provide certain repayments of such tax to States; to the Committee on Ways and Means.

By Mr. PEPPER (for himself, Mr. BRADEMAS, Ms. OAKAR and Mr. LE FANTE):

H.R. 9668. A bill making a supplemental appropriation for payments under home health service grants and making an appropriation for payments under multipurpose senior center grants; to the Committee on Appropriations.

By Mr. PEPPER (for himself, Mr. BRADEMAS, Ms. OAKAR, Mr. LE FANTE, and Mrs. SCHROEDER):

H.R. 9669. A bill to amend the National Housing Act and other acts for the purpose of providing assistance for outpatient geriatric clinics and for multipurpose senior centers, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PEPPER (for himself, Mr. BRADEMAS, Ms. OAKAR, and Mr. CORRADA):

H.R. 9670. A bill to amend the Older Americans Act to provide expanded counseling assistance for the elderly sick and disabled; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. BRADEMAS, Mr. LUKEN, Mr. CONTE, and Mr. CORNWELL):

H.R. 9671. A bill to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such act regardless of their age; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. BRADEMAS, Ms. OAKAR, Mr. LE FANTE, and Mr. CORRADA):

H.R. 9672. A bill to promote the provision and availability of necessary health services for the elderly by expanding existing programs of grants for home health services, requiring the inclusion of specified preventive and home health services under the medicaid program and making various improvements in the administration of such program, providing assistance to demonstration and pilot projects for home health and supportive services (including demonstration grants for community care), and authorizing grants for annual health fairs and mobile geriatric health units, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. BRADEMAS, and Ms. OAKAR):

H.R. 9673. A bill to amend title XIX of the Social Security Act to provide that medicaid is a payor of last resort and to permit recovery by States from certain estates of medicaid expenses incurred by individuals before reaching the age of 65; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. BRADEMAS, Ms. OAKAR, Mr. LE FANTE, and Mr. CORRADA):

H.R. 9674. A bill to amend the Public Health Service Act to provide additional programs of assistance for health personnel training programs, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. BRADEMAS, Ms. OAKAR, and Mrs. SCHROEDER):

H.R. 9675. A bill to amend the Federal Aviation Act of 1958 to authorize reduced rate transportation for certain additional persons on a space-available basis; to the Committee on Public Works and Transportation.

By Mr. PEPPER (for himself, Mr. BRADEMAS, and Ms. OAKAR):

H.R. 9676. A bill to amend the Internal Revenue Code of 1954 to exempt from excise tax certain buses purchased by nonprofit organizations or by other persons for exclusive use in furnishing transportation for State or local governments or nonprofit organizations; to the Committee on Ways and Means.

By Mr. PEPPER (for himself, Mr. BRADEMAS, Ms. OAKAR, and Mr. LE FANTE):

H.R. 9677. A bill to amend the Internal Revenue Code of 1954 to allow a deduction to taxpayers who contribute the right to use certain real property to charitable organizations for outpatient geriatric clinics or for multipurpose senior centers; to the Committee on Ways and Means.

H.R. 9678. A bill to amend title XX of the Social Security Act to provide for the reallotment of unused social services funds, in any fiscal year, to States which will use such funds during the succeeding year in furnishing services aimed at preventing or reducing inappropriate institutional care by making home or community care available; to provide additional Federal matching for multipurpose senior center programs; and to provide for the standardization of eligibility requirements for the funding of senior ceners; to the Committee on Ways and Means.

By Mr. PEPPER (for himself, Mr. BRADEMAS, and Ms. OAKAR):

H.R. 9679. A bill to amend the Internal Revenue Code of 1954 to provide that the amount of the charitable deduction allowable for expenses incurred in the operation of a highway vehicle will be determined in the same manner as the business deduction for such expenses; to the Committee on Ways and Means.

By Mr. PEPPER (for himself, Ms. OAKAR, Mrs. SCHROEDER, and Mr. CORRADA):

H.R. 9680. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. PEPPER (for himself, Mr. BRADEMAS, and Ms. OAKAR):

H.R. 9682. A bill to amend the Older Americans Act of 1965 to provide grants to organizations for providing legal assistance to poor, elderly individuals in connection with their entitlement to home health services under titles XVIII, XIX, and XX of the Social Security Act; jointly, to the Committees on Education and Labor and the Judiciary.

By Mr. PEPPER (for himself, Mr. BRADEMAS, Ms. OAKAR, and Mr. LE FANTE):

H.R. 9681. A bill to amend the Social Security Act to revise and expand various provisions relating to home health and other long-term care services under the medicare program, and for other purposes; jointly to the Committees on Banking, Finance and Urban Affairs, Interstate and Foreign Commerce, and Ways and Means.

By Mr. PEPPER (for himself, Mr. BRADEMAS, Ms. OAKAR, Mr. LE FANTE, and Mr. CORRADA):

H.R. 9683. A bill to amend the Older Americans Act of 1965 to authorize funds for the establishment and operation of multipurpose senior centers, and for other purposes; jointly, to the Committees on Education and Labor, Interstate and Foreign Commerce, and Ways and Means.

By Mr. PEPPER (for himself, Mr. BRADEMAS, Ms. OAKAR, and Mr. LE FANTE):

H.R. 9684. A bill to amend title XVIII of the Social Security Act to provide long-term care services as a part of the hospital insurance program, to encourage the creation of community long-term care centers to assist in providing such services, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce and Ways and Means.

By Mr. PEPPER (for himself, Mr. BRADEMAS, and Ms. OAKAR):

H.R. 9685. A bill to amend the Social Security Act to provide that any patient of a long-term care institution participating in the medicare or medicaid program, or otherwise receiving funds under that act, shall have the right to terminate his or her contract with such institution upon giving reasonable advance notice, and to expressly prohibit such an institution from requiring any patient to turn over to it any income received by him or her after such notice is given; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. BRADEMAS, Ms. OAKAR, and Mr. LE FANTE):

H.R. 9686. A bill to establish within the Department of Health, Education, and Welfare a Home Health Clearinghouse to provide elderly persons with a single place where they can obtain complete information on the Federal health programs available to them, and to create within the Department an Assistant Secretary for Elderly Health with responsibility for all health and health-related matters involving the elderly; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. BRADEMAS, Mr. LE FANTE, Mr. LUNDINE, and Ms. OAKAR):

H.R. 9687. A bill to amend title XVIII of the Social Security Act to remove all limits on the number of home health visits for which payment may be made under both part A and part B (eliminating the requirement of prior hospitalization in the case of home health care under part A), to include additional types of services as home health care, to provide coverage for preventive care under part B, to provide coverage for services furnished in outpatient rehabilitation facilities and elderly day care centers, to improve the administration of the medicare program, and for other purposes; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. BRADEMAS, Ms. OAKAR, and Mr. LE FANTE):

H.R. 9688. A bill to amend the Social Security Act to improve and make more effective the provision of nursing home services under the medicare and medicaid programs, and for other purposes; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

H.R. 9689. A bill to amend the Social Security Act to require automatic sprinkler systems in all nursing facilities and intermediate care facilities certified for participation in the medicare or medicaid program, and to provide for direct low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. BRADEMAS, Ms. OAKAR, Mr. CORRADA, and Mrs. SCHROEDER):

H.R. 9690. A bill to amend title XVIII of the Social Security Act to include dental care, eye care, hearing aids, physical checkups, and foot care are among the items and services for which payment may be made under the supplementary medical insurance program, and to provide safeguards against consumer abuse in the provision of these items and services; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. ROUSSELOT:

H.R. 9691. A bill to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SOLARZ:

H.R. 9692. A bill to permit qualifying congressional candidates in general and special elections to make a free bulk mailing of campaign-related material to registered voters under the franking privilege; to the Committee on Post Office and Civil Service.

By Mr. SNYDER:

H.R. 9693. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. UDALL (for himself and Mr. SIMON):

H.R. 9694. A bill to amend title 5, United States Code, to promote proper and a efficient activities of the Government, and to protect Federal employees disclosing situations in which such activities are not proper or efficient; to the Committee on Post Office and Civil Service.

By Mr. UDALL (for himself, Mr. RHODES, Mr. RUDD, Mr. STUMP, Mr. BAUCUS, Mr. LUJAN, Mr. MARRIOTT, Mr. MOLLOHAN, Mr. RUPPE, and Mr. SANTINI):

H.R. 9695. A bill to increase the duty on imported copper by an amount which offsets the cost incurred by copper producers in the United States in meeting domestic environmental requirements; to the Committee on Ways and Means.

By Mr. BRINKLEY:

H.R. 9696. A bill to provide for increases in the development ceiling for the Andersonville National Historic Site, Georgia, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BROOKS (for himself, Mr. WRIGHT, Mr. ROSENTHAL, Mr. HORTON, Mr. FASCELL, Mr. MCCLOSKEY, Mr. PREYER, Mr. JENRETTE, Mr. KOSTMAYER, Mr. BOLLING, Mr. CONTE, Mr. DICKS, Mr. GILMAN, Mr. HOLLENBECK, Mr. LE FANTE, Mr. MINETA, Mr. PRITCHARD, Mr. STEED, Mr. THORNTON, Mr. TUCKER, Mr. HARRIS, Mr. STEERS, Mr. MOFFETT, Mr. WAXMAN, and Mr. EVANS of Colorado):

H.R. 9697. A bill to establish an Office of Consumer Representation and to reorganize certain consumer programs in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes; to the Committee on Government Operations.

By Mr. BURKE of Florida:

H.R. 9698. A bill to provide for the use and distribution of the award granted by the Indian Claims Commission to the Seminole Nation as it existed in Florida on September 18, 1823, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DON H. CLAUSEN:

H.R. 9699. A bill to provide for permanent tax rate reductions for individuals and business; to the Committee on Ways and Means.

By Mr. CLEVELAND:

H.R. 9700. A bill authorizing a study to develop small hydroelectric projects for rural areas or communities; to the Committee on Public Works and Transportation.

By Mr. DENT (for himself and Mr. ERLENBORN):

H.R. 9701. A bill to amend the Budget and Accounting Procedures Act of 1950 to require that the Comptroller General provide for a financial audit with respect to pension plans for officers and employees of the Federal Government and its agencies and instrumentalities, to require that an annual report, including a financial statement and an actuarial statement, be furnished to the Congress and the Comptroller General with respect to such plans, and for other purposes; to the Committee on Government Operations.

By Ms. HOLTZMAN:

H.R. 9702. A bill to amend the Federal Reserve Act to allow Federal reserve banks to purchase and sell obligations issued by municipalities and other political subdivisions which have filed petitions under chapter 9 of the Bankruptcy Act; to the Committee on Banking, Finance and Urban Affairs.

By Ms. HOLTZMAN (for herself, Miss JORDAN, Mrs. HECKLER, Mrs. BOGGS, Mrs. BURKE of California, Mrs. CHISHOLM, Mrs. COLLINS of Illinois, Mrs. FENWICK, Ms. KEYS, Mrs. MEYNER, Ms. MIKULSKI, Ms. OAKAR, Mrs. SCHROEDER, Mrs. SPELLMAN, Mr. WRIGHT, Mr. BRADEMAS, Mr. FOLEY, Mr. RODINO, Mr. EDWARDS of California, Mr. CONABLE, and Mr. MCKINNEY):

H.R. 9703. A bill extending the deadline for the ratification of the equal rights amendment; to the Committee on the Judiciary.

By Mr. JONES of Tennessee:

H.R. 9704. A bill to amend the Federal Crop Insurance Act and for other purposes; to the Committee on Agriculture.

By Mr. MANN (for himself Ms. HOLTZMAN, Mr. GUDGER, Mr. EVANS of Georgia, Mr. HYDE, Mr. DRINAN, and Mr. MAZZOLI):

H.R. 9705. A bill to amend title 28 of the United States Code to provide for the appointment of a special prosecutor in appropriate cases, and for other purposes; to the Committee on the Judiciary.

By Mr. MEEDS (for himself, Mr. JOHNSON of California, Mr. KETCHUM, Mr. RUDD, Mr. WON PAT, and Mr. SEBELIUS):

H.R. 9706. A bill to provide that the Secretary of the Interior and the Attorney General shall not withhold water deliveries from any beneficiary of a Federal Reclamation Project for the purpose of achieving conformity with the Reclamation Rules and Regulations proposed by the Bureau of Reclamation, Department of the Interior (Federal Register, vol. 42, No. 165, August 25, 1977) until January 1, 1979; to the Committee on Interior and Insular Affairs.

By Mr. MEEDS (for himself, Mr. UDALL, Mr. KREBS, Mr. LUJAN, Mr. FOLEY, Mr. SISK, Mr. RUNNELS, Mr. Don H. CLAUSEN, Mrs. PETTIS, Mr. BURGENER, Mr. ULLMAN, Mr. PRITCHARD, Mr. MCCORMACK, Mr. MARLENEE, Mr. BAUCUS, Mr. SYMMS, Mr. HANSEN, Mr. MARRIOTT, Ms. SCHROEDER, Mr. STUMP, Mr. BONKER, Mr. JOHNSON of Colorado, Mr. CORRADA, Mr. LAGOMARSINO, Mr. YOUNG of Alaska):

H.R. 9707. A bill to provide that the Secretary of the Interior and the Attorney General shall not withhold water deliveries from any beneficiary of a Federal Reclamation Project for the purpose of achieving conformity with the Reclamation Rules and Regulations proposed by the Bureau of Reclamation, Department of the Interior (Federal Register, vol. 42, No. 165, August 25, 1977) until January 1, 1979; to the Committee on Interior and Insular Affairs.

By Mr. MURPHY of New York (for himself and Mr. BREAUX):

H.R. 9708. A bill to establish a national ocean policy, to set forth the missions of the National Oceanic and Atmospheric Administration, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Science and Technology.

By Mr. ROE:

H.R. 9709. A bill to provide for station license renewal by the Federal Communications Commission and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. REUSS:

H.R. 9710. A bill to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions, to promote the accountability of the Federal Reserve System, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SOLARZ:

H.R. 9711. A bill to amend title 5, United States Code, to provide sufficient flexibility in Federal employee work schedules to allow Federal employees to participate in religious observances; to the Committee on Post Office and Civil Service.

By Mr. TRIBLE (for himself, Mr. CARR, Mr. HOLLAND, Mr. GAMMAGE, Mr. JEFFORDS, Mr. LEHMAN, Mr. MARLENEE, Mr. WAMPLER, and Mr. WEAVER):

H.R. 9712. A bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses, and for other purposes; to the Committee on Ways and Means.

By Mr. BOB WILSON (for himself, Mr. MONTGOMERY, Mr. PRICE, Mr. WHITE, Mr. TREEN, Mrs. HOLT, Mr. HILLIS, and Mr. WON PAT):

H.R. 9713. A bill to repeal provisions of title 10, United States Code, which impose certain restrictions on enlisted members of the Armed Forces and on members of military bands; to the Committee on Armed Services.

By Mr. MCCLORY:

H. J. Res. 635. Joint resolution proposing an amendment to the Constitution of the United States to provide 4-year terms for Members of the House of Representatives; to the Committee on the Judiciary.

By Mr. DRINAN (for himself, Mr. BEDELL, Mr. BINGHAM, Mr. BLOUIN, Mr. BONIOR, Mr. CONYERS, Mr. EDWARDS of California, Mr. EILBERG, Mr. HARRINGTON, Ms. HOLTZMAN, Mr. KREBS, Mr. MAGUIRE, Mrs. MEYNER, Mr. MITCHELL of Maryland, Mr. MURPHY of Pennsylvania, Mr. OTTINGER, Mr. RICHMOND, Mr. SEIBERLING, Mr. SIMON, Mr. STUDDS, Mr. WAXMAN, Mr. WOLFF, Mr. STARK, and Mr. GEPHARDT):

H. Res. 849. Resolution calling on the President to promote negotiations for a Comprehensive Test Ban Treaty ending all nuclear explosions; to the Committee on International Relations.

By Mr. MICHEL:

H. Res. 850. Resolution providing for the House of Representatives to determine with specific Guidelines what constitutes an official expense prior to the $5,000 increase of a Member's official expenses allowance; to the Committee on House Administration.

By Mr. BEVILL:

H. Res. 851. Resolution disapproving the deferral of certain budget authority (D78-30) relating to the Energy Research and Development Administration, gas cooled thermal reactor program, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 852. Resolution disapproving the deferral of certain budget authority (D78-33) relating to the Energy Research and Development Administration, magnetic fusion energy program—Fusion Material Test Facility, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 853. Resolution disapproving the deferral of certain budget authority (D78-34) relating to the Energy Research and Development Administration, magnetic fusion energy program—Intense Neutron Source Facility, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H. Res. 854. Resolution disapproving the deferral of certain budget authority (D78-35) relating to the Energy Research Development Administration, high energy physics program—intersecting storage ring accelerator, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. FRENZEL:

H. Res. 855. Resolution to establish the House Employees Medical Disability and Maternity Benefits Fund; to the Committee on House Administration.

By Mr. MANN (for himself, Mr. BROYHILL, Mr. NICHOLS, Mr. ADDABBO, Mr. ANDREWS of North Carolina, Mr. ANNUNZIO, Mr. BADILLO, Mr. BARNARD, Mr. BEVILL, Mr. BINGHAM, Mr. BOLAND, Mr. BRINKLEY, Mrs. BURKE of California, Mr. BURLISON of Missouri, Mr. CHAPPELL, Mr. CLEVELAND, Mr. COHEN, Mr. COUGHLIN, Mr. DAN DANIEL, Mr. DAVIS, Mr. DERRICK, Mr. DUNCAN of Tennessee, Mr. EILBERG, Mr. ERTEL, and Mr. EVANS of Georgia):

H. Res. 856. Resolution relative to customs duties on textile and apparel products; to the Committee on Ways and Means.

By Mr. MANN (for himself, Mr. FLOWERS, Mr. FLYNT, Mr. FOUNTAIN, Mr. FLIPPO, Mr. GINN, Mr. GUDGER, Mrs. HECKLER, Mr. HEFNER, Mr. HILLIS, Mr. HOLLAND, Mr. HOLLENBECK, Mrs. HOLT, Mr. HORTON, Mr. HUGHES, Mr. JENKINS, Mr. JENRETTE, Mr. JONES of North Carolina, Mr. LEDERER, Mrs. LLOYD of Tennessee, Mr. LUKEN, Mr. MARTIN, Mr. MATHIS, Mr. MCDADE, and Ms. MIKULSKI):

H. Res. 857. Resolution relative to customs duties on textile and apparel products; to the Committee on Ways and Means.

By Mr. MANN (for himself, Mr. MURPHY of New York, Mr. MURTHA, Mr. NEAL, Ms. OAKAR, Mr. PATTEN, Mr. PATTISON of New York, Mr. PREYER, Mr. QUILLEN, Mr. RINALDO, Mr. ROONEY, Mr. ROSENTHAL, Mr. SCHEUER, Mr. SHUSTER, Mr. SIKES, Mr. SPENCE, Mr. STANTON, Mr. STUDDS, Mr. TSONGAS, Mr. VAN DEERLIN, Mr. VENTO, Mr. WALKER, Mr. WHITLEY, Mr. BOB WILSON, and Mr. YATRON):

H. Res. 858. Resolution relative to customs duties on textiles and apparel products; to the Committee on Ways and Means.

By Mr. MANN (for himself, Mr. BOWEN, Mr. COCHRAN of Mississippi, Mr. LOTT, Mr. MONTGOMERY, Mr. WHITTEN, Mr. ASHBROOK, Mr. GONZALEZ, Mr. NOWAK, Mr. PERKINS, Mr. ROE, Mr. YOUNG of Missouri, Mr. ZEFERETTI, Mr. MCCORMACK, Mr. VOLKMER, Mr. SKELTON, Mr. WEISS, Mr. SISK, Mr. CARNEY, Mr. THORNTON, Mr. PICKLE, Mr. RODINO, Mr. WAGGONNER, Mr. BYRON, and Mr. CARTER):

H. Res. 859. Resolution relative to customs duties on textile and apparel products; to the Committee on Ways and Means.

By Mr. SOLARZ:

H. Res. 860. Resolution in recognition of the services of Ryan Salomon; to the Committee on Post Office and Civil Service.

By Mr. STEERS:

H. Res. 861. Resolution expressing the sense of the House of Representatives with respect to continuation of U.S. Government support for American investment in and trade with South Africa; jointly to the Committee on Banking, Finance and Urban Affairs, and International Relations.

MEMORIALS

Under clause 4 of rule XXII, as follows:

282. The SPEAKER presented a memorial of the Senate of the Commonwealth of Massachusetts, relative to granting landing rights at Logan International Airport to El Al Israel Airlines; to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FOWLER:

H.R. 9714. A bill for the relief of Reynaldo S. Resurreccion and Anna V. A. Resurreccion; to the Committee on the Judiciary.

By Mr. MAGUIRE:

H.R. 9715. A bill for the relief of Carlos Perez; to the Committee on the Judiciary.

By Mr. ULLMAN:

H.R. 9716. A bill for the relief of Julia S. Gardner; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

295. By the SPEAKER: Petition of the Imperial County Grand Jury, California, relative to the 160-acre limitation in the Reclamation Act of 1902; to the Committee on Interior and Insular Affairs.

296. Also, petition of Mervin R. Brame, New Bern, N.C., relative to recycling paper; to the Committee on Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1614

Mr. MURPHY of New York:

Page 226, line 1, insert "Applicable" after "the" and before "requirements".

Page 226, line 9, insert "applicable" after "the" and before "provisions".

Page 226, line 7, insert "significantly" after "not" and before "increase".

Page 233, insert after line 15, as new subsection as follows:

"(f) Notwithstanding any other provision of this Section, the authority to establish any fund, to charge and collect fees, to make disbursements, to issue notes or other obligations, or to exercise any other spending authority shall be effective only to such extent or in such amounts as are provided in appropriations acts, enacted after the date of enactment of this section."

Delete Section 31.

Add new Section 31.

DOCUMENTATION, REGISTERY, AND MANNING REQUIREMENTS

"SEC. 31. (a) Within six months after the date of enactment of this section, the Secretary of the Department in which the Coast Guard is operating shall by regulation require that any vessel, rig, platform, or other vehicle or structure which is used for activities pursuant to this Act, shall comply with such minimum standards of design, construction, alteration, and repair as the Secretary of the Department in which the Coast Guard is operating establishes; and except as provided in subsection (b) of this Section.

"(1) which is used at any time after the one-year period beginning on the effective date of such regulation for activities pursuant to this Act shall be manned or crewed by citizens of the United States or aliens lawfully admitted to the United States for permanent residence, unless (A) specific contractual provisions or national registry manning requirements in effect on such date of enactment provide to the contrary, or (B) there are not a sufficient number of citizens or aliens who are qualified and available for such work;

"(2) which is contracted to be built or rebuilt one year after enactment for use in the exploration, development or production of the mineral resources located on or under the seabed and subsoil of the Outer Continental Shelf be built or rebuilt in the United States and when required to be documented, be documented under the laws of the United States;

(b) The Secretary may waive the requirements of this section if he determines that:

(1) compliance will unreasonably delay completion of any vessel or structure beyond its contracted delivery date;

(2) the requirements will result in costs that are unreasonable; or

(3) the articles, materials, or supplies of the class or kind to be used in the building or rebuilding are not produced or manufactured in the United States in sufficient and usually available commercial quantities and of a satisfactory quality.

(c) As used in this section, the terms 'vessel,' 'documented under the laws of the United States,' and 'citizen of the United States' shall have the meanings assigned to them under the first section and section 2 of the Shipping Act of 1916 (16 U.S.C. 801 and 802), and 'built or rebuilt in the United States' means that only articles, materials and supplies of the growth, production or manufacture of the United States as defined in paragraph K of section 401 of the Tariff Act of 1930 may be used in such building or remodeling:

On page 263, strike lines 2 to 6 (subsection a) and insert a new subsection (a) as follows:

"SEC. 321. (a) There is authorized to be appropriated for the administration of this title, $10,000,000 for fiscal year ending September 30, 1979; $5,000,000 for fiscal year ending September 30, 1980; and $5,000,000 for fiscal year ending September 30, 1981."

On page 263, strike lines 17 to 22 (subsection) and insert a new subsection (c) as follows:

"(c) Notwithstanding any other provision of this title, the authority to make contracts pursuant to section 306(b)(4) of this title, to make disbursements pursuant to section 309(a) of this title, to issue notes or other obligations pursuant to section 309(e) of this title and to charge and collect fees pursuant to section 310(a) of this title, or to exercise any other spending authority shall be effective only to the extent provided, or in such amounts provided, without fiscal year limitation, in Appropriation Acts, enacted after the date of enactment of the title."

(To incorporate the relevant provisions of H.R. 6803 into title III) On page 234, strike line 21 and all that follows through line 18 on page 264; and insert the following in lieu thereof:

"SEC. 301. For the purposes of this title, the term—

"(a) 'Secretary' means the Secretary of Transportation;

"(b) 'fund' means the fund established by section 302;

"(c) 'person' means an individual, firm, corporation, association, partnership, consortium, joint venture, or governmental entity;

"(d) 'incident' means any occurrence or series of related occurrences, involving one or more offshore facilities or vessels, or any combination thereof, which causes, or poses an imminent threat of oil pollution;

"(e) 'vessel' means every description of watercraft or other contrivance, whether or not self-propelled, which is operating in the waters above the Outer Continental Shelf (as the term 'Outer Continental Shelf' is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a))), and which is transporting oil directly from an offshore facility, and such term specifically excludes any watercraft or other contrivance which is operating in the navigable waters of the United States (as the term 'navigable waters' is defined in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362)):

"(f) 'public vessel' means a vessel which—

"(1) is owned or chartered by demise, and operated by (A) the United States, (B) a State or political subdivision thereof, or (C) a foreign government, and

"(2) is not engaged in commercial service;

"(g) 'ship' means either of the following types of vessels carrying oil in bulk as cargo:

"(1) a self-propelled vessel, or

"(2) a non-self-propelled vessel which is certificated to operate outside the internal waters of the United States;

"(h) 'facility' means a structure, or group of structures (other than a vessel or vessels), used for the purpose of transporting, drilling for, producing, processing, storing, transferring, or otherwise handling oil;

"(i) 'offshore facility' includes any oil refinery, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenance related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf (as the term Outer Continental Shelf is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a))), and is located on the Outer Continental Shelf, except that such term does not include (A) a vessel, or (B) a deepwater port (as the term deepwater port is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502));

"(j) 'oil pollution' means—

"(1) the presence of oil, either in an unlawful quantity or which has been discharged at an unlawful rate in or on the waters of the contiguous zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606); or

"(2) The presence of oil in or on the waters of the high seas outside the territorial limits of the United States—

"(A) when discharged in connection with activties conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.);

"(B) causing injury to or loss of natural resources belonging to, appertaining to, or under the exclusive management authority of, the United States; or

"(3) the presence of oil in or on the territorial sea, internal waters, or adjacent shoreline, of a foreign country, in a case where damages are recoverable by a foreign claimant under this title;

"(k) 'United States claimant' means any person residing in the United States, the Government of the United States or an agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim;

"(l) 'foreign claimant' means any person residing in a foreign country, the government of a foreign country, or any agency or political subdivision thereof, who asserts a claim;

"(m) 'United States' and 'State' include the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States has jurisdiction;

"(n) 'oil' means petroleum, including crude oil or any fraction or residue therefrom;

"(o) 'cleanup costs' means costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from that incident;

"(p) 'damages' means compensation sought pursuant to this title by any person suffering any direct and actual injury proximately caused by the discharge of oil from an offshore facility or vessel, except that such term does not include clean-up costs;

"(q) 'person in charge' means the individual immediately responsible for the operation of a vessel or facility;

"(r) 'claim' means a demand in writing for a sum certain;

"(s) 'discharge' means any emission, intentional or unintentional, and includes spilling, leaking, pumping, pouring, emptying, or dumping;

"(t) 'owner' means any person holding title to, or in the absence of title, any other indicia of ownership of, a vessel or offshore facility, whether by lease, permit, contract, license, or other from of agreement; or with respect to any facility abandoned without prior approval of the Secretary of the Interior, the person who owned such facility immediately prior to such abandonment; but does not include a person who, without participating in the management or operation of a vessel or offshore facility, holds indicia of ownership primarily to protect his security interest in the vessel or offshore facility;

"(u) 'operator' means—

"(1) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

"(2) in the case of an offshore facility, any person, except the owner, responsible for the operation of the facility by agreement with the owner;

"(v) 'property' means littoral, riparian, or marine property;

"(w) 'removal costs' means—

"(1) costs incurred under section 5 of the Intervention on the High Seas Act; and

"(2) cleanup costs, other than the costs described in clause (1);

"(x) 'guarantor' means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator;

"(y) 'gross ton' means a unit of 100 cubic feet for the purpose of measuring the total unit capacity of a vessel; and

"(z) 'barrel' means 42 United States gallons at 60 degrees Fahrenheit.

"FUND ESTABLISHMENT, ADMINISTRATIVE, AND FINANCING

"SEC. 302. (a) There is hereby established in the Treasury of the United States an Offshore Oil Pollution Compensation Fund, not to exceed $200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b)(2) and (3) of this section being paid into such fund. The fund shall be administered by the Secretary and the Secretary of the Treasury, as specified in this section. The fund may sue and be sued in its own name.

"(b) The fund shall be constituted from—

"(1) all fees collected pursuant to subsection (d);

"(2) all moneys recovered on behalf of the fund under section 308; and

"(3) all other moneys recovered or collected on behalf of the fund, under this title.

"(c) In addition to the processing and settlement of claims under section 307, the fund shall be immediately available for the removal costs described in section 301(w)(1), and the Secretary is authorized to promulgate regulations designating the person or persons who may obligate available money in the fund for such purposes.

"(d)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

"(2) The Secretary of the Treasury, after consulting with the Secretary, may promulgate reasonable rules and regulations relating to the collection of the fees authorized by paragraph (1) and, from time to time, the modification thereof. Modifications shall become effective on the date specified therein, but no earlier than the ninetieth day following the date the modifying regulation is published in the Federal Register. Any modification of the fee shall be designed to insure that the fund is maintained at a level not less than $100,000,000 and not more than $200,000,000. No regulation that modifies fees, nor any modification of such a regulation, whether or not in effect, may be stayed by any court pending completion of judicial review of that regulation or modification. No modified fees paid by any owner pending completion of judicial review of the modified fee regulation shall be repaid to such owner notwithstanding the final judicial determination.

"(3)(A) Any person who fails to collect or pay fees as required by the regulations promulgated under paragraph (2) shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary of the Treasury, in addition to the fees required to be collected or paid and the interest on those fees at the rate the fees would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (e)(2). Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General may, at the request of the Secretary of the Treasury, bring an action in the name of the fund against that person for such amount.

"(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

"(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such required material for the purpose of audit and examination.

"(e)(1) The Secretary shall determine the level of funding required for immediate access in order to meet potential obligations of the fund.

"(2) The Secretary of the Treasury may invest any excess in the fund, above the level determined under paragraph (1), in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the fund shall be credited to and form a part of the fund.

"(f) If at any time the moneys available in the fund are insufficient to meet the obligations of the fund, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of these notes or obligations shall be made by the Secretary from moneys in the fund. These notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of these notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of these notes or other obligations shall be treated as public debt transactions of the United States.

"DAMAGES AND CLAIMANTS

"SEC. 303. (a) Claims for damages for economic loss, arising out of or directly resulting from oil pollution, may be asserted for—

"(1) removal costs;

"(2) injury to, or destruction of, real or personal property;

"(3) loss of use of real or personal property;

"(4) injury to, or destruction of, natural resources;

"(5) loss of use of natural resources;

"(6) loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources; and

"(7) loss of tax revenue for a period of one year due to injury to real or personal property.

"(b) A claim authorized by subsection (a) may be asserted—

"(1) under item 1, by any claimant: *Provided*, That the owner or operator of a vessel of offshore facility involved in an incident may assert such a claim only if he can show that he is entitled to a defense to liability under section 304(c)(1) or 304(c)(2) or, if not entitled to such a defense to liability, that he is entitled to a limitation of liability under section 304(b): *Provided further*, That where he is not entitled to such a defense to liability but entitled to such a limitation of liability, such claim may be asserted only as to the removal costs incurred in excess of that limitation;

"(2) under items 2, 3, and 5, by any United States claimant, if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant;

"(3) under item 4, by the President, as trustees for natural resources over which the United States Government has sovereign rights or exercises exclusive management authority; or by any State for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State: *Provided*, That compensation paid under this item shall be used only for the restoration of the natural resources damaged or for acquisition of equivalent resources;

"(4) under item 6, by any United States claimant if the claimant derives at least 25 per centum of his earnings from activities which utilize the property or natural resource;

"(5) under item 7, by any State or political subdivision thereof;

"(6) under items 2 through 7, by a foreign claimant to the same extent that a United States claimant may assert a claim if—

"(A) the oil pollution occurred (1) in the navigable waters or (2) in or on the territorial sea or adjacent shoreline of a foreign country of which the claimant is a resident;

"(B) the claimant is not otherwise compensated for his loss;

"(C) the oil was discharged from an offshore facility or from a vessel in connection with the activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.) and

"(D) recovery is authorized by a treaty or an executive agreement between the Unit-

ed States and the foreign country involved or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants.

"(7) under any item, by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this subsection, when he determines that the claimants would be more adequately represented as a class in asserting their claims.

"(c) If the Attorney General fails to take action under clause (7) of subsection (b) within sixty days of the date on which the Secretary designates a source under section 306 any member of a group may maintain a class action to recover damages on behalf of that group. Failure of the Attorney General to take action shall have no bearing on any class action maintained by any claimant for damages authorized by this section.

"(d) If the number of members of a class in an action brought under subsection (b) (7) or subsection (c) exceeds one thousand, publication of notice of such action in local newspapers of general circulation in the areas in which the damaged persons reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.

"LIABILITY

"SEC. 304. (a) Subject to the provisions of subsections (b) and (c), the owner and operator of a vessel other than a public vessel, or of an offshore facility, which is the source of oil pollution, or poses a threat of oil pollution in circumstances which justify the incurrence of the type of costs described in section 301(w)(1 of this title, shall be jointly, severally, and strictly liable for all damages for which a claim may be asserted under section 303.

"(b) Except when the incident is caused primarily by willful misconduct or gross negligence, within the privity or knowledge of the owner or operator; or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government; or except when the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities, the total of the liability under subsection (a) and any removal costs incurred by, or on behalf of, the owner or operator shall be limited to—

"(1) in the case of a vessel, $250,000 or $300 per gross ton (up to a maximum of $30,000,000), whichever is greater; or

"(2) in the case of an offshore facility operated under authority of the Outer Continental Shelf Lands Act, the total of removal and cleanup costs, and other damages up to $35,000,000.

"(c) There shall be no liability under subsection (a)—

"(1) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection, or by a natural phenomenon of an exceptional, inevitable, and irresistible character;

"(2) to the extent that the incident is caused by an act or omission of a person other than—

"(A) the claimant,

"(B) the owner or operator,

"(C) an employee or agent of the claimant, the owner, or the operator, or

"(D) one whose act or omission occurs in connection with a contractural relationship with the claimant, the owner, or the operator;

"(3) as to a particular claimant, where the incident or the economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

"(4) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

"(d) The Secretary shall, from time to time, report to Congress on the desirability of adjusting the monetary limitation of liability specified in subsection (b).

"(e)(1) Subject to the provisions of paragraph (2) hereof, the fund shall be liable, without any limitation, for all damages for which a claim may be asserted under section 303, to the extent that the loss is not otherwise compensated.

"(2) Except for the removal costs specified in clause (1) of section 301(w), there shall be no liability under paragraph (1) hereof—

"(A) where the incident is caused primarily by an act of war, hostilities, civil war, or insurrection;

"(B) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

"(C) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

"(f)(1) In addition to the damages for which claims may be asserted under section 303, and without regard to the limitation of liability provided in section 304(b), the owner, operator, or guarantor shall be liable to the claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim was presented to such person to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which the owner, operator, or guarantor shall offer to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim to the date upon which the claimant shall accept that amount, inclusive. However, if the owner, operator, or guarantor shall offer to the claimant, within sixty days of the date upon which the claim was presented, or of the date upon which advertising was commenced pursuant to section 306, whichever is later, an amount equal to or greater than that finally paid in satisfaction of the claim, the owner, operator, or guarantor shall be liable for the interest provided in this paragraph only from the date the offer was accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

"(2) The interest provided in paragraph (1) shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

"(g) No indemnification, hold harmless, or similar agreement shall be effective to transfer from the owner or operator of a facility, to any other person, the liability imposed under subsection (a) hereof, other than as specified in this title.

"(h) Nothing in this title, including the provisions of subsection (g) hereof, shall bar a cause of action that an owner or operator, subject to liability under subsection (a), or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

"(i) To the extent that they are in conflict with, or otherwise inconsistent with, tany other provisions of law relating to liability or the limitation thereof, the provisions of this section shall supersede all such other provisions of law, including those of section 4283(a) of the Revised Statutes, as amended (46 U.S.C. 183(a)).

"FINANCIAL RESPONSIBILITY

"SEC. 305. (a)(1) The owner or operator of any vessel (except a non-self-propelled barge that does not carry oil as fuel or cargo), which uses an offshore facility shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of such vessel would be exposed in a case where he would be entitled to limit his liability in accordance with the provisions of section 304(b) of this title. Financial responsibility may be established by any one, or any combination, of the following methods acceptable to the President: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In cases where an owner or operator owns, operates, or charters more than one vessel subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

"(2) The Secretary of the Treasury shall refuse the clearance required by section 4197 of the Revised Statutes of the United States to any vessel, subject to this subsection, which does not have certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

"(3) The Secretary, in accordance with regulations promulgated by him shall have access to all offshore facilities and vessels conducting activities under the Outer Continental Shelf Lands Act; and such facility or vessel shall, upon request, show certification of financial responsibility.

"(b) The owner or operator of a facility which (1) is used for drilling for, producing, or processing oil, or (2) has the capacity to transport, store, transfer, or otherwise handle more than one thousand barrels of oil at any one time, shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of the facility would be exposed, in a case where he would be entitled to limit his liability, in accordance with the provisions of section 304(b) of this title, or $35,000,000, whichever is less.

"(c) Any claim authorized by section 303(a) may be asserted directly against any guarantor providing evidence of financial responsibility as required under this section. In defending such claim, the guarantor shall be entitled to invoke all rights and defenses which would be available to the owner or operator under this title. He shall also be entitled to invoke the defense that the incident was caused by the willful misconduct of the owner or operator, but shall not be entitled to invoke any other defense which he might have been entitled to invoke in proceedings brought by the owner or operator against him.

"(d) The President shall conduct a study to determine (1) whether adequate private oil pollution insurance protection is available on reasonable terms and conditions to the owners and operators of vessels, and offshore facilities subject to liability under section 304, and (2) whether the market for such insurance is sufficiently competitive to assure purchasers of features such as a reasonable range of deductibles, coinsurance provisions and exclusions. The President shall submit the results of his study, together with his recommendations, within one year of the date of enactment of this Act, and shall submit an interim report on his study within three months of the date of enactment of this Act.

"NOTIFICATION, DESIGNATION, AND ADVERTISEMENT

"SEC. 306. (a) The person in charge of a vessel or offshore facility, which is involved in an incident, shall immediately notify the Secretary of the incident, as soon as he has knowledge thereof. Notification received pursuant to this subsection or information

obtained by the exploitation of such notification shall not be used against any such person or his employer in any criminal case, other than a case involving prosecution for perjury or for giving a false statement.

"(b)(1) When the Secretary receives information, pursuant to subsection (a) or otherwise, of an incident which involves oil pollution, the Secretary shall, where possible, designate the source or sources of the oil pollution and shall immediately notify the owner and operator of such source, and the guarantor, of that designation.

"(2) When a source designated under paragraph (1) is a vessel or offshore facility, and the owner, operator, or guarantor fails to inform the Secretary, within five days after receiving notification of the designation, of his denial of such designation, such owner, operator or guarantor, as required by regulations promulgated by the Secretary, shall advertise the designation and the procedures by which claims may be presented to him. If advertisement is not otherwise made in accordance with this paragraph, the Secretary shall, as he finds necessary, and at the expense of the owner operator, or guarantor involved, advertise the designation and the procedures by which claims may be presented to that owner, operator, or guarantor.

"(c) In a case where—

"(1) the owner, operator, and guarantor all deny a designation in accordance with paragraph (2) of subsection (b),

"(2) the source of the discharge was a public vessel or

"(3) the Secretary is unable to designate the source or sources of the discharge under paragraph (1) of subsection (b),

the Secretary shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the fund.

"(d) Advertisement under subsection (b) shall commence no later than fifteen days from the date of the designation made thereunder to continue for a period of no less than thirty days.

"CLAIMS SETTLEMENT

"SEC. 307. (a) Except as provided in subsection (b), all claims shall be presented to the owner, operator, or guarantor.

"(b) All claims shall be presented to the fund—

"(1) Where the Secretary has advertised or otherwise notified claimants in accordance with section 306 (c), or

"(2) where the owner or operator may recover under the provisions of section 303 (b)(1).

"(c) In the case of a claim presented in accordance with subsection (a), and in which—

"(1) the person to whom the claim is presented denies all liability for the claim, for any reason, or

"(2) the claim is not settled by any person by payment to the claimant within sixty days of the date upon which (A) the claim was presented, or (B) advertising was commenced pursuant to section 306(b)(2), whichever is later,

the claimant may elect to commence an action in court against the owner, operator, or guarantor, or to present the claim to the fund, that election to be irrevocable and exclusive.

"(d) In the case of a claim presented in accordance with subsection (a), where full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 304(b) or because the owner, operator, and guarantor are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the fund.

"(e) In the case of a claim which has been presented to any person, pursuant to subsection (a), and which is being presented to the fund, pursuant to subsection (c) or (d), such person, at the request of the claimant, shall transmit the claim and supporting documents to the fund. The Secretary may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted.

"(f) In the case of a claim presented to the fund, pursuant to subsection (b), (c) or (d), and in which the fund—

"(1) denies all liability for the claim, for any reason, or

"(2) does not settle the claim by payment to the claimant within sixty days of the date upon which (A) the claim was presented to the fund or (B) advertising was commenced pursuant to section 306(c), whichever is later,

the claimant may submit the dispute to the Secretary for decision in accordance with section 554 of title 5, United States Code. However, a claimant who has presented a claim to the fund pursuant to subsection (b) may elect to commence an action in court against the fund in lieu of submission of the dispute to the Secretary for decision, that election is to be irrevocable and exclusive.

"(g)(1) The Secretary shall promulgate regulations which establish uniform procedures and standards for the appraisal and settlement of claims against the fund.

"(2) Except as provided in paragraph (3), the Secretary shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the fund and may contract to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), upon a showing by the Secretary that advertising is not reasonably practicable. The Secretary may make advance payments to a contractor for services and facilities, and the Secretary may advance to the contractor funds to be used for the payment of claims. The Secretary may review and audit claim payments made pursuant to this subsection. A payment to a claimant for single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted on or behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Secretary.

"(3) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Secretary may use Federal personnel to process claims against the fund.

"(h) Without regard to subsection (b) of section 556 of title 5, United States Code, the Secretary is authorized to appoint, from time to time for a period not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes submitted to the Secretary pursuant to subsection (f). At least one member of each panel shall be qualified in the conduct of adjudicatory proceedings and shall preside over the activities of the panel. Each member of a panel shall possess competence in the evaluation and assessment of property damage and the economic losses resulting therefrom. Panel members may be appointed from private life or from any Federal agency except the staff administering the fund. Each panel member appointed from private life shall receive a per diem compensation, and each panel member shall receive necessary traveling and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special government employees, apply to panel members appointed from private life.

"(i)(1) Upon receipt of a request for decision from a claimant, properly made, the Secretary shall refer the dispute to (A) an administrative law judge, appointed under section 3105 of title 5, United States Code, or (B) a panel appointed under subsection (h).

"(2) The administrative law judge and each member of a panel to which a dispute is referred for decision shall be a resident of the United States judicial circuit within which the damage complained of occurred, or, if the damage complained of occurred within two or more circuits, of any of the affected circuits, or, if the damage occurred outside any circuit of the nearest circuit.

"(3) Upon receipt of a dispute, the administrative law judge or panel shall adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. In any proceeding subject to this subsection, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with procedures in subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Secretary. If a person fails or refuses to obey a subpena, the Secretary may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him or books, papers, documents, or any tangible things.

"(4) A hearing conducted under this subsection shall be conducted within the United States judicial district within which, or nearest to which, the damage complained of occurred, or, if the damage complained of occurred within two or more districts, in any of the affected districts, or, if the damage occurred outside any district, of the nearest district.

"(5) The decision of the administrative law judge or panel under this subsection shall be the final order of the Secretary, except that the Secretary, in his discretion and in accordance with rules which he may promulgate, may review the decision upon his own initiative or upon exception of the claimant or the fund.

"(6) Final orders of the Secretary made under this subsection shall be reviewable pursuant to section 702 of title 5, United States Code, in the district courts of the United States.

"(j)(1) In any action brought against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the fund at the same time those pleadings are served upon the opposing parties.

"(2) The fund may intervene in th action as a matter of right.

"(3) In any action to which the fund is a party, if the owner, operator, or guarantor admits liability under this title, the fund upon its motion shall be dismissed therefrom to the extent of the admitted liability.

"(4) If the fund receives from either the plaintiff or the defendant notice of such an action, the fund shall be bound by any judgment entered therein, whether or not the fund was a party to the action.

"(5) If neither the plaintiff nor the defendant gives notice of such an action to the fund, the limitation of liability otherwise permitted by section 304(b) of this title is not available to the defendant, and the plaintiff shall not recover from the fund any sums not paid by the defendant.

"(k) In any action brought against the fund, the plaintiff may join any owner, operator, or guarantor, and the fund may im-

plead any person who is or may be liable to the fund under any provision of this title.

"(l) No claim may be presented, nor may an action be commenced for damages recoverable under this title, unless that claim is presented to, or that action is commenced against, the owner, operator, or guarantor, or against the fund, as to their respective liabilities, within three years from the date of discovery of the economic loss for which a claim may be asserted under section 303(a), or within six years of the date of the incident which resulted in that loss, whichever is earlier.

"SUBROGATION

"SEC. 308. (a) Any person or governmental entity, including the fund, who shall pay compensation to any claimant for an economic loss, compensable under section 303, shall be subrogated to all rights, claims, and causes of action which that claimant has under this title.

"(b) Upon request of the Secretary, the Attorney General may commence an action, on behalf of the fund, for the compensation paid by the fund to any claimant pursuant to this title. Such an action may be commenced against any owner, operator, or guarantor, or against any other person or governmental entity, who is liable, pursuant to any law, to the compensated claimant or to the fund, for damages for which the compensation was paid.

"(c) In all claims or actions by the fund against any owner, operator, or guarantor, pursuant to the provisions of subsections (a) and (b), the fund shall recover—

"(1) for a claim presented to the fund (where there has been a denial of source designation) pursuant to section 307(b)(1), or (where there has been a denial of liability) pursuant to section 307(c)(1)—

"(A) subject only to the limitation of liability to which the defendant is entitled under section 304(b), the amount the fund has paid to the claimant, without reduction;

"(B) interest on that amount, at the rate calculated in accordance with section 304(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the fund is paid by the defendant, inclusive, less the period, if any, from the date upon which the fund shall offer to the claimant the amount finally paid by the fund to the claimant in satisfaction of the claim against the fund to the date upon which the claimant shall accept that offer, inclusive; and

"(C) all costs incurred by the fund by reason of the claim, both of the claimant against the fund and the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; and

"(2) for a claim presented to the fund pursuant to section 307(c)(2)—

"(A) in which the amount the fund has paid to the claimant exceeds the largest amount, if any, the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

"(i) subject to dispute by the defendant as to any excess over the amount offered to the claimant by the defendant, the amount the fund has paid to the claimant;

"(ii) interest, at the rate calculated in accordance with section 304(g)(2), for the period specified in clause (1) of this subsection; and

"(iii) all costs incurred by the fund by reason of the claim of the fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs and attorneys' fees; or

"(B) in which the amount the fund has paid to the claimant is less than or equal to the largest amount the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

"(i) the amount of the fund has paid to the claimant, without reduction;

"(ii) interest, at the rate calculated in accordance with section 304(g)(2), from the date upon which the claim was presented by the claimant to the defendant to the date upon which the defendant offered to the claimant the largest amount referred to in this subclause; *Provided*, That if the defendant tendered the offer of the largest amount referred to in this subclause within sixty days of the date upon which the claim of the claimant was either presented to the defendant or advertising was commenced pursuant to section 306, the defendant shall not be liable for interest for that period; and

"(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction of the claim of the fund to the date upon which the fund shall accept that offer, inclusive.

"(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, pursuant to clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

"(e) The fund is entitled to recover for all interest and claim of the claimant was either presented to the defendant or advertising was commenced pursuant to section 306, the defendant shall not be liable for interest for that period; and

"(iii) interest from the date upon which the claim of the fund against the defendant was presented to the defendant to the date upon which the fund is paid, inclusive, less the period, if any, from the date upon which the defendant shall offer to the fund the amount finally paid to the fund in satisfaction to the claim of the fund to the date which the fund shall accept that offer, inclusive.

"(d) The fund shall pay over to the claimant that portion of any interest the fund shall recover, pursuant to clause (1) and subclause (A) of clause (2) of subsection (c), for the period from the date upon which the claim of the claimant was presented to the defendant to the date upon which the claimant was paid by the fund, inclusive, less the period from the date upon which the fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant shall accept that offer, inclusive.

"(e) The fund is entitled to recover for all interest and costs specified in subsection (c) without regard to any limitation of liability to which the defendant may otherwise be entitled.

"JURISDICTION AND VENUE

"SEC. 309. (a) The United States district courts shall have exclusive original jurisdiction over all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

"(b) Venue shall lie in any district wherein the injury complained of occurred, or wherein the defendant resides, may be found, or has his principal office. For the purposes of this section, the fund shall reside in the District of Columbia.

"PREEMPTION

"SEC. 310. (a) Except as provided in this title—

"(1) no action may be brought in any court of the United States, or of any State or political subdivision thereof, for damages for an economic loss described in section 303(a), a claim for which may be asserted under this title, and

"(2) no person may be required to contribute to any fund, the purpose of which is to pay compensation for such a loss, nor to establish or maintain evidence of financial responsibility relating to the satisfaction of a claim for such a loss.

"(b) Nothing in subsection (a) shall preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purchase and pre-positioning of oil pollution cleanup and removal equipment.

"(c) Nothing in subsection (a) shall prohibit an action by the fund, under any other provision of law, to recover compensation paid pursuant to this title.

"PROHIBITION

"SEC. 311. The discharge of oil from any offshore facility or vessel, in quantities which the President under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1221(b)) determines to be harmful is prohibited.

"PENALTIES

"SEC. 312. (a)(1) Any person who fails to comply with the requirements of section 305, the regulations promulgated thereunder, or any denial or detention order, shall be subject to a civil penalty of not more than $10,000

"(2) Such penalty may be assessed and compromised by the President or his designee, in connection with section 305(a)(1), and by the Secretary, in connection with section 305(a)(3) and section 305(b). No penalty shall be assessed until notice and an opportunity for hearing on the alleged violation have been given. In determining the amount of the penalty or the amount agreed upon in compromise, the demonstrated good faith of the party shall be taken into consideration.

"(3) At the request of the official assessing the penalty, the Attorney General may bring an action in the name fo the fund to collect the penalty assessed.

"(b) Any person in charge, subject to the jurisdiction of the United States, who fails to give the notification required by section 306(a) shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 313. (a) There is authorized to be appropriated for the administration of this title $10,000,000, for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000, for the fiscal year ending September 30, 1981.

"(b) There are also authorized to be appropriated to the Fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this title, including the entering into contracts, any disbursements of funds, and the issuance of notes or other obligations pursuant to section 302(f) of this title.

"(c) Notwithstanding any other provision of this title, the authority to make contracts, to make disbursements, to issue notes or other obligations pursuant to section 302(f) of this title, and to charge and collect fees pursuant to section 302(d) of this title or to exercise any other spending authority shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

"ANNUAL REPORT

"SEC. 314. Within six months after the end of each fiscal year, the Secretary shall submit to the Congress (1) a report on the administration of the fund during such fiscal year, and (2) his recommendations for

such legislative changes as he finds necessary or appropriate to improve the management of the fund and the administration of the liability provisions of this title.

"SEC. 314. (a) This section, subsection (d) of section 305, section 316, and all provisions of this title authorizing the delegation of authority or the promulgation of regulations shall be effective on the date of enactment of this Act.

"(b) All other provisions of this title, and the regulations applicable thereto shall be effective on the one hundred and eightieth day after the date of enactment of this Act.

"SEC. 316. If any provisions of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby."

H.R. 8681

By Mr. LEVITAS:

On page 67 of H.R. 8681, after line 23, insert the following new paragraph (and redesignate the subsequent paragraphs accordingly):

(3) adding at the end of subsection (a) the following new paragraph:

"(4) RULE AND REGULATION REVIEW.—

"(A) CONGRESSIONAL REVIEW.—Notwithstanding any other provision of this Act, simultaneously with promulgation or repromulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subparagraph (B), the rule or regulation shall not become effective, if—

"(i) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule or regulation promulgated by the Administrator of the Environmental Protection Agency dealing with the matter of , which rule or regulation was transmitted to Congress on .', the blank spaces therein being appropriately filled; or

"(ii) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(B) EFFECTIVE DATE.—If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in subparagraph (A).

"(C) For the purposes of subparagraphs (A) and (B) of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.

"(D) EFFECT OF CONGRESSIONAL INACTION.—Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.";

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of October 14, 1977 (page 33807).

H.R. 6151. April 6, 1977. Judiciary. Sets forth guidelines relative to State and local government liability and Federal court abstention in civil actions for the deprivation of a constitutional or Federal statutory right, including the right to enjoy ones reputation, by persons acting under color of law.

Renders a prosecuting officer of a State, municipality, or other unit of local government liable for damages or subject to an injunction for failure to disclosure material evidence.

H.R. 6152. April 6, 1977. Post Office and Civil Service. Prohibits collective bargaining agreements between the United States Postal Service and labor organizations recognized as exclusive bargaining representatives for their respective postal employee units from containing procedures which would preclude employees from being represented in grievance and adverse actions arising under such agreements by representatives of their own choosing.

H.R. 6153. April 6, 1977. Small Business; Government Operations; Banking, Finance and Urban Affairs. Amends the Small Business Act to expand assistance under such Act to minority small business concerns. Establishes the Office of Minority Small Business Assistance Personnel to work with all Government agencies having procurement powers. Provides statutory standards for contracting and subcontracting by the United States with respect to minority concerns. Creates a Commission on Federal Assistance to Minority Enterprise.

H.R. 6154. April 6, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 6155. April 6, 1977. Ways and Means. Establishes a Commission on Tax Revision to study and investigate the provisions of the Internal Revenue Code and of other laws of the United States relating to taxation and revenue, the administration of such provisions, the effect thereof upon the national economy, upon the fiscal soundness of the Federal Government, and upon taxpayers of all types in order to determine what changes in such provisions and other laws are necessary to improve the Federal tax structure.

H.R. 6156. April 6, 1977. Public Works and Transportation; Agriculture; Education and Labor; Interior and Insular Affairs; Small Business. Amends the Disaster Relief Act of 1974, the Public Works and Economic Development Act of 1965, the Small Business Act, and the Consolidated Farm and Rural Development Act to provide disaster-type assistance to areas suffering from losses caused by a drought emergency.

H.R. 6157. April 6, 1977. Government Operations. Establishes an executive department to be known as the Department of Education, Training, and Careers to be administered by a Secretary of Education, Training, and Careers.

Transfers to such Department the Educational Division of the Department of Health, Education, and Welfare; other specified educational functions of the Secretary of Health, Education, and Welfare; and other specified educational functions of certain Federal departments and instrumentalities.

Redesignates the Department of Health, Education, and Welfare and the Secretary of such Department as the Department of Health and Welfare, and the Secretary of Health and Welfare.

H.R. 6158. April 6, 1977. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to promulgate standards applicable to the production or possession of recombinant DNA.

Establishes civil and criminal penalties for violations of this Act.

Requires the Secretary of Labor to investigate complaints by employees of discrimination due to the employees testifying in, or commencing, a proceeding under this Act.

H.R. 6159. April 6, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize appropriations to extend through fiscal year 1979, for Federal aid to States for public water system supervision programs.

Requires the Administrator of the Environmental Protection Agency to submit a report to Congress analyzing the anticipated cost of compliance with revised national primary drinking water regulations and methods of paying costs of compliance.

H.R. 6160. April 6, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act and the Safe Drinking Water Act to authorize appropriations for fiscal years 1978 and 1979 to enable the Administrator of the Environmental Protection Agency to carry out specified programs related to the improvement of public water supply services.

H.R. 6161. April 6, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to require studies of additional air pollution problems. Requires increased study of economic impact and cost-effective controls. Authorizes variances and extensions from standards applicable to stationary and mobile sources.

Establishes procedures for the prevention of significant deterioration of air quality. Imposes limitations on the use of indirect source controls. Prohibits conflicts of interest in Federal, State, and local regulatory authorities.

Authorizes appropriations to carry out the Act for the next three fiscal years.

H.R. 6162. April 6, 1977. Post Office and Civil Service. Declares that all Federal employees have the right to form, join, and assist a labor organization or to refrain from any such activity without fear of penalty or reprisal.

H.R. 6163. April 6, 1977. Interior and Insular Affairs. Renames the Advisory Council on Historic Preservation as the Council on Historic Preservation. States that such Council is to administer specified Acts which relate to the historic preservation responsibilities of the Secretary of the Interior and to promote nominations to the National Register of Historic Places properties proposed for sale, transfer demonstion or substantial alteration as a result of action by any Federal agency.

H.R. 6164. April 6, 1977. Public Works and Transportation. Deauthorizes the navigation study of the Wabash River, Indiana, by the Secretary of the Army acting through the Chief of the Corps of Engineers.

H.R. 6165. April 6, 1977. Interstate and Foreign Commerce. Establishes an Office of Rural Health within the Department of Health, Education, and Welfare to be headed by a Director who shall be a qualified health care professional, appointed by the Secretary. Authorizes the Director to make grants, contracts, loans, and loan guarantees for projects to examine existing models of rural health care delivery, to determine their applicability and transferability to other rural areas, and to assist in the study, planning, development, experimentation, and demonstration of rural health care delivery models.

H.R. 6166. April 6, 1977. Ways and Means. Amends Title XVIII (Medicare) of the Social Security Act to provide for the creation of an alternative reimbursement formula which will allow specified hospitals to provide long-term without applying propor-

tional allocation of overhead costs to all patients in such facilities.

H.R. 6167. April 6, 1977. Ways and Means. Interstate and Foreign Commerce. Amends the Medicare and Medicaid programs of the Social Security Act to include rural health facilities of 100 beds or fewer within the definition of the term "hospital."

H.R. 6168. April 6, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions) of the Social Security Act to abolish the Professional Standards Review Organizations which were established to review services covered under the Medicare and Medicaid programs.

H.R. 6169. April 6, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize appropriations for fiscal year 1978 for relief assistance to the victims of 1976 earthquakes in Italy.

H.R. 6170. April 6, 1977. Small Business. Amends the Small Business Act to empower the Small Business Administration to make loans to small business concerns adversely affected by extraordinary temporary local economic or weather conditions. Empowers the SBA to allow the deferral of repayment for such loans.

H.R. 6171. April 6, 1977. House Administration. Entitles congressional candidates meeting certain criteria and agreeing to comply with specified spending limits and reporting requirements to campaign payments on a matching basis.

Directs the Secretary of the Treasury to establish a separate Congressional General Election Payment Account in the Presidential Election Campaign Fund to finance such payments.

Raises the general election spending limit for Presidential candidates who are eligible to receive public funds.

Provides an alternative method for determining the amount of funds to which candidates in a general Presidential election are entitled.

Permits Presidential candidates to receive additional contributions from small contributors.

H.R. 6172. April 6, 1977. Veterans' Affairs. Eliminates the provision in the Veterans' Assistance and Employment Act of 1976 which prohibits colleges and universities from receiving Veterans' Administration educational benefits for classes in which more than 85 percent of the enrollment is composed of students having their fees paid either by the Federal Government or the institutions themselves.

H.R. 6173. April 6, 1977. Veterans' Affairs. Designates service as a member of the Women's Air Forces Services Pilots as active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 6174. April 6, 1977. House Administration. Requires each State and local government to permit an individual who is eligible under applicable State and Federal law to register to vote in any Federal election to register on the date of a Federal election at the appropriate polling place.

Directs the Federal Election Commission to make grants to States for approved voter registration outreach programs.

Establishes the positions of Administrator and Assistant Administrator of Voter Registration within the Commission.

Prohibits commercial use of any list compiled by a State or local government of individuals registered to vote in a Federal election.

H.R. 6175. April 6, 1977. House Administration. Requires each State and local government to permit an individual who is eligible under applicable State and Federal law to register to vote in any Federal election to register on the date of a Federal election at the appropriate polling place.

Directs the Federal Election Commission to make grants to States for approved voter registration outreach programs.

Establishes the positions of Administrator and Assistant Administrator of Voter Registration within the Commission.

Prohibits commercial use of any list compiled by a State or local government of individuals registered to vote in a Federal election.

H.R. 6176. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any other individual.

H.R. 6177. April 6, 1977. Interior and Insular Affairs.

Establishes National Historic Trails as a new category of trails within the National Trails System and includes the Iditarod Trail, Alaska, as a National Historic Trail.

H.R. 6178. April 6, 1977. Post Office and Civil Service.

Grants a Federal employment preference to employees of the Bureau of Indian Affairs and the Indian Health Service who have been adversely affected by Federal law giving Indian preferential treatment in the competitive service. Changes the hiring procedures of the Departments of the Interior and Health, Education, and Welfare with respect to these employees. Requires the Civil Service Commission to review certain decisions made by appointment officers.

H.R. 6179. April 6, 1977. International Relations. Authorizes the President to appoint a Special Representative for Arms Control and Disarmament Negotiations. Authorizes the Director of the United States Arms Control and Disarmament Agency to make arrangements for studies of arms control and disarmament by foreign countries as well as the United States. Amends the security requirements with respect to restricted data, under the Atomic Energy Act of 1954, to require approval by the Director for access to such data. Authorizes appropriations for fiscal year 1978 to carry out the Arms Control and Disarmament Act.

H.R. 6180. April 6, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize appropriations for fiscal year 1978 for relief assistance to the victims of 1976 earthquakes in Italy.

H.R. 6181. April 6, 1977. Science and Technology. Directs the Assistant Administrator for Environment and Safety of the Energy Research and Development Administration to study the environmental, health, safety, and economic consequences of the disposal of elements involved in the utilization of nuclear fission energy.

H.R. 6182. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to provide that child insurance benefits under the Social Security Act and Veterans Administration benefits for children of deceased veterans shall not be taken into account in determining whether the beneficiary qualifies as another's dependent for income tax purposes.

H.R. 6183. April 6, 1977. Post Office and Civil Service. Sets forth a time schedule for the required introduction of part-time jobs in each grade in each Federal agency, at a rate of two percent each year for five years.

H.R. 6184. April 6, 1977. Post Office and Civil Service. Sets forth a time schedule for the required introduction of part-time jobs in each grade in each Federal agency, at a rate of two percent each year for five years.

H.R. 6185. April 6, 1977. Post Office and Civil Service; Ways and Means. Declares that specified persons previously appointed as temporary hearing examiners under the Supplemental Security Income program of the Social Security Act shall be considered appointed to career-absolute positions as hearing examiners.

H.R. 6186. April 6, 1977. Judiciary; Rules. Requires all rules proposed by any Federal agency, except emergency rules, to be submitted to Congress before becoming effective. Permits such rules to become effective 60 days after submission to Congress if not disapproved by either House within such period.

Exempts from publication requirements notice of rule making proceedings for agency rules dealing with emergency or routine matters or ones which have an insignificant impact. Sets other maximum and minimum time limits during which public comment is to be accepted regarding proposed agency rules.

H.R. 6187. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to provide a limited income tax credit for the purchase and installation of qualified insulation and heating improvements in the taxpayer's principal residence.

H.R. 6188. April 6, 1977. Armed Services. Requires the Secretary of Defense, before entering into any contract for more than $100,000 for the performance of any commercial or industrial activity of the Department, to conduct a cost-effectiveness review of such activity to determine whether it should be done by contractor by Government personnel. Authorizes the Secretary to waive such review under specified circumstances. Directs the Secretary to conduct random audits of such contracts.

H.R. 6189. April 6, 1977. Public Works and Transportation. Directs the Administrator of the Environmental Protection Agency to establish research and demonstration programs for the control of sludge. Authorizes financial assistance for sludge removal programs.

H.R. 6190. April 6, 1977. Public Works and Transportation. Directs the Administrator of the Environmental Protection Agency to establish research and demonstration programs for the control of sludge. Authorizes financial assistance for sludge removal programs.

H.R. 6191. April 6, 1977. Interstate and Foreign Commerce. Suspends for two years with regard to regulations involving saccharin the operation of proviso in the Federal Food, Drug, and Cosmetic Act which prohibits regulatory approval of a food additive found to cause cancer.

H.R. 6192. April 6, 1977. Interstate and Foreign Commerce. Stipulates that all the eligibility requirements for spouses benefits under the Railroad Retirement Act of 1937 shall be the same.

H.R. 6193. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a nonrefundable income tax credit for a portion of their contributions to neighborhood corporations providing them with municipal services.

Provides for payments to these corporations by the Secretary of the Treasury of a portion of the non-federal taxes paid by corporation members.

H.R. 6194. April 6, 1977. Agriculture. Amends the Agricultural Act of 1949 to require that beginning with the 1977 crop the support price for wheat be computed without adjustments for differences in location.

H.R. 6195. April 6, 1977. Armed Services; International Relations; Judiciary. Establishes within the Executive Office of the President the Office of National Intelligence Management, the National Intelligence Board, and the Inspector General of the Intelligence Community to manage and investigate intelligence activities.

Establishes an Operations Advisory Group, a Counterintelligence Committee, and a Committee on Foreign Intelligence within the National Security Council to carry out specified functions; and the Office of General Counsel within the Central Intelligence Agency to ascertain whether Agency activities are conducted lawfully.

Prohibits the willful killing of any person while engaged in intelligence activities.

Prohibits Federal employees from administering drugs for experimental purposes without the recipient's consent.

H.R. 6196. April 6, 1977. Judiciary. Authorizes individuals to whom the proceeds of a child support order are payable to register such order in any court in any State in which the individual responsible for making such payments resides.

Allows courts in which such an order is registered to entertain contempt proceedings against an individual who fails to comply with the support order in the same manner as if such court originally issued the order.

H.R. 6197. April 6, 1977. Public Works and Transportation. Amends the Disaster Relief Act to extend the authorization of appropriations thereunder through fiscal year 1978.

H.R. 6198. April 6, 1977. Agriculture. Repeals the Federal Crop Insurance Act. Establishes, within the Department of Agriculture, the Farm Production Protection Corporation and empowers such Corporation to protect producers of agricultural products against loss of production cost due to unavoidable natural cause.

H.R. 6199. April 6, 1977. Judiciary. Amends the Clayton Act to prohibit persons with nonfarming business assets in excess of $3,000,000 from engaging in the production of agricultural products. Directs the Secretary of Agriculture to acquire, under certain circumstances, any property or interest of which a person must divest himself by virtue of this prohibition.

H.R. 6200. April 6, 1977. Education and Labor. Amends title IX of the Education Amendments of 1972 to exempt from the sex discrimination prohibition of such title (1) professional fraternities and sororities composed primarily of higher education students; and (2) any choir or similar singing organization sponsored or supervised by an educational institution.

Limits the coverage of the sex discrimination prohibition to certain types of programs and activities.

Exempts employees of an educational institution from coverage of such title.

Permits an educational institution to utilize any test, standard, or other criterion respecting admissions to such institution or classification within such institution if it is shown to be generally accepted as appropriate for a particular use.

H.R. 6201. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to provide for permanent tax rate reductions for individuals and businesses, and for a permanent increase in the corporate surtax exemption.

H.R. 6202. April 6, 1977. Judiciary. Requires specified organizations which employ persons to attempt to influence Members of Congress with respect to issues before Congress to register and file quarterly reports with the Comptroller General identifying the issues with respect to which such lobbying was done and the amount of money expended in such lobbying efforts.

H.R. 6203. April 6, 1977. Interstate and Foreign Commerce. Amends the Natural Gas Act to terminate Federal Power Commission authority to regulate sales of new natural gas and sales of natural gas to certain high priority customers.

Directs the Commission to prohibit the curtailment of natural gas supplies for essential agricultural purposes. Restricts the use of natural gas as boiler fuel.

H.R. 6204. April 6, 1977. Post Office and Civil Service. Prohibits the Bureau of the Census, with respect to agricultural censuses, from acquiring or utilizing census information which could identify any particular taxpayer. Extends such prohibition to the Department of the Treasury and any regulatory agency with respect to information collected by the Bureau pursuant to an agricultural census. Prohibits the imposition of any penalty for refusing or willfully neglecting to answer any question in connection with an agricultural census.

H.R. 6205. April 6, 1977. Merchant Marine and Fisheries. Amends the Atlantic Tunas Convention Act to: (1) authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out the purposes of the act; and (2) redefine "fisheries zone" to fix the outer boundary of such zone at a point which is 200 nautical miles from the baseline from which the territorial sea is measured.

H.R. 6206. April 6, 1977. Merchant Marine and Fisheries. Amends the Commercial Fisheries Research and Development Act of 1964 to authorize appropriations to the Secretary of Commerce for fiscal years 1978, 1979, and 1980 to carry out State research and development projects under the act.

H.R. 6207. April 6, 1977. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to revise the requirements necessary for State programs to be deemed adequate and active programs for the consideration of endangered species and to qualify for Federal assistance under the act.

Authorizes the appropriation of funds for the period covered by fiscal years 1978 through 1981 for State cooperative programs under the act.

H.R. 6208. April 6, 1977. Merchant Marine and Fisheries. Amends the National Environmental Policy Act of 1969 to require Federal agencies to set forth specified environmental impact findings which shall be subject to review in appropriate Federal circuit court of appeals in review in appropriate Federal circuit court of appeals in accordance with prescribed criteria.

H.R. 6209. April 6, 1977. House Administration. Entitles to matching payments for campaign use, congressional candidates who agree to certain reporting and recordkeeping procedures and certify that (1) they and their authorized committees will not incur campaign expenses in excess of certain limitations and (2) they have received contributions in excess of a certain sum.

Amends the Federal Election Campaign Act of 1971 to specify spending limits for candidates receiving matching payments.

Directs the Secretary of the Treasury to establish a congressional election payment account in the Presidential election campaign fund.

Specifies the administrative authority of the Federal Election Commission to carry out this act.

H.R. 6210. April 6, 1977. Interstate and Foreign Commerce. Requires franchisors to give franchisee 90-days notice, with limited exceptions, of intent to cancel, or failure to renew, a franchise agreement. Allows such cancellation or failure to renew only for certain specified reasons. Requires a franchisor to compensate a franchisee for the value of the franchisee's business when the franchisor, for a legitimate business reason, fails to renew the franchise. Sets forth the judicial remedies available to a franchisee for a violation of this Act by the franchisor.

H.R. 6211. April 6, 1977. Ways and Means. Includes the services of policemen and firemen performed before April 15, 1977, in positions covered by the Illinois Muncipal Retirement Fund within the agreement between the Secretary of Health, Education, and Welfare and the State of Illinois extending the Social Security insurance system to services performed by employees of such State.

H.R. 6212. April 6, 1977. Merchant Marine and Fisheries. Authorizes appropriations for the Coast Guard for fiscal years 1978. Sets forth the authorized end strength for active duty personnel and prescribes the average military student loads for the Coast Guard for such fiscal year.

H R. 6213. April 6, 1977. Merchant Marine and Fisheries; Public Works and Transportation. Establishes a fund for the purpose of paying for otherwise uncompensated losses resulting from oil pollution.

Imposes, within certain monetary limits, joint, several, and strict liability on the owners and operators of each pollution source. Requires petroleum facilities and certain vessels to maintain evidence of financial responsibility in an amount equal to applicable liability limits.

Sets forth procedures for identifying and publicizing pollution sources.

H.R. 6214. April 6, 1977. House Administration. Establishes in the Library of Congress a Center for the Book to be under the direction of the Librarian of Congress.

Requires the Librarian to stimulate public interest and research in the role of the book in the diffusion of knowledge through a visiting scholar program, lectures, exhibits and related activities.

H.R. 6215. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to provide a deduction for State and local taxes imposed on the furnishing or sale of electrical energy, steam, sewage, disposal services, gas or telephone services.

H.R. 6216. April 6, 1977. Post Office and Civil Service. Establishes the rate of postage for any controlled circulation publication relating to agriculture or farming at an amount which bears the same ratio to the general postage rate for controlled circulation publications as the rate of postage for any publication relating to the science of agriculture bears to the rate of postage for second-class mail.

H.R. 6217. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to exempt nonprofit volunteer firefighting or rescue organizations from the excise tax on sales of special fuels, automotive parts, petroleum products, and communication services.

H.R. 6218. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to exempt nonprofit volunteer firefighting or rescue organizations from the excise tax on sales of special fuels, automotive parts, petroleum products, and communciation services.

H.R. 6219. April 6, 1977. Education and Labor; Post Office and Civil Service. Establishes with the Department of Labor a Mid-career Development Service, through which the Secretary of Labor is authorized to make loans and grants for training designed to upgrade the work skills of middle-aged persons. Authorizes specified studies and programs designed to aid in retraining older workers in needed job skills, alleviating the effects of local mass lay-offs and promoting work opportunities in the community and in the executive branch of the Federal Government.

H.R. 6220. April 6, 1977. Agriculture. Exempts from the inspection requirements of the Federal Meat Inspection Act, the custom slaughtering of livestock by any person not engaged in selling or buying meat or meat products when such livestock is delivered by the owner thereof, there is no change of ownership in such livestock, the meat and meat food products are to be used exclusively by the owner, and the premises and slaughtering meet the sanitation requirements of the State.

H.R. 6221. April 6, 1977. Interstate and Foreign Commerce; Ways and Means. Amends the Public Health Service Act to require the licensing of all clinical laboratories, as defined in this act. Directs the Secretary of Health, Education, and Welfare to issue such licenses. Directs the Secretary to establish an Office of Clinical Laboratories.

Increases the maximum penalty for defrauding the Medicaid and Medicare programs.

H.R. 6222. April 6, 1977. Interstate and Foreign Commerce. Amends the International Travel Act of 1961 to establish within the Department of Transportation a Travel Agent Registration Board. Authorizes the Board to promulgate rules establishing minimum qualification criteria for travel agents.

Prohibits any individual from engaging in the business of conducting a travel agency after January 1, 1978, unless such individual has received a travel agent registration certificate from the Board.

H.R. 6223. April 6, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing additional penalties for using or unlawfully carrying a firearm during the commission of a Federal felony to (1) increase the sentences authorized and (2) prohibit a suspended or probationary sentence with respect to a first, as well as with respect to a subsequent, conviction.

Classifies a person unlawfully carrying or using a firearm in the commission of a Federal felony as a dangerous special offender.

H.R. 6224. April 6, 1977. Merchant Marine and Fisheries. Amends the Shipping Act, 1916, to include within the definition of "common carrier by water in foreign commerce" under such Act common carriers engaging in the ocean transportation of property of United States origin or destination via ports in nations contiguous to the United States who advertise or arrange the transportation of such property within the United States or who issue or deliver within the United States, ocean or through intermodal bills of lading or other contracts or freightment for such transportation.

H.R. 6225. April 6, 1977. Post Office and Civil Service. Guarantees to those employees in the executive branch of the Federal Government, and to employees of the government of the District of Columbia, who have completed the probationary or trial period, and whose positions are not of a confidential or policy determining character, a prompt evidentiary hearing before an impartial individual before removal or suspension without pay.

H.R. 6226. April 6, 1977. Post Office and Civil Service. Entitles the former spouse of a Federal employee or Member of Congress to a portion of that employee's or Member's annuity, and to a portion of the annuity of any surviving spouse of such employee or Member.

H.R. 6227. April 6, 1977. Agriculture. Establishes an emergency program for making direct loans to bona fide farmers, ranchers, small business corporations and partnerships which either: (1) need financial assistance to maintain their livestock operations throughout the period of an emergency; or (2) have sold or substantially reduced such operations as a result of emergency conditions, and will be able to obtain (with the Federal assistance) private financing in reestablishing such operations.

H.R. 6228. April 6, 1977. Public Works and Transportation. Amends the Water Resources Development Act of 1976 to delete the requirement that construction of the Potomac River water diversion structure in Maryland and Virginia not conflict with the report of the Secretary of the Army, acting through the Chief of Engineers, on such project.

H.R. 6229. April 6, 1977. Interstate and Foreign Commerce. Amends the Federal Energy Administration Act, the Energy Policy and Conservation Act, and the Energy Conservation and Production Act, to authorize appropriations to the Federal Energy Administration in fiscal years 1977 and 1978 for specified programs and activities. Authorizes the acquisition of additional petroleum products for the Strategic Petroleum Reserve.

H.R. 6230. April 6, 1977. Interior and Insular Affairs. Establishes the Lowell National Cultural Park in Lowell, Massachusetts.

H.R. 6231. April 6, 1977. Interior and Insular Affairs. Establishes the Lowell National Cultural Park in Lowell, Massachusetts.

H.R. 6232. April 6, 1977. Interior and Insular Affairs. Establishes the Oregon Trail National Historic Site in Vale, Oregon.

H.R. 6233. April 6, 1977. Education and Labor. Permits the Commissioner of Education to provide financial assistance to local educational agencies determined to be within an area in which an emergency has occurred prior to July 1, 1978, or which has had its public elementary or secondary school facilities destroyed or seriously damaged prior to July 1, 1978.

H.R. 6234. April 6, 1977. Armed Services. Amends the National Security Act of 1947 to impose criminal penalties upon any Government contractor, Government employee, or any member of the armed forces of the United States who, having duly authorized possesssion of properly classified intelligence information not already in the public domain, discloses it to anyone not authorized to receive it. Provides that persons not so authorized may not be prosecuted as accomplices or for conspiracy to violate this Act and no one may be prosecuted if the appropriate agency lacks a procedure through which such authorized person could obtain review of the continuing necessity of the classification.

H.R. 6235. April 6, 1977. Banking, Finance and Urban Affairs. Amends the Housing Act of 1949 to extend and increase specified rural housing assistance programs.

Directs the Secretary of Agriculture to withhold assistance for specified programs from any otherwise eligible borrower who fails to incorporate energy conservation features into such sturcture.

Permits the payment of reasonable attorney's fees for the representation of persons and organizations seeking to enforce rights under Title V of the Housing Act of 1949.

H.R. 6236. April 6, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to raise the amounts and the aggregate ceiling of water and waste facility grants. Requires that guaranteed rural housing loans be processed only by the State or other designated regional offices of the Farmers Home Administration. Establishes an Assistant Secretary of Agriculture for Equal Opportunity.

H.R. 6237. April 6, 1977. Armed Services. Authorizes the Secretary of Defense to budget funds for certain specified purposes to assist the Civil Air Patrol. Authorizes the Secretary of the Air Force to give, sell, or lend to the Civil Air Patrol excess property acquired by the Air Force under the Federal Property and Administrative Services Act of 1949.

H.R. 6238. April 6, 1977. Ethics. Prohibits any Member of the House of Representatives from soliciting or accepting gifts of money for personal use.

H.R. 6239. April 6, 1977. Ethics. Prohibits any Member of the House of Representatives from soliciting or accepting gifts of money for personal use.

H.R. 6240. April 6, 1977. Ethics. Prohibits any Member of the House of Representatives from soliciting or accepting gifts of money for personal use.

H.R. 6241. April 6, 1977. Interstate and Foreign Commerce. Amends the Federal Energy Administration Act, the Energy Policy and Conservation Act, and the Energy Conservation and Production Act to authorize appropriations to the Federal Energy Administration in fiscal years 1977 and 1978 for specified programs and activities. Authorizes the acquisition of additional petroleum products for the Strategic Petroleum Reserve.

H.R. 6242. April 6, 1977. Post Office and Civil Service. Prohibits charging against the allowance, appropriation, or other fund from which a congressional employee is paid the amount such employee's salary is decreased by reason of the fact that such employee is receiving a Federal pension.

H.R. 6243. April 6, 1977. Government Operations. Requires all rules proposed by any Federal agency to be submitted to Congress together with an estimate of the costs to be incurred by the Federal Government, State and local governments, nongovernmental entities, and individuals affected by such proposed rule. States that such rule shall become effective no sooner than 60 days after submission to Congress unless, within such period, either House disapproved such rule.

H.R. 6244. April 6, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase the increment by which an individual's old-age benefits shall be increased because of delayed retirement beyond age 65.

H.R. 6245. April 6, 1977. Ways and Means; Banking, Finance and Urban Affairs. Amends the Internal Revenue Code to allow an individual a tax credit of 25 percent of the qualified solar energy equipment expenditures paid or incurred by the taxpayer during the taxable year to the extent that such expenditures do not exceed $8,000.

Permits the Administrator of Energy Research and Development to make a loan to a qualified applicant for the installation of solar energy equipment in new residential buildings.

H.R. 6246. April 6, 1977. Ways and Means. Amends the Internal Revenue Code to provide that tax liens shall not be valid unless the fact of filing is entered and recorded in a public index at the State or local office where the notice is filed.

H.R. 6247. April 6, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to deem a food additive safe if the Secretary of Health, Education, and Welfare (1) makes a finding that the public benefit from permitting the use of such additive would exceed the public risk resulting from such use; (2) give notice in the Federal Register of such a finding and opportunity for public comment; and (3) issues a final order not earlier than 120 days from such publication.

Specifies factors that must be taken into consideration when evaluating a food additive.

Deems saccharin a safe food additive unless the Secretary declares it unsafe under the provisions of this Act.

H.R. 6248. April 6, 1977. Interstate and Foreign Commerce; Public Works and Transportation. Amends the Interstate Commerce Act to establish procedures for regulation of coal pipeline carriers under such Act. Prohibits coal pipeline carriers from transporting coal in interstate commerce where such carrier has an interest in such coal. Requires prior approval of proposed mergers, transfers, and acquisitions by the Interstate Commerce Commission.

H.R. 6249. April 6, 1977. Judiciary; Science and Technology. Requires the Federal Coordinating Council for Science, Engineering, and Technology to make recommendations to the Director of the Office of Science and Technology Policy with respect to the uniform planning and administration of Federal programs pertaining to inventions, trademarks, copyrights, and rights in technical data.

Sets forth criteria for the allocation of property rights in inventions resulting from federally sponsored research, and inventions by Federal employees.

Specifies the authority of Federal agencies with respect to obtaining patents on and promoting and granting licenses for federally owned inventions.

H.R. 6250. April 6, 1977. Merchant Marine and Fisheries; Interior and Insular Affairs. Authorizes the Secretary of the Interior and the Secretary of Agriculture to enter into contracts for the sale of certain free-roaming wild horses and burros on public lands. Stipulates that such contracts shall contain covenants requiring such animals to receive humane care and treatment.

H.R. 6251. April 6, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 6252. April 6, 1977. Merchant Marine and Fisheries. Permits a certain corporation to transport passengers and cargo between Jordans Point, Virginia, and Harrison's Point, Virginia, on a certain vessel, notwithstanding its British registry.

H.R. 6253. April 6, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain corporation in full settlement of such corporation's claims against the United States.

H.R. 6254. April 6, 1977. International Relations. Permits a certain retired member of the Army to accept a position with the Commonwealth of Australia, or any of its states.

H.R. 6255. April 6, 1977. Merchant Marine and Fisheries. Permits a certain corporation to transport passengers and cargo between Jordans Point, Virginia, and Harrison's Point, Virginia, on a certain vessel, notwithstanding its British registry.

H.R. 6256. April 18, 1977. Education and Labor. Deletes from the Fair Labor Standards Act of 1938 provisions identifying those State and local government employees which are covered by such Act.

H.R. 6257. April 18, 1977. Government Operations. Creates a Federal Program Information Center to establish and maintain a computerized program information system which is capable of identifying all existing Federal domestic assistance programs.

Requires the Director of the Center to publish an annual catalog containing all information on Federal domestic assistance programs that is in the data base of the system. States that information in such data base and the catalog prepared pursuant to this Act shall be made available to the public at a reasonable price.

H.R. 6258. April 18, 1977. Government Operations. Amends the Privacy Act of 1974 to specify that the Privacy Protection Study Commission shall cease to exist on September 30, 1977.

H.R. 6259. April 18, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for rural health clinic services pursuant to the program of Supplementary Medical Insurance Benefits for the Aged and Disabled of such Title.

Authorizes the Secretary of Health, Education, and Welfare to carry out demonstration projects for health clinics in urban areas where the supply of medical services is not sufficient to meet the needs of individuals residing therein.

H.R. 6260. April 18, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to include outpatient services by a community mental health center among the benefits provided under such title.

H.R. 6261. April 18, 1977. Armed Services; Merchant Marine and Fisheries. Terminates the authority of Members of Congress and Delegates to Congress from the various territories to make appointments to the service academies. Amends the Merchant Marine Act, 1936, to accomplish such purpose with respect to the Merchant Marine Academy.

H.R. 6262. April 18, 1977. Armed Services. Excludes industrially funded personnel from the computation of the end strength for civilian personnel within the Department of Defense for any fiscal year.

H.R. 6263. April 18, 1977. Public Works and Transportation. Amends the Disaster Relief Act of 1974 to authorize the President to make contributions to States or local governments to help repair or replace a public facility damaged or destroyed in an emergency. Limits the amount of any such contributions to 75 percent of the cost of repair or replacement of such facility.

H.R. 6264. April 18, 1977. Rules; Government Operations. Sets forth a five-year schedule for initial review and reauthorization of all Federal programs according to functional and subfunctional categories.

Establishes a Citizens' Commission on the Organization and Operation of Government to study and recommend ways to improve the efficiency and effectiveness of the Federal Government.

Requires a review and revision of Federal tax laws every five years.

H.R. 6265. April 18, 1977. Interstate and Foreign Commerce. Makes the manufacture, distribution and sale of saccharin for human consumption legal in the United States and its territories.

Requires a label with a specified message on all containers of saccharin sold after the enactment of this Act.

H.R. 6266. April 18, 1977. Agriculture. Permits marketing orders under the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, to include provisions concerning marketing promotion, including paid advertisement, of raisins. Authorizes distribution among producers of the pro rata costs of such promotion.

H.R. 6267. April 18, 1977. Ways and Means. Amends the Internal Revenue Code to allow limited, nonrefundable income tax credits for individuals who: (1) install qualified insulation in their residences; (2) install qualified solar heating and cooling equipment in dwelling units used by them, or leased to others as residences; (3) replace the heating system in any dwelling with a reversible, compressible refrigerant system (i.e., a heat pump system); or (4) purchase personal or family electric highway vehicles between 1976 and 1982.

H.R. 6268. April 18, 1977. Agriculture. Directs the Secretary of Agriculture to guarantee emergency loans to farmers and ranchers, and to private domestic corporations and partnerships controlled by farmers and ranchers, engaged directly and primarily in farming or ranching in the United States.

H.R. 6269. April 18, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to increase the limitation requirements for real estate loans as to the unpaid indebtedness against the farm or other security at the time the loan is made and as to the loans to any one borrower. Increases the ceiling on the total principal indebtedness which may be outstanding at any one time for operating loans.

H.R. 6270. April 18, 1977. Interior and Insular Affairs. Suspends for one year the enforcement of specified restrictions on irrigation of private lands under the Department of the Interior reclamation projects.

H.R. 6271. April 18, 1977. Judiciary. Prohibits disclosure of information identifying or tending to identify a person as a present or former participant in United States foreign intelligence operations if (1) the information has been designated by statute or Executive order as requiring some degree of protection of (2) the person disclosing the information knows or has reason to believe that such disclosure may prejudice the safety or well-being of the person identified.

H.R. 6272. April 18, 1977. Agriculture. Authorizes the Secretary of Agriculture to pay up to three-fourths of the actual cost of transporting a maximum 90-day, or when conditions warrant, a continuing supply of water from areas in which water is in plentiful supply to rural areas and livestock producers in major disaster or emergency areas, or in areas where the Secretary determines such action necessary to protect the public health and welfare.

H.R. 6273. April 18, 1977. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to require, beginning February 1, 1982, the Chairman and Vice Chairman of the Board of Governors of the Federal Reserve System when appointed by the President, whether for a new term or to fill a vacancy in an unexpired term, to be confirmed by the Senate.

H.R. 6274. April 18, 1977. Veterans' Affairs. Increases the rates of disability compensation for disabled veterans, and the rates of dependency and indemnity compensation for their survivors.

H.R. 6275. April 18, 1977. Ways and Means. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that an individual who would be fully qualified at age 62 for benefits under such Title may qualify for disability benefits under such program if such individual has 40 quarters of coverage, regardless of when such quarters were earned.

H.R. 6276. April 18, 1977. Armed Services. Eliminates specified restrictions regarding the transportation of house trailers or mobile dwellings by members of the uniformed services.

H.R. 6277. April 18, 1977. Armed Services. Authorizes reimbursement for expenses incurred by members of the uniformed services on sea duty in obtaining quarters when such an individual is deprived of quarters aboard ship.

H.R. 6278. April 18, 1977. Ways and Means. Amends the Tariff Schedules of the United States to permit the duty-free importation of crude petroleum and crude shale oil from Canada, when an equivalent amount of the same kind and quality of domestic or duty-paid foreign crude petroleum and crude shale oil has been exported to Canada within 30 days prior to entry.

H.R. 6279. April 18, 1977. Veterans' Affairs. Exempts courses which lead to a standard college degree from the "85–15" rule whereby the Administrator of Veterans' Affairs is required to disapprove enrollment of any eligible veteran, not already enrolled, in any course offered by a proprietary profit or proprietary nonprofit educational institution where more than 85 percent of the students enrolled have their fees paid by either the Veterans' Administration or the institution itself.

Revises the application of rules governing the two-year period a course must be in operation before enrollment of eligible veterans or persons can be approved.

H.R. 6280. April 18, 1977. Banking, Finance and Urban Affairs. Authorizes the Comptroller General to audit the programs, activities, and financial operations of the Federal National Mortgage Association.

Amends the Housing and Urban Development Act of 1968 to authorize the Secretary of Housing and Urban Development to extend the counseling and technical assistance to owners of single-family dwellings.

Amends the National Housing Act to make changes in Federal coinsurance and insurance programs.

H.R. 6281. April 18, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to develop and implement youth camp safety standards, including standards for day camps, resident camps, and travel camps.

Establishes the Advisory Council on Youth Camp Safety within the Department of Health, Education, and Welfare.

H.R. 6282. April 18, 1977. Interior and Insular Affairs. Regulates surface coal mining operations through a permit program administered by the Secretary of the Interior. Requires applicants to meet minimum environmental protection performance standards. Allows States to establish surface mining control programs at least as stringent as minimum Federal standards.

Includes provisions to fund mineral resources research programs and to provide for reclamation of abandoned mine sites.

H.R. 6283. April 18, 1977. Ways and Means. Amends the Trade Act of 1974 to authorize the President to waive prohibitions against

the designation of a nation (1) which is a member of OPEC, (2) which is a party to an international arrangement to raise prices to unreasonable levels, or (3) which participates in an international arrangement to withhold vital resources, as a beneficiary developing country for purposes of certain tariff preferences, if the President determines such waiver to be in the national economic interest. Prohibits such waiver if the country is participating, or has participated in such withholding.

H.R. 6284. April 18, 1977. Post Office and Civil Service. Prohibits the first salary adjustment which would be made under the Federal Salary Act of 1967 after the date of enactment of this Act from taking effect for the Vice President, Members of Congress, judges, commissioners, and referees, and positions in the Executive Schedule.

H R. 6285. April 18, 1977. Judiciary. Specifies the tax treatment of a certain charitable trust under the Internal Revenue Code.

H.R. 6286. April 19, 1977. Interior and Insular Affairs. Establishes in the Department of Interior the Office of Nationwide Ecological Reserves which shall develop and administer a comprehensive data inventory, storage, and retrieval system capable of identifying those examples of elements of natural diversity deemed relevant for potential inclusion on the Nationwide Registry of Ecological Reserves created by this Act.

Establishes the Nationwide Ecological Reserves Board and the Natural Diversity Preservation Fund.

H.R. 6287. April 19, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for one-eighth of the expenses paid or incurred for the exploration and development of new oil and gas reserves in the United States.

H.R. 6288. April 19, 1977. Banking, Finance and Urban Affairs. Amends the Housing Act of 1937 and the National Housing Act to provide that future social security benefit increases shall be disregarded in determining eligibility for admission to or occupancy of low-rent public housing or the rent which an individual or family must pay for such housing and eligibility for other Federal housing subsidies.

H.R. 6289. April 19, 1977. Judiciary. Prohibits any Member of Congress from using official congressional stationary for mass mailings for any purpose other than official congressional business.

H.R. 6290. April 19, 1977. Agriculture. Amends the Federal Insecticide, Fungicide, and Rodenticide Act of 1972 to transfer all responsibility for the environmental pesticide control program from the Administrator of the Environmental Protection Agency to the Secretary of Agriculture.

H.R. 6291. April 19, 1977. Ethics. Prohibits any Member of the House of Representatives from soliciting or accepting gifts of money for personal use.

H.R. 6292. April 19, 1977. Science and Technology. Establishes a five-year program in the Energy Research and Development Administration designed to develop advanced automobile propulsion systems. Directs the Secretary of Transportation and the Administrator of the Environmental Protection Agency to evaluate test vehicles for compliance with applicable environmental, energy efficiency, and motor vehicle safety requirements.

H.R. 6293. April 19, 1977. Ways and Means. Amends the Internal Revenue Code to prohibit the taking of a business deduction for expenses paid or incurred to advertise alcoholic beverages.

H.R. 6294. April 19, 1977. Post Office and Civil Service. Revises provisions prohibiting Federal, Postal Service, and District of Columbia employees from engaging in political activities.

Establishes the Board on Political Activities of Federal Employees to decide cases regarding violations of this Act. Sets forth procedures to be followed in such cases.

Directs the Civil Service Commission to conduct a continuing program to inform all employees of their rights of political participation under the Act and to educate employees with respect to those activities which are prohibited.

Creates a specific criminal offense for extorting political contributions from Federal personnel.

H.R. 6295. April 19, 1977. House Administration. Directs the Attorney General in consultation with the Secretary for Health, Education, and Welfare to prescribe standards for polling and registration facilities which will assure ready access by the handicapped and the aged.

Permits designation of facilities for Federal elections which do not comply with such standards only where conforming facilities are unavailable.

Requires States to provide alternative registration and voting methods for aged and handicapped persons assigned to inaccessible registration facilities or polling places.

Requires that a paper ballot be made available or voting assistant be permitted to a person unable to operate a voting machine.

H.R. 6296. April 19, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize and direct the Secretary of Health, Education, and Welfare to make grants to designated State agencies to meet part of the costs involved in planning, establishing, maintaining, coordinating, and evaluating programs for comprehensive services for school-age girls, their infants and children.

Specifies the requirements for State plans to qualify for Federal aid under this Act.

H.R. 6297. April 19, 1977. Veterans' Affairs. Provides that the fees payable to agents or attorneys who represent veterans in allowed claims under the veterans laws shall be paid by the Administrator of Veterans' Affairs rather than deducted from amounts awarded under the claims.

H.R. 6298. April 19, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that attorneys' fees allowed in administrative or judicial proceedings under that program or under title XVIII (Medicare) of such Act, in cases where claimants are successful, shall be paid by the Secretary of Health, Education, and Welfare rather than deducted from the amounts awarded claimants.

H.R. 6299. April 19, 1977. Ways and Means. Interstate and Foreign Commerce. Amends the programs of Medicare, Medicaid, and Grants to States for Social Services of the Social Security Act to establish a Special Commission on Quality Assurance and Utilization Control in Home Health Care.

Requires the Commission to conduct a review of the provision of home health care and services in the United States, and to develop a plan for quality assurances and utilization control in such care.

HOUSE OF REPRESENTATIVES—*Friday, October 21, 1977*

The House met at 10 o'clock a.m.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WRIGHT) laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
October 21, 1977.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

He that would love life and see good days, let him turn away from evil and do right, let him seek peace and pursue it.—I Peter 3: 10, 11.

Eternal God, who has made and preserved us as a nation and has bound us together in the struggle for freedom and justice, keep us one in spirit and one in purpose as we endeavor to provide order, to promote good will, and to produce an enduring peace in our world.

We are grateful for those who across the years have given their lives for our country and for those in this day who are making themselves ready to defend and to declare our sacred human rights. For the men and women in our Armed Forces, for veterans of the past and the present we thank Thee and pray that we may so live our lives and so use our influence that their devotion to our beloved country may never be in vain.

God bless our veterans on Veterans Day and every day of the year. Amen and amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Thompson, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4297. An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978.

LETTER URGING PRESIDENT CARTER TO VETO ERDA AUTHORIZATION AND SUPPLEMENTAL APPROPRIATIONS BILLS

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, today I and the gentleman from California (Mr. GEORGE E. BROWN, JR.) are sending a letter cosigned by 46 other Members of the House of Representatives to President Carter urging him to veto the ERDA authorization bill and the supplemental appropriation bill, which contain authorization and funding for the Clinch

River breeder reactor. We urge him to veto these two bills, with the understanding that only the funds for the Clinch River project are in contention.

We believe that both bills should be vetoed and sent back to the Congress so that a satisfactory agreement on the Clinch River project may be reached and speedy repassage of both bills then would occur.

JOHN FRED WILLIAMS

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, it is with sadness that I speak today in the House of Representatives regarding a longtime friend of mine, the Honorable John Fred Williams.

Mr. Williams, age 73, resided in my former hometown of Ashland, Ky. He died Monday, October 3, 1977, at King's Daughters' Hospital in Ashland.

This distinguished Kentuckian was a former State superintendent of public instruction in Kentucky from 1944 to 1948. Mr. Williams was a retired vice president of Ashland Oil, Inc. and a former Republican candidate for Governor of Kentucky.

Mr. Williams was born September 7, 1904, in Johnson County, Ky., a son of the late James Marion and Jennie Vaughn Williams. His wife, Mrs. Carrie Bennett Cecil Williams, died in May of this year.

Since retiring from Ashland Oil in 1969, Mr. Williams acted as a consultant to the company. He was a member of the First United Methodist Church of Ashland, the Ashland Rotary Club, and the Flat Gap Masonic Lodge in Johnson County.

Before joining Ashland Oil, Mr. Williams was superintendent of the Johnson County school system. He was a past president of the Eastern Kentucky Education Association and of the Kentucky Historical Society.

Surviving are a son, Commonwealth's Attorney John Marion Williams of Ashland; a daughter, Mrs. Jane VanAntwerp of Ashland; a brother, Dr. J. Sankey Williams of Nicholasville, Ky.; two sisters, Mrs. Hazel Davis of Paintsville, Ky., and Mrs. Cova Bunyard of Lincoln Park, Mich., and five grandchildren.

The family and friends of John Fred Williams can be justly proud of this great American whose love for his God and country was evidenced by his life's activities.

NATIONAL DEFENSE AND PARTISAN POLITICS

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, The Wall Street Journal reports today that a Roper poll shows that the majority of Americans favor building the B–1 bomber.

Yesterday, October 20, 1977, the House voted against building that bomber by a narrow margin of 204 to 194. This was a result of what the Washington Post today calls extraordinary appeals from Democratic leaders, including the Speaker himself. In the strongest appeal to party unity he has made on the floor, the Speaker said "I'm appealing to Democrats to stay with the decision of their President."

We have learned from press reports that the Carter administration has proposed a limitation on the range of cruise missiles in the SALT arms limitation talks. We know that a manned bomber is absolutely necessary for a total U.S. defense effort. We know that the President has, to quote the Post, "raised more questions than he has answered" about his view on the manned bomber.

Yet, when we were about to vote on this crucial issue, an appeal to partisanship—an appeal to strictly political obedience was made on this floor. Democrats were asked to support "their President." If he were only "their" President it might be understandable. But he happens to be President of the United States. And on the question of the B–1 he happens to be wrong.

I believe that what happened here yesterday will be viewed by history as disaster for our national defense—and all the more so, because when this grave decision was to be made, an appeal to party loyalty overrode the merits of the issue.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Member (at the request of Mr. GARY A. MYERS) and to revise and extend his remarks and include extraneous matter:

Mr. KEMP, for 15 minutes, today.

(The following Members (at the request of Mr. HUBBARD) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. FORD of Tennessee, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GARY A. MYERS) and to include extraneous matter:)

Mr. QUIE.

Mr. KEMP.

Mr. DERWINSKI in two instances.

Mr. MICHEL in two instances.

Mr. ABDNOR.

(The following Members (at the request of Mr. HUBBARD), and to include extraneous matter:)

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. ROGERS.

Mr. HAMILTON.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3744. An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, and for other purposes; and

H.R. 7797. An act making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes.

ADJOURNMENT

Mr. HUBBARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 9 minutes a.m.), under its previous order, the House adjourned until Tuesday, October 25, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2584. A letter from the Assistant Secretary of Commerce for Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2585. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of the receipt of a project proposal from the Rainbow Municipal Water District, San Diego County, Calif., pursuant to section 10 of the Small Reclamation Projects Act of 1956; to the Committee on Interior and Insular Affairs.

2586. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by George H. Aldrich, Ambassador-designate and Deputy Special Representative of the President for the Law of the Sea Conference, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

2587. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2588. A letter from the Attorney General, transmitting a draft of proposed legislation to amend title 28 of the United States Code to encourage prompt, informal and inexpensive resolution of civil cases by use of arbitration in U.S. district courts, and for other purposes; to the Committee on the Judiciary.

2589. A communication from the President of the United States, transmitting a draft of proposed legislation to authorize a special security assistance program for the modernization of the armed forces of the Republic of Korea, and for other purposes (H. Doc. No. 95–247); to the Committee on International Relations and ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 8346. A bill to amend the Urban Mass Transportation Act of 1964 to revise the program of Federal operating assistance provided under section 17 of such act (Rept. No. 95–732). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 2203. A bill to amend the Great Lakes Fishery Act of 1956 (Rept. No. 95–733). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 8803. A bill to amend the National Trails System Act, and for other purposes; with amendment (Rept. No. 95–734). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. S. 2052. An act to extend the supervision of the U.S. Capitol Police to certain facilities leased by the Office of Technology Assessment (Rept. No. 95–735). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 8993. A bill to designate the Secret Service Training Center as the "James J. Rowley Secret Service Training Center" (Rept. No. 95–736). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 8992. A bill to amend title 3 of the United States Code to change the name of the Executive Protective Service (Rept. No. 95–737). Referred to the Committee of the Whole House on ehe State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 8777. A bill to amend the Appalachian Regional Development Act of 1965 to permit an extension of the period of assistance for child development programs while a study is conducted on methods of phasing out Federal assistance to these programs; with amendment (Rept. No. 95–738, Pt. I). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII,

Mr. ROGERS (for himself, Mr. PREYER, Mr. SCHEUER, Mr. WAXMAN, Mr. FLORIO, Mr. MAGUIRE, Mr. MARKEY, Mr. OTTINGER, Mr. SKUBITZ, Mr. WALGREN, and Mr. CARTER) introduced a bill (H.R. 9717) to establish a transitional system of hospital cost containment by providing for incentives and restraints to contain the rate of increase in hospital revenues, to establish a system of capital allocation designed to encourage communities to avoid the creation of unneeded and duplicative hospital facilities and services, to provide for the publication and disclosure of information useful to the public in making decisions about health care, to provide for the development of permanent reforms in hospital reimbursement designed to provide incentives for the efficient and effective use of hospital resources, and for other purposes; which was referred jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII,

283. The SPEAKER presented a memorial of the Legislature of the Territory of Guam, relative to air service between Guam and Hawaii; to the Committee on Public Works and Transportation.

SENATE—*Friday, October 21, 1977*

The Senate met at 11 a.m. and was called to order by Hon. SPARK M. MATSUNAGA, a Senator from the State of Hawaii.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 21, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SPARK M. MATSUNAGA, a Senator from the State of Hawaii, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MATSUNAGA thereupon assumed the chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate now stands in recess until 8:30 a.m., Tuesday next.

RECESS TO 8:30 A.M., TUESDAY, OCTOBER 25, 1977

Thereupon (at 11 o'clock and 30 seconds a.m.), the Senate recessed, under the order of Thursday, October 20, 1977, until Tuesday, October 25, 1977, at 8:30 a.m.

EXTENSIONS OF REMARKS

COLUMBUS DAY CELEBRATED AT WEIRTON, W. VA.—SENATOR DENNIS DeCONCINI DELIVERS EXCELLENT ADDRESS

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, October 19, 1977

Mr. RANDOLPH. Mr. President, on last Saturday evening several hundred citizens, perhaps 90 percent of them of Italian heritage, met at the annual dinner-meeting of the Weirtonian Lodge of the Italian Sons and Daughters of America.

The principal address was given by our colleague, Senator DENNIS DeCONCINI, of Arizona. He was accompanied by his gracious wife, Susan.

I ask unanimous consent to print at this point in the RECORD the speech of Senator DeCONCINI:

REMARKS BY SENATOR DeCONCINI

I am deeply honored to address you this evening on the occasion of Columbus Day.

This national holiday is meant to pay homage not just to Christopher Columbus, but to the millions of Italian-Americans who have settled on these shores and whose influence is evident in every aspect of American culture and every phase of American history.

As an Italian-American, I am especially proud to be part of the Columbus Day celebration. We often forget that America's history and heritage—from its very earliest beginnings—was deeply influenced by Latin culture. Most of the history books and even the phrases we use to describe ourselves—phrases like, "Protestant ethic"—betray a bias towards the predominance of Anglo and Northern European culture. But without in any way taking away from that dimension of the American experience, I believe that balance and justice demand that we occasionally reflect upon the non-Anglo side of America.

For example, Americans rightly view themselves as individualists. We have elevated individualism into a major value in our society. Our folklore, our books, our movies all praise the individual who defies both odds and convention to achieve a goal. But, let me remind you, my friends, that constructive individualism is nowhere more evident than in the man we honor this evening.

Imagine yourself five hundred years ago, convinced that the world conventional wisdom believed to be flat was, in fact, round. Columbus was a man of deep conviction and supreme courage. He was no armchair philospher, but a man willing to stake his life on a belief. He proposed to venture out where no man had gone before; to embark upon a voyage his contemporaries thought foolhardy at best, and most likely suicidal. After years of tenacious dedication to his idea, he convinced Queen Isabella to sponsor his adventure. He went forth from the safe harbor of the Mediterranean armed only with three tiny wooden vessels to confront—and eventually conquer—a totally uncharted and totally unknown world.

That act, I submit to you was individualism and determination of the extent rare in any society. I would further submit that the American trait of individualism can be traced back to our discoverer and founder Christopher Columbus. His act of courage and determination has been repeated countless times in our history, creating the uniquely American attitude of which we are justly proud.

Columbus was followed to these shores by other men of Italian heritage. They, too, left their mark on this continent and on our history. America is named, of course, for the great Italian explorer and cartographer, Amerigo Vespucci. Italians settled the first colonies, and came later to build our railroads, our bridges, and our first skyscrapers. Giovanni and Sebastiano Caboto—John and Sebastian Cabot—were among the first to explore the American interior. Giovanni de Verranzano sailed into the Bay of New York, discovering Manhattan many years before Henrik Hudson sighted the island.

Beyond the achievements of the man we honor today and the other early explorers

and settlers, I strongly believe that the Italian Peninsula has contributed more fundamentally to the rich political and social culture of America than we usually acknowledge. The United States is the world's oldest democracy with a written constitution. The very idea of a constitution was evolved by the great Roman lawyers who spoke of the "law of the people" (jus gentium).

The American Constitution for which I have boundless respect which increases daily as I participate in its intimate workings, grew out of the Declaration of Independence—a document that states the principles that precipitated the conflict with England. It is the principles stated in the Declaration of Independence that have symbolized freedom and democracy for the entire world.

I believe—and am extremely proud of the fact—that we were able to reach the point of producing the Declaration of Independence because of changes in the world which originated in Italy.

The collapse of the Roman Empire and the disintegration of central political authority threw Europe into the Dark Ages. These were centuries of intellectual, social and cultural stagnation. Dynamic intellectual and creativity activity virtually came to a halt. But there was a rebirth of man's spirit—the Renaissance—which centered in Italy. It was a rebirth of man's quest for knowledge; a rebirth of the willingness to challenge conventional ideas; a rebirth of the imagination to create new social and political forms. The great men produced by the Renaissance are legion; their names are household words—Da Vinci, Michaelangelo, Galileo.

The immediate intellectual origins of the American Revolution lie in the writings of John Locke, an Englishman. But Locke, too, was a child of the Renaissance, and the intellectual ferment it produced led to the "Two Treatises on Government." It was because of the intellectual foundation laid in Italy by the Renaissance that this work was possible.

But the connection between Italy, Italians, and the American Revolution is closer yet. A contemporary of Washington, Jefferson and Franklin—Filippo Mazzei—was among the first to speak out against British tyranny.

Mazzei published a series of articles under the pen-name, "Furioso" (mad), which had a profound impact on Jefferson who translated them into English. Jefferson later said that he paraphrased Mazzei's writings in the opening sentences of the Declaration of Independence. Mazzei had written: "All men are by nature created free and independent. . . . It is necessary that all men be equal to each other in natural rights." Under the skillful pen of Jefferson, those thoughts were transformed into the inspiring words: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights. . . ."

In the more than two hundred years of American independence, the words and thoughts of Jefferson and Mazzei have been a beacon to peoples everywhere. From every continent, millions have come in search of a dream and of a new life. Our fathers, monthers, grandfathers and grandmothers were among those who thronged to the New World. Their contirbution to America is not as obvious or startling as that of Columbus or Vespucci or Mazzei; but it is no less significant. They have lent theri spirit to America; they have endowed us with their wisdom; they have bouyed us with their humour; they have fed us with their food; and, most of all, they have brought their love to this great melting pot of ours.

Each of us can be proud of them and the traditions they have passed on to us. We can be proud, too, of the mark they have made on America. It should be our goal to make a mark as profound as theirs. And, we can be secure in the knowldege that the United States is better and greater because of the Italian tradition.

Mr. RANDOLPH. Another major speech was presented by Guy Mendola, national president of the Italian Sons and Daughters of America. I request that his remarks be printed at this point in the RECORD:

REMARKS OF GUY MENDOLA

It is an honor and privilege for me to be here this evening to join with the Italian-American community of Weirton and the distinguished guests who have gathered here for this Columbus celebration.

I extend to each of you the fraternal greetings of the Order Italian Sons and Daughters of America and I congratulate you for participating in this eminent tribute to the first Italian American—the Great Navigator—who crossed unchartered seas to discover a great new world.

Columbus was not just another explorer. He was a man of great passion—a dreamer with enthusiasm—who served as a beacon for other great explorers, pioneers, educators, artists, religious leaders, and settlers in the new world.

We know of his voyages and his glory, so it is not necessary at this time to recite the worn pages of history which record his deeds. But this is nevertheless an opportunity to evaluate the true imprint of Columbus as he affected the United States and the world in general, and as he affects Americans of Italian descent in particular.

Christopher Columbus was no scientific freak. He was no historical accident. He was the inspiration of many great Italians who figured in the exploration of our land, in the colonization of our country, in the founding of our government, in the progress of our fledgling republic, and making it possible for our nation to become a major power in the world.

Christopher Columbus led the ranks in the march of America. In the last decade of the 15th century, America the beautiful was already here. Then came the Great Admiral, who released the treasure to the world—and the Spirit of Columbus was born. That Spirit of Columbus has special significance for all Americans, because in a sense, all Americans trace their origin to the explorer—immigrants who helped forge the American dream. The Spirit of Columbus, however, has special significance for American-Italians, because of the great number of Italians in the first surge of explorers who came to these shores during the 15th and 16th centuries.

This commemoration this evening is a tribute to the Columbian virtue which all Italian immigrants to America possessed in abundance—perseverance in the face of adversity. The Order Italian Sons and Daughters of America told the story of that "perseverance in adversity" in our Bicentennial Salute last year, as we recounted the fascinating experience of our Italian forebears who helped to shape the destiny of this great nation. We stressed the same theme of "perseverance in adversity" as we told the story of the founders of ISDA who dreamed of advancing the well-being of all Americans of Italian descent, which is the foundation on which the structure of our Order is built.

Tonight, I am happy as National President of the Order Italian Sons and Daughters of America to share the genius of Columbus with you. We salute the land that gave birth to Columbus and gave honored birth to our parents and grandparents.

We take pride in the fact that Christopher Columbus was the first to discover the new world. And it is right that we pay tribute to him during this week in celebrations such as this all across the nation.

But our lasting tribute to Christopher Columbus—and to all the brave Italian-Americans who came after him—will be perpetuated by the encouragement and inspiration we derive from their unique contributions to the greatest of America during all the days of our lives.

Mr. RANDOLPH. The Order of the ISDA is founded on the principles of liberty, unity, and duty. I include an explanation of these principles:

Our understanding of Liberty is the opposite of slavery, of imposition and of autocracy; freedom within the limits of the Laws and the Constitution of the United States of America; freedom of thought and of conscience, political and religious. Unity to us signifies harmony. It represents the feeling of brotherhood that should band together the Italians and those of Italian extraction into a unit, so that we may reveal the virtue of our race. Those who do not realize their sense of Duty cannot claim rights. Duty means honest and laborious life for the welfare of the family and of the organization to which one belongs. Always do your Duty within the field of your activities and success will be assured.

Gov. Jay Rockefeller spoke briefly as did Attorney General Chauncey Browning and Secretary of State James Manchin. First District Member of the Congress ROBERT MOLLOHAN was present. A telegram of greeting was read from the Senate Majority Leader ROBERT C. BYRD.

Mayor Mike Andochick of Wierton, W. Va., welcomed the guests. Mike Sinicropi, president of the lodge, presided and presented awards.

Officers of the local lodge are:

President, Mike Sinicrop.
Vice-President, Mario Patrizio.
Ex-President, Patsy Standardi.
Orator, John Sorrenti.
Recording Secretary, Evelyn Spencer.
Financial Secretary, Mrs. Clayton Butcher.
Treasurer, Chester Grossi.
Mistresses of Ceremonies, Edith Foster, Josephine Mattioli.
Sentinel, Tony Battisa.

Members of the board are:

Armando D'Amico, Paul Altomare, Gaston Giani, John Amorocchi, Ann Ferrari, Americo D'Amico.

Reverend Father James Altmeyer gave opening and closing prayers.

Mr. President, for several years I have been privileged to secure and accompany the speakers for this memorable event.

As an understandable postscript it is timely to acknowledge that Billy Martin, manager of the New York Yankees and Tommy Lasorda, manager of the Los Angeles Dodgers, are both of Italian ancestry.

TRIBUTE TO STUBBLEFIELD

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. JOHNSON of California. Mr. Speaker, it was with great personal sadness that I recently learned of the passing of our former colleague, Frank A. Stubblefield. We have missed his leadership and experience these last 3 years since his retirement, and feel an even greater sense of loss now. Albra and I

want to extend to his charming wife, Odessa, our sincere sympathy.

Frank and I came to Congress together in January 1959, and remained close friends throughout. His Lincolnesque stature and easy wit early singled him out as a leader in Congress. Although he was quiet spoken, Frank was always highly respected by his colleagues in the House of Representatives.

During his career in Washington, Frank kept a careful eye on the needs of his constituents. Because tobacco was the principal crop of his Kentucky district, he concentrated his legislative interests in that area. Through his service as a member of the House Agriculture Committee, he had a special opportunity to work for the benefit of the American farmer. In recent years he had the privilege of serving as chairman of the Subcommittee on Tobacco. Through this service, he was able to author and participate in the drafting of several pieces of legislation effecting production and marketing of this important crop. Among the most significant pieces were measures guaranteeing reasonable price support for tobacco farmers.

Our colleague also maintained a special interest in transportation issues which came before the Congress. This interest stems from his service as railroad commissioner for the State of Kentucky.

The family and friends of the gentleman from the Bluegrass State can be proud of his distinguished and illustrious career, knowing that he made a significant contribution to the House of Representatives and to his Nation. That career began several years ago when Frank served as county manager for the campaign of his father's classmate, Alben Barkley. He maintained an interest in politics ever thereafter.

Frank Stubblefield was a true public servant and he set a fine example for us to follow. I am confident that this House is better for his having served among us.

BLESS 'EM ALL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. GILMAN. Mr. Speaker, Bless 'em all—bless the long and the short and the tall.

As we near the commemoration of Veterans Day, 1977, permit me to take this opportunity, Mr. Speaker, to reflect on the courageous service provided by the men and women who served our country in peace and in war. Bless 'em all—all 30 million of our living veterans in the United States.

America is growing, in numbers and stature. We show 201 notches, and we have a reputation in lands throughout the world of standing up to fight, when we have to, and when we are forced to. Veterans Day reminds us of the men and women who served. Whether it was along the Western Front in "the Great War; in the European or Pacific theaters during World War II; on snowy, lonely battlefields in distant Korea; in the jungles of South Vietnam; or in peacetime posts in far-off lands, America has been strengthened by the dedication of our servicemen.

As we approach Veterans Day, let us pay tribute to those that fell—to those who did not return. In looking back over the panorama of past years, let us bear in mind that in our brief history, more than a million Americans have paid the ultimate price on battlefields throughout the world—at Yorktown, at Lundy's, Alne, Chapultepec, Gettysburg, San Juan Hill, Normandy, Iwo Jima, Pusan, and Hue.

In the past few years, there have been some significant chapters added to our world's history—the fall of South Vietnam, the infiltration of African nations by Cuban and Soviet troops and equipment, the conflict in the Middle East, and the Panama Canal.

There are fewer democracies today throughout the world and we have fewer and fewer allies. In the years to come we may once again be confronted with a new crises that will have to be met by the steadfast loyalty of our citizenry. Of course, we all hope and pray that such a day will not come, but if and when it should occur, Americans everywhere will again be called upon to give of themselves. It is this response to duty, both in time of crisis, and in peace, that is the backbone of our armed services. From our loyal soldiers are graduated our veterans; who gave of their body and spirit, and who deserve our gratitude, respect and admiration in return.

It was Daniel Webster who said:

God grants liberty only to those who love it and are always ready to guard it and defend it.

Our veterans have a stake in the freedom of America, even more so than those who did not serve. While we try to forget these Americans, too often we do. As we pause and reflect on Veterans Day, let us not forget the disabled in our VA hospitals, the veteran in college trying to catch up on his studies after devoting a few of his youthful years in the service, and the thousands of others in every State, county, town, village, and hamlet in the United States who merit our concern and attention.

Permit me too to remind my colleagues that by way of responsible legislation, our veterans can truly appreciate the respect and obligation that the Congress has for their years of service, for their unselfish giving and valorous contributions to our Nation.

And on this Veterans Day, we must not forget the thousands of men of the Vietnamese war who did not return—and whose fate has not yet been determined—our missing in action. We join their families and loved ones in praying for a resolution of their concerns.

On Veterans Day we salute you . . . those who served.

Sir Walter Scott once wrote: "Soldier, rest! thy warfare o'er."

TRADE AND LABOR COST TRENDS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. VANIK. Mr. Speaker, while our unconscionable level of oil imports is causing serious trade deficit problems for the United States, there are factors at work which have been helpful to the United States in trade in manufactured goods.

The July 11, 1977, issue of Economic Commentary by the Federal Reserve Bank of Cleveland includes an interesting article by Gerald H. Anderson entitled "Labor Cost Trends in Major Countries."

I would like to provide additional access to this study by including it at this point in the CONGRESSIONAL RECORD:

LABOR COST TRENDS IN MAJOR COUNTRIES

(By Gerald H. Anderson)

(Since 1970 unit labor costs for manufacturing nations have been affected by changes in hourly compensation, productivity, and exchange rates. This Commentary compares the labor cost position of the United States to its six major competing nations.)

U.S. labor cost competitiveness in the production of manufactured goods has been substantially enhanced since 1970. Unit labor costs have risen more rapidly in most of our major competitor nations than in the United States. This Commentary examines changes in hourly compensation, productivity, and exchange rates for the United States and six other nations since 1970, and it analyzes the combined effects of these factors on unit labor costs.

The seven nations studied—the United States, Canada, Japan, France, Germany, Italy, and the United Kingdom—account for 21 percent of the population and 70 percent of the gross domestic product of the non-Communist world. The six foreign nations combined have a gross domestic product slightly larger than that of the United States.

Since 1970 wages have risen rapidly, while labor productivity has grown at a slower pace than in the 1960's. At the same time exchange rates for major currencies have changed considerably. These developments have combined to produce substantially different changes in unit labor costs and prices of manufactured goods among the major industrialized nations.

HOURLY COMPENSATION

Hourly compensation approximates the full cost to the employer of an hour of labor. The average cost per hour worked includes pay for time worked, pay for holidays, sick leave, and vacations, the cost of many other fringe benefits, and social security taxes.

Hourly compensation in manufacturing, measured in the local currencies of the seven nations studied, increased substantially between 1970 and 1976 (Table 1). The United States recorded the smallest increase at 59 percent, and Italy had the largest at 225 percent.

TABLE 1.—*Increases in hourly compensation, productivity, and unit labor cost for manufacturing employees, seven countries, 1970–76*

Country:	(1)	(2)	(3)
United States	59	17	36
Canada	82	19	53
Japan	168	40	91
France	126	37	65
Italy	225	37	137
United Kingdom	168	19	125

[1] Hourly compensation, percent increase.
[2] Productivity gain, percent increase.
[3] Unit labor cost, percent increase.

Source: U.S. Bureau of Labor Statistics.

Hourly compensation for workers in different manufacturing industries varies greatly in each nation. Japan posted the greatest spread; here hourly compensation in the primary metals industry is almost three times that in the apparel industry. Even in France, where the spread is the smallest, compensation in the highest industry is 69 percent above the lowest industry. In every nation either primary metal or motor vehicle workers received the highest hourly compensation, while apparel or leather footwear workers received the lowest of the industries reported.

PRODUCTIVITY AND UNIT LABOR COSTS

Productivity gains can offset the effects on labor costs of compensation increases. Productivity, or physical output per hour worked, rose by amounts that ranged from 17 percent in the United States to 42 percent in Germany between 1970 and 1976. Still, the average annual increase of productivity in every country except Germany was less in the years studied than in the 1960's (Table 2). Productivity gains in the 1970's were also smaller than hourly compensation increases, causing labor cost per unit of output to rise. The United States and Germany registered the lowest unit labor cost increases, at 36 percent and 38 percent, respectively. Italy and the United Kingdom had the highest, at 137 percent and 125 percent, respectively.

TABLE 2.—*Productivity gains in manufacturing, seven countries, 1960–76*
[In percent]

Country	Average annual percent increase		
	1970–76 [1]	1970–76	1960–70
United States	17	2.7	2.9
Canada	19	3.0	4.3
Japan	40	5.8	10.8
France	37	5.4	5.8
Germany	42	6.1	5.8
Italy	37	5.4	6.1
United Kingdom	19	3.0	3.6

[1] Percent increase.
Source: U.S. Bureau of Labor Statistics.

Although other costs are also important, employee compensation seems to account for between half and three-quarters of value added in manufacturing in the major countries.[1] Consequently, increases in unit labor cost can be expected to result in price increases. Wholesale price increases for manufactured goods in the seven nations are generally, although not closely, comparable to unit labor costs increases. Wholesale prices in local currencies have increased least in Germany and most in Italy and the United Kingdom (Table 3).

TABLE 3.—*Increases in wholesale prices in national currencies of manufactured goods, Seven Countries, 1970–76*

Country:	Percent Increase 1970–76
U.S.	62
Canada	78
Japan	57
France	60
Germany	41
Italy	137
United Kingdom	120

Source: U.S. Department of Commerce *International Economic Indicators*, June 1977, table 66.

[1] International Economic Report of the President, March 1976, p. 71.

EXCHANGE RATES

When comparing changes in cost and price competitiveness among nations, variations in the exchange rates between currencies must be considered. The United States devalued the dollar in 1971 and again in 1973 as the major nations moved fitfully from a system of fixed rates of exchange between their currencies to today's system of floating rates. Substantial rate changes also have occurred under the floating rate system, producing dramatic changes in the exchange rates between the dollar and the currencies of the other six nations. The British pound declined 25 percent from about $2.40 in 1970 to $1.80 in 1976. In contrast, the dollar price of a German mark rose almost 45 percent.

When exchange rate changes are considered, the increases in unit labor costs that were measured in national currencies are substantially modified. For example, the 91 percent increase in Japan's unit labor cost, measured in yen, is magnified by the 21 percent increase in the dollar value of the yen, so that the net increase in Japan's unit labor cost, measured in U.S. dollars, is 131 percent. By comparison, the 125 percent increase in Britain's unit labor cost, measured in pounds, is substantially reduced by the pound's 25 percent depreciation, so that the net impact is only a 69 percent increase in Britain's unit labor cost when measured in U.S. dollars. When unit labor costs are all measured in U.S. dollars, the United States appears to have obtained a substantial improvement in its competitive position. U.S. unit labor costs rose 36 percent, while its competitors' increases ranged from 62 percent to 131 percent (Table 4).

TABLE 4.—*Changes in exchange rates and unit labor costs in manufacturing, seven countries, 1970–76*

Country:	(1)	(2)	(3)
United States	36	----	36
Canada	53	5.9	62
Japan	91	20.8	131
France	65	15.8	91
Germany	38	44.9	100
Italy	137	−24.4	79
United Kingdom	125	−24.7	69

[1] Unit labor cost in national currency, percent increase.
[2] Exchange rate (price in U.S. dollars of one unit of national currency), percent increase.
[3] Unit labor cost in U.S. dollars, percent increase.

Changes in wholesale prices can also be reckoned in a common currency by adjusting for exchange rate changes. Reckoned in dollars, wholesale prices increased 62 percent in the United States, while foreign competitors incurred increases ranging from 66 percent to 104 percent (Table 5).

TABLE 5.—*Increases in wholesale prices in dollars of manufactured goods, seven countries, 1970–76*

Country:	(1)	(2)	(3)
United States	62	----	62
Canada	78	5.9	89
Japan	57	20.8	90
France	60	15.8	85
Germany	41	44.9	104
Italy	137	−24.4	79
United Kingdom	120	−24.7	66

[1] Percent increase in Wholesale Price Index (national currency).
[2] Exchange rate (price in U.S. dollars of one unit of national currency), percent change.
[3] Percent increase in Wholesale Price Index (U.S. dollars).

EFFECTS ON FOREIGN TRADE

It would be expected that the improvement in international cost and price competitiveness, as indicated by relative changes in unit labor costs and wholesale prices, would be reflected in an improved U.S. balance of trade. Some evidence suggests that this has happened. Between 1970 and 1976, the United States increased its exports of manufactured goods by 164 percent, somewhat more than the 150 percent increase in imports. As a result, the U.S. foreign trade surplus in manufactured goods grew from $3.8 billion in 1970 to $13.8 billion in 1976.

The business cycle also influences the trade balance. In the current expansion, demand has been growing more rapidly in the United States than in most other major countries, thus tending to worsen the U.S. balance of trade in manufactured goods. From this perspective the gain in export surplus appears somewhat more impressive.

Change in the U.S. share of the manufactured goods exported by 14 major industrial countries provides another measure of the effect of increased U.S. competitiveness (Table 6). The U.S. share, which had declined from 1960 to 1972, increased from 1972 to 1975. The market share evidence is somewhat ambiguous, however. The U.S. share of the export market was the same in 1975 as in 1970, and partial data for 1976 suggest another decline may have begun.

Other factors besides cost and price competitiveness affect a nation's trade performance. Product quality, adherence to delivery dates, trade barriers, subsidies, and promotional efforts also can influence export trade.

TABLE 6.—*U.S. share of world exports* of manufactured goods, 1960–76*
[In percent]

Period:	Share
1960	25.3
1968	23.6
1969	22.5
1970	21.3
1971	20.0
1972	19.2
1973	19.5
1974	20.3
1975	21.3
1976**	20.5

*"World Exports" is defined as the sum for the 14 major industrial countries, excluding exports to the United States.
**First three quarters.
Source: U.S. Department of Commerce, *International Economic Indicators*, June 1977, Tables 51, 52.

CONCLUDING COMMENT

Relative rates of change in hourly compensation and productivity, together with exchange rate changes, appear to have enhanced U.S. competitiveness as measured by labor costs and prices of manufactured goods. Some evidence indicates that increased competitiveness has improved U.S. trade performance.

CALIFORNIA STATE SENATOR IDEAL CHOICE FOR AMTRAK

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. VAN DEERLIN. Mr. Speaker, yesterday an old friend and fellow San Diegan, California State Senator Jim Mills, was nominated by President Carter to serve on the Amtrak Board of Directors.

There could hardly be a better choice than Jim Mills for this important post.

He is widely recognized as one of the Nation's leading legislative authorities on transportation matters. Like me, he is a "rail buff." He has done much to ad-

vance the cause of rail passenger service as well as other alternatives to the private automobile in congested California.

Jim practices what he preaches in promoting transportation alternatives—he was one of first legislators in California or elsewhere to use a bicycle regularly to commute to work.

I personally think that leadership of the sort Jim Mills is so admirably equipped to provide is exactly what Amtrak needs. An article about his nomination from this morning's San Diego Union follows:

MILLS NOMINATED TO AMTRAK BOARD

SACRAMENTO.—Sen. James Mills, D-San Diego, a leading advocate of rail passenger service, yesterday was nominated by President Carter to a seat on the National Railroad Passenger Corp. (Amtrak) board of directors.

The 13-member board sets policy for the federally subsidized rail service, formed in 1971 to take over most intercity passenger service from the private railroads.

The board meets monthly and appointment would not require Mills to give up his seat in the Senate, where he is the president pro tempore.

Mills' appointment is to fill the term of a board member who died. The term runs until July 18, 1978. Although the appointment requires confirmation by the U.S. Senate, Mills will take part in the next board meeting, next Wednesday in Washington, D.C., his office said.

A train buff who keeps model trains in his Capitol office, Mills has authored a number of bills to help rail and other forms of public transportation.

His legislation allowed the state and Amtrak to cooperate in expanding rail passenger service between San Diego and Los Angeles. The five-times-daily service has grown rapidly in patronage to become the third busiest short-haul rail service in the nation.

Mills supported Mr. Carter during his successful presidential campaign last year and has met with the President and his aides on a number of occasions since the election.

TRIBUTE TO SUNNY AND ISADORE FAMILIAN

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. WAXMAN. Mr. Speaker, on occasion, we are granted the privilege of honoring constituents who have devoted many years of their lives to the betterment of their community. Sunny and Isadore Familian are being so honored by the University of Judaism at a tribute dinner, Sunday, October 30, 1977. The Familians have, for 30 years, committed themselves to the development and progress of the University of Judaism. The university's new campus on Mulholland Drive in Los Angeles has been named in their honor. Through their guidance and leadership, the dream of a center for Jewish studies has been realized. Sunny Familian has served as cochairperson of the university's school of fine arts, and has been the recipient of the Woman of the Year Award from university women. Isadore Familian has served as chairman of the Greater University of Judaism Committee and of its Founders' Committee, as well as chairman of the university's Patrons Society.

Isadore Familian was awarded the Louis Marshall Medal for outstanding work on behalf of humanity by the Jewish Theological Seminary of America in 1964. He is a longstanding member of the board of directors and board of overseers, and is also a fellow of the seminary. Sunny and Isadore Familian's devotion to the University of Judaism and to the Jewish Theological Seminary has not prevented their participation in other community endeavors. They have both served the Children's Hospital of the City of Hope Medical Center in Duarte, Calif. in many capacities, and that center bears their names. Isadore Familian was chairman of the United Jewish Welfare Fund in Los Angeles, president of Adat Ari El Congregation in North Hollywood, a board member of the Music Center Operating Co. and a member of the board of the National Council of Christians and Jews.

Sunny Familian is a member of the board of Cedars-Sinai Hospital and was named their Woman of the Year. She is a member of the Board of Sportsmens Guild of the City of Hope, a founder of the Los Angeles Music Center, and a member of its Amazing Blue Ribbon 400, a member of the board of the American Youth Symphony, and has served in various capacities for United Way and United Jewish Welfare Fund.

The Familians have established a laudable standard of personal devotion and acceptance of responsibility for the welfare of others. Their long and distinguished participation in philanthropic and civic affairs and their willingness to serve as leaders in so many community projects has earned for them our warmest appreciation. I call upon the members to join me in expressing this recognition to Sunny and Isadore Familian, whose accomplishments merit our fullest praise.

WILLIS HARMAN EXAMINES LONG-TERM SOCIAL TRENDS

HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. ROSE. Mr. Speaker, on September 14, many of our colleagues had the good fortune to hear Dr. Willis Harman, associate director for the study of social policy at Stanford Research Institute, and noted writer in the fields of futures research and social policy analysis, speak to us about his view of the future. He made his remarks at a dinner for Members of Congress sponsored by the Congressional Clearinghouse on the Future as the first in its fall "Dialogues on America's Future" series.

The interesting and provocative ideas set forth by Dr. Harman on this occasion, Mr. Speaker, are a valuable contribution to our understanding of present and future changes occurring in our society, and I urge my colleagues in this policymaking body to read and reflect upon his insightful comments.

The text of the session follows:

REMARKS BY DR. WILLIS HARMAN

A LOOK AT SLOWLY CHANGING PATTERNS

Thank you very much for inviting me. It's certainly my honor to be here at your request. I'd like to make a few comments about the emphasis I prefer to give to the future.

One of the most important clues for futures research has been given us by the French historian, Fernand Braudel. He explains that he writes three separate histories about the same geographical area and the same period. One of them is a history at the event level. His point here is that you must distrust this type of history; you must resist the temptation to believe that you're looking at cause and effect relationships, because there's another flux going on beneath the surface. The second history is one of institutional change. Then he writes a third history, which is at the level of enduring kinds of patterns—demographic, economic, and cultural patterns which change very slowly over the centuries and yet shape everything that is moving along at a more rapid pace. His point is that if you don't look at the long-term changes, you're likely to miss the significance of what's really going on.

THE "UNCONSCIOUS" LEVEL

So one of the points about looking at the future has to do with this paying attention to the subterranean flow of very slowly changing patterns. Another point is a more subtle one: in our sophisticated age, we wouldn't think we knew much about a person without recognizing that we have unconscious processes going on as well as conscious ones. We know that we hide things from ourselves, that we repress certain kinds of information. Societies probably do the same sort of thing, because they're made up of these same kinds of elements.

What that implies is that, just as when an individual perceives his situation in a distorted way which seems to serve some sort of unconscious need, so do societies, because they can't really afford to look in an objectitve way. It's not easy to catch this, particularly in a group, because everyone's distorting in somewhat the same way.

I emphasize all of this because, in ten years of work in futures research, two of the most valuable things I've found are, first, this deliberate attempt to look at long-term changes, and second, this attempt to find out what's going on at the unconscious level. To illustrate that, let me present what I think is a useful way to describe what's going on.

THE PAST 1000 YEARS: SECULARIZATION

I mentioned the long-term changes. If you look back over the past thousand years and ask what's the most important long-term change for this period, I think you will find it to be a change in our belief system that started in the latter part of the Middle Ages. Central to this change was the new idea that humans could change the environment by their own actions—something that we later called progress. Along with this was the shift in values from the traditional basis of inner, personal experience over to utilitarian values which emphasized material progress. That trend was called secularization.

I want to talk about four significant characteristics of this theme in particular, and then I'll mention a few others. The four have to do with the knowledge system, the production system, the decision system, and with the whole concept of long-term social goals.

With regard to the knowledge system, in one sense I think this is the most important of all. We're just beginning to learn to what extent our belief systems shape our reality —both for individuals and society. Our belief set determines how we're going to see that situation; and we're quite capable of fooling ourselves pretty badly. In society as a

whole, this means that we have to consider seriously whether we're incapacitated in our decision-making because we can't formulate the problems correctly.

SCIENTIFIC KNOWLEDGE IS QUESTIONED

In our knowledge system, certain characteristics of science which we take for granted are now being questioned. We're seeing that the scientific approach leads to a certain kind of outlook, and that there's another kind of knowledge, represented in the humanities and religions, which deals more with subjective experience, with whole systems, with the idea that organisms have purposes that can't be explained by atoms and molecules, and with value issues. This type of knowledge is more relevant to societal problems in some ways than the other.

Now, let's move to the production system. Nobody has to be told about the gains from industrialization. But we have moved on to the industrialization of more and more human activities, from goods to services to areas like health care, where it's less clear that an industrial process is really dealing with the basic health care issues. When we begin to talk about education in terms of input and behavioral objectives, or when we begin to industrialize leisure activities, then we begin to hear protests that we're losing something.

Closely related to this is a long-term trend to have more and more human activities in the mainstream economy. Along with this comes a peculiar psychological reaction that what isn't counted doesn't count, so that the more "human" aspects of human activity that don't fit into economic indicators receive a certain pressure to be reshaped in ways that will get into the economy.

The fourth thing I want to mention is the concept that the long-term future, for developing as well as developed countries, is in the direction of economic development.

I just want to point out briefly some other aspects of this long-term modernization trend. Through the centuries there has been an increasing use of material resources, an increasing impact of human activities on the environment, a tendency toward centralized and exploitative technology, and a tendency toward people being superfluous as far as society is concerned. As society becomes more and more dominated by economic concerns, more and more human decisions are determined by the economic rationale. Another trend is the one in which minorities are overrun by this mainstream economy.

EACH TREND HAS A COUNTER-TREND

The reason for listing these characteristics of the long-term social trend is that for each characteristic we can now identify a counter-trend. By and large, those who have a positive vision of the future are saying one of two things: either that this trend will continue—what Daniel Bell and Herman Kahn call the "post-industrial" society (it's much more accurately called the "hyper-industrial" society); or that the society will be transformed because the counter-trend forces are deflecting the long-term trend, leading toward a more balanced menu of human goals. It seems to me that we're at the critical point where we'll go one way or the other.

I see many instances of growing resistance to the long-term modernization trend. There is an insistence on self-determination on the part of individuals and groups. There's a growing emphasis on quality of life. There's the "appropriate technology" movement. There's also a decentralization movement, which I think is extremely important. There's the growth of an ecological ethic. And there's a search for enduring values.

BELIEF SYSTEMS THE KEY

In conclusion, I want to stress again the importance of belief systems, and to say that I think you'll hear a lot more about this. Our belief systems create our reality to an extent that has been ignored. It's becoming more and more clear that the key issues are not economic or political, but are rather issues of the belief systems that govern economic and political decisions. The challenging of this system will be so fundamental that it will question the bases of our scientific knowledge and of our institutions. The real task that awaits us is how to make the transition to a new belief system and stay on the track, or, if you buy the other picture, whether we can overcome that counterforce and stay on the track.

QUESTIONS AND ANSWERS

Q. What do you consider to be the importance of the communications media in this shift? The change from the "print" way of looking at the world to the new ways must affect behavior.

A. The main thing the media do is to speed up the process. I've developed a bias which sees the whole system as moving together, so I'm suspicious of the adequacy of one explanation over another. Although it's probably true that media affect the changes taking place, so do many other things.

Q. The dream of industrial society has been ultimately one of a society in which machines did more and more work and people had increasing leisure time. But, we see that our success in this area creates a problem—unemployment. How do we get from a society where people must work to one where leisure is the norm?

A. Let's distinguish between two types of work: drudgery and creative endeavor. A society which is forced to say that there's a scarcity of meaningful roles is absurd. As I see it, probably the most valuable part of our society today is to be found among various resistance groups seeking constructive change. Anything we could do to foster development of the voluntary sector of our society would be helpful in making the transition you speak of.

Q. In my role as a Member of Congress, I see two possibilities: either I can deal with present issues, or I can take the politically; more risky route of dealing with future-related issues which have a far-off impact not apparent in the present.

A. These are situations of directly conflicting demands. I have two reactions. You can deliberately call in those who have a new idea and get them to work with you on it. Then, too, I see you as having an educative role in pointing out that most issues aren't clearly one or the other, but both. Hearings seem to me to bring a lot of this out into the open, as do opportunities to communicate with constituents.

Q. In long-term trends there are always counter-trends going on, giving rise to new philosophical views. What's different about this long-term trend?

A. There have been counterforces all along. But this is the first time in history that there has been simultaneous opposition to so many trends at once.

DO WE HAVE ANY CONTROL?

Q. For me, this concept of totality is debilitating, rather than uplifting. It brings to mind not the notion that we can control our destiny, but rather that we may have no control over it at all.

A. As the picture of how we see things change, we go through a phrase of doubting that we have any control. A person in psychotherapy continues to follow old patterns until he decides that they don't work. So in Western civilization we have always thought that we affect things by doing. But if you shift that mind set to one of realizing that our perceptions of the world affect it, the result can be very different.

ST. JOSEPH'S ROMAN CATHOLIC CHURCH OF CHICAGO CELEBRATES ITS 90TH ANNIVERSARY

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. FARY. Mr. Speaker, October 23, 1977, marks another milestone in the long and proud history of St. Joseph's Roman Catholic Church in Chicago. Its history began 90 years ago with a group of Polish immigrants. The year was 1887, and it was a turbulent year for the Polish immigrant workers who had settled in Chicago's South Side industrial communities. Strikes and violence were widespread, causing a universal sense of insecurity and aggression. Just the previous year the city had been unsettled by the workers' riot at Haymarket Square which ended with a fatal bomb explosion. Like the rest of the country, Chicago was suffering greatly from the growing pains of a burgeoning industrial economy.

The Polish community during this turbulence and upset held close to their belief as they always had, in the strong worship of God. They met regularly to share their faith and worked closely to provide the surrounding communities with moral leadership and inspiration.

It was on the 23d of October, 1887 that this group erected a frame church to symbolize and house their beliefs and it was named St. Joseph's Church. Its foundation was made possible through the efforts of many great people. A talented architect, Karol Ziolkowski, worked closely with the group in building the Church of St. Joseph. Father Jan Radziejewski, pastor of St. Adalbert's Church in another part of Chicago, 17th and Paulina Streets, was instrumental in approaching Bishop Feehan, on behalf of the group, to provide funds for the church and to purchase an adjoining 14 parcels of land. Father Radziejewski went on to provide inspiration and instruction to the many volunteers who labored to complete St. Joseph's Church.

In July of 1887 when St. Joseph's was completed, Father Radziejewski gave it its holy blessing. Father Zylla who was pastor of Mother of Perpetual Help in Bridgeport, was appointed first pastor of St. Joseph's Church. When Father Zylla began offering Mass at St. Joseph's he brought with him two young altar boys to serve Mass.

One of these young altar boys was 12-year-old Stanislaw Cholewinski, inspired by the great devotions at St. Joseph's, grew close to the church. He served the parish in many capacities throughout the many successors who headed the great congregation.

Father Zylla was succeeded in 1889 by Msgr. Stanley Nawrocki who served until 1891 when Rev. Michael Pyplarz headed the congregation. In 1908 Rev. L. Grudzinski was appointed pastor, and in 1910 Rev. Stanislaw Cholewinski realized his boyhood ambition when he was named

pastor of St. Joseph's, the parish that had given him spiritual inspiration for so many years.

Reverand Cholewinski was a great leader for the parish of St. Joseph. He embodied the very spirit of those proud Polish immigrants who had founded the church in 1887. Under his direction a new church was constructed in the grand Romanesque style to seat 1,000 parishioners for their religious services. In September of 1914 a choir loft was dedicated to the glory of God by the Most Reverend Archbishop Quigley.

Under the leadership of Reverend Cholewinski the parish of St. Joseph flourished. In 1920, with the aid of Michael Pyplarz, a Chicago businessman, an elementary school with 20 classrooms was erected. The 1,400 students enrolled were taught by the Felician Sisters.

In 1925 the parishioners built a convent for the sisters, and in 1941 a new high school was built adjoining St. Joseph's Church. The school was blessed by His Eminence Reverend Samuel Cardinal Stritch.

The Reverend Stanislaw Cholewinski died in 1965 at the age of 90 still serving as pastor of St. Joseph's Church and the people he loved.

The year 1965 to many seemed just as troubled as 1887 the year the first frame church had been erected. Indeed, violence and unrest was again on the rise. It was in 1965 that racial riots began to tear at the inner cities, and the Vietnam war unsettled the entire country.

Msgr. John F. Koziol became pastor of St. Joseph's Church in that year. His strong leadership and the great faith of the congregation once again prevailed, and the church began a new era of ascension. It seems history truly does repeat itself for, just as Father Jan Radziejewski had come from St. Adalbert's Church to aid St. Joseph's Church in 1887, so too did Msgr. John F. Koziol come from St. Adalbert's.

Monsignor Koziol is still leading St. Joseph's today. On Sunday, October 23, 1977, he will head the 90th anniversary observances.

Mr. Speaker, this congregation has so much to take pride in; their history, their leaders, and their ever continuing faith in God. St. Joseph's Roman Catholic Church is an example today of just how very much a deep faith in God can accomplish.

PERSONAL EXPLANATION

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. STARK. Mr. Speaker, on rollcall No. 671, final passage of H.R. 1037 relating to cargo preference, I was absent. I was meeting with my staff and failed to hear the voting bells. Had I been present, I would have voted "nay," as I have previously stated both in public and in private.

DIEGO GARCIA AND GUAM

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. HEFTEL. Mr. Speaker, earlier this year, Dale S. Miyagi, the son of Mr. and Mrs. (Woody) Miyagi of Honolulu, lost his life in a tragic incident on the island of Guam. Dale was a professor of history at the University of Guam and had been instrumental in the work of the Micronesian Area Research Center.

My good colleague Antonio Won Pat wrote to Mr. and Mrs. Miyagi shortly after Dale's death:

Seldom has Guam or our surrounding islands in the Pacific been so fortunate to have a person with outstanding credentials, as had Professor Miyagi, decide to make a study of our area his life's work. I am confident that the large volume of study which Dale left behind will serve as a lasting monument to his love of Micronesia and its peoples.

As part of his work on the history of Micronesia, Dale had researched the little-known connection that Spanish navigator Diego Garcia had with Guam. He subsequently coauthored a paper on his findings about the man for whom the island of Diego Garcia in the Indian Ocean is named.

At the request of his parents, I would like to have Dale's paper inserted in the RECORD at this time. I believe it honors the memory of a fine young man who offered so much to the islands and the people he loved:

DIEGO GARCIA AND GUAM

(By Dale S. Miyagi and Eric Beerman)

United States Air Force B–52s from Anderson Air Force Base on Guam fly reconnaissance missions over the strategically vital Indian Ocean, through which passes much of the world's oil supply. Because of the vast distances involved and because of the present lack of adequate facilities along the flight path, it is necessary to refuel the bombers in flight.

In the Indian Ocean, tanker planes fly out of Diego Garcia Island, approximately 5,500 miles from Guam, for these refueling missions. The United States Government surely knows all it must know about the island of Diego Garcia itself. Hardly anything is known, however, about the man for whom the island was named—and his long-ago connection with the island of Guam. Part of this mystery has been unraveled by intensive archival investigation in Spain.

Accounts of the birthplace of this intrepid Spanish navigator (though some claim he was Portuguese) have two versions. But the most accepted version is by the eminent Argentine historian Eduardo Madero, who stated that Diego Garcia was born around 1475 in the Spanish Andalusian village of Moguer. From the nearby port of Palos de Morguer, another navigator—Christopher Columbus—would one day depart on his epic voyage to the New World. Those must have been exciting days for a young lad who lived so close to the embarkation port of the first expeditions to the Indies. It is not strange that Diego Garcia also followed a career of discovery.

Near the year 1515, Diego Garcia was a *maestre de caravela* (grandmaster of caravel) with the Juan Diaz de Solis expedition to the Rio de la Plata in Argentina. This was the first expedition to this region by Spanish navigators.

Then came a point in the career of Diego Garcia that is now debateable. If some of these accounts are true, they had great significance for the island of Guam. Certain historians believe that Diego Garcia, upon returning to Spain from the Argentine expedition, signed on with Ferdinand Magellan, who would circumnavigate the world. Magellan left the Andalusian port of Sanlucar de Barrameda, at the mouth of the Guadalquivir River, in the fall of 1519. There were approximately 300 officers and men on five ships—the *Trinidad*, flagship of Magellan; the *Concepcion*, the San Antonio, the *Victoria*, and the tiny caravel *Santiago*.

The expedition set out on a southern course and stopped at the Canary Islands, taking on supplies and water. Magellan then crossed the Atlantic and passed close to Recife before reaching the benign climate of Rio de Janeiro for a much-needed rest.

Some exploration was done in this region. Later, the expedition continued south and sailed into waters later to be forever known as the Strait of Magellan. After a perilous voyage through these frigid waters, Magellan, on November 28, 1520, became the first European to sail on the Pacific Ocean, though the Pacific had been first seen in 1513 by the famous Spanish *conquistador*, Vasco Nunez de Balboa.

After sailing for nearly 100 days without fresh food or anchorage, on March 6, 1521, Magellan sighted land and set foot on the island of Guam. Because of certain acquisitional habits practiced by the denizens of that group of islands, they unjustly received the name of the *Islas de los Landrones* (Island of Thieves). Soon the expedition departed Guam on a westward course to the Philippine Islands. There, at Mactan on the island of Samar, Magellan was killed. Command was assumed by a Spanish Basque navigator, Juan Sebastian del Cano, who beat a hasty retreat and sailed to the Molucca (Spice) Islands, across the Indian Ocean, around the Cape of Good Hope to the Cape Verde Islands, and back to Spain, arriving on September 6, 1522. After three years, only one of the five departing ships, the *Victoria*, returned to the port of Sanlucar de Barrameda. Diego Garcia may well have been one of the handful of Spanish mariners under Juan Sebastian del Cano to first circumnavigate the world.

Then came the period of Diego Garcia's life that is well documented. From 1526–1529, he went on another expedition to the Rio de la Plata, where King Charles of Spain appointed Garcia governor and captain general of the region. He sailed for the Compania de la Coruna of Spanish Galicia. The contract was signed between Garcia and the chief of the contracting office of La Coruna, the count of Andrade, on August 14, 1525.

The Garcia expedition sailed out of the beautiful port of La Coruna on January 15, 1526, on a southern course. This expedition took on water and supplies at the Cape Verde Islands, just off the coast of Africa. Garcia then set sail for the southwest, crossed the Atlantic Ocean, and soon reached Cabo Frio, which was the cape just east of Rio de Janeiro.

The expedition soon sailed for the Rio de la Plata. There, on San Gabriel Island in frcnt of the present Uruguayan city of Colonia de Sacramento, Diego Garcia installed the first ship building facilities in that region, assembling a brigantine that had been brought in pieces from Spain.

The expedition explored the Parana River, passing through the area of the present Argentine cities of Rosario, Parana and Corrientes, until it reached the confluence of the Paraguay River, near the present site of Asuncion, Paraguay. There he encountered Sebastian Cabot, who was then sailing for the Spanish king. Earlier, of course, Cabot sailed for the English monarch, and his voyages had great importance in the early history of North America.

After extensive exploration in the Rio de la Plata region, Diego Garcia gave orders to return to Spain. Garcia's flagship, the *Nuestra Senora del Rosario*, had an uneventful voyage and reached Sanlucar de Barrameda, continuing up the Guadalquivir River until reaching the delightful city of Seville. On August 16, 1530, Diego Garcia initiated a suit at the Contracting Office against Sebastian Cabot for damages incurred near the Paraguay River.

The following year, Garcia received a commission for a voyage to Molucca Islands. This expedition took him to the Indian Ocean in 1532, where, more than 1,000 miles south of the tip of the Indian sub-continent, a small island in the Chagos Archipelago was named for this brave navigator.

After returning to Spain, Diego Garcia turned his attention once again to the Rio de la Plata, where a great Spanish expedition was being prepared. He tried to again obtain the prestigious assignment as governor. However, King Charles awarded the post to Pedro de Mendoza, who would go down in history as the founder of the city of Buenos Aires (1535). Certainly not resentful, Diego Garcia was the first to enlist in the Mendoza expedition with his caravel *Concepcion*.

The expedition sailed from Sanlucar de Barrameda on August 24, 1535. The first port of call was in the Canary Islands. There, on the island of Gomera, at the village of San Sebastian de la Gomera, Diego Garcia fell desperately ill. Anticipating his death, he gave his last will and testament on September 27, 1535, died shortly thereafter, and was buried at the parochial church of San Sebastian de la Gomera. Diego Garcia's son-in-law, Bartolome Mendoza, assumed command of the *Concepcion* and continued with the Pedro de Mondoza expedition to the Rio de la Plata.

Diego Garcia's testament stated that he had previously been married in his native village of Moquer and had a son, Francisco. Later, he moved to the nearby village of Trigueros, where he married his second wife, Isabel Nunez, and fathered Alonso, Juan and Leonor.

And so, a remote island visited by tiny sailing ships centuries ago is now a strategically important base for a far different kind of transportation. It is only fitting that more is known about the man for whom the island was named—Diego Garcia, discoverer from Spain, visitor to Guam, and navigator of the world.

STUBBLEFIELD TRIBUTE

HON. JAMES M. HANLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. HANLEY. Mr. Speaker, it is with a true feeling of loss that I join my colleagues in their sorrow, caused by the passing of a dear friend, the Honorable Frank Albert Stubblefield of Murray, Ky.

Frank Stubblefield served in this House for 16 years, representing the people of his district in an exemplary way. He was not a loud man, prone to shoot from the hip. He tended to the business of his district and of the Nation in a quiet and reserved manner. He was a man of principle and a man of integrity. His effectiveness could be measured in results, not in words.

I had the privilege of serving in this body for 10 years with Frank Stubblefield. In all of that time, I found him to be fondly admired and widely respected. Many of his colleagues benefited from his knowledge and his kindness. He had those qualities essential for leadership—sound judgment, patience, and perseverance.

I shall miss Frank Stubblefield. But, certainly, no one who knew him will forget him. My heart goes out to his wife, Odessa, and the other members of his family. They should know that the U.S. Congress is a better place for his having served here.

TRIBUTE TO FREDA FINGERHUT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. WAXMAN. Mr. Speaker, I invite the Members to join me in honoring Mrs. Freda Fingerhut for her accomplishments, on the occasion of the presentation to her of the Jerusalem Award of the Shaare Zedek Hospital on Sunday, December 18, 1977.

It is a great pleasure for me to note here some of Mrs. Fingerhut's many outstanding accomplishments. William and Freda Fingerhut gave generously of themselves to a tremendous range of religious and humanitarian causes. Since William Fingerhut's untimely passing early this year, Freda has assumed the responsibilities of her husband's endeavors as well as carrying on her own philanthropic projects.

As time and circumstances permitted, during their 53 years of marriage and the bringing up of their three children, the Fingerhuts devoted a constantly increasing share of their time and resources toward the betterment of their fellow men and women. Mr. Fingerhut became a double founder of the 100-year-old Shaare Zedek Hospital in Jerusalem. Mrs. Fingerhut underwrote a permanent scholarship for a student nurse of the hospital. Now Freda Fingerhut has endowed the William and Freda Fingerhut Institute of Radiology in memory of her husband and of their grandson, Mark Klass. The institute will be part of the great new Shaare Zedek Medical Center which will be dedicated late next year, and which will be the most modern medical facility in the Middle East.

Their names also grace the Academic Building on the new compus of the University of Judaism of Los Angeles, which has just opened.

The Fingerhuts have been generous contributors to the City of Hope, the Hebrew University, University of Judaism, and the Fund for Higher Education in Israel, which encompasses all of Israel's universities and helps American universities as well. Chabad House and Camp Ramah, Maarev Temple, ORT, Hadassah, and B'nai B'rith have all been recipients of the Fingerhuts' beneficence. Their three children, Mrs. Frances Bedrock, Mrs. Bernice Klass, and Dr. Aaron G. Fingerhut, have given their parents staunch support in their many philanthropic activities.

The award which will be given to Freda Fingerhut on December 18 represents a token of gratitude for the years of her devotion to and concern for our community and the world.

UNIVERSAL SOCIAL SECURITY COVERAGE—WHY NOW?

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. McCLORY. Mr. Speaker, I have received numerous letters, telephone calls, and petitions from my constituents who are concerned about certain aspects of the universal social security coverage provision of H.R. 9346. Therefore, I feel that it is in order to provide an explanation of what the bill would do and what it would not do should it become law.

H.R. 9346 would provide universal coverage—that is, it would require all Federal employees, all State and local government employees, all employees of nonprofit organizations—and all Congressmen—to participate in social security beginning in 1982.

Prior to this date—1982—the Civil Service Commission and the Department of Health, Education, and Welfare, along with the appropriate committees of Congress, would conduct a study of the best method to phase in universal coverage. It is this provision, requiring a study to be made after this bill is passed—which presents what I feel is a fatal flaw in the universal coverage section.

Why make the study after mandating universal coverage? I can see no compelling reason why we must mandate universal coverage now. There are too many questions regarding what methods would be used to coordinate public employee retirement programs and social security, and what the consequences of these methods might be.

This is more than simply a case of putting the cart before the horse. This bill provides for a gigantic cart of unknown qualities when we have not yet found a horse to pull it. In fact, we do not even know if such a horse exists, and if it does, we still do not know how much it will cost and how we are going to finance it.

It is little wonder that I have received over 1,000 telephone calls, letters, and petition signatures in the last 10 days opposing universal coverage. When you say to a public employee, "you won't be any worse off than you are now because we are going to coordinate your pension plan with social security," can you blame that person for asking "exactly how do you plan to do that?" It is understandable that such a person would be upset when you cannot supply an answer.

It seems totally inadvisable to me to dictate today that universal coverage begin in 1982 when we have not determined how and if such coverage can be fairly implemented. I certainly cannot support an action as precipitous as this.

THE BIRTH OF THE CONFEDERATE AIR FORCE

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. MILFORD. Mr. Speaker, I would like to call to the attention of my colleagues a very special celebration, the annual Confederate Air Force show, which was held this month in Harlingen, Tex.

I had the privilege of attending this year's show. The CAF is dedicated to preserving, in flying condition, a complete collection of World War II aircraft and to perpetuating the memory of the gallant deeds performed by men and machines in aerial combat during World War II.

I would like to place in the RECORD an article that appeared in the Valley Citizen on October 6, 1977:

THE BIRTH OF THE CONFEDERATE AIR FORCE

In 1951 Lloyd Nolen of Mercedes bought a North American P-51 "Mustang" fighter that had been sold as Air Force surplus. He bought it for the pleasure of flying one of the finest airplanes ever built because this powerful fighter could now be flown just for fun and not under the stress of combat. Soon other pilots became interested and began to take part.

They were Marvin Gardner, Mercedes; Billy Drawe, Mercedes; C. W. Butler, Weslaco and Royce Norman, La Feria. As a result of this enthusiasm, another fighter was bought: a surplus U.S. Navy Grumman F8F "Bearcat." This gave the group the latest types of propeller-driven fighters to see service with the Navy and Air Force—the last of a line of pursuit and fighter aircraft started back in 1914 and which were developed in service during World War II.

As a result of friendly competition between ex-military pilots of the Navy and Air Force flying the "Mustang" and "Bearcat," interest in the World War II fighter-type aircraft grew. They decided to acquire other types, and in searching for these aircraft soon discovered that very few remained intact.

By 1963, the CAF collection of American World War II fighter-type aircraft was complete. The following types had been found: P-38 Lightning, P-40 Warhawk, P-51D Mustang, F4F Wildcat, F6F Hellcat, F8F Bearcat, F4U Corsair, P-39 Aircobra, P-63 Kingcobra, P-47 Thunderbolt.

As interest continued to mount, these men found themselves searching for foreign aircraft types to represent our Allies and our enemies. Negotiations began for a Spitfire in England, DeHavilland Mosquito Bombers in Canada, a B-24 in Mexico, Me109s in Spain, and others.

During the early years, the Confederate Air Force flew planes from a small country airport at Mercedes, Texas, with only a 2,900 foot runway. By 1965, the CAF had 170 Officer-members and an investment of $306,000.00 in aircraft and buildings on this strip. As the first bombers began to arrive, it became obvious that the runway was not sufficient in length or base to support the heavy aircraft. In 1968, the CAF received and accepted an invitation from the enthusiastic and patriotic citizens of Harlingen, to move the "Ghost Squadron" and establish CAF Headquarters at their newly-developed International Airport. The Museum is now housed in three large hangars and a World War II vintage Army Air Corps office building at the Harlingen Airport, with a combined floor space of 76,000 sq. feet. This includes the Bomb Wing Hangar, Fighter Wing Hangar, and Maintenance Hangar, in addition to the office building which houses the Indcor Museum, Administrative Offices and Officers' Club. Visiting Officers' Quarters have recently been completed for the convenience of flight and maintenance personnel visiting and working at Headquarters.

The conventional Museum has a large display of World War II memorabilia, photographs, maps, guns, and items of interest to everyone. It presents a chronological history of the tragedies, hardships and victories of World War II.

The group of veteran pilots investigated to see what could be salvaged from the surplus depots at Litchfield Park Naval Air Station and Davis-Monthan Air Force Base in Arizona. What they found was not a pleasant sight—Great American combat aircraft were going to the smelter—the famous Corsair, Avenger, Invader, and Mitchells. The older types—the Flying Fortress, Liberator, Dauntless, Thunderbolt. Warhawk, Hellcat, Wildcat, Lightning—could not be found. They had long since been disposed of or completely destroyed.

At this point, these men decided that if it were possible, at least one each of these historic aircraft would be found, restored and preserved in flying condition, for future generations of Americans.

These men organized the Confederate Air Force and dedicated themselves, their time, money and effort to the following objectives:

1. To preserve, in flying condition, a complete collection of combat aircraft of all military services of the United States in World War II—1939–1945.

2. To perpetuate in memory and hearts of Americans, the spirit in which these great planes were flown for the defense of our Nation.

3. To provide Museum buildings for the permanent protection and display of these aircraft, and to initiate and establish the National "Combat Airman Hall of Fame" as a tribute to the thousands of men and women who built, serviced and flew them.

4. To promote good fellowship among the members of the organization and to support patriotic Americans everywhere, by flying and preserving these great aircraft as symbols of our American heritage.

Colonel Jethro E. Culpeper emerged as the mythical leader of the Confederate Air Force. A General Staff and nine men serve as the Corporate Board of Directors and conduct the business of the organization.

Colonel Culpeper points out that the men of the CAF are REBELS only in the sense that they are rebelling against the destruction of these historic aircraft. They are rebels with a cause! These planes could never be forgotten. The memory of the gallant deeds performed by men and machines in aerial combat during World War II should be preserved. The men of the CAF have asssumed this task.

With its course set, the Confederate Air Force was chartered as a non-profit Texas corporation on September 6, 1961.

CAF membership approached 2300 by 1977 and the investment had exceeded $1,000,000.00. Two of the present Hangar buildings were provided by the City of Harlingen, and the Fighter Hanger was built by men of the CAF at a cost of $57,000. With these buildings already full, a fourth building of 26,000 sq. feet is being planned adjacent to the present Fighter Hangar. The CAF Museum is one of the few places in the world which provides indoor housing for its 4 engined bombers. With 40 acres of concrete ramp, there is ample room for expansion.

In 1971, the original objectives were reached—the collection of the more prominent types of American World War II combat aircraft was complete. The last airplanes to be acquired were at Headquarters, or being made ready to return—

In their determination to complete the collection, the Colonels have added, for good measure, an almost complete collection of American trainer aircraft, and several of the historically important transport aircraft of World War II. In their quest, CAF Officers have returned 20 aircraft from foreign countries.

These aircraft, now known as "The Ghost Squadron," will be maintained as a Fying Museum available to the U.S. Air Force, U.S. Navy and civic organizations, to be flown throughout the Nation for flight demonstration or display for patriotic and educational purposes. This flyable aircraft fleet renders a definite patriotic service to the entire Nation.

WHY AMERICAN STEEL COMPANIES ARE IN TROUBLE: EUROPEANS CONTINUE TO BUILD TRUSTS, SUBSIDIZE STEEL

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. VANIK. Mr. Speaker, the following article from the London Financial Times of September 30, 1977, describes a trust or cartel-building agreement among France's two largest stainless steel producers "to coordinate areas of their production in the face of strong international competition." The action described in this article would undoubtedly be illegal under American antitrust laws—yet such actions are taking place throughout Europe and help explain why American companies are facing so much unfair competition in steel.

The second article, from the September 22, 1977, issue of American Metal Market, describes a new form of "loan" assistance from the Swedish Government to a steel company.

We are increasingly facing international competition from countries and foreign companies which live and operate under different economic philosophies in which business and government work hand-in-glove.

I believe in our system. I believe it is the most efficient, both in the short and long run. But I also believe we must begin to develop new and better tests and measurements of the extent of foreign government support and subsidy of foreign production. We cannot expect our companies to compete and survive when they are competing against sovereign foreign nations which are using their local industries to maintain exports for full employment reasons.

The articles follow:

TWO STEEL COMPANIES AGREE TO COOPERATE

(By Robert Mauthner)

PARIS, September 29.—The two biggest French producers of stainless steel, Creusot-Loire, and Ugine Aciers, a subsidiary of the Pechniey-Ugine-Kuhlmann group, are planning to co-ordinate areas of their production in the face of strong international competition.

Under the proposed agreement, Creusot-Loire would abandon the production of stainless steel round bars, thus enabling Ugine Aciers to expand its production to levels comparable to those of its principal European competitors.

In return, Ugine Aciers would leave the field clear to its partner as regards the production and marketing of square and flat steel sections.

A new joint subsidiary specialising in wiredrawing would be set up to enable the French steel industry to compete with the leading companies in the world in this field.

Creusot-Loire would produce the stainless steel wire for the new joint company, while Ugine Aciers would continue to manufacture chrome products. The latter company will produce wire for other consumers.

The whole agreement is still subject to the approval of the various works committees involved, and, even more important, must receive the authorization of the European Commission. If this is forthcoming, the arrangements would come into effect at the beginning of 1978.

FINANCIALLY DEPRESSED UDDEHOLMS RECEIVES $122-MILLION GOVERNMENT LOAN

LONDON.—The Swedish government has come to the aid of financially pressed Uddeholms AB, with a $122-million conditional loan to bolster the firm's dwindling cash reserves and enable it to complete a restructuring program begun last year.

Sweden's new non-Socialist government has adopted a new approach to aid for private industry with the Uddeholms loan. The "conditional" loan granted by the government has traditionally been used for industrial development projects and is repayable only when the project (or in this case, Uddeholms itself) becomes profitable.

Announcement of the loan coincided with publication of Uddeholms financial results for the first half of 1977. The firm showed a pretax loss of $39.3-million during the first half, compared with $4.9-million loss in last year's like period.

Losses attributed to steel operations during the first six months totaled $23.1-million.

Uddeholms' sales for the six-month period were $255.8-million, 17 percent higher than a year ago, reflecting mainly the acquisition of Stora Kopparberg AB's specialty steel operations rather than any increase in volume.

Uddeholms' cash flow problems have stemmed from the combined effects of the steel recession and the demands of a major investment program inaugurated in 1974.

The firm's interest expenditure during the first half had grown to $13.3-million, versus $8.4-million in the second half of 1976 and $6.8-million in last year's first six months. New long-term borrowings increased by $103-million during the first half of this year.

The company's financial prospects, said Uddeholms' management is continuing to deteriorate, and an even larger loss is anticipated for the second half of this year. As part of its restructuring effort, Uddeholms has already trimmed 1,00 persons from the workforce and is expected to shed another 1,500 by the end of 1978.

The government loan, then, is a Godsend for Uddeholms, especially because it imposes no new financial burden on the firm. Repayment of the loan will start only when Uddeholms is able to renew dividend payments to its shareholders.

JIMMY CROMWELL, WORLD DEAF OLYMPICS WINNER

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. DUNCAN of Tennessee. Mr. Speaker, I would like to take this opportunity to ask colleagues to join in with me in honoring Jimmy Cromwell, Jr. of Townsend, Tenn., in winning two gold medals and a bronze medal in recordbreaking performances at the World Deaf Olympics which were held in Romania.

Jimmy, who is an 18-year-old senior at the Tennessee School for the Deaf in Knoxville, Tenn., has been deaf since childhood. Nonetheless, he has not allowed his handicap to stand in the way of living life to the fullest.

While he has been a student at the Tennessee School for the Deaf, Jimmy has been captain of the swimming team for the past 4 years, quarterback of the school's football team for 2 years and a member of the track team.

Jimmy broke a world's record for the Deaf Olympics in winning a gold medal in the 100-meter breaststroke. He also set a new world's record and won a gold medal as part of the 100-meter relay team. He captured a bronze medal in the 200-meter breaststroke.

His spirit and determination in overcoming his handicap should be an inspiration to all of us. Jimmy has represented himself, his family, and his country honorably and we wish him well.

THE PRESIDENT PLAYS THE POLITICS OF ENERGY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. TEAGUE. Mr. Speaker, the intemperate remarks of the President of the United States with respect to the oil industry of this country were not only shocking, but surprising to say the least. They are surprising because he has lashed out at a group of people who sustained him in the last days of his campaign for the Presidency and delivered the State of Texas to his winning column. This was done based on a letter directed to Governor Dolph Briscoe dated October 19, 1976, a copy of which I would like to insert in the RECORD at this point:

OCTOBER 19, 1976.

Hon. DOLPH BRISCOE,
Governor of Texas, Capitol Building, Austin, Tex.

DEAR GOVERNOR BRISCOE: The formulation of a workable national energy policy implemented by a responsive, understandable governmental structure will be of highest priority in a Carter administration. If we are to reach our goals of full employment and a healthy, growing economy, we must reduce our dangerous dependence on foreign oil and we must develop our own domestic energy supplies. These resources must be produced and used in an environmentally acceptable manner at a cost that the consumer can afford to pay.

A sound energy policy must aggressively promote conservation of our scarce oil and gas resources. This is the only way in which we can hope to make ends meet in our energy budget. But, coupled with energy conservation, our policy must encourage additional production of our domestic reserves.

Eight years of Republican administration have failed to produce an energy policy. Demand for new energy supplies has increased by over 4 percent per year since 1969—even though demand was reduced considerably during the recession triggered by the Arab oil embargo. At the same time, domestic production and resources have decreased substantially, and dependence on foreign supplies has increased from 35 percent prior to the embargo to over 40 percent today.

To increase our domestic production, I have proposed three important steps.

First, I will work with the Congress, as the Ford administration has been unable to do, to deregulate new natural gas. The decontrol of producers prices for new natural gas would provide an incentive for new exploration and would help our nation's oil and gas operators attract needed capital. Deregulation of new gas would encourage sales in the interstate market and help lessen the prospect of shortages in the nonproducing states which rely on interstate supplies. While encouraging new production, this proposal will protect the consumer against sudden, sharp increases in the average price of natural gas.

Second, I believe we should act to encourage enhanced recovery from wells already in production. As you well know, an average of 60 percent of our oil remains in the ground after standard recovery methods have been exhausted. It is estimated that up to 60 billion barrels of crude could be added to our supply if enhanced recovery techniques are used. Since the environmental costs have already been largely paid on these resources, both consumers and producers alike benefit from development of this resource.

Third, I favor a substantial shift from the use of oil and gas—our highest quality energy sources—to coal, which we have in abundance. We must immediatley begin a program to encourage conversion from the use of petroleum and natural gas to coal in those applications for which coal is an acceptable substitute. Our present demand for coal is limited by two important factors. First, we have geared our technological growth to oil and gas for well over 100 years. Second, we have failed to establish a stable regulatory climate in which coal producers are sure of the rules of the game before they make investments in expanded production or new mines. Switching to the use of coal will require strong presidential leadership and proper federal incentives to encourage the conversion process. A Carter Administration will provide this leadership.

I hope these policy recommendations will help to put my views on the supply aspects of the energy problem into focus. Without a strong commitment to increasing our domestic production, while maintaining basic environmental principles, we cannot hope to reverse the unhealthy trends which the lack of leadership of the current administration has produced.

Sincerely,

JIMMY CARTER.

I would ask my colleagues in this body, does the present energy policy of the President resemble in any way, form or fashion, what he promised the Governor of my State, the State of Texas, he would do for the "robber barons and war-profiteering" oil industry of this country?

GARFIELD HOSPITAL—50TH ANNIVERSARY

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. DANIELSON. Mr. Speaker, in a few days, on Sunday, October 23, 1977,

the Garfield Hospital, located in my congressional district, will celebrate its 50th anniversary.

In 1927, Dr. I. M. Feldcamp expanded his office into a small 24-bed hospital with surgical facilities. That hospital is now one of the most progressive in the area and has grown into a major regional medical facility with 229 beds.

Located in the city of Monterey Park, Calif., its open heart surgery team now performs 10 to 12 operations a month, a seven-bed hemodialysis unit has a caseload of 40 patients a week, and the emergency room treats 1,000 cases a month on a 24-hour basis.

From its humble beginnings 50 years ago, Garfield Hospital has grown into a major facility that offers topflight medical services to residents of Monterey Park and surrounding communities, and I am sure that Dr. Feldcamp, who is now 88 years old and still practicing medicine, will be very proud when he attends the golden anniversary celebration this coming Sunday.

BUCKEYE ELKS LODGE NO. 73 HONORS YOUNGSTOWN COMMUNITY LEADERS

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. CARNEY. Mr. Speaker, on October 27, 1977, the Buckeye Elks Lodge No. 73 Improved Benevolent and Protective Order of the Elks of the World, will hold its 23d annual recognition banquet at the Buckeye Elks Youth Development Center in Youngstown, Ohio.

The lodge is honoring outstanding business and community leaders, and members of the order, at this year's banquet. This cross section of Youngstown area leaders, including business, labor, the professions, and the news media, is a reflection of the civic pride that exists within our community. These individuals encourage us to think positively about our city, thereby helping us to confront our common problems. Their desire to improve our community certainly deserves to be recognized and aided.

Broad-based support for the development of civic pride is necessary to insure the Mahoning Valley's future well-being. Only a coalition composed of all segments of Youngstown's entire community can lay the foundation on which to solve the problems that face us. By noting the efforts of these individuals on behalf of their community, others will be encouraged to take an active interest in making Youngstown a better place to live.

I commend the Buckeye Elks Lodge No. 73 for recognizing and honoring our community leaders. The Buckeye Elks have always exemplified the high ideals of community involvement. They are dedicated to the youth of the community; education programs and physical training programs for youth take place at the Buckeye Elks Youth Development Center. In addition, the Elks sponsor arts and crafts programs for all senior citizens who wish to join in these activities. They also promote and defend civil liberties in the community.

The officers and members of the Youngstwon Lodge of the Buckeye Elks are an asset to our community, because they stress involvement in local affairs and fraternal cooperation in all of their endeavors. The preamble to their constitution urges that "the spirit of patriotism be enlivened and exalted." These are the ingredients of a positive community spirit, and the means by which the welfare of the Mahoning Valley can be promoted. I am proud to be an honorary member of the Buckeye Elks Lodge No. 73, and to support its endeavors.

Mr. Speaker, at this time I would like to insert a list of those who will receive honorary degrees from the lodge for their services to the community and to the Buckeye Elks Youth Center. I am pleased to be able to extend my sincere congratulations and best wishes to each of them.

The list follows:

Dr. Henry W. Holden, local practitioner.

Mr. John Palermo, Mahoning County Commissioner.

Mr. George Bindas, Mahoning County Commissioner.

Mr. William Mittler, Youngstown Advertising Manager, the Youngstown Vindicator.

Mr. Donald W. McGowan, President, Dollar Savings and Trust Company.

Mr. C. R. Warden, Assistant Secretary, Dollar Savings and Trust Company.

Mr. Frank C. Watson, President, Youngstown Welding and Engineering Company.

Mr. Pedro Tomez, Buckeye Elks Youth Boxing Trainer.

Mr. Wilbert Johnson, Director of Youth, Buckeye Elks Youth Development Center.

Mr. George Johnson, Trustee, Buckeye Lodge.

Mr. Leonard McCormick, Banquet Chairman.

Mr. Alonzo M. Wilson, Banquet Reservations Chairman.

Dr. Ernest Perry, Toastmaster.

Mr. John T. Smith, President, Greater Youngstown AFL-CIO Council.

Mr. Mizell Stewart, Sr., Exalted Ruler of Buckeye Elks Lodge No. 73.

THE SIMPLE, EQUITABLE SOLUTION TO THE ILLEGAL ALIEN PROBLEM

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. BONKER. Mr. Speaker, I will soon be introducing legislation which I believe is a promising approach to the illegal alien problem. Proposals have been made to punish employers who hire illegal aliens, to increase the penalties for illegal entrants who are caught, to grant amnesty to aliens already in the United States, and even to make a Berlin Wall out of our borders. Unfortunately, most of these proposals either ignore the incentive that attracts aliens to this country—employment—or, as in the case of penalizing the employer, unfairly burden a person who usually has neither the resources nor the time to verify proof of citizenship or legal entry for his employees.

Because illegal aliens come to this country to find jobs, controlling the access to employment of these people would seem to be the logical remedy. Present measures have been wholly inadequate in this respect. Easily counterfeited temporary work permits ("green cards"), drivers licenses, social security cards, and other documents are readily available to the illegal alien. The question, then, is how best to document work eligibility.

The law now requires that all gainfully employed people have a social security number, and recommends that they show their social security card to their employer. Thus, the basic system for controlling employment eligibility through a single document is already established. The problem is that the simple blue and white social security card we are familiar with is easily obtained at the local social security office or on the black market. An alien can get a valid card from the Social Security Administration by using a counterfeited work permit, or buy a bogus one on the street for a modest price. Any person 17 or under (or any person who passes for that age) is not required to show any identification whatsoever to obtain a social security card. Clearly, the social security card in its present form could not be used to document employment eligibility.

My bill would require HEW to issue "counterfeit-proof" social security cards. Proof of citizenship, or of legal entry confirmed by the Immigration and Naturalization Service, would be needed before a card could be issued. An employer would be required to check a new employee's social security card and would be permitted to ask for additional identification to assure that the bearer of the card is the valid holder. However, the major responsibility for assuring the legal employability of a person would be on the Government, not the employer. A single card, which need be shown only to obtain employment, could also go a long way toward reducing the harassment of Hispanic Americans and other citizens of foreign origin. The bill specifies that use of the card for identification is limited to the purposes of the bill.

With the careful issuing of counterfeit-proof social security cards, we would have a simple, effective, and efficient means for controlling the employment of illegal aliens. Without the attraction of employment in the United States, the incentive for illegal immigration would be greatly reduced.

As the following editorial from the Los Angeles Times argues, this "simple card" would be the best remedy to the illegal alien problem:

A CARD, A SIMPLE CARD

We cannot understand the reluctance of the Carter Administration to support the proposal most likely to slow the flood of illegal aliens across our borders—a counterfeit-proof Social Security card.

Noncitizens pour into this country by the tens of thousands every month to look for

work, and the ready availability of false evidence of citizenship or legal status immediately enables them to qualify for employment.

President Carter's amnesty plan attempts to deal—we think unsatisfactorily—with the millions of illegals already here, but it rejects the strongest deterrent to future border-crossings.

The pressure along the Mexican border is growing, and Carter ought to respond to new evidence that his amnesty proposals are encouraging, rather than discouraging, illegal immigration.

Last week, the U.S. Border Patrol said there had been a 51% increase in the apprehension of illegal aliens trying to enter from Mexico since the President made his amnesty recommendations earlier this month.

The arrest count was 50,705 in the first three weeks of August, against 33,495 for the same three weeks last year. Applying the patrol's own estimate that it catches only one in three of the aliens, more than 100,000 made it into this country.

Many Border Patrol station chiefs blame the amnesty announcement for the increase, "It's a topic of conversation in every village in Mexico," one of them said.

Although we agree that the prospect of amnesty is an incentive to Mexicans and other foreign nationals, it cannot be held entirely responsible for the sudden higher rate at which they are trying to enter the country.

The drought in the northern agricultural regions of Mexico is adding to the already high unemployment rate. The recent downward fluctuation of the peso, and staggering increases in the price of food, are impoverishing even larger numbers of Mexicans.

Another of Carter's proposals—to increase the size of the Border Patrol—will only slow, not stop, the inrush. The disparity in opportunities and living conditions will continue to attract the poor of other nations to this country.

Nor will Carter's plan to penalize employers who knowingly hire illegals have much effect. It is possible for aliens to buy all the identification that an employer could reasonably require before they even enter this country—birth certificates, Social Security cards, driver licenses, rent and utility receipts. And all of it counterfeit.

One forger in a Mexican border town sold $232,348 worth of false birth certificates in just three months. He is now in prison, but scores of others are carrying on the lucrative trade.

A Social Security card with electronic coding would be fraudproof because it could be read only by a computer, and it would permit employers to verify an applicant's legal status without delay and without the interrogation that legal citizens of Hispanic and other origins must now undergo in employment offices.

We think it is unreasonable to threaten employers with sanctions for knowingly hiring illegals if there is no single document that establishes status beyond all doubt. If employers accept a bogus Social Security card and inquire no further, are they guilty of "knowingly" hiring an illegal? A forgery-proof card would end all such doubts.

The one objection we have heard is that this form of identification card smacks of the citizen registration common to totalitarian governments. We disagree. Almost all working Americans now have Social Security cards, and must give their numbers when applying for work. The new card would contain no more information than the present one, and would have to be shown only to prospective employers. It would be a protection for Hispanics and others who are in this country legally, but who now suffer the greatest harassment in trying to prove their status. That, too, would end with the new card.

Carter should heed the recommendation of Secretary of Labor F. Ray Marshall, who agrees with us that a new form of positive identification, without which illegal aliens could not find jobs, is the best way to deter them from crossing the border.

FLOYD W. CARLSON—A PILOT'S PILOT

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. MILFORD. Mr. Speaker, I would like to bring to the attention of all Members of Congress the record of a truly great American—Floyd W. Carlson.

Every helicopter pilot in America knows this name well. He is truly one of the living pioneers of the helicopter.

When Floyd W. Carlson set out to learn to fly a helicopter 35 years ago there was no book on the procedure, so he began establishing techniques that have been used by thousands of pilots. There were no certification standards peculiar to helicopters. Carlson was instrumental in their development, including some which remain relatively unchanged today.

In recognition of his long and continuing accomplishments in improving the caliber of helicopters and of the men who fly them, Carlson has been elected an honorary fellow of the Society of Experimental Test Pilots.

It is another major milestone in the career of Carlson, whose early flights culminated in the awarding of the world's first commercial helicopter license to a Bell model 47 by the Civil Aeronautics Administration (now FAA) on March 8, 1946. He has played a significant role in flight research programs ever since while serving as chief pilot, director of flight and in his present capacity as special projects engineer for Bell Helicopter Textron.

Carlson formally received the honor October 15 during the society's 21st symposium in Beverly Hills, Calif. His name will be placed alongside those of such aviation luminaries as Charles A. Lindbergh and Jimmy Doolittle on the select roster of recipients of this accolade.

A native of Jamestown, N.Y., Carlson joined Bell Aircraft Corp. in Buffalo in June 1942 to test fighter planes. Shortly thereafter he became one of the small group chosen to pioneer the development of a Bell helicopter, joining inventor Arthur Young, his apprentice, Bart Kelley, and a handful of others assigned to the project headquartered in an abandoned garage in the suburbs.

His first helicopter flight was made in December 1942 in the model 30, which was tethered. Gradually, Carlson mastered the trick of hovering by staying motionless with slack in the cable.

In June 1943 the cable was removed and Carlson flew the helicopter slowly around a meadow before landing. It was a major accomplishment in those grab-hold-and-hang-on days. There were no rudder pedals, a tiller bar being used to assist in maintaining directional control of the aircraft.

Within a month, the first cruising and maneuvering flights were carried out at a nearby airport. A dressed-up fuselage and paint job were added to the flying test rig for this occasion, which attracted a few hecklers. To paraphrase Bart Kelley's notes:

> Amid wisecracks of the local light airplane pilots the rotor was started and the helicopter went to town.

Go to town it did, leading to CAA designation (NC-1H) for the model 47 less than 31 months later to signal the start of the commercial helicopter industry.

During Carlson's precertification era flights, a suitable pilot control system was developed as a result of numerous evaluations. These included a cyclic control which varied the swashplate to give pitch and roll axis control similar to pilot inputs in an airplane. A collective with throttle was developed for power management and rotary blade pitch. Directional control was improved through implementation of a rudder pedals walking beam concept.

Carlson has exercised considerable influence on the design and development of Bell's machines ever since. Not only has he proved the structural integrity and characteristics of the helicopter through intensive flight tests, but he also has contributed numerous suggestions which have added to the pilot's conception of comfort and flight control. Flying safety always has been given top priority. First flights on all new models of Bell helicopters through the late sixties were made with Floyd at the controls.

His co-workers on the early development team marveled at his ability to think one step ahead in establishing emergency procedures. Carlson pushed through the helicopter's two-per-rev vibration to 35 to 40 knots to confirm getting through transition. While its virtually impossible to document some of the helicopter "firsts," Carlson is known to have made autorotation—engine off—landings as early as August 1943 and was widely consulted regarding his techniques.

Carlson made several dramatic demonstrations of the helicopter's—and his own—flying capabilities during the mid-forties. Some were scheduled. Some were emergencies.

In May 1944, he made the first indoor helicopter flight in the United States, and only the second in the world, in the 65th Regiment Armory in Buffalo. The flight was staged at the request of Civil Air Patrol officials to show the stability and precision control of the aircraft and its ability to take off, maneuver and land in restricted areas.

In January 1945, Carlson flew the first mercy mission with the helicopter. Bell's chief test pilot, Jack Woolams, had to bail out of a P-59, the first U.S. jet airplane, at high altitude. Woolams was injured as he leaped. He managed to pull the ripcord, but when the chute opened, the sudden snap caused his flying boots to be torn from his feet. Temperature at this altitude was 30° below zero and the

descent took almost 15 minutes. Ground temperature was 10°.

Woolams had to walk a mile through deep snow to find shelter. He phoned the company and stated his location and the need for immediate medical attention, particularly for his frozen feet. Snow drifts precluded use of an ambulance. The helicopter flew about 20 miles to the scene, delivered a physician to the farmhouse and treatment was administered.

Two months later, four fishermen were marooned on crumbling ice 2 miles out in Lake Erie. The Coast Guard was unable to reach two of the men and finally called for the Bell helicopter.

Carlson flew to the scene, reconnoitered and went to work. The ice near the men was too thin to permit him to actually land. But, by the most adroit maneuvering and control, he managed to hover with the landing wheels of the helicopter touching—but not resting on—the mush ice. He maintained this position with complete stability while the first man climbed aboard. After taking his passenger to shore, Carlson flew back, repeated his performance and rescued the second man. For this feat, he was awarded the Treasury Department Silver Medal.

It was an unrivaled demonstration of stability control, precision handling, ability to operate under emergency conditions, and the capability of the helicopter to do things that no other vehicle could accomplish.

All of these operations took place before the helicopter certification by the CAA.

These performances were forerunners of what the helicopters were to do a few short years later in the Korean conflict—the first mass use of rotorcraft. There they rescued an estimated 25,000 wounded United Nations soldiers and Korean civilians.

Mention any of the ensuing model 47's, which had a production history of 27 years; the tandem-rotor HSL; the famous Huey series; the JetRanger; the XV-3 and its present, improved descendant, the tilt-rotor XV-15; the Cobra armed helicopters and now the twin-engine 222. Carlson had a major hand in their development, from embryonic stage to their most advanced status, and made the first flight in most of them.

Today, he continues to play a dominant role in promoting state-of-the-art advances relative to the handling qualities of company aircraft. He is particularly involved in the area of instrument flight and cockpit workload improvements, which are opening up a whole new era of productive utilization of these machines.

Carlson's love affair with aviation began in 1926 when, at the tender age of 9, he flew in a Jenny with his older brother, Milt. By 1933 he had soloed in a Piper Cub and obtained a private license. Three years later, he obtained his commercial license, instrument and instructor ratings and went on to perform general charter and instruction flying for Buffalo Aeronautics until he was hired by Bell. There, he added helicopter multi- and single-engine credentials.

In his early years at Bell, Carlson somehow managed to make numerous flights of both development and production fixed-wing aircraft while the company's first helicopter was struggling toward full-blown emergence.

Included were P-39 production flights and armament tests; initial development performance and stability flight testing on the P-63; development of rocket launchers, and the P-59 jet aircraft flights.

Carlson has logged more than 20,000 flight hours, about equally divided between airplanes and helipcopters.

Floyd and his wife, Evelyn, reside in suburbant Fort Worth, 7063 Hovenkamp, Richland Hills. They have three adult sons, Blair, Todd, and Rand.

BIG SCHEME SHOOK A NATION

HON. LARRY McDONALD
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. McDONALD. Mr. Speaker, perhaps unfortunately, while times change, human nature does not; fortunately for all, however, the laws of mathematics and honest economics do not change either.

For over four decades, successive administrations and Congresses have tampered with economic principles as though divine powers had somehow been achieved and as though we could create prosperity from thin air. Unfortunately for these either evil or stupid politicians, 2 plus 2 still equals 4 and there is still no such thing as a free meal. Tragically after similar such periods of economic folly or evil, the people of the country pay the price for the actions of the few.

Periodically various countries have passed through the lessons of Government-caused inflation (is there any other?). Human nature has an addiction for the gambler's dream of gaining "something for nothing." This character flaw gives further fuel to the engine of inflation. Of course, inevitably the inflation-linked "prosperity" turns sour and then rotten. Out of the terminal bitterness, a country faces social strife and is, indeed, fortunate if it can avoid the extremes of political radicalism and even revolution.

One of the interesting tales of inflation was the Mississippi Bubble scandal that rocked France in the early 18th century. This particular scheme was the product of a brilliant scoundrel named John Law. Students of economic history will recognize the pattern; an unfolding of similar events in England was termed the South Sea Bubble, and in Holland another inflationary folly was known as the Tulip Mania.

When the initial phases of the inflation were in progress, people were believers in an economic miracle with John Law as its wizard, a man seemingly blessed with divine powers. In the end, Law died penniless and discredited. The main difference today is that our modern-day John Laws in the executive and legislative branches know what they are doing and are doing it anyway. At what point does economic folly become conscious evil?

It should be noted that the inflation of the Mississippi Bubble variety is via one mechanism. The runaway inflation of the Weimar Republic (Germany) during the 1921–23 period was of the whiz-bang variety and a close relative of the John Law scheme. Then there is the Latinism variety that produces a cash-and-carry economy and makes long-term economic planning difficult if not impossible. All forms of this Government-caused disease amount to sophisticated stealing and are deadly to economic health.

It is a rare day when there is any merit to be found in the pages of the Atlanta Journal and/or the Atlanta Constitution. From various syndicated columns, however, some wisdom does surface on occasion. Usually this rare wisdom is limited to the syndicated columns of the comic page, but on October 16, the following excellent article appeared. This article is from the Random Time Machine series and was written by Doane Hoag.

The commentary on the Mississippi Bubble inflation in France follows and I commend it to my colleagues:

BUBBLE BURST—BIG SCHEME SHOOK A NATION

PARIS, FRANCE, October 16, 1715.—Into this city on this autumn morning there came a tall, handsome Scotsman named John Law. A professional gambler who made his living at the gaming tables, he was but newly escaped from his native land, where he was about to be hanged for murder. It seemed there had been a card game with very high stakes, much money had changed hands, and John Law, who won it all, had been accused of cheating. A duel had ensued, Law had killed his opponent, and then been charged with murder. The tall Scotsman, who looked more like a bank president than a gambler, had climbed over the prison wall and fled to France for his life.

Arriving in Paris, he went at once to a casino where the stakes were unlimited. With a genius for figures and an understanding of the laws of chance and probability far ahead of his time, he was invincible at cards. Within four hours, he had won 10,000 livres, the equivalent of $50,000.

Night after night John Law haunted the casinos, each time going home with a fortune in winnings. His fame spread from one end of France, to the other: "the man who couldn't lose."

But Law was tiring of the game. Winning was just too easy. He had to find an even bigger gamble. And one day he did.

To the royal Palace of France he went, begging audience with the Regent himself. The ruler was sufficiently curious about this incredible gambler to agree to see him, which he did. Then John Law presented him with one of the most colossal get-rich schemes ever concocted by the mind of man. A scheme, he claimed, that would wipe out the national debt of France and make everyone a millionaire.

The scheme was simple. John Law would form a gigantic company, backed by the government, which would develop the supposedly fantastic resources of the Mississippi Territory.

France still owned the Mississippi, and legends of its fabulous wealth of gold and silver were the talk of Paris. Law believed the stories himself. So did the Regent. He agreed to the plan, and the new company—called the "Company of the Occident"—was duly formed.

The first shares were sold at the equivalent

of a hundred dollars each, but so successful was the venture that they rose in value to a $1,000 a share within a few months. So now Law required that the shares be paid for one-fourth in gold or silver and three-fourths in public securities. That meant that, as the demand for shares in Law's company continued to rise, there was an equal demand for public securities with which to pay for them. The price of Law's shares went skyrocketing. So did the price of government securities. The government made millions. Law's company made millions. And the rest of the world looked at France with envious wonder.

Now stories of even greater wealth in the Mississippi Territory began to circulate. There were stories of emerald cliffs, of gold nuggets the size of goose eggs found among the roots of wild bushes, of boundless quantities of fine silk produced by the Indians of Mississippi. From all over Europe and the British Isles investors rushed to France to buy shares in John Law's company. Shares rose higher and higher in price. It became possible to buy on Monday and sell on Tuesday at 100 per cent profit.

Fortunes were made by peasants and servants. A man who had been starving six months ago was now a millionaire. A Madame LaChaumont, once poor, was so rich she gave dinners every day for a hundred guests, roasting an ox, two calves, and six sheep for each dinner. The son of a baker at Toulouse bought an entire goldsmith's shop just so that his wife might have as much tableware as she thought proper. A noblewoman met her former cook at the opera, wearing jewels that were finer by far than her own. Tavern waiters, footmen, grocer's boys—the first people to gamble their savings with John Law—were now appearing on the streets in gold cloth bedecked with diamonds. Carriage makers ran three years behind their orders, and jewelers could not keep up with the demand for diamonds. Housemaids asked for and received $10,000 a month in wages.

Shares in the company rose from $100 to $4,000. Government securities rose at an equal rates and the Treasury issued millions upon millions of dollars in paper currency backed by the securities. The national debt of France was completely paid off. French nobles became millionaires. And the end seemed nowhere in sight.

But now canny John Law, with a gambler's instinct for knowing when to pull out, became uneasy. He went to the Regent and warned that the scheme was working altogether too well. The Regent laughed at him threatened to throw him in jail if he let his fears be known to the public.

Other men were becoming just as uneasy as John Law. Quietly they began turning their securities into gold and depositing it in foreign banks. Law himself converted his shares into gold and waited for the inevitable crash.

Suddenly the word was out that there really wasn't any gold in the Mississippi Territory. No gold. No silver. No diamonds. No fabulous silk mills. It was all just a dream. The great "Mississippi Bubble" simply burst.

Shares in the compay fell overnight from $4,000 to $5. The company closed down. Mobs stormed its doors, smashed its windows, broke open its strong boxes. Law fled with his wife Catherine to Florence and then to Venice, where he died a bitter and broken man who was never able to understand why his greatest gamble to develop the Mississippi Territory had failed so miserably.

Back in France, things gradually returned to normal. One-time millionaires, now penniless, went out to look for jobs. Peasants went back to their fields, workmen returned to their benches. Furs and jewels were pawned for the price of a meal. And housemaids were glad of a job of any kind, to keep body and soul together.

The grand and glorious party was over, and hangover time was at hand. France had tasted real inflation, and the country would never forget the experience.

DEVELOPING A WORKABLE URBAN STRATEGY

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Ms. OAKAR. Mr. Speaker, as a representative from an urban area, and a member of the Subcommittee on Cities, I have a deep interest in President Carter's efforts to develop a workable urban strategy that will help our hard-pressed cities. We have learned bitter lessons about what will work and what will not work in the way of Federal programs, and I am hoping that in the 1970's we will produce a viable program that will truly aid our cities, and meet the needs of people.

Thus it was with great interest that I read Mr. Neal Peirce's column in the October 18 Washington Post. Mr. Peirce lays out some very important points that must be considered in the development of an urban strategy. I particularly note his point about neighborhood groups and their need for technical assistance. I hereby submit Mr. Peirce's column for the RECORD:

EVOLVING A WORKABLE URBAN STRATEGY

(By Neal R. Peirce)

For months the Carter administration has been struggling to produce a coherent policy to bolster the nation's hard-pressed cities. After all the effort, will a workable urban strategy emerge—or will the elephant have labored to bring forth a mouse?

The answer's still unclear, but several salient points are now coming into focus:

First, no urban strategy will be worth its salt unless President Carter makes it a keystone of his domestic policy, moves some other projects to the back burner to put city needs first, and coordinates the follow-through directly from the White House. There's no evidence Carter has yet made that commitment.

Second, a multibillion-dollar "Marshall Plan" to save cities would be neither affordable, given budget restraints, nor advisable. It would likely replicate many of the failed programs of the '60s, raising false hopes and leaving the cities in worse shape than ever. To their credit, administration planners seem to recognize this point.

Third, immediate priority must go to defusing the social tinderbox of widespread youth unemployment, especially among minorities—our prime national disgrace. That means focusing on incentives to create jobs—real, permanent, private-industry jobs. Carter's urban planners are considering myriad incentives. But they leave themselves a path of retreat in government make-work jobs. The more the final plan goes the public-job route, the less will be the potential for long-term, sustainable city recovery.

Fourth, an urban policy has to be broad-scaled, stretching across virtually very department of the federal government. Federal departments have customarily gone on their own merry way, responding to hundreds of congressional mandates, and never focused on a coherent national objective. Programs to help cities have been canceled out by pro-sprawl grants to extend sewers to cornfields, build highways to far-out suburbs and insure mortgages in new subdivisions that drained center cities and older suburbs of their people.

Carter must have the courage to tackle the anti-city programs head-on, shifting each to promote urban reinvestment. Again, it's a question of will and commitment. Says Massachusetts' chief planner, Frank Keefe: "If President Carter is very serious about an urban strategy, he'll hammer and reshape every single program he has. Without spending a dime more, he could have a fantastic, comprehensive, multifaceted urban strategy. You don't have the choice to subsidize sprawl development and save the cities—it's either/or."

Fifth, the states must play a major role. Their powers over taxation, business incentives, highways and federal programs they administer is so great that they could easily cancel out much of the effect of a federal urban policy. If federal and state governments work at cross-purposes, warns Michigan's Gov. William G. Milliken, "It's going to be a terrible waste of limited resources."

Sixth, cities should view economic development and jobs for residents as one of their primary reasons for existence. They should formulate—in cooperation with the private sector and neighborhood groups—plans for job-producing new investments. If their own initiative isn't sufficient, they should be spurred on by strong "carrot-and-stick" inducements from federal and state governments.

Carter's urban task force has been considering a series of gimmicks to improve city investment prospects, from tax advantages for industries locating in depressed urban areas to a rather hazy concept of a federally financed urban development bank. But outside experts say the "urbank" concept lacks workable specifics and boils down to a catchy title in search of a program.

There is a realistic awareness that federal dollars can't do the whole job, that they should be targeted to "leverage" private investment, and that quite different strategies may be required for classic Northeastern "basket-case" cities and Sunbelt cities whose super-heated economies have still left serious pockets of poverty.

But Carter's planners haven't yet committed themselves to aiding neighborhood groups engaged in business promotion, co-ops or housing rehabilitation. Some of those grass-roots organizations have already achieved minor revitalization miracles on their own. But they desperately need technical assistance, ranging from legal counsel to planning and financial know-how.

President Carter might hesitate before adopting a full urban strategy for fear of suburban and rural opposition. But Massachusetts' Gov. Michael Dukakis has suggested a way out of that dilemma: to announce a strategy that undergirds rural town as well as city centers.

Towns and cities, Dukakis notes, share many problems: a lack of jobs, some run-down housing, and fierce competition from regional shopping centers built on open land—generally with federally or state-subsidized roads and sewer connections. Both towns and cities desperately need investment support to retain their character and vitality.

A federal city-town strategy could have powerful appeal. It would be pro-growth—stipulating only that growth should occur in or beside established centers. It would be anti-sprawl—and thus conservationist. It would save energy, and thus dovetail perfectly with Carter's overall policy. And it might be more acceptable to suburbanites, whose comunities are now reeling with the explosive growth of recent years, than the politicians think.

Finally, a city-town strategy would mean preserving investments in businesses and

homes in which people have invested lifetimes—the shopkeeper, the pensioner, the blue-collar worker or clerk, whether the address is New York or Chillicothe, Los Angeles or Plains.

A TRIBUTE TO F. AUSTIN "SOUP" WALTER

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. PATTEN. Mr. Speaker, as my colleagues in the Congress well know, my pride in Rutgers, the State university of New Jersey is unbounded. In addition to having achieved national recognition for its mathematics department, its center of alcohol studies, and institute of microbiology, and for its football and basketball teams, Rutgers University proudly boasts one of the country's finest male glee clubs. Most of the credit for the great success that the Rutgers Glee Club has achieved in past years rightfully belongs to a man who is now beginning his 50th year at Rutgers University, F. Austin "Soup" Walter, the director of the Rutgers Glee Club and the Rutgers University Choir.

"Soup" Walter, who got his nickname when a childhood friend pronounced his name as "Oyster" instead of "Austin" which then became "Oyster Soup" and finally just "Soup," has conducted the Rutgers Glee Club for 46 years. In addition, Dr. Walter founded the Rutgers University Choir and has been its director since 1949.

After his graduation from Hackensack High School in 1928, Dr. Walter became a Rutgers freshman. He has been at Rutgers ever since. As an undergraduate, "Soup" majored in history and political science, but was active in the Rutgers Glee Club and served as the club's first student conductor during his senior year. However, his love of conducting had begun after he was taken to a New York Philharmonic concert during his hign school days. After the concert he decided that conducting was what he wanted to do. Dr. Walter made his first public appearance by conducting a choir in Carnegie Hall in 1932. As a result of this appearance he was invited to conduct many of the glee club concerts during the remainder of his senior year; shortly before his graduation, he was offered a full-time position at Rutgers as the conductor of the glee club. So in the fall of 1932, "Soup" Walter went to work for Rutgers and he has not left yet.

During the war years when there were very few students on campus and soldiers were there for special training, "Soup" engrossed himself by forming and rehearsing both the soldiers' glee club and the soldiers' band. Since the war and the creation of the Rutgers University Choir, "Soup" has made a national name for himself by performing and recording with such great orchestra conductors as Erich Leinsdorf, Leopold Stokowski, Leonard Bernstein, and Eugene Ormandy.

Through the years, Rutgers has recognized Dr. Walter for his dedicated service by granting him an honorary master of arts degree in 1949 and an honorary doctor of music degree in 1966, the year of Rutgers University's bicentennial celebration. More currently, a tribute to "Soup" Walter is scheduled for the evening of Thursday, October 27 at the Rutgers Gym during which the Milwaukee Symphony Orchestra conducted by Kenneth Schermerhorn, will open the Rutgers University concert series. Needless to say, "Soup" Walter will direct the Rutgers University Choir.

Recently, when asked if he had any thoughts on his long remarkable association with Rutgers University, Dr. Walter replied:

> Actually, I haven't given a thought to my longevity here. I've never felt as if I've had a job because if I had had a choice of a hundred things to do and conducting the Glee Club and the Choir was one of them, that would have been exactly what I would have chosen.

It is rare when anyone can be that definite about their life, but for "Soup" Walter conducting has been a lifetime labor of love, and I pay tribute to this remarkable man for his dedication and for all of the good that he has done during his 50 years at Rutgers.

SAMMY DAVIS, JR.

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. WAXMAN. Mr. Speaker, there is scarcely a soul in the United States—or elsewhere in the world, I believe—who has not responded to the artistry of the many-talented Sammy Davis, Jr. Perfected through his many years of struggle, his appeal is wide-ranging and provides us all with joyous moments during which the worries and responsibilities of our private lives may be lifted for a time.

What is little known about Sammy Davis, Jr. is his dedicated service to his fellow man. He does not publicize his many gifts of himself and his time, but his devotion is constant and freely offered. Among the more than 500 awards Sammy has received are the Achievement Freedom Award; the Springarn Medal of the NAACP, and the Alan Bernstein Award for cancer research.

On November 2, 1977, B'nai Zion, the American Zionist fraternal organization, will present its American-Israel Friendship Award to this distinguished American: Sammy Davis, Jr. The award is in recognition of his service to the community as a whole, and in particular to support of the historic friendship between the United States and Israel.

Sammy Davis joins a notable company of great Americans as a recipient of the B'nai Zion Award; Presidents Johnson, Kennedy, and Ford having been so honored, as well as Vice President HUBERT HUMPHREY, Abba Eban, and Simcha Dinitz.

I know that the Members will wish to join the other leaders from every walk of life who will offer their heartfelt tribute to Sammy Davis, Jr., on this exciting evening. Sammy exemplifies the best of what is good in all of us, and it is right that he should receive our recognition.

U.S. DELEGATION TO THE UNITED NATIONS GENERAL ASSEMBLY

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. FRASER. Mr. Speaker, President Carter pledged himself early in his administration to strengthen the United Nations and to this end to appoint a highly qualified delegation to the 32d General Assembly. The President has made good on this pledge and I congratulate him on his appointment of this year's delegation.

Having been a member of the delegation in 1975, I regard our participation in the General Assembly as a very important part of our relations with multilateral organizations. This General Assembly session is significant; it is marked by the admission of two new members—Vietnam and Djibouti—and it is one in which a full range of international political, economic, and human rights issues will require the continuing careful attention of our representatives. I am pleased that two knowledgeable members of the House International Relations Committee are serving as U.S. Representatives. Congressman LESTER WOLFF, of New York, is chairman of the Subcommittee on Asia and Pacific Affairs. Congressman CHARLES WHALEN, of Ohio, former professor of economics, has been an active member of the Committee on International Relations and president of Members of Congress for Peace Through Law. Mr. WHALEN was also one of the Congresspersons that sponsored the 1971 amendment to cut off funds for waging war in Vietnam. Though the House defeated this amendment in 1971, it helped open the door to ending U.S. involvement in Vietnam. I am also pleased that Mrs. Coretta King is a member of this year's delegation.

It is highly appropriate, I believe, that the U.S. delegation includes those who worked long and hard to end U.S. involvement in Vietnam, a point which Ambassador Young referred to in his address welcoming new and old members to the General Assembly this fall. I join him in his hope that Vietnam's entry into the United Nations represents one further step toward promoting the struggle for international peace. I request, Mr. Speaker, that Ambassador Young's statement and the official list of members of the U.S. delegation be inserted in the RECORD.

STATEMENT BY AMBASSADOR ANDREW YOUNG

Mr. President: Allow me to congratulate you most heartily on your assumption of the high office of President of the United Nations General Assembly. Let me emphasize my delegation's confidence in you and our deep

desire to cooperate most fully in your conduct of this Assembly's business. Furthermore, let me extend to President Amerasinghe my delegation's great admiration and profound appreciation for the dedicated, courteous and outstandingly able and effective leadership he provided the 31st General Assembly. He has further distinguished a remarkable and ongoing career.

Mr. President, as representative of the host country, I welcome two new members of the United Nations family, Djibouti, and the Socialist Republic of Vietnam.

In doing so, I wish to express my government's satisfaction that this Organization now moves one step closer to the ultimate goal of universality of membership. This is an objective which we hope will be achieved in the not too distant future.

The United States was among those members of the Security Council which sponsored the Security Council's recommendation for the admission of Djibouti to the United Nations and joined in the consensus which approved this recommendation. We are now pleased to welcome Djibouti to full participation in the world community of nations. Djibouti stands as another example of a successful peaceful transition from colonial status to independence. With confidence in the future of this new nation, the United States extends the hand of friendship.

In our relations with Vietnam, the United States looks to the future. We are hopeful that constructive relations will be established within the United Nations, as Vietnam joins the common effort to achieve the goals and aspirations of the Charter.

Mr. President, if I may be permitted a personal word. I would remind this Assembly that Vietnam's struggle for independence was accompanied by a profound struggle within the nation which I represent. Ten years ago Martin Luther King and hundreds of thousands of citizens of the United States came to Dag Hammarskjold Plaza in an attempt to end the conflict. Five years ago I was elected by the citizens of Georgia to the 93rd Congress of the United States which amended our military appropriations legislation to cut off funds for the purpose of waging war in Vietnam. It is quite appropriate, I think, that two of the delegates of my country to this Assembly are Mrs. Martin Luther King and Congressman Charles Whalen, one of the Congressmen that sponsored that amendment.

It is my sincere hope that Vietnam's entry into this body is one more step in the worldwide struggle for peace, justice and prosperity, a struggle which we now carry on together peacefully in this international body, and within our own countries.

Finally, Mr. President, as representative of the host country, permit me the honor of extending a most cordial and sincere welcome to all who have arrived and will be arriving to take part in the work of this great Assembly. I wish everyone most useful, rewarding and agreeable stays. Our delegation looks forward greatly to working with all of you as we seek to implement the ideals of the United Nations.

Thank you very much.

U.S. DELEGATION TO THE THIRTY-SECOND SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY.

Representatives:

The Honorable Andrew Young (Chairman,[1] Ambassador Extraordinary and Plenipotentiary, United States Representative to the United Nations.

The Honorable James F. Leonard (Vice Chairman), Ambassador Extraordinary and Plenipotentiary, Deputy United States Representative to the United Nations.

The Honorable Lester L. Wolff, U.S. Representative from the State of New York.

The Honorable Charles W. Whalen, Jr., U.S. Representative from the State of Ohio.

The Honorable Coretta Scott King, Atlanta, Ga.

Alternate Representatives:

The Honorable Donald F. McHenry, Ambassador, U.S. Deputy Representative on the United Nations Security Council.

The Honorable Melissa F. Wells, Ambassador, U.S. Representative on the Economic and Social Council of the United Nations.

The Honorable Allard K. Lowenstein, Ambassador, Alternate Representative of the United States for Special Political Affairs in the United Nations.

The Honorable Marjorie Craig Benton, Evanston, Ill.

The Honorable John Clifford Kennedy, Lawton, Okla.

Special Advisers:

The Honorable James E. Baker, Deputy Permanent Representative on the Economic and Social Council of the United Nations.

The Honorable Adrian Fisher, Ambassador, U.S. Representative to the Conference of the Committee on Disarmament.

The Honorable Koryne Kaneski Horbal, U.S. Representative on the Commission on the Status of Women of the Economic and Social Council of the United Nations.

The Honorable Charles William Maynes, Assistant Secretary for International Organization Affairs, Department of State.

The Honorable Edward M. Mezvinsky, U.S. Representative on the Commission on Human Rights of the Economic and Social Council of the United Nations.

The Honorable Ruth Schacter Morgenthau, U.S. Representative on the Commission for Social Development of the Economic and Social Council of the United Nations.

[1] The Secretary of State, the Honorable Cyrus R. Vance, will serve as Chairman of the Delegation, ex officio, during his presence at the Session.

THE VOICE OF DEMOCRACY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. GILMAN. Mr. Speaker, each year the Veterans of Foreign Wars, in conjunction with the National Association of Broadcasters and the State broadcasting associations, sponsors the Voice of Democracy essay competion for freshmen, sophomores and juniors in high schools throughout the United States, and its possessions around the globe.

I wish to bring to my colleagues' attention that this year's Voice of Democracy competition has now shifted into high gear, with December 5 designated as the final day for submission of essays. The essays will be judged at the local level, with the winners advancing to the regional level, and then on to State and national competition. Awards to the high school students are provided at each level of competition.

At the end of this process, the representatives of the 50 States, and the top choices from the Panama Canal Zone, Puerto Rico and the Pacific are brought to Washington at the expense of the National VFW to meet with their Congressmen and Senators. At this point, the top five contestants are selected, with the first prize being a $10,000 scholarship.

In the 1977 competition, one of my outstanding young constituents, Craig Keifer, representing Newburgh Free Academy, Newburgh, N.Y., achieved first place in New York State and went on to take third place in the national competition.

The VFW and the NAB are to be commended for giving the youth of America this significant forum to express their views on responsibility to democracy. The competition presents a model of public service in the field of communication.

In New York State, we are particularly fortunate, in that the statewide competition reaches its climax each year with a broadcast of the finals over WNBC–TV, flagship of the National Broadcasting Co., in New York City.

During the 1977 finals, a group of active jurists of New York courts sit as a panel of judges. The format for the finals was organized by the late Ben Grauer, the staff of WNBC–TV and Heyman "Sandy" Rothbart, a former New York State VFW Commander, who now serves as general legal counsel to the New York Division of Veterans' Affairs.

Thanks to WNBC–TV, the VFW essay competition has been aided greatly by the flagship station providing videotapes and video equipment which have aided the judging of essay contests throughout the entire State and Nation.

The generous services of WNBC–TV in helping to develop the New York State finals of the Voice of Democracy should be an inspiration to other States as a fine example of the way in which our media of communications can help improve the community by providing public service. The New York State Veterans of Foreign Wars Medal of Achievement was bestowed upon WNBC–TV at their 1976 convention, for this splendid example of community achievement.

I hope that our high school students will take advantage of the opportunity to participate in such a worthy endeavor and I know that my colleagues all look forward to greeting the successful Voice of Democracy contestants in Washington early next year.

USE OF MILITARY VERSUS COMMERCIAL TRANSPORTS

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. CARR. Mr. Speaker, during the consideration of the recommendations of the Commission on Administrative Review which unfortunately failed on the vote on the rule last week, I asked the Air Force for information regarding the economy of using military transports for congressional travel. In answering for the Air Force, Maj. Gen. Charles C. Blanton provided some interesting information which could help the Members

decide whether the use of military or commercial transportation was in the taxpayers' interest. I insert General Blanton's letter in the RECORD for that purpose:

DEPARTMENT OF THE AIR FORCE,
Washington, D.C. October 3, 1977.

Hon. ROBERT CARR
House of Representatives,
Washington, D.C.

DEAR MR. CARR: In reference to your questions concerning the interim report of the Commission on Administrative Review, the Commission, to the best of our knowledge, did not request Air Force or Department of Defense input concerning the Congressional travel aspects of the report. As to where the "breakeven" point is reached regarding commercial versus military air, in most instances it is a judgment call. If cost of the aircraft alone were the only factor, travel by commercial air would appear very attractive in most cases. However, a cost effective case for military air can be made for a delegation traveling within a specified time frame to several locations, especially overseas. As examples of instances where military airlift would be more cost effective than commercial air, the following is provided:

Utilizing a VC-135 type aircraft costing $1,430 per flying hour, a flight from Washington, D.C. to Tokyo, Japan and return would cost $42,900 (30 flying hours). For the same route of flight, a first-class ticket costs $2,198—at that cost, twenty-three official passengers would cost $50,554. The above costs represent air transportation only and do not include any other considerations, i.e., timeliness, security, working environment while in flight, etc. Clearly a savings of $7,654 would be realized. The cost for economy class for the same route of flight is $1,362 per ticket—thirty-six official passengers would cost $49,032. The cost to fly a VC-137 from Washington, D.C. to Paris, France and return is $36,223 ($2,337 per flying hour/15.5 flying hours). A round trip, first class ticket to Paris costs $1,446 per person—economy fare for the same trip is $874 per person. A delegation of twenty-six official passengers would cost $37,596 via first class commercial air. A delegation of forty-two official passengers would cost $36,708 via economy class commercial air. To determine transportation costs, each trip would have to be examined on an individual basis.

As you are aware, when considering Congressional travel in its total context, several additional factors must be considered. As the Committee report clearly points out, a large delegation would have problems confirming reservations for single/multiple legs of the journey. Where overseas travel is a consideration, the overall responsiveness (on time departures/arrivals) of foreign air carrier, circuitous routing and remote airfields, are all important matters to be considered. Normally, Congressional travel requires rigid scheduling/timing to ensure the optimum benefit accrues to the Members. In a large number of instances (primarily overseas travel), military air is the only transportation available to meet all the reqiurements.

Regarding your question concerning flying time devoted to training, approximately twenty-five percent of the hours flown by the 89th Military Airlift Wing (MAW), Special Air Mission (SAM) fleet, are utilized strictly for training. The remaining hours are utilized for actual missions; however, of these hours, approximately seventy percent can be utilized in some form for effective training.

I trust this information will be helpful.

Sincerely,

CHARLES C. BLANTON,
Major General, USAF,
Director, Legislative Liaison.

747 CMC AND SALT-2 ALCM VERSUS THE B-1 BOMBER

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. DORNAN. Mr. Speaker, the arguments raised by my colleagues, Mr. CARR, Mr. DOWNEY, and Mrs. SCHROEDER, in their Dear Colleague letter of 2 days ago are a superficially appealing mixture of technical analysis and seemingly self-evident "cost-effectiveness" justifications. In fact, their technical thinking is deficient in the extreme and the cost-effectiveness of their preferred options is very superficial. Finally, there is one very striking incompatibility that surfaces between the beginning and end of their argument: specifically, how one can justify a 747 CMC and still accept a SALT-2 range-regulated, air-launched cruise missile restrictions that might terminate the case for both.

First of all, when President Carter and Secretary of Defense Brown canceled the B-1, it is safe to argue that they did not know what they were doing. Evidence for the indecision, waffling, and confusion that marked this decision is provided by the following: President Carter's decision to drop the B-1 and his apparent vigorous public justification for the ALCM as a high-confidence penetrating substitute is difficult to square with recent reports that he is willing to settle for proposed SALT-2 ALCM range restrictions of 2,400-kilometer—1,554 miles—limits which are so incredibly deficient and unfair to the United States that they would virtually terminate the use of the ALCM as a substitute for B-1. These restrictions, needless to say, also terminate President Carter's justification for that same decision. Second, the JCS have asked the administration to raise range restrictions to an absolute minimum limit of 3,500 kilometers—2,175 miles—ample evidence indeed that ALCM ranges used in a standoff launch mode will have to be dramatically increased to counter Soviet strategic air defenses extending beyond the borders of the Soviet Union. Finally, the administration's seemingly turnaround on the penetrating-bomber concept—evidenced by its decision to seek funds for developing an FB-111H aircraft that had earlier been released by the Air Force—in favor of the B-1—on cost-effectiveness grounds—certainly raises doubts about the administration's earlier B-1 decision.

Second, as is by now well known in the press, the Air Force was completely unprepared for the B-1 decision. Its advocacy of the CMC concept—especially of 747 versions—and of the earlier studied FB-111H concept as a fallback position bears all the marks of confusion, uncertainty, and unpreparedness. For DOWNEY, SCHROEDER, and CARR to argue that Carter and Brown knew what they were doing is to beggar belief. To argue that the decision was good flies in the face of earlier Air Force objections to the standoff-only CMC that still hold water—and also flies in the face of Air Force attempts—now encouraged by the administration itself—to "rejustify" the civilian-modified 747-CMC and the FB-111H.

The three argue that to use the B-1 in a standoff CMC mode is to use an Indianapolis racing car as a moving van. I should point out that, by virtue of some very fortunate decisions early in the B-1 program, the B-1 bomber is a magnificent combination of both. It has an internal payload alone of 115,000 pounds—and can fly at very high performances with this payload, while still retaining very good avionics, very low radar image, and acceptable low-altitude, high-speed performance. The 115,000 pounds of internal load alone it can carry dwarfs the payload of most current and recent U.S. Air Force cargo aircraft—including the C-141, the C-130, the cargo KC-135, and the old C-133's and C-124's; only the C-5a can carry more payload than the B-1 internally, of all cargo aircraft now in the USAF inventory. Admittedly, the 747 can carry more than this. However, the B-1 has a bomb bay and bomb bay doors—while the 747 CMC would not. The difference this would make, as far as launching speed and fast response—as well as for rapid optimizing or "tailoring" of air-dropped weapons—over a 747 with its poor launching substitutes for identical weapons (ejector tubes, rapid-reload launchers for firing through hatches, et cetera) should be rather obvious.

Finally, the B-1 internal load of 115,000 pounds is not all the aircraft can carry. If the need arises, the B-1 can carry a very impressive amount of ordnance on wing and fuselage stations. Admittedly, this was not a design consideration in the B-1's history. Nevertheless, it could be done. The performance costs, in short, for the B-1 would come only if the decision was taken to add to its carrying capacity beyond the 115,000 pounds internal load. These costs would involve fixing wing sweep to add more stations to the wings for carrying ALCM's. Again, it should be noted that all configurations—maximum internal load, with or without bulkhead modifications for longer-range missiles, and combined internal and external loads—the B-1 will have takeoff performances, fuel efficiencies on station, low-level and high-speed flight characteristics and radar-image features that dwarf those of its far bigger 747-CMC cousin. Again, while it is true that the 747 can carry 60 or more ALCM's to the B-1's 30, the important question is whether the 747-CMC's performance and overall deficiencies so compromise survivability and mission confidence as to favor the B-1.

The three argue over and over that the 747 is far more cost-effective than the B-1 as a CMC. How they can possibly arrive at this decision is beyond the comprehension of most professionals in the aircraft industry. First of all, it must be pointed out to them that cost-effectiveness must be counted in terms of weapons arriving on target. Admittedly the 747-CMC is big, is very comfortable for the crew—or can carry relief crews—can be refueled for extended loitering—as can the B-1—and carries lots of ALCM's. On the other hand, the whole idea behind

the B–1 was to have a plane capable of very fast escapes from air bases: this fast escape criterion was a primary factor in early B–1 design because the Air Force recognized that it had to find a compromise between alternate lifetime modes of cheap ground-based versus expensive air-borne deployment, acceptable peace/war-time base-dispersal, and time-to-liftoff after warning. While other civilian aircraft in Air Force use—tankers, command post, and strategic communication planes—do not have these features, it does not need to be pointed out that the Air Force should now go in for a weaponized 747 which embodies to perfection every last undesirable feature the Air Force sought to avoid in the first place with the B–1 concept makes one wonder who has done the technical research for the critics' letter. For the primordial Air Force criterion for fast launch and escape is one that is not a luxury item for the U.S. Air Force; it is, instead, imposed on us by the very short flight times of Soviet SLBM's flying depressed trajectories. Under these circumstances, there is simply and unavoidably no common ground between the 747 CMC and the B–1—and this brute fact needs to be recognized.

In short, DOWNEY, CARR, and SCHROEDER parade again and again a 747 CMC jammed to the gills with ALCM's as a cost-effective competitor to the B–1. How this aircraft would ever escape from base on warning is beyond belief: certainly anyone who has flown a 747 airliner can appreciate that this aircraft was designed for a very different audience than the Strategic Air Command. The virtues of the 747 CMC—size, crew sizing, creature comforts, et cetera—are beyond disputation as is also the fact that the aircrews would not live long enough to enjoy them. Finally, it simply must be pointed out that the takeoff distance of the B–1 is 7,500 feet—and the B–1 can be dispersed to more airfields than the 747. It was, in fact, designed with just that in mind, and carries the onboard auxilliaries for total self-contained austere-base deployments. One does not have to think too much about trying to defend a similar basing deployment for the 747 CMC, the aircraft is simply incapable of self-contained austere-base deployments that still maintain very fast reaction and escape times. For the U.S. to take the risk that a few "jackpot" 747 CMC's would survive a crisis while deployed to the 140 CONUS airfields would be to argue that the 747's avionics, engine-plant and other civilian-standard systems could have the performance of optimized B–1 systems. Frankly, it just isn't so.

But the piece d'resistance of the Carr-Downey-Schroeder argument is the idea that a 747–CMC could carry huge payloads of ALCM's and still survive onstation, or could survive long enough to launch them. Again, the justification for this miracle is hard to find. First of all, there is the brutal and simple fact that the 747 has a radar image that is enormous. The plane is a flying barn, and can be spotted hundreds of miles away by Soviet picket ships, Soviet "Moss" AWACS planes, and long-range Soviet interceptors—including a modified Backfire. More importantly, given new technology in spaceborne radar and electro-optical systems, it can also be spotted and tracked by satellite.

The B–1, on the other hand, was designed from the wheels up to have the absolutely lowest radar-image possible as a penetrating manned bomber. An aircraft designed to these almost impossible standards for a penetrating mission can only excel in a stand-off mode, particularly over land. Again, a B–1 cruise missile carrier even with degraded performance is capable of far higher performance than the 747, and can duck down to very low altitudes or trade off for higher speeds. In short, DOWNEY, CARR, and SCHROEDER appear not to appreciate that future performance features for all cruise missile standoff aircraft may be far more rigorous than their arguments suggest—and that, in fact, low radar image and very good flight performances may be required for any standoff CMC as for any penetrator. To assume that a giant civilian aircraft just has to take off, fly to a safe launch-point near Soviet borders, launch its payload and retreat is to engage in cartoonery. Only if U.S. doctrine called for massive one-time launches of huge ALCM payloads would there ever be justification for a weaponized 747 CMC. If, however, the CMC is to loiter and launch weapons one at a time or in combinations, in a defensive environment that will see Soviet interceptors and Backfires out looking for the plane, the case for the 747 CMC evaporates. Under the same launching/targeting and station-keeping conditions, however, a B–1 CMC makes superb sense.

The issue of cost also deserves rebuttal. The "stripped-plane" cost a 747 today is $43 million. This is without the very expensive avionics and modifications that would be necessary to turn the plane into a minimally acceptable CMC. Needless to say, a great deal of expense will have to be spent on ECM and ECCM to mask the plane's gigantic radar image. The aircraft also will not be able to have the launching and reaction flexibility of a B–1 equipped with rotary racks in separate bomb bays—as well as fuselage and wing stations. In short, there is real question as to how the 747 payload could be arranged for rapid single-weapon launch, multiple-weapon launch, and flexibility. To do so will be expensive and might very well involve a lengthy and expensive development of on-board racks, trolleys, carriages, racks, and other equipment to substitute for a straightforward bomb bay and rotary rack.

A B–1 CMC, however, according to Aviation Week, October 10, 1977, could cost $35 to $45 million per plane. True, full program cost would put it in the $100 million bracket—but on a delivered weapon basis it would far outperform the 747 CMC and the FB–111H—the same issue puts a B–1 SRAM delivery cost at $16.1 million per SRAM, and FB–111H SRAM delivery at $29.7 million. To assume that a 747 CMC sitting on a valuable field, loaded to the gills with ALCM's, could assure the same weapon-on-target cost as a B–1 CMC carrying fewer is to assume that cruise missile performances of far higher performances will be technically available and/or unconstrained by SALT it also assumes that both aircraft will have equivalent ALCM-prelaunch survival rates—which simply beggars belief. Finally, it should be noted that a B–1 CMC is still an aircraft that, at some time in the future or in extreme crisis, could be remodified back to a role as a penetrating bomber. If the newly confirmed Soviet SAM–10 missile—Aviation Week, October 10—is effective enough to make B–52 survival problematical as early as 1982, this B–1 CMC remodification to penetrating bombers is an incredibly valuable option that simply cannot be dismissed as unfashionable or as merely politically motivated; for example, to "save the B–1".

In conclusion, however, the real weakness of the Downey-Carr-Schroeder position resides in two incredible statements; namely, that * * * "SALT 2 restrictions on cruise missile range do not loom large" and that "later SALT agreements will doubtless allow for longer cruise missile range to compensate for expected advances in Soviet defensive reach."

The fundamental incompatibility of these statements with an avid endorsement of a weaponized 747 resides in these current facts: first, the range restrictions now being entertained by the Carter administration represent, rather spectacularly, the demolition of the 747–CMC argument—they may also terminate the justification for the ALCM as well. In order to get close enough to launch such range-limited missiles against critical wartime targets in the U.S.S.R., the 747–CMC would run risks approaching absolute certainty of interception and destruction. What this would do for the peacetime planning and wartime performance of U.S. decision-makers, including the President, need not be discussed here. Finally, CARR, DOWNEY, and SCHROEDER may not realize that the Soviet Backfire has the range, dash speed, missile-carriage capability, and the electronics to perform beyond-border air intercepts.

One would think that the 747–CMC concept would have, as an existentially necessary complement, an unrestricted ALCM range. Certainly the ALCM will have to make up in spades for the deficiencies of its mother aircraft—and this is, in fact, the hidden premise of this whole concept. If that is the case, then these Congressmen should be by far the most vocal opponents of range restrictions on ALCM's in SALT 2. Moreover, given the very strong hazards of signing SALT agreements now with the idea that ranges can be extended later on is to fly in the face of Soviet negotiating tactics over the U.S. cruise missile program since the very surfacing of the weapon and its ranges in the talks. If greater range is such a requirement later on, then why are not these same people leading a fight to have it included now, particularly if that same greater range may be the salvation of the 747–CMC?

Needless to say, the silence of the gentlemen from New York and Michigan (Mr. DOWNEY and Mr. CARR) on extend-

ing ACLM range in SALT II is deafening—and that silence in itself may seal the fate of the 747–CMC, whether adopted or rejected, in any case.

I urge this body to reinstate the moneys for 1978 production of B–1's numbers 8 through 12. Thank you.

TRIBUTE TO BETTY RIFKIND

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. WAXMAN. Mr. Speaker, on November 22, 1977, the board of directors and friends of the Brandeis-Bardin Institute will pay special tribute to Mrs. Betty Rifkind. Mrs. Rifkind will receive well-earned praise and expressions of gratitude for the unique role she has played in the history of the Institute since its very inception.

With the singular exception of the institute's founder and director, Dr. Shlomo Bardin, Mrs. Rifkind has given more energy and spirit to the institute than any other person.

Along with her husband, the late Judge Joseph J. Rifkind, and a tiny number of other pioneers, Mrs. Rifkind committed herself wholeheartedly to Dr. Bardin's vision and helped it become a reality. In fact, Judge and Mrs. Rifkind helped choose and acquire the physical home of the Brandeis-Bardin Institute and helped establish the intellectual and spiritual atmosphere which characterize the Institute.

For most of her 31 years with the institute, Betty Rifkind served as Dr. Bardin's principal assistant. The institute came to rely on the ideal combination of Shlomo Bardin's charisma and dynamism and Betty Rifkind's talents at organization and interpersonal diplomacy.

The Brandeis-Bardin Institute is currently respected, emulated, and even held in awe throughout the United States and in other parts of the world as well. Yet, Betty Rifkind, her late husband, and a small number of the other founders—people like Max Zimmer, Marion Travis, N. Ben Weiner, Max Laemmle, and Eddie and Frieda Meltzer—struggled through years of controversy, chronic financial difficulties, and widespread skepticism toward the lofty aspirations of the institute.

Betty Rifkind's work in making Brandeis succeed had immeasurable effects on the Southland Jewish community. Youngsters and their families have been elevated by the Camp Alonim experience. Alienated young people and disillusioned older people critical of what they saw as the materialism and status consciousness of the established Jewish institutions found at Brandeis the idealism, human warmth, and intellectual values they sought. Other institutions long complacent and unresponsive, look at the wonder of Brandeis' success and reexamine their own structure and principles.

Mrs. Betty Rifkind well deserves the lavish praise which will be bestowed upon her on November 22d. Nevertheless, as one privileged to know Betty personally, I know she will not count the tribute as the truly consequential satisfaction derived from her achievements. Betty's satisfaction ultimately derives from the success and vitality of the Brandeis-Bardin Institute and, most especially, its ability to remain true to the precepts of its leader and founder, Dr. Shlomo Bardin, even now that he is no longer with us.

SOME THOUGHTS ON THE CIVIL SERVICE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 19, 1977, into the CONGRESSIONAL RECORD:

SOME THOUGHTS ON THE CIVIL SERVICE

The federal civil service system is under heavy attack.

The system is cumbersome and complicated—a poor way to effectively and efficiently administer personnel policies. Federal civil service regulations, which cover 90 percent of the 2.9 million civilian federal employees, presently fill 21 volumes some five feet thick. Underlying these regulations are over 400 laws and about 600 executive orders. The result of such administrative complexity is a government-wide personnel system characterized by notoriously slow hiring, firing and promotion procedures.

Even more condemning of the system, however, is the fact that this elaborate web of civil service laws, regulations and rules also presents an almost insurmountable barrier to increased productivity and efficiency in the federal bureaucracy. Designed to remove federal workers from the effect of partisan politics, the civil service system also serves to protect and even insulate, workers from any managerial decision. There are periodic reports of federal employees who won't work and who cannot be forced to work. There are also numerous instances of under-utilization, duplication of effort and waste. Under the civil service regulations, however, management has little flexibility to deal with such problems.

Tangled civil service regulations prevent reassignment of employees. Promotions and pay raises are practically automatic and almost no one is fired. Exceptional performance goes unrewarded; mediocre performance is protected. Even mild reprimands are not tolerated by employees. Any decision by a manager may be challenged in a lengthy process that begins in the agency, proceeds to the Civil Service Commission and winds up in the federal courts. Because managers find it difficult to remove incompetent employees, they resort to subterfuge to get rid of them. Unwanted employees are kicked upstairs or traded to other agencies at the taxpayers' expense.

No one really knows whether federal employees work as hard as their counterparts in the private sector. Surveys show that in recent years productivity in government has increased at about the same rate as productivity in the private sector. Such surveys, however, are suspect and strongly doubted as self-serving. For without doubt, the federal bureaucracy is characterized by waste, duplication, overstaffing, backlogs of work, conflicting regulations and murky lines of authority—all of which have a devastating impact on its productivity and efficiency.

The civil service is also under attack because of the expanding cost of federal pension systems. There is also concern over whether federal pay and fringe benefits are "comparable" with private sector pay and benefits, and about the political role of federal workers.

Defenders of civil service argue that despite its problems civil service is still the cheapest and fairest way to allocate public jobs and that a rebirth of the patronage system would be undesirable. They point out that the civil service is often made the scapegoat for the inability of managers to manage well.

Without question, throughout the federal government there are people who work hard, do a good day's work, provide taxpayers with their money's worth and perform vital services to their patrons. Suggestions for change arise because of a sincere effort to make significant improvements in the system which will foster the overall effectiveness and responsiveness of government.

The present civil service system will not be easy to change. Government administrators, anxious to maintain their power, prestige and pay, will fight any proposal to remodel the system. Ordinary government workers will tend to view any proposal for change as a threat to their jobs. If the civil service system, however, is to be made responsive to the central issues—productivity and efficiency—it must be streamlined and revamped. Reshaping and reorganizing the governmental machinery without altering the civil service system will be unlikely to produce results.

In my view government must increase its management training and find a way to measure and reward management. Restrictions on the ability of managers to administer and implement public policy must also be removed and a way must be found to get rid of incompetent and unwilling workers without depriving employees of their rights. Pay levels, at least for management, should not be automatic, but based on performance. For rank and file employees, there ought to be an opportunity for merit increases, in addition to increases which keep their pay comparable for like work in the private sector. The system must certainly be simplified.

I am persuaded that maintaining a federal public service that is competent, efficient, and productive is a high priority task, and absolutely necessary to enhance public confidence in the federal government and its efforts.

TRIBUTE TO STUBBLEFIELD

HON. JOHN M. SLACK

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. SLACK. Mr. Speaker, along with the many who enjoyed his company, I was saddened to hear of the death of a very good personal friend, Frank Albert Stubblefield, who served the people of his Kentucky district in Congress for 16 years.

Frank Stubblefield and I first entered the House of Representatives in 1959 as part of a large group of new Members. We were associated in many activities, and found many interests in common because the problems of our respective districts were similar in many ways.

He was a quiet, sincere person, dedicated to his work in Congress and with the invaluable capacity to listen. It was a comfort to talk with him on those occasions when highly controversial matters were being debated and feelings ran high. He was persistent and determined, but had the patience required to organize effective action without making enemies or losing friends.

My association with him was one of the personal privileges I will recall during my service in Congress, and his matchless courtesy will be long remembered by all who knew him.

I join with my colleagues in expressing my deepest sympathy to his family in their bereavement.

REMOTE ENGLISH MANOR HOUSE HOME OF WASHINGTON ANCESTORS

HON. FRED B. ROONEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. ROONEY. Mr. Speaker, recent White House announcement of President Carter's forthcoming trip to nine nations brings to mind his earlier journey to the economic summit meeting in England last May and the opportunity the President had then to visit the ancestral home of our Nation's first President, George Washington.

John Koenig, Jr., a former Associated Press newsman with years of writing experience in the Washington, Harrisburg, and Philadelphia bureaus, recently wrote an enlightening freelance article for the Los Angeles Times about Washington Old Hall in northern England where George Washington's direct ancestors lived for more than two centuries.

Interestingly, he points out that an ancestor of Jimmy Carter left England to settle in Virginia 19 years before John Washington, George's great grandfather, departed England in 1656, also to settle in Virginia.

Considerable study and research by Mr. Koenig have documented the English heritage of President Washington and I invite the attention of my colleagues to his historically significant account.

The article follows:

[From the Los Angeles Times, July 31, 1977]

FIRST PRESIDENT'S ROOTS IN ENGLAND

(By John Koenig Jr.)

WASHINGTON, ENGLAND.—Some Americans, digging out the roots of George Washington in England, manage to reach this medieval village about 300 miles north of London, just south of Newcastle near the North Sea. But many others fail to get this far and settle for seeing only Sulgrave Manor, about 70 miles northwest of London.

Sulgrave Manor, home of the first President's more immediate forebears, is on the bus tour circuit. To reach the more remote Washington Old Hall, you are on your own, but partisans always have insisted a visit here is worth the extra effort and time.

A William de Hertburn of County Durham bought the manor house in 1183 and, as was the custom of the day, took its name as his own. The name then was De Wessynton, which soon became Washington.

Wags note that if the founder of the Washington family had not changed his name, the capital city of the United States might be Hertburn (pronounced "heartburn").

Washington New Town, a sprawling residential community built since World War II, surrounds the old village.

On May 5 President Carter planted a tulip poplar brought from Mt. Vernon. He tossed 12 shovelfuls of Village Green earth at the little tree's base and then a 13th, symbolic of the 13 original American states. British Prime Minister James Callaghan, the President's guide to the area, planted an English oak.

CARTER'S ANCESTORS FIRST

President Carter's first ancestor in America left England 19 years before President Washington's. Genealogical records in Georgia indicate that Thomas Carter Sr., a direct ancestor of Jimmy Carter, settled in Virginia in 1637. George Washington's great-grandfather, John Washington, left England for Virginia in 1656.

George Washington's direct ancestors lived here at Washington Old Hall from 1183 to 1399 and other family members owned the property until 1615, when it was sold to the Bishop of Durham.

More than 375 years later the property went on the market and the old stone house was marked for demolition. A preservation group saved it with the help of generous gifts from both sides of the Atlantic. The ancestral home was opened to the public in 1955.

Two years after the house was opened by the U.S. ambassador it was given to the British National Trust. The trust does not take over any property without an endowment to pay for its upkeep, but it made an exception here because of the property's historical importance to both England and the United States.

To make ends meet, the pragmatic trust rents part of the house to the Sunderland Metropolitan Council, which uses the top floor as a community center. Sight-seers are free to roam the building daily for a nominal fee.

Once a prime coal-producing region, this area between Durham and Newcastle is supported by diversified, lighter industries dispensed across the countryside. They have made possible the development of such suburban tracts as Washington New Town. The village of Washington, however, remains unchanged.

A rented car is the best means of getting to the village. The drive through the maze of suburban streets of Washington New Town is made easier by signposts, erected for the U.S. Bicentennial year.

Along the road you may hear, as I did, some village matrons deploring what has transpired in their part of old England. "It's all new houses and new highways," said one woman. "We're even cut off from our friends and neighbors by highways—strangers in our own home."

The new highways have not slashed up the grounds of Washington Old Hall, and are not likely to invade its sheltered position on the edge of the village.

Washington Old Hall is an impressive, although by English standards a "small," manor house. Its high stone walls, although not quite a fortress-castle, must have discouraged medieval marauders.

Visitors do not see the house exactly as it was when the Washington family lived there. After the house was sold in the 17th century it was partly demolished and then rebuilt on the old foundations. It is believed that most of the walls of the kitchen wing are survivors of the original building. The building has been restored to appear much as it did in the 12th century.

A double archway connecting the flagstone-paved kitchen and the Great Hall, or main ground floor room, is a restoration of the way the house looked when a Washington was lord of the manor.

The Great Hall is where the family and retainers ate, with the head of the house on a dais at one end of the room. A drawing room at the opposite end is decorated with 17th century paneling brought from another house in this area to illustrate the work of that period.

Along the stairway to the second floor are a photo of Princess Anne visiting in 1974 and a genealogical chart purporting to trace the "Descent of George Washington from King John and 25 Barons Sureties of Magna Carta." The line follows from the original William through his great-great-grandson, John Washington. When John married, he moved to his wife's estate across country to the moors of Westmoreland County. Almost three centuries later a direct descendant, Lawrence Washington, having made a fortune in the wool trade, turned up farther south.

GRANDFATHER LOYAL TO CROWN

Sulgrave Manor, the better-known Washington family ancestral home, enters the picture. Lawrence Washington bought the land in 1539 after Henry VIII's dissolution of the monasteries, and built his house on the site. He commuted to the city of Northampton between London and Birmingham, where he served as mayor.

Another Lawrence Washington was born at Sulgrave Manor, a grandson of the manor's builder. He became a clergyman with a degree from Brasenose College, Oxford. The Rev. Washington, a strong Royalist in the time of Oliver Cromwell, went to live elsewhere. It was his son John who emigrated to Virginia.

As also happened with Washington Old Hall, Sulgrave Manor had fallen into poor condition when, in 1914, it was decided to restore the site as a fitting monument to 100 years of peace between Britain and America. Both British and American contributions went into the project and the house was opened to the public in 1921.

Sulgrave contains numerous mementos of George Washington himself. Hanging over the fireplace in the Great Hall is the most valued object in the house—an original portrait of the first President by Gilbert Stuart.

In the corners of the doorway of the Great Hall are carved the arms of the builder's family, three stars and two bars. It is considered by some that this is the germ of the origin of the design of the American Flag. The windows contain reproductions in stained glass of the arms of various members of the Washington family.

Numerous other traces of the Washington family are in various other locations around England, including burial sites and coats of arms in church memorial windows. Perhaps the most singular is to the memory of a churchman, John Washington, and hangs on a wall at historic Durham Cathedral.

It reads:

"Remember in these cloisters which were finished in his day John Washington of Washington in this county, Prior of this Cathedral Church 1416–1446, whose family has won an everlasting name in lands to him unknown."

JIM OAKLEY—A TRIBUTE

HON. WALTER FLOWERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. FLOWERS. Mr. Speaker, James William Oakley, Sr. of Centreville, Ala.,

was a successful businessman and a church, civic, and political leader, but above all he was the personification of what a newspaperman should be in a nation with a free press. He has been recognized as such. In special ceremonies on October 8, 1977, he was inducted into Alabama's Newspaper Hall of Honor. It is a tribute richly deserved.

For 43 years until his death in 1972, Jim Oakley was editor and publisher of the Centreville Press. Under his management, it became one of the outstanding weekly newspapers in the Nation. Its pages, articles, and editorials reflected a man of intelligence, integrity, and conviction. They also reflected his opinions, and Jim Oakley was a man with very definite opinions. There was never the slightest doubt as to where he stood on an issue. Never. He would state his views, clearly and boldly, then stick to his guns come hell or high water.

I did not always agree with Jim Oakley, but I had the greatest respect for the man. He did not always agree with me, and I have several Centreville Press stories to prove that particular point.

I would like to congratulate his widow, Mrs. Roberta Oakley, and his son, Jim Oakley, Jr., on this honor he has received and to wish them well as they continue to operate the Centreville Press in the tradition he established.

TAX-EXEMPTION LEGISLATION FOR SCHOLARSHIPS

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. CARTER. Mr. Speaker, today I am reintroducing with additional cosponsors, H.R. 7993, legislation to restore tax-exempt status on a permanent basis to funds received under the Public Health Service/National Health Service Corps and Armed Forces Health Professions Scholarship Programs.

As I have stated earlier (RECORD June 23, 1977, p. 20701) enactment of this legislation is needed to insure realization of the important public service goals of these programs—namely, to attract health professionals to serve in medically underserved areas and to serve in the Armed Forces. Because of expiration of prior exempting legislation, and a ruling by the Internal Revenue Service, funds received by students entering the programs after December 31, 1976 will be considered taxable income.

I am pleased to inform my distinguished colleagues that congressional recognition of this problem is increasing, as was evidenced by recent actions in both Houses.

About a week ago, the House Ways and Means Committee reported a tax bill, H.R. 9251, which contains a provision to restore the tax-exempt status for these scholarship programs for 2 years. The committee has requested that the legislation be taken up under suspension, but no date has been scheduled.

On the Senate side, a similar amendment was adopted by the Senate on Monday of this week and added to H.R. 3387, a child care bill which was substituted for a tariff bill. The Senate amendment would reinstate for 2 years the tax-exempt status for moneys received under the two scholarship programs, and programs of similar intent.

While I would prefer enactment of a permanent tax-exemption provision, this interim measure is clearly the best alternative we have available at this time. I would urge my colleagues to support this temporary tax-exemption provision when the House considers either H.R. 9251 or H.R. 3387. However, I will continue to work for enactment of a permanent solution to this problem.

METROPOLITAN DADE COUNTY CONSUMER ADVOCATE REPORT

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. FASCELL. Mr. Speaker, the Dade County Consumer Advocate Office, like many of its counterparts around the country, is striving to serve the public. Under the able leadership of Consumer Advocate Walter T. Dartland, and with the active support of numerous organizations and individual citizens of the community, it is giving the consumer a more effective voice on consumer affairs.

The consumer advocate office is making progress toward its objective of increasing the responsiveness of the public and private sectors to the needs of the community. Mr. Dartland and his staff are trying many new and innovative methods of involving the public in the work of the agency. In addition, the office has drafted several bills intended to remedy certain existing consumer problems and these measures have been introduced in the Florida Legislature.

I wish to bring to the attention of my colleagues the following summary of the Metropolitan Dade County Consumer Advocate's Report of the year 1976:

SUMMARY OF 1976 METROPOLITAN DADE COUNTY CONSUMER ADVOCATE'S REPORT

In its second full year of operation, the Dade County Consumer Advocate's Office under the direction of Consumer Advocate Walter T. Dartland, continues to broaden its seemingly limitless scope of responsibilities in an effort to protect the consumers of Dade County. Specifically, the Consumer Advocate has expanded his role in consumer education, provided more input into the local and state legislative process and implemented public interest litigation in cooperation with the Dade County Bar Association.

Consumer education continues to be one of the Consumer Advocate's top priorities. Through the efforts of the Consumer Advocate and in cooperation with the Consumer Services Division of the State Department of Agriculture and the University of Miami, a grant from the federal government has been obtained to be used in developing the "Tel-Consumer" project. The public will be able to dial a telephone number and receive information concerning a broad range of laws pertinent to consumer decision making and redress opportunities through tape recordings. This is to be the Model-T of an eventual sophisticated consumer-information retrieval system—consumer information at your finger tips.

Legislative bills which will cure existing consumer problems have been proposed by Mr. Dartland for consideration by the Florida Legislature. The Consumer Advocate has authored the Hazardous Substances Bill, Motor Vehicle Title Certificate Bill, Mechanic's Release of Lien Bill, Water Closet Bill and the Water Lifeline Bill.

The Consumer Advocate has undertaken his first venture into the realm of class action litigation with the preparation of a lawsuit against Ford Motor Company on behalf of all Florida residents who have Fords which have been damaged by premature rusting. Members of the private bar are actively cooperating in developing this lawsuit. The suit charges Ford with negligent design and manufacture in failing to take adequate measures to protect their vehicles against corrosion and rust. Another count charges Ford with fraudulent concealment because of Ford's intentionally concealing from buyers pre-purchase information that Fords have a propensity to prematurely rust.

At the same time the Ford class action suit was filed, a petition was filed with the Federal Trade Commission to initiate rule-making proceedings to set standards for sheet metal corrosion. The petition focuses on the plight of Chevrolet Vega owners. The ultimate goal of this project is to assure new car purchasers that they will be getting a rust-free car for at least five to eight years.

Another prime area of consumer concern focused on by the Consumer Advocate has been complaints against utility companies. Throughout 1976, the Consumer Advocate has been very active in the representation of Dade County residents before the Water and Sewer Board and the Department of Environmental Resources Management. Prior to each hearing, Mr. Dartland meets with representatives of the community serviced by the utility in order to discuss problems in their area. This two-way dialogue between the public and the Consumer Advocate enables individual private citizens who recognize problems, but who do not have the authority to initiate the necessary remedial action, to provide Mr. Dartland with information and their ideas on what corrective measures should be taken. In this manner, Dade County citizens are assured that their views will be presented to these bodies on issues of quality, service and rate increases.

Because of the critical energy shortage confronting the nation and soaring electrical costs, Mr. Dartland has supported various energy-related measures. The Consumer Advocate has been in the forefront in support of a program to restructure electrical rates to give customers the option to reduce the cost of their usage by discounting electrical costs during off peak hours. In addition, Mr. Dartland has devoted considerable time to promoting programs seeking to implement an electric lifeline rate structure similar to the water lifeline concept.

In conclusion, the Consumer Advocate's activities have directly involved the office in many critical consumer-oriented issues currently facing Dade County's residents. The objective of increasing the responsiveness of public and private sector interests to the needs of the citizenry is being accomplished through a variety of means. Although still in its infancy, the office is making progress toward this objective. The foresight of the Dade County Commission and the support of the County Manager have created the atmosphere for success.

God helps consumers who help themselves—in Dade County—the consumers are helping themselves.

HON. MEL LAIRD WRITES FOR READER'S DIGEST ON HOW THE ENERGY CRISIS WAS MADE INEVITABLE BY GOVERNMENT POLICIES AND OFFERS CONSTRUCTIVE ALTERNATIVES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. KEMP. Mr. Speaker, our former colleague and our Nation's former Secretary of Defense, Melvin R. Laird, has written an article for Reader's Digest which should be read by every American consumer and particularly the House and Senate conferees on energy legislation.

This article is on the so-called energy "crisis"—in particular, how that crisis was brought about by Government policies. The natural gas shortage, subsidizing OPEC, confusion over the use of coal, higher oil and gasoline prices—all of which are a product of Government policies.

Yet, the same Government which caused the problem wants the American consumers to shoulder the burden. The Carter energy plan—which should be more accurately called the Carter energy tax increase plan—calls for the American people to both pay more and get less, the worst of both options. Meanwhile, Government continues down the same policy road that created the problems and shortages to start with.

But the Mel Laird article is not just a critique of prior policies and present proposals. It sets forth viable alternatives: deregulation of the price of gas and oil, so as to assure greater supply and the development of alternatives; acceleration of the leasing and development of oil and gas on the Outer Continental Shelf; amending the National Environmental Policy Act to require completion of the environmental impact approval process within 6 months.

Mr. Speaker, this should be must reading, required reading for everyone in the new Department of Energy, in the Energy Research and Development Administration, in the policymaking offices of the White House and Office of Management and Budget, and in the energy legislation writing committees of Congress.

The item follows:

THE ENERGY CRISIS: MADE IN U.S.A.

(By Melvin R. Laird)

Energy crisis! Energy shortage! These terms have a succinct urgency. They conjure up images of millions of automobiles stopped, factories shut down, people huddled in freezing homes.

But for all their psychological power, these terms are merely catchwords, concealing a profund misunderstanding that threatens to cripple our economy and way of life. For in reality we have not run out of energy sources. The crisis is one of government policy.

The simple truth is, America has an abundance of energy resources—and the technological know-how to extract and use them. Consider gas and oil, the two "critical" fuels from which the United States currently draws about 75 percent of its energy, and coal, the nation's most plentiful energy source:

An estimated 920 trillion cubic feet of natural gas still lies beneath the United States. Even at present consumption rates this should last at least 45 years.

About 160 billion barrels of oil still lie below native ground or offshore. That's enough to last us into the next century at present rates of consumption.

At least 220 billion tons of immediately recoverable coal—the energy equivalent of nearly a trillion barrels of oil—today awaits mining in the United States. Converted into gas and even gasoline, burned with new clean technology, coal alone could supply our energy needs for several centuries.

It should be emphasized that these figures may be way off. There is probably much more gas, oil and coal available than present exploration and surveying techniques can discern. But the point is, there's at least enough to enable America to function vigorously while preparing for the next generation of energy sources—nuclear, solar and others.

This is not to say that President Carter's call for conservation should be ignored. Indeed, it should be applauded and heeded by every citizen. But conservation alone is a slow walk down a dead-end street.

Today, the fact is that we must produce more energy. But thanks largely to misguided government meddling, much of our energy sources lie useless in the ground. After more than two decades of taxes, tariffs, quotas, price ceilings and production regulations, we have succeeded in insulating ourselves from energy reality. Notes Nobel Prize-winning economist Milton Friedman: "Do you want to produce a shortage of any product? Simply have government fix and enforce a maximum price on the product which is less than the price that would otherwise prevail." That is precisely what we have done. By paying artificially low prices for the gas in our homes and the gasoline in our cars, we have created artificial shortages.

GIVEAWAY GAS

Nowhere has this truth been more exquisitely illustrated than in the case of natural gas. Since 1938 the Federal Power Commission has set the price of gas moved through interstate pipelines. In 1954, a Supreme Court decision extended the FPC's power to include price control of gas as it is sold to the pipeline companies at the wellhead. (The price of gas sold within a producing state is not controlled by the FPC and fluctuates with the market.) To protect the consumer, the FPC prices were set at unrealistically low levels. This brought into effect inexorable economic laws that could have been predicted by any lemonade-stand proprietor. Everybody wanted that cheap gas. Homes and even factories with coal furnaces or boilers began switching over. Between 1954 and 1971, gas consumption increased 167 percent.

Barely a thought was given to adequacy of gas supply. The price of the stuff was so low that drillers had no economic incentive to find more or drill deeper in known fields. It was a common sight to see natural gas being flared" (burned off) on Gulf of Mexico oil rigs and in Texas fields, because it was simply not worth the expense of piping it into the market.

Then came the harsh winter of 1976–77, with cold homes, closed factories and schools. The cheap fuel's cheapness became academic. The supply of almost a third of the nation's energy needs had run dangerously low. And the ultimate irony was that all the cold homes, factories and people were virtually sitting on trillions of cubic feet of gas too expensive to extract at prevailing prices.

For a vivid picture of what might have been if gas production had had the stimulus of an unregulated market, look at the experience of Texas in 1972. As more and more people used the state's natural gas, surpluses began to disappear. The price rose from 75 cents per thousand cubic feet to a high of $2.20. But this rise stimulated the drilling of more than 2000 new wells, and the expanded supply then drove the price down to $1.76. At the higher price, Texans watched their thermostats more closely, but they had the gas to conserve. Indeed, at the height of the past winter's crisis, where did the federal government turn for emergency gas? To Texas, Louisiana, Oklahoma and the other states with unregulated markets. (The FPC permitted the interstate pipeline companies to buy the gas at the going market price.)

SUBSIDIZING ARABS

In crude oil, too, the hand of government has displaced the market, by depressing prices of domestic oil to artificial lows. Through a weirdly ingenious system worked out at the time of the oil embargo of 1973, the government began taxing domestic oil producers and using the revenues to subsidize purchases from foreign producers like the OPEC (Organization of Petroleum Exporting Countries) cartel. Here's how it works:

The Federal Energy Administration has set an average price on domestic crude oil of $9.24 a barrel. The refiner must purchase an "entitlement" ticket for $2.28, thus bringing the per-barrel cost to $11.52. However, if the refiner purchases his crude from abroad (for the most part, OPEC) at the world market price of $14.50, he receives a subsidy of $3 a barrel.

RESULT

There is no reason for him not to buy from foreign sources. (We are now importing more than 40 percent of our oil.) And there is less cash incentive for the domestic producer to drill for more American oil. True, the consumer benefits in the short run by paying lower prices. But inevitably, if this process continues, there will be little domestic oil to purchase, and we will be almost completely at the mercy of OPEC.

A study by Robert E. Hall and Robert S. Pindyck of the Massachusetts Institute of Technology shows persuasively that if we would simply let the price of crude go to the world, or market, level, there would be a dramatic lessening of our dependence on foreign oil. First of all, the higher price would dampen U.S. demand by about three million barrels a day, out of a current total of 17 million barrels a day. Moreover, the approximately $5-a-barrel increase in the price of domestic crude would provide the incentive for new production, bringing an additional two million barrels of American oil a day onto the market. True, the cost of a gallon of gasoline would receive increase six or seven cents, but we would no longer be so dependent on Arab oil for our energy needs.

KILLING "KING COAL"

In the early decades of this century, the advent of the automobile the diesel locomotive and the easy availability and transportability of gas and oil brought a movement away from coal as our leading energy source. Yet coal remains an efficient fuel, in great abundance, that with modern technology can be converted into a wide variety of fuels.

What happened is simply that "King Coal" has been so whipsawed by federal regulatory and environmental policy and priced out of competition by unrealistically cheap gas that the industry now presents us with serious problems of resucitation. For instance, back in 1969 and '70, when the coal industry was already reeling, Congress passed both the Coal Mine Health and Safety Act and the Clean Air Act. These acts had many virtues, but they placed formidable economic compliance burdens on coal companies. The immediate result was a

drop in mining productivity which continued steadily over the next seven years, eventually reaching 32 percent.

Air-quality standards adopted in some states under the aegis of the Clean Air Act are so stringent that they can be met only by use of natural gas or low-sulfur coal or oil. But most low-sulfur coal lies in western regions where it can be mined economically only by stripping—and proposed federal strip-mining legislation has greatly held down development of this clean-burning coal.

It is a cliché of our time that coal is "our most abundant energy resource." The problem is, in our unrealistic regulatory atmosphere, we can't dig it out of the ground and we can't burn it. The failure of the federal government to make the crucial environmental/energy tradeoffs necessary to bring about greater use of coal is in no small part the result of both Congress and the Executive Branch treating energy and environmental policy separately. It is quite clear that the federal government must more carefully balance the requirements for environmental quality against those of energy supply and use.

THE WAY BACK

In search of a solution to the energy problem, Congress is now grappling with a variety of proposals largely centered around conservation—incentives, taxes, regulations, rebates. But, as Lawrence Klein, President Carter's chief economic adviser during the 1976 campaign, has observed, "The energy package is very negative in being so wholly concentrated on restricting demand. It might have been better to tailor it more to increasing supply."

Indeed, we will not solve our energy "crisis" until we perceive clearly that we are dealing with shortages manufactured by governmental policy—controlled prices and continuing disincentives to expanded production of known domestic gas, oil and coal supplies that would easily supply us until the transition to future energy alternatives. Government has created the problem, and we as citizens must direct government to correct it. Some vital steps in that direction:

Deregulate the price of gas and oil. Allow the market to take over, as it has in the past, increasing supply by giving the petroleum industry the incentive to find and extract our considerable untapped resources. Deregulation will mean an increase in oil and gas prices. But Congress can impose a "windfall profits" tax and use these funds for cash grants to low-income citizens to ease the transition to fair-market energy prices.

Accelerate the leasing and development of oil and gas on the outer continental shelf. We know there are vast supplies in these areas, but interminable delays in opening them up to exploration and drilling are daily driving up the costs. Oil developers, many of them small independents, paid $1.1 billion for leases in the Baltimore Canyon (off New Jersey) after the federal Court of Appeals overturned a lower-court judge's decision that barred exploration in the area. The companies spent tens of millions more to prepare for drilling operations, hoping to begin May 1 of this year, but the same lower-court judge declared the leases null and void on the ground that the lengthy Environmental Impact Statement prepared by the Interior Department was insufficient. The decision—now under appeal—has prevented the production of huge quantities of desperately needed fuel.

Amend the National Environmental Policy Act (NEPA) to require the completion of the environmental impact approval process within six months. In many cases, this now takes years. The impact statement prepared by the Department of the Interior on a natural-gas pipeline from Alaska was a 9570-page, two-foot-thick, 40-pound document. It was not atypical of such statements, and as John Quarles, former acting head of the Environmental Protection Agency, admitted, "There is a serious question if any of these are being read, much less relied upon, by policymakers." We should also restrict the legal challenges to an impact statement to a single proceeding at the end of the approval process. Since NEPA was enacted, there have been more than 857 suits involving impact statements. Many of them have been frivolous or purely obstructive. All have involved costly delays.

Such steps demand of government only that it intrude less and permit the market to do its proper work. This done, we will have redressed the energy imbalance and relearned the most crucial lesson of a free society.

CONGRESS SHOWS DEEP CONCERN FOR SOVIET HUMAN RIGHTS

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. JEFFORDS. Mr. Speaker, I would like to take this opportunity to thank my colleagues who joined me late last week in expressing strong congressional concern over the Soviet Union's apparent violations of the human rights provisions of the Helsinki accords. I am pleased to report that 133 Members of this Chamber and 16 U.S. Senators cosigned the letter, mailed to President Carter late Friday afternoon, urging a firm U.S. stand on this issue at Belgrade.

The plight of Alexander Ginzburg and other dissident leaders is very serious. Their best hope appears to be the glare of world opinion. This letter, hopefully, will make it clear that our eyes are focused upon the actions of the Soviet regime, and that further persecution will not go unnoticed.

The strong concern demonstrated by so many Members of Congress is heartening, and may provide some hope for the jailed dissidents. I am having a copy of the letter translated to Russian, and will make a strong attempt to have copies delivered to Alexander Ginzburg and members of his immediate family.

I also want to mention that the distinguished Senator from Vermont, Senator LEAHY, played a key role in this effort, securing support and signatures on the Senate side.

Mr. Speaker, I insert the text of the letter, and the names of the signers, in the RECORD at this time:

CONGRESS OF THE UNITED STATES,
Washington, D.C., October 14, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The intensification of the Soviet Union's campaign to crush political dissent is an issue which, in our view, poses a major challenge to our country in the opening weeks of the Belgrade Conference. We are writing to express our strong concern, and to urge that you and your able representatives, Arthur Goldberg, make human rights a central issue in the talks.

All available evidence indicates that the Soviet government is testing our country's commitment to assuring compliance with the human rights provisions of the Helsinki accords. The basic strategy is now clear: prominent dissidents are charged with criminal, rather than political offenses. Attempts are made to forcibly coerce their friends and fellow dissidents ino falsely testifying against them. They can then be treated as common criminals, and sentenced to death or other extreme forms of punishment. By treating Alexander Ginzburg and other key leaders of the dissident movement in this manner, the Soviets apparently hope to destroy the entire movement. Alexander Ginzburg's mother recently described her family's plight as follows:

". . . We are deprived of all rights, helpless against slander, lies and violence. KGB officials grin cynically while openly stating that death is what awaits my son and his friends if they do not follow Yakir's example."

This is not an unfounded fear. The accuracy of Ludmila Ginzburg's grim assessment of the situation has been substantiated by numerous events and numerous documents. There is every reason to fear for Alexander Ginzburg's life, and there is every reason to fear for the continued existence of political dissent within the Soviet Union.

The stakes are extremely high, extending beyond the plight of individual Soviet dissidents. If the Soviets are allowed to blatantly violate the human rights provisions of the Helsinki agreement, the credibility and effectiveness of the agreement, and any other bilateral negotiations, could be undermined. We urge the delegation to press this point in as forceful a manner as possible in closed as well as open session. If the current talks are to be meaningful, the issue of Soviet treatment of Mr. Ginzburg and other members of the Helsinki monitoring groups must be given high priority.

We are sure that you share our deep concern, and trust that the U.S. will respond in an effective and credible manner to the apparent violations of the human rights provisions of the Helsinki accords.

Sincerely,

House: James M. Jeffords, Robert N. C. Nix, Jack F. Kemp, Sidney R. Yates, Robert F. Drinan, Lester L. Wolff, Jonathan B. Bingham, Don Fraser, George E. Brown, Jr., Phil Burton, Joshua Eilberg, Floyd Spence.

G. William Whitehurst, Tom Railsback, Virginia Smith, Benjamin A. Gilman, William S. Broomfield, Tennyson Guyer, Charles Grassley, Charles Thone, Richard Kelly, Bruce Caputo, Thomas N. Kindness.

W. Henson Moore, David C. Treen, Thomas Downey, Andy Maguire, Richard Nolan, Ed Jones, Harold L. Volkmer, Ronald A. Sarasin, Bob Carr, Ted Weiss, Bill Armstrong, Elwood Hillis.

Edwin B. Forsythe, Robert McClory, Glenn English, George O'Brien, Edward Derwinski, Bob McEwen, Norman Y. Mineta, Tom Harkin, Leon E. Panetta, Elliott Levitas, Timothy E. Wirth.

Steve Neal, Berkley Bedell, Jim Leach, Pete McCloskey, William M. Ketchum, Al Baldus, John Breckinridge, Herbert Harris, Bob Bauman, Paul Simon.

Dale E. Kildee, Max Baucus, Silvio O. Conte, Paul Findley, Bill Goodling, Tim Lee Carter, Marjorie Holt, G. V. Montgomery, Bill Brodhead, Mark W. Hannaford, Edward J. Markey.

Joe Moakley, Bob Edgar, Joseph L. Fisher, Mary Rose Oakar, Tom Hagedorn, Jim Blanchard, Norman F. Lent, Richard L. Ottinger, Bill Lehman, Larry McDonald, Newton I. Steers, Stanley Lundine.

Henry J. Hyde, Larry Pressler, Albert Quie, Stewart McKinney, Paul Tsongas, Jim Lloyd, Christopher J. Dodd, Margaret M. Heckler, Charles Rose, Harold Hollenbeck, Carl Pursell.

James C. Cleveland, David F. Emery, Robert J. Cornell, John Krebs, Ned Pattison, Marc Marks, Dave Stockman, Bill Frenzel, Robert J. Lagomarsino, Matthew F. McHugh, Mickey Edwards.

Bill Gradison, Don Bonker, Ralph S. Regula, Millicent Fenwick, Elizabeth Holtzman, Ed Koch, Romano Mazzoli, Floyd Fithian, James Scheuer, Jerome Ambro, Donald J. Mitchell, Stephen J. Solarz, Henry A. Waxman, Jim Abdnor.

Hamilton Fish, Jr., John Buchanan, Alan Stangeland, M. Caldwell Butler, Clement J. Zablocki, George Hansen, Philip Ruppe, Samuel S. Stratton, Ronald Marlenee, Peter H. Kostmayer, Dan Glickman, Barber B. Conable, Jr., Michael Harrington, Lamar Gudger, Robert Dornan.

Senate: Patrick J. Leahy, Robert T. Stafford, Wendell R. Anderson, Malcolm Wallop, Richard Stone, Lloyd Bentsen, Floyd K. Haskell, Pete V. Domenici, Clifford P. Case, William Proxmire, Harrison A. Williams, Daniel P. Moynihan, Spark M. Matsunaga, Harrison H. Schmitt, Robert Dole, Birch Bayh.

THE BAKKE CASE

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. WALKER. Mr. Speaker, the Bakke case, now under consideration by the Supreme Court, has focused national attention on the regrettable practice of establishing quotas to allow the admission of students to colleges, universities, and professional schools on the basis of race rather than merit.

As a sponsor of H.R. 9286, a bill to eliminate Federal sanction of such quotas, I must emphatically state my belief that any system of racial discrimination or racial preference perverts the American ideal that all individuals should be judged on the basis of what they can do, not on the color of their skin.

A column in the October 19 Washington Star, by John P. Roche, examines the problem of judging students on their basis of race and points out the injustice of such a judgment. I commend this article to the attention of the Members of the House.

POP PSYCHOLOGISTS IN THE BAKKE CASE ARE COLOR BLIND IN ONLY ONE EYE

(By John P. Roche)

There is a surrealistic aura around the debate over the Bakke case. Since discussion of this "reverse discrimination" action, shortly to be decided by the Supreme Court, has rapidly become a growth industry, the facts can be summarized concisely. The University of California Medical School at Davis in 1969 instituted a two-track admissions system, saving 16 admissions slots for the "disadvantaged."

The latter were not evaluated by the usual standards, but permitted to matriculate with substantially poorer academic backgrounds than the 84 on Track I. In practice whites were excluded from the category. Allan Bakke, turned down on Track I, discovered his record was better than most admitted on Track II and brought suit, claiming he was a victim of racial discrimination. The California Supreme Court agreed; its decision was appealed to the U.S. Supreme Court; rhetorical sluice gates opened.

As indicated here in the past, I have a special approach to "affirmative action." Faced with the choice between two candidates of equal talent, one white male and the other black or Hispanic or female (to take but three examples), I personally would choose one from the historically disadvantaged groups: not purely for the benefit of the person involved, but additionally because of the value I attribute to diversity. But under no circumstances would I go below the qualitative threshold.

Conversely, I am adamantly opposed to racial or sexual or ethnic quotas as in the Davis Track II system where, in a cosmetic quest for diversity, qualitative standards are rejected. Not only are quotas demeaning to the individuals involved—who are branded as dumb but chic—but they patently violate both the Fourteenth Amendment to the Constitution and the Civil Rights Act of 1964.

Indeed, those who have asked the Supreme Court to sustain the Davis quota system (including the United States Department of Justice) are in essence demanding the justices declare both the Equal Protection Clause of the Fourteenth Amendment and a provision of the 1964 statute based upon it unconstitutional. It took almost a century to get the Court to hold the Constitution color blind—in some of my early legal article I inveighed against the constitutionality of "Jim Crow"—but now a number of pontiffs are arguing the Constitution need only be color blind in one eye.

Let us look at the Civil Rights Act provision the Court is supposed to ignore or overrule: "All persons shall be entitled to be free . . . from discrimination or segregation of any kind on the ground of race, color, religion, or national origin . . . by any law, statute, ordinance, regulation, rule or order of a State or any agency . . . thereof." The language is simple; debate on the floor of the Senate locked its intention in concrete; to obliterate these categories from American law.

Since they are weak on law, the proponents of the quota system, including Harvard, Columbia, Stanford and the University of Pennsylvania, have wandered off into pop sociology. The Friend of the Court brief submitted by the four universities—and vetted by the deans of their law schools—actually argues against a racially neutral standard of "disadvantage" on the ground that most of the poor and culturally deprived are white. "Once a color-blind preference for the disadvantaged was implemented . . . the number of minority applicants admitted would drop off sharply."

In other words, not content with endorsing a minority quota, they want disadvantaged whites to stay disadvantaged! (The subway diggers among my ancestors would have appreciated this generosity.) Another section of this brief should be put to music: "It has been the experience of many university teachers that the insights provided by the participation of minority students enrich the curriculum, broaden the teachers' scholarly interests, and protect them from insensitivity to minority perspectives."

This is touching. But the fact that law professors at Harvard, Columbia, Stanford and Penn underwent consciousness raising experiences is no basis for declaring the Equal Protection Clause of the Fourteenth Amendment unconstitutional. I also hope they aren't training a generation of law students to write briefs like this garish document in which "loyalty and friendship with particular individual (minority) students" has apparently precluded rational argument.

Justice William O. Douglas went to the heart of the matter on a 1974 opinion: "The Equal Protection Clause commands the elimination of racial barriers, not their creation in order to satisfy our theory as to how society ought to be organized." The defense rests.

"THE BLUES" JOINS COUNTRY MUSIC IN HISTORIC BENEFIT CONCERT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. CONYERS. Mr. Speaker, last June's tragic fire in the Maury County, Tenn., jail, in addition to highlighting the need for improvements in jail fire prevention, was also the catalyst for bringing together two of America's major and unique music forms—the "blues" and country music.

B. B. King, the "King of the Blues," and Waylon Jennings, the well-known country singer, joined together in Nashville for a benefit concert that raised over $8,000 for the families of the 42 fire victims. King, active in prison reform issues and cochairman of the Foundation for the Advancement of Inmates Rehabilitation and Recreation (FAIRR), saw this opportunity to both bring black and white popular music fans together and draw wide attention to prison problems.

I commend Mr. King and Mr. Jennings for organizing this historic effort, and have included below for my colleagues some additional descriptions of the event.

B. B. KING "THE KING OF THE BLUES" MEETS "THE COMMON COUNTRY BOY" OL' WAYLON

An Event which has been destined for some hundred years or more becomes a reality in Nashville, Tennessee, Sunday, September 11th as Memphis, The City of Blues and Nashville, The Home of Country Music . . . MERGE. Not only will this be a musical evening to experience, but it will present sociological and cultural spin offs that will become apparent as the full purpose of this event is realized.

B. B. King, "The King of the Blues" and Waylon Jennings, one of the dominant forces of the Country scene will appear in concert together at the Municipal Auditorium. King and Jennings are both guitarists playing the instrument which dominates all forms of popular and folk music in the World today.

It is strange that the inevitable should be almost accidental . . . but not so strange that a disaster is the catalyst. King, instrumental in prison reform for years, with the famous Criminal Lawyer, F. Lee Bailey, offered his services when he heard of the Maury County fire in Columbia, Tennessee. According to Hampton Reese, B. B. King's music arranger for 24 years, King recorded one of his most famous albums entitled "COOK COUNTY JAIL" in a Chicago prison. King and Bailey are co-chairmen for a public foundation 'FAIRR' (Foundation for the Advancement of Inmates Rehabilitation and Recreation).

The Show is billed as a Benefit for the immediate families of the victims of the Maury County Jail fire in which 42 persons died but it's implications far surpass the monetary goals. For here in Music City U.S.A., black and white join hands in what will be the first concert held for a common humanistic cause.

Dell Long, King's Publicist and Coordinator of the Show contacted a famous Nash-

ville songwriter, Bob Tubert for his assistance, because of his familiarity with staging shows in Nashville. Tubert suggested Waylon, so to round out an evening of distinction, it was decided to combine the talents and drawing powers of both artists.

The backing then was obtained of Governor Ray Blanton, Nashville's Mayor Richard Fulton plus the co-operation of a large segment of the music community and it all comes together this Sunday night.

R. R. KING,
Sheraton National Hotel,
920 Broadway, Nashville, Tenn.

Nothing would have pleased me more than to have been able to be with you and Waylon Jennings, tonight, as you and Lucille make music on behalf of the families of victims of Tennessee's prison holocaust. I am sorry for my enforced absence.

Tonight's wonderful contribution must be placed beside other appearances you have made to advance the mission of the Foundation for the Advancement of Inmates recreation and rehabilitation. Your latest efforts is totally in harmony with the spirit of fairness, just as I am also with you in spirit.

Congratulations on a beautifully humanitarian and civic minded action. May your presence and your music ease the pain and the heart aches of those you seek to help.

F. LEE BAILEY.

[From the Tennessean Sunday Showcase, Sept. 4–10, 1977]

WAYLON MEETS THE BLUES

(By Alice Alexander)

A show that pits bluesman B. B. King with "outlaw" Waylon Jennings has got, it practically goes without saying, something for plenty of people.

So it is with this coming Sunday's doubleheader, a country/blues shindig (7 p.m. at Municipal Auditorium) to benefit families of victims of the Maury County prison fire.

For Mr. Jennings, on the one hand, tangled up as he is with the D.A.'s office here, it's an appearance that promises to be fairly tangy with irony. (The artist, incidentally, is guaranteed under conditions of his bond the right to make this scheduled appearance.)

And as far as B. B. King is concerned, the concert represents another kind of possibility—"an audience," he said in a phone interview recently.

An audience "but not for me; to get people to listen."

B. B. King is co-chairman, along with criminal lawyer F. Lee Bailey, of a prison reform outfit known acronimically as FAIRR. He has played prison-related events, in a blues interpretation of one of country music's hallowed traditions, for over a year now, feeling that "I'm not unlike a lot of entertainers—we kinda figure what you take out of the system you gotta put back in it from time to time."

Getting people to listen, he says, makes more sense than "getting them to vote the way I vote, or somethin' like that—see, this isn't politics I'm talkin' here at all. What it's about is just people gettin' together, in good will, for other people."

King said he decided to stage the Nashville concert earlier this summer. It was June 26, and King sat watching reports on the evening news that showed fires sweeping through the Maury County jail in Columbia, Tenn.

A half-dozen phone calls later King's publicist had lined up the mayor's office, the governor's office and Jennings to boot. "People used to approach me, ask me to do these kinda things," said King. "In the beginning I'd do it just 'cause I was available, you know?" He laughed.

"Well, as to my career, I wouldn't call what it's doin' skyrocketin', exactly. But it ain't fallin' downhill either. I guess it's hangin' in, is what you could say."

His is a career that's been hanging in there now over twenty-one years, to the delight of a small but rapidly enthusiastic following.

Only recently has his following begun to grow, easing its base over into a broader audience that gravitates to rock tastes as well as blues.

Not, it bears mention, unlike ole Waylon has done in his own fashion.

The pair has never been introduced, said King. "I don't know what's gonna happen when we get together. I've always followed his work, though, and I hear he follows mine.

"I expect if he does what he normally do, we'll work somethin' out."

Tickets to the show are on sale at all Sound Seventy outlets.

[From the Nashville (Tenn.,) Banner Sept. 7, 1977]

CONCERT FUNDS SET FOR ALL JAIL FIRE KIN

A benefit concert Sunday in response to the Maury County Jail fire will result in an even distribution of proceeds to families of each of the 42 persons killed in the June fire, according to promoters.

A spokesman for B.B. King, who is scheduled to appear with Waylon Jennings and "a third act of equal esteem" at the Municipal Auditorium, said plans call for the concert money to be turned over to the State Department of Human Services.

The sum will then be divided by 42, and one share will be given to the closest surviving relative of each of the fire's victims through a special checking account at Commerce Union Bank, according to Human Services spokesman Warren Causey.

"B.B. King's people asked us to set up the account for distribution to make sure the money flows right," Causey said. "That is the extent of our involvement. How the money is ultimately used is up to the recipients."

Maury County officials have heartily endorsed Sunday's meeting of "The King of the Blues" and "Ol' Waylon," as Jennings is more popularly known.

"I'm for it 100 per cent," said Maury County Judge Taylor Rayburn. "We're very grateful to these gentlemen for their humanitarian efforts to help us after this tragedy."

Sheriff Bill Voss also expessed his "deep gratitude" to King and Jennings.

King announced plans for the benefit concert several days after the Sunday afternoon fire, which killed 42 inmates and visitors when thick black smoke rapidly spread throughout the jail.

Plans were later made to stage the event in Nashville after Mayor Richard Fulton contacted King's agent in Washington urging that the concert be held in Nashville.

King and criminal lawyer F. Lee Bailey are co-founders of the Foundation for the Advancement of Inmate Rehabilitation and Recreation (FAIRR), a penal reform foundation which has sponsored several King concerts in penitentiaries across the country.

One lawsuit has been filed and at least nine more are expected against Maury County and various companies which manufactured cell padding materials that burned in the fire.

[From the Nashville Tennessean, Sept. 4, 1977]

"MAGICAL" APPEAL GROWING STRONGER; FRIENDS MEET; WAYLON MEETS B. B. IN SPIRIT

(By Laura Eipper)

Bluesman B. B. King and beleaguered outlaw Waylon Jennings provided a unique meeting of two musical cultures Sunday night at Municipal Auditorium, and raised over $8,000 for families of victims of the Maury County Jail fire.

Disappointingly, the two never got together to perform on stage, though Jennings praised King during his set and said, "The biggest part of country music had to come from their music, and now it's coming back together."

Jennings, in top form, drew a tremendous response from the largely white, largely young audience when he took the stage following opening sets by The Twenty First Century singers and his own band, and a surprise appearance by Hank Williams, Jr. Williams, who came close to stealing the show with his version of *Your Cheatin' Heart*, turned the stage over to Waylon, hailing him as the man who "took over where Hank left off."

With a minimum of between-song patter, Jennings moved deftly through a dozen of his hits from *Are You Ready For The Country? to Luckenbach, Texas.* Launching into *Good Hearted Woman*, Jennings made one of his rare ad libs during the evening, adding a jokingly plaintive plea for Willie Nelson to join him.

The audience was clearly supportive of ol' Waylon in his ol' legal difficulties of late, punctuating their applause "Give 'em hell, Waylon," and "We're with you!" When one avid teenage fan yelled at the stage, "Things go better with coke," Jennings simply shook his head and said, "Now, wait a minute."

Much in contrast, but no less exciting, was B. B. King's brand of classy, classic blues, backed up by a snazzy r&b orchestra—a rare treat. King's presence on stage, a combination of gentleness and fire, and his unmatchable singing and guitar work left no doubt that he is, in fact, the King of Blues. King's set was nearly flawless, with classics that included *Ain't Nobody Home* and a spellbounding *The Thrill Is Gone.*

Following the concert, King was honored at a reception at the rooftop club of the Hilton Inn Central, where he was presented with awards from Governor Ray Blanton and Sheriff Fate Thomas for his efforts in putting together the concert.

[From the Nashville Banner, Sept. 8]

RILEY SURE PICKED A FINE TIME TO LOVE LUCILLE

(By Bill Hance)

Riley and Lucille have had a love affair going now for over 30 years. Sunday at 7 p.m., they appear on stage together.

Riley is Riley King, better known in music circles as B.B. King. Anybody who knows B.B. well, also knows Lucille. Lucille is the name of his guitar.

B.B. and Lucille along with contemporary country singer Waylon Jennings appear at Municipal Auditorium to benefit the families of the 42 persons who died in the June 26 Maury County Jail fire in Columbia.

The question is—why is King involved? The King responded.

"I'm interested in prison reforms," the blues great said. "Through my music, I feel I can help people, especially prisoners. I think I can help them all realize that this planet is for everybody. It's not just mine or yours.

"Blues," he said, "continues to grow because music and the people are like a big wagon wheel with the spokes running to the center.

"There's a need for all of it. People don't get as much of the blues as they do the other types of music.

"I think there's enough room to squeeze me in there."

King, 51, said he just can't satisfy himself when it comes to working. He loves his year-round appearance schedule which includes performances at black nightclubs, college

auditoriums, rock shows, hotel casinos in Nevada and foreign tours.

"I used to play the 'chitlin' circuit' back in the 40s," he said. "That was a string of black nightspots back in the South. It's a big change."

King said he was born on a plantation somewhere between Indianola and Itta Bena, Miss. A preacher uncle taught him to sing and play the guitar for church and in 1947 he got a job as a disk jockey and singer on a Memphis station.

Later, he began playing one-nighters around Memphis.

Soon, he was winning approval from the blacks in the area. In the late 60s, he got his recognition.

"The rock rock people caught some of my guitar stylings," he said. "I think they liked my techniques because they had never seen anything like it before."

King is real blues. His songs are of love, joy, jealousy and fun. Some of his favorites include *The Thrill Is Gone, Everyday I Have the Blue* and *Everybody Wants to Know Why I Sing the Blues.*

[From the Nashville Banner, Sept. 12, 1977]

B. B. KING STEALS SHOW AT JAIL FIRE BENEFIT

(By Walter Campbell)

There was something for everyone in the way of Southern music at Sunday night's benefit concert for the Maury County Jail fire.

Waylon Jennings and his bass-thumping "Outlaw" brand of country music, as expected, drew whooping cheers from the Municipal Auditorium crowd.

And a surprise appearance by Hank Williams Jr. gave reinforcement to the country fans.

But the king of the show was also the King of the Blue—B.B. King.

King, with help from Lucile, his guitar, and a band under the tight control of guitarist Milton Hopkins, gave the Nashville audience some thing a little different, a taste of the Memphis blues.

The show, which was held as a benefit to the families of the 42 victims of June's Maury County fire, left almost half the seats vacant at the auditorium. But with $8,000 cleared at the box office, the promoters said they weren't disappointed.

And the audience seemed to enjoy all the music. The country fans applauded the 21st Century Singers' "progressive gospel" performance, the blues fans cheered for Waylon and Hank Williams Jr., and everybody went for the blues.

"Sometimes you don't realize how bad hurt can be until it happens to you," said King explaining his music to the audience.

But with songs like The Thrill Is Gone and Nobody Loves Me But My Mamma (And She Could Be Jivin' Too), any explanation was unnecessary.

The surprise guest, Hank Williams Jr., pleased fans with Your Cheatin' Heart, made famous by his father, and although Williams was all set to join Waylon singing I Don't Think Hank Done It This Way, he never did.

"The only thing I didn't like about the show was that the auditorium wasn't sold out," said Sheriff Fate Thomas, who presented King with a key to the county jail after the show. "But everyone who did come got their money's worth."

With proceeds from the show to be turned over to the State Department of Human Services for equal distribution to the jail fire victims' families, King concluded the three-hour show saying, "You can have a good time, but when it's for a good cause, then you have a right to really enjoy it."

"1939" CLUB

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. WAXMAN. Mr. Speaker, although the Members usually employ this medium to note the accomplishments of individuals, it is a special pleasure to bring to your attention a group of people who merit our warmest praise. The "1939" Club, celebrating its 25th anniversary on October 29, 1977, was founded in November 1952 by 12 persons who were survivors of Hitler's holocaust in Poland. Once formed, the club devoted its efforts to the raising of funds for deserving causes and institutions here and in Israel, and to keeping alive the memory of the events of 1939 which resulted in the dreadful genocide of Polish Jewry.

The "1939" Club initiated a plan, in 1959, to erect a Martyrs' Memorial in Los Angeles, which is now reaching realization. The club also helped to inaugurate the Warsaw Ghetto Yiskor, a yearly citywide memorial service. The memories of the 6 million Jewish dead are kept alive in a very real sense by the philanthropic activities of the "1939" Club, now numbering more than 600, and including the sons and daughters of the original survivors.

The first donation for clothing and bed linen for the Society of Orphanages in Tel-Aviv was sent in 1953, and since that time the club's contributions have been legion. A pledge was given to the Hebrew University in Jerusalem. The Society of Orphanages remained an important beneficiary. Through substantial bequests from friends of the club, Jew and Christian alike, the New Boys' Home in Tel-Aviv was built. The house was named after Gertrude Dolan and Harold Louis Anfenger, the principal donors, and one wing after the "1939" Club.

The first State of Israel bond campaign of the club, in 1967, resulted in the sale of $120,000 in Israel bonds. In 1969 a large sum was collected for the Israel Emergency Fund, and in that year the club established a scholarship at the Hebrew University in memory of James Korezak and Dr. Henryk Goldszmid. In 1970 the club established a memorial scholarship at the University for the late Alfons Haberfeld, a founder and former club president. The "1939" Club also pledged funds for the establishment of a prosthesis workshop at Beit Halochem, a recreation center for Israeli war invalids. A third scholarship has recently been established in honor of Lt. Col. Yonatan Natanyahu, who gave his life in the heroic Entebbe rescue. The UCLA University Research Library, B'nai B'rith, City of Hope, ORT, United Jewish Welfare Fund and Yad Vashem are only a partial listing of organizations which have received the club's generous help.

I feel it to be a privilege to bring this extraordinary group to your attention, and I ask the Members to join me in honoring the "1939" Club and its many accomplishments.

CONGRESSIONAL SALUTE TO SAINTS PETER-PAUL'S RUSSIAN ORTHODOX CATHEDRAL OF PASSAIC, N.J., UPON THE CELEBRATION OF ITS 75TH DIAMOND JUBILEE ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. ROE. Mr. Speaker, on Sunday, October 23, the people of Passaic, my congressional district, State of New Jersey, will join with His Excellency, the Most Illustrious and Most Reverend Bishop Ireney; Rt. Rev. Dennis M. Havriliak, pastor-dean; and the congregation of Saints Peter-Paul's Russian Orthodox Cathedral of Passaic, N.J., in commemorative services culminating the celebration of the 75th anniversary of the founding of this highly esteemed parish.

During the course of the year, the clergy and laity of the Saints Peter-Paul's Russian Orthodox Cathedral have been celebrating this most important diamond jubilee history of their parish devoting themselves in an outstanding program dedicated to the remembrance of the blessings of the cathedral's three-quarters of a century and strengthening the resolve of all to continue their most noteworthy efforts in service to God and mankind.

Mr. Speaker, the faith and devotion of our people in a full communion of understanding, ever caring and respecting the individual religious beliefs of his fellowman has been the lifeline of our democracy—ever inspiring our people with hope and urging the individual on to great achievements and purpose in pursuing the fulfillment of his dreams and ambitions. The exemplary leadership and outstanding efforts of our citizens so important to our quality of life are in the vanguard of the American dream and today we express our appreciation to the pastor and administrator of Saints Peter-Paul's Russian Orthodox Cathedral, the Right Reverend Dennis M. Havriliak, and his predecessors whose esteemed dedication and unselfish devotion in promulgating spiritual guidance, goodwill, fellowship, and brotherhood in service to God have truly enriched our community, State, and Nation.

May I also commend to you the officers of the cathedral who make an outstanding contribution to the pastor and congregation through their willing dedication and participation in the affairs of the church. The anniversary committee roster of these exemplary community leaders and highly reputable citizens of the community is, as follows:

The honorable: Peter Bilanin, Jr., president; Mrs. Mary Hetzer, general chairlady; Kenneth Karol, secretary; John Lotzer, treasurer; Eugene Knysz, treasurer; Paul Pazin, treasurer; Mary Duchak, publicity; Ruth Mihal, publicity; Fred Gmyrek, cochairman, dinner committee; Milton Jarosz, cochairman,

dinner committee; Marsha Gelak, corresponding secretary; Eileen Telischak, cochairman, ad book; MAT. Maxine Kassatkin, cochairman, ad book; Arlene Weaver, cochairman, decoration committee; William Brasda, Sr., cochairman, decoration committee; George Hetzer, cochairman, decoration committee; Demetro Havriliak, Sr., cochairman, ticket committee; Sonia Bedsworth, cochairman, ticket committee.

Mr. Speaker, may I present to you the following brief profile on the history of the cathedral and its beginnings. Saints Peter-Paul's Russian Orthodox Cathedral was founded in 1902 by Russian immigrants who emigrated to this country from the former Austro-Hungarian empire chiefly from the Province of Hungary and Galicia, where they were known as Carpatho-Russians. They established themselves in the industrial districts of Passaic and Bergen Counties where they readily found employment. A former Presbyterian Church on Third Street, east side of Passaic, was purchased, refurbished and dedicated on July 13, 1902.

The parish rapidly increased and another larger edifice was needed for services. A magnificent structure was erected on the corner of Third and Monroe Streets and was consecrated by Archbishop Platon in 1911. The title of cathedral was bestowed on the church by proclamation of His Holiness Patriarch Alexii in May 1954. Archbishop Dyonisy then Exarch of the Russian Orthodox Church in the Americas read the proclamation in the cathedral at a Pontifical Divine Liturgy.

Mr. Speaker, I am pleased to have this opportunity to seek national recognition of the distinguished pastors and congregation of Saints Peter-Paul's Russian Orthodox Cathedral. In their dedication and devotion to our people, in service to God and mankind. Pastor Havriliak and the former pastors of the cathedral, through their noble deeds and quality leadership have truly enriched the cultural, educational, and religious endeavors of our community, State, and Nation. We do indeed salute them and the members of Saints Peter-Paul's Russian Orthodox Cathedral of Passaic, N.J., upon the commemoration and celebration of their diamond jubilee anniversary.

CATHOLICS FOR CHRISTIAN POLITICAL ACTION OPPOSE RATIFICATION OF CANAL TREATY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. McDONALD. Mr. Speaker, as seems to be usual with most of the large denominations of America's churches these days, the church hierarchy always marches off in a direction completely opposed by its membership. This appears to be the case with American Catholics wherein the bishops have gone on record in support of giving away our canal while the lay people do not support the proposed treaty. The news release by the Catholics for Christian Political Action follows:

CCPA Opposes Ratification of Panama Canal Treaties

Washington, D.C.—Catholics for Christian Political Action (CCPA) today announced that it will join the efforts of other groups who oppose ratification of the Carter Administration's proposed Panama Canal treaties. The announcement followed an appeal from CCPA to its members to make their views on the issue known to national headquarters in Washington. The laymen-run political education and action organization's position differs from that of the United States Catholic Conference. The USCC, the civil arm of the U.S. Catholic bishops, is lobbying on behalf of ratification.

"We are sorry we must take up a position different from that of the USCC," declared Gary Potter, CCPA President, in a statement for the press, "but the reason we exist is to give voice to the views of ordinary grassroots Catholics on important political and social issues. We asked our members where they stood on the Canal issue. Many of them let us know, and we must be responsive. It is too bad that the USCC did not take a sounding of rank-and-file Catholics before adopting a position on this highly political issue."

THE NEW RACISM

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. CRANE. Mr. Speaker, as the Supreme Court begins deliberations over the watershed Bakke case, I wish to bring to the attention of my colleagues the astute analysis of the merits, demerits, and implications of the case by Allan C. Brownfeld as published in the Lima News. Allan raises a major point that should give all of us, especially those opposing Bakke's arguments, pause: We may be on the verge of creating a new racism "which hold blacks out for special rewards, as opposed to the older form of racism, which denied them certain rights." I share Mr. Brownfeld's conviction that merit alone should be the criterion for selection, be it for admissions, for employment, for whatever. I commend this fine article to my colleagues' attention:

Civil Rights Emerge as Civil Wrongs

(By Allan C. Brownfeld)

This fall, the U.S. Supreme Court will hear arguments in a controversial reverse discrimination case, University of California v. Bakke, and has the opportunity to end the use of race as a basis for employment, university admission or other benefits or rewards which society has to bestow.

The case is very straightforward. The California courts have already ruled that the University of California Medical School had used an unconstitutional racial quota system in denying admission to Allan Bakke, who is white, while accepting for admission black students with inferior records.

When Bakke applied, the school was summarily rejecting applicants with a grade-point average below 2.5 on a scale of 4.0 Bakke's average was well above the cutoff; in the competition, he lost out anyway. But he discovered in the process that some of the school's entering places were being held out of the competition and reserved for minority candidates. These candidates were assigned to a special committee that made up its own ranked list to fill its allotted places. The committee admitted students with averages below the 2.5 cutoff point. Bakke argued successfully in the California courts that this system denied him rights to equal protection guaranteed by the 14th Amendment.

The Bakke case holds open to question the whole range of "affirmative action" programs entered into by government. For this reason, the Congressional Black Caucus and civil rights groups have urged the Supreme Court to uphold the idea of racial quotas. President Carter and the Department of Justice at first opposed racial quotas and, as a result, were bitterly attacked. Rep. Parren Mitchell, D-Md., chairman of the Black Caucus, said that unless the President changed his mind "his presidency will be discredited in the eyes of history." Rep. Louis Stokes, D-Ohio, another Black Caucus spokesman, argues that the attack upon the quota system at the University of California Medical School is part of "a coordinated piece of the attack" against "civil rights gains made to date."

These arguments, which are made by the NAACP, National Urban League and other black groups, miss the real point at issue in the Bakke case. What they seems to be supporting is a new form of racism, which holds blacks out for special rewards, as opposed to the older form of racism, which denied them certain rights. Others equally opposed to bigotry believe that quality can be achieved only by treating everyone equally, starting today.

Discussing this case, Rep. Charles Vanik, D-Ohio, states, "The basic issue is the constitutionality of reverse discrimination and there are many, many examples of this. In urban areas, the poor white segment is a neglected and abandoned group; they have no real participation in programs. We've given it a period of time now, for preferential treatment through affirmative action, quotas for minorities, to compensate for the effects of past discrimination. We must start going back to the point of strict equality. Equality is all any of us can really expect, not preferential treatment."

Similarly, Rep. John Ashbrook, R-Ohio, states, "I personally think that civil rights have become civil wrongs in too many cases. The trend is going the other way. The trend toward 'reverse discrimination' is going to pick up. Civil rights have meant a lowering of standards . . . by colleges, schools and professions, which I call civil wrongs. The rank-and-file, and especially the productive people, have had their fill of so-called civil rights."

There has been little editorial support for the idea of racial quotas anyplace in the press. The Wall Street Journal editorially noted, "The first thing that is striking about these arguments is their condescension toward blacks and other minorities. The implicit assumption is that blacks will not succeed in rising more or less on their own merits, as other minorities have . . . The second striking thing . . . is how indifferent it is to the principles that justify a liberal society and make it work. Surely our history . . . teaches that it is not wise to let informal ways of adjusting group conflict turn into formally recognized inequities in group treatment . . . surely one of the sturdiest principles of a liberal society has been that the law should not decide on the basis of race . . ."

How ironic that just at the moment when the overwhelming majority of Americans have decided it is only just to have a so-

ciety which is truly "color blind," in which every individual is judged on the basis of his personal merit, regardless of race, that it is the black leadership itself which rejects such an approach, one which civil rights leaders in the early years held forth as the ideal.

Fortunately, there are perceptive black spokesmen who reject these notions of reverse racism. Discussing the harm done to minority group students and faculty members by "affirmative action" programs, black economist Thomas Sowell, a member of the faculty at ULCA, writes: "Despite all the brave talk in academia about 'affirmative action' without lowering quality standards, you and I both know that it takes many years to create a qualified faculty member of any color, and no increased demand is going to increase the supply unless you lower quality. Now what good is going to come from lower standards that will make 'black' equivelant to substandard in the eyes of black and white students alike? Can you imagine that this is going to reduce racism?"

Hopefully, the Supreme Court will put an end to this new racism.

KEEPING THE SPIRIT OF HELSINKI ALIVE IN BELGRADE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. SIMON. Mr. Speaker, the Baltimore Sun recently printed an article written by Leonard H. Marks, former Director of the USIA and currently chairman of the U.S. Advisory Commission on International Educational and Cultural Affairs. More important than these titles, Leonard Marks is an unusually perceptive observer of the international scene and his article contains the balance that is needed.

Speaking of balance, since I have not hesitated as a member of the Commission on Security and Cooperation in Europe, the Helsinki Commission, to criticize the Soviets—as well as our own Government—when they or we have not been in full compliance with the Helsinki Agreement, I should add a few words of commendation to the Soviets for permitting greater emigration these past few weeks and for the International Book Fair recently held in Moscow, the first event like that ever staged there.

While there was some censorship of books displayed by Americans and others, the event did open the door of freedom a little more and that is to be applauded. The fact that a group of dissidents was able to go to the Moscow Airport the other day for a sendoff to one of their colleagues is another indication that the Soviet leadership is developing enough self-confidence that they can increasingly tolerate actions which 10 years ago or 20 years ago would not have been tolerated. So as we show concern for those who do not have full freedom, we applaud the steps toward freedom which have taken place. In the sweep of history the steps forward may be more significant than the vestiges of the past which still retain the restraints on freedom.

What takes place at the Belgrade meeting is of concern to people everywhere who yearn for greater understanding, greater freedom, and a more just and peaceful world. I believe my colleagues will find the Leonard Marks comments of interest:

KEEPING THE SPIRIT OF HELSINKI ALIVE IN BELGRADE

(By Leonard H. Marks)

Diplomats from the United States, the Soviet Union and 33 other nations met in Belgrade last Tuesday to begin a review of their performance in carrying out the provisions of the 1975 Helsinki Agreement on Security and Cooperation in Europe. It is therefore a good time to ask whether the original agreement has served any useful purpose, and also whether the Belgrade review can have any positive results.

I think that, on balance, the answer to both questions is yes—if the American public does not expect too much. If we are looking for a major change in Soviet policy, the talks will be rated a failure. If our objective is to advance the goals of Basket 3, it seems now that the conference may serve as a small but important step towards better understanding between East and West.

Soon after the signing of the Helsinki agreement on August 1, 1975, doubts arose about its value to the West. It seemed the Soviets had scored a diplomatic coup. They had achieved a recognition of their European land boundaries (notably East German boundaries) without the West's realizing any similar benefits. The ink was still wet on the Helsinki document when reports reached the West about the Soviet Union's continued refusals to permit travel of its citizens or emigration to the West. Dissidents who dared to speak out about their rights under Basket 3 provisions were imprisoned. Radio broadcasts from the West were once again jammed.

My own experience seemed to confirm the doubts. As chairman of the U.S. Advisory Commission on International Educational and Cultural Affairs, I traveled to the U.S.S.R. and Eastern Europe two weeks after the signing of the Helsinki agreement I returned disillusioned about any hope that this declaration would alter East-West relations any time soon. The Soviet representatives I met with were reserved and cautious about the chances of expanding cultural and educational exchanges. They opposed loosening controls on the media. Over and over again they emphasized the ideological differences which separated the Communist system from our own. And they made it clear they would not countenance any interference by the West with their right to determine the lifestyle or standards of morality for the Soviet people.

The situation was slightly less depressing in the Eastern European capitals. There I was impressed with the officials' expressed desires to expand exchanges in book publishing, films, and cultural attractions. They expressed keen interest in the exchange of professors, graduate students in scientific fields, and to some extent in the humanities.

The year that followed was, to say the least, disappointing. Little progress toward these goals was made in the U.S.S.R. and in most of Eastern Europe. In view of this appraisal, it may seem strange that at the commencement of the Belgrade meeting, I am cautiously sanguine about what may result from the October conference at Belgrade. Why?

First, we should remember that "Helsinki" as a word and a symbol has stubbornly refused to disappear from the lexicons of the countries signing the Helsinki agreement. On the contrary it is being invoked regularly in both the West and the East.

Consider the liberalization of U.S. visa regulations. Recall the 59 Polish intellectuals who petitioned the Polish Parliament on human rights. Do not forget the growing demands of Soviet minorities who have dared public protest in recent months. Basket 3, which the Soviets looked on as "meaningless" at the time, has become the most significant of the Helsinki agreements.

Second, our own Government has taken serious steps to implement Basket 3 through congressional action establishing the Commission on Security and Cooperation in Europe.

The Commission, under the direction of Representative Dante B. Fascell (D., Fla.) and Senator Claiborne Pell (D., R.I.), has completed a careful inquiry into compliance with the Basket 3 provisions.

Their report states bluntly that implementation has been inadequate "measured against either the hopes voiced at Helsinki or the need for smoother and more stable relations among the signatories." But it concludes that "on the second anniversary of the signing . . . the Commission remains confident of the constructive potential of the 35-nation agreement . . . The Helsinki accord has not brought dramatic changes in East-West relations but history may note it as more than a small step toward peace and a stability based on something more than mutual fear." Americans should be encouraged by this verdict.

The commission approved my recommendations for increased funding for exchange programs with Eastern European countries and the U.S.S.R.; for the establishment of book stores in each other's capitals, and for increased distribution of American cultural materials in countries with nonconvertible currencies.

Finally, it is evident that although progress has been slow, the Soviets are making concessions on a very selective basis, according to their own particular and peculiar lights. The Congressional commission has documented a significant number of actions taken by the Soviets which appear to have been prompted by the spirit of Helsinki.

Although much remains to be done, the U.S.S.R. has eased travel restrictions on foreign journalists. They have increased—if only slightly—circulation of Western newspapers and magazines. They have demonstrated an interest—sometimes greater than our own—in stepping up cultural and educational exchanges.

The University of Moscow has established new reciprocal exchange agreements with U.S. universities. The Metropolitan Museum of Art of New York city and the Pushkin Gallery in Moscow have exchanged art exhibits. Soviet and American publishers met in Moscow looking toward greater distribution in each country of literary works. The American Council of Learned Societies and the Social Science Research Council here have arranged with the Soviet Academy of Sciences for joint research projects in the humanities and social sciences.

It should be pointed out at this point that the Soviets have also drawn the line on what they will not do under Basket 3. They look on our efforts to promote a freer flow of information as "intervention in their internal affairs." Boris Stukalin, chairman of the State Committee for Public Printing and Book Distribution put it this way:

"There are people in the West who under cover of "freedom of information" try to use detente to export bourgeous ideology to shake up the foundations of socialism . . . They show total disregard for Soviet law and for international agreements, including the Final Act, which states specifically that the principle of sovereignty and noninterference in the other countries' affairs applies not only to the economic, political and social, but also to the cultural sphere, to the exchange of information. . . . Our doors will always be closed to publications propagandizing war, violence, racism and hatred."

From this it becomes clear why in a U.S.

sponsored exhibit, the Soviets recently rejected magazines containing photography of nudes. They also censored any references to Mussolini or Hitler and comments denigrating the philosophy on which their society is based.

This is a far cry from the Helsinki declaration on the free flow of information and the right of people to "receive and impart information regardless of frontiers." But this does not mean that we should abandon efforts to present aspects of our life and society which the Soviets appear ready to receive. After all, last month the Soviets greeted with noisy enthusiasm the appearance of the Nitty Gritty Dirt Band. Five years ago the Band would probably not have been allowed in the country.

Above all, I retain some hope for the future of Helsinki because of the results achieved at the recently concluded preparatory meeting in Belgrade which considered how the October meeting should be organized. This session could have been a disaster. Since unanimous consent was required for preparation of the agenda, any one of the 35 nations could have blocked agreement. None did. Instead, the Belgrade meeting became a significant prelude for the follow-up meeting. Helsinki, then, is far from dead. And while there is life, there is clearly hope.

SOVIET SLICKERS TAKE CARTER'S SOFTBALL SALT TEAM

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. ASHBROOK. Mr. Speaker, the interim executive agreement on offensive arms expired last week. This agreement was negotiated in 1972.

Since that time the United States has restricted its strategic arms development. The Soviets have done the exact opposite. They are conducting an arms buildup which is without precedent in modern times.

The United States has had no new deployments to increase the capability of its strategic nuclear forces. In 1979 or 1980, the Cruise missile may be deployed. The Soviets have already deployed Cruise missiles and are aware of their capabilities.

Also, the Carter administration has stopped production of the B–1 strategic bomber. The Soviets have stepped up production of their new Backfire bomber.

The lesson is clear. The United States regards arms limitation agreements as means of slowing down the arms race and of reducing arms development.

The Soviets' approach is the exact opposite. They view arms agreements as a means of putting their opponents at a disadvantage. The Soviets use the agreements to increase their own strength.

Unfortunately, present American negotiators seem unable to learn this lesson. Instead, the Carter administration has announced the continuation of the interim agreement while negotiations continue on a new SALT agreement. The Soviet slickers are taking us again. Unfortunately, Carter's negotiaters are a softball team in a hard ball contest. The fans, all of us, will lose.

TRIBUTE TO MASON W. GROSS

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. HOWARD. Mr. Speaker, last week, the residents of my district and the rest of New Jersey suffered the loss of one of the leading educators in the country, Dr. Mason W. Gross. He was a man whom I was proud to represent in Congress. A distinguished scholar, Dr. Gross will be remembered for the leadership and administrative innovations which characterized his 12 years as president of Rutgers—the State University of New Jersey. Those of us who knew him personally were proud to call him friend and we all learned from him that sensitivity to human problems is often the key to solving the most complex of problems and disputes.

The Daily Register, published in Monmouth County, N.J., printed the following editorial on October 13. I think it is a fitting tribute to a very great man:

DR. MASON W. GROSS

New Jersey, its state university and our county suffered a severe loss in the death Tuesday of Dr. Mason W. Gross of Rumson. The man who had presided over Rutgers University during 12 years of its extraordinary growth and change was without a doubt one of the state's—and Monmouth County's—leading citizens.

Dr. Gross died at the age of 66 at Riverview Hospital in Red Bank.

Shortly before Dr. Gross was inaugurated as its president, Rutgers was officially designated the state university of New Jersey, a status that was firmed and cemented under his leadership. During his administration Rutgers grew from 18,000 to 35,000 students and its annual budget increased from $18 million to $65 million. The university completed $121 million in construction during the Gross presidency. Livingston College, the urban studies center of the university complex, came into being and groundwork was laid for the Cook College agricultural school in the same period.

Today, thanks in great measure to Dr. Gross, Rutgers ranks as one of the greatest universities of the nation.

During the late 1960s period of student unrest and turbulence on college campuses across the country, Dr. Gross brought forth the open admissions policy to aid minorities, and the state university avoided the bloody uprisings that plagued many other schools.

Dr. Gross' academic field was philosophy, and he was a distinguished teacher and scholar. Even after he entered the administrative realm he continued to teach undergraduate courses because he so loved the subject and because he wanted to be with the students.

An avowed champion of academic freedom, the university's president supported one of its professors who had precipitated a controversy by declaring that he "welcomed" the then pending victory of North Vietnam.

Long closely associated with Monmouth County, Dr. Gross maintained his Rumson home while residing on campus as Rutgers' president. He returned and made it his permanent residence on his retirement from the New Brunswick post in 1971.

He was an active supporter of Monmouth Museum and other local civic activities and maintained many friendships here. A one-time oarsman on the crew of Cambridge University in England, he was especially fond of water sports and was an accomplished sailor.

Friends relate that one of his greatest pleasures came at Christmastime when he and his wife, Julia, invited large groups of friends to their home and "Mason would play the piano while we all sang Christmas carols."

Even in retirement he was active and was often called upon by Rutgers as a valued and respected consultant and adviser. He served as president of the H. F. Guggenheim Foundation in New York until his death. He was also a member of the board of overseers of the Rutgers Foundation.

Rutgers is going to miss Mason Gross, and so is New Jersey. But Monmouth County was his home and he helped enrich the lives of all of us. We, his neighbors, will miss him most.

VIOLATION OF HUMAN RIGHTS IN PANAMA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following testimony of Winston Robles, LL.D before the House Committee on International Relations. His statement discusses the systematic violations of human, political, and civil rights that occur in Panama.

The article follows:

TESTIMONY OF WINSTON ROBLES, LL.D. BEFORE THE INTERNATIONAL RELATIONS COMMITTEE OF THE U.S. HOUSE OF REPRESENTATIVES

Today, my testimony is confined to two points: There is, for the first time, in the Republic of Panama an absolute dictatorship. Second, I raise the question whether the plebiscite in Panama required by their Constitution, will reflect anything other than the will of the dictator.

THE MILITARY RULE

In 1968, through a military coup, for the first time in their history, Panamanians found themselves under the brutal rule of one of the most corrupt and arbitrary dictatorships of Latin America.

Since then, prison, torture, expatriation and murder have become the common procedure used by the government to deal with dissident opinion.

Following the coup, the University of Panama was closed for a year. All political parties were banned. Newspapers and radio stations were seized and all the independent media controlled. Many Panamanians were tortured, incarcerated, murdered or simply disappeared, many were forcibly expatriated.

Today Panamanians live in constant fear. Telephones are tapped, mail intercepted, houses searched in the dark of night, people arbitrarily arrested, and the population intimidated by an organization of paid informers.

Arrests are made on the grounds of "insults to the General" or "disrespect of the authorities" because of private conversations in which there was criticism of the government or its officers.

From time to time the government-controlled press publishes special government telephone numbers to which "citizens should call to denounce counter-revolutionary practices."

The government, using every imaginable resource—intimidation, blackmail, bribery (to name a few)—maintains strict control over labor unions, professional associations, farmers organizations, and other organized groups.

The very few organizations that at one time or another have expressed criticism of government policies or practices have been subjected to harassment, threats and reprisals. The instinct for self preservation forces conformity.

The government, its officers and its friends are involved in all kinds of legal and illegal businesses. The involvement of high ranking officers in drug traffic is well known.

Before the coup, Panama maintained for many years the highest sustained rate of economic growth in Latin America and one of the highest in the world. Today, the military are the social, political and economic aristocracy of a country in bankruptcy. There was a negative, −1%, growth in 1976, and unemployment was the highest in the history of the country.

THE CONSTITUTION

All governments that come to power by force try to give legitimacy to their origins and legality to their malpractices. In 1972 Torrijos dictatorship called elections for a "Constitutional Assembly". With all political parties and activities proscribed, except the government party "Movimiento Neuvo Panama" and the "Partido Del Pueblo" (Moscow oriented communist party), and absolute control of newspapers, television and radio stations, it was not surprising that the government won 504 of the 505 carefully screened "representatives".

This selected, rather than elected, assembly held its first meeting October 1, 1972. A week later the "new constitution" was approved without discussion and the "constitutional assembly," even to the surprise of its members, found itself transformed into a "Legislative Assembly"—but one without power to legislate.

The new constitution subordinates the legislative, executive and judicial power to the National Guard. It eliminates the separation of powers and places the legislative power in a "Legislative Council" composed of the Cabinet Ministers and any number of members appointed by Torrijos. It also states that Torrijos is the "Maximum Leader". His constitutional powers are illustrated by a literal translation of Article 277:

Article 277: "General Omar Torrijos Herrera, Commander-in-Chief of the National Guard is hereby recognized as the Maximum Leader of the Panamanian Revolution. As a consequence and to guarantee the fulfillment of the objectives of the revolutionary process, General Torrijos is hereby granted, for a term of 6 years, the following powers: To coordinate all the work of the Public Administration; appoint and remove freely all Cabinet Ministers, member of the Legislative Commission, the Comptroller General, and the Sub-Comptroller General of the Republic, the general Directors of all Autonomous and Semi-Autonomous Institutions and the Magistrates of the Electoral Court to be named by the Executive Branch according to this Constitution and the law; to appoint the Commanders and officers of the Armed Forces, according to this Constitution, the law, and the military hierarchy; to appoint, with the approval of the Cabinet, all the Justices of Supreme Court, the Attorney General, Attorney of the Administration and their respective alternates; to approve government contracts, negotiation of government loans and conduct the foreign relations.

General Omar Torrijos will have, in addition, power to participate with the right to be heard and to vote in all the meetings of the Cabinet, the Legislative Commission, the National Assembly of Representatives, the Provincial Councils of Coordination, and the Communal Committees."

The new constitution subordinates everything to Torrijos as the "Maximum Leader," and subjecting all powers to him except for those exercised by people he may, at will, appoint and remove.

Despite the dictatorial nature of the constitution, it grants the individual greater human and civil rights than even the United Nations Human Rights Declaration and The American Convention on Human Rights. However the unlimited powers of the dictator effectively denies these rights in practice.

This concentration of dictatorial powers, without parallel in the constitutions of any other Latin American country, do not give, however, a complete idea of the real power that the dictator and the National Guard exercise.

Despite the dictatorial nature of the 1972 Constitution, the individual and civil rights are broader than even the United Nations Human Right Declaration and the "American Convention on Human Rights." However, the Constitution does not limit the powers of the dictatorship and the freedoms and rights recognized in theory, are constantly denied in daily practices.

Thus the Constitution exists only for "cosmetic" reasons and does not impose in practice any limits to the use and abuse of the governmental powers. For example, the Article 29 of the Constitution prohibits expatriation, but several hundred Panamanians live in exile and are not allowed to return to their country.

THE DECREES ABOVE THE CONSTITUTION

In 1969 the government promulgated the Cabinet Decrees 341, 342, and 343. Under these decrees, the exercise of the right of peaceful assembly is a crime against the state, dissident opinions are subversive, and all political activities are counterrevolutionary.

Decree 341, "guarantees the right of peaceful assembly, but prohibits public meetings in the cities of Panama and Colon, where more than half of the Panamanians live.

Decree 342 authorizes administrative authorities to impose up to 15 years of prison terms without the right to a hearing, without due process of law, without defense, without appeal, and without intervention of the courts. The decree is so vaguely written that it could be and has been applied to punish all kind of activities "against the security of the state", including such "criminal" acts as written or verbal criticism against the government.

A recent case illustrates the procedures under Decree 342: On November 1976 a bomb exploded in a car driven by Jorge Rodriguez, a well known opponent of the government. Rodriguez was slightly injured and his wife was badly hurt. The third passenger, Dolores Montota, was unharmed. The G–2 men arrested the three persons, but due to the delicate condition of Gilma Rodriguez, she was hospitalized. Four weeks later the controlled press published an administrative Resolution condemning to prison Rodriguez, his wife (at that time still in critical condition in the hospital), and Dolores Montoto to 15, 7, and 5 years respectively. None of them had legal counsel and they never had an opportunity to answer the charges against them. Since then, nobody knows where Mr. Rodriguez is imprisoned. On January 1977, the Panamanian Committee for Human Rights sent a letter to Amnesty International requesting their intervention in this case.

Decree 343 is used to control newspapers, radio, and television, by imposing a rigid self-censorship-seldom violated.

On January 1974 the government prohibited the publication of the newspaper "Quibo" (What's Happening) even before the first edition came out, confiscating the equipment and arresting the editors. The same thing happened in March 1975 when the government prohibited the publication of "La Opinion Publica" (The Public Opinion).

The same decree was used in 1976 to close "Radio Impacto", a radio station that expressed independent opinions. The equipment of the station was confiscated and its owner, forcibly expatriated.

According to the decree, all radio and television stations are forced to tape their programs and deliver them to the Ministry of Government and Justice.

Obviously the decrees contradict the Constitution and violate the United Nations Declaration of Human Rights but, nevertheless, they are systematically enforced by the dictatorship.

As far as we know, no other Latin American dictatorships have a legislation more repressive and which violates all internationally recognized standards on human rights. Human rights violations are documented in Volumes I and II published by the Panamanian Committee for Human Rights, and in the testimony presented March 30 this year(5) before the Foreign Operations and Related Agencies Subcommittee of the Committee on Appropriations of the House of Representatives.

Since 1968 Panama is listed by the Interamerican Press Association(6) as a country in which "freedom of the press does not exist." Amnesty International has made reports on human right violations during the early years of the regime. Freedom House lists Panama in 1976 as a (7) "not free country". By contrast, Brazil is listed as a "partially free" country.

Yet, the U.S. State Department, with an unbelievable lack of information or selective standards of ethics that give little honor to the moral commitments of President Carter's Administration, has denied that human rights in Panama are an area of concern, and the International League for Human Rights has criticized the State Department Reports.

THE MILITARY ABOVE THE RULE OF LAW

In Panama the rule of law does not exist. Since the inception of the dictatorship, judiciary members can be removed freely and no Justice or Judge has dared to resolve a case against the military wishes. The dictatorship often violates its own laws. On several occasions the then Minister of Government and Justice, Materno Vasquez, declared to the Press that "the interest of the state is above the law". This man is now Chief Justice of Panama's Supreme Court and recently signed on behalf of Panama "The American Convention of Human Rights."

Frequently the courts' decisions as well as the orders of civil authorities are ignored by the military.

The writ of "habeas corpus" is useless in political cases and severely limitated in cases of common arbitrary detentions, because the courts do not have the authority to enforce their decisions. In all cases, a National Guard officer exercises an overriding decision on the decisions of the courts.

On the other hand, the members of the National Guard are personally above the rule of law and the citizens do not dare to initiate criminal or civil procedures against them.

Since 1968 hundreds of Panamanians have been murdered and not even one single case of political assassination has been successfully solved. In many cases the National Guard refuses to deliver the body to the family or to allow the identification of the victims.

National Guard members have earned the reputation of "shoot first and ask questions later".

The security of the person does not exist. People are arrested without formalities of any kind. Often people are detained and the National Guard refuses to acknowledge their detention.

Under these conditions the courts cannot

offer effective remedy against the frequent abuses of the authorities.

THE POLITICAL FREEDOM

Political freedom can be defined as the right to participate in, modify, or change a government.

None of those possibilities are within the reach of the Panamanian people. The only elected representatives are the members of the Assembly of District Representatives, a powerless body without any significant role in the government.

Although the right to organize political parties is recognized in the Constitution, the political parties were extinguished by decree in 1968 and, since then, the dictatorship systematically has denied the right to carry on political activities of any kind.

The only exception to this rule is the "Partido del Pueblo" (People's Party), a communist Moscow oriented party, which has complete freedom since 1969, when the party decided to support the dictatorship.

In 1970 the government tried to organize a one party political system the "Movimiento Neuvo Panama". After two years of great effort and propaganda, using all the resources of the government, public opinion would not accept it. The whole idea was abandoned after one use. Thus, today the only officially allowed party is that of the Moscow/Castro Communists.

The most prominent Panamanian politician, Dr. Arnulfo Arias, who was overthrown 11 (eleven) days after his inauguration as President, elected by the overwhelming majority of votes, lives in exile and is not allowed to return to Panama. Hundreds of other Panamanians also live in exile because of their political beliefs.

THE PLEBISCITE

Your committee has called these hearings to study the Panama Canal treaties—it is appropriate to explore the parallel process of the other signatory.

The Panama Constitution provides that any Canal Treaty must be "submitted" to a national plebiscite.

However there is a confusion. The plebiscite does not have any binding effect because the power to approve a treaty belongs to the Assembly of District Representatives—(Article 141 of the Constitution).

The plebiscite is an expedient to give the treaty the appearance of a popular approval. However, what kind of a plebiscite can be held without a free press, without freedom of assembly, and without freedom of thought and expression? What is the value of a plebiscite under the constant manipulation of information by the government-controlled press, radio, and television?

In 1975, one hundred Panamanians signed a document stating that without freedom of speech and assembly to discuss the Canal Treaty, a plebiscite on the pact "will be neither legitimate nor authentic". Since then, 15 of the persons who signed the statement have been expatriated, others incarcerated, and all of them slandered by the press and harrassed by the government.

The lack of freedom has been so criticized that, after the signing of the treaty, the dictatorship has deemed it necessary to allow a carefully controlled degree of freedom to discuss the new treaty. However, the government is rushing the plebiscite in order to limit discussion. The plebiscite will be held on October 23, despite the protest of many groups that demand more time to study and discuss the Canal pacts.

The farce of the plebiscite is so evident, that today, less than 2 weeks from the plebiscite, the government has still not approved the law that is suppose to establish the voting procedures. The negotiators of both countries have contradictory views of major points of the treaties.

With some precedent, many Panamanians define the plebiscite as a procedure that gives the people the freedom to choose between voting "yes" or being expatriated.

Even under the assumption that a plebiscite would be held with all the necessary rights and freedoms guaranteed, it is impossible to think seriously that a dictator who obtained and maintained his power by sheer force, against the will of the people, is going to respect their vote in an essential matter for the survival of the dictatorship. The plebiscite is a simple problem for the Panamanian government. It does not matter how many vote aye or nay. What matters is who is going to count the votes.

The State Department knows very well that the plebiscite is a farce.

Mr. John L. Jackley prepared "A Study of the Impact of a New Canal Treaty" for the United States Embassy in Panama and, among other things he wrote "A lot of good press would be essential for success: in this situation we could make good use of the controlled press situation of the isthmus. If it doesn't work, no propaganda would sell it. But it can be given at least an initial breath of promise through skillful manipulation of the available media."

UNITED STATES RESPONSIBILITIES

Many Americans express concern about a military dictatorship in Panama that consistently violates the most elemental human and political rights of its citizens, but—they argue—that is a fact and the United States must deal with reality.

The argument neglects the most important side of the problem: the dictatorship remains in power because it is continually armed, generously financed, politically supported, and morally approved by the United States.

The officers of the National Guard (including Torrijos) were trained by the United States under the Military Assistance Program.

Since the inception of the dictatorship, Panama "has been no. 1 in terms per capita aid" (8) and has received more economical aid than all previous governments of Panama together. In fact this very month A.I.D. transmitted a notice to the Congress of an increase in the funding level of the proposed FY 77 program in Panama.

Recently Ambassador Bunker told a congressional committee that Panama does not have a dictatorship, but an "authoritarian regime". However, the negotiators of the Canal Treaty do not seem to be so sure of the Panamanian government's respect for human rights, because the treaty contains elaborate provisions to protect American citizens rights when those citizens are arrested by Panamanian authorities. Ironically, the Panamanians in their own land are going to have less rights than Americans.

A few days ago President Carter acknowledged that Torrijos is a dictator, but praises him as an "enlightened" man who works for the good of his people.

Constantly the State Department denies that human rights are violated in Panama despite the fact that the Department's intervention is often requested by American citizens that have been beaten, tortured, and arbitrarily jailed by Panamanian authorities.

The United States is alienating Panamanians who cannot understand why the champions of democracy in their own land advocate, defend, and justify a dictatorship in Panama.

To the Panamanian it is clear that the dictatorship, without United States support, would have fallen many years ago by the weight of its errors and the democratic efforts of the people.

Thus, the argument that the United States has to deal with reality is not a valid one, when that reality is a direct consequence of a foreign policy oriented to support a dictatorship under the short-sighted premise that a strong military rule is easier to deal with, and, for that reason, more convenient for United States interests.

Latin American intellectuals observe that United States support of dictatorships strengthen anti-American sentiment in the area. History shows the result of that support. For example, in the Dominican Republic the United States found it necessary to intervene militarily. In Cuba the opening was made for Fidel Castro's revolution.

Panamanians are not radical. But the United States policy of unconditional support to the dictatorship is pushing them in that direction.

Panamanians do not want United States intervention in their country. Panamanians want their freedom first then to choose fulfillment of their national aspirations, without any foreign power—not the United States, nor Cuba, nor Russia imposing a corrupt, dishonest, and brutal dictatorship, which is a tragedy for their country and shames any civilized political standard.

Since 1903 all Panamanians have wanted a new treaty to replace the one that was signed by a foreigner on behalf of Panama and imposed under the threat of losing the independence of the new born republic.

But Panamanians do not want to replace a bad treaty with one that is going to be imposed with Torrijos playing the same role that Buneau-Varilla played in 1903.

The new treaty, does not solve "the causes of conflict" between the two countries. On the contrary, it adds a few new ones, as, I am sure, many members of Congress are aware. Among other things, it is going to condemn future generations of Panamanians to live under a dictatorship as permanent as the interventionist role that the U.S. negotiators state the new treaties give the U.S.

However in this ever changing world, permanent does not mean eternal. Sooner or later the dictator will fall. Then the treaty is going to be rejected by Panamanians and their governments and all the resentment against the dictatorship will be reflected in the future relations between Panama and the United States.

UNITED NATIONS DAY

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. WOLFF. Mr. Speaker, I would like to bring to the attention of my colleagues, United Nations Day, October 24, the 32d anniversary of the founding of the United Nations. The purpose of this observance is to remind the American people of the goals and accomplishments of the United Nations.

The United Nations was founded in 1945 with many high-reaching goals. Among them are: Eliminating the "scourge of war"; promoting human rights, dignity, and equality; and working toward economic and social progress for all people. The U.N. has taken many steps in trying to achieve these aims. Its function as a world forum of opinion has been most valuable in exchanging views and informing nations of the many sides to any issue.

The many divisive issues before the U.N. have led to an increasing political polarization among nations. Such politicization of this international body must not continue. It is imperative that the high ideals espoused in the U.N. Charter are not overlooked in the resolution of the troublesome issues of today. In my temporary capacity as a congressional delegate to the U.S. Mission to the United

Nations, I hope to aid to some degree in the task of steering the United Nations back to a course that will promote peace and understanding, rather than exacerbate the differences that involve confrontation.

OF HUMAN RIGHTS AND WRONGS

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. WHALEN. Mr. Speaker, it occurs to me that debate here in Congress, indeed, debate in many forums in this country, sometimes lacks the necessary element of historical perspective. This may be particularly true in the contemporary debate over recent initiatives in the field of human rights.

I was pleasantly surprised, therefore, to come across an article entitled "Of Human Rights and Wrongs" in the October issue of American Heritage magazine. This is an editorial by Bruce Catton, one of our Nation's most distinguished historians.

Mr. Catton's article helps to remind us of the historical context in which we must view the human rights issue and the role that our Nation plays in that global debate. I commend his comments to my colleagues' attention.

The text follows.

OF HUMAN RIGHTS . . . AND WRONGS

(By Bruce Catton)

We Americans pride ourselves on our sophistication. We like to think that we are worldly-wise and cynical. We shed our milk teeth long ago, and if anyone appeals to our better impulses our instinctive response is to ask: Well, now, what's *his* angle?

It is a good pose, most of the time, and succeeding generations of sophomores have found it most effective. The trouble is that we can't keep it up. One of the enduring traits in the American character is the broad idealistic strain that was built in far back in the past, and it keeps coming to the surface when we least expect it. When this happens we feel embarrassed and try to act as if it were not happening.

Thus in the final quarter of the twentieth century—a century arranged to create cynicism, if one ever was—we find our President Carter reminding the rest of the world (in our name) that we are deeply and irrevocably concerned with human rights and that we get profoundly disturbed when we look about us and see areas where those rights are being violated.

A frequent response seems to be that this is dangerous, because some of the countries where human rights are most firmly denied are large and powerful and seem to take our President's remarks personally. Another response is a feeling that the man just ought not to go on that way because it is so dated; it is corny; say what you like in a Fourth of July oration, but don't mix patriotic rhetoric with sober statecraft or we may get involved in another" make the world safe for democracy" program before we have finished paying for the first one.

Finally, we have just a trace of guilt arising from the fact that there are places here in our own country where human rights are often given rather poor protection.

Yet what the President is doing is defending America in a world that has grown hostile. Words alone cannot be our first line of defense but they can remind all hands what the great human values now at stake really are. We could stop talking, if our intellectual establishment finds the talk embarrassing, and resort to one clear alternative: a program of singleminded anticommunism.

We have given that alternative a rather extensive trial, and the result was not especially good. It led us straight into Vietnam, and we almost tore ourselves apart getting out. If there is a way to avoid doing something like that again, then we really ought to explore it.

There was a time, of course, when no one needed to talk about the human values that are involved in America's survival. People everywhere understood about them. They wanted those values in their own lives, and they proved it in the most direct way imaginable: by coming to America to live. They came by thousands, by tens of thousands, finally by millions, in the greatest folk migration the world has ever seen. They did not come over to make America different, and in the end they did not make it greatly different, although they did enrich it; they came because what America was drew them irresistibly.

It is necessary, of course, to remember that some of them experienced disappointment and disillusionment after they got here. The "melting pot" was imperfect, and many of the newcomers were royally exploited. It is also necessary to remind ourselves that black people came because they were forced and not because they wanted to, and for generations they had no freedom and no future. But over the long pull the people came, found a way to live that was better than what they had left behind, and learned to identify popular rights with being American.

It may be proper to remind ourselves that the same thing is true today. So many people want to get into the United States that along much of the border the effort to enforce immigration controls is in a state of virtual collapse. Something here draws them, and they come. If we do not practice everything that we preach, we make, by and large, a pretty good try.

It is also proper—indeed, it is downright essential—to remember that all of this began with words put down on paper. Maybe one of our problems today is that we do not spend enough time meditating on the Declaration of Independence. The preamble to that document is studded with words that still contain fire, for us and for others—liberty, equality, the pursuit of happiness, unalienable human rights.

When they composed the Declaration, the Founding Fathers proclaimed that the sky was the limit. They interpreted the American dream in unforgettable terms, declaring that it meant a better life and a stake in society for *everyone*, regardless of race or sex or creed or previous conditions. The things the Declaration claimed for America were, by definition, things that all people everywhere were entitled to.

To put these words on paper and send them all across the world was to speak of more than America was prepared to deliver, but what the words called for could never be forgotten or ignored. They are still at work, those words, and if in troubled times like those of today an American President finds it advisable to remind us and everyone else just what we stand for, what we have been chiefly aiming at ever since we became an independent nation, who is to say that he is wrong? As a nation we may be grasping, materialistic, self-cetered, forgetful, anything you like—but we built our country on a magnificent creed that bespeaks faith in humanity's ultimate destiny.

What we often overlook is that this faith expressed itself in a revolutionary new motion about where governments come from and what they rest on. In 1776 a national state and government drew its authority, its right to survive and rule, from delegations made willingly or otherwise by the kingship; from an entrenched ruling class, privileged in its ownership of land, wealth, and arms; from a general agreement that what the people got must come down from above and that the plain people were really pretty lucky to be allowed to exist at all.

The Declaration and later the Constitution turned this upside down, once and forever, by announcing flatly that the people *are* the state and the government, which have no other basis for existence.

Sovereignty belongs *only* to the people.

It belongs equally to all of them.

It allows neither for privileged orders nor for second-class citizens. It is not "handed down" by anybody; it exists because people exist.

Freedom, as a result, is defined quite simply as humanity's birthright. It goes with being a human being. It is totally and eternally unalienable. When anyone talks about human rights, that is chiefly what is meant. And although our country has its full share of imperfections—of failures to see the ideal, failures to grasp it, once seen, failures to live up to the high levels of achievement that we do reach now and then—freedom in the last analysis is what the existence of our country means.

That is why our remarks about the denial of human rights elsewhere in the world are listened to so attentively. Some governments are made nervous thereby, and it is easy to see why they are. What exists here is an ever-present reminder that what exists there does not need to be put up with, and when our President makes remarks about the denial of human rights—mild enough he has been about it, as a matter of fact—he is quietly reminding people of something.

It may well be that this course has certain dangers. Every course that anyone can suggest in this final quarter of the twentieth century has certain dangers, and it is not easy to see how this one is any more dangerous than all of the others. The hard fact is that we are in a time when it is necessary to live dangerously, and we might as well make up our minds to it. After all, in one way or another we have been doing it ever since the fourth day of July in 1776.

Freedom. we believe, is as much to be taken for granted as the air we breathe. Unfortunately, the air we breathe gets polluted over and again by the by-products of a highly mechanized society and the carelessness with which some of those by-products are used and disposed of. When that happens we complain about it, without first debating whether the complaint is politic, becoming to a great people, or likely to irritate strong folk who can be most unpleasant when roused. Why is what we are doing now any different? To say that freedom here and there is being polluted by despotism is right on a level with saying that the air is being polluted by industry and by our own heedlessness. Why should we expect a President of the United States to keep quiet about it?

It may be that one of our troubles is that we have spent the last twenty or thirty years giving ourselves a profound inferiority complex. We have scrutinized ourselves and our doings—properly enough, because we have made a number of kingsized errors—until we distrust our own motives. Most of all, we distrust our idealism and the people who still speak about it. We complain because human rights are denied elsewhere? Aha, what about our own record! Let us, cry the critics, put our own house in order before trying to remedy the world's ills.

That complaint might be valid, except that we call attention to the denial of human rights simply by existing. That, in the long run, is what America is all about. We can and will set our own house in order; review the record of the last half century if you don't believe it, and reflect that if much remains to do, a prodigious lot has actually

been done. Meanwhile, even if our elected persons meekly keep as quiet as so many graven images, we will rebuke the deniers of human liberty.

What we are and what we mean speak with a voice that cannot be quieted.

GUN CONTROL--GEARING UP FOR 1978

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. ASHBROOK. Mr. Speaker, with Congress trying to close up shop this month, the anticipated drive by the administration to pass gun-control legislation must wait until January. However, one should not be surprised if a steamroller effort, similar to the present Panama Canal treaty drive, is launched at the beginning of next year. According to reports, the basic legislation is ready and the agencies involved have cleared the package for submission to Congress.

It makes sense to postpone the highly controversial gun-control fight until next year, especially in view of the Lance affair, the Panama Canal treaty, energy legislation, and a number of lesser issues. After the hotly contested experiences in the House during the last Congress on this volatile issue, the administration recognizes that a major effort must be forthcoming to overcome longstanding gun-control opposition.

The Christian Science Monitor of October 3 reports on the upcoming campaign by the administration to saddle the American public with gun-control legislation in the 2d session of the present 95th Congress. I insert the Monitor account in the RECORD at this point:

GUN-CONTROL LAW DELAYED; CARTER PLANS FOR EARLY '78

(By Peter C. Stuart)

WASHINGTON.—White House preoccupation with Bert Lance, energy, and the Panama Canal already appears to have claimed one prominent victim among current legislation: gun contol.

The Carter administration's proposed legislative initiative to curb the proliferation of handguns—sent to the President by the Department of Justice more than two months ago—has had its unveiling postponed until the next session of Congress early next year, the Monitor has learned.

The proposal may make its belated debut at the time of a presidential message on crime in January or February.

A Justice official handling the gun-control draft legislation confirms the delay, but says it reflects "no judgment" on the merits of the plan or a retreat from the administration's announced intention of seeking firm restrictions on private handguns.

But postponing the Carter gun-control initiative until 1978 could heighten the political challenge facing it by dropping this always-volatile issue on Congress in a congressional election year.

Gun-control proponents, although disappointed over the postponement, blame the White House's crowded calendar rather than any slackening of its commitment.

"It's a question of timing, not substance," says one gun-control lobbyist who had a hand in drafting the proposal, Charles J. Orasin of the National Council to Control Handguns. "There has just been too much going on."

A delegation of lobbyists for gun owners also came away from a recent meeting with White House staff members carrying the impression that gun control had been shoved aside for the present into a lower priority.

"It seems to be on the back burner," reports John M. Snyder of the Citizens Committee for the Right to Keep and Bear Arms.

But another member of the pro-gun delegation, Morgan Norval of the Firearms Lobby of America, adds: "I think they've already made up their minds" for strong handgun curbs.

"It may be more difficult in an election year to get things going," concedes Mr. Orasin of the gun-control council.

Gun-owner groups welcome the delay for the same reason. "It always helps us to highlight the issue in an election year," says Mr. Snyder.

The draft proposal, said to be in all-but-finished legislative form and cleared by all affected federal agencies, reportedly is patterned on the relatively moderate gun-control bill passed by the House Judiciary Committee last year (and broadly by the Senate in preceding years).

Key provisions: a ban on the manufacture, assembly, and sale of the cheap, poorly constructed, and easily concealed handguns known as "Saturday night specials"; a "cooling off" period between the sale and delivery of a handgun; a limit of one handgun purchase per month for private citizens; a boost in license fees for gun dealers to squeeze out frivolous suppliers; new controls on noncommercial handgun transfers.

Most of these features echo Campaign proposals by Mr. Carter, the first President since Lyndon B. Johnson to flatly endorse handgun controls.

FORMULATING A NATIONAL URBAN POLICY—EXPLORING THE DIFFICULTIES

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. EDGAR. Mr. Speaker, there was an interesting and provocative column by Neal Peirce which appeared yesterday in the Washington Post which I would like to share with my colleagues. The article, "Evolving a Workable Urban Strategy," details the difficulties of formulating a coherent and effective national urban policy.

The article follows:

EVOLVING A WORKABLE URBAN STRATEGY

(By Neil Peirce)

For months the Carter administration has been struggling to produce a coherent policy to bolster the nation's hard pressed cities. After all the effort will a workable urban strategy emerge—or will the elephant have labored to bring forth a mouse?

The answer's still unclear, but several salient points are now coming into focus:

First, no urban strategy will be worth its salt unless President Carter makes it a keystone of his domestic policy, moves some other projects to the back burner to put city needs first, and coordinates the follow-through directly from the White House. There's no evidence Carter has yet made that commitment.

Second, a multibillion-dollar "Marshall Plan" to save cities would be neither affordable, given budget restraints, nor advisable. It would likely replicate many of the failed programs of the '60s, raising, false hopes and leaving the cities in worse shape than ever. To their credit, administration planners seem to recognize this point.

Third, immediate priority must go to defusing the social tinderbox of widespread youth unemployment, especially among minorities—our prime national disgrace. That means focusing on incentives to create jobs—real, permanent, private-industry jobs. Carter's urban planners are considering myriad incentives. But they leave themselves a path of retreat in government makework jobs. The more the final plan goes the public-job route, the less will be the potential for long-term, sustainable city recovery.

Fourth, an urban policy has to be broad-scaled, stretching across virtually every department of the federal government. Federal departments have customarily gone on their own merry way, responding to hundreds of congressional mandates, and never focused on a coherent national objective. Programs to help cities have been canceled out by pro-sprawl grants to extend sewers to cornfields, build highways to far-out suburbs and insure mortgages in new subdivisions that drained center cities and older suburbs of their people.

Carter must have the courage to tackle the anti-city programs head-on, shifting each to promote urban reinvestment. Again, it's a question of will and commitment. Says Massachusetts' chief planner, Frank. Keefe: "If President Carter is very serious about an urban strategy, he'll hammer and reshape every single program he has. Without spending a dime more, he could have a fantastic, comprehensive, multifaceted urban strategy. You don't have the choice to subsidize sprawl development and save the cities—it's either/or."

Fifth, the states must play a major role. Their powers over taxation, business incentives, highways and federal programs they administer is so great that they could easily cancel out much of the effect of a federal urban policy. If federal and state governments work at cross-purposes, warns Michigan's Gov. William G. Milliken, "it's going to be a terrible waste of limited resources."

Sixth, cities should view economic development and jobs for residents as one of their primary reasons for existence. They should formulate—in cooperation with the private sector and neighborhood groups—plans for job-producing new investments. If their own initiative isn't sufficient, they should be spurred on by strong "carrot-an-stick" inducements from federal and state governments.

Carter's urban task force has been considering a series of gimmicks to improve city investment prospects, from tax advantages for industries locating in depressed urban areas to a rather hazy concept of a federally financed urban development bank. But outside experts say the "urbank" concept lacks workable specifics and boils down to a catchy title in search of a program.

There is a realistic awareness that federal dollars can't do the whole job, that they should be targeted to "level age" private investment, and that quite different strategies may be required for classic Northeastern "basket-case" cities and Sunbelt cities whose super heated economies have still left serious pockets of poverty.

But Carter's planners haven't yet committed themselves to aiding neighborhood groups engaged in business promotion, co-ops or housing rehabilitation. Some of those grass roots organizations have already achieved minor revitalization miracles on their own. But they desperately need technical assistance, ranging from legal counsel to planning and financial know how.

President Carter might hesitate before adopting a full urban strategy for fear of suburban and rural opposition. But Massachusetts' Gov. Michael Dukakis has sug-

gested a way out of that dilemma: to announce a strategy that undergirds rural town as well as city centers.

Towns and cities, Dukakis notes, shares many problems: a lack of jobs, some rundown housing, and fierce competition from regional shopping centers built on open land—generally with federally or state-subsidized roads and sewer connections. Both towns and cities desperately need investment support to retain their character and vitality.

A federal city-town strategy could have powerful appeal. It would be pro-growth—stipulating only that growth should occur in or beside established centers. It would be anti-sprawl—and thus conservationist. It would save energy, and thus dovetail perfectly with Carter's overall policy. And it might be more acceptable to suburbanities, whose communities are now reeling with the explosive growth of recent years, than the politicians think.

Finally, a city-town strategy would mean preserving investments in businesses and homes in which people have invested lifetimes—the shopkeeper, the pensioner, the blue-collar worker or clerk, whether the address is New York or Chillicothe, Los Angeles or Plains.

PRESIDENT CARTER AND THE TRILATERAL COMMISSION; ARTICLE IV

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. McDONALD. Mr. Speaker, until recently the policies, plans and operations of the Trilateral Commission established by Chase Manhattan Bank head David Rockefeller were the concern of a relatively small number of expert political analysts. Now thanks to the pioneering examinations by conservative political analysts of this powerful special interest group working to influence our Government's policies, the activities of the Trilateral Commission are beginning to receive a public airing.

In recent weeks several of my constituents have submitted extensive magazine articles and newspaper stories on the Trilateral Commission. Several of these are of particular interest and I intend to submit them for the attention of my colleagues.

Attached is the third article in the series by Robert A. Manning:

THE MAKING OF A PRESIDENT: HOW DAVID ROCKEFELLER CREATED JIMMY CARTER

(By Robert A. Manning)

(It is touching, and plainly a healing thing for the nation, that a good old boy who swabbed cotton bolls with arsenic in his family's fields, and had his hair shorn with mule clippers, and sold peanuts barefoot on the streets of a peanut-sized town, may be elevated by grit and wit to the White House, even when almost none of us had ever heard of him twelve months ago.—"The Members of the Tribe" by Richard Kluger.)

Those words are written by a fictional character in Mr. Kluger's new novel, but the sentiments are shared by millions of Americans. These people would have been very surprised to learn that years before this "obscure Georgia peanut farmer" had been selected by the most powerful people in the world—including the American foreign-policy establishment which Carter so vigorously attacked—as their candidate for president.

Even before Governor Carter first began to get presidential fever, after the 1972 election, prominent and farsighted members of the foreign-policy elite were picking up the pieces shattered by Vietnam and creating the Trilateral Commission which has emerged as its dominant policy-formulating group.

The commission, which is the brainchild of Chase Manhattan Bank Chairman David Rockefeller, describes itself as "private citizens of Western Europe, North America, and Japan, formed to foster closer cooperation among the three regions on common problems." (Trilateral members are "suspended" from the commission while they serve within a government.) The star-studded list of the trilateral commissioners reads like a "Who's Who" of the industrialized world, including leading corporate financiers, industrialists, academic experts, politicians, and senior media executives from Europe, North America, and Japan.

His folksy, populist image notwithstanding, Carter's path to the White House parallels the development of the Trilateral Commission:

May 31, 1971: Time magazine features a cover story on Gov. Jimmy Carter and the "new South." Time editor-in-chief Hedley Donovan (who is now a trilateral commissioner) was impressed with Carter and not long thereafter mentioned Carter to George Franklin, then executive director of the Council on Foreign Relations.

Late Fall 1971: Carter has lunch with David Rockefeller in the Chase Manhattan Bank offices in New York City.

August 1972: At the Democratic National Convention, Carter, acting as a moderating force between the "twin evils" of George McGovern on the Left and George Wallace on the Right, backs Vietnam hawk Sen. Henry Jackson (Dem., Washington) for nomination.

Fall 1972: Carter announces candidacy for the 1976 presidential election.

Winter 1972: David Rockefeller gives a series of three speeches at Chase Bank forums in Montreal, proposing an organization to forge closer cooperation among the industrialized democracies. George Franklin, North American secretary of the Trilateral Commission, told Penthouse in an interview that the Trilateral Commission "was entirely David Rockefeller's idea originally. He was getting worried about deteriorating relations and growing competition between the U.S., Europe, and Japan."

Spring 1972: At the Bilderberg meeting (an exclusive semisecret group of Western corporate and political leaders that has met annually for twenty-five years to discuss global problems), Michael Blumenthal (then head of Bendix Corporation, now secretary of the treasury)—according to George Franklin—"thought things were in a very serious condition, and couldn't a private group bring together the industralized countries?" According to Franklin, Blumenthal's repeating of Rockefeller's idea then drew an enthusiastic response from the next eight speakers.

July 1972: A private planning conference was held at Rockfeller's estate at Tarrytown, N.Y., attended by leading foundation heads and academicians. Study and organization efforts get under way shortly thereafter for the creation of the Trilateral Commission.

April 1973: George Franklin, chief organizer of the Trilateral Commission, travels to Atlanta to meet with prospective members. "We were impressed that Carter had traveled to Europe and Japan, opening trade offices for the state of Georgia," a Trilateral spokesman told Penthouse.

Spring 1973: Zbigniew Brzezinski (now Carter's national security adviser) is chosen director of the Trilateral Commission.

July 1973: The Trilateral Commission is officially formed, becoming one of the world's most exclusive fraternities. Brzezinski becomes its driving force. According to George Franklin: "I don't know if it would have gotten off the ground without Zbig." Among the leading U.S. members were the heads of the Bank of America, Exxon, and the Atlanta-based Coca-Cola, along with Carter, Mondale, Michael Blumenthal, Paul Warnke, Richard Cooper, and Henry Owen.

Autumn 1973: Carter and Florida Gov. Reubin Askew dine at the Tarrytown estate of David Rockefeller. Present at the dinner is Brzezinski, "Zbig" (as he is known) later said that "we were impressed with Carter." Dr. Peter Bourne, Carter's deputy campaign manager, said that "David (Rockefeller) and Zbig had both agreed that Carter was the ideal politician to build on."

Autumn 1973: Cyrus Vance and Harold Brown join the Trilateral Commission.

October 1973: The first major Trilateral seminar is held. Out of such meetings come a series of thirteen papers on international finance, monetary reform, and politics. George Franklin told Penthouse that Carter "was a very active member—he never missed a meeting. I think we have had a large influence, (we've been) his principal education in foreign policy."

October 1973: In a prophetic interview, Brzezinski said, "The Democratic candidate in 1976 will have to emphasize work, the family, religion, and, increasingly, patriotism, if he has any desire to be elected."

Spring 1974: Richard Holbrooke and Richard Gardner join Trilateral.

December 1974: Before a Western economic summit at Martinique, the Trilateral Commission, Geoge Franklin told Penthouse, "spent two and one-half hours with Kissinger and an hour with President Ford." As a result, "we think we reconciled the French and American position" on monetary matters.

Summer 1975: The commission releases a report entitled "The Crisis of Democracy." This report, which was published under the commission's auspices (and which was prepared with the very close cooperation of Zbigniew Brzezinski), states that there is an "excess of democracy" in the United States. Unlike "either Europe, or Japan, where there still exist residual inheritances of traditional and aristocratic values," the report went on, "democracy is more of a threat to itself in the United States." There are, the section devoted to the United States concluded, "potentially desirable limits to the indefinite extension of political democracy." In addition, an appendix entitled "Arenas for Action" advocated prior restraint of the press "in most unusual circumstances" and suggested the court should consider moving promptly to reinstate the law of libel as a necessary and appropriate check upon the abuses of power by the press." There is no evidence Carter publicly objected to any of the conclusions.

Fall 1975: Carter's campaign autobiography, Why Not the Best?, is written. Of the Trilateral Commission, Carter wrote: "Membership on this commission provided me with a splendid learning opportunity, and many of the other members have helped me in my study of foreign affairs."

Spring 1976: Andrew Young joins the Trilateral Commission.

June 1976: Carter delivers his first major foreign-policy speech before the Foreign Association. The speech begins: "The time has come for us to seek a partnership between North America, Western Europe, and Japan. . . . These countries already have a significant world impact, and they are prepared to play even larger global roles in shaping a new international order."

November 4, 1976: Carter wins the presidential election.

January 23, 1977: Vice-President Mondale arrives in Brussels on the first leg of a trip to Europe and Japan designed to bring into harmony the policies of the industrialized capitalist nations. Mondale says that the purpose of the visit is to "set the tone" of the focus of the new administration. Whereas the Kissinger focus was a balance-of-power politics based on the U.S.–U.S.S.R. superpower equation, Carter's centerpiece of foreign policy is to be the "trilateral alliance."

March 1977: Carter completes the appointment of major figures in his administration. Besides Carter and Mondale, the members of the Trilateral Commission who join the Carter administration include the following:

(1) Cyrus Vance, secretary of state,

(2) Zbigniew Brzezinski, national security adviser,

(3) W. Michael Blumenthal, secretary of the treasury,

(4) C. Fred Bergsten, asst. secretary of the treasury,

(5) Richard Holbrooke, asst, secretary for East Asian and Pacific affairs,

(6) Warren Christopher, deputy secretary of state,

(7) Richard Gardner, ambassador to Italy,

(8) Leonard Woodcock, head of U.S. mission to China,

(9) Harold Brown, secretary of defense,

(10) Richard N. Cooper, under secretary of state for economic affairs,

(11) Lucy Benson, under secretary for security affairs,

(12) Andrew Young, ambassador to U.N.,

(1) Sol Linowitz, conegotiator for Panama Canal Treaty,

(14) Paul Warnke director, Arms Control and Disarmament Agency (ACDA) and chief SALT negotiator,

(15) Anthony Solomon, deputy secretary for monetary affairs,

(16) Elliot Richardson, U.S. representative to U.N. Law of the Seas Conference,

(17) Henry Owen, economic adviser.

Before Carter's election, his adviser Hamilton Jordan said: "If, after the inauguration, you find Cy Vance as secretary of state and Zbigniew Brzezinski as head of national security, then I would say that we failed." Well, perhaps Jordan feels that he's failed. But there can be no doubt today that David Rockefeller and his Trilateral Commission have succeeded in seizing control of America's foreign policy.

THE BIRD BUSINESS

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. RICHMOND. Mr. Speaker, domesticated birds are quickly becoming one of America's favorite pets. Internationally, more than 5 million wild birds are captured and sold annually. Although on face value the bird industry appears to be one of little controversy, a recent study reports otherwise.

Completed under the auspices of the Fund for Animals, the Animal Welfare Institute and the Humane Society of the United States, the Bird Business reports that international trade of wild birds for domestication is a multimillion-dollar business. Extinction of some species is becoming a clear possibility.

Death of birds during transport is on the increase, the report notes. Death from shock, disease, overcrowding and inadequate care is common, and the death rate of some rare imported birds runs as high as 80 percent.

Additionally, as the report states, many are finding bird smuggling a profitable business. The United States-Mexico border is one area of concern. Parrots purchased in Mexico for $25 are often sold in the United States for as much as $250.

Mr. Speaker, I would like to share the conclusions and recommendations of the Bird Business with my colleagues. It is time we take a close look at this problem and begin to explore possible corrective action:

[Excerpt from "the Bird Business"—A study of the importation of birds into the United States]

(By Greta Nilsson)

V. CONCLUSIONS AND RECOMMENDATIONS

Conclusions

1. The world-wide cage bird trade combined with accelerated habitat loss is depleting many species of birds in the wild. At least nine species of birds are considered endangered and many others have declined due to the population drain for the cage bird trade.

2. Bird importation for the cage bird trade has become a major business in the United States. Over 80 percent of the birds imported are wild-caught rather than captive-raised birds.

3. The trade involved a larger number of birds imported in the early 1970's, when restrictions on importation were less stringent before the passage of the Endangered Species Act of 1973, the U.S. Department of Agriculture quarantine station system established, and the International Convention ratified.

The number of birds imported is gradually rising as the importers are adjusting to the new legislation and the quarantine station system. As one importer noted at the U.S.D.A. Newcastle Disease meeting in March, 1977, "This is an infant industry". The number of quarantine stations is increasing rapidly and may soon double in number within a year, judging by the number of applications to the U.S.D.A. for new stations.

5. Mortality suffered by birds may amount to a total of 80 percent from capture to customer. Of the birds offered for importation into the United States in 1976, totalling over 282,000, 36.7 percent never entered the country because of refused entry or mortality.

6. Newcastle Disease (VVND) has not been eliminated by the quarantine stations due to the continued and unabated smuggling of birds, primarily from Mexico. The Newcastle Disease program has cost the American taxpayer an estimated $100,000,000 since 1972.

7. Public interest and desire for pet birds is increasing geometrically, abetted by popular TV programs and magazine articles glamorizing pet birds. The public's knowledge of the care of birds is inadequate, and professional veterinarians skilled in the care of birds are few in number. Since the breeding of pet birds by non-specialists is a rare occurrence, wild birds will continue to be imported to fulfill the customer's demands. The species of birds most popular now, parrots and mynahs, have poor records for captive breeding under the best circumstances.

8. Zoos and aviculturalists continue to import rare and delicate species, many of which succumb to disease long before breeding. Many aviculturalists are dealers as well as private breeders, and some are not averse to buying smuggled or illegally imported birds in order to finance their hobby.

Many species not adapted to being house pets are sold by pet shops and aviculturalists with the full knowledge that they will probably not survive long, and with inadequate instructions on feeding and care.

9. The potential threats to human health by pet birds include psittacosis and avian tuberculosis. Both present long-term health hazards.

10. Although the Endangered Species Act of 1973, the Lacey Act, and the International Convention have provided some restrictions on importation, the problems of identification involved present the already understaffed Customs and Fish and Wildlife law enforcement officers with major enforcement problems due to the large number of species of all taxonomic classes now listed.

11. Escaped cage birds have colonized areas in many parts of the United States, Puerto Rico and Hawaii, competing with native species to the detriment of the latter.

12. Due to the considerable financial incentive present for the bird importer and dealer, voluntary compliance with the elaborate regulations governing importation as well as an active concern for the preservation of wild populations of birds, are not to be assumed.

Recommendations

1. A method must be found by the U.S.D.A. to differentiate legally imported birds from smuggled birds by some form of marking or documentation not easily forged.

2. The U.S.D.A. should make a concerted effort to save the lives of seized smuggled birds by quarantining them rather than enthanizing as a matter of course. The new hot line number to report suspected cases of smuggling to the U.S.D.A. should be called by anyone having such information, which can be given anonymously: (301) 436-8061. Also call the nearest Fish and Wildlife Service office and Customs Service.

3. Record-keeping of imports must be greatly improved. Additional Fish and Wildlife Service personnel should be hired specifically to keep accurate records of species entering the country—both before and after the quarantine period. Inspections by these officials should be made to ascertain that 3-177 forms are accurately filled out. The 3-177 forms, which are the only record of wildlife entering the country, should be altered to include check-off boxes with the following information:

1. Live or Dead: If Dead (a) scientific specimen or (b) commercial hide,

2. Phylum and Class: (Plant or Animal and if Animal, Mammal, Fish, Bird, Reptile, Mollusc, etc.),

3. Source of species: (a) captive bred, (b) wild caught, and

4. Purpose of importation (if live): (a) resale, (b) captive breeding, (c) scientific research, (d) other.

4. Manuals should be prepared for all Fish and Wildlife law enforcement personnel and Customs officials as well as U.S.D.A. personnel picturing International Convention, U.S. Endangered Species Act, and Lacey Act Injurious Wildlife species. This manual should also show a map of the range of each species so that Lacey Act violations would be easily identifiable. The manual should have an alphabetic listing of countries of origin with laws governing the export of wildlife in those countries listed. Very few countries have a law similar to the Lacey Act's provisions which forbid importation of species protected in their native country, so it is very critical that constantly updated information of this nature be available to U.S. officials for its enforcement. A manual is now being prepared to identify the International Convention Species, but it may not include species from other legislation, or other information described above.

5. A committee of representatives from major conservation organizations should be formed to:

(a) monitor the enforcement of the major legislation regulating importation of birds.

(b) formulate a policy on the possession of pet birds based on th Resolution of the Conference of Parties of the International

Convention noted in Part IV urging captive breeding of pet birds. No system is presently available, however, to distinguish captive-raised from wild-caught birds.

(c) conduct a public education campaign including television spots (public service notices are shown free by law in daily TV programming), as well as pamphlets, newspaper ads and magazine articles which outline the effect of the bird trade on wild populations, mortality in transit and quarantine stations, and other factors discussed in this report.

(d) Lacey Act provision excluding "domestic canaries and parrots" has been interpreted to exempt wild parrots. This interpretation should be changed administratively. If necessary, a court challenge should be undertaken.

6. The possibility of a legal suit against pet products companies and pet dealers should be considered based on violations of Federal Trade Commission regulations which forbid deceptive advertising, in connection with the pet food and diets recommended which are inadeqaute or even injurious, as well as the sale of delicate species unable to survive in captivity.

7. The Animal Welfare Act should cover pet shops as well as dealers, and should have biologists as well as veterinarians formulating regulations on animal transport and captive care. The Act should specifically include cage birds and have stringent regulations on penalties for a defined percentage or mortality in transit, in pet shops and in dealer's facilities. Dealers and pet shops not conforming to health and humane regulations for cage birds already being applied to other species, should be closed without delay. Should these changes take place, funding for the Act would have to be greatly increased since it is presently inadequately funded for the regulations in its jurisdiction.

8. The "clean list" approach to wildlife importations or banning importation of all but a list of allowable species would be far preferable to the present system of lists of banned species so long that few enforcement officials are able to recognize prohibited species. This has been proposed in the past by U.S. Fish and Wildlife Service, but lobbying from commercial interests defeated it. Passage of such a proposal might prove to be more difficult than the following recommendation:

9. A long term goal should be the banning of the importation of birds for commercial purposes for sale as pets, by Executive Order. The Executive Order banning the importation of species for introduction is an excellent precedent establishing exotics as injurious to native ecosystems. Arguments based on ecological balance discussed in Part III and the human health hazard should be valid for psittacid importation restrictions. In cases where human health is threatened, the U.S. Public Health Service has authority to issue immediate bans on importation of species for pets, but so far it has not done so for pet birds. Although the diseases presently contracted from pet birds are treatable by modern medicine, the treatment is long and expensive.

A consensus opinion of most conservationists on international wildlife traffic is that the major responsibility lies with the importing nations or consumers. Developing countries, from which most bird species are imported, have great difficulty in enforcing export bans when customs officials may earn only $100 per year, and a bribe from a wildlife exporter may equal a month's salary, and where for the masses of people, birds have no value except in cages or in the pot. It is indeed remarkable that so many developing countries have passed laws protecting their wildlife against commercial exploitation, considering the lucrative nature of this trade. The bottom line to all wildlife conservation is the education of the public, and along with pressure to change legislation, must be primary goals.

Dr. Oscar Owre (1974) made the following rhetorical question: "Beyond our immediate political borders, ecosystems of the world are being plundered to supply the animal importers' trade. Should we condone in Neotropical countries—in the interests of a nonvital commerce and of insensitive consumers—what we have long ago become too civilized to condone in Neoarctica?"

CHOICES FOR NEW JERSEY PINELANDS

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. FORSYTHE. Mr. Speaker, I am sure that the words "New Jersey" and "wilderness" are not often linked in the minds of Members of this body who have traveled the New Jersey Turnpike between New York and Philadelphia. As I have pointed out here in the House before, however, almost a quarter of the Nation's most populous State is still relative wilderness—the area in southern New Jersey known as the Pinelands. One of the key issues which we face today in the State is how to go about assuring that this surprising resource will be preserved, not only for New Jersey but for the entire country.

Since the Pinelands are truly a national as well as a local resource, we Members of the New Jersey delegation have brought the issue to the House in the form of two bills designed to provide Federal participation in the preservation effort. My esteemed colleague from New Jersey, Congressman JIM FLORIO, introduced the first bill, H.R. 6625, in April. Last week, Congressman BILL HUGHES and I—who between us represent almost 90 percent of the Pinelands area—introduced another approach to the preservation effort, H.R. 9535.

I want to highly commend Congressman FLORIO for his willingness to get involved in this complex issue. We all share a common goal of preserving this fragile resource. My years in Washington have confirmed my basic feeling that all wisdom does not come from this city, however, and I feel that H.R. 6625 places too much reliance on making preservation of the Pinelands a Federal responsibility. On the other hand, I do not view the resource as a purely local one. Accordingly, Congressman HUGHES and I have attempted to develop a balanced approach to the issue by providing maximum cooperation in the preservation effort among all levels of government—local, county, State, and Federal.

In order to highlight the basic differences between the two alternatives, I would like to provide today for the information of my colleagues here in the House a copy of my recent statement discussing H.R. 6625 before the Interior Subcommittee on National Parks and Insular Affairs. Although this statement naturally emphasizes disagreements in the two bills, let me again emphasize that the authors all agree in their underlying goal of attempting to provide a viable means of preserving this unique resource. I hope we will have the support of the entire House in working toward this end.

The statement follows:

STATEMENT BY THE HONORABLE EDWIN B. FORSYTHE, BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS AND INSULAR AFFAIRS, OCTOBER 3, 1977

Mr. Chairman, the approximately 970,000 acres which constitute the New Jersey Pinelands are the most extensive wildland tract in the mid-Atlantic Seaboard. This area is situated on the outer portion of the Atlantic Coastal Plain, one of the major physiographic regions of the United States. The Pinelands was until recently, in geological terms, part of the ocean floor.

Almost entirely forested with low shrubs, pines and oaks, the Pinelands contains the vegetational patterns one expects from an area which is in geological transition from ocean floor to forest. The outstanding formations and features of the Pinelands provide us with a significant and valuable illustration of ongoing geological processes.

This unique area, which sits above an enormous underground reservoir which contains about 17.7 trillion gallons of water, has spawned an ecosystem that can be found nowhere else in the United States. The vegetation of the Pinelands, for example, is a relic of that which is believed to have existed along the ice perimeter during the last major glaciation.

In addition to its historically significant vegetational patterns, the Pinelands is the home of over 38 species of mammals, 91 species of butterflies, 24 species of fish, 13 species of frogs and toads, 10 species of salamanders, 18 species of snakes and 144 species of birds.

At leaset 21 species of northern plants and 6 species of butterflies reach their southernmost limits in the Pinelands. In precisely the same area, over 110 types of southern plants and 5 species of butterflies reach their northernmost limits. A combination of range overlaps of this magnitude occurs nowhere else in North America.

The overlap of wildlife and plant ranges, the transitional geological status of the region and the unique flora and fauna which can be found in the Pinelands make this an area of national significance—an area which deserves to be protected from the developmental forces which have too often eroded the quality of wildlife habitat in the United States. Equally important from my viewpoint is the fact that the Pinelands represents home for thousands of New Jerseyans, many of whom can trace their roots in the area to the 1700's.

Unfortunately, the question of how to proceed with the preservation of the Pinelands has become a politically-charged issue. In fact, the question of how to preserve the Pinelands is so volatile that it has prevented the realization of that ultimate goal.

Even though my colleague from New Jersey, a distinguished member of this Committee, represents but a small fraction of the Pinelands, he has seen the merits of preserving this area and he is to be commended. As a former State senator representing all of Burlington County, in which a major part of the Pinelands is found, and now as a Member of Congress representing the same area as well as a part of the adjoining Ocean County, which is also within the Pinelands, I think I have a deep familiarity with the Pinelands and its people. This familiarity produces a point of view toward the area and its people which is vastly different from that evident in H.R. 6625.

The most striking indication of this difference is found in the way H.R. 6625 treats local interests and the way in which those interests are treated in legislation which Congressman Hughes and I are about to introduce.

H.R. 6625 establishes a 21-month grace period in which the State of New Jersey is permitted to establish a Management Commission and to develop a management plan for the 970,000-acre Pinelands Reserve created by the bill. The Secretary of the Interior is directed to provide financial assistance to the Commission pursuant to an approved plan if the Secretary finds that the Commission has removed zoning authority from the local governments. Although it is generally agreed that the critical areas within the Pinelands requiring protection amount to between 30,000 and 50,000 acres, H.R. 6625 would require that the State Commission be given exclusive land use control over the entire 970,000-acre area. These 970,000 acres represents approximately 20 percent of the land area in the State of New Jersey. The powers of 41 municipalities in 6 counties representing 196,000 people would be given to the State.

However, it is extremely important to note that the authority assumed by the State Commission could extend well beyond the limits of the 970,000-acre Reserve. Section 4(b)(4)(B) requires that the Commission have land use and zoning control over areas which may affect the 970,000-acre Pinelands Reserve. According to the Department of the Interior, the entire watershed area consists of approximately 1.3 million acres. Thus, it is possible, if the State finds that this entire area could affect the Reserve, that the State Commission will be given exclusive zoning control over 1.3 million acres which represent approximately 27 percent of the land area of New Jersey. The powers of 63 municipalities in 8 counties representing over 300,000 people would be vested with the Commission.

The State Commission, which is to be given this authority, is to consist of 12 members. To those New Jerseyans who have a proud local heritage, it is disturbing that H.R. 6625 does not require that any member of the Commission be a resident of the Pinelands. In fact, Section 4(b)(3) requires that each member of the Commission have demonstrated expertise in national resource planning. Some people have wondered whether the effect of this requirement would be to exclude local experts on the Pinelands. In fact, even the 13-member Advisory Committee, which is created under H.R. 6625, could have no more than 3 members who are from the Pinelands.

If the State does establish an acceptable Commission and plan, the Secretary is authorized to acquire no more than 50,000 acres and to conditionally transfer that land to the Commission. However, if the Secretary finds that the Commission has failed to implement the approved plan, the Secretary may repossess the federally-acquired acreage and manage that land.

The catch is that the plan is to provide for a comprehensive land use program for at least the entire 970,000-acre Pinelands Reserve and may, as I indicated earlier, extend to cover 1.3 million acres. Under H.R. 6625, the Secretary could assume management control over federally-acquired lands if the State Commission fails to implement the plan to the Secretary's satisfaction on lands totally outside the federally-acquired 50,000 acres. The constant federal review of the plan provided for in the bill and the implied threat of federal takeover could give the Secretary of the Interior de facto authority to significantly influence, if not control, the zoning of the entire 970,000-acre area and possibly the entire 1.3 million-acre area.

New Jerseyans recognize that H.R. 6625 does not require the State and its citizens to establish the Commission and a management plan for the Pinelands. However, Section 8(b) provides that if the State has not created the Commission and the plan within 21 months, the Secretary is authorized to establish a National Ecological Reserve in the Pinelands. Section 6(1) provides that this reserve is to be approximately 970,000 acres and Section 8(b)(3)(A) authorizes the Secretary to acquire by donation, condemnation or exchange the entire 970,000 acres if the Secretary deems it appropriate. Thus, under H.R. 6625, if a State Commission is established, federal acquisition is limited to 50,000 acres. If a Commission is not established, the Federal Government is authorized to acquire up to 970,000 acres.

As I indicated, H.R. 6625 gives the people of New Jersey a choice. They either will establish a State Commission, which may or may not have residents of the Pinelands as members, and they shall empower that Commission to remove zoning authority from at least 41 and possibly as many as 63 municipalities covering between 970,000 and 1.3 million acres, or they may allow the Secretary to have the authority to acquire 970,000 acres—about 20 percent of the state.

Furthermore, Section 8(b)(2) provides that if no state plan is approved, the Secretary is authorized to manage all federal lands within the 970,000-acre Reserve. The language of H.R. 6625 gives the Secretary clear authority to manage all federal lands, regardless of whether such lands are under the jurisdiction of the Department of the Interior. The problem is that within these 970,000 acres are found over 40,000 acres belonging to the Department of Defense, including possibly all of Ft. Dix, Lakehurst Naval Air Station and Maguire Air Force Base. The Secretary of the Interior could, under the terms of H.R. 6625, find himself in charge of managing the air traffic control tower at Maguire Air Force Base and the Walson Army Hospital at Ft. Dix.

Mr. Chairman, there are other choices for the people of New Jersey which have not been deevloped in H.R. 6625. I and Congressman Hughes, who also represents a major portion of the Pinelands, are taking a different approach.

The legislation which Congressman Hughes and I plan to introduce provides for creation of a National Wildlife Refuge of no more than 50,000 acres in the Pinelands. Our legislation also provides for the creation of Ecological Management Units which may be managed by local governments for the benefit of the refuge. Our legislation will provide financial assistance to local governments if they wish to undertake management programs within the Ecological Management Units. If the local governments elect not to manage the area, the State may create a Commission to protect the ecological and other values of the refuge. If such a Commission is created it must, under our bill, count among its members representatives of the Pinelands residents, as well as other interests. However, there is no mandate that such action be taken and there are no sanctions if the State or the localities elect not to move forward.

Mr. Chairman, I believe the Pinelands can and should be preserved for present and future generations of Americans. However, because I believe that H.R. 6625 is an unnecessary usurpation of local authority, I must reluctantly oppose that bill and instead offer my legislation when introduced as an alternative.

THE SCIENCE AND TECHNOLOGY COMMITTEE'S DECISION ON THE CLINCH RIVER BREEDER REACTOR

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. FUQUA. Mr. Speaker, I was proud to see the House of Representatives strongly support Chairman TEAGUE, WALTER FLOWERS, and my other Science and Technology Committee colleagues with their vote in favor of continuation of the Clinch River breeder reactor project. This certainly was one of the toughest decisions of the year and was a fitting climax to several months of hard work. The committee, new to nuclear jurisdiction, began with an open mind on the subject and worked 6 months before formally committing themselves in favor of the project. The committee sponsored briefings and two complete sets of hearings during this period. Committee members also went to the Clinch River site and visited related facilities at home and abroad, and did extensive personal study on this complicated issue. I have watched my fellow committee members rise to this challenge and it is gratifying to see others recognize a job well done as well.

I am also including a Nuclear Industry article describing the pressures Members of Congress withstood in making their decision on Clinch River:

HOUSE DEFIES PRESIDENT, VOTES HEAVILY FOR BREEDER

Nearly four hours of tense, sometime-heated debate on authorization for the Clinch River Breeder Reactor was building toward a climatic vote in the House of Representatives when Rep. Melvin Price (D-Ill.) rose to address his colleagues:

"I want to say that this situation this afternoon is no different than the situation was 20 years ago when we were beginning the atomic age," said the former chairman of the Joint Committee on Atomic Energy. "Almost every project that we brought before the Congress met with serious opposition."

Price was right, indeed. But there were major differences between this vote and prior nuclear measures.

Never before had a nuclear measure had the adamant opposition of a popular, majority-party President making telephone calls to members, with all the aura of the Presidency and his enormous potential to bestow favors on those who side with him. By one House staffer's count, the President was buttressed by 75 to 100 lobbyists from the White House and various Federal agencies, more than industry had.

Yet shortly after 5 p.m. on Sept. 20 when the electronic tally was complete, an amendment that would have mothballed plans for the Clinch River breeder was trounced 246-162—the largest margin of victory ever for a nuclear measure.

The vote was on an amendment by Rep. George Brown (D-Calif.) that would have reduced funding from the $150 million, the figure authorized by the Science and Technology Committee to keep CRBR on track, to $33 million, the amount the Administration wanted to cancel the project.

That vote completed, the House then rejected by a wider margin, 277 to 129, an amendment by Rep. Christopher Dodd (D-Conn.) that would reduce the funding to $75 million, the same figure the Senate authorized to keep Clinch River in abeyance for a year while the effects of the President's nonproliferation objectives are studied.

Acceptance of the full $150 million made the intent of the House crystal clear. They want construction to begin at Clinch River, and they don't want any further delays. It was a bitter defeat for President Carter.

In late September CRBR still faced a possible Presidential veto, but many observers were hopeful the President would avoid a direct confrontation with Congress.

So what were the factors that came to-

gether to bring about the landslide vote for Clinch River?

One reason that stands out, surprisingly, is the breakup last year of the Joint Committee on Atomic Energy—the body that approved and pushed for passage of nuclear bills, and was generally a friend of the nuclear industry through the years.

The abolition of the Joint Committee meant that the breeder option would be studied in the House by the Science and Technology Committee, whose members had never before dealt with the issue in depth. These members, led by Rep. Olin E. Teague (D-Texas), the chairman, and Rep. Walter Flowers (D-Ala.) chairman of the Fossil and Nuclear Energy Research, Development and Demonstration Subcommittee, had not made up their minds about the breeder and their colleagues knew it.

They held extensive hearings and made a trip to Europe to learn of likely reactions to U.S. nonproliferation policies if the U.S. sidetracked breeder development.

Other members were impressed with their fervor and the amount of work they did.

Explained an industry lobbyist: "A new committee got it from scratch, and when they came down soundly against the President, they had a great deal more weight with their colleagues. It brought new faces into the battle who didn't have the old label of being rubber stamps."

VANISHED AURA OF JCAE

House committee staff members share the lobbyist's view. "The mystique was gone from the Joint Committee," said one. "You couldn't run technological issues through a joint shop any longer. Unfortunately, the mystique left before the Joint Committee.

"The [Science and Technology] Committee has quite a bit of respect in the chamber and their minds weren't made up in advance. A committee's reputation builds," he added. "Members will vote with you because they trust you."

During the debate, Teague told his colleagues how he changed his position the more he studied the Clinch River project.

After meetings with John O'Leary, the undersecretary of the new Department of Energy, "I began thinking of their side," Teague said. "I began believing the President was right, but the further I went and the more I learned, the more I decided that the President was wrong."

He said he studied remarks made in 1972 by James Schlesinger, then chairman of the Atomic Energy Commission, when Schlesinger "was on a different team and had a different quarterback," and support Clinch River.

Then committee members talked to former chairman of the AEC and found they still backed CRBR.

Then exhaustive hearings were conducted. "We went into this thing about as much as a human being could possibly do, to come to some honest conclusion as to whether it was right or wrong."

FIRM PLANS IN EUROPE

Then a group went to Europe and were told by the French, West Germans and British "in no uncertain terms that they were going ahead with the breeder.

"I think our committee has made every honest effort that a committee could do to come to some conclusion about a very, very important subject," Teague said of the committee that overwhelmingly supported Clinch River.

There were other elements not present in prior nuclear votes, according to industry observers and House staff members.

There was "for the very first time a massive grassroots effort," a lobbyist said. Employees wrote letters, and organizations like the Voice of Energy and Concerned Citizens for the Nuclear Breeder added their weight. The American Nuclear Society got involved through its local sections. The new committee forced industry to do a lot more work, the lobbyist said. "Industry knew it had to get it together."

Clinch River has become symbolic, as AIF President Carl Walske explained at a Washington press breakfast. To the environmentalists it represents a commitment to a plutonium economy. Industry fears that without Clinch River as a centerpiece, funding for breeder research and development will dissipate in future years.

Always before nuclear votes have been more "esoteric," often involving industry/government partnerships and possible profits.

ADMINISTRATION 'SCARE' TACTIC

"The issue was kept narrow," said a House staffer. "It was divorced from enrichment, Barnwell, and resources and electrical demand. The Administration tried to tie it into commercialization—a scare tactic. The level and tone of the debate was on a higher level in Congress than from the White House."

This time Carter went for the "jugular," a lobbyist explained, and appeared to be trying to eliminate the entire breeder option. Members feel conservation is fine, but they see problems with coal and gasification technology, and they worry about where electrical production is coming from."

Many members felt like Rep. John Anderson (R-Ill.), that building Clinch River is like buying an insurance policy, if all your estimates prove to be wrong, we shall have a demonstration model [breeder] running by 1985."

The Administration has to back away from its original premise, that other countries would back away from technology involving plutonium if the U.S. backed away from the Clinch River project. "The Administration resurrected the cost-benefit arguments," said a source in the House, "But members are willing to pay for an alternative."

"Members don't oppose the President lightly," said a House staff member. "People in this country want the breeder and I think that was reflected in the vote. Politicians don't want to be vulnerable on the subject of energy."

As Nuclear Industry went to press, the future of Clinch River was unknown. House-Senate conferees were meeting to settle on a dollar figure for the project—either the $75 million the Senate voted or the $150 million the House passed, or some figure in between. The conferees were also to decide if CRBR would stay on the licensing path and if construction would begin this year.

VETO: TWO-EDGE SWORD

The President could veto either the ERDA Authorization Act or the supplemental appropriation containing funding for CRBR, but both will contain measures the President supports, making a veto difficult.

The day after the House voted down the Brown amendment to cancel the project, many members who opposed the Brown amendment supported an amendment by Rep. Lawrence Coughlin (R-Pa.) that would have gradually forced industry funding for up to 50 percent of cost overruns for CRBR. It failed by a narrow 206 to 196 margin.

"The Clinch River breeder alone has escalated in cost from $699 million to the present $1.9 billion," Coughlin said on the House floor. "At the same time the private participation has been declining from what was originally agreed to at 50 percent to some 13 percent today."

The amendment would have forced private funding for 30 percent of overruns $2 billion and $2.25 billion 40 percent between $2.25 billion and $2.5 billion, and 50 percent over $2.5 billion.

The measure would demonstrate the commitment of private industry and "create incentive to stop the cost overruns and improve performance of those participating in the breeder project," Coughlin said.

ARGUMENTS AGAINST AMENDMENT

Rep. John W. Wydler (R.-N.Y.) was unconvinced, The Congress shouldn't "turn the decision-making over in a matter like this to some private electric companies, and then they determine that they do not want to go any further," he said. "This is a determination that we as representatives of the people in the country should be making."

"This amendment is a blatant attempt to reverse yesterday's vote on the Clinch River project," said Rep. Mike McCormack (D-Wash.) "A utility would have to go back to its public utility commission and get permission to participate. All this amendment would do is 'goof' the project up, and everybody knows it."

The $275 million participation the utilities have made to CRBR has been voluntary, McCormack said.

The Clinch River funding was one of the most heavily lobbied measures ever before Congress, members said. One member commented that he had seen more paper and "Dear Colleague" letters on the subject than on any other.

The vote was originally scheduled for July, but delayed until September. Counting lobbyists from ERDA, the Federal Energy Agency, Federal Power Commission, Schlesinger's office, and the White House, the Administration had well over 75 lobbyists opposing CRBR, said a House staffer. "They had more than the whole industry put together."

VIEWS OF THE PANAMA CANAL

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. DERWINSKI. Mr. Speaker, the Suburban Life Citizen, a publication serving suburban Cook County, Ill., has an interesting column called "Staff Views," in which members of the newspaper's staff have the opportunity to express their views on various subjects. Since the articles express the individual's thinking, this column adds an interesting touch to the editorial page and offers a variety of views.

Dave Powers, of the Life Newspapers, wrote a very spirited column in the October 12 edition, on the Panama Canal. In view of the great interest in the Congress on this subject, I believe this column merits our review:

YANKEE GO HOME IN 23 YEARS

(By Dave Powers)

Although having slipped deep into the inside pages of the major newspapers, now rating only a brief spot on Walter Cronkite's evening newscast, the Panama Canal Treaty is still a hot subject in the Senate.

Should the treaty meet Senate approval, the Panamanian government would begin to gradually take over the control of the canal gaining full responsibility by the year 2000.

Needing a two-thirds vote ratification, the treaty's main advocate, President Jimmy Carter, has called on everyone from the White House custodian to the lead defense strategist, Harold Brown, to help bolster support for the document.

The going hasn't been easy for treaty supporters, as the conservatives have banned together singing songs from threats to national security to the Panamanians' inability to operate the modern day example of man's ingenuity.

Leader of the opposition, California's Ronald Reagan, has even been bold enough to say that if we give up the canal zone, why not give up the Louisiana territory? After all, both sections of land were acquired through treaties.

But such a sarcastic statement is naive, since the Louisiana territory has long since become several states sharing in the U.S. bounty, while Panama has merely been on the outside looking in as the U.S. capitalizes on its location.

The Panama Canal Treaty goes much deeper than money, fringing upon patriotism and the built in desire of every man to control his own destiny.

It's hard for Americans to imagine an outsider taking control of our country, and even harder to imagine a foreign country resenting our presence. Afterall, if it weren't for the U.S., many of the tiny, third world nations, such as Panama, would still be savages eking out a living in the wilds of the jungle, or so the Archie Bunkers of the U.S. would lead you to believe.

Throughout the world, third world nations that were once merely pawns for the major powers have begun to recognize their importance and demand a place in the scheme of international affairs.

These countries are now demanding both back payments for and control of the natural resources which nave made these small, out of the way countries such a valuable feather in the imperialistic caps of the world powers.

Since the small country of Panama doesn't have very much to boast of in the way of natural resources, the canal, which physically divides their country, could very well be the only chance of rescuing their faltering economy.

Treaty opposition is quick to rant and rave about how the U.S. bought and paid for the land in both money and sweat and even speaks of the virtual omnipotence of a treaty.

But the original Panama Canal Treaty signed by Theodore Roosevelt in 1903, is one of the worst examples of American imperialism in our country's 200 year history.

That original treaty, which no Panamanian signed, was bought and paid for through promises of military aid and even a show of force.

Such methods became necessary in order to prompt Panamanian succession from Colombia which controlled the small country at that time. Colombia had rejected the original treaty which gave the U.S. sovereignty over the canal zone.

The new proposed treaty will of course cost the U.S. money, which is nothing new since financial aid has always been America's method of representing the good in the proverbial battle against evil.

But the cost of the proposed treaty is but a mere drop in the foreign aid bucket, while providing the U.S. with an ideal opportunity to stand behind her strong statements on human rights.

DETROIT, 10 YEARS AFTER THE 1967 RIOT: THE VIEWS OF DETROIT CITIZENS

HON. JOHN CONYERS, JR.
OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. CONYERS. Mr. Speaker, the Detroit Free Press on Sunday, October 16, published its survey of citizen attitudes toward changes that have occurred in the city in the 10 years following the 1967 riot. Citizens were asked about their feelings toward the city, the performance of their government, the police, and key institutions such as industry and labor. The responses were compared with a similar survey undertaken in 1967.

Two major findings emerge from the current survey. The black citizens of Detroit feel far more confident about their mayor and the city government than they had 10 years ago. On the other hand, an overwhelming majority of those surveyed feel that very little fundamental change has occurred in their social and economic conditions. This predominant mood—that conditions have basically remained the same—is supported by virtually all social and economic indicators; for example, Detroit's current unemployment rate hovers around 11 percent, twice the rate in 1967; there are 33 percent fewer citizens employed in the city; three times as many families are receiving AFDC assistance; there are 85,000 fewer housing units in the city that are occupied; and more than 500 firms have left Detroit during the past 10 years.

The survey shows that, while the majority of Detroit citizens are confident about their local leadership, the same majority recognizes that the fate of their city largely rests with the decisions made in Washington; in particular, whether the Federal Government will adopt as its first prority a forceful approach to solving the unemployment crisis. I commend the Detroit Free Press survey to the attention of my colleagues:

TITLE: BLACK DETROIT: A DECADE OF CHANGE—PART I

(By William J. Mitchell and Jim Crutchfield)

Ten years after the 1967 riot, the bloodiest benchmark in Detroit's history, the city's black residents feel much better about the police, have twice as much faith in city government and believe price gouging by local merchants has been substantially reduced.

But a Free Press survey of 610 black Detroiters shows that despite those shifts toward more positive views, the city's black community retains serious grievances.

A quarter of those interviewed believe blacks get less pay than whites for the same work, and black confidence in the efforts of both business and labor to deal with city problems has fallen off dramatically since 1968.

Despite the improved feelings about police protection, a majority still believes officers use insulting language and unnecessary force in their neighborhoods.

A 26-year-old black man who lives at Stoepel and Florence on the city's west side, for example, reported that he has been the recipient of insulting language and that both he and his wife have been the victims of "unnecessary force."

Nonetheless, he said he was generally satisfied with police protection in the neigborhood.

Despite the black community's strong faith in the city's first black mayor, Coleman A. Young, many of those interviewed still believe city officials pay more attention to complaints or requests from whites than they do from those of blacks.

The survey also detected an economic black underclass that included one-fourth of those interviewed and reflected more alienation and racial hostility than other blacks.

The Free Press survey, conducted by telephone between Aug. 29 and Sept. 16, asked many of the same questions asked in a 1968 survey of blacks living in the 1967 riot area.

The scientific survey, conducted with the assistance of Knight-Ridder Newspapers survey research specialist Phillip Meyer, can be considered to be accurate within four percentage points.

The 1968 survey found Detroit blacks more outspoken and quicker to complain than just after the riots.

This year's survey, which included blacks throughout the city, shows that the complaints are still there but more blacks have begun voicing them to City Hall.

And to surprising extent, more and more believe city officials will actually do something about them.

Here are some of the other key findings of the survey:

About two-thirds of Detroit's blacks—down from three-fourths in 1968—think a riot could occur again. Ten percent say they would join in a riot should one recur, roughly the same percentage which says it took part in the 1967 disturbance. But large majority believes there would be no profit in rioting.

Most black Detroiters are willing to trust some whites and would prefer to live in integrated neighborhoods, but they have mixed feelings when asked if they think whites would like to see blacks get a better break.

Black consciousness, which soared in the years after the riot, has apparently leveled off. In 1968, 80 percent thought blacks should do their shopping in black-owned stores; now, only half do. As in 1968, half the people think black children should learn an African language.

The 1977 survey shows that, with a few exceptions, blacks who live in the riot area now, as well as those who have moved to other sections of the city, think pretty much as blacks throughout the city do.

A lot has changed since 1968, but the most significant change among Detroit blacks, the survey suggests, is having a black man in the mayor's office.

The survey findings are buttressed by the recent mayoral primary, an election which indicated that, after years of inching out of minority status toward 50 percent of the population, Detroit blacks have emerged as a politically powerful majority in city elections.

There is some sentiment among blacks that, as one comparatively affluent black woman put it, Young has just "put a bandage on a re-erupting sore."

Others give the mayor credit for specific measures, particularly improving the Police Department.

"He has calmed down the police treatment of people," said a 35-year-old black woman.

"He's put more brothers in the department," observed a young black man.

But more common is the general feeling that Young relates very personally to the city's black community.

"Coleman Young has been through the black experience and knows the black problems," noted a 19-year-old black woman.

In 1968, perhaps because of all the publicity given such civic coalitions as New Detroit, blacks placed considerable faith in the efforts of both business and labor to do something about the city's problems.

Blacks in 1968 were also very high on Detroit's two black congressmen, Charles Diggs and John Conyers. Diggs was described as the one black leader "doing the most good" by 27 percent of black people, with Conyers receiving 22 percent.

This year, Diggs is down to two percent and Conyers to six.

Mayor Young, who was a state senator from Detroit in 1968, was chosen as the most effective leader in 1968 by only two percent of the people. This year he's up to 70 percent, with Conyers a distant second.

Young has also soaked up the faith drained from business and labor, with twice as many of the city's blacks giving him high marks for effort as were given to former Mayor Jerome Cavanagh in 1968.

Not surprisingly, 85 percent of the city's blacks believe having a black mayor has helped the city.

When asked why they feel that way, many

of those interviewed talk not about race but about police.

But especially in Detroit, questions about race and police are inevitably intertwined.

While blacks feel much better about neighborhood police protection and think police behavior has improved substantially since the riots, they still think police-community relations have a long way to go.

Even among blacks who say they're satisfied with police protection in their neighborhood, for example, a majority believe officers use unnecessary force in making arrests there.

A majority of those satisfied also believe officers lack respect or use insulting language.

While those negative feelings about police conduct do not seem to dampen the new level of satisfaction with neighborhood protection, blacks who have actually called City Hall with a complaint are a bit more pessimistic about getting results.

BLACK DETROIT: A DECADE OF CHANGE—PART II

Following the 1967 riot, the Free Press conducted a scientific survey of attitudes within the black population of Detroit's riot areas on subjects ranging from personal well-being to politics to racial feelings.

That survey, completed in 1968, has been repeated city-wide in 1977 to measure changes in the minds of black Detroiters during the intervening decade.

The survey, designed by Free Press staff members and Knight-Ridder Newspapers survey research specialist Philip Meyer, was conducted among 610 black Detroiters by telephone interview. That size sample insures a reflection of black community opinion accurate within four percentage points.

The interviews were conducted by black interviewers under the direction of Shirley Hatchett of the University of Michigan and Jerome Toler.

This report on survey results was written by Free Press City-County Bureau Chief Bill Mitchell and Staff Writer Jim Crutchfield.

POLITICS AND PROGRESS IN BLACK DETROIT

In 1968, the year after Detroit's riots, only a third of the city's black residents thought police were doing a good job of protecting their neighborhood.

Today, more than half are satisfied.

In 1968, fewer than a fifth figured city officials would do anything if they called the City-County Building with a serious complaint.

Today, more than twice as many believe they'd get results from such a call.

In 1968, encouraged by grandiose plans and bold promises, most blacks said they believed business and labor groups were trying as hard as they could to help solve the city's problems.

Today, most of that faith is shattered.

These are among the significant changes reflected in a public opinion survey conducted by the Free Press nine years after a similar survey was done to measure the post-riot attitudes of the city's black residents.

In sum, a comparison of the two surveys suggests a black community whose general alienation from city government is on the wane but whose particular grievances remain severe.

Despite the increase from 33 percent to 57 percent of those who say they are satisfied with neighborhood police protection, for example, a majority of the city's blacks still feel police officers use insulting language and unnecessary force in making arrests in their neighborhoods.

And while the percentage of blacks who believe a city official will actually do something about a complaint has risen from 14 percent to 44 percent, fewer than 20 percent believe city services as a whole have improved since the riot.

Much of the black community's improved feelings about city government may stem from its success in electing Mayor Young as the ctiy's first black mayor in 1973.

"In Detroit it's basically black and blacks relate more to a black mayor," says a 22-year-old woman who lives near Hurlbut and Jefferson on the city's east side.

"They think he's looking out for them even when he isn't."

Despite the broad support the mayor enjoys in the black community (70 percent describe him as the city's most effective black leader), his presence in the mayor's office is not enough to allay blacks' feelings that the city has a very long way to go.

Only a third report satisfaction with the quality of Detroit public schools.

Sixty-three percent say they're satisfied with a garbage collection, up from 55 percent in 1968, but views differ considerably in different neighborhoods.

Satisfaction with the city's parks has increased from 21 to 34 percent since 1968, but more than half still express dissatisfaction with the parks and playgrounds in their neighborhoods.

There was scattered approval registered for the improvements the city has made on Belle Isle, but some residents of neighborhoods far away from the east side island complained of broken glass and generally poor maintenance at parks in their area.

Others, like a 77-year-old black man who lives near Pilgrim and San Juan, simply pointed out that there are no parks near them.

Two-thirds of those interviewed believe a riot like the one that happened in 1967 could happen again, a slight drop from the 78 percent who felt that way in 1968.

But only a fifth—the same percentage as 1968—believe "blacks have more to gain by restoring the violence in the civil rights movement."

A majority believe there has been progress in getting rid of racial discrimination and believe that non-violent protest is the best way for blacks to gain their rights.

Surveys taken during the early 1970s indicated that support for violent solutions to discrimination was on the rise among blacks, but recent surveys, including this one, show a strong trend away from violence.

Indeed, the 1977 survey suggests a softer tone to the views of black Detroiters.

Some of the shift may simply reflect changing times, the fact that the late 60s were a time of bold plans and slogans and the middle 70s are not.

Questions which sharply divided the black population in 1968—whether to avoid white people, whether to prepare for riots, whether to limit shopping to black-owned stores—are now greeted with a largely ho-hum response.

In 1968, for example, 45 percent said they thought it would be "harmful" for blacks to avoid having anything to do with white people.

That figure is down to 31 percent today, with substantially more people describing such a tactic as simply unimportant or useless.

The same pattern emerged when blacks were asked whether they should "be ready to fight alongside other blacks and participate in riots if necessary" and whether they should "build a black society completely apart from whites in the United States or Africa."

The results suggest that, a decade after such ideas were popular, most people simply don't take them seriously anymore.

And the heightened faith in city government—at the same time that confidence in business and labor has plummeted—indicates that Detroit blacks have found somewhere else to place their faith, at least for now.

GUESS WHO WINS THE NAME GAME

In 1968, State Sen. Coleman A. Young was not among Detroit's best known black leaders and hardly anybody thought he was doing more for them than other black leaders.

Nine years later, as he seeks re-election as the city's first black mayor, almost everybody knows him, and no other black leader enjoys his reputation in the black community for effective leadership.

His rival in the Nov. 8 mayoral election, Detroit City Councilman Ernest C. Browne Jr., is slightly behind in name recognition but far back on the effectiveness scale.

U.S. Rep. Charles Diggs, the top rated leader in both categories in 1968, has fallen back, particularly in his image for effectiveness.

In the estimation of most black Detroiters, Young has surpassed Diggs, U.S. Rep. John Conyers and three-term City Councilman Nicholas Hood in effectiveness.

Interestingly, recognition of the Rev. Albert Cleage has dropped substantially even as he has quietly consolidated his position as a political power broker. Cleage, of the Black Nationalist Shrine of the Black Madonna, is courted by black and white politicians now.

Here are the percentages of Detroit blacks who recognize the names of various local black leaders, and also a rundown on how citizens view those leaders' effectiveness.

	1977	1968
Coleman Young (mayor)	99	69
James Del Rio (suspended recorder's court judge)	92	82
Ernest Browne (city councilman and mayoral candidate)	92	--
John Conyers (Congressman)	91	86
Nicholas Hood (city councilman)	90	85
George Crockett (recorder's court judge)	90	--
Charles Diggs (Congressman)	89	95
Erma Henderson (city councilwoman)	88	--
William Hart (police chief)	79	--
Albert Cleage (Black Nationalist Church minister)	53	77
Alfred Pelham (retired financial official)	33	--
Which one among them is doing the most good?		
Coleman Young	72	2
John Conyers	6	22
Erma Henderson	4	--
George Crockett	3	--
Ernest Browne	3	--
Nicholas Hood	2	13
Charles Diggs	2	27
Alfred Pelham	2	--
Albert Cleage	2	4
William Hart	1	--
James Del Rio	1	6

BLACK PRIDE: HOW IT HAS WEATHERED TIME

The 1967 riot in Detroit marked a rise in black awareness unmatched in decades and the Free Press asked a series of questions designed to see what has happened to that consciousness during the last 10 years.

Among the results, many black Detroiters who retain at least some of the black consciousness of the '60s and '70s appear to have changed their minds about buying black.

In 1968, one year after many stores in black neighborhoods were looted and burned, 83 percent thought blacks should shop in black-owned stores when it was possible.

Only 48 percent agree now, and the number who disagree has risen from 15 to 49 percent. The drop in buy-black since the heightened consciousness of post-riot 1968 perhaps reflects an inability to find good black stores in which to shop.

It apparently was an idea easy to accept in theory but not in practice. Thinking black appears easier than buying balck.

Along with the change on buying black has come a drop in the percentage of black

Detroiters who believe they are overcharged by stores in or near their neighborhoods.

Black views of the quality of goods in the stores, as well as the treatment they receive there, have not changed.

The years have not significantly reduced the number of blacks who think black children should study an African langauge—even though the schools have done little in this area and have not received much public pressure for it. Half of Detroit's blacks said they think it's a good idea.

The statistics also show that a majority believe now, as they did in 1968, that blacks can make if they work hard.

And a large majority still discount the suggestion that blacks are basically superior to whites.

Here are the results:

Do you agree or disagree with the following statements?

	1977	1968
Blacks who work hard can get ahead just as easily as anyone else.		
Agree	60	58
Disagree	39	40
Don't know	2	2
People of African descent are basically superior.		
Agree	24	23
Disagree	69	67
Don't know	7	11
Blacks should shop in black owned stores whenever possible.		
Agree	48	83
Disagree	49	15
Don't know	2	2
Black school children should study an African language.		
Agree	50	59
Disagree	44	31
Don't know	5	10
How often are you overcharged in stores in or near your neighborhoods?		
Often	34	55
Sometimes	34	22
Rarely	13	8
Never	17	11
Don't know	3	3
How often are you sold spoiled or inferior goods?		
Often	14	15
Sometimes	33	40
Rarely	19	17
Never	32	26
Don't know	2	2
How often are you treated disrespectfully in stores?		
Often	6	7
Sometimes	21	11
Rarely	13	12
Never	59	67
Don't know	1	3

Blacks Look at Whites

As a group, black Detroiters aren't sure whether to regard whites as enemies or allies.

That mixed response was the result of two survey questions aimed at finding out whether blacks feel that whites are generally trustworthy and supporting, hostile or uncaring about black progress.

Half the black Detroiters surveyed figure whites are at best lukewarm about blacks getting ahead. Nevertheless, more than 80 percent say they feel they can trust some white people.

Do you think most white people in the Detroit area want to see blacks get a better break or keep blacks down or that they don't care one way or another?

Better break	33
Keep down	29
Don't care	21
Don't know	16

Do you feel you can trust most, some or no white people?

Most	7
Some	76
None	17
Don't know	1

Police Performance—Harsh, But It Works

Black satisfaction with neighborhood police protection has increased dramatically in Detroit since 1968, and twice as many blacks feel the behavior of police officers has improved since the 1967 riots.

Most blacks believe, however, that the police have a long way to go.

A majority still say, as they did in 1968, that police officers use insulting language and unnecessary force in making arrests in their neighborhoods.

Police-community relations was perhaps the major issue in Mayor Young's campaign four years ago, but the views of his supporters regarding police rudeness and brutality do not appear much different from those of other black Detroiters.

Young's backers give significantly higher marks to the police, however, when asked about neighborhood police protection and the improvement of general police behavior since the riots.

Here are the figures:

How do you feel about police protection in your neighborhood?

Satisfied:	
1977	57
1968	33
Somewhat dissatisfied:	
1977	24
1968	25
Very dissatisfied:	
1977	15
1968	34
Don't Know:	
1977	3
1968	8

How do you feel about police protection in your neighborhood?

Satisfied:	
People who regard Young as best leader	59
People who choose someone else	52
Somewhat dissatisfied:	
People who regard Young as best leader	25
People who choose someone else	21
Very dissatisfied:	
People who regarded Young as best leader	12
People who choose someone else	24
Don't know:	
People who regard Young best as leader	4
People who choose someone else	3

Do you think police treatment of people in your neighborhood has been better since the riots, worse or about the same?

Better:	
1977	49
1968	22
Worse:	
1977	10
1968	15
Same:	
1977	31
1968	48
Don't know:	
1977	10
1968	15

Do you think police treatment of people in your neighborhood has been better since the riots, worse or about the same?

Better:	
People who regard Young as best leader	53
People who choose someone else	40
Worse:	
People who regard Young as best leader	8
People who choose someone else	12
Same:	
People who regard Young as best leader	32
People who choose someone else	32
Don't know:	
People who regard Young as best leader	8
People who choose someone else	16

Do you feel police lack respect or use insulting language in your neighborhood?

Yes:	
1977	51
1968	57
No:	
1977	34
1968	29
Don't know:	
1977	13
1968	14

Do you feel police use unnecessary force in making arrests in your neighborhoods?

Yes:	
1977	55
1968	53
No:	
1977	28
1968	32
Don't know:	
1977	16
1968	15

Business, Labor Images Fade

Blacks' confidence in the determination of Detroit businesses and labor unions to help deal with the city's problems has dropped off significantly in the last decade. At the same time their faith in the mayor's efforts has nearly doubled.

There are a couple of ready explanations for the trend: New Detroit, the coalition of business and labor formed after the riot, was still riding a wave of publicity and optimism in 1968. And Mayor Young, the city's first black mayor, is more likely to be highly regarded by blacks in this time of relative prosperity than was a post-riot Jerome Cavanagh.

Faith in Detroit companies plummeted from 52 percent in 1968 to 24 percent this year, with unions suffering only a slightly less severe loss of confidence from 52 percent to 34 percent.

But this year, 84 percent of the blacks interviewed said they thought the mayor was trying as hard as he could. In 1968, only 42 percent felt that way.

Here is the breakdown:

Do you think private companies in Detroit are trying as hard as they can to solve the main problems of cities like Detroit?

As hard as they can:	
1977	24
1968	52
Fairly hard:	
1977	26
1968	12
Not hard:	
1977	33
1968	19
Don't know:	
1977	17
1968	16

Do you think labor unions in Detroit are trying as hard as they can to solve the main problems of cities like Detroit?

As hard as they can:	
1977	34
1968	52

Fairly hard:
1977 ---------- 21
1968 ---------- 11
Not hard:
1977 ---------- 27
1968 ---------- 18
Don't know:
1977 ---------- 18
1968 ---------- 18

Do you think the mayor of Detroit is trying as hard as he can to solve the main problems of the city?

As hard as he can:
1977 ---------- 84
1968 ---------- 42
Fairly hard:
1977 ---------- 10
1968 ---------- 21
Not hard:
1977 ---------- 4
1968 ---------- 26
Don't know:
1977 ---------- 2
1968 ---------- 11

HOUSING: OPEN VS. BETTER

Blacks' views of the kinds of neighborhoods they would like to live in have not changed much since the 1968 survey, but there are indications of a preference toward improving neighborhoods where blacks already live rather than pushing the open housing approach popular in the 1960's.

There also appears to be a slight trend toward favoring integrated neighborhoods over black-only neighborhoods as desirable places to live.

The results:

Would you rather live in a neighborhood with only black families or in a neighborhood that has both black and white families?

	Black only	Black and white
1977	7	90
1968	13	87

Do you think it is more important to get more and better housing in and around areas where blacks already live or to open up new integrated housing for blacks in other parts of the city and suburbs?

Get more housing:
1977 ---------- 54
1968 ---------- 44

Open up other areas:
1977 ---------- 25
1968 ---------- 41

Both:
1977 ---------- 18
1968 ---------- 14

A LETTER CONCERNING THE F-18

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. DOWNEY. Mr. Speaker, Senator GARY HART's office sent me the following letter from a Navy pilot which appeared in the September issue of the Naval Institute Proceedings, regarding the F-18 naval fighter.

A prime consideration of Congress in looking at new aircraft for our armed services ought to be the views of the men who fly them. I insert the letter in the RECORD:

THE F-18

(By Lt. (junior grade) William G. Garvey, U.S. Navy)

As an E-2C Hawkeye crewman responsible for the early detection of airborne antiship weapons, I have a more than passing interest in the fighter aircraft I will be controlling in the future. The F/A-18 Hornet, so eloquently described by Captain Halleland, sounds like a true fighter pilot's aircraft—small, swift, and maneuverable. It will undoubtedly be a fun jet to fly. Despite this potential for amusement, the Navy had best remember that the lightweight fighter was forced on us and is not the aircraft for the job at hand. Its only virtue, as stated by the CNO, is that it is cheap. Economy is an important consideration, but a weapon system must be judged by its mission capability. When viewed in this light the F-18, in both the fighter and attack versions, offers a marginal advancement, at best, over the aircraft it is programmed to replace.

The primary mission of a shipborne fighter is to protect the CV. That fact has been obscured by our Vietnam experience. We had best remember that North Vietnam had no navy or antiship missiles to threaten the carriers. The worldwide proliferation of Russian-built antiship missiles and their launchers will most likely preclude similar circumstances in the future. Our CVs will be threatened, and it will be the responsibility of the fighters to fend off the attacks.

The "worst case scenario" will involve us with a power which has based its anticarrier tactics on the massive application of antiship missiles. Fighter squadrons will be tasked with shooting down the airborne platforms before they get within launching range or, failing that, to attempt to shoot down the antiship missiles. These fighters will have to use missiles in order to attack the launchers at the greatest possible range from the task force. They will rarely get the chance to use guns. The next generation of fighters will have little opportunity for "hassling" but many for intercepting.

The F-18 is not a good interceptor. It is incapable of the semi-autonomous operations routinely flown by F-14s. The F-18's short-range radar and lack of passive detection capability will necessitate close control from a shipboard or airborne intercept controller. In spite of the increased range of Soviet air-to-surface missiles (ASMs), the F-18 is armed with the old, short-range Sparrow, the same weapon carried by the F-4 which the F-18 is supposed to replace. In fact, it carries four Sparrows, while the F-4 has the capability of lifting six. The F-18's small fuel load will keep it from being stationed far enough from the carrier to engage subsonic strike aircraft; it will be forced to counter supersonic antiship missiles. The Russians have the ability to fire large numbers of antiship missiles from a strike group within a matter of minutes. The F-18 can lock up and shoot only one at a time. In theory, one F-14 can engage and destroy six incoming antiship missiles simultaneously; it will require six F-18s to do the same job. A CAP (combat air patrol) station manned by two F-18s cannot be expected to account for more than two missiles in a strike. Given the Soviet capability to saturate a target, the F-18 is clearly a less than adequate addition to our defenses.

The F-18 in its attack version, the A-18, is also a mediocre performer and, in at least one respect, inferior to the A-7. It may be slightly more maneuverable than the A-7, but with the growing sophistication and number of Russian-built surface-to-air missiles (SAMs), in particular those with electro-optical devices, survivability depends less on physical tactics than "black box" countermeasures. New boxes can be fitted onto existing A-7s, as well as being built into the A-18. A major drawback to the A-18 is its weapon load, a grand total of 13,700 pounds. The single-engined, smaller, and cheaper A-7 carries 19,940 pounds. The A-18 offers a marginal increase in maneuverability and a marked decrease in payload. It's little wonder that the light attack community is not singing the praises of this aircraft.

When then is the Navy reconciled to, and even pleased with, the selection of the F-18? The answer is that the naval air forces and their support activities are largely staffed by exfighter pilots who yearn for the days of snappy, single-seat jets. Day fighters were well suited to the requirements of the early 1950s but are totally unsuited for the present threat. We aren't going to hassle with antiship missiles; we're going to shoot them down with missiles at the greatest range possible from the CVs. The F-18 can't do that, but the "fighter lobby" is so enchanted by the acrobatic potential of the aircraft that the mission has been forgotten. Instead of extolling the virtues of the F-18, we should be sounding a warning for our carrier defenses. It won't do any good to have half the airwing playing Red Baron while the carrier is sinking.

WASHINGTON WORKSHOPS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. GILMAN. Mr. Speaker, for the 10th consecutive year, the Washington Workshops Foundation has brought hundreds of high school student leaders to Washington to study the American legislative process. In celebrating its 10th anniversary October 25, 1977, I should like to commend the commitment and foresight of Mr. Leo S. Tonkin, its founding director, formerly a resident in my congressional district at Suffern, N.Y.

Mr. Tonkin, a graduate of political science from Johns Hopkins University and a law degree recipient from Harvard Law School, has had extensive background in education. Serving in a variety of staff and senior advisory positions to various educational select subcommittees, Mr. Tonkin presently serves on the board of directors of numerous colleges and universities around the country. He was the first layman to serve as chairman of the board of trustees of St. Thomas Aquinas College, Sparkill, N.Y., and the youngest chairman of a board in the United States.

In 1967 he decided to establish a unique student seminar for high school student leaders from across the country where they may learn of the practical and human elements of our National Government. As my colleagues may recall, the summer of 1968 was a most trying time for our Capitol City. However, given his perseverance, the beginnings of an award-winning educational seminar was launched. Since that time, more than 12,000 young Americans have had the opportunity to participate in this excellent seminar program. Due to Mr. Tonkin's immeasurable contribution to the foundation, he has received the admiration of students and staff alike. At a White House ceremony in 1974, President Ford presented Mr. Tonkin the Americanism Award of the Valley Forge

Freedoms Foundation for "outstanding achievement in bringing about a better understanding of the American way of life."

Having addressed several sessions of these student groups, I can readily testify to the high academic standards set by the foundation and the excellent program balance offered to these aspiring young Americans. I heartily commend Mr. Tonkin on his valuable educational seminars and wish him success as he continues to educate our leaders of tomorrow.

INTRODUCTION OF THE COPPER ENVIRONMENTAL EQUALIZATION ACT

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. UDALL. Mr. Speaker, I am today introducing a bill which I have entitled the Copper Environmental Equalization Act of 1977.

This bill is intended to preserve and protect the world's environment by encouraging foreign copper producers to adopt environmental measures substantially equivalent to those employed in the United States. To accomplish this, the bill would impose a duty on imported copper equal to the cost advantages enjoyed by foreign producers who are not subject to environmental regulations comparable to those in effect here.

All nations of the world should recognize a responsibility not to pollute the environment that we all must share. The governments of the United States and of the copper producing States within this country have faced up to this responsibility by imposing stringent air and water quality control laws and regulations, and domestic copper producers have responded by investing more than $1 billion in pollution control facilities. However, many foreign copper producers operate without regard to pollution of the environment, with minimal investment in control facilities and with resulting degradation of the world's atmosphere.

Moreover, foreign copper producers who are not subject to reasonable environmental standards save substantial costs and thereby obtain an extremely unfair competitive advantage over our domestic industry. It has been estimated that domestic producers spend up to 10 cents for each pound of copper they produce to comply with enivronmental regulations. This cost represents about one-sixth of the price at which copper can currenly be sold in the U.S. market. The current copper duty of only 0.8 cents per pound affords domestic producers no significant protection against foreign producers with this enormous cost advantage.

As a result of the low prices currently being charged for copper on the world markets and sharply increased copper imports, the domestic producers have recently curtailed operations with the result that approximately 12,000 American workers have been laid off for varying periods nationwide in recent months. Of these employees, 10,000 are located in Arizona, the State that has been hardest hit by the unfair foreign competition.

Having imposed costly environmental requirements on our own copper producers, we can do no less for them and their workers than to give them an opportunity to compete in our American markets on an equal footing with foreign producers who are not subject to comparable regulations.

The bill is being cosponsored today by Mr. RHODES, Mr. RUDD, Mr. STUMP, Mr. BAUCUS, Mr. LUJAN, Mr. MARRIOTT, Mr. MOLLOHAN, Mr. RUPPE, and Mr. SANTINI.

VORSTER REGIME ATTEMPTS TO STRENGTHEN APARTHEID

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. STEERS. Mr. Speaker, no doubt you are aware of the recent actions in South Africa. The South African Government, according to this morning's paper is embarking on a massive crackdown on dissent against its racial policies, banning 18 civil rights groups, arresting many black and white apartheid critics, and shutting down the major black newspaper.

I had been under the impression that the Government of South Africa was slowly, very, very slowly, moving to dismantle the apartheid system, but these deplorable actions seem to indicate that the South African Government is trying to strengthen the system. If the administration of Prime Minister John Vorster has decided to follow this policy, then I think that some basic United States-South African relationships should be re-examined.

I have introduced today a House resolution that instructs the President to examine to what degree U.S. Government-assisted trade with South Africa supports the apartheid system. The United States must not in any way support apartheid, as it is abhorrent to the ideals that America treasures.

I am certain that the Vorster regime will not listen to humanitarian protests, and that is why my resolution deals exclusively with economic concerns. My resolution would not call for a trade embargo, and U.S. businesses would be free to trade with South Africa. However, they would do so without the assistance of the U.S. Government.

I urge the support of my colleagues for this resolution:

Resolution expressing the sense of the House of Representatives with respect to continuation of United States Government support for American investment in and trade with South Africa.

Whereas the Export-Import Bank of the United States facilitates trade between the United States and the Republic of South Africa;

Whereas the Department of Commerce supports American investment in the Republic of South Africa by providing information about economic conditions in that country and by assigning commercial attachés to that country;

Whereas other United States Government policies and practices may encourage American investment in and trade with the Republic of South Africa; and

Whereas the Government of the Republic of South Africa has recently taken brutal and extreme measures against its citizens who demand equal rights: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the President should review those practices and policies of the United States Government which may provide encouragement for United States investment in or trade with South Africa; and

(2) if the President concludes as a result of such review that the international trade and investment policies and practices of the United States Government are beneficial to the current Government of the Republic of South Africa, then he should consider what steps should be taken by the Congress and by the executive branch to end that support.

HELSINKI'S UNFULFILLED PROMISE

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. COUGHLIN. Mr. Speaker, I am pleased to be able to participate in the project initiated by the Honorable ROBERT DRINAN, entitled "Helsinki's Unfulfilled Promise." The Helsinki accords, signed during August of 1975, included pledges from the signatory nations to allow freedom of movement across international boundaries and to facilitate unification of families split apart by political borders. Unfortunately, many of the 35 nations which signed the accords have chosen not to fulfill their promises. The Soviet Union is the most prominent example.

I would like to call to the attention of my colleagues the unfortunate case of Leonid and Ludmila Volvovsky and their daughter, Kira, of Moscow. Since requesting permission to emigrate to Israel in 1974, both Leonid, a mathematician and Ludmila, an electrical engineer were dismissed from their jobs and subsequently denied permission to leave the U.S.S.R. The family has fallen on very difficult times with neither Leonid nor Ludmila permitted to work for nearly 3 years and, in addition, are subjected to continual harassment by Soviet authortiies.

The plight of the Volvovskys, held virtual prisoners in a country which denies them the rights basic to citizenship and the right to employment, is cruel. They are victims of a country who considers them as aliens, yet refuses to allow them to leave.

I would hope my colleagues will remember the Volvovsky family and so many other Soviet families whose only crime is they wish to leave the Soviet Union, and urge the Soviet Union to comply with the provisions of the Universal Declaration of Human Rights which assures each individual the right of self-determination.

CHICAGO IS PROUD OF ITS VETERANS

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. FARY. Mr. Speaker, on Monday, October 24, this Nation will celebrate Veterans Day which honors the many great men who sacrificed to preserve the gem of liberty for all of us to enjoy. I look forward to the many observance ceremonies in my hometown of Chicago in which I will participate. Chicagoans are aware of the importance of this day and they take pride in the many veterans residing in Chicago.

Veterans Day was originally called Armistice Day and it marked a great day of peace in this world: the end of World War I on November 11, 1918. On that day Americans learned of the peace agreement in the early hours of the morning. In the cities, most citizens heard of the agreement as they were preparing to go to work.

The Chicago Tribune had been holding their press in anticipation of the news. They were the first paper in the country to publish the news. A half hour after the verification was received by telegraph from the State Department in Washington, newsboys were hawking the Tribune on the streets of Chicago—filling the air with the bold headline announcing the war's end. As the day broke, spontaneous parades started in all parts of the city. Church bells rang the news, cars honked, and people beat on pans and hollered in the streets while factories blew whistles. The people of Chicago were elated.

For many others it was a day of tears. Reminded of the loved ones who would never come home, they openly cried in the streets, sharing their grief with the celebrants.

It was with this same strong mixture of emotions that France and England, 2 years later, chose Armistice Day as the day to place an unknown soldier of World War I in each nation's highest place of honor. France chose the Arc de Triomphe. England selected Westminster Abbey.

The following year, on November 11, 1921, America followed the example of her European neighbors and brought an American soldier whose name was "known only to God" to Arlington National Cemetery. After a solemn funeral procession the soldier was laid to rest in what has since become the Tomb of the Unknown Soldier.

The Tomb of the Unknown Soldier at Arlington National Cemetery continues to be the focal point for the observances of Veterans Day, which was changed from November 11 to October 24 by Presidential proclamation in 1976.

The observances in Chicago will be held simultaneously with ceremonies at Arlington and in cities throughout the country. In Chicago citizens will pay an emotional tribute to its many residents that have served in war. Veterans groups will hold "lest we forget" services at churches and in cemeteries on Sunday, October 23 as well.

Chicago takes a great personal pride in these veterans that are living there today, and still pays solemn tribute to those that were lost to the wars. From World War I to World War II, on to Korea and through Vietnam, the people of Chicago will never forget the soldiers who bravely faced death on foreign soil to secure for us the valuable privilege of "life, liberty, and the pursuit of happiness."

ARTICLE BY BO GINN IN NEW YORK TIMES

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. JENKINS. Mr. Speaker, I wish to express pride and appreciation in the work on the House Public Works and Transportation Committee of my senior colleague from Georgia, the Honorable BO GINN. On October 17, 1977, BO GINN was the author of an article in New York Times describing the difficulties of semantics in the field of environmental and toxic substances regulation.

I wish to share with my colleagues that article which provides the benefit of BO GINN's experience in this area:

ARTICLE BY BO GINN

A series of hearings recently concluded by the House Public Works Investigation Subcommittee dramatized for me the verbal confusion that so often characterizes legislative life in Washington. I say this not in any critical sense but rather in the hope that recognizing this fact may provide an insight or two about how our Government functions or, at times, appears to malfunction.

The issues were the growing need to control the dissemination of toxic chemicals and the thermal and other impacts on water associated with the electrical-power generation.

Our witnesses were knowledgeable and articulate. Among the 20 members of the subcommittee, too, were individuals of high intelligence and reasonable analytical competence. But there was obvious trouble in communicating. We were confused with an absolute blizzard of words and phrases of imprecise, highly subjective meaning.

Take the language of the law itself. Could anyone in any way familiar with recent episodes involving Kepone, P.C.B.'s, mercury or carbon tetrachloride argue with the rather clear statutory dictum that "the discharge of toxic pollutants in toxic amounts be prohibited?"

Obviously, that is what we all desire. But what is a toxic pollutant? And what is a toxic amount? And toxic to whom, or what, and under what circumstances? At what levels are certain organic chemicals, found in bodies of water, of inconsequential effect? At what levels do they become pollutants that disrupt fragile ecosystems or contribute to acute or chronic disease in humans?

Somehow, the statutory mandate to control "toxic" must be translated into regulations that are published in the Federal Register and equitably enforced for tens of thousands of chemical substances discharged daily by tens of thousands of dischargers.

Another example of our semantic dilemma is the requirement that the discharge of heated water by a power plant must "assure the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife" in the receiving body of water.

But what is a "balanced, indigenous population"? What point in time—10 months ago? 10 years ago? 100 years ago?—do we establish as the population benchmark to be protected?

How important is a single species, or a cycle in the life of a species as, for example, the clam larvae that would be affected by operation of the Seabrook, N.H., nuclear-power plant? Professional opinions vary widely. The experts argue endlessly among themselves.

Witness after witness cautioned that the discipline of marine biology, and even the broader science of ecology itself, is "inexact" and "not predictive" and that we are "at the frontier" in true understanding.

But Congress, or any other level of government charged with protecting the public health and safety, or with cleaning up the environment, cannot wait for perfect data. Nor will there ever be unanimity of scientific opinion. Laws must be passed and regulations issued based upon the best information available, recognizing that tradeoffs are inevitable, value judgments will color the actions of legislators and regulators, and the words to which we resort will likely betray us.

The governmental course will continue to be charted with phrases like "best practicable treatment" and "preponderance of evidence" and "ample margin of safety" and "judgment of the administrator." What these phrases really mean will evolve from contentious court cases and practical regulatory experience.

As the weary process unfolds, Americans worried about pollutants in their drinking water and elsewhere in the environment perceive the Government's control program to be one of abject failure. Citizens conclude that their public servants are inept, or lazy, or simply not trying.

It is true that Federal officials and agencies display their share of human foibles, and the purpose of oversight hearings is to stimulate the Environmental Protection Agency and others in the Federal bureaucracy to make steady, determined efforts.

But our perception of the task is flawed if it does not include recognition of the complexity and the imprecision inherent in what we are trying to do. Above all, we will be guilty of superficial negativism if we do not reflect upon what Stuart Chase once described as the "tyranny of words," intimidating even men of good will and unquestioned professional qualifications.

Against this backdrop, patience and tolerance emerge as important credentials as we proceed tortuously along the path of progress.

PACIFIC NORTHWEST ENERGY LEGISLATION INTRODUCED

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. McCORMACK. Mr. Speaker, I have today joined with two of my colleagues from the Washington congressional delegation (Messrs. DICKS and FOLEY) in cosponsoring legislation drafted by the Pacific Northwest Utilities Conference Committee (PNUCC). The effect of this legislation would be to establish a new format for sharing electric energy among the various public and private utilities and major industries within the areas served by the Bonneville Administration. Identical legislation has previously been submitted by the Honorable LLOYD MEEDS, also of Washington State.

This legislation attempts to treat a complex, but very dangerous situation which is expected to arise as contracts presently in existence between nonpreference customers of the Bonneville Power Administration, such as certain private utilities and certain major industries, expire. At that time, it is anticipated that demands for electricity from preference customers (publicly owned utility systems) will be sufficiently increased that they will effectively squeeze nonpreference customers out of any claim to any share of Bonneville Power.

The legislation we are submitting proposes formulae and mechanisms by which the situation may be successfully handled. It should be emphasized that most of us who are sponsoring this legislation look upon it as a first working paper which may be amended before it finally passes either House of Congress or is enacted into law. Nevertheless, it is an important first step, and represents our attempt to initiate serious consideration of this matter with the Congress, and which, in turn, may lead to enactment of legislation to treat the problems we foresee.

A THEORY OF MORAL SENTIMENTS

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. LEVITAS. Mr. Speaker, Prof. Harold L. Johnson at Emory University's Graduate School of Business Administration, writing on the view of business ethics indicated by Adam Smith's 1759 book "A Theory of Moral Sentiments," was recently quoted in the Wall Street Journal's "Notable & Quotable" section. Professor Johnson's remarks that ethics in commerce are responsible for continued prosperity and to a general advance in human welfare are so pertinent that I include them in the RECORD:

NOTABLE AND QUOTABLE

(Harold J. Johnson, professor of economics at Emory University's Graduate School of Business Administration, writing on the view of business ethics indicated by Adam Smith's 1759 book "A Theory of Moral Sentiments," in the AACSB Bulletin, published by the American Assembly of Collegiate Schools of Business:)

Smith would have found very congenial the modern proposition that a viable market system requires a vital ethical-moral context in which to thrive. In contemporary language, fraud, bribery, deceit and dishonesty so increase already high levels of uncertainty in the economic world that many participants opt out of trade and commerce. The benefits gained from exchange are swamped out by excessive policing and transaction costs—if it really is a dog-eat-dog world.

If fear exists that other participants by deception know more than you do about the situation and will cheat you at every turn, then you don't play the game. A retrenchment to bare-bones levels of trade and exchange takes place—or perhaps more realistically, given the tenor of 20th-Century politics—radical changes in the system are sought.

For Smith, participants in the market game who seek to maximize gains are policed and directed both by the social forces of competition and of ethics to a general advance in human welfare.

LOOTING REACTION AND LIBERAL RACISM

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. DERWINSKI. Mr. Speaker, the New York mayoral elections will be held the first Tuesday in November. However, the general election has been overshadowed by the vigorous primary, which produced a number of political contradictions and shifts in viewpoints.

Allan C. Brownfeld, in an article appearing in the Lima, Ohio, News, of October 7, very effectively gives his perception of the New York race. The article follows:

LOOTING REACTION AND LIBERAL RACISM

(By Allan C. Brownfield)

The results of New York City's primary elections to choose candidates for mayor of the nation's largest city show a decided swing to the right in the post-looting, post-blackout atmosphere now existing.

The winner of the Democratic primary, which is usually equivalent to election in the largely Democratic city, was Rep. Edward Koch. Koch, a long-time liberal, shifted to the right in order to emerge victorious. The two most liberal candidates, Mayor Abraham Beame and former congresswoman Bella Abzug didn't even make it to the run-off.

What was considered unusual about the campaign of liberal Koch was its strong conservative flavor. Koch, facing an electorate stunned by the "Son of Sam" murders and the looting during July's blackout, came out strongly for capital punishment and for the use of the National Guard.

Indeed, Koch's opponent in the run-off, New York Secretary of State Mario Cuomo, made an issue of Koch's support for capital punishment. He made no headway and, in fact, may have driven even more voters in Koch's direction. But law and order was not the only conservative approach taken by Koch. He also urged welfare cuts and attacked the city's labor unions for abusing their powers. He called for major tax cuts and tax credits for business and suggested that it might be necessary to lay off public officials and lower wages for municipal workers.

So embittered was Koch's run-off opponent, Mario Cuomo, that after losing he stated Koch was no longer a traditional Democrat. "This guy's a conservative," said Cuomo.

All of this further confirms a series of polls taken in New York City after the summer looting. New Yorkers generally condemned the looting as common thievery, rather than a protest by blacks against ghetto living. In response to a series of questions designed to determine the impact of the looting generally and on the primary, city residents favored a call-up of the National Guard in any future blackout.

The questions on the reasons for the looting demonstrated that New Yorkers—including registered Democrats, usually the most liberal segment of the electorate—took a hard line on the thefts, in some cases more harsh than the respondents in a New York Times-CBS national survey the month before.

In one survey, city residents were reminded that almost 4,000 people were arrested for breaking into neighborhood stores and stealing during the blackout. They then were asked to choose among some possible reasons for the looting, including (1) They were poor and needy, (2) They are the kind of people who always steal if they think they can get away with it, (3) It was a chance to get even with storekeepers in their area, (4) Violence tends to happen on hot summer nights (5) They are out of work and frustrated.

Sixty per cent of the 2,171 persons interviewed said the looters were "the kind of people who always steal if they think they can get away with it." The registered Democrats in the poll agreed by an even greater proportion. Those interviewed overwhelmingly rejected by margins ranging from 57 per cent to 78 per cent the other possible reasons for the looting suggested by liberal politicians, liberal newspapers and black spokesman. Significantly, the highest rejection rate was for the "poor and needy" reason for the looting—favored by the majority of the apologists for such violence. Those interviewed rejected this by a 74 to 18 per cent margin.

In addition, the traditional liberal assessments of looting and violence, that those involved were unemployed and were expressing rage at past discrimination, was not borne out by the facts of New York's latest experience of disorder. A report issued by the New York City Criminal Justice Agency indicates that 45 per cent of those arrested had jobs. When this is compared with arrests during a non-blackout period, it was found that only 30 per cent of all those arrested had jobs. Some 40 per cent of the blackout related defendants were unemployed, compared with 57 per cent of those arrested during the typical sample week in June. Of those, only 10 per cent were on welfare compared to 16 per cent during the non-blackout week. This report flatly contradicts the opinions widely voiced by black leaders that the July 13–14 looting spree was closely related to "the mass unemployment afflicting ghetto dwellers, especially black youths."

Fortunately, there is a real backlash in New York City against the liberal permissiveness perceived by many as the real cause of the looting and violence. Writing in the September issue of Commentary, Midge Decter notes, "All those young men went on their spree of looting because they had been given permission to do so. They had been given permission to do so by all the papers and magazines, movies and documentaries—all the outlets for the purveying of enlightened liberal attitude and progressive liberal policy—which had for years and years been proclaiming that race and poverty were sufficient excuses for lawlessness. They had been given permission to do so by all the politicians . . . who had for years and years . . . been expressing their belief that there was no other way to 'tame" ghetto youth except through bribery . . ."

Mrs. Decter concludes with words which should be taken seriously by all concerned with the future of our cities and of race relations: "Young blacks are getting the message from the liberal culture, more subtly but just as surely as from any old-time Southern sheriff, that they are, inherently, and by virtue of their race, inferior. There are virtually no crimes they can commit that someone with great influence does not rush in to excuse on the grounds that we had no right to expect anything else. . . . It is, to be blunt, the message of liberal racism."

LABOR LAW: THE SENATE CAN STILL REFORM THE REFORM

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. McKINNEY. Mr. Speaker, both as a small businessman and as a Congress-

man, my understanding of the purpose of the National Labor Relations Act—NLRA—has always been the recognition of employee organizational rights and the creation of a Federal system to balance those rights against the legitimate power of employers to run their businesses. That puts the Federal Government right in the middle of the labor-management struggle and that is just where I found myself on the Labor Law Reform Act of 1977—in the middle of a shouting match.

Faced with almost theological rhetoric from both sides, I and my staff spent long hours sorting through the absolutely contradictory claims that this bill is "a blatant union power grab" on the one hand, and the "only way to repair the gross imbalance created by increasingly profitable violations of the labor laws" on the other. Clearly, the truth lies somewhere in between. Therefore, I found myself in agreement with the conclusion of the Wall Street Journal of August 17 which found H.R. 8410 an acceptable bill despite certain flaws. My vote in support of the bill, as amended by the House, was prompted therefore by my belief that H.R. 8410 offers more benefit than detriment to our labor-management program. Also, that vote was in part motivated by my confidence that the Senate will address the bill's remaining weaknesses during its consideration of parallel legislation, S. 1883.

Generally, I support the goals of labor law revision as expressed in President Carter's message to Congress which urges enactment of a bill "to help reduce the problems of delay and enable the NLRB to better handle its increasing caseload." However, to endorse those goals is not to tacitly criticize the performance of the Board, for it is the Board's judicious application of the NLRA which has fostered an unprecedented period of industrial peace and prosperity over the past 42 years. Yet no device, however effective and efficient in the present context, can hope to remain so under the myriad of circumstances presented by our changing economy.

According to testimony before the House Committee on Education and Labor by NLRB Chairman John Fanning, the Board caseload has already expanded by more than 300 percent since 1957 and Board analysts anticipate another 20-percent growth in cases and decisions by 1979. This year, the Board will issue 1,121 decisions and will be called upon to issue more than 1,400 in 1979. The time will surely come, according to Fanning's testimony, when the Board's existing procedures for expeditious resolution of NLRA cases will be overwhelmed. Clearly, those provisions of H.R. 8410 which expand the Board, provide for three-member summary panels to approve a limited category of noncontroversial administrative law judge decisions, and other speedup provisions will equip that body to continue to function with increasing productivity on a case-by-case basis. Rather than increasingly rely on the application of rigid rules and regulations to the infinite factual variations of labor-management conflicts, I think the Board should remain able to function from that quasi-judicial posture and H.R. 8410 makes that possible.

In addition, those sections of H.R. 8410 which are designed to speed the resolution of organizational and representation election disputes are needed to establish in the statute the principle that an employee's section 7 rights cannot be acknowledged by word and then thwarted by the deeds of employers who find delay more profitable than cooperation. A clear distinction must be made between the legitimate exertion of rights and powers granted to both sides under the law and the interposition of frivolous claims. The former is a lawful right and if the resolution of valid employer claims and objections takes more time than some union organizers would like, then I say, "So be it." But I do not consider the intentional firing of an employee and subsequent protracted litigation to achieve only delay as the exertion of any right. Rather, such delay extracts far more process than is due and flaunts the due process protections provided by the law. That simply cannot be tolerated or tacitly condoned—even in a small but growing number of cases. Such a destructive precedent requires a legislative response.

Further, despite the rash of "horror stories" regarding the impact of this legislation, no employer representative before the Education and Labor Committee presented a plausible scenario to demonstrate that any but the flagrant violator should fear the bulk of these provisions. What I consider to be irrational charges of "Board packing in the Roosevelt tradition" are not supported by the realities of NLRB history and practice. The bill protects the partisan balance of the NLRB, which in my opinion has been surprisingly free of partisan taint throughout its controversial history. Also, the House-passed amendment which requires three-member panels to summarily affirm ALJ decisions, rather than the two-member panels recommended by the Committee, will insure consistent Board policy.

However, when viewed against its stated goals, several sections of H.R. 8410 appear overzealous and unnecessary. In particular, while the principle of a fixed time for representational elections is important, 15 days is simply too short for companies, large or small, to respond adequately. As the proprietor of a small tire sales chain in Connecticut before coming to Congress, I would have been hard pressed to collect the lists and data necessary to present my case to my employees in only 15 days. I think the time limits amended into the bill during House debate are far more realistic and I urge the Senate to adopt them as well.

I also hope the Senate will do what the House did not—examine the so-called deterrent remedies of this bill free of antagonistic and polarized rhetoric. Section 8 of the House-passed bill contains remedial provisions which seem to have no place in an essentially voluntary body of law. Stiff, predetermined sanctions might give the Board the "teeth" it now seems to lack in making its orders effective against a determined violator. Yet, these particular provisions bring excessive and unwarranted outside pressure upon parties which the NLRA otherwise seeks to insulate.

The House amended the Federal contract debarment clause to provide the needed flexibility so this particularly harsh penalty will only be used against the truly recalcitrant labor law evader. Provisions for double back pay to unlawfully fired employees and contract "make whole" determinations for refusals to bargain were softened by the House. But still, if the streamlined procedures for election and resolution of ancillary disputes are effective—and I think they will be—I question the need for sanctions invoked only when the law is delayed. In short, we have the choice between prevention of unlawful conduct through enhanced Board procedures or the punishment of that same unlawful conduct through harsh remedies. I endorse the former approach. I hope the Senate will make this choice more clearly manifest in the final bill.

However, while I am uncomfortable with the insertion of these automatic remedies, I do not think they represent such a radical departure from Board policy as to require the defeat of the entire bill. With the possible exception of the Federal contract debarment—which is now imposed on civil rights violators pursuant to an executive order—each of these remedies has been sought by the Board in a limited number of cases. Clearly, each is appropriate under certain factual situations and should be within the power, but not the duty, of the Board to order. There lies, in my view, the ultimate salvation of this bill: the wise use of NLRB discretion. I am confident that the use of these remedial sanctions, if enacted as passed by the House, will be tempered by the experience and wisdom of the Board and its continuing desire to see the NLRA remain an essentially cooperative statute.

I am also troubled by the so-called equal access regulations this bill directs the Board to promulgate. Strong lines of Board decisions and appeals court cases limit the access to employer premises on the basis of property rights. Further, section 8(c) of the NLRA protects the employer's right to speak to employees regarding union organizational efforts. Any revision of these policies without clear limits on the extent and duration of expanded access as well as a related expansion of the employer's 8(c) freedoms to participate in that debate will tip the delicate balance this statute strives to maintain. The House-passed version of this section moves toward these goals, but is unrealistic to assume that employers want or need access to union halls to even the score. The section needs further work, and I hope it gets the attention it needs during the Senate debate.

In conclusion, I hope my House colleagues will follow the Senate debate on this matter closely. Scheduling irregularities and a less than honestly open rule prevented the fullest possible discussion of these issues during our consideration of H.R. 8410. If the conference version is to represent what reforms are truly needed to modernize our labor laws, it is incumbent upon each of us to continue this discussion. It must be remem-

bered that the primary impetus of labor law, before and after any reform legislation, will remain to encourage the prompt and voluntary resolution of legitimate labor-management disputes by insulating that adverse relationship within the collective bargaining process. The final bill must be judged against that standard alone.

PRESIDENTIAL COMMISSION ON WORLD HUNGER

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. GILMAN. Mr. Speaker, hearings were held today before the House Committee on Agriculture on House Resolution 784, a resolution establishing a Presidential Commission on World Hunger.

This legislation, introduced by my distinguished colleague from Minnesota (Mr. NOLAN) and I, and approximately 260 Members in the House, and by Senators LEAHY and DOLE and more than 50 of their colleagues, addresses itself to a long lingering problem demanding the energies of the President, the Congress, and all citizens concerned with reversing the deleterious effects of world hunger and malnutrition.

I am hopeful that both the House Agriculture Committee and the House Committee on International Relations will follow the lead of the Senate Agriculture Committee and favorably report out this urgently needed measure.

At this point, in the RECORD, I insert my testimony delivered today before the House Agriculture Committee:

TESTIMONY BY MR. GILMAN BEFORE HOUSE COMMITTEE ON AGRICULTURE

Mr. Chairman, and distinguished members of the House Committee on Agriculture, I am pleased to appear before you today in support of H. Res. 784, creating a Presidential Commission on World Hunger.

This legislation, introduced by my distinguished colleague from Minnesota, Richard Nolan and I, and over 260 Members in the House, and by Senators Leahy and Dole and more than 50 of their colleagues in the Senate, has a threefold goal: (1) establishing clearly the causes of hunger and malnutrition and the relationships between domestic and international hunger and malnutrition; (2) identifying and evaluating existing programs and policies related to hunger and malnutrition; and (3) developing for the President and the Congress, specific recommendations for policies and legislation to markedly reduce hunger and malnutrition.

The problem of world hunger, and subsumed under that term I refer to the hunger and malnutrition existing in this nation as well, is multifaceted and replete with lingering manifestations which heretofore have proved resistant to our best efforts to eliminate them.

Last year, the Subcommittee on International Resources, Food, and Energy, of which I was the ranking minority member, held 4 days of hearings on "the Right-to-Food" Resolution. Testimony from more than 25 witnesses contained numerous interpretations of the causes of widespread hunger and malnutrition and illuminated the cataclysmic problems associated with global hunger.

Many well-reasoned but often divergent recommendations for combatting hunger were advanced, with agreement crystalizing around the conclusion that key policy decisions remained concerning implementing an intensified commitment to markedly attenuate the crisis of world hunger and malnutrition.

Moreover, statements received illuminated the necessity for bearing in mind our responsibility to our nation's farmers and consumers, to whom we must assure a fair and equitable price in the marketplace.

I am confident that a Presidential Commission on World Hunger can serve as a vehicle by which we can arrive at a responsible and well-reasoned answers to these problems.

I might add also, that at a briefing before Congress yesterday, Dr. Peter Bourne, Special Assistant to the President, indicated that a mutually beneficial relationship could be established between the Presidential Commission on World Hunger and the Executive working Group set up by the President to develop initiatives in the area of world hunger and malnutrition.

I am hopeful that subsequent to favorable action on this legislation by the Committee on Agriculture, the House Committee on International Relations, of which I am a Member, will hold a session similar to this one today, and report out favorably, H. Res. 784.

SUSAN Y. PERKINS

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. APPLEGATE. Mr. Speaker, it is not often that a Member of Congress has the opportunity to honor in this way, a person who has attained so much in such a short period of time.

To my colleagues in the House, the name of Susan Yvonne Perkins is instantly recognized as the beautiful, vivacious, 1978 Miss America. We are all very proud of her for this achievement. However, the members of the Ohio congressional delegation are even more proud than other State delegations, as Miss Perkins was also Miss Ohio.

Mr. Speaker, there is not a Member here today who is more proud of Miss Perkins than myself. You see, she was awarded the title of Miss Clayland 1977 during the Clayland Festival which is held annually in my congressional district.

I know I speak for the people of the 18th Congressional District, when I say that we feel that Susan is one of us, that her road to success started with us.

Susan Perkins represents the high quality of youth today that America has to offer. She is an individual who is of outstanding character and who cares deeply for family, friends, and country.

Mr. Speaker, our Miss Clayland will be honored for her accomplishments with a parade and dinner in my district on Sunday, October 30, 1977. Through these festivities we will attempt to express our wishes for all the happiness and good fortune that the future can hold for one person.

Again, on behalf of the 18th Congressional District, I would like to congratulate Miss Susan Yvonne Perkins, Miss America, 1978.

FLUIDIZED-BED COMBUSTION

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. CARTER. Mr. Speaker, the increased demand for the use of coal as directed by the National Energy Act as a substitute for the use of oil and gas, make it vital for this Nation to investigate improved technology for direct utilization of coal. It is imperative for us to find cleaner, more efficient methods of burning coal. One such promising technology is known as the fluidized-bed combustion (FBC) system. Fluidized-bed combustion is a major opportunity to realize improvements in cost, fuel resource utilization, while at the same time protecting the environment.

The FBC process promises low sulfur dioxide and nitrogen oxide emissions coupled with high overall efficiency in generating electricity. In addition, FBC designs boast the capability of burning many types and grades of coal, including eastern coal, as well as municipal sludge and refuse, industrial and agricultural cellulosic waste material, oil shale and petroleum fractions. Also, FBC offers lower capital and operational costs compared to conventional coal-fired boiler systems.

The FBC system has been given optimistic reviews by both the Energy Research and Development Administration and the Tennessee Valley Authority with respect to the success of their FBC pilot projects.

If we are going to burn coal, Mr. Speaker, we must learn a better way to do so.

I am pleased to insert into the RECORD for the attention of each Member and the public, the lastest report by the Environmental Protection Agency on fluidized-bed combustion:

FLUIDIZED BED COMBUSTION

(By Frank T. Princiotta and Morris H. Altschuler)

INTRODUCTION

As we have heard so often recently, coal is our Nation's most abundant resource. Yet because of economic and environmental considerations, limited use has been made of this fossil fuel. In many locations direct conventional combustion of coal without flue gas desulfurization is environmentally unacceptable except where scarce-low-sulfur coal is available. As sulfur dioxide emission standards become more stringent, less coal will be available for conventional combustion without the need for sulfur control technology. Fluidized bed combustion (FBC) provides an alternative to conventional combustion of coal with flue gas scrubbers for both utility and industrial applications. The development of this technology is consistent with the directives of both the National Energy Plan and the President's Environmental Message in that it provides for the expanded use of coal in an environmentally acceptable manner. The National Energy Plan also specifically encourages the development of FBC technology.

PROCESS DESCRIPTION

The technology involves the combustion of coal in a bed of granular, non-combustible

material such as limestone or dolomite sorbents for sulfur dioxide (SO_2) removal. Combustion air is passed up through the plate, causing the granular bed particles to become suspended. Heat generated in the bed can be removed by heat transfer surfaces, e.g., steam tubes, placed in the bed. A number of process variations are being considered. These are generally categorized according to process variables such as bed operating pressure, and the presence or absence of heat transfer surfaces in the bed. FBC may find application in electric utility power generation or industrial steam and power production.

ADVANTAGES

It is anticipated that FBC technology will exhibit several environmental as well as economic advantages over that of uncontrolled conventional coal combustion. SO_2 removal is achieved by reaction with limestone or dolomite. Nitrogen oxides (NO_x) emissions are expected to be reduced because of lower operating temperatures. A wide variety of coals, including low-quality, high sulfur coals can be burned without slagging because of low combustion temperatures. Heat transfer coefficient is high, thereby reducing boiler size and cost. The multicell unit design being demonstrated lends itself to mass production assembly, saving time and money. The overall thermal efficiency is anticipated to be somewhat better than conventional combustion with flue gas desulfurization; pressurized FBC (PFBC) offers the potential for more substantial efficiency improvements.

SO_2 removals of up to 90 percent can be achieved with atmospheric FBC (AFBC) and 90 percent or better removal of SO_2 is anticipated with PFBC, with once-through additions of fresh limestone (AFBC) or dolomite (PFBC). NO_x levels of 0.3–0.6 lbs/MM BTU are expected with AFBC and 0.2–0.4 lbs/MM BTU are anticipated with PFBC. SO_2 and NO_x levels of removal are expected to meet the existing New Source Performance Standards (NSPS) for power plants, but may only marginally meet more stringent standards which may soon be proposed. It is anticipated that particulate emissions from FBC would be about the same as from conventional plants, requiring an add-on particulate control device. It must be emphasized that all FBC emission data must be characterized as preliminary until further studies are completed on larger scale units. Although cost data, both capital cost and total annualized costs, are presently projected to be somewhat lower over conventional combustion with flue gas desulfurization, neither EPA, EPRI or ERDA anticipates, at this time major cost savings. Figure 1 summarizes cost estimates from three separate sources for current and emerging energy technology. AFBC and PFBC appear less expensive than other emerging technologies and comparable to conventional combustion with FGD.

FIG. 1.—COST OF SO_2 CONTROL TECHNOLOGIES (BASELOAD CASE)

Approach	Add on capital cost for SO_2 control	Total annualized cost			Total power cost (mills Kw(e))
		Total (Kw(e))	Coal cost	SO_2 control	
Conventional boiler:					
EPA/TVA [1] (high-sulfur coal)	0	$500–$700	7.9	0	31.5
EPRI [2] (low-sulfur coal)	0	375–460	2.5	0	25.0–28.0
ERDA [3] (low sulfur coal)	0	294–404	13–15.0	0	22.0–23.0
Conventional boiler/FGD: [4]					
EPA/TVA:					
Lime scrubbing	$48.0	549–749	7.9	3.3	34.8
Magnesium oxide	$7.4	557–757	7.9	2.6	34.1
EPRI:					
Nonregenerable	80.0	485–625	10.0	6.0–7.5	29.0–33.0
Regenerable	240.0	$75–740	10.0	7.0–9.5	20.0–35.0
ERDA (lime/limestone)	72.0	366–476	11–13.0	2.6–3.6	21.0–24.0
Atmospheric fluidized bed:					
EPA/TVA		632	7.9		30.0
EPRI		450–655	10.0		27.0–35.0
ERDA		389–409	11–13.0		18.5–21.5
Pressurized fluidized bed:					
EPA/TVA		723	7.9		35.5
ERDA		332–462	11–13.0		20.0

[1] Ponder, W., et.al., "SO_2—Control Methods," The Oil and Gas Journal, Dec. 13, 1976.
[2] Anon, "Clean Coal: What Does It Cost At the Busbar?" EPRI Journal, No. 9, November 1976.
[3] Anon, "Comparing New Technologies for the Electric Utilities," ERDA 76-141, Dec. 9, 1976.
[4] The author believes that the capital and annualized FGD costs utilized by EPA/TVA and ERDA are reasonable; however, the EPRI estimates are considered too high for the regenerable case.

STATUS OF DEVELOPMENT

The Energy Research and Development Administration (ERDA) has the primary governmental responsibility for the development of FBC systems. The objecti e of ERDA's Direct Combustion Subprogram is to develop FBC systems capable of directly burning high sulfur coals of all ranks and quality in an environmentally acceptable manner. In addition to the ERDA FBC technology development efforts, the Electric Power Research Institute (EPRI), American Electric Power (AEP) and the State of Ohio as well as several foreign countries have been conducting studies to advance the state-of-the-art of FBC. The Environmental Protection Agency has the specific governmental responsibility to assess the environmental impact and develop pollution control technologies for FBC systems and use the associated information generated to establish emission standards.

The major component of the ERDA Atmospheric FBC program is the 30Mw Rivesville, W. VA facility. The facility was built by Pope, Evans and Robbins, Inc. and Foster Wheeler Energy Corp. It is a multicell boiler consisting of four adjacent burner cells and is 21 feet high by 36 feet wide by 12 feet deep. The unit is designed to produce 300,000 lbs. of steam per hour. The three primary cells operate at 1550°F and the carbon burnup cell operates at up to 2000°F as can be seen in the schematic of this 30 Mw unit (Figure 1a). Construction was completed in 1976 at the Monongahela Power Company's plant at Rivesville, W. VA. Initial light off of the boiler with coal occurred on December 7, 1976. Currently the unit is being shaken down and coal feeding problems are being encountered (which are unrelated to the FBC process). It is understood that a short run was conducted using all four cells, generating 250,000 lbs. of steam per hour. Full operation and testing of the unit is scheduled shortly.

The second major component of ERDA's AFBC program is the Industrial Applications program, of which the Georgetown University boiler is the most prominent. This program is to identify and conduct evaluations of industrial boilers to determine and to evaluate applications in which FBC is technically, economically and environmentally feasible. Several boilers will be designed, built, tested and demonstrated including units at Georgetown University and four other locations around the country. The Georgetown unit is 100,000 lb./hr. steam (5 ton/hr. coal rate) and is scheduled for operation beginning in FY 1979.

A third major project in ERDA's AFBC program is the Morgantown Component Test and Integration Unit (CTIU), which is a three cell FBC unit to test new AFBC systems and components at an intermediate size and to serve as an investigative facility for problems associated with the 30Mw Rivesville unit. Operations will begin in FY 1979.

The major project in the ERDA PFBC program is the Curtis Wright Corp.'s 13Mw combined cycle pilot plant. A schematic of this pressurized FBC is included in Figure 1b. (From an environmental standpoint it should be noted here that high temperature/high pressure particulate removal has not as yet been demonstrated on these systems. Studies to demonstrate and improve this pollution control technology is part of the EPA program described later). The project will provide the design data to verify scale up of the gas turbine and PFBC systems to commercial plant size for utility application. This program is a five year effort with construction scheduled for initiation in FY 1978. Operation and testing is scheduled for FY 1980–81. The basic model is intended to be 1/5 commercial plant size. It will include a three ft. in diameter by 50 ft. high pressurized fluidized bed combustor, a gas turbine and a waste heat boiler capable of producing 175 psig/377°F steam.

Another ERDA PFBC effort is the Argonne CTIU. This facility will be used to test components and support the 13Mw pilot plant. The facility is scheduled to be constructed in FY 1978 and operated in FY 1979.

A third component of ERDA's PFBC program, under the coordinated activities of the International Energy Agency, as the 30Mw flexible test facility in Grimethorpe, England. Construction is to be initiated shortly, with start-up scheduled for FY 1979. Participating with ERDA are the United Kingdom and the Federal Republic of Germany.

A recent milestone which could accelerate FBC commercialization is AEP's recently completed feasibility study and ongoing study aimed at designing a 170Mw (65Mw gas and 105Mw steam) combined cycle FBC demonstration plant in Ohio. The final phase of the current study involves the testing of Ohio coal in a 2 ft. x 3 ft. PFBC in Leatherhead, England.

FBC activities in Ohio include a contract award by the States to Babcock and Wilcox (Woodhall-Duckham) to design four FBC boilers for various industrial installations. The facilities will range in size from the retrofit of a 60,000 lb/hr stoker-fired boiler to a 325,000 lb/hr boiler for Columbus and Southern Ohio Electric Co. The impetus behind the State's support is to encourage the use of local high sulfur coal. EPRI has also initiated a major effort in AFBC by constructing a 6 ft. by 6 ft. pilot facility in Alliance, Ohio. The unit is currently beng shaken down with operation and testing scheduled for early next year.

EPA'S PROGRAM

EPA is currently involved in most of the previously described FBC efforts, either

through interagency agreements and passthrcugh of funds to ERDA or through less formal mechanisms. EPA's FBC program consists of environmental assessment and control technology development in support of development of emission standards and guidelines. The environment assessment strategy is divided into seven stages including:

(1) Identification of current process and environmental background;

(2) Development of environmental objectives;

(3) Acquisition of environmental data;

(4) Analysis of environmental alternatives;

(5) Identification of further data and technology needs;

(6) Development of data base for standards/guidelines; and

(7) Assessment of available control technology.

CONCLUSIONS

Federal, State and private efforts are focusing on development of fluidized bed combustion technology. This emerging technology represents a major alternative to conventional combustion systems with FGD. It offers the potential of low-cost electricity, steam or heat production from industrial and utility coal combustors consistent with environmental regulations.

CUSTOMS PROCEDURAL REFORM AND CITIZENS RIGHTS TO PRIVACY

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. WHALEN. Mr. Speaker, on Monday the House suspended its rules and passed H.R. 8149, the Customs Procedural Reform Act of 1977. This legislation represents a quantum improvement over present statutes, in several respects, but it could stand further improvement. It is my hope that the necessary revisions will be made in the Senate.

As you know, I have been quite concerned about the issue of Government access to third party records. Thus, it is quite heartening to see that H.R. 8149 will, for the first time, take steps to set procedural safeguards on Customs Service access to third party records.

Essentially, the bill provides that persons who are the subject of the records held by a third party must be notified and given an opportunity to object before the Customs Service can obtain access to those records. This is a concept which I have long supported, and which is the basic element in the Bill of Rights Procedures Act that I am cosponsoring with Senator MATHIAS.

Nonetheless, I am troubled by the very loose drafting of the third party records section of H.R. 8149. Unless the mechanical details are straightened out, I am afraid that this provision will turn out to be little more than an endorsement of general principles.

Specifically, I believe that we should provide more guidance than to say, "notice of such summons should be given to any persons so identified within a reasonable time before the day fixed in the summons." Surely, everyone involved would appreciate greater precision in the establishment of statutory guidelines.

Moreover, it seems to me that greater care should be taken to make this provision mesh smoothly with existing or pending privacy protection laws. Section 1205 of the Tax Reform Act of 1976, which is cited in the committee's report, is one law to be consulted. The Right to Financial Privacy Act, which is now undergoing markup as title XI of the proposed Safe Banking Act, is another. If coordination among these laws is not effected, then there will probably be considerable confusion in the application of the various measures.

A second point of possible confusion is H.R. 8149's assertion that the subject of the third party records sought by Customs will be granted standing in a motion to quash a summons. The bill does not grant any specific grounds on which the subject can move to quash. As the Supreme Court's decision in the Miller case illustrated, last year such clarification is necessary.

Finally, I want to call your attention to the fact that H.R. 8149 does not address the issue of the Customs Service's opening of international mail. The Court's decision in the Ramsey case this past summer leaves that issue wide open.

In July and September, the Government Operations Subcommittee on Government Information and Individual Rights held hearings on Customs Service mail opening. They developed formidable evidence about real and projected invasions of the privacy rights of American citizens. In my opinion, we would do well to take up this issue, along with the third party records question, right now as we still have the opportunity to amend the Customs Procedures Reform Act before it is sent to the President.

As I stated at the outset, I do hope that the Senate will make the necessary revisions in H.R. 8149. I trust that the House would have no reason to reject any reasonable improvement in the protection of the privacy rights of American citizens.

AN ECONOMIC ANALYSIS OF PRESIDENT CARTER'S ENERGY PACKAGE

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. RHODES. Mr. Speaker, I would like to call your attention to a letter I received from Dr. Loy K. Despain, professor of economics at Mesa Community College in Arizona. Dr. Despain has written an economic analysis of President Carter's energy package that merits the attention of the House—indeed, of the entire Congress—as the energy legislation is considered in conference. Following is the full text of Dr. Despain's letter:

MESA COMMUNITY COLLEGE, MARICOPA COUNTY COMMUNITY COLLEGE DISTRICT,
Mesa, Ariz., September 21, 1977.

Hon. JOHN RHODES,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN RHODES: I appreciate your continued battling against the President's energy package. As a professional economist, I would like to give you some economic analysis of the matter.

Since the Arab oil embargo in the fall and winter of 1974, much has been written of the energy crisis that is facing the nation. In addition, there are calls for government action to save us from impending doom. The answer is said to be that government intervene.

It scares me to death to contemplate government action to save us from an energy crisis. I see the suggestion as self fulfilling prophecies. If the government does intervene, I forsee shortages and a future crisis.

I had hoped that as a nation we had learned that the forces of supply and demand were real and something to be reckoned with in the summer of 1972. At that time, in response to the so called consumerist's demands, price controls were established on retail food along with most other segments of the economy. The result was classic textbook economics. Shortages soon appeared on many supermarket shelves. Also, in view of foreseeable low prices, broiler and other producers killed replacement stock. They would not grow the birds or animals under those conditions. That meant that more and deeper shortages would appear in the next few weeks and months. Had the controls been allowed to continue, we would have had to impose some alternate device other than price to allocate the produce suddenly in short supply. We would have thus had black markets, grey markets and all the problems attending them. In my estimation, the lesson to be learned is that when we fool around with the market system, we invite even greater problems.

Another national experiment in trying to improve on the market system is in the area of rent controls. I was positively elated to see such a liberal figure as Thomas Eagleton author an article in the Readers Digest (August, 1977), in which he pointed out that rent controls defeat the avowed purpose of lower priced and better housing for the poor. The reasons he gave are: (1) There is sufficient incentive to make repairs, (2) There is insufficient incentive to invest in replacement housing, (3) It provided incentive for people to change the use of the property from housing to something else more profitable. I know you and Mr. Goldwater have been saying things like that for years.

As intervention in the marketplace causes problems in the food industry and the housing industry, it most surely will cause problems in the energy industry as well. If there is serious market intervention, I forsee the crisis many people describe in its horrible detail. However, if we interfere the least possible the price system will pull us through again.

We already have an example of market intervention in the natural gas market. A decade or more ago, again in response to consumerists, Congress established a well head ceiling price. Since the oil and natural gas industry are imperfect, it took longer for the effects of the ceiling price to be felt. Also, the weather cooperated by giving us several consecutive mild winters. Prior to each winter, however, officials warned that if the winter were hard we would be in trouble.

Sure enough, when the hard winter hit us last year we suffered. Who was to blame? Many in Washington sought to place the blame on the gas producers saying they withheld gas, etc., and followed up by investigating the industry.

In view of the experience with price ceilings on food and housing and the attendent shortages they caused, why do we need to go further than an investigation of congressional action to find the culprit? When the prices are artificially set below market price, the incentive is just not there to search new sources, lay pipelines, etc.

As with food, housing and natural gas, if the law mandates prices below the equilibrium for petroleum products, we will have

the energy crisis that is predicted. Low prices discourage the seeking of new sources of oil but probably as important is the fact that it discourages development of alternative sources of energy. Only if prices go up will there be sufficient incentive to develop alternative sources.

There are numerous potential sources of energy that with price incentives could be developed. For example, oil from shale, alcohol from coal, hydrogen from water using nuclear energy, fields of leafy vegetation that could be converted into methane, and of course solar energy. But if we maintain artificially low prices on oil we will run out and have developed no alternative. That is my greatest fear.

At the time of the Arab oil crisis I heard calls from Washington for a national energy policy that would make us self-sufficient. The actions of Congress have moved us in the opposite direction.

During the months following the embargo there was a dramatic expansion in oil drilling. Profits were up and in response the oil industry strained itself to capacity in search of new oil fields. That year saw a turn around in wildcat drilling in the U.S. as every drilling rig in the country was put to work. The drilling equipment producing industry had back orders of several months. Then in January of 1976, Congress changed the oil depletion allowance which in effect pulled two billion dollars out of the industry per year. The oil companies cancelled orders for new drilling rigs and reduced drilling otherwise. The congressional action had the effect of making us even more dependent on foreign oil.

In my defense of the free enterprise system, I am aware that there are many in business who are unethical in their actions. In no way am I an apoligist for that type of action. However, to do away with the market system and substitute government control because some of it exists is in my estimation throwing the baby out with the bathwater. Maybe we should demand in some way greater accountability of business executives to ethical standards but at the same time let them do that which they have proved effective in doing. Let them manage and administer the great productive machine that is the United States. Let the exceptions be where externalities exist and innocent third parties are affected.

I am disappointed in the pessimistic attitude that many hold for the future. They seem to have an outlook expressed by Malthus over a century ago when he forsaw the dismal future of a subsistance economy. Technological developments saved societies from the Malthusian fate to this point. Technology, if permitted, will do the same for us in the future.

It seems that people suffer the same form of egotism in every generation. That is, that in a given generation or time period we have reached a level of achievement that will be difficult or impossible to improve upon. The administration of the United States Patent office following the Civil War wanted to close the offices because everything worthwhile had been invented.

In a 1900 dictionary, Uranium is defined by its physical characteristics followed by the statement "with no known uses." That was only three quarters of a century ago and yet we are living in what is sometimes referred to as the atomic age. What other elements or groups of elements exist today "with no known uses?"

We have had the potential for resource shortages historically. Our economy was wood based during the colonial period and well into the 19th century. Houses were built of wood, as were ships, office buildings, factories, and even some roads. If we had continued using wood to continue doing all those things, we would have stripped our forests. Technology and favorable prices produced many substitutes. They include steel, aluminum, glass, cement, asphalt, plastic, fiber glass, etc.

I have great hope for the future if the price system is allowed to operate.

Sincerely,

LOY K. DESPAIN,
Ph. D., Professor of Economics, Mesa Community College.

PARAGUAY'S STROESSNER

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. COLLINS of Texas. Mr. Speaker, this past week, I had a long conference with His Excellency Mario Lopez Escobar, the newly appointed Ambassador of the Republic of Paraguay to the United States. Prior to his diplomatic appointment, Ambassador Lopez Escobar served as dean of the faculty of law and social sciences at the National University of Asuncion, Paraguay, and is a renowned and distinguished lawyer and educator in his country. He served in Washington before as a young naval officer attached to the Embassy of Paraguay and the Inter-American Defense Board.

Ambassador Lopez Escobar expressed his strong approval at the official August 3 statement by the U.S. Department of State that—

> The United States condemns international terrorism wherever it occurs and for whatever reason.

Terrorism fomented by Communists is an increasing problem in Latin America. This has made it extremely difficult for the economies of those countries to develop in a normal way. Business is reluctant to develop. Tourists are afraid to travel. Terrorism is a blight that destroys everything it touches.

Alfredo Stroessner, President of the Republic of Paraguay, is one of the strongest leaders in Latin America in combating terrorism. His firm leadership has established Paraguayan constitution, patterned on the U.S. Constitution, has firm guarantees that each person has a right to be protected by the Government, his life, his person, his liberty, his security, his property, his honor, and his reputation. General Stroessner stands with President Carter in building human rights. The Paraguayan constitution provides that foreigners living in Paraguay who comply with local laws will enjoy all the rights and duties of Paraguayans. To insure the peace and happiness of people in Paraguay, it is also a constitutional obligation of the Government in Paraguay to preserve public order and the security of all individuals and their property from the actions of terrorists.

I have visited in Paraguay, and I wish other Americans could have the experience of seeing that vigorous small country and knowing our Latin American neighbors.

The Republic of Paraguay is located in the center of South America, bounded by Bolivia, Brazil, and Argentina, and is completely landlocked. It has a population of about 2.6 million persons, and a land area of 157,000 square miles, which is about the same size as the State of California. Its monetary unit, the guarani, has been stable since 1960—and Paraguay may become the Switzerland of South America.

From the time in 1535 when Paraguay was first settled by the Spanish, it has had famous leaders. Paraguay's President, Gen. Alfredo Stroessner, has been elected to office continuously since 1954 in free elections. He was most recently reelected to serve another 5-year term in 1973.

Paraguay is currently building, jointly with Brazil, the largest electric power facility in the world, a 10-million-kilowatt hydroelectric plant, located at Itaipu on the Parana River, the border between the two nations. While cattle breeding and timber are its principal industrial activities, such crops as corn, wheat, cotton, beans, peanuts, tobacco, citrus fruits, and soybeans are major elements in its economy. Principal exports have been beef and other food products, as well as cotton, wood products, hides, tobacco, and other agricultural products.

In the years ahead I hope the bonds between the United States and all the countries of Latin America will be strengthened, and particularly with the Republic of Paraguay.

General Stroessner has consistently been one of the most solid and dependable friends the United States has in the world. We are honored that he has appointed a statesman of the ability of Mario Lopez Escobar to serve as Paraguay's American Ambassador.

THE HUBERT H. HUMPHREY BUILDING

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. OBERSTAR. Mr. Speaker, HUBERT H. HUMPHREY not too long ago said, "A man with no tears is a man with no heart." Well, we have seen his tears, lived with his dreams—molded by his heart—and benefited from his toil. The recent gesture of this House, naming HEW's new South Portal Federal Office Building the Hubert Horatio Humphrey Building, is overshadowed by this giant of a man and his work.

The building to be named in his honor will house the Department of Health, Education, and Welfare, three areas of Government activity for which HUBERT HUMPHREY has been the Nation's most eloquent spokesman. HUMPHREY learned early that the talents welled up within an individual are untapped energy that could be released in the form of service to others—his own record proves that.

His entire public life has been dedicated to the cause of improved education, better health care, and to the enhanced well-being of society's less fortunate ones. HUMPHREY's constant motivation and self-imposed role in public service has been to defend the oppressed, champion the poor, and give hope to all mankind: That is his rare and unique talent.

Those who know HUBERT H. HUMPHREY know his work is a labor of love; that his

dedication, his hard work, and his tears are those of a man with heart, a big heart.

A BILL TO END CIGARETTE BOOTLEGGING

HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. PATTISON of New York. Mr. Speaker, I am today introducing legislation to end the massive bootlegging of cigarettes that now confounds revenue and law enforcement officials across the country.

It is reliably reported that illegal transportation and sale of cigarettes across State lines cost $337 million in lost State and local tax revenue in 1975, and the figure will probably exceed $400 million in lost revenue this year. Cigarette bootlegging is big business, and it is controlled mainly by organized crime. It provides mobsters with tens of millions of easily-gotten dollars, with which they finance their other activities, such as narcotics, loan sharking, bribery of public officials, et cetera.

The main reason that cigarette bootlegging flourishes today is because of the significant disparity in the excise taxes applied by the various States and localities. In violation of statutory law, but in full conformity with classic economic theory, truckloads of contraband cigarettes move in a steady stream from low-tax States to high-tax States.

I propose that we stop this flow by the simple device of removing the economic rationale for cigarette smuggling. My bill, H.R. 9667, would provide a strong inducement for equalization of taxation at the State level, and would allow for Federal collection of the tax at the point of manufacture. Thus, cigarettes would sell for a roughly uniform rate throughout the country and the market for bootlegged butts would dry up almost immediately.

H.R. 9667 is a very simple bill; only three pages long, in fact. It provides that a new Federal excise tax amounting to 27 cents per pack will be levied on cigarettes. The full amount collected will be passed onto the individual States, according to their portions of total consumption. However, a deduction will be made, equal to the amount of tax levied by the respective States. The measure would go into effect 2 years after the date of enactment.

The 27 cents per pack excise tax that is proposed here would be slightly higher than any existing State tax, thus assuring that no State would lose revenue if it eliminated or reduced its own tax. Most likely, and hopefully, the States would quickly opt to eliminate their own cigarette taxes, in order to eliminate retail price differentials and thus end bootlegging. In exchange, they would actually receive more revenue as a result of the pass-through of the new Federal tax.

Admittedly, I have a certain degree of provincial interest in this issue. As you know, my home State of New York has the highest cigarette tax rate in the Nation and, consequently, the worst problem with smuggling. It is estimated that State and local governments in New York lose $100 million a year in taxes that are evaded by cigarette bootleggers.

However, New York is by no means alone in its plight. The Advisory Commission on Intergovernmental Relations, ACIR, has identified 14 States with "a serious problem" of revenue loss due to cigarette bootlegging. These States are: Arkansas, Connecticut, Florida, Illinois, Massachusetts, Minnesota, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, Washington, and Wisconsin. These States contain about one half the total population of the United States.

Last May, the ACIR issued a detailed report entitled "Cigarette Bootleggings: A State and Federal Responsibility." Here are excerpts from their summary of findings:

> Tax evasion activities, which cost the high-tax States and localities an estimated $391 million in revenue losses each year, are primarily due to State tax differentials and are a serious problem in 14 States and a moderate problem in another eight States.
>
> Contrary to popular belief, cigarette bootlegging is not a minor, victimless crime in many States. Cigarette smuggling is a major source of revenue for organized crime groups, and this revenue is used to finance other illegal operations.
>
> The States are unlikely to adopt more uniform tax rates without strong federal incentives.
>
> The majority of the States lose cigarette tax revenues because of bootlegging activities and revenue losses are larger than revenue gains (13 States lose as much as 10 percent of total cigarette tax revenue). The end result is that the Nation's net revenue loss due to bootlegging was an estimated $337 million in fiscal year 1975. This result is explained partially by the interstate bootlegging factors, which reduce sales in a large number of high-tax States and increase sales in the few low-tax States, and high-tax States lose more per pack in taxes than low-tax States gain per pack.

A portion of the ACIR report considers the idea that the Federal Government prohibit the States from taxing cigarettes and instead institute a uniform nationwide tax. Discussing this proposal, the report states:

> Such a plan would virtually end organized cigarette smuggling by largely eliminating State tax differentials.

However, the ACIR is concerned that it would be a trampling of traditional states' rights to mandate an end to State taxes on cigarettes. I agree, and that is why the bill I have authored does not require an end to the State taxes. Rather, it makes such a course a voluntary step that may be taken by the individual States, and it provides a 2-year period before implementation, so that the States can deliberate on how they will respond to the Federal initiative.

Personally, I think the response from the States would be enthusiastic. What we are talking about is a simplification of the cigarette tax collection process, which will result in bringing an end to organized cigarette bootlegging and at the same time increase State revenues. The plan's cost to the Federal Government will be minimal, especially in light of the benefits to be derived from depriving organized crime of what is now one of its easiest sources of revenue.

WRITING TO YOUR CONGRESSMAN

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. MICHEL. Mr. Speaker, one of the most important parts of the legislative process is constituent letters to Congressmen. These letters do more than keep legislators informed—they also serve as a kind of "care package" of commonsense from back home to Congressmen living and working in this isolated and often insulated city on the Potomac. Letters to Congressmen are essential if we are to keep our legislative process responsive to the voice of the individual citizen.

Letter-writing is the best way to let your Congressman know what is on your mind. The telephone is a wonderful invention and it does save time—but very often it is a permanent written record in the form of a letter that is going to enable you and your Congressman to work together for your interests.

The question arises, then: How can a citizen be certain that his letter will get the care and attention it deserves? Allow me to offer a few suggestions in the form of advice to anyone who might be thinking of writing.

There are three basic steps to remember when writing to your Congressman: Keep it clear, keep it accurate and, if at all possible, keep it brief.

KEEP IT CLEAR

I know that there are enough things wrong in Washington to warrant sending a letter containing references to numberous issues. But if it is at all possible try to confine each letter to one problem. This will enable your Congressman and his staff to concentrate on your problem quickly, without trying to figure out which problem is of most concern to you. Write as often as you feel necessary—but try to address one specific problem each time.

KEEP IT ACCURATE

It really helps when a writer identifies his problem as accurately as possible. If you know the name or the number of the bill that is of interest to you, include it. If you cannot, try to give as much information as you can about the substance of the bill. If you have been having trouble with one of the departments or agencies of Government, let your Congressman know all the facts. Let your Congressman know who you have been dealing with, what happened, when and where it happened and how you have been served—or ill-served—by a given department or agency. The more accurate information you include the easier it will be for your Congressman to help you.

KEEP IT BRIEF

As you know, Congressmen get many letters every day. They sincerely try to respond to each one. Those letters that are clear, accurate and to the point really

help the Congressman and his staff to respond quickly and helpfully.

I have limited my suggestions thus far to those letters which are written because the constituent has a problem or concern. But many times a constituent just might want to pass on how he feels about things the legislator may have done—or not done. There are two kinds of letters that can be placed in this category: letters of persuasion and letters of criticism. Each can be written in a manner that helps rather than hinders effective communication between constituent and Congressman.

LETTERS OF PERSUASION

If you disagree with your Congressman on some stand he has taken you may want to try to change his mind. During my years in Congress, letters of this kind have been most helpful. When I got a letter intelligently pointing out facts I have neglected or suggesting some course of action, I take it seriously and I believe most Congressman do. Indeed, I might say that a letter of persuasion, containing facts and figures and reasonable arguments is the singlemost effective method of communication a Congressman receives. Very often a constituent will know the intricate and complex facts of an issue. He should let his Congressman know. I can guarantee you that such a letter will play an important role in helping him to reach a decision or to make up or change his mind.

LETTERS OF CRITICISM

No one likes to be criticized—but almost everyone, most especially those in Congress, can benefit from criticism. If you do not like what your Congressman is doing or saying, let him know. Not every letter has to be "constructive." But if you are going to give a Congressman a good piece of your mind, follow the golden rule: treat him the way you yourself would want to be treated if someone was criticizing you. This means being frank and direct and honest, but not insulting or abusive.

I say this not because Congressmen are overly sensitive—anyone in Congress who cannot take harsh criticism does not belong there. No, I simply mean that contrary to popular myth, Congressmen are human. They have feelings. They can and will react positively to strong criticism if it is given within the groundrules of common courtesy. This doesn't mean they will always agree with the criticism. But they can and will learn from it. When it comes to criticism, then, the golden rule applies. But within those limits, feel free to get everything off your chest. Both you and your Congressman will feel better for it.

One more point might help to make writing to your Congressman more effective. I refer to knowing as much as you can about what your Congressman does in Congress.

As you know, the number of problems and questions that confront Congress is so great that the only way the Congress as a whole can get any business done is by forming committes to deal with certain areas of legislative and governmental business. I, for example, am a member of the Appropriations Committee, the one that determines where your tax dollars are to go. Since it is easier and more logical for such determinations to be made by having small numbers of Congressmen from the committee deal with specific areas of governmental concern, subcommittees are formed out of these committees. Again, to give a personal example, I am ranking minority member of the Appropriations Committee's Subcommittee on Labor, Health, Education, and Welfare—a subcommittee which passes on fully one-third of the Federal budget.

I mention all this not to get autobiographical, but only to remind you it is useful for a constituent to know what committees and subcommittees his Congressman is on and what responsibilities these groups have. This can enable you to determine, for example, if your Congressman might have an important vote to cast in committee or subcommittee on matters specifically important to you.

But the committee system, while it helps Congress to function, doesn't mean that committee work is all a Congressman is expected to do. No, he is there to serve you on all matters coming before the Congress, not just those with which he has immediate and day-to-day knowledge. His staff keeps him informed on all the important matters and he himself, in discussion with colleagues on both sides of the aisle and through his own reading and briefings, keeps abreast of what is happening.

Thus, no matter what problems you might have that deal with Federal governmental affairs, let your Congressman know about it. If your problem happens to deal with work he handles in committee, all the better. If it does not, he will find out for you what you want to know or let you know what recourse may be available to you when you have problems, as we all do, with the Washington bureaucracy.

Writing letters to your Congressman is part of the democratic process. You do not have to be a graduate student of English literature to tell your Congressman what is on your mind. All he asks is that you tell him clearly, accurately, briefly—if possible—and that when he is finished reading your letter, he knows he has some work to do for you. That, after all, is what Congressmen are in Washington to do.

And one final point. I cannot tell you how many times I have received a beautifully written letter with some excellent recommendations for me to consider only to find that the correspondent had forgotten to include his name and address either on the letter or the envelope, so be sure that you include that information.

MICHAEL P. DUNN

HON. HAROLD L. VOLKMER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. VOLKMER. Mr. Speaker, it is with a great deal of pleasure that I extend congratulations and best wishes to Michael Patrick Dunn, son of Jack and Jo-Ann Dunn of my district.

Michael, who is 17 years of age, has been a boxer with the North County Athletic Association, a member of the Young Marines Raider Battalion at Lambert Field in St. Louis, and has worked with his father in the family business.

Michael, although young in years, has already been involved in local and State government and political campaigns. He has now decided to serve his country with the military and will be sworn into the U.S. Marine Corps on October 29, 1977.

Again, I wish to congratulate Michael on taking this important step in his life, to be of service to his fellow man and his country.

"YOU CAN DEPEND ON IT"

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. DEVINE. Mr. Speaker, about the only thing you can really depend on, as far as the President is concerned, relates to posturing. Mr. Carter finds it difficult to honor some campaign commitments, and one of his more recent 180-degree reversals is in the energy area.

The Sunday, Oct. 16 Cleveland Plain Dealer lead editorial wisely addressed the energy posture now assumed by the President and his petulant outbursts obviously designed to play on the emotion of the public rather than reason:

[From the Sunday Plain Dealer, Oct. 16, 1977]

BIG OIL AS SCAPEGOAT

President Carter's intemperate tonguelashing of the oil industry was unnecessary, often unfair and added nothing to the quality of debate over a national energy program. Moreover, the tone of the President's remarks could trigger a backfire in Congress.

Not many of the senators who have opposed major parts of the Carter energy package will be willing to accept his implied accusation that they are witting or unwitting dupes of a venal industry bent on "the greatest ripoff in history."

Not many senators will be impressed by Carter's simplistic suggestion that only the oil lobby opposes the White House energy program.

And not many senators will be nudged toward White House positions by a President who first failed to do his lobbying work in the Senate and now attempts to turn the public against that Senate with overheated rhetoric.

These are prescriptions for confrontations, not conciliation.

Whoever might ultimately be proved "right" in the debate over Carter's energy proposals, there is ample room for honest disagreement between honorable men who share a proper concern for the nation's future. It is possible, for example, to concur with the petroleum industry's view on a given subject without being an industry pawn.

The President's energy package has been shredded in the Senate partly as a result of opposition from a wide range of groups including the United Auto Workers, the Consumer Federation of America and 50-plus senators at one time or another, in addition to some or most of the petroleum lobby.

As an institution, Congress and particularly the Senate are in a feisty and independent mood. Few legislators are in the President's political debt. Confrontations are more

likely to rebound against Carter than against Congress.

As for the oil industry, it could not be confused with the YMCA. It has fought tenaciously to preserve itself much as any special interest does.

But that does not excuse an overstated and sometimes inaccurate broadside attack by the President.

Carter's charge that the oil industry enjoyed an "income" of $18 billion in 1973 that would balloon to $100 billion by 1985 under the administration program and $150 billion by 1985 if the program is rejected is grossly misleading.

The 1973 figure of $18 billion actually represents total sales revenues, not profits. According to the Federal Trade Commission, total worldwide, after-tax profits of domestic oil companies in 1973 were $7.4 billion.

Projections putting oil industry sales at $100 billion or $150 billion by 1985 must be judged speculative at best.

A better measure of oil industry profitability is the industry's return on equity. According to a recent study published in Business Week magazine, the major oil, gas and coal companies enjoyed a return of 14.2% on equity for the year ended June 30. That figure is hardly out of line with those for other major American industries. And no one disputes the necessity for huge capital investments by the energy companies in the search for additional energy resources.

President Carter would do well to consider all of these factors before holding the oil industry up before the nation as potential "war profiteers" and would-be perpetrators of "the biggest ripoff in history."

CARTER BREAKS CAMPAIGN PROMISE IN U.S. ATTORNEY SELECTION

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. DRINAN. Mr. Speaker, on March 24, 1977, I introduced legislation (H.R. 5576) which would provide for the appointment of U.S. attorneys on a merit basis. It would remove political considerations from the selection process by authorizing the Department of Justice to choose these officials on the same basis as all other attorneys in the Department are chosen.

Because of the statements by President Carter during the campaign and by Attorney General Bell during his confirmation hearing, I fully expected the administration to support this bill. After all, on June 1, 1976. Mr. Carter told the platform committee of the Democratic Party: "All Federal judges and prosecutors should be appointed strictly on the basis of merit without any consideration of political aspects or influence."

On June 22, 1977, however, Attorney General Bell, in testimony before a House Judiciary Subcommittee, stated that "the decision had been made to leave the U.S. Attorney selection in the patronage system." He testified that the decision was a product of an "agreement" with the Senate in exchange for "merit" selection of judges for the courts of appeals. The opposition of the Department of Justice to H.R. 5576 was confirmed in a letter to me from Assistant Attorney General Wald on August 30. She said that the Department "does not at this time favor altering the present system of appointing U.S. Attorneys."

That the "present system" is still operating is demonstrated by the treatment of the U.S. attorney in New Jersey. His resignation was requested even though his record was meritorious. Indeed in his letter accepting the resignation, President Carter stated:

So far as I know, the Attorney General has expressed no criticism of your performance.

The President added that he "would not want to contradict your assessment of the good job you have done." If both the President and the Attorney General were satisfied with the incumbent's performance, why then was he asked to resign?

The incident with the U.S. attorney in New Jersey, who incidentally, first came to work for the Department of Justice during the Johnson administration, illustrates the need for the merit selection of such officials. The "patronage system" we now have, supported by the administration, is not a satisfactory way to select law enforcement personnel. I would hope the administration would soon change its position and support H.R. 5576 to accomplish the selection of U.S. attorneys without regard to political influence.

I insert in the RECORD at this point the exchange of letters between President Carter and the U.S. attorney for New Jersey:

U.S. ATTORNEY,
Newark, N.J., September 12, 1977.

Hon. JIMMY CARTER,
The White House,
Washington, D.C.

DEAR PRESIDENT CARTER: I have been advised by Associate Attorney General Michael J. Egan that you and Attorney General Griffin B. Bell desire my resignation from the Office of United States Attorney for the District of New Jersey.

In communicating the Administration's desire that I resign, Mr. Egan made it clear that the request was not prompted by any dissatisfaction with my performance. Indeed, it is clear that the Department of Justice is throughly satisfied with my performance. Attorney General Bell has publicly expressed his satisfaction and Associate Attorney General Egan has publicly stated that the United States Attorney's Office in New Jersey is first rate and one of the very best in the United States. Moreover, Mr. Egan has also informed me that, but for Senator Harrison A. Williams' insistent and repeated demands that I be replaced, the Department of Justice was prepared, based on its assessment of my record and that of this Office, to recommend my retention as United States Attorney.

Thus, despite that assessment based on the record I have compiled during a twelve year professional career which commenced with my selection for the Department's Honors Program upon my graduation from law school and which continued in positions of increasing responsibility during two Democratic and two Republican administrations and despite my having completed all but nine months of my four year term as an independent, non-political United States Attorney, you and Attorney General Bell have determined that my record of accomplishment on behalf of the United States must give way to the dictates of politics.

Clearly, by virtue of the United States Constitution and statutes enacted thereunder, the President of the United States is vested with the responsibility for the nomination and appointment of United States Attorneys, as well as the power to remove United States Attorneys by the reason political or otherwise. Because there can be no effective law enforcement on the national level unless United States Attorneys receive full support from the President and the Attorney General and because you have requested my resignation in order that you may nominate a successor. I hereby tender my resignation effective upon the confirmation and appointment of my successor.

In tendering my resignation at this time, I wish my reasons for doing so to be clearly understood.

During your election campaign and thereafter, repeated statements were made by you and by members of your Administration which led the public to believe that merit selection and the widely criticized tradition of political patronage would be the standard utilized by your Administration in the selection of United States Attorneys. Based on my belief that a merit selection system is essential if we are to have effective law enforcement in this country and based further on my belief that my professional record with the Department of Justice warranted my retention on a merit basis, I determined not to resign unless it became clear that the commitment to merit selection was nothing more than campaign rhetoric.

Shortly before your inauguration, it appeared that your Administration was prepared to implement the merit selection process that had been promised in your campaign. Attorney General Bell formally reaffirmed your commitment and his to such a merit selection system in his testimony before the Senate Judiciary Committee, which was then considering whether to recommend his confirmation to the United States Senate. His testimony included the following:

Question: . . . Would you mind telling us your plans with regard to those U.S. Attorneys currently serving who you find have been doing an outstanding job and whose terms have not expired? Would you retain them until the expiration of their terms, or would you seek to remove them from office prior to the expiration of their terms regardless of the caliber of their service?

Answer: . . . I happen to understand, with Governor Carter that, if I am to be the Attorney General, we want to professionalize the Department of Justice. We want to depoliticize it to the extent possible. Otherwise, I would not care to be the Attorney General; he would not care for me to be the Attorney General, either. His ideas and mine are the same on that.

If there is a United States Attorney who warrants retention on the merit system . . . we would certainly give thought to retaining them. Otherwise, we would not be putting in a merit system.

Question: In other words, as I understand your position, if a U.S. Attorney has made a competent and meritorious record as U.S. Attorney, and if he desires to be retained, then you would give most careful consideration to him?

Answer: That is exactly right.

Attorney General Bell also stated to the Judiciary Committee that he had begun to implement his proposed program by requesting that the then Deputy Attorney General, Harold R. Tyler, Jr., inform all incumbent United States Attorneys that, if they wished to be considered for retention on a merit basis, they should so advise Attorney General Bell. Having been so informed that United States Attorneys would be considered for retention by your Administration on a merit basis, I wrote a letter on February 3, 1977 to Attorney General Bell, a copy of which is annexed hereto.

Thereafter, I was invited to come to Washington to discuss my retention with Attorney General Bell. Although the Attorney General met with me briefly, I met for a lengthier period of time with Associate Attorney General Egan. In that meeting, Mr. Egan unequivocally advised me that the Administration regarded the United States Attorney's

Office for the District of New Jersey as one of the best law enforcement components within the Department of Justice and that it was the Administration's desire to emulate its accomplishments on a nationwide basis.

Subsequent to my meetings in Washington, I was informed that the Department of Justice was seriously considering formally recommending to you that certain United States Attorneys, myself included, be retained, based on their respective records of accomplishments.

Thereafter, however, in early April, Senator Williams submitted a list of six proposed replacements to the Attorney General and, in his public statements, as well as in letters to his constituents, Senator Williams represented that the Attorney General had requested that such a list be submitted. The Justice Department advised me that this was not so, but rather that Senator Williams had demanded that I be replaced and that the Attorney General had agreed to review any recommendations passed along by the Senator.

Senator Williams, in demanding my replacement, did not do so on the basis of any disagreement by him with the assessment of my performance which had been made by the Department of Justice. Indeed, he has never publicly expressed any criticism whatever of my performance or that of this Office under my leadership and has, at all times, refused to acknowledge publicly his role in procuring my removal from this Office. As the annexed constituent letters indicate, he has sought to minimize his involvement in the decisional process and to create the illusion that I have been asked to resign because the Department of Justice has concluded that the interests of effective law enforcement would best be served by replacing a "political", United States Attorney, namely myself, by one who would conduct this Office in the non-political tradition of the late District Attorney of New York County, Frank Hogan.

Shortly after Senator Williams submitted his proposed names, I was advised by Associate Attorney General Egan that, although the Attorney General was satisfied with my accomplishments as United States Attorney, it was likely that the position of United States Attorney for the District of New Jersey would be determined not on merit but by Senatorial prerogative because the Attorney General had received a confidential White House memorandum directing each cabinet officer to honor patronage requests from Democratic Senators and Representatives.

Although, as a result of that confidential memorandum, it was clear within the Department of Justice that the merit selection concept you had promised would, in all likelihood, not be implemented at that time or in the immediate future, Attorney General Bell continued to reaffirm publicly the commitment of your Administration to the concept that it was vital to effective law enforcement that United States Attorneys be selected on a merit basis. In addressing the prestigious American Law Institute, Attorney General Bell stated:

The critical problem with the political patronage system as it now operates is that many qualified candidates are discouraged from applying or are overlooked because they are not friends or close political supporters of the various Senators . . .

The problem is acute in the United States Attorney selection process. The law places the nomination responsibility and power with the President. The power to advise and consent rests with the Senate. In practice, however, the Senate proposes and the President advises and consents. . . .

I think the time has come to return, in the nomination and confirmation of United States Attorneys, to the express constitutional and statutory framework. I do not see how we can be serious about fighting crime unless we select the best available lawyers as United States Attorneys. . . .

And then, a week later, in addressing the District of Columbia Circuit Judicial Conference, Attorney General Bell further stated:

We must likewise move to improve the selection of United States Attorneys . . . If we are really serious about fighting crime nationally, we need to be more serious about selecting United States Attorneys.

Although the likelihood of my replacement became apparent in late Spring, despite Attorney General Bell's continuing public statements in support of merit selection, I did not choose to resign at that time because my resignation would have withdrawn vital support from those who were fighting for the concept of merit selection. The record of accomplishment of this Office under my leadership was such that career professionals within the Department of Justice and other knowledgeable observers believed that my retention or replacement would constitute the test case as to whether United States Attorneys would be selected and retained on a merit basis.

Had I resigned without being asked to do so, my resignation would not only have signified a lack of desire on my part to fight for a concept in which I firmly believe, but also would have permitted both the Administration and Senator Williams to avoid the necessity of explaining why I had not been retained, given the Administration's public commitment to merit selection. By remaining in office until asked to resign, I have done all that I can to insure that the concept of merit selection which you espoused in your campaign and in which I firmly believe will be adopted if not now then at some future time.

At all times, beginning with my February 3 letter to Attorney General Bell, I have made it clear that, although I wished to be retained, my primary interest was one of insuring that my Office remain non-partisan, non-political and professional. Repeatedly I reaffirmed to the Department of Justice that overriding concern. When it became obvious that Senator Williams was unalterably opposed to my remaining in Office, I offered to remove myself from consideration if that would assist the Department of Justice in implementing a *bona fide* merit selection process.

Your decision to ask for my resignation, I must regretfully conclude, can only be interpreted as demonstrating that your Administration is either unable or unwilling to fulfill its public commitment to merit selection. The irony of your decision is that while I have been asked to resign for purely political reasons, the professionals in the Justice Department have been encouraging your newly appointed United States Attorneys to contact me and my staff for direction on how to organize and operate an effective United States Attorney's Office.

In leaving the Department of Justice to which I have devoted my entire professional career, I look back on what have been some of the most satisfying and fulfilling experiences in my life. I leave the Department proud of my accomplishments and proud of the professional men and women with whom I have had the opportunity to serve.

In my judgment, there is no higher calling than public service and I will be ever grateful for the opportunity afforded to me to serve the people of this State and our Nation during the past twelve years. I wish you and your Administration every success in the difficult tasks which confront you. At the same time I urge you, in discharging those difficult tasks, to recommit your Administration to the principle of non-political meritorious appointment of our Federal law enforcement officials. Further compromise on this issue is certain to redound to the disadvantage of our great Nation.

Respectfully yours,

JONATHAN L. GOLDSTEIN,
U.S. Attorney.

THE WHITE HOUSE,
Washington, D.C., September 13, 1977.

To: Hon. Jonathan Goldstein.

I accept your resignation as U.S. Attorney, and certainly would not want to contradict your assessment of the good job you have done.

So far as I know, the Attorney General has expressed no criticism of your performance. In recommending a replacement for you, I am sure that a competent person will be chosen so that the high standards of law enforcement in New Jersey will be maintained. You have my congratulations and thanks for a job well done.

JIMMY CARTER.

CIVIL ENERGY FROM LASER FUSION—THE ESSENTIAL ROLE OF PRIVATE RESEARCH AND FREE SCIENTIFIC INQUIRY

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. PURSELL. Mr. Speaker, I am authorized by the chairman of the Science and Technology Committee, on which I serve, to insert in the RECORD the following letter, a copy of which was addressed to him by Dr. Henry Gomberg. The letter responds to recent remarks in the RECORD and speaks for itself.

I would add that as the House and Senate go to conference on S. 1339, an important decision will be made concerning the great civil energy potential from laser fusion.

One of the most important things we can do to strengthen our national security is to assure American a dependable energy supply free of foreign control.

We must bring all of our resources to bear on development of alternative energy sources. Active scientific inquiry, in both the private and Government sectors, is essential to meeting this goal.

I urge my colleagues to consider the views of one of our Nation's leaders in civil energy laser fusion:

KMS FUSION, INC.,
Ann Arbor, Mich., October 11, 1977.

Hon. CHARLES H. WILSON,
Rayburn House Office Building,
Washington, D.C.

DEAR MR. WILSON: As you will understand, we were distressed to read your comments of September 29, 1977 as published in the Congressional Record. Knowing that your motive could be only the protection of the national interest, we must conclude that you were acting on information you believed reliable and to have been furnished to you in good faith. We believe that your confidence has been abused.

Dr. Robert Hofstadter and I have been active in presenting the case for development of inertial confinement fusion as an energy source for civil purposes, and the role that private industry in general and our company in particular have played in the past and can play in the future. We believe that laser fusion can be brought to use well before the

year 2000, and that our case should be examined on its merits.

Unfortunately, we have not had the opportunity to appear before your committee where we could be heard in our own right, and questioned directly on the points raised in your remarks. We would like such an opportunity.

The importance to the national economy and defense of the optimal development of all energy options and of inertial confinement fusion in particular is too great to be subjected to the manipulation we believe is taking place.

I should like to take up a few of the specific points made in your remarks.

First on the matter of KMS Fusion being "a small company under contract to ERDA," it should be noted that KMS Fusion is the only company in the United States, large or small, that has made a significant commitment to this field. Well over 20 million dollars of corporate funds—without any matching government contributions or other government assistance—had been spent between 1971 and 1975 in developing laboratories and carrying on experiments in this field.

The first thermonuclear neutrons produced anywhere in the world by a laser-driven implosion of a D–T fueled pellet were obtained in our laboratories on May 1, 1974. It is ironic that this primacy was recognized by foreign scientists, including the Russians, and by the open scientific forums before the AEC laboratories could bring themselves to acknowledge the achievement.

In denying the possibility of laser-fusion energy's conceivably being available on a "short-term" basis, you quote from ERDA testimony which includes the statement, "inertial confinement fusion offers distinct advantages as one of several fusion options. It has low risk payoff for the nuclear weapons program and long term high risk, very high payoff for civilian energy production . . . and you then take the ERDA definition for "long term" as several decades in the future."

I have attached a copy of a chart on the National Laser Fusion Program prepared by the Division of Laser Fusion and presented before the Atomic Industrial Forum on October 27, 1976. You will note that, using the "High Risk strategy," Demonstration Plant Operation is predicted by 1994. That is less than two decades. The ordinary "Program Plan" strategy puts the same event at about 2005.

We at KMS Fusion are more optimistic in that we believe that a major national effort utilizing the resources of industry and of our universities, as well as the government Laboratories, could do the job by the late 1980's. American industry has shown in the past what it could do when challenged. Our expectation is far from outrageous—it is in the nature of a contest which, with proper motivation and support, could be won.

You are doubtless aware of how rapidly the national program in E-beam fusion produced neutrons when given that assignment with the necessary support, after Dr. Rudikov of the USSR revealed that his group had achieved this goal in 1975.

We must therefore respectfully take exception to your statement that "it is a travesty and a disservice to raise hopes for abundant energy soon from a process that, if it is ever successful, will not produce energy until well into the next century."

With regard to the specific "track record" of KMS Fusion, which you say your committee examined, I am at a loss to recognize the summary description of our performance. "KMS Fusion has failed miserably," etc.

We can and would be pleased to pursue the matter of performance, examining quality and quantity, on both an absolute basis and in relation to other ERDA contractors, including the weapons laboratories. Reports reaching me from the most recent negotiating sessions with respect to contract renewal are that the overall evaluation is "acceptable to good," with individual task performance running from "acceptable" to "outstanding."

We feel that the country's energy program is being badly served, our scientists are unfairly abused, and our reputations, earned over many years of service in science, education and industry, degraded unjustly through disparging remarks which have little or no validity.

May we have the opportunity to resolve our problems through discussion which has a rational and factual basis?

Sincerely,

HENRY J. GOMBERG,
Chairman.

TERRORISM VERSUS HUMAN RIGHTS IN NICARAGUA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. McDONALD. Mr. Speaker, our country's tradition of freedom gives us the responsibility for being the most outspoken supporter of human rights. It is therefore a marked disappointment to us when the U.S. representatives to the Belgrade Conference retreat from that position.

Instead of making strong criticisms of the suppression of individual human rights and making public demands that the Communist countries take concrete steps to respect the basic human rights of people in those nations, the United States has retreated to the Nixon/Kissinger doctrine of "quiet diplomacy" which means in practice "don't embarrass the Communists and don't press them too hard." At the same time, non-Communist governments facing a soviet-organized terrorist threat are criticized, harassed, and theatened by the administration when they take action against terrorists.

The Communists are the greatest violators of human rights in the world today. In areas under Communist control the political, economic, and personal rights of individuals are denied; in areas not under Marxist control, the Communists promote terror and violence. That is a violation of the most basic human rights—the right to the inviolability of human life under due process of law; the right to be secure in your home and on the street; and the right to own and enjoy property either individually or in association with others.

Last month, less than 30 days ago, President Somoza of Nicaragua ended a state of emergency he had legally imposed in December 1974 in order to cope with Cuban and Soviet-supported terrorist squads carrying out an escalating campaign of violence, kidnapping, and murder in his country.

As the FSLN's (Sandinista National Liberation Front) 1976 offensive faltered, then reeled under effective counter-attacks by the Nicaraguan National Guard, a clamor was raised by voices ranging from Radio Havana and Castroite, FSLN support groups in America through "Christian socialist" organizations like the Washington Office on Latin America (WOLA) to Amnesty International and the Carter administration's Department of State charging that Nicaragua's efforts to repress the terrorists were abhorrent to human rights.

Following this propaganda campaign and political pressures, the Nicaraguan Government lifted its state of emergency. It is impossible to state exactly to what degree these groups and maneuvers played in President Somoza's decision. Nevertheless, it was a classic operation of support, propaganda and political pressure groups acting in concert to gain a desired end result.

This has been a familiar pattern to everyone who has been a student of revolution and subversion in the 20th century, and is just as predictable as the the old New York Yankees—Tinker to Evers to Chance.

The lifting of the state of emergency in Nicaragua was immediately and significantly followed by an increased barrage of scurrilous attacks on the Nicaraguan president personally and on his Government clearly designed to quash long-standing friendly attitudes toward Nicaragua held by Americans. Analysis of these attacks shows strong evidence that the propaganda campaign has been tailored to the occasion in Havana.

Following earlier hearings which featured admitted supporters of the Nicaraguan FSLN terrorists and personal enemies of the Nicaraguan president, last week a subcommittee of this Congress heard unsworn evidence from unqualified witnesses attacking the Nicaraguan economic, social, and military structure.

And simultaneously with the lifting of the state of emergency and the anti-Nicaraguan propaganda barrage, the FSLN (Sandinista National Liberation Front) sharply escalated its activities moving from rural guerrilla warfare on the "people's war" pattern to urban terrorism.

On September 18, the day before Nicaragua ended its state of emergency, Radio Havana broadcast an FSLN communique proclaiming that in recent weeks "the popular fighting led by the FSLN has redoubled throughout Nicaragua." The FSLN boasted of its ambushes of national guard patrols and its brief seizure of radio stations to broadcast revolutionary proclamations. A few hours before President Somoza announced the end of the state of emergency, the national guard announced it had arrested three FSLN terrorists at a "safe house" in a Managua suburb. The urban terrorists had been planning to murder the Managuan chief of police as he left his house.

The FSLN has based its current terrorist campaign not in Nicaragua but in neighboring countries of Honduras, El Salvador, and Costa Rica where they have support from the Communist parties and from Castroite university students. The FSLN and similar terrorist groups in El Salvador and Costa Rica work closely together and exchange personnel as demonstrated on September 21 when Nicaraguan terrorist Carlos Alberto Reyes Roque was shot to death in El Salvador following the seizure of a school in Zacatecoluca by members of the Farabundo Marti Popular Liberation Forces (FPL).

On September 26, Costa Rican Minister of Public Security Mario Charpentier reported the arrests of three Nicaraguan FSLN members and a Costa Rican in San Carlos together with the seizure of a large quantity of arms and ammunition being transported to FSLN forces along the border with Nicaragua. The Costa Rican arrested was Manuel Mora Salas, son of the founder and secretary-general of the Popular Vanguard Party, the official Moscow-line Communist party in Costa Rica.

The Costa Rican Public Security Minister stated that the arrests were the result of investigations into FSLN activity in Costa Rica and that the persons arrested represented merely a small part of the FSLN cadre in Costa Rica and that a major arms smuggling operation was under way. Clearly upset by the arrests and seizures, the FSLN released a statement to the press in the capital of Costa Rica accusing the Costa Ricans of harassing Nicaraguan refugees, as they termed the FSLN logistical support cadres. The Costa Rican FSLN support group, the Committee of Solidarity with the Nicaraguan People, headed by Dr. Daniel Camacho heatedly denounced the Costa Rican Public Safety Minister for locking up the FSLN members as facilitating a "persecution campaign against Nicaraguan patriots."

Meanwhile the security forces in El Salvador commenced an investigation of connections among the FSLN, the FPL, and another terrorist group in El Salvador, the People's Revolutionary Army (ERP).

With pressure from Costa Rican authorities clearly interfering with their bases and operations, the FSLN launched a series of major coordinated attacks on October 13 and 17.

An estimated 100 FSLN terrorists, some arriving by small boats from Costa Rica across Lake Nicaragua, stormed the lake port city of San Carlos at 4 a.m. last Thursday morning. The Nicaraguan National Guard major commanding the small San Carlos garrison was killed, as was his second in command. The FSLN held the town until 10:30 a.m. when national guard reinforcements arrived. The FSLN retreated overland toward the Costa Rican border, and by small boats. Five national guardsmen and a civilian magistrate were killed. Some 15 terrorists also died in the fighting.

At the same time of the San Carlos attack, the FSLN set up a highway ambush near the northern Nicaraguan city of Ocotal. The FSLN terrorists killed a farmer and wounded two civilians before national guardsmen were able to engage with them. Six guardsmen were killed and four were wounded in the fighting.

As the Nicaraguan authorities engaged in hot pursuit of the retreating FSLN forces along the border with Costa Rica which had been closed in the emergency an unfortunate incident occurred. Reportedly Nicaraguan Air Force planes, mistaking three small boats sighted on the Frio River for escaping FSLN launches, and believing the boats to be in Nicaragua's territory, shot at the boats. One of them contained Costa Rican Public Safety Minister Charpentier who was making a personal tour of the area of fighting accompanied by newsmen. The Minister and his party were taken into custody by Nicaraguan forces for several hours.

A number of FSLN cadres have surrendered to Costa Rican authorities and asked for political asylum. Costa Rican Foreign Minister Facio has stated that the FSLN members will "never" be handed over to Nicaragua, but that they will not be permitted to operate freely in Costa Rica. The two countries governments have been involved in an unofficial feud going back some 20 years which has been capitalized on by the FSLN.

On Monday, October 17, the FSLN launched attacks in the capital, Managua, and in the city of Masaya, 20 miles from Managua. The day of terror opened with an assault on the Masaya police station resulting in the deaths of 6 FSLN terrorists and the wounding of 1 terrorist and 11 guardsmen. At 8:30 a.m. a convoy of national guard reinforcements heading for Masaya were ambushed on the highway; 6 national guardsmen were killed and 10 were wounded while 3 FSLN attackers were known to have died.

Later in the morning an FSLN courier was stopped at a roadblock near Masaya. The terrorist apparently panicked and came out of his car shooting and was killed, resulting in many valuable FSLN documents falling into the hands of the authorities. Documents in the possession of the dead courier led authorities to a house in Masaya where the security patrol forces were met with gunfire. Two women terrorists were killed in the ensuing shootout which took place shortly after noon. Other incidents took place in Masaya, including an attack on the national guard from the tower of a Catholic church by a FSLN sniper. By 5 p.m. the national guard authorities had been led to a house in Masaya where a woman terrorist was arrested and a cache of valuable FSLN documents, including the FSLN entire microfilmed archives, were captured.

Meanwhile in Managua, two terrorists in an automobile began firing at a small sidewalk police stand. Members of the national guard's special BECATS antiterrorist unit chased them through the capital's streets, killing one. The remaining terrorist ran into a private house, killed a woman and wounded a man and 12-year-old child he found there, and climbed up onto the roof where he threw hand grenades and shot at his pursuers. The Nicaraguan "SWAT" unit stormed the house and killed the terrorist. A further incident is reported from Managua of terrorists attacking a concrete factory where they apparently hoped to seize dynamite.

A small group of Nicaraguans, including Father Miguel D'Escoto and Father Fernando Cardenal issued a statement in Costa Rica on Monday praising the "political maturity" of the guerrillas and warning that the terrorist FSLN "must participate in any solution to Nicaragua's problems."

It will be recalled that on June 22 and on June 23, 1977 I provided information in the CONGRESSIONAL RECORD (pages 20454 and 20696–20697) on the activities of both D'Escoto and Cardenal, who with his brother Father Ernesto Cardenal have been closely associated with groups such as the North American Congress on Latin America (NACLA), the Institute for Policy Studies (IPS), the Washington Office on Latin America (WOLA), and Non-Intervention in Nicaragua (NIN), four groups that are active in the support of the FSLN terrorists in the United States, and which as my remarks clearly documented, fully support their Marxist aims.

The events of this week in Nicaragua show that a planned and coordinated attack is being made on the human rights of the people of that country by totalitarian Communists, trained in Cuba and assisted by Castro's supporters here, in the United States. This Congress should urge the Nicaraguan Government to take all measures necessary in defense of their citizens; I am asking that the Attorney General of the United States investigate the groups who are serving as the terrorists Washington lobbyists.

NATIONAL JOURNAL

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. CONABLE. Mr. Speaker, last summer I announced that I would be jointly sponsoring with the publication, National Journal, a national leadership conference on tax policy and economic growth. At that time, it seemed clear that the conference which is scheduled to take place November 14 and 15 here in Washington would follow by a rather substantial period of time the submission of the President's tax-reform proposals to the Congress. In planning the conference, we noted that tax policy would certainly be a major political and economic issue in the coming year and that it was important for there to be a coming together of the leaders in the tax and economic areas to discuss the vital issues on which Congress would be legislating.

The President has not submitted his tax-reform proposals by October 1 as he indicated he would do and now there is some question as to when those proposals will be sent to the Hill. There are indications that he may delay his submission until next year and I note that in a recent editorial, the New York Times, indicated that what began primarily as a plan to reform taxes has become in recent weeks a plan to cut taxes to boost the economy and the confidence of business.

When we planned this conference, and solicited the leaders in the tax business and economic communities to participate in it, we were hopeful that the President's package would be before us. However, I do not believe it matters whether the President has submitted his tax proposals prior to the November conference. The fact remains that we need a broad-scale national debate on tax policy and economic growth and if the President is going to delay the submission of his pro-

gram for further consideration and for perhaps a redesigning of it in view of events which have taken place and are taking place now, then it seems to me there is all the more reason for a conference of the type I am sponsoring with National Journal. Rather than be a conference which analyzes a program which has already been submitted, it can provide the opportunity to assist the administration in the formulation of a program that will be not only meaningful to the economy, but will have a greater chance of passage once it reaches the Congress.

This conference will bring together some of the country's leading experts on a variety of tax and economic issues. The following is an outline of the conference program. I think it indicates the quality of the high level of discussion to be expected:

NATIONAL JOURNAL

PROGRAM

[Monday, November 14]

General session

9:00 a.m.–9:15 a.m. Introductions.

9:15 a.m.–9:45 a.m. Opening Keynote Address, Rep. Barber B. Conable, Jr.

9:45 a.m.–10:45 a.m. The Carter Tax Package: Who Wins? Who Loses?:

Speakers: Herbert Stein, Professor of Economics, University of Virginia, (former Chairman of the Council of Economic Advisers).

Laurence N. Woodworth, Assistant Secretary of the Treasury for Tax Policy.

Moderator: Edwin S. Cohen, Attorney; Professor of Law, University of Virginia Law School, (former Undersecretary of the Treasury).

10:45 a.m.–12:00 The Politics of Taxation:

Speakers: John W. Byrnes, Attorney, (former Ranking Minority Member of the House Ways and Means Committee).

Wilbur D. Mills, Attorney, (former Chairman of the House Ways and Means Committee).

Moderator: Rep. Barber B. Conable, Jr.

12:15 p.m.–2:00 p.m. Luncheon: Guest Speaker: Rep. Al Ullman, Chairman of the House Ways and Means Committee.

Problem-oriented working groups

2:00 p.m.–3:20 p.m.:

Impact of Corporate Taxes on Economic Growth:

Panelists: Robert Eisner, Professor of Economics, Northwestern University.

Irving S. Shapiro, Chairman of the Board, E. I. duPont de Nemours; Chairman of the Business Roundtable.

Frank A. Weil, Assistant Secretary of Commerce for Domestic and International Business.

Moderator: Rep. Bill Gradison, Chairman of the House Republican Research Committee Task Force on Capital Formation.

Regulation: Non-Tax Taxes:

Panelists: Harvey Kapnick, Chairman of Arthur Andersen and Company.

Moderator: William Lilley III, Minority Staff Director of the House Budget Committee.

Budget Deficits, Inflation and Economic Growth:

Panelists: Martin S. Feldstein, Professor of Economics, Harvard University.

James T. Lynn, Attorney, (former Director of the Office of Management and Budget).

Charles L. Schultze, Chairman of the Council of Economic Advisers.

Moderator: Rudolph G. Penner, Director of Tax Policy Studies, American Enterprise Institute.

Problem-oriented working groups

3:40 p.m.–5:00 p.m.:

Foreign Taxation, Trade and Economic Growth:

Panelists: Paul H. DeLaney, Jr., Attorney, (former Acting Chief Counsel of the Office of Foreign Direct Investments and consultant to the Council on International Economic Policy).

Peggy Musgrave, Visiting Professor of Economics, University of California (Berkeley).

Moderator: John K. Meagher, Minority Counsel of the House Ways and Means Committee.

Impact of Individual Taxes on Economic Growth:

Panelists: John S. Nolan, Attorney, (former Deputy Assistant Secretary of the Treasury for Tax Policy).

Jude Wanniski, Associate Editor of the Wall Street Journal.

Moderator: Bernard M. Shapiro, Chief of Staff of the Joint Committee on Taxation.

Taxation of Worker-Intensive Business:

Panelists: Rep. Abner J. Mikva, Member of the House Ways and Means Committee.

Randolph Thrower, Attorney, (former Commissioner of the Internal Revenue Service).

Arthur M. Wood, Chairman of the Board, Sears Roebuck & Company.

[Tuesday, November 15]

General session

9:00 a.m.–10:30 a.m. The Role of Business and Labor in Tax Policy:

Speakers: Charles E. Walker, Chairman of the American Council for Capital Formation, (former Deputy Secretary of the Treasury).

Labor Representative.

Moderator: Robert M. Brandon, Director, Public Citizen Tax Reform Research Group.

10:30 a.m.–11:45 a.m. Equity and Efficiency of the Tax System:

Speaker: Rep. Jack Kemp, Member of the House Appropriations Committee.

Congressional tax reform advocate.

Moderator: Frederic W. Hickman, Attorney, (former Assistant Secretary of the Treasury for Tax Policy).

AIRLINE DEREGULATION

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. COLEMAN. Mr. Speaker, yesterday I had the privilege to testify before the Subcommittee on Aviation of the Public Works and Transportation Committee, regarding the various proposals to deregulate our Nation's airlines.

I would like to take this opportunity to place into the RECORD my remarks before the subcommittee.

I believe the Congress can agree that the United States enjoys the best air service in the world. However, I fear that some of the proposals offered by proponents of airline deregulation could seriously jeopardize the strengths of our air carriers without adequately addressing the problems.

It is my hope that my colleagues will take the time to study my remarks and seriously consider all the ramifications that airline deregulation entails:

TESTIMONY OF HON. E. THOMAS COLEMAN

Mr. Chairman, members of the subcommittee. It is a pleasure and honor to have this opportunity to join my colleagues in your deliberations on airline deregulation.

I appear before you with mixed feelings. It is my strong belief that regulatory reform is one of this nation's most needed policy prerogatives. Yet, I appear today in objection to the type of regulatory reform offered by the Kennedy-Cannon bill of the other body, and by the proposal of the honorable Chairman of this subcommittee, H.R. 8813.

I am concerned about the Congress' unwillingness to take responsible action on this matter. It is trying to create dramatic new laws rather than perfecting our present laws. The Congress cannot blame the Executive Branch for the failure of regulatory agencies or the industries regulated by those agencies, because Congress wrote the laws. If the rules don't work, it is the Congress' fault.

The district I am honored to represent is located in North Missouri. The southwest corner of my district includes two suburban counties of Kansas City, Missouri. Platte County is home to one of the mid-west's newest, most well-equipped and important airports—Kansas City International. At that airport, Trans World Airlines maintains its world-wide overhaul base and administrative offices. TWA employes 10,000 people, making it the largest private employer in the metropolitan Kansas City area. As you would expect, Kansas City International has become an employment hub with other airlines and support businesses relying on its success for their growth and employment of thousands of other Kansas Citians.

The viability of the airline industry also plays a major role in spurring new residential development which translates into a large tax base for the area's various communities, school districts and other tax-levying entities.

There is no doubt that the Metropolitan Kansas City area greatly depends on a healthy, financially sound and growing airline industry. But, the Congress is shaking the foundation of this stability. Today, as the airline industry faces skyrocketing costs—thanks in large measure to increased fuel bills—and a profit margin that is dangerously low, the Congress is toying with the idea of airline deregulation.

The people of Missouri's Sixth District, and its adjacent districts in Missouri and Kansas, made it clear last May that airline deregulation as proposed by the Kennedy-Cannon bill would not accomplish what the sponsors claim. In a public hearing that I conducted just a few miles from KCI last May, over 400 citizens almost unanimously indicated that airline deregulation threatens the very existence of private enterprise in the air transportation field.

These people who attended this public meeting were not the academicians and theoriticians that have had the ear of deregulations sponsors. These were the top management, pilots, flight attendants, mechanics, trainees, other personnel, and their families, who, on a daily basis support an airline industry that is the best and most efficient in the world. With all due respect to my Colleague, I must lend more credence to the voices of highly trained professionals in air transport than to Washington bureaucrats.

As a result of my meeting I am deeply concerned about the legislation before you for several reasons: impact on consumers; impact on airlines and associated employees; impact on airline companies; impact on air safety; energy; and, lastly government regulatory policy.

Consumers, it must be noted, have not raised a grass-roots objection to the way airlines are now being operated. That doesn't mean they couldn't be better or offer cheaper service. The top management of the major airlines at my hearing conceded that point.

However, I wish to direct your attention to a poll that appeared in the U.S. News and World Report on June 27, 1977. When asked, "In general, how would you rate each of the (21) industries/businesses listed . . . in giving the customer good value for the money?", airlines led all other businesses with a 68% good or excellent rating.

When consumers were asked to score industries on their concern for "customers' health and/or safety", airlines again led with 64% saying they were "very concerned." The magazine surveyed 11,707 household heads.

As these survey results clearly indicate, consumers are not dissatisfied with airlines. If they indeed want anything, they want to protect the service they now enjoy and they want to encourage service to areas currently without service.

In a Harris Survey commissioned by Sentry Insurance, consumers were asked which industries should receive attention from the consumer movement. Only 8% of the public named airlines. Astonishingly, only 13% of the consumer affairs people interviewed thought airlines should be reviewed. This same poll that showed only 8% public dissatisfaction found 21% of the public rating the airlines as doing a good job. Yet, we are here today, under the guise of democracy, responding to a minute minority.

Lastly, from the perspective of the consumer, there is one other point we should consider. Most of the bills I've seen in one way or another essentially calls for government subsidies to airlines. I ask you, what help have we given consumers if we reduce fares, as is alleged by these bills, and then increase tax outlays to cover new government programs. The consumer still pays the piper. Further, if we follow that course, what have we done to those millions of consumers that do not use airlines at all—we send them a tax bill to cover the costs of services others use.

What effect is this airline deregulation talk having on the airline companies, and in the final analysis, their employees?

According to personnel of the airlines at my hearing last spring, the threat of deregulation is drying up sources of investment capital at a time when it is sorely needed to continue operation. Higher fuel costs, rising operating costs, stricter noise regulation . . . all have resulted in dropping profit margins and stock prices. Most airline stock has dropped in the last few years which indicates a lack of confidence among banks, insurance companies and private investors. The uncertainty created by deregulation proposals has only served to continue to broaden this lack of confidence in the investment community.

Over the last five years, the airline considered to be the most financially solvent of all other major airlines, has made a 3.6 percent return on its investment. This is the worst among all major industries, and in fact, is less than a third of what the Civil Aeronautics Board considers a reasonable profit.

And what about employees when the airlines are strapped with microscopic profits, at best?

Labor, in the form of salaries and benefits, accounts for 50 percent of major airline operating costs. Any deregulation plan that mandates lower fares and more routes would automatically mean trimming the ranks of the men and women who work for the airlines. In other words, deregulation is anti-labor. Tens of thousands of highly skilled, technical employees are threatened with unemployment at a time when joblessness is a growing scourge in the United States.

A member of the International Association of Machinists and Aerospace Workers made it clear at my meetings:

"Even if I could find another job and was willing to uproot my family and move to another community, I would lose my seniority and the other benefits that I have accrued over the last 15 years with one airline."

This man and his co-workers have two choices under deregulation . . . take a job and start from scratch after long years of service and training, or become yet another statistic drawing unemployment and welfare benefits.

In response to concern for this potential effect of deregulation, the Senate Committee is completing their bill provided that airline employees could receive federal government payments for three years for a loss in wages due to deregulation. The Senate seems to endorse the fears of the airline employees because they plan to provide this government protection for 10 years.

Does it make for good government policy to take action that might reduce jobs when unemployment is a national shame? I think not.

Will airline deregulation improve airline safety records?

Proponents of deregulation claim that the Federal Aviation Administration would continue to oversee safety in the industry, but the fact is, the FAA is already incapable of fulfilling this role. The major airlines have attained their superior safety record through self enforcement. Again, I quote a mechanic who attended my hearing:

"If we have reached 100 per cent of the FAA safety requirement, we try for 200 percent because it's awfully hard to climb out on a wing to fix something when that plane is flying at 30,000 feet."

Can the American consumer be asked to ignore his own safety? That could happen if deregulation opened the floodgates to countless small, poorly capitalized air carriers. If the FAA is incapable of monitoring the present fleet, where will it get the manpower to oversee even more airplanes?

Before I conclude my remarks, I wish to challenge proponents of deregulation who claim lower fares and better service would result from this legislation.

My own personal belief is that lower fares might result on the highly profitable, glamour runs such as New York to Miami, or Chicago to Los Angeles, where the leisure traveler looks for the lowest possible ticket price. But a majority of airline business comes from the business traveler who needs convenience and efficiency rather than a couple of dollars off his ticket. I am also deeply concerned for the thousands of Americans who live in smaller communities that are now served by airlines who can cross-subsidize their routes. These communities could be left with no air service at all, or at best with a small commuter service that has not the capacity to offer the same safe, high quality service.

Clearly, the ramifications of airline deregulation are broad. The effects would be felt by employees, consumers, stockholders, taxing entities, support businesses, and on and on.

What the airline industry needs is not blanket deregulation, but a swift and sure mandate to the CAB which would require it to follow the intent of Congress, by serving the industry and the public in a competent manner. As we are well aware, CAB has established a remarkable record in regulatory blundering. Seven to nine years to decide a rate application request is ludicrous.

In conclusion, I urge you to address the real challenge before you. Let us work together to improve on current legislation and regulation dealing with the Civil Aeronautics Board. Such a reasonable course will bring about a positive evolution in air service rather than a counter-productive revolution which airline deregulation foretells.

UNIVERSAL SOCIAL SECURITY COVERAGE MOST CONTROVERSIAL

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. GRADISON. Mr. Speaker, one of the most controversial aspects of the Social Security Financing Amendments of 1977 (H.R. 9346) is so-called universal coverage. Over the years, social security has extended protection to more and more people so that today the only workers who are not covered are the employees of Federal, State, and local governments and nonprofit organizations. Of these workers, roughly two-thirds of State and local employees and 90 percent of employees of nonprofit organizations have voluntarily joined and contribute to social security.

As a member of the House Ways and Means Committee, I supported the universal coverage provision of H.R. 9346 for three reasons. First, it seemed to me that universal coverage was an appropriate means of providing more adequate protection for employees who move from covered to uncovered jobs or move from public employment in one State to another, thereby failing to accumulate fully vested rights under separate plans. Second, universal coverage serves to protect the social security fund against windfall payments to those who are not covered in their primary job but make enough small contributions to social security in temporary, part-time jobs to be eligible for retirement benefits. Finally, universal coverage seems to be justified if we are to have a comprehensive national retirement income program, funded out of the income generated by current production.

While I continue to believe that universal coverage is a desirable goal, I have become increasingly wary of the wisdom of including it in this bill, which is primarily designed to restore financial soundness to the social security system. The first objective of the bill is to assure that the social security system is soundly financed over the next 75 years and recipients now and in the future never miss a benefit check.

When universal coverage was introduced, I was concerned that the provision would be viewed as a means to bail out the system. Input from my constituents has confirmed my suspicion that universal coverage does not belong in a financing bill but rather should stand or fall on its own merits separately. For this reason, I intend to support the Fisher amendment when the House takes up amendments to H.R. 9346.

At the same time, I must point out that there are desirable features of the bill which would be eliminated by passage of the Fisher amendment and which I hope will be taken up by the Ways and Means Committee at a later time. I am especially troubled by the exclusion from coverage of those Federal employees who write the social security laws and those who administer them. The problems of covering State and local employees are exceedingly complex, in luding constitutional issues and possible serious financial problems for many hard-pressed States and localities. The proposal to extend coverage to Federal employees such as ourselves in 1982 has no such constitutional problems and basically is an "in-house" issue which we should address promptly. I also have serious reservations about the increase in the wage base for social security taxes which is part of the Fisher amendment. H.R. 9346 already goes further than I would go in

increasing the wage base. Briefly, my concern is that this will tend to reduce the size of funded private pension plans by expanding the role of the pay-as-you-go social security finan.ing system. The effect would be to reduce substantially the pool of badly needed investment funds available for capital formation, job creation, and increased productivity in our economy.

Universal coverage should not be used to bail out the system, and does not belong in this financing bill.

DIETETICS AND NUTRITION

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. NOLAN. Mr. Speaker, the American Dietetics Association represents 34,000 specialists in dietetics and nutrition. These professionals are responsible for the nutritional quality of food served in our day care centers, schools, hospitals, and other community institutions. They are a vital part of health services, extension, and education programs in communities across the country. They counsel, guide, and inform the public about the relationship of food to health and the practices essential for good nutrition.

I wish to commend to the attention of my colleagues, the remarks of Congressman FRED RICHMOND, delivered by telecommunications satellite to the annual convention of the American Dietetics Association in Los Angeles this past year. As you may know, Mr. Speaker, the Domestic Marketing, Consumer Relations, and Nutrition Subcommittee, which Mr. RICHMOND chairs and on which I serve, is presently reviewing the role of the Federal Government in nutrition education:

REMARKS BY HON. FRED W. RICHMOND

I am pleased and deeply honored for this unique opportunity as a politician to address such a prestigious gathering of health professionals dedicated to improving the diet of the American people.

Politicians, including Members of Congress, often use expressions of "concern," "shock" or "outrage" when we are confronted with facts or figures that, although they might be well known to specialists in any complex field, seem fresh and new to us.

We are concerned about government programs that somehow just don't seem to meet the needs that they were designed for . . . shocked at continued bureaucratic inefficiency or outright scandal . . . and outraged when we find that billions of hard earned tax dollars have been, and continue to be, wasted, misdirected or meaninglessly squandered.

There are times, however, when the traditional political rhetoric can't fully express our deepest feelings. After years of public service, I frankly thought little would so astound me . . . so shock me in the truest sense of the word, as did the awareness of what our diet, the diet of the people in the richest nation in the history of mankind, is doing to us.

Today I am here to ask your assistance in seeking a solution to one and the most difficult health related problems now plaguing us. In the midst of agricultural plenty, we are apparently eating our way to death.

Six out of ten of the leading causes of death in this country have been linked to the way we eat. Our diet, over-rich in fat, cholesterol, refined sugars and starches, salt and alcohol is associated with epidemic rates of heart disease, cancer, high blood pressure, stroke, hardening of the arteries, and cirrhosis. The cost in human terms is appalling. In the United States today, one out of three men and of six women can be expected to die of heart disease or stroke before the age of 60. Twenty-five million adults suffer from high blood pressure. Approximately five million others are victims of diabetes. At least one-fourth of all adults in the United States are overweight to a degree that jeopardizes health and longevity. Statisticians tell us that over 125,000 lives could be saved each year if we ate more sensibly.

In addition to this tragic loss of life, there is also a staggering economic cost. Our unhealthy diet costs us $5 billion a year in direct medical expenses associated with nutrition related conditions and diseases.

As dietitians trained in the science of nutrition and schooled in the science of human behavior, you have a unique opportunity to help us adjust our national eating habits.

Recently our Subcommittee in its investigation of the role of the Federal Government in nutrition education listened to consumer representatives who came to Washington to tell us of their concern about the foods they are eating. They spoke movingly and knowingly about the relation of their diet to their physical health and sense of well being.

I would like to share with you some of the observations they made.

There is no single, visible source of objective and useful information on food, diet and health in our country.

In the tragic absence of such reliable information, the public is increasingly turning to magazines, popular books, health food stores and faddists for accessible, if sometimes dubious answers.

Consumers told us that they simply are not receiving guidance where, when and how they want it—in supermarkets, in children's classrooms, in doctor's offices and on popular T.V. and radio programs. They want information wherever food is served: in the school lunchroom, the office cafeteria, and the fast food restaurant—in other words, at the times and places they are faced with food decisions.

Consumers also want direct and honest answers to their questions about today's nutrition controversies. Most, we were told, have graduated beyond the elementary school level of the "Basic Four Food Groups". Specifically they want to know how much is enough meat, eggs, fat, and milk. They want facts so they can make up their own minds about cholesterol, sugar, salts and additives. Nutrition scientists from the National Nutrition Consortium and leading universities told us that we know enough now to advance beyond such bland truisms as "eat a balanced meal" to specific warnings about eating patterns that are detrimental to our health.

Assaulted by a barrage of clever commercial food claims and dire health warnings filled with conflicting and often contradictory advice, consumers are either falling victim to panic or throwing their hands up in utter befuddlement.

In the absence of reliable guidance, they are spending $10 billion a year on fad diets which actually may do more harm than good. Billions more are spent on vitamin supplements and "health" foods. As anxious homemakers study newspapers and magazines for advice, food columns are as avidly scanned as "advice to the lovelorn" offerings.

Turning away from the shrill voices of hucksters and vendors, consumers are looking for reliable, unbiased guidance about the food they are eating.

As dietitians you can perform a great service to the American public by acting as nutrition advocates. But to do this you—and I, as a politician, must respond to consumers at the times and places and in the ways which are suited to their current needs and their current lifestyles. Unless we cooperate with consumers, nutrition education will be little more than an ideal which everyone praises but no one acts upon.

As scientists you must assist in formulating answers to controversial nutrition issues.

As public health experts, you must make sure that these answers are translated into guidelines that are useful in the marketplaces, restaurants and kitchens of our diverse population.

As educators, you must design innovative programs and food plans that will be healthful, appealing, and motivating to consumers.

The talents and technologies of our post-industrial society are available to you. Many Members of Congress, Administration officials, and consumer and health leaders recognize the vital contributions of dietitians and nutritionists to the improvement of our national health. To expand the base of your support, however, I hope that you will share your valuable know-how in persuasive and relevant ways to reach the public. And, as a politician, I assure you that, in this challenge, you will not be alone.

The House Agriculture Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition which I chair has already published a comprehensive report detailing the extent, cost, and lack of coordination of our Federal nutrition programs. During recent national hearings, we heard again and again that federal nutrition programs were not responding to consumer needs and concerns. Top federal administrators from both USDA and HEW admitted that their programs were not reaching a significant portion of their target populations.

Two new studies which we commissioned from the Library of Congress and the American Association of Advertising Agencies demonstrated that our national nutrition education strategies and messages are hopelessly out of date and touch.

I promise you today that our subcommittee will do all in its legislative power to insure:

That the Federal Government and the Department of Agriculture in particular will mount a visible and effective national nutrition campaign.

That this campaign will begin to provide Americans with guidance where and when they want it—on television, on radio, at the supermarket, in the cafeteria and in the classroom.

That this campaign will be innovative and dynamic and be based on cooperation between the federal, private and voluntary sectors.

That this campaign will include health and nutrition professionals who are already working in our local communities and will insure that there is sufficient support for additional training of personnel.

Most importantly, we who are deeply concerned about health and nutrition must agree upon national nutrition goals. We must insist that our scientists and health officials translate the findings of the laboratory into public policy.

Finally, I wish to remind you that the medium is the message. Just as American ingenuity and professional competence are able to bring my image and words to you directly and instantaneously across a continent, so too can our best artistic, technical, and scientific efforts rise to the challenge of defeating malnutrition. As scientists, nutritionists, and educators, you must help us forge this vital coalition of talents.

For I believe, as a politician who is shocked by the appalling toll in lives, health and dollars lost through diet related illnesses,

outraged by our government's feeble response to consumers and concerned about our lack of national nutrition policy that it is time to join together to end the horror story of the most well fed nation eating itself to death.

THE TILLIQUETTES OF LA PUENTE HIGH SCHOOL

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. DANIELSON. Mr. Speaker, I wish to bring to the attention of my colleagues an extraordinary girls' club of juniors and seniors, ages 16 through 18, the Tilliquettes of La Puente High School, which is in my congressional district.

Twice each month, the Tilliquettes visit their adopted grandmothers at El Encanto Convalescent Center in the city of Industry. During these visits, they read to the grandmothers, write letters for them, sing, take walks with them, and bring them gifts of flowers and decorative items. Those selected to be grandmothers are mentally alert. They rarely or never have other visitors. I wish to mention here that Robinson's Florist of La Puente has generously supplied the club with flowers, vases, and other items to assist in this program.

The Tilliquettes were first organized in 1954, and members generally are called upon to act as hostesses for school events. Last semester, however, they chose the additional project of adopting several grandmothers at the convalescent center. Any junior or senior La Puente High School girl may apply for membership. New members are selected by current club members on the basis of a point system for community and school services.

The Tilliquettes is sponsored by two La Puente High School teachers, Gail Herron, who teaches science, and Helen Jennings, a social studies teacher, who are advisers to the girls.

The names of the current members, as well as the graduates who participated last semester in this project, are as follows: Rose Favela (president); Josephine Bendijo (vice president); Pat Duenes (member at large); Nancy Valdivia (secretary); Gloria Robles (treasurer); Veronica Berru; Sandra Orantes; Leslie Arceneaux; Karen Aebischer; Renee Aguilar; Patricia Argo; Patty Fierro; Nancy Jasso; Karen Lemelle; Linda Manship; Diana Martinez; Rose Moreno; Irma Romero; Susan Romero; Marguerite Santiago; and Lorraine Vega; Debbie Taraskevich (past president); Carol Robinson (past vice president); Yvonne Guerrero (past member at large); Donna Jones (past secretary); Geraldine Ibay (past treasurer); Cindy Vuittonet; Evelyn Ortega; Anna de Laet; Carolyn Battle; Luzanne Bonilla; Lennette Dale; and Donna Walker.

Mr. Speaker, I am sure our colleagues join me in commending these girls and their advisers for their devotion to such a worthy effort and their concern for those who are elderly and alone in the world. We send them our best wishes for continued good deeds in the future.

THE PRESIDENT PLAYS THE POLITICS OF ENERGY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. TEAGUE. Mr. Speaker, it is becoming increasingly evident that the President's impugning the integrity of the oil and gas industry of this country is backfiring on his administration and its advisers. As further evidence of this fact, I wish to include a letter directed to the editor of the Washington Post by by a Mr. William T. St. Clair of Berryville, Va., and an editorial which appeared in the Houston Chronicle for October 16:

THE OIL COMPANIES—"THEY ARE ME"

President Carter's senseless attack on "the oil companies" should be noted as political rhetoric only, as any brief analysis would show. Who are "the oil companies"? Well, they are me—I own 800 shares of Continental Oil Company (Conoco) stock, which I bought with money I saved while working, and the $93.33 that Conoco pays me every month helps a great deal now that I'm retired. Although lagging for a while, dividend increases lately have a bit more than matched the increase in cost of living.

Over the past 10 years, including those when Sen. Henry Jackson was calling "the oil companies" thieves, Conoco has sold $44.3 billion worth of products, has paid federal income taxes of $600 million and other taxes of $8.9 billions, and "other costs" have amounted to $32.6 billion. Net profits were $2.2 billion (5 per cent of sales), dividends were $800 million, and $1.4 billion were reinvested in the business. Those receiving dividends (the owners) were perhaps, on the average, in a 38 per cent tax bracket, so $300 million of the $800 million in dividends went to Uncle Sam, increasing his take from the business to $900 million and decreasing the owners' take to $500 million.

So Uncle got, in income taxes alone, almost twice as much as the owners got in net income, total taxes paid by Conoco over the period were almost 20 times as much as the owners got from the business. During the 10 years, long-term debt increased by $600 million, so the owners borrowed more money than they got back in net income.

"Other costs" of $32.6 billion, the $1.4 billion reinvested, and the $600 million increase in long-term debt mostly went into jobs for people—you can't drill a hole in the ground or buy transportation or equipment without putting people to work. Certainly these figures represent hundreds of thousands of jobs.

So this is "the oil companies," fostered by private capital and existing in a competitive environment, paying 20 times as much in taxes as the owners get, and selling gasoline much more cheaply than it can be bought in most other major countries of the world. This is a rip-off?

What do the politicians offer us in return if we accede to their demands that they be allowed to run the oil companies? Promises, intentionally vague promises, because they know little of the system they would destroy. But I know this, that when they destroy the oil companies they destroy me and hundreds of thousands of people like me. I am writing this letter because I object strenuously to being destroyed.

WILLIAM T. ST. CLAIR.

BERRYVILLE, VA.

PRESIDENT RESORTED TO DEMAGOGUERY

It is unfortunate that President Carter has seen fit to resort to demagoguery in order to try to force his badly flawed energy policy on the nation.

Pretending that the oil and gas industry is his only opponent and labeling it with such loaded phrases as "war profiteer" is shameful.

The President and his advisers know better than that. They are well aware that a broad spectrum of groups and interests and political leaders are dubious of and outright opposed to various parts of his energy plan. They are well aware that this is a national policy debate in which reasonable people hold honest differences.

The President may be thoroughly convinced that his proposals are the only solution. That is his privilege. But that gives him no license to attribute base motives to those who disagree. They have the same privilege as he. What is worse, to carefully attribute base motives to an easy, emotional target—to try to make a public whipping boy of the oil and gas industry while tiptoeing around the opposition of others he cares not to offend.

The President attempted to buttress his intemperate and ill-advised attack on the industry by planting the idea that not only is it alone responsible for his troubles, but that it is so powerful as to have its way at will. The President spoke—again in code words—of the "enormous" influence of the industry in the executive branch and the legislative process.

What the President implies is simply not the case. Where is this "enormous" power which has tried for two decades to deregulate natural gas and has been unable to do so? Where is this enormous power which could not prevent virtual elimination of its depletion allowance? Or prevent retention of federal price controls and federal regulation when all other segments of industry were freed? Or could not get approval of an Alaskan pipeline until a crisis in domestic energy became inescapably apparent? Or cannot get approval to explore in promising offshore waters?

It is a measure of the President's resort to emotionalism and demagoguery that he attributes an "enormous" power that is demonstrably not there.

To attack the oil and gas industry is the easy way out for the administration. That eliminates the necessity of addressing the real issue which disturbs so many thoughtful people about the energy policies proposed: their emphasis on conservation instead of increased supply and the fact that they are a thinly disguised tax bill as much or more than an energy plan.

The President is out of line to impugn, directly and indirectly, the integrity of those who happen to disagree with him.

ON THE INTRODUCTION OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION ORGANIZATION ACT OF 1977

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. MURPHY of New York. Mr. Speaker, I am pleased to join Congressman JOHN BREAUX, chairman of the Subcommittee on Oceanography of the Merchant Marine and Fisheries Committee, in introducing a bill that will become the National Oceanic and Atmospheric Administration Organization Act of 1977. The fundamental purpose of the bill is to

promote the development of a coherent, intelligent, imaginative, and comprehensive national policy on the oceans for the United States. The Senate and the House have strong focal points for this task. The executive branch does not. This bill would provide one. It designates the National Oceanic and Atmospheric Administration (NOAA) as the focus within the executive branch for the development of national ocean policy and gives it the authority to act forcefully.

Over the past 5 years, the importance of the oceans to the Nation has become abundantly clear to every intelligent observer. The preliminary estimate is that the Outer Continental Shelf is rich in oil and natural gas—perhaps as much as 600 billion barrels of petroluem alone. I stress the energy resources of the shelf first because our Nation is now importing almost half the oil we consume—a situation which places at serious risk both our national economy and our national security. The development of offshore oil will not make us an oil-independent Nation; but it will drastically reduce our present, and highly dangerous, level of dependence. At the same time, the development of offshore oil will give us valuable breathing space, perhaps as much as a generation, within which to develop alternative sources of energy that are both economical and environmentally safe.

The oceans also contain heavy deposits of strategically important hard minerals—copper, cobalt, manganese, and nickel. They lie, trillions of dollars worth, in nodules on the floor of the deep seabed—in quantities that are sufficient to meet the world's needs for several hundred years. Here, too, the United States is now dangerously dependent on foreign sources. The mining of the deep seabed would enable us to become self-sufficient—a goal that is vital both to our economy and our national defense.

The oceans are also rich in food. We all know that the United States is the world's largest producer of food. The fish and shellfish that we harvest from our estuaries, our coastal waters, and our continental shelf are only one element in this massive cornucopia. But in the decades ahead. the living resources of the oceans will take on increasing importance. The world's population is increasing with great rapidity, and world food shortages are widely predicted. Scientists tell us that one square foot of the oceans can produce ten times the protein of one square foot of the solid earth. Clearly, the oceans are a source of food that the United States must husband and develop carefully—both for itself and for the world at large.

The oceans are valuable for more than their resources. We have always used them as broad avenues of transportation. We are increasingly using them for recreational purposes. In many coastal areas of the United States, tourism is the primary source of income. We also use the oceans for the disposal of a variety of wastes. And we are beginning to think of them for a variety of new uses, such as the siting of power plants. Unfortunately, too often we abuse the oceans, and one of the most serious problems facing the Nation is the pollution of the marine environment as a result of many of our ocean activities.

It is clear from this recital that the oceans have many uses and that they are becoming vital to the well-being of the American people. It is equally clear that some uses conflict sharply with others. The development of national ocean policy requires that we define our ocean objectives, move ahead vigorously to achieve them, and seek to make multiple uses of the oceans compatible. But the United States cannot do this until we have a clearer and stronger focus within the executive branch for the development of a national ocean policy.

Given the importance of the oceans to the United States, why have we failed to develop a coherent and comprehensive national ocean policy? NOAA was established in 1970, presumably to serve as the lead Federal agency in ocean matters. Unfortunately, its mandate was never broad enough. It shares responsibility for the issues raised by marine environmental pollution with the environmental protection agency. The responsibility for the development of offshore oil and gas rests with the Department of the Interior, although I sometimes think the interest of the bureau of land management stops at land's edge. And we do not yet know whether NOAA or Interior will regulate American mining of the deep seabed for hard minerals.

The proliferation of ocean activities among a number of different agencies has created a vacuum. There is no clear process for the development of an overall policy or for the resolution of conflicts over serious issues. There are interagency committees, but too often their decision can only represent a low common denominator. There are discussions at the cabinet level, but they proceed without a sense of direction. As a result, major issues of ocean policy are left open for years; and when they are resolved, it is often done randomly, according to the pressures of the moment.

NOAA's lack of strength in the policy-making process may also reflect the fact that it has never received a strong congressional mandate to take the lead role in the development of a systematic national ocean policy. NOAA was created not by statute, but by a Presidential reorganization plan; and while the Congress acquiesced in the plan, it did not itself actively designate the role NOAA should play in the formulation of ocean policy. From time to time since 1970, the Congress has enlarged NOAA's statutory responsibilities in ocean matters, but the Congress has never defined NOAA's overall function.

The bill that Congressman BREAUX and I are introducing today will go a long way towards resolving the present muddle. It sets forth clearly the congressional intent that NOAA serve as a focal point—and a strong one—for the development of national ocean policy.

In the last analysis, of course, the success of the NOAA Organization Act will depend on the vigor and firmness and clarity of the ways in which NOAA implements the act. I myself am confident that NOAA will use the fresh mandate to act well and wisely and that out of the act will come a sound and systematic ocean policy so that the Nation may make the fullest use of the oceans. The American people, both those now living and the generations yet to come, will be the ultimate beneficiary.

TRIBUTE TO J. FLOYD BREEDING

HON. MARTHA KEYS

OF KANSAS

Thursday, October 20, 1977

IN THE HOUSE OF REPRESENTATIVES

Mrs. KEYS. Mr. Speaker, I note with sorrow the death of J. Floyd Breeding, and would like to share with my colleagues a tribute to him written by his long-time friend and fellow Kansan, John Schnittker, an agricultural consultant who served as Undersecretary of Agriculture during the 1960's.

TRIBUTE TO J. FLOYD BREEDING
(By John Schnittker)

J. Floyd Breeding was first of all a Kansas farmer and cattleman. He settled with his wife and sons on land in Morton County in the southwest corner of Kansas nearly 50 years ago. His work in Congress 30 years later was a natural result of his life as a farmer.

During the first years on their farm, the Breedings endured drought, dust, and depression. While many left the area, Floyd Breeding stayed to fight the dust bowl and low farm prices.

He and his family and neighbors won that fight and lived to see the day when their faith in western Kansas and in farming and cattle raising were justified. Sand hills were turned into green fields when the rains came again. Communities prospered and grew.

Floyd Breeding became a spokesman for farmers and smalltown businessmen, served in the Kansas Legislature, and headed the Western Kansas Development Commission in the 1940's and 1950's.

In 1956, during another drought and farm depression in his region, he succeeded Clifford Hope of Garden City, representing the Kansas Fifth District in the U.S. House of Representatives when Mr. Hope retired. He continued Chairman Hope's long fight in the Agriculture Committee and the House for price and income stability for farmers—for fairness to farmers.

Breeding led the work of the Wheat Subcommittee of the House Committee on Agriculture during the 87th Congress. He was a key figure in the early stages of farm program reform that revised 1930's legislation to give farmers far greater flexibility under Federal programs, and to price U.S. grains competitively in world markets.

Floyd Breeding saw the explosion of world demand for U.S. farm products 30 years ago. The "Wheat Certificate" program he and his wheat grower associates from many States fought for in the 1950's and 1960's was an early version of present price support programs which expand exports and protect farm income without inflating food prices. He continued to work for expanded farm exports in the Department of Agriculture after he left the House of Representatives.

His friends and family as well as Kansas farmers and townspeople will long remember J. Floyd Breeding with respect and affection.

ELOISE CHINN, WOMAN OF THE YEAR

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. GAYDOS. Mr. Speaker, once again the Allied Veterans of the McKeesport area in Pennsylvania has chosen an outstanding individual to receive its annual Woman of the Year Award.

The 1977 honoree is a gracious lady who has spent the past 18 years in dedicated service to the McKeesport Young Women's Christian Association—Miss Eloise Chinn. She will be feted at a dinner scheduled by the Allied Veterans for 6:30 p.m. Sunday, November 6.

Miss Chinn, a life member of the YWCA, has been an active participant in the organization since her college days. As a student, she was president of the YWCA Student Association and, following graduation, she joined the association's professional staff. She held various official positions in Iowa and Hawaii before coming to McKeesport, where she now serves as executive director of the local operation.

In fact, Miss Chinn is credited with being responsible for the completion of a study by the United Way which resulted in the erection and dedication of a new building for the local group in 1965.

However, as is usually the case with those who give unselfishly of themselves to help others, Miss Chinn's interest and involvement extends far beyond the YWCA.

In Iowa and Hawaii, she worked with the American Red Cross, retarded children, and social welfare councils. She assisted in raising funds for numerous charitable groups and helped organize the first interdenominational church in Hawaii.

Upon arriving in McKeesport, she immediately plunged into the activities of a wide variety of civic, cultural, and professional organizations in the community. For 12 years she was the residential cochairman for the United Way and regularly took part in local drives for the benefit of cancer, leukemia, muscular dystrophy, and heart disease victims.

A past president of the Altrusa Club of McKeesport, Miss Chinn took a particular interest in the club's work with senior citizens. She chaired the first Heart Ball and is the guiding force behind a districtwide conference to be hosted by the club next year.

Her interest in the community and its residents is reflected in other areas as well. She was finance chairman for the McKeesport Council of Church Women United, a member of the board of directors for the McKeesport Bicentennial Committee, and an active worker in arranging community craft shows and other events, such as the International Village, an ethnic celebration that draws visitors from miles around to the city of McKeesport.

Mr. Speaker, Miss Chinn is an exceptional individual and worthy of the honor accorded her by the Allied Veterans of McKeesport. On behalf of my colleagues in the Congress of the United States, I extend our official congratulations and join her many friends in applauding her contribution to the community of McKeesport, Pa.

OIL TAXES AND PLOWBACKS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. VENTO. Mr. Speaker, this morning's Washington Post contains an excellent analysis of the proposed plowback proviso that may be considered in the energy conference committee.

The House position was tested on the plowback and it soundly defeated a narrowly defined plowback.

The major oil companies have adequate capital and the facts point up that they invest less in exploration and research than many other enterprises. The generous price of new oil is adequate incentive for exploration and production.

These major oil companies, indeed, have such significant capital supplies that they have purchased major percentages of competing energy resources, i.e. coal, 40 percent; Government-leased uranium, 70 percent; and, of course, have invested in other nonenergy enterprises.

As our Energy Secretary, Jim Schlesinger, has stated repeatedly, the oil companies are awash in capital, they do not need additional resources to leverage new exploration.

The editorial printed below emphasizes that point:

OIL TAXES AND PLOWBACKS

In its anxiety to get the energy legislation through Congress, the Carter administration is inching toward a very bad compromise. It is considering a plowback provision for its proposed tax on crude oil. "Plowback" is a euphemism for a clause that would return part of the tax to the people who paid it. In this case it would go back to the oil producers, presumably earmarked for the expansion of oil production. At first glance the idea seems reasonable enough, and it's popular in Congress. But the plowback is, in fact, a dangerously defective concept that promises several different kinds of trouble for energy policy and for the national economy as a whole.

First of all, the plowback would reward the wrong people for the wrong things. If the administration is going to introduce a fat new oil subsidy, you might think that it would be aimed explicitly at future discoveries. But the crude-oil tax is to be levied on current production, and most heavily on the cheap oil from the oldest wells. Merely returning a share of the tax to the payer would give the biggest benefit to the companies with the largest current production from older wells.

Some oil companies make a specialty of exploration. Some prefer to buy other people's discoveries. If there are to be gigantic new federal tax incentives, they ought to be linked directly to new finds and the people who find them. It's not enough—not nearly enough—to say that the rebated tax money would have to be used for exploration. That would give a company the same subsidy for incompetent searches as for highly successful ones.

Tremendous sums of money are at stake here. The crude-oil tax, as the administration proposed it and as the House passed it, would raise $11.5 billion a year by the time it became fully effective in 1980. There are hints and whispers in the air that the administration might permit Congress to rebate as much as half of it to the companies that pay it, under the cover of that reassuring term "plowback." If companies were to spend that money slowly and carefully, it would pile up in the U.S. Treasury at a rate capable of slowing down the entire national economy. If they spent it fast, bidding against each other for scarce equipment and manpower, the result would be another damaging round of oilfield inflation.

The plowback would be bad for competition. It would give this vast subsidy only to the companies with production already flowing to market. It would offer nothing to the new company that wanted to get into the business tomorrow. The new entrant would have to find its own money to compete against the established operators whose exploration costs were being carried, in some substantial part, by federal plowback subsidies. The Carter administration does not appear to have given much thought to the anticompetitive character of the plowback.

The crude-oil tax is crucial to the Carter energy plan. If a sweetener is required to get it past a hostile Senate, there are far more attractive possibilities available. One is to parcel out each year's tax rebates in proportion to the amount of new oil that each company brought in that year. Another and simpler device is to forget rebates altogether and in the future simply let each year's new oil be sold at that year's market price. If there are to be billion-dollar incentives, Mr. Carter and Congress need to consider precisely who gets them, and for what. The essential principle here is to tie any further tax benefit directly to barrels of new domestic oil actually discovered and brought to market.

WE NEED TO IMPROVE THE MANAGEMENT OF OUR WATER RESOURCES

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. PANETTA. Mr. Speaker, I wish to insert the text of testimony I presented before the Subcommittee on Water and Power Resources, Committee on Interior and Insular Affairs, on September 29, 1977, for the benefit of my colleagues.

Presented during the subcommittee's oversight hearings on water research, my testimony deals primarily with the bill H.R. 8060, the Federal Water Authorities Reorganization Act, which I introduced earlier this year. As many Members no doubt realize Federal water responsibilities are shared among some 32 separate agencies. The result, as those of us with drought-stricken constituencies can demonstrate, is that Federal assistance and aid is either nonexistent, insufficient, or intolerably delayed. It is my belief that this situation is the result of the poor organization of Federal water management agencies and of the fact that there is no one agency or person charged

with coordination or oversight of the others' activities.

To remedy that situation, I introduced H.R. 8060 which provides for the establishment of an Office of Water Management within the executive branch with responsibility for formulating national water policy (subject to congressional approval) and overseeing its implementation by Federal agencies.

To alleviate the perennial struggle between the Congress and the President over water resource project construction, the bill sets up an Independent Water Project Review Board, also within the executive branch, to evaluate all proposed Federal water projects and to report on their merit to the President and the Congress before any funds are appropriated. This way, we will avoid the situation of having to halt projects that are halfway built, because a new review has questioned their merit. All this will be done beforehand. It will also give us some assurance that projects that are genuinely needed can be built without becoming mired in controversies over marginal projects.

The role of neither branch is usurped, each must still pass on each individual project, but under this system, we can get on with building what we do need. The cost of these two new, small bodies would be more than covered by the savings resulting from the abolition of the Water Resources Council and the Office of Water Research and Technology (Interior Department), as provided for in H.R. 8060.

It is my belief that such an approach to water resources management will allow us to give greater attention to water management, will give us more for our money, and will give us an independent assessment of individual water projects coupled with an ongoing implementation and review of broad policy areas. Through this approach we can see to it that good management, following consistent policies and programs, achieves the water supply goals we set for ourselves. The effect of this will also be to see to it that the money we do appropriate is used effectively with full accountability.

The text of my testimony follows:

TESTIMONY OF THE HONORABLE LEON E. PANETTA

Mr. Chairman and Members of the Committee, thank you very much for the opportunity to speak before you today. I would like to commend you for your prompt scheduling of oversight hearings on the Office of Water Research and Technology after completion of the Subcommittee's mark-up calendar.

I have followed with great interest the hearings in this Committee and in Senate Committee on Environment and Public Works with regard to the Saline Water Conversion Act and the Water Resources Research Act. Many Members of both Committees raised some extremely serious questions about the performance of the Office of Water Research and Technology (OWRT) in carrying out the provisions of those acts.

The Water Resources Research Institutes, funded by the Water Resources Research Act at a level of some $10 million, represent one part of the Federal government's chief water research activities. The Saline Water program represents the other principal part. Despite the fact that these programs look good on paper, there has been very little evidence that they have produced meaningful results that in any direct way can contribute to alleviating this nation's water supply problems. Moreover, the Office has been plagued by very prolonged personnel problems which have greatly hampered its effectiveness and raised questions about its management. These points are well known to those of us with an interest in water resources and were enumerated many times during the hearings held by both the House and Senate Committees.

I believe the Committee acted wisely in reporting a bill that merges the two programs statutorily, that merely extends the authorization of the Water Resource Research Act without committing us to further extensions, and that provides a significant increase in the funding for desalination research. Such an approach allows us to take the time we need to look at the problems facing OWRT in particular and water research in general and gives OWRT some leadtime to prepare for the greatly stepped-up desalination program the Committee envisions.

The question before us now is, what long-term steps do we take to see that water research funds are used most effectively to give us some answers to our water supply problems?

Before I outline what I would propose to address this situation, I would like to observe to you that the problem we face with regard to water research is, in my view, part of a larger problem with Federal management of our water resources. In the areas of construction of water projects, financial assistance, management, regulatory activities, and data acquisition, as well as research, there is no coordinated purpose or direction behind what the Federal government does. Let me elaborate.

In the course of assisting drought-stricken individuals in my district to obtain Federal assistance, I found that in the fairly limited area of drought management the Federal government flounders with no lead agency, no policy, no coordination. A survey of Federal water responsibilities which was prompted by that initial discovery disclosed that there are some 32 separate Federal agencies with responsibility for our water resources. Further, there is no policy to guide these bodies, nor any individual or agency charged with coordination.

The results of this situation are dismal. Most obviously, there is a problem with inefficiency and duplication of effort. Another unfortunate result is that with no one agency to seek funding for water resource management, as the EPA seeks pollution control funds, each agency receives too small a piece of the pie to do anything really effective. When tied to the already chaotic organization of the agencies, the effect is that poor performances like that of OWRT are unavoidable. In spiralling fashion, those poor performances make Congress still more reluctant to provide adequate funding.

What I am leading to is the desperate need for reorganization of Federal water authorities. While I believe that a prodigious oversight effort by this Committee does contribute substantially to keeping some control over these agencies, I think we must go farther. Accordingly, I have introduced H.R. 8060, the Federal Water Authorities Reorganization Act, which has been referred to this Committee.

Before I discuss the provisions of the bill and how it relates to the issue before us today, I might note that the whole idea of water authorities reorganization is beginning to receive the attention it deserves. Besides my bill, there is one by Senator Frank Church, S. 186, pending before the other body. The Interstate Conference on Water Problems has called for action to straighten out the Federal mess. Also, as you know, the Executive branch is beginning a review of Federal water policies, as well as a review of reorganization possibilities in the whole area of natural resources management. I think it is clear that it is an issue about which we will be hearing a great deal.

H.R. 8060 seeks to bring Federal water management authorities under one roof through the establishment of an Office of Water Management within the executive branch, under the direct authority of the President. The Office is charged with formulating a national water policy, subject to approval by the Congress, and overseeing its implementation by the more than 30 separate Federal agencies in charge of water resources. The Office would also have special drought-related responsibilities, including the ability to direct that applications for Federal assistance applications from drought-stricken areas be given expedited consideration.

Of special interest to the Committee today is the proposal in H.R. 8060 that the functions of Office of Water Research and Technology be transferred to the Office of Water Management, effectively abolishing OWRT. The bill further directs the new Office, before utilizing any of the new research functions, to include in its national water policy recommendations a detailed assessment of water research priorities and to include suggested funding for such types of research, when the policy recommendations are made to the Congress. The new Office is also directed to give special consideration to technologies which are low-cost and energy-efficient and which are suitable for adoption by private industry in the near term. It is my feeling that such an approach will allow us to set clear goals in research and pursue them. Transferring responsibility to the Office of Water Management will not only bring in fresh initiative, but will put the Federal government more in the role of stimulator of research by private interests who have the greatest stake in its success, than of prime contractor. This would bring our water research effort more in line with what is being done in the energy field.

The bill has a second and key part, establishing the Independent Water Project Review Board in the executive branch to evaluate proposed water resource construction projects and make recommendations on their construction to the President and the Congress. This approach should give both branches the benefit of independent expertise, avoid the confrontation we witnessed this spring, and allow us to make carefully-weighed, long-range plans for the construction of the water projects which we do genuinely need.

The bill would also abolish the Water Resources Council whose functions would be more than replaced by the new Office of Water Management. I might note that the cost of running these new bodies would be more than covered by the savings which would result from the abolition of the Council and OWRT.

What we get by linking these two offices is some assurance that there will be an independent assessment of individual water projects coupled with an on-going review and implementation of broad policies. This way we can see that good management, according to consistent programs achieves the water supply goals we set for ourselves. The effect of this will also be to see that the money we do appropriate is used effectively, with full accountability when questions are raised about the performance of Federal agencies and programs.

I think that there is almost a tendency on our parts to accept the present chaotic arrangement of Federal water authorities. Unlike the energy field which has always been concentrated and highly organized, water suppliers are by their very nature decentralized. It is an understandable response to assume that Federal managers ought to be equally decentralized. But I think we have to start making the same hard decisions we

have begun to make with regard to energy in setting up the Department of Energy and calling for better management of our energy supplies.

Of course there are no easy answers to drought or to improving our water resources management. But as is the case with energy, we can start to handle those resources we do have in a more thoughtful and careful manner. Such an approach would, I believe greatly benefit our research efforts as well as the many other areas of Federal water resources activity.

Mr. Chairman, thank you again for allowing me to testify today.

AL GREEN

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mrs. BURKE of California. Mr. Speaker, I would like to bring to the attention of my colleagues the record of an outstanding senior citizen, Mr. Al Green, who lives in my district and whom I have known for many years.

Since 1969, Mr. Green has volunteered long hours toward securing funds and support for a State historic park in Allensworth, Calif., the only town founded, financed, and governed by black Americans.

Colonel Allensworth founded the town in 1908 to establish a community where his people might live, develop, and educate themselves, free from the direct influence of slave-oriented social attitudes. His dream was short-lived as a tragic accident claimed his life in 1914.

Mr. Green has worked hard to establish this site as a State historic park to provide the public with a historical prospectus of Colonel Allensworth, his role, contributions, and concerns. As an early member of the Allensworth Advisory Committee, Mr. Green served as a member of the subcommittees which met and drew up the prospectus for the Allensworth project which became the guideline for the feasibility study and all later studies of Allensworth project.

As chairman of site-planning and land acquisition, Mr. Green haunted the legislative halls in Sacramento helping to write bills to secure money for the project, speaking before legislative committees in behalf of the bills and buttonholing legislators to assure their support of the Allensworth project.

Mr. Green helped overcome the opposition of the legislative analyst and counsel as well as the Senator in whose district the project lay. Many hours were spent writing news articles answering legislators and others who voiced opposition and attempted to downgrade the project.

On many occasions Mr. Green was the lone person to appear and speak when the Allensworth State Historic Park was on the agenda of the department of parks and recreation, to the annoyance of commissioners who wished to drop the projected park.

When Governor Reagan, who had the power to delete Allensworth from the budget, voiced misapprehensions over the lack of water for the park in Allensworth, Mr. Green with the help of two citizens of Allensworth completed a 2-week survey of water resources in the area. Taking over 100 pictures, which Mr. Green had made into slides at his own expense, and a résumé of their findings, a presentation was made before the former Governor which allayed his doubts and fears about the project.

As chairman of the Colonel Allensworth State Historic Park Advisory Committee, Mr. Green enlarged the committee's interest and sense of responsibility for a successful dedication on October 9, 1976, by sending out several mailings each month to committee members and others who would be of help.

Mr. Green's efforts bore fruit. At the time of dedication, $6 million had been allocated for the restoration of the park which will include a museum, library, and research center on black history. Over 1,700 persons attended the dedication. Among them were a busload of pioneers and former residents of Allensworth from Los Angeles on a bus sponsored by Mr. Green and his wife. Mr. Green has sought out pioneers and former residents of Allensworth to tape their story of life in Allensworth to include in the archives of the Allensworth Library.

Although a year had passed with very little of the $6 million being spent on the park, clearly, the project has only begun. It will take the continued hard work of Mr. Green and others to complete Allensworth as an educational and cultural complex of which we can all be proud.

Mr. Al Green is a unique and dedicated individual who deserves our recognition and respect. I salute him and wish him success in this commendable project.

THE SENATE AND AGEISM

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. WAXMAN. Mr. Speaker, our colleagues in the Senate today passed with only six dissenting votes, a bill to eliminate mandatory retirement in most areas of employment. For this they are to be commended. However, the Senate bill as passed differs from the House version in a significant way. It exempts from the protection of the Age Discrimination in Employment Act two categories of employees, those who have pensions over $20,000 and tenured university professors. I do believe there is no logic which can justify these amendments, and I am submitting an article by Dr. Marc Rosenblum from yesterday's New York Times which cogently analyzes the reasons why those two exemptions should not be permitted. I urge the conferees to support the House bill, H.R. 5383.

THE SENATE AND AGEISM

(By Marc Rosenblum)

WASHINGTON.—Business and higher education have combined to oppose extension of Federal age-discrimination laws to persons beyond age 65. Their efforts led to adoption recently of two exemptions that would negate the proposed legislation's effect on executives and professors.

These exemptions reflect the fear that forbidding mandatory retirement between ages 65 and 70 would result in the nation's board rooms and classrooms becoming havens for the senile. Such fears run counter to most available evidence. Nevertheless, sufficient pressure on the Senate Human Resources Committee led to adoption of amendments excluding from coverage businessmen who are to get $20,000 pensions and tenured professors.

The Senate should reject these exemptions or, alternatively, the House-Senate conference that will reconcile different versions of the 1977 Age Act amendments should refuse to accept the weaker Senate formula. The House, 359 to 4, passed legislation forbidding termination of employees before the age of 70 in the private sector without excepting special-interest groups.

These groups' special pleadings are unfounded, unnecessary and, in light of a recent Federal court ruling, probably unconstitutional. Underlying the academic and business opposition is concern that traditional staffing policies will require revision, without consideration of the adequacy of such practices in a changing environment.

The customary policy of permitting unproductive executives to coast into retirement and providing tenure protection unrelated to academic performance might be aggravated by extending the Act's coverage to age 70. But it is these hoary practices themselves that require re-examination; they should not be permitted to serve as an excuse for diluting a bill that permits all productive older workers to remain on the job.

Largely absent from most news analyses and press coverage is any indication of the substantial extent to which Federal law permits nonproductive workers—among them business executives and professors—to be removed legally. Thus, special exemptions should be viewed as nothing other than a convenience for groups unwilling to face the shortcomings of their own ingrained practices.

Even the argument that younger workers' ambitions should be a factor in pending legislation may be unlawful under the Fifth Amendment. A Federal court held recently that equal protection guarantees preclude the singling out of certain employees for early retirement when most others in similar circumstances were allowed to continue. Moreover, the three judges specifically rejected as illegal the argument that personnel practices affecting older workers could be based on a policy of enhancing the status of younger ones.

The opposition of business leaders and higher education, while ill-founded, was not unexpected. The same cannot be said of the National Urban League leader, Vernon B. Jordan Jr., who believes that blacks would suffer if older workers were better protected from job discrimination. The expedient trade off of one group's civil rights by those supposedly sensitive to discrimination serves to particularly underscore how engrained ageism is in American life. In truth, not only would older black workers benefit from the revised statute immediately, but younger blacks—and other minority members as well—as they got older would enjoy the law's protection.

The overwhelming majority of older workers will continue to retire on becoming eligible for Social Security, or soon after. Perhaps 200,000 would postpone retirement for a number of years, but that number could easily be accommodated by any resumption of economic growth. To suggest, as do opponents of the bill's original version, that our 100-million-member labor force cannot properly function if protection is extended to all

workers between age 65 and 70, is to deny our economic system's vitality and underlying strength.

The Senate ought to recognize that the House has passed a better version of the Age Act amendments. While short of ideal, it more nearly captures the belief that added safeguards are needed for the older worker. The final language that both houses send to President Carter should reflect that realization

KEEP THE GOLD COAST, SHE WILL TAKE WEST 28TH STREET

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Ms. OAKAR. Mr. Speaker, I am pleased to submit this article about Mrs. Irene Traci, of Cleveland, Ohio, who is such a tremendous asset to the oldest community in Cleveland. I have known Mrs. Traci all of my life, and I am, indeed, proud of her:

[From the Cleveland Press, Oct. 19, 1977]

KEEP THE GOLD COAST, SHE WILL TAKE WEST 28TH STREET

(By Eleanor Prech)

"No Gold Coast for me—I've lived on W. 28th St. all my life and intend to stay here."

This is Mrs. Irene Traci speaking with such a positive tone that you know she means it. She lives at 1527 W. 28th St. and has operated Traci's Italian Restaurant at 2800 Clinton Ave, for 53 years.

But it would be wrong to think of her only as a restaurant owner. She is a personality of the near west side that you can't help but admire.

Though her restaurant doesn't open until 7 a.m. she is around at 6 a.m. waving to the many acquaintances who toot their horns as they drive to work.

"Why shouldn't I get here early—what else do I have to do?" she asked with a laugh.

She is around when children scramble to St. Ignatius School and sometimes she drives them if they are late or it is raining.

And in the past months she's been sort of taking care of State Rep. Edward F. Feighan, 29, candidate for Cleveland mayor, who is "like my grandson," she said.

She is his landlady but more than that.

"I've known the whole family—grandfather, father, others," she said. "Edward is a good boy. He is honest and intelligent and a hard worker and I feel he is going places."

Mrs. Traci opened her restaurant to those who tried to see him in the past months. She even opened his front door and hollered up the stairs to tell him he was wanted. And Feighan and his wife Nadine ate most of their meals in her restaurant, as they have been her tenants for the past five years.

Her entrenchment in the neighborhood goes back to the summer of 1953 when the entire district leading to Franklin Circle was wiped out by a tornado. She has pictures of the tragedy.

"My husband and I were in the restaurant which was partially shattered, but we watched in horror to see the homes across the street blown away.

"We knew the five people who were killed. Our main concern for weeks was to help people get a cover over their head. We saw to it that they were fed and cared for. We rebuilt our restaurant."

Mrs. Traci knows by first name many officials from City Hall and many Cleveland judges who come to her restaurant for lunch.

"That grand old clerk of courts, John E. Gallagher, still visits me once in awhile," she said.

Mrs. Traci and her husband Samuel, who died 14 years ago, were married in 1924 at St. Malachi Church, W. 25th St. and Washington Ave. Throughout the years Mrs. Traci has helped the church in whatever way possible.

"My husband and I always admitted that we were fortunate and had more breaks in life than most people have had," she said. "This is why we always tried to help others in whatever way we could."

She remembers that her husband used to drive children of the neighborhood out to their 66-acre farm in Brunswick.

Mrs. Traci has a son, Donald, a lawyer who lives in Lakewood with his wife and 11 children, and a daughter, Mrs. Patricia Gresock, of North Royalton, mother of two. There are three great-grandchildren.

Mr. Traci's restaurant is spic and span. It recently was remodeled to separate the bar from the dining room which seats about 50. White tablecloths and red mats are on the tables. Lamps give the restaurant a warm glow.

Best of all, the food served is home-cooked.

"There isn't a thing served that I don't have a hand in," said Mrs. Traci. "Of course I couldn't get along without my assistant, Judy Dunn, who is my right hand in this operation."

Mrs. Traci said that clients like best her home-cooked Italian-style veal cutlets. The Italian club sandwiches and antipastos are well liked. And many come for the Traci-burgers and french fried potatoes.

"The secret of keeping up with work in the restaurant is timing," said Mrs. Traci. "We also enjoy arranging small engagement or anniversary or going-away parties."

For a woman who reaches 70 next June and doesn't look 60, Mrs. Traci follows a schedule that would put most women to shame. She is up at 5:30 a.m., in the restaurant about 6 and stays until 10 p.m. to close up.

"But I love this life," she said, "because I get to meet such wonderful people."

ON THE INTRODUCTION OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION ORGANIZATION ACT OF 1977

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. BREAUX. Mr. Speaker, today Chairman JOHN MURPHY and I are introducing a bill to formally commence the establishment of a comprehensive U.S. national ocean policy and direct the National Oceanic and Atmospheric Administration (NOAA) to implement the directives of that policy.

It has become apparent in the last several years that the oceans will be playing a role in our lives far greater in importance than that which they played in the past. In addition to their continuing importance for oceanborne commerce and world trade, and their increasing importance as a source of world protein, we fully expect the oceans to become an important source of minerals, oil and gas, and even fresh water in the years ahead.

Unfortunately, the ocean is of finite size and, consequently, many of these activities will conflict. We need to be prepared to manage the exploitation of these ocean resources in such a way as to balance the many conflicting activities in a fair and wise manner.

This was the conclusion of the Stratton Commission report in 1960. Their recommendation for achieving the effective management of all our ocean related activities was that an independent national oceans agency be created, and that responsibility for all ocean activities—then widely dispersed throughout several agencies—be consolidated within this oceans agency.

In 1970 the administration attempted to achieve this consolidation by establishing NOAA through Reorganization Plan No. 4. That plan was hastily drawn up and implemented without specific congressional oversight. Input from the Congress was precluded. As a result, the plan ignored many of the recommendations made by the Stratton Commission, and NOAA encountered great difficulty in attaining the recognition as lead ocean agency that was required to implement a comprehensive national policy.

We are hoping that introduction of this legislation, and its eventual passage, will set NOAA firmly on its feet as the recognized lead ocean agency. Similar legislation is being introduced today in the Senate by Senators HOLLINGS and MAGNUSON on behalf of the National Oceans Policy Study of the Committee on Commerce, Science, and Transportation.

We should not underestimate the importance of such a statement of policy by the Congress. A similar statement of policy, the National Environmental Policy Act of 1969, went far to move us toward the formulation of a clear national environmental policy. Without that act, it is doubtful that we would have made the progress toward improved environmental quality that we have made to date.

We are hopeful that this bill will stimulate discussion within the ocean community and, upon its ultimate passage, move us toward the active management of our valuable ocean resources that only a comprehensive national ocean policy can achieve. We have debated too long regarding the need for such a policy and I feel it is now time to act.

DR. GEORGE THOMAS CHERRY, DISTINGUISHED SOUTH CAROLINA CITIZEN AND HUMANITARIAN

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. DERRICK. Mr. Speaker, I wish to bring to the attention of the Members of the House of Representatives an example of true, unselfish service to one's fellow man and community as exemplified by the life of Dr. George Thomas Cherry of South Carolina.

Throughout his life, Dr. Cherry was a devoted servant to the needs of the people of Aiken, S.C., where he practiced dentistry and was an active participant in the affairs of the community. Dr. Cherry is the recipient of the President's Award from Meharry Medical College for 50

years of service to mankind; and, the Palmetto Medical, Dental and Pharmaceutical Association Award in recognition of his loyalty to and continued interest in the field of dentistry for over 50 years.

Dr. Cherry's death on September 27, 1977, left a void that cannot be readily replaced, as he was a leader in his church; a committed family man; a protector of quality health care; and a friend to all those who knew him.

Rarely, in these times of increasing insensitivity to the needs of others, do we have such an example of a lifetime of sincere, humble dedication to the betterment of other human beings.

Dr. Cherry never sought self-serving recognition and never attempted to advance himself at the expense of others.

It is a privilege for me to address you today and share with you my observations as to this example that all Americans should emulate in the conduct of our lives.

I know that you will join me today in briefly marking the passing of such a distinguished South Carolinian, who contributed greatly to the benefit of his State and to his country.

TRIBUTE TO SYLVIA BLOOM—25 YEARS OF EXEMPLARY SERVICE TO BRONX EDUCATION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. BIAGGI. Mr. Speaker, on Sunday, October 16, 1977, I had the distinct privilege and pleasure to attend a luncheon honoring Mrs. Sylvia Bloom, one of the foremost educational leaders in the Bronx, N.Y.

Sylvia has dedicated over 25 years of voluntary work to Bronx District 10.

She began her distinguished career as a member of the Parent-Teachers Association of Public School 46. Her talents were clearly evident at the start of her work there, and shortly after joining, she was named its president.

Her next noteworthy contributions occurred while belonging to the local school board within community district 10. Within 3 years after beginning her service in that capacity, she was elected to her first 7-year term on Community School Board 10.

Without question, Sylvia Bloom was one of the most energetic and active representatives of that board. She founded the District 10 President's Council, and served as its first chairperson. Mrs. Bloom was also the chairperson of the board public relations committee education forum. She was to further serve the board as a member of the steering committee, which was responsible for the appointment of local school board members.

In 1975, Sylvia Bloom reached a pinnacle of her public success. She was elected as the president of Community School Board 10. Her leadership in that important position continued until the date of her retirement this past June 30. During that time, she provided invaluable direction and guidance to the students and the teachers within District 10. As a result, she was widely respected in her community, as well as within New York City's educational community.

Sylvia Bloom's work won her many important honors and awards. She was to specially serve on the mayor's safety in school committee. Her time and talents were also given to the United Parents Association of New York, as well as numerous citywide and countywide school board associations.

Despite her many all-consuming duties in District 10, Sylvia Bloom still found time to work as director of proclamations and awards in the New York City Department of Public Events during the administration of Mayor Lindsay. Her other activities read like a Who's Who in community service: Chairman of the Bronx County Appeal for the American Red Cross; member of the National Board of Pioneer Women; member of the Bronx Council on the Arts, and former chairperson of the Trade Union Council for Pioneer Women.

Sylvia Bloom's retirement, although well-deserved, is a sad event. It deprives the people of Community School Board 10 of a friend and a leader. An educational system is only as good as the people who serve it. Using that criteria, school district 10 has been fortunate to have a woman of the caliber of Sylvia Bloom serving its interests.

It is the responsibility of local school boards to deliver educational services, irrespective of the amounts of Federal or State aid provided. Sylvia Bloom was aware of this fact throughout her career, and by working closely with school officials and parents, she helped to insure that quality education was provided to the children of district 10.

I extend to Sylvia my deepest congratulations. I also offer her, on behalf of her thousands of friends, our profound and sincere gratitude for a job well done. Sylvia Bloom has established a legacy of service, which will be remembered for years to come.

At this time, I also wish to pay tribute to the Bloom family, who served as an inspiration to Sylvia in her work. I salute her beloved husband, Judge Max Bloom of the Bronx Supreme Court, and her daughter, Mrs. Lydia Parness of Washington. They will share Sylvia's joy on Sunday, and they can now look forward to more and happy time together with Sylvia in the years ahead.

FRANK ALBERT STUBBLEFIELD

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. JONES of Tennessee. Mr. Speaker, I was deeply saddened to learn that our former colleague, Hon. Frank Albert Stubblefield had recently passed away.

When I first came to Washington, Frank was among the first to welcome me and to offer his help to a green freshman. In the months and years that followed, he made that offer good. As the representative of an adjoining district and as a fellow member of the Committee on Agriculture, he spent many hours as my mentor and my friend. My wife Llew and I came to feel very close to him and Odessa.

He was not a vocal man, but he represented the First Congressional District of Kentucky with honor and dignity. He was not an orator, but he was a strong and convincing persuader behind the scenes, never seeking the limelight. He was a great American, and we will miss him sorely.

RACISM IN THE NEW YORK CITY SCHOOLS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. RANGEL. Mr. Speaker, earlier this month the junior Senator from New York issued a statement on the subject of racism in the New York school system, comparing a Federal Government plan to correct this problem with the atrocities perpetrated by Hitler at Nuremberg. As a product of the New York public school system and as a Representative from that city, I know only too well, the devastating effects of racism in our public schools. Now, when the Office of Civil Rights suggests the implementation of an equitable plan to remedy this intolerable situation certain individuals are alarmed.

To that end I am inserting in the RECORD a statement made by the Hon. Isaiah Robinson, Jr., vice chancellor of the New York City Board of Education, at a recent board meeting. Chancellor Robinson's statement, I feel, provides clarification of the situation that now exists in New York City. I urge my colleagues on both sides of the aisle to sincerely consider its contents.

The statement follows:

RATIFICATION OF MEMORANDUM OF UNDERSTANDING

(By Isaiah E. Robinson, Jr.)

Mr. Chairman, I would like to make a statement even though you said this is laid over for the next meeting at which time it will be taken up and the public can debate the issue.

The reason I would like to make this statement for the record—and I will probably repeat it again in more vociferous terms the next time—is a notion that's abroad, initiated by our illustrious Senator in the Halls of the Senate and the Congress, suggesting this agreement, understanding, akin to atrocities, perpetrated by Hitler at Neuremberg, at the same time taking great pride in the fact that he was counsel to President Johnson, following the forced, mind you—racial, identifiable moves in putting Black students in Little Rock, Arkansas and those schools—public policy! Using troops to put James Meredith in the University of Mississippi—on the basis of color: using Federal Marshals to fight Wallace as he stood in the schoolhouse door, in Alabama.

The passage of civil rights acts were for opportunity, yet there were no efforts made, it appeared, North, South, East or West, with respect to enforcement. And Mr. Moynihan was a part of those who encouraged the President—Johnson—towards that kind of public policy in a speech made at Howard University.

Johnson in his speech pointed out freedom is not enough. "You do not wipe away the scars of centuries by saying now you are free to go where you want; do what you desire and to choose the leaders you please.

You do not take a person, who for years, has been hobbled by chains and liberate him, bring him to the starting line of a race and say "You're free to compete with all others," and still justly believe that you have been completely fair.

Thus, it is not enough just to open the gates of opportunity. All our citizens must have the ability to walk through those gates. This is the next and most profound stage of the battle of civil rights. We seek not just freedom, but opportunity. We seek not just legal equity but human ability. Not just equity as a right and a theory but equity as a fact and equity as a result."

This opened the way to affirmative action and the frustrations of that affirmative action notion by the imposition by some of "quotas."

Forgetting about the fact that it was these very same quotas used in other ways that have caused the historical discrimination in the first instance, and even though these negative effects are still with us, let's not do it again! Reverse discrimination . . . people are saying.

But to equate this meager step with Hitler's Nazi Germany and Nuremberg, and to put in the CONGRESSIONAL RECORD such garbage, bothers me, calls into question the commitment of a country and its leaders who talk of racism, at the same time talk out of all sides of their mouths.

He also put into that same CONGRESSIONAL RECORD an article written by a Meg Greenfield—a conversation of a young, white kid, who complained that she could not participate in a Title I Program, I suppose, and Ms. Greenfield concludes that the real issue is what we are doing to the values and perspectives of small children throughout the country—by our brazen, clinical insistence on a Nuremberg-like analysis of each child's racial and ethnic background.

Does he have this or does he have that? We are giving the young people, she believes—the belief—that these distinctions are proper stuff of official decisions.

We are distorting their understanding of the system in which we live and we are doing so in a fundamental, antidemocratic way.

Now, if that's disturbing to white youngsters, what the hell do we think has been disturbing blacks all these years. The kind of thing we have been doing with "officialdom's stamp" all this time, and trying to correct it, disturbs young people, she is saying.

She goes on to point out: "Is all that so benign? Is it self-evidently something we must accept as the social price of righting old racial wrongs? Should we not be taking stock of how far we have wandered into a morass of new discrimination, which we are teaching the children of the country to view as the normal democratic landscape? I wish—and here again—"the big Hitlers of our racial politics" would get off the platitudes and talk about that."

Whose attitudes now, are being affected that we're so concerned about? It boils down to one thing, Mr. Chairman. As long as black students who numerically are racially identifiable—through sacrifice, blood, sweat and tears, murder and death, were shunted about the landscape for integration, Great! Because it's the socially acceptable thing; it's good for the country; it's good for the image.

But when we speak about economic equity; when we talk of affirmative action where blacks and whites—and everything economically should bear the same kind of mixing—we are stopped by the imposition of the phony idea of quotas.

And everybody recognizes this red herring!

A goal is to achieve such and such. It is still quotas. I believe in quotas and I have no apologies for believing that. I do have apologies for accepting something we have accepted as if we are making a great stride forward in terms of affirmative action, when we have done only a piddling.

We did what we thought was right. I could not persuade my colleagues to go further as they did in Chicago, to force 4 percent changes of the teachers in our system to transfer, that would have meant meeting the ESAA requirement also, but we have a memorandum.

It bothers me that the next—I hope he's not—Mayor of the City of New York, suggested he would try to overturn this dastardly decision, this sop—because we are racially identifying people for economic purposes. As long as it is socially safe, society can tolerate that, as long as blacks only are suffering.

But when we start talking about economic opportunities, opening those doors, realizing in fact these objectives, it becomes a difficult problem in the North, who sponsored and spear-headed the same kind of effort in the South.

Thank you for wasting this time, Mr. Chairman, but I had to get it off my chest, and I will speak again, and I am asking people not to vote for this kind of nonsense or for those who espouse this kind of nonsense.

Equating death quotas in Hitler's Germany with the opportunity that we're trying to provide here, will not stand without my comment.

SISTER JANICE McLAUGHLIN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. BIAGGI. Mr. Speaker, on September 15, 1977, I submitted a statement for the RECORD regarding the plight of Sister Janice McLaughlin who was being held in prison in Rhodesia. I am pleased to advise my colleagues that, due to the cooperation of the Rhodesian Government, Sister McLaughlin has been released and has returned to the United States.

The Honorable Kenneth H. Towsey, director of the Rhodesian Information Office in Washington, contacted me regarding my statement. He felt my reference to lack of due process in this situation was unfair. In an effort to be equitable to all concerned, and to provide Mr. Towsey's comments for the consideration of my colleagues, I respectfully submit his correspondence to the CONGRESSIONAL RECORD:

RHODESIAN INFORMATION OFFICE,
Washington, D.C., September 28, 1977.

Hon. MARIO BIAGGI,
U.S. Congress
Washington, D.C.

DEAR MR. BIAGGI: I have read your remarks in the Congressional Record of September 15 on the subject of Sister Janice McLaughlin.

For further information on this case I am enclosing a copy of a press statement issued by this office on September 14.

I do not accept your animadversions on our judicial system in Rhodesia. We have as much respect for due process as any country nurtured in western traditions. "Habeas corpus" is a principle that we respect, as I think will be apparent from our statement.

Sister McLaughlin appeared in court at a remand hearing on September 13 when evidence was presented by the prosecution indicating her dedication to the cause of the terrorists operating in Rhodesia. Evidence was also presented about a radio transceiver found in Sister McLaughlin's apartment, together with a list of frequencies used by the Security Forces.

You and I can doubtless think of many countries in Africa where that kind of evidence would not have been brought to court but would have been good for Sister McLaughlin's disappearance without trace. In fact, however, the presiding magistrate took under consideration the defense attorney's application for bail and the prosecution's opposition to it. On September 16 he denied the application for bail, remarking: "She is clearly a grave security risk. She is a dedicated supporter of the terrorist cause." The magistrate's decision was to be reviewed by a judge of the High Court on September 23 but Sister McLaughlin was instead deported to the United States.

I am enclosing for your information a copy of a letter that I have written to the United States Catholic Conference on this subject.

In the light of the full facts I venture to hope that I may look forward to a retraction of phrases like "a truly tragic and blatant abuse of human rights" in the McLaughlin case. The greatest violators of human rights in Rhodesia are the terrorists (Sister McLaughlin's "boys"), who over the last five years have murdered, often with the most fiendish savagery, close on two thousand innocent black civilians and maimed countless others. Something of their activities is described in the newspaper article appended to our press statement of September 14. For a more vivid and comprehensive account please consult the enclosed document entitled "Harvest of Fear."

Yours sincerely,

K. H. TOWSEY.

RHODESIAN INFORMATION OFFICE,
Washington D.C., September 28, 1977.

Rev. ROLLINS E. LAMBERT,
U.S. Catholic Conference,
Washington, D.C

DEAR FATHER LAMBERTS I thank you for sending me a copy of Bishop Kelly's statement on the McLaughlin case. I must say that I found his uncritical endorsement of this young lady's performance mind-boggling, and I cannot help wondering if he was aware of the sentiments she had committed to her diary.

I enclose a copy of our press statement of September 14 which quotes a few extracts from the diary. They are sufficient, I think, to indicate Sister McLaughlin's dedication to the cause of persons whose operational activites make Genghis Khan's warriors look like Christmas fairies. Some illustration of this is appended to our statement. For a fuller and more vivid account I refer you to the enclosed publication "Harvest of Fear". I cannot believe that the Catholic Church, whatever its predilections in regard to political change in Rhodesia, would condone the atrocities recounted in those pages, or wittingly endorsed the glorification of those actions by one of its members.

Sister McLaughlin writes in her diary: "If I had a black skin I would join the boys. I do not want them to sacrifice armed struggle for negotiations." I should be interested to know how the Church regards this expression of a preference for murder and mayhem rather than the processes of negotiation.

Sister McLaughlin writes in her diary: "Sell-outs (i.e. black Rhodesians who do not support violent change) are not buried because their bodies would desecrate the soil of the people." I find that sentiment incompatible with Christian charity. Indeed I find it positively obscene.

May I express to you the hope that Sister McLaughlin, now that she is safely home,

will receive some moral re-fortification in the basic tenets of the Christian faith.

More important, may I express the hope that the Catholic Church will apply its very considerable authority to the achievement of political change in Rhodesia by peaceful process, and to the discouragement of violence.

I am enclosing, in case it is of interest to you, a document prepared by my Ministry entitled "Terrorists Attitudes Towards the Christian Religion and Missionaries in Rhodesia."

Yours sincerely,

K. H. TOWSEY.

[Press Statement From the Rhodesian Information Office, Washington, D.C.]

AMERICAN NUN TO BE CHARGED UNDER RHODESIAN LAW AND ORDER ACT

Sister Janice McLaughlin, press officer of the Catholic Justice and Peace Commission in Rhodesia appeared in court September 13 on remand. The prosecutor opposed an application for bail entered by the defense. The accused is to be charged with section 49(1) of the Law and Order Maintenance Act which covers making or publishing statements likely to cause fear, alarm or despondency among the public. Sister McLaughlin was remanded until September 27 when she will face trial. The magistrate will decide September 16 whether bail should be granted.

In order to prove the charges the state is required to prove that allegations made in certain documents are false. These documents which were produced in court provide the basis for allegations of brutality against the security forces which have been published by the press abroad.

Sister McLaughlin, it is alleged, was involved in the compilation of five documents entitled "Series of Facts" which deal with different aspects of life in operational areas and security force activities. They contain brutality allegations.

DIARY AND NOTEBOOK

A diary and notebook kept by Sister McLaughlin were produced in evidence by the prosecution. The following are quotes from the diary:

"I admire the priests who went to join the boys. I hope they will be accepted."

"If I had a black skin I would join the boys. I do not want them to sacrifice armed struggle for negotiations."

"I want a revolution."

"The boys say they did the bombing (of a Salisbury department store, killing 11 people) to show the urban people they too are part of the war."

"Sell-outs are not buried because their bodies would desecrate the soil of the people."

"I do not call them terrorists. I call them freedom fighters. They may in the course of their struggle commit terrorism."

RADIO TRANSCEIVER

A Grundig Transceiver had been found in Sister McLaughlin's apartment. In the lid of this was a piece of paper listing a number of frequencies corresponding to those used by the security forces. This transceiver, together with a special adaptor which was found elsewhere, could have intercepted security force transmissions. Sister McLaughlin admitted having had the adaptor for perhaps three weeks, but denied using it.

In her diary on July 30, she wrote: "I am glad to be going to Wedza." The next extract was: "I am sorry I have just missed them." The court was told that terrorist section commanders met at a mission at Wedza on July 30 or 31. Giving evidence, Sister McLaughlin said she would not dispute her involvement in the preparation of the documents. She denied ever having had direct contact with the terrorists but admitted that by the boys she meant the terrorists and admitted she supported the "freedom fighters" and the armed struggle. She said the claim about the Woolworth bombing she had heard second hand but from a reliable source.

She conceded that in the freedom struggle the boys did commit some acts of terrorism.

Attached to this statement is a reproduction of an article by Doug Collins of the Vancouver Sun for background purposes.

PROPOSED INCREASE IN CAPITAL STOCK FOR FEDERAL CROP INSURANCE CORPORATION

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. JONES of Tennessee. Mr. Speaker, today I am introducing legislation at the request of the administration to increase the capital stock of the Federal Crop Insurance Corporation to $200 million. This represents an increase of $50 million. According to the letter from Secretary Bergland, this action will be necessary in order for the Corporation to meet its existing contractual commitments.

The following material which I will enter in the RECORD includes the letter from Secretary Bergland, budget projections, status of capital, and the text of the bill:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., October 19, 1977.

Hon. THOMAS P. O'NEILL, Jr.
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Enclosed for the consideration of the Congress is a proposed bill to amend the Federal Crop Insurance Act as amended (7 U.S.C. 1501–1520) to authorize an additional $50 million in capital stock.

The Department of Agriculture recommends that the draft bill be enacted.

Presently under the Federal Crop Insurance Act, the Corporation is authorized $150 million in capital stock. Of this amount the full $150 million is issued and outstanding.

The need for additional capital stock arises from severe drought conditions persisting in areas of the Midwest and the Southeast. Early loss estimates on 1977 crops indicate the Corporation will be required to pay indemnities of about $168.2 million with premium income estimated at about $102 million. Most of the indemnity payments will be required prior to December 31 and should additional losses occur, or these early estimates be understated, the Corporation would be unable to meet contractual commitments to farmers early in December. The projected depletion of capital by that date is based upon past history which indicates about 80 percent of the indemnity payments are made prior to December 31 while about 69 percent of the estimated premiums are collected. Applying these percentages to the current estimates, $134.6 million of indemnities and $6.0 million of loss adjustment costs will be offset by only $70.4 million premium collections, causing a drain on capital of $70.2 million. Therefore, the additional stock will be required in order to continue operations and meet existing contractual commitments.

Details of the Corporation's capital position, and the proposed legislation's effect on budget authority and outlays are shown in the schedule attached. Enactment of this legislation will also require approval by the Congress of a supplemental appropriation to release the additional authorized stock.

Section 102(2)(c) of P. L. 91–190 does not apply to this legislation; therefore, an environmental statement is not enclosed.

An identical letter has been sent to the President of the Senate.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

BOB BERGLAND,
Secretary.

U.S. DEPARTMENT OF AGRICULTURE, LEGISLATIVE PROJECTIONS

[In thousands of dollars]

	1978	1979	1980	1981	1982	1983
Existing Legislation						
Budget authority	12,000	12,000	12,000	12,000	12,000	12,000
Budget outlays	75,000	18,247	18,247	18,247	18,247	18,247
Proposed Legislation						
Budget authority	62,000	12,000	12,000	12,000	12,000	12,000
Budget outlays	97,213	18,247	18,247	18,247	18,247	18,247
Net Change						
Budget authority	50,000					
Budget outlays	22,213					

U.S. DEPARTMENT OF AGRICULTURE, FEDERAL CROP INSURANCE CORPORATION

STATUS OF CAPITAL—FISCAL YEAR 1978

[In thousands]

	Without additional capital	With additional capital
Estimated net capital beginning of year—Oct. 1, 1977	$63,000	$63,000
Additions:		
Estimated premium collections—crop year 1977	102,000	102,000
Additional authority requested (subscription to capital stock)		50,000
Total available	165,000	215,000
Deductions:		
Estimated indemnity payments—crop year 1977	168,200	[1] 168,200
Administrative and operating expenses, fiscal year 1977	11,413	11,413
Direct loss adjustment cost	7,600	7,600
Total deductions	187,213	187,213
Estimated net capital end-of-year, Sept. 30, 1978	−22,213	27,787

In the event of heavy losses on citrus and additional losses on other commodities, the indemnity estimates would increase accordingly. These estimates are based on current crop situations.

H.R. —

A bill to amend the Federal Crop Insurance Act and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 504(a) of the Federal Crop Insurance Act, as amended, is amended to read as follows:

"SEC. 504(a). The Corporation shall have a capital stock of $200,000,000 subscribed by the United States of America, payment for which shall, with the approval of the Secretary of Agriculture, be subject to call in whole or in part by the Board of Directors of the Corporation."

VOTING RECORD

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. BAUCUS. Mr. Speaker, I am presenting today my voting record for the period January 5, 1977 to August 6, 1977.

Before presenting a detailed listing of each vote, I would like to offer a few words of explanation. To begin with, the total number of votes listed is 390, broken down as follows:

Subject:	*Number of votes*
Agriculture	15
Appropriations	76
Budget and Economic Affairs	23
Civil Rights	2
Consumer and Business Affairs	7
Education, Arts and Humanities	8
Energy and Conservation	35
Environment	32
Foreign Relations	35
Government and Civil Service	31
Health	8
Housing and Urban Development	10
Justice and Judiciary	13
Labor and Unemployment	10
National Defense	32
Political Systems and Elections	17
Science and Technology	4
Social Conditions and Services	17
Sports and Recreation	2
Transportation and Public Works	13
Total	390

On each vote I have noted the following information: First, a brief description of the issue presented; second, a rollcall number for the vote—note, the number presented in parentheses is the vote number used by the Congressional Quarterly; third, my vote on the measure; fourth, the outcome; and fifth, the final vote tabulation. For the purpose of saving space, I deleted votes which were on purely procedural questions, such as whether the House should rise as a Committee of the Whole, or whether a particular rule should be passed.

My reasons for presenting this record are several. Foremost among them is my firm belief that representative government works best when the represented know what their representatives are doing to represent them.

During recent Congresses, there have been so many recorded votes—often numbering in the thousands—that it is virtually impossible for the average Montanan to get a feel for what his or her representative is doing.

That leads me to the second reason for presenting my voting record—namely, it provides people with the opportunity to examine the scope of activities undertaken by Congress. By dividing the votes in the 20 categories presented above, readers of this record can guage for themselves where and how Congress is allocating its time and attention.

A third reason I offer this record is that it enables Montanans to judge my attendance record. Out of the 390 votes presented below, I missed only 20, each of which is designated by an asterisk. On those votes, I did note how I would have voted if I had been able to do so.

Mr. Speaker, I must once again apologize for the small print, but as my colleagues can attest, the activity of Congress over the past year has been intense, and I do not wish to take up too much space in the CONGRESSIONAL RECORD confirming that fact.

The material follows:

Issue, my vote, outcome

AGRICULTURE

A bill raising the capital stock of the Federal Crop Insurance Corporation to $150 million from $100 million; (283); Yes; Passed (377–5).

A bill to require the Secretary of Agriculture to appraise the nation's soil, water, and related resources by December 31, 1979, and at five-year intervals thereafter, and to develop a national soil and water conservation program by the same date; (284); yes; passed (365–16).

A bill amending procedures proposed for the Agriculture Census of 1979 by reducing the number of questions by 40 percent, redefining the word "farm" for census purposes and setting a firm date of publication for census findings; (397); yes; passed (401–9).

An amendment to limit producers of wheat, feed grains, rice, and upland cotton to $20,000 a year in federal farm subsidy payments through fiscal year 1981; (414); no; failed (183–230).

An amendment to prohibit the payment of federal farm subsidy payments to corporations or partnerships in which those holding majority interest were not engaged in farming operations as a sole proprietorship (415) no; failed (199–207).

An amendment to set a new limit on annual subsidy payments to sugar producers of $50,000; (419); no; failed (167–241).

An amendment to require a standard of quality for ice cream covering the weight and amount of milk solids and milk fat that must be included before the ice cream could be designated with the Department of Agriculture seal of approval; (422); yes; passed (363–11).

An amendment to require the Agriculture Secretary to establish a grain reserve of up to 35 million tons, dependent upon voluntary farm participation; (423); yes*; failed (141–223).

An amendment to reduce the price support for peanuts grown within a national quota based on weight to $390 per ton for the 1978 crop, $375 per ton for 1979, $360 per ton for 1930, and $345 per ton for 1981 and subsequent years, from the $420 a ton each year recommended in the committee bill; (428); no; failed (207–210).

An amendment to give priority to financing the sale of food and fiber commodities under Title I of the Food for Peace program; (429); yes; passed (260–151).

An amendment to delete a provision in the bill to establish a wheat research and education program to be supported by an assessment on wheat processors; (443); no; passed (260–109).

An amendment to establish a price support program for sugar beet and cane producers at a price support level between 55 and 65 percent of parity; (444); yes; passed (246–165).

An amendment to provide support payments of up to 13.5 cents a pound for sugar crops not covered by the sugar subsidy plan approved previously; (445); yes; failed (173–238).

Motion to recommit the bill to the Agriculture Committee with instructions to limit support payments for wheat, feed grains, cotton, and rice to $30,000 a year through fiscal 1931; (446); no; failed (201–210).

The farm bill extending and increasing support payments for wheat, feed grains, cotton, and rice for four years and making other changes in U.S. agricultural programs; (447); yes; passed (294–114).

APPROPRIATIONS

A resolution to make available $6.4 million in emergency appropriations for the Department of the Interior's Southwestern Power Administration. The resolution also permitted the Energy Research and Development Administration to spend previously appropriated fiscal 1977 funds without requiring passage of an authorization measure; (11); yes; passed (341–5).

A resolution to appropriate $200 million in additional disaster relief funds in fiscal 1977 to help alleviate the hardships caused by severe cold weather in the eastern U.S.; (32); yes; passed (411–4).

An amendment to restore $81.6 million in previously appropriated long-lead-time funds for a *Nimitz*-class nuclear aircraft carrier; (33); no; failed (161–252).

An amendment to restore $371 million in previously appropriated funds to outfit the USS *Long Beach* with the Segis anti-aircraft system; (34); no; failed (137–269).

An amendment to reduce, to $250 million from $832.5 million, the appropriation for the countercyclical aid program to help state and local governments to continue recession threatened services; (61); no; failed (183–225).

An amendment to require that projects funded under the emergency public works program reserve 10 per cent of their jobs for local residents who have been unemployed at least 30 days; (62); no; failed (165–245).

A bill to appropriate $23.3 billion of supplemental fiscal 1977 funds for a variety of federal programs, including the components of President Carter's economic stimulus package; (63); yes; passed (281–126).

The conference report on the bill to provide $20,101,484,000 in fiscal 1977 supplemental appropriations for a variety of federal programs, including components of President Carter's economic stimulus package; (171); yes; passed (326–87).

An amendment to add $200 million for the emergency energy fuel assistance program; (65); no; passed (233–170).

An amendment to prohibit the use of funds in the bill to carry out President Carter's Vietnam amnesty program; (66); no; passed (220–187).

An amendment to delete from the bill the $55 million U.S. Contribution to the International Development Association; (67); no; failed (171–234).

A bill to provide supplemental appropriations of $27.9 billion in fiscal year 1977, including $13.1 billion for housing assistance, $3.2 billion for higher education, and $2.1 billion for recent pay increases for military and civilian personnel; (68); yes; passed (306–98).

The conference report on the bill providing supplemental appropriations of $29 billion in fiscal 1977, including $13.1 billion for housing assistance, $3.2 billion for higher education, and $2.05 for military and civilian personnel pay raises; (123); yes; passed (264–142).

A motion that the House recede and concur with the Senate amendment providing $1.17 million for the Uniformed Services University of the Health Services, to remain available for obligation until September 30, 1978; (124); no; passed (250–162).

A motion that the House recede and concur with a Senate amendment to provide an additional $20 million to reimburse state and local governments for the costs of snow removal incurred during the 1976–77 winter emergency; (125); no; failed (124–279).

A bill to appropriate $7,522,028,000 for fiscal year 1978 operations and programs of the Treasury Department, Postal Service, Executive Office of the President and various in-

dependent agencies; (297); yes; passed (359–45).

An amendment to prohibit the use of funds appropriated under the act for air traffic control of supersonic aircraft at John F. Kennedy International Airport, New York, unless the aircraft was in compliance with the Federal Aviation Administration's noise standard for subsonic aircraft; (298); yes; failed (128–274).

A bill appropriating $14,047,570,000 for the operation and programs of the Transportation Department and related agencies for fiscal year 1978; (299); yes; passed (391–11).

The conference report on the bill to appropriate $14,340,105,000—including $6,196,-609,023 in new budget authority—for the operations and programs of the Transportation Department and related agencies for fiscal year 1978; (402); yes; passed (397–14).

An amendment to add $38.78 million for research and development relating to energy conservation programs of the Energy Research and Development Administration; (302); no; failed (145–251).

A bill to appropriate $9,545,741,000 for fiscal year 1978 for activities and programs of the Interior Department and related agencies; (303); yes; passed (395–7).

An amendment to prohibit the use of any appropriated funds for salaries and expenses of any diplomatic personnel assigned to Cuba; (307); no; failed (139–206).

An amendment to increase the appropriation for the Law Enforcement Assistance Administration by $104.5 million over the committee recommended amount of $600 million; (309); no; failed (172–210).

A bill to appropriate $7,606,119,500 for fiscal 1978 operations and programs of the Departments of State, Justice and Commerce, the Judiciary and related agencies; (310); yes; passed (353–42).

The conference report on the bill to appropriate $7,709,432,000 for fiscal 1978, plus $211,515,000 in supplemental funds for fiscal 1977, for operations and programs of the Departments of State, Justice and Commerce, the Judiciary and related agencies; (403); yes; passed (326–85).

An amendment to delete 16 water projects and reduce funding for one more project, but retain the total appropriation amount in the bill; (313); yes; failed (194–218).

A bill to appropriate $10,186,746,000 for fiscal 1978 water and power public works of the Army Corps of Engineers, Department of the Interior and several independent offices and for most programs of the Energy Research and Development Administration; (314); yes; passed (356–54).

Conference report on the bill to appropriate a total of $10,294,414,000, including $6,-781,004,000 in new budget authority, for fiscal 1978 water and power public works programs of the Army Corps of Engineers, the Interior Department and several independent agencies, and for most programs of the Energy Research and Development Administration; (424); yes; passed (318–61).

An amendment to earmark 75 percent of the public housing funded in the bill for the elderly and the handicapped; (316); no; failed (183–214).

An amendment to restore comprehensive planning grant funds for cities over 50,000 and for urban cities; (317); no; failed (156–248).

An amendment to withhold veterans' benefits from Vietnam-era servicemen who received upgraded discharges under President Carter's review program; (318); yes; passed (273–136).

An amendment to withhold 1 per cent of the nonmandatory spending in the bill from obligation and expenditure; (319); no; failed (169–237).

A bill appropriating $70,241,683,000 for fiscal 1978 operations and programs of the Department of Housing and Urban Development and various independent agencies, including the Veterans Administration; (320); yes; passed (374–32).

The conference report on the bill to appropriate $69,352,854,000 for fiscal 1978 operations and programs of the Department of Housing and Urban Development and various independent agencies, including the Veterans Administration; (404); yes; passed (379–30).

The motion to retain the original House position excluding from the bill funds for a Jupiter Orbiter Probe; (405); yes; failed (131–280).

The motion to retain the original House position withholding veterans' benefits to Vietnam era servicemen who received upgraded discharges under President Carter's review program; (406); no; passed (251–160).

An amendment to reduce the appropriation for the Occupational Safety and Health Administration in the Department of Labor by $6.3 million, to $130.3 million from $136 million; (322); no; failed (162–231).

An amendment to reduce the bill's total appropriations by $563.5 million, affecting 11 health, education and elderly programs; (323); no; failed (72–334).

An amendment to prohibit the use of federal funds for busing students beyond the schools nearest their homes and prevents HEW from requiring local school districts to merge, pair or cluster schools to foster integration; (324); no*; passed (225–157).

An amendment to prohibit the use of federal funds to finance or encourage abortions; (326); no*; passed (201–155).

The conference report on the bill to appropriate a total of $60,168,561,000 for fiscal 1978 for the operations and programs of the Labor Department and the Department of Health, Education and Welfare and related agencies; (465); yes; passed (337–82).

A motion to concur in a Senate-passed amendment relating to abortion with an amendment to bar the use of any funds appropriated in the bill for abortions, except where the life of the mother would be endangered by continuing the pregnancy; (466); no; passed (238–182).

An amendment to prohibit the use of any funds appropriated in the appropriations bill to pay the salary of any employee who formulated or carried out a program to make payments to sugar processors; (328); no; failed (119–272).

An amendment to reduce the appropriation in the agriculture bill for the food stamp program to $5 billion from $5.7 billion; (330); no; failed (154–262).

The bill to appropriate $12,658,830,000 for fiscal 1978 operations and programs of the Department of Agriculture and related agencies; (331); yes; passed (380–35).

Conference report on the bill to appropriate a total of $13,763,935,000 for fiscal 1978 for the operations and programs for the Agriculture Department and related agencies including $12,749,378,000 in new budget authority; (430); yes; passed (377–33).

The bill to appropriate $2,819,501,000 for fiscal 1978 military construction programs of the Department of Defense; (333); yes; passed (391–16).

An amendment to cut $31 million from the $120 million contained in the foreign aid bill for the United Nations Development Program; (335); no; failed (182–232).

An amendment to delete the entire $50 million contained in the bill for development aid in the Sahel region of Africa; (336); no; failed (160–255).

An amendment to delete the $100 million contained in the bill for the Southern African Special Requirements Fund to aid those nations that border Rhodesia; (337); yes; failed (199–209).

An amendment to prohibit the use of $700,000 earmarked in the bill for training military forces in Argentina; (338); yes; passed (223–180).

An amendment to prohibit funds contained in the bill from being used directly or indirectly (through multilateral lending institutions) in Uganda, Cambodia, Laos or Vietnam; (339); yes; passed (295–115).

An amendment to prohibit the payment of reparations to Vietnam; (340); yes; passed (359–33).

The amendment to reduce the appropriation for the US contribution to the International Development Association by $477 million, thus reducing the contribution to $473 million; (342); no; failed (175–233).

An amendment to reinstate funds deleted by the Committee for Military Assistance, Military Training and Education or for Military credit sales to Nicaragua; (344); no; passed (225–180).

An amendment to prohibit any funds in the bill from being used by international financial institutions for loans establishing or expanding production of sugar, palm oil or citrus crops if the US was a producer of the same or similar commodities! (345); yes; passed (209–179).

An amendment to prohibit the use of any appropriations in the bill from being used for any form of trade or assistance to Cuba, either directly or indirectly through international financial institutions; (346); yes; passed (274–112).

An amendment to cut 5 percent overall from the $7,046,454,000 recommended by the Appropriations Committee for foreign aid programs (payments required by law, however, would not be affected, and no program could be reduced by more than 10 percent); (347); no; passed (214–168).

The bill to appropriate $7,046,545,000 less 5 per cent of the amount, for fiscal 1978 foreign aid programs, international financial institutions and the operations of the State Department; (348); yes; passed (208–174).

An amendment to delete funds from the bill for the purchase of the non-nuclear-armed Lance missile; (350); yes*; failed (123–226).

An amendment to delete $1.5 billion from the bill for production of five B–1 Bombers; (361); yes; failed (178–243).

An amendment to procure 96 rather than 144 A–10 Attack Planes recommended by the Administration and approved by the Appropriations Committee; (362); no; failed (122–299).

An amendment to delete $26 million for the development of a new engine for the Navy's F–14 fighter planes; (369); yes; failed (122–282).

An amendment to delete language phasing out the use of Civil Service technicians in military reserve units; (370); no; passed (288–119).

An amendment to prohibit the use of funds appropriated in the bill to conduct a review of the status of those US military personnel still missing-in-action in Southeast Asia; (371); no; failed (160–246).

The amendment to prohibit the use of funds appropriated in the bill to pay for the 29 percent increase for high-level federal officials that took effect March 1, 1977; (364); yes; failed (181–241).

An amendment to provide $225,000 to operate the Joint Committee on Defense Production; (365); no; failed (172–244).

An amendment to delete $55 million for a proposed 22-foot extension of the West Front of the Capitol; (366); no; failed (204–212).

The bill to appropriate $928,335,800 for fiscal 1978 operations of the legislative branch and related agencies and a fiscal 1977 supplemental appropriations of $10,919,400; (367); no; passed (250–161).

Conference report on the bill to appropriate a total of $990,067,800 in new budget authority for fiscal 1978 operations and programs for the legislative branch and related agencies; (436); no; passed (252–152).

A motion that the House recede and concur with the Senate amendment to appro-

priate $225,000 for the activities of the Joint Committee on Defense Production; (427); no; failed (160–250).

An amendment to delete language requiring military retirees to forfeit their military pensions if they were hired during fiscal 1978 to work for the federal government; (372); no; Passed (219–174).

The bill to appropriate $110,097,296,000 for programs and operations of the Defense Department for fiscal year; (373); no; passed (333–54).

A motion to close to the public the House-Senate Conference Committee on the differing versions of the fiscal 1978 Defense Department appropriations bill at such times as classified national security information was under consideration, but to allow any member of Congress to attend any of the closed sessions; (416); yes; passed (376–0).

An amendment to reduce to $5.6 billion the limit on food stamp program expenditures in fiscal 1978; (433); no; failed (168–248).

An amendment to limit food stamp program expenditures to $5,847,600,000 in fiscal 1978, $6,158,900,000 in fiscal 1979, $6,188,600,000 in fiscal 1980, and $5,235,900,000 in fiscal 1981; (434); yes; passed (242–173).

BUDGET AND ECONOMIC AFFAIRS

An amendment to revise binding levels for fiscal 1977 revenues and outlays, providing for a $19 billion permanent tax rate reduction; (19); no; failed (148–258).

Resolution revising binding levels for fiscal 1977 to provide for revenues of $348.8 billion, budget authority of $477.9 billion, outlays of $419.1 billion and a deficit of $70.3 billion; (20); yes; passed (239–169).

The bill to extend for one year, through March 1, 1978, federal agency authority to set ceilings on interest rates paid by depository institutions ("Regulation Q") and to broaden the lending powers of federally chartered credit unions; (27); yes; passed (401–4).

The conference report on the resolution setting new binding levels for the fiscal 1977 budget of revenue of $347.7 billion, budget authority of $472.9 billion, outlays of $417.45 billion and a deficit of $69.75 billion; (35); yes; passed (226–173).

An amendment to phase out the 1976 tax rebate for those earning more than $25,000 annually and to grant $50 payments to recipients of Aid for Families with Dependent Children (AFDC), black lung benefits, and veterans' compensation nad pensions; (42); yes; passed (312–103).

An amendment to increase the standard deduction for single persons to $2,400 from $2,200; (43); yes; passed (386–29).

An amendment to provide for a new two year jobs tax credit (with a $40,000 limit) equal to 40 percent of the first $4,200 in wages paid to additional employees over 1976 and 1977 levels and to give an additional 10 percent credit for employment of the handicapped; (44); yes; passed (341–74).

A motion to recommit bill to Ways and Means with instructions to report it back with a substitute amendment reducing the tax rate in the lowest seven tax brackets rather than providing a $50 tax rebate and $50 payments to federal assistance recipients; (45); no; failed (194–219).

The bill to provide for a refund of 1976 individual income taxes and other payments, to reduce individual and business income taxes, to increase the individual standard deduction and to simplify tax preparation; (46); yes; passed (282–131).

The bill permitting the Treasury Department to invest surplus cash currently kept in interest-free "tax and loan accounts" in depository institutions and to include savings and loan associations in the tax and loan system; (128); yes; passed (384–0).

An amendment to increase the fiscal 1977 revenue floor by $900 million in order to delete a proposed business tax cut; (134); yes; failed (109–302).

An amendment to provide for fiscal 1978 revenues of $392.9 billion, budget authority of $481.5 billion, outlays of $440.6 billion and a deficit of $47.7 billion; (144); no; failed (150–250).

An amendment to provide for fiscal 1978 revenues of $409 billion, budget authority of $453.5 billion, outlays of $409 billion, and no deficit; (145); no; failed (131–271).

The resolution providing for fiscal 1978 budget targets of revenues of $398.1 billion, budget authority of $505.7 billion, outlays of $465.7 billion, and a deficit of $68.6 billion; (146); no; failed (84–320).

A substitute resolution to set fiscal 1978 budget targets of revenues of $395.3 billion, budget authority of $479 billion, outlays of $440.6 billion and a deficit of $45.3 billion; (183); no; failed (150–240).

The budget resolution setting fiscal 1978 targets of revenues of $398.1 billion, budget authority of $502.3 billion, outlays of $464.5 billion and a deficit of $66.4 billion, and binding limits for fiscal 1977 of revenues of $355 billion, budget authority of $469.7 billion, outlays of $414.3 billion and a deficit of $59.3 billion; (184); yes; passed (213–179).

An amendment to change the formula for allocating program funds to emphasize state and local tax efforts rather than unemployment rates; (211); yes; failed (127–216).

A bill to extend for an additional year, through fiscal 1978, a program of "countercyclical" grants to help state and local governments avoid cutbacks in employment and public services and to authorize a maximum of $2.25 billion for the program for the five quarters beginning July 1, 1977; (212); yes; passed (243–94).

The conference report to the bill increasing the standard deduction, extending individual and business tax cuts, providing a jobs tax credit for new employees and making other changes in the federal tax laws; (217); yes; passed (383–2).

The motion that the House recede from its disagreement with a Senate amendment and concur with an amendment extending the countercyclical aid program for an additional year, through fiscal 1978, and authorizing a maximum of $2.25 billion for the program for the 15 month period beginning July 1, 1977; (218); yes; passed (252–134).

The bill authorizing $67 million for SEC operations in fiscal 1978; (221); yes; passed (375–22).

A motion to concur in the Senate amendment to the House amendment to the conference report, the effect of which was to agree to the conference level that set fiscal 1978 budget targets of revenues of $396.3 billion, budget authority of $503.45 billion, outlays of $460.95 billion and a deficit of $64.65 billion, and set binding fiscal 1977 limits of revenues of $354.6 billion, budget authority of $470.2 billion, outlays of $409.2 billion and a deficit of $52.6 billion; (231); yes; passed (221–177).

The resolution to authorize $900,000 through December 31, 1978, for a study by the Congressional Joint Economic Committee of economic changes in the U.S. and the world since the enactment of the Employment Act of 1946, and to make recommendations to Congress to assist it in formulating a comprehensive economic policy; (311); yes; passed (324–79).

CIVIL RIGHTS

The bill raising the authorization for the US Commission on Civil Rights for fiscal 1978 to $10,540,000, from $9,450,000 in fiscal 1977; (251); yes*; passed (365–34).

The bill to extend for two years, until July 18, 1979, the statute of limitations under which the federal government could litigate on behalf of Indian tribes and individuals' claims for money damages that accrued before July 18, 1966. (379); yes; passed (331–69).

CONSUMER AND BUSINESS AFFAIRS

A bill to raise the ceiling on Small Business Administration loans and investments in fiscal 1977 to $8 billion, from $6 billion, and, within that amount, to increase the ceilngs on economc opportunity loans to $525 million, from $450 million, and on aid to small business investment companies to $1.1 billion, from $725 million; and to bring more small businesses under the programs; (15); yes*; passed (381–0).

The conference report to raise ceilings on Small Business Administration loans and assistance to $7.4 billion, from $6 billion, and, within that amount, to increase the ceilings on economic opportunity loans to $525 million, from $450 million, and on assistance to small business investment companies to $887.5 million, from $725 million; and to increase the authorization for the surety bond guarantees program to $110 million, from $56.5 million. (55); yes; passed (355–1).

The bill to prohibit debt collection agencies from engaging in certain practices alleged to be unfair to consumers; (105); no; passed (199–198).

The bill to allow a business tax credit on the use of a residence in providing day care services; (117); yes; passed (320–1).

A substitute to establish an interagency task force to study consumer cooperatives and provide $20 million for an experimental loan program for cooperatives; (385); yes; failed (170–228).

An amendment to terminate the consumer cooperative bank on December 31, 1982, and transfer authority for collecting payment on outstanding loans to a government agency; (386); no; passed (203–196).

The bill to authorize $500 million in federal seed money for a bank to make loans to consumer cooperatives and $250 million for a Self-Help Development Fund to help inner-city residents start cooperatives; (387); yes; passed (199–198).

EDUCATION, ARTS AND HUMANITIES

A resolution to authorize a gold medal to be awarded to singer Marian Anderson in recognition of her distinguished career; (18); yes; passed (398–4).

The bill to amend the J.F.K. Center Act to authorize $4.7 million for certain repairs to the building; (38); yes; passed (239–78).

The bill to extend the Library Services and Construction Act for four years and to authorize additional funding; (71); yes; (383–1).

The bill making technical amendments to the 1976 education amendments to the Vocational Education Act of 1963, and to increase the flexibility the states have in using federal funds for vocational education administration; (75); yes; passed (396–1).

The bill authorizing $275 million for fiscal years 1978–85 for grants to states to help local and state agencies provide career education programs for elementary and secondary schools; (108); yes; passed (398–14).

The bill to authorize $1.1 billion for fiscal 1978–82 to extend certain programs under the Education for All Handicapped Children Act; (187); yes; passed (376–2).

The bill making technical and miscellaneous amendments, involving effective date and state agency eligibility requirements for participation in the guaranteed student loan program, in the Education Amendments of 1976 relating to higher education; (189); yes; passed (382–1).

The conference report on the bill to authorize $4.7 million to repair and renovate the John F. Kennedy Center for the Performing Arts in Washington, D.C., to correct leaks in the building; (296); passed (291–90).

ENERGY AND CONSERVATION

The bill to authorize the President to allocate interstate natural gas through April 30, 1977, and to allow emergency sales of such gas through July 31, 1977, at higher prices than usual, but still controlled; (4); yes; passed (367–52).

The conference report on the Emergency Natural Gas Act of 1977 granting the President temporary emergency powers to allocate and allow unregulated sales of natural gas; (6); yes; passed (336–82).

The bill protecting franchised marketers of motor fuel from arbitrary cancellation of their franchises and requiring public display of certified octane ratings at retail outlets; (109); yes; passed (404–3).

The bill authorizing $4.9 billion in fiscal 1977 funding for the Energy Research and Development Administration for non-nuclear research programs and establishing an Energy Extension Service; (158); yes; passed (360–30).

A motion to instruct the House conferees on the bill to insist upon a House-approved amendment prohibiting exports of Alaskan oil overseas for two years; (195); yes; passed (240–166).

The bill authorizing annual appropriations of $2.5 million in fiscal 1978 through 1980 for licensing and regulation of offshore ports to receive oil from tankers too large for conventional ports; (228); yes; passed (387–6).

The resolution to authorize $50,000 for the House Public Works and Transportation Committee to conduct a feasibility study on the case of solar energy in the House office buildings complex; (229); yes; passed (368–29).

Amendments to establish an independent regulatory board, called the National Energy Board, to assume the regulatory functions and powers of the FPC, FEA, and ERDA, as a substitute for the committee-recommended Federal Energy Regulatory Commission to be incuded within the proposed department; (275); no; failed (83–277).

An amendment to limit the authority of the proposed Energy Department Secretary to issue general applicability rules; to give the proposed Federal Energy Regulatory Commission rather than the Secretary the authority to set natrual gas wellhead prices; and to give the Commission 30 days to comment on rules proposed by the Energy Department Secretary that affect commission functions, except in emergencies; (276); yes; passed 236–119).

An amendment to delete language giving the Energy Department Secretary veto power over the economic terms of leasing of energy resources on federal lands; (277); yes; failed (170–180).

An amendment to provide that any rule or regulation promulgated by the Energy Department Secretary or independent regulatory commission would be reviewed by Congress and could be disapproved by either House of Congress within 90 days; (278); yes; passed (200–125).

An amendment to prohibit high-level regulatory officials in the new department from accepting jobs or compensation for two years after leaving the agency from any person or company regulated by the department; (280); yes; failed (146–184).

An amendment to make authorities under the Federal Energy Department bill subject to a "sunset" provision whereby they would expire December 31, 1982, unless extended by Congress; (281); yes*; passed (202–126).

The bill creating a Cabinet level Department of Energy by combining all powers currently held by the Federal Power Commission, the Federal Energy Administration, the Energy Research and Development Administration, and various other energy authorities and programs currently scattered throughout the fedreal bureaucracy; (282); yes*; passed (310–20).

The bill extending the Federal Energy Administration (FEA) through fiscal 1978 and the FEA's powers to order certain utilities and industries to convert to coal through December 31, 1978, and authorizing $1.44 billion for the agency in fiscal 1978; (285); yes; passed (272–111).

The motion that the House conferees on the Federal Energy Department bill to create a new federal Department of Energy insist on Title IX, which provided that the new department would expire on December 31, 1982; (329); yes; passed (228–179).

A motion to recommit the conference report, and then kill, the bill to create a federal Department of Energy; (458); no; failed (157–257).

The conference report on the bill to create a Cabinet-level Department of Energy by consolidating the functions of the Federal Power Commission, the Federal Energy Administration, the Energy Research and Development Administration and other energy functions scattered throughout the federal government; (459); yes; passed (353–57).

An amendment to establish an energy conservation program by requiring states or the Federal Energy Administration to supply residential customers information on qualified home insulation installers and financing arrangements and to allow public utility companies to provide home insulation services; (460); yes; passed (217–205).

An amendment to require a one-year study by the Department of Transportation of the energy conservation potential of off-highway recreational vehicles, including airplanes and motorboats used for pleasure riding; (461); yes; passed (212–210).

An amendment to require a one-year study by the Department of Transportation of the energy conservation potential of bicycle use; (462); yes*; passed (252–166).

An amendment to certain provisions so that workers employed in programs authorized by the bill to insulate schools, hospitals and public buildings be paid no less than wage rates prevailing in their area; (463); yes; passed (265–161).

An amendment to authorize $65 million through fiscal 1979 in federal grants to state and local governments to cover up to half the costs of identifying and installing energy conservation controls in local government buildings; (464); yes; passed (317–105).

An amendment to delete provisions in the bill that would have extended antitrust review to utilities building new facilities; (469); no; passed (257–160).

An amendment to delete provisions authorizing $75 million for purchase of 6,000 vans for a van-pooling program for federal workers; (470); no; passed (232–184).

Substitute amendment to increase the federal gasoline tax by 5 cents, effective January 1, 1979, with half the revenues going to support mass transit programs and half towards repair of the nation's bridges and highways; (472); no; failed (82–339).

An amendment to increase the federal gas tax by 4 cents, with revenues to support programs for research, mass transit and highways; (473); no; failed (52–370).

An amendment that sought to provide a plowback investment credit for oil and gas producers, allowing them to recover a portion of their crude oil equalization taxes if they make additional investments in exploration activities; (474); yes; failed (198–223).

An amendment that sought to provide transfer of crude oil equalization taxes to the Federal Old-Age and Survivors Trust Fund; (475); no; failed (190–223).

An amendment to substitute a reduction in personal income tax rates and an increase in earned income credit for the tax rebate under the crude oil equalization tax program; (477); no; failed (175–232).

An amendment that deletes an exemption from the oil and gas users tax, provided new plants are exempted; (478); yes; passed (221–198).

An amendment to deregulate some oil and natural gas prices, and establish mass transit and synthetic development trust funds; (479); no; failed (147–273).

An amendment to reaffirm an earlier vote deleting provisions in the bill authorizing $75 million for the purchase of 6,000 vans for a van-pooling program for federal workers; (480); no; passed (239–180).

A motion to recommit the bill to the Ad Hoc Committee on Energy with instructions to report it back forthwith containing an amendment that sought to delete the crude oil equalization tax; (481); no; failed (203–219).

The National Energy Act, H.R. 8444, to establish a comprehensive national energy policy; (482); yes; passed (244–177).

ENVIRONMENT

The bill to amend and extend the Federal Water Pollution Control Act of 1972, including authorization of $17 billion through fiscal 1979 in construction grants for municipal sewage treatment plants, increased powers for the states to certify construction grants and restrictions on the Corps of Engineers' authority to issue dredge and fill permits for water and wetlands; (111); yes; passed (361–43).

The bill to authorize $313 million for fiscal 1978 research and development activities of the EPA and promoted coordination of environmental research and development; (120); yes; passed (358–31).

Baucus amendment prohibiting surface mining in alluvial valleys west of the 100th meridian, but exempting (1) operations in commercial production for one year prior to cnactment of the bill and (2) any operations for which permits were issued before January 4, 1977; (152); yes; passed (170–149).

An amendment to earmark $300 million in outer continental shelf leasing receipts to fund the abandoned mine reclamation program before levying or collecting reclamation fees from mined coal; (153); no; failed (86–226).

A motion to recommit the bill to committee with instruction to hold hearings on the President's energy message; (154); no; failed (83–228).

The bill to regulate surface coal mining operations and to acquire and reclaim abandoned mines; (155); yes; passed (241–64).

The bill authorized at the Val-Kill estate in Hyde Park, N.Y., the establishment of a national historic site to commemorate the life of Eleanor Roosevelt; (186); yes; passed (337–43).

The bill authorizing $8,850,000 for marshland acquisition to the Tinicum National Environmental Center in Pennsylvania to provide a wildlife haven; (196); yes; passed (374–32).

The bill authorizing $700,000 each for fiscal 1978, 1979, and 1980 to fulfill U.S. obligations under the Atlantic Tunas Convention Act of 1975 and to participate in research on Atlantic Ocean tunas; (197); yes; passed (407–2).

The bill to extend for two years the Commercial Fisheries Research and Development Act, which was scheduled to expire September 30, 1978, and to authorize $14.5 million in each of fiscal years 1978–80 for grants-in-aid to states to develop and expand commercial fisheries; (198); yes; passed (402–9).

The bill authorizing $750,000 in fiscal 1978 for operation or the National Advisory Committee on the Oceans and Atmosphere; (213); yes; passed (387–6).

The bill providing the following authoriza-

tions through September 30, 1980, for three national wildlife refuges: $1.6 million for the Seal Beach, California, refuge; $20.3 million for the San Francisco Bay refuge; and $21.1 million for the Great Dismal Swamp refuge in Virginia and North Carolina; (214); yes; passed (384–4).

A bill authorizing $750,000 annually, instead of $35,000, for Smithsonian Institution biological research on Barro, Colorado and other small islands in Gatun Lake in the Panama Canal Zone; (215); yes; passed (245–141).

The bill extending through September 30, 1980, provisions of the Fishermen's Protection Act of 1967, that provide for reimbursement to U.S. fishermen by the federal government for fines and losses incurred when they were unlawfully seized by foreign countries; (216); yes; passed (239–151).

The bill authorizing $14.5 million through fiscal 1978 for research on national water supply needs and on saline water conversion; (222); yes; passed (397–2).

The bill to authorize $3.9 million in fiscal 1978 for state water resource planning grants and to finance the U.S. Water Resources Council and regional river basin commissions; (223); yes; passed (390–6).

The bill authorizing an amendment to the public survey records to settle a conflict of private Agriculture Department property title to 160 acres of land located in the Medicine Bow National Forest, Wyoming; (225); yes; passed (371–26).

The bill authorizing necessary funds through fiscal 1978 for federal assistance to individuals and state and local governments in natural disaster emergencies; (227); yes; passed (393–5).

The bill authorizing $225 million through April 30, 1978, for federal assistance to communities of 10,000 population or more to mitigate the impact of the 1976–77 drought; (230); yes; passed (395–2).

A technical issue which would have allowed sulfur dioxide pollution to exceed permissible levels for 18 days of the year in high terrain Class II areas; (262); yes; failed (170–237).

An amendment to allow state governors to permit Class I and Class II areas to exceed pollution levels for 18 days in a year; (263); no; passed (237–172).

An amendment to postpone compliance measures in areas that have not attained public health standards for clean air until 60 days after completion of a one-year Environmental Protection Agency study; (264); no; failed (162–242).

An amendment to delay automobile emissions scheduled by one additional year and to waive certain restrictions on small diesel engines; (266); yes; failed (190–202).

Substitute to delay and relax automobile emissions standards, to reduce the warranties for emissions control devices, and to make other changes in existing law regarding mobile sources of air pollution; (267); no; passed (255–139).

The bill to revise the 1970 Clean Air Act to set new standards for automobile exhaust emissions, regulate new sources of pollution in clean air area including national parks and allow limited industrial expansion in areas that have not yet achieved national health standards for clean air; (268); yes; passed (326–49).

An amendment to reduce to a total of 68,910 the number of dolphins that can be accidentally taken during commercial tuna fish operations in 1977 and to reduce further the quota after 1977, and to ban the importation of fish products whose production caused dolphin kills exceeding U.S. standards; (270); yes; passed (244–109).

An amendment to levy a $32 fee for each dolphin killed incidental to commercial tuna fishing operations; (271); no; failed (158–194).

The bill to limit to 68,910 the total number of dolphins that can be accidentally taken during 1977 commercial tuna fishing operations, authorizes significant further reductions in that quota after 1977, establishes a 100 percent Federal observer program on tuna boats, establishes certain incentives and penalties encouraging conservation of dolphins, bans transfers of tuna vessels to foreign registry unless U.S. tuna fishing standards were observed, and required initiation of multilateral negotiations aimed at placing U.S. observers on foreign flag tuna vessels; (272); yes; passed (334–20).

The bill authorizing the Interior Secretary to establish a memorial in Constitution Gardens on the Mall in Washington, D.C., to honor the 56 signers of the Declaration of Independence. (The $500,000 authorized was left over from the 1976 Bicentennial medallion sales.); (375); yes; passed (302–3).

The bill to authorize $553,597,000 for fiscal year 1978 maritime programs; (382); yes; passed (355–40).

The conference report on the bill to authorize $21,950,000 for fiscal year 1978 for research on national water supply needs and on saline water conversion, and $40,000,000 for four demonstration plants; (412); yes; passed (401–1).

Conference report on the bill to set environmental protection performance standards for surface mining of coal, provide for regulation and enforcement, establish an abandoned mine reclamation fund and establish mining and mineral research institutes. (420); yes; passed (325–68).

FOREIGN RELATIONS

The resolution giving Congressional approval to international fishery agreements negotiated with foreign countries in accordance with the Fishery Conservation and Management Act of 1976; (12); yes; passed (353–35).

The bill to give Congressional approval to international fishery agreements negotiated with foreign countries in accordance with the Fisheries Conservation and Management Act of 1976; (26); yes; passed (377–18).

An amendment to prohibit the importation of chrome from any nation that violated the human rights provisions of the United Nations Charter; (56); no; failed (153–246).

An amendment to delay the effective date of the Rhodesian Chrome bill for 30 days so that the President could and would have to report to Congress on the status of negotiations to establish majority rule in Rhodesia; (57); no; failed (160–236).

The bill to halt the importation of Rhodesian chrome in order to bring the U.S. into compliance with U.N. economic sanctions imposed on Rhodesia in 1966; (58); yes; passed (250–146).

The concurrent resolution protesting human rights violations in the Soviet Union, including harassment of Soviet Jews and other minorities trying to obtain emigration visas, in disregard of the 1975 Helsinki Declaration; (76); yes; passed (400–2).

The bill to authorize additional funds for activities of the State Department in fiscal 1977; (87); yes; passed (292–114).

The bill authorizing $20 million for the relief and rehabilitation of refugees and other victims of the March 4, 1977, earthquake in Romania; (107); yes; passed (322–90).

An amendment to direct U.S. officials of international lending institutions to oppose financial aid for agricultural projects promoting palm oil, sugar or citrus crops in competition with U.S. agricultural products; (114); yes; passed (218–145).

An amendment to prohibit international financial institutions from using U.S. funds for aiding Cambodia, Cuba, Laos, or Vietnam; (115); no; failed (165–189).

The bill to authorize the U.S. to contribute $5.2 billion to certain international financial institutions, including the World Bank, International Finance Corporation, International Development Association, and the Asian and African Development Banks, for fiscal years 1978–81, and to require U.S. officials of such institutions to vote against extending aid to nations that engage in a consistent pattern of gross violations of human rights; (116); yes; passed (194–156).

The bill to revise U.S. export controls on sensitive materials and to prohibit U.S. firms from complying with certain aspects of the Arab boycott against Israel; (122); yes; passed (364–43).

The bill extending the Export-Import Bank's charter from June 30, 1978, to September 30, 1978, in order to align its programs with the new fiscal year; (163); yes; passed (281–126).

An amendment to cut $90,000 from the $220,000 budgeted for five additional staff positions in the Washington office of United Nations Ambassador Andrew Young; (172); no; failed (98–318).

An amendment to reduce the U.S. contribution to the United Nations from $218 million to $57.6 million for fiscal 1978, and to require that the U.S. percentage contribution to the United Nations be no greater than the ratio of the U.S. population to the population of all United Nations members; (173); no; failed (149–257).

An amendment providing that any new Panama Canal Treaty must protect the vital interests of the United States; (174); yes; passed (220–182).

An amendment prohibiting the use of funds in the bill for reparation or aid to Vietnam; (175); yes; passed (266–131).

The bill to authorize $1.7 billion for State Department expenses, U.S. contributions to international organizations and related programs in fiscal 1978; (176); yes; passed (285–111).

An amendment to reduce by $25 million the $271 million authorization recommended by the International Relations Committee for U.S. voluntary contributions to international organizations and programs; (205); yes; passed (233–171).

An amendment to make tobacco products ineligible for P.L. 480, Food for Peace export sales to foreign nations; (206); yes; passed (229–178).

A motion to recommit the aid bill to the International Relations Committee with instructions that it be reported back to the House with an amendment prohibiting the use of any authorizations in the bill for any form of aid or trade with Vietnam or Cuba; (208); yes; passed (288–119).

The bill to authorize $1.7 billion for fiscal 1978 for foreign economic aid programs and modifying the P.L. 480, Food for Peace program; (209); yes; passed (252–158).

The motion that the House conferees on the Defense Procurement bill be instructed to vote to close meetings of the Conference Committee when classified information was discussed, but that any House member would be eligible to attend meetings of the conference; (252); yes*; passed (273–114).

An amendment to delete from the bill $700,000 authorized for military education and training aid for Argentina and prohibiting military equipment sales to that country; (253); no*; failed (187–200).

An amendment to delete from the bill a committee provision establishing a $100 million African Special Requirements Fund to aid those countries affected by the civil strife in Rhodesia; (255); no; failed (204–208).

A measure to delete from the language of the bill requirements that countries be ruled by a majority before they could receive aid from the proposed $100 million Africa Fund; (256); yes; passed (238–173).

An amendment to reduce by $102.7 million the fiscal 1978 foreign military sales authorization of $675,850,000; (257); yes; failed (139–260).

The motion to recommit the bill to the International Relations Committee with instructions to report it back to the House with an amendment permitting the President to suspend the 1975 embargo on US military assistance to Turkey if the Ankara government met certain conditions; (258); no; failed (150–256).

The bill to authorize $3.2 billion in foreign military security aid and weapons sales credits for fiscal 1978; (259); yes; passed (242–163).

The bill to authorize $81 million in fiscal 1978 for activities of the Peace Corps, plus necessary increases for salary, retirement and employee benefits; (273); yes; passed (305–43).

The conference report extending the Export Administration Act of 1969 through September 30, 1979, and prohibiting American firms from complying with the Arab trade boycott against Israel; (306); yes; passed (306–41).

The motion to instruct conferees on the International Lending Institutions bill, H.R. 5262, to insist on language requiring US officials to vote against loans by international financial institutions to nations that violated human rights; (325); yes*; failed (161–200).

An amendment to prohibit the use of federal maritime operating subsidies for shipment of US grain to Russia; (381); no; failed (143–251).

The conference report on the bill to authorize a total of $1,646,800,000 in fiscal 1978 for US bilateral development assistance and to make changes in the Food for Peace program; to the bill specifically prohibited any aid for Vietnam, Cambodia, Laos or Cuba; (412); yes; passed (254–158).

The conference report on the bill to authorize a total of $3,195,900,000 for fiscal 1978 for US foreign security and military assistance programs, including $677 million to finance sales of military equipment to foreign governments; (418); yes; passed (262–147).

GOVERNMENT AND CIVIL SERVICE

A motion to elect Representative Thomas (Tip) O'Neill, Jr., Speaker of the House; (1); yes; passed (290–142).

An amendment to delay a full-scale investigation until such time as the Committee made recommendations as to whether a further investigation of assassinations was needed; (8); no; failed (165–237).

Resolution to reconstitute for 90 days, effective January 3, 1977, the Select Committee on Assassinations to inquire into the deaths of President John F. Kennedy and Dr. Martin Luther King, Jr.; the committee to be funded under the continuing resolution allowing it approximately $84,000/month; (9); yes; passed (237–164).

Resolution authorizing and directing the Committee on Standards of Official Conduct (Ethics) to determine whether any members of the House or their immediate families or associates accepted anything of value from the South Korean government or representatives thereof; (14); yes*; passed (388–0).

An amendment to delete from the House ethics bill the section banning members from maintaining private unofficial office accounts and to increase by $5,000 the amount available to each member for official expenses; (29); no; failed (187–235).

An amendment to delete the section of the resolution prohibiting members from earning more than 15 percent of their official salaries through outside jobs; (30); no; failed (79–344).

The resolution to require comprehensive financial disclosure by House members, ban private office accounts, increase official office allowances, ban gifts from lobbyists, limit outside earned income and imposed other financial restrictions on members; (31); yes; passed (402–22).

The resignation of Henry B. Gonzalez (D-Texas) as Chairman and member of the House Select Committee on Assassinations; (40); yes; passed (296–100).

The resolution establishing a House Select Committee on Ethics to implement the House code of ethics; (48); yes; passed (410–1).

The resolution to create a new Select No Committee on Congressional Operations to replace the Joint Committee on Congressional Operations which was made inoperative when the Senate voted to discontinue its participation; (88); no; passed (211–147).

An amendment to require Congress to vote to approve reorganization plans submitted by the President rather than to allow them to take effect unless disapproved by either the House or Senate within 60 days of their submission; (89); no; failed (87–329).

The bill to extend for three years the President's authority, which expired in 1973, to transmit to Congress plans for the reorganization of agencies in the Executive Branch (such authority did not include plans to establish, abolish or merge Cabinet-level departments or independent regulatory agencies); (90); yes; passed 395–22).

The amendment to delete language in the bill allowing the Select Committee on Assassinations to intervene and bring lawsuits and to make applications to courts; (92); no; passed (223–195).

A motion to resolve into executive (closed) session for further consideration of the bill to continue the Select Committee on Assassinations; (93); no; failed (185–226).

The resolution to continue the Select Committee on Assassinations to inquire into the deaths of President John F. Kennedy, and Dr. Martin Luther King, Jr. for the duration of the 95th Congress; (94); yes; passed (230–186).

The resolution to authorize funds for additional office personnel and the lease of equipment for the House leadership office—up to $30,000 each for the majority and minority leaders and up to $15,000 each for the majority whip and minority whip; (95); yes; passed (276–128).

The resolution to authorize funds for two additional employees in the minority leader's office, one additional employee each in the majority whip and chief deputy majority whip's offices and a salary increase for the House postmaster; (96); yes; passed (276–122).

An amendment to reduce budget authority and outlays in the general government function by $7 million in fiscal 1978 in order to delete funds for a pay raise for members of Congress; (135); yes; passed (236–179).

The resolution, as amended, to provide $2.5 million for the expenses of the investigations and studies to be conducted by the House Select Committee on Assassinations; (149); yes; passed (213–192).

The bill authorizing funds for the territories of the U.S. including $93.5 million in fiscal 1978 for the Trust Territory of the Pacific Islands and the Northern Mariana Islands, $12 million for rehabilitation of Enewetak Atoll and $15 million for assistance to Guam; (156); yes; passed (379–3).

Passing the bill to amend the Internal Revenue Code to allow state legislators to designate the district they represented as their home for travel expense deduction purposes for calendar years 1976 and 1977, and to limit the travel expenses deduction to $9,000; (160); yes; passed (372–6).

The resolution to provide $440,000 for expenses of investigations and studies to be conducted by the Select Committee on Congressional Operations for the remainder of 1977, (162); no; passed (261–131).

The bill to amend the US Code to stipulate that members of Congress do not have to pay income taxes to any state except those they represent; (286); yes; passed (294–83).

Passing the bill denying an October 1977 cost-of-living pay increase for high-level federal officials, members of Congress and federal judges who had received a pay increase in February 1977; (360); yes; passed (397–20).

The resolution establishing a permanent House Select Committee on Intelligence. (388); yes; passed (227–171).

The bill to upgrade the positions and salaries of the director and deputy director of the OMB to Cabinet-level and deputy secretary level, respectively.; (398); no; passed (253–158).

The bill to increase by 15 the number of GS–16, GS–17, and GS–18 positions in the Administrative Office of the US Courts; (399); yes; failed (189–224).

The bill to increase the number of Civil Service hearing examiners at GS–16 level to 340, from 240, and to designate them as administrative law judges; (400); yes; passed (284–131).

The bill reducing from 12 years to five years in length of service required of a federal employee to be eligible to retain health and life insurance benefits during retirement; (401); yes; passed (373–37).

The resolution to create two positions on the Capitol Police force and to increase the salary of the House chaplain; (450); yes; passed (383–2).

The resolution to provide funds for the expenses of investigations and studies to be conducted by the House Permanent Committee on Intelligence; (476); yes; passed (342–10).

HEALTH

The amendment to increase the authorization for home health services under the bill to the fiscal 1977 level of $8 million for demonstrations and $4 million for training, instead of the $3.45 million and $1 million respectively, contained in the bill; (99); yes; passed (322–69).

The bill to extend for one year, through fiscal 1978, the health services programs of maternal and child health and crippled children services, community health centers, family planning, comprehensive health services, community mental health centers, migrant health centers, hypertension programs, home health services, hemophilia treatment centers, blood separation centers, and sudden infant death syndrome programs at an authorization level of $1.1 billion; (100); yes; passed (376–4).

Passing the joint resolution designating September 18–24, 1977, as National Lupus Week to draw attention to Lupuserythematosus, a chronic disease of the connective tissue between vital organs that affects 500,000 Americans; (374); yes*; passed (297–3).

An amendment to delete provisions transferring authority over mine health and safety standards from the Interior Department to the Labor Department; (391); no; failed (112–227).

An amendment to strengthen health and safety standards for metal and nonmetal mines while retaining separate regulatory authority and procedures for coal and noncoal mines; (392); no; failed (151–188).

An amendment to continue federal/state arrangements that let states develop and enforce their own mine health and safety standards; (393); no; failed (165–169).

The bill to toughen mine health and safety standards and enforcement procedures by applying the same set of regulatory processes to both coal and noncoal mines and transferring administrative authority from the Interior Department to the Labor Department; (394); yes; passed (244–88).

The conference report on the bill to extend for one year, through fiscal 1978, the federal

health services, biomedical research and health planning and resources development programs at an authorization level of $3.4 billion; (493); yes; passed (401–6).

HOUSING AND URBAN DEVELOPMENT

An amendment to increase the term of Section 8 assistance contracts from 20 to 30 years for new or rehabilitated units financed conventionally or under HUD coinsurance program; (51); yes; passed (323–87).

An amendment to require that public members of the National Commission on Neighborhoods include an equal number of men and women; (52); no; passed (249–157).

The amendment to delete Title II of the bill establishing a National Commission on Neighborhoods; (53); yes; passed (243–166).

The bill to authorize an additional $407.6 million for housing assistance programs for low and moderate income families, to extend the contract term for Section 8 assisted housing programs from 20 to 30 years and to extend the crime and riot insurance programs; (54); yes; passed (380–30).

The conference report on the bill to authorize an additional $378 million for housing assistance for low and moderate income families, to extend the 30 years from 20 years the contract term of Section 8 assisted-housing programs, to extend the crime and riot insurance programs and to establish a National Commission on Neighborhoods; (148); yes; passed (355–47).

An amendment to delete from a bill its plan for a new alternative formula for allocation of community development block grant funds; (199); no; failed (149–261).

An amendment to require that 25% of funds available for urban development action grants be used for cities under 50,000 population that were not central cities of a standard metropolitan statistical area; (201); yes; passed (279–129).

An amendment to require lending institutions to notify property owners in flood-prone areas to whom they made loans whether they were entitled to federal disaster relief and to ban government "bailout" of individuals who undertook development in flood-prone areas without taking adequate measures to protect against floods; (202); no; passed (220–169).

The bill to authorize $12.45 billion for the community development block grant program for fiscal years 1978–80 and to authorize more than $2 billion for federally assisted, public and rural housing and continued FHA mortgage and flood insurance programs; (203); yes; passed (369–20).

The resolution to extend until September 30, 1977, the authority of the Secretary of Housing and Urban Development to insure mortgages and set interest rates under certain Federal Housing Administration programs, to enter into new flood insurance contracts and to extend certain authorities under the Farmers Home Administration's rural housing program; (451); yes; passed (383–2).

JUSTICE AND JUDICIARY

A motion to recommit to the House Administration Committee the Judiciary Committee funding resolution for the 1977 session with instructions to limit funds for internal security investigations of the Judiciary Committee to $300,000; (49); no; failed (159–249).

The bill approving certain amendments to the Federal Rules of Criminal Procedure and disapproving other such amendments; (119); yes; passed (376–3).

An amendment to add $249 million in budget authority and $75 million in outlays to the law enforcement and justice function for increases for the Law Enforcement Assistance Administration; (141); no; passed 224–179).

The resolution authorizing the chairman of the Subcommittee on Oversight and Investigations of the House Committee on Interstate and Foreign Commerce to continue to intervene in a pending court case regarding telephone wiretap information held by the American Telephone and Telegraph Company, and authorizing $55,000 from House Contingency funds to employ special counsel in the case; (190); yes; passed (246–143).

The bill to extend the Juvenile Justice Act and the Runaway Youth Act for three years, authorizes $125 million for fiscal year 1978 and open-ended authorizations for succeeding years through fiscal year 1980 and to amend certain provisions of the Juvenile Justice Act; (246); yes; passed (389–5).

The bill extending the life of the Privacy Protection Study Commission for 2½ months until September 30, 1977, to plan for an orderly termination of the Commissioner; (247); yes*; passed (387–3).

An amendment to maintain the appropriation for the Legal Services Corporation at the existing $175 million level for each of fiscal 1978 and 1979, pending a July 1977 report to Congress assessing the corporation; (352); no; failed (158–221).

An amendment to require all corporation funding requests to be submitted for approval by the Office of Management and Budget prior to submission to Congress; (353); no; failed (160–223).

An amendment to prohibit the use of funds in the bill to pay for legal assistance in cases involving school desegregation; (354); no; passed (208–174).

The amendment to terminate the Legal Services Corporation's on September 30, 1979; (355); no; failed (166–214).

An amendment to prohibit legal assistance in cases arising out of disputes over the issue of homosexuality or gay rights; (356); yes; passed (230–133).

A motion to recommit the bill to the Judiciary Committee with instructions to report it back to the House with an amendment restoring a prohibition on grants or contracts to outside "backup" support centers for research and training; (357); no; failed (154–213).

The bill to extend the Legal Services Corporation for two years, with authorizations of $217 million for fiscal 1978 and $275 million for fiscal 1979 and amend the Legal Services Corporation Act of 1974; (358); yes; passed (267–103).

LABOR AND UNEMPLOYMENT

The bill to extend for one year, through March 1978, a 13-week program of supplemental unemployment insurance to provide a maximum of 52 weeks of benefits in states and local areas with high unemployment rates; (74); yes; passed (327–63).

An amendment to restrict commonsite picketing to employers "primarily engaged in construction", thus limiting the ability of construction unions to appeal to employees of non-construction employers to observe their strikes; (78); no; passed (212–209).

An amendment to exempt from commonsite picketing, employers using certain "fast-track" or phased methods of construction; (79); no; failed (181–241).

An amendment to exempt from commonsite picketing residential builders of units of three stories or less; (80); yes; passed (252–167).

An amendment to require a secret ballot approval of any authorized common-site picketing action by union, non-union, and industrial workers at the affected site; (81); no; failed (115–304).

An amendment to permit common-site picketing practices in somewhat more limited circumstances than the original bill; (82); yes; passed ((246–177).

The bill to permit a labor union with a grievance with one contractor to picket all contractors on the same construction site and to establish a construction industry collective bargaining committee; (83); yes; failed (205–217).

The conference report on the bill extending for seven months, through October 31, 1977, a 13-week program of supplemental unemployment insurance, thus providing a maximum of 52 weeks of benefits in states with high unemployment rates; (104); yes; passed (406–2).

The bill to expand job and training opportunities for unemployed youth by establishing a new program to employ young adults in conservation projects, guaranteeing part-time jobs and summer jobs to disadvantaged high school students in selected locations, and arranging for a variety of other experimental programs; (219); yes; passed (334–61).

The conference report on the bill to authorize a series of new youth employment and training projects, including a year-round program to employ young adults in conservation-related jobs on public lands. (409); yes; passed (356–58).

NATIONAL DEFENSE

The bill to establish a separate fund from the proceeds of the sale of excess government stockpiled materials to be used only to purchase other strategic materials for the stockpile; (97), yes; passed (373–24).

The bill to liberalize eligibility for VA medical benefits to certain veterans; (101); yes; passed (402–0).

The bill to increase to $15 million the annual program of grants to states for construction and remodeling of veterans' medical care facilities for fical year 1978–79; (102) yes; passed (399–0).

An amendment to prohibit purchase of three AWACS radar-warning and command planes unless NATO agreed to purchase the aircraft; (127); yes; failed (135–222).

An amendment to reduce overseas troop strength by 17,000 and total US active duty troop strength by 50,000; (129); no; failed (88–301).

A reform amendment to place all future military members under the congressional pension system instead of the military retirement system; (130); yes; failed (148–247).

A measure to prohibit expenditures of funds to advertise the Carter administration's special less-than-honorable discharge review program; (131); no; passed (291–96).

The bill to authorize appropriations of $35.9 billion for weapons procurement and military research programs of the Defense Department in fiscal 1978; (132); yes; passed (347–43).

An amendment to transfer $7.95 billion from the defense function to reduce the national debt; (37); no; failed (64–344).

A substitute amendment to the following amendment to increase fiscal 1978 budget authority by $4.1 billion and outlays by $2.3 billion to bring spending for national defense to levels requested by the President; (138); no; passed (225–184).

The amendment as amended by the previous substitute amendment; (139); no; passed (218–185).

An amendment to transfer $6.5 billion in budget authority and $3.6 billion in outlays from the national defense function to functions containing domestic programs; (140); no; failed (102–306).

An amendment to increase budget authority and outlays by $500 million each to provide for pensions for World War I veterans; (142); yes; passed (329–73).

The bill requiring approval by the House and Senate Veterans' Affairs Committees for the construction of any Veterans' Administration medical facility costing more than $1 million; (159); no; passed (373–19).

The bill extending until September 30, 1978, the Defense Production Act of 1950; (161); yes; passed (383–8).

An amendment to require reports to Congress on the prospects for verification of any

proposed arms control agreements; (167); no; passed (259–148).

The bill to authorize $14.6 million for the operations of the US Arms Control and Disarmament Agency or fiscal 1978; (168); yes; passed (395–15).

An amendment to add $3 billion in budget authority and $2 billion in outlays to the defense functions; (177); no; failed (176–233).

An amendment to add $2 billion in budget authority and $1 billion in outlays to the defense function; (178); no; failed (184–223).

An amendment to add $1 billion each in budget authority and outlays to the defense function, (179); no; failed (190–214).

An amendment to reduce the budget authority by $1.15 billion and outlays by $300 million for national defense, (180); no; failed (83–315).

An amendment to increase both the budget authority and outlays for veterans' affairs by $175 million, (181); yes; passed (282–100).

An amendment to add $3 billion in budget authority and $2 billion in outlays for national defense and to reduce budget authority and outlays for interest on the national debt by $2.1 billion, (182); no; failed (85–306).

The bill increasing by approximately 6% the rates of disability compensation for disabled veterans and their survivors, (248); yes*; passed (393–0).

The bill increasing disability compensation for certain veterans who had suffered the loss of paired extremities, (249); yes*; passed (385–7).

The bill providing allowances for modification of automobiles to disabled veterans of World War I, (250); yes*; passed (386–11).

An amendment to exempt certain Defense Department construction contracts authorized in the bill from the provisions of the Davis-Bacon Act, (287); no; failed (76–298).

The bill to authorize $3,508,560,000 for military construction projects of the Defense Department for fiscal 1978, (288); yes; passed (351–24).

The bill providing assistance to veterans with service-connected disabilities to acquire specially adopted housing, (377); yes; passed (403–0).

The bill providing a 7% cost-of-living increase in benefits for all veterans and eligible survivors and providing an additional 25% increase to eligible widows, age 78 and over, of nonservice-connected disabled veterans, effective January 1, 1978, (378); yes; passed (403–0).

The conference report on the bill to authorize $36,097,300,000 for procurement, military research and development and civil defense in fiscal 1978, (380); yes; passed (350–40).

The conference report on the bill to authorize $3,724,718,000 for new military construction projects of the Defense Department for fiscal 1978, (408); yes; passed (370–34).

POLITICAL SYSTEMS/ELECTIONS

The resolution authorizing the House Rules Committee to evaluate the impact of television coverage of House proceedings, including the possibility of public dissemination, after completion of the 90-day test of audio-visual recording of floor proceedings that began March 15, 1977; (59); yes; passed (398–10).

The motion to recommit to the House Administration Committee the resolution to dismiss the election challenge brought against Representative Bob Gammage; (191); no; failed (126–260).

The resolution to dismiss the election challenge brought against Representative Abner J. Mikva; (192); yes; passed (272–107).

The resolution to dismiss the election challenge brought against Representative Carl D. Pursell; (193); yes; (passed 371–8).

The amendment to guarantee the right of federal employees to refrain from political activity; (239); yes; passed (259–144).

An amendment to prohibit elected or appointed officials of the federal government from submitting political job referrals to the Civil Service Commission; (240); yes; failed (153–248).

An amendment to permit federal employees to engage in political activities at the state and local level and to run for part-time state and local office, but to prohibit them from engaging in political activities at the federal level; (242); no; failed (143–266).

An amendment to prohibit a federal employee organization from coercing, threatening or intimidating its workers into participating in any form of political activity and prohibits the organization from using dues or fees for political purposes; (243); no; passed (229–168).

An amendment to delete language providing for criminal penalties for extortion of political contributions from federal personnel; (244); no; failed (73–319).

An amendment to delete language that no labor union activities could be made unlawful that were not unlawful under the Federal Campaign Act; (290); no; failed (131–277).

An amendment to specify that the intent of an amendment was that activities of labor unions must be consistent with provisions of the Federal Election Campaign Act of 1971; (291); yes; passed (266–139).

An amendment to eliminate the exceptions under which persons in certain restricted positions such as agents of the Federal Bureau of Investigation, Internal Revenue Service, Central Intelligence Agency and purchasing agents could participate in local nonpartisan elections; (292); no; failed (56–344).

An amendment to add language defining the term "extortion" as an attempt to obtain property from another person by the use of threatened force or fear; (293); no; failed (190–219).

An amendment to prohibit federal employees from soliciting political contributions from another federal employee, whether he was a supervisor or not; (294); no; failed (156–251).

The bill to revise the Hatch Act to allow federal civilian and postal employees to participate in political activities and to protect such employees from improper political solicitations; (295); yes; passed (244–164).

An amendment to prohibit legal services attorneys from taking active part in either partisan or nonpartisan political activities; (305); no; failed (176–198).

Passing the bill authorizing $8,123,000 for the operations of the Federal Elections Commission for fiscal year 1978; (395); yes; passed (383–22).

SCIENCE AND TECHNOLOGY

The bill to authorize $4.05 billion for the National Aeronautics and Space Administration for fiscal 1978; (70); yes; passed (338–44).

The bill to authorize $868 million in fiscal 1978 for operations of the National Science Foundation; (86); yes; passed (378–29).

The bill to extend for one year, through fiscal 1978, the National Library of Medicine, the national Cancer program, the national research service award program, and the national heart, blood vessel, lung and blood program at an overall authorization level of $1.5 billion; (98); yes; passed (385–4).

The conference report to the bill to authorize $4 billion in fiscal 1978 for the operations and programs of the National Aeronautics and Space Administration; (407); yes; passed (379–29).

SOCIAL CONDITIONS AND SERVICES

The bill delaying for one year, until January 1, 1977, the effective date of certain changes in existing tax law that would end the exclusion for sick pay for all but totally disabled retired taxpayers; (103); yes; passed (404–0).

The bill extending for one year the commodities provision of the Older Americans Act of 1965, affecting nutrition programs for the elderly, and extending for six months the deadline for the U.S. Civil Rights Commission to file a report on its study of age discrimination; (188); yes; passed (397–0).

The bill authorizing $645 million through September 30, 1980, for an extension of drug abuse law enforcement under the Controlled Substances Act; (220); yes; passed (393–1).

An amendment to limit the bill's authorization for any state for the summer food program to the amount needed to support the average daily participation in the program by twice the number of children between ages 5 and 17 from families currently living below the official poverty level; (233); no; failed (180–218).

An amendment to limit the authorizations in the bill for local areas for the summer food program to the amounts needed to support the average daily participation in the program of those children under 18 that were eligible to receive free or reduced-price meals under the school lunch and breakfast programs; (234); no; failed (192–216).

An amendment to give local school districts during fiscal 1978 and 1979 the option to receive cash instead of commodities under Section 6 of the School Lunch Act; (235); no; failed (138–272).

The bill to extend through fiscal 1979 the summer food program and to make other changes in the school lunch and child nutrition programs; (236); yes; passed (393–19).

The bill to amend the Social Security Act to make changes in the programs of Supplemental Security Income Benefits, Aid to Families with Dependent Children, Child Welfare Services and day care services; (312); yes; passed (335–64).

The joint resolution authorizing the President to proclaim Thanksgiving Week in November as National Family Week each year; (396); yes; passed (400–3).

An amendment to prohibit the use of food stamps to purchase nonnutritional foods as determined by the Food and Nutrition Board of the National Academy of Sciences-National Research Council; (432); no; failed (185–227).

An amendment to allow families of strikers with children under 16 to be eligible for food stamps; (435); no; failed (152–266).

An amendment to allow families of strikers with children under 16, elderly or disabled dependents to be eligible for food stamps; (436); no; failed (190–227).

An amendment to eliminate from the food stamp program any household in which a member is on strike unless the household was eligible before the strike; (437); no; failed (170–249).

An amendment to require that recipients pay for a portion of their food stamp allotment; (438); no; failed (102–317).

An amendment to require that food stamp households with adjusted gross incomes in excess of twice the poverty level return this excess, up to the amount of their food stamp allotment, to the government; (439); no; failed (149–262).

An amendment to allow the Agriculture Secretary to implement an unlimited number of pilot projects in which work would have to be performed in return for food stamps; (441); no; failed (159–255).

An amended committee amendment revising the food stamp program to provide free food stamps, simplifying eligibility determinations, tightening work requirements

and cutting down on fraud and abuse; (442); yes; passed (320–91).

SPORTS AND RECREATION

A motion to suspend the rules and pass the bill to improve the administration of federal fish and wildlife programs; (25); no; passed (206–136).

The resolution to create a House Select Committee on Professional Sports for the 95th Congress; (39); no*; failed (75–271).

TRANSPORTATION AND PUBLIC WORKS

The bill to authorize reduced air fares on space-available basis for elderly and handicapped persons; (17); yes; passed (403–0).

An amendment to change the method of allocating program funds among the states to reflect both absolute numbers of unemployed persons and the severity of state unemployment rates; (22); yes; failed (187–201).

An amendment to change the method of allocating funds among states basing each state's share in most cases solely on the number of unemployed persons; (23); yes; passed (229–158).

The bill to raise the authorization level to $6 billion from $2 billion for the emergency public works employment program as part of President Carter's economic stimulus package; (24); yes; passed (295–85).

A motion to recommit to Public Works and Transportation Committee with instructions to report it back to the House with an amendment reducing the authorization by $1.4 million, to $3.3 million; (37); no; failed (101–213).

The bill authorizing $85 million for research and development programs to the FAA for fiscal 1978 and requiring FAA policymakers to disclose any financial interest they might have in any person applying for or receiving financial assistance under the bill; (85); yes; passed (402–6).

An amendment to reduce budget authority and outlays by $100 million in the natural resources function in order to cut funding for water projects; (143); yes; failed (143–252).

The bill authorizing $31,050,000 in fiscal 1978, for the Interior Secretary to construct a dam and canal system, the San Luis Unit, Central Valley Project, California; (157); yes; passed (377–14)

The motion to delete from the conference report of the bill, directions to the President to spend funds previously appropriated for certain water resource projects, except the funds appropriated for the Meramec Dam in the state of Missouri; (164); no; failed (108–302).

The conference report on the bill authorizing an additional $4 billion for the emergency public works employment program as requested in President Carter's economic stimulus package; (165); yes; passed (335–77).

The bill to authorize $13 million for fiscal 1978 administrative expenses of the US Railway Association; (169); yes; passed (358–50).

The bill authorizing $1.239 billion through fiscal 1979 to continue construction of Army Corps of Engineers flood control and negotiation projects in 18 river basins; (224); yes; passed (310–89).

The bill expanding the aviation war risk insurance program to include losses from hijacking, riots, and civil disturbances not considered when the program began in 1951; (226); yes; passed (388–8).

1977 NOBEL PHYSICS PRIZE

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. RINALDO. Mr. Speaker, I am honored to rise today to pay tribute to a distinguished scientist, Dr. Philip W. Anderson, who has been named a joint recipient of the 1977 Nobel prize in physics. Dr. Anderson is consulting director in the Physical Research Division at Bell Telephone Laboratories in my district and is also a professor at Princeton University.

Dr. Anderson has made outstanding contributions in the formulation of the idea of localization in disordered materials. He is one of the most outstanding theoretical physicists in the United States today, having published important articles over the last quarter-century, and his paper on "localized magnetic moments," published in 1961, is regarded as an original and important contribution to the body of knowledge on magnetism.

I would like to insert in the RECORD a copy of a statement released by the Royal Swedish Academy of Sciences outlining Dr. Anderson's work in this field, and I would also like to include with my remarks a short biography of Dr. Anderson.

Mr. Speaker, it gives me great pleasure to include these materials in the RECORD in testimony to an outstanding American scientist:

[Press release from the Royal Swedish Academy of Sciences, Oct. 11, 1977]

PHYSICS PRIZE TO ENGLAND AND UNITED STATES

The Royal Swedish Academy of Sciences has decided to award the 1977 Nobel Prize for Physics to be shared equally among Dr. Philip W. Anderson, Bell Telephone Laboratories, Murray Hill, New Jersey, U.S.A., Sir Nevill F. Mott, Cambridge University and Professor John H. van Vleck, Harvard University, Cambridge, Massachusetts for their fundamental theoretical investigations of the electronic structure of magnetic and disordered systems.

The three prize winners are theoreticians within the field of solid state physics, the branch of physics which lies behind essential parts of the current technical development, particularly in electronics. All three have added many new basic concepts to the theory, which have made it possible to understand new experimental results. The distance between fundamental results in basic research and technical applications is as a rule comparatively short in this field. As an example, one can mention that van Vleck's ideas have played a central role for the development of the laser. The technical development of amorphous materials like glass, which is now going on, would be unthinkable without Mott's and Anderson's contributions to the fundamental theory.

Van Vleck has been called "the father of modern magnetism." He has developed methods which make it possible to understand how a foreign ion or atom behaves in a crystal. At first the electrons of such a perturbing ion feel the influence of the electric field—the crystal field—which is generated by the atomic nuclei and the electrons of the host crystal. Through its electrons, the perturbing ion can also enter into chemical bonding with its environment which is usually called the ligands. Van Vleck was the first to develop the crystal field theory as well as the ligand field theory to describe such phenomena in greater detail. These quantum chemistry methods have now almost become routine tools, particularly within inorganic chemistry, with important extensions to molecular biology, medicine and geology.

Another important part of van Vleck's work deals with the Jahn-Teller effect, which is associated with an interaction between the electron and the positions and motions of the atomic nuclei. A perturbing atom in a crystal can sometimes replace a host atom without essential changes in the surrounding lattice. Under certain circumstances the electronic structure of the perturbing atom is so incompatible with the symmetry of the environment that it leads to a local distortion of the lattice. This so-called Jahn-Teller effect was predicted in the 1930's, but, only during the last decade, has one essentially through van Vleck's work succeeded in understanding this phenomenon in greater detail and in realizing its experimental importance.

Van Vleck was the first to point out the essential importance of electron correlation—the interaction between the motions of the electrons—for the appearance of local magnetic moments, i.e., "mini-magnets" in material. His former student, Philip W. Anderson, has further developed these ideas and succeeded in explaining how local magnetic moments can occur in metals—as, for instance, copper and silver, which in pure form are not magnetic at all. These phenomena can be quite complicated—the strength of the "mini-magnets" can, for instance, change abruptly when the concentration of the perturbing ion varies only a few percent. In a simple quantum mechanical model, Anderson has caught all the aspects which seem to be of decisive importance for undertsanding what happens in such situations.

Mott and Anderson have separately given essential contributions to our knowledge of disordered systems. In crystallic materials, the atom formed regular lattices, which greatly facilitates the theoretical treatment. In disordered materials, this regularity is lacking—either so that the components of an alloy are placed at random in the regular lattice positions, or so that there is no lattice whatsoever, as for instance in glass. It's exceedingly difficult to treat such material theoretically. In 1958, Anderson published a paper in which he showed under what conditions an electron in a disordered system can either move through the system as a whole, or be more or less tied to a specific position as a localized electron.

It was Mott who several years later called the attention of the experimental physicists particularly to this paper, which has become one of the cornerstones in our understanding of, among other things, the electric conductivity of disordered systems. Mott and Anderson have in a series of papers created a multitude of new concepts which have turned out to be central for the understanding of disordered materials. Their ideas have to a large extent been experimentally verified and they have in this way laid the foundation for important technical developments.

The electric properties of crystals are described by the so-called band theory which gives a classification with respect to the conductivity in metals, semi-conductors, and

insulators. This theory is not universally valid, however, and a famous exception is provided by nickel oxide, which according to band theory ought to be a metallic conductor but in reality is an insulator. Mott has shown how this can be explained by means of a refined theory which takes the electron-electron interaction into account. This led also to the study of the so-called Mott transition, by which certain metals can become insulators when the electronic density decreases by separating the atoms from each other in some convenient way.

All the prize winners have been active in large domains of physics, where they have given highly valuable contributions. This year's prize puts the emphasis on their work concerning electron-electron interactions and the coupling between the motions of the electrons and the atomic nuclei in magnetic and disordered material, where they—particularly in the treatment of and the emphasis on localized electronic states—have gone far beyond the conventional theory, with direct importance for experiments and technology. This year's Nobel prize—700,000 Swedish kroner.

Philip W. Anderson—Born 1923—Doctor at the Bell Telephone Laboratories, 600 Mountain Avenue, Murray Hill, New Jersey, U.S.A. Selected works: Absence of diffusion in certain random lattices (1958); New approach to the theory of superexchange interactions (1959); Localized magnetic states in metals (1961).

Sir Nevill F. Mott—Born 1905—Cavendish, Emeritus Professor in Physics in Cambridge University, England. Address: Cavendish Laboratory, Madingley Road, Cambridge, CB3 OHE, England. Selected works: The basis of the electron theory of metals, with special reference to the transition metals (1949); On the transition to metallic conduction in semi-conductors (1956); Metal-insulator transition (1974); Electronic process in noncrystalline material (1971).

John H. Van Vleck—Born 1899—Emeritus Professor at Harvard University, U.S.A. Address: Lyman Laboratory, Harvard University, Cambridge, Massachusetts 02138, U.S.A. Selected works: The theory of electric and magnetic susceptibility (1932); Theory of the variations in paramagnetic anistropy among different salts of the iron group (1932); Valence strengths and the magnetism of complex salts (1935); The Jahn-Teller effect and crystalline stark splitting for clusters of the Form XY_6 (1939); On the theory of antiferromagnetism (1941); Models of exchange coupling in ferro-magnetic media (1953).

PHILIP W. ANDERSON

Dr. Philip W. Anderson is Consulting Director in the Physical Research Division at Bell Laboratories, Murray Hill, N.J. He is responsible for consulting on research in all the laboratories of the division and carriers on his own research, as well as holding a Professorship at Princeton University.

Dr. Anderson joined Bell Labs' technical staff in 1949, and worked in the field of theoretical physics, concentrating mainly on studies of solid-state materials. His major contributions have been in adding to the theoretical understanding of ferroelectricity, ferro- and antiferro-magnetism, magnetic resonance, probability problems such as spectral line widths, superconductivity, amorpholus materitals, and super-fluidity in liquid helium and in neutron star matter.

He also taught physics at Bell Labs and other institutions. From September 1953 to March 1954 he held a Fulbright Lectureship at Tokyo University, Japan, lecturing on magnetism and spectroscopy. During the academic year 1961–62 he lectured at the Cavendish Laboratory, and was an Overseas Fellow at Churchill College, Cambridge, England.

Dr. Anderson became in the fall of 1967 the first part-time professor ever engaged by Cambridge University, teaching theoretical physics for one-half the year. His association with Cambridge University ended in 1975, and he had been appointed to a Professorship at Princeton.

Dr. Anderson is a fellow of the American Physical Society, and a member of the Physical Society of Japan, Phi Beta Kappa and Sigma Xi. He was elected a fellow of the American Academy of Arts and Sciences in 1963, and a fellow of Jesus College, Cambridge, in 1969. He received the Oliver E. Buckley prize of the American Physical Society in 1964, the Dannie Heineman Prize of the Academy of Sciences at Gottingen in 1975. He was named to the National Academy of Sciences in 1967 and was elected to its Council in 1976.

Some of his contributions to science have been in the following subjects:

Quantum theory of pressure broadening (1949–55).

Quantum theory of antiferromagnetism (1950–52).

Theory of exchange and motional narrowing (1952–54).

Prediction of soft modes at phase transitions (1958).

Localization in random lattices and other aspects of random materials (1958–present).

Dynamical effects of broken symmetry in superconductivity, etc. (1958–60), in elementary particle theory (1962).

Josephson effect in superconductivity: experimental discovery and theory (1962–63).

Phase slippage and flux creep and flow in superconductors and superfluids (1962–65), neutron stars (present).

Quantum theory of magnetic impurities and Kondo effect, Fermi surface singularities (1961–present).

Anisotropic superfluidity, ^3He (1960–61; 1972-present).

Phonon effects in superconductivity (1960–70).

General theory of amorphous materials (1972–present).

Theory of spin glass (1969–present).

BERNEY KORTICK NAMED WESTCHESTER TEACHER OF THE YEAR

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mrs. BURKE of California. Mr. Speaker. it is my pleasure to recognize today Mr. Berney Kortick who has recently been honored as Teacher of the Year at Westchester High School in Los Angeles.

Mr. Kortick has been my friend and counselor for many years just as he has been a friend and counselor of hundreds of students in his 20 years as an educator. His sense of truth and honesty combined with his compassion and the common touch has altered many lives and has served as a model for all of us.

Though great teachers are few, Berney Kortick is one. Americans have always recognized the value of education but seldom do we take the time to direct public attention to those teachers who are outstanding.

I salute Berney Kortick, a superb teacher to which the residents of Los Angeles owe a lasting debt of gratitude.

THE STEVE BIKO CASE: HAS OUR GOVERNMENT BACKED ANOTHER AFRICAN TERRORIST MOVEMENT?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. McDONALD. Mr. Speaker, on September 9, 1977, I provided my colleagues with a report on the leading U.S. support groups for the Soviet-sponsored South African terrorist movements. Today it is appropriate to generally examine U.S. foreign policy toward South Africa and particularly the extensive support, assistance, and direction provided by apparently responsible U.S. organizations, both governmental and private, for black South African organizations which range from the "merely" militant to the terrorist.

A controversy has developed in this country over the death of Steve Biko, 30, while under detention by South African police last month. On September 28, 11 of our colleagues circulated a letter reflecting their concern over the death of Steve Biko. I hope that South Africa's judicial system will determine whether or not there was police malfeasance or misfeasance, but my colleagues' concern has also prompted me to look into the background to Biko's career.

Two South African revolutionary movements commenced terrorist campaigns in the early 1960's. These were the South African Communist Party-controlled African National Congress (ANC), and its ideological (Maoist/Pan-Africanist) and ethnic rival, the Pan Africanist Congress of Azania (PAC). The SACP/ANC terrorist cadre is called Umkonto We Sizwe which means "Spear of the Nation" in the Zulu language. The SACP/ANC also has a clandestine guerrilla support and courier group of whites called Okhela or "spark" in Zulu. "Spark" (Iskra) was the name of Lenin's newspaper. PAC drew its main strength from the Xhosa, the people of the Transkei.

PAC's Poqo terrorists—the word means "only" with the same connotation of "just us" that Ireland's Sinn Fein Republican movement has—were led by Potlako Leballo. Nelson Mandela, now serving a life prison term, headed ANC's Umkonto We Sizwe.

The ANC and PAC organizations and their terrorist programs were effectively suppressed within South Africa by 1964, being forced to operate primarily as exile groups with military bases in Zambia, Tanzania, and other African countries. There is evidence to indicate that during the mid to late 1960's, while the Soviet and Red Chinese-supported movements were in decline, segments of the U.S. Government, or at least certain factions within the Department of State and the Central Intelligence Agency, decided to assume sponsorship of some South African militants and promote their Marxist and racist goals while expecting to maintain some sort of influence with the extremists after they attained power.

Look at the parallel examples in Angola and currently in Rhodesia. In Angola the original revolutionary movement was the MPLA, formed in the early 1950's with Soviet backing. After building some support in Angolan labor organizations, MPLA moved into armed terrorism with white, black, and brown civilians their principal targets. When the Sino-Soviet dispute first reached serious levels about 1959. Maoist splits appeared in MPLA. The largest split was the FNLA group led by Holden Roberto, who started his career as a Soviet agent trained in Czechoslovakia.

In the late 1960's, FNLA was picked up additionally by the State Department and CIA as a potential counter-foil to the U.S.S.R.'s MPLA. FNLA's U.S. support did not lessen its ideological ties to Red China, as evidenced by the fact that following a 1973 Peking visit by FNLA leader Holden Roberto, the Chinese Communists agreed to equip and train an entire division for FNLA.

Nevertheless, the FNLA forces were no match for the 15,000 Cuban troops—now increased to over 18,000—imported by the Soviets to conquer Angola for the MPLA.

Seeing that there was no organized pro-Western political grouping in Angola to support, this Congress voted to cut off funding for the CIA and State Department support of FNLA. The question that did not come up in the floor debate was why had not the United States, during the past two decades of revolutionary terrorism in Angola, aided pro-Western, freedom-loving Angolans who could have developed a representative form of government?

In Rhodesia, an independent, pro-Western country which has been expanding its franchise, the United States has clearly put its support behind the terrorist coalition called the Patriotic Front. The so-called Patriotic Front is composed of the Maoist Zimbabwe African National Union (ZANU) and the Soviet-dominated Zimbabwe African People's Union (ZAPU). The extent of State Department support for the Rhodesian terrorists is evidenced most strikingly in the massive purging of State Department intelligence files of information on terrorist movements, their leaders and members, so that no evidence is availab'e for use in denying them U.S. entry visas. Early in August, 1977, entry visas were provided to a Patriotic Front delegation consisting of Joshua Nkomo, Daniel Madvimbamuto, Albert Mxele, Christopher Zenzo Nkovi, and one other person.

As far as the State Department is concerned, the facts of ZAPU's long record for barbaric terrorism against the civilians of Rhodesia, the long and intimate association of ZAPU leaders with the Soviet and East German Governments and their intelligence and subversion apparatus, and Joshua Nkomo's activities as a leader of the Soviet's World Peace Council, a grossly misnamed terrorist support apparat, were all subjects for purging.

Nkomo's activities during this August visit were varied most interestingly. On the one hand he made quiet contacts with U.S. Government officials, and on the other he linked up persons associated with KGB agent Orlando Letelier's influence apparat to prepare pressure campaigns for a "final solution" of the existence of Rhodesia, Nkomo's repeatedly took the hard line calling for total control of all aspects of Rhodesian life, comparing the Rhodesian economic system of private ownership and its government with "cancer" to be uncompromisingly eradicated.

Some objective analysts who are joined in their opinions by recently retired government officials believe that the new administration's foreign policy is being directed by members of the same faction which originally promoted the U.S. support of some Third World Marxists. These analysts believe that the stage has been set for America's "voluntary" withdrawal as a world power, and that an arrangement is being developed in which the United States will withdraw from Asia—South Korea, the Philippines, Thailand, but not from Japan—and from most of Africa in return for tacit agreement from the Soviet Union that the Middle East should be a U.S. "sphere of influence"—provided the United States can arrange "termination" of the Arab-Israeli conflict.

This is believed to be a recent alternative to the sort of political program proposed by Zbigniew Brzezinski in his 1970 book, "Between Two Ages," and in his 1976 long essay, "America in a Hostile World," in which he wrote that "Nothing could be more destructive than for the United States to position itself as the ultimate shield of the remnants of white supremacy in Africa. This would rally all of Africa and much of Afro-Asia against us." Brzezinski's writings also propose that America seek leadership of the Third World by supporting its most extreme militants.

So in the 1960's a competition developed between the U.S. left-liberals and their faction in the State Department and CIA and the Communists for control of South African militants. The competition was expressed principally in rival programs to train the most militant black students for leadership in a future South African state. These militants have generally made it plain that their state would also be racialist in that the large Indian, Asian, colored and white populations would be denied a political and economic voice.

During July of this year a young South African investigative journalist, Aida Parker, produced a startling series of articles in the Johannesburg newspaper, the Citizen. The 10-part exposé detailed how through a varied apparatus of conduits and fronts the U.S. Central Intelligence Agency has been developing its own Marxist and racist "national liberation" groups in South Africa.

Miss Parker's articles noted that groups which have been exposed over the the years as CIA operations, particularly the World University Service—WUS—and the International University Exchange Fund—IUEF—had revealed covert U.S. support for the South African Students Organization—SASO—founded and led by the late Steve Biko, and which has taken the lead in the prolonged rioting and strikes in South Africa since 1976 in which many lives have been lost.

Miss Parker, citing an official South African commission which investigated the National Union of South African Students—NUSAS—stated that the WUS and the IUEF "were the biggest foreign sources of money for NUSAS." She wrote in the Citizen of July 28, 1977:

In May, 1971, a British newspaper quoted the Secretary General of WUS, a Mr. S. Chidambaranathan, as saying that WUS "has come out openly in support of guerrilla movements."

The Republic, it appeared, would be a particular target.

"World University Service opposes any government or body co-operating with South Africa and is outspokenly against the sale of arms there."

Shortly afterwards newspapers here and abroad carried the news that WUS was lending support to terrorist movements.

It was reported that a WUS official was negotiating with the OAU on what would be the best way to help the "liberation movements." Best known of these were the ANC, PAC, Frelimo, ZAPU and ZANU.

WUS established a South African office in 1963. Within a year or two a NUSAS official had been appointed to the local executive.

Shortly afterwards the local WUS office was closed down—but the Geneva headquarters continued as a major source of funding for NUSAS and other bodies.

By 1967 NUSAS knew all about the CIA connection—and by 1971 was getting its instructions, in no uncertain terms.

Michel Goualt, co-secretary of WUS in Geneva, wrote—laying it on the line. NUSAS would have to cooperate much more closely with the radical Black student organisation, SASO, he said, or run the risk of losing certain donations.

"You are certainly aware of the sympathy going towards SASO in the circle of organisations such as WUS," he wrote.

The letter, the text of which is in The Citizen's possession but is too long to be used in full indicated that NUSAS should understand it was of strategic importance to build up SASO for the day "when time comes down to action" and for the "useful results" which SASO's approach could be expected to yield.

Goualt's letter made it abundantly clear that WUS was using both NUSAS and SASO in accordance with a long-term political strategy.

Miss Parker's article continued:

Further evidence of WUS links with terrorist movements was given in two paragraphs in the publication "WUS Action, 1971–72," These read:

"WUS is in contact and cooperation with Southern African liberation movements with regard to its education program.

"The Azanian (ie, South African) programs are carried out in co-operation with the National Union of South African Students (NUSAS) and with the co-operation of the South African Students Organisation (SASO)."

Even less well-known to most South Africans is the International University Exchange Fund. Born out of the old International Student Conference (ISC), IUEF, founded in 1960 had a political character from the start.

IUEF's aims were clearly spelt out in its official mouthpiece, the Student, in the January/February issue of 1967:

"The goal upon which the IUEF work is focused is . . . the liberation of those African nations still suffering under the rule of colonialism or apartheid.

"Therefore the IUEF stays in close contact with all the major liberation movements and receives scholarship nominations from them."

Movements listed include ANC, PAC, SWAPO, SWANU, ZANU, ZAPU and Frelimo.

The article added: "Graduates who have received IUEF scholarships in the past can now be found working for the liberation of their people in many of the organisations mentioned."

Miss Parker noted that as with the World University Service, the role of the CIA in the International Student Conference—and in the U.S. National Student Association—became known in 1967. While the ISC was allowed to dissolve after that exposure, the International University Exchange Fund was kept in operation as an "independent" organization. Also kept in operation, with funding from other sources, were the U.S. National Student Association which became a leader of the anti-Vietnam demonstrations on the campuses, and Operation Crossroads Africa.

As Miss Parker wrote:

The IUEF developed amazingly fast from a small fund with a limited number of scholarships to one of the most important organisations in its field.

By 1971 its total budget amounted to more than R1,4-million, with additional sponsors coming in all the time.

GENEROUS

Both organisations were generous contributors to NUSAS—to the point where, judging by a letter written in 1969 by Clive Nettleton, the acting president, and quoted on Page 157 of the Schlebusch Report, NUSAS officials were confused about which body was contributing to which project.

The Schlebusch report also stated that the IUEF had become the most important source of funds for NUSAS.

IUEF's aims and objects in Southern Africa were spelt out in the clearest possible terms by IUEF director, Lars-Gunnar Eriksen, at an "international Conference of Experts For the Support of Victims of Colonialism and Apartheid in Southern Africa," held in Oslo from April 9 to 14, 1973.

Under the heading, "The Motives Behind Assistance," he said: "It would seem that the time has come when organizations must recognise that the prime intention is to provide within the unavoidable limitations, assistance towards the ultimate and total liberation of the countries in Southern Africa and to plan programmes and priorities in that context."

Under the heading "Programmes Behind Enemy Lines," he said: "It is today by and large recognised that liberation and revolution must come from within the country.

"As a consequence it is not desirable that the politically agile and aware leave the country more than is necessary. That should lead us to provide an increased and more effective assistance behind the lines of the enemy.

"Perhaps even more important are the activities undertaken by many different groups with a view to creating a greater political awareness among the people, to spread information of civil and labour rights, to provide leadership training, community development programmes, training in nutrition, literacy, etc.

"More details obviously cannot be given publicly. Assistance towards programmes behind the enemy lines, carried out in a quiet way through reliable channels, should be given increased importance by those concerned . . ."

Are WUS and IUEF still "operating behind the enemy lines"? NUSAS may be out of action, but the funds still come through and are handled by various trusts and organisations.

IUEF is still operating a prison education programme, notably among the political prisoners on Robben Island.

Following investigations of the NUSAS, the South African Parliament in March 1974 passed the "Affected Organizations Act" which prohibits foreign money from being used for political objectives in South Africa. The South African Schlebusch Commission, which consisted of members of both the Nationalist Party and the United Party, found that the NUSAS was responsible for providing recruits to the terrorist movements ANC and PAC by acting as agents for U.S. "scholarship" grants to support persons on such courses.

The articles in the Citizen also examined the role of another U.S. organization involved in these "outreach" and training programs for South African students, the African-American Institute (AAI). Founded in 1953, the AAI was also among the organizations exposed by the radical left in 1967 for CIA involvement. It is noted that Waldemar A. Nielson, AAI's first president, made a public statement in February 1967 saying that the CIA had subsidized the AAI from its founding in 1953 until 1961, at which time he became conscious of the "inherent imprudence and impropriety" of the arrangement and severed AAI's ties to the CIA.

Since that time, the African-American Institute has relied for funding principally on grants from the State Department, from the Agency for International Development (AID), and from private, tax-exempt liberal foundations including the Ford Foundation, Rockefeller Brothers Fund, Rockefeller Foundation, Carnegie Foundation and Cummins Engine Foundation.

The Citizen examined some previously published 1973 correspondence between AAI president William R. Cotter, who like his predecessor Waldemar Nielson is a member of the elite foreign policy and corporate club called the Council on Foreign Relations, and Colin Eglin, a former South African Progressive Party leader, who was planning to travel through Africa accompanied by a prominent black South African leader, Chief Gatsha Buthelezi, and with David Curry, a leader of the South African Labour Party.

Eglin planned for an interracial group—white, "colored," and black—to visit black-run African countries and engage in "dialogues" on political and cultural matters. Eglin asked for AAI assistance in setting up his tour since he knew that AAI was already organizing a conference in Addis Ababa, Ethiopia, to which Zulu leader Buthelezi had already been invited. Eglin asked whether he and David Curry could attend the AAI conference as "observers." Eglin endeavored to invoke the assistance of two others associated with the AAI, industrialist Harry Oppenheimer and Maurice Templesman.

Cotter wrote back to Eglin saying bluntly that "it simply will not be possible for you to be invited to the Addis Ababa conference." He continued, "Observers are not permitted in the sessions which are designed to enable the relatively small group of Africans—apparently only the black variety—and Americans to exchange ideas freely about problems common to the United States and the African continent."

Cotter wrote another letter also dated August 3, 1973, to Chief Buthelezi enclosing a copy of his letter to Eglin and stating a blunt warning to the Zulu leader not to become involved with whites and mixed-race leaders. As reprinted in the Citizen, Cotter's letter stated:

I am, frankly, worried about your intention to travel with Eglin and David Curry in connection with your trip to Addis for the Dialogue.

As you know, we want to make arrangements with the Governments of Zambia, Kenya and Tanzania for you to visit those countries on your way to and/or returning from the Addis meeting.

However, that was on the understanding that you would be traveling alone. I'm afraid that if you travel in the company of a White South African—even such an obvious liberal as Colin Eglin—this will make it much more difficult for arrangements to be made.

There might be the appearance that Eglin was "sponsoring" your visit * * *. * * * that suspicion could only compromise you and your ability to make the kind of contacts and have the conversations which you want.

Consequently I would urge you not to travel * * * with Eglin and Curry but rather make that trip alone * * * to make it clear that you are your own man and not some faint echo of a liberal White South African plan for domestic integration and continental dialogue.

The letter from AAI's Cotter concluded bluntly,

Please let me know as soon as possible what your decision is. *If you will be traveling alone, then we will proceed to make the contacts as promised with Tanzania, Zambia and Kenya.*

If, however, you feel you are committed to travel with Eglin and Curry then, I'm afraid, we would rather not make such arrangements at this time. (emphasis added)

The letter from the AAI president Cotter makes plain that if the Zulu leader were to associate with the white and colored leaders, AAI would refuse to pay for and otherwise arrange his travel. It is also interesting that AAI intended to send Chief Buthelezi to Tanzania and Zambia in which the southern African terrorist movements maintain offices and headquarters and to the Kenyan dictatorship. Eglin's proposed itinerary included Liberia, Nigeria, Senegal, the Ivory Coast, Ghana, Sierra Leone, and Malawi in addition to the countries in which the terrorists had their havens.

The Citizen stated that the letter to Chief Buthelezi was addressed to him "care of Consul-General Holmes, U.S. Embassy, Durban." According to the Citizen, "Mr. Holmes was accused by the South African press later in 1973 of being a CIA agent, a charge he described as 'ludicrous.'" Reporter Parker further wrote that Maurice Templesman, a member of AAI's board of directors, "is

the head of a New York-based diamond company exposed, according to the Paris-based International New Press Agency in an intelligence briefing dated October 23, 1975, as a 'company having worked closely with the CIA for more than a decade.' "

Mr. Eglin had stated in 1973, after the letters were first published, that he had found it "unfortunate" that "people in the United States" should have acted to deliberately prevent a demonstration of multiracial harmony in South Africa. Mr. Eglin was presumably then unaware of William H. Cotter's testimony a year earlier (1972) before the House Foreign Relations Committee when he said:

I am in complete accord with those who call for the U.S. to accelerate the process of change in South Africa. Nor would I automatically rule out violence as an instrument of obtaining the rights of the non-White majority.

With its staff of 90, the AAI has maintained its programs of hostility and agitation against South Africa without major change. Statements made at and written for AAI's 1967 "Workshop on the Training and Utilization of Refugee Students from Southern Africa," held April 18–19, 19767, are revealing. AAI literature does not like to refer to countries by name, but prefers to mention "Southern Africa" or the "minority-ruled countries of Southern Africa"—but clearly do not mean the black-run oligarchies and dictatorships which repress their citizens regardless of their race.

AAI executive vice president E. Jefferson Murphy said in 1967:

It is of vital importance to provide education and training for refugees from Southern Africa for humanitarian reasons, because they are symbols of the struggle against racism and for the majority rule in their countries, and because they will be needed in the fight for freedom and in the subsequent process of nation building.

The objectives of such training should be, first, to prepare students to participate effectively in the struggle for freedom and, second, to prepare them to contribute to their people in exile, to their country of asylum, and ultimately to their home country when independence comes.

Murphy went on to specify AAI promotion of the "liberation movements" which are Marxist in ideology, terrorist in practice, founded and backed by the Communists in Moscow and Peking, and which have as much intention of establishing a representative form of Government as Fidel Castro. Wrote Murphy:

Scholarships for training should be awarded where possible to students affiliated with a liberation movement, and the training programme and efforts to assure trained students utilization in return should be planned and carried out as much as possible in cooperation with liberation movements.

And in case the purpose of the African-American Institute's work was was not sufficiently clear at this point, executive vice president Murphy spelled it out:

Whatever steps are taken to solve short-term problems, there is only one ultimate solution to the overall problem: that is the overthrow of minority regimes in Southern Africa and the liberation of the Southern tier of the continent.

Leonid Brezhnev or Fidel Castro would not have stated it differently.

It should be noted that at the 1967 meeting, representatives of the U.S.S.R. and South African Communist Party controlled African National Congress (ANC), the Moscow-controlled South West Africa People's Organization (SWAPO), and the small Peking-oriented South West Africa National Union (SWANU) were in attendance.

In its latest annual report for 1976–77, the AAI documented its continuing involvement with South African terrorists. In commenting on its "1976 "Dialog" conference held in Lesotho, AAI said:

The Hon. Alfred Nzo, Secretary-General of the ANC, and David M. Sibeko, Director of Foreign Affairs, Pan African(ist) Congress, and five young South African students who had sought refuge in Maseru when their classmates were detained following the June riots in Soweto * * * were among those present.

Also attending the AAI 1976 Lesotho "Dialogs" was Andrew J. Young, now our United Nations Ambassador, who has the adult children of PAC founder Robert Mangaliso Sobukwe living in his house as a demonstration of his friendship with their militant father.

It is noted that the Agency for International Development last year commissioned a massive "feasibility" study on Rhodesia, South West Africa and South Africa. The feasibility study was to determine how, not whether, U.S. assistance—food, agricultural, trade, medicine and other—would be best provided to the regimes established by the terrorist "liberation movements" after the overthrow of existing governments. The basic premise of the study was that none of the white technicians would be around for long in the event of the expected terrorist takeover, and that total disruption, anarchy and famine would ensue—unless the U.S. taxpayer footed the bill for bailing out the terrorist regimes.

The citizen examined the AAI's principal programs, the Southern African Training Program (SATP), the Southern African Refugee Education Project (SARP), and the South African Student Program (SASP). All these, reported the citizen, are funded by grants to AAI from AID, and the State Department. AAI says that 563 "refugees" have received a U.S. education under the SASP program.

AAI continued, "In carrying out both the SASP and the SARP program, AAI works closely with Southern African liberation movements recognized by the Organization of African Unity." These OAU-recognized "liberation movements" are the previously mentioned Moscow and Peking-initiated terrorist operations. The ranks of the OAU "liberation movements" formerly included the Communist terrorist movements which now rule Angola, Guinea-Bissau and Mozambique and which have made those countries the newest Soviet Third World satellites.

AAI vice president Frank Ferrari has stated that "The guerrilla of yesterday is the Minister of tomorrow." This bankrupt amoral line would be more accurately phrased as "the terrorist of today runs the police state of tomorrow"—apparently with the help of the new administration, its State Department and intelligence service. Which brings us back to the late Steve Biko.

STEVE BIKO

According to members of the New Left, pro-terrorist Southern Africa Committee, "Those of us who knew Steve Biko will remember him as a revolutionary, possessed by a dream." The SAC members continued:

Ironically, Steve Biko is now being labeled a moderate by American jouranlists and politicians, even while the protests he stimulated are termed "riots." Only if a belief that blacks and whites will eventually live together in a non-exploitative society is "moderate," can the label be made to stick. Equally important, Biko saw racial harmony being realized only through a radical restructuring of both economic and political relationships. And while he felt no need to abandon his soft-spoken warmth to prove his revolutionary commitment, he also made no apologies for his political positions.

He continually called for a recognition of ANC and PAC, the liberation movements which have shouldered arms to bring the white government down. And he frequently attacked white liberals who thought they had done their bit for liberation by having blacks to tea.

"The myth of integration as propounded under the banner of liberal ideology must be cracked and killed," he once said, "because it makes people believe that something is being done when in actual fact, the integrated cricles are a soporific on the blacks and provide a satisfaction for the guilt-stricken whites."

Without the veil of liberalism of obscuring their view, Biko said, "it will not be long before the blacks relate their poverty to their blackness in concrete terms. . . . It is not surprising therefore that the blacks should wish to rid themselves of a system that locks up the wealth of the country in the hands of a few." And that, he suggested, meant that "any black government is likely to be socialist."

In their memorial to revolutionary Steve Biko, the SAV radicals provided an account of how Biko had been an activist with the NUSAS, funded with U.S. taxpayers' money clandestinely. In summary, in 1968 Steve Biko was a medical student at the University of Natal. He was a member of NUSAS, a multi-racial organization of white liberal students and blacks. Biko, himself a racist, was also a member of the University Christian Movement (UCM), an organization founded in the United States which served as the Christian Marxist arm of the New Left and which was instrumental in the formation of Castroite "intelligence-gathering arms" as the North American Congress on Latin America (NACLA) and the Africa Research Group, SAC's parent.

Under Biko's leadership, and with UCM support, the black militants split away from the NUSAS to set up the militant South African Students' Organization (SABO), formerly inaugurated in July 1969 and modeled after the U.S. "black power" movement. As the Southern Africa Committee noted:

From the beginning, SASO was audacious and energetic in a way no political group in South Africa had been since the African National Congress and the Pan Africanist Con-

gress were banned in 1960. With Biko as its first President, it developed a program that, more than any other single factor, has led to the spirit of resistance among South Africans today.

Biko also initiated the formation of other "community-based" black militant groups, the Black Consciousness Movement (BCM) and the Black People's Convention (BPC) of which Biko was an honorary vice-president. A BCM conference in Lesotho in June 1973 resulted in the formation of a BCM "front" organization called the South African Students' Movement (SASM).

Operating under the leadership of Steve Biko, the BCM and its SASM worked out a plan for continually escalating violence to eventually bring about a "people's war" in the style of Mao Tse-tung and Vo Nguyen Giap. A secret SASM history and manifesto was published in the South African press on September 17, 1977, after its public release by South African Minister of Justice Kruger.

With its rhetoric of a Maoist-style "people's war" and its use of the term "Azania" for South Africa, the BCM's SASM organization has indicated its ideological ties to the Pan Africanist Congress, although ANC members have also been active in the organizing of the Soweto riots and other acts of violence. Again, with credits to reporter Aida Parker:

Couched in familiar Marxist jargon, the document also states quite unequivocally that BCM wants "violently to smash international and national capitalist economic structures and bourgeois State institutions in South Africa."

It states that the socioeconomic system envisaged for "Azania" is "scientific socialism"—the system now being operated with such calamitous results in Marxist Mozambique.

Also in conformity with post-independence events in Mozambique, the blueprint for the contemplated "Azania" envisages nationalisation of all industries, commerce and agriculture, "the overthrow of traditional and religious hangovers" and "revolutionising of schools".

DOLLARS

Rather ungratefully, considering the millions of dollars poured into the various Black Consciousness movements by the American Central Intelligence Agency, the State Department, Ford Foundation and other U.S. organisations, the manifesto also declares war "against Imperialism led by America and its European allies".

Tracing the historical background, the 32-page manifesto says that for many years Nusas and the Liberal Party provided "the only forums for the Blacks to exercise any political activity."

In 1967, the University Christian Movement (introduced into South Africa from the U.S.) was formed and this created the catalyst for the formation of the radical South African Students' Organisation (Saso).

"Saso acted not only to crystallise the ideas of the Black Consciousness Movement and philosophy, but it became the main catalysing agency for the formation of other BCM organisations like BCP (Black People's Convention), Bawa (Black and Allied Workers' Union) and Nayo (National Youth Organisation).

"In a short time these organisations gained tremendous momentum.

"One of the cardinal points was 'The Black People, who are the majority, should take over power. Power to the People'."

A BCM conference in Lesotho in June 1973 formed the South Africa Student's Movement to give members of the BCM a cover under which they could effectively operate internationally to obtain all the experience and equipment necessary for the prosecution of the liberation struggle at all levels. Propaganda, agitation, armed struggle.

"BCM moved its most advanced elements and cadres to operate under the SASM cover, particularly to prosecute the struggle at its intensest and highest level.

"BCM wants to mount such agitation as will tear down all semblance of fascist law and order.

"BCM wants violently to smash international and national capitalist economic structures and bourgeois State institutions in South Africa and on their ruins build a new democratic system where discrimination, oppression and exploitation of man by man will be banned forever.

"Armed Struggle. The BCM is resolutely committed to the liberation of the oppressed masses of Azania by building up a People's Army and thus creating conditions for a People's War against the fascist imperialist oppressors.

"This will be a long protracted struggle into which the People's Army for the Liberation of Azania will throw in combatants who will not only fight the enemy, but will also have the duty to defend the revolution.

"Military Training. The BCM has adopted a military programme to train the Azanian People's Army. This programme is in the process of accomplishment, in spite of intrigues on the part of imperialistic running dogs to sabotage it.

"This programme envisages, besides the ordinary military commando training of the cadres, the transformation of the already country-wide revolutionary study cells into politico-military cells.

"In other words, these cells will be changed into operational groups to train the masses for conditions of military conflict and for the takeover and exercise of political power.

"Political Training. The BCM gives political training to its cadres by exposing them to classical Marxist revolutionary theories and to the many texts which give accounts of the experience of other peoples who have successfully waged revolutionary struggles.

"In this way the cadres familiarise themselves with the fundamental principles of scientific socialism.

"The present capitalist system which benefits a few settlers in Azania and the imperialist world (Britain, the US, West Germany, France, Japan, etc) at the expense of the labouring masses will be abolished and industry, commerce and agriculture will be nationalised.

"The economy will be designed to meet the basic needs of each peasant and worker according to his needs and develop the fullness of his ability.

"A truly democratic self-supporting economy will be established and organised on broad principles of scientific socialism.

"Agrarian Reform. Each peasant will be allotted enough land to meet his requirements. It is possible to win the support of the majority for confiscation and redistribution of all land.

"Educating the Nation. Our education will be education for all. It shall be national democratic education aimed at mental decolonisation, the overthrow of old habits and customs and of traditional and religious hangovers.

"In camps and liberated areas political education will be given priority at all times. The process of further revolutionisation of schools will keep deepening."

The manifesto ends by pledging uniformity with the "international proletariat", and the statement: "We have completely declared war against Imperialism led by America and its European allies."

CONCLUSION

Mr. Speaker, I maintain that there is extremely strong evidence that America's Central Intelligence Agency, in conjunction with certain factions of previous administrations and in association with some very questionable financial and banking interests that we now see associated with the Trilateral Commission, has been attempting to destabilize the pro-Western countries of southern Africa, particularly South Africa, contrary to the true interests of America.

As described by R. Harris Smith in his book, "OSS: The Secret History of America's First Central Intelligence Agency," at the suggestion of CIA Assistant Director Tom Braden who joined the Agency in 1951 "and with the support of Allen Dulles and Frank Wisner, the CIA began its covert support of the non-Communist political left around the world—trade unions, political parties, and international organizations of students and journalists."

That process is clearly continuing. Unfortunately the unfolding of history has generally shown that once the dust has settled, the so-called "non-Communist" or "nationalist" Marxists have been thoroughly penetrated by Moscow's agents so as to quickly fall under Soviet domination, or have actually been Moscow's servants all along. The result of that policy of backing leftists has been a succession of defeats for individual liberty and human rights.

If the House Intelligence Committee really wants to exercise its oversight and investigative authority with respect to the Cenral Intelligence Agency and avoid charges of covering up uncontrolled intelligence activities harmful to the Nation's interests, the material assembled in this report can provide a basis for initial inquiry.

The United States of America needs aggressive, comprehensive and competitive foreign intelligence services: one of these should be a Central Intelligence Agency whose men and women are dedicated to the antitotalitarian principles embodied in our Constitution. America does not under any circumstances need an intelligence service to go out and subvert the Western World ahead of the KGB.

DEDICATION OF NEW CENTER TO HONOR FATHER DuKETTE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. KILDEE. Mr. Speaker, it is a privilege for me to call to the attention of my colleagues in the House of Representatives the honor being extended this weekend in Flint, Mich., to the Reverend Norman A. DuKette. At 86, Father DuKette

is the oldest black Catholic priest in the United States, and he is a man I have long admired for his spiritual leadership and personal warmth.

On Sunday, the Most Reverend Kenneth Povish, Bishop of Lansing, will dedicate the Father Norman A. DuKette Center in St. Michael's Church in Flint. The DuKette Center will represent a new statement of the church's pastoral concern for the city. It will be staffed by two sisters familiar with urban ministry from the religious community of the Home Visitors of Mary. They are Sister Nancy Traylor and Sister Barbara Dakoske. The purpose of the center is to generate a new mood of ecumenical dialog, of evangelization, and of fostering all aspects of the black experience within the Catholic Church. The dedication will complete 3 days of activities by the Flint Catholic Urban Ministry and the Concerned Black Catholics of Flint.

Father DuKette has served in Flint since 1929, when he established Christ the King Parish. It is Flint's only predominately black parish. Father DuKette retired only a few years ago, and presently resides as pastor emeritus at Christ the King Parish.

Christ the King Parish is working with the Newman Center and six other parishes in the Flint area to operate the new DuKette Center. The other parishes are St. Michael's, Sacred Heart, St. Francis of Assisi, St. Agnes, St. Luke's, and St. Matthew's.

IT IS TIME FOR ANOTHER "KENNEDY-BRAND" TAX RATE REDUCTION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 20, 1977

Mr. KEMP. Mr. Speaker, in his economic report to Congress on January 21, 1963, President John F. Kennedy said:

> The main block to full employment is an unrealistically heavy burden of taxation. The time has come to remove it.

Shortly thereafter, President Kennedy sent to Congress a proposal for substantial, permanent tax rate reduction, for both individuals and businesses.

Up until that time the tax increases imposed both for World War II and the Korean war were basically intact. Because these tax rates were formulated during times of war little thought was given to their overall impact on work and investment incentives.

By 1963 the high Federal income tax rates, which went as high as 91 percent on individual incomes, were a serious drag on the economy.

Kennedy's plan was to reduce all individual income tax rates by about 30 percent; that is, from 91 percent to 70 percent at the top, and from 20 percent to 14 percent at the bottom. He also proposed reduction of the corporate tax rate from 52 to 48 percent. This program became law in 1964 and our tax rates are essentially the same today.

Since 1964 this country has experienced huge budget deficits resulting from the Vietnam war and huge spending programs, and wildly fluctuating monetary policy. The result is that this country has experienced inflation averaging better than 6 percent for the past 10 years.

The effect has been to push workers and investors up into higher and higher marginal tax brackets, increase the effective rate of taxation on all the American people, and discourage incentive and initiative while contracting economic growth. As the following table shows, each additional dollar that is earned is taxed at a higher rate, because our tax system is so steeply graduated. This marginal tax rate is that which is most important in stifling the incentive to work, save, produce and invest:

Marginal tax rates

For a married couple earning	Percent: The tax rate is	Percent: Each additional dollar is taxed at
$12,000	18.8	25
16,000	20.4	28
20,000	21.9	32
24,000	23.6	36
28,000	25.3	39
32,000	27.1	42
36,000	28.7	45
40,000	30.3	48
44,000	31.9	50
52,000	34.7	53
64,000	38.1	55
76,000	40.8	58
88,000	43.1	60
100,000	45.2	62
120,000	47.9	64
140,000	50.3	66
160,000	52.2	68
180,000	53.9	69
200,000	55.5	70

These rates discourage economic expansion and encourage recession and inflation.

Therefore, I believe the time is right to enact another round of Kennedy-style tax rate reductions. I am supported in this belief by a growing body of economic opinion. As Prof. Paul Samuelson recently said in Newsweek:

> I suggest the effort begin soon to stretch out this recovery in the way that John F. Kennedy . . . acted successfully to make the 1960's the best epoch of the postwar period for jobs, capital formation and profits.

Samuelson might also have added that the economic expansion which resulted from the Kennedy tax reductions expanded the tax base to such an extent that tax revenues went up instead of down, as the Treasury Department had predicted.

The reason for this has been eloquently explained by Treasury Secretary Andrew Mellon, who proved the soundness of this prinicple by drastically reducing tax rates during the 1920's:

> The history of taxation shows that taxes which are inherently excessive are not paid. The high rates inevitably put pressure upon the taxpayer to withdraw his capital from productive business and invest it in tax-exempt securities or to find other lawful methods of avoiding the realization of taxable income. The result is that the sources of taxation are drying up; wealth is failing to carry its share of the tax burden; and capital is being diverted into channels which yield neither revenue to the Government nor profit to the people.

I have introduced leigslation which will reduce the high tax rates which are stifling incentive, reducing economic growth, and slowing investment in productive, tax-producing enterprises. The present stagnation of the stock market is ample indication that the economic situation is growing worse by the day and that decisive action by Government is needed.

My bill, H.R. 8333, has been cosponsored by over 100 of my colleagues, and would duplicate the Kennedy tax reduction by doing the following:

Reduce all individual income tax rates by an average of 33 percent over the next 3 years;

Reduce the corporate tax rate by 3 percentage points over the next 3 years; and

Increase the corporate surtax exemption from $50,000 to $100,000 immediately.

Unless such legislation is enacted immediately, the American people will have massive tax increases imposed upon them by the administration's energy and social security legislation, and by inflation, which will raise Federal income taxes at least $6 billion this year alone. The result, according to the Congressional Budget Office, is that income taxes will rise from $150 billion this year to $339 billion by 1982.

This country's workers and investors need some good news, some encouragement from Government—rather than the discouraging talk of eradicating capital gains and blocking our efforts to reduce the tax rates on work, savings and investment.

VETERANS DAY

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 21, 1977

Mr. FORD of Tennessee. Mr. Speaker, I rise today to honor the veterans who have served our country in all wars. As a former member of the House Veterans' Affairs Committee, I am acutely aware of the problems veterans face in readjusting to civilian life. On Monday, October 23, 1977, Veterans Day ceremonies will be held throughout the United States to demonstrate our appreciation for the commitment of those who have served in the Armed Forces. This year Veterans Day has a special significance for the sacrifices that veterans made have been a major factor in bringing about the peaceful times we are enjoying now.

On this observance of Veterans Day it is appropriate to recall the historical background of this commemoration of veterans. Almost 59 years ago the armistice ending World War I was signed on the 11th hour of the 11th day of the

11th month at a clearing in the forest of Compiegne near Paris, France. November 11 became known as Armistice Day and that date was officially designated by Congress in 1930 as a national holiday to honor the more than 4 million Americans who served their country in World War I, the "War to end all Wars." As we all know the United States became involved in other armed conflicts. By the fall of 1953, we had behind us World War II victory days in Europe and the Pacific, as well as the official end of fighting in Korea.

The name of Armistice Day was changed to Veterans Day in 1953 in an effort to honor all Americans who had served their country in military uniforms. Veterans Day was to symbolize the end of wars in the 20th century. In less than 10 years the United States was embroiled in the conflict in Vietnam. The military involvement of the United States in Southeast Asia increased the number of Americans who had served in the armed services in this century to more than 35 million.

A law enacted in 1968 changed the national observance of Veterans Day to the fourth Monday in October. It soon became apparent that the public felt the significance of the November 11 date was too important to change. The Congress changed the observance of Veterans Day back to November 11, beginning in 1978.

I have introduced H.R. 904, the veterans' benefits pass-through bill, in Congress. Of the nearly 5,470,000 persons receiving veterans' pension benefits, about 80 percent also receive social security payments. Social security grants cost-of-living increases to help people on fixed incomes cope more effectively with inflation. For a person receiving veterans' pension benefits and social security payments, this cost-of-living increase is counted as an increase in income and the Veterans' Administration decreases that person's veterans' benefits by an amount that effectively offsets the cost-or-living increase. The veteran on a fixed income is thereby precluded from the fight against inflation. On this Veterans Day, I reiterate my firm conviction that veterans' benefits are not a form of welfare, but a program of assistance designed to repay in some way the veterans who served their country in its time of need.

EXTENDED REMARKS ON FORCED BUSING

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 21, 1977

Mrs. COLLINS of Illinois. Mr. Speaker, I was unavoidably detained this morning (October 20) and consequently was not recorded as voting on rollcall vote No. 674 which was an instruction to House conferees offered by Mr. WYLIE of Ohio. The instruction offered by the gentleman from Ohio would instruct the House members of the conference committee on the legal services bill (H.R. 6666) to support the House position which prohibited legal services attorneys from acting in suits involving forced busing.

Had I been present to be recorded on this rollcall vote, I would have most certainly voted against this instruction.

I must, as a consequence, reaffirm my support for full dispersement of legal services to the poor people of the Nation. I most surely feel strongly that legal services lawyers should be helping people enforce the desegregation of public schools, including through the involvement of legal services lawyers in law suits pertaining to forced busing.

Thank you, Mr. Speaker.

POLICYMAKING IN HEALTH RESOURCE ALLOCATION

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 21, 1977

Mr. QUIE. Mr. Speaker, this week a conference titled "Policy Making in Health Resource Allocation: Concepts, Values, Methods" was convened in Washington at the Twin Bridges Marriott Hotel. This conference is the first national meeting on the ethics of health resource allocation policy and its objectives should be of interest to all Americans.

The conference objectives listed by the convenors, the National Legal Center for Bioethics, are noted in a press release as follows:

"The just allocation of medical resources, already a pressing concern for biomedical ethicists and public policymakers, has become an especially acute problem due to the recent developments in life prolonging technology. The purpose of this conference is to provide a forum for the analysis of various value systems and methodologies of allocating medical sources by:

Formulating basic allocation questions,

Examining possible answers, and

Proposing viable alternatives for policy makers at all levels.

Using the implantable nuclear powered artificial heart as a paradigm, this conference will address the questions surrounding life prolonging technology—questions of access, cost, and priority, such as:

How do we develop an equitable method for distributing medical resources?

Should already scarce medical resources be allocated to new technologies at the expense of disease prevention programs?

Should resources be allocated at all to new technologies in the face of the many pressing social needs facing the world today?

How should these decisions be made?

How are they now being made?

What are the current underlying value assumptions? What should they be?

Who are the decision makers? Who should they be?

Concerned ethicists, physicians, economists and policy makers will present their theories, discuss and examine alternate methodologies, and propose solutions to the problem of health care resources allocation."

Joseph Onek, Associate Director of the White House Domestic Policy Staff and Robert Derzon, Administrator of the Health Care Financing Administration, were scheduled to participate.

The National Legal Center for Bioethics is a nonprofit organization with headquarters in Washington, designed to effect public policy in biomedicine and the behavioral sciences. Its principal officers are: Paul H. Andreini, M.D., president, and Joseph F. Sedlak, secretary-treasurer.

ZENITH: ANOTHER CASUALTY OF "DUMPING"

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 21, 1977

Mr. DERWINSKI. Mr. Speaker, our distinguished colleague and my congressional neighbor, the Honorable MORGAN MURPHY, is especially interested in protecting the American worker and industry from excessive imports as result of the lack of enforcement of antidumping laws. Unfair trade practices are producing a pattern of dumping by many foreign countries.

In his comments, appearing in the Suburbanite Economist of October 16, Congressman MURPHY discusses the specific effects of close of the Zenith Corp.'s plant in Chicago, which caused over 2,000 American workers to lose their jobs. His comments follow:

ZENITH: ANOTHER CASUALTY OF "DUMPING"

(By Representative MORGAN F. MURPHY)

While the Japanese "dump" television sets in the U.S., many American TV workers are being dumped on by their government.

"Dumping," as you know, has been hitting Chicago hard these past two months. In late August, supervisors at U.S. Steel's South Works plant warned that they might have to close the 97-year-old mill because of an "acute financial squeeze." Officials said that unless steps were taken to stop the "dumping" of foreign steel the mill's 8,534 workers would be out of jobs. ("Dumping" is the practice of selling products at a price cheaper than they are sold for in the manufacturer's home market.)

One month later, Zenith, the nation's largest TV maker, announced plans to lay off some 5,600 workers—more than 2,000 in the Chicago area—as part of the firm's effort to reduce labor, production and overhead costs.

In a previous column, I discussed the importance of keeping South Works open and analyzed some of the problems plaguing the steel industry. Now I would like to focus on the need to protect our American TV industry. Domestic TV makers need protection—not from free trade, but from unfair marketing practices.

Since 1971 Zenith has complained that Japan has been "dumping" low-priced TV sets in the U.S. in violation of American trade laws. Zenith has also accused the Japanese of breaking U.S. antitrust laws and offering secret kickbacks to American importers in an attempt to circumvent antidumping laws.

Zenith's battle against unfair marketing practices has often been a lonely one. For this reason, John J. Nevin, chairman and president of Zenith, could rightly tell those workers about to be laid off that his company has tried longer and harder than others to protect the jobs of U.S. employees.

The tragedy is that many workers are going to lose their jobs despite Zenith's best efforts to save them. Zenith does not, of course, blame all of its problems on underpriced imports. As Nevin has noted: "It is clear . . .

that competitive manufacturers are obtaining increasingly significant cost advantages from production activities in lower labor cost areas of the world." In practical terms, Zenith has had to reckon with the fact that foreign-based companies—which pay employees as little as 65 cents an hour—have much lower labor costs than American firms.

But the problem of unfair trade practices accounts for a major share of Zenith's difficulties. Over six years ago, the U.S. Tariff Commission (now the International Trade Commission) found that the American television industry was being injured by underpriced TV imports. After the Tariff Commission announced its findings, the Treasury Department required that a 9 per cent bond be posted on all Japanese TV imports.

Yet between 1971 and 1977, Treasury collected virtually no dumping penalties. Even though the Tariff Commission had ruled that dumping was hurting the domestic TV industry, Treasury made little effort to determine how much of a dumping penalty should be imposed on past imports or to impose penalties on current imports. Because Treasury has been either unable or unwilling to enforce our antidumping laws, many American TV workers have lost their jobs over the past six years.

The Treasury Department must resolve once and for all Zenith's charges of dumping before thousands of more TV workers are out of work. There is no excuse for further foot-dragging on this issue. A decision must be made, even if it takes congressional prodding to force Treasury's hand.

Fortunately, public and congressional pressure is having an amazing effect on the pace of Treasury's decision-making these days. On October 3, Treasury made a tentative antidumping ruling—its first in recent history—that five Japanese steel companies have been selling carbon steel products in the U.S. at 24 per cent below their cost of production. As a result of the ruling, American importers of steel from the five companies were ordered to post bonds covering "dumping duties" that might be imposed later.

It is interesting that Treasury's ruling came after Congress just organized a "steel caucus," of which I am a member, and the House Trade Subcommittee held hearings on the steel industry's current woes.

This is why I have petitioned the House Trade Subcommittee to investigate why the Treasury Department will not or cannot enforce American antidumping laws.

FINANCIAL DISCLOSURE

HON. STANLEY LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 21, 1977

Mr. LUNDINE. Mr. Speaker, while these disclosures are not yet required by law, I think they should be made and that the public trust which I have can only be properly discharged by doing so voluntarily. Similar disclosures by all Members of Congress and candidates for office will go a long way toward restoring public confidence in their elected representatives.

A statement of my net worth computed jointly with my wife as of August 1, 1977, follows:

ASSETS	
Real estate	$74,200.00
Saving accounts	600.00
Checking accounts	1,590.00
Personal property including autos	9,800.00
Credit balance—retirement fund	5,860.00
Cash value—life insurance	480.00
Common stock—Dowcraft & Odsonia Corp	5,200.00
Total assets	97,730.00
LIABILITIES	
House mortgage	62,900.00
Demand note	1,050.00
Miscellaneous personal bills	1,700.00
Total liabilities	65,650.00
Estimated net worth	32,080.00

My joint tax statement for 1976 is summarized below:

Gross income	46,293.00
Less: Business expense and moving expense	2,504.00
Adjusted gross income	43,789.00
Deductions (taxes, interest, contributions and business expenses)	7,902.00
Federal income tax paid	7,684.00
New York State income tax paid	3,904.00

I have always believed that public officials should be open to absolute scrutiny and I hope that this financial disclosure will contribute to that objective.

THE CORPS' 404 PERMIT PROGRAM AND SOUTH DAKOTA WETLANDS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 21, 1977

Mr. ABDNOR. Mr. Speaker, I recently wrote Colonel Creel of the Corps of Engineers to inquire of the scope of the authority provided under section 404 of the Water Pollution Control Act Amendments of 1972 (FWPCA) as far as South Dakota wetlands are concerned.

According to an inventory furnished by the U.S. Fish and Wildlife Service reprinted on page E6114 of the October 5, 1977, CONGRESSIONAL RECORD, there are nearly 1.4 million acres of wetlands in my State.

It has been my understanding that the interpretation placed on section 404 by the courts has defined the Corps' authority as broadly as possible so as to give them control of dredging and filling activities in virtually all wetlands.

Colonel Creel's reply basically confirms my understanding:

OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D.C., October 19, 1977.

Hon. JAMES ABDNOR,
House of Representatives,
Washington, D.C.

DEAR MR. ABDNOR: I am replying to your letter of 4 October 1977 concerning South Dakota wetlands and our Section 404 program under the Federal Water Pollution Control Act Amendments of 1972.

To answer your question, I must first discuss the limits of the Corps of Engineers' jurisdiction under Section 404. These limits are delineated in our 19 July 1977 regulation in paragraph 323.2(2) on page 37144; a copy of this regulation is inclosed for your convenient reference. Please note that the ultimate test of these limits is a determination that an activity affects interstate commerce in connection with a given water.

Most of the work in South Dakota wetlands which meets this criteria for jurisdiction is covered under our nationwide permit program. This means that the subject work has been permitted by our 19 July 1977 regulation after a careful overall national review of impacts in the Office of the Chief of Engineers, here in Washington. See paragraph 323.4-2 on page 37146. However, our field operating agencies do have discretionary authority under paragraph 323.4-4 on page 37147 which allows them to bring elements of the nationwide program under the closer control provided by our general permits program or through the processing of the individual permits for each action. The Regional U.S. Fish and Wildlife Service office has requested that our Omaha District exercise this discretionary authority and our Omaha District Engineer is currently evaluating this request.

For your continued reference, I am returning your inclosed list of South Dakota wetlands.

Sincerely,

TILFORD C. CREEL,
Colonel, Corps of Engineers, Assistant Director of Civil Works, Upper Mississippi Basin & Great Lakes.

Mr. Speaker, the Federal Register passages cited by Colonel Creel are too lengthy to reprint here. Their pertinent points may be summarized, as follows:

(a) Section 323.2 *Definitions*—The term "waters of the United States" means exactly what it says even though the language of Section 404 itself specifies that the program applies to "navigable waters". This means the Corps must regulate all waters—from the smallest to the largest, including isolated wetlands and lakes, intermittent streams, and prairie potholes.

(b) Section 323.4-2 *Discharges into certain waters of the United States*—This provides general permission for dredging and filling in small streams and lakes and other non-navigable waters. The intent is to exempt these waters from the requirement that an individual permit be acquired for each dredging or filling activity as long as certain conditions are met. Col. Creel says most dredging and filling work in South Dakota is currently permitted under this section.

(c) Section 323.4-4 *Discretionary authority to require individual or general permits*—This section appears to allow the negation of Section 323.4-2 so that individual permits may be required for any dredging or filling activity in any body of water or wetland, regardless of its size. Col. Creel indicates the U.S. Fish and Wildlife Service has requested the Corps to exercise its authority under this provision.

RACE AND THE CONSTITUTION

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 21, 1977

Mr. MICHEL. Mr. Speaker, an editorial in the "Peoria Journal Star," October 14, 1977, eloquently reminds us what is really the issue in the Bakke "reverse discrimination" case now before the Supreme Court. Despite the good intentions of those who seek to define the quota system "the issue is not about statistical balance. The issue is about one human being and whether or not his human rights were abused. Social discussions that dodge around that fact are a copout.

At this time I want to place in the RECORD this editorial of commonsense and uncommon insight, called "Race and the Constitution."

RACE AND THE CONSTITUTION

Truth about the Bakke case now before the Supreme Court is very hard to swallow . . . and some folks are simply being evasive about it. In a way, I don't blame them.

In another way, it seems downright irresponsible.

Most of the argument made before the Supreme Court by Archibald Cox and others mystifies me totally. Cox seems to be discussing exclusively a social theory to which he subscribes that involves artificial ways for society to pull up "minorities" which have been discriminated against in the past.

One can be sympathetic indeed to such a social theory and such a purpose.

But what in the world has it got to do with the Constitution of the United States and the issue before the Supreme Court?

The principle involved is clear, and the language of the Fourteenth Amendment is clear. You cannot, justly, discriminate against an individual human being on grounds of the color of his skin. To do so is a clear violation of basic human rights and of the Constitution, no matter what theory you cloak it in or how you seek to justify it.

The issue is not about statistical balance. The issue is about one human being, and whether or not his human rights were abused. Social discussions that dodge around that fact are a cop-out.

Do you believe that race-discrimination is "justified" by a theory which says: Yes, go ahead and victimize chance white persons who happen to come along in order to give special consideration to those chance nonwhites who happen along at the same time because it will contribute to a black-white statistical balance of "justice."

That's the question. Do you believe discrimination by reason of race is wrong and should be prohibited by the Constitution, as it is, or do you believe that this concept is subordinate to social theories about how to improve current conditions and social planning comes first?

Anybody who believes that, and wants to subvert the Constitution to open that gate for all time and all future social theories or political victories, should at least have the guts to stand up and says so.

One can see why the Justice Department made a fancy dance tip-toeing around the issue and ending up by asking the court simply *not to hear the case at all.*

One can see why the lawyers keep talking social theory for the media instead of legal realities for the court.

One can even see why editorialists, such as Channel 19 the other day, can dodge the issue by avoiding the central fact of race discrimination, and prating about colleges' "right to set their own standards." (If colleges have a right to set their own standards, of course, "affirmative action" would be dead as a dodo. It has been forced on colleges via the federal funds in the first place.)

But talking nonsense about "free choice" and applying it to everything *except* race and religion is a cop-out when it is race and religion that are those expressly forbidden as causes of discrimination and race is the basis for the issue before the court.

The issue is whether the basic human rights of a young man named Bakke were violated, whether his hard work, high grades, war record, etc., could morally be set aside on the grounds that his skin is white and somebody with less performance history be chosen over him because his skin is black.

That's a tough issue when we all know that such things did happen the other way around—but Mr. Bakke didn't do it and his competitors were not its victims.

Will a new round of rank discrimination based on race, inflicted on a whole new (and innocent) youth generation, really help set everything right? Or will it reap a whole new harvest of new social, economic and political dislocations?

The theory itself is questionable.

It is also dangerous far beyond the one case if that case becomes a precedent. Do we really want to turn the Constitution and the Bill of Rights into something that can be twisted into any shape we want to pursue a current aim?

For example: Can you imagine what "good purposes" can be invented (and have been) to argue that the First Amendment doesn't mean what it says and "freedom of the press" cannot stand in the way for the social goals of government, but must be set aside until those goals are met?

That's precisely what has been done in too many other countries, already.

The philosophy being applied to turn the Fourteenth amendment upside down because it would help a "good idea" succeed, if adopted is then not restricted to that issue or that amendment.

It turns the Consitution into a piece of Silly Putty to be twisted every which way that the social planners dream up, now and evermore. Every new "good idea" has priority over our rights if this one does.

That's the hell of it.

—C. L. DANCEY.

BLACK COMMUNITY HIT HARD BY UNEMPLOYMENT IN PHILADELPHIA

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 21, 1977

Mr. EILBERG. Mr. Speaker, I regret that I must call to the attention of my colleagues an extremely depressing statistic:

In Philadelphia, which I have the honor of representing in Congress, the just-published rate for unemployment among blacks last year was a staggering 18.1 percent. This is the worst black unemployment rate for any major metropolitan area in the Nation.

Mr. Speaker, I cite this information in the hope that it will impress upon this body the urgent need for recognizing that our No. 1 priority is putting Americans back to work.

I commend to my colleagues' attention the following news report from the Philadelphia Inquirer of Sunday, October 16. It details how the black community has suffered, because of the loss of jobs at Boeing Vertol Co., the Frankford Arsenal, and in the steel industry. While the entire community has suffered with these job losses, the black community is especially hard hit by this deterioration in job opportunities:

PHILADELPHIA LEADS IN BLACK JOBLESSNESS

(By Douglas Campbell)

Philadelphia, a city where the unemployment rate for blacks traditionally has been relatively low, became in 1976 the worst major metropolitan area in the nation for employment of blacks.

If you are black, live in the Philadelphia area and want to work, chances are about one in five that you will not find a job.

Unemployment among blacks here rose in 1976—the last year for which complete figures are available—to 18.1 percent, from 16.3 percent the year before, the U.S. Department of Labor said in a report released today. Philadelphia's 18.1 percent rate is substantially higher than the national black unemployment rate for 1976—13.1 percent.

By comparison, in 1970 the national black unemployment rate was 8.2 percent, while the Philadelphia area black unemployment rate was 7.3 percent.

New York's citywide unemployment rate for blacks last year was 12.6 percent, up from 12 percent in 1975, while Detroit, where the volatile automaking industry dominates the job market, black unemployment was 14.1 percent, down from 20.6 percent.

In the Philadelphia area, job hopes for blacks deteriorated in an economy that, while not robust, was at least improving after the worst recession since World War II.

In all, 50,000 blacks were unemployed last year in the Philadelphia area, which includes Philadelphia, Bucks, Chester, Delaware and Montgomery counties in Pennsylvania and Burlington, Camden and Gloucester counties in New Jersey, the Labor Department said.

"We've knocked our heads together to try to find a single reason for it that makes Philadelphia unique," said Alvin I. Margulis, regional commissioner of the department's Bureau of Labor Statistics. The only thing close to an explanation he can provide, he said, is that most of the major cities with which Philadelphia is compared are not in the Northeast, where overall job losses are a long-term problem.

But New York and Detroit are in that same long-term dilemma and turned in better, if not good, records of black employment in 1976.

"There has, in the past year or so, been a significant, substantial decline in employment opportunity in this area," said Seymour L. Wolfbein, dean of Temple University's School of Business Administration.

Wolfbein noted that such major employers as Boeing-Vertol in Ridley Township, the Frankford Arsenal and several steel plants had laid off large numbers of people since the beginning of this year. "They get to be important," Wolfbein said.

While whites as well as blacks lost their jobs in these layoffs, Wolfbein said, there is reason to believe that blacks tended to suffer more than others from the deteriorated labor market.

Wolfbein believes that furloughed whites, who generally are better educated and have more valuable job skills, are more likely to move to other regions in search of jobs, while blacks are more likely to stay on the unemployment rolls here.

"The higher your educational attainment, the higher is your migration. Most of it is job-related. It figures that the people who move are the ones who can move (to another job)," Wolfbein said.

"Last year for the first time in our history, unbelievable as it may sound, there was a net in migration of blacks to the South," Wolfbein said, "but which blacks (moved)? The better educated and more employable."

The Labor Department, comparing Philadelphia with the nation as a whole and with the metropolitan areas of New York, Los Angeles, Chicago and Detroit, found that, in 1976, blacks were worse off here overall, as were black men and black teenagers. Only black women fared better in the labor market in Philadelphia than in the nation as a whole.

The department said unemployment among black men over age 20 was 19 percent here, compared with 10.6 percent nationally and 13.1 percent in Chicago, the next worst metropolitan area for unemployment among black men over age 20.

Black teens posted an unemployment rate of 48.3 percent in Philadelphia, compared with 37.1 percent in the nation and 47 percent in New York. The department cautioned that "unemployment measures for black teenagers and other small groups are subject to large sampling errors."

Detroit posted the worst record for unemployment among black women with a rate of 13.6 percent, compared with 11.3 percent nationally and 11.2 percent for Philadelphia, the second worst metropolitan area for unemployment among black women.

These figures are apparently not statistical flukes. The unemployment rate counts the number of persons who want to work but cannot find jobs.

If more blacks were looking for work in 1976 than the year before but were unable to find jobs, that could unrealistically push up the unemployment rate. Such things happen during economic recoveries when persons previously discouraged from seeking jobs begin to think they stand a chance.

But from 1975 to 1976, the proportion of blacks in the Philadelphia area participating in the labor force actually changed very little.

The proportion of black men and women over age 20 looking for work or working rose slightly, from 56.2 percent in 1975 to 56.7 percent in 1976. With teenagers included, however, the proportion declined, with only 49.4 percent of all blacks of working age joining the labor force, compared with 49.9 percent in 1975.

Wolfbein said the solution to the problem of chronically higher black unemployment has three parts—more affirmative employment (less racial discrimination), a good, basic education (for blacks as well as whites) and good manpower programs.

"We're the kind of country where it's so technologically advanced that if you don't have a good education, you can't latch on to a job," he said.

"We need to have programs that zero in on that group. I don't think fancy fiscal policy with tax cuts really is responsive," Wolfbein said. "We have to turn around and look this thing hard in the face and say: How can we custom-tailor programs?"

If these three problems are not solved, the educator said, "I don't see us making any significant dent. We've got the resources to do it. It's costing more not to do it."

DISGRACE TO UNITED STATES: YOUNG LICKS HANOI'S BOOTS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 21, 1977

Mr. McDONALD. Mr. Speaker, in House Resolution 805, there are set forth many reasons for questioning the competence and suitability of Andrew Young to continue as our United Nations Ambassador. Andrew Young's recent performance at the U.N. when the Vietnamese delegation arrived is a case in point. Jeffrey Hart wrote a column expressing his outrage over his actions and I commend to your attention this column which appeared in the Indianapolis Star on October 7, 1977. The article follows:

YOUNG LICKS HANOI'S BOOTS

(By Jeffrey Hart)

This is going to be a severe column. By the time you reach the end, I think you will agree that the severity is more than justified.

Under the principle of universality, Communist Vietnam may belong in the United Nations, though Hanoi stands in violation of practically every provision of the U.N. Charter. Nevertheless, the behavior of U.S. Ambassador Andy Young in connection with the Hanoi delegation was obscene, a disgrace, and he ought to be fired.

Before taking his seat with the U.S. delegation, Young ostentatiously sought out the new Vietnamese delegation and warmly shook hands with all of them. It was an unnecessary, revolting gesture. It was an insult to the 50,000 Americans who lost their lives trying to prevent the imposition of a Communist tyranny on the entire Vietnamese people, and an insult to the hundreds of thousands of people wounded in that war. Yes, we bungled the war. That does not excuse the obscenity of Andy Young.

Neville Chamberlain gets bad marks in the history books for Munich. But at least Chamberlain did not embrace the Fuhrer. Chamberlain never pretended that Hitler was anything other than a brutal dictator. Chamberlain was merely trying to avoid a world war.

Compare Chamberlain's performance to Young's boot-licking act at the United Nations. Alongside Young, Chamberlain looks like a moral hero, a giant.

Naturally after Young's foul gesture, the head of the Hanoi delegation made a vicious anti-American speech replete with the usual Communist cliches about capitalism and imperialism and topped it all off by calling for the liberation of Puerto Rico.

Even as Young was fawning upon these Vietnamese Communists, contingents of so-called "boat people" began arriving in the U.S. The boat people are Vietnamese who take to the open seas in small boats rather than endure Hanoi's tyranny. According to some estimates I have seen, only a small percentage of these refugees survive their ordeal and land in a foreign country. The rest bob on to oblivion in the South China Sea.

Reports are beginning to filter out concerning the horrors of life in Communist Vietnam. In an important recent article, a French priest named Andre Gelinas described the conditions that prevail in the totalitarian prison which all of Vietnam has now become. Every aspect of life is politicized, the "re-education camps"—that is, concentration camps—have a large clientele, and it goes without saying that shortages of all kinds are severe and widespread.

To be sure, not much has been heard from the Carter administration lately about "human rights." But to the extent that the administration retains any commitment on that issue, Young's symbolic behavior at the United Nations makes it derisory.

In a recent talk with me, Former President Nixon accurately described the North Vietnamese Communists as "bloodthirsty" and "vicious." Yet these are the people Ambassador Young disgraced his office by publicly embracing.

No free man should kowtow to tyranny. Certainly no public official of this free republic. A nauseating stench arises from Young's gesture. He is a disgrace to the United States, an insult to free men, and he should resign, disappear.

RIPOFFS AND CHEAP SHOTS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 21, 1977

Mr. MICHEL. Mr. Speaker, President Carter's recent use of "ripoff" and "war-profiteer" against oil companies did nothing to foster rational debate in the current controversy over the President's energy program. The Peoria Journal Star, October 17, 1977, in an editorial "Ripoffs and Cheap Shots," reminds us that despite the angry words there are some facts that the President and his supporters are going to have to deal with. Not least among these is that as Government regulation increases so do prices. This has happened in industry after industry and the oil industry is no exception. Who is doing the ripoff in this case?

At this time I want to place in the RECORD, this excellent editorial:

"RIPOFFS" AND "CHEAP SHOTS"

(By C. L. Dancey)

Carter's response to the legislative failure of his "comprehensive energy plan" in a Congress that is two-thirds Democratic is disappointing.

He takes it out on the industry, and indicts them for high crimes and misdemeanors which he says they might commit some day in future.

We have heard of guilt by association, of being guilty until proven innocent, and of unfair charges about past events, but this is something new. Now we have: Guilty before the crime has been committed on the premise that Jimmy Carter must have his way.

"Rip off" is a favorite term these days, and so is "cheap shot."

In accusing the oil industry of a giant ripoff to come, the President took a cheap shot—and didn't even base it on honest projections.

Usually ingenious people can make very good arguments on either side of an issue based on the facts. I have always figured when one of them cheats on the facts and figures it is a kind of admission that he, himself, feels that he can't make a satisfactory argument with the real facts.

If this horrid danger hung over us, why also did the President wait until he was stung by his own Congress and then defend his faltering energy plan by making "war criminals" in advance out of the industry?

What is the truth about industry . . . and about government?

For four generations American energy industries found more sources and provided the greatest volume of gas, oil, heat, air conditioning and propulsion and brought it from the far corners of the world and distributed it to Americans at less cost than enjoyed by anybody else anyplace on earth.

As government regulators moved in (and government tax people) things have gotten higher and higher and tighter and tighter.

There are a lot of reasons for that, in fact. Government fiddling and taxing are only a part of the problem. We need to face the future problem and I'd be willing to give any sane program a try—either the President's or the industry idea—just to get started on something useful. Either would help while we learned its efficacy. Time—doing nothing—is the real enemy.

But, in contrast with the record of the energy industry when it was reasonably free, we have a government which seizes from this population outright hundreds of billions of dollars every year and does not deliver in return a single new car, does not drill a well, explore a far-off site, refine a drop of crude, deliver a gallon of gas to us, nor make a single dress or suit of clothes for us, nor grow an acre of wheat nor bake a loaf of bread for us.

When we speak of rip-offs, people in glass houses shouldn't throw such stones . . . and industry has a better record of delivering value for the cash received by far than does the Congress or the Administration, either one.

If we are going to pronounce, in advance, guilty verdicts on future wrong-doing, then we might also give a little thought to the tax

manipulations and what will become of the money, really, in the Carter energy plan.

One thing we know, that planned rip-off will not go to the people who do create energy and help them finance finding more sources or more ways to do it.

It will go down the big drain in Washington.

And we, the users, pay it, either way.

OLD HOPES AND NEW CURRENTS IN PRESENT-DAY LITHUANIA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 21, 1977

Mr. DERWINSKI. Mr. Speaker, the third edition of the Lithuanian Quarterly of 1977, carried an article on the present day hopes of the Lithuanian people in their efforts to attain their goal of independence. This article was very well written by Eitan Finkelshtein, who is acquainted with the problems of human rights in Lithuania. In 1976, he joined the Lithuanian Group to Promote Observance of the Helsinki Accords, where he represented Lithuania's ethnic minorities. The article follows for the attention of the Members:

OLD HOPES AND NEW CURRENTS IN PRESENT-DAY LITHUANIA

(By Eitan Finkelshtein)

The first impression that a person from another Soviet republic gets when he comes to Lithuania is that it is of a little corner of heaven. The highways and roads are well maintained. The cities and towns of Lithuania, unlike its Russian counterparts, are clean and orderly. Intercity and intracity transportation systems are comparatively well developed and coordinated, as is the telephone communications system.

Vilnius, the capital, is attractive. Lithuanian architects and urban planners have taken great care to maintain its original beauty. They were partially successful. During the Stalinist period, when the two acceptable architectural styles were the "barrack" style and the "epic monument" style, very little construction was done in Lithuania. By the time Lithuania's development accelerated to the point of greater endeavors, a new generation of architects had grown up, eager to experiment with new concepts of urban development. Lithuanian architects have been especially successful in "etching" new buildings into ensembles of old buildings, without injuring their original complexion.

However, the most surprising facet of Lithuanian cities, in the eyes of the newcomer, is the development of their new residential areas. The Soviet citizen's concept of a residential area is always haunted by sights of unpaved roads and a total lack of transportation facilities, telephone communication, and stores. The opposite is true in Vilnius. The new residential areas of Lazdynai, Karoliniskiai, Virsuliskiai and others are well planned and integrated into the area's topography. From the very beginning, roads were graded and paved, and the telephone system was set up. The stores, restaurants and coffeehouses of the area are very similar to those in the central city. In truth, the floor plans and furnishings of apartments are no different from those in any other Soviet city because wise though they might be, Lithuanian builders cannot depart from universal Soviet standards and specifications.

Recently a number of public buildings have been built in Vilnius: the Opera and Ballet Treatre, a Sports Arena and the new "Matrimonial Palace." The general opinion about the Opera is that it is too pompous, and about the Sports Arena that it is too "standardized." On the whole, however, Lithuanian builders do their best to build with an eye toward quality, beauty, and speed. Their operating principle is that governments come and go, but what is built in Lithuania will have to serve the people for many years to come.

The physical aspect of Lithuanian cities is not the only striking thing noticed by the newcomer. Stores have a noticeably larger supply of better-quality goods. But even here, many Lithuanians complain about the continuous deterioration in the quantity and quality of available goods. Some commodities have altogether disappeared. But even so, products available only in special outlets in other republics are available to the general public in Lithuania.

The intra-city transportation system is well developed. This is also augmented by the large number of privately owned automobiles—a noticeably larger number than in Russian or Ukrainian cities. People on the streets wear noticeably more modern clothing than can be seen in Moscow and Leningrad.

The visibly greater number of restaurants, coffee houses, and wine cellars is conspicuous. In the evenings lines form outside these establishments—to spend an evening over a cup of coffee is a favorite pastime of the younger generation. A totally foreign experience to the newcomer are the nightclubs of Vilnius. Although the shows are short and sometimes of poor quality, the performers looking tired since this is a second job for many of them, the clubs still make a stunning impression on the newcomer and convince him that he is in "the West."

It is true that the most noticeable thing about Lithuania is its singular "Western" lifestyle. Comments such as: ". . . the government in Lithuania is not Soviet"; "the people are lazy," and ". . . there is no discipline," are often heard from other Soviet citizens. There is also a widespread belief that the higher standard of living enjoyed by the Lithuanians is achieved at the expense of other republics. The contention is made that Lithuania receives all its industrial machinery, raw materials, and energy resources from the "superior" republics, but what they receive in return becomes meaningless to them because of the incomparable standard for comparison.

Lithuanians are, however, of a different opinion. Although they do not deny the fact that the standard of living is higher now than ever before during the postwar years, they also contend that the same or a higher standard of living would have been achieved had Lithuania been independent. As evidence, they cite the facts that Lithuania is forced to accept totally unnecessary sectors of industrial production (which always seem to have their base of operations somewhere other than in Lithuania), that the central government is always attempting to make Lithuania's agriculture dependent on that of the other republics, and that shortages of workers are always met by colonists from other republics. They further contend that the central government is only destroying Lithuania's agricultural sector, as evidenced by the failure of the "great corn experiment" during Khrushchev's reign and the unreasonably high production quotas imposed on collective farms.

The truth of it is that the central government has done nothing to raise the standard of living in Lithuania at the expense of other republics. Just the opposite is true: efforts to equalize the present differential in living standards are continuous.

Primarily, the high standard of living in Lithuania is maintained by its productive agricultural sector, especially by the produce of the citizens' private plots. A large percentage of a typical Soviet family's income is spent on food. In Lithuania, however, the percentage is much smaller because many of the city dwellers still maintain ties with the countryside.

Another factor explaining the existence of the high standard of living is the comparatively high productivity of the Lithuanian worker and the lingering concept of private property.

One should not overlook assistance received from the West. Food parcels and direct cash transfers from relatives living in the United States, Canada, Israel, and other countries are also very important for the maintenance of the standard of living. Traditional ties with Poland facilitate certain trade. Food products are privately traded with Polish tourists, who in turn bring clothes and other widely used products. The central government is unable to control this, and, therefore, this practice is labeled "speculation" and proscribed by law.

The conclusion to be drawn from all this is that the high standard of living enjoyed by Lithuanians is not achieved at the expense of neighboring republics, but is a result of its essentially independent nature, Lithuania's historically established agricultural productivity, and a traditional high work ethic.

It is these reasons, and the tenacity of Lithuanians to keep what they have, which most irritate the central governments in Moscow. Moscow, in return, is continually waging a war against the very characteristics that have helped maintain that high standard of living in Lithuania. Although the conflict is not characterized by guerrilla warfare and deportations to Siberia, it is just as hot as it was just after the War. The conflict affects everything, from the physical appearance of the cities to something as innocent as sporting events.

PRESENT-DAY LITHUANIAN SOCIETY

Who makes up today's Lithuanian society? What are its basic tendencies in its development?

A very important characteristic of contemporary Lithuania is the fact that a large part of the available governmental positions are filled by Lithuanians. They also hold high positions in the administrative apparatus, in industry, agriculture, and education. It is not the same as it was during the Stalinist period, when Lithuanians were not trusted merely because they were Lithuanians. During the last twenty years, Lithuanians have had enough time to develop their own "national" government and administrative personnel. For the most part, unfortunately, these are people without principles, who have learned the fine art of mass manipulation and have developed an uncanny ability to please those in power. With these abilities, they have been able to compete very successfully against non-Lithuanians, especially Jews, and eventually take over their positions. Therefore, looking at the picture objectively, one would have to say that the leadership in Lithuania is in Lithuanian hands. But indeed, the real power of these "nationals" is very limited. This is true even though they do enjoy all the privileges of high rank in the Soviet Union.

Although the number of this privileged elite is very small, its destructive influence is out of proportion to its size. This influence is most readily felt in cultural life and education; but probably the most destructive influence of this privileged elite is that by the fact that they occupy many governmental and administrative positions, the rest of the Lithuanians get a false sense of security that

their country is governed by Lithuanians themselves.

CATHOLIC DISSENT

Diametrically opposed to the privileged elite is the Roman Catholic Church in Lithuania, a part of the intelligentsia, and the younger generation.

The most bitter and uncompromising conflict within Lithuania is that led by the Catholic Church. The goals of this opposition are not only to protect the positions of those in authority within the Church, but also to preserve and nurture the influence of the Church on the population as a whole. It is because of this opposition that the Soviet government cannot subvert the Catholic clergy, as it was able to subvert the Orthodox clergy throughout the Soviet Union. In its attempts to weaken the Church, the government does not refrain from using repression and physical sanctions against the clergy, religious activists, and parents who provide their children with a religious upbringing.

The Catholic Church, however, has put up a brave defense. *The Chronicles of the Catholic Church in Lithuania* give detailed accounts of persecutions in the Catholic community in Lithuania. Finding their way to the West, *The Chronicles* are able to affect public opinion on the international level; this in turn influences the Soviet government to lessen its attacks on the Church and Lithuania.

The Chronicles do not deal exclusively with Church and Church-related matters. They also deal with urgent national issues. On the whole, it is obvious what a large influence *The Chronicles* have on the population of Lithuania. It should also be mentioned that the Church has been able to muster support from a sizeable sector of the atheist dissidents, who view the Church not only as a religious institution, but also as a persecuted institution that is vital to the Lithuanians as a nationality.

Not only do *The Chronicles* deal with issues in Lithuania, but they also take an active part in helping Catholics living in other republics, especially the Germans living in central Asia.

THE INTELLIGENTSIA

The position of the intelligentsia in present-day Lithuania is very different from the position of the intelligentsia in Moscow, Leningrad, and other cultural centers. This is because the intelligentsia was able to capitalize more effectively on the effects of de-Stalinization than their Russian or Ukrainian counterparts. De-Stalinization permitted Lithuanians to create in the Lithuanian language, using national ethnic themes. It allowed the academic community, to turn its attention to problems of national history and culture. Generally, it allowed the intelligentsia to do things that were, a few years earlier, forbidden or frowned upon as bourgeois nationalism. An unheard of event such as this, brought some of the intelligentsia to a state of euphoria, especially when the thaw of de-Stalinization was accompanied by a marked growth of cultural and educational centers in Lithuania, which were staffed predominantly by Lithuanians.

During this same time period when creativity was finding new avenues of expression, Lithuania was going through a similar growth in the fields of architecture, book publishing, and applied art. During the first decade of de-Stalinization, there appeared bold new works in graphics and painting, original theatrical productions, elegant films, talented poetry and promising prose.

However, with the end of active de-Stalinization came the end of the creative outburst in Lithuania. Little remains now of all the talented and creative beginnings, and that which remains has become stagnant and conformist. The once original graphics and theatre productions are repeating themselves; old "modern" films can be seen on the screen.

At this same time, the younger generation of intellectuals is becoming less and less satisfied with merely the ability to create in one's own language. They are looking for new forms of expression for their creativity, refusing to conform, and are eventually banging their heads against a wall. The same is happening in Russia. Each seems to find his own alternatives. Theater director Jurasas emigrated to the West, and just recently a very talented artist, Zilius, has left the Soviet Union. A very able poet and translator, Venclova has recently asked to be allowed to leave the Soviet Union and is now in the United States.

Others, who do not want to conform, create "for the desk drawer," disseminating their work in a close circle of friends. For both groups, the problem is the same—a lack of creative freedom and the impossibility of creative interaction.

It should be mentioned, however, that in Lithuania there is an absence of the same active resistance on the part of the intellectuals as there is in Moscow or Leningrad. A large part of the creative Lithuanian intellectuals is still suffering from the illusion of freedom of national expression. Another part, bought off by privileges, is consciously striving to conform.

THE YOUNGER GENERATION

When one speaks of the younger generation, one must say that its resistance and protests against the status quo is sporadic and unorganized. The central government, generally, is well informed of the attitudes of the young and takes great pains to nip any public protests in the bud. In primary and secondary schools, pupils are spied upon and followed. Pupils are encouraged to inform on their classmates. An ill-chosen word to a boyfriend or girlfriend is often reported to the authorities. Once this happens, special attention is paid to the "transgressor" to see if a given incident repeats itself. If such reports again reach the authorities, the pupil will most likely be expelled from school and live the rest of his or her life branded as a troublemaker.

The same occurs in lounges and coffeehouses, where students like to spend their evenings. During sports matches or concerts, a large number of conspicuous military police is always present. All this is not coincidence—the central government fears demonstrations as the plague.

Although the government does take active precautions against such demonstrations and the younger generation is comparatively poorly organized, dissent sometimes erupts in public demonstrations, which do shake up the people. An example is the events of 1972—Vilnius and Kaunas were sights of mass demonstrations. Acts of self-immolation and subsequent mass demonstrations were signs of the true sentiments of a generation born and raised in the Soviet system.

The general population looked on those demonstrations sympathetically but did not agree with them. Most believe that such open demonstrations lack the perspective of the situation and are wasteful in human terms. Also, the general population values stability the most. After three occupations, war, guerrilla warfare, and mass deportations to Siberia and the sacrifice of hundreds of thousands of lives, the population of Lithuania is finally living in comparative peace for the first time since 1940.

NATIONAL SPIRIT OF LITHUANIA

During the last twenty years, the population of Lithuania has put its hopes on an ever-increasing Lithuanian consciousness. That process can be divided into three areas: the entry of Lithuanians into high positions of the government and the administration, the development of the national culture, and education of the younger generation in the spirit of national consciousness. Objectively speaking, achievements in all three areas have been impressive.

Until now, this process has gone on with the blessing of the central government and under its control. Behind each Lithuanian government official stands his assistant—a Russian, no matter how trusted the Lithuanian may be. In culture and education, the only element of national identity allowed to linger has been the language. Otherwise, the cultural activities and education present in Lithuania are no different from those found in other republics of the Soviet Union. The only sphere of influence untouched by the government is education in the home.

Preschool education, generally accomplished in the home, is done in such a way as to nurture and develop a national consciousness in the children: to teach the language, the customs, and the national character. It goes without saying that the language used in the home is Lithuanian.

The Lithuanian language has become the primary weapon in the fight for national independence. Realizing that the language is their most effective weapon, Lithuanians try to make use of it as effectively as possible. During the last ten-fifteen years, the Lithuanian language has become dominant in all areas of life. Lithuanian is the official language of government and administrative agencies, the Lithuanian Academy of Science, the high schools, and many of the factories.

The use of the language helps distinguish the native from the "foreigner" on the street, in the stores, and elsewhere.

Attempts to use Lithuanian everywhere has its comic side-effects. Russian operas performed in Lithuania are performed in Lithuanian, although all the performers and the audience understand Russian perfectly. When any Lithuanian speaks to a Russian, he make it perfectly obvious that Russian is not his native language. All this is done for one reason—to stress national identity.

The government, of course, is quick to notice something this dangerous. During the last congress of the Lithuanian Communist Party, it was decided that it is necessary to bolster the teaching of the Russian language in Lithuania. Translated into practical terms, this means that Party officials are unhappy with the possibility that the Lithuanian language has gained such influence and can be used as a "nationalist" tool. On the other hand, they cannot openly attack the use of any native language.

There is a clear impression that the Party officials themselves have become frightened of the successes of the Lithuanians in maintaining their national consciousness through their language, which was intended to be used as a tool to achieve just the opposite result. It is for this reason that the central government is reverting to a tried-and-true method—the colonization of Lithuanian by peoples from other republics. Although a small number of colonists has always existed in Lithuania, the threat of mass colonization hangs like the sword of Damocles over the hopes of national rebirth and independence.

ACTION AND DISAPPOINTMENT

It is obvious that the majority of Lithuanians are doing everything possible to maintain as much autonomy as they can; but at the same time they realize that without any basic changes in world politics, and especially in Moscow, it is impossible for Lithuania to ever attain true independence.

Events in Czechoslovakia (1968) made that perfectly clear. It was clear to everyone that the Russian tanks rolling down the streets of Prague were not only crushing the "Czech-

oslovakian spring" ("socialism with a human face"), but were also destroying any hopes that they had for independence from the Soviet Union.

On the other hand, the Jewish emigre movement in 1970–1977 made it obvious that certain areas of the Soviet regime were sensitive to pressure and that certain goals could be achieved. That fact played a major role in achieving a favorable attitude among many Lithuanians with regard to the permission given to Jews to emigrate. Generally, the government refrained from actively condemning the emigres, as was done in Russia and the Ukraine. They were afraid that public censure would only touch off demonstrations of solidarity. At the same time, many Lithuanians showed their support for the movement by arranging office parties to wish emigrants bon voyage, and maintained further contacts after the emigres left the Soviet Union.

It should be noted that the alternative of emigration has become an important aspect of life in Lithuania. A number of Lithuanians who wanted to emigrate have used Israeli vizas. Several hundred families have applied for permission to leave for the United States and Canada. However, it should not be expected that any significant percentage of the Lithuanian population will seek to leave without the right to return. A great majority of the population wants a return to the pre-1940 status, when there were no restrictions on international travel; when it was possible to leave Lithuania for whatever reason and to return.

It is this type of contact with the Western world that the Soviet Union wants to prevent at all costs. In this sense, the population of Lithuania is affected as much as citizens in other republics are. Although there are minor differences. Vilnius, the capital, is the only area of Lithuania that is open to foreign visitors. It is not coincidental that Vilnius has the smallest percentage of Lithuanian inhabitants of all Lithuanian cities. Diplomats and correspondents do not have the right to travel to Lithuania by automobile. Lithuania is never allowed to host any significant conferences or expositions if any significant number of Western participants is expected. As an example of the isolation of Lithuania, some time ago there was an exposition of United States housing and apartment technology in Minsk, Belorussia. A large number of Lithuanians had hoped to attend, and a large number of busses were routed especially to accommodate the crowds. There was nothing extraordinary about the fact that these types of excursions were being planned; however, on the days when the main body of Americans were to be in Minsk, the trips were halted on the grounds that there was an epidemic in Minsk. Many similar examples can be cited.

Recently, the trial of Sergei Kovalev gained a high degree of notoriety in Lithuania. The fact that a Russian dissident had openly supported the Catholic Church of Lithuania and had paid for his actions with the loss of freedom made a big impression on the population of Lithuania. The government was pressed to halt demonstrations in support of Kovalev. Throughout Lithuania, hundreds were taken into custody. The police were issuing threats and demanding that people stay away from the trial. Even so, some fifty people were constantly present at the court house, demonstrating their support for Kovalev throughout the trial. News on the progress of the trial was passed by word of mouth. Of course, such a mode of communication is vulnerable to rumors, but no matter how many rumors there were, everyone agreed that the trial was a dirty business; a shame on all Lithuania. "Don't think that it is the Lithuanians who have put Kovalev on trial!" shouted a person present at the trial to some of Kovalev's friends. And to think, the courtroom was supposedly filled with "trustworthy" people!

The presence of Andrei Sacharov in Vilnius at the time of the trial attracted an equal amount of notoriety. Lithuanians learned of his visit from foreign radio broadcasts. Many thought that the appearance of Sacharov at the trial would prevent a summary trial for Kovalev. Although this did not happen, the support of Lithuanians given to Kovalev and Sacharov is evidence of a widespread disappointment with the ruling hierarchy, much of which is Lithuanian. Nothing has essentially changed. The same policies are promulgated by the Lithuanians in power as were promulgated by their non-Lithuanian predecessors. Administrators are just as worried about their own good life as were their predecessors. The bureaucracy and the bribery are the same; the only thing that has changed is that demagogery and hypocrisy are more widespread.

It is obvious to all today that "Lithuanianization" of the government and administration did not help the development of national independence.

So today, just as twenty years ago, or, for that matter, throughout its history, Lithuania primarily wants to be Lithuanian. But today, like never before, it has become clear that the goal of independence can only be achieved with true democracy and the guarantees of human rights.

THE NIGHTMARE OF INFLATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 21, 1977

Mr. McDONALD. Mr. Speaker, the Carter administration has not really attacked the root causes of inflation, although it has given lip service to remedying the problem. The major factor in inflation, as we should all know, is deficit spending by the Federal Government. Inflation is not caused per se by labor, business, farmers, or buyers. But when these groups lobby for more, classically unconstitutional, Federal spending programs, and they are passed by the Congress then inflation is triggered. Anthony Harrigan, executive vice president of the U.S. Industrial Council recently discussed some aspects of this problem in an editorial in the USIC bulletin of September 1, 1977. His editorial is full of wisdom and should be read by my colleagues. The editorial follows:

THE NIGHTMARE OF INFLATION

(By Anthony H. Harrigan)

Inflation is the greatest threat to the economic and political stability of the United States. Inflation erodes the earnings of the American people and destroys their savings. Inflation is destructive of public confidence in the future.

For these and other reasons, fighting inflation is one of the most important duties of any administration. Unfortunately, it is a responsibility that the Carter administration has failed to accept.

Hobart Rowen, economic affairs analyst for the *Washington Post* and a certified liberal, recently admitted that the Carter administration has lost in the anti-inflation battle. He wrote: "President Carter's goal of cutting the rate (of inflation) to 4 per cent by the end of 1979 looks hopeless in the absence of any real administration anti-inflation plan." Mr. Rowen noted that Charles L. Schultze, chairman of the Council of Economic Advisers, had offered testimony indicating that the U.S. experienced double-digit inflation—11 per cent on the wholesale price index and 10 per cent on the consumer index—for the first four months of this year.

Mr. Rowen, in a classic liberal response, quoted a government official as saying that "we just don't know how to control inflation."

That's not true, of course. Webster defines inflation as "an increase in the volume of money and credit relative to available goods resulting in a substantial and continuing rise in the general price level." As only the federal government can increase the volume of money and credit, the federal government can stop inflation be returning to a balanced budget.

Instead of fighting inflation, President Carter is making it worse, by urging that the federal government spend much more than it receives in tax revenues.

Recently, Mr. Carter promised "a flood" of new federal programs for inner city areas threatened with lawlessness. He also favors imposing higher gasoline taxes on motorists in order to provide revenue for higher welfare payments. This is the stuff of which inflation is made.

Consider the proposal to raise the minimum wage to $2.65. This means that higher prices will be paid for the same quantity and quality of goods. Again, pure inflation. George Meany, head of the AFL–CIO, isn't satisfied with that. He wants a $3 minimum wage. With a higher minimum wage, U.S. goods will be less competitive than they are today. Fewer goods will be sold. Tax revenues will decline.

In addition, many employers will find it uneconomic to employ people at the higher minimum wage. More workers will be laid off. The welfare population will be increased. Secretary of Labor Ray Marshall tells Americans not to worry. He urges more "public service" jobs. A "public service" job, however, is a job created at taxpayer expense.

Based on the Carter administration's performance thus far, the prospect is for more and more inflation. The administration yields to pressure from labor unions, financially troubled cities, the welfare lobby and other groups favoring free-spending programs. And every time the administration yields, the dollar declines in value.

Given the attitudes of the Carter administration, the $2 hot dog is just around the corner. When Americans have to take a briefcase full of money to the fast food counter, they may begin to understand the nightmare of inflation and the cause of it. Unfortunately, it may be too late when the people recognize the full cost of debasing the dollar.

OFFICE FOR CIVIL RIGHTS

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 21, 1977

Mr. JEFFORDS. Mr. Speaker, today, the House concerned itself with the issue of supplemental money needed to carry out a variety of Federal responsibilities. I would like to draw the attention of the House to the important area of responsibility which has been neglected both in the basic and in the supplemental appropriations bills for fiscal year 1978.

Some of you may recall that when the Labor-HEW appropriations bill was pending on the floor on June 15, I intended to offer an amendment to add $250,000,000 for purposes of assisting in implementation of the regulations issued pursuant to section 504 of the Vocational Rehabilitation Act of 1973. I was persuaded, instead, to wait until hearings could be held on the subject of 504 implementation. Those hearings took place in the Select Education Subcommittee on September 9, 13, and 16. If anything became clear as a result of those hearings, it was the very lack of available specific information concerning the liabilities and costs to be incurred through compliance with the regulations. In addition, it became clear that there is not sufficient personnel in the Office for Civil Rights at HEW to provide even basic information, let alone extensive technical assistance on the implementation of section 504.

Witness after witness contended that they are unable to get timely and definitive information on their compliance responsibilities. They must have this information so they know what they have to do, and how to project what it could cost to carry out those duties. But in fact, it is very difficult to get accurate cost projections for individual institutions and agencies, let alone concrete data on what national projections might be.

The hard reality we must face is that even if the Office for Civil Rights wants to make a good faith effort to address 504, they simply cannot do it given the manpower in the Office. Part of the problem is that there are many court orders which drastically affect how OCR personnel are used. Titles VI and IX, race and sex cases, divert much of the Office's attention. When you superimpose the massive technical assistance and enforcement problems created by 504, it seems clear to us that unless OCR gets more staff immediately, the problems will simply get worse.

Today there is a crying need throughout the country for more technical assistance and basic information. OCR is having trouble providing basic 504 information. As a result it is obvious that they do not have the personnel to begin to address matters of enforcement. Unfortunately I have no way of knowing what the specific personnel needs of OCR are.

A glance at the following tables will, however, give you some idea of the magnitude:

TABLE 1

Complaint investigations, fiscal year 1978

Backlog	3,025
Expected new receipts	2,455
Total	5,480

Expected complaint resolutions for fiscal year 1978

Backlog	1,270
Expected new receipts	245
Total	1,515

Percent of complaints resolved

Backlog	42
Expected new receipts	10
Total	27.6

Status of complaints at end of fiscal year 1978

Backlog	3,965

TABLE 2.—PLANNED COMPLAINT RESOLUTION ACTIVITY, FISCAL YEAR 1978—SUMMARY

[Staff time shown in investigative person years]

Basis	Carryover [1]		New investigations: Backlog		New investigations: New receipts		Total	
	Number	Person years	Number	Person years	Number	Person years	Number	Person years
Race	344	44.02	82	18.14	77	77.04	503	79.20
Sex	504	59.25	82	18.17	80	17.72	666	95.14
National origin	104	13.46	22	4.87	23	5.09	149	23.42
Handicap	70	9.10	56	12.41	57	12.63	183	34.14
Total	1,022	125.83	242	53.59	237	52.48	1,501	231.90

[1] Carryover means all complaints in which an investigation was initiated prior to Oct. 1, 1977, but which have not been resolved as of that date.

In the September 16 hearing in the Subcommittee on Select Education on section 504, Mr. David Tatel, Director, Office for Civil Rights, testified about some of the difficulties his office is facing. He was asked to provide the committee with the number of personnel his office needs, not only to implement title VI and title IX responsibilities, but specifically how many people he would need to answer technical assistance questions adequately, as well as to enforce the section 504 regulations. Mr. Tatel indicated that he would provide this information to the committee. After waiting for almost 3 weeks the committee has been advised by OCR that in spite of Mr. Tatel's public commitment to share this information, it will not be available to us because HEW does not feel it can be made available prior to negotiations with OMB. OCR indicates that it would "share the information on a private basis" but that I would "not be able to share it with other members of the committee or with the Congress." I find this situation incredulous. As the ranking member of the subcommittee which has responsibility for the 504 legislation, I asked the man responsible for the agency implementing the provision whether he was able to do the job with the personnel that he had. He indicated the need for more personnel, and I simply asked, "How many?" I cannot understand why such a simple, direct question cannot get a simple, direct answer. How can we in Congress help if basic information is not even given to us?

What makes this situation worse is that while Mr. Tatel is constrained from sharing this information with the Congress, he apparently has no similar restrictions when dealing with the courts. On October 7 Higher Education Daily reported:

JUDGE SINKS OCR'S ENFORCEMENT PLANS

U.S. District Court Judge John Pratt Wednesday scuttled HEW's plans for "balanced" enforcement of civil rights laws by refusing to allow its Office for Civil Rights to ignore Pratt's June, 1976 order requiring prompt resolution of sex, race and national origin discrimination complaints against elementary and secondary schools in 17 Southern and border states.

The decision in the seven-year-old *Adams* v. *Califano* case will directly affect colleges and universities, according to OCR Director David Tatel.

During a two-day hearing on OCR's enforcement plans, Tatel warned Pratt that if the judge did not release OCR from the 1976 order, "I don't know where" the agency will get the resources to investigate higher education discrimination complaints or enforce the new anti-handicapped discrimination Section 504 regulations.

Tatel also said OCR would not be able to put into effect its proposed Annual Operating Plan (HED, Aug. 3; Sept 22) for fiscal 1978, which calls for balancing OCR's enforcement efforts between complaint investigations and compliance reviews, which are OCR-initiated investigations.

If the agency is unable to adopt the AOP, Tatel said, his plans for revitalizing OCR will be jeopardized. "OCR will continue to be a relatively distorted agency that is not performing in some areas and that is performing poorly in others," Tatel said.

While expressing sympathy for HEW's manpower problem, Pratt noted that OCR itself negotiated the 1976 order as a reasonable solution to the elementary and secondary portion of the long-standing *Adams* case.

OCR has admitted that it has been unable to comply with the June, 1976 order. Justice Department attorney Robert Franzinger said OCR underestimated the time it takes to process an average complaint. In addition, Franzinger said a high vacancy rate at OCR—at one time as many as 225 positions were vacant in an agency with an authorized staff of 1,002—crippled OCR's ability to process complaints.

Elliott Lichtman, a NAACP Legal Defense Fund attorney representing the plaintiffs, argued that the 1976 order should not be relaxed because that would delay enforcement of the law. Lichtman also questioned OCR's claim of insufficient resources and said the agency's AOP is based on an unacceptable standard of productivity. "We suggest that any efficiency might make the resource problem evaporate," Lichtman said.

Pratt criticized OCR for doing too little to increase its resources and for failing to fill the vacancies. He said OCR's problem of inadequate resources was HEW's problem and no excuse for not fulfilling its obligation to

process the elementary and secondary complaints. "I don't think this court should get into the administrative problems of a particular agency . . ." he said. "It would be a serious mistake for us to monitor how the government makes use of its limited resources."

During the hearing, Tatel told Pratt that HEW has submitted to the Office of Management and Budget a request for 1,256 additional staffers over the next year and a half, which would allow OCR to eliminate its backlog of complaints by May, 1980 while fulfilling all its other obligations.

No Consolidation—In a related ruling, Pratt refused an HEW request to consolidate the *Adams* case with two other suits, *WEAL* v. *Califano* and *Brown* v. *Califano*. HEW argued that all three cases raised similar issues and that merging them would put the agency in a better position to comply with the court's orders.

Pratt said the *Adams* litigation is already complicated and that there are significant differences among the three cases. *WEAL* involves enforcement of anti-sex bias laws by HEW and the Department of Labor, while the plaintiffs in *Brown* are concerned with enforcement of the Title VI ban on race discrimination in 33 Northern and Western states.

HEW's request to consolidate the three cases was part of its overall plan to get out from under court orders requiring specific enforcement action. In place of orders in *Adams*, *Brown*, and *WEAL*, HEW had asked Pratt to bind OCR to carrying out the AOP enforcement plan spreading the agency's resources across its different jurisdictions.

Handicapped, Too—Pratt also allowed the National Federation of the Blind to Intervene in the *Adams* case as a plaintiff representing the interests of handicapped persons. The group's attorney, Jim McHaney, said handicapped people have a stake in the litigation because it affects OCR's ability to enforce the new Section 504 regs.—CBL

The ramifications of this manpower shortage are very serious for recipients of HEW money, who are liable to comply with the 504 regulations. They are equally serious for the Congress, which must have full and reliable information in order to make responsible legislative decisions on this issue. Given the severity of the manpower problem, I have serious doubts that adequate information regarding the costs to be incurred through compliance, will be available at a timely date. Since the regulations allow up to 3 years for any structural changes required to bring a recipient into compliance, the Congress could have a significant alleviating impact if it acted in the next session. Beyond that, it will be too late.

I would add that perhaps the executive branch would have moved more expeditiously to resolve these questions, had it been faced with the tough decision that HEW fund receipients are now confronting. In other words, if Federal agencies had to comply with their own 504 regulations; if they had to worry about budgeting for structural changes and additional services needed to comply with 504, they might act with a greater sense of urgency. They might even gain some sympathy for the view that many recipients of Federal money will find it financially difficult to comply in full with the regulations without any Federal assistance.

For those who are surprised to discover that the Congress passed a law mandating extensive, costly changes by State and local governments, as well as private organizations receiving Federal money, while exempting all three branches of the Federal Government from that mandate, the following is a statement issued by the Office for Civil Rights:

The scope of Section 504's jurisdiction extends to all persons or entities which receive financial assistance from the Federal Government. As with Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, the Federal agencies themselves are not subject to the nondiscrimination requirements of the statute. Thus, while it would be improper to state that Federal agencies are exempt from coverage under Section 504, they are not obligated to meet the requirements of the statute.—Source: statements submitted to the Subcommittee on Select Education on October 12, in response to questions raised during the September 16 hearing.

I have indicated to Secretary Califano that the Congress must know, by the early winter months, whether or not compliance activities will involve substantial costs. He assured me that HEW has sufficient resources to conduct an evaluation of the compliance cost situation, and to report back to Congress within the stated time frame. I am relying on this assurance, and in view of the information I have been able to gather to date, much is also at stake for HEW fund recipients.

I bring this matter to the attention of the Congress today for two basic reasons. The first is my hope that it will force those who make personnel decisions, either at HEW or OMB, to immediately address the OCR manpower needs. I would hope that decisions can be made internally without the Congress having to act. I am, however, prepared to take legislative action if the issue of personnel needs for OCR is not resolved in the very near future. The second reason is to alert my colleagues to a critical issue that we will have to address in the next session of Congress. I want everyone to be on notice as to the difficulty we will have in fulfilling this responsibility if we do not get timely and extensive help from the executive branch.

To turn briefly to another problem, I have discovered that when people first hear about section 504 they assume that it is intended only to eliminate architectural barriers that may restrict the physically handicapped. Section 504 is certainly much more than that, getting into many areas of life including jobs, education, housing, and so forth, and affecting all other disabilities. The deaf, for example, do not need architectural barriers removed to be able to move freely. Many deaf people, however, have a communication barrier. They cannot pick up a telephone as you and I do and talk freely, without the aid of an instrument called the TTY. They can and do communicate through such an instrument with other deaf people.

However, they face real problems when they attempt to communicate with a hearing individual who does not have a comparable device. When a public office or agency does not have a TTY it creates a communication barrier which discriminates against the deaf. And, of course, blind people, and people who have cerebral palsy and other handicapping conditions, are often confronted with communications barriers which can and are required by the 504 regulations to be lifted through the use of a growing array of auxiliary aids. Just yesterday, the Subcommittees on Select Education and on International Scientific Planning, Analysis, and Cooperation, learned a great deal about computer learning technologies currently being applied in the education of the handicapped.

In a sense, the Office for Civil Rights at HEW, the Agency responsible for enforcing 504, actually discriminates against the deaf because it does not have a TTY, nor does it have any individuals trained in sign language to answer the questions or problems of the deaf. When Mr. Tatel was asked in our committee hearings about this situation, he indicated that OCR has been trying to get a TTY for several months, but has not been able to get an approval out of the HEW bureaucracy. He also indicated that several people in OCR were taking sign language courses. Given the responsibilities of OCR it is difficult for me to anticipate just how long it may take before anybody in OCR is proficient enough to fully communicate with the deaf and to meet their information needs. And the problem is that the deaf and every other recipient or provider group throughout the country needs information today, not 6 or 10 months from now.

STATEMENT BY MR. ROGERS RE HOSPITAL COST CONTAINMENT

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 21, 1977

Mr. ROGERS. Mr. Speaker, I am introducing today a bill which represents the recommendations of the Subcommittee on Health and Environment for hospital cost containment legislation. This bill has also been reported as an amendment to H.R. 6575, the original administration proposal. As Members know, enactment of legislation to control increases in hospital costs represents the President's highest priority for legislative action in the health care field in this session.

The subcommittee devoted many hours to consideration of the legislation, and I believe the bill we have reported is a significant improvement over the original legislation proposed by the administration. Without sacrificing the realization of significant savings, the proposal has been made more workable and considerably more palatable to the hospitals which will be affected. Additionally, we have been able to add incentives to the administration's bill which reward hospitals which hold down their costs and assist hospitals which seek to close unnecessary services or facilities.

This bill represents a reasonable and responsible transitional approach to slow the rapid escalation of hospital expenditures, and I commend it to the attention of the Members. A summary of the legislation follows:

BRIEF SUMMARY OF H.R. 6575, AS REPORTED BY THE SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT, OCTOBER 13, 1977

TITLE I

A. Basic Approach—

Objective is to establish a limit on increases in hospital revenues.

Application is on basis of cost per admission of each cost payor, and on charges per admission for charge payors.

B. Start and Duration of Program, and Report by Secretary—

The bill is effective for hospital accounting years beginning after December 31, 1977.

The program for controlling increases in hospital revenues is transitional, but no ending date is established.

The bill requires a report from the Secretary by March 31, 1978, including recommendations:

(a) for a permanent program to replace the transitional title I,

(b) concerning the appropriate role of health systems agencies in the implementation of cost-containing functions.

C. Institutions Subject to the Proposed Limits—

The bill provides that only short-term acute-care hospitals are included in the Federal program.

Specifically exempted are:

(a) psychiatric hospitals, and hospitals with average stays of more than 30 days,

(b) new hospitals less than 3 years old,

(c) hospitals receiving 75 percent of their revenues from HMO's,

(d) hospitals with fewer than 4,000 admissions a year which are solely community providers and not located in an SMA,

(e) Federal hospitals.

Hospitals in a State which has an approved cost containment program would not be included in the Federal program.

D. Nature of Limitations on Revenue Increases—

The bill generally limits increases in revenues per admission to an amount 1½ times the GNP deflator over the amount allowed in the previous year of the program.

For the first year of the program, the increase is applied to an assumed revenue figure for the 1977 accounting year, which is derived by:

(a) using the revenues of the accounting year ending in 1976,

(b) deriving an average rate of increase, which is the higher of:

(i) the 1976 increase over 1975, or

(ii) the average of the increases of 1976 over 1975, and 1975 over 1974,

provided that amount does not exceed 15 percent or fall below 9 percent.

(c) compounding the amount of increase for the years in the transition period between the accounting year ending in 1976 and the accounting year beginning in 1978 (generally, a 2-year period),

except that in no case can the amount allowed in the 1978 accounting year exceed the 1976 base year revenues by more than 15 percent plus 1½ times the GNP deflator (if the transition period is one year), or 30 percent plus 1½ times the GNP deflator (if the transition period is two years).

The base revenue figures can be adjusted if the hospital was in operation less than 3 years before the base year.

The revenue base is reduced if a hospital discontinues a service except when it enters into a shared service agreement with another hospital.

The Secretary is required to develop and provide to Congress by March 31, 1979, an index that reflects prices of hospital input costs, with recommendations as to whether to use it in the transitional program.

E. Admissions adjustments—

The limitation allowed on increases in revenues per admission is adjusted to account for changes in total admissions of the institution over admissions in the base year; if admissions increase, the amount allowed per admission decreases, and vice versa.

Basically, there is no change in the revenues allowed if admissions increase by up to 2 percent or decrease by 6 percent; then changes up to 15 percent result in increased or decreased revenues at the rate of 50 percent of the average revenue per admission; further changes require an exception, unless the hospital is a small hospital. Covered small hospitals are allowed larger decreases in admissions before allowed revenue is decreased.

Hospitals in growth areas are not required to absorb the costs of the first 2 percent increase in admissions.

Hospitals which contract to provide services to an HMO may have their base year admissions adjusted to reflect the increased admissions expected from the HMO's population; termination of an arrangement with an HMO would result in a downward adjustment.

A hospital which has increased admissions because of an approved shared service arrangement or the closing of another facility in the area may have its base year admissions adjusted upward.

F. Application of Revenue Limits—

The bill provides that the limits are applied by each separate cost payer and by charge payers.

The bill provides for adjustments in the revenue limit if a cost payer significantly increases coverage, or there are shifts among payers which results in a sizeable revenue loss.

G. Modification to Permit Pass-through—

The bill provides that a hospital may pass-through wage increases for non-supervisory workers, and be allowed the actual amount of increase for that portion of their base year costs represented by nonsupervisory personnel wages; once the pass-through is used, it must be used in succeeding years.

The bill requires the Secretary to report by March 31, 1979, on the experience with the pass-through, the effect of the pass-through on wages, and his recommendations for mandating or discontinuing the pass-through. If he recommends discontinuance, the pass-through would go out of effect if the Congress has not acted within six months.

H. Exceptions to Revenue Limit—

The bill provides for exceptions to the limit if admissions increase or decrease more than 15 percent, or there is a change in facility, capacity or services changing costs by 3 percent, if the current ratio of the hospital is no greater than 2 to 1.

Restricted and designated grants, gifts and income (whether restricted by the donor or the hospital board), and depreciation funds required to be held in reserve as a condition of a loan, are excluded from consideration in determining the current ratio.

If a hospital has increased admissions of 15 percent or more or a substantial change in capacity because it is in a growth area, or if a hospital has a substantial change in capacity because another hospital in the area has closed, the hospital is not required to meet the current ratio test to get an exception.

If a hospital is a sole community provider found necessary by the HSA it may receive an exception if its current ratio falls below 2 to 1.

I. Incentive Payments for Good Performance—

If a hospital holds its costs per admission below the allowed increase in revenue per admission, it receives an incentive payment.

The incentive payment to the hospital is 50 percent of the difference between the allowed revenue per admission and the cost per admission for each admission reimbursed on a cost basis, except that it may not exceed amounts the hospital can demonstrate will be used:

(a) to finance the hospital's outpatient deficit,

(b) to reduce long-term debt,

(c) to fund uses which the Secretary determines will not add to operating costs and are in the public interest,

J. Other—

The bill also provides protection against improper changes in admission practices, provides for a penalty tax of 150 percent of excess revenue, establishes certain disclosure of information requirements, and provides for appeals by a Provider Reimbursement Review Board.

K. Alternate State system—

A State may establish an alternate hospital cost containment program, which if approved by the Secretary will replace the Federal program for hospitals in the State.

To be approved, a State program must:

(a) cover at least the hospitals that would be covered by the Federal program,

(b) keep the aggregate increase in hospital revenues in the State at a level no higher than 120 percent of the Federal revenue increase limit,

(c) have a State agency responsible for the administration of the program,

(d) have a plan acceptable to the Secretary and approved by the Governor for the recovery of any excess revenues received by a hospital;

(e) have certain cooperative arrangements with the health planning agencies and PSRO's in the State,

(f) exempt hospitals receiving at least 75 percent of their revenues from an HMO, unless the State can demonstrate to the Secretary that it is necessary to include such hospitals for effective cost containment,

(g) have appropriate requirements for disclosure of information.

Federal grant monies are made available to support State cost containment plans which also meet other prescribed requirements, including:

(a) use of a commission on hospital budgets or designated State agency which approves budgets prospectively,

(b) provides that a hospital will receive the benefits of cost efficiencies,

(c) provides for certain administrative, appeals, and enforcement mechanisms.

L. Other Medicare-Medicaid Provisions—

The bill requires common audits of hospitals by Medicare and Medicaid.

The bill provides for a ban on commissions, finders' fees, and rental or lease arrangements which are percentage based, and a limitation on the amounts paid on a percentage basis to hospital based physicians, under Medicare and Medicaid.

The bill authorizes a uniform reporting system with authority to require uniform accounting.

The bill allows "swing" beds for long-term care in small rural hospitals.

TITLE II

A. Capital Expenditure Limit—

The bill establishes a $2.5 billion limit on hospital capital expenditures which would be increased annually to reflect increases in the cost of construction.

Distribution to the States in the first year is made on the basis of population and then in subsequent years based on other factors such as population patterns and growth, construction costs, need for modernization

and the ratio of historical cost of hospital facilities to population.

15 percent of the capital expenditure limit is retained by the Secretary for allocation to projects undertaken by hospitals which are regional or national resources. The balance of the fund is distributed on the basis of significant unmet health needs.

4 percent, initially $100 million, is added to the limit for hospital management and information projects.

The Secretary would in two years report to the Congress on the adequacy of the $2.5 billion limit and the factors used to distribute it to the States and recommend changes.

B. Supply and Occupancy Standards—

The bill requires the Secretary to establish a national ceiling for the supply of hospital beds not to exceed 4 hospital beds per 1,000 in population.

The Secretary is also to establish a national occupancy standard not to exceed 80 percent.

The Secretary is to promulgate a different standard for health service areas with special characteristics.

States would review and approve projects not to exceed these standards.

Three exceptions are permitted:

if there is a reduction in hospital beds in an area, one bed could be added for each two closed,

a State could approve new hospital beds for an HMO after finding that existing hospital beds were not appropriate for the HMO's use,

the replacement of nonconforming beds could be approved in a subpart of the health service area that meets the standards.

C. Consistency Between Certificate of Need and Section 1122 Review Programs—

Changes are made to allow both programs to operate by the same procedures and criteria.

Both programs are placed on the same basis requiring the State agency to approve capital expenditures prior to their being offered or delivered.

The requirement that the Secretary make a determination on each section 1122 review is removed.

The health planning agency is required to annually review the progress of a project's development once certificate of need or 1122 approval had been issued.

The capital expenditure threshold is established at $150,000.

A health planning agency is required to consider the efficiency and appropriateness of the use of existing services prior to approving new services.

An institution is required to include capital expenditures in a three year institutional plan which would be submitted to the health planning agency which is prohibited from approving capital expenditures that are not in the plan.

D. Expansion of Program Coverage—

Home health services are also added to required certificate of need and section 1122 coverage.

HMO coverage is modified to bring it in line with that required of other facilities or organizations.

E. Sanctions—

The 1122 sanction is increased to withholding Federal reimbursement of 10 times depreciation, interest and return on equity.

F. Implementation Process—

The 1122 reimbursement sanction is to be applied to all projects started after enactment unless approved under a certificate of need or section 1122 program which meets the requirements of this title.

G. Coverage of Federal Hospitals—

Health planning agencies are given an opportunity to review and comment on the development of or change in institutional health services undertaken by the Public Health Service and the Indian Health Service.

The Secretary shall report to the State agency and to the Congress its reasons for using funds over the State's agency's objections.

TITLE III

A. Nature and Duration—

Four years.

Voluntary application by hospitals to discontinue unneeded services.

B. Guidelines—

The Secretary will promulgate, under 1501, national guidelines respecting supply and use of inpatient services for each HSA.

Different guidelines may be promulgated for HSA's with special characteristics.

C. Planning Agency Role—

HSA's and State Planning Agencies.

Will describe actions required by hospitals to reduce unneeded services.

Will recommend hospital applications.

Will approve development of new services with payments under this Title.

Will designate hospitals with unneeded services.

D. Payments—

For closure of entire hospital, a debt payment and an incentive payment.

For discontinuing an identifiable service unit without a formal consolidation agreement, an incentive payment and reimbursement (under Titles 18 and 19) for losses on sale of assets.

For converting an identifiable part of a facility, a conversion payment.

To the HSA when hospitals in its area receive incentive payments.

E. Penalty for Non-compliance—

Reimbursement under Titles 5, 18 and 19 for a hospital designated as housing excess services will be reduced by 5%.

The Secretary may delay imposition of the penalty.

OPEC STATES PROVIDE 40 PERCENT OF U.S. PETROLEUM NEEDS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 21, 1977

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues some correspondence I have had recently with the Department of Energy concerning petroleum imports into the United States.

The attached tables reveal what we all knew was coming, increased dependence on imported, and especially, OPEC petroleum. We are now importing 40 percent of our petroleum needs from OPEC states, up from 25 percent 4 years ago.

Over the last few months the leading OPEC suppliers have been Saudi Arabia, Nigeria, Libya, Iran, and Venezuela. Since 1973, petroleum imports from Saudi Arabia, Nigeria, and Libya have practically doubled while imports from Venezuela have nearly been cut in half.

The tables provided by the Department of Energy follow:

SEPTEMBER 26, 1977.

Hon. JAMES SCHLESINGER,
Administrator, Federal Energy Administration, Washington, D.C.

DEAR MR. SCHLESINGER: I would like to have a statistical table prepared by the Agency listing all fuel imports into the United States by source starting in 1973 and showing what percentage of domestic consumption those imports present. I hope that this table could include the first eight or nine months of 1977 on a month-by-month basis.

I appreciate your attention to this matter. If you need further information, please contact Mike Van Dusen at 225-3345.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe, and the Middle East.

DEPARTMENT OF ENERGY,
Washington, D.C., October 12, 1977.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on International Relations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter dated September 26, 1977, to Dr. James R. Schlesinger requesting data on petroleum imports by source and their share of United States consumption. This response was coordinated with Mike Van Dusen of your staff to insure that our reply would satisfy your need. He indicated a desire for information on oil imports from OPEC countries rather than imports of all fuels from all sources.

Enclosed are two tables, one which gives the quantities of petroleum imported directly and indirectly from major members of the Organization of Petroleum Exporting Countries (OPEC) from 1973 through August 1977, and the other which gives United States demand (consumption) dependence on each of these countries from 1973 through June 1977.

The Department of Energy is pleased to assist you in your energy data requirements, and if we can be of further assistance, please do not hesitate to call.

Sincerely,

C. WILLIAM FISCHER,
Acting Administrator,
Energy Information Administration.

Enclosures.

U.S. DIRECT AND INDIRECT IMPORTS OF PETROLEUM FROM OPEC COUNTRIES[1]

(In thousands of barrels per day)

	Algeria	Indonesia	Iran	Libya	Nigeria	Saudi Arabia	United Arab Emirates	Venezuela	Other OPEC[2]	Total OPEC	Arab members of OPEC
1973:											
Direct	134.2	212.7	222.7	164.3	458.9	487.3	70.6	1,124.7	106.5	2,981.9	914.4
Indirect	17.0	25.0	211.0	144.0	149.0	253.0	13.0	509.0	88.0	1,409.0	463.0
Total	151.2	237.7	433.7	308.3	607.9	740.3	83.6	1,633.7	194.5	4,390.0	1,377.4

Footnotes at end of table.

U.S. DIRECT AND INDIRECT IMPORTS OF PETROLEUM FROM OPEC COUNTRIES [1]—Continued

[In thousands of barrels per day]

	Algeria	Indonesia	Iran	Libya	Nigeria	Saudi Arabia	United Arab Emirates	Venezuela	Other OPEC [2]	Total OPEC	Arab members of OPEC
1974:											
Direct	190.2	300.1	468.8	4.4	697.6	460.6	70.5	979.3	88.3	3,259.8	748.5
Indirect	16.9	40.8	262.2	35.9	214.6	214.6	17.3	478.5	128.7	1,409.5	357.9
Total	207.1	340.9	731.0	40.3	912.2	675.2	87.8	1,457.8	217.0	4,669.3	1,106.4
1975:											
Direct	281.5	388.4	280.4	232.0	761.5	715.0	116.7	697.6	116.1	3,589.2	1,381.3
Indirect	6.7	49.3	244.4	97.3	76.3	176.6	37.5	332.5	143.2	1,163.9	408.8
Total	288.2	437.7	524.8	329.3	837.8	891.6	154.2	1,030.1	259.3	4,753.0	1,790.1
1976:											
Direct	428.3	537.4	298.5	453.3	1,025.2	1,229.8	255.2	699.2	134.0	5,060.9	2,421.0
Indirect	10.0	32.0	248.0	76.0	94.0	136.0	68.0	273.0	82.0	1,019.0	352.0
Total	438.3	569.4	546.5	529.3	1,119.2	1,365.8	323.2	972.2	216.0	6,079.9	2,773.0
1977:											
January:											
Direct	493.0	571.6	316.4	543.8	1,278.2	1,346.1	297.7	785.6	344.4	5,976.5	2,932.1
Indirect	18.8	99.2	323.3	159.8	146.2	204.9	102.3	278.5	129.6	1,471.6	583.0
Total	511.8	670.8	648.7	703.6	1,424.4	1,551.0	399.7	1,064.1	474.0	7,448.1	3,515.1
February:											
Direct	659.7	545.9	412.7	638.0	1,265.1	1,442.7	316.7	918.4	241.0	6,440.2	3,135.6
Indirect	18.8	99.2	332.3	159.8	146.2	204.9	102.3	278.5	129.6	1,471.6	583.0
Total	671.5	645.1	745.0	797.8	1,411.3	1,647.6	418.0	1,196.9	370.6	7,911.8	3,718.6
March:											
Direct	459.8	567.0	735.0	701.2	1,300.0	1,371.6	369.5	664.3	184.3	6,352.7	3,022.1
Indirect	18.8	99.2	332.3	159.8	146.2	204.9	102.3	278.5	129.6	1,471.6	583.0
Total	478.6	666.2	1,067.3	860.0	1,446.2	1,576.5	471..8	942.8	313.9	7,823.3	3,605.1
April:											
Direct	660.7	523.9	517.2	782.0	1,242.4	1,437.4	323.5	663.3	250.4	6,401.7	3,363.2
Indirect	3.3	56.2	215.0	90.0	65.2	122.7	97.9	162.9	75.3	888.5	377.1
Total	664.0	580.1	732.2	872.9	1,306.6	1,560.1	421.4	826.2	325.7	7,290.2	3,740.3
May:											
Direct	368.5	477.7	539.4	690.2	1,067.5	1,721.2	237.1	500.0	391.5	5,993.1	3,285.8
Indirect	3.3	56.2	215.0	90.0	65.2	122.7	97.9	162.9	75.3	888.5	377.1
Total	371.8	533.9	754.4	780.2	1,132.7	1,843.9	335.0	662.9	466.8	6,881.6	3,662.9
June:											
Direct	430.0	669.6	533.2	827.1	1,157.9	1,415.7	426.8	641.5	347.4	6,450.1	3,343.5
Indirect	3.3	56.2	215.0	90.0	65.2	122.7	97.9	162.9	75.3	888.5	377.1
Total	434.2	725.8	748.2	917.1	1,223.1	1,538.4	524.7	804.4	422.7	7,338.6	3,720.6
July:											
Direct	564.7	505.2	842.1	634.5	1,187.4	1,342.2	286.0	639.4	312.9	6,314.4	3,066.3
Indirect	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Total	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
August:											
Direct	587.0	486.1	467.7	607.7	927.3	1,219.7	249.8	492.9	277.0	5,315.2	2,803.9
Indirect	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Total	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

[1] Indirect imports refer to U.S. imports of petroleum products, primarily from Caribbean and European areas, that have been refined from crude oil produced in other areas. U.S. imports of these products have been prorated to each OPEC country of origin based on the share of total crude oil supply in the Caribbean and European areas which was imported from each OPEC country.

[2] Includes Ecuador, Gabon, Iraq, Kuwait, and Qatar.

Sources: Bureau of Mines Mineral Industry Surveys, "Petroleum Statement, Monthly," "PAD Districts Supply/Demand, Monthly," and FEA estimates.

U.S. PETROLEUM DEMAND (CONSUMPTION) DEPENDENCE ON MAJOR OPEC COUNTRIES [1]

[In percent]

	Algeria	Indonesia	Iran	Libya	Nigeria	Saudi Arabia	United Arab Emirates	Venezuela	Other OPEC [2]	Total OPEC	Arab members of OPEC
1973	0.9	1.3	2.5	1.8	3.5	4.3	0.5	9.4	1.1	25.4	8.0
1974	1.2	2.0	4.4	.2	5.5	4.1	.5	8.8	1.3	28.0	6.6
1975	1.8	2.7	3.3	2.0	5.1	5.5	.9	6.3	1.6	29.1	11.1
1976	2.5	3.3	3.1	3.0	6.4	7.8	1.9	5.6	1.2	34.9	15.9
1977:											
January	2.5	3.3	3.2	3.4	7.0	7.6	2.0	5.2	2.3	36.4	17.2
February	3.3	3.2	3.6	3.9	6.9	8.1	2.0	5.8	1.8	38.7	18.2
March	2.6	3.7	5.9	4.8	8.0	8.7	2.6	5.2	1.7	43.3	20.0
April	3.8	3.3	4.2	5.0	7.4	8.9	2.4	4.7	1.9	41.5	21.3
May	2.1	3.1	4.4	4.6	6.6	10.2	2.0	3.9	2.7	40.3	21.5
June	2.3	4.0	4.1	5.1	6.8	8.5	2.9	4.4	2.3	40.5	20.5

[1] Total direct and indirect imports of petroleum from each country as a percentage of total U.S. demand.

[2] Includes Ecuador, Gabon, Iraq, Kuwait, and Qatar.

Note: Data may not add to total due to independent rounding.

SENATE—*Tuesday, October 25, 1977*

(Legislative day of Friday, October 21, 1977)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Keep thy heart with all diligence; for out of it are the issues of life.—Proverbs 4: 23.

Dear Lord and Father of mankind, in whom we live and by whom we are judged, help us to keep our hearts and minds in union with Thy spirit. Above the confusion of many voices help us to hear Thy voice saying "This is the way, walk ye in it." Give us grace to seek first Thy kingdom and righteousness, knowing that all else needful will be added. Crown our efforts with completed legislation which fulfills the highest and best for this Nation and contributes to peace and justice in the world.

To Thy holy name we ascribe all the glory and thanksgiving. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 25, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Thursday and Friday, October 20 and 21, 1977, respectively, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no need for my time.

Mr. BAKER. Mr. President, I, for the moment, suggest the absence of a quorum on my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President. I ask unanimous consent that the Committee on the Judiciary be permitted to meet until the hour of 2 p.m. during the session of the Senate today to consider revision of the Criminal Code and other committee business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanmious consent that the Committee on Commerce, Science, and Transportation be authorized to meet until 12 o'clock noon today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RETURN OF SENATOR HUMPHREY

Mr. ROBERT C. BYRD. Mr. President, the distinguished Deputy pro tempore of the Senate, Mr. HUMPHREY, will be on the floor today at 2 p.m., and I would hope that all Senators would so arrange their schedules as to be present upon his return.

The ACTING PRESIDENT pro tempore. I thank the Senator from West Virginia.

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order, and I yield it back.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Illinois (Mr. PERCY) is recognized for not to exceed 15 minutes.

The Senator from Illinois.

TRIBUTE TO SENATOR HUMPHREY

Mr. PERCY. Mr. President, I think it very important that Senator HUMPHREY is back with his colleagues today. Senator HUMPHREY has undergone a physical trial with which we are all familiar. He has demonstrated tremendous courage, tenacity, and devotion second to no one that I know of.

THE ENERGY CRISIS: A FAILURE TO ACT

Mr. PERCY. Mr. President, Senator HUMPHREY and I founded some many months ago the Alliance to Save Energy.

Yesterday, I was in Tucson, Ariz., at a National Conference on Energy sponsored by the University of Arizona, and cosponsored by the Alliance to Save Energy.

Constantly at that conference the attendees questioned me as to what the U.S. Senate is doing about the energy crisis. I ask unanimous consent that my Tucson conference speech be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. One aspect of the energy crisis, the desire to save energy and conserve energy, was one of those subjects to which many of my colleagues, together with Senator HUMPHREY, had devoted themselves for many months.

I think we have all been disturbed at the inability of the country to move toward a policy that will create energy through conservation, a part of the policy that the President declared was a centerpiece of his own energy program.

I am deeply disturbed that the Senate is acting as if the energy crisis is not real.

Our track record to date is dismal. A number of urgently necessary but politically unpopular measures have been defeated, including a wellhead tax on oil, a gasoline tax, an oil and gas users' tax, and electric rate reform. The Senate instead has adopted only the easy, the popular and the most palatable: tax credits, loan programs, and studies that will postpone needed reforms. But even these measures are in jeopardy unless agreements with the House can be reached.

It would be unconscionable for Congress to adjourn this fall and go home without developing a long overdue national energy policy. This year we will import almost 9 million barrels of oil a day, at a cost of $45 billion. This is double the volume and almost 10 times the cost of oil imports in 1972, the last year before the embargo. What will we say to our constituents when they ask what we have done to cut imports? How will we explain to them that the Congress was incapable of tackling the problem? We need at least a significant start in this session, a bill on which we can build next year and in subsequent years.

I fear that we in the Congress have so far failed to attend to the longrun basic interests of the American people. For several years we have told each other in the cloakrooms that we need an energy plan. Now the House has presented us with one, but we have decimated it. Undoubtedly this is due in some measure to sharp but honest differences of opinion over what the policy should be, but it is also due to the public's apathy and to the credibility gap associated with the energy crisis. However, the Congress must take a large part of the blame for

not alerting the public and educating them to the real facts.

It causes some to wonder whether this institution is by nature capable of making hard choices today in order to prevent dire shortages and economic hardship 10 years from now, or whether we can only see as far as the next election. We may create a true political and economic crisis by our handling of the energy crisis.

At this critical juncture, with the energy tax bill before us, I believe it appropriate to remind ourselves of a few simple truths about energy.

World oil and gas reserves are finite. U.S. production has already peaked. World production will peak within 15 years. If the rest of the world burned oil at the American rate, we would consume within that 15-year span all the oil which geologists have ever speculated might exist. We can quibble about the timing of the ultimate depletion of reserves, not about its certainty.

Growth in energy demand can continue at its present rate only for a few years, without facing an involuntary brake. The necessary adjustment can come either voluntarily through deliberate policy initiatives, or involuntarily with an attendent depression and a loss of national independence. Recall last winter: industries were forced to close, their employees laid off, and families driven from their homes by a fuel shortage. We can easily create such a situation again.

For too many of my colleagues, energy policy means only energy supply policy. There is a widespread feeling that total decontrol of energy prices and subsidies for synthetic fuels and new nuclear technologies would end our crisis. It is felt that only this strategy will avoid great lifestyle changes. I wish to respectfully point out what I believe to be the fallacy of this thinking.

First, to consume our domestic oil and gas supplies even faster than we are now is a policy of "strength through exhaustion" or "drain America first." We would need to discover a new Alaskan North Slope every several years just to stay even with rising demand, and declining production from existing fields. Growth in consumption of these supplies is just a sophisticated way of stealing from our children.

I fully support free market pricing of new fossil fuel supplies: higher prices will encourage new production. But I am under no illusion that new oil and gas supplies can be more than a stopgap measure while we shift to use of renewable resources.

The other new centralized technologies likewise hold little promise as more than supplemental solutions. Severe technological, social, financial, and environmental problems plague the breeder reactor, synthetic natural gas, shale oil, and other similar technologies. They may very well never work economically, or may never produce enough energy to reduce our oil imports. They would absorb massive amounts of capital, depriving other economic sectors of needed investment dollars. They produce very few jobs per dollar invested in comparison with any other industrial investment. The spread of a plutonium economy, which is an intrinsic part of the breeder reactor, has profound implications for civil liberties, since we might need to increase domestic security and surveillance to guard against terrorists. Finally, the construction of these technologies would entail more large-scale centralized powerplants and systems. We ought at least to examine in a national debate the social implications of such a development.

Most of these technologies are uneconomical. Some will cause serious changes in lifestyle and standards of living. To promote them would involve large and perhaps permanent Government subsidies. The free market will not support them. I suggest we not disregard its signals.

We need instead to recognize a most fundamental principle: energy is a means, and not an end in itself. We should define the energy problem more accurately as the challenge of meeting our social and economic goals with the minimum amount of energy necessary. We must dispel the myth that increased use of energy means a better life, and that less energy means a lower standard of living. Instead, we should first pursue and give high priority to the one policy that makes the most economic sense: converting energy waste into energy supply via conservation.

Those who support a "strength through exhaustion" policy tend to describe conservation as curtailment: wearing sweaters in 60 degree buildings, waiting in line for gasoline, and limiting economic growth. They seem unable to understand that we can mine energy in buildings, cars, and industrial processes with insulation, more efficient engines, and better control systems. Conservation is energy supply. It is invariably our least expensive new supply option.

Living in a well-insulated apartment building, with a well-tuned and adequately-sized furnace in the basement and solar collectors on the roof will change no one's lifestyle in comparison with living in a drafty, poorly insulated building. But if we all live and work in the latter, our lifestyles will change after we burn up what low-cost supplies remain, and have to do without.

We need to listen to what the free market is trying to tell us. Even approaching zero energy growth is compatible with uninterrupted economic growth. The point is to increase our output of goods and services per unit of energy used. The key question is: Where is the statesmanship that will implement the policy measures we need to pursue this uniquely rational energy policy? Where is the leadership to convince the American people how necessary such a policy is?

In developing an energy policy, we need to get back to fundamental principles. The most basic tenet is that energy must be priced at its replacement—or marginal—cost, so that we value it at its true worth and allocate resources accordingly. Our second policy goal should be to take necessary nonprice actions that enable the market to work better. Finally, we must recognize the limits of the market, and be ready to correct it.

We cannot continue to foster energy waste by paying only the average cost, nor by subsidizing conventional energy supplies. To do so is to use more than we can afford, and to invite disaster as the marginal cost rises higher and higher.

Our economic structure is sufficiently robust to accommodate energy prices which reflect the full value of energy. What it cannot tolerate is a sharp and sudden reduction in energy supply. We will face such a reduction unless we correct energy prices.

In line with marginal cost pricing we need to take several steps:

We must decontrol the prices of new supplies of oil and natural gas, and let them find their own levels in a competitive market. Many claim that free market pricing of energy means artificial OPEC cartel pricing since all prices would tend to rise to OPEC prices. But they do not face up to the fact that other new supplies such as synthetic fuels cost much more than OPEC's $14 per barrel of oil. Ironically, we could almost guarantee that $14 a barrel oil will look like a bargain within a few years. OPEC has merely propelled us into the future sooner than we expected. I fully supported the Senate's decision to decontrol new gas supplies for this and other reasons. I hope Senate conferees will press their House counterparts on this point.

We also need to phase in taxes on supplies of old oil and gas in order to raise their prices to their replacement cost. I was sorely disappointed that the Finance Committee systematically disemboweled the President's energy package by eliminating all new energy taxes. I urge my colleagues to support a wellhead tax on oil—at least until oil is decontrolled—and the oil and gas users' tax on the Senate floor and in conference. While it is, of course, vital that energy producers receive a fair return on their investment, it is inappropriate that producers reap windfall profits. Higher prices for gas already under contract will not produce one more cubic inch of it. The difference between the full cost of production, including a fair profit, and the replacement cost should go to the public domain for energy research and development, for rebates to the public, for encouragement of conservation, and to make more feasible and thus speed up the development of alternative energy sources.

We need to reform rates for gas and electricity to eliminate volume discounts. The days have long vanished when the utility industries and the country can reward large users for wasting these precious resources in impressive amounts. Although I disagreed with the heavy-handed approach to rate reform the House took, I feel the electric rate bill the Senate passed is hardly worth having. I hope conferees will agree to at least allow Federal appeal of State utility com-

mission decisions, and to permit Federal guidelines on marginal pricing as DOE has urged.

We also need to eliminate subsidies to conventional energy technologies so that consumers, not taxpayers, pay for existing energy supply. This includes doing away with tax and accounting loopholes for fossil fuel producers and electric companies. It includes incorporating all environmental costs into the price of energy. For example, the cost of radioactive waste disposal should be part of the price of electricity from atomic plants. Fossil fuel burning plants should not be allowed to impose costs in the form of death and respiratory disease from air pollution on to those who live downwind. Individual subsidies must also go. Federal Government employees should not be given free parking at the taxpayers' expense, thus making the use of public transportation uneconomical. Consumers should not deduct State and local gas taxes on their income tax returns, a further subsidy to the automobile that costs the Treasury over $700 million per year. I hope the Senate will restore the repeal of this deduction to the tax bill.

Realistic prices are one way to make the market work. But we must also see to it that consumers can make decisions on an equal basis with producers. To that end, we must also take nonprice actions to help the market work properly at promoting renewable resources and conservation.

Interest rates and access to financing are prime determinants of the economic viability of any investment. Small businesses and consumers cannot compete with large companies for financing. Therefore, adequate loan and loan guarantee programs for renewable resources and conservation for homeowners, renters, and small businesses are necessary. These can include Government loans, mandatory programs through utility companies, and, of course, programs which work through existing financial institutions.

Both Houses of Congress included tax credits for solar and conservation investments by businesses and individuals. The Senate also added a solar loan program. We should have quick agreement on these provisions.

Consumers also need adequate and accurate information about insulation contractors, solar heating systems, cars, and appliances. It is fully proper for the Government to help provide information by requiring its disclosure and by working with all sectors of the economy to provide information, analysis, and technical assistance concerning energy saving. An example is the disclosure of auto mileage efficiency on car stickers. I am pleased that both Houses of Congress enacted new appliance disclosure provisions.

We must understand that the free market, with all of its advantages, has certain limits. It can deal only with efficiency, not with equity, and thus takes no account of income distribution. It will fail to develop and commercialize rational new technologies which take longer to commercialize than the 3 to 7 years for which businesses usually plan. The market puts no price on national security to be obtained from independence from foreign supplies. It makes no distinction between depletable and nondepletable resources, and does not take into account the needs of future generations. Because of economies of scale in production it has difficulty producing products appropriate for localized and small-scale uses. Lastly, in many cases energy is either too small a proportion of total cost for rational businesses or consumers to bother to save it, or else those who pay for energy are not the same persons as those who decide how much is used.

We must be willing to approximately intervene in these cases. It is necessary to ameliorate the effects of high energy prices on low income groups and other special hardship cases with rebates, weatherization programs, and similar special assistance. Such provisions are in the bills from both Chambers. The Government must act as a catalyst to help the invisible hand of the market to research, develop, and commercialize renewable energy resources, such as the power of the wind and the Sun.

Washington can encourage use of alcohol fuels by exempting them from Federal gas taxes. We should take a firm position encouraging conversion from oil and gas to coal, our only abundant fossil fuel. Here again the Senate backed down from the position which the House rightly took.

We must seriously consider whether an additional tax should be imposed on gas-guzzling cars and gasoline. We should encourage mass transit by abolishing the highway trust fund and replacing it with a transportation trust fund. Both the House and Senate have backed away from a gas tax. The Senate Finance Committee also rejected a gas-guzzler tax although the Senate did approve minimum fuel standards. No one has yet put forth a truly effective mass transit package. All of these measures are necessary to curb gasoline waste.

Government must work to overcome the obstacles to energy savings and use presented by outdated building codes, the innovation-resistant construction market, and the relationship between owners and renters. Washington must get its own house in order with life-cycle costing of new and old Government buildings, and vanpooling for its employees.

In another century and in another forum, Edmund Burke said:

> The public interest requires doing today those things that men of intelligence and good will would wish five or ten years hence had been done.

We must act in the public interest here today, or else our constituents will face the stern education of hardship in 5 or 10 years. The approach of statesmen must be to educate the public today about the seriousness of the crisis and about how more efficient use of energy can help to solve it. Such teaching and learning are the keys to preventing a dark and cold tomorrow.

I would like to mention just one thing. At this very moment Prince Saud, the Foreign Minister of Saudi Arabia, is in the Foreign Relations Committee having breakfast with a few of my colleagues. I will join them momentarily.

I read an interesting interview with the Prince which was published in the Washington Star last night. His Royal Highness was asked the question about oil price increases expected from the forthcoming Caracas conference of OPEC nations. Prince Saud, in a free enterprise economy, mentioned quite aptly it depends to a degree on supply and demand. How heavy is the demand? If the demand is going to be extraordinarily heavy and the supply is still somewhat limited, the price is going to increase.

That is an expresssion we should all understand. Certainly my distinguished colleague from Ohio, Senator METZENBAUM, a former businessman himself, would agree, that the law of supply and demand has not been repealed by the United States. And yet the demand continues to grow insatiably, 8.8 million barrels of oil per day are now being imported into the United States.

On behalf of the President of the United States, the Secretary of Energy Dr. Schlesinger in an international energy conference recently committed us to reducing imports to 6 million barrels per day.

How are we going to get there unless we get to work on it? The Senate has a responsibility today to begin that job. Otherwise, OPEC countries will have no alternative other than to work within the law of supply and demand and continue to raise prices, even though, in a statesmanlike manner, Prince Saud, on behalf of Saudi Arabia, indicated that he was well aware of the harsh economic impact such a price rise may have. Saudi Arabia is taking fully into account what effect this would have on the international economy, the economies of developing countries as well as the developed world.

I simply turn to my colleagues and ask for some commonsense to be built into this bill. We simply cannot go on as we are today, importing virtually 50 percent of our petroleum requirements, becoming more and more dependent upon outside sources, less independent and less able to stand on our own two feet.

Until such time as we develop a truly realistic national energy policy, we simply are not going to be able to say we have faced up to the situation and done something about it.

Mr. President, I ask unanimous consent that the text of the Washington Star interview with Prince Saud be inserted in the RECORD at the conclusion of my remarks.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS—PRINCE SAUD: OIL PRICE RISE A POSSIBILITY

(Prince Saud al-Faisal, the foreign minister of Saudi Arabia, was interviewed by Washington Star Staff Writers Roberta Hornig and Henry S. Bradsher.)

Question: There is going to be another meeting of the oil producing countries in Venezuela in December. Do you think there will be a price increase?

Saud: Well, of course, there are many issues that will be discussed as always happens in these meetings. One of these issues will be oil pricing. Whatever decision is taken on that, there will be a very thorough and complete analysis of the supply and demand picture as well as of the economies of the OPEC countries.

Question: But do you think there will be an increase?

Answer: I think there may be an increase in oil prices but I think that that increase will be tempered by the criteria I mention. I think they will indicate that a small price increase will be justified. I am encouraged by the announcements by most of the oil producing countries that the criteria would be the impact on the international economy. This is a view, of course that Saudi Arabia shares.

Question: As a practical matter though, the world economy right now is very shaky—to a large extent because of oil prices and balance of payments problem. In that case why is an oil price increase justified?

Answer: The price of anything proceeds with the supply and demand factors. As I said before, there are criteria which indicate that there should be an oil price increase. But again I think the other criteria which is just as important is the health of the international economy. These are the factors which will be weighed in the next meeting in Caracas. And I think the proper weight will be given to all factors.

Question: The question keeps recurring of whether Saudia Arabia might cut its oil production to obtain political leverage for a settlement in the Middle East. Is this a possibility?

Answer: We don't consider oil resources as a weapon to begin with. I think that we will do everything we can to achieve peace in the Middle East, to achieve a settlement. We think this is to our national interest. We will do everything we can to achieve this. But if your question was that if a state does *this* will Saudi Arabia reduce the oil supply or if another country does *this* will *they* raise the oil price, this is not how we deal with the oil increase.

Question: But there was an Arab oil embargo in 1973. Do you foresee a production cutback if at some point you believe a peace settlement is just not moving swiftly enough?

Answer: Well, as you know the oil embargo was established in 1973 in a war condition in which the United States gave not only moral support to Israel but also sent that bridge in the sky with weapons and tanks and very physical support during the battle. That was the cause of the oil embargo at the time. Under conditions of similar threats under war conditions—if we are attacked and if other countries aid our enemy in attacking us—I think we would use every resource to repel that.

Question: Could you see using oil in any condition other than war conditions?

Answer: We see oil as a resource more than as a weapon. It is a resource that's used for our development. It's a resource that's used to benefit our people. And it's a resource that we would like to cooperate with the rest of the world in order to bring benefits rather than to bring harm. I think definitely the Middle East is important to the international economy. There are the largest oil supplies, there are crossroads strategically for communications among the countries. It is an area that can have an impact on the international peace and security as well as the economy of the world. Under these circumstances, working towards peace and achieving peace will bring health to the international community. Allowing a trend to go towards war, I think, would bring tremendous harm. Not only for what individual countries will do to save themselves but as a general impact on the international economy. If war happens in the Middle East is the issue then whether Saudi Arabia is going to embargo or not embargo? I think the issue is whether that will create a third world war, not just will the oil be embargoed. And this is why it is so important and so critical at this period of time to weigh these eventualities and give them their proper weight and to work towards peace in a serious fashion. Not as a manuever but to work really for peace.

Question: Does the Saudi Arabian government feel that there has been any real or sufficient progress this year toward a settlement in the Middle East?

Answer: There are many areas in which we are encouraged. I think one of the encouraging factors is the new seriousness that the move towards peace is having after the joint United States-Soviet declaration that gave proper weight to the Palestinian problem as a central problem in the Middle East. That is very encouraging that the co-chairmen are seriously working towards convening the Geneva Conference for substantive matters which is the Palestinian issue. And then there is the announcement where they said how dangerous it would be not to. That also is an outlook that gives us hope for movement. I think the other area where there is hope for a settlement is the attitude of the Arab countries which I think have done everything they can to indicate their desire, their willingness to sit down and negotiate the settlement. The area that is tinted with pessimism is the Israeli government.

Question: Do you see any changes in the part of the Israel government since Mr. Begin was elected?

Answer: Yes, I see many changes. Everyday we hear of change but unfortunately it is a change away from peace rather than towards peace.

Question. Does that mean prospects for peace have actually been set back since last May?

Answer. I think if you go along with the continuous announcements by the Israeli government about who should be in Geneva, about what should be discussed in Geneva—I think there is a going back—and they don't reflect an attitude that they want to move forward.

Question. The Carter administration started off by talking about a Geneva Conference during 1977 but there are still many difficult issues, particularly the Palestinian representation to be solved. Do you feel that there is going to be something achieved this year?

Answer. The problem of representation, I think, is a problem only insofar as Israel is trying to put a veto on who should negotiate for a peace settlement. That is a dangerous eventuality. If you're going to negotiate with somebody and you hold that you must determine whom to negotiate with, this is dangerous and I don't think it should be acceptable to anyone.

Question. The U.S. government accepts the position that Israel has the right to veto any new additions to the 1973 makeup of the Geneva Conference. Are you saying then that this U.S. government position is wrong as well as Israel's own position?

Answer. I haven't heard that the United States government has a joint position with Israel on who should attend Geneva. I thought President Carter announced that he did not object to having the PLO represented in Geneva.

Question. But they also keep saying here that Israel or any other original member of the Geneva Conference has the right to veto any new additions to the membership.

Answer. To have the right to say who should attend Geneva—I don't think this is very reasonable.

Question. If the movement toward Middle East peace is seen now to be bogged down, what sort of effect would this have on the meeting of Arab leaders in Tunis in early November?

Answer. Well, a meeting for settling the Middle East problem peacefully is something to look forward to—it is a hope. We know that the problems are difficult, but they are also problems that have to be settled peacefully. If no movement is done on that, I think the impact will be very bad.

Question. Is that judgment going to be made very soon or are we coming to an end of a round of talks and many Arab leaders might now be ready to make a judgment on the success or failure of the Carter administration's recent efforts?

Answer. The timetable here is not something the Arabs have made. I think the effort was to convene the Geneva Conference in December. The mechanical problems in the meeting are really not the issues—the substantive issues. If there is no desire on Israel's part to move forward on that, then whatever meeting we have, whether we have it in December or in January, it will be a futile meeting. That's the important thing—to get the Israelis to agree to move.

Question: And what options would the Arab countries have then as a way of reacting to or trying to achieve a new momentum in the talks if they decide there's no movement possible on Israel's part?

Answer: They have their occupied land, they have their people who have been dispersed, they will continue to fight for it.

Question: Does this mean a new upsurge of guerrilla warfare in the West Bank, for instance?

Answer: The spectrum for possibilities after that, I think, are too wide to discuss in a proper fashion but I think the significant element is that you are moving away from peace and you're moving toward confrontation and war.

EXHIBIT 1

ADDRESS BY SENATOR CHARLES H. PERCY

Rocko Fazzolare, Craig Smith, Chauncey Starr, Marsha Untracht, conferees, ladies and gentlemen:

We are here today in the interest of energy conservation to pool our thoughts, to test our premises and to sort out our differences. After we have made this beginning, we must all face the challenging task of establishing global unity to make conservation a worldwide goal.

In recent years, our illusions about energy abundance have been shattered. Confrontation with hardship is at hand. Only through the emergence of a new unity can we even begin to solve the energy crisis, a crisis from which no nation is safe.

That is why this International Energy Conference, and other conferences of its kind, co-sponsored by the Alliance to Save Energy, is so vital to our understanding of the energy problem.

Foremost in your minds today should be energy conservation simply because it is the most economical and effective energy source. The Alliance to Save Energy was created to launch an awareness in the United States

of the need to use energy more efficiently in our daily lives.

Our major concern today is our growing dependence on imported oil. This dependence is truly alarming. It threatens the national security and the economy of each of our nations.

Before World War II, European countries were not dependent on other nations for energy primarily because of extensive use of coal. The United States was even exporting some of its domestic oil. Those days are gone forever, nothing more than foot marks in history.

Western Europe now imports 96 percent of its energy; the United States imports nearly 50 percent.

While the United States' vulnerability continues to be less than that of our allies, we are vulnerable nevertheless. The energy sources we use most are finite. World production from known oil and gas reserves is expected to peak in the next 15 years. In fact, if the rest of the world burned oil at the American rate, we would consume within that 15 year span all the oil which geologists have ever speculated might exist.

As the supply runs out, the cost will continue to rise. This fact alone is a great burden on every nation's economy. Presently, the United States is running a net trade deficit of $25–30 billion dollars a year. The European community, excluding Germany and Great Britain, is running a large balance of payments deficit. Italy and France are in a particularly precarious position because their financial reserves are low and their capacity to borrow from international lending institutions has been diminished.

Many countries dependent on imported oil are turning to the United States for help. They seem to think that it is necessary for the United States to maintain a permanent balance of payments deficit so they can have access to the money they need to meet their mounting oil bills. However, the United States cannot continue to run deficits because the value of the dollar will eventually be undermined, leading to a situation similar to that which occurred in the late 60's and early 70's when the international monetary system faltered.

The long-range economic and social implications of the energy crisis are a serious threat to the unity of the Western Alliance. The greatest possible friction in the coming years will not be between oil suppliers and consumers, but between competing customers.

We will be vying for the same oil. And we could face a more critical situation than we confronted during the Arab oil embargo in 1973 when every country tended to look out for itself. There was inadequate cooperation. We survived that crisis, but we will not survive the next embargo if the Western Alliance does not become a stalwart force to confront the oil producing countries.

That is why it is imperative that we reach a multinational energy agreement. The International Energy Agency (IEA), which was started in 1974 with 19 member nations concerned with dependence on imported oil, is striving to reach an agreement. In its attempt to solidify the West, the IEA has made significant strides. At the meeting in Paris last month, the member countries agreed to limit imported oil to a maximum of 26 million barrels per day by 1985.

Dr. James Schlesinger, the new Secretary of Energy, agreed to this figure and in his remarks at the recent IEA meeting in Paris he pointed out that President Carter's energy plan set U.S. oil imports in 1985 at 6 million barrels a day. The United States must reach that goal if we hope to encourage other IEA members to curb imports.

Reaching this goal will require strenuous adjustments. In the first seven months of 1977, the United States imported an average of 8.8 million barrels of oil a day. The projected average for 1985, with no awareness of the need to conserve, was 16 million barrels a day.

As Dr. Schlesinger said in his speech, everyone already knows what policies are necessary. The crucial point is to establish a common determination to see that these policies are implemented. He added: "On the solution of this problem rests the future of our free societies."

The crisis is that serious and the United States holds the key. Even though we import a lower percentage of oil than most European countries, we waste almost twice as much. The United Staates must convince Western Europe and Japan that we are willing to take the giant steps needed to curb our squanderous energy consumption.

Americans are highly efficient in many ways, such as advanced technology in computers and science. But we are highly inefficient in energy use. We are the energy gluttons of the world. If we want other IEA nations to take us seriously about decreasing our dependence on imported oil, we must take the lead in conserving energy.

To meet the international goals of reduced consumption, the United States must develop a comprehensive energy policy that will tailor our energy use to our energy need.

The Congress must put aside special interests and pass an energy plan that will drastically cut the precipitous rise in U.S. energy consumption.

Comprehensive energy legislation is now under consideration in the House-Senate conference. The Senate is completing the final component, the Energy Tax bill. So, we have come to the crossroads in developing a national energy policy. It is up to the Senate to decide if we continue down the path that ignores the energy crisis or choose to travel the road that tackles the energy crisis head on.

I hope the Senate will take the more challenging road. But our track record to date is poor. A number of necessary but politically unpopular actions have been defeated, including the wellhead tax on oil, a gasoline tax, the oil and gas users' tax and electric rate reform. Instead, the Senate has passed measures that are politically popular and easy to accept: tax credits, loan programs and studies that will postpone needed reforms.

Many people who believe we must continue to meet our increasing energy demand describe conservation as curtailment: wearing sweaters in 60 degree buildings, waiting in line for gasoline and impeding economic growth. But conservation can produce energy. We can mine new energy in buildings, cars and industrial processes with insulation, more efficient engines and better control systems in plants and factories.

In developing a national energy policy, we need to get back to fundamentals by encouraging and rewarding energy conservation, not energy use.

The Senate still has an opportunity to vote on some very important measures that will encourage every American to conserve. We must reform rates for electricity to eliminate volume discounts—the process that rewards the use of more energy. The days are past when the utility industries should reward large users for actually wasting energy.

We must allow the free market to work so consumers of energy have a realistic concept of the value of dwindling energy supplies. We cannot continue to foster energy waste by charging artificially low prices for nearly every form of energy we use.

The Senate must take strong actions to save energy by taxing gas guzzling cars, repealing the federal income tax deduction for state and local gasoline taxes and providing needed funds for mass transit.

We need an energy policy that reflects our needs now as well as the needs of future generations. The Senate is capable of taking the tough road—and I hope it does—so that our alarming dependence on foreign oil is curtailed and we can avoid economic disruption and reduce the ever present threat to our national security.

Many IEA member nations have developed their own energy policies. It only took them one warning, the Arab oil embargo, to know that their livelihoods were in jeopardy because of dependence on imported oil.

Sweden, for example, has a standard of living comparable to ours, yet the Swedish people consume only 60 per cent as much energy per capita. Because they have had to deal with the severe cold and have no domestic oil, their experience has convinced them not to spend vast amounts of capital on expensive and uncertain new energy sources. Instead, they spend their money—one-third of their research budget—towards developing progressively new and more efficient ways of utilizing current supplies.

On the other hand, the United States has spent half of its energy research money for the development of nuclear power.

There are alternate energy sources, but we have a long way to go in developing these new sources, especially because of the need to make them environmentally safe. It will be years before we make everyday use of oil shale, nuclear fusion and tidal power.

Even if these new sources can be developed, they will absorb massive amounts of capital investment and produce very few jobs per dollar in comparison with other industries. I do not believe the United States is willing to starve other key sectors of the economy to develop and produce new energy technologies.

For example, in the decade ending in 1974, demand for new energy in the United States led to an investment cost of more than $300 billion. For the decade ending in 1985, the Federal Energy Administration estimates that demand will rise less rapidly, mainly because of higher energy prices. But it is still the conventional wisdom that demand in this period will increase—and by as much as two or three per cent in a year.

This would mean a very large increase in energy consumption from the present level. The investment cost of meeting this demand with new electric power plants and other facilities has been estimated in the range of $550 billion to $1 trillion. That is about half to two thirds of all the investment capital we are likely to have available in the next decade.

The most logical alternative—economically and socially—for every IEA nation is energy conservation. We must recognize that energy is a means, not an end. Our goal must be to meet economic needs with the minimum amount of energy.

It is imperative that we cooperate because we are all vulnerable. That is why we are together today—to underscore the importance of using our energy sources more efficiently.

So let us make cooperation the cornerstone of this conference. Extend to each other your knowledge and your experience. And most of all, share your concern for international security, prosperity and growth.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—H.R. 5263

Mr. METZENBAUM. Mr. President, I ask unanimous consent that during the course of proceedings in connection with the energy tax bill, H.R. 5263, Rick Sloan and Roger Berliner of my staff be granted the privileges of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I ask unanimous consent that Rick Tourtellotte, of my staff, be granted the privileges of the floor during the consideration of the energy bill, H.R. 5263.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—H.R. 9090

Mr. PACKWOOD. Mr. President, I ask unanimous consent that Greg Dow, of my staff, be granted the privileges of the floor during the consideration of H.R. 9090 and any votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FEEDGRAIN SUPPORTS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 9090, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 9090) to exempt disaster payments made in connection with the 1977 crops of wheat, feedgrains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 1 hour, to be equally divided and controlled by the Senator from Georgia (Mr. TALMADGE) and the Senator from Kansas (Mr. DOLE), with 20 minutes on any amendment, debatable motion, appeal, or point of order.

The Senator from Georgia is recognized.

Mr. TALMADGE. Mr. President, I yield myself such time as I may take.

Mr. President, I ask unanimous consent that the following staff members of the Committee on Agriculture, Nutrition, and Forestry be granted the privilege of the floor during consideration of H.R. 9090, including all rollcall votes thereon: Mike McLeod, Carl Rose, Dale Stansburg, Karen Schubeck, and Dale Sherwin.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, this bill (H.R. 9090) would exempt disaster payments made in connection with 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitation contained in the Agricultural Act of 1970 and the Agricultural Act of 1949.

This bill is supported by the Secretary of Agriculture. It passed the House by a vote of 265 to 127. It is supported by the affected farm and commodity organizations.

For the 1977 crop, the limitation which applied to the total payments which any person can receive under one or more of the programs for wheat, feed grains, and upland cotton is $20,000 and the total payments which any person can receive under the rice program is $55,000. At the present time, the limitation includes both disaster payments and deficiency payments.

These limitations have been in effect since enactment of the Agriculture and Consumer Protection Act of 1973, except in the case of rice, for which the payment limitation became effective with the target price program for the 1976 crop.

Because of the escalating production costs and the increased size of the typical family farm, the level of the payment limitation was raised by the Food and Agriculture Act of 1977 for the 1978 crop to $40,000 for wheat, feed grains, and upland cotton payments and to higher amounts for subsequent years. In 1980 and 1981, the payment limitation is increased to $50,000—including rice.

Moreover, this limitation does not include disaster payments. The payment limitation for the 1977 crop was left unchanged from that in effect since 1974, despite the increased costs that have occurred since its enactment in 1973. Disaster payments were not excluded from the payment limitation for the 1977 crop, as was done in the new act for the 1978 and later crops.

Therefore, the bill is consistent with action already taken by the Congress in approving S. 275, the Food and Agriculture Act of 1977.

In excluding disaster payments from the payment limitation for 1978 and beyond, the 95th Congress recognized that disaster loss was no respecter of the size of farms and that it was unfair to limit the amount of disaster payments that a particular producer could receive.

Financial losses suffered by farmers because of disasters are financially devastating and could result in the loss of the farm.

In spite of the fact that we have record crops of some commodities, many areas have suffered severe drought losses. About two-thirds of the counties in this Nation have been declared as disaster areas, and many farmers in these areas have suffered tremendously.

The pending bill is merely an effort to bring the disaster payment program for the current crop year in line with the program authorized by the Food and Agriculture Act of 1977.

Mr. President, I hope the Senate will approve the measure now before it.

Mr. President, I reserve the remainder of my time.

Mr. DOLE. Mr. President, I ask unanimous consent that my statement be made a part of the RECORD. I think the distinguished chairman (Mr. TALMADGE) has explained the bill in detail. I would add that on September 13, 1977, I introduced a companion bill in the Senate, S. 2087. On September 15, Senator PACKWOOD, for himself and 12 other Senators, also introduced a similar bill in the Senate, S. 2013. I guess Senator PACKWOOD will be discussing that.

Mr. President, this bill (H.R. 9090) would exempt disaster payments made in connection with the 1977 crops of wheat, feed grain, upland cotton and rice from the payment limitation contained in the Agricultural Act of 1970, as amended, and the Agricultural Act of 1949, as amended.

On September 13, 1977, I introduced a companion bill in the Senate (S. 2087) that would accomplish the same purpose as H.R. 9090. On September 15 Senator PACKWOOD, for himself and 12 other Senators, also introduced a similar bill in the Senate (S. 2103).

1977 CROP

The total payment limitation for 1977 is $20,000 for all crops except rice. This payment limitation includes payments to farmers for deficiency of the market prices compared to the established price for a given crop. The limit also includes any payments made to farmers because of natural disasters suffered by those farmers.

We have many areas across the country today where some kind of disaster has hit—drought, flood, hail—causing loss of production and income by farmers. There is no reason to deny payments to farmers who have suffered losses because of adverse weather just because market prices are low and the natural disaster occurred in 1977 instead of 1978.

1978 CROP

We have resolved the payment limitation problem in the Food and Agriculture Act of 1977 for 1978 and thereafter. The Congress recognized that farmers' production costs are increasing and the family farms are larger. With this in mind, the payment limit was increased by Congress to $40,000 for the 1978 crops of wheat, feed grains, and upland cotton. The limitation was raised to higher levels for subsequent years. Disaster payments were excluded from the payment limitation because farmers cannot control natural disasters.

In this year of severely depressed farm income, exempting disaster payments from the payment limitation will improve the economic situation of thousands of farmers across the United States and the economic situation of the rural communities centered in the various disaster areas.

In the farm bill we made some changes in support levels for the 1977 crop. We should now correct our previous oversight by this adjustment which excludes disaster payments from the payment limitation. H.R. 9090 is merely a correction of the farm bill taking disaster payments out of the payment limitation issues. This will provide equity for pro-

ducers, who are already in economic distress, if they have suffered crop disasters through no fault of their own.

As a matter of equity and fairness, I believe all producers should receive full protection from disaster losses for the 1977 crop.

Mr. President, I urge my colleagues to support this bill (H.R. 9090).

Mr. President, I ask unanimous consent that Frank Cushing of Senator McCLURE's staff be granted floor privileges during consideration of this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, will the Senator from Kansas yield some time to me?

Mr. DOLE. Yes.

Mr. PACKWOOD. Mr. President, I rise in support of this bill. If we are going to do equity for the farmers of this country, it is only fair that we apply to this past crop year, 1977, the rules that would apply under this bill to any year in the future. That is, if they were entitled to disaster payments, those payments would not be counted against the maximum limitation that farmers can receive on price support payments. This year was the worst year that farmers have faced since the Dust Bowl of the thirties. It was, of course, unexpected. Had anyone in Congress, a year ago, known that 1977 was going to be the disaster that it was, we would have passed a bill which would have exempted disaster payments from the maximum price support limitations. In any event, that is what we are doing for future years. It is therefore only equitable that we apply the same standard to this past year that we are willing to apply to any year in the future.

The cost is relatively minimal. It has been passed by the House. It is supported by the administration. There is no good reason, in good conscience, to oppose the provisions of this bill and to bring a measure—and I say, Mr. President, a measure—of relief to the farmers that were so hard hit this past year.

Even under this bill, even in future years, those that are the hardest hit will not get full recompense. If we are willing to bail out a Lockheed, as we did 6 years ago—and, I might add, it worked successfully—if we were willing to give emergency relief to New York because of the tremendous problems that they have faced, then I think it is only fair that we say to the farmers of this country, who ask very little of this Government, that we will extend to them the same courtesy, the same sympathy, the same type of help that we are willing to give to the major cities of this country and to the major business corporations of this country.

I yield the floor.

Mr. DOLE. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. DOLE. I appreciate the comments of the distinguished Senator and his support for this measure.

I also want to say that the distinguished Senator from Idaho (Mr. McCLURE) is absent, but he supports the distinguished Senator from Oregon (Mr. PACKWOOD) and would vote for H.R. 9090 if were present.

Mr. PACKWOOD. I thank the Senator.

Mr. TALMADGE. Mr. President, this measure is supported by the distinguished chairman of the Budget Committee and the distinguished ranking minority member of the Budget Committee. I yield such time as the distinguished Senator from Oklahoma may require.

Mr. BELLMON. Mr. President, I thank the distinguished Senator from Georgia.

The chairman of the Budget Committee is on the floor at this time, but he has asked me to make this statement in behalf of the Budget Committee's position. I believe he will join me a little later with some comments of his own.

Mr. President, H.R. 9090 is a bill to exempt USDA direct grant disaster payments from the present limitations on 1977 crops of wheat, feed grains, upland cotton, and rice. I oppose this bill because it does violence to the second budget resolution and it can properly be called a give-away to benefit big farmers, who knew the rules of the game when the last crop year began.

Let me put this bill in the context of what it does to the second budget resolution and national priorities. When the Congress adopted the budget resolution only a few weeks ago, it provided generously for American agriculture. It provided $6.3 billion for outlays for the Agriculture function, and within that total, it assumed outlays of $4,811 million for farm price supports including some $447 million for USDA direct grant disaster payments. This reflected the very best estimates available at that time, and it was all anybody in the Congress suggested was needed to provide for the needs of the American farmer. This was a $4 billion increase above the administration's February 22 budget request for spending for the Agriculture function. So although I fully understand the problems which have arisen due to drought, floods, and natural disasters and their effect upon farmers, it cannot be said that the second budget resolution did not generously provide for agriculture. Indeed, it went beyond what many of us thought should be provided.

In addition, only a few days ago, the Senate adopted the Hollings amendment to the District of Columbia appropriation bill, for 1978, which provided $1.4 billion for SBA disaster loans for farmers at low-interest rates. Although that bill is now in a Senate-House conference, it is almost certain that before Congress adjourns, that the SBA disaster loan program will have that $1.4 billion available for spending.

Farmers can also qualify for low-interest rates loans from the Farmers Home Administration. This has been one of the traditional approaches to provide needy farmers with operating capital in times of disaster.

Farmers have, indeed, received generous support from the Congress this year. There is also no question that this has been a difficult year for farmers. Low prices, bad weather, and natural catastrophes have hit an unusually large number of farmers this year. We all understand that. Every Member of the Senate understands that fact.

Let me describe what this bill does. First, this bill will permit about 4,000 farmers with the average allotments of 400 to 1,000 acres to receive direct grants averaging between $3,000 to $15,000 above the payments they already will receive under current law. This bill substitutes direct grants in lieu of low-interest loans that will eventually return the money to the Treasury.

Second, although the amount of outlays provided by this bill is small—about $29 million according to the best estimates by the Congressional Budget Office and the U.S. Department of Agriculture—it is very likely to lead to a $0.1 billion breach of the agriculture function outlay ceiling in the second budget resolution. Projected outlays for the agriculture function, including $70 million for potential later requirements for agriculture research and services authorized by the Food and Agriculture Act of 1977, total over $6.3 billion. When we add the spending provided by this bill, the agriculture function outlays will total $6.4 billion, $0.1 billion above the functional ceiling in the second budget resolution. While there would likely be some reduction in fiscal year 1978 outlays in the SBA disaster loan program in function 450, the Treasury will still eventually lose $29 million because of this bill.

Third, this bill exceeds the Agriculture, Nutrition, and Forestry Committee's direct spending jurisdiction by $29 million under its section 302(b) crosswalk.

Only a few days ago, the chairman of the Agriculture, Nutrition, and Forestry Committee came to this body and filed what we call the Budget Act crosswalk in which he set out how his committee would spend the money allocated to it in the second budget resolution. Just a few days later, we find that he is asking this body to pass a bill that will exceed the amount allocated in that report. His report to the Senate on October 17 shows that the Agriculture, Nutrition, and Forestry Committee projects spending of $4,811 million for Commodity Credit Corporation (CCC) price support programs, programs within its direct spending jurisdiction. The amount of spending in this bill was not included in the $4,811 million estimate for these programs. Moreover, there are already estimates by USDA that outlays for CCC price support programs are likely to increase by $1.3 billion to $2.3 billion above the $4.8 billion which the Agriculture Committee has indicated it will spend for price support programs and which was provided in the second budget resolution.

Mr. President, I would like to digress from my prepared statement just to say this. I am a farmer. I represent a farm State. I am very interested and vitally concerned that we have good agricultural programs.

There is a real danger, in spite of the vote that was alluded to on this par-

ticular bill, that in trying to do too much for some farmers we are going to wind up causing a serious erosion in the Congress in support for needed farm legislation.

The nature of agriculture is such that it gets into financial problems from time to time due to weather, due to changes in the markets, due to, sometimes, plant diseases, and when those conditions occur, certainly, we in the Congress need to be in a position to help.

But here is a case where money is already available to these producers from the SBA through low-interest loans, through the Farmers Home Administration, through, also, favorable conditions, and now we propose to come along and give a relatively small number of farmers an additional $29 million which they could very well get from other sources, which through these low-interest loans would have to be represented.

I feel that the damage this bill will do to agriculture in the long run far exceeds the benefits that would come to that small number of farmers from the passage of this bill.

Mr. President, apart from these budget considerations, how does this bill relate to farm programs. First, we are changing the rules governing USDA disaster payments, after farmers knew what the law provided for 1977 crops when those crops were planted. Every farmer knew at the beginning of this year that there was a $20,000 limit on USDA direct payments for all crops except rice, which had a $55,000 limit for the 1977 plantings. Now here we are in October after plantings and most harvests are over. We are told we ought to change the rules. Second, there are low cost loan programs available to farmers if this bill does not pass. This bill simply gives direct grants in lieu of loans to farmers. Third, this bill provides benefits for those farmers who have large allotments and large acreages. It is not a relief bill for small farmers but a giveaway to big farm businesses.

Mr. President, there are many pressing demands on the Federal budget. As chairman of the Budget Committee, nobody knows that better than I. When we considered the second budget resolution we had many pressing demands for worthy programs. There were the needs of the cities, national defense, veterans, education, energy, and a multitude of other national priorities. But, as everyone in this body knows, there simply is not enough money to fund every worthwhile program if we are to keep taxes and the deficit in any reasonable perspective. So we had to cut out many worthy requests for money. I favored many of these requests. But when it came to agriculture and the farmer, I can say with conviction that the Congress gave the Agriculture Committee and the Appropriations Committee what they asked for. Now we are told here today that we must hand out more money to a few large farmers. We are told that we must do this because somebody forgot to include the provisions of this bill in the omnibus farm bill that the President signed into law 3 weeks ago.

If we are to have a budget process in the Senate, we must draw the line on spending such as this which exceeds what anyone intended in the second budget resolution. If this were a major bill, I would request a rollcall vote against this bill and urge my colleagues to do the same. If another measure of major proportions should come to the floor, I would certainly take that course of action. However, in this case the $29 million overage may be greatly reduced because of tradeoffs with other disaster programs. But, at the same time, it is a breach of the budget resolution. I believe Members of the Senate ought to recognize that when we undertake actions of this kind we are doing far more than simply spending $29 million, we are eroding the effectiveness of the budget process which is only now getting started. In this case, we are doing it for the benefit of very few individuals, who can be helped in other ways.

Mr. President, under these circumstances, I will register my objection and urge my colleagues not to let this bill set a precedent for future legislation.

Mr. President, I yield to the chairman of the Budget Committee.

Mr. TALMADGE. Mr. President, I yield to the distinguished chairman of the Budget Committee such time as he may desire.

Mr. MUSKIE. Mr. President, I thank my good friend from Georgia.

I would like to express my appreciation to my good friend from Oklahoma, the ranking minority member of the Budget Committee, for making this statement on behalf of the Budget Committee.

I happen to be afflicted with a painful right leg at the moment, which makes it difficult for me to stand for more than a few minutes. But I would like to endorse what Senator BELLMON has said.

Let me just repeat a few pertinent facts. I have given the Senate these facts before, but I think they need to be repeated.

When the President sent up his agriculture budget in February, he requested outlays of $2.3 billion. That figure has steadily climbed.

The Budget Committee, when it reported the second budget resolution, increased the target ceiling for agriculture outlays to $5.6 billion. Eventually, Congress increased even that amount to $6.3 billion in the second budget resolution.

Now, the current estimates of programs covered by that $6.3 billion target ceiling are that they will rise to $8.1 billion and conceivably to $8.6 billion—all of this in the 8 months since February.

That is in the agriculture function, function 350.

In addition, a short time ago, the Hollings amendment to the District of Columbia appropriations bill added another $1.4 billion for SBA disaster loans in function 450 of the budget, and that $1.4 billion will only take that program through January. It is estimated that up to another $1.4 billion will have to be added in order to carry that program through fiscal 1978.

Let us add those figures; $8.6 billion is the potential estimate for outlays in agriculture function 350. The total of SBA disaster loans of $2.8 billion in function 450 will take that figure to close to $11.4 billion in fiscal 1978 for agricultural programs and disaster relief programs, as compared with the $2.3 billion which the President requested in his budget of February of this year.

If we were to follow a similar pattern for every group in our society which can establish a need, we might as well kiss the budget process good bye.

No one argues that weather has not created severe and serious problems for our farmers; but the record of this session is that, in the name of that emergency, any legislation should be approved. Out of the blue, every few weeks or so, we get another request for another addition to these programs.

This is not a heavy outlay program we are talking about. It involves an outlay of $29 million in fiscal 1978. But, Mr. President, these are direct grants to farmers who would be eligible for the 3 percent loans that we approved just a few weeks ago; and one of the arguments was that those were loans, after all, that would be repaid by those farmers. That was the argument. Now we are told that this bill would benefit the larger farms of 400 to a thousand acres—about 4,000 of the larger farmers—and that now the 3-percent loans are not enough, that we must substitute grants up to $29 million which will not have to be repaid.

Mr. President, I know that on a rollcall vote—and Senator BELLMON and I are going to request one—we probably will be defeated overwhelmingly. Why do we ask for the rollcall vote? Because we think it is our duty to remind the Senate that the budget process is something more than choosing between good programs and bad programs. It is something more than discarding programs that are demonstrably unjustified. It means exercising the same restraint on programs for which one group or another of our society can establish a need that would appeal to our compassion, to our hearts, to our sense of pity. We have been generous with the farmers this year. The figures I have recited demonstrate that.

I am sure we cannot defeat this program. What I am concerned about is not so much this $29 million but the precedent it sets for every constituent group in this society who will come before us and make a case for breaching the congressional budget.

Before long, we are going to be asked to consider the Humphrey-Hawkins bill. I can just hear the arguments now: The Humphrey-Hawkins bill does not go far enough. It does not provide enough programs for the unemployed. It does not provide enough money. It does not set a high enough target. I suspect that one of the arguments will be the precedent we are setting today, and which we set a few weeks ago, that, after all, we did this much for the farmers; why can we not do as much for the unemployed?

Then, I can hear other groups coming before us and making the same arguments, using the mounting precedents that we will accumulate, that we have to spend more money for this group or that group or another group. Perhaps that is the trend that is being set. Perhaps the death of the budget process is in motion. Perhaps the momentum is beginning to accumulate. If that is the case, history will demonstrate whether or not that fear materializes. But it is the duty of Senator BELLMON and me to point out the dangers.

We started with $2.3 billion. In May, we went to $4.35 billion. In September, we want to $6.3 billion. Then we added $1.4 billion. Then the estimate of $6.3 billion climbed to $8.1 billion, and the recent estimates are that that is going up to $8.6 billion, and the $1.4 billion is being doubled to $2.8 billion, and now we have the $29 million.

Where do we stop? What is next month's agricultural program going to be, if we are in session that long? That is the question the Senate has to ask and answer.

I am not going to argue with the distinguished Senator from Georgia, whose chairmanship of the Agriculture Committee is one of the performances I have admired over the years, that there is no case for this. My point is that we have gone as far in terms of the budget as we should go, especially since only a few weeks ago we provided a 3-percent program for the very people to be benefited by this program.

That is the case, Mr. President. I do not know why I become so vigorous, with only four or five of us in the Chamber. Nobody is hearing the argument, except Senator BELLMON and those who already are committed to the other side. But I think the record should be made and Senators asked to focus on it by a roll-call vote, even though we will be defeated overwhelmingly. I suspect that we have more than this defeat to face in the Budget Committee, as we move in response to appeals to our compassion for one group or another in our society.

I have talked longer than I intended, but that is a Muskie inclination, once a subject seizes me. I have made the case. I am not going to belabor it, as my good friend from Georgia understands. We are making the record. There will be a vote. I have not much doubt about the outcome.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. TALMADGE. I yield.

Mr. PACKWOOD. Mr. President, today, the Senate will decide the financial fate of many, many producers of wheat, feed grains, upland cotton, and rice. Several natural disasters have occurred this year which necessitate special consideration for those producers hardest hit. Drought, floods, rain, hail, and heavy winds have had a severe localized impact on many States' farmers. Farmers of these commodities would normally be adequately compensated by the Federal payments made to ease the impact of these disasters.

But this year, the worst year on record for drought, the wheat producers in my area are also devastated by prices that are less than one-half what they were getting just 2 years ago. Bumper crops in the Midwest have driven prices far below the cost of production. Producers are, therefore, eligible for substantial price support payments.

When you add together the dual disasters of low production and low prices, the need for Federal assistance is acute. Yet, relief programs for the 1977 crop year are limited by an arbitrary level of $20,000 for wheat, feed grains, and upland cotton.

The $20,000 limitation is intended to prevent windfalls to huge producers. This year, even the less than average sized producers will be prevented from receiving adequate relief unless some change is made.

On September 15, Senators ALLEN, CHURCH, CURTIS, HATFIELD, JACKSON, MCGOVERN, MAGNUSON, MELCHER, METCALF, SPARKMAN, TOWER, YOUNG, and ZORINSKY joined me in the introduction of S. 2103, a bill to exempt disaster payments from this severe limitation. An identical bill was introduced by Representative FOLEY, chairman of the House Agriculture Committee. His committee by a vote of 36 to 8, urged the adoption of the bill on September 27. The record of the hearings include a statement of support by Secretary of Agriculture, Bob Bergland, and an assessment of the cost by the Congressional Budget Office and USDA, of between $25 and $30 million. The committee's dissenters cited primarily budgetary reasons for their opposition.

On October 5, the House Committee on Appropriations also favorably reported the bill. The House of Representatives passed the bill, H.R. 9090, by 265 yeas to 127 nays on Monday, October 17.

Senator TALMADGE, feeling that Senate Agriculture Committee hearings on my identical bill, S. 2103, were not needed, agreed to hold H.R. 9090 at the desk after House passage in order to greatly expedite Senate action and provide the necessary relief at the earliest time possible.

During House consideration of the bill, several questions were raised which I feel merit a point-by-point response.

First. This bill is the Fat-Cat Farmer Relief Act of 1977.

This statement is not supported by the facts. In the Pacific Northwest, dryland wheat producers are harvesting roughly one-half of the historically established yield because of drought.

An average-sized ranch includes approximately 2,000 acres, but only half of that is in production because the rest lies fallow to retain moisture in the soil. The lack of moisture in normal years means this ground only yields an average of 30 bushels per acre. This year, Pacific Northwest dryland wheat producers harvested an average of 15 bushels.

Deficiency, or price support, payments on this average-sized farm will be $9,750. This figure is the result of multiplying 65 cents per bushel (target price of $2.90 minus loan rate of $2.25) times 15,000 bushels (1,000 acres times 15 bushels per acre).

Also, this hypothetical, average farmer, would receive $14,550 in disaster, or low-yield, payments. This figure is the result of multiplying 97 cents per bushel (computation mandated by the farm bill) by 15,000 bushels (the bushels not produced because of drought).

Adding these figures together results in the average farmer being eligible for $24,300, but for the $20,000 limitation on his Federal assistance.

Therefore, I say one again, the allegation that this bill is fat-calf relief is totally unsupported by the facts. Even a smaller than average producer harvesting 800 acres in Oregon, Washington, and Idaho will be adversely affected without my bill to exempt disaster payments.

Second. Opponents in the House of Representatives said $20,000 is enough subsidy for any farmer. Giving them more is just lining pockets.

Below are 10 items that go into the production of wheat on an average-sized dryland wheat ranch. I ask my colleagues whether they believe the farmers are lining their pockets with profits.

Items	Cost	Useful life (years)
1. Wheat combine	$50,000–$60,000	10
2. Tractor (D–6)	50,000–75,000	10
3. Trucks, two	30,000	8
4. Set of drills	10,000–15,000	20
5. Weeders	10,000	10
6. Chisel plow	8,000	20
7. Springtooth cultivator	8,000	20
8. Seed	4,000	1
9. Labor (hired)	10,000	1

10. Land, buildings, shop, interest on loans, fuel, fertilizer, taxes, insurance, proprietor's labor cost, etc.

I do not think we need to worry about farmers receiving excess profits. I have yet to see a successful farmer fail to reinvest the large majority of his earnings.

Third. Some House Members, admitting the seriousness of the situation, believed the problem should be taken care of by loan programs through Farmer's Home Administration or the Small Business Administration.

I held 2 days of hearings for the Senate Small Business Committee in Oregon during August for the express purpose of determining what drought relief is necessary in the agricultural community. I was able to announce the availability in Oregon of SBA loans of up to $250,000 at only 3-percent interest. The news was well received, but the witnesses at those hearings impressed something upon me I will never forget. They testified regarding the extent to which they are currently borrowing from banks, Federal agencies and whatever other sources are available. Frankly, they are borrowed out. As anyone knows, there is an upper limit to the value of a loan. When it cannot be paid back, no matter what the rate

of interest, that loan is creating more problems than it solves. The millions of dollars lost in the 1977 drought cannot be brought back by huge loans at low rates of interest.

Fourth. Some will argue that this bill would change the rules in the middle of the game. Farmers knew the rules before they planted and they should be expected to live by those rules regardless.

I would hate to think that anyone would regard the rules more highly than providing sustenance for those who have provided it to us for so long. When difficult times have encompassed Americans in a number of circumstances in the past, we have "changed the rules." We changed the rules for the Penn Central Railroad. We changed the rules for Lockheed. We came to the assistance of New York City. Disasters like drought do not respect the size of the farm they devastate. I hope we will not discriminate by cutting off assistance to those who need it most. Providing financial relief is almost by nature changing the rules.

I have a chart prepared at my request by the Congressional Research Service. The chart shows the impact my bill will have on dryland wheat producers in the Pacific Northwest. The vertical axis indicates the dollar amount received by a farmer who is producing one-half of his normal yield.

Producers in my area who average a harvest of 30 bushels to the acre are harvesting roughly 15 bushels this year. The horizontal axis indicates how many acres the farmer is harvesting. An average size farm in the Northwest is approximately 1,000 acres.

Under current law, no payments would be made over $20,000 for both the deficiency and disaster payments. Under my bill, disaster payments are not included in the $20,000 limitation, so they could rise based on the severity of the drought. If a large farmer receives his maximum deficiency payment of $20,000, thereafter the total payment increase only reflects the magnitude of the disaster.

This is a very simple bill. It is a fair bill. It is necessary. I urge my colleagues to support it.

Mr. BELLMON. Mr. President, will the Senator yield me 3 minutes?

Mr. TALMADGE. I yield to the distinguished Senator from Oklahoma.

Mr. BELLMON. Mr. President, there is one other danger I should like to point out, as it relates to this bill.

As the Senator knows, I am a member of the Agriculture Committee. We possibly could make adjustments in other programs so as to remain within the appropriate fiscal totals. However, that may be difficult, since all spending legislation is now in place, except for the agriculture research, which will be funded by the Appropriations Committee in the near future.

I strongly doubt the wisdom of subtracting $29 million from agriculture research. If there is one spending effort we make in Congress that I feel returns rich benefits, is in agricultural research. I am not going to be in favor of subtracting $29 million from agricultural research in order to give these substantial sums of money to a small number of fairly large farmers.

In addition, Mr. President, we already seen a huge jump this year in disaster spending. Floor debate on SBA disaster loans promised a comprehensive study of all our disaster assistance programs. This forthcoming disaster study hopefully will help us avoid in the future the kinds of budget problems posed by the widespread drought this year. Long ago, I expressed the opinion that, at a minimum, disaster programs needed such features as credit tests, near-market level interest borrowing rates, and proof of significant loss to avoid potential program abuse. I would hope that the study would look into the viability of such recommendations. As of now, the multitude and complexity of the many disaster loan and grant programs make evaluation difficult.

To sum up, Mr. President, I oppose H.R. 9090. I feel this legislation does present potential damage to the budgetary process, that it is unnecessary in light of recent congressional action providing additional funding for the SBA disaster loan program.

The ACTING PRESIDENT pro tempore. The Senator's 2 minutes have expired.

Mr. BELLMON. Mr. President, will the Senator yield me 1 additional minute?

Mr. TALMADGE. I yield 1 additional minute to the Senator from Oklahoma.

Mr. BELLMON. And, further, the removal of the payment limitations retroactively is an unwise policy for Congress to attempt whether it relates to agriculture or any other area of endeavor.

There is a genuine need for a review and updating of the country's entire disaster programs but this legislation does nothing to accomplish that objective. The roughly $29 million cost of H.R. 9090 would go primarily to individuals who have ready access to other funds and who were fully aware of the $20,000-payment limitation which was in place when they planted their crops.

I consider this expenditure to be an unexpected, unnecessary, and undeserved bonanza for a relatively few large farmers.

Mr. TALMADGE. Mr. President, is the distinguished Senator from Kansas prepared to yield back the remainder of his time?

Mr. DOLE. Mr. President, I yield back the remainder of my time.

Mr. MUSKIE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. TALMADGE. I yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, I ask unanimous consent that a "Dear Colleague" letter distributed today be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON THE BUDGET,
Washington, D.C., October 24, 1977.

DEAR COLLEAGUE: The Senate will soon consider H.R. 9090, a bill to exempt U.S.D.A. direct grant disaster payments on 1977 wheat, feed grains, cotton and rice crops from payment limitations. I want to report on the relationship of this bill to the Second Budget Resolution and on its impact on the farmers of this nation.

This bill exceeds the Agriculture, Nutrition and Forestry Committee's direct spending jurisdiction by $29 million under its Section 302(b) crosswalk. Only two days ago, the chairman of the Agriculture Committee filed what we call "the Budget Act crosswalk" in which he set out the manner in which the Committee would spend the money allocated to it in the Second Budget Resolution. The crosswalk report from the Agriculture Committee to the Senate shows that the direct spending jurisdiction of the Agriculture Committee projects spending of $4,811 million for Commodity Credit Corporation (CCC) price support programs. The amount of spending in H.R. 9090 *was not included* in this estimate. Moreover, there are already estimates by U.S.D.A. that outlays for CCC price support programs are likely to increase by $1.3 billion to $2.3 billion above the $4.8 billion which the Agriculture Committee has indicated are necessary for price support programs and which were assumed in the Second Budget Resolution.

Indeed, when Congress adopted the Second Budget Resolution only a few weeks ago, it provided $6.3 billion for outlays in the Agriculture function, and within that total it anticipated outlays of $4,811 million for farm price supports, including a generous $447 million for U.S.D.A. direct grant disaster payments. Although I fully understand the problems which have arisen such as drought, floods, and natural disaster and their effect upon farmers, it cannot be said that the Second Budget Resolution did not generously provide for Agriculture. Moreover, alternative sources are available to meet the needs of farmers arising from disasters. The Senate recently adopted the Hollings amendment to the FY 1978 D.C. Appropriation bill which provided $1.4 billion for SBA disaster loans for farmers at low interest rates. Although that bill is now in a Senate-House conference, it is almost certain that before Congress adjourns, those funds will be available for spending through the SBA disaster loan program.

In addition, farmers can also qualify for low interest loans from the FmHA. This has been one of the traditional approaches to provide needy farmers with operating capital in time of disaster.

This bill will permit 4,000 farmers with average allotments of 400 to 1,000 acres to receive direct grants averaging between $3,000 and $15,000 above the payments they already will receive under current law. The larger the farm allotment, the larger the increased grant. This bill would substitute direct cash grants in lieu of low interest loans that would eventually return money to the Treasury.

Although the amount of outlays provided in this bill is small, (about $29 million according to the best estimates of CBO and the U.S.D.A.), it is likely to lead to an $0.1 billion breach of the Agriculture function outlay ceiling in the Second Budget Resolution. Avoidance of this breach can only occur if a comparable reduction is made in funding for Agriculture research and services, a program that the Agriculture Committee and the Appropriations Committee have historically supported.

Finally, I would note that there are many pressing demands on the Federal budget. As chairman of the Budget Committee, nobody knows better than I the many worthwhile programs which plead for Federal funding. There are many people in divergent sectors of the country whose needs are great. Our limited Federal dollars must be responsibly

allocated. The Congress has stated its priorities in the spending allocations in the Second Budget Resolution. We must abide by our decisions if we are to have a meaningful Congressional budget process.

Sincerely,

EDMUND S. MUSKIE.

Mr. TALMADGE. Mr. President, I am prepared to yield back the remainder of my time.

When I yield back the remainder of my time, I shall suggest the absence of a quorum. We will need 11 Senators in the Chamber to order the yeas and nays as requested by the distinguished Senators from Maine and Oklahoma, and when we get the 11 Senators, I expect to withdraw the quorum call. At the suggestion of the distinguished majority leader and with the concurrence of the distinguished Senator from Kansas as well as myself, this record vote will be set for 2:30 p.m. this afternoon.

I yield back the remainder of my time, and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ROLLCALL VOTE AT 2:30 P.M.

Mr. TALMADGE. Mr. President, I ask unanimous consent that, when the yeas and nays are ordered, the vote will occur at 2:30 p.m. today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR WAIVER OF PARAGRAPH 3, RULE XII

Mr. TALMADGE. And I ask unanimous consent that paragraph 3 of rule XII be waived.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, I ask for the yeas and nays on the bill.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TALMADGE. Mr. President, as I understand it, unanimous consent has already been given to have a record vote on this bill at 2:30 p.m. today.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXEMPTING DISASTER PAYMENTS FROM PAYMENTS LIMITATIONS

Mr. ALLEN. Mr. President, I support H.R. 9090. On September 15, I joined my distinguished colleague, Senator BOB PACKWOOD of Oregon, in sponsoring S. 2103 which is an identical bill to H.R. 9090.

It is imperative, Mr. President, that we pass this legislation currently before us. This bill would exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the limitations imposed by current law which states that Federal payments to help with disaster losses and support prices must not exceed $20,000.

This law was part of the provisions of the Agriculture and Consumer Protection Act of 1973. At that time no one could possibly foresee the calamitous weather conditions which were to befall our farmers this year. Alabama suffered what could well be its most severe drought in history. Our corn crop has been a total loss and the cotton yield has been reduced by one-half. Though not covered by disaster payments, our pasture land has been destroyed.

The situation is incongruous in that while there is a record corn harvest in the remainder of the country keeping the prices at a low point, farmers of my State have lost their corn crop and stand in need of every bit of assistance possible.

In addition to the disaster and low farm prices my farmers have been frustrated by Government redtape and a lack of funds in Federal assistance programs. In the fiscal year 1978 agricultural appropriations bill, I joined Senator TALMADGE, the distinguished chairman of the Senate Committee on Agriculture, in securing an appropriation of $50 million for use in the Southeast for drought relief in 1977 through the Department of Agriculture's drought and flood conservation program. Alabama was allocated $4 million for this emergency program to replant vegetative cover. But when this amount was divided among our 67 counties, all of which were declared disaster areas, the amount available in each county proved to be inadequate to meet the needs of our farmers. At last report we still had some $7 million worth of unfunded applications on hand in our ASC county offices.

Because of the "credit elsewhere test" involved in Farmers Home Administration loans and the delays in formulating the necessary guidelines to qualify for SBA disaster loans, our farmers have experienced complete and utter frustration. Recently one of the farmers of my State wrote me saying:

If the government is going to publicize various programs as emergency help, then I believe it should be available to all that are qualified within a reasonable length of time. . . . I have been a taxpayer for many years and have never requested or needed any federal aid. Due to the drought this summer, I am in need of assistance. I feel that some should be available.

This same experience can be related time and time again in various areas of our Nation by farmers who have suffered loses from unusual weather conditions including drought, freezing temperatures, wind, hail, rain, and flooding.

This legislation would leave the upper limitation on price support payments, but remove disaster payments to allow them to rise relative to the severity of each local disaster. The House of Representatives passed this bill by a wide margin earlier this session. It has been endorsed by the administration. USDA and the Congressional Budget Office are in agreement that its cost would range between $25 and $30 million.

Alabama farmers have already lost more than a half-billion dollars this year. The assistance which can be provided by this legislation is a small price to pay to insure the continued existence of our farmers, because that which benefits the farmer benefits us all.

Mr. TALMADGE. Mr. President, I ask unanimous consent that a statement by the Senator from North Dakota (Mr. BURDICK) relating to this bill be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BURDICK

I support H.R. 9090 and ask my colleagues to do likewise.

H.R. 9090 would accomplish one important purpose. This bill would go far towards eliminating the disparity between geographical regions in this country, in terms of an individual farmer's ability to collect deficiency and disaster payments due him under the law. The maximum amount a farmer may collect in disaster and deficiency payments under the law as it exists today does not reflect the production costs of a family farm in the upper Midwest.

In the Food and Agriculture Act of 1977 passed recently by this Congress, we included language that reaffirms our support of the family farm. H.R. 9090 is consistent with that purpose in its recognition of the capital requirements of a family farm.

As an operator of a family farm in North Dakota recently told me, "There is no limit on my expenses, but there is on my income. At that rate, I'm not going to last very long."

I support H.R. 9090.

Mr. TOWER. Mr. President, I am pleased to rise in support of H.R. 9090. In mid-September I was happy to cosponsor S. 2103, a similar bill, with my distinguished colleague from Oregon.

The recently approved farm legislation, although not meeting all the needs of this Nation's food and fiber producers, will be beneficial to both producers and consumers as we endeavor to provide price and income protection for our farmers while assuring consumers of adequate supplies of food and fiber.

Our Nation is blessed with tremendous agricultural production which has been influenced and assisted by research and the dedication of our producers and those supplying vital inputs. However, these advances have placed our producers in an untenable and unfortunate situation. Our quest for adequate food and fiber has reached the thin line of demarcation between it and an abundance of food and fiber. We are faced with oversupplies in

some of our commodities, even with the drought conditions which existed in many of our food-producing States during this past summer.

Many producers of wheat, feed grains, rice and cotton will suffer needlessly if the payment limitations contained in current law are imposed on our 1977 crops. H.R. 9090 does not seek to increase the payment limitations for 1977. It is designed to define "payments" such that when the Secretary of Agriculture determines that compensation for disaster is necessary, this compensation would not be included in the 1977 crop year. The economic damage resulting from the failure to exempt current crops from payment limitations would only serve to aggravate the economic climate our agricultural producers now face.

We must do all that is within our power to preserve the industry which is most basic to the sustenance of our people. We must not allow our agricultural apparatus to fall victim of weather conditions over which we have no control nor to economic consequences precipitated by inflationary pressures. In Texas alone, Mr. President, we lost 3,000 farmers over the past 24 months. I am sure that each of you can cite similar statistics characteristics of your State's agricultural community. Recent data issued by the U.S. Department of Agriculture indicate that our farm population in 1976 was 600,000 fewer than in 1975. Even today, our farm population is 15 percent below the 1970 level.

Yet, thanks to the dedication of that fledgling 8.3 million people on slightly more than 2.5 million farms, our producers have shown that they are capable of feeding the people of this country. Unlike most industries, the agricultural sector of our economy buys in a seller's market and sells in a buyer's market. Neither the farmer of today nor yesterday can pass his increased production costs on to those who buy the fruits of his labor. He cannot discontinue production when he senses an economic squeeze occurring for his financial obligations must still be met. He cannot acquire money capital from sales of stocks and securities to meet his financial needs when prices are low for the goods he produces. He does not have labor unions to negotiate higher wages and salaries. No wonder we are hearing cries of unrest, and even fear, among farmers in many of our States.

Mr. President, we have before us legislation which will be of sizable assistance to our Nation's producers of agricultural products. We have an opportunity to combat some of the uncontrollable forces of nature which have been placed upon our food and fiber producing mechanism.

I urge you to support H.R. 9090 which will allow producers to take advantage of a program which was designed to assist them when market and weather conditions dictate irreparable economic ruin.

Mr. THURMOND. Mr. President, I rise in support of H.R. 9090, a bill designed to exempt disaster payments received by farmers stricken by drought, floods, and other disasters, from the payment limitation applicable to the 1977 crop of wheat, feed grains, upland cotton, and rice.

The Food and Agriculture Act of 1977, already passed by the 95th Congress, provides that starting with the 1978 crop year, any payment which is determined by the Secretary of Agriculture to represent compensation received for disaster loss shall not be included in the payment limitation applying to wheat, feed grains, upland cotton, and rice. H.R. 9090 is consistent with this action already taken by the 95th Congress.

Mr. President, current farm prices and farm incomes are at a very low level. Grain producers are receiving market prices equal to only about two-thirds of their production costs. The U.S. Department of Agriculture has projected that as a result of low farm prices, net farm income for 1977 will be less than $20 billion compared with $33 billion in 1973. During this same period, production costs have increased by more than 30 percent. In those regions where the disaster conditions have been most severe, a major source of income will be derived by disaster payments. To apply the payment limitation to these disaster payments for the 1977 crop year would result in economic hardship to many farmers.

Earlier this year, I toured several of the counties in my home State which were hit hardest by dry weather conditions I witnessed firsthand one of the most disturbing sights I have ever seen as a representative of the people of South Carolina. In some areas, farmers' crops and livestock feed supplies were nearly wiped out by the extended period of hot, dry weather. The situation is serious, and many farmers face financial disaster.

Mr. President, I would again like to emphasize that this measure before the Senate today is totally consistent with the Food and Agriculture Act of 1977 which has already passed Congress and was signed into law by the President. I urge my colleagues to join me in support of H.R. 9090.

DISASTER PAYMENTS EXEMPTION

Mr. HATFIELD. Mr. President, I strongly endorse this bill, which will compensate farmers for their losses from natural disasters in the same manner to which they will be entitled under the provisions of the 1978 farm bill.

Thousands of farmers throughout the country have been the victims of two disasters during this year—a price disaster and a drought disaster. The USDA projects a 40-percent decrease in net farm income for 1977, compared to that of 4 years ago. During that same period, production costs have increased by more than 30 percent. Compounding this severely depressed farm income, have been the disastrous effects of the drought.

In order that all producers receive full protection from disaster losses for the 1977 crops, the present bill exempts disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the $20,000-limitations imposed by current law. Family farms will be the primary recipients of such Government allowances.

According to estimates by the Congressional Budget Office and the USDA, the cost for such a provision would range between $25 and $30 million. It is an amount well worth spending, in recognition of the plight of our Nation's farmers, and the importance of the economic stability of America's farms to our citizens.

Mr. President, I trust that the Senate will act favorably on a bill which will provide most needed assistance to disaster-stricken farms.

Mr. TALMADGE. Mr. President, I ask that the third reading on the bill occur.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be offered, the question is on the third reading of the bill.

The bill was ordered to a third reading and was read the third time.

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 5263, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts.

The Senate proceeded to the consideration of the bill which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT TO 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Energy Production and Conservation Tax Incentive Act".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

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TITLE I—TAX INCENTIVES FOR THE PRODUCTION AND CONSERVATION OF ENERGY AND FOR CONVERSION TO ALTERNATIVE ENERGY SOURCES

PART I—RESIDENTIAL ENERGY CREDIT

SEC. 1011. RESIDENTIAL ENERGY CREDIT.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44B the following new section:

"SEC. 44C. RESIDENTIAL ENERGY CREDIT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the qualified energy conservation expenditures, plus

"(2) the qualified renewable energy source expenditures.

"(b) QUALIFIED EXPENDITURES.—For purposes of subsection (a)—

"(1) ENERGY CONSERVATION.—In the case of any dwelling unit, the qualified energy conservation expenditures are 20 percent of so much of the energy conservation expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $2,000.

"(2) RENEWABLE ENERGY SOURCES.—In the case of any dwelling unit, the qualified renewable energy source expenditures are the following percentages of the renewable energy source expenditures made by the taxpayer during the taxable year with respect to such unit:

"(A) 30 percent of so much of such expenditures as does not exceed $2,000, plus

"(B) 20 percent of so much of such expenditures as exceeds $2,000 but does not exceed $10,000.

"(3) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—If for any prior taxable year a credit was allowed to the taxpayer under this section with respect to any dwelling unit by reason of energy conservation expenditures or renewable energy source expenditures, paragraph (1) or (2) (whichever is appropriate) shall be applied for the taxable year with respect to such dwelling unit by reducing each dollar amount contained in such paragraph by the prior year expenditures taken into account under such paragraph.

"(4) MINIMUM DOLLAR AMOUNT.—No credit shall be allowed under this section with respect to any return for any taxable year if the amount which would (but for this paragraph) be allowable with respect to such return is less than $10.

"(5) CREDIT IN LIEU OF FEDERAL GRANT.—No credit shall be allowed under subsection (a) with respect to any expenditures in connection with the acquisition, leasing, construction, or installation of any item if any such expenditure is paid for directly or indirectly from the proceeds of any grant under any program—

"(A) established under the Energy Conservation in Existing Buildings Act of 1975,

"(B) administered by the Secretary of Agriculture in carrying out Farmer's Home Administration weatherization grant programs, or

"(C) administered by the Director of the Community Services Administration in carrying out weatherization programs under section 222(a)12 of the Economic Opportunity Act of 1964.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ENERGY CONSERVATION EXPENDITURE.—The term 'energy conservation expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for insulation or any other energy-conserving component (or for the original installation of such insulation or other component) installed in or on a dwelling unit—

"(A) which is located in the United States, the Virgin Islands, or Guam,

"(B) which is used by the taxpayer as his principal residence, and

"(C) the construction of which was substantialy completed before April 20, 1977.

"(2) RENEWABLE ENERGY SOURCE EXPENDITURE.—

"(A) IN GENERAL.—The term 'renewable energy source expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for renewable energy source property installed in connection with a dwelling unit—

"(i) which is located in the United States, the Virgin Islands, or Guam, and

"(ii) which is used by the taxpayer as his principal residence.

"(B) ITEMS INCLUDED.—The term 'renewable energy source expenditure' includes only expenditures for—

"(i) renewable energy source property,

"(ii) labor costs properly allocable to the onsite preparation, assembly, or installation of renewable energy source property, or

"(iii) the leasing of property which uses solar energy for any purpose described in paragraph (5)(A)(i).

"(C) SWIMMING POOL, ETC., USED AS STORAGE MEDIUM.—The term 'renewable energy source expenditure' does not include any expenditure properly allocable to a swimming pool used as an energy storage medium or to any other energy storage medium which has a function other than the function of such storage.

"(3) INSULATION.—The term 'insulation' means any item—

"(A) which is specifically and primarily designed to reduce when installed in or on a dwelling (or water heater) the heat loss or gain of such dwelling (or water heater),

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

"(4) OTHER ENERGY-CONSERVING COMPONENT.—The term 'other energy-conserving component' means any item (other than insulation)—

"(A) which is—

"(i) a replacement furnace or boiler designed to provide more efficient energy utilization by improving heat generation or lowering heat losses,

"(ii) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(iii) a device for modifying flue openings designed to increase the efficiency of operation of the heating system,

"(iv) an electrical or mechanical furnace ignition system which replaces a gas pilot light,

"(v) a storm or thermal window or door for the exterior of the dwelling,

"(iv) an automatic energy-saving setback thermostat,

"(vii) caulking or weather stripping of an exterior door or window,

"(viii) a heat pump which replaces an electric resistance heating system, or

"(ix) meters which display the cost of energy usage,

"(x) a replacement fluorescent lighting system, or

"(xi) an item of the kind which the Secretary specifies by regulations as increasing (by conversion or otherwise) energy efficiency of the dwelling,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

In establishing regulations under this subparagraph, the Secretary shall prescribe (i) guidelines setting forth the criteria which are used in the determination of whether an item is an energy-conserving component, and (ii) a procedure under which a manufacturer of an item may request the Secretary to specify or certify that item as an energy conserving component.

"(5) RENEWABLE ENERGY SOURCE PROPERTY.—

The term 'renewable energy source property' means property—

"(A) which, when installed in connection with a dwelling—

"(i) uses solar energy for the purpose of heating or cooling such dwelling or providing hot water for use within such dwelling,

"(ii) uses wind energy for nonbusiness residential purposes,

"(iii) is necessary to distribute or use geothermal deposits (as defined in section 613(e)) which provide geothermal energy to heat or cool such building or provide hot water for use within such building, or

"(iv) uses any other form of renewable energy which the Secretary specifies by regulations,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 5 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the property.

"(6) CONSULTATION IN PRESCRIBING STANDARDS.—Performance and quality standards shall be prescribed by the Secretary under paragraphs (3), (4), and (5) only after consultation with the Secretary of Energy, the Secretary of Housing and Urban Development, and other appropriate Federal agencies.

"(7) WHEN EXPENDITURES MADE; AMOUNT OF EXPENDITURES.—

"(A) Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when original installation of the item is completed.

"(B) In the case of renewable energy source expenditures in connection with the construction or reconstruction of a dwelling, such expenditures shall be treated as made when the original use of the constructed or reconstructed dwelling by the taxpayer begins.

"(C) The amount of any expenditure shall be the cost thereof.

"(D) If less than 80 percent of the use of an item is for nonbusiness residential purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness residential purposes shall be taken into account. For purposes of the preceding sentence, use for a swimming pool shall be treated as use which is not for residential purposes.

"(8) PRINCIPAL RESIDENCE.—The determination of whether or not a dwelling unit is a taxpayer's principal residence shall be made under principles similar to those applicable to section 1034, except that—

"(A) no ownership requirement shall be imposed, and

"(B) the period for which a dwelling is treated as the principal residence of the taxpayer shall include the 30-day period ending on the first day on which it would (but for this subparagraph) be treated as his principal residence.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a principal residence by 2 or more individuals—

"(A) the amount of the credit allowable under subsection (a) by reason of energy conservation expenditures or by reason of renewable energy source expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) each of such individuals shall be allowed a credit under subsection (a) for the taxable year in which such calendar year ends (subject to the limitation of paragraph (4) of subsection (b)) in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominimum which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominimum management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(f) TERMINATION.—This section shall not apply to expenditures made after December 31, 1985."

(b) CREDIT TO BE REFUNDABLE.—

(1) Section 6401(b) (relating to amounts treated as overpayments) is amended—

(A) by striking out "oil) and 43" and inserting in lieu thereof "oil), 43",

(B) by inserting ", and 44C (relating to residential energy credit)" after "credit)", and

(C) by striking out "and 43," and inserting in lieu thereof ", 43, and 44C,".

(2) Section 6201(a)(4) (relating to assessment authority) is amended—

(A) by striking out "or 43" in the caption thereof and inserting in lieu thereof ", 43, or 44C",

(B) by striking out "oil) or section 43" and inserting in lieu thereof "oil), section 43", and

(C) by inserting "or section 44C (relating to residential energy credit)," after "income),".

(c) CERTAIN LOANS REDUCED BY AMOUNT OF CREDIT.—The amount of any loan or advance of credit which an individual is eligible for under—

(1) title I of the National Housing Act (but only if such loan or advance of credit may be purchased under section 314 of the Federal National Mortgage Association Charter Act), or

(2) any loan program with respect to the purchase and installation of solar heating and cooling equipment administered by the Secretary of Housing and Urban Development,

shall be reduced by the amount of the credit which is allowed under section 44C of the Internal Code of 1954, as added by subsection (a), for the purchase or installation of an item which the proceeds of such loan or advance of credit are to be used for.

(d) INSPECTION.—To the extent not presently authorized by any agency of the United States in the assessment and collection of income taxes, no procedure or practice which utilizes onsite inspection of the residence of an individual shall be employed to determine if that individual is entitled to a credit under section 44C of the Internal Revenue Code of 1954, as added by subsection (a), unless such procedure or practice provides that such inspection shall take place only with the written consent of such individual.

(e) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44B the following new item:

"SEC. 44C. Residential energy credit."

(2) Subsection (c) of section 56 (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, 44C, 44E, 44F, and 44G."

(3) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by inserting after paragraph (20) the following new paragraph:

"(21) to the extent provided in section 44C(e), in the case of property with respect to wh.ch a credit has been allowed under section 44C;".

(4) Subsection (b) of section 6096 (relating to designa'ion of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

(f) EFFECTIVE DATE. The amendments made by this section shall apply to taxable years ending on or after April 20, 1977.

PART II—TRANSPORTATION

Subpart A—Motor Fuels

SEC. 1021. EXTENSION TO 1985 OF EXISTING RATE OF TAX ON GASOLINE AND OTHER MOTOR FUELS; EXEMPTION OR REDUCTION OF RATE FOR CERTAIN BLENDED FUELS.

(a) EXTENSION OF EXISTING RATE.—The following provisions are amended by striking out "1979" and inserting in lieu thereof "1985";

(1) Section 4041(e) (relating to rate reduction).

(2) Section 4081(b) (relating to imposition of tax on gasoline).

(3) Section 6421(h) (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems).

(b) REDUCTION OF RATE OR EXEMPTION FROM TAX FOR CERTAIN BLENDED FUELS.—

(1) REDUCTION OF RATE FOR CERTAIN BLENDED FUELS.—Subsection (a) of section 4081 (relating to imposition of tax on gasoline) is amended to read as follows:

"(a) IN GENERAL.—There is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of—

"(1) 4 cents a gallon, or

"(2) in the case of gasoline which is not less than 10 percent by volume ethanol, methanol (other than methanol derived from natural gas or petroleum), or a combination thereof, 3 cents a gallon.".

(2) EXEMPTION FOR CERTAIN BLENDED FUELS.—Section 4081 is amended by adding at the end thereof the following new subsection:

(c) EXEMPTION FOR CERTAIN BLENDED FUELS.—The tax imposed by subsection (a) shall not apply in the case of gasoline which is not less than 10 percent by volume ethanol, methanol, or a combination thereof, derived

from agricultural or forestry products, by-products, or refuse.".

(3) CONFORMING AMENDMENT.—Section 4041(b) (relating to tax on special motor fuels) is amended by inserting "or exempt from the tax imposed by section 4081(a) under section 4081(c)" after "subsection (a) of this section".

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 4041(c) (relating to rate of tax) is amended to read as follows:

"(3) RATE OF TAX.—The rate of tax imposed by paragraph (2) is 3 cents a gallon."

(2) Subsection (a) of section 6412 (relating to floor stocks refunds) is amended by adding at the end thereof the following new paragraph:

"(3) EXTENSION OF TAX ON GASOLINE.—In the case of gasoline subject to the tax imposed by section 4081, paragraph (1) shall be applied—

"(A) by substituting '1985' for '1979' each place it appears, and

"(B) by substituting '1986' for '1980' each place it appears.".

(3) The Secretary of the Treasury shall expedite, to the maximum extent possible, action on the application of any person with respect to the production of ethanol for use in manufacturing gasoline described in section 4081(a)(2) or (c) of the Internal Revenue Code of 1954. Within six months after the date of enactment of this Act, the Secretary shall furnish to the Committee on Finance, United States Senate, and to the Committee on Ways and Means, United States House of Representatives, recommendations for legislation necessary to provide for changes in the provisions of chapter 51 of the Internal Revenue Code of 1954 to provide a simple, expeditious procedure for processing such applications and to simplify the regulation of such persons for purposes of such chapter consistent with adequate safeguards against the use of such applications to avoid or evade compliance with the provisions of such chapter relating to distilled spirits procured, dealt in, or used for other purposes.

(d) EFFECTIVE DATE.—The amendments made by subsection (b) shall apply with respect to sales made after December 31, 1977, and before October 1, 1985.

SEC. 1022. DENIAL OF CREDIT OR REFUND FOR NONBUSINESS NONHIGHWAY USE OF GASOLINE.

(a) IN GENERAL.—

(1) GASOLINE.—

(A) The first sentence of section 6421(a) (relating to nonhighway uses) is amended by inserting "by a person in a trade or business of that person or in an activity of that person described in section 212 (not including any such use in a motorboat)" after "if gasoline is used".

(B) The second sentence of section 6421(a) is amended by inserting "by a person in a trade or business of that person or in an activity of that person described in section 212 (not including any such use in a motorboat)" after "in the case of gasoline used".

(2) LUBRICATING OIL.—Subsection (a) of section 6424 (relating to lubricating oil not used in highway motor vehicles), as amended by section 1026(b)(1) of this Act, is amended by inserting "by a person in a trade or business of that person or in an activity of that person described in section 212" after "is used".

(3) SPECIAL FUELS.—Subsection (a) of section 6427 (relating to fuels not used for taxable purposes) is amended by inserting "used by the purchaser in a trade or business of the purchaser or in an activity of the purchaser described in section 212" after "any fuel".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to uses after December 31, 1977.

SEC. 1023. AMENDMENT OF MOTORBOAT FUEL PROVISIONS.

(a) 2-CENT INCREASE IN TAX ON MOTORBOAT FUEL.—

(1) The second sentence of section 4041(b) (relating to tax on special motor fuels) is amended by striking out "the tax imposed" and inserting in lieu thereof "and otherwise than as a fuel in a motorboat, the tax imposed"

(2) The third sentence of section 4041(b) is amended by striking out "a tax of 2 cents a gallon" and inserting in lieu thereof "or is used as a fuel in a motorboat, a tax of 2 cents a gallon".

(b) LAND AND WATER CONSERVATION FUND.—Paragraph (1) of section 201(b) of the Land and Water Conservation Fund Act of 1965 is amended—

(1) by striking out "1980" and inserting in lieu thereof "1978", and

(2) by striking out "1979" and inserting in lieu thereof "1977".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1978.

Subpart B—Provisions Related to Buses

SEC. 1024. REMOVAL OF EXCISE TAX ON BUSES.

(a) GENERAL RULE.—Paragraph (6) of section 4063(a) (relating to exemption for local transit buses) is amended to read as follows:

"(6) BUSES.—The tax imposed under section 4061(a) shall not apply in the case of any automobile bus chassis or automobile bus body."

(b) FLOOR STOCKS REFUNDS.—

(1) IN GENERAL.—Where, before the day after the date of the enactment of this Act, any tax-repealed article (as defined in subsection (e)) has been sold by the manufacturer, producer, or importer and on such day is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article, if—

(A) claim for such credit or refund is filed with the Secretary of the Treasury before the first day of the 10th calendar month beginning after the day after the date of the enactment of this Act based upon a request submitted to the manufacturer, producer, or importer before the first day of the 7th calendar month beginning after the day after the date of the enactment of this Act by the dealer who held the article in respect of which the credit or refund is claimed; and

(B) on or before the first day of such 10th calendar month reimbursement has been made to the dealer by the manufacturer, producer, or importer in an amount equal to the tax paid on the article or written consent has been obtained from the dealer to allowance of the credit or refund.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to credit or refund under paragraph (1) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed by the Secretary of the Treasury under this subsection.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061(a) of the Internal Revenue Code of 1954 shall, insofar as applicable and not inconsistent with paragraphs (1) and (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(c) REFUNDS WITH RESPECT TO CERTAIN CONSUMER PURCHASES.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), where on or after April 20, 1977, and on or before the date of the enactment of this Act, a tax-repealed article (as defined in subsection (e)) has been sold to an ultimate purchaser, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer of such article an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to a credit or refund under paragraph (1) with respect to an article unless—

(A) he has in his possession such evidence of the sale of the article to an ultimate purchaser, and of the reimbursement of the tax to such purchaser, as may be required by regulation prescribed by the Secretary of the Treasury under this subsection;

(B) claim for such credit or refund is filed with the Secretary of the Treasury before the first day of the 10th calendar month beginning after the day after the date of the enactment of this Act based upon information submitted to the manufacturer, producer, or importer before the first day of the 7th calendar month beginning after the day after the date of the enactment of this Act by the person who sold the article (in respect to which the credit or refund is claimed) to the ultimate purchaser; and

(C) on or before the first day of such 10th calendar month reimbursement has been made to the ultimate purchaser in an amount equal to the tax paid on the article.

(3) OTHER LAWS APPLICABLE.—All provisions of laws, including penalties, applicable with respect to the taxes imposed by section 4061(a) of such Code shall, insofar as applicable and not inconsistent with paragraph (1) or (2) of this subsection, apply with respect to the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(d) CERTAIN USES BY MANUFACTURER, ETC.—Any tax paid by reason of section 4218(a) of such Code (relating to use by manufacturer or importer considered sale) on any tax-repealed article shall be deemed an overpayment of such tax if the tax was imposed on such article by reason of such section 4218(a) on or after April 20, 1977.

(e) DEFINITIONS.—For purposes of this section—

(1) The term "dealer" includes a wholesaler, jobber, distributor, or retailer.

(2) An article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made) and if, for purposes of consumption, title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(3) The term "tax-repealed article" means an article on which a tax was imposed by section 4061(a) of such Code (as in effect on the day before the date of the enactment of this Act) and which is exempted from such tax by paragraph (6) of section 4063(a) of such Code (as amended by subsection (a) of this section).

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The heading for paragraph (1) of section 6412(a) (relating to floor stocks refunds) is amended by striking out "AND BUSES".

(2) Subsection (d) of section 4222 (relating to registration in case of certain other exemptions) is amended by striking out "4063(a)(C) or (7)" and inserting in lieu thereof "4063(a)(7)".

(g) EFFECTIVE DATE.—

(1) The amendments made by this section shall apply with respect to articles sold on or after April 20, 1977.

(2) For purposes of paragraph (1), an article shall not be considered sold before April 20, 1977, unless possession or right to possession passes to the purchaser before such day.

(3) In the case of—

(A) a lease,

(B) a contract for the sale of an article where it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,

(C) a conditional sale, or

(D) a chattel mortgage arrangement wherein it is provided that the sale price shall be paid in installments,

entered into before April 20, 1977, payments made on or after such date with respect to the article leased or sold shall, for purposes of this subsection, be considered as payments made with respect to an article sold on or after such date, if the lessor or vendor establishes that the amount of payments payable on or after such date with respect to such article has been reduced by an amount equal to that portion of the tax applicable with respect to the lease or sale of such article which is due and payable on or after such date. If the lessor or vendor does not establish that the payments have been so reduced, they shall be treated as payments made in respect of an article sold before April 20, 1977.

SEC. 1025. REMOVAL OF EXCISE TAX ON BUS PARTS.

(a) EXEMPT SALES.—Subsection (e) of section 4221 (relating to special rules for certain tax-free sales) is amended by adding at the end thereof the following new paragraph:

"(6) BUS PARTS AND ACCESSORIES.—Under regulations prescribed by the Secretary, the tax imposed by section 4061(b) shall not apply to any part or accessory which is sold for use by the purchaser on or in connection with an automobile bus."

(b) REFUND FOR CERTAIN SALES OF BUS PARTS.—Subparagraph (I) of section 6416(b)(2) (relating to refund for specified uses and resales) is amended to read as follows:

"(I) in the case of any article taxable under section 4061(b), sold for use by the purchaser on or in connection with an automobile bus;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales on or after the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act.

SEC. 1026. REMOVAL OF EXCISE TAX ON CERTAIN ITEMS USED IN CONNECTION WITH INTERCITY, LOCAL, AND SCHOOL BUSES.

(a) TIRES, TUBES, AND TREAD RUBBER.—

(1) IN GENERAL.—Paragraph (5) of section 4221(e) (relating to schoolbuses) is amended to read as follows:

"(5) TIRES, TUBES, AND TREAD RUBBER USED ON INTERCITY, LOCAL, AND SCHOOLBUSES.—Under regulations prescribed by the Secretary—

"(A) the taxes imposed by paragraphs (1) and (3) of section 4071(a) shall not apply in the case of tires or inner tubes for tires sold for use by the purchaser on or in connection with a qualified bus, and

"(B) the tax imposed by paragraph (4) of section 4071(a) shall not apply in the case of tread rubber sold for use by the purchaser in the recapping or retreading of any tire to be used by the purchaser on or in connection with a qualified bus."

(2) QUALIFIED BUS DEFINED.—Subsection (d) of section 4221 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(7) QUALIFIED BUS.—

"(A) IN GENERAL.—Thes term 'qualified bus' means—

"(i) an intercity or local bus, and

"(ii) a school bus.

"(B) INTERCITY OR LOCAL BUS.—The term 'intercity or local bus' means any automobile bus which is used predominantly in furnishing (for compensation) passenger land transportation available to the general public if—

"(i) such transportation is scheduled and along regular routes, or

"(ii) the passenger seating capacity of such bus is at least 20 adults (not including the driver).

"(C) SCHOOL BUS.—The term 'school bus' means any automobile bus substantially all the use of which is in transporting students and employees of schools. For purposes of the preceding sentence, the term 'school' means an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are carried on."

(3) TECHNICAL AMENDMENT.—Paragraph (2) of section 6416(b) (relating to specified uses and resales) is amended by striking out the period at the end of subparagraph (K) and inserting in lieu thereof a semicolon and by inserting after subparagraph (K) the following new subparagraphs:

"(L) in the case of any tire or inner tube taxable under paragraph (1) or (3) of section 4071(a), sold to any person for use as described in section 4221(e)(5)(A); or

"(M) in the case of tread rubber taxable under paragraph (4) of section 4071(a), used in the recapping or retreading of a tire sold to any person for use on or in connection with a qualified bus (as defined in section 4221(d)(7))."

(b) REPAYMENT OF TAX ON LUBRICATING OIL USED IN INTERCITY, LOCAL, OR SCHOOL BUSES.—

(1) IN GENERAL.—Subsection (a) of section 6424 (relating to lubricating oil not used in highway motor vehicles) is amended to read as follows:

"(a) PAYMENTS.—Except as provided in subsection (f), if lubricating oil (other than cutting oils, as defined in section 4092(b), and other than oil which has previously been used) is used—

"(1) otherwise than in a highway motor vehicle, or

"(2) in a qualified bus as defined in section 4221(d)(7),

the Secretary shall pay (without interest) to the ultimate purchaser of such lubricating oil an amount equal to 6 cents for each gallon of lubricating oil so used."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The section heading for section 6424 is amended by striking out "NOT USED IN HIGHWAY MOTOR VEHICLES" and inserting in lieu thereof "USED FOR CERTAIN NONTAXABLE PURPOSES".

(B) The table of sections for subchapter B of chapter 65 (relating to rules of special application) is amended by striking out "not used in highway motor vehicles" in the item relating to section 6424 and inserting in lieu thereof "used for certain nontaxable purposes".

(C) Paragraph (3) of section 39(a) (relating to certain uses of gasoline, special fuels, and lubricating oil) is amended by striking out "otherwise than in a highway motor vehicle" and inserting in lieu thereof "for certain nontaxable purposes".

(D) Section 6504(9) and 6675(a) are each amended by striking out "not used in highway motor vehicles" and inserting in lieu thereof "used for certain nontaxable purposes".

(E) Paragraph (3) of section 209(f) of the Highway Revenue Act of 1956 is amended by striking out "lubricating oil not used in highway motor vehicles" and inserting in lieu thereof "lubricating oil used for certain nontaxable purposes".

(c) REPAYMENT OF TAX ON FUELS USED BY PUBLIC TRANSIT BUSES OR SCHOOL BUSES.—

(1) GASOLINE.—Subsection (b) of section 6421 (relating to local transit systems) is amended to read as follows:

"(b) INTERCITY, LOCAL, OR SCHOOL BUSES.—

"(1) ALLOWANCE.—Except as provided in paragraph (2) and subsection (i), if gasoline is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the product of the number of gallons of gasoline so used multiplied by the rate at which tax was imposed on such gasoline by section 4081.

"(2) LIMITATION IN CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of gasoline used in any automobile bus which engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver)."

(2) OTHER FUELS.—Subsection (b) of section 6427 (relating to local transit systems) is amended to read as follows:

"(b) INTERCITY, LOCAL, OR SCHOOL BUSES.—

"(1) ALLOWANCE.—Except as provided in paragraph (2) and subsection (g), if any fuel on the sale of which tax was imposed by subsection (a) or (b) of section 4041 is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of the number of gallons of such fuel so used multiplied by the rate at which tax was imposed on such fuel by subsection (a) or (b) of section 4041.

"(2) LIMITATION IN CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver)."

(3) TECHNICAL AMENDMENTS.—

(A) Subsection (d) of section 6421 is amended to read as follows:

"(d) GASOLINE DEFINED.—For purposes of this section, the term 'gasoline' has the meaning given to such term by section 4082(b)."

(B) Subsection (c) of section 4483 is amended by inserting "(as in effect on the day before the date of the enactment of the Energy Production and Conservation Tax Incentive Act)" after "section 6421(b)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act.

SEC. 1027. VANPOOLING INCENTIVES.

(a) FULL INVESTMENT CREDIT FOR CERTAIN VANS.—Subsection (c) of section 46 (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR CERTAIN COMMUTER VANS.—

"(A) Notwithstanding paragraph (2), in the case of a commuter van the useful life of which is not less than 3 years, the applicable percentage for purposes of paragraph (1) shall be 100 percent regardless of the useful life used in computing the allowance for depreciation.

"(B) For purposes of subparagraph (A), the term 'commuter van' means a vehicle capable of carrying nine or more passengers (including the driver) substantially all of the use of which is, at not less than half capacity, for the purpose of transporting the employees of the taxpyer to and from their place of employment.".

(b) EXCLUSION FROM GROSS INCOME OF VALUE OF CERTAIN TRANSPORTATION PROVIDED BY EMPLOYER.—

(1) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as 125, and by inserting after section 123 the following new section:

"SEC. 124. CERTAIN TRANSPORTATION FURNISHED BY EMPLOYER.

"(a) GENERAL RULE.—Gross income of an employee does not include the value of transportation furnished by an employer to and from the employee's place of employment in a commuter van (as defined in section 46(c)(6)(B)).

"(b) LIMITATION.—Subsection (a) does not apply to the value of transportation furnished under an arrangement which discriminates in favor of employees who are officers, shareholders, self-employed individuals, or highly compensated. For purposes of the preceding sentence, there shall be excluded from consideration employees not included in the arrangement who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that transportation of employees to and from the employees' place of employment was the subject of good faith bargaining between such employee representatives and such employer or employers. For purposes of this subsection, the term 'self-employed individual' means, and the term 'employee' includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals). An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer, and a partnership shall be treated as the employer of each partner who is an employee within the meaning of the preceding sentence.".

(2) CLERICAL AMENDMENT.—The table of sections for such part is amended by striking out he last item and inserting in lieu thereof the following:

"Sec. 124. Certain transportation furnished by employer.

"Sec. 125. Cross references to other Acts.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property acquired by the taxpayer after April 19, 1977, and before January 1, 1986, and placed in service by the taxpayer before January 1, 1986. The amendments made by subsection (b) shall apply with respect to taxable years beginning after December 31, 1977, and before January 1, 1986.

Subpart C—Credit for Electric Motor Vehicles

SEC. 1028. CREDIT FOR QUALIFIED ELECTRIC MOTOR VEHICLES.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44C the following new section:

"SEC. 44D. QUALIFIED ELECTRIC MOTOR VEHICLES.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the cost to the taxpayer of acquiring a qualified electric motor vehicle during the taxable year, to the extent that such cost does not exceed $300.

"(b) LIMITATIONS.—

"(1) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(2) JOINT ACQUISITION.—If any qualified electric motor vehicle is jointly acquired by 2 or more individuals—

"(A) the aggregate amount allowable as a credit under subsection (a) to such individuals with respect to such vehicle shall not exceed $300, and

"(B) the amount allowable as a credit for the taxable year shall be apportioned among such individuals on the basis of their respective shares of the cost.

"(c) QUALIFIED ELECTRIC MOTOR VEHICLE DEFINED.—For purposes of this section, the term 'qualified electric motor vehicle' means any 4-wheeled vehicle—

"(1) which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails),

"(2) which is powered primarily by an electric motor drawing current from rechargeable storage batteries or other portable sources of electric current,

"(3) which is acquired by the taxpayer after April 19, 1977, for the personal use of the taxpayer or a member of his family, and

"(4) the original use of which begins with the taxpayer or a member of his family.

"(d) TERMINATION.—This section shall not apply to any qualified electric motor vehicle acquired after December 31, 1985."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for such subpart A is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44D. Qualified electric motor vehicles."

(2) Section 6096(b) (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles acquired after April 19, 1977, in taxable years ending on or after such date.

Subpart D—Intercity Bus Credit

SEC. 1029. INTERCITY BUS CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44D the following new section:

"SEC. 44E. INTERCITY BUS CREDIT.

"(a) GENERAL RULE.—In the case of a taxpayer which is a regulated common carrier engaged in the trade or business of furnishing regularly scheduled intercity ground transportation by motor bus, there is allowed, as a credit against the tax imposed by this chapter, an amount equal to the amount determined under subsection (b) for the taxable year.

"(b) DETERMINATION OF AMOUNT.—

"(1) IN GENERAL.—The amount of the credit allowed to a taxpayer for the taxable year under subsection (a) is 20 percent of the product of—

"(A) the number of intercity bus passenger miles of transportation furnished by the taxpayer on regularly scheduled routes for the taxable year as reported by the taxpayer to the regulatory agency (as defined in subsection (f)(1)), multipled by

"(B) the passenger mile cost differential of the taxpayer for the taxable year, multiplied by

"(C) 3.8.

"(2) PASSENGER MILE COST DIFFERENTIAL.—For purposes of this subsection, the term 'passenger mile cost differential' means the amount by which—

"(A) a fraction the numerator of which is the average price per gallon for gasoline sold in the United States during the calendar year ending with or within the taxable year and the denominator of which is the average automobile intercity passenger miles per gallon in the United States for the most recently ended calendar year for which such information is available at the end of the taxable year, exceeds

"(B) a fraction the numerator of which is the average price per gallon of diesel fuel for diesel fuel sold in the United States during the calendar year ending with or within the taxable year and the denominator of which is the number of intercity bus passenger miles of transportation of the taxpayer for the taxable year (determined under paragraph (1)(A)) divided by the number of gallons of diesel fuel used by the taxpayer for the taxable year in furnishing such transportation.

"(c) LIMITATION.—

"(1) LIMITATION BASED ON OPERATING EXPENSES.—The amount of the credit allowed under subsection (a) for the taxable year shall not exceed the amount by which—

"(A) 17.65 percent of the taxpayer's operating expenses attributable to his trade or business of furnishing transportation by motor bus for the taxable year, as reported to the regulatory agency, exceeds

"(B) 50 percent of the net operating income (if any) of the taxpayer from such trade or business for the taxable year, as reported to the regulatory agency.

"(2) LIMITATION BASED ON FLOWTHROUGH REQUIREMENTS.—No credit is allowed for the taxable year under subsection (a) if any portion of the credit is taken into account for ratemaking purposes by any agency of the United States or of any State.

"(d) RECAPTURE OF CREDIT FOR FAILURE TO MAKE CERTAIN EXPENDITURES.—

"(1) FARE REDUCTIONS.—

"(A) GENERAL RULE.—The amount of the tax imposed by this chapter for the taxable year following a taxable year for which the taxpayer claims the credit allowed by subsection (a) shall be increased by the amount by which—

"(i) 50 percent of the amount of the credit allowed by subsection (a) for the preceding taxable year exceeds

"(ii) the fare reduction amount of the taxpayer for the preceding taxable year.

"(B) FARE REDUCTION AMOUNT.—The term 'fare reduction amount' means the sum of the products of—

"(i) the number of passengers transported at a reduced fare by the taxpayer on each regularly scheduled intercity bus route for the taxable year for which a fare reduction was in effect during the taxable year, multiplied by

"(ii) the amount of the fare reduction for travel on each such route.

"(C) BASE AMOUNT.—For purposes of this paragraph, the amount of the fare reduction for travel on any bus route shall be the amount by which the lowest fare generally available to the public in effect on August 1, 1977, for travel on a route (or on such later date as regularly scheduled service commences), increased by the amount of any authorized increase in the maximum fare au-

thorized for that route approved after such date by the regulatory agency, exceeds the fare actually charged.

"(D) CARRYBACK OF FARE REDUCTION AMOUNT.—At the election of the taxpayer, made at such time and in such manner as the Secretary shall prescribe, all or any portion of the fare reduction amount of the taxpayer for the taxable year shall be a fare reduction amount carryback to the preceding taxable year, and shall be added to the fare reduction amount of the taxpayer for the preceding taxable year. If the taxpayer elects to carry all or any portion of the fare reduction amount for a taxable year back to a preceding taxable year, the amount carried back shall not be treated as a fare reduction amount for the year in which it arose (except for carryback purposes).

"(2) TERMINAL CONSTRUCTION AND IMPROVEMENT; EQUIPMENT.—

"(A) GENERAL RULE.—The tax imposed by this chapter for the taxable year following a taxable year for which the taxpayer claims the credit allowed by subsection (a) shall be increased by an amount equal to the amount by which—

"(i) 50 percent of the amount of the credit allowed under subsection (a) for the preceding taxable year, exceeds

"(ii) the sum of the taxpayer's qualifying investment in terminals and equipment for the preceding taxable year.

"(B) QUALIFYING INVESTMENT.—The term 'qualifying investment' means the sum of—

"(i) the amounts paid or incurred by the taxpayer for the taxable year for the acquisition construction of new bus terminals, or the improvement of existing bus terminals, and

"(ii) 40 percent of the amounts paid or incurred by the taxpayer for the taxable year for the acquisition of new equipment, or the improvement of existing equipment, used in connection with the taxpayer's trade or business of providing regularly scheduled intercity transportation by motor bus.

"(C) CARRYBACK OF QUALIFYING INVESTMENTS.—At the election of the taxpayer, made at such time and in such manner as the Secretary shall prescribe, the qualifying investment of the taxpayer for the taxable year shall be a qualifying investment carryback to each of the 3 preceding taxable years, and shall be added to the qualifying investment of the taxpayer for the year to which it is carried. The entire amount of the qualifying investment carryback of the taxpayer for a taxable year shall be carried to the earliest of the 3 taxable years to which it may be carried, and then to each of the succeeding 2 taxable years to which it may be carried to the extent that, when added to the qualifying investment of the taxpayer for the prior taxable year to which it may be carried, it would exceed 50 percent of the amount of the credit allowable for such prior taxable year under subsection (a).

"(e) LIMITATION ON LOSSES ATTRIBUTABLE TO BUS OPERATIONS.—In the case of a taxpayer eligible to claim the credit provided under this section, if the expenses attributable to the taxpayer's trade or business of furnishing transportation by motor bus for the taxable year exceed the revenues attributable to such trade or business for the taxable year, the deductions otherwise allowable for the taxable year shall be reduced by an amount equal to the lesser of—

"(1) the amount of which such expenses exceed such revenues, or

"(2) the amount of the credit allowed to the taxpayer under subsection (a) for the taxable year.

"(f) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) REGULATORY AGENCY.—The term 'regulatory agency' means the Interstate Commerce Commission, or if the taxpayer's business is not regulated by the Interstate Commerce Commission, the appropriate State agency (as determined by the Secretary).

"(2) PASSENGER MILE COST DIFFERENTIAL FACTORS.—The Secretary, after consultation with the appropriate department or agency of the United States Government, shall determine and publish (not less frequently than annually)—

"(A) the average price per gallon for gasoline sold in the United States during the calendar year,

"(B) the average automobile intercity passenger miles per gallon in the United States for the calendar year, and

"(C) the average price per gallon of diesel fuel for diesel fuel sold in the United States during the calendar year.

"(3) RECAPTURE FOR CERTAIN DISPOSITIONS.—If the taxpayer disposes of property taken into account for purposes of subsection (d)(2) less than 60 months after the date on which such property is placed in service, then the tax imposed under this chapter for the taxable year in which the disposition occurs shall be increased by an amount equal to the amount allowed as credit with respect to such property. This paragraph does not apply to property substantially or completely destroyed by a casualty described in section 165, or compulsorily or involuntarily converted (within the meaning of section 1033).".

(b) REFUND OF EXCESS CREDIT.—

(1) Section 6401(b) (relating to excessive credits) is amended—

(A) by striking out "and 44C (relating to residential energy credit)," and inserting in lieu thereof "43 (relating to residential energy credit), and 44E (relating to intercity bus credit),", and

(B) by striking out "43, and 44C" and inserting in lieu thereof "43, 44C, and 44E".

(2) Section 6201(a)(4) (relating to erroneous credit under section 39 or 43) is amended—

(A) by striking out "section 39, 43, or 44C" in the caption and inserting in lieu thereof "section 39, 43, 44C, or 44E", and

(B) by strikng out "or section 44C (relating to residential energy credit)," and inserting in lieu thereof "section 44C (relating to residential energy credit), or section 44E (relating to intercity bus credit),".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44D the following new item:

"Sec. 44E. Intercity bus credit.".

(d) ADVANCE QUARTERLY REFUNDS.—

(1) IN GENERAL.—Subchapter (B) of chapter 65 (relating to rules of special application for abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"SEC. 6429. ADVANCE QUARTERLY REFUND OF SECTION 44E CREDIT.

"(a) GENERAL RULE.—Upon application made by a taxpayer eligible to claim the credit allowed by section 44E for the taxable year, the Secretary shall pay to the taxpayer, as a refund in advance, an amount equal to one-eighth of the taxpayer's tentative credit for the taxable year. For purposes of this subsection, the term 'tentative credit' means the amount of the credit the taxpayer expects to be allowed under section 44E for the taxable year based on the best estimates and data available to the taxpayer as of the filing date of the application.

"(b) RULES.—

"(1) APPLICATIONS.—The taxpayer shall submit a separate application for each calendar quarter for which he wishes to receive a payment under subsection (a) stating that he has begun a fare reduction program during or prior to that calendar quarter, or that he will begin such a program during that quarter. No payment shall be made under subsection (a) for any calendar quarter unless the application is filed during the 30 day period beginning 15 days before the beginning of such quarter. Each such application shall contain, or be verified by, a written declaration that the statements in the application are made under penalties of perjury and that every material matter asserted in the application is believed to be true and correct.

"(2) PAYMENTS.—

"(A) TIME OF PAYMENT.—The Secretary shall make each payment described in subsection (a) within 30 days after the date on which he receives the application for the payment.

"(B) INTEREST.—If any payment is not made within the 30-day period described in subparagraph (A), interest shall be allowed and paid on the amount of the payment from the day after the last day of such 30-day period until the date of payment at the annual rate established under section 6621.

"(c) CROSS REFERENCES.—

"For penalties applicable to fraud and false statements, see section 7206.

"For treatment of excess claims as underpayments of tax, see section 6655(b).".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) OVERPAYMENT OF INSTALLMENTS.—Section 6403 (relating to overpayment of installment) is amended by inserting at the end thereof the following new sentence: "This section does not apply to amounts treated as refunds of overpayments of tax under section 6429.".

(B) UNDERPAYMENTS OF ESTIMATED TAX.—

(i) Subpargraph (B) of section 6655(e)(1) (relating to tax computed after application of credits against tax) is amended by inserting "other than the portion of the credit against tax provided by section 44E (relating to intercity bus credit) paid to the taxpayer for the taxable year under section 6429" after chapter 1".

(ii) Subsection (b) of section 6655 (relating to amount of underpayment) is amended to read as follows:

"(b) AMOUNT OF UNDERPAYMENT.—For purposes of subsection (a), the amount of underpayment shall be the sum of—

"(1) the excess of—

"(A) the amount of the installment which would be required to be paid if the estimated tax were equal to 80 percent of the tax shown on the return for the taxable year, or, if no return was filed, 80 percent of the tax for such year, over

"(B) the amount, if any, of the installment paid on or before the last date prescribed for payment, and

"(2) the amount by which the sum of the amounts paid by the Secretary to the taxpayer for the taxable year under section 6429(a) exceeds 62.5 percent of the amount of the credit allowded to the taxpayer for the taxable year under section 44E (relating to intecity bus credit).".

(3) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by adding at the end thereof the following new item:

"Sec. 6429. Advance quarterly refund of section 44E credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1977, and before January 1, 1983.

PART III—INVESTMENT CREDITS TO ENCOURAGE CONSERVATION OF, OR CONVERSION FROM, OIL AND GAS OR TO ENCOURAGE NEW ENERGY TECHNOLOGY

SEC. 1031. ADDITIONAL CREDIT FOR INVESTMENT IN CERTAIN ENERGY-RELATED DEPRECIABLE PROPERTY.

(a) ALLOWANCE OF CREDIT.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by inserting after section 44E the following new section:

"SEC. 44F. CERTAIN ENERGY-RELATED DEPRECIABLE PROPERTY.

"(a) GENERAL RULE.—There is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 40 percent of the qualified investment (as determined under sections 46(c) and (d)) in section 38 property which is (or, for the purpose of applying section 46(d), will be) alternative energy property, and

"(2) 10 percent of the qualified investment (as so determined) in section 38 property which is (or, for the purpose of applying section 46(d), will be) specially defined energy property.

"(b) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) ALTERNATIVE ENERGY PROPERTY.—

"(A) IN GENERAL.—The term 'alternative energy property' means—

"(i) a boiler the primary fuel for which will be an alternate substance,

"(ii) a burner (including necessary on-site equipment to bring the alternate substance to the burner) for a combustor other than a boiler if the primary fuel for such burner will be an alternate substance,

"(iii) equipment used in the production of energy—

"(I) by nuclear power, but not including the fuel and not including turbines or equipment beyond the turbine stage, or

"(II) by hydroelectric power, including turbines and equipment up to (but not including) the electrical transmission stage, and not including the dam structure,

"(iv) equipment for converting an alternate substance into a synthetic liquid, gaseous, or solid fuel (except coke and its byproducts),

"(v) equipment designed to modify existing equipment which uses oil or natural gas as a fuel or as feedstock to that such equipment will use either a substance other than oil and natural gas, or oil mixed with a substance other than oil and natural gas (where such other substance will provide not less than 25 percent of the fuel or feedstock),

"(vi) equipment which uses coal (including lignite) as a feedstock for the manufacture of chemicals or other products (except coke and its byproducts),

"(vii) pollution control equipment required (by Federal, State, or local regulations) to be installed on or in connection with equipment described in clause (i), (ii), (iv), (v), or (vi),

"(viii) equipment used for the unloading, transfer, storage, reclaiming from storage, and preparation (including, but not limited to, washing, crushing, drying, and weighing) at the point of use of an alternate substance for use in equipment described in clause (i), (ii) (iii), (I), (iv), (v), (vi) or (viii),

"(ix) equipment which converts ocean thermal energy or tidal power to usable energy,

"(x) equipment, used in connection with a structure, which uses solar or wind energy to generate electricity, or to heat, cool, or provide hot water for use in such structure,

"(xi) equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section 613 (e)), but only, in the case of electricity generated by geothermal power, up to (and not including) the electrical transmission stage, and

"(xii) the basis for plans and designs for equipment described in the preceding clauses of this subparagraph.

"(B) ALTERNATE SUBSTANCE.—The term 'alternate substance' means any substance other than—

"(i) oil and natural gas, and

"(ii) any product of oil and natural gas.

"(C) SPECIAL RULE FOR CERTAIN POLLUTION CONTROL EQUIPMENT.—The term 'pollution control equipment' does not include any equipment which—

"(i) is installed on or in connection with property which, as of April 20, 1977, was using coal, and

"(ii) was required to be installed by Federal, State, or local regulations in effect on such date.

"(2) SPECIALLY DEFINED ENERGY PROPERTY.—The term 'specially defined energy property' means—

"(A) a recuperator,

"(B) a heat wheel,

"(C) a regenerator,

"(D) a heat exchanger,

"(E) a waste heat boiler,

"(F) a heat pipe,

"(G) an automatic energy control system,

"(H) a turbulator,

"(I) a preheater,

"(J) a compustible gas recovery system,

"(K) an economizer,

"(L) an industrial heat pump, or

"(M) any other property of a kind specified by the Secretary by regulations,

the principal purpose of which is reducing the amount of energy consumed, or the amount of heat wasted, in any existing operation and which is installed in connection with an existing industrial, agricultural, utility, or commercial facility.

"(3) GENERAL REQUIREMENTS.—No item shall be treated as alternative energy property or specially defined energy property unless—

"(A) the original use of the property commences with the taxpayer, and

"(B) the property is an integral part of, or used in connection with, a building or other structure located in the United States.

"(4) EXISTING.—For purposes of this subsection, the term 'existing' means—

"(A) when used in connection with a building or facility—

"(i) except as provided in clause (ii), 50 percent or more of the basis of such building or facility is attributable to construction, reconstruction, or erection before April 20, 1977, or

"(ii) which is a nuclear powerplant, a construction permit was issued and construction began before April 20, 1977,

"(B) when used in connection with an operation, such operation was carried on in the building or facility as of April 20, 1977, or

"(C) or when used in connection with equipment or a motor vehicle, such equipment or motor vehicle was placed in service before April 20, 1977.

"(5) EQUIPMENT MUST MEET CERTAIN STANDARDS OF QUALITY UNDER PARAGRAPHS (1) AND (2).—Equipment qualifies under paragraph (1) or (2) only if it meets the performance and quality standards (if any) which—

"(A) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and

"(B) are in effect at the time of acquisition of property.

"(c) UTILITY ALLOWED CREDIT FOR NEW BOILER ONLY TO EXTENT OIL OR GAS BOILER IS PHASED DOWN.—

"(1) IN GENERAL.—In the case of a regulated public utility (as defined in section 7701 (a)(33)) the principal activity of which is the production of electricity, a boiler (hereinafter in this subsection referred to as 'new boiler') shall be treated as alternative energy property—

"(A) only if the taxpayer establishes such facts as the Secretary may by regulations prescribe with respect to the phasing-down of a boiler (hereinafter in this subsection referred to as 'old boiler') which, as of April 20, 1977, used as its primary fuel oil or natural gas, and

"(B) only to the extent that there will be (not later than the calendar year following the year in which the new boiler is placed in service, hereinafter in this subsection referred to as the 'credit year') a phasing-down of the old boiler.

"(2) PHASING DOWN.—For purposes of paragraph (1), the old boiler is phased down if (and only if)—

"(A) during 1976 it was used for more than 2,000 hours, and

"(B) during each calendar year after the credit year, the old boiler will be used for 2,000 hours or less.

"(3) RECAPTURE FOR USE IN EXCESS OF 2,000 HOURS.—If for any calendar year after the credit year the old boiler is used for more than 2,000 hours, for purposes of applying section 47 to the credit allowed by this section, the new boiler shall be treated as disposed of at the close of the year in which it is so used. For purposes of this paragraph, use of the old boiler shall be disregarded during any period for which the taxpayer is prevented from using the new boiler due to—

"(A) fire, storm, flood, or other casualty, or

"(B) a labor dispute (including a dispute which prevents or significantly reduces delivery of coal to the new boiler).

"(4) ADVANCE CERTIFICATION.—For purposes of this subsection, if the taxpayer—

"(A) certifies to the Secretary—

"(i) that the old boiler will be replaced or phased down beginning with the calendar year following the credit year, and

"(ii) that the new boiler will be placed in service not later than 3 years after the first calendar year for which the certification is effective, and

"(B) agrees to an extension of the period for assessing any deficiency of the tax imposed by this chapter, to the extent such deficiency is attributable to the fact that such certification proves to be erroneous,

then, for purposes of paragraph (1) (but not for purposes of paragraph (2) or (3)), the phasing down shall be treated as occurring on the date as of which the certification is effective.

"(5) CERTAIN BOILERS TREATED AS PHASED DOWN.—If—

"(A) physical construction of a facility began before April 20, 1977,

"(B) as of April 20, 1977, such facility included (or it was contemplated that such facility would include) a boiler the primary fuel of which would be oil or natural gas, and

"(C) after April 20, 1977, the construction of such boiler is modified so it will use an alternate substance,

then, notwithstanding paragraph (1) such boiler shall be treated as alternative energy property.

"(6) BOILER DEFINED.—For purposes of this subsection, the term 'boiler' includes equipment described in clause (vii) or (viii) of subparagraph (A) of paragraph (1) of subsection (b) (or plans or designs described in clause (xii) of subparagraph (A) of such paragraph (1)), properly allocable to the boiler.

"(d) SPECIAL RULES.—

"(1) APPLICATION OF INVESTMENT CREDIT RULES.—

"(A) CREDIT IN ADDITION TO SECTION 38 CREDIT.—The credit allowed by this section is in addition to any amount allowed as a credit under section 38 with respect to alternative energy property or specially defined energy property.

"(B) CERTAIN SUBPART B RULES TO APPLY.—

"(i) Except as otherwise provided in this section, the provisions of sections 47 and 48 are hereby made applicable, under regulations prescribed by the Secretary, to the credit allowed by this section, except that the rules contained in section 48(a)(3) (relating to property used for lodging) shall be disregarded, and the words 'its structural components' contained in section 48(a)(1)(B) shall be disregarded.

"(ii) For purposes of determining the amount of the taxpayer's qualified investment, the applicable percentage (for purposes of section 46(c)(1)) shall be 100 percent for all items without regard to the useful life of any particular item.

"(iii) For purposes of applying section 47, if alternative energy property or specially defined energy property is disposed of or converted into property which is not alternative energy property or specially defined energy property, and if such disposition or conversion occurs before it has been in service for half its useful life, the disposition or conversion shall be treated as having occurred before the close of the third year after the property was placed in service.

"(vi) No credit shall be allowed under this section for property which is public utility property (within the meaning of section 46(f)(5)) unless requirements prescribed by the Secretary similar to the requirements of section 46(f) are met.

"(v) In the case of a taxpayer which is not a corporation, the credit allowed by subsection (a) shall be allowed with respect to property of which such person is the lessor under the rules applicable to the credit allowed by section 38 set forth in section 46(e)(3) (but without regard to the limitations of section 48(a) (4) and (5)).

"(vi) In the case of a taxpayer which is the lessor of a new boiler (within the meaning of subsection (c)), any act or failure to act by the regulated public utility which is the lessee of the boiler shall cause the provisions of that subsection to be enforced against the lessor as if the lessor were the lessee.

"(2) PROPERTY FINANCED BY PUBLIC FUNDS.—Any investment in alternative energy property or specially defined energy property shall be reduced to the extent that such investment is made, directly or indirectly, with funds provided for the acquisition or modification of such property by grant paid by any agency of the United States.

"(3) PROPERTY FINANCED BY INDUSTRIAL DEVELOPMENT BONDS.—In the case of property (other than bioconversion property described in section 103(b)(4)(1)) which is financed in whole or in part by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103, '20 percent' shall be substituted for '40 percent', and '5 percent' shall be substituted for '10 percent', in subsection (a).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for such subpart A is amended by inserting after the item relating to section 44E the following new item:

"Sec. 44F. Certain energy-related depreciable property.".

(2) Paragraph (8) of section 46(f) is amended by striking out "the Tax Reform Act of 1976" and inserting in lieu thereof "the Tax Reform Act of 1976 and the Energy Production and Conservation Tax Incentive Act".

(3) Section 6096(b) (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44E" and inserting in lieu thereof "44E, and 44F".

(c) REFUND OF EXCESS CREDIT ATTRIBUTABLE TO ENERGY PROPERTY.—Section 6401(b) (relating to amounts treated as overpayments) is amended—

(1) by striking out "and 44E (relating to intercity bus credit)," and inserting in lieu thereof "44E (relating to intercity bus credit), and 44F (relating to certain energy-related depreciable property),", and

(2) by striking out "and 44E" and inserting in lieu thereof "44E, and 44F".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) property to which section 46(d) of the Internal Revenue Code of 1954 does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after April 19, 1977, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after such date and before January 1, 1986,

(2) property to which section 46(d) of such Code does not apply, acquired by the taxpayer after April 19, 1977, and before January 1, 1986, and placed in service by the taxpayer before January 1, 1986, and

(3) property to which section 46(d) of such Code applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) with respect to qualified progress expenditures made after April 19, 1977, and before January 1, 1986.

SEC. 1032. ADDITIONAL PERCENTAGE FOR INVESTMENT CREDIT WITH RESPECT TO CERTAIN ENERGY PROPERTY.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to credits allowable is amended by inserting immediately after section 46 the following new section:

"SEC. 46A. SPECIAL RULES RELATING TO CERTAIN ENERGY PROPERTY.

"(a) IN GENERAL.—In addition to the amount which is determined under section 46(a)(2), the amount of the credit allowed by section 38 for the taxable year determined under section 46(a)(1)(B) with respect to energy property shall include an amount equal to 10 percent of the qualified investment (as determined under section 46(c) and (d)) in section 38 property which is (or, for the purpose of applying section 46(d), will be) energy property.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ENERGY PROPERTY.—The term 'energy property' means property—

"(A) which is—

"(i) cogeneration equipment installed in connection with an existing facility, but only to the extent that the cogeneration energy capacity of such facility is expanded,

"(ii) recycling equipment,

"(iii) shale oil equipment, or

"(iv) geopressurized methane gas equipment

"(B) which is an integral part of, or used in connection with, a building or other structure located in the United States,

"(C)(i) the construction, reconstruction, or erection of which is completed by the taxpayer after April 19, 1977, or

"(ii) which is acquired after April 19, 1977, if the original use of such property commences with the taxpayer and commences after such date, and

"(D) which has a useful life of 3 years or more.

"(2) Certain transportation equipment treated as energy property.—A commuter van (as defined in section 46(c)(6)(B)), and equipment designed to reduce energy consumption added to existing motor vehicles primarily engaged in the commercial transportation of property, shall be treated as energy property.

"(3) Cogeneration equipment.—The term 'cogeneration equipment' means equipment which—

"(A) produces steam, heat, or other forms of useful energy (other than electric energy) to be used for industrial, agricultural, commercial, or space heating purposes, and

"(B) also produces electric energy.

"(4) Recycling equipment.—The term 'recycling equipment means any equipment which is used exclusively in the recycling of solid waste (including not more than a nominal amount of virgin materials) or to sort and prepare such solid waste for recycling, and any equipment used in the conversion of solid waste into a fuel or into useful energy such steam, electricity, or hot water.

"(5) Shale oil equipment.—The term 'shale oil equipment' means equipment which is used to extract oil from oil-bearing shale rock.

"(6) Geopressurized methane gas equipment.—The term 'geopressurized methane gas equipment' means equipment which is used to extract geopressurized methane gas (as defined in section 44G(d)(1).

"(7) Existing.—The term 'existing' has the same meaning as in paragraph (4) of section 44F(b).

"(8) Equipment must meet certain standards of quality.—Equipment qualifies paragraph (1)(A) (i) or (ii) or paragraph (2) only if it meets the performance and quality standards (if any)—

"(A) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and

"(B) are in effect at the time of acquisition of the property.

"(9) Special rule for property financed by industrial development bonds.—In the case of property which is financed in whole or in part by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103, '5 percent' shall be substituted for '10 percent' in subsection (a).

"(c) SPECIAL RULES.—

"(1) CERTAIN SECTION 48 RULES WAIVED.—For purposes of this section, the rules contained in section 48(a)(3) (relating to property used for lodging) shall be disregarded, and the words 'its structural components' contained in section 48(a)(1)(B) shall be disregarded.

"(2) APPLICATION WITH SECTION 44F.—Property described in section 44F shall not be treated as property described in this section.

"(3) QUALIFIED INVESTMENT.—For the purpose of determining the taxpayer's qualified investment, the applicable percentage (for purposes of section 46(c)(1)) shall be 100 percent (without regard to the actual useful life of the item).

"(4) RECAPTURE RULES.—For the purpose of applying section 47 to energy property, a disposition of such property, or the conversion of such property into property which is not energy property, which occurs before the property has been in service for half its useful life shall be treated as having occurred before the close of the third year after the property was placed in service.

(b) ALLOWANCE OF REGULAR PERCENTAGE FOR BUSINESS INSULATION PROPERTY.—Subsection (a) of section 48 (defining section 38 property) is amended by adding at the end thereof the following new paragraph:

"(10) BUSINESS INSULATION PROPERTY.—For the period beginning on April 20, 1977, and ending on December 31, 1985, insulation shall be treated as meeting the requirements of paragraph (1) and paragraph (3) shall not apply to insulation. For purposes of the preceding sentence, the term 'insulation' means any item—

"(A) which is specifically and primarily designed to reduce when installed in or on an existing industrial or commercial building or existing industrial or commercial facility the heat loss or gain of such building or facility,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years,

"(D) which meets the performance and quality standards which—

"(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and

"(ii) are in effect at the time of the acquisition of the item, and

"(E) would not, but for this paragraph, be section 38 property.

For purposes of this paragraph, a building or facility will be treated as existing if it was placed in service before April 20, 1977.".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting immediately after the item relating to section 46 the following new item:

"Sec. 46A. Special rules relating to certain energy property.".

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to—

(1) property to which section 46(d) of the Internal Revenue Code of 1954 does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after April 19, 1977, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after such date and before January 1, 1986,

(2) property to which section 46(d) of such Code does not apply, acquired by the taxpayer after April 19, 1977, and before January 1, 1986, and placed in service by the taxpayer before January 1, 1986, and

(3) property to which section 46(d) of such Code applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) with respect to qualified progress expenditures made after April 19, 1977, and before January 1, 1986.

SEC. 1033. PAYMENT IN LIEU OF CREDIT TO TAX EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—In the case of a State or any political subdivision thereof, and in the case of any organization described in section 501(c)(3) of the Internal Revenue Code of 1954, or any electric utility cooperative described in section 501(c)(12), which is exempt from tax under section 501(a) of such Code for the taxable year, the Secretary of the Treasury shall pay to each such government, subdivision, or organization which files a claim during the calendar year in the form, manner, and at the time prescribed by the Secretary by regulations, an amount determined under subsection (b). Such payment shall be made as soon as possible after the receipt of such claim.

(b) AMOUNT OF PAYMENT.—The amount payable to a State, subdivision, or organization (hereinafter referred to as a "tax exempt entity") under subsection (a) for the calendar year shall be equal to the amount of credit which such tax exempt entity would, if it were liable for tax under chapter 1 of such Code, be allowed under section 44F of such Code with respect to its investment in alternative energy property and specially defined energy property and if such property were used in a trade or business.

(c) REPAYMENT.—If an entity which receives a payment under subsection (a) takes any action which would result in an increase of its tax under subpart B of part IV of subchapter A of chapter 1 of such Code if such entity were liable for tax under this chapter, then such entity shall be liable to the Secretary for an amount equal to the increased amount of tax which would be imposed under such subpart and such amount shall be collected as if it were the underpayment of a tax imposed under such chapter 1.

(d) TREATMENT AS OVERPAYMENT OF TAX.—For purposes of any law of the United States, including section 101 of the Treasury Department Appropriation Act of 1950 and title I of the Supplemental Treasury and Post Office Departments Appropriation Act, 1949, any payment made under this section shall be considered to be a refund of any overpayment of the tax imposed under chapter 1 of the Internal Code of 1954.

PART IV—INCENTIVES RELATING TO ALTERNATIVE FUEL SOURCES

SEC. 1041. USE OF INDUSTRIAL DEVELOPMENT BONDS FOR COAL GASIFICATION AND LIQUEFACTION AND BIOCONVERSION FACILITIES.

(a) IN GENERAL.—Paragraph (4) of section 103(b) (relating to industrial development bonds) is amended—

(1) by striking out "or" at the end of subparagraph (F),

(2) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof a comma, and

(3) by adding at the end thereof the following new subparagraphs:

"(H) coal gasification and liquefaction facilities for the production of any synthetic gaseous or liquid fuel, or

"(I) bioconversion facilities for the conversion of municipal and agricultural waters and other organic matter into energy or into synthetic gaseous, liquid, or solid fuels.".

(b) DEFINITION.—Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (f) as subsection (g) and by inserting immediately after subsection (e) the following new subsection:

"(f) COAL GASIFICATION AND LIQUEFACTION FACILITIES.—The facilities referred to in section (b)(4)(H) shall include—

"(1) facilities that directly perform the coal gasification or liquefaction process,

"(2) facilities for the on-site transportation, handling, storage, or treatment of coal, other raw materials, supplies, or any other materials in any preparatory process for the coal gasification or liquefaction process,

"(3) facilities for the on-site economic recovery, recycling, handling, storage, treatment, or utilization of byproduct materials or energy generated by the coal gasification or liquefaction process,

"(4) facilities for the on-site handling or transportation, or the increasing of the British thermal unit content per unit of volume, of synthetic gaseous or liquid fuels produced by the coal gasification or liquefaction process, and

"(5) other on-site facilities to the extent that such facilities are functionally related, and subordinate to, any facilities described in paragraphs (1) through (4).

For purposes of this section, the term 'synthetic gaseous or liquid fuels' means any gaseous or liquid product of a coal gasification or liquefaction process which can be used as a substitute for natural gas or oil regardless of its chemical composition or British thermal unit content.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to obligations issued after December 31, 1977.

SEC. 1042. PERCENTAGE DEPLETION FOR PEAT, GEOTHERMAL DEPOSITS, AND GEOPRESSURIZED METHANE GAS.

(a) PEAT.—Section 613(b) (relating to percentage depletion rates) is amended—

(1) by inserting "peat (from deposits in the United States but only if used as a fuel or otherwise used to produce energy)," after "sodium chloride," in paragraph (4) thereof, and

(2) by inserting "(if paragraph (4) does not apply)" after "peat" in paragraph (6) thereof.

(b) GEOTHERMAL DEPOSITS AND GEOPRESSURIZED METHANE GAS.—

(1) APPLICABLE PERCENTAGE.—Section 613(b) (relating to percentage depletion rates) is amended by inserting after paragraph (7) the following new paragraph:

"(8) In the case of geothermal deposits located in the United States or in a possession of the United States, the percentages set forth in section 613A(c)(5) for calender years shall apply to taxable years beginning in such calendar years, except that 10 percent shall be the applicable percentage for geopressurized methane gas (as defined in section 44G(d)(1)) extracted from brines withdrawn from such deposits."

(2) DEFINITION.—Section 613 (relating to percentage depletion) is amended by adding at the end thereof the following new subsection:

"(e) GEOTHERMAL DEPOSITS.—For purposes of this section, the term 'geothermal deposit' means a geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor (whether or not under pressure). Such a deposit shall in no case be treated as a gas well for purposes of this section or section 613A, and this section shall not apply to a geothermal deposit which is located outside the United States and its possessions."

(3) TECHNICAL AMENDMENTS.—

(A) Paragraph (1) of section 613(c) (defining gross income from the property) is amended by inserting "and other than a geopressurized methane gas well or a geothermal deposit" after "oil or gas well".

(B) Paragraph (1) of section 613(b) is amended—

(i) by inserting "and" at the end of subparagraph (A),

(ii) by striking out "and" at the end of subparagraph (B), and

(iii) by striking out subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1977.

SEC. 1043. OPTION TO DEDUCT INTANGIBLE DRILLING COSTS IN THE CASE OF GEOTHERMAL DEPOSITS AND GEOPRESSURIZED METHANE GAS; CERTAIN GEOLOGICAL AND GEOPHYSICAL COSTS.

(a) IN GENERAL.—Subsection (c) of section 263 (relating to intangible drilling and development costs in the case of oil and gas wells) is amended—

(1) by adding at the end thereof the following new sentence: "Such regulations shall also grant the option to deduct as expenses intangible drilling and development costs in the case of wells drilled in the United States (within the meaning of paragraph (1) of section 638), or any possession thereof, for any geothermal deposit (as defined in section 613(e)) or for any geopressurized methane gas (as defined in section 44G(d)(1)) to the same extent and in the manner as such expenses are deductible in the case of oil and gas wells.", and

(2) by amending the subsection heading to read as follows:

"(c) INTANGIBLE DRILLING AND DEVELOPMENT COSTS IN THE CASE OF OIL AND GAS WELLS AND GEOTHERMAL AND GEOPRESSURIZED METHANE GAS WELLS.—".

(b) GEOLOGICAL AND GEOPHYSICAL COSTS IN CONNECTION WITH GEOPRESSURIZED METHANE GAS.—Section 617 (relating to deduction and recapture of certain mining exploration expenditures) is amended by adding at the end thereof the following new subsection:

"(j) COSTS IN CONNECTION WITH GEOPRESSURIZED METHANE GAS.—Notwithstanding the provisions of the last sentence of paragraph (1) of subsection (a), the provisions of this section, in accordance with regulations prescribed by the Secretary, shall apply with respect to expenditures for the purpose of ascertaining the existence, location, or extent of geopressurized methane gas (as defined in section 44G(d)(1)).".

(c) MINIMUM TAX ON INTANGIBLE DRILLING COSTS IN THE CASE OF GEOTHERMAL AND GEOPRESSURIZED METHANE GAS WELLS.—

(1) Paragraph (11) of section 57(a) (relating to intangible drilling costs) is amended by striking out "oil and gas properties" each place it appears (including in the heading of subparagraph (C)) and inserting in lieu thereof "oil, gas, geopressurized methane gas, and geothermal properties".

(2) Clause (i) of section 57(a)(11)(B) is amended by striking out "oil and gas wells" and inserting in lieu thereof "oil, gas, geopressurized methane gas, and geothermal wells".

(3) Paragraph (11) of section 57(a) is amended by adding at the end thereof the following new subparagraph:

"(D) PARAGRAPH APPLIED SEPARATELY WITH RESPECT TO GEOTHERMAL PROPERTIES, GEOPRESSURIZED METHANE GAS PROPERTIES, AND OIL AND GAS PROPERTIES.—This paragraph shall be applied separately with respect to—

"(i) all oil and gas properties which are not described in clause (ii) or (iii),

"(ii) all properties which are geothermal deposits (as defined in section 613(e)), and

"(iii) all geopressurized methane gas properties.".

(4) Section 614 (relating to the definition of property) is amended by inserting "or geothermal and geopressurized methane gas wells" after "oil and gas wells" each place it appears.

(d) GAIN FROM DISPOSITION OF INTERESTS IN GEOTHERMAL OR GEOPRESSURIZED METHANE GAS WELLS.—

(1) Paragraphs (1) and (2) of section 1254(a) (relating to gain from disposition of interest in oil or gas property) are each amended by striking out "oil or gas property" each place it appears and inserting in lieu thereof "oil, gas, geopressurized methane gas, or geothermal property".

(2) Paragraph (3) of section 1254(a) (defining oil or gas property) is amended to read as follows:

"(3) OIL, GAS, GEOPRESSURIZED METHANE GAS, OR GEOTHERMAL PROPERTY.—The term 'oil, gas, geopressurized methane gas, or geothermal property' means any property (within the meaning of section 614) with respect to which any expenditures described in paragraph (1)(A) are properly chargeable.".

(3) The section heading of section 1254 is amended by striking out "OIL OR GAS" and inserting in lieu thereof "OIL, GAS, GEOPRESSURIZED METHANE GAS, OR GEOTHERMAL".

(4) The table of sections for part IV of subchapter P of chapter 1 is amended by striking out "oil or gas" in the item relating to section 1254 and inserting in lieu thereof "oil, gas, geopressurized methane gas, or geothermal".

(5) Subsection (c) of section 751 (relating to unrealized receivables) is amended by striking out "oil and gas property" and inserting in lieu thereof "oil, gas, geopressurized methane gas, or geothermal property".

(e) APPLICATION OF AT RISK RULES TO GEOTHERMAL DEPOSITS AND GEOPRESSURIZED METHANE GAS.—

(1) Paragraph (1) of section 465(c) (defining activities to which at risk rules apply) is amended by striking out "or" at the end of subparagraph (C) and by inserting after subparagraph (D) the following new subparagraphs:

"(E) exploring for, or exploiting, geothermal deposits (as defined in section 613(e)), or

"(F) exploring for, or exploiting, geopressurized methane gas (as defined in section 44G(d)(1))".

(2) Paragraph (2) of section 465(c) is amended by striking out "or" at the end of subparagraph (C) and by inserting after subparagraph (D) the following new subparagraphs:

"(E) geothermal property (as determined under section 614), or

"(F) geopressurized methane gas property (as determined under section 614),".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to wells commenced on or after April 20, 1977, in taxable years ending on or after such date.

(2) ELECTION.—The taxpayer may elect to capitalize or deduct any costs to which section 263(c) of the Internal Revenue Code of 1954 applies by reason of the amendments made by this section. Any such election shall be made before the expiration of the time for filing claim for credit or refund of any overpayment of tax imposed by chapter 1 of such Code with respect to the taxpayer's first taxable year to which the amendments made by this section apply and for which he pays or incurs costs to which such section 263(c) applies by reason of the amendments made by this section. Any election under this paragraph may be changed or revoked at any time before the expiration of the time referred to in the preceding sentence, but after the expiration of such time such election may not be changed or revoked.

SEC. 1044. TAX CREDIT FOR PRODUCTION OF OIL AND GAS FROM NONCONVENTIONAL SOURCES.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by inserting immediately after section 44F the following new section:

"SEC. 44G. CREDIT FOR PRODUCTION OF OIL AND GAS FROM NONCONVENTIONAL SOURCES.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount determined under subsection (b).

"(b) AMOUNT.—The amount of the credit allowed under subsection (a) shall be equal to the sum of—

"(1) $3 multiplied by the number of barrels of shale oil produced during the taxable year from all oil shale property the taxpayer has an interest in to the extent such production is attributable to the taxpayer, and

"(2) 50 cents multiplied by the sum of the number of thousand cubic feet of—

"(A) geopressurized methane gas produced during the taxable year from all geopressurized methane gas property (within the meaning of section 614) the taxpayer has an interest in, and

"(B) gas produced during the taxable year from all tight rock formation property the taxpayer has an interest in,

to the extent that such production is attributable to the taxpayer.

"(c) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—For purposes of subsection (b), the production attributable to the taxpayer for oil or gas produced from any property during a taxable year shall be equal to the amount which bears the same ratio to the total production of oil or gas from the property during the year as the amount of the taxpayer's gross income from the property for the taxable year under section 613(a) on account of such production bears to the aggregate gross income from the property for the year (within the meaning of section 613(a)) of all parties having an interest in such property.

"(d) DEFINITIONS OF SPECIAL RULES.—

"(1) OIL SHALE, ETC.—The terms 'oil shale', 'geopressurized methane gas', and 'tight rock formations' include such shale, gas, and formations as are included within a standard scientific definition of each such term established by the Secretary by regulation after consultation with the Secretary of Energy.

"(2) OIL SHALE AND TIGHT ROCK FORMATION PROPERTY.—The terms 'oil shale property' and 'tight rock formation property' include any property (within the meaning of section 614) with respect to which the taxpayer is claiming the credit allowed under subsection (a).

"(3) PRODUCTION WITHIN THE UNITED STATES.—The credit allowed under subsection (a) shall apply only with respect to oil and gas which is produced from a property located in, or offshore of the United States (within the meaning of paragraph (1) of section 638) or in, or offshore of, a possession of the United States.

"(4) BARREL; FRACTIONS.—

"(A) DEFINED.—The term 'barrel' means 42 United States gallons.

"(B) FRACTIONS.—In determining the amount of the credit under subsection (b) in the case of a fraction of a barrel or a fraction of a thousand cubic feet, the amount shall be the like fraction of the amount allowed with respect to a whole barrel or thousand cubic feet.

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, 43, 44C, 44E, and 44F.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for such subpart A is amended by inserting after the item relating to section 44F the following new item:

"Sec. 44G. Credit for production of oil and gas from nonconventional sources."

(2) Section 6096(b) (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44F" and inserting in lieu thereof "44F, and 44G".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply wtih respect to taxable years beginning after December 31, 1977, and before January 1, 1986.

PART V—MISCELLANEOUS PROVISIONS

SEC. 1051. TREATMENT OF INTANGIBLE DRILLING COSTS FOR PURPOSES OF THE MINIMUM TAX.

Subsection (b) of section 308 of the Tax Reduction and Simplification Act of 1977 is amended by striking out ", and before January 1, 1978".

SEC. 1052. REREFINED LUBRICATING OIL.

(a) IN GENERAL.—Section 4093 (relating to exemption of sales to producers) is amended to read as follows:

"SEC. 4093. EXEMPTIONS.

"(a) SALES TO MANUFACTURERS OR PRODUCERS FOR RESALE.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on lubricating oils sold to a manufacturer or producer of lubricating oils for resale by him.

"(b) USE IN PRODUCING REREFINED OIL.—

"(1) SALES TO REREFINERS.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on lubricating oil sold for use in mixing with used or waste lubricating oil which has been cleaned, renovated, or rerefined. Any person to whom lubricating oil is sold tax-free under this paragraph shall be treated as the producer of such lubricating oil.

"(2) USE IN PRODUCING REREFINED OIL.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on lubricating oil used in producing re-

refined oil to the extent that the amount of such lubricating oil does not exceed 55 percent of such rerefined oil.

"(3) REREFINED OIL DEFINED.—For purposes of this subsection, the term 'rerefined oil' means oil 25 percent or more of which is used or waste lubricating oil which has been cleaned, renovated, or rerefined."

(b) CONFORMING AMENDMENT.—Section 4092(a) is amended by striking out "4093" and inserting in lieu thereof "4093(a)".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 32 is amended by striking out the item relating to section 4093 and inserting in lieu thereof the following:

"Sec. 4093. Exemptions.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales on or after the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act.

SEC. 1053. ANNUAL REPORT ON ENERGY AND REVENUE EFFECTS OF THIS TITLE.

During August of each calendar year beginning after 1977, the President shall submit a report to the Congress which shall contain the following information:

(1) The amount of the increases or decreases in the revenues received in the Treasury during periods before the submission of such report resulting from each of the provisions of this title.

(2) An evaluation of the extent to which each of the provisions of this title resulted in increased energy conservation and production.

(3) Such other information as the President may determine to be relevant for an evaluation of the provisions of this title.

SEC. 1054. ADDITIONAL INCENTIVES FOR THE PRODUCTION AND CONSERVATION OF ENERGY AND FOR CONVERSION TO ALTERNATIVE ENERGY SOURCES, AND MECHANISMS FOR DEALING WITH ENERGY-RELATED PROBLEMS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act or of the Internal Revenue Code of 1954 added by title II of this Act, no tax shall be imposed under any provision of such Code added by this Act unless this Act also contains or provides tax incentives and other economic incentives for increased production and conservation of energy and for conversion to alternative sources of energy, and mechanisms for avoiding or mitigating adverse and undesirable consequences arising out of the energy crisis. It is the sense of the Senate that the inclusion of any such incentives or mechanisms in any conference report reconciling the differences between the two Houess with respect to this bill shall not be subject to any point of order under the Standing Rules of the Senate relating to conference reports, whether or not any particular incentive or mechanism appears in the House bill or the Senate amendments to this bill.

(b) ESTABLISHMENT OF ENERGY PRODUCTION, CONSERVATION, AND CONVERSION TRUST FUND.—

(1) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Energy Production, Conservation, and Conversion Trust Fund" (hereinafter in this title referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

(2) ESTABLISHMENT OF SEPARATE ACCOUNTS.—There are hereby established within the Trust Fund the Energy Financing Program Account and the Energy-Efficient Transit Account, each of which shall be separately managed and administered as if each such account constituted a separate trust fund. Of each amount transferred to the Trust Fund under subparagraph (3), the Secretary shall make allocations between the two accounts.

(3) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

(A) IN GENERAL.—There are hereby appropriated to the Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in this title referred to as the "Secretary") to be equivalent to the amount of the increase in budget receipts resulting from any new taxes imposed under any provision of the Internal Revenue Code of 1954 added by this Act.

(B) METHOD OF TRANSFER.—The amounts appropriated by subparagraph (A) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the amounts referred to in subparagraph (A) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amount required to be transferred.

(3) MANAGEMENT OF TRUST FUND.—

(A) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund, and to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund (and of each Account contained therein) during the preceding fiscal year and on its expected condition and operations during the next 5 fiscal years. Such report shall be printed as a Senate document of the session of the Congress to which the report is made.

(B) INVESTMENT.—

(i) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

(ii) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund may be sold by the Secretary at the market price.

(iii) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(d) EXPENDITURES FROM TRUST FUND ACCOUNTS FOR ENERGY PROJECTS AND PROGRAMS.—

(1) IN GENERAL.—Amounts in any Account of the Trust Fund shall be available, as provided by appropriations Acts, for making expenditures for the purposes of such Account under this paragraph. Nothing in this paragraph shall be deemed to authorize any program, project, or other activity not otherwise authorized by law.

(2) ENERGY FINANCING PROGRAM ACCOUNT.—For purposes of this paragraph, amounts in the Energy Financing Program Account may be used only for purposes of providing financial assistance (including, but not limited to, loan guarantees, price guarantees, and loans) to business concerns for projects involving energy development, production, transportation, transmission, distribution, or conservation, but only if such project could not receive sufficient funding upon commercially reasonable terms or conditions from other sources to make such project commercially feasible. Financial assistance through the Energy Financing Program Account shall not be available for any project which would be eligible to receive grants or other financial assistance from the Department of Energy nor for projects eligible to receive funding through the Energy-Efficient Transit Account.

(3) ENERGY-EFFICIENT TRANSIT ACCOUNT.—For purposes of this paragraph, amounts in the Energy-Efficient Transit Account may be used only for purposes of energy-efficient transit, including (but not limited to) research and demonstration projects and grants to States for energy-efficient transit purposes or for regional transportation programs.

SEC. 1055. LIMITATION OF PRESIDENTS AUTHORITY TO ADJUST IMPORTS OF PETROLEUM

(a) IN GENERAL.—Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is amended by adding at the end thereof the following new subsections:

"(e)(1) Except as provided in subsection (f), the President may not adjust imports of petroleum or petroleum products under subsection (a) after October 14, 1977, other than for periods for which—

"(A) the Congress declares war,

"(B) United States Armed Forces are introduced into hostilities pursuant to specific statutory authorization,

"(C) a national emergency is created by attack upon the United States, its territories or possessions, or its armed forces, or

"(D) United States Armed Forces are introduced into such hostilities, situations, or places, or are enlarged in any foreign nation, under circumstances which require a report by the President to the Congress pursuant to section 4(a) of the War Powers resolution (50 U.S.C. 1453(a)).

"(2) Any adjustment made pursuant to the four exceptions described in subparagraphs (A) through (D) of paragraph (1) shall not apply with respect to articles entered or withdrawn from warehouse for consumption on or after the 60th day after the closing date of the hostilities concerned.".

(b) EXCEPTION FOR CERTAIN REFINED PETROLEUM PRODUCTS.—Such section 232 is also amended by adding at the end thereof the following new subsection:

"(f)(1) Upon receiving a request, application, or motion under subsection (b), the subject of which is imports of refined petroleum products, the Secretary shall report his findings and recommendations to the President with respect to such request, application, or motion within 6 months after receiving such an application from an interested party or otherwise beginning an investigation under that subsection.

"(2) If the Secretary finds under subsection (b) that imports of refined petroleum products threaten to impair the national security he shall so advise the President and the President shall take such action under subsection (b), including imposition or adjustment of tariffs, fees, or quotas relating to refined petroleum products, and for such time, as he deems necessary to adjust the imports of refined petroleum products so that such imports will not threaten to impair the national security, unless the President determines that refined petroleum products are not being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security

"(3) For purposes of subsection (c), in the administration of this section, the Secretary and the President shall further recognize the close relation to our national security of a modern domestic refining industry which is competitive with foreign refineries and shall take into consideration

the impact of foreign competition on the economic welfare of the domestic refining industry and the investment necessary to assure the welfare and growth of such industry; and any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from displacement of domestically produced refined petroleum products by excessive imports shall be considered, without excluding other factors, in determining whether such weakening of our internal economy may impair national security.".

(b) TREATMENT OF PETROLEUM FOR CERTAIN TRADE NEGOTIATION PURPOSES.—

(1) Petroleum and petroleum products may not be designated eligible articles for purposes of title V of the Trade Act of 1974.

(2) No rate of duty on petroleum and petroleum products may be increased as imposed pursuant to a trade agreement entered into under title I of the Trade Act of 1974.

SEC. 1056. ADDITIONAL EFFECTIVE DATE PROVISIONS.

(a) TITLE II PROVISIONS.—No provision of title II, and no amendment made by title II, shall take effect as long as any provision of this title or any amendment made by this title is in effect.

(b) COORDINATION WITH CONGRESSIONAL BUDGET ACT of 1974.—Notwithstanding any other provision of this title, or of any amendment made by this title, the Secretary of the Treasury shall postpone (but not to later than October 1, 1978) any of the effective dates for provisions of this title (other than this section) and for amendments made by this title to assure that revenues for fiscal year 1978 will not be less than $397,000,000,000.

SEC. 1057. SENSE OF THE SENATE WITH RESPECT TO REDUCTION OF REVENUE LOSS FROM BILL IN CONFERENCE

It is the sense of the Senate that the conferees on the part of the Senate on this Act shall, to the extent practicable, reduce the revenues loss from this Act for the fiscal year 1978 to $972,000,000.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that Mike Harvey, Betsy Moler, Gren Garside, from the Committee on Energy and Natural Resources' staff; and Eleanor Bachrach, Ken McLean, and Howard Shuman from Senator PROXMIRE's staff be granted the privileges of the floor in connection with the pending measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. METZENBAUM. I ask unanimous consent that during the pendency of the energy tax measure, Barry Direnfeld and Roger Berliner of my staff be accorded the privilege of the floor; and, on behalf of the Senator from Arizona (Mr. DECONCINI), I ask unanimous consent that Romano Romani be accorded the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CLARK). Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I ask unanimous consent that the following staff members be granted the privileges of the floor during the consideration of the pending measure: Mr. Jack Nutter, of Senator DOLE's staff; Mr. Bill Reinisch, of Senator HEINZ' staff; Mr. Joe diGenova, of Senator MATHIAS' staff, and Miss Kathryne Bruner, of Senator HAYAKAWA'S staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I ask unanimous consent that the following staff members from the Senate Energy and Natural Resources Committee be granted the privileges of the floor during the consideration of and voting on H.R. 5263; Danny Boggs, Fred Craft, Carol Sacchi, and Faye Widenmann.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I ask unanimous consent that George Pritts and James Heinhold, of my staff be granted the privileges of the floor during the consideration of and voting on H.R. 5263.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Jon Fleming and Ann Wray of my staff be granted privilege of the floor throughout consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that Alan Holmer and John Colvin of my staff be granted privilege of the floor during pendency of the bill and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 12 O'CLOCK NOON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 12 o'clock noon and that at that time, the pending business will still be the unfinished business—am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

There being no objection, the Senate, at 10:29 a.m., recessed until 12 noon; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FORD).

ORDER FOR ALLOCATION OF TIME AT 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 2 p.m. today the minority leader and I have 30 minutes equally divided between us.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The Senate continued with the consideration of H.R. 5263.

Mr. LONG. Mr. President, it has been 4 years since the Arab oil embargo, and in that time the energy situation has become steadily worse than it was at the time of the embargo. In 1973, before the embargo, we imported 36 percent of our oil, one-fourth of which was from Arab countries, and our dependence was so great that the embargo had devastating effects on the economy. In the first half of this year, our imports were 48 percent of consumption. Moreover, since 1973, our dependence on oil imports from Arab countries has approximately doubled, so that an embargo today would be twice as serious as the 1973 embargo. Our annual bill for imported oil now exceeds $45 billion and is the main cause of our enormous trade deficits.

The natural gas situation is even worse than the oil situation. Last winter, tens of thousands of workers were laid

off their jobs because their employers could not obtain the gas they needed to operate their businesses. In many parts of the country, homeowners cannot get gas hookups at any price and must rely on less efficient oil or electric heat.

While the energy situation has grown progressively worse, the Government has responded by doing virtually nothing to reduce demand for oil and gas or to increase their domestic supply. Indeed, most Government action has had precisely the opposite effect—encouraging demand by keeping oil and gas prices down, limiting offshore drilling because of our slow-moving leasing policy and environmental protection policy, and raising taxes on oil and gas producers.

All serious forecasts of the future energy situation are that, without decisive action, the energy situation will continue to worsen. The Federal Energy Administration forecasts that, if present policies are continued, oil imports in 1985 will be almost 12 million barrels per day, almost twice their 1973 level. This level of imports would pose an unacceptable threat to our economic well-being, our national security, and our ability to conduct an independent foreign policy. Clearly, we need decisive, immediate action.

The energy tax bill reported by the Finance Committee is designed to use tax policy to reduce demand for oil and gas by encouraging conservation in their use and by stimulating shifts to other energy forms and to encourage production of energy, particularly the development, as well as production, of alternative energy sources of which the U.S. possesses abundant but not yet developed resources. The administration has estimated that these incentives will reduce oil imoprts by about 2 million barrels per day by 1985. Together with savings made by the other, nontax energy bills passed by the Senate, the committee's tax bill will enable the Nation to meet the energy goals announced by President Carter last April. I want to point out, however, that even this goal of reducing imports to less than 6 million barrels of oil a day is still too high. I believe that we should continue to make efforts to increase production and develop alternative energy sources so that we can make this country self-sufficient.

The tax incentives in the committee's bill will reduce revenues by about $2 billion in 1980. This is a relatively modest price to pay for a major reduction in oil imports, certainly when it is compared to our $45 billion annual bill for oil imports.

I can understand, nonetheless, why Senators may be concerned with the budget impact of the bill. Let me point out that the House bill contains major tax increases, which will amount to almost $20 billion per year when they are fully effective. When we go to conference with the House, I, for one, will attempt to reconcile the final bill agreed to by the conferees with the fiscal policies of the Carter administration and those of the Congress. The bill should not result in an unplanned drain on the Treasury.

The committee's bill contains two provisions which are designed to insure that the conference bill will comply with the second budget resolution for fiscal year 1978. First, the bill contains a sense-of-the-Senate resolution that the final version of the bill, after it is agreed to by the Senate conferees, involve a revenue loss for fiscal year 1978 no longer than that of the House bill, which is the number anticipated in the budget resolution. In addition, the bill authorizes the Secretary of the Treasury to postpone the effective date of the tax reductions in the bill to make sure that the bill is consistent with the revenue floor—of $397 billion—in the second resolution.

Let me summarize the major provisions of the committee's bill.

The bill includes a 20-percent tax credit for the initial $2,000 of expenditures for home insulation and energy conserving residential heating equipment. An additional credit will be available to homeowners for making use of renewable energy sources, such as solar, geothermal and wind energy systems; this credit will be 30 percent of the first $2,000 of expenditures and 20 percent of the next $8,000 of expenditures, for a maximum credit of $2,200. Both of these credits may exceed tax liability; that is, they are refundable. They will reduce oil imports by about 300,000 barrels per day in 1985.

To encourage energy saving in transportation, the bill extends the current 4-cent gasoline tax through September 30, 1985, instead of permitting it to return to 1½ cents in 1979. It exempts gasoline made from alcohol, called gasahol, from the tax. It also removes the tax reductions through refunds for fuel used by motorboats and other nonhighway equipment.

One important way to save energy is to use automobiles less for intercity travel and to make greater use of energy-efficient buses. To encourage this, there is a tax credit for intercity bus companies, which is to be used to reduce fares and to improve bus service and facilities. In addition, excise taxes on buses, bus parts and certain other items used by bus operators are repealed, and these actions also should contribute to more attractive bus fares.

The bill also contains a tax credit for electric cars, a credit to encourage more efficient commuter transportation to work by having private businesses establish vanpooling for their employees, and by not including the cost of such transportation in the income of employees as a taxable fringe benefit provided by employers. The current tax discrimination against re-refined lubricating oil is eliminated in a step toward recycling oil as long as it is possible to continue its use.

The business energy tax credits are the keystone of the Finance Committee's bill. These credits will reduce average daily oil imports in 1985 by 1.5 million barrels. Our bill contains incentives that will make shifts from using oil and gas to coal or other alternate fuel sources economically compelling. These incentives also are available for investors in equipment that will be used to produce new fuel sources.

In this bill, the basic investment credit concept has been extended. The idea of a refundable investment credit, which Senator KENNEDY joined me in endorsing has been made available, temporarily, in combination with a higher credit rate for energy conservation, convenience, and new development and production of alternative energy sources. Together the changes should overcome the inertia that apparently characterizes the resistance to changing fuel sources. To dispel any doubt that the purpose of these credits is to get these things started, the additional credits will expire after 1985.

The bill provides three provisions for additional investment credits above the present 10-percent level. First, there is a refundable credit of an additional 40 percent for investments in alternative energy property. Included in this category is equipment that, first, uses fuels other than oil or gas, or mixtures of oil or gas and other fuels; second, generates nuclear and hydroelectric power and also that may use solar, geothermal, wind, tidal, and ocean thermal power to generate electricity or heat; third, uses coal, lignite, biomass or other substances to produce fuel and uses coal or lignite to make chemical feedstocks; and, fourth, is used for pollution control with the other processes or for handling and preparation.

Second, there is an additional 10-percent credit which is available for various kinds of specially defined energy property that consists of various types of heat transfer equipment, automatic control systems, industrial heat pumps, and other energy or heat conserving modifications to existing industrial processes, such as smelters.

Both alternative energy property (at 40 percent) and specially defined energy property (at 10 percent) are refundable credits. In addition, the concept of refundability in these cases has been carried over, for equity purposes, to tax-exempt investors in those types of equipment. These investors can include educational, charitable, and religious organizations, electric utility cooperatives and State and local governments.

The third provision is another additional 10 percent investment credit category, which is made available for several other forms of energy property, but without the privilege of refundability. These include equipment to be used for additions to existing capability to cogenerate electricity and heat, for recycling, recovery of shale oil, recovery of methane gas from geopressurized water and for energy-saving components added to commercial transportation equipment.

Insulation for business structures would become eligible for a 10-percent credit in cases where the equipment is not eligible now.

Many people feel that the key to our energy future is to develop some of the expensive, more exotic energy sources which businesses have not yet found profitable to develop. The United States possesses abundant resources of many of

these energy sources, but substantial incentives will be needed to get started on developing them.

The bill, therefore, includes several tax incentives to encourage the production of some of those expensive energy sources. These include a $3 per barrel tax credit for the production of oil from shale and a 50-cent per thousand cubic feet credit for the production of gas from geopressurized gas sources and from tight rock geologic formations. Provision is made for the immediate deduction of intangible drilling costs for geothermal wells and geopressurized gas wells. Percentage depletion is provided for geothermal energy and geopressurized gas, and the existing rate of depletion is increased from 5 to 10 percent for peat used directly or indirectly as fuel. Producers of geopressurized gas also will be allowed to deduct their geological and geophysical costs as a current expense.

Because there is virtually no production of these energy sources today, the cost of these incentives will be small unless they are successful in stimulating additional production. If successful they may be worth hundreds of billions of dollars to the Nation. In fact, they might be worth to this Nation more than $1 trillion.

The bill also makes permanent the exemption from the minimum tax for intangible drilling costs to the extent of a person's oil production income. This provision was enacted for 1977 in the tax reduction bill earlier this year.

Another provision of the bill limits the President's power to adjust crude oil imports to periods of wartime and actual hostilities and limits his authority to adjust imports on refined petroleum products to those needed for national security.

The House bill contained several new taxes designed to reduce the demand for oil and gas. These include a tax on gas guzzling automobiles, a crude oil equalization tax to raise the price of crude oil to consumers to the world price, and a tax on the business use of oil and gas as fuel. When we go to conference with the House, each of these taxes will be in conference, and we are going to have to come to terms with the House conferees on these issues. My feeling is that if the House conferees are adamant, the Senate may be willing to accept some part of the energy taxes, but only if they are accompanied by incentives to increase energy production and only if the incentives are used in a manner which helps solve the energy problem. I hope we can reach an agreement in the conference with the House which will achieve these goals and which will be acceptable to the Senate.

The committee's bill contains a provision which is designed to give the Senate conferees the flexibility to reach an agreement with the House along these lines. This provision states that no new taxes imposed by the bill are to go into effect unless they are accompanied by tax and other economic incentives for increasing production, conservation, and conversion and unless they are modified to mitigate inequities resulting from the energy situation. And, Mr. President, I am going to modify that amendment to make it clear that where it says "incentives" it means "tax incentives".

This provision has the effect of bringing within the scope of the conference a broad range of possible compromise provisions.

We have delayed for far too long the bold actions which are needed to reduce demand for oil and gas and to increase domestic supplies. I hope, therefore, that the Senate will pass the bill and allow us to go to conference with the House where I am convinced that we can work out a bill with energy and budget effects desired by the Senate and advocated by the House of Representatives and the President.

We may differ on the means to get there, but we all agree on the objectives.

UP AMENDMENT 965

Mr. President, as the manager of the bill and chairman of the committee, speaking for the Committee on Finance, I modify the second committee amendment as follows:

On page 96, lines 11 and 12, delete "and other economic incentives".

On page 96, line 14, delete "and mechanisms" and insert in lieu thereof "and tax mechanisms".

On page 96, line 17, delete "such incentives on mechanisms" and insert in lieu thereof "such tax incentives on tax mechanisms".

On page 96, lines 21 and 22, delete "particular incentive or mechanism" and insert in lieu thereof "particular tax incentive or tax mechanism".

Strike out from page 97, line 1, through page 101, line 2.

The PRESIDING OFFICER (Mr. FORD). The amendment is so modified.

The modification is as follows:

On page 96, lines 11 and 12, delete "and other economic incentives".

On page 96, line 14, delete "and mechanisms" and insert in lieu thereof "and tax mechanisms".

On page 96, line 17, delete "such incentives on mechanisms" and insert in lieu thereof "such tax incentives on tax mechanisms".

On page 96, lines 21 and 22, delete "particular incentive or mechanism" and insert in lieu thereof "particular tax incentive or tax mechanism".

Strike out from page 97, line 1, through page 101, line 2.

Mr. LONG. Let me explain this modification, Mr. President.

When we speak of incentives, we are talking about tax incentives. There is another problem involved, involving page 97 through page 101, line 2.

It is our view that in the conference we should agree to have provisions that would raise more money than the Senate tax expenditures spend. We would feel that that money should be used only for the purposes of this bill, the energy legislation generally. That is, to either bring about more production, more conservation, more conversion, or to help solve this energy problem by easing the burden on those who are adversely affected.

There has been some concern, and I understand how these things arrive, though I want to make it clear that it was never the intent of the committee to do otherwise, that we were perhaps trespassing on the jurisdiction of other committees. That, Mr. President, is not the purpose and has not been the purpose. We have never proposed that the Appropriations Committee should not do the appropriating, that the Energy and Natural Resources Committee, the Banking, Housing, and Urban Affairs Committee, the Environment and Public Works Committee, or the Commerce, Science, and Transportation Committee should not do the authorizing within the areas of their legislative jurisdiction.

It is our feeling that if we bring back from conference a measure that raises more money than it spends, the money that it raised should be used not so much for rebate as for bringing about increased production and more effective use of what we have.

We are not seeking to deny the other committees their function to legislate. Quite the contrary, we urge them to do so. What we are seeking to do, as the tax writing committee, is to see that the revenues which may be raised, in the event we do agree to some of the House taxes, would be limited to energy purposes and would not be spent for other purposes. The people of this country, I believe, if they must pay additional taxes—and that remains to be seen, whether they will or will not—would feel far more kindly in paying those taxes if it was something which would help solve the energy problem than if they saw those taxes used for some other purposes.

It is my view, and I believe it is the view of the Senate, that as far as the average taxpayer is concerned there is more support for producing revenues that will produce energy. Of course, with some, their view might be somewhat different.

My view, for example, in urging that we should do something with regard to bus transportation, has been that if we do not do something to help bus transportation, the poor, the aged, those who are either not permitted to drive an automobile or those who are unable to own one, face the prospects of having a lower and lower quality of service. Bus terminals are broken down and in bad shape, in unsightly parts of town and with deteriorating conditions on the buses; higher bus fares for no better service, a disinvestment, that is, a failure to replace equipment as it deteriorates, and in the not too distant future even a discontinuance of service for many of the 13,000 communities which have no other public transportation service available to them.

It is our feeling that in providing for increased production and incentives for increased production, we must also try to provide that any revenue which might be raised, if the House should insist on the taxes and the Senate would go along, would be dedicated to the kinds of things which promote social and economic justice in terms of trying to ease and to overcome energy problems which we face.

UP AMENDMENT NO. 966

Mr. President, there is also a technical error which needs to be corrected.

I send to the desk a modification to the amendment of the Finance Committee. This modification is as follows:

On page 93, line 7, strike out "1977 and before January 1, 1986," and insert in lieu thereof "1977."

The committee agreed that the shale oil tax provision should be permanent. The modification will correct the bill and permit it to do this.

The PRESIDING OFFICER. The bill will be so modified.

Mr. LONG. Mr. President, I ask unanimous consent that during Senate action on the Energy Tax bill, including votes on the bill that the following staff persons be permitted on the floor:

From the Committee on Finance: Michael Stern, George Pritts, Jim Heinhold, Michael Rowny, Bob Cassidy, Bill Morris, Bob Willan, Charles Bruce, and Jack Curtis.

From the Joint Committee on Taxation: Carl Bates, James Billinger, Michael Bird, Albert Buckberg, Thomas Gallagher, Alvin Geske, Harold Hirsch, Leon Klud, John Lepley, Michael Oberst, Paul Oosterhuis, Keith Rollins, Richard Ruge, Michelle Scott, Bernard Shapiro, Lin Smith, Robert Strauss, Melvin Thomas, Robert Warden, Randall Weiss, and James Wetzler.

From my personal staff: John Steen, Jim Guirard, Dot Svendson, Bruce Feingerts, George Foote, and Wiley Jones.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. And from Mr. RIBICOFF's staff, Mr. Stuart Brahs and David Schaefer.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I make a similar request for Mr. Everett Wallace and Mr. Mike Crisp of Senator BAKER's staff, and Dick Bryan, of my staff.

Mr. LONG. For Senator GRAVEL, I ask that the privileges of the floor be extended to Dening Cowles and Jerry Gousche.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Richard Arnold and Ark Monroe, of my staff, be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington is recognized.

Mr. JACKSON. Mr. President, I had intended in behalf of Senator PROXMIRE and myself to make a point of order in connection with section 1054.

Mr. President, I had intended to make a point of order against the Finance Committee's amendment to H.R. 5263. I had intended to do so for the simple reason that the committee's amendment violated rule 41 of the Senate, which states that such amendments are not in order when they contain "any significant matter not within the jurisdiction of the committee proposing such (an) amendment."

Section 1054 of the Finance Committee's amendment clearly violates rule 41 by including legislation within the jurisdiction of the Committee on Energy and Natural Resources, Committee on Banking, Housing and Urban Affairs, and the Committee on Commerce, Science and Transportation.

Among other things, this section would have authorized changes in oil price controls and the crude oil entitlements program, major matters undeniably within the jurisdiction of the Energy Committee. It would also have had a substantial impact on the carefully structured energy research and development program authorized by the Energy Committee. Let me review the details of the Finance Committee's amendment to H.R. 5263 and the report on that amendment.

Section 1054 was entitled "Additional incentives for the production and conservation of energy and for conversion to alternative energy sources, and mechanisms for dealing with energy-related problems."

Mr. President, while the language of the section was innocent on its face, it was clearly intended to utilize revenues from whatever taxes may be imposed to do things that are within the jurisdiction of the Committee I chair.

Subsection (a) prohibited a tax from being imposed unless the act "also contains or provides tax incentives and other economic incentives for increased production and conservation of energy, and mechanisms for avoiding or mitigating adverse and undesirable consequences arising out of the energy crisis." The provision was, in essence, a blank check; the funds could and would have been utilized for virtually any type of energy project.

The committee report makes explicit the fact that the section was to have been interpreted broadly. In fact, it states,

The Committee intends that the concept of tax incentives for increased energy production, conservation or conversion be interpreted broadly. Tax and other incentives for greater production would include, for example, modifications of the crude oil equalization tax in the House bill to transfer a portion of the revenue raised by the tax to oil producers.

By shifting the tax from purchasers of crude oil to producers the "ceiling price of regulated crude oil (could be allowed) to rise by the amount of the tax," and "exempting a portion of each producer's oil production from the tax" could also be allowed. This language leads to wholesale amendment of a very carefully constructed series of legislation, all of which lies within the jurisdiction of the Energy Committee. The legislation includes the Emergency Petroleum Allocation Act and the Energy Policy and Conservation Act.

The committee report also discusses the possibility of offering special incentives for small refiners or modification of the crude oil entitlements program to aid small refiners. The Committee on Energy and Natural Resources clearly has jurisdiction over both subjects.

The Energy Production, Conservation, and Conversion Trust Fund would have been established but would have no money to spend. If funds were available, they could be spent from two accounts. The Energy Financing Program Account "may be used solely for purposes of providing financial assistance (including, but not limited to, loan guarantees, price guarantees, and loans) to business concerns for projects involving energy development, production, transportation, transmission, distribution, or conservation, but only if such projects could not receive sufficient funding upon commercially reasonable terms or conditions from other sources to make such project commercially feasible". Once again, the Committee on Energy and Natural Resources clearly has jurisdiction over the subject areas mentioned. DOE (formerly ERDA) has projects in each area mentioned.

The report states that,

To avoid duplication of effort, financial assistance would not be available for any project which would be eligible to receive grants or other aid from the Department of Energy.

While the prohibition is attractive on its face, the net result would be to make funds available from the trust fund for projects that could not qualify for other DOE programs, thus subverting the carefully constructed requirements of the Federal Nonnuclear Energy Research and Development Act of 1974, the Atomic Energy Act of 1954, and the annual authorization acts.

The Energy-Efficient Transit Account could have been "used solely for purposes of energy-efficient transit, including (but not limited to) research and demonstration projects and grants to States for energy-efficient transit purposes or for regional transportation programs". Both the Energy Committee and the Commerce Committee have jurisdiction over the subject matter. Once again the trust fund would have a blank check to do things that otherwise would be done under the appropriate authorization under DOE or DOT.

Mr. President, as the distinguished chairman of the committee, the distinguished Senator from Louisiana, indicated, the modification made by the Senator in connection with section 1054 conforms basically to a point of order that I had indicated previously I would make. The modification comes as a result of our discussions involving Senator PROXMIRE, Senator BUMPERS, Senator CURTIS, and myself.

I want to thank the Senator for making these adjustments to save the time of the Senate. Under the Senate rules, the point of order would force the bill all the way back to committee because the bill is in the form of an amendment. The whole bill would, of course, fall with the point of order.

Mr. President, I have deep concerns about the pending bill. I can only say that, in my view, the bill reported by the Committee on Finance goes way, way beyond what the President's program called for. I point out that the bill, as I see it, in effect, provides for some $40 billion in credits without any taxes to support it. The gist of the President's program involved fundamentally the levying, among other things, of a wellhead tax which would provide revenues which would be funneled back to the consumers. Obviously, there are various variations that have been suggested by many in the

House and Senate on how those funds could be utilized. But the thrust of it, Mr. President, was to provide money for the various purposes outlined by the President from these tax revenues, but the money would go back to the consuming public.

That was the whole thrust of the President's program. The wellhead tax would act as a disincentive, Mr. President, so as to dampen and, therefore, bring about conservation.

To come right to the point, the bill reported by the Finance Committee does not provide for any taxes, but provides for $40 billion in allocations to the producers. I can only say that if they levy taxes for $40 billion to cover the money available to the producers in the conference, this approach would further depress the economy by that amount. It would take money away from the consumers' purchasing power and it would mean that the taxes that the consumers are paying would go to the producers.

Mr. President, there are adequate incentives in the President's program. I can only say that we are 180 degrees off course on this approach. I observe that it is the wrong approach in terms of dealing with the problems of conservation. The President's program, at this point, does not involve extra large incentives for the producers. The price targets of the President's program, both in oil and natural gas, in my view, do provide adequate price incentives to go after the oil and go after the gas.

Mr. President, to authorize here, in this bill, the allocation of funds to the producers to the tune of $40 billion, without any taxes, certainly ought to come as a shock to some of the fiscal conservatives in this body. It will be interesting to see what the reaction is going to be to passing a tax bill which does all the allocating and none of the taxing.

I am aware of the strategy, and I supported a stripped-down bill, but this is a stripped-up bill. It is a dressed-up bill. Really, when you get down to it, it should get the award for the best-decorated Christmas tree.

I have great admiration for the distinguished chairman, the distinguished Senator from Louisiana. He is very adroit and I know exactly what his objective is. It is to come out with a bill in conference that will substantially—and that is an understatement—modify the President's program by making available most of the funds that would accrue from taxes to go to producers.

I am not opposed to providing loan guarantees. I have supported such legislation, that passed the Senate by an overwhelming margin, to aid and assist in obtaining alternate sources of energy. But I can only say, Mr. President, that, in my judgment, we are going altogether too far in taxing—and that is what we are going to be doing here, because we are not going to pass this proposal without having to pay the piper when it comes back from conference for the $40 billion in taxes that will have to be collected as a result of any approval given by this body to the pending measure.

I must say that, at an appropriate time—which is after we complete phase 1 of the President's program—we should place emphasis on additional assistance that can be forthcoming to encourage production, to provide for risk guarantees.

I point out that, when we talk about building huge, shall we say, coal gasification or liquefaction plants, when we talk about converting oil shale to oil, we are talking about plants that will cost $2 billion to $3 billion. It is my view that a partnership or joint venture on the part of Government and industry is an appropriate course to follow. The truth is that the only real effort that was made a couple of years ago by one of the large oil companies in Colorado to develop an oil shale program has since been withdrawn. The head of that company said, in no uncertain terms, that the risk is too high to invest $2 billion or $3 billion in a plant that, indeed, might not work, or, in any event, if it did work, would not bring returns for 10 years. It is a risk that no private corporation can afford to take.

The truth is that the industry has been unwilling to admit that which is a fact. Looking down the road, I would strongly support appropriate programs for joint venture and partnership on the part of the private sector and the Government sector. But I would only say that, facing the problem that we do here now, this body must decide, are we going to give a blank check, providing $40 billion in funds available to the private sector, money that has been taken from the consumers of this country in the form of excise taxes, hitting the little people the hardest, and turn that money over to the producer?

We started out, over in the other body and the White House, with the idea that those funds would be plowed back to the consumer in one form or another. I submit, Mr. President, that we are not carrying out that commitment. Under all the circumstances, I cannot support the bill in its present form.

Mr. PROXMIRE. Will the Senator yield?

Mr. JACKSON. Yes; I yield to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank the Senator for yielding. I know the Senator from Nebraska is the ranking minority member of the Finance Committee and is waiting to speak. I apologize to him. Certainly, protocol would permit him to speak right after the chairman of the committee and the manager of the bill, but I hope he will give me 2 or 3 minutes in order to express my gratitude to the chairman (Mr. LONG) and to Senator CURTIS for the modification of the committee amendment. It does respect the jurisdiction of the Banking Committee and the Energy Committee and other committees. I appreciate that very, very much.

Mr. President, I would like, however, to call the attention of the Senate to the last sentence in the modified amendment. I am going to read it because it is an extraordinary provision, and I think we all should be aware of what it says.

It says:

It is the sense of the Senate that the inclusion of any such incentives or mechanisms in any conference report reconciling the differences between the two Houses with respect to this bill shall not be subject to any point of order under the Standing Rules of the Senate relating to conference reports, whether or not any particular incentive or mechanism appears in the House bill or the Senate amendments to this bill.

I would be constrained to offer an amendment to delete that sentence, except we have been informed by the Parliamentarian that in the event that the conference should return and a point of order should be made, this language would not stand.

In other words, the point of order could be made and it would be sustained by the Parliamentarian and no Senator would be surrendering any of his rights.

It is language which seems to have very little force, and for that reason I think we should be aware of it.

Mr. President, I would also like to support the distinguished Senator from Washington in the statement he has just made. What concerns me is that what we are doing in the proposed trust fund which the Senator from Louisiana is going to offer is setting up a fund which will contain we do not know how much money. It could be $1 billion, $10 billion, $40 billion. Whatever funds the conference decides will not be provided in tax credits and will result in an increase in revenue.

We are providing that for what purpose? So that the committees can take that money and authorize and then the Appropriations Committee can appropriate it for energy purposes, for conservation, for energy production, and so forth.

Mr. President, the Banking Committee had a number of days in hearings last year on the Rockefeller proposal which was designed to do the same kind of thing with $100 billion. In those hearings we found the only commodities made on the availability of capital in the private market, according to the distinguished economists, Dusenberry and Bosworth, and Bankers Trust, both concluded there were ample funds in the capital markets to achieve this purpose, to provide all the production facilities we need.

Mr. President, furthermore, we are aware of the fact that the colossal increases in the prices of energy have given a cash flow to the crucial companies so they have a great deal of funds of their own.

Mr. President, the provision of additional funds outside of capital markets, in addition to what the energy companies will have, would, in the judgment of many people, simply result in funding very inefficient methods of energy production, constitute a waste and diversion of resources, and not give us more energy, but could very well give us less energy.

Furthermore, if the proposed amendment by the Senator from Louisiana is accepted by the Senate, accepted in conference, and comes back in that form, we would be faced with a situation in which we could not use any of the revenues derived, could not use any derived for effective relief, in my judgment, of the people who have been hit.

Mr. LONG. Will the Senator yield at that point?

Mr. PROXMIRE. Yes, indeed.

Mr. LONG. Let me say to the Senator, while at this point we do not have the revenue we are talking about, in the event some should be agreed to in conference over and above the tax expenditures that might result also from it, I hope that they could be used to bring about additional production or better use of energy. If nothing should happen, in other words, if the authorizing committees do not authorize and the appropriation committees do not appropriate, I am sure the Senator knows on a consolidated budget basis that money goes to balance the budget just as much as if it had been placed in the general fund.

Mr. PROXMIRE. As the Senator knows, if my committee, or any committee I know of in the Senate, is given billions of dollars to spend, it is available to spend, it will be a very hot day in January in Nome, Alaska, when we do not spend that money. We will spend it—and spend it, in my judgment, very often on projects which will not be as efficient as it might be if the private market financed it.

Mr. LONG. That is the Senator's opinion and I certainly respect his right to it. But I wonder if he has really thought about the kind of thing we have in mind.

If we can produce commercially, at a competitive price, oil from shale, we then have a resource that is worth perhaps a trillion dollars that now is worth nothing. It is worthless rock the way it stands today. But that rock can be made into a trillion-dollar resource if we can really produce oil from shale rock that is commercially competitive with the oil we produce in the traditional ways today.

If we can more efficiently gasify coal, we have a parallel result.

In the State of Louisiana, we have a great deal of geopressured brine, from which we can get 5 percent of the energy available. That is the cleanest natural gas that can be found. That could provide energy needs for 150 years, if we get but the 5 percent which liberates itself automatically when it comes to the surface.

If we could get 10 percent of that gas in the brine, which we could compare to shaking a seltzer bottle after it bubbles off the first time, we could get perhaps enough energy to heat the whole Nation for 300 years.

Mr. PROXMIRE. I agree.

Mr. LONG. If we can make that——

Mr. PROXMIRE. That is a real possibility.

The Senate already appropriated last year $3.8 billion for research and development.

If we are going to keep appropriating and authorizing huge funds for the exact kind of energy possibilities the Senator suggests—and I am all for that—the money is there, it will be provided.

Now we come to the point where we have the research proven, we have the development which has indicated that it will work, then the private market can come in. If it does not, then Congress, I am sure, will be in a position to appropriate money for that purpose.

What I am saying, if we blindly take the billions of dollars that may be available here and say that they have to go into these various endeavors, we are going to be wasting a great deal of money because they will not be allocated on the basis of the most efficient, but because we have to get rid of the money.

Mr. LONG. We are talking about a matter of degree and a matter of urgency.

During World War II, we did things no one ever dreamed we could do because we put a priority on them. Admittedly, while we were manufacturing synthetic rubber with Government programs, and while we were putting Reynolds Metals and Kaiser aluminum and these various other people in the business to provide materials we needed, we put some money into ventures that were not doing good. But, on the whole, they did a great deal in a short period of time.

I would not recommend going back into the concrete ship business, as some people did at that particular time. But if we look at that point in the emergency we had, the Nation faced up to it, and we were willing to take some chances to get some results. I think everybody would have to say that the Nation fared very well. Even though some of the decisions made by the Reconstruction Finance Corporation did prove to be losers, on the whole it was a project that actually made money for the Government, and that is not counting the indirect advantage of all the tremendous resources that were developed for the good of the country from that point on, and all the new competition and the new production made available to the economy.

I hope we will come to terms and agree on something like this eventually. We are going to have to treat this matter of going from the pilot project and the pilot funds available under ERDA now into the commercial production as a matter of greater urgency, and also a matter of the Government taking some risk on how to move this ahead.

I hope we can come to terms on that later on.

I hope I understand the Senator and that he understands me.

Mr. PROXMIRE. I agree with that.

Mr. President, I apologize again to the Senator from Nebraska for delaying his statement.

I wish to reiterate that our hearings indicated that, very likely, this money—the Rockefeller money and the money that would develop a trust fund—would be spent for atomic powerplants, for example, that are not somehow able to make it now, gas lines, various other purposes that we found are marginal. They may be able to make it if they would pay a 12 or 15 percent rate. This may advance it to a 7 or 8 percent rate, but the general conclusion was that you are going to find less efficient sources of energy if you proceed in this manner.

I thank the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, I yield to the chairman for a brief statement.

Mr. LONG. Mr. President, I should like to make one or two points about this bill.

One point is that when the Senator from Washington spoke of making something available to producers, surely, he was not talking about producers of oil and gas.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. JACKSON. I think the appropriate description would be the energy industry, because it is not all oil and gas. It covers many things—oil shale, alternative sources, coal gasification, and liquefaction.

The only item in that $40 billion that really deals with the public as a whole relates to home insulation, which aggregates a total—that is, with the credit for renewable energy sources—of $7 billion. The remainder is to the energy industry.

I appreciate the Senator calling that to my attention.

Mr. LONG. I thank the Senator.

I should like to make this clear. Just looking at the table summary on page 20, we start out by providing a residential energy credit. That does not do anything to help the producers of oil and gas. To the contrary, that reduces the market for their product.

Then we have the tax on transportation, which is a tax that raises money, which was not discussed, but let us pass that for now.

Part 3 is changes in the business investment credit to encourage conservation of or conservation from—not to, from—oil and gas or to encourage new energy technology. That is the big item. We did not have the votes in the committee, and I doubt that the votes are here, to put the user tax on those who use oil and gas. So we sought to achieve that purpose by providing tax credits, to make it attractive for people to build plants, rather than to impose a tax that puts a tremendous burden on some and no burden on others.

Then we propose to provide a credit for business insulation and other energy conserving components used in business.

In the transportation area, we sought to help save the bus transportation industry by helping it to cut prices and to provide for vanpooling.

All that is to try to save energy, not to use more of it.

We are proposing to encourage people to go into competition with the existing oil and gas producers. In part 4, relating to alternative fuel sources, we tried to encourage competition for oil and gas by helping to stimulate the production of geothermal, geopressurized methane.

While it is true that somebody in oil and gas might get into that business, in the main, it is meant to compete with the existing technology, including the making of oil from shale, which could be a trillion-dollar asset for this country.

About the only thing in there that could help the oil and gas producers is a provision that the President recommended, which Congress passed before,

which has to do with the intangible drilling costs for minimum tax purposes, affecting independent oil and gas producers.

With regard to the cost of the bill, the first year cost for 1978 is estimated at $1.9 billion, and it gradually goes up to a cost of $6.3 billion. We will try in the conference, nevertheless, to whittle down the $1.9 billion loss to the $972 million revenue loss allowed in the second budget resolution.

I point out that we just passed a bill this year to try to stimulate the economy, and the 1978 cost of that is $10.9 million. I am afraid that one of the shortcomings of that is that it tends to stimulate makework jobs, rather than the jobs we need, such as in energy and conservation. This proposal would be less than half the cost of that.

In the first year, the cost in this bill in its present condition is about 20 percent of the cost of what we did then to stimulate the economy.

We are told that we are going to be asked for a tax cut in terms of tax reform, or just an outright tax cut, to stimulate the economy by $20 billion. It is better to put people to work on something for which we have a dire need. When one thinks it might cost something, yes, it will, but it also serves a purpose. Compared with spending money for makework jobs, it serves a far higher purpose, I think, to produce something we definitely need. And even that would be subject to compromise in conference, where we undoubtedly will be talking about the mix of the tax and the tax credits.

I thank the Senator for yielding.

Mr. CURTIS. Mr. President, I ask unanimous consent that the following staff members may have the privilege of the floor, including the time for voting, during the deliberation on this measure: Everett Wallace and Mike Crisp, of Senator BAKER'S staff; Peter Shellie and Robert Kabel, of Senator LUGAR'S office; Linda Gould and Nolan McKean, of Senator HANSEN'S office.

With respect to those staff members for whom I made a unanimous-consent request earlier today, I ask unanimous consent that the request be modified to include the voting time as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I voted to report this bill out of the Committee on Finance. I did not do so because I fully approve of the thrust of the bill but in the hope that during our voting on the floor and in the Committee on Conference, we will be able to convert this measure from a tax to an energy bill.

Mr. President, the bill sent to us by the House of Representatives was unacceptable. It was unacceptable because the thrust of the plan was not in the direction of solving the so-called "energy crisis" but is apparently designed for the redistribution of income through a massive tax program. The bill would not solve the energy problem, but it would have had severe economic repercussions on American industry and the American family. That this plan is a massive tax program is beyond doubt. The crude oil equalization tax, if adopted, would have alone imposed a tax that would total more than 2½ times the amount of tax imposed in the Tax Reform Act of 1976. The President's plan, as originally proposed, would have imposed taxes amounting to nearly 10 times the tax imposed by the Tax Reform Act of 1976. The huge tax revenues may force consumers to pay higher prices and may discourage consumption, but such taxes will never produce a single barrel of replacement oil or a cubic foot of natural gas.

Mr. President, what will the bill do? If the bill sent to us is enacted into law it would lower real GNP by 0.5 to 0.7 percent by 1980. This would increase the unemployment rate by 0.2 percent or about 200,000 workers.

Mr. President, that number of 200,000 workers is an estimate of those directly put out of employment. The indirect unemployment resulting would run into the millions and millions because our economy moves on energy. We have an expanding economy and full employment by the use of energy not by its nonuse. It is a program for a no-growth economy and increased unemployment.

I submit that the economy of this Nation cannot withstand this serious disruption especially in view of the lack of any offsetting progress toward solving our energy problems.

Mr. President, in lieu of a tax bill masquerading as an energy bill, I recommend that we substitute the most effective and efficient means by which this country can reduce the consumption of oil, bring forth new domestic supplies, and in time, energy from alternative sources—the price mechanism.

Elimination of the two-tier system of pricing domestic oil would do much to alleviate our energy problems. First, it would do away with the need for a costly, inefficient, and unnecessary allocation program. Second, a higher price for "old" oil will provide the incentive to produce more oil through costly secondary and tertiary recovery methods which could potentially double this Nation's recoverable petroleum reserves. Third, it is unquestionably true that a free market is the most effective regulator of consumption, so that the removal of price controls would help achieve energy conservation.

Mr. President, I would like to specifically comment on a provision of the bill that I have been interested in for many years and that is the section relating to exemption from excise tax for certain blended gasoline.

Section 1021(b) provides for an exemption of fuel tax for gasohol, a blend of gasoline and alcohol. Gasohol that is at least 10 percent ethanol made from agricultural or forestry products would be exempted from the Federal excise tax on motor fuels on or after January 1, 1978, and before October 1, 1985. For many years I have been an advocate of the production of motor fuel from alcohol made from farm crops.

In addition to having surpluses available, we have millions of acres of land that could be in production. American agriculture is entitled to operate at full capacity in order to contribute to the overall needs of our economy.

United States agriculture provides a major resource of renewable industrial energy. Production in excess of priority requirements for U.S. food, feed and fibers is possible through year 1985 and as projected to year 2000, barring natural disasters or national emergencies. The production of cereal grains and their conversion through fermentation to usable ethyl alcohol; the collection and use of such residues as straws, corncobs, hulls and shells for energy; the growing of crops specifically for energy; and the conversion of animal waste byproducts into energy are all possibilities.

Agriculturally derived industrial energies would normally be more expensive than traditional fuels such as coal, gas, oil and water (hydroelectric). However, the future expected energy requirements and predicted shortages of low-cost traditional fuels to meet these requirements and the continued increase in fuel costs could change the future role of agriculture as a source of industrial energy.

Ethyl alcohol has been used as a component in U.S. motor fuels on a limited scale only. Alcohol will give acceptable blend and handling performance, provided the blend contains at least 10-percent anhydrous alcohol (by volume). Lower blends might also be used with dual and more expensive fuel systems. The basic problem has been unfavorable economics.

Mr. President, I am hopeful that the tax incentives in this bill should make the economics more favorable. The increased use of gasohol has two advantages: one, by the use of gasohol the Government will not have to resort to costly programs for restricting land use, controlling production or disposing of surpluses; two, by the use of gasohol we can measurably reduce the use of petroleum products in automobile transportation.

Mr. President, I shall have more to say about the alcohol program when I make some remarks tomorrow. I believe that it offers a great opportunity to add to our motor fuel supplies.

Mr. President, in summary, it is obvious that the principal failing of the national energy plan is the total absence of incentive for increased production of domestic oil and natural gas. It is my view that given the proper incentives through sound pricing the oil and gas industry will significantly narrow that shortfall estimated between supply and demand. I agree that the price of controlled crude oil must be increased. But I disagree that the rise in the price should be designed only to discourage consumption rather than to both discourage consumption and encourage production. Further, whatever the rise in the price of controlled oil, a major portion should be returned to the producer. In this manner, the price rise would have a double effect: it would increase the price of the product to the consumer and thus discourage consumption, and it would play an important role in providing additional incentive, through the

pricing mechanism to increase the productive capacity of oil in this country.

Mr. President, we can become self-sufficient in energy. It will call for a huge capital formation program, and the way to do that is by deregulation of these important supplies.

I yield the floor.

Mr. HANSEN addressed the chair.

The PRESIDING OFFICER (Mr. BAYH). The Senator from Wyoming is recognized.

Mr. FORD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HANSEN. I yield.

Mr. FORD. Mr. President, I ask unanimous consent that Jim King and Dr. Kevin Gottlieb, of my staff, be accorded the privilege of the floor during debate and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I do not intend to make a lengthy statement at this time, but I do wish to call attention of Senators to the fact that there are several of us on the Finance Committee who are also members of the Energy and Natural Resources Committee, and I hope that Senators might understand that we have heard both sides of this argument.

I do not contend for a moment that this is a perfect bill that is being reported out by the Finance Committee, but I do think when one looks at the alternatives we have to recognize that despite the assertions by Senators and despite the statement that I heard made by my very good friend and esteemed colleague, the Senator from Washington (Mr. JACKSON) earlier this afternoon that this bill does nothing for consumers, let me say that indeed I think, contrary to most of the legislation that has been passed in the last several years, this bill before us now offers an opportunity to do something for consumers.

I think we have a pretty good example or a number of examples of how not to address the energy crisis. We have rolled prices back. In the first place, we kept natural gas under price controls since the decision made back in the Phillips case, I think around 1954. We have kept the price on natural gas so that natural gas could not respond to the forces in the marketplace and, as a consequence we have seen the increase in natural gas skyrocket and we have seen at the same time discouragement on the industry's part in trying to search for and to discover and produce new sources of natural gas for a very good reason. The price controls were so low that there were just better opportunities for people to make money than to try to make it finding and producing natural gas.

Then we came along in the 1960's and in the 1970's in rolling back the price of oil, introducing all kinds of complicated procedures that tried to make up for the legislative-imposed problems that we created. Among a number of these, we came up with a composite price for all petroleum products. We attempted to encourage the discovery of new oil by saying that we set up different tiers of prices that would apply for oil production so that if someone went out and found some new oil he would be rewarded in a greater fashion than was true with people in the oil business.

Mr. NELSON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HANSEN. I yield.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Ufholz, of my staff, be accorded the privilege of the floor during the course of consideration and votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that Mr. Jerry Cohon, of Senator MOYNIHAN'S staff, be accorded the same privilege.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I ask unanimous consent that R. Charles Gentry, of Senator DOMENICI'S staff, Doug Logan, of Senator STEVENS' staff, and Bruce Thompson, of Senator ROTH'S staff, be accorded the privilege of the floor during consideration and any votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I was speaking about the problems of the consumer in this country and telling about what we have done that has not been in the consumers best interests.

If there has ever been an issue that has been demagoged, it has to be the issue of oil and natural gas prices. We have gone around the country abusing the oil companies, and I do not say for a moment that they are without blame, but they have been a pretty convenient whipping boy, and in response to worldwide events over which the United States had little or practically nothing to do, the price of oil and natural gas, as we all know has gone up.

It has gone up very sharply, and it has made headlines. Any person could read how the price of oil was going up when we read headlines about how the profits of oil companies were going up. Not always did these stories go to the trouble to point out that costs too have been rising and that the cost of invested capital has been increasing at oftentimes an amount proportionate to the rise in percentage of profits.

Nevertheless, the oil companies have been convenient whipping boys, and we have been telling the American public what bad guys anybody in the oil business was.

So I can understand why my good friend, Senator JACKSON, would say that this bill does not do anything for consumers. I submit, Mr. President, that what we have been doing for the last several years has been entirely counterproductive. It has been that way because, for the most part, it did not do anything at all about encouraging greater oil and gas production.

It is true there have been rises in prices, and to some small degree they did help. But when everything else has been going up anyone in business knows that replacement costs are indeed the real costs of whatever the product is you may be selling. If you have a shortage in wool, as an example, and suiting material suddenly rises 100 percent, any store that has any management at all about it knows the articles on the shelf might be sold at a profit when you consider what was the cost of acquiring them. But if you do not get enough money out of the suit you sell to do more than just yield a profit on what you paid for that suit you may find you cannot buy any replacement, and that is exactly the way the oil and gas industry has been.

As a consequence, anyone knows if you want to sell a suit of clothes you have got to get enough for it so that you can buy the replacement material and put it on your shelf in order that you, too, can make a profit on that or you are soon going to be out of business.

That is part of the problem the oil and gas industry has faced. What happened was that the industry became more and more interested in worldwide activities and in opportunities outside of the oil business where it had a chance of making a return on investment over and above what it could have gotten by staying in the United States and looking for the kind of traditional opportunities that have resulted in times past in our being the great energy-producing Nation we are.

So I say, Mr. President, with this bill, which I grant is not complete and which I know full well was designed so as to permit those of us on the Committee on Finance to go to conference with House Members, who are committed to all kinds of taxes the President has recommended, and the kind of taxes, incidentally, which have been turned down by the Senate of the United States or by the appropriate committees representing the Senate of the United States, we have come out with something that will do something for the American people to mitigate or to minimize the energy crisis.

So I say if we do not do anything else this year, if we can put together a package which will result in our being able to bring about a greater production of oil and gas, that will be one of the first times in several years that the Congress has done anything about supply.

I supported an amendment offered by the distinguished Senator from Georgia (Mr. TALMADGE) which, in effect, says to the people interested in oil shale, "If you produce a barrel of oil from oil shale, you will get a $3 tax credit."

We have been criticized for that. We have been criticized for about everything we did. But the fact remains that that kind of action, the type of action which will result in greater supplies coming on the market, supplies coming from America, supplies that will result in American laborers being put to work, American capital invested in American enterprise and bringing about the kind of production which is secure, which is not dependent upon the good will of any foreign country in order that those supplies will not be interrupted, has to be in the best interests of the American consumer.

I think basically, Mr. President, that is what my good friend, the chairman of the Senate Committee on Finance, has been talking about, the reason he has put together the kind of package that is

before us today, which is that he knows if we want to do something of lasting benefit for the American consumer it is not going to be to continue this charade and this demogoguery that says we are helping Americans by keeping prices down so that we do not produce any energy in this country and we have to buy imported energy at higher and higher prices.

The only way we will ever break the effectiveness of the cartel that has had a very real effect upon all of our lives for the past several years is to bring about the kind of domestic activity which will minimize our needs for foreign supplies. I think—I know—the chairman of the Committee on Finance has that kind of legislation in mind.

I also know he is a realist. I know the Speaker of the House has made a lot of statements; I know the House passed a bill that conformed in very great degree to the wishes of the President, and it reflects, I think, the kind of misguided little-understood energy policy that the President proposed, and I say that with all due respect to the President of the United States.

I would like to believe, and I do believe, he just failed to understand what the problems of energy are in this country, and he fell entrapped into the kind of rhetoric that has been employed all too often by people in this country saying that it makes good political sense to castigate the oil companies and to say, "We will roll prices back to show our concern for Americans." All we are doing is insuring that we are going to have to buy more and more high-priced oil abroad.

Later on, as this debate continues, I expect to have figures to back up the statements I now make, and I will not burden Senators with that now. But I did not want to let this opportunity pass, Mr. President, to say that if there is one ray of common sense, one ray of hope, in all of the bills we have had before us, it has to be in this package here.

I happen to sit on the Committee on Energy and Natural Resources. As a matter of fact, I am the ranking Republican on that committee. But I watched that committee demagog and flounder around for several years now, always asserting it is concerned about protecting the little people and the poor people and the people who cannot afford to pay higher prices for anything, and coming up with a policy that insures that these critically important supplies of energy in this country are going to become more and more costly with each passing year.

I salute my chairman, the chairman of the Committee on Finance, for at least being a realist, for understanding if we can come out of a conference with the House of Representatives with a bill, we have got to have the latitude to see that the final bill that comes out moves toward decontrol, that it offers encouragement to the industry to find supplies in this country, to put people to work, to insure the dependability of our supply, to reverse this trend we are in now that sees an increasing outflow of capital going to foreign countries.

It has been predicted that we are going to be spending at least $45 billion this year alone just to pay for the oil and gas we import, and it makes no sense to me to see us entering into deals with Canada to pay more than we pay our domestic producers; and we are doing the same thing with Mexico; and we are letting capital flow out of the United States in all directions, to undertake those steps in foreign countries that we ought to be taking here.

In closing I want to pay my respects and express my appreciation to RUSSELL LONG, the chairman of the Committee on Finance, as being a realist, and as being a person who tells it like it is in this case.

Mr. LONG. I thank the distinguished Senator from Wyoming for his kind words. The fact that they are not fully deserved makes them appreciated all the more.

In line with the Senator's argument, with which I agree, I find myself reminded of something that a great economics professor once told me: that you spend your sophomore year in economics learning how the system is supposed to work, and then you spend the rest of your years studying economics learning why it does not work that way.

We started out with the beautiful theory of free trade, which would indicate that we ought to buy energy from these other exporting nations because they could produce it more cheaply, and we were told that cartels cannot be made to work, that if they could produce it cheaper we could rely upon them and let them produce it and sell it to us.

Having relied upon that, we found, once our Nation was dependent on them, that we lost our capacity to protect the American consumers and we have not gained it back. Now, at long last, we learn there is no substitute for being able to produce our own requirements.

So those of us who argued, back in the earlier days, that we ought to maintain an industry capable of providing for our own needs in time of emergency had a lot of merit in our words, though some at that time thought we were special pleaders for the producing States.

Looking at it today, one can see that these devices to hold down the price to the consumer caused the deterioration of the industry, to the extent that the industry now cannot provide our needs, and it will take a great deal of encouragement and investment to restore production to levels we need now. We are told that we will need investments of over a trillion dollars, over and above what is being done now, in order to hope to move toward self-sufficiency. We have a long, long way to go.

So those who sold us the idea, or at least sold this Nation the idea, that we could safely rely upon foreign sources of energy got us into something they cannot get us out of, and something that it will take at least a decade, and maybe 20 years or more, to undo: a mistake that was seemingly a decision in the interest of the consumer.

Mr. HANSEN. I thank my friend from Louisiana.

Mr. LONG. It tends to prove the old statement that the road to hell is paved with good intentions.

Mr. HANSEN. It certainly does that.

Mr. President, I yield the floor.

Mr. PACKWOOD. Mr. President, one of the better studies that have been done of the President's national energy plan was done by the Office of Technology Assessment, which was a committee created by Congress several years ago to study the environmental and other impacts of legislation that we passed. The Senator from Massachusetts (Mr. KENNEDY) is chairman of that committee at the moment.

In their study entitled "An Analysis of the Proposed National Energy Plan, August 1977," the Office of Technology Assessment says the following:

> The national energy plan's assessment of the world energy crisis is accurate. The problems are complex and serious, and there is little time for fashioning new policies to respond to them. The level of U.S. imports is the pressure gauge that will measure how well American policies are succeeding. If imports can be held close to the goals of the plan, the United States and the rest of the world may well manage a relatively smooth and peaceful transition to sustainable energy resources. If not, the transition may be neither smooth nor peaceful.

Let me emphasize again, Mr. President, what that report correctly says. The touchstone, the key, to whether what we pass in the Senate, what eventually passes the Congress, the key to whether that is a successful energy plan or not is whether it increases or reduces our importation of foreign oil.

When President Carter announced his national energy goals—and I emphasize the word "goals"—when he announced his national energy goals to this country, they were above reproach. There was not a single American who, in good conscience, could disagree with the goals that he set for this country.

Unfortunately, the President's national energy plan that he submitted to this Congress is a sham. It does not reach his goals. It falls far short of his goals. Let me quote again from the Office of Technology Assessment report. Referring now to the President's energy plan as he gave it to the Congress:

> However, the actions proposed in the plan may not be strong enough to prevent oil imports from reaching levels that could threaten national security and economic stability.

The General Accounting Office phrases it perhaps more indelicately:

> As stated in our June 8th report, we believe it incongruous for the President to establish a set of national energy goals, and then to establish a national energy plan that is not expected to achieve them.

Whether the President knew his plan was a sham or not when he gave it to us, of course, is beyond our knowledge. Whether the House of Representatives knew when they passed a bill not too far from the President's proposal, although somewhat reduced, whether what they gave to the Senate was a sham is beyond our knowledge. We do know that enough independent studies have been done of the President's plan, however, to know

that it does not fulfill the goals he says this country must meet.

The President's goal, as he announced it to Congress, was to reduce this country's energy growth to below 2 percent a year. The General Accounting Office estimates a reduction to 2.5 percent, the Congressional Research Service says 2.9 percent, the Office of Technology Assessment says 2.5 percent, and the Congressional Budget Office did not comment on that factor.

The President's plan was to reduce gasoline consumption by 10 percent from 1977 levels, and he had a standby gasoline tax which the House has killed, so it is not even in the bill. But the President hoped, as he gave the bill to Congress that it would reduce gasoline consumption by 10 percent. The GAO says 5 percent. The Congressional Research Service says there will be no measurable impact. The OTA says the goal is too optimistic, and the Congressional Budget Office estimates 5 percent.

The President's plan as he presented it to Congress proposed to increase coal production by approximately 565 million tons annually. The Congressional Budget Office says he will be lucky to increase it by 500 million tons. The OTA says 365 million tons. The GAO says 335 million tons, and the Congressional Research Service says 275 million tons.

The President's speech to Congress said we wanted to set as a goal to insulate 90 percent of all homes and all new buildings. The General Accounting Office says approximately 60 percent, the Congressional Research Service says 70 to 90 percent, the OTA says "too optimistic," and the Congressional Budget Office says 70 percent.

The President said he wants to insulate more than 2.5 million homes. The General Accounting Office did not comment on that goal.

The Congressional Research Service says 1 million, the OTA says 1.3 million, and the Congressional Budget Office says 773,000.

Mr. President, in every aspect of the President's program, every aspect as he gave it to us, it falls short of his goals.

There are three aspects to the program. One conservation. By that I mean a reduction in the amount of energy used. If you insulate your home, you use less energy. That is conservation.

The second part of his program was conversion. If you are using an oil burner, you convert to coal. You do not necessarily reduce your energy, but you reduce your use of oil, which is what we are critically short of.

The third facet of the plan was production, either the production of new and alternative forms of energy, such as solar, geothermal, or increased production of oil and gas.

The President's plan falls somewhat short in the conservation area. It falls badly short in the conversion area. It falls almost miserably and completely short in the production area.

What is the net result of all this on the imports of oil, which is what we all agree is the touchstone of a successful bill? Bear in mind that in the goal that the President set for this Congress and for this country, he said that by 1985 we want to reduce our imports of oil to 6 million barrels per day. We are now importing about 8.8 million barrels per day.

The Congressional Budget Office says that under the President's plan we will import 7.9 million barrels per day; the OTA says 8.4 to 10.4 million barrels per day; the GAO says 10.3 million barrels per day, and the Congressional Research Service says 11.8 million barrels per day we will import in 1985.

If we take the median of all of those, we come out someplace between 10 and 10.5 million barrels per day of oil imported in 1985. Mr. President, that is what is wrong with the President's plan. When we are held up in the Congress or in the Senate, particularly, to ridicule for making a shambles out of the President's plan, he unfortunately submitted to us a plan that was a shambles.

All we can hope for now, assuming it is even within the bounds of the rules of conference as allowed between the House and the Senate, is that we can take the best of the President's bill, the best of the House bill, the best of the Senate bill, and somehow between those three try to come out with a bill which may not reduce our imports to 6 million barrels per day, but, hopefully, hold it at no more than our present imports of 8.8 million barrels per day.

As we continue, therefore, with the debate on this bill, let us not be reminded too often that this Congress has an obligation to come up with a bill which meets the President's national energy plan, because if all we do is meet his plan we will have failed miserably in our obligation to America.

Let us do the best we can to come up with a bill which comes as close as possible to meeting the President's goals which he set for America. Then and only then can we leave this Chamber and adjourn this Congress with some measure of pride. If the best we do is just to meet the President's plan, then we will have to adjourn this session in shame.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Connecticut.

Mr. RIBICOFF. Mr. President, the legislation before us today bears little resemblance to the proposal advanced by President Carter in April. This measure provides a vast array of tax credits, but there are virtually no new taxes to pay for the programs it encourages. It is estimated that the energy tax bill will reduce oil imports in 1985 by approximately 2 million barrels a day. However, the cost is almost $20 billion.

I very reluctantly voted to report this bill to the floor and did so only to enable the full Senate the opportunity to debate and act on this fifth, and final, portion of the President's energy plan. Although this bill is defective in many respects, the Senate must not forego its obligation to work with the House of Representatives and the President in molding an effective energy program—one designed to meet the energy challenges facing the Nation. We have the responsibility to provide some vehicle with which we can go to conference.

It is clear that the U.S. energy situation grows steadily worse. Proven oil reserves in this country—only about 30 billion barrels—are falling. They are only equivalent to 10 years of current production. The natural gas situation is no better. Consequently, our overall defense position and economic health are seriously threatened. America's heavy purchases of foreign oil have created continual trade deficits. Huge oil imports have led to 16 consecutive months of trade deficits, with the possibility that the overall trade deficit may reach $30 billion this year—a startling figure considering the fact that the previous high for any single year was $6.4 billion in 1972. Were it not for oil, the United States would run a substantial trade surplus. However, the bill for foreign oil is expected to be $45 billion this year—a substantial rise over the $3.7 billion for imported oil spent just 6 years ago.

While the United States faces a rapidly dwindling supply of oil and natural gas, the worldwide situation is not much better. Current proven crude reserves are 600 billion barrels. The ultimate recoverable reserves are estimated at approximately 2,000 billion barrels. Consumption, presently at 22 billion barrels a year, has been climbing at the rate of 6.6 percent since 1940. It is estimated that, if future growth is only 3 percent, total remaining recoverable oil reserves would be exhausted by the year 2020. At the most realistic 5 percent annual growth rate the oil will be gone by 2010.

This situation cannot continue. Affirmative action must be taken to conserve and more efficiently use energy—even at the cost of personal inconvenience, higher prices, and some individual and corporate sacrifices.

Americans are very wasteful of energy. With less than 6 percent of the Earth's people, we currently take more than one-third of the world's energy production. We waste between 30 and 50 percent of all energy consumed in this country. Conservation has been called the best and most cost-effective way to "produce" new energy.

Various provisions in the energy tax bill will encourage greater energy conservation through better insulation, the utilization of renewable energy source equipment, and the installation of energy-saving devices such as heat pumps, more efficient heating systems, and equipment to recover waste energy. It is estimated that we can reduce our energy use by 20 to 30 percent below current projections by the middle of the next decade by attacking wasteful consumption. The energy tax bill represents an important step in this direction.

But conservation is not the only answer. We must actively explore and promote the use of alternative fuel sources in order to decrease our dependence on oil and natural gas. We must insure that we will have future energy resources other than fossil fuels.

The development of alternative sources of energy is a vast undertaking. It will cost nearly $1 trillion during the next decade. Private capital alone cannot do the job. Serious long-term work on alter-

native energy sources demands greater governmental encouragement. If the full potential of geothermal energy, coal gasification and liquefaction, fusion, oil shale, ocean currents, wind power, solar energy, and hydroelectric power are to be developed, we must invest the necessary capital.

A major flaw in the President's energy program is its failure to encourage the production of additional energy and to accelerate research, development, and demonstration of alternative energy sources. There must be a close public-private cooperation in this venture, both financial and technological. Otherwise, we will fail to develop many alternative sources and will continue to move from one crisis to another.

Another defect in the national energy plan is the absence of any meaningful action in the field of transportation. More than one-fourth of all energy consumed in this country is used by the transportation sector. Over one-half of that source of energy consumption is represented by private automobiles. Dependence on the automobile must be significantly curtailed if we are to conserve energy. Greater reliance must be placed on mass transportation. It has been estimated that, on an average daily basis, transit consumes only 38 percent of the energy per passenger mile that urban automobiles use. Unfortunately, the Finance Committee failed to endorse the so-called gas-guzzler tax which would have discouraged the production and use of energy-inefficient vehicles. I hope this provision will be restored.

The energy development and transportation trust fund which I proposed—and which was adopted in principle by the Finance Committee—will channel tax revenues generated by this legislation to the research, development, and demonstration of new energy technologies, increased production of existing and new energy sources, and efficient public transportation. This trust fund could provide loans, loan guarantees, or price guarantees for private energy production or conservation projects. It can also aid programs designed to decrease the energy consumption of overall transportation systems and to encourage the development of the most energy-efficient forms of transit.

In its report on the national energy plan, the General Accounting Office recommended that funds from the energy tax be used to expand public transportation opportunities rather than to provide rebates. The GAO declared that using tax revenues in this manner would constitute "an investment designed to improve the energy efficiency of the transportation system of the country and would also contribute to alternatives to the automobile for all classes of citizens—including the poor." Certainly this is an investment in the future.

The energy development and transportation trust fund is a concept which offers great potential for effectively using funds generated by taxes imposed to encourage energy conservation to help our Nation meet its energy needs. It will fill a serious gap in the President's energy program and will provide a mechanism to decrease our dependence on imported petroleum and fossil fuels. Additionally, the trust fund will stimulate additional conservation in the transportation sector.

Mr. President, inasmuch as Persian Gulf countries account for over one-half of the world's oil reserves, users of oil are to a large degree dependent on those five nations. While the North Sea's oil will lessen Western Europe's dependence on OPEC, the U.S. dependence will grow. In 1973 Arab oil accounted for 22 percent of America's oil imports; in 1976 the figure was 38 percent. Because of the increased demand for OPEC oil, $100 billion has been paid out to those countries. Middle East oil countries have deposited about $50 billion in American banks. There is a possibility that these petrodollars, if suddenly withdrawn or improperly manipulated, could unsettle foreign exchange markets, undermine the dollar, and damage business confidence. If our appetite for oil runs ahead of available supplies or we fail to lessen our dependence on foreign oil, the OPEC nations could further increase their potential stranglehold on the world's economy. It is possible that, unless this situation soon changes, and drastically, our economy and parts of our foreign policy will be held hostage to the actions of others. Thus, to the greatest extent possible, we must keep the money spent on energy—whatever the form—in the United States.

Although the energy tax bill, as reported by the Finance Committee, carries a $20 billion price tag, it encourages the expenditure of funds within this country. Through various credits and other incentives, this bill seeks to reduce demand for imported oil and to increase domestic energy sources. In comparison with the dimensions of the energy challenges facing America and the prospect of increased dependence on foreign oil, the cost of these tax incentives is relatively small. If the goal of achieving a savings of 2 million barrels a day is realized, we will have made an important contribution in combating the energy crisis.

Mr. President, concern has been voiced that the gross cost of the energy tax bill will be an estimated $32 billion over the next 8 years. There is fear that the incentives provided to encourage additional energy production will result in excessive profits for the energy industry. To the extent that the profits of any industry must unduly rise as a result of the energy situation, as excess profits or windfall profits, tax must be imposed. We should not excessively reward producers for increasing domestic energy capabilities and helping this Nation meet its energy needs through its own resources. An effective excess profits must be adopted which will encourage additional production but prevent a ripoff of the American consumer. Such a tax is within the scope of the conference.

The Senate must not only resolve short-term energy problems. We must provide energy resources for the future and reduce our dependence on energy forms which are in limited supply or for which we must depend on imports which are harmful to our national security.

We must travel two energy roads at once. Conservation will stretch out our existing energy resources and provide "new energy." We must also aggressively pursue alternative sources. We have the technical capacity; now we must develop the will to pursue all possibilities. We must consider the energy challenges not only today and in the next decade, but also in the next century. The trust fund which the Finance Committee has endorsed will help provide the resources and direction to meet this task.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

A GREAT MAN COMES HOME AGAIN

Senator HUBERT H. HUMPHREY entered the Chamber.

[Prolonged applause, Senators and guests rising.]

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, for many months, the prayers of the Members of the Senate, as well as those of millions of Americans, have been with HUBERT HUMPHREY; his wife, Muriel; and their family. It is an extreme pleasure, therefore, to welcome our colleague back home to the Senate today.

The Senate is a special body whose character and actions are shaped not only by its official nature but also by the personalities and commitments of those who serve in it at any given time. The presence of HUBERT HUMPHREY in the Senate enhances the greatness that already inherently belongs to this distinguished Chamber. It is a privilege to serve as a colleague of Senator HUMPHREY, and it is, moreover, an extreme honor to call him a friend.

George Santayana, the philosopher and poet, wrote:

> It is not wisdom only to be wise,
> And on the inward vision close the eyes,
> But it is wisdom to believe the heart.

Senator HUMPHREY is one of those great political leaders who have combined the best of mind and soul, wisdom, and inward vision. He has indeed believed his heart. He grew up in a period when men believed that one had a responsibility to help his neighbors, and HUBERT HUMPHREY never lost that sense of care and concern. He has utilized his brilliance and special political skill to seek to make Government more compassionate and responsible toward all the citizens of this country. He has always had a vision of what America can be, and he has sought to give reality to that vision throughout his career.

Some persons look at life on the political stage as glamorous and exciting. But HUBERT HUMPHREY knows that true greatness does not lie in the applause of the crowd or the light of publicity. During his years of service in Minnesota and Washington, as a mayor, a Senator, and

a Vice President, he has worked tirelessly in behalf of the principles in which he believes. He has known victory and defeat. As a result, he is a "many-born man." Adversity has tempered his character; success has graced him with a personal sense of freedom and sensitivity. Nothing that life has dealt him has dimmed his optimism or quenched his unquenchable spirit.

Some men attempt to alter the course of history, or bend the direction of their era, through thunder and threat; they launch armies, marshal forces, and foster plots. HUBERT HUMPHREY has changed our own time through the impact of his personality, the exertion of his energy, the vibrance of his spirit, the exercise of his intellect, and the compassion of his heart. Consequently, he is a man whose influence will reverberate for generations, in America and around the world.

It is indeed a pleasure to have our distinguished colleague and our friend from Minnesota back among us, and I am sure that all the Members of the Senate will join me again in extending a deep and heartfelt welcome to the Deputy Pro Tem of the United States Senate, HUBERT HUMPHREY, today. [Standing applause.]

Mr. President, I yield to the distinguished minority leader.

The VICE PRESIDENT. The Senator from Tennessee.

Mr. BAKER. Mr. President, I thank the distinguished leader. I rise today to join him in speaking on behalf, I am sure, of every Member of this body, and certainly on behalf of every Member on this side of the aisle, in welcoming back our colleague, our friend, our compatriot; the man we have known so well for so long.

As I watch HUBERT HUMPHREY sitting on the other side of the aisle listening carefully to the remarks of the majority leader and to these remarks, I can see a dancing and glistening in his eyes as he wonders how many more speeches he must endure before he has his chance to speak. [Laughter.]

Because I rather suspect that sitting here without speaking, for HUBERT HUMPHREY, constitutes cruel and unusual punishment. [Laughter.]

Mr. President, I am sure the rules of the Senate will not be offended if I say "Welcome back, HUBERT." We are glad you are here. There are many things we could say to extend even further your list of accomplishments, but you know I believe, Mr. President, it might be more appropriate for us to wonder what HUBERT HUMPHREY might be up to next. We are glad he is back in harness, and I look forward to his participation in the future deliberations of the Senate—but I want to serve notice right now that knowing him as we do, whatever it is he has in mind, we had better look at it carefully because the odds are about 50–50 that we will agree with him. [Laughter.]

We are glad you are back HUBERT, and we are delighted to have had this opportunity to express our welcome.

Thank you, Mr. President.

[Standing applause.]

The VICE PRESIDENT. The Senator from Minnesota.

Mr. ANDERSON. Mr. President, Senator HUMPHREY, Muriel, and Mrs. Howard, and my distinguished colleagues, some people had suggested that it would be difficult to come to the U.S. Senate and serve as a junior Senator to HUBERT HUMPHREY. Nothing could be further from the truth. The greatest honor that can come to anyone interested in public service is to serve an apprenticeship under that perfect gentleman.

In the 9 or 10 years that I have had the opportunity to work very closely with HUBERT HUMPHREY, he has never once said no.

I think it would be appropriate for me to confess at this time that between HUBERT and Muriel I have always preferred Muriel, which I think is one of the reasons HUBERT has always liked me. [Laughter.]

To those who do not know him as his colleagues do, let me say that the warm, compassionate, decent HUBERT HUMPHREY that you see in public is the same HUBERT HUMPHREY that we see in private. Whether it is alone in a car at 2 o'clock in the morning between Karlstad and Thief River Falls or on a tiny little airplane between Roseau and the Twin Cities, he is the same decent, kind colleague that we all know and love.

The other night there was a special dinner on his behalf put on by a group of Minnesotans. During that occasion a close friend of Mr. HUMPHREY, Lorne Greene, said this about him:

> When history weighs the great social advances of our time, the impact of the man who never became President may outweigh them all.

Speaking for myself, to those who feel that there are no longer any heroes left in the world, to them I say they have never known HUBERT HUMPHREY.

[Applause.]

The VICE PRESIDENT. The Senator from Minnesota.

Mr. HUMPHREY. My esteemed colleagues, may I say that the distinguished minority leader has an unusual insight into my weakness and my personality. My good friend, Senator BUMPERS, sitting alongside of me here said, "This is just a little too much, isn't it, HUBERT?" And I said: "Hush. I like it." [Laughter.]

After all, I remember ABOUREZK and METZENBAUM going here for days. I see no reason that I should not come back and join in. I did not have a chance to really participate. I was frustrated beyond no end.

RUSSELL LONG just thanked me. He said: "There is nothing like having HUBERT away." [Laughter.]

Gentleman, most of you know me as a sentimental man, and that I am. Today is a very special day in my life, not only because I feel strong enough to come to this historic Chamber, back to the U.S. Senate, the greatest parliamentary body in the world, but more significantly because of the genuine friendship and warmth that has been exhibited here today by my colleagues. The greatest gift in life is the gift of friendship, and I have received it. And the greatest healing therapy is friendship and love, and over this land I have sensed it. Doctors, chemicals, radiation, pills, nurses, therapists, are all very, very helpful, but without faith in yourself and in your own ability to overcome your difficulties, faith in divine providence and without the friendship and the kindness and the generosity of friends, there is no healing. I know that.

I have been going through a pretty rough struggle. But one of my doctors back home said: "HUBERT, we have done about as much for you as we can for a while. Why don't you go back to Washington where you want to be, where your colleagues in the Senate are to be and where you can be with your friends, those whom you love so much?" And I said: "Doctor, that is good advice."

Only once before had I ever wished a doctor to give me advice of a similar nature, namely, take a long vacation, and I followed this advice. I waited, however, because I am a frugal man, until I could get a free ride.

[Applause.]

Some of you were at that dinner to which my good and dear friend and esteemed colleague, Senator WENDELL ANDERSON, referred. They tell me it was a truly delightful occasion. I wanted everybody to have fun. I said then that the only reason I did not come to that dinner was not because I was physically unable, but because I got an invitation from the President, through the good offices of my lobbyist in the White House, the Vice President, my special friend, to come back on Air Force One.

Well, for at least 20 years I have been trying to get on Air Force One. [Laughter] I realize it was not a prolonged experience, but just the thought of it, the vibrations, gave me new hope and new strength.

On Sunday, our President, Jimmy Carter, stopped in the Twin Cities, picked up me and Mrs. Humphrey, and we came back to Washington.

It was a beautiful trip. I had a chance to visit with President Carter and to express to him some of my concerns and my hopes.

I want to put it just this way: I have been known in my life to be an optimist, some people say a foolish optimist, and I suppose at times I have ignored reality and had more than the usual degree of optimism. But I said to the critics that I am optimistic about America, and that I rebuke their cynicism.

The reason I do is because history is on my side. We have come a long way in this country. More people today are enjoying more of what we call, at least in the material sense, the good things of life in every form. We have made fantastic strides in science, technology, and engineering. Our agriculture is the wonder of the world but, most significantly, we are a heterogeneous population, and we are trying to demonstrate to the world what is the great moral message of the Old and New Testament; namely, that people can live together in peace and in understanding because really that is the challenge, that is what peace is all about.

It is not a question of whether we pile up more wealth; it is a question of whether or not we can live together,

different races, different creeds, different cultures, different areas, not as a homogeneous people but rather in the pluralistic society where we respect each other, hopefully try to understand each other, and then have a common bond of devotion to the Republic.

I have a blind devotion to the Senate, which represents the Republic. This is a great institution, and all of us want to add to it by our conduct, by our efforts.

You have been very flattering with me. I want you to know that I am old enough and sufficiently wise enough at this stage of my life to know that all you have said is not exactly according to facts. [Laughter.] But I also want you to know that I am sufficiently fragile and weak as to want to believe every single word you have said. [Laughter and applause.]

To my majority leader, I thank you once again. The bonds of the friendship that have grown between us, particularly this past year, are truly beautiful, and I want to be of help wherever I can, and that is true of my colleagues.

What a wonderful place this is, where we can argue, fight, have different points of view, and still have a great respect for one another and, many times, deep affection.

I must not mention more names because there are so many here who have meant so much to me, but I just want you to know that when it comes to the Senate and to what this body means, it is not Democrat or Republican. It is citizen, which I consider to be the highest honor that can be paid to any person in the world, higher than emperor or king or prince, to be citizen of the United States and then, as a citizen, to be elected and selected by our own constituency to represent the citizenry in this body. What a great honor.

May the Good Lord give each of us the strength to never in any way besmirch that honor, but in every day of our lives, as we see what we believe to be the truth, as we dedicate ourselves to what we believe to be best for our country, even though we may disagree, let us conduct ourselves in a manner that future historians will say, "These were good people. They were good men. They were good representatives, at a time when the Nation needed them." And our Nation does need us no—.

Now, my plea to us is, in the words of Isaiah, as a former President used to say—and I mean it very sincerely—come, let us reason together. There are no problems between the different points of view in this body that cannot be reconciled, if we are willing to give a little and to share a little and not expect it all to be our way. Who is there who has such wisdom that he knows what he says is right? I think we have to give some credence to the fact that majority rule, which requires the building of an understanding and the sharing, at times the compromising, is the best of all forms of rule.

Well, I got wound up. I did not intend to be that long, but that has been the story of my life. You would want me to be natural. Thank you very much. Thank you very, very much.

[Prolonged applause, Senators and guests rising].

Mr. TALMADGE. Mr. President, I am happy to join my colleagues in welcoming the distinguished Senator from Minnesota, HUBERT HUMPHREY, back to the floor of the U.S. Senate.

Senator HUMPHREY is a remarkable man and an outstanding American. I am proud to count him as one of my closest friends and associates.

When I was first elected to the Senate in 1956, Senator HUMPHREY already was in the midst of his second term here. Over the years, on the Senate Committee on Agriculture, Nutrition and Forestry and in other areas of mutual interest, Senator HUMPHREY and I have worked together very closely. I have never seen a man with so much energy, drive, and determination and such an extraordinary range of knowledge.

As the Nation and indeed the world have come to learn, Senator HUMPHREY is one of those rare leaders who sets his sights high and upon whom you can always depend to get the job done. In his many years of public service as mayor, U.S. Senator, and Vice President, HUBERT HUMPHREY has built a record of great accomplishment in many areas—human rights, agriculture, rural development, child nutrition and education, and in virtually every area of human endeavor.

In all of his undertakings, Senator HUMPHREY always has been a man of dignity, honor, and the highest sense of duty. He has given himself totally to the service of his country without regard to any self-interests. He has dedicated his life to make this Nation and the world a better place to live for all of us, and for generations yet to come.

We are fortunate to have Senator HUMPHREY in the U.S. Senate. As a nation, the American people are grateful to Senator HUMPHREY for his leadership and public service.

I say to the distinguished Senator from Minnesota: Godspeed, happiness, and success in all your endeavors.

HUBERT HUMPHREY RETURNS TO THE SENATE

Mr. DOLE. Mr. President, I am pleased to join my colleagues on both sides of the aisle in welcoming our distinguished colleague from Minnesota back to the Senate. Although we have managed to struggle along for the past several weeks without him, it is clearer now than ever before that the Senate is just not the Senate without HUBERT HUMPHREY.

His leadership, his good-natured combative spirit, his integrity, his ideas, and his dedication have been missed. The causes which he so ably champions—some of which I support and others which I oppose—have sorely missed his eloquent advocacy. His President, his party, and all the people of the United States, whatever their party affiliation, whatever their philosophy, are grateful that he is back in this distinguished Chamber today.

He is, as I have said before, a great national asset. He is our dear friend and I know we all look forward to working with HUBERT HUMPHREY for a long, long time to come.

FEED GRAIN SUPPORT

The VICE PRESIDENT. The hour of 2:30 p.m. having arrived, under a previous order the Senate will proceed to vote on H.R. 9090. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. GRIFFIN (when his name was called). Mr. President, on this vote I have a pair with the Senator from Idaho (Mr. MCCLURE). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY) is absent on official business.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN), and the Senator from North Dakota (Mr. BURDICK) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Delaware (Mr. ROTH), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

On this vote, the Senator from North Dakota (Mr. YOUNG) is paired with the Senator from Pennsylvania (Mr. HEINZ).

If present and voting, the Senator from North Dakota would vote "yea" and the Senator from Pennsylvania would vote "nay."

The result was announced—yeas 61, nays 26, as follows:

[Rollcall Vote No. 575 Leg.]

YEAS—61

Abourezk	Glenn	Nunn
Allen	Gravel	Packwood
Anderson	Hart	Percy
Baker	Haskell	Randolph
Bayh	Hatfield	Riegle
Bentsen	Hayakawa	Sarbanes
Biden	Hollings	Sasser
Bumpers	Huddleston	Schmitt
Chiles	Humphrey	Sparkman
Church	Inouye	Stafford
Clark	Jackson	Stennis
Cranston	Johnston	Stevens
Culver	Kennedy	Stevenson
Curtis	Long	Stone
Danforth	Magnuson	Talmadge
Dole	Matsunaga	Thurmond
Domenici	Melcher	Tower
Durkin	Metcalf	Wallop
Eagleton	Morgan	Zorinsky
Eastland	Moynihan	
Ford	Nelson	

NAYS—26

Bellmon	Cannon	Hansen
Brooke	Case	Hatch
Byrd, Harry F., Jr.	Chafee	Hathaway
	DeConcini	Helms
Byrd, Robert C.	Garn	Javits

Laxalt	Metzenbaum	Ribicoff
Lugar	Muskie	Schweiker
Mathias	Pell	Scott
McIntyre	Proxmire	Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Griffin, against.

NOT VOTING—12

Bartlett	Leahy	Pearson
Burdick	McClellan	Roth
Goldwater	McClure	Weicker
Heinz	McGovern	Young

So the bill (H.R. 9090) was passed.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The PRESIDING OFFICER (Mr. MATSUNAGA). Under the previous order, the Senate will now resume consideration of H.R. 5263, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, on behalf of our distinguished chairman of the Budget Committee, the senior Senator from Maine (Mr. MUSKIE), I ask unanimous consent that the privileges of the floor during the consideration of this measure be granted to the following staff members of the Budget Committee: John McEvoy, Ira Tannenbaum, Van Ooms, Karen Williams, Dan Twomey, Terry Finn, and Liz Tankersley.

The PRESIDING OFFICER. Without objection, it is so ordered.

The following Senators requested, and by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. DURKIN: Ed Tanzman and Jay French; Mr. HATHAWAY: Jack Norman; Mr. BAYH: Eve Lubalin; Mr. HARRY F. BYRD, JR.: Jack F. Davis, Edward Beck, and John I. Brooks; Mr. GRIFFIN: Gerald Rosen and Robert Willis; Mr. KENNEDY: Mr. Susman, Mr. Banta, Mr. Brady, Mr. McDaniel, and Mr. Parker.

The PRESIDING OFFICER. The question before the Senate is the committee substitute, as modified.

Mr. HOLLINGS. Mr. President, I have here a statement on behalf of the Budget Committee and Senator MUSKIE. He had a prepared statement, Mr. President, but he had a little pinched nerve in his back and momentarily had to leave the floor, so I want to deliver this, but I want to do it in conformance with the wishes of the manager of the bill. Is that permissible at this time?

Mr. HARRY F. BYRD, JR. Will the Senator indicate what his proposal is?

Mr. HOLLINGS. It is a statement on the bill and how it affects the concurrent resolution.

Mr. HARRY F. BYRD, JR. The Senator is not making a resolution?

Mr. HOLLINGS. No, sir.

Senator MUSKIE asked that this be presented in his own words.

Mr. BUMPERS. Will the Senator yield for just a moment?

Mr. HOLLINGS. I am glad to yield.

Mr. BUMPERS. Can the Senator estimate approximately how long it will take?

Mr. HOLLINGS. Fifteen minutes.

Mr. BUMPERS. I thank the Senator.

Mr. HOLLINGS. This is a very important statement, Mr. President, with relation to the budget process. The Budget Committee met all morning long, and I am sure Senator BELLMON, our ranking minority member, will be along. We were in unanimous agreement with respect to the sentiments expressed herein by this statement of our chairman.

STATEMENT BY SENATOR EDMUND S. MUSKIE

Mr. President, the Energy Production and Conservation Tax Incentive Act now before us affects both energy policy and the Federal budget in very significant ways. The Budget Committee met this morning to consider the relationship of this bill to the budget.

I want now to report to the Senate the conclusions the committee arrived at this morning regarding the bill.

First, the individual tax expenditures provided by this bill would breach the revenue floor Congress adopted in its binding congressional budget just last month. The bill contains tax expenditures for fiscal year 1978 which cut more than $800 million below that revenue floor. These tax expenditure provisions of the bill are therefore subject to a point of order under the Budget Act.

Second, to moot the point of order and evade the budget process, section 1056 of the bill directs the Secretary of the Treasury to implement the effective dates of the act on a phased basis, so that the revenue loss which would otherwise occur does not actually breach the budget resolution revenue floor during 1978.

This provision does not reduce the ultimate $40 billion cost of the legislation. It is simply a cosmetic device to get around this year's budget resolution.

Particularly unfortunate, this device surrenders control of fiscal policy to the executive branch. It undercuts the primary purpose of the Budget Act, which—as set forth in the very first section of the Budget Act—is to establish effective congressional control over the budgetary process.

Third, we hope and expect the Senate will—during the course of its debate and amendment of the bill—take appropriate action to bring revenue losses under this bill within the constraints of the binding budget resolution Congress has adopted. The ill-advised evasion of the budget process proposed in section 1056 would then be meaningless and could be eradicated.

Fourth, if that result does not occur, the Budget Committee will feel constrained to make appropriate recommendations to reduce the revenue losses contained in the bill.

No Senator wants to see the congressional energy program derailed by technicalities. Equally so, I do not believe anyone in this body wants to sacrifice the budget process as a matter of one committee's convenience, even for the highest of motives.

If one committee of the Congress can void the application of the budget process to its legislation by an artifice such as section 1056, then, surely, all committees are entitled to the same consideration, and the budget process has become a dead letter.

Mr. President, let me make very clear the desire on the part of the Budget Committee to cooperate with the Finance Committee, the Energy Committee, and all other committees of the Senate to achieve a wise and workable national energy policy. We understand and sympathize with the problems the Finance Committee has faced in producing this bill.

But the Budget Committee's responsibility is to seek to secure adherence by the Congress to the budget it has adopted and to the preservation of the budget process itself.

We want an energy program, but there is no reason why we must sacrifice the budget process or the congressional budget to get an energy bill.

So let us be responsible. Let us enact whatever energy bill we can. But let us also be honest and responsible about the budget process. Let us conform the energy bill we pass to the requirements of that honesty and responsibility.

Just how does the binding budget Congress adopted 3 weeks ago apply to this bill? That congressional budget resolution permits a net reduction by all new revenue legislation of $1.1 billion in fiscal year 1978. This figure was based upon an assumption of a $1 billion reduction for energy tax legislation. This amount reflects the net effect of the House-passed energy tax bill. The resolution also assumed an additional net reduction of $0.1 billion to accommodate a series of other smaller revenue measures.

By comparison to this $1.1 billion allowance, the energy tax bill reported by the Finance Committee would reduce fiscal year 1978 revenues by $1.9 billion, if all the individual effective dates in the bill are maintained. Thus, without further modification, the bill would be inconsistent with the budget resolution and subject to a point of order on the Senate floor.

However, in order to avoid this budget process point of order and to remain cosmetically consistent with the budget resolution, the Finance Committee added section 1056 to the bill.

One might be tempted to admire the ingenuity involved in developing such a device for attempting to avoid a point of order for breaching the congressional budget floor, but the Senate must reject the use of this ploy.

It undercuts the budget process and the budget resolution. It will cause the fiscal year 1978 budget to inadequately reflect the large long-term revenue losses of this bill. It would abdicate significant responsibility to the Treasury Department for the amount of revenues to be

raised in 1978—a constitutional responsibility traditionally jealously guarded by the Congress.

It undercuts the very purpose of this legislation. It is impossible to justify, on any energy policy ground, postponing the effective dates of these energy conservation, production, and conversion provisions. Postponement, in effect, creates a disincentive during the period preceding the delayed effective date to undertake the very actions the legislation is supposed to encourage.

With respect to the long term implications of this bill, I am sure all Senators are well aware of the $41 billion of new tax credits and deductions which the pending bill would create during the period fiscal year 1978–85.

We are deeply concerned that these very high revenue losses—averaging $5 billion a year over the next 8 years—will make it substantially harder for the Congress to achieve a balanced budget in the foreseeable future.

This enactment certainly will jeopardize any chance for significant personal and corporate tax reductions in the foreseeable future.

Some Members of this body might say, "Don't take these potential revenue losses seriously. After all, the House energy tax bill contains several significant new taxes, and therefore, the conference tax bill is certain to have sharply reduced out-year revenue losses." Unfortunately, based on recent experience, this response is inadequate. Just a few months ago, the Senate passed an agriculture bill which breached the budget. Some Senators supported that bill because they believed its high cost would be cut back by the conference. However, in fact, the conference product came back costing even more than the Senate version.

The Senate cannot abdicate its responsibility. It cannot vote for legislation it would be unwilling to see enacted into law. We cannot simply delegate responsibility to our conferees to rectify our Senate excesses. We cannot abdicate our responsibility under the Constitution and the budget process to legislate wisely.

So Mr. President, we must watch the progress on this bill carefully as it occurs. We hope the Senate will enact a bill which is consistent both with the achievement of a sound energy program and the preservation of the congressional budget process. The Budget Committee will do whatever it can to assure that result.

MACROECONOMIC IMPLICATIONS OF THE FINANCE COMMITTEE ENERGY BILL

Mr. President, I am especially concerned because the energy bill reported by the Finance Committee is bad economic policy. It is bad policy because it provides an unbalanced set of economic incentives which would unnecessarily sacrifice revenues and jeopardize the long-run economic goals of full employment and budgetary balance.

The Finance Committee bill does not balance its tax credits with revenue increases in attempting to change the incentives for using energy and for converting from oil and gas to coal. The Finance Committee rejected all four of the tax increases proposed by the administration and approved by the House, depending solely on tax credits for its energy savings. It thereby attempts to shift the entire cost of the energy program onto the Federal budget. The cost will appear as larger budget deficits, as reduced funding for other programs, or as higher tax bills for American taxpayers.

This tax credit program is also unnecessarily costly in its loss of Government revenues. This is because it provides extremely large benefits for conservation and conversion investments although it is reasonable to believe that many of these investments would be undertaken in any case in response to rising oil and gas prices.

The driving economic force behind energy conservation and conversion away from oil and natural gas dependence is higher oil and gas prices. These prices have already risen dramatically, and further rises are likely in the future. This should provide strong incentives for insulation, conservation, and conversion to coal or other energy sources. This tax credit program will provide large windfall gains for many who are merely responding to rising energy prices.

Mr. President, the financial incentives provided by this bill are enormous. The 40-percent additional tax credit for investment in energy conversion, for instance, would lower the cost of capital to firms by 60 to 80 percent relative to current law. The tax expenditure is so great that it would pay some firms to buy coal-using equipment even if its economic value were extremely low. It may produce uneconomic investments at the taxpayers' expense, or may simply accelerate investments that would take place anyhow. This is not an efficient use of tax revenues.

Mr. President, finally, and most important, this program would jeopardize our long-range economic goals of full employment and budgetary balance. Revenue reductions will, in any case, be necessary in the next few years to offset the increased tax burden on American households imposed by growth and inflation. But it is essential that these tax reductions have sufficient stimulative impact to offset such fiscal drag and maintain the recovery.

In the Budget Committee's recent report on the second budget resolution it was estimated that, even with strong investment demand, tax cuts totaling about $30 billion would be required in the next 5 years if we are to return to full employment while we restrain Federal spending. That is under very optimistic assumptions about the growth of private sector demand. The tax credits in the Finance Committee bill would result in revenue reductions totaling about $40 billion by 1985. But these credits would not relieve the increasing tax burden on American families.

Furthermore, in comparison with energy incentives which balanced revenue increases against revenue losses, the Finance Committee proposals would require cumulative revenue losses of some $15 to $20 billion from 1978 to 1985 in order to achieve and maintain full employment. In response to the increased budget deficits resulting from this erosion of revenues, the temptation would be to conduct a more restrictive fiscal policy, which would raise unemployment.

In short, this tax credit program would make it much more likely that we fail to reach our full employment targets and that we continue to run large budget deficits.

Mr. HOLLINGS. Mr. President, that concludes the statement of the distinguished Senator from Maine, the chairman of our Budget Committee. I am not yielding yet.

Mr. President, on my own, let me emphasize the point made by our distinguished colleague from Maine, that the Budget Committee is not a fastidious or unrealistic group trying to pick a fight with the Finance Committee or to make a tenuous point with respect to a thing that really, perhaps, some could argue might not mean a thing after we come back from that conference. On the contrary, the Budget Committee, in a very deliberate fashion, considered all the points. We are not a line item committee. Even at one point, of course, looking at the macroeconomic impact of $41 billion—and that is what we have to look at—are we going to adopt a policy that shall be undeterred and unaltered and unchanged right through the next 8 years, of $5 billion a year, with a casual morning meeting? Are we going to say, "Well, you know, we need an energy bill; the ox is in the ditch. The President wants to get a program going; the Congress wants to go home," and just come back and have to live with that $5 billion annual cut?

We looked at it in broader terms than just the economic impact. We realized that many of the matters brought out by our distinguished Finance Committee, where items passed by overwhelming votes with respect to conservation, when it came to the matter of residential energy credits for insulation, with small businesses, the investment credit, with refundable credits for specific devices for specially defined energy equipment to go into large industry, and down the line, I, in a very real sense, would rather commend the approach of the Finance Committee along these lines, because it has been deliberate, it has been well considered and, in measure, been overwhelmingly approved by the U.S. Senate.

But I would have asked, in all candor, why could they not, in the Finance Committee, have come back with instead of 40 percent refundable credit; namely, 20 percent; instead of some of the percentages attained, halve those percentages to bring it within our particular budget process agreed on only 3 weeks ago.

It was agreed on only 3 weeks ago. We set this limit on ourselves, and by a little technical phraseology at the end of it, "Oh, by the way; oh, by the way, if it succeeds." Even after conference, then the Secretary of the Treasury is to become the Senate Budget Committee or the Congressional Budget Committee; namely, he should not implement these provisions until he is absolutely certain he can attain from the revenues some $397 billion.

This is something that all Senate Members should be totally aware of.

During the week we will have several amendments, as individuals. We hope perhaps that some of the amendments will come and bring it back within line, that we will not have to reach the technical point of order under the Budget Committee and the budget resolution adopted by the Senate itself. But if not, the Budget Committee is determined, as between progress made in energy conservation, on the one hand, and progress made on the budget process on the other, I think the Congress is going to choose the tremendous progress we have made on both sides of the aisle in all the struggle we have had, the good feeling of our Budget Committee working with our Appropriations Committee, the staffs working together, and Senators within the Budget Committee working with the Finance Committee. We have struggled too long and too hard, particularly under the distinguished leadership of Senator MUSKIE, now to let it casually go by the board as an afterthought, that it just does not apply.

If we can make the congressional budget process heard and adhered to, if we can effectuate a self-discipline within ourselves on this particular matter, then we are going to have much easier legislating on all the other matters. But if we break the line with the, "Oh, by the way" Secretary of the Treasury clause at the end, then I have got a lot of bills I can bust the budget with, and I am going to put them all through and get the political credit with an "Oh, by the way" Secretary of the Treasury clause on every one of them so they cannot be technically argued about, no point of order under the budget process, and we will just throw away the Budget Committee, the wonderful progress we have made, the discipline we have effectuated within the body, and the respect that has been built within the committee (even within the executive department) for the congressional budget process.

On behalf of our distinguished chairman (Mr. MUSKIE), I have submitted his statement here and we have come here as clearly and objectively as we can, at the very initial stages of consideration, to say that we in the Budget Committee will have to watch, hopefully, as Senator HUMPHREY says, because we are not all right or all wrong.

But I think the entire Congress is right in this budget process, hopefully, that some of the amendments will bring it back under the line so that a point of order will not have to be raised later this week when we finalize our work on the Finance Committee bill.

Mr. President, I yield the floor.

Mr. LONG. Mr. President, I regret that the very able Senator from Maine (Mr. MUSKIE) cannot be here at this moment. I understand why he is necessarily absent. I hope that he will feel better tomorrow. I know at this moment he is having some difficulty with his health.

Mr. President, I explained before that we have complied with the budget resolution in that we have provisions in section 1056(b) and section 1057 which make it clear that we do stay within the budget resolution, and we intend that we will remain within the budget resolution.

The Senate has a tax cut bill. The House has a tax increase bill. We will go to conference on the two bills. We have the potential of even bringing back from conference a bill that makes money for the Treasury. We do not know precisely how that will work out.

But I want to assure all Senators on the Budget Committee that we understand the need of staying within the budget and the fact that we have committed ourselves to it and we are going to do it.

We have done that by saying that the effective dates of the tax cut provisions would be adjusted by the Secretary of the Treasury, if need be, and, if necessary, that the actions would be postponed to October 1, 1978.

What we have here, Mr. President, is in many respects a repeat exercise of what we went through with the Tax Reform Act of 1976.

The committee undertook to comply with the budget resolution. The chairman and some members did not like the way we complied with it, and we had a great deal of conversation about it. Eventually the bill did pierce the budget resolution. The way it happened was when the chairman himself offered the budget busting amendment to prove a point at that time and, for whatever reason he chose to do it that way—and the record will show he felt he was doing the right thing at that point—we found ourselves hopelessly beyond the budget.

But I offered the same language, basically, that is in section 1057 at that time stating the sense of the Senate that the conferees should bring back a bill that was within the budget targets, and we did.

So those who found extreme cause for concern about the fact that conceivably the bill would go beyond the budget were very pleasantly pleased, and they applauded the bill. In fact, they considered it a victory for the budget process when we brought back the bill with the dates adjusted and sections dropped. We dropped some money losers and picked up some money gainers.

As a matter of fact, we did it in such a dedicated fashion that the following year we had to repeal some of our own handiwork, such as section 911, having to do with people working overseas and the provision on sick pay, for workers drawing that benefit.

In this case, I stated for certain that we will bring back from conference a measure within the budget.

Looking to 1978, we have a right to look forward to the options we may face then. If the President is going to recommend a $22 billion tax cut, whether it is called tax reform or economic stimulus, we might want to anticipate his proposal by making the tax cut in this bill part of the cost of next year's recommendations. The House acted in a similar fashion by holding back on rebates of the energy taxes after 1978.

Mr. President, as the chairman of the tax-writing committee that has to do with tax increases as well as tax expenditures, I think I can comply with the law and I can comply with the rule, because I can read it. I can see what it says and I can abide by it. We have done that.

However, when one is asked to comply with the spirit of something, how to do that is something about which people differ. I have no doubt that we all hope to arrive at the same place. Some of us might take a different route.

So far as the letter of the budget resolution is concerned, which is what the law says, we will comply with it.

I assure the distinguished Senator from Maine, who unfortunately is unable to be with us at this moment—but who is with us in spirit—that when we come back from conference with the final product, we are going to comply not only with the law but also with the spirit. We are now putting the pieces together. I ask him to be a little patient until we come back from conference.

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. DANFORTH. Mr. President, I ask unanimous consent that John Hamm, of my staff, have the privilege of the floor during the remainder of the proceedings on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. HOLLINGS. Mr. President, I would like to be able to emulate the spirit of the budget process as demonstrated on the floor by the distinguished Senator from Maine. If Senator MUSKIE were here, he would show all the outrageous indignation he possibly could exhibit.

He would come, first, to the Tax Reform Act of 1976, to which the distinguished chairman of the Finance Committee refers, and say:

> Senator LONG, at the time we considered that, we had only had the First Concurrent Resolution. So there was not that binding effect. Whereas, now we are into the pits and we have the binding effect of the Second Concurrent Resolution.

Going specifically to the spirit, I am going to read the language. I am sure the distinguished Senator can understand this, because he is an experienced legislator. It reads:

> Notwithstanding any other provision of this title or any amendment made by this title, the Secretary of the Treasury shall postpone—

It then tells about the effective date:

> But not later than October 1, 1978.

What he is really doing is legislating beginning October 1, 1978; perhaps even earlier. He is legislating for October 1, 1978, really for the ensuing fiscal year, without any first concurrent resolution, without any second concurrent resolution, if we take the argument with respect to the spirit of the particular provision.

He knows and we know and everyone else knows—and this will get around—the deliberate approach employed in the statute, under the Budget Act, all the work we put in, and all the hours of con-

sideration, where we tried our level best, getting down to $10 million, $50 million.

We will argue all afternoon over $50 million in a particular budget, trying to hold the line, and—wham—on a technicality, get it by on a point of order, and do not get it in later than the next fiscal year—$41 billion, or $5 billion a year for the next 8 ensuing years.

Mr. LONG. Mr. President, I regret to say that there is a misunderstanding as to the meaning of the language the Senator read. It is the intent of the Finance Committee to require that the Secretary of the Treasury must act, but he must act before October 1, 1978. He can postpone——

Mr. HOLLINGS. He has to pick an effective date by that time, as I read it. Does the Senator mean that the Secretary of the Treasury, under this provision, cannot have an effective date? In other words, he has the volition of not choosing any effective date? As I read it, he has to pick an effective date not later than October 1, 1978—whatever date he can pick in the meantime and find he has $397 billion in revenues. That is fine, as to the intent of Congress. But he has to pick an effective date no later than October 1, 1978.

Mr. LONG. He would put the revenues in the next fiscal year.

Mr. HOLLINGS. Yes. No later than that time. That is right.

So that puts us beyond the next year's first concurrent resolution, second concurrent resolution, any kind of judicious hearing and consideration. We are down to the wire. We have been working with the Finance Committee, and we put $1 billion in the third concurrent resolution just 3 weeks ago, trying to work hand in glove with what the Finance Committee would bring out. But now it is almost $1 billion over; and the way it accelerates, it is a $41 billion revenue loss.

Mr. LONG. Mr. President, we have no assurance that any of these recommendations to the Finance Committee will become law. We might go to conference and find that the House will not accept any of them. The bill may wind up being a big revenue gainer, for all we know.

I say to the Senator that we will not know whether we are going to breach the budget until we emerge with this bill from conference. At that point, I assure the Senator, the bill will not break the budget resolution limits. It is not going to happen. Do not worry about it. We will take care of it.

Mr. HOLLINGS. My distinguished colleague knows that he has to have that point in time when the Budget Committee, under the direction of this body, has to raise those points.

If it is the Senator's contention that we do not raise the point until it gets through the conference and all the way over here for final concurrence in the conference report, and it gets ready for ratification by both Houses, then we are both lost; because, under that contention, we never would raise any point about any bill going through. It will be said, "Well, you never can tell what may come out of conference. You might not even get a conference. So why raise that point of order? They might never agree on any of this."

That is not the procedure in the Budget Act.

Senator MUSKIE knows the duty of our Budget Committee. He has had an arduous task, and he has performed it conscientiously and effectively. If his back did not have a pinched nerve, he would be pinching the Senator from Louisiana right now, a lot more effectively than I can pinch the Senator.

Mr. LONG. I assure the Senator that we have put in the bill a provision to postpone the date until October 1, 1978, not to evade but to comply with the budget resolution.

What we are recommending in the bill as it is before the Senate now is not all going to be the final product. I wish I had as much confidence that the tax cut we are recommending would remain fixed in the bill as some people seem to think. I say to the Senator just do not depend on that.

If we are able to prevail in any substantial portion of these tax cut provisions, it will be because we are agreeing to some other part of the bill where the House of Representatives raises revenue.

So we will go to conference, if we are able to get that far, with the House bill that would raise a lot of money. It also has some tax expenditures by way of refunds. Then, there is the Senate bill that is a tax cut bill.

We will try to put the package together in the conference in such a way that it helps with the energy program and stays within the budget.

Do not worry, I say to the Senator. If we come back here with something that goes beyond the budget, the Senator is going to give us a bad time, a lot worse time than now. I know that what the Senator is saying now is mild compared with what he will say if we come back from conference with something that breaches the budget resolution, and we are not going to do it.

We have in the bill a resolution that the sense of the Senate is that the conferees on the part of the Senate shall act to the extent practicable to reduce the loss from this bill for the fiscal year 1978 to $972 million.

Furthermore, as much as the Senator and the Senator from Maine and the members of the Budget Committee zealously protect the budget, the President has an equal concern. I said before that not only do I not plan to sign a conference report that would go beyond the budget and fail to satisfy our Budget Committee, I also plan not to sign a report that in my judgment the President would veto. He is as earnestly concerned about the budget as the average member of the Budget Committee.

Mr. HOLLINGS. Mr. President, let us be hopeful that the time to make the point of order or the amendment will not be here at the second reading. We will work with the distinguished Senator all this week, and we hope the Senate in its wisdom during the week will bring it back within those budgetary limitations that the Senate itself has agreed upon. Barring that, we either have to submit amendments or make the point of order at that particular time at the end of the week when hopefully we can give it second reading.

Mr. LONG. I say to the Senator that there is more than one way to do it. I think we have done it one of those ways.

I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I am in sympathy with all the efforts of the Budget Committee to conform to the budget law. I think we are facing a situation, though, where the answer to the question at hand, as well as other questions that arise, is that we need a change in our budget procedure. It is my understanding that a point of order cannot be raised if a conference report exceeds the budget. It is regrettable that that is the case, because here we are faced with a situation where the Finance Committee is voting certain tax incentives which everyone understands will be effective if there is to be a tax. The House conferees will come from their end of the Capitol with a tax; the Senate conferees will come with a provision as to what to do about that tax: Should we use it as an incentive for individuals to insulate their homes or to increase production, or whatnot? The Finance Committee has done the only thing it could, and that is to provide that if there are tax expenditures beyond the budget they not go into effect this year.

I realize that is not a good solution, but again I say we need to change our procedure so one can raise a point of order against a conference report.

This is not the only tough situation that arises. Suppose the House of Representatives sends us a bill on most any subject before the second concurrent resolution and it is a high-spending figure that turns out to be above the second budget resolution, and suppose that the Senate passes a bill that is way below the budget. They can go to conference and agree with the House version and neither body would be in a position to have a point of order raised.

Therefore, I think that the solution to this present situation maybe cannot be arrived at this week, because it would call for a change of the budget law or our procedures under that so that we could have a point of order on a conference report. In the meantime I realize it is a very unhappy situation.

Mr. HOLLINGS. Mr. President, if the Senator from Nebraska will yield, I think the point is right.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. LONG. I yield to the Senator from South Carolina.

Mr. HOLLINGS. Under the law the point of order can be made at either time. I am advised on the advice of counsel now with respect to the provision of the Budget Act itself one can raise the point of order after second reading and again at the time of the conference report. There is a responsibility to watch it at each stage and let the Senate work its will.

Mr. CURTIS. Mr. President, I inquired and received contrary advice. If that ad-

vice is correct, and I hope it is, then I think that the proper procedure is not to refrain from making a point of order, but to postpone and make it when we see what has happened.

Mr. HOLLINGS. We are going along with a temporary postponement right now. Here it is Tuesday, and I do not think the Senator is going to hear too much from us until Friday when the chairman puts a real move on to get the bill through, trying to get it out this week. Then we will have a better look-see what the bill really contains and how the Senate reacted to very important questions with respect to tax revenues as well as tax credits and tax costs.

Mr. CURTIS. I hope that our point of order can be made on a conference report, because that would be the proper time to raise this issue.

Mr. LONG. Mr. President, let me just conclude by saying that everyone from the President on down agrees that the House bill as the House of Representatives sent it to us is not going to become law. Everyone agrees that the Senate bill as it now stands is not going to become law. Everyone agrees that if we can advance the bill as far as the conference we are going to try to work out something which can become law. What the conference will work out is a matter of serious concern; we do not want to violate the budget resolution, and we will all work to live within it. Meanwhile, we have a proposal which is not going to become law, but in order to stay within the spirit and the purpose of the budget resolution the bill says that—assuming for the sake of argument that all of this is to become law—then the Secretary of the Treasury shall postpone the effective dates. By postponing the effective dates we would be within the budget resolution. That is not how we intend to solve it when we are in the conference. When we come back from conference, we intend to have specific dates which state when each section will go into effect. Some sections will not go into effect at all, because they will be dropped. Either the House of Representatives will not agree to them, or the Senate will not agree to some House provisions. Nevertheless, we fully intend to bring back the best bill we can put together, and it will be within the budget.

Frankly, if the Senator wants to make a point of order, that is when it should be made, but if someone wants to make it now, we will have to live with that. We will always have something new around here, and we will find some way to survive the novelty and give this Senate a chance to do whatever it wants to with this bill.

In the last analysis, this bill will either pass or not pass, because the Senate either likes the bill enough to advance it or because it does not want to do anything about what the President is urging us to do.

If the Senate does not want to do anything to honor the President's recommendation or to try to fulfill its purpose, although it might be by a different approach, of course, nothing will happen. I have seen that happen, too; so, we will just do the best we can to try to accommodate everybody.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Mr. President, if the Parliamentarian or the Chair will look at section 1054 of the bill, I would like to propound this inquiry: Is the last sentence of section 1054(a) to the committee amendment effective to change the rules of the Senate with respect to conference reports or is the sentence precatory only?

The PRESIDING OFFICER. It is simply precatory, what is commonly referred to as a pious wish.

Mr. BUMPERS. I am sorry, will the Chair restate that, please?

The PRESIDING OFFICER. It is simply precatory, and is commonly known as a pious wish.

Mr. BUMPERS. Then the effect of the sentence in the bill, if passed, if the sentence is in the bill as passed by the Senate, will points of order nevertheless lie under the standing rules of the Senate relating to conference reports just as if the sentence had not been adopted?

The PRESIDING OFFICER. The Senator is correct, under the rules and the precedents thereunder.

Mr. BUMPERS. Mr. President, is the bill open to amendment?

The PRESIDING OFFICER. The bill——

Mr. BUMPERS. The committee amendment?

The PRESIDING OFFICER. The committee amendment and the bill are open to amendment.

UP AMENDMENT NO. 967

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) for himself and Mr. HART proposes an unprinted amendment numbered 967:

On page 96, strike the last sentence of section 1054(a).

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized to support his amendment.

Mr. BUMPERS. Mr. President, I yield to the Senator from South Dakota without losing my right to the floor.

Mr. ABOUREZK. I ask, first of all, Mr. President, unanimous consent that members of my staff be entitled to floor privileges during voting on and consideration of this measure: Bethany Weidner, Chuck Ludlum, and Alan Chvotkin.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I make a point of order against the bill and the committee amendment on the ground that they violate section 303 of the Budget Act of the Congress.

The PRESIDING OFFICER. Does the Senator from Arkansas yield for that purpose?

Mr. BUMPERS. Yes, I yield for that purpose.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. I make the point of order that the committee amendment and the bill itself violate section 303 of the Budget Act.

The PRESIDING OFFICER. Will the Senator state in what regard it is violative?

Mr. ABOUREZK. In that it exceeds the budget authority for the fiscal year in which we are dealing.

The PRESIDING OFFICER. The point of order will not lie on those grounds, although a point of order might lie under section 303 of the Budget Act on other grounds.

Mr. ABOUREZK. A parliamentary inquiry, on which grounds?

The PRESIDING OFFICER. The Chair cannot advise the Senator on that point. The Chair can only rule when a point of order is made.

Mr. ABOUREZK. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. If legislation which we are considering, either the bill itself, the House bill, or the committee amendment, exceeds the budget authority under section 303, does not the point of order lie? What else can we do unless it——

The PRESIDING OFFICER. The Senator is correct. But then there is no indication here that the bill and the committee amendment as proposed exceed the budget authority.

Mr. ABOUREZK. Is the provision concerning the options given the Secretary of the Treasury such that—does that bring it outside the point of order?

The PRESIDING OFFICER. There is no indication here that the language as presented would be subject to a point of order based on the grounds the Senator raises.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I would hope that based on the answers of the Chair as to the effect of this sentence, the last sentence of the first section of 1054, that the floor manager would see fit to accept the amendment.

I would like to say that the sentence to which I am referring says it is the sense of the Senate that when the Senate and House conferees meet and reconcile whatever differences there are in the two measures, that whatever those reconciliations are, that a point of order would not lie to the conference report.

Now, that language sort of jumps out at you when you are reading the bill, and since it has no meaning, since the Chair has ruled that it has no meaning, there cannot be any possible good reason for leaving it in, and my amendment simply strikes that sentence.

Mr. LONG. Mr. President, I accept the amendment.

Mr. BUMPERS. I thank the floor manager.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

Mr. ABOUREZK. Mr. President, I have consulted the book at the desk, and I want to renew my point of order under section 303(a)(2) which deals with either increasing or decreasing revenues not in the original budget resolution, and my point of order is that this legislation with which we are dealing violates the Budget Act on those grounds.

The PRESIDING OFFICER. The Chair will take this matter under advisement.

Mr. ABOUREZK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 968

Mr. LONG. Mr. President, as manager and for the committee, I modify the committee amendment, on page 104, lines 9 and 10, to strike "October 1, 1978", and insert in lieu thereof "September 30, 1978."

Mr. ABOUREZK. Mr. President——

The PRESIDING OFFICER. The committee amendment is so modified and the point of order falls.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. What effect does that change of date have on the particular section of the Budget Act to which we referred?

The PRESIDING OFFICER. By the modification, no longer will the revenues be affected for a fiscal year for which the first concurrent resolution has not been adopted.

Mr. ABOUREZK. A further parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Does the chairman of a committee have the right during a point of order to modify the amendment?

The PRESIDING OFFICER. There are precedents to the effect that the chairman, under authority of the committee, may do so.

Mr. ABOUREZK. I did not hear the Presiding Officer.

The PRESIDING OFFICER. The chairman may do so when authorized by the committee.

Mr. ABOUREZK. Was the chairman of the Finance Commitee so authorized by this committee to do so?

The PRESIDING OFFICER. It is the assumption of the Chair that he was.

Mr. LONG. Mr. President, I did poll the committee. They authorized me to so modify the amendment.

The PRESIDING OFFICER. The chairman states that he was so authorized.

The PRESIDING OFFICER. Are there further amendments?

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SARBANES). Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that Edwin Ing and Takeshi Yoshihara of my staff be granted the privilege of the floor during debate and voting on the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, there have been some modifications made today, which have the effect of deleting some matter from the bill and changing some of the language, at the motion of the committee. Therefore, Mr. President, I think that Senators reading and working with the bill would be better off having a clean copy to work from.

Mr. President, I ask unanimous consent that H.R. 5263, as modified, and as it stands at this point, be reprinted so it can be available to everyone on tomorrow, as it presently stands.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object, do I understand the substance of the chairman's request is only to have a clean copy of the bill reprinted, and nothing more?

Mr. LONG. Yes, just to reprint it the way it now reads.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry, if I might.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Does that imply that any future points of order on the legislation would be waived?

Mr. LONG. It would not affect any of that. The only purpose is that on reading page 100, for example, and trying to decide what he wants to do about page 100, would be well advised to know that page 100 is no longer there. Therefore, it would be well that everyone have an up-to-date copy of the bill. That is all I am suggesting.

Mr. ABOUREZK. May I ask the distinguished chairman if this one I have on my desk, H.R. 5263, is the bill we are working on?

Mr. LONG. Yes.

Mr. ABOUREZK. And that is the one he intends to reprint?

Mr. LONG. Yes, just as it stands, except for the modifications that have been made today which have the effect of striking some language and changing a few words.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the bill, H.R. 5263, is the unfinished business, is it not?

The PRESIDING OFFICER. By unanimous consent, it is the unfinished business.

Mr. KENNEDY. Mr. President, the House-passed version of the National Energy Act was an important early step forward in the efforts of President Carter and Congress to develop a rational and effective national energy policy.

But the bill reported by the Senate Finance Committee is nothing of the kind. It is little more than a bloated $40 billion grab bag of wasteful tax subsidies that have no place in a responsible energy policy, and that will play havoc with the congressional budget process. The present bill is bad energy policy, bad tax policy, bad budget policy, and bad economic policy. It does not deserve the approval of the Senate.

These tax subsidies will cost the Treasury a total of $40 billion by the end of 1985, or $5 billion a year over the life of the bill. Over the past 10 days alone, the price tag has gone up by 25 percent—from $32 billion to $40 billion—as the revenue estimators begin to assess the full cost of the bill. The Treasury suggests that the costs may go much higher, if, as expected, the huge tax subsidies lead to price increases in the materials and equipment for which the tax benefits are given.

The massive new tax expenditures are seriously defective as energy spending programs. They flunk the basic tests of need, efficiency, and fairness. There is little information available on the need for new or expanded Federal subsidies of this order of magnitude. Nor is the bill designed to meet any specific needs that might exist. Instead, it is a scattergun subsidy approach that is likely to do far more harm than good in meeting our energy goals.

The bill will provide windfall payments to individuals or businesses for doing what they are already doing or should be doing in any event. In many cases, the value of the benefits in terms of energy savings is far less than the cost of the tax subsidies. In other cases, the tax subsidies will have serious effects on inflation and on competition, or will produce harmful effects on the northeast and other industrial regions of the Nation.

The subsidies will also worsen the already serious problems of concentration in the energy industry. A large part of the subsidies will go directly to the large oil and gas firms, who already own the uranium, coal, shale oil, and geothermal energy resources. What possible justification can there be for tax subsidies whose inevitable effect will be to reduce competition and reward monopoly, especially when some of the major recipients of this tax generosity are the oil and gas producers themselves?

Virtually none of these crucial issues was effectively resolved or even addressed in the hearings on this legislation. As a result, the Senate will be voting in the dark on the expenditure of enormous amounts of Federal funds, at a cost to the Treasury of tens of billions of dollars over the coming years. The Senate simply cannot perform its responsibilities to the Nation's taxpayers in such a fashion.

A few examples make the point:

The new investment credit for converting to coal—which is responsible alone for $26 billion of the $40 billion cost of the bill—is set at an unprecedented rate of 40 percent—on top of the existing 10-percent credit, making a total credit of 50 percent. Moreover, coal conversion, even with a credit, is most feasible for large industrial boilers and furnaces. These boilers and furnaces are owned and operated by less than 1,100 firms. This huge credit is thus an undreamed-of windfall for the industrial giants of the Nation. It provides little or no significant incentives for the other 7 million businesses of America.

The provisions expanding and extending the percentage depletion allowance, the intangible drilling deduction, and the geological cost loopholes will produce a whole new generation of energy millionaires. Not only will these millionaires pay no income tax on their energy profits, but they will also enjoy huge deductions with which to shelter their other sources of income. In effect, we will be adopting a negative income tax solely for the benefit of some of the wealthiest people in the Nation.

The $3 per barrel credit for shale oil and the 50 cents per Mcf credit for certain gases are equivalent by themselves to an additional 57 percent depletion allowance, on top of the generous depletion allowance already provided in existing law or in other sections of the bill. The bill offers these and other new subsidies for synthetic fuels, shale oil, and gas, in spite of the fact that these are exotic high-cost technologies that are unlikely to become economical until oil reaches a price of $20 to $25 a barrel. These gigantic tax subsidies are playing into the hands of OPEC, encouraging OPEC to send its prices even higher, instead of bringing prices down.

The $1 billion intercity bus credit is an expensive bailout for Greyhound and Trailways that produces no significant energy savings and that has no proper place in energy legislation.

The detailed energy saving tables in the Finance Committee report contain no figure on the energy saving achieved by this credit. But a preliminary committee staff estimate indicated that the saving would be only 1,000 barrels a day by 1985, at a cost of $200 million a year—or $548 for each barrel of oil saved.

The expansion of the tax loophole for tax-exempt industrial development bonds will become a new tax shelter for wealthy citizens seeking tax-free interest. Worse, these new bonds will compete in the tax-exempt market with State and local government bonds, thereby making it even harder for States and cities to float their own bonds for schools, hospitals, housing, and other urgent public purposes.

Even the residential insulation credit contains serious deficiencies. Shortages in the industry are already so widespread that the benefit of the credit is likely to be siphoned off by higher prices of insulation. In effect, the credit will be an additional windfall to a handful of producers in the industry, with little or no real benefit to the homeowners who must pay the bill.

Mr. President, we recently had as a witness before our Antitrust Subcommittee the third largest insulation supplier. He indicated that he felt this tax subsidy would provide additional profits to his company. But he opposed the credit, because he said it will create an enormous bulge in demand for insulation during the next 2 to 3 years, so that there will be tremendous pressure for expansion of his business. But he is worried about the dip afterward, when the demand falls off, and he has too much excess capacity. He said that was not good business. And it is not good for the protection of the consumer, and it is not good energy policy.

The interesting fact is that in the case of insulation, as in the case of many other issues, we never considered the competitive impact of the energy program, or the effect that these many proposals will have on competition in the private sector.

Mr. President, the insulation credit has an even darker side. Reports coming in from around the country suggest that the mushrooming unfulfilled demand for insulation is creating a plague of unscrupulous manufacturers selling unsafe products:

Fires in Arizona, Colorado, and Michigan have been traced to improperly fireproofed insulation.

A Wisconsin cheese warehouse collapsed after acid in the insulation corroded the supports in the metal structure.

A Florida home was severely damaged when copper water pipes corroded by insulation burst.

Insulation is now appearing in plain brown paper bags in Massachusetts, with no fire retardant whatever.

The danger signals are obvious. Homeowners may get their tax credit, but they may also get a fire in their attic, a hole in their water pipes, or a pile of rubble in the place that used to be their home.

The bill is also bad tax policy, because the enactment of such large and numerous tax subsidies is directly contrary to the goal of tax simplification. These measures will seriously complicate the Internal Revenue Code and the administration of the tax laws. The new personal tax credits will have to be included on all individual tax returns, including the short form 1040–A. There will be new lines on the tax form for every taxpayer in the country. Taxpayers will have to fill out supporting schedules for each of the new credits. For business taxpayers, the number of new tax credits and deductions will be even larger. Still more complex forms and regulations will be the inevitable result.

The IRS will have to issue detailed regulations to implement the credits. Its agents will have to become energy experts as well as tax experts. In effect, if we enact this legislation, we will be asking the IRS, not the Department of Energy, to administer the Nation's energy program.

In my view, the proposed legislation is a major setback in our efforts to reach a responsible national energy program. The tax subsidies should be deleted from the bill, because they do not responsibly address the Nation's energy crisis, because they will be sources of vastly greater confusion and complexity in the tax laws, and because they constitute extremely wasteful uses of limited Federal funds.

It would be a travesty of responsible action on energy to allow the current crisis to become the pretext for ensconcing a large number of new tax loopholes in the already loophole-ridden Internal Revenue Code.

The bill should be sent to conference stripped of these very costly and highly objectionable provisions, so that the conferees can get on with the job of writing responsible energy legislation.

Mr. President, Congress has come a long way in recent years in identifying the consequences of the legislation we pass. We now keep track of how each dollar authorized and appropriated affects the total budget. The Budget Committee publishes a scorekeeping report which tells us how we are doing. Every bill must carry a statement about its impact on Government regulation. We also require environmental impact statements to determine how specific actions affect the environment.

With respect to the pending tax bill, it is obvious that we also need another tvpe of scorecard—one which would identify the real winners and losers in any piece of legislation.

If we had such a scorecard, what would it look like if the bill before us passes? Americans would be surprised by the truth. It might go something like this:

"Today, Occidental Petroleum scored an impressive shale oil victory in the Senate, overriding the interests of the State of Colorado.

"Babcock & Wilcox won their preliminary round in the Senate and will be eligible for the multibillion dollar boilermaker prize in the conference playoffs.

"Other winners include Johns-Manville, Certain-Teed, and Owens-Corning, who will reap huge profits from the sales of insulation.

"Exxon Corp. assured itself of another crack at a synthetic fuels subsidy.

"Union Oil Co. turned in a victorious performance, gaining another geothermal energy subsidy from the Senate.

"Greyhound and Trailways drove off with several hundred million dollars in Treasury prizes, apparently given ou' for the tax credit that produces the least energy saving.

"The biggest winners of the day, however, were the 1,100 largest corporations in America. In a clear Senate triumph over the average taxpayer, they have won $24 billion for converting from oil to coal."

If that report sounds fanciful to some, it is only because they have not read the

bill before us. It is not difficult to identify the winners and losers. The winners from this legislation are the large corporations. They get the money. They pay less taxes. They continue to grow and expand their control over American business.

The losers are the average American taxpayers, whose hard earned tax dollars are being used for these enormous tax subsidies.

The current bill contains almost every conceivable tax benefit. Old loopholes are expanded and new loopholes are opened up. The vaults of the Treasury are open wide. No purpose is too wild for the subsidies being handed out. The only missing link is a tax credit for snake oil—but even that is probably not far behind.

When it comes to individual consumers, the winners and losers are again very clear. It is the rich and the upper income groups who gain the major victory if this bill is passed. The poor and middle class will receive little or no advantage from the credits in this bill. To paraphrase a famous saying, this bill, in its majestic equality allows the poor as well as the rich to spend $2,000 on insulation for their homes, or $10,000 to install a solar energy system.

But the really massive benefits are those for business. A few examples reveal the facts.

The Senate tax bill provides a whopping 40-percent tax credit for companies that switch to alternative fuels, principally coal. This 40-percent credit is conferred on top of the existing 10-percent investment tax credit and the accelerated depreciation allowance, which means that the actual cost of the equipment will only be about one-third of the purchase price.

This provision is justified by the committee because it is calculated to save about 1 million barrels of oil a day in 1985. A somewhat similar provision in the House bill was estimated to save only 680,000 to 800,000 barrels a day—a half to a third less. But does that mean that the Senate provision is more effective or more defensible?

The answer is no, because the additional savings can be traced to the fact that this credit—without a corresponding tax—will push up corporate profits substantially. The additional savings come from the fact that corporations will have such high profits that they will invest in additional coal boilers.

Those who will benefit from this exorbitant credit are the 1,100 major corporations which now use oil and gas in boilers, and the four major corporations which make the boilers.

There are 7 million business enterprises in the United States, but only about 1,100 of them, according to the administration's figures, will take substantial advantage of this credit. Eleven hundred out of 7 million—these are the big winners in the legislation.

And who are those 1,100 firms? They are the corporations which own and operate the largest oil and gas fired boilers and consume the largest quantities of energy. They will get the tax credits, and these credits will, according to the Finance Committee, exceed $20 billion by 1985.

The list of these corporations is a list of the 1,100 most profitable companies in America. All the steel companies, all the aluminum companies, the lumber and paper industry, cement, petrochemicals and chemicals, the glass companies—all of them. Every major corporation stands to benefit from this provision.

The manufacturers of the boilers will also benefit handsomely. Again we can see who the winners are. In the boiler industry, four companies control the lion's share of the market: Babcock & Wilcox, Combustion Engineering, Foster Wheeler, and Riley. Can anyone doubt that profits in these companies will climb off the charts when the Government suddenly decides to spend over $20 billion for boilers over the next 8 years?

One of the most generous handouts in this bill is for geothermal energy. Geothermal energy is the only energy source in the bill which receives the 40 percent credit for all stages of production, including the turbine itself and excluding only the electrical transmission system. In addition, geothermal energy receives a current deduction for intangible drilling costs and it also receives a percentage depletion at the 22 percent rate established for oil and gas.

Geothermal energy is no more free of control by special interest groups than any other resource. In 1973, 30 companies were engaged in geothermal exploration. The major control belongs to the oil companies—Arco, Chevron, Getty, Gulf, Phillips, Signal, Sun, and Union. Others include Weyerhauser, Southern Pacific Railroad, and San Diego Gas and Electric.

As a result, half the beneficiaries of the geothermal subsidies will be the large oil companies or other large corporations—even before we look behind the ownership of the other companies in the field.

The bill also provides a rich subsidy for converting coal into a gas or a liquid—the same 40-percent tax credit we have seen before. In addition, the bill also makes coal gasification and liquefaction eligible for financing through tax exempt industrial development bonds.

Who are the beneficiaries of this expensive subsidy? We can get some idea from looking at the firms which are already receiving the principal Federal money for research in this area. Here again we find the familiar list: Exxon, Conoco, Shell, Cities Service, Gulf, Occidental, Phillips, American Oil, and a consortium of Conoco, Standard of Indiana, Ashland and Mobil and the State of Kentucky.

These facts are only the tip of the iceberg. The present bill contains almost endless giveaways for the rich and powerful.

The philosophy of this legislation is that the Government should solve the energy crisis by bribing the large corporations and wealthy individuals to conserve energy and seek new energy sources. That philosophy will lead us down the garden path to economic and energy ruin, and we follow it at our peril.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of the provisions that I believe should be struck from the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROVISIONS THAT SHOULD BE DELETED FROM THE SENATE ENERGY TAX BILL

1. Residential Insulation Credit: refundable credit of 20 percent of first $2,000 of expenditures; maximum credit of $400. (Sec. 1011).

2. Residential Solar, Wind, and Geothermal Energy Credits; refundable credit of 30 percent of first $2,000 of expenditures and 20 percent of the next $8,000; maximum credit of $2,200. (Sec. 1011)

3. Vanpooling Tax Credit: 20 percent investment credit for employers who purchase vans which hold nine persons and which are used solely to transport employees to work. (Sec. 1027)

4. Electric Car Tax Credit: $300 credit for purchase of electric car for personal use. (Sec. 1028).

5. Intercity Bus Credit: refundable credit of 20 percent based on passenger miles; the credit must be used for fare reduction and investment in terminals and equipment. (Sec. 1029)

6. Additional 40 percent Refundable Investment Credit for equipment used by industry and utilities in conversion from oil and gas to other fuels. Types of equipment specified are boilers, burners, nuclear and hydroelectric equipment, production of synthetic fuel, fuel mixtures, coal equipment, pollution control equipment; handling and preparation equipment at the point of use (e.g., coal bins), ocean and tidal equipment, solar, wind and geothermal equipment, and plans for such equipment. The 40 percent credit is available on top of the existing 10 percent investment credit and accelerated depreciation. (Sec. 1031)

7. Additional 10 percent Refundable Investment Credit for energy conservation equipment purchased by businesses to increase the efficiency of oil and gas energy, such as heat exchangers and other equipment to recover waste heat. (Sec. 1031)

8. Extension of the Additional 40 percent and 10 percent Investment Credits to tax-exempt organizations and State and local governments. (Sec. 1033).

9. Additional 10 percent Investment Credit for equipment for cogeneration, solid waste recycling, shale oil, and methane. It also applies to commuter vans and to energy-saving equipment for trucks. (Sec. 1032(a)).

10. Additional 10 percent Investment Credit for Business Insulation. (Sec. 1032 (b)).

11. Tax-Exempt Industrial Development Bonds for coal gasification and liquefaction facilities. (Sec. 1041).

12. Tax-Exempt Industrial Development Bonds for Bioconversion Facilities for converting municipal waste into fuels. (Sec. 1041).

13. Percentage Depletion for Geothermal Energy; rate set at the same percent as for independent oil and gas producers; 22 percent now; phased down to 15 percent in 1984. The allowance is available to all producers, not just independents, and the 65 percent of taxable income limitation applicable to oil and gas does not apply. (Sec. 1042).

14. Intangible Drilling and Development Deduction for Geothermal Energy. These are non-capital expenses for wages, fuel, repairs, hauling and supplies, involved in preparing and drilling a well. (Sec. 1043).

15. Limited Application of the Minimum Tax to Geothermal Energy. (Sec. 1051).

16. 10 percent depletion for Geopressurized Methane Gas (natural gas in underground brine). (Sec. 1042).

17. Current Deduction for Geological and Geophysical ("G & G") costs for geopressurized methane. These are the costs of de-

termining the existence, location extent or quality of a deposit. (Sec. 1043).

18. Intangible Drilling Deduction for Geopressurized Methane. (Sec. 1043).

19. Limited Application of the Minimum Tax to Geopressurized Methane. (Sec. 1051).

20. $3 per Barrel Tax Credit for Oil Shale. (Sec. 1044).

21. 50 cents per MCF Tax Credit for Geopressurized Methane. (Sec. 1044).

22. 50 cents per MCF Tax Credit for gas from "tight rock formations" to be defined by the Secretary of the Treasury. (Sec. 1044).

23. Increase in the Depletion Allowance for Peat Used for Fuel from 5 percent to 10 percent. (Sec. 1042).

Mr. KENNEDY. I have reviewed in some detail the various provisions which exist, 14 different provisions, and I am very hopeful that during the debate and discussion on this particular measure we will have an opportunity to address those measures. I fully intend to do so during the course of the debate.

OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1977

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that there is a substitute amendment which will be offered on tomorrow to the bill. In view of the fact that it will take some time to prepare that amendment, the leadership is prepared to proceed to the consideration, for the rest of today, of S. 1771, the OPIC bill, which, as I understand it, is necessary to be acted upon before the Senate adjourns for the year.

Therefore, I ask unanimous consent that for the remainder of today, the Senate proceed to the consideration of Calendar Order No. 461, S 1771, with the understanding that in no event does the bill, H.R. 5263, lose its standing as the unfinished business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1771) to amend the Foreign Assistance Act of 1961, as amended, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Foreign Relations with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE

That this Act may be cited as the "Overseas Private Investment Corporation Amendments Act of 1977".

PURPOSE AND POLICY

SEC. 2. Section 231 of the Foreign Assistance Act of 1961 is amended—

(1) by inserting after the first paragraph the following new undesignated paragraph:

"The Corporation, in determining whether to provide insurance, financing, or reinsurance for a project, shall especially—

"(1) be guided by the economic and social development impact and benefits of such a project and the ways in which such a project complements, or is compatible with, other development assistance programs or projects of the United States or other donors; and

"(2) give preferential consideration, in the Corporation's investment insurance, financing, and reinsurance activities, to investment projects in less developed countries which meet the poverty criterion of the International Development Association.";

(2) by amending subsection (e) to read as follows:

"(e) to give preferential consideration in its investment insurance, financing, and reinsurance activities (to the maximum extent practicable consistent with the Corporation's purposes) to investment projects sponsored by or involving small businesses;";

(3) by striking out subsections (f) and (l), and redesignating subsections (g), (h), (i), (j), (k), and (m) as subsections (f), (g), (h), (i), (j), and (k), respectively; and

(4) by adding "and" at the end of redesignated subsection (j).

INVESTMENT INSURANCE AND OTHER PROGRAMS

SEC. 3. Section 234 of the Foreign Assistance Act of 1961 is amended—

(1) by striking out all after "total project financing" in subsection (a)(2) and inserting in lieu thereof a period:

(2) by striking out "total face amount" each place it appears in subsections (a)(3) and (b) and inserting in lieu thereof "maximum contingent liability";

(3) by striking out paragraphs (4) through (7) of subsection (a) and inserting in lieu thereof the following:

"(4) In order to encourage the development of private and multilateral investment insurance the Corporation may make arrangements, consistent with its purpose set forth in section 231 and on equitable terms, with private insurance companies, multilateral organizations, or others for participation in the liabilities arising from insurance of the risks referred to in paragraph (1) of this subsection.";

(4) by striking out the last paragraph of subsection (c) and inserting in lieu thereof the following:

"No loan may be made under this subsection to finance any operation for the extraction of oil or gas. The aggregate amount of loans under this subsection to finance operations for the mining or other extraction of any deposit of ore or other nonfuel minerals may not in any fiscal year exceed $4,000,000."; and

(5) in the first sentence of subsection (d), by striking out all after "private investors" and inserting in lieu thereof a comma and the following: "except that—

"(1) the Corporation shall not finance any survey to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of, oil or gas; and

"(2) expenditures financed by the Corporation during any fiscal year on surveys to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of non-fuel minerals may not exceed $200,000 in any fiscal year.".

ISSUING AUTHORITY

SEC. 4. Section 235 of the Foreign Assistance Act of 1961 is amended—

(1) by striking out ", of which guaranties of credit union investment shall not exceed $1,250,000" in subsection (a)(2); and

(2) by striking out "December 31, 1977" in subsection (a)(4) and inserting in lieu thereof "September 30, 1981".

GENERAL PROVISIONS RELATING TO INSURANCE AND GUARANTY PROGRAM

SEC. 5. Section 237(f) of the Foreign Assistance Act of 1961 is amended—

(1) by inserting before the period at the end of the first sentence a comma and the following: "except that the Corporation may provide for appropriate adjustments in the insured dollar value to reflect the replacement cost of project assets"; and

(2) by inserting before the period at the end of the second sentence a comma and the following: "except that this limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties".

ACTS OF BRIBERY

SEC. 6. (a) Section 237 of the Foreign Assistance Act of 1961, as amended by section 5 of this Act, is further amended by adding at the end thereof the following:

"(l)(1) No payment may be made under any insurance or reinsurance which is issued under this title on or after the effective date of this subsection for any loss occurring with respect to a project, if any Federal agency other than the Corporation has made a final determination, or any court of the United States has entered a final judgment, that an investor seeking payment under this title, or any agent of such investor, is responsible for an act of bribery, as defined in section 238(e) of this Act, with respect to that project.

"(2) The provisions of this subsection shall expire upon the date of enactment of general legislation providing for criminal penalties for acts of bribery committed by investors in order to influence actions of a foreign government.".

(b) Section 238 of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "and" immediately after the semicolon at the end of subsection (c);

(2) by striking out the period at the end of subsection (d) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(e) the term 'act of bribery' means an offer or promise to pay, or a payment of, any significant amount of money, or an offer or promise to give, or a gift of, anything of significant value, by an investor seeking payment under this title or any agent of such investor—

"(1) to an individual who is an official of a foreign government or instrumentality thereof for the purpose of inducing such individual to use his influence within such foreign government or instrumentality to affect any decision or other action of such foreign government or instrumentality with respect to a project of such investor for which insurance or reinsurance is issued under this title;

"(2) to any person if such investor or agent knows or has reason to know that all or a portion of such moneys or thing of value will be offered, given, or promised, directly or indirectly, to any individual who is an official of a foreign government or instrumentality thereof for the purpose of inducing such individual to use his influence within such foreign government or instrumentality to affect any decision or other action of such foreign government or instrumentality with respect to a project of such investor for which insurance or reinsurance is issued under this title; or

"(3) to any foreign political party or official thereof or any candidate for foreign political office for the purpose of inducing such party, official, or candidate to use his or its influence with a foreign government or instrumentality with respect to a project of such investor for which insurance or reinsurance is issued under this title.".

GENERAL PROVISIONS AND POWERS

SEC. 7. Section 239 of the Foreign Assistance Act of 1961 is amended—

(1) by striking out the second paragraph of subsection (b); and

(2) by inserting in subsection (d) immediately after "section 231(c)" the following: "or participation certificates as evidence of indebtedness held by the Corporation in connection with settlement of claims under section 237(1)".

REPORTS TO THE CONGRESS

SEC. 8. Section 240A of the Foreign Assistance Act of 1961 is amended—

(1) by inserting before the period at the end of subsection (a) a comma and the following: "including an assessment of th economic and social development impact and benefits of such operations, and the extent to which such operations complement or are compatible with the development assistance programs of the United States and other donors"; and

(2) by amending subsection (b) to read as follows:

"(b) Not later than December 31, 1980, the Corporation shall prepare and submit to the Congress a report on the development of private and multilateral programs for investment insurance and any participation arrangements the Corporation has made with private insurance companies, multilateral organizations and institutions, or other entities.".

Mr. ROBERT C. BYRD. Mr. President, there will be, I assume, rollcall votes yet today on this measure. It is under a time limitation of 2 hours on the bill, I believe, I believe, 30 minutes on any amendment, and the time on the bill is to be divided between Mr. SPARKMAN and Mr. CASE.

The Senate will resume consideration on tomorrow of H.R. 5263, the unfinished business.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION TOMORROW OF H.R. 5263

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order and any Senators have been recognized under orders previously entered for tomorrow, the Senate resume consideration of the unfinished business, H.R. 5263.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF MR. ALLEN ON WEDNESDAY, THURSDAY, AND FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, Thursday and Friday, after the two leaders or their designees have been recognized under the standing order, Mr. ALLEN be recognized for 15 minutes, each day.

The PRESIDING OFFICER. Without objection, it is so ordered.

OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1977

The Senate proceeded with the consideration of S. 1771.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Norville Jones and Frank Ballance, of the Foreign Relations Committee, have the privilege of the floor during the remainder of this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that Jack Gorlin, of my staff, have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. JAVITS. Mr. President, will tho Senator from Alabama yield to me momentarily?

Mr. SPARKMAN. I yield. I am not ready at this moment to proceed, but if the Senator has a statement he wishes to make, he may proceed.

Mr. JAVITS. Mr. President, in view of the fact that Members who are interested in this matter have not been advised, with very much lead time, I ask unanimous consent that I may suggest the absence of a quorum, without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, This bill, S. 1771, would extend the basic operating authority of the Overseas Private Investment Corporation (OPIC) until September 30, 1981. The committee held several days of hearings on OPIC recently and reported out the bill by a vote of 10 to 4 on October 11.

The Overseas Private Investment Corporation, a wholly owned U.S. Government corporation created by Congress in 1969 is the agency by which the U.S. Government insures U.S. investments in developing countries against the risks of expropriation, inconvertibility, and war, and provides limited amounts of development financing through guaranteed private lending by U.S. institutions and through its own direct investment fund. In 1974 OPIC's basic authority was extended for 3 years and will expire on December 31, 1977. Therefore, it is essential that Congress act on this bill prior to the end of the session.

In the 1974 legislation Congress laid down a mandate for OPIC to increase private participation in its investment insurance program, with a requirement that OPIC withdraw entirely as the direct writer and manager of expropriation and inconvertibility insurance by the end of 1979 and of war risk by the end of 1980. Thereafter, OPIC would act solely as a reinsurer.

For a variety of reasons including the unwillingness of the private insurance companies of the United States to assume the full burden of underwriting such insurance in the developing countries, it has become clear that OPIC cannot meet this legislative requirement. Furthermore, there is evidence that the requirement to turn over the direct underwriting functions to the private sector has undercut OPIC's developmental mandate. The committee was clearly of the mind that OPIC's primary function should be developmental and has rewritten the purposes section of the bill to reflect that primary goal. The committee also determined that the privatization effort would not work in the given time period and recommends to the Senate that the privatization mandate be rewritten to urge privatization effort without time deadlines. I think that this has been a wise course of action and I urge my colleagues to support the action of the committee.

Mr. JAVITS. Mr. President, with the permission of the Senator from Alabama, if he would be kind enough to yield to me 10 minutes on the bill, I would like to make a statement.

Mr. SPARKMAN. Mr. President, I yield 10 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 10 minutes.

Mr. JAVITS. Mr. President, the purpose of this bill is to extend the mandate of the Overseas Private Investment Corporation, which now has been in operation since 1971, until September 30, 1981, to wit, a 4-year extension.

The other purpose of this bill is to strip from the present legislation certain mandatory requirements that OPIC transfer its insurance operations to private insurance companies on the ground that they simply have not worked and been feasible; it is simply impossible to carry out those reinsurance mandates which were contained in the previous legislation.

Second, Mr. President, the developmental impact of OPIC will be materially improved by the new set of policies which the OPIC Board has adopted. I would like to add that the OPIC Board of Directors is senatorially confirmed and is really quasi-governmental. These new policies will make the principal activities of OPIC directed toward countries which have a per capita income at or below the poverty level, which now stands in international terms at $520 a year.

A third purpose of the bill is to do away with various limitations which OPIC now has with respect to the financing of nonfuel—I emphasize nonfuel—mineral surveys and operations by U.S. enterprises in foreign countries. The prohibition still remains as to fuels of all kinds.

Last, of course, it is to extend the period of OPIC's authority for the 4 years which I have already mentioned.

There are also some minor changes in the bill relating to the definition of a small business, certain adjustments in the insured dollar value of loans, and a very interesting provision respecting bribery which was authored by Congressman SOLARZ in the other body. This provision would prohibit recovery under any guarantee or insurance made by OPIC where there is bribery involved in

the insured or guaranteed project. That is the House provision.

The change made by the Senate is that this provision shall be superseded by generalized Federal legislation which is under consideration which makes it a criminal offense to engage in that kind of bribery. The protections respecting the preemption of this particular provision by subsequent law relate solely to the stronger subsequent law, to wit, the law which contains criminal penalties.

There is no expansion, Mr. President, of the authority of the guaranteeing or insurance or investment authority of OPIC. The insurance authority remains at the ceiling figure of some $7.5 billion, of which about $2.9 billion is today covered by insurance contracts.

The guaranty figure which relates to direct investment guarantees is at $750 million, which is the figure fixed when it was first put into effect, and the direct investment fund remains at $50 million. So there is no expansion whatever of these respective authorities and the financial limitations which back them up.

Finally, Mr. President, I think it is very important for Members to note that here is one enterprise that makes money.

No appropriation is requested and thus there is no drain sought on the Treasury of the United States. From 1971 to 1977, 6 years, OPIC's earnings have exceeded $328 million against $53 million in operating expenses and net claims payments of $108 million. The reserves which have been established against future claims now amount to $325 million as of September 30. 1977. OPIC's annual net income has risen from $21 million in 1970 to $49 million for the period ending June 30, 1977, an increase of 133 percent.

Mr. President, when the matter was last up in 1974, there was very grave concern that OPIC would find its financial situation very badly compromised by the fact that it had guaranteed a good many investments of copper companies in Chile, and it will be recalled that there was expropriation by the Allende government of those properties in Chile, which led to grave concern as to what would occur.

Well, it is very instructive in terms of the validity of this operation that what occurred was that it was possible to work out the compensation for the expropriation on the part of the Government of Chile in such a way that the resources of OPIC were fully able to meet the claims. In fact, OPIC's overall insurance claims payments, net of recovery, came to $108 million, according to OPIC's analysis, and in addition, even though that figure of insurance payments is shown, OPIC recouped assets as a result of those payments, primarily government notes of Chile.

Hence, Mr. President, the final result finds that the total insurance reserves of $224 million of OPIC, exceed far and above the actual realized loss.

Mr. President, the need for OPIC arises out of the fact that we are engaged in the foreign aid business to the tune of $5 billion or $6 billion a year. The policy of the United States on that score has been laid down since 1948, in the Marshall Plan, and has altogether been a very constructive policy. Indeed, this insurance of investments which OPIC makes dates from 1948. I was myself in the House of Representatives when, with John Vorys of Ohio, one of our very celebrated predecessors, we developed and wrote into the law the investment guarantee provision.

Indeed, about half of the insurance carried by this corporation predates the organization of the corporation, going back many years. So this is a very basic and established policy of the United States, which has been an element of the foreign aid of the United States for all that time. It seems to me that it has withstood, and withstood very successfully, the vicissitudes of time.

Mr. President, OPIC has grown and become over the years the essential element encouraging private enterprise and private enterprise developments supplementing the foreign aid program of the United States. I have served here and in the other body for a long time, and I have lived through many debates on foreign aid. It is always violently attacked, and there is always a new reason for attacking it. Nowadays it is the export of jobs, and I will address myself to that in a minute in terms of OPIC, which is actually a great contributor to jobs and to business done in the United States in terms of hard exports.

The fact is, Mr. President, that no one ever stops to examine, except those who do the voting, the alternatives to it. We have taken a national decision, sustained time and time again by the House of Representatives and the Senate, that this is an indispensable element of the operation of every country on earth.

The PRESIDING OFFICER. The 10 minutes of the Senator from New York have expired.

Mr. JAVITS. May I have another 3 minutes?

Mr. SPARKMAN. I yield the Senator 4 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 4 minutes.

Mr. JAVITS. OPIC, over the years, has demonstrated that it has given a quality of aid which is most constructive, by teaching people how to help themselves, through exports of American technology, one of the most fruitful exports in all the world, and through encouraging the kind of productivity and productive business which is good for the American economy and the economies of the developing countries.

The arguments have been made—and there are "Dear Colleague" letters from a number of Senators and Senators CHURCH and CASE, who have indicated their opposition to this particular bill; an opposition which, by the way, has been traditional, and is based upon the fact, first, that OPIC does not represent an economic benefit to the United States, and second, that it helps essentially big companies.

Aside from the fact that we are very carefully orienting OPIC to small and medium business in this particular extension to the board is already resolved to concentrating on small business, which, I think, will go a long way toward helping in that regard. The fact is that we are continuing the guarantees of investment because we want the end product, to wit, development in the developing countries. In response to the argument that, "Well, you are making guarantees for big companies," I say if those big companies are actually engaged in the desirable development process, in the interests of the United States, then we ought to be glad they are around to do it, and we should not be parochial and say, "Well, we do not want to help in that process because it is being done by a major American company."

As I emphasized, Mr. President, this operation is not only self-sustaining, but makes a profit. May I point out, too, that there is a lot of competition. The United Kingdom, Germany, Japan, and France all have agencies of this very kind—proceeding, incidentally, on much more liberal concessional terms than we allow OPIC to proceed—in order to help them develop their essential export business.

The export business here is very, very high. It is estimated that 38,000 jobs are attributable to the business which is generated by the operations of the Overseas Private Investment Corporation; and I might say, noting the presence in the Chamber of the Senator from Georgia (Mr. TALMADGE), that it occupies a very important place in the whole agribusiness field, which we all appreciate. I understand, certainly, though I am a city dweller, the fantastic importance to the United States, especially with our present balance of payments difficulties due to our problems with OPEC—not to be confused with OPIC—and with our balance of payments, of the fantastic ability of the American farmer to raise food and fiber, for which there is such a fantastic export market.

Mr. TALMADGE. Mr. President, will the Senator yield on that point?

Mr. JAVITS. I yield.

Mr. TALMADGE. The Senator is entirely correct. Our trade in agricultural exports totals about $12 billion a year.

Mr. JAVITS. Exactly true; and when you realize that we are hemorrhaging to the tune of $25 billion to $30 billion because of the uneconomic price that we are paying for oil, the importance looms even larger.

Mr. President, since 1948 this program has been shown to be capable of economic soundness. In fact, it makes money; it is not the taxpayers' money which is involved. It facilitates trade. Its endorsement by the General Accounting Office, the American Bar Association, and other organizations would not take place if it were not for the soundness of this bill.

So far as the question of reinsurance is concerned, reinsurance is just not available, and if we insist on it all we are doing is curtailing enormous benefits to our own country in terms of employment and business.

Finally, Mr. President, it has been properly said that the business of the United States is business, and here is an area in which the private enterprise system, in terms of its societal impact, and

vesting in the less developed countries. I remember I was handling a bill here on the floor of the Senate, I believe back in the days of the good neighbor policy, when we were debating U.S. aid programs to Latin America. At that time the Senator from New York offered an amendment, and I remember it was a very lengthy amendment. Finally, when he finished reading it, I said, "If the Senator will take just the first paragraph that he read, or the first 10 lines, whatever it is, I am willing to accept it."

He readily said that was acceptable to him. That is how OPIC was originally written into law.

I have been impressed with the management of OPIC, the way it has been handled, the fact that it has earned money, and has not been a burden upon the Federal Government.

I ask unanimous consent that a fact-sheet on OPIC's record be placed in the RECORD.

There being no objection, the fact sheet was ordered to be printed in the RECORD, as follows:

OVERSEAS PRIVATE INVESTMENT CORPORATION

Legislation: S. 1771, to extend and modify OPIC's basic authorities, has been reported favorably by the Foreign Relations Committee and should reach the Senate floor shortly.

OPIC's Programs: OPIC is a self-sustaining U.S. Government agency that selectively insures and in some cases finances private U.S. investment projects in less developed countries ("LDCs"). Projects supported by OPIC benefit both the host country's development and the U.S. economy. OPIC insures against expropriation, inconvertibility of currency and loss due to war, revolution and insurrection.

OPIC also provides partial financing of private enterprise projects when adequate financing on appropriate terms is not available through commercial sources. As provided by Congress in 1974, OPIC has initiated investment identification and counseling services primarily to enhance interest in the lower income LDCs and to help smaller U.S. companies and those inexperienced in overseas operations.

OPIC's Development Role. OPIC encourages those private U.S. investments that will complement our government-to-government economic assistance by providing productive capital, managerial and technical expertise, and training in industrial skills. Over the last 3 fiscal years, OPIC assisted 425 projects in 55 countries, representing $4.6 billion in total investment. Estimated host country benefits for the first 5 years of operations of these projects include net foreign exchange gains of $1.3 billion, net fiscal revenues of $198 million and 149,000 new jobs.

OPIC insurance and finance make a potential project in the unstable political and economic environment of an LDC financially competitive with an alternate investment in a developed country. OPIC's participation lends stability to investment arrangements and—as shown by OPIC's claims record—reduces the likelihood of intergovernmental disputes over U.S. investors' rights.

U.S. Economic Benefits: OPIC rejects "runaway plant" projects and others that are likely to have a negative impact on U.S. employment. A representative of organized labor sits on OPIC's Board. OPIC also supports projects to develop additional sources of raw materials critical to the U.S. and world economies. Estimated 5 year benefits of projects assisted in the last 3 fiscal years include net cash inflows of $2.3 billion and a net gain of some 37,500 man hours of U.S. employment.

OPIC's Cost: OPIC is self-sustaining and is not seeking any appropriations. OPIC charges substantial fees for its services and follows prudent underwriting and lending policies. Insurance fees for combined coverage vary from 1.5 percent to 3 percent per annum (about triple the fees charged by the German, Japanese and French agencies). Since FY 1971, when OPIC began operations, it has earned $328 million in revenues, operating expenses have been $53 million and net insurance claims payments have been $108 million. Insurance reserves have grown 315 percent, now standing at $223 million, and appear to be sufficient to preclude any future request for appropriations.

Countries Assisted: OPIC services are available to U.S. investors in 80 friendly less-developed countries. Since 1974 OPIC has given preferential consideration to projects in the lower income of these countries (less than $450 per capita income). OPIC in 1975 restricted its operations in the developed areas of Brazil. The Carter Administration has further restricted OPIC services in higher income LDCs (over $1000 per capita income), with exceptions for mineral and energy projects, those sponsored by U.S. small businesses and cooperatives, and exceptionally developmental projects.

OPIC Users: Since 90 to 95 percent of all U.S. investment overseas is made by *Fortune* 500-sized companies, these are the primary users of OPIC's insurance. Some very large companies, such as Exxon, GM or IBM are able to self-insure, but most companies require insurance to offset the risks peculiar to investment in LDC's. No individual investor may hold more than 10 percent of OPIC's insurance. Presently, the largest users of OPIC insurance are Dow Chemical Company (3.6 percent of the total), Kaiser Aluminum & Chemical (3 percent) and Reynolds Metals (2.5 percent). The remaining 90.9 percent of the outstanding insurance is held by 455 investors of all sizes.

OPIC gives preferential consideration to projects sponsored by small businesses and companies lacking significant experience overseas. Almost two-thirds of OPIC financing goes to projects sponsored by such companies.

New Directions: The Administration is focusing OPIC's developmental emphasis on minerals, energy production in non-OPEC countries, food production and processing, and a wider range of projects in the lowest income countries.

S. 1771 extends OPIC's insurance and loan guaranty authorities for 4 years; eliminates legislative requirements that OPIC seek to transfer its insurance operations to the private sector; strengthens OPIC's developmental mandate; and bars payment of insurance claims in cases where the insured investor is found by a U.S. court or agency to have committed an act of bribery of a foreign official with respect to the project.

Mr. SPARKMAN. It has been a good program which the United States has sponsored through the years. I certainly think we ought to continue.

I repeat, Mr. President, I think this OPIC program has performed wonderfully well in the past, and I am confident it will continue to do so in the future.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. (Mr. RIEGLE). The Senator from New Jersey.

Mr. CASE. Mr. President, what is the situation as to time?

The PRESIDING OFFICER. The Senator from New Jersey has 60 minutes, and the Senator from Alabama has 37 minutes.

Mr. CASE. Mr. President, the Senator from New Jersey has been opposed to OPIC from the beginning. It was his understanding that the Senator from New York would carry the flag for this bill as far as the minority was concerned. That is why the Senator from New Jersey was not in his accustomed place. The Senator from New Jersey nevertheless feels he has some responsibility to let his colleagues know his views.

Mr. JAVITS. Will the Senator yield?

Mr. CASE. The Senator will be happy to yield.

Mr. JAVITS. Even though the Senator from New York is next in line, he is not occupying the place only because of his love and respect for the Senator from New Jersey.

Mr. CASE. There is an old saying that where the vicar sits is the head of the table. The Senator from New York will be preeminent wherever he sits.

Mr. President, OPIC came up several years ago. At that time, I think, I may have been the sole member of our committee to oppose the creation of OPIC. The midwife, or the granddaddy, whatever you want to call it, the Senator from New York, obviously had greater persuasive power and carried with him the rest of the committee. Senator CHURCH had some doubts about it, but he was persuaded to buy the proposition by an inclusion of provisions encouraging OPIC to go into partnership with private industry in insuring these risks, so far as possible.

The Senator from New Jersey at that time expressed the view that the prospect of private insurance entering this field in any substantial way was very small.

In that he was joined, and the Senator must correct himself for his earlier statement that he had no company at that time. The Senator from Missouri, I believe, Senator SYMINGTON, was one of those who expressed not only doubt but conviction that private companies should not get into this kind of risky business. He stated in substance, and I concurred and still concur, that any private insurance company that would go into the business of insuring this kind of risk was one that he did not want to have anything to do with as far as either investment or carrying his own insurance was concerned.

In any event, OPIC itself has come to believe that private insurance does not have any business in this field. In the extension which is contemplated by the pending bill, OPIC will no longer solicit a partnership with private insurance and agrees that it has no place in the insurance of the kinds of risk that OPIC is scheduled to take.

Senator CHURCH has now joined the ranks, still very small, of those on the committee who oppose this proposition, but he is now a true convert and, as such, even more fervent, perhaps, than some of the older members of the small group. He and I circulated a letter to our colleagues in this body on the proposition, and I ask unanimous consent, Mr. President, to have a copy of that letter printed in the RECORD at this point in my remarks.

There being no objection, the letter

was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 18, 1977.

DEAR COLLEAGUE: The Congress is once again being asked to extend the legislative authority for the Overseas Private Investment Corporation (OPIC), the Federal agency which provides political risk insurance for direct U.S. private investment in foreign lands.

In 1973, the Committee on Foreign Relations Subcommittee on Multinational Corporations held extensive hearings on the Overseas Private Investment Corporation (OPIC). After carefully considering its original purpose and the results of the program, the Subcommittee questioned the need or justification for continued government participation. Senator Case, the then ranking minority member of the Subcommittee, favored immediate termination of OPIC. A majority of the Subcommittee agreed instead that an effort should be made to transfer OPIC's functions to the private insurance industry and to gradually phase out the government's participation. According to a recent study by the Government Accounting Office, the privatization effort has so far been a failure, and the GAO doubts that the goal of privatization can ever be achieved

The GAO report states, further, that OPIC has made little progress in correcting other weaknesses in the program, particularly the high concentration of insurance in a few countries, and the dominant role of Fortune 500 companies in the program. For example, over 65 percent of the OPIC insurance portfolio is concentrated in only seven developing countries, most of which would be perfectly able to attract private capital on their own without OPIC. Brazil alone accounted for over 20 percent of all OPIC insurance issued in the last three years. And approximately 90 percent of OPIC's total coverage is held by the 100 largest American corporations, while 41 percent of all OPIC insurance issued between 1974 and 1976 has gone to eleven of the largest U.S. multinational corporations.

For these reasons alone, we should refuse to support a continuation of OPIC.

But our most serious objection concerns the basic assumption underlying the creation of the program to begin with; that is, that a massive transfer of private direct investment capital from industrial to developing nations is an effective means of promoting healthy economic growth in the Third World. After having spent many years on the Foreign Relations Committee, we have come to doubt the validity of this assumption.

Puerto Rico is a case in point. American corporations have poured $5.5 billion in investments into this island economy of 3 million people. Puerto Rico was to be a Western Hemisphere showcase for what private capital could do for an underdeveloped country. And it is true that Puerto Rico has enjoyed a high growth rate as measured by its GNP. But the pattern of economic growth that has resulted from these investments has left the Puerto Rican economy totally dependent on exports to maintain employment, and equally dependent on imports to meet even the most basic needs of its own people. For example, 60 percent of the island's arable land now lies unused while it imports $800 million a year in food from the mainland.

A startling three-fifths of the island's population is on food stamps! The unemployment rate is somewhere between 20 percent and 30 percent—despite the fact that almost 2 million Puerto Ricans, or 40 percent of the entire population, have fled the island and come to the United States.

As for the types of investment promoted by OPIC, the Subcommittee on MNC's concluded in its 1973 report, that "The Investment guarantee program administered by OPIC is, at best, only a marginal contributor to the development of the poorer countries."

A brief look at some of the projects insured by OPIC since 1973, suggests that there has been little improvement on this score. The following are some of the projects insured by OPIC in the last three years:

ITT and TWA safari lodges in Kenya.

Ralston Purina fast food chains in Brazil.

Avis Rent-a-Car rental and chauffeur services in Malaysia and Singapore.

Pan Am Intercontinental hotels in Liberia, Kenya, Indonesia, and the Ivory Coast.

ITT Sheraton hotels in India, Brazil, and Tunisia.

Art galleries, plush hotels, and secretarial schools in Haiti.

Gulf and Western hotels in the Dominican Republic.

It is hard to see how projects of this type contribute significantly to the kind of economic growth that will eventually enable recipient countries to meet the basic needs of their own people.

The cost to the U.S. economy, on the other hand, of programs like OPIC, which encourage American firms to invest abroad, is clear. The U.S. loses an estimated 150,000 jobs per year as a result of direct foreign investment by U.S. firms. One reads almost daily of American companies cutting back their U.S.-based production and going abroad to take advantage of cheaper labor. For example, Zenith Co. recently announced that it was laying off 5,000 workers in the U.S.—almost one-fourth of its work force. According to an October 10 article in the Washington Post, much of the work will be done in $1-an-hour jobs in Mexico instead. Likewise, much of the U.S. semiconductor industry has shifted to Taiwan and Korea, with many plants being insured by OPIC. We now appear to be on the brink of losing large chunks of the U.S. steel industry to foreign production. If the productive base of an industry as important as steel moves abroad, the U.S. stands to lose not only jobs, but economic power as well.

Moreover, U.S. labor is put at a competitive disadvantage by the repressive labor laws in force in many of the developing countries most favored by U.S. investors. All six countries which have received the most OPIC insurance since 1974, have authoritarian regimes which deny many basic trade union freedoms. Granting special incentives to our largest companies to invest in such countries, at the cost of closing down manufacturing plants here at home, can no longer be justified as a Federal program which serves the needs of the American people.

In sum, the value of OPIC, either to the people of developing countries, or to U.S. foreign policy objectives, remains unproved, while its cost to our domestic economy is brutally apparent.

We strongly urge that you vote no on S. 1771, which would extend OPIC's authorization for another 4 years.

FRANK CHURCH.
CLIFFORD CASE.

Mr. CASE. Our views on the matter are contained in the very short couple of pages appended to the report of the committee. I should like, if I may, to have those views, so that this matter may be put in one place, follow in the RECORD. I ask unanimous consent to have that done.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MINORITY VIEWS OF SENATOR FRANK CHURCH AND SENATOR CLIFFORD P. CASE

In 1973 the Committee on Foreign Relations Subcommittee on Multinational Corporations held extensive hearings on the Overseas Private Investment Corporation (OPIC). After carefully considering the original purposes and the results of the program, the subcommittee concluded that:

"The investment guarantee program administered by OPIC is, at best, only a marginal contributor to the development of the poorer countries of the world and OPIC is only a marginal stimulus to private investment in less developed countries.

"The program, as presently conceived, tends to increase the likelihood of U.S. Government involvement in the internal politics of other countries in connection with the property interests of United States corporations.

"The program, as presently administered by OPIC, and previously by its predecessors, AID, has inherent within it a conflict between the achievement of public policy and management by sound insurance principles. The result has been a large and unsatisfactory exposure of good faith and credit of the U.S. Government.

The subcommittee was also extremely critical of the fact that 79 percent of all insurance issued by OPIC went to the largest multinational corporations, and that the coverage was highly concentrated in a few higher income developing countries.

After the most recent committee review of OPIC, we have concluded that the criticisms of the program made in 1973 are as valid today as they were then. For example, as of November 30, 1976, the top 100 U.S. companies had about 90 percent of total coverage, and seven countries accounted for over 65 percent of the OPIC insurance portfolio. Brazil alone has received approximately 20 percent of all the insurance written by OPIC in the past 3 years. Supporters of the program argue that recent changes in OPIC regulations will correct these weaknesses. But that is what the Congress was told in 1973, yet no substantial changes occurred.

And even if these weaknesses were successfully eliminated, it would not alter the fact that the basic assumption on which the OPIC program rests is not valid: there is simply no convincing evidence that the type of investment which OPIC insures contributes significantly to balance economic growth in developing countries. The value of the OPIC program from a foreign policy perspective is therefore unproven after 8 years.

The cost to the U.S. economy, however, of programs like OPIC, which encourage Americans first to invest abroad, is clear. The United States loses an estimated 150,000 jobs per year as a result of direct foreign investment by U.S. firms. Unless this cost of foreign investment is outweighed by some compelling foreign policy interest, there can be no justification for the continuation of OPIC.

In 1973, a majority of the subcommittee favored transferring OPIC functions to the private insurance industry and gradually phasing out the Government's participation, although Senator Case favored immediate termination. Since then, efforts to replace the Government's role with private insurance companies failed and it seems unlikely that such an effort will succeed in the future. Therefore, we believe that the best course is to terminate OPIC altogether when its present authorization expires.

Mr. CASE. Mr. President, I see no reason to belabor this matter. Those who have made up their minds are men of strong character and strong minds and deep prejudices. They will persist in their error, I am afraid, and I have no reason to burden the body with further harangue on the matter. I do hope that, sometime, we shall come to realize that

and it would, I think, open us up to all kinds of mischief if we let this be done.

So, on that ground I strongly oppose and urge the defeat of this amendment.

Mr. JAVITS. Mr. President, will the Senator yield me 5 minutes in opposition?

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Alabama has 13 minutes remaining on this amendment.

Mr. SPARKMAN. And the Senator wants how much time?

Mr. JAVITS. Five minutes.

Mr. SPARKMAN. I yield 5 minutes. I do reserve the remaining 8 minutes for myself.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes on the time of the Senator from Alabama.

Mr. JAVITS. Mr. President, I first wish to express my appreciation to Senator CASE, notwithstanding his opposition to this bill, in opposing this amendment for the foreign policy reasons which he has mentioned.

Mr. President, the point simply is this: If a vote like this is taken now with respect to an item which appears within the context of the Panama Canal Treaties, it can only be taken as an indication that the Senate will in due course reject these treaties.

I said before I do not think even the most ardent opponent of the treaties should wish to do that to our country.

The fact is that we have the right to consider his carefully in the Foreign Relations Committee and in the Senate. It is one of the really great issues of our time, and to try in this peripheral way, when no obligation of any kind is involved, to get kind of a test vote on Panama I think is simply dead wrong—whether one is for or against the Panama Canal Treaties—in the interest of the Nation and because of the mischief which it can cause to us both in Panama and throughout Latin America and indeed throughout the world.

As to whether or not Congress should or not approve everything that OPIC does, the Senator is at perfect liberty to make that amendment. There is no reason for picking out at this stage Panama except as a test vote on the Panama Canal treaties, and I think that test vote is unfair at this particular stage when the matter is really in hearing and we all know it is going to take months more of debate as well as of hearings.

Finally, Mr. President, there is no reason why, when this treaty is up for consideration, a reservation cannot be offered that everything in the treaty and peripheral to the treaty shall be done with or without congressional consent or one-House or two-House vetoes, or whatever may be desired. But it seems to me, Mr. President, that to do it now in order to attain a desired result, demeans our country in terms of its objectivity and the statesmanship of the President and the Senate. It is not necessary to deal with this amendment now. It has no legal force and effect now and, indeed, by the terms of the letter itself, it will not have any even then, but it certainly is not necessary now except, as I say, as highly premature effort, to have a test vote on Panama, and I deeply believe that that is very inimical to the interests of our country.

But there is a firm majority which is private. The composition of the board is the following: There is a labor member, a small business member, a member from a cooperative—it could be a farm or a comparable cooperative—and there are three general public members. Those are the six private members. The five governmental members are the Administrator of AID, the Assistant Secretarys of the State, Commerce, and Treasury Departments, and the president of OPIC who is the Presidential appointee subject to confirmation by the Senate. So it is six and five, but the majority of six are private. This matter when it gets to the stage where OPIC had to pass on it, as it would pass on any other loan guarantee, would therefore be in the hands of a majority which is nongovernmental. Under those circumstances, it seems to me that this is not an appropriate amendment. It changes nothing that is legal. So, Mr. President, I believe, deeply believe, this is a highly improvident action to take on the part of the Senate.

The Senator is perfectly within his rights to raise it. He is deeply opposed to the treaties, and he wants to attack them at every stage that he can, and I understand that, and that is very acceptable. But to do it I think would really be a very great mistake in the national interest of the United States.

Mr. ALLEN. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. Will the Senator yield? I think Senator JAVITS wants to make a unanimous-consent request.

Mr. JAVITS. May I make a unanimous-consent request, Mr. President?

I ask unanimous consent that Susan Poor of Senator RIEGLE's staff have the privileges of the floor during the debate and other amendments and action on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama.

Mr. ALLEN. How much time remains for the Senator from Alabama?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. ALLEN. I thank the Chair.

The distinguished Senator from New York said the amendment was offered—I believe I am quoting him correctly—by surprise really. Well, the surprise was the bringing up of this bill at all. We were considering the energy bill from the Committee on Finance. The prospects were it would be before the Senate for days, and all at once, without any notice to anybody, I assume, except possibly the managers of the bill, that matter was laid aside and this matter was brought up for the rest of the day.

So I did not know the bill was even going to come up until it was brought up, and I allowed it to come up, along with other Senators, by not interposing an objection.

But as soon as I found it was the OPIC bill I wanted to see if the Senate would not put some sort of restrictions around the making of this loan.

The Senator from New York said why not require the Congress to approve every loan. Well, this is not every loan of OPIC. This is a very peculiar loan of OPIC. This is a loan committed to by the Secretary of State, and the distinguished Senator from New York has read off the names of the board of OPIC, indicating that private individuals, not Government officials, constitute a majority of the board. It, therefore, seems to me to be bordering on effrontery for the Secretary of State to go around committing OPIC to make a $20 million loan to set up a bank in Panama. That is what it is for.

All I am asking with this amendment is that Congress have some say. Secretary Vance had his say. He says they are going to make it, and I do not know what controls he has, but I assume they are going to make it if the Secretary of State says they are going to make it. But all this amendment does is to allow the Congress to say, just like the board, the OPIC board said, and I am sure the distinguished Senator from New York does not think for one moment that Secretary Vance's commitment will not be made, this $20 million will not be loaned to this finance company—that is the name of it, National Finance Corporation of Panama—to set up a bank down there with American taxpayer's money, and the Congress not having any say whatsoever in that affair.

I think it is playing fast and loose with the Congress actually for such an agreement to be made without congressional approval. But it is all part and parcel of a plan to transmit to Panama more than $300 million without congressional approval.

It is not in the treaty. It is in the side agreements, and I do not think our officials ought to be going around the world saying, "We will have this government agency, that government agency, another government agency, make deliveries of money to you," ignoring completely the role of Congress.

That is all this does. If Congress is willing to approve the treaty I assume they would be willing to approve the loan. Well, let them say so. Give them an opportunity to say so.

Without an amendment of this sort somewhere along the line Congress has no opportunity whatsoever to act.

I do not know whether the agreements depend upon the approval of the treaty or not. Possibly they can be carried out irrespective of the approval of the treaty. There is nothing in this agreement that indicates it is subject—that has been read thus far which indicates it is subject—to approval of the treaty. Reading from it, it states:

> It is understood that the undertakings of the United States provided for herein will enter into force upon an exchange of Notes to that effect between our two governments.

So if Congress wants to abdicate its role of making appropriations and controlling the purse strings of the Nation it can do so. But I do not want to see

that happen, and that is the reason I have offered this amendment.

I ask unanimous consent to have printed in the RECORD a note regarding economic and military cooperation from the Secretary of State.

There being no objection, the note was ordered to be printed in the RECORD, as follows:

NOTE REGARDING ECOMOMIC AND MILITARY COOPERATION

DEPARTMENT OF STATE,
Washington.

His Excellency GABRIEL LEWIS GALINDO,
Ambassador of Panama.

EXCELLENCY: I have the honor to refer to our recent discussions concerning programs designed to enhance cooperation between the United States of America and the Republic of Panama in the economic and military spheres. As a result of these discussions, I am authorized to inform you that my government is prepared to agree, within the limitations of applicable United States legislation and subject to compliance with applicable legal requirements and, where necessary, to the availability of appropriate funds, that:

The United States Government will consider applications from the Republic of Panama for housing investment guarantees with a view to approval of specific projects with an aggregate value of not to exceed $75 million over a five year period. Approval of specific projects shall be subject to conformance with any applicable administrative and legislative criteria.

The Overseas Private Investment Corporation would guarantee borrowings of not to exceed $20 million in United States private capital by the National Finance Corporation of Panama (COFINA) for use in financing productive projects in the private sector in Panama, subject to terms and conditions as shall be agreed upon by the Overseas Private Investment Corporation and COFINA, and approved by the Overseas Private Investment Corporation's Board of Directors.

The Export-Import Bank of the United States is prepared to offer a letter of intent to provide loans, loan guarantees, and insurance, aggregating not to exceed $200 million over a five year period beginning October 1, 1977 and ending September 30, 1982, for the purpose of financing the U.S. export value of sales to Panama. Such financing shall, at the discretion of the Board of Directors of the Export-Import Bank, be in the form of loans, loan guarantees, or insurance for individual products or projects approved by such Board.

The United States Government will issue repayment guarantees under its foreign military sales program in order to facilitate the extension of loans to the Government of Panama by eligible lenders for the purpose of financing the purchase by the Government of Panama of defense articles and defense services. The aggregate principal amount of loans guaranteed by the United States Government in accordance with this paragraph shall not exceed $50 million over a ten year period.

It is understood that the undertakings of the United States provided for herein will enter into force upon an exchange of Notes to that effect between our two governments.

Accept Excellency, the renewed assurance of my highest consideration.

CYRUS VANCE.

Mr. DOLE. Mr. President, the administration has committed itself, under the Panama Canal Treaty provisions, to give Panama a large share of future canal tolls—about $80 million a year, by most estimates, and well over $2 billion by the year 2000.

This is a generous portion, from anyone's perspective. Yet, in addition, the administration promised its "best efforts" to provide Panama with an additional $345 million in loans and loan guarantees through OPIC and the Eximbank, after the treaties are ratified. I understand the "commitment" from OPIC was to amount to $20 million.

Like the Senator from Alabama, I believe Congress needs to assert some influence in the matter. The administration did not consult with Congress before making the aid pledge to Panama. Consequently, Congress should play a direct role in authorizing any payments to the Torrijos regime. Otherwise, a significant aspect of the canal treaty agreement escapes congressional oversight altogether

Mr. President, I support the amendment of the distinguished Senator from Alabama, and urge its adoption during our consideration of the Overseas Private Investment Corporation Act of 1977.

Mr. ALLEN. Mr. President, I call for the yeas and nays, and I reserve the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second? The Chair is advised there is not a sufficient second.

Who yields time?

Mr. SPARKMAN. Do I understand I have 8 minutes?

The PRESIDING OFFICER. The Senator is correct, he has 8 minutes.

Mr. SPARKMAN. Mr. President, I yield myself 5 minutes.

I just cannot go along with the idea that my colleague, the Senator from Alabama, has. This is not the proper time to consider his amendment; it is premature.

Let me say this: Remember the House of Representatives has to join in this implementing legislation for the Panama Canal treaties, and, as I understand my colleague's amendment, he ties it in with the treaties.

Now, it just makes it difficult for me to go along with that, and I cannot feel that my colleague is right in his contention.

Mr. ALLEN. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? The Chair is advised there is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Alabama yields back his time?

Mr. JAVITS. Mr. President, I move to table the amendment.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Alabama (Mr. ALLEN). The yeas and nays were ordered, and the clerk will call the roll.

The legislative clerk called the roll.

(Mr. MATSUNAGA assumed the Chair.)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Idaho (Mr. CHURCH), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Delaware (Mr. ROTH), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 69, nays 13, as follows:

[Rollcall Vote No. 576 Leg.]

YEAS—69

Anderson	Glenn	Morgan
Baker	Gravel	Nelson
Bayh	Hansen	Nunn
Bellmon	Hart	Packwood
Bentsen	Haskell	Pell
Biden	Hatfield	Percy
Brooke	Hathaway	Proxmire
Bumpers	Hayakawa	Randolph
Burdick	Hollings	Ribicoff
Byrd, Robert C.	Huddleston	Riegle
Cannon	Inouye	Sarbanes
Case	Jackson	Sasser
Chafee	Javits	Schmitt
Chiles	Johnston	Schweiker
Clark	Kennedy	Sparkman
Cranston	Long	Stafford
Culver	Lugar	Stevens
Danforth	Magnuson	Stevenson
DeConcini	Mathias	Stone
Durkin	Matsunaga	Talmadge
Eagleton	McIntyre	Thurmond
Ford	Melcher	Wallop
Garn	Metzenbaum	Williams

NAYS—13

Allen	Domenici	Scott
Byrd, Harry F., Jr.	Eastland	Stennis
	Hatch	Tower
Curtis	Helms	Zorinsky
Dole	Laxalt	

NOT VOTING—18

Abourezk	Humphrey	Moynihan
Bartlett	Leahy	Muskie
Church	McClellan	Pearson
Goldwater	McClure	Roth
Griffin	McGovern	Weicker
Heinz	Metcalf	Young

So the motion to lay Mr. ALLEN'S amendment on the table was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. SPARKMAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments? The bill is open to further amendment.

Mr. JAVITS. Mr. President, we are

(2) by amending subsection (b) to read as follows:

"(b) Not later than December 31, 1980, the Corporation shall prepare and submit to the Congress a report on the development of private and multilateral programs for investment insurance and any participation arrangements the Corporation has made with private insurance companies, multilateral organizations and institutions, or other entities.".

The title was amended so as to read:

A bill to amend certain provisions of the Foreign Assistance Act of 1961 relating to the Overseas Private Investment Corporation.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, may I be recognized for a moment?

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I wish to thank Senator SPARKMAN for taking the personal trouble to manage this bill on the floor. I deeply feel that this is a very important measure for our country and I am sure that many of the votes which are counted in his favor are a tribute to the confidence which the Senate and Senators have in Senator SPARKMAN.

Mr. President, I would also like to thank Frank Ballance, who is new to the subcommittee which developed this bill, for his work, and Norvill Jones, our chief of staff, and Jacques Gorlin, of my own staff, for their work on the bill.

Mr. SPARKMAN. Mr. President, I thank the Senator from New York for what he has said, and I join him in thanking all those who worked on this measure. It was not an easy measure to work out. I feel gratified that it did come out so well, and I believe it is for the good of the country.

ORDER OF BUSINESS

The PRESIDING OFFICER. Does the Senator from Alaska seek recognition?

Mr. STEVENS. I thank the Chair, but no. I await the desires of the majority leader.

Mr. ROBERT C. BYRD. I thank the Senator from Alaska, the acting Republican leader.

MARJORIE IVERSON, EUGENE BERGSTROM, LORRAINE POWERS, ROBERT BERGSTROM, PATRICIA HURT, HARRIETT McCOLLUM, BARBARA HICKMAN, AND MARILYN FERNANDES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 463.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 296) to pay a gratuity to Marjorie Iverson; Eugene Bergstrom; Jack Bergstrom; Lorraine Powers; Robert Bergstrom; Patricia Hurt; Harriett McCollum; Barbara Hickman; and Marilyn Fernandes.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Marjorie Iverson; Eugene Bergstrom; Jack Bergstrom; Lorraine Powers; Robert Bergstrom; Patricia Hurt; Harriett McCollum; Barbara Hickman; and Marilyn Fernandes, brothers and sisters of Charles W. Bergstrom, an employee of the Senate at the time of his death, a sum to each equal to one-ninth of one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILLS

A message from the President of the United States announced that he had approved and signed the following bills:

On October 19, 1977:

S. 2089, An act to establish within the Department of Justice the position of Associate Attorney General.

On October 21, 1977:

S. 1372, An act to amend title 10, United States Code, to abolish one of the top positions of Deputy Secretary of Defense and establish the position of Under Secretary of Defense for Policy and to change the title of the Director of Defense Research and Engineering to the Under Secretary of Defense for Research and Engineering.

MESSAGES FROM THE HOUSE

At 8:34 a.m., a message from the House of Representatives by Mr. Hackney, one of its clerks, announced that the House disagrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 6010) to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. JOHNSON of California, Mr. ANDERSON of California, Mr. RONCALIO Mr. HARSHA, and Mr. SNYDER were appointed managers of the conference on the part of the House.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 2817. An act to provide for certain additions to the Tinicum National Environmental Center.

H.R. 3744. An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, and for other purposes.

H.R. 7797. An act making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. DECONCINI).

ENROLLED BILLS SIGNED

At 12:48 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the Speaker has signed the following enrolled bills:

S. 1811. An act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes.

H.R. 4297. An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal year 1978.

The enrolled bills were subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated.

EC-2192. A letter from the Assistant Secretary of Defense transmitting, pursuant to law, notice that transfers of amounts appropriated to the Department of Defense have been made pursuant to the authority granted to the Secretary of Defense in section 733; to the Committee on Appropriations.

EC-2193. A letter from the Vice President for Government Affairs of the National Rail-

road Passenger Corporation transmitting, pursuant to law, a report on the average number of passengers and onetime performance per train for the month of May, 1977 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2194. A letter from the Acting Assistant Secretary of the Army, Civil Works, transmitting, pursuant to law, the annual report on the administration of title I of the Marine Protection Research, and Sanctuaries Act of 1972 for the calendar year 1976 (with an accompanying report); to the Committee on Environment and Public Works.

EC–2195. A letter from the Secretary of Housing and Urban Development transmitting, pursuant to law, a report entitled "Building Energy Conservation Programs—A Preliminary Examination of Regulatory Activities at the State Level" (with accompanying reports); to the Committee on Energy and Natural Resources.

EC–2196. A letter from the Secretary of the Treasury transmitting, pursuant to law, a report entitled "Antirecession Fiscal Assistance to State and Local Governments", containing information on the amounts which have been paid to each State and local unit of government (with an accompanying report); to the Committee on Finance.

EC–2197. A letter from the Associate Administrator for Administration for the National Highway Traffic Safety Administration transmitting, pursuant to law, a report on a new system of records, in accordance with the Privacy Act (with an accompanying report); to the Committee on Governmental Affairs.

EC–2198. A letter from the Secretary of Agriculture transmitting, pursuant to law, a report on a change in computer installation processing systems of records, in accordance with the Privacy Act (with an accompanying report); to the Committee on Governmental Affairs.

EC–2199. A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report on a new system of records, in accordance with the Privacy Act (with an accompanying report); to the Committee on Governmental Affairs.

EC–2200. A letter from the Administrator of the Environmental Protection Agency transmitting a draft of proposed legislation to establish the position of General Counsel in the Environmental Protection Agency (with accompanying papers); to the Committee on Governmental Affairs.

EC–2201. A letter from the Staff Director of the United States Commission on Civil Rights transmitting a draft of proposed legislation to extend the Commission on Civil Rights for 5 years, to authorize appropriations for the Commission, to effect certain technical changes to comply with other changes in the law, and for other purposes (with accompanying papers); to the Committee on the Judiciary.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions which were referred as indicated.

POM–328. House Concurrent Resolution No. 142 adopted by the Legislature of the State of Michigan memorializing the Congress of the United States to pass legislation eliminating the inequities in freight charges between virgin and recycled materials; to the Committee on Commerce, Science, and Transportation:

"HOUSE CONCURRENT RESOLUTION No. 142

"Whereas, Virgin and new materials have been less costly than secondary or recycled materials in the United States for reasons that natural resources have been plentiful; and

"Whereas, Tax advantages favored virgin materials when our nation was young and exploitation of our natural resources seemed necessary and wise, but the continuation of this policy is less and less desirable as the resources are depleted; and

"Whereas, One of the major causes of inflation is the shortage of basic materials for production of steel, aluminum, copper, and other products; and

"Whereas, Virgin material producers do not pay the full costs of the environmental degradation caused by their harvesting, mining, and lumbering activities; and

"Whereas, An unfavorable price differential lessens the use of salvaged materials; and

"Whereas, the 1971 annual report of the Council on Environmental Quality noted that the average freight differential of two dollars per ton less for hauling virgin materials, distinctly discriminated against scrap metal which retards use of ferrous scrap and exploits a limited resource of iron ore; and

"Whereas, Restrictive local and state laws that raise the cost of recovering materials from old cars, securing titles, impounding vehicles, and obtaining sites for auto salvage yards are additional obstacles to recycling; now, therefore, be it

"Resolved by the House of Representatives (the Senate concurring), That the Michigan Legislature urge the Congress of the United States to pass legislation eliminating the inequities in freight charges between virgin and recycled materials; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the Senate, the Speaker of the House of Representatives, and to each member of the Michigan delegation to the Congress of the United States."

POM–329. Assembly Joint Resolution No. 47 adopted by the Legislature of the State of California relative to Japanese-American assembly centers; to the Committee on Energy and Natural Resources:

ASSEMBLY JOINT RESOLUTION No. 47

Whereas, The outbreak of war between the United States and Japan in 1941 directed unwaranted suspicion toward Japanese-Americans; and

"Whereas, The Pacific Coast Congressional delegation recommended to the President of the United States on February 13, 1942, for the removal of persons of Japanese descent from all strategic areas on the groundless basis that their "presence shall be deemed dangerous or inimical to the defense of the United States;" and

"Whereas, The President of the United States signed Executive Order 9066 on February 19, 1942, empowering the U.S. Army to designate areas from which "any or all persons may be excluded;" and

"Whereas, On March 2, 1942, the issuance of Public Proclamation 1 established Military Area 1 consisting of Arizona, California, Oregon, and Washington, with the U.S. Army's sole concern in the subsequent evacuation being physical internment and assumed no responsibility of a resettlement program until the War Relocation Authority was created; and

"Whereas, Many Japanese-Americans demonstrated their loyalty to the United States by evacuating strategic areas prior to Public Proclamation 1, the problems of property disposal, finance, employment, and public acceptance in other communities were obstructing this voluntary movement; and

"Whereas, Twelve assembly centers in California served as temporary detention camps under the supervision of the U.S. Army and Wartime Civilian Control Agency, which included Fresno, Marysville, Merced, Pinedale, Pomona, Sacramento, Salinas, Santa Anita, Stockton, Tanforan, Tulare, and Turlock, with induction beginning at Santa Anita on March 27, 1942, while the Fresno Assembly Center on October 30, 1942, was the last to close; and

"Whereas, Occupancy varied from 52 days at the Sacramento Assembly Center to 215 days at Santa Anita, while maximum population ranged from 2,451 evacuees at Marysville to 18,719 Japanese-Americans residing within 35 acres at Santa Anita; and

"Whereas, Most of the assembly centers provided housing in crude barracks and reconverted horse stalls on fairgrounds and racetrack sites, which were in unsanitary condition with deficiencies in areas of daily livelihood; and

"Whereas, The mass evacuation of persons of Japanese descent, the majority of them American citizens, who were interned behind barbed wire enclosures under armed guards with their only crime being that of Japanese descent, was significant in the history of the United States; and

"Whereas, In terminating Executive Order 9066, former President Gerald R. Ford stated that there must be "an honest reckoning of our national mistakes as well as our national achievements" and in commemoration of 35 years since the deplorable assembly centers and evacuation of more than 110,000 Japanese-Americans during World War II; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly. That the members recognize that the assembly centers represent an important reminder of the war hysteria and injustices directed against persons of Japanese descent; and be it further

"Resolved, The California Legislature respectfully recommends that all 12 assembly center sites in California be nominated to the National Register of Historic Places and encourages the cooperation of relevant state and local agencies, private entities, and interested community groups in this endeavor by commemorating the sites with the placement of plaques describing their historical significance; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the U.S. Secretary of the Interior, Governor of the State of California, Keeper of the National Register, Director of the State Department of Parks and Recreation, members of the State Historical Resources Commission, members of the Board of Supervisors of Fresno, Los Angeles, Merced, Monterey, Sacramento, San Joaquin, San Mateo, Stanislaus, Tulare and Yuba Counties, appropriate city councils, and to each Senator and Representaive from California in the Congress of the United States."

POM—330. Assembly Joint Resolution No. 13 adopted by the Legislature of the State of California relative to the entertainment industry; to the Committee on the Judiciary:

ASSEMBLY JOINT RESOLUTION No. 13

"Whereas, The United States Immigration and Naturalization Service has allowed foreign film companies and crews to come into California and shoot motion picture film, tape, or derivatives thereof; and

"Whereas, Many of California's craftsmen, camermen, soundmen, electricians, propertymen, grips, art directors, script supervisors, musicians, actors, directors, etc., are unemployed, and their protest of these practices have been ignored; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States and the Commissioner of Immigration and Naturalization to protect the inherent rights of

7. Sisters and Spouses Names: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Oliver S. Crosby.

Post: Ambassador to Conakry, Guinea.

Contributions, amount, date, and donee: (If none, write none.)

1. Self: IRS Check-off, $1, since check-off was instituted.

2. Spouse: IRS Check-off, $1, since instituted.

3. Children and Spouses Names: Michael, Jane, and Hunter, None.

4. Parents Names: Cleon H. Soule and Helen S. Soule, $150, 1976, $50 to Dixie Lee Ray; 1973–1977, $100 to various candidates.

5. Grandparents Names: None.

6. Brothers and Spouses Names: H. Lamar and Louise Crosby and Hardyn B. and Betty B. Soule, $1, IRS check-off since instituted and 1976, $50 to Dixie Lee Ray.

7. Sisters and Spouses Names: None.

I have listed above the names of each membe of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: E. Gregory Kryza.

Post: Mauritania.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: Jeannie Marie Kryza, None.

3. Children and Spouses Names: Christopher D. Kryza and Frank T. Kryza, none, $100, 7/1976, Gloria Schaffer, Unsuccessful Candidate for U.S. Senator from Connecticut.

4. Parents Names: Deceased, none.

5. Grandparents Names: Deceased, None.

6. Brothers and Spouses Names: None.

7. Sisters and Spouses Names: Mr. and Mrs. Thaddeus Paskiewicz—Detroit, Mich., Mr. and Mrs. Frank Mioduski—Detroit, Michigan, Miss Ann Kryza—Detroit, Michigan, Mrs. Marion Bisson—Detroit, Michigan, Mr. and Mrs. Robert Weinheimer—Loveland, Ohio, Mr. and Mrs. Alton Lemanski—Detroit, Michigan, and Mr. and Mrs. Stanley Rawski—Detroit, Michigan, None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, October 25, 1977, he presented to the President of the United States the following enrolled bill:

S. 1811. An act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JACKSON (by request):

S. 2234. A bill to authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management; to the Committee on Energy and Natural Resources.

By Mr. MAGNUSON (for himself, Mr. HOLLINGS, and Mr. PEARSON) (by request):

S. 2235. A bill to amend the Communications Act of 1934 to extend and improve the provisions of such Act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. RIBICOFF (for himself, Mr. JAVITS, Mr. MELCHER, Mr. HELMS, Mr. PERCY, Mr. CASE, Mr. RANDOLPH, Mr. MORGAN, and Mr. DOLE):

S. 2236. A bill to effect certain reorganization of the Federal Government to strengthen Federal programs and policies for combating international and domestic terrorism; to the Committee on Government Affairs; and, if and when reported, to the Committee on Foreign Relations for not to exceed 30 days.

By Mr. CHILES:

S. 2237. A bill for the relief of Lee Myong Sook; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JACKSON (by request):

S. 2234. A bill to authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management; to the Committee on Energy and Natural Resources.

BUREAU OF LAND MANAGEMENT, QUADRENNIAL AUTHORIZATION ACT

Mr. JACKSON. Mr. President, it has been apparent for several years that the statutory base of some 3,000 public land laws, many of which date from the 19th century, provided inadequate policy guidance and authority for the Bureau of Land Management to properly manage the national resource lands. For these and other reasons, the Congress passed the Federal Land Policy and Management Act of 1976, signed into law October 21, last year.

Section 318(b) of that act requires the Secretary of the Interior to submit to the Congress a request for the authorization of appropriations for all programs, functions, and activities of the Bureau of Land Management to be carried out during the 4 fiscal-year period beginning October 1, 1978. The act required the Secretary to submit the first request for authorization by May 15 of this year in order to give the Congress an adequate opportunity to explore the Bureau's programs, problems and needs with all interested parties before consideration and passage of authorizing legislation by May 15, 1978. The act further required that the Secretary present to the Congress the funding levels which he has determined can be efficiently and effectively utilized, notwithstanding any budget guidelines or limitations imposed by any official or agency of the executive branch.

The Secretary has only recently transmitted his recommendations in the form of a draft bill. I ask unanimous consent that the letter of transmittal be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR, OFFICE OF THE SECRETARY,
Washington, D.C., September 26, 1977.

Hon. WALTER F. MONDALE,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On behalf of the Bureau of Land Management, I am respectfully requesting authorization for appropriations for Fiscal Years 1979 through 1982. The authorization is pursuant to Section 318(b) of the Federal Land Policy and Management Act of 1976 (31 U.S.C. 1301 note).

Enclosed is a draft bill authorizing the appropriations. Supplemental program information supporting the request is being compiled and will be submitted in the near future.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

DANIEL BEARD,
Acting Assistant Secretary.

Mr. JACKSON. The bill that I am introducing by request is the draft bill provided by the Secretary. It provides for authorization of $460 million for fiscal year 1979. This represents an increase of more than $49 million in program funds over the amounts appropriated for fiscal year 1978. It includes also $45 million for the first time for loans to the States and their political subdivisions in order to relieve social or economic impacts occasioned by the development of minerals leased in such States. The total amounts authorized by the bill would increase each year, rising to a level of $586 million for fiscal year 1982.

Upon investigation, these amounts may prove to be inadequate to provide an optimum level of protection and development of the national resource lands. This past year, both the authorizing and appropriations committees in the House and the Senate have expressed strong concern that the executive branch has consistently failed to request sufficient manpower and funding to make the investments in our public lands that are necessary to provide adequate protection and development of their resources. In many situations it is apparent that investments now will more than pay for themselves in increasing the sustained yield of these lands.

Artificial, arbitrary personnel ceilings imposed by the executive branch and a growing practice of utilizing "temporary" positions are undermining the effort to recruit and maintain a competent work force necessary for sound management of the Nation's resources.

I regret that the Secretary has been dilatory in providing his estimates. On several occasions, I have expressed my concern over the Secretary's delay in complying with the statutory requirement that these estimates be provided by May 15. I ask unanimous consent that our exchange of correspondence on this matter be printed in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
Washington, D.C., February 11, 1977.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Section 318(b) of the Federal Land Policy and Management Act of 1976 requires the Secretary to submit to the House of Representatives and the Senate by May 15, 1977, a request for authorization of appropriations for all programs, functions, and activities of the Bureau to be carried out during the four-fiscal year period beginning October 1, 1978. In conjunction with this requirement, we would like to meet with members or staff of both the House and Senate Interior Committees to discuss details of the presentation of this authorization request. We believe that development of a single document that is satisfactory to both Houses of Congress is very desirable and would facilitate both preparation and evaluation of the request. Paul Vetterick, BLM Budget Officer, is available to arrange a meeting at your convenience. His extension is 343-8571. We look forward to working with you.

Sincerely yours,

CURT BERKLUND.
Director.

ENERGY AND NATURAL RESOURCES,
PUBLIC LANDS AND RESOURCES.
June 10, 1977.

Hon. CECIL ANDRUS,
Secretary of the Interior, Interior Building, Washington, D.C.

DEAR MR. SECRETARY: Section 318(b) of the Federal Land Policy and Management Act directs the Secretary of the Interior to submit a request for the authorization of appropriations for all programs, functions and activities of the Bureau of Land Management to be carried out during the four fiscal year period following the calendar year in which the request is made. Under the provisions of that section, the first such request was to be submitted on or before May 15, 1977.

As the Committee has not yet received the request, would you please inform me as to when the request will be submitted and the reasons for the delay?

I was delighted to hear several months ago that the staff of the BLM had asked to work with Committee staff to develop a format for the quadrennial authorization request which would be mutually acceptable to all. This action, although not specifically required by the FLPMA, was certainly in the spirit of sec. 311(b) of that Act which requires such consultation with the Committees on the format of the annual public lands program report. Staff had informed me that the meetings with BLM personnel were cordial and that a general consensus had been reached on the format of the authorization request. It is for this reason that I am surprised that the statutory deadline for submission of the request passed without our receiving the document.

As I am concerned about the format of the authorization request, I would like to reiterate and emphasize those points made on behalf of the Committee at the staff meetings. The provisions of section 318(b) specifically call for a breakdown for "each . . . program, function, or activity". The Committee simply must have a request which provides such a breakdown in order to perform its legislative functions. The request should also contain a detailed description of the accomplishments to be expected in each program, function, or activity during each of the four fiscal years and the cost of achieving each increment of each such accomplishment. To provide historical perspective, the expenditures, accomplishments, and costs per increment of each accomplishment in each program, function, or activity in the last eight fiscal years should also be set forth in the request. Finally, I would ask for special analyses of certain program areas, such as implementation of the Alaska Native Claims Settlement Act, which cut across more than one functional budget category, particularly those program areas such as range rehabilitation and improvements, which would include both expenditures under the four year authorization and expenditures under budget categories exempt from the authorization.

Your early attention to this letter would be greatly appreciated.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 26, 1977.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your status inquiry of the four year authorization for the Bureau of Land Management (BLM), I sincerely regret the delay in transmitting the proposed legislation within the statutory deadline established in the Federal Land Policy and Management Act (FLPMA). I want to assure you that this slippage beyond May 15, 1977 is not due to any lack of interest or neglect on the part of the Department.

As you are aware, officials of the BLM have been working with your staff in order to develop the format and content of the basic authorization language and separate supporting program analysis papers. I fully expect this coordination to continue in a spirit of cooperation to expedite the Committee's review of the multitude of BLM programs and activities. The BLM has prepared legislation in response to Section 318(b) which the Department is now reviewing. The reasons it, or our modifications thereto, have not been transmitted to the Committee are several.

First, the multitude of activities associated with BLM's responsibilities are quite large and diverse. Functionally, it is almost a Department within a Department. As you may well appreciate, any review of its proposed authorization, for even a single year, can be a timely and complicated undertaking.

Many programs of the Bureau involve major policy matters now under consideration by this Administration. Examples include future onshore and offshore energy leasing, land use planning, and use authorizations for energy distribution and transmission systems. It is our intent that, insofar as possible, the quadrennial authorization submitted reflects desired policy direction.

Finally, FY 1979—the base year for the authorization—is also the program year now being considered for subsequent budget requests from the Department. Recognizing that an authorization figure may well exceed any subsequent appropriation request due to the required trade-offs within the Department to meet the highest priority needs, it should, nonetheless, be at least compatible with basic program decisions.

It is my hope that the above considerations will have progressed within the next two to three weeks so that you will have my basic four year authorization recommendations for the BLM by mid-August. The individual program analyses supporting this legislative proposal will be transmitted following agreement with both House and Senate staffs as to content and format. A reasonable target date for completion of these analyses is mid- to late August.

We apologize for the delay and ask for your Committee's patience and understanding. I am most anxious to expedite a mutually satisfactory authorization for the BLM and look forward to working with you on this important matter in the months ahead.

Sincerely,

CECE,
Secretary.

SEPTEMBER 14, 1977.

Hon. CECIL D. ANDRUS,
Secretary of the Interior,
Department of Interior,
Washington, D.C.

DEAR MR. SECRETARY: Your July 26 letter about the four-year authorization for the Bureau of Land Management indicated that you hoped to be able to submit the recommendations by mid-August.

It is now mid-September and we have still not received the proposed legislation which by law was due on May 15. I am sure you realize the importance of this first authorization under the new Federal Land Policy and Management Act. I am sure you are also aware that the Committee has a very heavy schedule for the remainder of this session and in the second session. The timetable established in the Federal Land Policy and Management Act was especially designed to give Congress one year to consider the four-year authorization. Now for all practical purposes, we will have only the first few months of 1978, a time in which a number of other authorization measures will also be before the Committee.

I have asked Senator Metcalf, Chairman of the Subcommittee on Public Lands and Resources, to consider the possibility of holding hearings on the BLM authorization between sessions if the Department submits the proposed legislation before adjournment of the first session. I hope that you will do what you can to expedite action within the Executive Branch.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C. October 7, 1977.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR SCOOP: In response to your inquiry of September 14, concerning the four-year authorization request for the Bureau of Land Management pursuant to the Federal Land Policy and Management Act of 1976, I am pleased to enclose several copies of the Department's submission for your reference, and for the use of the Committee.

The Department's proposal was forwarded to the President of the Senate and the Speaker of the House of Representatives on September 26. Supplemental program information supporting the request has been compiled and is in the final stage of preparation by the Bureau of Land Management.

I can assure you that every effort is being made within this Department to meet our responsibilities in this matter. I have asked the Bureau of Land Management to expedite completion of the supporting information and fully expect that this information will be transmitted to the Senate in the next week or two.

Once again, we apologize for the delay and inconvenience and are most appreciative of your continued patience. Speaking for myself and my staff, as well as the Bureau of Land Management, we are anxious to assist and cooperate with the Committee whenever hearings can be scheduled.

Sincerely,

CECE,
Secretary.

rected at countries which harbor, aid, abet or assist terrorists.

DECLARATION OF PURPOSES

SEC. 4. The Congress therefore declares that the establishment of a Council for Combating Terrorism and the assignment of a high priority to anti-terrorist policy is in the public interest to promote the welfare of American citizens by assuring coordinated and effective administration of federal programs and policies for combating terrorism. It is the purpose of this Act—

(a) to establish in the Executive Office of the President a permanent Council for Combating Terrorism;

(b) to establish in the Department of State a Bureau, headed by an Assistant Secretary, to coordinate the responsibilities of that Department for combating international terrorism;

(c) to establish in the Department of Justice, an Office, headed by an Assistant Attorney General, to coordinate the responsibilities of that Department for combating terrorism;

(d) to bring together in the new offices the responsibility for coordinated management of all of the anti-terrorist policies and programs;

(e) to provide an appropriate organizational framework for the implementation of such programs;

(f) to provide for effective permanent mechanisms for development and implementation of a comprehensive national anti-terrorist policy;

(g) to assure coordinated and effective research in anti-terrorist measures;

(h) to improve the effectiveness of the information gathering system regarding terrorist acts and results;

(i) to establish effective sanctions against those countries which harbor, aid, or abet international terrorists;

(j) to coordinate and supervise the implementation of U.S. policy with respect to international acts of terrorism;

(k) to oversee and administer the provisions of this Act;

(l) to develop new initiatives which the U.S. can implement unilaterally or with other nations to control international acts of terrorism;

(m) to participate in international conferences and negotiations on the control of international acts of terrorism;

(n) to devise procedures for reacting swiftly and effectively to acts of terrorism that occur.

DEFINITIONS

SEC. 5. For the purpose of this Act—

(a) "terrorism" includes but is not limited to the calculated use of violence or the threat of violence to obtain political goals through instilling fear, intimidation or coercion. It usually involves a criminal act, often symbolic in nature and intended to influence an audience beyond the immediate victims; and

(b) "international terrorism" is terrorism transcending national boundaries in the carrying out of the act, the purpose of the act, the nationalities of the victims or the resolution of the incident. These acts are usually designed to attract wide publicity to focus attention on the existence, cause or demands of the terrorists.

TITLE I—REORGANIZATION OF EXECUTIVE OFFICE OF THE PRESIDENT

ESTABLISHMENT OF COUNCIL TO COMBAT TERRORISM

SEC. 101. There is hereby established in the Executive Office of the President an entity to be known as The Council to Combat Terrorism (hereinafter referred to as the "Council"). The Council shall be headed by, and its activities shall be administered under the supervision and direction of, the Assistant to the President for National Security Affairs.

COUNCIL FUNCTIONS

SEC. 102. The Council shall:

(a) assist the President in the implementation of this Act and shall provide staff support and assistance in the preparation of the Lists required by sections 105 and 107.

(b) consider the most effective means by which to combat terrorism in the U.S. and abroad;

(c) serve as the lead group in establishing procedures to ensure that the U.S. government can take appropriate action in response to acts of terrorism which directly or indirectly affect U.S. citizens;

(d) coordinate, among the government agencies, ongoing activity for the prevention of terrorism, including the collection of worldwide intelligence, the physical protection of U.S. personnel and installations abroad, and foreign diplomats and diplomatic installations in the U.S.;

(e) evaluate all such programs and activities and, where necessary, recommend methods for increasing the effectiveness of their implementation; and

(f) make recommendations to the Director of the Office of Management and Budget concerning proposed funding of such programs.

COUNCIL MEMBERSHIP

SEC. 103. The Council shall consist of the following individuals:

(1) the Assistant to the President for National Security Affairs;
(2) the Secretary of State;
(3) the Secretary of the Treasury;
(4) the Secretary of Defense;
(5) the Attorney General;
(6) the Secretary of Transportation;
(7) the U.S. Ambassador to the United Nations;
(8) the Director of Central Intelligence;
(9) the Assistant to the President for Domestic Affairs;
(10) the Director of the Federal Bureau of Investigation,

or their delegates, and any additional members which the Assistant to the President for National Security Affairs may determine are necessary.

REPORT ON TERRORIST ENTERPRISES

SEC. 104. (a) In the event of an act of terrorism which affects or involves citizens of the United States, the President shall submit to Congress an unclassified Report regarding such act of terrorism within 45 days following the commencement of such act.

(b) Such report shall include, but not be limited to, the following information:

(1) the identity of any individual, entity, group, and/or organization responsible for, or implicated in, the commission of such act:

(2) the identity of any country responsible for, or which may have willfully contributed to, aided, abetted, facilitated, or assisted the planning, execution, or commission of such act, or which grants safe haven or sanctuary from prosecution to the perpetrators of such act;

(3) a description of the activities, actions, and involvement of each individual, entity, group, organization, and country described in paragraphs (1) and (2);

(4) the names of any countries the President has added to the List of Countries Aiding Terrorist Enterprises (LOCATE) established pursuant to Section 105, and the reasons for the inclusion of each country on the List; and

(5) if any country described in paragraph (2) is not already on the List of Countries Aiding Terrorist Enterprises (LOCATE) established pursuant to Section 105 and is not described in paragraph (4), the reasons that country has not been added to the List.

(c) When the disclosure of information required in Section 104(a) would directly threaten the safety of an informant or confidential source or seriously compromise a covert information gathering program or source of information, the information may be withheld from the unclassified report. Such information shall instead be reported in classified form to the Senate and House Intelligence Committees.

LIST OF COUNTRIES AIDING TERRORIST ENTERPRISES

SEC. 105. (a) Within 60 days after enactment of this Act the President shall prepare and submit to Congress a List of Countries Aiding Terrorist Enterprises (LOCATE).

(b) The LOCATE shall contain names of countries which have been found to have willfully contributed to, aided, abetted, facilitated, or assisted in the planning, execution or commission of any act of terrorism which affects or involves citizens of the United States, or which grants safe haven or sanctuary from prosecution to the perpetrators of such act, and the reasons for inclusion of each country on the list.

(c) After the submission of the first LOCATE (required by subsection (a)), the development of the LOCATE shall be based on information submitted to Congress as required by Section 104 of this Act.

(d) At the time the report required by Section 104 is submitted to Congress, the President, based upon the information in the report, shall add the names of any countries to the LOCATE which he finds to have willfully contributed to, aided, abetted, facilitated, or assisted in the planning, execution, or commission of any act of terrorism which affects or involves citizens of the United States or which grants safe haven or sanctuary from prosecution to the perpetrators of such act.

(e) Within thirty days after the submission of the report required by Section 104, either House of Congress may pass a resolution adding the name of a country to the LOCATE which that House of Congress believes willfully contributed to, aided, abetted, facilitated, or assisted in the planning, execution or commission of an act of terrorism (described in the report) which affects or involves citizens of the United States or which grants safe haven or sanctuary from prosecution to the perpetrators of such act. The name of that country shall be added to the LOCATE thirty days after the approval of such a resolution unless prior to that time the other House of Congress passes a resolution disapproving the addition of the country's name to the LOCATE.

(f) The LOCATE shall be reviewed periodically by the President. After a country has been on the List for a period of at least one year, the President may submit to Congress "A Request of Removal," which shall constitute a request to remove that country's name from the list. Such a request shall be accompanied by the reasons for such request.

(g) The name of a country contained in "A Request of Removal" shall be removed from the LOCATE thirty days after the submission of that Request to the Congress unless either House of Congress by resolution disapproves that Request.

SANCTIONS AGAINST COUNTRIES AIDING TERRORIST ENTERPRISES

SEC. 106. (a) Within 30 days of the listing of any country on the List (LOCATE), the President shall impose sanctions against each such country including, but not limited to:

(1) issuance of a declaration that the country is "dangerous for United States citizens to travel to or reside in";

(b) Within thirty days after a country is added to the List (LOCATE), the President shall consider the imposition of sanctions (in addition to those automatically imposed by subsection (a)) against any country on the LOCATE, including but not limited to suspension or curtailment of trade, and suspension or curtailment of the shipment of spare or replacement parts and training, in connection with military and commercial purchases.

(2) suspension of all direct commercial air

service between the country and the United States, including all direct flights by the country's own carriers, third party carriers, and U.S. carriers;

(3) suspension of all indirect flights between the country and the United States by both the country's own carriers and U.S. carriers;

(4) refusal of admittance into the United States to any person who has traveled to or through a country on the LOCATE, unless (i) his passport contains a visa issued by a third country in the third country and (ii) such visa was issued after the date of his departure from the country on the List;

(5) refusal of permission to permit the deplaning of baggage belonging to a person who has traveled to or through a country on the LOCATE unless the baggage subsequently has been thoroughly examined in a third country not on the LOCATE;

(6) refusal of permission for the landing of any plane if it has landed in any country on the LOCATE unless the plane subsequently has been serviced and thoroughly inspected in a third country not on the LOCATE;

(7) inspection of all freight and mail that has come from or passed through a country on the LOCATE;

(8) refusal to grant new export licenses for the sale or transfer of items contained on the United States Munitions List to any country on the LOCATE, including government-to-government and commercial transactions;

(9) the refusal to grant new export licenses for the sale or transfer of any nuclear equipment, materials or technology to any country on the LOCATE.

LIST OF DANGEROUS AIRPORTS

SEC. 107 (a) The President is required to prepare and submit to Congress, 180 days after enactment of this Act, a List of Dangerous Foreign Airports.

(b) An airport shall be considered dangerous and, therefore, included on the List of Dangerous Foreign Airports, if the airport is not as safe as an airport which meets the minimum U.S. safety criteria as established by title 49, U.S.C.

(c) The List of Dangerous Foreign Airports shall include, but not be limited to, the following:

(1) a list of airports, country by country, which are found to be dangerous pursuant to subsection (b);

(2) a description of the safety and security deficiencies of each airport on the list.

(d) The List of Dangerous Foreign Airports shall be open for public inspection.

(e) Whenever the President finds that a foreign country has purposely obstructed the collection of information required to be gathered pursuant to this section, he shall submit such information to the Congress at the time of the submission of the List of Dangerous Foreign Airports, and shall add the name of that country to the List.

(f) The President shall periodically review and revise the List of Dangerous Foreign Airports.

SANCTIONS AGAINST DANGEROUS FOREIGN AIRPORTS

SEC. 108. Within 30 days of the listing of any airport on the List of Dangerous Foreign Airports, the President shall impose sanctions against each airport including, but not limited to:

(1) suspension of all direct commercial air service between that airport and the United States, including all direct flights by the country's own carriers, third party carriers and U.S. carriers;

(2) suspension of all indirect flights between that airport and the United States by both the carriers of the country in which the airport is located and U.S. carriers; and

(3) refusal of permission for the landing of any plane if it has landed in that airport unless the plane subsequently has been serviced and thoroughly inspected at an airport not on the List of Dangerous Airports.

TRANSFER OF EXISTING FUNCTIONS AND PROPERTY

SEC. 109. There are hereby transferred to and vested in the Council all functions and authorities, personnel, property and records vested in the Cabinet Committee to Combat Terrorism, and its Working Group.

TITLE II—REORGANIZATION OF THE DEPARTMENT OF STATE

ESTABLISHMENT OF BUREAU FOR COMBATING INTERNATIONAL TERRORISM

SEC. 201. (a) There is hereby established in the Department of State a Bureau for Combating International Terrorism (hereinafter referred to as the "Bureau"), which shall be headed by an Assistant Secretary of State, appointed by the President, by and with the advice and consent of the Senate.

(b) Section 5315(22) of title 5, U.S.C., is amended by striking out "(11)" and inserting in lieu thereof "(12)".

BUREAU FUNCTIONS

SEC. 202. The Bureau shall:

(a) coordinate, supervise, and ensure the efficient management, implementation and development of all anti-terrorist policies, programs, and activities of the Department of State;

(b) work closely with the Council to Combat Terrorism, in assisting that Council in the performance of its functions; and

(c) assist the President in the implementation of Section 203 and the other provisions of this Act.

PRIORITIES FOR NEGOTIATION OF INTERNATIONAL AGREEMENTS

SEC. 203. (a) The President is hereby urged to seek international agreement to assure more effective international cooperation in combating terrorism.

(b) High priority in the negotiation of such agreements should be given to agreements which include, but which need not be limited to the following:

(1) establishment of a permanent international working group, including subgroups on topics such as law enforcement, intelligence sharing and crisis management, which would combat international terrorism by—

(A) promoting international cooperation among countries; and

(B) developing new methods, procedures, and standards to combat international terrorism;

(2) establishment of sanctions to assure compliance with—

(A) the Convention for the Suppression of Unlawful Seizure of Aircraft (the Hague, December 16, 1970);

(B) the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal, September 23, 1971); and

(C) the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents (New York, December 14, 1973);

(3) establishment of international legal requirements to prohibit and punish the act of taking hostages, and

(4) the strengthening of nuclear nonproliferation efforts by:

(A) the establishment of physical security standards for nuclear materials and facilities, including international shipments;

(B) the incorporation of standards developed in Subparagraph (A) into New Agreements for Cooperation;

(C) the establishment of an information exchange system between signatory nations involving technical, administrative, and intelligence information relating to physical security; and

(D) the establishment of guidelines by an international agency or organization for contingency plans for action by signatory nations in the event of theft of nuclear materials.

IMPLEMENTATION OF MONTREAL TREATY

SEC. 204. The President shall develop standards and programs to ensure the full implementation of the provisions of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal, September 23, 1971).

DEFENSE SALES TO INDIVIDUALS, GROUPS

SEC. 205. (a) No sale, credit, or guarantee shall be made or extended or shall any export license be issued by the United States with respect to any defense article or defense service for any individual, group, or organization without the specific prior approval of the President.

(b) No such sale, credit, guarantee, or license may be made, extended, or issued, as the case may be, with respect to any defense article or service for any country unless such country shall have agreed not to transfer title to, or possession of, such defense article or defense service to any individual, group, or organization.

U.S. MUNITIONS LIST

SEC. 206. The President shall include the names of all types of explosives on the United States Munitions List (22 U.S.C. 2278).

TRANSFER OF EXISTING FUNCTIONS AND PROPERTY

SEC. 207. There are hereby transferred to and vested in the Bureau all functions and authorities, personnel, property, and records now vested in the present Office for Combating International Terrorism established by the Secretary of State.

TITLE III—REORGANIZATION OF THE DEPARTMENT OF JUSTICE

ESTABLISHMENT OF OFFICE FOR COMBATING TERRORISM

SEC. 301. (a) There is hereby established in the Department of Justice an Office for Combating Terrorism, which shall be headed by an Assistant Attorney General, appointed by the President, by and with the advice and consent of the Senate.

(b) Section 5315(19) of title 5, United States Code, is amended by striking out "(9)" and by inserting in lieu thereof "(10)".

OFFICE FUNCTIONS

SEC. 302. The Office shall

(a) coordinate, supervise, and ensure the efficient management, implementation and development of all anti-terrorist policies, programs, and activities of the Department of Justice; and

(b) work closely with the Council to Combat Terrorism, in assisting that Council in the performance of its functions.

EXTENSION OF EXISTING SAFETY AND SECURITY MEASURES

SEC. 303. The President shall extend existing safety and security requirements of title 49, United States Code, to supplemental means of air transportation, foreign or domestic, including the charter operations of regularly scheduled airlines, commuter services regulated by Civil Aeronautics Board, and other regularly scheduled interstate or intrastate passenger operations; and to any airport in the United States serving aircraft subject to the above provisions.

MANDATORY USE OF EXPLOSIVE TAGGANTS

SEC. 304. No explosive may be imported, manufactured, or exported unless such explosive contains identification and detection taggants. Such taggants must identify the source and time of manufacture of that explosive, regardless of whether such explosive has been detonated and permit the detection of concealed explosives.

The President shall issue regulations to implement this provision to the maximum extent possible under existing technology so that the taggants will provide maximum assistance to law enforcement agencies in locating, identifying and prosecuting individuals illegally utilizing such explosives.

the Safety of Civil Aviation signed in Montreal on September 23, 1971.

OCTOBER 24, 1977.

STATEMENT BY J. J. O'DONNELL, PRESIDENT, AIR LINE PILOTS ASSOCIATION, DURING JOINT PRESS CONFERENCE WITH SENATOR ABRAHAM A. RIBICOFF

I am pleased and honored to share with Senator Ribicoff the announcement of his proposed legislation of an Anti-International Terrorist Act.

Representing the 30,000 members of Air Line Pilots Association, I enthusiastically support Senator Ribicoff's legislation that calls for severe economic, political, and social sanctions on those nations that aid and abet individuals or groups which commit international acts of air piracy.

I applaud the initiative of Senator Ribicoff in development of this timely and strong legislation that provides swift and necessary action for an important and growing international political problem. Its need is obvious following the events of the past week.

The world cannot and must not tolerate air piracy any longer.

The list of domestic and foreign aircraft hijackings is as follows:

CIVIL AVIATION SECURITY SERVICE

FEDERAL AVIATION ADMINISTRATION—DOMESTIC AND FOREIGN AIRCRAFT HIJACKINGS (AS OF JAN. 1, 1977)

Results	Date	Name	Airline	Type aircraft	Flight plan	Disposition
(1)	Feb. , 1931		(F) Peruvian		Domestic, Peru	
(1)	July 25, 1947	3 men	(F)(G)(A) Rumanian		Domestic, Rumania	Landed Canakkale Province, Turkey. 1 crewman killed by hijackers.
(1)	Apr. 6, 1948	17 people	(F) Czechoslovakian		Prague/Bratislavia, Czechoslovakia.	Landed in U.S. zones of Germany. Pilot and 2 other crewmembers were 3 of the hijackers.
(1)	May 4, 1948	2 men	do		Brno, Moravia/Ceske, Budegovic, Czechoslovakia.	Landed in U.S. zone of Germany.
(1)	June 4, 1948	do	(F) Yugoslavian		Belgrade/Sarajevo, Yugoslavia	Landed Bari, Italy.
(1)	June 17, 1948		(F) Soviet-Rumanian Airways (Rumanian).	C-47	Domestic, Rumania	Landed Salzburg, Austria.
(1)	June 30, 1948	Mihalakev, Strahil, and several others.	(F) Bulgarian	Junkers 52	Varna/Sofia, Bulgaria	Landed Istanbul, Turkey. Pilot killed. 2 crew wounded.
(2)	July 16, 1948	Wong, Io, Chio, Tok, Chio, Choi, Chio, Cheong.	(F) Cathay Pacific (Hong Kong)	Catalina	Macao/Hong Kong	Pilot and copilot shot and killed. Plane crashed in sea. 25 killed, 1 hijacker only survivor.
(1)	Sept. 12, 1948	8 people	(F) Greek	Dakota	Athens/Salonika, Greece	Landed Tetovo, Yugoslavia.
(1)	Jan. 4, 1949	Majoros, Janos; Kuhn, Milos, and 20 others.	(F) Hungarian		Peos/Budapest, Hungary	Landed Munich, U.S. zone of Germany. Majoros took over controls from pilot Kuhn by prearrangement shortly after takeoff.
	Jan. 30, 1949	6 people	(F) China National Aviation Corp. (Republic of China).		Shanghai/Tsingtao, China	Landed in Tsinan, China (under control of Peoples Republic of China) hijackers tried twice to land, then asked regular crew to land the plane. Passengers held 1 mo then were released and sent to Tsingtao. Aircraft retained.
(1)	Apr. 29, 1949	Korm, Stoyan	(F) Soviet-Rumanian (Rumanian).	Dakota	Timisoara/Bucharest, Rumania.	Landed Salonika, Greece. Hijacker, female passenger and a security guard granted political asylum.
(1)	Sept. 16, 1949	5 men	(F) Lot, Polish		Gdansk/Lodz, Poland	Landed Nykoeping Military airfield. 65 mi south of Stockholm, Sweden.
(1)	Dec. 9, 1949	4 people	(F) Soviet-Rumanian (Rumanian).	DC-3	Sibiv/Buch, Rumania	Killed security guard. Landed Belgrade, Yugoslavia.
(1)	Dec. 16, 1949	16 people	(F) Polish		Lodz/Gdansk, Poland	Landed Roenne, Bornholm Island, Denmark.
(1)	Mar. 24, 1950	Angetter, Vit, Mraz, Kamil	(F) Czechoslovakian	DC-3	Brno/Prague, Czechoslovakia	Landed in U.S. zone of Germany.
(1)	do	Svetlik, Vladimir; Popelka, Viktor.	do	do	Ostrava/Prague, Czechoslovakia.	Do.
(1)	do	Dolezal, Oldrich; Smid, Borijov; Sacha, Stanislav; Kralovansky, Jan.	do	DC-3	Bratislava/Prague	Do.
(1)	Aug. 11, 1950	2 persons	(F) Czechoslovakian (G/A)	Transport	Unknown	Landed Pottmes, U.S. zone of Germany.
(1)	Oct. 17, 1951	2 men	(F) Yugoslav National Airlines (Yugoslavian).	DC-3	Domestic, Yugoslavia	Landed Zurich, Switzerland. Hijackers were the pilot and copilot. Hijackers and their wives and 2 male children requested political asylum. The 3 other crew, 22 passengers and plane were returned to Yugoslavia.
(1)	June 26, 1952	Inkret, Vilim; Tevek, Josip; Zigic, Bogdan.	do		Belgrade/Pola, Yugoslavia	Landed Foligno, Italy. While 2 hijackers pointed guns at the passengers, Inkret broke into the cockpit with an ax, took over the controls and flew to Foligno. They requested political asylum; 19 other passengers, 5 crew and the plane were returned to Yugoslavia.
(2)	Dec. 30, 1952	Tie-Cho Ang	(F) Philippine	DC-3	Laoag/Aparri, Philippines	Hijacker wanted to go to Red China. Pilot and purser killed. Copilot landed at Quemoy. Hijacker captured.
(1)	Mar. 23, 1953	Slovak, Miroslav; Cermiak, Helmut; Cermiakova, Hana; 1 other man.	(F) Czechoslovakian	C-47	Prague/Brno., Czechoslovakia	Landed Frankfurt, Germany. M. Slovak was the pilot.
(1)	July 13, 1956	Polyak, Georg; Jakaby, Joseph; Kiss, Gabor; Tinter, Karl; Balla, Joseph; Isar, Franz; Isar, Franz, Mrs.	(F) Hungarian	Twin engine	Gyor/Szombathely, Hungary	After a struggle with the crew and some passengers one of the hijackers took over the controls and landed the plane at Ingolstadt, West Germany. Hijackers requested political asylum. Other passengers, crew and the aircraft returned to Hungary.
(1)	Feb. 16, 1958	5 men, 2 women, 1 baby	(F) South Korean	DC-3	Pusan/Seoul, South Korea	Landed in Pyongyang, North Korea. Passengers and crew returned Mar. 5, 1958.
(1)	Apr. 9, 1958		(F) Cubana		Havana/Santa Clara, Cuba	Landed Merida, Mexico. Plane and passengers returned to Cuba Apr. 13, 1974.
(2)	Apr. 10, 1958	1 man	(F) South Korean	C-46	Taegu/Seoul, South Korea	Hijacker wanted to go to North Korea. Radioman killed. Pilot and copilot wounded. Landed Pyongtaek, South Korea. Hijacker captured.
(1)	Apr. 13, 1958	Villamar, Carlos; 2 other men	(F) Cubana	DC-3	Havana/Santa Clara, Cuba	Landed Miami, Fla. The hijackers were the 3-man crew. The 12 passengers, crew, and plane were returned to Cuba.
(1)	June 2, 1958	Vydra, Jaroslav; Hornik, Josef and wife.	(F) Charter (G/A), Czechoslovakian.		Domestic, Czechoslovakia	Landed Vienna, Austria. Hijackers brandished broken pistol and forced the pilot to fly to Vienna. The 3 were arrested for extortion under threats. The charges were dropped June 6, 1958.
(3)	Oct. 22, 1958	3 Cuban rebels	(F) Cubana	DC-3	Cayo Mambi/Moa Bay, Cuba	Aircraft disappeared.
(4)	Nov. 1, 1958	5 men	(F) Cubana	Viscount	Miami/Havana, Cuba	Crash killed 17 of the 20 people aboard.
(3)	Nov. 6, 1958		do	DC-3	Manzanillo/Holguin, Cuba	Aircraft held on rebel airstrip. 25 passengers, returned.
(2)	Apr. 10, 1959	6 men	(F) Haitian	DC-3	Auxcayes/Port Au Prince, Haiti.	Pilot killed. Copilot flew to Cuba.
(1)	Apr. 16, 1959	Serrate, Leonard; Serrate, Jesus; Mason y Sanchez, Alfredo.	(F) Aerovias (Cuban)	DC-3	Havana/Isle of Pines, Cuba	Landed at Miami. Taken into custody by U.S. authorities.
(1)	Apr. 25, 1959	Rodrigues Diaz, Antonio; Rodrigues Diaz, A.S.; Rodriguez Diaz, Maria; plus 1 woman.	(F) Cuban	Vicker Viscount	Varadero Beach/Havana, Cuba	Landed Key West, Fla. Reportedly after takeoff the 2 women reached under their skirts, brought out pistols and gave them to the 2 male hijackers. They then ordered the pilot to fly to Miami, but agreed to Key West, Fla. because of a lack of fuel. Rodriguez Diaz, Antonio, was a general under deposed Cuban President Batista.

See footnotes at end of table.

Results	Date	Name	Airline	Type aircraft	Flight plan	Disposition
(1)	July 8, 1959	Obrad, Cuckovic	(F) Yugoslavian		Cattaro/Belgrade, Yugoslavia	Landed Bari, Italy. Hijacker fired a warning shot, entered the cockpit and ordered the pilot to land at the nearest Italian airport.
(1)	Oct. 2, 1959	Betancourt, Estaban A.; Betancourt, Gloria L.; Hernandez, Osvaldo.	(F) Cubana	Viscount	Havana/Santiago, Cuba	Landed at Miami, Fla.
(1)	Dec. 2, 1959	8 men	(F) Panair do Brazil (Brazilian	Constellation	Rio de Janeiro/Belem, Brazil	Landed Aragarcas, Brazil. Hijackers were Brazilian military officers who were engaged in a revolt against the Brazilian Government. The revolt failed and the hijackers took the plane on to Buenos Aires, Argentina.
(1)	Apr. 21, 1960	Herrera, Gonzalo; Monnar, Francisco; Lopez, Angel E.; Enrique, Pedro.	(F) Cubana	Viscount	Domestic, Cuba	Landed in Miami. Pilot and 2 crewman were 3 of the hijackers.
(1)	July 5, 1960	Acosta, Miguel; Norbregas, Leslie	do		Madrid, Spain/Havana, Cuba	Landed in Miami. Hijackers were the copilots.
(1)	July 17, 1960	Menendez, Jose P	do	Viscount	Havana, Cuba/Miami	Landed in Jamaica. Pilot was the hijacker.
(1)	July 18, 1960	Cardenas Adeas, Jose F	(F) Private G/A (Cuban)	Single engine	Havana/Vedaro, Cuba	Landed Fort Lauderdale, Fla.
(2)	July 19, 1960	Hildebrant, Alex	(F) Trans-Australia	Electra L-188	Sydney/Brisbane, Australia	Hijacker desired to go to Singapore. Hijacker overpowered by copilot and deadheading pilot. Sentenced to 7 years imprisonment.
(1)	July 28, 1960	3 men	(F) Cubana		Oriente Prov./Havana, Cuba	Landed in Miami. Pilot hijacked the plane with help of 2 passengers. Held security guard at gunpoint. 2 women and 2 children joined hijacker.
(2)	Aug. 21, 1960	1 man, 1 woman	(F) U.S.S.R		Domestic, U.S.S.R	Crew wounded but overpowered hijackers.
(1)	Oct. 29, 1960	9 men	(F) Cubana	DC-3	Havana/Isle of Pines, Cuba	Landed in Key West. Security guard shot and killed. Pilot, copilot, and 1 passenger wounded. Copilot was 1 of the hijackers.
(2)	Dec. 8, 1960	Martinez Hernandez, Diosdado; Moreno Bacallado, Enildo; Moreno Bacallado, Eloy; Villarreal Garcia, Cesar; Quian, Raul.	do		Domestic, Cuba	Pilot crash- landed. 1 killed, 4 wounded.
(1)	Jan. 1, 1961	2 men	do		do	Landed New York, N.Y. Hijackers pointed a pistol at the pilot while in the Havana terminal area. They forced him to fly a group of Batista supporters out of Cuba.
(3)	May 1, 1961	Ramirez Ortiz, Antulio	National	CV-440	Marathon/Key West	Arrested in Miami on Nov. 21, 1975. Sentenced to 20 yr.
(1)	July 3, 1961	11 men/3 women	(F) Cubana	DC-3	Havana/Veradero, Cuba	Landed in Miami. Security guard shot and wounded.
(3)	July 24, 1961	Quendo, Wilfredo	Eastern	L-188	Miami/Tampa	
(4)	July 31, 1961	Britt, Bruce	PAC	DC-3	Chico/San Francisco	Shot and wounded ticket agent and pilot. Sentenced for attempted murder, 3, 1 to 14 yr, terms to run consecutively Sept. 5, 1961.
(4)	Aug. 3, 1961	Bearden, Leon F	Continental	B-707	Los Angeles/Houston	Prison, 20 yr.
		Bearden, Cody L. (J)				Reform school.
(3)	Aug. 9, 1961	Cadon, Albert	Pan American	DC-8	Mexico City, Mexico/Guatemala City, Guatemala.	Prison (Mexico) 8 yr, 9 mos.
(2)	do	5 men	(F) Aerovias (Cuban)	C-46	Havana/Isle of Pines, Cuba	Pilot and 2 others killed. 6 wounded. Copilot made a crash landing.
(2)	Sept. 10, 1961	Tumanyan, Serge; Sekoyan, Henrik; Movseyan, Haregin.	(F) Charter; (G/A) U.S.S.R	YAK-12	Erwan/Yekhegnadzor, U.S.S.R.	Pilot wounded by hijackers. 1 hijacker killed in crash near Yekhegnadzor, Armenia, U.S.S.R. 2 other hijackers sentenced to death.
(1)	Nov. 10, 1961	6 men	(F) Transportes Aeroes (Portuguese).	L-1049	Casablanca, Morrocco/Lisbon, Portugal.	Circled Lisbon dropping leaflets. Landed Tangier, Morrocco. Hijackers expelled to Senegal then went to Brazil and were granted asylum.
(1)	Nov. 27, 1961	5 men	(F) Avensa (Venezuelan)	DC-6B	Caracas/Maracaibo, Venezuela.	Landed in Curacao; hijackers extradited. Imprisoned for 4 yr 7 mo.
(2)	Mar. 17, 1962	1 man	(F) French		Paris/St. Martin de L'ardoise, Frnace.	Hijacker, 1 of 32 prisoners aboard, shot and wounded by a guard.
(3)	Apr. 13, 1962	Healy, David	Charter (G/A)	Cessna 172	Miami (local)	20 yr Nov. 12, 1964.
		Oeth, Leonard				25 yr.
(2)	Apr. 16, 1962	Da Silva, Edgar (Portuguese Cit.).	(F) Royal Dutch Airlines (Netherlands).		Amsterdam, Netherlands/ Lisbon, Portugal.	Hijacker wanted to go to East Berlin. Aircraft landed in Holland. Hijacker in custody.
(1)	Nov. 28, 1963	Dilma, "Commander," Dilma, Olga; Marin, Jose; Rojas, Alberto; Toledo, Patrick; Rojas, Armando.	(F) Avensa (Venezuelan)	Convair twin engine	Ciudad Bolivar/Caracas, Venezuela.	Landed in Trinidad; hijackers extradited.
(3)	Feb. 18, 1964	Hernandez, Enrique; Lopez Rodriguez, Reinaldo.	Charter (G/A)	Piper (PA-23)	Miami/Key West	
(2)	1964 (fall)	2 men	(F) U.S.S.R	AN-2	Shadur-Lungu/Izmail, U.S.S.R.	Pilot and copilot wounded. Landed Kishinev, U.S.S.R.
(2)	1965 (spring)	1 man/1 woman	do		Domestic, U.S.S.R	Flight engineer shot and killed by hijackers. Other crewmembers overpowered the hijackers.
(1)	Aug. 31, 1965	Fegerstrom, Harry (J)	Hawaiian	DC-3	Honolulu	Correction school. Paroled Nov. 3, 1967.
(2)	Oct. 11, 1965	Heisler, Lawrence (S); Boyd, Richard (S).	Aloha	F-27	Molokai/Honolulu	Both were sentenced to 4 yr imprisonment and dishonorable discharges from U.S. Navy.
(4)	Oct. 26, 1965	Medina Perez, Luis	National	L-188	Miami/Key West	Acquitted, June 24, 1966 (mental competence an issue of trial).
(4)	Nov. 17, 1965	Robinson, Thomas (J)	do	DC-8	New Orleans/Florida	Correctional school. Conviction set aside Sept. 24 1969.
(4)	Mar. 27, 1966	Betancourt Cueto, Angel (F)	Cubana	IL-18	Santiago, Cuba/Havana, Cuba	Pilot and guard killed after pilot landed in Cuba. Hijacker thought he was at Miami. Copilot wounded. Hijacker was the flight engineer. Hijacker captured Apr. 11, 1966.
(1)	July 7, 1966	9 persons	do	IL-18	do	Landed in Jamaica. Pilot was 1 of the hijackers Copilot wounded.
(2)	Aug. —, 1966	3 men	(F) U.S.S.R		Domestic, U.S.S.R	Landed Batumi, U.S.S.R. 1 passenger wounded. Hijackers captured.
(1)	Sept. 28, 1966	Varrier, Maria and 19 other people (F).	Argentina	DC-4	Buenos Aires/Rio Gallegos, Argentina.	Landed in Falkland Islands. Extradited. 3 leaders sentenced to 5-yr. The others sentenced to 3 yr.
(1)	Feb. 7, 1967	Hajjaj, Riyad Kamal	(F) Egyptina	AN-24	Domestic, Egypt	Landed in Jordan. Escaped to Sweden where he is serving a long sentence for other crimes.
(1)	Apr. 23, 1967	5 men	(F) Nigerian	F-27	Benin City/Lagos, Nigeria	Landed in Enugu, Eastern Nigeria.
(1)	June 30, 1967	Bodenan, Francois (French)	(F) Private (G/A) (United Kingdom).	HS-125	Palma de Mallorca/Iviza, Spain.	Landed in Algeria; Moise Tshombe, former Prime Minister of the Congo aboard. Tshombe held by Algerians. Tshombe died in captivity June 29, 1969.
(1)	Aug. 6, 1967	Buendia, Pedro; Roias, Fermina; Lopez, Roberto; Alvarez, Julian; and 1 other man.	(F) Aerocondor (Colombian)	DC-4	Barranquilla/ San Andres Islands, Colombia.	
(2)	Sept. 9, 1967	Garcia, Ramino; Garcia, Fernando; Garcia, Joaquin.	(F) Avianca (Colombian)	DC-3	Barranquilla/Magangue, Colombia.	
(3)	Nov. 20, 1967	Babler, Gabor Louis	Charter (G/A)	Piper Apache	Hollywood, Fla./Bimini	

See footnotes at end of table.

CIVIL AVIATION SECURITY SERVICE—Continued

FEDERAL AVIATION ADMINISTRATION—DOMESTIC AND FOREIGN AIRCRAFT HIJACKINGS (AS OF JAN. 1, 1977)

Results	Date	Name	Airline	Type aircraft	Flight plan	Disposition
(3)	do	1 man	(F) Cruzeiro du Sol (Brazilian)	YS-11	Manaus/Belem, Brazil	
(3)	Nov. 13, 1969	6 men	(F) Avianca (Colombian)	DC-4	Cucuta/Bogota, Colombia	A pregnant women and 1 other person allowed to deplane during refueling at Barranquilla.
(3)	Nov. 18, 1969		(F) (G/A) (Mexican)		Merida/Cozumel, Me ico	
(1)	Nov. 20, 1969	Szyman iewicz, W., Zolotucho, R.	(F) Lot (Polish)	AN-24	Wroclaw, Poland/Bratislava, Czechoslovakia.	Landed in Austria. Sentenced to 27 mo and 2 yr respectively.
(3)	Nov. 29, 1969	1 man	(F) Varig (Brazilian)	B-707	London/Rio de Janeiro, Brazil	
(3)	Dec. 2, 1969	Hamilton, B	TWA	B-707	San Francisco/Philadelphia	
(1)	Dec. 11, 1969	1 man	(F) South Korean	YS-11	Kangnung/Seoul, South Korea	Landed in North Korea.
(2)	Dec. 12, 1969	2 men	(F) Ethiopian	B-707	Madrid, Spain/Addis Ababa, Ethiopia.	Hijackers slain by security guards aboard aircraft.
(3)	Dec. 19, 1969	Alarcon, Patricio	(F) Lan Chilean (Chilean)	B-727	Santiago/Arica, Chile	
(3)	Dec. 23, 1969	1 man	(F) LACSA (Costa Rican)	C-46	Puerto Limon/San Jose, Costa Rico.	Released 30 passengers at San Adreas.
(3)	Dec. 26, 1969	do	United	B-727	New York/Chicago	
(3)	Jan. 1, 1970	Allen Luz, Yanez; Sommers, Isolde; Magalhaes, Claudio C.; Silva, Luis A.	(F) Cruzeiro do Sul (Brazilian)	Caravelle	Montevideo, Uruguay/Rio de Janeiro, Brazil.	Stopped in Peru and Panama. Landed at Havana Jan. 4, 1970, 46 hr after the hijacking started.
(2)	Jan. 6, 1970	Funjek, Anton	Delta	DC-9	Orlando/Atlanta	Overpowered on ground, wanted Switzerland, pled guilty July 7, 1970; sentenced 25 yr, July 30, 1970.
(2)	Jan. 7, 1970	Rodriguez, Mariano V	(F) Iberia (Spanish)	Convair twin-engine	Madrid/Zaragoza, Spain	Wanted Albania; surrendered in Zaragoza, Spain.
(1)	Jan. 8, 1970	Belon, Christian	TWA	B-707	Paris/Rome	Landed Beirut; surrendered. Sentence: 9 mo; released Nov. 18, 1970. Sentenced to 8 mo in France; released Sept. 18, 1971.
(4)	Jan. 9, 1970	Medrano Caballero, Jorge T	(F) Rapsa (Panamanian)	C-47	David City/Bocas del Toro, Panama.	Shot and killed by militiaman when plane returned to refuel at David City.
(3)	Jan. 24, 1970	2 men, 2 women	(F) ALM (Netherlands Antilles Airlines).	Fokker F-27	Santo Domingo, Dominican Republic/Curacao, Netherlands Antilles.	
(4)	Feb. 6, 1970	Venezuela Bravo, Pedro L.; Vasquez, Omar M.	(F) LAN (Chilean)	Caravelle	Puerto Montt/Santiago, Chile	1 hijacker killed, 1 wounded; stewardess wounded by detectives disguised as crew. 2 detectives and uniformed policeman also wounded.
(3)	Feb. 16, 1970	Lopez del Abad, D.; wife and 2 children.	Eastern	B-727	Newark/Miami	Latin-type man armed with gun, homemade bomb; could not speak English.
(2)	Mar. 10, 1970	1 man, 1 woman, (wife)	(F) Interflug (East German)		East Berlin/Leipzig, GDR	Couple reportedly committed suicide when attempt failed.
(3)	Mar. 11, 1970	Stubbs, Clemmie and wife, 4 daughters.	United	B-727	Cleveland/West Palm Beach	Shot and killed while attempting to escape from prison in Cuba Mar. 26, 1973. Family returned to United States, May 30, 1974.
(3)	do	4 men	(F) Avianca (Colombian)	B-727	Bogota/Barranquilla, Colombia.	
(3)	Mar. 12, 1970	De Souza, Romulo D	(F) Varig (Brazilian)	B-707	Santiago, Chile/London England.	
(5)	Mar. 17, 1970	Divivo, John J	Eastern	DC-9	Newark/Boston	Copilot killed; captain hijacker wounded; landed safely in Boston. Committed suicide in prison, Oct. 31, 1970.
(3)	Mar. 24, 1970	Ortiz, Atilio; Herrera, Maria A	(F) Aerolineas Argentinas (Argentinian).	Comet IV (British)	Cordoba/Tucuman, Argentina.	After 9-hr repair stop in Lima Peru, landed in Cuba, Mar. 25, 1970.
(3)	Mar. 25, 1970	Won, Tyrone; Lee, Edna	(F) Charter (G/A) British Honduras).	Cessna 180	Domestic, British Honduras	Refueled in Mexico. Landed in Cuba. Won commtted suicide.
(1)	Mar. 31, 1970	Takeshi, O.; Mariaki, W.; Shiro, A.; Yasumiro, S.; Takahiro, K.; Kimihiro, A.; Takamaro, T.; Yoshizo, T.; Kintaro, Y.	(F) Japan Airlines (Japanese)	B-727	Tokyo/Fukuoka, Japan	Armed with swords, youths wanted to go to North Korea; tricked into landing in South Korea. After 4½-day wait on ground, passengers exchanged for hostages and flight continued to North Korea, Apr. 3, 1970. Crew and hostages returned, Apr. 4, 1970.
(3)	Apr. 22, 1970	Meeks, Ira D., McKinney, Dianne	Charter (G/A)	Cessna 172	Gastonia, N.C. (local)	Hijacked taxi to airport; hired plane; refueled at Rock Hill, S.C., Jacksonville, Fla., and Fort Lauderdale, Fla. McKinney arrested on July 10, 1975 in New York. Meeks arrested July 21, 1976 in New York, N.Y.; charges dismissed against Meeks and McKinney Dec. 6, 1976 (Meeks declared mentally incompetent to to stand trial).
(5)	Apr. 23, 1970	Wagstaff, J	North Central	DC-9	Pellston, Mich., Sault St. Marie, Mich.	Hijacked bus to take him to airport; got on plane where was subdued after threatening crew. Committed to mental institution.
(3)	Apr. 25, 1970	1 man	(F) Viacao Aerea de Sao Paula (Brazilian).	B-737	Brasilia/Manaus, Brazil	Refueled at Guyana and deplaned 36 passengers, 1 male "hippie" remained voluntarily and went to Cuba with crew and hijacker.
(3)	May 1, 1970	Jacobs, A.; Wiggins, R. R	(F) British West Indian Airways (Trinidad and Tobago).	B-727	Jamaica/Senegal	Originally wanted to go to Algeria but diverted to Cuba.
(1)	May 5, 1970	Verner, Pavel	(F) executive plane (G/A) (Czechoslovakian).		Pribram/Kosice, Czechoslovakia.	Junior executive for Czech uranium plant knocked out his boss and stabbed pilot; wanted to go to West Germany for job but diverted to Linz, Austria. Sentenced to 1 yr, Sept. 2, 1970.
(3)	May 12, 1970	De Los, Santos, V.; Frias, Enrique; Nina, Miguel A.; Veloz, Arsenio; Taveras, F. Ventura; plus 2 other men.	(F) Dutch Fokker Antillean Airlines (ALM) (Netherlands Antilles).	F-27	Santo Domingo, D.R./Curacao, Netherlands Antilles.	Dutch revolutionaries.
(2)	May 14, 1970	Perrotis, Theodore N	(F) Australian		Sydney/Brisbane, Australia	Girl, 6, accidentally opened emergency exit door on plane as hijacker was threatening pilot with toy gun while plane on ground at Sidney Airport. Passengers escaped. Hijacker surrendered. Sentenced to 5 yr, Oct. 30, 1970.
(3)	do	1 man	(F) Viacao Aerea Sao Paulo (Brazilian).	B-737	Brasilia/Manaus, Brazil	Refuel at Guyana and Curacao; hijacker armed with pistol and explosives.
(3)	May 21, 1970	Silva Mahecha, D.; Silva Mahecha, A.; Silva Mahecha, M.; Patino Hormaza, J.	(F) Avianca (Colombian)	DC-3	Yopal/Sogamozo En Boyaca, Colombia.	Stopped unexpectly in Barrancabermeja and later refueled in Barranquilla.
(3)	May 24, 1970	Preskovski, V.L.P. Mendez, Selva A.; Navarrete, F.; Pineda, L. E. P.	(F) Mexicana de Aviacion (Mexican).	B-727	Merida/Mexico City, Mexico	
(3)	May 25, 1970	Quesada, G., with son	Delta	CV-880	Chicago/Miami	Woman was armed with .38 caliber revolver, took over plane after Atlanta takeoff.
(3)	do	Molina, N	American	B-727	Chicago/New York	Refueled at J. F. K. in New York and deplaned passengers.
(1)	May 30, 1970	Stellini, Gianlucca	(F) Alitalia (Italian)	DC-9	Genoa/Rome, Italy	Used toy pistol, landed in Cairo.
(3)	May 31, 1970	Sanchez, Jose Armando; Bueno, Berta with 5 children.	(F) Avianca (Colombian)	AVRO-748	Bogota/Bucaramaga, Colombia.	
(4)	June 4, 1970	Barkley, Arthur G	TWA	B-727	Phoenix/Washington, D.C	Landed Dulles for $100,000 ransom; departed for upstate New York, returned for more ransom and was captured; armed with pistol, knife and can of fluid; pilot and hijacker wounded. Acquitted Nov. 16, 1971.

See footnotes at end of table.

Results	Date	Name	Airline	Type aircraft	Flight plan	Disposition
(1)	June 5, 1970	Ivanicki, Zbiginew	(F) LOT (Polish)	AN-24 (Soviet)	Stettin-Gdansk, Poland	Landed Copenhagen, Denmark. Hijacker tried by Danish court and sentenced to 3½ yr, Jan. 4, 1971.
(1)	June 8, 1970	Cihakova, Stanislava; Cihak, Rudolf; Calasek, Jini; Porer, Jaroslav; Klementova, Vera; Galaskova, Eva; Cihakova, S.; Prochazkova, Marie, plus 1 child.	(F) CSA (Czechoslovakian)	IL-14	Karlovy Vary/Prague, Czechoslovakia.	Landed Nuremberg, Germany; asked for political asylum. Tried in Munich, Germany. Convicted and sentenced to terms ranging from 2½ yr to 8 mo.
(2)	June 9, 1970	Jasinski, Roman; Rybak, Andrzej	(F) LOT (Polish)		Katowice/Warsaw, Poland	Foiled by crew.
(1)	June 21, 1970	Mollahzadeh, Ali; Mollahzadeh, Hassan; Hamidi Asl, Maswd.	(F) Iranian National Airline	B-727	Teheran/Abadan, Iran	Landed Baghdad, Iraq.
(1)	June 22, 1970	Xhaferi, Haxhi	Pan American	B-707	Beirut, Lebanon/Rome, Italy	Landed Cairo, United Arab Republic. Arrested in Los Angeles, Calif. Feb. 15, 1973. Sentenced to 15 yr, June 8, 1973.
(3)	June 26, 1970	Cardenas, Jairo; Carrillo del Castro, Mauricio E.	(F) Avianca (Colombian)	B-727	Cucuta/Bogota Colombia	
(3)	July 1, 1970	Lopez, G	National	DC-8	San Francisco/Miami	Hijacked by armed man after stop in New Orleans; 4 servicemen passengers roughed up at Jose Marti Airport. Hijacker boarded plane in Las Vegas, Nevada.
(4)	do	Palha Freire, Eiraldo; Palha Freire, Fernando; Viera Souza, Colombo; plus 1 woman.	(F) Cruzeiro do Sul (Brazilian)	Caravelle	Rio de Janeiro/San Paulo, Brazil.	Captured by Brazilian authorities; hijackers hoped to exchange passengers for jailed terrorists.
(3)	July 4, 1970	Afraytes, Carlos A	do		Belem/Macapa, Brazil	At Cayenne, French Guiana; allowed 40 to 56 passengers to leave plane. At Georgetown, Guiana, the remaining 16 were allowed to deplane.
(1)	July 12, 1970	Al Harbi, Fahad Bakheet Salem	(F) Saudi Arabian	B-707	Riyadh, Saudi Arabia/Beirut, Lebanon.	Landed Damascus, Syria.
(2)	July 22, 1970	Hardin, George (S)	(F) Air Vietnam (South Vietnamese).	DC-4	Peiku/Saigon, South Vietnam	Held pilot at knifepoint for 2 hr before surrendering; air let out of tires; all occurred at Tan San Nhut Airport.
(1)	do	Abdel Megid, Farid; Abdel Megid, Mona; Fakhi, Yusef; Abul Abd, Khaled; Abul Walid, Khaled; Seif Ed Din, Mansur.	(F) Olympic (Greek)	B-727	Beirut, Lebanon / Athens, Greece.	Released passengers after promise of Greek Government to release 7 Arab terrorists; flew plane to Cairo.
(2)	July 25, 1970	De Campos, L.; Da Silva, A.	(F) Etapa Air Taxi (G/A) (Portuguese).		Porto Amelia, Mozambique/ Island of Ibo.	Attempted hijacking to Tanzania. Landed Ibo. Hijackers captured Mar. 2, 1972 sentenced to 14 yr.
(3)	do	4 men	(F) Aeronaves de Mexico (Mexican).	DC-9	Alcapulco/Mexico City, Mexico.	Made 30 minute refueling stop in Mexico City; no one deplaned.
(4)	July 28, 1970	Jorado Albornoz, Fermin	(F) Aerolineas Argentinas (Argentinian).	B-737	Salta/Buenos Aires, Argentina.	Hijacker pulled 2 pistols; plane refueled at Cordoba where 23 of 48 passengers deplaned. Refueled again at Mendozo. Andes snowstorm forced plane back to Cordoba where hijacker surrendered to police.
(2)	Aug. 2, 1970	Rivera Rios, Rudolfo	Pan American	B-747	New York/San Juan	Displayed "gun" and bottle of fluid; took hostage as he and stewardess remained outside cockpit door.
(2)	Aug. 3, 1970	Huber, Johann	do	B-727	Munich/West Berlin GFR	Threatened crew with gun: wanted to go to Budapest; was told plane did not have enough fuel and he was convinced. Mental institution. Released Nov. 13, 1970.
(5)	Aug. 7, 1970	Frej, Waldemar	(F) Polish		Szczegin/Katowice, Poland	Hijacker with grenade denied entry into cockpit; landed in East Berlin; wanted to go to Hamburg. Extradited to Poland, sentenced Sept. 19, 1970, to 8 yr for aircraft hijacking and 5 yr for rape and blackmail.
(1)	Aug. 8, 1970	Rehak, Valdimir; Rehak, Jaromir; Rehak, Valdimir (son).	(F) Czechoslovakian	IL-14	Prague/Bratislava, Czechoslovakia.	Landed in Vienna, Austria.
(3)	Aug. 19, 1970	Arrue-Martinez, J.; Ramos-Cobas, J.; Torres-Llurdan, B.	Trans Caribbean	DC-8	Newark/San Juan	
(4)	do	Inagaki, Sachio	(F) All Nippon (Japanese)	B-727	Nagoya/Sapporo, Japan	Ordered plane to land at Hamamatsu Air Defense Base, demanded rifle ammunition in possible suicide plot; woman passenger feigned Pregnancy pains and in confusion police came aboard and overpowered hijacker who had only toy pistol.
(1)	do	Krynski, Krbystov plus 2 men and 2 women.	(F) LOT (Polish)	IL-14	Gdansk/Warsaw, Poland	1 hijacker had hand grenade; landed at Danish Island of Bornholm; asked for asylum.
(3)	Aug. 20, 1970	Graves, Gregory (S)	Delta	DC-9	Atlanta/Savannah	Said he had a bomb in his lap but no one saw it. Arrested on June 1, 1975. Flown to Georgia to stand trial. Convicted of aircraft piracy. Sentenced to 20 yr.
(3)	Aug. 24, 1970	Labadie, Robert (S)	TWA	B-727	Las Vegas/Philadelphia	Said he had a bomb; landed in Pittsburgh for refuel but no one allowed off plane. Found incompetent Dec. 28, 1970, released Oct. 30, 1973.
(3)	Aug. 26, 1970	Olma, Rudolph with wife and child.	(F) LOT (Polish)	AN-24	Katowice/Warsaw, Poland	Threatened crew with bomb, which accidentally exploded injuring hijacker and 10 passengers; wanted to go to Vienna; plane landed safely at Katowice. Sentenced to 25 yr, Apr. 8, 1971.
(1)	Aug. 31, 1970	Boultif, Rabah; Layachi, Allova; Tovanti, Muhamed.	(F) Air Algeria	CV-640	Annaba/Algiers, Algeria	Refueled in Sardinia and Italy; wanted to go to Albania, which refused landing; went on to Yugoslavia where they asked for asylum.
(1)	Sept. 6, 1970	2 men	TWA	B-707	Frankfurt, Germany/New York.	Palestinian guerrillas hijacked plane after boarding at Frankfurt; taken to Dawson Field, Jordan; plane blown up Sept. 12, 1970. Boarded at Frankfurt.
(1)	do	do	(F) Swissair (Swiss)	DC-8	Zurich, Switzerland/New York.	Palestinian guerrillas hijacked plane near Paris; taken to Dawson Field, Jordan; blown up Sept. 12, 1970. Boarded at Zurich.
(6)	do	Ali, Sa'id Ali; Ibrahim, Samir Abdel Majid; Khalil, Mazir Abu Mehanid.	Pan American	B-747	Amsterdam, Netherlands/New York.	2 original hijackers joined by 7 others in Beirut during refueling; blown up in Cairo Sept. 7 1970. Boarded at Amsterdam.
(1)	do	Khaled, Leila; Arguello, Patrick	(F) El Al (Israeli)	B-707	Tel Aviv, Israel/New York	Armed El Al steward shot and killed male hijacker, female was overpowered by passengers; plane landed in London, Miss Khaled helped hijack TWA plane to Syria, Aug. 28 1969. Boarded Amsterdam.
(1)	Sept. 9, 1970	Haddad, M. J.; Ahmed, A. M. S.; Hassan, H. M.	(F) BOAC (United Kingdom)	VC-10	Bombay, India/London, England.	Palestinian guerrillas forced plane to refuel in Beirut before going to Dawson Field; plane blown up Sept. 12, 1970. Boarded at Bahrain.
(2)	Sept. 10, 1970	3 Arabs	(F) Egyptian		Beirut, Lebanon/Cairo, Egypt.	Apprehended by security officers aboard aircraft shortly after hijacking attempt was initiated.
(2)	Sept. 12, 1970	1 man (Chadian)	(F) Egyptian		Tripoli, Libia/Cairo, Egypt	Apprehended by security officers aboard aircraft while airborne shortly after hijacking attempt was initiated.
(1)	Sept. 14, 1970	Mamuzsits, Janos; Karaczony, Geza; Biro, Miklos; Biro, Piroschka; plus 2 children.	(F) TAROM (Romanian)		Bucharest, Romania/Prague, Czechoslovakia.	Landed in Munich, GFR. P. Biro found innocent. The other 3 hijackers sentenced to 2½ yr by GFR court Jan. 20, 1971.

See footnotes at end of table.

CIVIL AVIATION SECURITY SERVICE—Continued

FEDERAL AVIATION ADMINISTRATION—DOMESTIC AND FOREIGN AIRCRAFT HIJACKINGS (AS OF JAN. 1, 1977)

Results	Date	Name	Airline	Type aircraft	Flight plan	Disposition
(2)(5)	Apr. 9, 1972	Speck, S.	Pacific Southwest	B-727	Oakland/San Diego	Extortion attempt $500,000. Hijacker captured at San Diego. Committed to mental institution Dec. 19, 1972. Discharged June 14, 1973.
(4)	Apr. 8, 1972	Bustamente J; Vallejos, Juan A.	(F) Faucett (Peru)	B-727	Piura/Chiclayo, Peru	Overpowered and disarmed by crew.
(2)	Apr. 13, 1972	Chavez-Ortiz, R.	Frontier	B-737	Albuquerque/Phoenix	Sentenced to life imprisonment on July 24,1972. Sentence reduced to 20 yr Nov. 29, 1972
(5)	Apr. 16, 1972	Ojeda-Perez, A.	Prinair (G/A)	DH-114	Ponce/San Juan	Captured at boarding ramp. Sentenced to 2 yr Aug. 18, 1972. Released Jan. 10, 1974.
(2)	Apr. 17, 1972	Smith, K. L.	Alaska	B-727	Seattle/Annette Island, Alaska	Captured. Released from mental institution July 10, 1973.
(2)	do	Maimone, M. V.	(F) Swissair (Swiss)	DC-9	Geneva, Switzerland/Rome, Italy.	Captured at Rome. United States and Italian citizenship. Sentenced to 2 yr and 3 mo Mar. 8, 1973. Released Mar. 14, 1973 on provisional liberty after posting 3,000,000 lire bail.
(2)(5)	do	Greene, W. H.	Delta	CV-880	West Palm Beach/Chicago	Extortion attempt $500,000. Surrendered at Chicago. Sentenced to 20 yr Sept. 25, 1972.
(1)	Apr. 18, 1972	Dolezal, K., Larch, A.	(F) Czechoslovakian	L-410	Prague/Marienbad Czechoslovakia.	Landed Nuremberg, Germany. Pilot wounded. 7 yr imprisonment July 31, 1972. Political asylum denied by West Germany April 1973.
(1)(5)	May 3, 1972	Aidan, Iashar M.; Akcha, Ainoulla A.; Shemshek, Seffer A.; Youlmaz, Mehmed H.	(F) Turkish	DC-9	Ankara/Istanbul, Turkey	Objective: Free 3 imprisoned members of Turkish Liberation Army. Surrendered at Sofia, May 4, 1972. Sentenced to 3 yr Nov. 3, 1972
(1)(5)	May 5, 1972	Hahneman, F. W.	Eastern	B-727	Allentown, Pa./Washington, D.C.	$303,000 extortion. Parachute jump Honduras May 6, 1972. Surrendered in Honduras June 2, 1972. Sentenced to life imprisonment Sept. 29, 1972.
(3)	May 5, 1972	Hansen, M. L.	Western	B-737	Salt Lake City/Los Angeles	Returned to New York from Cuba via Barbados on June 14, 1975. In custody in Los Angeles. Sentenced to 10 yr on Dec. 23, 1975.
(2) (4)	May 8, 1972	Tannous, Rima I.; Halaseh, Threse I.; and 2 males (Arab guerrillas).	(F) Sabena (Belgian)	B-707	Brussels, Belgium/Tel Aviv, Israel.	Objective: Free imprisoned Palestinian guerrillas. 2 male hijackers killed and 2 females wounded by Israeli authorities on May 9, 1972. 1 passenger killed. 2 females sentenced to life August 14, 1972.
(2)(3)	May 23, 1972	Baguero Cornejo, J.V.	(F) Ecuadorian	Electra turbo-prop	Quito/Gayaquil, Ecuador	Hijacker killed at Quito. Had demanded $39,000 and 2 parachutes.
(2)(5)	May 24, 1972	Kamil, F. H. A.; Yaghi, A. J.; (Lebanese).	(F) South African	B-727	Salisbury, Rhodesia/Johannesburg, South Africa.	Aircraft flown to Blantyre, Malawi. On May 25, 1972, all passengers and crew escaped. On May 26, 1972, police overpowered hijackers. Sentenced September 18, 1972 to 11 yr. Released by Malawi and deported to Zambia May 21, 1974.
(2)(3)	May 28, 1972	Savvakis, E.	(F) Olympic (Greek)	B-707	Iraklion, Crete/Athens, Greece	Objective: Ticket to London medical treatment there and money at Athens. Police rushed aircraft and seized hijacker. Sentenced to 2 yr February 10, 1973.
(2)(5)	May 30, 1972	Silva, G. D. J.	(F) Varig (Brazilian)	Electra L-188	San Paulo/Porto Alegre, Brazil.	$250,000 plus 3 parachutes, extortion attempt. Troops rushed plane. Hijacker killed himself with pistol.
(1)(5)	June 2, 1972	Holder, W.; Kerkow, K. M.	Western	B-727	Los Angeles/Seattle	$500,000 extortion. Aircraft landed San Francisco. Ransom delivered. Changed to B-720. Aircraft flew to Algiers, Algeria, with stop at New York. Hijacker under Algerian control. Ransom returned July 28, 1972. Arrested in Paris, France, January 24, 1975. Extradition refused by French court on April 14, 1975. French will try them for hijacking. No date set.
(2)(5)	do	Heady, R. D.	United	B-727	Reno/San Francisco	Extortion attempt: $200,000 captured after parachute jump. Sentenced to 30 yr August 25, 1972.
(1)	June 8, 1972	7 men, 3 women, 1 child	(F) Czechoslovakian	L-410	Marianske Lazne (Marienbad)/Prague, Czechoslovakia.	Destination Nuremberg, killed pilot, injured copilot. Landed small airfield inside West Germany. 2 males in custody. January 1973, 1 committed suicide in prison. 9 convicted on December 14, 1973 sentenced to terms ranging from 3 to 7 yr.
(1)(5)	June 23, 1972	McNally, J. M.; Petlikowsky, W.J.	American	B-727	St. Louis/Tulsa	Extortion: $502,000. Parachuted vicinity Peru, Ind. Apprehended June 28, 1972. Petlikowsky not on hijacked aircraft. Sentenced to 10 yr for aiding and assisting May 18, 1973. McNally sentenced to life Dec. 14, 1972.
(2)(3)	June 30, 1972	Carre, D. B.	Airwest	DC-9	Seattle/Portland	Extortion attempt; $50,000. Apprehended at Portland. Committed to mental institution July 5, 1972.
(2)	July 2, 1972	Nguyen Thai Binh	Pan American	B-747	Honolulu/Saigon, South Vietnam.	Hijacker killed at Saigon.
(2)	July 5, 1972	Smith, C.	American	B-707	None	Hijacker boarded parked empty aircraft at Buffalo, N.Y., demanded to be flown out of the area. Persuaded to surrender. Convicted in State court of custodial interference June 7, 1973. Sentenced to 5 yr probation July 18, 1973.
(2)(5)	do	Alexiev, D. K.; Azamanoff, M. D.; Peichev, L.	Pacific Southwest	B-737	Sacramento/San Francisco	Extortion attempt; $800,000. Hijackers killed by FBI. 1 passenger killed, 2 wounded Peichev not on hijacked aircraft. Dec. 21, 1972. Peichev sentenced to life plus 20 yr concurrent for aiding, abetting, and conspiring in the acts.
(5)(5)	July 6, 1972	Goodell, F. M. (S)	do	B-727	Oakland/Sacramento	Extortion attempt: $450,000. Hijacker surrendered. Convicted of air piracy and use of firearm to commit a felony Jan. 17, 1973. Sentenced to 25 yr plus 5 yr Feb. 12, 1973.
(4)(5)	July 10, 1972	Bachalt, N.	(F) Lufthansa (West German)	B-737	Cologne/Munich, German Federal Republic.	Extortion attempt: $400,000. Apprehended abroad aircraft.
(2)(5)	July 12, 1972	Green, M.; Tesfa, L.	National	B-727	Philadelphia/New York	Extortion attempt: $600,000. Surrendered. Green, convicted June 19, 1973; sentenced to 50 yr Mar. 18, 1974. Tesfa sentenced to 60 yr, Dec. 2, 1974.
(2)(5)	do	Fisher, M.	American	B-727	Oklahoma City/Dallas	Extortion attempt: $550,000. Surrendered. Sentenced to life imprisonment Sept. 28, 1972.
(2)	do	1 man	(F) UTA (French)		Abidjan, Ivory Coast/Paris, France.	Aircraft diverted prior to landing at Abidjan, denying man opportunity to hijack it. Man shot and apprehended after he shot his wife.
(1)(5)	July 31, 1972	McNair, Melvin; McNair, Jean; Wright, George; Brown, George; Burgess, Joyce; 3 children.	Delta	DC-8	Detroit/Miami	$1,000,000 extortion. Refueled Boston. Landed Algiers Aug. 1, 1972. Ransom returned Aug. 23 1972. 3 children returned to United States December 1972. M. McNair, J. McNair, G. Brown, and J. Burgess arrested in Paris May 28, 1976.

See footnotes at end of table.

Results	Date	Name	Airline	Type aircraft	Flight plan	Disposition
(1)	Aug. 15, 1972	9 men, 1 woman	(F) Austral (Argentinian)	BAC-111	Trelew/Buenos Aires, Argentina.	10 terrorists and convicts who escaped from a prison in south Argentina hijacked a jetline at Trelew, refueled at Puerto Monte, Chile then flew to Santiago, Chile granted political asylum and allowed hijacker to fly to Cuba on a Cuban jetliner.
(2)(3)	Aug. 18, 1972	Sibley, F	United	B-727	Reno/San Francisco	Shot and captured by FBI at Seattle. Convicted Oct. 18, 1972. Sentenced to 30 yr Feb. 28, 1973.
(1)	Aug. 22, 1972	2 men, 1 woman	(F) A. Yemda (Southern Yemen)	DC-6	Beirut, Lebanon/Cairo, Egypt/Aden, South Yeman.	Landed Benghazi, Libya.
(3)	Aug. 25, 1972	4 men	(F) Opita Air Taxi (TAO) (Co,ombian).		Neiva/Bogota, Colombia	Refueled Barrancabermeja, Colombia.
(1)(3)	Sept. 15, 1972	Lisac, Nikila; Rebrina, Tomislav; Preskalo, Rudolf.	(F) Scandinavian Airlines System (Swedish).		Gateborg/Stockholm, Sweden	$105,000 and release of 6 convicts. Aircraft hijacked to Madrid, Spain. All 9 Croation nationalists surrendered. 3 hijackers sentenced to 12 yr by Spanish court Dec. 4, 1972. Pardoned Feb. 13, 1975.
(2)(3)	Oct. 6, 1972	Boccaccio, Ivano	(F) Aerotrasporti Italiani (Italian).	F-27	Ronchi Del Legionari/Bari, Italy.	$344 extortion. Hijacker killed aboard aircraft during gun battle with police at Ronchi. 1 policeman wounded.
(2)(3)	Oct. 11, 1972	Schuetz, Friedhelm	(F) Lufthansa (West German)	B-727	Lisbon, Portugal/Frankfurt, GFR.	Demanded several thousand marks and a car at Frankfurt. Claimed to have a bomb. Shot and captured while moving to car.
(1)(3)	Oct. 22, 1972	4 men (Turks)	(F) Turkish	B-707	Istanbul/Ankara, Turkey	Landed Sofia, Bulgaria. Threatened to blow up plane unless 13 prisoners freed and reforms by Turk Government. Pilot and 1 passenger wounded. Surrendered late on Oct. 23, 1972. Sentenced to 2-2½ yr Feb. 2, 1973.
(3)	Oct. 29, 1972	Tuller, C.; Tuller, B. (S); Tuller, J.; Graham, W. (S).	Eastern	B-727	Houston/Atlanta	Killed ticket agent; wounded ramp serviceman. Forced way aboard. Tullers apprehended. To be tried in Houston on charges of aircraft piracy. Tullers found guilty of air piracy on June 24, 1976.
(1)(3)	do	El Shahed, Samir Arif; Saleh, Mahmoud.	(F) Lufthansa (West German)	B-727	Beirut, Lebanon/Ankara, Turkey.	Demanded release of 3 male Arabs, imprisoned for involvement in slaying of 11 Israelis at Munich Olympics. Landed Zagreb, Yugoslavia. Prisoners boarded. Flew to Tripoli, Libya.
(1)(3)	Nov. 6, 1972	Nakaoka, Tatsuji	(F) Japan Airlines	B-727	Tokyo/Fukuoka, Japan	Demanded $2,000,000 and flight to Cuba or would blow up plane. Returned to Tokyo to get ransom and change to DC-8. Captured by police when entered DC-8. Sentenced to 20 yr Mar. 13, 1974.
(1)(3)	Nov. 8, 1972	Segovia, German; Rodriguez Moya, Ricardo; plus 2 other men.	(F) Mexicana de Aviacion (Mexican).	B-727	Monterrey/Mexico City, Mexico.	Demanded release of 6 terrorist colleagues being held in prison, 4,000,000 pesos ($320,000), 2 machine guns with ammunition and a doctor to accompany wounded prisoner. Returned to Monterrey. All demands met. Flew to Cuba. Reportedly ransom and weapons returned Feb. 1. 1973.
(2)(3)	Nov. 10, 1972	Jackson, H.; Cale, L. and M	Southern	DC-9	Birmingham/Montgomery	Demanded $10,000,000, 10 parachutes, food, etc. Landed several places to refuel. Landed Havana Nov. 11, 1972. Again left Havana; flew to 2 U.S. airports. Refueled; returned to Havana. Passengers released; copilot shot and wounded. Sentenced in Cuba. Jackson and L. Cale 20 yr, and M. Cale 15 yr Sept. 27, 1973.
(2)	Nov. 15, 1972	Hrabinec, Milosiav	(F) Ansett Airlines (Australia)	F-27	Adelaide/Darwin, Australian	Demanded a light aircraft and a parachute at Alice Springs Airport. Shot by police when in light aircraft. Finally shot and killed himself. 1 policeman wounded.
(2)(3)	Nov. 24, 1972	Widera, Victor	(F) Air Canada (Canadian)	DC-8	Frankfurt, Germany/Montreal, Canada.	Hijacking initiated on the ground at Frankfort. Demanded release of a Czech being held by West Germany for hijacking a plane from Prague to Nuremberg. Also demanded release of several other Czechs. Held stewardess hostage. Shot and killed aboard aircraft by police marksmen.
(2)	Dec. 8, 1972	5 men and 2 women	(F) Ethiopian Airlines, S.C. (Ethiopian).	B-720	Addis Ababa/Asmara, Ethiopia.	When 1 of the hijackers announced the hijacking, security guards opened fire. 6 hijackers killed. Hijackers exploded 1 hand grenade which tore hole in floor of plane, stopped 1 engine and injured rudder, 7 passengers and 2 stewardesses wounded. Plane landed safely at Addis Ababa. 1 wounded female hijacker in custody.
(2)	Dec. 14, 1972	Stanford, Larry Maxwell	(F) Quebecair (Canadian)	BAC-111	Wabush/Montreal, Canada	Hijacker pointed rifle at stewardess. Required pilot to fly to Montreal then shuttle between Montreal and Ottawa. Passengers released. Hijacker surrendered after 10 hr. Convicted Apr. 26, 1973.
(3)	Jan. 2, 1973	Wenige, Charles A	Piedmont	YS-11A	Washington, D.C. (DCA)/Baltimore.	Hijacking initiated while on the ground at Baltimore. Hijacker surrendered after several hours negotiations at Baltimore. Sentenced to 20 yr Feb. 16, 1973.
(2)(3)	Jan. 4, 1973	Neilson, C. K	(F) Pacific Western (Canadian)	Convair	Vancouver/Penticton, Canada	$2,000,000 extortion and passage to North Vietnam. Hijacking initiated on ground at Vancouver. Passengers released. Police boarded and arrested hijacker while still at Vancouver.
(4)	Apr. 24, 1973	1 man	(F) Aeroflot (U.S.S.R.)	TU-104	Leningrad/Moscow, U.S.S.R.	Copilot and hijacker killed when device held by hijacker exploded. Aircraft reportedly landed safely at Leningrad.
(3)	May 18, 1973	Botini Marin, Federico; 2 other men and 1 woman.	(F) Avensa (Venezuelan)	Corvair-580	Valera/Barquisimeto, Venezuela.	Landed in Curacaco, Panama, and Mexico. Threatened to blow up plane unless 79 Venezuelan prisoners were flown to Cuba. Demand refused. Aircraft, passengers, and crew returned from Cuba May 20, 1973.
(2)	May 25, 1973	1 man	(F) Aeroflot (U.S.S.R.)	TU-104	Moscow/Chita, U.S.S.R.	Aircraft crashed in southern Siberia. Number aboard unknown. No survivors.
(1)	May 30, 1973	Lopez Dominguez Francisco Solano Borjas Gonzales. Oscar Eusebio.	(F) SAM (Colombian)	Electra	Pereira/Medellin, Colombia	Threatened to blow up plane unless $200,000 ransom was paid and 140 Colombian prisoners were released. Landed several places in South America. Groups of passengers released or escaped at various stops. Hijackers received $50,000 but no prisoners released. Hijackers finally on June 2, 1973, left the aircraft and escaped. Lopez Dominguez captured June 8, 1973.
( )	June 10, 1973	Bhattari, Basanta: Subedi, Prasad; Dhungel, Nagendra P.	(F) Royal Nepal Airlines (Nepalese).	Twin Otter	Biratnagar/Kathmandu, Nepal.	Landed near Forbesganj, Bihar, India. Hijackers escaped into the jungle with 3,000,000 Indian rupees (approximately $400,000) which was being transported by a Nepal state bank. Some have been arrested but none of these listed.

See footnotes at end of table.

CIVIL AVIATION SECURITY SERVICE—Continued

FEDERAL AVIATION ADMINISTRATION—DOMESTIC AND FOREIGN AIRCRAFT HIJACKINGS (AS OF JAN. 1, 1977)

Results	Date	Name	Airline	Type aircraft	Flight plan	Disposition
(3)	July 4, 1973	Mazor, Basilio J	(F) Aerolineas Argentinas (Argentinian).	B-737	Buenos Aires/Tucuman, Argentina.	Demanded $200,000 in Government grants to medical agenc es. Government refused. Landed Mendoza, Argentina, Santiago, Chile, Lima, Peru, Panama City, Panama, and finally Havana, Cuba. Passengers released at various stops.
(1)	July 11, 1973	Clark, Daniel (S	Charter (GA)	Bell 47-G5, helicopter.	Gainesville, Tex./Marietta, Okla.	Chartered helicopter. After flying over Marietta area, forced pilot at pistol point to fly to Wichita Falls, Tex. Captured in Dallas, Tex. July 13, 1973. Sentenced to 20 yr. under Federal Youth Corrections Act February 11, 1974.
(1)	July 20, 1973	4 men and 1 woman	(F) Japan Air Lines (Japanese)	B-747	Amsterdam, Netherlands/Anchorage, Alaska.	Woman hijacker killed and purser wounded in accidental explosion of explosive carried by woman. Landed Dubai, United Arab Emirates about 2130Z July 20, 1973. Aircraft and all passengers and crew, except dead woman and wounded purser held. Aircraft refueled and took off at about 2010Z July 23, 1973. Refueled at Damascus, Syria. Finally landed at Benghazi, Libya, where all passengers and crew were released and the aircraft was blown up. 4 male hijackers arrested by Libyan authorities. Hijacker released and flown to Damascus August 13, 1974.
(1)	Aug. 16, 1973	A-Touni, Mahmoud	(F) Middle East Airlines (Lebanese).	B-707	Benghazi, Libya/Beirut, Lebanon.	Landed Tel Aviv, Israel. While the hijacker's attention was diverted, Israeli security personnel boarded the aircraft and captured him. Committed to a mental institution Dec. 11, 1973.
(1)	Aug. 25, 1973	Abu Bakr, Nasser Ahmed	(F) Yemen Air Lines (Yemeni)	DC-6	Taiz, Yemen/Asmara, Ethiopia.	Landed Kuwait after refueling at Djibouti. Hijacker surrendered after authorities guaranteed his safety in Kuwait.
(2)	Oct. 2, 1973	Stremmer, Franz-Josef	(F) Royal Dutch Airlines (Netherlands).	DC-9	Duesseldorf, West Germany/Amsterdam, Netherlands.	Hijacker disarmed while talking to pilot. Hijacker arrested when plane landed at Amsterdam.
(2)	Oct. 10, 1973	Garcia Perez, Roberto	(F) Mexicana (Mexican)	B-727	Mexico City/Monterrey, Mexico.	Security officer dressed as a crewman boarded aircraft and captured hijacker before takeoff from Mexico City.
(1)	Oct. 11, 1973	Riga, Roger; Naval, Armando; Montojo, Basilio.	(F) Philippine Air Lines (Philippines).	BAC-111	Davao/Bacolod, Philippines	Took airline president hostage in exchange for passengers. Landed Hong Kong. Hijackers granted amnesty by Philippine Government and surrendered.
(3)	Oct. 18, 1973	Cravenne, Daniele	(F) Air France (French)	B-727	Paris/Nice, France	Landed Marseille. 110 passengers and all but 2 crew released. French police boarded disguised as stewards and shot, wounded, and captured the hijacker. She died on the way to the hospital.
(4)	Oct. 20, 1973	Pagola, Nicolini Mario; Sienrra Mata, Luis Arturo; Pedroso Silva, Mirtha Susana; Biere Diaz, Lidia Elena.	(F) Aerolineas Argentinas (Argentinian).	B-737	Buenos Aires/Salta, Argentina.	Landed Yacuiba, Bolivia. Released all but 5 persons and demanded a smaller plane to go to Cuba. Bolivia officials refused. Oct. 22, 1973 released hostages and surrendered after promise of safe conduct to Cuba.
(4)	Oct. 31, 1973	Lorenzo, Jose Gabriel	(F) Avensa (Venezuelan)	DC-9	Barquisimeto/Caracas, Venezuela.	Threatened stewardess with pistol. When pilot told hijacker he was about to land at Caracas and had little fuel, the hijacker shot and seriously wounded himself.
(3)	Nov. 2, 1973	4 persons	(F) Aeroflot (U.S.S.R.)	YAK 40	Bryansk/Moscow, U.S.S.R.	Landed Moscow. Demanded $1,000,000 and flight to Sweden. After 5 hr of negotiations police stormed the aircraft, killed 2 of the hijackers and captured the other 2.
(1)	Nov. 25, 1973	Darwish, Fawzi; Al-Sanuri, Husayn Ahmad; Zhbgeen, Isnu.	(F) Royal Dutch Airlines (Netherlands).	B-747	Beirut, Lebanon/New Delhi, India.	Landed Dubai after stops at 4 other countries. Demanded release of jailed Arabs in Cyprus and guarantees that Dutch would not assist Israel in war efforts and Jewish emmigration. On Nov. 28, 1973 released remaining 11 hostages and surrendered after promise of safe passage to undisclosed country.
(3)	Dec. 1, 1973	Buholzer, Daniel	(F) Swissair (Swiss)	DC-8	Geneva/Zurich, Switzerland	Landed Geneva. Demanded $50,000 for starvation threatened Africa, a ticket to New York and safe conduct. Released all but 4 crew. Police boarded posing as newsmen requested by hijacker and quickly overpowered hijacker.
(1)	Dec. 17, 1973	5 men	(F) Lufthansa (West German)	B-737	Rome, Italy/Munich, Germany	Fired weapons in terminal Rome Airport. Took 6 hostages, threw incendiary grenades into a Pan Am B-707 boarding passengers. 30 killed. Killed a guard and boarded Lufthansa aircraft; only crew aboard. Landed Athens, Greece, threw off dead body of 1 hostage. Demanded release of 2 Arabs being held for August 1973 attack at Athens Airport. Greeks refused. Refueled at Damascus, Syria. Flew to Kuwait and surrendered after allegedly receiving safe conduct guarantee. Released as ransom in Nov. 22, 1974 hijacking of British Airways VC-10. All taken into Tunisian custody, Nov. 25, 1974.
(3)	Jan. 3, 1974	Sanchez, Rodobaldo S	(F) Air Jamaica (Jamaican)	DC-9	Kingston, Jamaica/Detroit, Mich.	Went through a shop area, avoided terminal and boarded. When asked for his ticket, threatened to blowup aircraft unless flown to Miami, Fla. Claimed to have a hand grenade wrapped in a handkerchief. Overpowered by security guards before takeoff.
(3)	Jan. 21, 1974	Tapia Carrion, J	(F) Aeropesca (Colombian)	Vickers Viscount	Pasto/Popayan, Colombia	23 passengers released and refueled at Cali. 4 passengers released, 2 tires changed and aircraft refueled at Barranquilla.
(3)	Feb. 20, 1974	Nguyen, Cuu Viet	(F) Air Vietnam (South Vietnamese).	DC-4	DaLat/DaNang, South Vietnam.	Landed Hue, South Vietnam, after pilot convinced hijacker that fuel was needed, engines were malfunctioning and that they should land at Dung Ha (a North Vietnamese controlled area). Hijacker and 2 others killed when hijacker detonated explosives he had been carrying, after realizing they had landed at Hue.
(4)	Feb. 22, 1974	Byck, Samuel J	Delta	DC-9	Baltimore/Atlanta	Hijacker shot and killed an airport policeman Then boarded the aircraft and shot and killed copilot and wounded pilot. An airport policeman from outside the aircraft shot through the door's glass porthole and hit the hijacker twice in chest. Hijacker then shot and killed himself.

See footnotes at end of table.

Results	Date	Name	Airline	Type aircraft	Flight plan	Disposition
(1)	Mar. 3, 1974	Nuri, Adnan A.; Tanima, Sami H.	(F) British Airways (United Kingdom).	VC-10	Beirut, Lebanon/London, England.	Landed Amsterdam, Netherlands. Allowed passengers and crew to deplane. Threw inflammable liquids including plane's liquor supply around cabin and set plane on fire. Captured running from plane. Sentenced to 5 yr, June 6, 1974. Released as ransom in Nov. 22, 1974 hijacking of British Airways aircraft. All taken into Tunisian custody, Nov. 25, 1974.
(2)	Mar. 12, 1974	Owaki, Katsuhito	(F) Japan Airlines (Japanese)	B-747	Tokyo, Japan/Naha, Okinawa.	Landed Naha. Demanded $55,000,000 (200,000,000 yen), 15 parachutes and mountain climbing gear. When hijacker asked for food, police boarded dressed as food handlers and captured hijacker.
(2)	Mar. 20, 1974	Al-Azhar, Kasete Kiflu, Niget	(F) East Africa Airways (Kenya)	Fokker F-27	Narobi/Malindi, Kenya	Landed Entebbe, Uganda. Hijackers ordered plane to Libya but agreed to stop at Entebbe to refuel. After negotiating, hijackers surrenderd to Uganda authorities. Hijackers were a married couple.
(4)	Mar. 30, 1974	Smith, Ernest E	National	B-727	None	With 2 hostages and carrying a shotgun, hijacker boarded a parked out-of-service aircraft at Sarasota, Fla., and demanded to be flown out of the area. Hijacker fled after being disarmed by the only other person aboard, a maintenance man. Hijacker captured about 4 hr later. Sentenced on state charges to 15 yr and 25 yr (concurrent) September 16, 1974.
(2)	Apr. 9, 1974	Tobon, Elkin	(F) Cessnica (GA) (Colombian)	Beechcraft C-45	Medellin/Turbo, Columbia	Prior to takeoff at Medellin, 17-year-old hijacker pointed a knife at the pilot and demanded to be flown to Lima, Peru. A cargo handler grabbed the hijacker from behind and overpowered him.
(2)(3)	May 10, 1974	Tabares, Carlos, A.; Avila Campos, Jorge E.; Rodriguez Hernandez, Pedro J.	(F) Avianca (Colombian)	B-727	Pereira/Bogota, Colombia	Landed Bogota, released 26 passengers then flew to Cali, Peria, and back to Bogota. Demanded 8,000,000 pesos (approximately $317,300) and flight to Cuba. Officials refused to pay ransom. Police stormed plane and killed 1 hijacker and captured the other 2. 1 hijacker wounded in leg.
(2)(3)	May 23, 1974	Kamaiko, David F	Wall Street Helicopter, Inc. (GA).	Bell 206A Jet Ranger helicopter.	New York (local)	Took aircraft refueler hostage, boarded and required pilot to fly to top of the Pan Am building, New York, N.Y. After landing, pilot ran from aircraft and was shot by hijacker. Hostage struggled with hijacker. Police rushed to the helicopter and overpowered hijacker. Prosecution decision to be made after 1-yr psychiatric treatment Dec. 30, 1974. Evaluation completed: AUSA (SD-NY) requesting matter be nolle prossed.
(1)	June 26, 1974	Rowell, Edwin C. (P)	Air Charter, Inc. (GA)	Piper Comanche	Alexandria/Angola, La	Produced gun while in flight, forced pilot to land at Hammond, La. Hijacker handcuffed deputy sheriff escort and pilot to tree and fled, captured about 1 hr later approximately 1½ mi from airport. Sentenced by State for aggravated kidnapping to 10 yr imprisonment (Apr. 14, 1975) to be served in addition to sentence of 34 yr for previous crimes.
(1)	June 27, 1974	Kirkaldie, Douglas A.; Beck, William Henry C.; Naylor, Stanley D.	Big Horn Airways (GA)	Cessna 172	Ashland, Mont./Sheridan, Wyo.	Hijackers chartered aircraft. While in air, pilot agreed to change course to Yellowtail Dam, Mont. When he started to report change of flight plan, microphone was taken from him and guns were pointed at him. After landing at Yellowtail Dam, pilot was bound and left in plane. 2 captured 1 hr later. Kirkaldie captured July 6, 1974, in Janesville, Wis., Naylor and Beck sentenced to 20 yr for bank robbery July 16, 1974, and July 23, 1974, respectively. Reduced to 8 yr under Youth Corrections Act Oct. 21, 1974, and Oct. 22, 1974, respectively. Kirkaldie sentenced to 20 yr for bank robbery and interference with crewmember Nov. 11, 1974.
(2)(5)	July 15, 1974	Iwakoshi, Akira	(F) Japan Air Lines (Japanese)	DC-8	Osaka/Toyko, Japan	Landed Tokyo. Hijacker demanded release of a leader of the Japanese Red Army and a plane to fly the 2 to North Korea. Authorities refused. Flew to Nagoya, Japan. Passengers escaped while hijacker was in cockpit. Police boarded and captured the hijacker.
(5)(6)	July 24, 1974	Martinez Rusinke, Luis Eduardo	(F) Avianca (Colombian)	B-727	Periera/Medellin, Colombia	Landed Cali. Demanded $2,000,000 and freedom for several political prisoners. Passengers including hijacker's wife and baby escaped through an emergency exit. Police boarded, shot and fatally wounded hijacker. Hijacker participated in May 20, 1969 Avianca hijacking.
(2) (3)	Sept. 4, 1974	Collins, Marshal	Eastern	DC-9	New York/Boston	Initiated hijacking after landing in Boston. All except pilot released, kept an arm around pilot's neck, cut pilot slightly with razor blade. Pressed a nail into pilot's arm and hit pilot with emergency ax. Demanded $10,000 and flight out of area. After more than 3 hr, hijacker was persuaded to surrender.
(3)	Sept. 15, 1974	Tan, Le Duc	(F) Air Vietnam (South Vietnam).	B-727	DaNang/ Saigon, South Vietnam.	Hijacker demanded to be flown to Hanoi, North Vietnam. Pilot started to land at Phan Rang, South Vietnam. Hijacker pulled pins on 2 hand grenades. Explosion caused plane to crash killing all 70 aboard.
(1)	Sept. 28, 1974	4 men	(F) Dundalk Aero Club (GA) (Ireland).	Rallye Club	None	Hijackers entered the Aero Club office. 2 held persons in club at gunpoint while other 2 forced pilot to fly them to Jonesborough, Northern Ireland, where homemade bomb was thrown from the aircraft. Hijackers had 4 bombs and presumably intended to drop them on British targets in Northern Ireland. 1st bomb thrown struck a wing. This caused no damage but hijackers gave up further attempts to bomb. Aircraft landed Revensdale, Ireland. Hijackers fled.
(2)	Oct. 7, 1974	1 man	(F) Far Eastern Air Transport Corp. (Republic of China).	Viscount 810	Tainan/Taipei, Taiwan	Hijacker armed with knife and 4 gasoline filled bottles demanded to be flown to mainland China. Captured by security guard and cabin attendant.
(1)	Nov. 6, 1974	Al Auran, Muhammad S.; Al Zaiban, Yassin; Hiyari, Salem.	(F) Royal Jordanian Airlines Corp. (Alia) (Jordanian).	Caravelle 50	Amman/Aqaba, Jordan	Landed Benghazi, Libya, when aircraft attempted to land at Beirut, Lebanon, officials closed airport. Passengers and crew released unharmed. Hijacker requested political asylum.

See footnotes at end of table.

CIVIL AVIATION SECURITY SERVICE—Continued

FEDERAL AVIATION ADMINISTRATION—DOMESTIC AND FOREIGN AIRCRAFT HIJACKINGS (AS OF JAN. 1, 1977)

Results	Date	Name	Airline	Type aircraft	Flight plan	Disposition
(1) (3)	Nov. 22, 1974	4 men	(F) British Airways (United Kingdom).	VC-10	Dubai, United Arab Emerates/ Calcutta, India.	At Dubai, forced way aboard firing automatic weapons. Wounded 2. Refueled at Tripoli, Libya Finally landed at Tunis, Tunisia. Demanded release of 13 terrorist prisoners in Egypt and 2 hijacker prisoners in Netherlands. Shot and killed 1 male passenger. 5 prisoners from Egypt and 2 from Netherlands turned over to hijackers. All surrendered to Tunisian officials upon assurance of protection Nov. 25, 1974.
(2)	Nov. 23, 1974	1 man	(F) All Nippon Airways (Japanese).	B-727	Tokyo/Sapporo, Japan	Brandished a stick resembling dynamite. Overpowered by flight crewmember.
(2)	Nov. 29, 1974	Djemal, Naim (Canadian citizen)	(F) CP Air (Canadian)	B-737	Winnipeg/Edmonton, Canada	Landed Saskatoon, Saskatchewan, Canada. Held stewardess at knife point. Demanded to be flown to Cyprus. Agreed to landing at Saskatoon for fuel and surrendered to the pilot. Sentenced to 7 yr for attempted hijacking Feb. 5, 1975.
(2)	Dec. 1, 1974	Aslam, Mohammad	(F) Swissair (Swiss)	DC-8	Bombay, India/Karachi, Pakistan.	Pointed gun at crew. Demanded flight to Middle East. Landed at Karachi to refuel. Overpowered by crew. Sentenced to 3 yr and $200 fine for attempted hijacking, Mar. 10, 1975.
(2)	Dec. 14, 1974	1 man	Tampa Flying Service (GA)	Piper Seneca	Tampa/Naples, Fla	Chartered aircraft by phone before boarding. While in company operations facility, pointed handgun at pilot and demanded to be flown to Cuba.
(2)	Dec. 25, 1974	Homolov, Josef	(F) Air India (India)	B-747	Bombay, India/ Rome, Italy	Hijacker entered cockpit brandishing a small pocket knife. Claimed to have bombs aboard. Demanded a gun and passage to a place of his choice. Ordered pilot to go into a sharp dive over Rome. Overpowered by flight crew.
(2)	Jan. 3, 1975	Landers, Paul	National	B-727	None	Carrying a rifle hijacker climbed over a fence at Pensacola, Fla., airport, boarded an out of service aircraft and told the 3 men who were aboard cleaning the aircraft that he was going to hijack the plane. 2 of the men disarmed and overpowered the hijacker.
(2)	Jan. 7, 1975	Madrid, Saed	(F) British Airways (United Kingdom).	BAC-111	Manchester/London, England	Pointed pistol at stewardess, threatened to blow up plane with hand grenade. Landed London, passengers deplaned. Hijacker demanded £100,000 British, a parachute and flight to Paris, France. Money and parachute delivered. Aircraft took off pretended to go to Paris but landed at Stansted Airport, Essex, England. Hijacker captured while running from the plane with a hostage. Gun and handgrenade were not real.
(2)	Jan. 13, 1975	Wright, Laughlin	Eastern	B-727	Atlanta/Philadelphia	Pounded on cockpit door,demanded to be flown to San Juan, P.R., agreed to land at Dulles Airport, Washington, D.C., to refuel. On landing, hijacker locked himself in a restroom. Passengers deplaned then police boarded and apprehended hijacker. He was not armed. Committed to mental institution on Mar. 28, 1975.
(2)	Feb. 22, 1975	Siqueira, Joe., Jr	(F) VASP (Brazilian)	B-737	Goiania/Brazilia, Brazil	Shortly after take off from Goiania hijacker carried an infant to the cockpit. At the door put the infant down and grabbed a stewardess around the neck and put a gun to her head. Then took copilots seat and pointed the gun at the pilot. During 8 hr of negotiations hijacker demanded 10,000,000 cruzeiros ($1,300,000) guns, parachutes, and release of 2 prisoners. 4 police slipped aboard when hijacker allowed women and children to deplane. Hijacker shot and captured.
(2)	Feb. 23, 1975	Al Awadi, Ali Ben Ali	(F) Yemen Airlines (Yemeni)	DC-3	Hodeida/Sanaa, Yemen	Armed with a pistol demanded flight to Abu Dhabi. Landed Qizan, Saudi Arabia, to refuel. Hijacker captured as soon as plane landed; sentenced to death Mar. 2, 1975. Committed to life imprisonment Mar. 2, 1975.
(2)	Feb. 25, 1975	2 men	(F) Philippine Airlines (Philippines).	DC-3	Pagadian/Zamboanga, Philippines.	Armed with hand grenades took a rifle from an air marshal. Required return to Cebu City, Philippines, where 12 passengers were released and then flew to Manila. Demanded Philippine President grant 1 of the hijackers a pardon on previous jail sentence. President agreed. After 10 hr negotiations hijackers surrendered. Sentenced to die before firing squad.
(2)	Mar. 1, 1975	Naimi, Taha; Al-Qeitan, Faud; Hasan, Ahmad.	(F) Iraqi Airways (Iraqi)	B-737	Mosul/Baghdad, Iraq	Landed Tehran, Iran. Demanded $5,000,000 and release of 85 Kurdish prisoners jailed in Iraq. Threatened to blow up the plane and all aboard. During the flight a security officer shot and seriously wounded Hasan and shot at the others. The hijackers returned the fire. Two passengers killed, 7 passengers injured. After landing the passengers managed to deplane and the hijackers surrendered. Naimi and Al-Qeitan executed by firing squad on Apr. 7, 1975. Hasan died from wounds received during hijacking.
(2)	Mar. 2, 1975	Grosser, Alexander	Air New England	Twin Otter	Hyannis/Nantucket, Mass	Boarded aircraft which was preparing for aircraft positioning trip. Only pilot aboard. Claimed to have a knife and demanded flight to New Haven, Conn. Pilot refused and radioed for help. Trucks blocked aircraft. Pilot deplaned. Police boarded and seized hijacker. Convicted Apr. 9, 1976 for carrying weapon aboard aircraft.
(1)	Mar. 6, 1975	Gonzales, Ralph; Rodriguez, Edward E.	Sawyer Aviation (G/A)	Cessna 310	Phoenix/Tucson	Hijackers chartered aircraft for flight to Tucson. Pointed gun at pilot and forced him to fly to a private airstrip south of Nogales, Mexico. The hijackers turned the plane and pilot over to a group that met the plane. Pilot escaped Mar. 7, 1975. Rodriguez captured in Las Vegas, Nev., Mar. 21, 1975. Gonzales surrendered to Federal agents Apr. 11, 1975. Gonzales and Rodriguez sentenced to 6 yr in prison for kidnaping.

See footnotes at end of table.

Results	Date	Name	Airline	Type aircraft	Flight plan	Disposition
(2)	Apr. 9, 1975	Oshima, Kazuo	(F) Japan Airlines (Japanese)	B-747	Sapporo/Tokyo, Japan	Pointed gun at steward and demanded 35,000,000 yen (about $100,000). After landing at Tokyo, police boarded and overpowered hijacker while he was talking to the pilot. The hijacker fired his weapon once in the struggle. No one was injured.
(4)	Apr. 25, 1975	Covey, Francis P	United	B-727	Raleigh/Newark	Claimed to have a gun and bomb. After landing at Atlanta he allowed all but 1 crewmember to deplane. All passengers and crew got off. Law enforcement officers boarded and took hijacker into custody. He had no weapon or explosive. Sentenced to 5 yr for conveying false information regarding destruction of aircraft.
(2)	May 15, 1975	Crawford, Deborah Lynn	United	B-737	Eugene/San Francisco	Approached stewardess saying that she did not want to go to San Francisco, that she had a knife and would use it if necessary. As plane came in for landing girl was placed under control and held by crewmember until police arrived.
(1)	June 6, 1975	Colosky, Morris	Hi-Lift Helicopters Inc. (G/A)	Bell 47-J2 helicopter	Plymouth/Lansing	After chartering flight hijacker allegedly put knife to throat of pilot and demanded to be flown to Southern Michigan Prison. Aircraft landed and was joined by 1 waiting inmate. Flew to point 6 mi north of prison, reportedly maced pilot in the face, then escaped in waiting vehicles. Convict apprehended June 7, 1975. Colosky captured on June 17, 1975. Colosky sentenced to 20 yr for aircraft piracy on Nov. 20, 1975.
(1)	June 28, 1975	Gakof, Nodsio I	Bulgarian (F) (Bulgaria)	Antonov 24	Varna/Sofia	Armed with a revolver forced plane to fly to Thessaloniki, Greece. Hijacker asked for political asylum.
(2)	July 28, 1975	Oshima, H	F (All Nippon) (Japanese)	Lockheed Tristar	Tokyo/Hokkaido	Youth broke into cockpit feigning knife. He allowed the plane to return to Tokyo where all passengers and crew disembarked. Police then rushed into aircraft and arrested the man.
(2)	Aug. 16, 1975	McNair, Roper	General Aviation	Piper Cherokee	None	Approached plane as it was preparing for departure. Armed with gun he demanded to be flown to Jamaica, Puerto Rico, and Madrid. Pilot landed near Fayetteville, N.C., and managed to escape leaving hijacker with 1 remaining hostage. Hijacker commandeered car and proceeded to airport where he was finally persuaded to surrender.
(4)	Sept. 9, 1975	Laurent, P.; Laurent, C.; Charles, E.	Haiti Air Inter (F) (Haiti)	Dehavill and Twin Otter.	Port au Prince/Cap Haitien	Hijackers entered cockpit, held knife to throat of pilot and ordered flight to Cuba. Plane landed at Gonaives to refuel where 2 passengers overpowered and subdued hijackers.
(2)	Sept. 15, 1975	Saloman, F	Continental	B-727	None	Hijacker, along with 2 hostages, entered parked aircraft where he took 2 more hostages. 2 of the 4 subsequently escaped, 1 was shot by the hijacker and seriously wounded. Hijacker stepped out of aircraft and pointed pistol at police officer. He was then fatally shot by police marksman.
(2)	Sept. 27, 1975	Marketos, S	Olympic (F) (Greece)	SC-7	Athens/Mikonos	Young man entered cockpit holding spray bottle claiming it contained nitric acid. Crew overpowered the man and turned him over to authorities at Mikonos.
(1)	Oct. 5, 1975	Several men	Aerolineas Argentinas (F) (Argentina)	B-737	Buenos Aires/Corrientes	Aircraft was hijacked by a band of leftist guerrillas. Landed in small provincial capital of Formosa where all passengers disembarked. Plane took off but ran short of fuel and landed at Rafaela where guerrillas ran from aircraft and escaped.
(2)	Oct. 7, 1975	Morales, Canislo	Philippine Air Lines (Philippines).	BAC-111	Davao/Manila	Hijacker armed with pistol and hand grenade demanded to be flown to Benghazi, Libya. Plane landed in Manila where hijacker allowed some passengers to disembark. Hijacker surrendered to authorities 9 hr after nijacking began.
(1)	....do	Ralph, Ronald E.; Burke, David P.; Murphy, Jeffrey.	Atlantic Aero (GA)	Cessna 177	Greensboro, N.C./Atlanta, Ga.	Pointed gun at pilot and demanded to be flown to Florida. All 3 were subsequently apprehended. Ralph and Burke were sentenced to 20 yr, January 30, 1976.
(2)	Nov. 8, 1975	Johnson, Jack R	Tri State Aero (GA)	Cessna 150	Evansville, Ind./none	Young man chartered flight for "joy ride" around Evansville. Pointed gun at pilot and told him to dive the aircraft into the ground. As plane was in dive pilot managed to push the hijacker out of the aircraft to his death.
(1)	Nov. 24, 1975	Schmidt, Gary; Warren, Aka Bruton, Gary C.	California Air Charter G/A	Piper Navajo	Palomar, Calif./Dallas, Tex.	Man chartered aircraft reportedly to transport musical instruments to Dallas. Once in the air, hijacker pulled gun and demanded to go to Mexico. Plane landed and became mired in mud. Several individuals approached aircraft and began to unload contents into waiting vehicles. Later they set the aircraft on fire. Pilot was eventually released unharmed.
(2)	Dec. 22, 1975	Rodelo, R	SAM Airlines (Colombian) G/A	Beechcraft D-80	Barran Cabermeja/Medellin	Man entered cockpit after takeoff. Permitted aircraft to land at Medellin. Upon landing he demanded money and safe conduct to an unspecified location. Local authorities boarded the aircraft, shot and wounded the hijacker and took him into custody.
(4)	Jan. 5, 1976	Dono, Prudencio; Dono, Renato	Japan Airlines (Japan)	DC-8	Bangkok/Tokyo	2 armed men seized aircraft as it was about to depart from Manila. They threatened a stewardess but eventually agreed to release all the passengers in exchange for a flight to Tokyo. Japan refused clearance for entry and hijackers subsequently surrendered to authorities.
(2)	Feb. 29, 1976	Cardona, Jose	Aces Airlines (Colombian) (GA)	Saunders ST-27	Medellin/Apartado	Armed individual hijacked aircraft and demanded $300,000. The aircraft landed at Chigordo where all the passengers and a stewardess were forced to disembark. Plane then returned to Medellin where the hijacker entered into a gun battle with police. The man was shot during the battle and died later in a hospital.

See footnotes at end of table.

CIVIL AVIATION SECURITY SERVICE—Continued

FEDERAL AVIATION ADMINISTRATION—DOMESTIC AND FOREIGN AIRCRAFT HIJACKINGS (AS OF JAN. 1, 1977)

Results	Date	Name	Airline	Type aircraft	Flight plan	Disposition
(1)	Apr. 7, 1976	3 men	Philippine Airlines (Philippines).	BAC-111, DC-8	Cagayan de Oro/Mactan	3 men hijacked aircraft and demanded $300,000 and release of numerous political prisoners. At Manila, hijackers exchanged all the passengers for another set of hostages and $300,000 in cash. During the next 6 days the hijackers flew to Kota Kinabalu, Kuala Lumpur, Bangkok, Karachi, and Benghazi. At Benghazi the hijackers released the remaining hostages and asked for political asylum.
(2)	Apr. 18, 1976	Lentz, Roger	Heinzmann Engineering Co. (GA).	Piper Navajo	Grand Island, Nebr./none	Man armed with shotgun and pistol demanded to be taken to Mexico. Plane landed at Denver, departed Denver twice but returned both times. Hijacker eventually deplaned small aircraft and boarded larger aircraft along with 2 hostages. Fatally shot by authorities as he walked down the aisle of the aircraft.
(1)	Apr. 24, 1976	Hernandez, Alfonso	Avianca (Colombia)	B-727	Pereira/Bogota	A man armed with a pistol hijacked the aircraft as a protest against the "neglect of peasants." The man surrendered to authorities at Bogota without incident.
(2)	Apr. 30, 1976	Egder, Zeki	Turkish Airlines (Turkey)	DC-10	Paris/Istanbul	Man armed with knife threatened a stewardess and attempted to force the plane to land at Marseille or Lyon. The plane was unable to land at either site and instead returned to Paris where the hijacker surrendered to authorities without incident.
(2)	May 13, 1976	Solesby, Franklin M	Royal American Flyers, Inc. (G/A).	Cessna 210	Denver/Houston	Man chartered small aircraft from Denver to Houston. After plane was in the air he produced a pistol and attempted to fire but pistol failed to discharge. A struggle ensued between the hijacker and 1 of the 2 pilots aboard aircraft. The hijacker was disarmed and subdued. Turned over to authorities at Lamar Colo.
(2)	May 21, 1976	6 men	Philippine Airlines	BAC-111	Davao/Manila	6 moslem rebels hijacked aircraft and forced it to land at Zamboanga. Hijackers demanded $375,000 and an aircraft to fly to Libya. After hours of negotiations, a gun battle broke out between the hijackers and security forces. Grenades were set off aboard the aircraft. 10 passengers killed and 22 injured. 3 of the terrorists were killed and another 3 were injured. 3 surviving hijackers sentenced to death November 4, 1976.
(1)	June 27, 1976	4 people	Air France	Airbus A-300	Tel Aviv/Athens/Paris	Aircraft hijacked shortly after departure from Athens. Landed Benghazi, Libya, to take on fuel, then proceeded to Entebbe Airport, Uganda. Hiajckers and over 250 hostages left hijacked aircraft and entered airport building at Entebbe. Hijackers demanded the release of 53 pro-Palestinian prisoners in numerous countries in exchange for the hostages. During the course of the negotiations, approximately 150 hostages were released, leaving as hostage those with Israeli passports and the Air France crewmembers. On the evening of July 3, Israeli commandos launched a rescue operation at the Entebbe Airport. 3 hostages were killed; all others were rescued. All hijackers, some Ugandan troops and 1 Israeli commando, killed in the operation.
(1)	July 6, 1976	Hasdlumagid, Mustafa	Libyan Airlines	B-727	Tripoli/Benghazi	A man armed with 2 replica pistols and 2 knives hijacked the aircraft and ordered it to Tunis. The aircraft was denied landing and finally flew to Palma de Mallorca where the hijacker surrendered.
(2)	Aug. 23, 1976	3 men—Ali Ahmad Osman; Muhammad Ahmad Najib; Ahmad Muhammad Sulayman.	Egyptair	B-737	Cairo/Luxor	Hijacking terminated in Luxor where hijackers were overpowered by security forces. Supreme Egyptian military sentenced hijackers to fines and prison for life on September 18, 1976.
(2)	Aug. 28, 1976	1 Vietnamese male	Air France	Caravelle	Saigon/Bangkok	Aircraft commandeered as it was about to depart Saigon. Hijacker released passengers and crew. Authorities rushed aircraft. Hijacker then set off 2 grenades killing himself and damaging the aircraft.
(2)	Sept. 4, 1976	3 Arabic-speaking men	KLM (Netherlands)	DC-9	Nice/Amsterdam	Aircraft hijacked by 3 persons while en route from Spain to Amsterdam. Plane rerouted to Tunisia, Cyprus, and Israel where it circled offshore. Plane returned to Cyprus and hijackers surrendered and turned over to Libyan Embassy. No injuries.
(5)	Sept. 10, 1976	6 men	Indian Airlines	Boeing 737	New Delhi/Bombay	Hijacking occurred shortly after plane took off from New Delhi's International Airport. Destination unspecified. Forced to land Lahore, Pakistan. Hostages released (77 passengers and crew). 6 men arrested. Pakistan Government released 6 hijackers on grounds insufficient evidence available for prosecution.
(1)	....do....	Busic, Zvonko; Busic, Julienne; Matovic, Petar; Pesut, Frane; Vlasic, Mark.	TWA-355	B-727	La Guardia, New York/Chicago	Flight en route LGA-ORD. 4 men, 1 woman boarded at LGA. False bombs on 1 hijacker's person. No weapons, but claimed same. Demanded flight to major U.S. and foreign cities to drop Croatian nationalists leaflets. Bomb left in New York killing 1 policeman. Flight forced to Gander, New Foundland, Iceland, and France. Hijacking terminated in France. Hijackers returned to New York to face air piracy and murder charges.
(1)	Oct. 28, 1976	Bevcar, Rudolf (Nov. 19, 1950 DOB).	Polish IL-18 (flight 313)	IL-18	Prague/Bratislava	Hijacked by 1 male armed with submachine gun and pistol. Entered aircraft shortly before takeoff and commandeered and forced crew to fly to Munich. Surrendered to Bavarian authorities. No injuries. Hijacker in custody Munich City police.
(1)	Nov. 4, 1976	Karoszinski, Jaroslaw		TU-134	Copenhagen/Warsaw	Polish state airline hijacked to Vienna by 1 male using dummy "bomb" made with bread colored with shoe polish. Landed at Vienna and hijacker surrendered. No injuries. 29 passengers, 7 crew.

See footnotes at end of table.

Results	Date	Name	Airline	Type aircraft	Flight plan	Disposition
(5)	Dec. 21, 1976	Hinnant, Jr., Palmtree (July 13, 1939 DOB).	UA	DC-8		United Air Lines employee boarded empty DC-8 while on ground at San Francisco Airport. Hijacker demanded be provided crew to fly to somewhere on east coast. Held 2 hostages, Hijacker surrendered. No fatalities. Assistant U.S. attorney, San Francisco, deferred prosecution to local authorities.

[1] Successful to other than Cuba.
[2] Unsuccessful to other than Cuba.
[3] Successful to Cuba.
[4] Unsuccessful to Cuba.
[5] Extortion.
[6] Destination unknown—unsuccessful.

Note: 1. Names of individuals listed as hijackers of non-U.S. aircraft are not verified and may be aliases. 2. Abbreviations: (F) foreign; (J) juvenile; (S) servicemen; (P) prisoner under escort; (G/A) general aviation.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Omnibus Anti-Terrorism Act of 1977 be referred to the Committee on Governmental Affairs, and that when the bill is reported by the Committee on Governmental Affairs, it be referred to the Committee on Foreign Relations for a period not to exceed 30 days.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S 1243

At the request of Mr. CHURCH, the Senator from Colorado (Mr. HASKELL), the Senator from New Hampshire (Mr. DURKIN), the Senator from New York (Mr. JAVITS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Illinois (Mr. PERCY), the Senator from Kentucky (Mr. FORD), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Delaware (Mr. BIDEN), were added as cosponsors of S. 1243, to amend title II of the Social Security Act.

S. 1556

At the request of Mr. HANSEN, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of S. 1556, to amend title 38, United States Code.

S. 1838

At the request of Mr. NELSON, the Senator from Tennessee (Mr. SASSER), the Senator from Minnesota (Mr. HUMPHREY and Mr. ANDERSON), the Senators from Missouri (Mr. EAGLETON and Mr. DANFORTH), the Senator from Alabama (Mr. SPARKMAN), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from New York (Mr. JAVITS), the Senator from Maine (Mr. HATHAWAY), the Senator from Colorado (Mr. HASKELL), the Senator from Connecticut (Mr. WEICKER), the Senator from Pennsylvania (Mr. HEINZ), and the Senators from North Dakota (Mr. YOUNG and Mr. BURDICK) were added as cosponsors of S. 1838, calling for fair representation of small businesses on governmental advisory committee.

S. 2020

At the request of Mr. CRANSTON, the Senator from Montana (Mr. MELCHER) and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 2020, to amend the Longshoremens' and Harbor Workers' Compensation Act.

S. 2103

At the request of Mr. PACKWOOD, the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 2103, to exempt disaster payments from any payment limitations for crop year 1977.

S. 2159

At the request of Mr. KENNEDY, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 2159, to amend the Public Health Service Act.

S. 2197

At the request of Mr. STONE, the Senator from New Hampshire (Mr. MCINTYRE) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 2197, to amend title 38 of the United States Code to provide mortgage protection life insurance to certain veterans.

S. 2213

At the request of Mr. WILLIAMS, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 2213, to amend the Internal Revenue Code of 1954.

S. 2227 AND S. 2228

At the request of Mr. HARRY F. BYRD, JR., the Senator from Wyoming (Mr. HANSEN) was added as a cosponsor of S. 2227 and S. 2228, bills to amend the Internal Revenue Code of 1954.

SENATE RESOLUTION 114

At the request of Mr. ANDERSON, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of Senate Resolution 114, relating to a study of the telecommunications policies of the Federal Government.

SENATE JOINT RESOLUTION 69

At the request of Mr. NELSON, the Senators from Minnesota (Mr. HUMPHREY and Mr. ANDERSON), the Senators from Missouri (Mr. EAGLETON and Mr. DANFORTH), the Senator from Alabama (Mr. SPARKMAN), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from New York (Mr. JAVITS), the Senator from Maine (Mr. HATHAWAY), the Senator from Colorado (Mr. HASKELL), the Senator from Connecticut (Mr. WEICKER), the Senator from Pennsylvania (Mr. HEINZ), and the Senators from North Dakota (Mr. YOUNG and Mr. BURDICK) were added as cosponsors of Senate Joint Resolution 69, a joint resolution requiring each executive department and agency to designate a senior official as a point of contact for the small business community.

SENATE JOINT RESOLUTION 93

Mr. DOMENICI. Mr. President, on October 19 when I introduced Senate Joint Resolution 93, a resolution relating to the excess land provisions and residency requirements of the Federal reclamation laws, my distinguished colleague from Arizona (Mr. DECONCINI) was inadvertently omitted as an original cosponsor. I ask unanimous consent that the record be corrected to show Senator DECONCINI as an original cosponsor of Senate Joint Resolution 93.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senator from Kansas (Mr. DOLE), the Senator from Idaho (Mr. CHURCH), and the Senator from Arizona (Mr. GOLDWATER) be added as cosponsors of Senate Joint Resolution 93, relating to the excess land provisions and residency requirements of the Federal reclamation laws, as amended and supplemented.

The PRESIDING OFFICER. It is so ordered.

SENATE RESOLUTION 299—SUBMISSION OF A RESOLUTION COMMENDING THE FUTURE FARMERS OF AMERICA

(Referred to the Committee on Agriculture, Nutrition, and Forestry.)

Mr. TOWER submitted the following resolution:

S. RES. 299

Whereas, the Future Farmers of America, a vocational student organization, is an integral part of the instructional program in vocational agriculture/agribusiness;

Whereas, the Smith-Hughes Act of 1917 established Federal support for the teaching of vocational agriculture in high schools across the Nation;

Whereas, students of vocational agriculture prepare themselves for roles of leadership and careers in the industry of agriculture which constitute this Nation's efforts to provide food and fiber for the people of the United States and much of the world;

Whereas, the Future Farmers of America provides an outlet for the energy, initiative, and expertise of nearly 510,000 students in 8148 high schools in every State of the Union, Puerto Rico, and the Virgin Islands; and

Whereas, the Future Farmers of America will have its Golden Anniversary Convention November 8–11, 1977, in Kansas City, Missouri: Now, therefore, be it

Resolved, That the United States Senate commends the Future Farmers of America for the contributions it has made in sustaining our Nation's most basic industry of agriculture through developing leadership, encouraging cooperation, promoting good citizenship, teaching sound agricultural techniques and principles, and preparing our Nation's young men and women for careers in the industry of agriculture.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Future Farmers of America.

Mr. TOWER. Mr. President, in 1972, I was honored to be the first member of the U.S. Senate to become a life member of the National Future Farmers of America Alumni Association. The orga-

nization is one of the supportive organizations of the Future Farmers of America, or the FFA as it is commonly known.

The Smith-Hughes Act of 1917 laid the groundwork and foundation for the teaching of vocational agriculture in high schools across this Nation, a vital part of our educational programs in the United States. The FFA, a vocational student organization, is an integral part of the instructional program in vocational agriculture/agribusiness.

Since its humble beginnings 50 years ago, the FFA has endeavored to aid in the preparation of young men and women for careers in the industry of agriculture. The organization, now boasting nearly 510,000 students in nearly 8,200 schools throughout the United States, has successfully prepared these young people for roles of leadership in the agricultural industry. It has given us producers and suppliers of agricultural products. It has given us community and business leaders, Senators, Representatives, Governors, commissioners of agriculture, and the President of the United States.

Having had several opportunities to address the future farmers, I have seen the dedication and skills instilled in our young people as they attempt to provide even greater vitality to this Nation's most vital and basic industry, the industry of agriculture.

In 2 weeks, the Future Farmers of America will convene for its 50th anniversary convention in Kansas City, Mo. Because of the contributions it has made to our agricultural industry and the people of this Nation by providing food, fiber, services, and leadership, I think it is only fitting that we commend them in their golden year.

I sincerely hope that you will join me by lending your support to this resolution. In addition, Mr. President, I hope that the Senate will be willing to act swiftly in order that the members of the FFA will be knowledgeable of our appreciation and commendation when they convene in Kansas City.

SENATE RESOLUTION 300—SUBMISSION OF A RESOLUTION RELATING TO AIRPLANE HIJACKING

(Referred to the Committee on Foreign Relations.)

Mr. DOLE (for himself and Mr. RIBICOFF) submitted the following resolution:

S. RES. 300

Whereas international airline hijackings have become a calculated tool of terrorist groups for achieving certain demands;

Whereas any international airline hijacking may present a serious threat to the lives, health, and comfort of the passengers and crew, of whatever nationality;

Whereas certain governments have, on occasion, provided sanctuary or asylum to airline hijackers; and

Whereas the granting of sanctuary for hijackers can be viewed as an irresponsible sovereign act insofar as such act may encourage further hijacking and terrorism: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should instruct the United States Ambassador to the United Nations—

(1) to submit to the General Assembly for consideration during the current session a resolution expressing an agreement by all United Nations members to deny sanctuary to international airline hijackers;

(2) to direct the active efforts of the United States delegation to the United Nations towards securing international cooperation in reducing, and eventually eliminating, the incidence of air line hijackings and other acts of terrorism and towards enhancing airport security systems worldwide; and

(3) to call upon all United Nations members to adhere to the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the President.

Mr. DOLE. Mr. President, I am today submitting a Senate resolution which has, as its objective, the deterrence of international airline hijacking. To accomplish this, my resolution calls upon the President—working with his Ambassador to the United Nations—to encourage all members of the United Nations to cooperate in specific efforts to discourage air piracy.

My resolution expresses the sense of the Senate that the President should instruct the U.S. Ambassador to the United Nations to first, submit a general assembly resolution denying sanctuary in any country to persons engaging in international hijackings; second, direct our delegation's work within the U.N. toward securing full international cooperation in related areas, including improvement in airport security systems, worldwide; and third, call upon other member nations to adhere to the 1970 Hague Convention for suppressing international air piracy.

THE PROBLEM

Mr. President, just last week a West German airliner was commandeered by 4 hijackers over the Mediterranean Ocean, and 86 hostages—including 2 Americans—were terrorized for hours until they were freed in Somalia by a West German commando raid. The scenario is familiar to us all; it has happened far too often. During the first 6 months of this year, 14 hijacking attempts were made outside the United States. Since June, another nine have occurred. That the incidence of airline hijacking within the United States is much lower—only four attempts during 1976—is largely due to superior security precautions taken at all major U.S. airports. Unfortunately, the Government of Cuba recently refused to renew an antihijacking accord with the United States that had been in effect since 1973, and I truly hope that this action does not encourage hijacking in this country.

But security at airports and aboard airlines varies widely from nation to nation. Hijacking precautions in Spain, Greece, and certain Arab States, I understand, are far more lax than in Western Europe or the United States. Certainly, careless security measures in some countries undermine the responsible efforts of others. By the same token, a willingness on the part of some nations to harbor hijackers defeats the common efforts to curb hijacking activity, most

Late last week, the International Federation of Airline Pilots Association threatened an international strike, which was averted only by an agreement to raise the hijacking issue in the United Nations General Assembly this week. The pilots association is looking for assurances from U.N. members of greater protections against air piracy and guarantees against providing sanctuary for hijackers. I understand that the General Assembly debate will begin today, and it is for that reason that I believe the United States should take positive initiatives at this time to achieve greater cooperation in preventing international hijackings.

THE SOLUTION

A solution to the rampant hijacking activity, it seems to me, lies both in strengthening internal security and in taking collective international action to punish terrorism. This will require, on the part of all nations, a strengthening and standardization of airport security measures, so that there are no "weak links" in the chain of internal security. In addition—and most importantly—it will require universal refusal to grant asylum to those who engage in hijacking activity. The full exercising of extradition and prosecution measures, through international cooperation, will be one of the best disincentives to this terrorist action.

This will require, in particular, the full cooperation of the nations of Africa and Asia. If the potential terrorist knows in advance that he will have no place to run after committing his crime, the chances of his carrying it through will be far lessened.

There have been earlier international effort to suppress the despicable action. notably the 1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft, and the 1971 Montreat Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aircraft. These Conventions provided a distinct service in classifying air piracy as an international crime and in calling for the extradition and prosecution of hijackers. But the effects of these Conventions have been limited. Approximately one-third of the members of the United Nations do not adhere to the pacts, and some nations apparently see the conventions as an infringement on national sovereignty. Further efforts in this direction, however, are both necessary and timely.

DOLE RESOLUTION

Although the need for universal cooperation in discouraging airline hijackings has been addressed before, previous United Nations efforts have fallen short. A renewed effort, led by the United States, would be most appropriate at this time.

COMPLEMENTS RIBICOFF BILL

The resolution I am proposing will supplement single-handed efforts by the United States to discourage international hijackings. I commend the distinguished Senator from Connecticut, Mr. RIBICOFF, for his proposal to suspend

U.S. aid and airline service to nations which refuse to cooperate in the extradition and prosecution of airline hijackers. The Senator from Kansas believes his resolution will properly coordinate with, and supplement the efforts by the Senator from Connecticut. The United Nations is an excellent forum for our efforts to obtain full international cooperation in this regard, and the General Assembly debate on the issue this week makes this effort all the more timely.

It must be emphasized that an agreement not to provide sanctuary to airline hijackers does not constitute—in the proper sense—a limit on national sovereignty, but rather a joint cooperative effort for the universal good. International airline hijacking has become a serious threat to the lives, to the health, and to the comfort of passengers and crews of all nationalities. Sanctuary for terrorists can be construed as nothing other than irresponsible sovereign action, and should be condemned by all humanitarian governments.

More and more, we are witnessing a "tough" reaction by concerned governments in combating the hijacking phenomenon. We have witnessed commando raids in Uganda and Somalia which freed scores of innocent passengers from the terrorist nightmare. Those who risked their own lives to free the innocent are to be highly commended for their selflessness.

But we must concentrate as well on "preventatives," and this is what the Senator from Kansas seeks to promote by offering this resolution. I urge the Members of the Senate Foreign Relations Committee to act expeditiously in reporting the resolution so that the full Senate may express itself on the issue.

SENATE RESOLUTION 301—SUBMISSION OF A RESOLUTION RELATING TO AIRPLANE HIJACKING

(Referred to the Committee on Foreign Relations.)

Mr. DOLE submitted the following resolution:

S. RES. 301

Whereas the International Labor Organization (ILO) receives approximately $25,000,000 annually from the United States which is used to finance aggression against this Nation's interests;

Whereas the ILO's main purpose to bring together representatives of workers, employers, and governments throughout the world is no longer adhered to;

Whereas the ILO's selective concern with human rights has resulted in the rejection of the report of one of its committees citing violations of the rights of workers in the Soviet Union and Czechoslovakia;

Whereas the ILO has disregarded its own established due process; and

Whereas the ILO has allowed the increasing politicization of the organization: Now, therefore, be it

Resolved, That it is the sense of the Senate that United States' membership in, and payment of dues to, the International Labor Organization should terminate until such time as the Congress of the United States determines that the ILO has—

(1) returned to its basic principle and purpose of promoting unity among workers, employers, and governments throughout the world;

(2) returned to a consistent practice of adhering to its established due process and rules and regulations;

(3) returned to a universal concern for human rights; and

(4) returned its major concentration to issues within the jurisdiction of the organization as opposed to political concentration on issues outside the jurisdiction of the organization.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

THE INTERNATIONAL LABOR ORGANIZATION

Mr. DOLE. Mr. President, recently we have heard much concerning whether the United States should withdraw or maintain its membership in the International Labor Organization. This issue has resulted from the apparent erosion of the organization's founding principles in recent years.

Approximately 2 years ago, the United States notified the International Labor Organization of its intention to withdraw from the organization. According to the constitutional provisions of the ILO this withdrawal could not take effect until 2 years after such notification.

In approximately 2 weeks, on November 5, 1977, the 2-year notification will have expired, and President Carter will have to decide whether the United States will remain a member of the International Labor Organization or withdraw its membership.

ILO: WHAT IT USED TO BE

Since its creation in 1917, the ILO has primarily been concerned with the rights, living, and working conditions of the world's workers. It has also been dedicated to promoting peace and social justice by fostering the social and economic well-being of the world's people. To this end, the ILO has worked hard for decent living standards, satisfactory conditions of work, and pay and adequate conditions of employment for workers throughout the world.

The ILO currently has 132 member nations whose representatives include, in a unique tripartite structure: workers, employers, and governments.

ILO: WHAT IT IS TODAY

Today, however, the ILO appears to be turning away from its basic aims and objectives. It is increasingly being used for purposes which serve the interest of neither the workers, for which the organization was established, nor nations which are committed to free trade unions and an open political process.

EROSION OF REPRESENTATION OF WORKERS, EMPLOYERS, AND GOVERNMENTS

The erosion of representation of workers, employers, and governments refers to the issues of membership for those countries which do not elect independent worker and employer representatives, and the right of nationals from these member nations to hold important positions where they are determining policy and expenditures in an organization devoted to promoting the rights to organize and strike.

In 1970, the ILO strength began to erode with the appointment of a Soviet national as an ILO assistant director general. The Senator from Kansas would like to point out that this appointment was made without consultation with the United States, a member nation whose dues consistently comprise approximately 25 percent of the organization's total budget.

SELECTIVE CONCERN FOR HUMAN RIGHTS

It seems that the ILO has investigated violations of ILO conventions, particularly in regard to freedom of association and forced labor, in some member states while not citing violations in others. A U.S. worker delegate to the ILO has criticized the ILO for having a double standard with its concern with forced labor in Liberia but not with slave camps of the U.S.S.R. and with denial of freedom of association in Chile but not in Czechoslovakia or Cuba. It seems to the Senator from Kansas that human rights are not universally applicable but rather subject to different interpretations for different political systems.

DISREGARD OF DUE PROCESS, RULES, AND REGULATIONS

The normal procedures for implementation of ILO conventions has been undermined, and more recently, the ILO conferences have adopted resolutions condeming member-states in total disregard to the established rules and regulations. It has been noted that ILO forums have been used by the U.S.S.R. and other communist nations for political attacks on the United States and others.

For example, recently the ILO rejected a rules change, sponsored by the United States, that would screen resolutions to prevent the ILO from dealing with political matters not germane to its mission. In addition, it refused to adopt one of its committee reports, which cited violations of the rights of workers in the Soviet Union and Czechoslovakia.

INCREASED POLITICIZATION

Another major objection to the ILO is the increasing politicization of the organization. This view maintains that the ILO has become increasingly involved in political issues that should remain in organizations such as the United Nations. While there are political issues which fall within its mandate, it seems that more time in ILO meetings has been devoted to political issues nongermane to the principal goals and objectives of the organization.

DOLE RESOLUTION

Mr. President, my resolution is a simple resolution—but an important resolution that addresses the concerns of working men and women, employers, and governments throughout the world.

My resolution calls for the termination of U.S. membership in the International Labor Organization until such time as the Congress of the United States determines that the ILO has:

First. Returned to its basic principle and purpose of promoting unity among workers, employers, and governments throughout the world;

Second. Returned to a consistent practice of the ILO's established due process and rules and regulations;

Third. Returned to a universal concern for human rights; and

Fourth. Returned its major concentra-

tion to issues mandated by the organization as opposed to political concenration on issues beyond the mandate of the organization.

WHY THE UNITED STATES SHOULD WITHDRAW NOW

Mr. President, we will no doubt, hear from those who will argue that the ILO has begun to reform itself enough for the United States to retain its membership. An additional belief is that, given 1 more year, the organization could return to the credible organization it was when it enjoyed strong support from the United States.

The question the Senator from Kansas would raise concerning this 1-year extension is: Why should we believe that the ILO can reform in 1 year when it could not do it in 2?

The Senator from Kansas would point out that when the United States gave its 2-year warning, the ILO's extremist majority continued to violate the basic principles of the organization. Why should we expect that the further erosion of the basic principles of the ILO will cease with a 1-year extension?

To think that a 1-year extension would provide significant improvements is, in this Senator's opinion, wishful thinking. It seems to me that more change will occur if we withdraw and serve notice that we will rejoin only when positive reform is made.

Mr. President, the U.S. Chamber of Commerce and the AFL–CIO—one of the world's largest labor movements—are united in favor of withdrawal from the ILO.

DOLE RESOLUTION: A RECOMMENDATION TO THE PRESIDENT

While this resolution would not compel the President to carry out this recommended action, the Senator from Kansas believes the Senate should go on record as having expressed its concern on this very important worldwide issue. I, therefore, urge my distinguished colleagues to join me in adopting this resolution.

SENATE RESOLUTION 302—SUBMISSION OF A RESOLUTION RELATING TO REORGANIZATION OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

(Referred to the Committee on Governmental Affairs.)

Mr. McINTYRE (for himself, Mr. ROBERT C. BYRD, Mr. DURKIN, Mr. ABOUREZK, Mr. PERCY, Mr. MCCLURE, Mr. MUSKIE, Mr. BENTSEN, Mr. MCGOVERN, Mr. WALLOP, Mr. YOUNG, Mr. STAFFORD, Mr. JOHNSTON, Mr. HAYAKAWA, Mr. GARN, Mr. CLARK, Mr. DOLE, Mr. LEAHY, Mr. CULVER, Mr. HATHAWAY, and Mr. SCHMITT) submitted the following resolution:

S. RES. 302

Resolved, That the Secretary of Housing and Urban Development should not implement the proposed reorganization of area, field and insuring offices of the Department of Housing and Urban Development prior to the time when the appropriate committees of the Congress have had an opportunity to hold hearings on such reorganization.

HUD REORGANIZATION

Mr. McINTYRE. Mr. President, I am today submitting a resolution relating to the recently announced decision by the Department of Housing and Urban Development to reorganize internal structure. The reason I was first prompted to consider this resolution, Mr. President, was to assure Senate awareness of the exact impact of the reorganization on each area and State represented by this body. This reorganization is not based on legislative reorganization proposals adopted by Congress earlier this year, but represents an attempt to begin to streamline the Federal bureaucracy.

Mr. President, each of us as Representatives of our respective States desires to assure our citizens access to their Government. At the same time, we have a duty to also assure our constituents that Federal services supported by citizens' taxes will return the best services for the lowest cost.

Secretary Harris has given her assurance to the citizens of each State that her new reorganization will provide better service at a lower delivery cost; that each State will receive not only the old level of service but better service.

I believe we can and must have more efficiency in Government while providing the same or better service, and I believe our constituents support Government reorganization.

HUD says greater efficiency will result from this reorganization, and I have been assured by HUD that each Senator and staff has been briefed or will be if a request is made.

Mr. President, since I first announced my intent to submit this resolution, HUD has increased its effort to inform each individual Senator on the impact of the reorganization on the State he represents. We have been briefed, or will be, if a Senator requests. Our course appears clear. Either we accept HUD's assurances that they can deliver, or we can exercise our constitutional prerogative.

The purpose of our earlier vote in favor of reorganizational powers was, in my opinion, a legislative recognition of our desire to give the President the opportunity to restructure the executive branch departments. I can assure my colleagues, however, that, if my State receives less service than we previously received, I will introduce legislation modifying such reorganizational powers.

I must say, however, that I am willing to give reasonable reorganization a chance. Certainly, the present system provides us with a broad opportunity to improve.

Mr. McGOVERN. Mr. President, I want to associate myself with the remarks offered by my colleague from New Hampshire.

Providing a decent home for every American is a challenge this Nation has not met. We have made significant progress. But considering the ruination that plagues vast areas of major cities, to the rural slums that pass as homes for many who live in small towns and the countryside, we still have much work to be done.

I am convinced that the new Secretary of the Department of Housing and Urban Affairs wants to successfully meet the challenge before us. Since taking office, Secretary Harris and her staff have conducted a study into how the Department might better deliver services.

The results of that study are now available and they give us some broad clues as to the method by which the Department believes it can come closer to meeting its program objectives. The overall concept HUD appears to have adopted in the reorganization plans it has put forth is increasing the centralization of staff, facilities, and program support. For South Dakota, the reorganization means that all multifamily housing programs and services now administered by the Sioux Falls insuring office will be moved from Sioux Falls to Denver. On paper it might appear that the new system, operating out of a newly established area office, would be more efficient.

Mr. President, I do not believe it will work. I have talked with a number of lenders, developers, contractors, and operators of multifamily housing projects of every type in my State. They do not believe it will be more efficient for them to have to deal with people in Denver as opposed to Sioux Falls. I ask unanimous consent that a sample of one of the comments that I have received since publication of the Department's plans be printed in the RECORD at the conclusion of my remarks.

The resolution we offer today is intended to make certain that the Banking, Housing, and Urban Affairs Committee of the Senate and the Banking, Finance and Urban Affairs Committee of the House of Representatives, and others, have a chance to examine in detail the implications of the plans that Secretary Harris has outlined. Perhaps the reorganization will be the key to making HUD programs more effective and efficient. But if that is the case, then surely the Department would have no objection to scrutiny by the appropriate committees of the Congress.

Reorganization solely for the sake of reorganization is worse than none at all. People are more important than symmetry on a flow chart. The people who serve South Dakota from the Sioux Falls Insuring Office are the kind of Government employees who debunk the myth of the uncaring, nameless, faceless bureaucrats. The success of Federal housing programs in my State, to a large measure, can be attributed to the energy and dedication of those who administer the program on a local level. It would be a shame to destroy that kind of service and that kind of accountability by increasing the centralization of the Department's programs.

I urge favorable consideration of this resolution in the hope that it will prevent hasty action which we may regret later.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SIOUX FALLS, S. DAK.,
October 18, 1977.

Senator GEORGE MCGOVERN,
Dirksen Office Building,
Washington, D.C.

DEAR SENATOR MCGOVERN: I am submitting some of my concerns regarding the recent announcement to reorganize the HUD

Region VIII structure. I am in favor of a reorganization that will speed up processing and bring some degree of efficiency to HUD so that we who bring the services to the people can do a better job. At this time I fail to see how the proposed reorganization will accomplish that. Specifically I submit the following:

1. Communication from the regional office presently leaves much to be desired. We find out from our personal and national association contacts relevant information long before it filters down from the regional office.

2. The Region does not seem to be able to handle the work it presently has, much less take on additional responsibilities. We submitted requisitions for payment 5–16–77 for payments during quarters ending 6–30–77 and 9–30–77 that still have not been made. On one contract payment was made 8 months late.

3. Our applications for housing units in Sioux Falls were returned to us "because they did not rank high enough." The agency the units were awarded to had no experience in the program administration nor was trained or equipped to handle the program. The decision to ignore our 10 years of expertise was obvious.

4. The painful and costly delays caused by the previous administrations musical chairs in the HUD offices should not happen again.

5. A very recent application for a rent increase which should normally be approved in thirty days, we are advised will take 90–120 days.

6. The previous HUD region left a trail of broken promises that I hope will not happen again. Specific set asides of unit allocations and funding commitments were reneged by the HUD region.

7. South Dakota needs a strengthening of programs and personnel not a cutback. We have proven to be efficient and innovative when given the opportunity.

8. The record of the local FHA office can stand on its merits. More can be done if HUD Washington will allow it.

9. The people we serve deserve more than second rate or hand me down service. South Dakotas share of catching up to the goal of the 1968 Congress of 20 million housing units in 10 years requires additional effort by HUD and private enterprise. Specifically increasing services rather than cutting back. (That goal is presently only ½ achieved).

I urge you to exert your efforts and concern to a system of improving the delivery of assistance to the people.

V. TINKLENBERG,
Director, Sioux Falls Housing & Redevelopment Commission.

THE BANK OF TORONTO,
October 19, 1977.

Re Moving of South Dakota HUD office to Denver.

Hon. GEORGE MCGOVERN,
Washington, D.C.

DEAR SENATOR: It is my personal belief and the belief of my colleagues that it would cause a hardship for the builders and sponsors of HUD projects if Sioux Falls were to be consolidated with Denver. To put this on a more personal basis I own a 236 project of 15 units in Huron, South Dakota. The project was at one time in serious trouble and I went to the Sioux Falls office where Ike Kirkvold and Paul Derr were able to put the project at a payout situation.

The State of South Dakota has approximately 3000 units that are HUD insured and they have not had a single foreclosure. For our population I think the Sioux Falls office has done a tremendous job in serving the area and should be permitted to continue to do so. It would be very hard to have personal contact with the HUD office being located in Denver. It seems to me that only through personal contact and close working relations with builders and sponsors can these projects be kept out of foreclosure. We sincerely seek your help in stopping this consolidation.

Yours very truly,
M. A. LUND, *President.*

ART PUGSLEY CONSTRUCTION CO., INC.,
Huron, S. Dak., October 18, 1977.

Re Palace Apts. Mitchell, S.D., Projects No. 091 44029 LDP SUP; Colonial Apts. Huron, S.D., Project No. 091 44019 LDP SUP; Townhouse Apts, Huron, S.D., Project No. 091 35016 LDC SUP; Fairlane Apts. Huron, S.D., Project No. 091 35026 LDC SUP.

PATRICIA ROBERTS S. HARRIS,
Secretary of Housing and Urban Development, Washington. D.C.

DEAR MS. HARRIS: We have just been informed that the Sioux Falls, South Dakota "HUD Insuring Office" has been changed to a "Valuation Station" for single family units only.

This is of great concern to us as this means we will have to deal with Denver, Colorado Office on our four subsidized multi-family housing projects. Denver is too far away to understand our problems or to be easily available for quick answers to any questions. South Dakota is basically a rural area and our needs are much different than those in Denver which is an urban area. The Denver office is so large and far away that the service could not possibly be as good.

We, therefore are requesting that the Sioux Falls, South Dakota office also be designated as a "Service Office With Multi-Family Housing."

The present HUD Insuring Office has a very good record. They have never had a default on a multi-family housing project. Percentage wise they administer a very high ratio of subsidized multi-family housing according to the population of South Dakota. Also, as far as we are concerned, the personnel and service are both excellent.

We would appreciate it if you would give our suggestion your consideration.

Sincerely,
ARTHUR M. PUGSLEY.

CAPITAL APARTMENTS,
Mitchell, S. Dak., October 18, 1977.

Sen. GEORGE S. MCGOVERN,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR MCGOVERN: It appears from recent news releases that HUD is up for reorganization again and as I understand it, the present proposal would designate the Sioux Falls, South Dakota office as a "valuation station—single family". I assume that if the Sioux Falls office is so designated, service from the Sioux Falls office will be limited to processing new applications on single family dwellings.

I am a housing owner and a participant in subsidized housing for the elderly—low income, being Project No. 091–35012–LDP–SUP, known as Capital Apartments, Mitchell, South Dakota, constructed in 1968 under Section 221(d)(3).

The initial application for this project was handled by the Sioux Falls office. To keep the project on a sound financial basis and to keep up with the constant changes in HUD's regulations has required a good deal of service and I am very thankful to the Sioux Falls office for the excellent cooperation I have received. From my experience the last 8½ years, I hate to think of the problems that I would encounter if the closest HUD service office is in Denver, approximately 700 miles away instead of Sioux Falls, approximately 70 miles away.

Irene and I are proud of Capital Apartments and feel that we have provided a real contribution to 28 low income, elderly families of this community. I am very pleased with the constant service that we have received from the Sioux Falls office in connection with this project. I would certainly want to retain the service and efficiency that we have received and I understand that to do so would require that the Sioux Falls office be designated as a "service office with multi-family housing".

I would appreciate anything you can do to keep the Sioux Falls office as a service office.

Respectfully yours,
ROGER W. BALDWIN.

SIOUX FALLS, S. DAK.,
October 14, 1977.

Hon. GEORGE MCGOVERN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGOVERN: I'm sure you have already received a myriad of letters in regard to the downgrading of the Sioux Falls HUD Insuring Office to a Valuation Station and the moving of the multifamily servicing to Denver, but as one directly affected I want to add my voice to the chorus.

If President Carter wants to cut down on the cost of Government he certainly is going about it in a strange way. Current instructions require that every subsidized, insured multifamily project be visited twice a year—once for a physical inspection of the property and once for a review of subsidy records. There are 103 insured projects in South Dakota. How can he propose to save money making these trips from Denver rather than Sioux Falls! Also, I find it hard to believe that someone from Denver is going to visit the outlying areas such as Mobridge or Eureka, yet we have projects and people to be served in those places too.

My job is one that is being moved to Denver. I don't want to move from South Dakota, yet will be forced to in order to have a job. Why can't the people of South Dakota be served by people from South Dakota.

Anything you can do to keep the servicing of South Dakota HUD projects in the State of South Dakota will be greatly appreciated. Thank you.

Sincerely,
PALMYRA L. SPENCER.

Hon. GEORGE MCGOVERN,
Capitol One D.C.

I understand the South Dakota HUD (FHA) multi-family functions are being moved to the regional office in Denver, Colorado. This is not in the national interest and certainly not in the best interest of the South Dakota citizens.

At least public hearings should be allowed before such a change should take place. Thank you.

ROBERT D. BUCKINGHAM,
President, Midwestern Homes Inc.
DICK RAGELS,
Partner of D. & L. Builders.

Senator GEORGE MCGOVERN,
Senate Office Building,
Capitol Hill, D.C.

Copy of wire sent to Patricia Harris, secretary of Housing & Urban Development.

Relocation of the services provided by the Sioux Falls, South Dakota, H.U.D. Office will be most inconvenient and, we feel, unsatisfactory. We recommend that, as a minimum, Sioux Falls should have a service office with multi-family functions. We would appreciate knowing what prompted this severe reduction in services.

Milton L. Berg Fritzel, Kroeger, Griffin, Berg Architects, Engineers Planning Consultants, 118 South Main Av., Sioux Falls, S. Dak.

LLOYD REALTY &
MANAGEMENT CORP.,
Sioux Falls, S. Dak., October 14, 1977.

Senator GEORGE MCGOVERN,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR MCGOVERN: I was deeply concerned about the news in the Sioux Falls Argus Leader in regard to the closing of the HUD insuring office here in Sioux Falls. We

are a management firm and owners of over 800 units of FHA 236 projects or Section 8 projects in Minnesota and South Dakota. We consider the Sioux Falls office to be the most efficient one we deal with. The time lapse in this office is considerably less than the one out of Denver or Minneapolis.

Whatever you can do to influence Ms. Harris in reconsidering her drastic decision would be appreciated by our organization and the people of South Dakota.

CRAIG LLOYD, *Manager.*

Mr. SCHMITT. Mr. President, I am cosponsoring this resolution submitted by the Senator from New Hampshire because of my concern that the Department of Housing and Urban Development is taking a wrong turn by reducing the services available in FHA–HUD offices located near the people that are supposed to be served. During hearings held before the Committee on Banking, Housing, and Urban Affairs last week, many of the problems being experienced by FHA multi-family programs were analyzed. The committee received suggestions that we spend more money and provide more personnel, but these solutions may, in effect, be like throwing money down a rathole if there is no contact between the decisionmakers and the people who need help.

The recent proposal to reorganize HUD includes as a part of the reorganization a plan to withdraw staff people from field offices and concentrate them more heavily than ever at the regional and Washington headquarters. In Albuquerque, for example, the full service office is being eliminated and replaced by an office two full levels lower on the organizational ladder. This is particularly regrettable since the people of New Mexico have been very happy with the performance of their full service office. It is the only one in the State, yet HUD plans to move all of its multi-family functions to Dallas 700 miles away. This is certainly not bringing government to the people as President Carter promised during his campaign last year. What makes this even more unpalatable is that my office received a call just last week from an Assistant Secretary at HUD telling us that there would be "no change in function" for the Albuquerque office during this reorganization.

Mr. President, I commend Senator MCINTYRE for sponsoring this resolution and will wait for a full explanation of this decision to downgrade the Albuquerque office from the Department of Housing and Urban Development.

SENATE RESOLUTION 303—SUBMISSION OF A RESOLUTION TO PROCLAIM "NATIONAL SOLAR ENERGY DAY"

(Referred to the Committee on the Judiciary.)

Mr. ANDERSON submitted the following resolution:

S. RES. 303

Whereas the Congress is vitally interested in involving the youth and our schools in the programs of the United States to increase energy resources and conserve nonrenewable sources of energy;

Whereas the provisions of the Youth Employment and Demonstration Projects Act of 1977 were enacted to provide jobs for the youth of our nation, including community improvement projects involving, among other things, solar energy techniques, especially those utilizing materials and supplies available without costs;

Whereas the United States of America is embarked on a national program to increase energy resources and conserve nonrenewable sources of energy;

Whereas solar energy offers a nonpolluting, inexhaustible source of energy available for the benefit of all mankind;

Whereas the United States is committed to a program of solar energy research and utilization;

Whereas the full potential of solar energy to provide energy for mankind will only be realized when private industry begins to play a central role in developing and fabricating economically feasible methods of solar conversion and whereas the activities of private industry to do so should be encouraged and supported;

Whereas it is appropriate to establish one day each year during which to encourage solar conversion efforts, to recognize strides in solar energy research and utilization and to increase national awareness of solar energy conversion: Now, therefor, be it

Resolved by the Senate of the United States of America, That the President of the United States is authorized and requested to issue a proclamation designating October 26 as "National Solar Energy Day", and calling upon the people, especially the youth, of the United States to observe such day with appropriate ceremonies and activities.

NATIONAL SOLAR ENERGY DAY FOR SCHOOLS

Mr. ANDERSON. Mr. President, several years ago Senator HUMPHREY introduced several important bills designed to promote the development and use of solar energy. In 1975, a resolution calling for a National Solar Energy Day was introduced and passed the Senate. The date selected was October 26, the date of the legislation pioneered by Senator HUMPHREY.

Since that time Congress has enacted the Youth Employment and Demonstration Projects Act of 1977. This bill was signed into law on August 5 and is now Public Law 95–93. It contains the following language:

(1) useful work experience opportunities in a wide range of community betterment activities such as rehabilitation of public properties, assistance in the weatherization of homes occupied by low-income families, demonstrations of energy-conserving measures including solar energy techniques (especially those utilizing materials and supplies available without cost), park establishment and upgrading, neighborhood revitalization, conservation and improvements, and related activities;

The act's statement of purpose refers to solar energy techniques, especially those utilizing materials and supplies available without cost.

Schools throughout the Nation are already showing their interest in these endeavors and are encouraging students to participate by allowing academic credit for solar energy projects.

It is my understanding that on October 26 schools throughout the Nation will be alerted so that students can learn about securing youth jobs for demonstrating "no-cost solar energy hardware." It is fitting and proper that Congress go on record encouraging such a program, and for this reason I am submitting this resolution.

SENATE RESOLUTION 305—SUBMISSION OF A RESOLUTION TO DESIGNATE THE HUBERT H. HUMPHREY ROOM

(Referred to the Committee on Rules and Administration.)

Mr. KENNEDY (for himself, Mr. ROBERT C. BYRD, and Mr. BAKER) submitted the following resolution:

S. RES. 305

Resolved, That room S. 120 in the U.S. Capitol henceforth shall be designated as the Hubert H. Humphrey Room.

AMENDMENTS SUBMITTED FOR PRINTING

ENERGY TAX BILL—H.R. 5263

AMENDMENTS NOS. 1462 THROUGH 1487

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted 26 amendments intended to be proposed by him to the bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts.

AMENDMENT NO. 1488

(Ordered to be printed and to lie on the table.)

Mr. DOLE (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by them to the bill (H.R. 5263), supra.

AMENDMENT NO. 1489

(Ordered to be printed and to lie on the table.)

Mr. BAYH (for himself, Mr. ABOUREZK, Mr. ANDERSON, Mr. EAGLETON, Mr. JAVITS, Mr. MORGAN, and Mr. ZORINSKY) submitted an amendment intended to be proposed by them to the bill (H.R. 5263), supra.

AMENDMENTS NOS. 1490 AND 1491

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS. Mr. President, as we consider the Energy Production and Conservation Tax Incentive Act, H.R. 5263, I think it is imperative that we insure that the bill we vote out and that is sent to the conference committee is a fair one. One way to do that, is to make sure that the American consumer, who is ultimately affected by what action we take, has an opportunity to benefit from this bill in an equitable manner.

For months many Marylanders have written to me expressing concern over the tax proposals of the President's energy program. Specifically, a significant number of them were worried that the conservation measures which they took in anticipation of the energy crisis, such as installing more insulation, would not be covered by any new legislation providing for tax credits for such efforts. They would, in effect, be penalized for being forehanded.

I have assured the people of Maryland that I would do all that I could to see that if tax rebate or tax credit provisions were enacted into law under the President's program, those provisions would be made sufficiently retroactive to cover Americans who were prudent enough to act even without a Government incentive to install energy-saving

home improvements and before such an incentive had been authorized by law.

Those provisions are now in the bill before us in title I, part I, section 1011, the "Residential Energy Credit." Under these provisions there is a tax credit of 20 percent of the initial $2,000 of expenditures on home insulation and other residential energy conserving components (for a maximum credit of $400). This credit may exceed tax liability (that is, it is a refundable credit.)

Similarly, homeowners would also be eligible for a credit for renewable energy source equipment, which includes solar, wind, and geothermal energy systems. The credit would be 30 percent of the first $2,000 of expenditures and 20 percent of the next $8,000 (for a maximum credit of $2,200). This credit would also be refundable.

As written, however, the committee bill provides that these credits are to be available for installations made from April 20, 1977, through December 31, 1985.

Mr. President, this is no time to penalize those foresighted enough to recognize a problem and do something about it on their own. The benefits of any such legislation should accrue to all fairly entitled to them.

Certainly, I am aware that there is bound to be an element of arbitrariness about any date that is selected to be the effective date for these credits. But surely there is nothing magical about the date the President announced his national energy plan. Many Marylanders and other Americans saw the plight that our country faced and acted long in advance of the President's speech. They should not be denied access to the benefits of this legislation. To allow them the benefits will encourage them to take further steps to conserve energy.

It is for these reasons that I am offering my amendments which would change the effective date of these provisions to a time that I think is more just.

The first alternative amendment sets the effective date at January 1, 1976. It seems only fair to me that we recognize that it has been since that time, really, that the public has begun to take affirmative action at home to help conserve energy. While there may be some lost revenue, it is apparent that that loss will be made up in other much more important ways in the long run.

The second alternative amendment sets the effective date at January 1, 1977. This is a compromise date arrived at to insure fair coverage while not endangering revenues.

AMENDMENT NO. 1492

(Ordered to be printed and to lie on the table.)

Mr. PERCY. Mr. President, I am submitting an amendment to the energy tax bill to encourage use of high efficiency electric motors. I believe the potential for reduction of energy waste is great enough, and the cost to the Treasury low enough, to justify giving motors a conservation investment tax credit. I ask unanimous consent that the text of this amendment, together with my Dear Colleague letter and a factsheet, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1492

At the appropriate place, insert the following new section:

SEC. 1034. Increase in investment credit for energy-efficient electric motors.

(a) In General.—Subpart B of part IV of subchapter A of Chapter 1 (relating to rules for computing credit for investment in certain depreciable property) is amended by inserting immediately after section 46 the following new section:

"SEC. 46A. SPECIAL RULES RELATING TO ENERGY-EFFICIENT ELECTRIC MOTORS.

"(a) IN GENERAL.—In lieu of the amount which would be determined under section 46(a)(2)(A) with respect to qualified electric motors, the amount of the credit allowed by section 38 for the taxable year with respect to such property shall be an amount equal to 15 percent of the qualified investment (as determined under section 46(c) and (d) in section 38 property which is (or for the purposes of applying Section 46(d) will be) a qualified electric motor.

"(b) ADDITIONAL PERCENTAGE.—In the case of a corporation which elects to have the provisions of this subsection apply, the amount of the credit allowed by section 38 for the taxable year with respect to qualified electric motors shall be an amount equal to the percentage determined under subsection (a) plus—

"(1) an additional percent of the qualified investment in such property (as determined under subsections (c) and (d) of section 46), and

"(2) an additional percent (not in excess of ½ percent) of such qualified investment (as so determined) equal in amount to the amount determined under section 301(e) of the Tax Reduction Act of 1975.

An election may not be made to have the provisions of this subsection apply for the taxable year unless the corporation making the election meets the requirements of section 301(d) of the Tax Reduction Act of 1975. An election by a corporation to have the provisions of this paragraph apply shall be made at such time, in such form, and in such manner as the Secretary may prescribe.

"(c) DEFINITIONS.—

"(1) ELECTRIC MOTOR.—The term 'electric motor' means any electric motor (including, but not limited to, any single-phase or polyphase AC or DC motor) which has a horsepower equal to or greater than 1 and less than or equal to 125 and which is labeled as a qualified electric motor by the manufacturer thereof in accordance with the regulations prescribed by the Secretary under subsection (d).

"(2) QUALIFIED ELECTRIC MOTOR.—An electric motor shall be considered a qualified electric motor if with respect to its horsepower such motor has an energy efficiency percentage greater than or equal to that prescribed in the following table:

"If the horsepower is:	*The percentage shall be equal to or greater than:*
At least 1 but less than 2	82.5
At least 2 but less than 3	84.0
At least 3 but less than 5	85.5
At least 5 but less than 7½	87.5
At least 7½ but less than 10	88.5
At least 10 but less than 15	89.0
At least 15 but less than 25	90.5
At least 25 but less than 40	92.0
At least 40 but less than 75	93.5
At least 75 but less than or equal to 125	94.0

"(3) ENERGY EFFICIENCY PERCENTAGE.—The term 'energy efficiency percentage' with respect to any motor is the percentage equal to a fraction, the numerator of which is the output power of the motor, and the denominator of which is the input power of the motor, as measured at full load (as determined in accordance with regulations prescribed by the Secretary under subsection (d)).

"(4) MANUFACTURER.—The term 'manufacturer' includes any manufacturer or importer of any electric motor.

"(5) MODEL LINE.—The term 'model line' means any model type produced by a manufacturer which is identifiable by horsepower, design type, and speed.

"(d) Regulations.—

"(1) IN GENERAL.—Within one year after the date of the enactment of this section, the Secretary of the Treasury, in consultation with the Secretary of Energy, shall prescribe regulations which—

"(A) prescribe procedures for determining the energy efficiency percentage of an electric motor,

"(B) prescribe methods to determine the efficiency of model lines and to label such lines as qualified electric motors.

Such methods and procedures shall be held generally acceptable by manufacturers and shall not be unduly burdensome.

"(2) LABELING AND TESTING.—Nothing in this subsection shall require a manufacturer to test or label any electric motor unless the manufacturer represents that such motor is a qualified electric motor under this section."

(b) Clerical Amendment.—The table of sections for such subpart is amended by inserting immediately after the item relating to section 46 the following new item:

"SEC. 46A. Special rules relating to energy-efficient electric motors."

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to—

(1) property to which section 46(d) of the Internal Revenue Code of 1954 does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer during the period beginning on the date six months after regulations are prescribed under section 46A(d) and ending December 31, 1985, but only to the extent of the basis thereof attributable to construction, reconstruction, or erection during such period.

(2) property to which section 46(d) of such Code does not apply, acquired by the taxpayer during such period, and

(3) property to which section 46(d) of such Code applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) with respect to qualified progress expenditures made during such period.

WASHINGTON, D.C.,
October 19, 1977.

DEAR COLLEAGUE: The Carter Administration and the Finance Committee have overlooked a significant energy-saving item when preparing the lists of conservation equipment that would qualify for an additional 10 percent investment tax credit: high efficiency electric motors. I intend to offer a floor amendment to the energy tax bill to give a tax credit for purchase of such motors.

Motors use 60 percent of all electricity produced in this country. High-efficiency motors can save one-third and more over average efficiency models. The Federal Energy Administration has calculated that we could cut total U.S. electrical consumption by 5 percent if we used energy-saving motors in industry alone.

However, high efficiency motors cost up to 40 percent more than standard models. Businesses are often reluctant to finance this additional cost, even when the payback in

cperating costs comes within 3 to 5 years. A tax credit would lower the initial cost and thus spur purchase of these motors.

I propose giving high-efficiency motors a limited additional tax credit. The 10% credit in the energy tax bill would and should be given only to equipment which does nothing but save energy. A full 10% credit for motors is too much, as businesses obviously purchase motors to perform specific tasks, while the energy-saving qualities these motors exhibit are secondary to the reason for purchase.

The credit would apply only to those sizes of motors which industry commonly uses, and which have the potential to achieve significant savings (1 to 25 horsepower). "High efficiency" would be defined as consuming 25% less power than current averages. Only one in 20 motors in the applicable size range sold today would qualify. Testing would be done according to generally accepted motor industry procedures, as certified by the Secretary of the Treasury in consultation with the Secretary of Energy. The maximum revenue loss to the Treasury would be under $50 million per year for the four years during which the credit would be in effect.

I attach both the amendment and a question and answer fact sheet about it. I believe the cost of this credit is small compared to the potential energy savings. If you agree and would like to cosponsor, or if you would like more information, please contact me, or have your staff contact Ron Lanoue (4-2172) or Chris Palmer (4-1462).

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

SENATOR CHARLES H. PERCY QUESTIONS AND ANSWERS ON MOTOR TAX CREDIT

Q. How large is the potential for motor energy savings?

A. Motors account for over 60 percent of all electricity used in this country. Efficiency improvements of 40 percent are possible using standard textbook technology.

Q. Then why doesn't industry buy more efficient motors?

A. Industry is beginning to show interest in high-efficiency motors, due to rising electricity costs. But these motors cost more initially: perhaps 30 percent more for a 25 percent improvement in efficiency, 50 percent more for a 35 percent improvement. And many businesses are still primarily concerned with first cost.

Q. Won't the motor standards in the Conservation Act, S. 2057, solve the problem?

A. These standards are an important step, and will help eliminate the last inefficient motors. But these standards:

Will not be issued in final form for 5 years, and thus will effect no improvements before then;

Cannot (and will not) be set higher than industry average efficiencies, and thus will provide no incentive to exceed current averages.

Q. Won't the appliance standards in S. 2057 bring about use of high-efficiency motors in appliances?

A. Very likely yes. But the motors in air conditioners, washing machines, and other home appliances are almost all below one horsepower (HP) in size. The proposed credit will cover motors which business uses, of 1 HP and up.

Q. Doesn't the energy tax bill allow an additional investment credit of 10 percent for conservation investments?

A. It allows such a credit for a specified list of "single-use" energy saving products, such as insulation, automatic control systems, and heat recuperators. It excludes energy saving motors (which businesses would buy not only to save energy but to perform a task such as powering machinery). We feel that the potential for conservation requires inclusion of motors in any credit. We recognize a 10 percent credit should apply only to "single-use" equipment. We therefore propose a partial credit for motors of 5 percent for those which are over 25 percent above current averages.

Q. Is motor efficiency easy to measure?

A. There are several different test procedures. However, the American motor industry, including its trade association (National Electrical Manufacturers Association, or NEMA) accept the test procedures of the Institute of Electrical and Electronics Engineers (IEEE). Use of the IEEE methods on standard statistical samples of motors provides accurate measurement of product lines.

My proposed tax credit would instruct the Secretary of Treasury, in consultation with the Secretary of Energy, to prescribe test procedures held generally acceptable by motor manufacturers. It is expected that he would choose the industry's IEEE methods.

Q. Would the amendment require motor labeling?

A. Motors would need to be labeled only if the manufacturer voluntarily chose to do so in order to enable his customers to reap the benefits of the tax credit. This program would not preempt the mandatory motor labeling program in the Conservation Act, S. 2057. The Secretary of Treasury is instructed to ensure the testing and labeling rules he prescribes are in accord with those the Secretary of Energy promulgates.

Q. What is the source for data on industry averages?

A. Industry average data are based on reports by Arthur D. Little for FEA, and by two large motor manufacturers, Gould and Westinghouse. Table 1 (attached) shows the current average, a 25 percent improvement, and the credit threshold.

Q. Why doesn't the amendment set one single efficiency level for all motors, instead of varying it according to size (Horsepower)?

A. Motor efficiency is in part a function of horsepower: the bigger the motor, the higher the efficiency. To set one high credit level would mean small and medium-sized motors could not qualify for a credit.

Q. About half of industrial motors sold go to equipment manufacturers who incorporate them into compressors, fans, and other assemblies. How does the amendment deal with this problem?

A. The company that claims a tax credit would need to produce certification from a manufacturer as to the original sale price, if that company bought such an assembly. Here again, manufacturer participation is voluntary.

Q. Why does the credit not apply to motors above 125 horsepower?

A. The Federal Energy Administration has identified motors below 125 HP as holding the greatest potential for conservation. Motors above that size are already near to technological limits of efficiency.

Q. How much will the credit cost the Treasury?

A. Under the least favorable set of assumptions the credit would result in a tax loss of only $50 million per year for its 4-year lifespan. The credit would more likely cost $10 million or less (if applied to today's motor market it would cost about $2 million per year.)

Q. How much energy will this credit save?

A. The Federal Energy Administration calculated that use of high efficiency electric motors could cut U.S. electrical consumption by 5 percent by 1990. This credit would achieve a significant portion of these savings, perhaps approaching 1 percent of electrical consumption.

TABLE I.—*Electric motor efficiency*

[In percent]

Sizes [1]	Current average	25 percent improvement	Credit threshold [2]
1	76.0	80.8	82.5
1.5	77.8	82.4	82.5
2	79.6	84.0	84.0
3	81.4	85.6	85.5
5	83.6	87.4	87.5
7.5	84.6	88.2	88.5
10	85.8	89.0	89.0
15	87.4	90.2	90.5
20	88.6	91.0	90.5
25	90.2	91.6	92.0
30	89.8	92.2	92.0
40	90.8	93.0	93.5
50	91.4	93.4	93.5
60	91.6	93.6	93.5
75	92.0	94.0	94.0
100	92.2	94.0	94.0
125	92.4	94.0	94.0

[1] Standard motor sizes (horsepower).

[2] The credit thresholds represent a 25 percent improvement in each category, rounded up to the nearest half percent. See the amendment for the actual categories.

Sources: Gould, Inc.; Westinghouse, Inc.; Federal Energy Administration.

AMENDMENT NO. 1493

(Ordered to be printed and to lie on the table.)

Mr. PERCY. Mr. President, today I am submitting an amendment to the energy tax bill to encourage the use and commercialization of ethanol and methanol automotive fuels. I learned recently that an amendment similar to mine was introduced in the Committee on Finance by my distinguished colleague from Kansas, Senator DOLE. That amendment passed the committee by a vote of 16 to 1. The amendment I am introducing differs from that of Senator DOLE sufficiently to warrant its introduction today. In fact, Senator DOLE has agreed to cosponsor this new amendment along with Senators ALLEN, ANDERSON, BAYH, BURDICK, CURTIS, FORD, HELMS, HOLLINGS, JAVITS, LUGAR, MATHIAS, MCCLURE, MCGOVERN, PELL, RIEGLE, YOUNG, and ZORINSKY.

Specifically, the amendment will exempt automotive fuels composed of at least 10 percent nonpetroleum derived alcohol from the present Federal excise tax of 4 cents per gallon. This exemption would cover alcohol derived from agricultural products, forest materials, coal, and other nonpetroleum sources.

The amendment adopted by the Committee on Finance would also exempt alcohol-blended fuels from the excise tax. However, the amount of exemption would vary, depending on the source of alcohol. I believe that this provision would unnecessarily complicate the goal we have in mind—that of providing the public with a simple choice either conventional gasoline, or a renewable, domestic, clean alcohol fuel. Different prices for different types of alcohol will confuse the public and decrease the effectiveness of alcohol fuel as an alternative to imported petroleum.

Therefore, I wish to formally submit

this amendment for printing today, and I ask unanimous consent that the text of the amendment, along with a letter concerning it which I recently wrote to my colleagues, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1493

On pages 20 to 22, strike all from and including line 18 on page 20 to and including line 10, page 22.

On page 20, between lines 17 and 18, insert the following:

(b) Alcohol Used As Fuel Not Subject To Taxes on Distilled Spirits—

(1) IN GENERAL.—Subsection (a) of section 5214 (relating to withdrawal of distilled spirits from bonded premises free of tax or without payment of tax) is amended by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; or", and by adding after paragraph (9) the following new paragraph:

"(10) without payment of tax to the extent that such spirits are alcohol (other than alcohol produced from petroleum or natural gas) the primary use of which is fuel for motor vehicles.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to alcohol withdrawn after December 31, 1977.

(c) Gasoline Mixed With Alcohol.—

(1) IN GENERAL.—Section 4081 (relating to imposition of tax on gasoline) is amended by adding at the end thereof the following new subsection:

"(c) Gasoline Mixed With Alcohol.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on the sale of any gasoline—

"(A) in a mixture with alcohol, if at least 10 percent of the mixture is alcohol, or

"(B) for use in producing a mixture at least 10 percent of which is alcohol.

"(2) LATER SEPARATION OF GASOLINE.—If any person separates the gasoline from a mixture of gasoline and alcohol on which tax was not imposed by reason of this subsection, such person shall be treated as the producer of such gasoline.

"(3) ALCOHOL DEFINED.—For purposes of this subsection, the term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum or natural gas.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales after December 31, 1977 and before October 1, 1985.

(d) Alcohol Mixed With Special Fuel.—

(1) IN GENERAL.—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection:

"(k) Fuels Containing Alcohol.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on the sale or use of any liquid fuel at least 10 percent of which consists of alcohol (as defined by section 4081 (c)(3)).

(2) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol on which tax was not imposed by reason of this subsection, such separation shall be treated as a sale of the liquid fuel.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales or use after December 31, 1977 and before October 1, 1985.

(e) Reports.—

(1) ANNUAL REPORT.—On April 1 of each year, beginning with April 1, 1979, and ending on April 1, 1985, the Secretary of Energy, in consultation with the Secretary of the Treasury and the Secretary of Transportation, shall submit to the Congress a report on the use of alcohol in fuel. The report shall include—

(A) a description of the firms engaged in the alcohol fuel industry,

(B) the amount of alcohol fuels sold in each State and the amount of gasoline saved in each such State,

(C) the revenue loss resulting from the exemptions from tax for alcohol fuels under sections 4041(k), and 4081(c) of the Internal Revenue Code of 1954, and

(D) the cost of production and the retail cost of alcohol fuels as compared to gasoline and special fuels before the imposition of any Federal excise taxes.

(2) The reports submitted to the Congress on April 1, 1985, shall contain, in addition to the information required under paragraph (1), an analysis of the effect on the alcohol fuel industry of the termination of the exemption from excise taxes provided under sections 4041(k) and 4081(c) of the Internal Revenue Code of 1954.

On page 22, line 11, strike "(3)" and insert "(f)".

On page 23, strike lines 4 through 6.

WASHINGTON, D.C.,
September 15, 1977.

DEAR COLLEAGUE: I will soon be introducing an amendment to the Energy Tax Bill to encourage the use and commercialization of alcohol automotive fuel. Specifically, the amendment will exempt gasoline with a minimum blend of 10 percent non-petroleum derived ethanol or methanol from the present federal fuel tax of 4 cents per gallon for a test period of six years.

Alcohol as an automotive fuel could make a significant contribution towards reducing this nation's dependence on foreign sources of petroleum. It is completely usable in present engine designs when combined with gasoline in amounts of 20 percent or less. In addition, alcohol fuel can aid dramatically in eliminating harmful pollutants from car exhaust and in improving mileage efficiency.

The United States presently consumes 103 billion gallons of gasoline each year. The use of 10 percent alcohol-blended gasoline could cut this nation's oil imports by 20 billion gallons yearly, or almost one and one-half million barrels of crude oil each day. Alcohol will not only substitute for the dwindling supply of petroleum, but its increased utilization would provide a strong market for agricultural surplus and wastes, forest products, coal, and even urban sewage.

Several states have taken important initiatives in the development of alcohol fuel. They are designing methods of alcohol production that are consistent with the peculiarities of their specific regions. The success of these initiatives demonstrates the many benefits of a domestic fuel industry fed on American agricultural and natural resources.

Despite this progress, the development of a private alcohol fuel industry is still a risky business. Alcohol production is more costly than gasoline and, therefore, less profitable. Economies of scale will not be realized until use becomes widespread. With increased demand, however, a blended-fuel market would grow to profitable proportions. Preferential treatment of alcohol is required to stimulate demand for this valuable domestic resource.

Exemption from the present four cents per gallon federal fuel tax for alcohol-blended gasoline would provide a mechanism to do just this. By making alcohol fuel price competitive with gasoline, public awareness of alcohol fuel as a way of decreasing our dependence on foreign oil would be promoted. It will serve to consume agricultural residues, timber products, coal, and sewage. As the demand for alcohol fuel increases, the construction and commercialization of alcohol producing plants would be encouraged.

The exemption will cause little revenue loss to the U.S. Treasury because at present, the capacity to produce alcohol is small and will require several years to grow. The exemption will end on January 1, 1984. By that time, alcohol-blended fuels are expected to be cost competitive with gasoline. In addition, because total consumption of automotive fuel will not be affected by the blending of alcohol with gasoline, state gasoline tax revenues will not be reduced.

A copy of the amendment is attached for your consideration. If you have any questions, or would like to co-sponsor this amendment, please have your staff contact Dave Carol (4–1460) or Chris Palmer (4–1462).

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

AMENDMENT NO. 1494

(Ordered to be printed and to lie on the table.)

FEDERAL ALCOHOL FUEL TEST FLEET PROGRAM

Mr. PERCY. Mr. President, today I am submitting an amendment to the energy tax bill, H.R. 5263, to create a Federal alcohol fuel test fleet.

I ask unanimous consent that the text of the amendment along with a letter to my colleagues explaining it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1494

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Title may be cited as the "Alcohol Fuels Research and Demonstration Project of 1977."

FINDINGS AND PURPOSE

SEC. 02. (a) The Congress hereby finds and declares that—

(1) domestic reserves of petroleum are finite and insufficient to meet current and foreseeable energy needs;

(2) it is desirable to achieve as rapidly as possible the capability of becoming independent of foreign sources of energy; and

(3) it is in the best interest of the Nation to rapidly investigate, develop, and employ technologies to economically produce and utilize domestic, non-petroleum and non-natural gas derived alcohol fuels as a substitute for, and as a supplement to, petroleum and petroleum products.

(b) The purpose of this Title is, through a limited, scientifically controlled, research and demonstration project which utilizes alcohol fuels (in lieu of or in combination with conventional petroleum-based fuels) in the operation of passenger vehicles, to provide Congress with information as to the economic, scientific, technological, and environmental feasibility of utilizing alcohol as a motor fuel on a large scale.

DEFINITIONS

SEC. 03. For the purposes of this Title—

(1) the term "alcohol fuel" means domestic ethanol and methanol of greater than ninety-nine per centum purity derived from sources other than petroleum or natural gas;

(2) the term "United States" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(3) the term "motor vehicle" means any gasoline-powered passenger sedan or station

wagon designed for use on the Nation's highways;

(4) the term "blend" means a fuel mixture consisting of at least 10 per centum alcohol by volume;

(5) the term "Project Administrator" means the chief executive official of the project agency selected under section 04; and

(6) the term "executive agency" means an executive agency as defined in section 105 of title 5, United States Code, and shall also include the United States Postal Service.

SELECTION OF A PROJECT AGENCY

SEC. 04. (a) No later than six months after the date of the enactment of this Title, the Secretary of Energy shall, applying the criteria specified in subsection (b), select an executive agency to conduct the research and demonstration project authorized by this Title.

(b) The Secretary in his selection of the project agency, shall apply the following criteria:

(1) the agency annually purchases or leases (for a period of a year or more) more than 1,500 passenger sedans or station wagons which are expected to be fueled and maintained at a common facility or facilities;

(2) the agency's vehicles operate in several different locations under different climatic conditions; and

(3) the agency is capable of collecting research and other data which the Secretary expects to collect under section 05.

ESTABLISHMENT OF A RESEARCH AND DEMONSTRATION PLAN

SEC. 05. (a) No later than six months after the selection of a project agency, the Secretary of Energy, after consultation with the Project Administrator, shall establish a research and demonstration plan (hereinafter in this Title referred to as the "plan") which shall include—

(1) the variety of motor vehicle models, types, and sizes to participate in the demonstration, which, to the extent feasible, shall represent a cross-section of motor vehicles;

(2) the modifications required in conventional automotive design to utilize the alcohol fuel;

(3) the appropriate method of mixing, storage, and delivery of fuel blend;

(4) the changes in motor vehicle maintenance or operation anticipated in utilizing the alcohol fuel;

(5) the research and other data, both base and comparative, particularly with regard to vehicle emissions and performance, to be collected by the Project Administrator under the plan and to be transmitted to the Secretary pursuant to section 06(d).

(b) The plan shall require that all alcohol used shall be produced and refined in the United States.

(c) Except as provided in subsection (b), the Secretary of Energy, after his adoption of the plan, and after consultation with the Project Administrator, may alter the plan from time to time to further the purposes of this Title.

OPERATION OF MOTOR VEHICLES USING ALCOHOL FUEL

SEC. 06. (a) In accordance with the plan but in no case later than one year after the establishment of the plan, the Project Administrator shall require for a period not to exceed three years that at least 1000 of the motor vehicles purchased or leased (for a period of a year or more) during such period and expected to be fueled at pumps under his control shall be equipped to utilize an alcohol-blended fuel. One hundred of these motor vehicles shall be equipped to utilize a fuel which is at least 90 percent alcohol.

(b) The Project Administrator shall provide such storage and pumping facilities, and require that they be operated in such a manner, as to conform to the plan. The Project Administrator shall operate and maintain motor vehicles involved in the plan in the manner specified in such plan.

(c) Pursuant to section 05(b), the Project Administrator shall not use alcohol which was produced or refined outside the United States or which is of petroluem or natural gas origin.

(d) The Project Administrator shall collect and transmit to the Secretary of Energy such research and other data as may be specified in the plan.

REPORTS TO CONGRESS

SEC. 07. (a) The Secretary of Energy, no later than sixty days after the end of each fiscal year, concluding with the fiscal year ending September 30, 1981, shall submit to Congress interim reports on the progress during each such fiscal year of the demonstration project provided for in this Act.

(b) The Secretary, no later than five years after the date of the enactment of this Title, shall submit a final report to Congress on the results of the research and demonstration project provided for in this Title and shall include in such report an analysis—

(1) of the research and other data collected under the project, particularly with respect to the environmental impact of substituting alcohol fuel for conventional fuel;

(2) of the projected impact on foreign energy consumption of increased use of alcohol fuel in motor vehicles;

(3) of the technological and economic feasibility of increased use of alcohol fuel in motor vehicles;

(4) of the desirability and feasibility of further research, development, and demonstration projects and implementation programs in this area, particularly with respect to expanding the use of alcohol fuels in motor vehicles; and

(5) of technological, economic, cultural, and political problems hindering commercialization of alcohol fuels ready for further use.

AUTHORIZATION OF APPROPRIATIONS

SEC. 08. For the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, there are authorized to be appropriated such sums, not to exceed in the aggregate for such three fiscal years, $3,000,000, as may be necessary to carry out the provisions of this Title.

WASHINGTON, D.C.
October 25, 1977.

DEAR COLLEAGUE: I would like to invite you to join me as an original sponsor of a bill to create a federal alcohol fuel test fleet to provide important information on the economic, technological, and environmental feasibility of utilizing alcohol fuels on a large scale.

Specifically, the bill would authorize the Secretary of Energy to establish an alcohol fuel test fleet of passenger vehicles from one of the government agencies. The agency selected would be responsible for collecting data on the alcohol-fueled vehicles. This would include an analysis of the environmental impact of substituting alcohol for gasoline, of the methods to store and pump alcohol fuel, and of the technological and political problems hindering commercialization of alcohol.

The program will involve no new purchases of vehicles and little in the way of additional vehicle maintenance costs. Ninety percent of the fleet will require no engine alterations to facilitate the use of alcohol blended gasoline. The remaining vehicles would require minor alterations and would provide much important data to assist industry in preparing for straight alcohol fuels. The test program would last for three years at a total cost of not more than $3 million. This would cover the purchase of alcohol fuel, storage facilities, testing equipment and the personnel required to operate the program.

Alcohol can provide a viable and desirable solution to our energy problems. It is less polluting than gasoline, higher in octane, renewable, and domestic. This year alone, we will spend $45 billion to import petroleum. If this money were spent instead on a domestic fuel source, the economic implications would be staggering.

A federal test fleet would provide data that would better enable policy-makers to prepare for the energy needs of this nation as the supply of petroleum dwindles. The cost would be minimal compared to the potential benefits to be derived.

I have attached a copy of my proposed bill for your consideration. If you have any questions concerning it, or wish to cosponsor, please feel free to contact me, or have your staff call Dave Carol (41460) or Chris Palmer (41462) of my staff.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

AMENDMENT NO. 1495

(Ordered to be printed and to lie on the table.)

Mr. PERCY. Mr. President, I am submitting today an amendment to the energy tax bill which will repeal the deduction for State and local gasoline taxes. The Senate Finance Committee saw fit to remove this administration-backed repeal from the House-passed energy tax bill. However, because of our pressing need for energy conservation, I believe that it should be reinstated.

Repealing the deduction for State and local gasoline taxes is necessary for three reasons.

First, it will demonstrate to the American people our determination to take serious steps toward resolving our energy problem. It is illogical to tell the American people that energy must be priced at its proper value, while simultaneously providing them with a tax deduction which encourages gasoline consumption.

Second, the reduction in tax expenditure is not inconsequential. A report issued by the Joint Committee on Taxation estimates that the budget receipts from the repeal could reach $1.4 billion in 1985.

Third, this amendment eliminates an inequitable complication from the tax law. A taxpayer can claim this deduction only if he or she itemizes. Therefore the gas tax deduction tends only to be beneficial for upper income groups. The benefits from the deduction also increase as income increases.

Mr. President, because of these three reasons, I urge my colleagues to support the repeal of the deduction for State and local gas taxes.

I ask unanimous consent that the text of my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1495

At the appropriate place, insert the following new section:

SEC. REPEAL OF DEDUCTION FOR STATE AND LOCAL TAXES ON GASOLINE AND OTHER MOTOR FUELS.

(a) REPEAL.—Paragraph (5) of section 164 (a) (relating to deduction for taxes) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) The heading of paragraph (5) of sec-

tion 164(b) is amended by striking out "AND GASOLINE TAXES".

(2) The text of such paragraph (5) is amended by striking out "or of any tax on the sale of gasoline, diesel fuel, or other motor fuel".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect at the close of December 31, 1977.

AMENDMENT NO. 1496

(Ordered to be printed and to lie on the table.)

Mr. PERCY. Mr. President, I am today submitting an amendment, that I still have under consideration, to the energy tax bill, H.R. 5263, to restore a so-called gas-guzzler tax. I introduce this on behalf of myself and the Senator from New York (Mr. JAVITS), and the Senator from Rhode Island (Mr. PELL). I ask unanimous consent that the text of the amendment, together with our Dear Colleague letter, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1496

At the appropriate place insert the following new sections:

SEC. . FUEL INEFFICIENCY TAX.

(a) General Rule.—Part I of subchapter A of chapter 32 (relating to motor vehicle excise taxes) is amended by adding at the end thereof the following new section:

"SEC. 4064. FUEL INEFFICIENCY TAX.

"(a) Passenger Automobiles.—There is hereby imposed on the sale by the manufacturer of each passenger automobile a tax determined in accordance with the following tables:

"(1) In the case of a 1979 model year passenger automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 16	0
At least 15 but less than 16	$200

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 14 but less than 15	400
At least 13 but less than 14	600
Less than 13	800

"(2) In the case of a 1980 model year passenger automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 18	0
At least 17 but less than 18	$200
At least 16 but less than 17	400

"(3) In the case of a 1981 model year passenger automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 20	0
At least 19 but less than 20	$200
At least 17 but less than 18	600

"(4) In the case of a 1982 model year passenger automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 22	0
At least 21 but less than 22	$200
At least 20 but less than 21	400
At least 19 but less than 20	600
At least 18 but less than 19	800

"(5) In the case of a 1983 model year passenger automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 25	0
At least 24 but less than 25	$200
At least 23 but less than 24	400
At least 22 but less than 23	600
At least 21 but less than 22	800
At least 20 but less than 21	1,000
At least 19 but less than 20	1,200

"(6) In the case of a 1984 model year passenger automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 26	0
At least 25 but less than 26	$200
At least 24 but less than 25	400
At least 23 but less than 24	600
At least 22 but less than 23	800
At least 21 but less than 22	1,000
At least 20 but less than 21	1,200

"(7) In the case of a 1985 or later model year passenger automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 27	0
At least 26 but less than 27	$200
At least 25 but less than 26	400
At least 24 but less than 25	600
At least 23 but less than 24	800
At least 22 but less than 23	1,000
At least 21 but less than 22	1,200

"(b) Non-passenger automobile.—

"(1) There is hereby imposed on the sale by the manufacturer of each non-passenger automobile a tax determined in accordance with the tables in paragraph (2) or prescribed under paragraph (3).

"(2) 1979 model year.—

"(A) In the case of a 1979 model year non-passenger automobile (other than a jeep-type vehicle):

"If the fuel economy of the model type in which the non-passenger automobile falls is:	The tax is:
At least 14.2	0
At least 13.2 but less than 14.2	$200
At least 12.2 but less than 13.2	400
At least 11.2 but less than 12.2	600
Less than 11.2	800

"(B) In the case of a 1979 model year non-passenger automobile which is a jeep-type vehicle:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 12.8	$0
At least 11.8 but less than 12.8	$200
At least 10.8 but less than 11.8	$400
At least 9.8 but less than 10.8	$600
Less than 9.8	$800

"(3) 1980 through 1985 model years.—

"(A) Amount of tax.—With respect to model years 1980 through 1985, and except as provided in subparagraph (B), the tax imposed under paragraph (1) for each model year shall be equal to $200 multiplied by the number of miles per gallon by which the fuel economy of the model type in which the non-passenger automobile falls for that model year exceeds—

"(i) the average fuel economy standard for non-passenger automobiles for that model year, reduced by

"(ii) the difference between the average fuel economy standard for passenger automobiles for that model year and the highest fuel economy level at which a tax is imposed under subsection (a) for that model year.

"(B) Limitations.—

"(i) In general.—The amount of the tax determined under subparagraph (A) shall not exceed $1,200.

"(ii) No tax.—If no average fuel economy standards have been established by the Secretary of Transportation under section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002) for non-passenger automobiles any model year, the amount of the tax under subparagraph (A) shall be 0.

"(C) Tables.—The Secretary shall prescribe tables for each model year which show the amount of tax determined under subparagraph (A) for that year. Such tables shall be in the same general form as the tables prescribed in paragraph (2) and shall be made public prior to the beginning of the model year to which it relates.

"(c) Definitions and Special Rules.—For purposes of this section—

"(1) Automobile, etc.—The terms 'automobile', 'passenger automobile', 'fuel economy', 'model type', 'average fuel economy standard' and 'model year' shall have the same meanings given such terms under section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001).

"(2) Manufacturer.—The term 'manufacturer' includes a producer or importer.

"(3) Non-passenger automobile.—The term 'non-passenger automobile' has the same meaning given such term by the Secretary of Transportation under section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002).

"(4) Jeep-type vehicle.—The term 'jeep-type vehicle' has the same meaning given such term by the Secretary of Transportation under section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002).".

(b) Study.—

(1) In general.—The Secretary shall, in consultation with the Secretary of Transportation, the Secretary of Energy, and the heads of such other agencies as he deems appropriate, undertake a study and submit recommendations (including recommendations for legislative action) to the President and the Congress respecting the need for exemptions from the fuel inefficiency tax or other forms of relief for certain categories of automobile users. Such study shall include, but not be limited to, an analysis of, and recommendations respecting—

(A) the extent of the burden imposed by the fuel inefficiency tax upon certain categories of automobile users including, but not limited to, handicapped persons, persons with more than four dependents, and persons who regularly use automobiles for transporting property or carrying cargo for business purposes,

(B) the need for exemption from the tax or for other forms of relief,

(C) specific measures necessary and appropriate for carrying out an exemption or providing relief, and

(D) the effect such exemptions are likely to have on the energy conserving effects of the fuel inefficiency tax.

(2) Submission.—The recommendations developed by the Secretary under paragraph (1) shall be submitted to the President and the Congress no later than six months after the date of enactment of this section.

(c) Reduction in Basis of Automobile on Which Fuel Inefficiency Tax Was Imposed.—Section 1016 (relating to adjustments to basis) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Reduction in Basis of Automobile on Which Fuel Inefficiency Tax was Imposed.—If—

"(1) the taxpayer acquires any automobile with respect to which a tax was imposed by section 4064, and

"(2) the use of such automobile by the taxpayer begins not more than 1 year after the date of the first sale for ultimate use of such automobile,

the basis of such automobile shall be reduced by the amount of the tax imposed by section 4064 with respect to such automobile. In the case of importation, if the date of entry or withdrawal from warehouse for consumption is later than the date of the first sale for ultimate use, such later date shall be substituted for the date of such first sale in the preceding sentence."

(d) DENIAL OF CERTAIN EXEMPTIONS AND REFUNDS.—

(1) TAX-FREE SALES.—Subsection (a) of section 4221 (relating to certain tax-free sales) is amended by adding at the end thereof the following new sentence: "Paragraphs (4) and (5) shall not apply to the tax imposed by section 4064."

(2) UNITED STATES AND POSSESSIONS.—Section 4293 (relating to exemption for United States and possessions) is amended by inserting "(other than section 4064)" after "chapters 31 and 32".

(3) DENIAL OF REFUNDS FOR CERTAIN USES.—Paragraph (2) of section 6416(b) (relating to tax payments considered overpayments in the case of specified uses and resales) is amended by adding at the end thereof the following new sentence:

"Subparagraphs (C) and (D) shall not apply in the case of any tax paid under section 4064."

(e) PAYMENT OF TAX IN CASE OF LEASED AUTOMOBILES.—Section 4217 (relating to leases) is amended by adding at the end thereof the following new subsection:

"(e) LEASES OF AUTOMOBILES SUBJECT TO FUEL INEFFICIENCY TAX.—

"(1) IN GENERAL.—In the case of the lease of an automobile the sale of which by the manufacturer would be taxable under section 4064, the foregoing provisions of this section shall not apply, but, for purposes of this chapter—

"(A) the first lease of such automobile by the manufacturer shall be considered to be a sale, and

"(B) any lease of such automobile by the manufacturer after the first lease of such automobile shall not be considered to be a sale.

"(2) PAYMENT OF TAX.—In the case of a lease described in paragraph (1)(A)—

"(A) there shall be paid by the manufacturer on each lease payment that portion of the total fuel inefficiency tax which bears the same ratio to such total fuel inefficiency tax as such payment bears to the total amount to be paid under such lease,

"(B) if such lease is canceled, or the automobile is sold or otherwise disposed of, before the total fuel inefficiency tax is payable, there shall be paid by the manufacturer on such cancellation, sale, or disposition the difference between the tax imposed under subparagraph (A) on the lease payments and the total fuel inefficiency tax, and

"(C) if the automobile is sold or otherwise disposed of after the total fuel inefficiency tax is payable, no tax shall be imposed under section 4064 on such sale or disposition.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) MANUFACTURER.—The term 'manufacturer' includes a producer or importer.

"(B) TOTAL FUEL INEFFICIENCY TAX.—The term 'total fuel inefficiency tax' means the tax imposed by section 4064, computed at the rate in effect on the date of the first lease."

(f) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 32 is amended by adding at the end thereof the following new item:

"Sec. 4064. Fuel inefficiency tax."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to 1979 and later model year automobiles (as defined in section 4064(c) of the Internal Revenue Code of 1954).

SEC. . DISCLOSURE IN LABELING.

(a) Disclosure.—Section 506(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(a)(1)) is amended by striking out "and" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) containing in the case of any automobile the sale of which is subject to the tax imposed by section 4064 of the Internal Revenue Code of 1954, a statement indicating the amount of such tax, and".

(b) Time and Manner of Disclosure.—Section 506(a)(3) of such Act (15 U.S.C. 2006(a)(3)) is amended by inserting after the first sentence thereof the following new sentence: "The time and manner by which the statement referred to in paragraph (1)(C) must be included on any label may be prescribed so as to take into account any special circumstances or characteristics."

SEC. . DISCLOSURE IN ADVERTISING.

(a) Disclosure.—The Federal Trade Commission shall prescribe rules requiring disclosure of any tax imposed by section 4064 of the Internal Revenue Code of 1954 with respect to any automobile advertised in any television broadcast or advertisement in writing which states the price or fuel economy of an automobile or which advertises an identifiable model type of automobile. In prescribing any such rule, the Federal Trade Commission shall take into account any special circumstances or characteristics.

(b) Enforcement.—A violation of a rule under subsection (a) shall be deemed an unfair or deceptive act of practice in or affecting commerce, for purposes of the Federal Trade Commission Act.

(c) Rule of Construction.—Nothing in this section shall be construed as restricting any authority of the Commission under any other law.

U.S. SENATE,
Washington, D.C., October 14, 1977.

DEAR COLLEAGUE: I am considering offering an amendment to the energy tax bill to levy a tax on fuel inefficient automobiles. Your critical review of this proposal would be greatly appreciated.

A tax on the least efficient new cars in the American fleet would be an important and continuing signal to the American public that the Congress is serious about curbing wasteful U.S. energy habits. Such a tax, in plain sight on a new car sticker, would bring home to the American people the fact that low mileage cars are no longer in the national or in their own personal interest.

In the last few years we have moved farther away from energy self-sufficiency. Our country is far more dependent on oil imports than it was at the time of the 1973 Arab oil embargo. Our oil import bill is now $45 billion a year, and skyrocketing. The need to curb this dangerous vulnerability through more efficient energy use has never been more urgent.

Both the fleetwide fuel economy standards for new cars (27.5 mpg by 1985) mandated by the Energy Policy and Conservation Act (EPCA), and the minimum mileage standards the Senate recently passed are directed toward auto manufacturers rather than consumers. Thus, a mismatch may occur between the cars that are required to be produced under EPCA during the next eight years and the cars that consumers choose to buy. However, a gas guzzler tax would directly affect the automobile consumer. A tax on inefficient vehicles, clearly identified as such, would provide a strong economic incentive for consumers to demand more efficient cars and a disincentive to purchase less efficient ones. It would assure that the fuel economy goals already mandated by law will be met, or even exceeded.

Some people have argued that minimum mileage standards already adopted by the Senate obviate the need for a gas guzzler tax. I strongly disagree with this view. In fact, the two concepts are highly complementary—minimum efficiency levels below which *no car* can be produced, and disincentive taxes on remaining cars which *still do not meet* fuel economy targets. The President still strongly supports a gas guzzler tax even though the Senate has passed these minimum standards.

I support minimum mileage standards, but such standards would only ban those cars so grossly inefficient that under EPCA, very few would have been produced anyway. A combination of minimum standards and a strong fuel economy tax will give the Senate the strongest possible position on auto fuel economy in conference with the House.

Some people naturally worry that a gas guzzler tax will discriminate against large families who need large cars. But there is no reason why a full-sized passenger car should not be fuel efficient. Nevertheless, my amendment provides that vehicles falling only a few miles per gallon short of EPCA fleetwide standards be exempt from the fuel inefficiency tax in order to make certain that large families will not be penalized.

In sum, my proposed amendment would contain the following features:

A tax on passenger automobiles with mpg levels above the minimum standards adopted by the Senate and below the fleetwide standards set by the Department of Transportation.

Removal of the exemption in the House bill for pickup trucks and establishment of a graduated tax on non-passenger automobiles (small trucks, vans and jeeps) falling below fuel economy standards.

Full disclosure in labeling and advertising of the amount of fuel inefficiency tax imposed on a given model of automobile.

According to DOE estimates, these provisions would save over 160,000 barrels of oil per day by 1985 if existing sanctions are insufficient to assure compliance with EPCA. In addition, the revenue the tax would raise can be used either to stimulate further conservation or to replace state and federal revenues lost through decreased gasoline consumption.

The proposed amendment is described in detail in the attached tables. Table I gives the fuel inefficiency tax I am proposing for Senate action. Table II shows the gas guzzler tax which passed the House in H.R. 8444. Table III presents a side-by-side comparison of the different fuel economy proposals. In comparing my proposed tax with the House passed version, you will note that my tax schedule is much simpler.

This will make the impact of buying an inefficient car much more visible and easy to understand, and thus help to induce auto consumers to buy those vehicles which result in the greatest gas savings for the Nation.

I would appreciate your careful review of this proposal. My staff will call your staff for your reaction in the next few days. Please contact me should you have any questions, or have your staff contact Chris Palmer on 4-1462.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

TABLE I.—PROPOSED PERCY FUEL INEFFICIENCY TAX

Year	Minimum mileage standard	EPCA standard	Mpg level	Proposed tax
A. PASSENGER AUTOMOBILES				
1979	NA	19.0	At least: 19	0
			18	0
			17	0
			16	0
			15	$200
			14	400
			13	600
			Less than 13	800
1980	16	20.0	At least: 20	0
			19	0
			18	0
			17	200
			16	400
1981	17	22.0	At least: 22	0
			21	0
			20	0
			19	200
			18	400
			17	600
1982	18	24.0	At least: 24	0
			23	0
			22	0
			21	200
			20	400
			19	600
			18	800
1983	19	26.0	At least: 26	0
			25	0
			24	200
			23	400
			22	600
			21	800
			20	1,000
			19	1,200
1984	20	27.0	At least: 27	0
			26	0
			25	200
			24	400
			23	600
			22	800
			21	1,000
			20	1,200
1985	21	27.5	At least: 27.5	0
			27	0
			26	200
			25	400
			24	600
			23	800
			22	1,000
			21	1,200
B. NONPASSENGER AUTOMOBILES				
1979 [1]		17.2	At least: 17.2	0
			16.2	0
			15.2	0
			14.2	0
			13.2	200
			12.2	400
			11.2	600
			Less than 11.2	800
1979 [2]		15.8	At least: 15.8	0
			14.8	0
			13.8	0
			12.8	0
			11.8	200
			10.8	400
			9.8	600
			Less than 9.8	800

[1] Light-duty trucks and vans.

[2] Jeep-type vehicles with 4-wheel drive.

TABLE II.—HOUSE-PASSED INEFFICIENCY TAX, H.R. 8444

Year	EPCA standard	Miles per gallon level	Tax
1979	19	At least: 15	0
		14	$339
		13	438
		Less than 13	553
1980	20	At least: 17	0
		16	249
		15	333
		14	428
		13	538
		Less than 13	666
1981	22	At least: 18.5	0
		17.5	245
		16.5	341
		15.5	458
		14.5	597
		13.5	764
		12.5	968
		Less than 12.5	1,216
1982	24	At least: 20	0
		19	266
		18	369
		17	491
		16	636
		15	809
		14	1,015
		13	1,264
		Less than 13	1,565
1983	26	At least: 20.5	0
		19.5	345
		18.5	459
		17.5	593
		16.5	751
		15.5	938
		14.5	1,161
		13.5	1,427
		12.5	1,747
		Less than 12.5	2,134
1984	27	At least: 22	0
		21	371
		20	490
		19	631
		18	797
		17	990
		16	1,218
		15	1,486
		14	1,804
		13	2,183
		Less than 13	2,638
1985	27.5	At least: 23.5	0
		22.5	397
		21.5	524
		20.5	671
		19.5	843
		18.5	1,043
		17.5	1,276
		16.5	1,550
		15.5	1,868
		14.5	2,244
		13.5	2,688
		12.5	3,219
		Less than 12.5	3,856

TABLE III.—COMPARATIVE ANALYSIS OF AUTO FUEL ECONOMY PROPOSALS

Year	Official EPCA standard	Minimum mileage standard	Fuel economy level below which tax begins: House (H.R. 8444)	Fuel economy level below which tax begins: Percy proposal
1978	18.0	NA	NA	NA
1979	19.0	NA	15.0	16
1980	20.0	16	17.0	18
1981	22.0	17	18.5	20
1982	24.0	18	20.0	22
1983	26.0	19	20.5	25
1984	27.0	20	22.0	26
1985	27.5	21	23.5	27

AMENDMENTS NOS. 1497 THROUGH 1500

(Ordered to be printed and to lie on the table.)

Mr. BELLMON (for himself and Mr. BARTLETT) submitted four amendments intended to be proposed by them to the bill (H.R. 5263), supra.

AMENDMENTS NOS. 1501 AND 1502

(Ordered to be printed and to lie on the table.)

Mr. BELLMON (for himself, Mr. HANSEN, and Mr. BARTLETT) submitted two amendments intended to be proposed by them to the bill (H.R. 5263), supra.

AMENDMENT NO. 1503

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill (H.R. 5263), supra.

AMENDMENT NO. 1504

(Ordered to be printed and to lie on the table.)

Mr. LUGAR submitted an amendment

intended to be proposed by him to the bill (H.R. 5263), supra.

AMENDMENT NO. 1505

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM (for himself, Mr. JACKSON, Mr. KENNEDY, Mr. BAYH, Mr. BUMPERS, Mr. HART, Mr. FORD, Mr. DURKIN, Mr. PERCY, Mr. BROOKE, and Mr. HEINZ) submitted an amendment intended to be proposed by them to the bill (H.R. 5263), supra.

NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, November 1, 1977, at 9:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nomination:

Elsijane Trimble Roy, of Arkansas, to be U.S. district judge for the eastern and western districts of Arkansas vice Oren Harris, retired.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

FREIGHT RATE COMPETITION IN THE MOTOR CARRIER INDUSTRY

Mr. KENNEDY. Mr. President, the Subcommittee on Antitrust and Monopoly will conduct hearings on Thursday, October 27 and Friday, October 28, at 9:30 a.m. in room 1224 of the Dirksen Senate Office Building. The hearings will examine the issue of price competition in the motor carrier industry, the practices and procedures of motor carrier rate conferences, and the regulation of pricing by the Interstate Commerce Commission.

Witnesses include the following:

Thursday, October 27:

Hon. John Shenefield, Assistant Attorney General, Antitrust Division, Department of Justice.

Mr. George Wilson, Economist, University of Indiana.

Panel of Motor Common Carriers.

Friday, October 28:

Hon. A. Daniel O'Neal, Chairman, Interstate Commerce Commission.

Panel of Shippers:

Mr. Robert L. Merchant, Commissioner, Department of Public Carriers, Agency of Transportation, Montpelier, Vermont.

American Conservative Union, Consumer Federation of America.

NOMINATIONS

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Human Resources has scheduled a hearing on Wednesday, October 26, 1977, at 10:30 a.m. in room 4232 Dirksen Senate Office Building, on the nominations of:

John Harold Fanning, of Rhode Island, to be a member of the National Labor Relations Board;

Gerald L. Klerman, of Massachusetts, to be Administrator of the Alcohol, Drug Abuse, and Mental Health Administration.

SUBCOMMITTEE ON LABOR

Mr. WILLIAMS. Mr. President, I wish to announce that the Labor Subcommittee of the Committee on Human Resources will hold hearings on S. 1883 and S. 1855, bills to amend the National Labor Relations Act, on Monday, October 31, Thursday, November 3, and Friday, November 4, 1977. The hearings will begin at 9:30 a.m. and will be held in room 4232 of the Dirksen Senate Office Building.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. BAYH. Mr. President, I wish to announce at this time that the Subcommittee on the Constitution of the Committee on the Judiciary will hold hearings on the Civil Rights Commission Act of 1978, to extend the Commission for 5 years, to authorize appropriations for the Commission, and for other purposes. I plan to introduce a bill to provide for these purposes this week. The hearings will be held in the judiciary hearing room, 2228 Dirksen Office Building, at 9 a.m. on November 1 and 2, 1977, and in January of 1978. All persons desiring to testify or submit statements should call or write Nels Ackerson or Ben Dixon of the subcommittee staff, 102–B Russell Office Building—202–224–8191.

ADDITIONAL STATEMENTS

SALT NEGOTIATIONS

Mr. HAYAKAWA. Mr. President, as we all know, the United States is currently enmeshed in ongoing SALT negotiations with the Soviet Union. Frankly, I am alarmed by some newspaper accounts regarding these negotiations. It seems that the goals expressed earlier by the Carter administration for SALT II have gone down the drain. Every time I pick up the paper it appears that the United States has made another consession.

When President Carter announced his decision to cancel the B–1 bomber, I think the United States threw away our No. 1 bargaining chip at the SALT table. With the B–1 in our inventory, we could afford to make some concessions regarding cruise missile range, but without it we are experiencing many difficulties in reaching an agreement that will insure U.S. national security and deterrent strength during the next 10 years. And that, after all, is the reason for negotiating in the first place. But the cruise missile limitations under discussion would prevent the air-launched cruise missile from reaching key targets in the Soviet Union without the help of penetrating bombers.

B–1 opponents argue that cruise missile range can be revised later in the SALT negotiations. Honestly now, can any of us be so naive as to believe that the Soviet Union will agree to letting us increase our cruise missile range to offset its advances in air defenses? The Soviets are known to be tough negotiators and I doubt that they would cooperate in undermining their own strategic forces, especially when we are fast running out of neogtiating leverage. We lost this leverage when we lost the B–1.

At this time I would like to submit for the RECORD, a relevant excerpt from a speech that Senator BOB DOLE gave before the Georgia Jaycee Mock Legislature on October 22, 1977. I think his remarks succinctly tell us where our SALT negotiations are leading us. I ask unanimous consent that his remarks may be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR BOB DOLE

Now let me turn to a specific area of vast national and world significance—foreign policy generally and S.A.L.T. in particular.

The Carter Administration has provided the nation with new foreign and defense policies. The American people have hardly been able to keep up with these new departures, tumbling from the White House one after the other: withdrawal from Korea, downgrading of Taiwan, recognition of Cuba and Vietnam, the President's U.S. Ambassador warmly praising the victorious struggle of North Vietnam and the President's Action Director attending the North Vietnamese victory celebration, bringing the Soviets back into the Middle East with a joint declaration, cancelling the B–1, and of course, the Panama Canal Treaty.

The popular outcry has been loudest on the Canal Treaty, perhaps because the people see it against this background of withdrawal and apology.

CARTER ADMINISTRATION AND S.A.L.T.

But the most important of all the Carter Administration national security departures has yet to receive wide notice. So as I indicated, I would like to talk with you briefly about S.A.L.T., the negotiations the Carter Administration have been conducting with the Russians.

It is a paradox that this most important of all national security issues for the American people seems the most elusive and complicated in detail. To master its complexity requires the learning of a new language of MIRVs and MARVs, of ALCMs and SLCM, MLBMs, SSNX–18S and SNDVS. But once mastered, this language reveals SALT to be like all policy matters, amenable to applied common sense. Let us review the simple issues of SALT, stripped of jargon and ask some common sense questions.

The first important question must be: What is it we seek to achieve through SALT negotiations? The answer can only be to achieve increased security of the United States and its allies. The answer to this question will be the sole criterion by which we in the U.S. Senate must judge the coming SALT treaty.

By which issues do we judge the fairness and balance of the treaty limitations to find whether it increases or decreases our security?

FOUR CRITERIA

Fred Ikle, recent Director the Arms Control Agency has suggested the four criteria by which we should measure that success or failure in a SALT treaty.

First, a SALT treaty ought to strengthen deterrence. Deterrence simply means dissuading the Soviets from attacking us or our allies by persuading them that the consequences to them of attacking us are worse than anything they could gain by doing so. SALT should strengthen that dissuasion.

Second, SALT must secure and even balance—real self-evident equality or parity.

Third, SALT should achieve some reduction in nuclear arsenals and ease the burden on taxpayers.

Fourth, the treaty must be strictly enforceable and verifiable without having to place blind trust in the Russians.

Now let us turn to what actual limitations seem near to agreement. The Senate as a whole has not been briefed, so for details on what has now been agreed we must rely on recent news articles quoting "informed sources." To compare where we started from, we have the March proposal made public by the President himself:

Ceiling on strategic launch vehicles, ICBMs, sub-launched SLBMs, and long-range bombers:

Carter proposed in March a ceiling of 1,800;

The Russians insisted on 2,250; and

Reported "compromise" 2,250.

Ceiling on multiple warhead vehicles;

Carter proposed in March a ceiling of 1,100;

The Russians insisted on 1,320; and

Reported "compromise" 1,320.

Ceiling on land-based ICBMs:

Carter proposed in March a ceiling of 550;

The Russians insisted on 850; and

Reported "compromise" 850.

Limits on Soviet heavy missiles—six times the payload of the U.S. Minuteman:

Carter proposed in March [U.S.—0] [Soviets—150];

The Russians insisted on 308; and

Reported "compromise" [U.S.—0] [Soviets—308].

Limits on Soviet backfire long-range supersonic bomber:

Carter proposed in March strict numerical limits on backfire;

The Russians insisted there be no limits other than assurances they would not use it against the U.S.; and

Reported "compromise": no limits other than assurances.

Limits on U.S. sea-launched and ground-launch Cruise missiles:

Carter proposed in March there be no limits on U.S. medium range (up to 2500 km) cruise missiles;

The Russians insisted all SLCMs and GLCMs be limited to 600 km range (320 miles);

Reported "compromise": all SLCMs and GLCMs limited to 600 km range.

If the facts of this new agreement as reported in Newsweek and elsewhere are true, then doing some simple arithmetic on my tablecloth, we find that this treaty would leave us with the following balance sheet by 1985:

UNITED STATES

ICBM payload, 2.5 million lbs.

ICBM warheads, 1,650.

Long-range bombers, 120 B–52s.

SOVIET

ICBM payload, 9 million lbs.

ICBM warheads, 6,000.

Long-range bombers, unlimited backfires (about 500 by 1985).

MEASURE UP

Returning to the four issues of former Arms Control Director Ikle, how do these terms measure up?

First; deterrence: it is hard to see how such a record of U.S. concessions resulting in such lop-sided numbers could strengthen Soviet fear of U.S. counterattack. It would seem to me deterrence would be weakened, not strengthened.

Second, even balance: the imbalance would seem to be staggering.

Third, reductions: there are indeed U.S. reductions, but net Soviet increases.

Fourth, enforceable and verifiable: it is agreed in the intelligence community that a 600 km limit on cruise missiles is not verifiable, but other enforcement arrangements seems so far to have been a subject deferred by the Administration.

It is difficult to believe that any President could be so ill-advised as to conclude such a treaty as described above. Let us hope these many authoritative news stories are wrong.

A treaty cannot be achieved except by limitations unequal and unfair to the U.S., or by terms unenforceable and built only on Soviet assurances of good intentions, then the answers to our opening question is an obvious No. U.S. security will not be enhanced by ratifying such a treaty, and a bipartisan majority of the Senate will reject it without hesitation.

Let us hope that these events do not occur. All of us would prefer to curb arms competition and reduce the risk of war, but none of us will do so at the risk of future U.S. security. It is the responsibility of all of us to make special efforts to inform ourselves in these difficult matters. The advice of the people, and the judgment of the Senate must be based on a reasoned understanding of strategic issues.

U.S. ARMS SALES SHOULD BE SEVERELY LIMITED

Mr. PROXMIRE. Mr. President, at an appropriate time, I will introduce legislation to limit severely the total U.S. annual arms sales by applying a declining ceiling for 3 years. From a total of $9.9 billion in fiscal year 1977, arms sales should be reduced to $8 billion in fiscal year 1978, $6 billion in fiscal year 1979, and not higher than $4 billion from fiscal year 1980 on.

Arms sales looming on the horizon strongly suggest that the administration will be hard pressed to meet its goal of a reduction from fiscal year 1977 totals. The delayed $1.4 billion AWAC's sale, the F–16's to Iran and the possible F–15's to Saudi Arabia would make it nearly impossible to reduce below the prior-year totals.

Congress can help the administration achieve its goals by mandating a declining ceiling for the next 3 years. Then the administration can point to Congress as the culprit in negotiations with other nations seeking military hardware. It will also force the Pentagon and State Department to make some hard choices as to which countries really need U.S. weapons for self-defense.

While I personally believe the most arms sales should be cut to the bone immediately, a 3-year $2 billion annual reduction in the ceiling would allow for a gradual phaseout of U.S. commitments and a minimal effect on U.S. corporations.

A long-term constant total of $4 billion is more than enough to satisfy the defense requirements of our NATO allies and those certain situations where the United States has longstanding treaty or moral obligations. After all, in the early 1970's U.S. arms sales were below $4 billion annually.

If an emergency arose where the United States was obliged to sell more military goods overseas for a substantial national security purpose of our own, Congress could always modify its arms sales budget just as it does with its Federal Government budget.

The ceiling-budget approach has several distinct advantages over the hit-and-miss arms sales policy now in effect. It would allow for long-term planning of security needs overseas. Crash programs would be avoided. U.S. corporations depending on overseas military sales would have time to reassess their business and move into other areas of production.

But the greatest value in such a declining ceiling is that it would contribute to stability in unstable regions and establish an open U.S. policy of denying rather than pushing arms.

Arms have many uses in addition to self-defense. U.S. weaponry has been used for domestic repression, palace coups, and aggression against neighbors. There are several documented cases of neighboring nations fighting each other with U.S.-supplied equipment—India and Pakistan being the classic example.

The United States is the biggest arms merchant in the world today—supplying more than half of the world's military sales, grants, and loans. If we do not show restraint, there can be no limitation in the conventional arms race of the developing nations.

THE RESPONSIBILITY OF THE SENATE: RATIFICATION NOW

Mr. PROXMIRE. Mr. President, we live in a complex world with many ideologies and values. It is imperative that the United States balance these diverse beliefs with the values of our own national policy when acting as an influential power in international policy-making. Under our Constitution, the president is responsible for that balance and for advising and counseling the appropriate executive departments and the Congress on matters of international scope.

Since 1948, every President to sit in the Oval Office has strongly supported ratification of the Genocide Treaty. Each has judged this treaty in a favorable light Each has urged the Senate to ratify this treaty. And each has been disappointed because, to date, the Senate has not done so.

Yes, Mr. President, for nearly three decades we in the Senate have failed to ratify the very basic Human Rights Convention on Genocide. By not using the power granted us by the Constitution in a responsible manner, we are jeopardizing the concept of the United States as a leader in the area of human rights. It is basic to our concept as a Nation and as a part of the world body to ratify this Convention. I urge the Senate to do so without delay.

THE WALL STREET JOURNAL: "THE BARGE INDUSTRY'S FREE RIDE COMING TO AN END?"

Mr. STAFFORD. Mr. President, yesterday, at a time when the Senate was not in session, the Wall Street Journal carried an article analyzing the issue of waterway user charges, which we must once again confront in the next several days when we debate H.R. 8309.

While the article is an interesting and informative one, it lacks one significant point. It fails entirely to mention the pivotal role in the development of the user charge issued, played by our colleague from New Mexico (Mr. DOMENICI). I believe it is fair to say that the Congress would never have taken on this

important national policy issue except for the perserverence and effective work of Senator DOMENICI.

Mr. President, to assure that my colleagues have the opportunity to study this article, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 24, 1977]

BARGE INDUSTRY'S FREE RIDE COMING TO AN END?

(By Albert R. Karr)

WASHINGTON.—Back in 1847, President James K. Polk vetoed a rivers and harbors bill, saying that use of general taxes to pay for the projects wasn't justified because the entire U.S. populace wouldn't benefit.

But a young Congressman from waterways-minded Illinois named Abraham Lincoln led a legislative override of the veto.

That event signaled what was to be a long history of generous federal policy toward inland waterways. In passing the Northwest Ordinance of 1787, the Continental Congress had said navigable waters "shall be common highways and forever free," with no special tax or toll imposed. Over the years, Congress has always insisted that the government should improve, operate and maintain those 25,000 miles of channels on behalf of barge commerce without assessing the users.

Presidents have often tried to balk at this largesse. As federal spending to improve the inland-waterway system has mounted in recent decades, eight successive presidents—Franklin Roosevelt through Jimmy Carter—have advocated levying federal fees on the barge lines, so they'd pay for at least part of the taxpayer investment in their watery rights of way. But largely due to opposition from barge operators and their friends in Congress, proposals to impose charges on the users consistently ran aground.

Now, all that is suddenly changing. Stirred by a growing national awareness of the profitable, fast-growing barge industry's free ride, the rapid rise in government spending on waterways and increased concern over federally aided barge competition for the less-subsidized railroads, Congress is on the verge of enacting the first waterway user charges in the nation's history.

In June the Senate approved a bill to require barge lines to reimburse the government for all of the Corps of Engineers' expenses for operating and maintaining inland waterways, and half of the corps' construction costs for new navigation projects; this could mean users would pay $300 million or more each year. This month the House passed a much more modest measure that would levy a six-cent-a-gallon fuel tax on barge lines, meeting only a tenth of the corps' costs.

The Senate and House must still compromise their differences, but this significant change in transportation policy is now assured. Some strong efforts were responsible.

President Carter gave the user-charge plan the biggest push yet. He was the first President to say he'd veto any rivers and harbors bill which didn't include user fees. He held that veto threat over a measure, dearly desired by waterways people, to authorize construction of replacement locks and dam on the Mississippi River at Alton, Ill. That project, called "Locks and Dam 26," has become a symbolic battleground for the whole struggle over whether new waterways projects are necessary and whether barge lines should help pay.

Meantime, the opposition retreated. Although barge operators had long opposed any user fee, they backed the House bill. "We knew the handwriting was on the wall," says a House transport expert who's sympathetic to the barge lines.

Actually, pressure for user fees has been building for a long time. During the last 15 years various study commissions have backed such charges. Former Transportation Secretary William Coleman's 1975 transport policy document urged them. So did the U.S. Railway Association, a government corporation which planned the reorganization of bankrupt Northeast railroads.

Railroads argue that they lose about $500 million in annual revenues because they have to charge depressed rates on some commodities to keep freight from being diverted to barge lines—and they actually lose some business to the barges besides. It's true waterway operators often have an inherent low-cost advantage over railroads, but this advantage is compounded by the fact that barges have their rights-of-way built and maintained for free; railroads have to lay their own track, repair it and pay taxes on their lines, user-charge advocates note.

"It is simply not equitable that profit-making businesses should have much of their costs met by the American taxpayer," says Transportation Secretary Brock Adams.

The government also puts considerable investment into highways and airways, but collects taxes and fees from the truckers and airlines that use them. Indeed, Washington has generally been willing to grant transportation subsidies without imposing user fees only when the beneficiaries can't pay and when there's a clear social purpose for a subsidy.

Lately, that reasoning has been applied to financially strapped railroads, notably Northeastern lines and some Midwestern roads. At other times, of course, healthy railroads have received various kinds of government aid. And the waterways people, seeking to fend off user fees, have made much of federal assistance to railroads over the decades. But the rail industry argues, with considerable accuracy, that most of this aid—land grants in the 1850s and other succor—has been sporadic or has involved compensation to the government by the recipient railroads.

The fees to be paid by the barge lines will ease the railroads' financial burdens and their need for future federal support, the backers of this historic change conclude. And they foresee little damage to the balance sheets of barge lines or their customers.

Two years ago, the National Water Ways Conference, a broad-based waterways-interest group, told the Senate Public Works Committee that "the freedom (from taxes) of the waterways of the territory was assured (by the 1787 Northeast Ordinance) with the same solemnity as the freedom of its inhabitants from involuntary servitude and their rights to trial by jury."

Those other two rights remain, but the barge lines' free ride is ending.

LOTTE JACOBI: DEAN OF PORTRAIT PHOTOGRAPERS

Mr. McINTYRE. Mr. President, I am pleased today to share with my colleagues an article that recently appeared in the Boston Sunday Globe on the occasion of the 81st birthday of one of New Hampshire's most remarkable citizens, Lotte Jacobi.

Lotte Jacobi has justly been called the "dean of portrait photographers." Born in Prussia, she emigrated to this country from Berlin in 1935 when the growing terror of Naziism made it impossible for her to continue her work. In the past half century she has captured the likenesses of hundreds of the celebrated men and women of our time—Albert Einstein, Peter Lorre, Eleanor Roosevelt, Robert Frost and, more recently Jimmy Carter—individuals whose faces are all the more familiar to us because of the impact of her work.

Yet, as remarkable as any of her portraits has been the vigor and courageous vision with which she has pursued her life and work. At an age when less gifted or lively persons would be content to reflect back on such a record of achievement, Lotte Jacobi forges on: Developing new photographic projects and exhibitions, helping her fellow artists, tending her garden and beehives, and working diligently in local and national politics.

It is thus with pride and pleasure that I ask unanimous consent to print the full text of this article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LOTTE JACOBI, CAMERA ARTIST

(By Ann Parson)

Lotte Jacobi is often called the "dean of portrait photographers," an apt yet limiting title in respect to her full life. She was born in West Prussia 81 years ago. Today she lives in Deering, her roost among the southern New Hampshire hills for more than 20 years—Prussia to Deering being an unusual traverse. In fact, the odds of a European settling amid Deering's population of 836 are minute, as minute, perhaps, as the odds against Lotte Jacobi having become a dedicated photographer.

Deering is lovely country-side so long as you know you are passing through it. Except for a slim border mark and a handsome clapboard town hall (whose old granite foundations Lotte Jacobi sought with others to retain), no indications of a town dot the main route.

After a good mile on Old Country Road, the "Jacobi" mailbox appears, then the low house which is set back. Its original structure once served as a winter hut for woodsmen. Small rooms have been added, including the wood-beamed studio entry which is filled with photographs, miscellaneous notices, and plants of all varieties. The studio's near windows facing south reveal a delightful clearing. Raspberry bushes, herb and vegetable gardens skirt a meadow crowded with bright wild mustard plants and snow white buckwheat. Also a beekeeper, Lotte Jacobi maintains two hives, at least 45,000 bees to a hive, she notes. The meadow's constant buzz keeps one well abreast.

Although an octogenarian, Lotte Jacobi's observations and abundant repartees outwit persons half her age.

(Commenting on Maine's Blue Hill Inn, she exclained, "It ain't what it used to be." I asked where she came up with her expressions. "I don't know," she replied. "I hear them used for things that "ain't necessarily so'.")

The morning I visited, Lotte Jacobi was attired in worn trousers and a T-shirt betokening a trip to Peru she took last spring with the Alumnae Association of the University of New Hampshire. (The university awarded her an honorary doctorate in 1974.) Her white hair frames an amiable long-nosed face with an often-raised brow. She seems tall despite her years, though she isn't especially.

Considering the length of her life, the breadth of her interests, an interview with Lotte Jacobi falls short. "I'd like to start at the beginning," I ventured. She studied me with hazel eyes and an impending smile. "*Ev-errryone* starts at the beginning," she enunciated in her strong German accent, unbroken after 40 years of US citizenship. Her English is deliberate and distinct. What's more, she will correct any "pictures" carelessly mispronounced as "pitchers."

Born in Thorn, Prussia, now Poland, Lotte Jacobi came from a noted family of photographers. Her great-grandfather, a glazier, went to Paris on a pleasure trip and took up photography directly from Louis Daguerre, who sold Jacobi a camera and license to photograph. Back in Thorn, he launched Jacobi Studio which subsequent generations kept flourishing. After attending the Bavarian State Academy of Photography and the University of Munich, Lotte Jacobi assumed responsibilities for the studio in 1927. By its fourth generation, the studio was located in Berlin.

During those early years, Lotte Jacobi traveled and photographed extensively. Her surviving portraits taken in the early '30s of Max Planck, Lil Dagover, Albert Einstein, Emil Jannings, Max Liebermann, Laszlo Maholy-Nagy, Henri Barbusse, the Russian dancer Schaluskaya, and other prominent figures are reminiscent of a unique European era that was near dissolution in the '30s.

By 1935, conditions forced Lotte Jacobi out of Germany to New York. "I wasn't allowed to photograph. I was not an Aryan." The Third Reich invented the myth of Aryan superiority, Aryans being what were considered the superior race versus the Jews. "They made Leni Riefenstahl (who was half-Jewish) an honorary Aryan." (Hitler appointed Riefenstahl director and producer of films for the Nazi party.) "They offered the same to me, but I declined."

Relatively few photographs remain from Lotte Jacobi's first 40 years of imagemaking since most of Jacobi Studio's archives, left behind in Berlin, disappeared.

Arriving in New York, Lotte Jacobi was one of many exiles welcomed by the press as "Hitler's gift to the USA." Friends and opportunities met her. Within two months she opened her first New York studio on the corner of 6th avenue and 57th street. She married her second husband in 1940, the German publisher Erich Reiss. Reiss died 11 years later.

During the next 20 years the studio assumed an active profile, changing addresses several times. In the early '50s Lotte Jacobi showed work by talented artists other than photographers. Leo Katz, the Czechoslovakia-born artist, educator and author; Louise Nevelson, George Salter, Ernest Guteman, Benjamin Benno, Gustav Wolf, Rudi Lesser, Howard Willard, Joseph Scharl and artists from Atelier 17 were among them. In 1955, Lotte Jacobi, her son and daughter-in-law opted for the simpler life and moved to Deering.

Seated in her Deering studio, she shakes her head. No, she does not miss New York. "I always wanted to be on a farm. It comes from my mother. I wanted to be a gardener, a beekeeper, all kinds of things."

During summers in the '60s, Lotte Jacobi's studio under the pines operated as a gallery and "brought art to the hinterlands," as The Globe once put it. Exhibitions by Minor White, Louis Nevelson, Leo Katz, and other artists, great and small, established a permanent path to the "Lotte Jacobi place," as it came to be called.

Camouflaged amid nature, Lotte Jacobi's interaction with people and human values has by no means diminished. Town meetings, horticultural societies, conservation committees, the New Hampshire Art Association, the state Democratic Party Platform Committee, senate hearings, the Democratic convention followed by President Carter's inauguration—Lotte Jacobi participates in local and national activities alike, with or without her camera. Democracy, she firmly believes, relies upon individual participation. "It isn't my country 'right or wrong;' it's my country 'right.' If it's wrong, I have to do all I can to make it right." The neutron bomb, in her book, is the worst possible wrong. "It's something I can't comprehend . . . It kills the people, and the buildings still stand."

Since the day Lotte Jacobi asked for her first camera—and her father suggested that she build herself a pin-hole model, which she did with his help—seeing has prevailed over her other senses. "I'm afraid my ear (for music) suffered for my eyes."

She does not consider herself a "real" photographer in the technically molded sense of an Ansel Adams or Harry Callahan, two precisionists. She is more interested in human nature than in photographic-making details. "I feel you have to study the techniques in photography as much as you can, but then you have to forget them—they have to be at your fingertips. When you take pictures, it does not help to think. If I do, I can't get one portrait where the people look like people."

The naturalism Lotte Jacobi elicits from her subjects is probably her greatest virtue as a portraitist. In front of her lens, well-known faces relax and cast their simple, private traits. "The person matters. Nothing else. I can't pose people for too long. I want them to be natural. I try to find out what they're interested in and ask questions."

She mentioned photographing Einstein, an acquaintance, at his home in Princeton, N.J. "I asked him to have some scientists around with whom he could talk, or work, or anything, so that he wouldn't have to look at me all the time." The resulting memorable portrait is Einstein, with frizzy hair and clad in a leather jacket, discretely absorbed, by the look of his hooded eyes, in something occurring across the room.

In recent decades Lotte Jacobi's camera has witnessed a great long line—Margaret Mead, Eleanor Roosevelt, Robert Frost, Marc Chagall, May Sarton, Pablo Casals, J. D. Salinger, Abraham Heschel, Scott Nearing, Paul Strand, Benjamin Britten, Marianne Moore, Christopher Morley, W. H. Auden, Jimmy Carter—actors, scientists, artists, politicians. However, the idea of fame annoys the photographer, famous ideas and character being something else. She does not approach her work with preconceptions nor does she attempt to make statements through it.

Once after an auction for refugees, she and Einstein were invited to Thomas Mann's house in Princeton. Lotte Jacobi took a portrait of Einstein and Mann seated together. Of the Mann brothers, Lotte Jacobi thought Heinrich the more gifted, Thomas's novels being insurmountable in German. She remembers meeting H. T. Lowe-Porter, a charming individual who translated Thomas Mann's work into English. "She made them more readable, more human . . . but Heinrich was the more interesting . . . 'The Blue Angel,' you know it? Heinrich lived his life and wrote when it pleased him. He was a human being."

Lotte Jacobi is hesitant to say which portraits most satisfy her—"How can you choose among your children?"—or which personalities stand out in her mind. Yet many Jacobi portraits click simply because the photographer and subject obviously are sharing a mutual respect for one another, as told by the sitter's expression.

To wit: one portrait of Alfred Stieglitz lifens the master many people considered intolerably difficult to a mild-mannered pediatrician. Having heard of Stieglitz in Europe, Lotte Jacobi came to know him at his New York gallery, "An American Place," and always found him likeable. "Many people didn't, but God knows what they asked him. Stieglitz's work is not reached by anyone yet. Now they start saying, 'Oh, everyone did that,' it's not true. He was the first. He devoted his life to making photography one of the arts, and after he's dead, he succeeds with it."

Lotte Jacobi's indefatigable concerns with human issues include sponsoring a move to honor Stieglitz—recognition of his 100th birthday being overdue—with a commemorative stamp. She urges likeminded supporters to send an appeal to Steven Dohanos/Chairman, Citizens Stamp Advisory Committee/US Postal Service/Washington, D.C. 20260.

Portraits by no means dominate Lotte Jacobi's photographic inclinations. If, the landscape is inviting, as it was in Peru, out comes her camera. Since settling in New Hampshire, she has produced intimate studies of nature at hand.

As for color photography, a development in Lotte Jacobi's lifetime, she feels she does not know it well enough. "And I like to know what I do . . . A photographer who wants to work in color must study it like a painter. Ninety percent of color photographs are merely black-and-white photographs with color." Nevertheless, Lotte Jacobi gets incited to work with color from time to time. "How can I resist New Hampshire in the fall?"

Some of her most intriguing work are her "photogenics"—abstract images made with pocket flashlight on photo-sensitive paper. She began them in the early '40's, influenced by a course she was taking from Leo Katz on cameraless photography. Katz evinces that if you depend too much on a camera, you never really learn how to see.

Katz points out that the word "photography" does not altogether correctly describe picturetaking with a camera since "photography" from the Greek denotes drawing with light. "Photography" actually describes the photogenic process.

The term "photogenics" came into use in 1770 when the German, Schutz, and some cohorts captured the silhouette of lace and other images with photosensitive liquids. Not capable of being "fixed," their image-making discovery, which they called a "photogenic experiment," was forgotten until, in the 1830's, Henry Fox Talbot imprinted objects semi-permanently on sensitized paper. He called them "photogenic drawings."

Lotte Jacobi's creations serve to reintroduce "photogenics." They have been described as "singularly magical images, unlike the light abstractions of any other photographer." Through fluid, illusionary designs, her photographs (in the literal sense) embody natural gestures, rhythms even, implicit in her portraits. "Photogenics Dancer," for instance, contains curving lines of light suggestive of the graceful, curving movement captured in the portrait of Claire Bauroff dancing.

Early this fall, Lotte Jacobi begins photographing across country. Last year the National Endowment for the Arts awarded her a grant enabling her to do a photographic series on photographers. She has some 100 faces in mind. She has begun already this summer by photographing Bernice Abbott, and Clarence H. White Jr. in Maine; Max Waldman, Grace Meyer, Alfred Kloke, in New York, Christopher Cook in Andover, Mass.

Lotte Jacobi's work has been widely exhibited here and abroad and is in permanent collections at MIT, the Metropolitan Museum of Art, the Jewett Arts Center at Wellesley College, the Museum of Modern Art, the Smithsonian National Portrait Gallery, the Currier Gallery of Art in Manchester, N.H., the Addison Gallery in Andover, German museums, and private collections.

Yet most likely Lotte Jacobi would have us believe that marks of success are largely inconsequential. For her, living is the important pleasure.

"I don't tinker, I play. I only live photography."

POSTPONEMENT OF SALE OF "EXCESS LANDS"

Mr. DOLE. Mr. President, last Wednesday the distinguished Senator from New Mexico (Mr. DOMENICI) and 17 cosponsors introduced Senate Joint Resolution 93, a joint resolution concerning the im-

plementation of provisions of the Reclamation Act of 1902, as amended.

Specifically, Senate Joint Resolution 93 resolves that there should be a 1-year moratorium on the termination of water deliveries from Federal reclamation projects due to the acreage limitations or residency requirement in the Reclamation Act. The resolution is also designed to postpone for a 1-year period any forced sale of so-called excess land now irrigated by Federal reclamation projects.

I take this opportunity to associate myself with this timely initiative, and I ask that my name be included in the bipartisan list of cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. The purpose of Senate Joint Resolution 93 is to place a moratorium on proposed regulations announced by the Interior Department in August of this year. The regulations require the sale by lottery of private lands exceeding the acreage limitations of the act of 1902 which benefit from Bureau of Reclamation irrigation water.

The proposed rules would also require all future purchasers of "excess lands" to reside on or near the land they wish to buy. The regulations came about as the result of a Federal district court decision in 1976 directing the Bureau of Reclamation to initiate public rulemaking procedures for the sale of "excess lands."

The Reclamation Act of 1902 imposed a 160-acre limitation on the amount of land which a farmer or rancher can irrigate from bureau of reclamation water. Farming techniques and economic realities have changed drastically since 1902, and many economists contend that the enforcement of the 160-acre limit would result in farming units which would be too small to be economically feasible. Until last year's Federal district court decision, the issue was wholly academic since the Bureau did not strictly enforce the 160-acre limit.

The issue is no longer academic. Thousands of farmers and ranchers in the Western States are now faced with the forced sale of their "excess lands." Affected landowners are understandably distressed and the proposed regulations have sparked tremendous controversy throughout the West.

The Department of the Interior's proposed regulations have not yet been finalized or implemented. Secretary Andrus and other Interior Department officials will conduct 10 public hearings on the regulations during the month of November. But it is very unlikely that the regulations will be altered in any significant respect since the Secretary remains bound by the court order which strictly construes the Reclamation Act of 1902. Any remedial action must take the form of an amendment to the act of 1902.

Earlier this month President Carter expressed his view that in most instances a unit of 160 acres, or even 320 acres, is too small to sustain a farm family's economic needs. The President indicated that he will soon send to Congress a proposed legislative remedy. In the meantime, several other amendments to the act of 1902 have been proposed.

Senate Joint Resolution 93 provides the necessary time frame for Congress to thoroughly consider the reclamation and "excess lands" issue, and to enact legislation updating provisions of the act of 1902 which Congress deems outdated or unnecessary.

I therefore, urge my distinguished colleagues to give this joint resolution their prompt approval.

U.S. BANKS IN PANAMA

Mr. PROXMIRE. Mr. President, I wish to call to the attention of my colleagues information concerning the activities of U.S. banks in Panama. The recently concluded treaty with Panama has stirred speculation that U.S. banks may have excessive exposure in Panama and therefore, have a special interest in the benefits to Panama from the financial portions of the agreements.

As chairman of the Committee on Banking, Housing, and Urban Affairs, I asked the Federal Reserve Board and the Comptroller's Office to provide detailed information on U.S. bank exposure in Panama. I ask unanimous consent that their replies, including the tables appended thereto, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PROXMIRE. Mr. President, the data supplied by the bank regulatory agencies show that U.S. banks had total claims on Panama of $2,831 million as of December 31, 1976. Reports for June 30, 1977, are not yet fully tabulated, but it appears that total exposure has not grown and may have declined: All national banks had just $773 million in claims in Panama, and 20 large banks (including large State member banks involved in lending in Panama) had $2,162 million in claims in Panama. Data obtained for June 30, 1976, indicate total U.S. bank exposure in Panama was $3,417 million. Further revision of the figures may yield a different result, but based on what is available currently, U.S. banks seem to have reduced their exposure in Panama during the past year, although overseas operations in general and other off-shore banking centers outside London (Bahamas, Cayman Islands, Singapore, Hong Kong, Bahrain, and so forth) in particular have been expanding rapidly.

Panamanian claims of U.S. banks do appear large in relation to claims on other Central American countries. Total U.S. bank claims on the other five republics were $1,478 million at the close of last year, as compared with $2,831 on Panama. But claims on Panama are enlarged by its role as an offshore international banking center, a role not played by other Central American republics. From one-quarter to one-third of bank claims on Panamanian residents are claims in fact on the branches of other foreign banks (principally European banks) in Panama. These interbank deposits are fully backed by the parent banks and should be excluded from an assessment of true bank exposure in Panama. It should also be noted that a much higher percentage of total claims on Panama are externally guaranteed (Panama, 21.3 percent; Costa Rica, 8.9 percent; El Salvador, 3 percent; Guatemala, 1.7 percent; Honduras, 9.3 percent; and Nicaragua, 3.7 percent)

Claims on Panama are largely short-term claims despite its use as a center for booking loans to be used throughout Central America. As of December 31, 53.5 percent of U.S. bank claims had maturities of under 1 year. As of June 30, 52.1 percent of all national bank claims on Panama had maturities of less than a year and the percentage was slightly higher (53.8 percent) for the 20 largest national banks.

The U.S. bank operations in Panama are concentrated in a few large banks. Three banks, which happen to be state-chartered banks, holds 50 percent of the claims held by 20 large U.S. banks on Panama, that is, $1,081 million.

Four national banks hold 62 percent or $481 million of the claims of all U.S. national banks on Panama. The six U.S. banks with the largest claims on Panama (of which at least four are State-chartered banks) hold 75 percent or $1,622 million of the claims of 20 large banks on Panama. Some of this country's largest banks do very little business in Panama. And 13 of the 20 largest national banks do no business with other foreign banks and 5 do no business in Panama at all.

The bank regulatory agencies also provided information on the claims on Panamanian residents with more than 1 year to maturity as a percentage of bank capital. Only two banks, both State banks, had claims on Panama equal to more than 10 percent of capital. When claims carrying the guarantee of a party outside Panama are excluded, no bank has loans over 1 year to maturity which exceed 4 percent of its capital. Thus the potential losses which any single bank could suffer in Panama if all loans to all nonguaranteed borrowers were in default are less than one-half the bank's single borrower limit. To put it differently, no bank is more heavily exposed in total claims with maturities over 1 year in Panama than it is authorized to be exposed to a single domestic corporate borrower.

FEDERAL RESERVE SYSTEM,
Washington, D.C., October 11, 1977.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to respond to your letter of September 19 requesting information about U.S. bank claims on Panamanian residents.

Enclosed are four tables prepared by our staff which provide the information in question. These tables are derived from several different sources. Table 1 was prepared from data collected by the Federal Reserve as of year end 1976 from a group of approximately eighty U.S. banks; these data were published in a press release issued on June 3, 1977.

Tables 2, 3 and 4 were prepared from data as of mid-1977 collected in a new survey on bank exposure conducted by the Federal Reserve in cooperation with other bank supervisory authorities. Twenty large U.S. banks reported total claims on Panama amounting to $2.2 billion in this survey, compared with $2.8 billion of claims on Panama reported in the earlier survey noted above for a larger group of banks. Data collected in the new survey are still being processed by our staff and may be subject to further revision. If

significant revisions should occur later in the course of the editing process, I will provide you with a revised set of tables.

Data in Table 3 have been combined into groups of three banks in order to preserve the confidentiality of data for individual banks.

I hope this information will be useful to your Committee. Please let me know if I can be of further assistance.

Sincerely yours,

ARTHUR F. BURNS.

U.S. BANK CLAIMS ON PANAMA

TABLE 1.—*Total U.S. head office, foreign branch and foreign subsidiary claims on Panamanian residents, December 31, 1976*

(Millions of dollars)

Total Claims	2,831
1 year or less	1,514
Over 1 year to 2 years	90
Over 2 years	323
Unallocated	904

Source: FR 2029. Report filed by approximately 80 banks.

TABLE 2.—*Claims on Panama of twenty large U.S. banks, June 30, 1977*

(Millions of dollars)

Claims on banks	589
Claims on banks with head offices in other countries (including branches or affiliates of U.S. banks)	463
Claims on private nonbanks	583
Claims on official institutions	261
Claims on private nonbank and official institutions externally guaranteed	[1] 729
Total claims on Panama	2,162

[1] From the regular 502S statistical report, it is estimated that branches of U.S. banks in Panama had liabilities of $367 million to local residents as of June 1977.

Source: Federal Reserve and Comptroller of the Currency Foreign Exposure Reports.

TABLE 3. *Shares of individual banks in large U.S. banks' total claims on Panamanian residents and in their total claims on Panamanian offices of non-Panamanian banks, June 30, 1977*

Bank (left column):

Shares of individual banks in total claims on Panama of 20 large banks (middle column):

Shares of individual banks in total claims on Panamanian offices of non-Panamanian banks of 20 large U.S. banks (right column):

1, 2, 3	50.0	34.9
4, 5, 6	25.1	26.6
7, 8, 9	13.3	9.3
10, 11, 12	5.6	8.0
13, 14, 15	3.4	6.5
16, 17, 18, 19, 20	2.6	5.2

Source: Federal Reserve and Comptroller of the Currency Foreign Exposure Reports.

TABLE 4. *Claims on Panamanian residents with more than one year remaining to maturity as a percentage of capital for twenty large U.S. banks, June 30, 1977*

Bank	Per cent [1]
1	13.2
2	10.4
3	8.6
4	4.0
5	3.3
6	3.0
7	3.0
8	2.8
9	1.1
10	1.0
11	1.0
12	.8
13	.5
14	.5
15	.5
16	.4
17	0
18	0
19	0
20	0

[1] Included in these percentages are claims that carry the guarantee of a party outside Panama. The amounts of such guaranteed claims cannot be precisely calculated for loans with more than one year to maturity. However, the total of nonguaranteed loans over one year to maturity does not exceed 4 per cent of capital for any bank on the list.

Source: Federal Reserve and Comptroller of the Currency Foreign Exposure Reports and FR 416.

COMPTROLLER OF THE CURRENCY,
Washington, D.C., October 12, 1977.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter dated September 28, 1977 requesting information regarding the commitments of U.S. national banks in Panama.

1. As of June 30, 1977, total claims, including foreign branches and subsidiaries, on Panamanian residents aggregated $773 million with $403 million due in one year and under, $288 million maturing over one to five years, and $82 million due in five years and over.

2. On June 30, 1977 the proportion of such claims which represented claims on United States and foreign bank branches in Panama, that is excluding Panamanian banks and other Panamanian residents, totaled $279 million.

3. For each of the twenty largest United States national banks, claims on Panamanian residents as a percentage of total national bank claims on Panamanian residents, were:

Bank	Amount [1]	(2)
A	7	0.90
B	0	0
C	0	0
D	0	0
E	22	2.84
F	1	.13
G	163	21.08
H	0	0
I	5	.65
J	0	0
K	137	17.72
L	44	5.69
M	1	.13
N	87	11.25
O	12	1.55
P	94	12.16
Q	3	.38
R	25	3.23
S	34	4.39
T	4	.51
Total	639	82.61

[1] In millions of U.S. dollars.

[2] Percentage of total claims on Panamanian residents.

For each of the twenty largest United States national banks, claims on non-Panamanian banks as a percentage of total national bank claims on non-Panamanian banks and residents, were:

[Amount in millions U.S. dollars]

Bank	Amount	Percentage
A	0	0
B	$1	0.36
C	0	0
D	0	0
E	0	0
F	37	13.26
G	0	0
H	0	0
I	36	12.90
J	0	0
K	0	0
L	20	7.16
M	0	0
N	0	0
O	6	2.15
P	0	0
Q	76	27.24
R	0	0
S	33	11.82
T	0	0
	209	74.89

For each of the twenty largest United States national banks, claims on Panamanian residents with more than one year remaining to maturity, as a percentage of each bank's total capital, were:

Bank	Percentage of total claims
A	0.46
B	0
C	0
D	1.10
E	0
F	0
G	1.83
H	0
I	8.38
J	1.45
K	0
L	2.35
M	0
N	.74
O	.31
P	1.03
Q	.41
R	2.89
S	2.51
T	.74

We hope this has been responsive to your inquiries.

Sincerely,

JOHN G. HEIMANN,
Comptroller of the Currency.

THE SITUATION IN SOUTH AFRICA

Mr. BROOKE. Mr. President, in India there is a saying: "Those whom the gods would destroy, they first make mad." This certainly appears to be the case in South Africa where the actions of its government in seeking to perpetuate the unjust and immoral system of apartheid can only be described as a "reactive insanity" and a wish for self-destruction.

The tragic death of Steve Biko, a black leader whom many in South Africa looked to for counsel and encouragement, increased our awareness of the terrible inequities in South Africa. Now, the Government of South Africa, clinging to a policy of racial separation that has been bankrupt from its inception, has brutally moved to close all avenues to peaceful dissent on the part of the black majority in South Africa by closing the leading black newspaper; detaining its widely respected editor, Percy Qoboza; banning various individuals; and issuing unmistakable threats to the remaining press to either follow its dictates or risk a similar fate. These actions are a tragic indica-

tion that the South African Government lacks the political foresight and courage to come to grips with the pressing need to work with the disenfranchised black majority to establish a multiracial equitable society. Lacking moral imagination, the Government of South Africa has turned increasingly to repression to counteract the growing reaction to its vile racial policies.

The repressive actions by the South African Government may result for a time in relative clam. But, over time, its actions and policies, if continued, will not only further alienate black South Africans, but also set the stage for a massive violent upheaval within which both blacks and whites will experience great suffering. The South African Government is on a one-way street to tragedy. And as it takes further steps in that direction, it is enmeshing itself in an action/reaction syndrome that increasingly assumes the appearance of inevitability. Unless the process is arrested and reversed in the immediate future, an action increasingly unlikely in light of recent events, the chances to avert a holocaust will be dim indeed.

Mr. President, the aspirations of the black majority in South Africa for equitable participation in that society will not disappear or dissipate though confronted by this action. Affirmative efforts to make those aspirations a reality may be restrained for a time. But ultimately, the black majority will have its "place in the sun," as it rightly should. The real choice then in South Africa is whether legitimate black demands will be fulfilled with a minimum of violence and further injustices, or whether the unwillingness of white South Africans to acknowledge, accept, and work to fulfill legitimate black aspirations will create such a gulf between the two societies that relatively nonviolent change will become impossible. The South African Government appears bent on making the latter inevitable.

We, as outsiders, do not have the solution to this tragic situation. It can only come from within South Africa, with a rapid change in the attitudes of the white minority. Many of us desperately hope that such a change is still possible and are willing to do what we can to promote it. But we must also soberly recognize that there is a point at which we may no longer have a reasonable hope of encouraging needed change. Animosity on both sides may become insurmountable. The most recent actions of the South African Government, I fear, have moved us nearer that point. And I am deeply fearful that very soon the "politics of the sword" may monopolize the situation in South Africa.

Mr. President, the administration is correct in stating that the United States is "deeply disturbed" over these recent developments. I believe that the majority of Americans agree. And I hope that the South African Government will take to heart the implicit warning that the basis for positive relations between our two countries is rapidly eroding, and will continue to do so unless positive changes occur in relationship to the status of the black majority in that country.

VETERANS DAY

Mr. McINTYRE. Mr. President, on Monday, October 24, we observed a day of remembrance in honor of the millions of Americans who have defended our Nation as members of the Armed Forces. We recalled and honored those gallant Americans who fell in the service of the country they loved. We also honor and remember those of us who remain as living representatives of the Armed Forces of the United States. We remember the millions of men and women who have given of themselves so that the principles upon which our Nation was founded might endure.

Veterans Day was originally observed on November 11, the anniversary of the end of World War I. President Woodrow Wilson proclaimed that date as "Armistice Day" to honor those who had fallen in that first great war.

However, the "war to end all wars" proved to be only the beginning of a turbulent time. The peace that followed World War I was shattered by an even more terrible conflict in 1941—and U.S. troops once again made the ultimate sacrifice in defending their country. The conflict in Korea—and more recently Vietnam—interrupted the temporary world peace.

But, thankfully, we are celebrating the third consecutive Veterans Day where no American troops are fighting in a foreign land. In these days of peace, it is even more important that we remember the sacrifices many have given throughout our Nation's history. More than 40 million men and women have served our country in uniform in times of war—and on October 24, we once again remembered and thanked these loyal and patriotic Americans throughout the United States.

We are now in an era of peace, one which we hope will last for years to come. But this time of peace has been paid for by the sacrifices of men and women from the Revolutionary War to the Vietnam conflict. Thus, it is fitting that we take time to pause and recall those who served in our Nation's Armed Forces, many of whom made sacrifices we can never repay.

UNITED STATES-LATIN AMERICAN POLICY AND HUMAN RIGHTS

Mr. KENNEDY. Mr. President, last month the Fund for New Priorities, the Washington Office on Latin America, and the National Council of Churches joined with a broad coalition of American church and labor groups to hold an important congressional conference on United States-Latin American policy and human rights. I congratulate my esteemed colleagues, Senator McGOVERN and Congressman HARKIN, for sponsoring this conference.

The conference proved to be a valuable forum to discuss and reflect on the important but difficult task of promoting human rights in Latin America and the world. Administration officials, Members of Congress, and prominent nongovernmental spokespersons joined on September 27 with representatives of the democratic opposition of Argentina, Bolivia, Chile, and Uruguay to consider U.S. human rights policy, the particular human rights situations gripping their countries, and the political alternatives for the future.

I would like to commend especially Patt Darien, the Assistant Secretary of State for Human Rights for her sensitive remarks at the conference on the difficult process of promoting human rights. Her description of her personal approach to officials of countries known for human rights violations was refreshingly unbureaucratic and candid. She was right to warn that "it is too early to proclaim any advance in human rights," while at the same time emphasizing the necessity to "sustain interest in the human rights cause." We all must not let these concerns be forgotten.

Indeed, this congressional conference has taken place at a historic point for Latin America—a point in which either the forces of repression can become firmly established in that continent or there can be a return to democratic institutions and individual liberties. I strongly agree with the President that human rights must be a cornerstone of our policy, here and elsewhere. This is crucial not for our sake, not for the sake of "making us feel good again" about the direction of U.S. policy abroad, but rather for the sake of democratic forces worldwide, especially those fighting for their very survival in the southern cone of Latin America. Human rights must be protected by democratic institutions based on humane and just principles, and must be defended from institutionalized repression.

Archibald MacLeish has written that "the cause of human liberty is now the one great revolutionary cause." For liberty once again to flourish requires unremitting effort by the United States and other partisans of democracy in the Hemisphere. Let that effort not flag as a result of superficial adjustments by repressive regimes. Solidarity and hope must filter in so that a process of democratic regeneration can begin.

Orlando Letelier, the respected Chilean diplomat, cabinet minister, and economist, was a vital source of this solidarity and this hope. Only last month, many of us commemorated the life and death of this man who had become a symbol of democratic regeneration for Chile and her people. His brutal assassination here in Washington, 1 year ago—reportedly by Cuban exiles directed by Chilean Government intelligence agents—brings home not only the tragedy, but the appalling reach of repression if it is not firmly opposed by us all.

As legislators, we should not forget that many of our colleagues in Chile, Argentina, Uruguay, and elsewhere have been tortured, exiled, and assassinated, as was Orlando Letelier. The tragic killing of fellow parliamentarians, such as House Speaker Hector Gutierrez Ruiz and Senator Zelmar Michelini of Uruguay, and Congressman Amaya of Argentina, must reinforce our support for the struggle for human rights and for open and impartial legislative and judicial processes.

In pressing this struggle, we should join with democratic legislators, most of them exiled or detained, to dramatize the democratic alternative. The U.S. Congress and administration cannot equivocate in our support of the democratic alternative, if we are to be serious about fully restoring human rights in the hemisphere.

I was particularly struck by the eloquent remarks that Sergio Bitar, a former Minister of Chile, made on this same point before the congressional conference. I would conclude, Mr. President, by quoting from these remarks:

There exists now a democratic alternative for Chile. The democratic alternative is the only way of attaining a just and enduring solution. The cosmetic efforts to change the image of the totalitarian regime can only prolong injustice, fear and misery. The current regime cannot endure. Its end will not result in chaos, but in a democratic and legitimate governments. . . .

Democracy is the only solution. There are no reasons that can justify the prolongation of the dictatorship. The failure to understand this simple truth while applauding and supporting superficial changes of the junta, can only delay and hinder the reestablishment of a democratic order. In history there has never been a totalitarian regime that has evolved towards democracy by the will of the dictator. . . .

The achievement of democracy is the task of the Chilean people. What we ask is only that the US not obstruct this process by supporting the present regime. This would be the best expression of nonintervention, and a real concern for human rights and democracy in US foreign policy.

We believe that the US Congress, the traditional guardian of democratic values, has a decisive role in helping to avoid that the ideals of democracy not be sacrified for short term diplomatic considerations.

What Sergio Bitar said of Chile could equally well be said of all other countries of the Latin American southern cone—now but not permanently under the grip of military dictatorships.

"D–2 LANDS" IN ALASKA

Mr. STEVENS. Mr. President, one of the major controversies to be presented to the Senate in the next 18 months will be the decision over the so-called d–2 lands. These are lands which are currently withdrawn in Alaska for study for potential inclusion in specific Federal management systems. Valuable concentrations of important minerals need to be properly inventoried prior to any congressional decision. For example, the Bureau of Mines recently announced the discovery of significant uranium concentrations in an area which has been withdrawn for potential designation as a wild river. Additionally, a private exploration company has announced discoveries of important minerals on lands also proposed in some d–2 legislation. Congress needs information such as this discovery to make a real decision on what the best category for placing public lands will be. Before Congress can make a final d–2 decision, it must know what it is dealing with. Further exploration is needed since significant mineral deposits will be discovered on lands about which Congress would otherwise be without information.

Mr. President, I ask unanimous consent that two articles dealing with discoveries of minerals in Alaska be printed in the RECORD. One was originally published in the Wall Street Journal and deals with the discovery of valuable mineral deposits in northwest Alaska. The other is an editorial from the Anchorage Times dealing with the need to pursue expeditiously Federal mineral exploration on lands which are withdrawn from private exploration.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

HOUSTON OIL, PARTNER HAVE SIGNIFICANT FINDS OF MINERALS IN ALASKA

HOUSTON.—Houston Oil & Minerals Corp. said that it and its joint venture partner, General Crude Oil Co., found "significant" mineral deposits in Alaska.

The company said "data are incomplete and no reliable estimate" of the reserves of the minerals involved can be made pending further exploration. It added: "Data thus far developed permit the inference that the find is a major discovery."

General Crude is a unit of International Paper Co.

Houston Oil said the minerals it found are above the Arctic Circle, about 80 miles north of Kotzebue, Alaska, and 50 miles from the Chukchi Sea. Because winter is starting there, further substantial exploration probably won't be done until next year, it added. The area's location, plus environmental reporting requirements, ensure that "production won't begin for a number of years," the company said.

The company said that four of seven core holes it has drilled have resulted in mineral finds. It cautioned that it hasn't determined whether the core holes penetrated the mineral layers precisely at right angles. Thus, it said, it doesn't know for sure how thick the mineral deposits might be.

The company said its first hole, which was drilled at a 45-degree angle, encountered 48 feet of minerals between 495 feet and 572 feet, measured in the core hole. A mineral zone between 495 feet and 510 feet was assayed at 4.3 percent lead, 14 percent zinc, 0.07 percent cadmium and 2.55 ounces of silver a ton, it said.

A core taken from between 516 feet and 523 feet averaged 5 percent lead, 14.4 percent zinc, 0.07 percent cadmium and 2.7 ounces a ton of silver. The mineral zone tested between 546 feet and 572 feet averaged 8.1 percent lead, 8.2 percent zinc, 0.05 percent cadmium, and 0.27 ounce a ton of silver.

The company said that hole No. 5, drilled about 2,400 feet southwest of hole No. 1 at a 45-degree angle, encountered 98 feet of minerals in three zones between 91 feet and 253 feet measured in the core hole. Minerals in the top zone, between 91 feet and 116 feet, averaged 5.7 percent lead, 5.8 percent zinc and 0.08 ounce of silver a ton. The zone between 179 feet and 233 feet averaged 8.5 percent lead, 25.5 percent zinc, 0.25 percent cadmium and 5.32 ounces of silver a ton. The zone between 233 feet and 253 feet was assayed at 1.5 percent lead, 8.5 percent zinc, 0.02 cadmium and 0.12 ounces of silver a ton.

The company said hole No. 6, also drilled at a 45-degree angle, encountered 42 feet of minerals and hole No. 7, drilled at 80 degress, found 71 feet of minerals. These holes were drilled between holes No. 1 and No. 5. Cores of holes No. 6 and No. 7 haven't yet been tested.

General Crude and Houston Oil each hold a 47.5 percent interest in the venture. The remaining 5 percent is held by WGM Inc., a mining and geological consulting firm based in Anchorage.

A WEALTH OF MINERALS

It is a pathetic commentary on the low esteem in which discovery of Alaska's mineral wealth is held when a senior official of the U.S. Bureau of Mines must defend his announcement of a uranium find.

That is exactly what has happened to John Mulligan, chief of the bureau's field operations center in Juneau, following his recent announcement that uranium concentrations had been found in waters in a 20-square-mile area near Mount Prindle 50 miles northwest of Fairbanks.

The explosive element in Mr. Mulligan's statement, of course, is the fact that the discovery is within an area marked for inclusion as the Beaver Creek national wild river sanctuary under the Carter administration's plan for Alaska's D2 land.

An Associated Press story from Juneau said the bureau's announcement is "expected to attract a flood of prospectors to the area."

There is nothing abnormal or illegal about prospectors moving into the target area. Until it is sanctified as untouchable wilderness by Congress, prospecting for the much-needed uranium should be encouraged.

What is disturbing about the AP story is that it puts Mr. Mulligan on the defensive, forcing him to deny that the bureau, an agency of the Department of the Interior, has any intention of sabotaging the wilderness-making plans of his boss, Interior Secretary Cecil Andrus.

The AP reporter wrote:

"Some state officials, however, said they were suspicious of the bureau action, noting a past history of in-fighting within the Department of Interior over environment issues and the unusual nature of the press release."

Alaska's commissioner of Natural Resources, Robert LeResche, was quoted as saying. "There's something going on for sure."

We'll tell our puzzled commissioner what is going on. Mr. Mulligan is doing the job he is paid to do—finding Alaska's minerals and telling the world about what he finds. He has nothing to hide and is merely continuing a program that resulted in announcements last year of silver deposits in the Brooks Range and a coal deposit discovered near Mt. McKinley, both located on land proposed for D2 withdrawal.

The Bureau of Mines chief in Juneau gave no indication that he is about to wear a muzzle. He said that his office will soon release information on a major silver discovery in the national petroleum reserve.

We hope Mr. Mulligan and his staff tell "suspicious" state officials and all others opposed to releasing news of Alaska's mineral wealth to find a hibernating hole.

It will be a dark day for Alaska and the nation when wilderness worshippers exert so much influence that discovery of new uranium, silver or any metal prospect is tagged as bad news—so bad that it should not be announced to a mineral-hungry world.

NATURAL GAS PRICES—IMPACT OF INCREASE

Mr. ABOUREZK. Mr. President, a recent column by Hobart Rowen shows just how much money is involved in every penny we increase natural gas prices—either by regulation to the level suggested by President Carter, or by deregulation, which 50 Members of the Senate voted for. I ask unanimous consent that Mr. Rowen's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GAS DEREGULATION: "THE PUBLIC IS BEING HAD"

(By Hobart Rowen)

The industry's effort to deregulate the price of newly discovered natural gas threatens to be one of the boldest and biggest steals of all time. "What is being done here is the greatest unarmed robbery in the history of the country," according to Sen. Don Riegle (D-Mich.).

It's important to get some impression of the monumental nature of the rip-off. Not content with a price increase for new gas of 445 per cent from 1972 through 1976, the industry in reality is seeking to get the equivalent of the monopoly price of oil, as set by OPEC: $2.50 to $2.75 per thousand cubic feet.

That would give the industry a price increase of 2,000 percent—yes, 20 times the 13- to 14-cent price at which it was making a good profit in 1968.

The industry lament is that it needs ever higher prices to provide incentive for new explorations. But a hard-to-counter analysis by the Consumer Federation of America shows that while prices were increasing 445 per cent in 1972–76, gas production decreased 12 per cent, reserves declined 19 percent, and profits boomed by 50 percent.

Lee C. White, former chairman of the Federal Power Commission, now lobbying hard against deregulation, observes that before 1968, "we argued over pennies." And for good reason: Every added penny on the gas price per thousand cubic feet costs consumers $200 million. Every dime costs $2 billion.

Yet, in an effort to stave off the greedy drive for total deregulation, hard-pressed Democratic senators are giving away dimes and quarters like chicken feed.

Last year, two statistical agencies of the Federal Power Commission estimated that a fair price for "new" natural gas was between 60 cents and 67 cents—"fair price" meaning a return of 15 to 18 per cent.

But the commission itself figured the fair price at $1.42, allowing, in its computation, a federal tax burden calculated at the theoretical corporate-taxtable maximum of 48 percent. Of course, no industry pays 48 percent. "If they paid more than 7 per cent [as an effective tax rate], they need a new lawyer," says White.

Then the Carter administration came along, after the U.S. Court of Appeals sustained the FPC's $1.42 price, and proposed a formula that would sweeten the price for "new" natural gas to $1.75.

Even that didn't satisfy the industry, so Henry Jackson made an abortive attempt to avert a deregulation vote in the Senate with a proposal for $2.03 per thousand cubic feet, and a more generous interpretation of "new" gas. The price would rise to $3.36 in 1985, with full deregulation in 1987. How utterly ridiculous can this get? How long will it take before the public realizes that it is being had?

A high administration official dealing with energy matters, who saw the turn of the tide some weeks ago, put it this way:

"The moral imperative for American business is to maximize profits. Natural gas is no exception. You just go over the debates over the years. Give us 35 cents—that's all we want, they said. Give us 50 cents. Last year, they said a dollar will produce all the gas you want. Now, at a $1.75, for the shallow deposits, the incentives are just overwhelming. . . .

"The incentives are so damn great that the producers are bidding one against the other for drill rigs, for steel, for trained manpower, for leases."

There was a time when the administration thought the industry couldn't turn down a price between $1.75 and $2 because the profits would be so great. But the natural-gas industry isn't satisfied. It's had the deregulation bug ever since President Nixon planted the idea, and now sees no reason why it shouldn't get the OPEC equivalent, and with that a transfer of some $10 billion annually from consumers to the gas producers. Who knows? The OPEC oil price one day may be $25 a barrel.

The huge increase in the price of oil from around $2 to $3 a barrel in 1972 and 1973 to $13 or $14 a barrel today, as many officials have once again concluded, created unmanageable financial problems. It has led to enormous debt and, currently, a serious worldwide flirtation with protectionism.

The price of oil is today's key issue—and everyone talks about it merely in whispers, fretful of the effect on Mideast politics. The world today appears to be concerned more about the fear of an empty gas tank than about moral attitudes. But having let OPEC dictate this country's oil prices, it would be criminal if we let OPEC dictate natural-gas prices as well.

STATES EVIDENCE REGULATORY INTEREST

Mr. HANSEN. Mr. President, the lengthy and complex deliberations which have been a part of the past two sessions of the Congress, addressed to the matter of telecommunications service has produced a greater understanding about the unique interrelationship of Federal and State jurisdictions in the process of regulating this vital industry.

I strongly believe that these matters are of importance to the Nation and deserve, indeed require, the action of the Congress to insure the public interest is served in the future.

I recognize the intense interest of the States in seeking to preserve that which they understand to be particular and unique local circumstances. In my testimony before the Subcommittee on Communications of the Senate Commerce, Science, and Transportation Committee this past March, I provided an example of the kinds of situations in which the people find themselves.

Not far from the western border of Wyoming, near my home in Jackson, there is a small community called Bondurant, with hardly more than 100 people. Bondurant is a local center for the area's agricultural community and a way-station for travelers coming to and from the national park areas to the north and west.

This year some 40 Bondurant families whose telephone service has been coming to them on an 8-party line hookup will have, for the first time, a choice of single-party, 2-party, or 4-party service. Bondurant is only one of the many rural communities in Wyoming that will see the end of the 8-party line by 1978. They are part of a 5-year, multimillion-dollar phone company project called rural improvement program. Some $330,000 is being invested by the phone company in behalf of Bondurant customers alone, an average of $8,300 per subscriber.

The basic monthly rate today for 8-party service is $6.55. When this upgrading of service is completed the monthly rate "for basic 2-party service" will be about $14.50. But the actual rate, if the people in this rural community were paying what it costs to provide this service, would be about $180 to $185 per month. Now who can—or should have to—pay this amount of money for plain telephone service? These are the people I am concerned about and speak for today.

This type of development, I submit to you, could never happen in a competitive telecommunications structure. It is possible only because, under a regulated franchise, the telephone company is obligated to serve all customers in its assigned geographic area and because it is permitted to balance the costs of service in thinly populated regions with those in more densely settled communities.

Only through a structure in which the States maintain authority to determine the conditions under which the unique needs are to be satisfied and only through a structure which permits the economic advantages of the interstate telephone network to benefit basic telephone users particularly in remote areas can the kind of extreme situation my example describes be prevented.

Mr. President, I believe we must be continually mindful of the significance of arriving at a balanced relationship between Federal authority and the authority of the States in arriving at an ultimate structure which would best serve all the people of the country.

The Governors of the Western States, one of those States being my home, made the review of the Communications Act an agenda item at its recent conference in Anchorage, Alaska, this fall.

The result was a resolution highlighting interest in the matter and urging Congress to proceed in such fashion as to keep the interest of States very much in mind in establishing national priorities and objectives. I ask unanimous consent that the resolution be printed at this point in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

WESTERN GOVERNORS' CONFERENCE

RESOLUTION 77–42

Telecommunications and the review of the Federal Communications Act of 1934

RESOLUTION

Whereas, the Western Governors' Conference has a vital interest in maintaining policies which insure the provision of telephone service to as many people as possible at reasonable rates; and

Whereas, the appropriate committees of Congress are presently reviewing the Federal Communications Act of 1934 in the light of current and future communications requirements of our nation; and

Whereas, the FCC has also pursued a policy of extending its jurisdiction over terminal and station equipment used in providing telephone exchange service, in such a way as to pre-empt the authority of state regulatory commissions and to divert revenues that would otherwise flow to the benefit of residential telephone service customers,

Now, therefore, be it resolved by the Western Governors' Conference that it commends the Congress for undertaking this review of the Federal Communications Act of 1934 particularly as it relates to the provision of telecommunications services; that Congress should reaffirm the original purpose of this Act in giving priority to the objective of providing universal telephone service on a basis which insures high quality service at reasonable rates to the users of residential telephone service; and that the Congress should take appropriate action to urge the Federal Communications Commission to call a moratorium on the continuation and ex-

pansion of its policies fostering competition until after the Congress has had an opportunity to consider what should be the national priorities and objectives in the provision of telecommunications services; and

Be it further resolved that a copy of this Resolution be presented to the National Governors' Conference for consideration at its meeting in Detroit, Michigan on September 7–9, 1977.

Passed at Western Governors' Conference, Anchorage, Alaska on September 2, 1977.

Mr. HANSEN. Mr. President, the Western Governors resolution was then presented at the National Governors' Convention later in the year at Detroit. The National Governors responded by including the following expression in their overall policy statement. I also ask unanimous consent that the National Governors' policy statement be printed in the RECORD.

Mr. President, I urge my colleagues to give careful attention and consideration to the views of these leaders of the States.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

The National Governors' Conference commends the Congress for undertaking a complete review of the Federal Communications Act of 1934, particularly as it relates to telecommunications services, and supports revision of the Act:

1. To give states the maximum authority possible in the regulation of telecommunications services.

2. To permit state regulatory commissions to participate more effectively in the FCC's decision-making process.

3. To reaffirm the original purpose of the Act in giving priority to the objective of providing universal telephone service on a basis which insures high quality service at reasonable rates to the users of residential telephone service.

Adopted without objection by the National Governors' Conference, Detroit, Michigan, September 9, 1977.

LEGISLATION RESTRICTIONS ON HUMANITARIAN ASSISTANCE

Mr. KENNEDY. Mr. President, as I noted last week, I have been deeply concerned over recent attempts in some quarters of Congress to write into our foreign assistance laws prohibitions that serve to restrict the ability of our Nation to respond to humanitarian needs around the globe—wherever those needs may exist.

Because of the legislative tangle these past several weeks over the foreign assistance bill, considerable confusion developed as to the precise understandings reached over the kinds of assistance the United States may or may not contribute, directly or indirectly, to certain nations.

For the record, I want to take note of the final action of the second conference committee on the omnibus appropriations bill, which, from my reading and by the committee's interpretation, places no legal barrier whatsoever in the way of any U.S. contribution to international humanitarian programs now underway in Mozambique, Angola, Laos, or Vietnam. There is nothing in the law, as it now stands, prohibiting our Government from contributing to international programs of assistance in these countries.

I hope, Mr. President, that this is also the interpretation of the administration, for there are urgent humanitarian needs that are not being met today, and international calls for assistance are being ignored. This is neither in the humanitarian traditions or interests of the United States.

I commend the leadership of the distinguished chairman of the Foreign Operations Subcommittee, Senator INOUYE, in helping to remove restrictions that would bar indirect American assistance to many worthy humanitarian programs in several countries, I urge the administration to take action as soon as possible to respond to the outstanding appeals for help by many international humanitarian organizations in southern Africa and Southeast Asia.

Finally, Mr. President, I hope Congress will also act to remove the remaining legislative restrictions that bar direct U.S. assistance to programs helping to meet humanitarian needs.

INITIATIVE CONSTITUTIONAL AMENDMENT

Mr. ABOUREZK. Mr. President, last July, Senators HATFIELD and GRAVEL joined me in introducing a constitutional amendment to allow the initiative process to be used at the national level as it is used today in 23 States. Our effort to gain support for this amendment has been very encouraging. Press interest in the initiative process continues at a high level and letters keep flowing into my office reflecting the genuine interest of the average citizen. It is clear that people all over the country like the idea of having the right to propose and vote on legislation.

Recently, Politicks magazine, a biweekly political review, released its premiere issue. It contained an article about the early stages of introducing the national initiative process and the future hopes we have concerning it. This article is an excellent synopsis of the status of our efforts.

Mr. President, I ask unanimous consent that this article written by Mike Nelson, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CITIZENS TAKE INITIATIVE

WASHINGTON.—Anyone who has ever taken high school civics, or seen *Mr. Smith Goes to Washington*, probably has a pretty good idea of how the political system is supposed to work, even as they realize that it frequently doesn't turn out that way. The light bulb flashes on over John Q. Public's head, he rallies his friends, and they petition their Representatives in Washington. A bill is then introduced, hearings are held, and finally, a new law is passed and an old wrong righted.

The light bulb went on last February for John Forster, Bill Harrington, and Roger Telschow. They had gotten together while attending a Consumer Federation of America meeting in Washington, D.C., to swap stories about their experiences in state initiative campaigns the year before. Suddenly it hit them: why not extend the practice, which allows citizens to propose laws through petition and enact them directly with their votes, to the Federal government? Out of their late-night discussions came Initiative America, an organization to spearhead the effort to get the National Initiative Constitutional Amendment through Congress.

Forster, Harrington, and Telschow drafted their proposal carefully, with an eye toward making the Amendment as unthreatening as possible to the Congress that would have to enact it. They specified that the initiative could not be used to declare war, call up the militia, or amend the Constitution. Congress would have the right to amend or repeal any law enacted through initiative by a two-thirds vote of each House or, after two years, by a simple majority. The courts would maintain their power to overturn unconstitutional laws enacted by initiative.

Realizing that opponents of their idea would raise the spectre of election ballots clogged with initiative proposals from political fringe groups, the Initiative America leaders designed the Amendment to ensure that only reasonably broad-based efforts would qualify. Citizens petitioning for a new law would have but 18 months to collect valid signatures equal in number to three percent of the votes cast in the preceding Presidential election; purely local issues would be screened out by a requirement that the three percent standard be met in at least 10 states. If the petitions were certified by the United States Attorney General within 120 days of the next national election, the proposal would go on the ballot right away; otherwise, it would have to wait two years until the next election. Once passed it would become law in 30 days.

"The purpose of the Amendment is not to replace Congress with direct democracy," says Telschow. "The initiative just adds another check and balance to the political system so that citizens have a last resort against special-interest groups. These groups have an unequal voice in Washington because they can afford to hire full-time lobbyists. Sometimes they are able to paralyze the legislative process. The initiative gives people a way of busting up those logjams when they develop."

Amendment in hand, Forster, Harrington, and Telschow began shopping around for a sponsor, and found Democratic Senator James Abourezk of South Dakota. Fortunately, Abourezk was a member of the Senate Judiciary Committee's Subcommittee on Constitutional Amendments, a strategic spot in the amendment process. Unfortunately, he had already decided to retire when his term expired in January 1979, and was understandably reluctant to take on any major new projects. Eventually, though, Abourezk came around; on July 11, he and Telschow held a joint press conference to announce that the Senator was introducing the Amendment into Congress that day. Senator Mark Hatfield, the Oregon Republican, also got behind the effort.

Abourezk's interest was spurred by his personal experience with the initiative in South Dakota. His political career was launched in 1969 when he led a drive to initiate the repeal of a law passed by the State Legislature which would have threatened the state's rural electrification system. As it turned out, the issue did not even reach the ballot—after Abourezk's troops gathered 50,000 signatures on a petition, the Legislature repealed the law itself.

Suitably enough, South Dakota was the first state to adopt the initiative process; since it did so in 1898, 22 other states, mostly Western and Middle Western, have followed suit. But the practice is even older than that: Switzerland has used the initiative since the early 19th century, and some trace it back to the plebiscites of the Roman Republic.

Harrington says that the experience of the states is Initiative America's greatest selling point. In November 1976, for example, Florida became the seventh state to pass a Sunshine Law by initiative; returnable-bottle statutes were pushed through by voters in

Michigan and Maine; Utah's citizens adopted a local-option law for fluoridation; and Arizona reformed its procedures for picking judges. In every case, State legislatures had stymied the bills until voters decided to take things into their own hands.

The more than 30 petitions that reached state ballots in 1976 crowned a steadily-rising trend of initiative use over the past few years after decades of relatively atrophy. In light of general voter apathy, this suggests that although citizens are disillusioned with both standard electoral politics and movement-style confrontations, they are excited by the prospect of using a procedure that draws on the best elements of both.

Initiative America's next task is to ride the crest of this growing citizen interest. Affiliated organizations have formed in 18 states. (The national office is located at 1316 Independence Ave., S.E., Washington, D.C. 32952.) A school bus is being remodeled to serve as a traveling office for Initiative America organizers, complete with law library and printing press. Oddly enough, the group got its biggest publicity boost from a highly critical article by Newsweek columnist George F. Will. Will's nationally syndicated column not only drew attention to the Amendment, but gave Telschow a chance to reply in follow-up articles.

Indiana Senator Birch Bayh, Chairman of the Constitutional Amendments Subcommittee, agreed to hold hearings on the Amendment in early December, an unusually prompt response. But the process is likely to be a long one. Constitutional Amendments normally pass only when a broad consensus forms; adoption requires a two-thirds vote in each house of Congress and ratification by three-fourths of the states. No one at Initiative America thinks their Amendment will get through the 95th Congress, and Harrington feels it may take six years or longer. If anything, though, we can expect the light bulb that flashed on over the Initiative American leaders' heads last February to burn even brighter as time goes by. They are determined to make the system work the way the civics books said it would, and to change the system so that it can work that way for everybody.

JOHN WAYNE ON THE PANAMA CANAL

Mr. CHURCH. Mr. President, we are all aware of the intense public debate over the ratification of the proposed Panama Canal treaties. That debate is likely to continue until the Senate votes on whether or not the treaties should be ratified.

In the meantime, however, I came across an argument in favor of the treaties in the Washington Post this morning from the actor, John Wayne, a man noted for his firm conservative views.

Mr. Wayne finds the treaties to be in the interest of the United States, and his views are worth reading because they are based largely on his own knowledge of Panama dating back several decades.

I ask unanimous consent, Mr. President, that his article from the Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 25, 1977]

TREATY SUPPORT FROM—YES—"THE DUKE"

(By John Wayne)

My interest in Panama goes back to the '40s. I have friends on both ends of that country's political spectrum. As a matter of fact, my first introduction to the Panamanian situation was in the '30s when Harmodio Arias was president. He was probably the best-liked figure in all of Latin America and one of the very few presidents who has ever completed a term. His wife and his son Tito, then about 12 years old, visited me in California. Another son, Tony, was godfather to one of my daughters. I am going into these personal things only to show that I have had reasons to give attention to our relationships down there.

I have followed the Panamanian situation since the time the State Department ensured our losing good relationships with Panama by changing its policy and charging extremely high prices for tuition for the children of several Panamanian families to go to Canal Zone schools. These families were continually involved in the leadership and administration of Panama. I think it would have been quite obvious that with their children attending our schools they would have our point of view. I wrote a letter to our administration at that time to apprise it of this situation. Nothing was done.

I was appalled when Gen. Eisenhower appeared to have given the sovereignty of the canal away by allowing the Panamanian flag to fly there; but at that time, neither Congress nor the press nor the conservatives uttered any kind of cry. I did, but it was a voice in the wilderness.

In checking to find the reason for President Eisenhower's actions, I found out that, although we had the rights to the ownership and jurisdiction of the canal, Panama had not surrendered sovereignty. I also found out that the United States, in the Arias-Roosevelt Treaty of 1936, ratified in 1939, recognized the sovereignty of Panama in the Canal Zone as it was originally stated in the 1903 agreement.

In negotiations during the Kennedy administration, it was further agreed that any place within the civil area that the American flag flew, there must be a Panamanian flag raised.

Our people in the Zone tried to avoid this by removing flagpoles. This started irrational actions by both sides. During those student riots that took place in 1964, then-President Lyndon Johnson told the world that there would be a gradual return of the canal to Panamanian possession. There were still no outcries from the people who are now complaining, but these acts, plus common decency to the dignity of Panama, demanded a re-evaluation of our treaty.

Now, let's take these new treaties for what they are. We do not give up one active military installation for the next quarter of a century. We do transfer to Panama in the civil canal area such governmental activities as police and fire protection, civil administration, post offices, courts, customs, garbage collection and maintenance of certain areas that are not necessary to manage the canal. The canal will continue to be run by an American agency whose board of directors will comprise nine members—five members of the board being American, and four Panamanian. These four will be selected by the United States from a list proposed by Panama. This board of directors will not have any authority on our military bases, which we will have there for a quarter of a century under the terms of the treaties.

The treaties ensure the jobs of all American citizens working in the canal and their continued use of their rented-homes at the present rate, which averages $150 a month, including utilities, garbage collection, sewerage, upkeep of the grounds and maintenance of buildings. All this is guaranteed to each until retirement or completion of his contract.

When these responsibilities are transferred to Panama, the Canal Company will also transfer $10 million a year of the toll charges. I doubt if this will cover the operating costs. So does our government. Therefore, this United States Canal Company Agency, which will still be running the canal for the next 20 years, will be instructed to raise the toll charges 30 cents per ton, or about 0.00015 cents per pound, to be given to Panama to cover such contingencies as inflation plus rental for the 120,000 acres that the United States will continue to hold for its military installations. This added toll charge could amount to $40 million in the years to come—but none of it will come out of our pockets. We will not be required to pay one dollar to Panama when these treaties are put into effect.

Regarding communism, there will always be accusations and counter-accusations. Gen. Torrijos has never followed the Marxist line. Even in his speech when he visited Cuba, he stated that Castro had ensured schooling and developed a system of feeding his people, but at a high social cost. Because of this he stated that what was aspirin for Cuba was not necessarily the right medicine for Panama, which is putting it about as plainly as possible, when you are visiting in a foreign country, that you do not agree with their methods.

I have carefully studied the treaties, and I support them on the basis of my belief that America always looks to the future and that our people have demonstrated qualities of justice and reason for 200 years. That attitude has made our country a great nation. The new treaties modernize an outmoded relationship with a friendly and hospitable country. They also solve an international question with our other Latin American neighbors. Finally, the treaties protect and legitimize fundamental interests of our country.

SENATOR STONE URGES PRESIDENT AND CONGRESS TO WORK TOWARD ENERGY COMPROMISE

Mr STONE. Mr. President, as the Senate/House conferees begin work on resolving differences between the various House and Senate energy bills amidst press reports of a confrontation before the Congress and the President over energy policy, I want to take this opportunity to express my personal hope that the Congress and the President may yet be able to agree on an effective national energy policy.

Given the regional, philosophical and political differences in the country about energy policy it is not surprising that President Carter's energy proposals have aroused much controversy. No comprehensive energy proposal could have been sent to the Congress and not been subject to considerable alteration before enactment into law. Our economy is diverse, our people have different needs. Energy is a complicated subject. These facts, more than partisan considerations, explain the difficulty in developing a comprehensive national energy policy.

In my own case I have attempted to evaluate the President's proposals and alternative proposals on the basis of the likelihood that they will reduce our dependence on foreign energy, the burden they would place on various sectors of our economy and our people, and the particular impact they may have on my State of Florida. Often I have come to the conclusion that the President's proposals are inadequate or unfair or unworkable. In such cases I have not hesitated to disagree with the President and have supported alternative proposals for solving the energy crisis. In other cases

I have found the President's proposals adequate, fair and workable and have supported them.

The important consideration at the moment is that the Congress and the President work as hard as possible to find an acceptable compromise. Otherwise, all of the hard work and the best efforts of Government officials and private citizens devoted to the development of a national energy policy will have been for nothing. Even more important, failure to reach agreement on a compromise means this country will continue to drift along without a national energy policy.

This is why it is so important that the Senate/House conference resolve differences between the Senate and House bills and that the President and the Congress ultimately reach agreement on an energy bill. While I disagree with some of the President's energy proposals, I absolutely agree with him that developing a national energy policy is the most important domestic priority.

DISPOSAL OF RADIOACTIVE WASTES

Mr. ABOUREZK. Mr. President, the problem of disposing of radioactive wastes which have accumulated from nuclear generating plants already in operation is recognized as a real dilemma—a dilemma which jeopardizes not only the people who may live in any of the sites under consideration as nuclear burial grounds, but which rightly jeopardizes the future growth of the nuclear industry. But however gradually we are beginning to realize that the waste disposal problem is integral to the cost of nuclear power, we have yet to realize the dimensions of the disposal question itself. The Wall Street Journal has highlighted another aspect of radioactive waste disposal: who is responsible for decommissioning nuclear plants once their useful life is over? Hundreds of nuclear facilities pose long-term radioactive threats to the citizens of this country—and to our children and our children's children for generations. Yet we have no real idea of how we will or can dispose of wornout reactors—or whether it is even feasible. The nuclear power industry, in its enthusiastic arguments for more and more nuclear facilities ignores the problem, and excludes it from the calculations of costs of nuclear power. Their position seems to be that the Government can worry about the problems, and the taxpayers will pay the price, as long as they can reap their profits.

Mr. President, I ask unanimous consent that this article from the Wall Street Journal of October 12 be printed at this point in the RECORD.

In addition, I ask that Tom Wicker's article on decommissioning nuclear plants also be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 12, 1977]

SCRAPPING THE ATOM: U.S. PROBLEM IS HOW TO GET RID OF OLD REACTORS

(By Karen Elliott House)

SANTA SUSANA, CALIF.—In these desolate mountains near Los Angeles a team of men are tearing down a defunct nuclear power reactor. But it's no ordinary demolition job.

Shaped like a giant silo, the 30-foot-tall reactor is buried underground. Its walls are massive—five inches of steel encased in five feet of concrete. And there is a rather significant occupational hazard: The walls are so radioactive that if a man tried to work inside the reactor he would burn to death in seconds.

Thus, some adjustments have been made. The reactor has been filled with water, an effective shield against radiation. The walls are being cut into pieces by a remote-controlled machine with a long arm and a torch that burns through the steel. The arm moves up and down or from side to side as Bob Hardy, who sits in a room adjacent to the reactor, pushes buttons on a green console.

The crane moves the four-foot-square pieces to a storage pool. Eventually, 350 tons of radioactive rubble will be trucked to a burial ground in Beatty, Nev. Even the crane will be cut up and burned. And 18,000 gallons of water used in the demolition will be evaporated to remove radioactive particles. It will take two years and cost $6 million to demolish the government reactor, which took two years and $13 million to build in the 1950's.

A LONG-TERM HAZARD

If all this seems a lot of trouble and expense to lavish on a useless reactor, there is a reason: The federal government is trying to figure out what to do with worn-out nuclear power plants because they can't be simply abandoned. "Some radioactivity remains hazardous for thousands of years, making final and absolute disposal at best a difficult and expensive task," says Monte Canfield Jr., a nuclear power expert at the General Accounting Office, or GAO, an arm of Congress.

Yet no one is certain what to do about the dead reactors. Instead of demolishing them, some experts say they could be buried in concrete vaults or closed and put under guard for a few thousand years. Each alternative poses safety risks. Federal authorities are confident that solutions can be found. But others aren't so sure. The GAO, among other critics, bluntly accuses the government of ignoring the problem of cleaning up dead reactors.

Meanwhile, the problem grows. After 30 years of nuclear power development, hundreds of reactors and other nuclear facilities now are obsolete. Most of these are smaller, experimental government reactors as opposed to the larger commercial reactors used by utilities to generate electricity. But the number of commercial power plants is expected to increase from 65 currently to 300 by the year 2000. Most of these plants probably will have to be destroyed when they eventually wear out.

That adds to the uncertainty, because no big commercial nuclear reactor ever has been dismantled, and it's unclear if such a job could be done. The reactors that utilities are building these days are about 100 times the size of the small experimental reactor being dismantled here. The levels of radioactivity in a commercial-size reactor are so high and the walls are so thick that the technology doesn't yet exist to take one apart.

COST IS UNKNOWN

Another unknown is the cost of dismantling a big power plant. Estimates range from $31 million to $100 million if the job were done today. That's between 3 percent and 10 percent of the $1 billion it costs to build a nuclear power plant. But the clean-up cost will be much higher by the time a plant built today is "decommissioned." A reactor's operating life is about 30 years.

Whatever the cost, there is a further question of who should pay. Should utilities post a bond now to pay for cleaning up absolete reactors later? Or should consumers in the year 2,000 pay higher electricity rates to cover the cost of dismantling today's reactors?

All these questions are under study at the Nuclear Regulatory Commission, or NRC, which is responsible for regulating commercial nuclear power plants. But answers may be several years away. In the meantime, NRC officials say they are confident that the problems can be easily and cheaply resolved. "If we can send a man to the moon, we can figure out how to cut up a commercial nuclear reactor," says Peter Erickson, an official in the NRC's division of operating reactors.

That kind of confidence isn't exactly reasuring to many people who are concerned about the possible hazards of nuclear reactors. The White House Council on Environmental Quality last month recommended that the government stop issuing licenses for new nuclear power plants unless acceptable ways are found to dispose of radioactive wastes generated by the plants while they are in use and to clean up the plants after they are abandoned.

A Ralph Nader public interest group has petitioned the NRC to permit no further construction of nuclear power plants unless a utility agrees to put $13 million in an escrow account to cover costs of cleaning up a reactor once it shuts down.

The GAO has charged that the two federal agencies responsible for nuclear plants have taken a "shortsighted" approach to the problem of defunct reactors. Currently, the NRC oversees commercial reactors and the Energy Research and Development Administration, now part of the new Energy Department, is charged with disposing of government-owned reactors used in the development of nuclear power. The GAO has recommended that the NRC be designated the lead government agency to decide on a policy for cleaning up dead reactors.

Congress recently held its first hearing on the issue, and a House committee used the occasion to berate the NRC for failing to figure out long ago what to do with old reactors. "You pretend you're responsible and that you know what you're doing, but you haven't set any requirement that utilities put aside money to clean up their plants," shouted Rep. Robert Drinan. "I don't believe you know what you're doing," the Massachusetts Democrat told NRC officials.

So far, the NRC has prescribed no particular method for disposing of a reactor. Utilities are free to choose from any of three methods previously used to safeguard small experimental reactors. The cheapest is "mothballing," or simply welding the reactor vessel shut with steel and guarding the facility. Another method, "entombment," is more expensive because the reactor must be encased in concreate. Both mothballing and entombment require long-term monitoring to prevent hazardous leaks of radioactivity.

The third and most expensive alternative is dismantling, or completely removing the reactor from its site. Dismantling a large reactor, if in fact it can be done, would be especially costly and dangerous.

"The best way may be mothball or entomb the reactor for 100 years until some of the radioactivity decays and then dismantle it," says Clifford Smith, director of the NRC's office of nuclear materials, safety and safeguards.

Now, however, doubts are being raised about the advisability of burying dead reactors at their original sites.

Studies done in the past few years indicate that radioactive isotopes once believed to decay in several hundred years will instead require several thousand years to decay to safe levels. For instance, Marvin Resnikoff, a physicist at the State University of New York in Buffalo, has discovered that nickel-59, one isotope produced in reactors, could require more than 100,000 years to decay.

Another long-lived isotope, carbon-14, requires 65,000 years to decay.

Until recently, no one paid much attention to such problems. When a reactor no longer was useful, it simply was fenced and put under guard to keep out visitors or would-be terrorists. In a few intsances, reactors were encased in concrete and buried under six feet of dirt, creating huge graves about half the size of a football field.

The prospect of several hundred big reactor-graves dotting the countryside, as well as safety questions about both mothballing and entombment, make it unlikely that these methods will be a long-term answer. "The only politically acceptable solution," says Robert Ramsey, assistant director for nuclear programs at ERDA, "is to dismantle the reactor and go bury it" away from populated areas.

That is being done here in the Santa Susana Mountains. The work is being closely watched by the government and by private utilities because this is only the second reactor ever to be completely dismantled. Atomics International, a division of Rockwell International Corp., is dismantling the reactor, which it formerly operated for the government. Uncle Sam is paying the bill. The little reactor, known as the Sodium Reactor Experiment, or SRE was built in 1957 and operated for only seven years.

Because the dismantling task is so tedious and so dangerous, the whole job had to be rehearsed. A life-size replica of the SRE was built near the real one and then cut into little pieces under water by remote control.

Now the process is being repeated, only this time the reactor is radioactive. This poses two types of hazards: induced radioactivity and surface contamination. Induced radioactivity, which lasts for thousands of years, results from a nuclear reaction and deeply contaminates the steel walls surrounding the reactor. Surface contamination results from equipment coming in contact with radioactive materials and can be washed away.

To protect against surface contamination, men working near the reactor wear white coats and hats, two pairs of plastic gloves and red shoe covers. To avoid spreading radioactive contamination, all this clothing must be left behind once workmen leave the area directly above the water-filled reactor.

Although the remote controls spare workmen the dangerous task of cutting the steel walls into pieces, there is a further risk when the steel pieces are taken out of the water and moved into a nearby storage pool. As a crane lifts the pieces of steel out of the water, their radioactivity is emitted in the atmosphere until they are dropped into the storage pool. Thus, all workmen must leave the area except for the two crane operators who operate their machine from a distant corner of the building.

Once all the pieces are stored in pools of water, the water in the reactor will be removed and the concrete shield blasted with dynamite. The water must be evaporated and the radioactive sludge buried along with other wastes from the reactor, including all of the machinery used to do the job.

Atomics International officials say their work here proves that reactors can be safely dismantled. After six months on the job, the workmen have received an average of only one-tenth as much radiation as permitted under NRC safety regulations.

"This is no more unsafe than taking apart an old house if you're careful and know what you're doing," says W. D. Kittinger, Atomics International's program manager for the project.

PAYING THE NUCLEAR PIPER—II

(By Tom Wicker)

WASHINGTON.—When an experimental nuclear facility at Elk River, Minn., was dismantled, the cost ran to $6.2 million—although the plant had cost only about $6 million to build. At Oyster Creek, N.J., a nuclear plant could be safely dismantled for an estimated $100 million; but that's more than 150 percent of the original $65 million cost.

As much as $600 million may be needed to decommission and decontaminate a privately owned nuclear fuel reprocessing plant at West Valley, N.Y. At the moment, the State of New York is apparently stuck with the bill but is asking the Federal Government for help.

All this and enough more to set off a mushroom cloud over the Sam Rayburn Building was learned in recent hearings by a House Government Operations Subcommittee on Environment, Energy and Natural Resources. Nuclear waste disposal and plant decommissioning were pictured as twin horns of a so-called "back-end" crisis in the American nuclear program—a crisis that if not solved threatens the public safety, raises the possibility of wildly escalating costs and could put an end to nuclear energy production.

Decommissioning is a problem whose time is about to come, since changing technology will make it uneconomical or impractical for many existing plants to seek renewal of their original 40-year licenses. But the General Accounting Office and many of the experts who testified to the House subcommittee have made it plain that the problem has scarcely been thought about, much less solved.

In the first place, the necessary information and technology have not been completely developed for protection of the public, the environment and the workers involved in dismantling. There is, for example, no inventory by size, type and usage of particle accelerators, by far the fost numerous of nuclear facilities.

There are no Government standards for releasing materials that contain induced radiation, so it's not known how much—if any—valuable copper, steel and other materials might safely be recycled. If the historical trend for surface radiation standards continues, present rules to govern decontamination might be found in years to come to have been inadequate. And an Atomic Industrial Forum study found that a nuclear reactor probably would have to be buried underground for 65 to 110 years before cobalt-60 in the reactor vessel would decay sufficiently to permit manual dismantling.

The lack of information compounds the problem of estimating decommissioning costs for nearly 1,500 existing nuclear facilities, but it doesn't conceal the likelihood that they'll be very high. The Energy Research and Development Administration has reported, for example, that it has 300 excess (obsolete or no longer needed) nuclear facilities, and will have 100 more by 1981. E.R.D.A. estimated that it would take $25 to $30 million annually for 100 years—$2.5 to $3.5 billion—to decommission these facilities alone. And the G.A.O. thinks this estimate is too low.

Whatever the cost, who pays? No private utility is setting aside a fund for ultimate decommissioning costs. Current rates to consumers do not reflect whatever decommissioning will cost. The Nuclear Regulatory Agency does not require owners of nuclear facilities to develop specific plans or make financial provision for decommissioning.

Therefore, as has already happened at West Valley, Federal and state governments probably will have to pick up massive bills that ought to be paid by those who benefited. In effect future taxpayers will have to pay for current industry profits and relatively low current consumer rates.

It's clear enough why the costs and technology of decommissioning like those for the disposal of nuclear wastes, have been paid so little attention. For three decades, instead, the Government has moved precipitously ahead on the assumption that nuclear power was the great resource of the future, committing itself to that assumption to the exclusion of alternative energy programs as well as a proper concern for consequences now, inevitably, at hand.

Nor has Government policy changed, even now. President Carter seeks to restrain the use of breeder reactors and fuel reprocessing but calls for more light-water reactors. And the 1978 research budget for E.R.D.A. includes almost $1.7 billion for nuclear energy, but only $421 million for solar and geothermal energy—an imbalance of priorities that calls for another article.

THE OIL COMPANIES—"THEY ARE ME"

Mr. BELLMON. Mr. President, a retired gentleman from Virginia recently wrote a letter about oil companies to the editor of the Washington Post. It is a very calm piece of writing. The six, short paragraphs are void of the hot rhetoric which generally has comprised debate on the energy issue. The writer states simply what it has meant to him and, by extrapolation, to many others to be a part of the oil companies. I ask unanimous consent that the letter "The Oil Companies— 'They Are Me.' " be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 19, 1977]

THE OIL COMPANIES—"THEY ARE ME"

President Carter's senseless attack on "the oil companies" should be noted as political rhetoric only, as any brief analysis would show. Who are "the oil companies"? Well, they are me—I own 800 shares of Continental Oil (Conoco) stock, which I bought with money I saved while working, and the $93.33 that Conoco pays me every month helps a great deal now that I'm retired. Although lagging for a while, dividend increases lately have a bit more than matched the increase in cost of living.

Over the past 10 years, including those when Sen. Henry Jackson was calling "the oil companies" thieves, Conoco has sold $44.3 billion worth of products, has paid federal income taxes of $600 million and other taxes of $8.9 billions, and "other costs" have amounted to $32.6 billion. Net profits were $2.2 billion (5 per cent of sales), dividends were $800 million, and $1.4 billion were reinvested in the business. Those receiving dividends (the owners) were perhaps, on the average, in a 38 per cent tax bracket, so $300 million of the $800 million in dividends went to Uncle Sam, increasing his take from the business to $900 million and decreasing the owners' take to $500 million.

So Uncle got, income taxes alone, almost twice as much as the owners got in net income, total taxes paid by Conoco over the period were almost 20 times as much as the owners got from the business. During the 10 years, long-term debt increased by $600 million, so the owners borrowed more money than they got back in net income.

"Other costs" of $32.6 billion, the $1.4 billion reinvested, and the $600 million increase in long-term debt mostly went into jobs for people—you can't drill a hole in the ground or buy transportation or equipment without putting people to work. Certainly these figures represent hundreds of thousands of jobs.

So this is "the oil companies," fostered by private capital and existing in a competitive environment, paying 20 times as much in taxes as the owners get, and selling gasoline much more cheaply than it can be bought in most other major countries of the world. This is a rip-off?

What do the politicians offer us in return

if we accede to their demands that they be allowed to run the oil companies? Promises, intentionally vague promises, because they know little of the system they would destroy. But I know this, that when they destroy the oil companies they destroy me and hundreds of thousands of people like me. I am writing this letter because I object strenuously to being destroyed.—WILLIAM T. ST. CLAIR.

Berryville, Va.

EMPLOYING HANDICAPPED WORKERS

Mr. BURDICK. Mr. President, I would like to take this opportunity to salute GPK Products of Fargo, N. Dak., for their fine efforts in hiring the handicapped. As recipient of one of three national awards for their efforts, GPK Products provides an excellent example for all the Nation of what can, indeed, be done as to affirmative action. In submitting an article from The Forum of Fargo, I would like to underscore a comment made about GPK Products:

It is not that they treat people with problems in a special manner; it is the fact that they treat everyone the same.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IT'S A FARGO BUSINESS "WITH A LOT OF HEART"

(By Phil Matthews)

There is something about the atmosphere at GPK Products, Inc. in Fargo that doesn't quite fit the description of a typical industrial or business organization.

Beneath the hum of the band saws and mandrels, there is a spirit of camaraderie that is more like that of a family than a factory making pipe fittings.

And if you look closely into the personal lives of some of the employes on the assembly line, you will see some amazing success stories unfolding.

Brian Pavek went to work at GPK when he was 19 years old and not sure of his objective in life. But in 18 months time he had gone through a series of promotions and today he is a production supervisor for the company.

"This has been my only full-time job," said Brian, "but those who have had other jobs are amazed about this place. They say that it is more like a family than a place to work. They actually find that they enjoy what they are doing."

This special attitude toward the employes that seems to permeate the entire plant made a strong impression on Brian during an important, formative period.

"They are not producing only plastic pipe fittings," he said. "They are producing a positive attitude in all their employes."

And Kenneth Melin is a young man who may never have had the opportunity to join the job market if it were not for GPK Products Inc. He was a student at the Vocational Training Center in Fargo, an educational center for mentally retarded young people.

He started working at GPK last March and with some help from the production manager and fellow employes he became adept at operating a band saw and cutting plastic pipe sections to size.

Today he is working a full schedule and loves it.

"It's a lot better than being home all the time," he commented.

And as for the other workers in the plant, he said, "They are all my friends, now."

GPK Products, which manufactures plastic pipe fittings at 1917 1st Ave. N., is one of three American companies that will receive the top awards in the nation Oct. 27 for their efforts to hire and help mentally restored people.

The national Mental Health Association and the President's Committee on the Employment of the Handicapped have selected the three as Employers of the Year.

The other companies are Control Data Corp. of Minneapolis, which employs 32,000, and Cross Manufacturing Inc. of Lewis, Kan., with 600 employes.

GPK—the initials stand for the names of the original owners of the company—was cited for being "extremely progressive" in its approach to employment by the Southeast Mental Health and Retardation Center in Fargo.

David Kuehl, a social worker at the Southeast agency at the time, said GPK would call him when they would have some openings coming up.

"When the unemployment rate was high, that sort of helped my clients get the jump on the other guy," said Kuehl. "Many of the other guys probably were better qualified, or at least were better risks for the job."

He said that the atmosphere at the company is conducive to growth of an individual and to the development of healthy attitudes.

Some of the people who have been referred by Southeast have had serious psychological or psychiatric problems.

"Whereas some employers wouldn't touch one of my clients with a 10-foot pole," said Kuehl, "I knew I could send one over to GPK and even if they did not have an opening, I knew that they would interview him. It was a safe place for me to refer him."

Albert Hisley, director of job placements at the Vocational Training Center in Fargo, said, "I can't say enough about those people at GPK. They show a great willingness to help someone become a success. If someone comes along here and I figure he can hack it, I will call them up. I know that he will get good training with Don Goering and Spence Hildre."

He said some companies that hire people with special problems are not as successful as GPK because they do not work them into the organization in the same way.

"We're grateful to have a company like that here," said Hisley.

"And of course, they know that when they have an employe from the Vocational Training Center the company will have a good, loyal employe. He will always be there. That's a typical business outlook, true. But it's a business with a lot of heart."

The "high voltage line" at GPK, as Brian Pavek calls him, is general manager Donald Goering, who transmits a powerful signal of concern for human beings to his staff and employes.

Goering and his partner, Michael Pflugrath, launched the company five and a half years ago and it has doubled its volume annually since. Today it has 50 employes and distributes its plastic sewer pipe fittings to 50 states and many foreign countries.

"This has been the greatest opportunity I have had in my life," said Goering of the GPK business venture. "And because I have had this opportunity, I have wanted to try to help others have their opportunity."

He believes that the company's success is the direct result of an enlightened attitude toward the employes.

"I have tried to impress on them that the company won't succeed unless they are part of it. Success depends on good quality production and on good people building the products and standing behind them. If the two grow hand in hand, your company will continue to grow. And in this business, the sky's the limit."

Goering's two right-hand men who translate his philosophy into action are the office manager, Spencer Hildre, and the production manager, Clark Roscoe.

Roscoe was the first employee of the company, and he takes pride in the fact that the special machines and production systems have been designed specifically within the plant to suit GPK's special needs.

He works closest of all with the employes who work on the band saws, and gasket heads and mandrels and has personally helped some with special problems that have come from the agencies.

"Some times it does take a little longer for them to catch on," he said. "But on the other hand they are always trying to do exceptionally good work. They want to prove themselves."

Roscoe said the company staff talked over the prospect of hiring personnel from some of the local agencies.

"What could we lose attempting to give somebody a chance to do a good job? It was well worth it. We have got some loyal, permanent employes as the result."

As for their productive capacity, he said some of the employes from the agencies are producing near the capacities of the employes in the plant who have had no problems.

In citing GPK for the national Employer of the Year award, it was said, "It is not that they treat people with problems in a special manner; it is the fact that they treat everyone the same."

This point was mentioned by Spencer Hildre, who as office manager sees most of the employes as job applicants first.

"We had talked with our regular employes about our plans to hire some people from the agencies. We suggested that they should not give them a hard time and not treat them as being different. Give them a fair shake."

He said that the appeal for cooperation from the group seemed to work out very well.

"Possibly that's one of the keys to our success. We don't baby them. We treat them like everyone else, and they're pleased with that. We have lost just one guy who didn't work out."

BALTIMORE SUN DISCUSSES COMMERCIAL IMPACT OF PANAMA CANAL TREATIES

Mr. HELMS. Mr. President, one of the least discussed aspects of the Panama Canal treaties is the impact which those treaties will have upon the U.S. consumer, shipper, farmer, and jobholder.

The economics of the Panama Canal are complex. They can easily be unsettled by very minute readjustments of costs—costs which include not only canal tolls, but also costs in extended shipping time, uncertainty, and breakdowns. If the canal is closed, if the tolls are increased, or if the operation becomes inefficient or uncertain, then there will be an adverse multiplier effect throughout the U.S. economy, with some regions bearing the brunt in terms of jobs, hardships, and lower incomes.

It is already admitted that the terms of the treaties will require an immediate increase in tolls of at least 25 percent and more probably at least 40 percent. The exact amount and the projected impact will not be known until a formal study is completed in January. A study made in 1974 showed that the maximum practical increase in tolls at that time was 75 percent. Since then tolls have been increased 3 times amounting to a 50-percent increase. It seems clear that the current proposals will require a toll level substantially in excess of the 1974 limitation.

Mr. President, the Baltimore Sun, which is published in one of the Nation's leading port cities, is perhaps more sensi-

tive to the realities of the waterborne commerce trade than other newspapers of note. Last Sunday, it published a major article on the commercial impact of the Panama Canal treaties written by Joseph S. Helewicz and James A. Rousmaniere, Jr. It is the first important review of these issues in the press that has come to my attention, and I recommend it to all of my colleagues.

Mr. President, I ask unanimous consent that the article from the Baltimore Sun, entitled "The Panama Canal: Who'll pay the freight?", be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Oct. 23, 1977]

(By Joseph S. Helewicz and James A. Rousmaniere, Jr.)

The automobiles we drive. The fuels that heat our homes. The fruit we eat for breakfast. And the televisions which provide our entertainment.

Many of these products come through the Panama Canal. Lately, some of the producers of these goods, and some of the shippers who transported them, have begun to rethink ways of moving the products to us.

They are thinking of avoiding the canal—for economic reasons.

In all the brouhaha in recent months over the Panama Canal and its importance to national security, hardly any word has been said on what the treaty means to the movement of goods from wellhead and factory through the 50-mile canal to us, the consumers.

When the subject is discussed, it is almost always as a consequence of a political event: the closing of the canal. The assumption is that if the canal is not closed, commerce—all 120 million tons a year—will flow unabated through the system of locks and channel.

The economics of canal traffic is more complex than that. The immense commerce flowing through the isthmus has a different stake for everyone, and that includes the consumer.

Those stakes are vital—they involve business and money and jobs. Just how they will be affected is not clear at the moment.

Consumers, the ones who always get it in the end, do not know and they likely will remain in the dark as long as the economic issues are given short shrift.

Carter administration officials have done little to put the matter on the front burner. Their talk of the economic impact of the treaty has been on the order of a put-down.

For example, Sol M. Linowitz, the principal treaty negotiator, has been quoted as saying the canal is "economically obsolescent" to United States interests. And hardly any of the businesses which rely on the canal are stepping forward to challenge that line of thinking.

Yet in recent weeks, business interests such as those in the maritime industry and others have become critical and outspoken on the treaty, and more is on the horizon.

Some have stepped forward before, specifically to oppose toll increases set by the Panama Canal Company, a U.S. government unit. Predictably, some are complaining about tolls again. There is a difference this time around, however.

The principal outside economic consultant who is working on the treaty confided in an interview that he is having reservations, indeed grave concerns, over the ultimate impact of higher tolls at the canal.

The concerns may be hard to grasp. Toll rates for ships can range from $15,000 to $40,000 for each transit. At current rates, the toll's impact is comparatively miniscule.

The effective toll on the shipment of a 40-pound box of bananas is 8.2 cents; a ton of sugar has a toll cost of only 85 cents; a barrel of crude oil has a toll rate of 14.8 cents, hardly enough to show up at the grocery counter or the gas pumps.

Nevertheless, some industries are worried. Shippers of bulk products, such as grain and coal out of the country's heartland for delivery to East Asia, are concerned that tolls are already at the breaking point.

They fear that another increase, coming on top of three increases in the past few years, will make the canal an uneconomical route for shipping.

Further, they contend that once the Panamanians get full control of the canal, it will be difficult to predict the levels of rate increases in years to come.

Recently, some shipping interests have begun to look seriously for alternate ways to get their products from the Pacific to the Atlantic, and vice versa, in an effort to remain competitive. That means holding down the costs of getting the product to the consumer.

The producers of North Slope Alaskan oil, for instance, have begun an earnest drive to build a $500 million pipeline that will carry their crude from receiving terminals in California to refineries in Texas.

The pipeline, which is facing environmental opposition, is an alternative to shipping through the Panama Canal to the Gulf Coast.

In addition, steamship lines are experimenting with the Suez Canal as an alternative to using the Panama access to the lucrative South Pacific markets.

Shipping companies also are engaging in innovative combinations of rail and ship services to entice producers, like the billion-dollar European wine and liquor business, into shipping their goods through the Gulf Coast ports and the railroads to the West Coast, instead of through the canal.

Ecuador, one country which relies heavily on the canal for imports and exports, may be forced to relocate an entire market for one of its principal export products—the banana.

The country's low-profit banana export trade may not be able to swallow continued toll increases, economists say. Japan, it happens, is beginning to develop a taste for the fruit, so there is hope for the Ecuadorian plantations.

While this looking for alternative routes and markets is going on, few individual businesses are playing to the public with their concerns about the canal's future.

For example, instead of asking to testify in Washington on the treaty, some shipping executives have gone quietly to the federal negotiators to influence the course of bargaining.

These same interests have not asked to air their concerns before the Senate Foreign Relations Committee, which is holding hearings on the treaty issues.

A senior staff member of the committee said last week that he was "surprised" no commercial interests have stepped forward.

Two of the most elite business organizations in the United States, whose members presumably would benefit from happy neighbors to the South, have decided to avoid a public position.

The Business Roundtable, a group of 160 heads of the top companies in the country, decided against publicly supporting the treaty, though the group's leader and Carter confidant, Irving S. Shapiro, chairman of du Pont de Nemours & Co., individually asked members to voice support.

The Council of the Americas, a group of 230 industries which controls 90 per cent of private U.S. investment in Latin America, likewise has not taken a position on the current documents, and it may never do so, according to one source.

The business concerns over the treaty are varied. And so are the reasons for not going to a public forum with complaints.

Maritime executives, for example, have said privately that it would be poor timing to make a pitch to Congress for help. The industry, and specifically maritime labor, has been accused of attempting to buy members of Congress through campaign contributions.

There are other reasons why commercial interests have not spoken up:

Ely Brandes, an economist and consultant to the Panama Canal Company, who now is examining the treaty, attributed the silence to human failings.

"There are very few people in any line of business who have tried to face a problem before it came upon them."

For some industries, like the coffee traders, the impact of toll increases is insignificant.

"It is just one more nail (in the coffin), said one disgruntled official of a major commodity importer.

William Merrill Whitman, retired secretary to the canal company, and treaty critic, said commercial interests "have been lulled into a feeling of security by the State Department, which wants to get the treaty through."

The whole discussion of the economic issue hinges on what tolls will be charged, and who will pay. Everyone agrees that tolls will increase, but the range of estimates is wide open.

Predictions run to a gradual 25 per cent increase through the end of the century, the view of treaty supporters, to more than 300 per cent, foreseen by the pact's harshest critics.

The canal, completed in 1914, operated for 60 years with no toll increases at all and has had only 3 in its history, all coming since 1974, when the waterway was losing money.

Some experts point out that those increases have had profound impacts on world markets, such as forcing producer to seek out new, and unanticipated, buyers.

For example, Peru used to ship large volumes of iron ore through the canal to East Coast steelmakers, but now it hardly ships any. Peru found it could not compete with ore from Venezuela, Liberia and Brazil, cargoes that do not have to be shipped through the canal.

Fortunately for Peru, it found a waiting Japanese market for its ore. An ironic twist is that the iron going to the Japanese is being made into steel that now is haunting American producers and their work forces.

The canal toll increases also served in part to create a new method of shipping cargoes from the Far East to the Midwest, via the West Coast.

Known as "mini-land bridge," ships and rails combine to carry products over the seas and over the Rockies. The service diverts shipments from the all-water canal route, as well as more expensive East Coast ports.

That is what toll increases have done in the past. As for the future, there is wide-ranging conjecture. In the flux of discussion, treaty critics have made mind-boggling estimates on toll increases and potential economic impacts.

Some of their statements have provided an illuminating look at how government officials involve themselves as commentators on complex issues.

For example, Richard C. Turner, the attorney general of Iowa who unsuccessfully filed suit to block the treaty, contends tolls will increase from 300 to 500 per cent.

"Iowa is the second-largest exporter of feed grains and soybeans in the United States," he said in an interview. "The toll increase is going to have a tremendous effect on us. It's going to price some of the farmers out of the market."

When asked where he got his percentage

estimates, Mr. Turner said he read the figures in a newsletter circulated by Representative Neal Smith (D., Iowa), who served on a House Appropriations subcommittee that was looking into the costs of treaty negotiations.

An aide to Representative Smith said the legislator heard the estimate while on the subcommittee's trip to Panama a year ago. Mr. Smith did not pursue the matter. "It was just a projected fear," the aide said.

Another state attorney general, Evelle J. Younger of California, made a smiilar warning of economic disaster in a public release last month.

When pressed for supporting data on the warning, an aide could only reply, "Gee, I think he got that from a speech [Ronald] Reagan made. I'm not sure."

For its part, the Carter administration, which is pushing the treaty, has shed little light on the potential economic impact.

Farmers called to Washington in September by Bob S. Bergland, the Secretary of Agriculture, were told tolls might increase 25 per cent over the next 22 years.

Panama Canal Company sources, on the other hand, say tolls will increase immediately by as much as 40 per cent.

A State Department official said tolls would not be allowed to go "beyond the point of diminishing marginal returns."

That level is not now known, but Mr. Brandes, the consultant, says that level is nearly at hand.

The California-based economist said in an interview that he was heartened by signs that both sides on the treaty talks recognized that the canal can only produce so much revenue.

"Previous studies," he added, showed "that you can go four times up."

How far up can tolls go now? Mr. Brandes, who will complete a study on the matter early next year, is not sure. But he cautioned, "There's a danger. We're not very far from the point where we will get declining returns."

The steamship operators, the industry that stands to be affected most directly by canal toll increases, agrees with Mr. Brandes' line of thinking. They believe the tolls have hit the limit, but their ranks are split on how to address the issue.

Extreme friction between steamship operators who use the canal and those who ply other routes was played to its fullest at this month's meeting of the National Propeller Club, a major maritime trade group, which met in Galveston, Texas.

The group easily voted through resolutions for a bevy of federal subsidy programs, but when it came to the canal treaty, the best the members could do was pass a loosely worded resolution calling for construction of a second canal.

Port operators have been more assertive. The Gulf Ports Association, whose members rely heavily on the grain export business, appealed directly to President Carter to defer implementing the treaties.

The group's members are concerned that toll increases in the 30 percent range will price American farmers and exporters out of the international grain sales business and, thus, eliminate the fallout they get from the trade.

The fallout is substantial and varied: more business, stable employment and higher taxes to their communities.

Gulf port administrators say that countries like Canada and Australia, which will not have to contend with the economics of the Panama Canal, will be placed at a definite pricing advantage over American grain producers.

Meanwhile, the Association of American Port Authorities, which represents port operators in the entire Western Hemisphere, including Panama, expects to take some sort of position on the treaty at an upcoming meeting in Mexico City.

The group will have trouble reaching a unanimous position because it includes Canadians and Latin Americans who, unlike American port operators, are unwilling to commit themselves on what they view as a political issue.

American port operators are like everyone else in this debate. They cannot agree on the economic issues because those issues are so broad and perplexing.

One reason is that the forces of economics are so varied. But there is one undisputable economic fact of life: When costs rise, the consumer pays.

Consider this scenario. If the canal's tolls rise, or if the waterway is poorly operated, shipments could be diverted to other markets or routes.

It is a scenario in which one mode of transportation, waterborne shipping, would lose, along with the immense benefits associated with ports, ranging from substantial tax revenues to paychecks for longshoremen.

Competitors of steamship lines, such as the railroads, would win, becoming the beneficiaries of diverted business. In addition, traditional markets could fall by the wayside while new ones are created.

This is but one of many scenarios that make up the big picture of international commerce.

At the end, the consumer may ask: "Should I be concerned how my clock radio comes to me?"

Under the din of political debate over strategic controls, hemispheric influence and ownership rights, basic economic questions like this have not been asked. The economic ties—the delivery of products—are the closest ties individuals may have to the Panama Canal.

WATERWAY USER CHARGE TESTIMONY

Mr. HUDDLESTON. Mr. President, on Friday of last week I testified before the Senate Finance Committee on the waterway user charge issue now before the Senate. I ask unanimous consent that my testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR HUDDLESTON

Mr. Chairman, this committee has under consideration today a very reasonable compromise of a number of difficult and controversial issues. The Navigation Development Act, H.R. 8309, was sent to the Senate by an overwhelming vote of 331–70 in the House. It clears for construction the replacement of Lock and Dam 26 at Alton, Illinois, eliminating a bottleneck which has been unnecessarily adding to the costs of moving traffic throughout the Midwest. At the same time, it imposes a fuel tax of 4 cents a gallon on barge lines and their customers. The tax rises to 6 cents in 1981.

Efficient transportation is, of course, crucially important to the economic well-being of any region, and lucky is the area in which rail, water, truck and pipelines compete because effective competition produces the lowest price for the consumer and the best quality of service.

Kentucky has more navigable waterways than any other state, except Alaska, but at the same time, it relies on efficient rail, truck and pipeline service as well. I have and will continue to support each of these modes.

I have also long supported the concept that barge lines and their customers should make a contribution to the cost of maintaining the waterways, but none of us would want to impair the constructive contributions water transportation makes to the over-riding national goals of fighting inflation and conserving energy.

The question of whether or not there will be some cost recovery has already been settled. The only remaining question is how much, and what the effect of that charge or tax will be. Or, put another way, how much can we tax the water transportation industry without driving substantial amounts of traffic off the waterways and thus destroying a vital mode of transportation.

The thing that must be kept in mind is that water transportation, unlike other modes, cannot offer speed of delivery or door-to-door delivery. It offers one primary advantage—low cost for moving bulk commodities. If it loses that advantage, it will have lost its appeal and its traffic.

In breaking precedent with the traditional toll-free policy maintained by our government for over 200 years, we are risking many unknowns. That is why I think we should proceed with caution and with full knowledge of the facts. I am reassured by the fact that this bill calls for an in-depth study of the impact of waterway taxes.

Navigation improvement has been one of the nation's great success stories. Few success stories can match those of the rivers serving Kentucky. The Ohio River canalization project, for example, was authorized in 1910 anticipating 13,000,000 tons of traffic annually. In 1975, Ohio River tonnage exceeded 140,000,000 tons. The Tennessee canalization project anticipated annual tonnages of about 13,000,000 and in 1975 carried 28,300,000 tons. The Cumberland project was authorized for an anticipated tonnage of 2,200,000 in 1946 and carried 11,800,000 tons in 1975. The Green River project was authorized in 1954 for an anticipated tonnage of 5,400,000 and carried in 1975 15,900,000 tons.

This remarkable development has had a highly positive effect on the growth of the economy of Kentucky and of the region. It has stimulated billions of dollars in private investment in industry and agriculture, producing the kind of local payroll that all communities desire. It has called forth investment by local cities and towns in river port and terminal facilities, many of them financed by local bond issues backed by anticipated future traffic.

Having established the precedent of cost-sharing in this bill, I think it is now urgent to study in depth the impact of this tax and any future escalation.

There are many complex issues. Who are the ultimate beneficiaries of navigation investment? What will the impact of various levels of barge taxes be on rates of competing modes? What will the impact be on farm income, on balance of payments, on our troubled steel industry?

To what extent does navigation development, which stimulates the entire economy, also stimulate business opportunities for competing transport modes? How do direct and indirect federal aid compare as between modes and is there any unfairness as between modes? And, above all, how can we move toward a comprehensive and neutral transportation policy?

Kentucky is an inland state and I must confess to concern that shallow draft navigation appears to be singled out for a tax while deeper draft and Great Lakes facilities are exempted.

Another unfortunate aspect of this particular legislative situation, in my opinion, is that in some minds it has developed into a contest between the barge companies and the railroads.

That is exactly what is wrong with much of our transportation policy in this country. We pit one mode against another rather than searching for a common, integrated system which gives this country the full advantages of each, while promoting competition and efficiency.

We need a national transportation policy, and we also need some kind of overall trans-

portation account within the Department of Transportation to assure that all modes are treated fairly, that they have equal access to capital, that competitive equity is maintained, and that each mode is used to its full potential.

I am hopeful that the institution of some cost-recovery on the waterways will be a step in that direction, that it will diminish the propensity to pit one mode against the other, and that it will promote an integrated transportation policy.

But the question here today, as I said, is how much should we tax the water transportation industry. I favor the principle of cost sharing, but I think there is nothing to be lost and everything to be gained by adopting a maximum fuel tax of 6 cents a gallon at this time, and saving escalation until all the relevant facts outlined in the study proposal can be evaluated.

I had rather be cautious now than be sorry later.

MR. EVAN FARBER

Mr. BAYH. Mr. President, I would like to draw my colleagues' attention to an important development in the career of one of Indiana's outstanding citizens. Mr. Evan Farber, head librarian of Earlham College in Richmond, Ind., has been named vice president and president-elect of the Association of College and Research Libraries Division of the American Library Association. This organization counts all types of scholarly libraries in its membership, including large ones such as the Boston Public Library and the New York City Library. The current membership is 9,000.

In being elected to the office of president, Mr. Farber has received a rich and well deserved honor. It serves as recognition for the fine work he has performed over the years at the Lilly Library at Earlham, a highly regarded user-centered scholarly library. As vice president of the association, he will plan for the 1978 convention over which he will preside as president. The convention will be held in Boston in November.

The Association of College and Research Libraries promotes academic librarianship through programs which include diversification and evaluation of books and nonbook written material. I take pride in the selection of Mr. Farber, from one of Indiana's finest private colleges, as the president elect of this organization and applaud his accomplishment.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. CANNON. Mr. President, the following nomination has been referred to, and is now pending before, the Committee on Rules and Administration.

Sam Zagoria of Maryland to be a member of the Federal Election Commission for a term expiring April 30, 1983.

On behalf of the Committee on Rules and Administration, notice is hereby given to all persons interested in this nomination to file with the committee in writing, on or before Friday, October 28, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their desire to appear at any hearing which may be scheduled.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

David T. Wood, of Guam, to be U.S. attorney for the district of Guam for the term of 4 years vice Duane K. Craske, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Tuesday, November 1, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

George L. Miller, of North Carolina, to be U.S. marshal for the middle district of North Carolina for the term of 4 years vice P. Ellis Almond.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Tuesday, November 1, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

PRIVILEGE OF THE FLOOR—H.R. 5263

Mr. PERCY. Mr. President, I ask unanimous consent that Chris Palmer and Ronald La Noue of the Governmental Affairs Committee have the privilege of the floor during debate and rollcalls on H.R. 5263.

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. JAVITS: Gary Klein; Mr. HATCH: Andrew Gray Nokes; Mr. CASE: Jack Vandenberg; Mr. CANNON: Aubrey Sarvis; Mr. ZORINSKY: Lew Ashley; Mr. BAYH: Nels Ackerson; Mr. RIEGLE: Susan Poor; Mr. DECONCINI: Jim Magner; Mr. BROOKE: Meg Power; Mr. DOMENICI: Charles Gentry and Letitia Chambers; Mr. ANDERSON: Susan Martel; Mr. MATHIAS: Joseph DiGenoa; Mr. SCHMITT: Hayden Bryan.

SACCHARIN STUDIES

Mr. KENNEDY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1750.

The PRESIDING OFFICER (Mr. SARBANES) laid before the Senate the amendments of the House of Representatives to the bill (S. 1750) to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for 18 months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods.

(The amendments of the House are printed in the House proceedings of the RECORD of October 17, 1977.)

Mr. KENNEDY. Mr. President, I move that the Senate disagree to the amendments of the House of Representatives to S. 1750 and request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. KENNEDY, Mr. WILLIAMS, Mr. PELL, Mr. HATHAWAY, Mr. NELSON, Mr. RIEGLE, Mr. JAVITS, Mr. SCHWEIKER, Mr. CHAFEE, and Mr. HAYAKAWA conferees on the part of the Senate.

PENDING QUESTION

Mr. ROBERT C. BYRD. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The pending question is the committee amendment in the nature of a substitute to H.R. 5263.

Mr. ROBERT C. BYRD. I thank the Chair.

AUTHORITY FOR COMMITTEE ON THE JUDICIARY TO MEET DURING THE SENATE SESSION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate tomorrow, to consider the revision of the Criminal Code.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELEASE OF DOCUMENTS AND FILES OF THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS (S. RES. 304)

Mr. ROBERT C. BYRD. Mr. President, I call up a resolution reported earlier today by Mr. JACKSON, and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 304) to permit withdrawal and release of certain documents from the files of the permanent Subcommittee on

Investigations of the Committee on Governmental Affairs.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 304) was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Resolved,

To permit withdrawal and release of certain documents from the files of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs;

Whereas, the Swedish Embassy has formally requested by letter dated October 12, 1977, that copies of any stock certificates of American International Distributors, Inc., a Colorado corporation, in the possession of the Permanent Subcommittee on Investigations, be released to them in connection with a criminal action pending in Sweden against Franklin Peroff;

Whereas, the Permanent Subcommittee on Investigations obtained a copy of one such stock certificate during the course of its authorized investigation into allegations by Franklin Peroff;

Whereas, by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate, no documents or materials secured by the Senate may be revealed without the consent of the Senate: Therefore, be it

Resolved, That the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs is authorized to withdraw and release to the Swedish Embassy copies of any stock certificates of American International Distributors, Inc., a Colorado corporation, in its files.

SEC. 2. The Secretary of the Senate shall transmit a copy of this Resolution to Mats Elgqvist, Counselor, Swedish Embassy, Suite 1200, 600 New Hampshire Avenue, NW., Washington, D.C. 20037.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar under "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of Wallace P. Bowen, of Oregon, to be U.S. marshal for the district of Oregon.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of Archie P. Sherar, of Washington, to be U.S. Marshal for the eastern district of Washington.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of Isaac George Hylton, of Virginia, to be U.S. marshal for the eastern district of Virginia.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. I move to consider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of Harry H. Marshall, of Illinois, to be U.S. marshal for the Southern District of Illinois.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will meet tomorrow morning at 9:30, and at 10 o'clock, or thereabouts, or earlier perhaps, will resume its consideration of the energy tax bill. Senators with amendments should be ready and be on hand to offer them so that the Senate can make progress on that bill tomorrow.

I would anticipate lengthy sessions during the week. It is the intention and hope of the leadership that the Senate can complete action on the energy tax bill this week. If action is not completed by the close of business Friday, the Senate will, by necessity, be in session on Saturday.

If the action is completed on the energy tax bill this week, it is intended by the leadership to take up, next week, the remaining measures which have to be considered and action thereon completed, such as the supplemental appropriations bill and other measures which are considered must measures. If the Senate is able to complete action on those measures next week, then, as I have indicated earlier, in accordance with the consultations I have had with the distinguished minority leader and the Speaker of the House, it will be the intention of the leadership to put the Senate into 3-day recesses awaiting various conference reports on the energy bill and other matters that are in conference.

UNFINISHED BUSINESS

Mr. ROBERT C. BYRD. Mr. President, the pending business, I believe, is the energy tax bill. Is that correct?

The PRESIDING OFFICER. The Senator is correct. That is the unfinished business.

Mr. ROBERT C. BYRD. I thank the Chair.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 9:30 a.m. tomorrow.

The motion was agreed to; and at 6:46 p.m. the Senate recessed until tomorrow, Wednesday, October 26, 1977, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 25, 1977:

DEPARTMENT OF DEFENSE

Harold W. Chase, of Minnesota, to be Deputy Assistant Secretary of Defense for Reserve Affairs, vice Will Hill Tankersley, resigned.

DEPARTMENT OF JUSTICE

David T. Wood, of Guam, to be U.S. attorney for the district of Guam for the term of 4 years, vice Duane K. Craske, resigned.

DEPARTMENT OF DEFENSE

William J. Perry, of Virginia, to be Under Secretary of Defense for Research and Engineering (new position).

THE JUDICIARY

Elsijane Trimble Roy, of Arkansas, to be U.S. district judge for the eastern and western districts of Arkansas, vice Oren Harris, retired.

DEPARTMENT OF JUSTICE

Gerald D. Fines, of Illinois, to be U.S. attorney for the southern district of Illinois for the term of 4 years, vice Donald B. Mackay, resigned.

Audrey A. Kaslow, of California, to be a Commissioner of the U.S. Parole Commission for the term of 6 years, vice Paul A. Tennant, term expired.

FEDERAL ELECTION COMMISSION

Samuel D. Zagoria, of Maryland, to be a member of the Federal Election Commission for a term expiring April 30, 1983, vice William L. Springer, term expired.

IN THE AIR FORCE

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapters 35, 831 and 837, title 10, United States Code:

To be major general

Brig. Gen. William J. Crisler, xxx-xx-xxxx xxx...FG, Air National Guard of the United States.

Brig. Gen. Billy M. Jones, xxx-xx-xxxx FG, Air National Guard of the United States.

To be brigadier general

Col. Jose A. Bloise, xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Joseph M. Cheshire, xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Calvin M. Edwards, xxx-xx-xxxx FG, Air National Guard of the United States.

Col. William P. Gast, xxx-xx-xxxx G, Air National Guard of the United States.

Col. James C. Hise, xxx-xx-xxxx G, Air National Guard of the United States.

Col. John L. Hoar, xxx-xx-xxxx G, Air National Guard of the United States.

Col. Billie G. Hollowell, xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Raymond E. Lilley, xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Robert A. Neal, xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Ben. L. Patterson, Jr. xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Philip W. Strope, xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Marvin A. Thorson, xxx-xx-xxxx FG, Air National Guard of the United States.

IN THE AIR FORCE

The following officers for promotion in the Air Force Reserve, under the provisions of sections 8376 and 593, title 10, United States Code:

LINE OF THE AIR FORCE

Lieutenant colonel to colonel

Saur, Walter L., xxx-xx-xxxx.

MEDICAL CORPS

Berrick, William H., xxx-xx-xxxx.
Buckingham, John C., xxx-xx-xxxx.
Calene, James G., xxx-xx-xxxx.
Dissen, Paul T., xxx-xx-xxxx.
Guerdan, Donald C., xxx-xx-xxxx.
Makant, Joseph E., Jr., xxx-xx-xxxx.
Martinez, Gerardo H., xxx-xx-xxxx.
McGranahan, Thomas C., xxx-xx-xxxx.
McKechnie, William G., xxx-xx-xxxx.
Queen, Charles R., xxx-xx-xxxx.

LINE OF THE AIR FORCE

Major to lieutenant colonel

Denton, David L., xxx-xx-xxxx.
Frazier, Thomas E., xxx-xx-xxxx.
Perrin, James E., xxx-xx-xxxx.
Pritchett, Charles D., xxx-xx-xxxx.

MEDICAL CORPS

Banez, Ramon V., xxx-xx-xxxx.
Hafermann, David R., xxx-xx-xxxx.
Miranda, Cesar P., xxx-xx-xxxx.
Richter, Jaroslav K., xxx-xx-xxxx.
Strine, James A., xxx-xx-xxxx.
Young, Jerome M., xxx-xx-xxxx.
Zaayer, Dolph W., xxx-xx-xxxx.

NURSE CORPS

Thomason, Loretta C., xxx-xx-xxxx.

BIOMEDICAL SCIENCES CORPS

Winans, Lawrence F., xxx-xx-xxxx.

The following Air Force officer for promotion in his temporary grade under the provisions of chapter 839, title 10, United States Code:

MEDICAL CORPS

Lieutenant colonel to colonel

Niles, James E., xxx-xx-xxxx.

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

MEDICAL CORPS

To be colonel

Goslin, Fred B., xxx-xx-xxxx.

To be first lieutenant

Gerber, William R., xxx-xx-xxxx.

DENTAL CORPS

To be first lieutenant

Martin, Dwayne K., xxx-xx-xxxx.
McDonald, Daniel K., xxx-xx-xxxx.
Morgan, Richard A., xxx-xx-xxxx.
Panzek, John T., xxx-xx-xxxx.
Yarbrough, Steven L., xxx-xx-xxxx.

The following persons for appointment as Reserves of the Air Force, in the grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated:

MEDICAL CORPS

To be lieutenant colonel

Abbott, Kenneth H., xxx-xx-xxxx.
Acuff, Calvin C., xxx-xx-xxxx.
Anton, Achilles P., xxx-xx-xxxx.
Armbrustmacher, Vernon P., xxx-xx-xxxx.
Beddingfield, George W., xxx-xx-xxxx.
Burns, Robert R., xxx-xx-xxxx.
Cline, Albert H., xxx-xx-xxxx.
Gibson, Gordon L. M., xxx-xx-xxxx.
Gordon, Robert E., Jr., xxx-xx-xxxx.
Hampton, John R., III, xxx-xx-xxxx.
Hirsch, Bernard H., xxx-xx-xxxx.
Janes, Robert G., xxx-xx-xxxx.
Johnson, Robert M., xxx-xx-xxxx.
Kennedy, James J., III, xxx-xx-xxxx.
Legris, Samuel F., xxx-xx-xxxx.
Lemley, Cleatis D., xxx-xx-xxxx.
Purcell, Merlin A., xxx-xx-xxxx.
Sproch, Richard M., xxx-xx-xxxx.
Stamer, John P., Jr., xxx-xx-xxxx.
Stanton, Eugene S., xxx-xx-xxxx.
Telefeian, Artin, xxx-xx-xxxx.
Tompkins, Norman T., xxx-xx-xxxx.

The following person for appointment as a Reserve of the Air Force (ANGUS), in the grade indicated, under the provisions of sections 593 and 8351, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated:

MEDICAL CORPS

To be lieutenant colonel

Lindstrom, Eric E., xxx-xx-xxxx.

The following person for appointment as a Reserve of the Air Force, in the grade indicated, under the provisions of section 593, title 10, United States Code:

LINE OF THE AIR FORCE

To be lieutenant colonel

Layman, John R., xxx-xx-xxxx.

IN THE ARMY

The following-named officers for promotion in the Army of the United States, under the provisions of title 10, United States Code, sections 3442 and 3447:

MEDICAL CORPS

To be lieutenant colonel

Adaniya, Roy S., xxx-xx-xxxx.
Albus, Robert A., xxx-xx-xxxx.
Ascher, Michael S., xxx-xx-xxxx.
Bailey, John D., xxx-xx-xxxx.
Bailey, Tarver B., xxx-xx-xxxx.
Balison, Jeffrey R., xxx-xx-xxxx.
Ballard, Clark T., xxx-xx-xxxx.
Barrow, Emile A., xxx-xx-xxxx.
Baxley, John B., xxx-xx-xxxx.
Beck, Phillip H., xxx-xx-xxxx.
Bellafiore, Vincent A., xxx-xx-xxxx.
Belts, Richard P., xxx-xx-xxxx.
Berenberg, Jeffrey L., xxx-xx-xxxx.
Bernier, Barre S., xxx-xx-xxxx.
Boedeker, Edgar C., xxx-xx-xxxx.
Bornemann, Michael, xxx-xx-xxxx.
Bothwell, Roger S., xxx-xx-xxxx.
Brahman, Herbert D., xxx-xx-xxxx.
Brahman, Sherry L., xxx-xx-xxxx.
Branly-Gomez, Rolando, xxx-xx-xxxx.
Brewster, Frank A., xxx-xx-xxxx.
Broadnax, Gary B., xxx-xx-xxxx.
Brown, Frederick B., xxx-xx-xxxx.
Buda, Francis B., xxx-xx-xxxx.
Burkhalter, Edward, xxx-xx-xxxx.
Butler, Hugh W., xxx-xx-xxxx.
Butterfield, Patrick, xxx-xx-xxxx.
Byrne, Richard R., xxx-xx-xxxx.
Caldwell, Michael D., xxx-xx-xxxx.
Carter, Elizabeth J., xxx-xx-xxxx.
Carter, Preston L., xxx-xx-xxxx.
Casey, Elmer M., xxx-xx-xxxx.
Castellanos, Luis L., xxx-xx-xxxx.
Cheney, David H., xxx-xx-xxxx.
Cooper, Maxwell A., xxx-xx-xxxx.
Cooper, Philip H., xxx-xx-xxxx.
Corcoran, Robert J., xxx-xx-xxxx.
Cotten, Leon B., xxx-xx-xxxx.
Cowen, George D., xxx-xx-xxxx.
Cox, Robert B., xxx-xx-xxxx.
Crandall, David B., xxx-xx-xxxx.
Crast, Frank W., xxx-xx-xxxx.
Cromwell, Larry G., xxx-xx-xxxx.
Cronin, Robert J., xxx-xx-xxxx.
Daniell, Walter C., xxx-xx-xxxx.
Deleese, Joseph S., xxx-xx-xxxx.
Demersseman, John A., xxx-xx-xxxx.
Deshon, George E., xxx-xx-xxxx.
Diana, Daniel J., xxx-xx-xxxx.
Diblasi, Robert J., xxx-xx-xxxx.
Dixon, Jonathan A., xxx-xx-xxxx.
Donley, Patrick J., xxx-xx-xxxx.
Donowitz, Mark, xxx-xx-xxxx.
Dorethy, James F., xxx-xx-xxxx.
Dudley, William R., xxx-xx-xxxx.
Dwyer, Michael J., xxx-xx-xxxx.
Eckert, Richard E., xxx-xx-xxxx.
Enquist, Robert W., xxx-xx-xxxx.
Fabrigar, Carmelo S., xxx-xx-xxxx.
Funderburg, James C., xxx-xx-xxxx.
Garrison, James S., xxx-xx-xxxx.
Gatens, Paul F., xxx-xx-xxxx.
Geiser, John H., xxx-xx-xxxx.
Genser, Sander G., xxx-xx-xxxx.
Goldner, Fred H., xxx-xx-xxxx.
Gunby, Edwin N., xxx-xx-xxxx.
Gutierrez, Jorge A., xxx-xx-xxxx.
Hackethorn, John C., xxx-xx-xxxx.
Haddock, James B., xxx-xx-xxxx.
Harris, Ronald R., xxx-xx-xxxx.
Harris, Stanley C., xxx-xx-xxxx.
Hymarsh, Marilyn K., xxx-xx-xxxx.
Justice, Glen R., xxx-xx-xxxx.
Kane, Lawrence R., xxx-xx-xxxx.
Kark, John A., xxx-xx-xxxx.
Karl, Robert D., xxx-xx-xxxx.
Kelley, James L., xxx-xx-xxxx.
Kim, Michael H., xxx-xx-xxxx.
Kimball, Gordon R., xxx-xx-xxxx.
Kinane, Thomas J., xxx-xx-xxxx.
Kleiner, John P., xxx-xx-xxxx.
Kort, William T., xxx-xx-xxxx.
Kraft, Barry, xxx-xx-xxxx.
Lapins, Nickolajs A., xxx-xx-xxxx.
Larsen, Lawrence E., xxx-xx-xxxx.
Lewis, Philip C., xxx-xx-xxxx.
Loleng, Cecilia M., xxx-xx-xxxx.
Lovern, Walter J., xxx-xx-xxxx.
Lunsford, Thomas M., xxx-xx-xxxx.
Maitland, Charles G., xxx-xx-xxxx.
Malone, Thomas N., xxx-xx-xxxx.
Mansfield, Lyndon E., xxx-xx-xxxx.
Martyak, Anthony P., xxx-xx-xxxx.
May, Dennis L., xxx-xx-xxxx.
McDougal, William S., xxx-xx-xxxx.
McKelvey, John J., xxx-xx-xxxx.
McLean, Ian W., xxx-xx-xxxx.
McNamara, Timothy E., xxx-xx-xxxx.
Meade, William C., xxx-xx-xxxx.
Melendez, Edwin, xxx-xx-xxxx.
Meyers, Allan F., xxx-xx-xxxx.
Miller, Lynn E., xxx-xx-xxxx.
Miller, Robert W., xxx-xx-xxxx.
Murchison, William, xxx-xx-xxxx.
Muth, Warren F., xxx-xx-xxxx.
Neches, Norman M., xxx-xx-xxxx.
O'Donell, Francis L., xxx-xx-xxxx.

Olmert, Joseph P., xxx-xx-xxxx.
Overly, Gerald G., xxx-xx-xxxx.
Parks, Samuel D., xxx-xx-xxxx.
Perry, Michael E., xxx-xx-xxxx.
Philbrick, Jack H., xxx-xx-xxxx.
Poling, Charles W., xxx-xx-xxxx.
Polsky, Muni S., xxx-xx-xxxx.
Pope, James C., xxx-xx-xxxx.
Prather, Jerry L., xxx-xx-xxxx.
Pulaski, Edwin T., xxx-xx-xxxx.
Rappe, Gerald A., xxx-xx-xxxx.
Rawlings, James S., xxx-xx-xxxx.
Read, John A., xxx-xx-xxxx.
Redmond, Daniel P., xxx-xx-xxxx.
Reinker, Kent A., xxx-xx-xxxx.
Richardson, Madison F., xxx-xx-xxxx.
Rigler, Wilson F., xxx-xx-xxxx.
Roscetti, James L., xxx-xx-xxxx.
Sandhu, Hartej S., xxx-xx-xxxx.
Schneider, Richard, xxx-xx-xxxx.
Schultheiss, John F., xxx-xx-xxxx.
Seyfer, Alan E., xxx-xx-xxxx.
Shatsky, Stanley A., xxx-xx-xxxx.
Sievers, David B., xxx-xx-xxxx.
Simon, David C., xxx-xx-xxxx.
Singh, Surinderjit, xxx-xx-xxxx.
Smith, Donald D., xxx-xx-xxxx.
Steahly, Lance P., xxx-xx-xxxx.
Stewart, Richard H., xxx-xx-xxxx.
Steyskal, Robert W., xxx-xx-xxxx.
Story, Paul G., xxx-xx-xxxx.
Tellis, Claude J., xxx-xx-xxxx.
Thomas, Paul J., xxx-xx-xxxx.
Thompson, Frederick, xxx-xx-xxxx.
Uechi, Michael D., xxx-xx-xxxx.
Updegraff, Bryan R., xxx-xx-xxxx.
Vaeth, Stephan J., xxx-xx-xxxx.
Vollero, Robert A., xxx-xx-xxxx.
Wade, James M., xxx-xx-xxxx.
Wamble, John L. Jr., xxx-xx-xxxx.
Wehunt, William D., xxx-xx-xxxx.
Whitsitt, Leighton, xxx-xx-xxxx.
Wilkin, James H., xxx-xx-xxxx.
Will, Raymond J., xxx-xx-xxxx.
Williams, Robert K., xxx-xx-xxxx.
Winkel, Craig A., xxx-xx-xxxx.
Woodcock, Leslie D., xxx-xx-xxxx.
Woods, James R., xxx-xx-xxxx.
Yeagley, Miles G., xxx-xx-xxxx.
York, William B., xxx-xx-xxxx.
Youker, Jerry R., xxx-xx-xxxx.

DENTAL CORPS

To be lieutenant colonel

Agar, John R., xxx-xx-xxxx.
Ahlers, Robert C., xxx-xx-xxxx.
Antonini, Charles J., xxx-xx-xxxx.
Ayer, William A., xxx-xx-xxxx.
Badger, Gary R., xxx-xx-xxxx.
Ballinger, Mark E., xxx-xx-xxxx.
Baumgartner, John C., xxx-xx-xxxx.
Becka, David C., xxx-xx-xxxx.
Beuttenmuller, Erhard, xxx-xx-xxxx.
Bogue, John P., xxx-xx-xxxx.
Boren, Robert S., xxx-xx-xxxx.
Buhler, John E., xxx-xx-xxxx.
Butler, Gerald V., xxx-xx-xxxx.
Carbone, David O., xxx-xx-xxxx.
Clark, David M., xxx-xx-xxxx.
Comella, Martin C., xxx-xx-xxxx.
Courson, Richard C., xxx-xx-xxxx.
Cuddy, John J., xxx-xx-xxxx.
D'Anna, James A., xxx-xx-xxxx.
Davis, Albert L., xxx-xx-xxxx.
Davis, Stephen S., xxx-xx-xxxx.
Divita, Carl L., xxx-xx-xxxx.
Dmura, Michael R., xxx-xx-xxxx.
Doherty, Richard D., xxx-xx-xxxx.
Dorsey, Joe K., xxx-xx-xxxx.
Edge, Marion J., xxx-xx-xxxx.
Farmer, John B., xxx-xx-xxxx.
Fay, James R., xxx-xx-xxxx.
Ganong, Stephen L., xxx-xx-xxxx.
Gardner, Furmon M., xxx-xx-xxxx.
Geertsema, Richard, xxx-xx-xxxx.
Gifford, Gerald R., xxx-xx-xxxx.
Gilles, James A., xxx-xx-xxxx.
Gracey, Leslie L., xxx-xx-xxxx.
Griffin, Robert E., xxx-xx-xxxx.
Gunderson, Ronald B., xxx-xx-xxxx.
Hanson, Donald P., xxx-xx-xxxx.
Holt, Dennis E., xxx-xx-xxxx.
Hooks, Thomas W., xxx-xx-xxxx.
Hughbanks, James C., xxx-xx-xxxx.
Hunter, Ronald D., xxx-xx-xxxx.
Ivanhoe, John R., xxx-xx-xxxx.
Jeffrey, Gary D., xxx-xx-xxxx.
Johnson, Ralph G., xxx-xx-xxxx.
Johnson, Richard L., xxx-xx-xxxx.
Jones, Donald A., xxx-xx-xxxx.
Kallio, Donald M., xxx-xx-xxxx.
Kestner, Allan T., xxx-xx-xxxx.
Kiyomura, Ira I., xxx-xx-xxxx.
Krakow, Arthur M., xxx-xx-xxxx.
Kraut, Richard A., xxx-xx-xxxx.
Kuhn, John B., xxx-xx-xxxx.
Labounty, Gary L., xxx-xx-xxxx.
Leben, Jeffrey B., xxx-xx-xxxx.
Lemoine, David L., xxx-xx-xxxx.
Lessin, Michael E., xxx-xx-xxxx.
Lewis, David M., xxx-xx-xxxx.
Liggett, William R., xxx-xx-xxxx.
Little, John A., xxx-xx-xxxx.
Lopez, Jesus Jr., xxx-xx-xxxx.
Lyon, Douglas R., xxx-xx-xxxx.
McMahon, Robert E., xxx-xx-xxxx.
McQuade, Michael J., xxx-xx-xxxx.
Moergeli, James R., xxx-xx-xxxx.
Moody, Edward L., xxx-xx-xxxx.
Mueller, Brett H., xxx-xx-xxxx.
Mullinax, Ellis T., xxx-xx-xxxx.
Murphy, Wade L., xxx-xx-xxxx.
Nagy, William W., xxx-xx-xxxx.
Nelson, Donald F., xxx-xx-xxxx.
Newbry, Everett G., xxx-xx-xxxx.
Oleskevich, James M., xxx-xx-xxxx.
Pawsat, David S., xxx-xx-xxxx.
Pearson, Craig D., xxx-xx-xxxx.
Percy, Kent H., xxx-xx-xxxx.
Petrucci, Vincent A., xxx-xx-xxxx.
Phillips, Bruce B., xxx-xx-xxxx.
Pohlmann, Bernard H., xxx-xx-xxxx.
Reddy, Thomas G., xxx-xx-xxxx.
Robinson, Phillip H., xxx-xx-xxxx.
Segall, Ronald O., xxx-xx-xxxx.
Sheehe, John P., xxx-xx-xxxx.
Sheppard, Paul R., xxx-xx-xxxx.
Smith, Malcolm G., xxx-xx-xxxx.
Stanford, Thomas W., xxx-xx-xxxx.
Stankewitz, Charles, xxx-xx-xxxx.
Stefani, Dennis E., xxx-xx-xxxx.
Stephens, James L., xxx-xx-xxxx.
Stringer, John L., xxx-xx-xxxx.
Svec, Timothy A., xxx-xx-xxxx.
Swain, Gary R., xxx-xx-xxxx.
Taggart, Edward J., xxx-xx-xxxx.
Tesch, Thomas N., xxx-xx-xxxx.
Todd, Maylon J., xxx-xx-xxxx.
Tressler, Lloyd E., xxx-xx-xxxx.
Turner, Kenneth D., xxx-xx-xxxx.
Vincent, Jack W., xxx-xx-xxxx.
Wallace, Douglas C., xxx-xx-xxxx.
Wallace, William F., xxx-xx-xxxx.
Wampole, Harry S., xxx-xx-xxxx.
Webber, Raymond T., xxx-xx-xxxx.
Wilke, Gary M., xxx-xx-xxxx.
Zimmerman, Bruce J., xxx-xx-xxxx.

ARMY PROMOTION LIST

To be lieutenant colonel

Berry, Terry G., xxx-xx-xxxx.
Hitch, Robert H., xxx-xx-xxxx.
Logan, Abraham T., xxx-xx-xxxx.
McClements, James R., xxx-xx-xxxx.
McGowan, James J., Jr., xxx-xx-xxxx.
Nicklas, Harold H., xxx-xx-xxxx.
Parr, Ivan W., III, xxx-xx-xxxx.
Seligman, Norman L., xxx-xx-xxxx.
Stockstill, John D., xxx-xx-xxxx.
Taylor, Stephen R., xxx-xx-xxxx.
Thompson, James W., xxx-xx-xxxx.
Torres, Victor M., xxx-xx-xxxx.
Ware, Lesly F. Jr., xxx-xx-xxxx.
Young, Bernie L., xxx-xx-xxxx.

The following-named officers for promotion in the Regular Army of the United States, under provisions of title 10, United States Code, sections 3284 and 3299:

ARMY PROMOTION LIST

To be major

Blackwell, Eugene B., xxx-xx-xxxx.
Bergeron, Paul R., xxx-xx-xxxx.
Chellman, Ronald J., xxx-xx-xxxx.
Colby, Edward L., xxx-xx-xxxx.
Cooper, Walter A., xxx-xx-xxxx.
Griffin, John M., xxx-xx-xxxx.
Nicklas, Harold H., xxx-xx-xxxx.
Reich, Russell O., xxx-xx-xxxx.
Reich, Russell OO., xxx-xx-xxxx.
Williams, Walter G., xxx-xx-xxxx.

The following-named officer for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3298:

ARMY PROMOTION LIST

To be first lieutenant

Brogdon, Bunny C., xxx-xx-xxxx.

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., section 3370:

ARMY NURSE CORPS

To be colonel

Caswell, Ardis M., xxx-xx-xxxx.
Coggin, Laura J., xxx-xx-xxxx.
Dean, Olga M., xxx-xx-xxxx.
Grice, Margaret L., xxx-xx-xxxx.
Hoover, Mary P., xxx-xx-xxxx.
James, Doris M., xxx-xx-xxxx.
Koth, Howard M., xxx-xx-xxxx.
Kubiak, Arthur S., xxx-xx-xxxx.
Lassett, Josephine, xxx-xx-xxxx.
May, Katherine M., xxx-xx-xxxx.
Mellott, Marion K., xxx-xx-xxxx.
Nurse, Joyce J., xxx-xx-xxxx.
Odorico, Otilia A., xxx-xx-xxxx.
Rowe, Betty J., xxx-xx-xxxx.
Ruhland, Florence R., xxx-xx-xxxx.
Sisk, Jessie M., xxx-xx-xxxx.
Spooner, Lawrence, xxx-xx-xxxx.
Tardif, Louis G., xxx-xx-xxxx.
Terrill, Margaret E., xxx-xx-xxxx.
True, Catherine L., xxx-xx-xxxx.
Wray, Marion E., xxx-xx-xxxx.
Zilonka, Bernice M., xxx-xx-xxxx.

DENTAL CORPS

To be colonel

Black, Robert H., xxx-xx-xxxx.
Cheney, Daniel K., xxx-xx-xxxx.
Cullen, James R., xxx-xx-xxxx.
Flood, James E., xxx-xx-xxxx.
Floyd, Daniel E., xxx-xx-xxxx.
Garner, Stacey A., xxx-xx-xxxx.
Goldsby, Joel W., xxx-xx-xxxx.
Jackson, Hiram M., xxx-xx-xxxx.
Jeske, Frederick J., xxx-xx-xxxx.
Ketcham, William S., xxx-xx-xxxx.
Kirkpatrick, E. L., xxx-xx-xxxx.
Marcantonia, Joseph, xxx-xx-xxxx.
Mozrall, John F., xxx-xx-xxxx.
Nardine, John V., xxx-xx-xxxx.
Rose, Junius H., Jr., xxx-xx-xxxx.
Scott, Walter J., xxx-xx-xxxx.
Sheehan, Arthur P., xxx-xx-xxxx.
Swieterman, R. P., xxx-xx-xxxx.
White, Hazel M., xxx-xx-xxxx.

MEDICAL CORPS

To be colonel

Brown, Richard B., xxx-xx-xxxx.
Buttery, Christopher, xxx-xx-xxxx.
Caccavo, Francis A., xxx-xx-xxxx.
Chipman, Martin, xxx-xx-xxxx.
Desanctis, Armand N., xxx-xx-xxxx.
Georgakis, Nicholas, xxx-xx-xxxx.
Harlowe, Stuart E., xxx-xx-xxxx.
Longo-Cordero, R., xxx-xx-xxxx.
McGarry, John F., xxx-xx-xxxx.
Morgan, Loren R., xxx-xx-xxxx.
Phillips, Ran L., II, xxx-xx-xxxx.
Rather, Daniel A., xxx-xx-xxxx.
Roth, Harold C., xxx-xx-xxxx.
Saneholtz, W. E., xxx-xx-xxxx.
Sayer, William J., xxx-xx-xxxx.
Scharff, Louis, xxx-xx-xxxx.
Slusher, Ralph C., xxx-xx-xxxx.
Stockwell, Henry P., xxx-xx-xxxx.
Whitehouse, William, xxx-xx-xxxx.
Wright, George W., Jr., xxx-xx-xxxx.

MEDICAL SERVICE CORPS

To be colonel

Bailey, Glenn E., xxx-xx-xxxx.
Blomquist, Calvin B., xxx-xx-xxxx.
Eagon, Robert G., xxx-xx-xxxx.
Fletcher, Ronald D., xxx-xx-xxxx.
Getz, Lowell L., xxx-xx-xxxx.
Gill, Harry E., xxx-xx-xxxx.
Gracyalny, James I., xxx-xx-xxxx.
Hamilton, James E., xxx-xx-xxxx.
Hart, James M., Jr., xxx-xx-xxxx.
Hissong, Jerry B., xxx-xx-xxxx.
Hutchison, Victor H., xxx-xx-xxxx.
Kramer, Sherman F., xxx-xx-xxxx.
Lindquist, John L., xxx-xx-xxxx.
Lutz, Anthony J., Jr., xxx-xx-xxxx.
McIntyre, James E., xxx-xx-xxxx.
Miller, James B., xxx-xx-xxxx.
Prouty, Richard W., xxx-xx-xxxx.
Scheyett, Walter E., xxx-xx-xxxx.
Strannigan, Dale L., xxx-xx-xxxx.
Tracey, Donald J., xxx-xx-xxxx.
Wickham, Arthur R., xxx-xx-xxxx.
Zallen, Harold, xxx-xx-xxxx.

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Anderson, Beverley, xxx-xx-xxxx.
Cleary, Kathleen P., xxx-xx-xxxx.

VETERINARY CORPS

To be colonel

Carver, Royal T., xxx-xx-xxxx.
Norcross, Marvin A., xxx-xx-xxxx.
Strandberg, Harold, xxx-xx-xxxx.

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., sections 3366 and 3367:

WOMEN'S ARMY CORPS

To be lieutenant colonel

Hammond, Ruth E., xxx-xx-xxxx.

ARMY NURSE CORPS

To be lieutenant colonel

Aasland, Lois M., xxx-xx-xxxx.
Baldwin, Annie P., xxx-xx-xxxx.
Bivalec, Lorraine M., xxx-xx-xxxx.
Boudreaux, Gloria M., xxx-xx-xxxx.
Boyer, Gladys M., xxx-xx-xxxx.
Coss, Elizabeth A., xxx-xx-xxxx.
Decker, Charles, xxx-xx-xxxx.
Delap, James N., xxx-xx-xxxx.
Diaz, Luisa A., xxx-xx-xxxx.
Drose, Wanda, xxx-xx-xxxx.
Duffy, Georgianne, xxx-xx-xxxx.
Ferris, Patricia A., xxx-xx-xxxx.
Gillespie, George F., xxx-xx-xxxx.
Godby, Jack L., xxx-xx-xxxx.
Godby, Rosemary, xxx-xx-xxxx.
Grady, Henrietta C., xxx-xx-xxxx.
Kidon, Shirley A., xxx-xx-xxxx.
Leiner, Marion R., xxx-xx-xxxx.
Lord, Martha P., xxx-xx-xxxx.
Matthews, Hattie M., xxx-xx-xxxx.
McGowan, Elizabeth, xxx-xx-xxxx.
McIntyre, June, xxx-xx-xxxx.
Perrin, Lehua M., xxx-xx-xxxx.
Pugh, Calvin C., xxx-xx-xxxx.
Radle, Patricia J., xxx-xx-xxxx.
Santiagorosado, G., xxx-xx-xxxx.
Stevens, David A., xxx-xx-xxxx.
Summerlin, Mabel C., xxx-xx-xxxx.
Webster, Edith H., xxx-xx-xxxx.
Weierman, William L., xxx-xx-xxxx.
Wilson, Lawrence P., xxx-xx-xxxx.
Wise, Stephen P., xxx-xx-xxxx.

DENTAL CORPS

To be lieutenant colonel

Abel, Leslie R., xxx-xx-xxxx.
Ames, Richard K., xxx-xx-xxxx.
Armitage, Jack E., xxx-xx-xxxx.
Bakland, Leif K., xxx-xx-xxxx.
Bartley, Murray H., xxx-xx-xxxx.
Cartmel, Jerry P., xxx-xx-xxxx.
Davis, Thomas F., xxx-xx-xxxx.
Falcone, Anthony J., xxx-xx-xxxx.
Foster, James H., xxx-xx-xxxx.
Giambalvo, Anthony, xxx-xx-xxxx.
Gombos, Stephen J., xxx-xx-xxxx.
Henrichsen, Leon J., xxx-xx-xxxx.
Hickey, James C., xxx-xx-xxxx.
Holland, Thomas, xxx-xx-xxxx.
Koski, Onnie R., xxx-xx-xxxx.
Pokorney, Robert L., xxx-xx-xxxx.
Pollard, Jerry L., xxx-xx-xxxx.
Rainsberger, R. E., xxx-xx-xxxx.
Sanchez, Antonio M., xxx-xx-xxxx.
Sinicropt, Stephen, xxx-xx-xxxx.
Spengler, Frank J., xxx-xx-xxxx.

MEDICAL CORPS

To be lieutenant colonel

Adams, Richard I., xxx-xx-xxxx.
Anderson, Robert L., xxx-xx-xxxx.
Boas, Edward L., xxx-xx-xxxx.
Caldwell, Michael D., xxx-xx-xxxx.
Cooper, James M., xxx-xx-xxxx.
Corr, Gerald J., xxx-xx-xxxx.
Drynan, John J., xxx-xx-xxxx.
Greist, John H., xxx-xx-xxxx.
Hallee, Theodore J., xxx-xx-xxxx.
Houston, Hal E., Jr., xxx-xx-xxxx.
Huddleston, H. T., xxx-xx-xxxx.
Long, Robert G., xxx-xx-xxxx.
Lourie, Seth H., xxx-xx-xxxx.
Matsuo, Yoshiro, xxx-xx-xxxx.
McClellan, Eugene K., xxx-xx-xxxx.
McKim, Walter L., xxx-xx-xxxx.
Miles, Edward L., xxx-xx-xxxx.
Moore, Eugene A., xxx-xx-xxxx.
Muse, Andrew D., xxx-xx-xxxx.
Pagansaez, Heribert, xxx-xx-xxxx.
Snider, Clovis J., xxx-xx-xxxx.
Takase, Allan S., xxx-xx-xxxx.
Toth, Nicholas, xxx-xx-xxxx.

MEDICAL SERVICE CORPS

To be lieutenant colonel

Allen, Troy R., xxx-xx-xxxx.
Baetsch, Weldee A., xxx-xx-xxxx.
Balcom, David R., xxx-xx-xxxx.
Barfield, Arnold B., xxx-xx-xxxx.
Bell, Carroll W., Jr., xxx-xx-xxxx.
Boese, Jackie L., xxx-xx-xxxx.
Boyle, Emmett T., xxx-xx-xxxx.
Cancilla, Anthony G., xxx-xx-xxxx.
Carter, Jerry B., xxx-xx-xxxx.
Coughlin, John J., xxx-xx-xxxx.
Culver, David W., xxx-xx-xxxx.
Curtiss, Peter A., xxx-xx-xxxx.
Davis, Walter T., Jr., xxx-xx-xxxx.
Diaz-Adorno, B., xxx-xx-xxxx.
Dugan, Richard N., xxx-xx-xxxx.
Edwards, Betty J., xxx-xx-xxxx.
Epps, Clifford, Jr., xxx-xx-xxxx.
Foreman, Rodney M., xxx-xx-xxxx.
Fowlkes, Nelson J., xxx-xx-xxxx.
Frandsen, John C., xxx-xx-xxxx.
Freund, Robert A., xxx-xx-xxxx.
Frost, Jack L., xxx-xx-xxxx.
Gertz, Kenneth D., xxx-xx-xxxx.
Gilstrap, Roy D., Jr., xxx-xx-xxxx.
Gittler, Steven, xxx-xx-xxxx.
Goodsell, Robert L., xxx-xx-xxxx.
Green, Galen L., xxx-xx-xxxx.
Grim, John N., xxx-xx-xxxx.
Hancock, Ralph B., xxx-xx-xxxx.
Harkabus, Thomas J., xxx-xx-xxxx.
Harris, Carlos, xxx-xx-xxxx.
Hartfield, James N., xxx-xx-xxxx.
Henseler, Philip E., xxx-xx-xxxx.
Herden, Everett L., xxx-xx-xxxx.
Huber, John T., xxx-xx-xxxx.
Iacobucci, Eraclio, xxx-xx-xxxx.
Klover, Jon A., xxx-xx-xxxx.
Kobach, James J., xxx-xx-xxxx.
Krabath, F. M. A., xxx-xx-xxxx.
Krienke, Theophil R., xxx-xx-xxxx.
Krogman, Franklyn T., xxx-xx-xxxx.
Law, George R., xxx-xx-xxxx.
Levandoski, N., xxx-xx-xxxx.
Lindsay, Paul L., Jr., xxx-xx-xxxx.
Lipschultz, William, xxx-xx-xxxx.
Loring, Douglas M., xxx-xx-xxxx.
Malone, Winfred F., xxx-xx-xxxx.
Maltese, Stephen J., xxx-xx-xxxx.
Mangin, Leon F., xxx-xx-xxxx.
Martin, Francis D., xxx-xx-xxxx.
Massaro, William E., xxx-xx-xxxx.
Masuo, Robert H., xxx-xx-xxxx.
McInroy, John D., xxx-xx-xxxx.
Miller, Rogert L., xxx-xx-xxxx.
Montano, Andrew, xxx-xx-xxxx.
Moore, Edward J., xxx-xx-xxxx.
Newman, Dewey H., Jr., xxx-xx-xxxx.
Owen, Theo. D., xxx-xx-xxxx.
Pellien, Paul L., xxx-xx-xxxx.
Penso, Isaac, xxx-xx-xxxx.
Raepsaet, George E., xxx-xx-xxxx.
Smith, Lanny R., xxx-xx-xxxx.
Stack, Robert, xxx-xx-xxxx.
Stamp, Willard J., xxx-xx-xxxx.
Thomas, Paul E., xxx-xx-xxxx.
Tinkham, Robert C., xxx-xx-xxxx.
Toles, Wesley, xxx-xx-xxxx.
Towey, Carroll F., xxx-xx-xxxx.
Vanwissink, G. E., xxx-xx-xxxx.
Wentworth, B. C., xxx-xx-xxxx.
Weston, Gilmer G., Jr., xxx-xx-xxxx.
Whetton, George R., xxx-xx-xxxx.
Wilson, Galyon W., xxx-xx-xxxx.
Wong, Hyman, xxx-xx-xxxx.

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

Aller, Robert A., xxx-xx-xxxx.
Delgadocolon, M., xxx-xx-xxxx.
Donley, Phillip B., xxx-xx-xxxx.
Friedlander, C. H., xxx-xx-xxxx.
Gressett, John D., xxx-xx-xxxx.
Griffin, Winslow L., xxx-xx-xxxx.
Kreider, Russell R., xxx-xx-xxxx.
Mooney, Lawrence P., xxx-xx-xxxx.
Opersteny, C. J., xxx-xx-xxxx.
Rankin, Richard D., xxx-xx-xxxx.
Speight, Curtis, xxx-xx-xxxx.
Verhegge, Ruth D., xxx-xx-xxxx.
White, Louise R., xxx-xx-xxxx.

VETERINARY CORPS

To be lieutenant colonel

Collamer, John H., xxx-xx-xxxx.
Delannoy, C. W., Jr., xxx-xx-xxxx.
Hayes, Howard M., xxx-xx-xxxx.
Linerode, Phillip A., xxx-xx-xxxx.
Meek, Dee G., xxx-xx-xxxx.
Smith, Paul C., xxx-xx-xxxx.
Thomson, Lester G., xxx-xx-xxxx.

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., sections 591, 593, 594:

ARMY PROMOTION LIST

To be lieutenant colonel

Naylor, William H., Jr., xxx-xx-xxxx.

DENTAL CORPS

To be lieutenant colonel

Brown, Murton, xxx-xx-xxxx.
Friend, Cyril L., Jr., xxx-xx-xxxx.
Hobaica, Joseph B., xxx-xx-xxxx.

MEDICAL CORPS

To be lieutenant colonel

Almquist, Howard T., xxx-xx-xxxx.
Blee, William A., xxx-xx-xxxx.
Blum, Herbert, xxx-xx-xxxx.
Bowman, Robert P., xxx-xx-xxxx.
DeVillez, Richard L., xxx-xx-xxxx.
Eldred, Wilfred J., xxx-xx-xxxx.
Everett, Elwood, xxx-xx-xxxx.
Foote, William C., xxx-xx-xxxx.
Gay, James S., xxx-xx-xxxx.
Gerster, Paul W., xxx-xx-xxxx.
Lee, Yon H., xxx-xx-xxxx.
McAninch, Jack W., xxx-xx-xxxx.
Schneider, Robert L., xxx-xx-xxxx.
Stilwell, James R., xxx-xx-xxxx.
St. Louis, Joseph A., Jr., xxx-xx-xxxx.

The following-named officers for appointment in the Army of the United States, under the provisions of title 10, U.S.C., section 3494:

MEDICAL CORPS

To be lieutenant colonel

Baffes, Chris G., xxx-xx-xxxx.
Eisen, Miguel, xxx-xx-xxxx.

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., section 3385:

ARMY PROMOTION LIST

To be colonel

Bostwick, James D., xxx-xx-xxxx.
Fritsch, Lyle E., xxx-xx-xxxx.
Godwin, Billy R., xxx-xx-xxxx.
Howell, Marion L., xxx-xx-xxxx.
Knoell, Timothy C., xxx-xx-xxxx.
Leach, Dan P., xxx-xx-xxxx.
Leszczynski, Joseph S., xxx-xx-xxxx.
Liston, John T., xxx-xx-xxxx.
McCain, William D., Jr., xxx-xx-xxxx.
McFall, James M., xxx-xx-xxxx.
Northern, Richard E., xxx-xx-xxxx.
Searcy, William E., xxx-xx-xxxx.

MEDICAL CORPS

To be colonel

Roth, Harold C., xxx-xx-xxxx.

ARMY PROMOTION LIST

To be lieutenant colonel

Boe, Herbert R., xxx-xx-xxxx.
Boleware, Garland W., xxx-xx-xxxx.
Bolton, Thomas N., xxx-xx-xxxx.
Bryan, James C., xxx-xx-xxxx.
Bryant, Douglas R., xxx-xx-xxxx.
Bumgardner, Rudolph, xxx-xx-xxxx.
Clark, Joseph B., xxx-xx-xxxx.
Cooper, Jack D., Sr., xxx-xx-xxxx.
Daisey, David H., xxx-xx-xxxx.
Eagon, Herbert B., Jr., xxx-xx-xxxx.
Evangelist, Joseph A., xxx-xx-xxxx.
Fairey, Leewell E., xxx-xx-xxxx.
Faust, Ramon B., xxx-xx-xxxx.
Ferguson, James W., xxx-xx-xxxx.
Finlayson, John D., xxx-xx-xxxx.
Foresman, Edward G., xxx-xx-xxxx.
Fox, Oren R., xxx-xx-xxxx.
Friess, Richard C., xxx-xx-xxxx.
Gibbs, James B., xxx-xx-xxxx.
Grinnell, John F., xxx-xx-xxxx.
Grinnewald, Carl H., xxx-xx-xxxx.
Hansen, Harold N., xxx-xx-xxxx.
Keenan, George, xxx-xx-xxxx.
Kzeski, James W., xxx-xx-xxxx.
LaMastra, Anthony R., xxx-xx-xxxx.
Lawrence, Warren J., xxx-xx-xxxx.
Livesay, Donald D., xxx-xx-xxxx.
Meader, Joel W., xxx-xx-xxxx.
Morales-Natal, Angel S., xxx-xx-xxxx.
Nations, Wayne E., xxx-xx-xxxx.
Plath, Daryl A., xxx-xx-xxxx.
Pryor, Lloyd M., xxx-xx-xxxx.
Rapier, George L., xxx-xx-xxxx.
Rosaly-Freyre, Rafael, xxx-xx-xxxx.
Santiago-Rodriguez, F., xxx-xx-xxxx.
Schneider, Leon G., xxx-xx-xxxx.
Simonson, Elmer O., xxx-xx-xxxx.
Stockel, Lawrence J., xxx-xx-xxxx.
Sweeney, John D., xxx-xx-xxxx.
Werner, Herbert C. F., xxx-xx-xxxx.
Whitney, William E., xxx-xx-xxxx.

MEDICAL CORPS

To be lieutenant colonel

Hester, John E., III, xxx-xx-xxxx.

MEDICAL SERVICE CORPS

To be lieutenant colonel

Greist, John H., xxx-xx-xxxx.
Summers, William C., xxx-xx-xxxx.

IN THE ARMY

The following-named officers as permanent professors of the U.S. Military Academy, under the provisions of title 10, United States Code, sections 4331 and 4333:

To be professor of foreign languages

Costa, John J., xxx-xx-xxxx.

To be professor of English

Stromberg, Peter L., xxx-xx-xxxx.

The following-named officers for reappointment in the active list of the Regular Army of the United States, from the Temporary Disability Retired List, under the provisions of title 10, United States Code, section 1211:

To be lieutenant colonel, Regular Army and lieutenant colonel, Army of the United States

Ray, William E., xxx-xx-xxxx.

To be major, Regular Army and major, Army of the United States

Hamblen, John B., xxx-xx-xxxx.

To be captain, Regular Army and major, Army of the United States

Adams, Robert T., xxx-xx-xxxx.

The following named officers for appointment in the Regular Army of the United States, in the grade specified, under the provisions of Title 10, United States Code. sections 3283 through 3294 and 3311:

To be lieutenant colonel

Dambrosio, Umberto, xxx-xx-xxxx.

To be captain

Feaster, John W., xxx-xx-xxxx.
Freyfogle, Edward B., Jr., xxx-xx-xxxx.
Goodhue, William W., Jr., xxx-xx-xxxx.
Haase, Karen S., xxx-xx-xxxx.
Laduke, Daniel L., xxx-xx-xxxx.
Laing, George G., xxx-xx-xxxx.
Layland, David H., xxx-xx-xxxx.
Mayes, Michael R., xxx-xx-xxxx.
Meyers, Sharleen G., xxx-xx-xxxx.
Nix, John H., III, xxx-xx-xxxx.
Norsworthy, Levator, Jr., xxx-xx-xxxx.
Reid, Bruce H., xxx-xx-xxxx.
Retson, Nicholas P., xxx-xx-xxxx.
Schinasi, Lee D., xxx-xx-xxxx.
Sinn, Jerry L., xxx-xx-xxxx.
Stafford, Adrienne, xxx-xx-xxxx.
Sutherland, Carl C., xxx-xx-xxxx.
Thomasino, Joseph A., xxx-xx-xxxx.
Toomey, Allan A., xxx-xx-xxxx.
Wiersema, Richard A., xxx-xx-xxxx.
Will, Virginia K., xxx-xx-xxxx.

To be first lieutenant

Bagley, Warren P., xxx-xx-xxxx.
Carlton, Roy D., xxx-xx-xxxx.
Cline, Alana D., xxx-xx-xxxx.
Dunham, James T., xxx-xx-xxxx.
Graham, Donald L., xxx-xx-xxxx.
Green, Shirley A., xxx-xx-xxxx.
Greffath, Charles A., xxx-xx-xxxx.
Jessup, James W., xxx-xx-xxxx.
Livingston, Patricia M., xxx-xx-xxxx.
Martin, Robert W., xxx-xx-xxxx.
Maynard, Mary D., xxx-xx-xxxx.
Norwig, Martha J., xxx-xx-xxxx.
Patrick, Marcia R., xxx-xx-xxxx.
Reed, Catherine O., xxx-xx-xxxx.
Rice, Matthew M., xxx-xx-xxxx.
St. Amand, Gerald A., xxx-xx-xxxx.
Taylor, Russell W., xxx-xx-xxxx.
Tidwell, Otto F., xxx-xx-xxxx.

IN THE NAVY

The following-named lieutenant commanders of the U.S. Navy and Naval Reserve for temporary promotion to the grade of commander in the line, pursuant to title 10, United States Code, section 5769, subject to qualification therefor as provided by law:

Abbey, Donald L.
Abrams, Steven S.
Acord, Jiles U., Jr.
Adair, Roy E., Jr.
Adams, John R.
Adams, Robert F.
Adler, Jay B.
Agnew, James R.
Ahern, David G.
Ahlborn, Edward R., Jr.
Ahlstrom, Kenneth T.
Albers, Robert J.
Allen, Henry C.
Allen, John E.
Allin, John W.
Anawalt, Richard A.
Anderson, Charles A.
Anderson, John L.
Anderson, Raymond C.
Anderssen, Arthur H.
Andrews, Edward K.
Andrews, James R.
Anselmo, Philip S.
Anson, Robert, Jr.
Arnold, William T.
Astor, Lawrence I.
Athanson, John W.
Aucella, John P.
Austin, Donald G.
Avery, Donald W., Jr.
Avery, Robert Y.
Bailey, James L.
Baker, Brent
Baker, David J.
Baker, Milton S., Jr.
Balian, Alexander G.
Ball, Harry F., Jr.
Ballard, Don E.
Balut, Stephen J.
Bard, Albert E.
Barker, Ross D.
Barker, Wilbert B.
Barnett, William R.
Barney, William C.
Barrow, Edward M., Jr.
Barthold, Todd A.
Bartlett, Robert C.
Batzel, Thomas J.
Baumhofer, William J.
Beal, Richard F.
Bean, Charles D.
Beck, Melvin D.
Becker, Dennis E.
Beckham, Robert F.
Begley, Jerry N.
Behrend, Robert M.
Beland, Conrad L.
Belanger, Raymond L.
Bell, Denis J. W.
Bell, Merlin G.
Bellis, James R.
Bennett, Richard A.
Bennitt, Brent M.
Berg, John S.
Berley, Leonard E.
Berry, Russell E., Jr.
Beshirs, George R.
Betzner, Hugh W., Jr.
Beyman, David E.
Billingsley, Christopher
Blackmon, Larry W.
Blakeley, William R.
Bogard, Thomas H.
Borghoff, Francis A., II
Boston, Michael
Bosworth, Robin
Boyce, Robert W.
Boyd, John T.
Boydston, James L.
Boyer, Philip A., III
Bradberry, Brent A.
Branch, Allen D.
Brennan, Michael J.
Brenton, George W., II
Brittingham, Edward
Brokaw, Charles R.
Brooks, Leon P., Jr.
Brough, Robert F.
Brouwer, Frederick P.
Brown, Carroll D.
Brown, David C.
Brown, Emory W., Jr.
Brown, Ronald L.
Browne, Herbert A., Jr.
Browne, Joseph M.
Brun, Charles R.
Bryant, Herbert V.
Bryant, James C.
Bryant, Leon C.
Buckley, Peter P.
Buckley, Thomas D.
Buckley, William C.
Buel, Kenneth R.
Buescher, Stephen M.
Bunn, Ronald R.
Burch, Othney P.
Burcham, Divirda H., III
Burck, Clarence W.
Burgess, Andrew L., Jr.
Burke, Kevin J.
Burke, Michael E.
Burns, Robert L.
Burt, John A.
Burtram, Roderick
Bustamante, Charles J.
Butler, Francis W.
Butler, Joseph M.
Butler, Richard M.
Byerly, Kellie S.
Byrnes, David T.
Calande, John J., Jr.
Calhoun, Ronald J.
Calvano, Charles N.
Cameron, John F.
Camp, Norman T.
Campbell, Archibald G.
Campbell, Guy R., III
Campbell, James J.
Canady, Paul A.
Canepa, Louis R.
Carder, William H.
Carl, Lester W.
Carlmark, Jon W.
Carpenter, Allan R.
Carroll, Charles C.
Carroll Hugh E., II
Carter, Clyde L.
Carter, James O.
Carter, Major L.
Cash, Roy, Jr.
Cassidy, Tom K.
Cassiman, Paul A.
Chafin, Thomas L.
Chappell, Stephen F.
Charette, Alfred A., Jr.
Charvet, Paul C.
Church, Wayne C.
Clark, Arthur
Clark, Arthur D.
Clark, Hiram W., Jr.
Clark, Howard B.
Clason, Aryl B.
Clemenger, John W.
Clements, Wilton R.
Clyncke, Donald R.
Coady, Philip J., Jr.
Cohen, Steven R.
Colavito, Thomas J.
Cole, Legrande O., Jr.
Cole, Robert S.
Coleman, Jon S.
Collins, Richard X.
Collins, William G., Jr.
Colucci, Anthony R.
Colvin, Clarence E.
Comstock, George A.
Conjura, John E.
Conley, Dennis R.
Connor, Ernie E.
Cook, Bruce C.
Cook, Douglas W.
Cook, John F., Jr.
Cook, Martell J.
Cooke, Oren B.
Corcoran, Joseph F.
Corgan, Michael T.
Cornia, Howard
Coshow, George H., II
Costello, John P., II
Couch, Dale M.
Coulter, William L.
Coupe, Jay, Jr.
Cousins, Belmont W.
Coward, Asbury, IV
Cox, Landon G., Jr.
Crabbe, Douglas V., Jr.
Craddock, John R.
Craig, Philip C.
Creps, Stephen G.
Cressy, Peter H.
Croix, Larry E.
Cronin, Robert R.
Crooks, Richard A.
Crumly, Jerry M.
Curran, Lawrence E.
Currie, Daniel L., Jr.
Curtis, Richard B.
Curtis, Robert E.
Dade, Thomas B.
Dahl, Dennis K.
Daigle, Glenn H.
Daley, Michael J.
Dalrymple, Edward K.
Dalton, Gerard H.
Dalton, Henry F.
Daly, Edward L.
Dangel, John H.
Dannheim, William T.
Dantone, Joseph J., Jr.
Daramus, Nicholas T., Jr.
Dattilo, Frank, III
Dau, Frederick W., III
Daugherty, Shaun M.
Davidson, Alan N.
Davidson, Dan L.
Davidson, Wayne F.
Davis, Eugene B.
Davis, Gerald, Jr.
Davis, Henry H., Jr.
Davis, John C., II
Davis, Thomas C., Jr.
Day, Patrick A.
Deboer, James K.
Decarli, Wiley P.
Defioria, Joseph G., Jr.
Deklever, Vaughn G.
Dekshenieks, Vidvuds
Demech, Fred R., Jr.
Denault, Donald R.

Denbow, Kenneth D.
Denning, William J., III
Dennis, James A., Jr.
Dersham, Dayton L.
Deutermann, Peter T.
Dewey, John R.
Dix, Paul G.
Dixon, Thomas E.
Domaloan, Paul
Donahue, Drake A.
Donegan, John J., Jr.
Doney, John H., III
Dorman, Merrill H.
Dougherty, Robert J.
Dowd, James L.
Drake, Albert W.
Drew, James J.
Driscoll, Kurt A.
Dryden, William T.
Duchock, Charles J., Jr.
Dufresne, Michael P., Jr.
Dugan, Timothy P., Jr.
Dunn, Donald B.
Dunne, Gerald W.
Durr, Philip A.
Durham, Dan W.
Durkee, Albert W.
Dutrow, Samuel R., Jr.
Earner, William A., Jr.
Earnhardt, John B.
Easley, George A.
Eckstein, Eric R.
Edwards, "L" Vernon, Jr.
Efrid, William A.
Eischen, Gerald N.
Eissing, Frank E., III
Elberfeld, Lawrence G.
Elliott, Shirley H.
Ellis, Winford G.
Ellsworth, Thomas B., Jr.
Emery, George W.
Engwell, Darrel W.
Ennis, Michael K.
Erlandson, John L., Sr.
Estes, Donald H.
Evans, Irvin C., Jr.
Falcon, Michael F.
Farley, Robert T.
Farmer, Michael A.
Faticoni, John A.
Felps, Lowell D.
Ferguson, Thomas E.
Filippi, Richard A.
Fisher, George G.
Fister, George R.
Fitzgerald, James R.
Fitzpatrick, Thomas G.
Fones, James M., Jr.
Fontana, James D.
Formo, David J.
Forster, Robert D.
Fortenberry, Bobby J.
Franson, Alvin L.
Franz, Rodney C.
Frazer, Paul D.
Fredericks, Roy C.
Freeman, Ernest R.
Freibert, Ralph W.
French, John C., Jr.
French, Thomas P., Jr.
Frick, Frederick M.
Friedman, Marcus V.
Fritz, Thomas C.
Fritz, Thomas W.
Froehlich, Edward W., Jr.
Frost, John A.
Fugard, William H.
Fulton, William L., II
Gaines, George L.
Gapp, Donald R.
Gates, Jonathan H.
Gaul, James H.
Gautier, James B.
Gay, John P.
Gaylord, Reginald F., Jr.
Gee, Daryl L.
Gerwe, Franklin H., Jr.
Ghrer, Grady F.
Gildersleeve, Elmer J.
Gill, James E.
Gill, Russell C.
Gillen, Robert L.
Gilmartin, John T.
Gilmore, Richard D.
Gilroy, Vincent J., Jr.
Giorgio, Frank A., Jr.
Gist, David M.
Glasier, Peter K.
Glover, Jimmy N.
Gobbel, James T., Jr.
Gompper, James H.
Goodloe, Robert V., Jr
Goodwin, Charles B.
Gormly, Robert A.
Gottschalk, Gary W.
Grabowsky, Theodore E.
Grace, Robert F.
Graef, Peter J.
Graham, Clark
Grant, Richard
Granuzzo, Andrew A.
Graves, William T.
Green, Robert L.
Green, Thomas R.
Greene, James B., Jr.
Greeson, Tommy D.
Gregory, Francis C.
Griffin, Clyde W.
Griffin, Paul A.
Griffith, Douglas K.
Griffiths, David J.
Gross, Charles N.
Grubb, Robert G.
Gubbins, Philip S.
Gushaw, Gregory V.
Habermeyer, Howard W., Jr.
Hadley, Allan W.
Hagy, James H. D., Jr.
Hahn, William D.
Halenza, Hal R.
Hall, James O.
Halperin, Mark I.
Hammer, George C.
Hancock, William J.
Hanley, James J.
Harken, Jerry L.
Harms, John H.
Harrison, Gilbert A.
Hauert, Patrick C.
Hauhart, James N.
Hays, James M.
Heilig, John
Heins, Raymnd R.
Helbig, Raymond A.
Helm, Larison F.
Herron, Francis J.
Hess, Donald R.
Hillis, Robert J.
Hilton, Francis W., Jr.
Hilton, Jay I.
Hinds, James J.
Hines, David S.
Hinkel, Harold J.
Hinkley, William L.
Hobbs, Marvin E.
Hodell, John C.
Hoecker, Richard G.
Hoffman, Carl W.
Hogan, James J., III.
Hohlstein, Julian G.
Holvik, Thomas H.
Holden, Harry F., Jr.
Holliday, Harley J.
Hollingsworth, William L.
Holme, Thomas T., Jr.
Holmes, Frank C.
Honhart, David C.
Hood, John M., Jr.
Hood, John T.
Hooper, Charles N.
Horn, Maurice D., Jr.
Horvatic, Thomas L.
Howard, James W.
Huchting, George A.
Hudiburgh, Charles W.
Hudnor, Francis L., III
Huff, Clifford R.
Huffman, Kenneth A.
Hull, Kent S.
Hulvershorn, Frederick W.
Hunt, Paul D.
Huss, Jerry F.
Hutcheson, James E., Jr.
Hutt, Gordon W.
Hutton, Joseph J., Jr.
Hutton, Kenneth L.
Hynes, William R.
Iber, William R.
Idleberg, Norman
Itkin, Richard I.
Iverson, Michael M.
Jackson, Lesley J.
Jackson, Virgil F., Jr.
Jacobs, Philip R.
Jacobs, Philip H.
Jacobs, Ralph E.
Jacobson, Herbert A.
James, William E.
Jarecki, Stephen A.
Jarratt, John M.
Jaudon, Joel B.
Jenkinson, William R.
Jensen, Jack J.
Jewell, Robert M.
Jiannas, John S. E.
Johnson, Allan L.
Johnson, Alan J.
Johnson, Charles E.
Johnson, Gerald A.
Johnson, Patrick W.
Johnson, Richard L.
Johnson, William S.
Jones, James V.
Jordan, Jerry W.
Jordan, John F., Jr.
Jordan, Wesley E., Jr.
Joyner, Thomas W., Jr.
Juengling, Robert G.
Juerling, James R.
Justis, Edward T., Jr.
Kaeser, Karl H.
Kaiser, David G.
Kaiser, John M.
Kaiserian, Harry Jr.
Kaiss, Albert L.
Kane, David C.
Karr, James D.
Karr, Kenneth R.
Keim, Edward F.
Keleher, John A.
Kell, Richard E.
Kelley, Thomas J.
Kelley, William E.
Kennedy, James J.
Kenney, Lawrence H.
Key, Wilson D.
Kiem, Robert L.
Killian, James E.
King, Francis E.
King, George L., Jr.
King, Harold W.
Kinnear, Richard J.
Kirkwood, William W.
Knosky, Michael J., Jr.
Knutson, Rodney A.
Koch, Dean H.
Koczur, Daniel, J.
Kohler, Robert W.
Koss, Howard E.
Kottke, Robert A., Jr.
Kozlowski, Neil L.
Krause, Lawrence C.
Kreinik, Eugene G.
Krotz, Charles K.
Kruse, Dennis K.
Laabs, Stephen K.
Lachata, Donald M.
Lagassa, Robert E.
Lamay, Thomas V.
Lamb, John P.
Lamoureux, George J.
Landers, Michael F.
Lantz, Stephen P.
Lasswell, James B.
Lautenbacher, Conrad C., Jr.
Ledoux, Lawrence J.
Lee, Kenneth A.
Lee, Ronald A.
Leeke, Howard W., Jr.
Lehman, Harry
Leightley, Albert L., II
Lemon, Frank M.
Lents, John M.
Lesemann, Donald F.
Letourneau, Charles E.
Lewis, Jary W.
Lewis, Jerry A.
Lewis, Lyle E., Jr.
Liechty, Kenneth R.
Lierman, John S.
Limongelli, Joseph L.
Lindell, Colen R.
Lindsay, James H., Jr.
Lindsay, John H.
Linn, Larry E.
Lippincott, Richard J.
Litvin, Frederick D.
Livingston, Donald J.
Logan, Royal H., Jr.
Long, Herman J., Jr.
Lonnon, Lawrence W.
Loomis, Michael F.
Lord, William F.
Loucks, Steven J.
Love, George P., III
Lovett, Billy R.
Loy, Michael H.
Ludena, Roy
Lunde, Roger K.
Lundy, George W., Jr.
Lynch, Anthony J.
Lyons, Robert W.
MacCauley, Phillip H.
MacDonald, Michael J., III
MacDonald, William R.
Mackin, Jere G.
Maclin, Charles S.
Maddox, George N.
Mahaffy, Lorrence A., Jr.
Maheu, John C.
Mahoney, Patrick F.
Maier, Robert A.
Malchiodi, Michael A.
Malloy, Charles J., Jr.
Manley, Jerry B.
Mardis, Benny J.
Marrical, Anthony R.
Marsden, Phillip S.
Marsh, Larry R.
Marsh, William L.
Martin, John A.
Martin, Michael L.
Martin, Ralph K.
Martin, Ronald W.
Martinache, Charles G
Martinsen, Glenn T.
Masciangelo, Frederick J., Jr.
Mascitto, Eddy J.
Masten, Robert L.
Matheson, Norm K.
Mathis, William W.
May, Cyril V., Jr.
Mays, Michael E.
Mazzi, Arnold O.
McAllister, James P.
McAuley, John A., Jr.
McBride, Kenneth B.
McCann, William R., Jr.
McCarthy, Michael J.
McCleary, Joseph R.
McCormick, James T.
McCrory, Donald L.
McCrumb, James B.
McCusker, Arthur E.
McDaniel, Ronald A.
McDaniel, Ted O.
McDevitt, Michael A.
McDonald, John J., Jr.
McDonald, Jay G.
McDowell, Donald J.
McGee, Robert T.
McGuire, Thomas P.
McHenry, John W.
McKay, John D.
McKearn, Michael C.
McKenna, Richard B.
McKenna, Russell E., Jr.
McKinney, Donald L.
McLane, David J.
McNeely, Ellis E.
McQuown, Michael J.
McWhinney, John L.
Melanephy, James P.
Merz, Vincent P.
Meserve, John S., II
Meyers, John M.
Meyett, Frederick E., Jr.
Mezmalis, Andrejs M.
Michaels, Gregory A.
Miles, Richard J.
Miller, Albert E.
Miller, Andrew P., Jr.
Miller, John M.
Miller, Ralph R., III
Miller, Thomas H.
Millikin, Stephen T.
Mills, James B.
Minard, Julian E.
Minter, Charles S., III
Mitchell, Albert H., Jr.
Mitchell, Robert M.
Mitchell, William J.
Mizner, Malvern M.
Moir, Weston G.
Monash, Richard F.
Mondul, Steven M.
Monell, Gilbert F., Jr.
Mooberry, William J.
Moody, William B. B.
Moore, Charles L., III
Moore, Robert L.
Moran, William P., Jr.
More, Alan R.
Morford, James R., III
Morris, James H.
Morse, Clayton K.
Moser, Alan B.
Moulson, John A.
Mueller, James W.
Muench, Raymond W.
Mulholland, Lyle J.
Mullins, Willice R., II
Musick, George M., III
Muskovac, John J., Jr.
Mustian, Jonathan D.
Myers, Richard T.
Myers, Ronald W.
Naldrett, William J.
Nash, Malcolm P., III
Nash, Michael A.
Navone, Peter F.
Neal, John S.
Neeb, Karl A.
Nelson, Richard C.
Nemcosky, Martin J., Jr.
Nerup, Robert K.
Norcross, William G.
Norr, Herbert E.
Norrell, Billy E.
Norris, Dwayne O.
Norris, Jerry D.
Norton, Douglas M.
Norwood, Kenneth E.
Norys, Robert M.
Nunn, James W.
Oatway, William H. III
O'Brien, John J., Jr.
O'Brien, Robert C.
O'Brien, Terence J.
O'Brien, Thomas J., Jr.
O'Claray, Daniel G.
O'Connor, James G., Jr.
O'Connor, Mitchell B., Jr.
O'Connor, Thomas R.
Oden, Leonard N.
Odle, Billy F.
O'Hara, Thomas N.
O'Keefe, Cornelius F.
Oliver, David E.
Oliver, Richard J.
Olson, David E.
Olson, Donald M.
Orriss, David A.
O'Shea, Donald J.
Otis, Robert B.
Palen, Don G.
Palmer, Jerry D.
Palmer, William A., Jr.
Parchen, William R.
Parent, Donn V.
Park, John P.
Parkhurst, Nigel E.
Parkinson, Robert.
Paschall, William D.
Pattarozzi, Norman J.
Patterson, Jeffrey S.
Patterson, Bernard L., III
Paul, Harold W.
Pauling, David R.
Pendergrass, Curtis S.
Perez, Demetrio J.
Perkinson, Brian T.
Perry, Harold E.
Pesce, Victor L.
Phaneuf, Joseph T., Jr.
Phillips, Alexander M.
Pickett, Larry J.
Pieno, John A., Jr.
Pierce, Cole J.
Piret, Ronald S.
Plummer, Galen R.
Popp, Arvel J.
Portenlanger, Stephen
Porter, John D.
Poulin, Norman R.
Powers, Danny J.
Prath, Robert L. E.
Pratt, Thomas R.
Price, Thomas D., Jr.
Procopio, Joseph G.
Provine, John A.
Pulfrey, Charles A.
Pulver, William D.
Punches, Robert L.
Pursel, Thomas M.
Quade, Edward L.
Quarles, Herbert R., Jr.
Quinton, Peter D.
Rackowitz, Marion R.
Raebel, Dale V.
Rainey, Peter G.
Ramos, Frank S.
Ranson, William M.
Ranzinger, William F.
Ray, Norman W.
Reason, Joseph P.
Reber, Peter M.
Reemelin, Thomas E.
Rees, Bob G.
Reeves, Philip E.
Reich, Donald G.
Reilly, Edward L.
Reistetter, Emery A.
Resweber, Owen J., Jr.
Retz, William A.
Reynolds, Keith E.
Ribolla, Romolo T.
Rice, Ervin E.
Richardson, David P.
Riess, James R.
Riggle, Gordon G.
Riley, David R.
Rixse, John H., III.
Roberts, William J., Jr.
Robinson, Keith P.
Robinson, Paul M.
Rodrick, Peter T.
Rogers, Paul H., Jr.
Rohm, Fredric W.
Roll, Francis P.

Ronan, Lawrence E.
Rooney, Philip J.
Ross, Raymond H., Jr.
Roundtree, John M. Jr.
Rubeck, James T.
Ruck, Merrill W.
Ruckner, Edward A., Jr.
Rueff, James L., Jr.
Ryan, Bruce A.
Saber, Gerald W.
Salisbury, William R.
Sampsel, Michael M.
Sampson, Harry B.
Sanders, William M.
Sanford, Richard M.
Santamaria, Donald F.
Saulnier, Steven C.
Sawatzky, Jerry D.
Schafer, Carl E., II
Schantz, John M.
Schatz, Arthur D.
Schery, Ferdinand M.
Schmidt, Donahue H.
Schropp, John W.
Schuerger, Richard F.
Schuyler, Philip
Schwab, James A.
Schwing, Emil M.
Scott, David E.
Scott, Jon P.
Seaquist, Larry R.
Secades, Vincent C.
Segrist, Edward L., Jr.
Shackelton, Norman J., Jr.
Shannon, John R., Jr.
Sharer, Don A.
Sharpe, Joseph D., Jr.
Sheehan, John W., Jr.
Sheridan, Thomas R.
Sherman, Allan
Shermer, William B.
Shillingsburg, John W.
Shirmer, Dan A.
Sicari, Anthony C.
Simpson, Michael G.
Simpson, Troy E.
Sisson, Robert H.
Skrzypek, John A.
Slater, Thomas S.
Slaughter, Jimmy R.
Small, Selden M.
Smith, Charles H.
Smith, Dan H.
Smith, John M.
Smith, Lyman H., II
Smith, Philip A.
Smith, Robert S.
Smith, William E.
Smith, Wilton J., Jr.
Smyth, Gregory S.
Snell, Alfred W.
Snyder, Wallace H.
Sokol, Stanley E.
Souder, James B.
Soverel, Peter W.
Spencer, Larry H.
Spinello, John A.
Stacy, Edward G.
Standridge, Wylie L., Jr.
Stark, William C.
Stiger, Robert D., Jr.
Stoakes, Richmond B.
Stoddard, Howard S.
Stone, William C.
Storms, Kenneth R.
Stout Michael D.
Stowell, Ralph H., Jr.
Strasser, Joseph C.
Streit, Raymond S., Jr.
Striffler, Paul J.
Stroebel, Donald W.
Strole, Douglas L.
Sullivan Joseph C.
Surles, Billy W.
Tahaney, Hubert F., Jr.
Tansey, Philip M.
Taranto, Richard
Tarpley, Robert P.
Tate, James A.
Tate, William A.
Taylor, Robert M.
Taylor, Steven C.
Taylor, Thomas L.
Tayor, Wade H., III
Terry, Michael R.
Terry William E.
Testa, Ronald F.
Testwuide, Robert L., Jr.
Thomas, Norman M., III
Thompson, Donald E.
Thompson, Laile H., Jr.
Thompson, Robert G.
Thorn, John C.
Tidball, Douglas D.
Tiernan, Barry V.
Tillotson, Frank L.
Timpson, Donald G.
Tobin, Paul E., Jr.
Todd, James N.
Toft, Richard J.
Tolbert, Clarence O.
Tonkin, Charles T., III
Tow, James D.
Traver, James E.
Tucker, Ronald D.
Tullgren, David B.
Turley, John, Jr.
Turnbull, James L.
Turner, James R.
Turner, Thomas W.
Tuttle, Arthur J.
Twardy, Clement R.
Twomey, Daniel T.
Ullman, Harlan K.
Ungerman, Michael K.
Ussery, David L.
Vambell, James P.
Vandervelde, Kent M.
Vanhoften, Scott A.
Vaughan, Raymond E.
Vaupel, David K.
Vazquez, Raul
Vercessi, George P.
Vernon, Larry J.
Vonsydow, Vernon H.
Vosilus, Robert B.
Wade, Richard J., Jr.
Walsh, Donald F.
Walters, Edward C.
Walters, Ronald F.
Walther, Arthur E.
Walton, Don H.
Wanamaker, Gregory
Ward, Allan, Jr.
Ward, John W.
Warn, Jon C.
Watkins, Edison L., III
Waugaman, Merle A.
Waylan, Cecil J.
Weale, Gary D.
Weaver, Charles T.
Weaver, James E., Jr.
Webb, Jack K.
Weisensee, William, J., Jr.
Welham, Walter F., Jr.
Wells, David A.
Werner, Michael C.
Werner, Robert M.
Wernsman, Robert L.
West, Walter D., III
West, William A.
Whalen, Frank R.
Whisler, Glenn E., Jr.
White, Larry R.
White, Walter E.
Whitney, Payson R., Jr.
Whitus, Ernest F.
Wiggins, William F.
Wilbourne, David G.
Wildman, Robert A.
Wilkinson, John G., Jr.
Willandt, Theodore A.
Williams, Joseph F.
Williams, Ronald L.
Williams, Richard D., III
Williams, Thomas D.
Williams, Walter D., Jr.
Wilson, Gary W.
Wilson, Richard A.
Wilson, Torrence B., III
Winters, Curtis J.
Wise, Randolph E.
Wisehart, Kenneth M.
Witcraft, William R.
Witzenburg, Gary M.
Woehl, Robert D.
Wolfram, Charles B.
Woloszyk, Donald J.
Womble, Talmadge A.
Wood, Hansel T., Jr.
Wood, Herman F.
Woodbury, Roger L.
Woodruff, Robert B.
Woods, Paul F.
Wright, Donald J.
Wright, James J.
Wright, Julian M., Jr.
Wright, Malcolm S.
Wynne, David C.
Yankura, Thomas W.
Yonov, Serge A.
Zabrocki, Alan D.

The following named lieutenant commanders of the U.S. Navy for permanent promotion to the grade of commander in the line, pursuant to title 10, United States Code, section 5771, subject to qualification therefor as provided by law:

Akter, Carolyn M.
Apana, Phyllis S.
Binaghi, Joanne T.
Beckley, Mary A.
Curry, Viola D.
Francis, Sandra L.
Graichen, Dimity L.
Hampson, Nancy E.
Laughton, Katharine L. H.
Lavery, Sally A.
Lins, Dorothy K.
Renninger, Jane F.
Sadler, Georgia C.
Walton, Margurite A.
Watson, Kathryn A.
White, Linda J.

IN THE NAVY

The following-named temporary chief warrant officers, W–3 of the U.S. Navy for permanent promotion to the grade of chief warrant officer, W–3, pursuant to title 10, United States Code, section 563, subject to qualification therefor as provided by law:

Abbruzzese, William C.
Albertin, James M., Jr.
Alger, Richard L.
Allen, Charles E.
Allen, Duke D.
Anderson, Edward W.
Anderson, Jeffrey L.
Arnold, Charles D.
Arnold, David W.
Attebury, Ervel E.
Azzole, Peter J.
Baernthaler, Klaus
Baker, Donald D.
Baker, Raleigh D., Jr.
Bargelski, Michael J.
Barker, Loyd N.
Bates, William A., Jr.
Baylor, Edward K.
Beck, Donald D.
Beckman, John W.
Bell, Dennis E.
Bellflower, Robert J.
Berkheimer, Thomas E
Berreitter, Jan A.
Betancourt, Alberto L.
Bookwalter, James M.
Boon, Gene R.
Borner, Wesley F.
Borno, Louis M., Jr.
Boswell, William S., Jr.
Botwright, Richard E.
Bowser, Glenn L.
Boyden, John P.
Braddy, James R.
Bragg, Noel W.
Brandon, George A.
Branson, Jack R.
Braswell, MacArthur D
Breslin, Joseph J., III
Briggs, Frederick L.
Brittain, William G., Jr
Brooks, James A.
Brown, Leroy A.
Brown, Tommy A.
Brown, William D., Jr.
Burbach, Donald E.
Burris, William A.
Burris, William O.
Burrows, Gerald E.
Buzzell, Ralph C.
Byrne, Edward M.
Cameron, Robert E.
Carpenter, Russell R.
Cart, Harold E.
Carter, Lee D.
Casey, Paul J.
Chandler, Frank L.
Cheatham, Grady K.
Chelgren Karl W.
Chesla, Frank J.
Christensen, Bo G.
Clark, William P., Jr.
Cloughley, Richard E.
Combs, Russell W.
Conner, Roger A.
Conners, Edwin J., Jr.
Connors, Daniel
Cooper, Charles W.
Coward, Noel T.
Cozzolino Andrew
Culbertson, Arthur L.
Cunha, Christopher V.
Curtis, Harold R.
Curtis, Ronald W.
Dallamura, John P.
Dalton, Merrill A.
Davis, Levi
Davis, William H.
Delaney, Darrel D.
Devlin, Donald F.
Dickinson, Bruce R.
Dickson, Lee A.
Dilick, Gregory F.
Dixon, James W.
Dixon, Loren K.
Donahue, Charles R.
Dote, Michael K.
Dougherty, Patrick J.
Dowty, Bobby L.
Doyle, David M.
Driscoll, Michael B.
Dunn, Robert K.
Dunnagan, Alvia J.
Eiben, Norman G.
Evans, James M.
Faltisek, Dale W.
Faulk, Robert L.
Field, Philip H.
Fisher, Roy F.
Flinner, William W.
Flores, Pablo J.
Fluker, James A.
Formby, Roy G.
Fortier, Ormond L.
Freegard, Sidney B., Jr.
Fuller, William J.
Gailes, Thomas J.
Gancel, John E.
Gee, James T.
Genin, Louis P.
German, William E.
Gilbert, John B.
Golden, Larry E.
Golden, Richard F. D.
Gorday, Vivian W., Jr.
Gordon, Harry J, III
Graham, Thomas H.
Grigg, Larry E.
Grutta, Frank T.
Hafter, Larry E.
Hale, John F.
Hall, Allen E.
Hall, Richard T.
Hanson. Clark R.
Harvey, Fred S., Jr.
Hawk, Bruce L.
Haynal, James R.
Haynes, Arthur D.
Haywood, Louis F.
Hebert, Charles F.
Heckhaus, Richard
Henderson, Harold D.
Hennessy, Raymond M.
Henry, Eldon P., Jr.
Hieber, Raymond A.
Highlander, Lucian P. Jr.
Holcomb, William K.
Hormuth, Thomas P.
Horn, William J.
Howard, Bobby J.
Hunt, Roy L.
Hurst, Ernest W.
Hussey, George O.
Hyatt, Jerry O.
Hyster, David R.
Minnella, Michael J.
Jacks, Curtis D.
Jackson, Bernard T.
Jennings, Gary H.
Johnson, Troy R.
Jones, Arthur H.
Jones, Buck P.
Jones, Edgar J.
Jones, Preston L.
Jones, Thomas E.
Joyce, Richard C.
Kennedy, John P.
Kern, Phillip E.
Kerns, Harold E., Jr.
Kinney, Paul C.
Kirby, Wayne E.
Kirkland, Ronald E.
Klinehoffer, Larry B.
Knapp, Frank C., Jr.
Koch, Harry K.
Kruger, Frederick L., II
Lacambra, Joseph L.
Lacava, Louis R., Jr.
Laib, Duwaine L.
Lake, James R.
Lambert, Carlton D.
Lane, Jerry P.
Lane, Robert T., Jr.
Lankford, Roger L.
Lanzner, Richard C.
Lavigne, David E.
Leach, John W.
Lemcool, Richard J.
Lewis, Ira J.
Lindsay, Howard B.
Little, Thomas R.
Locke, Edward S.
Long, Gary A.
Lucey, James W.
Lukens, Frank A.
Lundby, Neil W.
Lutes, Jack
Luther, Ellsworth R., Jr.
Lynch, Ronald
Lynch, William A.
Mack, Judson C.
Manley, John J., Jr.
Mares, Joe N.
Marshall, James F.
Marshall, Robert G.
Marshall, Rudy F.
Matura, Adolph R., Jr.
Mauldin, Robert E.
McCollum, James W.
McCoy, Charles K.
McElhinney, William J.
McGinnis, Daniel C.
McGlothen, James B.
McKenzie, Thomas H.
McKinney, George R.
McLeod, Mason M.
McManus, Michael P.
McWilliams, George R.
Metcalf, Robert W.
Middleton, Leroy R.
Millsap, Dewey J.
Mixson, Frank L.
Mooney, Jerry D.
Moore, Lavonne H.
Morris, Thomas W.
Moss, Curtis
Mott, Charles W.
Murphy, Patrick J.
Murray, William H.
Nance, Roger A.
Neal, Robert A.
Neil, Robert H.
Osullivan, John
Owens, Raymond P.
Page, Mitchael B.
Parker, Robert L.
Parsons, Walter P.
Pearce, Johnny L.
Perks, Thomas W.
Petersen, John S.
Petty, Marion A.
Pfuhl, John F.
Piepenhagen, Ulrich G.
Pimm, Bruce B.
Pittman, Adrain R.
Pokrywka, James M.
Porter, Robert L.
Power, Jerry R.
Pugliese, Ronald F.
Randall, Bobby L.
Reese, James G.
Reitz, Richard D.
Remer, James W.
Rhodes, John A.
Richards, Daniel R.
Richards, Jack, Jr.
Riggs, Marvin J.
Roach, Frank E., Jr.
Roberts, Donald R.
Robertson, Thomas A.
Rodeffer, Ronnie L.
Rohrscheib, James V.
Rose, Paul J.
Rosenberg, Leo C.
Ross, Steven S.
Rowe, James F.
Rowell, William H., Jr.
Rundgren, Conrad L.
Ruston, Chuck N.
Ruth, Charles M., Jr.
Rutledge, Samuel C., III
Salka, Michael S.
Sanders, Thomas A.
Saye, William A.

Scheine, Murray	Thomas, Edward W.	Woods, Ronald W.	Yount, Richart F.
Schmidt, Allen J.	Thomas, Francis F.	Worrell, Darrell A.	Zimmerman, Ralph K.
Schmidt, William A.	Thomas, Stephen G.	York, Gerald W.	Zingale, James C.
Schmitt, Geral W.	Thrift, Henry S., Jr.		
Schneider, Richard C.	Tindell, Joseph T.		
Seymour, Lyle M.	Troino, Rocco J.		
Shank, John	Truitt, Benjamin		
Shermer, Thomas G.	Tucker, William T.		
Sides, John E.	Vollbrecht, Malville W.		
Simpson, Halley L.	Walker, John M.		
Sinclair, Robert G.	Walloch, Adam S.		
Sirmans, Lance D.	Walsh, Jon A.		
Smallwood, James V.	Weeder, Courtland C.		
Smith, Henry B.	Werbiskis, James J.		
Smith, Jerry C.	Whipple, James F.		
Smith, Thomas P.	White, Allen E.		
Solomon, Robert	Whitlow, John N.		
Sorensen, Ralph M.	Wicks, Richard H.		
Stapp, Clyde K.	Wiley, John E.		
Stephan, Herbert A.	Wilson, John E.		
Stomboli, James R.	Wilson, Larry L.		
Szucs, John H.	Wolfe, Albert G.		
Szydlowski, Chester P.	Wolford, Earl L.		
Taylor, Robert E.	Wood, Albert W.		

Chief warrant officer, W–4 (temporary) Edward G. Torres, U.S. Navy, for permanent promotion to the grade of chief warrant officer, W–4, pursuant to title 10, United States Code, section 563, subject to qualification therefor as provided by law.

Chief warrant officer, W–2 (temporary) Judith A. Robertson, U.S. Navy, for permanent promotion to the grade of chief warrant officer, W–2, pursuant to title 10, United States Code, section 563, subject to qualification therefor as provided by law.

IN THE MARINE CORPS

The following-named chief warrant officer for appointment to the grade of first lieutenant in the Marine Corps, pursuant to title 10, United States Code, section 6222, subject to the qualifications therefor as provided by law:

Erwin, Charles P.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 25, 1977:

DEPARTMENT OF JUSTICE

Wallace P. Bowen, of Oregon, to be U.S. marshal for the district of Oregon for the term of 4 years.

Archie P. Sherar, of Washington, to be U.S. marshal for the eastern district of Washington for the term of 4 years.

Isaac George Hylton, of Virginia, to be U.S. marshal for the eastern district of Virginia for the term of 4 years.

Harry H. Marshall, of Illinois, to be U.S. marshal for the southern district of Illinois for the term of 4 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Tuesday, October 25, 1977*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord is my strength and my song, and He has become my salvation; He is my God and I will praise Him.—Exodus 15: 2.

Almighty God, whose glory fills the skies, whose presence is seen in the beauty of nature, and whose love surrounds us all our days, we thank Thee for the new life of a new day, for work to do and the strength to do it, and for this free land to which we commit the labors of these troubled times. Keep us aware of the importance of the issues we face and even more keep us aware of Your presence, Your wisdom, and Your love.

Grant unto us clear minds, clean hands, and creative spirits that we may be worthy to serve our country in this House this day and all days. Guide us through these hours with peace and joy and love. In the spirit of the Master we pray. Amen.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, on the basis of rule I, clause 1, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 683]

Andrews, N. Dak.	Dingell	Holland
Archer	Drinan	Hollenbeck
Armstrong	Early	Ireland
Badillo	Eckhardt	Keys
Breckinridge	Evans, Ga.	Koch
Brown, Calif.	Foley	Krueger
Burke, Calif.	Ford, Mich.	Leggett
Burton, John	Ford, Tenn.	Luken
Carney	Fowler	McEwen
Cederberg	Fraser	McFall
Chisholm	Gephardt	McKinney
Collins, Ill.	Gibbons	Milford
Cotter	Gonzalez	Moss
Coughlin	Harrington	Murphy, Ill.
Derrick	Harsha	Nichols
Diggs	Heckler	Obey
	Heftel	Pepper
Quie	Shuster	Vanik
Quillen	Symms	Whalen
Richmond	Teague	Wiggins
Risenhoover	Tucker	Wolff
Roncalio	Udall	Young, Mo.
Rose	Van Deerlin	Zeferetti

The SPEAKER. On this rollcall 366 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 7. An act to authorize a career education program for elementary and secondary schools, and for other purposes;

H.R. 3454. An act to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designation, to further the purposes of the Wilderness Act of 1964, and for other purposes;

H.R. 3816. An act to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes; and

H.R. 8701. An act to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons, to make improvements in the educational assistance programs, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7) entitled "An act to authorize a career education program for elementary and secondary schools, and for other purposes," request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WILLIAMS, Mr. PELL, Mr. RANDOLPH, Mr. KENNEDY, Mr. EAGLETON, Mr. HATHAWAY, Mr. JAVITS, Mr. STAFFORD, Mr. SCHWEIKER, and Mr. HAYAKAWA, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 2208. An act to amend the Federal charter of the Big Brothers of America to include Big Sisters International, Incorporated, and for other purposes; and

S.J. Res. 4. Joint resolution establishing the Aboriginal Hawaiian Claims Settlement Study Commission, and for other purposes.

PRIVATE CALENDAR

The SPEAKER. Pursuant to the order of the House on Tuesday, October 18, 1977, this is the day for the call of the Private Calendar. The Clerk will call the first individual bill on the Private Calendar.

JENNET JUANITA MILLER

The Clerk called the bill (H.R. 1405) for the relief of Jennet Juanita Miller.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MILOS FORMAN

The Clerk called the bill (H.R. 3085) for the relief of Milos Forman.

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that this bill H.R. 3085, be recommitted to the Committee on the Judiciary.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CATHY GEE YUEN

The Clerk called the bill (H.R. 1777) for the relief of Cathy Gee Yuen.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PAZ A. NORONA

The Clerk called the bill (H.R. 1787) for the relief of Paz A. Norona.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

KWONG LAM YUEN

The Clerk called the bill (H.R. 1798) for the relief of Kwong Lam Yuen.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

KARIN, MICHAEL, AND ANDREAS EHARD

The Clerk called the bill (H.R. 1775) for the relief of Karin, Michael, and Andreas Ehard.

There being no objection, the Clerk read the bill as follows:

H.R. 1775

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of section 203(a)(1) and 204 of the Immigration and Nationality Act, Karin, Michael, and Andreas Ehard shall be held and considered to be the legitimate alien daughter and grandchildren of Earl S. Boutelle, citizen of the United States: *Provided,* That the natural parents of the beneficiary shall not, by virtue of such parentage, be accorded any right, privilege, or status under the Immigration and Nationality Act. Karin Ehard shall be held and considered to be the natural-born alien daughter of Earl S. Boutelle, a citizen of the United States: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, line 4, after the words "Nationality Act," strike out the remainder of the bill and insert in lieu thereof the following:

Karin Ehard shall be held and considered to be the natural born alien daughter of Earl S. Boutelle, a citizen of the United States: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Karin Ehard."

A motion to reconsider was laid on the table.

PECE D. VAN ARSDOL

The Clerk called the bill (H.R. 3835) for the relief of Pece D. Van Arsdol.

There being no objection, the Clerk read the bill as follows:

H.R. 3835.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Pece D. Van Arsdol may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Maurice D. Van Arsdol, citizens of the United States, pursuant to section 204 of the Act:

With the following committee amendment:

On page 1, strike out lines 3, 4, 5, 6, 7 and the language on line 8, through the words "of the Act:", and insert in lieu thereof the following:

That, for the purposes of section 203(a)(1) and 204 of the Immigration and Nationality Act, Pece D. Van Arsdol shall be held and considered to be the natural-born alien son of Mr. and Mrs. Maurice D. Van Arsdol, citizens of the United States:

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SUSAN SPURRIER

The Clerk called the bill (H.R. 4404) for the relief of Susan Spurrier.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

ELIZABETH DUMABOC YEE

The Clerk called the bill (H.R. 4875) for the relief of Elizabeth Dumaboc Yee.

There being no objection, the Clerk read the bill:

H.R. 4875

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Elizabeth Dumaboc Yee shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, for the purposes of section 203(a)(1) and 204 of the Immigration and Nationality Act, Elizabeth D. Yee Kraus shall be held and considered to be the natural-born alien daughter of Robert Mark Kraus, a citizen of the United States: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "For the relief of Elizabeth D. Yee Kraus."

A motion to reconsider was laid on the table.

JACKSON ORMISTON EDWARDS CUFFY AND MERLE ADRIANNE CLEOPATRA EDWARDS CUFFY

The Clerk called the bill (H.R. 7653) for the relief of Jackson Ormiston Edwards Cuffy and Merle Adrianne Cleopatra Edwards Cuffy.

There being no objection, the Clerk read the bill, as follows:

H.R. 7653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Jackson Ormiston Edwards Cuffy and Merle Adrianne Cleopatra Edwards Cuffy may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in their behalf by Arthur and Jennie Cuffy, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, lines 4 and 5, strike out the name "Adrianne".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "For the relief of Jackson Ormiston Edwards Cuffy and Merle Cleopatra Edwards Cuffy."

A motion to reconsider was laid on the table.

PIPHAT PHUNTAMALA

The Clerk read the bill (H.R. 7794) for the relief of Piphat Phuntamala.

There being no objection, the Clerk read the bill, as follows:

H.R. 7794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Piphat Phuntamala may be classified as a child within the meaning of

section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Ray L. Merritt and Helga B. Merritt, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JULIO ORTIZ-MEDINA

The Clerk called the bill (H.R. 1422) for the relief of Julio Ortiz-Medina.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

HILDEGARD G. BLAKELEY

The Clerk called the bill (H.R. 1450) for the relief of Hildegard G. Blakeley.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

EDMUNDO ALFREDO OREIRO ESPINUEVA

The Clerk called the bill (H.R. 2256) for the relief of Edmundo Alfredo Oreiro Espinueva.

There being no objection, the Clerk read the bill, as follows:

H.R. 2256

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Edmundo Alfredo Oreiro Espinueva shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

With the following committee amendment:

On page 2, line 2, after the word "under" strike out the remainder of the bill and insert in lieu thereof the following: "section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202 (e) of such Act."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SU-HWAN CHOE

The Clerk called the bill (H.R. 2761) for the relief of Su-Hwan Choe.

There being no objection, the Clerk read the bill, as follows:

H.R. 2761

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of section 203(a)(1) and 204 of the Immigration and Nationality Act, Su-Hwan Choe shall be held and considered to be the natural-born alien son of Thomas and Catherine Jones, citizens of the United States: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

YOUNG SHIN JOO

The Clerk called the Senate bill (S. 1005) for the relief of Young Shin Joo.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Young Shin Joo may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Ronald Taggart, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204 (c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KAM LIN CHEUNG

The Clerk read the Senate bill (S. 1142) for the relief of Kam Lin Cheung.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

IN HEA KIM AND MYUNG SUNG KWON

The Clerk called the bill (H.R. 7324) for the relief of In Hea Kim and Myung Sung Kwon.

There being no objection, the Clerk read the bill, as follows:

H.R. 7324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act. In Hea Kim and Myung Sung Kwon may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in their behalf by Mr. and Mrs. Konrad Marine, citizens of the United States, pursuant to section 204 of this Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

IN HEA KIM AND MYUNG SUNG KWON

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1551) a bill for the relief of In Hea Kim and Myung Sung Kwon, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us what the difference is between the House and Senate versions of this bill? We have not seen this one.

Mr. BOLAND. If the gentleman will yield, Mr. Speaker, I will say that the Senate bill is identical.

Mr. ROUSSELOT. Why does the gentleman need the Senate number?

Mr. BOLAND. It has already passed the Senate.

Mr. ROUSSELOT. Does the gentleman say that it is absolutely identical; there is no difference?

Mr. BOLAND. I did not hear the gentleman.

Mr. ROUSSELOT. Still reserving the right to object, there is no difference between the two bills?

Mr. BOLAND. I am informed that there is no difference between the House bill and the Senate bill.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, In Hea Kim and Myung Sung Kwon may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in their behalf by Mr. and Mrs. Konrad Marine, citizens of the United States, pursuant to section 204 of this Act: *Provided*, That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 7324) was laid on the table.

LEE YOUNG SOO

The Clerk called the Senate bill (S. 556) for the relief of Lee Young Soo.

There being no objection, the Clerk read the Senate bill, as follows:

S. 566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Lee Young Soo may be classified as a child within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed on her behalf by Lieutenant Colonel and Mrs. Duane L. Ginter, citizens of the United States, pursuant to section 204 of such Act. The parents, brothers, and sisters of the said Lee Young Soo shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

CHIN AH PARK AND CHIN SUK PARK

The Clerk called the Senate bill (S. 948) for the relief of Chin Ah Park and Chin Suk Park.

There being no objection, the Clerk read the Senate bill, as follows:

S. 948

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Chin Ah Park and Chin Suk Park may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of petitions filed in their behalf by Marjorie L. Valleau, a citizen of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

ME YOUNG LEE

The Clerk called the Senate bill (S. 1003) for the relief of Me Young Lee.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Me Young Lee may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Lawrence Schuman, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not by virtue of such relationship be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

OPPOSING THE GRANTING OF PERMANENT RESIDENCE IN THE UNITED STATES TO CERTAIN ALIENS

The Clerk called the resolution (H. Res. 795) opposing the granting of permanent residence in the United States to certain aliens.

There being no objection, the Clerk read the resolution, as follows:

H. RES. 795

Resolved, That the House of Representatives does not approve the granting of permanent residence in the United States to the aliens hereinafter named in which cases the Attorney General has submitted reports to Congress pursuant to section 13(c) of the Act of September 11, 1957 (71 Stat. 642–643):

A19–054–877, Estrada-Pineda, Mario Rolando.
A20–484–593, Han, Hyohk H.
A20–483–595, Han, Kil Sang.
A20–483–599, Han, Kyu I.
A20–483–597, Han, Kyu J.
A20–623–147, Khan, Durre Shahwar.
A20–623–427, Khan, Faruq Aziz.
A20–623–151, Khan, Hure Tarzia.
A20–623–149, Khan, Raihan A.
A20–642–077, Kim Jone-june.
A20–642–075, Kim, Jong-sik.
A20–642–071, Kim, Sung-han.
A20–642–073, Kim, Young-ae.
A12–245–649, Mccomie, Gail Andrea.
A20–625–293, Natividad, Amarie C.
A20–624–093, Nguyen, Nhu-Tuyet Thi.
A20–634–896, Nguyen, Thanh-Lich Thi.
A20–804–286, Ocampo, Miguel S.
A20–624–091, Phan, Thinh Van.
A20–624–095, Phan, Tu-Trang Thi.
A17–539–360, Reid, Janice Anne.
A17–815–919, Reid, Patrick Elsworth.
A20–884–467, Sanon, Paul.
A19–707–384, Sharma, Braj Kishore.

The resolution was agreed to.

A motion to reconsider was laid on the table.

OPPOSING THE GRANTING OF PERMANENT RESIDENCE IN THE UNITED STATES TO ARIF RAZA ZAIDI SYED

The Clerk called the resolution (H. Res. 796) opposing the granting of permanent residence in the United States to Arif Raza Zaidi Syed.

There being no objection, the Clerk read the resolution, as follows:

Resolved, That the House of Representatives does not approve the granting of permanent residence in the United States to the alien hereinafter named in which case the Attorney General has submitted a report to the Congress pursuant to section 244(a)(1) of the Immigration and Nationality Act, as amended:

A11 302–924, Syed, Arif Raza Zaidi.

The resolution was agreed to.

A motion to reconsider was laid on the table.

KAZUKO NISHIOKA DOWD

The Clerk called the bill (H.R. 4535) for the relief of Kazuko Nishioka Dowd.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that further reading of the Private Calendar be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ERMELINDA ROSSI

The Clerk called the Senate bill (S. 455) for the relief of Ermelinda Rossi.

There being no objection, the Clerk read the Senate bill, as follows:

S. 455

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(25) of the Immigration and Nationality Act, Ermelinda Rossi may be issued a visa and be admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act: *Provided further,* That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the said Act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5383, AGE DISCRIMINATION IN EMPLOYMENT ACT AMENDMENTS OF 1977

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5383) to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such act, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following conferees: Messrs. PERKINS, DENT, BEARD of Rhode Island, MICHAEL O. MYERS, LE FANTE, WEISS, CLAY, CORRADA, PEPPER, QUIE, SARASIN, JEFFORDS, PURSELL, FINDLEY, and as additional conferees solely for the consideration of sections 4(c) and 5 of the House bill and modification thereof committed to conference: Mrs. SPELLMAN, and Messrs. HEFTEL and DERWINSKI.

AIRPLANE HIJACKINGS AND TERRORISM MUST BE STOPPED

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, in the past few weeks, the headlines of the world's newspapers have been dominated by the subject of airplane hijacking. The seizing of jet airliners and their passengers has become a popular weapon in the arsenal of international terrorists. In addition. hijackings are being attempted by every malcontent with an imagined grievance who can get his hands on a firearm.

I am sure we all watched with concern the recent Arab hijacking of a Lufthansa airliner. The human drama of this situation was brought home more directly days later when a Frontier Airline jet was seized in Nebraska, flown to Kansas City, and eventually to Atlanta. Many of my constituents live in the Kansas City area, and I shared their horror as they watched this tragic scene unfold on their very doorsteps.

Mr. Speaker, I am sure that I speak for all the Members of this body when I say that stopping these acts of hijacking and terrorism is a matter of the utmost concern. Our colleagues in the 93d Congress took a major step toward solving this problem when they passed the Air Transportation Security Act of 1974. I think each of us must tip our hat to the Federal Aviation Administration for excellent implementation of this law. Because of their efforts, we can pride ourselves on having some of the best airport security procedures in the world.

But, despite this reputation, aircraft piracy still occurs. In an effort to assist the FAA, I have today sent a letter to its Administrator, Langhorne Bond, expressing my concern and making certain inquiries into any improvements that could be made. I am taking this opportunity to advise my colleagues of my own interest in this matter and to encourage them to contact me if they would like to join me in developing a coordinated congressional response to the problem.

PUBLIC FINANCING OF CONGRESSIONAL ELECTION CAMPAIGNS

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, we are approaching the end of this session. The Democratic leadership, with its sizable majority in control, has the primary responsibility for determining what measures will be brought before us in the remaining few weeks.

There are many unresolved problems and many major bills pending. I was shocked, therefore, to learn that notwithstanding the more important pieces of legislation that have not been considered, the House Administration Committee is currently preparing to report a bill to provide for public financing of congressional election campaigns, and that we act on this bill before adjournment.

Mr. Speaker, it is inconceivable that priority would be given to a measure which requires more of the taxpayers money for the benefit of Members of Congress. Whatever the merits, if any, of the proposal it should not be brought up at this time.

Mr. Speaker, if anything should have priority insofar as the House Administration Committee is concerned it is a clarification of what constitutes an "official expenditure" for which Members of Congress can be reimbursed up to $2,000. The recent report of the Clerk setting forth the items for which individual Members have claimed reimbursement has brought the integrity of every one of us into question. Bear in mind that next January this $2,000 so-called official expense allowance for each Member is scheduled to increase to $7,000.

At the very least, Mr. Speaker, the increase in the so-called "official expense allowance" from $2,000 to $7,000 should not be permitted to take effect until there has been a precise definition and a set of guidelines established as to what constitutes an "official expense." To this end I introduced last week a resolution (H. Res. 850) which states that the January increase will not go into effect until the House adopts a resolution providing for specific guidelines as to what is and what is not legitimate so far as reimbursed expenditures are concerned.

CREATING DISTRICT COURT FOR NORTHERN MARIANA ISLANDS

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of the Senate bill (S. 2149) to create the District Court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, I ask that the gentleman explain what the bill does.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, under the Covenant with the Northern Marianas, sections 401, 402, and 403, entitled under article IV, Judicial Authority, the United States committed itself to the Northern Mariana Islands to establish a court of record to be known as the District Court of the Northern Mariana Islands. In the other body, the chairman of the full Committee on the Judiciary, Chairman EASTLAND, produced this legislation at the instance of the administration.

This bill fulfills our country's commitment in this respect.

I might note that I am, at this point, acting not only on my behalf, but also on behalf of the distinguished chair of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO), whose committee does not yield any jurisdiction in this matter, nor does ours, for that matter. In the interest of having this bill sent to the White House and signed before the Northern Mariana Islands completes its process, I urge this legislation establishing the district court be approved.

I am inserting the appropriate portion of the covenant in the RECORD, at this point:

ARTICLE IV

JUDICIAL AUTHORITY

SECTION 401. The United States will establish for and within the Northern Mariana Islands a court of record to be known as the "District Court for the Northern Mariana Islands". The Northern Mariana Islands will constitute a part of the same judicial circuit of the United States as Guam.

SECTION 402. (a) The District Court for the Northern Mariana Islands will have the jurisdiction of a district court of the United States, except that in all causes arising under the Constitution, treaties or laws of the United States it will have jurisdiction regardless of the sum or value of the matter in controversy.

(b) The District Court will have original jurisdiction in all causes in the Northern Mariana Islands not described in Subsection (a) jurisdiction over which is not vested by the Constitution or laws of the Northern Mariana Islands in a court or courts of the Northern Mariana Islands. In causes brought in the District Court solely on the basis of this subsection, the District Court will be considered a court of the Northern Mariana Islands for the purposes of determining the requirements of indictment by grand jury or trial by jury.

(c) The District Court will have such appellate jurisdiction as the Constitution or laws of the Northern Mariana Islands may provide. When it sits as an appellate court, the District Court will consist of three judges, at least one of whom will be a judge of a court of record of the Northern Mariana Islands.

SECTION 403. (a) The relations between the courts established by the Constitution or laws of the United States and the courts of the Northern Mariana Islands with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus and other matters or proceedings will be governed by the laws of the United States pertaining to the relations between the courts of the United States and the courts of the several States in such matters and proceedings, except as otherwise provided in this Article; provided that for the first fifteen years following the establishment of an appellate court of the Northern Mariana Islands the United States Court of Appeals for the judicial circuit which includes the Northern Mariana Islands will have jurisdiction of appeals from all final decisions of the highest court of the Northern Mariana Islands from which a decision could be had in all cases involving the Constitution, treaties or laws of the United States, or any authority exercised thereunder, unless those cases are reviewable in the District Court for the Northern Mariana Islands pursuant to Subsection 402(c).

(b) Those portions of Title 28 of the United States Code which apply to Guam or the District Court of Guam will be applicable to the Northern Mariana Islands or the District Court for the Northern Mariana Islands, respectively, except as otherwise provided in this Article.

At this time I would like to ask the gentleman from California to yield first

to the gentleman from Illinois (Mr. McCLORY).

Mr. LAGOMARSINO. Mr. Speaker, I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding.

This is legislation that has been considered this morning by the chairman of the Judiciary Committee and by myself. It seems to me that it is essential that it be acted upon before this session adjourns. We support the legislation.

Mr. LAGOMARSINO. Mr. Speaker, I support the legislation also, and withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2149

Whereas section 401 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved by section 1 of the joint resolution of March 24, 1976 (Public Law 94–241; 90 Stat. 263), provides that the United States will establish a District Court for the Northern Mariana Islands: Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby established for and within the Northern Mariana Islands a court of record to be known as the District Court for the Northern Mariana Islands. The Northern Mariana Islands shall constitute a part of the same judicial circuit of the United States as Guam. Terms of court shall be held on Saipan and at such other places and at such times as the court may designate by rule or order.

(b)(1) The President shall, by and with the advice and consent of the Senate, appoint a judge for the District Court for the Northern Mariana Islands who shall hold office for the term of eight years and until his successor is chosen and qualified, unless sooner removed by the President for cause. The judge shall receive a salary payable by the United States which shall be at the rate prescribed for judges of the United States district courts.

(2) The Chief Judge of the Ninth Judicial Circuit of the United States may assign justices of the High Court of the Trust Territory of the Pacific Islands or judges of courts of record of the Northern Mariana Islands who are licensed attorneys in good standing or a circuit or district judge of the ninth circuit, including a judge of the District Court of Guam who is appointed by the President, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit to serve temporarily as a judge in the District Court for the Northern Mariana Islands whenever such an assignment is necessary for the proper dispatch of the business of the court. Such judges shall have all the powers of a judge of the District Court for the Northern Mariana Islands, including the power to appoint any person to a statutory position, or to designate a depository of funds or a newspaper for publication of legal notices.

(3) The President shall appoint, by and with the advice and consent of the Senate, a United States attorney and United States marshal for the Northern Mariana Islands to whose offices the provisions of chapters 35 and 37 of title 28, respectively, United States Code, shall apply.

(4) If the President appoints a judge for the District Court for the Northern Mariana Islands or a United States attorney or a United States marshal for the Northern Mariana Islands who at that time is serving in the same capacity in another district, the appointment shall, without prejudice to a subsequent appointment, be for the unexpired term of such judge or officer.

(c) The provisions of chapters 43 and 49 of title 28, United States Code, and the rules heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18, 28, United States Code, shall apply to the District Court for the Northern Mariana Islands and appeals therefrom where appropriate, except as otherwise provided in articles IV and V of the covenant provided by the Act of March 24, 1976 (90 Stat. 263). The terms "attorney for the government" and "United States attorney" as used in the Federal Rules of Criminal Procedure (rule 54(c)) shall, when applicable to cases arising under the laws of the Northern Mariana Islands, include the attorney general of the Northern Mariana Islands or any other person or persons as may be authorized by the laws of the Northern Marianas to act therein.

SEC. 2. (a) The District Court for the Northern Mariana Islands shall have the jurisdiction of a district court of the United States, except that in all causes arising under the United States, except that in all causes arising under the Constitution, treaties, or laws of the United States, it shall have jurisdiction regardless of the sum or value of the matter in controversy.

(b) The district court shall have original jurisdiction in all causes in the Northern Mariana Islands not described in subsection (a) jurisdiction over which is not vested by the Constitution or laws of the Northern Mariana Islands in a court or courts of the Northern Mariana Islands. In causes brought in the district court solely on the basis of this subsection, the district court shall be considered a court of the Northern Mariana Islands for the purposes of determining the requirements of indictment by grand jury or trial by jury.

SEC. 3. The district court shall have such appellate jurisdiction as the Constitution and laws of the Northern Mariana Islands provide. Appeals to the district court shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The judge appointed for the court by the President shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges assigned to the court from time to time pursuant to subsection 1(b)(2): *Provided, however,* That only one of them shall be a judge of a court of record of the Northern Mariana Islands. The concurrence of two judges shall be necessary to any decision by the district court on the merits of an appeal but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

SEC. 4. (a) The relations between the courts established by the Constitution or laws of the United States and the courts of the Northern Mariana Islands with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus, and other matters or proceedings shall be governed by the laws of the United States pertaining to the relations between the courts of the United States and the courts of the several States in such matters and proceedings, except as otherwise provided in article IV of the covenant: *Provided,* That for the first fifteen years following the establishment of an appellate court of the Northern Mariana Islands the United States court of appeals for the judicial circuit which includes the Northern Mariana Islands shall have jurisdiction of appeals from all final decisions of the highest court of the Northern Mariana Islands from which a decision could be had in all cases involving the Constitution, treaties, or laws of the United States, or any authority exercised thereunder, unless those cases are reviewable in the District Court for the Northern Mariana Islands pursuant to section 3 of this Act.

(b) Those portions of title 28 of the United States Code which apply to Guam or the District Court of Guam shall be applicable to the Northern Mariana Islands or the District Court for the Northern Mariana Islands, respectively, except as otherwise provided in article IV of the covenant. The district court established by this Act shall be a district court as that term is used in section 3006A of title 18, United States Code.

SEC. 5. This Act shall come into force upon its approval or at the time proclaimed by the President for the Constitution of the Northern Mariana Islands to become effective, whichever is the later date.

SEC. 6. There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPALACHIAN TRAIL AMENDMENT TO NATIONAL TRAILS SYSTEM ACT

Mr. PHILLIP BURTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8803) to amend the National Trails System Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 8803

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Trails System Act (82 Stat. 919; 16 U.S.C. 1241), as amended (90 Stat. 2481; 16 U.S.C. 1244), is further amended as follows:

(1) Delete section 5(a)(3), and insert a new section 5(d) to read as follows:

"(d) The Secretary charged with the administration of each respective trail shall, within one year of the date of the addition of any national scenic trail to the System, and within sixty days of the enactment of this sentence for the Appalachian and Pacific Crest National Scenic Trails, establish an advisory council for each such trail, each of which councils shall expire ten years from the date of its establishment. The appropriate Secretary shall consult with such council from time to time with respect to matters relating to the trail, including the selection of rights-of-way, standards for the erection and maintenance of markers along the trail, and the administration of the trail. The members of each advisory council, which shall not exceed thirty-five in number, shall serve for a term of five years and without compensation as such, but the Secretary may pay, upon vouchers signed by the chairman of the council, the expenses reasonably incurred by the council and its members in carrying out their responsibilities under this section. Members of each council shall be appointed by the appropriate Secretary as follows:

"(i) a member appointed to represent each Federal department or independent agency administering lands through which the trail route passes and each appointee shall

be the person designated by the head of such department or agency;

"(ii) a member appointed to represent each State through which the trail passes and such appointments shall be made from recommendations of the Governors of such States;

"(iii) one or more members appointed to represent private organizations, including landowners and land users, that, in the opinion of the Secretary, have an established and recognized interest in the trail and such appointments shall be made from recommendations of the heads of such organizations: *Provided*, That the Appalachian Trail Conference shall be represented by a sufficient number of persons to represent the various sections of the country through which the Appalachian Trail passes; and

"(iv) the Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.".

(2) In section 5 add a new subsection (e) as follows:

"(e) Within two years of the date of enactment of legislation designating a trail as part of the System, and within two years of the date of enactment of this subsection for the Pacific Crest and Appalachian Trails, the responsible Secretary shall, after full consultation with the Governors of the affected States, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the acquisition, management, development, and use of the trail, including but not limited to, the following items:

"(1) A proposed, detailed, phased acquisition plan, by fiscal year, for all lands to be acquired, along with detailed explanation of anticipated necessary cooperative agreements for any lands not to be acquired.

"(2) Specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved, and details of anticipated cooperative agreements to be consummated with other entities.

"(3) General and site-specific development plans, including anticipated costs.

"(4) Guidelines for public use of the trail, along with needed or anticipated use restrictions, and an identified carrying capacity of the trail and a plan for its implementation.".

(3) In section 7(d), in the last sentence thereof, change the colon to a period and delete the proviso.

(4) In section 7(g), delete the first and second provisos entirely, and insert in lieu the following: "*Provided*, That condemnation proceedings may not be utilized to acquire fee title or lesser interests to more than an average of twenty-five acres per mile, except that up to an average of one hundred and twenty-five acres per mile may be so acquired in the case of the Appalachian National Scenic Trail.".

(5) In section 10, at the end thereof, add the following:

"From the appropriations authorized for fiscal year 1978 and succeeding fiscal years pursuant to the Land and Water Conservation Fund Act (788 Stat. 897), as amended, not more than the following amounts may be expended for the acquisition of lands and interests in lands authorized to be acquired pursuant to the provisions of this Act:

"(1) The Appalachian National Scenic Trail, not to exceed $30,000,000 for fiscal year 1978, $30,000,000 for fiscal year 1979, and $30,000,000 for fiscal year 1980, except that the difference between the foregoing amounts and the actual appropriations in any one fiscal year shall remain available for further appropriation. It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program necessary to insure the protection of the trail within three complete fiscal years following the date of enactment of this sentence. Until the entire acquisition program is completed, he shall transmit in writing at the close of each fiscal year the following information to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives:

"(1) the amount of land acquired during the fiscal year and the amount expended therefor;

"(2) the amount of land remaining to be acquired; and

"(3) the amount of land planned for acquisition in the ensuing fiscal year and the estimated cost thereof.

For the purposes of Public Law 95-42 (91 Stat. 210), the lands and interests therein acquired pursuant to this paragraph shall be deemed to qualify for funding under the provisions of section 1, clause 2, of said Act.".

SEC. 2. For the purposes of this Act, except for the lands acquired pursuant to section 1, no other privately owned lands authorized subsequent to January 1, 1977, to be acquired for inclusion in the National Park System, shall qualify for the purpose of making any payments under the provisions of the Act of October 29, 1976 (90 Stat. 2662), unless hereafter authorized by law.

The SPEAKER. Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from California (Mr. PHILLIP BURTON) and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is legislation to amend the National Trails System Act. It is approved not only for this year, but by our committee for the last few Congresses. I would particularly like to note the leadership provided with reference to this legislation by our distinguished colleague from Maryland, GOODLOE BYRON, who is the author of H.R. 8803. I would also like to commend the minority nad majority staffs, and Clay Peters and Cleve Pinnix, respectively.

Mr. Speaker, H.R. 8803, as amended by the Committee on Interior and Insular Affairs, will continue the work begun some 9 years ago by the Congress to protect the Appalachian Trail. This footpath of over 2,000 miles, extending from Maine to Georgia, was designated as a National Scenic Trail in 1968.

The history of the trail itself began more than a half century ago, when Benton MacKaye, the "Father of the Appalachian Trail," first proposed the concept. Through the efforts of countless volunteers, the trail became a reality, and now affords a superlative hiking experience to an estimated 4 million people a year.

But since Congress enacted the National Trails System Act, pressures for development and changes in land ownership along the trail have continued to threaten its viability. Some 800 miles of the trail are unprotected, or are presently temporarily routed alongside highways. Without an increased Federal effort to protect the trail, it may soon cease to exist as a continuous route.

H.R. 8803 would provide that necessary Federal protection. The bill as recommended by the Committee on Interior and Insular Affairs would allow the Secretary to acquire a corridor averaging 125 acres per mile to protect the trail, as opposed to the current limit of 25 acres per mile. Additional acreage could be acquired with the consent of the owner where desirable. The bill permits the expenditure of up to $30,000,000 per year for the next 3 fiscal years from appropriations made from the land and water conservation fund. An acquisition program at this level should finally guarantee a protected corridor for the trail.

Mr. Speaker, I want to particularly commend our colleague from Maryland, GOODLOE BYRON, who is the author of this measure. Congressman BYRON has worked for the protection of the trail for years, including his service in the Maryland State Legislature. He was an active participant in the oversight hearings conducted on the Appalachian Trail last Congress by this committee. H.R. 8803 is the product of his longstanding interest and concern for the Appalachian Trail.

Mr. Speaker, H.R. 8803 will provide the necessary legislative framework for protecting the Appalachian Trail. But the trail must have active and sensitive management by the National Park Service if it is to fully realize its potential. I am impressed with the commitment of Assistant Secretary Robert Herbst of the Department of the Interior to carry this mission forward. Finally, the trail must continue to have the dedicated support of the thousands of volunteers who have worked for this remarkable idea over the past half century. With their continued interest, and the encouragement of their work by the appropriate State and Federal agencies, the Appalachian Trail will be a resource of continually increasing value in the years to come.

Mr. BYRON. Mr. Speaker, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Maryland.

Mr. BYRON. Mr. Speaker, I would like to take this opportunity to urge my colleagues to support H.R. 8802, which will insure the preservation of the Appalachian Trail.

My own experience with the Appalachian Trail goes back many years, as I am one of the millions of Americans who regularly use the trail for recreation. It is truly a national resource worthy of Federal protection. Traveling 2,000 miles through 14 States, from Maine to Georgia, it is readily accessible to the millions of Americans living in such places as Atlanta, Washington, Baltimore, Philadelphia, Pittsburgh, New York, and Boston, just to name a few.

I think the Interior Committee, by its prompt action on this bill, recognizes the fact that the 95th Congress must act on legislation to preserve the Appalachian Trail, or be accountable to future generations in explaining why we failed to

act while we still had the opportunity to prevent the pressures of development from destroying the world's best known hiking trail.

I hope the House today will pass H.R. 8803 to guarantee that future generations will have the opportunity to experience the Appalachian Trail.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend my good friend and colleague, GOODLOE BYRON, for his leadership and foresight in bringing this very important bill forward, and I also wish to compliment the chairman of the Subcommittee on National Parks and Insular Affairs, PHILLIP BURTON, for his strong leadership in moving this bill and including in it so many very worthwhile and comprehensive features.

While the bill principally addresses the needs of the Appalachian Trail, it also incorporates provisions which will affect all other national trails now in, or yet to come into, the trails system.

I would like to address my comments to various provisions of the bill.

Paragraph (1) legislatively reestablishes the advisory councils for both the Appalachian and Pacific Crest Trails, since they were abolished several years ago by the Federal Advisory Committee Act. Even though the executive branch has with some delay since that event administratively reconstituted the two affected councils, the committee felt it most important that all national trails have legislatively authorized advisory councils. The great lengths involved with these relatively narrow corridor trails, which are consequently so very vulnerable to the pressures of adjacent contrary land use and development, require an active council of advisors representing all portions of the trails' length. The great contributions made to date of the two existing councils—for the Appalachian and Pacific Crest Trails—bear testimony to their importance and value. Much of the text of this amendment is a repeat of what is already a part of the existing law.

Paragraph (2) is a new feature affecting all present and future national trails, requiring the development of a comprehensive plan which will govern the acquisition, management, development and use of the trail. The initially completed product, due to be submitted to the appropriate committees of the Congress within two years, will constitute the guiding document for the administration of each respective trail. Of course it will be revisable through the years, and in all cases will be supportive of the mandates of the legislation establishing each trail. Of major importance is a feature which requires the identification and development of public use guidelines and appropriate restrictions. This will include an identification of the user carrying capacity of each trail—by segments if appropriate—in terms of both physical and social elements, with a plan for appropriate control of use to assure that the identified capacity limits are adhered to. Dvelopment of this part of the plan will require particularly close cooperation with governmental agencies through which segments of a trail runs.

Paragraph (3) is a conforming amendment occasioned by paragraph (4).

Paragraph (4) expands the acquisition authority for condemnation width for the Appalachian Trail from the current maximum of 25 acres in any one mile, to a maximum of not to exceed an average of 125 acres per mile for the length of the trail. Thus, not only is the average width expanded, but the limitation of a certain amount per any one mile is replaced by a limitation of a width which cannot exceed an average of a certain width over the entire length of the trail. Moreover, the feature of the 1968 law requiring that any condemned right-of-way be only by the most direct or practicable connecting route is removed. While the intention of this change is to permit more flexible acquisition in order to provide the optimum trail right-of-way, no feature of this change should be construed to intend an opportunity to exercise such authority carelessly as it affects the rights of compatible adjacent or affected landowners.

This amendment also provides the availability of condemnation authority for the Pacific Crest Trail, which was heretofore prohibited by the 1968 act. The intention here is that this authority must be available for use as a final backup, if needed, but would only be used in such instances where damage to the integrity of the trail corridor and its immediate surroundings may be jeopardized by incompatible development or land use.

Paragraph (5) provides the acquisition authority for the Appalachian Trail. Considerably expanded funds are provided for direct Federal acquisition of trail segments outside of existing Federal land management boundaries, in such cases where State and local entities are unable or unwilling to participate in fulfilling their earlier and yet-intended share of the acquisition program. The committee felt strongly that the non-Federal entities must continue to carry their share of the acquisition load, and should in some cases do more than they have done in the past. The funding provided by this paragraph will also serve for acquisition of expanded trail widths in those cases where warranted, to better protect the integrity of the trail corridor and the outdoor experience to be gained from traveling it.

When H.R. 5306 was enacted by the Congress earlier this year (Public Law 95-42) to provide expanded funding for acquisition of "backlog" areas, I pointed out strongly that I felt that corridor type units, such as national trails and wild and scenic rivers, should receive priority attention. I am pleased to note that a feature of this amendment for the Appalachian Trail is to permit the drawing upon that special "backlog" account, in addition to regular land and water conservation fund sources, for the expanded acquisition authorized by this bill. This, along with the language expressing the intention of the Congress that the acquisition for the Appalachian Trail be substantially completed within 3 complete fiscal years following enactment of this bill, is intended to assure that final and hasty action is taken to assure the protection of the entire Appalachian Trail corridor. The annual acquisition reporting requirement is intended to assure that a properly phased acquisition plan will be developed and instituted.

Section 2 of the bill is language which was passed once by the House earlier this year, but has not yet been adopted by the Senate. It provides that payment in lieu of taxes provisions shall not extend to lands authorized to be acquired for addition to the National Park System after January 1, 1977, unless specifically authorized by law. In the case of the Appalachian Trail, however, the language specifically provides that payment in lieu of taxes provisions shall apply.

Mr. Speaker, I am supportive of this bill, and I solicit the vote of my colleagues in support of it also.

Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. ROBINSON).

Mr. ROBINSON. Mr. Speaker, I rise in opposition to consideration of this bill, H.R. 8803, under suspension of the rules. I do so with reluctance, because I favor the concept of an uninterrupted Appalachian Trail.

I have reservations, about the proposed expansion of the availability of eminent domain for land acquisition and believe this is one of the sections of the bill which should not be considered under the suspension procedure, in which amendments are prohibited.

Additionally, the provision concerning applicability of the payment-in-lieu-of-taxes statute now on the books raises questions which should have extended consideration, in that interpretation of that statute by the Secretary of the Interior may well require our affirmative action to clarify congressional intent. This bill might be an appropriate place to do so, if the bill were open to amendment.

I have in mind a finding by the Secretary, on advice of his legal experts, that substantial acreage of Shenandoah National Park, located in the Seventh Congressional District of Virginia, which I have the honor to represent, is not eligible for the payments in lieu of taxes authorized by the Congress, because these lands moved from State ownership to Federal ownership, rather than from private, tax roll status to Federal ownership.

While I am aware of the provision of the statute on this point, I am confident that it was not the intent of the Congress to make ineligible for the payments to localities such lands, which were acquired by the State for the sole purpose of transfer to the United States in connection with the creation of this national park, as attested to by both Federal and State enabling acts of the period.

Mr. DON H. CLAUSEN. Mr. Speaker, I support the bill now before us, H.R. 8803, which primarily enhances the acquisition authorities for the Appalachian Trail. I want to commend the gen-

tleman from Maryland, Hon. GOODLOE BYRON, for his leadership on this bill, and also the chairman of the National Parks and Insular Affairs Subcommittee, Hon. PHILLIP BURTON, and the gentleman from Kansas, Hon. KEITH SEBELIUS, for the more comprehensive features which they so ably worked into this piece of legislation.

The Appalachian Trail extends for nearly 2,000 miles from Maine to Georgia, and provides an outstanding opportunity for people on the crowded eastern seaboard to relish the outdoor pleasures which this footpath provides. We on the west coast have a companion national scenic trail—the Pacific Crest Trail—which runs from the Canadian to the Mexican borders along the backbone of the Cascade and Sierra Nevada mountain ranges through Washington, Oregon, and California.

I know that both of these existing national trails are extremely popular. Use has been extremely heavy, and will likely become all the more so as time passes. As we are likely to bring additional national trials into the national trails system in the years ahead, it will be important that the trail managers assure that the use of these new trails, as well as the two existing trails, is sufficiently allocated and controlled so that the pleasure of an outdoor hiking experience is not diminished by crowded conditions and adverse impacts on the trail resources themselves by excessive use. I believe that the institution of management plans, required by this bill to be developed for all national trails, provides an excellent medium for the planning and implementation of mechanisms to keep on top of this situation.

Mr. Speaker, I realize that the funding authorized by this bill is substantial. But there is probably no other outdoor recreation opportunity so easily available to so many millions of people along the eastern seaboard as is represented by this trail. I believe it will be a sound investment which we will never regret having done, and we must do it expeditiously or we will lose to conflicting development, major sections of the route for all time. I think it must be emphasized that the development and preservation of this trail has always been, and must continue to be, an effort participated in by many organizations and individuals. With this added potential for greatly strengthened Federal financial participation, the State and local governments and other entities must also do more. With this cooperative spirit, both financially and otherwise, much can be accomplished.

I urge my colleagues to support the adoption of this bill.

Mr. WYLIE. Mr. Speaker, I rise in support of H.R. 8803, the Appalachian Trail amendment to the National Trails Act.

Most of us, whether hikers or not, have heard of the Appalachian Trail. Because of its length, more than 2,000 miles, its beauty and solitude lie within a half day's drive for almost two thirds of the American people, my State of Ohio included. Because it winds through 14 States, the famous footpath passes through a fascinating and virtually endless procession of biological, geological, and historical facts about our land.

This priceless heritage is threatened today by private development. Already 175 miles of the trail have had to be diverted to public roads for lack of right of way. Many more miles are in serious jeopardy.

This bill does not seek to create a 2,000-mile long national park for that in itself would eliminate part of the character of the trail. It simply seeks to authorize the National Park Service to acquire those sections which are in immediate danger of being lost.

When you consider the number of Americans who enjoy the trail today and who will enjoy it tomorrow; when you consider that the trail is maintained and will continue to be maintained by the volunteers of the Appalachian Trail conference at no cost to the taxpayer; when you consider that if we fail to meet the threat to the trail today we will never be able to recreate anything like it; I believe you will conclude with me that H.R. 8803 is a bill that strongly merits our favorable consideration.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I rise in support of H.R. 8803, legislation designed to provide permanent protection to the Appalachian Trail.

There is no question that the Appalachian Trail is one of the great symbols of America's wilderness heritage. A unique blend of Federal and State cooperation was fostered by the 1968 Scenic Trails Act to assist the conservation organizations in the Appalachian Trail conference to protect the trail.

Much good work has been accomplished, but immediate Federal financial assistance is necessary in order to preserve and improve the trail route. At the present time some 175 miles of the trail are located on public highway. In Pennsylvania the integrity of the trail route is threatened by the encroachment of second home developments; clearcutting and other incompatible land uses.

This bill is not designed to preempt State land acquisition for the trail. Much of the $30 million authorized to be spent annually would be in the form of matching grants. However, it is apparent that the States have only limited resources for this worthwhile project. Pennsylvania has appropriated $500,000 for this fiscal year to protect its 250 miles of the trail, but purchase of a single site slated for extensive development near scenic Wolf Rocks would more than wipe out this fund.

I also strongly endorse the provisions in the bill widening the potential trail corridor to 1,000 feet and continuing the existence of the Appalachian Scenic Trail Advisory Council. Their work has been most effective.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and pass the bill H.R. 8803, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this vote will be postponed.

SEXUAL EXPLOITATION OF MINORS

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8059) to amend chapter 117 (commonly called the Mann Act) of title 18, United States Code, to prohibit the transportation of minors in interstate or foreign commerce for sexual purposes, as amended.

The Clerk read as follows:

H.R. 8059

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2423 of title 18, United States Code, is amended to head as follows:

"§ 2423. Transportation of minors

"(a) Whoever transports, finances in whole or part the transportation of, or otherwise causes or facilitates the movement of any minor in interstate or foreign commerce, or within the District of Columbia or any territory or other possession of the United States with the intent—

"(1) that such minor engage in prostitution; or

"(2) that such minor engage in prohibited sexual conduct, if such person so transporting, financing, causing, or facilitating movement knows or has reason to know that such prohibited sexual conduct will be commercially exploited by any person shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(b) As used in this section—

"(1) the term 'minor' means a person under the age of eighteen years;

"(2) the term 'prohibited sexual conduct' means—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) sado-masochistic abuse (for the purpose of sexual stimulation); or

"(E) lewd exhibition of the genitals or pubic area of any person; and

"(3) the term 'commercial exploitation' means having as a direct or indirect goal monetary or other material gain.".

SEC. 2. The table of sections for chapter 117 of title 18, United States Code, is amended by striking out the item relating to section 2423 and inserting in lieu thereof the following:

"2423. Transportation of minors."

SEC. 3. (a) Title 18, United States Code, is amended by inserting immediately after chapter 109 the following:

"Chapter 110.—SEXUAL EXPLOITATION OF CHILDREN

"Sec.

"2251. Sexual exploitation of children.

"§ 2251. Sexual exploitation of children

"(a) Any person who employs, uses, per-

suades, induces, entices, or coerces any minor to engage in, or to have a minor assist any other person to engage in, any sexually explicit conduct for the purpose or promoting any film, photograph, negative, slide, book, magazine, or other visual or print medium, shall be punished as provided under subsection (d), if such person knows or has reason to know that such film, photograph, negative, slide, book, magazine, or other visual or print medium will be mailed or transported in interstate or foreign commerce or if such film, photograph, negative, slide, book, magazine or other visual or print medium has actually been mailed or transported in interstate or foreign commerce.

"(b) Any parent, legal guardian, or person having custody or control of a minor who knowingly permits such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other visual or print medium shall be punished as provided under subsection (d), if such parent, legal guardian, or person knows or has reason to know that such film, photograph, negative, slide, book, magazine, or other visual or print medium will be mailed or transported in interstate or foreign commerce or if such film, photograph, negative, slide, book, magazine or other visual or print medium has actually been mailed or transported in interstate or foreign commerce.

"(c) For the purposes of this section, the term—

"(1) 'minor' means any person under the age of sixteen years;

"(2) 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) sadomasochistic abuse (for the purpose of sexual stimulation);

"(E) lewd exhibition of the genitals or pubic area of any person; and

"(3) 'promoting' means producing, directing, manufacturing, issuing, publishing, or advertising, for pecuniary profit.

"(d) Any person who violates subsection (a) or (b) shall be fined not more than $10,000, or imprisoned not more than ten years, or both."

(b) The tables of chapters for title 18, United States Code, and for part I of title 18, United States Code, are each amended by inserting immediately after the item relating to chapter 109 the following:

"110. Sexual exploitation of children.. 2251".

The SPEAKER. Is a second demanded?

Mr. ASHBROOK. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Michigan (Mr. CONYERS) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. ASHBROOK) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring H.R. 8059 before the House of Representatives. It was reported unanimously from the Committee on the Judiciary on September 29, with amendments, and it addresses fundamentally two problems: The great increase in juvenile prostitution, and the use of children in the production of pornographic materials.

The content of the law is as follows:

It was found that the present law, in title 18, of the United States Code, 2423, prohibits the transportation by common carrier of females under the age of 18 across State lines to engage in prostitution, debauchery, or other immoral practice. Unfortunately, there is no relevant provision in the present law which would apply to males under 18 years of age. The first section of H.R.8059 applies the same criminal penalties of a fine of not more than $10,000 or imprisonment of not more than 10 years, or both, which exist now in the law, to the transportation of any minor person under 18 years of age. In other words, we amend the Mann Act to apply to persons of both sexes.

In addition, this legislation also prohibits the use of children in acts of sexually explicit conduct for the purpose of promoting printed or filmed matter by creating a new section of the Criminal Code, section 2251.

Mr. Speaker, I express my gratitude to the other Members, particularly my colleague, the gentleman from Michigan (Mr. KILDEE), who has brought this serious problem to the Members' attention through other legislation. This was a bipartisan effort and was encouraged initially by the distinguished chairman of the committee, the gentleman from New Jersey, Mr. RODINO.

H.R. 8059 was reported from the committee, with amendments, one of which does not appear on the October 12 printed version of the bill. I would like to mention briefly that the amendment which was the subject of discussion and support in the subcommittee and the committee markup would amend the Mann Act to penalize not only those who transport, finance or facilitate the movement of a person under the age of 18 in interstate or foreign commerce, with the intent that that minor engage in prostitution, but also if that minor engages in prohibited sexual conduct if that conduct is to be commercially exploited. The purpose is to penalize persons who induce children to perform sexually explicit conduct not just for money but for any direct or indirect gain and at the same time to avoid penalizing a 16-year-old male who brings a female of the same age across State lines, with her consent or perhaps vice versa, to engage in sexual conduct. We do not wish to breath new life into this questionable interpretation of the intent of Congress in 1910. By amending the Mann Act we hope we have not run that risk, and we make the necessary corrections.

Mr. Speaker, a word about constitutionality. It is the strong opinion of the representatives of the Department of Justice and the constitutional scholars who appeared before our subcommittee and who gave testimony that H.R. 8059 is clearly constitutional. We have approached this matter with some legal care, because the worst thing that could happen is that the 95th Congress pass a law that would in one section or another be found unconstitutional.

And then, as I have said before on the floor, this would result in a counterproductive activity.

We want a good, strong, prosecutable law, one which will penalize for abuses and protect the rights of children. H.R. 8059 is that product, and it seems to me that we can urge the support of the entire membership for this legislation.

There were many other amendments and issues considered. I think I should mention several of those at this point. The issues the committee considered included whether the proposed legislation should amend title 18 or be placed elsewhere.

We feel rather strongly in the Committee on the Judiciary that the integrity and consistency of our system of codification of laws—and there are several bills on that subject that are moving forward—should be maintained, and that a proposed criminal statute belongs properly in title 18 of the Federal Criminal Code.

We considered also whether criminal penalties should be more severe than the present Mann Act penalties of a $10,000 fine and 10 years in prison or both. We decided they should not be. That was based on the fact that in some State jurisdictions, where much more severe penalties are had, sometimes there is a reluctance to convict and sometimes there is a reluctance to even prosecute.

The committee debated whether sections of the bill penalizing the transportation, distribution, and dissemination of material could be unconstitutional and concluded that the danger was great, and that we ought not try to move that provision into the present legislation.

We addressed the separate issue of juvenile prostitution by amending the Mann Act. When faced with the question of whether present Federal law was adequate to cover the person who induces or coerces a child to engage in sexually explicit conduct for the purpose of promoting printed or visual matter, we determined it was not and so created new section 2251 of title 18, United States Code.

We think on review that we have now a piece of legislation that goes not only to sexual abuse but to those who would engage children in pornographic activity. It also precludes penalizing parents who may sometimes be aware of their children's activity but may be totally without the ability to curb those activities.

So on balance, I will say to my colleagues that we think we have presented to the Members a piece of legislation that will merit their support.

There is one additional thought I might leave with the Members. There is another similar piece of legislation pending. It has been my understanding that all of this legislation will be before the conference committee.

Mr. Speaker, it is my intention to recommend to the chairman of the full committee that the gentleman from Michigan (Mr. KILDEE) be included in the list of conferees to be named.

Mr. Speaker, the details of the committee consideration are as follows:

H.R. 8059 prohibits the transportation of male or female children under 18 when the intent exists that the minor engage in prostitution. The first section of H.R. 8059, which amends section 2423 of title 18 United States Code, addresses a form

of child abuse identified in hearings as juvenile prostitution. The committee was influenced by the Senate bill S. 1585, section 4(a), which addressed this problem by making it a Federal crime for anyone to transport any person under 18 years of age across State lines to engage in prostitution.

It was found that present law, 18 United States Code 2423, prohibits the transportation by common carrier of females under age 18 across State lines to engage in prostitution, debauchery or other immoral practice. There is no relevant provision in present law which would apply to males under 18. The first section of H.R. 8059 applies the same criminal penalties of a fine of not more than $10,000 or imprisonment of not more than 10 years, or both, which exist now in the law to the transportation of any "minor" person under 18 years of age.

The committee removed language in 18 United States Code 2523 concerning "debauchery" and "other immoral acts," because the case law shows no clarity in the definitions of these items.

H.R. 8059 also prohibits the use of children in acts of sexually explicit conduct for the purpose of promoting printed or filmed matter in the following way:

Subsection (a) of amended title 18, section 2251 makes it a Federal offense for anyone to use children under the age of 16 in the production of pornographic materials. Because present Federal obscenity laws focus almost exclusively on the mailing, distribution, and importation of obscene materials, they do not directly address the use and abuse of children in the production of obscene materials which are introduced in interstate or foreign commerce.

Subsection (a) of 2251 will fill the gap in existing law by declaring such use of children punishable. The section prohibits any person from employing, using persuading, enticing, or coercing any minor to engage in or assist in any sexually explicit conduct, the purpose of which to promote printed or visual matter if that person knows or has reason to know such matter will be mailed or transported in interstate or foreign commerce, regardless of whether it actually, in fact, is so mailed or transported, or if such matter has been mailed or transported in interstate or foreign commerce, regardless of whether the person knew or should have known it would be so mailed or transported.

Subsection (b) of 2251 makes it a Federal crime for the parent, guardian or other person having custody, or control over a minor to knowingly permit such minor to engage in sexual explicit conduct.

The scope of the section is much the same as the Senate provision. The committee wishes to affirm the fact that it has limited the circumstances under which a parent or guardian having control of a minor permits that minor to engage in the proscribed conduct. No parent will be punished if he or she has some knowledge of the minor's behavior but does not have the requisite control or dominion over the minor which is intended by the word "permits." "Permission" is not to be passive, but an active giving, encouragement, inducement, or enticement.

Subsection (c) of amended title 18, section 2251 contains new definitions.

Paragraph (1) defines a minor as any person under the age of 16.

Paragraph (2) defines sexually explicit conduct as actual or simulated sexual intercourse including genital-genital, oral-genital, anal-genital, or oral-anal whether between persons of the same or opposite sex, bestiality, masturbation, sado-masochistic abuse and the lewd exhibition of the genitals or pubic area, and

Paragraph (3) defines promoting as producing, directing, manufacturing, pursuing, publishing, or advertising for pecuniary profit.

Subsection (d) of amended title 18, section 2251 provides a penalty of a fine of not more than $10,000 or imprisonment of not more than 10 years or both.

H.R. 8059 was reported from committee with amendments, one of which does not appear on the October 12 printed version of the bill. The amendment, which was the subject of bipartisan discussion and support in subcommittee and committee markup, would amend the White Slave Traffic Act to penalize not only those who transport, finance, or facilitate the movement of a person under the age of 18 in interstate or foreign commerce with the intent that that minor engage in prostitution, but also if that minor engages in prohibited sexual conduct if that conduct is to be commercially exploited. The intent is to penalize persons who induce children to perform sexually explicit conduct not just for money but for any direct or indirect gain and at the same time to avoid penalizing a 16-year-old male who brings a female of the same age across State lines, with her consent or vice versa, to engage in sexual conduct. We did not wish to breath new life into this questionable interpretation of the intent of Congress in 1910. By amending the Mann Act we hope we have not run that risk.

The context in which H.R. 8059 was consider was the following:

At the beginning of the 95th Congress, a series of bills, with more than 100 cosponsors, was introduced that addressed the problem of sexual abuse of children. Primary sponsors of these bills, each of which carried the title of the "Child Abuse Prevention Act," were Congressmen DALE KILDEE, Democrat of Michigan, and JOHN MURPHY, Democrat, of New York. With one exception, these bills contained identical substantive provisions providing criminal penalties for sexual abuse of children as defined in the bills. However, some of the bills placed these provisions in title 18, the Criminal Code; these were referred to the Judiciary Committee for consideration. Others proposed these same criminal provisions as amendments to the Child Abuse Prevention and Treatment Act located in title 42, United States Code; these were referred to the Education and Labor Committee.

Congressman CONYERS on June 28, 1977, introduced H.R. 8059 to amend chapter 117 (commonly called the Mann Act) of title 18, United States Code, to prohibit the transportation of minors in interstate and foreign commerce for sexual purposes. That bill was referred solely to the Subcommittee on Crime.

The two committees worked on a parallel course toward reporting out legislation.

After considerable staff investigation and interviews, the Subcommittee on Crime began a series of hearings which explored the need for Federal legislation in this area. Much information had already come to the attention of the subcommittee regarding the rapid proliferation of these practices. It was the subcommittee's intent in these hearings to establish two things: First, the nature and scope of the abusive practices sought to be proscribed by the bills before us; and second, whether existing Federal and State laws were comprehensive enough to control these practices, and whether such laws were being enforced. We reviewed the bills with the point of view that, establishing the fact that objectionable conduct—even revolting conduct—is taking place does not necessarily establish the need for new Federal criminal legislation.

We kept in mind that additional laws may be needed, but perhaps not criminal laws. We came to the hearings with open minds, anticipating that the solution to problems of sexual abuse and exploitation of young people may be improved child care, education, mental health, family support, juvenile delinquency facilities, and employment.

On May 23, 1977, the subcommittee members heard from Prof. Frank Osanka of Lewis College, who is one of the country's leading authorities in the problem of sexual abuse of children. Dr. Judianne Densen-Gerber, a crusader on the issue, appeared also. Finally Charles Rembar, who is an attorney with extensive knowledge of first amendment problems relating to obscenity, gave testimony.

On Wednesday, May 25, 1977, Investigator Lloyd Martin from California, who heads up one of the most active sexual abuse squads in a local police force, appeared to discuss enforcement problems on the local level to give detailed testimony concerning the type of children involved in this activity and how they are drawn into such activity. Mr. Robert Leonard, a member of the National District Attorneys Association from Flint, Mich., came to Congress to detail the strides the Nation's prosecutors have taken to address the problem. Finally, from the American Civil Liberties Union, Ms. Heather Florence, who is a member of the Communications Media Committee, which studies current issues with impact on first amendment rights, evaluated the bills before the subcommittee, and expressed ACLU's opposition to certain provisions of H.R. 3913.

On June 10, 1977, the members of our subcommittee and those of the Select Education Subcommittee sat together for an important hearing on the bills H.R. 3913 and 4571. The majority of witnesses who appeared were from Government

agencies that have jurisdiction over and the responsibility for the enforcement of Federal obscenity statutes. Each subcommittee wanted to hear the statements of representatives of the Department of Justice, the U.S. Postal Service, and the U.S. Customs Service to make a determination as to the need for and enforceability of the bills before them. Mr. John C. Keeney, Deputy Assistant Attorney General of the Criminal Division, U.S. Department of Justice, gave cogent and informative testimony, particularly on the constitutionality of the same provisions that troubled the ACLU.

Our final and most productive hearing occurred on September 20, 1977, at which time we heard from a representative of the National Conference of State Legislatures, Kenneth Maddy. We commissioned that organization to survey the individual States and ascertain the content of their laws in order to help us determine how the States under present law are coping with the problem, and in what areas they would turn to the Federal Government for assistance. We invited Larry Parrish, a former U.S. Attorney from Memphis, Tenn., to tell us of his experience in prosecuting under present Federal obscenity law, and we heard from Delaware State Attorney General Richard Wier, who informed us how his State came to enact a new obscenity law encompassing child pornography. A county prosecutor, Robert Gemignani described the operation of a local prosecutor's office in obscenity cases. We benefited from hearing from Mr. Herald Fahringer who does defense work in the area of Federal obscenity law, and who discussed the constitutionality of proposals before our subcommittee. He was accompanied by probably his most famous client, Larry Flynt, publisher of Hustler magazine.

The issues the committee considered included whether the proposed legislation should amend title 18 of the United States Code or be placed elsewhere. We decided in the interest of integrity and consistence of our system of codification of our laws, a proposed criminal statute properly belongs in title 18, the Federal Criminal Code. We considered also whether criminal penalties for the behavior should be more severe than present Mann Act penalties of a $10,000 fine or 10 years imprisonment or both, and we decided that they should not. In addition, the committee debated whether sections of the bill penalizing the transportation, distribution and dissemination of materials could be unconstitutional and concluded the danger was great. We addressed the separate issue of juvenile prostitution by amending the Mann Act. When faced with the question of whether present Federal law was adequate to cover the person who induces or coerces a child to engage in sexually explicit conduct for the purpose of promoting printed or visual matter, we determined it was not and so created new sections 2251 of title 18 United States Code.

We carefully scrutinized present State law to determine if by legislating the Federal Government would be intruding upon an area reserved for the States under the police power of the Constitution.

The committee was careful in its legislation, bearing in mind the fact that in 1978, 37 States will have adopted prohibitions against the use of children in pornographic materials. We perceived a need to not supplant or discourage State and local response to those practices, but to respond in the areas where the States turned to the Federal Government for assistance.

On September 26, 1977, the subcommittee members met to markup H.R. 8059, Mr. CONYERS' bill which would have amended 18 United States Code 2423 to apply to minors transported across State lines for sexual purposes.

Ms. HOLTZMAN introduced an amendment in the nature of a substitute which paralleled the Senate Judiciary Committee provision amending the Mann Act. It was accepted. The subcommittee rejected a proposal to amend the Child Abuse Prevention and Treatment Act to require that no State receive funds under that act unless it passes a criminal law prohibiting the sexual exploitation of children. Finally, the subcommittee adopted Ms. HOLTZMAN's amendment to prohibit the inducement of a child to engage in sexually explicit conduct for the purpose of photographing and shipping the products in interstate commerce. This provision is also similar to the Senate version although the penalties are comparable to present Mann Act proscriptions. The subcommittee reported the bill to committee by a 4-to-0 vote.

The committee met on September 29, 1977, to markup H.R. 8059 as reported from subcommittee with amendments. Discussion ensued on Mr. RAILSBACK's proposal to tie child abuse funding to State criminal laws on sexual abuse. This was rejected in committee also. Mr. ERTEL, another subcommittee member, proposed an amendment to section 2251 which was adopted to add the words "or if such film, photograph, negative, slide, book, magazine, or other visual or print medium has actually been mailed or transported in interstate or foreign commerce." This would enable prosecution if there has been mailing or transportation without knowledge or intent on the part of the promoter. The subcommittee is grateful to Ms. HOLTZMAN for her determined effort to fashion a bill which would be both constitutional and protect the rights of children. The two amendments which she offered in subcommittee became the substance of H.R. 8059 voted by committee.

I am hopeful that H.R. 8059 will afford the Department of Justice a useful and constitutional tool to employ against the evils of juvenile prostitution and child pornography.

Mr. ASHBROOK. Mr. Speaker, I yield 5 minutes to the ranking minority member of the Committee on the Judiciary, the gentleman from Illinois (Mr. MCCLORY).

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of this legislation. First, I want to commend the chairman of the subcommittee, the gentleman from Michigan (Mr. CONYERS), the ranking minority member of the Subcommittee on Crime, the gentleman from Ohio (Mr. ASHBROOK), and the committee itself for bringing forth this legislation.

I had the privilege of testifying before the committee in support of the measure. I might say there has been great interest in this legislation in Illinois, largely generated by some extremely important investigative work done by reporters of the Chicago Tribune. The Tribune articles, written by Michael Sneed and George Bliss helped to establish that a great deal of the trafficking in young people for purposes of child pornography was being carried on in the State of Illinois, especially in the general Chicago area, as well as in some of the other large metropolitan areas of the country.

I know that the gentleman from Michigan (Mr. KILDEE) has been very active in sponsoring and promoting this legislation. He also deserves to be very highly commended.

I am confident that the press-media reports and the action which the Congress is now taking on this legislation are going to focus great national attention on the terrible evil which is being perpetrated by the trafficking in young people for pornographic purposes. I am confident, too, that this will serve as a great deterrent, as will the actions that are taken in the investigation and prosecution of offenders who are covered by this legislation.

Mr. Speaker, H.R. 8059 will help prevent that crime so dreadful to us all—the sexual abuse of children. Child pornography, as it is generally called, is one of the most abhorrent crimes that we can conceive of. Despite an almost overwhelming desire on the part of all Members of this Chamber, there have been problems in properly formulating a law that courts later would not find in violation of first amendment guarantees.

I know that it is the hope of my colleague, Mr. CONYERS, chairman of the House Judiciary Committee's Subcommittee on Crime, that H.R. 8059 avoids the possible pitfall which constitutional experts have cautioned the subcommittee about.

What the Subcommittee on Crime presented to the full Judiciary Committee, which voted its approval, is a bill that prohibits sexual abuse of children while avoiding that constitutionally suspect area of prohibiting distribution of materials that are the fruits of child abuse. It should be noted that both the U.S. Department of Justice and the American Civil Liberties Union are in support of H.R. 8059.

I strongly urge that my colleagues on both sides of the aisle approve this measure which amends title 18 of the Criminal Code to provide criminal penalties for persons who use children in acts of sexually explicit conduct for the purpose of promoting printed or filmed matter.

Mr. Speaker, I therefore urge support of the motion to suspend the rules and pass H.R. 8059 which every decent, concerned, and thoughtful American man and woman should support. Thank you.

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of this legislation, and I particularly want to commend the chairman of the subcommittee for his responsible leadership in bringing to the House a bill that will address the vicious problem of child pornography, and will do so effectively by avoiding constitutional problems.

The bill before us, I think, will be an effective measure. It will penalize persons who use children in acts of sexually explicit conduct to promote any printed or filmed material. The bill also penalizes parents who knowingly consent to the use of their youngsters in the production of such material.

In addition, the bill makes some important changes in the Mann Act. First, it broadens its coverage by providing protection for both young boys and young girls; second, it provides penalties for the transportation of minors across State lines for purposes of any prohibited sexual conduct which will be commercially exploited; and third, it removes the vague language that made the Mann Act objectionable in the past.

Mr. Speaker, I am pleased that I had an opportunity to contribute to the shaping of this legislation, and I urge the House to adopt it.

Mr. CONYERS. Mr. Speaker, will the gentlewoman yield?

Ms. HOLTZMAN. I am happy to yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I think I should bring to the attention of the membership that the gentlewoman's two amendments really, in essence, form the basis of this legislation and that the subcommittee expresses is gratitude to her.

Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, it is with a great deal of gratification that I stand here before the Members today as a member of the subcommittee and as a freshman Member who has worked with the gentleman from Michigan (Mr. CONYERS), the chairman of the subcommittee, and with other Members on this much-needed legislation. I wish to commend them and each of them for the conscientious work that has gone into this bill by Members on both sides of the aisle.

Mr. Speaker, I also wish to commend the other gentleman from Michigan (Mr. KILDEE) for the work that he has done in this area to provide this much-needed legislation.

I wish to point out to the Members that in the unanimous opinion, I believe, of all of the members of the subcommittee, the language that is contained in this legislation will pass constitutional muster. It may not do everything that each of us would like to have done in this area of child pornography in our attempts to try to hold down this social stigma which pervades this country—in many parts of it, at least, at this time—but I do believe that with the amendments to the Mann Act and the other provisions, there will be less child pornography in this country as a result of this legislation once it is finally enacted.

Of course, we must remember that the legislation is only as good as those people who enforce it. I am sure that the Federal prosecutors will do all in their power to prosecute those individuals who violate the act itself. In that regard, I wish to state that it is with that thought that I and, I am sure, other Members of the House look upon the legislation, to make sure that when those prosecutions are brought, they are not brought and then end up in appeals reversing convictions based on this legislation's being an unconstitutional act, which would mean that it would all go for naught. In other words, Mr. Speaker, we want to make sure that when a prosecution is brought, a person will be fined or suffer imprisonment and that those persons charged with offenses will not go through the process and then end up with an appellate court holding parts of the act unconstitutional or all of the act unconstitutional, and those persons going scot free, except making them spend a little money for a trial and appeals, and they have plenty of that, considering what we were told in committee.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

First of all, I want to thank my colleague, the gentleman from Missouri, for his contribution to the hearings and the shaping of this legislation. Upon the important point that he raised, I would like to remind the House that the National Conference of State Legislators when they testified before the subcommittee pointed out that by the end of next year there will be 37 States who will be enacting various laws that speak to the precise subject of the use of minors in pornographic activity.

The problem, as my colleague recalls, is that these statutes will be going in a number of directions, and it is felt that this particular legislation will provide perhaps a stabilizing piece of uniform legislation that will help guide them as they move along as well.

At the State level there is activity in this field. There is more able prosecution. There is more concerned investigative and police work, and we think that this legislation would be very stabilizing for the State courts and the State prosecutors as well.

Mr. VOLKMER. I agree with the gentleman wholeheartedly and thank him.

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Speaker, I rise in support of the motion to suspend the rules and pass H.R. 8059. I would like to compliment my colleague from my home State of Michigan for the responsible manner in which he conducted hearings on a very sensitive issue. I would like to compliment also the gentlewoman from New York (Ms. HOLTZMAN) for her tremendous input on this bill. Those hearings, and the hearings held in the Select Education Subcommittee, have demonstrated the need for Federal legislation to stop this particularly abhorrent form of child abuse.

My colleague from Michigan is aware of the fact that I consider the bill to be incomplete. I honestly feel that additional provisions are needed to control the sale and distribution of these sordid materials. I also feel that such a provision is constitutional.

The situation, however, is serious and demands immediate action. Any unnecessary delay at this stage would only help those who are abusing our children. I understand that a motion will be offered to instruct the conferees to agree to a provision covering distribution and sale; therefore, we will have an opportunity to include such language even though the bill is before us under suspension of the rules.

I would strongly urge the 375 Members of the House who previously voted for stronger language when we passed H.R. 6693 to vote to pass H.R. 8059 and then to vote for a motion to instruct the conferees to agree to the language in the Senate bill which would control the sale and distribution of these materials.

Mr. ASHBROOK. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. RAILSBACK), a member of the subcommittee.

Mr. RAILSBACK. Mr. Speaker, I want to begin by congratulating the gentleman from Michigan (Mr. KILDEE) for taking what I think is a very, very positive and constructive attitude. I know that sometimes there is a pride of sponsorship and a pride of authorship, but I know that what he just recommended to be the action of the House is in no way going to reflect at all on the work that he has done. As a matter of fact, his bill was passed overwhelmingly by this body, and one similar to it by the other body.

Let me just say that I think the chairman of our Judiciary Subcommittee and other members of the subcommittee performed a very valuable service in recognizing that we are not going to be able to solve entirely the problems that we had evidence of that came before us which related not only to child pornography but, as the subcommittee chairman mentioned, related to what I will refer to as child abuse, or child exploitation.

Now, we on the national level are limited as to what action we can take by reason of our Federal system of Government, which leaves certain things to the States to do, unless we have exclusive or concurrent jurisdiction.

As one of the members of the subcommittee, it is my belief that one of the most important things to happen as a result of our hearings was the evidence that we heard from representatives of the State attorneys-general, as well as from representatives of States attorneys of the various local jurisdictions.

When the Chicago Tribune broke its stories, it became very apparent that child pornography was only one aspect of the child abuse that is going on throughout the country.

Another aspect that I found very upsetting and something to be concerned about is other kinds of child abuse, such as child prostitution. We know that

there are people in the country that are actually taking commercial advantage of children.

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. ASHBROOK. Mr. Speaker, I yield 2 additional minutes to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Speaker, as I was saying, there are people throughout the country that are commercializing on young people. The laws that have been enacted today in my opinion are simply inadequate, when we learn there are many activities at the State and local levels that are designed to do something about these other forms of child abuse and child exploitation.

In closing, Mr. Speaker, I hope that the action we take today and the action that we took when we passed the Kildee bill will at least be one step towards recognizing the seriousness of the problem and will result in the Federal Government working with the States and the local governments to really combat extensively what I think is a most serious problem.

Mr. ASHBROOK. Mr. Speaker, I yield 3 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, of course, I join everyone in commending the subcommittee for doing something in this field. Certainly the bill improves the Mann Act; but I would like to issue a warning and urge some caution here, because this bill will do very little, really nothing, to end the problems of child pornography. The hearings that the Subcommittee on Select Education held in California—and being a former prosecutor I was concerned as to why the evidence of pornography continued and why could it not be stopped—demonstrated that there are already existing State laws to take care of the problem. The State laws are there to do what this legislation seeks to do. There is nothing in this bill which would provide anything not already provided in all the State laws. In fact, the provisions of this bill are even harder to enforce, because it requires the proof of intent to ship in interstate commerce.

What then will the provisions here do? Nothing.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Speaker, if the gentleman would examine the bill, he would find that it states that a crime is constituted if the materials actually are shipped in interstate commerce, regardless of intent.

Mr. JEFFORDS. That is true, but again, the people that will be prosecuted here are not the ones that promote and use the films but rather the ones that participate in making the films. The only way this situation can be handled is to cut off the market for the products, and this the bill does not do. In no way does the bill make it unlawful to sell or dispose of these things after they have been shipped in interstate commerce.

From talking to the prosecutors in many States, I know this is the only way Federal involvement will in any way help prevent the abuses practiced here.

In particular the Select Education Subcommittee heard testimony from Lloyd Martin, investigator for the Los Angeles Police Department, special unit for sex crimes against children, that it is almost impossible to locate the victims of pornographic exploitation. Also, Joe Freitas, director, National District Attorney's Task Force on Criminal Exploitation of Children, emphasized the need of prosecutors to work back up the chain from the vendors and distributors of child pornography, to the extremely elusive producers and film makers. The victims we are seeking to help here are children. They generally do not go to their parents or to the authorities to report instances of abuse.

Otherwise, we have done nothing but create a nice model for State laws, and it is a good model.

On that score I compliment the committee; but the bill is not going to do anything to stop pornography for the simple reason that we cannot catch the people that produce it. The only thing we can hope to do is to shut the market off. Unless the House conferees were to accept the provisions of the amendment offered by Senator ROTH in the other body, there will be little if anything done to help California and other States.

If we can close the market off we can end the problem. This bill does nothing to that effect, and I am afraid that it will really do nothing significantly to help in this field.

So, I would urge the members of the committee, who have taken some good steps, to make sure that they adopt the Senate provisions in conference, which will do something to stop this very terrible trend in this country.

Mr. ASHBROOK. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Speaker, I support this bill, but I am most disappointed that it has been brought up under suspension of the rules, since this prevents any needed amendments to strengthen the bill's child antipornography provisions.

The Senate passed a very similar bill on October 10, after adding several very good amendments that cannot be offered here under suspension of the rules.

The Senate bill (S. 1585) looked very much like this bill when it was brought to the Senate floor. But S. 1585 was amended with a provision offered by Senator BAYH to prohibit and provide penalties for the use of minors in live performances exhibiting sexually explicit conduct. It is a serious weakness of this bill that it does not also contain an identical provision.

The Senate also adopted an even more important provision during floor consideration, which was offered by Senator ROTH and 25 other cosponsoring Senators. This provision prohibited and provided penalties for the interstate transportation, sale, or distribution of pornographic materials depicting the sexual exploitation of minors.

The interstate commercial distribution and sale of hard-core child pornography is the evil core of this multi-million-dollar industry. It is a major flaw of H.R. 8059 that this bill does not also contain a provision that prohibits the distribution and sale of child pornography that meets the definition specified within the bill, with the identical penalties for convicted violations that the bill provides for the production of child pornography.

Mr. Speaker, I ask unanimous consent to include the text of both Senate amendments at this point in the RECORD:

The Bayh Amendment to S. 1585—adopted by voice vote: Title 18, United States Code, is amended by adding immediately after Chapter 109 the following:

Chapter 110—SEXUAL EXPLOITATION OF CHILDREN

"Sec.

"2251. Sexual Exploitation of Children.

"(b) It shall be unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in, or to have a minor assist any other person to engage in, sexually explicit conduct, in a live performance, if such person knows or has reason to know that a facility of interstate or foreign commerce will be used to promote such live performance.

"(d) It shall be unlawful for any parent, legal guardian or person having custody or control of a minor knowingly to permit such minor to engage in, or to have a minor assist any other person to engage in sexually explicit conduct, in live performance, if such parent, legal guardian, or person knows or has reason to know that a facility of interstate or foreign commerce will be used to promote such live performance."

The Roth Amendment to S. 1585—adopted by 73–13 rollcall vote: Title 18, United States Code, is amended by adding immediately after Chapter 109 the following:

Chapter 110—SEXUAL EXPLOITATION OF CHILDREN

"Sec.

"2252. Transportation, sale, or distribution for sale of material depicting sexual exploitation of a minor

"(a) No person may—

"(1) knowingly transport, ship, or mail in interstate or foreign commerce for the purpose of sale or distribution for sale any film, photograph, negative, slide, book, magazine, or other print or visual medium depicting a minor engaged in sexually explicit conduct; or

"(2) knowingly receive for the purpose of sale or distribution for sale, or knowingly sell or distribute for sale, any film, photograph, negative, slide, book, magazine, or other print or visual medium depicting a minor engaged in sexually explicit conduct which has been transported, shipped, or mailed in interstate or foreign commerce.

"(b) A person who violates this section shall be fined not more than $10,000 or imprisoned not less than one year nor more than ten years or both for the first offense, or shall be fined not more than $15,000 or imprisoned not less than two years nor more than fifteen years or both for each offense thereafter.

"(c) For the purposes of this section—

"(1) 'minor' means any person under the age of sixteen years;

"(2) 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) sadomasochistic abuse (for the purpose of sexual stimulation); and

"(E) lewd exhibition of the genitals or pubic area of any person."

Mr. Speaker, I believe that both of these provisions offer vitally needed new weapons in the fight against child abuse and child pornography. Neither provision attempts to establish new obscenity standards. And both provisions meet previous standards set by both the Congress and the courts in protecting the welfare of children and safeguarding them from abuses.

I believe it is important that the final child antipornography bill sent to the President for his signature include provisions against involving minors in sexually explicit live performances—and against the distributors and sellers of child pornography—where interstate and foreign commerce are involved.

I am sure that the House would overwhelmingly adopt both these provisions if they could be offered as amendments to H.R. 8059. But this is not possible under suspension of the rules.

As I see it, we have three choices open to us—and I will work to see that one of the three options results in the inclusion of these two provisions in the final House-Senate child antipornography bill:

First, the House can recommit this bill to committee, with instructions that the two provisions adopted in the Senate are included in the bill returned to us for House floor action.

Second, the House can refuse to pass H.R. 8059 under suspension of the rules, in hopes that the bill will be promptly returned to the House with a rule allowing consideration of these and any other needed amendments.

Or third, the House can pass H.R. 8059 today, under suspension of the rules, as reported by the committee, and instruct the House conferees when they are selected to accept the Senate provisions to which I have referred.

At this point so close to the end of our 1977 session, it looks as though the third option—an instruction to the House conferees on H.R. 8059 and S. 1585 to accept the additional provisions of the Senate's stronger child antipornography bill—will be the easiest and most fruitful course of action.

If necessary, I will offer such a motion at the appropriate time.

In any event, I urge all my colleagues to support whatever action is taken to bring about the inclusion of these stronger, vitally needed child antipornography provisions in the final bill passed by the Congress.

In addition to stopping the production of this outrageous child pornography, and child prostitution, we must also take firm and positive steps to eliminate the use of minors in sexually explicit live performances, and to wipe out the corrupt and debilitating commercial exploitation of children through the interstate distribution and sale of child pornography.

Mr. ASHBROOK. Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Speaker, the child pornography/sexual exploitation bill being considered today in the House is the first step toward a constitutional solution to the growing problem of child pornography and child prostitution. Unlike the child pornography amendment tacked onto the child abuse bill passed recently by this body, this legislation suffers from none of the constitutional flaws that marred the first bill. Additionally, this bill deals with the plague of child prostitution by extending the Mann Act to include minor boys, as well as girls.

Dealing with the production of sexually explicit materials which exploit children, instead of dealing with the distribution of the materials, avoids the constitutional pitfalls of the earlier bill, a bill that could possibly provide a loophole that could free the very individuals who should be prosecuted to the full extent of the law. Until the Supreme Court more carefully defines obscenity and outlines the first amendment rights guaranteed by the Constitution, Congress should avoid enacting laws that will provide child pornographers with a constitutional screen.

Child pornography and child prostitution are absolutely abhorrent, and those who abuse children in these ways should be dealt with swiftly and harshly. I urge my colleagues in the House to pass this legislation being considered today. It will provide prosecutors with a tool to fight child pornography and child prostitution and to prosecute those who actually abuse children for the sexual satisfaction of deviant adults.

Mr. ASHBROOK. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I support H.R. 8059 for only one reason, that it is a vehicle to get to conference with the Senate so, hopefully, we can then bring back to the House a much stronger bill, a bill along the lines of the one I have introduced and one suggested by my colleague from Michigan (Mr. KILDEE) and my colleague from the Education and Labor Committee (Mr. JEFFORDS).

I would reiterate what Mr. JEFFORDS has said. He was absolutely on point. If we were trying to frame a model State statute this would be appropriate, but I would remind my colleagues that we are at the Federal level, and therefore it is our obligation to take actions that may not necessarily be those that are uniquely limited to members of State legislatures.

There is a rather curious philosophy behind H.R. 8059 which I followed through most of the debates in our subcommittee and here on the floor. The philosophy, if I can summarize it, is basically this: If you can catch one of these porno film makers in action, you can arrest him. Somehow or other, however, once his product is reduced to a picture; once it is reduced to a negative; once it is reduced to film, all of a sudden my liberal colleagues throw up their hands and say that we cannot do anything about it at that point because it is protected under the first amendment.

To that, I say nonsense. The notion that child pornography dealers, distributors, and purveyors who show the sick, pornographic films are innocent bystanders and are protected in the exercise of their freedom of speech as an extension of the first amendment is without merit. The courts have never granted that ridiculous extension, and I believe that they would not grant it in a test case on our tough language making transportation and distributors of child pornography a criminal offense.

Earlier this month we considered another bill on child pornography, H.R. 6693. Some Members voted against that legislation, on the basis that it might be unconstitutional and that it amended a part of the law other than the criminal section of the United States Code, title 18. At the time of the vote, I said that I opposed H.R. 6693 exclusively on those grounds, but wholeheartedly endorsed the concept of child pornography legislation which I have advocated when there was little or no interest in this subject.

I am pleased that H.R. 8059 incorporates a new provision to make it illegal to engage young boys under age 18 as well as young girls in acts of child abuse across State lines. This Mann Act amendment is a valuable asset to child abuse legislation. It amends title 18, United States Code, and places the legislation in the criminal statutes where it properly belongs.

Constitutional questions have been addressed in the Judiciary Committee. The committee is reporting a bill which does not include certain language which I believe to be critical to any Federal child pornography legislation. The addition of a section against transportation and distribution of the material should be included in legislation that ultimately is agreed upon by both Houses, or I fear that criminals will continue to profit—perhaps even more so by driving them even further underground.

Why do I say the profiteering will increase, Mr. Speaker? Clearly, by forcing producers underground even further, certain expenses, and thereby profits will increase. Costs of sale of the items to the distributors, who will be able to legally distribute the material, will skyrocket, due to supply and demand pressures, and therefore will increase the profitability to underground pornographers. Some State legislation is probably already creating this effect by drying up some of the more obvious sources of the pornography.

By passing legislation that fails to wipe out all aspects of commercialism involved in child pornography, we are simply adding more fuel to the fire of this criminal business.

During hearings by the Subcommittee on Crime, on which I serve as ranking minority member, Dr. Frank Osanka, a noted psychologist who has become an expert on child abuse testified that—

> . . . Serious penalties should be provided for the importation and the exploitation of child pornography. In brief, protective legislation in this area must take the profit out of child pornography.

Other witnesses, including police officials and prosecutors testified that unless we wiped out the commercialism across the board, the problem of child pornography and the ensuing child abuse would continue to persist. Why should we enact new legislation on the Federal level? Clearly, the States are coming to us and saying that we need legislation. They, for

the most part, are now drafting legislation. We heard from the National Conference of State Legislatures, and they told us that at least 29 States have enacted, or will enact, such child abuse legislation. We must aid them by entering the battle on the front where the transportation occurs across State lines. Our duty as Congressmen is to enact criminal legislation to stop that interstate transportation, and distribution of child pornography. On the face of the legislation itself, H.R. 8059 requires transportation as an element for Federal jurisdiction. Why not then, provide for penalties for transportation so long as we require that as a condition precedent to prosecution? Unless we dry up the market we will not stop the abuse.

To capture a pornographer in the basement of his home as he commits his acts of violence against his chosen victims—young children—imposes a true hardship on police officers. With all due regard for defendants' rights, how can we expect the FBI to capture underground pornographers as they click their shutters in the basement of their hideaways. To pursue these people in the act of producing the materials would require an unusual sense of timing and ingenuity on behalf of our Federal agents.

Why, the question may be asked, did I speak on the House floor in opposition to H.R. 6693 when I had the opportunity to vote on a bill with distribution and sale language? The Subcommittee on Crime and the full Judiciary Committee were that very week engaged in debate on the issue of first amendment freedom of speech rights of the distribution and sale sections. After having reviewed the evidence, I have become convinced that children have occupied a special place in the law. We have already acted to provide special assistance for children who are victims of child abuse and neglect, by the passage of the Child Abuse Prevention and Treatment Act. Case law sets forth special qualifications in limiting commercial dissemination of obscene materials to minors. In *Ginsberg* v. *New York*, 390 U.S. 629 (1968), the U.S. Supreme Court upheld a New York criminal statute that makes it unlawful to knowingly sell harmful material to a minor. The Fair Labor Standards Act provides that oppressive child labor employment shall not be used in the production of goods which are entered in the flow of commerce.

Those who are concerned about the constitutional question of first amendment rights of free speech may take some solace in the printed testimony of Mr. Charles Renbar, well-known criminal defense attorney who testified before our subcommittee. Mr. Renbar said, in part:

> It is not arbitrary or unreasonable for the legislature to conclude that inducing children to engage in sexual activity can harm them. Nor is it arbitrary or unreasonable to prohibit the photographing of children who have been induced to do so, or to interdict the publication and sale of magazines in which the photographs appear. The publisher and the seller are principals in the abuse. Without them, it would not occur.

To consider that the first amendment argument that children should have this right of speech can further be discredited when one considers that children lack the capacity to exercise certain legal privileges.

If we do not allow children to buy an automobile, sign a note, or buy a home at age 15, then why should we permit them to engage in conduct which can be damaging to themselves? Is it not reasonable to assume that children engaged in these acts do so under some sort of coercion? Is it really proper to argue the first amendment? The issue is protecting children. The issue is not one of censorship versus freedom of press. The issue is whether the grossest sort of perversion can find any constitutional protection.

If the Constitution had been designed to protect all publications from restrictions, then libel, slander, false advertising, and falsely shouting "fire" in a crowded theater would be legal today. Fortunately, our courts have wisely held that certain kinds of speech are so inflammatory that great public harm can come from a line of conduct. The use and abuse of children for the production, distribution, and sale of these materials should be stopped. It is with these thoughts in mind that I originally submitted H.R. 8778, a bill which includes distributors and sellers of the materials resulting from the child abuse.

At the time of the appointment of conferees for this legislation, I will offer an instruction that the House conferees adopt language to prohibit the sale and distribution of child pornography. I am asking this body to take the same action which was taken on October 10, 1977, in the Senate. At that time, Mr. ROTH added his amendment No. 1398 to S. 1585, a transportation and distribution section, and was supported by a vote of 73 to 12. Today, I will ask my colleagues to join with me in instructing the conferees to adopt the Roth language. I urge the support of H.R. 8059, and the later support of my instructions to the conferees.

Mr. DORNAN. Will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. DORNAN. I thank the gentleman for yielding.

What are the chances for getting these instructions to the conferees?

Mr. ASHBROOK. I say to my colleague, the gentleman from California, that I am going to offer the amendment. As my colleague, the gentleman from Michigan (Mr. KILDEE) indicated, there were something like 375 or 380 Members of the House who voted for legislation that had basically that thrust before. Therefore, I would hope that most of those would vote for my motion to instruct. And with such a mandate of the House, I think we would bring back the Roth language from conference.

Mr. DORNAN. If the gentleman will yield further, when will that motion be voted upon?

Mr. ASHBROOK. That motion will be voted upon at the time my colleague from Michigan moves to go to conference and for the appointment of the conferees for the House.

Mr. DORNAN. I sent a Dear Colleague letter yesterday, asking Members to vote against this bill under suspension today. However, I will change my advice because of your excellent motion. I, also, realize that nothing else will be forthcoming from the committee this year if this particular vehicle against child pornography is destroyed, and I do not want to disappoint the good citizens of Los Angeles County, the county which suffers from this social plague of pornography to a worse degree than any area on Earth. I would wholeheartedly support the motion of the gentleman from Ohio and strongly reiterate what the gentleman said about this bill being flawed unless toughened. Suppose we were talking about gut-rotting bootleg liquor, distributors would be covered up by law, if we were talking about illegal firearms, the distributors would be involved, if we were talking about any type of illegal drug or narcotic, the distributors would be involved . . . So not to involve the distributors with something as heinous, vile, and destructive to society as child pornography is ridiculous. I do not think that our conferees will mind at all to be instructed to make this an effective tough law that will accomplish the intended goal. To put perverts who produce or traffic in this nightmare of child pornography in jail.

The pornographers have had it all their own way for over 12 or 13 years, and this measure will only dent what they have been doing to our country. But that is better than nothing. But without the provision to hit the distributors it is more than worthless because it prevents anything effective being done next year. Distributors of this moral poison know exactly what they are carrying in their trucks as they push this garbage throughout our country, just as do illegal drug distributors, heroin distributors, cocaine distributors, distributors of illegal arms, and runners of gut-rotting moonshine liquor. Your motion to instruct conferees is the best course to take this year. I urge support of your efforts to make a bad bill effective.

I thank you for yielding.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute.

I do not think this debate could be completed without pointing out that perhaps we do need more laws, but they may not all need to be criminal laws. What this subcommittee found was that there is a vast and complicated set of problems involved with your exploitation and with pornographic activities that is spreading across the country. I would hope that most of the membership is not going to address this question by throwing more Federal criminal laws at a problem that they are concerned about. Laws may not stop child pornography but they certainly will provide in H.R. 8059 a basis for the effective prosecution of pornography and those who would engage in this form of child abuse. It has not been a tool of the Federal prosecutors before now.

The SPEAKER. The time of the gentleman from Michigan (Mr. CONYERS) has expired.

Mr. CONYERS. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I will just conclude with this point: What we found is that there

are problems in child care in the juvenile justice system, in family support, in delinquency facilities, involving youngsters who are voluntarily selling themselves merely to earn money. This is not a simplistic problem that can be described as evil moneymakers who are willing to do anything in terms of pornographic activity versus the rest of the world. I wish it were all that simple, but it is not.

I hope that from these hearings, in both the Committee on Education and Labor and the Committee on the Judiciary, we could move forward to further and more complete exploration of this problem.

The SPEAKER pro tempore (Mr. KAZEN). The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and pass the bill H.R. 8059, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

LAW SCHOOL DEPOSITORY LIBRARIES

Mr. NEDZI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8358) to amend title 44, United States Code, to provide for the designation of libraries of accredited law schools as depository libraries of Government publications.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 19 of title 44, United States Code, is amended by adding at the end thereof the following new section:

"§ 1916. Designation of libraries of accredited law schools as depository libraries

"(a) Upon the request of any accredited law school, the Public Printer shall designate the library of such law school as a depository library. The Public Printer may not make such designation unless he determines that the library involved meets the requirements of this chapter, other than those requirements of the first undesignated paragraph of section 1909 of this title which relate to the location of such library.

"(b) For purposes of this section, the term 'accredited law school' means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner of Education for such purpose.".

SEC. 2. The table of sections for chapter 19 of title 44, United States Code, is amended by adding at the end thereof the following new item:

"1916. Designation of libraries of accredited law schools as depository libraries.".

The SPEAKER pro tempore. Is a second demanded?

Mr. DICKINSON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. NEDZI) will be recognized for 20 minutes, and the gentleman from Alabama (Mr. DICKINSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. NEDZI).

Mr. NEDZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation has been brought before the House because of the fact that in certain geographic areas congressional designations of depository libraries have been exhausted.

There are presently two designations per congressional district. Many districts have filled these designations, yet there are law libraries without a designation. Because of the unique character of law libraries, it was felt that all law libraries should be given this designation as a matter of course, provided they are duly designated by the American Bar Association or by another agency authorized by the Department of HEW.

Mr. Speaker, I know of no opposition to this legislation. It passed out of subcommittee unanimously, and it passed out of the full committee unanimously.

Until today I have heard of no opposition to the legislation, but I see the gentleman from Maryland (Mr. BAUMAN) standing, and if he desires, I would be very pleased to yield to him.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding.

I have read over the legislation, and, quite frankly, I am a little surprised that there was not some opposition at some point in the consideration of this bill. It appears to me that it provides a $10 million subsidy for law libraries across the United States.

The gentleman's committee only a few months ago brought up legislation that was passed reducing the number of subscriptions to the CONGRESSIONAL RECORD available for Members of Congress to distribute in their districts, and the committee took a great deal of credit for cutting down expenditures in that regard.

My experience with law libraries, has been that such facilities are not open to the public; they are open to school's graduates, students, and to members of the Bar. Most people do not even know where such libraries, as far as public use of the law library is concerned.

It seems to me that if schools want these Government publications, they ought to be required to pay for them; otherwise the taxpayers have to pay for them. If the schools do not pay for these publications, this is another $10 million added to Federal expenditures from our taxpayer's pockets.

Mr. NEDZI. Mr. Speaker, the estimate the committee received was that there would be a maximum of $2.1 million, assuming all the 164 libraries would take advantage of the provisions of the legislation.

Further, in response to the gentleman, a library, in order to be designated a depository library, has to abide by certain regulations, which include access to the public. They cannot receive that designation in the absence of such an understanding with the Government Printing Office.

Mr. BAUMAN. Mr. Speaker, my reference to $10 million is for the 5-year period of the bill.

Nevertheless. I still think this is a direct subsidy to law schools, and they could well afford to pay this directly if they want these publications.

Mr. NEDZI. Mr. Speaker, it is true that one can look at this as a direct subsidy to law schools. On the other hand, one can look at it as an investment or as an assistance to higher education, as well as to the general public, because the public does and will have access to this material.

Mr. KREBS. Mr. Speaker, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from California.

Mr. KREBS. Mr. Speaker, I thank the gentleman for yielding.

It is not too often that I agree with my colleague, the gentleman from Maryland (Mr. BAUMAN), but it seems to me that his comments certainly are well taken.

I cannot help but feel, as he does, that this is indeed a subsidy to a certain segment of our educational community. If we are going to start opening this up to law schools—and I happen to be a graduate of a law school—we will then be asked to open it up to subsidize libraries for medical schools and seminaries as well.

I can see a whole Pandora's box of subsidies being opened by this well-intended type of legislation.

Unless the chairman comes up with some explanation to refute some of the comments made, I certainly would be constrained to oppose it and reluctantly so.

Mr. NEDZI. The fact of the matter is that we do subsidize libraries across the board out of an interest in the general education of our citizens.

It was felt by all those who looked into this matter and after extensive hearings that the unique character of law libraries deserves this kind of consideration. There is no evidence that all of the libraries are going to take advantage of it because there are considerable burdens connected with making available to the public these kinds of publications. It really is not a bonanza for an individual library to have this kind of designation.

For example, I have two vacancies in my district; and I cannot get a library to accept the designation, simply because of the obligations which they incur in becoming depositories.

Mr. KREBS. Mr. Speaker, if the gentleman will yield further, I think the chairman knows that I hold him in very high regard. However, I wonder whether the chairman would be kind enough to tell me as to where the line is going to be drawn.

I realize that this type of library is going to be open to the public, and that is the way it should be; but let us assume that some other type of school is willing to open its library to the general public. Are we then going to turn them down? If so, on what theory are we going to turn them down, if we are

going to subsidize law libraries in that fashion?

Mr. NEDZI. I suppose that we, in all candor, could address that problem down the road.

The fact of the matter is that we have not had any other libraries banging on our doors for this kind of designation because of the problems connected with it. Therefore, I do not really, as a practical matter, envision any such thing occurring.

As I indicated, it was felt that law libraries are unique. Government documents including statistics and hearings and reports of committees are very important to having a complete library. Consequently it was felt that this is not an unreasonable assistance to these law libraries.

Mr. KREBS. I thank the chairman.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, after examining this, I would like to know approximately how many law libraries actually requested this type of utilization of government documents.

Mr. NEDZI. My recollection is that there were 10 or 15 in that general ballpark, who actually were interested. It is expected that more will actually request it once the statute has been passed.

There have been expressions of support from more libraries than that, law libraries, and from organizations of librarians.

Mr. VOLKMER. All right. Does the act provide that only the government documents be available to the public or does the act provide that the facilities should be available to the public?

It makes a difference, and I am curious as to whether it means all of the library services of a law school, for example, would have to be available. Let us take a metropolitan law association. Many of them have their own law libraries.

Under this bill, does it mean that that whole area of libraries would have to be open to the public, or would it be that just the documents would be available to the public? There is a difference.

Mr. NEDZI. The statute reads: "Depository libraries which make government publications available for the free use of the general public."

Mr. VOLKMER. Therefore, it would only be those documents which are received from the Government, which they could set aside, and it would be only in that area; is that correct? Other libraries would not be required to make them available to the public; is that correct?

Mr. NEDZI. I will say to the gentleman that I think that is the specific language of the statute, but I find it difficult to believe that most law libraries would be that strict about reading the statute. Most likely, all of the facilities of the library would be open. That would be my surmise.

Mr. VOLKMER. I thank the gentleman very much.

Mr. NEDZI. Mr. Speaker, I have no further requests for time, and I reserve the remainder of my time.

Mr. DICKINSON. Mr. Speaker, I would just like to point out a couple of things that I think should be brought forth. Reading from the report itself, the cost of the bill will run about $2 million per year if the projected number of libraries do in fact apply. The basis of the estimate is that the enactment date of this legislation will be October of this year. According to the Bar Association, there are approximately 164 accredited law schools in the United States. Approximately 34 are already in the depository library program. However, it has been assumed that these 34 libraries will be transferred to the present law school section allowed for the designation of 34 additional depository libraries. This works out, according to the GPO, to a cost of about $8,700 per library, with a first-year startup cost of $3,550, so looking over the next 5 years it will run approximately $10 million.

I think, though, that we all are aware of the fact that within each congressional district there are already certain designated libraries that are depositories for Government publications. I think that this is a reasonably prudent expenditure of the public money, and I would support the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. NEDZI) that the House suspend the rules and pass the bill H.R. 8358.

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

TAX TREATMENT EXTENSION

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9251) providing that until July 1, 1978, the tax treatment of certain transportation expenses between a taxpayer's residence and place of work shall be determined without regard to Revenue Ruling 76–453 or any similar ruling, as amended.

The Clerk read as follows:

H.R. 9251

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tax Treatment Extension Act of 1977".

SEC. 2. COMMUTING EXPENSES.

With respect to transportation costs paid or incurred after December 31, 1976, and before April 30, 1978, the application of sections 62, 162, and 262 and of chapters 21, 23, and 24 of the Internal Revenue Code of 1954 to transportation expenses in traveling between a taxpayer's residence and place of work shall be determined—

(1) without regard to Revenue Ruling 76–453 (and without regard to any other regulation, ruling, or decision reaching the same result as, or a result similar to, the result set forth in such Revenue Ruling); and

(2) with full regard to the rules in effect before Revenue Ruling 76–453.

SEC. 3. FRINGE BENEFITS.

No regulations shall be issued in final form on or after October 1, 1977, and before July 1, 1978, providing for the inclusion of any fringe benefit in gross income by reason of section 61 of the Internal Revenue Code of 1954.

SEC. 4. CHANGES IN TREATMENT OF INCOME EARNED ABROAD.

(a) IN GENERAL.—Subsection (d) of section 1011 of the Tax Reform Act of 1976 is amended by striking out "December 31, 1976" and inserting in lieu thereof "December 31, 1977".

(b) TRANSITIONAL RULE.—If for any taxable year beginning in 1977—

(1) an individual is entitled to the benefits of section 911 of the Internal Revenue Code of 1954, and

(2) such individual chooses to take to any extent the benefits of section 901 of such Code.

then such individual shall be treated for such taxable year as an individual for whom an unused zero bracket amount computation is provided by section 63(e) of such Code.

SEC. 5. SALARY REDUCTION PENSION PLANS, CASH AND DEFERRED PROFIT-SHARING PLANS, AND CAFETERIA PLANS.

Section 2006 of the Employee Retirement Income Security Act of 1974 is amended—

(1) by striking out "January 1, 1978" each place it appears and inserting in lieu thereof "January 1, 1980", and

(2) by striking out "December 31, 1977" in subsection (d) and inserting in lieu thereof "December 31, 1979.".

SEC. 6. APPLICATION OF SECTION 117 TO CERTAIN EDUCATION PROGRAMS FOR MEMBERS OF THE UNIFORMED SERVICES.

Subsection (c) of section 4 of the Act entitled "An Act to suspend until the close of June 30, 1975, the duty on certain carboxmethyl cellulose salts, and for other purposes", approved October 26, 1974 (Public Law 93–483), is amended to read as follows:

"(c) EFFECTIVE DATE.—The provisions of this section shall apply with respect to amounts received during calendar years 1973, 1974, and 1975, and, in the case of a member of a uniformed service receiving training after 1975 and before 1979 in programs described in subsection (a), with respect to amounts received after 1975 and before 1983."

SEC. 7. EXTENSION OF 5-YEAR AMORTIZATION FOR LOW-INCOME HOUSING.

(a) IN GENERAL.—Subsection (k) of section 167 of the Internal Revenue Code of 1954 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1978" each place it appears and inserting in lieu thereof "January 1, 1979".

(b) TECHNICAL AMENDMENT.—Subsection (b) of section 203 of the Tax Reform Act of 1976 is amended by striking out ", and before January 1, 1978, and expenditures made pursuant to a binding contract entered into before January 1, 1978".

SEC. 8. RULES FOR CARRYOVERS WHERE LOSS CORPORATIONS ARE ACQUIRED (SECTIONS 382 AND 383 OF THE INTERNAL REVENUE CODE OF 1954)

Paragraphs (2) and (3) of section 806(g) of the Tax Reform Act of 1976 (relating to effective dates for the amendments to sections 382 and 383 of the Code) are amended by striking out "1978" each place it appears and inserting in lieu thereof "1980".

The SPEAKER pro tempore. Is a second demanded?

Mr. CONABLE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) will be recognized for 20 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, H.R. 9251, deals with two types of matters which urgently need resolution by the Congress before the end of this session.

First, the bill prohibits the Treasury Department from issuing rulings or regulations in two controversial areas prior to specific dates in 1978. This will provide Congress time to review any Treasury proposals next session before they become effective. The bill prohibits the Treasury from issuing any ruling or regulations prior to May 1, 1978, changing the treatment of certain commuting expenses to temporary worksites. In addition, the bill prohibits the Treasury from issuing any final regulations relating to the income tax treatment of fringe benefits prior to July 1, 1978.

Second, the bill delays or extends the effective dates of various provisions dealt with in the Tax Reform Act of 1976. Most importantly, section 4 of the bill delays for 1 additional year, until 1978, the changes made by the 1976 Tax Reform Act relating to American citizens employed abroad. The 1976 act changes have become extremely controversial. A number of alternative proposals have been suggested to alleviate the hardships that many Americans abroad face as a result of extraordinarily high housing and other costs. This bill's 1-year delay of the 1976 act provisions is intended to give the Congress an opportunity to review these alternative proposals in order to achieve more equitable tax treatment for all Americans working abroad without an excessive cost to the Treasury.

In addition, section 5 of the bill extends through 1979 the freeze on existing tax treatment of certain salary reduction plans, cash and deferred profit-sharing plans, and so-called "cafeteria" plans.

Section 6 of the bill extends the exclusion from income of amounts received under the Armed Forces health professions scholarship program for 2 more years so that those enrolling before 1979 will be covered by the exclusion through 1982. This will allow the Congress additional time to determine the appropriate tax treatment of this and similar programs.

Section 7 of the bill also extends for a year, through 1978, the special 5-year amortization rules for certain rehabilitation expenses for low-income rental housing.

Finally, section 8 of the bill delays for 2 years, until 1980, the effective date of the new limitations on net operating loss carryovers enacted by the Tax Reform Act of 1976. A number of technical problems with these limitations have been brought to the attention of Congress; this delay will allow additional time to consider further revisions to those rules.

Mr. Speaker, I urge the adoption of H.R. 9251.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope the Members will pay close attention to this bill. It is a very important bill. It is one that I think most Members will want to vote for, but I think they may very well want to consider the details, because there are a great many provisions here that will affect their own constituents.

Mr. Speaker, I, myself, rise in support of H.R. 9251, which relates to extensions of time for the existing tax treatment of seven separate items.

Now, the first provision of this measure extends for 2 years until December 31, 1979, the present tax treatment of cash and deferred profit-sharing plans and flexible fringe benefits, so-called "cafeteria" plans. The cash and deferred profit-sharing plan is an arrangement whereby an employee is given the choice of having certain amounts paid to him or contributed to a qualified profit-sharing plan. The Treasury has in the past objected to this option. It involves, in some cases, substantial deferrals from tax until the benefits are received; however, it is a widely used device in the corporate world and particularly with respect to those corporations that are in the vanguard when it comes to providing profit-sharing plan benefits.

The cafeteria plan is an arrangement whereby an employee is permitted to select the fringe benefits he wishes to receive; it is a very desirable flexible fringe benefit.

On December 6, 1972, the IRS issued regulations which would have taxed employees on the amount of their salary reduction. After the proposed regulation was issued, the IRS refused to rule specifically on the tax status of cafeteria plans. ERISA provides a temporary freeze of the status quo until December 31, 1976, in order to allow Congress the time to study the issue.

The Tax Reform Act of 1976 extended the freeze until December 31, 1977. Because of the continuing need to analyze the proper tax treatment of these plans, H.R. 9251 extends the freeze until December 31, 1979. This extension will allow the IRS additional time to re-evaluate the equities in this special situation before it goes into effect. It allows orderly congressional action on legislation which has been introduced on this issue, embodied in H.R. 8136 and H.R. 8908.

I think most of the Members will have constituent companies, particularly small companies, that participate in this type of plan and they will want to extend the prohibition on the Treasury from trying to limit the choices available under such a proposal.

Now, the second item included in this bill postpones for 1 year until January 1, 1978, the effective date of the foreign-earned income amendments contained in the Tax Reform Act of 1976.

I am sure the Members have had many letters from residents of their districts who work overseas at the present time, about this change in law which was contained in the Tax Reform Act of 1976. That act reduced the earned income exclusion from $20,000 to $15,000 for most Americans working abroad. It also changed the law regarding the application of the foreign tax credit, and the manner of including foreign source income in our progressive tax schedule. The Tax Reform Act of 1976 made the foreign earned income amendments retroactive to January 1, 1976, and that caused particular outrage, Members will remember, at the time.

The Tax Reduction and Simplification Act of 1977 postponed the effective date to January 1, 1977. H.R. 9251 postpones the effective date of these changes until January 1, 1978. The extension is needed to allow a more orderly review of the equities involved in the taxation of Americans working overseas.

It has been claimed—I think this requires further study—that our failure to enact this extension will, in fact, result in a switch of many Americans employed overseas to the employment of foreign nationals, and result in competitive detriment to American enterprise overseas.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague yielding to me, and bringing up this point relating to the tax treatment of income earned abroad by U.S. citizens in private employment in the bill before us. This 1976 tax provision, which went into effect on January 1 of 1977 has created a drift of American citizens who are employees of U.S. companies doing business overseas to competitive firms of other countries. This portion of the 1976 Tax Act has created a disadvantage to American firms doing business overseas with their own employees. I appreciate the gentleman's comment on that important issue.

I know that this section was put in the 1976 bill in the name of "closing tax loopholes" without giving appropriate consideration to the impact it would have on American citizens who work overseas. I appreciate that the gentleman from New York has brought it to the attention of the full House, because it was not adequately discussed by the full House when the conference report on the so-called Tax Reform Act of 1976 was before us. I want to compliment my colleague for raising this issue and urging its passage.

Mr. CONABLE. I thank the gentleman for his intervention. Again, I say this creates a problem for construction employees overseas. We have many engineering companies, and consulting companies, that have had to make much greater employment of foreign nationals in anticipation of this provision taking effect.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield further?

Mr. CONABLE. I yield.

Mr. ROUSSELOT. I might say that this particular provision of the 1976 act, concerned me when we rushed the bill through at the last minute. I suspected then that it would adversely affect American people working overseas at all levels

of employment—not just "executives" but other employees also. And it has.

In essence, the Tax Act of 1976 affects all U.S. citizens abroad in two ways: First, it forbids Americans overseas from taking both a tax credit on foreign taxes and the earned income exclusion; and second, it counts the money covered by the earned income exclusion for the purpose of determining marginal tax rates. These two measures have the effect of ignoring the extraordinary costs of living in highly inflated parts of the world. The highly inflated parts of the world, of course, are those that have the most money to spend. This so-called reform primarily keeps Americans from working where there is money to be made—a strange way to promote American business.

I appreciate my colleague bringing this to the attention of the House.

Mr. CONABLE. I thank the gentleman. The third provision of H.R. 9251 I would like to refer to extends for 2 years, until December 31, 1978, the income exclusion of amounts received by participants in the Armed Forces health professions scholarship program. Now, my colleagues will recall that scholarships are excluded from income normally. Under prior law, amounts received under this program were also excluded from income by special congressional action, Public Law 93-483. This prior exclusion expired at the end of 1975.

Special congressional action is required for the exclusion of this particular scholarship income because it does not fall within the normal scholarship exclusion. Section 117 of the Internal Revenue Code does not apply where the recipient is required, as a condition of the scholarship, to perform current or future services for the donor. These situations are treated as "quid pro quo" arrangements, with the result that the scholarship award is treated as taxable income rather than excluded.

Armed Forces health professions scholarship programs require the participant to serve in the armed services at the conclusion of his medical education.

Consequently, the exclusionary rule of section 117 does not apply. This would then postpone the taxibility of scholarships received under this program.

Fourth, H.R. 9251 extends for 1 year, until December 31, 1978, the applicability of Internal Revenue Code section 167(k). This section provides a special 5-year rapid depreciation period of rehabilitation expenditures for low-income housing, a very popular provision, I might say. Prior section 167(k) expired December 31, 1975. The Tax Reform Act of 1976 extended its application to December 31, 1977. The continued desirability of fostering the rehabilitation of low-cost housing has led the committee to extend to December 31, 1978, the effectiveness of section 167(k). I think many of my colleagues will want to support that change also.

Fifth, H.R. 9251 extends by 2 years, until 1980, the effective date of the net operating loss carryover changes contained in the Tax Reform Act of 1976. The net operating loss carryover changes were aimed at curbing the manipulation of net operating loss carryovers to avoid tax. The new NOL provisions change the fundamental concepts regarding the continuity of business enterprise requirement in sales situations and establish new continuity of ownership requirements for both sale and reorganization situations.

It is now evident that the sheer complexity of implementing such a major change in corporate tax law will require more time than originally envisioned. Accordingly, the committee voted to postpone the effectiveness of the NOL carryover changes until 1980, so we would have ample time to get the regulations ready.

The two remaining changes which H.R. 9251 contains do not deal with either the extension or postponement of some provision in the Internal Revenue Code. Rather, H.R. 9251 maintains the status quo in two areas which the IRS is contemplating changing by administrative action.

I think for that reason my colleagues may very well want to preserve the function of the Congress by voting for these two provisions. The first area concerns the tax treatment of commuting expenses. Under the normal rule-of-thumb, commuting costs are treated as personal expenses and therefore not deductible. However, many individuals have occasion to travel to temporary job locations in which case some of their commuting expenses may be deductible. The criteria for determining which types of travel to temporary job locations are deductible and which are not deductible have evolved over many years.

In revenue ruling 76-453, the IRS has served notice that it is deviating from the past standards for determining the deductibility of commuting expenses. Although the IRS subsequently postponed indefinitely the ruling's effective date, it demonstrates that the Service contemplates changing its interpretation of how to treat the cost of travel to temporary job locations. H.R. 9251 maintains the standards for tax treatment in this area without regard to revenue ruling 76-453 until April 30, 1978. This short "freeze" will permit the Congress to examine this important issue without prejudice to the numerous taxpayers who rely on the traditional standards for their treatment of commuting expenses.

May I call the Members' attention in that regard to the particular interest that people who are involved in the construction trades have in some stability in this part of the law. They do not want to see the law changed administratively. They want their Congressman to participate in any decision as to what the treatment of commuting expenses will be in the future, as in the past.

Finally, H.R. 9251 maintains the status quo with respect to the tax treatment of fringe benefits. Section 61 of the Internal Revenue Code defines "gross income" to include all income from whatever source derived. Under traditional tax principles, income includes payments in kind and the bestowing of anything of value on a person where the circumstances indicate the action is in the nature of compensation.

The tax treatment of fringe benefits again has evolved over many years. Heretofore certain fringe benefits have not been treated as income, often based on the rationale that they were incidental courtesies rather than compensatory in nature. Examples include reduced travel fares for employees of common carriers, like airlines, department store discounts for employees, employee parking, and reduced tuition for the children of college faculty members.

The IRS is pursuing activity in this area and seems likely to attempt some change in the tax treatment of fringe benefits, again by administrative action, rather than by the kind of legislative action that must emanate from the Congress. The committee believes that any changes would involve a significant shift in tax policy and would adversely affect millions of taxpayers. We believe that any such major change should not be made without meaningful participation by the Congress. Certainly the IRS should not short circuit the congressional role by issuing regulations which could not be fully examined by Congress because of the administrative timetable and the congressional schedule. It may develop that the Congress will not permit the IRS to change the law by administrative methods but insist on legislative action.

Accordingly, H.R. 9251 freezes the law on the tax treatment of fringe benefits until, in this case, July 1, 1978. This pause in the administrative process will allow the appropriate congressional committees to examine this issue. Doubtless it will be examined in connection with any tax reform effort we get into as a result of congressional initiatives in this field.

Mr. Speaker, I believe the extensions and postponements of the various tax law provisions contained in H.R. 9251 are meritorious. They will contribute to the orderly and equitable administration of our tax law. I urge my colleagues to join me in supporting the passage of H.R. 9251.

Mr. ULLMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, we have before us today a tax bill of unique qualities.

H.R. 9251 will not put us in need of yet another piece of future legislation to help interpret its provisions. This bill will need no "Technical Corrections Act."

The bill will not be another act for accountants and attorneys because it is not complex.

The bill is not a "tax reform" proposal, and it is not some obscure legislative vehicle referencing the cob-webbed sections of the IRS code.

On the contrary, H.R. 9251 seeks to return to the Congress a role too-often shirked: that of ultimate decisionmaking in the area of policy questions.

H.R. 9251 does several specific things.

I would like to focus on four of its provisions.

First, the act would defer any change in the tax treatment of expenses incurred in commuting to temporary job sites until April 30, 1978. Many of my colleagues are familiar with this issue. Countless letters have poured in on this subject, and over 50 Members have joined me in introducing legislation to halt a proposed IRS revenue ruling in this area. Our efforts have been somewhat successful, and section 2 of the bill before us would insure that Congress has adequate time to assess any change in this policy area before the IRS puts any policy into effect.

Second, H.R. 9251 would extend the pre-1976 Tax Reform Act exclusion provisions for income earned abroad for another year, until 1978. I am certain we have all been contacted by some of our constituents living abroad who have felt the effects of section 911 of the Tax Reform Act. The question here is not the substance of the provision in question but rather the ability of Congress to conduct oversight into any problems caused by the passage of the Tax Reform Act. H.R. 9251 would simply give us another year to delve into this matter. The President's tax reform proposals are expected to address this problem, but without an extension, the whole question of tax treatment of persons working abroad might become moot.

Third, H.R. 9251 incorporates a provision I have personally been working for regarding the Armed Forces health scholarship program. Under present law, amounts received by participants in this program are excluded for tax purposes. This exclusion does not apply to those participants entering the program after December 31, 1976. Without a continuation of this program, the United States will be losing twice. First, we will lose a tremendous amount of talent that will not be able to participate in this program because of additional costs, thus depriving the military of an adequate pool of health professionals, and increasing the cost of our volunteer army. Second, the citizens of this country will lose the potential service of these young men and women who might return to their communities and aid their fellow citizens with their skills. H.R. 9251 would extend the special tax treatment for this program for a 2-year period, at which time Congress could again reassess its need for such a policy.

Lastly, the bill before us would return to Congress the responsibility for deciding what is and what is not taxable income. The bill would prevent the IRS from making any changes in the tax treatment of so-called "employee fringe benefits" until July 1, 1978.

For over a year, the IRS has been floating various proposals to tax these fringe benefits. Most of us were swamped by letters from irate airline employees and college and university employees when the IRS hinted at making changes in the tax status of benefits derived from airline employee passes or from reduced tuition payments. The service even suggested taxing free parking places provided to employees; a proposal so absurd as to boggle the mind.

Without reaching the merits of these issues, I would hope all my colleagues would agree that these are matters that have been entrusted to the elected representatives of the people. If these changes are necessary, Congress, rather than bureaucracy, should make them.

We should initiate the changes, and not merely react to proposed rules and regulations purporting to "interpret" the laws we pass. Accordingly, I urge my colleagues to support the H.R. 9251 provisions that would defer until July 1, 1978, any change in the tax status for employee fringe benefits. This delay will give Congress time to look at this entire area of tax policy and suggest any needed revisions in the law.

In the past few years, Congress has taken back many of the powers and prerogatives it let slip away from it over time. This reawakening is exemplified by the new budgetary process, and the War Powers Act. The House has a chance to strike a similar blow for congressional accountability by passing H.R. 9251, and I urge my colleagues to vote favorably for this bill.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. JONES of Oklahoma. I will be happy to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, I am concerned about one thing I heard the gentleman say in referring to employees commuting to a temporary job site.

It seems to me absolutely outrageous to say that when an employee is going from one point to work at one place and then to another place, that employee should not be able to deduct those traveling expenses from income.

It might be different for the fixed commuter, who presumably could, if he wished to, move nearer the site of his occupation.

I take it that the gentleman said that like other fringe benefits, this will not be disturbed; is that correct?

Mr. JONES of Oklahoma. That is correct. The gentlewoman from New Jersey is correct.

The IRS had proposed to eliminate the particular deductions to temporary job sites. For a number of policy reasons, this was bad policy.

For example, at a time when we are trying to save energy, it does not make any sense to have a person going from his home to a permanent job.

Mrs. FENWICK. Exactly.

Mr. JONES of Oklahoma. Again, with respect to a temporary job site, that was a waste of energy; but more importantly, that was a policy question which should have been decided by the Congress and not by any bureaucracy.

Mr. CONABLE. Mr. Speaker, if the gentleman will yield, I would just like to reassure the gentlewoman from New Jersey (Mrs. FENWICK) that although she may not be satisfied with the law as it now is and apparently the IRS is not, we consider it as an issue of sufficient importance so that the Congress should decide it rather than some faceless bureaucrat down in IRS.

That is one of the purposes of this measure, to try to extend and to freeze for the time being the status of such commuting expenses.

Mrs. FENWICK. Therefore, there would be no change in that.

I thank the gentleman, Mr. Speaker.

Mr. JONES of Oklahoma. Mr. Speaker, I thank the gentlewoman from New Jersey (Mrs. FENWICK).

Mr. Speaker, I hope that H.R. 9251 will be passed by this House so that we can again say to the people of this country that their elected representatives are the ones who are setting policy, track policy, and other policy for this country and not any faceless bureaucracy.

Mr. ULLMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Speaker, I support this bill.

I merely would like to call the attention of the Members of the House to two sections of this bill of which we ought to be aware and about which we ought to be concerned because they may set precedents that could become a part of every annual tax bill from here on in.

One is the freeze on section 911, the reform of the manner in which people working overseas pay taxes.

I think we accepted a very hard role last year when we sought to close up that loophole. We probably overreached ourselves. I think some adjustment needs to be made in what was done last year. I hope that the year's extension included in this bill will, in fact, be a working time during which we make some of those adjustments. However, if this is just a device by which we yearly continue to exclude income earned by Americans overseas, I think we have done a very great disservice to tax equity and to the rest of Americans who do pay their taxes. I think people claiming American citizenship ought to pay their dues, whether they work in this country or overseas.

Mr. Speaker, I think that is the overwhelming consensus of the membership of this House; and if we did overreach, then we ought to find some way of adjusting those overreachings; but we ought not use this extension as a means of permanently extending the tax-free treatment of income earned overseas.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, the gentleman makes a good point.

As I understand it, the GAO is engaged in a study, right now, as a matter of fact. We expect a finding from that group by the end of this year as well as a report by the Treasury.

When we get that information, we will have some means to look at it. It will not be postponed forever. Two reports are forthcoming which I think will be helpful to the Congress.

Mr. MIKVA. Mr. Speaker, I thank the gentleman for his comments. I agree that those reports will be meaningful and

ought to be awaited. But we have all seen instances where a 1-year extension becomes renewed over and over again, and I am hoping that all of the people who are concerned about this problem will keep a watchful eye on it.

I am also concerned, I must say, about the devices that we have used here to try and freeze action of the Internal Revenue Service. I was dismayed, as I know many other Members of the House and the Committee on Ways and Means were, about what seemed to be precipitous action on the part of the Internal Revenue Service in seeking to change the tax treatment of various fringe benefits last year. I thought they acted precipitously, and I urged them to slow it down, and they did slow it down. But I am a little uncomfortable, I will have to say, about freezing it by a due date, and saying no one can touch this problem until such and such a date. If we do not continue to watch the problem, we may end up with a permanent freeze which will limit the Internal Revenue Service in what I think is a legitimate area of oversight and enforcement in this area of the law.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding.

I think this freeze is justified primarily because of the expected tax reform proposals to be coming from the White House in the near future. We clearly have to reach a modus operandi with the Department of the Treasury on this issue. We are dealing with a very significant question that is going to affect a lot of our constituents. It seems to me that it is our responsibility to face up to it rather than simply keep our heads down and let the Treasury by default decide how these important fringe benefits are going to be taxed.

Mr. MIKVA. For all the reasons the gentleman has stated I am voting for the bill; but I want to make sure that these provisions are not misread by some of the people interested in them into thinking that this will be the permanent modus operandi, that we are going to finesse these problems by sweeping them under extensions and freezes. I am sure the gentleman shares my concern to that effect and does not want to see that happen.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I would like to ask my good friend and distinguished colleague, Mr. CONABLE, a question about the application of the tax-exemption provision to another important Federal health scholarship program; namely, the Public Health Service National Health Service Corps scholarship program.

It is my understanding that students receiving scholarships under the National Health Service Corps program would also be covered by the tax exempt provision in your bill—because they were covered under previous law.

Could the gentleman please clarify his understanding of the committee's intent on this question?

Mr. CONABLE. The gentleman is very bright-eyed, and he noted that H.R. 9251 applied to the Armed Forces health professions scholarship program and other similar programs. Other similar programs, in my view, would be, for instance, the National Health Service Corps, which the Public Health Service sponsors under the Public Health Service Act to promote the education of physicians. This program would have the same general status as the Armed Forces health professions scholarship program, since it requires subsequent professional service and, therefore, it would be taxable under current law, unless this measure were enacted as being a quid pro quo no subject to the exclusion from taxable income.

Mr. CARTER. I want to thank the distinguished gentleman for yielding and to compliment him and the committee on their inclusion even in this matter of this tax exemption for the Public Health Service Corps scholarship program. I thank the distinguished gentleman again.

Mr. Speaker, I would like to express my strong support for section 6 of H.R. 9251.

Section 6 is a time-limited version of a bill which I introduced—H.R. 7993—and which has 27 cosponsors.

Basically this section of H.R. 9251 would provide a 2-year extension of the tax-exempt status for amounts received by students entering the Armed Forces health professions scholarship program or any "substantially similar program."

The practical effect of this provision is to exclude from taxable income the amounts received by these scholarship students in 1977 through 1982.

Because this provision also applies to "substantially similar programs"—this tax-exempt status should also be effective for amounts received under the Public Health Service's National Health Service Corps scholarship program.

Mr. Speaker, as you know, the Congress created these two Federal scholarship programs to address the problem of maldistribution of health personnel in medically underserved communities—including the military. In return for the scholarship support provided under these programs, students agree to serve after graduation in medically underserved areas.

However, Mr. Speaker, participation in these programs is now in jeopardy.

Due to expiration of prior tax-exempting legislation and because of a ruling by the Internal Revenue Service, amounts received under these programs after December 31, 1976, have been considered taxable income to the student.

The effect of this policy has been to impose a burden on many students enrolled in the program and to threaten program participation in general.

Some students are finding that they now have to borrow funds to pay the taxes on their scholarships. Moreover, it appears that this burden will fall most heavily on students who are in greatest need of financial assistance.

Clearly that was not the intent of Congress.

Mr. Speaker, we know that there is a shortage of physicians in the military at the present time and that there are still many, many areas in our country which lack access to health services.

I believe these scholarship programs can offer a meaningful approach to addressing the problem of maldistribution of health manpower—if we only let them.

Restoring tax-exempt status to these important scholarship programs will help assure that the public service goals of these programs are realized.

Mr. Speaker, though I would prefer a permanent solution to this problem, I strongly urge that this temporary extension of the tax-exemption be supported at this time.

I congratulate the committee for its concern about this issue and I look forward to working with you to develop a long-term solution.

Mr. FRENZEL. Mr. Speaker, H.R. 9251, the Tax Treatment Extension Act of 1977 is worthwhile in all its provisions, but most especially because it extends the pre-1976 act exclusion for section 911 (income earned abroad exclusion) through 1977, and because it prohibits IRS rulings on commuting expenses until after April 1978, and rulings on employee fringe benefits until after July 1978.

In the Tax Reform Act of 1976, the Congress approved a reduction in the exclusion for income earned abroad. It was a pretty good idea from the standpoint of equity, but it proved to be a unrelieved disaster from a standpoint of competition.

H.R. 9251 extends the old exclusion for 1 additional year which will give the Congress a chance to pass new legislation such as the Senate suggestion for special overseas expense deductions. Passage of H.R. 9251, and of subsequent legislation is absolutely essential to keeping American enterprise competitive abroad. Even with the exclusion, there is little incentive to put U.S. employees overseas. The cost factors force companies to bring U.S. people home. We should make every reasonable effort to provide incentives for U.S. firms to keep U.S. personnel abroad.

H.R. 9251 also keeps the Treasury from issuing rulings on commuting expenses and fringe benefits for about a year and a half. The IRS has made little noises about rulings in these areas which have been unsettling to the many thousands of employees involved.

This bill puts a freeze on such rulings until Congress can review tentative rulings or legislate itself in this field.

I hope the bill, H.R. 9251, is promptly passed.

Mr. ROSTENKOWSKI. Mr. Speaker, I strongly support the postponement for 1 year of the effective date of the changes made to the earned income exclusion by the 1976 act. It has become increasingly

clear during the past year that the 1976 act changes do not adequately deal with the problems of Americans working abroad.

The problems with the exclusion are primarily caused by the dramatic increases in living costs in certain areas overseas. In the Mideast, for instance, an apartment may rent for as much as $20,000 or $30,000 a year or more. The $15,000 exclusion provided for in the 1976 act is simply not adequate to cover the additional costs for housing, education, and the like which are incurred by Americans working in these high-cost foreign areas.

In the last Congress, as Chairman of the Task Force on Foreign Source Income of the Committee on Ways and Means, I became very concerned about the problems encountered by Americans working abroad. While the Task Force felt that the 1976 Act changes substantially dealt with certain problems that arose under prior law, it also felt that a reexamination of the exclusion for private individuals would nevertheless be appropriate. In particular, the task force felt that, in conjunction with an examination of the exclusion for overseas allowances provided governmental employees, there should be an examination of the appropriateness of extending to private employees any exclusions for excess foreign living costs which are provided to Government employees. On the basis of the additional information that has come to light in the past year and a half since the task force met, I feel even more strongly that Congress should seriously consider converting the present flat amount exclusion to a more equitable exclusion based on the excess living costs incurred by the taxpayer.

As Chairman ULLMAN has pointed out, the postponement of the effective date of the 1976 act changes will give the committee the opportunity to review the alternative proposals for modifying the taxation of Americans working abroad. I believe that it is very important that we seize this opportunity to adopt a more equitable system of taxing Americans working abroad which would take into account their actual excess foreign living costs.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 9251, as amended.

The question was taken.

Mr. STEIGER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE SUPPLEMENTAL REPORT ON H.R. 7442, MAKING TECHNICAL AND OTHER CONFORMING CHANGES

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may be permitted to file a supplemental report on H.R. 7442, making technical and other conforming changes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

UTILITY POLE ATTACHMENTS

Mr. WIRTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7442) to amend the Communications Act of 1934 to provide for the regulation of utility pole attachments, as amended.

The Clerk read as follows:

H.R. 7442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"UTILITY POLE ATTACHMENTS

"SEC. 224. (a) As used in this section:

"(1) The term 'utility' means any person who provides telephone service or electric energy to the public and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for wire communication. Such term does not include any corporation or other similar entity owned by the Federal Government.

"(2) The term 'State authority' means the government of any State, any political subdivision, agency, or instrumentality of a State, and any public utility district or other similar special purpose district established under State law.

"(3) The term 'Federal Government' means the Government of the United States or any agency or instrumentality thereof.

"(4) The term 'pole attachment' means any attachment for wire communication on a pole, duct, conduit, or other right-of-way owned or controlled by a utility.

"(5) The term 'usable space' means the space on a utility pole above the minimum grade level which can be used for the attachment of wires and cables.

"(b)(1) The Commission shall regulate the rates, terms, and conditions for pole attachments in any case in which such rates, terms, and conditions are not regulated by any State authority. Any such State authority may act at any time to regulate such rates, terms, and conditions. Any such regulations prescribed by the Commission or by any State authority shall assure that rates for pole attachments are just and reasonable.

"(2) A just and reasonable rate, whether prescribed by the Commission or by State authority, shall assure the utility the recovery of not less than the additional costs of providing pole attachments nor more than the actual capital and operating expenses of the utility attributable to that portion of the pole, duct, or conduit used by the pole attachment. Such portion shall be the percentage of the total usable space on a pole, or the total capacity of the duct or conduit, that is occupied by the pole attachment.".

SEC. 2. Upon the expiration of the 5-year period that begins on the date of the enactment of this Act—

(1) section 224(a)(4) of the Communications Act of 1934, as added by the first section of this Act, is repealed;

(2) section 224(b)(2) of such Act, as added by the first section of this Act, is repealed; and

(3) section 224(b)(1) of such Act, as added by the first section of this Act, is redesignated as section 224(b).

The SPEAKER pro tempore. Is a second demanded?

Mr. FREY. Mr. Speaker, I demand a second.

Mr. BAUMAN. Mr. Speaker, I object to unanimously ordering the second and I demand that it be ordered by tellers.

The SPEAKER pro tempore. The question is, will a second be ordered?

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mr. WIRTH and Mr. BAUMAN.

The House divided, and the tellers reported that there were—ayes 14, noes 4.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 389, nays 7, answered "present" 2, not voting 36, as follows:

[Roll No. 684]

YEAS—389

Abdnor	Clay	Giaimo
Addabbo	Cleveland	Gibbons
Akaka	Cochran	Gilman
Alexander	Cohen	Ginn
Allen	Coleman	Glickman
Ambro	Collins, Tex.	Goldwater
Ammerman	Conable	Gonzalez
Anderson, Calif.	Conte	Goodling
	Conyers	Gore
Anderson, Ill.	Corcoran	Gradison
Andrews, N.C.	Corman	Gudger
Annunzio	Cornell	Guyer
Applegate	Cornwell	Hagedorn
Archer	Cotter	Hall
Armstrong	Coughlin	Hamilton
Ashley	Crane	Hammer-schmidt
Aspin	Daniel, Dan	
AuCoin	Daniel, R. W.	Hanley
Badham	Danielson	Hannaford
Badillo	Davis	Harkin
Bafalis	Delaney	Harrington
Baldus	Dent	Harris
Barnard	Derrick	Harsha
Baucus	Derwinski	Hawkins
Beard, R.I.	Devine	Heckler
Beard, Tenn.	Dickinson	Hefner
Bedell	Dicks	Heftel
Beilenson	Dingell	Hightower
Benjamin	Dodd	Hillis
Bennett	Dornan	Holland
Bevill	Downey	Hollenbeck
Biaggi	Drinan	Holt
Bingham	Duncan, Oreg.	Holtzman
Blanchard	Duncan, Tenn.	Howard
Boggs	Early	Hubbard
Boland	Eckhardt	Huckaby
Bolling	Edgar	Hughes
Bonior	Edwards, Ala.	Hyde
Bonker	Edwards, Calif.	Ichord
Bowen	Edwards, Okla.	Ireland
Brademas	Eilberg	Jacobs
Breaux	Emery	Jeffords
Brinkley	English	Jenkins
Brodhead	Erlenborn	Jenrette
Brooks	Ertel	Johnson, Calif.
Broomfield	Evans, Colo.	Johnson, Colo.
Brown, Calif.	Evans, Del.	Jones, N.C.
Brown, Mich.	Evans, Ga.	Jones, Okla.
Brown, Ohio	Evans, Ind.	Jones, Tenn.
Broyhill	Fary	Jordan
Buchanan	Fascell	Kasten
Burgener	Fenwick	Kastenmeier
Burke, Calif.	Findley	Kazen
Burke, Fla.	Fish	Kelly
Burke, Mass.	Fisher	Kemp
Burleson, Tex.	Fithian	Ketchum
Burlison, Mo.	Flippo	Keys
Burton, Phillip	Flood	Kildee
Butler	Florio	Kindness
Byron	Flynt	Kostmayer
Caputo	Foley	Krebs
Carney	Ford, Mich.	Krueger
Carr	Ford, Tenn.	LaFalce
Carter	Forsythe	Lagomarsino
Cavanaugh	Fountain	Latta
Cederberg	Frenzel	Le Fante
Chappell	Frey	Leach
Chisholm	Fuqua	Lederer
Clausen, Don H.	Gammage	Leggett
	Gaydos	Lehman
Clawson, Del	Gephardt	Lent

Levitas	Nowak	Slack
Livingston	O'Brien	Smith, Iowa
Lloyd, Calif.	Oakar	Smith, Nebr.
Lloyd, Tenn.	Oberstar	Snyder
Long, La.	Obey	Solarz
Long, Md.	Ottinger	Spellman
Lott	Panetta	Spence
Lujan	Patten	St Germain
Lundine	Patterson	Staggers
McClory	Pattison	Stangeland
McCloskey	Pease	Stanton
McCormack	Perkins	Stark
McDade	Pettis	Steed
McFall	Pickle	Steers
McHugh	Poage	Steiger
McKay	Pressler	Stockman
McKinney	Preyer	Stokes
Madigan	Price	Studds
Maguire	Pritchard	Stump
Mahon	Pursell	Taylor
Mann	Quayle	Teague
Markey	Quie	Thompson
Marks	Quillen	Thone
Marlenee	Railsback	Thornton
Martin	Rangel	Traxler
Mazzoli	Regula	Treen
Meeds	Reuss	Trible
Metcalfe	Rhodes	Tsongas
Michel	Rinaldo	Tucker
Mikulski	Risenhoover	Udall
Mikva	Roberts	Ullman
Milford	Robinson	Vander Jagt
Miller, Calif.	Rodino	Vanik
Miller, Ohio	Roe	Vento
Mineta	Rogers	Waggonner
Minish	Rooney	Walker
Mitchell, Md.	Rosenthal	Walsh
Mitchell, N.Y.	Rostenkowski	Wampler
Moakley	Rousselot	Watkins
Moffett	Roybal	Waxman
Mollohan	Rudd	Weaver
Montgomery	Runnels	Weiss
Moore	Ruppe	White
Moorhead, Calif.	Russo	Whitehurst
	Ryan	Whitley
Moorhead, Pa.	Santini	Whitten
Moss	Sarasin	Wiggins
Mottl	Satterfield	Wilson, Bob
Murphy, Ill.	Sawyer	Wilson, C. H.
Murphy, N.Y.	Scheuer	Wilson, Tex.
Murphy, Pa.	Sebelius	Wirth
Murtha	Seiberling	Wright
Myers, Gary	Sharp	Wydler
Myers, John	Shipley	Wylie
Myers, Michael	Shuster	Yates
Natcher	Sikes	Yatron
Neal	Simon	Young, Fla.
Nedzi	Sisk	Young, Tex.
Nichols	Skelton	Zablocki
Nix	Skubitz	Zeferetti

NAYS—7

Ashbrook	Grassley	Volkmer
Bauman	Hansen	
Cunningham	Symms	

ANSWERED "PRESENT"—2

Flowers	Pike

NOT VOTING—36

Andrews, N. Dak.	Koch	Rose
	Luken	Schroeder
Blouin	McDonald	Schulze
Breckinridge	McEwen	Stratton
Burton, John	Marriott	Van Deerlin
Collins, Ill.	Mathis	Walgren
D'Amours	Mattox	Whalen
de la Garza	Meyner	Winn
Dellums	Nolan	Wolff
Diggs	Pepper	Young, Alaska
Fowler	Rahall	Young, Mo.
Fraser	Richmond	
Horton	Roncalio	

So a second was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. WIRTH) will be recognized for 20 minutes, and the gentleman from Florida (Mr. FREY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first let me compliment Mr. VAN DEERLIN, the chairman of the Communications Subcommittee, for the excellent job he has done shepherding this legislation through hearings and markup. His reputation for diplomacy and knowledge of communications is obviously well earned.

Mr. Speaker, I also wish to compliment the ranking minority member, the gentleman from Florida (Mr. FREY), and particularly the gentleman from North Carolina (Mr. BROYHILL), who brought this legislation from some significant disagreement 2 years ago to the point of consensus at which we are today.

As you know, Mr. Speaker, the regulation of CATV pole attachments is unfinished business. The Commerce Committee reported a pole attachment bill to the House at the end of the last Congress, but due to the press of business it was not considered.

That is why the present legislation is before you today. H.R. 7442 will resolve a longstanding problem in the relationship of cable television companies on the one hand, and power and telephone utilities on the other.

The Subcommittee on Communications held hearings on the pole attachment question in both the 94th and 95th Congresses. It heard from the FCC, the CATV companies, the State regulators and the utilities.

The subcommittee found that few States regulate pole rates even though poles are almost always a utility monopoly. Moreover, we found numerous abuses of this monopoly power. Many utilities were charging extremely high rates, unrelated to the costs of the attachments. Cable companies had no choice but to pay these rates; they had nowhere to go to get a fair hearing.

Mr. Speaker, perhaps the most interesting aspect of this bill is its innovative approach to balancing State and Federal regulatory roles. The concept of the "zone of reasonableness" within which any regulatory authority may operate provides a regulatory compromise between State and Federal interests while protecting the public interest in the face of a monopoly service.

This legislation is the product of lengthy negotiations and successful compromises. Under the skilled and diplomatic leadership of Chairman VAN DEERLIN, what last year was a controversial issue, this year is a consensus bill. H.R. 7442 is supported by both the National Association of Regulatory Utility Commissioners (NARUC), representing the State utility commissioners, and the National Cable Television Association because it strikes a fair balance between States' rights and Federal regulation.

Mr. Speaker, H.R. 7442 was reported unanimously by both the Subcommittee on Communications and the full Interstate and Foreign Commerce Committee. I urge its adoption by the House of Representatives.

H.R. 7442 has three major provisions: First, it requires the Federal Communications Commission to regulate the rates, terms and conditions of pole attachments if they are not being regulated by a state or other non-federal authority. It further provides that a non-federal authority may pre-empt the FCC's jurisdiction at any time. The Committee did not wish to require federal regulation where a state or locality was prepared to assume the responsibility.

H.R. 7442 does not establish procedures for adjudicating complaints or promulgating regulations. The Administrative Procedure Act provides sufficient guidelines for the FCC in this regard. More important, we have sought to solve this pole attachment problem with a minimum of bureaucracy and expense. Thus, the FCC should quickly establish regulations to implement this legislation, but should not oversee all pole attachment rates on its own initiative. We expect that the Commission will normally only take action in individual disputes after the complaint of one of the parties.

Second, H.R. 7442 provides that regulations written by, and proceedings conducted by the FCC or a non-federal authority shall assure that the rates for pole attachments are "just and reasonable." A just and reasonable rate is defined as one which falls within a zone of reasonableness set forth in the bill.

The floor of this zone is incremental cost: additional costs which the utility would not have had but for the CATV cable attached to its pole. This floor will ensure that a utility will not lose money by having CATV cable on its poles. Because CATV companies almost invariably are using otherwise unused space, even this floor will provide an added benefit to utilities.

The upper end of the range allows a charge to the CATV pole user of its proportionate share of the total costs of the pole, such total costs being the recurring operating expenses, and capital costs attributable to the utility pole for the period covered by the rate.

Once these expense items and capital costs are known, the formula provides a method for determining the maximum portion of these total pole costs which may be assigned to the CATV system. The allocation formula provides that a cable system may be required to bear a proportionate share of the total pole costs in exactly the same proportion that its attachment and attendant clearances take up usable space. By way of example, on a typical utility pole 35 feet in length there are 11 feet of usable space (that space above minimum grade level clearance usable for attaching cable, telephone, and electric wires and associated equipment). By what is virtually a uniform practice throughout the United States, cable television is assigned approximately one foot out of the 11 feet of usable space. (While cable only physically occupies approximately one inch of this space, half the clearance spaces between CATV cable and the next adjacent pole users are attributed to CATV.) In this example, therefore, cable's share of the total capital costs and operating expenses for the entire 35-foot pole would be one-eleventh.

Cable would pay its share of not just the cost of the 11 feet of usable space but of the total costs of the entire pole, including the unusable portion. This allocation formula reflects the concept of relative use of the entire facility.

The bill does not set specific rules for determining whether terms and conditions of pole attachment contracts are "just and reasonable." These usually include matters relating to inspections, extent and duration of use license, liability for a portion of future capital costs, insurance, surety bonds, lease revocation, and like matters. The fairness of any such terms and conditions cannot be precisely translated into statutory language because they will have to be viewed in the context of other contractual provisions, the prevailing practice in the industry, and the proposed pole attachment rate. The "just and reasonable" standard is sufficiently precise for the regulatory bodies to make a proper determination when presented with specific contractual provisions which are allegedly unfair.

Third, under the sunset provision contained in the legislation, the bills required zone of reasonableness will be repealed five years after the bill is enacted. While a zone is necessary in view of present circumstances we do not wish to restrict the discretion of the FCC and the states indefinitely. Therefore, Chairman Van Deerlin wisely suggested that the zone be eliminated after five years. This sunset provision will afford the FCC and non-federal authorities greater leeway to select a more appropriate rate making standard should experience and changed conditions so dictate. After five years, these regulatory bodies will only be guided by the "just and reasonable" standard.

While this range of reasonable rates is appropriate for cable television pole attachments, it is not the Committee's intent to imply it favors this standard for any other aspect of domestic common carrier or other communications regulation. As you know, Mr. Speaker, under Chairman Van Deerlin's able direction, the Communications Subcommittee is undertaking an in-depth review of the Communications Act of 1934. An important aspect of that review is to determine the proper ratemaking criteria to be used for common carrier regulation. It would thus be premature to imply that this standard would be appropriate for any other area of communications price regulation.

In conclusion, let me again compliment both Mr. Van Deerlin and the ranking minority member of the Communications Subcommittee, Mr. Frey, for their able leadership on this legislation. As a result of their work a problem which was brought to the attention of the Subcommittee less than two years ago should soon be resolved.

Mr. FREY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support passage of H.R. 7442, a bill that addresses a long standing problem for the cable television industry.

There are very few States in which there is a forum for cable television operators and utilities to present their respective positions in a dispute over the rates, terms, or conditions for pole attachments. As a result, the cable operators have often faced a take it or leave it situation in a dispute over a contract that they could neither afford to take nor leave. Unless the cable operator can attach his wires to poles, he may not be able to operate. If he agrees, and he may have no other choice, to an extremely high rental fee, his economic viability may be threatened.

Unlike the bill passed by our committee last year, this bill has the effect of establishing a nationwide standard for pole attachment rates. While I have in the past been uncomfortable with that concept, I view this bill as an interim relief measure since the rate standards expire after 5 years.

I would also note that our subcommittee will revisit this issue next year during our revision of the Communications Act.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, as a primary sponsor of the utility pole attachment bill, H.R. 7442, I am pleased that this needed legislation has finally reached the House floor for a vote. As a result of considerable discussion over the past several months H.R. 7442 is a relatively noncontroversial bill which focuses on a major controversy that has been the subject of extensive hearings last year, and this year by the Communications Subcommittee. I am glad that a workable compromise has been worked out.

H.R. 7442 represents a needed and appropriate legislative remedy to settle disputes between the cable television industry, and utility companies over the rates, terms and conditions of cable pole attachments. Disputes have centered around who has regulatory authority over utility pole attachments. The Federal Communications Commission has stated that it does not have the authority to regulate pole attachment rates. To further complicate this problem, only three States—California, Rhode Island, and Connecticut—have asserted jurisdiction in regulating pole attachment disputes.

The cable television industry has traditionally relied on telephone and power companies to provide space on poles for the attachment of CATV cables. Primarily because of environmental concerns, local governments have prohibited cable operators from constructing their own poles.

Accordingly, cable operators are virtually dependent on the telephone and power companies to provide cable television service to millions of existing as well as potential, new subscribers. Some utilities have taken advantage of their position over the cable operators. The result has been unreasonable attachment charges and the forced interruption of services to consumers currently subscribing to cable television. As of July, there were 27 States in which pole attachment disputes existed. In some cases utilities had increased rates by an average of 61 percent over previous years. In my State of North Carolina, service was disrupted for 3 days to aproximately 1,200 cable subscribers when a dispute arose over a rate increase proposed by a utility company. For 9 years the cable industry has sought a resolution of this untenable situation. A situation, I might add, that is troublesome to both the cable industry and the power and telephone companies.

This is why I am particularly pleased with the legislation that is currently before the House for consideration. H.R. 7442 represents the efforts of both the cable television industry and the utilities in working out a legislative remedy that will provide a badly needed forum for the resolution of rates, terms, and conditions of utility pole attachments. This legislation will authorize the Federal Communications Commission to adjudicate disputes relative to the rates, terms, and conditions of pole attachments. Additionally, the bill provides that any State may preempt the FCC and assume jurisdiction at any time. The legislation also provides that regulations prescribed by the FCC, or the appropriate State authority, assure that the rates for pole attachments are just and reasonable. Just and reasonable rates shall not be less than the incremental costs to the utility of providing the attachment, and not more than the actual capital and operating expenses associated with the pole attachment to the utility company.

H.R. 7442 represents a fair and balanced approach which will protect the interests of both utility companies and the 12 million Americans who currently subscribe to cable television in over 7,600 communities throughout the United States. The two principal parties in this matter, the National Cable Television Association and the National Association of Regulatory Utility Commissioners have formally approved of H.R. 7442. Therefore, I hope that my colleagues will join with me in supporting this needed legislation, and thereby providing an appropriate resolution of the pole attachment controversy.

Mr. FREY. Mr. Speaker, I have no further requests for time.

Mr. WIRTH. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. GORE).

Mr. GORE. Mr. Speaker, I would like to direct a question to the author of the bill, the gentleman from Colorado (Mr. WIRTH). As I read the language defining State authority, it would appear to me that rural electric cooperatives are included in the exemption stated by that language. Is that the intention of the author of the bill?

Mr. WIRTH. The gentleman is correct; yes.

Mr. Speaker, I yield back the remainder of my time.

Mr. LUKEN. Mr. Speaker, I rise in support of H.R. 7442, a bill which I cosponsored, which would amend the Communications Act of 1934 to provide for the regulation of utility pole attachments.

The cable television industry brings broadcast signals and other entertainment and information to the subscribers by attaching its wires to existing utility company poles.

It has been brought to the attention of the Subcommittee on Communications that utility pole owners are now in a position to charge cable television companies almost any rates they choose for the rights to attach their equipment to the utility poles. Cable television owners do not have the leverage necessary to negotiate for a fair price. This places an unreasonable burden on the cable companies and their subscribers.

This bill would give either the Federal Communications Commission, or any State or local authority which so desired it, the authority to assure that attachment rates are just and reasonable. It further defines a just and reasonable rate as one which will assure the utility of recovery of not less than the additional cost of providing the pole attachment. The upper limit of such a rate must assure that the utility will not recover more than the actual capital and operating expenses of the utility attributable to the percentage of the total usable space on the pole occupied by the pole attachment.

It is important to note that 5 years from the date of the enactment of this bill the definition of what is a just and reasonable rate is repealed. This "sunset" provision insures that a definition which properly reflects today's market realities does not lock the regulatory authorities into what may, in the future, become an antiquated standard as new technolo-

gies and new competitive relationships develop.

It is also important to point out that this bill gives the FCC authority to assure that rates are just and reasonable only in cases where State or local authorities do not wish to accept this responsibility.

Mr. Speaker, this is a good bill. It addresses a specific problem that has been brought to the attention of Congress. It does so, in what I believe, is a simple and straightforward manner without creating a large new Federal bureaucracy.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. WIRTH) that the House suspend the rules and pass the bill H.R. 7442, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MARINER TRADE-IN BILL

Mr. BIAGGI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7278) to amend section 10 of the Merchant Marine Act, 1936, as amended.

The Clerk read as follows:

H.R. 7278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 510(i) of the Merchant Marine Act, 1936 (46 U.S.C. 1160(i)) is hereby amended to read as follows:

"(i) The Secretary of Commerce is authorized to acquire mariner class vessels constructed under title VII of this Act and Public Law 911, Eighty-first Congress, and other suitable vessels, constructed in the United States, which have never been under foreign documentation, in exchange for obsolete vessels in the National Defense Reserve Fleet. For purposes of this subsection, the trade-in and trade-out vessels shall be valued at the higher of their scrap value in domestic or foreign markets as of the date of the exchange: *Provided,* That in any exchange transactions, the value assigned to the traded-in and traded-out vessels will be determined on the same basis. The value of the traded-out vessels shall be as nearly as possible equal to the value of the traded-in vessel plus the fair value of the cost of towing the traded-out vessel to the place of scrapping. To the extent the value of the traded-out vessel exceeds the value of the traded-in vessel plus the fair value of the cost of towing, the owner of the traded-in vessel shall pay the excess to the Secretary of Commerce in cash at the time of exchange. This excess shall be deposited into the Vessel Operations Revolving Fund and all costs incident to the lay-up of the vessels acquired under this Act may be paid from balances in the Fund. No payments shall be made by the Secretary of Commerce to the owner of any traded-in vessel in connection with any exchange under this subsection. Notwithstanding the provisions of sections 9 and 37 of the Shipping Act, 1916, vessels traded out under this subsection may be scrapped in approved foreign markets. The provision of this subsection (i) as it read prior to the 1976 amendment shall govern all transactions made thereunder prior to that amendment.".

The SPEAKER pro tempore. Is a second demanded?

Mr. RUPPE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. BIAGGI) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. RUPPE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7278, a bill to upgrade our National Defense Reserve Fleet by authorizing the Secretary of Commerce to acquire Mariner class and other suitable vessels on exchange for obsolete vessels in that fleet scheduled for scrapping.

As the Members know, the Secretary of Commerce has the responsibility to provide merchant shipping during times of national emergency. One of the most available sources of merchant shipping available to the Secretary for this purpose are the vessels which are laid up in the National Defense Reserve Fleet. Unfortunately, most of these vessels date back to World War II. By relative standards, they are slow, and have small carrying capacity.

In former years, U.S.-flag break-bulk vessels were readily available from both the scheduled liner service—both subsidized and nonsubsidized—and so-called tramp, or unscheduled shipping. The tramp fleet, once a large source of contingency surge capability is almost nonexistent. Since the U.S.-flag tramp fleet is no longer available, the National Defense Reserve Fleet is more important than ever.

Unfortunately, there are now only about 130 merchant vessels in the National Defense Reserve Fleet with any shipping utility. The remaining vessels are ready for scrapping.

Clearly, something must be done to upgrade this vital national security asset. And H.R. 7278 would just do that.

H.R. 7278 would authorize the Secretary of Commerce to acquire Mariner class and other suitable vessels, constructed in the United States, which have never been under foreign documentation, in exchange for obsolete vessels in the National Defense Reserve Fleet. A "suitable vessel" would be any oceangoing vessel determined by the Secretary of Commerce to be suitable for upgrading the National Defense Reserve Fleet. Any criteria to be used in determining whether a vessel is suitable would be set forth in regulations promulgated by the Maritime Administration of the Department of Commerce.

In acquiring such vessels, the traded-in and traded-out vessels would be valued on the same basis; at the higher of their scrap value in domestic or foreign markets on the date of the exchange. The value of the traded-out vessel would be as nearly as possible equal to the value of the traded-in vessel, plus the fair value of the cost of towing the traded-out vessel to the place of scrapping. The fair value of such towing is included because if the owner of such traded-in vessel was to scrap it abroad, he would be able to carry cargo to an area near where the vessel would be scrapped.

To the extent that the value of the traded-out vessel exceeds the value of the traded-in vessel, plus the towing cost, the owner of the traded-in vessel would pay the excess to the Secretary of Commerce in cash at the time of exchange for deposit into the Vessel Operations Revolving Fund, and all costs incident to the layup of the traded-in vessel would be paid from balances in the fund. No payments would be made by the Secretary of Commerce to the owner of any traded-in vessel.

Finally, H.R. 7278 provides that, notwithstanding the provisions of sections 9 and 37 of the Shipping Act of 1916, which prohibits the transfer of American-flag vessels to foreign ownership without the consent of the Secretary of Commerce, vessels traded out under the bill may be scrapped in approved foreign markets.

Mr. Speaker, the witness for the Department of Defense stressed that the opportunity afforded by H.R. 7278 to rejuvenate our National Defense Reserve Fleet by the acquisition of relatively modern cargo ships must not be lost, as such vessels are particularly well suited to the Department of Defense in wartime. The reported bill would provide for a most efficient method of accomplishing this objective with adequate safeguards for the Government.

I strongly urge the House to support H.R. 2787, so that we have the opportunity to upgrade the National Defense Reserve Fleet.

Mr. RUPPE. Mr. Speaker, I rise in support of H.R. 7278, a bill which allows the Secretary of Commerce to exchange obsolete vessels in the National Defense Reserve Fleet for newer vessels. This legislation basically extends, and makes permanent, a law which expired on January 2, 1977. I support it because it would permit the improvement of our National Defense Reserve Fleet at no expense to the taxpayer.

Because of containerization and other technological improvements in the U.S. merchant marine, many standard general cargo ships built in the 1950's and 1960's have become commercially obsolete and therefore subject to scrapping by their private owners. However, these vessels which are relatively fast and have self-sustaining cargo loading and discharging capacity are useful for military purposes. H.R. 7278 allows the Secretary of Commerce to obtain these vessels by exchanging them for vessels in the National Defense Reserve Fleet which are obsolete in every respect. Thus the Government gets a newer vessel, and the private owner gets equivalent scrap value.

The bill requires that trade-in and trade-out vessels be valued on the same basis, at the higher of their scrap value in the domestic or foreign markets on the date of exchange. The value of the trade-out vessel is to be, as nearly as possible, equal to the sum of the trade-in vessel plus the cost of towing the trade-out vessel to the scrapping yard. Thus the private operator need only bear the cost of delivering his vessel to the National Defense Reserve Fleet facility; he does not have to bear the cost of delivery to the scrap yard, which in many cases will be in a foreign country.

If the value of the trade-out vessel is higher than the trade-in vessel, the owner is required to pay the excess in cash to the Secretary at the time of exchange. This amount is to be deposited in the vessel operations revolving fund, and all costs incident to the layup of the vessels acquired under the act are to be paid from this fund. Under no circumstances is the Government authorized to make payments to the owner of the trade-in in case of a difference in value resulting from the transaction. Traded-out vessels may be scrapped in approved foreign yards.

I ask all Members to join in supporting this bill.

Mr. BIAGGI. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. AuCoin).

Mr. AuCOIN. Mr. Speaker, I want to say that I support the purposes of the act, which are, as has been explained, to upgrade the vessels in the National Defense Reserve Fleet. But I would like to ask the gentleman managing the bill a question with respect to the language on lines 18 to 21 on page 2 of the bill. As I understand it, this language permits the transfer of American-flag vessels to foreign ownership for purposes of scrapping without Maritime Administration approval. This is a departure from current practice, which requires such approval.

I understand that current practice requires that bids be let a couple times to establish whether or not domestic scrappers have an opportunity and an interest in scrapping those vessels themselves.

I cannot understand, in the first place, how this provision is in any way basic to the purposes of the act.

Mr. BIAGGI. Well, we do have scrapping in foreign markets. In order to accomplish it with these vessels, the transfer is solely for technical purposes. This was discussed during the committee hearings. In order to scrap in foreign markets, you must transfer title foreign. That is what we are doing in this legislation only for that purpose, for scrapping.

Mr. AuCOIN. Mr. Speaker, if the gentleman will yield further, it is my understanding that we already can offer for scrapping purposes these vessels, but that it requires in the first instance Maritime Administration approval.

I am wondering why the bill waives that approval, when we are saying to the domestic scrapping industry, on the other hand, under authority vested in the Department of Commerce, that it may not under some circumstances export its scrap metal to foreign markets.

It seems to me that if we are going to play the free market game of the one side, we also ought to play it on the other. I do not understand why it is that this provision has been added to this bill since it does not seem to serve the basic intent of the bill.

Mr. LEGGETT. If the gentleman will yield, it is my understanding that this provision, of course, was in the 1973 bill. It was never used. There were never any ships offered under the previous legislation. As a result, the scrapping provisions occurred under the regular procedure, and no particular exchange took place under the predecessor legislation.

Now, this bill does provide, as I understand it, this procedure as one of the incentives to an owner who has a ship, to put that ship into the reserve fleet rather than to sell it abroad for scrapping. Obviously, one of the benefits, one of the incentives, and one of the reasons why he is going to use this exchange provision is No. 1, to get the best bid for his exchange scrap that he can. If the bid is not adequate and there is a better foreign bid, there is an automatic right under the legislation to get the best free market bid which may be found.

Mr. RUPPE. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. I yield.

Mr. RUPPE. Is not the point fairly moot, because the Maritime Administration actually makes the sale, and since they are making it from their own inventory they have to approve all aspects of the sale before the vessel is sold, before the transaction is concluded?

Mr. BIAGGI. On line 21, page 2, it says, "approved foreign markets." In the end, Marad must approve the transfer and the scrapping, so there is no real change.

Mr. AuCOIN. If I am not mistaken, sections 9 and 37 of the Shipping Act of 1916 are the authorities under which the Department of Commerce and the Maritime Administration governs the sale of vessels for scrapping purposes in foreign markets, so by having a notwithstanding clause in the bill, we are indeed changing the statute, and making a different system than currently exists today.

The gentleman from Michigan's response is not adequate.

Mr. LEGGETT. If the gentleman will yield further, take as an example a shipping company that has a surplus 18,000-ton ship. It is no longer of any value to him, and he wants to get rid of it. It does not really make any particular difference to him whether or not the ship is put into the reserve fleet; whether or not it is scrapped; or whether or not it is sunk. He wants to get as much out of that ship as he can. This is a provision which would obviate the necessity of going through the laborious procedure of sections 9 and 37, which the gentleman has mentioned, on the second page.

Rather than requiring that the ship be transferred, then sold for scrap to the maximum benefit to the shipping company, this legislation would allow the ship to go into our inventory, and we take out more obsolete inventory. We put that up for bid under the proper regulations. If a domestic scrapper can provide the best net bid, then that would be accepted. If the foreign scrapper provides the best net bid, then under this legislation the foreign scrapper would get the bid.

There is nothing confusing about that. It is merely to give the best ships to the Government and the most cash to the shipping company.

Mr. AuCOIN. I would just say to my friend, the gentleman from California, that I do not think many of us are confused about it at all. I simply submit that there is a basic inequity in allowing owners of vessels to escape the controls of the Maritime Administration for purposes of selling to foreign scrapping markets, while not at the same time changing the current Department of Commerce control authority over domestic scrappers when they may want, under the free market principle established here, to sell in the foreign market, as well. We are not doing that, and I think in that sense the bill has an inconsistency here that is not entirely fair to domestic scrappers.

Mr. BIAGGI. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I rise in support of the legislation. I think the bill is well founded. It provides for the upgrading of the National Defense Reserve Fleet. It does change the rules a little bit, so far as domestic scrappers are concerned, but that is entirely a different issue. Domestic scrappers cannot get their steel foreign, and they have to be bound by domestic regulations.

This legislation is in the interest of the United States and a modern reserve fleet, and it is also in the interest of U.S.-flag vessel operations.

Mr. Speaker, as mentioned by the distinguished chairman of the committee, the Maritime Administration of the Department of Commerce, maintains a National Defense Reserve Fleet of merchant vessels for use in augmenting sealift capacity in times of emergency. Since it was established after World War II, these ships have repeatedly been called upon to provide additional shipping capacity. Most recently, 172 ships were activated for Vietnam sealift support and the National Defense Reserve Fleet capability remains a principal source of sealift for U.S. reinforcement of NATO. However, their age and condition make their future use very unlikely. A great many of the ships in the National Defense Reserve Fleet are there awaiting scrapping.

The committee took action with respect to this situation in the 93d Congress, and was instrumental in the enactment of Public Law 93–605. That act amended section 510(i) of the Merchant Marine Act, 1936, as amended, to authorize the Secretary of Commerce, within 2 years after enactment, to acquire more modern *Mariner* class vessels for the National Defense Reserve Fleet, in exchange for obsolete vessels in the fleet.

Public Law 93–605 was enacted on January 2, 1975, and expired by its terms on January 2, 1977.

Essentially, H.R. 7278, as introduced, set forth the provisions of Public Law 93–605. However, unlike that act, H.R. 7278 grants the Secretary of Commerce permanent authority in this regard.

During the hearings on H.R. 7278, both the witness for the Department of Commerce and the Department of Defense recommended that the bill be amended so that the Secretary of Commerce would have such authority to acquire *Mariner* class vessels "and other suitable vessels, constructed in the United States, which have never been under foreign documentation." As this amendment would

greatly assist the Secretary of Commerce in upgrading the vessels in the National Defense Reserve Fleet, the committee adopted this amendment.

As reported by the committee, H.R. 7278 will assist the Secretary of Commerce in acquiring the vessels we so desperately require in order to upgrade the National Defense Reserve Fleet.

I strongly urge my colleagues on both sides of the aisle to support H.R. 7278.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BIAGGI) that the House suspend the rules and pass the bill H.R. 7278, as amended.

The question was taken.

Mr. RUSSO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

URBAN MASS TRANSPORTATION ACT REVISION

Mr. HOWARD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8346) to amend the Urban Mass Transportation Act of 1964 to revise the program of Federal operating assistance provided under section 17 of this act.

The Clerk read as follows:

H.R. 8346

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (d) of section 17 of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out the last sentence thereof; and

(2) by striking out in subparagraph (4) "50 percent" and inserting in lieu thereof "80 percent".

The SPEAKER pro tempore. Is a second demanded?

Mr. SHUSTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. HOWARD) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. SHUSTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 8346 amends section 17 of the Urban Mass Transportation Act of 1964. Section 17 was added to the act in 1976 in order to preserve and maintain rail commuter service in the regions of the country which were served by rail carriers being reorganized under the Regional Rail Reorganization Act of 1973. That act is the genesis for ConRail, and as a direct consequence of it, ConRail inherited from the bankrupt rail carriers in reorganization the responsibility to assume the contractual obligation of operating some, but not all, rail commuter services. Those contracts which were not assumed automatically had to be renegotiated. Not only did the service contracts have to be renegotiated, they had to be negotiated in accordance with cost principles incorporated into the Regional Rail Act. The net result was that commuter service contracts would be more expensive. This meant that the States and responsible local authorities that contracted for these services would need to find resources to meet these increased costs. There were no provisions in the Regional Rail Act to assist the States or local authorities to meet these costs. When this was discovered, the Congress was considering major legislation to amend the regional rail bill and to reform the economic regulation of railroads by the Federal Government. This legislation was eventually enacted as the Railroad Revitalization and Regulatory Reform Act of 1976, and section 808 of that act created section 17 of the Urban Mass Transportation Act. It provided $125 million in funds which were to be used to keep rail commuter service operating in the region. The funds were to be available to offset increased costs of service during the 2½ years immediately following the commencement of service by ConRail. The plan was to provide Federal assistance beginning at 100 percent for the first year and decreasing to 50 percent for the last 6 months of the program. The program started in April of 1976. It will end in September of 1978.

The program has achieved much of its purpose, but as it winds down, we have discovered some defects. H.R. 8346 cures these defects by doing two things. First, it would eliminate the last sentence of section 17(d) of the Urban Mass Transportation Act of 1964.

The result of this change is that Federal assistance could be maintained for the last 180 days of the program without any assurance from the States, local public bodies, or agencies thereof that the subsidized service will be continued after the existing section 17 program terminates on September 27, 1978. Under existing law, these assurances must be made by early next year.

The benefit of this change is that the States and local authorities will have additional time to determine the extent of the service each can provide after Federal assistance stops. Also, they will have more time in which to negotiate service contracts and to devise and to implement ways of meeting their costs, without risk of loss of eligibility for the last 6 months of the program.

Secondly, the bill would change the amount of the Federal share of the subsidy to 80 percent for the final 180-day segment of the program. Under section 17(d)(4), the subsidy is presently set at 50 percent. This change will not require the authorization of any new funds, yet it will avoid a precipitous drop in the amount of Federal assistance, and it will better enable the States and local authorities to meet the costs of maintaining the rail commuter service now being provided under their respective programs.

The results to be achieved by H.R. 8346 are consistent with the original goal of section 17, and I urge that the House act favorably on the bill.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 8346. I support the bill because it is a modest attempt to ease the burden of local governments as they assume the increasing costs of paying for their local commuter rail services.

It should be emphasized that there is no additional authorization involved in this modest bill. It should also be emphasized that there is no extension of the 30-month period over which the local communities must assume the increased burden of paying for their rail subsidy. This is an added cost which was thrust upon them as a result of the ConRail legislation which this Congress passed just a few years ago.

Mr. Speaker, it should also be emphasized that while this obviously benefits those large urban areas which have commuter rail service, the Subcommittee on Surface Transportation is not at all unmindful of the needs of the rural areas of America, and indeed, as this legislation was originally fashioned, it contained a second section which provided for more flexibility for rural areas with public transit. However, as a result of some technical problems with the Committee on the Budget, this second section, which would have benefited the rural areas of America, has been removed.

The subcommittee and the full committee, I am sure, stand prepared to support this legislation which will give more flexibility to rural areas. So I think it is in the best interest of America's transportation system that those of us who do represent rural areas look favorably upon this modest legislation today.

Mr. Speaker, the subcommittee and the committee are indeed mindful of the public transit needs of rural areas, and they stand ready, when our major transit bill comes to the floor next year, to support more flexibility for the rural areas of America.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr SHUSTER. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Speaker, I thank the gentleman for yielding.

I would just like to say that the gentleman is absolutely correct. The only reason that provision has been removed from this legislation has to do with a technical problem involving jurisdiction. It certainly is the intention to take care of the important measure that the gentleman referred to in the large bill which will come up during the next session of this Congress.

Mr SHUSTER. Mr. Speaker, I thank the gentleman from New Jersey (Mr. HOWARD).

I support this legislation for the reasons I have stated and urge its adoption.

Mr. COUGHLIN. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I am happy to yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Speaker, I rise today in support of H.R. 8346, the Urban Mass Transportation Act revisions. Passage of this bill is of paramount im-

portance if commuter rail services are to be continued.

In 1976, the Railroad Revitalization and Regulatory Reform Act authorized $125 million in operating assistance funds to maintain those commuter rail services adversely affected by the reorganization of the northeast and midwest railroads. Under this act, ConRail was required to perform commuter service for the first 180 days, after which time State and local agencies would take over the services. The program authorized these State and local agencies Federal assistance totaling 100 percent of operating costs in the second 180 days, 90 percent for the next year, and 50 percent for the program's last 180 days.

However, inflationary costs have impeded the scheduled scaledown of assistance and as the last 180 days approach, many State and local commuter rail lines face the alternatives of service cutbacks or termination.

The legislation we are now considering, will help forestall these undesirable consequences. H.R. 8346 will ease the cost burden by allowing program participants more time to determine the extent of commuter service they can afford to provide until the termination of the program. By increasing the Federal share of commuter rail service costs from 50 to 80 percent, continued service will be insured during the final days of the program.

In my opinion, this is a modest Federal allocation for a program which greatly aids our Nation's energy conservation efforts. The cost-efficiency and energy-saving features of rail transit make a viable argument for increasing the Federal share by 30 percent for the last 180 days. Also, during this final period, the administration and the Congress will have the time to enact a much needed, long-term mass transit program—one that is consistent with our current energy goals and needs.

H.R. 8346 also signals a Federal recognition of the value of mass transit as a partial but integral answer to the energy and pollution problems facing urban communities.

Of the potential outlays of $10 million, approximately $4.2 million will be allocated to the Greater Philadelphia area. Through this expenditure, 115,000 daily riders of the Greater Philadelphia transit operations will be able to continue their present mode of commuting. It will further insure that our Nation will not experience an increase in gasoline consumption due to an avoidable addition of 115,000 individuals on our Nation's highways each day.

I would like to take this opportunity to commend my colleague from Pennslyvania, the Honorable BUD SHUSTER, chairman of the National Transportation Policy and Study Commission, the chairman of the committee, Mr. HOWARD, and my other colleagues, the Honorables ROBERT EDGAR and PETER KOSTMAYER, for insuring that the full House would have the opportunity to vote on this legislation.

I strongly urge a favorable vote on H.R. 8346.

Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 8346. H.R. 8346 would amend section 17 of the Urban Mass Transportation Act in two respects: One, it would change the Federal match for the last 180 days of the program from 50 to 80 percent; and two, it would eliminate the requirement that local assurances be provided that commuter services will be continued after the termination of the program next September.

As you know, section 17 was originally enacted to offset the potentially disruptive effect the reorganization of the Northeast railroads would have had on commuter rail service in the Northeast and Midwest. The subsidy was set to terminate in September 1978, and it was believed that within this time frame, responsible parties could devise the financial means for continuing the rail service.

While this still may be true, the biggest problem at the moment is getting a good estimate of operating costs. Many contracts have yet to be negotiated with ConRail, and until they are, it will be very difficult for the operating agencies to give the proper assurances.

These suggested changes will have no budgetary impact, Mr. Speaker, since the previously authorized levels will not be exceeded.

I urge support of this legislation.

Mr. EDGAR. Mr. Speaker, H.R. 8346 is one of those bills which come before us too rarely—a bill which proposes to do a lot of good without costing a cent. With or without H.R. 8346, which I introduced with my colleague from Pennsylvania, Mr. KOSTMAYER, the authorization for this important commuter rail assistance program will be $125 million. But without H.R. 8346, energy-efficient and environmentally sound commuter rail lines would be threatened with a termination of service.

By law, the existing commuter rail subsidy authorized by section 17 of the Urban Mass Transportation Act is 90 percent for the costs of rail passenger service operations conducted at a loss by ConRail. On April 1 of next year, the 90-percent share is scheduled to be reduced to 50 percent. H.R. 8346 would reduce the subsidy share from 90 percent to 80 percent, allowing local communities to have more time to absorb the substantial burden of providing matching funds for commuter rail assistance.

Especially in the area of my congressional district, Delaware County, Pa., and the area of my colleague, Mr. KOSTMAYER of Bucks and Montgomery Counties, local communities have found it difficult to absorb the existing 10-percent matching requirement for section 17 assistance. There are indications that these communities would find it virtually impossible to budget for a 50-percent matching requirement that would be necessary without approval of H.R. 8346.

Mr. Speaker, there are 13 commuter rail lines in the Philadelphia metropolitan area which would be adversely impacted by rejection of this legislation. These lines carry over 100,000 commuters daily between the suburbs and the city. It would be a transportation and economic disaster if these lines were forced to shut down.

H.R. 8346 is an emergency bill drafted to solve the short-term financial adjustment which I feel has placed more of a burden on local communities than was anticipated when section 17 was enacted.

Mr. Speaker, the lead editorial in this morning's Philadelphia Inquirer points out that passage of this bill is essential to provide relief to townships and boroughs in my district and the area. The entire metropolitan area benefits in many ways from section 17 assistance. I would like to share this editorial with my colleagues and underscore that the bill we are considering will require no additional authorization of funding.

[From the Philadelphia Inquirer, Oct. 25, 1977]

CONGRESS SHOULD APPROVE COMMUTER RAIL SUBSIDY

A commuter rail subsidy bill of vital interest to the Philadelphia region and to other metropolitan areas is scheduled to come up for a vote in the U.S. House of Representatives today. It deserves strong bipartisan support. Every congressman in the Philadelphia area, both city and suburb, should join in a solid vote of approval for the bill.

Sponsored by Reps. Robert Edgar of Delaware County and Peter Kostmayer of Bucks and Montgomery counties, the rail bill was approved by the House Public Works and Transportation Committee last week. After House approval it would go to the Senate. Every effort should be made to complete congressional action on this measure before adjournment in November.

Under present law, enacted in 1973, the federal share of subsidies for commuter railroad operating losses will drop to 50 percent next April and will end entirely next September. The Edgar-Kostmayer measure would set the subsidy at 80 percent effective in April. It is 90 percent now.

A drop to 50 percent would compound already severe financial problems for the Southeastern Pennsylvania Transportation Authority, which operates 13 commuter lines under contract with Conrail. The lines serve Philadelphia, four suburban counties (Delaware, Montgomery, Bucks, Chester) and more distant points as far as Harrisburg, Trenton, N.J., and Wilmington, Del.

Bucks County, which had trouble meeting rail subsidy obligations this year, already has served notice that providing drastically increased county subsidies next year could pose even greater and perhaps insurmountable difficulties.

Phasing out federal subsidies for commuter rail operations may have seemed to make sense before the full dimensions of America's energy problems became known. It would make no sense now. It is essential that energy-efficient passenger trains not only continue to operate but improve their service as a convenient alternative to the automobile at reasonable fares.

A comprehensive bill covering federal assistance for multiple forms of surface transportation over the long range has been introduced but is not in position for early passage. It would set federal subsidies for rail commuter lines at 80 percent. Adoption of the Edgar-Kostmayer bill is required to provide interim subsidy relief pending action on the omnibus bill.

A funding crisis for railroad commuter lines next year can be averted by congressional action now. The House of Representatives should give resounding approval to the rail commuter subsidy bill.

Mr. ROBERTS. Mr. Speaker, I rise in support of the bill HR 8346.

This simple bill, which will alleviate what otherwise might be a serious problem for several Northeastern and Midwestern States, amends section 17 of the Urban Mass Transportation Act of 1964, which provided emergency operating assistance for commuter rail service adversely affected by the coming of Con-Rail in the Northeast and Midwest.

The distinguished gentleman, Mr. HOWARD, chairman of the Surface Transportation Subcommittee, has explained carefully the details of this bill, so it should be clear that it simply represents minor adjustments to the working of an emergency program—adjustments which have become necessary because problems have occurred since the inception of the program which require immediate attention.

I would anticipate that the committee will deal with this program in a more comprehensive manner in legislation to be reported early in the next session, but these corrective measures are necessary now to prevent difficulties for the affected States in the next few months of the program.

Mr. SHUSTER. Mr. Speaker, I know of no opposition to this bill, and I have no further requests for time.

Mr. HOWARD. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HOWARD) that the House suspend the rules and pass the bill H.R. 8346.

The question was taken.

Mr. RUSSO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the prior announcement by the Chair, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PRISONER EXCHANGE TREATIES

Mr. EILBERG. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1682) to provide for the implementation of treaties for the transfer of offenders to or from foreign countries.

The Clerk read as follows:

S. 1682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, is amended by inserting after chapter 305 the following new chapter:

"Chapter 306.—TRANSFER TO OR FROM FOREIGN COUNTRIES

"Sec.
"4100. Scope and limitation of chapter.
"4101. Definitions.
"4102. Authority of the Attorney General.
"4103. Applicability of United States laws.
"4104. Transfer of offenders on probation.
"4105. Transfer of offenders serving sentence of imprisonment.
"4106. Transfer of offenders on parole; parole of offenders transferred.
"4107. Verification of consent of offender to transfer from the United States.
"4108. Verification of consent of offender to transfer to the United States.
"4109. Right to counsel, appointment of counsel.
"4110. Transfer of juveniles.
"4111 Prosecution barred by foreign conviction.
"4112. Loss of rights, disqualification.
"4113. Status of alien offender transferred to a foreign country.
"4114. Return of transferred offenders.
"4115. Execution of sentences imposing an obligation to make restitution or reparations.

"§ 4100. Scope and limitation of chapter

"(a) The provisions of this chapter relating to the transfer of offenders shall be applicable only when a treaty providing for such a transfer is in force, and shall only be applicable to transfers of offenders to and from a foreign country pursuant to such a treaty. A sentence imposed by a foreign country upon an offender who is subsequently transferred to the United States pursuant to a treaty shall be subject to being fully executed in the United States even though the treaty under which the offender was transferred is no longer in force.

"(b) An offender may be transferred from the United States pursuant to this chapter only to a country of which the offender is a citizen or national. Only an offender who is a citizen or national of the United States may be transferred to the United States. An offender may be transferred to or from the United States only with the offender's consent, and only if the offense for which the offender was sentenced satisfies the requirement of double criminality as defined in this chapter. Once an offender's consent to transfer has been verified by a verifying officer, that consent shall be irrevocable. If at the time of transfer the offender is under eighteen years of age the transfer shall not be accomplished unless consent to the transfer be given by a parent or guardian or by an appropriate court of the sentencing country.

"(c) An offender shall not be transferred to or from the United States if a proceeding by way of appeal or of collateral attack upon the conviction or sentence be pending.

"(d) The United States upon receiving notice from the country which imposed the sentence that the offender has been granted a pardon, commutation, or amnesty, or that there has been an ameliorating modification or a revocation of the sentence shall give the offender the benefit of the action taken by the sentencing country.

"§ 4101. Definitions

"As used in this chapter the term—

"(a) 'double criminality' means that at the time of transfer of an offender the offense for which he has been sentenced is still an offense in the transferring country and is also an offense in the receiving country. With regard to a country which has a federal form of government, an act shall be deemed to be an offense in that country if it is an offense under the federal laws or the laws of any state or province thereof;

"(b) 'imprisonment' means a penalty imposed by a court under which the individual is confined to an institution;

"(c) 'juvenile' means—

"(1) a person who is under eighteen years of age; or

"(2) for the purpose of proceedings and disposition under chapter 403 of this title because of an act of juvenile delinquency, a person who is under twenty-one years of age;

"(d) 'juvenile delinquency' means—

"(1) a violation of the laws of the United States or a State thereof or of a foreign country committed by a juvenile which would have been a crime if committed by an adult; or

"(2) noncriminal acts committed by a juvenile for which supervision or treatment by juvenile authorities of the United States, a State thereof, or of the foreign country concerned is authorized;

"(e) 'offender' means a person who has been convicted of an offense or who has been adjudged to have committed an act of juvenile delinquency;

"(f) 'parole' means any form of release of an offender from imprisonment to the community by a releasing authority prior to the expiration of his sentence, subject to conditions imposed by the releasing authority and to its supervision;

"(g) 'probation' means any form of a sentence to a penalty of imprisonment the execution of which is suspended and the offender is permitted to remain at liberty under supervision and subject to conditions for the breach of which the suspended penalty of imprisonment may be ordered executed;

"(h) 'sentence' means not only the penalty imposed but also the judgment of conviction in a criminal case or a judgment of acquittal in the same proceeding, or the adjudication of delinquency in a juvenile delinquency proceeding or dismissal of allegations of delinquency in the same proceedings;

"(i) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

"(j) 'transfer' means a transfer of an individual for the purpose of the execution in one country of a sentence imposed by the courts of another country; and

"(k) 'treaty' means a treaty under which an offender sentenced in the courts of one country may be transferred to the country of which he is a citizen or national for the purpose of serving the sentence.

"§ 4102. Authority of the Attorney General

"The Attorney General is authorized—

"(1) to act on behalf of the United States as the authority referred to in a treaty;

"(2) to receive custody of offenders under a sentence of imprisonment, on parole, or on probation who are citizens or nationals of the United States transferred from foreign countries and as appropriate confine them in penal or correctional institutions, or assign them to the parole or probation authorities for supervision;

"(3) to transfer offenders under a sentence of imprisonment, on parole, or on probation to the foreign countries of which they are citizens or nationals;

"(4) to make regulations for the proper implementation of such treaties in accordance with this chapter and to make regulations to implement this chapter;

"(5) to render to foreign countries and to receive from them the certifications and reports required to be made under such treaties;

"(6) to make arrangements by agreement with the States for the transfer of offenders in their custody who are citizens or nationals of foreign countries to the foreign countries

of which they are citizens or nationals and for the confinement, where appropriate, in State institutions of offenders transferred to the United States;

"(7) to make agreements and establish regulations for the transportation through the territory of the United States of offenders convicted in a foreign country who are being transported to a third country for the execution of their sentences, the expenses of which shall be paid by the country requesting the transportation;

"(8) to make agreements with the appropriate authorities of a foreign country and to issue regulations for the transfer and treatment of juveniles who are transferred pursuant to treaty, the expenses of which shall be paid by the country of which the juvenile is a citizen or national;

"(9) in concert with the Secretary of Health, Education, and Welfare, to make arrangements with the appropriate authorities of a foreign country and to issue regulations for the transfer and treatment of individuals who are accused of an offense but who have been determined to be mentally ill; the expenses of which shall be paid by the country of which such person is a citizen or national;

"(10) to designate agents to receive, on behalf of the United States, the delivery by a foreign government of any citizen or national of the United States being transferred to the United States for the purpose of serving a sentence imposed by the courts of the foreign country, and to convey him to the place designated by the Attorney General. Such agent shall have all the powers of a marshal of the United States in the several districts through which it may be necessary for him to pass with the offender, so far as such power is requisite for the offender's transfer and safekeeping; within the territory of a foreign country such agent shall have such powers as the authorities of the foreign country may accord him;

"(11) to delegate the authority conferred by this chapter to officers of the Department of Justice.

"§ 4103. Applicability of United States laws

"All laws of the United States, as appropriate, pertaining to prisoners, probationers, parolees, and juvenile offenders shall be applicable to offenders transferred to the United States, unless a treaty or this chapter provides otherwise.

"§ 4104. Transfer of offenders on probation

"(a) Prior to consenting to the transfer to the United States of an offender who is on probation, the Attorney General shall determine that the appropriate United States district court is willing to undertake the supervision of the offender.

"(b) Upon the receipt of an offender on probation from the authorities of a foreign country, the Attorney General shall cause the offender to be brought before the United States district court which is to exercise supervision over the offender.

"(c) The court shall place the offender under supervision of the probation officer of the court. The offender shall be supervised by a probation officer, under such conditions as are deemed appropriatee by the court as though probation had been imposed by the United States district court.

"(d) The probation may be revoked in accordance with section 3653 of this title and rule 32(f) of the Federal Rules of Criminal Procedure. A violation of the conditions of probation shall constitute grounds for revocation. If probation is revoked the suspended sentence imposed by the sentencing court shall be executed.

"(e) The provisions of sections 4105 and 4106 of this title shall be applicable following a revocation of probation.

"(f) Prior to consenting to the transfer from the United States of an offender who is on probation, the Attorney General shall obtain the assent of the court exercising jurisdiction over the probationer.

"§ 4105. Transfer of offenders serving sentence of imprisonment

"(a) Except as provided elsewhere in this section, an offender serving a sentence of imprisonment in a foreign country transferred to the custody of the Attorney General shall remain in the custody of the Attorney General under the same conditions and for the same period of time as an offender who had been committed to the custody of the Attorney General by a court of the United States for the period of time imposed by the sentencing court.

"(b) The transferred offender shall be given credit toward service of the sentence for any days, prior to the date of commencement of the sentence, spent in custody in connection with the offense or acts for which the sentence was imposed.

"(c)(1) The transferred offender shall be entitled to all credits for good time, for labor, or any other credit toward the service of the sentence which had been given by the transferring country for time served as of the time of the transfer. Subsequent to the transfer, the offender shall in addition be entitled to credits for good time, computed on the basis of the time remaining to be served at the time of the transfer and at the rate provided in section 4161 of this title for a sentence of the length of the total sentence imposed and certified by the foreign authorities. These credits shall be combined to provide a release date for the offender pursuant to section 4164 of this title.

"(2) If the country from which the offender is transferred does not give credit for good time, the basis of computing the deduction from the sentence shall be the sentence imposed by the sentencing court and certified to be served upon transfer, at the rate provided in section 4161 of this title.

"(3) A transferred offender may earn extra good time deductions, as authorized in section 4162 of this title, from the time of transfer.

"(4) All credits toward service of the sentence, other than the credit for time in custody before sentencing, may be forfeited as provided in section 4165 of this title and may be restored by the Attorney General as provided in section 4166 of this title.

"(5) Any sentence for an offense against the United States, imposed while the transferred offender is serving the sentence of imprisonment imposed in a foreign country, shall be aggregated with the foreign sentence, in the same manner as if the foreign sentence was one imposed by a United States district court for an offense against the United States.

"§ 4106. Transfer of offenders on parole; parole of offenders transferred

"(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Parole Commission for supervision.

"(b) The United States Parole Commission and the Chairman of the Commission shall have the same powers and duties with reference to an offender transferred to the United States to serve a sentence of imprisonment or who at the time of transfer is on parole as they have with reference to an offender convicted in a court of the United States except as otherwise provided in this chapter or in the pertinent treaty. Sections 4201 through 4204; 4205 (d), (e), and (h); 4206 through 4216; and 4218 of this title shall be applicable.

"(c) An offender transferred to the United States to serve a sentence of imprisonment may be released on parole at such time as the Parole Commission may determine.

"§ 4107. Verification of consent of offender to transfer from the United States

"(a) Prior to the transfer of an offender from the United States, the fact that the offender consents to such transfer and that such consent is voluntary and with full knowledge of the consequences thereof shall be verified by a United States magistrate or a judge as defined in section 451 of title 28, United States Code.

"(b) The verifying officer shall inquire of the offender whether he understands and agrees that the transfer will be subject to the following conditions:

"(1) only the appropriate courts in the United States may modify or set aside the conviction or sentence, and any proceedings seeking such action may only be brought in such courts;

"(2) the sentence shall be carried out according to the laws of the country to which he is to be transferred and that those laws are subject to change;

"(3) if a court in the country to which he is transferred should determine upon a proceeding initiated by him or on his behalf that his transfer was not accomplished in accordance with the treaty or laws of that country, he may be returned to the United States for the purpose of completing the sentence if the United States requests his return; and

"(4) his consent to transfer, once verified by the verifying officer, is irrevocable.

"(c) The verifying officer, before determining that an offender's consent is voluntary and given with full knowledge of the consequences, shall advise the offender of his right to consult with counsel as provided by this chapter. If the offender wishes to consult with counsel before giving his consent, he shall be advised that the proceedings will be continued until he has had an opportunity to consult with counsel.

"(d) The verifying officer shall make the necessary inquiries to determine that the offender's consent is voluntary and not the result of any promises, threats, or other improper inducements, and that the offender accepts the transfer subject to the conditions set forth in subsection (b). The consent and acceptance shall be on an appropriate form prescribed by the Attorney General.

"(e) The proceedings shall be taken down by a reporter or recorded by suitable sound recording equipment. The Attorney General shall maintain custody of the records.

"§ 4108. Verification of consent of offender to transfer to the United States

"(a) Prior to the transfer of an offender to the United States, the fact that the offender consents to such transfer and that such consent is voluntary and with full knowledge of the consequences thereof shall be verified in the country in which the sentence was imposed by a United States magistrate, or by a citizen specifically designated by a judge of the United States as defined in section 451 of title 28, United States Code. The designation of a citizen who is an employee or officer of a department or agency of the United States shall be with the approval of the head of that department or agency.

"(b) The verifying officer shall inquire of the offender whether he understands and agrees that the transfer will be subject to the following conditions:

"(1) only the country in which he was convicted and sentenced can modify or set aside the conviction or sentence, and any proceedings seeking such action may only be brought in that country;

"(2) the sentence shall be carried out according to the laws of the United States and that those laws are subject to change;

"(3) if a United States court should de-

termine upon a proceeding initiated by him or on his behalf that his transfer was not accomplished in accordance with the treaty or laws of the United States, he may be returned to the country which imposed the sentence for the purpose of completing the sentence if that country requests his return; and

"(4) his consent to transfer, once verified by the verifying officer, is irrevocable.

"(c) The verifying officer, before determining that an offender's consent is voluntary and given with full knowledge of the consequences, shall advise the offender of his right to consult with counsel as provided by this chapter. If the offender wishes to consult with counsel before giving his consent, he shall be advised that the proceedings will be continued until he has had an opportunity to consult with counsel.

"(d) The verifying officer shall make the necessary inquiries to determine that the offender's consent is voluntary and not the result of any promises, threats, or other improper inducements, and that the offender accepts the transfer subject to the conditions set forth in subsection (b). The consent and acceptance shall be on an appropriate form prescribed by the Attorney General.

"(e) The proceedings shall be taken down by a reporter or recorded by suitable sound recording equipment. The Attorney General shall maintain custody of the records.

"§ 4109. Right to counsel, appointment of counsel

"In proceedings to verify consent of an offender for transfer, the offender shall have the right to advice of counsel. If the offender is financially unable to obtain counsel—

"(1) counsel for proceedings conducted under section 4107 shall be appointed in accordance with the Criminal Justice Act (18 U.S.C. 3006A). Such appointment shall be considered an appointment in a misdemeanor case for purposes of compensation under the Act;

"(2) counsel for proceedings conducted under section 4108 shall be appointed by the verifying officer pursuant to such regulations as may be prescribed by the Director of the Administrative Office of the United States Courts. The Secretary of State shall make payments of fees and expenses of the appointed counsel, in amounts approved by the verifying officer, which shall not exceed the amounts authorized under the Criminal Justice Act (18 U.S.C. 3006(a)) for representation in a misdemeanor case. Payment in excess of the maximum amount authorized may be made for extended or complex representation whenever the verifying officer certifies that the amount of the excess payment is necessary to provide fair compensation, and the payment is approved by the chief judge of the United States court of appeals for the appropriate circuit. Counsel from other agencies in any branch of the Government may be appointed: *Provided*, That in such cases the Secretary of State shall pay counsel directly, or reimburse the employing agency for travel and transportation expenses. Notwithstanding section 3648 of the revised statutes as amended (31 U.S.C. 529), the Secretary may make advance payments of travel and transportation expenses to counsel appointed under this subsection.

"§ 4110. Transfer of juveniles

"An offender transferred to the United States because of an act which would have been an act of juvenile delinquency had it been committed in the United States or any States thereof shall be subject to the provisions of chapter 403 of this title except as otherwise provided in the relevant treaty or in an agreement pursuant to such treaty between the Attorney General and the authority of the foreign country.

"§ 4111. Prosecution barred by foreign conviction

"An offender transferred to the United States shall not be detained, prosecuted, tried, or sentenced by the United States, or any State thereof for any offense the prosecution of which would have been barred if the sentence upon which the transfer was based had been by a court of the jurisdiction seeking to prosecute the transferred offender, or if prosecution would have been barred by the laws of the jurisdiction seeking to prosecute the transferred offender if the sentence on which the transfer was based had been issued by a court of the United States or by a court of another State.

"§ 4112. Loss of rights, disqualification

"An offender transferred to the United States to serve a sentence imposed by a foreign court shall not incur any loss of civil, political, or civic rights nor incur any disqualification other than those which under the laws of the United States or of the State in which the issue arises would result from the fact of the conviction in the foreign country.

"§ 4113. Status of alien offender transferred to a foreign country

"(a) An alien who is deportable from the United States but who has been granted voluntary departure pursuant to section 1252 (b) or section 1254(e) of title 8, United States Code, and who is transfered to a foreign country pursuant to this chapter shall be deemed for all purposes to have voluntarily departed from this country.

"(b) An alien who is the subject of an order of deportation from the United States pursuant to section 1252 of title 8, United States Code, who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have been deported from this country.

"(c) An alien who is the subject of an order of exclusion and deportation from the United States pursuant to section 1226 of title 8, United States Code, who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have been excluded from admission and deported from the United States.

"§ 4114. Return of transferred offenders

"(a) Upon a final decision by the courts of the United States that the transfer of the offender to the United States was not in accordance with the treaty or the laws of the United States and ordering the offender released from serving the sentence in the United States the offender may be returned to the country from which he was transferred to complete the sentence if the country in which the sentence was imposed requests his return. The Attorney General shall notify the appropriate authority of the country which imposed the sentence, within ten days, of a final decision of a court of the United States ordering the offender released. The notification shall specify the time within which the sentencing country must request the return of the offender which shall be no longer than thirty days.

"(b) Upon receiving a request from the sentencing country that the offender ordered released be returned for the completition of his sentence, the Attorney General may file a complaint for the return of the offender with any justice or judge of the United States or any authorized magistrate within whose jurisdiction the offender is found. The complaint shall be upon oath and supported by affidavits establishing that the offender was convicted and sentenced by the courts of the country to which his return is requested; the offender was transferred to the United States for the execution of his sentence; the offender was ordered released by a court of the United States before he had completed his sentence because the transfer of the offender was not in accordance with the treaty or the laws of the United States; and that the sentencing country has requested that he be returned for the completion of the sentence. There shall be attached to the complaint a copy of the sentence of the sentencing court and of the decision of the court which ordered the offender released.

"A summons or a warrant shall be issued by the justice, judge or magistrate ordering the offender to appear or to be brought before the issuing authority. If the justice, judge, or magistrate finds that the person before him is the offender described in the complaint and that the facts alleged in the complaint are true, he shall issue a warrant for commitment of the offender to the custody of the Attorney General until surrender shall be made. The findings and a copy of all the testimony taken before him and of all documents introduced before him shall be transmitted to the Secretary of State, that a Return Warrant may issue upon the requisition of the proper authorities of the sentencing country, for the surrender of offender.

"(c) A complaint referred to in subsection (b) must be filed within sixty days from the date on which the decision ordering the release of the offender becomes final.

"(d) An offender returned under this section shall be subject to the jurisdiction of the country to which he is returned for all purposes.

"(e) The return of an offender shall be conditioned upon the offender being given credit toward service of the sentence for the time spent in the custody of or under the supervision of the United States.

"(f) Sections 3186, 3188 through 3191, and 3195 of this title shall be applicable to the return of an offender under this section. However, an offender returned under this section shall not be deemed to have been extradited for any purpose.

"(g) An offender whose return is sought pursuant to this section may be admitted to bail or be released on his own recognizance at any stage of the proceedings.

"§ 4115. Execution of sentences imposing an obligation to make restitution or reparations

"If in a sentence issued in a penal proceeding of a transferring country an offender transferred to the United States has been ordered to pay a sum of money to the victim of the offense for damage caused by the offense, that penalty or award of damages may be enforced as though it were a civil judgment rendered by a United States district court. Proceedings to collect the moneys ordered to be paid may be instituted by the Attorney General in any United States district court. Moneys recovered pursuant to such proceedings shall be transmitted through diplomatic channels to the treaty authority of the transferring country for distribution to the victim.".

SEC. 2. That section 636 of title 28, United States Code, is amended by adding a subsection (f) as follows:

"(f) A United States magistrate may perform the verification function required by section 4107 of title 18, United States Code. A magistrate may be assigned by a judge of any United States district court to perform the verification required by section 4108 and the appointment of counsel authorized by section 4109 of title 18, United States Code, and may perform such functions beyond the territorial limits of the United States. A magistrate assigned such functions shall have no authority to perform any other function within the territory of a foreign country.".

SEC. 3. That chapter 153 of title 28, United States Code, is amended by adding the following section:

"§ 2256. Jurisdiction of proceedings relating to transferred offenders

"When a treaty is in effect between the United States and a foreign country providing for the transfer of convicted offenders—

"(1) the country in which the offender was convicted shall have exclusive jurisdiction and competence over proceedings seeking to challenge, modify, or set aside convictions or sentences handed down by a court of such country;

"(2) all proceedings instituted by or on behalf of an offender transferred from the United States to a foreign country seeking to challenge, modify, or set aside the conviction or sentence upon which the transfer was based shall be brought in the court which would have jurisdiction and competence if the offender had not been transferred;

"(3) all proceedings instituted by or on behalf of an offender transferred to the United States pertaining to the manner of execution in the United States of the sentence imposed by a foreign court shall be brought in the United States district court for the district in which the offender is confined or in which supervision is exercised and shall name the Attorney General and the official having immediate custody or exercising immediate supervision of the offender as respondents. The Attorney General shall defend against such proceedings;

"(4) all proceedings instituted by or on behalf of an offender seeking to challenge the validity or legality of the offender's transfer from the United States shall be brought in the United States district court of the district in which the proceedings to determine the validity of the offender's consent were held and shall name the Attorney General as respondent; and

"(5) all proceedings instituted by or on behalf of an offender seeking to challenge the validity or legality of the offender's transfer to the United States shall be brought in the United States district court of the district in which the offender is confined or of the district in which supervision is exercised and shall name the Attorney General and the official having immediate custody or exercising immediate supervision of the offender as respondents. The Attorney General shall defend against such proceedings.".

SEC. 4. That chapter 48, title 10, United States Code, is amended by adding the following sections:

"§ 955. Prisoners transferred to or from foreign countries

"(a) When a treaty is in effect between the United States and a foreign country providing for the transfer of convicted offenders, the Secretary concerned may, with the concurrence of the Attorney General, transfer to said foreign country any offender against chapter 47 of this title. Said transfer shall be effected subject to the terms of said treaty and chapter 306 of title 18, United States Code.

"(b) Whenever the United States is party to an agreement on the status of forces under which the United States may request that it take custody of a prisoner belonging to its armed forces who is confined by order of a foreign court, the Secretary concerned may provide for the carrying out of the terms of such confinement in a military correctional facility of his department or in any penal or correctional institution under the control of the United States or which the United States may be allowed to use. Except as otherwise specified in such agreement, such person shall be treated as if he were an offender against chapter 47 of this title.".

SEC. 5. (a) There is authorized to be appropriated such funds as may be required to carry out the purposes of this Act.

(b) The Attorney General shall certify to the Secretary of State the expenses of the United States related to the return of an offender to the foreign country of which the offender is a citizen or national for which the United States is entitled to seek reimbursement from that country under a treaty providing for transfer and reimbursement.

(c) The Attorney General shall certify to the Administrative Office of the United States Courts those expenses which it is obligated to pay on behalf of an indigent offender under section 3006A of title 18, United States Code, and similar statutes.

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. EILBERG) and the gentleman from New York (Mr. FISH) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. EILBERG).

Mr. EILBERG. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I urge passage of this much needed legislation—which will be another example of our concern for the human rights of not only our citizens but of foreign citizens.

Mr. Speaker, on July 19 and July 21 of this year the Senate gave its advice and consent to ratification of two treaties between the United States and Canada and the United States and Mexico, respectively. These treaties provide for transfer back to their homelands of foreign offenders—those incarcerated; those on probation; and those on parole—so that they can complete their sentences in their own country—close to family, friends, and homes. The treaties are not self-executing. They require legislative implementation. S. 1682 provides this necessary implementation.

The history of these treaties and this legislation goes back to the beginning of 1975 when, as I am sure many of my colleagues are aware, a series of complaints were received by the State Department concerning harsh treatment of Americans incarcerated in foreign prisons. Of particular concern were the reports of young Americans, in Mexico, serving long terms of imprisonment, in many times squalid conditions, for possession of relatively small amounts of drugs. The sentences they received were often quite more severe than those their fellow Americans would have received if convicted and sentenced here.

There were allegations of coercive and sometimes violent interrogations by over zealous law enforcement officials, mistreatment by prison guards, and finally threatening and blackmailing activities within the foreign prisons.

Hearings were held in the latter part of 1975 and 1976 before the House International Relations Committee. The hearings focused specifically on the treatment of U.S. citizen prisoners in Mexican jails, but the problems they discussed and the issues they raised are of a far more general nature. For the most part testimony received during the course of these hearings substantiated the allegations theretofore made by the parents, spouses, and friends of these foreign-jailed prisoners. Discontent over the ability of the U.S. State Department to properly protect our American youths arrested in Mexico and other countries, was expressed. Part of this problem arises out of the fact that great delay often occurred between the time of arrest and notification of our consular offices by foreign authorities.

As a result of the complaints and the congressional hearings, the Department of State began an effort to evaluate what could be done to improve the plight of Americans incarcerated in foreign prisons. It was determined that a treaty between Mexico and the United States to be followed by other treaties with other countries, providing for reciprocal transfer of criminal offenders, might resolve some of the problems. Such a treaty was, in fact, prepared and on November 25, 1976, signed by the United States and Mexico. A similar treaty between the United States and Canada was also entered into as a result of this effort, although there had been no complaints regarding mistreatment of Americans in Canadian jails. The treaties are designed to be models for future similar treaties with other countries, particularly in South America and the Middle East.

Two identical bills were introduced at the request of the President into Congress providing for implementation of these and future treaties, that is S. 1682, the bill we are considering today, and H.R. 7148.

The Senate unanimously passed S. 1682, with amendments, on September 21 of this year, and referred the act to the House of Representatives. The amendments to the original bill were the result of the efforts, close cooperation and extensive work by both the Senate and House committees. Hearings on prisoner exchange legislation were held in my Subcommittee on Immigration, Citizenship, and International Law. Both my subcommittee and the full Judiciary Committee ordered S. 1682, the amended Senate bill, reported favorably.

The legislation which I am proposing today, as well as implementing the already signed Mexican and Canadian treaties, would also serve as a basis for any such future offender transfer treaties.

Specifically, the provisions of S. 1682 would establish a mechanism under the direction of the Attorney General, for the transfer of offenders under any treaty. S. 1682 contemplates, as do the two existing treaties, totally voluntary transfers. That is, one of the preconditions to any transfer is the express consent of both countries and, very importantly, the offender him or herself.

U.S. State and Justice Department officials have indicated during hearings before my subcommittee that it will be the policy of the United States at this time to accept all individuals presently in Mexico who are eligible and wish to be transferred. The Mexican Government has given no indication that it intends to withhold its consent in any case where a prisoner wishes to be transferred.

With regard to a particular offender's consent to transfer, S. 1682 provides for

a recorded, judicially supervised procedure, and for a right to counsel for an offender. An offender will therefore have knowingly and intelligently consented to being transferred under any treaty.

S. 1682 also provides for application of U.S. parole and probation laws to U.S. citizens transferred into the United States under the treaty. A U.S. citizen-prisoner transferred under the treaty would become immediately eligible for parole consideration; that is, he or she would be given an opportunity to have his or her case reviewed immediately by the U.S. Parole Commission. Standards applicable to prisoners convicted in U.S. courts would then be applied in determining whether the transferred individual should actually be released on parole.

Another aspect of the proposed legislation is its barring of U.S.-instituted prosecutions subsequent to transfer based on the conduct which resulted in the foreign conviction, and acquittal in the same proceeding.

One of the provisions of the treaties with Mexico and Canada limits the ability of a prisoner to challenge his conviction and sentence in the nation where he is transferred. Essentially, under the treaties, any attempt to challenge, modify, or set aside a conviction or sentence has to be made in the country in which the offender was convicted or sentenced. A section in S. 1682 implements these provisions. These provisions were felt to be essential—by both the United States and other treaty nations—to protect the integrity of the judicial process of the respective countries and to secure approval for prisoner exchange treaties in the past and presumably in the future.

Some concern was raised about the limitation and the House Judiciary Committee sought the advice of many recognized legal and constitutional scholars. In addition, the committee, working with the Senate Judiciary Committee, made extensive changes in the original implementing legislation to provide safeguards.

The witnesses before my subcommittee were unanimous that the present provisions of S. 1682 do not raise any legal or constitutional problems. First—the limitation does not affect any existing right of an offender. If such an individual were not transferred, and remained in the sentencing or convicting nation, he could only challenge his conviction or sentence in that nation. Next, under the provisions of this bill, the offender will be made fully aware of the fact that one of the conditions of the transfer is that the transferring state retains exclusive jurisdiction over challenges to the sentence or conviction and that neither the treay or legislation, nor the fact of transfer confers jurisdiction to the receiving state over the validity of the sentence or conviction. Prior to any transfer, he must expressly and voluntarily consent to such a condition, and such consent must be verified under carefully developed safeguards. The provisions added to the original bill, providing for a judicially supervised "consent verification proceedings," with counsel present, detailed the safeguards. At these proceedings, a proposed transferee would be advised of all of the conditions and consequences of his transfer, including the provision of the treaty limiting collateral attacks. His transfer would then only be authorized upon verification of his consent by the U.S. judge or magistrate presiding at the hearing. Although the possibility of a future challenge can never be absolutely eliminated, the Judiciary Committee is satisfied that this bill has minimized such a possibility to the fullest extent possible.

Mr. Speaker, I urge passage of this much need legislation. The humanitarian justification for its passage is evident. However, I would emphasize that there are other benefits which would be derived by its implementation.

Rehabilitation, a primary objective of U.S. penal policy, would be greatly facilitated by implementation of these treaties. This aspect of criminal justice is almost nonexistent where a prisoner is forced to serve his sentence in unfamiliar and oftentimes hostile surroundings. This is magnified where he is imprisoned in a non-English-speaking country. The increased possibility for rehabilitation which would result from implementation of these treaties would be felt both by the offender himself and the community to which the the offender will eventually return.

Another important benefit which would be derived as a result of this legislation is the increase in favorable bilateral relations between the signatory countries and a prisoner exchange treaty. This increase in good relations would clearly be advantageous to the United States in its negotiations with regard to other aspects of foreign policy with these countries.

The legislation which we consider today will serve as the basis for future prisoner exchange treaties with other countries. There are at this time over 2,000 Americans imprisoned in foreign jails throughout the world. Many suffer the same hardships that are being endured by U.S. citizens in Mexico. This legislation would allow for immediate implementation of future treaties signed with countries holding these individuals, upon their ratification. This legislation is therefore essential in eliminating the many problems concomitant with incarceration of foreign prisoners.

The Judiciary Committee, as well as myself and other Members of Congress, have received hundreds of letters from concerned families and friends of Americans incarcerated in foreign prisons. These people are anxious that this legislation pass so that prompt repatriation of their loved ones can occur. Some of these individuals have suffered for years as a result of the situation now existing in Mexico. Many have expended most if not all of their savings in an effort to provide their sons, daughters, and spouses with the bare necessities.

Mr. Speaker, there are presently approximately 600 Americans incarcerated in Mexican jails, as well as approximately 275 in Canada. Passage of this very humanitarian legislation would insure that those that are eligible might be given the opportunity to spend the upcoming holiday season in the United States and perhaps home with their families, and loved ones. Delay by the House at this point, would frustrate the hopes of these American youths and would most assuredly not ameliorate relations with the treaty countries. In the spirit of our country's leadership participation in the world commitment to human rights, I urge passage of S. 1682.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my colleague and subcommittee chairman, the gentleman from Pennsylvania, in support of the bill S. 1682. This bill establishes a system for the return of U.S. citizens from foreign countries where they are incarcerated, to complete their sentences in the United States. The bill would also permit foreign nationals who are convicted in the United States to be returned to their home country for completion of their sentence. This mechanism would only be available if a treaty is in existence between the United States and the particular foreign nation when citizens of either have been incarcerated. Two such treaties have been signed and ratified, one between the United States and Mexico, another between the United States and Canada. Ratification will become effective only upon enactment of the legislation before us. This legislation is designed to apply not just to these but to any future similar treaties. We understand that such treaties may be negotiated, particularly if the proposed transfer between the United States and its two neighboring countries is successful.

The bill, as originally submitted by the administration, was deficient in several significant respects. However, the Senate substantially amended the bill and, thereby, significantly improved it. Our committee has reported the Senate version which, I believe, meets the constitutional objections originally raised and would be, in my opinion, a workable and constitutional statute.

The bill provides that prisoners who qualify for exchange, will be brought before a verifying officer, who would be a U.S. judge or magistrate or person designated by the Attorney General. This officer would conduct a hearing at which the prisoner will have the right to counsel if need be, one supplied by the Government. After being fully advised of his rights and obligations, a prisoner will be asked to consent to such transfer. As part of that consent, a prisoner must acknowledge that he understands that collateral attacks on the validity of his conviction may only be made in the courts of the sending state. I wish to emphasize that this does not mean that the prisoner waives his right to file or a writ of habeas corpus in the U.S. courts. He retains the right to file for such a writ, but will not be able, through that writ, to challenge the validity of his conviction in the sending state.

If the prisoner voluntarily consents to be transferred, he will then come within the custody of the Attorney General who is the agent designated by the bill to receive such prisoners. The prisoner would

be eligible for parole at any time the U.S. Parole Commission so determines.

In determining the length of time each prisoner must serve, that Commission would apply its guidelines based on the type of offense for which the prisoner was convicted. Credit is given for time served prior to sentence, while in custody in connection with the conduct giving rise to such conviction.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the distinguished minority leader of the Committee on the Judiciary, the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding. I want to commend the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. EILBERG), the ranking minority member, the gentleman from New York (Mr. FISH) for producing this legislation, and also to commend the State Department and our Department of Justice for negotiating and working out this treaty.

Mr. Speaker, I rise in wholehearted support of this much-needed legislation implementing the Prisoners Exchange Treaties with Mexico and Canada. It will give 600 U.S. citizens in Mexican jails—many of them young people drawn to drug experimentation—a chance to be home before Christmas. The consequences of their actions have resulted in sentences much more harsh than would have been imposed for similar offenses if committed in this country, as well as heavy burdens on their parents who must pay for many simple necessities they want their children to have.

I personally visited one of my constituents in a women's prison near Mexico City and know of the long sentences and great stress endured by these prisoners and their families.

Though there are critics of the bill who argue that the writ of habeas corpus—indeed, the Great Writ—cannot be balanced, restricted or compromised, such balance was required to establish a treaty at all. It was necessary to fully respect the sovereign rights of a country to exercise criminal justice jurisdiction over offenders within its territory. Therefore, a prisoner is not able to collaterally attack his foreign conviction in American courts, though he may attack his foreign conviction in the foreign court.

Mr. Speaker, this bill provides an individual the opportunity to serve his prison sentence, probationary term, or release on parole in a prison near his home. In addition, this bill will establish procedures for future treaties with other countries for the transfer of prisoners. It is my hope that this bill should be passed, without amendment, to expedite this prisoner exchange and be a forerunner for future treaties to alleviate much of the suffering of the prisoners and their families.

Mr. Speaker, I urge a favorable vote.

Mr. EILBERG. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin, the Chairman of the Committee on International Relations.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of this legislation which will enable the President to implement the treaty with Mexico and permit American prisoners in Mexican jails to be transferred to facilities in the United States.

Chairman RODINO, the subcommittee Chairman EILBERG, and ranking minority member Mr. FISH are to be commended for their untiring work in getting this important piece of legislation ready for floor action before the recess.

The International Relations Committee held hearings on this problem in 1975 and 1976. I can assure my colleagues that there is a real need to do something about the plight of not only the American prisoners in Mexican jails, but their parents and friends back home as well.

The Committee on International Relations is responsible for imposing a quarterly reporting requirement about this matter on the Department of State in section 408(b)(2) of the International Security Assistance and Arms Export Control Act of 1976. These reports, which the committee has followed carefully, have noted some slight progress toward achieving full respect for the human and legal rights of United States citizens detained in Mexico.

However, the latest report has also made clear that abuses continue, in particular the problem of "extortion' in the prisons in the form of payments which often go to inmate bosses for both privileges and necessities of life. The anguish and sacrifice which this has caused concerned and loyal parents, often of modest or humble means, is painfully obvious.

While there can be no doubt that many of the prisoners are behind bars for a good reason, it is nevertheless clear that the treatment which some of them are subjected to—often from fellow Mexican prisoners, or private attorneys—goes beyond what should be tolerated.

This bill does not call for the release from prison of these individuals, but rather their return to the U.S. institutions where it is intended that they will serve out their sentences. For many parents of the prisoners, it will mean the end of large monthly payments which go to the Mexican prisoner "bosses" of the cell blocks where their children are kept. It will also mean the end to large payments of thousands of dollars to Mexican attorneys who futilely promise to work for the release of their children.

Mr. Speaker, I call upon the Members to vote for S. 1682 in the interest of resolving the human problems of American citizens in Mexican jails.

Mr. FISH. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan (Mr. SAWYER), a member of the subcommittee.

Mr. SAWYER. Mr. Speaker, I am pleased to have been a part of this subcommittee that processed this legislation. We have checked it out carefully for constitutional problems and the amendments that were put in by the Senate appear to have removed whatever were those problems.

A citizen would only be transferred after a judicial hearing by a magistrate with a record being made of it and being provided with counsel. He or she will not be returned without their free consent and with their waiver and acknowledgement of their inability to collaterally attack the judgment of the foreign court in the American court system.

The waiver of constitutional rights does not involve the waiver of habeas corpus, but merely limits it so as to prohibit the use of the writ to collaterally attack the foreign judgment.

Mr. Speaker, I think it is an eminently fair bill. I am pleased that we were able to bring it to the floor. It being the same as the Senate version, we can perhaps get the whole thing moving so these young people can be home for Christmas.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, let me ask the distinguished chairman a question. In the future, once this bill is passed, if an American violates the law in Mexico, is he automatically entitled to be considered for exchange?

Mr. EILBERG. He is not automatically entitled to be exchanged to the United States after conviction and sentence. It would require the discretionary consent of the Mexican Government and the discretionary consent of our our Government, as exercised here by the Attorney General. It may well be that the individual may be considered dangerous and we may not want him back. The Attorney General would exercise his discretion as he deems reasonable.

Mr. KAZEN. What I wanted to make clear was this; that in the future we do not want the citizens of this country to think that just because we have this type of legislation on the books, that they can go to Mexico or go to Canada or to any other place that we may have a treaty with and violate the laws, thinking that all they have to do is make application after conviction and sentence to come back to this country and serve their term in this country. That is not the way it is going to be; is it?

Mr. EILBERG. I can give the gentleman the committee's assurance that is not the way it will be.

Mr. KAZEN. So we should warn our people when they go down there not to violate the laws of Mexico, because they may be stuck in those jails if they are found guilty and sentenced to serve time.

Mr. EILBERG. I agree with the gentleman.

Mr. KAZEN. I thank the gentleman.

Mr. EILBERG. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, I rise in support of S. 1682, a bill to implement the treaties dealing with the transfer of prisoners convicted of crimes in a foreign country. As my colleagues know, the Senate this past July ratified prisoner exchange treaties with both Mexico and Canada.

I have long been deeply concerned about the treatment of American prisoners in Mexican jails. Over the past several years, I have had occasion to become involved in the cases of several of my own constitutents who have been incarcerated in Mexico, often on the flimsiest of evidence.

These constituents and their families brought to my attention many instances of mistreatment of American prisoners, and raised serious questions about the protection of the legal rights of persons accused of crimes. It became clear that bribery of Mexican jail officials was often the only way to obtain even tolerable living conditions and treatment.

My experiences with these cases led me to urge the State Department officials here and in Mexico to make stronger efforts to insure that the rights of Americans in Mexican jails were protected and to improve prison conditions.

Many other Members of Congress were encountering similar cases with their own constitutents. My fellow Californian, PETE STARK, became especially concerned about the terrible conditions and visited American prisoners in a number of Mexican jails to discuss the situation with them. The gentleman from California had many discussions with State Department officials to urge them to take action to improve the situation. It was largely through his insistence that the State Department act to protect Americans in Mexican jails that the State Department moved to negotiate the treaties which the legislation we are considering today would implement.

I would like to commend my colleague from California for his diligent efforts to protect the rights of American citizens in foreign prisons and for his hard work in the development of the legislation which we are considering today. I urge my colleagues to vote in favor of S. 1682.

Mr. EILBERG. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I rise in support of the legislation to implement the treaties with Mexico and Canada which would permit the citizens of our countries to serve their sentences at home for crimes for which they are convicted abroad. The treaties themselves are a novel and creative approach to resolving many of the problems that have confronted Americans arrested, tried, convicted, and imprisoned abroad, especially in Mexico. The Departments of State and Justice are to be commended for the energy and imagination they have devoted to overcoming the constitutional and legal questions raised about these treaties and the necessary implementing legislation. Similarly, the Judiciary Committee must be commended for the hard work which has gone into shaping this legislation and in bringing it to the floor with dispatch so that many of our citizens imprisoned in Mexico and Canada can return to the United States before the holidays.

Mr. Speaker, today is a proud day for the House of Representatives, for in a unique way this legislation is the culmination of a long process which began here in an effort to help our citizens imprisoned in Mexico. It is a process in which many hundreds of persons, legislators, concerned parents, relatives, friends, Foreign Service officers, the prisoners themselves, and others have played important parts. One person, however, more than others, is most responsible for bringing this issue forcefully to the attention of the Congress and for setting in motion the process which produced the prisoner treaties and the legislation before us today. I refer to our colleague, the Honorable FORTNEY H. (PETE) STARK of California. He has done a great job of which he and his constituents can be most proud.

Almost 3 years ago, frustrated by his attempts to get State Department action on numerous complaints by American prisoners in Mexico of torture, extortion, and inhumane prison conditions, Congressman STARK first enlisted the help of the International Relations Committee to look into the prisoner issue. He and his staff had singlehandedly and with dogged determination compiled a frightening record of Mexican abuse of the fundamental rights of American prisoners and of an inadequate response by officials of the Department of State. In April of 1975, the then Subcommittee on International Political and Military Affairs, which I had the honor to chair, held the first in a series of hearings on U.S. prisoners in Mexico. As a result of those hearings, the State Department undertook a lengthy case-by-case review of the status of all our prisoners and began to press Mexican officials to insure fair and humane treatment. In addition, legislation was adopted urging high-level attention to the problem by the executive branch and instituting a requirement for periodic reports to Congress by the Secretary of State on treatment of U.S. prisoners. Moreover, I am convinced that the publicity resulting from our hearings and from on-the-spot accounts by U.S. journalists had a significant impact on the Mexican Government which has made efforts, not yet fully satisfactory, to insure speedy notification of the U.S. Embassy in the case of arrests and to improve prison conditions for many of our citizens.

Today the Subcommittee on International Operations, which I now chair, continues to monitor State Department efforts to safeguard our citizens imprisoned in Mexico. We have now broadened our inquiry to include treatment of U.S. prisoners anywhere and into the full scope of the consular activities of the State Department.

Mr. Speaker, this is an important piece of legislation not only for the relief it will provide to U.S. citizens imprisoned in Mexico, but also because successful implementation of these treaties will hopefully serve as models for treaties with other nations where our citizens are imprisoned under the most primitive conditions. While none of us condones the crimes which may have been committed, we must make every effort to insure that our citizens everywhere are not subject to cruel and unusual punishments or to arbitrary and capricious legal actions which violate the fundamental norms of international law. I hope that the House will give this legislation its overwhelming support and approval.

Mr. FISH. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in strong support of S. 1682, the implementing legislation for treaties between the United States and Mexico and Canada, to provide for the transfer of prisoners between those nations and I want to commend the distinguished chairman of the Judiciary Subcommittee, Mr. EILBERG, and the ranking minority member Mr. FISH for bringing this important measure to the floor. I commend the diligent work of the gentleman from Florida (Mr. FASCELL) in conducting extensive hearings for the House Internal Relations Committee.

The treaties, as described by former Secretary of State Kissinger in his letter of submittal to the President of January 17, 1977, are:

> . . . intended both to relieve the special hardships which fall upon prisoners incarcerated far from home and to make this rehabilitation more feasible, and also to relieve diplomatic and law enforcement relations between the two countries of the strains that arise from the imprisonment of large numbers of each country's nationals in the institution of the other.

As a member of both the Committee on International Relations and the Select Committee on Narcotics Control and Abuse, I have long been concerned about the treatment of the many American incarcerated in Mexico. My criticism related to the protection of these prisoners rights is not intended to reflect in any manner on the stringent enforcement efforts and harsh penalties imposed in Mexico. I am concerned, however, that the lack of respect for the most basic rights of all prisoners may effect the good work our two nations have thus far achieved in the cooperative efforts to eradicate and interdict narcotics trafficking.

I have personally visited two prisons in Mexico, I have conferred with many of the American prisoners and discussed their problems at length with several high ranking Mexican officials, including former President Echeverria under whose administration Mexico negotiated and ratified the treaty. Those experiences convinced me that the consummation of this treaty will help relieve the special hardships that fall upon prisoners incarcerated far from home and for those reasons I testified along with the gentleman from California (Mr. STARK), in support of the treaties before the Senate Foreign Relations Committee.

It should be noted the benefits of this treaty will be extended not only to Americans in Mexican jails, but also to the Mexicans in American jails which total twice as many prisoners. Just as we seek to insure the full protection of the human rights for the U.S. prisoners abroad, we also urge other nations to be concerned about the human rights of their citizens abroad.

The Mexican Government and people have responded to our cries for help by expeditiously approving this treaty nearly 1 year ago. In turn, we should respond with the same display of sincerity and conviction in seeking every opportunity to resolve the problems that we both share. The Senate has completed its action formally ratifying the treaty without a dissenting vote. It is now time for the House to respond by passing the enabling legislation for the treaty.

Accordingly I urge my colleagues to

support S. 1682, thereby providing the means to insure the constitutionality of the transfer process.

Mr. EILBERG. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, the legislation now before us, S. 1682, relates to an issue I have been particularly concerned about for over 3 years. In March of 1974 a constituent brought to my attention the abuses of human and legal rights suffered by U.S. citizens arrested in Mexico. After 3½ years of investigation, a resolution of inquiry, and an exhaustive series of hearings I am glad that this matter is now before Congress. Indeed, I would like to thank Chairman EILBERG for moving this bill to the floor expeditiously so we can effect substantive improvement in the lives of hundreds of U.S. citizens. Let me give you a little background on this legislation.

When my constituent brought this to my attention, he and hundreds of his fellow prisoners alleged that, when arrested in Mexico, U.S. citizens were treated without regard for human and legal rights. The pattern of mistreatment they detailed began at arrest and continued through years of incarceration.

Examining these complaints in more detail, we discovered that much of the alleged mistreatment was not only inhumane, but forbidden by the terms of the United States-Mexico Bilateral Consular Convention, the Vienna Convention, the Geneva Convention, Mexican laws, and the Mexican Constitution. The major alleged violations of Mexican law and international convention agreements include:

Torture and physical abuse at the time of arrest, including the use of an electric cattle prod and water tortures.

Forced confessions made in Spanish without the aid of an interpreter.

Denial of access to legal counsel and to Embassy representatives, despite repeated requests.

Incommunicado detention—sometimes for weeks.

Confiscation of personal property such as airplanes, cameras, autos, passports, jewelry, et cetera.

Extensive pretrial detention in flagrant violation of the Mexican law that requires sentencing within 1 year of arrest.

Absence of interpreters during court proceedings.

Denial of access to information relevant to the defense.

Extortion of prisoners and their families by Mexican attorneys to the tune of $40,000. Several prisoner alleged, moreover, that a U.S. Embassy official vouched for the competence of a notoriously corrupt Mexican attorney.

Finally, general prison abuse, including beatings sometimes resulting in broken bones, lack of proper health facilities, medical treatment, and the requirements for even a minimal standard of living.

Understandably, prisoners, their relatives, and friends were anxious to bring their cases before anybody interested in helping them. By midsummer, 1974, my case file on U.S. citizens imprisoned in Mexico had grown from one constituent to over 100 Americans from all parts of the country. The serious charges levelled against the Mexican Government and the U.S. consular services in Mexico prompted me to write to Secretary Kissinger, requesting more detailed information on the cases brought to my attention. The State Department's vague answer to my first inquiry provoked me to write twice more, between September and December of 1974, calling for a full investigation of the matter, review of cases in which prisoners had alleged illegal treatment, and the development of a more adequate protection policy for the future. Neither of these letters received the attention they deserved, and both failed to provoke substantive responses on the part of the State Department.

In March of 1975, my frustration approached that of the many concerned relatives and friends of U.S. prisoners in Mexico, whose inquiries had also been ignored for months. I introduced House Resolution 313, mandating the executive branch to disclose information on the cases of more than 150 prisoners named in the resolution. Hearings were held on House Resolution 313 before the Subcommittee on International, Political and Military Affairs of the House International Relations Committee in April, July, and October 1975, and January and June of 1976.

As a result of the first hearings before Chairman FASCELL's subcommittee, the Department of State agreed to conduct the case-by-case review I had requested 6 months earlier. Working together, members of my staff and State Department officers determined the procedure followed by the team investigating the allegations made by U.S. prisoners in Mexico. Unfortunately, this investigation did not receive the full cooperation of the Mexican Government; although State Department officials were permitted to visit our citizens incarcerated in Mexico, on two separate occasions, members of my staff who had gone to Mexico to join in the investigation were denied access to the prisons.

The investigatory team undertook an enormous task. The Mexican Government's unwillingness to reveal incriminating information on arrest procedures and prison conditions, the prisoners' understandable reluctance to speak freely and thus expose themselves to physical and legal recrimination, as well as the difficulty of finding conclusive evidence of skillfully administered torture, months—or even years—after the fact, presented serious obstacles to the investigators. Nevertheless, in January of 1976, the Department of State completed its case-by-case review and presented its findings to Chairman FASCELL's subcommittee. Despite the difficulties already mentioned, State concluded that 84 percent of the alleged instances of denied rights were either fully substantiated or had "merit since they form(ed) a credible pattern." That 84 percent, Mr. Chairman, represents an appalling number of instances in which U.S. citizens were denied their rights under Mexican law and international humanitarian agreements. Finally, with proof in hand, even the State Department agreed that direct action was necessary to put a stop to the abuses suffered by American citizens in Mexican jails.

In the following 6 months, little progress was made in this direction. In June 1976, State reported that, despite their efforts to persuade the Mexican Government to abide by their own laws and to secure early consular access to new detainees, new arrestees continued to experience physical abuse and repeated denial of due process. While U.S. citizens were beaten, extorted, and subjected to illegal trial procedures, the best their Government could do was to send official letters of protest destined to lay unopened, unacknowledged, and ignored on someone's desk in Mexico City. Today—2 years after I first raised this issue in Congress—the situation remains the same. As Secretary Vance reported to Congress this March, in accordance with section 408(b)(2) of the International Security Assistance and Arms Export Control Act of 1976, only minimal progress has been made to insure full legal and human rights for U.S. citizens jailed in Mexico.

We are here today, because Mexico has proposed a partial solution to the problems—a bilateral treaty through which prisoners may be transferred to their home country to serve out sentences. Although I am not convinced that this treaty will put an end to all the abuses of human rights Americans experience when arrested in Mexico, it does provide a long overdue option to our citizens incarcerated in Mexico. I commend Mexico for this initiative. This innovative treaty was signed by the United States and Mexico almost a year ago, on November 25, 1976. S. 1682 implements this treaty which was unanimously ratified by the U.S. Senate in July of this year.

Under this United States-Mexico treaty, and a similar agreement between our Nation and Canada, U.S. citizens may elect to serve prison sentences in correctional institutions close to their home and families. The treaty upholds the validity of the Mexican sentence, but seeks to administer the sentences in an environment that is more effective and just than any jail can ever be for a foreign prisoner. The implementing legislation before us authorizes the Attorney General to effect the transfers, insuring the constitutionality of the process by seeing that all prisoners receive adequate and competent legal counsel, and consent to the transfer with full knowledge of the consequences of their decision.

Two hundred and thirty-five to two hundred and sixty-five Americans will be eligible for transfer within the next 6 weeks under this bill. Many are young, first time offenders, serving 7- and 8-year sentences for crimes considered misdemeanors in this country. Prison conditions in Mexico are far more primitive than in our own country. Necessities, and even luxuries, can be purchased, but as I've already mentioned for U.S. citizens, the price is high. Parents routinely spend over $200 per month supporting children who become "walking cash registers" in Mexican prisons. Financial demands, combined with the emotional stress of prolonged separation from family and

friends, work undue hardship on these U.S. citizens in Mexico, while making innocent victims of their families in the United States. It is questionable whether rehabilitation can be effectively carried out in the cultural, financial, and emotional situation in which these young offenders find themselves.

Close to one third of all U.S. citizens detained in foreign jails—580 Americans—are today imprisoned in Mexico. Mexico approached the congressional investigation of violations of human and legal rights, which I began 3 years ago, seriously—and took the initiative in suggesting a transfer of prisoners treaty. Mexico has completed its legislative requirements and is ready to implement the agreement. It is especially important that the United States now act as this siuation has taken on great diplomatic and political importance and remains, according to Ambassador Lucey, the No. 1 irritant in United States-Mexico relations. Our two nations have numerous matters of bilateral concern, and we must not allow this problem to delay discussion on more important issues any longer.

Positive House action today will move S. 1682 to the President's desk and bring about final implementation of the exchange treaty. Its enactment will not end all of the abuses of human and legal rights experienced by Americans upon arrest in Mexico—that is a matter we must continue to monitor and improve, but it will break new ground in international relations, easing a considerable source of bilateral tension. In human terms, it will also end a long ordeal for many of the Americans detained in Mexico and their families at home. We now have an opportunity to make December more festive for hundreds of American families. I strongly urge you to vote "yes" on S. 1682.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of S. 1682 to provide for the implementation of treaties for the transfer of criminal offenders to or from foreign countries. There has been much debate and concern over the many American citizens who are serving jail sentences in foreign countries. Specifically, most of the concern has involved American nationals serving sentences for drug violations in Mexico. I feel that as a humane gesture these Americans should be given the opportunity to complete their sentences in the United States.

I would like to point out, however, that by supporting this act I do not in any way condone the crimes—particularly those dealing with drug trafficking of the convicted Americans. Violations of foreign statutes by an alien is a serious offense and the host country has every right to prosecute the offender. In addition, I would like to make it plain that passage and implementation of this legislation should not, in any way, constitute a decrease of our interest in having Mexico cooperate in stopping the drug traffic. This act should also not be viewed as a means by which convicted aliens can "get off the hook" and receive lighter sentences in their native countries. The provisons of this act specifically state that only the country in which the prisoner was convicted has the right to modify or set aside the conviction or sentence.

Mr. Speaker, there has been much concern over the treatment of American prisoners in certain foreign countries. In the spirit of both good will toward our own citizens and of respect for foreign law, I urge my colleagues to support S. 1682.

Mr. FISH. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I wish to point out that provisions for prisoner exchange between countries is not an idea which is beginning here. We heard testimony that similar arrangements are common in Europe. The Council of Europe has established the European Convention on the International Validity of Criminal Judgments. Foreign penal judgments are recognized among the 16 countries are signatories of that convention and offenders may be transferred under that convention. The Benelux countries and the Scandinavian countries have similar treaty arrangements which allow the exchange of prisoners. So, what we consider today is not unique.

It is acknowledged that the United States has a legitimate concern about the welfare of its citizens at home or abroad. We have been able to negotiate treaties with two countries, where several hundred U.S. citizens are now incarcerated. Allegations have been made that the conditions of imprisonment are far below U.S. standards in some of the prisons where our citizens are being held. It is in the best interests of the United States to remove this irritant to bilateral relations between our countries, particularly when you consider the other matters which must be dealt with by the United States and Mexico—one of which is the massive problem of Mexicans illegally present in the United States.

The bill we consider today is significantly improved over the original administration proposal. I fully support this bill and urge my colleagues to agree to the motion to suspend the rules and pass S. 1682.

Mr. BROWN of California. Mr. Speaker, I rise in support of the passage of S. 1682. I hope that these treaties between the United States, Canada, and Mexico, will set a precedent for the establishment of similar and perhaps improved treaties with other foreign countries where American citizens are imprisoned. This legislation will permit a treaty that will make it possible for a convicted prisoner, one who has exhausted his time for an appeal, a youthful offender, or a mentally ill person accused of an offense, to be returned to his native country to serve his or her sentence. In the event of such a transfer the consent of the governments of both the receiving state and the transferring state would be required as well as the consent of the prisoner.

Of particular concern to me as a Representative from California, is the treaty between the United States and Mexico. With its close geographical proximity to Mexico, my State has by far the largest number of American prisoners there. With constituents from my district, the 36th District, having undergone traumatic experiences involving relatives, friends, or themselves imprisoned in Mexico, and having had a member of my staff who has spoken firsthand with many American prisoners during and after their incarceration, I feel quite qualified to state certain concerns about various aspects of the treaty.

Although I support S. 1682 and will vote for its passage, my concern is not what the treaty provides for but rather what provisions have been excluded. Make no mistake about it, the treaty offers perhaps the first ray of hope ever for some extremely unfortunate American citizens. Those citizens, however, must have been convicted, sentenced and then have exhausted the time allowed for an appeal before they are eligible. It is ironic that those prisoners who have not been convicted, sentenced and been put through the exceedingly long and grueling waiting period for judicial procedures to be completed, end up receiving little or no aid whatsoever from the treaty.

For example, if you examine the complaints made most often, and those considered to be the major violations of human rights, you will find that the abuses, deficiencies, cultural differences and intrinsic hardships of being arrested, tried and imprisoned in any foreign country almost always occur, and inflict the most serious suffering, before the transfer requirements of the treaty can be met. In this period the treaty would have no effect whatsoever. By the time that sentencing has occurred and the time allowed for appeal has expired 2 years or more of incarceration may have elapsed. Let me list some of the major hardships which are found to occur most often during this 2-year period, outside the jurisdiction of the treaty.

First. Police brutality and torture.

Second. Confiscation of personal property.

Third. Detention without any means of communication for extensive periods of time.

Fourth. Extortion of both prisoners and their families by unscrupulous attorneys.

Fifth. Denial of access to legal counsel.

Sixth. Lack of interpreters during interrogations and court proceedings.

Seventh. General prison abuse, lack of proper health facilities, unsanitary conditions, prison brutality, lack of basic resources for even a minimal standard of living.

Eighth. Extensive pretrial detention.

The treaty and its program for prisoner transfer also does not provide for an offender's mental and physical rehabilitation after the initial imprisonment of approximately 2 years. Rehabilitation is less likely to take place when the environment in which the offender finds himself is completely unfamiliar and often hostile toward him. Rehabilitation programs in Mexico are often minimal or nonexistent. Discrimination against Americans is common; in the words of CBS's "Sixty Minutes," Amer-

ican prisoners are regarded as "walking cash registers."

The imprisonment of large numbers of Americans in Mexican jails and vice versa has strained the historically friendly relations between the two countries. We need to avoid causing any more tension than necessary with Mexico. There is no nation in the world with which we have greater interaction than with Mexico. Moreover, Mexico's very proximity and involvement makes her government officials particularly sensitive to any indication of U.S. encroachment on Mexican sovereignty and independence.

Hopefully S. 1682 will be approved by a wide margin, and this vote will serve as a demonstration to the Mexican Government, or any other government, that we welcome the opportunity to ameliorate the increased burden imposed upon citizens from both countries by being imprisoned in a foreign country.

At this time it must also be stressed that the Mexican Government has developed a bold, imaginative, and effective approach to attacking the drug flow across our international border. We do not feel, however, that there is any inconsistency whatsoever between our desire for continued Mexican efforts to curb the flow of heroin and our desire for fair treatment to U.S. prisoners. Mexico has also shown more concern directed toward prison reform. The need for improvements in prison conditions has been and continues to be the subject of widespread reporting and intense discussion in the press throughout Mexico. The inmate "Mafia-like" system of prison control, composed of the prisoners themselves inside the walls of most Mexican prisons, usually maintains order but can also be the cause of serious brutality and extortion. It is, fortunately, steadily being abolished by the Mexican authorities. Public statements condemning the exploitation by lawyers have also taken place. Most agree, however, that it is still too early to determine if any of this will eventually lead to widespread prison reform.

Certain questions have been raised about the treaty's potential for releasing serious offenders back on the streets. The fear is that it would put members of large smuggling operations back in the country and State where they might have strong "family" influence that could lead to repeated illegal activity. It should be noted that, under this treaty, the Attorney General must agree to the receipt or transfer of any offender. It has also been recommended that in certain situations, involving a dangerous offender, that the Attorney General should not agree to the return of that offender. The Committee on the Judiciary expects that the Attorney General will promptly establish regulations and provide standards and guidelines which will govern the exercise of his discretion to receive or transfer offenders.

Finally, there are certain constitutional issues associated with the treaty, that have caused concern. There is little doubt that American prisoners who are transferred from Mexican prisons will attempt, in our courts, to challenge the constitutionality of their convictions. The constitutionality of this treaty depends in a large part on the prisoner's voluntarily consenting not to assert his due process rights and a determination of whether or not, under the conditions prevailing in Mexican prisons, which are sometimes unbearable, that any consent or waiver given in such circumstances is inherently involuntary. I feel that since this treaty is so unique, and since we have no precedents to fall back upon, that we will be doing a great moral injustice to our fellow Americans imprisoned in Mexico if we let speculative legal arguments block this treaty. I support the position of my colleague Mr. STARK on this issue, that we let a judicial rather than a legislative or executive setting provide the forum for the resolution of such fine constitutional disputes.

Mr. Speaker, I will vote for S. 1682. However, I feel that the Congress has not completely fulfilled its responsibility in regard to Americans imprisoned in Mexican prisons, nor for that matter to the hundreds of other Americans imprisoned in dozens of other foreign prisons, and I intend to keep pressing for the adoption of more extensive human rights measures. I offer congratulations to the superior efforts and accomplishments in this area by Senator BIDEN, Representative STARK, Representative FASCELL, Representative GILMAN, their dedicated staffs, and the families and friends of these prisoners who have continuously refused to give up hope when all has seemed lost.

Mr. UDALL. Mr. Speaker, I rise in support of a bill calling for the implementation of the Prisoner Exchange Treaty With Mexico. I have followed this legislation, and the diplomatic negotiations which preceeded it, with great interest, as I am most concerned with all aspects of our relations with Mexico.

Of the first group of prisoners which will be returning to the United States, 16 are from Arizona; of the 580 U.S. citizens currently held in Mexican jails, between 6 to 10 percent are Arizona residents, and may be exchanged to Arizona jails. In all probability, many will not be exchanged—some have not completed sentencing, appeal, or parole applications procedures, and so are not eligible, some may not wish to return, and some have less than 6 months left of their sentence to serve.

We have had a lot of press on this issue, most of it highlighting the unpleasant aspects of the situation—and there are unpleasant aspects, some of which are still with us—but I am glad to say that neither Government was distracted by the publicity, and both worked, diligently to solve this common problem. There are still some questions here, especially in regard to the constitutional rights of the prisoners, but overall, this treaty is useful and worthwhile. It is a good step forward in the rehabilitation of prisoners held in foreign jails where, until now, they have been faced with great language and cultural problems.

If you have read your history, you find that states have consistently settled disputes with the gun. You watch television or read the newspaper, and can see that it has not really changed. There is more negotiation, more adjudication, but still, far too often, force is used as the main tool of international politics. Our relations with Canada have been long characterized by peaceful negotiation, and I am glad to see that our relations with Mexico have taken on the same measure of trust and amity.

The exchange treaty with Mexico is an example of a joint solution to a common problem, an example of what can be done through consultation and cooperation. There are many serious problems still hindering ideal United States-Mexican relations, and I hope that both Mexican and American politicians will continue to act in a spirit of friendship and good will. Solutions to the drug traffic problem, to the undocumented alien issue, to trade and economic problems—all can benefit from the example set by the negotiations for the Prisoner Exchange Treaty, and all can be solved with the same applications of commonsense and good judgment. I applaud our own executive branch, and especially the Mexican Government, for their efforts in this area; and I strongly support this piece of legislation.

Mr. RAILSBACK. Mr. Speaker, I would like to add my support to this legislation. There is hardly a week which passes that we in this Nation do not hear of some abuse against an American in a Mexican jail. I am only to aware of it since a constituent from my district in Illinois is presently a prisoner in a Mexican jail. The family has already spent thousands of dollars for his attorney's fees and to maintain him in the prison. This maintaining provides only the minimum necessities in a 42 bunk cell which contains 80 other prisoners along with countless numbers of lice, roaches, and rats. All food and medical attention must be paid for by the prisoners or their families and friends in America. Payment does not always insure delivery.

I certainly will never condone any violation of either an American or a Mexican law. But, I do feel that any person accused, be they guilty or innocent, should have fair justice and humane treatment. In the case of my constituent, he was beaten into signing a confession he could not read. After sustaining injury from the beating he was not given any medical treatment. This certainly is not justice. This type of treatment places a prisoner in a life or death situation and causes great hardship on their families.

We, today have the opportunity to correct this situation and help to relieve a burden which is on over 600 Americans and their families. I would like to urge my colleagues to support this bill.

Mr. RHODES. Mr. Speaker, my remarks will be brief and to the point. As the Members of the House are well aware, during the past several years the Government of Mexico in cooperation and at the urging of the U.S. Government has stepped up its efforts to control the flow of narcotics from its country into ours. As a direct result of this increased drug traffic enforcement, the number of U.S. citizens in Mexican jails has risen dramatically until today it

is estimated that there are between 400 and 1,500 American citizens incarcerated in Mexican prisons with most of these convicts serving time for drug-related charges.

It has been brought to my attention, as I am sure it has other Members as well, that as the population in the Mexican jails increased, complaints about the conditions in those jails have become well known. As a result, in the fall of 1976 the International Relations Committee held a series of hearings on the treatment of U.S. citizens in Mexican prisons. The fruition of those hearings as well as investigations by the administration into the conditions of the Mexican jails led to the signing of a treaty between the Mexican Government and ours providing for the exchange of prisoners In order to implement that treaty we must approve Senate bill 1682.

The most controversial provision of this bill is the section concerning a collateral attack of his conviction in a Mexican court by a transferred prisoner once he is back in this country. It is my understanding that this issue has been addressed by the Judiciary Committee, and the expert witnesses who testified at the hearings on this matter were convinced that such an attack would not be successful, and would not be a violation of any prisoner's constitutional rights. While this provision will most certainly be tested if S. 1682 passes, hopefully the law as it now stands will remain intact after judicial review.

I urge the House to consider favorably S. 1682. While this bill will implement an exchange process whereby people who deal in a most scurrilous business are in effect being given a break by being incarcerated in this country rather than in Mexico, since the Mexican Government has consented to such a procedure and is cooperating with this country to try to stem the flow of illegal drug use in our country, I feel we should move forward in a spirit of cooperation with the Mexican Government and pass S. 1682 to insure that these prisoners are treated in accordance with the laws and standards of this country.

Mr. RODINO. Mr. Speaker, I rise in support of S. 1682, a bill providing procedures and guidelines for the implementation of the Offender Transfer Treaties presently in existence with Mexico and Canada, and of future Offender Transfer Treaties with other countries.

Mr. Speaker, the plight of thousands of Americans imprisoned in foreign jails has been, and is to an increasing degree becoming, an area of great national concern. The hardships endured by U.S. Nationals imprisoned in foreign penal institutions are evident. Many of these individuals, charged with violations of drug laws, are serving sentences of greater length than those normally received by individuals convicted of similar crimes in the United States. Many are serving sentences in institutions experiencing deterioration and decay, and all find themselves in an environment which is completely unfamiliar to them and in which the possibility of their rehabilitation is stiflingly low.

The recently signed treaties with Canada and Mexico provide a partial solution to this problem of growing public awareness and concern. Generally, the treaties provide for mutual, voluntary transfers of certain convicted offenders between the signatory countries. The treaties reflect a real concern over the foreign prisoner problem on the part of the participating nations and a willingness to work together in its solution.

Expeditious passage of S. 1682 by Congress would serve as confirmation of this Nation's desire to deal with, and resolve this problem.

Mr. Speaker, the legislation which we consider today was the subject of much scrutiny within the Judiciary Committee's Subcommittee on Immigration, Citizenship, and International Law which Mr. EILBERG most ably chairs. The bill as originally drafted did raise some concern among the subcommittee members. For the most part, the concern grew out of the provisions in the treaty and the legislation limiting a transferred offender's ability to attack his foreign conviction and sentence. Testimony was received from recognized scholars in the field of constitutional and international criminal law, who commented on the constitutionality of the bill and suggested possible changes.

Through the joint efforts of both my committee and the Senate Judiciary Committee, amendments were made to the bill as originally proposed. These changes, in essence, provide detailed procedures and guidelines under which the Attorney General will operate to effect the prisoner transfers. The bill as amended now provides for consent verification hearings, to be conducted under the guidance of U.S. court appointed magistrates or other citizens appointed by a U.S. court as verifying officers. At these hearings, the offender has the right to counsel and a verbatim record is kept. My committee is satisfied that the bill as amended minimizes to the greatest extent the possibility of a future successful constitutional challenge.

Very recently I received communication from the U.S. Ambassador to Mexico, Patrick J. Lucey, urging expeditious passage of this bill. Mr. Lucey expressed to me the hope of the U.S. prisoners in Mexico of returning to the United States before Christmas and also the desire of the Mexican Government to begin transfers under the treaty.

Mr. Speaker, in the spirit of our Nation's present concern over and leadership role in the promotion of human rights throughout the world, and in the interest of ameliorating bilateral relations between the United States and other countries, I urge passage of this landmark legislation.

Mr. JOHN L. BURTON. Mr. Speaker, it is with regret that I vote against S. 1682, today, which would implement two treaties, already ratified by the Senate—one with Mexico and the other with Canada.

The intent of ratifying these treaties is to enable the transfer of prisoners, convicted of crimes in a foreign country, to finish their sentences in their home nations. Presumably, the treaties would guarantee better treatment for U.S. citizens. They would not.

The Justice Department estimates that 750 Americans are now in Mexican jails. These prisoners have languished in Mexico, with a traditional "hands-off" policy by U.S. consular officials toward monitoring the conditions under which they were imprisoned. This approach by consular officials has left these Americans unprotected and isolated during key stages of their confinement, notably, during interrogation.

Under the treaties we are voting on today, these same consular officials would be empowered to verify the "good-time credit"—to be given to these prisoners, once they return to the United States—which is the key to any reduction in sentence. Unfortunately, there is no evidence that our consular officials will be any more sensitive to monitoring and improving the treatment of these prisoners, once the treaties are implemented, than they are now.

Mr. Speaker, it is my strong belief that these treaties should be amended, to establish strict guidelines for our consular officials both to end the "hands-off" policy and to monitor actively and consistently the treatment of Americans from the time of their arrest. Unfortunately, parliamentary procedures will not allow for an amendment today. But, without such amendment—with this true embassy reform—U.S. citizens arrested in Mexico will be no better off than they are now—even if they are transferred home. I cannot, in good conscience, support a treaty which only presents a cosmetic solution to this problem.

I will support the badly-needed reforms in legislation which is being proposed by my colleagues who are truly interested in the treatment of these American citizens.

Mr. FISH. Mr. Speaker, I have no further requests for time.

Mr. EILBERG. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG) that the House suspend the rules and pass the Senate bill S. 1682.

The question was taken.

Mr. COTTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion, on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 8803;
H.R. 8059;
H.R. 8358;
H.R. 9251;
H.R. 7278;

H.R. 8346; and
S. 1682.
All on which the yeas and nays were ordered.

APPALACHIAN TRAIL AMENDMENT TO NATIONAL TRAILS ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 8803, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and pass the bill, H.R. 8803, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 409, nays 12, not voting 13, as follows:

[Roll No. 685]

YEAS—409

Abdnor	Chappell	Ford, Mich.
Addabbo	Chisholm	Ford, Tenn.
Akaka	Clausen,	Forsythe
Alexander	Don H.	Fountain
Allen	Clawson, Del	Fraser
Ambro	Clay	Frenzel
Ammerman	Cleveland	Frey
Anderson,	Cochran	Fuqua
Calif.	Cohen	Gammage
Anderson, Ill.	Coleman	Gaydos
Andrews, N.C.	Collins, Ill.	Gephardt
Andrews,	Conable	Giaimo
N. Dak.	Conte	Gibbons
Annunzio	Conyers	Gilman
Applegate	Corcoran	Ginn
Archer	Corman	Glickman
Armstrong	Cornell	Goldwater
Ashbrook	Cornwell	Gonzalez
Ashley	Cotter	Gore
Aspin	Coughlin	Gradison
AuCoin	Crane	Grassley
Badham	Cunningham	Gudger
Badillo	D'Amours	Guyer
Bafalis	Daniel, Dan	Hagedorn
Baldus	Daniel, R. W.	Hall
Barnard	Danielson	Hamilton
Baucus	Davis	Hammer-
Bauman	de la Garza	schmidt
Beard, R.I.	Delaney	Hanley
Beard, Tenn.	Dellums	Hannaford
Bedell	Dent	Hansen
Beilenson	Derrick	Harkin
Benjamin	Derwinski	Harrington
Bennett	Dickinson	Harris
Bevill	Dicks	Harsha
Biaggi	Diggs	Hawkins
Bingham	Dingell	Heckler
Blanchard	Dodd	Hefner
Blouin	Dornan	Heftel
Boggs	Downey	Hightower
Boland	Drinan	Hillis
Bolling	Duncan, Oreg.	Holland
Bonior	Duncan, Tenn.	Hollenbeck
Bonker	Early	Holt
Bowen	Eckhardt	Holtzman
Brademas	Edgar	Horton
Breaux	Edwards, Ala.	Howard
Brinkley	Edwards, Calif.	Hubbard
Brodhead	Edwards, Okla.	Huckaby
Brooks	Eilberg	Hughes
Broomfield	Emery	Hyde
Brown, Calif.	English	Ichord
Brown, Mich.	Erlenborn	Ireland
Brown, Ohio	Ertel	Jenkins
Broyhill	Evans, Colo.	Jenrette
Buchanan	Evans, Del.	Johnson, Colo.
Burgener	Evans, Ga.	Jones, N.C.
Burke, Calif.	Evans, Ind.	Jones, Okla.
Burke, Fla.	Fary	Jones, Tenn.
Burke, Mass.	Fascell	Jordan
Burlison, Mo.	Fenwick	Kasten
Burton, John	Findley	Kastenmeier
Burton, Phillip	Fish	Kazen
Butler	Fisher	Kelly
Byron	Fithian	Kemp
Caputo	Flippo	Ketchum
Carney	Flood	Keys
Carr	Florio	Kildee
Carter	Flowers	Kindness
Cavanaugh	Flynt	Kostmayer
Cederberg	Foley	Krebs
Krueger	Myers, John	Simon
LaFalce	Myers, Michael	Sisk
Lagomarsino	Natcher	Skelton
Latta	Neal	Skubitz
Le Fante	Nedzi	Slack
Leach	Nichols	Smith, Iowa
Lederer	Nix	Smith, Nebr.
Leggett	Nolan	Snyder
Lehman	Nowak	Solarz
Lent	O'Brien	Spellman
Levitas	Oakar	Spence
Livingston	Oberstar	St Germain
Lloyd, Calif.	Obey	Staggers
Lloyd, Tenn.	Ottinger	Stanton
Long, La.	Panetta	Stark
Long, Md.	Patten	Steed
Lott	Patterson	Steers
Lujan	Pattison	Steiger
Lundine	Pease	Stockman
McClory	Perkins	Stokes
McCloskey	Pettis	Stratton
McCormack	Pickle	Studds
McDade	Pike	Symms
McFall	Poage	Teague
McHugh	Pressler	Thompson
McKay	Preyer	Thone
McKinney	Price	Thornton
Madigan	Pursell	Traxler
Maguire	Quayle	Treen
Mahon	Quie	Trible
Mann	Quillen	Tsongas
Markey	Rahall	Tucker
Marks	Railsback	Udall
Marlenee	Rangel	Ullman
Marriott	Regula	Vander Jagt
Martin	Reuss	Vanik
Mathis	Rhodes	Vento
Mattox	Rinaldo	Volkmer
Mazzoli	Risenhoover	Waggonner
Meeds	Roberts	Walgren
Metcalfe	Rodino	Walker
Meyner	Roe	Walsh
Michel	Rogers	Wampler
Mikulski	Roncalio	Watkins
Mikva	Rooney	Waxman
Milford	Rose	Weaver
Miller, Calif.	Rosenthal	Weiss
Miller, Ohio	Rostenkowski	White
Mineta	Rousselot	Whitehurst
Minish	Roybal	Whitley
Mitchell, Md.	Runnels	Whitten
Mitchell, N.Y.	Ruppe	Wiggins
Moakley	Russo	Wilson, Bob
Moffett	Ryan	Wilson, C. H.
Mollohan	Santini	Wilson, Tex.
Montgomery	Sarasin	Winn
Moore	Satterfield	Wirth
Moorhead,	Sawyer	Wright
Calif.	Scheuer	Wydler
Moorhead, Pa.	Schroeder	Wylie
Moss	Schulze	Yates
Mottl	Sebelius	Yatron
Murphy, Ill.	Seiberling	Young, Alaska
Murphy, N.Y.	Sharp	Young, Fla.
Murphy, Pa.	Shipley	Young, Tex.
Murtha	Shuster	Zablocki
Myers, Gary	Sikes	Zeferetti

NAYS—12

Burleson, Tex.	Jacobs	Rudd
Collins, Tex.	Jeffords	Stangeland
Devine	McDonald	Stump
Goodling	Robinson	Taylor

NOT VOTING—13

Breckinridge	McEwen	Whalen
Fowler	Pepper	Wolff
Johnson, Calif.	Pritchard	Young, Mo.
Koch	Richmond	
Luken	Van Deerlin	

The Clerk announced the following pairs:

Mr. Breckinridge with Mr. McEwen.
Mr. Fowler with Mr. Pritchard.
Mr. Richmond with Mr. Luken.
Mr. Koch with Mr. Van Deerlin.
Mr. Young of Missouri with Mr. Wolff.
Mr. Pepper with Mr. Johnson of California.

Mr. STANGELAND and Mr. JEFFORDS changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill S. 1682, Prisoner Exchange Treaties.

The SPEAKER pro tempore (Mr. KAZEN). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

SEXUAL EXPLOITATION OF MINORS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 8059, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and pass the bill H.R. 8059, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 14, as follows:

[Roll No. 686]

YEAS—420

Abdnor	Breaux	Coughlin
Addabbo	Brinkley	Crane
Akaka	Brodhead	Cunningham
Alexander	Brooks	D'Amours
Allen	Broomfield	Daniel, Dan
Ambro	Brown, Calif.	Daniel, R. W.
Ammerman	Brown, Mich.	Danielson
Anderson,	Brown, Ohio	Davis
Calif.	Broyhill	de la Garza
Anderson, Ill.	Buchanan	Delaney
Andrews, N.C.	Burgener	Dellums
Andrews,	Burke, Calif.	Dent
N. Dak.	Burke, Fla.	Derrick
Annunzio	Burke, Mass.	Derwinski
Applegate	Burleson, Tex.	Devine
Archer	Burlison, Mo.	Dickinson
Armstrong	Burton, John	Dicks
Ashbrook	Burton, Phillip	Diggs
Ashley	Butler	Dingell
Aspin	Byron	Dodd
AuCoin	Caputo	Dornan
Badham	Carney	Downey
Badillo	Carr	Drinan
Bafalis	Carter	Duncan, Oreg.
Baldus	Cavanaugh	Duncan, Tenn.
Barnard	Cederberg	Early
Baucus	Chappell	Eckhardt
Bauman	Chisholm	Edgar
Beard, R.I.	Clausen,	Edwards, Ala.
Beard, Tenn.	Don H.	Edwards, Calif.
Bedell	Clawson, Del	Edwards, Okla.
Beilenson	Clay	Eilberg
Benjamin	Cleveland	Emery
Bennett	Cochran	English
Bevill	Cohen	Erlenborn
Biaggi	Coleman	Ertel
Bingham	Collins, Ill.	Evans, Colo.
Blanchard	Collins, Tex.	Evans, Del.
Blouin	Conable	Evans, Ga.
Boggs	Conte	Evans, Ind.
Boland	Conyers	Fary
Bolling	Corcoran	Fascell
Bonior	Corman	Fenwick
Bonker	Cornell	Findley
Bowen	Cornwell	Fish
Brademas	Cotter	Fisher

Fithian	Lott	Roncalio
Flippo	Lujan	Rooney
Flood	Lundine	Rose
Florio	McClory	Rosenthal
Flowers	McCloskey	Rostenkowski
Flynt	McCormack	Rousselot
Foley	McDade	Roybal
Ford, Mich.	McDonald	Rudd
Ford, Tenn.	McFall	Runnels
Forsythe	McHugh	Ruppe
Fountain	McKay	Russo
Fraser	McKinney	Ryan
Frenzel	Madigan	Santini
Frey	Maguire	Sarasin
Fuqua	Mahon	Satterfield
Gammage	Mann	Sawyer
Gaydos	Markey	Scheuer
Gephardt	Marks	Schroeder
Giaimo	Marlenee	Schulze
Gibbons	Marriott	Sebelius
Gilman	Martin	Seiberling
Ginn	Mathis	Sharp
Glickman	Mattox	Shipley
Goldwater	Mazzoli	Shuster
Gonzalez	Meeds	Sikes
Goodling	Metcalfe	Simon
Gore	Meyner	Sisk
Gradison	Michel	Skelton
Grassley	Mikulski	Skubitz
Gudger	Mikva	Slack
Guyer	Milford	Smith, Iowa
Hagedorn	Miller, Calif.	Smith, Nebr.
Hall	Miller, Ohio	Snyder
Hamilton	Mineta	Solarz
Hammer-schmidt	Minish	Spellman
	Mitchell, Md.	Spence
Hanley	Mitchell, N.Y.	St Germain
Hannaford	Moakley	Staggers
Hansen	Moffett	Stangeland
Harkin	Mollohan	Stanton
Harrington	Montgomery	Stark
Harris	Moore	Steed
Harsha	Moorhead, Calif.	Steers
Hawkins		Steiger
Heckler	Moorhead, Pa.	Stockman
Hefner	Moss	Stokes
Heftel	Motti	Stratton
Hightower	Murphy, Ill.	Studds
Hillis	Murphy, N.Y.	Stump
Holland	Murphy, Pa.	Symms
Hollenbeck	Murtha	Taylor
Holt	Myers, Gary	Teague
Holtzman	Myers, John	Thompson
Horton	Myers, Michael	Thone
Howard	Natcher	Thornton
Huckaby	Neal	Traxler
Hughes	Nedzi	Treen
Hyde	Nichols	Trible
Ichord	Nix	Tsongas
Ireland	Nolan	Tucker
Jacobs	Nowak	Udall
Jeffords	O'Brien	Ullman
Jenkins	Oakar	Vander Jagt
Jenrette	Oberstar	Vanik
Johnson, Colo.	Obey	Vento
Jones, N.C.	Ottinger	Volkmer
Jones, Okla.	Panetta	Waggonner
Jones, Tenn.	Patten	Walgren
Jordan	Patterson	Walker
Kasten	Pattison	Walsh
Kastenmeier	Pease	Wampler
Kazen	Perkins	Watkins
Kelly	Pettis	Waxman
Kemp	Pickle	Weaver
Ketchum	Pike	Weiss
Keys	Poage	White
Kildee	Pressler	Whitehurst
Kindness	Preyer	Whitley
Kostmayer	Price	Whitten
Krebs	Pursell	Wiggins
Krueger	Quayle	Wilson, Bob
LaFalce	Quie	Wilson, C. H.
Lagomarsino	Quillen	Wilson, Tex.
Latta	Rahall	Winn
Le Fante	Railsback	Wirth
Leach	Rangel	Wright
Lederer	Regula	Wydler
Leggett	Reuss	Wylie
Lehman	Rhodes	Yates
Lent	Rinaldo	Yatron
Levitas	Risenhoover	Young, Alaska
Livingston	Roberts	Young, Fla.
Lloyd, Calif.	Robinson	Young, Tex.
Lloyd, Tenn.	Rodino	Zablocki
Long, La.	Roe	Zeferetti
Long, Md.	Rogers	

NAYS—0

NOT VOTING—14

Breckinridge	Luken	Van Deerlin
Fowler	McEwen	Whalen
Hubbard	Pepper	Wolff
Johnson, Calif.	Pritchard	Young, Mo.
Koch	Richmond	

The Clerk announced the following pairs:

Mr. Richmond with Mr. Luken.
Mr. Young of Missouri with Mr. Wolff.
Mr. Pepper with Mr. Pritchard.
Mr. Fowler with Mr. Van Deerlin.
Mr. Koch with Mr. McEwen.
Mr. Breckinridge with Mr. Johnson of California.
Mr. Hubbard with Mr. Whalen.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend title 18 of the United States Code relating to the sexual exploitation of minors, and for other purposes."

A motion to reconsider was laid on the table.

Mr. CONYERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 1585) to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, or live performance, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Protection of Children Against Sexual Exploitation Act of 1977".

SEC. 2. (a) The Congress finds that—

(1) the use of children as subjects in the production of pornographic materials as subjects in live performances exhibiting sexually explicit conduct or for the purpose of prostitution is very harmful to both the children and to society as a whole:

(2) the production and sale of such pornographic materials represent many millions of dollars in annual revenue and that the sale and distribution of such materials are carried on to a substantial extent through interstate and foreign commerce and through the means and instrumentalities of such commerce; and

(3) existing Federal laws do not protect against the use of children in the production of pornographic materials, the use of children in live performances exhibiting sexually explicit conduct, or the interstate transportation of children for the purpose of engaging in prostitution or sexually explicit conduct and that specific legislation in this area is both advisable and needed.

(b) The Congress determines that the provisions of chapter 110 of title 18, United States Code, are necessary and proper for the purposes of carrying out the powers of Congress to regulate commerce and to establish uniform and effective laws on the subject of sexual exploitation of children.

SEC. 3. (a) Title 18, United Code, is amended by adding immediately after chapter 109 the following:

"Chapter 110—SEXUAL EXPLOITATION OF CHILDREN.

"Sec.
"2251. Sexual exploitation of children.
"2252. Transportation, sale, or distribution for sale of material depicting sexual exploitation of a minor.

"§ 2251. Sexual exploitation of children

"(a) It shall be unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in, or have a minor assist any other person to engage in, any sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, if such person knows or has reason to know that such film, photograph, negative, slide, book, magazine or other print or visual medium will be mailed or otherwise transported in interstate or foreign commerce.

"(b) It shall be unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in or to have a minor assist any other person to engage in, sexually explicit conduct, in a live performance, if such person knows or has reason to know that a facility of interstate or foreign commerce will be used to promote such live performance.

"(c) It shall be unlawful for any parent, legal guardian, or person having custody or control of a minor to knowingly permit such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, if such parent, legal guardian, or person knows or has reason to know that such film, photograph, negative, slide, book, magazine, or other print or visual medium will be mailed or otherwise transported in interstate or foreign commerce.

"(d) It shall be unlawful for any parent, legal guardian, or person having custody or control of a minor knowingly to permit such minor to engage in, or to have a minor assist any other person to engage in sexually explicit conduct, in a live performance, if such parent, legal guardian, or person knows or has reason to know that a facility of interstate or foreign commerce will be used to promote such live performance.

"(e) For the purposes of this section the term—

"(1) 'minor' means any person under the age of sixteen years;

"(2) 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) sado-masochistic abuse (for the purpose of sexual stimulation; and

"(E) lewd exhibition of the genitals or pubic area of any person; and

"(3) 'promoting' means producing, directing, manufacturing, issuing, publishing, or advertising for pecuniary profit.

"(f) Any person who violates this section shall be fined not more than $10,000, or imprisoned not less than two years nor more than ten years, or both, for the first offense, or fined not more than $15,000, or imprisoned for not less than five years nor more than fifteen years, or both, for each such offense thereafter.

"§ 2252. Transportation, sale, or distribution for sale of material depicting sexual exploitation of a minor

"(a) No person may—

"(1) knowingly transport, ship, or mail in interstate or foreign commerce for the purpose of sale or distribution for sale any film, photograph, negative, slide, book, magazine, or other print or visual medium depicting a

minor engaged in sexually explicit conduct; or

"(2) knowingly receive for the purpose of sale or distribution for sale, or knowingly sell or distribute for sale, any film, photograph, negative, slide, book, magazine, or other print or visual medium depicting a minor engaged in sexually explicit conduct which has been transported, shipped, or mailed in interstate or foreign commerce.

"(b) A person who violates this section shall be fined not more than $10,000 or imprisoned not less than one year nor more than ten years or both for the first offense, or shall be fined not more than $15,000 or imprisoned not less than two years nor more than fifteen years or both for each offense thereafter.

"(c) For the purposes of this section—

"(1) 'minor' means any person under the age of sixteen years;

"(2) 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) sadomasochistic abuse (for the purpose of sexual stimulation); and

"(E) lewd exhibition of the genitals or pubic area of any person.".

(b) The table of chapters of part I of title 18, United States Code, is amended by inserting immediately after the item relating to chapter 109 the following:

"110. Sexual exploitation of children 2251".

SEC. 4. (a) Section 2423 of title 18, United States Code, is amended to read as follows:

"§ 2423. Coercion or enticement of minor

"(a) (1) It shall be unlawful for any person to transport, or to cause to be transported, in interstate or foreign commerce or within the District of Columbia or any territory or possession of the United States, any minor for the purpose of such minor engaging in prostitution or sexually explicit conduct (as defined in section 2251 of this title) or with intent to induce, entice, or compel such minor to engage in prostitution or sexually explicit conduct (as defined in section 2251 of this title).

"(2) For purposes of this section, the term 'minor' means any person under the age of eighteen years.

"(b) Any person who violates this section shall be fined not more than $10,000, or imprisoned not more than ten years, or both.".

(b) The table of sections of chapter 117 of title 18, United States Code, is amended by striking out in the item relating to section 2423 the word "Female".

SEC. 5. (a) Section 1461 of title 18, United States Code, is amended by inserting immediately before the period in the eighth paragraph a comma and "except that if such thing involved the use of any person under the age of sixteen years engaging in sexually explicit conduct (as defined in section 2251 of this title), the punishment shall be a fine of not more than $10,000, or imprisonment of not less than one year nor more than ten years, or both for the first offense, or a fine of not more than $15,000, or imprisonment of not less than two years nor more than fifteen years or both, for each such offense thereafter".

(b) Section 1462 of title 18, United States Code is amended by inserting immediately before the period a comma and "except that if any such matter or thing involved the use of any person under the age of sixteen years engaging in sexually explicit conduct (as defined in section 2251 of this title), the punishment shall be a fine of nor more than $10,000 or imprisonment of not less than one year nor more than ten years, or both, for the first offense, or a fine of not more than $15,000, or imprisonment of not less than two years nor more than fifteen years, or both, for each such offense thereafter".

(c) Section 1465 of title 18, United States Code, is amended by inserting immediately before the period in the first paragraph a comma and "except that if any matter described in this section involved the use of any person under the age of sixteen years engaging in sexually explicit conduct (as defined in section 2251 of this title), the punishment shall be a fine of not more than $10,000, or imprisonment of not less than one year nor more than ten years, or both, for the first offense, or a fine of not more than $15,000, or imprisonment of not less than two years nor more than fifteen years, or both, for each such offense thereafter".

SEC. 6. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

MOTION OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CONYERS moves to strike out all after the enacting clause of the Senate bill S. 1585, and to insert in lieu thereof the provisions of H.R. 8059, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend title 18 of the United States Code relating to the sexual exploitation of minors, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 8059) was laid on the table.

LAW SCHOOL DEPOSITORY LIBRARIES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 8358.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. NEDZI) that the House suspend the rules and pass the bill H.R. 8358, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 397, nays 20, not voting 17, as follows:

[Roll No. 687]

YEAS—397

Abdnor	Bafalis	Breaux
Addabbo	Baldus	Brinkley
Akaka	Barnard	Brodhead
Alexander	Baucus	Brooks
Allen	Beard, R.I.	Broomfield
Ambro	Beard, Tenn.	Brown, Calif.
Ammerman	Bedell	Brown, Mich.
Anderson, Calif.	Beilenson	Brown, Ohio
Anderson, Ill.	Benjamin	Broyhill
Andrews, N.C.	Bennett	Buchanan
Andrews, N. Dak.	Bevill	Burgener
Annunzio	Biaggi	Burke, Calif.
Applegate	Bingham	Burke, Fla.
Archer	Blanchard	Burke, Mass.
Armstrong	Blouin	Burlison, Mo.
Ashley	Boggs	Burton, John
Aspin	Boland	Burton, Phillip
AuCoin	Bolling	Butler
Badham	Bonior	Byron
Badillo	Bonker	Caputo
	Bowen	Carney
	Brademas	Carr
	Breaux	Carter
	Brinkley	Cavanaugh
	Brodhead	Cederberg
	Brooks	Chappell
	Broomfield	Chisholm
	Brown, Calif.	Clausen, Don H.
	Brown, Mich.	Clawson, Del
	Brown, Ohio	Clay
	Broyhill	Cleveland
	Buchanan	Cochran
	Burgener	Cohen
	Burke, Calif.	Coleman
	Burke, Fla.	Collins, Ill.
	Burke, Mass.	Collins, Tex.
	Burlison, Mo.	Conable
	Burton, John	Conte
	Burton, Phillip	Conyers
	Butler	Corcoran
	Byron	Corman
	Caputo	Cornell
	Carney	Cornwell
	Carr	Cotter
	Carter	Coughlin
	Cavanaugh	Cunningham
	Cederberg	D'Amours
	Chappell	Daniel, Dan
	Chisholm	Daniel, R. W.
	Clausen, Don H.	Danielson
	Clawson, Del	Davis
	Clay	de la Garza
	Cleveland	Delaney
	Cochran	Dellums
	Cohen	Dent
	Coleman	Derrick
	Collins, Ill.	Derwinski
	Collins, Tex.	Devine
	Conable	Dickinson
	Conte	Dicks
	Conyers	Dingell
	Corcoran	Dodd
	Corman	Dornan
	Cornell	Downey
	Cornwell	Drinan
	Cotter	Duncan, Oreg.
	Coughlin	Duncan, Tenn.
	Cunningham	Early
	D'Amours	Eckhardt
	Daniel, Dan	Edgar
	Daniel, R. W.	Edwards, Ala.
	Danielson	Edwards, Calif.
	Davis	Edwards, Okla.
	de la Garza	Eilberg
	Delaney	Emery
	Dellums	English
	Dent	Erlenborn
	Derrick	Ertel
	Derwinski	Evans, Colo.
	Devine	Evans, Del.
	Dickinson	Evans, Ga.
	Dicks	Evans, Ind.
	Dingell	Fary
	Dodd	Fascell
	Dornan	Fenwick
	Downey	Fish
	Drinan	Fisher
	Duncan, Oreg.	Fithian
	Duncan, Tenn.	Flood
	Early	Florio
	Eckhardt	Flowers
	Edgar	Flynt
	Edwards, Ala.	Foley
	Edwards, Calif.	Ford, Mich.
	Edwards, Okla.	Ford, Tenn.
	Eilberg	Forsythe
	Emery	Fountain
	English	Fraser
	Erlenborn	Frenzel
	Ertel	Frey
	Evans, Colo.	Fuqua
	Evans, Del.	Gammage
	Evans, Ga.	Gaydos
	Evans, Ind.	Gephardt
	Fary	Giaimo
	Fascell	Gibbons
	Fenwick	Gilman
	Fish	Ginn
	Fisher	Goldwater
	Fithian	Gonzalez
	Flood	Goodling
	Florio	Gore
	Flowers	Gradison
	Flynt	Grassley
	Foley	Gudger
	Ford, Mich.	Guyer
	Ford, Tenn.	Hagedorn
	Forsythe	Hall
	Fountain	Hamilton
	Fraser	Hammer-schmidt
	Frenzel	Hanley
	Frey	Hannaford
	Fuqua	Harkin
	Gammage	Harrington
	Gaydos	Harris
	Gephardt	Harsha
	Giaimo	Hawkins
	Gibbons	Heckler
	Gilman	Hefner
	Ginn	Heftel
	Goldwater	Hightower
	Gonzalez	Hillis
	Goodling	Holland
	Gore	Hollenbeck
	Gradison	Holtzman
	Grassley	Horton
	Gudger	Howard
	Guyer	Hughes
	Hagedorn	Hyde
	Hall	Ichord
	Hamilton	Ireland
	Hammer-schmidt	Jacobs
	Hanley	Jeffords
	Hannaford	Jenkins
	Harkin	Jenrette
	Harrington	Johnson, Colo.
	Harris	Jones, N.C.
	Harsha	Jones, Okla.
	Hawkins	Jones, Tenn.
	Heckler	Jordan
	Hefner	Kasten
	Heftel	Kastenmeier
	Hightower	Kazen
	Hillis	Ketchum
	Holland	Keys
	Hollenbeck	Kildee
	Holtzman	Kindness
	Horton	Kostmayer
	Howard	Krueger
	Hughes	LaFalce
	Hyde	Lagomarsino
	Ichord	Latta
	Ireland	Le Fante
	Jacobs	Leach
	Jeffords	Lederer
	Jenkins	Leggett
	Jenrette	Lehman
	Johnson, Colo.	Lent
	Jones, N.C.	Levitas
	Jones, Okla.	Livingston
	Jones, Tenn.	Lloyd, Calif.
	Jordan	Lloyd, Tenn.
	Kasten	Long, La.
	Kastenmeier	Long, Md.
	Kazen	Lott
	Ketchum	Lujan
	Keys	Lundine
	Kildee	McClory
	Kindness	McCloskey
	Kostmayer	McCormack
	Krueger	McDade
	LaFalce	McFall
	Lagomarsino	McHugh
	Latta	McKay
	Le Fante	McKinney
	Leach	Madigan
	Lederer	Maguire
	Leggett	Mahon
	Lehman	Mann
	Lent	Markey
	Levitas	Marks
	Livingston	Marlenee
	Lloyd, Calif.	Marriott
	Lloyd, Tenn.	Martin
	Long, La.	Mathis
	Long, Md.	Mattox
	Lott	Mazzoli
	Lujan	Meeds
	Lundine	Metcalfe
	McClory	Meyner
	McCloskey	Michel
	McCormack	Mikulski
	McDade	Mikva
	McFall	Milford
	McHugh	Miller, Calif.
	McKay	Mineta
	McKinney	Minish
	Madigan	Mitchell, Md.
	Maguire	Mitchell, N.Y.
	Mahon	Moakley
	Mann	Moffett
	Markey	Mollohan
	Marks	Moore
	Marlenee	Moorhead, Calif.
	Marriott	Moorhead, Pa.
	Martin	Moss
	Mathis	Mottl
	Mattox	Murphy, Ill.
	Mazzoli	Murphy, N.Y.
	Meeds	Murphy, Pa.
	Metcalfe	Murtha
	Meyner	Myers, Gary
	Michel	Myers, John
	Mikulski	Myers, Michael
	Mikva	Natcher
	Milford	Neal
	Miller, Calif.	Nedzi
	Mineta	Nichols
	Minish	Nix
	Mitchell, Md.	Nolan
	Mitchell, N.Y.	Nowak
	Moakley	O'Brien
	Moffett	Oakar
	Mollohan	Oberstar
	Moore	Obey
	Moorhead, Calif.	Ottinger
	Moorhead, Pa.	Panetta
	Moss	Patten
	Mottl	Patterson
	Murphy, Ill.	Pattison
	Murphy, N.Y.	Pease
	Murphy, Pa.	Perkins
	Murtha	Pettis
	Myers, Gary	Pickle
	Myers, John	Pike
	Myers, Michael	Poage
	Natcher	Pressler
	Neal	Preyer
	Nedzi	Price
	Nichols	Pursell
	Nix	Quayle
	Nolan	Quie
	Nowak	Quillen
	O'Brien	Rahall
	Oakar	Railsback
	Oberstar	Rangel
	Obey	Regula
	Ottinger	Reuss
	Panetta	Rhodes
	Patten	Rinaldo
	Patterson	Risenhoover
	Pattison	Roberts
	Pease	Robinson
	Perkins	Rodino
	Pettis	Roe
	Pickle	Rogers
	Pike	Roncalio
	Poage	Rooney
	Pressler	Rose
	Preyer	Rosenthal
	Price	Rostenkowski
	Pursell	Roybal
	Quayle	Runnels
	Quie	Ruppe
	Quillen	Russo
	Rahall	Ryan
	Railsback	Santini
	Rangel	Sarasin
	Regula	Satterfield
	Reuss	Sawyer
	Rhodes	Scheuer
	Rinaldo	Schroeder
	Risenhoover	Schulze
	Roberts	Sebelius
	Robinson	Seiberling
	Rodino	Sharp
	Roe	Shipley
	Rogers	Shuster
	Roncalio	Sikes
	Rooney	Simon
	Rose	Sisk
	Rosenthal	Skelton
	Rostenkowski	Skubitz
	Roybal	Slack
	Runnels	Smith, Iowa
	Ruppe	Smith, Nebr.
	Russo	Snyder
	Ryan	Solarz
	Santini	Spellman
	Sarasin	Spence
	Satterfield	St Germain
	Sawyer	Staggers
	Scheuer	Stange and
	Schroeder	Stanton
	Schulze	Stark
	Sebelius	Steed
	Seiberling	Steers
	Sharp	Steiger
	Shipley	Stockman
	Shuster	Stokes
	Sikes	Stratton
	Simon	Studds
	Sisk	Taylor
	Skelton	Teague
	Skubitz	Thompson
	Slack	Thone
	Smith, Iowa	Thornton
	Smith, Nebr.	Traxler
	Snyder	Treen
	Solarz	Trible
	Spellman	Tsongas
	Spence	Tucker
	St Germain	Udall
	Staggers	Ullman
	Stange and	Vander Jagt
	Stanton	Vanik
	Stark	Vento
	Steed	Waggonner
	Steers	Walgren
	Steiger	Walker
	Stockman	Walsh
	Stokes	
	Stratton	
	Studds	
	Taylor	
	Teague	
	Thompson	
	Thone	
	Thornton	
	Traxler	
	Treen	
	Trible	
	Tsongas	
	Tucker	
	Udall	
	Ullman	
	Vander Jagt	
	Vanik	
	Vento	
	Waggonner	
	Walgren	
	Walker	
	Walsh	

Wampler	Whitten	Wydler
Watkins	Wiggins	Wylie
Waxman	Wilson, Bob	Yates
Weaver	Wilson, C. H.	Yatron
Weiss	Wilson, Tex.	Young, Fla.
White	Winn	Young, Tex.
Whitehurst	Wirth	Zablocki
Whitley	Wright	Zeferetti

NAYS—20

Ashbrook	Holt	Rousselot
Bauman	Huckaby	Rudd
Burleson, Tex.	Kelly	Stump
Crane	Krebs	Symms
Filippo	McDonald	Volkmer
Glickman	Miller, Ohio	Young, Alaska
Hansen	Montgomery	

NOT VOTING—17

Breckinridge	Kemp	Richmond
Diggs	Koch	Van Deerlin
Findley	Luken	Whalen
Fowler	McEwen	Wolff
Hubbard	Pepper	Young, Mo.
Johnson, Calif.	Pritchard	

The Clerk announced the following pairs:

Mr. Richmond with Mr. Van Deerlin.
Mr. Breckinridge with Mr. Hubbard.
Mr. Pepper with Mr. Findley.
Mr. Koch with Mr. Johnson of California.
Mr. Wolff with Mr. Whalen.
Mr. Young of Missouri with Mr. McEwen.
Mr. Fowler with Mr. Luken.
Mr. Diggs with Mr. Pritchard.

So (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TAX TREATMENT EXTENSION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 9251, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 9251, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 411, nays 5, not voting 18, as follows:

[Roll No. 688]

YEAS—411

Abdnor	Benjamin	Byron
Addabbo	Bennett	Caputo
Akaka	Bevill	Carney
Alexander	Biaggi	Carr
Allen	Bingham	Carter
Ambro	Blanchard	Cavanaugh
Ammerman	Blouin	Cederberg
Anderson, Calif.	Boggs	Chappell
	Boland	Chisholm
Anderson, Ill.	Bolling	Clausen, Don H.
Andrews, N.C.	Bonior	
Andrews, N. Dak.	Bonker	Clawson, Del
	Bowen	Clay
Annunzio	Brademas	Cleveland
Applegate	Breaux	Cochran
Archer	Brinkley	Cohen
Armstrong	Brodhead	Coleman
Ashbrook	Brooks	Collins, Ill.
Ashley	Broomfield	Collins, Tex.
Aspin	Brown, Calif.	Conable
AuCoin	Brown, Mich.	Conte
Badham	Brown, Ohio	Conyers
Badillo	Buchanan	Corcoran
Bafalis	Burgener	Corman
Baldus	Burke, Calif.	Cornell
Barnard	Burke, Fla.	Cornwell
Baucus	Burke, Mass.	Cotter
Bauman	Burleson, Tex.	Coughlin
Beard, R.I.	Burlison, Mo.	Crane
Beard, Tenn.	Burton, John	Cunningham
Bedell	Burton, Phillip	D'Amours
Beilenson	Butler	Daniel, Dan
Daniel, R. W.	Kastenmeier	Railsback
Danielson	Kazen	Rangel
Davis	Kelly	Regula
de la Garza	Kemp	Reuss
Delaney	Ketchum	Rhodes
Dellums	Keys	Rinaldo
Dent	Kildee	Risenhoover
Derrick	Kindness	Roberts
Derwinski	Kostmayer	Robinson
Devine	Krebs	Rodino
Dickinson	Krueger	Roe
Dicks	LaFalce	Rogers
Diggs	Lagomarsino	Roncalio
Dingell	Latta	Rooney
Dodd	Le Fante	Rose
Dornan	Leach	Rosenthal
Downey	Lederer	Rostenkowski
Duncan, Oreg.	Leggett	Rousselot
Duncan, Tenn.	Lehman	Roybal
Early	Lent	Rudd
Eckhardt	Levitas	Runnels
Edgar	Livingston	Ruppe
Edwards, Ala.	Lloyd, Calif.	Russo
Edwards, Calif.	Lloyd, Tenn.	Ryan
Edwards, Okla.	Long, La.	Santini
Eilberg	Long, Md.	Sarasin
Emery	Lott	Satterfield
English	Lujan	Sawyer
Erlenborn	Lundine	Scheuer
Ertel	McClory	Schroeder
Evans, Colo.	McCloskey	Schulze
Evans, Del.	McCormack	Sebelius
Evans, Ga.	McDade	Seiberling
Evans, Ind.	McDonald	Sharp
Fary	McFall	Shipley
Fascell	McHugh	Shuster
Fenwick	McKay	Sikes
Findley	McKinney	Simon
Fish	Madigan	Sisk
Fisher	Mahon	Skelton
Fithian	Mann	Skubitz
Flippo	Markey	Slack
Flood	Marks	Smith, Iowa
Florio	Marlenee	Smith, Nebr.
Flowers	Marriott	Snyder
Flynt	Martin	Solarz
Foley	Mathis	Spellman
Ford, Mich.	Mattox	Spence
Ford, Tenn.	Mazzoli	St Germain
Forsythe	Meeds	Staggers
Fraser	Metcalfe	Stangeland
Frenzel	Meyner	Stanton
Fuqua	Michel	Steed
Gammage	Mikulski	Steers
Gaydos	Mikva	Steiger
Gephardt	Milford	Stockman
Giaimo	Miller, Calif.	Stokes
Gibbons	Miller, Ohio	Stratton
Gilman	Mineta	Studds
Ginn	Minish	Stump
Glickman	Mitchell, Md.	Symms
Goldwater	Mitchell, N.Y.	Taylor
Gonzalez	Moakley	Teague
Goodling	Moffett	Thompson
Gore	Mollohan	Thone
Gradison	Montgomery	Thornton
Grassley	Moore	Traxler
Gudger	Moorhead, Calif.	Treen
Guyer		Trible
Hagedorn	Moorhead, Pa.	Tsongas
Hall	Moss	Tucker
Hamilton	Murphy, Ill.	Udall
Hammer-schmidt	Murphy, N.Y.	Ullman
	Murphy, Pa.	Vander Jagt
Hanley	Murtha	Vanik
Hannaford	Myers, Gary	Vento
Hansen	Myers, John	Volkmer
Harkin	Myers, Michael	Waggonner
Harrington	Natcher	Walgren
Harris	Neal	Walker
Harsha	Nedzi	Walsh
Hawkins	Nichols	Wampler
Heckler	Nix	Watkins
Hefner	Nolan	Waxman
Heftel	Nowak	Weaver
Hightower	O'Brien	Weiss
Hillis	Oakar	White
Holland	Oberstar	Whitehurst
Hollenbeck	Obey	Whitley
Holt	Ottinger	Whitten
Horton	Panetta	Wiggins
Howard	Patten	Wilson, Bob
Huckaby	Patterson	Wilson, C. H.
Hughes	Pease	Wilson, Tex.
Hyde	Perkins	Winn
Ichord	Pettis	Wirth
Ireland	Pickle	Wright
Jacobs	Pike	Wydler
Jeffords	Poage	Wylie
Jenkins	Pressler	Yates
Jenrette	Preyer	Yatron
Johnson, Colo.	Price	Young, Alaska
Jones, N.C.	Pursell	Young, Fla.
Jones, Okla.	Quayle	Young, Tex.
Jones, Tenn.	Quie	Zablocki
Jordan	Quillen	Zeferetti
Kasten	Rahall	

NAYS—5

Drinan	Maguire	Stark
Holtzman	Mottl	

NOT VOTING—18

Breckinridge	Johnson, Calif.	Pritchard
Broyhill	Koch	Richmond
Fountain	Luken	Van Deerlin
Fowler	McEwen	Whalen
Frey	Pattison	Wolff
Hubbard	Pepper	Young, Mo.

The Clerk announced the following pairs:

Mr. Richmond with Mr. Broyhill.
Mr. Wolff with Mr. Hubbard.
Mr. Pepper with Mr. Johnson of California.
Mr. Fowler with Mr. Frey.
Mr. Breckinridge with Mr. Luken.
Mr. Fountain with Mr. McEwen.
Mr. Koch with Mr. Pattison of New York.
Mr. Van Deerlin with Mr. Pritchard.
Mr. Young of Missouri with Mr. Whalen.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill relating to extensions of time for the existing tax treatment of certain items."

A motion to reconsider was laid on the table.

MARINER TRADE-IN BILL

The SPEAKER pro tempore. The unfinished business is the question of suspending the rule and passing the bill H.R. 7278, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BIAGGI) that the House suspend the rules and pass the bill H.R. 7278, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 412, nays 3, answered "present" 2, not voting 17, as follows:

[Roll No. 689]

YEAS—412

Abdnor	Boggs	Cleveland
Addabbo	Boland	Cochran
Akaka	Bolling	Cohen
Alexander	Bonior	Coleman
Allen	Bonker	Collins, Ill.
Ambro	Bowen	Collins, Tex.
Ammerman	Brademas	Conable
Anderson, Calif.	Breaux	Conte
	Brinkley	Conyers
Anderson, Ill.	Brodhead	Corcoran
Andrews, N.C.	Brooks	Corman
Andrews, N. Dak.	Broomfield	Cornell
	Brown, Calif.	Cornwell
Annunzio	Brown, Mich.	Cotter
Applegate	Brown, Ohio	Coughlin
Archer	Broyhill	Crane
Armstrong	Buchanan	Cunningham
Ashbrook	Burgener	D'Amours
Ashley	Burke, Calif.	Daniel, Dan
Aspin	Burke, Fla.	Daniel, R. W.
AuCoin	Burke, Mass.	Danielson
Badham	Burleson, Tex.	Davis
Badillo	Burlison, Mo.	de la Garza
Bafalis	Burton, John	Delaney
Baldus	Burton, Phillip	Dellums
Barnard	Butler	Dent
Baucus	Byron	Derrick
Bauman	Caputo	Derwinski
Beard, R.I.	Carney	Devine
Beard, Tenn.	Carr	Dickinson
Bedell	Carter	Dicks
Beilenson	Cavanaugh	Diggs
Benjamin	Cederberg	Dingell
Bennett	Chappell	Dodd
Bevill	Chisholm	Dornan
Biaggi	Clausen, Don H.	Downey
Bingham		Drinan
Blanchard	Clawson, Del	Duncan, Oreg.
Blouin	Clay	Duncan, Tenn.

Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frenzel
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-
schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holt
Horton
Howard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead,
Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stanton
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Teague
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—3

Holtzman Maguire Poage

ANSWERED "PRESENT"—2

Gonzalez Seiberling

NOT VOTING—17

Breckinridge Koch Richmond
Fowler Luken Van Deerlin
Frey McEwen Whalen
Hillis Moss Wolff
Hubbard Pepper Young, Mo.
Johnson, Calif. Pritchard

The Clerk announced the following pairs:

Mr. Richmond with Mr. Whalen.
Mr. Pepper with Mr. Young of Missouri.
Mr. Wolff with Mr. Hillis.
Mr. Breckinridge with Mr. McEwen.
Mr. Fowler with Mr. Frey.
Mr. Hubbard with Mr. Luken.
Mr. Koch with Mr. Moss.
Mr. Van Deerlin with Mr. Johnson of California.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

URBAN MASS TRANSPORTATION ACT REVISION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 8346.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HOWARD) that the House suspend the rules and pass the bill H.R. 8346, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 308, nays 106, answered "present" 1, not voting 19, as follows:

[Roll No. 690]

YEAS—308

Abdnor
Addabbo
Akaka
Alexander
Ambro
Ammerman
Anderson,
Calif.
Anderson, Ill.
Andrews, N.C.
Andrews,
N. Dak.
Annunzio
Applegate
Armstrong
Ashley
Aspin
AuCoin
Badillo
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chisholm
Clausen,
Don H.
Clay
Cleveland
Cohen
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
D'Amours
Danielson
Delaney
Dellums
Dent
Derrick
Derwinski
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frenzel
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Goodling
Gore
Gudger
Hamilton
Hammer-
schmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hollenbeck
Holt
Holtzman
Horton
Howard
Hughes
Jeffords
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Lloyd, Tenn.
Long, La.
Lott
Lundine
McClory
McCloskey
McCormack
McDade
McFall
McHugh
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead,
Calif.
Myers, John
Neal
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pickle
Pike
Pressler
Preyer
Price
Pursell
Quayle
Quie
Railsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Roberts
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Ruppe
Russo
Ryan
Santini
Sarasin
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Slack
Smith, Iowa
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stanton
Stark
Steers
Steiger
Stokes
Stratton
Studds
Teague
Thompson
Thornton
Traxler
Trible
Tsongas
Tucker
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Walsh
Wampler
Waxman
Weaver
Weiss
Whitehurst
Whitley
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wright
Wydler
Yates
Yatron
Young, Tex.
Zablocki
Zeferetti

NAYS—106

Allen
Archer
Ashbrook
Badham
Bafalis
Beard, Tenn.
Bennett
Bevill
Bowen
Brooks
Burke, Fla.
Burleson, Tex.
Chappell
Clawson, Del
Cochran
Collins, Tex.
Crane
Cunningham
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Okla.
English
Findley
Flippo
Flowers
Flynt
Foley
Forsythe
Gibbons
Gradison
Grassley
Guyer
Hagedorn
Hall
Hansen
Harsha
Holland
Huckaby
Hyde
Ichord
Ireland
Jacobs
Jenrette
Jones, Okla.
Kelly
Kemp
Ketchum
Krueger
Lagomarsino
Latta
Livingston
Lloyd, Calif.
Long, Md.
Lujan
McDonald
McKay
Marriott
Martin
Milford
Montgomery
Moore
Moorhead,
Calif.
Myers, John
Neal
Nichols
Pettis
Pike
Poage
Pressler
Quillen
Risenhoover
Robinson
Rogers
Rousselot
Rudd
Runnels
Satterfield
Sikes
Simon
Sisk
Skelton
Skubitz
Smith, Nebr.
Stangeland
Steed
Stockman
Stump
Symms
Taylor
Thone
Treen
Waggonner
Watkins
White
Wiggins
Winn
Wirth
Wylie
Young, Alaska
Young, Fla.

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—19

Breckinridge Hillis Luken
Conyers Hubbard McEwen
Fowler Johnson, Calif. Moss
Frey Koch Pepper

Pritchard	Van Deerlin	Young, Mo.
Rahall	Whalen	
Richmond	Wolff	

The Clerk announced the following pairs:

Mr. Richmond with Mr. Conyers.
Mr. Rahall with Mr. Frey.
Mr. Young of Missouri with Mr. Hubbard.
Mr. Breckinridge with Mr. Whalen.
Mr. Fowler with Mr. Moss.
Mr. Koch with Mr. Hillis.
Mr. Pepper with Mr. McEwen.
Mr. Wolff with Mr. Pritchard.
Mr. Van Deerlin with Mr. Luken.

Messrs. FINDLEY, JENRETTE, LUJAN, BURKE of Florida, ASHBROOK, LLOYD of California, ARCHER, and SKUBITZ changed their vote from "yea" to "nay."

Mr. DON H. CLAUSEN and Mr. EVANS of Georgia changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PRISONER EXCHANGE TREATIES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 1682.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG) that the House suspend the rules and pass the Senate bill S. 1682, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 400, nays 15, not voting 19, as follows:

[Roll No. 691]

YEAS—400

Abdnor	Boland	Collins, Ill.
Addabbo	Boiling	Collins, Tex.
Akaka	Bonior	Conte
Alexander	Bonker	Conyers
Allen	Bowen	Corcoran
Ambro	Brademas	Corman
Ammerman	Breaux	Cornell
Anderson, Calif.	Brinkley	Cornwell
	Brodhead	Cotter
Anderson, Ill.	Brooks	Coughlin
Andrews, N.C.	Broomfield	D'Amours
Andrews, N. Dak.	Brown, Calif.	Daniel, Dan
	Brown, Ohio	Daniel, R. W.
Annunzio	Broyhill	Danielson
Applegate	Buchanan	Davis
Archer	Burgener	de la Garza
Armstrong	Burke, Calif.	Delaney
Ashbrook	Burke, Fla.	Dellums
Ashley	Burke, Mass.	Dent
Aspin	Burleson, Tex.	Derrick
AuCoin	Burlison, Mo.	Derwinski
Badham	Burton, Phillip	Devine
Badillo	Butler	Dickinson
Bafalis	Byron	Dicks
Baldus	Caputo	Diggs
Barnard	Carney	Dingell
Baucus	Carr	Dodd
Bauman	Carter	Dornan
Beard, R.I.	Cavanaugh	Downey
Beard, Tenn.	Cederberg	Drinan
Bedell	Chappell	Duncan, Oreg.
Bellenson	Chisholm	Duncan, Tenn.
Benjamin	Clausen, Don H.	Early
Bennett		Eckhardt
Bevill	Clawson, Del	Edgar
Biaggi	Clay	Edwards, Ala.
Bingham	Cleveland	Edwards, Calif.
Blanchard	Cochran	Eilberg
Blouin	Cohen	Emery
Boggs	Coleman	Erlenborn
Ertel	Lehman	Rodino
Evans, Colo.	Lent	Roe
Evans, Del.	Levitas	Rogers
Evans, Ga.	Livingston	Roncalio
Evans, Ind.	Lloyd, Calif.	Rooney
Fary	Lloyd, Tenn.	Rose
Fascell	Long, La.	Rosenthal
Fenwick	Long, Md.	Rostenkowski
Findley	Lott	Rousselot
Fish	Lundine	Roybal
Fisher	McClory	Rudd
Fithian	McCloskey	Runnels
Flippo	McCormack	Ruppe
Flood	McDade	Russo
Florio	McFall	Ryan
Flowers	McHugh	Santini
Flynt	McKay	Sarasin
Foley	McKinney	Sawyer
Ford, Mich.	Madigan	Scheuer
Ford, Tenn.	Maguire	Schroeder
Fountain	Mahon	Schulze
Fraser	Mann	Sebelius
Frenzel	Markey	Seiberling
Fuqua	Marks	Sharp
Gammage	Marlenee	Shipley
Gaydos	Marriott	Shuster
Gephardt	Martin	Sikes
Giaimo	Mathis	Simon
Gibbons	Mattox	Sisk
Gilman	Mazzoli	Skelton
Ginn	Meeds	Skubitz
Glickman	Metcalfe	Slack
Goldwater	Meyner	Smith, Iowa
Gonzalez	Michel	Smith, Nebr.
Goodling	Mikulski	Snyder
Gore	Mikva	Solarz
Gradison	Milford	Spellman
Grassley	Miller, Calif.	Spence
Gudger	Miller, Ohio	St Germain
Guyer	Mineta	Staggers
Hagedorn	Minish	Stangeland
Hall	Mitchell, Md.	Stanton
Hamilton	Mitchell, N.Y.	Stark
Hammer-schmidt	Moakley	Steed
	Moffett	Steers
Hanley	Mollohan	Steiger
Hannaford	Montgomery	Stockman
Hansen	Moore	Stokes
Harkin	Moorhead, Pa.	Stratton
Harrington	Mottl	Studds
Harris	Murphy, Ill.	Stump
Harsha	Murphy, N.Y.	Symms
Hawkins	Murphy, Pa.	Taylor
Heckler	Murtha	Teague
Hefner	Myers, Gary	Thompson
Heftel	Myers, John	Thone
Hightower	Myers, Michael	Thornton
Holland	Natcher	Traxler
Hollenbeck	Neal	Trible
Holt	Nedzi	Tsongas
Holtzman	Nichols	Udall
Horton	Nix	Ullman
Howard	Nolan	Vander Jagt
Huckaby	Nowak	Vanik
Hughes	O'Brien	Vento
Hyde	Oakar	Volkmer
Ichord	Oberstar	Waggonner
Ireland	Obey	Walgren
Jacobs	Ottinger	Walker
Jeffords	Panetta	Walsh
Jenkins	Patten	Wampler
Jenrette	Patterson	Watkins
Johnson, Calif.	Pattison	Waxman
Johnson, Colo.	Pease	Weaver
Jones, N.C.	Perkins	Weiss
Jones, Okla.	Pettis	White
Jones, Tenn.	Pickle	Whitehurst
Jordan	Pike	Whitley
Kasten	Pressler	Whitten
Kastenmeier	Preyer	Wiggins
Kazen	Price	Wilson, Bob
Kemp	Pursell	Wilson, C. H.
Keys	Quayle	Wilson, Tex.
Kildee	Quie	Winn
Kindness	Quillen	Wirth
Kostmayer	Rahall	Wright
Krebs	Railsback	Wylie
Krueger	Rangel	Yates
LaFalce	Regula	Yatron
Lagomarsino	Reuss	Young, Alaska
Latta	Rhodes	Young, Fla.
Le Fante	Rinaldo	Young, Tex.
Leach	Risenhoover	Zablocki
Lederer	Roberts	Zeferetti
Leggett	Robinson	

NAYS—15

Brown, Mich.	Kelly	Poage
Burton, John	Ketchum	Satterfield
Crane	Lujan	Treen
Cunningham	McDonald	Wydler
Edwards, Okla.	Moorhead, Calif.	
English		

NOT VOTING—19

Breckinridge	Koch	Tucker
Conable	Luken	Van Deerlin
Forsythe	McEwen	Whalen
Fowler	Moss	Wolff
Frey	Pepper	Young, Mo.
Hillis	Pritchard	
Hubbard	Richmond	

The Clerk announced the following pairs:

Mr. Richmond with Mr. Conable.
Mr. Pepper with Mr. Breckinridge.
Mr. Wolff with Mr. Forsythe.
Mr. Young of Missouri with Mr. Moss.
Mr. Fowler with Mr. Frey.
Mr. Hubbard with Mr. McEwen.
Mr. Koch with Mr. Hillis.
Mr. Van Deerlin with Mr. Pritchard.
Mr. Luken with Mr. Tucker.

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF ADDITIONAL CONFEREE ON H.R. 5383, AGE DISCRIMINATION IN EMPLOYMENT ACT AMENDMENTS OF 1977

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint one additional conferee on the bill H.R. 5283, to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such act, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could the gentleman from Indiana tell us why this is necessary?

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Mr. Speaker, I am happy to yield to the distinguished gentleman.

Mr. BRADEMAS. Mr. Speaker, I will respond to the gentleman that I am advised by the chairman of the Committee on Education and Labor that inadvertently the name of one of the persons who was to have been named a House conferee was omitted. It is for that reason that I make the unanimous-consent request.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana? The Chair hears none and, without objection, appoints the gentleman from California (Mr. HAWKINS) as an additional conferee, to rank immediately after the gentleman from Kentucky (Mr. PERKINS).

There was no objection.

APPOINTMENT OF CONFEREES ON S. 1585, SEXUAL EXPLOITATION OF MINORS

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to insist on the House amendment to the Senate bill (S. 1585) to amend title 18, United States

Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, or live performance, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I have a motion to instruct the conferees. I just want my rights to be protected.

The SPEAKER pro tempore. The gentleman's rights will be protected.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PREFERENTIAL MOTION TO INSTRUCT CONFEREES OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. ASHBROOK moves that the managers on the part of the House in the conference on the Senate bill S. 1585 be instructed to agree to those provisions of the Senate bill that were included on page 5, line 12, through page 7, line 2, of the Senate bill.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. ASHBROOK) is recognized for 1 hour.

Mr. ASHBROOK. Mr. Speaker, I rise in support of my motion to instruct the conferees. To briefly inform the House membership of the legislative position in which we find ourselves, on September 26 the House by an overwhelming vote of 375 to 12 passed the bill referred to as the Kildee bill. This appears on pages 30948 and 30949.

I would note that in the Kildee bill, section 9 refers to reproduction, transportation, and dissemination of certain photographs or films or electronic images.

In other words, there was a transportation and distribution section in the child abuse bill which the House supported.

You will note that in H.R. 8059 there is no such section.

If we go to the Senate with H.R. 8059 as it now stands, in my opinion we are really pursuing a useless double standard in which we are attempting to prosecute the producers of child pornography, but not the distributors or purveyors.

Thus, unfortunately, the legislation which is before us is characterized more by what it does not do than what it does. There have been no case citations which have come before our Subcommittee on Crime that demonstrate that the outlawed demonstration and distribution of materials obtained as the result of child sexual abuse would be unconstitutional.

If the Constitution had been designed to protect all publications from restriction, then libel, slander, false advertising, and falsely shouting "fire" in a crowded theater would be legal today. Fortunately, our courts have wisely held that certain kinds of speech are so inflammatory that great public harm can come from a line of conduct.

A Library of Congress American Law Division report, prepared March 1, 1977, states, in a discussion of obscenity having been sold to minors:

In *Ginsberg* v. *New York*, 390 U.S. 629 (1968), the U.S. Supreme Court upheld a New York criminal statute that makes it unlawful to knowingly sell harmful material to a minor. The defendant in *Ginsberg* contended that the State statute violated the First Amendment. In response, the Court stated that the statute applied only to sexually oriented material that was found obscene under a Constitutionally acceptable definition of obscenity. There was no First Amendment violation since, as the Court had noted in prior decisions involving "general" (adult) obscenity statutes obscene material is not protected under the First Amendment.

The *Ginsberg* opinion also noted that the State had ample justification to sustain its regulation of an activity that was not protected by the First Amendment. The Court noted two State interests that justified the New York limitations on the commercial dissemination of obscene material to minors. First, the Legislature could properly conclude that those primarily responsible for childrens' well-being are entitled to the support of laws designed to aid discharge of that responsibility. Second, the State has an independent interest in protecting the welfare of children and safeguarding them from abuses.

Without my language in this bill, H.R. 8059 would be meaningless. Here is what the amendment contains:

"§ 2252. Transportation, sale, or distribution for sale of material depicting sexual exploitation of a minor

"(a) No person may—

"(1) knowingly transport, ship, or mail in interstate or foreign commerce for the purpose of sale or distribution for sale any film, photograph, negative, slide, book, magazine, or other print or visual medium depicting a minor engaged in sexually explicit conduct; or

"(2) knowingly receive for the purpose of sale or distribution for sale, or knowingly sell or distribute for sale, any film, photograph, negative, slide, book, magazine, or other print or visual medium depicting a minor engaged in sexually explicit conduct which has been transported, shipped, or mailed in interstate or foreign commerce.

"(b) A person who violates this section shall be fined not more than $10,000 or imprisoned not less than one year nor more than ten years or both for the first offense, or shall be fined not more than $15,000 or imprisoned not less than two years nor more than fifteen years or both for each offense thereafter.

"(c) For the purposes of this section—

"(1) 'minor' means any person under the age of sixteen years;

"(2) 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) sadomasochistic abuse (for the purpose of sexual stimulation); and

"(E) lewd exhibition of the genitals or pubic area of any person.".

On page 5, between lines 8 and 9, insert at the end of the table of sections for chapter 110 the following new item:

"2252. Transportation, sale, or distribution for sale of material depicting sexual exploitation of a minor.".

The entire effort of my liberal friends in opposing this amendment seems to be overshadowed by background fear that the Supreme Court would surely overturn its present case law. The case of Miller against California, where the Court set a strong standard for obscenity in which prosecutions have successfully been brought, has withstood the test of time. Why would the Supreme Court overturn this, and other antiobscenity cases such as Ginsberg? With the need to turn off the source of profit of the child abuser, it is my belief that the Supreme Court would opt to continue its antiobscenity position.

Mr. Speaker, if we were trying to frame a model State statute, what we are doing here would be appropriate. But, I remind my colleagues that we are at the Federal level. Therefore, it is our obligation to take actions that may not necessarily be those uniquely limited to State legislatures.

There is a rather curious philosophy behind H.R. 8059, which I followed through the debates on our subcommittee and here on the floor. To summarize them basically it is this: If you can catch the porno film maker in action, you can arrest him; but once his product, whether it be in a photograph, in a negative or in a film, somehow or other many Members of this body think that it is protected by the first amendment, and therefore we can do nothing. That is nonsense.

In the first place, I do not think this is accurate as far as the Constitution is concerned, or accurate as far as Supreme Court decisions are concerned. It is certainly not accurate as far as the overwhelming action of this House in reflecting our position on September 26, when we did vote by 375 to 12 for a similar bill, which did have a transportation and distribution section.

So, I would encourage my colleagues to vote favorably on instructing the conferees. If they would like to study the language, I refer them to the amendment in the CONGRESSIONAL RECORD of October 10, 1977, page 33047, commonly known as the Roth amendment, which provides for transportation, sale, or distribution for sale of material depicting sexual exploitation of a minor.

To repeat—and I do not believe we need to take any more time—to pass and send to the Senate a bill which does not have a distribution section, which does not have a sales section, would be a meaningless act. I know my colleague from Michigan who desires some time, inasmuch as he is one of the chief sponsors of this legislation in this Congress, is anxious to speak.

I yield to the gentleman from Michigan (Mr. KILDEE) 10 minutes.

Mr. KILDEE. Mr. Speaker, if the Members of the House are serious about stopping the abuse of children in pornographic materials, agreement to this motion is absolutely essential. There is a serious deficiency in S. 1585 as it has been passed by the House. It would rely on existing obscenity statutes to control dissemination and sale of these materials. If existing statutes were sufficient, we would not have been confronted with this problem. I sincerely believe that if we do not prohibit the sale and distribution

of these materials, we will not be able to prevent the original abuse.

I feel that it would be an exercise in futility to enact this legislation without provisions to control the sale and distribution of the materials. In essence, we will be doing little more than rhetorically stating that we are against the sexual abuse of children without giving enforcement authority to prevent such abuse.

I do not find it rational to argue that those who profit from the abuse of children are not in some way contributing to that abuse. I am not so naive as to assume that we can prevent all such abuse, but the Select Education Subcommittee found evidence that even the threat of legislation controlling the distribution and sale of these materials had curtailed their retail sale. I sincerely believe that if we limit the marketing of such materials, there will be fewer children who are abused.

In essence, those who distribute and sell materials are accessories after the fact. The Congress has previously recognized, in the Child Labor Act, that the fruits of an illegal activity are contraband and that anyone who distributes or sells such materials is contributing to the original action.

The opponents of this motion speculate that it may be found unconstitutional and base their arguments on one of two positions: First, that any limits on freedom of expression are unconstitutional; or second, that this legislation would not fit categories of obscenity that the Supreme Court has already found to be constitutional.

The first position was espoused by the American Civil Liberties Union in testimony on this bill. I do not wish to belittle the ACLU because they have often been on the cutting edge of protecting our civil rights, but I think that they are mistaken in this instance. There are very common and real limits to the first amendment which have been upheld by the courts. For example, it is against the law to fraudulently publish information dealing with the sale of securities. False advertising has been similarly prohibited. It is also illegal to publish libelous or slanderous material if the publisher knows it to be false. I might also point out that in Miller against California the Supreme Court has upheld the principle that a government may prohibit obscene materials if they are offensive to the standards of a community. In short, the first amendment is not absolute.

I must confess that I almost hesitate to use the last example because there has been a tendency to view the legislation which was originally introduced by Mr. MURPHY and myself as a new piece of obscenity legislation. That was never our intention. The purpose of the legislation was to protect children from being sexually exploited.

That is a good departure point for dealing with the second argument, that is, that it would fall outside the existing parameters of obscenity rulings. In its report, the committee acknowledged that the purpose of our original bill was to protect children and not directed against the obscene nature of the materials themselves. They went on, however, "the committee was not convinced that this bill did not affect obscenity law."

There are two glaring omissions, though, in the body of obscenity rulings that they rely on. First, the Court has never ruled specifically on the issue of the portrayal of children in pornographic materials. Second, none of these decisions deal with material and production of which violated other than obscenity laws. Given the limits of the existing rulings on obscenity, any arguments based on that body of law are purely speculative.

Throughout the course of hearings, however, I have attempted to bring the attention of the committee and the Justice Department to an alternative body of law, that is, limits which have been placed on the publishing industry by protective legislation. I would bring the attention of my colleagues to the fact that the Fair Labor Standards Act specifically applies to books, magazines, newspapers, brochures, pamphlets, and art work. (See 29 C.F.R. Sec. 779.107). The Court has also held freedom of expression could be limited by legislation whose purpose was to protect workers or pursuant to a legitimate exercise of another constitutional power. (See: *Associated Press* v. *Labor Board*, 301 U.S. 103; *Associated Press* v. *United States*, 326 U.S. 1, *Mabee* v. *White Plains Publishing Company*; *Oklahoma Press Publishing Company* v. *Walling*, 327 U.S. 186; and *United States* v. *O'Brien*, 391 U.S. 367).

While the Court has not dealt with child pornography in its obscenity rulings, it has unequivocally stated that freedom of expression cannot justify abusive practices. To apply this precedent to the issue before us, there is no constitutional protection for the sexual abuse of children. There is also no constitutional protection to profit from that abuse by selling material depicting such child abuse.

In dealing with this motion, I feel that it is important that we consider all the testimony which was offered before the committees. For example, Attorney Charles Rembar, who successfully defended "Lady Chatterley's Lover" and "Fanny Hill" from obscenity charges, testified before two House subcommittees that the inclusion of a provision to prohibit the distribution and sale of child pornography would be constitutional since it would be a corollary activity to an action which was itself illegal. He also commented:

> It is totally unrealistic to say that people who sell magazines and films are not involved in the act themselves. . . . The publishers and sellers are principals in the abuse. Without them, it would not occur.

I would also like to bring your attention to the recommendations which the National District Attorneys Association Task Force on the Sexual Abuse of Children made to the Judiciary Committee. They specifically point out that provisions controlling distribution and sale are needed in the legislation. They wrote:

> Section 2551 should explicitly make *production, promotion, distribution,* and *sale* an offense. . . . We have also reviewed the (Killdee-Murphy bill). It contains provisions prohibiting the reproduction, transportation, and dissemination of this material. We feel that proscribing these activities as well as the initial production is vital. It is far easier, and more feasible to successfully prosecute by finding distributors and then working upwards through the chain of distribution than by starting at the top. (Emphasis in original.)

Mr. Speaker, the House has already passed a bill which contained provisions controlling both the production of child pornography and its distribution and sale. H.R. 6693, which contained an amendment dealing with child pornography, was passed by a vote of 375 to 12. This motion would instruct the conferees to agree to an amendment to S. 1585 which was offered by Senator ROTH. That amendment would control the distribution and sale of these materials and is similar to the provisions contained in the legislation which I introduced together with Mr. MURPHY. Amendment passed by a vote of 73 to 12.

In summary, I believe that the House version of S. 1585 is incomplete, and if it had come to the floor under a rule permitting amendments, I would have offered an amendment to correct this serious omission. Some measure prohibiting the distribution and sale of these materials is necessary, and the motion presently before the House will permit us to do this. I would urge my colleagues to vote to instruct the conferees in this matter.

Mr. ASHBROOK. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Michigan (Mr. CONYERS), chairman of the Subcommittee on Crime, for purposes of debate only, to yield as the gentleman sees fit.

Mr. CONYERS. Mr. Speaker, I rise briefly to present some considerations against the motion to instruct the conferees to accept the Roth amendment in the Senate bill.

Mr. Speaker, the first consideration that should be made, of course, is that this is a highly unusual procedure, after a unanimously passed measure under suspension, that we would now have an instruction that a provision in the Senate bill now be made binding upon the conferees. I submit it infringes upon the integrity and independence of the House conferees and puts the House in a very difficult position to effect a compromise.

Mr. Speaker, I reject that, as a matter of procedure, and I would urge that on those grounds alone that a "no" vote be given to this motion to instruct conferees at the end of this debate.

But, more importantly, going to the substance of this matter, let me say that the Roth amendment was in fact carefully and expressly considered by the subcommittee and indeed by the full committee and rejected by both. We have considered whether this portion of the bill penalizing individuals for transportation, distribution, and dissemination of materials could be unconstitutional.

Pages 6 to 8 of the committee report discusses how we came to that conclusion and I include them below. I would like to summarize it briefly. Whether we like it or not, the material sought to be regulated is, through a long line of deci-

sions, in fact constitutionally protected, and the language of the Roth amendment fails to distinguish between material which is obscene and that which is protected by the first amendment.

Some Member earlier stated that there were no cases on the subject, but the committee report details them at great length which reads as follows:

EXCERPTS FROM COMMITTEE REPORT

3. Whether sections of the bill penalizing the transportation distribution and dissemination of materials could be unconstitutional

Our gravest concerns focused on Section 2252 of the Kildee bill, which would penalize any individual who knowingly transports, ships or mails through, or in such a manner as to affect interstate or foreign commerce any photograph or film depicting a child engaging in a prohibited sexual act or in the simulation of such an act; or any individual who receives for the purpose of selling or sells any such photograph or film which has been transported, shipped, or mailed through, or in such a manner as to affect interstate or foreign commerce. "Prohibited sexual acts" were defined to include sexual intercourse, anal intercourse, masturbation, bestiality, sadism, masochism, fellatio, cunnilingus "any other sexual activity" or "nudity if such nudity is to be directed for the purpose of sexual stimulation or gratification of any individual who may view such depiction."

The Subcommittee heard testimony from the Justice Department, ACLU and private attorneys who were concerned about the constitutionality of these provisions. They felt the definitions in Section 2253 could be void for overbreadth. They also felt that the "average person" test, established in a long line of cases and reaffirmed in *Miller* v. *California*, 43 U.S. 445 (1973) would be abridged by the use of the words "any individual". In addition, the definitions of nudity and other sexual activity would be so vague as to be unconstitutional. The Justice Department concluded that since this section would cover both obscene and non-obscene materials as determined by the Supreme Court interpretation of federal obscenity statutes, the courts may declare this section unconstitutional on its face. The ACLU witness told us:

"This portion of the bill, § 2252, is patently unconstitutional and in the view of the ACLU cannot be redeemed with any conceivable amendments. . . . The gross defect with the section is that the materials, the distribution or receipt of which is the sole offense, are constitutionally protected. . . . The areas of unprotected speech are small, indeed, and the material prohibited by the bill does not fall within any of them."

The Justice Department insisted that the bill does not distinguish between material which is obscene and material which is protected by the First Amendment, and that such a distinction needs to be made when we are dealing with publications and films as opposed to the actual sexual abuse of the children. In *Miller* v. *California*, 413 U.S. 15 (1973) the Supreme Court required that material must be evaluated as a whole in determining whether it is obscene. However, the present bill would forbid the manufacture and distribution of a publication or film containing one brief scene of prohibited conduct and is otherwise innocuous.

Certain infringements on protected expression have been justified under the principle expressed in *United States* v. *O'Brien*, 391 U.S. 367 (1968), wherein the Court ruled that a regulation is sufficiently justified if it is within the constitutional power of the government, if it furthers an important or substantial governmental interest unrelated to the suppression of free expression, and if the incidental restriction on alleged First Amendment rights is no greater than is essential to the furtherance of that interest. Viewed against the background of this principle it might appear that all sections of H.R. 3913 would further government's legitimate interest in protecting the welfare of the children. See *Ginsberg* v. *New York*, 390 U.S. 629 (1968) and *Prince* v. *Massachusetts*, 321 U.S. 158 (1944).

On the other hand, the Court has held that, as a general rule, a criminal statute which would reach protected expression as well as obscenity is void on its face for overbreadth. See *Erznoznik* v. *City of Jacksonville*, 422 U.S. 205 (1975); and *Butler* v. *Michigan*, 352 U.S. 380 (1957). Although the Court has modified this doctrine in the case of a statute dealing with distribution to children only, see *Ginsberg* v. *New York*, *supra*, the proposed bill would prohibit distribution to anyone. In the face of the strong constitutional protection accorded material which is not obscene, we cannot say with any certainty that the proposed legislation would withstand constitutional challenge.

The Committee realized that the authors of H.R. 3913 and similar bills attempted to punish the conduct not because of the obscene nature of the material produced but because of the abuse of the children, thereby eliminating the necessity of proving obscenity. But the Committee was not convinced that this bill did not affect obscenity law. We agree that there is no First Amendment question in providing for prosecution of persons who abuse children. However, once those photos and films are reduced to magazines, movies, etc., numerous court decisions including Supreme Court decisions, make clear that they are permissible under the First Amendment guarantee of free speech unless they are proven to be obscene.

Although H.R. 3913 purports to cover distributors and sellers as abusers, the fact is that they ordinarily are remotely removed from the actual abuse, and, in prosecuting them without showing any participation in the actual abuse, we are in fact prosecuting for the distribution or sale of the material.

This does not, by the way, mean that such persons can escape prosecution. We have viewed much of this material, and there seems little doubt that they would be found obscene under existing federal and state obscenity laws. The Supreme Court 1973 ruling in *Miller* v. *California*, *supra*, considerably relaxed the requirements for proving obscenity by—

(a) Declaring that the standard of obscenity should be a local, and not a national one. (Subsequent decisions by the court suggest that the effect of this change is that if a jury finds that material is obscene, then a "local standards" has been established.)

(b) Replacing the "utterly without redeeming social value" test with a less restrictive test of "whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value." (Under the former standard, if there was any value at all in the material, no matter how much it appealed to prurient interests and no matter how patently offensive it might be, it could not be found obscene.)

First, there is Erznoznik versus the City of Jacksonville, a 1975 case in the Supreme Court, then there is Butler verus Michigan in 1957, and, of course, the leading case on the subject is Miller versus California, which requires that legislation distinguish between material which is obscene and material which is protected by the first amendment.

I urge my colleagues to consider this fundamental point. To fly in the face of this established law in the courts is to invite exactly the result to which we object, and we would in effect be counterproductive in requiring that the conferees be forced to accept the Roth amendment through instructions as contained in the motion offered by the gentleman from Ohio (Mr. ASHBROOK).

I think this is highly unusual, and I think that our analysis of the issue under debate would not under any circumstances warrant this kind of motion to instruct being attached to this legislation and indeed hobbling the conferees' activity that would result from this unanimous support of the bill that has just previously passed under suspension. It seems to me that we would indeed be moving in a direction that would invite those pornographers, those people who have taken pictures and moved them in interstate commerce, those who have attempted to use young people in the worst of ways, to take advantage of a loophole that we have been told repeatedly is not going to stand constitutional muster.

I say that with every confidence. I would otherwise, outside of the procedural considerations, have no objection to taking the Roth amendment into consideration, but it seems to me that under the circumstances, and taking into consideration the work of the subcommittee, it is entirely inappropriate that this motion to instruct the conferees would be supported.

Therefore, Mr. Speaker, I urge that the motion offered by the gentleman from Ohio (Mr. ASHBROOK) be soundly rejected.

Mr. ASHBROOK. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I thank my colleague on the Committee on the Judiciary for yielding this time to me.

Mr. Speaker, I would hope that the House would reject the effort to instruct conferees. This matter has been carefully and deliberately considered by both the Crime Subcommittee and the full Judiciary Committee, and both bodies felt very strongly that while the objectives of the provision (the Roth amendment) subject to the instruction motion were admirable, the provision itself poses serious constitutional problems.

My colleagues should be aware that the Department of Justice opposes the language of the Roth amendment on constitutional grounds. It would seem to me, therefore, that the Members of the House ought to be very careful before instructing conferees on a provision which at best is of dubious constitutionality, and which at worst is clearly unconstitutional, particularly when the Justice Department itself has advised strongly against acceptance of the Roth language.

Mr. ASHBROOK. Mr. Speaker, I yield 3 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, this is an issue that revolves around three things.

First, I would like to talk about the procedure; second, about the constitutionality; and third, about the purpose of the bill and whether it will do anything without our agreeing to the motion as we have heard it.

First, as to the procedure: All we are being asked to do here is to instruct the conferees to do something we have already done before by almost an overwhelming vote, and that is to extend the

provisions which deal with taking care of pornography to the distributors and the sellers. We did that before. We are being asked to do it again.

As to the constitutionality, Mr. Speaker, there is no question but that there may be some problems. However, let use analyze the difference in the situations if we pass the first part of the bill, the part with which the subcommittee chaired by the gentleman from Michigan (Mr. CONYERS) was concerned. That is a pretty safe constitutionality problem.

However, what does it do, in the final analysis? It does absolutely nothing that every State cannot already do. There are many laws involving child abuse, contributing to the delinquency of minors, and others, that are available. Yet, these laws have not solved the problem. All this bill does is to provide something additional to allow the FBI or somebody else to go ahead and assist; but the biggest problem is locating the people who are doing it. If we cannot locate them, if we cannot prove where they did it, we cannot prosecute them.

That is the biggest problem, Mr. Speaker. Does this bill get at it? No, it does not, because unless we can prove that the crime was done in the United States and can prove where it was done, we cannot prove the commission of the crime.

What is the purpose of the addition? The purpose is to shut off the market. That is where we can get these people, by making sure that they cannot sell the child pornography. If they cannot sell it they will not produce it. If they do not produce it they will not imperil the future of these young children, nor exploit them for profit.

It is that part of the Senate bill which is the critical part. That is the part that the prosecutors need in order to get any convictions under this bill. Without it, we do not have anything.

As to the constitutionality of the second part of the bill the situation is this, if the worst comes about and it is declared unconstitutional—I doubt that very strongly—but the worst that will happen is that we will not be able to prosecute under that part, but will be left with the first part of the bill. Nothing will be lost.

Therefore, Mr. Speaker, if we want something, we have to vote for the motion to instruct here so as to make sure that we end up with something which the prosecutors can use to end this very serious problem.

As to the constitutionality, there is something that has been completely ignored here when we talk about obscenity only. We are actually talking about the abuse of children, young kids 16 and under, who have been abused and who have had somebody use them for the purposes of profit in exploiting their body at an age too young to consent. That is not the same as obscenity. It is not the same at all.

Mr. Speaker, we have done similar things in the child labor area, with the child labor laws, where we do not let them work excessive hours, and prohibit certain types of employment. That law was held constitutional.

Here we are saying that until they are above the age of 16, no one can sell their bodies for profit or take pornographic pictures of them for profit. Children at an age where in many areas of the law we deem them incapable of consent for other actions.

That is a different issue. That is what we are dealing with here and what the Roth amendment deals with and what the instructions favored by the gentleman from Ohio (Mr. ASHBROOK) deal with.

Mr. Speaker, if we want a sensible bill which does something, we should vote for the instructions. However, if we want to end up with nothing, we should vote against the motion.

Mr. ASHBROOK. Mr. Speaker, I yield myself such time as I may consume.

I would merely reply to one statement which my good friend, the gentleman from Michigan (Mr. CONYERS), the chairman of the subcommittee made. In telling this body that we were treading on dangerous constitutional grounds, he cited a statement from page 7 of the committee report. Let us put it in context, Mr. Speaker. The statement that he referred to on page 7, the third paragraph, says:

> On the other hand, the Court has held that, as a general rule, a criminal statute which would reach protected expression as well as obscenity is void on its face for overbreadth. See *Erznoznik* v. *City of Jacksonville*, 422 U.S. 205 (1975); and *Butler* v. *Michigan*, 352 U.S. 380 (1957).

Mr. Speaker, the very next sentence reads as follows:

> Although the Court has modified this doctrine in the case of a statute dealing with distribution to children only, see *Ginsberg* v. *New York*, . . .

I would say that is a very, very great distinction. As a matter of fact, in the Ginsberg case the defendant contended the State statute violated the first amendment, but in response the court stated the statute applied only to sexually oriented material, precisely what we are talking about here in this case with minors, and the court further held that there was no first amendment violation since, as the court noted under prior decisions involving general obscenity statutes, obscene material is not protected under the first amendment.

So I think we are seeing a smokescreen. I think the court will sustain the Roth language. I think they will sustain it, particularly in light of the fact that distributors and purveyors of child pornography, of child sexual movies, are a source of greed and profit. I have no doubt in my mind that the court will opt to continue its antiobscenity position, and I would urge the support of my motion to instruct.

Mr. Speaker, I reserve the balance of my time. I have no further requests for time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume, and I will be brief.

First of all, I was quoting from page 20, and I did not mean to not read fully all of the material that my colleague referred to on page 7. But, Mr. Speaker, let us deal with the heart of the question. We are trying to regulate the exploitation of young people who are being used for pornographic purposes at the same time during which they are being abused. It is not correct to suggest that the measure passed only earlier under suspension does not address that. For the first time we now, if our bill is agreed to in conference, would have in fact a Federal law that would apply uniformly to the Nation and also be a guide to those States who do not have such legislation that would make it a criminally-liable Federal statutory offense for anyone to involve youngsters in the pornographic exploitation and the abuse, which is a concomitant act that would now be in the bill. So to say that the measure that we passed unanimously today is useless without this amendment is to clearly miscast the implications of why I am against the motion to instruct. The reason that we do not need a motion to instruct is that we now will have for the first time a Federal law that deals explicitly with those who attempt to lure or employ or seduce young people of either sex into this vicious trade that, as we know, is expanding. There is no need under the provisions of the Committee on the Judiciary bill to add an instruction that the Roth amendment in the Senate be attached. There is no legitimate need. As the gentlewoman from New York has averred, the Department of Justice, who will be in charge of these prosecutions, incidentally, sees a great danger in our creating a loophole in a packet that would otherwise I think meet a constitutional muster. So again I urge my colleagues to reject the motion to instruct, and I thank them for their attention.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the preferential motion.

There was no objection.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 358, nays 54 not voting 22, as follows:

[Roll No. 692]

YEAS—358

Abdnor	Ashley	Boggs
Addabbo	Aspin	Boland
Alexander	AuCoin	Bolling
Allen	Badham	Bonior
Ambro	Bafalis	Bonker
Ammerman	Baldus	Bowen
Anderson, Calif.	Barnard	Brademas
	Baucus	Breaux
Anderson, Ill.	Bauman	Brinkley
Andrews, N.C.	Beard, R.I.	Brodhead
Andrews, N. Dak.	Beard, Tenn.	Broomfield
	Bedell	Brown, Mich.
Annunzio	Bennett	Brown, Ohio
Applegate	Bevill	Broyhill
Archer	Biaggi	Buchanan
Armstrong	Blanchard	Burgener
Ashbrook	Blouin	Burke, Calif.

Burke, Fla.	Hawkins	Nowak
Burke, Mass.	Heckler	O'Brien
Burleson, Tex.	Hefner	Oakar
Burlison, Mo.	Heftel	Oberstar
Butler	Hightower	Ottinger
Byron	Holland	Panetta
Caputo	Hollenbeck	Patterson
Carney	Holt	Pease
Carter	Horton	Pettis
Cavanaugh	Howard	Pickle
Cederberg	Huckaby	Pike
Chappell	Hughes	Poage
Chisholm	Hyde	Pressler
Clausen, Don H.	Ichord	Preyer
Clawson, Del	Ireland	Price
Clay	Jacobs	Pursell
Cleveland	Jeffords	Quayle
Cochran	Jenkins	Quie
Cohen	Jenrette	Quillen
Coleman	Johnson, Calif.	Rahall
Collins, Ill.	Johnson, Colo.	Regula
Collins, Tex.	Jones, N.C.	Rhodes
Conte	Jones, Okla.	Rinaldo
Corcoran	Jones, Tenn.	Risenhoover
Cornell	Kasten	Roberts
Cornwell	Kazen	Robinson
Cotter	Kelly	Roe
Coughlin	Kemp	Rogers
Crane	Ketchum	Roncalio
Cunningham	Keys	Rooney
D'Amours	Kildee	Rose
Daniel, Dan	Kindness	Rostenkowski
Daniel, R. W.	Kostmayer	Rousselot
Davis	Krebs	Rudd
de la Garza	Krueger	Runnels
Delaney	Lagomarsino	Ruppe
Derrick	Latta	Russo
Derwinski	Le Fante	Santini
Devine	Leach	Sarasin
Dickinson	Lederer	Satterfield
Dicks	Leggett	Sawyer
Diggs	Lehman	Schroeder
Dodd	Lent	Schulze
Dornan	Levitas	Sebelius
Downey	Livingston	Sharp
Duncan, Oreg.	Lloyd, Calif.	Shipley
Duncan, Tenn.	Lloyd, Tenn.	Shuster
Early	Long, La.	Sikes
Edgar	Long, Md.	Sisk
Edwards, Ala.	Lott	Skelton
Edwards, Okla.	Lujan	Skubitz
Eilberg	Luken	Slack
Emery	Lundine	Smith, Iowa
English	McClory	Smith, Nebr.
Erlenborn	McCloskey	Snyder
Ertel	McCormack	Spellman
Evans, Colo.	McDade	Spence
Evans, Del.	McDonald	St Germain
Evans, Ga.	McHugh	Stangeland
Evans, Ind.	McKay	Stanton
Fary	McKinney	Steed
Fascell	Madigan	Steers
Fenwick	Mahon	Stockman
Fish	Mann	Stratton
Fisher	Markey	Studds
Fithian	Marks	Stump
Flippo	Marlenee	Symms
Flood	Marriott	Taylor
Florio	Martin	Thone
Flowers	Mathis	Thornton
Flynt	Mattox	Traxler
Foley	Mazzoli	Treen
Ford, Mich.	Meeds	Trible
Forsythe	Metcalfe	Tsongas
Fountain	Meyner	Tucker
Frenzel	Michel	Udall
Fuqua	Mikulski	Ullman
Gammage	Milford	Vander Jagt
Gaydos	Miller, Calif.	Vanik
Gephardt	Miller, Ohio	Vento
Giaimo	Mineta	Waggonner
Gibbons	Minish	Walgren
Gilman	Mitchell, N.Y.	Walker
Ginn	Moakley	Walsh
Glickman	Moffett	Wampler
Goldwater	Mollohan	Watkins
Gonzalez	Montgomery	White
Goodling	Moore	Whitehurst
Gore	Moorhead, Calif.	Whitley
Gradison	Moorhead, Pa.	Whitten
Grassley	Mottl	Wiggins
Gudger	Murphy, Ill.	Wilson, Bob
Guyer	Murphy, N.Y.	Wilson, C. H.
Hagedorn	Murphy, Pa.	Winn
Hall	Murtha	Wirth
Hamilton	Myers, Gary	Wright
Hammer-schmidt	Myers, John	Wydler
Hanley	Myers, Michael	Wylie
Hannaford	Natcher	Yatron
Hansen	Neal	Young, Alaska
Harkin	Nedzi	Young, Fla.
Harsha	Nichols	Young, Tex.
	Nolan	Zablocki
		Zeferetti

NAYS—54

Akaka	Ford, Tenn.	Rodino
Badillo	Fraser	Rosenthal
Bellenson	Harrington	Roybal
Benjamin	Harris	Ryan
Bingham	Holtzman	Scheuer
Brooks	Jordan	Selberling
Brown, Calif.	Kastenmeier	Simon
Burton, Phillip	LaFalce	Solarz
Carr	McFall	Staggers
Conyers	Maguire	Stark
Corman	Mikva	Steiger
Danielson	Mitchell, Md.	Stokes
Dellums	Moss	Thompson
Dingell	Nix	Volkmer
Drinan	Pattison	Waxman
Eckhardt	Railsback	Weaver
Edwards, Calif.	Rangel	Weiss
Findley	Reuss	Yates

NOT VOTING—22

Breckinridge	Koch	Teague
Burton, John	McEwen	Van Deerlin
Conable	Obey	Whalen
Dent	Patten	Wilson, Tex.
Fowler	Pepper	Wolff
Frey	Perkins	Young, Mo.
Hillis	Pritchard	
Hubbard	Richmond	

The Clerk announced the following pairs:

Mr. Richmond with Mr. McEwen.
Mr. Pepper with Mr. Frey.
Mr. Wolff with Mr. Whalen.
Mr. Breckinridge with Mr. Hubbard.
Mr. Fowler with Mr. Patten.
Mr. Koch with Mr. Teague.
Mr. Young of Missouri with Mr. Charles Wilson of Texas.
Mr. Van Deerlin with Mr. Perkins.
Mr. Dent with Mr. Hillis.
Mr. John Burton with Mr. Conable.
Mr. Obey with Mr. Pritchard.

Mrs. COLLINS of Illinois and Mr. GUDGER changed their vote from "nay" to "yea."

So the preferential motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Mr. CONYERS, Ms. HOLTZMAN, and Messrs. GUDGER, VOLKMER, ERTEL, KILDEE, ASHBROOK, and RAILSBACK.

There was no objection.

SUPPLEMENTAL APPROPRIATIONS, 1978

Mr. MAHON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 9375) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 9375, with Mr. GIBBONS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, October 20, 1977, the Clerk had read through line 15 on page 15 of the bill.

The Clerk will read.

The Clerk concluded the reading of the bill.

AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONTE: On page 16, after line 25, add a new general provision as follows:

Any export license referrred to in Section 11 of Public Law 95-92 which is issued initially on or before September 30, 1978 may from time to time thereafter be renewed, reissued or modified (or in the event of lapse of such license, replacement licenses may be issued), provided that any such renewal, reissuance or modification (or any such replacement license) does not change significantly any such license as initially issued.

POINT OF ORDER

Mr. ROYBAL. Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Massachusetts (Mr. CONTE).

The CHAIRMAN. The gentleman from California (Mr. ROYBAL) will state his point of order.

Mr. ROYBAL. Mr. Chairman, I make this point of order with great reluctance because I fully understand the problem that the gentleman from Massachusetts (Mr. CONTE) has in his own district.

However, the gentleman's amendment is, in fact, legislation on an appropriation bill; and it is in violation of clause 2, rule XXI.

Obviously, the gentleman's amendment modifies and changes the law regarding the prohibition against the issuance of export licenses contained in section 11 of the International Security Assistance Act of 1977.

Section 11 reads as follows:

After September 30, 1978—no export licenses may be issued under section 38 of the Arms Export Control Act to or for the Government of Argentina.

The gentleman's amendment indicates that any export license referred to in section 11 and issued prior to September 30, 1978, may be renewed, reissued, or modified after September 30, 1978. This obviously changes the effect of section 11 of Public Law 95-92, which provided for a flat cutoff of export license issuances, with no provision for renewal, reissuance, or modification of such export licenses. The gentleman's amendment is legislation and should not be included in an appropriation measure.

Mr. Chairman, I believe the gentleman can solve the problem by amending the legislative act without the need for including such language in this supplemental appropriation bill, which is not a proper vehicle for such a remedy.

Mr. Chairman, I, therefore, insist on my point of order and ask for a ruling by the Chair.

The CHAIRMAN. Does the gentleman from Massachusetts (Mr. CONTE) wish to be heard on the point of order?

Mr. CONTE. I do, Mr. Chairman.

May I say that I do not want to take up the time of the House. Whoever prepared the statement for the gentleman from California (Mr. ROYBAL) is certainly on track, and I concede the point of order.

The CHAIRMAN. The point of order is conceded and is, therefore, sustained.

Mr. CONTE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to take a minute to explain for the benefit of my colleagues the amendment that I proposed simply sought to correct a potential injustice contained in the Security Assistance Act, passed earlier this year. This act terminates the issuance of certain State Department export licenses after September 30, 1978. However, a side-effect of this statute may be to cut off long leadtime sales which are in progress at the time of the expiration date in the act. The exports to which I was referring are only those which have been approved before September 30, 1978, by the State Department, as meeting all the requirements and prevailing policies. My amendment did not diminish the authority of the State Department to determine whether, under the circumstances existing at the time of the particular license expiration, to grant or deny a new license. As my colleagues know, the existing State Department procedure calls for the issuance of licenses of 1-year duration. Thus, an export sale, with a long leadtime that is licensed before September 30, 1978, would require the issuance of a new license after the statute's termination date.

My amendment sought to correct this apparent oversight by allowing for those firms, who have received an export license prior to the September 30, 1978, date, to be allowed to continue to receive a license for the conclusion of the particular contract sale. Mr. Chairman, the amendment was fully consistent with the intent of the law. When the act was considered by the Senate, which added this provision, the Members of that body decided that the act should not become effective until September 30, 1978. This was agreed to with the realization that the law could be reconsidered prior to next year's deadline. However, it became apparent that this arbitrary expiration date does injustice to these firms who will still be in the process of fulfilling their contract sales at the end of this 1-year period. Thus the need for this amendment.

Mr. MAHON. Mr. Chairman, if the gentleman will yield, I am in sympathy with what I understand to be the objectives of the amendment offered by the gentleman. I realize that it would be most desirable for some way to be found to remedy this situation.

Of course, this is a measure that should appropriately be considered by the legislative committee, but I realize the validity of the argument of the gentleman.

Mr. CONTE. I have done my best, Mr. Chairman.

Mr. MAHON. Mr. Chairman, I move the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. GIBBONS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9375) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, had directed him to report the bill back to the House with sundry amendments adopted by the Committee of the Whole, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment adopted by the Committee of the Whole? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 313, nays 98, not voting 23, as follows:

[Roll No. 693]

YEAS—313

Abdnor	Cleveland	Forsythe
Addabbo	Cochran	Fountain
Akaka	Cohen	Frenzel
Alexander	Coleman	Fuqua
Allen	Collins, Ill.	Gammage
Ambro	Conte	Gaydos
Ammerman	Corman	Giaimo
Anderson, Ill.	Cornell	Gibbons
Andrews, N.C.	Cornwell	Gilman
Andrews, N. Dak.	Cotter	Ginn
Annunzio	Coughlin	Glickman
Applegate	D'Amours	Goldwater
Aspin	Daniel, Dan	Gonzalez
AuCoin	Daniel, R. W.	Gore
Badillo	Danielson	Gradison
Baldus	Davis	Gudger
Barnard	de la Garza	Guyer
Beard, R.I.	Delaney	Hagedorn
Bedell	Derrick	Hall
Benjamin	Derwinski	Hamilton
Bennett	Dicks	Hammer-schmidt
Bevill	Diggs	Hanley
Biaggi	Dingell	Hannaford
Blanchard	Dodd	Harkin
Blouin	Downey	Harrington
Boggs	Drinan	Harris
Boland	Duncan, Oreg.	Harsha
Bonker	Duncan, Tenn.	Hawkins
Bowen	Early	Heckler
Brademas	Eckhardt	Hefner
Brinkley	Edwards, Ala.	Heftel
Brodhead	Edwards, Calif.	Hightower
Brooks	Edwards, Okla.	Holland
Brown, Ohio	Elberg	Hollenbeck
Broyhill	Emery	Horton
Buchanan	English	Howard
Burgener	Erlenborn	Huckaby
Burke, Calif.	Ertel	Hughes
Burke, Fla.	Evans, Colo.	Hyde
Burke, Mass.	Evans, Del.	Ichord
Burleson, Tex.	Evans, Ga.	Ireland
Burlison, Mo.	Fary	Jeffords
Burton, John	Fascell	Jenkins
Butler	Fenwick	Jenrette
Carney	Fish	Johnson, Calif.
Carr	Fisher	Johnson, Colo.
Carter	Flippo	Jones, N.C.
Cavanaugh	Flood	Jones, Tenn.
Cederberg	Florio	Jordan
Chappell	Flowers	Kazen
Chisholm	Flynt	Keys
Clausen, Don H.	Foley	Kildee
	Ford, Mich.	Krueger
	Ford, Tenn.	LaFalce
	Myers, Gary	Sikes
	Myers, Michael	Simon
	Natcher	Sisk
	Nedzi	Skelton
	Nichols	Skubitz
	Nix	Slack
	Nolan	Smith, Iowa
	Nowak	Smith, Nebr.
	O'Brien	Spellman
	Oakar	St Germain
	Oberstar	Staggers
	Obey	Stangeland
	Panetta	Stanton
	Patterson	Steed
	Pease	Steers
	Pettis	Steiger
	Pickle	Stump
	Pike	Thompson
	Poage	Thone
	Pressler	Thornton
	Preyer	Traxler
	Price	Treen
	Quie	Trible
	Quillen	Tsongas
	Rahall	Tucker
	Railsback	Udall
	Rangel	Ullman
	Regula	Vander Jagt
	Reuss	Vento
	Rhodes	Waigren
	Rinaldo	Walsh
	Risenhoover	Wampler
	Roberts	Watkins
	Robinson	Waxman
	Rodino	White
	Roe	Whitehurst
	Rogers	Whitley
	Rooney	Whitten
	Rose	Wiggins
	Rostenkowski	Wilson, Bob
	Roybal	Wilson, C. H.
	Runnels	Winn
	Ruppe	Wirth
	Russo	Wright
	Ryan	Wydler
	Santini	Yates
	Sarasin	Yatron
	Sawyer	Young, Tex.
	Scheuer	Zablocki
	Schulze	Zeferetti
	Sebelius	
	Shipley	

NAYS—98

Anderson, Calif.	Fithian	Ottinger
Archer	Fraser	Pattison
Armstrong	Goodling	Pursell
Ashbrook	Grassley	Quayle
Badham	Hansen	Roncalio
Bafalis	Holt	Rosenthal
Baucus	Holtzman	Rousselot
Bauman	Jacobs	Rudd
Beard, Tenn.	Jones, Okla.	Satterfield
Bellenson	Kasten	Schroeder
Bingham	Kastenmeier	Seiberling
Bonior	Kelly	Sharp
Breaux	Kemp	Shuster
Broomfield	Ketchum	Snyder
Brown, Calif.	Kindness	Solarz
Brown, Mich.	Kostmayer	Spence
Burton, Phillip	Krebs	Stark
Byron	Lagomarsino	Stockman
Caputo	Latta	Stokes
Clawson, Del	Livingston	Stratton
Clay	McDonald	Studds
Collins, Tex.	Maguire	Symms
Conyers	Marriott	Taylor
Corcoran	Martin	Vanik
Crane	Mattox	Volkmer
Cunningham	Mikva	Waggonner
Dellums	Miller, Calif.	Walker
Devine	Miller, Ohio	Weaver
Dickinson	Mitchell, Md.	Weiss
Dornan	Moorhead, Calif.	Wylie
Edgar	Mottl	Young, Alaska
Evans, Ind.	Myers, John	Young, Fla.
Findley	Neal	

NOT VOTING—23

Ashley	Hillis	Richmond
Bolling	Hubbard	Teague
Breckinridge	Koch	Van Deerlin
Conable	McEwen	Whalen
Dent	Patten	Wilson, Tex.
Fowler	Pepper	Wolff
Frey	Perkins	Young, Mo.
Gephardt	Pritchard	

The Clerk announced the following pairs:

Mr. Richmond with Mr. McEwen.
Mr. Fowler with Mr. Frey.

Mr. Koch with Mr. Hillis.
Mr. Wolff with Mr. Pritchard.
Mr. Pepper with Mr. Whalen.
Mr. Breckinridge with Mr. Hubbard.
Mr. Young of Missouri with Mr. Perkins.
Mr. Van Deerlin with Mr. Teague.
Mr. Patten with Mr. Charles Wilson of Texas.
Mr. Gephardt with Mr. Ashley.
Mr. Dent with Mr. Conable.

Messrs. ABDNOR, McCLOSKEY, and GUYER changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 9375, the bill just passed.

The SPEAKER pro tempore (Mr. BRADEMAS). Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to make an announcement for the benefit of Members.

It is the intention of the Chair to recognize the gentleman from Oregon (Mr. ULLMAN), the chairman of the Committee on Ways and Means, who intends, as the Chair understands it, to ask unanimous consent to consider several bills reported from his committee. Subsequent to action on those bills, the House would consider the conference report on the bill involving the Environmental Protection Agency.

The Chair recognizes the gentleman from Oregon(Mr. ULLMAN).

SUSPENDING DUTY ON CERTAIN LATEX SHEETS

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2850) to suspend until the close of June 30, 1978, the duty on certain latex sheets, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 3, after "That" insert "(a)".

Page 1, line 7, strike out "SEC. 2. (a)" and insert "(b)".

Page 1, lines 7 and 8, strike out "the first section of this Act" and insert "subsection (a)".

Page 2, line 1, strike out "(b)" and insert "(c)".

Page 2, lines 8 and 9, strike out "the first section of this Act" and insert "subsection (a)".

Page 2, after line 13, insert:

SEC. 2. (a) Item 911.25 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "6/30/77" and inserting in lieu thereof "6/30/79".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption, after June 30, 1977.

Page 2, after line 13, insert:

SEC. 3. (a) Subpart B of part 12 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "otherwise processed" in headnote 2(iv)(D) and inserting in lieu thereof "otherwise usefully processed".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after date of the enactment of this Act.

Amend the title so as to read: "An Act to suspend until the close of June 30, 1978, the duty on certain latex sheets, and for other purposes.".

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. ROUSSELOT. Mr. Speaker, I wonder if we may have the rest of the title read. I will be constrained to object unless we hear what this is about.

The SPEAKER pro tempore. The Chair will inform the gentleman that the Clerk had read the title.

Mr. ROUSSELOT. Mr. Speaker, has the Clerk read the Senate amendments?

The SPEAKER pro tempore. The Clerk had not finished reading the Senate amendments.

Does the gentleman from California (Mr. ROUSSELOT) reserve the right to object?

Mr. ROUSSELOT. I reserve the right to object, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California (Mr. ROUSSELOT) reserves the right to object to the unanimous consent request of the gentleman from Oregon (Mr. ULLMAN) to dispense with further reading of the Senate amendments.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Mr. Speaker, I yield to the chairman of the committee so he may explain to us why we need to take this action.

Mr. ULLMAN. Mr. Speaker, all this matter involves is a consolidation of three bills that have already been passed by the House in their original form. There is nothing else in the bill. The Senate put the three bills together in one bill, we brought it back, and all we are doing is asking unanimous consent to accept the Senate bill, as amended, which includes just the three House-passed bills.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman tell us what those three bills are?

Mr. ULLMAN. Yes, I will, Mr. Speaker. Mr. Speaker, the bills involve H.R. 2850, unanimously passed by the House which provides for a temporary suspension until June 30, 1978, of the duty on imports of certain latex sheets.

The Senate has added to that two other House bills, H.R. 3387, which involves a suspension of duty on synthetic rutile, and H.R. 5285, which involves a tariff adjustment on acrylic sheets. These three bills had been passed by the House in this form.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, do I understand these are tax bills?

Mr. ULLMAN. No, these are tariff bills. All three are tariff bills. They were unanimously agreed to by the committee and were passed on the floor, and now they are consolidated here in one package. All we want to do is move them on down the way.

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague.

Mr. STEIGER. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague, the gentleman from Wisconsin.

Mr. STEIGER. Mr. Speaker, I appreciate my colleague's yielding.

I have conferred with the distinguished chairman of the Committee on Ways and Means. I understand this is the bill that the House has passed, and the Senate has tacked on two bills; therefore, we come back with the bill in this form. I hope this can be speedily adopted and sent to the President for signature.

Mr. ROUSSELOT. The gentleman can assure us, considering the manner in which it has come back, with the consolidation of the three bills, that it does not change the position of the House on how we voted on those three bills?

Mr. STEIGER. Mr. Speaker, if the gentleman will yield further, the answer is that there is no change at all. They are in exactly the same form as passed by the House.

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague, and I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BRADEMAS). Is there objection to the request of the gentleman from Oregon to dispense with further reading of the Senate amendments?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

SUSPENSION OF DUTY ON SYNTHETIC TANTALUM/COLUMBIUM CONCENTRATE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2982) to suspend until the close of June 30, 1980, the duty on synthetic tantalum/columbium concentrate, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 3, after "That" insert "(a)".

Page 1, line 6, strike out "SEC. 2." and insert "(b)".

Page 1, lines 6 and 7, strike out "the first section of this Act" and insert "subsection (a)".

Page 1, after line 9, insert:

SEC. 2. (a) Subpart B. of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended

by inserting immediately before item 907.80 the following new item:

" 907.70	Concentrate of poppy straw (however provided for in part 3 of schedule 4) when imported for use in producing codeine or morphine	Free	Free	On or before 6/30/80 ".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

Page 1, after line 9, insert:

SEC. 3. (a) Item 912.05 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by inserting ", and parts thereof" immediately after "Generator lighting sets for bicycles"; and

(2) by striking out "12/13/76" and inserting in lieu thereof "6/30/80".

(b) Item 912.10 of the Appendix to such Schedules is amended to read as follows:

" 912.10	Caliper brakes, drum brakes, coaster brakes, three-speed hubs incorporating coaster brakes, three-speed hubs not incorporating coaster brakes, click twist grips, click stick levers, multiple free wheel sprockets, cotterless type crank sets, rims, parts of all the foregoing, and parts of bicycles consisting of sets of steel tubing cut to exact length and each set having the number of tubes needed for the assembly (with other parts) into the frame and fork of one bicycle (provided for in item 732.36, part 5C, schedule 7)	Free	No change	On or before 6/30/80 ".

(c) The amendments made by subsections (a) and (b) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(d) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of any article (other than any derailleur) to which item 912.05 or 912.10 of the Tariff Schedules of the United States (as in effect on December 31, 1976) applied and—

(1) which was made after December 31, 1976, and before the date of the enactment of this Act, and

(2) with respect to which there would have been no duty if any of the amendments made by subsections (a) and (b) applied to such entry or withdrawal,

shall notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

Amend the title so as to read: "An Act to suspend until the close of June 30, 1980, the duty on synthetic tantalum/columbium concentrate, and for other purposes.".

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendments and that they be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. STEIGER. Reserving the right to object, Mr. Speaker, I do so only for the purpose of allowing the distinguished chairman of the Committee on Ways and Means the opportunity to explain to the House what amendments were adopted by the Senate to this bill.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, this is an identical situation to that involved with respect to the bill just passed.

The Senate took up H.R. 2982 as it was passed by the House in its original form. They added to it two other House-passed bills, H.R. 3790, dealing with the duty on poppy straw concentrate used in producing codeine and morphine, and H.R. 5263, dealing with the duty on certain bicycle parts. They consolidated all three, and that is what is involved in this unanimous-consent request.

Mr. STEIGER. Further reserving the right to object, Mr. Speaker, I will say to my colleagues that these are bills which have passed the House. They come back to us as amendments to the original bill, in exactly the same form as we passed them; and they all involve tariff issues.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's yielding.

Therefore, my colleague can assure us once again that the bills which passed the House on poppy straw concentrate and bicycle parts in no way different; is that correct?

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, may I say to the gentleman that there is no difference on those two, absolutely no difference on those two at all.

Mr. ROUSSELOT. What about any other portion of the bill which we now have before us?

Mr. STEIGER. Further reserving the right to object, Mr. Speaker, there is no change, I will say.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield further, the only change in this group of bills is to H.R. 3259 where the date of the duty suspension was changed to 1980.

This conforms with the other actions and is fully approved by the Subcommittee on Trade and the Committee on Ways and Means.

Mr. ROUSSELOT. If the gentleman will yield further, the House, in its wisdom, set a 1978 date, and that is not adversely affected by moving it to 1980; is that correct?

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentleman for yielding.

We are endeavoring in the subcommittee to get a uniform date for all of these, and we generally went to 1980. We did not do it on one particular bill, H.R. 3259. The Senate took care of that by its change.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from California.

Mr. ROUSSELOT. The position of the House is in no way jeopardized?

Mr. VANIK. If the gentleman will yield further, the House's position is in no way jeopardized.

Mr. STEIGER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon to dispense with further reading of the Senate amendments?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

PROVIDING DUTY-FREE TREATMENT FOR CERTAIN COPYING LATHES USED FOR MAKING ROUGH OR FINISHED SHOE LASTS

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3093) to provide duty-free treatment for certain copying lathes used for making rough or finished shoe lasts and for parts of such lathes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 3, after "That" insert "(a)".

Page 2, line 5, strike out "SEC. 2." and insert "(b)".

Page 2, line 7, strike out "SEC. 3. (a)" and insert "(c)".

Page 2, lines 7 and 8, strike out "the first section of this Act" and insert "subsection (a)".

Page 2, line 11, strike out "(b)" and insert "(d)".

Page 2, lines 17 and 18, strike out "the first section of this Act" and insert "subsection (a)".

Page 3, line 3, strike out "(c)" and insert "(e)".

Page 3, line 3, strike out "amendment made by section 2 of this Act" and insert "repeal made by subsection (b)".

Page 3, after line 4, insert:

SEC. 2. (a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by adding immediately after headnote 3 the following new headnote:

"4. For so long as items 905.10 and 905.11 are in effect, headnotes 3, 4, and 5 of subpart C of part 1 of schedule 3 shall be suspended (except insofar as they relate to hair of the camel) and in lieu thereof—

"(a) for purposes of item 307.40—

"(i) the classification provisions for wool not finer than 46s shall apply to any package of wool containing not over 10 percent by weight of wool finer than 46s but not containing wool finer than 48s; and

"(ii) the citation for imports classifiable under item 307.40 shall be such item number followed by the item number for the part of the contents of the package which determines the rate of duty; and

"(b) for purposes of item 905.11, a tolerance of not more than 10 percent of wools not finer than 48s may be allowed in each bale or package of wools imported as not finer than 46s."; and

(2) by adding immediately before item 905.30 the following new items:

"	Wool (provided for in part 1C, schedule 3):			
905.10	All wool provided for in items 306.00 through 306.24	Free	Free	On or before 6/30/80
905.11	Wool not finer than 46s provided for in items 306.30 through 306.34	Free	Free	On or before 6/30/80 ".

(b) The amendments made by this section shall apply with respect to articles entered or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

Page 3, after line 4, insert:

SEC. 3. (a) Subpart G of part 15 of schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out—

"	Istle:			
192.65	Crude	Free	Free	
192.70	Processed	20% ad val.	20% ad val.	".

and inserting in lieu thereof the following:

"	192.66	Istle	Free	Free ".

(b) Item 903.90 of the Appendix to such Schedule is repealed.

(c) The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

Amend the title so as to read: "An Act to provide duty-free treatment for certain copying lathes used for making rough or finished shoe lasts and for part of such lathes, and for other purposes.".

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendments be dispensed with and that they be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. STEIGER. Reserving the right to object, Mr. Speaker, I take this reservation only to give the chairman of the Committee on Ways and Means the opportunity to explain the amendments of the other body.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman.

Mr. ULLMAN. I thank the gentleman for yielding.

Mr. Speaker, Senate amendments Nos. 1, 2, 3, 4, 5, 6, 7, and 8, are, together with an amendment to the title, technical and conforming amendments and the House should concur in those amendments.

H.R. 3093, as unanimously passed by the House, provides for the duty-free entry of certain copying lathes and the parts thereof used for making rough or finished shoe lasts.

The Senate amendment No. 9 added the substance of H.R. 3946, as passed by the House, which suspends for a temporary period until the close of June 30, 1980, the duty on wool, not finer than 46's. H.R. 3946 was unanimously passed by the House on July 18, 1977. In the light of the prior House approval of H.R. 3946, this amendment is meritorious and the House should concur in the amendment.

The Senate amendment No. 10 added the substance of H.R. 5322, as passed by the House, which provides for the duty-free entry of istle. H.R. 5322 was unanimously passed by the House on July 18, 1977. In the light of the prior House approval of H.R. 5322, this amendment is meritorious and the House should concur in the amendment.

Mr. STEIGER. Mr. Speaker, further reserving the right to object, I will say to my colleague, the gentleman from California, this is exactly the same situation. These are bills that have been passed by this House, and they come back to us from the other body in this format, but in exactly the same form as we passed them.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Can the gentleman explain on the portion of the bill relating to wool what that did?

Mr. STEIGER. Mr. Speaker, further reserving the right to object, H.R. 3916, introduced by our colleague, the gentleman from Minnesota (Mr. QUIE), has to do with the duty on certain coarse wool not finer than 46's. It has to do with a certain product used, may I say to my colleague from California, in the manufacture of things like wool blankets, and it is a type of wool that is not competitive with wool produced in the United States.

Mr. ROUSSELOT. So the gentleman can assure us that these bills now being consolidated are no different from the ones that left the House?

Mr. STEIGER. Further reserving the right to object, the answer is they are no different from those bills that passed the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon to dispense with further reading of the Senate amendments?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

CONTINUING TO SUSPEND FOR A TEMPORARY PERIOD THE IMPORT DUTY ON CERTAIN HORSES

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3259) to continue to suspend for a temporary period the import duty on certain horses, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 3, after "That" insert: "(a)".

Page 1, line 6, strike out " "6/30/78" " and insert " "6/30/80" ".

Page 1, line 7, strike out "SEC. 2. (a)" and insert "(b)".

Page 1, lines 7 and 8, strike out "the first section of this Act" and insert "subsection (a)".

Page 1, line 11, strike out "(b)" and insert: "(c)".

Page 2, line 6, strike out "amendment" and insert: "amendment".

Page 2, lines 6 and 7, strike out "the first section of this Act" and insert: "subsection (a)".

Page 2, after line 11, insert:

SEC. 2. (a) The headnotes to part 10 of schedule 4 of the Tariff Schedules of the United States (10 U.S.C. 1202) are amended by adding at the end thereof the following new headnote:

"4. (a) For purposes of this headnote, the term 'petroleum' means crude petroleum (including reconstituted crude petroleum) or crude shale oil provided for in items 475.05 or 475.10.

"(b) Petroleum shall, if a product of Canada, be admitted free of duty and any entry therefor shall be liquidated or reliquidated accordingly if, on or before the 180th day after the date of entry, documentation is filed with the customs officer concerned establishing that, pursuant to a commercial exchange agreement between United States and Canadian refiners which has been approved by the Secretary of Energy—

"(i) an import license for the petroleum covered by such entry has been issued by the Secretary; and

"(ii) an equivalent amount of domestic petroleum or duty-paid foreign petroleum has, pursuant to such commercial exchange agreement and to an export license issued by the Secretary of Commerce, been exported from the United States to Canada and has not previously been used to effect the duty-free entry of like Canadian products under this headnote.

"(c) The Secretary of the Treasury, after consulting with the Secretary of Commerce and the Secretary of Energy, shall issue such rules or regulations as may be necessary governing the admission of Canadian products pursuant to the provisions of this headnote.".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act pursuant to commercial exchange agreements referred to in headnote 4 of part 10 of schedule 4 of the Tariff Schedules of the United States (as added by such subsection) which are effective for periods beginning on or after such date of enactment.

Page 2, after line 11, insert:

SEC. 3. (a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately before item 907.60 the following new item:

" 907.20	Doxorubicin hydrochloride (provided for in item 407.85, part 1, or in item 437.32 or 438.02, part 3, schedule 4, depending on source	Free	No change	On or before 6/30/80 ".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for

consumption after the date of enactment of this Act.

Amend the title so as to read: "An Act to continue to suspend for a temporary period the import duty on certain horses, and for other purposes.".

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendments be dispensed with and that they be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. STEIGER. Reserving the right to object, Mr. Speaker, I take this reservation only to allow the chairman of the Committee on Ways and Means the opportunity to fully explain the amendments of the other body.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Oregon.

Mr. ULLMAN. I thank the gentleman for yielding.

Mr. Speaker, Senate amendments Nos. 1, 2, 3, 4, 5, 6, 7, 8, and 9 are, together with an amendment to the title, technical and conforming amendments and the House should concur in those amendments.

H.R. 3259, as unanimously passed by the House, provides for the continuation of the suspension until the close of June 30, 1978, of the duty on horses imported other than for immediate slaughter.

As explained earlier the Senate amendment No. 2 extended the continuation of the duty suspension to June 30, 1980 from the June 30, 1978 date in the House passed version of the bill. Since June 30, 1980, is a common expiration date selected by the Committee on Ways and Means for a number of tariff suspension bills taken up subsequent to H.R. 3259, the amendment is meritorious and the House should concur in the amendment.

The Senate amendment No. 8 added the substance of H.R. 5858, as passed by the House, which was unanimously passed by the House on October 17, 1977.

H.R. 5858 permits the duty-free entry of Canadian petroleum provided an equivalent amount of domestic or duty paid petroleum is exported to Canada. The purpose of the bill is to facilitate the continued supply of petroleum to certain northern tier refiners historically dependent on Canadian supplies which do not have alternative supplies available and which face shortages due to the Canadian phaseout of petroleum exports to the United States. Due to the need to get this bill enacted before winter sets in in the northern tier, this amendment is meritorious and the House should concur in the amendment.

The Senate amendment No. 9 added the substance of H.R. 4018, as passed by the House, which suspends until the close of June 30, 1980, the duty on doxorubicin hydrochloride antibiotics. H.R. 4018 was unanimously passed by the House on July 18, 1977. In the light of the prior House approval of H.R. 4018, this amendment is meritorious and the House should concur in the amendment.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentleman for yielding.

I would like to point out to the gentleman from California that there was a change in date of the bill that refers to the duty on horses. It provides for a duty suspension until June 30, 1980, changing it from the June 30, 1978, date in the House bill, but that simply brings us up to conformity in all of these proposals.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding, and I appreciate the gentleman's comment.

The gentleman can assure us now that these bills now consolidated are no different from what they were when they left the House, other than the date the gentleman mentions? There is nongermane amendment attached?

Mr. STEIGER. Further reserving the right to object, the gentleman is absolutely correct. There is no change except for the one date change which is consistent with the House position, and there are no nongermane amendments.

Mr. ROUSSELOT. Then I suppose all of them are nongermane in a sense, but they all are tariff bills.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield further, that is the only change, that change in date.

Mr. STEIGER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon to dispense with further reading of the Senate amendments?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

DISAGREEING TO SENATE AMENDMENTS TO H.R. 422

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 422) to amend the Tariff Schedules of the United States to provide duty-free treatment of any aircraft engine used as a temporary replacement for an aircraft engine being overhauled within the United States if duty was paid on such replacement engine during a previous importation" with Senate amendments thereto, and disagree to the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, strike out all of the table which appears below line 2 and insert:

" 801.20	Any aircraft engine or propeller, or any part or accessory of either, previously imported, with respect to which the duty was paid upon such previous importation, if (1) reimported without having been advanced in value or improved in condition by any process of manufacture or other means while abroad, after having been exported under loan, lease, or rent to an aircraft owner or operator as a temporary replacement for an aircraft engine being overhauled, repaired, rebuilt, or reconditioned in the United States, or by the engine manufacturer, and (2) reimported by or for the account of the person who exported it from the United States	Free	Free ".

Page 2, after line 6, insert:

TITLE II—RURAL HEALTH CLINIC SERVICES

MEDICARE AMENDMENTS

SEC. 201. (a) Section 1832(a) of the Social Security Act is amended—

(1) by striking out "paragraph (2)(B)" in paragraph (1) and inserting in lieu thereof "subparagraphs (B) and (D) of paragraph (2)"; and

(2) by striking out the period at the end of paragraph (2)(C) and inserting in lieu thereof "; and" and by adding the following new subparagraph at the end of paragraph (2):

"(D) rural health clinic services."

(b) Section 1833(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by inserting "(except those services described in subparagraph (D) of section 1832(a)(2))" in paragraph (2) after "1832(a)(2)";

(3) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and"; and

(4) by inserting the following new paragraph after paragraph (2):

"(3) in the case of services described in section 1832(a)(2)(D), 80 percent of costs which are reasonable and related to the cost of furnishing such services or on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861(v)(1)(A)."

(c) Section 1833 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i) The Secretary is authorized to waive the provisions of subsection (b) of this section with respect to rural health clinic services and require in lieu thereof copayments by an individual receiving such services in cases in which he determines that such an alternative system is less costly. Such copayments shall not exceed $3 per visit to a rural health clinic, shall not exceed $60 per calendar year.".

(d) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"Rural Health Clinic Services

"(aa)(1) The term 'rural health clinic services' means—

"(A) physicians' services and such services and supplies as are covered under subsection (s)(2)(A) if furnished as an incident to a physician's professional service.

"(B) such services furnished by a physician assistant or nurse practitioner as he is legally authorized to provide in the jurisdiction in which he performs such services, and such services and supplies furnished as an incident to his service, as would otherwise be covered if furnished by a physician or as an incident to a physician's service, and

"(C) in the case of a rural health clinic located in an area in which there exists a

shortage of home health services (as defined in subsection (m)) due to a shortage of home health agencies (as defined in (o)), as determined by the Secretary, such services as would constitute home health services if furnished by a home health agency (without regard to the number of such services furnished by such rural health clinic), if such clinic meets such other conditions as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished such services by such clinic.

when furnished by a rural health clinic to an individual as a primary care patient.

"(2) The term 'rural health clinic' means a facility which—

"(A) is primarily engaged in providing rural health clinic services;

"(B) has an arrangement (consistent with the provisions of State and local law relative to the practice, performance, and delivery of health services) with one or more physicians (as defined in subsection (r)(1)) under which provision is made for the periodic review by such physicians of rural health clinic services for which payment may be made under this title furnished by physician assistants and nurse practitioners, and for the supervision and guidance by such physicians of physician assistants and nurse practitioners;

"(C) provides for the preparation by the supervising physicians, physician assistants, and nurse practitioners of medical orders for care and treatment of clinic patients, and the availability of such physicians for such referral and consultation for patients as is necessary, and for advice and assistance in the management of medical emergencies;

"(D) maintains clinical records on all patients;

"(E) has arrangements with one or more hospitals (as defined in subsection (e)) for the referral or admission of patients requiring inpatient services or such diagnostic or other specialized services as are not available at the clinic;

"(F) has written policies to govern the management of the clinic and all the services it provides;

"(G) has appropriate procedures or arrangements, in compliance with applicable State and Federal law, for storing, administering, and dispensing drugs and biologicals;

"(H) has appropriate procedures for utilization review;

"(I) directly provides routine diagnostic services (as prescribed by the Secretary) consistent with the provisions of State and local law relative to the practice, performance, and delivery of health services, and has prompt access to additional diagnostic services from facilities meeting requirements under this title; and

"(J) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of the individuals who are furnished services by the clinic.

For purposes of this title, such term includes only a facility which (i) is located in (I) a rural area which is designated by the Secretary under section 1302(7) of the Public Health Service Act as having a medically underserved population, (II) an area (other than an urbanized area, as defined by the Bureau of the Census) in which the supply of medical services is not sufficient to meet the needs of individuals residing therein, or (III) an urbanized area (as so defined if the majority of the patients served by such facility reside in area described in clause (I) or (II), (ii) has filed an agreement with the Secretary by which it agrees not to charge any individual or other person for items or services for which such individual is entitled to have payment made under this title, except for the amount of any deductible or coinsurance amount imposed with respect to such items or services (not in excess of the amount customarily charged for such items and services by such clinic), pursuant to subsections (a), (b), and (i) of section 1833, (iii) employs a physician assistant or nurse practitioner, and (iv) is not a rehabilitation agency or a facility which is primarily for the care and treatment of mental diseases.

"(3) The term 'physician assistant' or the term 'nurse practitioner' means, for the purposes of this subsection, a physician assistant or nurse practitioner who performs, the supervision of a physician (as defined in subsection (r)(1)), such services, as he is legally authorized to perform (in the State in which he performs such services) in accordance with State law (or the State regulatory mechanism provided by State law) and who meets such training, education, and experience requirements (or any combination thereof) as the Secretary may prescribe in regulations.".

(c) Section 1862(a)(3) of such Act is amended by striking out "in such cases" and inserting in lieu thereof "in the case of rural health clinic services, as defined in section 1861(aa)(1), and in other cases".

(d) Section 1861(s)(2) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (C)(ii);

(2) by inserting "and" at the end of paragraph (D); and

(3) by adding the following new subparagraph at the end thereof:

"(E) rural health clinic services;".

(e) Section 1864(a) of such Act is amended—

(1) by inserting "or whether a facility therein is a rural health clinic as defined in section 1861(aa)(2)," in the first sentence after "home health agency,";

(2) by inserting "rural health clinic," in the second sentence after "nursing facility,"; and

(3) by inserting "rural health clinic," in the last sentence after "facility," each time it appears therein.

(f) Section 1122(b)(1) of the Social Security Act is amended by inserting after the term "health care facility" the following: "(including a rural health clinic as defined in section 1861(aa)(2) of this Act)".

MEDICAID AMENDMENTS

SEC. 202. (a) Paragraph (2) of section 1905 (a) of the Social Security Act is amended to read as follows:

"(2)(A) outpatient hospital services and (B) consistent with State law permitting such services, rural health clinic services (as defined in subsection (l)) and any other ambulatory services which are offered by a rural health clinic (as defined in subsection (l)) and which are otherwise included in the plan;".

(b) Section 1905 of such Act is amended by adding after subsection (k) the following new subsection:

"(l) The terms 'rural health clinic services' and 'rural health clinic' have the meanings given such terms in section 1861(aa) of this Act.".

(c) Section 1902(a) of such Act is amended—

(1) by striking out the semicolon at the end of paragraph (13) and inserting in lieu thereof ", and", and by adding at the end of such paragraph the following new subparagraph:

"(F) for payment for services described in section 1905(a)(2)(B) provided by a rural health clinic under the plan of 100 percent of costs which are reasonable and related to the cost of furnishing such services, on such other tests of reasonableness as the Secretary may prescribe in regulations under section 1833(a)(3) or, in the case of services to which those regulations do not apply, on such tests of reasonableness as the Secretary may prescribe in regulations under this subparagraph"; and

(2) by inserting ", or by reason of the fact that the plan provides for payment for rural health clinic services only if those services are provided by a rural health clinic" before the semicolon at the end of paragraph (23).

(d) Section 1910 of such Act is amended—

(1) by amending the heading to read as follows: "CERTIFICATION AND APPROVAL OF SKILLED NURSING FACILITIES AND RURAL HEALTH CLINICS";

(2) by striking out "(a)" and inserting in lieu thereof "(a)(1)";

(3) by striking out "(b)" and inserting in lieu thereof "(2)"; and

(4) by adding at the end thereof the following new subsection:

"(b)(1) Whenever the Secretary certifies a facility in a State to be qualified as a rural health clinic under title XVIII, such facility shall be deemed to meet the standards for certification as a rural health clinic for purposes of providing rural health clinic services under this title.

"(2) The Secretary shall notify the State agency administering the medical assistance plan of his approval or disapproval of any facility which has applied for certification by him as a qualified rural health clinic.".

(e) Section 1866(c)(2) of such Act is amended by striking out "section 1910" and inserting in lieu thereof "section 1910(a)".

DEMONSTRATION PROJECTS

SEC. 203. (a) The Secretary of Health, Education, and Welfare shall provide, through demonstration projects, reimbursement on a cost basis for services provided by physician-directed clinics in urban medically underserved areas for which payment may be made under title XVIII of the Social Security Act and, notwithstanding any other provision of title XVIII, for services provided by physician assistants and nurse practitioners employed by such clinics which would otherwise be covered under such title if provided by a physician.

(b) The demonstration projects developed under subsection (a) shall be of sufficient scope and carried out on a broad enough scale to allow the Secretary to evaluate fully—

(1) the relative advantages and disadvantages of reimbursement on the basis of costs and fee-for-service for physician-directed clinics employing physician assistants and nurse practitioners;

(2) the appropriate method of determining the compensation for physician services on a cost basis for the purposes of reimbursement of services provided in such clinics;

(3) the appropriate definition for such clinics;

(4) the appropriate criteria to use for the purposes of designating urban medically underserved areas; and

(5) such other possible changes in the present provisions of title XVIII of the Social Security Act as might be appropriate for the efficient and cost-effective reimbursement of services provided in such clinics.

(c) Grants, payments under contracts, and other expenditures made for demonstration projects under this section shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. With respect to any such grant, payment, or other expenditure, the amount to be paid from each trust fund shall be de-

termined by the Secretary, giving due regard to the purposes of the demonstration projects.

(d) The Secretary shall submit to the Congress, no later than January 1, 1981, a complete, detailed report on the demonstration projects conducted under subsection (b). Such report shall include any recommendations for legislative changes which the Secretary finds necessary or desirable as a result of carrying out such demonstration projects.

REPORT BY THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE ON MENTAL HEALTH CENTERS

SEC. 204. (a) The Secretary of Health, Education, and Welfare shall submit to the Congress, no later than April 1, 1978, a report on the advantages and disadvantages of extending coverage under title XVIII of the Social Security Act to urban or rural mental health centers.

(b) The report submitted under subsection (a) shall include evaluations of—

(1) the need for title XVIII coverage of services provided by mental health centers;

(2) the extent of present utilization of such centers by individuals eligible for benefits under title XVIII;

(3) alternatives to services provided by such centers presently available to individuals eligible for benefits under title XVII;

(4) the appropriate definition for such centers;

(5) the types of treatment provided by such centers;

(6) present Federal and State funding for such centers;

(7) the extent of coverage by private insurance plans for services provided by such centers;

(8) present and projected costs of services provided by such centers;

(9) available methods for assuring proper utilization of such centers;

(10) the effect of allowing coverage for services provided by such centers on other providers and practitioners; and

(11) the need for any demonstration projects for further evaluation of the need for coverage or services provided by such centers.

EFFECTIVE DATES

SEC. 205. (a) The amendments made by section 201 of this Act shall apply to services rendered on or after the first day of the third calendar month which begins after the date of enactment of this Act.

(b)(1) The amendments made by section 202 of this Act shall (except as otherwise provided in paragraph (2)) apply to medical assistance provided under a State plan approved under title XIX of the Social Security Act on and after the first day of the first calendar quarter that begins more than six months after the date of enactment of this Act.

(2) Notwithstanding the provisions of paragraph (1), in any case in which legislation is required in order to conform a State plan for medical assistance with the requirements imposed by reason of the amendments made by section 202 of this Act (as determined by the Secretary), such State plan shall not be regarded as failing to comply with the requirements of title XIX of the Social Security Act solely on the basis of such failure to meet the requirements imposed by such amendments at any time prior to the first day of the first calendar quarter that begins after the close of the first regular session of the State legislature which begins after the date of enactment of this Act.

SPACE CENTER MEMORIAL HOSPITAL, NASSAU BAY, TEXAS

SEC. 206. The Secretary of Health, Education, and Welfare is hereby directed to acquire the Space Center Memorial Hospital in Nassau Bay, Texas, for the purpose of transferring the activities and functions from the Public Health Service Hospital in Galveston, Texas, to such facility and upon completion of such transfer the Secretary is authorized to close the Public Health Service Hospital in Galveston, Texas.

Amend the title so as to read: "An Act to amend the Tariff Schedules of the United States to provide duty-free treatment of any aircraft engine used as a temporary replacement for an aircraft engine being overhauled within the United States if duty was paid on such replacement engine during a previous importation, to provide reimbursement under titles XVIII and XIX of the Social Security Act for rural health clinic services, and for other purposes.".

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendments be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. STEIGER. Mr. Speaker, reserving the right to object, I make this reservation obviously for the purpose of giving the chairman of the Committee on Ways and Means a chance to explain the situation on this bill.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. Of course.

Mr. ULLMAN. Mr. Speaker, all we are doing is taking our House-passed bill exactly as it was passed and disagreeing to the Senate amendments. There are two nongermane amendments. We are here asking unanimous consent to disagree with those Senate amendments and just accept the House bill as passed.

H.R. 422, as unanimously passed by the House, provides for the duty-free entry of any aircraft engine used as a temporary replacement for an aircraft engine being overhauled or repaired within the United States if duty was paid on such replacement engine during a previous importation and the replacement engine has not been improved in condition or advanced in value when abroad.

The Senate amendment numbered 1 would expand the scope of the bill to permit the duty-free entry of loaner engines if the aircraft engine were being overhauled or repaired outside of the United States. This amendment is not consistent with the basic purpose of the bill which is to enable the domestic aircraft repair industry to compete on an equal basis with overseas competitors who do not have to pay duty each time the same loaner engine reenters their country. The amendment was suggested to the Subcommittee on Trade of the Committee on Ways and Means by one firm during public hearings held on the bill but the suggestion was not adopted by the committee. The administration also advises that it opposes this amendment.

The Senate amendment numbered 2 is a nongermane amendment concerning rural health services and a U.S. Public Health Services Hospital in Texas. The substance of the amendment is embodied in different language in a separate House bill which has been favorably reported to the House. The committee involved with that bill has requested that the House not agree to the Senate amendment in order that the separate House bill proceed independently. For these reasons, the House should not agree to the Senate amendment numbered 2.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, that means we go back to conference?

Mr. STEIGER. Mr. Speaker, further reserving the right to object, the Senate could recede from its two nongermane amendments and request a conference.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield further, if the Senate wanted to send it back and wanted an additional conference, that would require additional action by the House.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, is there a possibility that the Senate would recede? Is that possible?

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, I do not know if the other body will recede, but we have simply provided for repairs in the United States, to provide jobs and job opportunities for people in America.

The Senate changed it to apply to people abroad, so we have a very basic disagreement with the Senate on this issue. I hope they will recede.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, the basic disagreement is on jobs in this country?

Mr. VANIK. On this issue, certainly.

Mr. STEIGER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon to dispense with further reading of the Senate amendments?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

SENATE AMENDMENTS TO H.R. 2849

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2849) to suspend until July 1, 1978, the rate of duty on mattress blanks of rubber latex, with Senate amendments thereto, concur in Senate amendments numbered 1, 2, 3, 4, 5, and 6, and concur in Senate amendment No. 7 with an amendment, and concur in the Senate amendment to the title of the bill.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 3, after "That" insert "(a)".

Page 1, line 7, strike out "SEC. 2. (a)" and insert "(b)".

Page 1, lines 7 and 8, strike out "the first section of this Act" and insert "subsection (a)".

Page 2, line 1, strike out "(b)" and insert "(c)".

Page 2, lines 8 and 9, strike out "the first section of this Act" and insert "subsection (a)".

Page 2, after line 13, insert:

SEC. 2. (a) Subpart D of part 5 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out item 734.97 and inserting in lieu thereof the following:

"734.98	Bobsleds and luges of a kind used in international competition	Free	Free.
734.98	Other	9% ad val.	45% ad val.".

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

Page 2, after line 13, insert:

SEC. 3. (a) Section 4946(a)(2) of the Internal Revenue Code of 1954 (relating to substantial contributors) is amended to read as follows:

"(2) SUBSTANTIAL CONTRIBUTOR.—For purposes of paragraph (1), the term 'substantial contributor' means a person who is described in section 507(d)(2), except that, for purposes of section 4941 (relating to taxes on self-dealing), contributions made before October 9, 1969, which were made on account of or in lieu of payments required under a lease in effect prior to such date and which were coincident with or by reason of the reduction in the required payments under such lease shall not be taken into account for purposes of applying section 507(d)(2).".

(b) For the purposes of applying section 507(d)(2)(B)(iv) of the Internal Revenue Code of 1954, the amendment made by subsection (a) shall be treated as having taken effect on January 1, 1970.

Amend the title so as to read: "An Act to suspend until July 1, 1978, the rate of duty on mattress blanks of latex rubber, and for other purposes.".

The Clerk read the House amendment to Senate amendment No. 7, as follows:

In lieu of the matter proposed to be inserted by Senate amendment numbered 7, insert the following:

SEC. 3. In determining whether a person is a substantial contributor within the meaning of section 507(d)(2) of the Internal Revenue Code of 1954 for purposes of applying section 4941 of such Code (relating to taxes on self-dealing), contributions made before October 9, 1969, which—

(1) were made on account of or in lieu of payments required under a lease in effect before such date, and

(2) were coincident with or by reason of the reduction in the required payments under such lease,

shall not be taken into account. For purposes of applying section 507(d)(2)(B)(iv) of such Code, the preceding sentence shall be treated as having taken effect on January 1, 1970.

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the House amendment to Senate amendment No. 7 be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. STEIGER. Mr. Speaker, reserving the right to object, I make this reservation to give the chairman of the Committee on Ways and Means an opportunity to explain this somewhat more complicated situation.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, I would say the first two provisions of this combines two House bills; one dealing with the importation of certain latex sheets until the close of June 30, 1978.

The second amendment adopted the House provision on the free entry of bobsleds and luges, which are used in the Olympic games.

This bill passed the House. It combined those two.

Now, in addition, the Senate added another amendment, which I would like the chairman of the Committee on Ways and Means to go into.

The two are trade bills, and now we have a third provision added by the Senate, which is a substantive change of the law.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, is that third provision nongermane?

Mr. VANIK. Mr. Speaker, if the gentleman will yield further, it is nongermane.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, the gentleman is absolutely right with respect to the first amendment, but amendment No. 7 amends section 4946 of the Internal Revenue Code of 1954.

Mr. Speaker, Senate amendments numbered 1, 2, 3, 4, and 5 are, together with an amendment to the title, technical and conforming amendments and the House should concur in those amendments.

H.R. 2849, as unanimously passed by the House, provides for the temporary suspension of duty on imports of certain latex sheets until the close of June 30, 1978.

Senate amendment numbered 6 added the substance of H.R. 5146, as passed by the House, which permits the duty-free entry of competition bobsleds and luges. H.R. 5146 was unanimously passed by the House on July 18, 1977. In light of the prior House approval of H.R. 5146, this amendment is meritorious and the House should concur in the amendment.

Senate amendment numbered 7 amended section 4946 of the Internal Revenue Code of 1954 to treat certain persons as not being "disqualified persons" under the private foundation's self-dealing rules merely because of contributions made in lieu of rental payments before 1969.

Under present law, private foundations are generally prohibited from leasing property to disqualified persons. A "disqualified person" includes anyone who has contributed more than $5,000 to the foundation, where the total contributions from that person exceed 2 percent of the total contributions received by the foundation. A person who becomes a disqualified person as a result of these contributions remains one forever.

It is understood that Public Welfare Foundation, Inc. owns all of the stock of three corporations: the Gadsden Times, Inc.; the Tuscaloosa News, Inc.; and the Spartanburg Herald and Journal, Inc. These three corporations have, for a substantial period of time, leased all of the assets of three newspapers to operating companies. Apparently, after the Internal Revenue Service suggested that the original rentals were unreasonably high, the operating companies decided to make charitable donations to the foundation in exchange for reduced rentals. This occurred before the Tax Reform Act of 1969.

As a result of these contributions in lieu of rental payments, each operating company now is considered to be a "disqualified person," and thus their leasing arrangements with the private foundation will be acts of self-dealing after a transitional period ending in 1979.

The Committee on Ways and Means has concluded that this situation was not what the Congress contemplated in 1969, and so the bill provides that these contributions which were made in lieu of the rental payments shall not be treated as contributions for purposes of the "self-dealing" rules. The effect of this provision is to allow the continuation of the leases of the newspaper assets. The Treasury Department has no objection to the amendment.

The amendment offered to the Senate amendment is a technical drafting matter relating to the codification of this provision. It has been approved unanimously by the Committee on Ways and Means.

Mr. STEIGER. Mr. Speaker, further reserving the right to object, the chairman of the subcommittee and the chairman of the full Committee on Ways and Means have explained fully the fact that we have here two tariff bills, the latex mattress blank bill, H.R. 2849, and the bill of our colleague from New York (Mr. MCEWEN), H.R. 5146, on bobsleds and luges.

The nongermane amendment is the text of H.R. 7003, which is an amendment to the Internal Revenue Code. It is not a tariff bill, but it is a bill that has been reported favorably—from the Committee on Ways and Means. While we have not passed it in the House, we do support it and would like to be able to concur in that nongermane Senate amendment tonight.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. Of course.

Mr. ROUSSELOT. I think it is absolutely splendid that the Committee on Ways and Means voted it out unanimously, but is there some reason why the gentleman does not want to expose the House to understanding what is in it?

Mr. STEIGER. Under my reservation of objection I will be happy to explain.

H.R. 7003 is designed to correct an unintended result which has arisen under the Tax Reform Act of 1969. The 1969 act established a series of criteria regarding the issue of self-dealing between private foundations and disqualified persons. Disqualified person is defined to include a substantial contributor. A substantial contributor, in turn, is defined to include any person who has contributed

more than $5,000 to the foundation, if the total contributions from the person exceed 2 percent of the total contributions received by the foundation. Once a contributor satisfies the definition of "substantial contributor" that status remains forever. The policy objective of these provisions was to curb manipulative-type self-dealing by private foundations.

The Committee on Ways and Means, in reporting H.R. 7003, has been made aware of the situation which technically runs afoul of the mechanical self-dealing rules, but does not involve the type of activity which the 1969 act meant to penalize. H.R. 7003 is narrowly drafted to correct this inadvertent result. It is a one-time, limited effect.

It is that amendment that is added to this bill, and it does, I will say to my colleague from California, what the Committee on Ways and Means wanted to do in a very narrow fashion.

Mr. ROUSSELOT. Will the gentleman yield further?

Mr. STEIGER. Of course.

Mr. ROUSSELOT. I appreciate my colleague's explanation, which was very well done. In that narrow definition, does the effect of this bill which the Ways and Means Committee, I realize, has voted unanimously, impact adversly on anybody, any minority group or anyone who would want to be heard, or is this for the IRS?

Mr. STEIGER. Further reserving the right to object, the bill is amended in a manner that was acceptable to the Internal Revenue Service. This was a bill that was introduced by our colleagues, Messrs. BEVILL, MANN, HOLLAND, and FLOWERS. It deals with a very limited situation, and the answer to the question of the gentleman from California is no, I do not think that it impacts unfavorably upon either the Code or Revenue or the administration's position, because it is supported by the administration as it was reported by the Committee on Ways and Means.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield.

Mr. ULLMAN. The matter was subject to public hearings in the subcommittee. There was no opposition. Treasury fully supports the action. The gentleman has explained it. I think it is a very meritorious bill, and one that I would hope the gentleman would not object to.

Mr. STEIGER. Mr. Speaker, further reserving the right to object, is there a further question the gentleman from California may have?

Mr. ROUSSELOT. No.

Mr. STEIGER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon to dispense with further reading of House amendment to Senate amendment No. 7?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

EXTENDING FOR ADDITIONAL TEMPORARY PERIOD EXISTING SUSPENSION OF DUTIES ON CERTAIN CLASSIFICATION OF YARNS OF SILK

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3373) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk, with Senate amendments thereto, concur in Senate amendments numbered 1, 2, 3, 4, and 5, disagree to Senate amendment numbered 6, concur in Senate amendment numbered 7 with an amendment, and concur in the Senate amendment to the title of the bill.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 3, after "That" insert "(a)".

Page 1, line 7, strike "SEC. 2. (a)" and insert "(b)".

Page 1, lines 7 and 8, strike out "the first section of this Act" and insert "subsection (a)".

Page 1, line 11, strike out "(b)" and insert "(c)".

Page 2, lines 7 and 8, strike out "the first section of this Act" and insert "subsection (a)".

Page 2, after line 12, insert:

"SEC. 2. (a) Headnote 1(b) of the headnotes to schedule 1, part 15, subpart C of the Tariff Schedules of the United States is amended to read as follows:

"'(b) the terms "mixed feeds" and "mixed-feed ingredients" in item 184.70 embrace products which are admixtures of grains (or products, including byproducts, obtained in milling grains) or of soybeans (or products, including byproducts, obtained in processing soybeans) with molasses, oil cake, oilcake meal, or other feedstuffs, except that there shall not be included in the terms "mixed feeds" and "mixed-feed ingredients" in item 184.70 products which are admixtures of soybeans or soybean products with other soybean products, or of soybeans or soybean products with milk products, or with products containing milk or milk derivatives; and which consist of not less than 6 percent by weight of said grains or grain products or of said soybeans or soybean products.'.

"(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act."

Page 2, after line 12, insert:

"SEC. 3. (a) Section 4254 of the Internal Revenue Code of 1954 (relating to computation of tax on communications services) is amended to read as follows:

"'SEC. 4254. COMPUTATION OF TAX.

"'(a) GENERAL RULE.—The amount on which a tax imposed by section 4251 is based shall not include, if separately stated, any tax on the amount paid for such service imposed by a State or political subdivision of a State or by the District of Columbia.

"(b) BILLS RENDERED FOR LOCAL TELEPHONE SERVICE OR TOLL TELEPHONE SERVICE.—If a bill is rendered the taxpayer for local telephone service or toll telephone service—

"(1) the amount on which the tax with respect to such services shall be based shall be the sum of all charges for such services included in the bill; except that

"(2) if the person who renders the bill groups individual items for purposes of rendering the bill and computing the tax, then (A) the amount on which the tax with respect to each such group shall be based shall be the sum of all items within that group and (B) the tax on the remaining items not included in any such group shall be based on the charge for each item separately.

"(c) WHERE PAYMENT IS MADE FOR TOLL TELEPHONE SERVICE IN COIN-OPERATED TELEPHONES.—If the tax imposed by section 4251 with respect to toll telephone service is paid by inserting coins in coin-operated telephones, tax shall be computed to the nearest multiple of 5 cents, except that, where the tax is midway between multiples of 5 cents, the next higher multiple shall apply.".

(b) Section 4254(a) of the Internal Revenue Code of 1954, as amended by subsection (a), shall apply with respect to amounts paid pursuant to bills first rendered on or after the first day of the first month which begins more than twenty days after the date of enactment of this Act, but such section, as so amended, shall not apply with respect to amounts paid for services rendered more than two months before such first day and for which a bill has not been rendered before such first day.

Amend the title so as to read: "An Act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk, and for other purposes.".

The SPEAKER pro tempore. The Clerk will report the House amendment to Senate amendment numbered 7.

The Clerk read the House amendment to the Senate amendment numbered 7, as follows:

In lieu of the matter proposed to be inserted by Senate amendment numbered 7, insert the following:

SEC. 2. (a) Section 4254 of the Internal Revenue Code of 1954 (relating to computation of tax) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN STATE AND LOCAL TAXES NOT INCLUDED.—For purposes of this subchapter, in determining the amounts paid for communications services, there shall not be included the amount of any State or local tax imposed on the furnishing or sale of such services, if the amount of such tax is separately stated in the bill."

(b) The amendment made by this section shall take effect only with respect to amounts paid pursuant to bills first rendered on or after the first day of the first month which begins more than 20 days after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of communications services rendered more than 2 months before the effective date provided in the preceding sentence, no bill shall be treated as having been first rendered on or after such effective date.

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendment numbered 7 be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. STEIGER. Mr. Speaker, reserving the right to object, I make this reservation in order to give the chairman of the Committee on Ways and Means and/or the chairman of the subcommittee a chance to explain this somewhat more complicated situation.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, Senate amendments numbered 1, 2, 3, 4, and 5 are, together with an amendment to the title, technical and conforming amendments and the House should concur in those amendments.

H.R. 3373, as unanimously passed by the House, provides for the continuation until the close of June 30, 1980 of the suspension of duties on certain classifications of yarns of silk.

Senate amendment numbered 6 would amend the definition of "mixed feed" and "mixed-feed ingredients" in the headnote of the tariff schedules on animal feed to include products which are admixtures of soybean or soybean products and which consist of not less than 6 percent by weight of soybeans or soybean products. The definitional change would permit imports of animal feeds containing at least 6 percent soybeans or soybean products to enter free of duty.

The Subcommittee on Trade of the Committee on Ways and Means held hearings during the 94th Congress on a similar proposed bill, H.R. 6253, in April 1975. The bill was opposed by the Departments of Commerce, Agriculture, and State. The Trade Subcommittee and the Committee on Ways and Means took no further action.

The Committee on Ways and Means is informed that the executive branch continues to oppose this proposal as provided in the Senate amendment.

Mr. STEIGER. Mr. Speaker, further reserving the right to object, I appreciate very much the explanation of my colleague, the gentleman from Ohio (Mr. VANIK), the chairman of the subcommittee. We do. under this request, ask that we reject the amendment which has to do with mixed animal feed.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. Further reserving the right to object, Mr. Speaker, I yield to the chairman of the Committee on Ways and Means for an explanation of the communications services excise tax.

Mr. ULLMAN. I thank the gentleman for yielding.

Mr. Speaker, section 2 of this bill, H.R. 3373, provides that the telephone tax base is not to include State or local telephone taxes. As a result, the Federal tax is not to be increased simply because a State or local government imposes its own telephone tax.

Under present law, the Federal communications tax is 5 percent of the communications company's charge for the service. This tax is scheduled to phase out over the next 5 years. The Internal Revenue Service has ruled that State and local taxes which are imposed upon the provider of the service—typically a telephone company—are included in the tax base. As a result, the Federal tax is higher in a State which imposes its own communications tax on the telephone company than it is in a State which imposes its tax upon the subscriber rather than the telephone company.

Furthermore, there is no uniformity in the amounts of State or local telephone tax imposed. The higher the State or local tax becomes, the higher the Federal excise tax will be. Thus, the greater the revenue effort the State or locality is making the more its telephone users have to pay in Federal telephone tax.

The amendment excludes from the Federal tax base those State or local telephone taxes which are separately stated in the subscriber's billing. The requirement that the charge be separately stated is necessary to simplify the administration of the tax as well as to enable subscribers to determine the amount of the charge upon which the Federal tax is to be based.

The amendment is estimated to reduce revenue by $10 million in fiscal 1978. This rises to $12 million in fiscal 1979, and then drops gradually to $2 million in fiscal 1982 and nothing thereafter.

The amendment offered to the Senate amendment is a technical matter, to clarify the Senate language, Mr. Speaker, I urge the adoption of the bill.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague for yielding.

I would like to ask the distinguished committee chairman to put this in the terms of a layman, as to what this telephone tax situation is.

Does this increase the tax or reduce it? What are we doing in this?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, what we are doing is reducing the tax slightly in this situation.

Mr. ROUSSELOT. The Federal telephone tax is slightly reduced?

Mr. ULLMAN. Mr. Speaker, there is no uniformity in the amount of the State or local telephone taxes that are imposed. The higher the State and local taxes, the higher the Federal excise tax will be, and that is an inequity we are seeking to correct. The higher the State or local tax is, the more the users have to pay in telephone tax, State or Federal. We think this is inequitable. If they charge more, we charge more. The excise tax relates to the State or local tax, and we make an adjustment here.

Mr. Speaker, we think this is meritorious legislation.

Mr. STEIGER. Mr. Speaker, further reserving the right to object, the issue here, as best I understand it, is the question of a tax on a tax.

This particular amendment from the other body says that we are to have a Federal excise tax imposed without regard to what the State or local tax is.

I know in my own State of Wisconsin that has become a very big issue. The minute the State went into taxing telephone service, the Federal excise tax went on the bill, plus the State tax, and we ended up with a higher Federal excise tax than we would have had otherwise. Therefore, the provision is, I think, a very good one.

Knowing how deeply the gentleman from California (Mr. ROUSSELOT) feels about inequitable, unconscionable issues like taxation upon taxation without representation, I would think that he might support this action.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's yielding.

The gentleman from Wisconsin (Mr. STEIGER) has stated the issue better than I could have done it myself. In other words, we are eliminating the automatic escalator of the Federal excise tax. Just because a State or local entity increases its telephone tax does not mean the Federal tax should be increased.

Mr. Speaker, this will decouple, as the committee chairman said, the Federal Government from this operation so it will not have to collect the same tax; is that not correct?

Mr. STEIGER. Further reserving the right to object, Mr. Speaker, the gentleman is correct. It does have that effect. That is correct.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's explanation, as well as the explanation of the chairman of the committee.

Mr. STEIGER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon (Mr. ULLMAN) to dispense with further reading of the House amendment to the Senate amendment numbered 7, and that it be printed in the RECORD?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

SUSPENDING DUTY ON INTRAVENOUS FAT EMULSION

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 1904) to suspend until the close of June 30, 1980, the duty on intravenous fat emulsion, with Senate amendments thereto, concur in the Senate amendments numbered 1, 2, 3, and 4, concur in the Senate amendment numbered 5 with an amendment, and disagree to Senate amendment numbered 6.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 3, after "That" insert "(a)".

Page 2, line 1, strike out "SEC. 2." and insert "(b)".

Page 2, lines 1 and 2, strike out "the first section of this Act" and insert "subsection (a)".

Page 2, after line 4, insert:

SEC. 2. (a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately before item 907.60 the following new items:

"907.10	Cyclic organic chemical products in any physical form having a benzenoid, quinoid, or modified benzenoid structure (provided for in item 403.60, part 1B, schedule 4) to be used in the manufacture of photographic color couplers	Free	No change.	On or before 6/30/80.
907.12	Photographic color couplers (provided for in item 405.20, part 1C, schedule 4)	Free	No change.	On or before 60/30/80"

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

Page 2, after line 4, insert:

SEC. 3. (a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately after item 912.05 the following new item:

'912.06	Field glasses, opera glasses, prism binoculars, and other telescopes not designed for use with infra-red light (provided for in item 708.51, 708.52, or 708.53, part 2A, schedule 7)	Free	No change	On or before 12/31/78"

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

Page 2, after line 4, insert:

SEC. 4. (a) Schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by striking out ", or 300 cigarettes," in item 812.20; and

(2) by amending item 812.25 to read as follows: "Not exceeding $100 in value of articles (including not more than 100 cigars but not including alcoholic beverages except for 1 wine gallon of such beverages accompanying residents of American Samoa, Guam, or the Virgin Islands arriving directly or indirectly therefrom) accompanying such person to be disposed of by him as bona fide gifts (except that cigarettes may be entered under this item 812.25 for such person's own consumption or as bona fide gifts), if such person has not claimed an exemption under this item 812.25 within the 6 months immediately preceding his arrival and he intends to remain in the United States for not less than 72 hours.".

(b) The amendments made by subsection (a) shall apply with respect to articles entered on or after the thirtieth day after the date of enactment of this Act.

Amend the title so as to read: "An Act to suspend until July 1, 1980, the duty on intravenous fat emulsion, and for other purposes.".

The SPEAKER pro tempore. The Clerk will report the House amendment to Senate amendment numbered 5.

The Clerk read the House amendment to Senate amendment numbered 5, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment numbered 5, insert the following:

SEC. 3. (a) (1) Notwithstanding the provisions of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the entries listed in paragraph (2) covering certain musical instruments, shall be liquidated or reliquidated and, if appropriate, refund of duties made. Notwithstanding the provisions of General Headnote 3(e) of the Tariff Schedules of the United States (19 U.S.C. 1202) or any other provision of law, for purposes of the liquidations or reliquidations authorized by this subsection, such entries shall be appraised at invoice unit prices net, packed, and shall be subject to duty at the applicable rates set forth in column 1 of such schedules.

(2) The entries referred to in paragraph (1) are as follows:

Entry No.:	*Date of entry*
100284	July 14, 1972.
100607	July 27, 1973.
101233	August 18, 1972.
101426	September 1, 1972.
101756	September 14, 1972.
102217	October 15, 1973.
102394	October 7, 1971.
102483	October 15, 1971.
102687	November 15, 1971.
102708	July 8, 1973.
102711	November 17, 1971.
102781	October 20, 1972.
103117	December 16, 1971.
103252	November 8, 1972.
103275	December 28, 1971.
103576	November 22, 1972.
103638	November 27, 1972.
104335	December 21, 1972.
104601	March 8, 1972.
104920	January 16, 1973.
105205	April 10, 1972.
105998	May 15, 1972.
105998	March 2, 1973.
106002	May 15, 1972.
106730	June 21, 1972.
106731	June 21, 1972.
106888	June 29, 1972.
103114	December 16, 1971.
108444	June 11, 1973.

(b) In order to permit Jack R. Misner, of North Tonawanda, New York, to complete the renovation of the schooner Panda (entry numbered 902261, September 25, 1972) within the United States (which renovation has been delayed because of material shortages), the Secretary of the Treasury, notwithstanding the provisions of subpart 5C of schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202), shall extend the expiration date of the temporary importation bond covering the schooner Panda until the close of September 18, 1977.

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the House amendment numbered 5 be dispensed with, and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. STEIGER. Mr. Speaker, reserving the right to object, I take this time to give the chairman of the Subcommittee on Trade, the gentleman from Ohio (Mr. VANIK), an opportunity first to discuss the tariff sections of this legislation.

Mr. VANIK. Mr. Speaker, H.R. 1904, as unanimously passed by the House, provides for the temporary suspension of duty on imports of intravenous fat emulsion until the close of June 30, 1980.

The Senate amendment numbered 4 added the substance of H.R. 5052, as it passed the House, which suspends until the close of June 30, 1980, the duty on imports of photographic color couplers and coupler intermediates. H.R. 5052 was unanimously passed by the House on July 18, 1977. In the light of the prior House approval of H.R. 5052, this amendment is meritorious and the House should concur in the amendment.

The Senate amendment numbered 5 added the substance of H.R. 5203, which would suspend the duty until the close of December 31, 1978, on imports of fieldglasses, opera glasses, prism binoculars, and other telescopes not designed for use with infrared light.

The Subcommittee on Trade of the Committee on Ways and Means held hearings on H.R. 5203 during April 1977. That bill was opposed by the Departments of Commerce, State, and the Treasury. The Trade Subcommittee and the Committee on Ways and Means took no further action on that bill.

The committee did earlier this year favorably report a bill, H.R. 5289, for the relief of Joe Cortina, which unanimously passed the House on July 18, 1977. The Senate amended that bill to include nongermane amendments, the substance of S. 2104, a proposed comprehensive natural gas pricing policy, and the substance of part 4, Natural Gas, of H.R. 8444, the National Energy Tax Act. The legislative fate of the tariff provisions of that bill is questionable.

The committee also earlier this year favorably reported a bill, H.R. 5037, for the relief of Jack Misner, which unanimously passed the House on July 18, 1977. The Senate amended that bill to include controversial nongermane amendments, the substance of S. 70 and S. 2507, a proposed National Energy Conservation Policy Act, and the substance of parts 1, 2, 3, and 7 of H.R. 8444, the National Energy Tax Act. The fate of the provisions of that tariff bill is questionable.

The Senate amendment numbered 6 would change the duty treatment of cigarettes and liquor brought into the United States by nonresident aliens and by U.S. citizens. The Subcommittee on Trade of the Committee on Ways and Means held public hearings on July 19, 20, 21 and 22, 1977 on H.R. 8149, a proposed customs procedural reform act of 1977 and the Committee on Ways and Means recently unanimously reported that bill to the House. That bill, in section 203, amends the Tariff Schedules of the United States as they apply to the duty treatment of cigarettes and liquor brought into the United States by nonresident aliens and by U.S. citizens. Those amendments differ from Senate amendment numbered 6 and since they were made after extensive public hearings, the House should not agree to the amendment, since the matter is dealt with in the overall Customs Procedural Reform Act of 1977, which passed the House by unanimous vote on October 17, 1977.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield further, there is no tax involved in this matter.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, the gentleman from Oregon (Mr. ULLMAN)

and the gentleman from Ohio (Mr. VANIK) can assure us, on the basis of this unanimous-consent request, that we are eliminating all nongermane items that were added by the Senate; is that correct?

Mr. ULLMAN. That is correct; in this bill, yes.

Mr. ROUSSELOT. Therefore, the House is not now confronted, in this unanimous-consent request, with any nongermane amendments with which we have no dealings; is that correct?

Mr. ULLMAN. That is correct.

Mr. STEIGER. The answer, under my reservation of objection, Mr. Speaker, is that there are no nongermane amendments; and we are, in the unanimous-consent request, rejecting the matter relating to fieldglasses, and that, I trust, would be acceptable to the House.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon to dispense with further reading of the House amendment to Senate amendment numbered 5.

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

CONTINUING SUSPENSION OF DUTY ON SYNTHETIC RUTILE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H.R. 3387, to continue until the close of June 30, 1979, the existing suspension of duty on synthetic rutile, with Senate amendments thereto, concur in the Senate amendment to the title of the bill, and concur in the Senate amendment to the text of the bill, with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the text of the bill, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. (a) For purposes of title XX of the Social Security Act, section 3 of Public Law 94–401 shall be deemed to apply to the fiscal year ending September 30, 1978, in the same manner in which such section applies to the fiscal year ending September 30, 1977; except that the figure "108" in section 3(a)(1)(B) of such Public Law shall, with respect to the fiscal year ending September 30, 1978, be deemed to read "102.667".

(b) Section 5(b) of Public Law 94–401 is amended by striking out "September 30, 1977" and "October 1, 1977" and inserting in lieu thereof "January 31, 1978" and "February 1, 1978", respectively.

(c) Section 6 of Public Law 94–401 is amended by striking out "September 30, 1977" and "October 1, 1977" and inserting in lieu thereof "January 31, 1978" and "February 1, 1978", respectively.

(d) Section 7(a)(3) of Public Law 93–647 is amended by striking out "October 1, 1977" and inserting in lieu thereof "February 1, 1978".

(e) Section 50B(a)(2)(B) of the Internal Revenue Code of 1954 (definition of Federal welfare recipient employment incentive expenses) is amended by striking out "October 1, 1977" and inserting in lieu thereof "February 1, 1978".

(f) The amendments made by this section shall be effective on October 1, 1977.

SEC. 2. (a) Section 3304(a)(6)(A) of the Internal Revenue Code (relating to approval of State unemployment compensation laws) is amended by striking out "and" at the end of clause (ii) and by adding at the end thereof the following new clause:

"(iv) with respect to any services described in clause (i) or (ii) compensation payable on the basis of services in any such capacity may be denied as specified in clauses (i), (ii), and (iii) to any individual who performed such services in an educational institution while in the employ of an educational service agency, and for this purpose an 'educational service agency' means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions, and".

(b) The amendment made by subsection (a) shall apply with respect to weeks of unemployment which begin after December 31, 1977.

SEC. 3. (a)(1) Section 403(a) of the Social Security Act is amended by striking out "10" in each of the last two sentences and inserting in lieu thereof "20".

(2) Section 406(b) of such Act is amended—

(A) by striking out the semicolon at the end of clause (2)(E) and inserting in lieu thereof a period; and

(B) by adding at the end thereof (after and below clause (2)(E)) the following new sentences:

"Payments with respect to a dependent child which are intended to enable the recipient to pay for specific goods, services, or items recognized by the State agency as a part of the child's need under the State plan may (in the discretion of the State or local agency administering the plan in the political subdivision) be made, pursuant to a determination referred to in clause (2)(A), in the form of checks drawn jointly to the order of the recipient and the person furnishing such goods, services, or items and negotiable only upon endorsement by both such recipient and such person; and payments so made shall be considered for all of the purposes of this part to be payments described in clause (2). Whenever payments with respect to a dependent child are made in the manner described in clause (2) (including payments described in the preceding sentence), a statement of the specific reasons for making such payments in that manner (on which the determination under clause (2)(A) was based) shall be placed in the file maintained with respect to such child by the State or local agency administering the State plan in the political subdivision.".

(3) The amendments made by this subsection shall apply with respect to payments of aid to families with dependent children made for months beginning on or after October 1, 1977.

(b) Notwithstanding any other provision of law, Federal financial participation in aid to families with dependent children under a State plan approved under section 402 of the Social Security Act, for quarters (with respect to which expenditure reports were timely filed by the State) during the period beginning with the calendar quarter in which Public Law 90–248 was enacted and ending with the first calendar quarter of 1977, shall not be denied, on or after October 1, 1977, by reason of the provision of goods, services, or items in the form of a check which is drawn jointly to the order of the recipient and the person furnishing such goods, services, or items and which shows the purpose for which the check is drawn, or by reason of the failure of the State to meet the requirement of the last two sentences of section 403(a) of such Act or the failure of the State (or any political subdivision thereof) to carry out the functions and duties prescribed in clauses (A), (B), (C), and (E) of section 406(b)(2) of such Act, regardless of the form in which the aid involved was paid, if (and to the extent that) the amount of such aid was correct and the payment of the aid in that form did not result in assistance in cases or in amounts not authorized by or under part A of title IV of such Act.

SEC. 4. (a) Section 1903(a) of the Social Security Act is amended—

(1) by adding "plus" at the end of paragraph (5),

(2) by redesignating paragraph (6) as paragraph (7), and

(3) by adding after and below paragraph (5) the following new paragraph:

"(6) an amount equal to 90 per centum of the sums expended during such quarter but in any case not to exceed $250,000, which are attributable to the proper and efficient administration of so much of the State plan as relates to the provision of medical assistance in Indian Health Service facilities which are eligible for reimbursement under the State plan pursuant to the provisions of section 1911; plus".

(b) The amendments made by subsection (a) shall be effective with respect to expenditures made, under State plans approved under title XIX of the Social Security Act, beginning with fiscal year 1978.

SEC. 5. (a) Section 167(k) of the Internal Revenue Code of 1954 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1978," where the date appears in paragraph (1) and in paragraph (2)(d) and inserting in lieu thereof "July 1, 1978,".

(b) The amendment made by subsection (a) shall apply to expenditures paid or incurred after December 31, 1977, and before July 1, 1978 and expenditures made pursuant to a binding contract entered into before July 1, 1978.

SEC. 6. Subsection (c) of section 4 of the Act, entitled "An Act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts, and for other purposes," approved October 26, 1974 (88 Stat. 1457; Public Law 93–483), is amended by striking out "and 1975," and all that follows and inserting in lieu thereof the following: "1975, 1976, 1977, and 1978.".

SEC. 7. (a) Section 2(b) of Public Law 94–331 is amended by striking out "and before December 31, 1976".

(d) The effective date of this section shall be the first day of the calendar quarter following enactment of this Act.

SEC. 8. (a) Section 4(b) of Public Law 94–331 is amended by striking out "and *before* December 31, 1976".

(b) The effective date of this section shall be the first day of the calendar quarter following enactment of this Act.

SEC. 9. (a) Section 1612(b) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (10) thereof,

(2) by striking out the period at the end of paragraph (11) thereof and inserting in lieu of such period the following "; and", and

(3) by adding after and below paragraph (11) thereof the following new paragraph:

"(12) interest income received on assistance funds referred to in paragraph (11) within the 9-month period beginning on the date such funds are received (or such longer periods as the Secretary shall by regulations prescribe in cases where good cause is

shown by the individual concerned for extending such period).".

(b) The amendment made by this section shall be effective July 1, 1976, with respect to catastrophes which occurred on or after June 1, 1976, and before December 31, 1976. With respect to catastrophes which occurred on or after December 31, 1976, the amendment made by this section shall be effective the first day of the calendar quarter following enactment of this Act.

SEC. 10. (a) The first sentence of section 1613(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (4) thereof,

(2) by striking out the period at the end of paragraph (5) thereof and inserting in lieu of such period the following: "; and", and

(3) by adding after the below paragraph (5) thereof the following new paragraph: "(6) assistance referred to in section 1612 (b)(11) for the 9-month period beginning on the date such funds are received (or for such longer period as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period); and, for purposes of this paragraph, the term 'assistance' includes interest thereon which is excluded from income under section 1612(b)(12).".

(b) The amendment made by this section shall be effective July 1, 1976, with respect to catastrophes which occurred on or after June 1, 1976, and before December 31, 1976. With respect to catastrophes which occurred on or after December 1, 1976, the amendment made by this section shall be effective the first day of the calendar quarter following enactment of this Act.

SEC. 11. (a) Chapter 25 of the Internal Revenue Code of 1954 (relating to the general provisions for employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3506. INDIVIDUALS PROVIDING COMPANION SITTING PLACEMENT SERVICES.

"(a) IN GENERAL.—A person engaged in the trade or business of putting sitters in touch with individuals who wish to employ them shall not be treated, for purposes of this chapter, as the employer of such sitters (and such sitters shall not be treated as employees of such person) if such person does not pay or receive the salary or wages of the sitters and is compensated by the sitters or the persons who employ them on a fee basis.

"(b) DEFINITIONS.—For purposes of this section, the term 'sitters' means individuals who furnish personal attendance, companionship, or household care services to children or to individuals who are elderly or disabled.

"(c) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purpose of this section.".

(b) The table of sections for such chapter is amended by adding at the end thereof the following new item:

"SEC. 3506. Individuals providing companion sitting placement services.".

(c) This section shall be applicable as to tax years commencing after December 31, 1974.

Sec. 12. Section 457(c) of the Social Security Act is amended—

(a) in paragraph (1)—

(1) by striking out "such support payments" and inserting in lieu thereof "amounts of child support payments which represent monthly support payments", and

(2) by inserting ", which represent monthly support payments," immediately after "amounts so collected", and

(b) in paragraph (2)—

(1) by striking out "such support payments" and inserting in lieu thereof "amounts of child support payments which represent monthly support payments", and

(2) by inserting ", which represents monthly support payments," immediately after "amounts so collected", and

(3) by striking out the period at the end thereof and inserting in lieu of such period a comma, and

(c) adding at the end thereof the following new provision:

"and so much of any amounts of child support so collected as are in excess of the payments required to be made in paragraph (1) shall be distributed in the manner provided by subsection (b)(3) (A) and (B) with respect to excess amounts described in subsection (b).".

The SPEAKER pro tempore. The Clerk will report the House amendment to Senate amendment to the text of the bill.

The Clerk read as follows:

Strike out the matter proposed to be inserted by the Senate and insert in lieu thereof the following:

SECTION 1. (a) Section 3 of Public Law 94-401 is amended—

(1) by inserting "and the fiscal year ending September 30, 1978," after "1977," in the matter preceding paragraph (1) of subsection (a);

(2) by inserting "and such fiscal year ending September 30, 1978," after "1977" in subsection (a)(1)(B);

(3) by striking out "or fiscal year" in subsection (a)(2) and inserting in lieu thereof "or either such fiscal year";

(4) by striking out "or fiscal year" in subsections (b), (c)(1), and (c)(2)(A) and inserting in lieu thereof in each instance "or either fiscal year";

(5) by inserting ", or the fiscal year ending September 30, 1978" before the period at the end of subsection (d)(1); and

(6) by striking out "for such fiscal year" in subsection (d)(2) and inserting in lieu thereof "for either such fiscal year".

(b) Section 5(b) of Public Law 94-401 is amended by striking out "September 30, 1977" and "October 1, 1977" and inserting in lieu thereof "September 30, 1978" and "October 1, 1978", respectively.

(c) Section 6 of Public Law 94-401 is amended by striking out "September 30, 1977" and "October 1, 1977" and inserting in lieu thereof "September 30, 1978" and "October 1, 1978", respectively.

(d) Section 7(a)(3) of Public Law 93-647 is amended by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1978".

(e) Section 50B(a)(2)(B) of the Internal Revenue Code of 1954 (definition of Federal welfare recipient employment incentive expenses) is amended by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1978".

(f) The amendments made by this section shall be effective on October 1, 1977.

SEC. 2. (a) Section 3304(a)(6)(A) of the Internal Revenue Code (relating to approval of State unemployment compensation laws) is amended by striking out "and" at the end of clause (ii) and by adding at the end thereof the following new clause:

"(iv) with respect to any services described in clause (i) or (ii), compensation payable on the basis of services in any such capacity may be denied as specified in clauses (i), (ii), and (iii) to any individual who performed such services in an educational institution while in the employ of an educational service agency, and for this purpose the term 'educational service agency' means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions, and".

(b) The amendments made by subsection (a) shall apply with respect to weeks of unemployment which begin after December 31, 1977.

SEC. 3. (a)(1) Section 403(a) of the Social Security Act is amended by striking out "10" in each of the last two sentences and inserting in lieu thereof "20".

(2) Section 406(b) of such Act is amended—

(A) by striking out the semicolon at the end of clause (2)(E) and inserting in lieu thereof a period; and

(B) by adding at the end thereof (after and below clause (2)(E)) the following new sentences:

"Payments with respect to a dependent child which are intended to enable the recipient to pay for specific goods, services, or items recognized by the State agency as a part of the child's need under the State plan may (in the discretion of the State or local agency administering the plan in the political subdivision) be made, pursuant to a determination referred to in clause (2)(A), in the form of checks drawn jointly to the order of the recipient and the person furnishing such goods, services, or items and negotiable only upon endorsement by both such recipient and such person; and payments so made shall be considered for all of the purposes of this part to be payments described in clause (2). Whenever payments with respect to a dependent child are made in the manner described in clause (2) (including payments described in the preceding sentence), a statement of the specific reasons for making such payments in that manner (on which the determination under clause (2)(A) was based) shall be placed in the file maintained with respect to such child by the State or local agency administering the State plan in the political subdivision.".

(3) The amendments made by this subsection shall apply with respect to payments of aid to families with dependent children made for months beginning on or after October 1, 1977.

(b) Notwithstanding any other provision of law, Federal financial participation in aid to families with dependent children under a State plan approved under section 402 of the Social Security Act, for quarters (with respect to which expenditure reports were timely filed by the State) during the period beginning with the calendar quarter in which Public Law 90-248 was enacted and ending with the first calendar quarter of 1977, shall not be denied, on or after October 1, 1977, by reason of the provision of goods, services, or items in the form of a check which is drawn jointly to the order of the recipient and the person furnishing such goods, services, or items and which shows the purpose for which the check is drawn, or by reason of the failure of the State to meet the requirement of the last two sentences of section 403(a) of such Act or the failure of the State (or any political subdivision thereof) to carry out the functions and duties prescribed in clauses (A), (B), (C), and (E) of section 406(b)(2) of such Act, regardless of the form in which the aid involved was paid, if (and to the extent that) the amount of such aid was correct and the payment of the aid in that form did not result in assistance in cases or in amounts not authorized by or under part A of title IV of such Act.

SEC. 4. (a) Section 167(k) of the Internal Revenue Code of 1954 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1978" each place it appears and inserting in lieu thereof "January 1, 1979".

(b) Section 203(b) of the Tax Reform Act of 1976 is amended by striking out ", and before January 1, 1978, and expenditures made pursuant to a binding contract entered into before January 1, 1978".

SEC. 5. Section 4(c) of the Act entitled "An Act to suspend until the close of June 30, 1975, the duty on certain carboxmethyl cellulose salts, and for other purposes", approved October 26, 1974 (Public Law 93-483), is amended to read as follows:

"(c) EFFECTIVE DATE.—The provisions of this section shall apply with respect to amounts received during calendar years 1973, 1974, and 1975, and, in the case of a member of a uniformed service receiving training after 1975 and before 1979 in programs described in subsection (a), with respect to amounts received after 1975 and before 1983."

SEC. 6. (a) Section 2(b) of Public Law 94-331 is amended by striking out "and before December 31, 1976".

(b) The effective date of this section shall be the first day of the calendar quarter following enactment of this Act.

SEC. 7. (a) Section 4(b) of Public Law 94-331 is amended by striking out "and before December 31, 1976".

(b) The effective date of this section shall be the first day of the calendar quarter following enactment of this Act.

SEC. 8. (a) Section 1612(b) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (10) thereof,

(2) by striking out the period at the end of paragraph (11) thereof and inserting in lieu of such period the following: "; and", and

(3) by adding after and below paragraph (11) thereof the following new paragraph:

"(12) interest income received on assistance funds referred to in paragraph (11) within the 9-month period beginning on the date such funds are received (or such longer periods as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period).".

(b) The amendment made by this section shall be effective July 1, 1976, with respect to catastrophes which occurred on or after June 1, 1976, and before December 31, 1976. With respect to catastrophes which occurred on or after December 31, 1976, the amendment made by this section shall be effective the first day of the calendar quarter following enactment of this Act.

SEC. 9. (a) The first sentence of section 1613(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (4) thereof,

(2) by striking out the period at the end of paragraph (5) thereof and inserting in lieu of such period the following: "; and", and

(3) by adding after and below paragraph (5) thereof the following new paragraph:

"(6) assistance referred to in section 1612(b)(11) for the 9-month period beginning on the date such funds are received (or for such longer period as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period); and, for purposes of this paragraph, the term 'assistance' includes interest thereon which is excluded from income under section 1612(b)(12).".

(b) The amendment made by this section shall be effective July 1, 1976, with respect to catastrophes which occurred on or after June 1, 1976, and before December 31, 1976. With respect to catastrophes which occurred on or after December 1, 1976, the amendment made by this section shall be effective the first day of the calendar quarter following enactment of this Act.

SEC. 10. (a) Chapter 25 of the Internal Revenue Code of 1954 (relating to general provisions for employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3506. INDIVIDUALS PROVIDING COMPANION SITTING PLACEMENT SERVICES.

"(a) IN GENERAL.—For purposes of this subtitle, a person engaged in the trade or business of putting sitters in touch with individuals who wish to employ them shall not be treated as the employer of such sitters (and such sitters shall not be treated as employees of such person) if such person does not pay or receive the salary or wages of the sitters and is compensated by the sitters or the persons who employ them on a fee basis.

"(b) DEFINITION.—For purposes of this section, the term 'sitters' means individuals who furnish personal attendance, companionship, or household care services to children or to individuals who are elderly or disabled.

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purpose of this section.".

(b) The table of sections for such chapter is amended by adding at the end thereof the following new item:

"Sec. 3506. Individuals providing companion sitting placement services.".

(c) The amendments made by this section shall apply to remuneration received after December 31, 1974.

(d) The amendments made by this section shall not be construed as affecting (1) any individual's right to receive unemployment compensation based on services performed before the date of the enactment of this Act, or (2) any individual's eligibility for social security benefits to the extent based on services performed before that date.

SEC. 11. Section 457(c) of the Social Security Act is amended—

(a) in paragraph (1)—

(1) by striking out "such support payments" and inserting in lieu thereof "amounts of child support payments which represent monthly support payments", and

(2) by inserting ", which represent monthly support payments," immediately after "amounts so collected", and

(b) in paragraph (2)—

(1) by striking out "such support payments" and inserting in lieu thereof "amounts of child support payments which represent monthly support payments",

(2) by inserting ", which represent monthly support payments," immediately after "amounts so collected", and

(3) by striking out the period at the end thereof and inserting in lieu of such period a comma, and (c) by adding at the end thereof the following new provision:

"and so much of any amounts of child support so collected as are in excess of the payments required to be made in paragraph (1) shall be distributed in the manner provided by subsection (b)(3) (A) and (B) with respect to excess amounts described in subsection (b).".

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the House amendment to the Senate amendment be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. VANDER JAGT. Reserving the right to object, Mr. Speaker, I take this reservation to allow the chairman of the Committee on Ways and Means to have an opportunity to explain the nature of the amendments.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. VANDER JAGT. I yield to the gentleman from Oregon.

Mr. ULLMAN. I thank the gentleman for yielding.

I would hope that the chairman of the subcommittee, the gentleman from California (Mr. CORMAN) would explain the nongermane amendments.

Mr. VANDER JAGT. Proceeding under my reservation of objection, I yield to the distinguished chairman of the Subcommittee on Public Assistance and Unemployment Compensation.

Mr. CORMAN. I thank the gentleman for yielding.

Mr. Speaker, on Monday, October 17, the Senate passed H.R. 3387 which, as it passed the House, continued the existing suspension of duties on synthetic rutile. The Senate struck the text of the House bill after the enacting clause, because a similar suspension of synthetic rutile duties had already been incorporated by the Senate Finance Committee as an amendment to H.R. 2850, and the Senate added several amendments pertaining to the title XX social services program, unemployment compensation, medicaid, SSI, AFDC, and various tax matters.

The motion that is before the House would modify the amendment added by the Senate to H.R. 3387 and return the bill to the Senate.

TITLE XX

The Senate amendment extends until February 1, 1978, temporary provisions related to day care standards, tax credits for hiring AFDC recipients to provide day care, and services to alcoholics and drug addicts. It also continues in fiscal year 1978 the increased funding under title XX for child day care services at a rate intended to provide funds at the $200 million annual rate until February 1, 1978. It would also continue the 100 percent Federal matching for such funds through fiscal year 1978.

The proposed amendment to the Senate amendment would extend all of these temporary provisions, which expired on September 30, for one year until October 1, 1978. It would make the provision identical to that passed earlier by the House in H.R. 7200 except that H.R. 7200 as it passed the House on June 14 would make the $200 million increase permanent. The 100 percent Federal matching for the $200 million would also be extended through fiscal year 1978.

These changes to the Senate amendment in H.R. 3387, extending these provisions for 1 year would still allow a House/Senate conference on H.R. 7200 to deal with the other issues in the bill.

The following are the temporary provisions, in addition to the funding and matching requirements, related to title XX which the Senate amendment to H.R. 3387 extends until February 1, 1978. The proposed House amendment to the Senate amendment would extend these provisions through September 30, 1978.

States would continue to have the authority to waive Federal staffing standards in the case of child care centers and group day care homes which meet State standards, if the children receiving federally funded care represent no more

than 20 percent of the total number of children served—or in the case of a center, had no more than five such children—provided it is infeasible to place the children in a facility which does meet the Federal requirements. Also continued would be the temporary modification in the standards on the number of children who may be cared for in a family day care home by providing that the family day care mother's own children need not be counted unless they are under the age of six.

Title XX generally provides that health services may be provided with title XX funds only if they are an integral but subordinate part of a social service. Title XX also prohibits the use of title XX funds for services provided to persons in medical institutions. This amendment would extend a temporary provision which requires that the special confidentiality requirement of the Comprehensive Alcohol Abuse Act be observed with regard to addicts and alcoholics when they are receiving services under title XX. In addition, there would be an extension of a temporary provision providing that the entire rehabilitative process may be considered in determining whether medical services provided to addicts and alcoholics can be considered an integral, but subordinate, part of a social service. Also extended will be a provision for funding of a 7-day detoxification period even though title XX funding is generally not available to persons in medical institutions.

The amendment continues the law which delays required implementation by States of staffing standards under the 1968 Federal interagency day care requirements. Also, as during the past 2 years, States could not require less stringent staffing standards in a day care facility requiring title XX funds than the more stringent of either State law or the staffing in the facility as of September 15, 1975.

The amendment would extend the authority for the granting of tax credits to employers who hire AFDC recipients for child day-care services. This credit is limited to a maximum of $1,000 per employee per year.

UNEMPLOYMENT COMPENSATION

The Senate has added an amendment to H.R. 3387 to allow States to deny unemployment compensation benefits during regular vacation periods to employees of "public educational service agencies" (State or local governmental agencies that provide specialized services to schools, such as music teachers who travel from school to school). This denial would be allowed on the same basis as other educational employees are denied benefits under current law. The House is urged to accept the Senate amendment.

AFDC PROTECTIVE AND VENDOR PAYMENTS

As in section 505(a) (1) and (2) of H.R. 7200, the Senate amendment would increase from 10 to 20 percent—of the number of other AFDC recipients in a State for any month—the limitation on protective and vendor payments that can be made pursuant to a determination by the State agency that the relative or guardian who receives AFDC payments on behalf of a dependent child. This section would also allow such vendor payments to be in the form of two-party checks which would be negotiable only upon endorsement by the AFDC recipient and the person supplying goods, services, or other authorized items.

In addition, it would stipulate that, whenever an AFDC payment is made, pursuant to a determination of the inability to manage funds, in the form of a protective, vendor, or two-party vendor payment, a statement of the specific reasons for making such a payment must be placed in the AFDC recipient's file, where it may be reviewed by the recipient or his representative.

While these changes will enable States to make determinations of mismanagement in a greater number of cases and still receive Federal reimbursement, they do not in any way lessen the obligation of the States to comply with the requirements of section 406(b)(2) of the Social Security Act with respect to determination of mismanagement.

As in section 505(b) of H.R. 7200, the Senate amendment would also stipulate the Federal matching funds cannot be denied to any State for the period between January 1, 1968, and April 1, 1977, because a State exceeded the 10-percent limitation on protective and vendor payments or failed to comply with other specified requirements pertaining to restricted payments, if the amount of the payments under question was correct.

The language of the amendment makes it clear that forgiveness applies to vendor or protective payments in whatever form made. The amendment does not forgive future noncompliance with the law, and requires that persons receiving protective or vendor payments in the future are subject to the safeguards of current law. It must also be clearly stated that this measure is not intended to allow any jurisdiction to go back through its records and make additional Federal claims for protective and vendor payments above the 10-percent limit which were not made in official reports for reimbursement. The House is urged to accept the Senate amendment.

The Senate did not include in H.R. 3387 a related provision which was a part of the House-passed version of H.R. 7200. The provision would have allowed Federal matching for a new kind of voluntary two-party vendor payment under the AFDC program on a temporary 2 year trial basis.

MEDICAID

The Senate added as an amendment to H.R. 3387 an amendment to the medicaid law to provide for 90-percent Federal matching for State administrative costs incurred as a result of the implementation of the Indian Health Care Improvement Act. This would be in comparison to the 50-percent Federal matching for administrative costs which the States now receive in implementing the act. Chairman PAUL ROGERS of the Health Subcommittee of the Committee on Interstate and Foreign Commerce which has jurisdiction over this matter, has requested that the House not accept this Senate amendment.

SSI

The Senate has also added an amendment to H.R. 3387 dealing with the treatment of disaster relief payments received by SSI recipients, which I also urge the House to accept. In the 94th Congress, two provisions were adopted on a temporary basis affecting the eligibility for supplemental security income (SSI) of persons affected by natural disasters. Under one of these provisions, payments to SSI recipients under the Disaster Relief Act or other Federal statute related to a Presidentially declared disaster would not serve to reduce the amount payable under the SSI program. A second provision exempted persons in an area affected by a disaster from the provision under which SSI benefits are reduced by one-third in the case of an individual living in the household of another. This exemption applies only if the SSI recipient moved from his own household into the household of another as a result of the disaster and only for a period of no more than 18 months. These two provisions were made applicable only in the case of disasters occurring during the last half of 1976. The Senate amendment would make the above two provisions applicable in the case of all Presidentially declared disasters occurring after May 31, 1976.

In addition, the amendment would provide that no reduction in SSI payments may be made because of interest paid on disaster relief payments for a period of 9 months after the funds are received and that disaster relief payments (and any interest on them) would not be considered as assets for purposes of SSI eligibility during the same 9 months. (The amendment allows the Secretary of Health, Education, and Welfare to grant extensions of the 9-month limit.)

AFDC CHILD SUPPORT PROGRAM

Present law allows States to continue to collect child support payments on behalf of AFDC families for up to 4 months after they cease to be eligible for AFDC. If the amount collected in any of these months exceeds the family's regular monthly support amount as determined by the court order for support, the agency under current law as interpreted by HEW retains that excess as a repayment for past assistance payments to the family (unless all such past assistance payments have already been recouped). The HEW regulations making this interpretation have been challenged in a pending court suit. The Senate amendment would clarify the statute so as to uphold the current HEW interpretation and should be accepted by the House.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. VANDER JAGT. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

Let me be sure the gentleman said increased costs.

Mr. CORMAN. If the gentleman will yield, yes. It extends for 1 year the $200 million annual increase. I was about to say that the House passed that in H.R. 7200, and that has been before

the Senate for a long time. Those funds should have been available October 1. Under the House-passed bill, the Senate has not yet concluded action on H.R. 7200, so they took out some portions that should have been acted on before October 1 and put them in this bill. They are consistent with what the House has already done—this particular provision is.

Mr. ROUSSELOT. So the gentleman can assure us there are no nongermane amendments in this portion he just described to what the House action was?

Mr. CORMAN. That is correct.

Mr. ROUSSELOT. And there are no major changes—or any changes?

Mr. CORMAN. Not in that section.

Mr. ROUSSELOT. I appreciate the gentleman's comments.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. VANDER JAGT. I yield to the gentleman from Oregon.

Mr. ULLMAN. There are three tax amendments. Two of them were in the tax extension bill just passed overwhelmingly earlier this afternoon. The third one has to do with the companion sitting placement services, which would not be treated as employers of sitters who perform services for other persons and who are paid by the persons for whom they work, if the sitter service does not transmit the sitters' wages or salaries in any fashion. As a result of this amendment, the sitters will be treated either as the employees of the persons for whom they perform services or will be considered self-employed.

The amendment I am offering adds a provision to the Senate amendment that will protect the individual's rights under the unemployment compensation and social security programs.

Mr. CORMAN. Mr. Speaker, will the gentleman yield solely for the purpose of asking the chairman a question?

Mr. VANDER JAGT. I yield to the chairman of the subcommittee for the purpose of asking a question.

Mr. CORMAN. Relating to the tax matter concerning baby sitters, that in no way affects the employer-employee relationship between the baby sitter and the person who pays the salary?

Mr. ULLMAN. That is absolutely correct.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon to dispense with further reading of the House and amendment to the Senate amendment?

Mr. BAUMAN. Reserving the right to object, I wonder if one of the gentleman could tell me whether or not any of the other nongermane amendments that were offered in the other body remain in the bill. I notice that there was one dealing with low-income housing amortization and Armed Forces health professions.

Mr. VANDER JAGT. Both of those were passed in legislation this afternoon by the House. They are identical.

Mr. BAUMAN. The only reason I ask the question is, as the gentleman from Michigan probably would more than remember, it seems to have become a habit of dealing with this area of Ways and Means jurisdiction by amendments of the other body usually at the last moment tacked on to a minor bill, and it seems to me that there have been three or four times when this has been done which has resulted in a major problem with States, that had to be corrected by subsequent legislation. Has there been any thought given by this committee to handling these matters in due course and bringing these bills out in normal procedure so we can stop swallowing these things whole in the dark and getting a stomach ache later on.

Mr. VANDER JAGT. If the gentleman will yield, I defer to the chairman of the committee for a response.

Mr. ULLMAN. If the gentleman will yield, in this instance the first two of the amendments were included in a bill reported by the Committee on Ways and Means, and the House passed that bill earlier this afternoon by an overwhelming vote, so we have preserved the House's basic jurisdiction on those matters. We have one matter dealing with companion sitters that the committee had not considered.

In looking at the companion sitters problem, the approach of the Senate amendment appears to be a very equitable one and one that the committee has generally supported in the past.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman. I look forward to better days.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon to dispense with further reading of the House amendment to the Senate amendment?

There was no objection.

Mr. ROGERS. Mr. Speaker, the Senate has added an amendment to this tariff bill which provides 90 percent Federal matching funds for the administrative costs of State medicaid programs for coverage of services in Indian Health Service facilities.

I recommend to the Members that they reject this amendment.

This provision has not been considered previously by the House. The Interstate and Foreign Commerce Committee, and the Committee on Interior and Insular Affairs, had lengthy considerations last year on legislation relating to unproved Indian health care, and making medicaid funds available for services in IHS facilities for medicaid-eligible Indians. We reported a bill to the House which provided for Federal payment of 100 percent of the cost of services in these facilities. That bill was passed by the House and is now law. We did not recommend at that time, however, that there also be an increase in the Federal matching of administrative costs. First, most facility inspection costs are already paid primarily from Federal funds.

Second, most eligibility determination costs are borne by the cash public assistance programs; only the costs of determining eligibility for the medically needy group falls to medicaid. The primary administrative cost incurred by the State medicaid agency relates to the processing and payment of claims. To single out the small additional cost of doing this for Indians in IHS facilities for a higher match would be costly and cumbersome administratively. This complication seems unjustified in the light of the small extra cost involved for the State.

Additionally, the administration has favored policies for some period now which move in the direction of uniform administrative matching rates. This policy would move in a counterdirection.

Perhaps some of these concerns could be answered, but we do not have evidence of that. Even in the Senate, there was no committee consideration of this amendment.

I urge the House reject it.

Mr. CARTER. Mr. Speaker, I would like to express my strong support for a particular provision of this bill concerning tax exemption for certain scholarship recipients.

Basically this provision would provide a 2-year extension of the tax-exempt status for amounts received by students entering the Armed Forces health professions scholarship program "or any substantially similar program".

The practical effect of this provision would be to exclude from taxable income the amounts received by these scholarship students in 1977 through 1982 if Chairman ULLMAN's amendment to this provision is adopted.

Mr. Speaker, this provision is a time-limited version of a bill I introduced (H.R. 7993) which now has 27 cosponsors.

Because this provision also applies to "substantially similar programs" this tax-exempt status should also be effective for amounts received under the Public Health Service's National Health Service Corps scholarship program.

Mr. Speaker, as you know, the Congress created these two Federal scholarship programs to address the problem of maldistribution of health personnel in medically underserved communities—including the military. In return for the scholarship support provided under these programs students agree to serve after graduation in medically underserved areas.

However, Mr. Speaker, participation in these programs is now in jeopardy.

Due to expiration of prior tax-exempting legislation and because of a ruling by the Internal Revenue Service, amounts received under these programs after December 31, 1976, have been considered taxable income to the student.

The effect of this policy has been to impose a burden on many students enrolled in the program and to threaten program participation in general.

Some students are finding that they now have to borrow funds to pay the taxes on their scholarships. Moreover, it appears that this burden will fall most heavily on students who are in greatest need of financial assistance.

Clearly that was not the intent of Congress.

Mr. Speaker, we know that there is a shortage of physicians in the military at the present time and that there are still many, many areas in our country which lack access to health services.

I believe these scholarship programs can offer a meaningful approach to ad-

dressing the problem of maldistribution of health manpower, if we only let them.

Restoring tax-exempt status to these important scholarship programs will help assure that the public service goals of these programs are realized.

Mr. Speaker, though I would prefer a permanent solution to this problem, I strongly urge that this temporary extension of the tax exemption be supported at this time.

I congratulate the committee for its concern about this issue and I look forward to working with you to develop a long-term solution.

Thank you.

Mr. VANDER JAGT. Mr. Speaker, I join with the distinguished chairman of the Subcommittee on Public Assistance and Unemployment Compensation in urging that the House make amendments to certain portions of H.R. 3387 as it was passed by the Senate, thereby returning this bill to that body for further consideration.

The amendments to the title XX social services program which we would make are conceptually consistent with the provisions of H.R. 7200 as passed by the House, with the exception that the $200 million of additional funds for child care would be extended for 1 year rather than on a permanent basis. The Senate version of H.R. 3387 would extend this and other provisions relating to child care and social services only for 4 months.

I must note my regret that in considering H.R. 3387 the Senate failed to follow the favorable recommendation of the Finance Committee with respect to the concept embodied in section 505(a)(3) of H.R. 7200, which would allow States to make payments for utilities and living accommodations in the form of two-party checks upon the request of recipients of AFDC benefits. As an author of that provision in the Ways and Means Committee, I am pleased that Senator DANIEL P. MOYNIHAN and other Senators emphasized to their colleagues the significance that it would have in increasing the availability of housing for welfare recipients and lessening the ravages of urban blight. I hope that the Senate will support this concept when it takes up H.R. 7200.

In pursuing the action we are requesting, the House would be accepting certain provisions initiated within the Finance Committee and on the Senate floor. These include an unemployment compensation amendment originally suggested by Congressman WILLIAM A. STEIGER, under which States would be allowed to treat employees of public educational service agencies comparably to other educational employees with respect to the denial of benefits during vacation periods.

Also included are provisions establishing the treatment of disaster relief payments under the supplemental security income program. Another change embodied here, also approved by the House as a part of H.R. 7200, would increase from 10 to 20 the percentage of its AFDC caseload to whom a State can make protective or vendor payments.

Mr. Speaker, certain nongermane tax amendments were added to this bill on the Senate floor. In order to protect individuals' rights under the unemployment compensation and social security programs, we would modify only slightly the Senate amendment exempting employment agencies placing companion sitters from employment tax requirements. Two other provisions, one relating to 5-year amortization for low-income housing and the other to the exclusion from taxation of amounts received under the Armed Forces health professions scholarship program, would be amended to conform to the language of comparable provisions of H.R. 9251, which the House adopted today under the suspension procedure.

I urge the approval of the actions as requested by the Chairman.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 8422, AMENDING SOCIAL SECURITY ACT

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8422) to amend title 18 of the Social Security Act to provide payment for rural health clinic services, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference requested by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman explain this? I know we are going to conference, but will the gentleman explain this?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, the House passed H.R. 8422, dealing with rural health clinic services last week, I believe it was, and passed it by a very wide margin. The Senate has added some amendments. What we are asking is to disagree to the Senate amendments and go to conference.

Mr. ROUSSELOT. Is it because those Senate amendments do not conform with our legislation?

Mr. ULLMAN. They do not conform and we disagree.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon? The Chair hears none, and without objection, appoints the following conferees: Messrs. ULLMAN, STAGGERS, ROSTENKOWSKI, ROGERS, CORMAN, PREYER, DUNCAN of Tennessee, and CARTER.

There was no objection.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks on all the bills just passed and that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

CONFERENCE REPORT ON H.R. 5101, ENVIRONMENTAL PROTECTION AGENCY RESEARCH AUTHORIZATION, 1978

Mr. BROWN of California. Mr. Speaker, I call up the conference report on the bill (H.R. 5101) to authorize appropriations for activities of the Environmental Protection Agency, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 19, 1977.)

Mr. BROWN of California (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. BROWN) is recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. WALKER) is recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I assure the Members of the House as far as this individual and the minority are concerned that this will not take more than 5 minutes.

Mr. Speaker, this conference report authorizes $253,603,000 for research and development in the Environmental Protection Agency for fiscal year 1978.

The House had passed a bill authorizing $313,064,000 and the Senate had passed a bill authorizing $185,330,000. Thus, we have reached a reasonable compromise on the amounts authorized in this conference report.

The bill also makes several improvements in the EPA research and development program. Specifically, it provides for a Science Advisory Board to provide for scientific input to the regulations and criteria issued by the Agency and it provides for a program of long-term research to be carried out in the Agency. In addition, the bill provides for improved coordination between the EPA research program and related research in other agencies. Finally, the bill specifically calls for the coordination within EPA of the research and regulatory programs—a coordination which has not been strong in the past.

I should like to point out that this is a 1-year authorization bill and that the Subcommittee on the Environment and the Atmosphere which I am honored to

chair will be continuing its oversight over the Agency in future years. We intend to insure that the Agency conducts a sound research program and that this program is aimed at insuring fair and equitable regulation.

Mr. Speaker, I would like to thank my fellow conferees on this matter, Mr. WIRTH, Mr. AMBRO, Mr. WATKINS, Mr. WALKER and Mr. WINN. I am sure they all join me in urging your support for this conference report.

Mr. Speaker, I have no further comments at this time and would like to yield to the ranking minority member of the subcommittee and an outstanding member of the conference, the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, if the gentleman would yield, at the time this bill was being considered in our committee there was considerable interest in the emerging trend of removal of productive agricultural land for use as municipal landfills and a proposal was adopted which directs the Administrator of the Environmental Protection Agency to conduct a study under section 8001 of the Resource Conservation and Recovery Act and to report to the Congress and other interested parties by September 30, 1977. Can the gentleman tell me the status of that provision?

Mr. BROWN of California. The gentleman from Pennsylvania is quite correct. In fact, he was the one who brought this problem to the attention of our committee and offered the provision which would require the study. The current status is that funds to conduct such a study have already been authorized under Public Law 94–580 and it is the intent of the conferees that the Walker study should be funded by an appropriation of $50,000 under that law.

Mr. WALKER. If the gentleman would yield further, can the gentleman confirm that it is the intent of the conferees that the Administrator shall conduct this study of the degree to which agricultural land is being removed from production and utilized as landfills?

Mr. BROWN of California. That is correct. The conferees fully agree with the gentleman that this is a serious problem and intend and expect that the report will be completed and submitted by September 30, 1977. As chairman of the committee which drafted this bill I would also like to take this opportunity to again commend the gentleman from Pennsylvania for his contributions to this legislation and particularly for bringing this particular problem to the attention of the Congress and for having suggested the study which the Administrator will conduct.

The SPEAKER pro tempore (Mr. BRADEMAS). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 343, nays 19, not voting 72, as follows:

[Roll No. 694]

YEAS—343

Abdnor	Derwinski	Kazen
Addabbo	Dicks	Ketchum
Akaka	Diggs	Keys
Alexander	Dornan	Kildee
Allen	Downey	Kindness
Ambro	Drinan	Kostmayer
Ammerman	Duncan, Oreg.	Krebs
Anderson, Calif.	Duncan, Tenn.	Krueger
Andrews, N.C.	Early	LaFalce
Andrews, N. Dak.	Eckhardt	Lagomarsino
Applegate	Edgar	Le Fante
Archer	Edwards, Ala.	Leach
Armstrong	Edwards, Calif.	Lederer
Ashley	Eilberg	Leggett
Aspin	English	Lehman
AuCoin	Ertel	Lent
Badham	Evans, Del.	Levitas
Badillo	Evans, Ga.	Livingston
Bafalis	Fary	Lloyd, Calif.
Baldus	Fascell	Lloyd, Tenn.
Barnard	Fenwick	Long, La.
Baucus	Fish	Lott
Beard, R.I.	Fisher	Lujan
Bedell	Fithian	Luken
Bellenson	Flippo	Lundine
Benjamin	Flood	McClory
Bennett	Florio	McCloskey
Bevill	Flowers	McCormack
Biaggi	Flynt	McDade
Blanchard	Foley	McFall
Blouin	Ford, Mich.	McHugh
Boggs	Ford, Tenn.	McKay
Bonker	Forsythe	Madigan
Bowen	Fountain	Maguire
Brademas	Fraser	Mahon
Breaux	Frenzel	Mann
Brinkley	Fuqua	Markey
Brodhead	Gammage	Marks
Brooks	Gaydos	Marlenee
Brown, Calif.	Gibbons	Marriott
Brown, Mich.	Gilman	Martin
Brown, Ohio	Ginn	Mathis
Broyhill	Glickman	Mattox
Buchanan	Goldwater	Mazzoli
Burgener	Gonzalez	Meeds
Burke, Calif.	Goodling	Metcalfe
Burke, Fla.	Gore	Meyner
Burke, Mass.	Gradison	Michel
Burleson, Tex.	Grassley	Mikulski
Burlison, Mo.	Gudger	Mikva
Burton, John	Guyer	Milford
Burton, Phillip	Hagedorn	Miller, Ohio
Byron	Hall	Mineta
Caputo	Hamilton	Minish
Carney	Hammer-schmidt	Mitchell, Md.
Carr	Hanley	Mitchell, N.Y.
Carter	Hannaford	Moakley
Cavanaugh	Harkin	Moffett
Chappell	Harrington	Mollohan
Chisholm	Harris	Montgomery
Clausen, Don H.	Harsha	Moore
Cleveland	Hawkins	Moorhead, Calif.
Cochran	Heckler	Moorhead, Pa.
Cohen	Hefner	Mottl
Coleman	Heftel	Murphy, N.Y.
Collins, Ill.	Holland	Murphy, Pa.
Conte	Hollenbeck	Myers, John
Conyers	Holt	Myers, Michael
Corcoran	Holtzman	Natcher
Corman	Horton	Neal
Cornell	Howard	Nedzi
Cornwell	Huckaby	Nix
Cotter	Hughes	Nolan
Coughlin	Hyde	Oakar
D'Amours	Ichord	Oberstar
Daniel, Dan	Jacobs	Obey
Daniel, R. W.	Jeffords	Ottinger
Danielson	Jenkins	Panetta
Davis	Jenrette	Patterson
de la Garza	Jones, N.C.	Pattison
Delaney	Jones, Okla.	Pease
Dellums	Jones, Tenn.	Pettis
Derrick	Jordan	Pickle
	Kasten	Pike
	Kastenmeier	Pressler
	Preyer	Schroeder
	Pursell	Schulze
	Quayle	Sebelius
	Quie	Seiberling
	Rahall	Sharp
	Railsback	Shipley
	Rangel	Shuster
	Regula	Sikes
	Reuss	Simon
	Rhodes	Skelton
	Richmond	Skubitz
	Rinaldo	Smith, Iowa
	Risenhoover	Smith, Nebr.
	Roberts	Snyder
	Robinson	Solarz
	Rodino	Spellman
	Rogers	Spence
	Roncalio	St Germain
	Rooney	Staggers
	Rose	Stangeland
	Rostenkowski	Stark
	Roybal	Steed
	Runnels	Steers
	Ruppe	Steiger
	Russo	Stockman
	Ryan	Stokes
	Santini	Stratton
	Sarasin	Studds
	Sawyer	Taylor
	Scheuer	Thompson
		Thone
		Thornton
		Traxler
		Treen
		Trible
		Tucker
		Udall
		Ullman
		Vander Jagt
		Vanik
		Vento
		Volkmer
		Waggonner
		Walgren
		Walker
		Walsh
		Watkins
		Waxman
		Weaver
		Weiss
		White
		Wilson, Bob
		Winn
		Wirth
		Wright
		Wylie
		Yatron
		Young, Fla.
		Young, Tex.
		Zeferetti

NAYS—19

Ashbrook	Evans, Ind.	Rudd
Bauman	Hansen	Satterfield
Clawson, Del	Kelly	Stump
Collins, Tex.	Latta	Symms
Cunningham	McDonald	Young, Alaska
Devine	Miller, Calif.	
Edwards, Okla.	Rousselot	

NOT VOTING—72

Anderson, Ill.	Gephardt	Price
Annunzio	Giaimo	Pritchard
Beard, Tenn.	Hightower	Quillen
Bingham	Hillis	Roe
Boland	Hubbard	Rosenthal
Bolling	Ireland	Sisk
Bonior	Johnson, Calif.	Slack
Breckinridge	Johnson, Colo.	Stanton
Broomfield	Kemp	Teague
Butler	Koch	Tsongas
Cederberg	Long, Md.	Van Deerlin
Clay	McEwen	Wampler
Conable	McKinney	Whalen
Crane	Moss	Whitehurst
Dent	Murphy, Ill.	Whitley
Dickinson	Murtha	Whitten
Dingell	Myers, Gary	Wiggins
Dodd	Nichols	Wilson, C. H.
Emery	Nowak	Wilson, Tex.
Erlenborn	O'Brien	Wolff
Evans, Colo.	Patten	Wydler
Findley	Pepper	Yates
Fowler	Perkins	Young, Mo.
Frey	Poage	Zablocki

The Clerk announced the following pairs:

Mr. Annunzio with Mr. McEwen.
Mr. Fowler with Mr. Frey.
Mr. Koch with Mr. Hillis.
Mr. Wolff with Mr. Pritchard.
Mr. Pepper with Mr. Whalen.
Mr. Breckinridge with Mr. Perkins.
Mr. Young of Missouri with Mr. Teague.
Mr. Van Deerlin with Mr. Conable.
Mr. Patten with Mr. McKinney.
Mr. Gephardt with Mr. Anderson of Illinois.
Mr. Zablocki with Mr. Gary A. Myers.
Mr. Hubbard, with Mr. Stanton.
Mr. Bingham with Mr. Beard of Tennessee.
Mr. Ireland with Mr. Quillen.
Mr. Slack with Mr. O'Brien.
Mr. Rosenthal with Mr. Broomfield.
Mr. Price with Mr. Whitehurst.
Mr. Roe with Mr. Dent.
Mr. Johnson of California with Mr. Butler.
Mr. Boland with Mr. Wampler.
Mr. Bonior with Mr. Cederberg.
Mr. Clay with Mr. Dickinson.
Mr. Dingell with Mr. Emery.
Mr. Dodd with Mr. Erlenborn.
Mr. Nowak with Mr. Wiggins.
Mr. Murtha with Mr. Wydler.
Mr. Nichols with Mr. Johnson of Colorado.
Mr. Murphy of Illinois with Mr. Kemp.
Mr. Moss with Mr. Findley.
Mr. Tsongas with Mr. Long of Maryland.

Mr. Whitten with Mr. Yates.
Mr. Charles H. Wilson of California with Mr. Whitley.
Mr. Evans of Colorado with Mr. Hightower.
Mr. Giaimo with Mr. Charles Wilson of Texas.

Mr. LATTA changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

READING ANATOLY'S MIND

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DICKINSON. Mr. Speaker, I think the attached editorial is very apt and timely and I commend it to the Members for their reading.

READING ANATOLY'S MIND

(By William Safire)

WASHINGTON.—Here am I, Anatoly Fedorovich Dobrynin, for 15 years the Soviet Ambassador in Washington, destined to return to Moscow next year in a blaze of glory.

I can hardly believe my country's good fortune. Of course, as my wife Irina always reminds Gromyko, I had a lot to do with it. When the new American President adopted the right wing position on human rights, I told Moscow to "hang tough;" as I predicted, he tired of it quickly. When Mr. Carter made his hard-line disarmament proposal last spring, I knew that if we just refused to consider it seriously, he would come back on our terms. And he has.

But Mr. Carter's promise to the Democratic fund raisers that he would have a SALT agreement "in a few weeks"—that I cannot claim credit for. Pure good fortune. Now, the American negotiators have a self-imposed deadline, and the pressure for more concessions is on them.

Not that we need any more SALT concessions. We will make a big show of arguing about the number of missiles and bombers, and then settle on 2,200, but that is not the point. We have already achieved in three months what I could not get in the past six years: an agreement to let the Soviet Union improve its missiles, without the Americans knowing our technology, until we can knock out their ability to retaliate after a first strike.

Not only that, but we will not accept limitations on our new Backfire bomber, while we get significant limitations on the American's cruise missile. The best of both worlds. By our patience and firmness—and thanks to the naiveté of the new President—the Soviet Union will soon be the most powerful nation in the world.

In Europe, too, we have the Americans on the run. Here is an intelligence report from our people in London: On Sept. 15, there was a White House meeting on mutual force reduction with Brzezinski, Defense Secretary Brown (what a nice man!), Stanley Resor, David McGifford, and the rest of the group that used to call itself the verification panel.

According to what the Americans have told the British and the West Germans, Mr. Carter is prepared to support a marvelous concession so that Americans can withdraw from the defense of Europe. Instead of insisting that the Soviet Union reduce its forces by 1,700 modern tanks and 68,000 front-line troops, the Americans will propose that we move back any 1,500 tanks and any 68,000 troops.

That's a very different deal. Instead of reducing our real standing-start threat, we could pull some cooks and bakers back a few miles, along with some rusty rear-guard tanks—and in return, watch 29,000 United States combat troops and their tactical nuclear weapons pull back across an ocean.

I cannot believe the rest of the report: that if we do not go along with these concessions, the Americans are ready to suggest that they agree not to deploy their neutron bomb. Too good to be true. On top of the limitations the Americans are willing to take on their cruise missile as a theater weapon, that would amount to making Western Europe into a Soviet sphere of influence.

Why are the Americans suddenly caving in on every front? If Henry were still there, I would suspect a trick. Maybe the Carter people are counting on the Jackson faction to stop them.

I must be on guard. We have been assured that the human rights issue will no longer be pressed, and the sending of former-everything Arthur Goldberg to the Belgrade conference is proof of that. But George Meany has just invited Sakharov and some other dissidents to visit the United States, following the visit here of our trade unionist comrades.

That could be an attempt to embarrass us. If we refuse to let the dissidents come, it would be a big story to the Jackson faction. I will have to get Mr. Vance—another nice man—to disassociate the United States from that provocation.

Otherwise, all goes smoothly for my return in triumph. As comrade Brezhnev promised, he has made Vasily Kuznetsov the First Deputy Chairman of the Presidium, which opens up the job of First Deputy Minister for me.

Who would take my place here in Washington? Georgi Arbatov is an academic, and Oleg Troyonovsky at the United Nations doesn't know the American nuances. Georgi Kornienko has been following in my footsteps for years, and he is only 52 and a Deputy Foreign Minister—he is the logical choice. Viktor Komplektov has been waiting for him to come here, so he could run the American Department, the same way as I have been waiting for Mr. Kuznetsov's job. Which reminds me, I should call Mondale.

The year I came to Washington, I had to suffer the humiliation of the Cuban missile crisis. Next fall, as I pick mushrooms outside Moscow, the Soviet Union will be "No. 1" in power. I did my share to bring that change about; Mr. Carter is doing more than his share.

I must tell Irina to pick up a couple of fur hats in Bloomingdale's, and a pair of mittens at Nieman-Marcus. I seem to remember, back home, it gets pretty cold in the winter.

A SINGLE AGENCY FOR ERISA

(Mr. ERLENBORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ERLENBORN. Mr. Speaker, earlier this year the President indicated his desire to accomplish certain goals toward reorganizing the Federal Government. The Subcommittee on Labor Standards of the Committee on Education and Labor has held hearings on H.R. 4340, a bill to create the Employee Benefit Administration. This bill, Mr. Speaker, would rid the administration of private pension plans of the waste, confusion, and duplication which now exist and which threaten the pensions promised to millions of Americans.

This situation has developed, Mr. Speaker, because under the Employee Retirement Income Security Act of 1974 (ERISA), several departments and agencies share control over some portion of pension plan administration. H.R. 4340 was introduced by the chairman of the Subcommittee on Labor Standards, JOHN DENT; the ranking minority member of the Committee on Ways and Means, BARBER CONABLE; and I, the ranking minority member of the Labor Standards Subcommittee. We have sent to the President an analysis of H.R. 4340, which explains the benefits of reorganizing ERISA by public law, rather than under the President's reorganization powers.

I hope, Mr. Speaker, that each Member will read the following material so as to acquaint himself with the thrust of H.R. 4340.

COMMITTEE ON EDUCATION AND LABOR, SUBCOMMITTEE ON LABOR STANDARDS, PENSION TASK FORCE,
Washington, D.C., October 7, 1977.

HON. JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Early in your administration we communicated our interest and expectations in your desire to reorganize the federal government. We remarked then that one area where a thorough reexamination of the present administrative framework would prove highly beneficial is the government's regulation of pension and welfare benefit plans.

We acknowledge the priority you have given within your reorganization timetable to the serious problems which hinder the effective administration of the Employee Retirement Income Security Act of 1974 (ERISA). On March 2, 1977 we introduced H.R. 4340, a bill designed to consolidate within a single Employee Benefit Administration all of the ERISA functions which are now carried out by four agencies. Enclosed is a detailed paper explaining why we believe ERISA's many administrative problems can be solved only through consolidation. Mr. President H.R. 4340 would extend your present reorganization authority so as not to inhibit the possibility of a totally effective and complete consolidation.

We urge you to reject short term and temporary solutions to the administrative problems surrounding pension and welfare benefit plans. The need for certainty is great. We hope you will agree that the time has come to adopt a permanent administrative solution in this vital area.

Sincerely,

JOHN H. DENT,
Chairman, Subcommittee on Labor Standards.

JOHN N. ERLENBORN,
Ranking Minority Member, Subcommittee on Labor Standards.

BARBER B. CONABLE, JR.,
Ranking Minority Member, Committee on Ways and Means.

Enclosures.

A SINGLE AGENCY FOR ERISA

(The Employee Retirement Income Security Act)

(Charts not printed in the RECORD.)

INTRODUCTION

The objective of the Employee Retirement Income Security Act of 1974 (ERISA) is to assure that workers receive earned benefits. However, if this objective is to be fully realized, a single agency must administer the law. Evidence shows that the unnecessary expense and inconvenience of ERISA's multiple administration have caused employers to terminate or delay starting new employee-benefit plans.

Symptomatic of the problem is a recent Internal Revenue Service (IRS) survey finding that as many as 30 per cent of the pension plans in existence when ERISA was enacted are or will be terminated. This is an alarming statistic! If proven accurate by additional study, it does not bode well for the health of the private pension system.

Nearly every segment of the pension community, both inside and outside government, now supports an overhaul of ERISA's administrative mechanism.

A recent poll of almost 2,000 labor and management trustees, administrators, and other pension professionals by the International Foundation of Employee Benefit Plans found nearly three-quarters of the respondents (73 per cent) to be in favor of single-agency administration of ERISA. While about 33 per cent preferred a single new agency to administer ERISA, 28 per cent preferred the Department of Labor (DOL), and 12 per cent preferred the IRS. Only 14 per cent preferred the status quo (IRS and DOL regulation), and 13 per cent did not respond.

An encouraging precedent could be set if the Carter Administration were to propose an ERISA reorganization plan that faces up to the extensive problems of multiple administration. Legislation in support of this needed change has already been introduced. The Employee Benefit Administration Act of 1977 (H.R. 4340) would allow the President to place administration of ERISA under a single existing or new agency (see Chart 1).

WIDESPREAD RECOGNITION OF ERISA ADMINISTRATIVE PROBLEMS

During the development of ERISA, four legislative committees agreed, after considerable effort, upon a complex arrangement regarding which agencies and departments would administer various parts of the law. DOL, IRS, including the Department of the Treasury, and the Pension Benefit Guaranty Corporation (PBGC) would all share responsibility in each of the reporting, disclosure, vesting, funding, and plan termination insurance areas. A vigorous effort was made to set forth the exact extent of each agency's responsibility. Nevertheless, many of us closely involved with ERISA's development expected problems to arise. With three years' experience behind us, it is now clear that ERISA's administrative design has not worked.

More than 20 days of hearings by the House Committees on Education and Labor and on Ways and Means fully document ERISA's many administrative shortcomings. For example, James Hutchinson, former administrator of DOL's Pension and Welfare Benefit Programs, and Alvin Lurie, IRS assistant commissioner for Employee Plans and Exempt Organizations, both concurred that ERISA's multiple administration of the prohibited transaction provisions is "inherently unworkable." A telling point has been the unanimity of four former government pension executives: Hutchinson, Steven Schanes, William Chadwick, and Donald Grubbs. All have testified in favor of a single agency.

Former PBGC Executive Director Schanes said:

". . . my preference would be to assign the overall administration (or ERISA) to a single agency which would be much less constrained and affected by other programs and purposes of existing departments. Within this agency, given adequate authority, the specific assignment of program responsibilities could be allocated logically and economically."

Hutchinson and Chadwick, also a former administrator of DOL's Pension and Welfare Benefit Programs division, stressed that a single agency could help to insure consistency. Grubbs, a former IRS chief actuary, said H.R. 4340 is "badly needed to reduce delay and the administrative cost to both employers and the government in complying with ERISA."

While present and former ERISA administrators are necessarily concerned with multiple administration problems, ultimately it is the plan sponsors and participants who suffer. Typical of comments from the private sector was a statement by L. P. Kragt, vice president-finance, Guardsmen Chemical Company, Grand Rapids, Michigan. A little law is okay, he wrote, but one that requires duplicative and burdensome reporting and paperwork, a doubling of fees, and complexities requiring ten times the effort spent as before is a bit much. Kragt proposed as an alternative "one governmental agency in charge of interpreting and administering ERISA."

Similarly, the 10,000-member Illinois CPA Society is strongly encouraging legislation to place "primary responsibility (for ERISA administrative functions) in the hands of one agency."

"We believe that the effects of such legislation would be to eliminate many of the current backlogs in obtaining administrative decisions and rulings, reduce the number of reports to be filed on an annual basis, and reduce the number of terminations of smaller plans which cannot comply with current burdensome and costly reporting requirements," the society president wrote.

Our Senate colleagues have also recently discovered the disturbing effects of ERISA's multi-administration and paperwork burdens. In a September, 1976 Interim Report on Pension Paperwork, Senator Gaylord Nelson, chairman of the Senate Select Committee on Small Business, expressed alarm over the large number of plan terminations and the declining number of new plan starts. He concluded, "mistakes in the administration of ERISA are the cause of a significant part of the problem."

Senate Human Resources Committee Chairman Harrison Williams has said, "there is wide agreement that split administration has been a dismal failure, at least in dealing with prohibited transactions." The Senate Finance Committee, on August 5, considered ERISA's administrative problem serious enough to pass favorably on Senator Bentsen's bill, S. 901, seeking to divide ERISA's administration on a more logical basis. Senator Jacob Javits in reviewing ERISA's impact recently suggested the establishment in 1980 of a single Securities and Exchange Commission (SEC)-type pension agency.

WHY ONE AGENCY IS THE ONLY SOLUTION

The news media now includes ERISA in its list of government agencies known for excessive bureaucracy (e.g. Wall Street Journal, June 20, 1977 and Industry Week, August 15, 1977). It earned this ranking by imposing needless expense, duplication, delay, confusion, and excessive paperwork burdens on the people it is supposed to assist.

IRS' Lurie reportedly said that while a single-agency might have been the solution originally, it is no longer the best approach. The evidence suggests otherwise. Any proposed solution that retains multiple jurisdiction ignores the inextricable interrelationship of policymaking and operational functions. The following analysis details the benefits of amalgamating both the policymaking and operational roles under a single agency.

PROBLEMS OF MULTI-AGENCY ADMINISTRATION

1. Duplication and waste

Currently, plan sponsors file reports with three separate agencies, which spend millions of dollars to process the same or similar data. Even though sponsors will have to file an annual report only with the IRS in 1978, processing duplication will continue.

2. Confusion

Participants with problems are oftentimes shuffled between agencies, partly because the agencies (particularly at the local level) are unable to determine whether the problem is within their jurisdiction. Even if the division of agency responsibilities could be better defined, confusion would exist because plan problems involving merger or termination, fiduciary duties, and qualification transcend one agency's responsibility. The sponsor would still have to go to more than one place to get his problem solved.

3. Delay

Multiple jurisdiction of ERISA has caused long delays in the issuance of regulations, the handling of participant problems, and the implementation of enforcement procedures. Processing of requests for prohibited transaction exemptions has been particularly slow. The IRS and DOL, for example, have labored over many exemption applications for more than a year, including one initiated by a sister agency, the PBGC. Such delays have added unnecessary and unreasonable costs to plans, or have led to inadvertent non-compliance.

BENEFITS OF ONE AGENCY

1. Duplication and waste

The costs of duplicative reporting would be eliminated for both plan sponsors and the federal government. Sponsors would file only one annual report instead of three. The remainder of ERISA's reports would be simplified and combined.

2. Confusion

Under one agency a participant, plan sponsor, or consultant could call one agency telephone number at the local level and expect to get an answer about a problem regardless of its nature.

3. Delay

A single office, because of its centralized structure, would handle more expeditiously ERISA policy making as well as individual plan matters.

PROBLEMS OF MULTI-AGENCY ADMINISTRATION

4. Lack of Intra- and Inter-Agency Coordination

Practitioners continue to lament the nonuniform application of some qualification standards from one IRS district to the other. If just one agency fails to get its own act together, its problems are magnified exponentially throughout the multiple-agency administration. ERISA officials have stated that "untold man hours" have gone into meetings designed to eliminate overlapping jurisdiction. Various inter-agency task forces, memoranda of understanding, etc.—still another layer of bureaucracy—have been formed to try to straighten out this needless mess. Plan sponsors still occasionally find themselves in Catch 22 situations. For example, sponsors wishing to terminate their plans find themselves in a merry-go-round situation when the IRS and PBGC each refuse to issue a final determination letter until the other makes the initial determination. Enforcement is just one area where a so-called "clean" division of responsibilities between agencies would not alleviate uncoordinated activity. For example, during the investigation of the Central States Teamsters Pension Fund, an IRS district director took action to disqualify the plan without notifying the DOL, the Justice Department (even though both were investigating the plan) or apparently, the IRS national office.

5. Government Inefficiency

Even with ERISA's extensive reporting requirements, none of the three agencies has been able to identify the universe of defined-benefit and defined-contribution pension plans. Since the agency computers apparently do not communicate fully with one another, a number of defined-benefit plans have undoubtedly failed to pay premiums or report to the PBGC. The discovery that perhaps 30 per cent of all pension plans may have terminated since ERISA's enactment raises serious questions as to whether the assets of some were distributed contrary to law and whether some participants were unjustly denied benefits.

6. Complexity

Many sponsors have terminated plans rather than deal with three government agencies, two of which are giant departments. In addition, the prospect of continual rule changes has undoubtedly frightened off a number of those professionals who provide small plan services. Dividing up ERISA's jurisdiction differently will not erase this complexity.

BENEFITS OF ONE AGENCY

4. Lack of Intra- and Inter-Agency Coordination

Under a single agency, plans would no longer be caught in the crossfire between two or more agencies. Policies would be developed at the national level and then carried out by the field force on a uniform basis. Enforcement would not be on a hit-or-miss basis but would be subject to a national policy to be applied uniformly. Major investigations could be initiated and carried out in a more logical, consistent, and effective manner.

5. Government Inefficiency

One agency with a single data collection system could more effectively compile information and enforce the Act.

6. Complexity

A turnaround from the present decline in the number of plans and the return to the pre-ERISA growth of the private pension system can be achieved (a) when a small business can go to a single office or call a single number to get questions answered on all phases of a plan's operation; (b) when all reports, not merely the annual report are sent to a single place; and (c) when certified public accountants, consultants, and other small plan service providers can contact one source for all information on applicable standards.

WHY A SINGLE AGENCY IS NEEDED FOR POLICYMAKING

Each of ERISA's three administrative agencies has its own individual and distinct policy, leaving ERISA without a consistent, comprehensive policy of its own. This is a fact based on three years' experience.

Despite this experience, there are those in government who contend all that ERISA needs is to be sliced up differently. There are as many ways to slice up the ERISA pie as there are piecutters. Before the Senate Finance Committee Assistant Labor Secretary Francis Burkhart and Assistant Treasury Secretary Larry Woodworth testified, in essence, that Congress should allow the Labor and Treasury Departments to slice up ERISA as they see fit. A similar point of view is expressed in Senator Lloyd Bentsen's bill, S. 901.

Yet no multiple-agency proposal will give ERISA the unified policy it needs.

Only under a single agency can we expect consistent interpretation and enforcement of the law. Under the present arrangement:

The three agencies have yet to decide on the final conditions spelling out which "plans" are covered under Title I, II, and IV of ERISA;

The potential exists for one agency to approve a plan termination, merger or restructuring while another agency steps in to reverse or rescind the action;

Only the PBGC has a statutory directive to encourage the growth and expansion of the private pension system;

The plethora of other agencies regulating various aspects of pension plans (see Chart 2) compounds the complexity and confusion.

Only under a single agency can there be developed a coordinated and comprehensive monitoring of ERISA's effects and effectiveness and of other employee benefit plan developments. Under the present arrangement:

The IRS is still guessing at the number of post-ERISA plan terminations;

Because of the lack of a central reporting and statistical system, the agencies have been unable to identify the characteristics of the employees and plans comprising the universe of pension and welfare benefit plans;

Decentralized and fragmented operations will undoubtedly lead to differing enforcement criteria and to time-consuming audits of some plans by more than one agency.

Only under a single agency can there be developed within the Executive branch a suitable policy framework to deal adequately with important and emerging employee benefit issues. Under the present arrangements:

It is unlikely that the ERISA agencies and the SEC will coordinate efforts to clarify the existing federal role pertaining to public employee retirement systems or study whether changes or new regulation is needed in this area;

The lack of a unified policy reached an intolerable level in the *Daniel* v. *Teamsters* suit when DOL and SEC briefs took opposite positions regarding the applicability of federal law to pension plans.

A SINGLE AGENCY IS THE LONG-RANGE SOLUTION—FURTHER ERISA SUBDIVISION IS NOT

There is an underlying indivisibility to pension plan operations. Regulatory efforts to divide the indivisable will prove fruitless in the long run and may cause more problems in the short run.

S. 901, approved by the Senate Finance Committee on August 5, 1977, would further subdivide IRS and DOL jurisdiction over fiduciary responsibility and prohibited transactions. It would give both the Secretaries of Labor and Treasury the power to enforce largely identical fiduciary concepts through civil actions. This duality would produce uncertainty and confusion of the sort which S. 901 purports to eliminate. Furthermore, given the independence and secretiveness which have characterized enforcement to date (e.g. the IRS's unilateral revocation of the Teamsters Fund's qualified status), it is unrealistic to expect that this potential will be obviated by effective inter-agency coordination.

In addition, S. 901's extension of civil action authority to the IRS in its enforcement of qualification requirements could defeat the purpose of another S. 901 section, which removes the tax on prohibited transactions from the Internal Revenue Code. Under S. 901, the IRS could bring a civil action when a party-in-interest transaction occurs on the theory that the transaction violates the exclusive benefits rule (an area left under IRS jurisdiction).

S. 901's shortcomings do not end there. Its division of ERISA operations could result in the reduction of participant rights. This is particularly so if, as the bill suggests, sole enforcement of participation, vesting, and funding are given to the IRS, a tax-collecting agency whose main function has never been to protect individual rights.

Some say the single-agency approach could not end multiple jurisdiction of plan quali-

fication because two ERISA plan qualification rules incorporate tax rules which also apply to non-pension purposes—determination of whether businesses are under "common control" and the definition of "reasonable compensation." In raising this objection, opponents merely underscore the effectiveness of a single agency which would trim hundreds of jurisdictional problems down to a manageable two.

Surely those proposing to "divide" and "coordinate" ERISA's functions among many agencies could find a workable solution to these two easily solved areas of definitional overlap.

Those insisting on further dividing ERISA also contended that the IRS role in pension plans can never be completely eliminated because the tax treatment of retirement plan payments and distributions will remain. This is tantamount to saying that the IRS should regulate all corporate and institutional dealings with individuals because all wage payments and other financial transactions have tax consequences. In H.R. 4340 a clear division is made whereby all "qualification" functions would be carried out by the single agency while all functions relating to the taxability of beneficiaries and lump sum distributions (as under Section 402 of the Internal Revenue Code) would be carried out by the IRS. In no way can this division be considered to be a continuation of "multiple jurisdiction" as the term is used to describe ERISA's present administrative structure.

One other objection to ERISA's transfer to a single agency is that the transfer would somehow further disrupt the administration of pension and welfare plans (i.e. cause even more disruption than the present unworkable arrangement). This objection incorrectly assumes that H.R. 4340 fails to provide for a smooth transition. A detailed description of the bill is provided in Appendix A. Basically, it can be viewed as merely an extension of the PBGC Board's role accompanied by a transfer of certain IRS and DOL personnel. In addition, the full effect of H.R. 4340 could be delayed until 1980 or later.

Some proponents of the status-quo have objected to the creation of a "new" agency to administer ERISA. The consolidation of ERISA functions under the Employee Benefit Administration (EBA) or under the Pension Security Agency proposed recently by Senator Javits would involved little that is "new." For example, local level IRS employees now dealing with plan qualifications would form the core of the EBA field office, handling qualification matters. IRS and DOL fiduciary experts would form the core of the EBA fiduciary division. In addition, all regulations, rules, and orders previously issued by the DOL, IRS, and PBGC would remain in effect. What would be "new" under the EBA would be speedy and efficient handling of employee benefit plan matters.

This single agency would carry out all functions relating to plan qualification. It would also determine whether actuarial assumptions were reasonable and whether contributions met minimum and maximum limitations. The single agency would "certify" to the IRS that a plan meets certain standards and should receive favorable tax treatment. IRS Commissioner Jerome Kurtz has stated that "the IRS could live with certification." EBA's establishment would not delay or reduce the effectiveness of the existing IRS audit referral program. Currently, a revenue agent completes a checksheet during his examination of a corporation claiming a deduction for plan contributions. The checksheet is then forwarded to the IRS Office of Employee Plans and Exempt Organizations for an audit determination. Under H.R. 4340, the checksheet would instead go to the EBA. Therefore, the EBA would operate in the same manner as does the IRS office but more effectively because of its comprehensive regulatory and enforcement role.

The complete transfer of the qualification function from the IRS to the EBA might be accomplished over an extended time period. Yet a single office could be opened immediately to remove the logjam of pending prohibited transaction exemption applications. Likewise, an interim arrangement could be worked out whereby a central office could receive and process all reports under ERISA. This extended time period, however, would allow employees to adjust their career plans.

The EBA would supplant existing interagency task forces, policy groups and various memoranda-of-understanding, which the agencies have considered necessary but which have failed to determine who has final authority.

The EBA under H.R. 4340 would derive its authority solely from its own board of directors. Since the Secretaries of Labor and Treasury (or their delegates) would be members of the Board, the tax and the labor-management viewpoints on employee benefit matters would continue to be appropriately and adequately represented. The Board and the EBA would form an independent policy-making and operational unit regardless of "within" which agency the EBA is ultimately placed. Therefore, in the long run, it would make little difference whether the EBA is made a separate individual agency or placed within either the Labor or Treasury Department.

Conclusion

The growth of the private pension system needs to be stimulated. This can be accomplished if ERISA's needless expense, duplication, delay, confusion, and redtape are eliminated.

The time has come to end ERISA's present administrative nightmare by consolidating all employee benefit plan-related functions under a single agency.

Only under one agency can a consistent balance between tax and labor-management policy be developed, free from potential conflict. Only a single agency can provide the necessary framework to deal in a timely fashion with emerging pension and other employee benefit plan issues. H.R. 4340 provides the long-range solution to ERISA's administrative and jurisdictional problems. It would finally give proper recognition to the vast significance of this nation's 1.8 million private pension and welfare benefit plans.

H.R. 4340—Employee Benefit Administration Act of 1977

Purposes

The "Employee Benefit Administration Act of 1977" amends title III of the Employee Retirement Income Security Act of 1974 (ERISA) to increase the efficiency of the operations of the Federal Government relating to employee welfare and pension benefit plans in order to further promote the expansion and growth of pension and welfare benefit plans and to carry out more effectively the express purposes of ERISA.

Specifically, the Act would:

(1) facilitate the development of a rational and coordinated regulatory system without adversely affecting the interests of the existing departments or agencies;

(2) eliminate needless expense, duplication, delay, and redtape, by placing one agency in charge of qualifying plans and enforcing ERISA;

(3) eliminate needless confusion and paperwork burdens by providing for one annual report to be submitted to one Federal agency.

Subtitle A—Employee Benefit Administration

Sec. 3001.—This section establishes an Employee Benefit Administration (the "Administration"), not later than 1 year after date of enactment. The Administration, in the discretion of the President, could be placed within any department or agency of the Federal Government. At the head of the Administration is a Board of Directors which consists of the Secretary of Labor, the Secretary of the Treasury, and one other person appointed by the President. The Chairperson of the Board of Directors is to be designated by the President. The Board is to appoint an Executive Director who is to serve as the chief administrative officer of the Administration.

The operations of the Pension Benefit Guaranty Corporation would continue in the same manner as under present law, with minor exception. The members of the Board of the PBGC would be the same as the members of the Board of Directors of the Administration with the Secretary of Labor continuing as Chairman of the PBGC Board. The PBGC reporting requirements would be consolidated with the annual report required to be filed with the Administration. The PBGC would retain its present corporation identity and staff.

Administrative provisions

Sec. 3002.—The Board of Directors (and not the head of the Department under which the Administration is placed) would prescribe policies, standards, rules, and regulations to carry out the functions transferred to the Administration. The Administration would appoint and employ its own attorneys and actuaries. The Board could organize the Administration in any manner it deemed necessary or appropriate. Regarding plan qualification, it is contemplated that the Administration would continue a system of administrative review and appeals procedures similar to that which is presently found within the Internal Revenue Service.

Transfers and consolidation

Sec. 3003.—Generally, the functions of the Secretary of Labor and the Secretary of the Treasury under ERISA are transferred to the Administration. The President may, but is not required to, transfer the functions of other departments and agencies relating to employee benefit plans to the Administration.

The functions relating to the qualification and disqualification of plans under the Internal Revenue Code would be transferred to the Administration while matters relating to the taxability of distributions from qualified plans would continue to be administered by the Internal Revenue Service. Certain functions now under the Secretary of the Treasury, for example functions relating to individual retirement accounts and 403(b) annuities, would not be transferred to the Administration, if such functions were found to be necessary to the effective administration of the Internal Revenue Code and not to be necessary to effectuate a maximum feasible consolidation within the Administration.

Such officers and employees would be transferred to the Administration as may be necessary to maintain and improve administration of the functions so transferred. In order that the present level of effort and expertise not be diminished, the President is given the flexibility to transfer such officers and employees in the national and field offices of the Department of Labor, the Department of the Treasury (including the Internal Revenue Service) as may be necessary to accomplish this purpose. The President and the Board are granted the authority needed to accomplish the reorganization without causing disruption to the present level of effort or to employees' careers.

While the Board would be established within 1 year after the date of enactment, the functions could be transferred to the

Administration over a period which may exceed 1 year, if necessary to accomplish the maximum feasible consolidation and avoid untoward side effects. In order to avoid unnecessary expense and duplication, the Board may utilize the facilities and services of officers and employees of existing departments or agencies.

The Administration is to provide for the maximum consolidation of all reports respecting employee benefit plans. This provision would consolidate into one annual report the numerous filing requirements that plan administrators now find so burdensome.

COORDINATION BETWEEN AGENCIES

SEC. 3004.—Under this provision all other Federal departments and agencies issuing regulations which may affect employee benefit plans are directed to consult with the Administration with a view to avoiding duplication and inconsistency. The Administration would make arrangements with the Secretary of the Treasury to enable the Internal Revenue Service to continue to make determinations as to whether contributions actually made to plans are within the required range. The Administration would enforce the minimum funding standards while the Internal Revenue Service would enforce the maximum deductible limitations. The Administration would be responsible for writing the regulations and enforcing the funding standards under both Title I and Title II of ERISA.

The Administration would be responsible for making the determination whether a plan qualifies initially or on a continuing basis, and the IRS may request that the Administration make such a determination for particular plans. The enforcement functions under both Title I and Title II of ERISA would be transferred to the Administration. As a result the enforcement remedies under Title II, for example, plan disqualification, excise taxes, and other penalties, would be exercised in a coordinated fashion with the other civil remedies under Title I of ERISA. The conflicting and duplicative enforcement activities under present law would be eliminated.

CERTAIN PROCEDURES

SEC. 3005.—This Act does not provide for amendment to substantive provisions of ERISA outside of the administrative and coordination area. This section merely retains the provisions under present law found in ERISA section 3001.

TRANSITIONAL AND SAVINGS PROVISIONS

SEC. 3006.—After the employee benefit plan functions have been transferred to the Administration, all orders, rules, regulations, etc., previously issued by the Department of Labor and the IRS would continue in effect. The transfer of functions to the Administration would not affect any investigation, suit, action, or other proceeding that had commenced prior to the transfer of such functions. The Administration would be substituted for the Department of Labor or Internal Revenue Service, as the case may be.

INCIDENTAL TRANSFERS

SEC. 3007.—Under this provision existing balances of appropriations, authorizations, et cetera, would be made available to the Administration.

MISCELLANEOUS AND CONFORMING AMENDMENTS

The existing Advisory Council on Employee Welfare and Benefit Plans would be transferred to advise the Administration. As the terms of existing members expire, the President would appoint new members to the Council.

The Joint Board for the Enrollment of Actuaries would become the Board for the Enrollment of Actuaries.

APPROPRIATIONS COMMITTEE HEARINGS ON AMTRAK

Mr. McFALL. Mr. Speaker, there has permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McFALL. Mr. Speaker, there has been some concern about the recent service reductions proposed by the National Railroad Passenger Corporation (Amtrak). On September 21, our Transportation Appropriations Subcommittee received testimony on these proposed reductions, as well as on Amtrak's request for an additional $56.5 million.

Because of the continuing interest in these issues, our subcommittee intends to conduct further hearings to provide a forum for a thorough discussion and analysis of Amtrak's proposals. Our hearings will begin tomorrow, October 26, 1977, at 10 a.m. in room 2358. These hearings will continue on Thursday and Friday, if necessary. We expect to receive testimony from Amtrak's Board of Directors, the Department of Transportation, and Interstate Commerce Commission. Organizations who have already expressed an interest are also expected to testify. Interested Members are invited to participate if they so desire.

AMERICA'S MAGINOT LINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SISK) is recognized for 30 minutes.

Mr. SISK. Mr. Speaker there are few symbols in this world that still have the power to inspire; the Statue of Liberty has that power.

Give me your tired, your poor
Your huddled masses yearning to breathe free . . .
The wretched refuse of your teeming shore,
Send these.
The homeless, tempest-tossed,
To me.
I lift my lamp beside the golden door.

Fewer verses have been learned "by heart" by as many people as the words Emma Lazarus wrote for the Statue's inscription. Together, words and stone have transmitted a message that grows more powerful with the years: There is hope in America.

Forty-seven million immigrants have come to the United States since the founding of the Republic. They have come in hope, to build a new and better life, to take part in the great democratic experiment, to become Americans.

America has offered refuge from every sort of human tragedy, from pogroms to potato famines, and it offered something more: It offered opportunity. If the first generation did not get rich—because the streets never were paved with gold—there was still the opportunity that the children would not be locked into the lives that their parents had led.

In all of our history, there have been only three decades, from 1881 to 1890, from 1901 to 1910, and from 1911 to 1920, when we have welcomed more immigrants than we have in the past 10 years. Between 1966 and 1976, the United States has legally become the home for more than 4 million people from other lands.

The United States will probably continue, for some time to come, to admit more new citizens, through its legal immigration system, each year, than all other countries combined.

But there is a new system of immigration to the United States, and it has been growing dramatically in the past few years. It has largely superseded the old one. This new system has grown entirely outside of our laws—the most lenient in the world—in conflict with our most basic beliefs, and without our knowledge.

By now it has become so widespread that we must be aware of it. And whether we call this new system illegal immigration or undocumented immigration, its most salient feature is injustice.

There is no justice in any of it.

There is no justice to the legal immigrants, the 47 million people who have obeyed the rules, waited in the lines, studied the documents, and earned their citizenship.

There is no justice in it for Americans, particularly the poorest Americans, who have had their wages depressed and their taxes raised, their social services stretched beyond the limit, and their natural resources disappearing faster than they can afford.

There is no justice for the criminals who feed off of this system, the smugglers. the forgers, the virtual slave traders who are seldom caught and punished.

Nor is there any justice for the illegal aliens themselves, who must endure incredible abuses, and live as outlaws.

There is no justice in allowing this system to continue. We are doing no one any favors. This system perpetuates one cruelty after another.

If we think the illegal immigration system is anything but another form of organized crime, we are fooling ourselves.

There is a tendency to forget that illegal aliens are people, and that their variety is as infinite as in any other group of human beings. It may make easy journalism to draw a "Profile of an Illegal Alien" because there is one category that has received more publicity than any other: the poor and exploited. Like any stereotype, there is an element of truth in it. But it is only one element in the whole system of exploitation, and I want to draw your attention to the consequences of letting things continue as they are: it is a system that victimizes more people than have been considered, because it threatens the life-support system of the North American Continent.

If that sounds exaggerated, let us examine the overall nature of this system.

The border patrol is only slightly larger than a decade ago, but apprehensions have increased tenfold, to over 800,000 per year. Perhaps a minimum of 1.8 million people migrate to this country illegally every year. The actual figure is probably far higher. Certainly our former Commissioner of the Immigration and Naturalization Service, Leonard

Chapman, made it clear that the problem had grown beyond the capacity of the INS to enforce the law.

General Chapman cited the 10-year backlog of casework in Los Angeles involving illegal immigrants; investigations by the New York Times indicate a million illegal aliens living in the New York area. In the last 5 years, district 3 in New York has deported 60,000 illegal aliens, with the help of only 28 agents. The entire investigative force of the INS is smaller than the police force of the District of Columbia. The enormous growth in numbers of apprehensions and deportations is not due to increased efficiency alone—it is simply evidence that the size of the job to be done has grown.

Meanwhile, what is happening to the people who are in the country illegally, who are not apprehended?

Some are abused and preyed upon, as we have noted. Some have been smuggled in automobile trunks and have died of suffocation. Many have been robbed, beaten, and raped. Others are exploited by their employers.

But at the same time, it must also be noted that 50 illegals were apprehended in Chicago performing janitorial jobs; the next day, 150 Americans lined up for these same jobs, 80 percent of the new applicants were of Hispanic origin. In 1974, New Jersey apprehended 3,217 illegal aliens working for pay between $2.10 an hour to $14,000 a year. California's State welfare board estimates payments to illegal aliens at $100 million annually: 1,000 illegal aliens were working in tuna canneries in California in 1974 earning from $3.50 to $4 per hour. The head of the El Paso Immigration Aid Station (operated by the U.S. Catholic Conference) points out that "What we are beginning to get are marble cutters and bricklayers and carpenters, as well as farmworkers"; 1,500 illegal aliens were apprehended in Detroit; 900 held jobs in heavy and light industry, the service industries and construction. Seventy percent of them earned more than $4.50 an hour, and only 1 percent were employed in agriculture.

Any tabloid newspaper has a column advertising where fraudulent documents can be obtained. The illegal subculture has spawned a variety of flourishing businesses in most of our major cities, dealing with fraudulent documents and forgery. Some are involved in smuggling people, which can be as profitable as smuggling drugs. The illegal aliens have broken one kind of law; the criminal organizations who specialize in these operations have broken every sort of rule of conduct we have on our law books. In our sympathy for the plight of the beleaguered alien, we have completely overlooked the criminal aspects of those who support this system. There has been no justice for them, either.

Nor is there any justice for the American citizens and legal residents. Who pays the most for the existence of this system? The poorest of Americans, who are often among the unemployed minorities. They pay several times over, in taxes, in lost social services, in lost jobs—the unemployment rate among minorities in our cities is as high as it is in any Third World city.

The working poor are also victimized—by working conditions that labor interests have fought for 50 years to improve and are now sliding rapidly backwards. The vast pool of cheap, exploitable labor undercuts every advance we have made for the benefit of the worker since the Triangle Shirtwaist factory—and there is no sign of this trend's abating.

As long as this system continues, there will be no justice for the legal minorities—they will be caught in the crossfire. The more fraudulent documents in circulation, the more the documents will be devalued, and the more cultural prejudice will be turned against them. Those who truly care about the civil liberties of our native and naturalized minorities would be well advised to look to the system that most endangers them.

The danger to the country is apparent even now, but the cause is not. The cause is rooted in the population expansion in the poor countries that is driving these people to find somewhere else to go. Does anyone deny that there are close to 1 billion people on this globe living in abject poverty? Next year, there will be about 100 million more of them looking for shelter, food, energy, and employment, and what will happen the year after that? With nearly 40 percent of the world's population under the age of 15, can we not see what is happening?

We have a limited country. We have only so much water and land, only so many resources. The U.S. resources are finite. We have a system of democracy that we treasure, but democracy can only function if the numbers of people are in relative balance with available resources.

With the current influx of illegal immigrants, we will double our population and resource use in about 44 years. Our use of energy, for instance, will approach 26 billion barrels of oil equivalent per year, four times the current consumption of the rest of the world combined. These are ridiculously conservative figures, because they assume that we will not increase our energy consumption, and that the rate of immigration will remain the same. It will not. It can only increase, if we continue to allow it.

But the ecological argument is remote for most of us: it is our children who will hear the final round of that one, probably within 25 years. Many of us will be alive to watch it happen to them. The land, you see, will be the ultimate victim, as it always is where there are too many people to support.

Our agricultural land, now being reduced by 5 million acres annually, cannot possibly feed 450 million Americans—to say nothing of exporting the necessary grain to pay for our escalating petroleum bill. Not only will our topsoil be all but ruined, but our rivers, lakes, and streams will be choked with effluents, our timber resources leveled, and our air blackened. Another 225 million Americans in a short 44 years will make the pollution, environmental degradation, and urban-sub-urban sprawl of today look like child's play.

The intervening years will claim many victims, because even before our physical resources are exhausted, our social management capabilities will be.

Americans are not unaware of the injustice of the immigration system. A recent Roper poll shows that 91 percent of all Americans favor an "all out effort to stop" illegal immigration. In addition, by a margin of 4 to 1, Americans want to "reduce the quotas of legal immigrants" who enter the United States each year. The pollsters themselves were astonished; such unanimity on any social issue is unprecedented. People know the situation is dangerous; the sparks are already appearing in the way of border and urban clashes, and it is only a matter of time before widespread violence occurs.

If we continue our present policy of pretending that the problem is not there because we cannot obtain hard figures to analyze, we can safely anticipate the worst.

What can we do? First, we must recognize that the illegal alien system is riddled with injustices, from top to bottom. We can recognize which legislative steps must be taken to protect the rights of our people. We can take corrective measures so that the Immigration and Naturalization Service can do its real job: the processing of legal immigrants and helping new citizens to become Americans.

And we can correct the notion that somehow Americans have the sole responsibility to cure the world's problems, or that we are the cause of them. We will do what we can, where we can—as we have always done—in a spirit of good will toward mankind. But we can do nothing to help anyone if our own land and environment is demolished and our social system is in ruins.

History has given us warnings and vivid illustrations of the costs of ignoring those warnings. As our colleague, Mr. WOLFF has said:

> We really have a Maginot Line. It is outflanked, overflown and infiltrated. And you know what happened to the French.

The American people have given us a mandate.

Mr. Speaker, what are we going to do with it?

USE ALASKA'S LAND WISELY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alaska (Mr. YOUNG) is recognized for 15 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, as we all know, the Subcommittee on General Oversight and Alaska Lands is currently deliberating the future use of much of Alaska's land. One of the major controversies is whether this land should be put into restrictive, single-use categories, or whether it should be available for a multiple of uses by all of the people of the United States.

I have recently received a letter from Maj. Allan G. Doyle, Jr., one of my con-

stituents, who is serving with the U.S. Army in Okinawa. Major Doyle expresses with great clarity the need to prevent a lockup of Alaska's land. I would like to read this letter to my colleagues and ask them to reflect on the thoughts in it.

OCTOBER 10, 1977.

Hon. DON YOUNG,
U.S. House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE YOUNG: As a resident of Alaska, temporarily "Outside" in pursuit of a career in the U.S. Army, I follow events back home with great interest. With the advantage of not being too emotionally involved in home issues due to time and distance factors I have restrained myself over such issues as the Trans-Alaska Pipeline, the proposed Northslope Gas Line, the aborigine lands settlement, and the depletion of the $900 million oil lease sale fund.

However, we are now involved in deciding an issue of great importance with such long range consequences that I feel I must express my views. I refer to the Alaska Land Utilization (D-2) issue currently under consideration.

My concern is that those decisions which must be taken will be adversely affected by short-range, parochial considerations, that small but well organized and well funded organizations will purport to express the views of the many. We must not establish the direction to be taken by Alaska and her citizens based on the desires of vocal minorities whose aims are to preserve rather than protect, to exploit rather than develop. That the haphazard nature of development in the "South 48" could be repeated in Alaska should weigh heavily on those who have been selected to be our law makers. I would charge us all today with the responsibility of balancing the past, the present and the future in deciding how we will use our land. To disallow orderly development now could lead to crash exploitation later or remove sorely needed resources from the people of the United States now and in the future.

I advocate using our land for that purpose for which it is best suited. If the land can accommodate other uses without jeopardizing this "best use" so much the better. To accomplish this goal we can allow neither destruction nor preservation.

To destroy is not the way of a really civilized people. Preservation is a myth in that the environment of this world is constantly in a state of adjustment even when left to nature. Alaska has the potential to feed future generations and to provide the natural resources, both renewable and nonrenewable, to improve the standard of living for Americans today and tomorrow. This potential cannot be realized if we, today do not act with wisdom.

I thank you for taking the time to read of my concern for the future of the Great Land. A land utilization plan which harmonizes Alaska's people, her wild life and her land is a must.

Respectfully,

Maj. ALLAN G. DOYLE, Jr.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 5 minutes.

Mr. SARASIN. Mr. Speaker, on October 19, 1977, I was absent for part of the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 673: H.R. 9375: Supplemental appropriations. The House agreed to an amendment, as amended, that provides $121 million for the operating expenses of ERDA, of which $80 million shall be for the Clinch River breeder reactor; and that strikes the restrictive authorizing language, "no."

In addition, I was also absent from the October 20, 1977, session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 674: H.R. 6666: Legal services. The House agreed to a preferential motion to instruct the managers of the conference on the part of the House to insist on language prohibiting the use of Federal funds to provide legal assistance relating to the desegregation of any elementary or secondary school or school system, "yes";

Rollcall No. 676: H.R. 3744: Fair labor standards. The House agreed to the conference report on the measure, "yes";

Rollcall No. 677: S. 1811: ERDA authorization. The House agreed to the conference report on the measure, "yes";

Rollcall No. 678: H.R. 9375: Supplemental appropriations. The House agreed to an amendment that appropriates an additional $625 million for the Small Business Administration Disaster Loan Fund, "no";

Rollcall No. 679: H.R. 9375: Supplemental appropriations. The House agreed to a motion to limit debate, "no";

Rollcall No. 680: H.R. 9375: Supplemental appropriations. The House rejected a motion that the Committee rise, "no";

Rollcall No. 681: H.R. 9375: Supplemental appropriations. The House rejected an amendment that sought to add $1.4 billion for the construction of five B-1 Bombers, "no"; and

Rollcall No. 682: H.R. 9375: Supplemental appropriations. The House rejected a motion that the Committee rise, "no."

POSTAL SERVICE ACCOUNTABILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

Mr. CORCORAN of Illinois. Mr. Speaker, today I am introducing legislation to change the procedure by which the U.S. Postal Service is authorized to receive an annual subsidy of $920 million for the public service costs of its operation.

Under current law, that subsidy goes to the Postal Service without any prior justification to Congress of how and for what specific purposes these funds will be used. My bill would provide as a prior condition for receiving these funds that the Postal Service meet the following requirement:

(2) It shall not be in order in either the House of Representatives or the Senate to consider any bill, or amendment thereto, appropriating funds authorized under paragraph (1) of this subsection unless the Postmaster General submits to the Congress no later than February 1 of each year a report detailing by function the expenditure of public service funds during the immediately preceding fiscal year and the proposed expenditure of public service funds, by function, for the fiscal year beginning in the year of the submission of such report.

Presently the members of the House Post Office and Civil Service Committee, of which I am pleased to be a member, are in the process of reporting to the full membership of this House a bill, H.R. 7700, which returns a strong measure of public control over the Postal Service. I support this measure, because it is needed to restore both public accountability and public confidence in the Postal Service.

I hope H.R. 7700 will be improved for final enactment and approved by President Carter as soon as possible. In the meantime, however, we need the bill I am introducing today to make sure that the uses of the tax funds being provided by Congress to the Postal Service under existing law are made public as to purpose and function. In other words, we need a detailed explanation of the $920 million.

JOBS AND UNEMPLOYMENT IN THE 24TH DISTRICT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MARKS) is recognized for 10 minutes.

Mr. MARKS. Mr. Speaker, the No. 1 issue in the 24th District of Pennsylvania is jobs. To explore ways to reduce unemployment in the district, I worked with representatives of business and labor to establish a Jobs and Economic Development Advisory Committee.

The committee brings together a wide cross section of individuals from our area to work for a stronger economic and business climate with the emphasis on increased employment in the 24th District.

The first meeting of the Jobs and Economic Development Advisory Committee was held on October 14 in Erie. At this session I outlined the work of the committee and some of the legislative initiatives in which I have been involved with respect to jobs creation.

At this point I would like to share with my colleagues my remarks on that occasion:

JOBS AND ECONOMIC DEVELOPMENT ADVISORY COMMITTEE, OCTOBER 14, 1977

I wish to thank everyone here today for taking time to join in the initial meeting of the Jobs and Economic Development Advisory Committee. The response from you since our organizational meeting in Meadville has demonstrated a genuine interest in furthering the goals of this committee. These common goals will be achieved by gathering the resources and efforts of the many organizations from around the 24th District that are represented today.

This group as the title indicates is an advisory committee. I have formed the committee in hopes of a coordinated and cooperative effort that will eventually lead to a stronger economy, a more attractive business climate and increased employment in Erie, Crawford and Mercer Counties. Your

individual expertise in your respective fields will be called upon and your contribution is needed and openly encouraged. Energy, manpower, taxes, and imports, to name a few, will be topics that we will have to deal with during our advisory meetings.

I have no intention of being a one-man show that commands this committee during its efforts in one direction or the other. My role will be as the liaison between all of you and the Federal Government, acting as the catalyst to bring your talents, ideas, and resources together in order to further economic development and employment in the 24th District.

Since our organizational meeting last February, we have already made some progress. All three counties have submitted or are included in an overall economic development plan. The O.E.D.P.'s are now under review by the Department of Commerce and the Economic Development Administration. The title I program for areas with approved O.E.D.P.'s is geared toward just what it says, economic development and employment on a continuing basis for a community and its surrounding area.

I won't go into detail at this point, since several of the gentlemen responsible for preparing our O.E.D.P.'s will bring us up-to-date on a county by county basis later in the program. I will mention, however, that an important element in achieving a coordinated and cooperative approach for the entire district is an awareness of the plans that are in motion and open lines of communication. Time does not permit us to hear from everyone, but hopefully during the course of our meetings we will. I have asked several of the county and city planners in Erie, Mercer, and Crawford Counties to give us an idea of what is happening in each area and what we might expect in the future.

Some encouraging economic statistics have also been brought to my attention. The rate of unemployment on the national scale has been declining since last year, but it appears that the drop in unemployment has been at a faster rate in Erie, Crawford, and Mercer Counties. While the national rate has dropped almost one percentage point during the last year to a rate of 6.9% in July, our area, which in 1976 had an unemployment rate in excess of the national average, has now dropped below the national average.

To prove my point, Crawford County, according to the Bureau of Labor Statistics, had an unemployment rate of 8.8% in June of 1976 as compared to 6.7% in June of this year; a two percentage point drop. Erie went from 8.7% to 6.4% in the same period and Mercer County from 8.2% to 6.7%.

I could play games with these figures all day, but the indication is that the 24th District is improving its employment picture at a faster rate than any other areas around the country. That is not to say that we can lessen our efforts, many of which can be helped through Federal action.

Through its spending, regulatory, and taxing authorities, the Federal Government can foster the kind of economic climate that promotes the creation of jobs and the reduction of unemployment. Unfortunately, it was not until the enactment of the Budget and Impoundment Control Act of 1974 that Congress had any systematic and cohesive way of beginning to assess the overall impact of Federal spending and taxing policies.

And Congress has yet to grapple effectively with the problem of Federal regulatory policy.

I regret to report that Congress gave final approval on September 15 to binding fiscal year 1978 budget levels that assume a large increase in Federal spending, a higher deficit, and a slower economic growth rate than in 1977. For the fiscal year that began on October 1, the resolution set a floor under revenues of $397 billion and a ceiling on outlays of $458 billion, with a resulting deficit of $61.2 billion.

I voted against this resolution, as well as earlier resolutions this year which also called for higher spending and deficit figures. As the Government continues to spend more and move further into the red, fiscal responsibility falls by the wayside and the prospect for a balanced budget becomes even more remote. Continually increasing Federal expenditures fan the flames of inflation and postpone further a healthy economic recovery. The private sector cannot create new, long-term opportunities for employment when the economy continues to lag. Indeed, a sagging economy brings about more lay-offs, relocations, and plant closings.

While I could not support the budget resolutions as fashioned by the House Budget Committee and amended on the floor, the fact that Congress has the mechanism now through which fiscal policy can be evaluated and implemented is, in itself, encouraging. Our budget procedures at least allow us to see the impact of the aggregation of Federal spending and taxing. Such procedures are not available through which Federal regulations can be analyzed and reformed.

As you are all aware, Federal regulation often can hamstring economic growth and development. However, Federal intervention in the marketplace is not likely to go away. If recent trends continue, it will, in fact, grow. In the past 15 years, some 236 Federal agencies, bureaus, and commissions have been created. By comparison, only 21 have been terminated. Further, the American enterprise institute estimates that in fiscal 1975, Federal spending for business inspection and regulatory activities came to approximately $2.2 billion.

In an effort to help get a handle on the executive bureaucracy, I have consistently voted for "sunset" amendments to various proposals and for amendments to provide for congressional veto of Federal regulations. The congressional veto device hopefully can provide a check on runaway rules and regulations. Certainly, the regulators cannot be expected to regulate themselves.

In my opinion, the question of Federal regulation will not properly be addressed by Congress until some form of overall "sunset" legislation is enacted. To this end, I have joined with several of my colleagues to sponsor H.R. 3555, the Government Economy and Spending Reform Act. The principal feature of this bill is a "sunset" provision to force the periodic audit and review of all Federal spending programs. While the measure is awaiting House action, a similar piece of legislation was reported in July by the Senate Government Affairs Committee.

My bill would schedule an examination of all Federal programs by the appropriate congressional committees, starting from a "zero base." The essence of zero base review is that it starts with no fixed assumptions about a program's funding level. I believe that through such a general mechanism, Congress will begin to be able to assess the impact of Federal regulation, the spending involved in regulation, and whether such regulation should be continued.

In addition to Federal spending and Federal regulation, Federal tax policy has a most direct and vital impact on the economy and on the climate for employment. At this time, I strongly support tax cuts along the lines of those implemented in the early 1960's under the Kennedy administration. I voted for amendments to both the economic stimulus bill and to the budget resolution which would have provided for across-the-board tax reductions. Unfortunately, these amendments were not successful.

In addition, I have cosponsored the Tax Reduction Act of 1977. This bill, which is being "quarterbacked" in the House by Congressman Jack Kemp and in the Senate by Senator William Roth, has three principal provisions:

First, it reduces all individual income tax rates by an average of 30 percent over three years. Second, it reduces the corporate tax rate from 48 to 45 percent over three years. And third, it immediately raises the corporate surtax exemption for small businesses from $50,000 to $100,000.

I believe the principal obstacle to strong economic growth is the excessive tax burden now imposed on the American people. The high rate of taxation both on individuals and on businesses is strangling economic growth, and choking off private initiative, investment, and the creation of jobs. Substantial tax rate reductions for all taxpayers will increase workers' take-home pay, stimulate consumer spending, and increase the incentives to work, save, invest, and produce.

The bill would reduce the corporate tax rate by one percentage point per year for three years, from 48 percent to 45 percent. The 26 percent surtax would remain unchanged, while the 20 and 22 percent rates would be reduced to 17 and 19 percent. On the premise that "a rising tide would lift all boats," econometric projections indicate that the bill's tax cuts would create millions of new private sector jobs: 1,218,000 in 1978; 4,000,000 in 1980; and 5,470,000 in 1985.

I am of the opinion that the best way to reduce unemployment is to provide the private sector with incentives to create long-term jobs. In order for private industry to create jobs, adequate investment capital is required. I believe the first step at the federal level should be the implementation of a national policy on investment in the private sector. Accordingly, I have sponsored the investment policy act of 1977, H.R. 8414.

To reduce the current level of unemployment and provide jobs for the estimated 8,000,000 workers who will joint the labor force by 1981, an average of $30,000 of private investment must be generated for each new job created. In order to insure adequate investment capital for our future economic growth, the investment policy act requires the council on wage and price stability to submit to Congress an annual investment policy report, monitor present programs, and recommend future measures to promote the generation and use of investment capital. It is the responsibility of the federal government, in cooperation with state and local governments, to use all practical means to provide sufficient incentives to assure maximum investment in private enterprise in order to increase the production of goods, the providing of services, the employment of workers, the opportunity for profit, and the payment of taxes.

To complement this bill, I also have cosponsored H.R. 9316, a measure to provide for an alternative amortization period for pollution control facilities. It would allow companies to write off the cost of pollution control equipment in one year as a regular business expense, instead of the present five years. Since pollution control equipment does not relate directly to increasing production, it should not receive the same tax treatment a capital investment for expanding or modernizing the firm's productive capacity would receive. The bill is intended to help companies finance the cost of meeting environmental safety standards, while encouraging real capital formation and reducing the impact of inflation on recovered costs.

Another bill I am sponsoring which may be of interest to you is H.R. 4987, the investment tax credit act of 1977. The purpose of the bill is to provide an extra 10 percent investment tax credit for modernizing older manufacturing plants (over 25 years old) or for building new ones in nearby loca-

tions (within 10 miles of an existing facility).

The measure is intended to provide incentives to encourage manufacturing industries to remain in established communities rather than to relocate. Just this week I joined with other sponsors of the bill to write a letter to President Carter to urge him to include a proposal for encouraging the modernization of older plants in his tax reform package. I would like to read the key paragraphs from this letter:

"The Nation's existing urban areas represent an enormous investment, yet many of them are in deep trouble mainly because supporting industries have built their newest plants elsewhere. For this reason, we were dismayed to hear that the tax reform proposals presented to you by the Secretary of the Treasury do not include any tax credit or other incentives specifically designed to encourage the modernization of older industrial plants. Yet, without such incentives, the general investment tax credit can actually accelerate the decline of older industrial communities. . . . We understand that the Treasury Department feels that if any tax incentives are to be offered for old plant modernization, it would be more logical to offer them as part of your prospective urban program. Unfortunately, industries are making decisions every day as to whether to stay in their present locations or to move. Their managements, as well as the people whose homes and life savings hang in the balance, need to know now what help they can expect. Your tax reform 'package' is an opportunity to tell millions of workers and hundreds of communities, already victims of or living in fear of plant closings, that you are responding to their plight in a practical way."

These, then, are some of the legislative initiatives in which I am presently involved with respect to issues involving jobs and unemployment. The comments I received following the last of our meetings, both orally and in writing, have been most valuable to me in this regard. I look forward to further such assistance and input from all of you. I am seeking to represent you as best I can in these endeavors.

In addition to seeking your assistance and supporting legislation that promotes economic development and jobs, I will, starting today, bring to your attention the Federal agencies and programs that can be called upon to further our goals. I have asked representatives from the Small Business Administration and the National Labor Relations Board to join us today to discuss the services and programs that are directly related to our area.

The strength and prosperity of small businesses in our area are vital components to a strong economy and offer benefits to everyone here. The SBA loan program is usually in the spotlight, but the management assistance and procurement programs can be valuable tools in achieving the growth and employment that we are pursuing.

By definition, the composition of a Jobs and Economic Development Committee requires strong management and labor representation. The degree of cooperation and respect between labor and management will be one of the most, if not the most, significant factors affecting our economy, business climate, and employment.

Because of the importance of labor-management relations, I have asked Mr. Henry Shore, Regional Director of the National Labor Relations Board to join us. Mr. Shore has been with the N.L.R.B. since 1937 and has served as Regional Director for thirty years. I'm sure that his experience and the services offered by the Board will be valuable.

By now it should be clear that I don't intend to be the only one speaking, especially when there are local and Federal experts available to us.

In closing, so that we may hear from these gentlemen, I would like to remind you that this is the beginning of a series of advisory committee meetings. As the series continues we will try to touch all of the areas of importance in achieving a strong economy, and your suggestions and advice are welcome. The real progress toward increasing economic development and the number of jobs in the 24th District will be made between now and our next meeting. It will require our combined effort using the ideas and programs that we discuss. With that in mind, I am confident that a report on our progress from this point on will indicate that we are closer to the economic strength that we are seeking.

DR. ROSALYN SUSSMAN YALOW, NOBEL LAUREATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 10 minutes.

Mr. BINGHAM. Mr. Speaker, I am privileged today to bring to the attention of this House the accomplishments of Dr. Rosalyn Sussman Yalow, one of the two Veterans' Administration career doctors and senior medical investigators, who on October 13 were awarded the 1977 Nobel prize in medicine.

I am especially proud because Dr. Yalow was born and raised in the Bronx and conducts her research at the Veterans' Administration Hospital in my congressional district.

Dr. Yalow received her A.B. degree from Hunter College in 1941; her master's degree from the University of Illinois in 1942; and her Ph. D. degree in physics from the University of Illinois in 1945. She served as a lecturer in physics at Hunter College from 1946 to 1950, at which time she joined the staff of the Bronx Veterans' Administration Hospital. Dr. Yalow is also distinguished service professor of medicine in the Mt. Sinai School of Medicine at the City University of New York.

Last November Dr. Yalow became the first woman to win the prestigious Albert Lasker Award for basic research. The award was in recognition of her discovery of the technique of radioimmunoassay, a discovery made in collaboration with the late Dr. Solomon A. Berson of the Bronx VA Hospital. Radioimmunoassay combines aspects of nuclear medicine and immunology to measure minute quantities of biological substances in the blood. The test Dr. Yalow developed is called the RIA, for radioimmunoassay. It is so sensitive that it is capable of detecting a billionth of a gram. A Nobel committee member likened the test's sensitivity to the ability to detect the presence of a half lump of sugar in a lake about 62 miles square and 30 feet deep.

Dr. Yalow, who is only the second woman to win the Nobel prize in medicine, was awarded the prize for this discovery. In making the awards, the Swedish Caroline Medical Institute said Dr. Yalow and her coworkers "directed diabetes research into new tracks and gave it a new dimension. We were witnessing the birth of a new era in endocrinology, one that started with Dr. Yalow. This modern endocrinology continues to develop and gives us continuously new outlooks on the causes and nature of diseases within the whole spectrum of medicine."

Dr. Yalow's achievement is worthy of the highest recognition and respect. It is no small coincidence that her achievement came under the auspices of the Federal Government. There are many doctors who attest to the fact that doctors employed by the Federal Government, and especially the Veterans' Administration hospitals, are dedicated to research and education. A shining example of the results which can be achieved with Federal funds is Dr. Yalow's most recent achievement. As Dr. Yalow said:

I had the advantage at the VA of freedom. They let me do what I wanted. It is the only road to success, along with hard work of course.

Because of her own position, Dr. Yalow is very much aware of the role of women in medicine. "Clearly," she says:

The fact women haven't reached the highest levels is because of discrimination on junior levels. This raises the question about the 30 percent of women now entering medical classes. Will the way they see themselves permit them to go ahead? Now that we have laws, we still aren't changing social custom. For example, if a woman gets a job in a distant city, will her husband move with her?

It will be a long time before we can change social patterns. With the resistance to ERA, I am not sure that there isn't a large group of women who do not want change. I don't believe in reverse discrimination for women. All I ask is equality of opportunity so that those of us who wish can reach for the stars.

Dr. Yalow has, indeed, reached for the stars. Not only has she managed to have a brilliantly successful, award-winning professional life, but she has also managed to have a successful family life as a wife and mother of two children. She is a shining example for all of us of what can be accomplished through organization and dedication.

I would like to include at this point in my remarks a sampling of the articles from New York newspapers which appeared following the Nobel prize announcement:

[From the New York Times, Oct. 14, 1977]

BRONX WOMAN AND TWO U.S. MEN SHARE THE NOBEL PRIZE IN MEDICINE

STOCKHOLM.—Three Americans, including a woman from the Bronx, were awarded the 1977 Nobel Prize in Physiology or Medicine today for their pioneering research in the role of hormones in the chemistry of the human body.

Dr. Rosalyn S. Yalow, who was born and raised in New York City, became the second woman ever to win a Nobel Prize in medicine, and only the sixth woman to win in any science category.

The 56-year-old Dr. Yalow, a scientist at the Veterans Administration Hospital in the Bronx, won for her development of the radioimmunoassay, which is the use of radioactive substances to find and measure minute substances, particularly hormones, in the blood and body tissues.

Dr. Roger C. L. Guillemin and Dr. Andrew V. Schally also shared the Nobel Prize for their research into the production of peptide hormones in the brain.

Dr. Guillemin, who is 53 years old and was born in France, is a researcher at the Salk Institute at La Jolla, Calif. The 50-year-old, Polish-born Dr. Schally is affiliated with the Veterans Administration Hospital in New Orleans and Tulane University.

The Karolinska Institute here announced that Dr. Yalow would receive one-half the 1977 prize, while Dr. Guillemin and Dr. Schally would share the other half. The prize is worth about $145,000.

In its citation, the institute said that the discoveries of the three recipients "have led to a formidable development of their own fields of research" and "have opened new vistas within biological and medical research far outside the border of their own spheres of interest."

Prof. Rolf Luft, chairman of the award committee, said the three scientists had laid the field of peptide hormones research "wide open."

Hormones are chemical substances produced in the body that have regulating effects on the activity of a specific organ or organs. Many of the body's hormones belong to the peptide category, including insulin, the adrenocorticotropic and growth hormones.

For more than 20 years Dr. Yalow worked with Dr. Solomon Berson to develop a new, more sensitive way of measuring how many of various hormones were present in the body. Dr. Berson died five and a half years ago, and Nobel Prizes are given only to living persons.

SETS UP COMPETITIED

The measuring technique they came up with involves combining a natural hormone in the human body with its antibody, which results in a competition between the two substances. Then a small amount of radioactive form of the hormone is introduced. By measuring how much of that radioactive form survives in competition with the antibody, researchers can tell how much of the natural hormone was present in the body to begin with.

An early use of their technique showed that diabetics, who had been thought to lack insulin altogether, actually had some, but were unable to use it because their bodies resisted its action.

Scientists have hailed the work of Dr. Guillemin and Dr. Schally, conducted independently, for revolutionizing the understanding of the whole field of brain function.

By isolating and analyzing various substances from a specialized portion of the brain, the hypothalamus, they were able to demonstrate that hormones produced by the pituitary gland (those regulating body growth, development and metobolism) are actually inhibited by other hormones produced by the hypothalamus.

NEW PEPTIDES ISOLATED

According to the Karolinska Institute, in describing the work, "Several new peptides were isolated from the hypothalamus, the foremost one probably being the first inhibitor of pituitary function, somatostatin, which decreases the production of pituitary growth hormone."

This was the third consecutive year that the medicine prize went to American scientists. Of the 121 laureates in this category over the last 77 years, the only other woman was Dr. Gerty Cori of Washington University in St. Louis, who shared the 1947 prize with her husband.

Earlier this week, two Americans and a Briton shared the Nobel Prize in Physics, and a Belgian scientist won the chemistry award. The physics winners were John H. Van Vleck of Harvard University, Philip W. Anderson of Bell Telephone Laboratories and Sir Nevill F. Mott of Cambridge University in England. The chemistry winner was Dr. Ilya Prigogine of the Free University of Brussels.

The 1977 prize for literature was won by a Spanish poet, Vicente Aleixandre. The award for economics will be announced tomorrow.

[From the New York Times, Oct. 14, 1977]

NOBEL WINNER'S TEST HAS VARIETY OF USES

(By Lawrence K. Altman)

Twenty years ago, when Dr. Rosalyn S. Yalow and the late Dr. Solomon Berson applied to diabetes research a test they had developed, the paper describing the step was rejected by the editor of a leading medical research journal.

Yesterday, Dr. Yalow, a medical physicist, was awarded one-half of the share of the Nobel Prize for Medicine and Physiology for the revolutionary impact that the test has had on medical research and practice. Dr. Yalow became the sixth woman to win a Nobel Prize in science.

Another researcher hailed the work done at the Bronx Veterans Administration Hospital as the most important in this century.

While some researchers may debate that contention, few will dispute the significance of the use of the test it has been applied in virtually every field of medicine, and even in crime.

The Nobel citation said that through this work biologists could measure in the laboratory many more substances than before, which represents "an enormous development in hitherto closed areas of research."

DIFFICULT DAYS RECALLED

Recalling in an interview the difficult days in the early stages of the research, Dr. Yalow said, "I have saved Stan Bradley's letter of rejection." Dr. Stanley E. Bradley, a medical professor at Columbia-Presbyterian Medical Center here, was editor of The Journal of Clinical Investigation when Dr. Yalow and Dr. Berson submitted their paper, which was eventually published.

The text that the Bronx researchers developed is called the RIA, for radioimmunoassay. It is so sensitive that it is capable of detecting a billionths of a gram. A Nobel committee member likened the test's sensitivity to the ability to detect the presence of half a lump of sugar in a lake 100 kilometers wide and long and 10 meters deep, or about 62 miles wide and long and 30 feet deep.

"It was accomplished by a spectacular combination of immunology, isotope research, mathematics and physics," the citation said.

The RIA test is used to measure the concentrations of hundreds of hormones, vitamins, viruses, enzymes. drugs and other substances to help determine changes between normalcy and diseased.

The test has helped doctors to diagnose in patients conditions that previously escaped detection because the established methods were too crude to measure the seemingly trivial changes in the amount of hormones that can so drastically affect an individual's health.

Use of the test is continuing to lead to new discoveries and understandings of the nature of man.

Dr. Yalow's researchers recently reported in the Proceedings of the National Academy of Sciences the discovery that a hormone called cholecystokinin that acts on the bowel exists in the brain in concentrations equal to that found in the intestines.

Dr. Yalow said her research group was about to report that another form of the test might prove useful in detecting tuberculosis bacteria in the blood, where they could not otherwise have been found.

The test is already used by thousands of blood banks to remove blood contaminated with a hepatitis virus from potential use in transfusions.

It is also being used in cancer research to track the life history in a mouse of a leukemia-causing virus long before a tumor becomes evident. Dr. Yalow predicted that this work would serve as a model for research into other types of viral diseases and that the test might have as important an impact on infectious disease work as it has in the understanding and treatment of hormonal disorders of the thyroid, adrenal and other glands.

Dr. Yalow said she had no idea where her and Dr. Berson's research would lead when, in 1950, they began a 22-year collaboration that ended with Dr. Berson's death at the age of 53 in 1972.

"It was a great partnership—he wanted to be a physicist and I wanted to be a physician," she said.

Through the years, the two scientists continued to carry on medical research. They served as the first volunteers for the experiments they were doing, first on the thyroid, blood and albumin and later on diabetes.

In using the test to measure the hormone insulin, they discovered that people who received injections of insulin produced antibodies against the hormone, which acted as an antigen, or foreign protein.

This finding conflicted with the prevailing concept that such a small protein as insulin could not be antigenic, and it took a considerable period of time before the Yalow-Berson findings were accepted.

Through a series of steps, the two scientists adapted the test for a wider group of substances.

Dr. Yalow said that all the funding for the research had come from the Veterans Administration. Although the V.A.'s medical care system has come under fire from a National Academy of Science study group, the agency's medical research program has been held in high regard.

Dr. Yalow, in praising the support the V.A. has given her, said that she never considered leaving the Bronx V.A. hospital because "they took me on when I was a nobody and they gave me the chance to work freely."

"The only tragedy in today's Nobel award," she added, is that Dr. Berson did not live to share it. Nobel prizes are not awarded posthumously.

[From the Riverdale Press, Oct. 20, 1977]

HOW DO YOU WIN A NOBEL PRIZE?—DR. YALOW'S ANSWER IS 'FREEDOM AND HARD WORK'

(By Margaret Waters)

"A funny thing happened to me when I went to visit my mother in Rockaway today," Dr. Rosalyn Yalow said: "I stopped in a kosher butcher shop to get a few things and the owner shouted, 'I know who you are. You're that woman who won the Nobel Prize. What are you doing out here? They said you lived in Riverdale.'" Dr. Yalow, this year's winner of the Nobel for Medicine, can probably look forward to lots more of the same. She can certainly take it in stride.

Last Sunday, Dr. Yalow relaxed at home—pausing between constant phone calls and an interview before a quick trip to the Kingsbridge Veterans Hospital to feed her lab animals. If she was "shaking for an hour after the confirmatory call from Stockholm," there was no trace of it now. Her first reaction on being interviewed at home was the typical house-proud woman's, "Don't look around when you come. My place is a mess."

Not so. The Yalow home, tucked away in a quiet tree-shaded Kingsbridge street, was neat as a sterile-room. Even the dozens of congratulatory telegrams were stacked tidily on the small coffee tables. Among the politicans' names at the bottom of the yellow sheets were those of Governor Carey, Senator Moynihan, Senator Javits and Representative Biaggi and Bingham. Flowers and plants stood on the dining room table, catching the light from the Star of David chandelier. The latter, from Spain, is part of the collection of souvenirs brought back from dozens of around-the-world trips.

Dr. Yalow shatters the stereotyped view of the cold, unreachable scientist. She is a warm woman and is happy being one. She balances her life nicely between her career and her family. "I'm very organized," she claims. "I don't ever bring my work home. I have enough to do here. Of course, I have cut down on my lab work a lot lately. Instead of 100 hours I make do with 60 a week at the VA."

She keeps a kosher kitchen but has all the appliances that make for efficiency—a large freezer, a microwave oven and two regular ovens. "I'm not very good at cake baking, though. I may measure in the lab but I don't have the patience to do it here. I tell my recipe-giving friends, 'Don't give me all those amounts, just tell me what's in it. I'll figure it out from there.' "

The Yalows have a part-time maid who takes care of the cleaning. As for the marketing chores Dr. Yalow says, "I shop for food after work. Aaron (Dr. Yalow's husband) only shops for fruit. He loves it. I don't. I pick up all the rest." Persons with a hankering to see a celebrity up close might keep a sharp lookout the next time they go to Waldbaum's.

Dr. Yalow's efficiency is carried out in her travel equipment. "I'm famous for going around the world with an overnight bag. All I do is drip dry. Any woman can go the same way. I keep my colors down to one—navy. I take one suit, two pair of shoes, flats and heels. Add a few blouses and shirts and I'm ready to go.

"I seldom wear slacks, I do wear them at home and to work if it is very cold. It's a funny thing. My mother told me when I was growing up that ladies never wore pants. Now my 92-year-old mother has more pants suits than I have.

"Aaron and I have been all over the world. I don't know how many times we've been in Israel, at least six. Of course, I do an awful lot of traveling alone." At this point, a typical husband and wife exchange followed on who does the cooking while she's gone.

Dr. Aaron Yalow, the self-sufficient professor, says, "I can take care of myself. There's nothing I can't cook if I need to." Dr. Rosalyn Yalow, the wise wife and mother, answers, "How about all the baked dinners I leave for you in the freezer when I go away?" Dr. Yalow, mindful of the future, rejoins, "That's true." His wife adds with love, "Our daughter says I have you both spoiled."

What does the scientist do for relaxation? "When I get home, I'm glad to put my feet up and rest. I read some magazines. Occasionally, other things. I sure do read some 'Who-done-its,' along with whatever the librarian at the VA picks up for me to take along on a trip. Right now, I'm reading Irving Stone's 'Treasures of Greece.' Whenever I'm going to a particular country I read about its art and history. There was a time when I was more often in the Louvre than I was at the Metropolitan. My favorite opera, ever since I heard it in Rome, is Aida. Of course, they do it there at the baths of Caracalla. Most of my music and art enjoyment, I get when I'm traveling. At home, TV puts me to sleep.

"The greatest thing about traveling is there are few civilized countries where I don't have friends. My daughter in California was just complaining that her approaching wedding is getting out of hand. Too many of my friends have to be invited. The Yalows' daughter, Elanna, who is working for her doctorate in educational psychology at Stanford University, plans to marry in December. Their son, Ben, 25 years old, is a computer systems analyst for the City University.

Dr. Yalow remarked with a smile, "Do you know? When I heard at the lab last Friday at 7 in the morning that I'd won, I raced home to tell Benjy. I dashed up to his bedroom and said, 'I've won.' He said, 'What time is it?' "

When Dr. Yalow first got the news, she phoned her husband at Cooper Union, where he is a physics professor. He hurried to the lab to be with his wife of 34 years and to join in the excitement.

Although Dr. Yalow has the best of both worlds, there is a leitmotif of sadness when she discusses women's position in the world. "I had the advantage at the VA of freedom. They let me do what I wanted. It is the only road to success, along with hard work of course. I was also lucky. The work Dr. Solomon Berson (her late collaborator in the work which won the Nobel award) and I did was a new field. We made the field.

The test the scientists devised is the radioimmunoassay (RIA). With this tool, which uses radioactive substances, researchers all over the world are able to measure amounts as minute as a micro microgram or a millionth of a millionth of a gram (there are five grams in a teaspoon.)

"I have always been a liberated woman, not "women's lib." I am very strong for ERA. I have spoken at great length all over the country in support of the amendment. I lectured a year ago in April in California for the Catherine McCormack Lecture. These lectures were established to do something essential for women. We discussed the impact of women in academic medicine. Only two percent of tenured position in medical schools are held by women.

"I am going to give a speech to the Association of American Medical Colleges on the impact of women. I'll tell you the gist of what I'm going to say: Women in terms of numbers have been more important in medicine than in hard sciences. On the other hand, there are no women deans in medical schools—with the exception of one chairman of the Department of Medicine in San Diego.

"Clearly, the fact women haven't reached the highest levels is because of discrimination on junior levels. This raises the question about the 30 percent of women now entering medical classes. Will the way they see themselves permit them to go ahead? Now that we have laws, we still aren't changing social custom. For example, if a woman gets a job in a distant city, will her husband move with her?

"It will be a long time before we can change social patterns. With the resistance to ERA, I am not sure that there isn't a large group of women who do not want change. I don't believe in reverse discrimination for women. All I ask is equality of opportunity so that those of us who wish can reach for the stars."

CIGARETTE SMUGGLING: FEDERAL TAX REFORM IS THE ONLY SOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

Mr. DRINAN. Mr. Speaker, the illegal transportation and sale of cigarettes across State lines is a serious and growing crime which receives far too little attention. Criminals purchase large quantities of cigarettes wholesale in a State with a very low tax on cigarettes and transport them to a State with a much higher tax. They then sell them at a black market price lower than the legal market price of the high-tax State, but at a large profit over the initial purchase cost in the low-tax State.

Law enforcement officials have compiled overwhelming evidence that organized crime is largely responsible for cigarette bootlegging. Organized crime derives hundreds of millions of dollars annually from this activity—money which is stolen from the majority of the States. Bootlegging not only robs millions in revenue from the States; it also robs legitimate cigarette wholesalers and packers of their livelihoods and, in some cases, their lives. It is emphatically not a victimless crime.

Revenue losses include not only tax dollars, but also increased costs for law enforcement and for unemployment compensation payments to those who lose their jobs as a result of massive illegal wholesaling of cigarettes. The transportation of contraband for illegal sale is by definition an interstate activity, thereby making it impossible for the States to deal effectively with this type of crime. Only the Federal Government can take the measures required to alleviate this serious and growing problem.

Cigarette bootlegging arises as a result of the wide disparity in the rates at which the individual States tax cigarettes. In Massachusetts, for example, the cigarette tax is 21 cents per pack; in North Carolina, the tax is but 2 cents per pack. Cigarettes are bought wholesale in North Carolina or in several other low-tax States and then sold in Massachusetts, Texas, Connecticut, Minnesota or any of a large number of high-tax States at a black market price, yielding enormous profits for organized crime. The retail price of cigarettes, including State taxes, varies from a high of 57.6 cents in Connecticut down to 35.8 cents in North Carolina—a 21.8 cent differential. It is this differential which makes cigarette bootlegging so profitable—and therefore inevitable.

The extent of organized crime's involvement in cigarette bootlegging is well documented. According to the Advisory Commission on Intergovernmental Relations, organized crime is responsible for the illegal transportation and sale of more than a billion packs of cigarettes annually, resulting in criminal profits of more than $105 million and losses to wholesalers and State tax bureaus of more than $500 million.

Because of the huge illegal interstate traffic in cigarettes, more than 2,500 drivers, packers, and salesmen in New York State alone have lost their jobs, and nearly half of New York's legitimate cigarette wholesalers have gone out of business. Other high-tax States have suffered similar job and revenue losses. The remaining wholesalers are forced to pay enormous sums annually for skyrocketing insurance premiums and for security

guards. Despite these measures, the profitability of bootlegging is such that theft and hijacking continue to increase.

Among the majority of the 50 States which are substantially affected in terms of the percent of cigarette tax revenue lost due to smuggling are the following: Connecticut, 20 percent; Washington, 18.8 percent; Florida, 17.5 percent; New York, 17.4 percent; Texas, 17.3 percent; Arkansas, 15.8 percent; New Jersey, 15.3 percent; Wisconsin, 14.2 percent; Pennsylvania, 13.6 percent; and Minnesota, 14.9 percent. The annual net loss in tax revenues from the States as a whole as a result of cigarette bootlegging is approximately $337 million. The States losing the most revenue are New York, $172.3 million; Texas, $143.1 million; Pennsylvania, $35.6 million; Florida, $35.7 million; and New Jersey, $26.0 million.

Individual States are clearly unable to deal with this problem. Federal action is essential to foster effective law enforcement and to remove the incentives for the illegal interstate transportation and sale of cigarettes. Cigarette smuggling can be reduced significantly only by congressional action to eliminate the enormous State tax differentials. The States cannot be expected to adopt more uniform tax rates in the absence of Federal incentives. The high-tax States have pressing revenue needs and are, therefore, unlikely to lower their cigarette tax rates; the low-tax tobacco-producing States generally do not have equivalent revenue needs and are not favorably disposed to increasing the tax on their major product.

In short, only the Federal Government has the authority and the resources to combat cigarette smuggling and remove this large and growing source of revenue for organized crime. An effective solution requires comprehensive Federal legislation that will bring about a more uniform tax rate among all the States and thereby eliminate the incentive for cigarette smugglers.

I am today introducing legislation which, if enacted into law, would end the crime of cigarette bootlegging overnight and transfer of more than $500 million annually from the vaults of organized crime and put it back into the hard-pressed State treasuries where these funds belong. The bill includes provisions identical to several bills which would make this crime a Federal offense and which would strengthen enforcement in several ways, including the hiring of additional personnel and increasing reporting requirements. These measures, described in detail recently on several occasions, are indeed necessary steps. But are they sufficient? Law enforcement experts uniformly admit that they are not.

The reason is a simple one: the smuggling of large quantities of cigarettes over interstate highways in the dead of night is a crime whose detection is virtually impossible in the absence of clearly illegal searches and seizures. The only way to make a real dent in this serious and rapidly growing crime is to remove the wide interstate cigarette tax differentials which are responsible for its commission.

The bill which I am introducing today would amend the Internal Revenue Code to remove the incentive for interstate cigarette smuggling by establishing a uniform Federal tax. The Federal tax would be increased from its present level of 8 cents per pack to 23 cents per pack. Each State which refrained from levying a tax on cigarettes would then be eligible to receive from the Federal Government a reimbursement based upon the number of packs of cigarettes sold. Each State would, in effect, receive Federal moneys equal to their share of the total tax imposed.

The bill directs the Secretary of the Treasury to create in the Treasury Department a cigarette tax trust fund and to establish the most efficient and effective system of reimbursement to the States which participate in the program. The only costs resulting from the enactment of this legislation would be the minimal sums required for the administration of the trust funds.

The bill's benefits, however, are substantial. It is unlikely that any State would fail to participate, and so the crime of interstate bootlegging of cigarettes—a crime which threatens to become one of organized crime's most significant revenue sources—would vanish. Organized crime would suffer. The threats, beatings, and murders which have grown to accompany the crime would disappear. Individuals engaged in legitimate cigarette distribution and sales would regain the jobs which have been lost to professional criminals. States would receive their fair share of taxes levied on cigarettes.

Some will inevitably object to this and similar approaches because they would result in increases in the price of cigarettes in many States. In most instances, however, this increase will be relatively small—a tiny price to pay for all of the benefits attendant upon the removal of cigarette smuggling. Moreover, this argument based on price ignores a central fact: As smuggling increases, States lose more and more of their expected revenues from taxation of cigarettes, so they steadily raise the taxes (as they have been doing). This only encourages more smuggling, which results in more revenue losses, which results in higher taxes. The only way to break this vicious circle is to increase the tax in one step and make the price uniform. If the circle is not broken, then at some point in the not too distant future, the price will go up as much as it will under the terms of the legislation which I am introducing today. The only difference will be that the money will continue to go, as it increasingly does now, to organized crime rather than to the States, which are so hard-pressed financially.

In coming days and weeks, I will be writing to my colleagues seeking their support for this bill and informing them of the millions lost annually in their States and regions as a result of cigarette smuggling. I hope that we will ultimately enact into law this or similar legislation to break the vicious circle of cigarette smuggling. Time is of the essence, as this crime continues to skyrocket and the States continue to lose millions of dollars annually.

I attach below a summary of this serious situation which appeared in the New York Times on September 4, 1977.

The bill's text follows:

MILLIONS IN SALES TAXES LOST TO CIGARETTE SMUGGLERS

(By Wayne King)

ATLANTA, Sept. 3.—Interstate bottlegging of cigarettes, increasing for a decade because of growing disparities in state and local tax rates, has reached such proportions that it is regarded by some as second only to narcotics as a profit item for organized crime.

According to a report by the Advisory Commission on Inter-Government Relations, "four New York crime families, employing more than 500 enforcers, peddlers and distributors, smuggle an estimated 480 million packs into the state each year," and the estimated tax loss caused by nine identifiable mob groups exceeds $62 million.

The commission, made up of private citizens, United States representatives and senators, governors, Cabinet members, mayors, state legislators and county officials, also reported that in a nine-state area in the Northeast alone, organized crime bootlegs more than a billion packs of cigarettes annually, at a profit of more than $105 million to the criminals and losses to wholesalers and tax agencies of more than $500 million.

In the last 10 years, according to Morris Weintraub, who heads the Council Against Cigarette Bootlegging, New York State and City have lost $600 million in tax revenues, the cigarette industry has lost $2.5 billion, half the employees of wholesalers and vendors have been thrown out of work, a third of the cigarette wholesalers have gone out of business and insurance costs have skyrocketed, all because of bootlegging and hijacking.

Typically, a bootlegging operation consists of buying a large number of cigarettes in a low-tax state such as North Carolina, where the tax is paid, and transporting them to a high-tax area like New York, where the illegal distribution system has become so entrenched that Mr. Weintraub estimates that half of the employess of legitimate wholesalers and vendors have been thrown out of work because of incursions by illegal sales.

According to Mr. Weintraub, bootlegers "have created a distribution system that covers every apartment house, every industrial plant, every office building and are now even making deliveries to homes."

He said that they have also set up sophisticated counterfeiting operations for tax stamps and supply their own retail outlets.

ONE OUT OF TWO SOLD BY BOOTLEGGERS

Meanwhile, he reported, criminals have netted about $245 million and captured the sales of one out of every two packs of cigarettes sold in New York City, which has the highest cigarette taxes in the country, and one out of every four packs sold in the state.

Mr. Weintraub reports that, in the last 10 years, New Jersey lost about $119 million in taxes, Pennsylvania $176 million, Connecticut $86 million and Massachusetts $32 million. In the Middle West, Illinois lost $25 million, Michigan $14 million, Minnesota $17 million, and Ohio $30 million.

The commission found that cigarette bootlegging did not become a serious problem until the late 1960's. Until then, there were not wide price differences resulting from tax

variations and so bootlegging was not so profitable. In 1960, for example, the price differential between North Carolina and New York State was only 5.2 cents. By 1975, it was 18.4 cents, and in New York City, about 21 cents, meaning a potential profit for bootleggers of $2.10 a carton.

TAX VARIATIONS THE CAUSE

The commission found that those states with tax rates generally in line with surrounding states were little affected by smuggling. But those at the extreme ends of the tax scales gained or lost revenues, although the overall picture was one of net loss, since the low-tax states sell more cigarettes and the high-tax states sell fewer.

The commission found that, in terms of potential cigarette tax revenues, those states losing substantial amounts were Connecticut (20 percent); Washington (18.8 percent); Florida (17.5 percent); New York (17.4 percent); Texas (17.3 percent); Arkansas (15.8 percent); New Jersey (15.3 percent); Wisconsin (14.2 percent); and Minnesota (14.9 percent).

The states where cigarette sales surpassed projected revenues, and presumably some of the sales were to bootleggers.

Because of the difficulties of enforcement and high potential for profit, the commission concludes that "cigarette bootlegging will continue unabated and will increase if tax differentials increase further."

RELUCTANT TO LOWER TAXES

At the same time, the commission concedes that erasing or diminishing disparities will be difficult. High tax states like New York, Massachusetts and Connecticut say that they cannot substantially reduce cigarette taxes, even if some revenue is lost to bootleggers. Closing the 23-cent tax gap between North Carolina and New York City through a New York reduction, for example, would be fiscally impossible, the commission report said.

By the same token, states like North Carolina, the nation's leading tobacco producer, feel that high taxes hurt cigarette sales, and because these states are profiting anyway, pressure from outside to raise taxes in line with national averages has little effect.

This position is illustrated by the views of Rufus L. Edmisten, the Attorney General of North Carolina, who wrote the commission as follows:

"It is my firm belief that the majority of the citizens of this state, myself included, feel that the high-tax states have brought this problem upon themselves. They should not expect North Carolinians to suffer financially so that they may continue to impose exorbitant taxes. Our state does not impose any unusual restrictive taxes on the products of any of the other states, thus creating a bootlegging or smuggling problem for North Carolina. We only ask that the other states treat us as well."

H.R. 9722

A bill to amend the Internal Revenue Code of 1954 to discourage interstate bootlegging of cigarettes by increasing the Federal tax on cigarettes and to provide payments to States which do not impose a special tax on cigarettes and to amend title 18, United States Code, to impose certain penalties with respect to such bootlegging and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) cigarettes are transported in interstate commerce for the purpose of avoiding State cigarette taxes, and the States are unable to stop such transportation through the exercise of their police powers;

(2) there is a causal relationship between cigarettes so transported and the rise of racketeering in the United States;

(3) organized crime has realized millions of dollars from the sales of such cigarettes, and has channeled profits from such sales into other illicit activities;

(4) a sharply expanded role by the Federal Government is essential for effective law enforcement against cigarette bootlegging since the interstate nature of the transportation places individual States at too great a disadvantage to handle such enforcement effectively; and

(5) such an expanded role must include the requirement of records by dealers in cigarettes and an additional Federal tax on all cigarettes.

(b) PURPOSE.—The purpose of this Act is to provide a timely solution to a serious organized crime problem and to help provide relief to many cities and States.

SEC. 2. IMPOSITION OF ADDITIONAL TAX ON ALL CIGARETTES.

(a) IMPOSITION OF TAX.—Subsection (b) of section 5701 of the Internal Revenue Code of 1954 (relating to imposition of tax on cigarettes) is amended by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(3) ALL CIGARETTES.—In addition to the taxes imposed by paragraphs (1) and (2), on all cigarettes regardless of weight, $13.50 per thousand; except that, if more than 6½ inches in length, each 2¾ inches, or fraction thereof, of the length of each shall be counted as one cigarette."

(b) PAYMENTS OF ADDITIONAL TAX TO STATES.—Subchapter A of chapter 52 of such Code (relating to definitions; rate and payment of tax; exemption from tax; and refund and drawback of tax) is amended by adding at the end thereof the following new section:

"SEC. 5709. PAYMENTS OF ADDITIONAL TAX ON CIGARETTES TO CERTAIN STATES.

"(a) ALLOWANCE OF PAYMENTS TO STATES—If—

"(1) any cigarettes on which tax was paid under section 5701(b)(3) are sold at retail in any State, and

"(2) such State did not impose a State cigarette tax in respect of such cigarettes,

there shall be paid (without interest) to the chief financial officer of such State an amount equal to the tax imposed by section 5701(b)(3) so paid in respect to such cigarettes.

"(1) STATE CIGARETTE TAX.—The term 'State cigarette tax' means any tax imposed by any State on the sale of cigarettes. Such term does not include a general sales tax (as defined in section 164(b)(2)) and does not include any tax imposed by any political subdivision of any State.

"(2) STATE.—The term 'State' includes the District of Columbia.

"(c) CLAIM FOR PAYMENT.—

"(1) IN GENERAL.—Any claim for payment to any State under this section shall be made at such time, and in such manner, as the Secretary shall by regulations prescribe.

"(2) ADVANCE PAYMENTS.—The regulations prescribed under this subsection shall provide for—

"(A) advance allowance of the payment to which such State may be entitled for any period, and

"(B) a reconciliation of—

"(i) the payments allowed in advance under subparagraph (A) for any period, and

"(ii) the payments to which such State was actually entitled for such period."

(c) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 52 of such Code is amended by adding at the end thereof the following new item:

"Sec. 5709. Payments of additional tax on cigarettes to certain States."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to cigarettes removed from the factory or from internal revenue bond, or released from customs custody, after December 31, 1977.

SEC. 3. ESTABLISHMENT OF TRUST FUND FOR THE PAYMENT OF ADDITIONAL CIGARETTE TAX TO STATES.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the Cigarette Tax Trust Fund (hereinafter in this section referred to as the "Trust Fund"), consisting of such amounts as may be appropriated to the Trust Fund as provided in subsection (b).

(b) TRANSFER TO TRUST FUND OF ADDITIONAL CIGARETTE TAX.—

(1) IN GENERAL.—There are authorized to be appropriated to the Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in this section referred to as the "Secretary") to be equivalent to the amount of the taxes under section 5701(b)(3) of the Internal Revenue Code of 1954 (relating to imposition of tax on cigarettes).

(2) METHOD OF TRANSFER.—The amounts appropriated pursuant to paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the amounts referred to in paragraph (1) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) USE OF AMOUNTS IN THE TRUST FUND.—Amounts in the Trust Fund may be used only for—

(1) making the payments provided by section 5709 of the Internal Revenue Code of 1954 (relating to payments of additional tax on cigarettes to certain States), and

(2) the payment or reimbursement of the administrative costs in connection with the making of the payments referred to in paragraph (1),

and such amounts are authorized to be appropriated for such purposes.

(d) EFFECTIVE DATE.—This section shall take effect on December 31, 1977.

SEC. 4. AMENDMENTS TO TITLE 18.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 59 the following new chapter:

"Chapter 60.—CIGARETTE TRAFFIC

"Sec.
"1285. Definitions.
"1286. Unlawful acts.
"1287. Recordkeeping and reporting.
"1288. Penalties.
"1289. Effect on State law.
"1290. Enforcement and regulations."

"§ 1285. Definitions.

"As used in this chapter:

"(a) the term 'cigarette' means:

"(1) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

"(2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appareance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (1).

"(b) the term 'contraband cigarettes' means a quantity in excess of twenty thousand cigarettes, bearing no evidence of the payment of applicable State cigarette taxes

in the State where they are found, and which are in the possession of any person other than

"(1) a person holding a permit issued pursuant to chapter 52 of title 26, United States Code, as a manufacturer of tobacco products or as an export warehouse proprietor, or a person operating a customs bonded warehouse pursuant to 19 U.S.C. 1311 or 1555, or an agent of such person;

"(2) a common or contract carrier; provided, however, that the cigarettes are designated as such on the bill of lading or freight bill;

"(3) a person licensed, or otherwise authorized by the State where the cigarettes are found, to deal in cigarettes and to account for and pay applicable cigarette taxes imposed by such State; or

"(4) an officer, employee, or other agent of the United States, or its departments and wholly owned instrumentalities, or of any State or any department, agency, or political subdivision thereof, having possession of cigarettes in connection with the performance of their official duties.

"(c) the term 'common or contract carrier' means a carrier holding a certificate of convenience or necessity or equivalent operating authority from a regulatory agency of the United States or of any State or the District of Columbia;

"(d) the term 'State' means any State, or the District of Columbia, which requires a stamp, impression, or other indication to be placed on packages or other containers of cigarettes to evidence payment of cigarette taxes;

"(e) the term 'dealer' means any person who sells or distributes in any manner any quantity of cigarettes in excess of 20,000 in a single transaction;

"(f) the term 'Secretary' means the Secretary of the Treasury or his delegate;

"(g) the term 'person' means any individual, corporation, company, association, firm, partnership, society, or joint stock company.

"§ 1286. Unlawful acts

"(a) It shall be unlawful to ship, transport, receive, or possess contraband cigarettes.

"(b) It shall be unlawful to knowingly make any false statement or representation with respect to the information required by this chapter to be kept in the records of a dealer.

"§ 1287. Recordkeeping and reporting

"Each dealer shall maintain such records of shipment, receipt, sale, or other disposition, of cigarettes at such place, for such period, and in such form as the Secretary may by regulations prescribe. Dealers shall make such records available for inspection at all reasonable times, and shall submit to the Secretary such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Secretary may enter during business hours the premises (including places of storage) of any dealer in cigarettes for the purpose of inspecting or examining:

"(a) any records or documents required to be kept by the dealer, and

"(b) any cigarettes kept or stored by the dealer at such premises.

"§ 1288. Penalties

"(a) Whoever violates any provision of this chapter or regulations promulgated thereunder shall be sentenced to pay a fine of not more than $10,000, or to be imprisoned for not more than two years, or both.

"(b) Any contraband cigarettes involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5855(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

"§ 1289. Effect on State law

"Nothing in this chapter shall be construed to affect the concurrent jurisdiction of a State to enact and enforce State cigarette tax laws, to provide for the confiscation of cigarettes and other property seized in violation of such laws, and to provide penalties for the violation of such laws.

"§ 1290. Enforcement and regulations

"The Secretary shall enforce the provisions of this chapter and may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter."

(b) CONFORMING AMENDMENT.—The table of chapters of title 18, United States Code, is amended by inserting after the item relating to chapter 59 the following new item:

"60. Cigarette traffic.....1285".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2) the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION.—Sections 1286(b) and 1287 of title 18, United States Code (as added by this Act), shall take effect at the beginning of the first month which commences more than 120 days after the date of the enactment of this Act.

SEC. 5. UNLAWFUL USE OF CERTAIN VESSELS, ETC.

(a) IN GENERAL.—Section 1(b) of the Act entitled "An Act to provide for the seizure and forfeiture of vessels, vehicles, and aircraft used to transport narcotic drugs, firearms, and counterfeit coins, obligations, securities, and paraphernalia, and for other purposes", approved August 9, 1939 (49 U.S.C. 781(b)), is amended—

(1) by striking out "or" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof: "; or"; and

(3) by adding after paragraph (3) the following new paragraph:

"(4) Any cigarettes, with respect to which there has been committed any violation of any provision of chapter 60 of title 18, United States Code, or any regulation issued pursuant to such chapter."

(b) DEFINITIONS.—Section 7 of such Act (49 U.S.C. 787) is amended—

(1) by striking out "and" at the end of subsection (e);

(2) by striking out the period at the end of subsection (f) and inserting in lieu thereof "; and "; and

(3) by adding after subsection (f) the following new subsection:

"(g) The term 'cigarettes' means 'contraband cigarettes' as defined in section 1285 (b) of title 18, United States Code."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

LONG ISLAND SOUND HERITAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. GIAIMO) is recognized for 5 minutes.

Mr. GIAIMO. Mr. Speaker, earlier today, I joined with two of my friends and colleagues, Congressman CHRIS DODD and STEWART MCKINNEY, in introducing in the House the Long Island Sound heritage bill.

For the benefit of my colleagues, I would like to insert at this time our joint statement in support of this legislation:

JOINT STATEMENT OF CONGRESSMEN GIAIMO, DODD, AND MCKINNEY ON THE LONG ISLAND SOUND HERITAGE BILL, OCTOBER 25, 1977

Presently, there is an unprecedented demand upon outdoor recreation services at shoreline parks and beaches, particularly on Long Island Sound. Although the Sound's coastline covers 600 miles and is used by millions of people, over 80 percent of this land is owned by individuals and businesses. A majority of the remaining 20 percent consists of town-owned beaches, and there are only five developed state parks along the coastline covering 10 miles. In addition to the limited shoreline property available for recreational services, pollution and unplanned development threaten to diminish the natural value of this area.

The 1965 Land and Water Conservation Act declares "it to be desirable that all American people of present and future generations be assured adequate outdoor recreation resources, and that it is desirable for *all levels of government* . . . to take prompt and coordinated action to the extent practicable without diminishing or affecting their respective power and functions to conserve, develop, and utilize such resources for the benefit and enjoyment of the American people."

In keeping with the attitude reflected in this law, we are introducing legislation authorizing the creation of the Long Island Sound Heritage. This bill, first suggested in June 1969 by Connecticut's senior Senator Mr. RIBICOFF, carries out a recommendation of the New England River Basins Commission's four-year Long Island Sound Study for an expanded system of parks, beaches and wildlife areas in Connecticut and New York to enable more people to enjoy the Sound and to protect this invaluable natural resource. Fifteen different locations in the two States are proposed for initial inclusion in the Heritage which, "because of their unique scenic, historic, architectural, cultural, conservation, ecological, scientific and natural values, possess characteristics worthy of the Lond Island Sound Region."

This bill directs the Secretary of the Interior, within a year of the bill's enactment, to develop specific plans, pursuant to on-site public hearings, for the acquisition, development, protection, maintenance, and administration of the 15 locations. The plans are to encompass the specific description of each Heritage site, their proposed uses, provisions for public access and mass transportation as well as minimizing the impact on local public facilities. Recommendations on the best methods to acquire, develop, and maintain the sites will also be included. Once the plans are prepared, the Secretary can acquire the sites, either through donation or purchase. The Interior Department will then enter into agreements with local and State officials for the administration and maintenance of the areas as components of the Heritage system. Financial and other aid will be furnished to the States and local communities by the Federal Government to assist them in administering the sites.

This bill provides a workable policy for our finite shoreline by improving the availability of scarce Long Island Sound resources while instituting a close working relationship among Federal, State, and local governments in acting to preserve and protect these areas. We hope that our colleagues will join us in supporting this bill. If more extensive information is desired, we recommend Senator RIBICOFF's remarks inserted in the CONGRESSIONAL RECORD of August 1, 1977 (p. 25826), August 4, 1977 (p. 26908), and September 7, 1977 (p. 27961).

THE AFRICAN VIEWPOINT: REMARKS OF THE NIGERIAN HEAD OF STATE AT HOWARD UNIVERSITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, on October 12, 1977, His Excellency Lt. Gen. Olusegun Obasanjo, head of the Federal Military Government, and Commander-in-Chief of the Nigerian Armed Forces, spoke before an overflow audience at Howard University in Washington, D.C., on the current state of United States-African relations. These remarks, made by one of the most important and respected leaders in Africa, give insight into the complexity of problems and potential solutions to the issues of Africa. They also call on those who are concerned to help bridge the gulf between the developing and the developed nations. I believe that General Obasanjo's remarks are an important contribution to the dialog on African affairs, and include them here for the benefit of my colleagues:

REMARKS BY HIS EXCELLENCY
LT. GEN. OLUSEGUN OBASANJO

Your Excellencies, President of Howard University, distinguished ladies and gentlemen, I am particularly delighted to be here with you this afternoon. This meeting is primarily an act of reunion and homage. I say this because more than any other black educational institution in the United States of America, Howard University has for over a century been among the traditional black Colleges and Universities which continue to perform a significant role in the overall educational, economic and social development of black Americans and Africans. These institutions championed the cause of equal opportunity for quality education and have continuously provided this opportunity to those who were denied it or could not afford it.

I wish to acknowledge the goodwill of Howard University Board of Trustees and Faculty towards foreign and African students in general and Nigerian students in particular. In spite of the great demand on places by black American students, and the great need to give these places to them, this University has adopted an open door policy towards blacks from all over the world. From the 1930's Howard University has provided succour to hundreds of Nigerians, quenched their thirst for knowledge and provided jobs at all levels for many among them who needed it and were qualified. To the greater glory of this Institution it can name among its alumni a past President of Nigeria, a former Ambassador of Nigeria to the United States of America and innumerable highly placed persons in all walks of life in my country. No doubt this great University has contributed its quota to the number of highly placed black Americans who were given the advantage of higher education by traditional black Colleges and Universities. Among them is the current United States Ambassador to the United Nations, Mr. Andrew Young.

I wish to place on record our gratitude to Dr. J. Cheek, President of Howard University and his Board of Trustees, for their understanding and encouragement of Africans studying in this University. Although we are investing heavily on higher education in Nigeria, it remains impossible for us to provide enough places for all Nigerians who want to have and are qualified for higher education. We therefore rely heavily on supplementing our own efforts with places made available to our students in Universities all over the world. The gap that places given at Howard University fill is numerically significant and stimulating both psychologically and academically.

The theme of my speech before you today is Black and African development and the process of mental liberation. During my opening address to the Colloquium of the Second World Black and African Festival of Arts and Culture in Lagos earlier on this year I offered an argument that all black and African peoples, wherever they may be, cannot work or think in languages indigenous to them.

I also suggested that, to overcome this handicap, they needed unruffled patience and painstaking dedication. I also implored all participants to de-emphasize self-glorification and self-justification, but rather to turn the light of inquiry on finding a direction for freeing our people from mental and material poverty and bondage. There is no doubt about our contribution to human civilization in the past. The University of Timbuktu ran a flourishing research centre well ahead of Europe. But I lamented the fact that the long history of our achievement and contribution to human civilization has been completely suppressed and obliterated by colonial domination. All black intellectuals must construct a new bridgehead to assault this misrepresentation of history. This is an absolute pre-requisite for preparing ourselves to regain control over our destiny.

Our intellectuals and schools must ensure that their work in the various Universities and research centres today set the course of this new sense of values which will do justice to the roots of the African and black peoples and set the culture aright for the new generations to come. The task precedes any search for technological and material presence we might seek to curve out in the world. Technological and material abundance is our main objective. But we cannot be motivated by a psychology of dependence and an imposed belief of being second rate. No nation or peoples drew inspiration and made any impact on history by a state of mind that is dominated by doubt about its capacity and pride in its history.

For many blacks in this part of the world there are two bridges to cross. The first concerns their relationship to the society in which they must live, and the second is the question of their relationship with their origins. The two are interwoven and interconnected, but still capable of separate treatment. In regard to the first, I wish to acknowledge that without the active collaboration of some of our ancestors, some of your ancestors would not have been brought here. In any case both of us descend from this same stock. History, however, is not a backward looking exercise. For us, it emphasizes the need to be one with you, to make today and tomorrow much better than yesterday. In this effort to improve the lot of the blacks in American society, we acknowledge the long line of fighters, from Booker T. Washington, through to the hall of fame of the NAACP, Malcolm X, Dr. M. Luther King and the younger generation of fighters for the improvement of blacks in the United States of America. You will note that I have not mentioned the likes of Dr. W. Dubois. They are the bridge builders between you and us. Mr. Alex Haley is the latest in line in this category. As I said earlier on, this great Institution has contributed its quota to the development of the capacity of the black American for active participation in this society. There is an input output ratio to every human undertaking. Everything possible must continue to be done to increase and improve this capacity on either side.

There are two broad vehicles for achieving this objective. The one is political and the other intellectual. Some progress has been made on the former front. The foundation for regaining and ensuring equal political opportunity for blacks has been laid. The price has been paid and we are now approaching the end of the tunnel. The prospects are now bright and the end is definitely in view. In regard to the intellectual equipment for increasing black input and output, we are luckier here, but we must keep up the pressure. Let all blacks in this society develop a thirst for knowledge. You are living in a 'knowledge society' and any individual or group—within such a society who is short on knowledge power will have itself to blame. I implore you, therefore, to take the call and challenge to your churches and mosques, to the pool rooms and dance halls. The time has come for all blacks, through Universities and Colleges, through on the job training, through community and individual efforts, to close ranks and increase the input of black Americans to the knowledge society. Happily, the returns are high and the effort worth making. Some of you may wonder what is in this for us on the Continent of Africa.

I should start by saying that since the ship left shore we too have been through subjugation only slightly less humiliating than yours. We are just beginning to emerge from this period having recovered our right to political self determination. However a lot of damage has been done to the structures of our society. We are busy buckling down to the hard work of putting the damage right. In this exercise, we have had to rely heavily on external help. I am glad to say that in Nigeria for example, black Americans with high technical skills are working shoulder to shoulder with their brothers and sisters. Considering the size and scope of problems facing a nation such as ours there is infinite opportunity for co-operation and your experience and know-how are both welcome in helping us in our very considerable task of building a nation. We in Nigeria, for example, have embarked on a 60 million dollar programme of economic development between now and 1980. One of the major constraints to this effort is the shortage of technical know-how and manpower. To combat this shortage, we have mounted a special drive to bring home all our qualified manpower from abroad and have a crash programme to train more. In the short term, help in this direction is welcome from all quarters. Every qualified American who has taken advantage of the educational and research facilities in this great country can make his services available to us, to the material and psychological satisfaction of both parties.

On a second but very important platform is the fact that Africa and the United States of America need greater collaboration on the political plane. Your great country is a world power and its position and posture on many issues can be, and most often is, critical to the nature and speed of solutions in world affairs. Your political process is oiled by an efficient system of lobbies. The greatest weakness in the foreign policy of African countries is that although the U.S.A. has one of the largest concentrations of blacks in the world, this political power has not before now been used to influence its African policy. Increasingly, there is an awareness of this possibility, but all black intellectuals, scholars and researchers must take account of this factor in the course of their work. The politicians of the black caucus have become a greater force to reckon with; the black vote too has become a decisive factor. These new points must facilitate

the achievement of the objectives of black and African peoples wherever they may be.

There is no greater area of action for this lobby than the explosive situation in Southern Africa. In Rhodesia, Namibia and South Africa, millions of blacks and Africans are suffering under colonialism and the most perverted form of racism—apartheid. The present United States Administration has moved closer to us in finding solutions to these problems and deserves to be congratulated. There is still a long way to go though, and we cannot yet rest on our oars. Every black American must use his influence in the political process to ensure that the Government of the United States of America fights on our side to bring majority rule to Southern Africa and an end to apartheid. In this regard, we must alert all black American scholars of the danger of being used for wrong kind of public relations work for and on behalf of the South African government.

We in Nigeria believe that so long as one inch of African territory is occupied territory, we remain in bondage, and that wherever any black or African is oppressed, we share the indignity. This is the way it should be. To return to the general themes of our overall development we must sharpen our tools through a process of mental liberation. In this regard, I wish to recall that Dr. Alfred F. Hoyte of your Department of Electrical Engineering once wrote that "all groups of people must learn to produce for themselves the things that will make life more comfortable". Without this, our embarrassing dependence on the fruits of other people's labour, our readiness to imitate, our easy satisfaction with crumbs, will constitute greater obstacles than any external factors which hitherto hindered our development.

I conclude here with a call to action based on valid hope and assurance of solidarity on both sides of the Atlantic for a greater tomorrow for all black and African peoples throughout the world.

Thank you.

BANKS USE FED'S DISCOUNT WINDOW TO PLAY THE MARKET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Speaker, on October 14, the House of Representatives considered and passed H.R. 2176, a bill to provide for a General Accounting Office audit of the Federal Reserve System.

During debate on the bill, there was concern expressed about the discount window functions of the Federal Reserve System and whether or not a GAO audit of the strictly nonmonetary policy areas of the discount window operations was feasible. In the interest of final passage, it was agreed to exclude discount window operations from the scope of the GAO audit until a finer definition could be developed by further hearings of either the Financial Institutions Subcommittee of the Banking Committee or the Subcommittee on Commerce, Consumer and Monetary Affairs of the Committee on Government Operations.

As I said during the debate, I did not want to imperil the bill by fighting the amendment, but warned that we would have to return to this area if Congress was to carry out its constitutional duties in this area.

In discussing this amendment on October 14, I referred to the discount window operations in this way:

In my opinion, this little service which the Federal Government provides the banking industry should be audited from time to time. It is not a monetary policy function in any large sense; it is often used as a supervisory tool and it clearly has the potential for awarding or penalizing commercial banks. We ought to review its functions and its impact on the industry and on regulation.

This morning's Wall Street Journal carries ample evidence for my concern. In an article entitled, "Fed Reprimands Some New York Banks for Abusing Their Borrowing Privileges," it is revealed that the New York Fed has told a number of money center banks to stay out of the discount window because they were borrowing at the Fed's discount window at a low rate and then lending the money out at a higher rate—a "no no" according to the Wall Street Journal.

The article goes on to say:

The identity of the banks that were reprimanded couldn't be obtained. Figures previously released by the Fed showed that the 10 largest New York banks had borrowed more than $1.1 billion from the discount window last Wednesday, almost a third of the total such borrowings of $3.4 billion from all Federal Reserve district banks. The $3.4 billion borrrowing was the largest for any single day since September 25, 1974, when borrowings totalled $5.40 billion. "At least some analysts said the heavy borrowings could force the Fed to boost the discount rate to 6 percent or 6¼ percent . . ."

So, Mr. Speaker, not only do we have the biggest banks in the country using the discount window for profit taking, they seem also to have so abused the privilege, they may force further interest rate increases on the rest of the country.

Clearly, this is an area of Federal Reserve's operations which Congress should be more fully informed on.

Mr. Speaker, I place a copy of the Wall Street Journal article in the RECORD.

FED REPRIMANDS SOME NEW YORK BANKS FOR ABUSING THEIR BORROWING PRIVILEGES

(By Edward P. Foldessy)

The Federal Reserve Bank of New York has reprimanded some large banks in New York for abusing their borrowing privilege at its discount window.

It was learned that the New York Fed has told a number of money-center banks to stay out of the discount window unless there wasn't any reasonable alternative available.

According to sources, the problem arose because of the currently low discount rate, the interest rate charged by the Fed on loans to member commercial banks. That rate has been at 5¾ percent since August. By contrast, the rate on federal funds, uncommitted reserves banks lend one another, has been hovering around 6½ percent.

For many banks, the rate differential was too much of a lure. At least some banks, it was understood, borrowed from the Fed at the lower rate and reloaned the money in the federal funds market, a "no-no" by Fed standards.

The Federal Reserve considers discount borrowings as a privilege, not a right. And it expects money market banks to use the federal funds market for their needs when such funds are reasonably available. But many banks had continued to use the discount window when funds were relatively abundant.

The identity of the banks that were reprimanded couldn't be obtained. Figures previously released by the Fed showed that the 10 largest New York banks had borrowed more than $1.1 billion from the discount window last Wednesday, almost a third of the total such borrowings of $3.4 billion from all Federal Reserve district banks. The $3.4 billion borrowing was the largest for any single day since Sept. 25, 1974, when borrowings totaled $5.04 billion.

At least some analysts said the heavy borrowings could force the Fed to boost the discount rate to 6 percent or 6¼ percent to bring it closer in line with the federal funds rate.

In other developments yesterday, a 7¾ percent prime, or minimum, rate became widespread in the banking industry as more than a dozen banks raised from 7½ percent their minimum interest charge on corporate loans.

The prime rate increase, the sixth this year, was initiated Friday by Citibank, New York's largest.

Those joining the move yesterday included Chase Manhattan Bank, New York's second largest; Morgan Guaranty Trust Co. of New York; Continental Bank, Chicago; Security Pacific National Bank, Los Angeles; Mellon Bank, Pittsburgh, and National Bank of Detroit.

The prime rate boost was sparked by rising interest rates in the open money market, which raised the banks' own cost of obtaining lendable funds.

The cost pressures subsided a bit yesterday as some open market rates declined. In the market for U.S. Treasury bills, for example, the latest 13-week issue fell to a bid of 6.12 percent from the average return of 6.207 percent set at Friday's auction. The companion 26-week issue closed at a bid of 6.38 percent, down from the auction average of 6.478 percent. The decline came on the hope that the Fed, the nation's money manager, wouldn't tighten its credit reins further in the immediate future.

FIRST DAY DAWNS IN AMERICAN FISHERIES RENAISSANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LEGGETT) is recognized for 5 minutes.

Mr. LEGGETT. Mr. Speaker, I wish to bring to my colleagues' attention a most important and valuable event hosted last week in Raleigh, N.C., by the Honorable James B. Hunt, Jr., Governor of that sovereign State. I refer to the "Governor's Conference on Fishery Management Under Extended Jurisdiction," which was held October 11–12, 1977, under the sponsorship of the North Carolina Marine Science Council and the National Oceanic and Atmospheric Administration. The conference aimed to examine impacts of the Fishery Conservation and Management Act of 1976, at local, State, Federal, and international levels, approximately 6 months after the law took effect (March 1, 1977).

Governor Hunt and his associates (including Phillip H. Quidley, chairman of the North Carolina Marine Science Council; and John T. Pittman, conference coordinator) are to be commended for arranging a first-rate conference in such a timely fashion and on such an important topic. The conference program included significant presentations by Ambassador Thomas A. Clingan, Jr., Deputy Representative, U.S. delegation

to the Law of the Sea Conference; Ambassador John D. Negroponte, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs; Rear Adm. Norman Venzke, chief of operations, U.S. Coast Guard; David H. Wallace, Associate Administrator, National Oceanic and Atmospheric Administration; Robert W. Schoning, Director, National Marine Fisheries Service, and many other nationally recognized leaders in Federal and State fisheries agencies, and conservation and industry organizations. Also noteworthy were presentations by invited representatives of the Japan Fisheries Agency, the All Union Institute of Marine Fisheries and Oceanography of the U.S.S.R., and Canada's International Fishery Policy Board. Present, too, was a fisheries scientist from Poland, visiting this country on a Fulbright exchange scholarship.

Mr. Speaker, one of the purposes of this conference was to take stock of the workings of our new extended jurisdiction legislation and to identify problems and successes associated with it. It was my honor and privilege to present the keynote address at the conference on October 11, 1977. I sought to review some of the history of American fisheries law, to highlight the major aims of the extended jurisdiction legislation—noting some of the more significant results thus far—and finally, to indicate some serious problems and yet remaining needs.

I believe this conference was most important. Because I know we have much important work yet to do in the Congress and in the country before we can be satisfied that the American fisheries renaissance now underway has, in fact, been realized, I would like to share with you the thoughts expressed in my conference keynote address:

EXTENDED JURISDICTION: PROLOG TO A NATIONAL FISHERIES POLICY AND RATIONAL FISHERIES MANAGEMENT

(By the Honorable ROBERT L. LEGGETT)

Governor Hunt, Ambassador Clingan, Ambassador Negroponte, Distinguished Guests, Ladies and Gentlemen—Good Evening. I'm pleased to be able to attend this Conference and I appreciate the opportunity to deliver this keynote address tonight. It is certainly appropriate and valuable to have such a meeting to assess our new extended fisheries jurisdiction and our evolving fisheries management and the institutional machinery which it brings. I commend Governor Hunt, the North Carolina Marine Science Council and the National Oceanic and Atmospheric Administration (NOAA) for conceiving, planning and bringing off such a worthwhile event. I want to add my personal congratulations to those already expressed by others to Conference Coordinator John Pittman for a job well-done.

There are a number of reasons why it's most appropriate that this Conference be convened in the sovereign state of North Carolina. The nickname of "Tarheel State" reminds us of the importance of the state to production of naval stores in support of our early merchant marine and our navy. North Carolina is home to the highly regarded Research Triangle, to the National Marine Fisheries Service Laboratory and the Duke University Marine Laboratory, both of Beaufort, and of course to the respected Big Three Universities of Duke, University of North Carolina, and North Carolina State themselves. President Carter turned to Duke University to recruit our Secretary of Commerce and our Merchant Marine and Fisheries Committee was under the capable chairmanship of Herbert Bonner of little Washington when I first came to the Congress in 1962. So I do think we are meeting in a good state to discuss fisheries issues.

INTENDED COVERAGE

I intend tonight to very briefly review some of the history of American fisheries law, highlight our principal aims of the extended jurisdiction legislation, note some of the more significant results thus far, and then indicate where I think we have yet to go and what some of the problems and remaining needs are. It is my hope that at this Conference we will keep (or develop if we don't yet have) a broad view of where we are in American fisheries management and where we want to go. Extended jurisdiction is not an end but only one part of the means to certain local, regional, national and international ends. If what we have done to date in furtherance of a national fisheries policy and effective fisheries management were likened to God's creation of the world, we have probably put in one good day. It took Him a week before He was ready to consider His handiwork "good", yet some of us have tended to dwell too much in a state of satisfaction over our one day's labor rather than channeling our energies to the tasks remaining. Perhaps I can help demolish any complacency among you.

PRE-1976 AMERICAN FISHERIES LAWS

Nearly all early American fisheries law dealt with freshwater and anadromous species, principally through the need to regulate interstate commerce and in support of artificial propagation (hatcheries) for conservation and sport fishing purposes. The rights of the States to manage resident fish and wildlife were largely absolute. There was precious little involvement for the Federal Government in commercial fisheries affairs prior to 1871 when appointment of a Commissioner of Fish and Fisheries was authorized in order to study the decrease of food fishes of the seacoasts and lakes of the United States, and to recommend measures designed to remedy such decrease. As Knight has noted in his recent book, *Managing the Sea's Living Resources*,[1] modern United States high seas fishery policy can be said to have begun with the "second" Truman Proclamation of 1945 in which the United States stated that it considered as proper the establishment of "explicitly bounded" conservation zones in high seas areas. The Proclamation noted further that where fishing activities in such conservation zones involved foreign nations, such zones were to be established only pursuant to agreements between the United States and the other affected states. This Truman Proclamation was the cornerstone of our high seas fishing policy until 1976 with the perhaps sole exception of our 1966 action in adopting the 12-mile exclusive fishing zone. Other significant Federal actions prior to 1976 include, of course, the 1954 Fishermen's Protective Act adopted in response to tuna boat seizures by Latin American nations, the Bartlett Act making unauthorized foreign fishing within our 12-mile zone a criminal offense, our signature to the Convention on the Continental Shelf, and the 1973 Offshore Shrimp Fisheries Act with its rider declaring the American lobster as a "sedentary" species, thus subject to United States jurisdiction under the Continental Shelf Convention. These various laws and implementing regulations constituted the United States response to the needs and interests of various segments of our fishing industry.

THE 1976 ACT

The 94th Congress saw the culmination of efforts of many years to redress the grievances of American domestic fishermen, particularly in New England, the Pacific Northwest, and Alaska, concerning the serious depletion of valuable fisheries and the economic depression associated with it. Since 1960 increasingly heavy foreign fishing efforts beyond the 12-mile limit, compounded by previous and continuing heavy domestic fishing efforts have resulted in serious depletion of many over-fished stocks, some to the point of commercial extinction. Every Congress since the 88th had bills before it aimed at improving America's authority and control over the fish resources off her shores and over those fish which spend a significant part of their anadromous and migratory life histories within her streams and coastal waters. The issue heated up to the boiling point in the 94th Congress with the House and Senate both passing an extended jurisdiction bill and the President signing it into law on April 13, 1976. As part and extension of Congressional consideration of the fisheries issues behind this landmark legislation, a number of investigations were ordered including (1) the Eastland Resolution studies by the three interstate Marine Fisheries Commissions; (2) the assessment by the Office of Technology Assessment of the technological requirements of fishery management under extended jurisdiction; and (3) the General Accounting Office study to define policy issues, options and costs of revitalizing the U.S. commercial fishing industry. In addition, the National Marine Fisheries Service prepared a National Plan covering a broad range of fishery concerns in response to a recommendation by the National Advisory Committee on Oceans and Atmosphere. I have not the time to go into each of these studies, nor is that necessary as I'm sure most everyone here is reasonably familiar with each of them, as well as with the details of the history of Public Law 94-265. My principal point in identifying them is to emphasize that in the past three years we have definitely entered a radically new era in American fisheries management. The unprecedented attention given to American fisheries needs and opportunities is evidenced by these Congressional and Executive Studies as well as by passage of the legislation itself. We have gone through an intensive period of education in the Congress and in the Country and that bodes well for the collective interests represented here today.

What did we expect with passage of P.L. 94-265, the Fishery Conservation and Management Act of 1976 (FCMA)? First and foremost, I think, was conservation—conservation of important fish resources which were seen to be increasingly threatened by heavy fishing pressure, particularly by foreign fleets. While there were certainly elements of conservation concern rooted in principals of ethical stewardship, it is also safe to say that the conservation considerations came more with a desire to save fish for taking by present and future American fishermen. The other side of the conservation coin was—and is—of course, management. The FCMA seeks to provide a previously missing management apparatus which realistically deals with the physical and biological realities of fisheries stock assessments and manipulations, and with control of fishing pressure. Conservation was to be effected for the benefit of domestic interests with due consideration for world food needs and global national interests.

Domestically, the FCMA aims to meet needs

[1] Knight, Gary H. Managing the Sea's Living Resources. Lexington, Massachusetts; Lexington Books (1977), p. 75.

of both commercial and sport fishermen alike. I think it is important to note that we have all too often failed to realize the necessity of evaluating the recreational take when calculating allowable commercial harvest levels of some fish stocks. I understand, for example, that a recent survey indicated the recreational catch of bluefish off the Middle Atlantic area is double the commercial catch. Obviously, management has to take such catch statistics into account.

Closer to home at the NMFS Beaufort Laboratory's Atlantic Estuaries Fisheries Center, Dr. Gene Huntsman and his colleagues have shown the existence off the Carolina Coast of a little known and unappreciated community of tropical, deepwater fish typical of Caribbean Banks—groupers, snappers, porgies and grunt.[2] It is my understanding these species support a recreational headboat fishery operating from North Carolina and South Carolina ports. On the order of a half million or more fish, weighing about 1½ million pounds, have been taken annually in recent years in this recreational fishery.[3] Presumably, other examples abound along all our coasts and the Congress intended that these recreational fisheries be studied and managed as an absolutely necessary part of any management scheme set up under the FCMA.

RESULTS SO FAR

Some of the Act's early results have been treated by speakers earlier today; others will be addressed in tomorrow's sessions. These are some of the results of the FCMA that have either been achieved or are in process, as I see them:

(1) There is a new international order favoring and widely recognizing 200-mile fishery zones. Without getting into a discussion of the pros and cons of Law of the Sea negotiations, it nevertheless seems clear that this issue has largely been decided. Our FCMA is not responsible for this development but our action clearly accelerated a process which may well have been inevitable anyway.

(2) There has been created and is being refined new institutional machinery for conservation and management of our valuable fish resources—machinery which is at least potentially adequate to the tasks, unlike the previous apparatus we employed. The assertion of control over the fish and the waters is obviously critical to management, but the mere assertion of control alone does not result in managed fisheries. Accordingly, the Act requires preparation of management plans by Regional Fishery Management Councils on which are represented Federal, state and local, commercial and recreational fisheries personnel. The Councils—which are nearly autonomous—are really totally new entities designed to avoid unnecessary Federal control as much as possible, to rise above parochial single state interests, and to give meaningful voices to knowledgeable, local representatives of industry and other interests most directly affected by the management of the fisheries resources of each Council's purview. Most Councils have established Scientific and Statistical Committees and Industry Advisory Committees to assist them in their work.

(3) Actual management of fish stocks is occurring. The FCMA means that fish stocks will be utilized according to management plans based on the best scientific available data. Foreign fleets can operate in our 200-mile zone only as permitted, with time, place, gear and species-take all subject to regulation. The law also provides for regulation of our domestic fishermen, including the limiting of entry to a fishery if a majority of a given Council approves such a restriction. The Secretary of Commerce can never limit entry for domestic fishermen if a Council does not approve it. There is no reason now, given adequate stock assessment data, why stocks in our zone cannot be managed to recovery and thereafter for optimal sustained yield production indefinitely, so long as necessary hard decisions are faced and made. In an interview with National Fisherman our Conference Rapporteur, Spencer Appollonio, was quoted this way: "It's going to be slow, it's going to be painful, it's going to be inefficient, it's going to be expensive, but it is the only technique that exists at this time for managing these fish."[4]

(4) Better data gathering is now possible for a number of reasons, not least of which is the ability to require certain data from, and to permit on-board inspections of, foreign vessels as a condition of fishing permits. Combinined with increased efforts to determine effects of domestic fishing in such areas as by-catch and throw-backs, more accurate assessments of stocks and allowable catches can be made.

(5) Economic benefits to domestic fishermen and related enterprises, are occurring. According to the National Marine Fisheries Service the 1976 catch by domestic fishermen in the U.S. Fishery Conservation Zone for the 31 species for which preliminary management plans and fishery management plans are in effect for 1977 was 289,000 metric tons. The potential U.S. Catching Capacity for those same species in 1978 is estimated to be 654,000 metric tons. The projected foreign catch regulated by management plans in the Fishery Conservation Zone for those same 31 species plus Atlantic Mackerel in 1977 is 2,098,000 metric tons. That represents a decrease of 400,500 metric tons from the actual catch in 1975. An additional decrease of 93,800 metric tons in allowable foreign catch has been projected for 1978 meaning that additional tonnage will be available for American fishermen. NMFS estimates that, by 1978, catches in regulated fisheries (where there is both U.S. and foreign activity) may be up 26 percent for U.S. fishermen while the catches by foreign vessels will drop about 20 percent. In fact, the drop could be considerably more if the present trend continues; since 1976, we have seen the foreign catch within 200-miles of our shores decline from approximately 3 million metric tons to 2 million metric tons, more than a 30 percent decline. NMFS cautions, however, that "whether the expected increases will materialize (for U.S. fishermen) depends upon improvement in the condition of fisheries stocks and industry's willingness to diversify to species that previously have not been sought by U.S. fishermen."[5]

There has been a veritable spurt in activity of U.S. shipyards in anticipation of gains in U.S. catches resulting from FCMA. There are reportedly at least 40 new fishing vessels under construction in New England, 400 in the South Atlantic and Gulf States, and 23 on the West Coast. While much of this activity constitutes normal replacement of obsolete or worn vessels or of construction for foreign fleets, a significant amount of the activity is indicative of an improved investment climate and general optimism about American fisheries.

This is but a superficial sampling of evidence indicating that the FCMA is having some of its intended effects. Speakers today and tomorrow are providing considerably more detail about many of the points I've touched on. I should like to turn now to an examination of some things that still lie before us—the unfinished agenda.

PROBLEMS AND REMAINING NEEDS

At this juncture let me state that I perceive our purpose as creation—or restoration, if you will—of a healthy, viable, aggressive, competitive and valuable American fishing industry in the broadest sense. I do not consider the FCMA to be merely a response to certain acute needs of a status quo fishing industry. I am convinced that America needs a more modern and productive fisheries apparatus to deal with everything associated with American aquatic protein production from basic research to handling, processing, marketing and consumption. The biological resources of our seas and estuaries are finite but under better management, they are capable of producing far more than they ever have to the benefit of the industry, our economy, the American people and the world. Studies such as the Eastland Resolution surveys, the OTA and GAO investigations, our Congressional Research Service review of aquaculture and the present National Academy of Sciences assessment of America's aquaculture potential are all part of my (and I believe many of my colleagues') intention to develop as complete and sophisticated an understanding as we can of American fishing industry needs and potentials as we continue on the road to these goals. Some of the areas where we have our work cut out for us are:

(1) National Policy. We continue to pursue the development of a meaningful and effective National Oceans Policy and the completion of a national policy toward fisheries—both of which have been grossly inadequate to date. The new Administrator of NOAA, Mr. Frank, is seemingly committed to producing such policies within NOAA and to assisting the Secretary of Commerce in such pursuits for the Administration overall. We are told that President Carter's reorganization team and the Office of Management and Budget are close to fundamental decisions about natural resources management in general and oceans are part of that decision complex. Whether we move toward a Department of Oceans, Atmosphere, and Energy; a Department of Natural Resources; an independent oceans agency or an independent NOAA; or a Department of Commerce, Oceans and Atmosphere; or some as yet unforeseen hybrid; we hope to see some long-overdue reorganization of the Executive Branch so that neglected ocean and fisheries policy issues can be addressed as they merit being addressed—in an integrated and adequate fashion. Obviously, a situation where the Administration imposes manpower ceilings in our principal fisheries agency makes no sense whatsoever at the very time we are trying to beef up our fisheries research, management and enforcement capabilities. I am hopeful when these reorganization decisions are made, we will see allocation of sufficient funds and manpower to the fisheries programs so the work can be accomplished. I am confident any investments in this area which we make will pay for themselves several times over in contributions to the American economy, to jobs, and to our culture.

(2) Joint Ventures. There has been a good deal of discussion of, interest in, and even some offers by foreign fishing interest to establish joint economic ventures with domestic firms in order to gain access to some of our newly protected fish resources. The National Marine Fisheries Service has been conducting a series of meetings in coastal

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[2] Huntsman, Gene R. Offshore Headboat Fishing in North Carolina. Marine Fisheries Review 38(3): 13–23 (1976).

[3] Grimes, C. B., C. S. Manooch III, G. R. Huntsman, and R. L. Dixon. Red Snappers of the Carolina Coast. Marine Fisheries Review 39(1): 12–15 (1977).

[4] Townes, Brooks. Northeast Council Pioneering New Management. National Fisherman 58(6): 38–A (October 1977).

[5] Draft letter, NOAA to Leggett, September 1977.

states to sample public opinion on request by foreign fishing and processing vessels to enter into such arrangements. Public reaction has ranged from condemnation to conditional support, but rarely outright approval. Most of the requests received by the Secretary of Commerce to date involve Pacific fisheries, but such Atlantic fisheries as squid have also received some attention. At some point, the various Fishery Councils and the Secretary of Commerce will need to determine a position regarding these ventures, in terms of both management of various stocks and in terms of economic advantage to the United States and to certain fishing sectors in the United States. My Subcommittee has held one day of hearings on this issue and additional hearings will be held as soon as NMFS has had sufficient opportunity to digest the testimony produced at its hearings and has formulated a position.

(3) International Relations and GIFA's. In addition to adjustments in the various Governing International Fisheries Agreements—better known as GIFA's—which were negotiated this past year on the basis of experience and improving American fishing and processing capability, there remain a number of important and unresolved issues with Canada over our respectively claimed fisheries zones. Not only does Canada assert claim to a 12-mile territorial sea (while we remain committed to the international recognized three mile sea, until the issue is resolved at the Law of the Sea Conference), but our maritime boundaries are still in dispute at four locations: the Gulf of Maine; the Strait of Juan de Fuca, between the State of Washington and British Columbia; Dixon Entrance, between British Columbia and Alaska; and the Arctic slope. The Gulf of Maine is clearly the most controversial of these disputes. While we thought we were enacting "once only" legislation in adopting the Reciprocal Fisheries Agreement with Canada to buy more time to negotiate a GIFA with her, it now seems entirely possible a new Reciprocal Agreement may have to be negotiated while the boundary disputes continue to hold up a possible GIFA agreement.

Along these lines, the relationship between the Council and the Secretary of State will bear close watching for, while the FCMA recognizes the necessary and proper role of State in any questions which concern our foreign policy, it nevertheless makes clear Congressional intent that U.S. fisheries interests be accorded serious weight in our relations with other powers. We need to see evidence that the people in State appreciate this Congressional intent and that they place high value on the views of American fishing interests and the Councils.

A continuing problem, also involving the State Department, concerns enforcement of the FCMA against foreign vessels operating in violation of the law or their particular permit. Clearly, the Congress intended, and the Act provides, that enforcement be carried out by the Coast Guard with input from the National Marine Fisheries Service and the Justice Department. Unfortunately, since the 200-mile zone went into effect last March, there has been continuing intervention in the process by the Department of State on the basis of vague foreign policy and national security considerations. All of us recognize that there may be unique occasions where such considerations will be of such import as to override all others. But such incidents should be rare indeed and I can assure you that our Committee intends to insist on full disclosure of the basis for each such act of State Department interference in order to prevent enforcement of the FCMA from being thwarted merely to make life more serene for our diplomats.

(4) Democracy vs. Technocracy. There have already been and there will increasingly be problems and debate, if not conflict, over the necessity to management American fishermen as well as fish if the fisheries are to be managed wisely and well. There were plenty of instances of over-fishing before foreign fleets became a problem and there will be no gain if one capacity for overfishing is merely replaced by another. At the same time, American fishing involves cultural and other social values of high importance and we cannot be governed by efficiency criteria alone. But as limiting entry or otherwise restricting the fishing activities of Americans in certain fisheries becomes necessary if the fish resource is to be protected and if a decent return on investment and effort for some fishermen is to be assured, certain hard decisions and painful transitions must inevitably be experienced. The FCMA properly (I think) places the responsibility for these decisions at the level of the Councils. Within the total management apparatus, they alone will be close enough to local interests to best evolve solutions which are least heavy-handed and effective over the long-run. It is important that these Councils not shirk their responsibilities in facing up to fishery management problems, but it is equally important they remember this is a democracy, not a technocracy, and that American fisheries management cannot be based on economics alone.

(5) Marketing and Product Identity. If we are to increase the per capita consumption of fish and fish products by American consumers and if we are to relieve pressure on some traditional over-fished stocks and to develop new fisheries of significant potential, then we must do more to assure the consumer of attractive and wholesome fish products, and we must do more to market new products and new fish species effectively. Regular fish inspection, grading to publicly understood standards, use of a consistent marketing terminology, and more aggressive consumer education campaigns may all be necessary and may be highly cost-effective in expanding the benefits of our fisheries wealth.

(6) Pollution of Freshwater, Estuarine and Marine Ecosystems. We cannot produce fish, or at least healthy and healthful fish, in polluted waters. The Mid-Atlantic Fishery Management Council, for example, has attached to its revised surf clam and ocean quahog fisheries plan a strongly worded amendment expressing "deep concern" over pollution, particularly from ocean dumping of sewage sludge, dredge spoil and chemical wastes; discharge of raw sewage in the Hudson River, and of primary treated sewage from ocean outfalls, which are all negatively impacting on surf clams and quahogs. The Council's amendment notes: "The extremely substantial quantity of pollutants which are being introduced into the Atlantic Ocean pose a threat to the continued existence of a viable fishery."[6] This is but one example of an increasingly serious problem which must be resolved if a number of objectives of the FCMA are to be realized.

(7) Aquaculture. In addressing American fisheries needs and opportunities, aquaculture is one of the subjects in which I have recently become most involved.

Currently, U.S. aquaculture is responsible for such selected species as catfish, 48 million pounds; clams (meats) 2.6 million pounds; crawfish, 10 million pounds; fresh water prawns, 17,000 pounds; oysters (meats), 20 million pounds; salmon (pen culture), 1 million pounds; salmon (hatchery released), 60 million pounds; shrimp 800,000 pounds; and trout, 30 million pounds.

[6] Mid-Atlantic Council Puts Lid on Clam and Quahog Catch. National Fisherman 58 (6): 15-A (October 1977).

While aquaculture is about a $200 million industry, it accounts for only three percent of all fish and shellfish consumed domestically. However, its potential in the United States is enormous.

Per capita U.S. consumption of fish and shellfish is around 12 pounds yearly, and is projected to increase to more than 15 pounds by the year 2,000. This compares to the world per capita consumption of about 24 pounds yearly, ranging from less than one percent in Afghanistan to over 79 pounds in Japan and Iceland.

I have been encouraged by the progress aquaculture is making throughout the world. I have personally seen and examined fresh water and marine aquaculture programs in Japan involving such species as yellowtail, red sea bream, shrimp, oysters, scallop, and seaweed. Japan has recently embarked on a $667 million coastal fisheries expansion program of which more than $333 will be allocated to aquaculture.

In Hawaii, I have examined farming programs involving such species as fresh water prawns, mullet, milkfish, shrimp, moi, baitfish, oysters, and clams. The State of Hawaii itself has recently launched an expanded aquaculture program, committing over $5 million to the program this year.

I have visited and observed shrimp being grown in controlled conditions at Marifarms, Inc., Panama City, Florida. I have visited a number of facilities on the West Coast observing programs involving such species as salmon and trout and oysters. In my most recent trip, I visited a number of salmon facilities in Alaska, and the State of Alaska has just recently embarked on a $500 million fisheries program of which over $250 million has been allocated to the building of salmon fish hatcheries alone.

I might mention that Canada has recently committed itself to a $300 million program aimed at restoring the British Columbia salmon stocks and Mexico has recently launched more than a $1 billion fisheries program, of which more than $200 million will be committed to aquaculture.

Naturally, I have become extremely encouraged by these activities and commitments, and I am firmly convinced that here in the United States we have a strong potential for producing high quality, nutritious seafood products for consumption at home as well as abroad to the benefit of our economy and hungry people alike.

I am pleased to report that legislation I have introduced to promote the commercial development of aquaculture in the United States was ordered reported by our Merchant Marine and Fisheries Committee on September 29, and we are hopeful that the bill can be brought before the Full House for a vote before the end of this Session of the Congress.

The legislation would make a strong commitment on the part of the United States calling for a $500 million guarantee loan program, a $250 million disaster loan program, and an all-risk insurance program authorizing total face value coverage up to $1 billion.

(8) Finally, there is a problem waiting to develop off our South Atlantic coast. I refer to the occasional netting of sea turtles in shrimp and other fishing nets. As these turtles have been placed on the Threatened Species list, even inadvertant taking of them can lead to problems so reminiscent of the conflict between tuna fishermen and porpoises that I shudder to think of the controversy which could erupt. I would like to urge the South Atlantic Council to address this situation now, before it becomes a major problem, to determine if changes in fishing techniques or gear will be required as part of certain fishery management plans.

In summary, then, we've come a long way

in American fisheries, but we have a long way yet to go. I think this Conference can help us to gain perspective on the enterprise in which we are engaged and to realize we are all part of something quite big and quite important to the American people and to the world at large. Policies and institutional machinery are not created overnight. There remains a good deal of adjustment to be made in the existing structure, and there is a great need for new ideas and fresh initiatives to meet the challenges of the future.

Thank you for your attention.

TAX TREATMENT EXTENSION SUPPORTED BY SECRETARY BLUMENTHAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. WAGGONNER) is recognized for 5 minutes.

Mr. WAGGONNER. Mr. Speaker, at a recent press conference, Secretary Blumenthal expressed his concern for providing a continued tax incentive for Americans working abroad by postponing the effective date of the changes made by the 1976 Tax Act related to the tax treatment of income of U.S. citizens abroad. I agree and commend Secretary Blumenthal for his support.

He, like so many of our colleagues, recognizes, not only the need for such an incentive, but the importance of taking the necessary time to review and reconsider the changes made by the 1976 Tax Reform Act. The Ways and Means Committee has voted to extend for another year the delay in the effective date. This bill will allow Congress time to take a comprehensive look at the best way to proceed in this regard. Clearly a review is necessary.

American interests in the sale of U.S. products abroad, which expands markets and creates jobs here at home, are served by the incentives previously provided in section 911. A tax incentive is necessary to encourage qualified Americans to live and work overseas, but the exact incentive and how it should be legislated will simply take time and additional study.

It is clear by now that Congress did give this subject the depth of consideration necessary when the changes were enacted in 1976. This legislation gives us an opportunity to correct this oversight, and I am pleased that Mr. Blumenthal recognizes this need.

I request that a portion of Secretary Blumenthal's September 29 press conference follow my remarks:

DEPARTMENT OF THE TREASURY, PRESS CONFERENCE BY MICHAEL W. BLUMENTHAL, SEPTEMBER 29, 1977

I am very concerned about matters contained in the Section 911 material. We are proposing the deadline be extended to January 1st so that we will have a chance to review that fully.

This particular issue involves a way in which Americans working abroad are taxed. In my view, it is not only a matter of tax policy, it is also a matter of practicality. Most Americans that are employed abroad are employed by American concerns and play an important role in the sale of American products abroad and really are pursuing American economic interests around the world.

It is in our interest to make sure that we have qualified American citizens who are willing to go abroad and do that very important job for our economy which is increasingly a part of the world economy.

Therefore, I would hope that the postponement to January 1st and our ability to review this matter, that we can come up with tax rules taxing their income in such a way that we can be reassured that there is sufficient incentive for Americans to continue to want to live abroad and do that kind of work.

OFFICE OF MINORITY BUSINESS ENTERPRISE FUNDED "GASAHOL" PROJECT TO BLACK COOPERATIVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. MITCHELL) is recognized for 5 minutes.

Mr. MITCHELL of Maryland. Mr. Speaker, with the growing concern about our Nation's energy and unemployment problems, I am pleased to insert into the CONGRESSIONAL RECORD a statement of Dr. Randolph T. Blackwell, Director of the U.S. Commerce Department's Office of Minority Business Enterprise (OMBE).

OMBE has recently awarded a grant of $86,352 to the Southwest Alabama Farmers Cooperative of Selma, Ala. The Alabama cooperative which is made up of black farmers, received the grant to test the feasibility and economic advantages of rural cooperatives producing alcohol fuel from farm vegetation.

On October 19, a delegation of the Alabama minority farm cooperative lead a motorcade to Capitol Hill to draw national attention to locally produced alcohol fuel.

I agree with Dr. Blackwell when he reports,

At a time when many Black farmers are being forced to leave their land because of high fuel costs. OMBE felt that a project of this nature would show that other fuel possibilities are real and can be produced in our rural communities.

Dr. Blackwell's timely remarks are inserted in the RECORD at this point for the consideration of my colleagues.

STATEMENT BY DR. RANDOLPH T. BLACKWELL

Ladies and Gentlemen, at the time of the taking of the last census, 1970, there were 104 counties in these United States in which the average per capita income per week was less than $29.00. That circumstance has not significantly changed even until now. I don't need to emphasize how little a person can do with in income of less than $29.00 per week. That is not adequate for an infant child. Most of the citizens in these counties of which I speak are minorities. They are counties in the main that are located in the Southeastern part of the nation. These are the same counties that feed a constant stream of people into the metropolitan centers, unskilled and uneducated, only to have them join the teeming millions who are compelled to rely on welfare.

These simple facts dictate the conclusion that all economic development policies and projects must include in a meaningful way both rural and urban programs. These were the same facts that caused the Office of Minority Business Enterprise to welcome the opportunity to make a grant to the Southwest Alabama Farmers Cooperative (SWAFCA). When the SWAFCA proposal was received by OMBE it had these basic things on its side from the start. We in OMBE knew that alcohol would run automobiles; we knew that rural black people knew how to produce alcohol and we knew that the President is constantly saying that the present amount of fuel for automobiles is running out. We had just one question and that was can alcohol be produced in a way in which it would be feasible to use it as a motor fuel.

This is a question that the nation needs the answer to. We are told that it is feasible. If we find it to be so then we are talking about the possibility of jobs and income for people that desperately need and economic development of a magnitude that would be hard to imagine. The ground swell of support for these ideas that is beginning to organize and take form and shape in the nation makes that which we are involved in here today a matter of major significance.

100 POOREST COUNTIES IN THE UNITED STATES—AVERAGE PER CAPITA INCOME LESS THAN $1,500 PER YEAR

[Data based on 1970 census]

County	Total population	Black population	Percent minority	Per capita income [1]
Alabama:				
Bullock	11,824	7,965	67.4	$1,318
Greene	10,650	8,027	75.4	1,226
Hale	15,888	10,542	66.4	1,272
Lowndes	12,897	9,917	76.9	1,176
Perry	15,388	9,033	58.8	1,439
Wilcox	16,303	11,160	68.5	1,240
Alaska:				
Angoon	463	0	74.6	516
Bethel	7,579	24	1.5	1,336
Wade Hampton	3,917	12	.7	1,069
New Mexico: Mora	4,673	1	.1	1,048
Arizona: Apache	32,298	416	75.6	1,282
Arkansas:				
Fulton	7,699	0	.1	1,465
Lee	18,884	10,868	57.8	1,434
Newton	5,844	1	.2	1,308
Stone	6,838	1	.1	1,349
Colorado: Conejos	7,846	1	.3	1,138
Florida:				
Gadsden	39,184	23,247	59.4	1,469
Union	8,112	2,302	28.6	1,442
Georgia:				
Atkinson	5,879	1,879	32.0	1,442
Baker	3,875	2,054	53.3	1,242
Calhoun	6,606	4,166	63.1	1,445
Crawford	5,748	3,060	53.2	1,449
Hancock	9,019	6,659	73.8	1,357
Quitman	2,145	1,311	60.2	1,149
Randolph	8,734	4,869	55.8	1,482
Stewart	6,511	4,196	64.5	1,411
Twiggs	8,222	4,627	56.3	1,440
Webster	2,321	1,379	58.4	1,482
Kentucky:				
Breathitt	14,221	13	.1	1,119
Clay	18,481	327	1.9	1,025
Clinton	8,174	24	.4	1,433
Elliott	5,933	2	.2	1,325
Jackson	10,005	6	.2	1,184
Knott	14,698	116	.9	1,161
Knox	23,689	372	1.7	1,386
Lee	6,587	49	.8	1,282
Leslie	11,623	0	0	1,057
Magoffin	10,443	0	0	1,266

County	Total population	Black population	Percent minority	Per capita income [1]
Martin	9,377	1	.1	1,128
McCreary	12,548	192	1.6	1,136
Morgan	10,019	5	.1	1,339
Owsley	5,023	16	.4	979
Wayne	14,268	365	2.6	1,281
Wolfe	5,669	0	.1	1,083
Louisiana:				
East Carroll	12,884	7,569	58.9	1,292
East Feliciana	17,657	9,504	53.8	1,386
Franklin	23,946	8,553	35.8	1,455
St. Helena	9,937	5,545	55.8	1,329
Tensas	9,732	5,756	59.2	1,248
West Feliciana	11,376	7,638	67.2	1,022
Mississippi:				
Amite	13,763	6,942	50.0	1,385
Carroll	9,397	4,778	50.0	1,479
Choctaw	8,440	2,369	28.1	1,450
Clairborne	10,086	7,522	74.6	1,353
Denton	7,505			1,464
Greene	8,545	1,876	22.0	1,389
Holmes	23,120	15,743	68.2	1,156
Humphrey	14,601	9,460	65.1	1,222
Jasper	15,994	7,427	46.4	1,452
Jefferson	9,925	6,996	75.3	981
Kemper	10,235	5,612	56.1	1,138
Marshall	24,027	14,891	62.1	1,372
Noxubee	14,288	9,397	66.1	1,307
Quitman	15,888	9,120	57.9	1,226
Sharkey	8,937	5,784	65.0	1,382
Sunflower	37,047	23,261	63.2	1,376
Tallahatchie	19,338	11,632	60.4	1,308
Tunica	11,854	8,614	72.7	1,156
Wilkinson	11,099	7,499	67.7	1,319
North Dakota: Sioux	3,632	1	51.1	1,432
North Carolina: Northampton	24,009	14,161	59.1	1,468
Oklahoma: Adair	15,141	7	27.5	1,435
South Carolina:				
Clarendon	25,604	15,870	62.1	1,339
Lee	18,323	10,964	59.9	1,439
Williamsburg	34,243	20,867	61.0	1,389
South Dakota:				
Shannon	8,198	8	86.3	1,416
Todd	6,606	0	69.6	1,450
Washabaugh	1,250	0	55.6	1,410
Tennessee:				
Bledsoe	7,643	404	6.7	1,426
Clay	6,624	127	2.0	1,415
Fayette	22,692	13,887	61.2	1,290
Fentress	12,593	0	.1	1,264
Grundy	10,631	15	.2	1,323
Hancock	6,719	80	1.3	1,045
Jackson	8,141	12	.3	1,443
Overton	14,866	51	.4	1,441
Pickett	3,774	5	.2	1,475
Scott	14,762	1	.1	1,481
Texas:				
Dimmit	9,039	65	.8	1,255
Duval	11,722	20	.2	1,458
Jim Hogg	4,654	6	.1	1,366
LaSalle	5,014	9	.3	1,444
Maverick	18,093	4	.1	1,283
Starr	17,707	7	.1	1,123
Willacy	15,570	68	.5	1,404
Zapata	4,352	0	.0	1,276
Zavala	11,370	32	.3	1,347
Virginia: Lee	20,321	97	.5	1,480
West Virginia: Clay	9,330	1	.1	1,297
Wisconsin: Menominee	2,607	1	88.5	1,225
Total	1,200,956	409,463		

[1] County average per year.

CIGARETTE BOOTLEGGING: WHY PLAY COPS AND ROBBERS?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PATTISON) is recognized for 5 minutes.

Mr. PATTISON of New York. Mr. Speaker, on October 20, I introduced H.R. 9667, legislation designed to end cigarette bottlegging across State lines. As I noted, cigarette smuggling is estimated to cost about $400 million per year in revenue lost by State and local governments. Much of that "lost" money ends up in the coffers of organized crime syndicates, as they control virtually all large-scale cigarette smuggling operations.

I propose ending bootlegging by eliminating the economic incentive to smuggle cigarettes across States lines. That incentive now exists in the form of wide price differentials between the States, caused by the tremendous variations in the level of State taxation of cigarettes. Until the price is leveled out, cigarette smuggling will continue as a natural consequence of Adam Smith's theories of economics.

H.R. 9667 would impose a new Federal tax on cigarettes and rebate all revenue to the States. A deduction would be made, though, as an offset for any State taxes that are collected. Thus, the price of cigarettes would be at a uniform level nationwide and there would no longer be any profit in bootlegging.

The alternative to this economic approach is to place more emphasis on law enforcement. This latter idea is favored by several Members of Congress who previously have introduced legislation to that effect.

I differ with my colleagues. It is my belief that more law enforcement effort will simply result in more tricks being employed by cigarette smugglers. Perhaps, to return to the theme of economics, we can foresee a form of Gresham's law, with even more Mafia figures entering the bootleg cigarette trade to replace the few freelance bootleggers who still operate on a large scale. Have we forgotten the lessons of Prohibition?

Why should the Federal Government allow itself to be drawn into this game of cops and robbers when we can close down the game entirely?

Last Friday Senator KENNEDY presided over the Senate Judiciary Subcommittee hearing on cigarette bootlegging. The hearing considered S. 1487, one of the cops and robbers bills.

The lead-off witness was Wayne F. Anderson, Executive Director of the Advisory Commission on Intergovernmental Relations. Earlier this year, the ACIR released a study that is widely regarded as the most thorough document yet published on the cigarette bootlegging problem.

Mr. Anderson was asked to evaluate the probable effect of passage of S. 1487 or similar proposals to increase Federal law enforcement activity aimed at cigarette bootlegging. He responded by estimating that such laws and increased enforcement effort might result in a 30-percent reduction of smuggling. Thirty percent!

Well, why should we be surprised at a prediction that increased law enforcement will result in less than one-third of the problem being eliminated. After all, the proposal under consideration would merely treat the symptom; it is silent on the issue of the basic illness: tax-caused price differentials between States.

I say, let us stop playing cops and robbers. Let us cut out the economic heart of the cigarette bootlegging industry. We can end this drain on State and local treasuries, and we can shut down a major source of cash flowing to organized crime, by simply following economic commonsense.

I invite my colleagues to join in supporting H.R. 9667.

TAXATION OF THE AMERICAN OIL INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

Mr. VANIK. Mr. Speaker, each year I place into the RECORD the effective Federal tax rates of America's top corporations. The annual corporate tax study, done at my request by accountants supervised by staff of the Joint Committee on Taxation, is near completion and I hope will be ready for publishing before the end of the first session.

Although the entire study is not available. I asked staff to provide me with an early look at the figures for the oil industry. I was interested in the rates and levels of effective taxes paid by the oil industry after President Carter criticized that industry very strongly in a public press conference.

From my preliminary look at the figures, I believe that President Carter has understated the earnings and growing financial power of the oil industry. The 19 oil companies included in my corporate tax study paid approximately $3.3 billion in U.S. Federal taxes on a worldwide income before taxes of a little more than $27 billion, or an effective rate of 12.2 percent.

If we deduct U.S. Federal income taxes of $3.3 billion and foreign taxes of $12.2 billion for worldwide income of $27 billion, the 19 companies had almost $11.5 billion remaining at the end of 1976 for distribution to stockholders or new investment. The $12.2 billion paid by American oil companies in taxes to foreign governments were largely royalty payments, labeled as taxation.

The after-tax income of the oil indus-

try—$11.5 billion for 19 companies—clearly indicates that the industry has sufficient resources to maintain a search and development of additional resources. The tax advantages already existing in the law create capital in a dimension completely disproportionate to all other sectors of the economy. There is no need for further ploughbacks or giveaways in the energy bill. The oil industry is certainly well and thriving.

I include the following:

EFFECTIVE CURRENT TAX RATE OF 19 LARGE OIL COMPANIES (FISCAL 1976)

[In thousands]

Company	Worldwide income before tax (a)	Current U.S. tax (b)	Current foreign tax (c)	Current worldwide tax (d)	Income after all taxes, available for dividends and reinvestment (cols. a–d equals col. e) (e)
Exxon	7,469,616	594,000	4,173,000	4,767,000	2,702,616
Mobil	3,761,213	168,830	2,452,320	2,621,150	1,140,063
Gulf Oil	2,230,000	155,000	1,123,000	1,278,000	952,000
Standard Oil (Indiana)	2,179,768	371,200	787,600	1,158,800	970,968
Texaco	1,415,671	122,100	690,900	813,000	602,671
Continental Oil	1,317,328	184,836	608,739	793,575	852,753
Shell Oil	1,223,566	461,822	401	462,223	761,343
Standard Oil (California)	978,217	166,822	288,888	455,710	522,507
Phillips Petroleum	970,854	164,199	347,356	511,555	461,299
Atlantic Richfield	963,255	110,000	201,451	311,451	651,804
Getty Oil	761,865	163,329	257,904	421,233	340,632
Occidental Petroleum	731,313	30,911	503,403	534,314	196,999
Sun Company	684,727	198,482	97,467	295,949	388,778
Marathon Oil	587,122	41,100	328,414	369,514	217,608
Union Oil of California	498,732	123,100	114,800	237,900	260,832
Amerada Hess	424,962	63,683	210,310	273,993	150,969
Cities Service	371,700	103,800	13,900	117,700	254,000
Ashland Oil	254,717	63,368	39,742	103,110	151,607
Standard Oil (Ohio)	181,292	3,753	13,666	17,419	163,873
Total	27,005,918	3,290,335	12,253,261	15,543,596	11,462,322

Note: Effective current U.S. tax rate, 12.18 percent.

LEGISLATIVE STATUS REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DELLUMS) is recognized for 10 minutes.

Mr. DELLUMS. Mr. Speaker, periodically I enter into the RECORD a status report on legislation I have sponsored. Following is such a report covering all legislation I have sponsored so far during the 95th Congress:

LEGISLATIVE STATUS REPORT: OCTOBER 1977

AGRICULTURE

H.R. 2853 (Richmond) Urban Tress Act (hearing held).

H.R. 5895 (Richmond) Food Stamp Reform Act.

H.R. 8100 (Weaver) Stocks Management and Reserve Act.

ASIAN-AMERICAN AFFAIRS

H.R. 6414 (Mineta) Civil Service retirement credit to Japanese-Americans interned during World War II. (hearings scheduled).

H.R. 8440. (Roybal) Provide medical services and treatment to citizens injured during atomic bomb explosion on Japan.

ARTS AND HUMANITIES

H. Con. Res. 61 (Bingham) Bust of Martin Luther King, Jr. to be placed in the Capitol. (passed House).

CHILD WELFARE

H.R. 989 (Moss) Child Custody Act

H.R. 2518 (Sarasin) Youth Camp Safety Act (pending before House).

H.R. 8584 (Burke of Cal.) Facilities placement of children in adoptive homes.

CIVIL LIBERTIES

H.R. 349 (Dellums) General-unconditional Amnesty.

H.R. 350 (Dellums) Gun Control Registration and Licensing Act.

H.R. 451 (Koch) Gay Rights Bill.

H.R. 3880 (Drinan) Abolition of death penalty.

H.R. 5056 (Drinan) Prohibits sex discrimination on the basis of pregnancy.

H.R. 5535 (Metcalfe) Permits suits against bodies politic for violation of civil rights.

H. Con. Res. 23 (Koch) Supports President's amnesty proposal and urges him to include all selective service violators and veterans with less than honorable discharges.

COMMERCE

H.R. 4362 (Mitchell of Md.) Minority Business Enterprise Act.

M.R. 5017 (Mikva) Franchising Termination Practices Reform Act.

H.R. 7780 (Seiberling) A bill to amend the Clayton Act to prohibit the suppression of certain technology.

H.R. 8516 (Rodino) Restore effective enforcement of the antitrust laws.

H.J. Res. 512 (Wirth) Competition in the Telecommunications Industry.

CONGRESSIONAL REFORM

H.R. 347 (Dellums) Congressional review of executive agreements.

H.R. 2325 (Kastenmeier) Federal Financial Disclosure Act.

H.R. 3177 (Michel) Prohibits travel at government expense outside the U.S. by Members of Congress who have been defeated, resigned or retired.

H.R. 4118 (Carr) Requires federal agencies to report to Congress on expenditures made on behalf of Congressmen.

H.R. 5158 (Burton, P.) Public Campaign Financing Act (Hearings held).

H. Res. 73 (Scheuer) Establish select committion on population (Passed House).

H. Res. 102 (Burton, J.) Removes the 25 Member limitation on cosponsorship.

H. Res. 335 (Pike) Establishes a standing committee on intelligence (Select Committee on Intelligence established).

H. Res. 339 (Carr) Committee approval of certain travel proposals.

H. Res. 349 (Fraser) Establish a Select Committee on Welfare Reorganization.

H. Res. 351 (Hamilton) Amends the rules of the House with regard to standards of official conduct.

H. Res. 377 (Sisk) Provides for television and radio coverage of House proceedings.

CONSUMER AFFAIRS

H.R. 3693 (St Germain) National Consumer Cooperative Bank Act (passed House).

H.R. 4279 (Ford of Tennessee) Fair Packaging and Labeling Act.

H.R. 6601 (Moss) Standards for no-fault motor vehicle accident benefits act (hearings held).

DISTRICT OF COLUMBIA

H.R. 6530 (Diggs) Borrowing authority for the District of Columbia (P.L. 95–131).

H.R. 6536 (Mazzoli) District of Columbia Retirement Reform Act (passed House).

H.R. 9544 (Dellums) Authority to issue revenue bonds for private universities and colleges (pending before House).

H.R. 4044 (Nix) Penalty for the robbery or attempted robbery of any controlled substance from any pharmacy.

H.R. 4736 (Koch) Marijuana Control Act.

EDUCATION

H.R. 339 (Dellums) Athletic Care Act.

H.R. 340 (Dellums) Athletic Safety Act.

H.R. 3433 (Pepper) Encourages secondary school students from disadvantaged backgrounds to pursue professional training at the graduate level in the biomedical sciences.

H.R. 3681 (Perkins) Elementary and Secondary Career Education Act (passed the House).

H.R. 4004 (Collins of Illinois) Amend ESEA to preserve the eligibility of certain children for assistant through grade three.

H.R. 4447 (Leggett) Convey certain lands to D–Q University.

H.J. Res. 224 (Metcalfe) Recognize the heritage of black citizens of the United States.

EMPLOYMENT

H.R. 58 (Roe) Local Public Works and Capital Development and Investment Act (P.L. 95–28).

H.R. 344 (Dellums) Eliminates employment discrimination on the basis of military discharge status.

H.R. 345 (Dellums) Extends the protection of the Employment Act to employees of States and their political subdivisions.

H.R. 3718 (Hawkins) Full Employment and Balanced Growth Act.

H.R. 4267 (Burke of Cal.) Displaced Homemakers Act.

H.R. 5120 (Pepper) Age Discrimination in Employment Act to cover all federal employees. (Passed House).

ENERGY

H.R. 992 (Fish) Five year moratorium on Nuclear Construction.

H.R. 929 (Harrington) Prohibits oil company control of alternative energy sources.

H.R. 3370 (Seiberling) Energy Industry Divesture Act.

H.R. 5641 (McCormack) Promotes electric vehicle studies.

H.R. 5820 (McCormack) Promotes the use of energy conservation, solar energy, and total energy systems in federal buildings.

H.R. 5907 (Drinan) Solar and Energy Conservation Commercialization Act.

H.R. 5911 (Brown of Ca.) Agriculture Solar Energy Research, Development and Demonstration Act.

H.R. 5914 (Jeffords) Provides for cooperative programs with less-developed countries for the development of unconventional energy technology.

H.R. 5922 (Bedell) Provides assistance to individuals and small business concerns for solar energy.

H.R. 7781 (Seiberling) Federal Coal Lease Preference Act.

H.R. 7782 (Seiberling) Federal Energy Leasing Limitation Act.

H.R. 7784 (Seiberling) Petroleum Industry Pipeline Divesture Act.

H.R. 7785 (Seiberling) Maintains competition among the energy-producing industries.

H. Con. Res. 168 (Hanley) Task Force on deregulation of natural gas.

H. Res. 461 (Pickle) Study feasibility of solar energy in House Office Building.

ENVIRONMENT

H.R. 39 (Udall) Alaska National Interest Lands Conservation Act (Hearings held).

H.R. 446 (Koch) Establishes Commission on the Humane Treatment of Animals.

H.R. 936 (Jeffords) Returnable Beverage Container Act.

H.R. 3601 (St Germain) Spaying and neutering clinics for dogs and cats.

H.R. 4667 (Edgar) Authorizes an EPA program of research, development and demonstration designed to advance the technology of removing oil spills.

H.R. 4995 (Whitehurst) Protection of Alaskan wolves.

H.R. 4996 (Whitehurst) Prevents the unnecessary large-scale killing of birds and mammals.

H.R. 6683 (Teague) Earthquake Hazards Reduction Act (passed House).

H.R. 9199 (Miller of Calif.) Financial Assistance to Drought impacted water districts.

H.J. Res. 327 (Whitehurst) Moratorium on the killing of the eastern timber wolf.

H.J. Res. 479 (Emery) International organization for the conservation of whales.

FOREIGN AFFAIRS

H.R. 3047 (Bingham) Repeals embargo of U.S. trade with Vietnam.

H.R. 4024 (Fraser) Rodesian Chrome Import Ban (P.L. 95–12).

H.R. 5915 (Jeffords) Encourages greater emphasis on the production and conservation of energy in developing countries.

H.R. 6513 (Stark) Extends Indochina Migration and Refugee Assistance Act.

H.R. 8107 (Drinan) Implements the principles of the Helsinki Act pertaining to freedom of travel and emigration.

H.J. Res. 54 (Dellums) Independence for Puerto Rico.

H.J. Res. 396 (Bedell) Supports the goals of the U.S. delegation to the Law of the Sea Conference in reaching an equitable and effective international agreement.

H.J. Res. 425 (Collins of Ill.) Insures effectiveness of U.S. embargo on arms shipments to the Republic of South Africa.

H. Res. 214 (Ottinger) Supports the President's policy on a nuclear test ban.

H. Res. 369 (Ottinger) To resolve the unfinished business of the Viet Nam war.

H. Con. Res 98 (Moffett) Concern of Congress regarding the harassment of Soviet Jews and other minorities (Senate resolution passed).

H. Con. Res. 250 (Schultz) Reduces the threat of chemical warfare.

H. Con. Res. 287 (Studds) Disapproves the proposed sale of airborne early warning aircraft to Iran.

GOVERNMENT OPERATIONS

H.R 87 (Blanchard) Government Economy and Spending Reform Act.

H.R. 346 (Dellums) Continuing Congressional Oversight Act.

H.R. 348 (Dellums) Congressional Access to Information Act.

H.R. 1951 (Cornell) Prohibits Congressional appointments to service academies.

H.R. 2198 (Rosenthal Intergovernmental Consumer Assistant Act.

H.R. 2416 (Dellums) Bureaucratic Accountability Act.

H.R. 3609 (Wirth) Prohibits the use of federal funds for certain activities designed to support or defeat any legislation for legislative issue on the ballot in any State.

H.R. 3929 (Mitchell of Md.) Authorizes investment of public moneys (passed House).

H.R. 4173 (Dellums) Intelligence Community Reorganization and Reform Act.

H.R. 4822 (Edwards of Cal.) Provides for additional federal judgeships.

H.R. 6051 (Badillo) Federal Intelligence Agencies Control Act.

H.R. 6184 (Burke of Cal.) Part-time Career Opportunity Act.

H.R. 6930 (Vento) Universal Voter Registration Act (Pending before the House).

H.R. 7450 (Bennett) Defense Production Act Amendments.

H.R. 7467 (Koch) Toll free calls to Congress for handicapped.

H.R. 8593 (Spellman) Installation of telecommunication devices for the deaf in government agencies.

H.R 8717 (Leggett) Provides that federal primary and general elections are held on the last weekend in June and the first weekend in November.

H.R. 9061 (Lehman) Establish a decennial census procedure.

H. Con. Res. 184 (Breckinridge) Printing of "Black Americans in Congress" (Passed House).

H. Con. Res. 277 (Wilson of Cal.) Retention of six day mail service (pending before the House).

HEALTH

H.R. 3578 (Mitchell of Md.) Vitiligo Control Act.

H.R. 3591 (Ottinger) Recombinant DNA Research Control Act (Hearings held.)

H.R. 5457 (Pepper) Health personnel training program.

H.R. 6894 (Dellums) Health Service Act (Partial hearings held.)

H.R. 8689 (Fenwick) Asbestos disability Act.

H.J. Res. 532 (Scheuer) Voluntary population stabilization in the United States.

HOLIDAYS

H.R. 2972 (Conyers) Federal holiday for the birthday of Martin Luther King, Jr.

H.J. Res. 25 (Anderson) National Lupus Week (P.L. 5–72).

HJ. Res. 317 (Addabbo) National Cancer Prevention Day.

H.J. Res. 500 National Family Week (PL 95–100).

HOUSING

H.R. 7373 (Stokes) Foreclosure Forbearance Standards Act.

H.R. 7903 (Baucus) Establishes an Office of Indian and Alaskan Native Programs in HUD.

LABOR

H.R. 2394 (Clay) Revision of Hatch Act (Passed House).

H.R. 4343 (Clay) Federal Service Labor-Management Act.

H.R. 4515 (Mitchell of Md.) Collective Bargaining for Postal Employees.

H.R. 5066 (Mikva) Federal Employees Conflict of interest Disclosure Act.

H.R. 5128 (Waxman) Collective bargaining for retirement benefits.

H.R. 5647 (Ryan) Amends Davis Bacon Act to provide fact finding panel on causes of work stoppage.

H.R. 5648 (Ryan) Amends Davis-Bacon Act to prohibit contractors from replacing workers for striking.

H.R. 5649 (Ryan) Amends the Service Contract Act to provide fact finding panel to determine causes of work stoppage.

H.R. 5650 (Ryan) Amends the Service Contract Act to prohibit contractors from replacing workers for striking.

H.R. 5651 (Ryan) Amends the Walsh-Healey Act to provide fact finding panel to determine causes of work stoppage.

H.R. 5652 (Ryan) Amends the Walsh-Healey Act to prohibit contractors from replacing workers for striking.

H.R. 5957 (Mikva) Sales Representatives Protection Act.

H.R. 7078 (Panetta) Mobile Teachers Retirement Assistance Act.

LEGAL SERVICE/COURT REFORM

H.R. 342 (Dellums) Bilingual Courts Act.

H.R. 2532 (Spellman) Awards attorney fees in civil rights actions in housing discrimination suits.

H.R. 3361 (Rodino) Public Participation in Federal Agency Proceedings Act.

H.R. 5938 (Conyers) Grand Jury Reform Act.

H.R. 8798 (Rodino) Award attorney fees under Administration Procedures Act (hearings held).

MILITARY

H.R. 338 (Dellums) Requires DoD to retain civilian employees.

H.R. 343 (Dellums) Establishes the Office of Assistant Secretary of Defense for Equal Opportunity.

H.R. 2829 (Koch) Eliminates maintenance of internal security from foreign military sales.

H.R. 4000 (Bennett) Regulates the discharge of members of the Armed Forces.

H.R. 4551 (Drinan) Repeals the Military Selective Service Act.

H.R. 5832 (Solarz) Phased withdrawal of United States forces from South Korea.

H.R. 5846 (Cornwell) Excludes industrial funded civilian personnel from DoD manpower levels.

PENAL REFORM

H.R. 341 (Dellums) Omnibus Penal Reform Act.

PUBLIC LANDS

H.R. 734 (Anderson) Establishes the Santa Margarita National Recreation Area.

H.R. 1771 (Krebs) Enlarges the Sequoia National Park (Mineral King).

H.R. 3813 (Burton, P.) Enlarges Redwood National Park. (Pending before the House)

H.R. 4463 (Stark) Feasibility study of Ridgelands Park area.

H.R. 6617 (Anderson) Regulates steel jaw trapping of animals.

H.R. 7783 (Seiberling) Mining of uranium on Federal lands placed under Mineral Leasing Act.

H.R. 8781 (Beilenson) Establishes the Channel Islands and Santa Monica Mountains National Park and Seashore.

SENIOR CITIZENS

H.R. 2194 (Rosenthal) Elderly and Handicapped Americans Transportation Services Act.

H.R. 3003 (Miller) National meal-on-wheels program for the elderly.

H.R. 3877 (Downey) Relief for older Americans who own or rent their homes.

H.R. 4312 (Pepper) Older Persons Comprehensive Counseling Assistance Act.

H.R. 5385 (Pepper) Removes the limitation of visits to nursing homes under Social Security Payments.

H.R. 5389 (Pepper) Establish a Home Health Clearinghouse in HEW.

H.R. 5393 (Pepper) Legal assistance to poor and elderly.

H.R. 5397 (Pepper) Funding for multipurpose senior citizen centers.

H.R. 5402 (Pepper) Assistant for outpatient geriatric clinics.

H.R. 5406 (Pepper) Tax deductions for use of land for senior citizen centers.

H.R. 5410 (Pepper) Funds for establishment of multipurpose senior citizen centers.

H.R. 5414 (Pepper) Supplemental appropriations for multipurpose senior citizen center.

H.R. 5433 (Pepper) Expanding programs for the elderly.

H.R. 5453 (Pepper) Provide nursing home services under medicare/medicaid.

H.R. 5461 (Pepper) Revise and expand home health and long-term care services under medicare program.

H.R. 6120 (Cohen) Polling and registration place accessible for physically handicapped and the elderly.

H.R. 7527 (Pepper) Require automatic sprinkler system in nursing facilities.

SOCIAL SECURITY

H.R. 3916 (Koch) National Home Health Care Act.

H.R. 4012 (Cornwell) Early mailing of Social Security checks.

H.R. 5319 (Fraser) Equity in Social Security for Individuals and Families Act.

H.R. 5418 (Pepper) Right of patients to terminate contract with long-term care institutions.

H.R. 5426 (Pepper) Increases services under supplemental medical insurance program.

H.R. 5430 (Pepper) Provides for State recovery of medicaid expenses.

H.R. 5437 (Pepper) Long-term care as part of hospital insurance program.

H.R. 5449 (Pepper) Removes limits on outside income earned under social security.

H.R. 5635 (Koch) Certification of nursing homes under medicare.

H.R. 7071 (Collins of Ill.) Provides cancer test under medicare.

H.R. 7154 (Bedell) Increases to $30,000 earnings under social security over three-year period.

TAXES

H.R. 383 (Harris) Tax credit for renters.

H.R. 1041 (Corman) Tax Equity Act.

H.R. 2451 (Koch) Equalizes married and single tax returns.

H.R. 4121 (Cornwell) Allows personal retirements plans.

H.R. 4334 (Whitehurst) Deduction for public utility taxes.

H.R. 4997 (Dellums) World Peace Tax Fund Act.

H.R. 5109 (Drinan) IRS amendment requiring allowable pregnacy medical deductions.

H.R. 5441 (Pepper) Exempts from excise tax certain buses purchased for nonprofit organizations.

H.R. 5445 (Pepper) Allows deductions for expenses for charitable purposes.

H.R. 5924 (Moakley) Provides income tax incentives for the conservation of energy in residences.

TRANSPORTATION

H.R. 3272 (Pepper) Reduced air fares for senior citizens.

H.R. 6119 (Brown of Calif.) Automotive Transport Research and Development Act.

H.R. 8103 (Bingham) Encourages the use of mass transportation for travel to and in national parks.

VETERANS' AFFAIRS

H.R. 2767 (Anderson of Calif.) World War I Pension Act (passed House).

H.R. 3243 (Ford) Veterans Benefits Pass through bill.

H.R. 5380 (Wirth) Veterans Administration Administrative Procedures and Judicial Review Act.

H.R. 6645 (Schroeder) Veterans benefits not reduced for cost-of-living retirement increases.

WOMEN'S RIGHTS

H.R. 4727 (Holtzman) Privacy Protection for Rape Victims Act.

H.R. 5056 (Hawkins) Prohibits sex discrimination on the basis of pregnancy.

PROPOSAL TO REVISE 18 U.S.C. 242

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, recent articles indicating possible jury tampering have revived the memory of the tragedy that occurred 7 years ago on the Kent State University campus when four students were shot to death by a group of National Guardsmen during an antiwar protest. After the Ohio grand jury failed to indict any guardsmen, the Federal Government charged several guardsmen under section 242 of title 18, "Deprivation of Rights Under Color of Law," of the United States Code in Federal court. This trial resulted in the acquittal of the guardsmen in 1974.

The law used to try the guardsmen, in its present form, has been criticized as unclear and subject to gross misinterpretation. In addition, this law has been cited as inadequate to deal with the violations it was supposed to address. After carefully considering this law and the possibility of its amendment, I would like to propose a bill that I feel would better serve the public interest. My bill would provide a more effective law for dealing with the relevant civil rights offenses. This legislation would also improve on the standard of clarity now found in that section of the Code.

The acquittal of the National Guardsmen brought to trial for the Kent State killings may not have been affected by the change in the language I am proposing. However, I believe that the more important question of the fairness and adequacy of our laws applicable to this crime, will be answered by amending section 18 U.S.C. 242. The vagueness of the current law together with the too strict requirements of the law have hampered Federal prosecutors' attempts to insure that Government officials maintain proper sensitivity for the rights of citizens.

The Federal criminal code reform bill, S. 1437, also deals with section 18 U.S.C. 242 in a manner similar to what I have suggested. However, I feel the importance of this issue merits individual attention.

At this time I would like to insert the text of the bill in the CONGRESSIONAL RECORD.

H.R. 9728

A bill to amend section 242 (relating to deprivation of rights under color of law) of title 18 of the United States Code to provide that all conduct resulting in deprivation of certain rights shall be punishable under that section

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 242 of title 18 of the United States Code is amended to read as follows:

"§ 242. Deprivation of rights under color of law

"Whoever, under color of law, knowingly engages in conduct that results in any other person's being deprived of a right, privilege, or immunity secured under the Constitution or laws of the United States, shall, whether or not the person engaging in such conduct knew or could have known such results, be fined not more than $1,000, or imprisoned not more than one year, or both. If the death of a person who suffered such a deprivation results from such conduct, the person engaging in that conduct may be imprisoned any term of years, or for life, and the limitation as to imprisonment contained in the first sentence of this section shall not apply."

BING CROSBY OPPOSED TV SMUT

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and include extraneous matter.)

Mr. DEVINE. Mr. Speaker, shortly before his untimely demise, singer and actor Bing Crosby wrote a rather personal article, a portion of which gave his insight to one of America's current dilemmas.

An advocate of healthy family relationships and high morality, the beloved "groaner" laid it on the line as only he could do.

His remarks follow:

I was laid up for five or six weeks lately—hospitalized—and of course, I saw lots and lots of TV. It became apparent to me that very slowly and very subtly writers and producers are working in nudity, permissiveness, irresponsibility, profanity, scenes of semi-explicit sex, provocative dialogue, smutty innuendoes, and situations into their shows. Moral responsibility is almost indiscernible.

Now I adhor censorship. Another word I dislike is boycott. But the inability of the former to be useful will surely produce the latter. Already there are little groups all over the country—groups of concerned people who want to do something about this before it's too late.

Let me tell you something. If they all get together and they become a nationwide organization of fifteen or sixteen million people and they tell some of the big advertisers on TV, some of the big sponsors, that they will stop buying their products unless they clean up their shows—Impact? You bet. Now I don't condone boycott any more than I do censorship, but it could happen.

I don't believe the First Amendment should apply here. A citizen can say or do anything he wants out on the street unless he breaks the law, but he shouldn't be allowed to come into a man's house and fill his TV set with prurient material. It certainly is not the type of thing that you want your children to see daily. Its effect can't be anything else but harmful.

They see these chic, sophisticated people behaving immorally, salaciously. People living together without the benefit of marriage must be the thing to do, they think. Must be clever or attractive. Kids, you know, are indelibly impressed by anything they see in a film done by attractive, famous people.

I happen to believe that the family is the basis for a sound society. A good strong society makes for a good strong community, and you get enough good strong communities and you've got a strong nation.

It's my fervent prayer that responsible people in the business—people of principle—will exert their influence in an effort to eliminate this highly objectionable material.

I really dislike ending this little piece on a gloomy note, but I do feel strongly that there are some serious consequences involved.

Talking to a TV executive recently and voicing my sentiments he said to me, "we're only depicting life as it is," but I fear that they are depicting life as it is going to be if they are not diverted. This seems like a very unattractive prospect to me.

(Mr. SIKES asked and was given permission to extend his remarks at this

point in the RECORD and to include extraneous matter.)

[Mr. SIKES' remarks will appear hereafter in the Extensions of Remarks.]

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. PEPPER (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. SISK, for 30 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mrs. PETTIS) to revise and extend their remarks and include extraneous material:)

Mr. CONABLE, for 10 minutes, today.

Mr. YOUNG of Alaska, for 15 minutes, today.

Mr. SARASIN, for 5 minutes, today.

Mr. KEMP, for 10 minutes, today.

Mr. CORCORAN of Illinois, for 5 minutes, today.

Mr. MARKS, for 10 minutes, today.

(The following Members (at the request of Mr. WEISS) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. BINGHAM, for 10 minutes, today.

Mr. DRINAN, for 5 minutes, today.

Mr. GIAIMO, for 5 minutes, today.

Mr. DIGGS, for 5 minutes, today.

Mr. ST GERMAIN, for 5 minutes, today.

Mr. LEGGETT, for 5 minutes, today.

Mr. RODINO, for 5 minutes, today.

Mr. WAGGONNER, for 5 minutes, today.

Mr. MITCHELL of Maryland, for 5 minutes, today.

Mr. PATTISON of New York, for 5 minutes, today.

Mr. VANIK, for 10 minutes, today.

Mr. DELLUMS, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ERLENBORN, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,046.50.

Mr. SIKES, and to include extraneous material.

(The following Members (at the request of Mrs. PETTIS) and to include extraneous matter:)

Mr. SARASIN.

Mr. ASHBROOK in three instances.

Mr. RAILSBACK.

Mr. BOB WILSON in three instances.

Mr. RUDD in two instances.

Mr. STEERS.

Mr. DORNAN in two instances.

Mr. LAGOMARSINO.

Mr. BADHAM.

Mr. GRASSLEY.

Mr. ERLENBORN.

Mr. ABDNOR in four instances.

Mr. GOLDWATER.

Mr. MARRIOTT.

Mr. PRESSLER in two instances.

Mr. CRANE.

(The following Members (at the request of Mr. WEISS) and to include extraneous matter:)

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. BROWN of California in 10 instances.

Mr. MURTHA in two instances.

Mr. MARKEY in five instances.

Mr. CARNEY.

Mr. DODD.

Mr. BOLLING.

Mr. WEISS.

Mr. BAUCUS in three instances.

Mr. ST GERMAIN.

Ms. KEYS.

Mr. NOLAN.

Mr. JACOBS.

Mr. WON PAT.

Mr. WOLFF.

Mr. MOORHEAD of Pennsylvania.

Mr. SIKES.

Mr. EILBERG in two instances.

Mr. MCDONALD in two instances.

Mr. PEPPER.

Mr. LEGGETT in two instances.

Mr. SIMON.

Mr. DENT.

Ms. OAKAR.

Mr. MAGUIRE in two instances.

Mr. RANGEL.

Mr. LAFALCE.

Mr. MILFORD.

Mr. MAZZOLI.

Mr. LUKEN in two instances.

Mr. DELLUMS.

SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and Joint Resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2208. An act to amend the Federal charter of the Big Brothers of America to include Big Sisters International, Incorporated, and for other purposes; to the Committee on the Judiciary; and

S.J. Res. 4. Joint resolution establishing the Aboriginal Hawaiian Claims Settlement Study Commission, and for other purposes; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1811. An act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4297. An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal year 1978.

ADJOURNMENT

Mr. WEISS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 3 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 26, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2590. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense articles to the United Kingdom (transmittal No. 78–3), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

2591. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the Department of State's intention to consent to a request by the Government of Israel for permission to transfer certain U.S.-origin military equipment to the Government of Honduras, pursuant to section 3 of the Arms Export Control Act; to the Committee on International Relations.

2592. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense articles to the United Kingdom (transmittal No. 78–3), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

2593. A letter from the Acting Administrator, U.S. Environmental Protection Agency, transmitting a draft of proposed legislation to amend the Noise Control Act and for other purposes; to the Committee on Interstate and Foreign Commerce.

2594. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204 (d) of the Immigration and Nationality Act, as amended (79 Stat. 915); to the Committtee on the Judiciary.

2595. A letter from the Comptroller General of the United States, transmitting a report on Air Force maintenance depots (LCD–77–425, October 21, 1977); jointly, to the Committees on Government Operations, and Armed Services.

2596. A letter from the Comptroller General of the United States, transmitting a report on the examination of financial statements of the Federal Home Loan Bank Board, the Federal home loan banks, the Federal Savings and Loan Insurance Corporation, and the Federal Home Loan Mortgage Corporation for calendar year 1976, pursuant to the Budget and Accounting Act, 1921 [31 U.S.C. 53], the Accounting and Auditing Act of 1950 [31 U.S.C. 67], the Government Corporation Control Act, as amended [31 U.S.C.

850 and 857], the Federal Home Loan Bank Act, as amended [12 U.S.C. 1431(j)], and the Federal Home Loan Mortgage Corporation Act [12 U.S.C. 1456(b)] (FOD-77-15, October 25, 1977) (H. Doc. No. 95-248); jointly, to the Committees on Government Operations, and Banking, Finance and Urban Affairs and ordered to be printed.

2597. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in the preparation of arms control impact statements (ID-77-41, October 20, 1977); jointly, to the Committees on Government Operations, and International Relations.

2598. A letter from the Comptroller General of the United States, transmitting a report on shortcomings in the operation and administration of the Federal Probation System (GGD-77-55, October 21, 1977); jointly, to the Committees on Government Operations, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. Supplemental report on H.R. 7442 (Rept. No. 95-721, Pt. II). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. House Joint Resolution 621. Joint resolution approving the Presidential decision on an Alaska natural gas transportation system, and for other purposes (Rept. No. 95-739, Pt. I). Ordered to be printed.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 9169. A bill to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing fishing vessels in an amount not exceeding 87½ percent of the actual or depreciated actual costs of each vessel; with amendment (Rept. No. 95-740). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN. Committee on Ways and Means. H.R. 7003. A bill to amend section 4941 of the Internal Revenue Code of 1954, and section 101(1)(2) of the Tax Reform Act of 1969; with amendment (Rept. No. 75-741). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 7581. A bill to amend the Internal Revenue Code of 1954 to provide that certain income from a nonmember telephone company is not taken into account in determining whether any mutual or cooperative telephone company is exempt from income tax (Rept. No. 95-742). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. H.R. 7662. A bill to amend the Administrative Conference Act; with amendment (Rept. No. 95-743). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 8811. A bill to amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court; with amendment (Rept. No. 94-774). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. S. 810. An act granting an extension of patent to the United Daughters of the Confederacy. (Rept. No. 95-745). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROOKS (for himself, Mr. WRIGHT, Mr. ROSENTHAL, Mr. HORTON, Mr. FASCELL, Mr. MCCLOSKEY, Mr. PREYER, Mr. JENRETTE, Mr. KOSTMAYER, Mr. BOLLING, Mr. CONTE, Mr. DICKS, Mr. GILMAN, Mr. HOLLENBECK, Mr. LE FANTE, Mr. MINETA, Mr. PRITCHARD, Mr. STEED, Mr. THORNTON, Mr. TUCKER, Mr. HARRIS, Mr. STEERS, Mr. MOFFETT, Mr. WAXMAN, and Mr. EVANS of Colorado):

H.R. 9718. A bill to establish an Office of Consumer Representation and to reorganize certain consumer programs in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes; to the Committee on Government Operations.

By Mr. CAPUTO:

H.R. 9719. A bill to amend the Internal Revenue Code of 1954 to provide for the issuance of nontaxable bonds for the furnishing of electric energy not produced by petroleum or natural gas; to the Committee on Ways and Means.

By Mr. COHEN (for himself, Mr. PEPPER, and Mr. JENRETTE):

H.R. 9720. A bill to amend the Social Security Act to direct the Secretary of Health, Education, and Welfare to develop and provide for the enforcement of standards relating to the rights of patients in certain medical facilities; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. DANIELSON:

H.R. 9721. A bill to provide for equitable waiver in the compromise and collection of Federal claims; to the Committee on the Judiciary.

By Mr. DRINAN:

H.R 9722. A bill to amend the Internal Revenue Code of 1954 to discourage interstate bootlegging of cigarettes by increasing the Federal tax on cigarettes and to provide payments to States which do not impose a special tax on cigarettes and to amend title 18, United States Code, to impose certain penalties with respect to such bootlegging and for other purposes; jointly, to the Committees on Ways and Means, and the Judiciary.

By Mr. FREY:

H.R 9723. A bill to amend the National Housing Act to prohibit Federal Housing Administration insurance of blanket mortgages on condominium projects, and Federal National Mortgage Association purchases of conventional condominium mortgages, where the developer retains or will retain a leasehold interest in the common areas and facilities of the project involved; to the Committee on Banking, Finance and Urban Affairs.

H.R. 9724. A bill to protect purchasers and prospective purchasers of condominium housing units and residents of multifamily rental structures being converted to condominium units, by providing for the establishment of national minimum standards for condominium sales and conversions (to be administered by an Assistant Secretary for Condominium Housing, Department of Housing and Urban Development); and to insure that financial institutions engaged in the extension of credit to prospective purchasers of condominium units make credit available without discrimination on the basis of age, sex, race, religion, marital status or national origin, to the Committee on Banking, Finance and Urban Affairs.

H.R. 9725. A bill to amend the Internal Revenue Code of 1954 to provide an exemption from income taxation for cooperative housing corporations and condominium housing associations; to the Committee on Ways and Means.

By Mr. KETCHUM (for himself, Mr. MOORHEAD of California, and Mr. QUIE):

H.R. 9726. A bill to amend the Internal Revenue Code of 1954 with respect to income earned abroad by U.S. citizens living or residing abroad; to the Committee on Ways and Means.

By Ms. KEYS:

H.R. 9727. A bill to amend the Internal Revenue Code of 1954 to provide that amounts received under certain conditional health scholarships and discharges of certain health student loans will be exempt from taxation; to the Committee on Ways and Means.

By Mr. MIKVA:

H.R. 9728. A bill to amend section 242 (relating to deprivation of rights under color of law) of title 18 of the United States Code to provide that all conduct resulting in deprivation of certain rights shall be punishable under that section; to the Committee on the Judiciary.

By Mr. MIKVA (for himself, Mr. HAMMERSCHMIDT, Mr. IRELAND, and Mr. LE FANTE):

H.R. 9729. A bill to correct inequities in certain franchise practices, to provide franchisors and franchisees with evenhanded protection from unfair practices, to provide consumers with the benefits which accrue from a competitive and open-market economy, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MIKVA (for himself, Mr. GEPHARDT, Mr. HARRIS, Mr. PANETTA, Mr. RANGEL, Mr. STARK, and Mr. WAXMAN):

H.R. 9730. A bill to amend title XVIII of the Social Security Act for the purpose of including outpatient rehabilitation services among the benefits of the medicare program; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 9731. A bill to provide that an LNG facility may not be certified under section 7(c) of the Natural Gas Act unless the Governor of the State and the legislative body or bodies of that State in which such facility is or is to be located has approved the facility; to the Committee on Interstate and Foreign Commerce.

By Mr. ANDREWS of North Dakota:

H.R. 9732. A bill to amend the Internal Revenue Code of 1954 to exempt certain farm vehicles from the highway use tax; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.R. 9733. A bill to curtail the illegal transportation of cigarettes in interstate commerce by increasing the Federal tax on cigarettes and providing payments to States in which State and local taxes on cigarettes do not exceed a certain limit, and for other purposes; jointly, to the Committees on Ways and Means and Government Operations.

By Mr. BROOKS (for himself, Mr. ROSE, Mr. NEAL, and Mrs. HECKLER):

H.R. 9734. A bill to establish an Office of Consumer Representation and to reorganize certain consumer programs in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes; to the Committee on Government Operations.

By Mr. CORCORAN of Illinois:

H.R. 9735. A bill to amend the provisions of title 39, United States Code, relating to the authorization of Public Service Funds of the U.S. Postal Service, and for other purposes; jointly to the Committees on Post Office and Civil Service, and Rules.

By Mr. CUNNINGHAM:

H.R. 9736. A bill to amend the act commonly known as the Black Bass Act to provide further protection for steelhead trout, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mr. DANIELSON:

H.R. 9737. A bill to amend section 1 of the act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle claims for damages of less than $2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration shall be found to be responsible; to the Committee on the Judiciary.

By Mr. DERRICK (for himself and Mr. LAFALCE):

H.R. 9738. A bill to amend the Federal Home Loan Mortgage Corporation Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. EILBERG (for himself, Mr. BEDELL, Mr. CARR, Mr. CONTE, Mr. CORNELL, Mr. EDGAR, Mr. GIBBONS, Mr. MCKAY, Mr. MARKS, Mr. MICHAEL O. MYERS, and Mr. NIX):

H.R. 9739. A bill to amend title 18 of the United States Code to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes; to the Committee on the Judiciary.

By Mr. EILBERG (for himself, Mr. ADDABBO, Mr. BEARD of Tennessee, Mr. DUNCAN of Tennessee, Mr. FRENZEL, Mr. HANLEY, Mr. LEDERER, Mr. MOAKLEY, Mr. MOTTL, Mr. ROGERS, Mr. SIMON, Mr. YOUNG of Florida, Mr. STEERS, and Mr. SCHEUER):

H.R. 9740. A bill to amend title 18 of the United States Code to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes; to the Committee on the Judiciary.

By Mr. EILBERG (for himself, Mr. BAUCUS, Mr. BONIOR, Mr. GUYER, Mr. LENT, Mr. MCCLORY, Mr. MURPHY of Pennsylvania, Mr. NEAL, Mr. NOLAN, Mr. OTTINGER, Mr. PEASE, Mr. SKUBITZ, and Mr. WOLFF):

H.R. 9741. A bill to amend title 18 of the United States Code to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes; to the Committee on the Judiciary.

By Mr. GIAIMO (for himself, Mr. DODD, and Mr. MCKINNEY):

H.R. 9742. A bill to authorize the establishment of the Long Island Sound Heritage in the States of Connecticut and New York; to the Committee on Interior and Insular Affairs.

By Mr. JENRETTE:

H.R. 9743. A bill to amend chapter 67 of title 10, United States Code, to grant eligibility for retired pay to certain reservists who did not perform active duty before August 16, 1945, and for other purposes; to the Committee on Armed Services.

By Mr. KEMP:

H.R. 9744. A bill to amend the Internal Revenue Code to provide allowance only of replacement cost straight line depreciation and other consistent methods of depreciation; to the Committee on Ways and Means.

By Mr. MCCLORY:

H.R. 9745. A bill to amend title 18, United States Code, to provide a mechanism for the authorization of electronic surveillance to obtain foreign intelligence information; jointly, to the Committees on the Judiciary, and the Select Committee on Intelligence.

By Mr. MAGUIRE:

H.R. 9746. A bill to amend the Export-Import Bank Act of 1945 to prohibit the making of loans or financial guarantees under the act to the Republic of South Africa; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MILLER of California (for himself and Mr. STARK):

H.R. 9747. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act to clarify the act's coverage to employees engaged in the manufacture, repair, servicing, or sale of recreational boats; to the Committee on Education and Labor.

By Mr. REUSS:

H.R. 9748. A bill to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. SPELLMAN (for herself, Mr. LUKEN, and Mr. MARKEY):

H.R. 9749. A bill to amend the Public Health Service Act to provide health care services for pregnant adolescents before and after childbirth; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE:

H.R. 9750. A bill to amend title 38, United States Code, to revise the so-called 50-percent employment requirement for vocational courses, to require State approving agencies to notify the administrator of Veterans' Affairs of educational institutions cited for deceptive or illegal practices, to impose certain restrictions on correspondence-residence courses, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DERWINSKI (for himself, Mr. CONTE, Mr. CORNWELL, Mr. DORNAN, Mr. EDWARDS of Oklahoma, Mr. ERTEL, Mr. FARY, Mr. HARRINGTON, Mr. KETCHUM, Mr. LAGOMARSINO, Mr. MATTOX, Mr. MITCHELL of New York, Mr. MURPHY of Pennsylvania, Mr. JOHN T. MYERS, and Mr. WINN):

H.J. Res. 636. Joint resolution to authorize the construction and maintenance of a monument to Gen. Draza Mihailovich in the District of Columbia, in recognition of the role he played in saving the lives of approximately 500 U.S. airmen in Yugoslavia during World War II; to the Committee on House Administration.

By Mr. SATTERFIELD (for himself, Mr. YOUNG of Alaska, Mr. SARASIN, Mr. GUYER, and Mr. LUJAN):

H.J. Res. 637. Joint resolution authorizing the President to proclaim the second full week in October 1978, as National Legal Secretaries' Court Observance Week; to the Committee on Post Office and Civil Service.

By Mr. RODINO (for himself, Mrs. FENWICK, Mr. FLORIO, Mr. FORSYTHE, Mr. HOLLENBECK, Mr. HOWARD, Mr. HUGHES, Mr. LE FANTE, Mr. MAGUIRE, Mrs. MEYNER, Mr. MINISH, Mr. PATTEN, Mr. RINALDO, Mr. ROE, Mr. THOMPSON, Mr. ADDABBO, Mr. ARCHER, Mr. BLANCHARD, Mr. BONIOR, Mr. BRODHEAD, Mr. BUCHANAN, Mr. COTTER, Mr. EILBERG, Mr. GIAIMO, and Mr. HARKIN):

H. Con. Res. 385. Concurrent resolution relating to the detention of Mykola Rudenko and Olekan Tykhy; to the Committee on International Relations.

By Mr. RODINO (for himself, Ms. HOLTZMAN, Mr. MOAKLEY, Mr. NEDZI, Mr. PATTISON of New York, Mr. WOLFF, and Mr. WYDLER):

H. Con. Res. 386. Concurrent resolution relating to the detention of Mykola Rudenko and Oleksa Tykhy; to the Committee on International Relations.

By Mr. ABDNOR (for himself, Mr. RONCALIO, Mr. PATTISON of New York, Mr. SEBELIUS, Mr. WINN, Mr. MITCHELL of New York, Mr. GRASSLEY, Mr. D'AMOURS, Mr. BLOUIN, Mr. GRADISON, Mr. EMERY, Mr. FISH, Mr. CLEVELAND, Mr. HANLEY, and Mr. SISK):

H. Res. 862. Resolution expressing the sense of the House with respect to a reorganization of the Department of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ABDNOR (for himself, Mr. JEFFORDS, Mr. BEDELL, Mr. SMITH of Iowa, Mr. MCEWEN, Mr. COHEN, Mr. STRATTON, Mr. CEDERBERG, Mr. LUKEN, Mr. GLICKMAN, Mr. LEACH, Mr. MARLENEE, Mr. MARRIOTT, and Mr. FLORIO):

H. Res. 863. Resolution expressing the sense of the House with respect to a reorganization of the Department of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MANN (for himself, Mr. ALEXANDER, Mr. BAFALIS, Mr. BAUMAN, Mr. BEARD of Rhode Island, Mr. BUCHANAN, Mr. BUTLER, Mrs. CHISHOLM, Mr. DELANEY, Mr. DICKINSON, Mr. EMERY, Mr. FISH, Mr. GILMAN, Mr. GOODLING, Mr. GUYER, Mr. KETCHUM, Mr. LENT, Mr. MCKINNEY, Mr. NOLAN, Mr. OBERSTAR, Mr. OTTINGER, Mr. RANGEL, Mr. RUNNELS, Mr. SNYDER, and Mr. TAYLOR):

H. Res. 864. Resolution relative to customs duties on textile, apparel and fiber products; to the Committee on Ways and Means.

By Mr. NOLAN (for himself, Mr. BOWEN, Mrs. FENWICK, Mr. FORD of Michigan, Mr. FORSYTHE, Mr. SEIBERLING, and Mr. WAXMAN):

H. Res. 865. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture, and International Relations.

By Mr. LOTT (for himself and Mr. SISK):

H. Res. 866. Resolution amending the Rules of the House of Representatives to provide for television and radio coverage of the proceedings of the House; to the Committee on Rules.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

297. By the SPEAKER: Petition of the Western Conference of the Council of State Governments, San Francisco, Calif., relative to education for the handicapped; to the Committee on Education and Labor.

298. Also, petition of the Western Conference of the Council of State Governments, San Francisco, Calif., relative to hydroelectric production and energy; to the Committee on Interior and Insular Affairs.

299. Also, petition of the Western Conference of the Council of State Governments, San Francisco, Calif., relative to the allocation of gasoline; to the Committee on Interstate and Foreign Commerce.

300. Also, petition of the Western Conference of the Council of State Governments, San Francisco, Calif., relative to reducing paper work concerning highway projects; to the Committee on Public Works and Transportation.

301. Also, petition of the Western Conference of the Council of State Governments, San Francisco, Calif., relative to alcohol abuse; jointly, to the Committees on Education and Labor, and Interstate and Foreign Commerce.

302. Also, petition of the Western Conference of the Council of State Governments, San Francisco, Calif., relative to Federal land management; jointly, to the Committees on Interior and Insular Affairs, and Merchant Marine and Fisheries.

303. Also, petition of the Western Conference of the Council of State Governments, San Francisco, Calif., relative to health care cost containment; jointly, to the Committees

on Interstate and Foreign Commerce, and Ways and Means.

304. Also, petition of the Western Conference of the Council of State Governments, San Francisco, Calif., relative to welfare reform; jointly, to the Committees on Agriculture, Interstate and Foreign Commerce, and Ways and Means.

305. Also, petition of the Christian Life Commission, Southern Baptist Convention, Nashville, Tenn., relative to adopting a strong energy policy; jointly, to the Committees on Banking, Finance and Urban Affairs; Government Operations; Interstate and Foreign Commerce; Public Works and Transportation; and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1614

By Mr. McKINNEY:

Strike section 28 and insert in lieu thereof the following:

PROHIBITIONS ON EXPORTS

"Sec. 28. (a) Any oil produced from the Outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969.

(b) no oil subject to this section may be exported under the requirements of the Export Administration Act of 1969 unless—

(1) exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state;

(2) is temporarily exported for convenience of transportation or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States; or

(3) is temporarily exported for the purposes of refining and reenters the United States.

Proposed amendment to H.R. 1614, by Mr. STUDDS, submitted for printing in the RECORD in accordance with clause 6 of Rule XXIII:

By Mr. STUDDS:

Page 227, strike out lines 19 through 21, inclusive, and insert in lieu thereof the following: "the United States who (A) harvests living marine resources for commercial purposes, and (B) derives his primary source of income from such activity; and".

Page 229, line 7, immediately after "suffered" insert the following: "due to activities related to oil and gas exploration, development, and production"

Page 229, after line 7, insert the following:

"(C) Reasonable attorneys' fees under subsection (e)(1) of this section.

Page 231, strike out lines 24 and 25 and insert in lieu thereof the following:

"(ii) in an amount in excess of $75,000 per incident; and

Page 232, strike out line 3 and insert in lieu thereof the following:

the claim; or

"(iv) when the damage set forth in the claim was sustained prior to the date of enactment of this section.

Page 232, immediately after line 3, insert the following new subsection:

"(d) With respect to any claim for damages filed pursuant to this section, there shall be a presumption as to the validity of such claim if the claimant establishes that—

"(1) the vessel was being used for fishing and was located in an area prescribed by the Secretary of Commerce as an area affected by Outer Continental Shelf activities;

"(2) a report on the location of the material, equipment, tool, container, or other item which caused such damages and the nature of such damages was made within five days after the date on which such damages were discovered;

"(3) there was no record on nautical charts or the Notice to Mariners on the date such damages were sustained that such material, equipment, tool, container, or other item existed in such area; and

"(4) there was no proper surface marker or lighted buoy which was attached or closely anchored to such material, equipment, tool, container, or other item.

Page 232, line 4, strike out "(d)" and insert in lieu thereof "(e)".

Page 233, line 7, strike out "(e)" and insert in lieu thereof "(f)".

Page 232, line 13, after the period insert the following:

"If such decision is in favor of the person filing the claim, the hearing examiner shall include as part of the amount certified to the Secretary under paragraph (4) of this subsection reasonable attorneys' fees incurred by such person in pursuing such claim.

Page 233, immediately after line 15, insert the following new subsection:

"(g) Not later than one year after the date of the establishment of any fund under subsection (b) of this section, the Secretary shall submit a report to the Congress setting forth his recommendations as to whether or not claims should be paid from such fund which are based on damages caused by materials, equipment, tools, containers, or other items, the ownership and responsibility for which is known on the date of the submission of such claims.

H.R. 6805

By Mr. BROOKS:

Strike out everything after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Consumer Representation and Reorganization Act of 1977".

STATEMENT OF FINDINGS

SEC. 2. The Congress finds that the interests of consumers are inadequately represented and protected within the Federal Government; that such interests are adversely affected when Government rules, regulations, or orders are contrary to legislative intent or are duplicative or conflicting in purpose or implementation; and that vigorus representation and protection of the interests of consumers, essential to the fair and efficient functioning of a free market economy, require the establishment of an Office of Consumer Representation and the reorganization of certain existing consumer programs.

ESTABLISHMENT

SEC. 3. (a) There is hereby established as an independent agency within the executive branch of the Government an Office of Consumer Representation. The Office shall be directed and administered by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be a person who by reason of training, experience, and attainments is exceptionally qualified to represent the interests of consumers. There shall be in the Office a Deputy Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such functions, powers, and duties as may be prescribed from time to time by the Administrator and shall act for, and exercise the powers of, the Administrator during the absence or disability of, or in the event of a vacancy in the office of, the Administrator.

(b) There shall be in the Office a General Counsel and not to exceed five Assistant Administrators appointed by the Adminstrator.

(c) No employee of the Office while serving in such position may engage in any business, vocation, or other employment or have other interests which are inconsistent with his official responsibilities.

(d) The Administrator, Deputy Administrator, General Counsel, and Assistant Administrators after holding such office, shall neither represent nor advise in a professional capacity a regulated party or association representing a regulated party on any issue pending during the term of their employment by the Office and concerning which they were involved in a decisionmaking capacity. The Administrator, Deputy Administrator, General Counsel, and Assistant Administrators shall, for a period of two years following the termination of their employment by the Office, neither represent nor advise in a professional capacity any regulated party or any association representing a regulated party with regard to any matter in which the Office participated before a Federal agency or in the courts during their employment.

POWERS AND DUTIES OF THE ADMINISTRATOR

SEC. 4. (a) The Administrator shall be responsible for the exercise of the powers and the discharge of the duties of the Office, and shall have the authority to direct and supervise all personnel and activities thereof.

(b) In addition to any other authority conferred upon him by this Act, the Administrator is authorized, in carrying out his functions under this Act, to—

(1) subject to the civil service and classification laws, select, appoint, employ, and fix the compensation of such officers and employees as are necessary to carry out the provisions of this Act and to prescribe their authority and duties;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate individuals so employed for each day (including traveltime) at rates not in excess of the maximum rate of pay for grade GS-18 as provided in section 5332 of title 5, United States Code, and while such experts and consultants are so serving away from their homes or regular place of business, pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(3) appoint advisory committees composed of such private citizens, including consumer and business representatives, and officials of the Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this Act, and pay such members (other than those regularly employed by the Federal Government) while attending meetings of such committees or otherwise serving at the request of the Administrator compensation and travel expenses at the rate provided for in paragraph (2) of this subsection with respect to experts and consultants; members of an advisory committee to be appointed as consumer representatives shall, whenever practicable, constitute the majority membership of any such advisory committee and shall be individuals who by reason of training, experience, and attainments are exceptionally qualified to represent the interests of consumers;

(4) promulgate, in accordance with the applicable provisions of chapter 5 of title 5, United States Code, such rules, regulations, and procedures as may be necessary to carry out the provisions of this Act, and assure fairness to all persons affected by the Office's actions, and to delegate authority for the performance of any function to any officer or employee under his direction and supervision;

(5) utilize, with their consent, the services, personnel, and facilities of other Federal agencies and of State and private agencies and instrumentalities;

(6) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the work of the Office and on such terms as the Administrator may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory, or posession, or any political subdivision thereof, or with any public or private person, firm, association, corporation, or institution;

(7) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b));

(8) adopt an official seal, which shall be judicially noticed;

(9) encourage the development of informal dispute settlement procedures involving consumers; and

(10) conduct conferences and hearings and otherwise secure data and public views necessary to carry out the purposes of this Act.

(c) Upon request made by the Administrator, each Federal agency is authorized and directed to make its services, personnel, and facilities available to the greatest practicable extent within its capability to the Office in the performance of its functions.

(d) The Administrator shall transmit to the Congress and the President not later than February 1 of each year a report which shall include a comprehensive statement of the activities and accomplishments of the Office during the preceding calendar year including a summary of consumer complaints received and actions taken thereon. Each such report shall include—

(1) a summary and evaluation of selected major consumer programs of Federal agencies, including, but not limited to, comment with respect to the effectiveness and efficiency of such programs as well as deficiencies noted in the coordination, administration, or enforcement of such programs;

(2) an identification of and comment on any rule, regulation, or order of a Federal agency found by the Administrator, in the course of his activities under this Act, to be contrary to legislative intent or in conflict with or duplicative of a rule, regulation, or order of another such agency; and

(3) an assessment of the impact of intervention and participation by the Office and by other persons and agencies on the effectiveness and efficiency of the administrative processes of the Government.

FUNCTIONS OF THE OFFICE

SEC. 5. (a) The Office shall, in the performance of its functions, advise the Congress and the President as to matters affecting the interests of consumers; and protect and promote the interests of the people of the United States as consumers of goods and services made available to them through the trade and commerce of the United States.

(b) The functions of the Office shall be to—

(1) represent the interests of consumers before Federal agencies and courts to the extent authorized by this Act;

(2) encourage and support research, studies, and testing leading to a better understanding of consumer products and improved products, services, and consumer information, to the extent authorized in section 9 of this Act;

(3) submit recommendations annually to the Congress and the President on measures to improve the operation of the Federal Government in the protection and promotion of the interests of consumers;

(4) publish and distribute material developed pursuant to carrying out its responsibilities under this Act which will inform consumers of matters of interest to them, to the extent authorized in section 8 of this Act;

(5) conduct conferences, surveys, and investigations, including economic surveys, concerning the needs, interests, and problems of consumers which are not duplicative in significant degree of similar activities conducted by other Federal agencies;

(6) cooperate with State and local governments and private enterprise in the promotion and protection of the interests of consumers; and

(7) keep the appropriate committees of Congress fully and currently informed of all of its activities, as required by this Act.

REPRESENTATION OF CONSUMERS

SEC. 6. (a) Whenever the Administrator determines that the result of any Federal agency proceeding or activity may substantially affect an interest of consumers, he may as of right intervene as a party or otherwise participate for the purpose of representing the interests of consumers, as provided in paragraph (1) or (2) of this subsection. In any proceeding, the Administrator shall refrain from intervening as a party, unless he determines that such intervention is necessary to represent adequately the interest of consumers. The Administrator shall comply with Federal agency statutes and rules of procedure of general applicability governing the timing of intervention or participation in such proceeding or activity and, upon intervening or participating therein, shall comply with Federal agency statutes and rules of procedure of general applicability governing the conduct thereof. The intervention or participation of the Administrator in any Federal agency proceeding or activity shall not affect the obligation of the Federal agency conducting such proceeding or activity to assure procedural fairness to all participants.

(1) Except as provided in subsection (c), the Administrator may intervene as a party or otherwise participate in any Federal agency proceeding which is subject to section 553, 554, 556, or 557 of title 5, United States Code, or to any other statute, regulation, or practice authorizing a hearing, or which is conducted on the record after opportunity for an agency hearing.

(2) Except as provided in subsection (c), in any Federal agency proceeding not covered by paragraph (1), or any other Federal agency activity, the Administrator may participate or communicate in any manner that any person may participate or communicate under Federal agency statutes, rules, or practices. The Federal agency shall give consideration to the written or oral submission of the Administrator. Such submission shall be presented in an orderly manner and without causing undue delay.

(b) At such time as the Administrator determines to intervene or participate in a Federal agency proceeding under subsection (a)(1) of this section, he shall issue publicly a written statement setting forth his findings under subsection (a), stating concisely the specific interests of consumers to be protected. Upon intervening or participating he shall file a copy of his statement in the proceeding.

(c) In any Federal agency proceeding seeking primarily to impose a fine or forfeiture which the agency may impose under its own authority for an alleged violation of a statute of the United States or of a rule, order, or decree promulgated thereunder and which in the opinion of the Administrator may substantially affect the interests of consumers, the Administrator upon his own motion, or upon written request made by the officer or employee who is charged with the duty of presenting the case of the United States or the Federal agency in the proceeding or action, may transmit to such officer or employee all evidence and information in the possession of the Administrator relevant to the proceeding or action and may, in the discretion of the Federal agency or court, appears as amicus curiae and present written or oral argument to such agency or court.

(d)(1) To the extent that any person, if aggrieved, would have a right of judicial review by law, the Administrator may institute, or intervene as a party in, a proceeding in a court of the United States involving judicial review of any Federal agency action in which the Administrator intervened or participated.

(2) The Administrator may institute, or intervene as a party in, a proceeding in a court of the United States involving judicial review of any Federal agency action in which the Administrator did not intervene or participate, to the same extent and in the same manner as any person not a party or a participant, if such court finds that such agency action may adversely affect an interest of consumers and, in the case of an intervention, that the consumers' interests would not otherwise be adequately represented in a judicial review of such action.

(3) The participation of the Administrator in a proceeding for judicial review of a Federal agency action shall not alter or affect the scope of review otherwise applicable to such agency action.

(4) The Administrator's judicial review authority under paragraphs (1) and (2) of this subsection shall not be exercised as to a Federal agency activity described in subsection (a)(2) of this section unless the Administrator provides the President with 30 days advance notice in writing of his intention to seek such review, except that such notice to the President under this paragraph of intent to seek judicial review is not required when the Federal agency activity involved is that of an independent regulatory agency or of an entity within the executive branch of Government whose principal functions are of a regulatory nature.

(e) When the Administrator determines it to be in the interests of consumers, he may request the Federal agency concerned to initiate such proceeding or to take such other action as may be authorized by law with respect to such agency. If the Federal agency fails to take the action requested, it shall promptly notify the Administrator of the reasons for its failure and such notification shall be a matter of public record. To the extent that any person, if aggrieved, would have a right of judicial review by law, the Administrator may institute a proceeding in a court of the United States to secure review of the action of a Federal agency or its refusal to act.

(f) Appearances by the Office under this section shall be in its own name and shall be made by qualified representatives designated by the Administrator.

(g) In any Federal agency proceeding in which the Office is intervening or participating pursuant to subsection (a)(1) of this section, the Office is authorized to request the Federal agency to issue, and the Federal agency shall issue such orders as are authorized by the Federal agency's statutory powers, for the copying of documents, papers, and records, summoning of witnesses, production of books and papers and submission of information in writing to the same extent, upon the same statement or showing, and subject to the same requirements as are applicable to requests for such orders from any other intervenor or participant.

(h) The Administrator is not authorized to intervene in proceedings or actions before State or local agencies and courts.

(i) Nothing in this section shall be construed to prohibit the Administrator from communicating with or providing information or analysis to Federal, State, or local agencies or courts at times and in manners not inconsistent with law or agency rules.

CONSUMER COMPLAINTS

SEC. 7. (a) The Office shall receive, evaluate, develop, act on, and transmit complaints

to the appropriate Federal or non-Federal entities concerning actions or practices which may be detrimental to the interests of consumers.

(b) Whenever the Office receives from any source, or develops on its own initiative, any complaint or other information affecting the interests of consumers and disclosing a probable violation of—

(1) a law of the United States,

(2) a rule or order of a Federal agency or officer, or

(3) a judgment, decree, or order of any court of the United States involving a matter of Federal law,

it shall take such action within its authority as may be desirable, including the proposal of legislation, and shall promptly transmit such complaint or other information to the Federal agency or officer charged with the duty of enforcing such law, rule, order, judgment, or decree, for appropriate action.

(c) The Office shall ascertain the nature and extent of action taken with regard to respective complaints and other information transmitted under subsection (b) of this section.

(d) The Office shall promptly notify producers, distributors, retailers or suppliers of goods and services of complaints of significance concerning them received or developed under this section.

(e) The Office shall maintain a public document room containing an up-to-date listing of all signed consumer complaints of significance for public inspection and copying which the Office has received, arranged in meaningful and useful categories, together with annotations of actions taken by it. Complaints shall be listed and made available for public inspection and copying only if—

(1) the complainant's identity is protected when he has requested confidentiality;

(2) the party complained against has had sixty days to comment on such complaint and such comment, when received, is displayed together with the complaint; and

(3) the entity to which the complaint has been referred has had sixty days to notify the Office what action, if any, it intends to take with respect to the complaint.

CONSUMER INFORMATION AND SERVICES

SEC. 8. (a) The Office shall develop on its own initiative, and, subject to the other provisions of this Act, gather from other Federal agencies and non-Federal sources, and disseminate to the public in such manner, at such times, and in such form as it determines to be most effective, information, statistics, and other data concerning—

(1) the functions and duties of the Office;

(2) consumer products and services;

(3) problems encountered by consumers generally, including annual reports on interest rates and commercial and trade practices which adversely affect consumers; and

(4) notices of Federal hearings, proposed and final rules and orders, and other pertinent activities of Federal agencies that affect consumers.

(b) All Federal agencies which, in the judgment of the Administrator, possess information which would be useful to consumers are authorized and directed to cooperate with the Office in making such information available to the public.

RESEARCH

SEC. 9. (a) The Office shall, in the exercise of its functions—

(1) encourage and support through, both public and private entities, the development and application of information on consumer products and services, by research and testing, including methods and techniques for testing materials, mechanisms, components, structures, and processes used in consumer products; and

(2) make recommendations to other Federal agencies with respect to research, studies, analyses, and other information within their authority which would be useful and beneficial to consumers.

(b) All Federal agencies which, in the judgment of the Administrator, possess testing facilities and staff relating to the performance of consumer products and services, are authorized and directed to perform promptly, to the greatest practicable extent within their capability, such tests as the Administrator may request in the exercise of his functions under section 6 of this Act, regarding products, services, or any matter affecting the interests of consumers. Such tests shall, to the extent possible, be conducted in accordance with generally accepted methodologies and procedures, and in every case when test results are published, the methodologies and procedures used shall be available along with the test results. The results of such tests may be used or published only in connection with proceedings in which the office is participating or has intervened pursuant to section 6. In providing facilities and staff upon request made in writing by the Administrator, Federal agencies—

(1) may perform functions under this section without regard to section 3648 of the Revised Statutes (31 U.S.C. 529);

(2) may request any other Federal agency to supply such statistics, data, progress reports, and other information as the Administrator deems necessary to carry out his functions under this section and any such other agency is authorized and directed to cooperate to the extent permitted by law by furnishing such materials; and

(3) may, to the extent necessary and authorized, acquire or establish additional facilities and purchase additional equipment for the purpose of carrying out the purposes of this section.

(c) Neither a Federal agency engaged in testing products under this Act nor the Administrator shall declare one product to be better, or a better buy, than any other product; however, the provisions of this subsection shall not prohibit the use or publication of test data as provided in subsection (b).

(d) Nothing in this Act shall be construed to authorize the Administrator to establish a consumer product testing laboratory.

INFORMATION GATHERING

SEC. 10. (a) Upon written request by the Administrator, each Federal agency is authorized and directed to furnish or allow access to all documents, papers, and records in its possession which the Administrator deems necessary for the performance of his functions and to furnish at cost copies of specified documents, papers, and records. This subsection does not apply to matters that are—

(1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute (other than section 552 or 552b of title 5 United States Code), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(5) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(6) investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identitly of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life of physical safety of law enforcement personnel;

(7) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(8) geological and geophysical information and data, including maps, concerning wells;

(9) trade secrets and commercial or financial information obtained from a person and privileged or confidential—

(A) obtained prior to the effective date of this Act by a Federal agency, if the agency had agreed to treat and has treated such information as privileged or confidential and states in writing to the Administrator that, taking into account the nature of the assurances given, the character of the information requested, and the purpose, as stated by the Administrator, for which access is sought, to permit such access would constitute a breach of faith by the agency; or

(B) obtained subsequent to the effective date of this Act by a Federal agency, if the agency has agreed in writing as a condition of receipt to treat such information as privileged or confidential, on the basis of its determination set forth in writing that such information was not obtainable without such an agreement and that failure to obtain such information would seriously impair performance of the agency's function.

Before granting the Administrator access to trade secrets and commercial or financial information described in section 552(b)(4) of title 5, United States Code, the agency shall notify the person who provided such information of its intention to do so and the reasons therefor, and shall afford him a reasonable opportunity to comment. Where access to information is denied to the Administrator by a Federal agency pursuant to this subsection, the head of the agency and the Administrator shall seek to find a means of providing the information in such other form, or under such conditions, as will meet the agency's objections. The Administrator may file a complaint in court to enforce its rights under this subsection in the same manner and subject to the same conditions as a complainant under section 552(a)(3) of title 5, United States Code.

(b) Consistent with the provisions of section 6103 of the Internal Revenue Code of 1954 (26 U.S.C. 6103), nothing in this Act shall be construed as providing for or authorizing access by the Administrator to information solely from a tax return information, as defined by section 6103(b) of such Code, except as provided by law.

LIMITATIONS ON DISCLOSURES

SEC. 11. (a) Except as provided in this section, section 552 of title 5, United States Code, shall govern the release of information by any officer or employee of the Office.

(b) No officer or employee of the Office shall disclose to the public or to any State or local agency any information which was received solely from a Federal agency if such

agency has notified the Administrator that the information is within the exceptions stated in section 552(b) of title 5, United States Code, and the Federal agency has determined that the information should not be made available to the public, except that, if such Federal agency has specified that such information may be disclosed in a particular form or manner, such information may be disclosed in such form or manner.

(c) The following additional provisions shall govern the release of information by the Administrator pursuant to any authority conferred by this Act, except information released through the presentation of evidence in a Federal agency or court proceeding pursuant to section 6:

(1) The Administrator, in releasing information concerning consumer products and services, shall determine that (A) such information, so far as practicable, is accurate, and (B) no part of such information is prohibited from disclosure by law. The Administrator shall comply with any notice by a Federal agency pursuant to subsection (b) of this section that the information should not be made available to the public or should be disclosed only in a particular form or manner.

(2) In the dissemination of any test results or other information which directly or indirectly disclose product names, it shall be made clear that (A) not all products of a competitive nature have been tested, if such is the case, and (B) there is no intent or purpose to rate products tested over those not tested or to imply that those tested are superior or preferable in quality over those not tested.

(3) Notice of all changes in, or any additional information which would affect the fairness of, information previously disseminated to the public shall be promptly disseminated in a similar manner.

PROTECTION OF THE CONSUMER INTEREST IN ADMINISTRATIVE PROCEEDINGS

SEC. 12. Every Federal agency in considering any Federal agency action which may substantially affect an interest of consumers including, but not limited to, the issuance or adoption of rules, regulations, guidelines, orders, standards, or formal policy decisions, shall—

(1) notify the Office at such time as notice of the action is given to the public, or at such times and in such manner as may be fixed by agreement between the Administrator and each agency with respect to the consideration of specific actions, or when notification of a specific action or proceeding is requested in writing by the Office; and

(2) consistent with its statutory responsibilities take such action with due consideration to the interest of consumers.

In taking any action under paragraph (2), upon request of the Office or in those cases where a public announcement would normally be made, the Federal agency concerned shall indicate concisely in a public announcement of such action the consideration given to the interests of consumers. This section shall be enforceable in a court of the United States only upon petition of the Office.

SAVING PROVISIONS

SEC. 13. (a) Nothing contained in this Act shall be construed to alter, modify, or impair the statutory responsibility and authority contained in section 201(a)(4) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481(a)(4)), or of any provision of the antitrust laws, or of any Act providing for the regulation of the trade or commerce of the United States, or to prevent or impair the administration or enforcement of any such provision of law.

(b) Nothing contained in this Act shall be construed as relieving any Federal agency of any authority or responsibility to protect and promote the interests of the consumer.

TRANSFER OF PROGRAMS, OPERATIONS, AND ACTIVITIES

SEC. 14. (a) The functions being performed by the entities enumerated in subsection (b) of this section and all funds, records, and property utilized in connection therewith, shall be transferred to the Office within 120 days of the effective date of this Act.

(d) The following entities shall be subject to the provisions of subsection (a):

(1) Office of Rail Public Counsel, Interstate Commerce Commission;

(2) Legal and Consumer Research Sections, Office of the Consumer Advocate, Civil Aeronautics Board;

(3) Officer of the Commission (consumer representation function), Postal Rate Commission;

(4) Consumer Information Office, Consumer Product Safety Commission;

(5) Consumer Assistance Office, Federal Communications Commission;

(6) Special Assistant for Consumer Affairs, Federal Energy Regulatory Commission;

(7) Special Assistant to the President and the Office of Consumer Affairs, Department of Health, Education, and Welfare;

(8) Special Assistant for Consumer Affairs, Office of Human Development, Department of Health, Education, and Welfare;

(9) Consumer Affairs Officers of the Food and Drug Administration;

(10) Consumer Affairs Division, Domestic and International Business Administration, Department of Commerce;

(11) Special Assistant to the Secretary, Department of Labor;

(12) Consumer Coordinator and Special Assistant to the Under Secretary for Economic Affairs, Department of State;

(13) Office of Consumer Affairs, Assistant Secretary for Environment, Safety and Consumer Affairs, Department of Transportation;

(14) Community and Consumer Liaison Division, Office of Public Affairs, Federal Aviation Administration, Department of Transportation;

(15) Consumer Affairs Director, National Highway Traffic Safety Administration, Department of Transportation;

(16) Special Assistant to the Secretary for Consumer Affairs, Department of the Treasury;

(17) Such entity or entities within the Department of Energy as carry on the functions formerly performed by the Consumer Affairs and Special Impact Division, Office of Intergovernmental Relations and Special Programs, Federal Energy Administration;

(18) Consumer Information Center, General Services Administration;

(19) Advisory Group to the Commissioner of Internal Revenue, Department of the Treasury; and

(20) Consumer Affairs and Special Impact Committee, Department of Energy.

(c)(1) Except to the extent prohibited by law, the Director of the Office of Management and Budget is authorized and directed to review all other Federal programs and activities which have a consumer information, advocacy, or related function and identify those which would overlap, duplicate or conflict with the functions performed by the Office. This review shall be carried out as a part of the President's first budget review process following establishment of the Office.

(2) The Director of the Office of Management and Budget shall, one week after the submission of the President's budget to the Congress, report to the Committees on Appropriations and Government Operations of the House of Representatives and Appropriations and Governmental Affairs of the Senate the results of the review required by paragraph (1) of this subsection. Such report shall include (A) all activities identified as a part of the Office of Management and Budget's review; (B) a description of those activities including their costs during the fiscal year and how those activities overlap, duplicate, or conflict with the responsibilities of the Office; and (C) the budgetary recommendations to the Congress to eliminate such activities. Such budgetary reduction recommendations shall be no less than $10,000,000 in the ensuing fiscal year.

(3) Nothing in this subsection shall be construed to prohibit the Director of the Office of Management and Budget from including in the report required by paragraph (2) of this subsection, comments on the consumer related activities of independent regulatory agencies that overlap, duplicate, or conflict with the functions performed by the Office.

(d) The Administrator, pursuant to section 4 of this Act, shall be responsible for incorporating such programs, operations, and activities as are or may ultimately be transferred in such manner and to such extent as he deems consistent with the Office's responsibilities under section 5 of this Act, and for issuing such organizational directives as he deems appropriate to carry out the purposes of this section.

(e) The Administrator shall include in his second annual report, as provided in section 4(d), a full accounting of the implementation of this section to date.

DEFINITIONS

SEC. 15. As used in this Act—

(1) the term "Office" means the Office of Consumer Representation;

(2) the terms "agency", "agency action", "party", "person", "rulemaking", "adjudication", and "agency proceeding" shall have the same meaning as set forth in section 551 of title 5, United States Code;

(3) the term "consumer" means any person who uses for personal, family, or household purposes, goods and services offered or furnished;

(4) the term "interests of consumers" means any concerns of consumers involving the cost, quality, purity, safety, durability, performance, effectiveness, dependability, and availability and adequacy of choice of goods and services offered or furnished to consumers; the adequacy and accuracy of information relating to consumer goods and services (including labeling, packaging, and advertising of contents, qualities, and terms of sale); and any concerns of small business entities that are consistent with those of consumers;

(5) the term "small business entity" means any person, including a family farming operation or enterprise, that, together with such person's affiliates, including any other person with whom such person is associated by means of a franchise agreement, does not have assets exceeding $5,000,000; or does not have more than the annual equivalent of twenty-five full-time employees; and

(6) the term "State" includes any State or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Canal Zone, Guam, American Samoa, and the Trust Territories of the Pacific Islands.

CONFORMING AMENDMENTS

SEC. 16. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(66) Administrator, Office of Consumer Representation.".

(b) Section 5315 of such title is amended by adding at the end thereof the following:

"(114) Deputy Administrator, Office of Consumer Representation.".

(c) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(141) General Counsel, Office of Consumer Representation,

"(142) Assistant Administrators, Office of Consumer Representation (5).".

EXEMPTIONS

SEC. 17. This Act shall not apply to the Central Intelligence Agency, the Federal Bureau of Investigation, or the National Security Agency, or the national security or intelligence functions (including related procurement) of the Department of State, Justice, and Defense (including the Departments of the Army, Navy, and Air Force), of the Nuclear Regulatory Commission, and of the Department of Energy or to a labor dispute within the meaning of section 13 of of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932 (29 U.S.C. 113), or of section 2 of the Labor Management Relations Act (29 U.S.C. 152), or to a labor agreement within the meaning of section 201 of the Labor Management Relations Act, 1947 (29 U.S.C. 171): *Provided*, That nothing in this Act shall be construed to authorize the Administrator to intervene as a party or otherwise participate: (1) in any proceeding of the United States Department of Agriculture directly affecting or directly concerning (A) the market price of or loans, price supports, or payment for raw agricultural commodities, including crops (including, but not limited to, wheat, feed grains, soybeans, cotton, wool, rice, peanuts, tobacco, sugar, fruits, and vegetables), livestock, poultry, eggs, and dairy products, and (B) programs administered by the Soil Conservation Service, the Farmers Home Administration, the Rural Electrification Administration, or the Federal Crop Insurance Corporation, or (2) in any proceeding concerning Public Law 480 programs.

NONDISCRIMINATION

SEC. 18. No person shall on the ground of sex, age, or handicap be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under this Act. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or deny any other legal remedies available to a discriminatee.

APPROPRIATIONS

SEC. 19. There are hereby authorized to be appropriated to carry out the provisions of this Act: $15,000,000 for the fiscal year ending September 30, 1978; and $17,000,000 for the fiscal year ending September 30, 1979.

EFFECTIVE DATE

SEC. 20. (a) This Act shall take effect ninety calendar days following the date on which this Act is approved, or on such earlier date as the President shall prescribe and publish in the Federal Register.

(b) Any of the officers provided for in this Act may (notwithstanding subsection (a)) be appointed in the manner provided for in this Act at any time after the date of the enactment of this Act. Such officers shall be compensated from the day they first take office at the rates provided for in this Act.

SEPARABILITY

SEC. 21. If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the constitutionality and effectiveness of the remainder of this Act and the applicability thereof to any persons and circumstances shall not be affected thereby.

TERMINATION

SEC. 22. (a) This Act shall terminate five years after the effective date of this Act, and the Officer of Consumer Representation shall be abolished as of the date of such termination.

(b) The President shall—

(1) commencing two years prior to the date of termination specified in subsection (a), conduct a review of the Office's overall performance including, but not limited to, a study of the Office's effectiveness in accomplishing its general purposes and promoting the general welfare; and

(2) not later than twelve months prior to the termination date specified in subsection (a), make public and submit to each House of Congress a report on the finding of the investigation conducted pursuant to paragraph (1), such report to include a recommendation that the authority of this Act be extended, that the Office be reorganized, or that the authority of this Act be allowed to lapse.

(c) The committees of the House and of the Senate having primary oversight responsibility with respect to the Office shall, not later than six months prior to the termination date specified in subsection (a), conduct an inquiry into the performance and effectiveness of the Office and make public a report of their findings, conclusions, and recommendations, including proposed legislation for such extension or reorganization of the Office as they deem appropriate.

Amend the title to read as follows:

To establish an Office of Consumer Representation and to reorganize certain consumer programs in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes.

H.R. 8200

By Mr. FOLEY:

On page 409, line 2, delete the word "A" and insert in lieu thereof the following:

"Except as provided in the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a–499s), the Packers and Stockyards Act, 1921 (7 U.S.C. 181–229), and section 1 of the Act entitled 'An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1944, and for other purposes,' approved July 12, 1943 (57 Stat. 422; 7 U.S.C. 204), a"

By Mr. McKINNEY:

Page 588, line 23, strike out "by striking out" and all that follows through line 3 on page 589, and insert in lieu thereof the following:

"(1) Cases under title 11 of the United States Code or under the Bankruptcy Act that, from the date of entry of the order for relief or the date of adjudication, as the case may be, antedate the report by more than seven years."

EXTENSIONS OF REMARKS

TRYING TO SAVE THE TOMS RIVER, N.J., MAIL PROCESSING CENTER

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. HUGHES. Mr. Speaker, for more than 2 years now, many of us have been battling with the U.S. Postal Service to keep the mail processing center open in Toms River, N.J. I would like to bring to my colleagues' attention an article written by the American Postal Workers Union which describes the history of this dispute. I would also like to commend the role of Mr. Roy Braunstein, who has been instrumental in the effort to keep this facility open.

This article is about the Toms River, N.J., Mail Processing Center and the efforts of one man to retain it. Roy Braunstein, 31, is a graduate of Richmond College, Staten Island, N.Y., and a former school teacher He has been in the Postal Service only 4 years, and is the Legislative Director of the New Jersey Shore Area Local, of the American Postal Workers Union, as well as Shop Steward in the Toms River Post Office. He has recently been elected New Jersey State Legislative Director and Editor, A.P.W.U.

Roy's fight began two years ago in August, 1975. He began to investigate rumors that the Postal Service would move the Toms River Mail Processing Center to a new building to be built in Hamilton Township, outside Trenton, and 40 miles away. Roy began to lobby for support and as much information as possible. Braunstein began to get facts and figures, through the offices of N.J. Congressmen William Hughes and Edwin Forsythe.

He based his arguments on the fact that the Toms River facility was built in 1970, had been studied by the G.A.O. (General Accounting Office) and found to have no deficiencies, and was built for expansion. The employees had been excessed from Lakewood to Toms River in 1973. Roy requested and got figures on the amount of idle space if the building were half vacated. Since the Postal Service savings were in 10 year projections, Roy calculated the amount of idle space cost to be over $387,000 if the building were half-vacated.

As a public service, Roy realized that the mail might not be able to be worked 40 miles away and returned for overnight delivery. The Postal Service took a count, and based on an earlier cutoff time for dispatch mail, Braunstein calculated about one million pieces of intentionally delayed mail per year in Toms River alone. The Ocean County area, of which Toms River is the county seat, saw a tremendous amount of growth in population over the past 25 years. It nearly doubled in population from 1950 to 1960, and nearly doubled again from 1960 to 1970. The unemployment rate in the area has been above that of the State.

Roy convinced the Toms River local governing committee to file suit against the Postal Service. The basis of the suit was the Environmental Protection Act and the Intergovernmental Cooperation Act. It was filed after a similar suit was filed in Rochester, N.Y., but it was later dismissed in Federal District Court.

Roy wrote a resolution that was adopted unanimously by the New Jersey State Senate and the New Jersey State Assembly. It called for: 1) a G.A.O. Study, 2) Public hearings and 3) Congressional approval prior to moving mail sorting from one area to another.

In August of 1976, Congressmen Hughes and Forsythe (a Democrat and a Republican) requested a G.A.O. investigation of the proposed move. Five months later, in January of 1977, it was released and supported the Postal Service arguments, although it criticized the Postal Service for not calculating idle workroom space and employee moving expenses in its original arguments.

Braunstein convinced the Ocean County Board of Freeholders to place the question about the move on the November, 1976 Presidential ballot on a countywide basis. The referendum was worded backwards in error, and he campaigned extremely hard for an understanding of the wording. All the County Chambers of Commerce passed resolutions in support, as did 30 out of 33 municipalities, and 11 out of 12 newspapers in Ocean County (through editorials). Postal employees in Toms River did drawings and paintings to help clarify how to vote to support their postal service. A jumbo tractor trailer was placed around the county with large painted sheets. The vote carried, 60–40%, with over 67,000 citizens voting to retain the facility, in Toms River. It was the first countywide vote of this nature in the United States.

Meanwhile Roy had been recommended to serve on the Postal Study Commission. The Commission rejected the recommendation, but that didn't stop Roy. He started to lobby the Commission for a public hearing. After many letters from different groups, Commissioners Paul Krebs and David Johnson came to Toms River for a field study in December, 1976. Upon their recommendation, the entire Commission voted to hold a formal public hearing in Toms River, in February, 1977. At that time, the entire N.J. Congressional Delegation, 15 members of the House of Representatives, and both U.S. Senators, signed a letter opposing the move.

In February, Commissioners Rademacher, Krebs and Rhodes attended the hearing in Toms River. It was the only hearing held nationwide by the Commission dealing almost exclusively with one subject, the Toms River Mail Processing Center. The Commission heard testimony from a representative of one United States Senator, from three United States Congressmen, local, county, and state government officials, representatives of community and business groups, labor, senior citizen groups, clergymen, businessmen and citizens. They unanimously agreed that the postal facility at Toms River was providing good service and that it should not be closed. Roy testified about the recently released G.A.O. Report, and stated that it was filled with guesstimates and very inaccurate. He took the report apart line by line, and Commissioner Rademacher stated, "Mr. Braunstein, I don't know if you realize it or not, but you have very eloquently refuted the report of the policing agency of our government. I have never, ever seen a refutation such as this, and I commend you for it." Members of the N.J. Congressional Delegation backed up Roy's testimony in their own statements.

Four of the seven commissioners took no stand, reluctant to get involved in setting a precedent. Commissioners Krebs, Rademacher and Johnson dissented and wrote that the Postal Service never consulted with the local officials in advance. "The Postal Service can and should, reverse itself in this special situation without incurring unnecessary expenses. The Toms River area has a need for the mail processsing facility that far outweighs the small savings the Postal Service can expect."

In May, 1977 Roy testified in Washington before Chairman Charles Wilson's Subcommittee regarding the Wilson Reorganization Bill. His testimony focused on the indifferent attitude of Postmaster General Bailar. In June, he was the author of a resolution that was passed unanimously by the N.J. State A.P.W.U. Convention calling for Bailar's ouster.

Chairman James Hanley, of the Postal Operations Subcommittee, called the decision to move the Toms River facility to Hamilton Township "par for the course of horrendous mistakes." "Toms River is a classic case of irresponsiveness of top level management, as you have evidenced when you butt your head against the wall," Hanley said.

In July, 1977 he wired President Carter's staff for their support since the Commission Report went to the President and to Congress, and Mr. Carter had campaigned for a better Postal Service. They refused to get involved, which probably means the last straw in the long two year battle.

For his efforts, Roy was nominated for the Toms River Chamber of Commerce Citizen of the Year award, and the Toms River Jaycees Man of the Year award. As well as his A.P.W.U. positions, Roy serves on the 2nd N.J. Congressional District Labor Advisory Committee and is a member of the Barnegat, N.J. Board of Education.

ERISA FINANCIAL AUDITS FOR FEDERAL GOVERNMENT RETIREMENT SYSTEMS

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. ERLENBORN. Mr. Speaker, in an August 3, 1977 report to Congress, the Comptroller General stated that the Congress has not provided, but should provide, an overall policy to guide the development of the Federal retirement systems. The report concluded that the Federal systems have developed on an independent, piecemeal basis, causing inequities and inconsistencies, as well as common problems. Preliminary results of the study of Federal, State, and local retirement systems mandated under the Employee Retirement Income Security Act of 1974 (ERISA) support the findings of the Comptroller General. This study, carried out by the Pension Task Force under the auspices of the Committee on Education and Labor, clearly shows that Federal as well as State and local pension plans are badly in need of uniform financial accounting and actuarial reporting.

The lack of an adequate and consistent basis of reporting has thwarted the attempts of the administration, the Congress, and the employees to assess the financial and actuarial soundness of the 65 Federal retirement systems. The bill Congressman JOHN DENT and I introduced October 20 will correct these inadequacies.

Specifically, H.R. 9701 will amend the Budget and Accounting Procedures Act of 1950 to require the Comptroller General to provide for a financial audit of all Federal retirement systems in accordance with ERISA standards. In addition, the bill establishes a seven member Board of Government Actuaries consisting of Presidential appointees who are enrolled actuaries under ERISA. The Civil Service Retirement System, the Military Retirement System, the Railroad Retirement Board, the Social Security Administration, and the General Accounting Office will all be represented on the Board. The Board will establish a uniform basis for the reporting of actuarial information. It will review for consistency and approve the actuarial assumptions and methods applicable to all Federal retirement systems.

Exceptions to the filing of a financial audit are the social security and railroad retirement systems. However, the Board will approve their actuarial assumptions and methodology.

Mr. Speaker, we introduced this measure requiring full disclosure of the financial condition of Federal retirement systems in the interests of the Nation and of the participants in these plans. It will prove an important first step in aiding the Congress to develop an overall Federal retirement policy as called for by the Comptroller General.

RIGHT TO WORK HELPS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. ABDNOR. Mr. Speaker, in a recent newspaper column, Dave McNeil, executive vice president of the Greater South Dakota Association, summed up pretty well why South Dakotans have and have repeatedly reaffirmed their belief that a person's employment should not be conditioned by the organizations he joins or does not join. I commend it to the attention of my colleagues:

RIGHT TO WORK CLIMATE CREATES NEW JOBS

PIERRE.—Which group of states has a faster job growth rate? Western states? Northeastern? Southeastern? No. . . . in all cases. The group of states with Right to Work laws have had a positive job growth rate; whereas, the other states combined show a net loss of new jobs.

In a recent study published by the National Right to Work Committee, the 19 states with Right to Work laws (there are currently 20 states, but the study was done before Louisiana came over in 1976) showed a net gain of 918,600 jobs. The study covered a period from 1939–1975. This averages out to about 25,000 new jobs per year. The remaining thirty-one states showed a net loss of 726,400 new jobs.

Some things simply can not be ignored. Though Right to Work states have unionism, they seem to have a healthier climate for productivity, growth and, of course, profit potential. Right to Work states consistently gain more manufacturing jobs than the remaining states.

We don't want to get into the philosophical arguments for or against the Right to Work laws. Most know where the Greater South Dakota Association stands on that issue. We simply want to state facts about the advantages that accrue our state by having the law in our Constitution.

A Right to Work law is only one of several factors contributing toward a state's economic growth. But industrial development experts agree that such laws enhance a state's prospects of attracting job-creating investments by assuring fair treatment of employees and employers.

AN IMPORTANT OMISSION

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. CONABLE. Mr. Speaker, another newspaper, The New York Times, has recently cautioned us against solving the financial problems of the social security system by simply increasing the taxes on employees and employers. In an editorial, the Times has pointed to alternatives which would require both contributors and beneficiaries to share the burdens of restoring the program to a sound basis. One of these alternatives is our proposal to advance gradually the retirement age from 65 to 68, with actuarily reduced benefits beginning at age 62, just as now. This is one of the 15 recommendations included in our comprehensive plan for reinforcing the social security program.

The Times failed to specify, however, that in our proposal this change would not be initiated until the year 2000 and would be phased in over a period of 12 years. That is important; it would not affect people now retired or nearing retirement. This date, omitted by the New York Times, is a critical feature in a proposal which must be both politically acceptable and timed to reflect demographic realities as they impact upon the social security system. Changes in the age groups within our population by the turn of the century will require revision of the social security program then; the issue becomes only whether we have the willingness to face the problem early and provide an adequate notice to the millions of our citizens who participate in and count on the social security program. I include the October 23 editorial, "Social Security: The Undernourished Giant."

The editorial follows:

SOCIAL SECURITY: THE UNDERNOURISHED GIANT

Social Security has become a giant among Federal social programs. Once a modest supplement to private disability insurance and pensions, it has gradually evolved into a massive program for the redistribution of income from the young to the old and from the middle class to the poor. This year, one dollar in nine of taxable earnings—$85 million—will go to some 33 million beneficiaries.

In spite of its size, Social Security might have remained the least controversial of Federal programs; few dispute the need for basic social insurance free of the stigma of welfare. But because of past Congressional generosity and unexpected population changes, the giant is in danger of being undernourished. So many retired and disabled people are scheduled to receive so much money from a proportionately smaller number of working contributors that one-fourth of all wages would be needed eventually to meet the commitments of the law. Congress thus faces the task of closing the wide gap between money coming in and promised benefits. In the Congressional debate over Social Security reform now beginning, we hope the legislators will think twice before resorting to major tax increases.

Fortunately, half the gap can be closed with uncontroversial measures. In a 1972 law, Congress accidentally provided double the necessary protection against inflation for future Social Security recipients. A quirk in the benefit formula promised current wage earners much greater benefits than will be needed to offset inflationary losses in the value of the dollar. By correcting this quirk, Congress could still leave beneficiaries protected against inflation—and reduce obligations by more than a trillion dollars over the next fifty years.

Closing the rest of the gap, however, will require some hard choices. Both Houses of Congress lean toward the traditional solution: hefty increases in the Social Security payroll tax and in the amount of wages so taxed. President Carter suggests a payroll tax increase, plus a subsidy from general Federal revenue during low-income recession years.

Neither of these formulas is very attractive. The payroll tax is regressive, hitting hardest at the working poor. A worker earning $5,000 a year pays 5.85 per cent in Social Security taxes; a worker earning $50,000 pays just 2 percent. Raise the basic rate, and the tax would become yet more regressive. Moreover, since part of the tax is paid by employers, it would increase the cost of hiring low-income workers and thus reduce employment.

Raising the taxable wage base, on the other hand, would mean higher taxes for middle- and upper-income workers—and their employers—who are already paying too much.

The Carter plan would tap the most equitable of taxes, the income tax; but it too has shortcomings. Higher income taxes sap the incentive to work and invest. Perhaps more important, the use of general revenues for Social Security might undermine the critical psychological distinction between social insurance and welfare. Workers now pay a special Social Security tax as an insurance premium against disability or poverty in old age; they feel its benefits have been earned, even when they have not been. Once general tax revenues are used to support Social Security, that attitude could be undermined. Such a change might needlessly expose the old to the stigma of "welfare" and threaten the political consensus that supports the system.

An alternative to finding hundreds of billions in new revenue is to retard the growth in benefits. That is what Representative Barber Conable of New York proposes. He would hold down taxes by gradually advancing the age for maximum retirement benefits from 65 to 68; workers would remain eligible for benefits at 65, but they would receive less each month than they would if they waited the extra three years. Mr. Conable's plan—and a similar idea proposed but quickly retracted by Commerce Secretary Juanita Kreps—received a hostile reception from Congressional leaders. They perceive it as a betrayal of affluence, a denial of the fruits of economic progress to future retirees. But would it really be a step backward? Basic retirement benefits are scheduled to increase so much over the next few decades that even a somewhat reduced benefit at age 65 would exceed the purchasing power of the current maximum. Is it not better to accept modest limits on the amounts of increase than to risk the consequences of a revenue squeeze on the whole system?

Social Security represents a pact between the generations in which the young and healthy assume responsibility for the old and disabled. That glorious pact has survived four decades of economic change, largely because growth in the size and productivity of the labor force exceeded the growth of the burden posed by beneficiaries. Now that an accident of demography and economics has changed the balance, common sense suggests that we adapt to it instead of resorting to cures that could threaten the entire program.

SENATOR LUGAR'S BEGINNING INTEREST IN POLITICS

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. JACOBS. Mr. Speaker, by constituent request I insert the following Indianapolis Star article which appeared October 21, 1977, and was written by the Star's crack political staff reporter, Robert Mooney:

SEN. LUGAR'S INTEREST IN POLITICS BEGAN IN HIS YOUTH: MOTHER

(By Robert P. Mooney)

Bertha Lugar Caldwell said Thursday that her son, United States Sen. Richard G. Lugar, "took to politics and government" as a youth and benefited from early training by fine teachers.

Mrs. Caldwell was the speaker at a luncheon meeting of the Indianapolis Republican Women's Club in the Columbia Club.

About 70 women attended the luncheon, chaired by the club's president, Mary Applegate, wife of Judge Charles W. Applegate of Municipal Court, Room 4.

As a young man, the former Indianapolis mayor didn't take an active interest in girls "or spend much money" on the opposite sex, according to his mother.

"His father and I encouraged him to get more dates and spend a little more money on girls, but he always seemed more interested in other things, especially his studies and youth political action," she said.

This changed when he met Charlene, the woman who became his wife, as a student at Denison University in Ohio. She was engaged to someone else but broke the engagement and Lugar proposed, Mrs. Caldwell said.

However, it was a long engagement, because Charlene went to graduate school at Northwestern University and Lugar spent two years as a Rhodes Scholar at Oxford University, England.

Mrs. Caldwell said she and her husband never tried to "push" their son into politics and were surprised when he decided to run for the Indianapolis Board of School Commissioners.

He was elected, but later lost the board presidency election, decided by its members, not by the public. Many political observers have noted it was this loss that goaded Lugar into running for mayor in 1967, in which he successfully defeated Democratic incumbent John J. Barton. He was re-elected in 1971 over Democratic challenger John F. Neff.

Mrs. Caldwell said her son didn't really want to run for the U.S. Senate in 1974, the year he lost to Democratic incumbent Birch E. Bayh.

"But he was his party's choice and decided he would have to make the race," Mrs. Caldwell said. "He was very disappointed, but he learned many things that helped him in his 1976 campaign."

Lugar bounced back to shellack three-term Senator R. Vance Hartke (D-Ind) by nearly 400,000 votes. Mrs. Caldwell said Hartke never has offered congratulations to Lugar.

Mrs. Caldwell quoted her son as saying that a good political candidate must have three things for a base—desire, a reasonable income and an "understanding" spouse.

She described Charlene Lugar as "most understanding" and a person who has "an equally fine mind."

The couple has four sons.

Mrs. Caldwell said her son's career, in her opinion, is being aided by the number of volunteers in each of Indiana's 92 counties who keep Lugar informed of the voters' feelings on major issues facing the nation.

She urged the Indianapolis GOP club's membership to remain politically active and to help the party financially—when possible.

"We all become tired of giving, I know, but a political party must have money to succeed," she said.

Mrs. Caldwell described her son as sometimes "bossy," but added, "He does it in such a nice way that he gets away with it."

The title of Mrs. Caldwell's speech was "Something About Dick." After her talk, she answered a few questions from the audience.

AMERICA AND A STRONG NATIONAL DEFENSE

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. BOB WILSON. Mr. Speaker, it is no secret that I have always been an ardent supporter of a strong America and a strong national defense. Recent developments with respect to the massive buildup of Soviet military strength, especially the inordinate emphasis placed on its skyrocketing warship construction program, and our own concomitant slow decline with respect to our contributions to our own defense programs, have led me inevitably to the conclusion that at some time in the future, we will no longer be able to face a challenge from abroad and face it down, as we did in the Cuban missile crisis.

Our Constitution tasks us with providing for the national defense, but our attitudes do not seem to coincide with our instructions. Though we may seek to ignore it, our country is faced right now with a choice—either to maintain our international position as the leader of the Free World, or to slowly slide into second place. The following article from the Wall Street Journal postulates very briefly what the reasons for the present state of affairs are, and I commend it to my colleagues for their reflection:

[From the Wall Street Journal, Oct. 19, 1977]

AMERICAN PACIFICISM, SOVIET AGGRESSION

(By Norman Podhoretz)

The single greatest difference between watching the news on television these days and watching it a few years ago is that Vietnam has disappeared from its nightly slot on the screen. And yet if one looks closely, one can detect the ghostly presence of that war hovering behind the attitudes that shape the way other events are treated. These attitudes are the legacy of our defeat and humiliation in Vietnam. In one form or another they now permeate every area of American culture—newspapers, magazines, movies, plays and novels. But it is probably through watching the news on television that more people encounter them more frequently and more directly than anywhere else.

The most obvious of these attitudes is a revulsion against war in general that is so intense and so undifferentiated that it can only be called pacifist. Whenever war or the prospect of war is mentioned, the assumption is that nothing worse could possibly occur to a nation—*any* nation, but especially the United States. War now seems to be regarded as the greatest of all imaginable evils: there is never anything good to be said about it and no objective that can justify it.

The second legacy of Vietnam is a revulsion against America itself. This feeling is more subtly expressed than the naked anti-Americanism that emerged on the radical Left in the latter part of the '60s. Nevertheless it is there. We find it, for example, in the impression so often conveyed by TV coverage of issues like the B–1 bomber or the defense budget that the main obstacle to disarmament is the American military establishment—as though the Soviet Union were not engaged in the most massive military buildup in history, and as though all that were needed to end the "arms race" is unilateral "restraint" by the United States. In similar fashion, we usually get the impression from coverage of the energy crisis or the problems of the Third World that the underlying case is the greed of Americans in consuming more than their "fair share" of resources—as though we did not produce more wealth than we consume and as though a voluntary reduction in the American standard of living (a kind of unilateral economic disarmament) could eliminate scarcity and hunger everywhere else in the world.

Finally, Vietnam has left us with a legacy of revulsion against anti-Communism. Since President Carter himself has congratulated the country on having overcome the "inordinate fear of Communism" that allegedly got us into so much trouble in the past, it is not surprising that this feeling should be reflected in television's coverage of such phenomena as Soviet expansionism and the growing power of Communism in Western Europe. Rarely is any alarm sounded over the unprecedented dimensions of the Soviet military buildup, or over Soviet maneuvers in Africa and elsewhere aimed at controlling the sea lanes vital to the commerce of the entire West. Nor is there much evidence of anxiety over the threat both to NATO and to democracy posed by the possible entry of Communist parties into the governments of Italy and France.

What is so striking about these attitudes is their uncanny resemblance to the sentiments and ideas that became prevalent in British culture in the aftermath of World War I—an experience that acted on the British in much the same way as Vietnam has acted on us. Thus pacifism became so fashionable in England in the '20s and '30s that thousands of British undergraduates took the so-called Oxford pledge never to fight "for King and country." Hostility to their own society was also widespread among the English of that period. England was stigmatized as a wicked country for having senseless sent the flower of its youth to the slaughter; and it was also attacked as a doomed society resting on obsolete, if not indeed illegitimate, social, political and economic foundations. As for the threat posed by the burgeoning military might and aggressiveness of Nazi Germany, it was dismissed as the fantasy of a few hysterical demagogues like Winston Churchill. (Churchill even had trouble getting onto the radio to sound his warnings against the German build-up, since the officials of the BCC did not wish to disrupt Anglo-German relations by putting such a prominent "warmonger" on the air.)

Churchill later called World War II "the unnecessary war," because it could have been averted if the democracies had taken a strong stand against Hitler instead of appeasing him until it was too late to do anything but surrender or go to war. But in retrospect it seems clear that appeasement was made inevitable by the pervasive influence among the English of pacifism, hostility to their own society and a relaxed view of Hitler's aggressive designs.

Is the same thing happening today in the United States with respect to the Soviet Union? Brezhnev, for one, evidently thinks so. A few years ago, in a speech to which, incredibly, neither the networks nor the newspapers gave any play, the Soviet leader predicted that under cover of "detente" his country would achieve a clear military superiority over the United States by the mid-1980s. At that point the Soviets could presumably impose their will on us merely by threatening to unleash a nuclear war. They could do this because (as Richard Pipes of Harvard's Russian Research Center has demonstrated in a definitive study of Soviet military doctrine) they believe that, given such superiority, they could fight, survive and win a nuclear war.

Thus we may well be heading toward an apocalyptic moment when the Russians will confront us with the equally impossible alternatives of surrender or a nuclear holocaust. If that moment should ever come, the attitudes toward war, toward America and toward the Communist world bequeathed to us by Vietnam and being spread by television—along with all the other media—will have played a major part in creating the conditions for its arrival.

CONCERN FOR PRESIDENT CARTER

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. BOLLING. Mr. Speaker, David Broder's column which appeared in the Washington Post on Sunday, October 23, 1977, contains some good advice for all who wish President Carter well.

On the other hand, it seems to anticipate a more favorable outcome on energy legislation than I can see.

The column follows:

"SERIOUS CONCERNS" ABOUT THE CARTER PRESIDENCY

(David S. Broder)

It is a rare privilege for a beat-up veteran of the Potomac battles to be able to view Washington with the eyes of a stranger. Coming back to this city after four weeks in Asia—most of it without any news from home—is about as close as one can come to getting a fresh-eyed perspective on its problems.

If one is to believe the conventional wisdom of this city, the past month has been an almost unmitigated disaster for Jimmy Carter. "The thing is in shambles," one is told, not just by the ever-present critics of the administration, but by members of the White House staff as well.

If you ask what has gone wrong, you hear a recital that ranges from the mismanaged Lance affair to the bungled battle over the energy bill and the quick-switch Middle East diplomacy, which has alienated the American Jewish community without bringing the elusive peace agreement visibly closer.

The same people who talked last summer as if Jimmy Carter could walk on water now are just as convinced he is drowning.

Maybe. But to the returned traveler, who has not lived through the past month's misadventures, it looks like a classic case of overreaction.

Objectively, it is hard to see why there should be so much hand-wringing. Yes, the President lost a loyal friend and aide in Bert Lance's forced resignation. But he also ended a running story that was steadily depleting the administration's moral credit.

Yes, the tactics used to end the Senate filibuster on the energy bill were unnecessarily crude. But both Republicans and Democrats on Capitol Hill predict that the final bill that emerges from conference next month is likely to contain more than enough of what the President recommended to justify a claim of success.

As for the Middle Eastern peace effort, which was never more than an outside bet for complete success, there still seems, as this is written, at least a 50-50 chance that the administration can nudge the reluctant parties into talks at Geneva.

Why, then, the hangdog looks and gloomy forebodings at the White House itself? Mainly because these problems—whether temporary or long-term—have confirmed what many of the insiders already knew about the serious, unresolved shortcomings of Carter's approach to his job.

The criticisms being shouted now are no different than those catalogued in this space last June. Then, I attempted to summarize the serious concerns of several people I was able to describe only as 'important friends and well-wishers of the President and frequent visitors to the White House."

Those same problems now have been recognized by many who work in the White House every day. They include: Carter's failure to sort out his priorities and make them clear, even to his close associates; his inability to match his day-to-day tactics to his broad, philosophical principles of government; his unwillingness to delegate sufficient decision-making authority so that he can spend his time leading the government, rather than trying to administer it on an hour-by-hour basis; and his refusal to name an overall staff coordinator with a sure feel for both political realities and policy substance.

One reason for discouragement on the White House staff is that the public, which last June was quite beguiled by Carter, has begun to discover that these shortcomings in Carter's approach to his job foredoom many of his promises to failure.

The second reason for gloom is that there is as yet no firm indication—only a few presidential hints—that Carter himself is concerned enough about the situation to rethink his concept of the job and to reconstruct his White House staff accordingly.

These concerns about the fundamental direction of events are not misplaced. But, ironically, some of those who see the basic problem quite clearly are still lending themselves to the President's effort to camouflage it behind the autumn offensive for "victory" on the energy and Middle Eastern fronts. Somehow, he has convinced himself that if he can just "win" the energy bill he wants and get a Geneva conference started before Christmas, everything will be all right.

It won't. The fact of the matter is that in the remaining weeks of 1977, about all the President can reasonably hope to do is salvage whatever is salvageable from an agenda that was ill-considered in conception and far too ambitious in scope.

But by pressing as hard as he is just now on both the energy and Middle Eastern fronts, he risks damaging even that salvage operation.

The time for reconstruction—for signaling a new and more coherent approach to governing—will not come before next January at the earliest. Then, in the State of the Union message and in his own first budget, Carter will have a real opportunity to show he has got his priorities straight.

If he does that, the gloom of October will seem as exaggerated as it probably is. And if he doesn't—well, he still has three years to reelection.

THE CIGARETTE TAX EQUALIZATION ACT

HON. MARIO BIAGGI
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. BIAGGI. Mr. Speaker, I am introducing today the Cigarette Tax Equalization Act, a bill I offer as the only viable solution to the serious problem of cigarette smuggling throughout the Nation.

Cigarette smuggling is a leading revenue producer for both organized crime and weekend smugglers. The large difference in the price of cigarettes from State to State makes shipping cigarettes from low price States to high price States highly profitable.

The Multi-State Tax Commission estimated earlier this year that the various States with high tax rates are losing approximately $330 million per year in cigarette tax revenues. New York State is probably the biggest revenue loser. The Advisory Committee on Inter-Governmental Relations said over $60 million went to the mobsters that should have gone into treasuries of the State or its localities. Why New York State? Because that State, and particularly New York City, have one of the highest cigarette tax rates in the country and thus smuggling into New York is very, very profitable.

My proposal is considered a more difficult approach by some. The alternate most often proposed is tougher law enforcement and sentencing on the local level and making cigarette smuggling a crime on the federal level. Tougher law enforcement seems like a likely solution, but our experience with prohibition indicates that it is not likely to be a success and the cost of such law enforcement is likely to wipe out any gains in added revenues. Interestingly, the Federal Government fought moonshiners for years and were totally unsuccessful in wiping the operators of illegal stills out of the backwoods of our Nation. It was not until moonshine began to get more expensive than legal whiskey that the moonshiners finally put their souped up autos on blocks and retired.

Similarly, increased law enforcement efforts to combat cigarette smuggling is like protecting your floor from a leaking roof by using catch buckets. It is not attacking the root cause of the criminal activity. My bill is aimed at eliminating the incentive to smuggle and thus eliminating the criminal involvement altogether. Particularly in the case of organized crime, eliminating the profit of the activity is the only way to eliminate the crime. Organized crime is a profitmaking enterprise first and foremost.

Many States object to a uniform Federal tax on cigarettes, or any coercion to get all States to adopt uniform tax rates, on the basis that they will: First, sacrifice a revenue option; second, lose money by adopting a lower rate; or third, force their State residents to pay higher taxes. I can sympathize with these objections and I believe my bill will resolve these difficulties to a great extent.

By way of background, it should be noted that taxation of tobacco and tobacco products has historically been a Federal source of revenue. The Federal Government first taxed cigarettes in 1864. States began to adopt their own taxes on cigarettes in 1921, with Iowa being the first. The bulk of the States adopted a cigarette tax in the thirties and forties. With the adoption of a cigarette tax by North Carolina in 1969 all 50 States now have a cigarette tax.

As early as the 1930's the problem of tax differentials became serious enough to encourage the introduction of legislation in Congress that would have distributed one-sixth of the Federal cigarette tax revenues to those States that withdrew from State taxation of cigarettes. A similar proposal was advanced by a special committee appointed by the Secretary of the Treasury in the 1940's. Again in 1947 a Joint Committee of the American Bar Association, the National Tax Association, and the National Association of Tax Administrators issued a report recommending exclusive Federal taxation of cigarettes.

Their report said in part:

> Tobacco taxation was developed by the federal government for substantial revenues before the States came into the field. The federal government has administrative advantages and can exploit this revenue more effectively, as a rule, than the States.

Unfortunately, nothing was done during the thirties and forties to get States out of the cigarette taxing business so that by the 1950's it became clear that few States were likely to withdraw without a great incentive to do so. In fact, new proposals began to surface that recommended withdrawal of the Federal Government from tobacco taxation. Such a withdrawal, however, would not resolve the rate differential problem that is the root cause of the increase in cigarette smuggling. In 1954, the National Tax Association's Committee on Intergovernmental Fiscal Relations realized that Federal-State cigarette taxation was here to stay and that some plan would have to be devised to accommodate the overlapping jurisdiction and eliminate the differentials at the same time. Recent proposals have centered on an increased Federal tax coupled with revenue sharing with those States that reduce their taxes to a certain level. This subtle form of coercion offers the best opportunity to equalize cigarette taxes throughout the Nation. It is embodied in the bill I am introducing today.

Under the formula I have devised, States will retain some autonomy in taxing cigarettes up to a point—in my bill, 3 cents a pack—but the greater incentive will be to let the Federal Government do it and share in the revenues. At the same time, no one will suffer a loss as a result of this proposal. In fact, it is very likely that all States will be better off in terms of revenues from cigarette taxation.

Of course, no such legislative proposal could be devised that would permit all people to experience exactly the same situation as they did previously. States will continue to receive the same or additional revenues that they are now receiving. They will have a limited option to tax cigarettes further. However, in those States that have low State and local cigarette taxes now, their residents will end up paying more for a pack of cigarettes since the Federal tax will rise by 12 cents a pack.

Under my bill, a State could drop their own cigarette tax and share in the Federal revenues at least up to the amount they would have collected from their own tax. Nineteen States have tax rates—according to 1976 figures—that

are less than the 12-cent increase proposed under my bill, so residents in those States will be paying more per pack than they did previously even if the State drops its tax. However, of the 19 States, 15 have rates of 8, 9, 10, or 11 cents per pack. Thus the increase for their residents will be 4 cents or less. Four States have tax rates of 6 cents or less and residents in these States will definitely notice the increase in taxes on the pack of cigarettes they buy. Those are Indiana, Kentucky, North Carolina, and South Carolina.

I would point out, however, that the States themselves will not suffer in the sense that they will share in the additional revenues raised so that they could rebate or readjust other taxes so that the State's taxpayers as a whole do not suffer a net increase in tax payments.

On balance, my bill offers the least costly and the most effective means of controlling cigarette smuggling. In terms of revenues and revenue options, States will generally be at least as well off under the provisions of my bill as they are now. In many cases, because of the more efficient collection of taxes and the elimination of the multitude of State tax collection efforts, a number of States will actually be better off in terms of revenues. The only groups that will suffer some loss are the smoking residents of those States that have existing taxes less than the proposed Federal increase, and among those States, only four have a sufficient differential to make the increase noticeable to the smoking public.

What then are the benefits of this proposal, the Cigarette Tax Equalization Act? First and foremost, it will deal head on with the smuggling problem by eliminating the profit in smuggling cigarettes. It has been clearly established that the reason for the smuggling is the wide differential in State cigarette taxes. My bill will create a strong incentive for the States to go along with the Federal taxation and substantially reduce or eliminate their own taxes. States will realize a savings in terms of need to collect cigarette taxes in many instances as well.

By contrast to the stricter enforcement approach, the bill does not require commitment of already hard-pressed law enforcement officials. Our law enforcement agencies—Federal, State, and local can hardly deal with the serious crime against individuals, with drug trafficking and with many other problems. Adding yet another major enforcement responsibility will not result in reducing crime anywhere.

A second major benefit with a uniform Federal tax is that more tax revenues will be collected. As previously noted, the tax losses are running over $300 million a year due to smuggling and that figure is growing by leaps and bounds. These additional tax revenues will bring added financial assistance to State and local governments at a time when such additional revenues are greatly needed and hard to come by.

The bill even offers increased employment prospects at a time of high unemployment. According to Morris Weintraub of the Council Against Cigarette Bootlegging, in New York State alone half the employees of wholesalers and vendors of cigarettes have lost their jobs and about a third of the cigarette wholesalers have gone out of business as a result of cigarette smuggling. A special task force in New York State estimated recently that one out of every four packs of cigarettes sold there is sold illegally.

I am convinced that my bill offers the only viable way to successfully deal with the cigarette smuggling problem and to deal with it virtually overnight. The only drawbacks are that all States will have to take some action in repealing their taxes now in existence and in just four States, residents who smoke will have to pay from 6 to 10 cents per pack more than they are now paying for cigarettes. The benefits, I believe, far outweigh the few drawbacks. I hope that this Congress will be able to act swiftly on my proposal.

Following is a section-by-section summary of the bill and a table showing the optimum possible collections by each State considering the 150-percent limitation and the optional 3 cents a pack State tax:

SECTION-BY-SECTION SUMMARY OF THE CIGARETTE TAX EQUALIZATION ACT

Sec. 1. Short Title: Cigarette Tax Equalization Act of 1977.

Sec. 2. Provides for an increase from $4 to $10 per thousand on type one cigarettes (which are those generally seen in the retail trade) and from $8.40 to $21 per thousand on type two cigarettes. This is equivalent to a tax rate increase from 8 cents to 20 cents per pack for type one and from 16.8 cents to 42 cents per pack for type two.

Sec. 3. Establishes a Cigarette Tax Trust Fund. The Treasury Department will transfer 60 percent of all cigarette tax revenues to the Trust Fund quarterly. Funds will be disbursed to the states quarterly under the formula outlined in Sec. 4. The 60 percent figure was established because that corresponds to the amount of the tax increase in Sec. 2. The federal government will continue to receive the revenues it would have otherwise received from its cigarette taxation, so it will not suffer any losses as a result of the bill.

Sec. 4. Provides for the distribution of the funds based on the number of cigarettes sold in the states eligible to receive a share of the funds. To qualify, a state's combined state and local cigarette tax rates cannot exceed 3 cents per pack for type one cigarettes and 6.3 cents per pack for type two brands.

Payments are limited to 150 percent of the former net collections of cigarette taxes by a particular state. Any excess funds that are collected will first be used to compensate states that might have received a shortfall in previous quarters. Any balance will be distributed to all States on a pro-rated basis. The 150 percent limitation will only be in effect for five years. After that time all distributions will be based solely on the number of cigarettes sold in that state. The five year period is designed to permit all states to adjust to the new revenue flow without being any worse off than before passage of my bill.

Sec. 5. Requires each state to maintain records on the number and type of cigarettes sold in such state to be submitted to the Secretary of the Treasury each quarter. These statistics form the basis for the payments to the states.

Sec. 6. Provides for an effective date one year after enactment to allow time for the various states to repeal their own cigarette taxes.

ESTIMATED REVENUE DISBURSEMENTS TO THE STATES UNDER THE CIGARETTE TAX EQUALIZATION ACT (BASED ON 1975 DATA)

[In millions]

State	Current net collections	Optimum proposed shared revenue	Optional 3-cent State tax revenue	Optimum total revenue (col 2+3)
Alabama	$44.7	$67.1	$14.2	$81.3
Alaska	4.0	6.0	1.4	7.4
Arizona	33.7	50.6	8.1	58.7
Arkansas	40.4	60.6	8.4	69.0
California	263.4	395.1	86.6	481.7
Colorado	31.4	47.1	9.9	57.0
Connecticut	70.7	106.1	14.0	120.1
Delaware	11.6	17.4	2.5	19.9
District of Columbia	7.3	11.0	3.6	14.6
Florida	178.0	267.0	38.4	305.4
Georgia	69.9	104.9	19.7	124.6
Hawaii	7.8	11.7	2.3	14.0
Idaho	8.5	12.8	2.9	15.7
Illinois	172.8	259.2	49.2	308.4
Indiana	49.9	74.9	21.9	96.8
Iowa	43.5	65.3	12.2	77.5
Kansas	29.9	44.9	9.1	54.0
Kentucky	21.2	31.7	13.6	45.3
Louisiana	52.0	78.0	14.5	92.5
Maine	23.0	34.5	4.3	38.8
Maryland	36.5	54.8	17.8	72.6
Massachusetts	115.1	172.7	25.8	198.1
Michigan	135.6	203.4	38.4	241.8
Minnesota	76.6	114.9	16.5	131.4
Mssissippi	27.5	41.3	8.6	49.9
Missouri	56.5	84.8	20.3	105.1
Montana	10.6	15.9	2.8	18.7
Nebraska	21.7	32.6	6.1	38.7
Nevada	11.2	16.8	3.5	20.3
New Hampshire	23.0	34.5	3.4	37.9
New Jersey	167.8	251.7	32.7	284.4
New Mexico	13.4	20.1	3.8	22.9
New York	332.5	498.8	82.1	580.9
North Carolina	20.7	31.1	22.1	53.2
North Dakota	8.0	12.0	2.4	14.4
Ohio	191.2	286.8	45.4	332.2
Oklahoma	44.9	67.4	10.3	77.7
Oregon	30.9	46.4	9.0	58.4
Pennsylvania	239.6	359.4	52.1	411.5
Rhode Island	19.0	28.5	4.1	32.6
South Carolina	20.7	31.1	10.9	42.0
South Dakota	8.9	13.4	2.5	15.9
Tennessee	61.6	92.4	17.2	109.6
Texas	249.9	374.9	49.9	424.8
Utah	6.8	10.2	2.6	12.8
Vermont	8.5	12.8	2.0	14.8
Virginia	16.8	25.2	21.2	46.4
Washington	54.7	82.1	14.0	96.1
West Virginia	24.4	36.6	7.5	44.1
Wisconsin	81.0	121.5	19.2	140.7
Wyoming	4.3	6.5	1.5	8.0

QUESTIONS FOR PEOPLE WHO WANT TO CHANGE THE GI BILL

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. TEAGUE. Mr. Speaker, during this first session of the 95th Congress, there has been increased activity to establish a new type of assistance for veterans attending school or taking training under the GI bill called tuition assistance or a tuition equalizer. The advocates of this program maintain that veterans who choose to attend so-called high-cost schools should receive more GI bill assistance than veterans who do not.

On September 15 and 16 the Subcommittee on Education and Training of the Veterans' Affairs Committee, of which I am chairman, held hearings on a number of these proposals. The advocates maintain that the present GI bill program is unfair because some States make veteran students pay a higher proportion of their GI bill payments for educational costs such as tuition and fees than do other States. On the other hand, opponents point out it has always been a principle of the three GI bills that equal benefits are paid for equal service to help a veteran catch up with his contemporaries who did not serve in the Armed Forces during a period of war.

The Congress on three previous occasions has rejected the authorizing of paying additional money to the veteran who chooses or happens to be attending a high-cost school. Here follows a list of questions which were asked of a number of witnesses indicating some of the profound implications which are related to the issue of changing the way Congress pays a veteran who wants to use his GI bill entitlement.

LIST OF QUESTIONS

1. There appears to be evidence that smaller private colleges are having a hard time financially and that providing a tuition supplement would be a "saving grace" for these institutions. However, the status of educational institutions is not the motivating factor for any legislative action by this Committee. We are concerned with veterans and their readjustment to civilian life. Do you have any indication that our veterans would be able to "readjust" better going back to a tuition supplement program than under the present system?

2. Exactly who do you intend benefits by this program, the veteran or the educational institutions?

3. Do you feel that our veterans are receiving an inferior education because they are attending state colleges and universities rather than the more prestigious private institutions?

4. It has been claimed that the present program is providing "unequal benefits for equal service" based on State residence. Yet, if we provide a tuition supplement to those veterans attending high-cost institutions it seems to me that we will be providing "extra" benefits to "some" veterans who go to expensive schools and not give veterans attending State schools or other educational institutions the same advantage. Would you care to comment on this?

I assume that you are familiar with the problems which occurred during the World War II program. How would you propose avoiding these same abuses if a tuition supplement program was enacted?

6. Testimony has been given that there is a strong presumption that veterans living in states without highly developed low-cost public educational systems benefit less from the GI bill because they cannot meet the combined costs of education and subsistence. However, I fail to see how "equity" would be restored by any form of either tuition supplement or accelerated entitlement. This would create far more problems than the one it is designed to overcome. It definitely would be inconsistent with the approach that is generally applicable in the dispensation of veterans' benefits based on active military service.

The intent of the law is not to purchase a complete education for an eligible veteran but to provide him with a measure of assistance while he is in training. Thus, the monthly amount of educational assistance is the same for similarly circumstanced veterans during the period that each is in training. This is in keeping with the philosophy of the program that educational assistance is designed to help a veteran meet, in part, his educational expenses, and not to serve as a tuition grant. The variations in the cost and accessibility of education from State to State are not the responsibility of this Committee. The conclusion on the part of many Members of Congress that some form of tuition assistance would restore equity is not necessarily valid because it would not solve the problems of accessibility or entrance requirements.

Further, reverting to such a system would lower total benefits to the majority of veterans and increase them to a smaller number of veterans enrolled in the higher priced institutions. Finally, chasing after today's ever-climbing gap between private and public school costs might result primarily in driving up tuition charges by the latter institutions.

Since we have only limited resources available to this Committee, which programs do you think we should eliminate in order to be able to afford your supplemental tuition proposal?

7. Do you have a break-down of the educational institutions in your district which would benefit from your bill?

8. How much correspondence have you received from veterans compared to educational institutions concerning your bill? This Committee has received considerable mail from private colleges and universities, but virtually none from veterans themselves who seem pretty satisfied with the present program.

9. Are you familiar with the VA survey which concluded that veterans prefer the present system over the tuition supplement approach?

10. Some of the foremost educators have testified on previous occasions that students should make contributions to their education. Under our present program a veteran can go to virtually any State school and have money left over. If he wants to go to a more expensive school, he has to make up the difference himself. Do you see any objection to a man contributing something now if he wants to go to a very expensive school?

11. Do you basically interpret the GI Bill as a readjustment benefit, or as a reward, or just how do you look at the whole program?

12. It is my position and the position of this Committee, that the GI Bill is a program of educational benefits for students who are veterans. It is not designed to aid the colleges or universities or proprietary schools. It may result in strengthening legitimate educational institutions, but that result is incidental to the primary purpose. The basis of the program is justice to the veteran—restoration of his lost educational opportunity. Therefore, the relationships to be established are and should continue to be between the individual veterans and the Federal government, without any intermediaries. The veteran should have his monthly entitlement certified directly to him and should draw his benefits directly. He then has the freedom of choice to attend any educational institution to which he is accepted and can pursue his studies in accordance with institutional standards. To deviate from this procedure would be a dramatic departure from a successful program which has fulfilled a Congressional intent. Would you like to comment on this?

13. Legislative history of Public Law 94–502 shows that it was the intent of Congress that a greater emphasis be placed on the VA direct loan program for those veterans attending higher cost institutions and for this reason we increased the amount a veteran can borrow. Under the present program, a single veteran can receive $2,628 per school year, plus $625 annually under the work-study program and $1,500 loan. This is almost $4,200 per year. This seems more than adequate. Would you care to comment?

14. Have you any statistic concerning the relationship of the amount of money a person has and the school he goes to? Do all the wealthy boys go to the expensive schools and all the poor boys to inexpensive schools? It has been my understanding that the amount of money we give a veteran does not necessarily determine which school he attends. In other words, if he wants to be a doctor, he will take the money he has and go where he wants to go and where he can get in.

15. As I said earlier, under the present GI Bill, a veteran is eligible for over $13,000 in GI bill benefits, plus an additional loan program of up to $1,500 annually, as well as the work-study program of $625 per year. This is the only program that I know of where the government pays practically the entire cost of a person's academic career. Do you know of any other scholarship program quite so generous?

16. In looking over the GAO report, the following abuses were prevalent under the World War II program:

"Colleges increase tuition 300 percent or more.

"University collects double tuition.

"Nonresident rate of tuition paid for resident veterans.

"Tuition payments by VA result in cash refunds to students.

"Payments by VA to land-grant colleges duplicate payments by other Federal agencies.

"Tuition paid subsequent to date of last attendance; tuition paid after veteran's entitlement . . . had been exhausted; payments of tuition where veterans had registered but did not attend classes; payments obtained through collusion and fraud; tuition paid for veterans attending school under scholarships; payments of tuition based on erroneous or excessive cost and payments of fees apparently not contemplated by statutes."

Since human nature seems not to have changed a great deal, how would we avoid these abuses occurring again?

17. A lot of testimony has been given regarding "pricing veterans out of a good education". I feel that a good student can do well and acquire a very good education almost anywhere. The test of this is the measure of the student. The education is available. Would you like to comment on this?

18. In examining the present program in light of the World War II program, the recurring theme seems to be lack of comparability. If we were to adopt some sort of tuition supplement, be it a direct supplement to the student or an accelerated benefits approach, should we not also include a limitation on earnings and provisions for charges

against entitlement if tuition exceeds a certain level, similar to these provisions in the World War II program? In other words, since the present payment is meant to include a stipend for tuition, fees and books, if we adopted a separate tuition payment, should not the current payment be revised?

Mr. Speaker, I am also including as part of my remarks an editorial which appeared in the Washington Post on September 15 entitled "Renewing the GI Bill Debate" and a response thereto by Mr. Russell Thackeray, a longtime executive director of the National Association of State Universities and Land Grant Colleges.

RENEWING THE GI BILL DEBATE

As the debate on the GI Bill continues in Congress, the overriding issue still needing to be resolved is the disparity in benefits. As Rep. Albert Quie (R-Minn.) has explained, "the present veterans benefit system has evolved to the point where a large number of GI Bill recipients receive more than their total educational benefits and other thousands of veterans have to go into debt to get comparable education." Despite positive moves by the Senate Veterans Committee, however, neither the House Veterans Committee nor the Carter administration seems prepared to act decisively to offer relief to the hundreds of thousands of veterans involved.

In previous testimony, the administration proposed an across-the-board increase in benefits. But this does little more than maintain the current inequities. Veterans in Texas, for example, whose number slightly exceeds those in Pennsylvania, used $318 million in GI benefits in fiscal 1976, while the Pennsylvanians used only $158 million. The lack of fairness is obvious. But these payments represent more than money; they represent the educational opportunities that can change veterans' lives.

Other approaches recently offered in the House and Senate strike us as better solutions. One would assist veterans by paying 80 per cent of their tuition costs between $400 and approximately $1,600. This measure seeks to ensure that veterans have more or less equal amounts of money to live on and that all can afford at least public education in their region. A second approach, already in the Senate bill, would allow veterans to use their benefits at a faster rate to cover higher costs. Both approaches were taken in legislation following World War II.

House hearings today offer President Carter an opportunity to stand with Vietnam-era veterans whose chances for equitable benefits are fast running out. As an Annapolis graduate who knows the value of a federally sponsored education, President Carter can align his administration with policies that realistically aid veterans where most needed. It has been argued that veterans who choose to attend high-cost schools should not expect more GI Bill assistance. But what of those many veterans from areas that offer no choice but high-cost colleges or technical schools?

Until lately, Reps. Ray Roberts (D-Tex.) and Olin Teague (D-Tex.) have dominated the GI Bill debate in the House. Others are now coming forward who are more in touch with the actual needs of veterans honing to educate themselves. It remains for the rest of the House, especially the leadership, to take the broader approach.

STATEMENT OF RUSSELL I. THACKERAY

In a recent (September 15) editorial headed "Renewing the GI Bill Debate," the Post again urged Congress to adopt a policy of paying a special bonus to veterans living in states which don't provide access to higher education at reasonable cost to the student. This of course is inconsistent with the major principles of the GI Bill, which are equal benefits for equal service, and assistance to the veteran to help him gain that level of education he would have achieved on his own, but for the interruption of military service.

The Post says the present program is unfair because some states make students pay a much higher proportion of their educational costs than others. This, of course, is the responsibility of the state, not the Federal government. The Post noted that veterans in Texas, whose number slightly exceeds those in Pennsylvania, ". . . used $318 million in GI Benefits in fiscal 1976, while Pennsylvanians used $156 million."

Post readers may be interested in some other figures. In 1975 Pennsylvania was twentieth in per capita among the states (100.1 percent of the national average) and Texas thirty-first (92.3 percent). But in 1974–75 (last year for which published figures are available) Pennsylvania was forty-fourth in the percentage of state and personal income from state and local tax sources going to higher education (.76 percent) and Texas twenty-second (1.07 percent, which was the national average.) Total personal income in Pennsylvania was, in round numbers, $64.5 billion, in Texas $59¾ billion. But Texas in 1974–5 taxed themselves for $631,141,000 to support higher education, while the figure for Pennsylvania was $474,-215,000. The difference of $162 million between Texas and Pennsylvania support for higher education from state and local funds was, interestingly enough, the same as the difference by which GI benefits going to Texans exceeded those going to Pennsylvanians. According to a recent survey, tuition charges in Pennsylvania's state colleges are the highest in the nation. News dispatches also report that the Pennsylvania legislature has as yet made no appropriation for the college year now under way for the "state related universities"—Penn State, Temple, and Pitt.

A Post article of last December 12 cited the much higher rate of participation of Arizona veterans in the educational program as compared to New Jersey, as evidence of need for a special "tuition equalization" bonus. In 1975 New Jersey was fifth in per capita income in the U.S. and 49th in the percentage of that income going from state and local tax sources to higher education (.65 percent). Arizona was thirty-second in per capita income, but second in the U.S. in the percentage of per capita income from state and local tax sources going to higher education (1.66 percent). In the fall of 1975, New Jersey has a net outflow of nearly 99,000 students seeking higher education in other states. Since then it has moved to raise public tuition charges sharply. New York has also taken a similar step in recent years, forcing City University to abandon its historic policy of free instruction, and raising tuition markedly in the state university system. In both states one argument used was that by raising tuitions sharply, many more students would be made eligible on the basis of "need" for Federal grants under the Federal Higher Education Act, and more Federal dollars would flow into the state.

Those states which lag in relative effort to keep down financial barriers to higher education for their young people, surely should be willing to cut charges to veterans (as some have done). A modest amount spent for this purpose would, if the Post's theory as to the effect of higher charges is correct, bring a handsome return in GI benefit dollars; and as the Post points out, "open up the educational opportunities which can change veterans' lives."

A national policy of having the Federal government pay a special bonus on behalf of students in states which won't tax themselves to make higher education available at reasonable cost, obviously will encourage more and more states to do less and less.

I doubt if this is what the Post really wants. If not, perhaps it could spare some of its talented investigative staff to go beyond the superficial presentation of the issues in the GI bill debate it has thus far made.

Participation in the college phase of the GI educational program is, incidentally, two and one-half times greater than in the World War II program.

REORGANIZATION OF HUD

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. ABDNOR. Mr. Speaker, today I am reintroducing a resolution concerning the proposed field reorganization of the Department of Housing and Urban Development. My resolution simply states that HUD should not implement the reorganization proposal until the appropriate committees of the Congress have had the opportunity to study the matter.

The new structure would make many very significant changes in the status of existing HUD field operations, including a substantial centralization of HUD authority and a reassignment of functions and personnel. Included in the HUD plan is the downgrading of all HUD insuring offices, the downgrading of three area offices, and the closing of three service offices.

Perhaps the most objectionable feature of this plan is the manner in which it has been formulated. HUD officials were very secretive in developing the plan and made no real effort to solicit congressional input. Since the reorganization would make significant changes in most of our States and congressional districts, it is essential that Congress be given the opportunity to look into the matter.

If Congress is going to have a say in what happens to our HUD field services, we have to show a strong commitment before the Congress adjourns for the year. I am planning to reintroduce the resolution with additional cosponsors on Monday, October 31 and I ask that my colleagues in the House join with me in this effort.

Following is a list of Members that have agreed to cosponsor the measure:

LIST OF COSPONSORS

Teno Roncalio, Keith G. Sebelius, Donald J. Mitchell, Norman D'Amours, Willis D. Gradison, Jr., Hamilton Fish, Jr., James M. Hanley, James M. Jeffords, Neal Smith, William S. Cohen, Elford A. Cederberg, Dan Glickman, Ron Marlenee.

Edward W. Pattison, Larry Winn, Jr., Charles E. Grassley, Michael T. Blouin, David F. Emery, James C. Cleveland, B. F. Sisk, Berkley Bedell, Robert C. McEwen, Samuel S. Stratton, Thomas A. Luken, Jim Leach, Dan Marriott.

Following is a copy of the resolution:

RESOLUTION

Resolved, That the Secretary of the Department of Housing and Urban Development should not implement the proposed reorganization of the field and insuring offices of the Department of Housing and Urban Development prior to the time when the appropriate committees of the Congress have had an opportunity to hold hearings on such a reorganization.

CONGRESS SHOULD REJECT OFFICE OF CONSUMER REPRESENTATION

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. ASHBROOK. Mr. Speaker, advocates of the so-called Agency for Consumer Protection have lacked the votes necessary to pass this legislation. Consequently some of its supporters have come up with a revised version of the legislation and a new name for the agency; the Office of Consumer Representation.

These changes, however, do not address the basic questions surrounding the bill. Should Congress create another new and costly Federal agency? Do we really need more taxpayer-supported Washington bureaucrats? Should Congress sanction further interference in our free enterprise system under the rubric of consumer representation? I believe the answer to these questions is a resounding "no."

We all know, moreover, how Federal agencies have a way of growing in size, cost, and power. The restrictions accepted now in order to get the bill through Congress would probably be erased once the agency is a going concern. As the Washington Star recently noted:

> The changes that Mrs. Peterson, Mr. Nader and Company are willing to make are designed, we suspect, to get the consumer protection agency's foot in the bureaucratic door. Once in operation, it probably would just grow and grow, in size and authority and budget, as most other government agencies have.

Mr. Speaker, the Agency for Consumer Protection was a bad idea and it would have been defeated by this Congress had it come up for a vote. We should likewise reject the proposed Office of Consumer Representation.

Following is the full text of the Washington Star editorial:

THAT WHAT-D'YA-CALL-IT BILL

Rebuffed when they tried to cram the legislation down congressional throats—Ralph Nader even resorted to threats to get at least one House member at the polls—supporters of a consumer protection agency are trying a new tactic.

White House consumer advocate Esther Peterson and a coalition of Naderesque consumer lobbies announced the other day that they would accept some watering down of the bill to get it through Congress this year.

They would eliminate a provision that would require businesses and industries to answer questionnaires propounded by the proposed agency. They would place some restrictions on the agency's right to appeal decisions of other government agencies on matters affecting consumers. They would write into the legislation a provision mandating the White House promise to abolish 26 other federal consumer agencies as soon as the new agency went into operation. They would eliminate a proposal to establish regional offices.

That might swing some votes to the bill, but it doesn't go to the basic question: Is this new agency really necessary?

We gather from a news account in The Star that one reason supporters are anxious to get the bill through Congress this year is that President Carter, who warmly endorsed the measure, needs a legislative victory. If the White House is pushing it for that reason, perhaps it ought to rethink its course. Foisting a costly new agency off on the taxpayers is not likely to win friends, even if it is done in the name of connsumerism.

The changes that Mrs. Peterson, Mr. Nader & Co. are willing to make are designed, we suspect, to get the consumer protection agency's foot in the bureaucratic door. Once in operation, it probably would just grow and grow, in size and authority and budget, as most other government agencies have.

Supporters once more are willing to change the name. First it was to be the Consumer Protection Agency; then they called it Agency for Consumer Protection; now they would call it the Office of Consumer Representation.

Members of Congress ought not be thrown off by either the changes proposed in the legislation or by the change of name. A thorn by any other name is still a thorn.

REMEMBERING FRANK A. STUBBLEFIELD

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. SARASIN. Mr. Speaker, it was with deep regret and sadness that I learned last week of the death of our former colleague, Frank Albert Stubblefield of Murray, Ky.

I was a newly elected freshman in the 93d Congress when Frank Stubblefield was serving his last term of office in what would be a distinguished congressional career of 16 years. Although I only knew him for 2 years, I was pleased to serve with him in the Congress for I learned a great deal from him, particularly what it truly means to serve in the public interest and for the public good.

We have lost a decent and good man. It is the loss not only of the Commonwealth of Kentucky, but of our entire country because Frank A. Stubblefield served all of the people unselfishly and with deep dedication and commitment.

I want to extend my sincerest sympathies to his wife, Odessa and his family. I want them to know that his colleagues in the House have not forgotten, and will not forget, this man from Kentucky, Frank A. Stubblefield.

RAMPANT NONSENSE

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. GRASSLEY. Mr. Speaker, in the following story from the Tuesday, October 18 Des Moines Register, reporter John Hyde succeeded in focusing attention on a problem that all of us need to be concerned about. In implementing the Rehabilitation Act of 1973, the Department of Health, Education, and Welfare has devised certain rules and regulations for compliance of public facilities. The intent of Congress in passing the Rehabilitation Act was clear, and should be obvious to those bureaucrats charged with enforcing its mandate. But if some have elected to ignore that intent where libraries are concerned, as Mr. Hyde's story describes, then thousands of other public facilities—schools, museums, small office buildings—are potential targets. To reemphasize a quote from Mr. Hyde's story: "The object is to make the programs of an institution accessible . . . Not every classroom or dormitory room." (David S. Tatel, Director of HEW's Office of Civil Rights). I commend to you Mr. Hyde's story.

BUILD A RAMP, UNITED STATES SAYS TO RUDD

(By John Hyde)

WASHINGTON, D.C.—The federal government, as is its custom, has looked things over and decided the Rudd Public Library needs a ramp.

Rudd doesn't want a ramp.

The federal government wants the Rudd Public Library to have a ramp because a federal law, the Rehabilitation Act of 1973, says that any institution assisted by funds from the Department of Health, Education and Welfare (HEW) has to be accessible to people in wheelchairs.

The Rudd Public Library doesn't want a ramp because not one of the 429 townspeople of Rudd, Ia., is in a wheelchair.

NO BENEFIT

"The idea behind this, we all agree, is a good one, but we do not have a single resident in the town of Rudd who would benefit by a ramp," said the town librarian, Joyce Navratil, in a letter to Representative Charles Grassley.

Not so long ago, she noted, the Rudd library was able to scrape together only $46 to buy books for an entire year. Now the federal government wants them to spend $6,500 for a ramp. "For us to have to spend even $6,500 to make this library accessible to the handicapped who don't exist in our town is utterly ridiculous," she wrote.

"It makes me sick," said Helene Wood, a member of the library's board, in a letter to Grassley. "We think in terms of 'hundreds' not 'thousands'."

Grassley, a Republican who holds some fundamental views about the federal bureaucracy agrees that the situation is ridiculous.

Interestingly, however, parts of that bureaucracy agree with Grassley, including the head of the office that is pressing Rudd to build the ramp.

NO HARDSHIP

David S. Tatal, director of HEW's Office of Civil Rigats, issued a statement saying the law was never intended to impose a hardship

on institutions. The federal regulations, he said, "do not require the elimination of all architectural barriers."

"The object is to make the programs of an institution accessible," he said, "not every classroom or dormitory room.

"Institutions that over-estimate what is required and elect to do nothing at all because of this misunderstanding will do a disservice to themselves and to handicapped persons who seek a way in the door but who do not ask for a magic flying carpet," he said.

But that's not the way Barry Porter heard it. Porter is the State Librarian of Iowa. By the time Navratil wrote to Grassley, Porter was well on his way to telling all libraries in the state to do something by Dec. 15 or risk a cutoff of federal funds. Porter was acting on information given to him by the Office for Civil Rights' regional office in Kansas City.

Grassley, meanwhile, found someone else in the federal government to say that the regulation didn't apply to facilities that employ fewer than 15 persons.

"AMBIGUOUS"

But that opinion was "not formal," said Grassley aide Betty Burger, and the actual regulations are "very ambiguous." The Office of Civil Rights has reportedly continued to inform institutions that they must comply if more than 15 people use the library, not if more than 15 people work there.

"It's very frustrating," said Porter. "We want to help libraries open their services to everyone, but it's a lot of money and we're not sure right now what the rules are."

The folks in Rudd are bothered. Wrote Helene Wood: "Last December our funds were so depleted we barely got the bills paid.

"We are supposed to submit plans for remodeling by mid-December, but we can't ask a lumberyard or carpenter to spend a half a day making estimates on something we know we can't afford. So the only alternative is to close the library to the whole community just because we can't remodel for the non-existing handicapped. Isn't that ridiculous?"

JAY TURNIPSEED

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. RAILSBACK. Mr. Speaker, last week many of us on the Hill learned with very deep regret that Jay Turnipseed died of cancer. Jay had been serving on the House Judiciary Subcommittee on Administrative Law and Government Relations, and I came to know him through our work on lobby reform legislation.

Jay was an exceptionally hard-working individual, and gained the respect of so many people. Even those who were opposed to the legislation he was working on greatly admired Jay's ability and fairness. I appreciated the time he spent with me, discussing the pros and cons of my approach to lobbying disclosure. He was a brilliant and perceptive attorney.

But, most importantly, Jay Turnipseed was a good and courageous person. He was well liked and held in high esteem by all who had the privilege of knowing him. Jay was a person of whom his wife, daughter, and family can be very proud. He will be deeply missed around Capitol Hill, but certainly not forgotten. To Jay Turnipseed's family, I extend my deepest sympathies.

NATIONAL LAWYERS GUILD: 40TH ANNIVERSARY CONVENTION REAFFIRMS SUPPORT OF TERRORISM AND SUBVERSION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. McDONALD. Mr. Speaker, as I noted earlier, the activities of revolutionary lawyers in West Germany as members and collaborators with Marxist-Leninist terrorist groups has brought into sharp focus the activities of a parallel organization of U.S. revolutionary lawyers who are involved in similar work, the National Lawyers Guild (NLG).

The National Lawyers Guild is the principal support organization for revolutionary terrorist organizations in the United States, serving not only as a defense apparatus but also as a clandestine communications network between imprisoned terrorists and their at-large or fugitive comrades. And for the most notorious U.S. terrorist group, the Cuban-sponsored Weather Underground Organization (WUO), a group of NLG lawyers act as a policymaking body of such power to impose their strategy that the minority opposition within the terrorist group has split away to form the Revolutionary Committee of the WUO.

Formed with the assistance of the Comintern in 1936, the National Lawyers Guild was first cited as a Communist front by the Special Committee on Un-American Activities in March 1944. In 1950, the House Committee on Un-American Activities in a report on the organization characterized the NLG as "the foremost legal bulwark of the Communist Party, its front organizations and controlled unions."

Since the 1960s, the National Lawyers Guild has recruited many younger lawyers and law students who look for their models of "revolutionary socialist society" to Castro's Cuba and to Vietnam. This Castroite faction works in coalition with the Moscow-dominated Communist Party, U.S.A. faction within the NLG. This Castroite/CPUSA coalition's candidate received 86 percent of the votes cast for 1977–78 NLG national president at the August 18–21 convention in Seattle.

This was the first NLG convention since 1940 to offer a choice between rival slates for national officers. In 1940, a slate of anti-Communist liberals was "soundly defeated" by the Stalinists who had reversed their front's isolationist war policy as soon as the Soviet motherland was invaded by the Nazi army ending the Hitler-Stalin alliance. Following the defeat of the liberal minority in the NLG, most of that tendency resigned, including Assistant Secretary of State Adolph Berle who released a public statement that he was resigning because the NLG "was not prepared to take any position not consistent with Communist Party doctrine."

The 1977 40th anniversary electoral choice was between the Castroite/CPUSA slate which vowed to "maintain and strengthen the broad-based character of the Guild as a mass anti-imperialist organization," and the Maoist "Anti-Imperialist Caucus" organized by the Peking-controlled Communist Party (Marxist-Leninist) (CP–ML) which until June of this year was called the October League. The Maoist caucus called on the NLG to "support the peoples of the world in our common struggle against the two super powers: the United States and the U.S.S.R.;" and stated its objective was "to expose and oppose the political line and program of the CPUSA in the Guild."

Every candidate of the Maoist Anti-Imperialist Caucus was overwhelmingly defeated. The magnitude of the defeat indicates the relative strength of the two factions, but it should be noted that approximately 80 delegates in an ad hoc "abstentionist caucus" of Trotskyites, anarchists and "independents" unhappy with both slates did not vote in the presidential balloting. An "Anarchist Caucus" was formed with Paul Bigman of the Chicago NLG acting as an informal coordinator.

The results of the NLG selection of national officers was:

President:	Henry DiSuvero	407
	Ruth Moscovitch	67
Vice president:	John Quigley	416
	Robin Collins	54
Treasurer:	Judy Mead	441
	William Hazelton	53

The official NLG convention was preceded on August 17 by a criminal laws skills seminar which had some shocks for responsible lawyers who have joined the NLG to better monitor its activities rather than advance its subversive and terrorist support operations. Cosponsored by both the NLG and the closely related National Conference of Black Lawyers (NCBL), both U.S. affiliates of the Soviet-controlled International Association of Democratic Lawyers front, the seminar featured Los Angeles NLG member Leonard Weinglass, a veteran of the Chicago 8 and Symbionese Liberation Army defenses, who outlined tactics for avoiding citation for contempt after an attorney has already committed the offense. Weinglass's recommendations were to keep arguing with the judge, never apologize to him and to preface even the most outrageous remarks to the judge with "respectful" introductions such as "I would respectfully remind the court that * * *."

Soon-to-be NLG president Henry diSuvero joined with Marilyn Van Dam and psychologist Elizabeth Loftus to explore the discrediting of prosecution eyewitnesses by persuading the jury that under stress and other conditions eyewitness identifications are likely to be false, particularly "cross-racial" identi-

fications—the old "they all look alike" argument. The workshop attendees were urged to employ so-called "expert witnesses" from the ranks of the sociologists and psychiatrists to lend more "credibility" to the misidentification arguments.

Failing the "misidentification" ploy, the NLG criminal defense lawyers were offered the "Black rage political/psychiatric defense." San Francisco NLG member Paul Harris propounded that given the right amount of gullability in a jury and the right circumstances in a case, a jury can be convinced of the reasonableness even of bank robbery to get money. According to Harris, the defense should claim that "social conditions" such as unemployment, insufficient education, and so forth forced the defendant into committing the crime and that the criminal action was the "reasonable" step to have taken. Harris noted that if a jury believes the accused is insane, he will be committed to a mental institution; but that if a jury emphasizes with the defendant's criminal act as being a rational response to an inherently unjust capitalist society, they may acquit him and send him back to the streets.

Other "criminal skills" workshop leaders included Holly Maguigin, Susan Jordan, Elizabeth Schneider, Betty Levinson, CPUSA veteran Charles Garry, Bill Bender and David Rudovsky.

The keynote address was given by veteran NLG leader Arthur Kinoy, a former associate of the old Ben Davis faction of the CPUSA who has moved on to form his own New Left/Castroite "pre-party," the Mass Party Organizing Committee. Kinoy provided a histrionic review of the NLG, its resistance to congressional investigations of Communist fronts, its penetration of the civil rights movement and actions against the Vietnam war effort. Kinoy denounced a broad range of conservatively oriented political, social and religious groups and attempted to smear them by linking them to various totalitarian extremist groups. Kinoy did not mention that the reactivation of these extremist Nazi-type groups coincides with the destruction of domestic intelligence programs of the FBI and local law enforcement agencies by the NLG and its allies. Kinoy could not suppress his delight in the resultant increasing polarization of society.

NLG INTERNATIONAL SUPPORT FOR TERRORISM

A considerable proportion of its evening special events and about one-fifth of the convention workshops were devoted to developing NLG programs of "concrete support" to Marxist terrorist movements in Latin America, Southern Africa, and the Middle East, with an additional resolution of support for the North Korean regime. Programs and resolutions include:

Southern Africa—following an overview of the "struggle against imperialism" in Southern Africa by Prexy Nesbitt of the American Committee on Africa (ACOA), the principal U.S. support group for Soviet-backed African Marxist terrorists, and a slide show equating Zionism with racism, the NLG resolved to fully back the terrorist movements in Rhodesia, South Africa, and Southwest Africa. The NLG will join in the work of the International Commission of Inquiry into the Crimes of Apartheid in South Africa, an operation of the U.S.S.R.'s international propaganda and publicity apparatus misnamed the World Peace Council which also provides direct logistical support to terrorists.

The NLG will place its official organizational resources at the disposal of the ACOA, an organization in which such NLG activities as Peter Weiss and Robert Van Lierop have been active for many years. The NLG will organize a "direct aid campaign" for training camps for Rhodesian terrorists that are located in the U.S.S.R.'s new Marxist-Leninist client state, Mozambique.

Solidarity work will include sponsoring speaking tours by terrorist spokesmen, such as the tour the NLG sponsored last winter by Albie Sachs, a leading white member of the African National Congress of South Africa. Also mentioned by the NLG's "internationalists" was a summer trip to South Africa by New York City NLG member Marty Garbus to observe the trial of a man charged with being a courier and organizer for a clandestine white Marxist auxiliary to the ANC called Okhela—Zulu for "Iskra"—"spark," the name of Lenin's newspaper—and of a dozen other men charged with membership variously in the South African Communist Party, the ANC, and their jointly controlled terrorist cadre, Umkonto We Sizwe—"Spear of the Nation." Garbus' "cover" for being present at the trials was as a member of the International League for Human Rights. The text of the NLG Southern African resolution reads:

RESOLUTION ON SOUTHERN AFRICA WORK

be it resolved that:

1. The NLG expresses our full organizational commitment to devote the resources, expertise and energy that we can to active participation in the movement to end U.S. imperialism and neo-colonialist intervention in southern Africa, and to support the liberation movements and the emerging socialist and progressive nations and the OAU Liberation Committee and Front Line States in their support of those liberation movements.

2. The NLG sponsor speaking tours and other educational programs in accordance with the above commitment.

3. The NLG join on a national level, and encourage chapters to join on a local level, those groups, coalitions and campaigns whose work is aimed at accomplishing the above goals, such as the American Committee on Africa.

4. The Southern Africa Sub-committee be mandated to continue developing programmatic work in this area including the following priority areas:

a. Prepare and distribute an educational packet on Southern Africa.

b. Mount a direct aid campaign for Zimbabwean refugee camps.

c. Participate in the campaign to stop the recruitment and participation of U.S. mercenaries in the region.

d. Work with the Immigration Committee on a program of assistance to exiles from the area.

e. Work with the International Law Subcommittee on a program of legal work in order to support the boycott of goods from South Africa, Rhodesia and Namibia, and other anti-corporate work.

f. Participate in the bank boycott campaign.

g. Participate in and support the work of the International Commission of Inquiry of the crimes of Apartheid in South Africa.

Korea—The National Lawyers Guild has officially joined the international effort to undermine and isolate South Korea in preparation for "reunification" by the Communist North Korean regime's army. Pyongyang radio gave nearly as much time to the National Lawyers Guild resolution as it did to an IADL "international law" conference which ended in Moscow on September 3. The North Korean radio report of the NLG resolution said:

According to a report, an 18–20 August meeting in Seattle of U.S. lawyers adopted a resolution on the situation in Korea.

Noting that the U.S. maintains over 40,000 troops and large quantities of nuclear and conventional weapons in South Korea, the resolution pointed out that the presence of these troops and weapons poses a grave threat which could trigger a nuclear war in Korea. The resolution revealed that the U.S. has provided several hundred million dollars of annual aid to the Pak Chong-hui regime, which has arrested and detained numerous people simply because of their political activities and has prohibited anti-government political activity. The resolution continued as follows:

The U.S. has continued the scheme to perpetuate the division of the Korean nation by interfering in the domestic affairs of the Korean people. The U.S. continues hostile military acts against the DPRK 24 years after the end of the Korean war. The agents of the Korean Central Intelligency Agency are harassing and threatening Koreans in the United States and bribing U.S. congressmen and government officials. The national lawyers' meeting adopts the following resolution:

The original English text of the NLG resolution reads:

RESOLUTION ON THE SITUATION IN KOREA

Be it resolved, that the National Lawyers Guild:

1. Demands that the United States government immediately withdraw all U.S. troops, personnel, nuclear and conventional weapons from South Korea and immediately end all aid to the Pak Jung Hi regime, and cease all interference in the internal affairs of the Korean people;

2. Calls upon the United States government to implement the United Nations policy for the reunification of Korea:

3. Calls on the United States government to end its state of armed hostility against the Democratic People's Republic of Korea and enter into talks with the DPRK aimed at replacing armistice agreement(s) with a permanent peace agreement;

4. Calls on the United States government to conduct a complete and objective investigation of the activities of the Korean CIA and the influence peddling by Korean agents on members of Congress, and the effect of those activities on the foreign policy of the United States, with public hearings held and findings published;

5. Firmly supports the struggle of the South Korean people for democracy, human rights and reunification and extends its active support to the entire Korean people in their effort to reunify their country on the basis of the principles of the Korean July 4, 1972, Joint Communique—independence, peaceful reunification and national unity;

6. Sends this foregoing resolution to the Korean Democratic Lawyers Association and

releases it for publication in the United States in the spirit of international friendship and solidarity of all peoples working for democracy, human rights, peace and justice;

7. Directs that this resolution be sent to the appropriate officials of the U.S. government and that the policy expressed herein be a continuing part of the international work of the NLG.

Red China—As a demonstration of basic solidarity against the Free World by the various bickering branches of the world communist movement, the NLG passed the following resolution drafted by the October League/Communist Party (Marxist-Leninist) faction on behalf of the U.S.-China Peoples' Friendship Association, one of Red China's most visible propaganda operations in this country. The text of the resolution reads:

RESOLUTION ON NORMALIZATION OF U.S.-CHINA RELATIONS

Be it resolved that:

1. The National Lawyers Guild supports the demand for normal relations now [between the U.S. and the People's Republic of China] and calls on the U.S. government to meet the three conditions for normalized relations which are:

a) Withdraw all U.S. military forces and installations from Taiwan;

b) Abrogate the Mutual Defense Treaty with the KMT government on Taiwan;

c) End diplomatic relations with the government on Taiwan.

2. The National Lawyers Guild shall, wherever possible, participate in activities designed to achieve normal relations, including confronting cultural and sports groups from Taiwan. The National Lawyers Guild shall work closely with the U.S.-China Peoples Friendship Association in this work.

3. The National Lawyers Guild supports the restoration of China's rightful place on the International Olympic Committee and will participate in activities aimed at gaining China's admission to the 1980 Olympics, including participation in the Ad Hoc Committee for China in the '80 Olympics, being organized by the US-CPFA.

4. The National Lawyers Guild takes special responsibility to bring this issue into the legal community.

5. Copies of this resolution shall be sent to: Cyrus Vance, Dept. of State; President Jimmy Carter; the Liaison Office of the People's Republic of China; and to the national office of the U.S.-China Peoples Friendship Association.

Chile—Individual NLG members including some acting as representatives of the IADL have traveled to Chile in activities of support for the overthrown revolutionary parties of the Unidad Popular. The resolution outlining NLG anti-Chile work reads:

CHILE RESOLUTION

Be it resolved:

1. That the NLG Chile Committee will assign each local chapter a name of a "disappeared" Chilean political prisoner.

2. That each local chapter will generate letters and telegrams in support of the Habeas Corpus filed on behalf of the assigned prisoner in Chile.

3. That each local chapter is encouraged to participate in local demonstrations and events in support of the Chilean people taking place this September.

4. that each local chapter is encouraged to provide legal support to Chilean refugees who reside in their area.

5. That Guild Notes will, and local publications are encouraged to, carry at least one article this fall (1977) exposing the reactionary tactic of "disappeared" political prisoners in Chile and throughout Latin America.

In addition, the NLG adopted a resolution relating to the murder of KGB "agent of influence" Orlando Letelier, the director of the Institute for Policy Studies' Transnational Institute and a former Ambassador to Washington for the Marxist Allende government. In accordance with the calls of Letelier's IPS defenders, a number of whom are also NLG members, the National Lawyers Guild called for a special prosecutor to investigate the murders, congressional investigation of the Chilean intelligence agency DINA, and "supports efforts to build a mass anti-imperialist campaign and to work with the national coalition being formed to accomplish these goals and press these demands."

The NLG's "Letelier resolution" also demands that the Attorney General "halt the dis-information campaign against the memory of Orlando Letelier and his work being conducted by the FBI agents, and that prosecutions against these leaks be initiated." This is amusing since the "disinformation" is actually the documentary evidence which Letelier had with him at the time of his murder demonstrating that he was a KGB agent working with a Cuban DGI "case officer" at the United Nations in New York transmitting messages via the Cuba diplomatic pouch to other Communist agents in Cuba and East Germany. Since the information campaign and investigation of Letelier's activities for the Soviet and Cuba secret police is being conducted not by FBI agents who have been directed to find out only who killed Letelier but by journalists, the real intent of the NLG/IPS effort is to stop the dissemination of true information which is damaging to the continuing operations Letelier started.

Argentina—The NLG resolution in support of Castroite and Trotskyite terrorists whose support organizations and armed cadres have been destroyed by the present Argentine military government included demands that jailed revolutionaries and the members of their support apparatus be allowed to emigrate from Argentina and demands that our Government "institute immediately an emergency parole visa program" for Argentina's refugee revolutionists.

Disarmament—The National Lawyers Guild firmly aligned its organization with the disarmament line of the U.S.S.R.'s World Peace Council and its U.S. manifestations such as the Coalition for a New Foreign and Military Policy, the National Center to Slash Military Spending and the "New Stockholm Peace Appeal." The NLG resolution text reads:

RESOLUTION ON THE ARMS RACE

Be It Resolved that the National Lawyers Guild:

1. Unites with all progressive forces opposing the further development, production and deployment of the Neutron Bomb, the Cruise Missile System and the Trident Submarine; and

2. Calls for substantial cuts in the U.S. military budget and the use of the dollars saved to finance social services; and

3. Consistent with an anti-imperialist perspective, authorizes the NEC to present the views of the NLG consistent with this Resolution to the President and appropriate members of Congress and to progressive domestic and international organizations; and

4. Mandates the Northwest Region to prepare an article for Guild Notes on the arms race, consistent with this resolution; and

5. Urges local chapters and members to join in the campaign to stop the arms race, and to devote legal resources to the support of the struggle to stop the arms race.

Puerto Rico—The NLG reaffirmed its commitment to support of the so-called "independence movement" led by the violence-prone Castroite Communist Puerto Rican Socialist Party (PSP) with the political backing of Havana and Moscow. The PSP has served as the parent group of several Puerto Rican terrorist organizations trained by the Cubans including the Armed Commandos of Liberation (CAL) and the FALN.

The conference featured a report on the Guild Puerto Rico Project from its staff attorney Mike Withey, formerly of the NLG Seattle chapter who took the position in Puerto Rico after he ran into grand jury subpoenas early in 1976 during an investigation of the terrorist, prison-movement derived George Jackson Brigade and of the escape from custody of one of the terrorists who had been captured after a bank robbery and shootout. The vehicle transporting the terrorist back to jail after medical treatment was intercepted by other terrorists who shot a police officer while effecting the escape. Few people knew the time and the route of the vehicle. Attorney Withey was defense attorney for the escaped terrorist and resisted his subpoenas on grounds of invasion of attorney-client privilege.

In 1975, NLG attorneys rushed to the Dominican Republic to defend three PSP leaders arrested after transporting three Dominican terrorists back to the country after their stay in Cuba. The NLG has provided the defense teams for prospective witnesses resisting subpenas by grand juries investigating the FALN's terrorist activities in New York and Chicago. The 1977 convention resolution stated:

RESOLUTION ON PUERTO RICO

It is hereby resolved:

1. The NLG reaffirms its unequivocal support for Independence of Puerto Rico, and for its immediate and full decolonization;

2. The NLG supports the right of the Puerto Rican people to control and use for their own benefit the natural resources and mineral wealth, including all petroleum deposits located in submerged lands lying underneath the coastal water of Puerto Rico, free from attempts by the U.S. or its multinational corporations to exploit them;

3. The NLG calls for the immediate and unconditional release of the Five Nationalist prisoners.

4. The NLG calls upon the member nations of the General Assembly Special Committee on Decolonization to vote in favor of the Resolution of Cuba introduced before that body on August 17, 1977.

5. The Puerto Rico Legal Project is authorized to present the views of the NLG consistent with this Resolution, to domestic and international bodies, organizations and conferences; e.g. U.N. Decolonization Committee, the Law of the Sea Conference, the American Association of Jurists, etc.

Middle East—A major controversy was

evident over the move by the National Lawyers Guild's CPUSA/Castroite leadership to bring the NLG organizationally into official position of unqualified support for the terrorist Palestine Liberation Organization (PLO). A significant proportion of NLG members from New York City and other Northeast chapters, not exclusively of Jewish origins, wanted a resolution to condemn the persecution of Jews in Arab countries as well as to support the "Palestinian people" without necessarily naming the PLO as the "sole legitimate representative of the Palestinian people."

Members of the NLG's 10-member Middle East delegation invited by the PLO to Lebanon—members included Abdeen Jabara of Detroit, a long-time organizer of support for the PLO who is currently suing the Government for having overheard him on national security wiretaps placed on alien PLO operatives in the United States; Malea Kiblan; Marsha Greenfield; Howard Dickstein; Garay Menicucci; Bill Montross of Columbus, OH; Gunnar Sievert, New York; Nancy Hormachea, Houston; John Quigley, and NLG regional vice president from Columbus, OH; and Matthew Ross of Boston—lobbied in favor of total support of the PLO. The delegation had met with PLO boss Yasir Arafat; PLO Political Department head Farouk Qaddoumi; with leaders of the Popular Democratic Front for the Liberation of Palestine, the PLO group responsible for the May 1974 slaughter of the school children at Maalot; and with representatives of such PLO front groups as the Palestine Women's Federation, Palestine Workers Federation, Palestine National Council, Palestine National Front, and Palestine Red Crescent Society which is now collecting money in this country to funnel into the PLO.

PLO U.N. representative Hassan Rahman spoke to the convention praising the NLG for its support of "national liberation movements and just causes around the world."

The text of the NLG resolution indicates the extent of the defeat of the "moderate" leftist forces:

THE MIDDLE EAST RESOLUTION

Be it resolved that the National Lawyers Guild:

1. Calls for the cessation of all Israeli settlement in the occupied territories and effect a complete withdrawal from all territories occupied in 1967.

2. Recognizes the right of self-determination and national independence for the Palestinian people.

3. Recognizes the Palestine Liberation Organization as the sole legitimate representative of the Palestinian people and its right to participate on an equal footing as a principal party in any discussion of the Palestinian Israeli conflict.

4. Recognizes the right of return or compensation for all Palestinians displaced or dispossessed in the creation of Israel in 1948 pursuant to the United Nations resolution No. 194.

5. Calls for the elimination in all the states in the Middle East of laws, institutions, regulations, and practices which have the purpose or effect of discriminating on the basis of religion, national or ethnic origin, sex or sexual orientation or race.

6. Calls on the Palestine Liberation Organization and the state of Israel to commit themselves to the exchange of mutual recognition between an independent sovereign Palestinian state and the state of Israel, and the development of a full program of peace between them.

Cuba—The NLG convention was attended by three delegates from Communist Cuba, Enrique Marimon Roca, a Supreme Court justice representing the National Union of Jurists, formed this past summer in Havana; and Maria Yolanda Ferrer Gomez and Ana Maria Navarro Arrue representing the "mass organization for women," the Federation of Cuban Women. Marimon, who was present throughout the convention and its preliminaries, brought the "fraternal greetings of the lawyers of revolutionary Cuba" to the NLG comrades. He commended the NLG for using its legal skills to promote the "struggles of those forces most likely to bring about profound social, economic and political change"—his code word for Socialist revolution—in America and other countries.

Marimon urged the NLG to support the disarmament movement against the neutron bomb, and predicted future "collaboration and solidarity" between the Cuban Communist lawyers association and the NLG in "broad fields of common interest." Marimon's translater was Hal Mayerson, one of the leading Castroites in the New York City NLG chapter with close ties to the terrorist Weather Underground Organization.

Other International Committee discussion topics included the 1977 NLG team sent to observe the Baader-Meinhof trials in West Germany. The NLG observer team included William Schaap and Ellen Ray. Schaap had been a member of the NLG's unsuccessful effort in 1975 to have a group of Center for Constitutional Rights NLG lawyers join the Baader-Meinhof defense team. That group which included Peter Weiss, Bill Schaap, Marge Ratner, and William Kunstler with former U.S. Attorney General Ramsey Clark as its "respectable" front man was not permitted by the West German authorities to join the defense.

The NLG's 1977 delegation to Cuba whose members included NLG 1976–77 president William Goodman of Detroit; Franklin Siegel of the New York national office; Paul Harris of San Francisco and Susan Gzesh of Ann Arbor was only one in a continuing series of visits to Cuba so that the Cubans can select reliable U.S. attorneys for their projects in the United States. Gzesh, a 26-year old former summer employee with the migrant legal assistance project and organizer of a women's prison movement project with the Ann Arbor NLG who comes from Chicago, is now the NLG national office contact for the Cuba Subcommittee of the NLG's International Committee. The 1977 NLG Cuba resolution stated:

RESOLUTION ON CUBA

Be It Resolved That:

1. The NLG expresses our continuing support for the Cuban Revolution and its commitment to proletarian internationalism.

2. The NLG condemns the illegal economic blockade by the U.S. government and demands its immediate termination.

3 The NLG calls for immediate, full and unconditional restoration of normal diplomatic relations between our country and the Republic of Cuba.

4. The NLG make all efforts to promote exchanges between the people of the U.S. and the Cuban people.

5 The NLG undertakes to study the illegality of the blockade under international law and to educate its members and the people of the U.S. about that blockade.

6. The NLG engage in and support efforts to fight and defeat the extra-legal terrorist elements in the U.S. which continue to commit crimes against the Cuban people with impunity.

7. The NLG undertake to promote a better understanding among the people of the U.S. of the Cuban legal system.

8. The NLG join at a national level, and enccurage chapters to join on a local level those coalitions or campaigns aimed at accomplishing the above goals.

9. The Cuba Subcommittee of the International Committee is mandated to carry out the goals of this resolution.

Association of American Jurists—The NLG also voted to affiliate with a Cuban-dominated front group for lawyers, formed in Lima, Peru, in 1974, but officially launched in Panama in 1975. The NLG, the National Conference of Black Lawyers, and the Castroite La Raza Unida Party have so far affiliated with the AAJ. As with the big Soviet fronts, some individual memberships in the new AAJ also exist.

The head of the U.S. AAJ chapter is NLG veteran Ann Fagan Ginger, identified in FBI documents published by the Senate Select Committee on Intelligence as a Communist Party, U.S.A. member. The AAJ is currently holding a conference in Havana, and the U.S. participants include Charles O. Porter of Eugene, Oreg., an officer of the National Committee Against Repressive Legislation (NCARL), a CPUSA front; N. L. Smokler of Detroit; Ernest Goodman, a veteran attorney for CPUSA fronts, of Detroit; Michael Krinsky of the New York firm of Rabinowitz, Boudin and Standard, the legal agents of the Cuban Government and of the former Allende government in Chile; J. P. Morray of Corvallis, Oreg., who worked in Havana for the Castro government in the early 1960's and now serves on the AAJ executive council; Allan Brotsky, San Francisco; Ann Fagan Ginger, Berkeley, Calif.; Charles Roach of Toronto, representing the NCBL; Rodrigo Mayorga of Sacramento, Calif., representing La Raza; NLG national vice president John Quigley; and Louis S. Katz, president of California Attorneys for Criminal Justice. Smokler, Goodman, Krinsky, Brotsky, Ginger, and J. P. Morray attended previous AAJ meetings.

NLG DOMESTIC ISSUES

Domestic "antirepression" resolutions included support for the Pendleton 14 Defense Committee—racial violence in the military—support for the Gary Tyler—convicted of murder and serving a life term—support for the Buddy Cochran Defense Committee—charged with crashing his car into a KKK rally

in Plains, Ga.—and support for the Dawson Five—charged in Georgia with robbery and murder.

The NLG resolution on "racist prison violence" vowed the organization's "political and legal support" for any action classified as "prisoner resistance" to racism which is the NLG's code phrase for supporting attacks on guards.

The area of labor, the NLG voted to support a strike and boycott of Coors brewery workers in Colorado and to support a Trotskyite "rank-and-file" group in the Teamsters Union called Teamsters for a Democratic Union. The NLG will assign law students to help the TDU as part of a summer project next year.

HENRY DI SUVERO

Henry M. "Hank" diSuvero, 47, was elected the 1977–78 national president. From 1969 to 1971, he was codirector with his wife Ramona Ripston—since divorced—of a CPUSA legal action front, the National Emergency Civil Liberties Committee (NECLC), which took the lead in legal cases supporting draft dodgers, deserters and persons charged with offenses against the Military Code and Selective Service Act related to anti-Vietnam organizing.

DiSuvero, a graduate of the University of California at Berkeley and Harvard Law School, has been an active member of the NLG since 1967. He links his "self-definition as a radical" to two felony charges—on which he was never indicted—and to several misdemeanors—of which he was acquitted—which stemmed from diSuvero's crossing a picketline of white extremists who were protesting a meeting of the New Jersey Civil Liberties Union of which diSuvero was director. Soon after he left the ACLU in protest over their refusal of legal assistance to the Spock draft conspiracy defendants in Boston.

For the past 4 years Hank diSuvero has been senior attorney to the Los Angeles Legal Aid Foundation where, with the exception of the defense of the Kitty Hawk sailors and the current CPUSA-related "Davis Cup Oil Spill" protest case, he has concentrated on criminal defense work.

During his period with the NECLC and later in private practice—1971–73—diSuvero represented members of the Weather Underground, SDS demonstrators arrested in violent street demonstrations, and members of such revolutionary groups as the Young Lords, the Workers World Party (WWP) and its Youth Against War and Fascism (YAWF). From 1967 to 1969, diSuvero was executive director of the New Jersey chapter of the American Civil Liberties Union: a position that followed two uneventful years as a staff counsel to the New York ACLU chapter.

From the NLG's viewpoint, diSuvero is best known for his work with the Los Angeles chapter where his supporters are politically diverse so as to include Ben Margolis, Joan Anderson, Linda Ferguson, Luke Hiken and Barbara Honig.

Hank diSuvero is also known as the organizer, fundraiser and general catalyst for the People's College of Law in Los Angeles, a project he conceived and which has developed in 4 years into a $180,000 per year operation. The People's College of Law is one of the NLG's prime routes of entry into Mexican-American radical circles through its involvement with CASA and other groups.

A reading of a number of diSuvero's written legal arguments and observation of his low-key courtroom demeanor indicate to an objective observer that he is probably the best criminal attorney in the NLG and that his apparent lack of partisan political attachment give him a high probability of effectively maintaining the supremacy of his view that "political struggle belongs to the Guild, but I also believe that such debate, in order to be meaningful, must be centered around concrete work in which our membership is involved:" the view also held by the CPUSA and Castroite faction.

JOHN QUIGLEY

John Quigley, the new NLG national vice president, spent 1 year in the Soviet Union following his graduation from law school in 1966: 1 year studying law at the University of Moscow, then 2 years doing additional legal research and writing on Soviet law. Since 1969 he has taught at Ohio State Law School such topics as criminal law, international law, and the legal systems of socialist countries. He has been active in the NLG since 1973 when he helped organize the Columbus chapter, and during the period 1974–76 Quigley was an NLG Mid-East regional vice president. He maintains a small part-time caseload, chiefly doing criminal appeals and gay rights litigation.

Quigley is a member of the NLG International Committee and led the recent delegation to the Middle East; he is also a member of the NLG's national S–1 committee to fight tightening of anti-subversive laws in any revision of the U.S. Criminal Code. He is a founding member of the NLG's national gay rights task force.

On controversial issue, Quigley has generally supported the CPUSA faction. A significant diversion from this pattern was his open support for continuation of the NLG sponsorship of the Midnight Special, a prison movement publication staffed by members of the Weather Underground which serves as a means of communication for militant prisoners who include members of terrorist groups like the Black Liberation Army and Republic of New Africa and which openly supports terrorist "armed struggle."

JUDY MEAD

Treasurer Judy Mead, 36, with a B.Sc. in sociology, has been in the NLG's "legal worker" contingent since 1974, when she became a staff worker in the Washington, D.C., NLG chapter. In 1976 she left that post to join the Center for National Security Studies (CNSS) in fundraising and "servicing donors." As with her two new colleagues in national NLG office, Mrs. Mead has generally supported the dominant CPUSA faction, but as with Quigley and the Castroites still enamored with Che Guevara, joined with the pro-terrorism tendency in the Midnight Special controversy.

UNEQUAL HUMAN RIGHTS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. ABDNOR. Mr. Speaker, we have been talking a lot about human rights in various parts of the world. Indeed, from some of our official pronouncements and policies we seem to be bent on alienating our friends and bowing to those who oppose our Nation and what we stand for.

In a recent letter to the editor, published in the October edition of the South Dakota Legion News Congressional Medal of Honor winner and former Vietnam prisoner of War Leo K. Thorness made some very pertinent observations which I commend to the attention of my colleagues:

CARTER'S UNEQUAL HUMAN RIGHTS POLICIES

I totally agree with President Carter's concern and desire for all people to enjoy basic human rights, freedom and dignity.

But I totally disagree with President Carter's use, or rather abuse, of the human rights issue by using different standards for different countries. It is completely wrong to "play politics," with something as precious as rights, freedoms and in some cases, even lives.

Here are a few specific examples of different standards:

1. Secretary of State Vance recently told a gathering of editors that the United States was ready to end the trade embargo against Cuba. About the same time the Administration postponed two loans designed to aid poor farmers in Chile because of the human rights situation in that country. Cuba is the extreme left; Communist, and Chile is the extreme right; dictatorship—why are we softer on Communism than dictatorships?

2. Vice President Mondale, when visiting the Yugoslavia Communists recently, never mentioned human rights violations of the Tito Government; but gave them the good news of an OK for the sale of core elements for a nuclear reactor so the Yugoslavs could build one.

3. The Administration's position is that we will not buy chrome from Rhodesia because it is ruled by a white minority government; but we will buy instead from the Soviet Union—do we really believe it is better to deal with a government that has slaughtered some 20 million of its own citizens in the last 60 years than with a relatively nonrepressive minority government?

4. We condemn the Apartheid government in South Africa, but level no criticism at leftist or communist governments of Panama or China for their failure to live up to democratic traditions—why are we so soft on Communists?

5. Recently, a State Department spokesman told a group of U.S. corporate officers that American businessmen should help the President spread his Human Rights Program throughout Latin America by showing investment preference for countries that live up to human rights standards. Four days earlier, in a speech in Iowa, the Commerce Department official in charge of East-West trade said that trade with Communist nations, "Is good business. It helps our economy. It contributes to mutual understanding."—why is our Administration against our traditional friends in Latin America and why are we so soft on Communists?

6. Primarily through the out-of-proportion statements of U.N. Ambassador Andrew

Young, the Administration shows great concern and interest if one black student is killed in demonstrations against the South African Government. Yet, rarely do we even get an utterance from the Carter Administration about the 1,200,000 Cambodians: that's right, one million and two hundred thousand Cambodians who have died at the hands of the Communists in the last two years—why are we so soft on Communists?

I lived without my freedom, without dignity or human rights for six years under Communism as a POW in North Vietnam. I know and understand the terribleness of that life; and I wholeheartedly support the President's concern and desire to help all people enjoy human rights, freedoms and dignity.

If those rights and freedoms are denied, however, it is just as wrong if it is caused by a communist's government as if it is caused by a dictator's government.

If total numbers, if total violations, if total suffering is meaningful; in modern history, even including Hitler, the Communists have created immensely more hardships, denials of human rights and deaths than have the extreme rightist governments.

In addition, there is no organized Rightist movement in the world that has its stated objective to conquer the world; whereas, the Communists publicly state their goal over and over—world domination.

LEO THORNESS,
Member, Post 15.

TAXATION

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. BOB WILSON. Mr. Speaker, as we all know, taxation legislation is always extremely complicated—not to mention the tax laws themselves. And taxation is probably the one area that we in Congress deal with that hits each and every American.

In that context, we cannot always predict what the full impact of some of our taxation proposals will be. And in some cases, in our zeal to provide some measure of relief for our citizens, the effects of those actions have an opposite impact, as the following article from the October 1977 issue of the Morgan Guaranty Survey points out:

SQUEEZING AMERICANS OUT OF OVERSEAS JOBS

As part of the sweeping and complex Tax Reform Act of 1976, Congress changed the rules on Americans working abroad. Little noted at the time, the new provisions—which took effect January 1 of this year—increasingly are causing a clamor at home and abroad.

What's causing the uproar are changes in the rules which lower the amount of income that American expatriates can exclude from U.S. taxes, reduce the credit that can be taken for foreign taxes, and push most expatriates into higher tax brackets.

The tax clampdown has caused hundreds of Americans working overseas to quit their jobs and return home. Among those companies that absorb increased costs of their overseas workers, the new tax law has brought heavy additions to operating costs. More and more companies, especially those which rely heavily on technicians (such as construction firms), are complaining of lost contracts.

The impact of the tax law changes was summed up recently by the American Embassy in Qatar: "The ill effects will be geometric. The U.S. will lose jobs, contracts, and the ability to influence local governments and local businessmen to buy American products and services. This, of course, will lead to a further deterioration in the U.S. balance of trade and will cost state-side jobs."

One major U.S. construction and engineering firm reported recently that the new tax law has added 15 percent to its cost of sending someone to a country such as Saudi Arabia. The company has cut its 3,000-person expatriate work force by 10 percent in the past year and has increased the hiring of foreign nationals by 14 percent. A California construction firm has reported that 58 Americans have resigned in the past year and were replaced by Europeans and Canadians. Some 375 new positions in that company which normally would be filled by Americans will now be filled by workers from other nations. And yet another U.S. firm has stated flatly: "The new tax provisions will nearly de-Americanize our overseas operation."

INCOME THAT ISN'T

In Lagos, a three-bedroom house may rent for $40,000 a year. In Paris, keeping one child in an American-style school can cost $3,000 or more annually. In Tokyo, living costs are more than 150 percent of those in Washington, D.C. And, in most places, foreign tax collectors dip into the paychecks of American workers abroad.

All told, an employee earning $25,000 in the U.S. may well have to spend as much as $75,000 a year abroad to maintain an equivalent standard of living.

U.S. tax law long has recognized this disparity and has sought to alleviate it by allowing U.S. employees overseas who meet either a bona fide residence or physical presence test to exclude from gross income for U.S. tax purposes a certain amount of income earned abroad.

In tightening up on the exclusion of foreign-source income, Congress was acting partially to close what it perceived to be a loophole available to certain foreign workers who were benefiting from the exclusion even though they paid no foreign tax and were not in a high-cost area. The trouble is that, in clamping down on U.S. employees in those few countries which impose no income tax, the lawmakers have created hardships for hundreds of thousands of other U.S. employees—and their companies—in dozens of other countries.

The fact of the matter is that very few expatriates have any option as to where they are sent. Choosing a spot to minimize taxes is generally out of the question. Far and away the bulk of the U.S. citizens working abroad simply go where they are sent by their employers and are compensated in such a way that after taxes—U.S. and foreign—they are able to maintain more or less the same standard of living as their counterparts in the same company working in the U.S. Employers usually bear the burden of paying the allowances, taxes, etc. required to make their employees "whole." And now the revised tax law has imposed stiff new burdens.

The latest revisions were officially approved a year ago when President Ford signed the Tax Reform Act. Among the major changes—

The exclusion amount was reduced to $15,000 annually from the former $20,000 ($25,000 for three-year expatriates).

The method of calculating U.S. taxes was changed. Any income that is not excluded is subject to U.S. tax rates that would apply if the exclusion had not been taken. Thus, the tax is calculated by determining the tax on all income without considering the excludable amount and then subtracting the tax on the excludable amount. As a consequence, the exclusion offsets low-bracket rather than top-bracket income as in the past.

Foreign taxes attributable to exclusion income may not be utilized to offset U.S. tax and are permanently lost as tax credits.

Taken together, the changes in the tax law escalate dramatically the cost of maintaining a U.S. employee in most overseas locations. The added burden, coming on top of all the other skyrocketing costs overseas, may be the final straw that will push some companies into hiring foreign nationals.

Although the added tax burdens vary depending on the tax-rate structure in each foreign country, the increased taxes are expected to range from $5,000 to $8,000 per worker. Taxes go up but the employee's real income has not changed. Not surprisingly, many expatriates have decided to quit and come home.

In cases in which companies absorb the increased tax costs of their overseas employees, the $5,000 to $8,000 paid to those workers to offset higher taxes under the new law will become taxable income to those employees. In turn, the companies will have to reimburse the employees for taxes they pay on this income. If the marginal tax rate is 50 percent, the incremental cost to the companies of the new law could be in the $10,000 to $16,000 range per worker. For many companies, the added costs run into the millions of dollars.

Some firms overseas already are finding that the margin of profit in many contracts, often razor thin in a highly competitive market, does not permit the firm to take on the added tax burden to be imposed on its American employees—and the foreign customer is unwilling to accommodate the increased costs by paying a higher contract price. Result: contracts are being lost to French, German, and Japanese companies.

Smaller companies, thinking about starting up abroad, are likely to find the new tax rules especially discouraging. The reason is that sending an American abroad might be too costly, and training and integrating a foreigner would not be as feasible an alternative for them as it would be for a large multinational company.

There are implications, too, for the U.S. economy. The new tax rules on overseas employees, in effect, will be encouraging companies to return workers to this country at a time when unemployment is a stubborn problem.

Conversely, as noted earlier, the shift in U.S. tax policy actually will be encouraging the hiring of foreign workers. Even though it generally has been cheaper all along to hire a foreign worker than an American, most U.S. companies have rationalized the differential in terms of the expertise the American would bring to the job. But the added costs under the new tax law might just tip the balance in favor of the foreign national.

American consultants and staff workers abroad naturally tend to turn to U.S. companies to supply familiar U.S. products. Significantly, as more and more foreign nationals are substituted, it would be understandable if they turned more and more to suppliers from their own countries.

Unfortunately for the U.S., these tax changes come at the same time some countries are stepping up their efforts to force U.S. companies abroad to substitute their nationals for U.S. employees. This makes it doubly difficult to maintain the quality and expertise associated with American operations abroad.

All in all, foreign and domestic earnings of U.S. companies are likely to suffer—and so, ultimately, would U.S. tax revenues from those earnings.

TAXING A NONBENEFIT

The original intent of the foreign exclusion was to place Americans working abroad in an equal position with their competitors. Actually, the U.S. is almost unique; most industrialized countries do not tax nonresident citizens on income and allowances outside their home country. Unfortunately, U.S. tax law takes a different view. Yet, by definition, allowances are only given to the employee to maintain a standard of living comparable to the one such an employee would have had in the U.S. If the employee is receiving no economic benefit from such allowances then a policy of taxing them is decidedly unfair.

What should be done to avoid the inequities for employees and for their companies? The short-term solution is to delay the effective date of the new exclusion until 1979. This would give Congress time to study the provision next year and arrive at a fair long-term solution.

The best long-term solution would be to enact a provision similar to Section 912 of the Internal Revenue Code. Section 912 applies in part to civilian workers of the U.S. government working overseas and excludes from income certain allowances for increased costs of foreign assignments. Such a provision should make all allowance amounts—for cost of living, foreign taxes, etc.—excludable for U.S. tax purposes. To prevent any "windfalls" that may have been possible under the old law, an *itemized* rather than a standard exclusion should be enacted. Only those amounts that exceed the amounts the taxpayer typically would have spent for cost-of-living items in the U.S. would be eligible for exclusion.

Failing in that broad prescription, the next best thing would be to go back to the old rules—but with larger dollar exclusions to take account of inflation. The $20,000–$25,000 allowances were established back in the early 1960s when practically everything cost a lot less than it does today.

The net effect of such changes should be to allow an expatriate to pay no more U.S. tax than would be the case if the employee remained in the U.S. And in the process Congress would avoid an adverse impact on the domestic economy and on the competitive position of American workers and companies abroad.

MIDGE COSTANZA'S LITTLE JOKE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. DORNAN. Mr. Speaker, I would like to ask a question. When Earl Butz, in private conversation, told an offensive joke, the howls and screams for his resignation filled the air. He resigned.

But last Tuesday night, Midge Constanza, top aide to President Carter, made a crude and offensive reference about a Roman Catholic priest. The priest is reported to have said he was "offended" by the remarks which was made not in private but before a crowd of 300.

I will not repeat the remark, which can be found in newspaper accounts of the incident. I just want to say that if Earl Butz had to resign because of an offensive remark he made in private, why does not Ms. Costanza resign over a remark she made in public? Is there a double standard for Carter's palace guard?

Her response to this disgraceful incident is that she is "hurt" that anyone would misinterpret her remark. That is just what Earl Butz said just before he went over the side and where is crusading investigative reporter John Dean these days?

NATIONAL HEALTH INSURANCE

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. BADHAM. Mr. Speaker, on October 20, a hearing was held in California under the auspices of the Department of Health, Education, and Welfare to gather testimony on the subject of national health insurance. While I was unable to be present in person to present testimony, I was represented by a member of my staff who entered into the record a statement I had prepared. It raises a number of points which I would hope a majority of my colleagues in this House would consider before proceeding to undertake legislative action on this most important subject. I would like to share that statement with my colleagues and enter it in the RECORD at this point:

SUMMARY OF STATEMENT BY ROBERT E. BADHAM

The letter from HEW inviting my views on the issue of National Health Insurance assumes that there will be such an insurance program instituted in the United States. In addition, the two-page list of issues and questions to which I am asked to address myself seems to suggest no doubt that a National Health Insurance program will be enacted by the Congress next year.

So, to make the record perfectly clear, let me state at the outset that I do not accept this assumption.

Indeed, I find it incomprehensible that the leaders of our country seem to have committed themselves to a program which could bankrupt our country and destroy the present strengths of our health care system.

In my opinion, supported by leading medical experts across the nation, a National Health Insurance program could result in a disaster for the citizens of the United States, who are being asked to throw out the whole present system for the illusion of a federal system which calls into question medical services for all of our people.

Let me be specific:

Conservative estimates place the original cost to the American people at $70 billion a year, coming, as it does, from a federal budget which will be $60 billion in the red this year. Furthermore, the cost of National Health Insurance is expected to increase to $100 billion in deficit dollars in a few years and go upwards from there.

Now, then, the questions should be asked: Isn't the cost worth it, if health care of the American people is improved?

The key to this question is the word "improved." We need only to look across the ocean to Great Britain, one of the nations which has experimented with socialized medicine to learn that excessive governmental intervention in medicine results in increased costs, a decline in the quality of medical care, a reduction in the quality of medical care for those in need and a disincentive to control costs.

Judging from the hundreds of people who come to my office each month with horrendous tales of public ineptitude and snarled bureaucracy in dealing with the simplest of programs, what could happen if a program of National Health Insurance is instituted boggles the mind.

Great strides have been made in improving health care for American citizens and reducing deaths from heart disease, tuberculosis, pneumonia, polio and diabetes. Life expectancy has increased, health care is being provided to more and more people and infant mortality has gone down.

At present we are spending 40 times more for health care than we did 50 years ago and 10 times as much as we did 17 years ago.

Right now more than 85% of the people in the country are covered by some type of health insurance provided through the free market. Yet we are told by the proponents of this plan that National Health Insurance will cost us less than the present expenditures in the field. These are the same people who have been telling us that the federal budget will be balanced in 1981 and who ask us to wait for inflation to be halted and the unemployment rate to go down

A clue to what might happen if National Health Insurance were adopted can be seen by the $11 billion cost overruns in the first three years of Medicare and Medicaid programs, which have all but bankrupt the Social Security system.

In my opinion, the private sector in the United States still is capable of providing the best medical care in the world, either through private arrangements with the medical profession or through private health insurance programs.

Intrusion of the federal government in this field could only lead to medical and financial disaster in this country, after centuries of providing our citizens with the best medical care the world has ever known.

My opinion is: "if it isn't broken, it doesn't need fixing."

THE AIRBAG DEBATE

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. MURTHA. I would like to share with the Members the result of a poll I took of Pennsylvania's 12th Congressional District on the question of mandatory airbag safety systems in our cars.

This result is part of a regular "Instant Poll" program I have which asks some 7,000 residents of the area their opinion on questions facing Congress.

The latest question was: "Do you favor or oppose mandatory airbags in all new cars by 1984?"

The results:

	(In percent)
Favor	15.6
Oppose	80.4
No opinion	4.0

Among the comments from participants, the most frequent complaints were: that seat belts were sufficient; that it should be optional for the auto buyer to have an airbag installed, but

not be required by the Government; and that the eventual cost would go much higher than estimated.

UNFAIR IMPORT COMPETITION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, like other Members of the House, I have received from Mr. Lewis W. Foy, chairman of Bethlehem Steel Corp., a letter explaining why the industry prefers a more active enforcement of existing laws against unfair import competition, particularly the amended antidumping law, to import quotas. Because there has been some confusion on this matter, I believe that Mr. Foys' letter should be made part of the RECORD.

In Mr. Foy's view, the recognition by President Carter that our laws have not been adequately enforced in the past, together with a few actions by the Treasury that have already been announced, portend "a dramatic and enormously helpful change in the Government's role." He is not asking any additional action at present on the steel import front.

Not everyone connected with steel feels exactly the same way. The United Steelworkers, for example, still favor at least a temporary import quota. I shall reserve judgment. But what all sides can agree upon is that the President should back up his pledge of active, genuine enforcement of existing law. The Treasury should be told that it is to seek actively for evidence of dumping, under the broadened criteria in the 1974 Trade Act, and not look for excuses to avoid enforcing the law. And it should act as promptly as the law permits. As Mr. Foy correctly states, this is "the one remedy that's already in place."

The text of the letter follows:

BETHLEHEM STEEL CORP.,
Bethlehem, Pa., October 19, 1977.

Hon. WILLIAM S. MOORHEAD,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. MOORHEAD: At the October 13, 1977, meeting in the White House, spokesmen for the steel industry called for strict and vigorous enforcement of existing laws to immediately reduce the excessive imports of carbon steel products, in preference to such remedies as quotas, orderly marketing agreements, and arbitrary tariff or non-tariff barriers.

If you review all I've said on this subject, going back to my speech in Chicago on April 1, and all subsequent public statements by Bethlehem spokesmen, as well as our published messages on the steel import problem, I think you'll find that we've consistently emphasized our willingness and ability to compete freely with all others as long as they price their products *fairly*. Time and again we've said that the primary role of our government should be to insist on fair trading practices in steel.

I'll grant you that we've acknowledged quantitative import relief and other remedies as possible options, and we still do. But we have always stressed, and preferred, the route of enforcement of existing laws as to fair trading practices. It's really the most practical short-term solution. After all, it's the one remedy that's already in place.

The workability of this view has been confirmed within recent weeks by the Treasury Department's finding of dumping of Japanese steel plate in the Gilmore Steel case, as well as estimates of European production costs in the CWPS report that clearly indicate dumping across-the-board.

These facts, along with repeated Administration statements in strong opposition to quantitative restrictions (suggesting the likelihood of a Presidential veto of any legislation that runs counter to that policy), reinforce our preference for relying on vigorous enforcement of existing remedies—at this time.

I continue to believe that we have to keep other options open, but let's be aware of their shortcomings. Quotas, for example, take time to put in place, and they're difficult to set and administer. To be effective, they have to provide for individual product lines, grades, countries of origin, ports of entry (geographical distribution in the U.S.), and the designated time periods. I have similar reservations about other possible remedies, but I certainly wouldn't write them off. As I said before, let's keep our options open.

Thanks primarily to your efforts, individually and through the Congressional Steel Caucus, the President has publicly recognized the existence of a very grave problem, and has acknowledged that the laws have not been adequately enforced. I think he's come to a realization that Congress intended that the government should take the initiative in pursuing the remedies against unfair trade practices provided by law. As a result, I'm hopeful that a dramatic and enormously helpful change in the government's role is forthcoming.

Obviously, words aren't deeds, but if you and your fellow members of the Congressional Steel Caucus continue to monitor the Administration's actions closely, I'm confident that the problem of unfair steel imports can and will be solved.

Sincerely,

L. W. FOY.

WHY RENT CONTROLS DON'T WORK

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. WEISS. Mr. Speaker, last August, Reader's Digest published an article by Senator THOMAS EAGLETON entitled "Why Rent Controls Don't Work." I differed with a number of points made by the Senator from Missouri, especially his assertion that rent controls are a "cruel hoax" on the people they are designed to help. I have stated my objections in a letter to him and would now like to share that response with my colleagues:

HOUSE OF REPRESENTATIVES,
October 3, 1977.

The Honorable THOMAS F. EAGLETON,
Dirksen Senate Building,
Washington, D.C.

DEAR SENATOR EAGLETON: I read with much interest your article, "Why Rent Controls Don't Work," in the August issue of Reader's Digest. I want to express my appreciation for the spirit of genuine concern for our city's economic viability which was evident in your article. However, I have some fundamental disagreements with your basic premise and with its application to the problems of New York City.

You argue that rent control laws kept landlords' incomes down, and forced them to abandon housing. This pattern, you state, has cost the city millions of dollars in property taxes, contributing not only to the city's fiscal crisis, but creating a housing shortage as well, which has effected a "cruel hoax" on the people rent control is designed to help.

The causes of New York City's fiscal crisis, however, are more complex than that. They are rooted in two decades of urban population shifts that have taken place in cities with and without rent control laws.

The cycle started as roughly two million middle-income residents gradually left the City. Those who left did not leave because the rents were too low; they left because they believed they could live better and more inexpensively outside the city. Federal policies favoring the suburbs over urban areas contributed to making this possible. Businesses left for similar reasons. And the exodus thus reduced New York City's tax base.

During the same period, because of national and local economic reasons, New York City received an influx of about 2 million low-income people. New York acquired a disproportionate share of the nation's social burden at the very time when its tax base was shrinking. Inflation, recession, and unemployment exacerbated the problem.

These conditions, not rent control, caused the fiscal crisis. If anything, rent control tried to brake the slipping tax base by encouraging the city's middle-class to remain here.

A look at the 1974–75 tax rolls in New York City also fails to suoport the contention that rent control contributed to tax loss. Over half the money owed in back taxes is for non-residential property, and of the money owed on residential property, only 12.1 percent is due on buildings where rent control is in effect.

One of the most insidious causes of housing abandonment is redlining which triggers off a cycle of disinvestment and neighborhood deterioration. When a bank refuses a landlord refinancing or rehabilitation loans on property, the landlord interprets this as a signal to stop paying taxes, to eliminate services, and ultimately to abandon the building.

You may be interested to know that, according to a Bureau of Labor Statistics report, the rent-income ratio for New York City tenants is already 25 percent, the maximum rent that most economists agree is acceptable. More than a quarter of the City's rent-controlled tenants pay over 40 percent of their income toward rent (Steinlieb Report, 1974). The Bureau of Labor Statistics also reports that the cost of housing in the New York metropolitan area is at least 24 percent higher than the national average.

The problem is not that rents are too low; they are too high and have outpaced the level of income growth. To blame rent control for the shortage of good housing ignores the existence of housing shortages in cities that do not have rent regulations: Newark, Chicago, and St. Louis, just to name a few.

With a vacancy rate of 2.8 percent, a housing emergency of critical proportions exists in New York City. Far from being a cruel hoax, rent control laws have enabled people to find adequate housing they would otherwise not be able to afford.

Sincerely,

TED WEISS,
Member of Congress.

RUSSIA RIDES TWO HORSES BADLY

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. SIKES. Mr. Speaker, Russia's balancing act astride two horses at the Horn of Africa is proving to be a difficult one. Russia is courting two adjoining African States, Somalia and Ethiopia. This is not an unusual procedure for Russia. What is different is that the two nations are ancient enemies, both claiming the same territory. A further complication is that they are at war over the territory in dispute—the Ogaden Province. The Ogaden is a large desert area of North Africa which was originally Somalian but which was given to the Ethiopians when Somalia gained her freedom in the early 1960's. The United States could be using this situation to advantage but we are dragging our feet.

Somalia has one of the key locations on the continent of Africa. They have direct access to the Red Sea and the Indian Ocean. After gaining independence, the Somalians asked the United States for weapons and for financial assistance. We rejected the request for weapons, gave them sparingly of financial assistance. They turned to the Russians. The Russians promptly went to their aid and a grateful Somalia allowed the Russians to build a huge naval complex at Berbera on the Horn of Africa. However, of late, the Somalians have been unhappy with the overbearing attitude shown by the Russians and by the presence of Russian fishing trawlers which are stripping the waters of seafood resources off the Somalian coast. Somalia is attempting to develop a fishing industry to supplement their meager income from a largely barren country.

The Somalians are a war-like people, toughened by harsh centuries in the desert, and they have always resented the fact that Ethiopia was given the Ogaden Province.

The recent unrest in Ethiopia developed when a government, long friendly to the United States, was overthrown and a succession of dictator types followed each other. Most of what had remained of Ethiopian leadership from the reign of Emperior Haile Selassie has been killed, jailed or fled the country. Ethiopia already was troubled by revolt in Eritrea which is a province adjoining the Red Sea. The revolt has gained substantial ground since the overthrow of the emperor and Eritrea now is largely denied to Ethiopia. Access to the Port of Djibouti, which is Ethiopia's principal outlet for foreign trade is through Eritrea. This port state was recently granted independence by the French.

With Ethiopia deep in internal troubles, Somalia saw an opportunity to regain the Ogaden Province and volunteers invaded the territory. The Ethiopians claim they are regular Somalian units. This Somalia denies. The invasion has been highly successful and only two major towns remain in Ethiopian hands in the Ogaden. They are under seige.

The present Ethiopian Government is leaning strongly toward Marxism and Americans who formerly were advisers to the Ethiopians have been ousted. Russia saw an opportunity and moved in, lock, stock and barrel. Russian arms and advisers, plus Cuban advisers, have been provided to the Ethiopians. However, they have been of little value thus far to the troubled Ethiopian state and the Somalis are highly incensed at Russian support for Ethiopia.

This, plus a cutback in Russian assistance, caused Somalia again to turn to the United States. In essence they said "We need help. If you will help us now, we will cut our ties with the Russians." Again the United States refused. Our State Department said in effect the United States cannot help a country engaged in war with a neighboring state. This is another demonstration of State Department ineptness. However, the Somalis are getting some assistance from friendly Arab countries who are hostile to Russian aims. The outcome is uncertain despite the success of the Somalians in regaining territory. Somalia has a population of 3.2 million, Ethopia has 28 million. By sheer weight of numbers, the Ethiopians will have the advantage once they are able to overcome internal problems.

The Eritrean insurgents also are receiving assistance from the Arab countries hostile to the Russian aims. The problem there is that there are three insurgency movements. Efforts to bring about a coalition have been unsuccessful. If they resort to fighting among themselves, the Ethiopians may regain control of the Province.

Ethiopia was a long-time staunch friend. We have lost them. Russia has moved in. We have no interest in seeing them retain the territory of Ogaden or regain control of Eritrea as long as they are in the Russian camp. Leaders in Eritrea and in Somalia want the friendship of the United States. Both have very strategic locations on the Horn of Africa. We are presented with a very unusual opportunity to make friends in an area which appeared lost to us. We should not fail to press vigorously to make and hold the initiative in that very important part of the world. It could be a valuable investment toward peace in the years ahead.

SOVIET SPYING ON THE INCREASE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. ASHBROOK. Mr. Speaker, the Soviet spy business is booming. In the United States and throughout the non-Communist world the Soviet Union and her allies have stepped up their intelligence activities.

All this is happening despite the much vaunted policy of détente. In fact, some experts say, détente is worsening the problem by opening the door for infiltration by additional Communist agents.

Classified military information is not their only target. Communist agents are also seeking business, technical and scientific information.

Following is an excellent article from the October 17 U.S. News & World Report that discusses the growing Soviet spy effort:

DESPITE DÉTENTE, SOVIET SPYING IS ON THE INCREASE AROUND THE WORLD

It is not only military secrets that Communists steal now. They are after trade and technical data, too. Growing contacts in the West make their job easier.

In détente, as cold war, the spy business is booming.

Communist agents around the world are busily stealing secrets. They are still after classified military information, but in recent years their list of targets has been expanded. Now they are going harder than ever after scientific, technical business and trade information.

As their interests have grown, so has the number of spies. Détente has opened the way for infiltration by more and more Communist agents.

Following, in reports from many nations, is the story of how spies work—and why concern about espionage is growing in the non-Communist world.

WASHINGTON

In the United States, the Soviet Union and its Communist allies have increased both the size and the scope of their intelligence efforts.

Military secrets still are targets of high priority, as they were in the days when Soviet spies stole blueprints of the U.S. atomic bomb. But now the Communists realize how valuable inside economic and industrial information can be. Advanced American techniques are being stolen to help Communist-run industries as well as war machines.

The Soviet spy today is most likely to have a diplomatic cover. But he may be a scientist, a factory manager or a member of a visiting trade delegation. He may even be an American.

Counterintelligence experts say the Soviets not only are flooding this country with agents but also are stepping up their efforts to subvert U.S. citizens and turn them into spies.

Recent convictions of three Americans as spies for Russia indicate the campaign is working all too well.

Experts say the latest Soviet target is Washington's Capitol Hill, where vast amounts of classified information are held by congressional committees and members of their staffs. So far, however, no one serving in or working for Congress has been caught spying.

Detente has made the work of Communist spies easier and made it harder to catch them.

Clarence M. Kelley, Director of the Federal Bureau of Investigation, recently described the situation: "The size of the Communist-bloc diplomatic, business and cultural presence in this nation has expanded dramatically in recent years. In the last four years, the number of Communist-bloc officials alone has increased 50 per cent. The number of bloc visitors, including those participating in commercial, cultural and educational exchanges, has more than doubled since 1972.

"Such an increased presence obviously means increased potential for intelligence operations."

Prior to 1972, Russians in the U.S. were confined primarily to Washington, New York, Chicago and San Francisco, and the FBI could concentrate its surveillance in those areas. But now, with travel restrictions eased and sailors from Communist nations taking shore leave at inland ports, the FBI has to cover almost the entire U.S.

To deal with the problem, the FBI has expanded its counterintelligence activities and staff and intensified its training programs.

Some experts charge that recent curbs on surveillance by the FBI and the Central Intelligence Agency have crippled American spy hunters. But others, actively engaged in the work, say they haven't been seriously handicapped so far by the restrictions.

One spy case that attracted national attention was that of two young Californians convicted in April and May of selling important defense secrets to the Kremlin. Their personal backgrounds were particularly disturbing to officials.

One of them, Christopher J. Boyce, is the son of a former FBI agent who became director of security for an airplane manufacturer. The other, Andrew D. Lee, is the son of an affluent doctor.

In another case, Edwin G. Moore II, a former CIA employe, was convicted on May 5 of trying to sell important Government documents to the Russians.

GENEVA

The Swiss were badly shaken last June when a high-ranking military leader, Brig. Gen. Jean-Louis Jeanmaire, confessed to having passed top defense secrets to Moscow agents.

The General had been known as an outspoken anti-Communist and a friend of the United States. But he admitted that for 14 years he had maintained contact with members of the Russian military intelligence, informed them about Switzerland's national-defense plans, and also had passed on some of his country's secret documents.

In June, another Swiss citizen was accused of providing a "letter drop" for two Soviet agents who used their status as members of the United Nations staff in Geneva as cover for their spying. A Rumanian diplomat was also accused of spying and expelled.

The record shows Switzerland uncovered a total of 162 espionage cases between 1948 and 1976, involving 269 persons. Among them were 88 Swiss citizens and 84 diplomats or officials working for international organizations based here.

In 2 out of 3 cases, the spying was being done for Russia or other Communist nations.

Experts say all the evidence suggests that spying in Switzerland has been on the rise for several years, with the fastest expansion in industrial and political espionage. Now the Swiss are expanding their counterintelligence operations to meet the threat.

LONDON

Six years ago, the British Government expelled more than 100 Russian diplomats on charges of espionage. Now there are fewer than 100 Soviet diplomats accredited here. However, official Moscow representation in London is four times that great. Included are trade experts, journalists and members of international organizations. And there is no doubt that many of them are spies.

The role of the journalist in Communist espionage was demonstrated earlier this year when a Czechoslovak reporter stationed in Bonn defected to Britain with voluminous information about the activities of Prague's agents.

British officials also worry about activities of Soviet "industrial inspectors." There are about 70 who spend a lot of time in British factories ostensibly being trained to use equipment being bought by Russia.

Britain is trying hard to live down its reputation of two decades ago when it was regarded as perhaps the leakiest sieve of secrets in the West.

But the task of watching thousands of actual or potential agents from the Communist world makes the security job a staggering one. It is calculated that the full-time services of 18 people are needed to maintain an effective watch on any one suspect.

The nation recently was warned by Sir Alec Douglas-Home, a former Prime Minister who was Foreign Secretary when the Russian diplomats were expelled in 1971. He said: "I have no doubt that, détente or not, the Russians and East Europeans will go on with intelligence operations here. We must not relax our guard. The leopard does not change his spots."

ROME

In Southern Europe, intelligence experts say the over-all number of spies has not gone up in recent years—but the scope of their interests has been broadened substantially.

"The days have passed when political and military intelligence was all that was asked for," says an official in one West European embassy. "Now our field covers science and industry, trade, banking, courts and prisons, students, women's libbers, drugs—you name it."

Much of the intelligence gathering is done by "up front" men, a term used to describe known members of embassy staffs with little more cover than ambiguous titles. They spend hours poring through newspapers, magazines, trade journals, bank statistics and other published information.

As one put it: "Overt intelligence is the heart of this business today. A man who knows what to look for can come up with all sorts of revealing and significant intelligence to help the policy makers back home. As often as not, our covert [undercover] people are used to supplement, to fill in details, to confirm through secret means what we have hit upon with open information."

Yet traditional spying continues. It is no secret that the U.S. spends considerable effort safeguarding its Sixth Fleet operations in the Mediterranean, its air bases and activities of the Atlantic Alliance's southern-flank headquarters in Naples from enemy eyes.

TOKYO

Spies find Japan an easy target for year-round hunting. Among the reasons:

Every attempt to revive the antiespionage laws that were abolished by the U.S. occupation authorities after World War II has been blocked by strong public opposition.

Freedom of expression has been protected so carefully that public officials are easily induced to leak important policy secrets.

Japan has no nuclear weapons and maintains only a small defense force, which means most people believe there are no secrets that must be protected.

Since important information can be picked up overtly, the major task of spies is simply to confirm or supplement what was openly obtained.

Few spies are caught, and fewer are ever prosecuted. Only 48 espionage cases have been prosecuted here since World War II, 37 involving North Koreans, 6 involving Russians and 2 Chinese.

A few—charged with spying against the U.S. security forces—were prosecuted under criminal law. But an assistant military attaché at the Soviet Embassy who collected information on U.S. aircraft and weapons was permitted to go back to Moscow. So was a Soviet news-agency correspondent who tried to get military secrets from a U.S. seaman.

OTTAWA

Canada recently expelled four Cubans for "subversive activities" and brought a Canadian to trial on charges of unlawfully possessing secrets of the North American Air Defense system.

But the shift in spying here, as in ma..y other countries, is away from military intelligence, toward gathering technological and economic information.

"People tend to think of a spy as a guy running around snapping photographs through a fence," says a Canadian official. "This stereotype is less and less what we are up against."

In an open society such as Canada's, there is limited need for traditional cloak-and-dagger activities.

ENERGY DECISIONS NEAR

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. ABDNOR. Mr. Speaker, the House and the Senate have begun to try and mesh their work on the administration's energy package. The House went along with the President pretty much with our bill. The Senate has been somewhat more reluctant to "buy" all the taxes the President has urged.

The effect of the administration's program and what would happen to South Dakota if this program were modified to include no new taxes or regulations was analyzed by Dave McNeil, executive vice president of the Greater South Dakota Association in a recent column:

IMPACT OF PROPOSED ENERGY POLICIES ON THE STATE OF SOUTH DAKOTA

PIERRE.—President Carter has appropriately called for energy policies to reduce U.S. dependency on high-priced and interruptible sources of foreign oil. He has proposed useful guiding principles for improving America's energy outlook. The Administration's Energy Plan primarily encourages conservation and production of coal, uranium, and solar energy, but unfortunately *discourages* production of oil and natural gas—even though there are large sources of oil and gas reserves yet to be discovered. The U.S. Geological Survey and other geologists estimate that between 37 and 62 years of oil and natural gas exist at 1974 domestic production levels to be discovered and/or produced if incentives are provided.

IMPACT OF THE ADMINISTRATION'S ENERGY PLAN

The Administration's Energy Plan requires large tax increases for industry and utility users of crude oil and natural gas. In turn, these crude oil and natural gas taxes will increase taxes for a family of four by $500 in 1985 and each year thereafter. The Administration's Energy Plan also includes taxes on gasoline and big car. When all taxes are included, new taxes would total $1,320 per family of four by 1985 and each year thereafter. This is the largest increase in taxes during peacetime in the entire history of the U.S. According to the Tax Foundation the average worker now spends 2 hours and 42 minutes of each working day to pay his taxes. He would have to work an additional 45 min-

utes to pay for the higher energy taxes, or a total of 3 hours, 27 minutes each 8-hour working day to pay for all his taxes. Moreover, most of the burden of the new taxes would fall on low and middle income families. Besides new taxes, the Administration's Energy Plan also includes major new regulations, requirements for more reporting and requirements to obtain government permission to act.

The Administration's Energy Tax Plan would reduce imports of foreign oil by 3.6 million barrels per day or about one-fourth of estimated oil imports by 1985 and then turn sour by 1990 when existing energy policies would be superior. After 1990, current operating energy policies would reduce foreign imports more than the entire Administration Plan.

Moreover, national sacrifice would be high. By 1985 consumer prices would be 2.4 percent higher; there would be 1.7 million fewer jobs than would exist with current energy policies; $1,400 lower income for each family of four ($350 per person) and 4 percent or $12 billion less job-creating investment.

The sacrifice for the State of South Dakota by 1985 and each year thereafter would be $1,536 higher taxes for each family each year; 3.2 percent higher consumer prices; 5,000 fewer jobs; and a loss of $1,160 in income for each family of four.

IMPACT OF A BALANCED ENERGY PLAN

If the Congress were to modify the Administration's Energy Plan and require no new taxes or regulations, but allow real crude oil and natural gas prices to increase by only 6 percent per year, the gains from both conservation and production would total more than the improvement expected from the Administration's plan. The 6 percent increase in prices after adjusting for inflation could provide 4.2 million barrels per day improvement by 1985, more than 5 million BPD by 1990 and 6 million BPD by 2000 A.D. The modest increase in prices would cost about $420 per family of four in the form of revenues for oil and gas producers which would then be used primarily for job-creating investment. Consequently, the sacrifice would be $900 less ($1,320—$420) for all Americans than the Administration's Energy Plan. Consumer prices would increase by only 1.0 percent; employment would increase by 430,000 jobs; and income would temporarily decline by $72 per family of four, but would increase after 1987.

Citizens of South Dakota need only experience a 1.3 percent increase in prices with a modest increase in oil and gas prices. They would gain 1,000 jobs and would lose only $60 per family.

U.S. TREASURY HONORS EARL C. CONWAY

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. WON PAT. Mr. Speaker, I was recently proud to present to a long-time friend and Guam resident, Mr. Earl C. Conway, the cherished "Citizen Volunteer" award from the U.S. Treasury.

Mr. Conway has served with great distinction for the past 12 years as chairman of the U.S. savings bond drive on Guam.

Official recognition of his many contributions to this effort was made in comments by Mr. John D. Bellinger, Hawaii-Pacific Ocean area U.S. savings bond chairman who said:

Since 1965, you have voluntarily served the Department of the Treasury in an outstanding manner. Your patriotic work and enthusiasm have made possible the purchase of U.S. Savings Bonds through the Payroll Plan by residents of Guam. You have consistently led the way and your determination and splendid sales promotion has made possible the achievements of all Guam goals. On behalf of the Secretary of the Treasury, W. Michael Blumenthal, it is my pleasure to thank you and congratulate you.

It is fitting that the Department of the Treasury chose to name Mr. Conway as the recipient of the "Citizen Volunteer" award. A resident of Guam for 25 years, Earl Conway is well known for his unselfish dedication toward his fellow man and his willingness to personally dedicate countless hours in support of public services causes.

During Mr. Conway's long and proud service to the people of Guam he became the first person born in the mainland United States to be elected to the Guam Legislature where he served two terms. In addition, he served with great effectiveness as my local liaison assistant on Guam and in a host of other responsible positions.

I take great pleasure in having this opportunity to join the U.S. Treasury in honoring Mr. Conway and insert the following list of his achievements in the RECORD at this time:

LIST OF ACHIEVEMENTS

Honorable Earl C. Conway (D): Born in Wisconsin and a resident of Guam for 25 years. Presently residing in Maite.

Education: Attended St. Peter's College and the University of Hawaii.

Political activities: Elected to the Tenth Guam Legislature. Chairman, Committee on Education; member, Committee on Rules; vice-chairman, Committee on Public Utilities; vice-chairman, Committee on Children and Youth; member, Select Committee on Commemorating the Asian Landing of the Third Marine Division; member, Select Committee on the Memorial to the Heroes of the Enemy Occupation. Member of the Ninth Guam Legislature; vice-chairman, Committee on Public Utilities, Commercial Port and Air Terminal; member, Committee on Judiciary and Committee on Housing and Urban Development; member of the Joint Committee on Power and Telephone. The first "Statesider" ever elected to the Legislature.

Profession or occupation: Business administrator, manager of Scandia Motor Company.

Business and professional activities: Served as Chief of Procurement and Supply, Government of Guam.

Other activities: Served eight years as Chairman of the Board of Trustees, Guam Memorial Hospital; member of the Board of Directors, Guam Chapter, American Red Cross; served as Chairman of that Chapter from 1960–61; named as Chairman of the Guam Savings Bond Committee, U.S. Treasury Department, and presently local liaison aide to Washington Representative Antonio B. Won Pat. Former Chief of Supply, Panama Engineer Division; Senior Representative in the Islands of the Trust Territory, assigned to the Trust Territory Islands of the Pacific with officer rank, at the request of the Navy. First and current President, Guam Chapter, Muscular Dystrophy Association of America. Finance Chairman, Democratic Party of Guam, 1966–67; Delegate to the Democratic National Convention at Atlantic City, N.J., 1964, was vice-chairman of the Guam Delegation, and a member of the National Platform Committee.

NEW YORK TIMES ENDORSES SAFE BANKING ACT

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. ST GERMAIN. Mr. Speaker, the need for substantive banking reform is painfully apparent.

The Subcommittee on Financial Institutions Supervision, Regulation, and Insurance is currently marking up H.R. 9600, the Safe Banking Act of 1977—a bill designed to improve the delivery of banking services and to strengthen the Federal supervisory efforts over this industry.

The legislation would limit self-dealing by bank insiders, would provide the public and stockholders with greater information about their banks, and would give the bank regulators bigger and better tools to control bad banking practices.

The American public, for the first time in many years, is showing an increased interest in requiring banks to serve community needs, and I am happy that the New York Times in its lead editorial for today, Tuesday, October 25, supports the need for the Safe Banking Act.

Mr. Speaker, I place in the RECORD a copy of the New York Times editorial:

[From the New York Times, Oct. 25, 1977]

LEGACIES OF BERT LANCE—NEW RULES FOR BANKING

Bert Lance went to Houston last week to apologize to his fellow bankers for any problems he may have caused them. Their problems are far from over. A Congressional subcommittee is developing a bill that would impose new restraints on the operations of banks and their officers. Although the authors deny that the bill is a monument to Bert Lance, it would forbid or severely limit some of the more egregious banking practices attributed to the former budget chief.

The proposed legislation deals primarily with four issues, all raised in the Lance affair. It would provide new prohibitions against self-serving deals by bank insiders; broader disclosure requirements for banks; fines for violations by bank officers, and regulatory approval for the sale of a bank. Taken together, these measures would open banking operations to wider scrutiny and impose tighter controls on bank officers and major stockholders. Insider borrowing would be sharply limited. Special overdraft privileges like those enjoyed by Mr. Lance would be prohibited. Banks would be asked for the first time to disclose the names of their major stockholders, to list insiders' bank loans and to specify the total amount of low-quality loans in their portfolios.

The bill's author, Representative St Germain of Rhode Island, has tried to speed its passage through his banking subcommittee by cutting out one highly controversial feature. It would have prohibited loans by one bank to the officers of another whenever the two banks maintain a correspondent relationship (in which one bank deposits idle funds at another). Such personal loans,

which can blur the lines between the interests of a bank officer and those of his bank, loomed large among Mr. Lance's problems. The legislation as now written would not prohibit these loans but it would require bank examiners specifically to investigate and report on them.

Despite this concession, the proposed legislation will have rough sailing in Congress. The banking industry and many of its regulators want to stall the bill in the House, hoping that a delay until 1978, an election year, will give Congress time to forget Bert Lance and the desire for tighter bank regulations that he aroused. They argue that it is too much, too soon, and too much a reaction to Mr. Lance. They are wrong. The legislation is basically sound. It is built on far more banking history than the Lance case. It would encourage the United States banking system to better serve stockholders and the public. Mr. Lance need not apologize to his banking colleagues for this bill. It's a good bill.

MEHARRY MEDICAL SCHOOL DESERVES U.S. SUPPORT

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. SIMON. Mr. Speaker, I had the privilege of listening to the presentations made in the Bakke case for the Supreme Court the other day.

In his presentation for the University of California, Archibald Cox pointed out that if it were not for the medical schools at Meharry Medical College in Tennessee and Howard University in Washington, D.C., blacks would comprise less than 1 percent—actually 8/10 of 1 percent—of all medical students in the Nation.

In view of that reality, the story which appeared in The Chronicle of Higher Education about the financial problems of Meharry Medical College is a story of more than casual interest to the entire Nation.

My hope is that something can be worked out to solve the financial woes of Meharry, and I also hope that Congress and the administration will not hesitate to provide assistance.

I am inserting the article in the RECORD at this point so my colleagues can see it:

A BLACK MEDICAL SCHOOL FACES FINANCIAL TROUBLES

(By Saundra Ivey)

(Note: Educator of almost half of the black physicians and dentists in the U.S., Meharry Medical College is forced to cut salaries as it seeks more funds to provide health care for indigent patients.)

NASHVILLE.—The institution that is now Meharry Medical College began in 1876 in a basement room where George Hubbard who was just completing his own medical studies, taught three young former slaves the alphabet along with physiology and anatomy.

Today Meharry—which in the last 100 years has educated almost half the black physicians and dentists in the United States—has a modern physical plant, largely the result of an expansion program that began in 1968 and that increased the value of the college's facilities from $12.5-million to $90-million.

Meharry also has a financial crisis.

President Lloyd C. Elam announced this past summer that some 500 employees were being asked to cut back their work schedules to 32 hours per week. He said the measure—in effect, a 20-per-cent salary cut for employees paid more than $10,000 per year—was a temporary one necessitated by the school's running 60 to 90 days behind in paying its bills. Some faculty members fear it may run longer, however.

Dr. Elam's announcement came after Meharry borrowed $400,000 from a local bank in January to meet cash-flow requirements, requested a $250,000 advance in July on the local government's payments for care of the indigent, and ended the 1976–77 fiscal year with a deficit of more than $5-million.

The college also had to increase its tuition from $2,750 to $4,000 a year. That is still below the mean tuition of $5,000 for private medical schools, but Meharry draws a large proportion of its students from poor families, requiring it to keep tuition down and to maintain a strong financial-aid program.

Meharry's financial troubles have aroused concern well beyond the city limits of Nashville.

One of only two predominantly black medical schools in the U.S.—the other is at Howard University—Meharry is seen by its supporters as an institution whose survival is critical to meeting the health-care needs of the country's black population, especially if the Supreme Court rules in the Bakke case that special admissions programs for members of minority groups are unconstitutional.

A number of factors have led to Meharry's troubles:

Like other medical schools, Meharry has been hit hard by inflation. In an era of escalating health-care costs, it must maintain a teaching hospital to provide clinical experience for its students.

The support Meharry receives from the federal government for student aid and some other programs has dropped dramatically. In 1972–73, officials said, Meharry received $1,972 per student from the federal government for expenditures. Last year, the figure was $827 per student.

The expanded physical plant is proving to be a mixed blessing. Meharry must simultaneously raise funds for still-needed construction and for the operating costs of the new buildings it has put up—at a time when money seems harder to get, officials say.

Meharry is the largest single private provider of health care for the poor in Nashville. As a result, Meharry has subsidized its hospital's $12-million operating budget by as much as $1.5-million a year. The college has also become embroiled in a dispute with the local government, which reimburses it for care of the indigent.

It is that dispute which is most often cited by Meharry administrators in explaining the college's financial troubles. They say that the college's cash-flow problems have grown out of delays in payment for the care of indigent patients at its hospital, which is named after founder George Hubbard.

"Much patient care can't be paid until the patient is discharged," says Ralph H. Hines, Meharry's executive vice-president. "For example, if a patient is in the hospital for 10 days and his bill is $2,000, you wait 10 days to collect the money. But if the city covers the cost, it may be 60 days until you are reimbursed. Meanwhile, you have made the payment for the services."

RELATIONS WITH LOCAL GOVERNMENT

The same delays occur with payment from Blue Cross, Blue Shield, Medicare and Medicaid, he said. However, it is the relationship with the local government—which includes Nashville and several surrounding jurisdictions and is known as Metro—that both Mr. Hines and Dr. Elam consider primarily responsible for past and present cash-flow difficulties.

Because of budget problems caused by care for the indigent, Meharry had to draw on its endowment for operating expenses as early as the 1940's.

"That had to stop," said Mr. Hines, explaining Meharry's increased efforts to collect back pay from Metro for indigent care. Meharry contends that the city owes it $6-million for care of poor people between 1970 and 1975, while Metro claims the college did not properly document indigency for the patients in question.

"We've always given indigent care and not gotten paid," says A. P. Johnson, a physician who is also a Meharry faculty member, a member of its board of trustees, and the president of the college's alumni association.

"You can't tell a mother whose baby is sick that you won't treat her child because she doesn't have the money. The city has relied on us to treat a lot of the black population, yet they say they don't owe us. For years, we didn't have certification officers during certain hours. Who can say who's right? I only know the work was done."

While the dispute over the alleged $6-million debt seems unlikely ever to be resolved, Metro has placed city officials at Hubbard Hospital on nights and weekends to certify the indigency of patients, a step that permits Meharry to increase its billings to the city.

Metro also has increased its budgeted allotment for Meharry this year, although college officials say the amount is still insufficient.

Meharry also has complained that the income level that Metro uses to define who is indigent is too low, since persons making more than that amount may still be so close to the poverty line that they cannot afford medical care.

It is in commenting on Meharry's relationship with the local government that faculty members and administrators most often mention race as a factor in the college's troubles.

While they say that race alone cannot explain a complicated political and financial situation, they add that to ignore it is to miss a subtle dimension of Meharry's problems.

For example, through a longstanding arrangement with the city of Nashville that was made formal in a 1959 contract, predominantly white Vanderbilt University's medical school has had virtually exclusive access to municipally owned General Hospital. The local government also contracted with Hubbard Hospital for the care of indigent patients in 1952.

"HISTORICAL ACCIDENT"

"The reason Metro entered a contract with Hubbard Hospital was the reality of the segregated hospital situation here," Mr. Hines says. "General Hospital, though by charter open, was essentially all-white." Thus, he said, Vanderbilt's dominant role at General "grows out of historical accident. Possession is nine-tenths of the law, and they were there when it was segregated."

The problem that presents for Meharry is one of having enough patients per student.

"You can have 10 students listen to someone's heartbeat and the heart is still there, but when one student takes out an appendix, it's not there for the other nine," says Matthew Walker, provost for external affairs.

Dr. Walker, who has trained more black American surgeons than any other person, was largely responsible for Meharry's affiliations with other hospitals, many of them black and outside Nashville, that have provided access to patient-care for the school's students.

For example, Meharry has sent students to such places as Mound Bayou, Miss., an all-black Delta town, an experiment that has apparently provided valuable experiences for students, particularly in rural health care.

But sending students out of town also "creates hardships in students living costs and costs of supplemental faculty," Mr. Hines says.

"Since the city hospital [General] is a municipally owned corporation," he argues, "access should be available on equal terms."

STUDENT INVOLVEMENT

That belief prompted the involvement of a student group in recent negotiations between Meharry and the local government.

"It seemed to us that we were the stepchild," says Winston Griner, a fourth-year medical student who visited both Metro Mayor Richard Fulton and meetings of the Metro Hospitals Board during the negotiations. "The contract with Vanderbilt at General Hospital represented a history of exclusion and the vestiges of segregation. Why does Meharry have to ship students out of town when there are resources aplenty here?"

His view was supported by a mayoral task force that issued its report about a year ago. The Metro Hospital Board accepted a list of recommendations that, when implemented, will allow Meharry to make greater use of General Hospital. A senior clerkship program involving equal numbers of Meharry and Vanderbilt students was begun this year.

Although some students and faculty members have expressed impatience with the slowness with which the report's recommendations are being put into effect, Mr. Hines and Dr. Elam expressed confidence that an "equitable arrangement" for Meharry will be achieved.

PROPOSAL REJECTED

However, the task force rejected a proposal by Meharry that the city lease Hubbard Hospital for 20 years, paying operating expenses and assuming the more than $30-million in debts on the building. The college, under the proposed arrangement, would have provided professional staff and associated clinics.

The task force said it would be better to build a new city hospital than to lease Hubbard, which Metro would not own after the 20-year period. Meharry then proposed that the city lease 250 beds at Hubbard, but that also was rejected by the city.

In another attempt to resolve problems with Meharry, Mayor Fulton invited Wilbur Cohen, who was Secretary of Health, Education, and Welfare in the Johnson Administration, to come to Nashville as a consultant.

Mr. Cohen, now dean of the school of education at the University of Michigan, says he is trying to act as "a catalytic agent" in the situation, and hopes to "get the mayor, the [Metro] council, Meharry, and Vanderbilt to want to do certain things that could benefit all of them."

Meharry's actual loss of dollars may not have hurt it as much as its failure to receive the continued increases in support that college officials came to expect during the late 1960's, Mr. Cohen says.

"Optimism in the civil-rights-war-on-poverty period led them to expect a continued expansion that didn't occur," he explains. "They didn't gain what any reasonable person would have expected from the climate of the times.

"I don't think the judgment was bad, because it wasn't unrealistic to expect growth due to Medicare, Medicaid, and the recognition of need for black professionals and paraprofessionals in health care.

"They became the innocent victims, like Head Start, Community Action, and other programs."

When Mr. Cohen visited the city in March, it was reported that he had recommended a one-year moratorium on payments for the federally guaranteed loan for Hubbard Hospital as one possibly for aiding Meharry.

Such a moratorium "would be helpful" but is not a final solution to Meharry's financial problems, Dr. Elam says. "If we collected for the [indigent] care," he adds, "we wouldn't have a problem on the loans."

Some local government officials complain that they are being given too much of the blame for Meharry's troubles. They suggest that the college brought some of its problems on itself by overbuilding.

"Of course we overbuilt," Dr. Elam says. "You build for the future, not the present. The hospital is 25 percent larger than we need now, but we'll need it in the future."

However, he adds, "We still think Metro should pay for indigent care. First they said they thought our buildings were inadequate. Now we have new buildings, and payment is still a problem."

Meharry administrators emphasize their confidence in the institution's survival even as they talk about the factors that have led to its financial difficulties.

"Meharry is 101 years old, and it's had to struggle through many experiences," says Mr. Hines. "It survived because of the importance of the institution to the development of national resources, and I expect it to survive for many years to come."

FACULTY SUPPORTIVE

Faculty members have been generally supportive too.

The faculty senate has passed a resolution encouraging professors to continue their full work schedules at the reduced pay. Such support is based on commitment to Meharry's mission, says Axel Hansen, president of the senate.

Like many black institutions, Meharry has attracted staff members who could make higher salaries elsewhere but who choose to remain where they are. College officials have estimated that if faculty and staff members received the competitive salaries and fringe benefits of most first-class medical schools, the difference since 1970 could be estimated at $1-million per year.

"Most people who work here could already be making more," says Henry Moses, a biochemist who says he usually receives at least five unsolicited job offers each year. "If people didn't care about Meharry and its mission, they wouldn't come here."

STUDENTS DECLINE OFFERS

The same is true of students, many of whom decline more lucrative scholarship offers at other schools to attend Meharry, he adds.

That commitment is partly due to Meharry's emphasis on helping black and poor people and partly to the realities of the Meharry program, which many students believe offers them more attention and encouragement than they would get elsewhere.

Lawrence Prograis, a third-year resident, came to Meharry in 1970, partly because "I had seen what happened to some students who went to white medical schools. Lots weren't finishing, and I knew they were very bright. To do your best, you have to be psychologically comfortable, to feel at ease."

Support among the faculty and staff seems likely to remain high despite the salary cut—as long as the cut is temporary.

Theodore Allen, a third-year resident, said he is "not bitter" despite the fact that his salary, just above $10,000 and therefore eligible for the cutback, is now lower than that of residents who have less seniority. "But if the salaries aren't restored in November, I think there will be a lot of problems," he said.

Similar views were expressed by others, many of whom said they were moonlighting or that their spouses had taken part-time jobs. They said they would await the administration's announcement in November.

Overall, there appears to be a determination to "keep the faith" with Meharry.

For some faculty members, however, that determination has been undermined by a feeling that they did not participate fully in the decision to cut salaries.

LITTLE FACULTY CLOUT

Even loyal faculty members, Dr. Hansen says, believe the administration's action was a dramatic illustration that they "don't have much clout" in governance.

Being supportive would be easier, faculty members say, if the administration would be more open about what it is doing to meet the crisis. "I have the feeling that some positive things are going on, and we would like to know about it," Dr. Hansen says. "I guess they don't want to promise too much too soon."

In reply, Dr. Elam says the cutback decision was made after consideration of other options, such as permanent cutbacks in faculty size or programs.

In addition, he says, the board of trustees is trying to gradually build up the institution's working capital. Although it was known that committees of the board had met several times during the past few weeks, Dr. Elam declined specific comment on their plans for financial recovery.

LOOK TO GOVERNMENT

Most observers at Meharry look to private giving and government funds for the institution's salvation. "We need help from the private sector and the federal government," Mr. Hines says. "I expect we'll get it."

Sen. James Sasser, Democrat of Tennessee, announced late last month that he has obtained the approval of both a Senate subcommittee and the Department of Health, Education, and Welfare for a shift in funds that would give Meharry an additional $1-million.

That amount was added to a $3-million appropriation for financially distressed medical schools passed earlier this year. If approved by the House, as is expected, the $1-million will be available immediately.

Wilbur Cohen says he, too, will be an advocate in the effort to obtain federal support for Meharry and that he will talk to Secretary of Health, Education, and Welfare Joseph A. Califano, Jr., about it.

Meharry is "not just a Nashville responsibility or a Tennessee responsibility," he says. "It's a national and an international resource."

UTAH SMALL BUSINESSMEN OPPOSE AGENCY FOR CONSUMER PROTECTION

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. MARRIOTT. Mr. Speaker, we are all aware that the controversy over the proposed Agency for Consumer Protection continues unabated. Intense lobbying by the White House and myriad other national organizations keeps the Congress informed on almost a daily basis. However, grass roots opposition

from individuals and small businesses often goes unheard. To balance the record somewhat, I would like to indicate that the following 151 small businesses in my State have voiced to me their unqualified opposition to the Agency for Consumer Protection:

LIST OF SMALL BUSINESSES IN UTAH OPPOSED TO THE AGENCY FOR CONSUMER PROTECTION

Dennis McBride, Smedly Plumbing & Heating, 1930 W. 2250 So., Syracuse, Utah 84041.

Thomas D. Pennock, Beneficial Life Insurance Co., 654 Wasatch Dr., Layton, Utah 84041.

Rafael A. Torres, Ey Farol Inc., 7223 South State St., Midvale, Utah 84047.

Wasatch Roofing Supply, Inc., 81 E. 830 N., Midvale, Utah 84047.

Vear L. Jenson, Western General Dairies, Inc., 195 West 7200 South, Midvale, Utah 84048.

Orland E. Pyne, Utah Valley Fruit Growers, Orem Chamber of Commerce, 939 So. 400 East, Orem, Utah 84057.

Kay L. Jacobs, President, Bank of Pleasant Grove, Pleasant Grove, Utah 84062.

Mack G. Gilbert, Mack Communications, Inc., Rt. 2 Box 24 A, Roosevelt, Utah 84066.

Drs. Daniel S. Dermis, and Nelson Duncan, Basin Veterinary Clinic, Inc., Box 1945, Roosevelt, Utah 84066.

Jimmie N. Reidhead, Wintah Basin Concrete, Box 1388, Roosevelt, Utah 84066.

Gene Aufinson, Esquire Estates, 775 S. 1250 W., Vernal, Utah 84078.

Larson Caldwell, Basin Real Estate, 1974 W. 500 So., Vernal, Utah 84078.

Morris Casperson, Lawrence B. Larsen Co., Inc., 47 S. 300 E., Vernal, Utah 84078.

R. I. Christensen, V. P. Christensen and Griffith Const., P.O. Box 65, 270 Maple, Tooele, Utah 84074.

Alan L. Day, Day's Markets Inc., 90 So. Vernal Ave., Vernal, Utah 84078.

Herman G. Dick, Jones Paint & Glass Inc., 80 N. Vernal Ave., Vernal, Utah 84078.

Harold Duke, Ashton Bros. Co., 25 West Main Street, Vernal, Utah 84078.

Harley R. Hales, Kindts Moving & Storage, 1144 E. Highway 40, P.O. Box 1058, Vernal, Utah 84078.

R. W. Jones, R. W. Jones Trucking Co., Drawer T, Vernal, Utah 84078.

C. R. Henderson, V. B. Energy Planning Council, 303 Uintah County Bldg., Vernal, Utah 84078.

Elaine Henderson, Gift Shop-Dinosaur Gifts N' Things, 251 E. Main, Vernal, Utah 84078.

Lillian Henderson, C.R. Research, 255 West 1st South, Vernal, Utah 84078.

Royal B. Henderson, Dinosaur Motel, 251 E. Main St., Vernal, Utah 84078.

Lynne King, Ashton's, 25 W. Main, Vernal, Utah 84078.

Lawrence B. Larsen, Lawrence B. Larsen Co., Inc., 50 E. Main, Vernal, Utah 84078.

Lawrence B. Larsen, Parrish Oil Tools, Inc., P.O. Box 5, Vernal, Utah 84078.

Lynn Martinsen, Martinsen Supply, 999 West Highway 40, Vernal, Utah 84078.

Joe B. Murray, Intermountain Concrete Co., 625 E. Main Street, P.O. Box 639, Vernal, Utah 84078.

Dr. L. Wayne Reid, Superintendent, Uintah School District, P.O. Box 668, Vernal, Utah 84078.

John W. Robbins, Lawrence B. Larsen Co., P.O. Box 446, Vernal, Utah 84078.

L. Y. Siddoway, 28 West 3325 No., Vernal, Utah 84078.

Mike Sullivan, Ashton-Days Foodtown, 90 S. Vernal Ave., Vernal, Utah 84078.

Gary B. Taylor, H. S. Sowards & Sons, Inc., 350 North Vernal Ave., Vernal, Utah 84078.

Jack R. Wallis, Vernal Express, P.O. Box 1010, Vernal, Utah 84078.

Lloyd Winward, Lloyd Winward Co., P.O. Box 368, Vernal, Utah 84078.

James S. Young, C. B. Larsen Co., P.O. Box 446, Vernal, Utah 84078.

Harold P. Cahoon, Interstate Brick & Wasatch Chem., P.O. Box 517, West Jordan, Utah 84084.

F. Robert Bayle, Bayle & Lauchnor, 200 South Main St., Salt Lake City, Utah 84101.

K. Ellinton, Title Insurance Agency, 80 West Broadway, Salt Lake City, Utah 84101.

Emerson L. Hardy, Daseret Federal Savings & Loan, 44 South Main, Salt Lake City, Utah 84101.

L. L. Ivers, President, Coca-Cola Bottling Co. of Salt Lake, 875 S. West Temple, Salt Lake City, Utah 84101.

Lowell N. Jensen, Barbara Jensen Interiors, 1105 East 33rd South, Salt Lake City, Utah 84106.

A. Norman Lamph & N. L. Van Wagenen, Norman Company, 312 West 800 South, Salt Lake City, Utah 84101.

Ray S. Robinson, Rio Grande Bldg. Prods. Inc., 540 W. 2nd South, Salt Lake City, Utah 84101.

Nicholas S. Smith, Burrows, Smith & Co., Suite 1003, Kearns Building, Salt Lake City, Utah 84101.

Todd W. Bechtol, Penn Mutual Life, 543 E. 4th South, Salt Lake City, Utah 84102.

John Denlinger, Rex Industries, 625 North Pugsley St., Salt Lake City, Utah 84103.

Clifton M. Browning, President, Browning Freight Lines, Inc., 650 So. Redwood Road, Salt Lake City, Utah 84104.

Joyce K. Crosby, Sec./Treas., C & C Tire & Wheel, Inc., 1971 So. 900 West, Salt Lake City, Utah 84104.

D. L. Dunn, Sr., 711 W. 8th So., Salt Lake City, Utah 84104.

Ralph Y. Sartori, Bullough Asbestos Supply Co., #50 South 800 West, Salt Lake City, Utah 84104.

Claude Smith, Magna Garfield Truckline, 1030 South Redwood Road, Salt Lake City, Utah 84104.

Lynn Wilson, Wilson Products, Co., 1811 W. 12th So., Salt Lake City, Utah 84104.

T. Kay Lyman, Interlake Company, 1025 East 2100 South, Salt Lake City, Utah 84106.

LaMar Bradshaw, Heritage Corporation, 4850 Boxelder Street, Murray, Utah 84107.

David M. Horne, Horne Construction Corporation, 145 West 4500 South, Salt Lake City, Utah 84107.

J. S. Howell, Howell's, Inc., 4285 So. State, Salt Lake City, Utah 84107.

Kenneth W. Macey, Macey's Farmers Markets, 565 E. 4500 S., Salt Lake City, Utah 84107.

J. R. Maxedon, Century Equipment Co., 4343 Century Dr., Salt Lake City, Utah 84107.

Mark S. Gustavson, Mark S. Gustavson, Attorney, 15 N. West Temple, Suite C, Salt Lake City, Utah 84108.

J. A. Knucesh, Retired, 1353 So. 19 East, Salt Lake City, Utah 84108.

David Leon Brown, Brown Floral Co., P.O. Box 507, Salt Lake City, Utah 84110.

C. H. Ketchum, Ketchum Builders Supply Co., 780 W. 4th South, Salt Lake City, Utah 48110.

Duane H. Linford, Lindford Bros. Utah Glass Co., 1245 So. 7th West, Salt Lake City, Utah 84110.

J. W. Tallman, President, Norbest, Inc., P.O. Box 1529, Salt Lake City, Utah 84110.

Lester G. Walton, Porter-Walton Co., Inc., 470 West 600 South, Salt Lake City, Utah 84110.

Harley W. Gustin, Gustin & Gustin, Attorneys, 1610 Walker Bank Building, Salt Lake City, Utah 84111.

G. R. Mather, Auerbachs Tea Room, 90 East 3rd South, Salt Lake City, Utah 84111.

Frank C. Nielson, Elmer Fox & Co., Beneficial Life Towers, Salt Lake City, Utah 84111.

Neil O'Donnell, Neil O'Donnell Mortuary, 372 E. 1st So., Salt Lake City, Utah 84111.

Larry J. Hays, Larry J. Hays Ins. Agency, 320 E. 4th So., Salt Lake City, Utah 84111.

Phil J. Purcell, Chm., Continental Agency Co,. 320 E. 4th South, Salt Lake City, Utah 84111.

Stephen Wade, Inc., Pontiac & Mazda Automobile Dealership, 535 So. Main, Salt Lake City, Utah 84111.

M. Walker Wallace, Wallace Associates, Inc., 1518 Walker Bank Bldg., Salt Lake City, Utah 84111.

M. Walker Wallace, Arizona Ranch & Metals Co., W–M Insurance Agency, Inc., 1518 Walker Bank Bldg., Salt Lake City, Utah 84111.

Ben B. Banks, Intermountain Lumber Co., 1948 South West Temple, Salt Lake City, Utah 84115.

Paul E. Benton, Benton Corporation, 1590 S. Major St., Salt Lake City, Utah 84115.

Jay C. Blackburn, J. B. Tile Co., 1000 W. Beardsley Place, Salt Lake City, Utah 84115.

Jay C. Blackburn, J. B. Tile Company, P.O. Box 15217, South Salt Lake, Utah 84115.

Dale E. Bradley, President, Dave's Body Shop, Inc., 80 E. Stratford Ave., Salt Lake City, Utah 84115.

Geo. A. Chapman, Chapman Co., P.O. Box 15506, 150 W. 1400 So., Salt Lake City, Utah 84115.

Harold W. Christianson, Palmer-Christiansen, 2510 90 West Temple, Salt Lake City, Utah 84115.

Bob W. Dorrity, Quality Machine Shop, 3360 South West Temple, Salt Lake City, Utah 84115.

Blain S. Galley, JB Tile Company, P.O. Box 15217, South Salt Lake, Utah 84115.

Earl V. Gritton, Gritton & Associates, 2285 So. 300 West, Salt Lake City, Utah 84115.

Charles H. Horman, President, Bell Mountain Corp., 1760 So. State, Salt Lake City, Utah 84115.

G. Wayne Nesmith, Comptroller, Martin Overhead Doors, 2766 South Main St., Salt Lake City, Utah 84115.

Gene A. Peaden, Burton Lumber and Hardware Co., Box 15717, Salt Lake City, Utah 84115.

L. Neil Rasmunen, Salco Mfg. & Dist., 1420 Major St., Salt Lake City, Utah 84115.

H. Max Seal, President, Stewart Sandwiches, 155 West Malvern Avenue, Salt Lake City, Utah 84115.

H. Max Seal, Director, Salt Lake City College of Medical & Dental Assistants, 2624 South Main Street, Salt Lake City, Utah 84115.

H. H. Smith, Exec. V.P., Industrial Supply Company, Inc., 1635 South 300 West, Salt Lake City, Utah 84115.

Josephine Waddoups, Cottonwood Electric Incorporated, 195 West Haven Avenue, Salt Lake City, Utah 84115.

R. V. Purser, Metro Oil Products, Inc., 2021 N. Redwood Rd., Salt Lake City, Utah 84116.

Peter M. Lowe, Individual, P.O. Box 17057, Salt Lake City, Utah 84117.

Elden H. Booth, Harrington & Company, 760 West Layton Ave., Salt Lake City, Utah 84118.

Fred N. Arneman, Heritage Sales Corp., 2630 So. 3270 W., Salt Lake City, Utah 84119.

Charles E. Ballard, Ballard Supply Corporation, 2430 South 900 West, Salt Lake City, Utah 84119.

Edwin L. Madsen, Bonneville News Co., Inc., 965 Beardsley Place, Salt Lake City, Utah 84119.

Howard R. Sorensen, Guild Inc., 2340 South 3270 West, Salt Lake City, Utah 84119.

Winder Dairy, 4400 West 4100 South, Salt Lake City, Utah 84120.

E. Ray Green, Harmon City, Inc., 3575 S. 4000 W., Salt Lake City, Utah 84120.

Harry A. Earl, Beehive Office Equipment & Supply, 7168 South 2020 East, Salt Lake City, 84121.

Robert G. Arnold, Arnold Machinery Company, 2975 West 2100 South Street, Box 30020, Salt Lake City, Utah 84125.

Oscar E. Chytraus, Oscar E. Chytraus Co., Box 25128, Salt Lake City, Utah, 84125.

L. W. Gurr, Rocky Mountain Machinery Co., 2320 W. 1500 So., Salt Lake City, Utah 84125.

Warren E. Pugh, Cummins Intermountain Diesel Sales, Co., 1030 So. 300 West P.O. 25428, Salt Lake City, Utah 84125.

George J. Sabol, President, Sabol & Rice, Inc., Salt Lake City, Utah 84125.

Oakley S. Evans, President, ZCMI, 2200 South 900 West, Salt Lake City, Utah 84137.

Bruce R. Christensen, Box Elder County Bank, 156 South Main St., Brigham City, Utah 84302.

Smith, Thompson & Leavitt, Insurance Agency, P.O. Box 356, 38 W. 2nd Sto., Brigham City, Utah 84302.

W. L. Bond, American Commodities Corporated, Box B 119 East 3rd North, Hyrum, Utah 84319.

Gerald L. Miller, Millers of Utah Beef, 2nd W. 4th North, Hyrum, Utah 84319.

Rex G. Plowman, Lewiston State Bank, 17 East Center, Lewiston, Utah 84320.

E. H. Axtell, Axtell Chevrolet Co., Inc., Logan Utah 84321.

Reed Bullen, North Utah Community TV, 269 South 1st East, Logan, Utah 84321.

Reed Bullen, Cache Valley Broadcasting Company, 1393 North Main Street, Logan, Utah 84381.

Lester E. Holmgren, The Gift House, 77 No. Main, Logan, Utah 84321.

E. Cordell Lundahl, Ezra C. Lundahl, Inc., 710 N. 6th West, Logan, Utah 84321.

Boyd Campbell, Campbell Plumbing & Heating, 52 E. 2nd So., Smithfield, Utah 84335.

John Enrietto, Gateway Distributing Co., 120–26th Street, Ogden, Utah 84401.

Fred Froerer, Froerer, Corp., 2600 Wash. Blvd., Ogden, Utah 84401.

Steve Lawson, Exec. V.P., Ogden Area Chamber of Commerce, Ben Lomond Hotel, Ogden, Utah 84401.

John A. Lindquist, Lindquist & Sons, 3408 Wash. Blvd., Ogden, Utah 84401.

Drew M. Petersen, M.D., 950–25th St., E–8, Ogden, Utah 84401.

Dave Tabish, Jr., Central City Insurance Agency, 1017 Washington Blvd., Ogden, Utah 84401.

Jack M. Banks, Gen. Mgr., Ogden Standard-Examiner, 455–23rd St., Ogden, Utah 84402.

Joseph B. Terry, Merrill Lynett, Inc., P.O. Box 1518, Ogden, Utah 84402.

Wm. E. Johnson, Johnson Costley & Littrell, 257–37th, Ogden, Utah 84403.

Karl O. Macfarlane, National Bettery Sales, P.O. Box 2054, Ogden, Utah 84404.

Blaine Wade, Intermountain Precision Bilt Homes, 2525 N. Hiway 91, Ogden, Utah 84404.

M. R. Goff, O & M Plumbing & Heating Co., P.O. Box 9875, Ogden, Utah 84409.

F. F. Kubiak, Mountain States Implement Co., 159–23rd St. P.O. Box 9819, Ogden, Utah 84409.

Gordon J. Black, Black Oil Co., 219 No. Main, Monticello, Utah 84535.

Charles A. Davis, The Lockhart Co., 569 N. 900 E., Provo, Utah 84601.

Donald W. Geis, Jolene Co., Inc., P.O. Box 1446, Provo, Utah 84601.

Richard E. Hawkins, CPA, Hawkins & Borup, 120 East 300 North, Provo, Utah 84601.

Glade Kuhni, John Kuhni Sons, Inc., P.O. Box 1096, Provo, Utah 84601.

Robert W. Martin, Martin Photo Service, 753 Columbia Lane, Provo, Utah 84601.

Don Bunker, Bunker Floor Coverings, 445 West 1st So., Delta, Utah 84624.

Arthur A. Jeffery, Quality Market, 252 W. Main, Delta, Utah 84624.

Ralph H. Long, Rancho Trailers, Inc., 845 So. Main, Nephi, Utah 84648.

R. K. Hunter, North East Furniture, 920 No. Main, Cedar City, Utah 84720.

Ron Larsen, Ron & Cris' Bakery, 50 West 400 South, Cedar City, Utah 84720.

Jeff Marchant, Cedar Builders Supply Co., 309 North 200 West, Cedar City, Utah 84720.

Stanley M. Slack, Rolling Rubber Corp., 256 W. 200 N., Cedar City, Utah 84720.

Bryce Adams, Parowan Mercantile, 13 So. Main Street, Parowan, Utah 84761.

John W. Allen, State Bank of St. George, 60 So. 100 E., St. George, Utah 84770.

Martin B. Empey, V.P., St. George Savings & Loan Association, 95 East Tabernacle, St. George, Utah, 84770.

Jerry B. Lewis, Lewis Meats, Inc., Box 98, St. George, Utah 84770.

Rocky Mountain Company, P.O. Box 338, 825 Industrial Road, St. George, Utah 84770.

THE NATIONAL GUARD AND THE JOHNSTOWN FLOOD

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. MURTHA. Mr. Speaker, a major contribution to insuring order and stimulating the quickest possible recovery from the disaster that flooded central Pennsylvania this summer was provided by the National Guard.

For the information of the Members, I would like to insert into the CONGRESSIONAL RECORD an article from the September "Guardsman" which well outlines the contribution made by Pennsylvania Guardsmen, and again indicates why Congress must continue to keep this a viable force for community protection and defense back-up.

Nearly 2,500 Guardsmen were called to state active duty in mid-July after a flash flood hit Johnstown and seven western Pennsylvania counties.

The official death toll in the city's third flood disaster in 88 years reached more than 70 as police, Guardsmen and volunteers searched through tons of mud and debris for bodies.

In an eight-hour period from 9 p.m. July 19 to 5 a.m. July 20, an almost stationary thunderstorm poured 9 inches of rain into the Conemaugh River Valley. The ground was unable to absorb all the water, which subsequently overflowed into creeks and streams.

By dawn, excess water flowing into a 101-million gallon Johnstown reservoir caused an earthen dam to break at the end of the reservoir, sending torrents of water through the city and surrounding communities.

About 50,000 of 187,000 country residents were forced to evacuate their homes. Water supplies became contaminated and communications with the outside world were severed.

Pennsylvania Army Guardsmen were placed on state active duty July 20. Initially, some 250 Guardsmen assisted civilian authorities with search and rescue, security, traffic and crowd control and clean up.

As more Guardsmen reported for duty, assistance was expanded to include hauling drinking water and airlifting supplies to inaccessible areas. Guard helicopters lowered utility poles into place in an effort to restore communications. In more than two weeks of rescue service, Guard aviators assisted in the rescue of more than 200 flood victims.

Many of the Keystone Guardsmen reported for duty at Johnstown directly from annual training, according to Brig. Gen. Robert Carroll, director of the Guard's flood relief operations. Incredibly, some were flood victims themselves, he added.

The Guard's 876th Engineer Battalion erected a 170-foot temporary bridge across the Conemaugh River at New Florence, Pa., and another 130-foot bridge across Twolick Creek at Homer City. Both structures are expected to be in service for as long as a year, Pennsylvania officials said. Only six weeks before, the 876th had constructed several similar bridges while undergoing annual training at Ft. Indiantown Gap, Pa.

Air Guardsmen of Annsville's 271st Combat Communications Squadron and State College's 112th Tactical Control Squadron provided communications between flood-stricken Johnstown and an operations center run by the Adjutants General office. The 271st had just returned by convoy from annual training at Otis AFB, Mass., more than 400 miles away, when it was asked to help.

The communications system was established by linking truck-mounted microwave equipment with a compatible system run by the Pennsylvania Turnpike Commission, and erecting a fly-swatter shaped antenna on a fire control tower.

According to the 271st commander, Maj. Don Seaman, about 30 members of the 200-man unit ran the system on a round-the-clock basis. The network became necessary when General Telephone System's main switching facility was flooded.

Other Air Guard assistance came from Headquarters, Pennsylvania Air National Guard. Army Guard help included:

Headquarters and Headquarters Detachment (18); 28th Division Artillery (125); 109th Public Information Detachment (4); Troop D, 104th Cavalry (50); 228th Aviation Company (17); 28th Aviation Battalion (30); 131st Transportation Company (14); 28th Materiel Management Center (6); 1st Battalion, 109th Field Artillery (379); 728th Maintenance Battalion (193); 28th Signal Battalion (14); 165th Military Police Battalion (181).

Also: 3d Battalion, 109th Infantry (456); Advance Detachment, 55th Brigade (6); 28th Military Police Company (23); 1st Battalion, 103d Armor (60); 1st Battalion, 107th Field Artillery (14); and, 1st Battalion 108th Field Artillery (10).

THE CULT OF VULNERABILITY ENDANGERS THE UNITED STATES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. DORNAN. Mr. Speaker, for some time I have been concerned about a growing tendency among our citizens to deprecate America. I believe that this tendency does not spring from within but is in large part the result of distorted news reports and misleading news commentary. Americans have been made to feel guilty for their strength, their high standard of living, their ambition. This

"guilt philosophy" is voiced in the media, in official pronouncements, even in certain treaties. It is a philosophy predicated on the belief that America could not have become the great Nation it is today without having committed countless wrongs. It is a philosophy which holds that those in the world who are less fortunate than the average American are victims of those wrongs.

Many of those who preach this gospel of guilt are well-intentioned. However, the preaching has reached such a fever pitch that one who puts his country before others is considered to be a chauvinist and lack international social awareness. On an individual basis, the pursuit of excellence or enjoyment of the fruits of one's labor is no longer considered fashionable or respectable.

The danger of an individual dwelling on negative aspects is that one is likely to develop a negative self-image. The same is true of one's country. The print and broadcast media bombard Americans daily with our society's faults. Every criticism spoken of some facet of American life is aired as news. People have been told there is so much wrong with the United States that to praise America in unqualified terms displays a lack of awareness.

This attitude must change. Our Nation needs a positive self-image to maintain its greatness—to, dare I say, become even greater. Former Ambassador Walter H. Annenberg has written an excellent essay, "The Cult of Vulnerability Endangers the United States," which appeared in the September 10 issue of TV Guide. It addresses this issue in specifics. I commend Ambassador Annenberg's words which follow to my colleagues and to all Americans:

THE CULT OF VULNERABILITY ENDANGERS THE UNITED STATES

(By Walter H. Annenberg)

There is a cult of vulnerability in our country today, a never-never land of political thought that is as dangerous as it is naive. Its followers would have us reduce our military defenses to provide more money for unproductive giveaways, weaken our economy to pursue unattainable environmental goals, sap our political strength to further their muddled ideas of social progress.

They are not villains or traitors. Nearly all would describe themselves as "loyal Americans who want to make this a better place to live," little realizing that if their policies were to be followed we would be so vulnerable to economic and social bankruptcy at home and military attack from abroad that this would be an impossible place to live.

It is a cult that has low regard for American traditions, that invariably criticizes our Government and our economic system. Unfortunately these attitudes, whether expressed openly or with subtlety, are broadcast by radio and television, printed by newspapers and magazines, believed by all too many citizens who are willing to let others think for them.

So thoroughly has this cult of vulnerability spread its message that two of our great historians have taken note of it. In "The Empire of Reason," Henry Steele Commager writes: "It is surprising we should be skeptical of a society that achieved a larger degree of political and social democracy, constitutional order, effective limits on the pretensions of government, freedom of religion, freedom of the press, civil liberties, popular education and material well-being than any other on the globe."

James Thomas Flexner, in the introduction to his brilliant biography, "Washington: The Indispensable Man," writes: "In being ourselves untrue to the highest teaching of the American tradition, we of this generation have tended to denigrate that tradition, to seek out all that was unworthy, to emphasize whatever justifies national distrust. In so doing we have discarded an invaluable heritage. We are blinding our eyes to stars that lead to the very ideals many of us most admire: the sanctity of the individual, the equality of all men before the law, government responsive to the people, freedom for all means of communication, avoidance of what Washington denounced as international 'ambition', the self-determination of people everywhere."

We can, while honoring our traditions and taking pride in our Nation's achievements, still recognize our failings and strive to correct them in an intelligent, responsible manner. We can, if we look to the past to give us confidence in the future, eliminate the inequalities that remain in our society and pursue solutions to the other problems that face us.

There is no greater obstacle to accomplishing these ends than that group among us—however well-intentioned—that ignores evidence of our vulnerability to mischief, or worse, from abroad. Consider, as one example, the possbile danger inherent in transporting gas from the Alaskan fields to the lower states by means of a pipeline that in large measure parallels the Alcan Highway through Canada.

Canada, for many years our friend and ally, has recently experienced a surge of nationalism. Its Parliament has passed laws designed to place American publishers whose magazines are circulated in Canada at an economic disadvantage. American broadcasters are subject to various forms of harassment. The government has an ongoing campaign to encourage Canadian culture, which is understandable; but the campaign takes the form of anti-Americanism, which is, at very least, unfriendly.

The alternative to having an energy lifeline run through Canada is to transport the gas by tanker from Alaska to the lower states. Initially it was estimated that the tanker system would be more costly, but more recent figures, based on inflation rates and Canadian requirements, indicate that the tanker system would cost less. It certainly would leave us less vulnerable to the whims of Canadian nationalists.

Yet there appears to be little doubt that the route through Canada will be selected. A special commission recommended that route to President Carter and the President, after a long conversation with Prime Minister Trudeau, said he was optimistic about pending negotiations with the Canadians in regard to the pipeline and didn't feel they would make "unreasonable demands." Congress will have the final word, and while most observers believe the outcome to be a foregone conclusion, it is to be hoped that some legislators will insist upon examining carefully a route that would leave the United States in less than complete control of so important a resource as our Alaskan natural gas.

America becomes vulnerable too when our banks lend huge sums of money to the Soviets and their satellites in Eastern Europe, when U.S. and international funds to which we contribute heavily are channeled to the Eastern bloc. At the end of 1970 the East's total debt to the West was under $9 billion. Today it is about $47 billion, of which $28.5 billion is owed Western commercial banks. The Soviet Union owes a third of this bank figure, Poland about 21 per cent, East Germany about 13 per cent and Romania, Czechoslovakia, Bulgaria and Hungary owe the rest. Their largest creditor by far is West Germany, and it is easy to see how difficult it would be for that country to deny loans to the Soviets, who stand so close with so much power, and who recently, in a significant display of military might, conducted maneuvers in the North Atlantic using some 89 submarines. Indeed, the larger the Soviet debt to the West grows, the more intransigent, the more threatening they become.

The Soviets alone owe our banks $4.2 billion and U.S. official claims against them amount to another billion, a total of $5.2 billion, a sum that could equip and maintain quite a number of Brezhnev's Cuban Hessians in their African incursions. Viewed from that standpoint, American banks and taxpayers are helping finance Soviet efforts to dominate Africa, to say nothing of bulwarking the Soviets' economy so that they can spend more on war material tailor-made for use against us.

How is it that such obvious potential dangers to the United States escape the scrutiny of our network newsmen? Can they be too busy blaming blackout looting on flaws in our society, or condemning the CIA for errors long since corrected?

The cult, the manner of thinking, that finds nothing wrong about helping unfriendly countries gain real or potential power over us is strongest in the area where it can do the most harm—in broadcast and print journalism.

NATIONWIDE BAN ON THROWAWAY CONTAINERS OPPOSED

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. HUGHES. Mr. Speaker, one of the more difficult questions facing Federal policymakers is whether a nationwide beverage container deposit law would be helpful in our efforts to reduce litter and solid waste. In an attempt to shed more light on that issue, Congress established the Resource Conservation Committee under Public Law 94-580, and directed it to study and make recommendations to the President and the Congress on that subject within 2 years.

Pursuant to its mandate, the committee has commenced the process of holding public hearings to bring out various viewpoints on whether mandatory beverage container deposits or some other method of controlling and regulating solid waste are necessary and appropriate. I testified at one of the committee's hearings on that subject last week, and would like to take this opportunity to share my remarks with my colleagues:

STATEMENT OF THE HONORABLE WILLIAM J. HUGHES

Members of the Committee, my name is William J. Hughes, Member of Congress from the Second Congressional District of New Jersey. I am pleased to have this opportunity to testify before you on this important subject of a nationwide system of beverage container deposits.

The major issue before this Committee today is whether we should attempt to eliminate one source of solid waste—namely beverage containers—from the waste stream. The means for controlling those would be a mandatory deposit that would discourage disposal of those containers, and encourage their re-use.

The benefits to be derived from that approach, according to its proponents, is a savings of energy, the control of litter, and a reduction in the amount of solid wastes.

Those, of course, are worthwhile objectives. But as usual, there is a price tag associated with the advancement of our environmental goals.

In my home state of New Jersey, we have over 14,000 people employed directly by the glass industry, and many thousands more employed indirectly. A great many of those employees are in my own Congressional District, which already has one of the highest unemployment rates in the nation.

It is axiomatic that any measure that discourages the manufacture of a certain product is going to result in the loss of jobs in that particular industry. The effect of bottle laws in those states that have them has demonstrated that job losses do result.

In Oregon, the Owens-Illinois plant in Portland had 10 forming machines before the bottle law went into effect. In February, 1976, the President of Local 112 of the Glass Bottle Blowers Association, Gordon J. Bronk, reported that two of the forming machines, representing 50 jobs each, had been removed from the plant, and that two more were idled, all as a consequence of the new law.

In addition, 2 can plants in the neighboring State of Washington closed down completely after the ban went into effect.

Although a survey sponsored by the State of Oregon indicated that 250 jobs were gained as a result of the ban, it's also apparent that 450 jobs were lost, for a net loss of 200 jobs in the two states.

The question then becomes whether we wish to replicate that experience on a nationwide basis.

If we had no choice, then we will have to do it, and pay the price.

But are we faced with that situation? I frankly don't think so. I think we can achieve our goals without putting a lot of people out of work. In fact, some of the alternatives open to us may accomplish our same goals even more effectively than would a mandatory nationwide beverage container deposit.

If it is litter we are concerned with, the State of Washington has a model litter law that has achieved results at least equal to, and probably better, than Oregon has achieved in terms of reducing roadside trash. It is based upon public education, the widespread distribution of litter receptacles, and penalties on those who litter. The program is financed through a small fee on all those involved in the sale of materials that may end up as municipal trash. Considering that only 20 to 30 percent of litter is beverage containers, it seems that the model approach would have a far more beneficial result in the long run in reducing overall litter, rather than little from just one source.

A second major concern to all of us is energy, and whether a nationwide deposit on beverage containers might help us save some energy. This is certainly one area that needs a great deal of study.

It appears, for example, that refillable containers must be made of stronger and more durable materials, and that requires more energy in the manufacturing process. Because they are heavier, more energy is required to transport these containers, perhaps as much 30 percent more.

Beyond that, to be effective in saving energy, a bottle must be reused a certain minimum number of times. Although this has been achieved in Oregon, it is not clear that this minimum level of reuse—probably around 6 returns per bottle—will be achieved nationwide. Consumers in some areas, such as New York City, have demonstrated an overwhelming preference for throwaway containers as compared to other big cities. Some tests conducted at Yosemite National Park and at various military bases indicate that the minimum level of returns may not be achieved universally.

There are also the energy expenditures required for cleaning the bottles for each reuse, and the potential for increased truck travel to transport refillable bottles back and forth. The financial and energy expenditures for converting bottling and manufacturing plants to the use of refillable bottles must also be considered.

Considering that manufacture of nonreturnable beverage containers accounts for only one-half of one percent of our nation's total energy usage, I seriously question whether this is a fruitful area for a conservation effort, particularly if it is so costly in terms of jobs.

The final item of concern is the impact of disposable beverage containers on our overall management of solid wastes. I am of the viewpoint that the problems will persist whether or not we eliminate beverage containers from the waste stream. And it's possible that such a piecemeal approach may just undercut our attempts to make our resource recovery and recycling programs economically feasible.

Moreover, viewed in perspective, it is apparent that aluminum and glass beverage containers are only a small percentage of our overall wastes. Only between .25 and 1 percent is aluminum, and between 7 and 8 percent is glass. Those are not overwhelming amounts. In addition, between 55 and 75 percent of the aluminum can be extracted for recycling, and between 30 and 60 percent of the glass.

There is one last item that I would like to touch upon, which is an intangible factor, but nevertheless significant.

As a Federal officeholder who must seek election every two years, I have seen a growing tide of resentment against Federal intrusions into individual personal and business lives. Some of these intrusions are necessary, but others only create major inconveniences and often hold Federal programs up to ridicule.

We banned flammable children's sleepwear only to find out later that we created a major cancer hazard.

Some of the regulations promulgated by OSHA have created turmoil in the business community and in some instances have been difficult to justify.

With a nationwide bottle law, we would be creating a hassle for an awful lot of people, and perhaps unnecessarily. The consumer will have to cart his empty bottles and cans back and forth to the market. The storekeeper will have to do a lot of bookkeeping and paperwork to keep track of deposits, as well as devote a portion of his premises to the unproductive purpose of storing a lot of empty bottles and cans. The bottler will have to go to great lengths to pick up and drop empty bottles and cans.

We are likely to encounter a great deal of public resistance. Since 1970, bottle laws have been rejected in 10 out of the 13 referendums that were held at the State and local level. To many people, who have become used to throwing out their empty bottles and cans, the deposit will simply be regarded as a cost of the product. And I don't have to tell you what the glass worker of the unemployment line would be thinking. Finally, it's going to cost the consumer more money.

In conclusion, it is my feeling that a nationwide ban on throwaway containers will not result in a substantial savings of energy or any meaningful reduction in our solid waste burden. In terms of litter control, there are other approaches that can be as much or more effective.

In addition, a number of negative results might very well come about, including a loss in jobs, increased consumer prices, and resentment among a great many people for the increased inconvenience in their lives.

Because I have so many glass manufacturing plants in my District, I have made an effort to keep informed as to their activities, and I know that they are making a serious effort to reduce their energy usage. They are achieving some successes and more are hoped for.

The main problem with disposable beverage containers is that they are frequently disposed of on our roadsides, parks, and other public places, instead of in the trashcan where they belong. The clear success of Washington State's model litter law—a 66 percent reduction in litter—is a clear indication that there are viable alternatives to bottle laws—alternatives that spread the burden around to all producers of litter and not just one industry.

One fruitful area of inquiry would be a program to encourage our states to follow the lead of Washington State.

Such a program when combined with increased use of proven resource recovery techniques would help us achieve our common goals without inviting economic disruption, inconvenience, and a loss of jobs. Thank you.

HUMAN RIGHTS AND THE SUPPRESSION OF TERRORISM IN SOUTH AFRICA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. McDONALD. Mr. Speaker, almost 2 years ago, November 14, 1975, I submitted for my colleagues' consideration an article by a British writer which examined the terrorists of the Irish Republican Army, the Palestine Liberation Organization and the barbarian totalitarian countries who support them. It made the point that to cope with the ultimate threat to the very basis of civilized society—terrorist violence randomly applied against defenseless civilians—civilization may have to mobilize its full resources to repress those who want to inflict mayhem on the defenseless, to demonstrate that civilization still has "the will to seize its enemies by the throat." The invocation of extraordinary powers by a government in defense of its citizens, however, must be accomplished by reason, intelligence and a judicious sensitivity to determine the limits of what is required to end the threat of violence.

South Africa has been subjected to repeated rioting for almost a year and a half in which innocent people from a variety of racial and ethnic groups have been brutally murdered by mobs and which have involved the burning and looting of private homes, shops, and government facilities. Then last month amid all this disorder came the death under questionable circumstances of a black militant leader, Steve Biko, while in police custody. Terrorist support groups in this country have hailed Biko for his revolutionary commitment and for his efforts to organize the Soviet-backed African National Congress (ANC) terrorists with the Peking-supported Pan-Africanist Congress (PAC) terrorists and with the younger ultramilitants to form a unified revolutionary movement.

Biko's death, which is properly and primarily a matter for investigation by South Africa's law enforcement and judi-

cial systems, has been used as the excuse for highly emotional, inflammatory attacks on South Africa by groups and individuals in this country and demands that this country break diplomatic relations with South Africa and that U.S. businesses be required to immediately withdraw their investments from the area.

A few days ago, the South African Government acted to dissolve a number of organizations that its official investigating commission had determined to be subversive, revolutionary or violence prone. These dissolved organizations included some apparently of the "Christian socialist" variety which attempt to depict Christ as an early Che Guevara. The U.S. mass media has been filled with attacks on the South Africans for taking these steps, but the press has given little space to the reasons for them.

I suggest due consideration be given to the press statement of the South African Minister of Justice, Mr. James T. Kruger, in announcing the dissolving of some organizations:

STATEMENT

A number of organizations are declared to be unlawful organizations and certain publications are prohibited by proclamations appearing in today's government gazette. I should like to outline, very briefly, the background to these measures.

Chapter 16 of the fourth interim report of the commission of inquiry into certain organizations is entitled polarisation. In chapter it is shown, with copious quotations and indisputable references how the politics of polarisation, having black consciousness as its philosophy for public consumption, but black power as its motivation in its own inner circles, was introduced into and established in South Africa. It is clear that this exercise, orchestrated from aboard, was aimed at the creation of a revolutionary climate so that when the right moment came, the match could be set to the fuse. Although this movement was not initiated by Russian communism (there is too much emphasis on race and too little on class for that), it is nevertheless evident that organizations with Russian ties were anxious to explicit the revolutionary potential it offered and that the philosophy of black power, as the commission put it, was based on "marxian dialectics in which the view is held that all change is the result of confrontation between opposing groups in society, and which accepts revolution as being 'natural and inevitable'." At the close of chapter 16, which was drafted in 1973, the commission warned:

"Continued promotion of this philosophy of confrontation can only lead to a dangerous situation in South Africa, holding very little imaginable benefit and a great deal of misery for all South African population groups and indeed for every individual South African."

It is abundantly clear for all to see and to appreciate to what extent that prediction has already come true. Even to the most naive, it must by now be clear that the riots which broke out in the country last year and have flared up sporadically since, and the riots that have now also broken out in Swaziland, were not spontaneous. The grievances that were initially said to have caused them, have long since faded into the background. New grievances, new objectives and new processes are focused upon almost from day to day to ensure that the unrest continues and to attempt to create the desired state of anarchy. A relatively small group is taking the lead in all this, but use is made of a number of organizations, many of which come and go, and of many human instruments who sometimes in all good faith allow themselves to be involved. In the process too much damage has already been done and too much suffering has been caused for too many innocent men, women and children. The most serious consequence of course has been the loss of lives. In addition the way of life of whole sections of the community has been disrupted and the standard of living of others ruined.

Black people have been hardest hit. The time has come when mere preventive measures against these physical manifestations of this campaign of hate are no longer sufficient. By and large, police action has been successful, but it is only the pawns that are caught. The big organizers keep themselves in the background and continue to use organizations, publications and people to create a revolutionary climate and to organize unrest. Other revolutionaries, like the South African Communist Party and its partner, the ANC, are now also trying to exploit the situation for their own ends.

Against this background of incitement to unrest and conspiracy to revolution, it was decided to act in the first place against organizations forming part of the black power movement and against the publications serving as their mouthpieces. Committees, consisting of a regional magistrate as chairman and two other lawyers as members, were appointed in terms of section 17 of the Internal Security Act, 1950, to investigate organizations and publications. After consideration of their factual reports, it was decided that the organizations and publications specified in the Government Gazette, whose activities were endangering the maintenance of law and order, should be declared unlawful and be prohibited. As matters have developed, it has, however, become increasingly clear that these steps are absolutely imperative and that the Government could be neglecting its duty if it failed to take these steps.

As regards the Christian Institute, I should like to point out that the term "Christian" can no longer be allowed to be used as a cover for revolutionary activities. As shown in the chapter quoted above, the black power movement was imported into this country through, inter alia, the World Student Christian Federation and the University Christian Movement; and Phillip Potter, then general secretary of the World Council of Churches declared in 1967, when he was chairman of the World Student Christian Federation:

"Our aim is the achievement of world citizenship, the realization of the dictum of Karl Marx: 'From each according to his ability: to each according to his need'. The accent in the WSCF is not so much on 'What must we believe', but 'What are we to do?' Karl Marx said: 'Philosophers have sought to understand the world: Our business is to change it'."

It is evident that not only Christians sail under the Christian flag: Many others are using it as a flag of convenience.

As regards "the World" and "Weekend World", I wish to point out that these newspapers and some of their staff have been active in the process of "conscientisation" and in the creation of a revolutionary climate, whether or not all the members of their staff were aware of what they were doing. Anyone who is interested and wants to find examples would be well advised to take a closer look at the revolutionary material published in the months since June 1976 as educational material.

It will serve no purpose merely to neutralize organizations and publications if those who use those organizations and publications in their subversive activities are simply allowed to switch to new organizations and publications. That is why, in the second place, action is being taken today, and will be taken in days to come, against these people. Some will be restricted, but where this proves to be insufficient as a preventive measure, the powers of detention provided in section 10(1)(A)BIS of the Internal Security Act of 1950 will be resorted to.

FACTS ABOUT GUN CONTROL LEGISLATION

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. BAUCUS. Mr. Speaker, since I was first elected to Congress I have fought vigorously the many gun control bills which have been before the House. In fact, because of my concern that the right of Montanans to keep and bear arms be protected, I have for some time been a member of the advisory council of the Citizen's Committee for the Right To Keep and Bear Arms, which, as you know, has a formidable record of protecting these rights.

Many Montanans share a deeply felt concern that Congress not act to register guns, confiscate guns, or otherwise restrict the legitimate rights of sportsmen and gun enthusiasts. Because of this concern, and with the kind assistance of the Library of Congress, I would like here to outline some of the major facts about gun control legislation in Congress:

MAJOR FACTS ABOUT GUN CONTROL LEGISLATION BY CONGRESS

Until 1968 the two basic Federal statutes regulating the manufacture and distribution of firearms were the National Firearms Act of 1934 and the Federal Firearms Act of 1938. Both of these laws were designed primarily to curb the activities of the criminal gangs of the 1920s and 1930s.

The Federal Firearms Act prohibited the shipments or receipt of firearms in interstate commerce by any manufacturer or dealer who had not been federally licensed. Firearms could not be sent to persons who had been convicted of or indicted for crimes punishable by a term of imprisonment exceeding one year, or to fugitives from justice; and the transporting of stolen firearms, or firearms from which the manufacturer's mark had been removed, obliterated, or altered, was prohibited.

The National Firearms Act was designed to make it difficult to obtain certain specified types of especially lethal firearms, in particular machine guns and sawed-off shotguns. It places heavy taxes on all aspects of the manufacture and distribution of such weapons. Also, the Act compels the disclosure (through registration) of the production and distribution system from manufacturer to eventual buyer.

In 1968, the Federal Firearms Act was repealed and the National Firearms Act substantially amended. The former was replaced by a statute containing much stricter and more detailed controls. The new legislation, popularly known as the Gun Control Act, was the culmination of congressional activity that began during the 88th Congress. It is generally thought that the assassinations of Dr. Martin Luther King and Senator Robert Kennedy were directly instrumental in securing the bill's passage.

At the outset of the campaign for stronger Federal controls (led by the late Senator Thomas Dodd of Connecticut), the movement's congressional spokesmen aimed only at eliminating mail-order traffic in handguns. However, during the years from 1963 and 1968, a number of groups and individuals began gradually to press for more restrictive measures. By 1968, there was congressional support both of national gun registration and national licensing of gun owners.

In 1968, two laws with gun control provisions were enacted: the Omnibus Crime

Control and Safe Streets Act of 1968 and the Gun Control Act of 1968.

The Safe Streets Act contained two gun control titles. Title IV subsequently amended by Title I of the Gun Control Act was directed principally at the commerce in handguns. Title VII (presented by Senator Long of Louisiana) prohibits the possession, and receipt or tranport in interstate commerce, of any firearm by certain classes of persons, such as convicted felons or mental incompetents.

The Gun Control Act has two major titles. Title II amends the National Firearms Act of 1934 to remove certain constitutional difficulties and to extend the Act's provisions so as to cover so-called "destructive devices (bombs, grenades, etc.). Title I is a replacement for the major part of Title IV of the Safe Streets Act. Essentially, it was designed to extend to long guns the earlier law's restrictions on commerce in handguns.

Title I of the Gun Control Act requires all persons dealing in firearms or ammunition to be federally licensed, establishes more restrictive standards for licensing than those prescribed by the old Federal Firearms Act, prohibits the interstate mail-order sale of all firearms and ammunition, prohibits interstate sale of handguns generally, prohibits the interstate sale of long guns except under certain specified conditions, sets forth categories of persons to whom firearms or ammunition may not be sold (such as persons under a specified age or persons with criminal records), generally prohibits the importation of non-sporting firearms, and establishes special penalties for the use of a firearm in perpetration of a Federal felony.

Since passage of the Gun Control Act, hundreds of bills on the subject have been introduced in each Congress. Such proposals have ranged from those seeking stronger restrictions—up to the point of outright prohibition of the private ownership of handguns—to those that would repeal the 1968 legislation. The majority, however, have been less sweeping in design, proposing more limited increases in controls or endeavoring to delete specific provisions of existing law especially unpopular with sportsmen or the firearms and ammunition industry. Measures receiving major action since 1968 have concerned (1) dealer recordkeeping on ammunition sales, (2) further control of commerce in handguns, and (3) amendments to the Gun Control Act provision that imposes special penalties for use of a gun in committing a Federal felony.

The interest of the 94th Congress was focused primarily on handguns. Both the House Crime Subcommittee and the Senate Juvenile Delinquency Subcommittee held hearings on a wide variety of proposals. The general concepts reflected in the bills considered were, in varying combinations:

(1) National registration of handguns.

(2) National licensing as a prerequisite to handgun ownership.

(3) Closer regulation of the gun industry—including measures that would substantially reduce the number of licensed dealers.

(4) Elimination of cheap handguns by prohibiting the manufacture or transfer of handguns made of metal that fails to meet certain technical requirements, including an established minimum melting temperature.

(5) Prohibition of the further manufacture or sale of handguns that fail to meet the present criteria for importation, criteria designed to implement the "sporting purposes" test required by the Gun Control Act.

(6) Prohibition of the further manufacture or sale of "concealable" handguns (with definition of "concealability" ranging from bill to bill).

(7) Prohibition of the further manufacture or transfer of any handgun.

(8) Prohibition of the private possession of any handgun.

(9) Police clearance for handgun purchase.

(10) Waiting period for handgun purchase.

A number of the 94th Congress bills have been reintroduced in the 95th Congress.

In contrast to proposals aimed at reducing gun availability are those providing for added sanctions against persons who use a gun in committing a crime. Many of the opponents of stricter gun controls have supported the added gun-crime penalty bills, maintaining that present penalties or court sentencing practices have failed to establish a proper deterrent to violent crime. Bills for added gun-crime penalties present a wide variety of approaches, but the principal distinction is between provisions that would increase or otherwise strengthen the added penalties for Federal felonies where a gun is involved and those that would make a Federal offense of any such felony under State laws.

During the 94th Congress, the House Subcommittee on Crime held 24 hearings over an 8-month period, and the Senate Subcommittee to Investigate Juvenile Delinquency held 5 hearings over 6 months. After lengthy sessions and a recommittal to subcommittee, the full House Judiciary Committee reported a bill on May 6, 1976. Similar to a proposal submitted by the Ford Administration, the bill contained the following major provisions:

Application of existing handgun importation criteria (designed to implement the "sporting purposes" test under GCA; under H.R. 11193 they would be used to effect a "concealable" handgun ban) to domestic industry, thus banning further production and sale of an estimated 54 percent of handguns currently manufactured;

Requirement of prior police clearance for all handgun purchases, to be accomplished during a 14-day minimum, 28-day maximum, waiting period;

Ban on mere possession of a gun by convicted felons, mental incompetents, and other specified high-risk individuals;

Ban on importation of any handgun part intended for use in manufacture of a "concealable" handgun;

Increase in annual fees for Federal firearms licensees;

Elimination of the possibility of probation or suspended sentence in the case of the added sentence mandated under existing law for a first-time offender convicted of using a gun in committing a Federal felony (thus making mandatory the current 1-year minimum, like the sentence of a second-time offender).

On Dec. 1, 1975, the Senate Juvenile Delinquency Subcommittee approved a similar bill for full committee, but no further action was taken. The House bill failed to get a rule.

As the 94th Congress considered proposals for additional legislation, a Federal regulatory agency was drawn into the issue because of a U.S. District Court decision handed down in December 1974. The court held that the Consumer Product Safety Commission was obliged to consider the possibility of banning handgun bullet sales to the general public under the provisions of the Hazardous Substances Act of 1960. The Commission was petitioned for such an action in June 1974 by the Committee for Hand Gun Control, Inc., but the petition had been denied. A bill approved on May 11, 1976, settled the question by excluding firearms ammunition from the items over which the Commission has jurisdiction.

LEGISLATION

Although a number of bills have been reintroduced in the 95th Congress, there is at present no indication of committee interest in resuming work on gun control. However, it is understood that the Administration is now reviewing a draft proposal, reportedly similar to the Ford Administration bill. Should the White House submit legislation, undoubtedly interest would be revived. If the issue were again to become active, the following are illustrative of proposals that might receive consideration; however, neither the House Judiciary Committee bill nor the Senate Juvenile Delinquency Subcommittee bill of the last Congress has been re-introduced.

H.R. 40 (Bingham).—Prohibits the private possession of handguns except by authorized pistol clubs. Introduced on Jan. 4, 1977, and referred to the Interior and Insular Affairs Committee.

H.R. 2510 (Roybal).—Prohibits the further manufacture, assembly or import, for sale, of any handgun the basic structural components of which are made (1) of any material having a melting point of less than 1,000 degrees F., (2) of any material having an ultimate tensile strength of less than 55,000 lbs. per square inch, or (3) of any powdered metal having a density of less than 7.5 grams per cubic centimeter. Introduced on Jan. 26, 1977, and referred to the Judiciary Committee.

H.R. 3182 (Mikva et al.).—Prohibits the further manufacture, transfer, or transport of any handgun; exempts the manufacture or transfer of handguns for and to authorized pistol clubs. Introduced on Feb. 7, 1977, and referred to the Judiciary Committee.

H.R. 4692 (Russo).—Prohibits the further manufacture, importation, or commercial sale of "concealable" handguns, defined as any pistol with an overall length of less than 8½ inches and any revolver with a barrel length of under 4 inches or a frame length of under 5¾ inches (or an overall length of less than 9 inches); also of any handgun failing to meet certain specified safety standards. Provides for a 10-year mandatory minimum penalty for use of a firearm in committing a Federal felony, and for a second such offense increases the existing minimum from 2 to 25 years. Introduced on Mar. 8, 1977, and referred to the Judiciary Committee.

S. 30 (Church).—Amends the Internal Revenue Code to extend to purchases of .22 caliber rimfire ammunition the present exemptions on dealer recordkeeping requirements with respect to ammunition sales. Introduced on Jan. 10, 1977, and referred to to the Senate Finance Committee.

S. 38 (McClure).—Repeals the Gun Control Act of 1968. Introduced Jan. 10, 1977, and referred to the Senate Judiciary Committee.

S. 827 (Javits, Percy).—Establishes a national system for licensing for firearm ownership; limits handgun purchase to one a year per individual; bans possession, sale or use of handguns in any SMSA where the violent crime rate rises to 20 percent above the national rate and 5 percent above the prior year's local rate; bans the manufacture, sale or possession of any handgun that the Attorney General determines is unsuitable for law enforcement, military uses, hunting, sport shooting, and other lawful purposes. Introduced on Mar. 1, 1977 and referred to the Senate Judiciary Committee.

S. 828 (Javits, Percy).—Transfers responsibility for enforcing Federal gun control statutes from the Treasury to the Justice Department, to a new "Firearms Safety and Abuse Control Administration." Introduced on Mar. 1, 1977, and referred to the Committee on Governmental Affairs.

In the related area of gun crime penalties, the following are illustrative, and it should be noted that in this respect the new version of the Federal criminal code reform bill contains provisions making substantive changes in existing law:

H.R. 159 (Ashbrook).—Supplements existing law's added penalties for conviction of a Federal felony involving use of a gun, by providing for the possibility of life imprisonment when the felony is one of certain specified "crimes of violence." Eliminates existing law's allowance of suspended sentence or probation with respect to the added penalty for gun use in the case of a first conviction.

Introduced on Jan. 4, 1977, and referred to the Judiciary Committee.

S. 45 (McClure).—Makes a Federal offense out of any "crime of violence" (as specified) involving use of a gun that has been transported in (or has affected) interstate commerce. Requires an added penalty of 5 years imprisonment upon a first-time conviction on such an offense and 10 years (up to life) upon a second. Introduced on Jan. 10, 1977, and referred to the Judiciary Committee.

S. 1437 (McClellan, Kennedy), H.R. 6869 (Rodino).—Criminal Code Reform Act of 1977. Contains provisions amending existing law's provision for added penalties for use or possession of a gun while committing a Federal felony by (1) raising the minimum for a first-time offender from 1 to 2 years, if the gun (or destructive device) were used or displayed (rather than merely possessed), (2) eliminating the possibility of probation or suspended sentence for a first-time offense, and (3) applying these penalties to any offense occurring during the commission of any other offense described in the new criminal code over which Federal jurisdiction exists (that is, covering misdemeanors as well as felonies). S. 1437 was introduced on May 2, 1977, and referred to the Senate Judiciary Committee. H.R. 6869 was introduced on May 3, 1977, and referred to the House Judiciary Committee.

I hope that the above information is helpful to my colleagues and people everywhere in the country who are concerned about gun control legislation. I am pleased that, for this year at least, it looks as though Congress will do nothing to restrict further our right to keep and bear arms.

IMPERIAL JOE CALIFANO: SON OF THE GREAT SOCIETY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. CRANE. Mr. Speaker, candidate Jimmy Carter promised the American people an administration in which austerity and an absence of the "cult of the personality" would be the hallmarks. Americans were told that members of the Carter administration would not succumb to the temptation of becoming Washington insiders. Serving the people and not self-aggrandizement would be the goal of all Carter appointees.

But now we read in the Wall Street Journal, October 25, 1977, that Secretary of Health, Education, and Welfare—HEW—Joseph Califano, has established himself as an imperial presence in the vast and chaotic empire at HEW. The Journal reports:

> . . . there are echoes of the imperial presidency in the Califano regime . . . even a tendency toward high-handedness . . . (Califano's) preoccupation with his treatment in the press is unremitting . . . Although he promised retrenchment, his cadre of personal assistants has grown significantly in size and influence . . . (he has) displayed a penchant for secrecy . . .

It is not reported that visitors to Califano have to back away as they leave the imperial presence. But this would not surprise me. President Carter, after all his promsies, has succeeded only in bringing to Washington an "Imperial Son of the Great Society."

FACING SOUTH AFRICA

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. MAGUIRE. Mr. Speaker, the arrests and bannings in South Africa last week do not constitute an incremental change in South Africa's internal racist policies, but rather a massive shift to a policy of comprehensive repression, not only of black political leaders, but of the press and religious leaders and institutions as well.

This watershed in South Africa's policies calls for significant changes in our bilateral relationships with South Africa. A thoughtful article on this subject by Anthony Lewis, which appeared in the New York Times on October 24, is reprinted here for the benefit of all Members:

FACING SOUTH AFRICA

(By Anthony Lewis)

The turn of the screw in South Africa poses extremely delicate problems in diplomacy for President Carter. His whole new policy toward Africa, and beyond that important relationships with friendly countries, may be affected by what he does or does not do in response to Pretoria's sweeping new moves to silence the critics of official racism.

A test is likely to come in the next few days. The United Nations Security Council will be pressed by the African countries to take action. Inevitably, what the Council does will depend to a great extent on the American position.

If the United States favors a strongly-worded resolution, it risks conflict with Britain, which relies on its South African trade and investment. Indeed, Britain or France might veto the resolution. On the other hand, if the United States vetoes or otherwise blocks action, the Administration's careful effort to improve relations with African countries will be severely damaged.

Moreover, quite apart from the pitfalls of United Nations politics, there is a substantive question of the greatest difficulty: What actions by the outside world may have a useful effect on South Africa at this time? But if there are no easy answers, it is possible to suggest some principles that should guide Mr. Carter and his advisors as they wrestle with the South African issue.

First, the United States has a strong interest—a self-interest—in taking a clear stand against the arrests and bannings ordered by the South African Government last week. In the narrowest terms, it is an economic interest. American trade with black Africa has zoomed to the point where Nigeria alone accounts for more than South Africa. Mr. Carter's recognition of this new reality is symbolized by his stop in Nigeria on next month's planned world trip.

More broadly, Mr. Carter's attempt to make Western values matter once again in foreign affairs is at risk here. The risk lies in the very fact that the South African Government claims to be defending those values—to be resisting Communism. If the United States seemed to be acquiescing in the bizarre claim, the Carter policy would deserve to be taken with a grain of cynicism.

Second, realism is essential. The United States should make clear—to others and to itself—that it cannot determine events in South Africa. Empty rhetoric would be unhelpful.

Realism requires, too, an understanding that American policy on South Africa has to be good for the long haul. As outside pressure increases, Mr. Vorster may well retaliate—by such steps as an oil blockade of Botswana or other black countries dependent on South Africa. We should be thinking of how to deal with that.

Third, the United States should be wary of finally closing the door on Prime Minister Vorster and his Nationalist colleagues. Mr. Vorster, in defending last week's repression, needled Mr. Carter by saying that American disapproval would be "irrelevant." But it would be unwise to reply in kind to such provocation.

For all the brutal suddenness of last week's actions, there is still some slim hope of a more rational policy from the Vorster Government after the election to be held Nov. 30. Some Nationalist politicians, at least, want to make changes—and want the United States to keep the pressure on for change. That means that the United States should move by stages, keeping some leverage, rather than taking such a step as, for example, breaking diplomatic relations altogether.

Fourth, whatever measures are undertaken should have a broad measure of support from the international community, and from the American public. Mr. Vorster is highly sensitive to differences in American opinion, and he would quickly exploit any differences manifest in the public or Congress.

In this regard, there can be no substitute for a strong leadership role by the President. Only he can make clear the American interest in seeing a change in South Africa. Only he can make the case to the country that, with no illusions of early success, we must nevertheless act as a matter of self-respect.

Mr. Carter must convince the world that America has a commitment: a concern about South Africa that will not be deflected. Vice President Mondale told Mr. Vorster that—told him, for example, that we would welcome South Africa's help on the neighboring problems of Rhodesia and Namibia but would not, in exchange, ease up on criticism on its own racism. Firm United States action now would make that position convincing.

Finally, it is vital to convey the sense that whatever we do now is just one step in what will be gradual but increasing pressure for change. The recall of the United States Ambassador for consultations sent a signal. A next step might be action to discourage new investment in South Africa, both through a United Nations resolution and by cutting off our own Export-Import Bank Loan guarantees. If Mr. Vorster acts violently and speaks angrily, it is the more necessary for Mr. Carter to react soberly and steadily.

HON. FRANK STUBBLEFIELD

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. DON H. CLAUSEN. Mr. Speaker, our Nation and the great Commonwealth of Kentucky have lost one of their more illustrious sons. Frank Stubblefield was not only a colleague and friend to those of us who served with him in the House of Representatives during the period from 1959 to 1974, he was also an inspiration. His devotion to the people he represented, and his efforts on their behalf, is a constant reminder to all of what true representation means.

I was privileged to work closely with him during the years required to pass the 200-mile fishing bill. As a senior member of the Merchant Marine and Fisheries Committee, he was fair and

open-minded, and had the vision to see both long-term goals and consequences.

Frank Stubblefield was highly respected by Democrats and Republicans alike for his firm convictions and solid dedication to the principles upon which the Nation was founded.

His dedication to the Christian ideals which helped build this Republic were admired, as was his commitment to the preservation of our constitutional liberties.

Frank Stubblefield had the courage of his convictions, which I highly respected. Although he was a sincere advocate of his beliefs, he never imposed his views on others.

I am very grateful that I was privileged to know him.

A PLOY TO CONTINUE THE ERA CONTROVERSY

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. RUDD, Mr. Speaker, over this past weekend, I received hundreds of telegrams, largely from women constituents in Arizona, opposing the proposed plan to extend the ratification period for the so-called equal rights amendment (ERA).

I understand that a bill (H.R. 9703) has been introduced to extend the ratification period beyond the March 1979 deadline set by the Congress in 1972. I was informed by the House Judiciary Committee today that hearings are scheduled on this bill next week before the Subcommittee on Civil and Constitutional Rights.

Mr. Speaker, I strongly oppose this proposal to change the rules on ratification of the equal rights amendment almost at the end of the game. The States were given 7 years to consider the proposed ERA, and this is ample time for all State legislatures to take action in this matter. Millions of taxpayer dollars have been spent by various Federal agencies to lobby for ratification of the amendment, much to my dismay and the dismay of millions of Americans nationwide.

But if 39 States have not ratified the ERA by March 1979, the proposed amendment should die a deserved death, and not be given a slippery extension by its proponents so they can pump more taxpayer dollars and Federal Government effort into more arm-twisting to achieve its questionable ratification.

Mr. Speaker, grassroots opinion on the equal rights amendment in Arizona is overwhelmingly opposed to the proposal, and to the proposed time limit extension on its ratification.

I join them in opposition to this last ditch desperation move to breathe life into the ERA. If this proposed amendment deserves a place in our great U.S. Constitution, the requisite number of States will act within the 7-year period that ends in March 1979. We should not sully the legislative and constitutional process by changing the ground rules for a constitutional amendment at this point.

PEANUT FARMER JIMMY CARTER AND FARMER'S PROBLEMS

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. NOLAN. Mr. Speaker, President Carter's weekend tour across the country, particularly through farming areas, should give him pause. The farmers who glumly listened to the President or who actively demonstrated against the administration's farm policy are trying to get a message through to the White House.

As the following article by Jack Anderson makes clear, even the President's tenants on the peanut farm in Plains are in serious economic trouble. It appears that if President Carter wants to go home again without encountering farmer picket lines on the outskirts of Plains, he should try to learn a little bit more about farming.

Far from being the greatest piece of farm legislation in the last 40 years, as the President described it, the Food and Agriculture Act of 1977 needs substantial improvement. Many of us in the Congress are ready to begin working on a better deal for our family farmers. I sincerely hope the President will work with us in a constructive manner rather than standing aloof or in opposition.

If the President does not help us enact better farm legislation, his rural brethren in the South may join the midwestern farmers and rise up to tell him, "Mr. Carter, you can't go home again."

The article follows:

[From the Washington Post, Oct. 21, 1977]

DROUGHT, COSTS HIT CARTER FARMER

(By Jack Anderson and Les Whitten)

It would have been a bad year for a small peanut farmer named Jimmy Carter if he hadn't given up farming last January.

He put his farm in a blind trust so he could devote himself to more important work at the White House. One spread—200 acres of rolling, red earth outside Plains, Ga.—was entrusted to his overseer, Leonard Wright, an amiable man with a toothy, gold-flecked grin.

He used to split the profits with Carter, 50–50. Carter furnished the land, fertilizer and seed. Wright provided the labor and equipment. In a good year, he could clear over $15,000.

Now that Carter has given up farming, Wright will keep the full profits from the 200 acres. But he must also lay out the money for the seeds, pesticides and fertilizers.

Unfortunately, prices have rocketed. Worse, a withering drought has burned his corn and peanuts. Therefore, he will lose money on the Carter farm and will have to borrow from the bank to keep the farm going. He may even be forced to apply for a farm disaster loan from the federal government.

Corn was selling for $2.75 a bushel when Wright was deciding what to plant. So he invested heavily in a corn crop, and he bought the best liquid nitrogen fertilizer to ensure a good yield.

But the summer drought scorched his field and stunted the growth. Now at harvest time, the corn should be high as an elephant's eye, but it scarcely comes to Wright's knees. Not only is the crop poor, but the price has dropped to $1.45 a bushel. The peanut yield has also suffered from the dry weather.

Yet Wright's production costs were higher than ever. The petrochemical companies, for example, keep raising the price of fertilizer. It now costs between $25,000 and $30,000 to finance the year's crop.

Leonard Wright doesn't flash his smile as often as he used to do. "The main thing the government needs to do," he told our associate Hal Bernton, "is to put some kind of higher price on corn and somehow lower fertilizer rates. A year like this really hurts us. Yet the farms are supposed to take care of the whole world. Everything people eat comes off of the farms."

The Jimmy Carter farm isn't the only small spread that has wound up in the hole. The small farmers are the traditional guardians of American values. Yet last year, 26,000 family farmers were driven off their land by the same deadly combination of soaring expenses and plunging grain prices. Thousands more will abandon their farms this year.

Wheat prices, for example have plunged from $4.23 a bushel in 1974 to less than $2 a bushel. Yet the price of bread has soared during the same period from 47 cents to 60 cents a loaf.

Obviously, the processors who stand between the farmers and the consumers are squeezing their full profit out of wheat. It's the farmers who take the loss; yet they toil the hardest to make America the best-fed nation in history.

Depression-born laws to protect the small farmers are hopelessly outdated, and the family farmers are unable to compete against the agricultural giants. We have reported in past columns how the big speculators are gobbling up ever greater bites of the countryside and running up the value of prime farmland in the Midwest.

The small farmers, meanwhile, remain the nation's most efficient food producers. Tenneco, the natural gas combine, discovered this when the company tried to cultivate some 70,000 acres of California farmland. The project was abandoned, with this postmortem: "From the standpoint of efficiency, there is no effective substitute for the small to medium grower who lives on or near his farmland."

But the wealthy corporate investors don't need to make a profit each year. They can merely write off the loss on their income tax forms. Then after the land has appreciated in value, they can sell it for a later profit.

President Carter had a chance to sell his federal peanut acreage allotment to a neighboring farmer for a huge profit. But this would have taken the money crop off the farm, leaving no livelihood for Leonard Wright and his family.

When Carter was a boy, he worked side by side in the cotton fields with Wright's wife, Mary. This may have been on Carter's mind when he turned down the lucrative offer and entrusted his farm to Wright. Neither of them expected it to lose money while Carter was away in the White House.

FEDERAL GOVERNMENT RETIREMENT SYSTEMS

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. DENT. Mr. Speaker, last week Congressman ERLENBORN and I introduced H.R. 9701, a bill designed to apply ERISA-type accounting and actuarial

standards to Federal Government retirement systems.

As we have come to know all too well in recent months, the Federal Government retirement systems suffer from a hodgepodge of inconsistent and uncoordinated laws, policies, and administrative practices. Our pension task force, in studying public employee retirement systems, has identified 65 separate Federal Government pension plans, with widely varying funding, vesting, eligibility, and other features. A recent report by the Comptroller General suggests that the Congress should develop a cohesive policy regarding the administration of these plans. Such a policy, in my view, is urgently needed, for we are talking about the pensions of millions of workers and literally billions of tax dollars.

H.R. 9701 represents a much needed first step toward the development of a sensible policy for Federal Government retirement systems. By requiring the Comptroller General to audit Federal retirement systems in accordance with ERISA standards, and by requiring for Federal plans the adoption of consistent actuarial assumptions and methods and a uniform system for reporting such information, we will for the first time have the information necessary to begin to develop a Federal retirement policy that is fair to both Federal plan participants and the taxpayers.

DR. ROBERTSON NAMED "WAKEFIELDIAN OF THE YEAR"

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. MARKEY. Mr. Speaker, occasionally there is a civic leader whose contribution is so outstanding that it deserves congressional recognition. The service of Dr. John Prescott Robertson is so deserving. Named "Wakefieldian of the Year" by the chamber of commerce on September 7, he will be honored at a testimonial on October 27.

Dr. Robertson is presently the pastor of the First Congregational Church in Wakefield. During his 12 years in this position he has been very active in community, civic, and charitable affairs. He follows an "ecumenical" philosophy and has been active in bringing the Protestant and the Catholic elements of his community much closer together. He was the president of the Wakefield Council of Churches, which is now known as the Interfaith Council.

Dr. Robertson has also been very active in the Rotary Club. He was president of the Wakefield Rotary in 1970–71 and served as the Rotary governor's representative in Melrose, Reading, Stoneham, and Belmont. He was particularly involved in the service committees of that club.

Dr. Robertson was the chaplain of the Massachusetts State Senate. In 1971 he was invited to be the guest chaplain in the House of Representatives to offer the invocation. His contributions have been recognized not only in the State of Massachusetts, but nationally as well.

Dr. Robertson has always been interested in youth and physical fitness. He has been a strong supporter of the Boy Scouts and he received the Silver Bear Award for his years of service to that organization. He has also been active in YMCA events and participated in the 1969 Annual Convention of Health, Physical Education, and Recreation.

In sum, Dr. Robertson has made an invaluable contribution to this community and to society in general. He has evidenced the admirable qualities of selflessness and charity toward which we should all aspire. I thank him for all that he has done.

POLICE OFFICER SURVIVAL TRAINING PROGRAM IN CINCINNATI, OHIO

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. LUKEN. Mr. Speaker, I would like to take this opportunity to draw my colleagues' attention to an article written by Col. Myron J. Leistler, chief of police in Cincinnati, Ohio, which appears in the October, 1977 issue of the FBI Law Enforcement Bulletin. The article, "Police Officer Survival Training Program," describes a training program which was implemented in the Cincinnati Police Department which was implemented to meet the needs of the street officer and reduce the increasing risks of police work.

In the program Colonel Leistler describes, police officers were made aware of the ease with which they could be injured or killed, and then each officer was required to demonstrate his ability to handle risks that might be involved in situations such as prisoner searches and transportation, entry and search of buildings, and hostage situations. The training also included instruction in methods used to identify bombs and explosives, and procedures for safely responding to bomb threat calls.

Clarence Kelley, Director of the FBI, has described this article as an "excellent presentation," an opinion with which I must agree. It is a well written, informative account of how the police department in Cincinnati has taken steps to prevent violence toward our law enforcement officers. It is unfortunate but true that our Nation's police officers, particularly in larger cities such as Cincinnati, are exposed to an ever-increasing amount of street violence, and every step taken to prepare them for risks involved is a contribution not only to the safety of the officers, but also to the safety of our citizens.

I am pleased to inform you of Colonel Leistler's article at this time, and to compliment him on his fine work in implementing this police survival training program and sharing it with law enforcement agencies across the Nation.

THE LEGITIMATE RIGHTS OF THE PALESTINIAN PEOPLE

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. STEERS. Mr. Speaker, just what is meant by the term, "The Legitimate Rights of the Palestinian People"? How should this determine events at the Geneva Conference?

I think this issue has become extremely hard to define due in no small part to the freedom with which the administration has used various phrases relating to the Palestinian question.

A constituent of mine, Richard Schifter, has provided me with his thoughts on this matter, and I found them clearly and rationally to outline some very important considerations. I am taking the liberty of providing this statement for the benefit of my colleagues.

THE "LEGITIMATE RIGHTS"

When Secretary Vance and Foreign Minister Gromyko released their joint statement on the Middle East, they hit a raw nerve as to one of Israel's most critical concerns regarding the PLO as a party to any peace negotiations: they agreed that one of the matters to be resolved at a peace conference concerned the "legitimate rights of the Palestinian people." There was no glossary attached to the Vance-Gromyko statement and newspaper accounts pointed out that there have been no agreements as to what the legitimate rights were. But, though the phrase is indeed undefined in the joint statement, it does have a definite meaning to the parties directly involved in the Middle East conflict. "Legitimate rights of the Palestinian people" is a code phrase used in the Arab world to mask their acceptance of the PLO demand that Arabs who in 1948 fled from the lands which subsequently became part of the State of Israel, and their descendants, be allowed to return to their former homes. This demand for the return of the 1948 refugees is inextricably interwoven with the issue of PLO representation at the Geneva Conference. For, if the PLO speaks for anyone, it speaks for the 1948 refugees in Lebanon and Syria. And its presence at a peace conference places on the agenda of that conference PLO's primary demand: the return of these refugees to Israel.

To Israel this issue is simply not negotiable. It should be recalled that when, after Israel had declared itself an independent state in May 1948 and the neighboring Arab countries invaded Palestine in an effort to extinguish the Jewish state at the outset, the Haganah, the Jewish defense force, appealed to the Arabs within its area of control to remain in their home communities. Some Arabs did, in fact, remain. But a great many of them heeded the appeals of the invading countries that they flee to areas behind the Arab front lines They were assured that it would not take long before the Jews would be vanquished and the refugees could then return to their homes.

That 1948 mass exodus is what spokesmen for the Arab cause refer to as "the heart of the problem". It is a problem which has been perpetuated by the Arab countries which offered opportunities of integration to educated and wealthy Palestinians, but kept the uneducated and the poor segregated in camps living off the United Nations dole, deprived of any right of citizenship.

About 600,000–700,000 Arabs fled in 1948

from the area on which the State of Israel was established. In the years immediately following, Israel accepted about 600,000 Jews who were fleeing from discrimination and persecution in the Arab countries. Also, Israel accepted the return of some 54,000 Arabs. The result could be considered a massive population exchange of the kind that occurred between Greeks and Turks in the 1920's. There are today more than two million Arabs who claim to be Palestinian refugees or their descendants. It is clear that Israel can neither economically nor socially absorb any substantial number of the 1948 refugees without risking the destruction of the state.

What is worthy of note is that the PLO's chief sponsor, the Soviet Union, was responsible, in 1945, for the expulsion of East Prussians, Pomeranians, and Silesians from the lands in which they had lived for centuries, so as to permit the incorporation of these lands into the Soviet Union and Poland, respectively. The claims of these expellees were talked about as late as the 1950's, but have long since disappeared from the agenda of international discussion. The expellees have been absorbed into the population of West Germany.

It is because of their insistence on the return of the 1948 refugees, that the issue of acceptance by the PLO of United Nations Security Council Resolution 242 or PLO recognition of the State of Israel cannot be considered meaningful. UN Security Council Resolution 242 does not mention Israel and could therefore be accepted by the PLO with the reservation that "the Zionist entity" is not a state and, therefore, not encompassed by the resolution. But even if the PLO were to recognize Israel explicity, it could be recognition for the purpose of getting Israel to the negotiating table, at which one of the principal issues of negotiation would be the terms under which the Jewish state would be liquidated.

To date, the PLO has refused to pronounce the magic words. The organization has been called terrorist and pro-Soviet, with full justification, but it has, on the issue of its determination to destroy the Jewish state, been intellectually honest. But it may very well be that once the Soviet Union joins Saudi Arabia in the appropriate coaching process, the PLO might be persuaded to shift from intellectual honesty to intellectual dishonesty by accepting the verbal formulation which will gain it American support for a seat at the peace conference, where it could and would insist on the "legitimate rights of the Palestinian people," i.e., the return of the 1948 refugees, being made a principal item of the agenda.

Thus, when Israel refuses to negotiate with the PLO, it is not merely arguing over a point of procedure. Procedure can in this case not be separated from substance. The future of the Palestinians in Lebanon and Syria, for whom the PLO purports to speak, does not require resolution at an internationally convened peace conference. The problem can be solved only by the Arab Countries, among themselves. If the funds which have gone into terrorist activities and wars against Israel had all been expended on the resettlement of the Palestinians in the Arab host countries, where there is ample room for them, the problem would have been solved long ago. What should be expected of the Arab countries now is that they accommodate their Palestinian compatriots in the same way in which Israel made room for the remnants of European Jewry, the refugees from the Arab countries, and, most recently, the Russian Jews. Such action, indeed, would constitute recognition of their "legitimate rights" to a decent life, at peace. But that goal is most assuredly not reached if the 1948 refugees are used as pawns in a game whose purpose it is to force the liquidation of the Jewish state.

TRIBUTE TO MRS. LUCY WHALEN HESS, REGISTERED NURSE, OF YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. CARNEY. Mr. Speaker, on September 30, 1977, friends and associates honored Mrs. Lucy Whalen Hess for contributing over 30 years of her life to serving the public in the field of mental health care. A dinner and dance were held in honor of Mrs. Hess in Youngstown, Ohio. Many State and local public officials were in attendance.

Mrs. Hess recently retired as manager of district XI, Ohio Department of Mental Health and Retardation, which encompasses Mahoning, Trumbull, Columbiana, and Ashtabula Counties. Her long and distinguished career in our area began in 1945 when she became a treatment nurse and clinical instructor at Woodside Receiving Hospital in Youngstown.

Mrs. Hess became the Woodside Hospital's Director of Nursing in 1949, before joining the Ohio Division of Mental Health in its program to develop comprehensive patient care nursing programs in 1960. In 1971, she became a regional coordinator of State and community mental health facilities. Her most recent appointment, in 1974, as manager of district XI remains a reflection of her knowledge and administrative competence in overseeing mental health care programs.

Mr. Speaker, on behalf of my constituents, I want to extend my appreciation to Lucy Whalen Hess for her contributions to our community. We all wish her many years of good health, happiness, and success. At this time, I would like to insert an article from the Youngstown Vindicator about the life and work of Mrs. Hess in the RECORD. The article follows:

[From the Youngstown (Ohio) Vindicator, Sept. 28, 1977]

LUCY HESS SEES ATTITUDES CHANGE IN 35 YEARS IN MENTAL HEALTH WORK

(By Jane Lamb)

Sweeping changes in the public attitude and treatment of the mentally ill have taken place in the past 35 years, says Lucy Hess as she looks back over a mental health career that began in the 1940s.

The retiring manager of District XI, Ohio Department of Mental Health and Mental Retardation, finds the stigma and shame once attached to mental illness have diminished, and straitjackets and heavy restraints left in the past with the advent of tranquilizers.

"I have seen much improvement in the quality of care given to persons who for one reason or another need mental health services," she declares.

Mrs. Hess retires Sept. 30 and will be moving with her husband, David H. Hess, to Ellenton, Florida.

The struggle to make people aware of the mentally ill as human beings with a right to be treated with dignity has been a difficult, uphill one, she declares. She saw the change begin with World War II when the best medical and scientific minds turned to the problems of mental illness, followed by drugs and tranquilizers in the early 1950s ending the use of heavy restraints.

But when Mrs. Hess started out as a psychiatric nurse, the stigma still was such that family and community relegated those who were ill to state institutions. Most lived out their lives isolated from any semblance of so-called normal living, and the creature comforts of bed, food, clothing, etc. were considered enough for them, she says.

Significant improvements came in the late 1950s and '60s when federal dollars were offered to communities to build comprehensive mental health centers, she adds. "We have now moved away from institutionalization, making efforts to keep the sick at home—to be treated locally—and to find alternatives to hospitalization."

She calls attention to progressive Ohio laws in the past few years which guarantee patients the right to be treated by qualified, competent professions and to be treated with dignity. She considers the move from institutionalization to community-based programs encouraging. "What we need to do now," she says, "is focus our attention on prevention of mental illness."

A registered nurse with special training in psychiatric nursing and B.S. and M.S. degrees, Mrs. Hess was one of the first employees at Woodside Receiving Hospital and helped in its establishment.

Some people may still remember her as Lucy Whalen from her association with Woodside before the death of her late husband, Michael J. Whalen, and subsequent remarriage.

She joined Woodside in November 1945 as treatment nurse, clinical instructor for RNs and aides, educational director and assistant director of nursing. She notes she had a "fabulous salary" of $165 a month.

From May 1949 to February 1960 she was Woodside's director of nursing. Then she became psychiatric nursing consultant for the Ohio Division of Mental Health and worked with superintendents and nursing directors in 10 northeastern institutions to develop quality care nursing programs.

In 1971 when the Division of Mental Health decentralized services and set up districts, she was named regional coordinator, monitoring state dollars going into community and state facilities, and coordinating efforts to establish a comprehensive mental health system. In 1973 when the region expanded from three to nine counties, she was responsible for Fallsview Mental Health Center at Cuyahoga Falls, Massillon State Hospital and Woodside.

Her appointment as manager of District XI (Mahoning, Trumbull, Columbiana and Ashtabula counties) came in November 1974 and the District XI office opened officially for business in July 1975 at 880 E. Indianola Avenue.

Mrs. Hess is a graduate of Hubbard High School and received her nursing diploma at Youngstown Hospital Association. She holds a diploma in psychiatric nursing supervision and education from the University of Colorado, a B.S. from Youngstown State University in psychology and education, and an M.S. from the University of Pittsburgh in nursing administration.

Before joining Woodside, she was a clinical psychiatric nurse instructor in Colorado at the Psychopathic Hospital, Denver, and Pueblo State Hospital, Pueblo, and in 1945 worked for Youngstown Hospital Association as a general hospital supervisor out of the central nursing office.

Her activities have brought her a number of honors. She is an honorary member of District No. 3, Ohio Nurses Association, was chosen as nurse of the decade in 1960–70 by the ONA, received a certificate of recognition last year from Mahoning Shenango Area Health Education Network, is a member of Sigma Theta Tau (national nurses honorary

group) and is listed in "Who's Who of American Women."

She is a member of the American Nurses Association through District 3 and the ONA, member of the board of directors of MSAHEN, and the Coordinating Council of Emergency Services for Northeastern Ohio.

She also has served as president of District 3 of ONA, the ONA, Altrusa Club of Youngstown, Nurses Alumnae of YHA, Psychiatric Nurses employed by Ohio, and the Interdivisional Council on Psychiatric and Mental Health Nursing of the Ohio League for Nursing.

SOUTH AFRICA HAS GONE TOO FAR

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. RANGEL. Mr. Speaker, last week the apartheid government of South Africa acted surreptitiously in its blatant action of closing numerous political organizations and in banning a score of publications, including the country's largest newspaper for blacks, the World. Simultaneously many South Africans supporting majority rule were arrested. Such action, claimed to be in retaliation for an ongoing campaign among blacks to engender hate for whites, is viewed by many as an attempt to stifle the freedom of expression by spokesmen for both blacks and human rights is unforgivable. To date, the Government has arrested over 50 persons continuing its crusade of crushing political dissent.

As Members of Congress we cannot stand by and silently allow this offense to human dignity to continue. The apartheid South African Government has gone too far. Our brothers in South Africa, stand with no legal protection from the whim of those who rule there.

I urge my colleagues on both sides of the aisle to stand and join me in opposition to these affronts to the basic political rights of men as they have become known in the Western World.

On Wednesday, October 21, the New York Times ran a "Man in the News" segment on the trials and ordeals of Percy Qoboza, the editor of the World.

Mr. Qoboza was arrested on October 20, because of his long time efforts to inform the people of South Africa of the realities and meaning of their Government's apartheid policy. While Mr. Qoboza's story is unique to him, it is indicative of an ongoing struggle in South Africa which, if continued to be dealt with in an arbitrary and repressive manner, can only result in dire consequences for all of South Africa's people.

The text of the New York Times article follows:

SILENCED OPPOSITION EDITORS IN SOUTH AFRICA

PERCY QOBOZA

JOHANNESBURG, Oct. 20.—A few hours before the South African Government closed Percy Qoboza's newspaper and took him to jail, he and the editor of another major newspaper were consoling each other over the bind in which those arguing for peaceful racial change are caught. "When you argue for negotiated reform the radicals condemn you as an Uncle Tom," Mr. Qoboza said during a meal in a Johannesburg restaurant. "But when you warn that violence is inevitable if the Government blocks the aspirations of the black man, the right-wingers call you a Marxist."

As editor of The World, the country's largest newspaper for blacks, Mr. Qoboza was speaking from harsh personal experience. A few years ago, while he was still news editor of the paper, he was shot by an unidentified black man in Soweto, the black ghetto outside Johannesburg that is The World's circulation base. He survived that shooting without permanent impairment. A few months ago pamphlets began appearing in Soweto describing him as a sellout to the white authorities and threatening him with death. Three weeks ago a gasoline bomb did minor damage when it was tossed through the window of the modest house in Soweto were he lives with his wife, Ann, and their five children.

As for criticism from the whites, until yesterday the worst that the Government had done to the 39-year-old editor was to arrest him for eight hours during the disturbances in Soweto last year. The security police implied that he had foreknowledge of the student demonstrators' plans, but when news of his arrest hit the front pages they let him go.

This time his detention, the first for a South African editor, seems likely to last somewhat longer. The Minister of Justice, James T. Kruger, giving his reasons for the current nationwide sweep against opponents of apartheid, included Mr. Qoboza and his paper among those whom he accused of promoting a revolutionary climate and of fomenting unrest. Though Mr. Kruger said the allegation was supported by facts he could not disclose, friends and associates of the editor and close readers of his freewheeling editorials and columns viewed it as improbable. "Percy's no flaming radical," said Tertius Myburgh, editor of The Sunday Times, the country's most widely circulated paper, and a white' "He's a born conciliator."

That judgment seemed to be sustained by the approach The World has taken throughout the violent events that have scarred the country in the last 16 months. Even after the death of Stephen Biko in police custody last month, an incident that provoked black passions as much as anything in the history of apartheid, Mr. Qoboza was relatively restrained.

If the editor could in any sense be said to have provoked his own arrest, it may have been by his irreverent attacks on senior ministers, including Mr. Kruger, in his column "Percy's Pitch." In recent months he has repeatedly called on Prime Minister John Vorster to oust Mr. Kruger and other hardliners and to remind them, in Mr. Qoboza's words, "that the days of good 'kaffirs' and obedient blacks, like the ox-wagon era, are gone."

SISTER HELPED HIS SCHOOLING

Mr. Qoboza—the name is pronounced keh-BOH-zuh—was born in a slum area that is now a white suburb of Johannesburg and was put through school by a sister working as a housemaid. Later he earned a theology degree from a university in Lesotho and worked briefly for the Johannesburg City Council and the opposition Progressive Party before joining The World in 1963.

As editor he has broadened the paper, making what was once largely a reprint of its white sister, The Star, into a hard-edged chronicle of life under apartheid. In the process he has seen the circulation rise faster than that of any other paper in the country, to 130,000—180,000 at weekends—and has assembled a corps of 25 young aggressive black reporters.

Two years ago Mr. Qoboza won a Nieman fellowship for nine months' study at Harvard. On his return last year he said that living in a multiracial society had been a political awakening: "The experience forced me to look at myself, and I was surprised to find that I was"—the phrase was emphasized—"an Uncle Tom."

FOREIGN ASSISTANCE APPROPRIATIONS CONFERENCE REPORT

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. HUGHES. Mr. Speaker, I would like to take this opportunity to explain my reasons for voting against the conference report to accompany the foreign assistance appropriations bill for fiscal year 1978.

It is always difficult to oppose a piece of legislation as broad and far reaching as one of our appropriations bills. It is evident that much time and thought has been placed in this compromise measure and many noteworthy programs such as the $1.8 billion for Israel; the $25 million for Italian disaster relief; the $50 million for Sahel development; and the $23 million for American schools and hospitals abroad merit our support and assistance, to cite only a few.

Yet the basic premise of how we in Congress authorize and appropriate vast amounts of funds continues to trouble me very deeply. We have an obligation to respect the wishes of the American people—to provide aid and assistance to developing nations who need our help the most. This protects our national interests and secures our position as the leader of the free world. We also have an obligation to stand up and be counted and vote against those proposals which leave us little control over where and how our dollars are being spent abroad.

Our current way of dealing with foreign assistance in Congress does not give us, as the representatives of the American people, that option. After long years of the State Department's request of package legislation, our option has been cut off even further. I am not alone in voicing that complaint. Many of my colleagues share this apprehension, not to mention our constituents who express their bafflement at the convoluted way in which we live up to our foreign commitments.

Multilateral agreements have proliferated beyond the wildest imagination. This bill reflects that trend and I find it quite disturbing. When I was asked to come to the White House with a number of my colleagues to talk about certain provisions in this legislation, I spoke up and asked the President what the future looks like for multilateral agreements. Control is lost over events if they are allowed to continue unchecked. I think it is a serious mistake to lump all of these kinds of assistance programs in one package. Not only have we lost control over our foreign expenditures, we are in danger of losing even sight of the real objectives of what foreign aid is intended to do. Surely, we cannot allow

this disturbing turn of events to overtake us. The time to act is now and that is why I had to oppose this lump sum appropriations package for foreign assistance. We must shift our emphasis back to bilateral arrangements with nation-friends and away from the multilateral organizations where we have little control.

If we had the option of voting on each category of foreign aid, I would find myself in a position where I could have approved and supported a great deal of the legislation. I regret that option was not left open to me.

PANAMA CANAL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. LAGOMARSINO. Mr. Speaker, there has been much discussion recently over the historic right of the United States to control the Panama Canal. I would like to bring to the attention of my colleagues the following statement by Prof. Donald Dozer before the Senate Committee on Foreign Relations. Mr. Dozer discusses both the past American diplomatic relations with Panama over the canal zone and the recently signed treaties. He concludes that there is no substitute for an American canal, on American soil, under American control:

STATEMENT OF DONALD MARQUAND DOZER BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS, OCTOBER 11, 1977

My name is Donald Marquand Dozer, and I am Professor Emeritus of Latin American History and Inter-American Relations at the University of California, Santa Barbara. My professional career in brief outline includes a Ph.D. from Harvard University, intelligence work in the Office of Strategic Services in the Latin American area from 1941 to 1943, service in the Department of State in the fields of policy, intelligence, research, and history of Latin America from 1944 to 1956 including representation of the Department at Inter-American conferences and work on strategic surveys of Latin America for the Joint Chiefs of Staff. I have also been associated as consultant with the Brookings Institution and with the Center for Strategic Studies at Georgetown University, and I served in 1971 as Fulbright lecturer to Argentina. I am author of several books on Latin American history and inter-American relations, including Are We Good Neighbors? (University of Florida Press), The Monroe Doctrine: Its Modern Significance (Knopf), and Latin America: An Interpretive History (McGraw-Hill). I have visited all the Latin American countries, most of them many times, with the exception of two or three of the smallest and have friends and other excellent sources of information in all of them. In 1972 I was presented with the Alberdi-Sarmiento award by La Prensa of Buenos Aires for outstanding contributions to inter-American friendship. I was the second United States recipient of this award since it was established in 1954.

On my recent trip to Latin American countries earlier this year government executives, business leaders, journalists, and other leaders expressed their apprehension about the adverse effects on their national economies of the increased tolls authorized in this new canal treaty for the unjust enrichment of Panama. The Carter-Torrijos Canal Treaty will require a substantial increase in tolls to provide the Torrijos government with an average of $80 million per year to service Panama's debts to a consortium of foreign lending institutions. In the new Canal treaty Panama assumes no binding obligation, like that which rests upon the United States, to keep the Canal free and open at reasonable charges.

Latin American leaders also expressed indignation over the cavalier treatment of Colombia. The Thomson-Urrutia Treaty of 1914 granted Colombia free use of the Canal for certain products of its soil and agriculture and also free use of the Panama Railroad under certain conditions. There is no protection of the Colombia's treaty rights in either the new Canal Treaty or the new Neutrality Treaty. When Colombia protested this violation of its treaty rights the State Department summarily dismissed the complaint with the statement that Colombia must negotiate with Panama.

The diplomatic ineptitude of the negotiators of the new draft treaties in agreeing to pay Panama $10 million annually for discharging police and sanitation responsibility in the Canal area ignores the sad experience of the United States abrogating its police power in the cities of Panama and Colón in accordance with terms of the 1936 treaty and abdicating its responsibility for sanitation in the same two cities in accordance with terms of the 1955 treaty. Recent rioting in both Panama and Colón underscore the folly of the former concessions and the failure of Panama to collect the garbage with the attendant problems of disease-bearing rats emphasizes the folly of the latter concession.

The Hay-Pauncefote Treaty of 1901 binds the United States to defend the freedom of transit of the Panama Canal and keep it open to the vessels of all nations at charges which are just and equitable. The United States has made an unblemished record at honoring this commitment ever since opening the Canal to world traffic in 1914. During the 63 years while the United States has operated the Canal as an international public utility the citizens of all nations who have used the Canal have acquired a vested right to free and uninterrupted transit under the flag and protection of the United States.

The Isthmian Canal Convention of 1903 is the only treaty which binds Panama to Articles III and IV of the Hay-Pauncefote Treaty which makes the isthmian canal an international waterway. There is no time limit on this commitment. The national honor and integrity of the US demand that we retain all the sovereign rights, power, and authority granted by Panama in perpetuity in 1903.

Contrary to false statements made by the executive branch the neutrality treaty does not give the United States the right to intervene in Panama to honor our international commitments to keep the Canal free and open to user nations. In fact the word intervention appears nowhere in either treaty and was deleted in capitulation to Panama's demands. Chairman Rómulo Escobar of the Panamanian People's Party and Panama's principal treaty negotiator, has made it clear to his Assembly of Community Representatives that the United States cannot intervene to defend the neutrality of the Canal without committing an act of aggression.

The publicly stated aims of the Marxist Torrijos dictatorship of Panama are: (1) to nationalize the Canal Zone, (2) to order the United States defense forces to leave the Isthmus, and (3) to confiscate the Canal. If the Senate consents to ratification of the Carter-Torrijos Canal Treaty the Canal Zone will cease to exist. Torrijos can then order United States troops off the Isthmus just as General Charles DeGaulle ordered United States forces off our defense bases in France.

The Isthmian Canal Convention of 1903, specifically provides for the stationing of United States forces in the Canal Zone for the defense of freedom of the interoceanic canal. Under the new treaties and President Carter's contingency plan for keeping on the alert United States troops at Fort Bragg, a parachute drop on what will be again Panamanian soil will be an act of aggression. As long as we retain our present treaty rights in the Canal Zone we can keep the peace and regain the respect of our Latin American neighbors by maintaining a strong defense in the Canal Zone. On the other hand if the Senate consents to the new Canal treaties it will be necessary for the United States to commit an act of aggression in order to maintain the neutrality of the Canal.

What is best for the nations of the free world is also best for Panama. The wisest advice was given by nine members of the Senate Committee on Armed Services in February 1973 as follows: "In a long range, we must work with Panama to help her understand that the best guaranty of her sovereignty, security, prosperity, and nationhood lies in maintaining the historic grant of sovereignty to the United States in the Canal Zone."

The United States did not transgress in any way against the Panamanian people by guaranteeing their independence in 1903. The President of the Provisional Government of Panama, José Agustín Arango, and his associates had worked for twenty years for freedom from the tyranny of the unitary government imposed upon them by Bogotá. Whenever they undertook to reassert their independence the United States had intervened to protect the freedom of transit across the Isthmus and had supported the sovereignty of Colombia. The impudent rejection of the Hay-Herrán Treaty by Colombia was for Panama a stroke of fortune. Unwilling to see the Nicaragua canal completed in accordance with the Spooner Compromise of 1902 the Panamanian patriots resumed their independence and offered the United States a canal treaty conforming in every respect to the requirements of the Hay-Pauncefote Treaty of 1901 and the Spooner Act of 1902.

When in 1911 Theodore Roosevelt boasted "I took the Isthmus" he should have added "because Panama offered herself." We have the word of Dr. Manuel Amador, "It was our own act." (Manuel Amador, "The New Republic of Panama," The Independent, November 26, 1903). President Roosevelt considered it "fitting that the United States should . . . be the first to stretch out the hand of fellowship . . . to the new-born state."

In response to Colombian protests against Roosevelt's braggadocio the United States paid Colombia the $25 million which their congress had demanded in 1903. Under terms of the Thomson-Urrutia Treaty of 1914 the United States purchased a quit claim by which Colombia recognized the independence of Panama and acknowledged that "title to the Panama Canal and the Panama Railroad now vests entirely and absolutely in the United States without any encumbrances or indemnity whatever."

Neither in the treaty of 1903 nor in any subsequent treaty concluded between the United States and Panama are the words rental or lease or any form of these words used to define the status of the United States in the Canal Zone. The continuing argument for a leasehold status of the Zone rests entirely upon the spurious interpretation of Article XIV in that treaty in which the United States agreed to pay Panama an annuity of $250,000 in gold coin starting nine years after the signing of the treaty. A study of the history of the negotiations of 1903 shows that Bunau Varilla, in an effort to resolve a deadlock, persuaded Secretary Hay to

assume the annual franchise payment of $250,000 which the Panama Railroad formerly paid to Colombia. This annual payment to Panama did not impose any limitation upon the sovereign status of the United States in the Canal Zone nor upon the ownership by the United States of the land of the Canal Zone. The Canal Zone has never been leased to the United States. It was granted in perpetuity, and in this relationship no justification can be found for a partnership arrangement with Panama for the administration of the Canal.

Contrary to false statements by the executive branch Article III, paragraph 6, of the 1936 treaty revisions does not say that the Canal Zone is "territory of the Republic of Panama under the jurisdiction of the United States of America." This refers to territory of Panama in the city of Colón formerly known as New Cristóbal. United States jurisdiction over this parcel of territory was later abrogated under the terms of the 1955 treaty revision.

The ruling by the United States Supreme Court in *Wilson* v. *Shaw* (204 U.S. 24, 1907) that Panama ceded the Canal Zone to the United States is not a unilateral interpretation of the 1903 treaty as falsely alleged by our State Department. It merely affirmed decisions made by all three branches of the government of Panama in 1904. In his well known letter of October 1904 to Panama's minister, José de Obaldía, Secretary of State John Hay cited the Davis-Arias boundary agreement of June 1904, by which the executive conceded that Panama ceded the Canal Zone to the United States by terms of the 1903 treaty. Hay cited Law No. 88 enacted by the Panamanian National Assembly in July 1904 which used the words "the Zone ceded to the United States." Hay also cited numerous court cases by which the judicial branch of Panama acknowledged the territorial cession of the Canal Zone to the United States.

The theory of titular sovereignty has no standing at law. Originally promulgated in connection with the Taft agreement of 1904 it was dismissed out of hand by Secretary of State Hay as a "barren scepter." Later while Taft was serving as Chief Justice of the United States in 1930 he had an opportunity in delivering the decision of the Supreme Court in *Luckenback Steamship Company* v. *United States* (280 U.S. 173), to give legal standing to his theory of titular sovereignty. He did not do so. Instead he sustained the ruling decision of *Wilson* v. *Shaw*, and this ruling was again, sustained in 1972 when the Supreme Court denied certiorari in the case of *United States* v. *Husband* (R). (406 U.S. 935)

A pretext advanced by the State Department for renegotiating the treaties with Panama is the international law doctrine of rebus sic stantibus which permits the renegotiation of treaties when the conditions of the original negotiation have changed. Conditions in international relations are constantly changing, and to seek to renegotiate treaties of territorial cession on this pretext can lead only to international chaos. For example, during the early years of the Eisenhower Administration the Soviet government questioned the validity of our Alaska Purchase Treaty of 1867. This question was answered by admission of Alaska to the Union as a new state.

The Canal Zone purchase of 1903 accords with the historic foreign policy of the United States. This policy is so firmly established in international law and in the United States Code that there is now no alternative but to incorporate the Canal Zone in the Union as a new state by joint resolution of Congress. This will mandate the President to defend the territory of the new state against invasion and will fulfill the statesman-like vision of Secretary of State John Quincy Adams in the Monroe Doctrine, of Secretary of State Henry Clay, who established the principle that an interoceanic canal must be open and free to the vessels of all nations upon payment of reasonable tolls, and of President Rutherford B. Hayes who stated to Congress: "The policy of this country is a canal under American control . . . and virtually a part of the coastline of the United States."

Persistent efforts to renegotiate treaties to surrender control over national territory and to let it pass into the hands of foreign powers only promote international instability and serve the interests of these foreign powers. Claims of the State Department that a new treaty relationship with Panama will protect the vital interest of the United States are only a vain Utopian dream. To restore good relations with Panama and the other nations of Latin America the United States must return to a Good Neighbor Policy based upon self-respect. This demands that we retain all our treaty rights in the Canal Zone. We must defend them as indispensable economic, geopolitical, and military assets. Then Congress can appropriate public funds to complete the larger third locks, authorized by law in 1939 in accordance with the approved Terminal Lake Plan.

There is no substitute for an American canal, on American soil, under American control.

(Dozer, Donald Marquand, educator; b. Zanesville, O., June 7, 1905; s. Perley Walter and Minnie Bell (Mraquand) D.; A.B., Coll. Wooster, 1927; A.M., Harvard, 1930, Ph.D., 1936; postgrad. Ohio State U., summers 1927, 28; m. Alice Louise Scott, Aug. 2, 1941 (dec. Oct. 1972); children; Charles, Jane, Hilary. Tchr. history and debating Wooster (O.), High Sch., 1927–29; asst. history dept. Harvard U. and Radcliffe Coll., 1930–34; instr. history Boston U., 1934–35; jr. archivist, Nat. Archives, Washington, 1936–37; instr. history U. Md., 1937–42; research analyst Coordinator of Information, OSS, 1941–43; liaison officer Office Lend-Lease Administrn., 1943–44; fgn. trade analyst FEA, 1944; research analyst and asst. chief div. Am. Republics Analysis and Liaison, Dept. State, 1944–47, acting chief, div. research for Am. Republics, Office Intelligence Research, 1947–49, coordinator spl. intelligence project involving Latin Am. area for Joint Chiefs of Staff in Office of Intelligence Research, 1949–51, asst. to chief Div. Hist. Policy Research, Hist. Div., Office of Pub. Affairs under Asst. Sec. Pub. Affairs, 1951–56; State Dept. rep. spl. conf., Panama, C.Z., 1948; asst. tech. sec. U.S. delegation 9th Internat. Conf. Am. States, Bogota, Colombia, 1948. Lectr. Strategic Intelligence Sch., Nat. Mil. Establishment, Washington, 1949–51; lectr. Latin Am. Area study program Dept. Internal Relations and Orgn. and Dept. History, Am. U., Washington, 1949–59; cons. on Latin Am. Brookings Instn., 1950–51; lectr. dept. history Coll. Spl. and Continuation Studies, U. Md., and Montgomery Jr. Coll., Takoma Park, 1956–59; asso. prof. history U. Cal., Santa Barbara, 1959–64, prof., 1964–72, prof. emeritus Latin Am. history and inter-Am. relations, 1972—. Cons. Center for Strategic Studies, Georgetown U., 1964, 66–67; vis. prof. Am. Grad Sch. Internat. Mgmt. Glendale, Ariz. 1973–74, Thunderbird program Autonomous U. Guadalajara (Mexico), summer 1974, Boeki Kenshu Center (Inst. for Internat. Studies and Tng.), Kamiide, Fujinomiya-Shi, Japan, 1975. Past mem. alumni bd. Coll. Wooster, Relm Found. fellow, 1963, 66; Fulbright lectr. in history to Argentina, 1971. Recipient Alberdi-Sarmiento prize La Prensa, Buenos Aires, 1972. Mem. Conf. on Latin Am. Studies, Am. Hist. Assn., Pacific Coast Council on Latin Am. Studies (governing bd. 1964–67, chmn. 1969–70). Am. Revolution Bicentennial Commn. of Cal. (vice chmn. 1968–75, acting chmn. 1975—). Geog. Soc. Lima (corr.). Mont Pelerin Soc., S.A.R. (nat. Americanism com. 1975—). Phi Beta Kappa, Omicron Delta Kappa (hon.), Delta Sigma Rho, Christian Scientist, Author: Are We Good Neighbors?, 1959, 61; Latin America: An Interpretive History, 1962; (with others) Trouble Abroad, 1965; The Monroe Doctrine: Its Modern Significance, 1965; (with others) Latin America: Politics, Economics and Hemisphere Security, 1965. Editor, The Conferences at Cairo and Tehran, Dept. State, 1961; also numerous articles Am. fgn. policy, Latin-Am. Relations and hist. subjects in jours. and revs. Home: 421 Miramonte Dr Santa Barbara CA 93109)

DRUG ABUSE IN EUROPE—THE EPIDEMIC SPREADS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. WOLFF. Mr. Speaker, recent news accounts have detailed the alarming spread of the acute epidemic disease of cholera in many countries of the world. I wish to call the attention of the House to the spread of yet another epidemic, one less obvious, the symptoms of which are found on police blotters, in hospital emergency rooms, in schools, and in somber funeral parlors. The plague which I refer to is heroin addiction.

We in the United States have only in recent years acknowledged presence of this debilitating and dehumanizing cripler of our young people. Only 1 year ago we created in the House of Representatives the Select Committee on Narcotics Abuse and Control, which I have the honor to chair. This Nation's problem had been allowed to grow to truly epidemic proportions before we reacted in alarm.

The European Community is now in the same dangerous position we found ourselves just a few short years ago. I submit for the RECORD an article by the Associated Press, datelined Berlin. Note that in that drug-troubled city there was not a single drug death in 1972. By comparison, last year Berlin recorded 72 drug deaths. Not unlike in our American cities heroin has now taken another step in its insidious attack on the world's capitals. Daily, as chairman of the Select Committee, I receive disturbing reports from all points on the globe as well as the United States reporting heroin's advance throughout the world.

Let us today dedicate our domestic and international efforts to attack heroin at its source. As a delegate appointed by this body to the United Nations General Assembly, I intend to call upon the international community to assist in this worldwide crusade to halt the spread of this epidemic.

Too long have we been given lip service by nations throughout the world who looked the other way and said the drug problem is American's problem—you have the addicts. Now the monkey is on their back, maybe we will get them to help us get it off both our backs.

The article follows:

DRUG ABUSE IN EUROPE

BERLIN.—West Berlin, the shopworn capitalist showplace 130 miles inside East Germany, has become one of Europe's cheapest and deadliest heroin markets.

Traffic that once passed on through West Germany to the United States now stops here. Police estimate that 5,000 of the 2 million West Berliners—one in every 400—is a heroin addict.

The total population is declining. The junkie population is growing.

This year's drug death toll is now at 64, 10 more than in all of last year. The 54 dead in 1976 matched the toll in all of France that year and was nearly a fifth of the 283 dead in the other 10 West German states.

East-west politics keeps heroin channels open through the Berlin wall.

Western Europe is thought to get much of its heroin from Southeast Asia's "golden triangle," the poppy-growing area where the borders of Burma, Laos and Thailand meet. Berlin's supply is thought to come through the Near East.

Police say much of it is brought in by foreign couriers flying Enterflug, the East Geman Airline, from Istanbul to East Berlin. Three-fourths of the foreign deliverymen arrested have been Turks, police report.

Once in East Berlin, the capital of what diplomats say is a virtually drug-free country, couriers have their choice of low-risk routes into West Berlin—the various crossings through the wall or the S-Bahn elevated railroad into the heart of downtown West Berlin. Here East Germany, although it contends West Berlin is a separate political entity alongside its own capital city, checks the borders primarily for escaping East Germans, money and consumer goods. Here Western officials leave the entrances to the city virtually uncontrolled, supporting the western political theory that East and West Berlin are one city.

West Berlin police have had little success in pinning down the suppliers inside the city.

"We were pulling in little people on the theory that as you pulled on the rope you'd get bigger and bigger people," says criminal director Heinz Oemke. "But at the middle level, we stop getting any signals."

"The frightening thing about it is how fast it came up," says one of the foreign narcotics officials watching the Berlin situation. "This is a city where no one died in 1972."

"You're talking about people now coming from Munich, Aachen and Cologne to Berlin, where they previously went to Amsterdam," says another expert.

Police say heroin here costs 200 to 250 marks (about $87 to $108) a gram, only a third or a fourth of the price in West Germany. A gram is about .03 of an ounce.

Bottom-level dealers buy basic stockpiles of three grams, keep half for themselves and sell the rest in one-twelfth gram street cuts of half heroin, half sugar, for 40 marks (about $15).

"We're trying to drive up the price through enforcement," Oemke said. "But the more you increase the price, the more you increase the risk of crime committed for money."

WASHINGTON WORKSHOPS FOUNDATION

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. PEPPER. Mr. Speaker, over the past 10 years, I have had the opportunity to address a marvelous student group known as the Washington Workshops Foundation. On October 25 this foundation will be celebrating its 10th anniversary. I should like to bring this to my colleagues' attention and ask that they join me in extending hearty congratulations to the founding director, Mr. Leo S. Tonkin.

I have known Leo for a long period of time and have always been impressed with his unceasing dedication and commitment to recognizing the potential of our youth. He developed an award-winning program in the legislative process for high school student leaders from across the United States. He has always maintained a political balance in the seminar sessions, so as to expose the participants to all aspects of the political continuum. Officials of the executive and judicial branches also address the student sessions. Mr. Tonkin's unswerving concern and support of these students needs to be recognized by educators around the country. Many of these young Americans have gone on to hold positions of leadership in their local communities or have been elected to serve as delegates to the Republican and Democratic conventions respectively. Many hold permanent staff positions on Capitol Hill.

I ask that my colleagues join me in congratulating Mr. Tonkin for recognizing the need to expose young Americans to the decisionmaking process. His faith in and support for their participation in our governing system is commendable. I congratulate him on his 10th anniversary as founding father and wish him every success for the future of the Washington Workshops Foundation.

HEALTH SCHOLARSHIP PROGRAMS

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Ms. KEYS. Mr. Speaker, I am today introducing legislation to alter the treatment of scholarships for physicians and other health professionals who practice in medically underserved areas or for the armed services.

In recent years, a variety of scholarship and loan programs have been established to encourage medical students, nurses, and other health care providers to serve in health manpower shortage areas. These programs include the Armed Forces health professions scholarship program and the Public Health Service Corps.

Under these plans, a student enters into an agreement to practice in the military or a health shortage area in exchange for a stipend or a tuition waiver. The assistance must be repaid if the student fails to fulfill his obligation. Similar programs have been established in which loan payments are forgiven if the student settles in an underserved area.

As a rule, scholarships are not subject to taxation. However, the Internal Revenue Service has ruled that conditional scholarships and loan forgiveness are taxable as compensation for employment services. In the past, the Congress has expressly exempted the Federal health programs from taxation, but has always done so on a temporary basis and has never treated the question of State programs.

The legislation I am introducing would exempt all Federal and State health scholarships from taxation where those grants are in exchange for service in the military or medically underserved areas. The measure will eliminate a major roadblock to participation in these special scholarship programs so that we do not discourage indirectly the very service which we are fostering through direct aid.

The State of Kansas is among those States considering the establishment of a health service program. The proposed plan would include both tuition forgiveness and direct stipends for service in our State.

Kansas continues to suffer from one of the most severe physician shortages in the Nation. According to a recent survey, four counties in our State have no physician, and more than 20 others have only one doctor for every 2,000 or more people. This is compared to a national doctor/patient ratio of 1/600.

Compounding the problem in Kansas is cut back in military physicians. Both Fort Riley and Fort Leavenworth are suffering from a reduction in medical personnel to service both active and retired servicemen and their families.

The measure I am proposing would attack both of these problems by removing a significant barrier to the successful operation of medical service incentive programs. Further, it should provide additional flexibility to States to develop health service programs adapted to the special needs of their area.

PHILADELPHIA ACCEPTING APPLICATIONS FOR TWO SCHOLARSHIP PROGRAMS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. EILBERG. Mr. Speaker, I am pleased to be able to report that high school seniors in Philadelphia are once again eligible to apply for two different scholarship programs—the mayor's scholarships to the University of Pennsylvania, and city scholarships, which can be used in any accredited 4-year college or university in Philadelphia, Montgomery, Bucks, Delaware and Chester Counties, Pa.

All residents of Philadelphia County who are accepted for admission to the class of 1982 at the University of Pennsylvania, and who have demonstrated financial need, are potential candidates for mayor's scholarships.

Application for admission to the University of Pennsylvania must be filed with that institution's admissions office by January 1, 1978. Then, applications for mayor's scholarships to the university will be sent to all potential candidates in mid-April, 1978.

The mayor's scholarships were established by the University of Pennsylvania, and are administered by the Mayor's Scholarship Committee. The mayor awards the scholarships from a list of eligible students recommended by the advisory board.

For city scholarships, the filing deadline for applications is January 1, 1978. These scholarships are made available by appropriation of the city council, and carry a maximum value of $1,400 annually. In 1975, the appropriation for city scholarships was increased from $100,000 to $200,000 per year, with approximately three-quarters of this sum for the continuation of existing scholarships, and the remainder for new awards.

Instructions and requirements for both scholarship programs are being made available to students in all public, private, and parochial secondary schools.

Members of the Mayor's Scholarship Committee are Dr. Max M. Leon, chairman; Abraham Albert, Louis Stein, Brother E. Anthony Wallace, Rev. David E. Walls, Dr. Alec Washco, Jr., Martin Weinberg, and Anthony P. Zecca.

The city scholarship program is administered by the Mayor's Office of Education. Members of the City Scholarship Committe are Francis E. Redmiles, chairman; David C. Coleman, Jr., Mrs. Goria Kelem, John McCloskey, Raymond Perelman, and Anthony P. Zecca.

SUFFER THE LITTLE CHILDREN

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. MATTOX. Mr. Speaker, this week the National Mental Health Association is holding its annual meeting here in Washington, and I would like to take this opportunity to welcome the members of MHA chapters nationwide, and specifically the representatives from the Mental Health Association of Dallas County.

The theme of this year's annual meeting is "People Power," and I can think of no greater testimony to such a theme than the almost 1 million members of the Mental Health Association who selflessly dedicate themselves to assisting the estimated 20 to 32 million Americans who are in need of some form of mental health care.

At the national level, MHA works to highlight this country's mental health needs, produces educational matter to help relieve the widespread ignorance about mental illness, and coordinates the State offices.

The State divisions function in a similar manner, by coordinating local offices and working with the State government in helping to solve their particular mental health needs.

The local chapters most intimately involve the citizenry in dealing with mental health problems by performing volunteer services, distributing educational matter and reaching out to identify local mental health needs.

I would particularly like to commend the Dallas County chapter for their efforts in behalf of those most seriously neglected in the area of mental health—the children. Each MHA chapter in addition to providing its usual wide range of services, has its own particular focus, and the Dallas County chapter has chosen to concentrate on children's mental health services.

Mr. Speaker, we have come a long way since the days when the mentally deficient members of society were thrown out into the wilderness, away from the rest of so-called civilization. But even in this enlightened age, the mentally ill, especially the young, are still stigmatized by society. Where once they were carted away, now they are simply ignored, even at appallingly high levels of Government.

This country prides itself on its technological and intellectual accomplishments. We proudly parade our numerous Nobel prize winners; salute our scientists, astronauts, and engineers. Yet, also worthy of equal praise are those who work with those less fortunate than ourselves, those who may never design a spaceship, but are equally as capable of being loving, compassionate human beings.

Our children—all our children—are our destiny, and if we choose to ignore the less fortunate in favor of only the strongest, the brightest, then we are condemning ourselves to a bankrupt philosophy, one that was repudiated by the defeat of Nazi Germany years ago. History will remember us not for how we have nurtured the most gifted among us, but how we have treated those least able to help themselves.

Mr. Speaker, I urge all my colleagues to take note of the accomplishments of the members of the Mental Health Association, and all others who are working to alleviate the plight of the mentally ill and mentally retarded, and I hope that we can work with them to provide the leadership necessary to meet this most urgent need.

PROBLEMS OF OUR CITIES

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. MAGUIRE. Mr. Speaker, in a recent Washington Post column entitled "Evolving a Workable Urban Strategy," Neal R. Peirce argues that a coherent approach to the problems of the cities must be "broad-scaled, stretching across virtually every department of the Federal Government."

Reviving our cities is by definition a multifaceted problem. It is not subject to treatment by a single or even a set of discrete policy initiatives. Frank Keefe of Massachusetts, is quoted by Peirce as saying:

> If President Carter is very serious about an urban strategy, he'll hammer and reshape every single program he has.

Peirce and Keefe are saying what needs to be said to the administration as it addresses itself to formulating an urban policy.

The text of the article follows:

EVOLVING A WORKABLE URBAN STRATEGY

(By Neal R. Peirce)

For months the Carter administration has been struggling to produce a coherent policy to bolster the nation's hard-pressed cities. After all the effort, will a workable urban strategy emerge—or will the elephant have labored to bring forth a mouse?

The answer's still unclear, but several salient points are now coming into focus:

First, no urban strategy will be worth its salt unless President Carter makes it a keystone of his domestic policy, moves some other projects to the back burner to put city needs first, and coordinates the follow-through directly from the White House. There's no evidence Carter has yet made that commitment.

Second, a multibillion-dollar "Marshall Plan" to save cities would be neither affordable, given budget restraints, nor advisable. It would likely replicate many of the failed programs of the '60s, raising false hopes and leaving the cities in worse shape than ever. To their credit, administration planners seem to recognize this point.

Third, immediate priority must go to defusing the social tinderbox of widespread youth unemployment, especially among minorities—our prime national disgrace. That means focusing on incentives to create jobs—real, permanent, private-industry jobs. Carter's urban planners are considering myriad incentives. But they leave themselves a path of retreat in government make-work jobs. The more the final plan goes the public-job route, the less will be the potential for long-term, sustainable city recovery.

Fourth, an urban policy has to be broad-scaled, stretching across virtually every department of the federal government. Federal departments have customarily gone on their own merry way, responding to hundreds of congressional mandates, and never focused on a coherent national objective. Programs to help cities have been canceled out by pro-sprawl grants to extend sewers to cornfields, build highways to far-out suburbs and insure mortgages in new subdivisions that drained center cities and older suburbs of their people.

Carter must have the courage to tackle the anti-city programs head-on, shifting each to promote urban reinvestment. Again, it's a question of will and commitment. Says Massachusetts' chief planner, Frank Keefe: "If President Carter is very serious about an urban strategy, he'll hammer and reshape every single program he has. Without spending a dime more, he could have a fantastic, comprehensive, multifaceted urban strategy. You don't have the choice to subsidize sprawl development and save the cities—its either/or."

Fifth, the states must play a major role. Their powers over taxation, business incentives, highways and federal programs they administer is so great that they could easily cancel out much of the effect of a federal urban policy. If federal and state governments work at cross-purposes, warns Michigan's Gov. William G. Milliken, "It's going to be a terrible waste of limited resources."

Sixth, cities should view economic development and jobs for residents as one of their primary reasons for existence. They should formulate—in cooperation with the private sector and neighborhood groups—plans for job-producing new investments. If their own initiative isn't sufficient, they should be spurred on by strong "carrot-and-stick" inducements from federal and state governments.

Carter's urban task force has been considering a series of gimmicks to improve city investment prospects, from tax advantages for industries locating in depressed urban areas to a rather hazy concept of a federally financed urban development bank. But outside experts say the "urbank" concept lacks

workable specifics and boils down to a catchy title in search of a program.

There is a realistic awareness that federal dollars can't do the whole job, that they should be targeted to "leverage" private investment, and that quite different strategies may be required for classic Northeastern "basket-case" cities and Sunbelt cities whose super-heated economies have still left serious pockets of poverty.

But Carter's planners haven't yet committed themselves to aiding neighborhood groups engaged in business promotion, co-ops or housing rehabilitation. Some of those grass-roots organizations have already achieved minor revitalization miracles on their own. But they desperately need technical assistance, ranging from legal counsel to planning and financial know-how.

President Carter might hesitate before adopting a full urban strategy for fear of suburban and rural opposition. But Massachusetts' Gov. Michael Dukakis has suggested a way out of that dilemma: to announce a strategy that undergirds rural town as well as city centers.

Towns and cities, Dukakis notes, share many problems: a lack of jobs, some run-down housing, and fierce competition from regional shopping centers built on open land—generally with federally or state-subsidized roads and sewer connections. Both towns and cities desperately need investment support to retain their character and vitality.

A federal city-town strategy could have powerful appeal. It would be pro-growth—stipulating only that growth should occur in or beside established centers. It would be anti-sprawl—and thus conservationist. It would save energy, and thus dovetail perfectly with Carter's overall policy. And it might be more acceptable to suburbanites, whose communities are now reeling with the explosive growth of recent years, than the politicians think.

Finally, a city-town strategy would mean preserving investments in businesses and homes in which people have invested lifetimes—the shopkeeper, the pensioner, the blue-collar worker or clerk, whether the address is New York or Chillicothe, Los Angeles or Plains.

WHEAT RESCUE PROGRAM—PROPOSED IMPROVEMENTS

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. BAUCUS. Mr. Speaker, the Food and Agriculture Act recently passed by Congress directs the Secretary of Agriculture to formulate and administer a reserve program for wheat. Last April 4 the Secretary announced the establishment of such a program, and on August 29 it was announced that 300 million bushels of wheat would be held off the market. I wholeheartedly support the reserve program which will strengthen the marketing position of farmers by isolating wheat from the normal marketing channels.

Unfortunately, the reserve program, as it is being administered, is falling far short of its goals. As of October 10 only 18.8 million bushels of wheat had been put in reserve. Indications are that as Government loans on wheat are expiring, only about one-third of the grain is entering the reserve. Many producers are choosing to forfeit their grain to the CCC as loans expire. If the present rate continues, the reserve will contain about 135 million bushels when the last 1976 crop loans mature in February.

This amount of wheat in the reserve is much too small to achieve the program objectives of strengthening the wheat market and providing a reserve for future consumer and export needs. Rather than entering a farmer-controlled reserve, wheat is being acquired by the Government-controlled CCC.

It is easy to see why producers are choosing not to participate in the reserve program. Consider the case of a typical producer in Hill County, Mont. If this producer decides to enter the reserve program, he will receive a storage payment of 20 cents per bushel per year. However, storing the wheat will require numerous expenses. The interest charged on the 32.17 per bushel loan is 6 percent or 13 cents per bushel. County taxes on the stored grain cost more than 3 cents per bushel. In addition, the producer must consider expenses associated with the storage facility. It costs about $3,600 to erect a 6.600 bushel storage bin in Montana. Using a conservative figure of 20 percent annually of the purchase price for maintenance, depreciation, interest, and taxes on the facility adds 11 cents per bushel to storage costs.

These storage costs total 27 cents. Certainly producers are in no position to lose more money on wheat by entering 3-year agreements to store grain for the 20 cents being paid by the ASCS.

The Secretary of Agriculture has discretionary power to make the reserve program more attractive to farmers. The Food and Agriculture Act provides that the Secretary shall provide for "payment to producers of such amounts as the Secretary determines appropriate to cover the cost of storing wheat." In addition, the Secretary "may waive or adjust" the interest charged on reserve loans. I do not believe that 20 cents is appropriate to cover the cost of storing wheat. The Commodity Credit Corporation currently is paying commercial elevators an average of 28 cents nationally and 30 cents in Montana to store the wheat it is acquiring. And since commercial elevators do not own CCC grain, they do not carry the burdens of interest cost and property taxes on the grain. If these costs are subtracted from the 20 cents storage payment, Montana farmers are getting 4 cents to store grain compared to 30 cents for commercial elevators.

Farmers are certainly not being treated equitably in the matter of storage payments. Meanwhile, extreme depressed conditions in agriculture are causing problems not only for producers, but also for rural communities that depend on the purchases of farmers. Decreases in farm income are forcing farm families to curtail their purchases, and small businesses throughout the agricultural regions are suffering.

I urge the Secretary of Agriculture to act quickly to waive interest charges for loans made under the reserve program and to increase the storage payment to an equitable level that will cover costs of storing wheat. Many ASCS loan agreements for 1976 crop wheat will expire on October 31 and November 30. Unless action is taken, most of the wheat presently covered by these loans will either be sold or acquired by the CCC. But positive steps, taken now, could do much to accomplish the goals of the reserve program.

Mr. Speaker, I urge my colleagues to work with me in an effort to get the Secretary of Agriculture to change the wheat reserve program so that the wheat market will be strengthened and that consumer and export needs can be met in the future.

THE URGENT NEED FOR H.R. 8882

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Ms. OAKAR. Mr. Speaker, there has been much debate over the relative legislative merits of H.R. 8882. Some Members are reticent to support this bill, because they view it as a risk to the Federal Treasury. Others question the bill as an undesirable precedent. I have worked with many of the bill's supporters to dispel these misconceptions. Still, I do not believe that the urgent need for this bill has been adequately conveyed.

I would like to submit for the RECORD, this open letter to President Carter from the auditor of Cuyahoga County, Vincent Campanella. This letter relates the needs and frustrations of our local officials. Moreover, it underscores the need for the guarantees that H.R. 8882 will provide.

The open letter in the Plain Dealer of October 24, 1977, follows:

BACK FEDERAL GUARANTEE OF RAIL TAXES

(The Cuyahoga County auditor has been campaigning for federal legislation which he contends would enable local governments to collect back taxes from the bankrupt Penn Central Transportation Co. He wrote this letter to President Carter.)

(By Vincent C. Campanella)

Dear Mr. President: As you are aware, there is a great financial crisis in the major urban centers of the Northeast and Midwest. The efforts of your administration during the past year to create and implement a strong coordinated urban policy indicate your commitment to seek solutions to this problem.

However, I would like to call your personal attention to a position taken by two departments of your administration which is counterproductive to your urban policy efforts.

I am specifically referring to the testimony given by the Departments of Treasury and Transportation in opposition to H.R. 8882 before the subcommittee on transportation and commerce of the House Interstate and Foreign Commerce Committee on Oct. 4.

That legislation is addressed to the simple fact that local and state taxing authorities located in the old Penn Central Railroad service area are being forced, with the approval of the federal government, to give up in excess of one-quarter billion dollars in delinquent taxes which are owed by Penn Central.

This represents more than half of the over $523 million in delinquencies which have accrued since Penn Central declared bankruptcy in 1970 and which is owed to us in return for police, fire, sewer, water and other essential services provided to Penn Central over the past seven years.

H.R. 8882 provides for a federal guarantee of the securities which Penn Central is willing to issue to our local governments in payment of its tax debts. The effect of such a guarantee would be to insure the full payment of these tax debts to the hard-pressed taxing authorities by enabling them to sell the securities at par on the open market.

Without this guarantee, we will be forced, by our immediate need for cash to continue providing services, to sell the securities at substantial discounts, thereby losing over half the delinquent taxes rightfully owed to us.

The objections to this legislation voiced by the representatives of your administration cite, as justification, the precedent-setting nature of such a guarantee. Their reasoning completely ignores the fact that prior federal intervention in the Penn Central case, which effectively prevented the current payment of taxes for the past seven years, has already set a very poor precedent. The actions of—

The Congress by enacting the Regional Rail Reorganization Act of 1973 which provided federal loans for the payment of all administrative expenses of the reorganization proceedings except current taxes;

The executive branch in signing agreements with the Penn Central trustees which will permit the trustees to escape with paying only a portion of their tax debt;

And the judicial branch in enjoining the collection of local taxes during the reorganization proceedings—all speak clearly as to the wide extent of federal intervention. The dangerous precedent set by that intervention must not be allowed to stand.

More disturbing, perhaps, than the precedent that has been set are contradictory statements being issued by various departments of your administration. The Departments of Treasury and Transportation have seemingly chosen to ignore the analyses performed by the Securities and Exchange Commission and the Justice Department.

Both the SEC and Justice have reported that although the securities being offered to the taxing authorities are sound, their marketability is questionable. That analysis is also supported by the findings of independent accounting and investment firms of national stature.

In short, through the refusal of your administration to support H.R. 8882, you are forfeiting an excellent opportunity to provide an immediate infusion of one-half billion dollars of private-sector money into the financially starved great urban centers, without an appropriation of federal moneys now, and with a minimal risk of future federal expenditures.

The people of Cuyahoga County desire equal treatment for all taxpayers, whether they be a giant corporation such as Penn Central or a residential homeowner. On behalf of the schools and cities of my county which are owed in excess of $16.2 million by Penn Central, I respectfully request that your administration's position on this important issue be reconsidered.

ARGUS-LEADER EDITORIAL DISCUSSES BLACK HILLS CLAIM LEGISLATION

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. PRESSLER. Mr. Speaker, I would like to submit, for the RECORD, a copy of an editorial from the Sioux Falls Argus-Leader that I believe provides a most eloquent discussion of the issues surrounding a bill that was recently rejected by the House of Representatives.

I have introduced legislation in this Congress which would help bring our Indian citizens into the mainstream of life, as urged by the author of this editorial. "Operation Bootstrap for American Indians" would create jobs for both Indians and non-Indians on and near our country's economically depressed Indian reservations. The day for handouts is, indeed, over. The Federal Government has already traveled that route without much success. We need to give serious consideration to solutions that will enable individuals, regardless of their race, to become self-fulfilled, contributing members of society. I hope we can work together to put the injustices of the past behind us and move ahead toward a better tomorrow.

The editorial follows:

OPINION—CONGRESS SHOULD LET SIOUX BLACK HILLS CLAIM BE HEARD

"No person shall be . . . deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation."—Amendment V, The Bill of Rights, U.S. Constitution . . .

The House has killed for this session legislation sponsored by U.S. Rep. James Abdnor, R–S.D., which would authorize court review of Sioux Indian claims for $85 million in interest for the government's confiscation of the Black Hills.

The House, in rejecting the measure by a vote of 239 to 173, apparently feared a rash of new Indian claims against the government despite arguments by Abdnor and other proponents of the measure that the Sioux were deprived of their constitutional rights.

Congressmen feared the threat posed by Indian claims to a large portion of the state of Maine, which would have upset the present-day owners of land in that New England state. U.S. Rep. William S. Cohen, R-Maine, fueled those fears by saying that "certain tribes in Nevada and Montana are going to be seeking the return of large amounts of land or $30 billion in lieu of land.

The members should have paid more attention to the Indian Claims Commission which is an independent agency established by Congress in 1946. The commission in a 1974 opinion said the United States violated Sioux rights in taking over 7.3 million acres of Sioux Nation land in the Black Hills section of the Great Sioux Reservation. The commission called it a violation of the Fifth Amendment.

The Sioux were entitled to compensation of $17.5 million for land and materials, the commisison said. It found the United States owed the Sioux, as a measure of just compensation, five per cent annual interest, amounting to some $85 million, on the $17.5 million principal from the date of acquisition in 1877.

The government appealed the 1974 determination of the commission. The U.S. Court of Appeals ruled in 1975 that the claim was barred by the legal principle of "res judicata." This Latin term means that once a case has been decided, it is final. A court of claims had ruled against the Indians in 1942. The 1975 court ruling didn't go into the merits of the Fifth Amendment argument.

Abdnor's bill would have waived the defense of res judicata, thereby permitting the Sioux claim on payment of interest to be heard.

Congress in 1877 seized the Black Hills in anger over the 1876 massacre of General George A. Custer and his men at the Battle of the Little Big Horn in southeastern Montana. Chief Sitting Bull of the Hunkpapa tribe had united the Indians, who were led in the fighting by Chiefs Gall and Crazy Horse.

The Indians won the battle but lost their war. A modern Congress didn't let World War II stop assistance to defeated Germany and Japan. The day for handouts to America's Indians is over, but the Black Hills case is not a handout.

The Sioux claim to the Black Hills is more solidly based than most of the claims of other tribes which are surfacing now. In fairness, Congress should allow a court review of the Sioux claim for compensation. We do not propose that Congress hand over the Black Hills today, but the Fifth Amendment should apply to all.

Hopefully, President Jimmy Carter and his administration will evolve an Indian policy that will help the first Americans to get into the mainstream of life in this country, instead of being left out.

THE BUDGET ACT NEEDS TO BE MADE MORE PRECISE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. LAFALCE. Mr. Speaker, the debates over the B–1 bomber and the Minuteman III ICBM have occupied much of our time this year, and I think that the entire Congress has become far more aware of, and concerned about, our strategic defense systems because of them. That is all to the good.

But there has been a byproduct of these debates that is also of great importance. During the pendency of the administration's rescission proposals relating to these two programs we have uncovered a number of imperfections in the impoundment control provisions included in the Congressional Budget and Impoundment Control Act of 1974.

I have been in close contact with the Comptroller General during this period, and I have come to the conclusion that we need to address these imperfections and seek to correct them, if only to avoid further complications in future years. I intend to work closely with my esteemed colleague from Connecticut, Mr. GIAIMO, the chairman of the Budget Committee, and with any other Member who is concerned about this matter.

On October 18, 1977, I received a letter from the Comptroller General dealing with some of the concerns I have about the budget process. I would like to share that letter with all of my colleagues, and accordingly I am requesting that the text of it be inserted in the RECORD at this time:

WASHINGTON, D.C.,
October 14, 1977.

Hon. JOHN J. LAFALCE,
House of Representatives.

DEAR MR. LAFALCE: This is in further response to your letter of September 30, 1977, in which you asked several questions concerning the Impoundment Control Act of 1974 and the proposed rescissions of budget authority that were transmitted to the Congress in connection with the executive

branch's termination of the B–1 Bomber and Minuteman III Intercontinental Ballistic Missile programs. You stated that these questions have arisen in light of the recent action by the House Committee on Appropriations rejecting the rescission requests. Your questions and our answers thereto follow:

"In your opinion, does the Budget Act [Impoundment Control Act of 1974] permit the Executive to submit a second rescission proposal concerning the same funds? If such a second rescission proposal may be submitted, may the Executive use the pendency of the second rescission proposal to justify continued refusal to resume expenditure of the funds after the 45 day period for the first proposal has expired?"

The answer to the first part of this question is yes. There is nothing either expressly or by implication in the Impoundment Control Act of 1974 (Act), title X of Pub. L. No. 93–344, July 12, 1974, that precludes the President from submitting multiple requests to rescind budget authority. There would, however, be a distinction between the first rescission proposal and any later requests to rescind the same budget authority.

A rescission proposal under section 1012 of the Act is a special kind of legislative request. Not only does such a proposal ask the Congress to take action to rescind a part or all of a prior appropriation act or other statute providing budget authority, but we have held that the proposal also carries with it the authority to withhold the budget authority in question during the pendency of the rescission request—by law, 45 days of continuous congressional session.

While the Act does not preclude multiple rescission requests, it would be totally inconsistent with the purposes of the statute to construe the Act as allowing the President to submit a second (or more) rescission proposal under the Act and to withhold the budget authority for yet another 45-day period. Taken to the extreme, such an approach would permit the executive branch to withhold indefinitely release of impounded funds that were the subject of previously unsuccessful rescission proposals. Similarly, there would never come into play the requirement of section 1012(b) of the Act for the budget authority to be made available for obligation or the Comptroller General's authority under section 1016 of the Act to initiate civil litigation to compel such releases. Clearly, the Act cannot be interpreted to operate in a way that effectively negates the procedures and safeguards that were established by its enactment.

Thus, in our view, once the 45-day period expires without favorable congressional action having been taken on a rescission proposal submitted under the Act, the impounded budget authority must be made available for obligation. This is not to say, however, that the executive branch is forever barred from renewing a rescission request. It obviously is free to do so, but the second request would only be a normal legislative proposal to rescind funds and is not one governed by the Act. In such a case, the 45-day withholding authority would not apply. In sum, we think the President can submit multiple requests for rescission but that, after a rescission proposal governed by the Impoundment Control Act is not acted upon favorably, the funds must be made available for obligation during the pendency of the later rescission proposals. The answer to the second part of the question, therefore, is no:

"After the expiration of the 45-day period on a rescission proposal, could the Executive submit a second rescission proposal and, at the same time, submit a deferral proposal under Section 1013 of the Budget Act [Impoundment Control Act of 1974], seeking to defer continued expenditure of the funds pending a Congressional decision on the second rescission proposal?"

In our answer to the first question we said the executive branch was free to propose rescissions outside the authority of the Impoundment Control Act after a rescission proposal for the same budget authority was rejected by the Congress pursuant to the Act. In our answer to your second question we shall assume the second rescission proposal is one submitted outside the Act, but the deferral is one submitted pursuant to the Act.

In our recent report to the Congress, "Review of the Impoundment Control Act of 1974 After 2 Years," OGC–77–20, June 3, 1977, we recommended that the Act be amended to expressly—

"[allow pursuant to the Act] for deferrals of funds after prior to deferrals or rescissions of the money are turned down, if the new deferral furthers good administrative practice or is based on circumstances or conditions unknown—and which reasonably could not have been known—when the prior rescission or deferral was considered."

In the absence of a specific factual setting in which to address the issue raised by this question, and in the absence of the amendatory language we proposed, we can only provide you with our general reaction.

It is possible that, after the pendency of a rejected proposal to rescind budget authority, there could occur unusual events after the time the rescission was first proposed to the Congress; the new situation warranting approval of the rescission. Thus, it might develop that the Congress would favorably and expeditiously take action on a resubmitting rescission proposal for the same funds. In such unusual circumstances, we think it would be prudent for the President to delay implementation of the program while the later rescission request is under consideration. Accordingly, we think that under unusual circumstances a deferral could be proposed under the Act while the Congress considered a second proposal to rescind budget authority previously rejected for rescission. However, we stress that determinations concerning the appropriateness of proposing deferrals while later rescission requests are pending can only be made on a case-by-case basis and we would hope that the executive branch would work closely with the Congress and this Office to resolve and deal with such situations:

"Could the Executive submit a deferral proposal seeking to defer continued expenditure of funds for which a rescission proposal had previously been submitted and rejected, with such deferral to apply during the pendency of other Congressional action that would have the effect of deleting the funds in question?"

Again, we can hypothesize circumstances in which the Congress could or would take action to approve a rescission request outside the procedures of the Act—for example, including language in a supplemental appropriation Act rescinding the funds that were rejected for rescission under the Act's procedures. However, whether such circumstances exist or the extent to which they justify proposing a deferral during the pendency of such congressional action is a determination that can only be made on a case-by-case basis:

"In the event your opinion is that the Executive may not take the actions contemplated in the preceding questions, are you prepared to institute civil proceedings under Section 1016 of the Budget Act immediately upon the expiration of the 45 day period relating to the first proposed rescission if the Executive has not taken steps to resume spending?"

Should the executive branch not comply with what we consider to be its responsibility to make budget authority available for obligation, we would take such actions as are necessary to compel the release of the illegally impounded funds, including the initiation of civil litigation under the Act.

For the present, we intend to monitor closely future actions by the executive branch in connection with the B–1 Bomber and Minuteman III programs as you have requested. We will report to you, as appropriate, major developments and findings.

We hope the foregoing will be of assistance to you.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

F–15'S TO SAUDI ARABIA

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. DODD. Mr. Speaker, last month I wrote to the President and the Secretary of Defense expressing my concern over the proposed sale of F–15 fighter aircraft to Saudi Arabia. I urged President Carter to refrain from this sale because I believe that sale of our most advanced attack fighter to Saudi Arabia would dramatically alter the military balance in the Middle East.

I understand that as a result of questions raised by several Members, the Defense Department is now reexamining its prior approval of the sale and considering various alternatives to the F–15. I welcome this development, and hope that the administration eventually will not agree to this sale.

I would like to insert my correspondence with the President and the Secretary of Defense at this point in the RECORD:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 8, 1977.

Hon. HAROLD BROWN,
The Secretary of Defense,
Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: I was disturbed to learn last week that the Defense Department has recommended the sale of 60 F–15 supersonic fighters to Saudi Arabia.

I believe that sale of our advanced attack fighter to Saudi Arabia would drastically alter the regional military balance in the Middle East by placing Israel within the range of Saudi fighters. This would both increase the likelihood of hostilities and increase the security problems facing Israel. Inevitably, Israel would be required to spend more of its scarce resources to meet this new threat, and we would find ourselves once again in the position of fueling both sides of an arms race.

In addition, I believe this sale is totally unnecessary from the standpoint of Saudi Arabia's legitimate defense needs. The 90 F–5's ordered by Saudi Arabia—combined with Saudi Arabia's extensive network of Hawk antiaircraft missiles—will be more than sufficient to meet the potential threat from Iraq's MIG 23's. Any additional sale of fighter aircraft at this time would appear to be totally unnecessary.

Finally, this sale would violate President Carter's policy of limiting the transfer of high technology military systems while it would continue the highly questionable policy of increasing the overall flow of American weapons abroad.

Accordingly, I request that you provide me with a complete explanation of the military rationale used by the Defense Depart-

ment to justify this sale. In addition, I would like to know whether the Department currently has a plan for carrying out President Carter's policy, and what the principal provisions of that plan are.

Thank you so much for your attention.

CHRISTOPHER J. DODD,
Member of Congress.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., September 28, 1977.

Hon. CHRISTOPHER J. DODD,
House of Representatives,
Washington, D.C.

DEAR MR. DODD: Secretary Brown has asked that I respond to your letter of September 1977 concerning Saudi Arabia's interest in purchasing the F–15 aircraft. The Administration fully shares your concern that the military situation in the Middle East not be altered in any way which would undermine Israel's capability to defend itself.

Saudi Arabia is a vast country with the largest petroleum reserves in the world. At the same time, Saudi Arabia has the smallest military force of any major nation in the Middle East. Its entire military force structure is defensively, not offensively, oriented. Saudi Arabia has never engaged in armed conflict with Israel and has acted as a moderating force throughout the area.

U.S.-Saudi cooperation, based on mutual confidence, serves our broader concerns on issues of vital importance to peace and stability in the Middle East and to international economic welfare. A continuing U.S. role in meeting the legitimate defense needs of Saudi Arabia is an integral part of that cooperation and hence acts to reduce dangers of the sort which you raise in your letter.

The Saudi Government has worked closely with the United States for many years in developing its military defenses in a systematic fashion consistent with its sizable territory and limited manpower. In our view the Saudis have placed appropriate emphasis on developing a modern defensive air force. For over a decade the 1950's vintage British Lightning has been the Saudi Air Force interceptor. Since that aircraft will very shortly be too old to fly safely, a U.S. Government survey in 1974 recommended that the Saudis begin consideration of a replacement aircraft. After reviewing the various types available, the Saudi Government determined that the F–15 was best suited to its needs. The F–15 would fulfill the same defensive air-to-air intercept mission the Lightning has fulfilled since the mid-1960's. Since late model Soviet and European interceptors are already or soon will be operational in neighboring countries, our providing the Saudis with the F–15 would not involve the introduction of a new weapons system into the area.

This Administration, as you know, has adopted a policy of restraint in arms sales worldwide. This policy recognizes, at the same time, our need to assist our friends and allies in their legitimate defense needs. The Administration is considering the Saudi interest in the F–15 in the light of this arms transfer policy and our desire to work closely with Congress on arms transfer questions.

As for your question on plans for implementing President Carter's arms transfer policy, the Department of Defense provides recommendations to the Department of State on the appropriateness of arms transfers but makes no decisions on whether or not to proceed with these transfers. Because of the foreign policy implications, such decisions are made by the Secretary of State in consultation wtih the President and the Congress, as appropriate.

I trust this information satisfactorily responds to your inquiry.

Sincerely,

DAVID E. MCGIFFERT,
Assistant Secretary of Defense,
International Security Affairs.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 30, 1977.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I was disturbed to learn recently that the Defense Department has recommended the sale of 60 F–15 supersonic fighters to Saudi Arabia.

In my view, sale of our most advanced attack fighter to Saudi Arabia would drastically alter the regional military balance in the Middle East by placing all of Israel within the range of Saudi fighters. This would both increase the likelihood for a renewal of hostilities and increase the security problems facing Israel. Inevitably, Israel would be required to spend more of its scarce resources to meet this new threat, and we would find ourselves once again in the position of fueling both sides of an arms race.

In addition, I believe this sale is unnecessary from the standpoint of Saudi Arabia's legitimate defense needs. The F–5's ordered by Saudi Arabia—combined with Saudi Arabia's extensive network of Hawk antiaircraft missiles—will be more than sufficient to meet any potential threat. Any additional sale of fighter aircraft at this time appears to be wholly unnecessary.

Finally, I believe that this sale would violate your own policy of limiting the transfer of high technology military systems while it would continue the questionable policy of increasing the overall flow of American weapons abroad.

Bearing these factors in mind, I respectfully urge you to refrain from the sale of F–15 aircraft to Saudi Arabia. On the other hand, if you do intend to proceed with the sale, I trust that you will give Congress adequate notice to consider a resolution of disapproval.

Respectfully,

CHRISTOPHER J. DODD,
Member of Congress.

THE WHITE HOUSE,
Washington, D.C., October 15, 1977.

Hon. CHRISTOPHER DODD,
House of Representatives,
Washington, D.C.

TO CONGRESSMAN CHRISTOPHER DODD: I am responding to your letter of September 30 in which you expressed your concern over the possible sale of F–15 aircraft to Saudi Arabia.

As you are certainly aware, the Administration has not notified the Congress of an intent to conclude such a sale. The reason is that no decision has been made on this sale.

The Government of Saudi Arabia entered into discussions with the United States several years ago about replacing older obsolescent aircraft. The British-manufactured Lightning air defense interceptors are rapidly aging, and the Government of Saudi Arabia has felt for some time that they no longer provide a reliable air defense. The U.S. is sympathetic to these concerns and believes that Saudi Arabia does indeed need a replacement aircraft. I do want to assure you that, if the U.S. does sell any aircraft to Saudi Arabia, we would insist as always on explicit assurances against third country transfers.

Saudi Arabia has played an important moderating role in the search for peace in the Middle East. We consider the Saudis a constructive partner in our efforts in the region.

I understand the sincerity of your concern and appreciate your interest. I can assure you that I will give the most serious consideration to the issues you have raised.

Sincerely,

JIMMY.

WHAT OFFSHORE OIL WILL MEAN

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. BAUMAN. Mr. Speaker, controversy over the environmental and economic impact of offshore oil and gas drilling has held a major share of our Nation's newspaper headlines during recent years. The issues involved in this controversy have assumed a greater poignancy in my own area due to the prospect of widespread drilling off the Delmarva Peninsula in the Atlantic Ocean.

Those of us in Congress who have been working to insure that the benefits of such drilling are balanced with reasonable environmental safeguards need an informed and informing media to help insure that the public is able to make proper judgments. One of the daily newspapers in my district, the Banner, published in Easton and Cambridge, has recently printed an extensive article written by Norman Harrington, the publication's editor. Mr. Harrington details a trip to the Louisiana drilling areas by a delegation of Delmarva officials and private citizens seeking information on how local and State officials can best prepare for the commencement of drilling in our region.

The article details the many ways in which the environment can and should be safeguarded while demonstrating the tremendous economic impact of drilling on the area. I commend Norman Harrington's article to my colleagues, both as an example of good reporting in the public's service and as an informative examination of many aspects of the offshore oil controversy:

WHEN THERE'S OFFSHORE OIL . . . THE IMPACT WASHES ONSHORE

(By Norman Harrington)

GRAND ISLE, LA.—Environmentalist Ilia Fehrer of Snow Hill, Md., walked for an hour on the beach of his seven mile long Gulf resort island looking for evidence of oil.

She found none.

This seemed to confirm what Mrs. Fehrer and others in a delegation from Delmarva who inspected Louisiana's oil producing area were told repeatedly by the public officials and marine biologists they met:

The danger of pollution from offshore oil is minimal.

It is the onshore support facilities that have the greatest impact.

"Make sure you have strong zoning regulations, and don't think about oil until you do," said Charles J. Melancon, executive director of the South Central Louisiana Planning and Development Commission.

The Delmarvans were in Louisiana at the planning commission's invitation for a first hand look at the impact of oil exploration and production in that area. The purpose, according to Roy C. Tolbert, was "fact-finding to provide a frame of reference for decisions which must be made on Delmarva once activity starts with oil exploration and production in the Atlantic area off the coasts of New Jersey, Delaware, Maryland and Virginia."

Tolbert is executive director of the Delmarva Advisory Council which arranged the tour through a grant from the federal Economic Development Administration.

The oil industry's only involvement, Tolbert stressed, were arrangements made by the American Petroleum Institute for a visit by helicopters to a well drilling platform some 25 miles offshore.

The delegation members donned life jackets and divided into two groups for the flight to the rig in 10-passenger Petroleum Helicopters from Chevron's staging and supply base at Leesville.

They lunched in the kitchen-dining area of the crew's housing module, and were briefed by the rig's "Chief Tool Pusher" Johnny Lambert.

Lambert, who is an employee of Bokekamp Company of Houston, Texas, explained that his firm contracted with Chevron for drilling which had been under way for 44 days at a time.

When the well or wells come in, all of the equipment will be removed. So will the housing and other modules, also the property of Bokekamp. They were assembled on shore and taken to the platform by a barge equipped with a huge crane that lifts them into position. The barge rents for $35,000 a day, Lambert said.

The two crews on the drill rig total about 24. The housing module can sleep 52, which provides room for company men, service hands and tool installers, all of the latter, like Bokenkamp, private contractors.

Lambert said his crews are made up of six men each, plus two crane men, two roustabouts, two cooks, two galley hands and four "mudloggers." They work 12 hours on, 12 hours off for seven days. Then they have seven days off.

This same work schedule applies to all of the 37,000 men employed on the 1,742 structures involved in offshore oil production in Louisiana's section of the Gulf of Mexico.

This means that large parking areas must be available at staging and supply depots onshore for workers to leave their cars. It also means that with seven days on and seven days off, the workers can live anywhere within 100 miles or so from the staging area. This disperses housing demands over a broad area, which is something the Delmarva delegation members noted. Offshore oil workers could choose to make Caroline or Dorchester county their home, just as readily as Sussex County, Del. or Northampton County, Va.

Rig crews and supplies are transported to and from the offshore installations by ships, locally built and costing from $300,000 to $3.5 million each.

The shipyards, like the oil exploration rigs, are locally owned.

One, Halter Marine at Lockport, has 400 employes. The average wage is $5 an hour.

Another, the Bohlinger shipyard a couple miles away, employs 250 people.

Such facilities, the Delmarvans observed, might be located on Chesapeake Bay as easily as the ocean side of the peninsula, applying Louisiana' experience to Delmarva's future.

Agriculture also apparently thrives side by side with the oil and industrial facilities, from what the delegation saw. Cows were grazing in a field next to Halter Marine. Everywhere, sugar cane was growing. Up the road the bayou (we call it a river) there were sugar and paper and pulp mills that refine the sugar and use the cane stalks to make paper.

The delegation saw commercial fisheries operations going full tilt, and were told of the boom in sport fishing. Without doubt, officials said, the numerous offshore structures serve as the most expensive artificial reefs in the sea. For the small boat sport fisherman and the charter boat captain the rigs in the Gulf have opened up a new era of relatively safe and highly successful fishing.

By far, Louisiana's most imporatnt commercial fishery is shrimp. Shrimp boats are everywhere along the bayou, at small harbors here and there. Often they are docked side by side with oil-related vessels such as the huge jack up rigs on barges used for drilling in "shallow" water, water up to 200-ft. deep.

The delegation toured the Andrew Martin Seafood plant at Leesville, where two production lines were operating to package quick frozen shrimp in three grade sizes. That day, the plant was paying 80 cents to $4 per pound for raw shrimp dockside, depending on size.

Louisiana, it was stated, produces from 800 million to 1.2 billion pounds of commercial fish annually, representing 20 to 23 percent of total U.S. production.

The value of fisheries and of fur (muskrat, nutria, mink and otter) produced annually in Louisiana was said to be $150 million. Petroleum production, by contrast, is valued at ten times that equals $1.5 billion.

During a briefing at the Lafourche Port Commission near Golden Meadow, La., marine biologists used satellite photos of the area taken from 100 miles up to illustrate the damaging effect on oysters and the marshlands by canals dug back in the 1930's and 1940's to provide access to onshore oil rigs. These canals, 40 or more feet wide, traverse and cut through marshland and embayments without regard for changes in the natural drainage, pattern, the disruption of currents in bays or waterflow in marshland.

The long term effect of such unregulated dredging, now restricted by law, has been a serious loss of acreage of productive oyster seed grounds from saltwater intrusion. High salinities have increased predation from oyster drills and mortalities from a fungus to a point where the oyster life cycle cannot be completed.

Tom Weiland, executive secretary of the Maryland Watermen's Association, said an oyster packing plant owner he visited on a side trip from the tour confirmed that the oyster industry has suffered. So did scientists at the Nicholls University Fisheries Lab at Fourchohon.

Marine biologists told the delegation that in offshore deep water areas the ecosystem is more stable and the placement of physical structures such as platforms appears to have little effect on marine fauna in the area.

Fears of pollution from accidental oil spills or well blowouts were allayed by virtually everyone with whom the delegation came in contact.

Cited as authoritative was a pamphlet entitled "Impacts of Oil on The Gulf Coast," by Lyle S. St. Amant, of the Louisiana Wildlife and Fisheries Commission, New Orleans, published by the North American Wildlife Management Institute.

"Oil as a pollutant has received much public notice and political attention . . . and the impression is gained that oil is the most toxic and dangerous material contaminating the environment," St. Amant wrote. But, he observed:

"In most cases large oil spills such as well blowouts and pipeline breaks in the Gulf area, the Santa Barbara accident and the Torrey Canyon and other tanker losses have left few if any permanent effects on the ecosystem."

(Parenthetically, an Associated Press dispatch from Bergen, Norway in Sunday's papers reported that Norwegian scientists say millions of gallons of crude oil dumped into the North Sea last April by the runaway Ekofisk Bravo offshore well, one of Europe's worst oil spills, caused no serious environmental damage).

St. Amant said there is greater danger from "chronic, low-level pollution" associated with intensive oil production in shallow inshore embayments and marsh areas," and that this must be rigidly controlled.

Some 51 oil companies operate in the Gulf financed Clean Gulf, Inc., which is equipped and staffed to quickly clean up if accidents occur. Clean Gulf's largest unit, capable of recovering 2,000 barrels of oil an hour, has never been used officials said.

Before visiting remote oil producing Lafourche and Terrebonne parishes (counties) 60 to 80 miles from New Orleans, the Delmarva delegation toured the American Cyanamid Plant located on what was at one time the 640 acre Fortier cotton plantation at Waggamon, La.

Plant manager Victor E. Stilwell said this has been a pattern with many of the large industries that have come in as a direct result of the oil and gas . . . "capital intense" industries such as Exxon, Shell, Union Carbide, Hopper Chemical and the like.

Stilwell said in many instances the companies have retained and restored the old plantation houses on the sites. At Fortier, however, the manor house had been seriously damaged by fire and had to be torn down when his company bought it from the family in 1953.

American Cyanamid now has $120 million invested in what is a complex of several plants on 230 of the 640 acres, while the rest of the property is maintained as it was.

The plants produce acrylonitrile, sulfuric acid, ammonia and other products.

A new sulfuric acid plant, new ammonia plant, expanded acrylonitrile production, modified methyl methacrylate process, conversion of boilers to oil firing and major pollution control facilities will represent a further investment of $120 million, bringing the Fortier plant cost to close to a quarter of a billion dollars—Cyanamid's largest capital investment for a plant anywhere. The intensely automated facility currently employs 600, not including 150 workers engaged in maintenance under contract.

Stilwell characterizes what Cyanamid has done at Fortier as "transforming a plantation to an industrial complex."

"They used to till the land to raise cotton, from which cotton fabrics were made. We make acrylonitrile from which synthetic fabrics are made. They got the fertilizer they needed from animals on the plantation. We make ammonia, which is base of all fertilizers," Stilwell said.

In the plant expansion program, the conversion of boilers to oil firing is being prompted by restrictions on natural gas, of which the ammonia plant uses 40 million cubic feet a day, Stilwell explained.

In response to questions from Mrs. Ilia Fehrer and Tom Wieland, Stilwell outlined the major pollution control facilities the plant has and will further refine to meet rigid standards of the Environmental Protection Agency.

Water used is from the Mississippi River, and is actually cleaner when the effluent is returned than when it was taken in.

Stilwell said toxic wastes go into 3,500 to 4,200 feet deep wells, which are beneath a "seal" of all fresh water strata above located at the 1,200 ft. level. "We're actually injecting into brine stratas, more saline than sea water."

Spills, Stilwell told the group, "are not tolerated."

He explained that the entire site is surrounded by an intercept ditch, and that each plant has one as well.

"We have to worry about nearby marshland. If we have a heavy shower we often get one inch of rainfall in 15 minutes. That means two million gallons in the area involved, so we have to be able to handle it. If we violate, we're in trouble," was the comment injected by Dr. Kin Tsu. Dr. Tsu is manager of technical services for the plant.

"The technology is available in industry to do these things," Stilwell said flatly.

ABOUT THE WRITER

Norman Harrington, who wrote this article, is Editor of The Banner's Mid-Shore Edition in Easton.

Appointed by Gov. J. Millard Tawes, he has been a Maryland member of the Delmarva Advisory Council since the agency's inception 12 years ago, is a past president and long-time treasurer.

Harrington headed the Delmarva fact-finding delegation to inspect the offshore oil fields in Louisiana at the request of DAC President Lynn Currey, economic aide to Virginia Gov. Mills Godwin.

Among those making the trip were Mayors George Ward of Cape Charles, Miriam Howard of Rehoboth and Alfred A. Stango of Lewes. Ocean City Mayor Harry Kelley was going but cancelled at the last minute when he became ill with the flu.

County officials from Sussex, Del. and Accomack and Northampton, Va. were in the group as were James H. Gilliam Jr., Secretary, Department of Economic and Community Affairs for Delaware; Roland Derrickson, Sussex County Planner and Zoning Officer and Chairman of the DAC's Conservation Committee of which Mrs. Ila Fehrer of Snow Hill, Worcester County, Md. is also a member; Tom Wieland, Executive Secretary of the Maryland's Watermen's Association; and Leonard L. Burton, a Chincoteague, Va. seafood processor, campground owner (Tom's Cove) and businessman.

THE IMPACT OF S. 393 ON SNOWMOBILING

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. BAUCUS. Mr. Speaker, as everyone familiar with S. 393 is aware, a provision of the bill specifically allows existing uses of these study areas to continue so long as these uses do not harm the wilderness character of the areas. Senator METCALF has made it clear repeatedly that this provision was included to enable snowmobile use in these areas up to and until Congress acts to designate any of these areas as wilderness.

In the past few days I have heard rumors that some people are not sure that the legislative history of this provision is clear. I wish to state here again that Senator METCALF's office has assured me repeatedly that this language was included specifically to allow snowmobile use—not just through the study period but also during the interim period between the time when the Forest Service submits its recommendations and Congress acts upon them.

For the record and benefit of any court or agency which may look into this issue, I want it to be clear that it is my understanding that this provision extends in time not just to the end of the study period but up to any future action by Congress.

Now that I have said this, I would like to insert here a letter I have just received from the International Snowmobile Industry Association (ISIA). I am told by the ISIA that this letter has been approved by the leadership of Montana's snowmobile users organizations. It clearly states that with this legislative intent question cleared up, the interests of snowmobilers are not harmed at all by S. 393.

I have worked with the ISIA in the past—especially with regard to Executive Order 11644 which dealt with the use of all public lands. During the controversy over that issue, I made it clear that I would not accept any Federal land regulation which is not fair to snowmobile enthusiasts. I still feel this way, and I have worked hard to see that S. 393 reflected the interests of this very important segment of Montana.

As you can see from this letter, while the industry and snowmobile enthusiasts are understandably concerned about any potential wilderness, they have dropped opposition to S. 393—which after all is just a study bill—because of its language which, as I have just noted, establishes snowmobiling as a legitimate use of S. 393 study lands.

The letter follows:

INTERNATIONAL SNOWMOBILE INDUSTRY ASSOCIATION,
October 18, 1977.

The Honorable MAX BAUCUS,
U.S. House of Representatives
Washington, D.C.

DEAR MR. BAUCUS: The Montana Wilderness Study Bill, S. 393, slated for action on the floor of the U.S. House of Representatives today, is a matter of concern to the snowmobilers in Montana and throughout the United States. As you know, both the Montana Snowmobile Association and our organization originally were actively opposed to the legislation during the 94th Congress because of the immediate closure of areas now open to snowmobiling which would have resulted.

Subsequently, and in part through your efforts, clarifying statements by the Senate author of the legislation have asserted that current snowmobiling usage shall be authorized until and unless Congress acts to designate these areas as Wilderness because snowmobiling results in no permanent, adverse effects. This interpretation would allow continued use of the Big Sky Trail and other important snowmobiling areas in Montana. However, there is disagreement within the Montana Congressional delegation about the adequacy of this legislative history. We rely upon your judgment to protect the legitimate interests of snowmobilers in Montana.

Although this action has led the snowmobile community to abandon vigorous opposition to the measure, we are unable to support the legislation for reasons with which you are very familiar and with which you, too, have indicated serious concern.

First, the studies would duplicate previous and ongoing U.S. Forest Service planning efforts, such as the so-called RARE–II undertaking.

Second, the sense of the Montana snowmobile community is that alternatives to wilderness designation could better serve both to protect the areas and to allow access by those utilizing snowmobiles without incursions on the natural grandeur of the areas. As you know, many of these areas are essentially impossible to see in winter without the snowmobile.

Third, the areas will be in a "limbo" situation for an extended period of time: five years of Forest Service study and an unknown time period while Forest Service recommendations are before the Congress. We know you share our concern in this area. You offered an amendment to the bill in subcommittee to reduce this period of limbo, but were unable to achieve its acceptance by the full committee.

Finally, we are concerned about the impact this legislation will have on Forest Service efforts to control and eradicate disease which has become rampant throughout large portions of U.S. Forest Service lands in Montana. We hope that any action taken by the U.S. Congress will support, not hinder, Forest Service actions to exercise all available management expertise to control a condition which threatens Montana's aesthetic and economic environment. Vast areas of forest are dead and dying, and present acute fire hazards.

We are hopeful that this provides insight into the position of the snowmobile community on this important issue.

Sincerely,

DERRICK A. CRANDALL,
Director of Government Affairs.

One final note with regard to snowmobile use and S. 393. Everyone on both sides of this issue has been worried about the length of time these studies might take. Mr. Crandall in the above letter mentions the 5-year language in the bill. Once again, I would remind everyone that after my amendment to limit the study period to 3 years was removed from the bill by the full interior committee a written agreement was reached between the House Interior Committee and the Forest Service to the effect that the study will be completed within 2½ to 3 years. A copy of a letter from the Department of Agriculture with regard to this follows:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., October 12, 1977.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We have already provided the Committee with the Department's report on S. 393, "the Montana Wilderness Study Act of 1977," and on September 13, 1977, we commented on the length of the study period provided by the bill. We stated that we would try to conduct the wilderness studies in as short a time as possible, not taking the entire 5-year period for all areas.

Because of continuing concern over the study period and other matters, I wish to offer the following clarification for your consideration. The Committee Report for S. 393 recommends that the study and recommendation period for all nine studies be limited to three years. Since land management planning has been largely completed on portions of the involved areas, we believe that this Department can adhere to a 3-year deadline for all or most of the areas. We can certainly give priority to the West Pioneers, Mount Henry and Taylor-Hilgard areas as requested by the Committee.

The average estimated cost to this Department for the wilderness studies is approximately $3 per acre. We will seek to hold the study costs to the minimum amount necessary to complete appropriate studies, and we will utilize the information available from land management plans to expedite the studies.

We appreciate this opportunity to clarify questions that have been brought to our attention.

Sincerely,

M. RUPERT CUTLER,
Assistant Secretary for: Conservation, Research, and Education.

I hope that this clears up any confusion about S. 393 and snowmobile use. I would not support the bill without these

provisions, and I know many Montana snowmobilers are deeply concerned. Let me say here that if Congress ever decides to formally include any of these areas in the national wilderness system, that is a new and separate issue. Today, we are talking about one bill—S. 393, and S. 393 has been clearly and intentionally drafted and amended to reflect the interests of Montana's snowmobile community.

I cherish my close relationship with many of the fine families who enjoy snowmobiling, and I am saddened that these false rumors about S. 393 caused them so much concern. The handling by the executive branch of Executive Order 11644 this spring along with inaccurate rumors about S. 393 make it twice this year that Montana snowmobile enthusiasts have been "put through the wringer" needlessly. I fought for and succeeded in getting changes in the language of the proposed amendments to Executive Order 11644 which recognized that snowmobile use is a legitimate use of public lands. We won that fight, and now it is important for anyone to know that Congress in passing S. 393 recognizes snowmobile use as a legitimate use of these lands until that time, if ever, that Congress formally enacts legislation designating any of these areas as wilderness.

COAL OFFERS HOPE FOR FUTURE—IF REDTAPE CAN BE BEATEN

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. RUDD. Mr. Speaker, the Arizona Republic, our State's largest statewide daily newspaper, recently published a three-part series by Grant E. Smith which addressed the issues surrounding Western coal development.

I believe that Mr. Smith and the Republic have done a valuable public service by placing into context the costs and consequences of coal development. Coal is our Nation's most plentiful and promising energy resource, but it is lying dormant because of institutional impediments, court delays, and procedural complexities.

These reports merit close reading, not only by those concerned with meeting our Nation's energy needs, but by all who are interested in forging a reasonable balance between needed coal development and environmental amenities.

Moreover, the Republic series suggests a grim introduction to the future—a potential acceleration of coal costs to the level of oil prices, unless an appropriate and functional national coal policy is soon put into effect.

Mr. Smith's articles raise a number of fundamental questions, and provides some reasonable answers. Can coal be mined and burned in a socially acceptable manner? Is there an adequate work force to accommodate Western coal expansion? Can companies afford the equipment and transportation costs? Is it possible to equalize Western and Eastern development costs in order to minimize impacts upon unemployment and "boom towns"?

Will new Federal strip mining regulations and emission control requirements being imposed upon the coal-lease moratorium make the cost of developing coal prohibitive?

Mr. Speaker, the Republic series dramatically underscores the fact that energy users have underwritten the costs of the uncertainty and delays which have constrained the recovery and use of Western coal reserves.

I am personally most concerned, along with those who are principally involved in energy development, over the long delay and moratorium on Federal coal leasing in the Western United States, because of bureaucratic and judicial disagreement over environmental impact procedures. The far-reaching adverse impact of this coal-leasing stalemate upon needed coal development is startling, and I hope that this impasse can soon be ended so that coal development can resume.

If Western coal is to contribute to alleviating the Nation's energy problem, its development must proceed in an orderly and timely manner. To continue the status quo of inaction is both illogical and inequitable.

Mr. Speaker, I include Grant Smith's coal series at this point in the RECORD:

[From the Arizona Republic, Oct. 2, 1977]

COAL OFFERS HOPE FOR FUTURE, IF ONLY REDTAPE IS BEATEN

(By Grant E. Smith)

Each day, 40 trucks, each loaded with 24 tons of coal, pull away from a mine near Grand Junction in western Colorado and roll nearly 400 miles through eastern Utah to Arizona's northern outpost of Page.

Fifty more trucks, similarly loaded, travel the 250 miles through central Utah from Salina to Page.

And still another 40 trucks leave the Gallup, N.M., area and wend their way 250 miles across northern Arizona to Page.

In total, the trucks haul slightly more than 3,100 tons of coal daily to feed the ravenous flames of the gigantic Navajo Power Plant, which generates electricity for Phoenix, Tucson, Los Angeles and other areas of the West.

After all the time, effort and expense of delivering the coal, the flames consume it at a rate of a minute-and-a-half per truckload, or a couple of minutes more than three hours for the entire 3,100 tons.

To power users in Phoenix, who have watched their electricity bills grow and grow and grow, the time, effort and expense of such coal hauling may appear to be an unwarranted extravaganza to make the bills grow even more.

To residents of southern Utah, who are looking for jobs, hauling the coal from outside appears to be a slap in the face because Utah has huge undeveloped deposits of coal just across Lake Powell from the Navajo Plant on the Kaiparowitz Plateau.

"Why haul coal when the ground's full of it?" screamed recent headlines in two southern Utah weekly newspapers—the Washington County News in St. George and the Southern Utah News in Kanab.

"Many residents here have stayed through mostly bad times with the hope in their heart to see coal being mined from the extensive and high quality deposits just under the majestic Kaiparowitz walls. Now most who have held faith for many years think it may never happen—at least not in their lifetime," said the story beneath the headlines.

"It is nearly impossible to find a Kane County resident who supports the idea of hauling Utah coal . . . past the Kaiparowitz deposits . . .

"The Kaiparowitz Plateau . . . has become lonesome and vacant again," the story continued. "Residents miss the activity brought during those days of testing. And the payroll more."

But in today's topsy-turvy world of energy, economics and government regulations, hauling 90 seconds worth of coal 400 miles, or even 250 miles by truck makes sense.

"It costs only half as much as oil," said Bing Brown, information supervisor for the Salt River Project, which manages the Navajo Plant.

Brown continues that, by all criteria the electricity produced at Page is inexpensive and that the Navajo Plant has proved 10 per cent more efficient than ever thought possible.

Logic would seem to dictate that the SRP get as much out of the Navajo Plant as possible.

"As a result, the station is consuming more coal than originally was expected," said Brown.

Coal for the Navajo Plant was supposed to be supplied by a mine on Black Mesa, about 80 miles to the southeast, and would be hauled on a $7 million railroad built especially for the task.

Peabody Coal Co., which operates the mine, has had problems achieving full production.

"Peabody's difficulties are expected to be corrected within a year," said Brown.

So, until Peabody swings into full production, it makes economic sense to bring in a supplemental coal supply.

"The answer is, it's mostly a matter of time, with a little economics thrown in." Brown wrote in response to the question asked by the headlines.

But, why Colorado? Why not Kaiparowitz?

Government regulations brought an abrupt halt to the development of coal mines in 1971, and no one has the slightest idea of when the federal government will again flash the green light.

Some coal executives are convinced that the Carter administration is developing a deliberate policy to stymie development of coal resources in the West.

"By the time mines could be developed in the Kaiparowitz Plateau, the problems facing Navajo's supply would be resolved and there would be no need for the Kaiparowitz coal," Brown said.

Others say it may be decades before there can be any digging in southern Utah.

"The Navajo Generating Station's need for coal is now," said Brown, and that's why SRP is hauling coal by truck from western Colorado.

'The diagnosis of the U.S. energy crisis is quite simple: Demand for energy is increasing, while supplies of oil and natural gas are diminishing" President Carter's national energy plan begins.

"Unless the U.S. makes a timely adjustment before world oil becomes very scarce and very expensive in the 1980s, the nation's economic security and the American way of life will be gravely endangered," the plan continues.

As a step for averting danger, the President's plan suggests:

"Resources in plentiful supply should be used more widely as part of a process of moderating uses of those in short supply.

"Although coal comprises 90 per cent of United States total fossil fuel reserves, the United States meets only 18 per cent of its energy needs from coal. Seventy-five per

cent of energy needs are met by oil and natural gas although they account for less than 8 per cent of U.S. reserves."

Will coal come to the rescue? Can it?

During recent weeks The Arizona Republic has pursued answers to these questions with an eye toward the vast coal deposits on Black Mesa, which are Arizona's only major natural resource currently capable of supplying vast quantities of energy.

The answers, contained in this and subsequent stories, are inconclusive because it appears the American public has not, as yet, considered the questions.

They are not questions to be taken lightly because the manner in which they are resolved could shape the American way of life for generations.

After the Arab oil embargo of 1973, Americans, scrambling in search of alternative forms of energy, rediscovered an old stalwart—coal.

At the turn of the century, coal provided 90 per cent of the energy used in the United States. It heated homes, powered the railroads and fueled the blast furnaces of an industrial complex that made the United States the preeminent world power.

But burning coal gave off smoke and black soot. Industrial cities were grimy. Coal miners contracted black lung disease, and coal mine cave-ins heaped more tragedy on the miner's back.

Coal was socially unacceptable, evoking dismal, tragic thoughts.

Petroleum products—natural gas and oil—began replacing coal in the home, on the railroads and at the factories.

By the time of the Arab embargo, coal's share of the energy market had dwindled to less than 20 per cent.

Suddenly, coal was reborn.

Coal reserves in some areas, particularly the West, are so large they could supply coal for more than 400 years. There currently is an estimated coal resource of 3,968 billion tons in the United States.

Montana with nearly 43 billion tons in reserve and Wyoming with almost 23 billion tons have hardly been scratched.

Emission control technology has lessened the black smoke and soot. A coal miner's life is much less hazardous. While strip mining, which gleans coal near the surface, ravages the land, topsoil can be replaced and grass and trees replanted.

Coal could be more socially acceptable.

As a result, Carter made coal one of the foundations of his national energy policy.

If the United States is to maintain its world posture, the President said production must be increased from its current 670 million tons a year to 1.1 billion tons a year by 1985.

The Carter plan would increase coal consumption by utilities from a current level of 459 tons a year to 777 and by industry from 156 tons to 360.

Such a proposal should make coal executives a merry band, but, as a group, they are rather glum.

Despite the Carter administration or because of it—they aren't quite sure—the federal bureaucracy has the coal industry spinning its wheels and going no place.

"The government says it wants 1.1 billion tons of production by 1985. That's just so much bull—!" exclaimed Harrison Loesch, a Peabody vice president. "There's no way we can do that.

"Even if the government opened up right now and let us start working on new mines, it would take us four years to bring those mines into production," he continued. "That would make it 1982. But, there are no signs the government is going to open up."

Thus, coal is waiting in the wings.

Whether it gets a chance remains to be seen.

[From the Arizona Republic, Oct. 3, 1977]

MORE RESTRAINTS ON COAL FEARED IN WEST

(By Grant E. Smith)

Huge deposits of coal lie in the West, but because the West did not vote for Jimmy Carter, many in the coal industry fear the coal will continue to go undeveloped.

"I don't think the government wants to develop western coal," said Harrison Loesch, a vice president of Peabody Coal Co., the nation's No. 1 coal producer.

I think they want to develop Appalachia and the Midwest. The way things are now you can't develop coal in the West; it's that simple."

Are the coal people paranoid?

In a recent confrontation at the American Mining Congress Convention in San Francisco, U.S. Interior Secretary Cecil Andrus was asked point-blank if the Carter administration has a policy for inhibiting development of western coal.

"What I say in my personal view and may not be shared by the administration," said Andrus. "Whatever restrictions there are will be imposed across the land.

"However, if we put all the development into the West, it would mean a lot of mines in the East would close. There would be higher unemployment in the East."

Out-of-work miners, Andrus continued, probably would migrate West where the development would be, and that, in turn, would create the need to develop new cities and towns in the West.

"It would just take a lot of the taxpayers' resources to do this," concluded Andrus.

For most coal people, the answer confirmed their worst suspicions.

If the Carter administration has chosen to hinder western development for whatever reason—political, economic or social—it has two very potent weapons at its disposal.

Practically all the coal in the West is on public lands, and the federal government controls access to the public lands. There have been no new coal leases on public lands since 1971, and no one knows when, if ever, another lease will be issued.

Western coal has a low sulfur content, and generally power plants burning western coal do not need additional control devices, called scrubbers, to meet sulfur emission standards. However, the U.S. Environmental Protection Agency is considering making the installation of scrubbers mandatory regardless of the type coal burned.

Such a move would kill the market for western coal, and without a market, western coal would not be developed.

A set of strip mining regulations, now being prepared, is a possible third weapon, but coal people are hopeful the regulations will be something they can live with.

We are going to live or die with the regulations," said Loesch. It all depends on how they are administered. If they really nit-pick, they can make the cost of coal prohibitive."

Most studies place the recoverable reserves of coal in the United States between 135 billion and 150 billion tons. There are estimates that total reserves may be as much as 25 times more, but current technology and mining methods are capable of extracting only the lower amount.

Of the recoverable reserves, 63 per cent are in the West. The states of Montana and Wyoming alone have reserves in excess of 66 billion tons, about 48 percent of the reserves.

A recent study by the Electric Power Research Institute concluded that less than 2 per cent of the reserves in Montana and Wyoming had been mined.

The most heavily mined state in the West, according to the EPRI study, is Utah where 20 per cent of its reserves have been mined.

In comparison, nearly half the coal in Pennsylvania and West Virginia has been mined, EPRI concluded. Alabama and Tennessee have about 35 percent of their coal left.

"The best known deposits have been severely depleted in several states that depend heavily on coal as the mainstay of their economies: Alabama, Tennessee, Pennsylvania and West Virginia. Depletion of reserves, or even the prospect, could upset state and regional economies," says the EPRI study.

"Prohibition of coal development, it should be noted, can have the same economic effect," EPRI warned. "On the other hand, reserve depletion is at a very early stage in many western coal-bearing states. Here the problem is to plan for development so as to conserve both the coal and the related resources."

EPRI and the coal industry are saying: Let western coal develop. But Washington does not seem to be listening.

In 1971, the then interior secretary, Rogers Morton, placed a moratorium on coal leases on public lands while a leasing procedure—involving environmental, economic and social studies—was developed.

As the Ford administration was leaving office last winter, it appeared that a procedure finally had been developed and leasing might resume.

But, Andrus announced that the Carter administration had questions about the procedure and wanted time to study it.

"No one knows for sure what this means," said Leroy Michael, assistant general manager for Salt River Project. "We don't know if this means we have to go back to zero and start over again or what. It has confused the whole situation."

To add to the confusion, last week a U.S. District Court judge issued an injunction prohibiting the Interior Department from resuming the leasing program until an environmental impact statement on the program is prepared.

Judge John H. Pratt declared that a current statement "was not prepared with objective good faith nor would it permit a decision-maker to fully consider and properly balance the environmental factors."

By itself, Pratt's decision could delay issuance of permits for at least four or five years, according to industry officials.

The leasing problem has not only stymied development of new properties but also affected development on lands where the companies hold leases.

"Because of incomplete geology there are windows on our leases—areas of public land where we can't go," said Loesch of Peabody. "We may not have the crop line, or edge, of a coal deposit, and it is financially ruinous if you don't start mining at the crop line. So we can't develop our current leases until we get everything together."

Even the leasing program that was ready to go presented problems.

"You would have to show that what you are going to do is economically feasible," said John Anderson, a Utah international vice president. Utah international operates the Navajo Mine near Farmington, N.M., and provides about 7 million tons of coal a year for the Four Corners Power Plant.

"Such a condition would make it very difficult," Anderson said. "In the past, leases have been picked up on speculation with the hope a market will develop. Now, that is not socially acceptable. When you have to show an operating profit before you can apply for a lease, it almost shuts the door."

Finding markets is a major concern of companies with western coal mines. Most agree that the most lucrative area is electrical generation where the low-sulfur western coal can be burned without the need for expensive scrubbers.

G. A. Bennewitz, market director of fuels for the Denver, Rio Grande Western Railroad, recently told the American Mining Congress

that western coal can find markets with utilities in the Midwest and the Southeast.

"The strong, low-sulfur western coals are the economic answers to utilities, provided scrubbers are not mandated on all power plants. If scrubbers are mandated, all bets are off," said Bennewitz.

Western coal can find a market as a fuel in cement plants, pulp and paper plants and canneries, all of which could be located in the West, Bennewitz suggested.

"But, the West will still be a net exporter of coal as its coal reserves far exceed the available market in the West," he concluded.

So, western coal may continue to stay in the ground, but the coal people believe they eventually may have their day.

"The energy requirements will continue to grow," said Anderson. "When the supply gets short enough, something's got to give."

"What I'm afraid of is that in the 1980's the government and the public is going to realize the situation this nation is really in," said Loesch. "They're suddenly going to want the coal for electric generation and other uses.

"Congress is going to say 'Go' and cut the Gordian knot and pull out all the stops. I don't think we're going to be happy with the results," Loesch said with a shrug.

[From the Arizona Republic, Oct. 4, 1977]

FURTHER COAL PRODUCTION DEPENDS ON TRIBAL POLICIES

(By Grant E. Smith)

Jim Hendricks shifted in the driver's seat of his four-wheel-drive vehicle and gazed at the 30-foot seam of coal glistening on the wall of a pit gouged into the desert mesa.

"I've told my bosses I think this is the best mine Peabody has," said Hendricks, who is superintendent of the Black Mesa and Kayenta coal mines on Black Mesa in northern Arizona.

Such praise should not be taken lightly. Hendricks is a 16-year veteran with Peabody Coal Co., which is the nation's largest coal producer. Last year the firm mined 69.7 million tons from 44 mining sites in the United States.

Together, the two Black Mesa mines produce 45,000 tons of coal a day, and that coal is used to generate electricity for Phoenix, Tucson, Los Angeles, Las Vegas and other Southwest areas. Some day the electricity also will be used to pump water through the Central Arizona Project.

The Black Mesa Mine, the older of the two, provides coal for the Mohave Power Plant in southern Nevada. The coal is crushed, mixed with water and sent through a 275-mile pipeline from the mesa to the power plant.

The Kayenta Mine provides coal for the Navajo Power Plant outside Page, about 90 miles away. The coal is taken by conveyor belt five miles across the mesa and down the side to a specially built train for transport to the plant.

"We've got about 30 years of mining here," Hendricks said.

Peabody has leases to mine 14,000 acres atop the mesa to a depth of about 130 feet for 35 years. In all, Peabody will mine about 400 million tons of coal from Black Mesa.

Peabody's activity may make only a minuscule dent in the mesa's coal reserves, which some experts estimate at as much as 21.25 billion tons.

The Black Mesa's coal reserves represent the greatest known concentration of energy resources in Arizona.

According to a study by Dr. Helmut Frank, a University of Arizona economist, all the energy consumed in Arizona in 1975 equaled 25 million tons of coal.

Each 640 acres of the Peabody lease contains some 16 million tons of coal, or nearly two-thirds of the state's energy requirement.

Thus, Black Mesa assumes a very respectable posture as an energy source, but utility and coal industry officials question whether it ever will be a reliable or economical source.

Black Mesa is on the Navajo and Hopi reservations, and Peter MacDonald, the Navajo tribal chairman, says the tribe is not getting a fair return on the coal leases.

Leases are being renegotiated.

Additionally, the Navajo Tribal Council has approved a sulfur emissions tax that could drive the cost of coal-fired electricity even higher.

The Peabody leases are not the only ones affected.

Utah International Inc. has huge leases on the reservation near Farmington, N.M. The mining supplies coal for the Four Corners Power Plant

Pittsbugh & Midway Coal Mining Co. has immense leases on the reservation near Gallup, N.M. These operations supply coal to the Arizona Public Service Co's Cholla Power Plant near Winslow and will supply coal to Salt River Project's Coronado Power Plant near St. John.

APS currently gets 47 per cent of its electricity, and the SRP gets 29 per cent from power plants tied to coal supplies on the reservation.

Those percentages will grow because the Cholla Plant is being expanded, and the Coronado Plant is under construction, with operations scheduled to start in 1980.

The Navajo Tribe's actions will have a profound effect on Phoenix power bills over the next decade and beyond.

The Arizona Republic recently asked MacDonald to describe the tribe's position on its coal resources. MacDonald responded:

"The Navajo position on whatever coal resources we have on the Navajo Reservation, is that it should be developed with a knowledge of how much coal we have and with a consideration for a return to the Navajo Tribe in terms of financial gain as well as consideration for the environmental and cultural impact it might have and the economic progress it might have.

"The returns we are now getting from leases made in the earlier years are very poor and unacceptable in today's value of what we believe is the worth of our coal."

Utah International and APS, which manages the Four Corners Plant, were renegotiating their leases with the tribe when the sulfur emissions tax was unveiled.

Those talks have been suspended pending the fate of the emissions tax which is being contested in federal court.

"I think there is a social responsibility to see that the Indians get a fair deal," said Russ Hulse, an APS vice president. "It's something we all feel we should do something about. But I wonder if our customers will feel the same way."

"In general, our relations with the tribe have been good," said John Anderson, a Utah International vice president. "About 74 per cent of our work force is Navajo.

"The royalty rate is something we have had the feeling we would have to resolve one of these days. We are urging our customers, such as APS and their partners, to participate in our discussions. If we are charged more, we will have to pass it along to them."

The utilities currently have a federal court injunction blocking imposition of the sulfur emissions tax, which would tax power plants on the reservation on the amount of sulfur oxides they emitted. Coal contains sulfur, and the sulfur oxides are formed when coal is burned.

As now proposed, the tax would cost the Four Corners Plant $220 million over the next five years, according to APS.

"The whole thing is up for grabs," Hulse said. "All we can see is that the costs for coal are going to go much higher."

As a result, APS has decided to apply for permits to add two additional units to its three-unit Palo Verde Nuclear Generating Station west of Phoenix.

"It's a matter of fuel costs," Hulse said. "We think the nuclear fuel will be cheaper."

SRP General Manager A. J. "Jack" Pfister admits that he has only a five-year coal supply under contract for the Coronado plant.

Pfister said the contract can be extended to 15 years, which the firm probably will do.

"We are looking for additional supplies and having discussions with suppliers," said Pfister. "But we just don't find too much interest. There are just too many impediments to the development of coal resources."

The Coronado plant is fewer than 200 miles southeast of Black Mesa. But the way things are now, it might just as well be on another planet.

Coal, one of America's greatest untapped energy resources, continues to lie dormant.

In this series of articles, The Arizona Republic has examined only a handful of institutional obstacles to coal development, but these obstacles are so monumental that they have the industry's undivided attention.

If they cannot be scaled, then the other problems are moot.

If they are scaled, then there are numerous other questions.

Is coal really that socially acceptable that it can be mined and burned in such a manner as to assure adequate protection of the environment?

Would there be an adequate work force if mining did expand in the West? Peabody is having trouble attracting skilled miners to Black Mesa.

Could companies afford the equipment? Drag lines, which uncover coal seams and are the key to strip mining operations, cost about $20 million each.

Finding answers to the questions also will be monumental tasks. But in talking with coal industry officials, one gets the strong impression they would be most happy to tackle them.

OTHER COUNTRIES REFUSE TO SHARE BURDEN OF REFUGEES

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. EILBERG. Mr. Speaker, I commend to the attention of my colleagues an October 14 article in the Washington Post detailing how Japan has reacted to the growing number of Indochinese refugees seeking freedom and safety.

This news report indicates that the Japanese Government has not provided any housing or direct assistance for the refugees, and has even refused to allow them to accept jobs with private industry.

To me, Mr. Speaker, this sad report points once again to the urgent need for the United States to seize the initiative in calling together the nations of the world for a conference on Indochinese refugees to deal with this urgent humanitarian problem.

In July, I proposed that President Carter convene such a conference at the earliest possible time. It is clear to all of us that the number of Indochinese refugees continues to grow, and that the world community has failed to respond.

In August, the House Judiciary Subcommittee which I chair held a hearing on the administration's proposal to grant parole to an additional 15,000 Indochinese refugees. Within 24 hours of that hearing, we informed the Attorney Gen-

eral that we had no objection to the granting of the parole.

But I fear that the number of refugees is growing at such a fast rate that this latest action by the United States will not even come close to providing safety for enough of them.

It is more urgent now than ever before for the United States to exercise its leadership in convening the international community to meet this problem.

JAPAN RELUCTANTLY TAKES REFUGEES, PROVIDES FEW AMENITIES

(By William Chapman)

TOKYO.—Japan's traditional reluctance to accept new waves of immigrants from abroad is undergoing a test as a growing number of Vietnamese refugees come drifting here in search of freedom and safety.

More than 1,100 refugees have found their way here through harrowing adventures at sea, and nearly 800 still live in limbo, temporary guests in makeshift homes improvised by religious organizations.

So far the Japanese government has not provided any housing or direct assistance for the refugees and has not permitted them to take jobs offered by private companies.

Moreover, the religious organizations complain that Japan erected cumbersome obstacles that delay even temporary landing permission for the "boat people" and thereby discourage ships from picking up other refugees at sea.

The government promised last month to study ways of providing better accommodations and job training for the refugees and agreed to address the touchy issue of permanent resettlement. A special Cabinet council appointed to work on those issues is still being organized.

Japanese officials say that assimilating foreigners is a difficult task for their country.

"We don't know what to do with these people," said Hiroyuki Yushita, a Foreign Ministry official. "It will take time. The Japanese society is a homogeneous society, and our living style is very difficult. Maybe we can accept them as guests, but how can they survive? It is not possible for them to accommodate very easily."

Japan has never been a hospitable place for foreign immigrants. Koreans, with a population of about 600,000, and several thousand Chinese form the only sizable ethnic groups.

The difficult Japanese language and other cultural barriers have been formidable deterrents. Officials contend that Japan is already overcrowded and hardly able to support new immigrants, and they point out the sagging economy has already caused growing unemployment.

Most of the Vietnamese live in 29 scattered locations and are well cared for by Caritas Japan, the Catholic welfare organization, the Japan Red Cross, and a Buddhist group, Risho Koseikai. They also receive about $3.40 a day from a special United Nations fund.

The reaction of the Japanese people to the refugees has been mixed. Some objected strongly to having refugee camps established in their areas. The mayor of one small city complained that a camp would ruin his area's tourist business. In other locations, residents have offered food, clothing, medicine and even television sets to the newcomers.

Religious leaders have begged the government to provide a single large staging area where the refugees could be together while they await permission to go to another country. A Japanese official said the request is still under consideration.

Judging from forms they fill out on their arrival, most of the refugees would prefer to go to another country. The United States and France, where many have relatives, are the first choices. Japan is occasionally listed as a third or fourth choice.

Most refugees arrived on freighters that rescued them on the high seas when their small crafts foundered or when their food and water ran out. Government regulations have not made it easy for them to be put ashore. A foreign ship cannot unload refugees here unless the country where it is owned has promised Japan it will accept them if no home is found for them here.

Some observers believe this policy has discouraged ship captains from lending assistance at sea. They contend the captains do not want to risk a costly delay in Japanese ports while the necessary guarantee is obtained from their home country.

One Catholic priest said that from interviews with his flock of Vietnamese refugees on Okinawa he determined that some ships were ignoring SOS calls from refugee boats. One group told him that three freighters stopped to give them food and water, but refused to take them aboard for the remaining journey to Japan.

The Foreign Ministry's Yushita disputed charges that Japan has taken an unusually hard position to discourage more refugees from coming here.

For one thing, he said, Japan has guaranteed other countries that it will receive refugees landing in their ports. This encourages Japanese ships to pick up the "boat people" because captains are assured they will not be tied up for long periods in foreign ports, he said.

Some other countries do not make such guarantees, he said. He cited groups of about 40 refugees picked up by ships from Malaysia, Greece and Liberia, countries that would not guarantee their responsibility. Denied permission to unload the refugees in Japanese ports, the ships finally unloaded them in Hong Kong and Africa, he said.

He also said that Japan recently had flown back from Singapore a large group of refugees brought there by a Japanese ship. Singapore would not let the refugees unload even temporarily, he said.

The Japanese Cabinet committee has indicated that it will be some time before new facilities are provided for the refugees already here. One official, Tadamasa Kuroki, acknowledged that housing was the most "urgent problem" and said the government hoped to provide a single home for about 300 persons expected to arrive in the coming weeks. No decisions have been made, however.

"We are thinking and discussing," he said.

Vocational training for the refugees is in a similar discussion stage. "First we must find out what they would like," he said.

The committee will also consider the long-range issue of permanent resettlement, Kuroki said.

"We cannot neglect that, and it is being discussed by our council," he added. "I do not expect a quick decision."

READING ANATOLY'S MIND

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I would include the following:

[From the New York Times, Oct. 24, 1977]

READING ANATOLY'S MIND

(By William Safire)

WASHINGTON.—Here am I, Anatoly Fedorovich Dobrynin, for 15 years the Soviet Ambassador in Washington, destined to return to Moscow next year in a blaze of glory.

I can hardly believe my country's good fortune. Of course, as my wife Irina always reminds Gromyko, I had a lot to do with it. When the new American President adopted the right wing position on human rights, I told Moscow to "hang tough;" as I predicted, he tired of it quickly. When Mr. Carter made his hard-line disarmament proposal last spring, I knew that if we just refused to consider it seriously, he would come back on our terms. And he has.

But Mr. Carter's promise to the Democratic fund raisers that he would have a SALT agreement "in a few weeks"—that I cannot claim credit for. Pure good fortune. Now, the American negotiators have a self-imposed deadline, and the pressure for more concessions is on them.

Not that we need any more SALT concessions. We will make a big show of arguing about the number of missiles and bombers, and then settle on 2,200, but that is not the point. We have already achieved in three months what I could not get in the past six years: an agreement to let the Soviet Union improve its missiles, without the Americans knowing our technology, until we can knock out their ability to retaliate after a first strike.

Not only that, but we will not accept limitations on our new Backfire bomber, while we get significant limitations on the American's cruise missile. The best of both worlds. By our patience and firmness—and thanks to the naiveté of the new President—the Soviet Union will soon be the most powerful nation in the world.

In Europe, too, we have the American on the run. Here is an intelligence report from our people in London: On Sept. 15, there was a White House meeting on mutual force reduction with Brzezinski, Defense Secretary Brown (what a nice man!), Stanley Resor, David McGifford, and the rest of the group that used to call itself the verification panel.

According to what the Americans have told the British and the West Germans, Mr. Carter is prepared to support a marvelous concession so that Americans can withdraw from the defense of Europe. Instead of insisting that the Soviet Union reduce its forces by 1,700 modern tanks and 68,000 front-line troops, the Americans will propose that we move back *any* 1,500 tanks and *any* 68,000 troops.

That's a very different deal. Instead of reducing our real standing-start threat, we could pull some cooks and bakers back a few miles, along with some rusty rear-guard tanks—and in return, watch 29,000 United States combat troops and their tactical nuclear weapons pull back across an ocean.

I cannot believe the rest of the report: that if we do not go along with these concessions, the Americans are ready to suggest that they agree not to deploy their neutron bomb. Too good to be true. On top of the limitations the Americans are willing to take on their cruise missile as a theater weapon, that would amount to making western Europe into a Soviet sphere of influence.

Why are the Americans suddenly caving in on every front? If Henry were still there, I would suspect a trick. Maybe the Carter people are counting on the Jackson faction to stop them.

I must be on guard. We have been assured that the human rights issue will no longer be pressed, and the sending of former-everything Arthur Goldberg to the Belgrade conference is proof of that. But George Meany has just invited Sakharov and some other dissidents to visit the United States, following the visit here of our trade unionist comrades.

That could be an attempt to embarrass us. If we refuse to let the dissidents come, it would be a big story to the Jackson faction. I will have to get Mr. Vance—another

nice man—to disassociate the United States from that provocation.

Otherwise, all goes smoothly for my return in triumph. As comrade Brezhnev promised, he has made Vasily Kuznetsov the First Deputy Foreign Minister—he is the logical up the job of First Deputy Minister for me.

Who would take my place here in Washington? Georgi Arbatov is an academic, and Oleg Troyonovsky at the United Nations doesn't know the American nuances. Georgi Kornienko has been following in my footsteps for years, and he is only 52 and a Deputy Foreign Minister—he is the logical choice. Viktor Komplektov has been waiting for him to come here, so he could run the American Department, the same way as I have been waiting for Mr. Kuznetsov's job. Which reminds me, I should call Mondale.

The year I came to Washington, I had to suffer the humiliation of the Cuban missile crisis. Next fall, as I pick mushrooms outside Moscow, the Soviet Union will be "No. 1" in power. I did my share to bring that change about; Mr. Carter is doing more than his share.

I must tell Irina to pick up a couple of fur hats in Bloomingdale's, and a pair of mittens at Nieman-Marcus. I seem to remember, back home, it gets pretty cold in the winter.

REMARKS BY HARDING L. LAWRENCE

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. MILFORD. Mr. Speaker, I would like to share with my colleagues a statement made by Mr. Harding L. Lawrence, before the Subcommittee on Aviation of the House Committee on Public Works and Transportation.

Mr. Lawrence is currently the chairman and the chief executive officer of Braniff Airways, and has directed the airline through an industry-pacesetting growth period that made Braniff a leader in world air transportation.

Under his direction since 1965, the airline has acquired the newest and most modern fleet of jet aircraft in the industry; extended its routes to a 30,000-mile system throughout the U.S. mainland and to Hawaii, Mexico, and South America; doubled total employment, and set new standards in operational competency and passenger service.

In the past 5 years the company's gross operating revenues have doubled to $680 million and net earnings have increased 200 percent to last year's record $26.4 million profit.

Shareholder equity has more than doubled in the last 5 years and the company consistently ranks among the top airlines in rate of return on shareholder investment.

Braniff is the 14th largest airline in the world, carrying over 9 million passengers a year and flying over 6.9 billion revenue-passenger miles.

Mr. Speaker, I think Mr. Lawrence raises some important questions about airline deregulation and the effect that discretionary authority would have on the air transport system as a whole. I would like to put his remarks in the RECORD:

REMARKS BY HARDING L. LAWRENCE

Mr. Chairman and Members of the Committee, I would like to devote my remarks today to the subject which has been labeled as the key to the entire regulatory reform program, namely the provisions in the bill for "discretionary authority," and the effect such regulation would have on the air transport system and present trunk carriers.

In your introduction to the "Air Service Improvement Act of 1977" you have stated the proposed reforms are designed to provide a vehicle for further legislation that would improve air service, bring about lower fares for the traveling public and provide an improved financial climate for the airline industry, in which efficiently managed air carriers would be able to earn reasonable profits and attract capital. Certainly no airline including Braniff could oppose those objectives. However, in the opinion of one who has been in airline operations for thirty years, I am convinced that any discretionary market entry authority will tear the national air transport system apart into non-integrated pieces.

Let there be no misunderstanding, the airlines need more responsive regulation and we need less regulation, whether it is achieved under existing legislation or by the proposed Bill. And we need new market authority. New market authority is vital to the airlines because it helps balance route systems, is a competitive spur, helps meet the increasing demand by the public for more and more available seats, and in general promotes long term growth and therefore the finanical health of the airlines. "Discretionary authority," will not meet the objectives of the public or the airlines. Let me explain.

I define the public need as a dependable, convenient and integrated system of air service at reasonable prices. Airlines presently provide an integrated network of travel services between small, medium and large communities so that any person can get from any airport city in the country to any other airport city quickly, when he wants to go. To maintain such a comprehensive network, regulation of route entry and therefore preservation of route authority is absolutely necessary.

Should legislation be enacted which included some form of discretionary market entry, I could not forecast the final result, but I can tell you these events most certainly would occur in the interim:

1. A seat war in terms of capacity will develop in the medium haul and high density markets.

2. A price war will develop over prime competitive segments.

3. Airlines will shift their available resources to compete with newcomers in their better markets and will enter new markets to compensate for losses in their present markets.

4. To secure the equipment and personnel needed in new or threatened markets, airlines will reduce or withdraw service in markets which are less profitable or are not threatened.

5. Service between major points will be reduced and flights will be concentrated at the peak hours as additional carriers enter these markets.

In my opinion, smaller trunk airlines, and perhaps a few of the larger carriers, will not be able to compete for long under this "discretionary authority" principle. If you eliminate differences between airlines in routes and prices as well as equipment, then marketing success becomes a simple question of size. The smaller airlines will not have the market identity, route strength and financial power. I repeat marketing success will simply become a function of size.

In the building of the national air transport system and the award of routes, few have noticed that a concentration of power developed in the hands of a very few airlines. In fact, the Big Five airlines now enjoy some 75% of the domestic trunk traffic. Of this 75%, United Air Lines is one third. At the other end of the spectrum the smaller six trunk carriers split up 25%. Braniff's market share is among the smallest at 4.3%. Certainly, one has to ask whether the proposed legislation will increase this concentration of power as represented by the big carriers.

The legislation limits each carriers' expansion initially to one market a year. While this expansion ratio is equal for all and thus appears to favor smaller carriers, in truth it will allow for such an increase in dominance by the large carriers that the smaller carriers will lose effectiveness in a very short time. Given that the Big Five would focus their expansion efforts upon those high density markets where they are not currently operating and which will benefit from the traffic feed of their systems, it is entirely possible that Big Five control of the domestic market could increase from the 75% at present to some 90% in five years, more or less.

Take the top 50 markets. United is in 30 of them, American in 27, TWA in 26, Delta in 23, and Eastern in 17. Braniff is in only 5. Such bigness produces a disproportionate identity and ability to control passenger flow. We call it "city power." This is shown by analyzing the major markets. In Chicago where there are 13 domestic carriers, United, instead of 1/13 or 7.7%, gets 31% of total enplanements, giving it a "city power" factor of 4. At New York's La Guardia Airport, there are also 13 carriers, but American Airlines enplanes not 7.7% but 28% of the passengers for a "city power" factor of 3.6. For all the Big Five, the weighted average is a "city power" factor of 3.5. In other words, they will attract 3.5 times more passengers than their relative presence would indicate. What causes this. It is control of connecting traffic and identity in the market with the public.

We have only to ratio upward the Big Five's collective share of 75% by 3.5 to 1 against the remaining 25% for all other trunks and you quickly produce an increased dominance of 9 to 1 or 90% for the Big Five.

Our friends at United provide a very real case in point in substantiating the validity of this concept. Let's begin with their present market share of 24% and assume United will logically pursue those top five markets where they presently do not operate. These markets represent some 6% of the industry's total traffic and could theoretically push United's total share to 30%. Using its historical city power of 3.5 to 1, United would have a new share of 27.8%, or effectively, an 18% increase over its present share.

The conclusion: one additional new major market pair chosen annually by each of the Big Five will squeeze the Small Six out in a short time. The number of markets you open to the Small Six and any protection you give them by the Bill simply will have no effect on the result.

I cannot believe that Congress intends to let this concentration of power persist much less increase it. In fact, I thought the intention was to favor the small carrier. United is a great airline and there are fine people managing it, but witness the fact that United is the major airline supporting your legislation. We must point out that what is good for United is not necessarily good for America. Concentration and competition are opposities.

To achieve the goal of greater competition requires an entirely different program than that proposed. You must withhold new routes from the Big Five and award routes to the Small Six until the concentration of power no longer exists. In so doing you will have established the only basis upon which a continuing program of discretionary entry can be productive.

Let me turn for a moment to the subject of prices. The single most important objective of proposed legislation is to force lower prices for airline tickets. Certain studies have been publicized which presumably prove that prices could have been lower if airlines were not regulated and if airlines had been more efficient in the past. Since none of the researchers asked Braniff, let me give you my views on pricing based on the experience of many promotional fares and discounts.

To begin with, passengers should be separated into leisure travelers and commercial travelers. Braniff passenger traffic divides into approximately 30% leisure travelers and 70% commercial travelers. The leisure traveler wants lower prices for his occasional trips. The commercial traveler wants a choice of schedules for his frequent trips. The present transportation system provides for both.

For the benefit of the leisure traveler, there has been a long history of promotional fares. Right now there is a wide variety of such fares, including mid-week, group, excursion, night coach, super-saver, not to mention the charter flight fares. Nobody mentions these fares when they talk about how the proposed legislation will bring lower prices. Lower than what?

Lower than the promotional fares?

The promotional fares available are already 20-50% less than normal fares. And the people are using them. Twenty percent of Braniff's total business, and 30% of United's business, and an industry average of 26%, travel on a discount fare. Once again in Braniff's case, probably two-thirds of the leisure travelers are already flying at lower air fares, but very few of the commercial travelers.

We are in favor of low fares as a marketing tool which benefits the public, and witness our proposal for an individual standby fare of $349 round trip between Dallas-Fort Worth and London. But to say that fares in general will come down as a result of this legislation is the talk of a medicine man. Here is why.

In 1976, fuel and labor made up 53% of airline operating expense at Braniff. Add in depreciation and amortization, landing fees, property rentals, and travel agent commissions, all controlled or set by other entities, and the total was some 68% of total operating expenses. My conclusions, since there is little opportunity to make reductions in these items, even on a temporary basis, any price war would be brief and limited to markets threatened by newcomers. Over the long term, average prices will have to move up because of inflation in general and fuel and labor costs in particular.

Finally, I want to touch on one of my favorite subjects—the need for development of new aircraft since I believe it would be effected by the proposed legislation. I know you realize that there are no planes available for purchase from any manufacturer anywhere to replace the pollutant airplanes—the DC-8 and the 707—of which there are over 1,500 flying today. The technology, however, is available. We need new aircraft not only for modernization and efficiency and lower unit cost but also as the only practical economic solution to reduce aircraft noise and smoke and achieve more productive use of fuel.

But how can manufacturers proceed with these or other aircraft without having the orders to do so? How can airlines order the aircraft as long as the present uncertainty persists about the future of the air transportation system and the airline industry.

I mention all this because in talking with our employees I found it was almost impossible to explain to them what this clamor for reform is all about. How do I tell them that the Braniff record of the last twelve years has somehow not been adequate? How do I convince them that Braniff's very existence is not at stake? How do I reassure shareholders that their investment is secure? How do I tell our lenders they need not be concerned about our repayment schedule on $275 million in debt, including senior notes which extend out some 20 years? What do I say to security analysts about the outlook? How do I advise travel agents to program their 1979 and '80 tour packages? What can I advise customers and shippers about flight schedules a year from now?

The point is, no one can guarantee what will happen if this legislation becomes law. There is uncertainty. In other words, the results are not known in advance. When I appeared before this Committee last year you asked me for a word to describe what this legislation was all about if it were not in truth "deregulation." I have such a word. That word is "Experiment!"

Giving airlines complete freedom to choose their routes is an air transportation experiment not deregulation.

If the air transportation system were not working smoothly in the public interest, then experiments would be called for as a last resort, just as they were in the case of the railroads. But that is not the case.

In summary, in the event there is some form of discretionary or automatic market entry in any regulatory reform legislation, my concerns are that there will be:

1. A concentration of bigness with the five major carriers increasing their share of the total domestic traffic within five years to 90% from the present 75%.

2. A decrease in competition rather than an increase.

3. A decline in the quality and grade of air service to all communities, large and medium as well as small.

4. A slowdown in modernization of aging aircraft fleets.

5. A lack of development of a new generation of jets which will meet the noise and smoke environmental objectives.

6. An increase in Federal subsidies to airlines as Congress seeks to maintain air service for medium as well as small communities.

7. A change in city, county, state and federal tax support for airport improvement programs now paid largely out of airline landing fees and rentals.

8. A reduction in airline and airport employment as airlines take drastic action to cut the cost of their labor force and shift aircraft capacity.

9. A soaring usage of jet fuel as many more airlines chase the loads and each other from market to market which will certainly be a reversal for the jet fuel conservation program, and

10. Finally a series of mergers based on equipment assets since route authority and permanent airport facilities will have little or no value to airlines.

In truth, I cannot believe you want any of this to happen and yet you cannot be certain that it will not happen if you let this experiment proceed. Mr. Chairman, I believe the present Aviation Act as Amended is satisfactory provided there is clear directive to the Civil Aeronautics Board in the revised policy statement to accomplish the objective of a reliable, efficient integrated national system of air service at reasonable prices through increased competition, reduced concentration of power, and regulation which is responsive to the intent of Congress.

TO WORK OR NOT TO WORK

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. CONYERS. Mr. Speaker, if U.S. businessmen are complaining that they do not know what Mr. Carter is up to, and are suffering from the uncertainty, my anxiety is far greater, even though it is based on some of the same factors.

The economy has slowed down to a 3.8-percent growth rate in the third quarter.

The stock market registers a new low for the past 2 years virtually every day and the Dow Jones industrial average reads like the thermometer of an ailing economy.

The dollar is falling against every major currency in the world.

Interest rates have climbed by more than 200 basis points since last spring, posing an increasing threat to the Nation's economy.

The President's energy program is in tatters in Congress, forcing delay in the introduction of tax reform.

Both business and general public confidence in the Carter administration has dramatically deteriorated and shows no sign of bottoming out.

The administration's pledge of reducing inflation to 4 percent still lacks an antiinflation policy.

The Nation is hearing less and less about a balanced budget by 1981.

Scores of Washington observers and journalists are preoccupied with trying to figure out how the President could have allowed the economy to get into such serious trouble and do so little about it with such sublime confidence.

Jimmy Carter, the technocratic problem solver, is faced with an enormous credibility problem, largely of his own making. The most glaring gap in his credibility is failing to shape a full employment policy and to endorse the Hawkins-Humphrey Full Employment and Balanced Growth Act.

I have to assume that someone in the White House is formulating economic policy but it is extremely difficult to figure out what it is or who is doing it. Business Week recently suggested that "If you laid 5,000 U.S. Government economists end to end, they might reach from Alexandria, Va., to Bethesda, Md., without ever arriving at a conclusion." Unfortunately, according to the White House, as part of its reorganization effort it will take up to 9 months to figure out how to coordinate the efforts of these 5,000 economists in economic policymaking.

What all of this rearranging of organization charts will do to produce full employment and price stability policies and programs exceeds by comprehension. The Business Council, Vernon Jordan of the Urban League, and innumerable critics of the administration along the spectrum from Alan Greenspan to JOHN CONYERS are each saying in different ways that President Carter has to reorder his priorities into a coherent design.

My fear, however, is that when energy, tax reform, welfare reform, job creation and other programs are put together to get economic priorities for 1978 and 1981, the commitment to full employment as the administration's No. 1 priority will still be lacking. If any of my colleagues have doubts as to the significance of the economic issues involved, especially for blacks, I refer them to

Melville J. Ulmer's incisive article in the New Republic:

STAGFLATION

(By Melville J. Ulmer)

A tide of stagflation—unemployment and inflation at the same time—has engulfed the industrial nations of the world. To live with it is obviously wasteful, possibly immoral. It is also politically embarrassing. The solid middle class suffers most from inflation. Family security, built through industry and thrift is eroded by a rising price level. Sluggish production weighs most heavily on the most defenseless, like blacks in the United States. During the past 23 years black unemployment has averaged just under 10 percent. It rose to 13 percent in the last three years and is edging upward. For whites the average unemployment rate in the past 23 years was 4.7 percent and is about one-and-a-half percent above that now. In Europe, that level of white employment would be considered a disaster. But then how should we characterize the record for blacks? Catastrophe? Economic holocaust? Meanwhile, within the last decade alone, prices have doubled, cutting the purchasing power of pensions and other fixed incomes in half. For the middle class with much of its savings in low-interest bank accounts, this has brought disaster of a very different kind.

One reaction, highly commended by the facts, must be that the economic nostrums of the past have failed. That conclusion *must* follow, as we say—but only from logic. Politics and economic rituals are another matter. The easy, time-honored fiscal and monetary policies retain their sway in Washington. Economic reputations rest upon these flowers of Keynes, with roots in the 1930s and glamorous blossoms in the Kennedy days of the early 1960s. Walter Heller, veteran official or unofficial Democratic adviser since the Kennedy administration, urged a $15 billion tax cut in recent testimony before the Joint Economic Committee of Congress. Among liberal stalwarts on Capitol Hill, and within the Carter administration as well, there is a potent impulse to follow his lead. This tax cut would be in addition to a reduction already included in Carter's new tax reform bill.

But the record shows unmistakably that these efforts are self-defeating. Pumping up the economy in the 1960s helped both whites and blacks. But even in the best years, it left the black unemployment rate hovering between six and seven percent. Fiscal pep pills for business activity after the 1971 recession also helped some, but barely pushed the black unemployment rate below nine percent. In both instances the moves generated severe inflation, duly followed by the usual "corrective" recessions. When will the economists, or our politicians, ever learn?

Special concern about black unemployment is justified by more than compassion. True, blacks suffer the most and their economic plight is one of the stigmata of past discrimination. But abnormally high black unemployment rates reflect a fact of more significance. Teenagers and females—black and white—also experience abnormally severe unemployment. These groups—blacks, teenagers, and females—share an economically fatal characteristic: a disproportionately large number of unskilled workers. After all, in August of this year almost 80 percent of the jobless were white, more than three-fourths were out of their teens, and despite the great and sudden flow of women to the labor force, more than half the jobless were male. For the entire population, as well as each of its parts, the most significant cause of joblessness is lack of the skills that American industry increasingly demands.

The evidence is too striking to be missed. This fall business firms are "almost desperate" in their search for "skilled machinists, tool-and-die makers, accountants, engineers, scientists, computer programmers, experienced miners and a host of other occupations requiring technical backgrounds," according to *Business Week* of October 10. Automotive centers like Detroit are suffering "almost chronic" shortages of diesel mechanics, machine repairers, turret lathe operators and the like. These shortages of skilled workers lead to inflation, and that in turn is a situation that typically induces a "corrective" recession.

Standard fiscal and monetary policies, by themselves, cannot possibly yield full employment without inflation or anything even close to this ideal situation. What these policies have provided is an escalating price level, spreading joblessness and six recessions in the last 30 years. More direct approaches and a bolder use of state power are needed.

Poor blacks are a useful focal point for analysis. They crowd the welfare rolls of the nation's largest cities. A relatively few of them also account for much of city crime. All the idle among them live at public expense, directly or indirectly, properly or improperly. Practically all the unskilled blacks now idle want to work. This is evident in the avalanche of applications that greets each job opening for which they might be eligible in cities like New York and Washington. It is evident also in surveys and polls, including those taken of welfare mothers. Poor blacks are crowded together in ghettos and therefore are more visible. But the same analysis also applies to poor whites. Apparently three or four million out of the nation's seven million unemployed—black and white—are more or less chronically idle. Many work for short periods but never enjoy a steady—much less a permanent—job.

They represent a valuable but wasted national resource, demoralized, a burden to themselves and society. There appears to be nearly universal agreement on the wisdom of putting them to work. Presidents say it. Congressional committees proclaim it. Citizens affirm it overwhelmingly in opinion polls.

What's restraining us? Timidity. Putting people to work—up to the point of full employment and without inflation—requires national planning and coordination of all the powers and policies at a democratic government's command. It requires extraordinary fortitude and responsibility in Washington. None of this is in the modern American tradition. Much more customary and politically acceptable are makeshift patchwork gimmicks, each just large enough to lower the decibel level of some particularly noisy interest group. Farmers get higher support prices. Manufacturers get tariffs and import quotas. Now poor blacks get their turn. They are being offered an expansion of benefits under the immodestly named Comprehensive Employment and Training Act.

The CETA gives money from the US Treasury to state, city, and county governments in the hope that they will create jobs for the idle. The disadvantaged, those on welfare and veterans get preference. The federal government admits that the impact of its funds has been "blunted to a larger or smaller degree by reduced state and local payrolls." One independent authority, Robert I. Lerman, estimates that only 50 cents out of each federal dollar thus spent has created new jobs. Local governments (with rare exceptions like Mayor White's Boston) lack either the will or the ability to organize work projects that fulfill real public needs. Last month the Department of Labor accused Chicago, New York, Atlanta and Gary, Indiana of misusing funds, and the Labor Department probably would concede that its surveillance has not been exhaustive. Washington, DC's mayor recently announced a one-year federally funded training program to prepare men and women for occupations such as reading meters and guarding buildings. The cost of a year's training was estimated to be $9000 per person, approximately double the annual tuition at Harvard College. The program's sponsors were unable to assure *The Washington Post* that jobs would be available at the end of the year.

Only the federal government is capable of (1) organizing a national program to put the idle in useful jobs, (2) directing their efforts toward the most important public needs, and (3) adjusting productive techniques to suit the generally modest potential of the workers available. CETA at its peak next year is expected to employ some 700,000 people. At least three million public jobs are needed, more or less permanently, to take up the slack in the US economy. To run so vast a program without disrupting the private sector would require the bold federal planning and political courage mentioned earlier. Wages on public projects would have to be kept relatively modest despite labor union pressure. Otherwise eligible workers never would leave public projects for private industry no matter how much the latter was booming. To avoid inflation the cost of the program would have to be met by taxes. (Of course there will be offsetting savings in welfare and the like.) In effect, taxpayers would transfer part of their purchasing power to the formerly idle. In return they would have a right to expect businesslike management and a flow of new visible, useful services. Otherwise the program would never survive the next election.

What this amounts to is a coordinated government response to the fundamental problem of economic instability. It entails surmounting obstacles that are imbedded in our politics. Is the federal government capable of rising to these challenges? If not, look for continued unemployment ahead, black and white, plus inflation.

SOUTH DAKOTA LOCAL PUBLIC WORKS—$30 MILLION IN LIMBO

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. PRESSLER. Mr. Speaker, the spending of $30 million in local public works money in South Dakota is in limbo in my State of South Dakota, because of the confusion surrounding the Economic Development Administration's interpretation of a law to include minority businesses in contracting for local public works projects.

If you will recall, on February 24, 1977, the House of Representatives adopted an amendment to the Local Public Works Capital Development and Investment Act which provides that—

. . . Except to the extent that the Secretary determines otherwise, no grant shall be made under this Act for any local public works projects unless the applicant gives satisfactory assurance to the Secretary that at least 10 per centum of each grant shall be expended for minority business enterprises . . .

This language was intended to insure that members of minority groups, who have historically suffered from the greatest economic need, would not be excluded from the contracting for local public works projects. I do not believe it was intended to hamper, or even jeopardize, the completion of public works in areas where there are minimal minority business enterprises. However, South Dakota grant holders are beginning to doubt

whether they will have an opportunity to put their much-needed public works money to work.

I would like to insert, for the record, a copy of an article from the Watertown Public Opinion which outlines the deep concerns felt by local public works grantees in South Dakota. Two points should be reemphasized. First of all, there are very few minority-owned businesses in South Dakota, making slim the chances of awarding a portion of the overall work to them. Second, EDA has provided no final guidelines on what grantees must do in order to be eligible for a waiver of the 10-percent minority business participation requirement.

In a letter to Secretary of Commerce, Juanita Kreps, I have stressed the need for EDA to develop clear and extensive guidelines for waiver eligibility; to establish firm procedures which can be followed should a waiver be granted or denied; to provide the grantees with firm commitments regarding the time frame within which waiver decisions will be made; and most important, to interpret the law more flexibly so the 10-percent requirement can be waived entirely in cases where that criteria simply cannot be met.

Local public works grant holders are willing to make a reasonable effort to award contracts to minority businesses or subcontractors. I do not believe it is reasonable for their funding to be denied if these sincere efforts are not successful. I hope that the Economic Development Administration will act quickly to resolve the serious problems discussed in this article. We cannot afford to keep local public works in limbo:

MINORITY FIRM LACK COULD COST COUNTY $1.3 MILLION HERE

(By Denny Warrick and Steve Hayes)

(NOTE.—This is the first of a two-party story which points out the possibility of loss of $1.3 million in federal funds in Codington County because of difficulties in finding "minority businesses" to do at least 10 per cent of each project, a requirement established by the federal Economic Development Administration.)

Local government officials probably breathed a sigh of relief several weeks ago when informed that $1.3 million in federal revenue has been set aside for local public works projects in Codington County by the Economic Development Administration (EDA) regional office in Denver.

However, those same officials are concerned again that most of that money could slip away from them because of the "fine print" representing part of the EDA requirements.

The "fine print" is a clause requiring that 10 per cent of the local public works projects be spent with minority businesses. A minority business is defined by EDA as one whose controlling interest is owned by a member of a minority group.

The grants are intended to stimulate the economy in areas of high unemployment.

PROJECTS LISTED

Projects subject to the 10 per cent clause involve a $393,000 grant to the city of Watertown for construction of a sewer to Interstate 29, a $40,000 grant to the city of Henry for looping and replacing water lines, $500,000 to the Watertown Independent School District for construction of an agricultural education building at the Lake Area Vocational-Technical Institute, $104,770 to Codington County for two road grading projects and $260,230 to the county for construction of highway shops in South Shore and Florence and highway storage building in Watertown.

Thus far, only the highway shops and storage building grant has met the 10 per cent requirement. That bid was awarded to LaFramboise Construction of Watertown, a minority contractor recently registered and approved by EDA.

"It's a requirement", Mark Roddold, planning intern with the First Planning and Development District office in Watertown, told the Public Opinion. "However, if there are no minority businesses in the area and the grantee can document the fact that he has tried to get minorities, he can request a waiver," Roddold added.

There is still a catch, though. The waivers are next to impossible to obtain.

WAIVER POSSIBILITIES

On the national level, only two of about 1,000 waiver requests have been granted according to Robert Wagner, city attorney for Watertown.

With the laws of supply and demand prevailing, minority businesses in this part of the country appear to be in the driver's seat. The supply is limited. However, the demand is high because of the number of approved EDA grants for local public works projects.

Besides the projects listed above, similar ones involve many other northeast South Dakota communities.

"If EDA wants to have projects out here," Roddold said, "they will have to grant waivers."

But the EDA regional office in Denver makes it sound as though it won't be so easy.

"We want the grantees to use every avenue," said Morron Smith of the EDA civil rights division in the Denver office, in regard to grantees finding minority businessmen and laborers. He said grantees may cross state lines if no minority businessmen are to be found in their state, although, he added, the grant money will hopefully be spent within the area to which it was allocated. But, the fact that no minority services can be found in the area is no excuse for the granting of a waiver, Smith said.

Thus far, he said, his office has received no waiver requests from South Dakota, but that may be because bids have been let for relatively few projects. The last grant announcements came on Sept. 30.

Smith added that recruiting of the minority firms must be done, however, in such a way that the cost is kept reasonable.

"We're not funding overrides here," he said.

Smith said his office will investigate all waiver requests where grantees have not been able to find minority labor. If it's found that the grantee and the general contractor have made no effort to recruit minority services, the funding for the project will be cut off, said Smith. On the other hand, said Smith, the EDA may grant either a full or partial waiver if recruiting efforts are unsuccessful.

Nationwide, Smith contended, grantees and contractors have had no problem finding minority contractors and subcontractors to participate in the projects.

"In fact," he said, "in many cases they have exceeded the quota—some by as much as up to 30 per cent, and some of these projects are only in their first phase."

VERY FEW IN STATE

There are few minority-owned businesses to be found in sparsely-populated South Dakota, but that doesn't deter EDA from applying national standards to this state.

"The contractor has to consider that this is a nationwide program," Smith said, "not just for his state."

Therein lies the rub for local governments. At local levels such federal stipulations are viewed, privately at least, as encouraging tokenism at its worst.

Smith said his office has given suggestions to the grantees for assisting contractors in finding minorities. It should be the joint responsibility of the grantee and the contractor. There are services and goods other than construction and building supplies involved in most of the projects, Smith pointed out.

THE SACRAMENTO OBSERVER NEWSPAPERS REPORT BLACK NEWS FOR 15TH YEAR, NOVEMBER 22, 1977

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. LEGGETT. Mr. Speaker, I rise today to congratulate Bill Lee and the Observer Newspapers of Sacramento for 15 years of excellence in reporting the news.

The Observer Newspapers were founded in Sacramento, Calif., in November 1962, by its present publisher, William H. Lee and two other community leaders, John W. Cole and Eugene (Geno) Gladden.

The original Sacramento paper was published every other week and contained four pages. It started with 200 very loyal subscribers.

Later, the untimely death of one of the founders, Gladden, occurred. Cole then sold his interest in the paper to Lee, who was faced with the enormous decision of trying to keep the debt-ridden community paper alive, or let it die. Thanks to the encouragement of many Sacramento friends and citizens, he and his wife, Kathryn, decided to stick with it.

They created Lee Publishing Co., Inc., and Lee sold his real estate business to become a full-time publisher.

Early objectives of the Lees were meager. He and his wife said if they could publish a 16-page paper for the black community of Sacramento every week, they would have been pleased. They did better than that. During Lee's first year as a full-time publisher, the Observer averaged 32 pages every week.

They continued to build the paper to its state today 15 years later, to have become truly one of the outstanding black newspapers in America. In fact, in June of this year (1977), the Lees received the John R. Russwurm trophy, symbolic of the No. 1 black newspaper in America, from the National Newspaper Publishers Association (the black press of America). This is the third time in the last 5 years that the Lees have received this coveted and outstanding award. (John B. Russwurm was one of the founders of the black press in America in 1827.)

Lee Publishing Co., Inc. now has offices in Los Angeles, the main headquarters for its weekly entertainment magazine, The Happenings; San Francisco, office of the Bay Area Observer; and its home, Sacramento, office of the Sacramento Observer.

The Observer's 200 subscribers 15-years ago have increased to over 80,000 in Sacramento and in the San Francisco/

Oakland Bay area, and its statewide publication, the Happenings, has a circulation of over 120,000. The average weekly Observer is now well over 100 pages, with some weekly editions as large as 300 pages.

Lee recently received an honorary doctorate degree in humane letters from Southeastern University in South Carolina. He is listed in Who's Who in America, Who's Who in the West and Who's Who Among Black Americans.

Professionally, Lee is dedicated to the better recognition and excellence of black press. He feels that few other institutions have contributed more to the betterment of this country's black citizens than the black press.

Lee has served as president of the West Coast Black Publishers Association. He is also a member of Sigma Delta Chi, the journalism society of America.

Born in Austin, Tex., in 1936 William H. Lee is the son of a minister, the late Rev. Charles Lee, and religious leader Carrie Lee. Lee and his wife and family (they have three sons), are outstanding citizens and leaders in the Sacramento area. Lee has served on numerous boards and community groups in the capital city of California.

In fact, in 1965 he was named the "Outstanding Young Man of the Year," by the Sacramento Junior Chamber of Commerce, the first black ever so named. He is founder of Sacramento's Urban League Chapter; also a founder of the Sacramento Area Black Caucus. Lee is also a life member of the NAACP.

The respect this young publisher has gained in his city, in the State, and in the country can be immediately recognized upon entry to the Sacramento office of the Observer. The walls of the office are lined with scores of awards and trophies as mementos of outstanding service rendered by the Lees and their ever-growing, ever-increasing Observer newspapers, 15 years "young" on November 22, 1977.

SUPPORTS CAREER CRIMINAL PROGRAMS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 25, 1977

Mr. MAZZOLI. Mr. Speaker, I would like to insert in the RECORD an article from the September 2, 1977, edition of the Washington Post which reports on the success of the career criminal program implemented in the District of Columbia.

I have long been a supporter of career criminal programs which focus on detaining and prosecuting repeat offenders who account for a significant percentage of all crime in our cities.

The success of the career criminal program in the District of Columbia is typical of the kind of success that other major cities are experiencing with similar programs.

The commonwealth's attorney's office in my hometown of Louisville, under the strong leadership of Dave Armstrong, has likewise experienced much success with its career criminal program.

The article reads as follows:

CAREER CRIMINAL PROGRAM HAILED BY D.C. OFFICIALS

(By Laura A. Kiernan)

Ninety four per cent of the "career criminals" who have run into "Operation Doorstop" and been indicted have been convicted again, according to figures released yesterday.

"This kind of program removes people from the street (who) make people afraid to walk the streets," said D.C. Police Chief Maurice J. Cullinane in an interview.

The figures on the special prosecutor-police unit "looked good," Cullinane said, but he cautioned that the program would not solve all of the city's crime problems.

Federal prosecutors and the Metropolitan Police Department set up the program in August, 1976, because of growing public concern that repeat offenders were slipping through the criminal justice system and regaining their freedom.

The figures released yesterday showed that 93 per cent of those in "Operation Doorstop" who are awaiting court action on their cases are in jail.

"Our goal has been to incarcerate dangerous repeat offenders and we are accomplishing this," said Carl S. Rauh, the principal assistant U.S. attorney.

He characterized the career criminal program as a "tremendous and unqualified success (that) has made Washington a safer place to live."

During its first year, the program handled 320 cases in which repeat offenders, on probation, parole or some other form of release, were arrested for crimes of violence, including murder, armed robbery, rape and burglary.

About 90 per cent of the suspects prosecuted by the unit were indicted, and 94 per cent of those indicted were convicted, Rauh said.

The career criminal unit is made up of four assistant U.S. attorneys and six experienced police detectives. The unit is headed by Assistant U.S. Attorney Daniel J. Bernstein.

Each day, detectives arrive at D.C. Superior Court at 6:30 a.m. to review police records on overnight arrests. They then determine which cases should be assigned to the career criminal unit. The decision is based on the defendant's prior criminal record and whether he was on some kind of release at the time of arrest, Bernstein said.

When cases are fully developed, they are presented to a special grand jury, which reviews only career criminal cases, Bernstein said.

As a result, the average time between arrest and indictment for career criminal cases is 28 days, compared to an average of 63 days for other felony cases that are presented to regular grand juries, he said.

The cases assigned to the career criminal unit primarily involved robberies and burglaries, according to the yearly report on the unit's operations.

Robbery convictions ended in average sentences of five to 14 years in prison. Defendants convicted on burglary charges received average sentences of three to 12 years in prison, according to the report. These sentences are "more severe" than those imposed in noncareer criminal cases, Bernstein said.

Bernstein said that as a result of the unit's efforts, a greater percentage of these defendants are being detained before trial than in the normal court routine.

This is being accomplished through increased use of a procedure called a "five-day hold." In these cases, defendants who are found to be on probation or parole at the time they are arrested can be held without bond five days, pending review of their release status.

Over the past year, those reviews have been accomplished faster because of improved coordination between the prosecutors, the judges and the probation and parole officials, Bernstein said.

Figures show that 280 of the 320 defendants whose cases were assigned to the career criminal unit have been incarcerated.

"The word is on the street," Bernstein said, that the courts and police have stepped up their effort to lock up career criminals both before and after trial.

In July, a second career criminal unit was established on an experimental basis in the Superior Court's misdemeanor division, Cullinane said. Two assistant U.S. attorneys, a detective and a paralegal assistant have been assigned.

The misdemeanor program will concentrate on such crimes as assaults, shoplifting, petit larceny and weapons charges involving repeat offenders, the police chief said.

The purpose is to focus on offenders who are "literally crime waves," but who do not commit offenses serious enough to warrant the attention of the felony career criminal unit, Cullinane said.

SENATE—*Wednesday, October 26, 1977*

(Legislative day of Friday, October 21, 1977)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

O Lord, our God, in the quiet of this sacred moment dedicated to the things that are unseen and eternal, we come to Thee in the name of Him whose name is above all names. Lift us out of our littleness and weakness into the greatness and strength of His manhood. Give us clean hands and pure hearts. Make us fit for our tasks. Show us how to go about doing good, ministering rather than being ministered unto, becoming the servant rather than the served. Make us worthy of our great heritage and faithful to our high trust. At length grant us hearts at peace with Thee. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 26, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Tuesday, October 25, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

Mr. ROBERT C. BYRD. Mr. President, I have no need for my time.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no need for my time under the standing order and I yield it back.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

The Senator from Alabama.

Mr. ALLEN. I thank the Chair.

THE PANAMA CANAL TREATIES—NO. 19

Mr. ALLEN. Mr. President, one of the principal dangers which would face the United States should the Senate give its advice and consent to the proposed Panama Canal treaties is the possibility—indeed, the probability—that some future government in Panama would repudiate the treaties on grounds that the treaties had been negotiated by an illegal dictatorial regime not authorized to act on behalf of the Panamanian people. The argument would be that the acts of the overthrown dictator of Panama should not be allowed to bind the new legitimate Panamanian Government and hence that any previous actions taken by the dictator would be ultra vires and therefore voidable. A future government could well take the position, and with some justification I would think that Dictator Torrijos was no more authorized to act on behalf of Panama than was the Frenchman Bunau-Varilla.

Of course, Mr. President, in my judgment Bunau-Varilla was the properly designated representative of the Government of Panama and the treaty of 1903 was legally ratified by the Constitutional Constituent Assembly of Panama even prior to ratification in the U.S. Senate, so I do believe that the treaty of 1903 is a binding document, but in the eyes or hindsight of many Panamanians, the treaty of 1903 was improperly procured. I am, therefore, only relating what I believe to be the likely opinion of Panamanians in future years with respect to any treaties which might be promulgated under the rule of the present military dictatorship.

But, Mr. President, the possibility of future Panamanian repudiation of these proposed treaties is not simply my speculation. On August 31 at a press conference held here in Washington, representatives of the Panamanian Committee for Human Rights made an emphatic statement. And something that does not exist down in Panama at the present time is, of course, human rights for the citizens of Panama. Representatives of the Panamanian Committee for Human Rights are outside Panama, of course, and they are seeking to influence the decisions of the Government there with respect to the granting of human rights to the people of that country.

This Committee on Human Rights stated emphatically that Omar Torrijos did not speak for the Panamanian people and if democratic institutions returned to Panama, no treaties negotiated by the dictator would be recognized as binding. That does not mean, Mr. President, that a future government would return to the status quo that existed at this time. That means that they being in control of the canal would keep the canal under such conditions as they set, certainly as to the right of the United States to defend the canal and the right of prior passage. They would not give the canal back. I do not mean that when I say they would repudiate the treaty, but they would take whatever they already had and seek to get a whole lot more.

These are the people who might well return to positions of authority should Dictator Torrijos be deposed.

Somewhere along the line these dictators fall by the wayside. They do not stay in forever. Some have long periods of prosperity and incumbency, but sooner or later the people catch up with them and they are deposed, and I predict that is what will happen to Torrijos unless he is undergirded by these treaties and the economic benefits that come to his regime from the tens of millions of dollars each year that would go into his coffers, some $70 million a year from the canal revenues.

Again, Mr. President, on October 11, Dr. Winston Robles, a leader of the Panamanian exile community in southern Florida, stated to the House Committee on International Relations, and I quote his statement:

> All governments that come to power by force try to give legitimacy to their origins and legality to their malpractices. In 1972 Torrijos dictatorship called elections for a "Constitutional Assembly." With all political parties and activities proscribed, except the government party "Movimiento Neuvo Panama" and the "Partido Del Pueblo" (Moscow oriented communist party), and absolute control of newspapers, television and radio stations, it was not surprising that the government won 504 of the 505 carefully screened "representatives."

So if they could win 504 out of 505 representatives to the assembly it is quite obvious that they could have bettered the 2-to-1 ratio in favor of the Panama Canal treaties in the plebiscite that was held last Sunday in Panama. They saw fit to say that it was a 2-to-1 margin. Obviously if they had said, as they very well could have, that it was 100 to 1 that would make the U.S. Senate and the people of the United States skeptical of the bona fides of the election result.

So, they decreed that it was 2 to 1. They could just as easily had it 100 to 1. If it had been 100 to 1, it might have caused the Senate to look with some skepticism on the treaties, for if they were so heavily balanced in favor of Panama we might have a closer look, but if it were just a 2-to-1 margin in favor of the treaties it looks as if maybe Panama did not get such a good deal after all.

That apparently was the thought process of the dictatorial regime.

So, Mr. President, it is pretty clear that the norms of democracy observed in Panama represent nothing but a farce played to the world audience. It is crystal clear that these people in this constitutional assembly are solidly under the thumb of the gangster dictator and equally clear that they have little or no choice as to what course of action they collectively or individually choose to follow.

But, Mr. President, Dr. Robles continues to describe the actions taken in 1972 in Panama designed to give some semblance of legitimacy to the Torrijos dictatorship. He continues to describe this so-called constitutional assembly:

> This selected, rather than elected, assembly held its first meeting October 1, 1972. A week later the "new constitution" was approved without discussion and the "constitutional assembly," even to the surprise of its members, found itself transformed into a "Legislative Assembly"—but one without power to legislate.

That is the type of government they have down there, showing it is completely under the thumb of the dictator. What we have here then, Mr. President, is a so-called constitutional assembly transformed into a legislative assembly which is something akin to a debating society with appointed members selected by the dictator but without any power to legislate. This unelected body was therefore established under a constitution designed primarily to uphold the facade of legitimacy while giving the substance of power to one man. But here is what Dr. Robles has to say:

> The new constitution subordinates the legislative, executive, and judicial power to the National Guard. It eliminates the separation of powers and places the legislative power in a "Legislative Council" composed of the Cabinet Ministers and *any* number of members appointed by Torrijos. It also states that Torrijos is the "Maximum Leader."

Maximum leader, Mr. President. That means that power may be shared with appointed lackeys, but at the bottom line only one man decides. No separation

of powers, Mr. President, and no power outside the dictatorship, for that matter. That points out the importance of our own Senate and House of Representatives insisting on maintenance of the powers delegated to each by the U.S. Constitution.

Here is what Dr. Robles has to say about the reason for going through the motions of adopting this unusual constitution:

The Constitution exists only for "cosmetic" reasons and does not impose in practice any limits to the use and abuse of the governmental powers. This concentration of dictatorial powers, without parallel in the constitutions of any other Latin American country, does not give, however, a complete idea of the real power that the dictator and the National Guard exercise. For example, the Article 29 of the Constitution prohibits expatriation, but several hundred Panamanians live in exile and are not allowed to return to their country.

So, Mr. President, these Panamanians who have managed to escape to a country where they are able to state their views without at least any immediate fear of reprisal have got a very low opinion of Dictator Torrijos and, consequently, an even lower opinion of the legal effect or validity of any treaty negotiated by him. I might add, Mr. President, that Dr. Robles' view is one that I also share inasmuch as I believe it to be inappropriate for the United States to enter into a treaty relation calling for partnership in the joint operation and defense of a strategic waterway with a government whose leaders are either criminals or the associates of criminals. Dr. Robles made the same point when he described life in Panama to the members of the House Committee on International Relations:

Today Panamanians live in constant fear. Telephones are tapped, mail intercepted, houses searched in the dark of night, people arbitrarily arrested, and the population intimidated by an organization of paid informers. This government, its officers and its friends are involved in all kinds of legal and illegal businesses. The involvement of high ranking officers in drug traffic is well known.

And I might say, Mr. President, that we have seen some hints of the extent of that involvement in previous discussions here on the floor of the Senate and elsewhere. Certainly the American people should be alerted to the character of this Government that the Department of State has seen fit to treat so handsomely and with such great deference.

Yet, Mr. President, much has been made in our own media here in Washington about this so-called plebiscite conducted on Sunday, October 23, in Panama, but listen to Dr. Robles' explanation of the legal effect of this plebiscite. And before quoting him, Mr. President, I would like to remind Senators that Dr. Robles is a lawyer of great international standing and certainly the foremost authority on the Panamanian Constitution. Here is Dr. Robles' analysis of the legal effect of the Panamanian plebiscite:

The Panama Constitution provides that any Canal Treaty must be "submitted" to a national plebiscite. However there is a confusion. The plebiscite does not have any binding effect because the power *to approve* a treaty belongs to the Assembly of District Representatives—(Article 141 of the Constitution). The plebiscite is an expedient to give the treaty the appearance of a popular approval. However, what kind of a plebiscite can be held without a free press, without freedom of assembly, and without freedom of thought and expression? What is the value of a plebiscite under the constant manipulation of information by the government-controlled press, radio, and television?

With questions like that being asked, Mr. President, this plebiscite then is not going to be a very solid foundation for a new treaty, at least not in the eyes of some subsequent, freely constituted, legal Panamanian Government.

Dr. Robles also points out that it does not really matter whether the plebiscite was conducted freely or not because, and I quote his remarks:

The plebiscite is a simple problem for the Panamanian government. It does not matter how many vote aye or nay. What matters is who is going to count the votes.

So the results of this plebiscite could very easily have been tailored, Mr. President, to achieve the best public impact. And public impact is pretty important to our Department of State. You know, Mr. President, the U.S. Embassy in Panama had a study prepared by a Mr. John L. Jackley on the subject, "The Impact of the New Canal Treaty." In addition to much other advice, Mr. Jackley suggested to our diplomats the following:

A lot of good press would be essential for success: In this situation *we could make good use of the controlled press situation of the isthmus.* If it doesn't work, no propaganda would sell it. But it can be given at least an initial breath of promise through *skillful manipulation of the available media.*

So it has been recommended, Mr. President, to the Department of State that the controlled press down there in Panama be utilized to full advantage to rig the results of this plebiscite. And you know, Mr. President, for the best psychological impact here in the United States, they would not want a 100-percent vote—that would be too obvious; they would want a vote showing some significant opposition but overall strong approval—and that is about what we have gotten out of these results reported from Panama.

Mr. President, with the Department of State being advised "to make good use of the controlled press," certainly we ought to be able to understand the feelings of the Panamanians who wish to see their country free, and certainly we ought to be able to understand their feeling that any deal negotiated with Dictator Torrijos is not binding and is in itself a threat to the prospect that Panama will ever regain freedom.

Dr. Robles summarizes the situation in this fashion:

Panamanians do not want to replace a bad treaty with one that is going to be imposed with Torrijos playing the same role that Bunau-Varilla played in 1903. The new treaty does not solve "the causes of conflict" between the two countries. On the contrary, it adds a few new ones, as, I am sure, many members of Congress are aware. However in this ever-changing world, permanent does not mean eternal. Sooner or later the dictator will fall. Then the treaty is going to be rejected by Panamanians and their governments and all the resentment against the dictatorship will be reflected in the future relations between Panama and the United States.

And that is the bottom line, Mr. President. Sooner or later the dictator will fall, and sooner or later any treaties negotiated with the dictator would be by the Panamanian people completely and properly repudiated, and the United States will be blamed correctly for perpetuating a dictator whose time is already past.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 5263, which the clerk will report.

The assistant legislative clerk read as follows:

H.R. 5263, a bill to suspend until the close of June 30, 1980, the duty on certain bicycle parts.

The Senate continued with the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GLENN). Without objection, it is so ordered.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate today to consider S. 2230, the emergency crop insurance bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that during the consideration of the pending measure, Mr. Dan Dreyfus, of my staff, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 64 Leg.]

Baker	Glenn	Long
Burdick	Gravel	Packwood
Byrd, Robert C.	Helms	Zorinsky
Curtis	Jackson	

The PRESIDING OFFICER (Mr. ZORINSKY). A quorum is not present. The clerk will call the names of absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Will Senators please clear the well so the clerk can recognize Senators who have not voted?

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), the Senator from Wisconsin (Mr. NELSON), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Indiana (Mr. LUGAR), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 77, nays 4, as follows:

[Rollcall Vote No. 578 Leg.]

YEAS—77

Abourezk	Cranston	Hatfield
Allen	Culver	Hathaway
Anderson	Curtis	Hayakawa
Baker	Danforth	Heinz
Bayh	DeConcini	Helms
Bellmon	Dole	Hollings
Bentsen	Domenici	Inouye
Brooke	Durkin	Jackson
Bumpers	Eagleton	Javits
Burdick	Eastland	Kennedy
Byrd, Harry F., Jr.	Ford	Laxalt
	Garn	Long
Byrd, Robert C.	Glenn	Mathias
Cannon	Gravel	McClure
Case	Hansen	McIntyre
Chafee	Hart	Melcher
Chiles	Haskell	Metzenbaum
Clark	Hatch	Morgan
Nunn	Sasser	Stevenson
Packwood	Schmitt	Stone
Pell	Schweiker	Talmadge
Percy	Scott	Thurmond
Proxmire	Sparkman	Tower
Ribicoff	Stafford	Wallop
Riegle	Stennis	Williams
Roth	Stevens	Zorinsky

NAYS—4

Biden	Johnston	Weicker
Huddleston		

NOT VOTING—19

Bartlett	Magnuson	Nelson
Church	Matsunaga	Pearson
Goldwater	McClellan	Randolph
Griffin	McGovern	Sarbanes
Humphrey	Metcalf	Young
Leahy	Moynihan	
Lugar	Muskie	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. ROBERT C. BYRD. Mr. President, I hope that Senators who have amendments will be prepared to call them up. That is so that action can be completed on the bill by the close of business Friday. If that does not occur, of course, that will mean a Saturday session. It is hoped that the Senate can complete its floor work on other matters by a week from this coming Saturday, so the Senate can begin to take 3-day recesses waiting on conference reports.

The longer the delay on any final action on this bill, of course, the longer it pushes back the final date for the floor work. I am hoping that the Senators will take this into consideration and call up their amendments.

Mr. THURMOND. Mr. President, I ask unanimous consent that Hargrave McElroy of my staff be accorded the privilege of the floor during consideration and vote on the energy tax legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT 1503

(Purpose: Prohibition of busing for school integration during an energy crisis)

Mr. HELMS. Mr. President, I call up my amendment 1053 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated. The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 1503.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. PROHIBITION OF BUSING FOR SCHOOL INTEGRATION DURING ENERGY CRISIS.

(a) IN GENERAL.—Section 217 of the Equal Educational Opportunities Act of 1974 (88 Stat. 518) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "except during a national energy emergency.".

(b) DEFINITION.—Section 221 of the Equal Educational Opportunities Act of 1974 (88 Stat. 518) is amended by inserting at the end thereof the following new subsection:

"(f) The term 'national energy emergency' shall be deemed to be such period of time, as determined by the Secretary of Health, Education, and Welfare, upon consultation with the Secretary of the Treasury and such other officials as may be relevant, when direct and indirect imports of crude oil and refined petroleum products into the United States equal or exceed 40 per centum of the total annual United States petroleum demand during the calendar year immediately preceding the beginning of the new school year.".

Mr. HELMS. Mr. President, the legislation we are considering today provides Federal financial assistance in the form of tax incentives to those consumers of oil and gas who seek to conserve those products. Recently, the Senate passed legislation providing financial assistance to educational institutions to meet the emergency caused by the high cost of fuel and fuel shortages.

Mr. President, I do not believe that we can justifiably appropriate taxpayers' dollars, provide tax benefits for some consumers and some businesses, and generally add a further costly regulatory burden upon society, while still refusing to take actions which would relieve some energy consumers of the unnecessary use of fuel. I do not believe that we should, with one hand require tax dollars to be spent in ways which waste fuel, and, on the other hand, spend more tax dollars and reduce Federal revenues to compensate for the resulting high prices and shortages.

Mr. President, it is entirely appropriate that this legislation, which seeks to encourage energy conservation, also seeks to eliminate the wasteful use of energy mandated by some Federal officials.

In that connection, on May 19, of this year, I introduced the Energy Conservation and School Transportation Safety Act, S. 1567, to reduce fuel consumption by schools by restricting the unnecessary transportation of students.

On April 18, the chief executive of this land, President Carter, reported to the Nation that the energy crisis, with the exception of preventing war, is the greatest challenge our country will face during our lifetimes. The pending amendment recognizes that we are in a national energy emergency regarding our petroleum consumption. It further provides that, in this emergency, an adjustment must be made to accommodate services which are most essential and which require the least consumption of fuel.

Mr. President, educators have frequently noted the serious financial impact which the introduction of forced school busing has had upon education in the United States, but its impact upon our energy supply has gone almost unnoticed. In developing pupil assignment plans, Federal courts and bureaucracies are still as heedless of the energy drain created by unnecessary busing as they are of the other burdens these plans impose upon American society.

At the time when many busing plans were put into effect, the availability of fuel was not a factor. But circumstances have drastically changed since that time and, as President Carter noted, what may have appeared reasonable to some in a period of energy abundance can no longer be tolerated during a time of national emergency.

We have reached the point that the various uses of busing must be ranked

on a priority scale. Busing is needed only where the distances are too far for a child to walk. When these distances are artificially created, then busing can no longer be considered essential. The Nation simply does not have the fuel to spare to transport pupils beyond their neighborhood schools. Under the emergency conditions President Carter has described, it is certainly proper to set up energy conservation by limiting unnecessary busing.

Indeed, this Senator believes our determination to stop unnecessary busing will provide a very significant test of our determination to meet what the President has said is the greatest challenge our country will face during our lifetimes.

We cannot seriously propose to our fellow citizens across America that they may face the loss of their jobs and the inability to heat their homes and still have a Congress that insists upon needless and wasteful school busing.

Mr. President, the amount of gasoline consumption involved in school busing today is substantial. Based upon a study of gasoline used for busing in several of the major metropolitan areas in the State of North Carolina, I would estimate that the use of gasoline for busing has more than doubled wherever widespread busing has been introduced under pressure from HEW guidelines or court orders.

Let me give a few examples.

The Charlotte-Mecklenburg school system used 478,343 gallons of gasoline in 1968–69 to travel 1,908,842 miles. Then, in April of 1971, the Supreme Court affirmed a busing plan in the famous case known as Swann versus Charlotte-Mecklenburg County Board of Education.

But what happened, Mr. President, following the Supreme Court's busing decision? In 1971–72, Charlotte used 865,733 gallons of gasoline to travel 3,914,215 miles. Last school year—1975–76—Charlotte used 1,210,825 gallons to travel 5,990,210 miles. And that is not even the whole story. These Charlotte figures do do include the miles traveled or the gas used by the City Coach service which was chartered to bus a substantial number of students. The cost of gasoline alone to the taxpayers increased from $47,448 in 1969 to $371,521 in 1976—almost an eightfold increase in cost since court-ordered busing began.

Now, let us move to my home town of Raleigh, N.C.

In 1969–70, the city of Raleigh and Wake County used 332,855 gallons of gasoline to travel 1,676,925 miles. Last year, Raleigh-Wake County used 718,650 gallons to travel 3,399,581 miles. The cost to the taxpayers of gasoline alone increased during this time from $43,079 in 1969, to $254,066 in 1976.

Similarly, during the 1969–70 school year, Winston-Salem used 305,307 gallons of gasoline for its buses to travel 1,239,300 miles; during the 1975–76 school year it used 792,905 gallons to travel 4,149,373 miles. Here too, the cost to the taxpayers made a stunning increase from $37,089 in 1969, to $291,786 in 1975 for gasoline alone.

In 1970–71, Greensboro buses traveled 593,176 miles and consumed 131,817 gallons of gasoline, but then came forced busing, and by 1975–76, Greensboro buses traveled 3,903,177 miles to consume 830,678 gallons of gasoline. The cost to the taxpayers for gasoline increased from $20,596 in 1970–71 to $299,426 in 1975–76.

Mr. President, I have used cities in my home State because they are typical. If we project these figures all across the country, we can see the enormous waste of gasoline, the enormous waste of taxpayers' money, for a program that has been, if anything, destructive of the quality of education in this country.

My State figures are as follows:

	1969–70	1975–76
Charlotte, Mecklenburg County:		
Buses	267	584
Miles	1,908,842	5,990,210
Gallons/gas	478,343	1,210,825
Cost/gas	$47,448	$371,521
Raleigh, Wake County:		
Buses	254	458
Miles	1,676,925	3,399,581
Gallons/gas	332,855	718,650
Cost/gas	$43,079	$254,066
Winston-Salem:		
Buses	208	405
Miles	1,239,300	4,149,373
Gallons/gas	305,307	792,905
Cost/gas	$37,089	$291,786
Greensboro:		
Buses	107	541
Miles	[1] 593,176	3,903,177
Gallons/gas	131,817	830,678
Cost/gas	[1] $20,596	$299,426

[1] Estimate based on averages from other school districts.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, the majority sentiment in this country with respect to forced busing is very clear. Every poll that I have seen indicates that the vast majority of the American people are opposed to it. This opposition to busing crosses all economic levels and includes all races. The vast majority of blacks are opposed to it, as well as whites. It is serving no useful purpose in this country at a time when it is wasting, and I said earlier, millions upon millions of dollars of the taxpayers' money and millions upon millions of gallons of gasoline.

Now, I realize that not all of this increased gasoline consumption in transporting students is attributable to unnecessary busing, but the fact remains that the average schoolbus only gets a mere 5 miles to the gallon in gasoline consumption.

Paul Harvey reported in his news commentary for April 18, 1977, that we will continue to waste 342 million gallons of gasoline each year busing schoolchildren. Mr. Harvey goes on to point out that nationally this wastes the total output of 600 average producing oil wells each year.

Mr. President, there is one further dimension to this problem which is more serious than the misguided use of tax dollars and the ill-contrived consumption of energy. It is the tragic cost paid by the children themselves as a result of schoolbus accidents; 23,000 of them in 1 year—resulting in 8,500 injuries and 185 fatal injuries.

The U.S. Department of Transportation reports that, in North Carolina for the 1974–75 school year alone, there were 1,907 schoolbus crashes in which 631 schoolchildren were injured and 328 busdrivers, other passengers, and other drivers were injured, for a total of 959 injuries. That is more than seven bus crashes per schoolday, and that is in my State alone.

It is an increase of over 30 percent in the number of accidents and almost 40 percent in the number of injuries than before widespread busing began to show its ugly head, requiring that children be forced to attend schools beyond their neighborhood schools.

Mr. President, I do not know how many of these injuries occurred during the unnecessary transportation of students to achieve the social engineering of some Federal bureaucrat or judge. But even one crippled or dead child is far too high a price to pay.

Mr. President, there are, of course, some who will not accept the fact that there are many people in this country who oppose court-ordered busing, because it is wasteful or our resources, or because it increases the risk of accident and injury to our children, or because it simply does not work. Each time a proposal has been made on this floor and elsewhere to eliminate this folly, there have been some who ascribe almost a sinister motive to anyone who does not share their enthusiasm for this thing we call forced busing.

I sincerely wish that these advocates of forced busing could have seen a telecast on March 14, carried by the Public Broadcasting System, on the subject of school busing. The name of the program was "Black Journal." It is a weekly television commentary on the black experience in the United States. This is the way that telecast concluded:

> Equality—not integration—should be our national objective. Integration cannot lead to equality, but equality can lead to integration. . . . Whites who oppose busing must lose their fear of being called racists and blacks must stop the automatic adoption of integration as a cure-all for the problems of black children. Both must embrace a higher principle of truth: It is not necessarily good or bad because it is black or white. It is good or bad because it does or does not work.

Those were the words of a black citizen appearing on a network program called Black Journal, the producer of which is a man named Tony Brown, who said:

> There is a significant silent black majority view on busing that is virtually never heard.

According to a poll of 100 black leaders selected by Black Journal, 58 percent of those asked did not—repeat, not—want their children bused to schools outside their neighborhoods to achieve desegregation, while a recent Lou Harris poll shows that only 38 percent of black Americans favor such busing. Asked whether busing will improve the quality of education for all students, 74 percent of the black leaders responding to the Black Journal poll said, "No."

The program also found that there is mounting evidence questioning the effectiveness of busing. The U.S. Civil Rights Commission, in a report costing more than $1 million of taxpayers' money, could not substantiate the success of

busing for desegregation purposes. Scholars who once supported busing after extensive research have now documented its failure and point instead to a deterioration of educational achievement and race relations. Says Black Journal producer Brown:

Everyone agrees that the findings to support the success of busing for desegregation purposes are inconclusive. This is really a polite way of saying that it does not work.

The program discussed a 10-year study of busing by two noted social psychologists. Dr. Normal Miller of the University of Southern California and Dr. Harold Gerard of the University of California at Los Angeles found from a study of a large-scale voluntary busing program in Riverside, Calif., that even under the most favorable conditions, busing would fail to achieve any increased educational benefits for the minority students involved.

Some of my colleagues may remember that I discussed this study at length on the floor of the Senate during consideration of the 1977 Labor/HEW Appropriations Act on June 29, 1976.

Mr. President, the amendment I am introducing today simply closes a loophole in the present Federal prohibition of forced busing. Today, title 20, section 1714, of the United States Code, prohibits any court, department, or agency of the United States from ordering the implementation of a plan that requires the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education. Section 1716 of title 20 permits such busing plans which have not been so ordered. My amendment would make inoperative this provision during the period of a national energy emergency.

Children today are being denied the right to walk to school in neighborhoods where thousands of children have walked to school in previous generations. From kindergarten age on up, they are now being conditioned to accept vehicular transportation as the normal and expected mode of getting from one place to another. They are being denied the experience of walking, and the opportunity of forming healthful habits which would persist throughout their lives. They are, on the contrary, forming an unhealthy attitude toward the prudent use of our energy resources in the future.

These children are growing up in an age when they will be faced with chronic energy shortages at least over the next few decades. We should be educating them to live in the world of today and tomorrow, not the world of yesterday when we had all the gasoline we wanted. Instead, we are training them to accept the idea that it is normal for healthy individuals to have free transportation even when they could and should walk. Much of the busing today is completely unneeded and detrimental to the formation of sound attitudes about energy conservation. We can no longer afford the luxury of training our children to waste our energy supplies.

The President of the United States and every governmental figure available for comment repeatedly has emphasized that there must be energy conservation. That is the purpose of the legislation here today.

This amendment simply says that in time of an energy crisis, we shall not waste the taxpayer's money, we will not waste precious fuel, with the unnecessary and destructive policy of forced busing. That is the amendment. The yeas and nays have been ordered, and I certainly hope that the Senate will approve it.

Mr. CURTIS. Mr. President, I commend the distinguished Senator from North Carolina on his presentation.

I believe that the right to attend your neighborhood school is a basic human right that belongs to both the pupils and the parents.

However, today we are considering an energy bill. How much energy is used in this school busing? Can the Senator tell me? What are the figures with respect to gasoline? How much is involved?

Mr. HELMS. I say to the Senator that I cited for the record, a moment ago, the statistics for my own State, where millions of additional gallons of gasoline are wasted in city after city. These statistics are on a comparative basis, before forced busing and after forced busing.

I also mentioned Paul Harvey's comment that forced busing is wasting the equivalent of the total output of 600 oil wells each year.

Mr. CURTIS. I thank the Senator.

Mr. President, the energy situation in the United States is most serious. The fact that there are no waiting lines at the gasoline filling stations does not indicate that an energy crisis could be near at hand. We are at the present time importing approximately one half of our petroleum. Any time a foreign nation or group of nations has it within their power to curtail or stop the farmer's tractor, the trucks on the highway, factories, railroads, and the airlines, we are in a serious situation. Without fuel, the U.S. Air Force would be grounded, Army trucks would not roll, and our Navy would have to be tied up at the piers.

The energy measure that was before the Senate Committee on Finance dealt with conservation. The President's program deals only with conservation. We can and should conserve all the energy possible. Conservation is not enough to meet this crisis situation. We should also keep in mind that an expanded economy and full employment come from the use of energy, and not from the nonuse of energy.

The United States must produce more energy. It can be done. This country can, by drilling and searching for oil, find more oil. That is the history of the petroleum industry. This is a job for private enterprise. It requires a huge amount of capital. We must provide sufficient incentives for the formation of the capital to get the job done.

Responsible authorities tell us that most of the oil that has been found in the past decades in continental United States has been at a depth of less than 5,000 feet. We are further advised that if we drilled an additional 5,000 feet into the Earth there would be as much oil produced as in the first 5,000. We are also told that the next 10,000 feet will produce as much oil as the first 10.

If America is to be a prosperous Nation and provide jobs for all of our people, we need a conservation program, and we need a program of search and discovery and production of petroleum and natural gas. That is not all. We need to start now with the production of alternative fuels. Coal will play a big part. But I wish to speak at this time on two other alternative sources that can produce motor fuel. These programs are provided for in the bill reported by the Senate Finance Committee. I refer to the making of alcohol from agricultural products and blending it with gasoline, and the program for the production of oil from shale.

The committee received testimony to the effect that one or more private companies will make the investment which will probably run as high as a billion dollars for the development of petroleum from oil shale, and could do so with a $3 a barrel tax credit for the oil produced. The committee decided that, to start this necessary industry, that was a good investment.

Oil from the OPEC countries costs us about $14 a barrel. With our foreign purchase of oil, we have all the problems of imbalance of trade and imbalance of payments, plus the danger of an embargo. We believe that this was a wise action on the part of the committee. If no oil is produced from shale, it will not cost the Government anything.

There is another great source of energy available for us. It is a renewable source. It is the blending of ethyl alcohol with gasoline for our motor fuel. Other countries have done this for decades. Alcohol can be made from grain, potatoes, from anything that has starch. It can be made from spoiling vegetables or spoiling grain as efficiently as it can be made from those crops that are in excellent condition. This alcohol can then be blended with gasoline and used by our motor vehicles without rebuilding the engines or any attachments or engine changes whatever. We use a tremendous amount of gasoline in this country. By this plan of blending alcohol in our motor fuel with a 10-percent blend, we increase the supply of motor fuel by 10 percent.

We, at the same time, make a major contribution to agriculture. At the present time agriculture is very depressed. Many farm prices are about one-half of what they were a year ago. Recently the Omaha World Herald carried a news story pointing out that the drop of the price of corn over this last year caused a loss to the State of Nebraska of $1.6 billion. Anyone familiar with the farm belt knows that business is at a standstill, the cash flow has dried up, purchases are not being made, and the farmers are suffering hardship.

American agriculture has for the last four decades or more been plagued most of the time with surpluses. These surpluses can be used to produce alcohol to expand our supply of gasoline. It is renewable. It is unlike the oil that is pumped from the ground and used up—when it is gone, it is gone. Those products produced on the surface of the Earth can be reproduced over and over

again. Furthermore, there are millions of acres of land in the United States not now cultivated or cultivated intensively that can be used to produce alcohol for energy. Mr. President, this is a program in which I have been interested for almost four decades. In my early years in the House of Representatives, I attended meetings with other farm State Congressmen to hear Dr. William J. Hale of the Dow Chemical Co. tell us of the great possibility for the use of agricultural products for industrial purposes.

That program was at that time called Chemurgy, but it dealt with the production of alcohol for motor fuel as well as many other uses, including synthetic rubber.

I have always been an advocate of greater uses of farm products through chemistry. In the Farm Act of 1956, I secured the passage of an amendment which called upon President Eisenhower to appoint a commission to recommend the greater industrial uses of farm products. It was known as the Welsh Commission. The members of the Welsh Commission were: J. Leroy Welsh, Karl D. Butler, George H. Coppers, Charles R. Sayre, and Frank J. Welch. The Executive Director of that Commission was the distinguished Wheeler McMillen, who was then the editor of the Farm Journal. Among other things that report said in its summary:

> Can the economy develop profitable industrial markets capable of absorbing enough of the excess farm production to minimize, possibly even to eliminate, the need for costly restrictions, supports, and surplus-disposing operations?
>
> The Commission believes the answer is an emphatic "Yes," provided the necessary steps are taken to make possible and encourage such a development.
>
> This conclusion is based on painstaking study, including the testimony of the scores of individuals with wide experience in the practical and scientific aspects of product utilization who made up the task groups and committees.
>
> Raw materials produced by farmers are made of chemical components just as are most of the nonagricultural materials used to make the products mentioned. Coal and petroleum, in fact, are plants that died a long time ago.
>
> Farm-produced materials, too, can be modified, tailored to particular needs, taken apart and recombined to make new products with new properties—plastics, films, fibers, coatings, and the rest.

The making of alcohol has in the past been more expensive than the production of gasoline from petroleum. For that reason it has not been developed. Now we are facing a different situation. The world price of petroleum has greatly increased. We are importers of about half of our petroleum, thus creating a serious situation for our economy and a challenge to our security and our growth as a nation. We can at this time with a minimum of help from the Government launch out on a program for the production of alcohol from surplus crops and make a very material contribution toward the Nation's energy needs.

If we launch such a program it will become more efficient and the alcohol will become more competitive as time goes on. I am reminded of the early days of World War II when the Nation's supply of natural rubber was cut off, and the solution we turned to.

President Franklin D. Roosevelt called upon William Jeffreys of Omaha, the president of the Union Pacific Railroad, to become the rubber czar. He had one instruction—make synthetic rubber. He was given authority to do whatever was necessary to secure steel and other materials, build the factories and make rubber. It was a huge success. Yet when that program started the synthetic rubber was so costly that ordinarily it would have been abandoned. The national need was great and the program moved ahead. By the time the war was over the process had become so efficient that synthetic rubber had nearly driven natural rubber out of the market.

If we go ahead with a national policy of producing alcohol from surplus farm products, we can improve the efficiency and lessen the cost just as was done in the World War II rubber program. There is a special reason I say that and believe it.

When alcohol is produced from farm crops, the starch is used in the process, and the residue is a protein. Up to now, that protein has been used for livestock feed and it is sold by the ton. The know-how is already available to extract the starch from the farm crops and make it into alcohol, but with a process that will make the protein fit for human consumption. It will be edible protein. It will then have a value based upon the pound or the ounce, rather than a livestock feed being sold by the ton. It is well that we remember that what the undernourished people of the world need is protein. This program for the making of alcohol to be blended with gasoline can lead to a major contribution in supplying the undernourished people of the world with much needed protein. This energy bill as reported by the Finance Committee provides that any motor fuel which carries a blend of alcohol of at least 10 percent made from agriculture and forestry products shall be free of the 4 cents a gallon Federal tax. Here is the mathematics of such a proposal—the entire 10 gallons of motor fuel will be free of the tax, this amounts to 40 cents—the 40 cents then becomes a subsidy in the production of the 1 gallon of alcohol that goes into the blend. This, together with the current world prices, will make the program feasible.

One reliable researcher has figures to support the belief that the waiving of this 40-cent tax will make the alcohol competitive with the gasoline based upon $2.50 a bushel corn with a comparable price for other grains. The corn price in many places is very little more than half that amount.

A number of leaders in the petroleum industry are coming to realize that the blending of alcohol made from farm products in our motor fuel is feasible, practical and in the national interest. It was not always so.

I was very pleased to read the interim report of the U.S. energy outlook for the years 1971 to 1985 by the other Energy Resources Subcommittee of the National Petroleum Council. Chairman was Mr. Olaf A. Larson of the Gulf Research and Development Co.

This report is most enlightening. It is a landmark document. It contains some information and a suggested program that the Congress ought to take note of and follow through on.

Mr. President, I wish to read a portion of this report from the National Petroleum Council to which I referred:

> U.S. agriculture provides a major resource of renewable industrial energy.

Who says that? Farm leaders? No, the petroleum industry:

> The production of cereal grains and their conversion through fermentation to usable ethyl alcohol; the collection and use of such residues as straws, corncobs, hulls and shells for energy; the growing of crops specifically for energy; and the conversion of animal waste by-products into energy are all possibilities.
>
> Agriculture provides a major source of renewable energy.
>
> Costs of collection and utilization in competition with commonly used energy sources have, to date, resulted in only minor usage for industrial energy. However the increasing demands for U.S. industrial energy, the requirements for pollution abatement and the needs for rural assistance could make agriculture a significant factor in the future general energy situation.
>
> About 360 million acres or 16 percent of all U.S. land (2,260 million acres) are now used for cultivated crops. This is about 60 percent of the land that could be used for this purpose. Normally, the best yielding land is cultivated.
>
> A logical sequence of energy conversions is to use the idle land to produce cereal grain, which is largely carbohydrate, and convert the grain by fermentation to ethyl alcohol—a convenient combustible fuel. The conversion of carbohydrate to ethyl alcohol by fermentation is technically feasible, and ethyl alcohol is usable as a motor fuel. One hundred million of the unused acres with an average yield of 70 bushels of grain per acre (approximately 3,900 pounds) would be equivalent to about 18 billion gallons of alcohol, or over 20 percent of the 86 billion gallons of motor fuel consumed in the United States in 1970.
>
> The cost of this ethyl alcohol would be considerably higher than present petroleum motor fuel costs.

Mr. President, I point out I am quoting from a report that refers to 1970 costs:

> However, when evaluated against assistance to many U.S. regional economies, improved air pollution control and engine performance, fermentation alcohol must be considered in any future industrial energy considerations.
>
> The weight of collectible agricultural residues such as straws, shells, hulls, corncobs and similar materials from present U.S. agricultural production is large, amounting to over 195 million tons annually.
>
> The conversion of the starch and sugars to ethyl alcohol is shown in figure 1.

$$(C_6H_{10}O_5)n + nH_2O = nC_6H_{12}O_6$$

Starch	Dextrose
$C_{12}H_{22}O_{11} + H_2O$	$2C_6H_{12}O_6$
Maltose	Dextrose
$C_6H_{12}O_6$	$2C_2H_5OH + 2CO_2$
Dextrose	Ethyl Alcohol Carbon Dioxide

Thus, 180 pounds of dextrose theoretically should yield 92 pounds of alcohol.

Alcohol production is directly related to the starch in the grain. If, as shown in Table XIV, the respective starch content of a hard wheat and soft wheat is 64 and 69 percent (moisture-free), the maximum alcohol that could be produced from a 60-pound bushel

would be 21.8 and 23.5 pounds. Translated to a 14-percent moisture basis and a practical 90-percent yield of alcohol, the anhydrous alcohol obtained per bushel would be 16.9 and 18.2 pounds, respectively, or 2.58 and 2.75 gallons.

Ethyl alcohol has been used as component in U.S. motor fuels on a limited scale only. Alcohol will give acceptable blend and handling performance—

Here again are the words of the Petroleum Council—

provided the blend contains at least 10-percent anhydrous alcohol (by volume). Lower blends might also be used with dual and more expensive fuel systems.

The basic problem has been unfavorable economics. Legislative action that would require the use of alcohol blends with the alcohol produced from cereal grains. (i.e., wheat) would be required for a significant volume motor fuel alcohol market.

The effects of such a legislative market are tremendous. It would require 3.4 billion bushels of cereal grains annually (the 1968 cereal production of wheat, corn and sorghum was approximately 1.57, 4.37 and 0.74 billion bushels respectively) to produce the 9.0 billion gallons of anhydrous alcohol (10-percent blend).

Mr. President, the facing of a crisis should not be the occasion for sounding retreat or giving up. We can conserve until we drive every job out of existence in the country.

We could all ride bicycles, but what happens to our economy? Jobs are provided by using energy, not by nonuse.

The facing of a crisis is but a call to new opportunities. The opportunity is now here for the United States to drive full speed ahead in the domestic production of energy. Alcohol blended into our motor fuel sometimes referred to as "gasohol" can have a major part in building a growing economy and full employment plus bringing a greater measure of prosperity to agriculture—that segment of our economy which at the present time is left out.

Mr. President, I yield the floor.

Mr. FORD. Mr. President, will the Senator yield to me for just a moment?

Mr. CURTIS. I am happy to yield to the distinguished Senator from Kentucky.

Mr. FORD. Mr. President, I compliment the distinguished senior Senator from Nebraska for his long and faithful dedication to this project of gasohol. I think it is a good idea and has been a good idea. I know it would help the economy. It would help the people of his State, and it would help the people of my State, primarily the agricultural communities. I think it is a good idea whose time has arrived.

As I have served in the Senate, and it has not been a long period of time, I have listened to many distinguished Members of this body who have, over a period of time, reported certain ideas, and they have not given up. I am reminded, for example, of the distinguished Senator from West Virginia (Mr. RANDOLPH), who, back in the early forties, rode in an airplane powered with oil derived from coal.

The distinguished Senator from Nebraska speaks of gasohol not damaging the economy. I agree with his statement that we could all ride bicycles. That might help our physical ability, but it would not help our economic ability. So I join him in his statement today, and compliment him on his long fight to provide help to ERDA in their research and development of this idea.

Mr. CURTIS. I thank my distinguished friend not only for his words of support today, but all through this fight dealing in other legislation.

We may find that this crisis in energy in this country is the greatest blessing ever to come to our country. We are seeing the increased use of coal, revitalizing our railroads. If we follow through on this program, we may find that we have put our hands on something in the field of agriculture that is far better than all the restrictions, acreage allotments, and depressed prices. I am happy to note that the distillery industry in the State of Kentucky is interested in this project. We need the support, the activity, and the participation of everyone, individuals and businesses, throughout the country, to meet this energy situation.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. CURTIS. I am happy to yield to the very distinguished Senator from Montana.

Mr. MELCHER. Mr. President, I wish to join with the Senator from Nebraska in advocating his great concern, which echoes my great concern, for helping both agriculture and the energy crisis at this time with a recognition that the use of alcohol in gasoline can come to fruition, that it is practical and can solve two problems at the same time. I am delighted at the leadership provided by the Senator from Nebraska on this point, and I am glad to join with him in advocating greater attention to it.

Mr. CURTIS. I thank my distinguished friend. I also wish to commend my distinguished friend from Montana and his constituents who came to Washington this last week to promote this very program. The week before, another group was here. At that time, I had my car filled with a motor fuel that was 10 percent alcohol, and I must say it was the finest performance I have ever experienced behind the wheel. It improved the engine.

I have cited this Petroleum Committee and their report, that tells us how feasible, workable, and desirable it is. Mr. President, it is my hope not only that factories, distilleries, and others will get involved in this matter, but that private enterprise, individually owned and otherwise, including farm cooperatives, will move ahead and build more plants all over the grain belt, to provide this motor fuel.

When that time comes, there will be some problems with administration relating to taxes. Beverage alcohol is taxed very highly. The administration of that program is very rigid, from the time right after prohibition, when they had in mind certain needs which existed at the time.

Alcohol for industrial purposes and motor fuel will not be subject to that tax, but there will be problems of administration so that the exemption from the tax, so to speak, will operate smoothly, and will not have to meet all the requirements of the beverage alcohol industry.

The Committee on Finance has paid attention to that problem. They made some recommendations in the committee report. I ask unanimous consent to have printed in the RECORD at this point an excerpt from pages 46 and 47 of the committee report, under the heading "Relationship to Taxes on Alcohol," which includes all of the remainder of page 46 and the first three lines of page 47.

There being no objection, the excerpt from the committee report (No. 95-529) was ordered to be printed in the RECORD, as follows:

RELATIONSHIP TO TAXES ON ALCOHOL

The committee intends that alcohol used in the production of gasahol not be subject to the Federal excise taxes on distilled spirits. However, no changes were made in these taxes because present law provides that the ethanol [1] potentially subject to tax can be withdrawn from the bonded premises tax-free if it is first denatured by adding 1 gallon of gasoline or 5 gallons of wood alcohol (methanol) for each 100 gallons of alcohol.[2] The requirement in existing law that denaturing occur before the ethanol is removed from the bonded premises is intended to guard against the diversion of the ethanol to uses which would be subject to tax.

Chapter 51 of the Internal Revenue Code sets forth a detailed regulatory scheme for distillery plants and persons involved in the production of alcohol. This regulatory scheme applies to the production of alcohol for industrial uses, as well as production for human consumption. The regulatory scheme requires the registration of a distillery and an investigation of the background of the individuals operating the distillery prior to its commencement of business. This scheme also requires approval of even the most minute details of plant construction and provides for continuing supervision by employees of the Bureau of Alcohol, Tobacco and Firearms.

The committee intends that producers of gasahol should be encouraged to begin commercial production of gasahol as soon as possible subject to the minimum amount of regulation needed to insure against violation of the alcohol taxes.

Consequently, the bill provides specific instructions to the Secretary of the Treasury to expedite, to the maximum extent possible, the applications of persons desiring to produce ethanol for use in gasahol (and to the House Committee on Ways and Means) within 6 months after the date of enactment suggesting legislative amendments which could reduce the amount of regulation to which gasahol producers would be subject without undermining the basic goal of regulation of producers of alcohol—preventing the use of untaxed alcohol for human consumption. It is intended that this report be based on a thorough investigation by the Bureau of Alcohol, Tobacco, and Firearms in conjunction with appropriate Treasury Department officials.

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[1] Ethanol, but not methanol, is generally subject to a tax of $10.50 on each proof gallon when it is withdrawn from the distillery (or other bonded premises) unless certain exceptions, which are generally intended to insure that the alcohol is exported or is not used for human consumption, apply (secs. 5001, 5002, and 5214).

[2] Section 5214(a)(1)(C) of the Code provides that alcohol can be withdrawn from bonded premises free of tax for use as fuel after it has been denatured in an appropriate manner. The regulations state that approved manners of denaturing alcohol include adding 1 gallon of gasoline per 100 gallons of alcohol (27 CFR § 212.38 (1976) or adding 5 gallons of wood alcohol per 100 gallons of alcohol (27 CFR § 212.16 (1976)).

Mr. DURKIN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. CURTIS. I am happy to yield to the distinguished Senator for that purpose.

Mr. DURKIN. I ask unanimous consent that Reid Ashinoff of my staff be given floor privileges during the consideration of this measure.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

Mr. GRAVEL. I ask unanimous consent that Jerry Gauche and Deming Cowles of my staff be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I also ask unanimous consent that Tom Grant be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I come from a producing State, and not a farm State, but I cannot think of anything, echoing the words of the distinguished Senator from Montana, that would better kill two birds with one stone by helping solve the energy crisis and at the same time putting our farmers to work.

I can remember when we had the agricultural conference in Rome. It was felt there that our American policy of withholding acreage was not what would be considered an admirable policy; yet that is what this administration proposes to do, I understand. That does not make any sense in a world that lacks abundance.

So I compliment the Senator from Nebraska, and would like to join him as a cosponsor, although my State is an oil-producing State. I think the economy of this country would be very greatly helped.

Mr. CURTIS. I thank the Senator very much for his kind words.

Mr. GRAVEL. Mr. President, with respect to the Helms amendment, this amendment is not germane. I do not think anything would be added by further debate on the subject, and I am ready for a vote. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. DURKIN. Mr. President, reserving the right to object——

Mr. GRAVEL. I am not asking unanimous consent.

Mr. DURKIN. Is this a request to bring up this amendment at this time, and vote on it at this time?

The PRESIDING OFFICER. The amendment is pending, and the yeas and nays have been ordered.

Mr. DURKIN. It did not require unanimous consent?

Mr. GRAVEL. No. Mr. President, I ask for a quorum call.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I move to lay the amendment on the table.

Mr. DURKIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from North Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Idaho (Mr. CHURCH), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce the the Senator from Vermont (Mr. LEAHY) is absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Indiana (Mr. LUGAR), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 55, nays 31, as follows:

[Rollcall Vote No. 579 Leg.]

YEAS—55

Anderson	Gravel	Metzenbaum
Baker	Hart	Nelson
Bayh	Haskell	Packwood
Bellmon	Hatfield	Pell
Brooke	Hathaway	Percy
Bumpers	Hayakawa	Ribicoff
Burdick	Heinz	Riegle
Byrd, Robert C.	Hollings	Sarbanes
Case	Inouye	Sasser
Chafee	Jackson	Schmitt
Clark	Javits	Sparkman
Cranston	Kennedy	Stafford
Culver	Long	Stevens
Danforth	Magnuson	Stevenson
DeConcini	Mathias	Wallop
Domenici	Matsunaga	Weicker
Durkin	McIntyre	Williams
Eagleton	Melcher	
Glenn	Metcalf	

NAYS—31

Allen	Garn	Randolph
Bentsen	Griffin	Roth
Biden	Hansen	Schweiker
Byrd, Harry F., Jr.	Helms	Scott
Cannon	Huddleston	Stennis
Chiles	Johnston	Stone
Curtis	Laxalt	Talmadge
Dole	McClure	Thurmond
Eastland	Morgan	Tower
Ford	Nunn	Zorinsky
	Proxmire	

NOT VOTING—14

Abourezk	Humphrey	Moynihan
Bartlett	Leahy	Muskie
Church	Lugar	Pearson
Goldwater	McClellan	Young
Hatch	McGovern	

So the motion to lay on the table Mr. HELMS' amendment No. 1503 was agreed to.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open for further amendment.

Mr. GRAVEL. Mr. President, I hope that my colleagues who do have amendments, for the assistant managers of the bill, I think it is really an imposition upon the body for us to dilly-dally around here and find ourselves going into late sessions today and talking about late sessions on Friday and Saturday. The leadership has properly admonished the body that we ought to get on the stick and start voting up or down on amendments. I hope that we move promptly in the disposition badgered to bring up amendments and dispose of them.

We are prepared to deal with them and nothing happens. This is the first amendment we have dealt with. I hope anyone who has an amendment will bring it up.

Mr. SCHMITT. Mr. President, I appreciate the concern of the managers of the bill. My concern is as much as anyone that we move promptly in the disposition of this measure.

However, I will have some amendments which we are attempting to get prepared as rapidly as possible. I believe they are substantive. I strongly believe that.

However, with the time constraints under which we have been dealing in order to draft such amendments, considering the actions of the committee only being completed late last week and the report and bill itself not being available until, really, the weekend for study, I think it is understandable why Senators are having some difficulty in meeting the particular time constraints here in the middle of the week.

I suspect that others like myself will, in fact, have their amendments ready within the next day or two. But it is a very difficult job if we are to act responsibly on legislation as important as this particular piece of legislation is.

Mr. President, I hope the managers of the bill bear with us, at least for another 24 hours or so.

I thank the Senator.

Mr. GRAVEL. I thank my colleague.

Mr. HANSEN. Mr. President, let me join with my distinguished colleague from Alaska in saying that I hope we can, before long, move on with this legislation.

I say that fully aware of the fact that I have joined in cosponsoring some amendments with the two distinguished Senators from Oklahoma. Whether we will call up all of them or not, I am not certain. But at least we did think we ought to have them prepared and printed in order that Senators, if they choose to, and without knowing precisely what course this body might take, be able to offer them at appropriate times, if that seemed indicated.

But before I call up any of them, I would like to make some observations that I think, hopefully, may contribute somewhat to an understanding of the issues that seem to me to be inherent in

the part of that energy package which comes under the jurisdiction of the Finance Committee.

Mr. President, I would like to emphasize just one thing in this continuing debate over a national energy policy. It has been going on for a long time.

My first speech in this distinguished body to which I am so honored to belong was more than 10 years ago and at that time I joined others who were already warning of our growing dependence on foreign energy sources.

My remarks included a reference to the growing percentage of foreign oil we were then importing which, at that time, 1967, was about 20 percent of domestic production. And we still had an excess producing capacity.

At that time, that oil was coming into the United States at a price of about half of the price of domestically produced crude oil under an import quota program.

Even then domestic exploration efforts were declining because cheap foreign crude was readily available and the mandatory import quota program was being systematically dismantled by exceptions and exemptions on the east coast.

It was not too long before foreign residual oil largely replaced domestically refined fuel oil on the east coast which then became and now remains largely dependent on foreign crude oil and refined industrial oils to generate its electricity.

I mention this as a preface to the problems we now face which are now twice as serious as they were just 4 years ago when the Arab oil producing countries imposed their embargo.

It is not as though we had not been warned. Both the Senate and House were holding numerous hearings during that period. The one message that came from all of them that we were gambling with our economic and national security.

Finally in May of 1971 the Senate approved Senate Resolution 45, which commissioned the Senate Interior Committee as the lead in a Senate study of national fuels and energy policy.

That study has been going on since then, but no clear dictate or energy legislation that would "lead us out of the woods" has come from that study.

In the meantime, and after the 1973–74 embargo that almost paralyzed the country, we are still floundering in the morass of talking a lot and accomplishing nothing.

We might say that a lot of water has gone over the dam, but less and less oil has come out of the ground.

And why is this? Could it be that price incentives are lacking? Some say that presently controlled oil and gas prices are adequate although far below the price of the oil we import.

And, some say that we have exhausted our domestic oil and gas resources and that no price would bring on enough supply to break the OPEC world cartel of oil prices.

But who knows? Since oil and gas prices have been allowed to rise moderately since the embargo, exploratory drilling has increased substantially and last year and this year is higher than it has been in many years.

We can only speculate what dramatic increases in domestic production we might see if price controls on oil and gas were lifted.

It does not make sense to limit oil producers to $5.25 per barrel when the replacement cost of each barrel they sell at that price is more than $12 a barrel. The same thing is true of gas prices.

And, in spite of the arguments of some that domestic oil production has not increased under higher prices since 1974, gas production certainly has in the uncontrolled intrastate market.

In fact, the only reason there were surplus supplies of gas available last winter during the emergency was because of the uncontrolled intrastate market. If we could take the lid off oil prices, we would see the same results.

We may not be able to achieve complete self-sufficiency in oil and gas but we could certainly halt the decline. The higher cost of domestic oil and gas from deeper and more expensive drilling would be more than worth the freedom from embargo and blackmail, and fewer barrels imported.

The remaining U S. energy resource base has been thoroughly debated and, in my opinion, proved to be more than adequate for many years if we are willing to develop it.

At whatever price, domestic oil and gas will be cheaper than alternate energy sources in terms of not only prices, but national security and economic well-being.

I doubt that my words here will influence many votes but I again remind my colleagues that U.S. oil imports are at an all-time high and still rising.

Even with Alaskan oil now coming into the country, oil imports for the first half of 1977 were a record 8.8 million barrels a day, a 31-percent increase over last year. Of the total volume of imports, 84 percent was supplied by nations belonging to the Organization of Oil Exporting Countries and more than half of that came from the Arab sources that imposed the embargo in 1973–74.

The Federal Energy Administration (now the Department of Energy) says imports for the first half of this year amounted to 47 percent of total consumption compared with 39 percent for the same period last year.

A few days ago the General Accounting Office issued a pessimistic new report predicting that U.S. oil imports will be twice as high in 1985 as the target set by President Carter's energy plan.

In July, GAO estimated that instead of reducing imports from currently about 9 million barrels a day to 6 million in 1985, the Nation would have to increase imports to some 10.3 million barrels per day.

In a recent letter to Congress, GAO said further analysis makes the outlook appear even worse—imports will hit 12 or 13 million barrels a day by 1985, double the President's goal.

The reason, said GAO, is that U.S. domestic oil production cannot achieve the rate of 10.6 million barrels a day forecast by the administration. Under present controls and regulations, the GAO prediction is probably accurate.

With price controls lifted, or even phased out, domestic production could be far above that figure and imports much less.

There are many other studies but I will only remind my colleagues of the one law that Congress has not been able to repeal or effectively amend. And, that is the law of supply and demand.

History has proved time and again that the one sure way to create a shortage is by imposition of a price ceiling. We have just experienced the results of the removal of controls on agriculture production.

We need to turn the oil and gas industry loose and see what they can do. If they cannot produce the oil and gas we need, it will not cost anything and if they do it will undoubtedly be no higher than foreign supplies.

Whatever the effort adds to domestic economic activity will be better than the continuing export of U.S. jobs for foreign oil and gas as well as added insurance to U.S. national security.

Even at the risk of making a few American oil men rich, I believe the benefits would far outweigh the costs and it is a risk we must take. I know of no other business in the United States that is required by Federal edict to sell off its inventory at less than the replacement cost, but that is exactly what the present two-tier oil pricing system does.

The result is less capital investment for exploration and development and a continuing decline of U.S. oil and gas production.

As proof of what price controls do to supply, the inter- and intrastate gas market offers an excellent example. While total production and reserves have fallen in the country as a whole, the intrastate, unregulated market has held steady or increased.

For each of the last 9 months production in the intrastate market has exceeded production for the year before.

In the regulated market, production has been down every month. In the last 5 years, gas finds for the intrastate market have been up 60 percent from the previous 5 years, but general drilling for oil and gas is still well below the levels of 1957.

It would take almost double the present rate of exploration and drilling to replace reserves at the rate we are using them. But the industry cannot achieve that rate without a massive infusion of capital investment.

The best way to generate that capital would be the removal or phaseout of price controls.

This legislation cannot end price controls, but could increase incentives for oil and gas exploration and development.

All of the tax credits in this bill are important to our future energy security. Development of oil from shale has been delayed too long. Geothermal and solar energy can eventually replace much of the energy now derived from nonreplaceable fossil fuels. But none of them can be brought on in the short term.

Only oil and gas can fill our short-term needs.

Again, I emphasize what Senators CURTIS, LAXALT, DANFORTH, and I said in our supplemental views on this bill.

The President's plan is unacceptable not only because it is misdirected but also

because it will not accomplish the goals the President established. Organizations such as the GAO, the Congressional Budget Office, the Office of Technology Assessment, and the Congressional Research Service have all concluded that the administration's plan will fall short of the proposed energy goals, even if fully implemented.

Recent revisions of the GAO study indicated that the President's program will fall even further short of the President's own goals. In July, the GAO estimate was that imports of oil in 1985 would increase from the current level of about 9 million barrels per day to approximately 10.3 million barrels a day. In October, the GAO again revised its estimates to show that imports, under the President's program, will probably be 12 or 13 million barrels daily by 1985. This latest estimate is double the President's goal of 6 million barrels daily by 1985.

An alarming aspect of the present and prospective increase in imports is that they are coming and will come from Arab OPEC sources, particularly Saudi Arabia the only country able to substantially increase production. Another Arab embargo would be a national disaster. In 1973–74 when the embargo was imposed, about 20 percent of U.S. oil imports were from Arab sources. This year, approximately 40 percent of the imported oil was from Arab countries. If domestic production is not increased, the United States will have to rely on OPEC countries for nearly 70 percent of its imported oil.

Given the energy production and coal conversion leadtimes involved, and the peaking of OPEC oil production capacity in the 1980's, the United States will face mortal risks to our economic prosperity and our national security unless an all-out national energy production effort is launched in 1977.

I hope the President might heed the many and prestigious analyses of his energy proposals. The Brookings Institution favors deregulation of natural gas.

The Hudson Institute and the Wharton School of Business have dissected the crude equalization tax proposal and found it conductive to more inflation and lacking in incentives for producing what oil and gas remains or to increase recovery of proved reserves.

A more recent critique of the President's plan was carried by the Washington Post on October 25. It was titled "A Moral Equivalent of War, or of Chaos?"

Mr. President, I want to read that editorial by Robert J. Samuelson because it seems to me to make some very good points that should be considered by all of our colleagues.

I read now Robert J. Samuelson's column, "A Moral Equivalent of War, or of Chaos?" printed in the October 25, 1977, issue of the Washington Post.

President Carter came into office pledging to make the energy crisis the "moral equivalent of war," but things aren't quite working out as planned. Right now, Carter's energy campaign resembles the French army in the summer of 1940: ragged and running.

The White House may still salvage something of an energy program from the House-Senate conference committee, but the result almost certainly will fall short of Carter's original proposal. Even that, according to most outside experts, was inadequate to meet his goal of reducing oil imports to six million barrels daily in 1985 (against nine million today).

Meanwhile, consumption continues to race ahead. In the first eight months of 1977, oil demand in the United States rose about 8 per cent over the comparable period of 1976.

In short, four years after the Arab oil embargo, the country is still acting as if it had no problem. Carter barely dented the prevailing indifference, and by that standard, his energy crusade can be put down as a failure. The failure tells a lot about Carter's style and inadequacies.

If dispelling widespread public skepticism was the basic problem, Carter refused to face it. He talked about sacrifice, but, after those initial fire and brimstone speeches, he and his advisers coughed up a program designed to minimize the visible impact on the average American.

Business was the initial target of most measures. Thus, new natural gas prices were not to be deregulated, but simply allowed to rise modestly, with almost all the increase imposed on industrial, not residential customers. Further savings were to be achieved by levying heavy user taxes on industrial consumption of oil and natural gas. This (it was argued) would induce saving or conversion to coal.

In effect, Carter was depending on strong congressional leadership to assure passage, and he didn't want to erode support by embracing unpopular measures that hit consumers (voters) directly. The one proposal with such a large, direct impact—the standby gasoline tax—was dropped at the first growl of protest from Congress.

But, though superficially shrewd, the strategy has proven shortsighted. Only by taking risks himself—by gambling his popularity on simple, direct actions—could the President convince people he believes a genuine problem exists. The contrast between the program's content and the President's alarmist energy crisis rhetoric undermined his credibility.

Moreover, the program's extensive gimmickery—partially the result of wanting to minimize direct impact—weakened both its appeal and its effectiveness. Business was supposed to save oil and natural gas by shifting to coal, but most outside experts believed the administration substantially overestimated the potential for quick conversion.

And, if business couldn't convert or save, it simply would pass along higher fuel taxes as general inflation.

The administration virtually invited Congress to drop the standby gasoline tax by including other measures—a rebate on small cars—designed to save fuel. But the rebate was inherently unworkable and Congress was compelled to kill that, too.

The problem here was simple and apparently insoluable. (Uniform small-car rebates would have encouraged Americans to buy Japanese cars. Aware that Congress wouldn't accept that, the administration suggested reducing the rebate for foreign cars—an overt act of trade discrimination that would have entitled countries to retaliate against U.S. exports. Scuttling the rebate avoided this dilemma, but whether the remainder of the energy package—without a standby gasoline tax or rebate—will reduce gasoline consumption is questionable. At 7.1 million barrels daily, it's up 3 per cent over 1976 levels.)

Obvious inconsistencies in the program also undercut the administration. There is, for example, simply no logical case for holding new natural gas prices to $1.75 per thousand cubic feet. If there are substantial amounts of undiscovered gas—as the industry contends—those extra supplies will result in stable prices and more fuel. If supplies are limited—as the administration believes—restricting the price to $1.75 encourages wasteful consumption.

As it is, federal price regulation has kept residential natural gas prices at two-thirds of the energy equivalent cost of home heating oil and one-fifth of equivalent electricity costs. Given the administration's emphasis on conversation, the inconsistency is glaring.

Finally, the program's sheer complexity provided Congress with ample opportunity to tamper and change. For every apparent defect, the plan contained another proposal to compensate. The number of energy taxes and credits made it easier for special interests to lobby for change.

The result has been legislative chaos and a vast squandering of presidential power, leaving the House-Senate conference with the critical role in writing the legislation. At the same time, the disorganized and divisive congressional debate has created the public impression that no consensus exists in Washington about the severity of the "energy crisis." And, in fact, none does.

The pity is that Carter is almost certainly right about the gravity of the problem. A temporary surge of new production from the North Sea and Alaska has limited the power of the oil cartel to increase prices, but the respite is likely to be only temporary.

By the early 1980s, rising demand—unless checked by a new recession or the unanticipated effectiveness of conservation efforts—probably will produce tighter markets. The willingness of Saudi Arabia (with 160 billion barrels of proven reserves out of a non-Communist total of 600 billion) to increase output will, more than ever, determine prices.

Maybe Americans will acknowledge energy problems only when genuine scarcities make them shiver or shut their factories. But there are rare moments, outside of a crisis, when significant changes can sometimes be made. Carter had such a moment at the beginning of his term, but he wasted it and will not get it back.

Mr. President, I think this article by Robert J. Samuelson sums up in understandable language what the facts are and how the administration has muffed the chance it had to marshal support behind a workable plan, and I do not suggest for a moment that its plan is workable, in the first place, because it did so little, if anything at all, to increase incentives to produce natural gas and oil.

I am disturbed as well about the fact that the United States is in the ridiculous situation of buying natural gas from Canada and from Mexico at prices in excess of what we are willing to pay our own domestic producers. The plan that has been developed and drafted by our sister country, Mexico, to the south suggests that large amounts of American capital will be committed to our neighbors to the south to drill for oil and gas, to build the pipelines and the refineries and do all of those expensive things that are required in order to develop and probe for this important natural resource.

Yet here we are with having rolled back the price of oil and having kept a cap on natural gas prices so as to make inevitable the necessity of our having to go abroad to satisfy our energy requirements.

The fact is, Mr. President, we have gotten ourselves into a situation where, given a recurrence of the cold weather we experienced last winter, there is little doubt but what we will have schools closed down, a cutback in natural gas supplies that at least will result in fac-

tories being closed and people thrown out of work. All because this is an issue that too many politicians have demagoged the American people on trying to persuade them we were acting in their interests in keeping the price of oil and gas down.

All we do is to insure ever higher prices to those countries that export both natural gas and/or oil to the United States. They will get the prices they demand as long as they control the supply.

The one way we can fight back, the one way we can deal effectively with this trend toward monopolies we have given our neighbors and countries around the world, is to increase our own supplies, our own production, and intensify our exploration efforts in the United States.

That is why I say, Mr. President, I think President Carter has failed miserably to come forward with a plan that addresses the problem. There is no doubt at all but what conservation can and must play an important role in our national effort to come to grips with this extremely important problem.

I have been sitting in for more than a week on the first of a series of conferences with House Members to see what can be done in trying to bring about an agreement between the House and the Senate on the language dealing simply with conservation alone. We chose that particular part of the energy package because most people seemed to think that those items contained in that piece of legislation were largely noncontroversial. Yet here we are having been engaged in that conference effort for more than a week now, and we still have not completed our work.

I criticize the President's program because while it does call for a greater effort in conservation, it does practically nothing to bring on greater supplies.

This is an energy-intensive Nation. I think the fact that for each 1 manhour of work that is contributed by the agricultural segment of our economy it requires the burning of 1.5 gallons of fuel, underscores the great outpouring of agricultural products that come from the farms and ranches of America. This has been true and, to an ever greater degree will continue to be true, simply because we have the power to run the tractors, to turn the motors, and to pump the water, and to do all of the other things that are necessary to make possible this great outpouring of food and fiber for all Americans.

In America, one farmer raises enough food for himself and 56 other people. There is not another nation in the world that even comes close to the output of America's farms and ranches, and were it not for the fact that we are able to produce this great abundance of food and fiber as economically as we do, we would have a far more serious balance-of-trade problem and balance-of-payments problem than we now have.

We have been able to take care of ourselves, to feed ourselves very well indeed, and to sell our agricultural produce abroad simply because we have had the energy—at least that is the single most important factor.

There is, of course, no doubt but what we have had an agricultural technology that has taught us better ways of doing things. We have made great progress on many fronts. We have devised and invented some unique machines that make it possible for one man to do the work that would be required of a number of people in almost any other country around the world.

But underlying and supporting this effort on the farms and ranches of America is the fact that we have had the energy to do that job. So while I salute the President for his perception in understanding the importance of conserving energy I, at the same time, must criticize him for failing to see the full and complete picture, for failing to understand that while it is important to conserve energy, it is equally important to develop additional energy sources.

On that point, Mr. President, I must say that the President's program has been woefully deficient.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. HANSEN. I would be happy to.

Mr. LONG. May I say to the distinguished Senator that much as I admire the President and respect him as a dedicated man and a God-fearing person who has the interest of his Nation at heart, one can only judge from the knowledge one has available to him. Some of that comes from his experience in business, some from private life as well as his experience in Government.

The President, I am sure, in complete good faith had proposed to us a bill which is very strong on the conservation side but, unfortunately—and I say this as one who represents a producing State, and one familiar with the problems of producers—a bill which is weak on the production side.

From the point of view of those of us on the Committee on Finance—and I am talking about a majority of the committee, because we have differences of opinion just like everybody else does—if we want this bill to be a good bill, a bill in the Nation's interest, it must be a stronger bill on the production side.

I can appreciate the President's fear that someone might make an unreasonable profit. We do not want the consumer ripped off any more than the President does. But we realize if you do not have enough incentive for people to put their money into energy, including oil and gas, which is where you are going to get most of our energy in the short run, then you are not going to make much headway toward solving this problem.

The President, in complete good conscience, feels that consumers ought to use less energy, and that a tax on the product to increase the price would tend to retard consumption.

I would ask the distinguished Senator if he has some familiarity, slight though it may be, with the experience in Europe where the energy prices are far beyond what they are in this country, which indicates that the extent to which people will change their life pattern is very, very slight.

Americans will resent being forced, or by Government programs coerced, into changing their lifestyles just as much as Europeans would resent it.

Mr. HANSEN. I could not agree more with my distinguished colleague from Louisiana. It has been demonstrated by country after country in Europe. When you come right down to it, individuals have the right—we certainly have it in this country—to assume our own priorities for those things and services that we want to buy, and I would not want to change that. I think it accounts in large measure for the fact that this country has accomplished what it has. We have the great outpouring of gross national product that we have, and that we have been and continue to be the symbol of hope and the bulwark of freedom and opportunity for people around the world because we have had these rights, and I could not agree more with my friend from Louisiana.

Mr. LONG. Some time ago, a gentleman by the name of Olivier Long, who is the Secretary General of the General Agreement on Tariffs and Trade, living in Geneva, an outstanding citizen of Switzerland, came to this Nation urging some of us to participate in multilateral trade negotiations to make trade freer among nations. At that time, shortly after the Arab boycott, he told me, and I am sure he told some others, that, when the boycott hit in Switzerland and surrounding areas, they put tremendous taxes on energy, enormously increased the price, and that people were using less energy, they were driving their automobiles less, and they were living in homes somewhat cooler, doing without things that they had before in order to try to reduce the cost of energy.

Now, in his judgment the Swiss were achieving the kind of thing I suppose the President has in mind by putting a tax on to raise the price of the product and discourage people from using the product.

Mr. Long was back just a month ago. While he did not come to report for that purpose, in the course of the conversation, he was asked to what extent conservation methods were saving energy, and he reported that people had gone back to their old lifestyles, that even though the cost was tremendous, undoubtedly they were making a sacrifice, doing without other things, and they were driving their automobiles almost the same amount as before, perhaps even more, and enjoying the same amount of energy they enjoyed before, if not even more.

If the idea of raising the price would not work with the price they have in Europe and with the cost of living they have there, if they found it would not substantially reduce consumption there, why would people here in this country feel that it would drastically change their lifestyle? A tax increase of, say, 7 cents a gallon?

Mr. HANSEN. I see no reason why it would change their lifestyle.

Many people are disturbed about the fact that the stock market has been declining, though erratically, for some several months now, and there are a great many people in this country who are extremely doubtful about the wisdom of imposing these taxes on an econ-

omy which is already showing the strains of crisis. When we are trying to generate jobs and put people back to work, it makes no sense to me to take this great big bite out of the people's pockets to duplicate a process that the experience of Europe has shown is bound to result in failure.

We have the unique situation of people in industry, who have witnessed and believe in the continuing efficacy of the laws of supply and demand at work, joining up with consumer groups and with liberals, all of whom are opposed to increasing taxes.

I would ask my good friend from Louisiana, is it not a fact that generally we find all these groups joining together and saying, "whatever else may be said about the President's energy package, these taxes he has suggested imposing cannot be the way to achieve that goal"?

Mr. LONG. Mr. President, the expression I get from some Senators, even some of the loyal Democrats on this side of the aisle, is that they do not feel like voting for the tax unless they see some point in it, unless something can be achieved by all that.

In trying to discuss this matter with one of the Senators who had not yet made up his mind just what to do about the matter, right here today within 10 feet of this Chamber, I was presented with the question, "What is the point? What is the point of this big tax on crude oil, and what are you going to get for it?"

I tried to explain that by putting the tax on, it would raise the price, and people would not use as much.

He said, "You and I know that will not do much good."

I said, "I know that, but, on the other hand, it might, by putting some of the money we raise to producing some additional energy, help to solve the problem."

"Oh," he said. "Well, if you can show me how that will happen, if you can assure we can get some additional energy production, that is different. I might be willing to vote for the tax, if we are going to bring back some kind of a situation where we get something for what we pay, that would be different."

I, for one, cannot justify, nor do I believe many people can justify, putting a tax on just to send somebody a check. I have faced that issue on occasion before, and although it was not popular with everybody, at least it was popular with those who got a lot more on the taking down end than they put up on the taking up end.

We once did that with pensions, and it was unpopular in the short run, but in time people came to understand we were trying to help poor, aged, needy, and deserving people, and it was accepted and reasonably popular.

But when we say we are just going to put this tax on and send everybody a check for whatever it is, $21 or something like that, most people figure there has got to be a hook in that kind of thing, where they will get back less than they put up. If nothing else, the White House might not have their correct address in the computer, and they have their doubts as to whether they will get that money back. People have their suspicions of that.

Furthermore, if a thing is going to pay for itself, obviously it will have to include the cost of collecting it and then sending it back. So, at the very minimum, it has got to cost the taxpayers the handling charge on taking his money from where he has it, hauling it up to Washington, and sending it back to him.

Mr. HANSEN. How true that is, Mr. President. As a matter of fact, I think it was Lincoln who said, or at least he was one of the first to say it, that you can fool some of the people all of the time, and you can fool all of the people some of the time, but you cannot fool all of the people all of the time.

If there is one thing the American taxpayer has learned in excess of 200 years of liberty that has characterized our country, it is that Washington never took money out of the pockets of taxpayers, ran it through this sort of operation, and refunded 100 percent on every dollar they took out. It does not work out that way. I understand that is the Senator's point.

We do not have to be concerned about illustrating that to the American people, because they know that.

As the Senator paraphrases it, if we are going to do something, if we are going to construct a program and a policy that offers some hope, is not the element to be addressed the problem of increasing supply?

I come from an oil-producing State, certainly not equal in production to the great State of Louisiana, but for the size of our State and the number of people, we do not do too badly. We have oil, we have uranium, we have coal, and we have a lot of oil shale.

A lot of people have told me they could see some sense in a tax being imposed if they could be persuaded that the revenues from that tax would do something about increasing supplies. Maybe others have found something in the President's proposal that indicates that might be the case, but I find blessed little in my reading of it to indicate such a conclusion. What is the Senator's opinion?

Mr. LONG. Mr. President, it makes me think of a situation I heard about just the other day. I am not sure it is true, but it could be, knowing the characters involved.

There was an alcoholic down in the French Quarter in New Orleans, down on his luck, who came across a penny postcard. He saw a chance to send a message, so, on the address side, he wrote "God." Then on the back side, he wrote, "Please send me $50; I am desperately in need of help."

So he sent that to the post office in New Orleans. The postmaster did not know where to send it, so he sent it to the head office here in Washington.

The man who got it at the head office did not know what to do about it, so he sent it over to the White House. Finally it came across the President's desk, and the President said, "This poor fellow is down on his luck; he does not know where to turn to or get help. I found his card on my desk; let us help him out a little."

So the President reaches down in his pocket, finds $5 of his own money, and sends that down there.

So he sent it on back down there. About 2 weeks later another message reached the President's desk.

Thanks for the donation. It helped very much. I need another $50. This time please don't send it by way of Washington. They took out 90 percent for expenses.

[Laughter.]

Mr. LONG. That is about how the average man thinks this thing is going to work, that Washington will tax him so they can give him some of his own money back. They feel if it is the same with us, why not leave the money where it is?

I know it is safe here in my pocket. If I send it to Washington, I will not get back as much as I send. I would just as soon be left alone.

I think that is about the way most people feel about the tax and refund scheme. If we can be assured that by the time we get through with all this we would have rendered a major national service, that would be one thing. For example, if we can put 1.5 million people to work producing energy, we should do that. That would really be something good for this country.

Mr. HANSEN. We are trying to find jobs for people. We have poured literally billions of dollars into programs which have gone to cities and subdivisions of government in the hope, I think oftentimes almost a vain hope, that it would bring people into the work force, that it would equip them with working skills so that they could get a job and go on. I must say I have been disappointed in the failure of these programs generally to achieve any notable success at all.

But here is a program that the chairman speaks about which can do something. When a man goes to work in private business, he acquires some skills which are merchantable, which are going to be in demand not only today but tomorrow. The trouble with so many of these makework programs is we turn money over to cities and say, "Spend the money the best you can; try to find something for these poor people to do."

I take the view that most Americans want to work. I take the view that the overwhelming majority of young people particularly would like the opportunity to contribute to their own support and to help with their families. The kind of money we have been spending so far seems to me not to achieve that purpose.

On the other hand, if we could give the incentive to the energy industries to expand the kind of effort which can move us toward greater self-sufficiency, which will insure that we will have a dependable supply when winter comes, to guarantee that we will not be captive to the whims and caprices of foreign countries insofar as our dealings in world affairs go, then I think we would be doing something. I say to the chairman that I believe it makes very good sense.

If there has ever been any one industry which has been maligned it has to be the energy industry.

I remember a few years ago when we read the headlines about how oil profits were rising astronomically. I remember one about Occidental Petroleum. The figures were that its profits had risen 783 percent. Any school kid would know that is a whale of a jump in profits. Without any doubt one could reach the con-

clusion, without having to collect the facts, that somebody was really ripping somebody off.

When we got to reading the background of the Occidental story, it came to this: 2 years before they had not made a profit at all but had lost money. They had gone in the hole. There had not been any net return at all in the way of profit on their capital investments, after paying taxes and all their other expenses.

Then the year following that, the year in which the comparison was made, they had had a very good return on profits. So the papers were able to headline this, and television and radio proclaimed the news to everybody.

When one is in trouble no one knows better than a Member of Congress that it is very handy to be able to point to somebody else and say, "He is the reason for the problems. It is not me who is derelict."

It was very easy to convince most Americans that the oil industry was really ripping off everybody. Yet, despite the fact that Occidental that year had increased its profits by 783 percent over the previous year, that same year Occidental did not make nearly as big a return on its investment as did the typical manufacturing business. It made far less, as a matter of fact, than did some of the major national television networks and some of the major newspapers in this country.

There was no need to try to make comparisons between the return on the invested capital in Occidental and the Washington Post, CBS, or the New York Times, because everybody knew that the profits made by the oil companies were obscene.

I commend the Senator from Louisiana for his clear thinking in recognizing what we can do if we embark upon a program that would say: "Let use see that we become more energy self-sufficient, that we put Americans to work."

The Senator says we can put 1.5 million people to work. I believe that probably would be a conservative estimate in the next few years.

Mr. LONG. As I recall, Nelson Rockefeller, when he had his committee on critical choices, had the group make a study to see what could be done toward making progress with the energy shortage.

At that time, I believe the distinguished junior Senator from New York (Mr. MOYNIHAN) was either in private life or serving us as Ambassador to the United Nations. I know he made himself available to work with other people who were thinking about these serious problems which faced our Nation. Mr. MOYNIHAN, I believe, was one of the group who looked into this matter and tried to give advice.

They concluded that to meet this energy problem, over and above what was being done, there would have to be invested $1 trillion in about the next 10 years or so. In addition to that. we were going to have to put about 1.5 million people to work in good jobs. Those are not makework jobs. They are hard-working jobs, but good jobs, jobs that pay well for people who feel like working. That would have great multiplier effect.

For example, it was my sad lot to find that the company which had invested a lot of money in Youngstown Sheet & Tube would lose a lot of money unless it closed the Youngstown mill. It was admitted that the mill is an old mill and not as efficient as others. But tube sounds to me like the kind of thing used in the oil wells, which are called casings, which are put down to help bring the oil up, if the producer is lucky enough to find some.

Mr. METZENBAUM. Will the Senator yield for a unanimous-consent request?

Mr. LONG. I yield.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that during the consideration of this measure Mr. Dave Gushee be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. I thank the Senator.

Mr. LONG. One reason the mill had to shut down was because they did not have an adequate market for their product. If we did what I think we should be doing, we would be drilling twice as many wells as we are drilling right now. We cannot do it now because we do not have the rigs. Rigs require steel. Construction of rigs would put steelworkers back to work.

That, of course, means we would need twice as much pipe—not only to put it in the well, but also to pipe the oil away from where they find it into the pipelines. We would need workers to operate all that, the equipment to clear the sites and to move on location, and the geophysical equipment to help find where the best location to drill would appear to be.

Those jobs have a multiplying effect. We ought to create them. It is a lot better than these CETA make-work jobs and a lot better than leaf-raking for the country.

Think of all the fallout jobs that come from that—manufacturing of pipe and making it into the rigs and making it into the equipment. We have tremendous need of all this.

Mr. HANSEN. On that point, Mr. President, we have what we call the Salt Creek oil field in Wyoming. It is one of the old oil fields. It is a very major field. It was discovered back in the 1890's, as I recall. We produced a lot of oil out of that field. I do not know what the total production is.

I do know that there is not a major oil field in the United States today—so I am told—that is not still producing some oil. Yet we have been pursuing an energy policy—and I am not trying to make any political hay on this point, because I objected to the same kind of price controls we have had on ever since I have been here as we have on today. I did not ever think it made any sense to roll back oil prices. I did not think it made any sense to keep a cap on natural gas prices that discouraged Americans from putting American workers to work, buying American-made materials, doing all those things that have a snowball effect, that generate a lot of activity, that could go a long way toward restoring the economic health and well-being to our economy that is so desperately sought now and seems to be elusive at the very best. I have opposed that policy.

The fact is that this major field, this old field, the Salt Creek field, just about 40 miles north of Casper, Wyo., today is on the verge of being shut down. The fact is that we have discovered, in this country, I am told, in round figures, about 300 billion barrels of oil. For a long time, a rule of thumb among those knowledgeable in the business was that any time you discovered oil in a major field or in a smaller field, you could probably get about 30 percent of it above ground. We have learned quite a bit in the hundred years that we have been pumping oil, or a little bit more than that. We have found out that all kinds of techniques that never were dreamed of earlier have now been brought into being. And they are successful. They permit intelligent petroleum engineers and production men to bring ever more and more of the total percentage of oil in place above ground to where it can be used. It is just that simple.

I am told that, right today, when a field is discovered, it is not unreasonable to assume that we may be able to recover about 40 percent of the oil in place.

The experts do not agree as to how much recoverable oil is in reserve in the United States today and on the Outer Continental Shelf of the United States. But I think it is fair to say that it is some place between, maybe, 30 and 40 or possibly 45 billion barrels of oil that can be produced given the present level of prices on the one hand, that is paid for oil—and they are controlled prices and they have been rolled back and moved downward—and taking into account and reckoning the cost of labor and materials and everything that is required to bring that oil above ground. We shall probably recover, say, 30 or 40, up to 45 billion barrels of oil from what we know about now. We do not have to go out and find any of this. It is there. People know it is there.

But the tragedy of our present system, and one of the things that gives me such great concern, is that the President says, "$1.75 a thousand for natural gas is plenty; if you paid more, you would not get any more production." He said, "We will roll the price of oil back, the oil men are getting too much already." We have what we call a composite price in oil, as the Senator from Louisiana knows very well, today; it averages a little bit above $8 a barrel. What the composite price is is the volumetric average price of all the domestic oil that is sold in the United States and is produced in the United States. So, as these old fields become depleted and their contribution to the total production becomes less, and more of the newly discovered oil occupies an important part of the volume percentage of oil and that price moves up, the price of the old oil is, accordingly, depressed in order to make the average price come out about $8 a barrel.

As a consequence, this Salt Creek oil field in Wyoming, now, that has a lot of oil in place yet that could be recovered through enhanced recovery techniques

that could be used, some secondary and some tertiary efforts, is about to be shut down for one very simple, elementary reason, a reason that any fourth-grader could understand full well. That is that the price the companies that are producing that oil get for that oil is just about at a break-even point with what it costs to produce it.

We have waterflood going out there. Those are deep wells, some of them. They have to pump water down in the ground and when they bring the oil up, it is what we call water-cut. The oil has to be separated from the water. Maybe they get 1 barrel of oil for 10 barrels of water and we have passed some environmental protection laws that no longer permit the oilmen to dump the surplus water out into a creek—a lot of them are dry now in Wyoming, as the chairman knows, and it does not go anywhere. But we cannot do that any longer. We have to treat that water.

As a consequence, Mr. President, the fact is that, given just a few cents more upward in costs or downward in price, and they will shut the field down. I cannot think of any greater tragedy for this country, depending, as we are today, upon foreign countries for about 50 percent of our oil supplies, than to be so shortsighted as to say what we are, in effect, saying to the Salt Creek man in Wyoming, "Shut that well down, we are not going to let that price go up."

I am not talking about new oil, I am talking about the price we get for old oil as its price is depressed and the cost of getting the oil increases. And the deeper the well the higher the cost is of producing it. But the price is the same to all depths.

So, here we are, pursuing a policy that makes no sense to anybody. The tragedy of it is that if we try to talk about decontrolling oil prices, as I think we should be doing now, we are confronted with the widely-held view by many people in the United States today that the oil companies are getting a great ripoff as it is now, so why let them have any more? What it means is that we are going to have to depend more and more upon Canada and Mexico and the Middle East and Indonesia and Indochina and every place else, including Venezuela. Wherever we can buy oil, we will pay more and more for it and increase our balance of payments problems. We will spend about $45 billion, it has been estimated, just to buy oil this year. We are going to have to pay more as long as somebody else controls the supply. We are exporting jobs to drill the wells all around the rest of the world, simply because we will not face up to the fact that we ought to be putting our own people to work in our own country to find the oil and to see, at the same time, that we recover more of the oil that we already know about that is in place now and can be recovered at a certain cost.

Mr. President, these are some of the reasons that I cannot be enthusiastic about the President's program. I wish him well. We are all in this thing together. I do not think there is anybody in this Chamber, or any place else that I know of, with good intentions, who does not hope that the President's plan will succeed. All that bothers me about the President's plan is that I think he received some mighty bum advice and he did not listen to people who could have told him what the facts were.

I am discouraged and depressed when I think about it. Let us take some figures. We have 100 billion barrels of oil in place. If we could just increase that 30 to 40 percent of the oil that we recover, say, up to 50 percent, which we could through price, it would be just the same as discovering several very major oil fields in the United States. All we would have to do would be to permit the price of the old oil to rise so that it would sell at more than it costs to produce it.

If we do not do that, then we are going to be putting the noose around our own neck, hanging ourselves, when we ought to be getting down off the scaffold and going to work finding and producing more oil and gas.

Mr. LONG. Mr. President, as the Senator so well knows, from the point of view of those of us who represent producing areas, we, for the life of us, cannot understand why, if someone is seeking to produce more energy, we should not say that he can have the same price for his oil or gas that we are willing to pay the Arabs, willing to pay the Mexicans, willing to pay the Canadians, on this one condition, that he takes every penny of it and puts that back into getting more energy.

There are some people in the oil business who make us a better proposition than that. There are some who would say, "If you let me make the same price those Arabs make, for every dollar I make over and above what I am making right now under all these controls, I will put $2 into more production."

Where is he going to get the $2? He will have to borrow the second dollar. But even so, if he has $1, he can borrow $1.

So he says, "If you let me make $1, I'll put $2 into getting new energy."

Some would think, "Don't tell me you'd turn down that proposition, that if a man is permitted to make $1, he will let you have $2 for the energy you desperately need."

Yet I regret to say a great number of our colleagues, a fair majority here in the Senate, would turn that proposition down.

Now, if we are desperately in need of energy, desperate enough to be importing from the Arabs twice as much as we were in 1973—and we are—and facing the prospect of being put on our knees any time they get their nose out of joint, we would think people would say, "If we can find somebody who is willing and who knows the business and who would put $2 into getting us energy for every $1 he is permitted to make, send him to us. We'll honor that man. We'll help that man and cooperate any way we can and even might consider removing some of the 50,000 environmental safeguards that would keep him from drilling a well, just give him a chance to do a job for us."

But I fear we could not get a majority of the votes in the House, the Senate, where a man would put $2 in if permitted to make $1 to get more energy.

What has happened to people? Where do they find all their hatred? Where do they find all that prejudice against those who heat their homes for them, provide them the fuel to move around, or provide them what it takes to live their life style? Where did they generate all that hatred to people?

Mr. HANSEN. I cannot answer the Senator's question, but I can report some gossip, and of course we never deal in gossip in this Chamber, but I will indulge myself momentarily.

I understand that one of the reasons President Carter came out with what I thought, really, was a poorly advised speech about 10 days ago, when he accused the oil companies of profiteering, and all the things he said on that particular Sunday—and this is gossip—may have been prompted by a poll that was taken at the White House.

As I hear the story, the pollsters down there had taken a survey of public opinion around the United States. They found that the oil men in this country were held in about as low esteem as the Congress—and that is getting pretty well down. When one does not rate any better than a politician, he is in trouble, believe me.

Anyway, I understand this poll showed that the oil and gas industry had very few friends. Most people thought they had been ripping off America, and all the things we could conjure up as being wrong with our own personal situation could be ascribed in some way or another to what the oil industry had done to us.

So I am told—and this is just gossip—that the President looked that over. He reflected upon some of the things we have been saying in this Chamber and our colleagues on the other end of the Capitol have been saying about the oil industry and concluded on a pretty good way to get his energy bill rolling again. Obviously, it has fallen on hard times because the major elements he hoped for and that he said had to be the centerpieces, the crude oil equalization tax, the user's tax, the gasoline tax, and the gas guzzler tax, those were supposed to be the centerpieces of the program, had fallen on hard times for reasons the Senator and I have earlier debated and discussed here, and the Senate had, in one form or another, rejected them again and said that we did not want them.

So I am told—and this is still gossip—that the President looked over this public opinion sampling and said, "Here's the way we can do it. We'll blame the oil companies and I'll come out and blast them hard, and this will cause American citizens to rally behind me and to write to the Members of Congress and say that they want the President's plan adopted."

So far there has been little indication that it has turned out that way. I think evidence of the failure of the President's plan to generate support in it, and as quickly as he hoped would result from his appearances on TV, his speeches around the country, is that it is now October 26 and we do not have a plan yet.

We are just talking about the first part of five different bills. The conference is

going on there now—and I have to go there before too long to see that a couple of amendments I have will be given the consideration I think they deserve.

But we have got a lot of work left to do.

The Finance Committee has been criticized because of the lack of specificity in the kind of bill that we passed on and is now before the Senate of the United States. I am sure each of us, if we had our druthers, might write things a little differently.

But the reason I support this bill, and the reason I am so solidly in support of what the Senator is trying to do, is simply this. As a realist, as one who stands on this side of the aisle, as a Republican, as one of some 38 Members who are identified as Republicans, I know perfectly well, if I do not know anything else, that the facts of life are that when the President of the United States is a Democrat, when the Congress of the United States is in solid control of the Democratic Party, when a person who knows as much about this business as the Senator knows, and though we may at times give recognition of that ability grudgingly, the fact remains that there are few people I have known in my lifetime as skillful and persuasive as is the Senator.

So I just have to think the best chance of coming up with a program that can clear the Senate, that will be endorsed by the conference, that will be signed by the President, that can do something for America so that we will have drills running, rigs in operation, and people at work in the United States to increase our oil and gas supplies, has to follow from that kind of approach.

It certainly is not going to follow from an approach that some people take that would say, "Let's keep the lid on prices, let's keep natural gas under control."

We fought that hard battle. I am not unaware of the days and nights that we spent debating natural gas deregulation. I think we could almost substitute the word oil for natural gas and the same facts apply, because they surely do apply.

I am persuaded that the only way we can come up with a program that offers any promise to honest Americans who want to do something about this problem is to go along on the course we have chartered.

It is not the way I might have done it. I might have come out here with a bunch of specific bills. But I know, also, that there are 99 other people in this Chamber, and probably no two of us agree in every respect on what should be in a bill.

So, as a realist, I am willing to put my faith in the same little ship you are in, hoping we will be able to persuade enough people in this Chamber as to the logic and the commonsense that the same laws of supply and demand work in oil just as well as they do in wheat or cotton or corn or tobacco or livestock.

I am in the livestock business. I can say that it is not a very good business these days. Some people have said they did not understand why I ran for Congress. Some of those who were expressing these views about 10 years ago are finally saying, "CLIFF, I finally figured out why you ran. You're trying to moonlight, to keep the ranch going." There is a certain amount of truth in that.

It is not because we are being ripped off by any particular group or by a labor union or anybody else. We are raising a lot more cows than America is willing to buy at a price that will return a profit to us. It is almost that simple.

Mr. LONG. Here is one suggestion I should like to make, and if the White House will take it, I am aboard. I would be glad to join forces right now on this basis, in terms of trying to say what kind of profit should be permitted in the oil industry.

Let the President appoint a group of people he respects and whom I respect—and he really does not need to go beyond people who have served with distinction under Democratic Presidents, so far as I am concerned, as a Democrat, to make up such a group.

Let him appoint, say, a man he is turning to for advice on trade, such as Mr. Strauss, who comes from a State where he has known problems about production and banking and business and law; then take his own Secretary of the Treasury, Mr. Blumenthal; take his own Secretary of Commerce, Mrs. Kreps; take either the man who heads the Federal Reserve or the man he would name to succeed that man if he wishes to name a successor. Or he can take the man Mr. Roosevelt made head of the Federal Reserve, or the man Mr. Truman made head of the Federal Reserve. He can take Mr. Martin or anybody like that. He can take any of the men President Kennedy had as Secretary of the Treasury, or any of the men President Johnson had as Secretary of the Treasury or Secretary of Commerce. He can take a distinguished man like John McCloy, who served with great distinction under President Roosevelt and was in charge of running the German government for this Nation.

He can take people such as those, for whom I have respect and for whom even those on the Republican side have respect as being fair and understanding the needs of business and commerce and the need to attract money to an industry that you expect to do a job.

Let those people tell us what they think would be fair. I would buy it tomorrow. I would buy it this minute, if it were a group composed of those kinds of people.

I have met Mr. Kirbo, who is a great friend of the President, only once. He impressed me as being the same type of individual. It should be a group composed of people who understand something about business. He could take his friend Mr. Austin, chairman of the board of the Coca-Cola Co. That is not an energy-producing company, so far as I know.

Let people such as those take a look at the problem and say what it is going to take to attract capital to the industry and keep the people in that industry from taking their capital out and putting it into something else. Let them show what it would take to get people to invest rather than disinvest, to produce industry.

Whatever they came up with, I would be willing to support as a solution to this problem. I say that on one condition: The President has to go along with it, too. I do not think it would be fair for him to appoint one of his Cabinet members and say, "Here is what you have to find." I know how that is done, too. I have known those types of situations, where a President would say he gave general so-and-so whatever the general asked for; and I discovered later that he said to the general, "Don't ask for something unless you clear it with me."

I do not mean that type of thing. I mean where you have a good-faith request by someone to seek advice and to give you the best information and the best judgment he can give. I would be willing to settle for that, in the spirit of compromise.

I think many people who share the respect of the President and the great majority of the Senate and the House of Representatives would happily arbitrate the difference between our view and that of the President as to what would be fair to expect to attract money into an industry to do what is expected of that industry. Anything along that line would be fair, so far as I am concerned.

For the life of me, I cannot believe that the President, on some basis such as that, would not be willing to come to terms with us and say, "All right, this looks fair under the circumstances. Perhaps it did not seem that way at first, but I have asked these people to advise me, and there it is."

Perhaps the President saw Mr. Friedman on ABC television this morning explaining his theory that what the Government is spending on bureaucracy to control the oil and gas industry and the energy industry generally exceeds the net profits of the companies. I want to check that and see if it is true. If it is true that what the Government is spending to regulate those industries exceeds what the companies are making—I have difficulty believing that it is true, but I will check it and find out—I wonder what in the world people are worried about.

Mr. HANSEN. I did not get to hear Mr. Friedman this morning. I will be interested in getting a transcript of his statement. I did hear Secretary of the Treasury Bill Simon make the statement that it was estimated by the Treasury that the cost to America—all the business in America, the corporations and individual taxpayers and everybody else—in just filling out the paperwork, the kind of burden we have imposed on Americans, was $40 billion a year. Forty billion dollars is a lot of money. It is within $5 billion of what it costs simply to service the national debt, which I understand this year will cost us about $45 billion.

So I would not be prepared at all to argue with what the Senator from Louisiana understands Mr. Friedman may have said this morning when he talked about how much it costs the oil business. If the overall figure that Secretary Simon offered is fairly accurate, and I would be inclined to ascribe considerable accuracy to it, I can——

Mr. LONG. What figure was that?

Mr. HANSEN. That it costs American business $40 billion to do the paperwork that Congress and the laws of Congress

and the bureaucratic regulations have imposed on them. It is $40 billion just to do the paperwork.

Everybody says, "We will simplify the tax code and do away with this, that, and the other thing." As a matter of fact, as the Senator knows, we usually go in the other direction. Instead of simplifying it, we have made it far more complicated.

So I would not be at all surprised that the figures that the Senator understands Mr. Friedman used could be pretty much in the ball park.

Mr. LONG. I thank the distinguished Senator.

The PRESIDING OFFICER (Mr. MATSUNAGA). Who yields time?

The bill is open to amendment. Are there amendments to the bill?

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 970—(SUBSEQUENTLY NUMBERED 1506)

(Purpose: Strike requirement that no tax be imposed unless the Act also contains tax incentives for increased energy production.)

Mr. JACKSON. Mr. President, for Senator BUMPERS and myself, I wish to call up an unprinted amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON), for himself and Mr. BUMPERS proposes unprinted amendment numbered 970:

On page 96, beginning with line 1, strike all through line 15.

Mr. JACKSON. Mr. President, this amendment would delete section 1054 from H.R. 5263.

As modified yesterday by the Finance Committee, the section states that no tax shall be added "unless this act also contains or provides tax incentives for increased production and conservation of energy and for conversion to alternative sources of energy and tax mechanisms for avoiding or mitigating adverse and undesirable consequences arising out of the energy crisis."

Page 17 of the committee report states that this provision is "intended to give the Senate conferees flexibility in attempting to reach agreement with the House." On pages 104 and 105 the report expands on what is meant by "flexibility." It states:

The Committee intends that the concept of tax incentives for increased energy production, conservation or conversion be interpreted broadly. Tax . . . incentives for greater production would include, for example, modifications of the crude oil equalization tax in the House bill to transfer a portion of the revenue raised by the tax to oil producers.

The report goes on to make it clear that "flexibility" would include graduated taxes, tax rebates, and tax credits which could, for all practical purposes, deregulate the price of crude oil or natural gas; and provide special benefits to various segments of the energy producing industry. By adopting this language, the Senate would, in essence, say to the American public: "The original idea of the tax program was to pass the taxes back to you, but we think the rebate should go to the big energy producers and users."

I cannot believe that a majority of the members of this body would want to explain this to their constituents.

Mr. President, despite yesterday's modification, section 1054 is still a blank check made out to the big energy producers and users and drawn on the account of the American consumer. It must not be endorsed by the Senate; and I hope that the Senate will adopt this amendment.

Mr. LONG. Mr. President, we modified this provision yesterday to make it clear that this amendment does not deal with price controls. It does deal with taxes, and it does propose that the conferees on the part of the Senate would have the right to insist that, as a condition of accepting any of the taxes imposed on the bill on the House side, there could be tax incentives for increased production of energy and for conservation.

Mr. President, we are not talking about deregulation, but we are talking about allowing producers a greater incentive than they have now to produce energy. We believe that we should move in that direction. And, Mr. President, in my judgment, unless we are able to put together a bill which consumes some of the taxes provided in the House bill, such as the crude oil tax or some part of it, for additional incentives to produce more energy for the American people, then there is not going to be any bill; and if we had a bill it would be pointless, because the American people are not willing to pay more taxes unless they can expect to receive more energy. If all they are going to pay taxes for is a two-way ticket for their money to Washington and back, with Washington's expenses deducted on the one end, they are going to think we are a bunch of idiots to pass it and vote us out of office for imposing it on them, and they would be wise to do so.

Of all the things we have attempted, this would be the most useless: "Send your money to Washington. We will send it back after deducting postage and handling expenses." Anyone who wants to sign up for that program, let him sign up, but let him do it on his own, without involving the Senate.

Mr. President, some Senators did not hear the little story I told earlier today, and I am going to repeat it: That reminds me of a situation I heard of a little while ago, when an alcoholic down on Bourbon Street in New Orleans found a postcard and decided to send a message. He addressed it, on the address side, simply "G-o-d," and on the back side he wrote:

Please send me $50. I need help desperately.

He dropped it in the mail, and it went to the post office. The postmaster said, "This obviously is for the attention of higher authority," and sent it to headquarters in Washington. They sent it, in turn, to the White House. The mail clerk there did not know what to do with it, so he put it on the desk of the top man.

The President looked at it, and said to himself, "Obviously this man must be in real trouble. The best I can do is send him $5." So he sent the $5.

Two weeks later, the President had another message addressed to the same person, God. The message read:

Please send another $50, but this time please don't send it by way of Washington. They took out 90 percent for expenses.

Mr. President, I do not care whether they take out 90 percent for expenses or 5 percent for expenses, if we cannot think of anything better to do with the taxpayer's money than tax it away and send it back on a two-way bargain, when the taxpayer might get it back and might not get it back, they might lose it in the mail—anybody who cannot think of anything better to do with the taxpayer's money, or who tells the taxpayers, "That is the best thing I can think of to do with your money, to send it on a round trip to Washington and bring it back with expenses deducted," Mr. President, if that is all we have to do around here, we ought to find something to do to make busy work for ourselves.

Some of us believe we would make a major contribution if we could find more energy production. But if you are going to find more energy production in the short run, you are going to have to do it with the conventional sources. In the long run, solar, geothermal, and various other sources might do a lot of good.

But if we do not have the flexibility in Congress, first, to provide a tax credit that we think might bring about additional production by use of the taxes imposed by this bill, or any bill, and, second, to relieve hardships imposed on people which at this moment cannot be foreseen, or some of which can be foreseen, if we cannot have that flexibility, if we send this bill to conference, I would like Mr. JACKSON to name the conferees for the Senate. I would not be interested in serving.

I would like to see additional energy production, and would be willing to vote to do whatever it took to bring about a solution to this energy problem, but I would like to record those in favor of the idea of just taxing money on a two-way ticket, or those who favor the idea of denying the industry whatever incentive is necessary to do what the American people expect of us. Those who favor that concept, those who think you can provide energy to the public so cheaply that it does not pay producers' expenses nor allow for a reasonable profit, those who feel that way ought to take to the floor of the Senate and see if they can pass, Mr. President, that kind of a bill, and they ought to call the muster roll among their troops.

Who is going to vote the money to pay for all that? Just stand up here and say, "I will vote for that crude oil equalization tax provided you use it on the two-way round-trip ticket, minus expenses. I will vote for these taxes, provided you use the revenues in the way I think you ought to use it" and explain how that is.

Call the muster roll among the troops

of those who do not want to provide any incentive to the producers to produce more energy and see if 51 votes can be found. If so, more power to you. Go ahead and pass a bill which you think will produce cheap energy.

Why not have a further price rollback? Tell the people, "We will get you more energy for less and we will even cut the price." Tell the people that. Go ahead and see if you can muster the votes to pass it.

Mr. President, in my judgment, we have no business conferring with the House with the backbreaking taxes proposed in that bill unless we have the opportunity to provide just exactly what this section provides for, which is: Increased production and conservation of energy and for conversion to alternative sources of energy and tax mechanisms for avoiding or mitigating adverse and undersirable consequences arising out of the energy crisis.

If we do not have that to confer about, the House, of course, will insist that some of those taxes be agreed to in conference. They do not think they are going to spend all that time working on that for nothing, with all of it to wind up going down the drain. I think it would be wrong to bring those taxes back without something of this sort in the bill, without trying to provide enough incentives for additional production and conversion, without alleviating hardships created by those taxes.

If one does not have that, Mr. President, I would predict he would have a very poor bill and one that would not justify the support of this Senate or the concurrence of the House of Representatives.

I hope, Mr. President, this amendment will be rejected.

Mr. CURTIS. Mr. President, I would like to ask a question: What is the purpose of an energy bill? Why all of this fuss about an energy policy? Is it to impose price controls? Is it to add to the big bureaucracy over here, the new one, with its thousands of employees, that has not resulted in saving a single barrel of oil for us?

The purpose of this energy program should be that we move as fast as we can toward self-sufficiency in energy.

We could have all of these regulations and close up shops, close down factories, and make it so burdensome that people have to quit buying many of the things they would like to have. But what is going to happen to jobs?

This country moves forward by using energy, and we have to have more energy.

What is the purpose of an energy policy? It is to assure that the Air Force of the United States will never be grounded because somebody turns on an embargo.

What is the purpose of an energy policy? It is to make sure that our great productive agriculture goes on.

What is the purpose of an energy policy? It is to assure that our buses, our airplanes, our railroads and all means of transportation go on.

Mr. President, if we adopt the amendment now before us will we contribute anything to a sound and positive energy policy? Not a bit. Not a bit. Any time we are dependent on offshore sources for half of our oil, our country is facing a situation that could become desperate overnight. What we are trying to do here is to produce more energy and to move forward with conservation at a pace that does not destroy our economy.

The other body has suggested a great many taxes. If we would take their bill in toto, it would not result in one iota of increased energy. That is the weakness of it.

What does the committee say in this section? It says this:

(a) IN GENERAL.—Notwithstanding any other provision of this Act or of the Internal Revenue Code of 1954 added by title II of this Act, no tax shall be imposed under any provision of such Code added by this Act unless this Act also contains or provides tax incentives for increased production and conservation of energy and for conversion to alternative sources of energy and tax mechanisms for avoiding or mitigating adverse and undesirable consequences arising out of the energy crisis.

In other words, they take away from us the only means to increase the supply of energy in the country.

Yes, here is a factory which has a boiler fired by natural gas or oil. We could hit them over the head with a tax running into four or five figures to compel them to convert to coal. But we know it will not work. It is contrary to everything in the American way of doing things.

What the Senate Finance Committee version of the bill provides is that we can provide a tax incentive to make it worthwhile to abandon some equipment that still has a long useful life. The facts are that these conversions are taking place rather rapidly now. All new plants are being equipped for coal. By the tax incentive we can get the job done without the coercive heat of a bureaucratic government that regulates all things. When you regulate, you dry up the source.

For 3 or 4 years, the Congress has talked about energy regulation. We have had bill after bill here, but not a single bill has been brought on to increase the supply by any amount.

That is why we are here today.

It is easy to appeal to the antitrust sentiment of the country. It is easy to appeal to those good people who have not been exposed to a particular line of activity. But it is bad for our country unless we face up to the reality.

The testimony before our committee was that of all the oil found in this country, most of it was found at a depth of not to exceed 5,000 feet, and if we go another 5,000 feet we will find as much oil as we found in the first 5,000 feet. If we go another 10,000 feet, we will find as much oil as from zero to 10,000. But that will cost a lot of money.

Here are the facts: Expenditures for exploration and production necessary to meet the energy crisis have to be in the range of from $20 billion to $30 billion per year in current dollars over the next 10 years.

This will be some three times the average annual amount of about $8 billion invested by the industry in exploration and production during 1971 to 1975. To obtain this level of expenditures, these funds must be, for the most part, internally generated, because oil and gas exploration is a high-risk activity. Draining capital from the energy industry will severely restrict the industry's ability to accumulate funds.

There are two essential points: First, the availability of funds for investment; and second, a rate of return sufficient to induce the investment of those funds in oil and gas activities.

Mr. PERCY. Will the distinguished Senator from Nebraska yield for a question?

Mr. CURTIS. I am happy to yield.

Mr. PERCY. There is a question that is troubling many of us. It has to do with the amendment proposed by the distinguished Senator from Washington.

As I read through the section in the bill that he is attempting to delete by his amendment, it seems to me that that section embraces a philosophy that many of us have: That there is no one answer that can be provided to the energy problem. The answer is going to come from many sources. It is going to come from increased production in addition to conservation. That is why the Senator from Illinois and many other Senators have supported realistic market prices.

We have to cut down somehow and use conservation of energy or utilize new sources of energy as a means of reducing consumption. That means more efficient automobiles, which we have legislated, and many other means.

It also means that we have to find ways to convert to alternate sources. We know that petroleum products—gas, oil, and so forth—are available in only finite quantities. We are drawing from the well too fast. We have to go to other sources, especially solar, wind, and other renewable resources. I do not understand why the Senator from Washington wants to cut out what I consider to be an especially important aspect of what the Senator from Illinois believes should be our national energy policy.

Mr. JACKSON. I shall be glad to respond if my good friend from Nebraska will yield to me. There is no time limit here.

Mr. CURTIS. I shall be happy to have the Senator repeat the response that he has been making for 3 or 4 years while we have experienced a no-growth policy in the production of energy. I shall yield such time. I am sure a replay of it will be good.

Mr. JACKSON. I thank the Senator.

Mr. President, this matter is rather clearcut and very simple. It is being made complex by some, I think, for purposes of a bit of confusion.

I favor incentives for production of oil and gas. That is not the issue here. The Senator must keep in mind that what is involved in this section is a fundamental question. That is, this proposal brought in by the Senate Committee on Finance contemplates going to conference and picking up a lot of revenue. This section says that, out of that revenue, the money, instead of going to Washington, will go to the producers.

Now, there are a lot of people in this country who will be paying extra nickels

and dimes for gasoline, they will be paying extra dollars for heating oil and so on, by reason of new taxes imposed by this bill. Where will the money go? That is the issue. Well, it will go directly as incentives to the energy industry.

I do not think that should occur. I do not think the people of America should turn around and, after having paid their taxes, finance the subsidies.

I sponsored the stripper well amendment to provide incentives for oil production. I do support production incentives. But let us not confuse those issues, in all fairness, with what is before the Senate. What is before the Senate is the President's proposal to levy taxes to dampen demand, to take those taxes, and refund them to the consumers in other areas. What is being proposed by the Committee on Finance is to take those taxes and turn them back to the energy industry. They ought to be separate and apart. That is my answer to my distinguished colleague.

It makes absolutely no sense for this great body to issue a directive to the conferees and say, "Look, work out your taxes, but we want to see those taxes go back in the form of subsidies and incentives to the industry."

I do favor incentives. I think we have to deal with that separately in connection with the oil shale industry for example. We have oil and gas in very tight formations. We have the whole question of secondary and tertiary recovery. Both may need some type of incentive. But read the report. Do not look just at the bill. But when you read the report, you get the full story of what is involved here, because we are making legislative history. Let us not be confused about the bureaucrats taking this money. That is not what is being proposed in the Senate Finance Committee proposal. It is taking the tax dollars and turning around and using them directly as incentives by giving them to the industry.

Mr. PERCY. Will the Senator yield for just one further comment?

Mr. CURTIS. Yes.

Mr. PERCY. I am not looking at the report, I am looking at the statutory language that is being eliminated by the amendment of the Senator from Washington. I do not read into that statutory language at all what he is saying we are doing by eliminating this language. The language seems very clear indeed. It says no tax shall be imposed. It does not say what kind of tax. It could be 1 cent a gallon for gasoline, it could be a wellhead tax, it could be any kind of tax. It simply says you shall not impose a tax unless you also provide additional incentives for production, for conversion to alternate sources, and for conservation. Those, to me, are almost motherhood provisions. All of these approaches are legitimate approaches that can and should be used.

My reading of this is not that we are somehow forcing the use and expenditure of this tax revenue for the producers. Nor are we saying that it cannot be recycled back to the consumer at all.

I simply could not support the amendment to eliminate that language. I consider this section essential to this bill.

Mr. JACKSON. May I read what the committee intends?

Mr. PERCY. Yes, of course.

Mr. JACKSON. Let me read what they say they have in mind on page 104 of the committee report.

> The Committee intends that the concept of tax incentives for increased energy production, conservation or conversion be interpreted broadly. Tax and other incentives for greater production would include, for example, modifications of the crude oil equalization tax in the House bill to transfer a portion of the revenue raised by the tax to oil producers.

How can you make anything more clear, Mr. President? It is right there in black and white.

Mr. PERCY. It says "for example." It is not a directive.

Mr. CURTIS. At this point, I should like to reclaim the floor, since I have it, to answer that very question.

Mr. PERCY. I thank my distinguished colleague.

Mr. CURTIS. That is what it means. That is right; it should be there. It gives to the conferees the authority to say to the House "If you impose this tax, we want to have the right to use some of it to produce more oil." It gives us the right to say to the oil producers, "You are going to have to pay all of this tax, a heavy load, unless you take some of this money—not to put into your pockets, not to distribute as dividends, but to put back into the production of oil."

Mr. PERCY. It does not say all of it should go to producers.

Mr. CURTIS. In order to avoid a stoppage of the American economy, we want the right to say to these taxpayers who are oil producers, "You are going to be soaked with a big tax if you put that money in your pockets or distribute it as dividends. But if you will take that money and drill more wells and more wells and deeper wells, it will give more oil to the Nation so we have more jobs, less danger of an embargo, and a cheaper price for oil than if we let this no-growth policy go on."

Now, Mr. President, we have a choice here of using this bill to establish an energy policy of greater production and more effective conservation or to give this money for other purposes. Secretary Califano appeared before the Committee on Finance and his hands were just itching to get some of that money. He said they were going to use it for social purposes and social benefits. A vote for the pending amendment is a vote for the Califano grab, and all the other bureaucrats. It says we want to tie the hands of the conferees so they can soak the American people with high taxes for any other purpose under the sun than to produce more energy to keep this economy going.

Mr. LONG. Will the Senator yield at that point?

Mr. CURTIS. I am happy to yield.

Mr. LONG. Is this not true, that in the committee, we discussed the possibility of saying to a man that has a well, let us say producing 30 barrels a day, "If you will rework that well at considerable expense and make it produce more efficiently, so that instead of producing 30 barrels a day it produces 35 barrels a day, we would permit you to have a better price for the additional 5 barrels than you would get for the other 30 barrels?"

(At this point, Mr. MORGAN assumed the chair.)

Mr. CURTIS. That is good.

Mr. LONG. Is it not true that the spokesman for the administration in the committee, Mr. Larry Woodworth in this case, said to us, "Well, the administration buys that approach, they think it is a good idea"? Perhaps they would not want to go as far with it as whoever was proposing an amendment at that point, but they would go part of the way, they would do something along the line if the administration thinks it is reasonable.

Would the Jackson amendment not preclude us from doing in conference what the administration itself, thinking through the President's spokesman, in this case Mr. Woodworth, himself proposes?

Mr. CURTIS. That is correct.

The adoption of the Jackson amendment would assure that the factors in the bill which continue this growth policy would be the only factors that we could deal.

I personally resent the contention in high places that what we are trying to do here is to unjustly fill individual taxpayers' pockets with money undeserved.

What we are trying to do is the very opposite, that they take that money and produce more and more and more energy. When they do it, they are serving the national good and we will get it back in greater taxes in the general tax system.

Mr. LONG. Will the Senator yield further?

Mr. CURTIS. I am happy to yield.

Mr. LONG. We are anticipating amendments to enact at least some part of the user tax on behalf of those who the administration would like to convert over from gas or oil to coal. Now, if such an amendment is agreed to, and we do not have the provisions that we have here, assuming some part of the user tax is agreed to here in this Senate, and that may very well be the case since amendments will be offered along that line, obviously, that much of the user tax would no longer be subject to conference, that much would be agreed to begin with.

If the conferees should then find that some particular people in this country who were not represented in Washington by a lobbyist were going to be destroyed, and if the conference wanted to provide some tax credit to save them from being put out of business by the inadvertence of this Senate and the House of Representatives, without this section where could one find whatever it might take to provide some help or some relief to those who, just because they were not represented by a Washington lobbyist, and no one in the Senate Chamber at that time knew of their problem of having their business destroyed by an imprudent act of Congress which was proposed by a sponsor not familiar with the problem of those people out in the boondocks?

Mr. CURTIS. The Senator is so correct.

Again I repeat, this amendment, if adopted, would take away from the conferees the power to use the tax as a means of more production and would assure free sailing for using this tax money for any

purpose under the sun that spenders could think of.

The original proposal for all of these taxes with nothing placed upon solving our energy problem is the biggest ripoff in the history of the country, absolutely a ripoff.

The Treasury wants to use the equalization tax funds for tax reform, something that means different things to everybody that uses it. In addition, HEW wants it for welfare.

We say, "Let us preserve the right for us to at least consider using it to increase production."

The philosophy represented by the pending amendment was placed before our committee. Who supported it? It had one witness beside the Government witnesses—the Nader group.

Business opposed it. Unions opposed it. Consumers opposed it. Agriculture opposed it. They did not want this big stick, taxing authority, to come down on the shoulders of the American people and have none of that used to give us a few additional barrels of oil.

Mr. President, this other philosophy of no growth, no massive efforts to increase production, may prevail. It may prevail and we may go along with a lot of work. I hope we do. But the time comes of another embargo, or anything else—God forbid that war would shut off the channels of transportation—this country cannot go on as a first-rate nation unless it goes in the direction of becoming more self-sufficient in energy.

We beg, do not take away the only vehicle that the Finance Committee has, that is, of using the tax system to encourage the production of more oil for all of the people, so that they will have it, so that their jobs will be preserved, so that our transportation goes on, and so that the defense of this country cannot be challenged.

Mr. President, a short while ago I pointed out about the great need for capital if we are going to increase oil production. Equally important, a pricing and regulatory climate that minimizes the uncertainties and attracts investors to commit funds to oil and gas exploration and development is essential. Thus, any company in an industry whose forecasted rate of return is below average will have difficulty marketing equity securities or borrowing the required funds.

Even if funds could be made available for investment, they will not find their way into exploration and development of oil and gas unless the rate of return is adequate. Instead, these funds will go to businesses which promise more attractive rates of return. The price paid by the consumer ought to be put to work to provide him with a new unit of energy for the one he consumed.

Therefore, I urge my colleagues to consider the work of the Finance Committee. We studied the problem in depth and concluded that a simple insulation credit is not enough to solve the energy problem.

If the Senate adopts the philosophy of this amendment, through this amendment or any other, it will have accepted the view that we must have a no-growth policy, and it will result in a dismal picture so far as the future is concerned.

If you are short of something, the answer is to produce more. That is especially true of the very substance that runs our factories, keeps our transportation moving, and contributes to the defense and the security of our country.

Mr. President, I urge the defeat of the pending amendment.

Mr. GRAVEL. Mr. President, I did not have a chance to be here when this amendment was offered, but I must say that I do not understand the motivation of setting up this body so as not to be equal to the other body.

The reason why the committee structured this language was so that we could go into a conference and have before us every conceivable facet of the energy situation that is germane to this issue and germane to the elements of the conference.

Under the House rules, many times the House Members come in and negotiate and say, "Well, we can't even discuss that, because we can't get back to our body." We were concerned that that was the kind of argument we would be faced with by the conferees; therefore, we tried to structure some language so that we would be able in all cases to counter and to negotiate with them and to work out a compromise that would be efficacious for both bodies.

I do not understand the motivation of why anyone would like to strike this particular element. It does not cost one sou. All it does is say that we can go to the conference with a broader spectrum of negotiating powers than would be the case otherwise.

Why any Member of this body would choose to tie our hands and make narrower the negotiating process that will take place in the conference is beyond comprehension.

I, personally, have a real stake in this particular paragraph, because I would like to see us adopt an excess profits tax. I think we have kicked around the industry sufficiently for the last 40 years; and with the recent charge of war profiteering, there is only one way we are going to prove to the American people that they are safe from excess profits or that there are no excess proffts, and that is to put on an excess profits tax.

This language, as I viewed it, was the vehicle with which I would offer that in conference.

So, to strike now language that I think is important, that I happen to favor, something which is important to satisfy the perception of the American people with respect to the generation of energy, is really doing this Chamber a disservice.

The other facet of this amendment in striking this particular paragraph is to guarantee we would not have the ability to see that, if we raise money, the money is funneled into areas where we can increase production, Let us make no bones about it. The administration's program came in, and these are the seeds of why this program was not accepted by Congress.

I think both elements of the political spectrum are not particularly enamored of the administration's energy package. I believe that the more conservative element of the political spectrum are the ones who carry the public burden. But if we had on this floor a vote on the crude oil tax, we would see as many from the conservative wing as from the liberal wing vote against that tax.

But there are those of us who feel that there is some merit in trying to arrive at an intelligent pricing for oil and gas. If that is done, we would like to see it done within a context that, at a given period of time, the pricing would contribute to a situation in which, when regulations are off at the end of September of 1981, we would see the beginnings of a free market situation. By utilizing the President's crude oil tax, we could dovetail ourselves into that very smoothly, without any capricious and cataclysmic occurrences to our economy.

mit that to take place. Why somebody would stand on this floor and offer an amendment that would deny us the opportunity to do that is beyond my com-

So this is the vehicle that would perprehension.

I hope the Members of this body will recognize that this language does nothing more than leave a broad-gaged opening to permit us to negotiate.

What this amendment by the Senator from Washington does is to say to the conferees of the Senate, "We are going to take one of your hands and tie it behind your back; and with that hand firmly tied behind your back, we want to talk with the House, who will have both hands free to deal in conference with the areas that are in dispute."

I hope the Members of this body will vote down this amendment resoundingly, so that we can proceed with what we consider more substantive elements, not an element that does not give us anything, but permits us to negotiate more intelligently than otherwise would be the case.

Mr. BUMPERS. Mr. President, first, before we go into the substance of the amendment that Senator JACKSON and I have offered, I point out that the Senator from Alaska has just made a compelling argument in favor of the amendment.

He says that he likes section 1054 and that he wants the conferees to have this blank check to go to conference because he, personally, would like to get an excess profits tax on this bill.

I would be willing to wager everything I own that the Parliamentarian, right now, would rule that that is not within the scope of the conference. Yet, the Senator's statement points out that the conferees are under some sort of delusion that they are going to conference to bring back to this body, as a fait accompli, an excess profits tax or something else.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. BUMPERS. For a question only.

Mr. GRAVEL. My colleague just made the statement that perhaps my proposed excess profits tax amendment is not germane. I ask for a ruling from the Parliamentarian. I think my colleague is all wet. It is germane.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Is an excess profits tax, in the present state of this bill, within the scope of the conference?

Mr. GRAVEL. I believe the Parliamentarian is checking.

Mr. BUMPERS. Please bear in mind that my whole estate is riding on the answer.

The PRESIDING OFFICER. The Chair will take the pariamentary inquiry under advisement, momentarily.

Mr. BUMPERS. My whole estate is riding on this. I should like the Parliamentarian to make certain before he answers.

While he has it under advisement, Mr. President, I would like to continue with my sermon.

The PRESIDING OFFICER. The Senator may proceed.

Mr. BUMPERS. I did not agree with the President's crude oil equalization tax. But at least the President had the decency and the sensitivity to say to the American people that, "We are going to give it back to you." I thought that was nonsensical, and the coffee shop talk in Charleston, Ark., was that, "If you are going to rebate 96 cents out of every dollar just let me send you my 4 cents and I will keep the 96 cents," which made a lot of sense to me.

But the chairman of the Finance Committee made the point a while ago. He told that story that I heard during the second term of Franklin Roosevelt's Presidency about "Please do not send my money through Washington because they take 95 cents out of every dollar." That was the first time I had heard it in a long time, and it is a very good story. And he made the point that it is so idiotic to ask the American people to send their money to Washington so it can be sent back to them, and I agree.

But, Mr. President, there is one thing that I consider to be even more idiotic, and that is to ask the American people to send their money to the conference committee made up from the Finance Committee and let them rebate it to the oil and gas companies of this country, and that is what section 1054 does. And if we do not strike it, we are saying that we do not really need a Senate any more. The Finance Committee has not even patronized this body to the point of giving us some idea of how they are going to spend the money.

They have not even been deferential enough to us to accommodate us with a priority list of what they are going to do with the money. No. They are saying under this section we will go to the conference committee, and the language specifically says that any taxes raised under this bill must also be used or there must also be tax incentives and other tax mechanisms to increase production.

I will have been here at the end of this year only 3 years. Mr. President, and that is all I can speak for, but I can tell you this, that in 3 years I have never seen language even closely approximating the language in this bill. I have never heard a committee and I have never heard a person ask the U.S. Senate to "trust me."

You talk about wasting taxpayers' dollars and not sending money through Washington. They are asking us to give them authority and, incidentally, under the language of this bill they can take the 4-cent gas tax and divert it from highway uses into tax incentives to the oil companies. Read it. You read it and you will see that the 4-cent gas tax which produces $3 billion a year can be diverted by that conference committee.

Talk about wasting money. Down in Arkansas we had a preacher one time who ran off with the church's treasury, and they sent a search committee out to find him, and they were going to make him account for everything he had spent. The fellow telling the story to another fellow said, "We made him account for every dime of it." And he said, "He spent about 65 to 70 percent of it on liquor and women." The fellow said, "What did he do with the rest of it?" "Why, he just wasted it." [Laughter.]

He said, "We made him come back and preach out the part he wasted."

Mr. President, you talk about wasting the taxpayers' money, and you talk about ripoffs. What is left in the bill? What is left in the bill if you strike section 1054? Only $40 billion worth of incentives. How much more do we have to have? Why you have Trailways, Continental, and Greyhound taken care of. You have subsidies for oil shale. You have geopressurized methane. You have geothermal. You have everybody in the country taken care of to the tune of $40 billion.

But that was not enough. Here comes along the tail-end section, section 1054, and they say that we want a little more. We want you to give us the authority to spend any tax money that the House has voted and that we agree to even though everybody knows the President's crude oil tax would not have a chance in this body, but what they are saying is if we agree, if we recede to the House and we get the benefit of all that gas guzzler tax and all that crude oil tax, we want to give it back. When we ask the simple question how, who are you going to give it to, they say: "Just trust us. We'll do good. We promise you. We'll bring a conference report back here that we will all be proud of."

Mr. President, I daresay the chairman of the Armed Services Committee, who has been here longer than anyone I see sitting in the Chamber, has never seen language like this before. I do not believe anyone in this Chamber has ever seen such language as this before.

The PRESIDING OFFICER. If the Senator will suspend, the Chair will respond to his inquiry. The Chair has been advised by the Parliamentarian and agrees and so rules that there is nothing in the Senate bill at present dealing with excess profits tax and that the House bill does not contain any reference to excess profits taxes; therefore, it would not be germane in the conference report on the bill if there is one.

Mr. BUMPERS. I thank the Chair for ruling exactly the way I knew the Chair was going to rule. My estate is intact. I am not going to have to give it up.

Mr. President, I honestly think that one of the most dangerous parts of section 1054 is the precedent. If we are going to give the Finance Committee conferees a blank check, then I might as well go ahead and call all those people down in Arkansas, whom I told I cannot come home and keep those appointments next week because we are not going to be out and tell them to put me back on the program; I will be home; I have delegated my responsibility as their Senator to the Finance Committee conferees, and I certainly hope that what they do will meet with their approval, because if you do not vote for this amendment and you do not strike that language, that is what we are doing.

Mr. PACKWOOD. Mr. President, will the Senator from Arkansas yield?

Mr. BUMPERS. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. LONG. Mr. President, I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator for yielding to me for consideration of the appointment of conferees only.

MILITARY PROCUREMENT AUTHORIZATIONS

Mr. STENNIS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1863.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1863) entitled "An Act to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Department of Defense Supplemental Appropriations Authorization Act, 1978".

TITLE I—PROCUREMENT

SEC. 101. In addition to the funds authorized to be appropriated under title I of the Department of Defense Appropriation Authorization Act, 1978, funds are hereby authorized to be appropriated during fiscal year 1978 for the use of the Navy and the Air Force for procurement of aircraft and missiles, as authorized by law, in amounts as follows:

(1) For aircraft: for the Navy, $151,600,000; for the Air Force, $33,000,000.

(2) For missiles: for the Air Force, $64,000,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. In addition to the funds authorized to be appropriated under title II of the Department of Defense Appropriation Authorization Act, 1978, funds are hereby authorized to be appropriated during fiscal year 1978 for the use of the Navy, the Air Force, and the Defense agencies for research, development, test, and evaluation, as authorized by law, in amounts as follows:

(1) For the Navy, $5,886,000.

(2) For the Air Force, $291,500,000, of which $5,000,000 is authorized for the study of wide-bodied aircraft as strategic cruise missile carriers.

(3) For the Defense agencies, $15,000,000.

SEC. 202. (a) Section 202(a)(2) of the Department of Defense Appropriation Authorization Act, 1978 (Public Law 95-79), is amended by striking out "before January 1, 1980" and inserting in lieu thereof "not later than July 1, 1981."

(b) The amendment made by subsection (a) shall take effect October 1, 1977.

Amend the title so as to read: "An Act to authorize appropriations during fiscal year

1978, in addition to amounts previously authorized, for procurement of aircraft and missiles for the Navy and the Air Force and for research, development, test, and evaluation for the Navy, the Air Force, and the Defense agencies, and for other purposes.".

Mr. STENNIS. Mr. President, I move that the Senate disagree to the amendments of the House to S. 1863 and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. STENNIS, Mr. MCINTYRE, Mr. CULVER, Mr. BUMPERS, Mr. GOLDWATER, Mr. TOWER, and Mr. BARTLETT conferees on the part of the Senate.

Mr. STENNIS. I thank the Chair and I thank the Senator from Louisiana.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The Senate continued with the consideration of H.R. 5263.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. LONG. Mr. President, the Senator from Oregon, I believe, wants the floor. I will be brief. I will take one moment to make two points, Mr. President.

When the Senator from Arkansas discussed the subject of an excess profits tax, I think it should be noted that if any tax credit is provided to encourage additional production, it is only a matter of degree. I personally would favor that, and incidentally the President of the United States, speaking through his representative to the committee, also favors that type of thing. So we are talking about a matter of degree, and we should know that those who spoke for the President are advocating some of the same type of thing that the Senator from Louisiana is advocating. It is just a matter of degree as to how far one would go.

If such a tax credit is to be allowed to a producer, it is simple enough to provide that he gets it under certain circumstances. For example, one can say if he produces more energy he is entitled to a tax credit provided that he takes every dollar of that and puts that back into drilling and producing more energy.

Now, you say this does not call for an excess profits tax. But what you are saying is he does not get it unless he uses the money for doing what you want him to do or he does not get it unless certain circumstances prevail, which has exactly the same effect as an excess profits tax.

Now, Mr. President, we are not asking the Senate to vote for anything other than to give the conferees the privilege of putting in some ifs, ands, and wherefores to say if these taxes are going to be levied, which are not in this bill, that there would be provisions to relieve the hardship on those who are adversely affected, and that there would also be provisions to help provide for energy for the American people. Without that this would be a very pointless bill.

We will have more votes for a conference report because we provide that if we indeed find we are going to have to ask this Senate to vote for additional taxes—and I doubt the President would sign the bill if it did not have taxes in it at some point—so that when the Senator talks about resigning his seat, I say I hope he will not do that prematurely. I wish the Senator would consider the fact that all we are really asking him to do is to let us make him a proposition to go to conference and work out something with the House and bring back something we hope he would vote for. I must admit that may be a forlorn hope, but I always hope I can persuade the other person to see it my way, and I would hope we can bring back to the Senate a package that even the Senator from Arkansas cannot turn down.

I would not be surprised but what the Senator from Arkansas might have the President of the United States personally asking him to vote for it, which gets me to the third point: Mr. President, we have no intention of bringing back from the conference a bill the President would veto. The President certainly knows how to communicate. He does not need to say it even implicitly. If he wants to he can find ways to make vibrations we can understand, which means if this thing is too generous to anyone, if it goes too far in rewarding anyone for more energy, if the incentives we seek would give too much, and the relief we would give someone adversely affected is too great, the President would feel it is going too far, he may be compelled to veto a bill if that were the case, and the probabilities are it would not be agreed to.

Now, those who have great fear that we on the Committee on Finance might not share their views ought to keep in mind they have a lot of support among those who represent the House in conference right now, and would in the future represent the House.

They presumably, at least, think the President is on their side. I do not think they would denounce the industry in any more vehement terms than the President already has. He has gone so far as to call them war profiteers and unless they want to resort to obscenity—and I do not know of anyone who does—I do not see how they could go any further beyond that. So we are talking about trying to work out something the President would sign, that the President would recommend to the American people, something that the President, if asked, would urge the Senate to vote for and the House to accept.

So that those who see these great hobgoblins should keep in mind they have plenty of forces on their side. They have the House of Representatives on their side against any consideration whatever for the industry. They have the President denouncing the oil companies in the strongest possible terms. They also have themselves. You know, a conference report can be filibustered. I have done it sometimes myself. So if they do not like what comes back they have a perfect right to oppose it, and if this is the kind of thing they would like to conjure up in their minds, they can depend on the President vetoing that.

Just what do they think we are, a bunch of Houdinis on this Committee on Finance? We would simply propose if these major taxes are to be levied they would be accompanied by some incentives, tax incentives. We modified it to make it clear we are talking about tax incentives, incentives that would bring about additional production of energy.

If we are going to pass a bill that does not bring about additional production of energy, I wonder what the American people think we are doing here?

I thank the Senator.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, let us again try to put some figures in perspective so that we know what we are trying to achieve on the Senate floor, and maybe in conference.

The administration estimates that in 1985 if we have no energy plan at all we will be using 22.8 million barrels of oil a day.

The Congressional Budget Office estimates 22.8 million barrels in 1985; the Congressional Research Service estimated 22.9 million barrels; the Office of Technology Assessment estimates 23 million to 23.5 million; and the General Accounting Office estimates from 22.8 million to 23.8 million.

The administration is the lowest of the estimates of what we use in 1985 if we have no plan.

But let us take the administration figures. Their figures are 22.8 million barrels a day used in 1985 without a plan. Now the administration also says they want to achieve a reduction to no more than 6 million barrels a day imported by 1985. That is necessary for our national security; it is necessary because we cannot afford to pay $40 billion, $50 billion, $60 billion, $70 billion, or $80 billion a year every year for oil.

If you subtract the 6 million barrels of oil a day the President says we will be importing in 1985 from the 22.8 million we would otherwise be using without a plan, this leaves you a difference of 16.8 million barrels of oil a day we have to conserve, convert, or produce.

Today we are producing 9.2 million barrels a day domestically, including Alaska. The difference between what we produce today and what the President expects we should produce domestically, or convert domestically or conserve domestically in 1985 is 7.6 million barrels of oil a day.

There are only three ways to get it: One is conservation. You put weatherstripping in your house and insulate it, and you reduce the amount of energy you use. That is conservation.

Another is conversion. You are using an oil furnace and you put in a coal furnace. You do not necessarily reduce the amount of energy you use, but you convert from oil, which we are short of at the moment.

The third way is production, simply increase the production of your various forms of energy.

I want to give you the administration's figures again. Under their figures, we now produce 9.2 million barrels of oil a day. In 1985, we have to produce 16.8 million barrels. In every assessment of the President's program that has now been given to us by the General Ac-

counting Office, by the Office of Technology Assessment, by the Congressional Budget Office, and by the Congressional Research Service, every one of those studies says that the President's own plan falls 4 million to 5 million barrels a day short of reaching that goal, so that instead of importing 6 million barrels of oil a day, we are going to be importing 10 million to 11 million barrels of oil a day under his plan.

And the House plan is worse. They eliminated this standby gasoline tax, which would have conserved a little bit. They trimmed the user tax, and thereby reduced the conservation in it. I have not seen accurate or full estimates on the House plan, but it has to be worse than the President's.

Come back again to those figures. Today we are producing 9.2 million barrels a day. By 1985, we have to produce 16.8 million barrels, a difference of 7.6 million barrels that we have to either produce, convert, or conserve.

If we wipe out all of the production credit in the Senate bill, if we say what we will do is rebate all of this money, if we say what we will do is adopt all of the House conservation credits—and they are not bad, but in order to do it you have to have the conservation tax, the user tax, and the gas guzzler tax. If we add all of those back, we will save only about 2.6 million barrels a day. Where do the other 5 million barrels come from?

Not from conversion or from conservation, and there is very little in the President's bill to help production.

If you read the language, the tax does not necessarily go to the oil companies. It is for production, conservation, and conversion to alternative sources. It does not necessarily go to oil companies.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. GRAVEL. Does it not primarily, though, go to encourage conversion to alternate sources of energy, be they solar, geothermal, or coal; and if the oil companies choose to go with it, so be it?

Mr. PACKWOOD. That is the intention of the program. It is certainly not to provide any bonanza for the oil companies.

I come back again to this point: Where do we get the extra energy? Do we conserve it? Not under the House bill, and we cannot do any more than the House bill provides if we go to conference, because our conservation credits are not greater than theirs. Do we convert it? No. Do we produce it? Not yet.

Every time you see a report or an editorial, the bottom line is, does it increase the amount we produce, or does it increase the amount of oil we import? The President's bill increases the amount we import. The House bill even further increases the amount we import. The Senate bill will slightly reduce the amount we import from the House bill, but it will not reduce us to 6 million barrels a day imported.

That could be done in conference with sufficient production credit, but I will say to those who are opposed to such production credit, if they do not want it, where do we get this 4 million to 5 million barrels a day that the President's plan is short? Where?

Mr. President, I yield the floor.

Mr. GRAVEL. Mr. President, I think the Senator from Oregon has made a fine synopsis of the President's program for the entire industry, in terms of numbers. That is really what the problem is all about.

What this amendment offered by the Senator from Washington does is guarantee that when the Senate walks into conference with the House of Representatives, we of necessity will be unable to move, will be totally hamstrung in trying to address ourselves to that 5 million barrels a day shortfall in 1985.

In other words, we will be closing the lid on that chest, and that is where the Finance Committee, understanding these numbers, said, "Whoa! We are going to do a lot of things, but let us not mislead the American public into thinking this 'gargantuan program' is going to solve the energy crisis, because when we leave this Chamber, we cannot solve the energy crisis, and the Senate conferees will not be able to improve the situation if we strike this particular language from the legislation before us."

I do not understand why any group of Senators would want to place in legislation a provision to place at a disadvantage the conferees of the Senate in relationship to their negotiating process with the House. What is to be gained by that? I do not know what that compromise could bring about.

I think the Senator from Louisiana is very right: no one is going through a conference process and then have a product which the President says he will veto. What is the point of going through that? None at all.

So we are obviously dutybound by the political realities of the situation, that we are going to have to work out through compromise, and that is, to do a lot the House wants and to do, a lot the President wants, but to do a lot that the Finance Committee thinks we should have, and that is do what we can to meet that 5 million barrels a day shortfall we will have in 1985.

Mr. HART. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield.

Mr. HART. The Senator, in his formulation, left out one major body: the U.S. Senate. I think it is fine for the Finance Committee to reach a compromise with the White House and the House of Representatives, but what about the U.S. Senate? Does it have no responsibility?

Mr. GRAVEL. Of course. That is the whole point in what we are doing here now. And we are making the judgment right now as to whether we want to hamstring the conferees.

Mr. HART. Is it the function of the U.S. Senate to send marching off to conference either an ad hoc or select group of Senators to make up our minds for us, and negotiate any arrangement that group may want?

I thought the function of the U.S. Senate was to deliberate on measures brought forth by the various committees, and, after the Senate has deliberated and reached its own judgment, then a conference is appointed. But the Senator from Alaska is suggesting that we skip the U.S. Senate.

Mr. GRAVEL. The amendment is to strike that provision. This is no carte blanche authority. I think the Senator from Oregon has made it very clear, and has thrown the gauntlet on the table: "If you fellows think you are so smart, there is 5 million barrels a day shortfall. If you are so interested in solving the energy crisis, speak to that."

The Finance Committee did speak to that.

I do not think it does any good to put a big tax on and recycle the money. Let me finish. My colleague wants to know what the Senate is doing.

We are saying, "If you want to put on some of those taxes, you ought to pay some attention to the shortfall that is going to exist." We are not usurping anybody's authority, or giving carte blanche to the conferees or anybody else.

If you want to limit the ability of the conferees and bury your head in the sand, you vote that way; but those of us in the Finance Committee saw the problem, and we are now asking the Senate to give us the power to go to conference and, if the conference wants to pass taxes, then we want to set in motion the ability to solve this shortfall problem.

I would suggest to my colleague that if he wants to address the nexus of this problem, let him come up with a way to solve the 5 million barrels a day shortfall.

Mr. HART. I think that is the process we should be involved in here now. However, the Senator from Alaska has suggested that you vote against this amendment. That you give the Finance Committee or the conferees negotiating room to agree to anything they may want later. If we agree to this, no one can have a solution of one's own. The only solution the Senate can reach is to give the conferees whatever they decide to agree to at a later date. I propose instead that we find a solution here in the Senate that a majority can agree to, and take that to conference.

Mr. GRAVEL. No, that is not so. I will read the language:

> No tax shall be imposed under any provision of such Code added by this Act unless this Act also contains or provides tax incentives for increased production.

That is all this says. Why would you want to go to conference unless you have, on the one hand, the hand of taxation, and on the other hand the ability to produce? What you want to do is take this arm away in the Senate here, so that we go to conference with only one arm.

Mr. LONG. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield.

Mr. LONG. Might I suggest to our very able friend from Colorado that this problem is one the Senator from Louisiana was seeking to deal with in committee. At one point, the Senator from Louisiana voted against striking the crude oil tax, and he was hoping to persuade a majority of the committee not to strike the crude oil tax. If the chairman of the committee had had his way, we would be writing a crude oil tax here in the Senate.

It was the objective of the Senator

from Louisiana to seek to persuade the committee not to vote on the crude oil tax long enough to vote on some things the crude oil tax would be expected to pay for, for some credits and production incentives, and whatever else it might take to make a package that would justify voting for the crude oil tax to pay for the other good things in the bill that we could persuade the Finance Committee to vote for.

Mr. GRAVEL. Will the Senator yield?

Mr. LONG. I yield.

Mr. GRAVEL. I just want to make one point. What happened to the Senator from Louisiana is he was ganged up on by the liberals and conservatives.

Mr. LONG. The Senator from Louisiana tried to put together a package where we could try to make an offer to the committee which we thought they could not refuse. The Senator from Delaware (Mr. ROTH) was insistent and determined to have a vote on his proposal to strike the crude oil tax, and down it went. I think the Senator from Alaska voted at that point to try to keep the tax in the bill, hoping we could put together a package that would justify Senate support.

Incidentally, Mr. President, while our committee has been criticized because it did not vote for that and some other taxes, I would challenge any other committee to run up a better record with the same tax. I have in mind that crude oil tax. Everybody knows that is going to impact on everybody, including the consumers. The Energy Committee, by the way, helped us on that crude oil tax in their own way. They sent us a resolution, voting 13 to 1 that we ought to vote it down. One might say that the President received eight times as much support on that crude oil tax from the Finance Committee as he did from the Energy Committee. The chairman of that committee thought it might be wise to abstain at that point, as I understand, so we do not know how the chairman would have voted if he had been compelled to vote on the crude oil tax. We do know that the chairman of the Energy Committee did not vote while his committee voted 13 to 1 to condemn the President's crude oil tax.

That is the kind of support the President got out of the Energy Committee for his program.

He got eight times that much help from the Finance Committee, with the chairman of that committee, who is standing right here, pleading with the committee not to strike the President's crude oil tax from the bill.

Failing that, the Senator from Louisiana hoped that we could resurrect some part of the President's program by going to conference and trying again what the Senator from Louisiana tried to do in the committee, trying to find enough things that we could push in there to provide increased production and to soften the burden on those adversely affected, to make it a sufficiently attractive package that we could make the Senate a proposition that it could not refuse.

I tried to do that in the committee and I failed, insofar as the President's taxes were concerned, or any part of them.

I would propose to try to get it in a conference committee if the Senate wants us to try it. But if the Senate just wants to say, "We do not want you to make us an offer. Don't you dare make us an offer that we cannot refuse. We are going to say no, no matter what you propose, because we do not trust ourselves. We think you are a Houdini. You are trying to trick us. You are going to get us to vote for something we do not want to vote for, sight unseen."

We might find a way to persuade somebody to produce another barrel of oil.

Mr. President, let us be fair about it. I do not want to put good intentions in a bad light. It is not that our friends who oppose the Finance Committee are against the people having energy. They are for the people having energy. They are just against paying anything for it. If they could get it for free, if it can be done for free, they are going to get it for free.

That is the way it is now. We have had so much cheap energy that it was not sufficiently attractive for the producer to produce it. Half of the independents had to go out of business. It was more attractive to invest their money elsewhere than to invest it here, and now we find ourselves in this situation.

Mr. President, in my judgment it is still possible to achieve the purposes the President set forth in his message. It is still possible to put together a package that has enough good points in it to justify paying for some of it with some taxes. If we had the flexibility, Mr. President, we could do it.

The President of the United States understands that. That is one point, Mr. President, the President of the United States understands. That man was a Governor before he came here and he has been President of this Nation for a while, longer than anybody here has been President of the United States. So he understands something about this matter. He understands explicitly that we feel we need some flexibility to put together a package that we hope he will sign.

I have said this, I have told the President this, more times than once, I tell the Senate this, it should be no news to anybody now, so there is no point in anybody taking out a pencil to write this down, I have said this time and again: I have no intention of signing a conference report which I believe the President will veto.

Let me make it clear, I did not say I would refuse to sign a conference report if the President has not said he was going to sign it. I mean if I was satisfied in my own mind that what we had put together was something that the President was going to have to veto, that it was not a matter of hoping he would sign it, having a reasonable cause to think that he might feel that the points where he differed with us were sufficiently minor that he could waive them, if it were a situation whereby if we sign this conference report, we have wasted our time because the President is going to veto the bill, I am not going to sign any conference report of that sort.

Whatever would emerge from that conference would have to be something that the representatives would agree to. We would expect to have the largest representation of the House of Representatives that we on the Finance Committee have ever conferred with. It would have to be something that the President of the United States would agree with. We would have the representative of the President, I would hope it would be Mr. Schlesinger, sitting right there in the room every step of the way, giving his view and what he thought the President might think about all that. If we cannot say it, Mr. President, there will not be any bill anyhow.

Mr. RIBICOFF. Will the Senator yield?

Mr. LONG. I yield to the distinguished Senator from Connecticut.

Mr. RIBICOFF. I do not think we have a good bill here. Without question, however, it is the best bill that could come out of the Finance Committee.

I would say that, if I totaled up all my votes on anything that had anything to do with energy, it would probably be 100 percent in harmony with the Senator from Washington. I have followed his lead over these past many years because I have felt, in this body, he was the most knowledgeable and fairest man in the whole field of energy.

I would say, on the other hand, that if I took my votes concerning energy, and compared them with those of the distinguished chairman, Senator LONG, they would probably be 100 percent negative.

What we are faced with here is the elimination of doctrinaire philosophy, and whether or not this body abdicates its responsibility in trying to work out an energy program.

The President sent an energy program to the Congress and the people of the country. I did not think it was a good bill. I felt, as hearings developed and we marked up this legislation, that it would have been wiser for the President to go back to the drafting board and come up with another energy program.

Consider that on the Finance Committee, which is composed of men with every type of political, economic, and social philosophy, there was not a single person who liked the President's program. We found the chairman of the committee—and I have never seen him in this position before—stopped from trying to put across his ideas.

Here we were in the Finance Committee really stuck—stuck right on center—with a responsibility to come back to this body with an energy program. On vote after vote the President's proposals were defeated. I voted each and every time for every tax. I voted in support of the President's program. It is not that I thought it was a good program, but it was the only program that we had before us.

What the chairman of the Finance Committee and the majority are trying to achieve is to say to this body, "We know this is not the bill that is going to emerge as law. We recognize, however, that we have a responsibility to the Nation to try to work out the best energy program we can. We ask you to trust the conferees to go to work with the House conferees and work with the President for the first time."

Throughout these many months, at no time—and I think much of the blame has to fall on the shoulders of the President—

was there an attempt to work together between the executive branch, the other body, and the Senate, to develop an energy program. There was a failure there, and we recognized it as a failure. Does that mean, with the greatest economic problem facing America's future, we should say, "Let us not have an energy program"?

I do not think the President's program is any good. I do not think the program of the House of Representatives is any good. I do not think the program we are presenting to this body is any good.

We are very frank with the people of this country and frank with the Senate.

What we are trying to say is the Senate is going to have to rely upon our word that we are going to try to sit down with the executive branch and the House of Representatives and come out with a program which is meaningful.

Trying to figure out where we go in my own mind, I jotted down what we should try to achieve in any energy program for this country. I think there are five basic principles.

One, we should try to achieve an element of conservation to a great extent, because this country is voracious in its use of energy. We are really pigs in the United States of America as to how we consume energy. There is not another country in the world that consumes or wastes energy as the American people do. We must put a stop to it.

Second, what can we do to increase the present production of oil and gas in the United States? I do not know how much oil and gas we have left in the United States. I have tried to find this out from private sources and from the executive branch. No one has been able to give us the figures. It is a tragedy. I think here, the Senator from Washington has, year after year, tried to find out the statistics of what we have. We do not know. But what can we do to increase the production of oil and gas?

Third, we must do everything we can to develop alternative sources of energy. We have to do it with every conceivable source.

Then I should like to keep the money that is earned in the United States. It is true, there are profits that are going to be made. The question we have is, Will the profits be paid to the Arab countries and OPEC, or will the profits be paid to Americans? I recognize that the oil companies are selfish. I think they are out to get all they can. The OPEC countries are also out to get all they can. But if someone is going to get all they can, I would rather have Americans get it.

One thing we can do in structuring what comes out of conference is to try to figure out a program to assure that no segment of American society takes advantage of needs and shortages to make an excess profit or a windfall. I think this can be worked out as well.

So what we have here is the necessity of this body showing statesmanship. I have talked with the chairman of this committee, and I know he is tagged as a man who is interested in taking care of the oil and gas industry. He comes from Louisiana and these are his constituents, and he is fighting all the time for the interests of his constituents.

I have talked to the Senator and, time and time again, he has assured me privately, as he has publicly, that he will work with the President to try to get a good energy program; that he will not sign a conference report that the President would veto. So here is a public statement that the chairman of the Finance Committee has made. He has made it publicly and to the President.

I have talked to the President, too, and I have assured the President that, in my personal judgment and opinion, the chairman of this committee, the Senator from Louisiana, is playing fair and square with the President of the United States. The President of the United States represents all the people of this country, and I am convinced that, when it comes to an energy program, the Senator from Louisiana is playing fair with the President of the United States.

In playing fair with the President of the United States, my feeling is that some of his constituents will be unhappy, because of his working with the President to work out a program. But whatever comes out of conference will not be the President's program. It is not going to be the House's program. It is not going to be the Senate's program. But, for the first time in America, we shall have the legislative and the executive branches trying to put together an energy program.

Maybe we will fail. If we cannot put it together in conference, then I think we ought to go over to next year, and spend the next few months trying to get another program and a better program.

I do not think that we dare abdicate our responsibility. So I think that what we are faced with in the Senate of the United States is to take this bill and make some changes if we want to. The bill is not any good, and I say so. I would not vote for this bill if I thought this was going to become the law of the land. But I am confident that this bill will not be the bill that emerges from conference.

So, what we are asking the Senate to do is trust the conferees to work with the President of the United States and the House to try to get an energy program.

(Mr. MOYNIHAN assumed the chair.)

Mr. RIBICOFF. There is no one who is sweating out the conference with the House more than the distinguished chairman of the Energy Committee. He has four-fifths of the responsibility, day in and day out, to try to work this out. I know that the Senator from Washington has as his objective a sound energy program. I am confident that what will emerge under his leadership will be a sound program. What we ask the Senator from Washington is to accord us the same respect on the fifth part of the energy program to see whether we cannot work out the objective that will be good for the United States.

I think, pure and simple, that is what we are asking for in this body. Consequently, I hope that we shall be able to pass this bill without kidding this body by saying that this is the law and we are going to fight to the death to see that we come back with this—because I am not going to vote to bring this back out of conference. If I were a conferee, and I do not know if I will be appointed a conferee, I can assure you I would not vote to bring this bill back from conference. But I would vote for a bill that would come out of conference, a bill in which we bring together the ideas and the thoughts of every type of philosophy—economic, social, or political—involving energy.

I think the time has come when we cannot fight to the death for our preconceived ideas. I have sat here now for more than 14 years and I can predict on each and every vote cast in this body how every man in this body is going to vote on every energy bill. I know how they are going to vote and there is never any question where the votes are. But I think the time has come for us to take a new and fresh look at energy. The time has come for us to find out what is going to work, what is going to make America self-sufficient.

This is a question I asked of Assistant Treasury Secretary Woodworth: "How much energy derived from gas and oil do we have left in the United States?"

He said he thought we have some 25 years. There is a question whether we still have about 80 percent of all the energy we have used from the beginning of exploration in the ground. There is a question about that. No one knows the answer. I do not know the answer. But if we have 25 more years of oil and gas in the ground and it is going to take a trillion dollars over the next decade to bring in alternative sources of energy, if this Nation does not have the intelligence and the organization in 10 years to bring us alternative sources of energy, the time has come to say a long goodby to the greatness and future of this country.

I cannot feel that there is not the brains, there is not the organization, and there is not the capital to develop alternative sources of energy in 10 years. We must do everything we can to increase the production of oil and gas during these next 25 years until we bring on stream alternative sources of energy.

The time has come for cooperation. As I say, I have the utmost confidence, and if you look at my votes—I am sure I never have, but time and time again, I have gone down to that well and said to the Senator from Washington—and I consider him one of the closest friends that I have in this body and there is no man I admire more. I have said, "Scoop, what is the vote?" And I have gone along with Senator JACKSON, because of my respect for his knowledge, his commitment, and his independence and honesty. I say the time has come for Senators JACKSON and RUSSELL LONG to get together on energy problems. We cannot afford the luxury of JACKSON and LONG fighting each other to the death on energy. The time has come, really, for JACKSON and LONG to work with President Carter to try to get an energy program that has meaning. That way, the country will march forward.

I do not know two men who are smarter or who are savvier in the field of energy than the Senator from Louisiana and the Senator from Washington. Instead of fighting each other to the death, I should like to see these two gentlemen, with their knowledge and their commitment, work something out.

My feeling is that, in 24 hours or 48 hours, if the Senator from Louisiana and the Senator from Washington would meet in the majority leader's room, they could come out with a measure that we could pass.

What I would say is, do not strip this bill of potential bargaining points. We know it is not going to be the bill that will emerge from conference. Make sure that we give the conferees the framework on which to build an energy program. That is all I am asking.

I say to the Senator from Washington, were I a conferee, he would find that my thinking in the conference would be closer akin to his than to that of the Senator from Louisiana.

Mr. JACKSON. Will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. JACKSON. Mr. President, I appreciate the remarks of the Senator from Connecticut. I would like to observe that I have walked that extra mile trying to work out compromises. I point out to my good friend from Connecticut that I worked around the clock in connection with the gas-pricing bill. I offered various compromises that were designed, hopefully, to bring about a settlement.

The gas industry would not talk to me prior to the vote in the Senate. But I can say that since the vote has occurred and we are going to conference, the industry is most anxious to renew the compromise proposals I offered, but they rejected.

I say to my good friend from Connecticut that I am not a doctrinaire type. I do believe that the public interest must be protected. I feel that in some of these areas, we can indeed, find areas where we can agree. However, I have to point out that when we come to certain fundamental issues we simply cannot agree. It would not be in the public interest, for example, to decontrol the price of natural gas or decontrol the price of oil.

I know that the Senator has voted that way, but I point out that what we are talking about here is being confused this afternoon by all sorts of references to general incentives, and to how to get more production.

I want this body to know and the country to understand that it is a simple, clearcut issue that is before the Senate. The issue is, do we take the revenues that will be paid by the little people of this country—they will pay it on their heating bill, they will pay it on their gasoline bill—and turn them over to the oil producers? That is the sole issue here.

On page 104 of the report what is intended is there in black and white. My good friend from Louisiana, I admire his candor and we are good personal friends. I will read from page 104:

> The Committee intends that the concept of tax incentives for increased energy production, conservation or conversion be interpreted broadly. Tax and other incentives for greater production would include, for example, modifications of the crude oil equalization tax in the House bill to transfer a portion of the revenue raised by the tax to oil producers.

That is what is before the Senate.

There is plenty of flexibility here to negotiate with the House without this section. But I, for one, want to go on record in this body as saying that we will take the revenues from the people and give them back to the producers. Make no mistake about it. There will be new taxes or there will not be any bill.

Mr. RIBICOFF. Will the Senator yield?

Mr. JACKSON. I will just finish this point.

I certainly would encourage incentives for various forms of oil production, alternative sources, and so on. That is a separate issue.

What is before the Senate now is whether we are going to take these revenues when they go to conference and take those specific revenues and turn them over to the producers. That is the issue that is before the Senate.

The administration has opposed that. They have made it very clear. I think I am not being unreasonable here in pointing this out to the Senate, because the policy of the Finance Committee is clear.

Mr. RIBICOFF. If the Senator will yield, I think that is a simplistic point of view that the Finance Committee was trying to achieve.

Mr. JACKSON. I am just reading the report.

Mr. RIBICOFF. I know the report is here. However, I have my additional views and, as I say, this report and this bill are not worth a damn.

Mr. JACKSON. Then we ought to recommit it.

Mr. RIBICOFF. No; I would say this——

Mr. JACKSON. Why do we not recommit it?

Mr. RIBICOFF. Because we are not going to get anything better from the Finance Committee. To recommit, we would not get anything, may I say to the distinguished chairman.

What is interesting, I voted for every one of the President's proposals, for every one of the taxes he proposed. I believe that I was the only member of the Finance Committee that did.

I wou'd even vote more than the President did.

But it is not that simplistic. If we generate revenues from taxes, what will be the objective in getting those taxes?

As I say, it is either conservation or increased production of energy.

Now, how are we going to do it? If $1 trillion is required to develop alternative sources of energy, where are we going to get that $1 trillion?

Let me say that I think the oil companies of this country are selfish. I do not think there is another industry more selfish than the oil industry. As far as I am concerned, I would use that selfishness to make them produce energy for the benefit of the people of this country.

If we are paying $14 for OPEC oil, it is a cinch people are not going to produce oil for $5.25. They will let it stay in the ground.

Again, if I am going to pay $14 for oil, I would still rather pay it to American companies than OPEC countries and make sure the money stays here, because one of the greatest problems we have is the balance of payments. We have a bill of $45 billion a year. Our trade deficit will be some $30 billion this year. Our dollar is going to pot; it is sinking in relation to every currency in the world today.

Mr. PACKWOOD. Will the Senator yield?

Mr. RIBICOFF. I am pleased to.

Mr. PACKWOOD. And that is importing only 8.8 million barrels a day.

Mr. RIBICOFF. And that will go up.

Mr. PACKWOOD. Under the President's plan, if there is the bill, as we have written it, 10 to 11 million barrels a day import, and that is no increase in prices. In 1985 we will be paying $65 billion or more.

Mr. RIBICOFF. So, trying to work this out I proposed an energy trust fund.

I do not care whether that is done through a corporation, the Department of Energy, or where this body or the conferees decide to do it. But the thought is that we must stimulate the development of alternative sources of energy. Most of these are exotic, they are sophisticated, they are untried, and capital is not going into these esoteric forms of energy unless we are assured we make a profit.

We have to develop alternative sources of energy in this country and we suggested an energy trust fund be created.

I thought it was silly for the President to say that we are going to take the money out of the right pocket of the American people and put it back into their left pocket. It is like the $50 rebate. that was laughed out of the Finance Committee and laughed out of court by the American people.

But also, we know that mass transit is important, as well as energy efficient transportation. We will set up an energy-efficient transit trust fund to take care of public transit. We will also try to determine how we get an incentive to make these oil and gas companies give us that extra energy.

It is not going to be any good to be philosophical and not have the energy we need and give all that money to OPEC, because if we do it means a goodbye to America's economic power and economic strength.

What makes this country great, and no one knows that better than the Senator from Washington, is not only our military strength, but our economic strength.

Once we lose our economic strength, then we lose our leadership in the world.

Consequently, it all comes down to energy, and that is the key.

What we are trying to do, if the President had a bad program, and he did, and the House has a bad program, and it did, and if we have a bad program, and we have, is it possible in this mess for reasonable men to sit in conference—the executive branch, the Senate and the House—to try to work out a decent energy program? If we cannot, then let us reject it; but we should try, and we are not going to write that program on the floor of the Senate.

So I think we are admitting to this body—if the others on the committee are not, I am—that the only purpose of this bill is to go to conference. I think it is worth a try; because if we do not get it out of conference, we end up with nothing.

Mr. HASKELL. Mr. President, will the Senator yield?

Mr. LONG. I yield to the distinguished Senator from Colorado.

Mr. HASKELL. I thank the Senator.

Mr. President, I should like to express many of the same preliminary conclusions that the Senator from Connecticut expressed, but I come to a different ultimate conclusion.

I think the Senator from Connecticut would agree—and I am sure the Senator from Louisiana would agree—that the Finance Committee bill leaves a lot to be desired. I do not think that is in dispute. But the administration's program leaves a great deal to be desired. I do not see how you can take two programs that do not have a great deal of merit and, in a conference, come up with a third program that does have merit. This is my objection to these proceedings.

We have all focused on the finance bill, and agree that it is not a desirable bill. To be sure, as the Senator from Connecticut said, it is the only bill the chairman could get out.

On the other hand, we have not examined the administration's program critically. It would be well to observe whether that program actually is in the best interests of the Nation.

Basically, the administration recommends three taxes. We have the crude oil equalization tax, which seeks to bring the price of domestic oil to a world price. From an efficiency viewpoint, it is probably desirable to have a unified price. From an equity viewpoint, a lot is left to be desired. The administration has recommended that newly discovered oil be priced at the world market and this seems appropriate. It means that as old oil phases out and new oil in, America's energy costs will rise, but the rise will be gradual.

As to the crude oil equalization tax, the House has recommended sending back to each citizen of the United States, on a per capita basis, that citizen's pro rata share of the billions of dollars collected. We are talking about billions of dollars, Mr. President, and I do not think there is an economist in the land who can foresee the side effects of taking billions of dollars a year out of the economy and then remitting it back on a per capita basis. What impact is it going to have on industry? What impact is it going to have on employment?

The next tax proposed was the gas user tax. This sought to impose a tax on an organization using natural gas, with the desire to make that organization scrap its natural gas plant and put in a coal plant.

Mr. President, in my estimation, this is a misuse of the taxing system; and if ever there was something that illustrated that the power to tax is the power to destroy, this is it.

To take a worst case situation, somebody built a plant 5 years ago, and now, by virtue of taxation, it becomes uneconomical, and that plant has to be disposed of.

So I believe this is a mistaken approach.

The third approach of taxation was the gas guzzler tax. That has merit, to be sure; but, in my judgment, what we did on the floor of the Senate by adopting what is known as the Metzenbaum amendment is a far better way to attack that problem.

With respect to the administration's proposal for credit for insulation, last Sunday the Denver Post published a story that the district attorney's office was afraid of ripoffs in the insulation field. We have seen that type of story all over the country. We know that the three principal manufacturers are manufacturing at a hundred percent-plus of capacity and that no further insulation can be produced. So we are giving a credit to impact further the market on insulation. I do not think that is advisable.

The Senator from Connecticut made two very excellent points, and these matters were discussed in the Finance Committee. There are gaps in the energy program as suggested by the administration. Two principal gaps are that the very real problem of production in alternate energy sources is not addressed, nor is the very real problem of public transportation addressed either in the administration's bill or in the Finance Committee's bill.

I suggest, Mr. President, that if we are to import the quantities of oil projected for the future, it would behoove us to examine very carefully the type of proposition the distinguished Senator from Connecticut has mentioned and that the distinguished Senator from Louisiana has mentioned from time to time, and that is the possibility of production and other loans to bring on such things as coal gasification. For example, can coal be used in the quantities asked for by the President, in its normal state without dangerous pollution? Can it be burned, or must it be gasified? If we can use coal, shale, tar sands, it would take us off an oil base and gas, relieve our balance of payments, and give us time to develop alternative energy sources—solar, geothermal, and the like.

Public transportation presents a real opportunity for energy saving. This must be examined.

Mr. President, my contention is that these matters are too significant, too complex, to be addressed in the hasty atmosphere of conference. Therefore, on this amendment before us now, I come down on the side of the Senator from Washington. At an appropriate time, with others, I intend to make a motion to recommit the bill, for the simple reason that I do not think the real objectives that are necessary to fulfill the energy gaps of this country can be achieved in conference.

I point out, Mr. President, that this tax bill is only one of five bills which the President of the United States has asked for, and this body has processed four of the five.

I thank the distinguished Senator from Louisiana.

Mr. LONG. Mr. President, I appreciate what the Senator has said.

We received this bill in the beginning of August. The committee worked as expeditiously as it could with the bill. We took more time on it than we had planned initially, because it proved to be more of a legislative chore than we had anticipated, even though we did recognize at the start that it was a very big and important measure. The House had more time to work on it. The House had from April until August; after they received the President's message, they went to work and had about 4 months to work on this measure. They gave us their best thoughts on the energy program after 4 months, and it was not a matter that was in too much controversy. They mustered a substantial margin to pass this measure.

The Senate, as I judge it, is unwilling to buy the House package. Anyone who wants to offer the House bill is welcome to do so. I do not see anybody offering it. I do not see any copies here of the House bill, to be offered as an amendment by anyone, so I assume that no one plans to offer the House bill. In fact, I do not see anybody here offering the crude oil tax as an amendment. I do not see anybody here offering the gas-guzzler tax as an amendment. I understand that there is a modified version, but not the tax as was passed.

Is there an amendment here to repeal the deduction for State and local government gasoline taxes? I understand there is such an amendment. I supported that earlier, and I voted for it. I doubt that it will be agreed to by the Senate.

There is an amendment to restore some part of the equalization tax. Senators can offer it, if they wish.

That is the best the House of Representatives could do. But we have considered the ideas that Senators generated. We particularly considered every suggestion made by any member of the Finance Committee, and we have each made ourselves available to all Senators.

So I think, Mr. President, that the committee has given its best overall judgment to suggest ways that it thought might help solve the problem. Admitted, the bill is not perfect. The question is do we want to pass any bill at all. As I said, Mr. President, as far as this Senator is concerned, I feel that we do need some flexibility, and this provision to work out a proper adjustment with the House bill goes just far enough. I just feel we are wasting our time to proceed any further with the bill, if the amendment to strike this section is agreed to.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROTH. Mr. President, I rise in support of the amendment of the Senator from Washington for two very basic reasons.

First, this procedure is an abdication of the responsibility of the Senate and in my judgment of the Finance Committee. Make no mistake. The whole purpose of this section is to draft tax increase legislation in conference. I think this is a dangerous precedent. We have just gone through Watergate and other matters where we insisted that Congress play a significant policymaking role.

In my judgment, we are abdicating that responsibility by letting a few men on the conference committee write the legislation in this most important area.

I am a member of the Finance Committee, and I think we do have a responsibility to draft some significant legislation, but I think the purpose of that legislation must be to solve the energy crisis. But if we go into conference with this language in the bill, we are going to end up with major tax legislation, a bill that is going to substantially increase taxes for the average citizen. I think this is a serious mistake.

Just today the Chairman of the Federal Reserve talked about the need for a tax cut to get our economy moving, but here we are considering legislation that will result in the most significant tax increase in peacetime.

The Senator from Connecticut, both here in the Chamber and back in committee, gave some very sound advice, and that advice was that this bill should be withdrawn, and the President and his group should go back to the drawing boards. There is no way that a significant energy bill can be legislated. What we are going to end up with is something for everyone, but it is going to be wrong, as I said, for the economy, and it is going to be wrong for energy.

Later on I intend to offer an amendment with respect to the equalization tax. But the President has said time and again and his advisers have said time and again the centerpiece of his energy bill is the equalization tax.

One of the things that concerns me the most is when proponents of this bill say "We will take this to conference and we will write a bill that the President will not veto," it means that the President is going to get the additional taxes that he wants.

Mr. President, I was one of the members of the Finance Committee who voted against reporting this bill because, as several other Members have admitted, it does not do the job. It is not the answer.

And if we adopt this procedure of giving broad discretionary language to allow the conferees to write into the act measures that were never voted upon either in the Seante or the House of Representatives, except in the broadest sense, we are setting a dangerous precedent.

Last year we voted on estate tax changes, some of which may very well have been desirable. But they never were considered by the House of Representatives or the Senate.

More recently in the nature gas legislation we heard, "Do not worry about what is happening here on the floor; the key decisions will be decided in conference."

Today we are told to go one step further, "Let us give the authority to the conferees to do what is necessary," without knowing what they really intend to do, and I say that if this procedure is followed in this bill we are setting a precedent for the future that could allow the conference committee to write tax legislation, welfare reform, and many other controversial items. And I think that is a mistake.

I have the greatest respect for our chairman. As a matter of fact, as he well knows, I support many of his goals, but I would prefer to do it directly rather than indirectly.

But for the reasons I have stated, Mr. President, I urge the adoption of the amendment.

Mr. DOLE. Mr. President, I think it is clear that there is a rather sharp difference of opinion on this issue even among my colleagues on the Finance Committee. I shall only take a minute to say that probably the best advice has been given by the distinguished Senator from Colorado, Senator HASKELL. That is, at the appropriate time, maybe tomorrow, Friday, Saturday, or next week, sometime we move to recommit this bill—I guess that is the only thing you can call it—to the Finance Committee.

I agree with the distinguished Senator from Delaware that the Senate is not considering an energy program. We are considering a massive tax bill. As the Washington Post indicated this morning—and I do not always find myself in agreement with the Washington Post—we really do not have an energy program. We know for a fact and we knew when we voted to report the bill to the Chamber that we are voting for a tax increase. All we are trying to decide is how we are going to divide up the money. If we give the money to producers we get some votes. If we return the money back as rebates we get some more votes. If we give it back to someone else we get some more votes. We are not talking about energy. We are talking about taxes and how do we divide up the taxes, not how do we devise an energy policy. That is the issue the Finance Committee has been discussing for a long time.

After the gas guzzler tax was rejected, the users tax was rejected, the equalization tax was rejected, the committee adopted an amendment to take away the President's authority to raise the import fee. After all this there really was not a great deal of the House bill remaining.

In an effort to go to conference and bargain, we were able to add my amendments and the amendments of everybody on the Senate Committee on Finance. This amounted to some $40 billion in tax credits, and we were all willing to support tax credits. We came to the Senate floor with a $40 billion package with no revenue but with the provision that at least provided for that bargaining authority in the conference to provide money for different energy projects.

I just happen to believe it is not a question of pleasing President Carter and Senator LONG. There have been statements made that the Finance Committee should work to please the President and please our distinguished chairman. What about the American people? What about the taxpayers? I do not think it is necessary that we stay here all year long until we pass the President's program. I say that with respect for their desire to solve our energy problem. I think the President has focused on the problem, we just differ on its solution. If we pass the equalization tax, and we are going to have it if we go to conference, unless the Senate can somehow instruct the conferees. Unless we somehow take away that initiative, we are going to have a tax increase next year of at least 9 cents a gallon. We are going to have a tax increase of billions and billions of dollars. As Senator ROTH, the distinguished Senator from Delaware, has said, the largest tax increase in peacetime history.

I note some of those who voted to report the bill also noted in the report that they did so with hesitation. I can understand the hesitation because it was a bad bill. I, for one, might be in a better position to judge how to vote if I knew who the conferees were going to be. I do not think it is satisfactory for the chairman to say, he will not sign a report on a bill the President will veto, unless we know exactly what the bill will contain.

It seems we have the responsibility in the Senate Committee on Finance, and we have tried to exercise it.

I do not support the amendment of the Senator from Washington because I think that is the one leverage we have as a committee and I do not support the committee's position beyond that point. If we are going to go to conference we have got to go with the language contained in the bill. I think the distinguished chairman would agree with that.

But it seems to me it would not do any great disservice to the American people—and they are our constituents, the American people, the taxpayers—if we just quietly sent this bill back to the Finance Committee tomorrow, quietly or any other way. We can then go back to committee and figure out what to do either this year or next year.

As the distinguished Senator from Colorado pointed out, the Senate has passed four out of five proposals of the President's program. It will not be any great tragedy if we postpone one until next year.

The reason we have taken week after week and month after month on this bill is that it is a bad bill. Who wants to raise taxes? The Senator from Kansas does not want to raise taxes when it does not produce any energy. If it would produce some additional energy, we would vote to raise taxes. I do not think we should try to kid the American people. I hear every night that we are talking about the energy bill on the Senate floor. It is not an energy bill. It is a tax bill. It is a massive tax bill. It is a giant tax bill. It is going to cost the American people billions and billions of dollars, and is not going to produce any energy that I can find in the Senate bill.

We say by the year 1985, which is some way down the road, we might save, based on estimates, about 2 million barrels per day. We might save. We have tax credits in the legislation that I think are not meritorious.

Insulation credits—the American people are insulating their homes now. There are only three insulation companies making insulation, and they cannot make it fast enough. In some areas of the country it takes 3 years to now get insulation. In the Senate bill, we are going to provide tax credits.

It just seems to me if this is the moral equivalent of war we really ought to treat the situation as such. There ought to be some sacrifices. But not more and more taxes.

If this issue were a partisan matter and from a political standpoint, maybe the best thing Republicans could do would be to pass the bill. Pass this mas-

sive tax bill, and let the President take the consequences. The President intends to do what he thinks is best. He has focused on the problem. However, I think it is up to us not to accommodate the President and not pass what he suggested. We can keep the people of the country from a very large tax increase by not passing what he suggested. The committee should go back to the drawing board as the distinguished Senator from Connecticut told us so often in the committee, and try to rewrite an energy program and not a tax program.

I have read some of the minority views, views of my distinguished colleagues who voted to report the bill. What do they complain about? They complain about the equalization tax and the fact that it is a tax and is going to take $39 billion to $40 billion. It does not do one thing for the oil industry. Maybe we should not do anything for the oil industry, but it is clear that the tax does not produce any energy.

So, at the appropriate time tomorrow or Friday or some time soon—and I know it is going to happen—there will be a motion offered to recommit the bill—the Members who are against the tax increase, I hope, will vote to recommit the bill. If you are for a tax increase and no energy you vote not to recommit the bill.

ORDER FOR VOTE ON THE JACKSON AMENDMENT AT 3 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on this amendment occur tomorrow at 3 p.m.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, in the meantime this amendment, of course, can be laid aside temporarily. Other Senators may call up their amendments, and I hope they will.

The PRESIDING OFFICER. The Senator is correct. What is the will of the Senate?

Mr. ROBERT C. BYRD. Mr. President, I modify my previous request with respect to the 3 o'clock vote on tomorrow by making it subject to the approval by the distinguished minority leader.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. I am sorry, Mr. President, I did not hear the request.

Mr. ROBERT C. BYRD. I modify my previous request and the subsequent order by making it subject to the approval of the distinguished minority leader because I failed to clear it with him before I put the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

What is the will of the Senate?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

Mr. MOYNIHAN. I thank you, Mr. President.

I rise on this occasion simply to reinforce and associate myself with the remarks which were made earlier by my distinguished friend, the Senator from Connecticut (Mr. RIBICOFF). He addressed the points of his grave difficulties with certain aspects of the bill which has emerged from the Senate Finance Committee, and of his simultaneous support for that bill in the tests that will now be made.

The particular concern which we are going to have to judge tomorrow has to do with section 1054(a) and whether it should remain in the bill. This section gives to the conferees the opportunty to designate the tax resources which will be raised by a bill—there certainly will be a bill, if the House has its way—to the production of further energy.

Mr. President, there is no State in the Union which would gain as little from the Senate bill as it stands on the Senate floor——

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The suggestion is well taken. The Senate will please be in order.

The Senator from New York.

Mr. MOYNIHAN. I thank my colleague from Mississippi.

There is no State in the Union which promises to benefit less from the bill which has come out of our committee, and which is on the Senate floor, than my own State of New York. We have almost no oil and gas. Perhaps there is a small amount, but nothing of any consequence.

The prospect in the President's bill for the rebate of the crude oil equalization tax would have been of great advantage to us, for the simple reason that we are energy efficient, using approximately 67 percent of the per capita Btu consumption of the country. We would have gained from that.

We would also have had a temporary advantage, at least, from the fact that the user tax on oil and natural gas, which the President would have imposed, would have been excused in our case. Most New York industrial plants would have been exempted by the simple fact that the Federal Government would refuse them permission to convert to coal, which is the object of the user tax.

These provisions are not in the bill as it came out of the Finance Committee. Yet I stand as one of those who voted for this bill, and who will vote to retain section 1054(a).

Mr. President, I do so in response to what seems to me an elemental and increasingly what ought to be a controlling fact in our consideration with respect to this matter. This fact is summarized on page 9 of our committee report where a table describes U.S. oil demand, supply, and imports from 1955 to 1976. What this table describes is an event without precedent in our history, and which in the main has gone unnoticed; that the production of crude oil in the United States reached its peak in 1970. It has declined every year since then.

In the history of this economy and of this people, there has not been the experience of a fundamental commodity of trade, in this case energy, coming to its peak production and declining with no substitute.

Natural gas production reached its peak in 1973 and has declined ever since. In both cases, prices have continued to rise; production has not. For the first time ever, we are encountering the limits of our resources, not of our capacity to produce them and to bring them forth or to bring them to market in response to market demands. We are running out of energy in the forms that we have known it and in the degrees of accessibility with which it has previously been available. In that circumstance, it seems to me that, even if the State of New York does not have any advantage as such in this bill, even if we can see disadvantages, we have to think as Americans, as a part of one economy, and as an economy experiencing something we have never known before.

We encountered one of the most extraordinary events—the most extraordinary event in the history of international trade—in 1973. It leaves very little for the textbooks in economics. A cartel of oil producers was formed in defiance of all the agreed practices and rules of international trade under the general agreement in a cartel which might even be described as illegal was formed. It quintupled the price of the single most important commodity that moves in international trade. And what was the effect of quintupling the price? We doubled our demand.

Mr. President, in the history of international trade, no such event has occurred. The price goes up five times; demand doubles. That bespeaks a situation we scarcely comprehend and, surely, never before have experienced.

It was this judgment that, I think, led to the clear majority of the Committee on Finance to believe that production was our essential priority and to seek means to accomplish it. The single most important means is to be found in section 1054.

The chairman has spoken eloquently to this purpose. My colleague from Connecticut has detailed the kind of concern that he and I share exactly. I rise to state that I am with the chairman in this matter and will vote against this amendment.

I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with Mr. METZENBAUM and with Mr. LONG, Mr. BAKER, and Mr. CURTIS.

I ask unanimous consent that the pending amendment be set aside temporarily for the remainder of today and Mr. METZENBAUM be allowed to call up his amendment, and that a vote occur on the Metzenbaum amendment tomorrow at 12 o'clock noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I ask unanimous consent that Peter Gold and Don Smith of my staff be granted privilege of the floor during consideration of the pending measure and all amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I have the same request for Dr. Jared Cohon and Joe Merisman of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, I think I should state for the information of the Senate that there will be no more rollcall votes today.

The PRESIDING OFFICER. It shall be so noted.

AMENDMENT NO. 1505

(Purpose: to provide for an excise tax on business use of oil and natural gas.)

Mr. METZENBAUM. Mr. President, I call up amendment No. 1505 and I ask unanimous consent that Senators BIDEN, JAVITS, and HUDDLESTON be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM), for himself and others, proposes an amendment numbered 1505.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 104, after line 20, add the following:

PART VI—EXCISE TAX ON BUSINESS USE OF OIL AND NATURAL GAS

SEC. 1601. EXCISE TAX ON BUSINESS USE OF OIL AND GAS.

(a) IN GENERAL.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 45—TAX ON BUSINESS USE OF OIL AND GAS; REBATES

"SUBCHAPTER A. Tax on business use of oil and gas.

"SUBCHAPTER B. Credits against section 4991 tax.

"Subchapter A—Tax on Business Use of Oil and Gas

"Sec. 4991. Imposition of tax.

"Sec. 4992. Taxable use defined.

"Sec. 4993. Amount of natural gas tax.

"Sec. 4994. Definitions and special rules.

"SEC. 4991. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed a tax on each taxable use of oil or natural gas.

"(b) AMOUNT OF TAX ON OIL.—The amount of the tax imposed by subsection (a) with respect to oil shall be determined in accordance with the following table (adjusted in the case of calender year 1981 and thereafter for the inflation adjustment provided in subsection (d)):

"If the taxable use occurs during calendar year	Existing coal capable	New
1979	$0.60	$6.00
1980	1.20	6.00
1981	2.00	6.00
1982	2.90	6.00
1983	4.00	6.00
1984	5.00	6.00
1985 and thereafter	6.00	6.00

"(c) AMOUNT OF TAX ON NATURAL GAS.—The amount of tax imposed by subsection (a) with respect to each million Btu of taxable use of natural gas which is classified as either new or existing coal capable is the excess (if any) of—

"(1) the natural gas target price per million Btu for the calendar year (determined under section 4993(a)) which is applicable with respect to such gas, over

"(2) the user acquisition cost per million Btu for such gas (determined under section 4993(d)).

"(d) DEFINITIONS.—For purposes of this chapter—

"(1) NEW.—The term 'new' means any new electric powerplant and any new major fuel-burning installation.

"(A) The term 'new electric powerplant' means any electric powerplant—

"(i) with respect to which an order was issued pursuant to section 2(c) of the Energy Supply and Environmental Coordination Act of 1974, prior to the date of enactment of the Energy Production and Conservation Act,

"(ii) for which, as of 90 days after the effective date of initial regulations under this chapter, the driving of the foundation piling, or other appropriate onsite structural event, has not commenced, as determined by the Secretary, in accordance with an approved design document for the facility; or

"(iii) which, as of such date of enactment, has not been contracted for in whole or in part or can be canceled, redesigned, or rescheduled without adversely affecting electric system reliability as determined by the Secretary on the record after opportunity for a hearing; and "(B) which—

"(i) is by design capable of consuming fuel at a fuel heat input rate of 100,000,000 British thermal units per hour or greater, or

"(ii) is a combination of more than one such powerplant at the same site or facility which. in the aggregate is by design capable of consuming fuel at a fuel heat input rate of 250,000,000 British thermal units per hour or greater.

"(2) PLANNING PROCESS.—The term 'planning process' means that period ending when the major fuel-burning installation can no longer reasonably be designed and constructed so as to be capable of using coal or other fuel as its primary energy source without incurring significant financial or operational detriment, as determined by the Secretary.

"(3) NEW MAJOR FUEL-BURNING INSTALLATION.—The term 'new major fuel-burning installation' means a major fuel-burning installation—

"(A)(i) with respect to which an order was issued pursuant to section 2(c) of the Energy Supply and Environmental Coordination Act of of 1974, prior to the date of enactment of the Energy Production and Conservation Tax Incentive Act, or

"(ii) which, as of the effective date of regulations under this chapter, is not beyond the initial planning process; and

"(B) which—

"(i) is by design capable of consuming fuel at a fuel heat input rate of 100,000,000 British thermal units per hour or greater, or

"(ii) is a combination of more than one such installation at the same site or facility which in the aggregate is by design capable of consuming fuel at a fuel heat input rate of 250,000,000 British thermal units per hour or greater.

"(4) CAPABLE OF CONSUMING COAL OR OTHER FUEL.—The term 'capable of consuming coal or other fuel' means, in the case of an existing electric powerplant or major fuel burning installation, that it was designed and constructed to use coal or other fuel in lieu of natural gas or petroleum as its primary energy source other than an existing electric powerplant or major fuel-burning installation which—

"(A) would require substantial modifications to any boiler or nonboiler unit in order to utilize coal or other fuel in lieu of natural gas or petroleum as its primary energy source in that unit, or

"(B) would suffer a substantial downgrading of the rated capacity of such unit in order to utilize coal or other fuel in lieu of natural gas or petroleum as its primary energy source.

"(e) INFLATION ADJUSTMENT.—The inflation adjustment for any calendar year is the percentage by which—

"(1) the implicit price deflator for the gross national product for the preceding calendar year (as shown in the first revision thereof), exceeds or is less than

"(2) the similar deflator for 1979 (as shown in the final revision thereof).

"(f) ROUNDING.—If, but for this subsection—

"(1) the amount of any per barrel tax under subsection (b), or

"(2) the amount of any tax per million Btu under subsection (c),

would include a fraction of a cent, such fraction shall be rounded to the nearest whole cent (or, in the case of one-half cent, rounded upward to the nearest whole cent).

"(g) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the user.

"(h) TAX PAID ON JULY 1 OF FOLLOWING YEAR.—The tax imposed by this section for any calendar year shall be paid on or before July 1 of the succeeding calendar year.

"SEC. 4992. TAXABLE USE DEFINED.

"(a) IN GENERAL.—For purposes of this part, the term 'taxable use' means any use (in the United States) in a new facility or a use in an existing coal-capable facility. Such term does not include any exempt use.

"(b) EXEMPT USE.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'exempt use' means—

"(A) use in an apartment, hotel, motel, or other residential facility,

"(B) use in a vehicle, aircraft, or vessel, or in transportation by pipeline,

"(C) use on a farm for farming purposes (within the meaning of section 6420(c)),

"(D) use in—

"(i) a shopping center,

"(ii) an office building,

"(iii) a wholesale or retail establishment, or

"(iv) any other facility which is not an integral part of manufacturing, processing, or mining.

"(E) use in the exploration for, or the development, extraction, transmission, or storage of, crude oil, natural gas, or natural gas liquids, and

"(F) any exempt process use.

"(2) EXEMPT PROCESS USE DEFINED.—For purposes of this subsection, the term 'exempt process use' means the use of oil or natural gas in any manufacturing process where there is no substitute fuel—

"(A) which may be used without materially and adversely affecting the manufacturing process or the quality of manufactured goods, and

"(B) the use of which is economically and environmentally feasible.

Such term does not include any use in a boiler, in a turbine. or in an internal combustion engine. For purposes of this para-

graph, the term 'substitute fuel' means any fuel other than oil and natural gas.

"(3) USE PRECLUDED BY FEDERAL OR STATE AIR POLLUTION REGULATIONS.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'exempt use' includes any use of oil or natural gas in a facility if the use of coal in such facility is precluded by Federal or State air pollution regulations.

"(B) REGULATIONS PURSUANT TO STATE IMPLEMENTATION PLAN.—For purposes of this paragraph, a regulation of an agency having jurisdiction over the facility under an approved State implementation plan shall be treated as a State regulation. For purposes of the preceding sentence, the term 'approved State implementation plan' means a plan of State for the control of air pollution which has been approved by the appropriate Federal agency as implementing Federal laws relating to air pollution.

"(4) TEMPORARY EXCEPTION GRANTED BY SECRETARY.—The Secretary, upon application of a person owning, operating, or proposing to operate an existing coal-capable electric powerplant, or coal-capable major fuel-burning installation proposing to use petroleum or natural gas as a primary energy source, shall grant a temporary exception under which such use will be an exempt use for purposes of subsection (a), for a period of not more than 5 years if such person has demonstrated that prior to the date of enactment of the Energy Production and Conservation Tax Incentive Act, despite diligent good faith efforts—

"(A) an adequate and reliable supply of coal or other fuel (other than petroleum or natural gas) of the quality necessary to achieve compliance with applicable environmental requirements and to meet design and operation requirements is not expected to be available;

"(B) adequate transportation facilities for such coal or other fuel are not expected to be available;

"(C) pollution control equipment or devices, including the flue gas desulfurization equipment and electrostatic precipitators necessary to assure compliance with applicable environmental requirements are not expected to be available; or

"(D) other equipment or other facilities necessary for the reliable operation of such powerplant or installation are not expected to be available.

"SEC. 4993. AMOUNT OF NATURAL GAS TAX.

"(a) NATURAL GAS TARGET PRICE.—For purposes of section 4991(c)(1)—

"(1) IN GENERAL.—The natural gas target price per million Btu for the calendar year applicable to gas used in any region is the Btu equivalency price for the calendar year for such region (determined under subsection (c)).

"(2) INFLATION ADJUSTMENT.—In the case of a calendar year beginning after 1980, the price taken into account under paragraph (1) shall be adjusted for the inflation adjustment provided in section 4991(e).

"(b) DETERMINATION OF EQUIVALENCY PRICE.—For purposes of subsection (a)—

"(1) IN GENERAL.—The Btu equivalency price for the calendar year for any region shall be based on the average regional price per barrel of all number 2 grade distillate oil sold during the preceding calendar year for the taxable use in such region plus the oil use tax. For purposes of the preceding sentence, the Btu content of a barrel of number 2 grade distillate oil is 5,800,000 Btu.

"(2) SECTION 4991 TAX TAKEN INTO ACCOUNT.—The determination of Btu equivalency price shall be made by taking into account any tax imposed by section 4991.

"(3) DETERMINATION OF BTU EQUIVALENCY PRICE.—The Btu equivalency price for the calendar year shall be determined by the Secretary of Energy and certified to the Secretary on or before March 31 of the calendar year.

"(d) USER ACQUISITION COST.—For purposes of section 4991(c)(2)—

"(1) IN GENERAL.—The user acquisition cost of any person per million Btu for any acquisition of natural gas is—

"(A) the aggregate amount paid by such person for such gas, divided by

"(B) the number of million Btu so acquired.

"(2) IMPUTED COST.—In the case of natural gas—

"(A) used—

"(i) by the producer thereof,

"(ii) by any person who is a member of the same controlled group of corporations as the producer thereof, or

"(iii) in any trade or business (whether or not incorporated) which is under common control with the producer, or

"(B) acquired in a transaction which is not an arm's length transaction,

the user acquisition cost shall not exceed the maximum lawful price (or special price) applicable with respect to a sale by the producer of such natural gas under law of the United States.

"(3) COST TO INCLUDE TRANSPORTATION COSTS.—For purposes of this subsection—

"(A) transportation costs include imputed transportation costs, and

"(B) transportation costs shall not exceed the reasonable transportation costs which would be incurred in an arm's length transaction.

"(4) NEW OR INCREASED STATE USER TAXES NOT TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—For purposes of this subsection—

"(i) any State natural gas user tax imposed on or after April 20, 1977, and

"(ii) any increase on or after such date in the rate of a State natural gas user tax,

shall not be taken into account.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) the term 'State' includes a political subdivision of a State, and

"(ii) any tax, fee, or other amount having the effect of a user tax shall be treated as a user tax.

"(e) DETERMINATION OF REGIONS.—For purposes of this section, the Secretary, after consultation with the Secretary of Energy, shall divide the United States into such regions as may be appropriate to carry out the purposes of the tax imposed by section 4991 on the taxable use of natural gas.

"SEC. 4994. DEFINITIONS AND SPECIAL RULES.

"(a) OIL.—

"(1) IN GENERAL.—For purposes of this part, except as provided in paragraph (2), the term 'oil' means—

"(A) crude oil,

"(B) refined petroleum products, and

"(C) natural gas liquids.

"(2) EXCEPTIONS.—The term 'oil' does not include—

"(A) natural gas,

"(B) gasoline (within the meaning of section 4082(b)), and

"(C) any substance of a kind which is not generally marketable for use as a fuel.

"(b) NATURAL GAS.—

"(1) IN GENERAL.—For purposes of this part, except as provided in paragraph (2), the term 'natural gas' means—

"(A) natural gas, petroleum, or a product of natural gas or petroleum, which

"(B) has an API gravity of 110 or more.

"(2) EXCEPTION.—The term 'natural gas' does not include any substance of a kind which is not generally marketable for use as a fuel.

"(c) BARREL.—For purposes of this part, the term 'barrel' means 42 gallons.

"(d) AMOUNT OF TAX ON FRACTIONAL UNITS.—In the case of a fraction of a barrel of oil or (in the case of natural gas) a fraction of 1 million Btu, the amount of the tax shall be the same fraction of the amount determined under subsection (b) or (c) of section 4991 (whichever applies).

"(e) BTU CONTENT.—For purposes of this part—

"(1) OIL.—Except as otherwise provided in this part, the Btu content of a barrel of oil is 6,000,000 Btu.

"(2) NATURAL GAS.—The Secretary shall by regulations establish Btu content for the various types and grades of natural gas.

"(f) UNITED STATES.—For purposes of this part, the term 'United States' means the 50 States and the District of Columbia."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to uses after December 31, 1978.

SEC. 1062. CREDIT AGAINST TAX ON BUSINESS USE OF OIL AND GAS.

(a) IN GENERAL.—Chapter 45 (as added by section 1061) is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER B—CREDITS AGAINST SECTION 4991 TAX

"Sec. 4995. Allowance of credit.
"Sec. 4996. Amount of credit.
"Sec. 4997. Section 4995 property.
"Sec. 4998. Special rules.

"SEC. 4995. ALLOWANCE OF CREDIT.

"(a) GENERAL RULE.—There shall be allowed for existing, coal-capable facilities, as a credit against the tax imposed by section 4991 the amount determined under this part.

"(b) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this part.

"(c) TERMINATION OF CREDIT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no credit shall be allowed under this section for any calendar year beginning after December 31, 1990.

"(2) EXCEPTION WHERE CONSTRUCTION, ETC., BEGINS BEFORE 1991.—Paragraph (1) shall not apply to property—

"(A) the physical construction, reconstruction, or erection of which is begun before January 1, 1991, or

"(B) which is acquired by the taxpayer before such date.

"(d) CREDIT AVAILABLE ONLY WHERE ELECTION MADE.—No credit shall be allowed under this section for any calendar year unless an election under section 4998(a) is in effect for such year.

"(e) APPLICATION OF CREDIT IN THE CASE OF CONTROLLED GROUP, ETC.—

"For application of the credit in the case of 2 or more related entities, see section 4998(b).

"SEC. 4996. AMOUNT OF CREDIT.

"(a) GENERAL RULE.—The amount of the credit allowed under section 4995 for the calendar year shall be an amount equal to the lesser of—

"(1) 100 percent of the qualified energy investment for such year, or

"(2) the section 4991 tax for such year.

"(b) QUALIFIED ENERGY INVESTMENT FOR YEAR.—For purposes of this part—

"(1) IN GENERAL.—The qualified energy investment for any calendar year is the sum of—

"(A) the aggregate bases of section 4995 property (as defined in section 4998(a)) placed in service by the taxpayer during such year (reduced in a manner similar to that provided by section 46(c)(4)),

"(B) the qualified progress expenditures with respect to section 4995 property, and

"(C) the energy investment carryover to such year.

"(2) DETERMINATION OF QUALIFIED PROGRESS EXPENDITURES.—For purposes of paragraph (1)(B), qualified progress expenditures shall be determined in a manner similar to that provided by section 46(d) (including the requirement of an election), except that—

"(A) the term 'person' shall be substituted for 'taxpayer' each place it appears in section 46(d), and

"(B) paragraph (7) of section 46(d) shall not apply.

"(3) ENERGY INVESTMENT CARRYOVER TO SUCCEEDING YEAR.—If the sum described in paragraph (1) for any calendar year exceeds the tax imposed by section 4991 for such year, such excess shall be an energy investment carryover to the succeeding calendar year.

"(c) SECTION 4991 TAX FOR YEAR.—For purposes of this part—

"(1) IN GENERAL.—Except as provided in paragraph (2), the section 4991 tax for any calendar year is the amount of the tax imposed by section 4991 for such year.

"(2) TAX LIABILITY FOR 1979 AND 1980 MAY BE CARRIED TO 1981.—

"(A) 1979 LIABILITY —Any excess of—

"(i) the liability for the tax imposed by section 4991 for 1979, over

"(ii) the qualified energy investment for 1979,

shall be treated as tax imposed by section 4991 for 1980.

"(B) 1980 LIABILITY.—Any excess of—

"(i) the liability for the tax imposed by section 4991 for 1980 (including any excess determined under subparagraph (A)), over

"(ii) the qualified energy investment for 1980,

shall be treated as tax imposed by section 4991 for 1981.

"(C) OVERPAYMENTS OF TAX.—Any portion of the excess described in subparagraph (A) or (B), which is offset by a credit for the year under section 4995 shall be treated as an overpayment of the tax imposed by section 4991 for such credit year.

"(d) SPECIAL RULE WHERE PROPERTY IS FINANCED BY INDUSTRIAL DEVELOPMENT BONDS.—In the case of any property which is financed in whole or in part by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103, the amount of the credit allowed under section 4995 shall be determined by substituting '50 percent' for '100 percent' in subsection (a)(1) of this section.

"SEC. 4997. SECTION 4995 PROPERTY.

"(a) SECTION 4995 PROPERTY DEFINED.—For purposes of this part, the term 'section 4995 property' means alternative energy property which is tangible property (not including a building and its structural components) and—

"(1) which is used by the taxpayer in the taxpayer's trade or business (other than the trade or business of leasing),

"(2) with respect to which depreciation (or amortization in lieu of depreciation) is allowable,

"(3) which has a useful life (determined as of the time such property is placed in service) of 3 years or more,

"(4) which is not used predominantly outside the United States (determined in a manner similar to that provided by subparagraphs (A) and (B) of section 48(a)(2)), and

"(5) which is new property.

"(b) ALTERNATIVE ENERGY PROPERTY DEFINED.—For purposes of this part—

"(1) IN GENERAL.—The term 'alternative energy property' means—

"(A) a boiler the primary fuel for which will be an alternate substance,

"(B) a burner (including necessary on-site equipment to bring the alternate substance to the burner) for a combustor other than a boiler if the primary fuel for such burner will be an alternate substance,

"(C) equipment for converting an alternate substance into synthetic gas,

"(D) pollution control equipment required (by Federal, State, or local regulations) to be installed on or in connection with equipment described in subparagraphs (A), (B), or (C),

"(E) equipment used for the unloading, transfer, storage, reclaiming from storage, and preparation (including washing, crushing, drying, and weighing at the point of use) of an alternate substance for use—

"(i) in equipment described in subparagraph (A), (B), (C), (D), or (E).

"(F) the basis for plans and designs for equipment described in subparagraph (A), (B), (C), (D), or (E).

"(2) ALTERNATE SUBSTANCE.—The term 'alternate substance' means any substance other than—

"(A) oil and natural gas, and

"(B) any product of oil and natural gas.

"(3) SPECIAL RULE FOR CERTAIN POLLUTION CONTROL EQUIPMENT.—The term 'pollution control equipment' does not include any equipment which—

"(A) is installed on or in connection with property which, as of April 20, 1977, was using coal, and

"(B) was required to be installed by Federal, State, or local regulations in effect on such date.

"SEC. 4998. SPECIAL RULES.

"(a) RULES RELATING TO ELECTION.—

"(1) TIME AND MANNER OF MAKING.—An election under this subsection may be made only on or before the last day prescribed by law (including extensions thereof) for filing the return of the tax imposed by chapter 1 for the first taxable year ending after December 31, 1978, for which the taxpayer has qualified energy investment. An election under this subsection shall be made in such manner as the Secretary may by regulations prescribe.

"(2) SPECIAL RULES FOR UTILITIES.—

"(A) RECAPTURE OF SECTION 38 CREDIT.—In the case of any regulated public utility, the principal activity of which is the production of electricity, which makes an election under this subsection for its first taxable year ending after December 31, 1979, the tax under chapter 1 for such taxable year shall be increased by an amount equal to the decrease in the credits under section 38 for all prior years which would have resulted solely from not taking into account any qualified investment which would have not been taken into account if the election under this subsection had been made at the time required by paragraph (1). In any such case carrybacks and carryovers under section 46(b) shall be properly adjusted.

"(3) ELECTION REVOCABLE ONLY WITH CONSENT.—An election made under this subsection, once made, may be revoked by the taxpayer only with the consent of the Secretary.

"(4) SCOPE OF ELECTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an election made under this subsection shall apply to all section 4995 property of the taxpayer.

"(B) ELECTION TO TAKE REGULAR INVESTMENT CREDIT INSTEAD OF A CARRYOVER UNDER SECTION 4995.—If the sum of the amounts described in subparagraphs (A) and (B) of section 4996(b)(1) for any calendar year exceeds the tax imposed by section 4991 for such year—

"(i) then the taxpayer may elect to treat part or all of such excess as property with respect to which the election under section 4998 (a) is not effective.

"(ii) the property with respect to which an election under clause (i) is made which is section 38 property shall be eligible for the regular percentage (but not the energy percentage) for purposes of the credit allowable under section 38, and

"(iii) the property referred to in clause (ii) shall not be taken into account in determining the energy investment carryover under section 4996(b)(3).

An election made under clause (i) with respect to any property, once made, may be revoked by the taxpayer only with the consent of the Secretary.

"(b) COORDINATION WITH CHAPTER 1.—

"(1) ONLY NET TAX DEDUCTIBLE UNDER CHAPTER 1.—The amount allowable as a deduction under chapter 1 with respect to the tax imposed by section 4991 for any calendar year shall not exceed the amount of such tax reduced by the credit allowed under section 4995 for such year.

"(2) ADJUSTMENT IN THE CASE OF CARRYOVER OF TAX LIABILITY.—If a credit is allowed under section 4995 for 1980 or 1981 by reason of the carryover under section 4996(c)(2) of tax liability for 1979 or 1980, proper adjustments shall be made in the tax imposed by chapter 1 to reflect the amount allowed as a deduction under chapter 1 for such tax liability in a prior taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years for which the tax imposed by subchapter A of chapter 45 of the Internal Revenue Code of 1954 (as added by section 1061 of this Act) applies.

UP AMENDMENT NO. 971

Mr. METZENBAUM. I ask that on the first page of the amendment, it be amended to read that on page 99, after line 14, insert the following, instead of the language as presently contained therein. I send to the desk an unprinted amendment to add to the bill in its present form.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

On page 1, before line 1, change page 104 to page 99 and line 20 to line 14.

On page 10, line 14, insert the following:

(5) Any new, or existing coal-capable combustor which qualifies for any exception or exemption from the requirement to use coal under any provision of law or regulation, shall not be subject to the terms of the tax under this title.

Mr. METZENBAUM. Mr. President, this amendment is cosponsored by the distinguished chairman of the Energy and Natural Resources Committee, Senator JACKSON, as well as Senators KENNEDY, BAYH, BUMPERS, HART, FORD, DURKIN, PERCY, BROOKE, HEINZ, BIDEN, JAVITS, and HUDDLESTON. In simple terms, the amendment is a streamlined version of the administration's original oil and gas users tax.

The national energy plan, which the President submitted to Congress in April, projected a total oil equivalency savings of 4.5 million barrels per day by 1985. While most of the focus to date has been centered on gasoline taxes, COET, and gas guzzlers, 2.2 million barrels per day—almost 50 percent of these projected savings—are attributed to the almost unnoticed oil and gas tax on large industrial users.

These savings are derived by increasing the price of oil and gas used by large industrial boilers in order to encourage them to convert to the use of coal. Clearly, the most efficient way to achieve short term reductions in foreign oil imports—a goal which every Member of this body supports—is to encourage the largest users of oil and gas to use coal, our most plentiful and inexpensive domestic fuel.

While the goal of the administration's oil and gas user's tax proposal is laudable, its implementation is seriously flawed. In its efforts to maximize the conversion from oil and gas to coal, the administration attempted to levy a stiff tax on all industrial users without regard to the fact that many industrial boilers are physically unable to burn coal. In fact, today 89 percent of the oil and gas consumed by boilers is consumed by boilers that are not capable of burning coal.

The administration's failure to make this distinction proposed to place an intolerable burden on much of our industry—a burden which would amount to $40 billion by 1985.

I assume that it is for this reason that the Senate Finance Committee excluded the administration's proposal from the Energy Tax Bill currently before the Senate.

I could not support the administration's original plan. However, I believe that by tailoring the tax to affect only new boilers and existing boilers that are coal-capable, rather than simply abandoning this concept, we can achieve as much as 80 percent of the administration's projected industrial savings at a total net cost of only $3 billion—less than 10 percent of the administration's cost.

Mr. President, I believe it would be helpful to briefly outline the basic differences between the provisions of our amendment and the administration's proposal.

First, in the President's original proposal, a tax of $3 per barrel of oil would be imposed on virtually all users of oil in industry. The tax would be phased in over 5 years. A similar tax would be imposed on natural gas users, raising the cost of gas to that of untaxed No. 2 distillate. By making these taxes rebatable—the costs of converting to coal would be largely offset. However, under the administration's proposal, the dollar-for-dollar rebates would be limited solely to conversion expenses. Thus, existing boilers that are not capable of conversion would be taxed without any hope of rebates. According to the administration's estimates, the combination of taxes and rebates, operating in concert with the proposed regulatory program, would save 2.2 million barrels of oil equivalent per day in industry by 1985, increase the use of coal by 200 million tons, and generate $40 billion in net tax revenue to the treasury.

Our amendment would reimpose the oil and gas users tax, but limit it to new industrial and utility uses for which coal could be used and to existing facilities capable of burning coal. All facilities prohibited from burning coal for environmental reasons would be exempt. In addition, all exemptions contained in S. 977, the coal conversion bill, are contained in this amendment.

HOW MUCH IS THE TAX?

The alternative tax is twice as much as the administration's proposal. The administration tax rises to $3/barrel by 1985. This level was based upon the supposition that there would also be an approximate $3/barrel crude oil equilization tax. Our alternative proposal acknowledges the absence of the crude oil equalization tax in the energy tax act as passed by the Finance Committee, and levies a $6/barrel tax by 1985. For existing, coal-capable facilities, the tax would be phased in: For those boilers constructed after 1978, the tax would be $6 per bbl. on oil or the equivalent amount to bring gas to the same price.

However, this proposal would provide companies that purchase coal conversion equipment a dollar-for-dollar credit against any taxes paid as a result of the user's tax.

Mr. President, I asked the Congressional Research Service of the Library of Congress to compare our proposal with the administration's plan. I ask unanimous consent that this analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., October 20, 1977.

To: The Honorable Howard M. Metzenbaum
Attention: Roger Berliner

From: David E. Gushee, Specialist, Environmental and Natural Resources Policy Division

Subject: Estimated Comparative Impacts of Alternative Coal Conversion Programs

This memorandum responds to your request that CRS estimate the energy and economic impacts of an amendment your office is considering offering on the Senate floor to the energy tax bill and compare these impacts to those of the President's original oil and gas users taxes designed to stimulate utility and industrial conversion to coal.

In the President's original proposal, a tax of $3 per barrel of oil would be imposed on virtually all uses of oil in industry ($1.50 per barrel for utility uses). The tax would be phased in over five years. A tax would be imposed on natural gas uses; this tax would be designed to raise the cost of gas to that of untaxed No. 2 distillate. These taxes would be rebatable to the payers to offset (to the extent possible) the costs of investing to convert to coal or other fuels. According to Administration estimates, the combination of taxes and rebates, operating in concert with the proposed regulatory program, would save 2.2 million barrels of oil equivalent per year in industry by 1985, increase the use of coal by 200 million tons, generate $40 billion in net tax revenue to the Treasury, and cause industrial prices to rise an average of 1.4–2.1%.

This coal conversion program would be operating in the presence of the Administration's proposed crude oil equalization tax (COET), designed to raise oil prices to world levels, and natural gas price regulations which would raise the price of new gas and direct the impacts of such increases to industrial and utility gas users (incremental pricing).

Senate Finance Committee has stricken both COET and the oil and gas users tax from its bill; the Senate has changed the gas pricing structure but retained incremental prices.

The proposed "Metzenbaum amendment" that you provided to us for examination would reimpose the oil and gas users tax, but limit it to new industrial and utility use for which coal could be used and to existing facilities capable of burning coal but not currently doing so. The tax would be designed to cause for these users the same increase in oil costs (and a greater increase in gas costs) under the Senate bill as would have occurred under the Administration's proposals. Facilities prohibited from burning coal for environmental reasons would be exempt. The use taxes would be rebatable as an offset to the costs of converting these units back to coal.

ENERGY IMPACTS

The Administration has estimated [1] that its package will reduce oil and gas consumption in industry by 2.2 million barrels per day in 1985, 2 million of which would result from conversion and 200,000 of which would result from conservation. Of the 2 million barrels per day saved from conversion, 80% would occur in new facilities in which coal use would be chosen under the Administration package but in which oil or gas would be used in the absence of the Administration package. The other 20% would be about equally divided between existing coal capable facilities switching back to coal and existing noncoal-capable oil and gas fired units being retired early in favor of new coal-fired units. The conservation savings would be the result of efforts to increase efficiency of oil and gas use in facilities not susceptible of either conversion or retirement.

We conclude that the proposed Metzenbaum amendment would capture all the conversion potential in new facilities and existing coal-capable facilities that would be captured by the Administration's package, although the mechanics of the capture would be different. For new facilities, the perceived oil price increase under either proposal would be the same while the perceived gas price would be higher under the Metzenbaum amendment. Where the combustor operator would have a choice between use tax rebates and investment tax credits under the Administration's proposal, he would have only the investment tax credits under the Metzenbaum amendment. For existing coal-capable facilities, he would have the same choice under either proposal, although he would have a potential for a larger number of rebatable dollars (many units being taxed) under the Administration proposal. On the other hand, the proportion of the cost increase represented by tax under the Metzenbaum amendment would be higher than under the Administration package.

The Metzenbaum amendment would not capture the 200,000 barrels per day savings claimed by the Administration for accelerated retirements of existing oil and gas-fired equipment unable to burn coal, nor would it capture the 200,000 barrels per day savings from the conservation effects of oil and gas prices made higher for existing units through the use tax.

In sum, assuming the Administration's base case, the Metzenbaum amendment would capture about 80% of the oil and gas savings estimated to result from the Administration's proposal and 90% of the increased coal use estimated by the Administration to occur.

TAX/PRICE IMPACTS

The Administration estimates that its use tax package would collect some $84 billion from industry and utilities through 1985, $38 billion of which would be rebated and $6 billion of which would be balanced against reduced income tax collections from the less-profitable industrial and utility operations. Some $40 billion would be retained by the Treasury and would be available to compensate for the impact on the Federal budget of the various tax incentives provided elsewhere in the Plan, H.R. 8444, and the Senate Finance bill. The $40 billion net tax collections estimated by the Administration to result from the Plan's oil and gas use taxes, coupled with the higher investment costs required for coal compared to oil and gas, would, the Administration estimated, lead to increases in prices for both electricity and industrial products averaging 1.4–2.1% and ranging up to about 10% for energy-intensive industries such as petrochemicals.

The Metzenbaum amendment would sharply reduce both gross and net Federal tax revenues and thus net economic impact on industries and utilities. The only tax revenues that would flow from the Metzenbaum amendment would result from continued use of oil and gas in existing coal-capable facilities and from any new oil or gas-fired facilities installed in spite of the "Metzenbaum tax." These uses should be small, considering the high use tax as a disincentive and the investment tax credits increased in the energy tax bill as an incentive.

[1] Replacing Oil and Gas with Coal and Other Fuels in the Industrial and Utility Sectors, Executive Office of the President, Office of Energy Policy and Planning, June 2, 1977.

The utility sector would probably end up paying no net use tax on existing coal-capable units (it would convert them) and no use tax on new units, none of which would burn oil or gas anyway, according to current plans. Industry might decide to use some taxable oil despite the use tax, but if it did so, one would expect such decisions to be based on individual circumstances such as plant locations, specific economic trade-offs, and the like.

Assuming that all of the existing coal-capable units did not convert, total resulting tax burden would be about $5 billion through 1985 (300,000 barrels per day for 8 years at $6 per barrel); should half convert in the period, this would be half rebated. Assuming that 10% of the new potential coal users continue to select oil, their tax would be about $2.5–3 billion.

Under the Metzenbaum amendment, both utilities and industry would be able to avoid the capital expenditures required to replace the oil and gas-fired units that would be retired early under the Administration proposal. Further, these sectors would, in the absence of separate incentives, reduce conservation-related investments compared to those that would occur under the Plan. The combination of these reductions in "unproductive" investments and the reduction in net tax burden should make it possible for these sectors to hold product price increases well below the 1.4–2.1% estimated to occur under the Plan. It is conceivable, but not demonstrable, that the increased tax incentives in other parts of the energy tax package might compensate enough for the greater costs of coal use compared to oil and gas uses that the net price effect of the Metzenbaum amendment might be zero.

As for competitive effects, the Metzenbaum amendment would have much narrower impact than the Administration proposal, affecting only companies with existing coal-capable facilities or expanding enough to need new fuel-burning capacity. The Administration proposal, on the other hand, would affect all industries, with general effects not only within and between industries but in international trade as well. It is not possible, given the lack of immediately-available data, to be specific about these effects.

SENSITIVITY OF ANALYSIS TO ASSUMPTIONS

This brief analysis is based on the difference in impacts between the Administration's proposal and the Metzenbaum amendment, using Administration estimates of the impact of its proposal. Many analysts, myself among them, have questioned the Administration impact estimates.

If one assumes a conservative industrial growth rate for industry over the period 1978–1985, one gets a lower estimate of future oil and gas savings and increase in coal use from any proposal than the Administration got for the growth rate it assumed. The Administration has calculated, for example,[2] that coal use might increase only 120 million tons under one such conservative assumption about industrial growth rate instead of the 200 million tons under its scenario. Of this, 80 million tons would result from expansion instead of 160 million tons, with the other figures remaining the same.

The Metzenbaum amendment would capture this 80 million tons, but the percentage of total oil and gas savings resulting from this modification of the Administration proposal would no longer be as great. Instead of 90%, of increased coal use, it would be 100 out 120, or 83%. With respect to the conservation potential, the Administration's estimate of 200,000 barrels per day is based on high growth and thus must be reduced somewhat. Since most of it can be assumed to derive from improvements in equipment existing now, a reduction of 10% seems reasonable, to 180,000 barrels per day. Total oil and gas savings would thus be 1.38 million barrels per day instead of 2.2 million, of which 1.0 million would still be captured by the Metzenbaum amendment, or about 72% instead of the 80% calculated under the Administration assumptions.

From this rough calculation, it can be seen that fostering increased coal use in new facilities will have more impact on future total coal use than all other initiatives combined (assuming continued economic health).

The attached table summarizes all the estimates included in this report.

1985 ENERGY IMPACTS OF ADMINISTRATION PROPOSAL AND METZENBAUM AMENDMENT (INDUSTRIAL COAL CONVERSION PROGRAM)

	Decrease in oil and gas use (million barrels per day)		Increase in coal use (million tons per year)	
	Administration	Metzenbaum	Administration	Metzenbaum
New facilities	1.6	1.6	160	160
Existing coal capable	.2	.2	20	20
Accelerated retirement	.2		20	
Subtotal	2.0	1.8	200	180
Conservation	.2			
Total	2.2	1.8	200	180

[1978–85 inclusive; dollar amounts in billions]

	Administration	Metzenbaum
Tax impact:		
Gross use tax revenues	$84	$5
Rebated for qualified investments	38	2–3
Reduced industry income tax	6	
Net tax effect	40	2–3
Price impacts: Average price increase (percent)	1.4–2.1	(1)

[1] Close to zero.

Mr. METZENBAUM. Mr. President, the conclusions of CRS are as follows:

First. The alternative tax contained in this amendment would save 1.8 million barrels of oil equivalent per day by 1985 compared to the administration's claimed savings of 2.2 million barrels per day, operated together with the regulatory program.

Second. The gross tax before rebates under our proposal would be $5 billion by 1985 compared to the administration's gross tax of $84 billion.

Third. The net tax after rebates for our proposal would be $3 billion compared to a $40 billion net tax in the administration's plan.

Fourth. Our amendment would increase coal consumption by 180 million tons per year compared to 200 million tons per year in the administration's proposal.

Fifth. The average industrial price increase under the administration's plan would be between 1.4 and 2.1 percent. Under our amendment, this increase would be near zero.

How can our proposal achieve such a large savings at a fraction of the administration's cost? The answer is simple. According to the administration's own documents, 90 percent of the projected increased coal utilization is attributed to new facilities and the conversion of existing coal-capable facilities.

By limiting the tax to these two categories, we can achieve most of these much-needed reductions in oil and gas consumption without affecting the 89 percent of industry which cannot convert from oil and gas to coal.

Mr. President, what we have here is an effort on the part of the Senate—at least, some of us in the Senate—to enact a gas and oil users' tax that is realistic, that will not place an unfair burden upon the American industry to the extent of $40 billion in net costs between now and 1985. It says only that those who can do it should have to pay a tax if they do not do it. What could be unfair or unreasonable about that?

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. METZENBAUM. I yield.

Mr. DURKIN. Do I correctly understand that the Senator has incorporated in his amendment a provision which would exempt from the tax those who could not obtain coal because of inadequate rail beds, which is a major problem to the people in my State and the rest of the Northeast?

Mr. METZENBAUM. The Senator is correct. Actually, the amendment goes further than that. We exempt everybody who cannot comply with the regulatory program, and that certainly includes the particular group about which the Senator inquires.

Mr. DURKIN. I thank the Senator. I think it would be extremely unfair to impose a tax on a business or a utility, which tax ultimately would be paid by our customers, when that utility cannot get adequate rail transportation and therefore cannot get coal because there are not adequate rail facilities in that part of the country.

I am happy to support the Senator's amendment, and I support the Senator's effort. I congratulate him for his leadership in this area.

Mr. METZENBAUM. I appreciate the comments of the distinguished Senator from New Hampshire, my good friend. He voices the same kinds of concern that I have, and that is that we not tax those who cannot make the conversion under present circumstances or who cannot obtain the necessary coal.

We talk in this country and we talk in Congress about the energy shortage. But this amendment is one of the few things we can view with reality and that has to do with a very substantial and realistic saving in energy in this country.

The President's original bill had a total of 4.5 million barrels of oil a day. This amendment alone will save 1.2 million barrels of oil a day, or more than 25 percent of the total that was contemplated by the original bill.

It is my view that we have an obligation to move into this area in order to see that those who can use oil do so. This Nation has almost unlimited resources of coal, but that is hyperbole. We certainly have enough to last us for the next 400 years.

It is important that we do more in Congress than just wishful thinking. It is important that we enact legislation that is fair to all those who may be con-

[2] Review of the Congressional Research Service Critique of Oil and Gas Replacement Program Impacts, Executive Office of the President, Office of Energy Policy and Planning, July 19, 1977.

cerned. It is particularly important that we indicate to the American people that we will enact legislation that will be fair, that will be reasonable, and that will conserve energy.

I have heard many speeches about conserving energy in this country, both on the floor of Congress and other points, from the administration on down; but I have found too often that when it comes times to enacting the necessary legislation or standing for the right programs, there is a kind of willy-nillyness about it, an inclination to let the other fellow do it.

This amendment says let those do it who are capable of doing it; and if they do not do it, then they should pay the penalty of the increased tax that is provided for in this proposal. This proposal is fair. It is reasonable. It will save 1.2 million barrels of oil a day. I hope the Senate will see fit to adopt it.

Mr. HEINZ. Mr. President, I support Senator METZENBAUM's amendment, of which I am pleased to be a cosponsor.

Last month, I offered an amendment with somewhat similar characteristics, when we were considering the Coal Conversion Act. That amendment would have restored a prohibition on the use of scarce oil and natural gas in major plants which now have the capacity and the capability to burn coal. The provision in that amendment would have applied to utility and industrial installations and would have become effective in January of 1982.

In offering that amendment, my concern was that the language of the bill, S. 977, did not make a clear and strong commitment to the development of our abundant domestic coal resources.

Title 2 of that bill dealt with the provisions for operation of existing plants, and it provided only a weak prohibition on the use of natural gas and the substitution of oil in those plants.

In fact, the administration has estimated that utilities actually will be increasing their use of oil from 1.3 million barrels per day to 2.2 million in 1985. That is a 70-percent increase when our alleged objective has long been to reduce oil consumption and dependence on foreign imports.

I certainly agree that we must accede to short-term conversions to oil where necessary to conserve natural gas, since many boilers cannot be converted to coal or other fuels without major investments in new boilers and other equipment. But while we shift temporarily from gas to oil in these facilities, we should take fullest advantage of opportunities to convert to coal use those plants that are capable of being converted without significant added cost. That is just commensense.

As the Senator from Ohio may have pointed out, the Federal Energy Administration has identified a total of 350 generating and 2,000 industrial plants that currently have the capability of burning coal. The Coal Conversion Act as passed by the Senate would leave the responsibility for conversion with the existing regulatory agencies as mandated by ESECA, the Energy Supply and Environmental Coordination Act of 1974. But the agency that administers that act, the FEA, believes that they will only achieve a 20-percent conversion among those coal-capable plants by 1985.

The experience of my amendment on the Senate floor was rather overwhelmingly a defeat for it, and while I regret the fact that I did not get more than 14 or 15 votes for that excellent amendment, I regret even more that the result of that action was a grievously weakened coal conversion bill which will have only a minimal impact on our current consumption of oil and gas, and that should not at all be the objective of the Senate.

At the time that the issue was debated on that amendment, one of the major arguments cited against strengthening the coal conversion program was that the President's user tax proposal was going to do the job, that it was going to provide the necessary incentives to convert to coal without the need for a mandatory program and all the bureaucracy and regulation that implies. Apparently that was a very convincing argument to most of my colleagues, and so be it.

But now, however, as we get to the President's user tax proposal, and we get to the tax bill, without taxes, from the Finance Committee, we find there is no user tax in the bill and hence no incentive to convert to coal. That is the only provision in the energy program that would provide a meaningful stimulation for coal conversion and, Mr. President, while I do oppose the total user tax as recommended by the President, and I oppose it because I believe it is pointless to tax industries for their use of oil and gas when they have no practical alternative for converting existing plants, nevertheless, facilities that are already coal-capable as well as new facilities do have alternatives, and it is imperative that we act, that we act now, and that we act decisively to persuade them to convert to coal.

The alternative, of course, is increased use of oil and gas, and this will mean increased oil imports and a decrease in the supply of gas available for residential heat. The amendment we are considering now bears directly on this issue. By restoring the user's tax in these two cases of new facilities and existing coal capable facilities—where there is choice of fuels that can reasonably be made—the amendment now before us, the one offered by Senator METZENBAUM and cosponsored by myself, and others, creates a legitimate, a valid, a sound, a workable incentive for the increased use of coal and the decreased use of oil and gas. It also retains the President's proposal of dollar-for-dollar tax credits to offset the purchase of coal conversion equipment that would ensue from the adoption of this amendment.

I would also note that this amendment costs only a fraction, less than 10 percent, of the President's user tax, yet it provides as pointed out by the Congressional Research Service study some 80 percent of the estimated savings in the President's proposal, 1.2 million barrels of oil equivalent per day. Without question, this is a considerable bargain and one we should say yes to.

Also, it should be mentioned that the coal conversion this amendment would stimulate would create a more certain economic environment for coal and its related industries. The conversion to coal of existing coal-capable plants, for example, could increase production by up to 50 million tons per year by 1985. By putting more pressure on utilities and industries to find and develop new sources of coal, by encouraging them to upgrade necessary transportation facilities, and purchase the best available pollution control technology, the bill with this amendment would stimulate growth in domestic energy markets needed to accommodate the national objective of energy independence. This shift in energy production would bring renewed economic vitality to depressed mining areas in Appalachia and the Midwest and accelerate new developments in the West.

Mr. President, I compliment the Senator from Ohio for his amendment and only add the observation that if we mean one word of what we say about saving oil and gas and converting to coal this is a vital amendment, and I urge its adoption by all my colleagues.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Kentucky seek recognition?

Mr. FORD. Mr. President, has the Senator from Pennsylvania concluded his remarks?

Mr. HEINZ. Yes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, I rise to support the amendment of my colleague from Ohio.

The time has come for us to begin to look at the bottom line of the national energy plan. The toughest energy policy question we face is, "How do we save enough energy to provide time for future energy exploration and development of alternatives to oil and gas?" Senator METZENBAUM's alternative oil and gas user's tax goes a long way toward answering that question. This alernative offers perhaps the largest energy savings of any provision in the Senate's energy package. It saves 1.2 million barrels of oil while imposing a relatively small net tax.

Up to this point in our deliberations, I have not heard much discussion of the size of the tax revenue losses estimated by the energy tax credit proposals. Let us be clear about one thing: If the national energy policy creates large tax revenue losses, those losses will translate into increased inflation, decreased jobs, and new tax levies for the majority of people in this country. I cannot support that course of action. The Metzenbaum amendment offers us an alternative and does so without tax revenue losses. The Metzenbaum alternative will require conversion to coal for new boilers and for those who are already capable of converting. More importantly, it goes beyond the principle of voluntary compliance to the more fundamental principle of a reasonable mandatory requirement.

Everyone in this Chamber knows that coal is our most plentiful operational fuel source today. This amendment provides the proper incentive for directing us to use our most abundant resource wisely. The past record on coal conversion in

this country is disappointing. Up to now, those industries and utilities with the existing capacity for coal conversion have not felt the pressure to convert. This amendment provides the necessary stimulus. It encourages firms to convert by providing incentives. The incentives take the form of tax credits on a dollar-for-dollar basis for conversion equipment expenses. There are penalties in the form of taxes for failure to convert. Since the taxes are restricted to noncomplying firms with existing boiler capacity, I believe the mandatory nature of this amendment is very modest.

When Congress finally passes a national energy policy, with all its compromises, each of us will return home to face the voters. One question they will surely ask is: "Are we going to have enough energy?" If we want to answer "yes" at that time, we must answer "yes" now. We must say now that conservation goes "hand in hand" with increased energy supply as the answer to the energy dilemma. The Metzenbaum amendment will do much to increase conservation while doing little to decrease capital investment. With adequate capital, the private sector will find new energy supplies. With adequate conservation, they will have the time necessary to conduct the search.

I have heard it stated that this amendment will reduce the bargaining power of the Senate conferees. Let me make a point that seems very important. The forum to determine the sense of the Senate is on the Senate floor. Conversion from oil and gas is the biggest single savings in the total energy plan. It is an essential part. We cannot avoid facing this issue if we are to enact a meaningful energy policy.

Mr. LONG. Mr. President, there is a lot about this amendment that I have yet to learn.

This much I do know, that in some respects this is a more severe tax on those who would be affected than the House bill.

Obviously, those who sponsor the amendment do not find that it impacts too seriously on the areas that they have the honor to represent; otherwise, I am sure that they would not be sponsoring the amendment.

But, Mr. President, it is impossible for this Senator, and I think it is impossible for a great number of other Senators, to know just what the effect of this amendment would be on the States that they represent in this body unless they have had a chance to study it and talk to the manufacturers, their industrial people, to see what effect those people think that it would have on them.

I doubt that most Senators know what the effect of this would be on the commercial and industrial future of those States.

Mr. President, the approach of the Finance Committee to this problem has been that we will, of course, consider the user tax in conference, if we are able to advance the bill that far, and the type of suggestion involved here would be considered.

The administration will be pressing for as much of its user tax as Congress is willing to accept. But, as one Senator, I have tried to ask the business people of the State that I represent to poll their members and find what possible adverse effects and what impact the President's proposal and the House proposal would have on their industries in those various States.

Since the amendment was offered, I have had an opportunity to discuss the matter with some people involved in the generation of electricity in Louisiana, and they inform me that this would create some serious problems. In fact, they said that if the amendment is agreed to we would have to ask for an exemption on environmental grounds for Louisiana. That brings me to a problem that involves this user tax problem from one end to the other.

We start out with California exempt for environmental reasons, I am told. If that is not correct, I want to find out about that.

Then the Senator from New York (Mr. MOYNIHAN) explained the problem with regard to the New York metropolitan area to Secretary Schlesinger, and he said that New York has become a nonattainment area. He said the metropolitan area of New York would be adversely affected by the user tax unless it could be exempt on environmental grounds. The Secretary said yes, he would undertake to assure that New York would be exempt.

The Senator from Hawaii (Mr. MATSUNAGA), never at a loss to represent the great State of Hawaii, spoke up for the people of those beautiful islands, and he pointed out it might create some problems if that tax were applied to Hawaii, and he did not see any reason why it should be applied to Hawaii. So Secretary Schlesinger said no, he really did not think he could recommend exempting Hawaii from the user tax. The Senator said, "Well, if that is the case, Mr. Secretary, I am afraid I will not be able to support your user tax."

A day or two later the Secretary concluded that he could recommend exempting Hawaii, and if I were the Senator from Hawaii I would think with that assurance I could probably go along, that it would not involve the State of Hawaii.

I am told there are some thoughts being given to some problems in the State of Alaska, and by now, perhaps, it had been agreed that it will not involve any industry in the State of Alaska, and if I were from Alaska I suppose I could think about this matter in a rather statesmanlike manner in view of the fact that it might serve a national purpose and could not create any possible problems in the State I represented.

Now, Mr. President, I am a little reluctant to ask that Louisiana be exempted from this tax. It sort of seemed to me if the chairman of the committee and manager of the bill asked to exempt his State, it would be rather inconsistent to then suggest that somebody else should be covered by it.

But justice and fairness would suggest we ought to agree on some guidelines, some standard, that we are going to apply, and we ought to at least consider the arguments and the expressions of those who would find themselves very adversely affected by this proposal.

Now, how are we going to find those people? There are people across this Nation who do not even know Congress is in session. There are a lot of people who are not well informed, who simply do not have a hired lobbyist here in Washington to keep them advised on what is going on around here, and they are not able to predict from day to day what would happen, as those would, those very few, who keep a man on tap constantly to advise them on these matters.

I can foresee the possibility that we could pass something of this sort which would lose the flexibility in conference, because the House tax would be there anyway, and in doing so we may find that some people out in the hustings across the width and breadth of this land have been destroyed, that their businesses had been wrecked, without our having any knowledge of the fact that that was in prospect of happening and, at that point, it might be too late.

Tomorrow we will also vote on section 1054 which we have been debating here today, and that section 1054 involves the ability of the conferees to relieve hardships. That would be particularly unfortunate if we agreed to the Metzenbaum amendment, which would limit our flexibility with regard to the user tax; that would lock it in with regard to certain present and prospective users, and then strike section 1054 which would deny us the flexibility to provide any relief for those who found themselves locked into a situation, and we could, perhaps, find ourselves in a situation where people who are not represented by lobbyists here in Washington, people who, as I was before I came here, just sort of trusted the Congress to do the right thing, and sometimes came to regret that I did so, and they would find themselves locked into a very unfortunate situation from which no immediate relief was in sight.

I believe it would be far better, and I would recommend to the Senate, that we let the matter of the user tax be decided in the conference, where we could look at the entire coverage recommended by the House of Representatives, and we could hear the entreaties of all those who, by that time, might find they were being adversely affected, and we could consider their problem.

I believe, Mr. President, that would be the better approach, and I hope very much that the Senate will agree to that approach and, in doing so, of course, it would decline to accept the amendment.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I wonder if the Senator from Louisiana would yield to me to let me ask the Senator from Ohio some questions. These are not in any sense adverse.

Mr. LONG. I yield the floor.

Mr. PACKWOOD. I just want to get some facts straight so that on tomorrow I will know how to better analyze the Senator's proposal.

As I read the report from the Library of Congress, the Senator's proposal and the estimated savings are based upon the assumption that the administration's user tax would save 2.2 million barrels a day?

Mr. METZENBAUM. The Senator is correct.

Mr. PACKWOOD. The author of the report indicates that he has some misgivings and thinks that 1.38 million is a more likely estimate of the administration's user tax savings, 1.38 million barrels per day.

Mr. METZENBAUM. The Senator is correct as to the CRS report.

Mr. PACKWOOD. Right.

The Joint Committee on Internal Revenue Taxation estimated, as the bill came out of the Ways and Means Committee, and it was pared down somewhat from the President's, but they estimated then 580,000 to 850,000 barrels a day saving, and that has now been raised to roughly 830,000 or maybe 1.1 million barrels a day. Is it fair to say, assuming we can find some accurate estimate of indeed what the President's bill does, that the Senator from Ohio feels that his amendment would do approximately 80 percent of what the administration's actually will do?

Mr. METZENBAUM. Based upon CRS figures that is correct. I should point out to my good friend that part of the CRS report as to what the estimated savings are has to do with the question of growth in the period between now and 1985.

Mr. PACKWOOD. A few more questions. Does the amendment of the Senator from Ohio totally omit feedstocks from the user tax?

Mr. METZENBAUM. Feedstocks?

Mr. PACKWOOD. Where you have to use petroleum, the petrochemical industry; you have to use petroleum in your product.

Mr. METZENBAUM. The answer is, yes.

Mr. PACKWOOD. Does the amendment eliminate processed use, such as where you have to have a very high-quality flame, uniform flame, in drying newsprint?

Mr. METZENBAUM. The answer is, yes.

Mr. PACKWOOD. All right.

As I understand it then this is basically a boiler combustion tax, and it is only designed to affect two kinds of facilities: new facilities that could indeed be coal-built or what we call coal-capable conversion facilities, which are existing but could be converted to coal.

Mr. METZENBAUM. The Senator from Oregon is entirely correct. That is absolutely the intent of the amendment.

Mr. PACKWOOD. All right.

Now, in the utility industry per se the evidence is—and I am off on 1 year, and I will have the facts tomorrow—there are now no oil- or gas-fired burners scheduled, I think it is, beyond 1981 or 1982, and I might be off a year. They are doing the conversion, they are being forced to, by previous acts of Congress.

Mr. METZENBAUM. We are proceeding on that assumption and understanding.

Mr. PACKWOOD. All right.

In the utility industry—and there may be a difference in whether or not we want to go on with this, in the utility industry—there are a good number of boilers that are coal-convertible, they could be converted to coal. It is uneconomical to do so. They would rather continue to use oil or gas, but they could be converted.

The problem is that it would cost them a great deal of money to do it, or they would have to pay a great deal of tax if they do not do it, and they would rather use oil. These facilities may have a useful remaining life of 5, 10, 15, or 20 years. Is it the Senator's intention to force the premature conversion of those burners that may have a useful life left?

Mr. METZENBAUM. I point out to the Senator from Oregon that in the CRS report, on page 5, it is pointed out that:

> The utility sector would probably end up paying no net use tax on existing coal-capable units (it would convert them) and no use tax on new units, none of which would burn oil or gas anyway, according to current plans. Industry might decide to use some taxable oil despite the use tax, but if it did so, one would expect such decisions to be based on individual circumstances such as plant locations, specific economic trade-offs, and the like.

Now, the last sentence refers to industry as distinguished from the first sentence, which is referring to the utility sector probably making conversions.

Mr. PACKWOOD. Let me ask the Senator a further question. In the Finance Committee bill, rather than the utility tax, we use a 40-percent refundable tax credit, which probably would save about 1.2 million barrels a day, according to the CRS estimates.

That is basically the flip side of the user tax. Does the Senator intend to substitute that user tax provision for the 40-percent investment tax credit? He simply adds that to the end of his amendment; but does the Senator want to substitute that for that portion of the bill?

Mr. METZENBAUM. I did not deem it appropriate to attempt to amend those specific sections in the bill that came out of the Finance Committee, but rather sought to present to the Senate this alternative.

Mr. PACKWOOD. It is not really an alternative you are giving them, then, because with our estimated 40-percent refundable investment credit for the conversion to alternative fuels and away from oil and gas, and the saving of the 1.2 million barrels a day, what you are doing is adding to that the boiler tax. You are not going to save any more by the tax in that case; you are simply going to have a tax.

Mr. METZENBAUM. I am not thoroughly familiar with that provision in the Finance Committee bill, but I would point out that there would be a net difference of approximately $29 billion in the Federal Treasury, the other provision costing the Treasury $26 billion, and this one netting the Treasury $3 billion.

Mr. PACKWOOD. I agree that there is a whale of a difference. I estimated it at $27 billion. But there is a great difference. One of the reasons why I am glad we are voting tomorrow is to have a chance to check the figures. It is a very attractive alternative, if indeed the statistics bear out the Senator's conclusions.

One or two more questions. Does this amendment have any provisions in it for exempting those areas that cannot meet the air quality standards or the environmental protection standards if they convert to coal?

Mr. METZENBAUM. Yes.

Mr. PACKWOOD. It does?

Mr. METZENBAUM. Yes.

Mr. PACKWOOD. What is the method by which they are exempted?

Mr. METZENBAUM. If the Senator will give me a moment I will check that.

I point out to the Senator from Oregon the provision on page 8 of the amendment, line 20, which reads:

> For purposes of subsection (a), the term 'exempt use' includes any use of oil or natural gas in a facility if the use of coal in such facility is precluded by Federal or State air pollution regulations.

Mr. PACKWOOD. A last question. Are the savings presumed by the Senator's amendment assumed to include some exemptabilities that are not subject to coal conversion, or is the estimate based on full conversion, and there are apt to be reductions if there are some exempted areas?

Mr. METZENBAUM. I will have to ask that the question be repeated.

Mr. PACKWOOD. All right. I phrased it badly, and I apologize.

The Senator from Ohio estimates a saving of roughly 80 percent of whatever we finally agree the President's user tax would have achieved; but is that saving premised on the fact that there will be no areas exempted from the conversion, but if we agree to an amendment exempting California, or New York City, or Hawaii, or whatever it is, would the estimate of the Senator from Ohio have to be reduced by whatever exemptions might be adopted?

Mr. METZENBAUM. I cannot give the Senator any more specific answer, other than to say that ours is calculated in the same way as the administration's, and by morning I will attempt to give the Senator a more specific answer.

Mr. PACKWOOD. Very well. I think I can give a partial answer. That was one of the problems of the administration. They put in a little hook in there that says if you cannot meet the air quality standards, you do not have to convert. Yet the administration in its calculations took the full savings, as though there would not be any exemptions; but if you take the exemptions into account, there would be a reduction in the savings.

Mr. President, I compliment the Senator from Ohio on his amendment. It is a well thought-out amendment, and we will discuss it further early in the morning.

Mr. METZENBAUM. I certainly hope that the Senator from Oregon will be effectively persuaded.

The PRESIDING OFFICER (Mr. FORD). The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, if I may pose a question to the author of the amendment, in looking over his amendment I see no provision relative to the exemption of noncontiguous territories such as Hawaii, Guam, Puerto Rico, et cetera, which was included in the Coal Conversion Act.

As the Senator knows, this bill as well as the coal conversion bill will be in conference, and while the coal conver-

sion section of the entire package will exempt Hawaii and other noncontiguous territories from conversion to coal, this does not specifically provide for exempting the noncontiguous territories from the user tax, which would in effect penalize such areas such as Hawaii, because, while they are exempted from conversion, they would still be taxed under the provisions of the Senator's amendment, the tax meaning the user tax, of course.

Would the Senator be willing to include, perhaps as subchapter C, the language of the Coal Conversion Act, which would say that the provisions of this chapter would not apply to the noncontiguous territories?

If the Senator would be willing to accept that change, and modify his amendment accordingly, I would be more than happy to support his amendment.

Mr. METZENBAUM. The Senator from Hawaii is very astute, as usual, in pointing out this concern which he has for his own State. I sent an amendment to the desk at an earlier point, an unprinted amendment, which I believe would cover the State of Hawaii and the other noncontiguous areas. In order to reassure the Senator from Hawaii, overnight we will draft an appropriate amendment and submit it tomorrow.

Mr. MATSUNAGA. I thank the Senator for his consideration.

Mr. METZENBAUM. I thank the Senator from Hawaii.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I fear that we are beginning to move off center in our consideration of the final segment of the administration's comprehensive national energy program. Why? Because there is a general failure to recognize that with the tax bill reported out by the Finance Committee there is the potential that a congressional energy plan may emerge that will achieve more by way of energy production, conservation, and conversion than the administration's own energy proposal would have achieved.

I submit that this would be no small achievement. Indeed, it is an achievement for which the chairman and members of the Finance Committee are to be commended. They have provided us with the basic legislative vehicle. Nonetheless, I continue to hear criticism regarding what the energy tax bill reported out by the committee does or does not do.

Of course, there are bases for taking issue with this tax measure. There are portions of this bill—as of any bill—with which various groups will disagree.

But let us not be shortsighted. I urge my colleagues to recognize that this bill serves—and serves well—our immediate and long-term energy objectives. First, we need a tax vehicle for conference with the House. The Finance Committee bill provides this. Second, we need a bill which will contribute to the achievement of the basic goal of the comprehensive national energy program proposed by the administration.

The goal is the reduction of U.S. dependence on foreign sources of oil—specifically, the reduction of oil imports to 6 million barrels per day. The Finance Committee bill will significantly contribute to the achievement of this target through a series of tax credits and tax incentives. The tax bill passed by the House would contribute to the achievement of this target by a series of tax measures recommended by the administration.

Both bills appear to be sound approaches leading to the same end. However, I suggest that energy taxes without incentives for alternate energy production will not meet the challenge posed by our national energy crisis.

That crisis portends a worldwide shortage of crude oil and natural gas, fuels upon which modern mass industrial societies, such as the United States, have grown dependent. Tax credits and incentives must be developed if we hope to have viable alternative energy sources in place by the 1980's when they may be needed to supplement our dwindling supplies of oil and natural gas.

This is the position taken by the chairman and members of the Finance Committee, and, let me note, by the American people. They are not in favor of energy taxes per se. They are not in favor of energy taxes if the revenue raised would not help resolve the energy crisis confronting the entire industrial world. A recent national poll taken by The New York Times and the Columbia Broadcasting System is instructive on this matter. Over 70 percent of those polled supported higher taxes if the revenue raised would be used for the development of alternative energy sources.

Mr. President, if we are to have a national energy program this year, we must keep a wide range of options within the scope of the conference with the House. I urge that the Senate accept the measures recommended by the Finance Committee for energy conservation, conversion, and production. These measures face up to the energy challenge confronting us. They will help to ensure that the conference report on energy will be on center—just as the American people expect.

Mr. BAKER. Mr. President, I agree with some things the President of the United States says and some things I disagree with. Both those points of view have been published and ventilated from time to time. But I would like to express my agreement with him now on the need for energy legislation.

I have never doubted, nor do I now doubt, that there is indeed a serious problem in this country with our supply of energy and with assuring a future supply. I do not doubt, nor do I disagree, that there is an impending crisis of major proportions and that the Congress should act.

I rather believe that a part of our present problem is that Congress has failed to act in the past in the energy field. I am thinking particularly of the regulation of natural gas by judicial decree and the failure of the Congress to establish appropriate national policy in that respect. There is a need for the Congress to act.

I am not among those who feel there should be no bill. I think there should be a bill.

We have now passed four measures in the Senate which are in conference with the other body and I rise now, Mr. President, to urge that we complete action promptly and expeditiously on this, the fifth measure.

Mr. President, I am no expert in this field. I do not have one-tenth the knowledge that the distinguished chairman and ranking member of the Finance Committee and other members of the Finance Committee have on this subject. But I do have a strong view that we ought to move this legislation.

So, Mr. President, I urge that all Members of this body consider carefully the Finance Committee bill, that we consider carefully and objectively the proposals that may be made and the amendments that may be offered, but that we act on this measure promptly.

Now, I confess to having some reservations about going to conference with an incomplete bill, and this is an incomplete bill. But frankly, I have searched my conscience and examined alternatives and I do not think there is any better alternative at this time and under these circumstances.

So I am not urging the adoption or the rejection of any amendment. I am simply saying I think it is time to get on with the business at hand and to put the Senate Finance Committee conferees in a position to go to conference with their counterparts in the House.

Mr. LONG. Does the Senator desire to present a unanimous-consent request?

Mr. METZENBAUM. Yes.

Mr. President, I ask unanimous consent that any amendment in connection with the pending amendment not be the order of business or voted upon before 11 o'clock tomorrow morning. I have cleared this with the other side and have also cleared it with the distinguished chairman of the Finance Committee.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

The Senator from Louisiana.

Mr. LONG. Mr. President, it is my hope that the Senate will not agree to the Metzenbaum amendment tomorrow. It presents a problem that we may not be able to answer at this point, and it would tend to lock us in conference to an answer that might not be best for this country.

Let me point out that the administration has been seeking to bring about the conversion from gas to coal, and the committees have been seeking to bring about a conversion from gas to coal, by simply requiring that it be done. Efforts have been made along this line for some time. The committees handling those measures, who undoubtedly have greater familiarity with it than we on the Finance Committee, simply could not find answers to all

the problems that it presented. So the administration now proposes that we try to solve the same problem by what amounts to a prohibitive tax on those who use gas and could perhaps use coal.

This measure will be in conference. The Senator would lock us in to commit the Senate to this approach, but with a much higher tax rate. For example, it is my understanding that the starting tax in the House bill for 1979 for an existing coal capability facility would be 30 cents. The Senator would start us in at twice that rate, 60 cents.

In 1980, the tax rate for such a facility would be 60 cents. In 1980, the Senator would make it twice that, $1.20. In 1981, it would be $1 and the Senator would make it $2, and so on down the line he would double the tax.

Furthermore, Mr. President, for a new facility, the Senator would require a tax all the way down, starting in 1979, of $6.

Mr. President, I ask that a table be printed in the RECORD at this point showing the rate that would be charged under the Metzenbaum proposal compared to the rate charged under the House proposal.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[In amounts per barrel]

	Existing facilities		New facilities	
	House bill [1]	Metzenbaum	House bill	Metzenbaum
1979	$0.30	$0.60	$0.30	$6
1980	.60	1.20	.60	6
1981	1.00	2.00	1.00	6
1982	1.45	2.90	1.45	6
1983	2.00	4.00	2.00	6
1984	2.50	5.00	2.50	6
1985	3.00	6.00	3.00	6

[1] Tier 2 tax which applies to boilers. The tax rate on nonexempt process uses in the House bill would be $0.30 per barrel in 1979, $0.60 in 1980, and $1 in 1981 and later years. Utilities would be taxed at $1.50 per barrel beginning in 1983.

Mr. LONG. Mr. President, the Senator, perhaps wisely, would provide an exemption for the so-called nonattainment areas, areas that already have a considerable amount of industrial pollution. They are exempt. If they are using gas, they can continue to use gas. But any area which has clean air cannot. They have to pay the tax even though it might mean that it might put them at a great competitive disadvantage and force them to shut down. There would be a tendency for industries to move to nonattainment areas and further pollute the atmosphere in those areas, rather than establish those industries, or even continue those industries, in the clean air areas. That is a fine reward for having clean air. You will lose your industry. Industry would be encouraged to move into an area that has less clean air or a more polluted atmosphere.

It would tend to mean that if you have no environmental problems, you do not get the energy. If you do have environmental problems, you do.

It is amazing that we would find ourselves doing business that way. Sometime ago I had the privilege of speaking to an executive of General Motors who wanted to put one of the General Motors plants in an area of the Southwest which had a far cleaner atmosphere than the Detroit area.

He was told no, that they had a real environmental problem there; that because they had the clean air, he would tend to despoil some of that pristine air and, therefore, he could not put the plant there. Now, he could go to Detroit and there, there would be no problem; since the air is already polluted in Detroit, he could just put the plant there with no problems at all.

Therefore, those who have the cleaner atmosphere would be precluded from having the jobs and the jobs would have to go where the atmosphere is more heavily polluted.

Mr. FORD. Will the Senator yield for a question?

Mr. LONG. I yield for a question.

Mr. FORD. I know the distinguished Senator could probably chew me up and spit me out, but I have to ask him a question or two.

As I understand this, there is really no loss. It is $1 for $1 to convert; is that correct? Is that what we are talking about?

Mr. LONG. When we had our testimony before the Committee on Finance—and we do not know nearly as much about it as I would like to know before this becomes law—the utilities testifying from the part of the country that I represent, the State of Louisiana, testified that, although it is supposed to work out that way, it did not work out that way. They would be paying enormous taxes, with not enough credits to take care of it.

Further, even though we provide a credit against the tax to build a coal-fired plant——

Mr. FORD. That is what we are talking about, coal.

Mr. LONG (continuing). To build a coal-fired plant to replace a gas-fired plant, which would cost four times the money, they are still out the money. Let us assume somebody is going to put a $100 million tax on you to force you to build a $100 million plant to replace this plant. You are still out the $100 million to build the other plant.

Furthermore, if you have an old contract where you are getting a fairly cheap price and you have to pay twice as much for the gas, nobody does anything about that; you just go ahead and pay. So you wind up paying more for the fuel you are using and, while theoretically, you are supposed to get a credit for the tax, you might get it and then, again, you might not.

Mr. FORD. The Senator can say you might get it and you might not get it and that sort of thing. It depends on how sharp a pencil the industry might have.

The Senator said, too, that they were going to force dirty operations into clean air areas. Does the Senator not understand that we have the facilities now to clean up the air, where they get 99 percent of the impurities out of the air, that we have the scrubbers, and so on, that can be included in the conversion?

Mr. LONG. What I was saying is that, in the places that already have the air pollution, they would not have to comply. The amendment says that. The Senator just explained it. So if you already have the environmental pollution, then you can burn the gas and you do not have to convert; you do not have to burn coal.

Mr. FORD. The Senator from Louisiana said it was a bad thing to let the people be taxed in the clean air area, but they do have facilities to clean it up.

Mr. LONG. What I am saying is it is a lot cheaper to use gas than it is to use coal.

Mr. FORD. I want to call the Senator on that. Maybe I am wrong, and maybe the staff—he has four or five sitting there that can give him all the information. I do not have anybody. I do believe the cost of fuel would be less dollars for coal than the cost of gas.

Mr. LONG. I hope the Senator is right.

Mr. FORD. I hope I am too. I do not have any backup.

Mr. LONG. There may be some areas where it is cheaper.

Mr. FORD. There are some areas where it might be cheaper?

Mr. LONG. If the Senator is comparing the cost of coal to the old contracts——

Mr. FORD. How about comparing it to the new contracts? Let us take a million Btu's of coal versus gas and see how it comes out. Let us start converting per Btu instead of cost per ton.

Mr. LONG. This much I know for certain, I say to the Senator: Where one has an old contract for gas that was signed 10 or 15 years ago, it costs him a great deal more when you take his gas away and make him go to coal than it would cost otherwise; a great deal more. That much I know for sure. Also, he has a great deal more cost to pay for building the plant.

Mr. FORD. The thing we are trying to do here is save natural gas and save oil, and we are trying to conserve that 5 million barrels of oil per day that I think the Senator from Oregon was talking about by 1985, so we can find alternate sources of fuel and so we can find additional natural gas. We do not know if we can or not. We are trying to conserve and save.

We know what we have in coal, we know what we can do with this. I think the cost of the new contracts for natural gas and the new contracts for coal—let us leave the back alone and start from here on and see what is going to happen.

Mr. LONG. I say to the Senator, I want to see more coal burned. I also want to be fair and be uniform insofar as possible. When the Senator brings me a bill that exempts one State and then exempts another State and then exempts another State, and then we look at the industrial areas of another State, first one and next another, if I am one of those exempt, I want to know, hold on just a minute, let us see what this means to those of us who are not exempt.

Mr. FORD. Some of us are always worried about home, and I think we ought to protect No. 1 first. But this is a national issue. We are talking about the whole country. We are talking about the

noncontiguous States and affiliates of this country. We are talking about the whole national picture as it relates to energy. We are not talking about one specific area. We have to do the job the best we can.

I want to say that conversions will occur at the same time the new gas comes on the line and new gas contracts. We have more coal than we have gas. That is a cinch. I think the Senator will have to admit that. We have more known coal reserves than we have natural gas.

So I cannot see why we are trying to ward off and fight a proposition that basically says, "If you can convert to coal and you are now burning oil or gas, then we are going to tax you if you do not—if you can convert."

Mr. LONG. That is all great until we start having exemptions for first one area and next another. If we are going to start exempting States, I would like to be exempt.

Mr. FORD. I heard the Senator say the other day that if we could get this tax bill to conference and bring it back to the Senate, we have a right to vote against it. If we are trying to propose an energy program for this coutnry, I hope we are men enough to come back and make a correction in mistakes we have made.

The way we are going, we are kind of throwing it out there and hoping it comes back in a form that will save money. We are talking about exemptions, but I have heard the distinguished Senator say, how are we going to pay for it; you are willing to vote for a credit, but are you willing to vote for a tax?

I am willing. I think the American people are willing, if we are going to say, yes, we are going to try to find new, alternate sources of energy. But, as it leaves the Senate, we do not know what those alternate sources are going to be. We have no idea. We just have faith. And oh, ye of little faith, you know.

I am not particularly in that category. I have faith. I am going to stick the Senator. I am not going to vote for the substitute. That is my plan right now. But I do not think the Senator from Ohio is on the right track and we ought to be trying to find a way to make his amendment work, rather than trying to defeat it on the Senate floor, because one of the few things that has been offered on the Senate floor to conserve oil to help this country is his amendment, because it uses coal and it converts.

This is a vehicle.

Mr. LONG. Mr. President, I think——

Mr. FORD. I want to make one point to the Senator. The key of the whole thing is how much is saved and not who is exempt. We got into the fight on everything we heard on deregulation of natural gas that was against the big boys. Let us get away from who, as I suggested to the Senator from Ohio when I was against him at that time. Let us get down to what.

What are we saving? How much are we gaining?

Mr. LONG. As the Senator no doubt knows, we proposed in the committee to achieve the same result by providing a tax credit to make it attractive for people to change; in effect, to help ease the burden of changing over by a major tax credit.

It is my view that this tax ought to be considered in conference along with it. The Senator is a sponsor of the amendment. I understand he is for the amendment.

Mr. FORD. And I am not against correcting the amendment to make it better, either.

Mr. LONG. I understand that.

I would like the Senator to understand that I do not know what it does to the State of Kentucky. I know that the State of Louisiana is the most heavily impacted in the Union with this tax.

When I see certain areas are going to be exempt, then I start asking myself if I had not better take a look at the State I represent. I advise everybody else to look at his State to see what the problems will be.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Louisiana yield the floor?

Mr. LONG. As soon as I yield for a question.

Mr. FORD. I would like to state this one more time. I enjoy this.

As I understand it, the tax credit is voluntary, and what we are proposing here is an alternative that has a modest, mandatory stimulus.

It is also my understanding, Mr. President, that this leaves more dollars—the Metzenbaum alternative here—leaves more dollars in the private sector for new sources.

I read from a paragraph that according to the Congressional Research Service, the gross tax before rebates would be $5 billion by 1985, while the net tax after rebates would be $3 billion, for the comparative purposes of the administration proposal, and the gross tax would be $84 billion, and the net tax $40 billion.

Up to this point in our deliberation, I have not heard much discussion of the size of the tax revenue losses estimated by the energy tax credit proposals.

So let us be clear about one thing——

Mr. LONG. Will the Senator yield at that point?

Mr. FORD. Yes.

Mr. LONG. The Senator is comparing his proposal to the administration's proposal.

I am informed that the administration proposal included a tax on feedstock of $30 billion—$30 billion taxes on feedstock.

The Senator is comparing this to that, and that is something we are not discussing. That is not in this bill as it stands today. It is not in the House bill, either.

Mr. FORD. Let me then compare the Senator's tax bill.

Up to this point, and in all the deliberations I have seen, I have not heard much discussion of the size of tax revenue, the tax revenue losses that are estimated by the energy tax credit proposals.

Let us be clear, I think, about one thing, if the national energy policy creates large tax revenue losses, those losses will be translated into increased inflation, decreased jobs, and new tax levies for the majority of the people in this country, as I see it, and I cannot support that course of action.

The Metzenbaum amendments offers us an alternative and does so without tax revenue losses. The Metzenbaum alternative will require conversion to coal for new boilers and for those who already have the capability of converting.

More importantly, it goes beyond, I think, the principle of voluntary compliance to the more fundamental principle of a reasonable mandatory requirement that will create a stimulus and leave more dollars in the private sector we have been talking about. Rather than giving it back to them, or giving them incentive, this leaves it there so they can go on with their own money and do their private business.

That is my judgment, and I have a hard time putting down a sharp pencil and understanding the figures when we get into such massive tax credits and read things where the biggest companies pay nothing and the little fellows pay it all.

I think we have got something here that may balance the revenue laws and that we leave more in the private sector, and we can accomplish more in the direction I see up ahead.

Mr. LONG. Let me make one or two points clear.

One, when we seek to impact on one area heavily and another area not at all, we ought to be willing, in justice and fairness, to try to help ease the burden on the fellow who is singled out to help solve a problem.

For example, let us say we have an area, which I have the honor to represent, in part, where we have people in business because they were able to buy gas.

Now, I would like the Senator to hear this.

Let us say we have an area where people are in business, because they were able to obtain the purchase of cheap gas that no one else wanted at that time. It was a drug on the market. If they had not signed the contract, the gas would have been flared in the atmosphere or not produced at all because no one was there seeking it.

Let us assume that you are going to take their gas at 30 cents a thousand and you are going to give it to somebody else. We are now proposing to pay the Mexicans $3 for the same gas that the Senator undertakes to make this fellow deliver for $3.

Mr. FORD. That has gone up 15 cents. I heard it was $2.85.

Mr. LONG. So here is a man who has his gas taken away from him at 30 cents, and the proposal is to make him deliver that gas to someone else for 30 cents, when one is willing to pay the Mexicans—the Senator from Kentucky said $2.85. I heard it was $3. Let us take the $2.85. That is a nice windfall to the person who gets that 30-cent gas at the expense of the fellow who is no longer able to stay in business.

It would make sense to me—and I sug-

gest this as one of the possible answers to the problem—to give that fellow a tax credit or some kind of consideration to help keep that person in business, because he has been put out of business for the good of other people. Someone gets a windfall out of this. The person who gets the 30-cent gas is getting a windfall. The person who has to part with it is being put out of business.

It seems to me that if we want to be halfway fair about it, we should say, "Let's see if we can find some way to ease the burden on that person."

I should like to ask the Senator a question about economic justice. Does he agree that something should be done to try to help that person?

Mr. FORD. I do not see any offer to do that. I see that the Metzenbaum amendment gets more conversions. It is a modest push to mandatory conversion. The Senator said earlier that he represents the most impacted State in the Nation.

Mr. LONG. On this point.

Mr. FORD. And he does a good job of trying to see that his State is well taken care of. I think he does an excellent job. But this is not a gas plan. This is a coal plan.

We keep hearing the flak about 30-cent gas. I suspect that the Senator could do better than 30 cents for that producer, and I think he might be able to work out something with his staff and his people so that he would not let the fellow who has to convert to coal get hurt too much.

Since the Mexican gas is so high, that is all the more reason we should use coal, which is lower in cost than foreign and domestic gas. That is the way it is under the new contracts.

Somewhere, we should find an ability, rather than to be against something, to be able to put it together and make it work, to convert to coal, because we have it, so that we will be able to say that we are going to conserve and that we are going to do those things that are necessary to find an alternate source.

However, we are all parochial, and I understand that. I am here fighting for coal, and it is not in one State. We have a little. We are trying to get a source that would help eliminate the energy shortage in this country.

Mr. LONG. Mr. President, the Senator has some concept of my thought about a national purpose and a national problem without victimizing those who are adversely affected.

The Senator knows that some time ago I came to him with regard to the tobacco problem. I said we should work out a program to encourage people to use less tobacco, and I thought I would make him a proposal he could not refuse. We said, "We will buy that land from you and let you keep it."

Mr. FORD. We thought the Senator was going to help the 165,000 farm families in Kentucky. But it would not work to just send that money and put the tobacco companies out of business, because they employ hundreds of thousands of people.

If the Senator should find some substitute for tobacco that would give $160 million to the 165,000 farm families in Kentucky, I think they might listen to him. It would not be economically sound, if the Senator had a proposal then simply to be against tobacco and wanted to buy us out. The Federal Government cannot buy people out. They have to find answers.

Mr. LONG. I have not been voting against the tobacco farmers. I have been voting for them.

Mr. FORD. And I have not been voting against the Senator from Louisiana, either. So we are even at that point.

Mr. LONG. The point is that I have been trying to figure out a way, as the Senator from Kentucky knows, by which we could get the tobacco industry aboard an effort to persuade people not to smoke cigarettes.

Mr. FORD. We do not have any rice in Kentucky. The Senator from Louisiana has rice and oil, and we have gas and coal. I think the Senator should stay on gas or coal conversion here and not get off on rice, not get off on storage, but stay with the issue. Let us stay with the issue.

Mr. LONG. Let us narrow it down to this point.

Mr. FORD. Let us narrow it down to coal conversion and tax.

Mr. LONG. I want to convert to coal.

Mr. FORD. I do, too. So we are getting close.

Mr. LONG. I do not want to do any grievous injustice or impose a lopsided burden on anybody in doing so.

Mr. FORD. And I do not think we are doing so in this amendment.

Mr. LONG. If we can work it out so that we share evenly the burden of converting to coal in this country, that is great. I am all for that.

To give a parallel illustration in this bill——

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. LONG. In trying to take on two able protagonists, I have to take them on one at a time.

Mr. FORD. The Senator from Ohio may be on the side of the Senator from Louisiana.

Mr. LONG. Let me make my point.

We have an amendment in this bill to try to save many refineries which could be out of business when this entitlement program comes to an end.

The Senator from New York (Mr. MOYNIHAN) was willing to go along with that, but he made a point. He said:

> Hold on a minute. This could mean that we people in New York, as well as the people in the Northeastern area, may have to pay a lot more for our home heating oil, and that would not be fair, and we could not go along with you if that is the case. You will have to assure us that you will find some way to keep us from being heavily impacted as a result of saving your refineries.

I could not say anything but, "Of course, you are right." If that is how we are going to do it, then we will have to find a way in conference to say that the burden of saving these refineries, be it the large one or the small one, will be a burden borne by 200 million people in the country, rather than a burden which will be borne by the people of New York and New England.

The same principle, in my judgment, should apply to full conversion. If there is going to be a big impact and a big burden it should be shared by the entire Nation. It should not be something imposed on one particular area or one particular group.

Mr. FORD. It is getting late, and I am sure the Senator wants to go to dinner——

Mr. LONG. I am not complaining.

Mr. FORD. I understand that the administration is pushing very hard to take the Finance Committee bill and send it to conference and let it be worked out there. As I said, I am not in support of the substitute. But I do feel very strongly that some changes should be made.

As the Senator from Louisiana knows, I am not going to be on that conference committee, and I am going to leave it up to the Senator from Louisiana.

I think he has pretty good judgment. He has a way of making things work in conference, and some of the Senate conferences I have been on have not fared so well.

I think the Senator should take the position as it relates to this particular amendment, which says that if you can convert to coal and you do not, we are going to see that you do, or we are going to penalize you. We will leave alone those who cannot convert. I do not think anybody has ever grasped that—that we have left out those who cannot convert; whereas, the administration is saying "Let RUSSELL LONG take it to conference and work it out." They want to tax them all.

I think the Senator would be in a better position if he would take the Metzenbaum amendment and the burden would not be so lopsided. That is what I am trying to say. It is pegged only on those who can convert and refuse to do it. It seems like that is the kinder way. It is the carrot and the stick situation.

Mr. LONG. Let us take the same argument though. Let us assume that we go to conference with this measure and we want to agree to just exactly the coverage that the Senator is advocating. If that is the case, we could probably settle for that if we went to conference without anything on conversion. But if we go with the Metzenbaum amendment, the administration position in the conference is going to be we have this much, we have these people covered and now we want to split the difference with you between the House bill and the Senate bill on coverage, so as to those people, who are not put in by the Metzenbaum amendment, we want at least half of those people included in this bill.

That will be a difficult position to resist in conference. In other words, if we go to conference and the House of Representatives has a tax of $100 and the Senate has a tax of zero and you have to compromise that item, you do it about the same way you do with an appropriation bill. You split the difference, and you wind up with 50. If we go to the conference with the figure of 50 and the House of Representatives has 100, and you cannot agree with anything else, the Senator knows there is only one

compromise you can reach, and that is 75.

Mr. FORD. It appears to me the Senator is going to conference with zero and going to get 50; whereas we are going to give him at least something else to work with on this particular amendment.

Mr. LONG. If we go without this amendment, we go to conference with the tax credit to help pay for it, and that is a very big tax credit which will pay a great deal of the cost, that with the depreciation will pay most of the cost.

The House of Representatives has a tax and the House might very well insist on part of that tax. But if we go there with half the House tax already, then I would assume that in conference we would be pressed to agree to just that much more or half of that which remains, and I doubt the Senator wants that result.

Mr. FORD. We have to figure out some place to put it.

Let us go back to the exemption. Does the Senator know how many of the firms or what percentage in New York would be required to convert?

Mr. LONG. I am told under the House bill it would be very little. That assurance was by the Secretary of Energy that the New York metropolitan area would not be required to do any.

Mr. FORD. Then let me just say this, that only 8 percent of the New York firms can convert their boilers. Ninety-two percent of them would not even be taxed under this amendment. I do not think that is big enough for a swap out.

Mr. LONG. How about Louisiana? I do not have the figures. Can the Senator give me the figures on Louisiana?

Mr. FORD. No, but if the Senator wants them on Louisiana I guess I can find them for him. I have one fellow who about runs himself to death here. We will try our best to get them for the Senator.

Mr. LONG. I would feel much more comfortable if I knew about the Louisiana firms.

Mr. FORD. I do not know what the conversion would be in Kentucky.

Mr. LONG. I may know a little more about income taxes at the Federal level than the Senator does, but when it comes to this particular measure, he knows more about it than I do, at least his staff does.

Mr. METZENBAUM addressed the Chair.

Mr. FORD. I am going to say one thing, and then I am going to quit.

Mr. LONG. I am not on the Energy Committee.

Mr. FORD. I understand that. I would hope that splitting the difference in the trade here would be in the Senator's fiber this time.

Mr. LONG. That is a logical conclusion. That is logically what happens when you go there.

Mr. FORD. Let us try to be illogical for a change. Let us do not do it. Let us fight on the merits what is here. I think the merits are on the side of the Senator. I would not go in with the idea we are going to split. We are going to trade. I have dropped knives and I have traded a little bit, and I understand what you are getting into. That is the normal. I would hope we would be abnormal in this case and fight on the merits.

Mr. LONG. Let me make this point to the Senator, because he knows this is true as well as I do.

Mr. FORD. Do not say "I know it is true" until I tell the Senator, and I will tell him whether I think it is true or not. Do not get me in that position.

Mr. LONG. I will put it to the Senator and ask if it is not logically the case. If you are in a hard-fought conference between the Senate and the House and both sides are adamant in their difference, one has zero and one has 100 in their bill, and neither will yield at all, it finally gets down to a point that we have to break the impasse and if both sides have equal pride and equal determination, there is only one way you can break it, and that is to break it in the middle

Mr. FORD. I might say to the Senator that we are still fighting the abortion issue in HEW and there is a lot of grit on both sides, and they have hung fast and tight. I think the Senator can do a good job of coming out on the merits. I think the Senator can do a good job on arguing the merits. I heard when I went to law school—and I am not a lawyer, and I do not understand those sorts of things, do not want to—dad said:

A little knowledge of law is dangerous; get you a good lawyer and stay with him.

But, on the other side, if the law is with you, argue the law; if the facts are with you, argue the facts; if neither are with you, just raise Cain.

I think the Senator can do all three of those. I have a lot of confidence he can come back arguing the merits.

Mr. LONG. Mr. President, let me just say this to the able Senator, that it is just a lot easier to split the difference between two contending positions, especially when all you are talking about is one amendment that goes half the way and another amendment that goes all the way. The logical compromise in a hard fought conference is to just take half the difference between the two positions.

I yield to the distinguished Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am very grateful to my friend from Kentucky who I think made a very able, strong, and persuasive argument as to why the distinguished chairman of the Finance Committee should be for this amendment.

I wish to add a little bit to that, because I think I do know some things about this amendment since it is mine and we worked on it and spent a lot of time on it.

Mr. LONG. I am sure the Senator knows a lot more about it than I do.

Mr. METZENBAUM. I am not saying that in any deprecating manner. I believe that really this amendment is as meaningful as any amendment could be to any Senator for the Senator from Louisiana, because it is true you go into the Senate-House conference and they start off with the administration position. The administration position places the greatest burden on the Southwest of any part of the country which certainly includes Louisiana. The fact is that this amendment does do that. This amendment does not place the burden on the Southwest. This amendment actually provides a special kind of an exemption that is of particular value to Louisiana, because you have a great petrochemical industry in Louisiana.

Under the administration bill, Louisiana's petrochemical industry and the petrochemical industry throughout the country would be involved in 10-percent price increases. Under this amendment the petrochemical industry would not be subject to the terms of the proposal, because in the main that has to do with the whole question that is not a question of conversion, not a question of the new boilers, but rather has to do with the whole processing kind of procedure, and that is what this amendment drives at.

I understand what the Senator from Louisiana is saying. It is a logical one. When we go into that House-Senate conference I have to have some place to move around. I really think the Senator is realistic enough to know that the Finance Committee recommendation which involves a $26 billion tax credit is a very difficult point to start from because you have to say, where do we get the $26 billion from?

I believe that this amendment might be accepted by the House because I think it gives them something to hang their hat on. I believe that if it saves, as we claim that it does, 80 percent of that which can be saved by their amendment and only places a burden upon American industry of $3 billion over a period of between now and 1985 as compared to $40 billion, I think it must be persuasive in their arriving at a conclusion.

I believe that Louisiana as much as any State in the Union should be out in the forefront for this particular amendment.

I would hope that overnight the Senator from Louisiana, who I know is a magnificent tactician and I have respect for his view that "if I start off with this do I not have to just start this at the base point and have to go up from there," come to the conclusion that he has a better and more persuasive argument in that conference committee with this amendment than if he starts from where he is at the moment.

The Senator from Louisiana made a point before having to do with a totally different subject, and I want to respond to it.

Mr. LONG. Let me respond to what the Senator said at this point.

Mr. President, there is not the slightest doubt in my mind that if we should conclude that the Metzenbaum amendment is what we would like to settle for, we would have a lot better chance of settling for it if we did not go to conference with it, than if we did go to conference with it, for the very simple reason that if we go to conference with the Metzenbaum amendment the administration would do just what I would do if I were they. I would say "You have this many people covered, the House

has x number in addition to that covered, and at a minimum we ought to be able to settle for half the difference in coverage."

So whatever you have in the Metzenbaum amendment they would want to at least try to settle for 50 percent of the difference between the Metzenbaum coverage and the House coverage.

Mr. METZENBAUM. I understand the Senator's point. The only thing is there is no—there would be no logic in the administration's position at that point as, frankly, I do not believe there is any logic in their position at the moment to tax industry that cannot convert and has no possible way of converting except going out and buying new equipment.

This amendment, I think, deals only with new and those that are convertible. Their proposal says, "Tax everybody right across the board." There was not any logic to that amendment when they brought it to Congress, and there is not any logic in a halfway move with respect to it.

Mr. LONG. Let me ask a further question about this matter. It is basically the same question I asked the Senator from Kentucky. Does the Senator believe that if his amendment is to be agreed to it is fair to have some kind of adjustment for those who have the benefit of an old contract at a relatively low price whose gas is to be transmitted to others, not knowing who, at a low price? Is it not fair that those people should have some kind of adjustment because of the fact they are being separated from those on whom they are dependent, and it is a windfall for someone else?

Let us take a specific case. Let us say here is an industry that can convert. The industry has a contract for 30-cent gas. Now, under the Senator's amendment I feel confident the producer is not going to be permitted to get more than 30 cents. He will still sell for 30 cents, but his gas is going to be given to someone with whom a contract has never been made.

Mr. METZENBAUM. My amendment would not affect that situation at all if he could not convert. If he cannot convert, my amendment——

Mr. LONG. I mean if he can convert. Let us say if he can convert, he is burning gas, and he can convert, and then I would assume he would be required to convert, right?

Mr. METZENBAUM. He would be required to convert or else he would have to pay the tax; that is correct.

Mr. LONG. Let us assume we have the result the Senator intends, and he converts. He is separated from his 30-cent gas. If I understand what would be done by the Senator's amendment that producer is not going to get any more than 30 cents, he is still going to be required to deliver gas at 30 cents; is that correct?

Mr. METZENBAUM. Not under my amendment. That would have no effect on what the producer gets. There is nothing in my amendment that has anything to do with the price the producer sells his gas at.

Mr. LONG. Every suggestion I have seen along this line up to now has proposed that either the Federal Power Commission should pursue policies or that the law should expressly require, in either event, that that person getting the 30 cents a thousand would still get no more than the 30 cents. He would still get the same price. Now, that gas would be delivered elsewhere.

I am not here to argue that the producer should get more. I am not saying that. All I am saying is whoever gets the gas at 30 cents is going to get a windfall.

Mr. METZENBAUM. The Senator and I may debate gas prices, as we did in the past. This amendment has no desire to move into that area at all. I would be receptive to an amendment that could be drafted by our staffs overnight which would say "but nothing provided herein shall in any way affect the price of the gas which will be released by reason of the conversion to coal," and that is covered by other legislation we have enacted or will enact before we conclude our session.

I do not want to touch that gas pricing. I have a view about gas pricing; the Senator has a view about it. I do not want to get into that particular subject. I am willing to accept such an amendment.

Mr. LONG. Senator, if you do not look at the overall problem it seems to me you are not being fair. Now, to me the logical answer would be this: You want to separate this producer from his gas. He has it under an old contract. Logically to me the answer would be to say, "Let us tax the difference between that old contract and the going market price for gas today."

Mr. METZENBAUM. I am sorry, because there is nothing in my amendment that says anything like that or implies it.

Mr. LONG. It seems to me that ought to be added to it.

Mr. METZENBAUM. I am willing to accept an exculpatory clause.

Mr. LONG. Then I think we ought to say we will provide then a tax credit to the person who is being relieved of the gas to help make up the difference for the new energy he is going to have to find.

Mr. METZENBAUM. Now you have gone to the next step, saying that the person who is buying, who is no longer now using gas, but is going to use coal, should get a tax credit.

Mr. LONG. Yes.

Mr. METZENBAUM. Well, that is the basic distinction between the approach of the Committee on Finance to this problem, which has tax credits of $26 billion to make conversions, and this provision which does not have anything like that kind of horrendous result, and would only result in $3 billion additional funds to the Treasury coming for those who could convert and were unwilling to convert, and from those who had built new facilities and were unwilling to build new facilities that could be coal burning.

Mr. LONG. If the Senator is talking about an enormous economic burden you want to impose on somebody for the good of the overall economy of this country, for the good of all consumers or for the good of all taxpayers, for the good of all Americans, no matter how you want to put it, if you are talking about imposing a very heavy burden on one American for the benefit of a great number of others, the logical answer to me is that those who are receiving the benefit of all that should be willing to carry the burden of what is imposed on the one.

Mr. METZENBAUM. But the Senator is making the argument for my amendment. My amendment does not propose to place any tremendous tax burden. My amendment only involves $3 billion. Your amendment, your proposal, that is pending here provides for $26 billion. Now, you cannot kid anybody; that $26 billion does not come from the dome, does not come from the sky. It comes from the taxpayers of America, and the point is this amendment makes it possible to do it at a very modest cost whereas the administration has a $40 billion burden, yours has a $26 billion burden, and mine just has a measly little old $3 billion.

Mr. LONG. Well, let us take the figure you give to us, and I assume that is correct. You say our tax credit would cost $26 billion. Well, that has got to mean it would cost at least $60 billion to build these new plants, right?

Mr. METZENBAUM. Very well.

Mr. LONG. If it is a 40-percent credit and costs $26 billion that would mean it is going to cost $60 billion to build the new facilities.

Mr. METZENBAUM. I do not want that to happen. I think that is wrong.

Mr. LONG. All right.

Now, somebody is going to have to pay all that. Where you want to impose that on whoever, I do not care whether you are imposing it on one person or 100,000 people, when you want to impose that on somebody——

Mr. METZENBAUM. Not $60 billion, not $40 billion; I only want to impose it on a little group that can convert and refuses to do so.

Mr. LONG. Well, let us assume that I happen to be in a business where you are going to make me change over from the way I am doing business, and it is going to cost me $100 million. If I am out the $100 million, it still costs me $100 million to take something I have got that is working perfectly well, and to trade that in on something that you want me to use in place of it.

Mr. METZENBAUM. Under my amendment no manufacturer has to spend one penny, not one penny.

Mr. LONG. Except to convert.

Mr. METZENBAUM. We only require conversion if it is coal-capable, if it is already built, so that it can use the coal. That is the only thing we are saying. And we are also saying that the new facilities should have to be coal-burning, but we do not say anybody has to build new facilities. There is not one penny that we require industry to spend under this amendment, not one cent.

Mr. LONG. All right.

Well now, I am glad to have that explanation. All right, let us take this next point. Here is a person with the same 30-cent contract we are talking about for gas. It is an old contract.

Mr. METZENBAUM. All right.

Mr. LONG. All right. Now, he is going to be separated from that 30-cent gas.

He is going to have a higher cost. What would the comparable cost be, Senator? Give me the comparable cost when he has to use coal instead of 30-cent gas, how much will that increase his costs?

Mr. METZENBAUM. How much will it increase it under my amendment?

Mr. LONG. Yes.

Mr. METZENBAUM. If you have 30-cent gas——

Mr. LONG. If I understand correctly, what the Senator is saying is, let us assume he had a facility in which he needed coal as well as gas. He had an old gas contract, but under the Senator's amendment he must now convert over to coal and use coal.

Now, let us take that particular situation. He had a contract for 30-cent gas. What would it cost him to replace that 30-cent gas with coal?

Mr. METZENBAUM. It will cost him more than 30 cents, in my opinion; but if he has a valid contract, and I were his lawyer, I would tell him to sell the contract, because he has a very valuable piece of paper and there is not anything about his contract that would require it to be used in his plant, and therefore I think he would just go out and sell it at the market value, because it is obviously worth more than 30 cents.

Let us assume he has a 20-year contract to supply so many Mcf per year of gas. I think that is a very valuable piece of paper. I appreciate what the Senator is saying, and I have enough business background to say that that makes sense. If he has that kind of contract, I think he ought to go out and sell that contract to somebody who can use the natural gas in accordance with the needs and provisions of our country.

Mr. LONG. Senator, that would be very fine if it is transferable, but suppose it is not transferable.

Mr. METZENBAUM. I would say to the Senator, without having seen it, that I would venture my legal opinion that no contract that anybody has for the purchase of natural gas in an industrial plant has a nonassignability clause in it, almost without exception. There would be no reason to put those kinds of clauses in it.

Mr. LONG. Senator, even though you are talking about a plant where you can just put the coal in it in place of gas, I am advised you would still have to get the scrubbers, and those are very expensive. Can you give me any indication as to what the cost of those would be?

Mr. METZENBAUM. I am sorry; I did not get the question.

Mr. LONG. Under your amendment, let us assume you have a plant that burns gas. The plant can also burn coal, but if you burn coal you are going to have to get a scrubber. What will the scrubber cost you?

Mr METZENBAUM. The provision in the amendment would eliminate that as a problem, because, on page 6, at the top of the page, it provides:

(A) would require substantial modifications to any boiler or nonboiler unit in order to utilize coal or other fuel in lieu of natural gas or petroleum as its primary energy source in that unit,

That is taken from the bill that passed the Senate. That is the same language that we presently have in, I think it is S. 977, if I remember correctly.

Mr. LONG. So what you are saying sounds as if your amendment would apply only to new facilities. If you are going to make that your intention, I do not see much that it would apply to. Is that just new facilities you have in mind?

Mr. METZENBAUM. No; new facilities and those facilities that are equipped to burn coal but are not doing so, and which can burn coal in conformity with the environmental requirements of the law, low sulfur coal.

Mr. LONG. How much do you think you would save, Senator, when you say that those that do not have scrubbers and can burn coal must convert? How many would that be? I am just curious to know how many existing plants or how much energy saving you are talking about, when you talk about the existing facilities that have scrubbers.

Mr. METZENBAUM. The administration indicates that that would mean 125,000 barrels of oil a day, or approximately that figure.

The Senator from Louisiana talks about those that use scrubbers. Not all will have to use scrubbers. If you have low sulfur coal, you would not have to use scrubbers. You would only have to use scrubbers in those instances where you are using high sulfur coal and have an environmental contamination problem.

Mr. LONG. Mr. President, I will study the Senator's amendment further overnight, and hopefully be better prepared to——

Mr. METZENBAUM. To join with me, I hope, in supporting it.

Mr. LONG. Well, I would say to discuss it with an expert on tomorrow.

One great problem about managing a bill is that oftentimes you have no notice when amendments are called up in the next order. One thing I have learned in trying to manage a bill with a lot of complexity to it is that the fellow offering an amendment is often an expert on his amendment. He is usually the best expert in the Senate on the amendment, and I think the Senator from Ohio is the best expert on this one.

I will attempt to better qualify myself to discuss this amendment with him.

Mr. METZENBAUM. I would like to say one thing to the Senator in closing. I appreciate his comments. He made an observation about the fact that the figures in this amendment are twice what they are in the administration bill with respect to gas units or with respect to gas and oil existing units that are coal capable.

The Senator is correct in that, but they are double the administration amount because we assumed that the COET tax was not going to pass. If the COET tax passes, I would join the Senator in reducing these figures to 50 percent of the amount, or to the same amount in the House measure and the administration measure.

I totally agree with the Senator; I have no desire to make this higher than the administration measure, but I am assuming COET is the trouble, and that is why we are using these figures.

With respect to the figures pertaining to new facilities, those are not the same as in the administration bill. Those are phased in in the administration bill. We start off in the year 1979, because it is our feeling that if you are building a new facility and you can do it in 1979, you ought to pay the full tax if you do not do it, and that is the reason for the change in the figures.

As I say, we have no desire to change the figures in the administration bill or the House bill, except with respect to new facilities, and there we think the logic is on our side.

Mr. LONG. Mr. President, we will know more about the Senator's amendment tomorrow. I hope members of the committee staff will discuss the matter with members of the Senator's staff between now and the time we renew the discussion tomorrow. But I am mystified by some of the cost calculations.

For example, the Senator would require a tax where only about 10 percent of the facilities would be old facilities; 90 percent of it apparently would be new. He comes up here with an estimated saving of 1.8 million barrels a day. But under the administration provision—or the House bill; take the House provision—they would estimate a saving of about 1.1 million barrels, or about half as much, and would apply this to all facilities, old and new.

It is difficult to see how you are going to save twice as much when you only apply your tax to new facilities, or very few other than new, when the House bill, applying it to the old and new facilities, would save so much less. It is difficult to see how the Senator arrives at that conclusion.

Mr. METZENBAUM. The figures were actually prepared, as the Senator from Louisiana knows, by the Congressional Research Service. But the figures come out the way they do, and you get the large savings under this measure as contrasted with the administration and House figures, because both of them are still in the same number of new facilities, and 81 percent of the total saving comes from the new. If we assume the same amount of new as they assume, therefore, we get the same amount.

What they assume is 9 percent conversions, and that is where we take issue with them. That is where they pick up the $40 billion, or really the $84 billion, because what they are doing is assuming that they are going to get those taxes since the people are not going to convert. There is not any rhyme or reason why we should place that burden upon the American industry.

Mr. LONG. Please pardon the Senator from Louisiana for being a doubting Thomas. As manager of the bill I am expected to be. I will be glad to analyze the Senator's figures, and ask my staff to help with this. Maybe we can agree or disagree in greater specificity when we meet tomorrow.

Mr. METZENBAUM. I thank the Senator.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 6:35 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House has passed without amendment the following bills:

S. 2149. An act to create the District Court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America;

S. 1682. An act to provide for the implementation of treaties for the transfer of offenders to or from foreign countries;

S. 1551. An act for the relief of In Hea Kim and Myung Sung Kwon;

S. 1005. An act for the relief of Young Shin Joo;

S. 1003. An act for the relief of Me Young Lee;

S. 948. An act for the relief of Chin Ah Park and Chin Suk Park;

S. 556. An act for the relief of Lee Young Soo; and

S. 455. An act for the relief of Ermelinda Rossi.

The House agrees to the amendments of the Senate to the following bills:

H.R. 2521. An act to provide for the mandatory inspection of domesticated rabbits slaughtered for human food, and for other purposes;

H.R. 2850. An act to suspend until the close of June 30, 1978, the duty on certain latex sheets;

H.R. 2982. An act to suspend until the close of June 30, 1980, the duty on synthetic tantalum/columbium concentrate;

H.R. 3093. An act to provide duty-free treatment for certain copying lathes used for making rough or finished shoe lasts and for parts of such lathes; and

H.R. 3529. An act to continue to suspend for a temporary period the import duty on certain horses.

The House disagrees to the amendment of the Senate to the bill (H.R. 5383) to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such act, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. HAWKINS, Mr. DENT, Mr. BEARD of Rhode Island, Mr. MICHAEL O. MYERS, Mr. LE FANTE, Mr. WEISS, Mr. CLAY, Mr. CORRADA, Mr. PEPPER, Mr. QUIE, Mr. SARASIN, Mr. JEFFORDS, Mr. PURSELL, and Mr. FINDLEY were appointed managers of the conference on the part of the House; and that Mrs. SPELLMAN, Mr. HEFTEL, and Mr. DERWINSKI were appointed additional managers of the conference on the part of the House for consideration of sections 4(c) and 5 of the bill.

The House disagrees to the amendments of the Senate to the bill (H.R. 422) to amend the Tariff Schedules of the United States to provide duty-free treatment of any aircraft engine used as a temporary replacement for an aircraft engine being overhauled within the United States if duty was paid on such replacement engine during a previous importation.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5101) to authorize appropriations for activities of the Environmental Protection Agency, and for other purposes.

The House disagrees to the amendment of the Senate to the bill (H.R. 7) to authorize a career education program for elementary and secondary schools, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. FORD of Michigan, Mr. ANDREWS of North Carolina, Mr. BLOUIN, Mr. SIMON, Mr. ZEFERETTI, Mr. MOTTL, Mr. MURPHY of Pennsylvania, Mr. LE FANTE, Mr. WEISS, Mr. HEFTEL, Mr. CORRADA, Mr. KILDEE, Mr. MILLER of California, Mr. QUIE, Mr. BUCHANAN, Mr. PRESSLER, Mr. GOODLING, Mrs. PETTIS, and Mr. PURSELL were appointed managers of the conference on the part of the House.

The House disagrees to the amendment of the Senate to the bill (H.R. 8422) to amend titles XVIII and XIX of the Social Security Act to provide payment for rural health clinic services, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ULLMAN, Mr. STAGGERS, Mr. ROSTENKOWSKI, Mr. ROGERS, Mr. CORMAN, Mr. PREYER, Mr. DUNCAN of Tennessee, and Mr. CARTER were appointed managers of the conference on the part of the House.

The House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 9375. An act making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes;

H.R. 7794. An act for the relief of Piphat Phuntamala;

H.R. 7653. An act for the relief of Jackson Ormiston Edwards Cuffy and Merle Cleopatra Edwards Cuffy;

H.R. 3835. An act for the relief of Pece D. Van Arsdol;

H.R. 2761. An act for the relief of Su-Hwan Choe;

H.R. 1775. An act for the relief of Karin Ehard; and

H.R. 8346. An act to amend the Urban Mass Transportation Act of 1964 to revise the program of Federal operating assistance provided under section 17 of such act.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated.

EC-2202. A letter from the Secretary of Agriculture transmitting a draft of proposed legislation to amend the Federal Crop Insurance Act as amended to authorize an additional $50 million in capital stock (with accompanying papers); to the Committee on Agriculture, Nutrition, and Forestry.

EC-2203. A letter from the Secretary of Agriculture and the Secretary of the Interior transmitting, pursuant to law, a report on fees for livestock grazing on Federal lands in the western States (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-2204. A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, the receipt of an application from the Rainbow Municipal Water District, San Diego County, California, for a loan of $10 million; to the Committee on Energy and Natural Resources.

EC-2205. A communication from the President of the United States transmitting a draft of proposed legislation to authorize a special security assistance program for the modernization of the armed forces of the Republic of Korea, and for other purposes (with accompanying papers); to the Committee on Foreign Relations.

EC-2206. A letter from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, international agreements other than treaties entered into by the United States within the past sixty days (with accompanying papers); to the Committee on Foreign Relations.

EC-2207. A secret communication from the Comptroller General of the United States transmitting, pursuant to law, a report on an ongoing Air Force program to acquire additional airbasing space in Europe (with an accompanying report) (ID-77-29, October 19, 1977); to the Committee on Governmental Affairs.

EC-2208. A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to provide for the appointment by the President of the Commissioner of Food and Drugs by and with the advice and consent of the Senate and for compensation for the Commissioner at the rate prescribed for Level IV of the Executive Schedule (with accompanying papers); to the Committee on Governmental Affairs.

EC-2209. A letter from the Assistant Secretary for Administration of the Department of Commerce transmitting, pursuant to law, notice of the Department of Commerce's

proposal to adopt a system of records, in accordance with the Privacy Act (with an accompanying report); to the Committee on Governmental Affairs.

EC-2210. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Statements that Analyze Effects of Proposed Programs on Arms Control Need Improvement" (with an accompanying report); (ID-77-41, October 20, 1977); to the Committee on Governmental Affairs.

EC-2211. A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report on changes in two systems of records, in accordance with the Privacy Act (with accompanying papers); to the Committee on Governmental Affairs.

EC-2212. A letter from the District of Columbia Auditor transmitting, pursuant to law, three reports entitled (1) Comprehensiveness of Calendar 1975 Real Estate Tax Assessment Program—September 16, 1977; (2) Limitations on Existing Employment Ceilings—September 20, 1977; and (3) Employment Practices in the Assessment Administration—October 13, 1977 (with accompanying reports); to the Committee on Governmental Affairs.

EC-2213. A letter from the Attorney General transmitting a draft of proposed legislation to encourage prompt, informal, and inexpensive resolution of civil cases by use of arbitration in United States district courts (with accompanying papers); to the Committee on the Judiciary.

EC-2214. A letter from the Executive Secretary of the Department of Health, Education, and Welfare transmitting, pursuant to law, a document concerning final regulations for noncommercial educational broadcasting facilities which has been transmitted to the Federal Register for scheduled publication (with accompanying papers); to the Committee on Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration:

Without amendment:

S. Con. Res. 53. A concurrent resolution authorizing the printing of additional copies of hearings entitled "Panama Canal Treaties" (Rept. No. 95-546).

S. Res. 276. A resolution authorizing the printing of the committee print entitled "Study on Federal Regulation, Volume IV, Delay in the Regulatory Process" as a Senate document (Rept. No. 95-547).

S. Res. 277. A resolution authorizing the printing of the committee print entitled "Study on Federal Regulation, Volume III, Public Participation in Regulatory Agency Proceedings" as a Senate document (Rept. No. 95-548).

S. Res. 278. A resolution to increase the fiscal year limitation on expenses which may be incurred by the Committee on Foreign Relations to facilitate the interchange and reception of certain foreign dignitaries (Rept. No. 95-549).

S. Res. 285. A resolution authorizing the printing of the report entitled "Progress in the Prevention and Control of Air Pollution in 1976" as a Senate document (Rept. No. 95-550).

H. Con. Res 241. A concurrent resolution providing for the printing of 100,000 additional copies of the subcommittee print of the Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs entitled "Give Yourself Credit: Guide to Consumer Credit Laws" (Rept. No. 95-551).

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration:

John J. Boyle, of Maryland, to be Public Printer.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EASTLAND, from the Committee on the Judiciary:

Gilbert S. Merritt, of Tennessee, to be U.S. circuit judge for the sixth circuit.

Pierre N. Leval, of New York, to be U.S. district judge for the southern district of New York.

HOUSE BILLS REFERRED

The following bills were each read twice by title and referred as indicated:

H.R. 9375. An act making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes; to the Committee on Appropriations.

H.R. 7794. An act for the relief of Piphat Phuntamala; to the Committee on the Judiciary.

H.R. 7653. An act for the relief of Jackson Ormiston Edwards Cuffy and Merele Cleopatra Edwards Cuffy; to the Committee on the Judiciary.

H.R. 3835. An act for the relief of Pece D. Van Arsdol; to the Committee on the Judiciary.

H.R. 2761. An act for the relief of Su-Hwan Choe; to the Committee on the Judiciary.

H.R. 1775. An act for the relief of Karin Ehard; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HATHAWAY:

S. 2238. A bill to amend the Internal Revenue Code of 1954 to simplify the tax laws relating to the basis of property passing from a decedent, and for other purposes; to the Committee on Finance.

By Mr. McCLURE:

S. 2239. A bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so; to the Committee on Human Resources.

S. 2240. A bill to provide for and encourage the production of agricultural commodities suitable for use in the manufacture of hydrocarbons which can be used to blend with gasoline or other fossil fuels; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HEINZ:

S.J. Res. 95. A joint resolution to grant posthumously full rights of citizenship to William Penn and to Hannah Callowhill Penn; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATHAWAY:

S. 2238. A bill to amend the Internal Revenue Code of 1954 to simplify the tax laws relating to the basis of property passing from a decedent, and for other purposes; to the Committee on Finance.

TECHNICAL AMENDMENTS ACT OF 1977

Mr. HATHAWAY. Mr. President, today I am introducing a bill to deal with a number of problems that have been brought to my attention concerning the provisions of the Tax Reform Act of 1976. The bill generally relates to the estate and gift tax provisions of the 1976 act. The bill contains amendments of a clarifying, correcting, or technical nature.

It is anticipated that the bill will be considered by the Subcommittee on Taxation and Debt Management of the Committee on Finance when it considers H.R. 6715, the "Technical Corrections Act of 1977." That bill would generally make technical amendments to the Tax Reform Act of 1976. My bill will offer alternative solutions to a number of problems arising from the 1976 estate and gift tax amendments which are addressed in H.R. 6715. In addition, my bill will address a number of problems arising from the 1976 act which are not covered by H.R. 6715.

My bill contains amendments relating to the carryover basis provisions, inclusion of transfers made within 3 years of death for estate tax purposes, the special estate tax valuation rules for farms and other closely held businesses, the extended payment rules for estate taxes attributable to a closely held business, and certain other provisions.

The bill contains a number of changes to simplify the operation of the carryover basis fresh-start adjustment for appreciation accruing before 1977. The fresh-start adjustment would be permitted for purposes of determining loss as well as gain. Thus, the "split-basis" for gain or loss under present law would be eliminated. In addition, a formula would be provided to determine a minimum basis for fresh-start purposes. It would apply to nonbusiness personal property and to a personal residence. It is in these cases where it is most likely that a decedent would not have kept adequate basis records before 1977. In general, the formula assumes that the post-1976 appreciation accrues at approximately 8 percent a year.

The bill would also make a number of changes relating to the minimum basis adjustment for carryover basis property. First, the minimum basis would be increased from $60,000 to approximate the exemption equivalent for the unified estate and gift tax credit. Thus, after this conforming change is fully phased in by 1981, the minimum basis adjustment would be raised to $175,000. Second, the bill would provide that the minimum basis adjustment would be made before the adjustment to basis for death taxes attributable to appreciation.

The effect of raising the level of the minimum basis adjustment and having that adjustment made first would eliminate the burden on small and moderate sized estates in having to contend with the carryover basis rules. It is in these cases where the problems of carryover basis have the greatest adverse impact because basis records may not have been

kept. Further, it is in these cases where the administrative cost of ascertaining amounts for original cost, improvements, and the adjustments are the greatest in relationship to the size of the estate.

The bill would also simplify the basis adjustment for death taxes attributable to appreciation and make it more equitable. First, the death tax adjustment would be made on the basis of the marginal estate tax rate rather than the average rate. Second, the bill would consolidate the three separate death tax adjustments provided under present law into one single adjustment. Third, the death tax adjustment would be made with respect to all appreciated carryover basis property rather than excluding marital and charitable deduction property. This will alleviate some of the problems faced by an executor in trying to decide to whom property should be distributed because it will eliminate the death tax adjustment as a factor to be considered.

The bill also amends the provision which requires the inclusion in a decedent's gross estate of all gift transfers made within 3 years of death. Thus, although these transfers have been subjected to the unified transfer system once as a lifetime transfer, these gifts must be revalued at the time of the decedent's death for inclusion in the gross estate. Since an estate tax credit is allowed for any gift taxes paid, the net effect of the inclusion rule is to tax any appreciation accruing between the time of the gift and the donor's death. This is inconsistent with a unified system and imposes an additional burden upon executors to have new appraisals made for the property. The bill would generally provide that the value used for gift tax purposes would also be used as the value for the estate tax 3-year-within-death transfer rule. This will eliminate the burden imposed on executors to have a second appraisal. However, by continuing the basic inclusion rule, gifts in anticipation of death can not be made solely to satisfy the percentage requirement for special use valuation, closely held stock redemptions, or the extended payment rules for estate tax attributable to a closely held business.

The bill changes the material participation requirements for purposes of the special estate tax valuation rules for farm or closely held business real property. Under present law, the decedent or a member of this family must have materially participated in the operation of the farm or business for 5 out of the 8 years preceding the decedent's death. In addition, there is a recapture of the estate tax savings if the qualified heir or member of his family does not materially participate in the farm or business operations. In either case, the activities of an agent are not taken into account. These qualification requirements were intended to distinguish a family owned and operated business from an ordinary investment. However, there are situations where the material participation requirements impose some hardship. For example, no farmer or businessman could retire without risking loss of eligibility for the special use valuation provision if no member of the family could step in and run the farm or business. In addition, there are situations where the qualified heir may be incapable of running the farm or business and must use the services of an agent. My bill would deal with the retirement problems by providing that eligibility for special use valuation will not be lost because of the material participation requirement if the decedent or the surviving spouse had operated the farm or business for 20 years. The bill would also provide that the activities of an agent will be treated as material participation for an heir if the heir is a minor, a student, a disabled person, or a surviving spouse who has attained age 62.

The bill also conforms the definition of a closely held business for purposes of the two special extended payment provisions for estate taxes.

The bill also provides an exception to the application of the foreign convention disallowance rule for certain incentive award payments which are includible in recipient's gross income. In this case, there is no tax avoidance and the payor should not lose the deduction.

The bill also contains a clarification of the effective date on withholding for certain persons engaged in fishing which was originally enacted in the Tax Reform Act of 1976.

I ask unanimous consent that the bill and section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE: ETC.

(a) SHORT TITLE.—This Act may be cited as the "Technical Amendments Act of 1977".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. AMENDMENTS RELATING TO CARRYOVER BASIS

(a) AMENDMENT RELATING TO FRESH START ADJUSTMENT.—

(1) FRESH START ADJUSTMENT TO BE TAKEN INTO ACCOUNT FOR GAIN AND LOSS PURPOSES.—Paragraphs (1) and (2) of section 1023(h) (relating to adjustment to basis for December 31, 1976, fair market value) are amended by striking out ", for purposes of determining gain," each place it appears.

(2) MINIMUM CARRYOVER BASIS FOR NONBUSINESS PERSONAL PROPERTY AND PERSONAL RESIDENCE.—

(A) IN GENERAL.—Subsection (h) of section 1023 (relating to adjustment to basis for December 31, 1976, fair market value) is amended by adding at the end thereof the following new paragraph:

"(3) MINIMUM BASIS FOR NONBUSINESS PERSONAL PROPERTY AND PERSONAL RESIDENCE.—

"(A) IN GENERAL.—If the holding period for any carryover basis property which is nonbusiness personal property or a personal residence includes December 31, 1976, then the adjusted basis of such property immediately before the death of the decedent shall be treated as being not less than the amount determined under subparagraph (B).

"(B) AMOUNT.—The amount determined under this subparagraph for any property is—

"(i) the value of such property (as determined with respect to the estate of the decedent without regard to section 2032), divided by

"(ii) 1.0066 to the *nth* power where *n* equals the number of full calendar months which have elapsed between December 31, 1976, and the date of the decedent's death.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'nonbusiness personal property' means any personal property which is a capital asset within the meaning of section 1221, and

"(ii) the term 'personal residence' means a residence used by the decedent as his principal residence for periods aggregating 5 years or more during the 8-year period ending on the date of the decedent's death.".

(B) CONFORMING AMENDMENT.—Paragraph (3) of section 1023(g) (relating to decedent's basis unknown) is amended by striking out "to the person acquiring such property from the decedent" and inserting in lieu thereof "and cannot be reasonably ascertained".

(3) ONLY ONE FRESH START WITH RESPECT TO CARRYOVER BASIS PROPERTY HELD ON DECEMBER 31, 1976.—Subsection (h) of section 1023 (relating to adjustment to basis for December 31, 1976, fair market value) is amended by adding at the end thereof the following new paragraph:

"(4) ONLY ONE FRESH START.—There shall be no increase in basis under this subsection by reason of the death of any decedent if the adjusted basis of the property in the hands of such decedent reflects the adjusted basis of property which was carryover basis property with respect to a prior decedent.".

(4) APPLICATION OF FRESH START RULE TO CERTAIN PREFERRED STOCK.—

(A) IN GENERAL.—Subsection (h) of section 1023 (relating to adjustment to basis for December 31, 1976, fair market value) is amended by adding at the end thereof the following new paragraph:

"(5) CERTAIN PREFERRED STOCK.—For purposes of this subsection, preferred stock which was issued and outstanding on December 31, 1976, without voting rights or conversion privileges shall be treated as a marketable security whose fair market value on December 31, 1976, is its stated redemption price on such date excluding any dividends in arrears or participation with common shares.".

(B) CONFORMING AMENDMENT.—Clause (i) of section 1023(h)(2)(E) (relating to definition of marketable bond or security) is amended by striking out "The term" and inserting in lieu thereof "Except as provided by paragraph (5), the term".

(b) INCREASE IN MINIMUM BASES OF CARRYOVER BASIS PROPERTY.—Section 1023(d) (relating to $60,000 minimum for bases of carryover basis properties) is amended to read as follows:

"(d) MINIMUM FOR BASES OF CARRYOVER BASIS PROPERTIES.—

"(1) IN GENERAL.—If $175,000 exceeds the aggregate bases (as determined after any adjustment under subsection (h)) of all carryover basis property, the basis of each appreciated carryover basis property (or, under regulations prescribed by the Secretary, each class of appreciated carryover basis property) shall be increased by an amount which bears the same ratio to the amount of such excess as—

"(A) the net appreciation in value of such property (or class), bears to

"(B) the net appreciation in value of all such property.

"(2) PHASE-IN OF MINIMUM BASIS AMOUNT.—In the case of a decedent dying before 1981, paragraph (1) shall be applied—

"(A) in the case of a decedent dying during 1977, by substituting '$120,000' for '$175,000',

"(B) in the case of a decedent dying during 1978, by substituting '$134,000' for '$175,000',

"(C) in the case of a decedent dying during 1979, by substituting '$147,000' for '$175,000', and

"(D) in the case of a decedent dying during 1980, by substituting '$161,000' for '$175,000'."

(c) ADJUSTMENT TO BASIS FOR DEATH TAXES ATTRIBUTABLE TO APPRECIATION.—

(1) SINGLE DEATH TAX ADJUSTMENT.—

(A) Section 1023(c) (relating to increase in basis for Federal and State estate taxes attributable to appreciation) is amended to read as follows:

"(c) INCREASE IN BASIS FOR DEATH TAXES.—The basis of each appreciated carryover basis property or, under regulations prescribed by the Secretary, each class of appreciated carryover basis property (determined after any adjustment under subsection (d)) which is included in the gross estate for purposes of chapter 11, in the hands of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the Federal and State estate taxes attributable to appreciation as—

"(1) the net appreciation in value of such property or class of property, bears to

"(2) the net appreciation in value of all such property.".

(B) Section 1023 (relating to carryover basis for certain property acquired from a decedent dying after December 31, 1976) is amended by striking out subsection (e) and redesignating subsections (f), (g), (h), and (i) as subsection (e), (f), (g), and (h) respectively.

(2) BASIS ADJUSTMENT AND DEDUCTION FROM INCOME IN RESPECT OF A DECEDENT TO BE DETERMINED AT MARGINAL RATES.—

(A) Paragraph (3) of section 1023(e) (as redesignated by section 2(c)(1)(B)) is amended to read as follows:

"(3) FEDERAL AND STATE ESTATE TAXES ATTRIBUTABLE TO APPRECIATION.—For purposes of subsection (c), the term 'Federal and State estate taxes attributable to appreciation' means—

"(A) the excess of the tax imposed by section 2001 or 2101, reduced by the credits against such tax except the credit allowable under section 2011, over such tax reduced by such credits determined without including the net appreciation with respect to appreciated carryover basis property, and

"(B) If the amount of estate, inheritance, legacy, or succession taxes actually paid to any State or the District of Columbia exceeds the credit allowable under section 2011, an amount which bears the same ratio to such excess as—

"(i) the amount determined under subparagraph (A), bears to

"(ii) the tax imposed by section 2001 or 2101, reduced by the credits against such tax except the credit allowable under section 2011.".

(B) Amendments relating to section 691.—

(i) Section 691(c)(2)(A) (relating to deduction for estate tax in case of income in respect of decedent) is amended to read as follows:

"(A) The term 'estate tax' means—

"(i) the tax imposed by section 2001 or 2101, reduced by the credits against such tax, and

"(ii) any estate, inheritance, legacy or succession taxes, for which the estate is liable, actually paid by the estate to any State or the District of Columbia.".

(ii) Section 691(c)(2)(C) is amended to read as follows:

"(C) The estate tax attributable to such net value shall be an amount equal to the excess of

"(i) the estate tax computed without including the net appreciation with respect to appreciated carryover basis property, over

"(ii) the estate tax computed without including in the gross estate the sum of such net value and the net appreciation with respect to appreciated carryover basis property.".

(C) Amendment relating to section 1015—

(i) Section 1015(d)(6)(A) (relating to basis increase for gift tax paid) is amended to read as follows:

"(A) IN GENERAL.—In the case of any gift made after December 31, 1976, the increase in the basis provided by this subsection with respect to any gift tax paid under chapter 12 shall be an amount equal to the excess of the gift tax for the calendar quarter over such gift tax computed without regard to the net appreciation in value of the gift.".

(ii) Section 1015(d)(6) is amended by adding the following at the end thereof:

"(C) STATE GIFT TAX.—Under regulations prescribed by the Secretary, an adjustment to basis for any gift tax paid to a State or the District of Columbia shall be made in accordance with the principles of this paragraph.".

(3) BASIS ADJUSTMENT AT MARGINAL RATE TO BE MADE FOR ALL APPRECIATED PROPERTY.—Subsection (e) of section 1023 (as redesignated by section 2(c)(1)(B)) is amended by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

(d) MINIMUM BASIS ADJUSTMENT TO BE MADE BEFORE DEATH TAX ADJUSTMENT.—Paragraph (2) of section 1023(e) (as redesignated by section 2(c)(1)(B)) is amended to read as follows:

"(2) NET APPRECIATION.—For purposes of this section, the net appreciation in value of any property is the amount by which the fair market value of such exceeds the adjusted basis of such property immediately before the death of the decedent (as determined after any adjustment under subsection (h)). For purposes of subsection (c), such adjusted basis shall be increased by the amount of any adjustment under subsection (d).".

(e) CONFORMING AMENDMENTS.—

(1) The heading of subsection (e) of section 1023 (as redesignated by section 2(c)(1)(B)) is amended by striking out "(d), and (e)" and inserting in lieu thereof "and (d)".

(2) Paragraph (1) of section 1023(e) (as redesignated by section 2(c)(1)(B)) is amended by striking out ", (d), and (e)" and inserting in lieu thereof "and (d)".

(3) Paragraph (4) of section 1023(f) (as redesignated by section 2(c)(1)(B)) is amended by striking out ", (d), and (e)" and inserting in lieu thereof "and (d)".

(f) OTHER AMENDMENTS RELATING TO CARRYOVER BASIS.—

(1) INFORMATION REPORTING.—Section 6039 (relating to information regarding carryover basis property) is amended by adding at the end thereof the following:

"(c) EXCEPTION.—

"(1) This section shall not apply where the gross estate at the death of the decedent is less than $175,000.

"(2) In the case of a decedent dying before 1981, paragraph (1) shall be applied—

"(A) in the case of a decedent dying during 1977, by substituting '$120,000' for '$175,000',

"(B) in the case of a decedent dying during 1978, by substituting '$134,000' for '$175,000',

"(C) in the case of a decedent dying during 1979, by substituting '$147,000' for '$175,000', and

"(D) in the case of a decedent dying during 1980, by substituting '$161,000' for '$175,000'."

(2) AUTOMATIC LONG-TERM STATUS FOR GAIN AND LOSSES ON CARRYOVER BASIS PROPERTY.—Subparagraph (A) of section 1223(1) (relating to holding period) is amended by inserting "or 1023" after "section 1014".

(3) TECHNICAL AMENDMENT WITH RESPECT TO CERTAIN TERM INTERESTS.—Paragraph (1) of section 1001(e) (relating to certain term interest) is amended by striking out "section 1014 or 1015" and inserting in lieu thereof "section 1014, 1015, or 1023".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply in respect of decedents dying after December 31, 1976.

SEC. 3. ESTATE TAX TREATMENT OF TRANSFERS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) IN GENERAL.—Section 2035 (relating to adjustments for gifts made within 3 years of decedent's death) is amended by adding the following new subsection at the end thereof:

"(d) Valuation of Gifts.—For purposes of subsection (a), the value of property included in the gross estate solely by reason of subsection (a) shall be the value of such property at the time of its transfer. The preceding sentence shall not apply to a transfer of an interest in property which is included in the value of the gross estate under section 2036, 2037, 2038, 2041, or 2042 or would have been included under any of such sections if such interest had been retained by the decedent.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to estates of decedents dying after December 31, 1976.

SEC. 4. CHANGES IN MATERIAL PARTICIPATION REQUIREMENT FOR SPECIAL USE VALUATION OF CERTAIN FARM AND OTHER REAL PROPERTY.

(a) MATERIAL PARTICIPATION QUALIFICATION REQUIREMENT.—Section 2032(b)(1) (relating to qualified real property) is amended by adding at the end thereof the following sentence:

"For purposes of this paragraph, the material participation requirement of subparagraph (C)(ii) shall be deemed to be met if there was material participation by the decedent or his spouse in the operation of the farm or other business for any 20 years prior to the death of the decedent.".

(b) MATERIAL PARTICIPATION FOR RECAPTURE PURPOSES.—Section 2032(c)(7) (relating to cessation of qualified use) is amended by adding after subparagraph (b) thereof the following new subparagraph:

"(C) For purposes of subparagraph (B)(ii) the activities of an agent or fiduciary will be deemed to be material participation by a qualified heir with respect to a year if the activities are performed for a qualified heir who is—

"(i) a person who has not attained age 21,

"(ii) a student (as defined in section 151(e)(4)),

"(iii) a person who is under a physical or mental disability that prevents him from materially participating in the operation of the farm or other business, or

"(iv) a spouse of the decedent who has attained age 62.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to estates of decedents dying after December 31, 1976.

SEC. 5. EXTENDED PAYMENT OF ESTATE TAXES ATTRIBUTABLE TO CLOSELY HELD BUSINESS

(a) AMENDMENT RELATING TO SECTION 6166A.—Section 6166A(c) (relating to extension of time for payment of estate tax) is amended to read as follows:

"(c) CLOSELY HELD BUSINESS.—For purposes of this section, the term 'interest in a closely held business' has the meaning set forth in paragraph (1) of section 6166(b).".

(b) The amendment made by this section shall apply with respect to estate of decedents dying after December 31, 1976.

SEC. 6. AMENDMENT RELATING TO FOREIGN CONVENTIONS.

(a) FOREIGN CONVENTIONS.—

(1) DEDUCTIONS NOT DISALLOWED TO EMPLOYER WHERE EMPLOYEE INCLUDES AMOUNTS IN GROSS INCOME.—Subparagraph (D) of section 274(h)(6) (relating to application of subsection to employer as well as to traveler) is amended by adding at the end thereof the following new sentence: "This subsection shall not deny a deduction to any person other than the individual attending the foreign convention with respect to any amount includible in the gross income of such individual if such person treats such amount as so includible for purposes of part III of subchapter A of chapter 61 (relating to information returns).".

(2) TECHNICAL AMENDMENT.—The first sentence of section 274(h)(3) is amended by striking out "more than one-half" and inserting in lieu thereof "at least one-half".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to conventions beginning after December 31, 1976.

SEC. 7. WITHHOLDING OF FEDERAL TAXES ON CERTAIN INDIVIDUALS ENGAGED IN FISHING.

Paragraph (4) of section 1207(f) of the Tax Reform Act of 1976 (relating to effective dates for withholding tax treatment of certain individuals engaged in fishing) is amended by striking out "1971" each place it appears and inserting in lieu thereof "1953".

SECTION-BY-SECTION ANALYSIS

Section 1 provides that the Act may be cited as the "Technical Amendments Act of 1977".

Section 2 contains amendments relating to carryover basis.

Section 2(a)(1) provides that the "fresh start" adjustment for appreciation accruing before 1977 is to be made for purposes of determining gain or loss from the sale or exchange of carryover basis property. This will eliminate the requirement under present law that a basis be determined for gain purposes and that a separate basis must be determined for loss purposes.

Section 2(a)(2) provides a formula to determine a minimum basis for fresh start purposes. This will alleviate problems an executor may have in ascertaining the decedent's basis in property acquired before 1977. Under the formula, it would only be necessary to establish that the decedent had owned the property on December 31, 1976. The minimum basis for fresh start purposes could then be determined by reference to a table providing a factor discounting the estate tax value back to December 31, 1976. The formula would assume that post-1976 appreciation accrues at approximately 8 percent a year. Property eligible for this rule would be nonbusiness personal property (including intangible property such as nonmarketable stock in a closely held business) and a personal residence. (H.R. 6715 contains a similar rule which is limited to tangible personal property.)

Section 2(a)(3) provides that the fresh start adjustment is to be made only once with respect to any property.

Section 2(a)(4) provides that certain preferred stock is to be treated as a marketable security for purposes of the fresh start adjustment. For eligible stock, the market value on December 31, 1976, would be the stated redemption price for the stock without regard to dividends in arrears or participation with common shares with respect to paid-in capital or accumulated earnings. This rule would apply only to preferred stock issued and outstanding on December 31, 1976, without voting rights or conversion privileges.

Section 2(b) increases the $60,000 minimum basis rule to conform to the exemption equivalent of the unified estate and gift tax credit. The minimum basis would be $120,000 for 1977, $134,000 for 1978, $147,000 for 1979, $161,000 for 1980, and $175,000 for 1981 and succeeding years.

Section 2(c)(1) provides for a single basis adjustment for death taxes attributable to appreciation of carryover basis property included in the gross estate for Federal estate tax purposes. This would combine into a single death tax adjustment to basis the three adjustments for Federal estate taxes, State death taxes paid by the estate, and State death taxes paid by the beneficiary.

Section 2(c)(2) provides for making the basis adjustment for death taxes attributable to appreciation at the marginal estate tax rate. Similar changes are made for death taxes attributable to income in respect of a decedent and for gift taxes attributable to the appreciation of gift property.

Section 2(c)(3) provides that the basis adjustment for death taxes attributable to appreciation is to be allocated to all appreciated carryover basis property (including property passing to a surviving spouse or a charity).

Section 2(d) provides that the minimum basis adjustment is to be made before the adjustment for death taxes attributable to appreciation.

Section 2(e) makes conforming amendments.

Section 2(f)(1) provides that the executor is not required to file a carryover basis information return, or to furnish a statement to the beneficiaries receiving the property, if the decedent's gross estate is less than the exemption equivalent for the unified estate and gift tax credit. (The exception would apply if the decedent's gross estate were less than $120,000 in the case of a decedent dying in 1977. This amount is phased in to $175,000 for 1981 and succeeding years.)

Section 2(f)(2) provides that a capital asset which is carryover basis property is deemed to be held by the estate or heir for the period necessary for long-term status.

Section 2(f)(3) makes a technical amendment to apply the general rule applicable to sales or exchanges of term interests to carryover basis property.

Section 2(g) provides that the amendments made by this section apply with respect to decedent's dying after December 31, 1976.

Section 3 provides that the value of property included in the gross estate as a transfer within three years of death is generally its value at the time of transfer. This rule would not apply to transfers of life insurance or other transfers where the decedent had retained "strings" over the property. For most transfers, the need for separate estate tax valuations would be eliminated. However, the transfer would be included in the gross estate at its gift tax value for purposes of determining the marital deduction or qualification for special use valuation, capital gains treatment for redemptions of closely held stock to pay death taxes and the extended payment provisions for estate tax attributable to a closely held business.

Section 4 provides that eligibility for estate tax special valuation for farm and closely held business real property is not to be lost because of the material participation requirements if the decedent or the surviving spouse had materially participated in the operations of the farm or business for 20 years. Recapture of the estate tax savings would not result from the operation by an agent if the qualified heir is a minor, a student, a handicapped person, or a surviving spouse who had attained age 62.

Section 5 provides that the definition of a closely held business is to be the same for purposes of sections 6166 and 6166A (relating to extensions of time for payment of estate tax attributable to a closely held business).

Section 6 provides an exception to the application of the foreign convention disallowance rule for incentive award payments which are includible in the payee's gross income.

Section 7 provides for the clarification of an effective date provision concerning withholding in the Tax Reform Act of 1976.

By Mr. McCLURE:

S. 2239. A bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so; to the Committee on Human Resources.

Mr. McCLURE. Mr. President, today I am introducing legislation which seeks to relieve the longstanding conflict between the right of labor to organize on the one hand and religious freedom on the other. Throughout the country, many people who are members of certain religious groups have personal religious convictions which would prevent them from joining labor unions, or to varying degrees, from participating in or financing union activities. These convictions are deeply held by this group of people, based on principles set forth in the Bible according to their interpretation; yet our labor law as it now stands effectively forces a number of them to violate their consciences by giving support to activities or policies incompatible with the teachings of their churches.

The law recognizes the existence of this conflict, but does not go far enough in attempting to solve it. At the present time, title 29, section 169 of the United States Code provides that an employee of a health care institution who is a member of a bona fide religion which has historically held conscientious objections to joining or financially supporting labor organizations shall not be required to do so as a condition of employment as long as he pays an amount equal to full union dues to an acceptable charity. The measure I offer today would extend that protection to all such employees by merely striking the language, "of a health care institution" from the statute. Thus the exemption in current law would be extended to all workers with conscientious objections to joining or supporting labor unions, not just those who happen to be employed by health care institutions.

There is no logical reason this provision should be applicable to workers in health care institutions only. It is only right workers in all fields should have the option to refrain from union activities when to do otherwise would compel them to violate their religious conscience. The right of free choice in this regard is a subject which has concerned me for some time. During consideration in 1969 and 1970 of what was to become the Postal Reorganization Act, I served as a member of the House Post Office and Civil Service Committee which was largely responsible for the content of that legislation. At that time I authored and fought long and hard to have included in the bill a conscience provision to insure that Postal Service employees who did not wish to participate in forming, joining, or assisting labor organiza-

tions should be protected in the exercise of their right to refrain from such activity. This language was accepted and eventually enacted into law. If the principle is valid, and it is valid, for postal employees and for workers in health care institutions it should be equally applicable to all workers in this unique class. My measure would accomplish this by extending coverage of this important safeguard.

The bill is substantially identical to one introduced in the House of Representatives by Congressmen ERLENBORN and THOMPSON, which was recently reported out of the House Education and Labor Committee on which these gentlemen serve. Not only does it have wide bipartisan support in the House, but labor agrees to the idea as well since the change it makes comports with what has in fact been accepted with many labor organizations for some time.

Mr. President, it goes without saying that the principle of religious freedom is at the very heart of our system of government and way of life. It was in fact largely responsible for the creation of our Nation in the first place. It seems clear to me the change I propose is long overdue in that it goes far in assuring an important group of our people that their right to practice their religion shall not be impeded. I urge my colleagues to consider it favorably.

By Mr. McCLURE:

S. 2240. A bill to provide for and encourage the production of agricultural commodities suitable for use in the manufacture of hydrocarbons which can be used to blend with gasoline or other fossil fuels; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. McCLURE. Mr. President, I am today introducing the Agricultural Commodities Utilization Act, important legislation designed to encourage the production of agricultural commodities suitable for use in the manufacture of industrial hydrocarbons to be blended with gasoline or other fossil fuels.

As many of my colleagues are well aware, the technology involved with the production of hydrocarbons—more commonly referred to as ethyl and methyl alcohol—for use as a motor fuel blend has been with us since the late 1930's. Although alcohol was produced and blended with gasoline in great quantities during World War II, the economics of the situation did not lend itself to serious consideration of an alcohol-gasoline, "gasohol," motor fuel for everyday consumption.

However, those days of cheap foreign and domestic petroleum products are a thing of the past. We must now do everything in our power to both conserve our energy resources and find reasonable, effective energy alternatives whenever and wherever posssible. Alcohol produced from agricultural commodities is just such an alternative.

Mr. President, while we all acknowledge the importance of conserving and finding new energy sources, there is another consideration involved with the production of alcohol from agricultural commodities which I feel is of equal, if not greater, importance. Stated simply, every gallon of alcohol produced means roughly 2½ bushels of grain—or other commodity equivalent—that American farmers can market. In years such as this when the national average price of wheat is slightly over $2 per bushel, when the national average cost of producing the wheat is $3 or more, and when our national surplus of wheat stocks amounts to well over 1 billion bushels, any market farmers can find is nothing less than a Godsend.

Mr. President, the legislation I offer today is one of the very important steps that must be taken if the United States is to fulfill these two important goals of assisting farmers and finding energy alternatives.

First, my bill provides that farmers participating in any USDA set-aside or land diversion program would be able to plant and harvest crops on his set-aside or diverted acreage, provided such crops are dedicated to the production of alcohol for use as a motor or industrial fuel. This provision, of course, thwarts the farmer's nemesis of forced land idling while providing an additional monetary incentive for farmers to continue to produce.

Second, because acreage set-asides and land diversion programs do not occur every year, we would be foolish to expect that individuals would invest in an alcohol manufacturing facility if supplies of agricultural commodities could not be constantly assured. Therefore, this legislation provides an additional monetary incentive to farmers in non-set-aside or diversion years when they dedicate established acreages to the production of industrial hydrocarbons.

Mr. President, a comprehensive "gasohol" program is still in its infancy stage in the United States. The Food and Agriculture Act of 1977 provided the first step by authorizing loans for the construction of four alcohol manufacturing plants, as well as for college and university gasohol research grants during the next 5 fiscal years. It is clearly the responsibility of this Congress to insure that the now-popular gasohol concept be reviewed and nurtured properly for the benefit of all of us in the coming years. It is, also, clearly our responsibility to get moving now. I am confident that my colleagues will find this legislation an important and necessary link in their "gasohol plans," and hope that they will join me in sponsoring this legislation today.

Mr. President, I ask unanimous consent that the text of the Agricultural Commodities Utilization Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Commodities Utilization Act".

SEC. 2. Notwithstanding any other provision of law, the Secretary of Agriculture is authorized and directed to permit, under such regulations as he may prescribe, any person participating in any year in any program administered by the Department of Agriculture under which there is an acreage set-aside or land diversion program in effect for such year to plant and harvest on the set-aside or land diversion acreage of such person's farm any agricultural commodity which is to be used or sold by such person for the purpose of being converted into industrial hydrocarbons and blended with gasoline or other fossil fuels for use as motor or industrial fuel.

SEC. 3. (a) In order to insure that a constant supply of agricultural commodities used in the manufacture of hydrocarbons suitable for blending with gasoline or other fossil fuels for use as motor or industrial fuel is available in years in which no acreage set-aside or land diversion program administered by the Department of Agriculture is in effect for such commodities, the Secretary of Agriculture shall formulate and carry out in such years a production set-aside program under which producers of such commodities will be paid an incentive payment, in such amount as the Secretary determines necessary, to set aside a portion of their production of such commodities for use only in the manufacture of hydrocarbons for the purpose described in subsection (a).

(b) Whenever a production incentive program is established under subsection (a) of this section in any year for any agricultural commodity, no producer shall be permitted to participate in such program unless such producer agrees to produce, for use or sale for the purpose described in section 2, a quantity of the commodity equal to not less than 15 percent of the farm acreage allotment or farm base acreage for such commodity.

(c) The amount of the incentive payment provided for in subsection (a) of this section shall be an amount determined by the Secretary of Agriculture to be necessary to obtain sufficient participation in the program to insure an adequate supply of the agricultural commodities needed for use in the manufacture of hydrocarbons for the purpose described in section 2.

(d) The Secretary of Agriculture is authorized to issue such rules and regulations as he deems necessary to carry out the provisions of this section.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. HEINZ:

S.J. Res. 95. A joint resolution to grant posthumously full rights of citizenship to William Penn and to Hannah Callowhill Penn; to the Committee on the Judiciary.

Mr. HEINZ. Mr. President, today I have the great pleasure of introducing a joint resolution to grant posthumously full rights of citizenship to William Penn and his wife, Hannah Callowhill Penn. William Penn, who lived from 1644 to 1718, was not only the founder of the Colony of Pennsylvania, he was a man who, in his own lifetime, exemplified the ideas on which our Nation was founded.

Born to wealth and a family favored by British nobility, William Penn forsook his heritage to preach and live the ideals in which he so strongly believed. As a young man, he joined the Society of Friends in England and became an outspoken advocate of the rights of all people to worship and live according to their own convictions, and of the nonviolent philosophy of the Quaker community. His uncompromising dissent in these matters led him to British prisons and the Tower of London on more than one occasion. In addition, he suffered

estrangement from his family which disapproved of his independent ways. Through his preaching and writing, William Penn became a leader and well read philosopher among religious and political nonconformists in England during the late 17th and early 18th centuries.

The territory, which later became Pennsylvania, was granted to William Penn by King Charles in 1681. Penn was determined to establish a colony based on the ideals he so valued. He rejected one-man rule, and instead established an elected representative government for the colony. Every taxpayer was entitled to the right to vote. Pennsylvania became a haven for people of all religions, where each could freely practice his or her own beliefs. In addition, William Penn was ahead of his time in being one of the first people to propose a union of all English colonies in North America.

Hannah Callowhill Penn shared her husband's beliefs and strength of conviction. During the period from 1712 to 1718, when William Penn was disabled due to a stroke and was unable to continue the affairs of the colony, Hannah Penn proved herself to be an able administrator of the colonies and perpetuator of the principles on which Pennsylvania was built.

Because these two British subjects believed so strongly and spent their lives implementing many of the same values which were later incorporated in our Declaration of Independence and Constitution, I join with more than 750 Pennsylvanians who have petitioned my office in support of granting posthumously citizenship to William and Hannah Penn.

Mr. President, I request unanimous consent that the text of this resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 95

Whereas William Penn, as a British citizen, founded the Commonwealth of Pennsylvania in order to carry out his experiment based upon a representative government, public education without regard to sex or ability to pay, and respect for the civil liberties of all persons; and

Whereas William Penn, as a far-sighted reformer, established a judicial system including open courts in which the accused's peers served on the jury, limitations on the imposition of capital punishment, and the substitution of work houses as prisons instead of dungeons; and

Whereas William Penn, like our Founding Fathers, respected the rights of conscience and of freedom of religion which are expressed in the first amendment of our Constitution; and

Whereas William Penn worked toward the establishment of a Parliament of Nations, not unlike the United Nations Organization, to avoid the use of war as a means of settling international disputes; and

Whereas Hannah Callowhill Penn, wife of William Penn, for six years effectively administered the Province of Pennsylvania and like her husband devoted her life to the pursuit of peace and justice: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, the President is hereby authorized and directed to declare by proclamation that William Penn, founder of the Commonwealth of Pennsylvania, and his wife, Hannah Callowhill Penn, are honorary citizens of the United States of America.

ADDITIONAL COSPONSORS

S. 247

At the request of Mr. STEVENS (for Mr. GOLDWATER), the Senator from South Carolina (Mr. THURMOND), the Senator from New York (Mr. MOYNIHAN), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 247, a bill to provide recognition to the Women's Air Forces Service Pilots for their service to their country during World War II.

S. 434

At the request of Mr. INOUYE, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of S. 434, to amend title 38 of the United States Code in order to entitle veterans with service-connected disabilities rated as total to domestic and overseas travel on military aircraft on a space-available basis.

S. 532

At the request of Mr. INOUYE, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 532, to amend title XVIII and title XIX of the Social Security Act.

S. 991

At the request of Mr. RIBICOFF, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of S. 991, a bill to establish a separate, Cabinet-level Department of Education in the Federal Government, and for other purposes.

S. 1556—WITHDRAWAL

At his own request, the Senator from New Hampshire (Mr. MCINTYRE) was withdrawn as a cosponsor of S. 1556, to authorize a program of assistance to States for the establishment and maintenance of veterans' cemeteries.

S. 1873

At the request of Mr. ANDERSON, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 1873, a bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses, and for other purposes.

S. 2142

At the request of Mr. PACKWOOD, the Senator from Washington (Mr. JACKSON) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 2142, the Tuition Tax Credit Act of 1977.

S. 2219

At the request of Mr. HATHAWAY, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 2219, a bill to monitor the allocation of insulation.

SENATE CONCURRENT RESOLUTION 44

At the request of Mr. JACKSON, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of Senate Concurrent Resolution 44, authorizing the acceptance of donations for markers honoring Gen. Thaddeus Kosciuszko.

SENATE RESOLUTION 306—SUBMISSION OF A RESOLUTION AMENDING RULE XVI OF THE STANDING RULES OF THE SENATE

(Referred to the Committee on Rules and Administration.)

Mr. HATHAWAY submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 306

Resolved, That rule XVI of the Standing Rules of the Senate is amended—

(1) by striking out "if such restriction is to take effect or cease to be effective upon the happening of a contingency" in paragraphs 2 and 4; and

(2) by adding at the end thereof the following new paragraph:

"9. It shall not be in order—

"(a) to have the third reading of any appropriation bill if such bill then contains any restriction or limitation on the expenditure of the funds appropriated not authorized by law, or

"(b) to consider a report of a committee of conference on an appropriation bill if such bill, as recommended in such report, contains any restriction or limitation on the expenditure of the funds appropriated not authorized by law.".

Mr. HATHAWAY. Mr. President, I am submitting today a resolution to amend rule XVI of the Standing Rules of the Senate to improve and rationalize the Senate's rules with respect to consideration of appropriations measures and reports connected with such measures.

This resolution would amend rule XVI on permissible amendments to appropriations bills in a number of ways.

Rule XVI as it presently exists bars any amendments to appropriations bills which "propose general legislation." The rule also—

Bars any restriction on the expenditure of funds appropriated which proposes a limitation not authorized by law *if such restriction is to take effect or cease to be effective upon the happening of a contingency* . . . (emphasis added).

The resolution I am introducing would strike the words "if such restriction is to take effect or cease to be effective upon the happening of a contingency." In this way the rule as amended would stipulate that no amendments may be included in appropriations bills, as reported, or by way of floor amendment, which contain any limitation or restriction on the expenditure of such funds, unless such limitation or restriction is already specifically authorized by existing law.

The resolution would also amend rule XVI to make it not in order to have third reading on any such Senate bill containing such language, and similarly not in order to consider any conference report containing such language.

The present rule XVI language was intended by its drafters to confine the consideration of appropriations bills, in committee, on the Senate floor, and in conference, to issues connected with the proper level of funds for already authorized programs, and to preclude any restructuring or alteration of the conditions under which the programs themselves operate.

But unfortunately, due to precedents established in connection with this rule,

it is becoming increasingly popular to offer so-called riders which can and do totally contradict existing authorizing legislation, and at the same time subvert the committee structure of the Senate.

These riders, which meet the test of rule XVI by being phrased as limitations not dependent on a contingency, are in many instances tantamount to general legislation in their effect and scope. Phrased as prohibitions on the utilization of funds except in certain narrow circumstances, these riders are every bit as effective, and many times more effective, than positive authorizing legislation which allows funds to be used only in certain conditions or circumstances.

For example, if the general legislative language contained in authorizing legislation states that a particular activity is permitted, or is to be left to the discretion of the head of the department involved, or is to be determined by individual States in administering the program, such a structure ought not to be tampered with or overthrown by various riders each time an appropriation connected with the program comes up for consideration.

Our rules ought not to allow this to occur for a number of reasons.

First, because the appropriation measure cannot be amended to encompass general legislative language, conflicts and contradictions cannot be worked out and are inevitable. The proponent of a limitation rider has the luxury of indirectly accomplishing his policy goals without at the same time undertaking the duty of making the total statutory scheme consistent with these goals.

Second, appropriations measures are almost omnibus measures encompassing a great variety of programs and policies, typically more than one department, and dozens, and perhaps hundreds of underlying statutes involved. Further, they are generally on a very tight time frame in terms of when they must be enacted and effective. Thus it is unfair and irresponsible on the part of proponents of riders to tie their policy goals to these measures when time is so short, and so many other policies and programs are inevitably affected.

Third, such a procedure is contrary to the Senate committee system, and contrary to the manner in which all other legislation is considered. Without having submitted to the hearing process, or to the consideration of the appropriate authorizing committee, and often without adequate opportunity to exchange in full and free debate on extremely complex issues, riders are offered and voted upon.

It makes much more sense to confine the appropriations process to that which it was originally intended to accomplish—namely, allocating available revenues to outlays for specific, already authorized Federal programs. Through this process specific amounts of funds can be determined, up to authorized ceilings, or alternatively, no funds whatsoever may be spent on a specific program.

But the appropriations process should not be allowed to be an occasion for adding conditions, exceptions, restrictions, or provisos. This is properly the function of general legislation, and ought to be undertaken solely in that context.

AMENDMENTS SUBMITTED FOR PRINTING

ENERGY TAX BILL—H.R. 5263

AMENDMENTS NOS. 1507 THROUGH 1511

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted five amendments intended to be proposed by him to the bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts.

AMENDMENT NO. 1512

(Ordered to be printed and to lie on the table.)

Mr. HATHAWAY. Mr. President, I am submitting an amendment to modify the tax credit for insulation.

The demand for insulation materials far exceeds the available supplies—or the supplies which can be provided by the manufacturers. It makes absolutely no sense to further encourage demand through a series of residential and business tax credits.

Accordingly, the amendment I am introducing would delete the tax credit for business insulation and phase-in the credit for retrofitting personal residences over a 3-year period.

My amendment would retain the tax credit for retrofitting primary residences through 1985. However, the credit would begin in 1977 for homes built before 1939. Homes built between 1940 and 1959 would be eligible beginning in 1978; homes built between 1960 and April 20, 1977, would first be eligible for the credit in 1979.

The Council on Wage and Price Stability expressed its concern about the demand for insulation and available supply on June 14, 1977. The Council said that they "fear(s) that the passage of legislation granting tax credits to encourage home insulation would place added pressure on an already tight supply of fiberglass insulation manufacturing for the next 18 months unless the program is phased in gradually."

The Board of Directors of the National Association of Homebuilders passed the following resolution on October 3, 1977:

NAHB RESOLUTION

(Special Committee on Energy)

CHANGE OF POLICY ON INSULATION TAX CREDIT

Whereas, home builders and insulation subcontractors are experiencing serious shortages in securing an adequate supply of insulation material for new residential construction, and

Whereas, individual homeowners are voluntarily retrofitting their existing residential structures in unprecedented numbers, and

Whereas, the production capability of insulation manufacturers is presently inadequate to meet the market needs of home builders for new residential structures and also meet the requirements of the retrofit market, and

Whereas, additional production facilities will not come on line for at least 18 months, and

Whereas, the severe shortage of home insulation materials for new construction and retrofit is causing a delay in completion of many thousands of new dwellings and jeopardizing the start of many others,

Now, therefore, be it resolved, That the National Association of Home Builders urge the Congress to provide for a phase-in period for the tax credit for installing insulation, consistent with the availability of new production facilities and supply of insulation material anticipated within the next 24 months, instead of the provision now being considered by the Congress which would provide for an immediate tax credit for installing insulation in structures substantially completed as of April 20, 1977.

Mr. President, the national housing figures show a fairly consistent pattern in these time periods:

Pre-1940, 27,457.866 units; 1940–59, 23,285,143 units; 1960–March 1970, 16,-956.075 units.

Clearly, more units have been built since March 1970 which will raise the last total to a compatible number of units.

Mr. President, this is a rational approach to any tax credit for insulation and I urge its adoption.

AMENDMENT NO. 1513

(Ordered to be printed and to lie on the table.)

Mr. HATHAWAY. Mr. President, I submit an amendment which mandates that the Secretary of Energy monitor the quantity and allocation of insulation supplies. This amendment incorporates the substance of my bill, S. 2219 which was introduced on October 19. As we all know, home insulation demand has far outstripped existing supplies and future production. I am sure that we have all received letters from our constituents about shortages of insulation.

An editorial from the Bangor Daily News of October 12, 1977, states:

Just as President Carter's energy program was falling apart in Congress, and the shameful filibuster was taking place in the U.S. Senate, Democratic Majority Leader Robert Byrd of West Virginia threw up his hands and asked whether anyone had any suggestions.

Maine has one, Senator Byrd.

Use your influence and leadership position to help retail outlets in Maine obtain some fiberglass insulation.

If attention at the national level is not forthcoming, and our political-economic system can't resolve such a seemingly simple supply-production problem, how in the world will this country ever truly address the larger energy predicament headon?

Studies by the Department of Commerce have indicated that inadequate supplies and localized tight markets can be expected until at least 1980.

The Federal Trade Commission has written the following in response to my inquiry on supply availability:

The staff has learned that insulation is generally in short supply throughout the country. A recent survey of the National Association of Homebuilders reported widespread shortages of all major residential insulation products, with three quarters of all respondents on allocation from suppliers.

Accordingly, this amendment allows the Secretary of Energy limited authority to allocate insulation supplies in

event of regional disparities or spot shortages.

Additionally, the prices of insulation have escalated dramatically, from 1967 to June 1977, the price of insulation materials has increased 236 percent. Limited supply and almost unlimited demand drive prices upward.

This amendment authorizes the Council on Wage and Price Stability to establish temporary price ceilings on insulation materials. These price ceilings are not being built into perpetuity; the authority even to impose temporary ceilings expires within 12 months of the date of enactment.

We have read newspaper accounts of unsafe insulation and inadequate quality controls on the manufacture of insulation products.

Therefore, I have also included a provision which requires the Consumer Product Safety Commission to publish quality standards for home insulation within 60 days of the date of enactment.

Mr. President, these measures are designed to solve the temporary abberations in the insulation industry which are seriously injuring the northern tier of this country. They are not designed to inhibit the existing insulation industry or impede its future expansion.

This bill is needed for the short-run. It is essential to the well-being of millions of our citizens. I urge its immediate acceptance to alleviate hardship on those who are attempting to cut their energy consumption even as snow begins falling.

AMENDMENT NO. 1514

(Ordered to be printed and to lie on the table.)

Mr. PERCY. Mr. President, I am submitting today an amendment to the Energy Production and Conservation Tax Incentive Act, H.R. 5263, to provide that compensation to States for gas tax revenue they lose as a result of Federal conservation measures be within the scope of conference on the energy tax provisions of the national energy plan. The compensation this amendment proposes would be funded only out of a crude oil tax, if the conferees include one. I ask unanimous consent that the text of this amendment, along with my Dear Colleague letter on this subject, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1514

At the appropriate place insert the following new section:

SEC. 1058. PAYMENTS TO STATES FOR FEDERAL-AID HIGHWAY RESTORATION.

(a) Findings.—The Congress finds that—

(1) fuel conservation efforts have severely decreased the growth of motor fuel tax revenues in fiscal years 1974 through 1977 resulting in a loss of billions of dollars in State revenues and in a projection of additional losses of billions of dollars in fiscal years 1978 through 1981;

(2) inflationary costs for highway construction have far outstripped motor fuel tax revenues and are expected to continue to do so as a result of increased prices for petroleum products; and

(3) limited State motor fuel tax revenues prevent States from adequately maintaining and preserving the Nation's investment in the highway system.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1978, 1979, 1980, and 1981, from the amount of funds in the Treasury during each such fiscal year received from any new tax on crude oil imposed under any provision of the Internal Revenue Code of 1954 added by this Act an amount not to exceed $400,000,000 to carry out the provisions of this section.

(c) PAYMENTS.—

(1) In general.—The Secretary of Transportation shall make quarterly payments during each of the fiscal years 1978, 1979, 1980, and 1981 to each State in an amount equal to one-fourth of the amount which is apportioned to that State for that fiscal year under paragraph (2).

(2) Apportionment.—The Secretary of Transportation shall apportion to each State for each fiscal year an amount which bears the same ratio to the total funds made available under this section for that fiscal year as the amount apportioned to that State during that fiscal year under paragraphs (1), (2), and (6) of section 104(b) of title 23, United States Code, bears to the amount apportioned to all States under such paragraphs during that fiscal year.

(d) USE OF PAYMENTS.—A State shall use any amount received under this section only for resurfacing, restoring, and rehabilitating Federal-aid highways (within the meaning of section 101(a) of title 23, United States Code).

U.S. SENATE,
Washington, D.C., October 25, 1977.

DEAR COLLEAGUE: While federal efforts to cut gasoline waste are beginning to have the desired effect on gasoline consumption in this country, they also are beginning to impact adversely on the amount of state revenues traditionally drawn from this source. It is estimated that for every gallon saved, states lose an average of 8¢ in state revenues, with a possible loss of $20 to $30 billion nationwide through 1985. Some states are already experiencing revenue shortfalls of up to $800 million a year. Furthermore, because petroleum products have increased in cost, the states must bear an additional burden in the purchase of petroleum-based materials such as tar and asphalt used for highway maintenance and repair.

I believe that, if the Congress imposes a crude oil tax, it should also consider diverting a portion of the money earned through the tax to alleviate this condition, as such a conservation measure would increase the fiscal pressure on states already subject to conflicting budgetary demands. The aid I am proposing to states will not mean new road construction, for I do not intend to encourage new gasoline use. But road repair is vital. If conservation means that states cannot maintain their roads, it gives them the incentive not to cooperate in implementing conservation measures.

During consideration of the energy tax bill I will offer the attached amendment to authorize $400 million for each of the next four years for state road repair, should the Energy Tax Conference Committee include a crude oil tax. The program would distribute the money according to the existing formulae for non-interstate highway aid. Money would be earmarked for resurfacing, rehabilitation and reconstruction as defined under the Highway Trust Fund. States could not construct new roads with it.

I attach both the amendment and a table showing the percent distribution by state. Please contact me or have your staff contact Ron Lanoue (42174) or Chris Palmer (41462) if you wish to cosponsor, or if you would like further information.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

Percent share of noninterstate highway apportionments

[Dollars in millions]

	Percent share	Dollar share
Alabama	1.8	$7.2
Alaska	3.0	12.0
Arizona	1.2	4.8
Arkansas	1.2	4.8
California	7.7	30.8
Colorado	1.4	5.6
Connecticut	1.1	4.4
Delaware	.5	2.0
Florida	2.8	11.2
Georgia	2.3	9.2
Hawaii	.5	2.0
Idaho	.8	3.2
Illinois	4.6	18.4
Indiana	2.3	9.2
Iowa	1.7	6.8
Kansas	1.6	6.4
Kentucky	1.6	6.4
Louisiana	1.7	6.8
Maine	.7	2.8
Maryland	1.5	6.0
Massachusetts	2.0	8.0
Michigan	3.7	14.8
Minnesota	2.2	8.8
Mississippi	1.3	5.2
Missouri	2.5	10.0
Montana	1.2	4.8
Nebraska	1.2	4.8
Nevada	.8	3.2
New Hampshire	.5	2.0
New Jersey	2.5	10.0
New Mexico	1.0	4.0
New York	6.8	27.2
North Carolina	2.3	9.2
North Dakota	.9	3.6
Ohio	4.2	16.8
Oklahoma	1.6	6.4
Oregon	1.3	5.2
Pennsylvania	4.7	18.8
Rhode Island	.5	2.0
South Carolina	1.2	4.8
South Dakota	1.0	4.0
Tennessee	1.9	7.6
Texas	5.9	23.6
Utah	.8	3.2
Vermont	.5	2.0
Virginia	2.1	8.4
Washington	1.7	6.8
West Virginia	.8	3.2
Wisconsin	2.2	8.8
Wyoming	.8	3.2
United States	100	400

AMENDMENT NO. 1515

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to the bill (H.R. 5263), supra.

AMENDMENTS NOS. 1516 THROUGH 1520

(Ordered to be printed and to lie on the table.)

Mr. HART submitted five amendments intended to be proposed by him to the bill (H.R. 5263), supra.

AMENDMENT NO. 1521

(Ordered to be printed and to lie on the table.)

Mr. McINTYRE. Mr. President, I am submitting today an amendment to

the energy tax bill, H.R. 5263, to provide a Federal income tax credit for residential wood heating equipment. I understand that a credit for wood heating equipment was proposed in the Finance Committee by the distinguished Senator from Maine (Mr. HATHAWAY) and that the Committee adopted a provision giving the Secretary of the Treasury the authority to extend the renewable energy tax credit to wood heating equipment, or to equipment which would use any other renewable energy resource.

With this action in mind, it is legitimate to ask why I propose to give a tax credit for wood heating systems now, rather than wait for the Secretary of the Treasury to act.

The answer is that when the committee made its decision, it did not have the benefit of all the information which is now available on this subject. For example, I have just received a new report from the New England Federal Regional Council, an organization of 15 Federal Government organizations in New England, chaired by the Regional Administrator of the Federal Energy Administration (now the Department of Energy). This report was not available when the committee was deliberating this issue. However, it states flatly—

> . . . we make the following recommendations:
>
> * * * * *
>
> . . . promote economic incentives, such as tax credits and/or low interest financing, for wood-burning equipment to encourage conversion to wood. Legislation which promotes alternative energy forms, such as wind or solar, should also include wood.

This is an administration study by a branch of the administration familiar with New England's energy problems and resources, stating flatly that incentives for renewable energy should include wood.

Mr. President, I ask unanimous consent to insert several excerpts from this report, including its preface, executive, summary and recommendations, and other sections of the report, at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. The Committee on Finance, under the able leadership of its Chairman, the distinguished Senator from Louisiana (Mr. LONG) had an arduous, difficult task to perform in developing and reporting this bill. Pressed for time and with so many other issues to decide, the committee could not give full and complete attention to the proposal for a wood heating equipment tax credit. If the committee had been able to study this issue in depth, I am confident that the proposed wood credit would have been embraced. Its potential benefit is overwhelming: its cost is relatively small. In fact, based upon the estimates available to me, the wood equipment tax credit appears to be at least as cost-effective as any proposal which was reported by the Finance Committee.

ESTIMATED SAVINGS

An estimate of costs and benefits for this proposal has been developed by the Wood Energy Institute, an association of architects, foresters, business groups, and energy-related companies.

Here are the Institute's calculations on the effect of the wood equipment tax credit by 1985:

> Number of installations, revenue loss, and import savings:
>
> 20 million, $550 million, 360,000 barrels/day.

I ask unanimous consent to insert at the end of my statement a comparison of the costs and benefits of a wood energy tax credit with the costs and benefits of several major features of the committee bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Now, of course it can be argued that the estimate above is overly optimistic. But there is compelling evidence, based upon actual experience, to show that the estimated oil savings are conservative.

This evidence was not available to the committee when the bill was being considered. It includes a telephone survey conducted by the University of New Hampshire of some 1,200 households in my home State. This survey, when extrapolated, shows the following:

First. Of the 327,000 households in the State, about 52 percent, or approximately 123,000 families, used wood for at least part of their heat last winter.

Second. These families burned about 300,000 cords of wood. If all the wood burned were dry, that would be the equivalent of 60 million gallons, or 1.4 million barrels, of home heating oil. If all the wood were green, it would equal about 30 million gallons of oil.

Third. About two-thirds of all that wood was cut by its users.

Fourth. Typical prices for the other one-third were $26 to $50 per cord. To be priced on a par with home heating oil, cord wood would have had to sell for $80 delivered last year, $85 this year.

I want to reemphasize these statistics. In New Hampshire alone, we saved 30 to 60 million gallons of home heating oil last year by using wood for fuel!

SUPPLY OF FUELWOOD

The next obvious question is, what effect did New Hampshire's heavy wood use have on available supplies?

One great advantage of wood over all other traditionally used fossil fuels is that wood replenishes itself. Another advantage is that the supply is visible, easy to find, and relatively easy to measure. We have such vast forests—our proved reserves of wood, if you will—that we do not ever have to think about depleting the supply of fuelwood if we manage our forests sensibly. The net annual growth of wood in New Hampshire each year is 10 times the amount that New Hampshire citizens used for fuelwood last year, according to the Forest Service of the U.S. Department of Agriculture.

For the Nation as a whole, the annual growth minus the amount harvested is 4.6 billion cubic feet. This is equal to 46 million cords—or 226 million barrels of oil each year. And that growth is not concentrated in the New England States or in the Pacific Northwest. Every region of the Nation has substantial timberland, with enough growth each year to support a vast increase in the use of wood for home heating. I ask unanimous consent to insert at the end of this statement a State-by-State table of annual growth and removals of wood in the United States, so that each of my colleagues can see how much wood can be made available for home heat in his State without reducing the size of that State's forests. The figures on forest growth were taken from "The Outlook for Timber in the United States," published by the Forest Service, U.S. Department of Agriculture, October 1973, and were reprinted by the American Forest Institute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Regarding the supply of wood for fuel in New England, the Federal Regional Council concluded:

> . . . Assuming that New England forests grow at their present net annual growth rate (23 cubic feet per acre) and that total forest acreage remains approximately the same, New England's growing stock will increase over 40 percent (16 billion cubic feet) to over 54 billion cubic feet by the year 2000.

In other words, even if we do not take better care of our forests, New England will have more wood available for fuel in the year 2000 than is available now. The Federal Regional Council goes on:

> Therefore, if the present volume of growing stock were to be maintained as a minimum amount desired in New England, over 44 billion cubic feet of wood could be used as a resource between now and the year 2000. This is equivalent in energy to about 540 million tons of coal or 2.3 billion barrels of oil. Stated another way, this represents the total power output of 10 nuclear plants operating from now until the year 2000.
>
> In summary, a vast energy resource exists in the commercial forests of New England.

I submit, Mr. President, that New England is not unique in this respect. The Forest Service data mentioned above shows clearly that the region with the greatest reserves of wood is not New England or the heavily forested Pacific Northwest, but the South.

ENVIRONMENTAL CONSIDERATIONS

It is obvious that the totals show we have plenty of wood. It is equally plain that totals alone are not sufficient protection for forestland in each State and region of the Nation. Our forests must be protected from our own potential overzealousness in our attempt to solve our energy problems. And other environmental considerations, such as air quality, must be considered as well.

However, the Federal Government does not at this time have information to provide full answers to these issues for each region of the Nation. The best available information on emissions from wood heating equipment is not definitive. The latest report by the Federal Government on the environmental issues surrounding the use of wood for fuel is a paper titled, "Fuelwood and Its Environmental Considerations," by Paul H. Bedrosian, U.S. Environmental Protection Agency, Region I, Boston, Mass., given at the Wood Heating Seminar No. 2, sponsored by the Wood Energy Institute, September 7–9, 1977, at the Hotel Sonesta, Hartford, Conn. Mr. President, I ask unanimous

consent that the report and its conclusions be inserted at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. For these reasons, my amendment provides the Forest Service of the U.S. Department of Agriculture and the Environmental Protection Agency with the authority to rule that the tax credit for wood heating equipment would be withheld in a State or region where forests or air quality would be threatened. This authority is granted in a way that allows either agency to act upon its own authority and ban future use of the tax credit for a specific area. It is anticipated that this would be done in a public proceeding so that the public would be informed.

TYPES OF WOOD HEATING EQUIPMENT

It has been estimated by the Wood Energy Institute that approximately 500,000 wood heating appliances were made in the United States last year. In addition, many thousands of wood appliances were imported. Hundreds of different designs are on the market today. They can be grouped into several basic types:

First. Radiant wood stoves which provide space heat, and in some cases hot water and cooking as well. Some are equipped with air blowers to circulate heat more efficiently.

Second. Wood-fueled cooking appliances which also provide space heating.

Third. Furnaces fueled by wood which circulate heat to a home through air ducts.

Fourth. Wood-fueled boilers supplying heat to a home through hot-water radiators.

Fifth. And combination furnaces and boilers which are capable of burning both wood and oil or gas.

Each of these types of wood heating equipment is potentially eligible for the wood equipment tax credit. However, under existing provisions of the tax bill, the Secretary of the Treasury has the authority to set standards which might make some wood heating appliances ineligible for the tax credit. I anticipate, Mr. President, that the Secretary would work with the wood appliance industry to set reasonable standards for the protection of the public.

I ask unanimous consent that a list of domestic manufacturers and importers of wood heating equipment be inserted in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAFETY AND PERFORMANCE STANDARDS

Mr. McINTYRE. The final issue that I wish to address is that of safety and performance standards.

Through this legislation we are trying to bring the American people into a new era of energy awareness and to develop new patterns of energy use. We hope to substantially increase the use of renewable energy measures and to put great emphasis on energy conservation, while encouraging increased production of our traditional sources of energy.

It is my hope that those Federal agencies which are given the job of setting standards will do so with these principles in mind. It is necessary that we protect the public from fraud, from dangers unforeseen by the layman, and from poor quality. However, a great deal is already being done by the industry and by testing laboratories to protect consumers. Mr. President, the Treasury Department and other Federal agencies should take advantage of the effort already underway in developing any Federal standards.

For example, the Nation's best known testing laboratory, Underwriters Laboratories, Inc., already has established standards and testing procedures for wood heating units. The Wood Energy Institute also is working on its own standards and testing procedures for wood heating units as well. The institute and domestic manufacturers are eager to have industry standards for performance, and they have begun developing these standards. They should be encouraged and given the opportunity to develop reasonable standards to guide the public.

Mr. President, let me make a closing comment about why a wood equipment tax credit is so appropriate to our national goals in this energy bill. We are striving for greater energy self-reliance. In this regard, I was impressed by one of the statistics revealed by the University of New Hampshire survey that I mentioned earlier in this statement. Wood costs only half as much as home heating oil in New Hampshire, on the average. And yet two-thirds of the families who use wood in New Hampshire went to the trouble to chop their own. These self-reliant working people—middle class and working poor, I suspect—cut their own wood rather than pay a price that is a bargain compared to oil. To me, this is the most compelling reason for a wood heating equipment tax credit. It promotes self-reliance and personal energy independence from foreign suppliers. It encourages Americans to apply the sweat of their brows and the callouses on their hands to solving our national energy problems.

A REPORT ON THE POTENTIAL OF WOOD AS AN ENERGY RESOURCE IN NEW ENGLAND

PREFACE

This report is a product of the New England Federal Regional Council's Energy Resource Development Task Force. The Federal Regional Council (FRC) is an interagency, intergovernmental coordination group. Its purpose is to make a very complicated three tiered governmental system efficient and responsive to the needs of all citizens. The Federal Regional Council of New England membership includes the eleven principal grant making federal agencies:

Community Services Administration.
Department of Commerce.
Department of Health, Education & Welfare.
Department of Housing and Urban Development.
Department of Interior.
Department of Labor.
Department of Transportation.
Environmental Protection Agency.
Federal Energy Administration.
Farmers Home Administration.
Law Enforcement Assistance Administration.

In addition, the Army Corps of Engineers, New England River Basins Commission, the New England Regional Commission and the U.S. Civil Service Commission are participants.

The Federal Regional Council's Energy Resource Development Task Force is composed of representatives of several federal agencies, the New England Governors, the New England Regional Commission and the New England River Basins Commission. The Task Force Chairman is Robert W. Mitchell, FEA Regional Administrator. The Vice-Chairman is William Adams, Jr., EPA Regional Administrator.

Principal objectives are to:

1. Reduce the Region's high dependence on petroleum and its attendant high costs;
2. Reduce the Region's adverse weighted average energy costs as compared with the balance of United States; and thereby,
3. Improve both New England's energy posture and industrial investment climate, by providing an inter-agency process that will most efficiently meet anticipated needs and reduce the lead time required for energy development.

The '77 work of the Task Force has been carried out under the leadership of seven Federal agencies in 12 of the following 14 specific work areas covering the various aspects impacting upon the energy in New England.

Environmental Protection Agency: Bulk Power Plants, Refineries, Energy Recovery.

Federal Energy Administration: Energy Statistics & Projections, Gas Facilities Monitoring, Emergency Storage Monitoring, Wood Utilization.

DOD—U.S. Corps of Engineers: Hydro-Electric.

DOT—U.S. Coast Guard: Energy Related Marine Terminal Facilities.

Bureau of Mines: Coal.

Department of Commerce: Coastal Zone Management.

Department of Housing and Urban Development: Solar.

Unassigned: Outer Continental Shelf, Utility Corridors.

The Wood Utilization Group was formed to examine the potential of wood energy in New England. This paper addresses (1) the benefits of utilizing the forest as an energy resource, (2) the availability of commercial forest land, (3) the harvesting and transportation of timber for wood energy projects, (4) wood energy technologies, and (5) the environmental considerations and institutional problems associated with developing the forest as an energy resource.

The purpose of this effort is to stimulate greater interest in developing the energy potential of New England's forests. It is not intended to be an all inclusive survey on the subject of wood energy; rather, it is our hope that this report will act as a catalyst toward greater wood energy usage.

While members of the Work Group all have other primary assignments to carry out within their respective agencies, the Work Group was established as an on-going activity and will continue to monitor and review wood energy development within the Region. Comments and questions from readers of FRC Reports, and new related information, are always welcome and should be addressed to the Energy Resource Development Chairman, Robert W. Mitchell, Federal Energy Administration, 150 Causeway Street, Boston, MA 02114.

EXECUTIVE SUMMARY AND RECOMMENDATIONS

Today the United States is more dependent on foreign oil than it was at the time of the 1973 oil embargo. Our Nation, in order to

achieve a greater degree of energy independence, must develop all of its domestic energy resources. Such an effort should include a greater emphasis on the utilization of wood as an energy source.

The large quantities of unmerchantable wood (rough and rotten trees) and logging residues present in New England forests, could be used to fuel wood energy projects. Removal of this material from the forests would increase forest productivity and improve the appearance of our woodlands. In addition, wood is low in sulphur and nitrogen and its development as a source of energy is supported by environmental groups.

Development of the forest as an energy resource would also be beneficial to an area's economy, providing additional tax revenues and increasing the demand for equipment and labor in the harvesting, transportation, and processing stages of the wood energy supply system.

There exists today a unique opportunity for more efficient management of New England's forests. Utilizing the region's forests as an energy resource while sustaining timber production and preserving the wildlife habitat and the recreational uses of our woodlands are challenges that must be met.

The New England Governors, recognizing the importance of utilizing wood energy, have agreed to promote its development as part of their Regional Energy Policy. In addition, the recently formed Wood Energy Institute, whose membership includes representatives from forest industries, universities, environmental groups, and state agencies, is attempting to provide a forum dedicated to the advancement of wood energy. When a domestic energy resource has so many potential benefits, it is only logical that its development be pursued.

POTENTIAL BENEFITS OF DEVELOPING WOOD AS AN ENERGY RESOURCE

Reduced dependence on foreign oil;

Development of domestic natural resources;

Increased forest productivity;

Improved forest wildlife habitat;

Enhanced appearance of woodlands;

Additional employment opportunities;

Additional local and state tax revenues;

Favorable impact on air pollution;

Availability of wood ash for use as fertilizer;

Development of wood as an energy source is supported by environmental groups; and

Development of more efficient wood procurement systems.

Many forested areas in New England show promise of being suitable for use in wood energy projects. These include: overstocked forest lands; areas with large amounts of rough and rotten trees and/or logging residues; stands with high percentage of red maple and/or hemlock (and other species in low demand by forest industries); non-forest-industry owned acreage; and state and national forests. Even forest industry owned woodlands could be co-worked, the unused portion of the tree being chipped for energy use.

Timber harvesting and logging residues will probably be the main sources for wood energy projects. Mill residues and wood from land clearing operations, when available, could prove to be a low cost supplemental wood source.

Above ground tree harvesting appears to be the most desirable method of harvesting timber for energy at this time as all portions of the tree including the bole, tops, limbs and branches can be utilized (as opposed to the merchantable bole concept in which only the stem of the tree is used). The increased tonnage yields per acre from this harvesting method, as well as elimination of the cost of de-limbing, topping, bucking and debarking now also make selective cutting operations possible. Timber harvesting equipment and wood transportation systems now available appear to be capable of supplying future needs.

Various wood energy technologies are available for industrial, commercial, and residential use. Wood gasifiers "direct coupled" to a boiler are being tested in a number of industries in New England and promise to be a viable alternative to oil and natural gas usage. Wood-fired boilers have been in existence for years and have proven to be an acceptable and reliable method of burning wood. A mixture of 15% methyl fuel* and 85% gasoline is being tested as an automotive fuel in a fleet of Volkswagens in Germany. This mixture does not require any engine modifications and appears to have a number of advantages over gasoline, including greater energy economy, reduced pollution emissions, and improved engine performance. For the homeowner, wood stoves are available in a great number of sizes and types.

Higher taxes on oil and gas usage proposed in the National Energy Plan, as well as future increases in the price of foreign oil, could help make wood energy even more attractive.

RECOMMENDATIONS

In order to stimulate the development of wood energy we make the following recommendations:

1. Conduct a wood energy pilot project to demonstrate the feasibility of utilizing wood as an energy source. Such a project should combine harvesting and transportation systems with a wood energy technology capable of widespread application. (See Appendix A)

2. Wood gasification technology should be supported as a viable alternative to oil and gas usage.

3. Promote economic incentives, such as tax credits and/or low interest financing for wood burning equipment, to encourage conversion to wood. (Legislation which promotes alternative energy forms, such as wind or solar, should also include wood.)

4. Consider revision of property taxes on timber producing land that inhibit harvesting.

5. Educate the general public and in particular forest land owners about the benefits of harvesting under proper forest management.

6. Promote greater coordination of regional activities attempting to develop wood's energy potential.

* * * * *

Table 1 shows typical heating values for over dry wood (less than 10 percent moisture). A conservative choice for the average heating value of all species is about 8,500 BTU/pound (dry) or 17 million BTU/ton (dry). This means that one ton of dry wood is equivalent in energy content to about 2.8 barrels of residual fuel oil. (Other energy conversion factors are shown in Table 1A)

The potential for using this energy is explored in the following chapters.

TABLE 1.—TYPICAL HEATING VALUES OF OVEN DRY WOOD[1]

Species	Weight per cord[2]	Btu per pound	Btu per ton	Btu per cord[2]
White ash	4,034	8,920	17,840,000	35,983,280
Fir balsam bark		9,100	18,200,000	36,400,000
Yellow birch	4,121	8,650	17,300,000	35,655,300
Yellow birch bark		9,870	19,740,000	
White cedar	2,236	8,400	16,800,000	18,782,400
Elm bark		7,600	15,200,000	
Eastern hemlock	2,722	8,620	17,240,000	23,463,640
East hemlock bark		8,890	17,780,000	
Red maple	3,460	8,580	17,160,000	29,686,800
Red maple bark		8,190	16,380,000	
Oak (white)	4,433	8,810	17,620,000	39,063,540
Pine (yellow)	3,917	9,610	19,220,000	37,642,370
Pine (white)	2,352	9,000	18,000,000	21,168,000
Pine (white) bark		8,930	17,860,000	
Poplar	2,187	8,920	17,840,000	19,516,960
Poplar bark		8,810	17,620,000	

[1] Source: Bulletin 1176 Forest Fuels, Inc.

[2] A cord is a 4 ft. by 4 ft. by 8 ft. pile of wood and is estimated to contain about 85 ft³ of wood, the remaining volume being air space.

TABLE 1A.—ENERGY CONVERSION FACTORS[1]

[Rounded to 3 significant figures]

Wood			Oil	Coal	Natural gas
Cubic feet	Cords	Tons	(barrels)	(tons)	(1,000 ft³)
1	0.012	0.0188	0.053	0.012	0.291
85	1	1.60	4.53	1.05	24.7
53.1	.625	1	2.83	.654	15.5
18.8	.221	.353	1	.231	5.45
81.3	.956	1.53	4.33	1	23.6
3.44	.040	.065	.183	.042	1

[1] For oven dry wood (less than 10 percent moisture).

Note: Assuming—Wood, 8,500 Btu lb (dry); 3,200 lb/cord (dry); 85 ft³/cord. Oil, 6,000,000 Btu/bbl. Coal, 26,000,000 Btu/ton. Natural gas, 1,100,000 Btu per 1,000 ft³ (MCF).

*Primarily methanol, which can be produced from wood, and small amounts of ethanol, propanol and isobutanol.

Wood fuel markets

This report is devoted to the greater use of New England's forests as an energy resource. The magnitude of this resource and the availability of wood burning technologies have been established, while harvesting and transportation method appear ready to meet future demand requirements. However, aside from the rapidly expanding residential wood stove market, the use of wood as a fuel has not developed sufficiently to support the large capital investments required for modern wood procurement systems. We believe that viable residential, commercial, and industrial wood energy markets are within the realm of possibility but that incentives, such as tax credits or low interest financing, etc., are necessary to stimulate the development of these markets.

In addition, the general public, as well as businesses and financial institutions, need to be made aware of the benefits of utilizing the forests as an energy source.

Indications are that, as these markets develop and expand, even the railroads would make ready to supply wood/wood fuel products to centers of demand. For example, the railroads visualize unit trains with specialized cars to transport wood efficiently. Development of wood energy markets will help our country to achieve a greater degree of energy independence and will create additional jobs in the harvesting, transportation and wood burning technologies. Wood fuel is not a panacea for our nation's energy problem, but it is certainly part of the answer.

In summary, it can be seen that various wood energy technologies are presently available for industrial, commercial and residential use. Wood-fired boilers have been in existence for years and have proven to be an acceptable and reliable method of burning wood. Approximately 230 hogged wood boilers, ranging in size up to 500,000 pounds of steam per hour, were sold in the United States between 1965 and March of 1975.

Other wood energy technologies are about to become available. "Direct coupled" wood gasifiers are in the final test stages in a number of New England industries with sales expected to begin within the next year. "Methylfuel" (15 percent methanol and 85 percent gasoline) is being tested as an automotive fuel in a fleet of Volkswagens in Germany. This fuel appears to have a number

of advantages over gasoline including greater energy economy, reduced pollution emissions and improved engine performance. Wood pelletizing is nearing acceptability. For the homeowner, wood stove and heat saving devices for fireplaces are available in a great number of sizes and types. Although we have not examined the economics of the various wood energy systems, the list of systems recently installed or being proposed, shown in Appendix A, is a good indication of their favorable economics. Wood fuel is becoming more competitive with conventional fuels; and higher taxes on oil and gas, proposed in the National Energy Plan, as well as future increases in the price of foreign oil, will make wood energy even more attractive.

ENVIRONMENTAL SUMMARY

With the reduction of a dependency on foreign fuels, it is necessary to compare pollution emissions of the alternatives. The consumption of wood products must be compared, on pollution levels, to the fuel being replaced. It, therefore, may be necessary to install particulate pollution control devices to become equivalent with existing petroleum burning conditions. The environmental effects of other operational processes will be similar to those systems that are already utilized by other forms of energy.

The overall concept of wood utilization as an energy source appears, on the whole, to be beneficial to the environment if BMP is stressed. Air pollution will be minimum and ash disposal will be beneficial for increased wood production. Increase in forest management and control would protect the local watersheds and water courses. There would be a reduction of dead and decaying wood, reducing fire hazards and organic buildup. The forest land would become more productive, decreasing areas of stability. Dynamic habitats are beneficial to local wildlife, which would create an increase in species diversification (rather than an increase of specific species).

Therefore, large scale utilization of forests can be undertaken without serious environmental damage and can significantly improve the productivity, health, wildlife habitat and appearance of woodlands when conducted according to proper forest management principles.

A REPORT ON THE POTENTIAL OF WOOD AS AN ENERGY RESOURCE IN NEW ENGLAND

APPENDIX A—WOOD ENERGY PROJECTS IN NEW ENGLAND

The following list is an indication of the interest in wood energy and is not intended to be all inclusive.

Type of project, location, and status

Wood Gasification ("direct coupled" wood gasifier and boiler), Forest Fuels, Inc., Keene, NH, 30 hp demonstration unit.

Wood Gasification ("direct coupled" wood gasifier and boiler), Blanchflower Lumber Co., Alstead, NH, installed 1976 (Forest Fuels Wood Gasifier).

Wood Gasification ("direct coupled" wood gasifier and boiler), Sprowl Brothers, Searsmont, ME, installed 1976 (Forest Fuels Wood Gasifier).

Wood Gasification ("direct coupled" wood gasifier and boiler), University of New Hampshire, (examining ongoing potential of Forest Fuels Wood Gasifier).

Conversion of 10MW oil-fired boiler to wood, Burlington Electric Co., Burlington, VT, scheduled operation November 1977.

Solar/wood heating furnace, Maine Audubon Society, Falmouth, ME, installed winter 1975–76 (heats 5000+ square foot building).

Commercial size wood chip furnace, University of Maine, Orono, Maine, 200,000 BTU/hr. demonstration unit (heats agriculture and engineering laboratory building).

Commercial size wood chip furnace, Hancock Vocational Technology Center, Ellsworth, Maine, installed?

Fluidized bed wood-fired boiler, Waterbury State Hospital, Waterbury, VT, scheduled completion, Jan. 1978 (cost of boiler $214,000 funded by state—stockpiling wood).

Fluidized bed wood-fired boiler, Kelly Hardwood Corp., Pittsfield, MA, installed February 1976.

Other wood-fired boilers, Temple Steward Co., Baldwinville, MA, installed 1940.

Other wood-fired boilers, Nichols & Stone Co., Gardner, MA, installed in 1971 (output, 15–16,000 lbs. of steam per hour).

Other wood-fired boilers, Cersosimo Lumber Co., Brattleboro, VT, installed April 1976 (output 20,000 lbs. of steam per hour).

Other woodfired boilers, Wilner Wood Products, Norway, Maine, installed December 1976 (converted oil-fired dutch oven broiler to wood).

Other wood-fired boilers, Robbins Lumber Co., Searsmont, Maine, installed Spring 1976 (supplies steam & electricity).

Other wood-fired boilers, Tillestson Rubber Co., Dicksville Notch, NH, scheduled operation December 1977 (output—50,000 lbs. of steam per hour to supply steam and electricity to rubber plant and neighboring Balsam Hotel).

Other wood-fired boilers, Georgia-Pacific Corp., Whitefield Paper Div., Gilman, Vermont, scheduled operation December 1977 (output, 100,000 lbs. of steam per hour).

Other wood-fired boilers, Haywood Wakefield Co., Gardner, MA, installed 1936 (boiler burns 20% wood waste).

Survey of Landowner Attitudes toward Chip Harvesting, Dartmouth College, Dartmouth, Vermont, ongoing.

Survey of Household Fuel Wood Use and Procurement in NH, N.H. Agricultural Experiment Station, University of NH, Durham, NH, results to be published in Fall 1977.

Computerized Inventory of Maine Biomass, School of Forestry, University of Maine, ongoing.

Firewood Workshops (on proper trees to cut, safe operation of chain saws, how to dry wood, etc., County Foresters, State of Vermont, ongoing.

Demonstration of modern timber harvesting equipment, 621 acre site, South Duxbury, VT, to be completed Winter 1977–78 (examining tonnage yields, environmental effects movie to to be made, results to be published early 1978).

Wood powered generating facility, Town of Bangor ME, proposed.

Wood-fired gas turbine, Maine Wood Fuel Corp., Hague International, Northern Maine Regional Planning Commission, proposed.

50 MW Wood-fired electric generating facility, Northern New England, ERDA grant given to Wheelabrator Fuels, Inc. to study the feasibility of generating electricity using wood fuel.

COST-BENEFIT COMPARISON OF VARIOUS PROVISIONS OF H.R. 5263 WITH THE PROPOSED WOOD HEATING EQUIPMENT TAX CREDIT

Proposed measure	Estimated cost to treasury (billions)	Estimated oil savings (barrels per day)	Benefit (barrels saved per $1,000 cost)
Wood energy credit	(1)	360,000	654
Transportation credits (pt. II)	$20	26,000	1.3
Residential credits (other than wood)	7.1	325,000	45.8
Alternate energy credits (pt. III)	30.337	1,508,000	50
Tax incentives for alternate fuels (pt. IV)	2.447	265,000	1.08

[1] $550,000,000.

Sources of estimates: Wood energy credit—Wood Energy Institute, Waitsfield, Vt. Other items—Committee report.

EXCERPT FROM FOREST FACTS AND FIGURES

Published by the American Forest Institute using information and figures taken from "The Outlook for Timber in the United States" published by the Forest Service, U.S. Department of Agriculture, October, 1973, and other periodic publications issued by the Forest Service.

Net annual growth and removals of hardwood and softwood growing stock on commercial forest land in the United States, section, State & region, 1970 [1 2]

(Thousand cubic feet)

Section, State, and Region	Growth	Removals
North:		
Connecticut	45,362	8,553
Maine	710,800	408,700
Massachusetts	80,999	31,329
New Hampshire	138,136	60,490
Rhode Island	9,758	2,376
Vermont	92,850	50,995
Total New England	1,077,905	562,443
Delaware	30,959	11,858
Maryland	106,499	75,572
New Jersey	56,911	12,301
New York	285,857	114,904
Pennsylvania	762,820	231,755
West Virginia	553,665	155,216
Total Mid-Atlantic	1,796,711	601,606
Michigan	605,111	213,078
Minnesota	455,635	155,198
North Dakota	4,973	3,136
South Dakota (East)	4,158	1,859
Wisconsin	503,637	308,983
Total Lake States	1,573,514	682,254
Illinois	92,502	91,096
Indiana	106,525	65,692
Iowa	81,181	50,405
Kansas	16,002	7,616
Kentucky	319,214	141,254
Missouri	302,683	108,835
Nebraska	16,718	10,156
Ohio	157,646	113,120
Total Central	1,092,471	588,174
Total North	5,540,601	2,434,477
South:		
Alabama	947,149	807,183
Arkansas	778,511	620,108
Florida	531,800	347,900
Georgia	1,356,632	927,939
Louisiana	743,842	721,637
Mississippi	966,261	745,962
North Carolina	885,140	690,716
Oklahoma	70,066	52,076
South Carolina	691,354	448,977
Tennessee	509,100	216,400
Texas	565,972	461,162
Virginia	563,478	442,907
Total South	8,609,305	6,482,967
Pacific Coast:		
Alaska (coastal)	31,200	157,090
California	630,000	927,000
Hawaii	(3)	2,157
Oregon	1,151,000	1,556,000
Washington	1,244,400	1,536,070
Total Pacific Coast	3,056,600	4,178,317
Rocky Mountain: [4]		
Arizona	71,275	87,741
Colorado	157,338	58,993
Idaho	502,963	357,256
Montana	443,141	324,411

Footnotes at end of table.

Net annual growth and removals of hardwood and softwood growing stock on commercial forest land in the United States, section, State & region, 1970 [1] [2]—continued

(Thousand cubic feet)

Section, State, and Region	Growth	Removals
Nevada	2,293	10
New Mexico	75,061	44,086
South Dakota (West)	27,110	15,655
Utah	36,207	12,740
Wyoming	45,753	36,155
Total Rocky Mountains	1,361,141	937,047
Total all regions	18,567,647	14,032,808

[1] Data taken from Table 25, pg. 279–280, "The Outlook for Timber In The U.S.".

[2] Zeros indicate no data or negligible amounts.

[3] Growth estimate for Hawaii is not available.

[4] Estimates of area subclasses do not include 5.0 million acres of National Forest lands in the Rocky Mountain States that are not included in the base for allowable cut because of such factors as unstable soils, small size of isolated patches and stringers, or special use constraints. Volume and growth data are also excluded for these areas.

Conversion factor: one cubic foot of wood (dry) equals approximately 0.05 barrels of oil in BTU value.

Fuelwood and Its Environmental Considerations

Introduction

Historically, wood served as a major fuel for domestic and industrial needs in the United States until the early 1900's. Over the ensuing years it was gradually replaced primarily by coal, oil and gas and has essentially been disregarded as a major fuel resource. It is only recently, after more than 60 years, that wood again is under consideration for wide use as a fuel for domestic and industrial purposes at least in New England. This current attitude toward wood may be attributed to the country's awareness of its dependency on dwindling national and worldwide oil supplies as was particularly heightened by the Arab oil embargo of 1973.

The embargo highlighted public and government interest in local and national energy matters. Citizen groups and government agencies participated in discussions to find means for responding to the nation's energy problems and to develop solutions for easing national dependency on foreign oil for much of its electric generation and home heating fuel.

New England was particularly affected by the embargo as it is at the end of the nation's energy supply line, has no broadly developed indigenous energy resource and in effect is dependent on both foreign and domestic fuel imports. Among responses to its energy position, the region aired its problems through citizen participation in public review of the U.S. Energy Research and Development Administration's (ERDA) current energy plan. This plan was presented at a public meeting held November 29 to December 1, 1976, in Boston, Mass. Energy options, particularly those suited to New England were discussed and woodfuel was among the energy alternatives emphasized. The focus on wood was made through public demand because ERDA's energy plan did not effectively promote this renewable indigenous energy resource. New Englanders felt that ERDA had underestimated the energy potential of wood present in the heavily forested regions of the Northeast. Estimates of this resource indicate that the annual harvest of hardwoods, amounting to about 60 million cords, is equivalent to over 20 million barrels of number 2 fuel oil. Wood, burned directly or gasified, could supply nearly 25% of New England's energy needs. In Vermont, the use of wood for home heating is estimated to have increased from 1% of all households in 1970 to about 6.7% in 1976 with over 50% supplementing heating system with wood.(1)

Growth in the use of wood for fuel as indicated by the Vermont data supports the possibility for an increase in usage of woodfuel in other sections of New England. Wood is likely to be used not only for domestic purposes but also for commercial, municipal and industrial applications including bulk power electric generation. For some areas in the region this could contribute to environmental impacts involving air, water, and solid wastes pollution among others. In anticipation of such problems, the Region I Office of EPA is currently developing a wood burning policy to ensure that woodfuel will be effectively utilized regionally in an environmentally acceptable manner. Such a policy will reflect inputs from other federal offices and state agencies.

Potential Impacts

Wood burning has the potential to create significant environmental impact involving not only air but terrestrial and aquatic pollution as well. This is particularly certain should the use of proper forestry management practice be neglected in harvesting trees and thereby cause terrestrial erosion, disruption of watershed areas, polluted runoffs to surface waters, and adverse alteration of wildlife habitats. Wood burning, therefore, is assessed by EPA in terms of many environmental impacts and not limited to those related only to burning and its effects on air quality. EPA's evaluation is concerned with total impacts ranging from tree cutting activities to burning operations and involving assessments of liquid, gaseous and solid wastes management.

Smoke from wood burning in households could cause local or wider air pollution and nuisance problems. However, supplying wood for domestic use might not involve disruption of large tracts of forest lands and therefore terrestrial impacts might be negligible. Unlike domestic use, wood burning in other areas as in industrial and electric generation facilities can usually operate with more efficient firing procedures followed by pollution control systems and are likely to operate with little or no air pollution. It is also possible that little or no environmental impact would result from forest activities connected with operations of these large wood burning installations even though their wood demand may be quite intensive. For example, a 50 MWe wood burning powerplant needs about 10,000 acres of trees to satisfy its annual fuel demands. With proper forest management, such a plant could be furnished with fuel over its lifetime (30–40 years) with little environmental insult. However, if such management is not followed, severe environmental disruptions could occur and would require action by EPA among others. Evaluation and characterization of these potential impacts must be carefully developed before large scale wood burning could be practical either in many industrial installations or in thousands of domestic woodfueled units.

EPA Standards

As already indicated, wood burning potentially involves more than air pollution problems. However, air pollution is perhaps the more obvious, popular environmental concern related to burning and it will therefore be considered first. Among EPA's mandates for environmental protection, air quality is a major responsibility. EPA's National Air Quality Standards and programs in air pollution control are well developed and firmly integrated with state agencies to achieve regulatory control in meeting the ambient air quality standards. Within each state, air quality control regions (AQCR) exist as determined through cooperative planning by EPA and each state. These regions are shown for New England in Figure 1. Responsibility for managing regulatory air quality control within the AQCR rests with each state. Implementation of such control is achieved through State Implementation Plans (SIPS) which must be approved by the EPA. States develop and designate specific air pollution control regulations for each AQCR. These regulations may be different among the various control regions even in the same state. Numerical values of the SIP limits need not be the same as EPA standards but cannot be less stringent. States must agree to regulate "new sources" of air pollution as part of the SIPS. This is usually done through review of such sources as based on performances standards developed by EPA. However, for wood fueled steam plants, EPA has not published performance standards. The EPA National Ambient Air Quality Standards which have been set for six pollutants are provided in Table 1:

NATIONAL AIR QUALITY STANDARDS [a]

Pollutant and averaging time	Primary standards [b]	Secondary standards [c]	Referenced methods [d]
Sulfur dioxide:			
Annual arithmetic mean	80 μg/m³ (0.03 ppm)		
24 hr	365 μg/m³ (0.14 ppm)		Pararosanilline method.
3 hr		1,300 μg/m³ (0.5 ppm)	
Particulate matter:			
Annual geometric mean	75 μg/m³	60 μg/m³ [e]	High volume sampling method.
24 hr	260 μg/m³	150 μg/m³	
Carbon monoxide:			
8 hr	10 mg/m³ (9 ppm)	Same as primary standards	Nondispersive infrared spectroscopy.
1 hr	40 mg/m³ (35 ppm)		
Photochemical oxidants (corrected for NO_2 and SO_2): 1 hr	160 μg/m (0.08 ppm)	Same as primary standard.	Gas phase chemiluminescent method.
Hydrocarbons (corrected for methane): 3 hr	160 μg/m³ (0.24 ppm) [e]	Same as primary standard [e]	Flame ionization detection using gas chromatography.
Nitrogen dioxide: Annual arithmetic mean	100 μg/m³ (0.05 ppm)	Same as primary standard	Gas phase chemiluminescence.

[a] National standards other than those based on annual arithmetic means or annual geometric means are not to be exceeded more than once per year.
[b] National primary standards: The levels of air quality necessary, with an adequate margin of safety, to protect the public health.
[c] National secondary standards: The levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.
[d] Reference method as described by the EPA. An "equivalent method" means any method of sampling and analysis which can be demonstrated to the EPA to have a "consistent relationship to the reference method."
[e] Guideline to be used assessing implementation plans.

To assure that regional air quality meets ambient standards, air monitoring programs are conducted by each state. Air sampling stations are established at specific sites within the AQCR's and samples collected routinely for laboratory examination. Collection periods vary according to the pollutant sampled, e.g., 1 hour, 3 hours, 8 hours and 24 hours as indicated in Table 1. Sampling frequency ranges from daily to weekly depending on several controlling parameters including sampling costs and desired accuracy of resulting air data.

Pollutants of interest arising from wood burning are likely to include all those listed in Table 1. Because of wood's low sulfur content, oxides of sulfur are of minor concern and since combustion temperature for wood is low, generally about 1500° F or less, oxides of nitrogen may likewise be of little importance. Of the six air pollutants for which EPA has set standards, particulates and perhaps photochemical oxidants from wood burning could represent public health and environmental impacts. Oxidants would probably be more of a problem as a variety of harmful compounds could result from gaseous, organic hydrocarbons arising from incomplete combustion of wood particularly as might result domestically from inefficient stoves and fireplaces. (2) Domestic releases are likely to pose the greater problem than industrial discharges since the latter involve releases from only a few sites and from boilers usually properly designed and operating generally using effective firing and air pollution control devices. Domestic sources are likely to involve thousands of point sources representing varied burning characteristics and for which uniform effective combustion and emissions control would be virtually impossible to achieve. In addition, these sources in all probability would be set in a variety of locations of which some may have topographic and meteorologic features conducive to creating air pollution hazards from otherwise harmless releases. For example, many communities in Vermont lie in valleys in which, under atmospheric inversion, smoke from household chimneys could cause serious health impacts on local residents.

Data on actual occurrences of such potential air pollution incidents are not available as wood generally has not been widely used since early 1900 when it was replaced by coal. However, EPA is aware of the potential for wood burning pollutants as experienced from industrial disposal of wood debris including bark and sawdust in essentially contained open burning systems. Air pollution from wood burning appears, therefore, to represent more of a problem from the undesirable effects of local meteorological conditions affecting pollutant distribution and oxidant formation than from the direct discharge of pollutants alone.

No current EPA air standards specifically regulate emissions from sources burning wood alone. However, EPA is conducting research programs designed to more precisely characterize emissions from wood burning systems for development of specific additional air standards as might be needed. Present EPA air emission standards to address wood burning but only in connection with stationary sources which burn wood along with high sulfur fossil fuel. This combination is allowed so that high sulfur fossil fuel can be adjusted to a mixture containing a sulfur level low enough to comply with EPA SO_2 limits. In such applications, wood is limited in the mixture to the extent that it will not cause violation of particulates emission standards. (3)

If the demand for wood as a reasonable fuel source grows significantly in New England, SIP standards may need revision. Likewise modifications in general standards for air, water and solid wastes disposal may have to be drafted to meet potential environmental impacts. As a means to gain early insight on the probable environmental impacts related to increased and widespread wood burning in New England, the EPA Region I Office is developing a regional wood burning policy. The policy is envisioned to address any environmental issues in addition to air quality impacts. This action would enable regulatory agencies and others to ferret out and assess potential environmental problems related to increased woodfuel use before unacceptable impacts occur.

While a wood burning policy might not be appropriate for other parts of the country, it would have application in heavily forested regions of New England. Wood represents a vast renewable energy resource in the Northeast as shown by data in Tables 2 and 3.(4), (5), (6), (7);

TABLE 2.—ESTIMATES, IN MILLIONS OF CUBIC FEET, OF NEW ENGLAND TIMBER (BOLE) RESOURCE POTENTIALLY AVAILABLE ANNUALLY FOR WOODFUEL

Resource	Maine	New Hampshire	Vermont	Southern New England	Total
Forest acres (10^6)	16.9	4.7	4.4	5.0	31
Cull trees	150	20	45	17	232
Mortality	138	14	30	33	215
Annual surplus	302	172	59	167	700
Residue	243	49	36	57	385
Total	833	255	161	274	1,532

TABLE 3.—APPROXIMATE ANNUAL EQUIVALENT POTENTIAL ELECTRIC CAPACITY (MWe) FROM TIMBER IN NEW ENGLAND AS GENERATED BY CONVENTIONAL STEAM ELECTRIC POWERPLANT[1]

Resource	Maine	New Hampshire	Vermont	Southern New England	Total
Cull trees	500	50	150	50	750
Mortality	450	50	100	100	700
Annual surplus	950	550	200	550	2,250
Residue	750	150	100	200	1,200
Total	2,650	800	550	900	4,900

[1] Assumptions from reference (8): Plant efficiency—27.4 percent; heating value: 20 percent moisture—about 6,500 Btu/lb; capacity factor—70 percent.

Harvesting timber in quantities suggested by data in Tables 2 and 3 could lead to significant environmental degradation if not properly conducted. That the capacity for creating major adverse effects on forested lands exists is recognized from past events involving natural and manmade activities impacting forested areas. Documentation of environmental disruption of forested areas in which acceptable forestry practice was not applied is available and known to environmental agencies and others at the local, state and federal levels. However, specific impacts at specific sites may not be known precisely as related to harvesting huge quantities of wood that would be required in the Northeast for energy development. These potential impacts are therefore of concern to environmental agencies in the New England area.

Air pollution is perhaps the most easily identified impact associated with wood burning. Other impacts might seem subtle by comparison but when they are properly evaluated their potential for adversely affecting the environment become clear. A recent EPA study identifies several categories of environmental disturbances and pollutants likely to occur in connection with overall wood harvesting. (9) These disturbances range from upsetting natural wildlife habitats to destruction of watershed areas to generation of large amounts of solid wastes. Of particular interest, are impacts due to harvesting of trees through various cutting practice, i.e. clearcutting, selection cutting, shelterwood and seed-tree cutting. Among the probable impacts, increase in sediment loadings to surface waters is perhaps the most common. Such increases may be attributed to accelerated erosion brought about by tree removal and from tree debris and other organic and inorganic wastes produced by harvest activities. Sediment loadings can affect stream ecology through destruction of benthic organisms, affect fish reproduction and interfere with photosynthetic processes by limiting light penetration. Sediments can also clog streams and reservoirs, alter stream flow characteristics and inject large amounts of nutrients and pesticides into surface waters. Many of the "208" planning programs EPA is funding address these issues and provide appropriate guidance. (10), (11)

Organic pollutants more readily enter surface waters when large piles of slash and other nonmerchantable tree materials are placed or washed into surface water systems. These pollutants may also reach surface water through runoff and leachate from log storage areas. Organics can degrade water quality by increasing the biological oxygen demand and change taste, color and odors. Thermal pollution is another water impact which can occur where shade covering over surface water is destroyed by harvest removals. Under these conditions water temperatures can increase so as to reduce dissolved oxygen concentration to levels at which fish and bacteria populations would be adversely affected. Potential environmental harm which could be caused by tree removal from forested areas can be avoided or minimized through appropriate forestry management practice. But to achieve this goal, realization of the potential for adverse impacts on forest environs must be understood by regulatory agencies and the public. Acceptable practicable guides and regulatory procedures can then be developed to permit proper use of forests as a resource for renewable fuel.

CONCLUSION AND RECOMMENDATION

Fuelwood, among others, appears to be a useful energy resource in New England. Since the Northeast region of the country is at the end of the nation's energy supply line and heavily dependent on expensive foreign fuel imports, use of cheap indigenous, renewable wood from native forests seems appropriate.

While this fuel may not be completely acceptable for electric power generation as compared to coal, hydro or nuclear, it can serve to assuage the region's fuel needs by providing space heat and energy for other applications. Wood has been used in several of the New England states for domestic space heating and has had some industrial applications. Projections for future use suggest that fuelwood will be increasingly used in domestic applications. However, such use is not without environmental risk. Perhaps the most popular observation concerning pollution from wood burning is that the single obvious insult to the environment is air pollution. Widespread use of wood can lead to increase air pollution but this can also cause other harm such as water and solid wastes pollution and degradation of terrestrial ecology.

Local, state and federal standards for protecting air, water, and terrestrial environs against adverse impacts exist. Control of wood burning and ancillary activities may be more adaptable to large operations such as electric generating power plants for meeting environmental regulatory standards, than for domestic burning involving thousands of small homes units. Difficulties in achieving such control for many widespread small units might lead to environmental impacts which must be addressed.

While the economics, fuel supply logistics and existing regulatory authorities may be favorable toward wood, other aspects, particularly environmental concerns should be included before regional commitment is made to large scale use of woodfuel. There are many environmental issues which need to be considered before woodfuel is widely promoted for domestic or industrial applications. In response to addressing these environmental issues, the following recommendations seem reasonable:

1. Data base for characterization of air pollutants should be broadened to include air borne pollutants from domestic woodburning systems including stoves and fireplaces and should consider the nature and quantities of such pollutants and their potential environmental behavior and impact. Ambient air quality and particularly SIP standards should be modified to reflect acceptable control of those pollutants for which data indicate a need for new standard limits considering adverse local topographic and meteorological conditions.

2. Delineation of forest areas from which woodfuel is to be harvested should be complete as possible including estimate of quantity of trees required for fuel, outline of cutting procedures and means of transporting timber to market. Legal, economic, topographic and other potential encumbrances which might affect tree harvesting over the long term should be evaluated before harvesting programs begin.

3. Operational plans should be developed for harvesting trees based on proper forest management techniques. These plans should be designed for management of solid waste debris and for minimizing or preventing environmental degradation of regional air quality, surface and groundwater systems, and terrestrial ecology.

4. Promotion and development of regional woodfuel programs should involve planning inputs from various government, public and private groups. Representation should at least include local, state and federal regulatory agencies, local planning boards and pertinent technical expertise from other sectors.

REFERENCES

1. ERDA. Synopsis of Proceedings: *A New England Forum—Energy Plan Public Meeting.* ERDA–76/1(PM–6).

2. Snowden, W.D. *et al. Source Sampling Residential Fireplaces for Emission Factor Development.* EPA–450/3–76–010, November, 1975.

3. 41 *Federal Register* 53197 (November 22, 1976).

4. Ferguson, R.H. and Kingsley, Neal P. *The Timber Resources of Maine.* USDA Forest Service Resource Bulletin NE–26, 1972.

5. Kingsley, Neal P. *The Forest Resources of New Hampshire.* USDA Forest Resource Bulletin NE–43, 1976.

6. Kingsley, Neal P. *The Forest Resources of Vermont.* USDA Forest Service Resource Bulletin NE–46, 1977.

7. Kingsley, Neal P. *The Timber Resources of Southern New England.* USDA Forest Service Resource Bulletin NE–36, 1974.

8. Hall, E.H. *et al. Comparison of Fossil and Wood Fuels.* EPA–600/2–76–056, March, 1976, pp. 5–9.

9. Singer, J.R. and Maloney, Ralph C. *Nonpoint Source Control Guidance for Silviculture.* U.S. Environmental Protection Agency, March, 1977.

10. U.S. Environmental Protection Agency. *Forest Harvest, Residue Treatment, Reforestation and Protection of Water Quality.* EPA 910/9–76–020, April, 1976.

11. U.S. Environmental Protection Agency. *Logging Roads and Protection of Water Quality.* EPA 910/9–75–0, March, 1975.

MANUFACTURERS AND IMPORTERS OF WOOD HEATING EQUIPMENT

Source: The Woodburners Encyclopedia

Editor's note. The following information has been furnished by manufacturers and exclusive importers.

Abundant Life Farm, PO Box 63, Lochmere, NH 03252, (603) 524–0891, II (Heating Stoves).

Aglow Heat-X-Changer, PO Box 10427, Eugene, OR 97401, (503) 343–7605, VII (Fireplace Accessories).

Albright Welding Co., Rte. 15, Box 108, Jeffersonville, VT 05464, (802) 644–2987, XI (Woodsplitters).

American Stovalator, Rte. 7, Arlington, VT 05250, VII (Fireplace Accessories).

American Way, Dept. 10–0G, 190 Range Road, Wilton, CT 06897, VII (Fireplace Accessories).

Amherst Welding, Inc., 330 Harkness Rd., Amherst, MA 01002, VII (Fireplace Accessories).

Acquappliances, Inc., 135–H Sunshine Lane, San Marcos, CA 92069, (714) 744–1610, VII (Fireplace Accessories).

Ashley Automatic Heater Co., 1604 17th Ave. S.W., PO Box 730, Sheffield, ALA 35660, II (Heating Stoves) III (Circulating Heaters).

Ashley Spark Distributors, Inc., 710 N.W. 14th Ave., Portland, OR 97209.

Atlanta Stove Works, Inc., PO Box 5254, Atlanta, GA 30307, Or Contact Whole Earth Access Co., I (Cookstoves); II (Heating Stoves); III (Circulating Heaters; V (Free-Standing Fireplace); VI (Fireplace Accessories).

Atlantic Clarion Stove Co., Brewer, ME 04412.

Autocrat Corporation, New Athens, Ill. 62264, (618) 475–2121, I (Cookstoves); II (Heating Stoves); III (Circulating Heaters).

Bahia Bar-B-Que, PO Box 1806, St. Paul, MN 55111.

Bellway Manufacturing, Grafton, VT 05146, (802) 843–2432, IV (Furnaces & Boilers).

Besta Heater Ovens, Box 887, Charlestown, NH 03603.

Birmingham Stove & Range, PO Box 2647, Birmingham, ALA 35202, (205) 322–0371.

Black's, 58 Maine St., Brunswick, ME 04011.

Blazing Showers, PO Box 327, Point Arena, CA 95468, or Contact, Whole Earth Access Co., (707) 882–9956, VIII (Hot Water Heaters).

Boston Stove Co., Dept. CJ1, 155 John St., Reading, MA 01867, VII (Fireplace Accessories).

Bow & Arrow Stove Co., 14 Arrow St., Cambridge, MA 02138, (617) 492–1411, I (Cookstoves); II (Heating Stoves); III (Circulating Heaters).

Sam Daniels Co., Box 868, Montpelier, VT 05602, (802) 223–2801, IV (Furnaces & Boilers).

Dawson Mfg. Co., Box 2024, Enfield, CT 06082.

Charles Dedrick, Inc., Stone Ridge, NY 12484.

Deforge Industries, PO Box 216, Winooski, VT 05404, (802) 863–2653, VII (Fireplace Accessories).

Didier Mfg. Co., 1652 Phillips Ave., Racine, WI 53403, (414) 634–6633.

Double Star, c/o Whole Earth Access Co., 2466 Shattuck Ave., Berkeley, CA 94704, (415) 848–0510, II (Heating Stoves); V (Free-Standing Fireplaces).

Canaqua Co., Box 6, High Falls, NY 12440, (914) 687–7457, 1908 Baker St., San Francisco, CA 94115, (415) 346–0752.

Carlson Mechanical Contr's, Inc., Box 242, Prentice, WI 54556, (715) 564–2481 or (715) 428–3481, IV (Furnaces & Boilers).

C & D Distributors, Inc., Box 766, Old Saybrook, CT 06475, (203) 388–5665, VII (Fireplace Accessories); XI (Wood Splitters).

Chim-A-Lator, 8824 Wentworth Ave., So., Minneapolis, MN 55420, (612) 884–7274, VII (Fireplace Accessories).

Chimney Heat-Reclaimer Corp., Dept. Y 53 Railroad Ave., Southington, CT 06489, (203) 628–4738 (Ext. Y), IX (Heat Reclaimers).

Waldo G. Cumings, Fall Road, East Lebanon, ME 04027, (207) 457–1219, 20 Schuler St., Sanford, ME 04073, IV (Furnaces & Boilers).

Dampney Company, 85 Paris St., Everett, MA 02149, (617) 389–2805.

Damsite Dynamite Stove Co., RD 3, Montpelier, VT 05602, (802) 223–7139, II (Heating Stoves); IV (Furnaces & Boilers).

Dover Corp., Peerless Div., PO Box 2015, Louisville, KY 40201.

Dover Stove Company, Main St., Sangerville, ME 04479.

Dyna Corp., 2540 Industry Way, Lynwood, CA 90262.

Eagle Industries, Inc., Dept. D, PO Box 67, Madison, OH 44057, VII (Fireplace Accessories)

Edison Stove Works, PO Box 493, 469 Raritan Center, Edison, NJ 08817, (201) 225–3848, II (Heating Stoves).

Edmund Scientific Co., Barrington, NJ 08007.

Empire Stove & Furnace Co., Albany, NY 12207.

Energy Associates, PO Box 524, Old Saybrook, CT 06475, (203) 388–0081.

Enwell Corp., 750 Careswell St., Marshfield, MA 02050, (617) 837–0638, IV (Furnaces & Boilers).

Todd Evans, Inc., 110 Cooper St. Box X, Babylon, NY 11702.

Fabsons Engineering, PO Box F–11, Leominster, MA 01453.

Fireplaces (N.S. Limited), Suite 215 Duke St. Tower, Halifax, Nova Scotia, B3JIN9.

Fire-View Distributors, PO Box 370, Rogue River, OR 97537, (503) 582–3351.

Fisher Stoves, Inc., 504 So. Main St., Concord, NH 03301, (603) 224–5091, II (Heating Stoves).

Fisk Stove, Tobey Farm, Box 935, Dennis, MA 02638, (617) 385–2171, X (Barrel Stoves).

Forest Fuels, Inc., 7 Main St., Keene, NH 03431, (603) 357–3311.

Franklin Fireplaces, 1100 Waterway Blvd., Indianapolis, IN 46202.

Fuego Heating Systems, PO Box 666, Brewer, ME 04412, (207) 989–5757.

Futura Stove Works, Main St. Box 14W, La Farge, WI 54639, XI (Wood Splitters).

Garden Way Research, PO Box 26W, Charlotte, VT 05445, (802) 425–2137, II (Heating Stoves); VII (Fireplace Accessories); XI (Wood Splitters).

L. W. Gay Stove Works, Inc., Marlboro, VT 05344, (802) 257–0180, II (Heating Stoves).

Gemco, 404 Main St., Marlborough, NH 03455.

General Products Corp., 150 Ardale St., West Haven, CT 06516, VII (Fireplace Accessories).

Glo-Fire, Spring & Sumner Streets, Lake Elsinore, CA 92330, (714) 674–3144.

Golden Enterprise, PO Box 422, Windsor, VT 05089, VII (Fireplace Accessories).

Greenbriar Products, Inc., Box 473G, Spring Green, WI 53588, V (Free-Standing Fireplaces).

HDI Importers, Schoolhouse Farm, Etna, NH 03750, (603) 643–3771.

Heatilator, Box 409, Mount Pleasant, IA 52641, (319) 385–9211, VI (Pre-Fabricated Fireplaces).

Heat Reclamation Division, 939 Chicopee St., GPO Box 366, Chicopee, MA 01021, (413) 536–1311, Telex 95–5342, IX (Heat Reclaimers).

Heritage Fireplace Equipment Co., 1874 Englewood Ave., Akron, OH 44312, (216) 798–9840.

M. B. Hills, Inc., Belfast, ME 04915, (207) 338–4120, IV (Furnaces).

Hinckley Foundry, 13 Water St., Newmarket, NH 03875, (603) 659–5804.

Home Fireplaces (Morso Canadian Importer), Markham, Ontario L3R1GE, (416) 495–1650, 971 Powell Ave., Winnipeg, Manitoba R3HOH4, (204) 774–3834.

I (Cookstoves); II (Heating Stoves); III (Circulating Heaters); V (Free-Standing Fireplaces); VI (Pre-Fabricated Fireplace); VII (Fireplace Accessories).

Household Woodsplitters, PO Box 143, Jeffersonville, VT 05464, (802) 644–2253, XI (Wood Splitters).

Hunter Enterprises Orillia Limited, PO Box 400, Orillia, Ontario, Canada, (705) 325–6111, III (Circulating Heaters); IV (Furnaces & Boilers).

Hydraform Products Corp., PO Box 2409, Rochester, NH 03867, (603) 332–6128, I (Heating Stoves).

Inglewood Stove Company, Rte. 4, Woodstock, VT 05091, (802) 457–3238, II (Heating Stoves).

Isothermics, Inc., PO Box 86, Augusta, NJ 07822, (201) 383–3500, IX (Heat Reclaimers).

Jernlund Products, Inc., 1620 Terrace Dr., St. Paul, MN 55113.

Kenenatics, 1140 No. Parker Dr., Janesville, WI 53545.

Kickapoo Stove Works, Ltd., Rte. 1–A, LaFarge, WI 54639, (608) 625–4431, II (Heating Stoves).

Knotty Wood Splitters, Hebron, CT 06248, (203) 228–9122, XI (Wood Splitters).

KNT, Inc., PO Box 25, Hayesville, OH 44838, (419) 368–3241 or (419) 368–8791, V (Free-Standing Fireplaces); VI (Pre-Fab. Fireplace).

Kristia Associates (Jotul Importers), PO Box 1118, Portland, ME 04104, (207) 772–2112, II (Heating Stoves); V (Free-Standing) Fireplaces); VI (Pre-Fabricated Fireplaces).

La Font Corp., 1319 Town St., Prentice, WI 54556, (716) 428–2881, VII (Fireplace Accessories); XI (Wood Splitters).

Lance International, PO Box 562, 1391 Blue Hills Ave., Bloomfield, CT 06002, (203) 243–9700, VII (Fireplace Accessories); IX (Heat Reclaimers).

W. F. Landers Co., PO Box 211, Springfield, MA 01101, (413) 786–5722.

Lassy Tools, Inc., Plainville, Ct 06062, (203) 747–2748, VII (Fireplace Accessories).

Newton Lee, Rte. 1, Box 116, Worcester, VT 05682, (802) 223–3119, VII (Fireplace Accessories).

Leyden Energy Conservation Corp., Brattleboro Rd., Leyden, MA 01337.

Locke Stove Co., 114 West 11th St., Kansas City, MO 64105, (816) 421–1650), II (Heating Stoves); III (Circulating Heaters).

Log House Designs, Chatham, NH, (603) 694–3183, Fryeburg, ME 04058.

Longwood Furnace Co., Gallatin, MO 64640, IV (Furnaces).

Louisville Tin & Stove Co., PO Box 1079, Louisville, KY 40201, (502) 589–5380, or contact, Whole Earth Access Co., II (Heating Stoves).

Lynndale Manufacturing Company, Inc., 1309 North Hills Blvd., Suite 207, North Little Rock, AK 72116, (501) 758–9602, PO Box 1154, Harrison, AK 72601, (501) 365–2378, IV (Furnaces & Boilers).

Maine Wood Heat Co., RD No. 1 Box 38, Norridgewock, ME 04957, (207) 696–5442.

Majestic Company, Huntington, IN 46750 (219) 356–8000, V (Free-Standing Fireplaces); VI (Pre-Fab. Fireplaces); VII (Fireplace Accessories).

Malleable Iron Range Co., 715 N. Spring St., Beaver Dam, WI 53916, (414) 887–8131.

Malm Fireplaces, Inc., 368 Yolanda Ave., Santa Rosa, CA 95404, (707) 546–8955, V (Free-Standing Fireplaces); VI (Pre-Fab. Fireplaces).

Marathon Heater Co., Box 165 RD 2, Marathon, NY 13803.

Marco Industries, Inc., PO Box 6, Harrisonburg, VA 22801.

Markade-Winnwood, 4200 Birmingham Rd., NE, Kansas City, MO 64117, (816) 454–5260, II (Heating Stoves); IV (Furnaces & Boilers); V (Free-Standing Fireplaces); VII .(Fireplace Access.); X (Barrel Stoves).

Martin Industries, PO Box 730, Sheffield, AL 35660, (205) 383–2421, I (Cooking Stove); II (Heating Stove); III (Circulating Heater); V (Free-Standing Fireplace).

Mechanical Product Development Corp., Box 155, Swarthmore, PA 19081.

Merry Music Box (Styria Importers), 20 McKown, Boothbay Harbor, ME 04538, (207) 633–2210, I (Cook Stoves); II (Heating Stoves).

Metal Building Products, Inc., 35 Progress Ave., Nashua, NH 03060, (603) 882–4271, III (Circulating Heaters); VI (Pre-Fab. Fireplaces).

Metal Concepts, Inc., PO Box 25596, Seattle, WA 98125, (206) 365–3055, VII (Fireplace Accessories).

Modern-Aire, Modern Machine and Welding, Highway 2 West, Grand Rapids, Michigan, 55744.

Modern Kit Sales, PO Box 12501, N. Kansas City, MO 64116.

Mohawk Industries, Inc., 173 Howland Ave., Adams, MA 01220, (413) 743–3648, II (Heating Stoves).

New England Fireplace Heaters, Inc., 372 Dorset St., So. Burlington, VT 05401, (802) 658–4848, VII (Fireplace Accessories).

Newmac Mfg. Inc., 236 Norwich Ave., Box 545, Woodstock, Ontario N4S 7W5, Canada, (519) 539–6147, IV (Furnaces & Boilers).

Nichols Environmental, 5 Apple Rd., Beverly, MA 01915.

Nortech Corporation, 300 Greenwood Ave., Midland Park, NJ 07432, (201) 445–6900, XI (Wood Splitters).

Old Country Appliances (Tirolia Importer), PO Box 330, Vacaville, CA 95688, or contact Whole Earth Access Co., (707) 448–8460, I (Cooking Stoves).

Pioneer Lamps & Stoves, 71A Yesler Way, Pioneer Sq. Station, Seattle, WA 98104 I (Cook Stoves).

Portland Stove Foundry, 57 Kennebec St., Portland, ME 04104, (207) 773–0256.

I (Cook Stoves); II (Heating Stoves); III (Circulating Heaters); V (Free-Standing Fireplace); VII (Fireplace Accessories); X (Barrel Stove).

Preston Distributing Co. (Poele Importer), 10 Whidden St., Lowell, MA 01852, (617) 458–6303, III (Circulating Heaters).

Preway, Inc., Wisconsin Rapids, WI 54494, (715) 423–1100.

V (Free-Standing Fireplaces); VI (Pre-Fab. Fireplace.

Radiant Grate, 31 Morgan Park, Clinton, CT 06413, (203) 669–6250.

VII (Fireplace Accessories).

Ram & Forge, Brooks, ME 04921, (207) 722–3379.

II (Heating Stoves); IV (Furnaces & Boilers).

REM Industries, 408 C Simms Bldg., Dayton, OH 45402.

Ridgway Steel Fabricators, Inc., Box 382, Bark St., Ridgway, PA 15853, (814) 776–1323 or (814) 776–6156.

VI (Pre-Fabricated Fireplaces); VII (Fireplace Access.).

Riteway Manufacturing Co., PO Box 6, Harrisonburg, VA 22801, (703) 434–7090.

II (Heating Stoves); III (Circulating Heaters); IV (Furnaces & Boilers).

Ro Knich Products, Inc., PO Box 311–E, No. Chicago, IL 60064.

S/A Distributors, 730 Midtown Plaza, Syracuse, NY 13210.

Scandinavian Stoves, Inc. (L. Lange & Co. Importer), Box 72, Alstead, NH 03602, (603) 835–6029.

I (Cook Stoves); II (Heating Stoves).

Scot's Stove Co., 11 Ells St., Norwalk, CT 06850.

II (Heating Stoves).

Self Sufficiency Products, 1 Appletree Square, Minneapolis, MN 55420.

Shenandoah Manufacturing Co., Inc., PO Box 839, Harrisonburg, VA 22801, (703) 434–3838.

II (Heating Stoves); III (Circulating Heaters); VII (Fireplace Accessories).

John P. Smith, 174 Cedar St., Branford, CT 06405, (203) 488–7225.

Solar Sauna, Box 466, Hollis, NH 03049.

Sotz Corp., 23797 Sprague Rd., Columbia Station, OH 44028.

Southeastern Vermont Community Action, Inc., 7–9 Westminster St., Bellows Falls, VT 05101, (802) 463–4447.

II (Heating Stoves).

Southport Stoves (Morso Importer) (Division of Howell Corporation), 248 Tolland St., East Hartford, CT 06108, (203) 289–6079.

II (Heating Stoves); V (Free-Standing Fireplaces).

Sturges Heat Recovery, Inc., PO Box 397, Stone Ridge, NY 12484, (914) 687–0281.

VII (Fireplace Accessories); IX (Heat Reclaimer).

Suburban Manufacturing Company, 4700 Forest Dr., PO Box 6472, Columbia, SC 29206, (803) 782–2649.

III (Circulating Heaters).

Suburban Manufacturing Co., PO Box 399, Dayton, TN 37321.

Sunshine Stove Works, RD 1 Box 38, Norridgewock, ME 04957 (914) 887–4580.

II (Heating Stoves).

Superior Fireplace Co., Div. of Mobex Corp., PO Box 2066, Fullerton, CA 92633.

VI (Pre-Fabricated Fireplace).

Taos Equipment Manufacturers, Inc., Box 1565, Taos, NM 87571 (505) 758–8253.

XI (Wood Splitters).

Tekton Design Corp. (Tasso & Kedelfabric-Tarm importer), Conway, MA 01341, (413) 369–4685.

IV (Furnaces & Boilers).

Temco, PO Box 1184, Nashville, NH 37202, (615) 297–7551.

V (Free-Standing Fireplace); VI (Pre-Fabricated Fireplace).

Thermalite Corp., Dept. PS Box 69, Hanover, MA 02339.

Thermo Control Wood Stoves, Central Bridge, NY 12035.

II (Heating Stoves).

Thermo-Rite, The Fireplace House, 1950 Wadsworth, Denver, CO 80215.

Thermograte, Inc., 300 Atwater St., St. Paul MN 55117, or contact, The Whole Earth Access Co. (612) 489–8863.

VII (Fireplace Accessories).

Torrid Manufacturing Co., Inc., 1248 Poplar Place So., Seattle, WA 98144 (206) 324–2754.

V (Free-Standing Fireplace); IX (Heat Reclaimers).

Triway Mfg. Inc., 7819 Old Highway 99, Box 37, Marysville, WA 98270.

United States Stove Company, PO Box 151, South Pittsburg, TN 37380 (615) 837–8631.
II (Heating Stoves); III (Circulating Heaters); V (Free-Standing Fireplaces).
Vaporpack, Inc., Box 428, Exeter, NH 03833, (603) 778–0509.
IX (Heat Reclaimers).
Vermont Castings, Inc., Box 126, Prince Street, Randolph, VT 05060, (802) 728–3355.
II (Heating Stoves).
Vermont Counterflow Wood Furnace, Plainfield, VT 05667.
IV (Furnaces).
Vermont Energy Products, 100 Broad St., Lyndonville, VT 05851, (802) 626–8842.
Vermont Iron Stove Works, Inc., The Bobbin Mill, Warren, VT 05674, (802) 496–2821.
II (Heating Stoves).
Vermont Soapstone Co., Pekinsville, VT 05151.
II (Heating Stoves).
Vermont Techniques, Inc., PO Box 107, Northfield, VT 05663, (802) 485–7905.
VII (Fireplace Accessories).
Vermont Woodstove Company, 307 Elm St., Bennington, VT 05201, (802) 442–3985.
II (Heating Stoves).
Volunteers in Technical Assistance, 3706 Rhode Island Ave., Mt. Rainier, MD 20822.
E. G. Wasburne & Co., 83 Andover St., Danvers, MA 01923.
Washington Stove Works, PO Box 687, 3402 Smith St., Everett, WA 98201, or contact, Whole Earth Access Co., (206) 252–2148.
I (Cook Stoves); II (Heating Stoves); III (Circulating Heaters); V (Free-Standing Fireplace); VII (Fireplace Accessories); X (Barrel Stoves).
Waterford Ironfounders Limited, Waterford, Ireland, Waterford 5911 Cable Iron Waterford; Telex 8763E1.
I (Cooking Stoves).
White Mesa, Inc., 110 Laguna N.W., Albuquerque, NM 87104, (505) 247–1066.
Whitten Enterprises, Arlington, VT 05250.
Whittier Steel & Mfg., Inc., 10725 S. Painter Ave., Santa Fe Springs, CA 90670.
Whole Earth Access Company, 2466 Shattuck Ave., Berkeley, CA 94704, (415) 848–0510.
X (Barrel Stoves).
Wilson Industries, 2296 Wycliff, St. Paul, MN 55114, (612) 646–7214.
Woodburning Specialties (Hunter Importer), PO Box 5, No. Marshfield, MA 02059.
III (Circulating Heaters); IV (Furnaces).
Yankee Woodstoves, Cross St., Bennington, NH 03442, (603) 588–6358.
II (Heating Stoves).
Source: The Woodburners Encyclopedia, by Jay Shelton and Andrew B. Shapiro, Vermont Crossroads Press, Box 333, Waitsfield, VT 05673, 1976.

AMENDMENT NO. 1523

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI. Mr. President, I am sending to the desk, for printing, an amendment to H.R. 5263, the Energy Tax Act. This amendment, which has been cosponsored by Senators CHURCH, BROOKE, HUMPHREY, CASE, CHILES, DECONCINI, HASKELL, HEINZ, HELMS, LEAHY, and STONE, will establish an energy relief tax credit for low-income elderly.

Mr. President, I ask unanimous consent that the text of this amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1523

On page 20, between lines 2 and 3, insert the following new section:

SEC. 1012. ENERGY COST CREDIT FOR THE ELDERLY.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by inserting immediately after section 44G the following new section:

"SEC. 44H. ENERGY COST CREDIT FOR THE ELDERLY.

"(a) GENERAL RULE.—In the case of an individual who has attained the age of 65 years before the close of the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year a credit of $75.

"(b) LIMITATION BASED ON INCOME.—The amount of the credit allowed by subsection (a) shall be reduced by 1.5 percent of the amount by which the adjusted gross income of such individual exceeds $7,500 for the taxable year.".

(b) REFUND OF EXCESS CREDIT.—

(1) Section 6401(b) (relating to amounts treated as overpayments) is amended—

(A) by striking out "and 44F (relating to certain energy-related depreciable property)," and inserting in lieu thereof "44F (relating to certain energy-related depreciable property), and 44H (relating to energy cost credit for the elderly),", and

(B) by striking out "and 44F" and inserting in lieu thereof "44F, and 44H".

(2) Section 6201(a)(4) (relating to assessment authority) is amended—

(A) by striking out "or 44F" in the caption thereof and inserting in lieu thereof ", 44F, or 44H",

(B) by striking out "income) or section 44C" and inserting in lieu thereof "income), section 44C", and

(C) by inserting "or section 44H (relating to energy cost credit for the elderly)," after "credit),".

(c) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting immediately after the item relating to section 44G the following new item:

"SEC. 44H. ENERGY COST CREDIT FOR THE ELDERLY.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1977 and before January 1, 1986.

AMENDMENT NO. 1524

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to the bill (H.R. 5263), supra.

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. JACKSON. Mr. President, the Permanent Subcommittee on Investigations will continue its public hearings on union insurance contract awards on October 28 and 31, and November 1 and 2 in room 3302 of the Dirksen Senate Office Building commencing at 9 a.m.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JACKSON. Mr. President, the Committee on Energy and Natural Resources has scheduled a hearing for next Wednesday, November 2, on the nominations of Dr. John M. Deutch to be Director of the Office of Energy Research and Robert D. Thorne to be Assistant Secretary for Energy Technology in the Department of Energy.

On Thursday, November 3, at 9 a.m., the committee will resume its hearings on the nomination of Robert H. Mendelsohn to be Assistant Secretary of the Interior.

The committee's hearing on the nomination of Walter N. Heine to be Director of the new Office of Surface Mining in the Department of the Interior has been rescheduled for Monday, October 31, at 9 a.m.

All three hearings will be held in room 3110 of the Dirksen Senate Office Building.

NOMINATIONS TO THE FEDERAL ELECTION COMMISSION

Mr. CANNON. Mr. President, the Committee on Rules and Administration will hold hearings on the following nominations to the Federal Election Commission at 10 a.m. on Wednesday, November 2, 1977, in room 301, Russell Senate Office Building:

John W. McGarry to be a member of the Federal Election Commission for a term expiring April 30, 1983, vice Neil Staebler term expired.

Samuel D. Zagoria, to be a member of the Federal Election Commission for a term expiring April 30, 1983, vice William L. Springer term expired.

All persons who desire to testify or submit written statements to the committee regarding these nominations are requested to contact Peggy Parish at 224–0281.

NOMINATION HEARING TIME CHANGE

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing scheduled for Tuesday, November 1, 1977, to begin at 9:30 a.m., in room 2228 Dirksen Senate Office Building on the nomination of Elsijane Trimble Roy, of Arkansas, to be U.S. district judge for the eastern and western districts of Arkansas, vice Oren Harris, retired, has been changed to 10:30 a.m.

SUBCOMMITTEE ON SEPARATION OF POWERS

Mr. ALLEN. Mr. President, I announce that the Subcommittee on Separation of Powers of the Committee on the Judiciary, will hold hearings on Friday, October 28, 1977, in room 1114 Dirksen Office Building, to receive testimony associated with executive branch negotiations for the disposition of territory and property of the United States located in the Isthmus of Panama.

ADDITIONAL STATEMENTS

PILGRIM BAPTIST CHURCH

Mr. ANDERSON. Mr. President, the Pilgrim Baptist Church of St. Paul, Minn., will soon celebrate another milestone in its long and distinguished history. Next Sunday, October 30, will mark the formal investiture of Pilgrim Baptist's new pastor, the Reverend Doctor Earl Miller, Jr. Reverend Dr. Miller will succeed my close friend, the Reverend Amos Brown, who since 1970 has been a remarkably effective leader in the affairs of the Pilgrim Baptist Church. And being a leader of the Pilgrim Baptist Church means being a leader not only in the black community but in all of St. Paul.

The pastor of this great institution always shoulders an awesome burden which is lightened only by the zeal and hard work of the Pilgrim Baptist Church's devout and active congregation, inspired by a tradition that stretches back over a century. The Pilgrim Baptist Church has Minnesota's largest predominately black congregation. Its history is a part of Minnesota's history.

Founded by a brave, pioneering group of black people who had escaped from slavery, this church helped create the community institutions which have done so much to make St. Paul's black community a leader in the struggle for liberation, equality, and social justice.

In 1863 during the bleakest days of the Civil War, Robert Hickman, a slave licensed as a preacher in Missouri, led 50 enslaved brothers and sisters to freedom via the Underground Railroad through the Union Army lines. The group then sailed up the Mississippi on the steamer *War Eagle* to the Army installation at Fort Snelling, Minn. Ironically, Fort Snelling more than a decade earlier was the temporary home of another slave, Dred Scott, whose name became a rallying cry for all those opposed to slavery.

The group led by Reverend Hickman waited in Fort Snelling while the white authorities tried to decide what to do with the new immigrants. Ultimately, Reverend Hickman led a part of the group to St. Paul where a community was begun and the Pilgrim Baptist Church was founded. The founding principle of the new church was "liberation," and for an incredible 114 years this concept has led the church to greatness.

Pilgrim Baptist Church has played a decisive role in so many of the momentous events in the progress of the city of St. Paul and its black community. I will mention just a few as examples. Between 1914 and 1918 leaders in the Pilgrim Baptist Church organized the St. Paul Urban League and the St. Paul Chapter of the National Association for the Advancement of Colored People. In later years the church led the effort to establish the Halle Q. Brown House which is still the leading community center in the area. The church spearheaded the 1955 drive to raise $750,000 to build the Maxfield Elementary School, a monument to the commitment of the church and community to quality education for their children.

The neighborhood's leading playground, Oxford, also owes its development to the church. The church led the fight for a fair employment practices commission, open occupancy laws and ordinances, public housing and urban renewal. Pilgrim Baptist Church is responsible for the Directions for Youth, a successful program for juveniles, and within weeks we will all celebrate the groundbreaking of the Benjamin E. Mayes Learning Center, an innovative step in youth education.

The Pilgrim Baptist Church has a truly extraordinary history. The task of writing new chapters in the story of the church now falls to the Reverend Dr. Miller. He will be the latest in a long line of distinguished pastors. Beginning with Reverend Hickman himself, Pilgrim has been served by Rev. B. N. Morrell, Dr. Floyd Massey, Rev. Arthur Whitaker, and Reverend Harris. Most recently the church has been served by Rev. Amos Brown, who after guiding projects like the Mayes Center to near completion, is now about to assume new spiritual duties in California.

The Reverend Dr. Miller has the stature necessary for leadership of the Pilgrim Baptist Church. Born in Jackson, Miss., just 36 years ago, he has received degrees from Jackson State College and from the renowned Union Theological Seminary in Richmond, Va., where he was the first black person to receive the doctor of ministry degree. Aside from his formidable academic attainments, he has compiled an impressive record as an academic administrator, scholar, and above all, as a devout and committed pastor in the State of Virginia.

I think it is fitting to acknowledge the debt owed to Reverend Brown as he leaves us, and at the same time welcome Reverend Dr. Miller and wish him well in his challenging new calling as pastor of Pilgrim Baptist. But most important of all, Mr. President, it is appropriate to recognize the great debt that the city of St. Paul and the State of Minnesota owe to one of our State's most beloved and socially committed institutions, the Pilgrim Baptist Church.

INTERNATIONAL LABOR ORGANIZATION

Mr. HATCH. Mr. President, in the next few days, President Carter must decide whether or not this country will carry out its promise to withdraw from the International Labor Organization (ILO). On November 5, 1975, Secretary Kissinger gave formal 2-year notice of U.S. withdrawal in a letter to the Director General of the ILO. The AFL–CIO, the Chamber of Commerce of the United States, and Secretary of Labor Marshall all favor withdrawal.

An article in Nation's Business of October 1977, explains United States discontent with the ILO:

The United States, increasingly unhappy with world organizations that become partisan political forums, is scheduled to say goodbye to one of them next month—the International Labor Organization.

Both the Chamber of Commerce of the United States, which appoints a delegate representing employers, and the AFL–CIO, which appoints the labor representative, want the U.S. to pull out.

TRIPARTITE ORGANIZATION

Officially, the U.S. will withdraw on Nov. 5, but the ILO has had two years' notice that the U.S. intends to leave unless the group quits playing world politics and returns to the concern which caused the ILO's formation.

The ILO came into being in 1919 as a tripartite organization of business, labor, and government to set standards for workers in such areas as hours of work, discrimination, and pensions. Delegations from each nation include two representatives from government and one each from employers and workers. In theory, the worker and employer delegates are independent of their governments and vote their own views.

A POLITICAL TURN

When the U.S. joined in 1934, most independent nations had some type of economic structure in which there were distinct worker and employer communities. The spread of communism and other forms of totalitarianism has since blurred that distinction in much of the world.

Made part of the United Nations at that body's creation, the ILO continued to operate serenely until 1954 when communist bloc countries joined it. Since then, and with the explosive increase of Third World countries, the ILO has become an organization in which most delegations are controlled by their respective governments. It has become motivated by world politics and acts accordingly.

U.S. unhappiness at this trend climaxed two years ago when then-Secretary of State Henry Kissinger filed the two-year notice required for withdrawal, citing as reasons:

The erosion of tripartite representation.

The selectivity with which the ILO expresses concern for human rights.

The lack of due process in ILO proceedings.

The organization's increasing politicalization.

GOVERNMENTAL DICTATES

The U.S. letter spelled out in detail the inequities. In the case of tripartitism, communist nations' government, worker, and employer delegates all automatically took the same line, and more and more other nations' labor and employer delegates also were following the dictates of their governments.

The U.S. also expressed chagrin over and ILO tendency to censure and harangue Free World nations on human rights violations—real and imaginary—while never acknowledging human rights violations by communist and Third World nations. One point particularly offensive to U.S. unions and employers is a disregard for ILO rules that require an investigation by a group of legal experts before a nation is condemned publicly.

The ILO is supposed to be trying to improve the lives of working people, promote human rights, and provide technical assistance to less developed nations in areas such as vocational training and managerial techniques. Instead, the ILO is devoting its energy to propaganda attacks by totalitarian governments against Western democracies, and to support of the PLO. George Meany made this point at a 1975 press conference:

The ILO was set up to improve labor standards, improve working conditions, and promote human rights. That's the purpose for which ILO was set up.

Now, the promotion of human rights has always been recognized as the promotion of the right of freedom of association; in other words, the right to have a free trade union.

Now, for many years the ILO followed that principle quite rigidly until the Soviet and these blocs of other nations came in some years back and the whole character of the ILO was changed. It became a political sounding board to carry out propaganda for these nations who are really not eligible to belong to the ILO.

The ILO has performed great service up until about ten or fifteen years ago The ILO is not performing the service today.

The chamber of commerce has also stressed the failure of the ILO to serve its intended functions. In a letter to President Carter dated October 3, 1977, Richard Lesher, president of the chamber, stated—

There is little or no hard evidence that the ILO has been effective in improving the living standards of workers in the United States, or anywhere else.

Secretary Marshall told Nation's Business:

We contribute $20 million a year to the ILO, and I think we can do a lot, such as giving technical assistance to developing countries, without having to go through all those problems we have to go through in order to work within the ILO. We find ourselves fight-

ing that fight all the time and dissipating our energies that way. If we have to do that, I would just as soon see us not participate and try to do things directly.

The United States has been trying for many years to return the ILO to its original purposes. Two years ago we gave a final warning, which has gone unheeded. I see no reason to back down from our promise to withdraw. It is senseless for the United States to continue pouring $20 million a year into an organization which does little but attack this country and our allies and friends.

Mr. President, I ask that the letter to President Carter from the president of the chamber of commerce and a statement by the AFL–CIO Executive Council concerning the ILO be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, D.C., October 3, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: By November 6, 1977, the United States will have withdrawn from membership in the International Labor Organization (ILO), unless special affirmative action is taken to reverse the present commitment to withdraw.

It is your decision.

The National Chamber strongly urges you to decide to complete the withdrawal process.

This letter is to give our reasons why it is advantageous for the United States to withdraw from the ILO at this time.

1. Withdrawal would emphasize your Administration's strong support of human rights.

The ILO is not an effective international mechanism through which to promote human rights. Although the ILO Constitution states that human rights is a principal goal of the organization, the ILO is incapable of implementing its constitution. It has become a flagrant mockery of human rights. For example, the ILO's committee of experts has repeatedly found that the USSR, other Communist bloc countries, and various Third World countries, completely disregard ILO conventions on human rights. However, time after time, at the annual International Labor Conferences, a coalition of these countries votes to negate the committee findings of human rights violations. The "nose count" is about five to one against human rights. The ILO has used this double standard for many years, and no action recently taken by the ILO Conference indicates that constructive change is likely in the foreseeable future.

Withdrawal from the ILO by the United States, on the grounds that we can no longer tolerate the application of a double standard, and that we will no longer subsidize such abuses, would be hailed by Americans as a positive step in behalf of human rights. Such action would direct world attention to those countries that disregard ILO conventions on the rights of workers.

2. Withdrawal would indicate a firmness in international relations on the part of your Administration that would be welcome by most Americans.

In recent years, Americans have witnessed the withdrawal of the United States from Vietnam. The Administration is currently campaigning for a new Panama Canal Treaty, which many Americans perceive as another "pull out." We are moving towards relations with Cuba, a move some Americans see as a weakness in policy. For years, Americans have seen their country badgered in international fora, such as the U.N., and many would like to see their country stand up more effectively to such attacks. A firm position on the ILO issue could help counteract some of these perceptions, and could be helpful in achieving other Administration goals on such issues as the Panama Canal Treaty.

3. Withdrawal could improve the ILO and other international organizations.

It would be a signal to other international bodies that United States participation can no longer be taken for granted. Withdrawal could stimulate reforms in the ILO and other organizations to the benefit of all. In the case of the ILO, if such reforms were sufficiently far reaching, the United States could rejoin. Any reforms in the ILO, the specialized agencies of the U.N., or the U.N. itself, would be applauded by Americans, and the credit would go to your Administration.

4. Remaining in the ILO would be a political liability.

The credibility of the United States would be seriously questioned, because all three U.S. participants in ILO activities—the Government (the Departments of State, Labor and Commerce), the Workers' and Employers' organizations—have exposed the weaknesses of the ILO, and committed themselves to withdrawing from that organization if these weaknesses have not been redressed by November 5, 1977. The "tripartite" United States groups have clearly stated this intent for the record. For the Administration to decide to remain in the ILO under these circumstances would raise questions of political fortitude. The increased tempo of abuse of the United States that could be expected if we stayed in the ILO could become an embarrassment to the Administration.

While some persons and groups may find reasons to justify continuing participation, the "most representative" organizations of employers and workers have said they want out. These organizations have participated in the working meetings of the ILO for more than thirty years. They are well able to judge the merit of the ILO, or the lack of it. Lacking a significant constituency for continuing participation, the ILO is a political "loser" for the Administration, and for United States foreign policy.

If, as seems most probable, both the AFL–CIO and the National Chamber firmly hold to their positions—that the United States should withdraw from the ILO—which would seem to be a majority position by a very wide margin, and the Administration chose to remain in the organization, the Administration not only would lack the participation of the "most representative" workers' and employers' organizations with which to constitute the required tripartite delegations to ILO meetings, it also might lack the support in Congress needed to pass the appropriation for the United States' contribution to the ILO. Thus, an Administration position in opposition to the strong majority view could be a further political embarrassment.

5. The United States could not bring about reform in the ILO by participating for one more year.

The ILO cannot be reformed to restore the human rights functions which have been lost in the ercsion caused by politicization over more than twenty years. The voting majority is against reform. There are about twenty-two industrialized market economy countries (IMEC) which generally will support the ILO's Constitution and conventions related to human rights. A bare majority of the 135 member states in the ILO is 68, which means that the delegations from 46 countries would have to vote with the 22 IMEC countries to achieve the reforms proposed by the United States. Unless proponents for remaining in the ILO for one more year, to attempt needed reforms, can assure the support of 46-plus countries from among the Communist, and Third World blocs, the effort would fail. Failure would be almost certain—a political loss for your Administration.

6. There is little or no hard evidence that the ILO has been effective in improving the living standards of workers in the United States, or anywhere else.

To my knowledge, there has been no recent testimony before Congressional committees to support the contention that the ILO is essential, or even useful, to the United States. There are no recent State Department studies which present any documentation that ILO programs are effective. Most of the support for the ILO is theoretical—which says: if the ILO followed the objectives of its constitution, and, if it achieved its objectives, it would be useful to the United States' labor movement, and to United States' foreign policy. But the record, as it appears to stand in the official United States' bodies responsible for evaluating participation in the ILO, contains no hard evidence that the ILO merits continued participation. Without clear proof of worth, participation in the ILO lacks a rationale that justifies support of your Administration.

Mr. President, as I weigh out the factors in the ILO issue, I find no substantial and persuasive reasons for continuing United States support for, and participation in, the International Labor Organization. I do find many disadvantages, however.

In behalf of the National Chamber, I urge you to reaffirm support for the process already in motion: to accomplish United States withdrawal from the ILO.

Sincerely,

RICHARD L. LESHER.

STATEMENT BY THE AFL–CIO EXECUTIVE COUNCIL ON THE INTERNATIONAL LABOR ORGANIZATION

(Feb. 20, 1976, Bal Harbour, Fla.)

The dignity and well-being of workers everywhere are enhanced or diminished by the effectiveness of the institutions who work for them and the forces which connive to repress them. The International Labor Organization has within it both the progressive and regressive elements in open confrontation.

The issue is clear and precise. Either the International Labor Organization must return to the constitutional tri-partite purposes and procedures which have made it the hope of oppressed working men and women the world over, or it will continue to slide into the control of the dictatorships and monolithic governmental powers whose oppression of workers is current as well as historic.

For these reasons, the AFL–CIO, together with the government and employers' organization of the United States, has committed itself to a two-year undertaking, the thrust of which is to restore the ILO to its original purposes and organizational integrity.

The Executive Council expresses its strong determination to cooperate with every democratic sector within the ILO to bring about these necessary changes. No honorable means will be left untried to reverse the course charted by those nations seeking the enslavement of workers and the destruction of their human rights. Should that effort fail to develop an effective working alliance of free workers, employers and governments within the ILO, continued U.S. membership in that body will clearly no longer serve any useful purpose and should be terminated.

COMPETITION AND MERGER ACTIVITY IN THE PUBLISHING INDUSTRY

Mr. HATHAWAY. Mr. President, on September 8, 1977, Senator HART and I

introduced the Competition Review Act, which is designed to provide a comprehensive review of competition within several concentrated industries.

Within the private sector, there is an increasing trend toward concentration. At the end of 1974, the top 200 corporations listed on the "Fortune 500"—which comprises less than one-tenth of 1 percent of the manufacturing assets and three-fifths of the sales, employment and net income after taxes—the share of world assets held by these 200 corporations in 1974 was greater than the share held by all firms in the top 500 in 1954.

The publishing industry has been an area where merger and acquisition programs have been most active in recent years.

Small, hometown newspapers are being absorbed by newspaper chains. This amalgamation of newspapers was discussed in an excellent series of articles in the Washington Post from July 24 to August 4, 1977. I would commend this series to my colleagues.

On Sunday, the New York Times printed an article on the impact of mergers and acquisitions in the publishing and printing industry. It is clear that there is a disturbing trend in eliminating the richness and diversity of small publishing houses.

What will be the effect of these media conglomerates on the market for the products of both established and aspiring authors? Are we concentrating too much power in the hands of these media giants? What will the country find when it looks for an outlet for its alternative and dissenting voices?

These are questions which need answers.

The Competition Review Commission would begin to address the implications of the merger activity in the printing and publishing business. This industry sector is specifically covered by the bill introduced by Senator HART and myself.

I hope that our bill will receive prompt action by the Judiciary Committee and the full Senate. I ask unanimous consent that the New York Times article entitled "Merger Fever in Publishing" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 23, 1977]

MERGER FEVER IN PUBLISHING

(By Ann Crittenden)

The book publishing business is in the throes of a major shakeout. As a result, what was once a cottage industry is rapidly becoming part of one of the world's most-high powered industries—the fast-growing "media" business.

Unlike an earlier wave of concentration in publishing, in the late 1960's, when textbook publishers eagerly eloped with computer companies, the present round of marriages is taking place within the media set. Hard- and soft-cover publishers are joining forces and publishers and bookclubs alike are being sought by giants of the television, newspaper, and magazine businesses.

Indeed, the urge to merge is such according to J. Kendrick Noble, a publishing analyist for Mitchell, Hutchins & Company, that "almost every major company in the media field is looking for more media acquisitions."

With an abundance of cash to invest but held back from expansion in their immediate areas by antitrust considerations, big firms are rapidly widening their scope. In recent months, for example:

Time Inc., a major conglomerate in magazines, book publishing, and cable and pay television, has proposed acquisition of the Book-of-the-Month Club, the nation's oldest and largest book club, and David Susskind's television producing company, Talent Associates.

CBS Inc. has acquired Fawcett Publications, a family-owned paperback and special-interest-magazine publisher, and Frederick Praeger, a hard-cover house—adding to a complex that already included a mass-market paperback publisher (Popular Library), a hard-cover publisher (Holt, Rinehart & Winston), a science-textbook house and some 25 magazines.

The Bertelsmann Publishing Group, West Germany's largest book and magazine publisher, purchased 51 percent of Bantam Books, the largest and one of the most successful mass paperback publishers in the United States, from IFI International, which is affiliated with the Agnelli Group of Italy.

A number of major film studios, including Columbia Pictures and 20th Century Fox, are exploring ways to enter book publishing. Conversely, Harcourt Brace Jovanovich, which publishes hard- and soft-cover books, operates radio stations and produces educational films, is moving into feature film production.

The latest consolidations follow more than 300 book-publishing mergers in the last 20 years, according to the Authors Guild. Data gathered by the professional authors' Association indicate that the trend is changing the face of a once-fragmented industry.

Seven paperback publishers now control the bulk of the mass paperback industry, and all of them are part of larger corporations. Ten companies accounted for 89 percent of all book-club sales in 1976. According to industry analysts, only 40 of the estimated 6,000 hard-cover trade houses in the country can successfully publish a book on a nationwide basis. Moreover, even these houses are rapidly being absorbed by larger conglomerates, such as Gulf and Western, or are themselves becoming the nucleus of a conglomerate. Doubleday, for example, now owns a paperback house and a book club.

"If this trend continues," Richard S. Snyder, president of Simon & Schuster, commented in a recent interview in Publisher's Weekly (the book-industry publication whose parent, R. R. Bowker, was itself acquired by the Xerox Corporation a few years ago), "like the seven sisters of the oil business, we will have seven giant publishing companies of varying size, etiher as part of a conglomerate or we will become like Doubleday, which in itself is a bit of a conglomerate."

The phenomenon has aroused concern in the Authors Guild and among numerous writers and members of Congress that book publishing is losing its rich diversity, and that return on investment, rather than aesthetics or public responsibility, will come to dominate the print media. It has also pricked the interest of the Justice Department and the Federal Trade Commission, which are investigating the antitrust implications of the merger trend. (See article, page 9).

Even in purely economic terms, some in the book business wonder whether the emergence of the multimedia companies makes sense.

"You just can't make money in publishing" says Daniel Okrent, former editor-in-chief of Harcourt Brace. "In five or 10 years these guys will be saying, 'What is this business—I want out.' "

Book publishing is a notoriously low-profit business. Last year the industry showed a pretax earnings margin of only 7.2 percent, primarily because hard-cover trade books, the weakest link in the industry, earned only 1.7 percent in 1976, down from 4.4 percent the year earlier.

Excluding subsidiary rights income from the sale of paperback and book club rights, the average hard-cover trade publisher lost 16 percent last year, according to the Association of American Publishers.

Certain areas of book publishing, however—those that have attracted the most investor interest—have done considerably better: educational, professional and special interest books, for example, and book clubs. Over the last five years industry sales have gone from $2.9 billion in 1971 to $4.2 billion in 1976, an annual increase of 7.8 percent. Yet virtually all of these gains resulted from higher prices—the number of books sold actually declined between 1972 and 1976. According to Book Industry Trends, 1977, published by an industry study group, sales dropped from 1.373 billion copies in 1972 to 1.360 billion last year, a fact attributed largely to the inflation in book prices.

Clearly economic pressures account for part of the publishers' willingness to sell out to larger houses, particularly when the capital required to compete in the business is escalating. Because of the rise in bookstore chains, which are interested in buying fewer titles and more best-sellers than the Mom-and-Pop stores they are replacing, the demand for top authors is soaring, as are the prices paid to them.

Small independent publishers often do not have the money to meet the $1 million-plus demands made by today's best-selling writers. To stay in the bidding, hard- and soft-cover houses are merging or are looking for highly capitalized conglomerates to help them raise the new ante.

As one example of the forces at work, Gail Sheehy, who received a $35,000 original advance for her best-selling book "Passages," negotiated an advance of more than $1.2 million for her next book.

The demand for "big" books in the paperback market is particularly fierce, for only with a list headed by probable best-sellers can a publisher gain all-important display space in retail outlets, such as supermarkets and drugstores. Paperback rights to "The Thorn Birds," by a relatively unknown writer, Colleen McCullough, sold for $1.9 million, and industry observers believe that record will be broken by the end of the year.

There is another side to these windfalls: Books by unknown authors are becoming harder to publish or to sell. According to Bowker's Weekly Record, fewer new books were published in 1976 than in 1974. One reason, analysts say, is the publishers' response to the chains' hunger for fewer, bigger titles.

Moreover, advances paid to the majority of writers are now less favorable than just two years ago, according to semi-annual surveys conducted by the Authors Guild. In the latest survey more than 60 percent of the responding authors said they had received advances of less than $10,000.

Thus the trend toward concentration among publishers is in part a result of increasing concentration in book retailing as well as from economic concentration in related media industries.

The rate of return on equity in the highly concentrated radio and television industry, for example, was 23.3 percent last year, far higher than the all-industry average of 14.1 percent. Television companies—particularly CBS with a rate of return of 25.3 percent and a 33 percent earnings rise to a record

$164 million last year—are cash-rich and looking for acquisitions. Time Inc. with record earnings and an internally generated cash flow from operations of $107 million last year, has also been compelled to find ways to spend the money.

In most cases these media companies have few avenues of expansion in their immediate fields, often for anti-trust reasons. The networks cannot buy any more stations or expand into cable, and Time would have problems if it cast covetous eyes on any existing magazines. Moreover, unit-sales growth in many areas of the media, including newspapers, motion pictures and segments of the magazine business, has slowed significantly in recent years—thus, the appeal of a new, but related field such as the book business.

Some conglomerate executives are describing their expansion into publishing in terms of what they used to call "synergy" in the go-go days of the 1960's, and which they now prefer to call "complementarity." Television and film companies in particular, with heavy appetites for production ideas, reason that by acquiring book publishers, they can obtain rights to such material at a lower cost than that for the same rights in the marketplace.

For their part, some big publishers are eager to contract for authors' film and television rights, traditionally reserved by the writer, in hopes of spinning them into profitable productions.

As Mr. Snyder of Simon & Schuster has put it, the book business is "the software of the television and movie media." Said Joseph L. Dionne, senior vice-president for corporate planning at McGraw-Hill: "It's like having your own raw material. It's like backward integration."

Mr. Dionne, and numerous publishers and editors, are skeptical about the actual degree of "complementarity" that results from multimedia matchings. They point out that the films produced by motion picture and television companies owned by media conglomerates are rarely based on books from affiliated publishers. And in spite of publishers' pressures or entreaties, sophisticated authors still refuse to relinquish their rights in other media.

More fundamentally, Mr. Dionne and other industry experts wonder whether the corporations now enthusiastically gobbling up book publishers can avoid the indigestion that followed the merger gluttony of the 1960's. Then, giant companies such as International Business Machines, Raytheon and Xerox busily absorbed textbook publishers, expecting to obtain material to program into their teaching machines. But the conversion of books into software was not at all simple, and a decline in the birthrate and a cutback in Federal education expenditures starved more than one ambitious project.

Some more recent mergers have been equally disappointing. Warner Communications has struggled for years, and at some cost, to succeed with Warner Books, a mass paperback house acquired in 1970. But by 1976 Warner's publishing group, including comic books and a distribution company, still had a lower pretax income than 1970.

Random House, the hard-cover house acquired by RCA in 1965, is still earning only a 4 percent pretax profit, far less than RCA's other lines of business. Random House editors used to joke that RCA could have made more money simply by leasing out the publishing company's office space, a former employee recalled. RCA's management earlier this year, almost sold Random House to The Times Mirror Company, publisher of The Los Angeles Times. The deal was never consummated, partly because of Justice Department concern over possible antitrust aspects.

"The low rates of return of these publishers reflect the fact that these huge companies can't just wave a wand and bring earnings up," said T. H. Lipscomb, the president of Times Books, a subsidiary of The New York Times Company. Times Books, like Quadrangle Books, another subsidiary, went through years of losses and management changes before its reorganization this year.

Nevertheless, executives of the acquiring companies emphatically insist that they have not overestimated the earnings possibilities in bringing efficiencies to a business in which "99 percent of the people don't know how to read a profit and loss statement," as Erwin A. Glikes, vice president of Harper & Row, put it recently.

Off the record, they rhapsodize about the savings that can result from applying modern management techniques and strict financial controls to family enterprises operated more like hobbies than businesses. In fact, figures published by the A.A.P. recently show a correlation last year between the size of publishers and their profit margins—the larger companies showed the highest rates of return.

There is some industry speculation that if current trends continue, with book publishing companies growing larger and increasingly profit-conscious, more and more experimental, high-risk works will be published by the small regional publishing houses that seem to be cropping up all over the country, particularly in the West. These publishers, which may produce as few as five books a year, may well become farm teams, in effect, developing new talent for the majors.

Similarly, as the larger publishers place increasing emphasis on the mass market, such works as poetry and translations of important foreign books will gravitate more and more to the university presses—much as cultural television programming has been relegated largely to public television.

In this process, the few remaining independent publishers are those most likely to be affected, according to John Dessauer, book-industry analyst. "They do seem to be in a squeeze," he notes, "and most will probably sell out if they can."

THE "BOTTOM LINE" IN LITERATURE

(By Ann Crittenden)

The merger craze in publishing is profoundly disturbing to many writers and to such organizations as the Authors Guild. Essentially, they fear that the emerging publishing giants, in their efforts to wring more profits from a traditonally low-profit industry, will base their decisions more and more on "bottom line" considerations, rather than on writing merit. The emphasis, they argue, will increasingly be on books with best-selling potential, while experimental or unknown authors will find it harder and harder to be published, as the number of possible outlets diminish.

To an extent, this has already begun to happen—some major publishers now are losing interest in investing in previously unpublished authors. One trade editor, for example, says that whereas five years ago he could pay an advance of $5,000 for a first novel, today he can pay no more than $2,500, and some publishers, he notes, won't buy first novels at all. Others in the industry say that many large publishers simply are not buying books that promise to sell only a few thousand copies.

Many observers are also concerned that as more of the media falls into fewer corporate hands, the Government or special-interest groups could censor what is printed or broadcast by threatening the parent company's other interests.

Moreover, a conglomerate itself might be included to suppress publications or news coverage that challenged its economic interests. Recently, for example, Pocket Books, which is owned by Gulf and Western, cancelled the remainder of a national tour promoting Ron Kovic's book "Born on the Fourth of July" after the crippled Vietnam veteran publicly criticized the parent corporation and its book-pricing policies.

James A. Michener recently wrote Congressman Robert W. Kastenmeier, Democrat of Wisconsin, that "if the present trend continues, the entire American cultural scene must be damaged." John Hersey and John Brooks are among the other authors who have voiced similar anxiety about the trend.

The Authors Guild has asked the Federal Government to investigate the proposed Time Inc.-Book of the Month Club merger under Section 7 of the Clayton Act, which provides for Federal antitrust action when a "trend to concentration" is perceived.

The guild argues that an investigation is justified because the B.O.M.C. acquisition gives Time, which already sells its own books by mail order, an impressive share of that market and gives B.O.M.C. access to the advertising pages of Time Inc. periodicals at a much lower cost than the club's competitors would have to pay.

Jerry Connell of the Justice Department's Antitrust Division said the Federal Trade Commission was examining the proposed acquisition, although an F.T.C. spokesman refused to confirm it. Moreover, the Justice Department is looking into the CBS purchase of Fawcett, Mr. Connell asserted. With that merger, CBS gained control of some 15 to 20 percent of the mass paperback market.

Representatives Kastenmeier and Morris Udall, Democrat of Arizona, have reintroduced a bill in the House calling for a study of the "state of competition" in publishing, among other industries.

Executives of the prominent publishing conglomerates dismiss the various apprehensions as exaggerated. Book publishing has never before been so eager to locate and develop new talent as today, they argue. Moreover, with its greater resources, a large company, they claim, can take more risks on unseasoned authors than a small house can.

One man's risk, however, can be another's sure thing. CBS executives maintain that Holt took a flyer on "The Roots of War," a first novel by Philip Caputo, which the company did not expect would sell more than 30,000 copies. To a small publisher, sales of more than 5,000 to 8,000 would be considered healthy.

Larger publishers also say that with their bigger promotion budgets and distribution networks, they can better serve authors than smaller companies, "which may hold an author's hand but can't sell his books," as one executive put it.

Corporate executives firmly deny charges that greater concentration will bring a threat to intellectual freedom. CBS spokesmen, for example, like to point out that the network ran a documentary critical of hunting, even though angry gun advertisers pulled ads out of Field and Stream magazine, which is owned by CBS.

The attention now directed at media mergers ignores the publishing industry's long tradition of mergers, say such executives as Richard B. McKeough, Time's vice president for finance. Publishing is a fragmented industry with relative ease of entry and numerous small companies, making it merger-prone, they argue. Today's acquisitions are drawing fire, Mr. McKeough feels, simply "because the media likes to write about other media. If two widget ocmpanies merged, you wouldn't have people calling the Justice Department asking them to look into it," he added.

WATERWAY USER CHARGES—THEY WILL CUT COSTS

Mr. WALLOP. Mr. President, my colleagues are doubtless inundated these days with various assessments of the "cost" of waterway user charges. One description I recently came across referred to them as "criminal."

Realizing that there are legitimate differences of opinion, this is what one economics professor, Dudley E. Pegrun of the University of California, Los Angeles, has to say:

The levying of charges on the commercial users of our national waterway facilities will not increase the freight costs of the country, will not increase the freight costs to the consumer, and will not add to inflationary pressures. On the contrary, the result will be precisely the reverse. Total freight bills will be less because of: a more efficient allocation of economic resources to transportation; a more efficient allocation of freight traffic among the modes; a reduction in the total costs of the infrastructure of freight transport facilities; a reduction in the federal tax burden on taxpayers; and a reduction in total federal spending with a consequent reduction in the pressure on inflation.

THE SIGNING OF THE FAIR DEBT COLLECTION PRACTICES ACT

Mr. RIEGLE. Mr. President, I recently had the pleasure of attending the President's Rose Garden signing ceremony for the Fair Debt Collection Practices Act. I was the principal sponsor of this legislation and am extremely pleased that the President attaches the same importance to this law that I do.

I ask unanimous consent that the President's Rose Garden remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF THE PRESIDENT AT THE BILL SIGNING CEREMONY FOR H.R. 5294, FAIR DEBT COLLECTION BILL

I am glad to see there is a lot of interest in this legislation. It is a great pleasure for me to meet with all of you this morning to sign H.R. 5294, which is a Fair Debt Collection bill.

Before I sign this legislation, I would particularly like to thank Senator Proxmire and Senator Riegle, who did so much hard work on this, and Congressmen Reuss, Annunzio and Wiley behind me, who fought a very difficult fight—very close in the House, very overwhelming in the Senate—to get this legislation into law.

This is the first consumer bill that I have had the opportunity to sign, and it is one of the first times, I think, in the history of our country when a consumer bill has been signed here at the White House. (Laughter) But I believe it is important for me as President to indicate my strong interest in this legislation.

It is not a minor matter to treat consumers fairly in this country. And if there is one major gap in what has been accomplished by my predecessors in the White House and by previous Congresses, it is in the protection of consumers. I hope this is the first of a series of bills I will be able to sign here on the White House lawn.

I believe that we need to pursue the opportunity for consumers to be represented before the agencies of the Federal Government which determine their right to a fair opportunity in our economic structure.

I hope that we will have a chance to enhance the use of responsible class action suits. And above all, I hope I will have a chance to sign into law an act creating the Consumer Protection Agency, which I believe is of very great importance to our country. (Applause)

The deliberate misinformation that has been promulgated about this legislation is disheartening to me, and I hope that the Members of Congress who have already shown their courage in protecting consumers against what is so often very strong pressure will again renew their effort to pass this law which will create the agency that I have described.

We now have consumer protection scattered so diversely throughout the Federal Government that it is impossible to make it effective. It would be a great saving in taxpayers money, it would be a great savings in the wasted efforts of public employees, and it would also be a great step forward in letting American people know that our free enterprise system can be fair to implement this agency in the future.

This bill assures that collection procedures are fair. Testimony that was given during the hearings on this bill showed that quite often innocent consumers, some of whom had even been misidentified as debtors, were harassed by profane language, by false statements made to them directly or by telephone, by calls after midnight to disturb a family, by threats which were contrary to the law, by alleging that consumers were violating the law when in fact they weren't. And these practices will now be made illegal among about 500 collection agencies, most of which are honest and law-abiding and do a proper job; some of which, though, need to be corrected.

About $5 billion a year are collected by these agencies, and this is a great step forward in indicating to the American people "that the Congress believes that consumers need to be treated fairly."

So because of these reasons and many others, I congratulate the Members of the House and Senate behind me, who represent many others, and express my congratulations to the consumers of America and my own pride in being able to sign this legislation, which is a great step forward.

THE SO-CALLED LABOR REFORM BILL

Mr. THURMOND. Mr. President, several weeks ago I spoke on the Senate floor in opposition to S. 1883, the labor reform bill, which is pending in the Human Resources Labor Subcommittee.

I now have before me three editorials—one from the Greenville Piedmont, one from the Greenville News, and one from the Columbia State—which analyze in detail the provisions of S. 1883. All of the editorials point out that it is up to the Senate to defeat this legislation, or the country will suffer.

Mr. President, since the House passed a comparable bill on October 6, and since there is little doubt that the Human Resources Committee will approve S. 1883 intact, opposition on the Senate floor is crucial to stop this legislation. President Carter has already endorsed it. Big labor unions have already begun to push on S. 1883, and unless the opponents begin to take these lobbying efforts seriously, the battle will be over before we consider it on the floor.

S. 1883 is one of the most dangerous bills which we have considered in the Senate this year, and I want to serve notice early that I intend to do everything I can to defeat it, eevn to the extent of extended debate.

Mr. President, in order to share these three excellent editorials with my colleagues, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Greenville (S.C.) Piedmont, Oct. 12, 1977]

SENATE ONLY HOPE TO HEAD OFF BIG LABOR

Probably the most accurate assessment of sweeping House-voted labor law changes is that they clearly open the way for America to become another Great Britain racked with devastating labor power.

Big Labor called in all its member-dues-purchased congressional and presidential debts in manipulating the so-called "Labor Reform Act of 1977" through the House by a wide vote margin.

The hefty pro-labor vote was directly contrary to congressional rejection of a massive Big Labor attempt earlier this year to outlaw state right-to-work laws.

The latter vote was anti-labor because the Capitol was at the time surprisingly inundated by union rank-and-file protests against losing the individual right to work.

But Big Labor, with President Carter's firm support, was able to camouflage under "reform" the equally anti-right-to-work provisions contained in the revisionary package to be inflicted on all working citizens unless the Senate next year votes to nip the subterfuge.

The trickery is poorly disguised.

Probably worst features of the bill combine effectively to destroy the balanced relationship worked out over a lengthy period of years under the National Labor Relations Act's provisions for orderly action through the National Labor Relations Board (NLRB) and the courts.

Equally bad is a complete turnaround to make the act punitive, ostensibly against employers but actually working against best interest of employees because the government could in certain violation cases jerk government contracts from offending firms, not just one plant but all in a given company. Fines could be levied against companies refusing to bargain.

This economic drain could put thousands of innocent workers out of jobs.

Opponents of the bill rightly claim legal machinery already exists to take care of violations.

Anyone who doubts this need only to note the harsh orders the courts recently rendered against the J. P. Stevens textile firm for what it adjudged to be repeated illegal resistance to union organization efforts. This is hard evidence the courts will not allow companies to circumvent existing labor laws.

Additionally, unions would be given such as heavily weighted new powers to force:

On-site, in-plant organizing efforts on company time.

"Quickie" elections before adequate dissemination of information to workers by both sides, and without even majority consent.

Also, the NLRB would be expanded to seven members from the present five.

This is possibly the sneakiest expedience of all in the Big Labor bosses' power-jealous drive quickly to force unionism on a nation in which membership and its lucrative dues are dropping steadily.

President Carter could appoint two pro-labor Democrats to the NLRB and unfairly

tip toward labor what has been a fairly good equilibrium.

Obvious thrust of the proposed labor law alterations is to give Big Labor virtually full control over whether or not all companies and all workers will be unionized.

This is particularly true in the South, where the target is new growth and population migration that is cutting Eastern and Midwestern union member rolls and treasuries.

The labor lobby's humiliating defeat on state right-to-work laws substantially proves a large percentage of rank-and-file workers does not want to be coerced out of the right to earn a living as they choose.

The personal rights of people do not seem to interest upper union chiefs, all of whom have a far bigger power and economic stake than the membership ever will in giving Big Labor unbridled authority.

Pressure now should be directed toward the Senate in hopes enough courage is there to stop this dangerous threat to individual choice and freedom.

[From the Columbia (S.C.) State, Oct. 11, 1977]

HOUSE BILL WOULD GIVE UNIONS AN UNFAIR EDGE

The labor-management pendulum continues to swing, and equity loses every time it reaches the extremes. With the thumping House vote in favor of the bill making massive changes in the National Labor Relations Act, the pendlum is sweeping toward labor's end.

The 247–163 tally gave organized labor its first major victory of the year after several setbacks on issus of less substance. But this was the one George Meany and Company wanted more than any other because it gives labor almost a blank check to organize companies which have so far resisted efforts at unionization.

The AFL–CIO marshaled massive lobbying support behind the bill, bringing in celebrities, clergymen, black militants, female activists and many, many others. The Carter administration lent solid supoprt. Labor columnist Victor Riesel estimates that at least $1 million was spent. This time, as opposed to earlier labor issue votes, the union's lobby out-muscled a hefty counter-effort by industrialists.

Organized labor got plenty for its million bucks—that is, it will get plenty if the bill passes the Senate pretty much as it did the House. Secretary of Labor Ray Marshall admitted as much: "Penalties that we put in there (the bill) I think will be significant."

One of the key penalties—and one that has not been as extensively discussed as some of the rest—is one that empowers the Secretary of Labor to bar a company for up to three years from receiving federal contracts for illegally refusing to bargain with a union.

When that happens, workers, whether union or non-union, will suffer from loss of work. But so would companies that do substantial business with the federal government, as does the Southern textile industry, prime target of this legislation. This is a weighty club to be wielded by the government for the benefit of organized labor.

Other provisions substantially reduce defenses which managements and satisfied workers have against organizing efforts. For the first time, deadlines (from 25 to 75 days) would be placed on the holding of union certification elections. The bill mandates double pay for any worker fired for trying to form a union and gives retroactive increases if a company is found to be unlawfully delaying negotiations.

In one instance, the bill requires a company, in effect, to subsidize the organizing effort. If a member of management makes a talk to his employees opposing a union on company property and on company time, then he must give equal time during working hours on company property to union representatives.

The measure even provides a tool to move against strikes and pickets not authorized by the unions. The National Labor Relations Board would be empowered to get court injunctions to stop these wildcat strikes, but the House pointedly refused to give employers the same right.

Finally, the bill expedites the procedures of the NLRB and expands its membership from five to seven. The board is fairly well divided between labor and management now. Industry fears expansion will give President Carter a chance to pack it with pro-union members.

The 1935 Wagner Act, which created the NLRB, was tilted sharply toward labor. The 1947 Taft-Hartley Act and the 1959 Landrum-Griffin Act restored a measure of balance. But organized labor has been losing ground and sought an advantage. This bill, which goes far beyond the Wagner Act, gives it a huge one. It is patently unfair and potentially inflationary.

The battle won't be joined in the Senate until next year. That chamber has shown it can be hostile territory for Carter-backed bills. It had better be when this one comes up, or our economic system will suffer a mighty jolt.

[From the Greenville (S.C.) News]

UNIONS ASKING AID

Union membership across the nation has been declining.

Unions are losing more elections than they win.

Some unions are collapsing, unable even to guarantee the pension payments that members thought were safely invested. Others are merging with other unions.

Reeling under those problems—and with membership down by 767,000 during the last two years—union leadership is refusing to change and adapt. Instead, the unions have gone to the government—asking Uncle Sam for a little federal aid to unions, so to speak.

Union leaders claim the National Labor Relations Act makes it too easy for employers to contest organization efforts. They forget that some workers don't see that a union offers them any particular benefit; . . . that to many workers, the union is nothing more than another "deduct" for dues on their paycheck.

The union leaders' answer is not a more appealing union organization but rather House Resolution 8410 under the guise of a "labor reform bill."

It would not "reform" labor, but it would make it easier for unions to get more members and get more dues.

For example, H.R. 8410 would require an election as quickly as 15 days after a union petitions to be declared the bargaining agent for a company's workers. That would allow little time for employers to counter propaganda being distributed by the union for months prior to asking for an election.

H.R. 8410 would allow union organizers to distribute their promotional material on company property, on company time and at the company's expense.

The so-called "reform" would allow the same union that represents production workers to organize the company's security guards also—a sharp reversal of present policy and law.

And on top of all else, the law would expand the National Labor Relations Board from five members to seven, and extend all terms from the present five years to seven. The objective, of course, is to pack the NLRB with pro-union members whose effect would be to intimidate companies into surrendering in the face of both union demands and a "stacked deck" at the NLRB.

The underlying philosophy in forming the NLRB was to protect employees' rights. This proposed "reform" would change the philosophy to one of punishing employers who don't knuckle under to union pressure.

THE NEED FOR A NATIONAL POWER GRID

Mr. METCALF. Mr. President, the November 1977 issue of the Progressive features a comprehensive article by John Wicklein on the unreliability of this country's electric power transmission system. Mr. Wicklein, dean of the School of Public Communication at Boston University and a former reporter for the New York Times and Washington bureau chief for National Educational Television, has investigated the most recent blackout in New York City.

He concludes, after discussing the short-sighted opposition of investor-owned electric utilities to a national power grid, that "a national grid will never come about unless a President becomes committed to the idea and pushes it hard as a national necessity." He adds:

If the President gets behind the project and the grid becomes a reality, blackouts such as those of November 9, 1965 and July 13, 1977, will no longer be an American Phenomenon.

Legislation to establish a national power grid is before both the Senate Committee on Energy and Natural Resources and the House Committee on Interstate and Foreign Commerce. These bills are S. 1991, which I introduced with Senators MCGOVERN, ABOUREZK, and METZENBAUM as cosponsors, and H.R. 8793, which Congressman OTTINGER introduced.

I am pleased to note that President Carter has a strong personal interest in the national power grid issue. Because of powerful opposition to a national grid by major investor-owned utilities, strong Presidential leadership will probably be necessary, as Mr. Wicklein indicates, to modernize electrical transmission. It will also be necessary for the Federal Government to have its own in-house experts on transmission matters and appropriate studies for the Congress and the executive branch.

Secretary of Energy Schlesinger has assured me that a national grid study will have high priority in this administration. I ask unanimous consent that Mr. Wicklein's article in the Progressive, and Mr. Schlesinger's and my exchange of correspondence, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Progressive, November 1977]

MUST WE TRY FOR BLACKOUT III?

(By John Wicklein)

New York did not go black the night of July 13 because God smote Consolidated Edison with lightning. New York collapsed because, ever since Blackout I in 1965, some

short-sighted men at Con Ed have refused to take the engineering measures that would ensure that the system would not collapse again. It did collapse, and at an economic and social cost far greater than the engineering steps the company should have taken to protect against a new disaster.

Con Ed is not alone in its inertia. When reporters pressed power company executives in other urban centers with the question "Can it happen again?" they did not say flatly, "It can't happen here." It can. Considering the standards of reliability under which most companies operate—standards little changed since the Northeast blackout of 1965—we probably will see (or grope around in) Blackout III.

The Consolidated Edison Company is the biggest private power system in the world. Yet, when the emergency came, it could not save itself. No single system can save itself from blacking out. At the time this most recent emergency hit, Con Ed was drawing one-third of its power from outside its system.

For reliability, a power system must, at normal peak periods and in emergencies, be able to draw instantly not only on its own reserves, but also on the reserves of other systems in its region. To do that, the local system must be heavily interconnected at many points to many other systems.

When the chips were down (or, as Con Ed had it, when lightning struck), the utility that had been granted a monopoly to supply electricity to 9,000,000 people in New York City and Westchester County was relying on only four interconnections to bring in about 2,000,000 kilowatts of power—out of a total load of 5,800,000 kilowatts—from outside sources. Only one of the four, a 500-kilovolt line that ties the utility in with the Pennsylvania-Jersey-Maryland power pool and the New York State power pool, would be considered major by standards of the large American Electric Power Company network in the Midwest or several of the national systems of Western Europe.

Power from this line was interrupted, according to Con Ed, when two high-voltage lines carrying its output and that of Indian Point Three nuclear power station were struck simultaneously by lightning at 8:37 P.M. At 8:56 P.M., according to Con Ed, two more lines, carrying 1,000,000 kilowatts of power from the New York pool, to which it belongs, were also taken out by lightning. From that time on, the system was doomed. Con Ed had insufficient reserve capacity to make up for power denied it from the west and north, and no alternative lines to draw power from these sources of supply. In this emergency, one additional high-voltage connection to the P–J–M or New York pools, both of which had power to spare, could have kept most of the city from being plunged into darkness.

The answer seems obvious—Con Ed should have built more heavy interconnections than it had in operation on July 13. In fact, that answer has been obvious to many investigators and system engineers since the blackout that brought down New York, New England, and parts of Canada on November 10, 1965.

To guarantee the availability of electricity, local power distribution systems must be fully integrated into large regional or national grids in which power is controlled and dispatched from a central point that has knowledge of the energy situation in every part of the region.

Large, tightly interconnected grids are standard engineering practice among electrical utilities in Western Europe. In England and Sweden, national grids tie all power plants together. All the plants of France, West Germany, Belgium, and the Netherlands are tied into an international grid. Officials of these systems, queried by the Associated Press after the New York disaster, said they considered massive, cascading power failures to be an American phenomenon. In the United States, large, centrally dispatched regional networks are the exception rather than the rule.

Most power companies in the United States maintain "spinning reserve" (generators fired up, but not connected into the system) equal to the largest single generating unit that could go down, and one major high-voltage line for backup. (Con Ed said it had this amount of generating capacity in reserve on July 13; it did not have the reserve transmission line.) A multiplier effect in reliability can be achieved by tying the individual systems, with their reserves, into a centrally controlled regional grid. Thus, all the spinning reserves are immediately available, to be used to meet unexpectedly high peak loads of one or more members of the interconnected system, or to send power instantly, over multiple paths, to a system that has lost capacity through the breakdown of a generator or a transmission line.

This arrangement also provides a financial benefit. In England and Sweden, the grid dispatchers bring the most efficient plants on line first, then cut in others in descending order of efficiency as the load increases. In the absence of a grid, companies in the United States have to operate their more costly plants a larger part of the time. If this country's electrical capacity were tied together into an integrated system, estimated power reserves would mount up to 24 per cent of the national demand.

Looking through the post-blackout edition of *The New York Times* of November 10, 1965 (its eight-column head was "Power Failure Snarls Northeast") gives you a sense of *deja vu:*

"U.S. Orders an Inquiry/President Calls for a Study of Power Failure in East"—*The Times,* November 10, 1965.

"U.S. Inquiry Ordered"—*The Times,* July 15, 1977.

The President who ordered the inquiry in the first story was Lyndon B. Johnson; the Federal Power Commission (FPC) submitted its report to him on July 19, 1967.

In the 1977 blackout the President was, of course, Jimmy Carter. He, too, asked the FPC to find out why the blackout happened, and to recommend "specific actions" to prevent another. President Carter might find the answer in the first report.

"Given the percentage of power Con Ed draws from outside the system," John Ahearne of the President's Energy Policy and Planning staff told me, "they seem to be poorly prepared for the emergency in terms of interconnection." That's what the 1967 FPC report said.

On July 18, President Carter also asked his Cabinet and the FPC to investigate a possible national grid system that would allow a more orderly and structured transfer of power to an imperiled system on an emergency basis.

President Carter's energy program does not propose the establishment of a national grid, but does include provisions that would strengthen regional interconnections and pooling of power reserves.

The FPC report to President Johnson said the key lesson of the 1965 Northeast failure was that interconnection and coordination of diverse power systems "must be strong to be effective." The report stated:

"Transmission must be recognized as the principal medium for achieving reliability, both within a system and through coordination among systems. It is the cohesive force which ties together power systems. Cascading power failures are usually the result of insufficient capability within the transmission links of a system or group of systems to withstand the sudden demands placed upon them by reason of disturbances arising within or without the system."

That last sentence describes precisely the predicament in which Con Ed found itself the night of July 13. Yet three days earlier, Charles F. Luce, chairman of the company, said in an interview that he would "guarantee" that the chances of another blackout like the one in 1965 were remote.

"No management," said the FPC report, "can avoid its share of the responsibility for building adequate interconnected transmission systems."

The report recommended that utilities establish coordinated programs of automatic load-shedding to prevent the total loss of an area that is deficient in generation. In such programs, areas of low priority—usually low-density residential—are dropped from the utility "load"—blacked out—so that the rest of the system may be saved.

However, the FPC report cautioned, "Load-shedding should be regarded as an insurance program and should not be used as a substitute for adequate system design."

In the wake of the 1965 blackout, Con Ed gave full measure to the load-shedding recommendation, but went only halfway on the recommendation to improve interconnections. Last July 13, starting in areas of Westchester, up to 50 per cent of Con Ed's load was automatically jettisoned, but still that was not enough. For Con Ed, at that point, load-shedding was putting a Band-Aid over the cancer. The preventive medicine had not been administered, and the patient died.

Whenever Con Ed is accused of skating along the edge of its capacity, its officials say they want to provide the necessary reserves by building additional generating plants, but that they are blocked from doing so by environmentalists who object to construction of those plants. At a joint legislative hearing of the New York State Senate and Assembly held two days after the blackout, a Con Ed engineer testified that the utility, using its own generating capacity, could supply only 65 per cent of the city's peak demand. If Con Ed is indeed blocked from building additional generating plants, then the only way to meet the city's need is to other systems. First, a line from Public power from other systems in the area.

In its first interim report on the most recent disaster, the FPC called this blackout "clearly insupportable" and suggested it could have been avoided. It stressed the need for additional interconnections, and said: "The extreme vulnerability of New York City to a power failure . . . makes it all the more essential that the increased expenditures for improvement of reliability should be committed immediately."

In reply, Con Ed said, "In truth, the construction and operation of our system meet all the FPC criteria for such a system—as well as the criteria of every other regulatory agency to which we are responsible."

Despite the clear warning provided by the 1965 disaster, Con Ed's managers have not given high priority to large-capacity interconnections. Between 1965 and 1977 they took three steps to firm up the utility's ties to other systems. First, a line from Public Service Electric & Gas Co. in New Jersey to a Con Ed substation in Staten Island was increased from 138 kilovolts to 230 kilovolts. Next was the 500-kv link across the Hudson that tied in with the Pennsylvania-Jersey-Maryland pool and the New York Power Pool. The third, completed in December 1972, was a 345-kv cable from Public Service under the Hudson, across Manhattan, and under the East River to Brooklyn. That line was not in service the night of July 13—it had been down since September 1976, for repairs that will not be completed until next summer.

At the urging of Public Service Electric & Gas Co., Con Ed had been considering for years the construction of a heavy new tie across the Hudson. But in 1972, the company decided that such a tie would not be economical.

When I asked to talk to company officials or system engineers about why so few interconnections had been built, I was told that all of them were tied up with the company's board of review looking into the causes of the latest blackout. Arthur Hauspurg, Con Ed's president, told the New York Times that the company still envisioned expansions across the Hudson to be completed around 1982, although, he said, "we're looking at some alternatives to that."

To understand that kind of thinking, you must realize that Consolidated Edison is first of all a business, not a public service. Its executives are under pressure to maximize profits and provide substantial, regular dividents to its stockholders. The state utility commission sets a limit on the profit that can be earned, but it does not guarantee that the company will earn the maximum amount. Last year, thanks to rate increases that kept its electricity the costliest in the country, Con Ed netted $301,000,000, an increase of 55 per cent over the year before. Building heavy transmission lines for reliability costs millions of dollars, and that would cut into those profits.

But what if the lack of such lines practically guarantees that the system will fail from time to time? The cost accountants at Consolidated Edison and other private companies (and the banks that finance their bond issues) look at it this way: It may be more profitable, in the long run, not to spend the money for transmission lines that would ensure against blackouts. It may be less expensive for the power company to "accept" a blackout every ten or twelve years, factoring in the costs of getting the city back on the line as the normal costs of doing business.

Con Ed estimates the cost of restoring service after the recent blackout at $10 million. (The cost of damage claims will be covered by insurance.) The cost of the proposed PSE&G Hudson tie alone was estimated in 1975 at $97 million, with Con Ed to pay $38 million and Public Service $59 million.

A manager of the New York Power Pool, maintained chiefly by the seven major private companies in the state, put it this way: "If you had an infinite number of interconnections, you would never get into trouble. But how many of them is it worth the cost to build?"

Those questions would be answered differently by an executive of a private utility interested in making a buck and the owner of a store whose shelves had been stripped bare because the utility did not think it was essential to spend the extra buck to guarantee its service.

The cost of a blackout is more than the dollars the utility has to spend to get itself back in shape to begin earning its profit again. The cost, on July 13, was in danger to lives, in injuries to policemen, in loss of property, in anguish to thousands of disadvantaged families whose members thought they could get away with looting in the blackness but were caught in the act. The cost is in the tearing of the fabric of society.

But from a strictly business standpoint of company profit-and-loss, the cost accountants are correct. The cost of interconnections, after all, would have to be borne by the utility. Most costs of a blackout, on the other hand, will be borne by the city and its people. Mayor Abraham Beame estimated the cost of July 13 to the people of New York at hundreds of millions of dollars. Others estimated it at a billion.

It may be too much to ask an organization based on the profit motive to put the public interest ahead of its financial interest. But in the case of a monopoly on which the lives of the people depend, that may be exactly what has to be asked. Why should people who need electricity almost as they need their life's blood be required to pay a gratuity of 10 to 15 percent to private shareholders who have little interest in ensuring their well-being? Given the high price the public has had to pay over the years for demonstrably unreliable service, Con Ed should be taken over by the New York State Power Authority and run as a nonprofit public service.

Meanwhile, the company may be directed by government to take the steps to guarantee reliability that it has been reluctant to take on its own.

Such a directive could come from the state's Public Service Commission, following the investigation ordered by Governor Hugh Carey. In time, directives to strengthen interconnections to ensure reliability may come from the Federal Government. The President's energy program, which, if approved, would become the National Energy Act of 1977, contains sections dealing with reliability of electrical utilities. The bill has been approved by the House, and is under consideration by the Senate.

The original language, written by George Hall of the White House Energy and Policy Planning staff, proposed that utilities set up stronger regional power pools than exist today. "We are for strong pools," Hall told me, "but we were only jawboning—there were no direct requirements written into the bill."

However, the House Commerce Committee decided the situation called for something stronger than jawboning. In place of the White House provisions on power it substituted language from a bill introduced by Representative John Dingell, Michigan Democrat, that would for the first time give the Power Commission authority to direct utilities to improve the relibility of their service. Under Part E, Title I of the amended bill, HR 6831, the FPC would be authorized to:

Order utilities to construct interconnections where that is found to be in public interest.

Where necessary, order Company B to "wheel" power over its transmission lines from Company A to Company C; Companies A and C would pay B for the costs of transferring the power.

Investigate appropriate standards of reliability and set rules for companies and public power agencies to meet these standards.

Require all utilities to come up with contingency plans for emergeny situations and file these plans with the FPC.

Hall said the White House does not oppose the amendments, they would, in fact, make more certain the results the Energy staff would like to see. "In writing the bill," John Ahearne told me, "we wanted to extend interconnection beyond any local or regional areas." If the FPC were given authority to order interconnections between regional pools, it could move the country toward a de facto national power grid.

The Energy staff members opted for weaker language, however, because they did not think provisions with teeth would get by without a fight with the private power companies. They were right; the fight has already begun.

As soon as the Dingell amendments were written into the House bill, the National Association of Electric Companies, the private utilities' lobby group in the Capital, sent a telegram to chief executives of its member companies calling them to a strategy council July 25 and 26 in Washington, It said:

"The House Committee has recommended legislation to subject the utilities and state regulatory commissions to detailed controls by the Federal bureaucracies. Power, shortages, poor service, and increased costs to consumers will inevitably result. At the meeting we will discuss necessary communications with members of the House, Senate, Administration, the media, and the public to revise and overcome the proposed legislation."

I asked Robert Dolan, vice president of NAEC, why the private utilities were opposed to the reliability provisions.

"The real problem with this section," he said, "is that it would give the FPC authority over the day-today operations of regional pools. It basically gives the FPC power to mandate interconnections and central dispatching of power. That makes sense in some areas, but not in others.

"Every company is trying day in and day out to improve the reliability of its plants. You can't pass a law setting standards of reliability to ensure reliability."

The private companies, he said, will try to convince Congress that the bill "will do them far more harm than good."

After the Northeast blackout of 1965, the companies responded to demands for increased interconnections by telling the Federal Government to keep out of it—they would do what was necessary by themselves, setting up "regional coordination areas." They established a National Electric Reliability Council, with twelve coordinating areas.

Companies in a specific area have long had informal pools to exchange power when it was to their mutual economic benefit to do so. Company A, for example, might have a peak demand at 12 noon, while Company B has its peak at 40 P.M. So Company A buys less costly off-peak power from Company B and noon and sells it off-peak power to Company B at 4 o'clock. These pools are all smaller than the utilities' regional coordinating areas, which could be the basis for regional grids for reliability as well as economy.

What some companies did after 1965 was augment transmission lines between the members of the economy pool to strengthen their backup for unusually high demand or for emergencies. This was done, for example, by the New England Power Pool, whose area was blacked out in the cascading failure of 1965.

In general, however, the companies' grid-building measures have been ad hoc. Their own statistics show no more than 50 per cent of the power is centrally dispatched by the pools or the regional coordinating areas. The New York Power Pool, of which Con Ed is a member, could not have routed electricity from its headquarters near Albany to meet the emergency in New York City. Con Ed was controlling its system on its own. Nor could the pool have arranged quickly to wheel power from the East Central Coordination Area in the Midwest across the P-J-M lines and into New York. A computerized national power grid could be engineered to make such adjustment in seconds.

Many public agencies and research groups that have studied the problem have come to the conclusion that a national electricity grid is not only feasible, but also essential. As a practical matter, such a grid could be set up only by the Federal Government. Congress could charter a public corporation to buy up the high-voltage transmission lines between systems and build them where they do not exist.

The public corporation would then tie the systems together into strong, centrally dispatched regional grids. These in turn would link into an integrated national grid that could wheel power from region to region, depending on the peak demand—or emergency demand—in a particular region. Different time zones and varying weather conditions

make it a certainty that widely separate systems will have peak demands at different periods.

Private power companies and public power agencies would feed power into the grid and draw power from the grid. Costs of operating this backbone system would be assessed to each company or agency on the basis of its demand on the facilities and the pooled power it received. Each would be paid for the energy it contributed to the system.

In Sweden, the State Power Board has successfully operated such a grid, supplying the interchange rquirements of both private companies and public power agencies since the 1920s.

White House energy staffers and people I talked to on legislative committees dealing with power agreed the country should move in that direction. But they are willing to settle for less because of the political and institutional problems that stand in the way.

"A national grid would alter the ownership arrangements of electrical utilities, and that's too tough a fight to take on at this time," was the way it was put by an administrative aide to the House Commerce Committee staff. The private companies do not want to give up sovereignty over their interconnections even if that would strengthen their reliability and even if the Federal Government would pay the cost of these high-voltage links.

One corner of the power arena that has not been willing to settle for half consists of Senator Lee Metcalf, Montana Democrat, and his subcommittee staff director, Victor Reinemer. For a number of years, Senator Metcalf has been introducing bills that would bring about a national grid, only to see them shot down in the Senate Commerce Committee, which was not interested in taking on the power companies over those bills. Metcalf is now a member of the Senate Energy Committee, and next session he expects to introduce the bill through that committee, where he hopes to get a more sympathetic hearing.

"The movement for a national power grid comes alive for a few days after each blackout," Reinemer said, "but it seems to die as soon as the lights go back on."

In truth, a national grid will never come about unless a President becomes committed to the idea and pushes it hard as a national necessity. Carter might be that President, given his stated interest in exploring the possibility. He obviously wants the country to avoid having to suffer the consequences of other massive, cascading blackouts. The grid would be a reasonable guarantee against that. But what might lead President Carter to strong commitment is the argument that the grid has a built-in potential for enormous savings of energy. The least efficient plants in the country's power systems burn the greatest amount of oil and coal; with the national grid in operation, plants that waste fuel most would be brought on line last.

If the President gets behind the project and the grid becomes a reality, blackouts such as those of November 9, 1965, and July 13, 1977, will no longer be an American phenomenon.

COMMITTEE ON
ENERGY AND NATURAL RESOURCES,
Washington, D.C., September 12, 1977.

Hon. JAMES R. SCHLESINGER,
Secretary of Energy, The White House, Washington, D.C.

DEAR SECRETARY SCHLESINGER: Enclosed along with my introductory remarks is S. 1991, the National Electrical Energy Reliability and Conservation Act of 1977, which I introduced just before the August recess on behalf of myself and several other Senators. Companion legislation (H.R. 8793) has been introduced in the House by Congressman Ottinger. The purpose of the legislation is to establish a national power grid and regional bulk power distribution system which will make more efficient use of electrical energy and insure against the kind of blackouts which again paralyzed the Nation's largest city this summer.

The Federal Government has not conducted the kind of studies that are needed by your department and the Congress in deciding whether and how best to establish the grid and bulk power distribution system which a number of us including, I was pleased to note recently, President Carter—believe to be necessary. It had been my intention to offer in committee an amendment to S. 1469, the National Energy Act, providing for a study of the subject by your Department, with a report to the Congress no later than 31 March, 1978, in order to give us time to consider appropriate legislation and your recommendations in this Congress. However, George Hall and Howard Perry of your staff have advised Vic Reinemer and E. Winslow Turner of mine that the Department could make the study without specific additional legislative authority, and suggested that a request to you could expedite initiation of the study. Having just returned from Montana and learned of the positive and cooperative attitude of your staff on this matter I am requesting that such a study be made.

I will not attempt to outline the areas to be included in this study, but suggest two sources which your staff may want to review at the outset. One is Study 190, dealing with an integrated grid system in the Western states, prepared by the Department of Interior during the Johnson Administration, under the leadership of then Assistant Secretary of Interior Kenneth Holum. I have a copy of this relatively rare document which could be provided to your staff if it cannot locate one. The other source, which I enclose, is the 1976 Interior Committee print, "The Electric Reliability Council of Texas Intertie Situation," prepared by the Congressional Research Service at my request. It deals with technical, legal and regulatory aspects of interconnection in one of the regions where a relatively small investment would improve reliability within the region and permit use outside the region of extraordinarily high reserves of electricity within Texas. The Federal Power Commission's studies of the Consolidated Edison failure in July will of course also be useful as a basis for your study.

I have found that some environmental groups are concerned that a national power grid would encourage more strip mining and transmission line construction while detracting from their efforts, which I approved, to enhance local communities' energy independence through use of fuel cells, bio-conversion and other possible local, small-scale power sources. I believe the goals of a national power grid and increased energy independence for local committees are compatible, indeed complementary. However, environmental concerns regarding a national power grid are real and would, I hope, be addressed in your study.

I hope that your Department will proceed with the suggested study with dispatch and provide the committee with a report and recommendations no later than 31 March, 1978. If despite the indications I have received you believe that an amendment to S. 1469 regarding this matter is necessary or desirable, I would like to hear from you before we have completed committee mark-up.

I would hope that the study can be performed in-house, so that the Department can develop and utilize its own experts on this subject, and so the Congress will have knowledgeable Federal employees to whom it can turn when legislation is considered.

Very truly yours,

LEE METCALF.

THE WHITE HOUSE,
Washington, October 5, 1977.

Hon. LEE METCALF,
House of Representatives,
Washingon, D.C.

DEAR SENATOR METCALF: Thank you for your letter of September 16, 1977 regarding a national power and regional bulk power distribution system. As you noted, we do not have the studies required to determine whether and how best to establish such a system. However, as you also noted, my staff has committed the Department of Energy to undertake an appropriate study. This study has my full approval and support, and I have directed my staff to keep your staff advised with respect to the scope and progress of this investigation.

The President has specifically directed the Department of Energy to address the issue of a national grid. You have the President's commitment, as well as mine, that this subject will have a high priority.

I look forward to working with you on the national grid, as well as the energy proposals now before the Congress.

Sincerely,

JAMES R. SCHLESINGER,
Secretary of Energy.

THE CASE FOR THE FREE MARKET

Mr. HATCH. Mr. President, the outlook for free enterprise in the world has never seemed so uncertain. In our own country we unmistakenly see a trend toward welfare statism or pension fund socialism. Our major danger is that we are, and have for 40 years, been transferring responsibility away from the individual, and local and State governments. We cannot pursue this course a lot longer without bringing us to national insolvency.

Elder Ezra Taft Benson, counselor to the President of the Church of Jesus Christ of Latter Day Saints (the Mormon Church) has addressed these problems in a speech he made on Free Enterprise Day at the Hotel Utah in Salt Lake City on September 24, 1977.

Mr. President, I ask unanimous consent that President Benson's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE CASE FOR THE FREE MARKET

Ladies and gentlemen, fellow Americans, you accord to me a great honor by extending this invitation to address you. It is a distinct pleasure and privilege for me to be here with you today in the midst of this distinguished group.

It seems appropriate that I say a few words in regard to freedom and liberty. It is by vigilance of business people such as you represent, who rely on our great free enterprise system, that our liberties will be maintained. However, far too many today are enjoying a comfortable complacency.

As a lead into my message, I quote from my friend Dean Manion in the Manion Forum Bulletin of July 3, 1977: "In these days of pompous highbrowed drivel about the establishment of 'human rights' throughout the world, it is most encouraging to find two distinguished university professors publishing jointly, the following fact of history. Listen to it:

" 'Humanity has survived in various states of tyranny for thousands of years. One might even say this is the natural state of affairs for man. Future historians may look back and see the period 1776 to 1976 as a brief 200-

year accident in the history of man in which real freedom existed for all.'

"That comes from a study of the growth of government made in the Graduate School of the University of Rochester. (The Growth of Government and Its Impact on the Corporation, by Michael C. Jensen and William H. Meckling, Professor and Dean, University of Rochester [N.Y.] Graduate School of Management.)

"In the Bicentennial period of this great parenthetical historical accident, it is unfortunate that this statement is not broadcast as the official opening in every commemoration of our exceptional national lifetime.

"How many of us now realize that for the first time in all history our forefathers broke the long iron rule of tyranny with our immortal Declaration of Independence, and then, after a bloody battle against the heavyweight of all the centuries (the British Empire), sealed off the breach with the Constitution of the United States."

We are a prosperous nation. Our people have high-paying jobs. Our incomes are high. Our standard of living is at an unprecedented level. We do not like to be disturbed as we enjoy our life of ease. We live in the soft present and feel the future is secure. We do not worry about history. We seem oblivious to the causes of the rise and fall of nations. We are blind to the hard fact that nations usually sow the seeds of their own destruction while enjoying unprecedented prosperity.

I say to you with all the fervor of my soul . . . We are sowing the seeds of our own destruction in America and much of the free world today. It is my sober warning to you today that if the trends of the past forty years—and especially the past fifteen years—continue, we will lose that which is as priceless as life itself—our freedom—our liberty—our right to act as free men. It can happen here. It is happening here.

The outlook for free enteprise in the world has never seemed so uncertain as now. Nationalization is growing rapidly, especially outside the Western Hemisphere. Many nations have a mixed economy brought about by an increase in state control and a corresponding weakening of the private enterprise system. In our own country we unmistakably see a trend toward welfare statism, what one has called a "pension-fund socialism." It seems in vogue for some to raise the question, "Will capitalism survive?" More appropriately, the question might be stated, "Do we as American citizens have the desire and will for capitalism to survive?"

Today, it seems evident that we are rearing a generation of Americans who do not understand the productive base of our society and how we came by such prosperity. Evidence of this fact is found in surveys taken among some of our high school and college students, the majority of whom, it is reported, believe private enterprise is a failure, although they don't have a clear understanding of what private enterprise is. With them, as with many adults, there is a vague notion that it is some unfair system which tends to give special advantage to big corporations and wealthy individuals.

From a study done by the Joint Council of Economic Education in 1973, fifty percent of the high school students could not distinguish between collectivism and a free enterprise society. Fifty percent did not know the United States economy was based on free enterprise. From another study done by the Opinion Research Corporation, the median estimate of the U.S. public was that corporate profits are 28 percent of the sales dollar. Actually, profits are four to five percent. These attitudes may be the result of the propaganda by certain textbook writers who hold the idea, in many instances, that a planned economy is the remedy for all of our economic ills and the weaknesses in our American way of life, to which they readily point, without referring to the beneficent fruits of the system.

Before a welfare state can flourish, a welfare state mentality must have taken root. Are we not today yielding the harvest of seeds sown from the days of the Great Depression to the present? The ethic of today seems calculated to indoctrinate our citizenry toward a dependency on the State. Our founding fathers recognized that certain rights were inalienable, that is, God-given; today, the state is being looked to as the guarantor of human rights—life, liberty, and property. Our forebears practiced the biblical ethic that man should earn his bread by the sweat of his own brow; today's ethic seems to be that it is right to be supported by the sweat of another's brow.

Tonight, may I state the case for the free market and how it operates. I would also emphasize why a free market is essential to retaining political and economic freedoms. The more I become acquainted with the appalling lack of understanding of our free market system, the more I become convinced that we must return to something of a basic primer to explain our economic system. Perhaps this parable will illustrate:

A PARABLE OF TWO PHILOSOPHIES

Two fathers lived side by side as neighbors. Each had two sons. Both fathers had good jobs, roomy homes and material means to provide the best of life's luxuries. The essential difference between the two fathers was one of philosophy.

Mr. A's objective with his sons was to instill principles that would bring about self-respect, personal responsibility, and independence. His method merits our scrutiny.

When his boys were young, he taught them how to work at simple tasks by his side. When they became more mature, he developed a work incentive program. The pay scale was commensurate to the quality of the work performed. An "average job," for example, paid 50¢; "above average," 60¢; and an "exceptional job," 75¢. A "one dollar job" was the impossible task—a goal which he soon observed the boys were striving after. He impressed on his sons that the only limitations of their earnings were their personal initiative and desire. He emphasized the necessity to postpone immediate wants so they could save for the future. The lessons were well learned over a period of time.

There was an undergirding moral element to Mr. A's philosophy—a principle more "caught" than taught. A simple example will suffice. One day the boys (now young men) were working in Mr. A's plant. Mr. A observed some sloppy work being done on one of the products. He asked to see the product and proceeded to remove the name plate. One of the boys resisted: "Why are you doing that, Dad?" Mr. A replied, "I'll not have my name attached to a shoddy product. When my name goes on, my customers must know I've given them my best workmanship. Would you want to own this product" It was an answer which provided a lesson which would last a lifetime. How could the Golden Rule be emphasized more effectively in business!

Mr. B also had a philosophy, albeit a reactionary one to his early struggles of youth. "I'll not have my kids go through what I did." His philosophy was designed to remove the struggle from life. His method also merits our consideration.

Regularly his sons were provided with generous allowances. Little work in their formative years was expected. In later years the boys were encouraged to work, but were now too comfortable in their security. After all, they had all their material wants satisfied. At this juncture, Mr. B made a profound discovery—wants always exceed basic needs and are never satisfied unless disciplined. To counteract the lact of self-discipline, Mr. B embarked on a routine of imposed restraints. To his chagrin, he found his boys embittered toward him, ungrateful, and frequently disobedient to rules imposed on them.

Need I draw the conclusions from this parable? Is it not apparent which philosophy leads to a productive, contributive member of society and which philosophy sponsors dependency? Is it not also apparent which philosophy will best prepare one for emotional or economic crises?

I do not apologize for the simplicity of the illustration. One may argue that the characters are exaggerated, but even a child can understand the effects of Mr. B's caretaker philosophy. Is not his philosophy analogous in many ways to the government official who argues, "In this country welfare is no longer charity, it is a right. More and more Americans feel that the government owes them something."

But it is not Mr. B's philosophy which commands our attention tonight; it is Mr. A's. Why is it that the elements in his philosophy are so unfamiliar to so many that they believe "their government owes them something?" Our task is to make Mr. A's philosophy both familiar and credible. When it is understood and believed, it will be defended with the same vigor and determination that made our founding fathers pledge their lives, their fortunes, and their sacred honor.

ELMENTS OF THE FREE MARKET

Many view the idea of the free enterprise or free market system as only an alternative economic system to other systems. This is a serious oversight and causes many to miss the most crucial element to the free market system:

First: The free market system rests on a moral base. Before one can appreciate why this premise is true, two questions must be answered. First, what is man? The second question, a corollary to the first, is: from what source does man derive his rights?

Our governmental system, like ancient Israel and biblical Christianity, recognized man as a special creation of God. He is not, as some theorists reason, a product of chance or merely an educated animal. His paternal origin comes from God. Thus, man inherently possesses God-implanted attributes and potential: reason, free agency, judgment, compassion, initiative and a personal striving for perfection.

From what source does man derive his rights? There can be only two possible sources of man's rights. Rights are either God-given as part of the divine plan, or they are granted by government as part of the political plan. Reason, necessity, tradition, and religious convictions all led the founders of this republic to accept the divine origin of these rights. If we accept the premise that human rights are granted by government, then we must be willing to accept the corollary that they can be denied by government. I, for one, shall never accept that premise. As the French political economist, Frederick Bastiat, phrased it so succinctly, "Life, Liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws in the first place." (The Law, 1850, p. 6.)

Since God created man with certain inalienable rights, and man, in turn, created government to help secure and safeguard those rights, it follows that man is superior to government and should remain master over it, not the other way around. Even the

nonbeliever can appreciate the logic of this relationship.

Thus we see that the principle of supremacy of the individual over government is rooted in religious precept. This is why the founders of our nation were so influenced by the writings of John Locke which declared that man was naturally in a state of perfect freedom, that he had a right to preservation and property, and that the source of all this was God. (See John Locke's treatise, of civil government.)

The founding fathers recognized that no people can maintain freedom unless their political institutions are founded on faith in God and belief in the existence of moral law. They realized that to survive, this new nation needed a reliance on the protection of God. In the Declaration of Independence we find their appeal to the "Supreme Judge of the world," and to "the laws of nature and nature's God." The document concludes with their affirmation of a "firm reliance on the protection of Divine Providence."

The implication of this moral basis to our political-economic system is that God is the dispenser of man's rights, not government. The inalienable right of free choice is implanted in the human breast. Man is born to choose for himself. This is why man cannot be driven indefinitely or led by despotic leaders to intellectual, physical or economic bondage. Fear and despotism may rule for a generation, two or three, but in time the human spirit rebels; the spirit of liberty manifests itself, and the tyrannical hand of despotism is overthrown. Once a person awakens to the truth of his divine identity, he demands his rights: the right to property, the right to make his own decisions, the right to plan his own welfare, and the right to improve himself materially, intellectually, and spiritually.

Second: The free market is based on the right to property. The right to property is again based on scriptural precept. It recognizes that the earth belongs to the Lord, that He created it for man's blessing and benefit. Thus, man's desire to own property, his own home and goods, his own business, is desirable and good. Utopian and communitarian schemes which eliminate property rights are not only unworkable, they deny to man his inherent desire to improve his station. They are therefore contrary to the pursuit of happiness.

No property rights!—Man's incentive would be diminished to satisfying only his barest necessities such as food and clothing. How this truth is evident in the communist countries today!

No property rights!—No incentive to enter individual enterprise, to risk one's own capital, because the fruits of one's labor could not be enjoyed.

No property rights!—No contractual relationships to buy and sell since title to possession of goods could not be granted.

No property rights!—No recognition of divine law which prohibits man from stealing and coveting others' possessions. One cannot steal that which belongs to everyone, nor can he covet that which is not another's!

No property rights!—No possibility of the sanctity of one's own home, and the joy which comes from creation, production, and ownership.

A free market philosophy recognizes property rights as sacred. Because the individual is entitled to ownership of goods and property which he has earned, he is sovereign, so far as human law is concerned, over his own goods. He may retain possession of his goods. He may pass his wealth on to family or to charitable causes.

Charity—that greatest of godly virtues—would never be possible without property rights, for one cannot give what one does not own

James Madison recognized that property consisted not only of man's external goods—his land, merchandise or money—but most sacredly, he had title to his thoughts, opinions, and conscience. A civil government's obligation, then, is to safeguard this right and to frame laws which secure to every man the free exercise of his conscience and the right and control of his property.

No liberty is possible except a man is protected in his title to his legal holdings and property and can be indemnified by the law for its loss or destruction. Remove this right and man is reduced to serfdom. Former United States Supreme Court Justice, George Sutherland, said it this way: "To give (man) liberty but take from him the property which is the fruit and badge of his liberty, is to still leave him a slave." (Address to the New York Bar Association, January 21, 1921.)

Third: The free market is based on the right to enjoy private enterprise for profit. As a country we have suffered under half a century of liberal propaganda demeaning economic success. This was done by referring to men who are willing to risk their capital (profit) in tools and equipment as "coupon clippers," "economic royalists," "capitalists," and "profiteers"—as though there were something inherently evil in profit.

Profit is the reward for honest labor. It is the incentive that causes a man to risk his capital to build a business. If he cannot keep or invest that which he has earned, neither may he own, nor will he risk. Profit creates wealth; wealth creates more work opportunity, and more work opportunity creates greater wealth. None of this is possible without incentive.

There is another benefit to profit. It provides man with moral choices. With profit, man can choose to be greedy and selfish; he can invest and expand, thereby providing others with jobs; and he can be charitable. Charity is not charity unless it is voluntary. It cannot be voluntary if there is nothing to give.

Only saved profit creates more jobs, not government. The only way government can create jobs is to take the money from productive citizens in the form of taxes, and transfer it to government programs. Without someone generating profit which can be taxed, government revenue is not possible.

Fourth: The free market is the right to voluntary exchange of goods and services, free from restraints and controls. Nothing is more to be prized, nor more sacred, than man's free choice. Free choice is the essence of free enterprise. It recognizes that the common man will make choices in his own self-interest. It allows a manufacturer to produce what he wants, how much, and to set his own price. It allows the buyer to decide if he wants a certain product at the price established. It preserves the right to work when and where we choose.

In his first inaugural address, Thomas Jefferson said that the sum of good government shall leave citizens "free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned."

Why does our system produce more bread, manufacture more shoes, and assemble more TV sets than Russian socialism? It does so precisely because our government does not guarantee these things. If it did, there would be so many accompanying taxes, controls, regulations, and political manipulations that the productive genius, based on freedom of choice that is America's, would soon be reduced to the floundering level of waste and inefficiency now found behind the Iron Curtain.

When government presumes to demand more and more of the fruits of man's labors through taxation, and reduces more and more his actual income by printing money and furthering debt, the wage earner is left with less and less to buy food, to provide housing, medical care, education, and private welfare. Indiviuals are then left without a choice, an must look to the state as its benevolent supporter of these services. When that happens, liberty is gone!

Fifth: A free market survives with competition. Were it not for competition among goods or services, there could be no standard by which a buyer could discern shoddy merchandise or inept service from excellence. Were it not for competition, the seller could price his goods and services according to his own fancy. It is competition that determines what is good, better, and best. It is competition that determines the price for products or services. If goods are overpriced in comparison to other comparable goods, the buyer refuses to buy, thus forcing a seller to drop his price.

There is a glaring paradox in our society. On the one hand, legislation has been enacted to allegedly prevent one business or combination of businesses (mono-polies) from disrupting or eliminating competitors in the market. On the other hand, we have yet to fully awaken to the worst form of monopolistic practice currently impeding the free market. I refer to government monopoly, when government by either ownership or regulation, prevents the full freedom of action by sellers. This, of course, regulates and controls prices. No better example exists today than the so-called energy crisis.

As a nation, we have artificially regulated the price of natural gas for over 20 years. The Federal Power Commission has set prices and burdened the oil industry with regulations. Consequently, the oil industry has not had the incentive to discover natural gas or drill for oil even though the reserves are there. The environmentalists, with the help of activist lawyers, have combined to make it almost impossible to drill for oil economically. What industry wants to risk its capital fighting through hearings and lawsuits which double and treble its investment costs? So exploration does not take place, or reserves are kept off the market to await the day when government will deregulate. The government is then left with the alternative to go abroad to supply our demand from foreign oil reserves. The most effective energy policy our government could devise would be to step out of the regulatory business. This would provide once again the incentives for industry to make investment and exploration.

Freedom from bureaucratic monopoly is essential to allowing our free market to work effectively. I hope we wake up to this lesson before our freedoms are lost altogether.

HOW DOES A FREE MARKET OPERATE?

We have talked so far about the vital elements to a free market operation. How does it all work together to bring about needed goods and services? Let me illustrate.

How do our cities and towns each day obtain the quantity of food products they demand? Of all agencies engaged in supplying cities with food, almost none knows how much the city consumes or how much is being produced. Despite this ignorance, the cities receive about the amount of food needed without great surplus or shortage. How is this accomplished without a central directing body telling each producer what it should produce? The answer, of course, is the operation of the free market—free enterprise in action.

Suppose, for example, that a given city did not receive the amount of food products needed to satisfy its demand. Rather than go without, many people would be willing to pay higher prices. Thus, prices would increase, and the volume of production would rise. This would end the shortage.

More food would be shipped to that city, and less to other places. Or suppose that there was an oversupply of food products. To avert spoilage, the seller must lower his price. This, in turn, is a signal to the producer to cut back on production. Thus, the oversupply is automatically regulated. Less food is shipped to that city and more to other places.

Just as price regulates the distribution of food in a given city, so it also determines the total amount produced in the country. Greater profits provide farmers with the incentive to produce a given product. If the supply increases at a pace faster than the demand for a product, farmers and ranchers are compelled to lower their prices. As it becomes less profitable to produce, potential producers are deterred from engaging in this occupation, and the unprofitable producers divert to something else or abandon farming altogether.

This is how this remarkable system works in all industries when government and planning controls and price fixing are left out, yet few of our citizens seem to understand this. Economic literacy among our people has not been one of the bright spots in our 200 year old history. Yet it is apparent that when ignorance prevails, the people eventually suffer.

The principles behind our American free market philosophy can be reduced to a rather simple formula. Here it is:

1. Economic security for all is impossible without widespread abundance.

2. Abundance is impossible without industrious and efficient production.

3. Such production is impossible without energetic, willing, and eager labor.

4. This labor is not possible without incentive.

5. Of all forms of incentive, the freedom to attain a reward for one's labors is the most sustaining for most people. Sometimes called the profit motive, it is simply the right to plan and to earn and to enjoy the fruits of your labor.

6. This profit motive diminishes as government controls, regulations, and taxes increase to deny the fruits of success to those who produce.

7. Therefore, any attempt through government intervention to redistribute the material rewards of labor can only result in the eventual destruction of the productive base of society, without which real abundance and security for more than the ruling elite is quite impossible.

Yes, what worked for Mr. A in producing self-disciplined, responsible, contributive sons to society works for a community; what works for a community will work for a state; and what works for the state will work for this nation—if we as American citizens demand that government officials perform only those duties provided by the Constitution and the Bill of Rights.

THE PROPER ROLE OF GOVERNMENT

A government is nothing more or less than a relatively small group of citizens who have been hired, in a sense, by the rest of us to perform certain functions and discharge certain responsibilities which have been authorized. The government itself has no innate power or privilege to do anything. Its only source of authority and power is from the people who created it.

Keep in mind that the people who have created their government can give to that government only such powers as they themselves have. They cannot give that which they do not possess.

In a primitive state, there is no doubt that each man would be justified in using force, if necessary, to defend himself against physical harm, against theft of the fruits of labor, and against enslavement by another.

Indeed, the early pioneers found that a great deal of their time and energy was being spent defending themselves, their property, and their liberty. For man to prosper, he cannot afford to spend his time constantly guarding his family, his fields, and his property against attack and theft. When he joins together with his neighbors and hires a sheriff, government is born. The individual citizens delegate to the sheriff their unquestionable right to protect themselves. The sheriff now does for them only that which they had a right to do for themselves—nothing more.

But suppose pioneer "A" wants another horse for his wagon. He doesn't have the money to buy one, but since pioneer "B" has an extra horse, he decides that he is entitled to share in his neighbor's good fortune. Is he entitled to have his neighbor's horse? Obviously not! If his neighbor wishes to give it or lend it, that is another question. But so long as pioneer "B" wishes to keep his property, pioneer "A" has no just claim to it.

If "A" has no proper power to take "B's" property, can he delegate any such power to the sheriff? No! Even if everyone in the community desires that "B" give his extra horse to "A," they have no right individually or collectively to force him to do it. They cannot delegate a power they themselves do not have.

The proper function of government is limited only to those spheres of activity within which the individual citizen has the right to act. By deriving its just powers from the governed, government becomes primarily a mechanism for defense against bodily harm, theft, and involuntary servitude. It cannot claim the power to redistribute the wealth or force reluctant citizens to perform acts of charity against their will. Government is created by man. No man can delegate a power that he does not possess. The creature cannot exceed the creator.

In general terms, therefore, the proper role of government includes such defensive activities as maintaining national military and local police forces for protection against loss of life, loss of property, and loss of liberty at the hands of either foreign despots or domestic criminals.

It also includes those powers necessarily incidental to the protective function.

The Constitution of the United States, an inspired document, is a solemn agreement between the citizens of this nation that every officer of government is under a sacred duty to obey.

The Constitution provides that the great bulk of the legitimate activities of government are to be carried out at the state or local level. This is the only way in which the principles of self-government can be made effective.

The smallest or lowest level that can possibly undertake the task is the one that should do so. The smaller the government unit and the closer it is to the people, the easier it is to guide it, to correct it, to keep it solvent and to keep our freedom.

A category of government activity that poses the gravest danger to our continued freedom is the activity not within the proper sphere of government. The Constitution provides the federal government with no authority to grant such powers as welfare programs, schemes for redistributing the wealth, and activities that coerce people into acting in accordance with a prescribed code of social planning. There is one simple test to the constitutionality of a principle—do I as an individual have a right to use force upon my neighbor to accomplish this goal? If I do, then I may delegate that power to my government to exercise it in my behalf. If I do not have that right, I cannot delegate it.

If we permit government to manufacture its own authority, and to create self-proclaimed powers not delegated to it by the people, then the creature exceeds the creator and becomes master. Who is to say, "this far, but no farther?" What clear principles will stay the hand of government from reaching farther and farther into our daily lives? Grover Cleveland said that "though the people support the government, the government should not support the people."

Once government steps over this clear line between the protective or negative role into the aggressive role of redistributing the wealth through taxation and providing so-called "benefits" for some of its citizens, it becomes a means for legalized plunder.

EXAMPLES OF THE FAILURE OF SOCIALISM

Examples abound in the world of the failure of alternative systems to the free market. What amazes me is that we cannot see from their example the obvious failure of socialism, what it does to a nation's economy and how it morally debilitates a people.

Great Britain is a tragic example of this. Here is a nation which has provided the free world with a tradition of freedom and democratic rights, stemming from the Magna Carta and coming down through other important historical documents and statements by famous Englishmen. Yet England is losing her freedom. She has become a giant welfare state. Today government spending in Great Britain amounts to sixty percent of her total national income.

This is socialism. Medical doctors under socialized medicine are leaving Great Britain in record numbers, as are thousands of others.

British Prime Minister, James Callaghan, in a speech last September, said: "We used to think that you could just spend your way out of a recession and increase employment by cutting taxes and boosting government spending. I tell you, in all candor, that that option no longer exists, and that insofar as it ever did exist, it only worked by injecting bigger doses of inflation into the economy, followed by higher levels of unemployment as the next step. That is the history of the past 20 years."

Such a confession has led the renowned economist, Dr. Milton Friedman, to comment: "That must surely rank as one of the most remarkable and courageous statements ever made by a leader of a democratic government. Read it again. Savor it. It is a confession of the intellectual bankruptcy of the policy that has guided every British Government in the postwar period—not only Labor Governments but also Tory Governments; of the policy that has guided almost every other Western Government—including the U.S. under both Republican and Democratic Administrations; of the policy that is now being recommended to Mr. Carter by his advisors."

Consider another example—our neighbor to the North—Canada. For 20 years (1944–1964), Saskatchewan, Canada, lived under a Socialist government. Here is what their premier, the Honorable W. Ross Thatcher, said about this experience:

"In 1944, the Socialists said they would solve the unemployment problems by building government factories. They promised to use the profits to build highways, schools, hospitals, and to finance better social welfare measures generally. Over the years they set up 22 so-called crown (government) corporations... By the time we had taken over the government, twelve of the crown corporations had gone bankrupt or been disposed of. Others were kept operating by repeated and substantial government grants.

"During the whole period the Socialists waged war against private business. The making of profits was condemned as an unforgivable sin. What was the result? Investors simply turned their backs on the Socialists. Dozens of oil companies pulled up

stakes and moved out. Gas exploration ground to a complete halt. Prospecting in our vast north became almost non-existent.

"During the period Canada was experiencing the greatest economic boom in her history, Saskatchewan received only a handful of new factories. After 18 years of socialism, there were fewer jobs in manufacturing than existed in 1945—this despite the investment of $500 million in crown corporations . . .

"During the period more than 600 completely new taxes were introduced: 650 other taxes were increased. Per capita taxes in Saskatchewan were soon substantially out of line with our sister provinces—one more reason why industry located elsewhere.

". . . the Socialists promised to make Saskatchewan a Mecca for the working man. Instead, we saw the greatest mass exodus of people out of an area since Moses led the Jews out of Egypt. Since the war, 270,000 of our citizens left Saskatchewan to find employment elsewhere.

"If there are any Americans who think that Socialism is the answer, I wish they could come to Saskatchewan to study what has happened to our province."

We say, "It can't happen here." The lesson of New York City should tell us that this same thing is happening here—to us—NOW! As Dr. Friedman has pointed out, New York City is no longer governed by its elected officials. It is governed by a committee of overseers appointed by the State of New York. New York City has partially lost its freedom! When will we learn the lesson that fiscal irresponsibility leads to a loss of self-government? When will we learn that when you lose economic independence, you lose political freedom?

We have accepted a frightening degree of socialism in our country. The question is how much? The amount of freedom depends upon the amount of federal control and spending. A good measurement is to determine the amount, or percentage, of income of the people which is taken over and spent by the state. In Russia, the individual works almost wholly for the state, leaving little for his own welfare. Scandinavia takes about 65–70 percent of the increase of the people; England takes some 60 percent. The United States is now approximately 44 percent!

America was built on the principles of faith in God, self-reliance, the profit motive, individual action, and voluntary charity. It was built by those who believed that the surest helping hand was at the end of their own sleeves. These forefathers of ours shared one thing in common—an unshakable faith in God and a faith in themselves.

A MOVEMENT TOWARD ANOTHER PHILOSOPHY

There are indications that America is moving the work-incentive philosophy of Mr. the most prosperous nation in the world. In effect, we are moving toward the philanthropic philosohphy of Mr. B and abandoning the work-incentive philoshophy of Mr. A. Mr. B.'s philosophy has crept in unawares under the guise of a new name—egalitarianism. It is, of course, the socialist doctrine of equality. It struck a sympathetic chord with most Americans because its initial goal was equality of rights. Today, however, the goal for the proponents of equality is to restructure our entire economic system using the power of the federal government to enforce their grand design. They now advocate throughout our economy that we "redistribute wealth and income," a good definition for socialism. Our present middle-of-the-road policy is, as Von Mises suggested, socialism by the installment plan.

Americans have always been committed to taking care of the poor, aged, and unemployed. We've done this on the basis of Judaic-Christian beliefs and humanitarian principles. It has been fundamental to our way of life that charity must be voluntary if it is to be charity. Compulsory benevolence is not charity. Today's egalitarians are using the federal government to redistribute wealth in our society, not as a matter of voluntary charity, but as a matter of right.

The chief weapon used by the federal government to achieve this equality is through so-called "transfer payments." This is a term which simply means that the federal government collects from one income group and transfers payments to another by the tax system. These payments are made in the form of Social Security benefits, housing subsidies. Medicaid, food stamps—to name a few. Today, total cost of such programs will exceed $150 billion dollars. That represents about 44 percent of the total of all government federal spending, or about $1 dollar out of every $7 of personal income. (Based on U.S. News and World Report, August 4, 1975, pp. 32–33.)

When will we resolve as Americans that a dollar cannot make the trip to Washington, D.C. and back without a bureaucratic bite being taken out of it?

Medicaid—the government's regular health program for the poor—cost taxpayers $13 billion in 1975. Medicare—the program for the disabled and elderly—cost $15 billion. Aid to families with dependent children cost over $5 billion and about $3 billion is spent on food stamps. This is to name only a few of the so-called benefits paid out.

Our present Social Security program has been going in the hole at the rate of $12 billion dollars a year, and yet the party now in power wants to increase the benefits to include a comprehensive national health insurance program. Recognizing that the present program will be insolvent by 1985, President Carter has now recommended that Social Security be funded out of the general income tax fund. Charges were made in the last election campaign that the Social Security program was going bankrupt. These charges were denied. Now the truth is out. The President's recommendation must be regarded as an admission of the failure of the present system, and as a calculated policy to take this country into full-scale socialism.

Our major danger is that we are currently—and have been for forty years—transferring responsibility from the individual, local, and state governments to the federal government, precisely the same course which led to the economic collapse in Great Britain and New York. We cannot long pursue this present trend without it bringing us to national insolvency.

Edmund Burke, the great British political philosopher, warned of the threat of egalitarianism. He said, "A perfect equality will indeed be produced—that is to say, equal wretchedness, equal beggary, and, on the part of the partitioners, a woeful, helpless, and desperate disappointment. Such is the event of all compulsory equalizations. They pull down what is above; they never raise what is below; and they depress high and low together beneath the level of what was originally the lowest."

All would like to equalize with those who are better off than they themselves. They fail to realize that incomes differ, and will always differ, because people differ in their economic drive and ability. History indicates that governments have been unable to prevent inequality of incomes. Further, equalization efforts stifle initiative and retard progress to the extent that the real incomes of everyone are lowered.

We must remember that government assistance and control are essentially political provisions, and that experience has demonstrated that, for that reason, they are not sufficiently stable to warrant their utilization as a foundation for sound economic growth under a free enterprise system. The best way—the American way—is still maximum freedom for the individual guaranteed by a wise government that provides for the police protection and national defense.

History records that eventually people get the form of government they deserve. Good government, which guarantees the maximum of freedom, liberty, and development to the individual, must be based upon sound principles. We must ever remember that ideas and principles are either sound or unsound in spite of those who hold them. Freedom of achievement has produced and will continue to produce the maximum of benefits in terms of human welfare.

Freedom is an eternal principle. Heaven disapproves of force, coercion, and intimidation. Only a free people can be truly a happy people. Of all sad things in the world, the saddest is to see a people who have once known liberty and freedom and then lost it.

I have seen the unquenchable yearning of the human heart for liberty on an unforgettable occasion—yes, on several occasions. This particular experience is indelibly etched on the memory of my soul.

I saw this yearning spirit in the faces of many European people in the aftermath of World War II. It fell my lot, under the direction of the President of the Church of Jesus Christ of Latter-day Saints, to be among the first to go, without my family, into war-torn European countries and distribute food, clothing, and bedding to the suffering members of our Church and others. I saw, during that year-long visit, firsthand, entire nations prostrate, flat on their backs economically. I looked into the face of hunger—the pale, the thin, the many dressed in rags, and some barefooted. I saw the refugees, the poor unwanted souls who were driven from their homes to destinations unknown. They came with all their earthly possessions on their backs. I visited some of their homes—shacks—where as many as twenty-two people were living in one room—four complete families. I saw men, enslaved by habit, barter their scanty ration of food and clothing for a cigarette. I saw some fortunate to get hold of an American magazine and pour over its pages and wonder if what they saw could possibly be true. I saw once happy, freedom-loving people in bondage under Godless leadership. I saw the struggles on every hand to get to America—some legal and others illegal—all in an effort to enjoy freedom and liberty. These were a people who had once known some freedom, but had lost it.

We are a prosperous people today because of a political-economic system founded on spiritual values, not material values alone. It is founded on freedom of choice—free agency—an eternal, God-given principles, and personal virtue.

The founding fathers, inspired though they were, did not invent the priceless blessing of individual freedom and respect for the dignity of man. No, that priceless gift to mankind sprang from the God of heaven and not from government. Recognizing this truth, they forged safeguards that would bind men's lust for power to the Constitution. They recognized that freedom must be perpetually preserved to be enjoyed. Each new generation must learn that truth anew.

Yes, America's foundation is spiritual. Without the moral base to our system we are no better off than other nations which are now sunk into oblivion. There are some in this land, among whom I count myself, whose faith it is that this land is reserved for only a righteous people, and we remain here as tenants only as we remain in the favor of the Lord, for He is the Landlord as far as this earth is concerned. If we are to remain under heaven's benign protection and care, we must return to those principles which have

brought us our peace, liberty, and prosperity. Our problems today are essentially problems of the spirit.

We, here in America, as Theodore Roosevelt said over a half century ago, "hold in our hands the hope of the world, the fate of the coming years, and shame and disgrace will be ours if in our eyes the light of high resolve is dimmed, if we trail in the dust the golden hopes of men."

You, gathered here tonight, are dedicated to maintain that "light of high resolve" in the American people. As you do so, may I leave with you this challenge:

That you help others see that the real issue is not a debate over economic systems; it is the issue of freedom and limited or no freedom—the same issue that brought about this nation's birth and independence!

With God's help and inspiration, perhaps we may rekindle a flame of liberty that will last as long as time endures.

PANAMA CAN'T OPERATE THE CANAL

Mr. THURMOND. Mr. President, one of a number of questions which the Senate should consider in the Panama Canal debate is whether the Panamanian Government will remain friendly to the United States if control is transferred to that country.

Additionally, does that Government have the political strength or will to resist outside interference? Does Panama have the economic vitality to maintain and protect this vital waterway?

Ron Hendren, writing in the October 18 edition of the Greenville News, examines the lack of technological sophistication which makes a transfer of control to Panama highly questionable.

This lack of technology raises other questions. If the Panamanians are unable to cope with the complex operation of the canal, to whom will they turn? If to us, it will mean great outlays of cash. The only other great power to whom they could turn would be the Soviet Union.

Mr. President, the Ron Hendren column entitled "Panama Can't Operate Canal," which appeared in the October 18 edition of the Greenville News, is excellent reading in light of these concerns. In order to share this column with my colleagues, Mr. President, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PANAMA CAN'T OPERATE CANAL

WASHINGTON.—In all the prolonged, impassioned debate over the Panama Canal, the one question that ought, over all others, to be answered has yet to be asked: Can the Panamanians run it?

The answer is no.

Not only could the Panamanians not run it today, there is serious question whether an intensive training campaign begun tomorrow would ready them for the task in time. For in all their years of living next door to the canal, and despite their sustained enthusiasm for reclaiming what they view with some justification to be rightfully theirs, our unhappy neighbors have demonstrated virtually no inclination or capacity to master the technology to operate the thing.

I said technology; perhaps art is a better word: It takes a dozen years to learn how to pilot a ship through the locks, a feat that has been compared to nursing a hot dog through a series of eyedroppers. Only a handful of men have mastered it, none of them Panamanians. And piloting is only one of more than a score of canal jobs requiring special skills obtainable only through a lifetime of dedicated apprenticeship.

For me, the history and politics of the canal pale in comparison to the importance of that present-day reality. Whether the trench is rightfully ours in perpetuity, whether we are there illegally, or whether, as Sen. S. I. Hayakawa (R-Calif.) put it, we stole it fair and square—all those are important considerations. We also need to know beyond doubt whether, if we leave, we will retain the right of unilateral military intervention, and whether our warships will receive preferential passage.

These are important questions that ought not even be asked until the Panamanians demonstrate as much enthusiasm for learning how to run the canal as they have for winning control of it.

To say no to that doesn't reflect politics, conservative or liberal. It's just plain common sense. Before those treaties are ratified—if they are ratified—there ought to be a clear, written understanding that we will not leave, nor be expected to do so, until we are satisfied that the Panamanians can operate the canal.

ENERGY TAX LEGISLATION

Mr. HEINZ. Mr. President, I call the attention of my colleagues to a recent study undertaken by the Congressional Budget Office at my request that should prove extremely valuable as we proceed to consider one particular provision of the energy tax legislation currently before us. I am referring to the provision that mandates a refundable tax credit to intercity bus companies. According to the CBO study, this provision, while well-meaning, simply will not achieve its own stated goals.

On the basis of this study, I intend to offer an amendment to eliminate the tax credit, and I ask permission at this point that both the CBO study and a "Dear Colleague" I have sent out today, explaining my position, be printed in the RECORD at this point. I ask unanimous consent that the "Dear Colleague" letter be printed.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON THE BUDGET,
Washington, D.C., October 26, 1977.

DEAR COLLEAGUE: As the energy tax bill (H.R. 5263) comes before us this week, I intend to offer an amendment that would strike Section 1029, a provision that would create a major new—and, in my view, unnecessary—subsidy for the inter-city bus industry.

Specifically, the provision awards the industry $200 million per year for five years in refundable tax credits, for a total cost of one billion dollars. (The entire inter-city bus industry pays federal income taxes of less than twenty million dollars a year. Thus, when we talk of returning to it two hundred million dollars a year, we are in reality talking of a subsidy, rather than a typical tax credit.) The provision has been justified on two grounds: that assistance to the bus industry can help to entice travellers away from automobiles, thereby achieving significant energy savings; and that in general the industry is experiencing serious financial difficulty which jeopardizes quality bus service.

Although this logic is plausible, a recent study by the Congressional Budget Office, prepared at my request, concludes that the tax credit will in fact accomplish neither of these goals. In reaching my view that a tax subsidy is unwarranted at this time, I have been especially impressed by the following CBO findings:

(1) While the industry has experienced some recent financial problems, its average rate of return on net worth over the 1971–76 period was 13.3 percent, "which appears adequate for a regulated industry." Moreover, a recent 11 percent increase is expected to raise the rate of return for 1977 to 13.8 percent.

(2) "Potential energy savings from this proposal are marginal clearly no more than 2000 barrels of oil per day," and even this is under the most optimistic assumptions as to how many inter-city travellers can be induced to switch to buses. Moreover, the savings would be temporary, lasting only so long as fares remain subsidized. According to CBO, ". . . in terms of energy savings per federal dollar, this provision ranks extremely low relative to other energy-related provisions discussed by the 95th Congress." (Simple arithmetic indicates that paying $200 million per year to save 2000 barrels of oil per day means that in effect it would cost $274 under this proposal to save one barrel of oil! For the same $200 million, if the object is to save oil, we could purchase over 19 times as much at $14 a barrel—and then just put it in the ground.)

(3) The energy tax bill, as reported, already contains a new $17 million tax break for the industry, in that it removes the excise tax on inter-city buses and bus parts.

(4) It may be difficult to ensure that the tax credits benefit the intended bus companies, rather than their holding companies (Greyhound is owned by a highly diversified conglomerate; Trailways is owned by Holiday Inns).

It is noteworthy that both the Department of Transportation and the Interstate Commerce Commission have testified in opposition to any kind of subsidy at this time, as well as to the Finance Committee's proposal of a refundable tax credit. Furthermore, a major ICC study is currently underway to determine the condition and needs of the industry. The report is due early next year, and it would be only sensible to see what it says before we proceed to legislate remedies to the very problems it is investigating.

It should be considered no criticism of the immensely valuable service performed by the inter-city bus industry that I offer my amendment. Nor am I at all indifferent to the possibility that changed circumstances could cause the industry to require federal financial assistance. As the CBO study clearly states, the industry has experienced certain problems and its situation should continue to be monitored closely. I myself intend to examine certain proposals for improving its situation. But the proposal at hand is simply not the answer.

If you seek further information on my amendment, or wish to join as a co-sponsor, please contact Mark Bisnow of my staff at x47757 or x46324.

Sincerely,

H. JOHN HEINZ III
U.S. Senator.

Mr. HEINZ. In addition, Mr. President, I want to make two points about the particular formula offered in the bill for awarding the tax credit.

First. The formula is based on passenger miles per gallon for buses, compared with that for cars. Thus, a sub-

stantial tax credit will still be provided even if bus passenger miles per gallon actually go down from previous years, since average passenger miles per gallon for buses will always be much higher than that for cars. There is no incentive here for improvement in energy efficiency.

Second. It is said that one purpose of the subsidy is to help bus companies maintain unprofitable service to remote communities. Actually, the formula for the tax credit might achieve just the opposite result, if it causes a bus company to eliminate its lines that have the fewest passengers. Indeed, in such an event, the net result might even be to put more people in cars.

Finally, a word about textbook principles of economics. If the purpose of the tax credit provisions is a social one—to assist the elderly and lower income, who take buses disproportionately—then this subsidy is an inefficient way to achieve it, inasmuch as many people outside those classes will also benefit from lower fares. If the purpose is to assist smaller, struggling independent bus companies, then it is similarly inefficient to ward a subsidy which will be eaten up mainly by the larger companies. The most economically efficient method of assistance is direct income support or tax credit to the classes of people or companies that we want to target.

Finally, Mr. President, I ask that the full text of the letter from the Congressional Budget Office to myself be printed at this point in the RECORD.

There being not objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., October 21, 1977.

Hon. H. JOHN HEINZ III
U.S. Senate,
Washington, D.C.

DEAR SENATOR HEINZ: In response to your recent request, the Congressional Budget Office has reviewed the $200 million dollar refundable tax credit provision reported in the Energy Production and Conservation Tax Incentive Act of 1977 (H.R. 5263). This credit provides $100 million for reduced bus fares with the remaining half for capital expenditures. Although the proposal raises a number of broad considerations related to transportation policy, this letter focuses specifically on the concerns raised in the Senate hearings. In particular, it evaluates the financial viability of the industry and the potential energy savings associated with this bus subsidy. The conclusions of CBO's analysis follows.

First, while the Class I intercity bus industry has experienced some recent financial difficulties, the industry average rate of return on net worth over the 1971–1976 period was 13.3 percent, which appears adequate for a regulated industry. During this period the only year in which the rate of return was more than marginally below 13.0 percent was 1976 when it dropped to 8.3 percent. The ICC has recently, however, allowed an 11 percent fare increase that is forecast to increase the bus industry rate of return to 13.8 percent in 1977. Preliminary evidence suggests that this forecast is reasonable. While it is clear that the finanical viability of this industry should be monitored, it is premature to conclude that the intercity bus industry is experiencing any severe short-run financial difficulty.

The second conclusion is that the potential energy saving from this proposal is marginal—clearly no more than 2,000 barrels of oil per day. While it is true that intercity bus travel is more fuel efficient than that of private auto and air, the number of people that could be expected to switch modes is so small that the total energy savings, even under the most optimistic assumptions, are insignificant. Not only is the energy savings potential for any one year very small, but it is only temporary and would in fact disappear if the tax credit were withdrawn. This effect is unlike many of the tax provisions that provide incentives for a more energy-efficient capital stock which provides permanent energy savings over the life of the capital (for example, 20 years). Consequently, in terms of energy savings per federal dollar, this provision ranks extremely low relative to other energy-related provisions discussed by the 95th Congress.

The following two sections contain additional information that supports these conclusions.

FINANCIAL CONDITION OF THE INTERCITY BUS INDUSTRY

The intercity bus industry now serves 15,000 communities across the country, and for many communities it represents the only form of intercity public transportation. This is in contrast to major urban and suburban centers that have access to other forms of common carrier transportation. Consequently, the argument is made that particular communities would be adversely affected if the intercity bus industry were to discontinue particular routes and service due to any short-run financial difficulty. If a financial crisis were imminent, then the argument is made that a federal government subsidy, for example a refundable tax credit, would be appropriate.

Although there are numerous ways to look at the financial viability of any industry, two measures—the rate of return and the number of divestitures and bankruptcies—are the most applicable.

As shown in Table 1, the rate of return for the Class I intercity bus industry has averaged 13.3 percent over the recent 1971–1976 period. Relative to other regulated transportation industries, such a return is substantially above that of both the rail and air industries and only marginally below that of the industry leader, common carrier trucking. The only year in which the rate of return was below 12.9 percent was in 1976 when the rate dropped to 8.3 percent. In response to this reduction the Interstate Commerce Commission (ICC) has approved an 11 percent fare increase that is forecast to increase the rate of return to 13.8 percent in 1977. While it is difficult to assess the accuracy of this forecast, preliminary evidence tends to suggest it is reasonable. In the second quarter of 1977, operating revenue increased 7.6 percent above the 1976 level. Additionally, net carrier operating income, which is the difference between carrier operating revenue and expenses, was 28 percent higher than in the second quarter of 1976. Finally, since H.R. 5263 also provides for the removal of excise taxes on intercity buses as well as on bus parts (a total tax break of approximately $17 million), the industry's rate of return and operating ratio should be further strengthened.

TABLE 1.—COMPARATIVE RATES OF RETURN ON NET WORTH BY TRANSPORTATION INDUSTRIES

	1971	1972	1973	1974	1975	1976	Average
Class I intercity bus	16.6	14.2	14.0	13.8	12.9	8.3	13.3
Railroads	2.0	3.0	3.5	4.3	0.7	1.8	2.6
Common carrier trucking	20.0	18.8	14.1	16.2	12.7	14.8	16.1
Air transportation	2.6	7.6	5.2	6.3	(1)	13.1	6.96

[1] Not available.

Notes: Net worth is equivalent to shareholders' equity, "book net assets" on capital and surplus. Due to the large proportion of capital investment in the form of funded debt, rate of return on total property investment would be lower than that shown on net worth only.

Source: Citibank's "Monthly Economic Letter," April 1971–76 and Interstate Commerce Commission memo on class I bus carriers 1971–76.

While these results are preliminary and apply only to the ten largest carriers, they suggest that the fare increase has had a very positive effect on the industry's financial situation. This interpretation is further supported because the fare increase was only in effect for half of the second quarter. Additionally, the third and fourth quarters are the highest in volume because of summer travel and the holidays, and generally provide the industry with its largest profits.

The fact that the bus industry is regulated also has an effect on its rate of return. In a regulated industry the amount of potential competition is somewhat restricted: new bus companies or new routes for existing companies must be approved by the Interstate Commerce Commission. When competition is limited and fares are regulated, the capital risk is generally smaller and consequently the rate of return required to entice companies into the industry need not be as high as for nonregulated industries.

Another complication arises because Greyhound and Continental Trailways are wholly owned subsidiaries of large conglomerate corporations. Greyhound Lines is owned by the Greyhound Corporation which is involved in transportation, food processing and services, consumer products, lending and financing, pharmaceuticals, consulting, manufacturing, and other services, while Continental Trailways and its affiliates are owned by TCO Industries, which is owned by Holiday Inns' Inc.[1] Thus, it is difficult to obtain meaningful measures (for example, bond rating, stock prices) of the financial viability of the bus industry's major carriers. Furthermore, it would also be difficult to ensure that the bus companies, and not the holding companies, benefit from the type of tax credit included in H.R. 5263.

Finally, the absence of bankruptcies and divestitures in the intercity bus industry in recent years, supports the assumption that the industry is not in a financial crisis. Specifically, there have not been any significant divestitures in any of the major companies. Furthermore, none of the 120 Class I bus carriers are in or have recently filed for bankruptcy.

POTENTIAL ENERGY SAVINGS

A major reason for subsidizing the intercity bus industry is that it would produce energy savings. If intercity riders could be shifted from energy-inefficient modes (auto and air) to intercity bus, energy savings could result. The extent of the energy savings would be directly related to the relative energy efficiency of the alternative transportation modes as well as the relative share of intercity ridership associated with each of the modes. The energy savings would also be influenced by the potential for shifting between the modes.

Passenger and freight transportation now consume about 26 percent of the nation's energy, and are thus important areas for seeking energy savings. Intercity buses, however, account for only a very small propor-

Footnotes at end of article.

tion of transportation energy consumption. For example, automobiles use about half of the energy in the transportation sector—about five million barrels of oil a day. Class I intercity buses, on the other hand, use only about 8,880 barrels a day, or much less than 1 percent of total automobile consumption. Energy consumption by buses is low because of their small share of intercity passenger miles. According to the most recent data, automobiles carry about 87 percent of the total intercity traffic, while buses transport only 2 percent of the intercity traffic.[2] Therefore, even if ridership could be substantially increased, the energy savings would be small because intercity buses start with only a small share of intercity passenger travel.

While the bus has only a small percentage of intercity passenger travel, most studies have found it to be far more energy efficient than auto, rail, or plane. A recent study done at Princeton University on both operating and construction and manufacturing energy used in intercity travel modes found the bus to be six and eleven times as efficient on a passenger mile basis[3] as the auto and air modes respectively. Finally, it should be noted that buses are also fuel efficient because they typically carry more passengers relative to their capacity than do automobiles.

Although the bus subsidy provision of H.R. 5263 is $200 million annually, only $100 million is for fare reductions with the remaining $100 million for capital improvements. In order to estimate the impact of the $100 million fare reduction on energy savings, a four-step method was utilized. First, the impact of a $100 million fare reduction on bus ridership was quantified utilizing a .5 elasticity of demand derived from a number of empirical studies.[4] Using the elasticity of .5 and an 8.3 percent fare decrease, bus ridership would increase by 4.2 percent.[5] Second, based on the findings of previous studies, 70 percent of the increase in bus ridership was assumed to come from other modes, consistent with the current modal distribution of total passenger miles.[6] The remaining 30 percent was assumed to be new demand. From the standpoint of fuel savings, this is an optimistic assumption since this low percent of new demand makes a major contribution to potential energy savings. Third, the energy savings attributed to ridership switching from auto, air, and train to intercity bus was calculated using total energy consumption coefficients developed at Princeton University. Finally, the measures of energy used per passenger mile by mode were applied to the number of modes other than bus to calculate the total passenger miles associated with each of the potential energy savings associated with increased bus ridership. From an energy savings standpoint, this last step was also an extremely optimistic assumption since it was assumed that the intercity bus companies would not increase their vehicle miles; that is, the average load factors would increase to accommodate the new passengers. This assumption means that additional energy would not be necessary to carry the new riders.

Despite the optimistic assumptions used in computing total potential energy savings, the results of the analysis indicate that the energy savings associated with the subsidy would be marginal. Specifically the results of the analysis indicate that approximately 740,000 barrels of petroleum a year or 2,000 barrels per day could be saved through this subsidy. In fact, the estimated annual energy savings from this proposal are only 14 percent of daily auto energy consumption. Alternatively, the potential energy savings from the bus subsidy are roughly equivalent to what automobiles in Atlanta consume in two to three weeks.

Should you desire additional information on the analysis of the tax credit for the intercity bus industry, we would be pleased to provide future details. A similar letter is being sent to Senators Bellmon, Chiles, and Domenici.

Sincerely,

ALICE M. RIVLIN,
Director.

FOOTNOTES

[1] U.S. Department of Transportation, "Internal Memo on the Intercity Bus Industry," p. 1.

[2] U.S. Department of Transportation, *National Transportation Trends and Choices*, (January 1977), p. 14.

[3] Margaret Fulton Fels, *Suburb to Suburb Intercity Travel: Energy, Time, and Dollar Expenditures*, Princeton University (June 1976).

[4] For further details on these studies see Lester B. Lave, "The Demand for Intercity Passenger Transportation," *Journal of Regional Science*, Vol. 12, No. 1 (April 1972), pp. 71–84, and System Analysis and Research Corporation, *Demand for Intercity Passenger Travel in the Washington-Boston Corridor*, (Cambridge, Massachusetts, 1973).

[5] The $100 million is 8.3 percent of the industry revenue in 1976 and as a consequence CBO assumed a fare decrease of 8.3 percent. A .5 elasticity of demand means that there will be a 1 percent increase in ridership for every 2 percent decrease in fares. Thus 8.3 percent times the price elasticity of demand .5 translates into a 4.2 percent increase in ridership.

[6] John W. Bates, "Effect of Fare Reduction on Transit Ridership in the Atlanta Region: Summary of Transit Passenger Data," *Transportation Research Record*, No. 499, 1974, pp. 1–11. It should also be noted that a Greyhound survey found that fare reductions between 35–40 percent increased new demand by 50 percent for its discover America fare program.

THE SECOND MANAGERIAL REVOLUTION

Mr. McCLURE. Mr. President, Dr. Murray L. Weidenbaum, the noted economist who is director of the Center for the Study of American Business at Washington University in St. Louis, has written a timely and worthwhile article on Government regulation which merits the attention of my colleagues. The article appeared in Commitment, a quarterly magazine published by Abbott Laboratories, a diversified health care company.

It is Dr. Weidenbaum's thesis that America is currently in the throes of a "second managerial revolution" in which business decisionmaking is shifting away from the professional managers who are responsible to stockholders and concerned about profit and loss considerations to a vast army of faceless bureaucrats who do not answer to the public and are concerned only with aggrandizing their own power. In this process all kinds of management decisions, from the kinds of products to be made to the persons to be hired, must first be cleared with Washington. Moreover, although Government controls are designed to benefit or protect the public, in Weidenbaum's opinion, "it is the consumer who ultimately pays the added costs that so often results." The consumer must pay not only higher taxes to support the huge regulatory machinery, but also "hidden taxes" in the form of higher prices of essential goods and services, as well as retarded technological innovation, reduced choices and delayed introduction of new products, and often higher unemployment.

Professor Weidenbaum's remedy is, first, to educate the public and the regulators themselves on the problems that overregulation creates for the economy and daily living, and then, to "convert the growing concern over excessive Government regulation to support for sensible reform."

For starters, Weidenbaum recommends that each Government agency be required to assess the costs and benefits of their regulatory proposals before they are put into effect.

I certainly agree with Weidenbaum's thesis and his regulatory reform program. That is why I am pleased to cosponsor two bills, S. 600, introduced by Senator PERCY, and S. 2011, introduced by Senator SCHMITT, which incorporate several ideas suggested by Weidenbaum. In this article, Dr. Weidenbaum specifically endorses the "sunset" approach, contained in both bills, whereby specific regulatory authority could automatically terminate at intervals, permitting periodic review and reexamination of Government programs by the people's elected representatives. Moreover, Senator SCHMITT's Regulatory Reduction and Congressional Control Act would mandate Federal agencies to publish economic, paperwork, and judicial impact analyses with proposed regulations and then submit such information, together with the text of the new rules, to the Congress for review, before those rules could become effective.

Mr. President, these proposals for reform, favored by Murray Weidenbaum and other economists and scholars on Government reform, and contained in the Percy and Schmitt bills, deserve the support of my colleagues, and I hope that they will receive early consideration by the full Senate.

Mr. President, I ask unanimous consent that the complete text of Dr. Weidenbaum's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SECOND MANAGERIAL REVOLUTION

(By Dr. Murray L. Weidenbaum)

The developments now taking place in business-government relations in the United States are so fundamental that they amount to a second "managerial revolution." The first managerial revolution, described in economics and business textbooks, was the shift of much of the responsibility for conducting day-to-day operations of the typical large company from the shareholders to professional managers.

The second shift in business decision-making now under way is from the professional management selected by the corporation itself to the vast cadre of government planners and regulators who are influencing and often controlling the key managerial decisions of the typical business firm—but are not accountable to the owners of the business. In contrast, there are few important examples

of outright nationalization of industry in the United States. Rather, the tendency is for government to take over or at least to share many of the key aspects of decision-making of all firms.

No business official today, neither the head of a large company nor the corner grocer, can operate without considering a multitude of government restrictions and regulations. His or her costs and profits can be affected as much by a bill passed in Washington as by a management plan in the front office or a customer's check at the checkout counter.

The types of management decisions which increasingly are subject to government control are fundamental to the business system: What lines of business to go into? What products can be produced? Under what conditions can they be made? Where can they be made? Who can make them? How can the products be marketed? What prices can be charged? How much profit can be kept?

Government regulation at times can be justified as a logical response to shortcomings in the private economy—such as pollution of the environment, unsafe industrial practices, and hazardous products. But no balanced evaluation of the overall effect of government regulation comfortably fits the notion of benign and wise officials always making sensible decisions in the society's greater interests.

Even though most of the expansions in government regulation of business are designed to benefit the public, one neglected aspect is becoming increasingly apparent: it is the consumer who ultimately pays the added costs that so often result. And the consumer pays in many ways—(1) in higher taxes to support a veritable array of government regulators (at a cost to the taxpayer of $3.5 billion in the fiscal year 1977), (2) in higher prices to cover the cost to business of meeting increasingly stringent government regulations, and (3) in a reduced choice of products, as government delays in approving new products (notably in the pharmaceutical area) and often arbitrarily orders existing products off the market.

Workers and their families need to realize that many productive jobs are lost as a direct result of excessively costly government regulation. For example, hundreds of foundries have been closed down in the past few years because they could not meet the costs imposed by the Environmental Protection Agency, the Occupational Safety and Health Administration, and similar government agencies.

Sometimes those adverse impacts are not intended by the supporters of the regulation—but they occur nevertheless. For example, one increase in the statutory minimum wage resulted in teenage employment in the United States being 300,000 lower than it otherwise would have been.

New capital formation, and the production and jobs that are made possible, may be reduced by the uncertainty about the future of regulations governing the introduction of new products and improved processes. This problem is particularly pronounced in the efforts to develop new domestic energy sources. A technical task force of the U.S. Energy Resources Council, in evaluating the prospects for coal gasification and other innovative ways of supplying energy, concluded that regulatory requirements "could easily hold up or permanently postpone any attempt to build and operate a synthetic fuels plant."

As would be expected, the proliferation of regulation has led to many conflicts among regulators, with business and the public often getting caught in the cross fire. The simple task of washing children's pajamas in New York exemplifies how two sets of laws can pit one worthy objective against another, in this case economy versus safety.

Because of a ban on phosphates in detergents, the mother who launders her child's sleepwear in an ecologically sound way may risk washing away its required fire-resistant properties. New York State bans the sale of detergents containing phosphates in an effort to halt water pollution. And a Federal regulation requires children's sleepwear to be flame retardant. But New York housewives now face a dilemma, because phosphates are the strongest protector of fire-retardancy. If they wash the pajamas in non-phosphate detergents, they are going to wash away the fire-resistant property. What does a conscientious mother in New York do to avoid dressing her child in nightclothes that could burn up? Smuggle in the forbidden detergents from New Jersey? Commit an illegal act of laundry? To compound the problem, one of the fire-resistant chemicals most widely used has recently been banned because it may be a possible cause of cancer.

A classic example of conflicting regulations occurs in the steel industry with regard to emissions from coke ovens. The EPA, which is interested in reducing air pollution, favors placing hoods over coke ovens to contain the pollutants. However, OSHA, which is concerned with employee health, opposes the hoods because they increase the concentration of coke oven emissions breathed by workers.

At present no mechanism exists to resolve these and other similar conflicts, so it remains inevitable that governmental authority will overlap and regulations will conflict. Each regulatory agency is preoccupied with its narrow interest, and it is oblivious to the effects of its actions on the individual company, on an entire industry, or even on the society as a whole.

What can be done to change this situation? The first step is to understand the nature of this second, bureaucratic "revolution" and to communicate that understanding to the public and ultimately to government decision-makers. It is hard to criticize government agencies which are trying to do something as worthy as assuring safer products or a cleaner environment. But the reality of government regulation is so very different. We are talking about bureaucracies, with all the faults and shortcomings of the bureaucratic mentality.

After all, the public has the right to know that its tax dollars are being used by government agencies that have time for such nonsense as determining the size of toilet partitions, ruling on the size of a hole, declaring when a roof is a floor, and deciding how frequently spittoons should be cleaned.

The second step is to convert the growing concern over excessive government regulation to support for sensible reform. Modest and realistic targets need to be set. The vast regulatory apparatus is not suddenly going to be dismantled. A good beginning to improving government regulation can be based, oddly enough, on the environmental statutes. Government agencies are now required to consider the impact of their actions on the environment before they act. Would it not be sensible also to require each government agency to assess the impacts of its actions on the economy before it acts?

Merely requiring the performance of economic analysis by an unsympathetic regulator would only delay the regulatory process and make it more costly. But limiting government intervention to those instances where the total benefits to society exceed the costs would be a major and highly desirable innovation. This approach could significantly slow down, if not reverse, the current rising trend of government regulation of business, particularly if it were incorporated in the various sunset laws that are now receiving growing attention at Federal and state levels (a major "sunset" proposal has been introduced in the Congress by Illinois Senator Charles Percy). Under these statutes, the basic legislative authority for government regulations and other activities would expire periodically, thus requiring a comprehensive review of the justification for these governmental programs.

In a more fundamental sense, it is a way of thinking that needs to be developed in public policy-making in the area of business-government relations. Regulation should be viewed as a potent and expensive medicine. It needs to be taken very carefully, in limited doses, and with full regard for all the adverse side effects—inflation, unemployment, loss of productivity, delay in getting new and better products, and loss of capital formation. We must avoid unwittingly overdosing the patient.

The bottom line in all of this is that overregulation of business (where the costs exceed the benefits) is not in the public interest because it is the consumer-taxpayer who bears the costs. Public policy needs to be geared to enabling the American business system to make a maximum contribution to the achievement of the nation's social goals. But—for the public good—business must simultaneously be permitted to fulfill its basic economic function of providing the consumer with better and more efficiently produced goods and services.

JOHN WAYNE ENDORSES PANAMA CANAL TREATIES

Mr. CRANSTON. Mr. President, a distinguished Californian known for his conservative views and his great patriotism—Mr. John Wayne—recently published his thoughtful observations on the new Panama Canal treaties.

Mr. Wayne wrote me in support of the treaties and included with his letter a written statement, the substance of which now has appeared in the Washington Post on October 25, 1977. He thoroughly discusses the arguments frequently made against the treaties from his special vantage point as one with long personal involvement with Panama. He then offers this conclusion:

I have carefully studied the treaties and I support them on the basis of my belief that America always looks to the future and that our people have demonstrated qualities of justice and reason for 200 years. That attitude has made our country a great nation. The new treaties modernize an outmoded relationship with a friendly and hospitable country. They also solve an international question with our other Latin American neighbors. Finally, the treaties protect and legitimize fundamental interests of our country.

Mr. Wayne's wise discussion will be of interest to my colleagues, I know, and I ask unanimous consent that his statement as it appeared in the Post be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF MR. JOHN WAYNE

My interest in Panama goes back to the '40s. I have friends on both ends of that country's political spectrum. As a matter of fact, my first introduction to the Panamanian situation was in the '30s when Harmodio Arias was president. He was probably the best-liked figure in all of Latin America and one of the very few presidents who has even completed a term. His wife and his son Tito, then about 12 years old, visited me in California. Another son, Tony, was godfather to one of my daughters. I am going into these personal things only to show that I have had

reasons to give attention to our relationships down there.

I have followed the Panamanian situation since the time the State Department ensured our losing good relations with Panama by changing its policy and charging extremely high prices for tuition for the children of several Panamanian families to go to Canal Zone schools. These families were continually involved in the leadership and administration of Panama. I think it would have been quite obvious that with their children attending our schools they would have our point of view. I wrote a letter to our administration at that time to apprise it of this situation. Nothing was done.

I was appalled when Gen. Eisenhower appeared to have given the sovereignty of the canal away by allowing the Panamanian flag to fly there; but at that time, neither Congress nor the press nor the conservatives uttered any kind of cry. I did, but it was a voice in the wilderness.

In checking to find the reason for President Eisenhower's actions, I found out that, although we had the rights to the ownership and jurisdiction of the canal, Panama had not surrendered sovereignty. I also found out that the United States, in the Arias-Roosevelt Treaty of 1936, ratified in 1939, recognized the sovereignty of Panama in the Canal Zone as it was originally stated in the 1903 agreement.

In negotiations during the Kennedy administration, it was further agreed that any place within the civil area that the American flag flew, there must be a Panamanian flag raised.

Our people in the Zone tried to avoid this by removing flagpoles. This started rational actions by both sides. During those student riots that took place in 1964, then-President Lyndon Johnson told the world that there would be a gradual return of the canal to Panamanian possession. There were still no outcries from the people who are now complaining, but these acts, plus common decency to the dignity of Panama, demanded a re-evaluation of our treaty.

Now, let's take these new treaties for what they are. We do not give up one active military installation for the next quarter of a century. We do transfer to Panama in the civil canal area such government activities as police and fire protection, civil administration, post offices, courts, customs, garbage collection and maintenance of certain areas that are not necessary to manage the canal.

The canal will continue to be run by an American agency whose board of directors will comprise nine members—five members of the board being American, and four Panamanian. These four will be selected by the United States from a list proposed by Panama. This board of directors will not have any authority on our military bases, which we will have there for a quarter of a century under the terms of the treaties.

The treaties ensure the jobs of all American citizens working in the canal and their continued use of their rented homes at the present rate, which averages $150 a month, including utilities, garbage collection, sewerage, upkeep of the grounds and maintenance of buildings. All this is guaranteed to each until retirement or completion of his contract.

When these responsibilities are transferred to Panama, the Canal Company will also transfer $10 million a year of the toll charges. I doubt if this will cover the operating costs. So does our government. Therefore, this United States Canal Company Agency, which will be running the canal for the next 20 years, will be instructed to raise the toll charges 30 cents per ton, or about 0.00015 cents per pound, to be given to Panama to cover such contingencies as inflation plus rental for the 120,000 acres that the United States will continue to hold for its military installations. This added toll charge could amount to $40 million in the years to come—but none of it will come out of our pockets. We will not be required to pay one dollar to Panama when these treaties are put into effect.

Regarding communism, there will always be accusations and counter-accusations. Gen. Torrijos has never followed the Marxist line. Even in his speech when he visited Cuba, he stated that Castro had ensured schooling and developed a system of feeding his people, but at a high social cost. Because of this he stated that what was aspirin for Cuba was not necessarily the right medicine for Panama, which is putting it about as plainly as possible, when you are visiting in a foreign country, that you do not agree with their methods.

I have carefully studied the treaties, and I support them on the basis of my belief that America always looks to the future and that our people have demonstrated qualities of justice and reason for 200 years. That attitude has made our country a great nation. The new treaties modernize an outmoded relationship with a friendly and hospitable country. They also solve an international question with our other Latin American neighbors. Finally, the treaties protect and legitimize fundamental interests of our country.

DISTURBING EVENTS IN SOUTH AFRICA—WHAT IS THE FUTURE?

Mr. STONE. Mr. President, I was deeply disturbed to learn of the events in South Africa last week—the banning of black protest groups, the closing of South Africa's principal black newspaper—the World—and the arrests which affected many organizations and individuals ranging from the Christian Institute of Southern Africa to Mr. Percy Qoboza, editor of the World, and Mr. Donald Woods, editor of the East London Daily Dispatch.

It is disheartening that Mr. Vorster's government apparently felt it necessary to invoke the Suppression of Communism Act, the Internal Security Act, and the Suppression of Terrorism Act in order to, in the government's own words, "act against those persons whose activities endanger the maintenance of public order."

Two members of my staff visited South Africa last fall, and reported to me in detail their impressions. One of their firm conclusions was that the Government of South Africa should establish a cooperative framework for resolution of problems between blacks and whites. They felt that substantial, peaceful progress for blacks could be made in a number of areas—improvements in working conditions, employment opportunities, education, and housing, as well as elimination of petty apartheid. My staff members met at length with Mr. Qoboza. They felt, at that time, that he was the kind of moderate spokesperson to whom the government should look for counsel and cooperation; not at all the kind of person "whose activities endanger the maintenance of public order," as the government seems to allege.

We need to listen carefully to what the Vorster government is saying by its actions. Has it rejected the black voices of moderation and conciliation, such as the voice of Mr. Qoboza? Has it decided there is no room for cooperation between the white government and the black majority in South Africa? Do these disturbing events presage even greater repression in the future?

It seems clear that instead of attempting sober, problem-solving dialog, the Government of South Africa has decided to take serious, punitive measures against those who dissent. If the Vorster government feels no other option was available, then the events of last week seem to signal deteriorating relations among those who must join together for any process of peaceful change. This, I regret to say, can only limit further South Africa's future alternatives.

It appears that any gains, tentative and initial as they might have been, are now being thwarted by the ruling nationalist party. Those of us who hope for peaceful progress, and an end to the objectionable practices of petty apartheid and repression of dissent, can only wonder where South Africa is headed.

THREE HUNDRED AND TWENTY U.S. MILITARY LEADERS OPPOSE PANAMA CANAL TREATIES

Mr. HELMS. Mr. President, some of the administration's spokesmen are trying to suggest that the "weight of the best military opinion" is solidly behind the proposed Panama Canal giveaway. When it comes down to names of specific military advisers who are lending their weight to the treaties, it always seems to be the names of military officers on active duty directly in the line of command.

We all know that officers on active duty are under obligation to give their military advice based upon the given circumstances. If their Commander in Chief has already made a political decision, they must shape their advice to the given circumstances, and make their military proposals accordingly.

Mr. President, I do not suggest that military officers on active duty are any less loyal than other Americans. But it is only natural that, under the constraints of duty and career expectations, they limit their advice to technical considerations in support of policies they had no part in shaping.

Thus it is that when we turn to the retired officers, we find a group of men who have both the military expertise and experience to make judgments that involve both political and military factors intertwined. The Panama Canal is one such problem. There are certain political situations which make defense easier and more practical. That is a different question from asking how to defend the canal after important military considerations have been surrendered.

On June 8, four former Chiefs of Naval Operations, Admirals Carney, Anderson, Burke, and Moorer, tendered their considered advice to the President in a letter which I had the privilege of taking to the President personally, and placing in his hands. Their courage in speaking out has been an inspiration not only to the

American people at large, but also to their fellow retired officers.

Mr. President, the Reserve Officers Association (ROA) was chartered by Congress to advise on matters of national defense. The ROA has just completed a poll of their members. They report that more than 320 retired officers have gone on public record as opposed to the Panama Canal Treaties. I am informed that only four ROA members indicated that they favored the treaties.

Among those who oppose the treaties are such distinguished officers as Gen. Lyman L. Lemnitzer, former Supreme Allied Commander—NATO, Adm. John C. McCain, former Commander in Chief, Pacific, and Gen. Lewis Walt, former Assistant Commandant of the U.S. Marine Corps.

General Lemnitzer made the following statement:

I do not support turning over the complete control, operation and defense of the canal to the Marxist Panamanian dictatorship which is publicly aligned with Castro's Communist Cuba, which is, in turn, under the complete domination of the Soviet Union. From the military point of view, I consider it essential for the United States to retain the unequivocal rights of preferential passage of naval vessels and the right to defend the canal when we deem such defense to be necessary.

Mr. President, I ask unanimous consent that the complete statement of the ROA, issued today, be printed in the RECORD along with the list of those retired officers who have gone on public record as opposed to the Panama Canal treaties.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FORMER NATO AND PACIFIC CHIEFS OPPOSE PANAMA CANAL TREATIES

WASHINGTON, D.C., October 26.—Gen. Lyman L. Lemnitzer, former Supreme Allied Commander-NATO, has joined Adm. John C. McCain, former Commander-in-Chief, Pacific, and Gen. Lewis Walt, former assistant commandant of the U.S. Marine Corps, in going on record opposed to the Panama Canal Treaties signed by President Carter.

They are among the more than 320 generals and admirals from all of the services—regular, Reserve and National Guard—who voiced their opposition through the Reserve Officers Association (ROA), chartered by Congress to advise on matters of national defense.

"I do not support turning over the complete control, operation and defense of the canal to the Marxist Panamanian dictatorship which is publicly aligned with Castro's Communist Cuba which is, in turn, under the complete domination of the Soviet Union," General Lemnitzer said. "From the military point of view, I consider it essential for the United States to retain the unequivocal rights of preferential passage of naval vessels and the right to defend the Canal when we deem such defense to be necessary."

Included among those against the treaties are Gen. Charles L. Bolte former Vice Chief of Staff, Army; Maj. Gen. Earnest L. "Mike" Massad, former Deputy Assistant Secretary of Defense; Maj. Gen. Kenneth O. Sanborn, former Commander, U.S. Air Forces—South, Panama; and Brig. Gen. John S. Eisenhower, son of the late President Eisenhower.

Their position—free of political constraint—had been cited on October 14 by Maj. Gen. J. Milnor Roberts, ROA Executive Director, in testimony before the Senate Committee on Foreign Relations.

"We had asked our members who are not 'muzzled' to speak up so that our fellow citizens are not misled into the conviction that all military leaders think the treaties are the best thing since landing on the moon," General Roberts said. "Regardless of their personal opinions, what you hear from the current Chiefs of Staff is what the Administration wants you to hear. They could not possibly object publicly with their civilian bosses, including President Carter who signed the treaties," Gen. Roberts said. "In supporting the treaty, the joint chiefs have differed from the great majority of their military colleagues who are free to express their opinion."

Among other military leaders in opposition to the Panama Canal treaties were:

Lt. Gen. Robert W. Colglazier, Jr., AUS (Ret.), former Deputy Chief of Staff—Logistics.

Lt. Gen. Stanley "Swede" Larsen, USA (Ret.), former Deputy Commander-in-Chief, Chief of Staff, U.S. Army—Pacific.

Vice Adm. J. F. Bolger, USN (Ret.), former Deputy Chief of Naval Personnel.

Maj. Gen. Glenn C. Ames, AUS (Ret.), nationally recognized leader, also, in the National Guard Association, Association of the United States Army, and former Adjutant General of California.

Maj. Gen. Homer I. "Pete" Lewis, USAFR, former Chief of Air Force Reserve.

And even a Carter, Maj. Gen. Leslie D. Carter, USA (Ret.), of Midlothian, Va.

GENERALS AND ADMIRALS

Alabama

Maj. Gen. George F. Hamner, USAR, Tuscaloosa.

Brig. Gen. W. W. Duffey, USAR Ret., Birmingham.

Brig. Gen. Lewis C. Pattillo, USAR, Hartselle.

Arizona

Maj. Gen. Benjamin W. Fridge, USAF, Tempe.

Arkansas

Maj. Gen. Herman H. Hankins, AUS Ret., Arkadelphia.

Brig. Gen. Thomas F. Butt, USAR, Fayetteville.

California

Lt. Gen. Stanley R. Larsen, USA Ret., San Francisco.

Rear Adm. R. D. Adams, USNR ret., San Francisco.

Maj. Gen. Glenn C. Ames, AUS Ret., Woodland Hills.

Maj. Gen. William H. Baumer, USAR, La Jolla.

Rear Adm. Anthony A. Braccia, USNR, Orinda.

Maj. Gen. C. Lyn Fox, AUS Ret., San Francisco.

Rear Adm. John E. Harlin, USNR Ret., Fullerton.

Maj. Gen. W. J. Hixson, AUS Ret., Oceanside.

Maj. Gen. Henry K. Kellogg, AUS Ret., Los Altos.

Rear Adm. William M. McCloy, USNR, Newport Beach.

Maj. Gen. Douglas J. Peacher, USMCR, La Jolla.

Rear Adm. Carl E. Watson, USNR Ret., Richmond.

Brig. Gen. Fred C. Faupel, Jr., USAF Ret., Chatsworth.

Brig. Gen. Philip J. Donovan, USAR, Santa Monica.

Brig. Gen. Stewart L. Hall, AUS Ret., San Diego.

Brig. Gen. William H. Klenke, Jr., USMC Ret., Pauma Valley.

Brig. Gen. Michael L. Matte, USAFR Ret., San Diego.

Brig. Gen. A. J. Maxham, NG Ret., Long Beach.

Brig. Gen. Charles McCormick, Jr., USAR Ret., Rancho Mirage.

Brig. Gen. Keith E. McWilliams, ARNG, La Jolla.

Brig. Gen. Wallace H. Nickell, USAR, W. Sacramento.

Connecticut

Brig. Gen. Alphonse J. V. Fiedorczyk, USA Ret., Stamford.

Brig. Gen. James D. Hewett, USAR, Kensington.

Brig. Gen. John J. King, AUS Ret., Hartford.

Delaware

Brig. Gen. Albert W. Adams, USAR Ret., Bethany Beach.

District of Columbia

ADM John S. McCain, Jr., USN Ret.

Maj. Gen. Lowell J. Bradford, USAR Ret.

Maj. Gen. Robert E. L. Eaton, USAF Ret.

Brig. Gen. Nicholas E. Allen, USAFR Ret.

Brig. Gen. James H. Kidder, AUS Ret.

Brig. Gen. Thomas H. King, USAF Ret.

Brig. Gen. Eugene Phillips, USAR.

Florida

RADM Carlos M. Cardeza, USNR, Ret., Sanibel.

RADM George J. Coleman, USNR, Miami.

Maj. Gen. Richard H. Cooper, USAR, Orlando.

Maj. Gen. Chester P. Hartford, USAR, Naranja.

RADM John P. Ingle, Jr., USNR Ret., Jacksonville.

RADM James R. McCormick, USN Ret., Port Charlotte.

Brig. Gen. Malcolm K. Beyer, USMC Ret., Jupiter.

Brig. Gen. Edward S. Branigan, Jr., AUS Ret., Clearwater Beach.

Brig. Gen. Charles D. Briggs, Jr., USAF Ret., Indialantic.

Brig. Gen. Edsel O. Clark, USAFR, Daytona Beach.

Brig. Gen. Thomas Fuller, AUS Ret., Gainesville.

Brig. Gen. Gerald A. Hart, USAFR, Plantation.

Brig. Gen. David C. Hastings, USAR Ret., Jacksonville.

Brig. Gen. Eugene Muller, AUS Ret., Boca Raton.

Brig. Gen. Philip D. Myers, AUS Ret., Coral Gables.

Brig. Gen. James D. Randall, USAR, Brandon.

Brig. Gen. Wilbur A. Smith, USAFR Ret., Indian Rocks Beach.

Brig. Gen. Louis F. Stuebe, USAR Ret., Tallahassee.

Georgia

Maj. Gen. Earl O. Anderson, USAF Ret., Atlanta.

RADM Hugh H. Howell, Jr., USNR, Atlanta.

Brig. Gen. A. F. Brandstatter, USAR, St. Simons Island.

Brig. Gen. Prentiss Courson, AUS Ret., Savannah.

Brig. Gen. David E. Mayer, AUS Ret., Groveton.

Illinois

Maj. Gen. L. J. Conti, USMCR, Arlington Heights.

Maj. Gen. Francis P. Kane, AUS Ret., Chicago.

Maj. Gen. Julius Klein, AUS Ret., Chicago.

Maj. Gen. Cyrille P. LaPorte, USAR, Flossmoor.

Brig. Gen. Lawrence H. Allen, Jr., USAR, Des Plaines.

Brig. Gen. W. R. Allen, AUS Ret., Algonquin.

Brig. Gen. L. V. Anderson, USAR, Glenview.

Brig. Gen. John C. Brogan, USAR, Golf.

Brig. Gen. O. C. Hudson, AUS Ret., Princeton.

Brig. Gen. Robert L. Johnson, USAR, Palatine.
Brig. Gen. Alfred K. Nelson, USAR, Chicago Heights.

Indiana

Maj. Gen. Leston N. Carmichael, USAR, Columbus.
Brig. Gen. John O. Bradshaw, USAF Ret., West Lafayette.
Brig. Gen. Robert M. Leich, USAR, Evansville.
Brig Gen. Duncan N. P. Pritchett, USAF Ret., Indianapolis.
Brig. Gen. Robert P. Porter, NG, Fort Wayne.

Iowa

Maj. Gen. Merrill B. Evans, USAR, Prole.
Brig. Gen. R. A. Lancaster, USAR Ret., Des Moines.

Kentucky

Maj. Gen. C. Beach, Jr., USAR, Beattyville.
Maj. Gen. Benjamin J. Butler, USAR Ret., Louisville.

Louisiana

Maj. Gen. C. F. Duchein, USMCR Ret., Baton Rouge.
Brig. Gen. Melvin I. Bookman, AUS Ret., Metairie.
Brig. Gen. Angelo L. Ferranti, ARNG Ret., Baton Rouge.
Brig. Gen. Russell T. LeBlanc, USAR, River Ridge.

Maine

Brig. Gen. William F. McGonagle, AUS Ret., Hollis.

Maryland

RADM Edward J. Costello, USNR Ret., Bethesda.
Maj. Gen. Benjamin L. Hunton, USAR, Hyattsville.
RADM William P. Stephens, USNR Ret., Annapolis.
Brig. Gen. C. L. Sayre, AUS Ret., Leonardtown.
Brig. Gen. W. E. Thompson, Jr., ANG Ret., Whiteford.

Massachusetts

Maj. Gen. John J. Maginnis, AUS Ret., Worcester.
Brig. Gen. Costas L. Caraganis, AUS Ret., Lowell.
Brig. Gen. Richard C. Carrera, ARNG., New Bedford.

Michigan

Maj. Gen. Alden G. Glauch, USAF, Traverse City.

Minnesota

Brig. Gen. Edward D. Clapp, USAR, St. Paul.
Maj. Gen. Norbert J. Hennen, USAR, Minneapolis.

Mississippi

RADM Edward F. Beyer, USNR Ret., Bay St. Louis.
Brig. Gen. William D. McCain, USAR, Hattiesburg.
Brig. Gen. Edmund W. Montgomery, II, USAR Ret., Jackson.

Missouri

Maj. Gen. William H. Blakefield, USA Ret., Boonville.
Maj. Gen. William A. Dietrich, USAF Ret., Kansas City.
Maj. Gen. Herbert T. Johnson, AUS Ret., Ferguson.
Maj. Gen. Raymond F. McNally, Jr., USAR Ret., St. Louis.
Brig. Gen. Robert E. Adams, USAR, Kansas City.
Brig. Gen. Bill C. Branson, USAR, St. Louis.
Brig. Gen. John S. Gulledge, USAF Ret., Carl Junction.
Brig. Gen. John T. Pegg, AUS Ret., Vicksburg.

Nebraska

Brig. Gen. Richard G. Allgood, Jr., USAR Ret., Lincoln.

New Hampshire

RADM Carl G. Gesen, USNR Ret., Concord.
Brig. Gen. Edward Haseltine, USAFR Ret., Reeds Ferry.
Brig. Gen. Boleslaw H. Pokigo, AUS Ret., Goffstown.

New Jersey

Brig. Gen. E. J. Breen, USAR, Edgewater.
Brig. Gen. Rogers B. Finch, USAR Ret., Little Silver.

New York

VADM J. F. Bolger, USN Ret., East Hampton.
Maj. Gen. J. W. Kaine, AUS Ret., E. Williston.
Maj. Gen. Charles C. Nast, NG Ret., New York.
Maj. Gen. Laddie L. Stahl, USAR, Rexford.
Brig. Gen. Walter F. Alt, USAR Ret., Buffalo.
Brig. Gen. Charles D. Barrett, USAR, Painted Post.
Brig. Gen. Hugh J. Cox, AUS Ret., New York.
Brig. Gen. Edward J. Czerniuk, AUS, Flushing.
Brig. Gen. John Dorsey, AUS Ret., New York.
Brig. Gen. Murray Kitt, USAR, Niagara Falls.
Brig. Gen. Howard O'Connor, USAR Ret., Croton on Hudson.

North Carolina

RADM Edward U. Austin, USNR, Charlotte.
Brig. Gen. Alex B. Andrews, USAF Ret., Raleigh.
Brig. Gen. James K. Durham, USAR, Smithfield.

North Dakota

Maj. Gen. LaClair A. Melhouse, USAR Ret., Bismarck.

Ohio

RADM I. H. Cammarn, USNR Ret., Columbus.
RADM Richard Freundlich, USNR, Cleveland.
Maj. Gen. James L. Murray, USAFR, Perrysburg.
Brig. Gen. James H. Abraham, USAR, Gahanna.
Brig. Gen. Carlton S. Dargusch, USAR Ret., Columbus.
Brig. Gen. James A. Gleason, USAR, Cleveland.
Brig. Gen. Ronald S. Huey, ANG, Kettering.
Brig. Gen. Donald Lynn, USAR, Youngstown.
Brig. Gen. Howard Payne, Jr., USAF Ret., Dayton.

Oklahoma

Maj. Gen. Ernest L. Massad, USAR Ret., Ardmore.
Maj. Gen. Hal Muldrow, Norman.
Brig. Gen. Edward M. Frye, USAR Ret., Stillwater.
Brig. Gen. Leslie W. Lane, USAR Ret., Tulsa.

Oregon

Maj. Gen. Ladd F. Hunt, USAR, Beaverton.
RADM Thomas J. Killian, USNR Ret., Portland.
Brig. Gen. Victor H. English, USAR, Beaverton.

Pennsylvania

Maj. Gen. Henry K. Fluck, USAR Ret., Camp Hill.
Maj. Gen. William E. Miller, USAR Ret., Camp Hill.
RADM Charles E. Rieben, Jr., USNR Ret., Upper Darby.
Brig. Gen. Clarence D. Bell, ARNG, Media.
Brig. Gen. Thomas N. Corbin, AUS Ret., Camp Hill.
Brig. Gen. Joseph C. Dolan, USAR, Johnstown.
Brig. Gen. John S. D. Eisenhower, USAR, Valley Forge.
Brig. Gen. Thomas P. Fox, AUS Ret., Bryn Mawr.
Brig. Gen. George R. Gallagher, USAR Ret., Pittsburgh.
Brig. Gen. James S. Gallagher, USAR, Latrobe.
Brig. Gen. William B. Gold, Jr., USAR, Jenkintown.
Brig. Gen. Walter D. Griffith, ANG, Johnstown.
Brig. Gen. John F. Linehan, Jr., USAR, Philadelphia.
Brig. Gen. John H. McLain, USAR Ret., Edgewood.
Brig. Gen. W. A. Morgan, USAR Ret., Altoona.
Brig. Gen. Gus G. Nagy, ANG, Duquesne.
Brig. Gen. James N. Robertson, ARNG Ret., Media.
Brig. Gen. Watson C. Stoner, Jr., NG Ret., Waynesboro.

South Carolina

Maj. Gen. Don O. Darrow, USAF Ret., Myrtle Beach.
Maj. Gen. Robert M. Jones, AUS Ret. Clemson.
Maj. Gen. S. D. Merrill, USAR, Hilton Head Island.
Maj. Gen. Donald A. Yongue, USAR, Orangeburg.
Brig. Gen. Forrest A. Abbott, USAR, Greenville.
Brig. Gen. Grady Brooks, USAR Ret., Lyman.
Brig. Gen. Charles P. Deane, USAR, Hilton Head Island.

Tennessee

RADM. Moore Moore, Jr., USNR, Memphis.
Brig. Gen. W. D. Tidwell, Jr., USAR, Madison.

Texas

Lt. Gen. Robert W. Colglozier, AUS Ret., San Antonio.
Maj. Gen. Edward I. Creed, USAR, San Antonio.
Maj. Gen. John H. Foster, USAFR Ret., San Antonio.
Maj. Gen. H. W. Hardy, USMCR, Houston.
Maj. Gen. Stuart Haynesworth, USAF Ret., Houston.
RADM Dallas F. Jordan, USNR Ret., Dallas.
Maj. Gen. Homer I. Lewis, USAFR, Eagle Pass.
Maj. Gen. Richard Mulberry, USMCR, Dallas.
Maj. Gen. Warren E. Myers, USAR Ret., San Antonio.
RADM C. H. Taylor, USNR Ret., Houston.
Brig. Gen. Raymond Astumian, USAR, Rockwall.
Brig. Gen. A. S. Brussell, USAR Ret., Kemp.
Brig. Gen. O. D. Butler, USAR, College Station.
Brig. Gen. A. B. Crowther, USAR, San Antonio.
Brig. Gen. Richard E. Fisher, AUS Ret. Marble Falls.
Brig. Gen. Joe N. Frazer, Jr., AUS Ret., Eagle Lake.
Brig. Gen. Harry Huff, II, USAFR, San Antonio.
Brig. Gen. Ben J. Mangina, USAF Ret., Denison.
Brig. Gen. Eugene J. Mincks, USAR, Houston.
Brig. Gen. James H. McPartlin, USAFR, Richardson.
Brig. Gen. C. R. Sublett, AUS Ret., Dallas.

Utah

Maj. Gen. Ray D. Free, AUS Ret., Salt Lake City.

Virginia

Gen. Charles L. Bolte, USA Ret., Alexandria.
RADM Richard Black, USNR Ret., Woodbridge.
RADM. Martin D. Carmody, USN, Alexandria.

Maj. Gen. L. D. Carter, USA Ret., Midlothian.
Maj. Gen. Carl J. Dueser, AUS Ret., Boyce.
Maj. Gen. F. H. Garber, USAR, Richmond.
Maj. Gen. Samuel R. Gay, Jr., USAR, Lynchburg.
Maj. Gen. Richard C. Hagan, USAFR Ret., Annandale.
RADM W. C. Hughes, USNR Ret., Falls Church.
RADM Alexander Jackson, Jr., USN Ret., Rapidan.
RADM John B. Johnson, USNR Ret., Vienna.
Maj. Gen. Charles E. Loucks, USA Ret., Arlington.
Maj. Gen. Milton A. Pilcher, AUS Ret., McLean.
Maj. Gen. J. Milnor Roberts, USAR, Arlington.
Maj. Gen. John S. Warner, USAFR, Arlington.
Brig. Gen. M. T. Ball, ARNG Ret., Richmond.
Brig. Gen. Harry Disston, ANG Ret., Keswick.
Brig. Gen. William H. Martin, Jr., ARNG, Richmond.
Brig. Gen. John W. Morgan, USAR, Hampton.

Washington

Brig. Gen. Max K. Bitts, USAR Ret., Langley.
Brig. Gen. W. B. Hamilton, USAR Ret., Tacoma.
Brig. Gen. James B. Mason, AUS Ret., Tacoma.

West Virginia

Brig. Gen. Merril W. Goss, USAR Ret., Winfield.

Wisconsin

Maj. Gen. H. R. Hackbarth, USAR, Hartford.
Brig. Gen. Roger H. Lehman, USAR, Brookfield.
Brig. Gen. Roy W. Peters, AUS, Ret., West Bend.

ADDITIONAL SUPPORTERS, OCTOBER 14 1977

California

RADM Charles Tighe, USCG Ret., San Diego.
RADM Scott Whitehouse, USNR Ret., Corona Del Mar.
RADM Edwin M. Wilson, Jr., USNR, Santa Rosa.
Brig. Gen. Joseph G. Rebman, USAR Ret., Huntington Beach.
Brig. Gen. Luther W. Sweetser, Jr., USAF Ret., La Canada.

Florida

VADM. A. F. Schade, USN Ret., Port Charlotte.
Brig. Gen. S. B. Wuertenberger, AUS Ret., Cape Canaveral.

Georgia

Brig. Gen. A. Lester Henderson, USAR Ret., Savannah.

Indiana

Brig. Gen. Robert H. Simmert, USAR, Jasonville.

Missouri

Brig. Gen. O. T. Dalton, Jr., AUS Ret., Charleston.

New Jersey

Maj. Gen. John L. Winston, USMCR Ret., Gladstone.

North Carolina

Brig. Gen. Richard S. Payne, AUS, Charlotte.

Pennsylvania

Brig. Gen. Charles S. Hendricks, ANG, Altoona.
Brig. Gen. Robert M. Sheaffer, NG Ret., New Cumberland.

South Carolina

Maj. Gen. Thomas J. Thorne, USAR Ret., Charleston.

Texas

Maj. Gen. Kenneth O. Sanborn, USAF Ret., San Antonio.

Virginia

RADM Henry J. Wuensch, USCG, Petersburg.
Brig. Gen. William E. Reynolds, AUS Ret., Salem.
Brig. Gen. James A. White, USAR, Salem.

Wisconsin

Brig. Gen. William J. Crandall, USAFR Ret., Madison.
Brig. Gen. Leo R. Weinshel, USAR, Ret., Milwaukee.

California

Maj. Gen. Wendell B. Sell, USAF Ret., Encino.

Indiana

Maj. Gen. Howard S. Wilcox, USAR Ret., Indianapolis.
Brig. Gen. Joseph A. Thomas, USAFR, Indianapolis.

Maryland

RADM Judson L. Smith, USNR Ret., Baltimore.

Michigan

RADM George A. Weaver, USNR Ret., Sterling Hts.

Missouri

Brig. Gen. Robert L. Shirkey, USAR, Kansas City.
Brig. Gen. Leigh R. Wilson, ARNG, Maryville.

New York

RADM Samuel S. Wald, USNR, New York.
Brig. Gen. E. J. Strong, NG, Ret., Staten Island.

North Carolina

RADM Arthur H. Padula, USNR, Oxford.

Ohio

Brig. Gen. William W. Davis, AUS Ret., Westerville.

Pennsylvania

Brig. Gen. Albert B. Star, USAFR Ret., Pittsburgh.

Arizona

Brig. Gen. Robert McMath, USAF Ret., Scottsdale.

Arkansas

RADM Leslie L. Reid, USNR, Rogers.

California

Maj. Gen. Stuart D. Menist, AUS Ret., Kentfield.
RADM Charles Paxton, USNR Ret., Encino.
Brig. Gen. Donald N. Moore, USAR Ret., Wofford Heights.

Colorado

Brig. Gen. Robert R. Owen, USAR Ret., Evergreen.

District of Columbia

Gen. L. L. Lemnitzer, USA Ret.

Florida

RADM Robert P. Owens, USNR Ret., Miami.
Brig. Gen. George S. Purple, AUS Ret., Clearwater.
Brig. Gen. Patrick A. Rickard, USAF Ret., Ft. Myers.

Kansas

Brig. Gen. Roger E. Whitcomb, USAR Ret., Wichita.

Louisiana

RADM John D. McCubbin, USCG Ret., New Orleans.
RADM M. Wayne Stoffle, USCGR, Metairie.

Minnesota

Brig. Gen. Cyril C. Sheehan, USMCR Ret., St. Paul.

New Hampshire

Brig. Gen. Donald P. Dressler, USAFR, Hollis.

New York

Brig. Gen. Lester W. Grawunder, USAR, E. Aurora.

Ohio

Brig. Gen. Alden E. Stilson, Jr., USAR. Johnstown.

Pennsylvania

Brig. Gen. Henry T. Waller, USMCR, Lumberville.

Texas

RADM O. A. Lively, USCGR, Dallas.
Brig. Gen. George Frimpter, USAFR, San Antonio.
Brig. Gen. James T. Roberts, AUS Ret., San Angelo.
Brig. Gen. Roger L. Zeller, USAFR, San Antonio.

Virginia

Maj. Gen. Willard P. Milby, USAR, Richmond.
Maj. Gen. W. Thomas Rice, USAR Ret., Richmond.
RADM Hugh Warren, USNR Ret., Charlottesville.
Brig. Gen. Harry H. Treadaway, USAR, Richmond.

Washington

Brig. Gen. Albert G. Peterson, USAR Ret., Seattle.

Arizona

Brig. Gen. Frank I. Pethick, USAR Ret., Sun City.

California

RADM Frank Raab, USNR, Los Angeles.
Maj. Gen. Edwin B. Taylor, USAR, Sacramento.
Brig. Gen. Jack Jew, USAR, San Francisco.

Florida

Brig. Gen. Robert A. Berman, USAF Ret., Ocala.
Brig. Gen. F. L. Vidal, USAFR, Satellite Beach.
Brig. Gen. Fred J. VonDaacke, USAR, Lakeland.

Hawaii

Maj. Gen. Robert L. Stevenson, USAR Ret. Honolulu.

Illinois

Gen. Horace F. Wulf, USAR, Calumet City.
Maj. Gen. Daniel J. Manning, USAR, Clarendon Hills.
Brig. Gen. Carl F. Steinhoff, USAR Ret. Chicago.

Minnesota

Brig. Gen. Gustaf P. Olson, AUS Ret. Sartell.

Missouri

Maj. Gen. Donal L. Turkal, USAR, St. Louis.

Montana

Brig. Gen. Emil Eschenburg, USAR, Helena.

New York

Brig. Gen. Mortimer O'Kane, Woodside.

Oklahoma

Maj. Gen. Walter L. Starks, USAR, Stillwater.

Pennsylvania

Brig. Gen. Edwin D. Miller, USAR Ret., West Chester.

South Dakota.

Brig. Gen. Henry A. Smith, Jr., AUS Ret., Onida.

Texas

Maj. Gen. George P. Munson, Jr., USAR Ret., Houston.
Brig. Gen. Mike P. Cokinos, USAR, Beaumont.

Washington

RADM Frederick A. Wiggin, USNR Ret., Seattle.

Wyoming

Maj. Gen. George O. Pearson, USAR Ret., Sheridan.

Arizona

Brig. Gen. Marcus Westervelt, USA Ret., Tempe.

Illinois

Maj. Gen. Ted W. Sorensen, USAFR, La Grange.

New Mexico

Brig. Gen. Coryton M. Woodbury, USAR, Farmington.

Pennsylvania

Maj. Gen. Frederick A. Welch, USAR, Rydal.

Utah

Brig. Gen. Sterling R. Ryser, USAR, Salt Lake City.

Washington

Brig. Gen. Jack H. King, USAR, Vancouver.

Tennessee

Brig. Gen. Herman A. Norton, USAR, Nashville.

Washington, D.C.

Maj. Gen. Michael P. Ryan, USMC Ret.

EX-IM AND MEXICO NATURAL GAS

Mr. STEVENSON. Mr. President, while Congress is debating energy policy, including the price of domestic natural gas, the administration is discussing with Mexico means of assisting the development of that country's substantial oil and gas resources against the prospect of additional supplies for the United States.

The development of Mexican oil resources has already turned that country into an exporter. Its oil and gas resources are large, though not fully defined. Their development will supply Mexico with energy and also export earnings needed to service its debt, finance imports, and growth. Mexico has already made important strides in reducing its current account deficit and in dealing with many of its internal economic difficulties. Development of these energy resources will improve Mexico's long-term economic outlook.

The United States will in turn benefit from the strength of the Mexican economy. It could benefit from increased imports of Mexico oil and imports of some 700 billion cubic feet of natural gas a year, about 4 percent of current U.S. consumption. But as the Algerians, Iranians, and Saudi Arabians have discovered, natural gas is not marketable like oil. The capital required for the development of the resources, then their liquefaction and transportation is substantial, and the world market is limited. Mexican internal energy requirements, even with forced conversion from oil to gas, could not absorb its foreseeable natural gas production. Consequently, it is natural for Mexico to view the United States as a market and for the United States to look upon Mexico as a new and welcome source of this premium fuel. Mexican wells can be connected to U.S. pipelines by the construction of a new, high volume pipeline.

The Eximbank has indicated that it intends to loan up to $600 million to PEMEX, the Mexican Government oil and gas company, for the purchase of supplies from the United States for its operations, including construction of such a pipeline. And so, the United States, facing a serious trade imbalance, stands to make sales which would benefit the Nation and in particular the beleaguered domestic steel industry. Eximbank estimates that these credits will facilitate approximately $1 billion in sales of U.S. goods and services to Mexico. That and the prospect of increased energy supplies is good news indeed.

In all these circumstances, it is tempting to jump on the bandwagon and endorse this arrangement.

I welcome any chance to endorse arrangements which promote mutual well-being and cooperation with our neighbor to the South. But it is difficult to endorse this particular arrangement without all its parts in hand, and one of the most important is significantly missing—the price of the natural gas.

The U.S. suppliers of pipe, pumps, and other commodities have little concern about that price. The Eximbank and other credit institutions might think that a high price would amortize their loans faster and, therefore, be in their own interest. U.S. energy producers and pipeline companies are biased toward higher prices in Mexico which could then be used to justify higher prices in the United States. It is for the Congress to represent the national interest.

Eximbank financing by its nature is provided on concessionary terms that the United States does not make available to its domestic energy producers. Is the United States then to subsidize Mexican energy development, not its own, and also pay a higher price to the Mexican producer than it does its own producers? If so, what effect will such an arrangement have upon Canadian imports of natural gas for which we now pay about $2.16 per Mcf at the border. And what, indeed, will be the effect on our debate about the price of domestic gas? The maximum price in interstate commerce has soared to $1.42 per Mcf at the well head; the average unregulated price in the intrastate market is $1.70 per Mcf at the well head. Those prices are still well below those contemplated for Mexico at the well head.

Natural gas still supplies industry with more energy than any other source. It heats more homes than does any other form of energy in the United States. Quantum jumps in its price, greater than those experienced in the case of oil, could have even more severe economic consequences than were experienced following the quadrupling of the oil price. The consumption of natural gas is relatively inelastic. It is not consumed by automobiles. And the economy is more fragile now.

I raise these questions to suggest that they be answered. On October 19, I introduced a resolution expressing the sense of the Congress that the Eximbank should not finalize its proposed financing of the pipeline project until the American public is assured that the price of the gas is reasonable. The Eximbank indicates its loan commitment would condition loan disbursements upon prior approval of the price by the Department of Energy. But by then I fear we will be committed. The Mexican Government will be committed; the Eximbank, the U.S. suppliers and pipeline purchasers will all be far enough along to make any reversal of direction or true negotiation over price impossible. We will be hooked on high priced Mexican natural gas as we already are on Middle East oil. It is better to risk loss of one-time sales than to set ourselves upon a course that leads inexorably to natural gas prices which aggravate unnecessarily our current accounts deficit. The administration's price for "new" U.S. gas, if applied to new Mexican gas, would save the United States about $620,500,000 annually below the Mexican asking price at volumes planned for 1982. The amounts at stake in Mexico are not inconsiderable and yet small by comparison to the effect this Mexican asking price of $2.60 per Mcf could have on other natural gas prices, indeed, other energy prices at home and worldwide. It has been our general hope that increased global energy supplies would have a moderating effect on world prices—not escalate them. And Mexico is the best prospect outside of the Communist and developed nations for significant new world oil and gas supplies in the foreseeable future.

Mr. President, I want to see this arrangement go ahead—but not as an act of American improvidence or charity, however magnanimous is our disposition toward Mexico. It ought to go forward as an undertaking between equals and for their mutual benefit. It pains me to hear anxieties expressed in Mexico about the domination of that colossus to the north when all I express is some concern that we take care to avoid concession with serious repercussions for the sake of a cash sale. I would like to see these questions answered. It may be that $2.60 is reasonable when the cost of amortizing the new pipeline is included. I cannot say. I should think that any institution in any country contemplating the sale upon credit of supplies to Mexico for this pipeline would want some prior assurance that it will be built and used to transport the gas for which it is intended.

I am, therefore, reassured by statements from the Chairman of the Eximbank which indicate that this matter will be considered further. I do not propose to hold hearings on the resolution I have introduced or to press for its adoption now in hopes that the two governments will resist the pressures of domestic politics and the temptations of short-term commercial considerations and make certain their national interests are paramount. Those interests are mutual and can be well served by a comprehensive understanding that includes a reasonable price for Mexican natural gas.

WATERWAY USES CHARGES: DOES THE BARGE INDUSTRY WANT IMPROVED OPERATIONS?

Mr. DOMENICI. Mr. President, there has been a lot of discussion about the "congestion" at locks and dam 26 on the Mississippi. To its great credit, the Army Corps of Engineers has sought to help. A year ago, the corps instituted various self-help procedures at locks and dam 26. These rules required that barge fleets help each other through the locks.

But that self-help effort has now been

challenged in the courts. Was the suit brought by the railroads, hoping to perpetuate delays? Or was it brought by environmentalists?

No.

The litigant is a barge company, Inland Oil & Transportation Co. According to the suit, the self-help procedure "constitutes a violation of plaintiff's right to free use of the navigable waters of the Mississippi River, as guaranteed by the statutes and laws of the United States."

Invoking such complaints as the lack of an environmental impact statement on the corps' procedure, plus the demand for Federal compensation for any help given to others, the suit has forced the corps to drop the self-help requirements, thus encouraging the barge owners to do nothing to assist one another in improving locking conditions.

While the change in regulations has made part of the lawsuit moot, Inland is still arguing that any corps regulations are invalid, because they lack an environmental assessment.

My question is this: Does the barge industry really want efficiency at locks and dam 26? Or does the barge industry still cling to the notion that it has an inalienable right to do what it wishes on waterways provided by the taxpayers?

THE NUCLEAR NONPROLIFERATION ACT OF 1977

Mr. McCLURE. Mr. President, on October 3, I filed an additional view to the joint report of the Committees on Governmental Affairs, Energy and Natural Resources and Foreign Relations on S. 897, the Nuclear Nonproliferation Act of 1977. At the end of that view, I stated that I would place a detailed analysis and criticism of the export licensing provisions of the bill in the CONGRESSIONAL RECORD as floor consideration of the bill approached. The view, beginning at page 92, of the report (Senate Report No. 95–247) lays out my grave concerns that this bill as reported may lead effectively to a moratorium on U.S. nuclear exports, and thus be completely counterproductive for our nonproliferation policies. I also stated my belief that the procedures and criteria of the bill, at a minimum, would render the United States a wholly unreliable supplier of nuclear fuels and equipment, with the resulting lack of predictability driving potential trading partners to other supplier nations.

Since that time, I have become increasingly convinced that the bill also will impede the development of necessary nuclear energy systems. In fact, the result of this legislation ultimately could be an increased threat of the spread of nuclear weapons, as other nations turn increasingly to suppliers less committed to effective proliferation policies or to the development of an indigenous nuclear technology capability. Accordingly, I commissioned a detailed analysis of the reported bill by the minority staff of the Energy and Natural Resources Committee. The analysis, with recommendations for correcting identified problems, follows. I should also note that I still have under consideration a few additional recommendations for amendment of titles III, IV, and VI of the bill, which may be raised at a later date. This analysis also satisfies my commitment in the additional view to test my initial impressions of the bill by such analysis.

The discussion and comments contained in the staff analysis lead to the obvious conclusion that my concerns have been and are well founded, and further that the bill requires significant amendment to avoid the aforementioned, predicted results of possible moratorium, unreliability and, potentially, an eventual increase in proliferation. I commend the analysis to each of my colleagues for review before S. 897 is considered by the Senate:

AN INITIAL ANALYSIS OF SELECTED SECTIONS OF S. 897

(Page and line references are to S. 897, as reported by the Committees on Governmental Affairs, Energy and Natural Resources, and Foreign Relations. Unless otherwise noted, the discussion is based on the substitute reported by the Foreign Relations Committee.)

Section 2(e), Page 102, Line 23. Policy.

Description: The subsection is a policy statement that U.S. policy is to "cooperate with other nations in protecting the international environment from radioactive, chemical, or thermal contamination arising from nuclear activities."

Comment: Currently, the position of the Nuclear Regulatory Commission (NRC) in interpreting the requirements of the National Environmental Policy Act (NEPA) for an Environmental Impact Statement (EIS) for export licenses apparently is that only domestic environmental impacts need to be considered. Consequently, an EIS is normally not required for a licensing action. Also, the NRC's related position is that the health and safety impact of exported nuclear materials overseas is not within its jurisdiction. These positions have been taken despite pressures to the contrary from public interest groups and, notably, most recently from the Council on Environmental Quality. Consequently, this policy sttaement could be argued as Congressional intent to reverse those NRC positions and introduce the concept of "extraterritoriality" in the licensing proceedings, with resulting additional delays for processing licenses and increased susceptibility to judicial review. Also, the Joint Report, at page 13, suggests that "certain overseas activities" might need to be considered.

Recommendation: Since the subsection is not in the House-passed bill, it should simply be deleted. Also, the amendment to delete it could be accompanied by a statutory disclaimer of anything in this bill being intended to support the application of the "extraterritoriality" concept to any of the formalized procedures in this bill or, even stronger, a statutory endorsement of the above NRC positions and application of them to all of the procedures in the bill.

Comment: Noteworthy by its absence is the definition of "safeguards." The definition in the substitute reported by the Governmental Affairs Committee (see subsection 4(a)(6), page 45, line 3) refers to systems: "*designed to ensure* that any materials and equipment subject thereto *are not used* to further any military purposes, including use in or development of any nuclear explosive device," (emphasis added), rather than the internationally-accepted usage referring to systems designed to detect the diversion or theft of nuclear materials that could be used in such devices. The Governmental Affairs definition, when used in a statutory requirement or criteria, obviously would lead to a far more demanding and probably far less realistic and achievable standard or test. Unfortunately, the House-passed bill adopts the Governmental Affairs definition.

Recommendation: In light of the importance of the term and the need for an active consideration of that import in conference, it is recommended that a more internationally accepted and understood definition be added by amendment.

Section 4(2)(5), Page 104, Line 15.

Description: The subsection defines "physical security measures" as measures "to prevent the theft or sabotage or *unauthorized use* of source or special nuclear material." (Emphasis added).

Comment: The maintenance of "adequate physical security measures" is one of the criteria which will govern nuclear exports under Title III of the bill (see Sec. 309, page 127, line 23). The Executive Branch judgment must comment on the criterion and the NRC must affirmatively find that the criterion will be met for any nuclear export required to be licensed. As will be discussed below, the adequacy requirement for the statutory finding is highly susceptible to intervenor challenge and judicial review. The definition of the "measures" compounds this problem, because it materially expands the evolving international concept of physical security to include the notion of "unauthorized use." By so doing, it would create a far more demanding and probably far less realistic and achievable statutory standard on test. It also can easily be confused with the definition of "safeguards," particularly the Governmental Affairs' version. The result inevitably would be unpredictability in licensing, and findings highly susceptible to intervenor challenge and judicial review.

Recommendation: Amend the definition to conform it to a more internationally-accepted and understood definition. It also may be advisable in this subsection to define "adequate," as well, if that is not done in Title III.

TITLE I. ENERGY AND NATURAL RESOURCES COMMITTEE AMENDMENTS

The Energy and Natural Resources Committee recommended a substantial revision of Title I in the form of five amendments. The amendments are included in the reported bill in boldface italics at page 46, line 23 (Sec. 102), page 48, line 23 (Sec. 104(a)), page 50, line 24 (Sec. 104(b)), page 52, line 6 (Sec. 104(d)) and page 53, line 2 (Sec. 105). The Committee's rationales for these amendments are contained in the Joint Report on S. 897 (No. 95–467) at pages 35 to 38. The Foreign Relations Committee adopted the amendment to Sec. 105. Each of the remaining amendments should be offered to the Foreign Relations' substitute.

Additional Amendments:

Sec. 104: INFA

Description: Section 104 authorizes various Presidential initiatives for international cooperation in the supply of nuclear fuel and services, including commitment to an international nuclear fuel authority (INFA).

Comment: The Energy and Natural Resources Committee amendments to Sec. 104 (a), (b) and (d) of the Governmental Affairs Committee substitute (page 47, line 13) were intended, as discussed in the Joint Report, to prevent a premature commitment by the United States to the concept of an international nuclear fuel authority (INFA), pending completion of the ongoing, U.S.-initiated, international review of the international nuclear fuel cycle. Among other effects, the Energy Committee amendments specifically preclude authority in Sec. 104 (b) of the Governmental Affairs Committee substitute for the President to commit U.S. nuclear fuel immediately to an international stockpile, as a step towards an INFA. The amendments also reduce the unilateralism of Sec. 104(d) regarding the avail-

ability of fuel assurances to nonnuclear weapon states, and broadened the conceptual directions of Sec. 104(a) to involve IAEA and to include nuclear services, as well as fuels, and regional center-type alternatives.

On Wednesday, October 19, 1977, President Carter in an address to representatives of the 36 nations participating in the international nuclear fuel cycle evaluation at a conference here in Washington proposed that an INFA-type international nuclear fuel bank be established. Because of this apparent commitment of the Administration to the INFA concept, it is imperative that these subsections be appropriately fashioned to delineate exactly what authority the President does, and does *not* have to commit the U.S. to that concept at this time. Also, it is equally imperative that this legislation protect the Congressional prerogatives to be a partner in making the eventual decisions on the concept, which has not been easily accomplished in the "international spent fuel disposition" area, as discussed below. This is particularly important since the House-passed bill is silent on INFA and S. 897 may be the only legislative vehicle available to achieve those objectives. Accordingly, it is appropriate to strengthen the Energy Committee amendments now to preclude a premature U.S. commitment. It also is appropriate to give the full Senate an opportunity to affirmatively consider the issue.

Recommendation: Amend the Energy Committee amendments to Sec. 104 or offer redrafted amendments which affirmatively require full future Congressional consideration of any proposed commitment to an INFA concept, either in the form of a requirement for subsequent legislative authorization after all details have been submitted to the Congress, a requirement for a formal treaty or agreement subject to Senate advise and consent, a provision for a one House or concurrent resolution veto of any such commitment, or a combination of these provisions.

Section 104(a): International Spent Fuel Disposition.

Description: Sec. 104(a) in the Governmental Affairs Committee substitute (page 74, line 13), among other things, would authorize and direct the President to immediately negotiate international arrangements for the storage or other disposition of foreign spent nuclear fuel.

Comment: Sen. McClure, with the Energy and Natural Resources Committee, and the Administration have had a continuing disagreement over the Administration's authority to commit the U.S. to direct support for the disposition of foreign spent fuel, including the option of bringing foreign spent fuel to the U.S. for storage or other disposition. This disagreement has centered on the McClure amendment to S. 1811, the FY 78 authorization for energy R&D in the new Department of Energy (formerly the authorization for the Energy Research and Development Administration (ERDA)). The McClure amendment was a direct response to a series of indications that the Administration was planning a major U.S. policy commitment to the disposition of foreign spent fuel, possibly including storage of the foreign spent fuel in the U.S. The background to the amendment is included in the excerpt from the debate on the S. 1811 conference report at the end of this amendment discussion.

The Senate-passed McClure amendment would have required subsequent authorizing legislation for any commitment of U.S. funds for the purchase, storage or transportation of foreign spent fuel. The Conference Committee on S. 1811 unanimously adopted a compromise sponsored by Senator McClure which would require prior Congressional notification of any commitment of funds for such expenditures generally, and, where the action involved any storage or other disposition in the United States, would require (1) prior legislative authorization, (2) an authorization in a concurrent resolution or (3) provision for one House veto of a Presidential proposal. It is not clear yet if S. 1811 passed by both Houses last week with the McClure amendment will be finally enacted in this session. Senator McClure did state on October 12th during the floor debate on the conference report that he intended to offer the same amendment to S. 897.

The Department of Energy, on Tuesday, October 18, 1977, announced the long-pending policy on domestic and foreign nuclear spent fuel disposition. As anticipated, the policy does include a significant commitment of U.S. assistance for the disposition of foreign spent fuel and does include the intention of the Administration to store foreign spent fuel in the U.S. This major policy decision is an unfortunate, but highly predictable ramification of the Administration's position against the reprocessing of foreign spent fuels, and the resulting overburden of available storage facilities.

Whether or not S. 1811 becomes law in this session, S. 897 could be fashioned easily in conference to offset the McClure amendment in S. 1811 (i.e. subsequent authorizing legislation) or otherwise provide a positive endorsement or any needed authority for the policy by simple amendment to Section 104 (a). Consequently, it is not only desirable, in light of the policy announcement, to reinforce the requirements of the McClure amendment in S. 897, but it may be imperative to do so to ensure that ultimately S. 897 does not become the legislative vehicle to undermine those requirements. It also is most appropriate to use this timely opportunity to give the full Senate a chance to affirmatively consider the new policy.

Recommendation: Amend the Energy Committee amendment to Sec. 104(a) or offer a redrafted amendment which has the effect of placing the S. 1811 McClure amendment restrictions and requirements on the President's authority under existing law and S. 897 to commit the U.S. to support of the disposition of foreign spent nuclear fuel.

The excerpt from the floor debate on the S. 1811 conference report (Cong. R. October 12, 1977, p. S17043) discussing the background to the McClure amendment follows:

"SECTION 108

"Let me turn now to a discussion of section 108, the international spent fuel disposition section. I should note at this time that it is my intention to offer this same amendment to S. 897, the Nuclear Nonproliferation bill, when it comes to the floor. I invite the attention of my colleagues to its discussion.

"Section 108 was requested by the administration in the Carter May 16 Budget amendment for nonproliferation. The requested provision would give authority for U.S. participation in multinational/international studies of international spent fuel storage and transportation and for U.S. entry into agreements for "appropriate support" to increase international spent fuel storage. Twenty million dollars was included for fiscal year 1978 efforts in these areas.

"In hearings on the ERDA nuclear authorization, the Committee on Energy and Natural Resources questioned administration witnesses on the administration's current plan for international spent fuel disposition, and details on how the authority contained in section 108 would be used. The committee noted that the budget justification documents accompanying the draft bill did not with specificity define the anticipated actions for increasing spent fuel storage capacity. Administration witnesses indicated that the President had not yet made a final decision on the specific options to be pursued in international discussions and negotiations. The witnesses did, in fact, indicated that one of the several options under consideration was repurchase of the foreign spent fuel and storage of it in the United States committee members expressed serious reservations about the wisdom of this course of action. Administration witnesses concurred that such an action would involve a host of environmental, institutional and legal complications, as well as the probability of significant costs to increase our domestic spent fuel storage capacity. The committee asked to be notified of the final decisions by the President, but still has not yet received any additional information from the administration.

"COMMITTEE AMENDMENT

"The Energy Committee, because of the potential problems with the agreement, in markup added the phrase, "subject to the consent of the Congress," and thereby required that any agreement providing for "appropriate support" by the United States to increase foreign spent fuel storage be approved by Congress. I suggested that there be such a requirement and Senator CHURCH suggested the specific 'consent of the Congress' phrase. The administration objects to the requirement generally, since they want to have authority to proceed directly without any further congressional action. Secretary Vance, in a letter to Chairman JACKSON on September 12 discussed in detail below, stated as follows:

" 'The activities contemplated under this section do not involve the return of foreign spent fuel to the U.S.; rather, they involve U.S. financial support to foreign spent fuel storage facilities. Pending the outcome of the President's proposed International Nuclear Fuel Cycle Evaluation, we expect many foreign reactor operators will need to expand their spent fuel storage facilities. U.S. support for this activity should be permitted without the need for additional Congressional consent.'

"A consent requirement has been retained.

"First, it is clear that there should be a requirement for Congressional notification and approval. The Carter policy of no reprocessing will create a major spent fuel problem internationally, since the United States has approval rights over much of the free world fuel (U.S. enriched most of it), and since many of the foreign nuclear power programs included reprocessing in planning for facilities and fuel requirements. Also, failure to reprocess denies countries of the value, in both resource and cost terms, of the unburned fuel—a value for which many may request reimbursement for replacement cost. Consequently, agreements for appropriate support probably could lead to large costs over time and undoubtedly will be closely coupled to the nonproliferation policy's continued restriction on reprocessing. Congress therefore should play a positive role.

"Second, the type of consent is consistent with the House conferees' feeling on the need for full congressional, as opposed to Senate only, consideration of these agreements.

"M'CLURE AMENDMENT BACKGROUND

"As a result of the section 108 discussion in markup and because of ongoing policy analysis on international spent fuel disposition in the administration, we have followed the issue closely. The following events relate to the amendment.

"First. On June 8 and 10, during hearings on the nonproliferation bills, the committee again asked ERDA Acting Administrator Fri to advise us of the administration policy on domestic and international spent fuel disposition. We were told only that the policy

was awaiting then-pending Presidential decision.

"Second. The June 30 Washington Post included an Associated Press report that the Nuclear Regulatory Commission yesterday approved the export of 27,000 pounds of uranium to fuel India's Tarapur atomic power station. The articles concluded with the following statement:

" 'Discussing points raised by the citizen groups, the NRC noted that the Indian government has agreed to have the U.S. repurchase spent nuclear fuel from Tarapur, as a safeguard against the conversion of that spent fuel into weapons materials.'

"Because of the committee's interest in the international spent fuel disposition issue and its actions in the fiscal year 1978 ERDA authorization, we were immediately concerned by this report and initiated an effort to determine the validity of the report. A copy of the Nuclear Regulatory Commission's memorandum and order on the Tarapur export application, dated June 28, 1977, was reviewed. The Commission's memo, in fact, supports the Associated Press report in this morning's paper. The Commission, based on reports of the Department of State, indicated that the United States does have an agreement with the Government of India giving the United States the option to repurchase the Indian spent fuel from Tarapur. The Commission states that 'Indian Government authorities have agreed in principle to such an arrangement.'

"Senior administration sources confirmed at the time that the United States not only has the option to repurchase the spent fuel from Tarapur, but that exercising the repurchase option is the basis for an understanding which has been reached with the new Government of India. This would be the first such repurchase understanding by the United States. It is particularly significant that the Commission's memo also states that the apparent intention for repurchase of the Tarapur spent fuel will be followed by similar understandings with other nations. The sources further indicated that there had not yet been any decision within the administration on the ultimate disposition of repurchased spent fuel from Tarapur. In fact, however, it appears from a close reading of the Commission's memorandum that this probable repurchase and removal of the spent fuel was a significant factor in the Commission's approval of the export application, particularly in light of the nonproliferation significance attached to the detonation of a nuclear explosive device by the Government of India in 1974.

"It therefore was possible that the administration was proceeding directly to a repurchase policy, even as the Congress has under consideration the exceedingly nonspecific authorization language for "international spent fuel disposition" in the ERDA authorization. In fact, one senior official indicated that the statutory language reported by the Committee on Energy and Natural Resources requiring congressional consent for any "agreement" would not be applicable to the Tarapur repurchase situation, because there is no "formal agreement," but rather an "understanding."

"This series of events made clear the fact that the administration had every intention of proceeding to embark the United States on a potentially highly controversial and extremely costly program for repurchase and disposition of foreign spent fuel. And, further, the administration fully intended to do this without the agreement of the Congress and the full authorization for the required activities and funding which should be included in the ERDA authorization and appropriation. The administration thereby could repurchase the spent fuel, and without any limitation, commit the United States to its transport from India for storage in the United States.

"The Tarapur events led to my amendment to S. 1811 on the Senate floor on July 12, adding the provisos to the section.

"Third. On August 3, Secretary of Energy designate Dr. Schlesinger in his confirmation hearing before the Energy Committee stated that the administration shortly would announce a new policy for U.S. Government storage of spent nuclear fuel from domestic and foreign nuclear power reactors. The committee again criticized this apparent decision, with Senators ABOUREZK and DURKIN expressing serious concern about it. Senators HANSEN and DOMENICI and I wrote to President Carter on August 5, expressing strong reservations about the policy and urging the President to obtain congressional comment in the decisionmaking process. We also requested a meeting and briefing on the policy. To date, the only response has been two perfunctory acknowledgements of receipt from a White House aide and an aide to Secretary Schlesinger.

"Fourth. In further hearings on the nonproliferation bills on September 12, ERDA Acting Administrator Fri, Dr. Nye of the State Department, and Dr. Keeny of the Arms Control and Disarmament Agency were asked about the administration's policy on international spent fuel disposition. Again, they only deferred to a reportedly pending spent-fuel policy decision by the President.

"Fifth. Concurrent with that hearing, Secretary Vance wrote to Chairman JACKSON on September 12 to advise him of the administration's opposition to my amendment. In the letter, the Secretary acknowledged that the activities contemplated under this section . . . involve U.S. financial support to foreign spent fuel storage facilities because pending the outcome of the President's proposed International Nuclear Fuel Cycle Evaluation, we expect that many foreign reactor operators will need to expand their spent fuel storage. The Secretary commented that, "U.S. support for this activity should be permitted without the need for additional congressional consent." He did state that the contemplated activities do not involve the return of foreign spent fuel to the United States, significantly, he also stated:

" 'At the current time the United States is actively engaged in discussions with the Indian government which may lead to an agreement under which spent Tarapur fuel will be removed from India.'

"Sixth. During informal meetings on the nonproliferation bill with the administration during the week of September 26, we were informed that a General Electric team, apparently under contract with ERDA, was in India to begin review of the Tarapur spent fuel disposition problem. In fact, then, fiscal year 1978 will begin with the United States already actively involved, and perhaps implicitly, if not expressly, committed to direct U.S. support for the disposition of foreign spent fuel. The Congress, however, despite the repeated requests has never been advised of U.S. policy decision in this area.

"CONFERENCE ACTION ON THE M'CLURE AMENDMENT

"The conference adopted the following revised concept as a compromise proposal;

"First. No commitment of authorized funds for the repurchase, transportation or storage of foreign spent nuclear fuel from power reactors (exempting fuel from research reactors and emergency situations) for storage or other disposition interim or permanent, of the foreign spent nuclear fuel in the United States;

"Unless;

"First. Previously authorized by Congress in legislation hereafter enacted;

"Second. Previously agreed to by a concurrent resolution at the request of the administration;

"Third. The President submits a plan or report to Congress with a 30-day layover—one House veto procedure;

"Any presidential plan or report must include a series of specified subjects, discussing costs, sites, policy implications, international agreements, legal requirements, environmental impacts, and so forth.

"Second. No commitment of authorized funds for the repurchase, transportation, or storage of foreign spent nuclear fuel from power reactors—exempting fuel from research reactors and emergency situations—unless prior notification by report with the information in first above, and layover for 30 days.

"This concept reflects the following elements:

"The September 12 Vance letter identified a major concern in the area of spent fuel from foreign research reactors. Current policy is to require the return of such spent fuel to the United States. The Vance letter cites the importance of that arrangement with South Africa and attached a long listing of other current contracts. These arrangements are also of particular importance because of the use of highly enriched fuels in these reactors, and the precedent that the 1974 Indian nuclear device reportedly used such fuel. It is clear that any prohibition should be on spent fuel from foreign power reactors and should expressly exempt research reactor spent fuel.

"It also is clear that there should be an exemption for emergency situations, albeit with at least notification as soon as possible to the Congress.

"Since the Vance letter states that it is not contemplated that section 108 authority would be used to bring spent fuel from foreign power reactors to the United States, it should not be unacceptable to apply any prohibition to such activity unless subsequently authorized by Congress. Further, the notion of at least notification and layover, if not affirmative congressional approval or opportunity for disapproval, should apply to U.S. commitments of support for overseas disposition of spent fuel from foreign power reactors.

"It is noteworthy that Dr. Nye, Deputy Under Secretary of State who has led the administration nonproliferation policy effort, informed me on September 29 that Dr. Nye did not believe the State Department would object to a notification and layover for any contractual commitment for the shipment to or storage in the United States of foreign power reactor spent fuel.

"The 'provided further' on the Tarapur export was included at the request of Chairman Jackson as a disclaimer of any congressional intent to directly or indirectly criticize or reverse the President's decision and the NRC's concurrence to export the fuel for Tarapur. The chairman was concerned that, in the absence of such a statutory disclaimer. the new Desai government in India or any reviewing court in the event of a challenge to the NRC decision might get the wrong signal.

"It is noteworthy that the only serious input we have received from the administration on this whole subject of foreign spent fuel disposition, which is a major problem directly resulting from the President's non proliferation policy, is in the form of bits of information in communications opposing the committee (MCCLURE suggested) and McClure amendments to section 105. All direct requests for information on the policy remain unanswered. Perhaps, that's the best argument.

"Mr. President, I ask unanimous consent to have printed in the RECORD a letter addressed to the President dated August 5, 1977.

"There being no objection, the letter was

ordered to be printed in the RECORD, as follows:

" 'COMMITTEE ON ENERGY
AND NATURAL RESOURCES,
" 'Washington, D.C., August 5, 1977.

" 'The PRESIDENT,
" 'The White House,
" 'Washington, D.C.

" 'DEAR MR. PRESIDENT: Dr. James Schlesinger, in testimony during his confirmation hearing before the Committee on Energy and Natural Resources on August 3rd, stated that the Administration shortly would announce a new policy for United States Government storage of spent nuclear fuel from domestic and foreign nuclear power reactors. We are concerned greatly about the many budget, diplomatic, environmental, legal, political and technical ramifications of such a policy by the United States. We also are greatly troubled by the significant potential for further negative impact on our domestic nuclear power option resulting from this policy. We already have a national undercurrent of opposition to nuclear waste disposal and storage today at the local, state and Federal levels. This new policy could seriously exacerbate that problem and further erode the public support for the nuclear power option.

" 'The Senate already has considered some of these nuclear waste issues in the actions on the McGovern amendment (defeating a state veto on waste disposal sites), the McClure-Church amendment (passing a requirement for Congressional approval of any U.S. bilateral or multilateral assistance agreement for spent fuel disposition), and the McClure amendment (passing a prohibition on any United States repurchase, transportation, or storage of foreign spent nuclear fuel) to S. 1811, the Fiscal Year 1978 authorization bill for the Energy Research and Development Administration (ERDA). The House of Representatives has not considered yet the companion bill, H.R. 6796. The Senate's actions, however, does make it clear that these are potentially issues of major controversy.

" 'We sincerely believe that the forthcoming policy statement, as briefly outlined by Dr. Schlesinger, should be closely coordinated with the Congress. We would note that we asked Mr. Fri, Acting Administrator of ERDA, on June 8th and June 10th in hearings before the Energy Committee, to advise us of the Administration policy on domestic and international spent fuel disposition. We only were told that the policy was awaiting then-pending Presidential decisions. In fact, our apprehensions about the eventual new policy motivated the McClure-Church and McClure amendments to S. 1811. Dr. Schlesinger's confirmation testimony, under oath, was the first formal-word we have received since June 10th.

" 'Mr. President, we urge you to make the Congress a full partner in your deliberations on the new policy before a final decision is made. Without prematurely passing judgment on any policy alternative for the disposition of domestic or foreign spent fuel, a full partnership is necessary to avoid any further embarrassment for the United States in nuclear power policy, resulting from a major Congressional-Executive disagreement. In any event, S. 1811, and the companion H.R. 6796, should be the proper legislative vehicle for any Fiscal Year 1978 action under a new spent fuel disposition policy.

" 'We, therefore, request a full and candid exchange between you and your advisors and this Committee before the final decision is made. Such a meeting should occur soon after the August Congressional recess to support further action on S. 1811 and H.R. 6796. Our staffs could initiate preliminary discussions during the recess. We would appreciate very much such an exchange, Mr. President, to ensure ultimately that Congress is a full partner in the spent fuel disposition decision.

" 'We are anxious to work with you on this policy, Mr. President, and we look forward to your response.

" 'Sincerely,
" 'JAMES A. MCCLURE,
" 'PETE V. DOMENICI,
" 'CLIFFORD P. HANSEN.'

"Mr. McCLURE. The potential magnitude and cost of the international spent fuel disposition problem are detailed in the following excerpt.

"I ask unanimous consent that the excerpt be printed in the RECORD.

"There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

" 'U.S. AND FREE-WORLD DISCHARGED NUCLEAR FUEL STORAGE AND TRANSPORTATION ANALYSIS

" 'EXECUTIVE SUMMARY

" 'Using the 1977 revision of ERDA-25, the report "Non-U.S. Light Water Reactor Spent Fuel Disposition," the report "US Light Water Reactor Spent Fuel Cask Transportation, Status of Current Capabilities and Limitation," and input from U.S. ERDA as bases, the requirements for storage and transport of discharged nuclear fuel were analyzed through the year 2000.

" 'Use of the three reports permitted identification of specific U.S. and free world reactor discharges, storage basin expansion plans and capacities, shipping capabilities, and location of all reactors currently operating, under construction, or firmly planned The reports also permitted specific identification of capacity and current inventory of existing and planned Away-from-Reactor (AFR) * storage facilities. The U.S. ERDA inputs permitted rational extension of the analysis through the year 2000.

" 'The U.S. Pacific Basin Region, European Region and all other countries situations were analyzed. For each non-U.S. region, three individual cases were considered; all reactors shipped from storage basins just sufficient to maintain Full-Core-Discharge (FCR) capability, reactors with U.S.-Controlled fuel shipped 180 days after fuel discharge, and reactors with U.S.-controlled fuel shipped sufficient to maintain FCR capability. These cases clearly bound the probable outcome.

" 'Considering the All Reactors—FCR Discharge Capability as the primary case:

" 'United States

" 'U.S. utilities are now moving aggressively to expand existing and planned reactor basin capacities. However, the only currently existing and available U.S. AFR storage capability is the GE Morris facility. As such, five U.S. reactors will lose FCR discharge capability in 1977 and one U.S. reactor could lose the ability to make its scheduled discharge in 1978.

" 'There are four identified possible other sources of U.S. AFR capability: NFS at West Valley, AGNS at Barnwell, a GE expansion at Morris, and Exxon at Oak Ridge. If all of these facilities could be made available as planned, the U.S. would have sufficient AFR storage capacity to maintain FCR discharge capability for U.S. reactors through 1989. It must be noted that none of these possible facilities now has firm corporate commitment and two, NFS and AGNS, have indicated that they may not accept fuel for storage.

" 'Thereafter, even with the advent in 1985 of a Long-Term-Storage-Facility (LTSF) accepting fuel 10 years after discharge, an additional 3500 MTU capacity AFR is required almost every two years. For the high-growth (510 GWe by 2000) case, six additional AFRs are required between 1990–2000. For the mid-growth and low-growth (380 GWe or 330 GWe by 2000) cases, four additional AFRs are required 1990–2000. For any case, most of the AFR requirements stem from reactors already operating, under construction, or firmly ordered.

" 'Over 100 rail and truck casks, making over 4000 shipments, will be required by the year 2000. Through the year 2000, these casks will represent more than $0.2 billion invested capital, and $1.3 billion in operating costs. The AFR facilities will represent $0.6 billion in capital invested and over $2.5 billion in costs to the utilities over the same time period. With proper encouragement (Primarily understanding of the need and the required regulations) industry can be expected to bear all these costs.

" 'Non-United States

" 'In the Non-U.S., the European Region for AFR capability is very similar to the U.S., but since Europe has a much smaller currently identified AFR capability, many more new AFRs are required. For all European reactors to maintain FCR discharge capability, the first new AFR would be required in 1981 (as compared to 1989 for the U.S.) and a total of eight new 3500 MTU AFRs will be required through the year 2000.

" 'The Pacific Basin and All Other Countries require much less AFR storage capability than either the U.S. or Europe. The total Non-U.S. requires 12 new 3500 MTU AFRs through the year 2000. However, one country—Japan—does have severe continuing storage needs.' "

Section 104(d): INFA Fuel Assurances (page 198, line 25).

Description: Sec. 104(d) is the same as the section in the Governmental Affairs Committee substitute (page 51, line 19). The subsection establishes a series of proposed requirements for a nonnuclear weapons state to qualify for the INFA fuel assurances.

Comment: The subsection prejudges the results of the ongoing international nuclear fuel cycle evaluation by proposing that there be no fuel assurances to nonnuclear weapons states unless they forego national enrichment or reprocessing facilities and place any existing such facilities under international control. The proposed requirements and restrictions also give no recognition of the NPT status of such a nation, focusing instead on "nations that adhere to policies designed to prevent proliferation" (an apparent euphimism for agreement to U.S. unilaterally-mandated policies in this bill). The Energy Committee amendment to this subsection (page 52, line 6) attempted to reduce the prejudgment and non-recognition by including provision for new enrichment or reprocessing facilities on an internationally acceptable and agreed upon basis. In light of the President's announced commitment to an INFA concept, it is advisable to attempt to reduce further the statutorily-mandated unilateralism of the subsection.

Recommendation: Amend the Energy Committee amendment or offer an amended version which further reduces the extreme unilateralism of the proposed requirements for fuel assurances under INFA, increases the emphasis on internationally developed requirements, and increases recognition of the NPT status of a qualifying nation.

Title II. Section 201 (page 110, line 5).

Description: Sec. 201 is the statement of policy for strengthening the international safeguard system.

Comment: There is a consistent overtone throughout the bill of an evolving U.S. unilateral withdrawal of confidence in and support for the IAEA structure and the Nuclear Nonproliferation Treaty (NPT) structure, which are vitally important parts of the overall international nonproliferation structure. The Energy Committee amendments to Sec. 104 attempted to ameliorate this un-

* 1 3500 MTU AFR capital cost estimate = $75 million.

fortunate overtone in Title I, by including IAEA participation in the Sec. 104(a) international discussions and by reducing the unilateralism of the Sec. 104(d) fuel assurances, with NPT countries as a primary concern. There, however, remains a need to affirmatively restate U.S. acknowledgement of the importance of the IAEA and NPT structures in our evolving nonproliferation policy and continued U.S. confidence in and support for these international structures, including the intention to assure the full recognition and participation of the structures in that policy. Of course, such a restatement will be of little value if the rest of the bill is not amended to effectuate the statement.

Recommendation: Amend Sec. 201 to add a new subsection with the aforementioned restatement.

Section 203 (page 112, line 2).

Description: Sec. 203 would establish an interagency program to develop various standards and measurement methods for use in safeguards for nuclear materials.

Comment: This program has already been authorized, initiated and funded under the Department of Energy and the predecessor ERDA. Funds for the program are included in the FY 78 authorizations and appropriations for the Department. The authority in the section is an unnecessary duplication of the existing programs and may cause needless confusion in administering the same activity under several statutes. The companion section in the House bill was deleted in the House floor for these same reasons.

Recommendation: Delete Section 203.

Title III. Section 301. Government to Government Transfer (page 113, line 13).

Description: Section 301 establishes new procedures and criteria for government-to-government transfers of special nuclear material (SNM), source material, and by-product material by amending the relevant sections of the Atomic Energy Act.

Comment: Section 301 requires a substantive and procedural departure from current practice. The section is typical of the cumbersome and overly restrictive procedures and criteria which are included throughout Title III and IV. Currently, the Secretary of Energy is authorized by the Atomic Energy Act to make such transfers under agreements for cooperation, and by procedure does so with the coordination of the various interested agencies. Section 301 would require that all by-product transfers, and all SNM and source material transfers not exempted by Section 301 (a) and (b), respectively, must be licensed by the NRC. The licensing procedure by the NRC must include all of the elements of Section 304, 305, and 306, among others.

Every single licensed transfer, therefore, must be the subject of an "Executive Branch judgment" by the Secretary of State, after interagency coordination, addressing all export criteria and possibly additional factors, and must be approved by the NRC after a formal finding that all statutory requirements and export criteria have been met. Even the SNM and source material transfers under specified limits and for only specified activities exempted from NRC licensing by Sec. 304 (a) and (b) must be the subject of the same Executive Branch judgment and a separate Secretary of Energy finding, exactly the same as that of the NRC under licensing (even though DOE will participate in the "Executive Branch judgment"). In both situations, the various Congressional review and veto procedures may be triggered under Sec. 304 and 305, where a nation has not agreed to all U.S. export criteria—a distinct possibility for certain nations. The various difficulties associated with these Section 304, 305, and 306 procedures will be addressed in detail, below, but suffice it to note that the aforementioned steps will take a great deal of time and, for some nations, will be highly unpredictable.

It is noteworthy, and typical of these export procedures, that under Section 301 (a)(2) a limited amount of SNM, "the distribution of which is needed to deal with an emergency situation in which time is of the essence," must still go through the labyrinth of a formal Executive Branch judgment, a subsequent Secretary of Energy formal finding, and potentially be subject to judicial review and Congressional layover. Just how long, and with what potential for delay and frustration, will these procedures process this "emergency situation" where "time is of the essence." Apparently, little or no consideration has been given to the detailed, step by step implementation of this otherwise innocuous effort to place more restrictive statutory controls on these transfers, a flaw which characterizes most of these procedures. It is also noteworthy and surprising that the Administration has formally commented that it can support these procedures. If these transfers are unimportant, why bother? Or, if they are important, why impose this process?

These new procedural requirements also will create an entirely new class of export licenses under the NRC's jurisdiction. Statistics are not available on the average number of such transfers in a year. Whatever the numbers may be, these transfer licenses, which involve direct government to government relationships, will involve an incremental increase in the burden on the NRC—particularly in light of the requirements of the rest of Title III and Title IV. What resulting time delays will occur in processing the transfers, with what additional susceptibility to challenge, and what resulting unpredictability? What policy justification is there in inserting the full-blown NRC licensing process into these government to government transfers. What policy justification exists for the full-blown "Executive Branch judgment" and the Secretary of Energy finding even for exempted, limited amounts of SNM (for specified activities only) and source material. There, however, are no answers for these questions in the legislative history, thus far.

An additional concern is that, in addition to the NRC or DOE licensing procedures which flow directly from Sec. 301, there also may be additional procedural requirements under Sec. 303, governing so-called "subsequent arrangements." Section 303 will be discussed below, but there is no legislative indication that Sec. 301 transfers are mutually exclusive from "subsequent arrangements," such as 303(a)(2)(A), "United States Government contracts for the furnishing of nuclear materials and equipments," or 303(a)(2)(C), "authorization for the distribution of nuclear materials and equipment pursuant to the 1954 (Atomic Energy) Act." Section 301 arguably involves U.S. contracts to furnish nuclear materials and clearly involves authorizations for distributions of nuclear materials pursuant to Section 54, 64 and 82 of the Atomic Energy Act. If Section 303 was administratively applied or its application judicially compelled, a second and different formal licensing procedure would be triggered.

These issues with Section 301 are not merely technical nor draftsmanship in nature. Rather, they are representative of the central issue in this bill: What is the objective and with what policy justification and with what realistic implementation problems are the S. 897 export licensing criteria and procedures drafted? This first section is indicative of the rather casual rush from the more flexible current procedures and criteria to the opposite pole of complete and stifling restrictiveness.

Recommendation:

(1) Section 301 should be reviewed closely with Administration representatives to determine how the application of the Section 304, 305 and 306 procedures will impact on government to government transfers under existing and future agreements for cooperation and what ramifications can be expected. If, as anticipated, the procedures will create an unjustifiably long and unpredictable result, Section 301 or 304 should be amended to require a less restrictive procedure, not involving NRC licensing nor the multi-step Executive Branch process, and not requiring a completely new determination procedure for each transfer to a country, in the absence of material changes.

(2) Section 301 transfers should be made mutually exclusive from Section 303 "subsequent arrangements" by amending Section 303 to exclude any transfer under Section 301.

(3) Section 301(b) and (c), dealing with source material and Section 54 of the Atomic Energy Act could be deleted, since a far less persuasive case can be made for such controls on unenriched, natural material (e.g. uranium), than for SNM. The House-passed bill omits such controls on source material, so deleting that much may at least reduce the magnitude and ramifications of the procedural problems.

Section 302. Technology Transfers. Page 114, line 21.

Description: Section 302 would amend subsection 57b of the Atomic Energy Act to place a new statutory procedure and requirement on so-called "technology transfers."

Comment: Currently, subsection 57b authorizes technology transfers which are under an agreement for cooperation or where the Secretary of Energy determines that it "will not be inimical to the interest of the United States." Procedurally, DOE now consults with the other interested agencies, State Department, NRC, ACDA, DOD and Commerce Department, on such transfers. Section 302 codifies those procedures, with the change that State Department must concur in the determination. The House bill only requires consultation with State Department. If, indeed, it is necessary to give State Department a formal statutory concurrence on these determinations, which the drafters repeatedly include in the bill despite statutorily-mandated consultation and required statutory determinations, the bill clearly should establish a timely, and orderly procedure for such concurrence. Section 302 now only requires "mutually agreed procedures" for the concurrence by State Department and the consultation with other agencies.

Section 302 retains the current statutory requirements, with one change. The section requires that such transfers be *"specifically authorized* under an agreement for cooperation" (emphasis added) or be subject to the formal determination of non-inimicability, rather than the current statutory provision of "under an agreement for cooperation." It is not clear what the "specifically authorized" requirement is intended to achieve. If most agreements do not "specifically authorize" technology transfers, this change could force the requirement for a new determination of non-inimicability, despite an existing agreement for cooperation. It certainly would force "specific authorizations" in new or renegotiated agreements for cooperation. And, it may be intended to add to the pressures for renegotiation of existing agreements. The legislative history, unfortunately, does not address this issue.

Section 302 amends Section 57b by substituting the new language under the heading "Technology Transfer." The legislative history does not completely define the activities in which a person "directly or indirectly engage(s)" that require the application of this section. For instance, the current DOE regulations for this section of the Atomic

Energy Act include components as well as technology (drawings, instruction manuals, etc.). The Joint Report, at p. 10, refers to "technology which pertains to the production of special nuclear material (including heavy water production technology)." There should be a clear indication of what "directly or indirectly engage(d)" in activities are intended to trigger this section.

These same technology transfers arguably could be covered by the Section 303, "Subsequent Arrangement", procedures under 303 (a)(2)(G)," any other arrangement which the President finds to be important from the standpoint of preventing proliferation," with the duplicative ramifications discussed for Section 301. Certainly, export of heavy water production technology could be argued to be of such importance. Section 304 also could be applied to require formal licensing of components now covered by this section. Clarification should be made to avoid double or triple licensing requirements.

Section 302 retains the same non-inimicability test of the current statute, but there is the potential for difficulty with such determinations, which, as noted, may be forced by the "specifically authorized" requirement even for nations with an agreement for cooperation. First, the House bill uses the same statutory standard, but the House report apparently in error, cites the "inimical to the common defense and security" standard. Second, it is not clear, in light of the full expanse of this bill's detailed statutory delineations of precise, nonproliferation-related export criteria and considerations, how the non-inimicability standard would be judicially interpreted. Certainly this bill appears to define in great detail the interests of the United States, insofar as nonproliferation and nuclear export are concerned. Although all of these criteria and consideration are not mandated expressly by the bill, their application in principle would not be an unreasonable statutory interpretation by a court reviewing the final agency action, the required determination and approval, under Section 302.

Recommendation:

1. Consider whether separate State Department concurrence is justified for determinations.

2. Amend the procedural requirement to require procedures, such as contained in E.O. 11902, with time deadlines and established procedures for disagreements.

3. Closely review the new "specifically authorized" language with Administration representatives to determine the effect on existing agreements for cooperation, and the potential forcing of determinations even with an existing agreement. Consider clarification by colloquy or remedy by amending it for future or renegotiated agreements for cooperation only, to avoid the abrogation problem."

4. Amend Section 303 and 304 to make Section 302 procedures mutually exclusive.

5. Establish legislative history by colloquy or amendment the definition and coverage of "technology transfer", which triggers this section.

6. Establish legislative history by colloquy or amendment on preserving the current construction of the "inimical to the interest of the United States" test.

Section 303. Subsequent Arrangements. page 115, line 171.

Description: Section 303 establishes an entirely new category of nuclear transactions, so-called "subsequent arrangements," which would now be subject to the formal and highly complex statutory procedures in this section.

Comment: Section 303 is the source of a great deal of confusion and controversy, which certainly would intensify if enacted in its current form. The threshhold issue in interpreting Section 303 will be the determination of what is, and importantly what is not, a "subsequent arrangement." There now is no separate definition or categorization for these "arrangements" under the Atomic Energy Act and, in fact, many of the arrangements apparently are in the form of U.S. treaty rights under agreements for cooperation. The Act does not directly apply any controls to this class of activities, but leaves them as a class to administrative discretion. The listing in subsection (a)(2) is subject to serious confusion, as noted in the comments on Section 301 and Section 302. Additionally, subsections (C), (D), and (E), among others could be interpreted as covering arrangements for which an NRC license is required by Section 304. The Joint Report, at page 10, states that "private contracts and arrangements are not 'subsequent arrangements'," suggesting that only direct U.S. Government actions are subsequent arrangements. Section 303(a)(1) refers to "subsequent arrangement under an agreement for cooperation" also suggesting that only actions, apparently by the U.S. Government, covered by an agreement are subject to sec. 303. Clearly, the Federal Government approvals under agreements for transfers on reprocessing of spent fuel are covered. The report also indicates that subsequent arrangements also include "detailed arrangements for U.S. nuclear cooperation with foreign nations including . . . contracts for the provision of enriched uranium." Many nuclear transactions are not neatly categorized as government to government on one hand or completely "private contracts and arrangements" on the other. They may involve both the U.S. Government and private contractors, foreign or domestic. How will these be handled? Unfortunately, the House passed bill and the House Committee report are even less clear on the intended coverage of the companion section. There should be no ambiguity about the definition and coverage, and clearly there should be no possibility of a single action or "arrangement" being covered by more than one review procedure. Section 301, 302, 303 and 304 should be made mutually exclusive in application to a single "arrangement."

This section, as opposed to the other sections in this Title, is not in the form of an amendment to the Atomic Energy Act. It is not clear why that drafting approach was chosen, and whether there is an intended result. Perhaps the authors can clarify the apparent anomaly in the statutory scheme. Many of the subsequent arrangements, however, which ultimately may be covered by this section may also be the subject of provisions with other procedures in the Atomic Energy Act. Also, all of the provisions of this bill dealing with the other elements of export controls and the related elements of agreements for cooperation would be amended into that Act. To avoid any ambiguity regarding the intent to continue to apply any other related provision of the Act to these "subsequent arrangements", particularly in light of the ambiguity of the definition, the section should be put in the form of an amendment to the Act. Any known or subsequently identified conflict with other provisions of the Act should be rationalized and resolved in the legislative history, or the amendment, as necessary.

The section does not include any clear procedural approach, like E.O. 11902, time requirements, nor provision for disagreements among the various agencies, either those leading, those consulting, those concurring or for ACDA's discretionary Nuclear Proliferation Assessment Statement, nor for submission to Congress. In fact, it takes a basic flow diagram to figure out exactly what the exact agency relationships and responsibilities will be under a given situation. Also, it is not completely clear what agency roles are intended. The Senate Joint Report states, at page 10, that "we believe the Director (of ACDA) should actually exercise this authority (for an NPAS)" even though it will not be required by statute. The House Committee Report in discussing a similar companion provision (but without the discretionary NPAS), states, "the committee is also particularly committed to having the NRC continue to provide independent assessment and validation of decisions to enter into subsequent arrangements," and both the House-passed and the Senate-reported bills place the NRC in a final consultative role after the Executive Branch position is developed. Section 303, in fact, places DOE in the lead role, with the State Department in a concurrence role, unless certain policy negotiations are involved, in which case the State Department has the lead role by statute. It is clear that the legislative history thus far provides all of the ammunition for a bureaucratic nightmare at any point in the process, and almost on a case by case basis. Certainly, if these highly convoluted and bureaucratically charged procedures are to be used, it should be clear to any interested party who has what responsibility in what time frame and when each step should be complete. Section 303 now definitely does not provide any predictability of these factors.

The ACDA NPAS, perhaps best acronymed "impasse" statement creates the possibility, indeed the probability for serious disruption to this procedure. As noted, the Joint Report virtually mandates its preparation for "subsequent arrangements." The provisions of Section 303(a)(2) provide broad discretion for the preparation; "if in the Director's view . . . might significantly contribute to proliferation, he may prepare . . ." Clearly, it is the Director's, and therefore the agency's own statutorily protected, independent view, apart from those of any other official, which will trigger an NPAS. Realistically, of course, it will be bureaucratically difficult to stop an internal agency determination, regardless of its merits, once the staff has concluded an arrangement "might significantly contribute to proliferation." Further, once the Director has formally taken that position and prepared an NPAS, it politically will be difficult to proceed with the arrangement. The requirements in Section 303(a)(2) are framed in the negative sense, so as to place a politically and practically heavy burden on proceeding, once the "in his view" determination is triggered, i.e., "adequacy of the safeguards and other control mechanisms" and "the application of peaceful use assurance . . . to ensure that assistance . . . will not be used to further any military or nuclear explosive purposes." There is no requirement, for instance, to consider the impact of not proceeding in terms of overall nonproliferation policy considerations, such as the other party going to a less stringent supplier or turning to indigenous capability. Also, once ACDA announces the decision to prepare an NPAS, ACDA politically and practically becomes the "pacing" or "critical path" agency, for which there is no specified time limit. In fact, Section 303(a)(2) doesn't indicate how an NPAS fits into the decision process, or is part of the ACDA consultative role. In short, ACDA, regardless of the merits of its position, and independent of all other agencies and officials, can trigger a major delay and potentially a practical veto of any subsequent arrangement. Clearly, ACDA can "consult" on the arrangement without such unnecessary power over the situation.

Substantively, the mere preparation of the NPAS and required analyses by ACDA summarized in this unclassified NPAS statement could be a source of serious concern to a U.S. trading partner which has signed an agreement for cooperation, and also may be an NPI state. While the stated requirements may be appropriate for consideration in any negotiation of a particular subsequent agree-

ment, the threat of an NPAS statement or a decision by ACDA to prepare one may deter potential trading partners from proceeding through the Section 303 procedures. If that is not completely the case now, it certainly will be after the first unclassified NPAS which embarasses a Foreign Government or is seen abroad as compromising its vital internal or national security interests. One could easily speculate about the worldwide repercussions of an NPAS for any number of "controversial" countries, such as Israel. It appears that the same substantive review can occur by having consultation with ACDA, without erecting yet another formidable barrier to predictable arrangements under an agreement for cooperation.

With the exception of a special class of subsequent arrangements dealing with the transfer of special nuclear material (SNM) and reprocessing, the Secretary of Energy under Section 303(a)(1) is authorized to complete a subsequent arrangement upon a determination that it is not "inimical to the common defense and security." The comments on Section 302 discussed the impact of this bill on another pre-existing standard, "inimicability to the interest of the United States." The same concerns apply to the "common defense and security" test. Also, it is not clear in the context of this bill what different criteria, if any, are intended to apply to the one and not the other, and if so why? Both the "interest" test and the "common defense and security" test have relatively lengthy legislative histories. The legislative history for this bill does not suggest, thus far, what is intended. Also, the proposed subsequent arrangement can not take effect until 15 days after the determination is published in the Federal Register. It apparently is intended that third parties will be given the notice and opportunity to review, and perhaps administratively, judicially, or politically challenge the determination and the arrangement. Also, the Joint Report at page 12, indicates that the "303(b)(2) standard *should* not involve formal rulemaking (emphasis added)," perhaps indicating rulemaking will not be involved for it, but no mention is made of 303(a)(1). An inference could be drawn that rulemaking is intended to apply to the (a)(1) determination. Accordingly, the legislative history should be clarified in anticipation of such challenges, although there will continue to be a significant level of unpredictability in any event.

Section 303 would be immediately applied for any subsequent arrangement not in effect at the time of enactment. The procedures would apply regardless of any possibly conflicting term or condition of an existing agreement for cooperation, any existing additional agreement or understanding, and any prior arrangement within the categories of activities classified as subsequent arrangements. To the degree that any such terms and conditions are now unilaterally modified or abrogated, the predictability of the U.S. as a partner under an agreement for cooperation will be diminished. In fact, Section 303(a)(3) can even be read as stating the U.S. will only give "timely consideration" under Section 303 for requests for reprocessing and related activities when they, in fact, are covered in the terms and conditions of an agreement (perhaps more pressure to renegotiate agreements to get such terms). Apart from that eventually, the section introduces these new statutory requirements and procedures for a whole new class of activities in addition to the requirements for agreements for cooperations and for export licenses, which later sections increase markedly in severity. It should be clear to every reviewer, foreign and domestic, that this section introduces a third, major, new statutory hurdle for any nation seeking to enter nuclear trade with the U.S. And, it introduces the new hurdle for all of our existing partners, as well as for future partners. Even where a nation is now and always has been in agreement with the U.S. on nonproliferation policy, each and every activity classified as a new subsequent arrangement will be forced to go through this new statutorily mandated procedure, with all of the noted problems.

Turning now to one of the most controversial subsections in the bill, Section 303(b) includes the special procedures to be followed for U.S. approvals under agreements for cooperation for reprocessing and related retransfers of SNM. It should be noted that these procedures are in addition to the other procedures in Section 303(a), since there is no statutory exclusivity afforded the 303(b) procedures. This subsection has been the subject of almost continuing negotiation and compromise since S. 897 was introduced on March 3, 1977. Unfortunately, the current state of the subsection reflects the torts negotiation through which it has progressed. And, curiously, generally the same language is in the House passed bill and the Foreign Relations substitute, and has been formally endorsed by the Administration and most, if not all, of the principal supporters of both the House and Senate bills.

The significant passage in the subsection is at page 119, lines 7 to 17, which provide the test for U.S. approval of reprocessing in any facility not grandfathered by subsection 303(b)(2). The test included in those lines is the successor to the earlier, "timely warning" test at page 61, lines 7 to 16, in the Governmental Affairs substitute. The earlier test was the subject of severe Administration and industry criticism in the Energy Committee hearings in September. See, for instance, the Vance letter at page 42 of the Joint Report and accompanying comments, at page 47, and the testimony of Dr. Nye in the Additional View of Senator McClure, at page 106. At that time, the Administration was adamant in its opposition to the Governmental Affairs language, for all of the compelling and persuasive arguments included in the testimony. On that basis, it is interesting to consider the compromise, Administration-endorsed language.

Section 303(b)(1), and a similar provision in the House bill in which only the Secretary of Energy makes the determination, simply state that there will be no approval of reprocessing or related retransfers unless in both the view of the Secretary of Energy and the Secretary of State "such reprocessing or retransfer will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested. Among other factors in making this judgment, foremost consideration will be given to whether or not the reprocessing or retransfer will take place under conditions that will ensure timely warning to the United States of any diversion well in advance of the time at which the non-nuclear state could transform the diverted material into a nuclear explosive device . . ."

So the ultimate test is a "significant increase of the risk of proliferation." This new test was discussed on the House Floor by Congressman Bingham (Congressional Record, September 28, 1977, P. 31356) in response to a question from Congressman Dellums about the meaning of "significantly increase the risk of proliferation." Congressman Bingham spoke of any "substantial diminution in the technical constraints now limiting the ability of a nonnuclear weapon state to fabricate nuclear weapons" and of "a major additional source of weapons usable material." He also states that it was the intent of the language that the potential impact of the determination upon other countries in terms of proliferation risk should be considered. He concluded by stating, "What we tried to avoid here by the use of the word 'significantly' is what we might say would be steps that could be considered deminimis. They are not significant." The Senate report, at pages 11 and 12, discusses the "significant risk" test, as well as "timely warning." It is clear from the discussion that this test can only be analyzed on a case by case basis and at a given point in time. So it is very likely that this new test is only another hook on which to hang a disapproval, rather than an offset of "timely warning."

It also is clear that "timely warning", while now sharing the load with the "significant increase" test, is still alive and well. A close reading of the Senate report, at pages 11 and 12, and the relevant portions of the House Floor statements, particularly that of Congressman Findley (Congressional Record, September 28, 1977, P. 31358), among others, indicate that "timely warning" is intended to continue as an operative test. It's also noteworthy that the State Department's strong objections to the House Committee report discussion of timely warning were not totally satisfied in the House Floor debate. Even a Floor amendment by Congressman McCormack, to the effect that the House section is not intended to permanently or unconditionally prohibit reprocessing, will not probably ameliorate the impact of timely warning.

The result of the Administration compromise, particularly to an informed, objective, potential trading partner, should be obvious. Now, there are two possible hooks on which to hang disapproval. In fact, to that observer, all of the Administration comments on timely warning referenced above probably have now become applicable to the Administration-endorsed compromise. The statutory beauty in this provision, ironically and unfortunately, may only be in eye of the Administration beholder—but not the potential trading partner who has any hope of either predictability or reprocessing.

Two other matters regarding Section 303(b) are noteworthy. The clauses for grandfathering existing reprocessing facilities are now the same in the Senate and the House bills. The Senate report, at page 12, lists the six facilities which are grandfathered, while Mr. Bingham referred in debate to only three Facilities. Apparently, there is some confusion in the interpretation of the language. There is a need to clarify exactly which facilities are intended to be covered. In a related matter, the House report clearly implied that the application of language similar to Section 303(b)(3), requiring the Secretary of Energy to attempt to ensure that grandfathered facilities meet the "no significant increase" / "timely warning" tests, meant that the facilities were only initially exempted. Congressman Bingham in his Floor statement in general debate softened this at the request of the State Department (Congressional Record, September 22, 1977, P. 30293). The Report language, however, does raise the issue of the continued nature of the exemption. Again, a matter of importance to potential trading partners is clouded in ambiguity.

And, of course, once the Secretary has made a determination under Section 303(b), it must be submitted to Congress for a 15 day layover, apparently calendar days whether or not Congress is in session. At the end of that 15 days, if nothing changes, the determination, as part of the "common defense and security" determination required by Section 303(a) would be published in the Federal Register 15 days before the arrangement finally takes effect, assuming no further challenge is made. And, of course, for many of these various arrangements, this is only the beginning, not the end, because an export license will still be required under Section 304 before the originally desired export occurs.

It is most interesting that the Administration claims this entire process for subse-

quent arrangements will be routine, with the exception of a few controversial cases. It would be a particularly valuable exercise to try and apply Section 303 to the more controversial cases so far in the Carter Administration, or prospectively to cases which are pending in the near future, to test the result. It is doubtful, for instance, that the subsequent arrangement with Japan regarding the Tokai-Mura facility, which is considered so important by the Administration (see Mr. Fri's testimony, at page 101, in the Joint Report), could have been negotiated successfully under the provisions of Section 303. Similarly, it is unlikely that these procedures will authorize a series of pending "arrangements" involving Spain, Switzerland, Brazil, and others.

This discussion of Section 303 has not addressed directly the basic issue of the U.S. position on reprocessing and other fuel cycle technologies, and the obvious bias against such technologies in the bill. It, of course, is an essential element of the timely warning debate, and probably a major motivating factor in the drafting of Section 303. The McCormack amendment on the House Floor and the Energy Committee amendment to Section 105 of this bill are attempts to offset that obvious bias, which may be codified in the statutorily-mandated procedures and criteria in this bill. The codification of that bias alone may eventually, in the years ahead under this bill, shut off the U.S. as a major participant in international nuclear commerce, with the resulting loss of our direct influence on nonproliferation. Section 303, therefore, should not be enacted without serious reconsideration of its adequacy under the objectives in this bill.

Recommendations:

1. Clarify the definition of subsequent arrangement by amending the statute and by colloquy to specifically delineate what types of arrangements are subject to Section 303. Also, clarify whether all "subsequent arrangement" type activities must be "under an agreement for cooperation," and how Section 303 is intended to cover other activities, if at all; or is intended to allow such activities only when under an agreement for cooperation. This is particularly important if Section 303 remains outside the Atomic Energy Act.

2. Clarify the relationship of Section 303 to actions covered by Section 301, 302 and 304, by amending the section to expressly indicate that actions under 301, 302 and 304 are exempted from 303 and vice versa.

3. Amend the section to put it in the form of an amendment to the Atomic Energy Act. Also, clarify any ambiguity, with the assistance of Administration representatives, existing with other sections of the Act, or regulations thereunder.

4. Amend the section to include specific processing steps, review procedures, appeal procedures, deadlines, etc. as in E.O. 11902, or require them by regulation with statutory guidelines. Also, place the NRC in a consultative role at the beginning of the Section 303 (a)(1) process, rather than at the end, before publication, to avoid the implication suggested in the House report of an "independent assessment and validation" role for the NRC. Generally, avoid too many statute-mandated "lead agencies."

5. Amend the section to strike the ACDA discretionary NPAS statement, or have it prepared only at the request of the Secretary of Energy or Secretary of State, with an appropriate classification, and with a definite time limit so it cannot be used to delay processing the arrangement.

6. Clarify the intent for the Section 303 (a) "common defense and security" test and amend the test as necessary.

7. Clarify whether formal rulemaking is intended to apply to Section 303(a), and whether the A.P.A. judicial review is intended to apply and if so, what form. Amend the section, if necessary, to avoid formal rulemaking and APA judicial review.

8. Consider an amendment for grandfathering, in whole or in some part, subsequent arrangements under existing agreements for cooperation, possibly as a function of specific factors in particular agreements; or delaying application of the section for a period of time, 2 to 3 years, to allow current trade partners time to transition; or grandfathering any arrangement now under active consideration or initiated as of January 30, 1978. Avoid the unilateral imposition of the new procedures to any arrangement not completely in effect at enactment.

9. Amend Section 303(b), in close cooperation with sponsors of the bill and the Administration, to clear up the "significant risk" and "timely warning" dilemma—if passed in current form, it is not even conferenceable (in scope) to attempt to perfect it in conference.

10. Clarify by colloquy exactly what existing reprocessing facilities are covered, and possibly obtain concurrence of House members in the clarification.

11. Reaffirm by colloquy the intended interpretation of the exemption of Section 303 (b)(3), regarding the House report's suggestion of a time limit.

12. Clarify by colloquy or amendment the intended interpretation for Section 303(a)(3) and the Senate report, at page 11 regarding the application of "timely consideration", when terms and conditions are in agreement for cooperation.

13. Clarify by colloquy or amendment the relationship, if any, between the Section 303(b)(1) report to Congress with 15 day layover and the apparently still-required 303(a)(1) Federal Register publication 15 days prior to effectiveness.

Sections 304, 305, 306, 307, 308 and 309. Nuclear Export Procedures.

These sections together constitute the new statutory framework established by this bill for nuclear export procedures. The statutory provisions are quite complex in terms of the procedural steps for processing licenses and the requirements for substantive criteria and tests. The discussion in the Joint Report of these sections, at pages 12 to 21, provides a reasonably balanced and concise explanation of the sections and their interrelationships. No attempt will be made here to duplicate those explanations.

It should be noted that the provisions in these sections have been materially improved as the bill has progressed through the various stages of consideration, although several major problems, discussed below, still exist. It also is particularly significant that the Foreign Relations substitute closely parallels the House-passed bill, with many of the companion subsection including exactly the same text in both bills. In fact, there are very few substantive differences between the Foreign Relations substitute and the House bill. Where there are identified problems, therefore, it is imperative that amendments be adopted on the Senate floor in order to provide a conferencable (within the scope of the conference) difference for negotiations with the House to effect a remedy. In the absence of such amendments, as a result, the Foreign Relations substitute probably would be enacted into law with little change from its present form.

Much of the complexity in these procedures and a majority of the attention on these sections is centered on 1. the so-called Euratom exemption for two years in Section 304 (new Section 126.a.(2)) to criteria (4) and (5) in Section 305 (new section 127(a)(4) and (5)); 2. the application of the so-called full scope safeguards, additional criterion after 18 months in Section 306 (new Section 128); 3. the Presidential override of an NRC disapproval of a license in Section 304 (new Section 126.b.(2)); and 4. the procedures for expedited Congressional consideration of the required submissions to Congress in the prior three situations. The Joint Report discussion of these sections provides a good narrative description of how the procedures would be followed.

Each of the first three situations has been the subject of extensive policy debate throughout the consideration of this bill, and the potential ramifications of each has been noted in the testimony on these sections (see, for instance, the statements of Messrs. Tape and Stathakis, and particularly the Cotter letter, all beginning at page 117 in the Joint Report). It is the considered judgment of those gentlemen and many in the nuclear nonproliferation community that these procedural approaches, and the unilateral policy imposition which they are intended to effectuate, would quickly and effectively drive our nuclear trading partners to other suppliers, who either will not impose the policies at all or will do so by means of a diplomatic approach, rather than by these types of lengthy, cumbersome and highly unpredictable statutory procedures. It also is extremely likely that U.S. diplomatic initiatives and negotiations will be unable to complete all required renegotiations of agreements, despite the best efforts of Ambassador Smith, so that these procedures will be triggered. The unimaginable problems with timing because of the required layovers while Congress is in continuous session will become all too apparent at that time. Now, only a multipage flow diagram can begin to portray the procedural chaos that will result. That eventually would only further undermine our reliability as a supplier.

These issues are sufficiently drawn to allow for a full debate on the Senate floor regarding the desirability of these unilateral policy impositions, and, if desirable at all, the details of the procedures. There are a series of other problems with these sections which have not received as much attention, but are of importance to the United States as a reliable supplier. Failure ultimately to remedy the aforementioned difficulties may render the U.S. so unreliable in the eyes of the world that these other problems eventually may be de minimis, but in the interim they may be determinative of other nations' views of these new procedures. Consequently, these other problems, too, should be addressed on the Senate floor.

Section 304, coupled with Sections 301 (Government to Government transfers of nuclear materials) and 309 (export of components), will require immediately upon enactment that all specified exports in those sections, except a few "certain categories of very minor exports" (Joint Report, page 13) exempted because they lack significance for nuclear explosive purposes, must be licensed under Section 304. The Administration representatives repeatedly have stated and testified that there should be no problem, because Executive Order 11902, February 2, 1976, already specifies detailed procedures with deadlines and disagreement procedures for export licensing in the Executive Branch, which can be used with Section 304. The lengthy time delays which already exist in processing export licenses under the existing statutory scheme with far less complex and formalized procedures, and for more general determinations does not give confidence in that result. Many export licenses have taken several years and most take many months, even under E.O. 11902. The application of all the new statutory procedures and criteria under Section 304 can only serve to exacerbate this situation. And, probable lengthy judicial review and construction of these can be expected. It is also noteworthy that Section 304 does not include, nor require the application of E.O. 11902-type procedures for processing of license applications. Accordingly, there should be a provision in the bill applying the E.O. 11902 procedures

for processing licensing applications to statutorily require and demonstrate the prompt and expeditious handling of applications, and thereby enhance our reliability. A copy of E.O. 11902 is included at this point for reference:

EXECUTIVE ORDER BY PRESIDENT FORD ON PROCEDURES FOR AN EXPORT LICENSING POLICY AS TO NUCLEAR MATERIALS AND EQUIPMENT

EXECUTIVE ORDER 11902, FEBRUARY 2, 1976

The Energy Reorganization Act of 1974 transferred to the United States Nuclear Regulatory Commission the licensing and related regulatory functions previously exercised by the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended.

The exercise of discretion and control over nuclear exports within the limits of law concerns the authority and responsibility of the President with respect to the conduct of foreign policy and the ensuring of the common defense and security.

It is essential that the Executive branch inform the Nuclear Regulatory Commission of its views before the Commission issues or denies a license, or grants an exemption.

Now, therefore, by virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*), and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. (a) The Secretary of State is designated to receive from the Nuclear Regulatory Commission a copy of each export license application, each proposal by the Nuclear Regulatory Commission to issue a general license for export, and each proposal by the Nuclear Regulatory Commission for exemption from the requirement for a license, which may involve a determination, pursuant to the Atomic Energy Act of 1954, as amended, that the issuance of the license or exemption from the requirement for a license will, or will not, be inimical to or constitute an unreasonable risk to the common defense and security.

(b) The Secretary of State shall ensure that a copy of each such application, proposed general license, or proposed exemption is received by the Secretary of Defense, the Secretary of Commerce, the Administrator of the United States Energy Research and Development Administration, hereunder referred to as the Administrator, the Director of the Arms Control and Disarmament Agency, hereinafter referred to as the Director, and the head of any other department or agency which may have an interest therein, in order to afford them the opportunity to express their views, if any, on whether the license should be issued or the exemption granted.

SEC. 2. Within thirty days of receipt of a copy of a license application, proposed general license, or proposed exemption, the Secretary of Defense, the Secretary of Commerce, the Administrator, the Director, and the head of any other agency or department to which such copy has been transmitted, shall each transmit to the Secretary of State his views, if any, on whether and under what conditions the license should be issued or the exemption granted.

SEC. 3. The Secretary of State shall, after the provisions of section 2 of this order have been complied with, transmit to the Secretary of Defense, the Secretary of Commerce, the Administrator, the Director, and the head of any other department or agency who has expressed his views thereon, a proposed position of the Executive branch as to whether the license should be issued or the exemption granted, including a proposed judgment as to whether issuance of the license or granting of the exemption will, or will not, be inimical to or constitute an unreasonable risk to the common defense and security.

SEC. 4. If the heads of departments and agencies specified in section 2 of this order are unable to agree upon a position for the Executive branch, the Secretary of State, shall refer the matter to the Chairman of the Under Secretaries Committee of the National Security Council in order to obtain a decision. In the event the Under Secretaries Committee is unable to reach a decision, the Chairman of that Committee shall refer the matter to the President for his decision.

SEC. 5. The Secretary of State, after taking the actions required by this order, shall notify the Nuclear Regulatory Commission of the position of the Executive branch as to whether the license should be issued or the exemption granted, including the judgment of the Executive branch as to whether issuance of the license or granting of the exemption will, or will not, be inimical to or constitute an unreasonable risk to the common defense and security. The Executive branch position shall be supported by relevant information and documentation as appropriate to the proceedings before the Nuclear Regulatory Commission.

GERALD R. FORD.

THE WHITE HOUSE,
February 2, 1976.

A second problem is demonstrated by a series of statistics provided by the NRC regarding licenses issued in the past year under current law. Of 164 licenses issued in the first 6 months of this year for the export of special nuclear material, 21 were for West Germany and 15 were for Japan. Additionally, of the 23 licenses issued for export of 10,000 kilograms or more of source material (uranium) in the period from February 19, 1975 through June 3, 1977, eight were for West Germany and the rest were divided among 5 countries. Each of these licenses under the current Section 304 individually would be subjected to the same lengthy and complex procedure. Each of the 28 West German-destination exports would be required to proceed through the entire procedure.

There appears to be no policy justification for such duplication of processing and virtually wasted staff efforts, in the absence of some changed circumstance. Section 304 should be modified to include some form of negative declaration of changed circumstances at the outset of the process, a lifetime license for a facility, subject to periodic review, or some other form of automatic approval once an initial license has been approved under the new statute. The Euratom exemption procedures, full safeguard criterion and the termination requirements of Section 307 would still apply. Both eliminating this unnecessary waste of staff effort, and concentrating on the cases requiring serious attention should reduce processing delays. This change also would avoid a constant and continuing jeopardy for a nuclear trading partner. Both of these results could enhance U.S. reliability.

New subsection 126.C., page 125, line 11, specifies the use of expedited procedures for consideration of any additional export criteria, beyond the Section 306 full scope safeguards, passed by either House. The Joint Report, at page 14 and 15, indicates that the expedited procedures are intended to avoid long periods of uncertainty, and minimize any accompanying moratorium on licensing by NRC in anticipation of the additional criteria. More importantly, this provision can be interpreted as yet another indication of the unreliability of the U.S. Further, there should be no moratorium under this bill because of such ongoing Congressional consideration. New subsection 126(b)(1), page 124, line 2, makes it abundantly clear that NRC shall grant applications for licenses which are acceptable and where all statutory requirements have been met, notwithstanding any pending legislation in Congress. Subsection 126(c) serves no policy objective and, as a detriment to U.S. reliability, should be deleted.

New subsection 126.a.(1) requires the Secretary of State to "address the extent to which the export criteria then in effect" are met in submitting the Executive Branch judgment. While technical in nature, it is desirable for clarity and the U.S. reliability concern to qualify the criteria as "pursuant to this Act." The same concern exists for the phrase "additional factors among others" in the next sentence. Clarifications will avoid any misinterpretation as to the source of those criteria, i.e. not administratively imposed, but only statutorily imposed by the Act.

New subsection 126.a.(2) requires NRC or the Secretary of Energy, depending on the type of export, to make a finding that the export criteria are met. The Foreign Relations substitute states that the finding is "based on a reasonable judgment of the assurances provided and the evidence", where "assurances" refers to those provided by the recipient nation of the export. Such assurances are particularly important for criterion 1. (safeguards will be applied), 2. (fuel or material will not be used for nuclear explosive device or such R&D), 3. (adequate physical security will be maintained), 4. (exports will not be retransferred unless . . .), and 5. (material will not be reprocessed unless . . .) under new section 127. The Foreign Relations language is almost verbatim that contained in the Administration's recommendation, included in the Joint Report, at page 48, that "the NRC, in making the required determination, cannot have absolute assurance that the criteria will be met, but must, rather, make a reasonable judgment based on the evidence and assurances provided to it by the recipient nation or group of nations." The Joint Report, at page 13, states that "the NRC must make a 'reasonable judgment', at NRC is to realize that it should rely on the assurances provided by foreign governments and the evidence."

The statutory standard and the Report both suggest that the NRC's judgment, while "reasonable", is intended to be independent and is to be based on "assurances provided and evidence." Perhaps the "evidence" is intended to apply to certain criteria, while the "assurances provided" applies to other, with possibly one or more criteria where both "assurances" and evidence are to be considered. As long as there is any such ambiguity, foreign governments could expect, and the NRC may attempt, a "reasonable judgment" of the assurances and evidence relevant to the assurances—in other words, an independent NRC assessment of the assurances using other evidence. The NRC in its June, 1977, Tarapur decision came very close to making independent foreign policy judgments in an admittedly difficult case, involving the Indian Government which exploded a peaceful nuclear device in 1974. That result would be unacceptable for the conduct of U.S. foreign policy and a direct affront to a foreign nation, particularly after a fully coordinated Executive Branch judgment by the Secretary of State that the criteria would be met.

The House bill simply requires a funding that "the recipient nation or group of nations has agreed to adhere to the criteria. . .", thus avoiding the problems with the current Senate language. Certainly, one could question seriously the expertise and capability of the NRC to consider and "reasonably judge" evidence bearing on these assurances. Also, the evidentiary issues, the possibility of intervenor or public participation, and judicial review would be most troubling. The NRC has already been petitioned by nationals of India and South Africa to participate in license proceedings dealing with those countries. Clearly, the basis for the finding in Section 126.a.(2) should be modified to clarify how "assurances" and "evidence" are

to be considered, and the clarification should not allow an independent NRC judgment on assurances. Consideration should also be given to the possibility that the use of the term "evidence" might be construed to require an adjudication, with a formal hearing on the record. "Evidence" otherwise could simply mean additional information from the Executive Branch.

The "funding" issue just discussed raises an even more fundamental question with regard to Section 304—why should the independent regulatory review by the NRC of the Executive Branch "judgment" be continued? Section 304 requires the NRC to duplicate, to the extent it can, essentially all of the analyses of the Executive Branch, if it is required to make an independent judgment of the assurances. That eventuality as discussed above is fraught with diplomatic and supplier reliability difficulties for the U.S., and it simply is not well advised to put an independent domestic regulatory agency in the foreign policy business. If, hopefully, it is clarified that the NRC is only to find that there are such assurances, thereby leaving the foreign policy issues appropriately with the Executive Branch, the NRC review serves no independent regulatory purpose and only creates a great delay in finally processing license applications already considered by the Executive Branch.

Perhaps, there was a rationale for NRC responsibilities for export licensing after the Energy Reorganization Act of 1974 split up the predecessor AEC. Some commentators have questioned the existence of a conscious intention or rationale for giving NRC the responsibility in the Reorganization Act, and the legislative history strongly suggests that it was the result of inadvertance. Even if there may have been a rationale at the time, the extensive statutory criteria and procedures of S. 897, and the direct involvement of the Congress in each of the sensitive procedures for the Euratom exemption and the full scope safeguards exemption, among others, should ensure an adequate basis for independent review of the export licensing process by Congress and public groups. And, certainly, the State Department in this Administration can be expected to closely adhere to the policies, procedures and requirements in this bill.

Admittedly, it is somewhat late in the legislative process for placing NRC in a consultative role, as opposed to an independent concurrence role. But, the benefits in terms of increased efficiency, predictability and reliability of the licensing process commend an affirmative consideration of the concept by the full Senate. Also, taking this substantial burden, particularly under Section 304, off the NRC would free the Commission to focus additional attention on our many critical domestic nuclear problems, where generally the Commission is far more capable of independent regulatory review. Finally, this may be the last opportunity to right the apparent inadvertence of the Energy Reorganization Act. If the Senate was given sufficient notice of an intention to raise this issue, there should be ample opportunity for those on both sides of the issue to argue their position in the context of the future licensing procedures in this bill.

New subsection 126(b)(1) requires the NRC or the Department of Energy, as appropriate, to approve an export license application "upon a determination that the application . . . is acceptable and that all statutory requirements have been met." The Joint Report, at page 14, states the determination is "that the application is in an acceptable form, all applicable statutory requirements having been met." The concept of acceptability needs to be clarified, since this is the final determination in the approval process.

Criterion number (3) in new Section 127 requires that "adequate physical security measures will be maintained. . . ." The term "physical security measures" was discussed in the comments on Section 4. The use of the additional term "adequate" may create significant difficulties under criterion (3). The Joint Report, at page 16, acknowledges that the NRC and Executive Branch must establish guidelines for the application of this criterion. The Report also indicates that the "adequate" was used, "because certain nuclear exports are not sufficiently important to present any problem in the event of theft or sabotage." Clarification or amendment of "adequate", as well as redefinition of "physical security measures" is desirable to avoid the use of this now murky criterion to either stop an export or force an embarrassing NRC inquiry into the physical security of a foreign plant, or possibly have a court do so upon judicial review in a controversial case.

Section 309, page 139, line 13, establishes a new statutory procedure for classifying and licensing components, items and substances which "are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes." The procedures for licensing components, items and substances which are so classified are similar to those in Section 304. Both the House and Senate reports suggest that items and substances need not be specifically designed nor openly intended for use in a nuclear-related activity. Both reports cite specialized computers as an example of an item which might be misused for nuclear explosive purposes, and therefore would require a license. The ambiguity in this Section will make it particularly difficult to determine with predictability what must be licensed. Clarification, possibly by amendment, should be made to the section to avoid any disruption of other export activities.

Recommendations:

1. Consider further amendment to the Euratom exemption, and the full scope safeguards criterion to reduce the severity of the U.S. unilateral imposition of these requirements.
2. Require by amendment procedures similar to E.O. 11092.
3. Provide a procedure for changed circumstance, negative declaration or lifetime-type licensing to avoid repeated findings.
4. Delete subsection 126.C.
5. Amend subsection 126.a.(1) to clarify the exact nature of the Secretary's discretion.
6. Amend subsection 126.a.(2) to remove the ambiguity regarding "judgement", "assurances" and "evidence".
7. Consider amending Section 304 to place the NRC in a consultative, rather than an independent review, role in the export licensing process.
8. Clarify subsection 126(b)(1) regarding the acceptability determination for a license application.
9. Amend Section 127, criterion (3) to remove ambiguities in the definition and application.
10. Amend Section 309 to remove the ambiguities in the new classification of licensable components, items and substances.

Also, clarify the relationship to Section 302.

Title IV. See the Energy Committee view on Section 403 in the Joint Report, at page 41, and the included discussion on the need to amend the section.

Title V. The Energy Committee amendment deleted the Title. The rationale for deleting it is contained in the Joint Report, at page 38.

ORDER FOR RECESS TO 9:30 A.M. TOMORROW AND FOR THE RESUMPTION OF UNFINISHED BUSINESS

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield further, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 a.m. tomorrow, and that after the recognition of Mr. ALLEN, under the order previously entered, the Senate resume consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. MOYNIHAN). The Chair, on behalf of the Vice President, pursuant to Senate Resolution 256, 95th Congress, appoints the Senator from Hawaii (Mr. INOUYE) as the chairman of the delegation to visit the Middle East, December 26 to January 15, 1978.

FEDERAL AVIATION ACT AMENDMENT

Mr. CANNON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6010.

The PRESIDING OFFICER (Mr. ZORINSKY) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 6010) to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. CANNON. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. CANNON, Mr. INOUYE, and Mr. STEVENS conferees on the part of the Senate.

ORDER TO HOLD CERTAIN BILLS AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 8346 be held at the desk pending further action by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 7278, when received from the House, also be held at the desk pending further action by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 1537 AND S. 1217 PLACED UNDER "SUBJECTS ON THE TABLE"

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the following calendar order numbers be placed on the calendar of "Subjects on the Table," with the understanding that at

the beginning of next session they resume their place on the General Orders Calendar: Calendar Order No. 182, S. 1537 and Calendar Order No. 334, S. 1217.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar under "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, if it is agreeable with the acting Republican leader, I ask unanimous consent that the nominations, beginning with New Reports, be considered and confirmed en bloc.

Mr. PACKWOOD. No objection, Mr. President.

The PRESIDING OFFICER. Without objection, they are considered and confirmed en bloc.

The nominations, considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Diego C. Asencio, of New Jersey, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Colombia.

Robert E. White, of Massachusetts, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Paraguay.

Oliver S. Crosby, of Washington, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea.

E. Gregory Kryza, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plentipotentiary of the United States of America to the Islamic Republic of Mauritania.

George H. Aldrich, of Virginia, for the rank indicated during the tenure of his service as Deputy Special Representative of the President of the United States for the Law of the Sea Conference, and Deputy Chief of Delegation, to be Ambassador.

DEPARTMENT OF JUSTICE

Benjamin J. Malcolm, of New York, to be a commissioner of the U.S. Parole Commission for the term of 6 years.

Cecil M. McCall, of Georgia, to be a commissioner of the U.S. Parole Commission for the term of 6 years.

Robert D. Vincent, of Oklahoma, to be a commissioner of the U.S. Parole Commission for the term of 6 years.

COPYRIGHT ROYALTY TRIBUNAL

Thomas C. Brennan, of New Jersey, to be a commissioner of the Copyright Royalty Tribunal for a term of 7 years from Sept. 27, 1977.

Mary Lou Burg, of Wisconsin, to be a commissioner of the Copyright Royalty Tribunal for a term of 7 years from Sept. 27, 1977.

Clarence L. James, Jr., of Ohio, to be a commissioner of the Copyright Royalty Tribunal for a term of 7 years from Sept. 27, 1977.

Frances Garcia, of Texas, to be a commissioner of the Copyright Royalty Tribunal for a term of 5 years from Sept. 27, 1977.

Douglas Coulter, of New Hampshire, to be a commissioner of the Copyright Royalty Tribunal for a term of 7 years from Sept. 27, 1977.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider en bloc the vote by which the nominees were confirmed en bloc.

The PRESIDING OFFICER. Without objection, the motion is in order.

Mr. ROBERT C. BYRD. Mr. President, I make that motion.

Mr. PACKWOOD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate proceeded to the consideration of legislative business.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9:30 a.m. tomorrow. After the two leaders or their designees have been recognized under the standing order, Mr. ALLEN will be recognized under an order previously entered for not to exceed 15 minutes, after which the Senate will resume its consideration of the unfinished business, the energy tax bill.

Under the order previously entered, there will be no votes on any amendments to the Metzenbaum amendment prior to the hour of 11 a.m. A vote is set for 12 o'clock noon on the Metzenbaum amendment, No. 1505, as modified, and the vote is set by previous order on the Jackson and Bumpers amendment, No. 1506. That vote will occur at 3 p.m. Those votes will be rollcall votes. Other rollcall votes will occur during the day tomorrow.

The Senate should be prepared to stay in late, tomorrow being Thursday, and it being hoped by the joint leadership that action can be completed on this bill by the close of business Friday, In the event action is not completed on the bill by the close of business Friday, this would necessitate a Saturday session.

I wish to reiterate at this point that it is the hope that the Senate can complete action on not only this bill this week but also, prior to Saturday, November 5, action on any other measures which must be acted upon this year, after which time it will be the intention of the leadership to go over for 3 days at a time in accordance with the Constitution and to await the return to the floor of conference reports on the various measures which are in conference, including, and especially with reference to, the energy bill.

I think that about sums it up for tomorrow.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until tomorrow morning at 9:30 a.m.

The motion was agreed to; and at 7:30 p.m., the Senate recessed until tomorrow, Thursday, October 27, 1977, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate, October 26, 1977:

DEPARTMENT OF JUSTICE

B. Mahlon Brown III, of Nevada, to be U.S. attorney for the district of Nevada for the term of 4 years, vice Lawrence J. Semenza.

NATIONAL COMMISSION ON NEIGHBORHOODS

Joseph F. Timilty, of Massachusetts, to be chairman of the National Commission on Neighborhoods (new position).

CONFIRMATIONS

Executive nominations confirmed by the Senate October 26, 1977:

DEPARTMENT OF STATE

Diego C. Asencio, of New Jersey, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Colombia.

Robert E. White, of Massachusetts, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Paraguay.

Oliver S. Crosby, of Washington, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea.

E. Gregory Kryza, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

George H. Aldrich, of Virginia, for the rank of Ambassador during the tenure of his service as Deputy Special Representative of the President of the United States for the Law of the Sea Conference, and Deputy Chief of Delegation.

DEPARTMENT OF JUSTICE

Benjamin J. Malcolm, of New York, to be a commissioner of the U.S. Parole Commission for the term of 6 years.

Cecil M. McCall, of Georgia, to be a commissioner of the U.S. Parole Commission for the term of 6 years.

Robert D. Vincent, of Oklahoma, to be a commissioner of the U.S. Parole Commission for the term of 6 years.

COPYRIGHT ROYALTY TRIBUNAL

The following-named persons to be commissioners of the Copyright Royalty Tribunal for the terms indicated:

For a term of 7 years from September 27, 1977:

Thomas C. Brennan, of New Jersey.

Mary Lou Burg, of Wisconsin.

For a term of 5 years from September 27, 1977:

Clarence L. James, Jr., of Ohio.

Frances Garcia, of Texas.

Douglas Coulter, of New Hampshire, to be a commissioner of the Copyright Royalty Tribunal for a term of 7 years from September 27, 1977.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, October 26, 1977*

The House met at 12 o'clock noon.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WRIGHT) laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
October 26, 1977.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

He that dwelleth in the secret place of the most High shall abide under the shadow of the Almighty.—Psalms 91: 1.

Eternal Father, amid the demands of daily duties and the troubles of trying times we would dwell for a moment in the secret place of the most High and fill our minds with the thoughts of your presence. Here and now grant unto us honest hearts and spirits strong that we may be more than a match for the movements of our modern time.

By Your grace may we rise above all that is narrow, petty, and selfish, and with increased devotion may we work together for the well-being of our Nation and the welfare of all mankind.

To this end guide us in our thinking, direct us in our speaking, and govern us in our living that at the end of the day we may hear your voice say: "Well done, good and faithful servant." Amen.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, under rule I, clause 1, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. BOLLING. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 695]

Addabbo	Derrick	Mitchell, Md.
Armstrong	Diggs	Mollohan
Ashley	Dornan	Obey
Bedell	Drinan	Patten
Byron	Edwards, Calif.	Pritchard
Cederberg	English	Roncalio
Chappell	Harsha	Scheuer
Chisholm	Heckler	Skubitz
Clawson, Del	Hollenbeck	Teague
Collins, Ill.	Ireland	Thompson
Conte	Kemp	Udall
Conyers	Koch	Waggonner
Cornwell	Leggett	Whalen
D'Amours	McHugh	Wiggins
Davis	Madigan	Wolff
Dellums	Mikva	Wydler

The SPEAKER pro tempore. On this rollcall 386 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 9090. An act to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1750) entitled "An act to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for 18 months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. WILLIAMS, Mr. PELL, Mr. HATHAWAY, Mr. NELSON, Mr. RIEGLE, Mr. JAVITS, Mr. SCHWEIKER, Mr. CHAFEE, and Mr. HAYAKAWA to be the conferees on the part of the Senate.

DOES THE CARTER WHITE HOUSE PALACE GUARD HAVE TO RESPECT THE LAW?

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, in his acceptance speech at the Democratic National Convention, July 15, 1976, Jimmy Carter said:

It's time for our government leaders to respect the law no less than the humblest citizen so that we can end once and for all a double standard of justice . . .

Strong words. They would give you the impression that Mr. Carter would demand from his aides not only technical obedience to the letter of the law, but "respect" for its spirit.

Now we see that Midge Costanza, one of his palace guards recently held a fundraiser to pay off old campaign debts and failed to file a report with the Federal Election Commission until media stories told of her failure to obey the law. Columnist Patrick Buchanan has this to say about the Costanza affair:

What we have here, folks, is naked exploitation of high office for personal benefit . . . When Bert Lance inquired of White House counsel if he, too, might hold a fundraiser to pay off his 1974 campaign debts, he was told no way . . .

Alan B. Morrison, director of the Public Citizen Litigation Group, writing in the "Washington Post," October 20, 1977, said:

. . . what Costanza did can only be described as trading on her position in the White House for her own personal benefit.

Mr. Speaker, when you have someone guilty of "naked exploitation of high office for personal benefit" and "trading on her position in the White House for her own personal benefit," there is only one thing she can do: resign. I believe the President owes it to the American people to ask for her resignation.

THE $20,000 MIDGE-UNDERSTANDING

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, in the Washington Star of October 21, 1977, there is an account of the Midge Costanza fundraising controversy containing a remark by Ms. Costanza that goes far to show why calls for her resignation have been made.

Ms. Costanza cannot see what all the fuss is about because her debt was "only $20,000." Ms. Costanza is quoted as saying that "her case was different because the debt was only $20,000 and there was not a person in the White House who did not think I could get on a plane and get my friends in Rochester to raise it."

Only $20,000, Mr. Speaker? I do not know about you but when I think of that much money I do not dismiss it with "only." Could it be that since she has come to the Carter White House Ms. Costanza has taken on the views of those Washington "insiders" Jimmy Carter ran against?

In effect she is saying: Why should I be held to strict standards of accountability? It is only a mere $20,000.

Mr. Speaker, $20,000 may not be much to Ms. Costanza. But those unions and lobbyists who helped give her that much money know exactly how much it is worth when you are giving it to the President's chief aide dealing with those with an interest in Government policies. If Ms. Costanza does not think $20,000 is not a lot of money maybe the time has come for her to retire, return to Rochester and start earning money—the hard way.

THE COSTANZA EPISODE

(Mr. JACOBS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JACOBS. Mr. Speaker, the past two speakers have explained the difficulty at the White House, and I see puzzlement on the faces of most of the Members of the House as to what possibly can be done to bring about a happy conclusion to this unpleasant episode.

Mr. Speaker, I would suggest that if the gentlewoman in question should, in fact, have difficulties with the law, we could always call on a former President to pardon her.

THE COSTANZA AFFAIR

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker, after all of the anti-Italo-American, sexist statements I have heard on the floor of this House coming from the Members sitting over here on the other side of the aisle, with some $8 million in a slush fund ready to be used for any circumstance, I can just say that I am heartsick.

THE COSTANZA EPISODE

(Mr. HARKIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARKIN. Mr. Speaker, I understand that the problems that arose with Miss Costanza regarding this money came about when she ran for Congress.

To bring this matter to a happy conclusion, Mr. Speaker, I would suggest that this body bring forth a bill for public financing of election campaigns, and once and for all, get out from underneath this black, dark cloud that has been hanging over us for years so that once again we can stand and debate issues fairly and squarely in front of the public, without having to go to these $8 million slush funds to run for office.

COMMENTARY ON THE WORK OF THE FEDERAL ELECTION COMMISSION—MIDGE COSTANZA'S FUNDRAISER

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKINSON. Mr. Speaker, I think that there has been a very interesting discussion here. I do not know about the slush fund; but if we had organized labor pouring money into our party as the people on the other side do, we would not need a slush fund.

However, let me say that we have just finished a hearing with the Federal Election Commission. The Federal Election Commission has arbitrarily and with a shotgun approach decided that they were going to have random audits of various Members' election accounts. They are not mandated to do this; they are not obligated to do this, but they are obligated to investigate official complaints.

Mr. Speaker, it has been almost 2 years now since the last primary started. They have not completed what they are mandated to do, but they are expending their time, energy, and resources in going into various Members' campaign accounts.

Now, Mr. Speaker, speaking of the FEC and political accounts, let us suppose for a moment that there was a very high assistant to the President of the United States who was in debt due to a political race. Further suppose that this assistant decided to get rid of that debt by the simple expedient of asking the Vice President of the United States to, in effect, become a fundraiser in order to pay off that debt. Finally suppose that this assistant simply "forgot" to do what the law specifically demands and that is file a report of the fundraiser with the Federal Election Commission.

What do you think woud happen if, let us say, President Carter were out of the White House looking in instead of the other way around?

I think we would hear many pious statements. I think we would be reminded of how a public servant must be above even the suspicion of impropriety. I think we would hear wailing and gnashing of teeth as again and again we were reminded of how that "Washington crowd" acts as if it were above the law. We would hear a call for resignation quicker than you can say "trust me."

Mr. Speaker, whether we are talking about human rights, or appearance of propriety—it is another example of double standard.

FLAGRANT VIOLATIONS OF RULES OF THE HOUSE

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, I rise to inform the House of one of the most flagrant violations of the House rules that I have seen in all of my 19 years in this body.

This morning the Committee on Post Office and Civil Service ordered reported to the House four bills with only seven members of that 25-member committee present.

House Rule XI, clause 2(l)(2)(A) clearly states:

> No measure or recommendation shall be reported from any committee unless a majority of the committee was actually present.

Not only was the action taken by these seven Members an abuse of the House rule, it also violated the committee rule 5(a) which requires one-third of the membership of the committee to be present for the purpose of marking up legislation. Amendments were adopted to three of these bills in violation of that rule.

Mr. Speaker, I wish to identify those Members present at this session so that the record will unmistakably show the action taken contravened one of the most important rules of this House. These Members were: Chairman NIX, Messrs. CHARLES H. WILSON of California, CLAY, LEHMAN, and HARRIS, Mrs. SCHROEDER, and Mrs. SPELLMAN.

A court reporter was present and I urge the Speaker and the House leadership to examine that transcript before taking any action on the reports which shall be filed on these bills.

The measures ordered reported were: H.R. 9603 relating to employment preference for certain employees of the Bureau of Indian Affairs; H.R. 3161, relating to the workweek of Federal firefighters; H.R. 3793, providing right to representation for Federal employees under investigation; and H.R. 6225, providing right to pre-termination hearing for Federal employees.

Mr. Speaker, the action taken by the seven members of the committee seriously breaches the rights of the minority Members of this House. I am amazed that my colleagues of the committee would engaged in such an outrageous tactic.

Mr. Speaker, I raise this matter not as a partisan issue for, as a matter of fact three of the four bills acted on this morning are opposed by the Carter administration. If this handful of Members wish to embarrass their own administration, at least it should be done legally and in compliance with the Rules of the House.

I appeal to the distinguished chairman of the committee, for whom I have the utmost respect and affection, to vacate the action of the committee this morning and to proceed in regular order.

THE LATE ALLEN HUNTER GARLAND

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, I rise to say a few words about a man who served his country well and is now dead.

Allen Hunter Garland was not a celebrity. No parks will be named after him; no public monuments erected.

His family will mourn him. His friends will know a loss. The public, however, will reckon little of the life and death of Al Garland.

But it should be recorded, I believe, that the public has reason to be proud of this American.

He was a brave American soldier, fighting with the infantry in the Battle of the Bulge and at Remagen bridgehead.

He was a skilled American negotiator who helped our Nation unleash the creative force of international trade.

From the first postwar round of trade negotiations under the General Agreement on Tariffs and Trade to today's Tokyo Round, he worked skillfully for access to world markets for American products on the basis of reciprocity.

He was barely out of his teens when he went to work for the U.S. Government. In war and peace he never ceased to ask himself what he could do for his Nation. His rise in rank in the Department of Commerce spanned 20 years. He devoted 7 more years of service in the office of the President's Special Representative for Trade Negotiations.

Fortunately for America, there are many Al Garlands serving our Nation

today. Let us remember him and praise his kind. And let us not forget that the achievements of our greatest statesmen always have and always will depend on the knowledge, dedication and plain hard work of civil servants like Al Garland.

MIDGE COSTANZA MUST GO

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, calling for resignation of a public official is something that must be carefully considered. It should not come just because you disagree with someone or even if you think someone has done something not in the public interest. A call for resignation should and must come, however, when a public official shows by his or her actions a contempt for the public and for the letter and the spirit of the law.

And this is why I think Midge Costanza should resign. Not because she is the first to officially welcome members of the Gay Liberation Army into the White House. Not because of her offensive remarks about Roman Catholic priests. No, she should resign because her private fundraiser for her own financial benefit and her failure to file a Federal Election Committee report show a contempt for our governmental processes. She decided to go ahead with a fundraiser to pay herself for a campaign debt and made sure the Vice President of the United States would be there. She said his presence in New York City is the only reason she held the fundraiser there. Then she simply and willfully failed to report to the FEC until newspaper accounts made it clear she had pocketed the money. She should resign and quickly. President Carter claims being "above suspicion" is the rule in his administration. She fails to meet the test.

APPOINTMENT OF CONFEREES ON H.R. 7, ELEMENTARY AND SECONDARY CAREER EDUCATION ACT OF 1977

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7) to authorize a career education program for elementary and secondary schools, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and without objection, appoints the following conferees: Messrs. PERKINS, FORD of Michigan, ANDREWS of North Carolina, BLOUIN, SIMON, ZEFERETTI, MOTTL, MURPHY of Pennsylvania, LE FANTE, WEISS, HEFTEL, CORRADA, KILDEE, MILLER of California, QUIE, BUCHANAN, PRESSLER, GOODLING, Mrs. PETTIS, and Mr. PURSELL.

There was no objection.

CONFERENCE REPORT ON S. 1019, MARITIME APPROPRIATION AUTHORIZATION ACT, 1978

Mr. MURPHY of New York submitted the following conference report and statement on the Senate bill (S. 1019) to authorize appropriations for the fiscal year 1978 for certain maritime programs of the Department of Commerce, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95-747)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1019), to authorize appropriations for the fiscal year 1978 for certain maritime programs of the Department of Commerce, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Maritime Appropriation Authorization Act for Fiscal Year 1978".

SEC. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce, for the fiscal year 1978, as follows:

(1) for acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, not to exceed $135,000,000;

(2) for payment of obligations incurred for operating-differential subsidy, not to exceed $372,109,000: *Provided, however,* That no funds authorized by this paragraph may be paid after the 240th day after the date of the enactment of this Act to any liner company unless its chief executive officer certifies under oath to the Secretary of Commerce that he (A) is using and will use reasonable diligence to insure that, for the period during which these funds are to be received, no company owner, employee, or agent will pay any rebates which are illegal under the Shipping Act, 1916, and (B) will fully cooperate with the Federal Maritime Commission in its investigation of illegal rebating in United States foreign and domestic trades, and in its efforts to end such illegal procedures;

(3) for expenses necessary for research and deveolpment activities, not to exceed $20,725,000;

(4) for reserve fleet expenses, not to exceed $5,137,000;

(5) for maritime training at the Merchant Marine Academy at Kings Point, New York, not to exceed $14,656,000; and

(6) for financial assistance to State marine schools, not to exceed $5,970,000.

SEC. 3. There are authorized to be appropriated for the fiscal year 1978, in addition to the amounts authorized by section 2 of this Act, such additional supplemental amounts for the activities for which appropriations are authorized under section 2 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs of public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

SEC. 4. Section 4 of the Maritime Academy Act of 1958 (46 U.S.C. 1383) is amended by striking out "$75,000" and inserting in lieu thereof "$100,000".

SEC. 5. Section 6(a) of the Maritime Academy Act of 1958, as amended (46 U.S.C. 1385 (a)), is amended by striking out "$600" and inserting in lieu thereof "$1,200".

SEC. 6. (a) Section 209(b) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1119 (b)), is further amended by striking out "and" after the semicolon at the end of item (7), and by inserting immediately after item (8) the following new items:

"(9) expenses necessary for extension and correspondence courses authorized under section 216(c) of this Act; and

"(10) other operations and training expenses related to the development of waterborne transportation systems, the use of waterborne transportation systems, or general administration;".

(b) The amendment made by subsection (a) of this section shall be effective for fiscal years beginning after September 30, 1978.

SEC. 7. Subsections (c) and (d) of section 216 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1126), are each amended by striking out "Commission" wherever it appears therein and inserting in lieu thereof "Secretary of Commerce".

SEC. 8. Section 509 of the Merchant Marine Act, 1936 (46 U.S.C. 1159) is amended by inserting in the fourth sentence thereof immediately after "eight knots" the following: ", or in the case of a ferry operating solely in point-to-point transportation which is designed to be of not less than seventy-five gross tons and to be capable of a sustained speed of not less than eight knots,".

SEC. 9. (a) There shall be in the Department of Commerce, in addition to the Assistant Secretaries provided by law as of the date of the enactment of this Act, one additional Assistant Secretary of Commerce who shall be appointed by the President, by and with the advice and consent of the Senate. Such Assistant Secretary shall receive compensation at the rate prescribed by law for Assistant Secretaries of Commerce, and shall perform such duties as the Secretary of Commerce shall prescribe.

(b) Section 5315 of title 5, United States Code, is amended by striking out paragraph (12) and inserting in lieu thereof:

"(12) Assistant Secretaries of Commerce (8).".

And the House agree to the same.

JOHN M. MURPHY,
MARIO BIAGGI,
RALPH H. METCALFE,
LEO C. ZEFERETTI,
BARBARA A. MIKULSKI,
PHILIP E. RUPPE,
Managers on the Part of the House.

DANIEL K. INOUYE,
WARREN G. MAGNUSON,
RUSSELL B. LONG,
ROBERT GRIFFIN,
TED STEVENS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1019) to authorize appropriations for certain maritime programs of the Department of Commerce, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

SECTION 2(1)

The Senate bill contains the language "not to exceed", whereas the House amendment does not. The House agreed to this minor technical amendment.

SECTION 2(2)

The House amendment included a provision that no operating-differential subsidy funds would be paid to any subsidized liner company unless its chief executive officer certifies that he has taken action to insure that no illegal rebates are being paid during the period for which the funds are to be received and also that he will fully cooperate with the Federal Maritime Commission in its investigation of illegal rebating.

The Senate bill contained no comparable provision and the Senate Conferees rejected this provision in the House amendment. The Conferees believed that the House amendment provided a sanction which discriminates against a particular class of carriers, namely, the subsidized U.S. liner fleet. Foreign flag liner companies and nonsubsidized U.S. liner companies would not be required to make any certification and the sanction would not be applicable to them.

Moreover, the Conferees felt that given the farflung nature of our ocean trades it would be unrealistic and unduly onerous to require that the chief executive officer be an absolute guarantor that no employee, agent, etc. is rebating.

Currently, the Federal Maritime Comission is conducting a comprehensive and deliberate investigation of all ocean carriers, U.S., subsidized and non-subsidized, and foreign flag in regard to rebating practices. More importantly, both the House and the Senate are now considering a comprehensive anti-rebating bill with provisions designed to enable the Federal Maritime Commission to deal with all ocean carriers on an equal basis.

Accordingly, the Conference adopted an amendment to the House amendment which postponed the certification requirement for a period of 240 days after the enactment of the Act in order that during such period effective and general anti-rebating legislation could be enacted.

The Conference also adopted an amendment modifying the nature of the certification to be made by the Chief executive officer so that the chief executive officer will certify that from the effective date of the amendment, he will use reasonable diligence to insure no employee, agent, etc. is rebating.

SECTION 2(5)

The Senate bill authorizes $14,633,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, whereas the House amendment authorizes $14,656,000 for this purpose. The Senate agreed to this increase of $23,000 which will be used to replace barracks windows as part of the ongoing modernization program at the Merchant Marine Academy.

SECTION 2(6)

The Senate bill authorizes $5,370,000 for financial assistance to the State marine schools, whereas the House amendment authorizes $5,970,000 for this purpose.

The amount in the Senate bill included an increase of $150,000 to fund an increase in the annual maintenance and support payments to the State marine schools from $75,000 to $100,000. The amount in the House amendment included an increase of $750,000 for improvements to the five training vessels on loan to the State marine schools. The increased amount of $600,000 in the House amendment was agreed to by the Senate.

SECTION 4

Section 4 of the Senate bill amends section 4 of the Maritime Academy Act of 1958, to increase the annual maintenance and support payments to the State marine schools from $75,000 to $100,000. The House amendment does not contain a comparable provision. The House agreed to this provision in the Senate bill in recognition of the acute need of the institutions to improve their facilities.

SECTION 5

Section 5 of the Senate bill is identical to section 4 of the House amendment, and set forth as section 5 of the Conference Report.

SECTION 6

Section 5 of the House amendment amends section 209(b) of the Merchant Marine Act, 1936, to generally require annual authorization of appropriations for extension and correspondence courses offered by the Maritime Administration, and for other elements of expense now provided for in the Operations and Training Account of the annual appropriations bill, but not now covered by the annual authorization bill. The Senate bill does not contain a comparable provision. The Senate agreed to section 5 of the House amendment.

SECTION 7

Section 6 of the House amendment amends section 216 (c) and (d) of the Merchant Marine Act, 1936, to substitute "Secretary of Commerce" for the word "Commission" wherever it appears. The Senate bill does not contain a comparable provision. The Senate agreed to this technical amendment.

SECTION 8

Section 7 of the House amendment amends section 509 of the Merchant Marine Act, 1936, to increase from 75 to 87½ percent, the amount of Title XI Guarantee financing available to a ferry operating solely in point-to-point transportation which is designed to be of not less than seventy-five gross tons and capable of a sustained speed of not less than eight knots. The Senate bill does not contain a comparable provision. The Senate agreed to this minor amendment.

SECTION 9

Section 6 of the Senate bill generally provides for one additional Assistant Secretary of Commerce to be the head of the Office of Congressional Affairs and to be the principal advisor to the Secretary of Commerce on congressional relations matters. The House amendment does not contain a comparable provision. The Houses agreed to this Senate amendment.

JOHN M. MURPHY,
MARIO BIAGGI,
RALPH H. METCALFE,
LEO C. ZEFERETTI,
BARBARA A. MIKULSKI,
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Managers on the Part of the House.
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RUSSELL B. LONG,
ROBERT GRIFFIN,
TED STEVENS,
Managers on the Part of the Senate.

PROVIDING FOR MANDATORY INSPECTION OF DOMESTICATED RABBITS SLAUGHTERED FOR HUMAN FOOD

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2521) to provide for the mandatory inspection of domesticated rabbits slaughtered for human food, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 19, strike out "date of enactment" and insert "effective date".

Page 3, line 13, strike out "1977" and insert "1978".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, I do so to ask the Chairman what change is made by the Senate amendments in this bill.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I will be more than happy to yield to the gentleman.

Mr. FOLEY. Mr. Speaker, the two changes adopted by the Senate amendments are contained on page 2, line 19, one of which strikes the words "date of enactment" and substitutes "effective date". We are dealing with one section of the bill. In section 3 it strikes the date "1977"—October 1, 1977—and substitutes "1978".

Mr. SEBELIUS. In other words, it delays its enactment by another year? Its effective date has been backed up by 1 year?

Mr. FOLEY. That is correct.

Mr. SEBELIUS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

A motion to reconsider was laid on the table.

REQUEST FOR PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

PROVIDING FOR CONSIDERATION OF H.R. 9346, SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 839 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 839

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 2(1)(6) of rule XI and sections 303(a)(2) and 303(a)(4) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the

State and local governments, and of nonprofit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed three and a half hours, three hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, and a half hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read for amendment and shall not be subject to a demand for a division of the question in the House or in Committee of the Whole, and all points of order against said substitute for failure to comply with the provisions of clause 5 of rule XXI and of sections 303(a)(2) and 303 (a)(4) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. No amendments to the bill or to the committee amendment in the nature of a substitute shall be in order except the following amendments to the committee amendment in the nature of a substitute; said amendments shall be in order any rule of the House to the contrary notwithstanding, shall not be subject to amendment except as specified in this resolution, shall not be subject to a demand for a division of the question in the House or in Committee of the Whole, and shall only be considered in the following order:

(1) the amendment recommended by the Committee on Post Office and Civil Service now printed in the bill, and said amendment shall be subject to a substitute consisting of the text of an amendment printed in the Congressional Record of October 17, 1977, by, and if offered by, Representative Fisher of Virginia;

(2) an amendment printed in the Congressional Record of October 17, 1977, by, and if offered by, Representative Jenkins of Georgia to title I of the committee amendment in the nature of a substitute;

(3) an amendment printed in the Congressional Record of October 18, 1977, by, and if offered by, Representative Pickle of Texas;

(4) an amendment printed in the Congressional Record of October 18, 1977, by, and if offered by, Representative Corman of California;

(5) an amendment printed in the Congressional Record of October 17, 1977, by, and if offered by, Representative Steiger of Wisconsin;

(6) an amendment printed in the Congressional Record of October 17, 1977, by, and if offered by, Representative Ketchum of California;

(7) an amendment printed in the Congressional Record of October 17, 1977, by, and if offered by, Representative Jenkins of Georgia adding a new title VIII to the committee amendment in the nature of a substitute; and

(8) an amendment in the nature of a substitute for the committee amendment in the nature of a substitute consisting of the text of the bill H.R. 9595 if offered by Representative Conable of New York.

Debate under the five-minute rule on each amendment made in order by this resolution to the committee amendment in the nature of a substitute or to an amendment thereto shall continue not to exceed thirty minutes, to be equally divided and controlled by the proponent of the amendment and the chairman of the Committee on Ways and Means or his designee. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, this is an unusual rule and a complicated rule, but it is a rule very carefully designed to be fair and equitable. It is designed especially at the request of the two committees involved and it is designed to give the House and its Members an opportunity to work their will on a very complicated, difficult, and important matter.

When the rule was before the Committee on Rules, it was clear that all the members, virtually all the members of the two committees involved, were supportive of the rule and felt that it was necessary to have this kind of rule in order to deal with this extraordinarily difficult matter. That being the case, Mr. Speaker, I hope there will be little real opposition to the matter. I think it should be considered. I think the rule should be adopted. I think that the matter before us should be acted on.

I, therefore, reserve the balance of my time.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. BOLLING. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the rule on pages 2 and 4 refers to debate under the 5-minute rule. Reading the context of the rule, I do not see any 5-minute rule permitted. All I see is a 30-minute rule to be controlled by the proponents and the opponents of each of the eight amendments made in order. That severely limits the usual rights of all Members, save a select few.

This is a rather extraordinary approach to the 5-minute rule. I assume it even prohibits pro forma amendments. That is a rather severe limitation on debate, even if the matter is extraordinarily difficult.

Mr. BOLLING. Mr. Speaker, there is no question it is a limitation on debate, but it really is not quite as limited as debate used to be on virtually all Ways and Means Committee matters. It used to be they were considered under closed rules, so this is an attempt to give to the House an opportunity in an orderly fashion to deal with the key questions that came up in the various committees. In that sense, it is a liberation. In another sense, it is a limitation.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield further, I would say to the gentleman that one man's liberation is another man's slavery. It seems to me if pro forma amendments are not in order then we do not have any rights under the 5-minute rule. The Committee on Rules is dealing with a rather euphemistic phrase even to refer to it. I thank the gentleman.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the gentleman from Missouri has adequately described this rule. I would like to emphasize that it is a closed rule, except for certain amendments made in order by the Committee on Rules—to be offered by whom? Members of the Committee on Ways and Means. No other Member of this House will be permitted to offer an amendment, nor can any of these amendments to be proposed by the eight members of the Committee on Ways and Means be amended. We either take them or leave them just as they are proposed.

As a matter of fact, it is another one of these "trust us" arrangements made in order for the Ways and Means Committee.

Mr. Speaker, Members of the House will once again be relegated to the role of second-class Congressmen by this resolution, with the exception of members of the Committee on Ways and Means. How does this come about? We always hear the argument in the Committee on Rules that you cannot offer any amendments to tax bills on the floor in this body because we might inadvertently adopt an amendment which would cost the Treasury some revenue. Then what happens when the bill gets over on the other side of this Capitol Building? Do they have such a rule?

No, all Members of the U.S. Senate can offer amendments to tax bills on the floor. I do not know how the Ways and Means Committee can prevail as often as it does before the House Rules Committee and before this body on these requests for so-called modified closed rules, but it does; and surely it did in this instance.

Let me say that, being from Ohio and having the Ohio State public employees, schoolteachers, county employees, local employees, fully covered by their own retirement systems, it goes without saying that we had more mail in the last week against mandating their coverage under the social security system than during any comparable time in my memory. And certainly, it goes without saying that I am going to support the Fisher amendment, even though I cannot amend it, because it does strike out their coverage under social security. I applaud him as a member of the Ways and Means Committee for offering the amendment.

Let me say that I cannot believe that the Ways and Means Committee would attempt to bring all of these millions of people not now covered by social security, and having their own individual retirement systems, into the social security system without the benefit of any hear-

ings. But, this fact was so testified before the Rules Committee—no hearings.

The Ways and Means Committee said: "We want you, we are going to bring you in within a 2-year period. After we bring you in, we are going to have a study for the purpose of determining how we will treat you and your tremendous investment in your own retirement systems." Would this be fair and equitable?

Well, hopefully this procedure will not be agreed to by this House. Let me say I have heard from the Governor of Ohio, in opposition to this proposal. I would like to read what he says in paragraph 2 of his letter:

Should this bill become law in its amended form, it would immediately cost the State of Ohio over $35 million in annual payroll taxes.

Where would this extra money come from?

We had testimony before the Rules Committee that another State, the State of California, would immediately have increased costs of something like $400 million. And who prepared these cost figures? Well, they were prepared by the National Conference of Legislatures; the National League of Cities; the National Association of Counties; and the United States Conference of Mayors. I could insert other figures in the RECORD as to how much it would cost other States, how much it would cost various counties, and how much it would cost certain cities if this mandated coverage put in by the Ways and Means Committee is not stricken by the Fisher amendment but I will not do so. They are all available to the Members.

Let me say in Ohio, and probably a good many other States, many schools are closing. Why? Because of lack of funds. Yet, believe it or not, they are bringing in the teachers and other school employees under this provision and would be putting additional financial burdens on the school districts.

How much would this cost these school districts? Well, it will cost them an added 6 percent of their payroll at the beginning with more later. I have a mailgram from Dr. Franklin Walters, superintendent of public instruction, Ohio Department of Education. Let me read just a paragraph of what he says about this legislation before us today.

This change—

Meaning bringing schoolteachers in under social security—

could in effect destroy many of the public employee retirement systems such as the State Teachers Retirement System in Ohio. The extra costs placed on school districts to participate in a dual system, and other differences in the system such as retirement age, render the two systems incompatible and would create great financial strain on school districts. Much further study is required before such a move should be considered.

Mr. Speaker, schoolteachers are underpaid, in my opinion, for the valuable and lasting service they provide. I know it to be a fact that many of them have taken a lesser salary over the years of their service with the thought that they would have an adequate retirement system—paid for by deductions of 8 percent from their paychecks and payments of another 13 percent by the board of education—awaiting them when they no longer answer the class bell. To now deny them this retirement or to modify it in any way, would be unfair and wrong.

Where would the school districts, which are having a hard time keeping their doors open now, get this added money to pay into the social security system when voters are rejecting operating levies in some school districts at present?

I have another telegram from Louis Koenig, chairman of the Ohio State Teachers Retirement Board, in opposition to this provision.

I have a wire from John Hauck, executive director of the Buckeye Association of School Administrators, against it.

I have a telegram from the president of the Ohio Federation of Teachers, AFL–CIO, which reads:

As you know, on October 20, 1977, the House of Representatives is scheduled to hear H.R. 9346 which would place the State Retirement Systems of Public Employees under the national Social Security System.

Some states have public employees who are covered both by their own retirement systems and social security. This is not the case in Ohio nor do Ohio teachers desire to be included in the Social Security System now.

Talk about local government. We have heard from practically every village and every city in my district, in opposition to this provision. Why? Because they do not have these extra funds and their employees are satisfied with the retirement systems they now have.

Mr. STEIGER. Mr. Speaker, will the gentleman yield?

Mr. LATTA. When I finish my statement I will be happy to yield to the gentleman, a member of the Committee on Ways and Means, which reported this bill.

Mr. Speaker, let me say I have a letter from the city of Bowling Green, which sets forth how much this added coverage will cost this community.

Mr. Speaker, I wonder if the Committee on Ways and Means gave any thought as to how the additional funds would be raised if this provision became law?

Mr. GIBBONS. Mr. Speaker, if the gentleman will yield, may I help the gentleman on that point?

Mr. LATTA. No, I do not need the gentleman's help at this point.

Mr. Speaker, let me say that no thought—no thought—was given by the Committee on Ways and Means, which had no hearings on it, as to where these extra dollars would come from to maintain these local communities, counties, school districts, and the States, if this extra burden was thrust upon them.

Mr. Speaker, let me say that I have a telegram in my hand from the Ohio County Officials Association, in opposition to this provision.

And so the opposition goes. I just wished I could insert all of the letters we received in opposition to this proposal in the RECORD, but it would be too costly to do so.

Mr. MOTTL. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Ohio (Mr. MOTTL) who is not a member of the Committee on Ways and Means, but who knows something about the Ohio situation if this provision stays in the bill.

Mr. MOTTL. Mr Speaker, I rise to oppose the rule and the bill because I sincerely feel that the entire effort by the Ways and Means Committee, to bolster the financially distressed social security trust funds, is a total disaster.

Their answer to the social security trust fund dilemma is to add Federal, State, and local employees into the social security system when most of these employees are extremely reluctant to join and are presently happy with their own retirement systems.

There has been no explanation by the Ways and Means Committee as to what will happen to the present retirement funds they have paid into for so many years.

Therefore, I support the Fisher amendment to exclude the Federal, State, and local employees from the social security system.

Another aspect or this bad piece of legislation is to raise dramatically the taxes charged to the employer and employee over the next few years.

I would suggest that the Ways and Means Committee consider my proposal which I have introduced in the past two sessions of Congress that would impose a severance tax on natural resources such as oil, natural gas, coal, uranium, timber, salt, et cetera, that are extracted by private companies from Federal lands. The proceeds of this severance tax would be used to make solvent once again the social security trust funds. I think this is a much more palatable solution to the entire dilemma.

I also oppose the rule because there is not an opportunity to offer additional constructive amendments to the Ways and Means Committee's proposal as contained in H.R. 9346.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Ohio (Mr. WYLIE) who knows something about this.

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Speaker, I want to state my strong opposition to the incorporation of public employee retirement systems into the social security fund.

As a member of the general assembly for the State of Ohio, I participated in the drafting of legislation on which the five State employee retirement funds in the State of Ohio are based.

I have a letter here from the Ohio Education Association, Sally Savage, president, who states:

The Ohio Education Association and its members are totally and unalterably opposed to mandatory inclusion of Ohio teachers under Social Security.

She talks about the fine, well-funded, and actuarially sound teacher's retirement system which she thinks will be jeopardized by inclusion in this system.

So I think the gentleman from Ohio (Mr. LATTA) has performed a very valuable service by his statement. I, too, have received more mail on this particular issue than on any issue since I have been in Congress. I am unalterably opposed to the inclusion provision and I will support the Fisher amendment. I thank my friend for yielding and wish to commend him for his statement.

Mr. LATTA. Mr. Speaker, I thank the gentleman for his comments.

Let me just continue. I have a couple more things to say, and then I will be happy to yield.

I was happy to read this morning that Secretary Califano has felt the heat and saw the light on the Fisher amendment and is now supporting it. This indicates what people at the grassroots can do when they get aroused on an issue and let their voices be heard.

I am glad the administration got the word, but Califano should have gotten the word on some of the other amendments made in order which he is not supporting. He is only supporting the Fisher amendment, according to the Washington Post of October 26, 1977. He is not supporting, for example, the Pickle amendment which is made in order by this rule.

In the legislation before us today, there is a provision for borrowing from the General Treasury for social security purposes. What would this mean? It means that whenever they run low, they can borrow what they need from the General Treasury. Now, the people have already spoken out against financing social security from general revenues in no uncertain terms. Once they dip in the General Treasury, how could they ever pay it back? Raise more taxes and nobody wants more taxes.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I will be happy to yield to the chairman of the Committee on Ways and Means.

Mr. ULLMAN. Mr. Speaker, I think the gentleman would want the record to be perfectly clear. In the event that the borrowing authority were triggered, I think the gentleman would want the record to be clear in stating that the bill provides for an automatic rate increase, and that would result in a payback to the general fund. That is an automatic tax rate increase, if they borrow, so we know it is going to be paid back.

Mr. LATTA. Mr. Speaker, let me ask the chairman of the Committee on Ways and Means this question: How could the gentleman at this moment tell us how much that increase would be when he does not even know how much borrowing would be required?

Mr. ULLMAN. Well, we do have a formula. The rate increase will remain in effect until the payback is accomplished, and only for that long. I think it is a good trigger mechanism, and it maintains the provision as a very sound proposition.

Mr. LATTA. Mr. Speaker, this points up in a small way why we are in the trouble. We thought we had actuarially sound recommendations coming from the Committee on Ways and Means in the past.

We cannot estimate the size of the tax increase today, because we do not know how much they are going to borrow tomorrow. To say that we can do this is, I think, a little bit ridiculous.

Everybody knows the social security system is in financial trouble. In a couple of years the social security system is going to be broke unless something is done about it. Something has to be done about it, but we do not have to raid other retirement systems to do it.

We had testimony before the Committee on Rules that they really were not going to raid these systems, but then in the next breath they say the only way we can have the Fisher amendment is to put in a tax to offset what they would have gotten from these other retirement systems. They cannot have it both ways.

The question is: How did the social security system get into the financial condition it is in, in the first place? Well, because the pay-outs were greater than the pay-ins. It is not actuarially sound, and we ought to do something about it. We ought to recognize this problem and then make it actuarially sound.

We should not do as they would have us do today: Pass a rule that says, "Trust us. Don't amend this bill. Our actuaries are the best."

These are undoubtedly the same group of actuaries who have been advising the committee over the years.

What should be done about putting the system back on an actuarially sound basis? Should it not be fair for the people who are going to participate in the retirement fund to help make it actuarially sound?

Mr. GIBBONS. Mr. Speaker, will the gentleman yield on that point?

Mr. LATTA. I will be happy to yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, I am impressed with the gentleman's sincerity, his honesty, and his desire in wanting to do the correct thing. I want to help him understand this program a little, if I may.

May I ask, first of all, is the gentleman for this rule or against this rule?

Mr. LATTA. I am against this rule.

Mr. GIBBONS. Then the gentleman and I are on the same side.

Let me help explain why the public employees in Ohio do not want to come in the system. It is because they can get in anyway.

I know the gentleman represents all the people in his district from Ohio, not just the public employee.

Here is what the public employee can do and does do today: A public employee is not prohibited from participating in the social security system, so the public employee in Ohio contributes as little as $111 in a lifetime in taxes to the social security system.

Does the gentleman know how much that public employee draws out the first day he is retired? Does the gentleman know how much he would draw out in the first month's payment after having contributed $111?

Mr. LATTA. Is the gentleman referring to this proposed legislation?

Mr. GIBBONS. No; I am referring to existing law.

Mr. LATTA. The existing law came out of the Committee on Ways and Means. They had a closed rule so that other Members could not amend it on the floor.

Mr. GIBBONS. Mr. Speaker, if the gentleman will yield further, the existing law would allow that public employee to draw $114 in benefits for 1 month after having made contributions in a lifetime of just $111 to the social security system. Therefore, the cost of that would be passed on to other taxpayers in Ohio, whom the gentleman represents.

Mr. Speaker, I am sure that the gentleman wants to be fair. He does not want to prefer public employees over all of the other people.

Mr. LATTA. Absolutely not. I just want to protect the retirement funds to which these people have contributed over the years.

Mr. Speaker, I refuse to yield any further as my time is running out.

Mr. GIBBONS. I know the gentleman wants to be fair about this matter.

Mr. LATTA. You are correct about that.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. LATTA) refuses to yield further.

Mr. LATTA. That is correct, Mr. Speaker.

I will just answer the gentleman by saying that he is a member of the Committee on Ways and Means, and it brought out this legislation under a closed rule so that it cannot be amended other than in the form dictated by the Ways and Means Committee. You either take it or leave it.

Mr. Speaker, I am glad to hear that the gentleman is with me in opposing this rule.

As I mentioned before the Committee on Rules, they have the power in that committee to bring out legislation to prohibit precisely what the gentleman referred to here, so-called double dipping.

That is all they have to do, Mr. Speaker. If they are against that, all they need to do is to bring the legislation out here on the floor and pass it.

Mr. GIBBONS. Mr. Speaker, if the gentleman will yield further, that is what we have done in this bill.

Mr. LATTA. No, what the Committee on Ways and Means is attempting to do is to put public employees into the system who do not want in; and I am going

to see to it, as far as my vote and influence is concerned, that they are not brought in.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Speaker, I was interested in the comment of the gentleman from Florida (Mr. GIBBONS) about how someone could pay $111 in a lifetime to the social security system and get $114 in benefits the first month of retirement under the system. I do not question that.

However, when the social security amendments were brought out over the years, as the gentleman said, it was done under a closed rule. They assured us that they were actuarially sound.

I would say, based on that assurance, they are actuarially sound.

Mr. LATTA. Mr. Speaker, let me just say in conclusion that I think the public employees who are in the State systems or the county systems or in the local systems are going to prevail on this issue this time. They are going to prevail, but they must to remain vigilant. These same forces are going to be back here next year or the next year attempting to raid their retirement systems. So I caution these public employees to be forever vigilant and alert if they want to retain and maintain their actuarially—and I repeat "actuarially"—sound retirement systems in the future.

Mr. BOLLING. Mr. Speaker, I have no further requests for time at the moment.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN. Mr. Speaker, I oppose the rule to H.R. 9346 because of the mandatory inclusion provisions. I agree that there are some good factors in this bill which is coming up before us; but the fact that we will not have the opportunity to amend or change the three alternatives or the three options which we have before us, that are mandatory inclusions, causes me to rise in opposition to the rule.

Mr. Speaker, let us look at the three options which the Committee on Rules has given us.

One excludes Federal employees from the social security system. The price of this amendment is a blatant discrimination against those employees in the State and local and municipal systems.

Option No. 2 excludes not only Federal workers, but also State and local workers and nonprofit employees. The price of this amendment is that we are going to have to pass a tax increase even greater than the one the bill has in it.

The third option they give us is to put everybody in the social security system, including ourselves and the staffs of the Congress.

Mr. Speaker, I suggest that there are the three options which the Committee on Rules has given us. I do not think that these options are adequate to address the problem we have today. The social security problem confronting us is more than just something that should be done in a day or in 2 weeks.

The gentleman from Ohio (Mr. LATTA) indicated that the people back home at the grassroots level are upset about this and they are writing to us and calling us. Indeed, this legislation was proposed to be on our calendar last week before they ever got the word of what we were going to do to help them. Thank goodness, we did not get it last week. We have it this week, and over the weekend they have been calling us, and they have been writing to us. I suggest to the Members that in my own State 44,000 teachers are going to be placed under the social security system against their will, and we are telling them that we are not going to affect at all their pension system. Who knows? We do not know. The Committee on Ways and Means has not told us. You and I will be voting on amendments on things we do not have full knowledge of.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Speaker, while I normally do not support a closed or modified open rule, I am willing to face facts. This is the only rule we could get. I would like to see the whole body debate in depth everything that has been said here.

I do want to correct one statement that was just made on my side of the aisle, and that is that the public employees did not hear anything about this until last Wednesday. That is baloney. It was announced on September 8. The hearings took place in the subcommittee I believe on September 18. If they did not know anything about this, believe me, they have got to be deaf, dumb, and blind.

I am asking this body to pass this rule only so we can get on with the debate on a bill that is very necessary. I hope that some of the amendments can be adopted. I do not believe that the bill in its entirety is perfect. I believe that the rule before us is the very best that the Committee on Rules can come up with, and I ask that the Members support the rule.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN. Mr. Speaker, this rule is a good innovation. For years the intertwining complexity of tax legislation was protected from floor amendments that would raid the Treasury, by the device of a closed rule. That way, no amendments whatsoever could be considered by the House.

Recent efforts to open this process to the 398 congressional districts not represented on the Ways and Means Committee have been less than satisfactory. In effect, these rule experiments favored amendments only if they were offered by liberal Democrats. That denied the opportunity for the House to consider amendments that came from any rival philosophy.

To open up the rule entirely so as to make in order any amendment would unfortunately set the stage for passing a lot of disastrous proposals. It would be irresistibly tempting, for example, to amend social security to pay out bigger benefits without having to worry about either a corresponding tax increase or the fiscal predicament of the system.

With one exception; namely, the amendment to be offered by the Committee on Post Office and Civil Service, this rule sets a standard of fiscal responsibility. It requires (with that one exception) that amendments must balance expenditures and revenues so as not to change the fiscal balance of the overall package.

That makes sense, but it ought to be extended to all Members.

If you want to increase benefits to those over 65 who are still gainfully employed, you must combine that with a tax increase to pay for it.

If you want to reduce the tax increase of this bill, you must reduce benefits somewhere in order to maintain the balance.

If you want to allow some 6 million public employees to continue to be able to qualify for social security benefits that will exceed what they put into the system, by excusing them from mandatory universal coverage, then you must tie that to a substitute tax increase on the other 100 million workers. You've got to do that to pay for continuing the windfall benefit to any public employees who take legal advantage of the present system. Somebody has got to come up with the billion dollars.

That is a sound concept for a tax bill rule, If you want to sweeten the payout—you must also define who will have to pay more in.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I rise in strong support of this rule. It is not a perfect rule. It is not the best of possible parliamentary situations when every Member in this body cannot propose anything he wants. But I tell the Members quite frankly that our propensity for doing whatever lovely thing we want to do whenever we want to do it, regardless of the consequences, is one of the reasons that we have got the social security system in some trouble. This rule is necessary.

The rule is carefully designed, as the gentleman from Missouri said, to try to deal with the major options that we think the Members may want to address in the course of considering how to improve the situation of the social security system. Unless we provide financing as well as the opportunities for providing benefits—unless we do that, we can be sure the situation of the social security system will get worse.

It has been said that the Ways and Means Committee has not performed well because we are not in an actuarially sound condition at this point. I want to recall to the Members that in 1972, in a bill that did not come from the Ways and Means Committee at all but was a Senate amendment to a debt ceiling bill, we provided for a 20-percent benefit increase with no financing whatsoever except a revision of the actuarial assumptions, and everybody who was in Congress at that time participated in that wonderful opportunity to provide benefits to people without the unpleasant other side of the obligation: the financing.

The Ways and Means Committee could not have anticipated the birth rate, the unemployment rate, or the fact that we were going to have continuing increases in the longevity and the number of retired people who are going to be drawing these benefits for extended periods of time.

The antidote for this actuarially unsound condition obviously is not to go to a situation in which once again we can provide every benefit we want regardless of the cost to a closed-end system. So I ask the Members in accepting this less-than-perfect rule to consider what the realities facing us are rather than what they would like as a parliamentarily maximum option type of amendment procedure.

We simply must face this issue. Unless we are willing to face it on a realistic basis, we can foresee only further difficulty with the social security system.

Mr. LATTA. Mr. Speaker, I yield 1 additional minute to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN. Mr. Speaker, I want to get back to my 44,000 Missouri schoolteachers who have just found out what is going to happen to them. We are being asked to vote on things that are going to affect not only my Missouri schoolteachers but also firemen in Florida, policemen in Pennsylvania, college professors in Kansas, and road workers in Rhode Island. I say let us oppose the rule and send it back and find out the answers to some of the questions we have and then let us consider what the ramifications will be for not only the elderly but also for those now in their thirties, forties, and fifties who, if we do not make some changes, will find they are not going to receive any benefits from their social security payments.

Mr. BOLLING. Mr. Speaker, clearly this rule on this very important matter should be passed.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from California.

Mr. KETCHUM. I thank the gentleman for his courtesy in yielding.

I simply take the time to ask a question. Under the rule any of the amendments made in order under the rule must be balanced. If an amendment is offered to take something out or add something in, it must be accompanied with a wage base increase or tax increase to bring the bill back into balance. Is my understanding correct?

Mr. BOLLING. That was the underlying basis for the Rules Committee action. The chairman of the Ways and Means Committee testified to that effect in the Rules Committee, and it is my understanding that amendments made in order would be balanced.

Mr. KETCHUM. I appreciate the gentleman's courtesy in yielding.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I understand if the loss were $1 billion due to a certain amendment, that loss would have to be made up by providing $1 billion in new revenues. The amendments would have to be self-supporting.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Oregon.

Mr. ULLMAN. The gentleman is correct. If the amendments are carried, then the increased benefits would have to be compensated by increases in taxes to make up for that. Insofar as the Federal, State, and local government employees are concerned, there will be a Fisher amendment that will totally accommodate their problem. If we remove those groups, there will be a slight impact on the fund, and therefore we have to refurbish the fund with a small tax increase. But I do not think there is a Member here who would want to deplete the fund and have it get into an unsound condition.

So if a Member opposes the inclusion of the Federal and State and local government employees, there is an amendment ready-made to take them out of the bill.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, it seems to me the gentleman from Missouri (Mr. BOLLING) and the gentleman from Oregon are not in agreement. As I understood the answer to the question of our colleague, the gentleman from California, every amendment has to be self-contained; in other words, if that amendment contains an increase in expenditure, that same amendment would have to contain an increase in taxes.

Is that wrong? According to what I understood the gentleman from Oregon to say, the amendment might be adopted, but then would be followed by another amendment.

Mr. ULLMAN. No; the amendment is self-contained. If we increase benefits or expenditures from the trust fund in an amendment, in the same amendment we have to increase the taxes to compensate for the loss.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, I would like to point out that the Nix amendment is not a self-contained amendment. For that reason, we have to make an exception.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield further, I am glad the gentleman raised the issue. Therefore, the Fisher amendment will be a substitute for the Nix amendment, which will accomplish the purpose of eliminating Federal, State, and local employees, and refurbish the fund with the increase in revenue, all at the same time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LATTA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 265, nays 153, not voting 16, as follows

[Roll No. 696]

YEAS—265

Addabbo	Dodd	Kastenmeier
Akaka	Downey	Kemp
Alexander	Drinan	Ketchum
Ammerman	Duncan, Oreg.	Keys
Anderson, Calif.	Early	Krueger
Anderson, Ill.	Eckhardt	LaFalce
Andrews, N.C.	Edwards, Ala.	Le Fante
Annunzio	Edwards, Calif.	Lederer
Applegate	Eilberg	Lehman
Ashley	English	Lloyd, Calif.
Aspin	Evans, Colo.	Long, La.
Badillo	Evans, Ga.	Lujan
Baldus	Fary	Lundine
Barnard	Fenwick	McClory
Beard, R.I.	Fisher	McCormack
Bellenson	Fithian	McDade
Bevill	Flippo	McEwen
Biaggi	Flood	McFall
Bingham	Florio	McKay
Boggs	Flowers	Mahon
Boland	Foley	Mann
Bolling	Ford, Tenn.	Markey
Bonior	Forsythe	Martin
Bonker	Fountain	Mathis
Brademas	Fraser	Mattox
Breaux	Frey	Mazzoli
Breckinridge	Fuqua	Meeds
Brinkley	Gammage	Metcalfe
Brodhead	Gaydos	Meyner
Brooks	Gephardt	Mikulski
Burke, Calif.	Giaimo	Mikva
Burke, Mass.	Gilman	Miller, Calif.
Burleson, Tex.	Ginn	Mineta
Burlison, Mo.	Gore	Minish
Burton, John	Gradison	Mitchell, Md.
Burton, Phillip	Gudger	Mitchell, N.Y.
Byron	Hall	Moakley
Carney	Hamilton	Moffett
Carr	Hanley	Mollohan
Cederberg	Hannaford	Montgomery
Chisholm	Harkin	Moorhead, Pa.
Clay	Harrington	Moss
Collins, Ill.	Harris	Murphy, Ill.
Conable	Hawkins	Murphy, N.Y.
Conyers	Hefner	Murphy, Pa.
Corman	Heftel	Murtha
Cornwell	Hillis	Myers, Michael
Cotter	Holland	Natcher
D'Amours	Hollenbeck	Neal
Danielson	Howard	Nedzi
Davis	Hubbard	Nichols
Delaney	Huckaby	Nix
Dellums	Ichord	Nolan
Dent	Jenkins	Nowak
Derrick	Jenrette	O'Brien
Dicks	Johnson, Calif.	Oakar
Diggs	Jones, N.C.	Obey
Dingell	Jones, Tenn.	Ottinger
	Jordan	Panetta

Patterson	Ruppe	Tsongas
Pattison	Russo	Tucker
Pease	Ryan	Udall
Pepper	Santini	Ullman
Pettis	Scheuer	Van Deerlin
Pickle	Sebelius	Vander Jagt
Pike	Seiberling	Vanik
Poage	Shipley	Vento
Pressler	Sikes	Waggonner
Preyer	Simon	Walgren
Price	Sisk	Walsh
Pursell	Skelton	Wampler
Quie	Slack	Watkins
Quillen	Smith, Iowa	Waxman
Rahall	Smith, Nebr.	Weaver
Railsback	Solarz	Weiss
Rangel	Spellman	Whitley
Reuss	St Germain	Whitten
Richmond	Staggers	Wiggins
Risenhoover	Stanton	Wilson, C. H.
Rodino	Stark	Wilson, Tex.
Roe	Steed	Wirth
Rogers	Steers	Wright
Roncalio	Steiger	Yates
Rooney	Stokes	Yatron
Rose	Stratton	Young, Fla.
Rosenthal	Studds	Young, Mo.
Rostenkowski	Stump	Zablocki
Roybal	Thone	Zeferetti
Runnels	Thornton	

NAYS—153

Abdnor	Edwards, Okla.	McDonald
Allen	Emery	McKinney
Ambro	Ertel	Madigan
Andrews, N. Dak.	Evans, Del.	Maguire
	Evans, Ind.	Marks
Archer	Fascell	Marlenee
Armstrong	Findley	Marriott
Ashbrook	Flynt	Michel
AuCoin	Ford, Mich.	Milford
Badham	Fowler	Miller, Ohio
Bafalis	Frenzel	Moore
Baucus	Gibbons	Moorhead, Calif.
Bauman	Glickman	
Beard, Tenn.	Goldwater	Mottl
Bedell	Gonzalez	Myers, Gary
Benjamin	Goodling	Myers, John
Bennett	Grassley	Perkins
Blanchard	Guyer	Quayle
Blouin	Hagedorn	Regula
Bowen	Hammer-schmidt	Rhodes
Broomfield		Rinaldo
Brown, Mich.	Hansen	Roberts
Brown, Ohio	Harsha	Robinson
Broyhill	Heckler	Rousselot
Buchanan	Hightower	Rudd
Burgener	Holt	Sarasin
Burke, Fla.	Holtzman	Satterfield
Butler	Horton	Sawyer
Caputo	Hughes	Schroeder
Carter	Hyde	Schulze
Cavanaugh	Jacobs	Sharp
Clausen, Don H.	Jeffords	Shuster
	Johnson, Colo.	Skubitz
Cleveland	Jones, Okla.	Snyder
Cochran	Kasten	Spence
Cohen	Kazen	Stangeland
Coleman	Kelly	Stockman
Collins, Tex.	Kildee	Symms
Conte	Kindness	Taylor
Corcoran	Kostmayer	Traxler
Cornell	Krebs	Treen
Coughlin	Lagomarsino	Trible
Crane	Latta	Volkmer
Cunningham	Leach	Walker
Daniel, Dan	Leggett	White
Daniel, R. W.	Lent	Whitehurst
de la Garza	Levitas	Wilson, Bob
Derwinski	Livingston	Winn
Devine	Lloyd, Tenn.	Wylie
Dickinson	Long, Md.	Young, Alaska
Dornan	Lott	Young, Tex.
Duncan, Tenn.	Luken	
Edgar	McCloskey	

NOT VOTING—16

Brown, Calif.	Koch	Thompson
Chappell	McHugh	Whalen
Clawson, Del	Oberstar	Wolff
Erlenborn	Patten	Wydler
Fish	Pritchard	
Ireland	Teague	

The Clerk announced the following pairs:

Mr. Thompson with Mr. Del Clawson.
Mr. Wolff with Mr. Wydler.
Mr. Patten with Mr. Fish.
Mr. Koch with Mr. Erlenborn.
Mr. Teague with Mr. Pritchard.
Mr. McHugh with Mr. Whalen.
Mr. Ireland with Mr. Chappell.
Mr. Oberstar with Mr. Brown of California.

Mrs. HECKLER and Messrs. DE LA GARZA, RINALDO, BAUCUS, SKUBITZ, HYDE, and YOUNG of Alaska changed their vote from "yea" to "nay."

Mr. CHARLES WILSON of Texas changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON SMALL BUSINESS TO FILE REPORT

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the Committee on Small Business may have until midnight tonight to file a report.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from Iowa?

There was no objection.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of nonprofit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9346, with Mr. EVANS of Colorado in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 1½ hours, the gentleman from New York (Mr. CONABLE) will be recognized for 1½ hours, the gentleman from Pennsylvania (Mr. NIX) will be recognized for 15 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, the Committee on Ways and Means brings to the House today a social security bill of vital concern to virtually every American. Practically every American is either a beneficiary under the social security system, a contributor building protection which will provide future benefits, or a dependent of a contributor. About 93 percent of people 65 years of age and older are eligible for benefits. More than 33 million persons, one out of seven Americans, are receiving benefit checks each month. Benefits this year, including hospitalization, will exceed $100 billion for the first time. About 107 million individuals are paying social security taxes this year.

Unfortunately, in the last few years this huge system has developed financing problems which require the most serious and careful attention of the Congress. Starting in 1975, the system began to run annual trust fund deficits with outgo exceeding income. In 1977, the cumulative deficit in the three funds financed from the payroll tax is expected to reach $5.6 billion. These trends have caused a loss of confidence in the system both on the part of current beneficiaries and of workers paying social security taxes who expect to receive benefits in the future. I am sure that Members of the House are aware through communications from their constituents of the fears that have been aroused.

I am glad to be able to report to the House that your Committee on Ways and Means has fashioned a financing bill, H.R. 9346, which will restore social security to a sound basis and enable us to tell our constituents that we have met the problems that have caused their justified concerns. The provisions of this bill will turn the system around so that it is estimated to run a surplus in the next 25 years. It will eliminate approximately four-fifths of the long-range deficit which is figured on a 75-year basis. It will meet the most pressing single problem, the status of the disability insurance fund, which is estimated to run out of money completely by early 1979 or late 1978 unless corrective action is taken. It will do these things without increasing social security taxes over present law for the low- and middle-income worker before 1981.

Economic conditions in the last few years have contributed heavily to the short-range social security financing problems which have developed since the last time the system's financing schedules were adjusted in 1973. Rates of inflation have been much higher than were expected, leading to substantially large annual cost-of-living increases in benefits than had been estimated. Unemployment also has been higher so that income into the system was affected, because fewer workers than expected were contributing and outgo was affected as well, because more people applied for benefits.

The long-range deficit in the system, now estimated at the unsustainable rate of 8.2 percent of taxable payroll, is the result of two factors. One is a flaw in the benefit formula put into the Society Security Act in 1972 when automatic cost-of-living adjustments were added to the system. This formula would result in much higher benefit levels beginning in the 1990's than were intended or that workers could be asked to support with their payroll taxes. The second factor involves demographic trends which have developed in a way that is highly unfavorable to the social security financing arrangements. The high birth rates after

World War II and the very low birth rates of recent years mean that, around the turn of the century, the number of workers paying taxes to support the system will drop to about two for every one beneficiary as compared with a 3-to-1 ratio at present. I am glad to be able to report that the provisions of H.R. 9346 will reduce the long-range deficit to 1.69 percent of payroll. Your committee believes that, since the bill will put the social security system fully in balance through the year 2010, the remaining long-range deficit can be dealt with at a later time when more is known about how the economic and demographic factors affecting the system develop.

H.R. 9346 includes important "decoupling" provisions to correct the unintended effects of the benefit formula adopted in 1972. The provisions are designed to stabilize future benefit replacement rates on a permanent basis at about 5 percent less than those that will be paid in 1979. The replacement rate is the benefit received as a percentage of final earnings just before the beneficiary went on the social security rolls. Under the provisions, benefit amounts payable to workers who retire in the future would generally reflect the increase in the standard of living that occurs during their working years. Once an individual begins receiving benefits, these would be adjusted annually to keep up with the cost-of-living as under present law. This "decoupling" provision would eliminate more than half of the system's present long-range deficit.

In adjusting the social security financing schedules to meet the problems of the system, your committee followed the traditional and tested method. That is, changes were made in both the payroll tax rates and the taxable wage base, and the 50–50 system was maintained under which employers and employees both pay each year on the same taxable base. Under H.R. 9346, there would be tax rate increases over present law in 1981, 1985, and 1990, in effect accelerating the 1 percent OASDI tax rate increase scheduled for the year 2011 under present law. The taxable base would be raised in the years 1978 through 1981 above the levels that would be reached under present law. In 1981 the base level provided in the bill would cover 90 percent of earnings as compared with 85 percent at present. When social security was established in the 1930's, more than 92 percent of earnings were covered by the original $3,000 taxable base. The financing provisions of the bill also would reallocate into the disability insurance trust fund some revenues from the old age and survivors insurance and hospitalization insurance trust funds.

Your committee also included in the bill provision for automatic loans from Federal general revenues to the OASDI trust funds whenever the assets in a fund drop below 25 percent of the outgo from the fund in a calendar year. It is the committee's expectation that these loans will not have to be made if the financing provisions work as now calculated. However, this loan feature does provide additional assurance to beneficiaries and workers that the system will continue to be fully viable even in the face of sudden unfavorable economic conditions. Under this feature of the bill, there would be automatic repayment of the loans through the proceeds of temporary payroll tax increases which would be triggered if the loans had to be made.

The bill would carry out a concept of universal coverage under social security by bringing into the system on a mandatory basis about 6 million Federal, State, and local government employees and employees of nonprofit organizations. These are the largest groups not now covered by social security. The provisions would make the coverage effective January 1, 1982, to allow time for adjustments to be made in the benefit systems under which these workers may now be covered. As for Federal employees in the civil service retirement system, the bill directs that a plan be developed for coordinated social security-civil service coverage which is designed to provide for them benefits and costs under a dual system equivalent to what they now expect under the civil service retirement system alone.

H.R. 9346 contains some provisions to improve social security benefits with the financing schedules arranged to cover the additional costs. One of the features of social security which many Members of the House consistently want liberalized is the retirement test or earnings limitation. The bill would increase to $4,000 in 1978 and to $4,500 in 1979 the amount a beneficiary aged 65 to 72 can receive in the year without any loss of social security benefits. Under present law, the limitation would be $3,240 in 1978 and an estimated $3,480 in 1979.

Other benefit provisions in the bill would increase the retirement credit for persons working beyond age 65 so that their benefits would be increased 3 percent for each year they did not draw social security payments up to age 72 instead of 1 percent as at present; increase the special minimum payment for individuals who work under social security for many years but at low wages; provide that widows and other beneficiaries would not lose benefits, because of remarriage; and revise a number of relatively minor provisions in the Social Security Act so that men and women would be guaranteed the same rights.

The bill also contains a provision, the International Social Security Agreements Act, authorizing the President to enter into agreements with foreign countries which could provide additional benefits for Americans who work for periods in foreign countries, so long as this country extends the same treatment to foreigners who work in the United States.

I include a full description of H.R. 9346 in the RECORD at this point:

A. FINANCING

1. Increase in contribution and benefit base

Your committee's bill provides for increasing the contribution and benefit base—in four steps—to a level where about 90 percent of all payroll in covered employment would be taxable for social security purposes (and about 93 percent of all workers would have their full earnings credited for benefit purposes). Accordingly, the bill would increase the base to $19,900 in 1978, $22,900 in 1979, $25,900 in 1980, and $27,900 in 1981, with automatic adjustments to keep up with average wage levels thereafter (as under present law).

2. Changes in OASDHI contribution rates

Your committee has included provisions for allocating a small portion of future income from currently scheduled HI tax-rate increases to the OASDI program. In addition, tax rates for the OASDI program for employers and employees, each, would be increased (beyond the increases resulting from reallocation of scheduled HI tax-rate increases, which do not result in any net OASDHI tax rate increase over present law).

Specifically, the reallocations from HI to OASDI would be 0.1 percent each for 1978–80 and 0.05 percent each for 1981 and after. Also, the OASDI contribution rates would be further increased from 5.0 percent each, by 0.15 percent each in 1981, an additional 0.30 percent each in 1985, and another 0.55 percent each for 1990–2010. The reallocations plus the rate increases result in OASDI rates of 5.05 percent for 1979–80, 5.15 percent for 1981–84, 5.45 percent for 1985–89, and 6 percent for 1990 and after.

3. Changes in self-employed contribution rates for OASDI

Your committee's bill would restore the self-employed rate to its original level of one and one-half times the employee rate, effective in 1981. (Since 1972, the social security cash benefits contribution rate for the self-employed has been below the level of one and one-half times the employee rate that was originally provided when the self-employed were first covered under the social security program in 1951.)

4. Change in allocation to the disability insurance trust fund

The committee bill would allocate an additional 0.35 percent of taxable payroll in the early years and even higher additional allocations in later years to the disability insurance trust fund to assure the financial soundness of the disability insurance program.

5. Standby authority for loans to the OASDI trust funds from general revenues with repayment tax provision

Your committee is especially concerned about the need for the public—current and future workers as well as social security beneficiaries—to be assured that the program will be able to meet its benefit obligations at all times. While the other actions your committee has taken would restore the financial soundness of the program, your committee believes that a further guarantee of the future financial stability of the cash benefit program is necessary.

Accordingly, your committee has included provision granting standby authority for automatic loans to the social security cash benefit trust funds from Federal general revenues whenever the assets of a cash trust fund drop below a 25-percent level of outgo. Your committee emphasizes its belief that, under reasonable projections, it will not become necessary for such loans to the trust funds to be made. If such loans are made in the future, the committee bill would provide for temporary social security tax-rate increases of 0.1 percent for employees and employers, each, and 0.15 percent for the self-employed, when the reserve level is 34 percent or less and the loan debt exceeds $2 billion, to provide funds to repay the loans; repayment would begin when the reserve level rises above 30 percent.

B. REVISED BENEFIT STRUCTURE

About half of the existing long-range deficit in the OASDI program is the result of unintended effects of the cost-of-living increase provisions of present law. The basic

problem under the present benefit structure is that future benefits for current workers will reflect increases in both wages and prices that occur during their working years. As a result, replacement rates—initial benefits as a percent of preretirement earnings—are erratic and unpredictable and, under current long range economic assumptions, are projected to rise significantly over time. About one-half of the long-range deficit is due to rising replacement rates in the future.

The bill would prevent the unintended rise in future replacement rates (and costs), and assure that future replacement rates would remain fairly constant at a level approximately 5 percent lower than the level that will prevail in January 1979. A major feature of the plan is that the worker's earnings (and the benefit formula) would be indexed to reflect the change in wage levels that has occurred during his working lifetime. As a result, benefits would be based on the worker's relative earnings position averaged over his working lifetime.

1. Wage indexing of earnings

A worker's earnings would be updated (indexed) to just prior to when the worker reaches age 62, becomes disabled, or dies to reflect the increases in average wages that have occurred since the earnings were paid. (Under present law, a worker's earnings are counted in actual dollar value.) The worker's earnings would be indexed by multiplying the actual earnings by the ratio of average wages in the second year before he reaches age 62, becomes disabled, or dies to the average wages in the year being updated.

2. Base year for indexing

A worker's earnings would be indexed by average wage increases through the second year before age 62 (the age of first eligibility), disability, or death. Earnings after age 62 or disability would be counted in actual dollar amount; cost-of-living increases would apply beginning with age 62, disability, or death.

3. Computation period

Benefits would be based on a worker's indexed earnings averaged over the number of years after 1950 (or age 21, if later) up to the year he reaches age 62, becomes disabled, or dies, whichever occurs first (excluding 5 years of lowest indexed earnings or no earnings). As under present law, the computation period would expand from 23 years for those reaching age 62 in 1979, up to 35 years for those reaching age 62 in 1991 or later.

4. Benefit formula

The benefit formula shown below would be applied to the average indexed monthly earnings (AIME) of workers who reach age 62, become disabled, or die in 1979:

90 percent of the first $180 of AIME, plus

32 percent of AIME over $180 through AIME of $1,085, plus 15 percent of AIME above $1,085.

For those who become eligible for benefits in the future, the dollar amounts (bend points) in the formula would be adjusted automatically (and rounded to the nearest dollar) as average wages increase.

5. Maximum family benefit

Maximum family benefits would bear the same relationship to primary insurance amounts (PIA) as they do under present law—ranging from 150 percent to 188 percent of the PIA. The family maximum would be determined by applying the following formula to the worker's PIA:

150 percent of the first $230 PIA, plus

272 percent of PIA's over $230 through $332, plus

134 percent of PIA's over $332 through $433, plus

175 percent of PIA's above $433.

In the future, the dollar amounts in the formula would be increased (and rounded to the nearest dollar) based on increases in average wages.

6. Transition

A worker who reaches age 62 after 1978 and before 1989 would be guaranteed a benefit no lower than he would have received under present law as of January 1979. For purposes of the guarantee, the January 1979 benefit table would not be subject to future automatic benefit increases, but all individual benefits would be subject to all cost-of-living increases in benefits beginning with age 62. This guarantee would not apply in disability and death cases.

7. Treatment of earnings after age 62 or disability

Earnings subsequent to the year of first eligibility (age 62) or onset of disability would be counted at actual dollar value (i.e., unindexed) and substituted for earlier years of indexed earnings if they would increase the worker's AIME and his PIA.

8. Increase in delayed retirement credit

For workers reaching age 62 after 1978, the current delayed retirement credit of 1 percent per year would be increased to 3 percent per year beginning at age 65 and taking account of months up to age 72 for which benefits are not paid. (For workers eligible for retirement benefits before 1979, the current 1-percent per year credit would continue to apply.)

Estimated number of people affected and dollar payments: In 1983 (the first year increased benefits reflecting the 3-percent delayed retriement credits would be payable based on credits provided for 1982), 100,000 people would get higher benefits, and $15 million in additional payments would be made as a result of his provisions.

9. Freeze the minimum benefit

The minimum benefit for future beneficiaries would be frozen at an amount equal to the minimum benefit in effect in January 1979 (estimated to be about $121). Benefits based on the minimum would be kept up to date with rising prices only after age 62, disability, or death.

Estimated number of people affected and dollar payment: Some 150,000 people would be affected by this amendment, and benefit payments would be reduced by an estimated $7 million in the first full calendar year, 1980.

10. Increase in the special minimum benefit

Under present law, a special minimum benefit is provided for long-term low-paid workers equal to $9 times the number of years of coverage a worker has in excess of 10 and up to 30; the special minimum benefit is not subject to cost-of-living increases under the automatic adjustment provisions. The bill would increase the $9 figure to $11.50 and provide that the special minimum would be kept up to date with future increases in the cost of living for both present and future beneficiaries. Thus, the highest possible special minimum would be increased from $180 to $230 in 1979.

Estimated number of people affected and dollar payments: 220,000 people would get increased benefits on the effective date, and additional benefit payments in the first full calendar year, 1980, would amount to an estimated $14 million.

C. COVERAGE

Old-age, survivors, disability, and hospital insurance coverage would be extended to an additional 6 million jobs.

1. Federal civilian employees

Under present law, services performed in Federal civilian employment that are covered under a staff-retirement system established by a law of the United States are excluded from social security coverage, as are services performed in Federal employment by the President, the Vice President, Members of the U.S. Congress, legislative employees of the U.S. Congress, inmates of Federal penal institutions, certain student employees of Federal hospitals, and temporary, emergency employees. The bill would extend social security coverage to Federal services performed by these offices and employees. The bill directs the Secretary of Health, Education, and Welfare to conduct a study with the Civil Service Commission to make recommendations for coordinating benefits and costs of the OASDI and Civil Service Retirement programs in such a way that Federal workers will be no worse off so far as costs and benefits are concerned compared to their treatment under present law. The report would be submitted by January 1, 1980.

Effective date: January 1, 1982.

2. State and local employees

Under present law, social security coverage for State and local employees generally is available only on a group basis through voluntary agreements between the States and the Secretary of Health, Education, and Welfare. Coverage for a group of State and local employees can be terminated after 2 years' notice by the State if the group has been covered under social security for 5 years at the time notice is given, or by the Secretary at any time, if he finds that the State has failed or is unable legally to comply with the terms of the agreement and 2 years' notice is given. The bill would provide compulsory social security coverage for State and local employees (including employees of Guam, American Samoa, and the District of Columbia) who are not compulsorily covered under present law.

Effective date: January 1, 1982.

The bill also would provide that coverage could not be terminated by either the State or the Secretary of Health, Education, and Welfare before compulsory coverage was effective unless the notice was given before September 14, 1977. In such cases where coverage has been terminated it would be restored effective January 1, 1982.

Effective date: September 14, 1977.

3. Employees of nonprofit organizations

Under present law, employees of certain nonprofit organizations, described in section 501(c)(3) of the Internal Revenue Code, are excluded from coverage under social security unless the organization files a certificate expressing a desire to have coverage extended to its employees. Coverage of the employees of an organization that filed such a certificate may be terminated after 2 years' notice by the organization, if the employees had been covered under social security for at least 8 years before the notice was given, or by the Secretary of the Treasury, with concurrence of the Secretary of Health, Education, and Welfare, at any time if he finds that the organization has failed or is unable to comply with the law and 60 days' notice is given. The bill would provide compulsory coverage under social security for these employees of nonprofit organizations.

Effective date: January 1, 1982.

The bill also would provide that coverage could not be terminated by either the nonprofit organization or the Secretary of the Treasury before compulsory coverage was effective unless the notice was given before September 14, 1977. In such cases where coverage has been terminated, it would begin again on January 1, 1982.

Effective date: September 14, 1977.

4. Quarter-of-coverage provision

The bill would grant retroactive quarter-of-coverage credits for eligibility, but not benefit computation purposes, to employees who were in Federal civilian, State, or local, or nonprofit organization employment to which social security coverage was extended under this bill on January 1, 1982, if the employees earned at least six quarters of cov-

erage in such employment after 1981. The quarters of coverage would be granted based on periods of employment prior to January 1, 1982, which were in the same category of employment and which were excluded from social security coverage.

Effective date: January 1, 1982.

5. Totalization

Under present law, there is no authority in the Social Security Act for entering into agreements with other countries to provide for coordination between the social security systems of the United States and of other countries. The bill would authorize the President to enter into bilateral agreements (of a kind generally known as totalization agreements) with interested foreign countries to provide for limited coordination between this country's social security system and those of other countries, subject to congressional oversight. Draft agreements worked out with Italy and West Germany have been implemented by their laws but cannot become effective agreements in the United States until the Congress enacts the authority provided in this bill.

Effective date: Upon enactment.

6. Exclusion of limited partnership income

Under present law each partner's share of partnership income is includable in his net earnings from self-employment for social security purposes, irrespective of the nature of his membership in the partnership. The bill would exclude from social security coverage, the distributive share of income or loss received by a limited partner from the trade or business of a limited partnership. This is to exclude for coverage purposes certain earnings which are basically of an investment nature. However, the exclusion from coverage would not extend to guaranteed payments (as described in section 707(c) of the Internal Revenue Code), such as salary and professional fees, received for services actually performed by the limited partner for the partnership.

Effective date: Taxable years beginning after December 31, 1977.

7. Social security employer taxes on tips when deemed as wages for the Federal minimum wage

Under the Fair Labor Standards Act of 1938, an employer can pay an employee less than the Federal minimum wage by an amount equal to the tips received by the employee but not less than 50 percent of the minimum wage. Social security taxes are not paid by the employer on the amount of tips deemed to be wages. Under the bill, employers would be liable for the employers' share of the social security taxes on the deemed wages up to the minimum wage.

Effective date: Wages paid for employment performed after December 31, 1977.

8. Clergymen

Under present law, the services of a clergyman are covered under the self-employment provisions of the Social Security Act unless the clergyman files an application for an irrevocable exemption from coverage on the grounds that he is opposed either conscientiously or because of religious principles to the acceptance of public insurance such as social security. Under the bill, a clergyman who filed an application for exemption in the past would be given an opportunity to revoke his exemption and obtain social security coverage prospectively.

Effective date: Taxable years ending on or after enactment.

9. Other State and local changes

Other changes relate to social security coverage of policemen and firemen in Mississippi and Illinois who are under staff retirement systems, and social security coverage of State and local employees in New Jersey under the divided retirement system procedure, and the special provision in the law applying to the Wisconsin retirement fund.

Effective date: Upon enactment.

D. EQUAL TREATMENT OF MEN AND WOMEN

1. Equal rights

(a) Father's benefits

Benefits would be provided for young husbands and fathers who have in their care a child who is under age 18, or disabled, and who is entitled to benefits.

Effective date: Effective with respect to benefits for months after December 1977.

Estimated number of people affected and dollar payments: 2,000 people would become eligible for benefits or eligible for larger benefits on the effective date. About $2 million in additional benefits would be paid in the first full year of operation.

(b) Benefits for divorced men

Benefits would be provided for aged divorced husbands and aged or disabled divorced widowers.

Effective date: Effective with respect to benefits for months after December 1977.

Estimated number of people affected and dollar payments: 2,000 people would become eligible for benefits or eligible for larger benefits on the effective date. About $3 million in additional benefits would be paid in the first full year of operation.

(c) Remarriage of widowers before age 60

A widower would be permitted to obtain benefits on a deceased wife's earnings record if he is not married at the time he applies for widower's benefits, as widows now can, instead of if he has not remarried, as present law provides.

Effective date: Effective with respect to benefits for months after December 1977.

Estimated number of people affected and dollar payments: Very few people would be affected and the additional benefits would be negligible.

(d) Transitional insured status benefits

Husband's and widower's benefits would be provided under the transitionally insured status amendment of 1965.

Effective date: Effective with respect to benefits for months after December 1977.

Estimated number of people affected and dollar payments: Very few people would be affected and the additional payments would be negligible.

(e) Special age-72 payment amounts for certain uninsured individuals

When both members of a couple are receiving special age-72 payments, the amount of the payments would be divided equally between the two, instead of giving the husband a full benefit and the wife one-half the husband's benefit.

Effective date: Effective with respect to benefits for months after December 1977.

Estimated number of people affected and dollar payments: 2,000 couples would be affected. Provision would have no cost.

2. Elimination of marriage (or remarriage) as a bar to entitlement to dependents' or survivors' benefits, and as an event which terminates entitlement to, or reduces, such benefits.

Entitlement to benefits as a divorced wife or husband, widow or widower, or surviving divorced widow or widower (including those with an entitled child in their care), parent, or child would not be barred or terminated because of marriage or remarriage. Neither would remarriage serve to cause any reduction in the benefits paid aged widows or widowers.

Effective date: Effective with respect to benefits for months after December 1978.

Estimated number of people affected and dollar payments: 670,000 people would become eligible for benefits or eligible for larger benefits on the effective date. About $1.4 billion in additional benefits would be paid in the first full calendar year, 1980.

3. Reduced duration-of-marriage requirement for divorced spouses

The length of time a divorced person must have been married to a worker in order for benefits to be payable to the person as an aged divorced spouse or aged or disabled surviving divorced spouse would be reduced from 20 years to 5.

Effective date: Effective with respect to benefits for months after December 1978.

Estimated number of people affected and dollar payments: 70,000 people would become eligible for benefits or eligible for larger benefits on the effective date. About $160 million in additional benefits would be paid in the first full calendar year, 1980.

4. Study of proposals to eliminate dependency and sex discrimination

The Secretary of Health, Education, and Welfare would be directed to carry out a detailed study of proposals (1) to eliminate dependency as a requirement for entitlement to social security spouse's benefits, and (2) to bring about the equal treatment of men and women (in any and all respects under the program). A full and complete report on the study shall be submitted to the Congress within 6 months of enactment of the bill.

E. IMPROVEMENT OF THE EARNINGS TEST

1. Increase in annual exempt amount of earnings

The amount that a beneficiary age 65 or over but under age 72 may earn in a year and still be paid full social security benefits for the year would be increased from the present $3,000 in 1977 to $4,000 in 1978 and $4,500 in 1979 with future automatic increases as wage levels rise. The amount that a beneficiary under age 65 could earn and still be paid full benefits would be determined under present law.

Effective date: Taxable years ending after December 1977.

Number of people affected and dollar payments: For 1978, 800,000 people would receive increased payments; 100,000 people who get no payments under present law could get some payment. For 1979, 800,000 people would receive increased payments; 100,000 people who get no payments under present law could get some payments. Additional benefits amounting to $0.3 billion would be paid out in 1978 and $0.5 billion in 1979.

2. Elimination of the monthly earnings test

Under present law, full benefits are paid to a beneficiary, regardless of the amount of annual earnings for any month in which the beneficiary neither works for wages in excess of the monthly measure ($250 in 1977; more in later years) nor renders substantial services in self-employment. The bill would eliminate the monthly measure of retirement and convert the retirement test to a strictly annual test for years after the initial year of retirement.

Effective date: Taxable years ending after December 1977.

Number of people affected and dollar payments: About 250,000 people would be affected during the first full year. Benefit payments would be reduced by about $0.2 billion each year.

3. Foreign work test

The number of days that a beneficiary under age 72 who works outside the United

States in noncovered employment can work in a month and still be eligible for a benefit for that month would be increased from 6 to 8 in 1978 and to 11 in 1979 and thereafter.

Number of people affected and dollar payments: It is estimated that the proposed changes would be a liberalization for about one-half of the 1,500 beneficiaries (out of the approximately 300,000 beneficiaries who live in foreign nations) who now lose benefits because of work activity.

The cost of such a change would be negligible.

F. ANNUAL WAGE REPORTING

Under present law, employers will report their employees' wages for social security and income tax purposes annually on forms W–2 beginning with wages paid in 1978. Employers are required to report quarterly wage data on the forms W–2 to enable the Social Security Administration to determine whether a worker has enough quarters of coverage to be eligible for social security benefits. The bill would change the quarter-of-coverage measure and certain automatic provisions of the social security law so that annual data would be used, instead of quarterly data. Under the bill, employers would no longer have to report quarterly data on the forms W–2 and they and the Government would realize the maximum advantages that annual reporting was designed to achieve.

The most significant program change would be a provision setting out how annual wages would be credited in terms of quarters of coverage. Under present law, a worker generally receives credit for a quarter of coverage for a calendar quarter in which he received at least $50 in wages. Under your committee bill, a worker would receive one quarter of coverage (up to a total of four) for each $250 of earnings in a year, and the $250 measure would be increased automatically every year to take account of increases in average wages.

Effective date: January 1, 1978.

G. OTHER PROVISIONS

1. Eliminate windfall cost-of-living increases

Under your committee's bill, future benefit increases for people receiving actuarially reduced benefits, would be reduced in proportion to the reduction in the person's basic benefit. (Under present law, the failure to fully reduce the amount of the increase results in increases beyond those needed to keep up with changes in the cost of living.) The provision would apply to people who receive reduced benefits after December 1977; special rules would apply to those already on the rolls.

Effective date: Benefit increases after 1977.

Estimated number of people affected and dollar payments: About 15 million people would have their benefits affected by the provision at the time of the June, 1978 cost-of-living benefit increase, and there would be a program saving of $90 million in calendar year 1978.

2. Limitation on retroactive benefits

Under present law, a person who files an application after he is first eligible for benefits may be paid benefits, including actuarially reduced benefits, for a retroactive period up to 12 months before the month in which the application is filed, if all conditions of entitlement are met for those months. Under the bill, except in those cases where the benefits were disability-related or where unreduced dependent's benefits were involved, monthly cash benefits would not be paid retroactively for months before the month in which the application was filed when such retroactivity would result in permanently reduced benefits.

Effective date: With applications filed on or after January 1, 1978.

Number of people affected and dollar payments: In 1978, an estimated 1 million people would be affected by the change. Reductions in benefit payments would range from $0.3 billion in 1978 to $0.6 billion in 1982.

3. Early payment of social security and SSI benefit checks in certain situations

Under present law, social security benefit payments for a particular month are payable after the end of that month, and payment is normally made on the third day of the month; SSI benefit checks for a particular month are delivered on the first day of that month. Under the bill, when the delivery date falls on a Saturday, Sunday, or legal public holiday, social security and SSI checks would be delivered on an earlier date.

Effective date: Upon enactment.

The following table shows the contribution and benefit bases projected under present law and under your committee's bill:

Year:	Present law	Committee bill
1978	$17,700	[1] $19,900
1979	18,900	[1] 22,900
1980	20,400	[1] 25,900
1981	21,900	[1] 27,900
1982	23,400	30,000
1983	24,900	31,800
1984	26,400	33,600
1985	27,900	35,400
1986	29,400	37,500
1987	31,200	39,600

[1] Ad hoc increases.

TAX RATES FOR EMPLOYER AND EMPLOYEE, EACH, PRESENT LAW AND COMMITTEE BILL

[In percent]

Years	OASDI		HI		Total	
	Present law	Bill	Present law	Bill	Present law	Bill
1977	4.95	4.95	0.90	0.90	5.85	5.85
1978–80	4.95	5.05	1.10	1.00	6.05	6.05
1981–84	4.95	5.15	1.35	1.30	6.30	6.45
1985	4.95	5.45	1.35	1.30	6.30	6.75
1986–89	4.95	5.45	1.50	1.45	6.45	6.90
1990–2010	4.95	6.00	1.50	1.45	6.45	7.45
2011 and later	5.95	6.00	1.50	1.45	7.45	7.45

TAX RATES FOR THE SELF-EMPLOYED, PRESENT LAW AND COMMITTEE BILL

[In percent]

Years	OASDI		HI		Total	
	Present law	Bill	Present law	Bill	Present law	Bill
1977	7.00	7.00	0.90	0.90	7.90	7.90
1978–80	7.00	7.10	1.10	1.00	8.10	8.10
1981–84	7.00	7.70	1.35	1.30	8.35	9.00
1985	7.00	8.20	1.35	1.30	8.35	9.50
1986–89	7.00	8.20	1.50	1.45	8.50	9.65
1990 and later	7.00	9.00	1.50	1.45	8.50	10.45

ESTIMATED EFFECTS OF H.R. 9346 ON THE NET INCREASE IN THE OASI AND DI TRUST FUNDS, COMBINED, IN CALENDAR YEARS 1978–83, BY PROVISION

[In millions of dollars]

	Effective date	1978	1979	1980	1981	1982	1983
REDUCTION IN BENEFIT PAYMENTS							
Decoupling, with 3 percent delayed retirement credits	January 1979		70	351	803	1,473	2,377
Elimination of marriage or remarriage as a bar to entitlement to benefits.	do		−1,135	−1,355	−1,454	−1,551	−1,654
Reduction in duration of marriage required for divorced spouses benefits from 20 yr to 5 yr.	do		−137	−164	−177	−190	−204
Changes in retirement test (total)	January 1978	−54	−266	−328	−346	−367	−390
Increase annual exempt amount to $4,000 in 1978 and to $4,500 in 1979.	do	−267	−491	−554	−582	−611	−642
Eliminate the monthly measure	do	213	225	226	236	244	252
Eliminate retroactive payments of actuarially reduced benefits	do	339	536	550	559	565	569
Increase special minimum benefit from $9 per year of coverage to $11.50, and apply automatic increases in the future.	January 1979		−12	−14	−14	−15	−16
Changes in annual wage reporting provisions	January 1978	(1)	−1	−4	−9	−18	−26
Eliminate gender-based distinctions from the law	do	−4	−5	−6	−7	−8	−8
Limit increases in actuarially reduced benefits	do	90	280	500	751	948	1,157
Increase in contribution and benefit base	do	(1)	−12	−44	−112	−209	−346
Subtotal, excluding universal coverage		371	−682	−514	−6	628	1,459
Universal coverage of Federal civilian employees, employees of State and local governments, and employees of nonprofit organizations.	January 1982					(1)	−94
Total, reduction in benefit payments		371	−682	−514	−6	628	1,365
ADDITIONAL INCOME							
Contribution income resulting from financing charges	January 1978	3,967	6,661	8,560	11,858	13,265	14,060
Contribution income resulting from universal coverage	January 1982					11,741	14,231

Footnote at end of table.

ESTIMATED EFFECTS OF H.R. 9346 ON THE NET INCREASE IN THE OASI AND DI TRUST FUNDS, COMBINED, IN CALENDAR YEARS 1978–83, BY PROVISION—Continued

[In millions of dollars]

Effective date	1978	1979	1980	1981	1982	1983
Additional interest income	113	475	1,005	1,786	3,132	5,343
Total, additional income	4,080	7,136	9,565	13,644	28,138	33,634
Net effect of bill	4,451	6,454	9,051	13,638	28,766	34,999

[1] Less than $500,000.

CHANGES IN ACTUARIAL BALANCE OF THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE SYSTEM OVER THE MEDIUM-RANGE PERIOD (1977–2001) EXPRESSED AS PERCENT OF TAXABLE PAYROLL, BY TYPE OF CHANGE, PRESENT LAW AND THE BILL

[In percent]

Item	OASI	DI	Total
Medium-range actuarial balance under present law	−1.45	−0.89	−2.34
Wage-indexing decoupling	.35	.19	.54
Benefit level	.26	.08	.33
Freezing the minimum benefit [1]	.03	.01	.04
Delayed retirement increment	−.04	0	−.04
Retirement test	−.05	0	−.05
Elimination of remarriage terminations	−.10	0	−.10
Elimination of windfall for early retirees	.13	0	.13
Universal coverage	.49	.07	.56
Miscellaneous provisions [2]	0	0	0
Increase in the taxable wage base	.41	.08	.48
Increase in self-employed tax rates	.08	.01	.09
Tax rate increases	.75	.56	1.31
Total, effect of changes in bill	2.29	1.00	3.29
Medium-range actuarial balance under bill	.84	.10	.95

[1] Includes updating the special minimum and increasing it automatically after 1979.
[2] Includes equal treatment by sex (without the effect of any dependency test or pension offset provisions), employer liability for taxes on minimum wage for employees receiving tips, correction of the flaw in present law regarding limited partnerships, elimination of retroactive payments of actuarially reduced benefits, reducing marriage requirements from 20 yr to 5 yr for certain divorced beneficiaries, and annual reporting of earnings.

NOTES

Expenditures and taxable payroll are calculated under the intermediate set of assumptions (alternative II) which are described in the 1977 Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds. These assumptions incorporate ultimate annual increases of 5¾ percent in average wages in covered employment and 4 percent in Consumer Price Index, an ultimate unemployment rate of 5 percent, and an ultimate total fertility rate of 2.1 children per woman. Taxable payroll is adjusted to take into account the lower contribution rates on self-employment income, on tips, and on multiple-employer "excess wages" as compared with the combined employer-employee rate.
Figures may not add due to rounding.

CHANGES IN ACTUARIAL BALANCE OF THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE SYSTEM OVER THE LONG-RANGE PERIOD (1977–2051) EXPRESSED AS PERCENT OF TAXABLE PAYROLL, BY TYPE OF CHANGE, PRESENT LAW AND THE BILL

[In percent]

Item	OASI	DI	Total
Long-range actuarial balance under present law	−6.06	−2.14	−8.20
Wage-indexing decoupling	3.19	.95	4.14
Benefit level	.53	.12	.66
Freezing the minimum benefit [1]	.07	.02	.09
Delayed retirement increment	−.09	0	−.09
Retirement test	−.07	0	−.07
Elimination of remarriage terminations	−.08	0	−.08
Elimination of windfall for early retirees	.24	0	.24
Universal coverage	.29	.05	.34
Miscellaneous provisions [2]	0	0	0
Increase in the taxable wage base	.36	.07	.43
Increase in self-employed tax rates	.09	.02	.11
Tax rate increases	.19	.56	.75
Total, effect of changes in bill	4.73	1.78	6.51
Long-range actuarial balance under bill	−1.33	−.36	−1.69

[1] Includes updating the special minimum and increasing it automatically after 1979.
[2] Includes equal treatment by sex (without the effect of any dependency test or pension offset provisions), employer liability for taxes on minimum wage for employees receiving tips, correction of the flaw in present law regarding limited partnerships, elimination of retroactive payments of actuarially reduced benefits, reducing marriage requirements from 20 yr to 5 yr for certain divorced beneficiaries, and annual reporting of earnings.

NOTES

Expenditures and taxable payroll are calculated under the intermediate set of assumptions (alternative II) which are described in the 1977 Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds. These assumptions incorporate ultimate annual increases of 5¾ percent in average wages in covered employment and 4 percent in Consumer Price Index, an ultimate unemployment rate of 5 percent, and an ultimate total fertility rate of 2.1 children per woman. Taxable payroll is adjusted to take into account the lower contribution rates on self-employment income, on tips, and on multiple-employer "excess wages" as compared with the combined employer employee rate.
Figures may not add due to rounding.

OPERATIONS OF THE OLD-AGE AND SURVIVORS INSURANCE TRUST FUND, CALENDAR YEARS 1972–87

[Dollar amounts in billions]

	Income	Disbursements	Net increase in fund	Funds at end of year	Percentage of disbursements during year: Fund at beginning of year	Percentage of disbursements during year: Fund at end of year
Calendar year:						
1972	$40.1	$38.5	$1.5	$35.3	88	92
1973	48.3	47.2	1.2	36.5	75	77
1974	54.7	53.4	1.3	37.8	68	71
1975	59.6	60.4	−.8	37.0	63	61
1976	66.3	67.9	−1.6	35.4	54	52
Estimated future experience:						
1977	72.5	75.6	−3.1	32.3	47	43
1978	80.6	83.6	−3.1	29.3	39	35
1979	90.8	92.7	−1.9	27.4	32	30
1980	100.8	101.3	−.4	26.9	27	27
1981	110.7	109.9	.8	27.8	25	25
1982	129.4	118.5	10.9	38.7	23	33
1983	140.5	127.5	12.9	51.6	30	40
1984	150.7	137.5	13.3	64.9	38	47
1985	168.2	148.3	19.9	84.8	44	57
1986	181.3	159.7	21.6	106.4	53	67
1987	194.4	171.9	22.5	128.8	62	75

OPERATIONS OF THE OLD-AGE AND SURVIVORS INSURANCE AND THE DISABILITY INSURANCE TRUST FUNDS, COMBINED, CALENDAR YEARS 1972–87

[Dollar amounts in billions]

	Income	Disbursements	Net increase in funds	Funds at end of year	Percentage of disbursements during year: Funds at beginning of year	Percentage of disbursements during year: Funds at end of year
Calendar year:						
1972	$45.6	$43.3	$2.3	$42.8	93	99
1973	54.8	53.1	1.6	44.4	80	84
1974	62.1	60.6	1.5	45.9	73	76
1975	67.6	69.2	−1.5	44.3	66	64
1976	75.0	78.2	−3.2	41.1	57	53
Estimated future experience:						
1977	82.1	87.6	−5.5	35.6	47	41
1978	94.7	97.3	−2.5	33.1	37	34
1979	106.7	108.0	−1.3	31.7	31	29
1980	118.5	118.4	.1	31.8	27	27
1981	131.0	128.9	2.2	34.0	25	26
1982	153.4	139.4	14.0	48.0	24	34
1983	166.5	150.5	16.0	64.0	32	42
1984	178.7	162.8	15.9	79.8	39	49
1985	201.5	176.2	25.3	105.1	45	60
1986	217.4	190.4	27.1	132.2	55	69
1987	233.2	205.6	27.6	159.8	64	78

[Dollar amounts in billions]

OPERATIONS OF THE DISABILITY INSURANCE TRUST FUND, CALENDAR YEARS 1972–87

	Income	Disbursements	Net increase in fund	Fund at end of year	Percentage of disbursements during year: Fund at beginning of year	Percentage of disbursements during year: Fund at end of year
Calendar year:						
1972	$5.6	$4.8	$0.8	$7.5	140	157
1973	6.4	6.0	.5	7.9	125	133
1974	7.4	7.2	.2	8.1	110	113
1975	8.0	8.8	−.8	7.4	92	84
1976	8.8	10.4	−1.6	5.7	71	55
Estimated future experience:						
1977	9.6	12.0	−2.4	3.3	48	27
1978	14.2	13.7	.5	3.8	24	28
1979	15.9	15.3	.6	4.4	25	29
1980	17.6	17.1	.5	4.9	26	28
1981	20.3	19.0	1.4	6.2	26	33
1982	24.0	20.9	3.1	9.3	30	45
1983	26.1	23.0	3.1	12.4	40	54
1984	28.0	25.3	2.6	15.0	49	59
1985	33.3	27.9	5.4	20.4	54	73
1986	36.2	30.7	5.5	25.9	66	84
1987	38.8	33.7	5.2	31.0	77	92

[Dollar amounts in billions]

PROGRESS OF THE SOCIAL SECURITY HOSPITAL INSURANCE TRUST FUND UNDER BILL, CALENDAR YEARS 1972–87

	Income	Disbursements	Net increase in fund	Fund at end of year	Percentage of disbursements during year: Fund at beginning of year	Percentage of disbursements during year: Fund at end of year
Calendar year:						
1972	$6.4	$6.5	−$0.1	$2.9	47	
1973	10.8	7.3	3.5	6.5	40	
1974	12.0	9.4	2.7	9.1	69	
1975	13.0	11.6	1.4	10.5	79	
1976	13.8	13.7	.1	10.6	77	
Estimated future experience:						
1977	16.1	16.2	−.1	10.5	66	
1978	19.7	19.0	.6	11.1	55	
1979	22.3	22.2	.1	11.2	50	
1980	24.5	25.7	−1.2	10.0	44	
1981	33.5	29.7	3.8	13.8	34	
1982	39.7	33.9	5.8	19.6	41	
1983	43.1	38.5	4.6	24.2	51	
1984	46.1	43.7	2.4	26.6	55	
1985	49.0	49.2	−.1	26.5	54	
1986	57.5	55.0	2.5	29.0	48	
1987	61.7	61.4	.3	29.4	47	

Note: Figures may not add due to rounding.

The rule provides for eight amendments and we have 30 minutes debate on each amendment. The amendments have been outlined in the rule. They are designed to give Members of this Committee of the Whole an opportunity to vote on most of the very basic substantive alternatives that we have as we look into the social security system.

We do it in a responsible way, because each amendment is required to contain revenue adjustments that will keep the fund solvent.

I think this is an extremely important issue. I think it would be a grave mistake to allow introduction of amendments on the floor that would throw the social security fund out of balance. I think all of us are concerned about keeping it solvent. In this bill we do that, both on a short-range and on a long-term basis. If you vote for an amendment, you can have assurances that the fund will be solvent, with the one exception being the amendment offered by the Committee on Post Office and Civil Service, which would leave the Federal workers out; if you go with that, if you vote to leave Federal workers out without increasing revenue, you would vote to throw the funds out of balance; but even more importantly, you would still leave State and local workers in.

The CHAIRMAN. The time of the gentleman from Oregon has again expired.

Mr. ULLMAN. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman, I think that would not be the kind of result that the Members would want to achieve. Therefore, the gentleman from Virginia (Mr. FISHER) will offer a substitute amendment for the Post Office and Civil Service Committee amendment, which I think we can all support, which will remove not only Federal workers, but State and local workers and nonprofit employees and provide the revenue increase to compensate the fund and keep in proper balance.

So, Mr. Chairman, I urge that we support the committee on this bill, use your best judgment on the matter of Federal employees; but other than that, I would hope we would support the committee, oppose the other amendments, and finally vote for the bill.

Mr. ALLEN. Mr. Chairman, will the gentleman yield for a question?

Mr. ULLMAN. I am happy to yield to the gentleman.

Mr. ALLEN. Mr. Chairman, I believe I heard the gentleman mention the amount of income that a retired person on social security would be permitted to earn without subtracting any part of the social security benefits. When does that begin?

The CHAIRMAN. The time of the gentleman from Oregon has again expired.

Mr. ULLMAN. Mr. Chairman, I yield myself 1 additional minute.

Mr. ALLEN. Mr. Chairman, if the gentleman will yield further, now it is $3,000 they can earn.

Mr. ULLMAN. Yes. We provide next year that it will be $4,000 and the following year $4,500.

Mr. ALLEN. Mr. Chairman, if the gentleman will yield further: Today, on the $3,000 limitation, what they make over that, for every $2 they earn, $1 is deducted from their social security benefits. Is that correct, under the present formula?

Mr. ULLMAN. Yes, that is correct.

Mr. ALLEN. That same formula would apply?

Mr. ULLMAN. That same formula would apply.

Mr. ALLEN. Yes, because I understood the gentleman to say that it would be dollar for dollar.

Mr. ULLMAN. No; the gentleman is absolutely correct, the same formula would continue.

Mr. ALLEN. If they make over $4,000, they would cut $1 from their social security for every $2 they earn above that amount, next year.

Mr. ULLMAN. That is correct.

Mr. CONABLE. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, Robert Browning and Rabbi Ben Ezra said:

Grow old along with me!
The best is yet to be,
The last of life, for which the first was made.

The lucky among us grow to be old eventually. Aging is a very sensitive condition, because we all hope to share it. We all look forward to the years in which we are going to have our retirement and our reward for a life of hard work.

Social security is a terribly important situation to Americans for this reason. I do not mean to imply that it is of importance only to the aging among us. It is important also to survivors and to the disabled. It is closely related, of course, to medicare, a very important public health program.

There can be little doubt in anyone's mind that this is one of the most important bills the 95th Congress is going to consider. It is important because of its sensitivity, because it is central in the retirement plans, the hopes and aspirations of all Americans.

It is terribly important then that the Members understand this complex issue, understand that it is not to be dealt with as your run-of-the-mill bill, where if we do not finance, we can always raise taxes or print money or in some other way at some other time somehow fill the gap. This is a closed-end system. If we do not engage in the business of trade-offs here, we inevitably will bring the system not only into further imbalance—and it is now 8.2 percent out of balance—but we will ultimately affect the confidence of all those people who depend on social security.

Their hopes for a responsible Government are going to be dashed if we do not deal with this in a responsible way. Now, I hope the Members will not take the easy way out on this bill and vote no on everything today. It is easy to be critical of an issue as sensitive as this and to say, "Well, it could be dealt with better." We have provided a number of alternatives that permit the Members to pick and choose among aspects of this program in a responsible way, where they will be able to provide the necessary financing as well as the adjustments in benefits that many of us desire.

We have available a Republican substitute somewhat different in concept,

involving substantially lower payroll taxes. We commend that to the Members' attention. There will be further details on it later.

But remember, if Members vote no on everything, they are voting for the bankruptcy of the system. It is easy to say, "Oh, well, you can always go back and come up with something else," but we all know that something else will be subject to further criticism, too, and ultimately we have to follow a course broad enough to realize that we must choose among alternatives, some of which may not be entirely to our liking. So, I hope the Members will not follow the course that frequently is followed where we are dissatisfied with this or that detail and vote against all possible options that are available to them today.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Florida.

Mr. GIBBONS. I am sure, when the gentleman from New York is encouraging people not to vote no on all amendments, he was not meaning not to vote no on the Fisher amendment, because the Fisher amendment, as a matter of justice, would bring people in who should be paying the taxes.

Mr. CONABLE. I expect to oppose the Fisher amendment. I am talking about the major options that are available in this measure as it has been brought to the floor. The Fisher amendment involves the coverage of public employees. I frankly think that they should be covered.

Mr. GIBBONS. The gentleman would urge Members to vote no on the Fisher amendment?

Mr. CONABLE. Yes. I certainly am not urging Members to vote in an indiscriminate way and to reject all the major options. That is what I am concerned about.

Mr. GIBBONS. I thank the gentleman.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. Yes.

Mr. WYLIE. I thank the gentleman for yielding.

The gentleman from Florida has asked the gentleman in the well if he is going to vote no on the Fisher amendment. The gentleman from New York says he is and that he thinks all public employees should be included in social security.

Mr. CONABLE. We will get into that later.

Mr. WYLIE. I know we will get into that later, but why are public employees' funds going to be included in the social security system?

Mr. CONABLE. The public employees' funds are not going to be included in the social security system. We are advocating an integrated program where public employees' funds would be used to supplement social security coverage, a similar situation to that which obtains in most of big business today where there are private pension plans which supplement social security coverage.

Mr. WYLIE. But why should funds maintained by the States, the State Teachers Retirement System, the School Employees——

Mr. CONABLE. They would remain inviolate.

Mr. WYLIE. They would remain inviolate, separate and apart?

Mr. CONABLE. Yes.

Mr. WYLIE. Then why include public employee retirment funds in the system at all? I thought the original purpose in putting them into the system was that we have to get money into the system from some new source, either through an increase in payroll taxes on employees and employers, increase the base, from the general revenue fund, or from some other viable pension system which has money in it.

Mr. CONABLE. The extent to which State pension systems would be adjusted as a result of social security coverage is up to the States. I doubt that many States or many localities would want to have a total pension system piled on top of a social security system, and so I hope the two will be used to supplement each other.

But I must point out to the gentleman that 70 percent of State and local employees are now covered by social security. It may not be so in Ohio. I certainly do not intend to try to review all of the States. And, quite frankly, I would much prefer to leave this debate until we are talking about the public employees issue, because we must deal with the basic bill now.

Mr. WYLIE. Mr. Chairman, will the gentleman yield that I may ask one more question?

Mr. CONABLE. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Florida has said that what we are attempting to do here, by one process or another, is to prevent some form of double dipping; that public employees of the State of Ohio, for example, will draw their pension and that should be quite adequate. Is that the point?

Mr. CONABLE. No one will take their rights away from them.

Mr. WYLIE. I hope not. They pay 8 percent into it. Now, if they retire at the end of 20 years, the gentleman from Florida says their first social security check could be more than he paid into the social security fund during 40 quarters.

Mr. CONABLE. That is theoretically possible.

Mr. WYLIE. Then why don't we make that program economically feasible and say, "You will have to pay as much in as you take out on an actuarial basis"?

Mr. CONABLE. To do that would alter many existing systems to their detriment. We will have to go through a rather extensive transition period for any change that is made.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Wisconsin.

Mr. STEIGER. I thank the gentleman for yielding.

Mr. Chairman, I do not want to prolong this discussion, but the remarks of our very distinguished and perceptive colleague, the gentleman from Ohio (Mr. WYLIE), pinpointed precisely the very kind of misinformation and the very kind of misperception that exists about the issue of universal coverage. So far as I know, no one—no one—has said, so far as State employees, municipal employees, county employees, or Federal employees are concerned, that we are somehow going to transfer their civil service retirement system into the social security system, nor are we going to transfer the Ohio State employees retirement system into the social security system. But you better believe, based on the mail that is coming in, that there are an awful lot of people out there who are being severely misled by those who represent those employees that that is what is intended. That is absolutely wrong. I am delighted that the gentleman asked the question so that issue could be clarified.

Mr. CONABLE. Mr. Chairman, if I could reclaim my time, I would like to discuss the bill. This is obviously a very sensitive issue and one which I hope we will have ample opportunity to discuss. But I would like the Members to understand some of the more basic elements involved in this issue before we get too far down the road.

The CHAIRMAN. The time of the gentleman from New York (Mr. CONABLE) has expired.

Mr. CONABLE. Mr. Chairman, I yield myself an additional 8 minutes.

Mr. Chairman, I want to mention some of the good features of the committee bill—and there are good features in it. I think it happens to be fatal in some ways, but I want to stress that there are some important improvements, as well.

First of all, the decoupling and wage indexing provisions, as the chairman mentioned, are very important ones on which almost everyone agrees. We must decouple and stabilize replacement rates. This bill stabilizes them at a level about 5 percent lower than those existing in January 1979. I think it is a sound proposal, and I am glad it is in there. It has a positive impact upon the actuarial improvement of the total package. It freezes minimum primary benefits at the January 1979, level, or at an estimated $121. It reduces disproportionately high payments to those with short periods of covered work and relatively high earnings. Those are the ones who get the minimum primary benefits, and many already are retired from other systems.

Or they are moonlighters who are primarily engaged in some noncovered employment.

By freezing the minimum benefit we are eliminating eventually a substantial part of the windfall in the system for those who play-off two different types of coverage.

We also are updating the special minimum benefit in the committee bill to $230. The special minimum is primarily for those who have worked in covered employment around 30 years at comparatively low wages. These often are the marginally skilled, who, because of their marginal skills, receive compara-

tively low social security benefits, although they have a stable employment record. These people, we think, should be on the same kind of cost-of-living escalator that the others have been on. They have not been on such an escalator, and the committee bill takes care of that basic inequity. We think they should be primary objects of our concern, and they have not been up until this time.

The bill also provides for improved treatment of women through the elimination of marriage or nonmarriage requirements as a bar to dependent or survivors' benefits.

We have all heard stories of old folks in their retirement homes who cannot get married because either or both of them would lose social security benefits that they have been entitled to from other sources if they remarried.

The bill also changes the duration of marriage requirements for divorced spouses from 20 years to 5 years. The woman who has lived with a husband for 18 years and is then divorced loses her social security benefits under present law. Now, if she lives with her husband for over 5 years, she gets a derivative right which will continue.

The bill eliminates sex discrimination language through a whole panoply of minor changes to equalize the treatment of men and women. We are only getting into step with the Supreme Court on that particular issue.

I regret that the bill does not include a working spouse's benefit such as the Republican substitute suggests.

There are controversial features of the committee bill. Let us now talk about coverage just briefly. This involves Federal civilian employees.

I want the Members to understand how this can work to the advantage of our Federal civilian employees. Remember, I said, "Federal civilian employees." Federal military employees are now covered by social security. They have been ever since the days of the draft. They have been covered, 2.5 million of them, because we did not want to interrupt their social security coverage when we forced them to go into the armed services. So the military retirement system of the Federal Government does supplement social security, and we now would like to see us move our civilian Federal workforce toward that coverage.

Major industries have integrated pension plans now. Because the cost of social security has been going up, many of our major companies have found that they could not afford to maintain as rich a private pension plan as they had previously. So what they have done is this: They have moved toward basic coverage through social security and used their private pension plans to supplement, bringing benefits to a certain level.

Let us take the Federal worker who is now earning $25,000 and show how this would work, if we were to go along with an integrated plan similar to that in private industry. That worker now pays 7 percent of his salary into a retirement fund. Under the integrated compensation plan, he or she would pay social security tax at the rate of 6.5 percent of the first $17,000 next year under present law and would then pay into the retirement fund the difference between that and what he or she formerly paid. That is 0.95 percent of $17,700 plus 7 percent of the next $7,300, above the social security covered wage base.

The worker would be protected thereafter under a broader blanket of social security, providing greater disability and survivor benefits than workers get under the Federal system now. The worker also could receive a net retirement pay equal to or even slightly higher than what he or she would have received formerly. The social security benefits, to the extent those would be taken over at an increased portion of the total pension, would be tax exempt.

As we know, Federal pension benefits are taxable after the worker gets back what was paid in.

Such an integrated system is not against the interests of the Federal employees, if they are willing to listen to how it works.

State and local units would have to integrate their pension plans also. There is not universal coverage under the committee bill until 1982, and that would allow plenty of time to work out the integrated coverage features.

Seventy percent of our State and local governmental employees already are covered by the social security system, and the remainder would have 4 years to consider alternative methods.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, I thank the gentleman for yielding.

I know the gentleman is not going to spend a lot of time on this issue, which came up earlier; but almost 30 percent of State and local employees are not covered by social security now. That does not fall evenly across all the States of the country.

Mr. CONABLE. No, it does not.

Mr. ARCHER. Therefore, some States have large percentages of their employees, perhaps all, who are not covered under social security. Those particular States would be hit very hard.

Mr. CONABLE. They would be hit harder, correct.

Mr. ARCHER. For example, the State of California will face $400 million a year in total costs at all levels of government as a result of this bill.

If the gentleman will yield further, as far as the integration of State and local employees is concerned, it would be far more difficult and is a totally different issue from that of Federal employees because many State constitutions prohibit integration, which will require constitutional amendments.

Mr. Chairman, I regret that the Committee on Rules did not make in order a separate amendment for State and local employees.

The CHAIRMAN. The time of the gentleman from New York (Mr. CONABLE) has expired.

Mr. CONABLE. Mr. Chairman, I yield myself 4 additional minutes.

The CHAIRMAN. The gentleman from New York (Mr. CONABLE) is recognized for 4 additional minutes.

Mr. CONABLE. Mr. Chairman, I thank the gentleman from Texas (Mr. ARCHER). I agree with what he has said generally. I would like to point out, though, that the effect of the integrated system need not be to add anything to the cost of State retirement systems. Any integrated system would substantially reduce the contributions of the State thereafter because they would be supplemental to the social security coverage. The net cost would be substantially less.

Mr. Chairman, I must say that most of the State and local pension systems of which I know are at considerably greater expense to the State and locality than basic social security coverage would be.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Chairman, I appreciate the gentleman's yielding, and I commend him for his statement. I am persuaded by his argument, particularly with respect to inclusion of Federal employees.

Is it going to be possible under the rule under which we are considering this legislation to be able to vote to include Federal employees at the exclusion of State and local employees, my feeling being that if we are embarking initially on a new step—and we obviously have gone into a lot of educational matters around the country—that maybe we could take an initial step first and follow on later, in which case the gentleman's thesis is correct.

Mr. CONABLE. Mr. Chairman, the gentleman makes a good point.

The Republican alternative does not include this option; and for that reason, I hope the gentleman will take up this issue with the minority leader and with myself in connection with a possible motion to recommit.

Mr. MICHEL. Mr. Chairman, if the gentleman will yield further, today we talk so much about a number of other programs, particularly education and whatnot and public grants to communities, and about a hold-harmless provision, that this question occurs to me: Is it not really correct to describe what we have had heretofore done with respect to Federal employees as holding them harmless?

Mr. CONABLE. I cannot conceive of the Congress or of the Committee on Post Office and Civil Service coming up with an integrated program that would be less desirable for them than what they now have. There are many advantages to basic social security coverage for them.

First, the benefits are tax exempt. Second, one gets much better disability protection and survivorship protection than under the Federal plan.

Mr. Chairman, if I may reclaim my time, the objections I have to the committee bill will be dealt with by the Republican substitute. But let me note now that the committee bill takes a short-

term financing approach. It still leaves a 1.69 percent taxable payroll deficit over the next 75-year period. It is the dollar equivalent over 75 years of $880 billion that we will be in deficit. Frankly, that disturbs me.

Our Republican substitute has, by contrast, an actuarial deficit of about 0.3 percent of taxable payroll over the next 75 years. The committee bill falls far short of that.

The committee bill provides a rapid three-step increase in the wage base that hits middle-income people. It also substantially increases the maximum pension payable for those whose incomes are now considerably above the wage base but would be included in the wage base in the future. Thus, raising the wage base does not improve the long-term actuarial situation of the system. Instead, it makes it less easy for us to finance future cost-of-living increases, because as we raise the wage base, obviously we have to compensate by raising it considerably more every time we have to make a cost-of-living adjustment in benefits under existing law.

The committee bill also provides for potential use of general revenues through standby borrowing authority. I think that is a bad precedent. I think it is a step toward a needs based program rather than an insurance program.

There are other issues in this bill that will emerge as we proceed. I thank my colleagues for their patience in my extensive discussion.

Mr. BROWN of Ohio. Mr. Chairman, would the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, when I was in Ohio last week to speak to a professional group in the Seventh District, the executive director took me aside for an urgent private conference. His wife, a teacher, had given him strict instructions to lobby me to vote against dragging Federal, State, and local government employees into the ailing social security system. I assured him that he could tell his wife she has nothing to worry about; my wife, also a teacher, had gotten to me first.

But even if I did not have a wife, mother, sister and grandfather who taught in the public schools in Ohio, I would not be inclined to place the burdens of our social security system on such dedicated public servants—Federal, State, and local—who already work hard to support their own solvent retirement systems. Public employees—teachers, firemen, policemen, State, and Federal employees—represent one of the most important and underappreciated groups in our Nation. They have, for the most part, labored faithfully and honorably under restrictions not to strike for higher wages. And they have generally been content to accept wages not commensurate with the salaries they might have been able to obtain in the private sector. That the Congress would consider turning such dedicated and self-sacrificing public employees to force them to help in salvaging a system that is going bankrupt through no fault of theirs—but because of our mismanagement—is simply evidence of our own moral bankruptcy.

The State and local retirement systems provide a stunning example of solvency when compared to the problems faced by the social security system. Assets held by the State and local retirement systems reached $111.5 billion at the end of fiscal year 1976, according to an analysis by the tax foundation. That is more than twice the amount held by these systems in 1970 and it obviously represents an amount that the Federal Government finds very tempting. As assets have increased, investment earnings have become an ever larger source of income for these funds, increasing from 25 percent in 1970 to 29 percent in 1976. Ohio, with one of the best public retirement systems in the Nation, had $1.1 billion in receipts in fiscal 1976, with 24 percent coming from the employees, 40 percent from State and local governments and 36 percent from earnings on investments. That seems to me to be a fair balance of paying your own way, having the taxpayer—or employee pay—and earning from investment.

Despite the apparent health of the State and local systems, they cannot withstand the assault on their actuarial soundness that would occur if their employees were drawn into social security. While the bill we are considering today would not actually absorb any of the existing retirements funds, but merely open that possibility to study, it would represent a serious added burden on the employees by making him pay additional taxes immediately. I cannot in good conscience support a bill which would do such damage to our public servants' tax burden now and retirement savings for the future.

Mr. Chairman, this debate over inclusion of Federal, State and local government workers has gotten us away from the basic cause of the problem, which has absolutely nothing to do with public employees. Actually, we have a social security financing problem for two reasons:

First. The relatively short-term problem is caused originally by the current high rate of inflation and specifically by the fact that the 1972 legislation that tied benefits to the cost of living has led to benefits for retirees rising faster than the general wage rate.

Second. The longer range problem, which will occur largely in the next century, arises from the fact that birth rates are lower than previously assumed so that in the long run there will be a higher number of retired persons drawing social security benefits in relation to the number of wage-earning contributors. It is anticipated that the current ratio of 30 beneficiaries for every 100 workers will increase to 50 or more beneficiaries per 100 workers by the year 2030.

The first problem is solely the responsibility of this Congress. We should not have made the error in the first place. Once it was discovered, we should have acted more quickly to correct it. President Ford made a proposal during the last Congress, which we ignored, that would have dealt directly with the problem by "decoupling" future benefits from the current cost of living increases. We would not even consider that then. Now today, the bill before us also takes that approach. I applaud that action—even if it has been too slow in coming.

The longer range problem may require more thought. Obviously, Congress has no role to play in influencing Americans' personal decisions about the size of their families. And the fact that people are living longer and enjoying better health should be seen as a blessing and not a curse; and Congress has recently addressed that by terminating our archaic laws on forced retirement at 65. But it also should be clear that massive tax increases on those paying into the system are bound to be self-defeating. All tax increases, whether on employees or employers, tend to retard economic growth. It makes much more sense to cut personal income taxes, boosting economic growth and job opportunities and providing a healthy wage base to bring new revenues into the social security system and into the Federal general fund to try to balance the budget. An increase of just one-half to three-quarters of 1 percent in our rate of economic growth would be sufficient to increase real wages enough to make our social security financing problem disappear. That growth increase will come if we cut taxes and let American workers have more of their own money to spend, save or invest, thus increasing jobs and economic expansion.

Mr. Chairman, I would like to conclude by noting that I do not intend to gloss over the obvious social disparities we face in our present retirement systems where a small portion of our retirees qualify for more than one retirement program by paying into civil service retirement, a private pension plan and social security for a few years each. Such people, with more than one retirement plan, can obviously do better in retirement than a teacher who works 40 years under a public employee retirement system and then can barely make it on the returns of a single retirement benefit. But I do not think the solution to that problem should involve dragging everyone into social security, changing the rules for those who have faithfully contributed to their State or local retirement systems throughout their entire careers. I believe it is time for a deep, thorough and thoughtful study of all of our retirement systems. To that end, I have asked Joint Economic Committee Chairman RICHARD BOLLING to include the topic in a long-range economic study the committee is preparing to launch. It may take awhile to get the answer, but the right answer in the long run is better than a quick answer that is wrong.

Mr. ULLMAN. Mr. Chairman, I yield as much time as he may consume to the distinguished chairman of the subcommittee, the gentleman from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr. Chairman, I wish to thank the chairman of the Committee on Ways and Means.

Mr. Chairman, we have before us today a social security financing bill, H.R. 9346, which is the most important legislation to be considered by the 95th Congress. It affects the vital concerns of virtually every American and particularly the 1 out of 7 Americans now

receiving benefits each month. The fears of these beneficiaries have been aroused by the widespread reports of the financing problems of the social security system. H.R. 9346 is designed to restore the soundness of the system, and to allay the concerns of all of those covered by the system.

While I do not agree with every provision in the financing bill as reported by the Committee on Ways and Means, I am supporting this legislation because of the vital importance of restoring the viability of the system at the earliest possible time. It is absolutely essential that the Congress pass and the President sign into law a financing bill this year.

The Social Security Subcommittee which I chair has been concerned about the financing problems of the system for some time. We held hearings on these problems several times in the preceding Congress but never were able to surmount the differences between the Ford administration and the Congress as to how best to meet them. In the 95th Congress, we went to work on financing legislation as soon as President Carter submitted his social security proposals in May. There were many different viewpoints in the subcommittee, but we finally were able to hammer out a bill in September. The Committee on Ways and Means worked with our framework in ordering the bill reported October 6, although some modifications in the tax and wage base schedules were made in the full committee.

H.R. 9346, important as it is, does not by any means solve all of the problems facing the social security system. I already have announced that, in the 1978 session, the Social Security Subcommittee will work on a phase II bill for this Congress. This phase II legislation will be directed primarily to the problems of the disability program, but some other issues which we could not consider in connection with H.R. 9346 also will be included. The costs of the disability program have for several years been running far above the estimates, and we hope to find the reasons for this and provide solutions if possible. I have introduced a disability bill, H.R. 8076, to serve as a basis for our work next year.

The important business at hand, however, is to enact the Social Security Financing Amendments of 1977 and thus assure the elderly and working people of this country that the social security system will continue as a sound and durable institution. In recent years there have been many irresponsible articles about the system and misleading attacks on it. We in Congress repeatedly have assured our constituents that we never would let the system get in a position where it could not fully meet all of its obligations. The financing problems of the system now are the most serious since the Social Security Act originally was enacted in 1935. We have an opportunity in acting on H.R. 9346 to demonstrate that we will carry out our pledges to maintain social security as the bulwark of retired and disabled persons and surviving families in this country.

Mr. CONABLE. Mr. Chairman, I yield 10 minutes to the gentleman from Texas (Mr. ARCHER).

Mr. ARCHER. Mr. Chairman, I would like first to compliment the chairman of our Social Security Subcommittee, the gentleman from Massachusetts, JIM BURKE, for his untiring efforts under adverse physical conditions during the deliberations on this bill, for his fairness to all members of the committee, and for the openness in which the deliberations occurred. I would also like to compliment the chairman of the full committee, the gentleman from Oregon (Mr. ULLMAN), in the same way for the openness and the fairness in attempting to reach a solution to the social security problem.

Before I begin saying any unkind things about the committee bill, I would like to pay it a couple of compliments.

First, it is better than the bill H.R. 8218, the social security financing bill submitted by the administration. That scheme would have taxed employers on their total payrolls and used general revenues which do not exist. That fortunately was put to death as soon as it was submitted to the Committee on Ways and Means. The committee majority, especially the chairman, deserve a great deal of credit for that mercy killing.

Second, the committee bill does have some attractive features. Among other improvements it includes sound decoupling—plus-wage-indexing provisions. It improves the treatment of women under the system and it freezes the much abused minimum primary benefit which should go entirely to those who need it, but does not under the present law.

Other improvements have been mentioned by my colleague, the gentleman from New York (Mr. CONABLE).

Having said this, however, in my opinion the good points are outweighed by the bad. It imposes far too heavy a tax load on our already overburdened middle-income citizens. That is the worst aspect of the bill as far as I am concerned. The measure calls for sharp and rapid increases in the taxable wage base on the amount of earnings on which the social security tax rate is levied. Under current law the base is adjusted automatically in step increases and average wage levels, this year at $16,500, next year scheduled to rise to $17,700, and by 1981 it would reach an estimated $21,900. Under the committee bill the taxable wage base would rise to $19,900 next January and by 1981 it would advance to $27,900, which is $6,000 higher than the current law level.

These excessive increases hit the middle-income Americans where it hurts them the most. It deprives them of income they otherwise would have used for savings to supplement their social security checks when they reach retirement age. It not only cuts deeply into the amount of money available for them to spend in the marketplace but also has a deepening effect on employment at a time when the jobless rate is already running at 7 percent, and pulls the rug out from under capital formation efforts.

I should emphasize, Mr. Chairman, that our faltering economy needs more capital formation, not less. Yet this bill offers exactly what we do not need.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I appreciate my friend yielding.

I want to compliment the gentleman on his remarks, as well as those of our colleague, the gentleman from New York (Mr. CONABLE).

The gentleman from Texas has pointed out very well that ultimately the social security system of this country is totally dependent upon the economic growth of our Nation. This bill raises the marginal tax rates of all the American people, not only the middle-class but also the low-income and wealthy Americans by 13 percent on top of the rates they are already paying. The result will be to discourage the workers and savers plus slow the economic growth upon which ultimately a sound social security system must be based. For instance a working man or woman who earns $12,000 and pays in the 18-percent marginal tax bracket and who gets a cost of living increase in salary, will then pay in 38- to 40-percent tax bracket on every dollar over $12,000 by 1980. It is outrageous.

So the gentleman is absolutely correct in bringing to the attention of this body this extremely important information. I personally appreciate it very much, compliment him on his remarks, and associate myself with him in his effort to reduce rather than raise the taxes of the American people.

This bill is designed to increase both unemployment and inflation.

The Conable substitute moves in a much more proper direction and in a more responsible way.

Mr. ARCHER. Mr. Chairman, I thank the gentleman from New York.

Increasing a wage base also is unwise because it gives the illusion, and only the illusion, of trust-fund wealth. Certainly, more money is pumped into the funds immediately; but large wage bases mean greater average earnings, and greater average earnings mean greater benefits; so revenues generated in the early years through wage-base increases must be paid out in later years in the form of higher benefits.

Another deficiency of H.R. 9346, as I see it, is its handling of the so-called earnings limitation, the amount of money a social security beneficiary can earn without having benefits reduced. That amount, which also is adjusted annually, is $3,000 this year and is scheduled to rise to $3,240 in 1978. Under the committee bill, it will go up to $4,000 next year, to $4,500 in 1979, and thereafter be automatically adjusted again to rising wage levels.

Mr. Chairman, the increases in the earnings limitation which H.R. 9346 provides are entirely too skimpy. Frankly, I am amazed that the bill does so little in this regard.

There has been more legislation introduced to increase the earnings limitation substantially, or to remove it altogether, than any other change in the social security system. I have long been among those advocating outright repeal.

I am pleased to note that the House will have at least two opportunities to join me in this effort.

Perhaps the most serious deficiency of the bill, however, is its short-ranged, as well as short-sighted, approach to meeting the social security system's financial needs.

I agree with the gentleman from Massachusetts (Mr. BURKE) that it is important, not just tomorrow, not just in the next year, but for the 75-year projection of the system, that the fund be viable.

H.R. 9346 does not really come close to erasing the long-term, or 75-year deficit.

The committee bill leaves a deficit of 1.69 percent of taxable payroll, which translates into a deficit of almost $1 trillion. Our children, and our children's children, will have to raise that money if they want to keep the social security system going. That is a heavy burden to pass along to them.

We have been dodging the system's financial needs too long. We have been bold with benefits, but timid with taxes to pay for them. Our track record, unfortunately, is clear on that score.

Since the social security system first began paying monthly benefits in 1940, benefits have been increased by 510 percent, while the cost of living, as reflected in the Consumer Price Index, has gone up 333 percent. Over the past 25 years, benefits have gone up 40 percent more than the Consumer Price Index.

In just one recent Congress, the 92d, benefits were increased across the board by 32 percent—in one Congress. The consumer price index over that 2-year period went up only 11.4 percent.

Even more illuminating is the fact that two-thirds of the 32-percent benefit increase instituted during the 92d Congress was not accompanied by any increase in taxes or trust fund revenues of any kind that occurred in 1972. Those who voted for that 20-percent increase in 1972 justified it on the ground that the system's financial needs had been projected on assumptions that were too conservative. On the basis of dynamic future assumptions, nothing else, benefits were increased 20 percent across the board.

Today, the two main social security trust funds face bankruptcy. Within a year, the disability insurance fund is expected to approach an exhaustion point, to be followed a few years later by the old age and survivors insurance fund.

If the 92d Congress had not approved that 20-percent benefit increase, without adequate financing, we would face no trust fund crisis now.

In fact, had they only increased it 10 percent, we would face no trust fund crisis now. The trust fund's balance at the end of 1979, if it had only been a 10-percent increase, would be about $77 billion, or 7 percent of outgo that year, instead of just $21 billion, or 18 percent of outgo, as is currently projected.

In short, Mr. Chairman, the predicament in which we find ourselves today could have been avoided. It was not, as some have insisted, brought on entirely by the twin factors of rising inflation and high levels if unemployment. Those were contributing elements, to be sure.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. CONABLE. I yield 2 additional minutes to the gentleman from Texas.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. CONABLE. Mr. Chairman, I yield 3 additional minutes to the gentleman from Texas.

Mr. ARCHER. But despite them, the social security trust funds would not be in a state of crisis in 1977 had we been less reckless 5 years ago. My chief point in bringing up this unhappy bit of history is to underscore the folly of taking a shortsighted view of social security financing. The bill before us not only would put an unfair burden on middle-income Americans, but it would delude them into thinking social security had been taken care of in such a way that they could forget about it.

That simply will not be the case. The Congress will have to tackle hard choices on social security financing again within the next decade or two, perhaps within the next several years. We already know that there are more older Americans every year. Between the time the social security system was launched and the next century, average life expectancies at age 65 will have increased more than 3 years for American males and for American females, about 7 years. Not only are we living longer, we also are more active longer.

We also know that the birth rate in this country has been declining markedly. As far as we can see in the future, it is likely to at least remain at a low level. The combination of these two trends—a sliding birth rate and advancing longevity—will combine to produce another financial crisis for the social security system. There are slightly more than three working contributors to social security for every beneficiary today. In the next century, that ratio will have dropped at least as low as 2-to-1. The demographics are clear. If we do not face this problem and give advanced notice to the citizens of this country many years in advance, then our children and even many of us will have to face it.

That is why, Mr. Chairman, I hope a sufficient number of my colleagues will join in support of the substitute for the committee bill which will be offered by the gentleman from New York (Mr. CONABLE). The substitute will make many more improvements in equity than will the committee bill. It also will solve the system's financial problems for the projected 75 years at a total cost to the contributing taxpayers of less than 1¼-percent increase in the tax rates, and with no increase above present levels in the taxable wage base.

Most important, Mr. Chairman, it would be a signal to our children that we are not going to pass this awesome problem on to them. It would mean that, for once, the social security buck—in this case the "megabuck"—would stop here.

Mr. ULLMAN. Mr. Chairman, I yield 10 minutes to the distinguished chairman of the Health Subcommittee of the Ways and Means Committee, the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Chairman, there is no doubt about the need to strengthen the financing of the social security program in order to give assurance to the American people that the benefits they are counting on will in fact be paid when the time comes to receive them. H.R. 9346 provides the assurance that is needed, and makes clear the Government's intention to fully honor the promises that have been made in the social security law.

Some aspects of this bill are controversial, I realize. This was clearly evidenced in the deliberations of the Committee on Ways and Means. But, although the members of the committee strongly disagreed on particular features of this bill, a majority were united in a resolve to report legislation now to strengthen the financing of the social security system.

I am among those who would have preferred a bill somewhat different from the one before us. As chairman of the Subcommittee on Health of the Committee on Ways and Means, I want to note that the bill, as reported by the committee, provides a slight improvement in the actuarial status of the hospital insurance trust fund—the fund from which medicare's hospital insurance benefits are paid. I must say, however, that before this outcome was reached in committee there were several different efforts by others to divert very substantial sums of money from the hospital insurance fund, simply because that fund—even though it had a long-range deficit—was in the short run far more solvent than the trust funds from which social security cash benefits are paid.

I might not have resisted these efforts to divert substantial moneys from the medicare trust fund if that had truly been necessary to meet a financial emergency facing the social security cash benefits program. But that was clearly not the situation. For, as Members know, this bill before you does more than improve the financial status of the trust funds. It also provides substantial improvements in benefit protection. Three of these benefit improvements (liberalization of the retirement test exempt amount, elimination of marriage or remarriage as a bar to entitlement to certain benefits, and a reduction in the duration of marriage required for divorced spouses' benefits) will cost $10.9 billion between 1979 and the end of 1983 alone. Although it is true that other benefit changes (mainly the correction of errors in the benefit formula through "decoupling") have offsetting cost effects, I believe it should be understood that the bill before us does contain some significant benefit improvements.

Let me make it plain that I do not object to benefit improvements. What does distress me, though, is that some people do not seem to make a clear distinction between legislative action that is necessary to correct an emergency in the financing of the program, and legislative action taken merely because of an understandable desire to liberalize benefits.

It is my intention to support the Fisher amendment, which would delete from the bill mandatory coverage for Federal, civilian, State, and local government employees and employees of nonprofit organizations. The committee action in adopting these universal coverage provisions was taken, in my opinion, without sufficient consideration of the issues involved. A number of important factors originally led to the exclusion of groups such as local police and firemen from coverage may still be valid. As a result of the committee bill, State and local retirement systems would have to be adjusted to take account of the new social security coverage. Rather than vote in expanded mandatory coverage now, we should spend some time working with those who would be affected to insure, before we proceed, that there will be no substantial increase in overall contributions and no loss of benefits under existing pension and retirement plans. We must study the financial impact on State and local governments which are already hard pressed to meet revenue needs. To illustrate the impact of the committee bill, I might point out that it would require the city of Chicago, as an employer, to pay $66 million in addition to the $116.6 million it now pays to existing pension systems. Of primary importance is the confidence of my constituents in the future solvency of pension and retirement programs into which some have been paying for 25 to 30 years. We should do nothing which would jeopardize these programs.

Deleting the universal coverage provisions, as the Fisher amendment does, is defensible only if provision is made to replace the tax contributions that are lost as a result. The Fisher amendment attempts to do this. I regret very much, however, that the amendment inadvertently fails to fully replace this lost revenue. Under the amendment, the hospital insurance trust fund would lose nearly $25 billion in revenue over the 6 years beginning in 1982 and running through 1987. In my view this seriously violates the understanding by which the committee agreed to recommend that specific amendments be made in order under the rule. The understanding is that each amendment would maintain the actuarial status of the trust funds at the same level as in the reported committee bill. Also, under the amendment, there is an additional long-run deficit of 0.09 percent of taxable payroll in the cash benefits program (OASDI) that I feel does not comply with the understanding by which the amendment was to be made in order. At an appropriate time, I intend to seek to correct these defects in the financing of the Fisher amendment.

Let me say, before concluding, that I believe credit should be given to the Office of the Actuary of the Social Security Administration for its highly professional assistance to the committee.

Mr. Chairman, despite a number of reservations, I support this legislation and I urge my colleagues to support it also.

Mr. NIX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as my colleagues know, at the conclusion of general debate an amendment, which has been approved by the Post Office and Civil Service Committee, will be in order to title III of this bill. Our committee amendment, which would strike those provisions of the bill which require mandatory coverage for Federal employees beginning in 1982, was adopted by a record vote of 25 to 0, when it was considered by our committee.

There are any number of reasons why our amendment should be adopted and many of them will be discussed by my colleagues. At this time, however, I want to stress for the Members that in the past, attempts have been made to find methods to provide social security coverage for Federal employees and such attempts have failed.

In this regard, I read with deep interest the discussion on page 35 of the report of the Ways and Means Committee concerning previous studies of this issue.

That committee's report points out that over the years, particularly in 1960, 1965, and 1972, studies concerning social security coverage for Federal employees have been conducted and various proposals have been considered. However, the committee report then goes to state that none of the proposals advanced has proved acceptable to all concerned.

Therefore, while several studies have been performed, no one yet has come up with an acceptance plan for extending social security coverage to Federal employees.

Notwithstanding this fact, however, the Committee on Ways and Means now has decided that the proper way to resolve this problem is to mandate social security coverage for Federal employees in 1982 and hope that an acceptable method of achieving such coverage can be developed before that date.

Mr. Chairman, in my opinion, this is an incredible approach to a very complex problem.

What happens if an acceptable method of coverage for Federal employees can not be developed by 1982; or if it is found that extending social security coverage for Federal employees is not a very good idea after all?

Obviously, the sensible approach is to study the feasibility of extending social security coverage to Federal employees before we mandate such action.

That is what the Post Office and Civil Service Committee amendment does and, therefore, I urge you to support that amendment.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. NIX. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Chairman, I appreciate the distinguished chairman of the Committee on Post Office and Civil Service yielding to me.

The gentleman mentioned in his remarks that the amendment by the Committee on Post Office and Civil Service passed in the committee 25 to nothing.

With respect to this amendment which will exclude Federal employees from the system, can the gentleman tell me whether that is the Fisher amendment so that, when we go into the 5-minute rule, I will know what I am referring to?

Mr. NIX. I have been referring to the committee amendment. The FISHER amendment is a separate amendment. I will say to the gentleman that I, of course, intend to support the Fisher amendment.

Does that answer the gentleman?

Mr. ANNUNZIO. Then the amendment of the chairman of the Committee on Post Office and Civil Service is a separate amendment from the Fisher amendment?

Mr. NIX. The gentleman is correct. The Fisher amendment will be offered as a substitute for my amendment.

Mr. ANNUNZIO. I thank the chairman.

Mr. DERWINSKI. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, in mandating universal social security coverage for Federal employees, the Committee on Ways and Means resembles a sinking ship sending its last desperate distress signal. Actually, it is not a unique experience for the committee and its ministration of the social security system. It has been bailing water for 40 years with a spoon.

In the current crisis, after filling all the lifeboats the committee came up short and found itself in need of at least one more life preserver. It managed to find one sound and sturdy specimen in the person of the Federal employee whose contributions to a bankrupt social security system could provide artificial, but temporary, relief.

In unanimously voting to reject the mandatory coverage of Federal employees under the social security system, the Committee on Post Office and Civil Service responded with genuine bipartisan concern to extract the Committee on Ways and Means from a highly impractical and possibly untenable position.

Our committee amendment represents a return to reason. Adopted by a 25-to-0 vote, it provides a logical basis for arriving at a decision as to whether or not Federal employees should be compelled to contribute to the social security system. In addition, our amendment calls for comprehensive studies of all aspects and consequences of universal coverage for Federal employees within 2 years. Following that there would be legislative recommendations, and then, and only then, would there be congressional decisions. It is a careful, step-by-step approach, with each separate piece being developed with the view of fitting into a master mosaic, if such a design proves worthwhile.

Contrast that with the approach taken by the Committee on Ways and Means. Their bill dictates that Federal employees will be covered by social security, effective in 1982. In a fill-in-the-blanks-later approach, the committee was silent on such key issues as a dual system for Federal employees, the level of their contributions, or for that matter, how

the new expanded system would work. Instead, the committee decided that between now and 1980 the Secretary of Health, Education, and Welfare and the Civil Service Commission will prepare a detailed study on how this mandatory integration is to be accomplished. It is an approach which goes well beyond the credit card philosophy of "buy now, pay later." The committee is telling Federal employees they must buy its product, sight unseen, and perhaps suffer the consequences at a later date.

The Post Office and Civil Service Committee, by its action, did not dismiss out of hand the possibility of eventual social security coverage for Federal employees. What we are proposing is a study of the issue to be followed by recommendations and then legislation.

Although the Federal civil service retirement system is burdened with an unfunded liability of its own, its current assets and cash flow evidently are too tempting to resist for a bankrupt social security system. Total assets of the fund are $43 billion and the annual earned interest is $2.5 billion.

Now let us look at the Federal old-age and survivors insurance trust fund. Outgo exceeded income in calendar year 1975 by $1.5 billion, and in calendar year 1976 by $3.2 billion. This year (1977), outgo is expected to exceed income by an estimated $5.6 billion. Unless additional funding is provided, the trustees of the system predicted—

> The assets of the disability insurance trust fund are expected to decline until the fund is exhausted in 1979. The assets of the old-age and survivors trust fund are also expected to decline, in the absence of additional financing, until the fund is exhausted in the early 1980's . . .

To tamper with the civil service retirement fund in the absence of stautory assurance that accrued benefits of Federal employees and annuitants will not be denied or diminished is to break faith with our Federal employees. It is an act of infidelity which deserves to be soundly rejected. In rejecting the Ways and Means Committee approach we will be telling our employees that we prefer to base our actions on facts rather than gimmicks.

Mr. Chairman, I join in supporting the amendment that will be offered by the House Committee on Post Office and Civil Service, under Chairman NIX.

I should also like to point out—and I say this appreciating the reputation, well-deserved or otherwise, that the Committee on Ways and Means has acquired over the years—that it is the House Committee on Post Office and Civil Service which is adopting a statesmanlike role at this time. The men wearing the black hats, the villains, are clearly those members of the House Ways and Means Committee whom we will be saving from their own folly.

If it is a matter, then, of committee consideration, Mr. Chairman, I urge all of the Members to support the statesmen of the House Committee on Post Office and Civil Service, who are doing their best for the Federal employees of our Nation.

I would like to point out that the basic problem here is that we are changing the rules in the middle of the stream, because the charge that many members of the civil service are also covered by social security is an accurate one. However, there is not anything illegal, anything immoral, anything improper about this.

What you are doing now is coming along and saying to the people covered by civil service retirement that we think their fund should be absorbed into the old-age and survivors insurance fund. We are saying, "We think that after 1982 you should be penalized if you have also acquired Social Security coverage."

That is the goal of the Committee on Ways and Means.

I would like to point out that we are thus adversely affecting potentially 2.9 million people, and I say "potentially" because our figures indicate that at the present time approximately 80 percent of the Federal civil service employees are already covered by social security. This is because of employment prior to entering Federal service or because of moonlighting or because of employment after they have retired. It is a perfectly legitimate, normal procedure that they follow.

Therefore, Mr. Chairman, I would urge support of the House Committee on Post Office and Civil Service's position.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. Yes, I will yield to the gentleman from New York, the distinguished minority member of the Committee on Ways and Means who, I understand, has been using his own time and obviously needs much more time to develop the reasons for his own position.

Mr. CONABLE. Could we sum up the gentleman's position by saying that the Committee on Post Office and Civil Service represents Federal employees and the Committee on Ways and Means represents everybody else?

Mr. DERWINSKI. No. No. I would say that the House Committee on Post Office and Civil Service also represents everybody else because we have not been responsible for the last 40 years as the gentleman's committee has for mismanagement of the social security trust fund.

Mr. CONABLE. It is suggested that if we were not to adopt the Fisher amendment, we would require not the changing of horses in midstream but the changing of horses 4 years before we get to midstream, and at that point the Committee on Post Office and Civil Service would work out the integration formula. Can we not assume that the Committee on Post Office and Civil Service would do it in the interest of Federal employees?

Mr. DERWINSKI. No.

Mr. CONABLE. The gentleman would not do it in the interest of Federal employees?

Mr. DERWINSKI. No. I think we can assume that what we call for is a study, and based on the information we would then legislate. What the gentleman's committee has done is legislate before they have conducted proper research as to the effect on the 2,900,000 Federal employees.

Mr. CONABLE. Civil employees, the gentleman is talking about. The Federal military employees are already covered; is that not correct?

Mr. DERWINSKI. That is right. In other words, what the gentleman is doing is presuming that by 1982 there will be a formula, good or bad, to take care of their absorption into the trust fund.

Mr. CONABLE. Can the gentleman tell me if we gave 4 years warning to all other occupational groups that were included under civil service? We did not give them any choice; we said this was mandated coverage and that we intended to move toward universal coverage. If we told them that 4 years from now they will have to have dealt with the gentleman's patrons on the Committee on Post Office and Civil Service and worked out with them a favorable arrangement, as the gentleman is charging now, the gentleman might be capable of doing it?

Mr. DERWINSKI. No. I do not recall that very many people have been given the choice, but I would hazard the guess that if we had the traditional American secret ballot and gave people the option now to withdraw and then take the route of some form of insurance coverage rather than social security, we would have a massive exodus.

Mr. CONABLE. Would the gentleman also suggest that if we had a public referendum on the income tax that most people would elect not to be taxed?

Mr. DERWINSKI. Yes; I think that is true, but I think the difference is in one case the income tax is certainly needed to operate the country; in the case of the social security trust fund, where for 40 years there has been an emphasis on the benefits and, a deliberate delay in requiring balanced payments, a monster has been created. I do not believe at this point the Federal civil service employees should be utilized in an attempt to conduct a short-run operation. I think we would have to address the entire problem and not just suddenly erase the retirement system of the Federal civilian employees as an effort to bail out the social security system.

Mr. CONABLE. I would urge the gentleman to read the record on this. Nobody is advocating ceasing the Federal retirement system, and that has been addressed at some length earlier here today. We are talking about an integration of the benefits, but the systems would remain separate, inviolate, and complementary, and probably the benefits for Federal employees would be increased in the process, if I know the Committee on Post Office and Civil Service.

Mr. DERWINSKI. No. In the integration goal of the gentleman's committee it is to place a ceiling upon the Federal civil service employees in which an individual qualified under both programs would have one or the other penalized. That, as the gentleman knows, is the ultimate goal.

Mr. CONABLE. I disagree with the gentleman's interpretation.

Mr. NIX. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Chairman, I rise in support of the committee amendment which will be offered and in opposition to section 301. I hope to clear up some of the confusion with respect to what this vote for the committee amendment will accomplish. It is not a vote on universal coverage. The proposal is simply to be able to say to 3½ million American citizens what we are going to do to them as we do it to them, not to say to them that we are going to put them under a system but we do not know what the effect on them is going to be when we put them into that system.

I think this is an extremely important point. We are talking about the security of 3½ million Americans. Whatever your views of Government employees may be—my view happens to be rather high of them and I think they are good, loyal Americans and that we have depended upon them a great deal—I think we have to realize that when we are talking about their retirement program we are talking about something terribly important to them which has to do with their life and security and future.

Can Members imagine going to one of my constituents or a constituent of another Member, a person who happens to be a Government employee and explain to him or her the following: "You have been contributing to a retirement program for 15 years. You have planned for the future of your family and yourself, and their future, on that retirement program, but now we are going to change that retirement program rather drastically. We do not think it is going to hurt you a whole lot, but we do not know exactly how we are going to do it, but we, the Congress of the United States, have made the decision to do this." Can Members imagine telling someone who has been planning on the retirement program like this for 15 years, who is expecting in the next 5 or 10 or 15 years to utilize the fruits of that program to which he or she has been contributing, can Members imagine telling that person that we are going to change the program drastically but we do not know how? It may be that this body will decide to integrate the civil service and social security programs in 1980. It may be that we decide that is the thing to do, that there is a way to do it. We do not know now and we should not go to 3½ million Americans and say: "We have done something that we do not know the results of."

I urge the Members to give us the chance to come up with a program that at least says to those American citizens: "This is what we are going to do" as we do it. I think it is absolutely essential if we are going to exhibit the responsibility that we have here in the House of Representatives.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. NIX. Mr. Chairman, we only have 3 minutes left and that has been allotted.

Mr. DERWINSKI. Mr. Chairman, I will yield 3 minutes to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman from Illinois. Mr. Chairman, I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I would like to ask the gentleman from Virginia, would a vote for the Civil Service Committee amendment and the Fisher amendment, be a vote against universal coverage, or it is simply an opportunity to design the system of universal coverage before the universal coverage becomes effective?

Mr. HARRIS. It most certainly is not a vote against universal coverage. It is a vote in favor of a study that will bring to us an implementing plan if the Congress decides to implement universal coverage. It is simply putting the horse before the cart.

Mr. GRADISON. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Ohio.

Mr. GRADISON. Mr. Chairman, I thank the gentleman for yielding.

In referring to Federal employees, the gentleman used the word "they". It is my understanding that the committee amendment as it comes to us would extend coverage to Members of Congress, that the Fisher amendment would for the time being, at least, exclude Members of Congress from such coverage.

I would pose to the gentleman this question. I frequently run into comments from my own constituents who wonder why if Social Security is such a desirable plan we are mandating them to be under it, whether they wish to be under it or not, but we fail to bring ourselves as Members of Congress under this plan.

I would welcome the gentleman's comments on this question, which I am sure the gentleman has run into also.

Mr. HARRIS. Mr. Chairman, quite simply, if the amendment were before us with regard to Members of Congress, I am sure my colleague and I would have a much more difficult choice. This amendment is not with regard to Members of Congress exclusively. It is with regard to the Federal civil service retirement program. It would seem to me that a vote for the committee amendment would enable my colleague to tell those that ask the gentleman this question that the gentleman has, in fact, voted in favor of coming up with a program that would allow the gentleman to decide that the gentleman could come under the program without disrupting the civil service program.

Mr. DERWINSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, in consideration of amendments to the Social Security Act, I believe Congress first priority should be to restore financial integrity to the system for as long a period of time possible and thus insure annuity payments to people who have worked all their lives and to whom we have promised such payments.

The bill before us today (H.R. 9346), if passed by the House without amendments, would stabilize the social security trust funds for the next several years, but still leaves a long-range actuarial deficit of 1.69 percent of taxable payroll over a 75-year period. That is a deficit of $880 billion—a figure far larger than the public debt. Further, the bill contains unnecessary, substantial tax increases and huge raises in the wage base, which can only result in decreasing employment and depressing our economy.

Successful management in the consolidation of funds would have obviated the bulk of the extra taxes, provided some additional "sweeteners," and resulted in a long-term, financially-sound social security system. The committee had these alternatives available to them, but chose otherwise.

The Conable, Archer, Steiger, Ketchum, Schulze, and Rhodes plan is the only responsible plan developed to restore complete public confidence in the system. Not only is this 15 point package economically sound, but it restructures the financing without an added tax to employers and employees until 1982, and at the same time, it eliminates a majority of the inequities in the current system.

There are three things that my constituents seem to want most in a social security system: First, a sound financial structure that guarantees the benefits we have promised; second, the raising or removing of earnings limitations; and third, the smallest tax increase possible, or none at all, to support the system. The Conable alternative comes closest to meeting these requests.

The major differences between H.R. 9346 and the Conable alternative, which is being offered to us today, is that the Conable approach would solve the system's short-range financial problems with a total tax rate increase of only 1.2 percent above present law levels over the next 75 years. It would also remove the limit on the amount of money a social security retiree aged 65 and older can earn without having benefits reduced. It would provide a new "working spouse's benefit" designed to help working wives receive an additional benefit based on their own contributions to the system, as opposed to that 50 percent benefit received by all spouses, whether or not they contributed to the funds.

Most importantly the Conable proposal places the system within safe actuarial bounds—considered to be close to absolute if the deficit is not greater than 0.67 of taxable payroll—the proposal leaves a minute deficit of 0.23 percent. I urge my colleagues to give this alternative proposal serious consideration.

An enormous amount of misinformation has been published and circulated

recently on the bill's universal coverage provisions. The vast majority of my constituents who would be affected by title III have been led to believe that the committee intended to confiscate all the Federal and other retirement funds and deposit these funds into the ailing social security trust funds—leaving vested annuitants without coverage—in order to bail out the social security system.

I cannot think of a better way to create panic among some 7 million workers than to distort these provisions. Actually they would assure no disadvantage to employees and would alleviate many gaps and disadvantages in the current system. I do not believe that misunderstanding of these facts should be sufficient cause for us to prolong the sensible enactment of universal coverage for possibly another 42 years.

The committee adopted universal coverage for a number of strongly felt reasons. Universal coverage is a natural, desirable goal of any nationwide, mandatory social insurance system. This goal has prevailed since the inception of the program in 1935 but has been a political problem. Public discussion of universal coverage has taken place for many years and it has long appeared that a large majority of Americans favor it.

It has become increasingly difficult to justify to those 9 out of 10 American workers covered by the system why the 10th person is not covered—and why those who administer and legislate the program are not covered by it. The most recent Social Security Advisory Council's report indicated that universal coverage is of great importance toward assuring good protection and portability for all workers on an equal basis and strongly recommended its enactment.

The civil service retirement program contains a number of gaps or disadvantages to Federal employees which will be alleviated by enactment of universal coverage. Improvements will be: First, civil service benefits become taxable when the total amount of the employee's own contributions to his retirement have been paid out but social security is not taxable; second, assuring portability of coverage and eliminating serious gaps in existing coverage; third, assuring survivor coverage without reduced benefits; fourth, shorten eligibility time for disability benefits; and fifth, provide quality health benefit coverage. The enactment of universal coverage is plain commonsense. Efforts to delete or delay this coverage should be opposed.

Consistent with the Conable proposal are the amendments being offered to increase and/or phase out the earnings limitations provisions. Earnings limitations are the most unpopular provisions of the Social Security Act as evidenced by the number of bills introduced to abolish the limitation that have far outnumbered other proposed changes. Earnings limitations was the most widely discussed issue during the recent public hearings before the Social Security Subcommittee.

My own constituents have indicated to me that they, too, are disturbed by the existing limits and would support substantial increase in the limitations. My first preference would be to repeal the earnings limitations. However, I would support amendments to increase the limitations above those provided in H.R. 9343—$4,000 in 1978 and $4,500 in 1979.

Finally, I am hopeful that we can pass a sensible bill that will restore public confidence and financial soundness to the social security system with the minimum cost to employers and employees with the maximum extent possible benefit structure.

Mr. DERWINSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. TAYLOR).

Mr. TAYLOR. Mr. Chairman, I rise in support of the amendment to strike the provisions of H.R. 9346, that seek to force the merger into the social security system of all Federal, State, and local government retirement plans.

The proposal, for example, could have an extremely detrimental effect on the retirement plan of the teachers of the State of Missouri who pay into it a considerable amount of their income each year. It is a good, strong plan and the teachers of Missouri are not interested in having it diluted in any way. I think they are right.

The idea of establishing a date when such a merger should take place and then requiring that a study be made on how best to accomplish it is to me a questionable, if not irresponsible way to legislate. It is in fact placing the cart before the horse.

Mr. Chairman, hardly a day goes by that someone in this body does not rise to denounce the bureaucracy for usurping the prerogatives of the Congress by issuing regulations to implement laws that we have enacted. You know as well as I that requiring the Secretary of HEW to tell this body how to merge all of the retirement systems into one means that we will be reading the results in the Federal Register, probably too late to do anything about them. Furthermore, our constituents will have lost more faith in the ability of their representatives to act only after thoughtful and open deliberation and we will deserve it.

Mr. Chairman, let us not act today in a manner that would further erode the prestige of this body. Let us remove this ill advised portion of the bill and move on to the work at hand.

Mr. DERWINSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to express myself in support of both the amendment to be offered by the Committee on Post Office and Civil Service and the substitute amendment to be offered by our colleague, the gentleman from Virginia (Mr. FISHER).

It would seem to me most unfair to not only the Federal employees who are enjoying the benefits of Federal retirement programs, but likewise the State and local employees who are under municipal and State retirement plans, to provide for the combination or the coordination of all such retirement programs with social security, as appears to be mandated by this legislation. It is my view that we should first have an appropriate study. Indeed, it would seem to me to be quite improper, quite wrong way to legislate such "universal coverage" without the benefit of a prior study.

I am hopeful, therefore, that both the amendment and the substitute will prevail and that we can study this subject and see to what extent, if any, we want to establish a program of what is called universal coverage, by which retirement programs would be combined or coordinated in some manner or other.

Mr. NIX. Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut (Mr. COTTER).

Mr. COTTER. Mr. Chairman, I rise in support of H.R. 9346, the Social Security Financing Amendments of 1977.

As a member of the Social Security Subcommittee, I am keenly aware of the scope of this legislation. The steps taken in the bill require additional hundreds of dollars of tax for average working men and women. These painful steps will provide the financial stability the system now lacks.

Many Members are too young to remember the suffering of America's elderly during the years of the Great Depression. When the banks closed and their lifetime savings were wiped out, many retired workers were left completely unprotected. They often could not turn to their impoverished children for help, and municipal relief programs were losing ground to unemployment so massive that, as Fortune magazine reported at the height of the crisis, "city after city has been compelled to abandon a part of its dependent population."

The Social Security Act, which President Roosevelt signed into law on August 4, 1935, was designed to make sure this disaster never happened again. "The civilization of the past hundred years, with its startling industrial changes, has tended more and more to make life insecure," Roosevelt said at that time. "Young people," he said, "have come to wonder what would be their lot when they came to old age."

Today there are over 28.4 million retired workers and other social security recipients. In addition, there are over 4.6 million Americans receiving social security disability payments. Total social security benefits are in excess of $76 billion each year.

In my own State of Connecticut, over 441,000 residents receive social security benefits—approximately one-sixth of Connecticut's total population and we all know older citizens whose monthly check is the bedrock of their financial existence.

Given this impact on so many Americans, it is no wonder that stories of "social security going broke" create fear and apprehension.

The disability trust fund will literally be broke by 1979, and actuaries inform us

that the retirement fund will be in the same position by 1982, and the medicare trust fund by the late 1980's.

There is understandable confusion over this situation. Many persons still believe that social security is like a traditional insurance program, but in fact, social security is actually an income transfer program; today's workers are providing the money for today's benefits.

There are two related problems—inflation and population. Inflation has played havoc with the automatic cost-of-living increases. By indexing both benefits and wage base, the old formula actually increased benefits beyond the traditional wage replacement ratio. If allowed to continue into the future, this deficit would cost the system billions of dollars. In addition, the demographic changes in our population are a source of grave concern. Briefly, our population is getting older. Presently there are three workers for every social security recipient. By the year 2000, there will be only two workers for every recipient. With fewer workers, the tax burden must increase to keep the system solvent.

Here are some of the controversial provisions we must consider in H.R. 9346:

The wage base used to calculate social security taxes would increase from $16,500, the present figure, to $39,500 in 1987. Under the present law, the base would have increased to $31,200 in 1987.

The social security tax rate will also increase, but only after 1981. The increase will be fifteen one hundredths of 1 percent. It will be higher if we adopt the Fisher amendment.

This means that taxpayers whose income is $16,500 or less will not pay higher taxes at first, but those who earn over $16,500 will find that more of their income is eligible for the tax.

The Ways and Means Committee decided to increase the wage base because, under the original 1935 act, 90 percent of the Nation's payroll was supposed to be subject to the social security tax. Since 1935, however, the tax has fallen to 83 percent. Under this new bill we will again cover 90 percent by 1987.

The committee also voted to keep the tax equal for both employers and employees. This is essential in my view.

The legislation includes a decoupling amendment which will correct the present law's defective cost-of-living formula. This provision alone should reduce the long-term deficit by half.

The system will be granted emergency borrowing authority under the bill. This provision was written on the assumption that the economic forecasts could prove to be wrong. An unexpected economic disaster, for example, would upset unemployment predictions.

Borrowing authority is not the same as using general revenues to finance the system's deficit, an option the committee rejected. The committee felt that general revenue financing, if given a precedent, would make it impossible for future administrations to balance the Federal budget. The philosophy of the Social Security Act has always been that the system should pay its own way.

As a result of this thinking, the borrowing authority could be used only in an economic emergency and the money borrowed would have to be paid back to the U.S. Treasury. I must tell my colleagues that I am not enthusiastic over this provision and since the reserves will not dip below 25 percent it will probably never be triggered. I will vote to kill this provision.

One of the committee's most controversial decisions was to approve "universal coverage," a requirement that Federal, State, municipal, and Postal Service employees, who have their own pension programs, would join the system by January of 1982. This provision is supposed to increase tax revenues for the system's short-term deficit.

The original justification for universal coverage was to get early year revenues to help with the short-term deficit.

I voted against "universal coverage" because the committee had no plans to explain how the pension programs would be integrated with the social security system. Almost 10 million presently uncovered workers have planned their retirement on the assumption that they would receive the benefits guaranteed in their pension plans, and I think it is unfair for Congress to legislate a major change without understanding how it would affect these workers.

I am hopeful that the House will reject universal coverage in this legislation and vote for the Fisher amendment.

For beneficiaries one of the most dramatic changes under the legislation will permit them to earn more than $3,000, the present income limit, without any reduction in benefits. The limit would be raised to $4,000 in 1978, and $4,500 in 1979. Any further increase in retirement would be unjustified at this time.

Several serious problems were not addressed in this year's bill and will be taken up next session.

I commend H.R. 9346 to my colleagues and urge their careful consideration.

The House must act this year to set the social security system on a sound financial basis. This bill is strong but necessary medicine to accomplish this goal.

Mr. NIX. Mr. Chairman, I yield the remaining time allotted to me to the distinguished gentleman from Michigan (Mr. FORD).

The CHAIRMAN. The gentleman from Michigan (Mr. FORD) is recognized for 3 minutes.

Mr. FORD of Michigan. Mr. Chairman, we find ourselves in a very difficult state here today with an absolute recognized need to act with dispatch on social security reform. There is not anyone in this Chamber who can legitimately question the need to go ahead and go ahead quickly. Unfortunately, the Committee on Ways and Means has presented us with a three-horned dilemma, if there is such a thing, and the Committee on Rules has added another horn to the three-horned dilemma by combining it with an enigma.

The situation we find ourselves in parliamentarily at the moment is that the recommendation of the Committee on Post Office and Civil Service which we have been debating and we have been hearing about for the last few moments cannot be reached for a vote until after we first vote on a substitute to be offered by the gentleman from Virginia (Mr. FISHER), which is made in order as the substitute amendment will be up for a vote first.

I supported and voted for the Spellman or committee amendment in the Committee on Post Office and Civil Service—to exclude Federal employees from coverage at this time and mandate a proper study of the need for future change.

There will not be an amendment offered by the committee because the amendment is already printed in the bill as it is reported to the floor. Members will find the Post Office Committee's recommended language starting on page 168, going through page 169 of the bill. It is in the bold black print, following the previous pages of language starting on page 164 of the original proposed bill from the Ways and Means Committee, which would be stricken by the committee amendment. So, it is now a committee amendment printed in the bill. The Fisher amendment will be offered as a substitute for it.

Here is where we get into trouble: As a member of the Post Office Committee, I voted with the majority. The chairman has indicated that there was not a dissenting voice or vote in that committee on rejecting the Ways and Means Committee proposal which presupposes the need for universal coverage, including Federal and local employees. Having decided to do that and recognizing that we do not know how to do it, it is suggested that in the interim, before it becomes effective, somebody will study it and come up with a way to do it.

I have never heard anything quite so ridiculous. We have a suggestion that can affect millions of people and their families with a change in the law, and we are then told to delay it for 2 years and say, "We are going to study how it is going to react upon you." The Ways and Means Committee then threw some frivolous language into the report saying, "We trust that the people we have asked to study this will figure out how to do it so that you will not be disadvantaged with respect to your futures and your families."

That is totally unrealistic. Predicated on what has been occurring in the Ways and Means Committee, they looked around to find where they could find more money; they said, "Yes, look at all these Federal employees. Maybe we can get some money from them." Sadly, I am led to believe that this may be the real reason why we are now considering the need for these amendments.

I am opposed to any action in this or any Social Security Act which will affect existing employee pension systems.

Mr. DERWINSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, the news that the social security system is in serious trouble sent shock waves of concern throughout my congressional district. However, the "quick fix" being proposed by the House Ways and Means Committee in the present form of H.R. 9346, the "social security financing bill," has sent even greater shock waves throughout my six counties.

There is no question but that the social security system faces serious trust fund deficits as a result of inflation, high unemployment and the decline in the birth rate. More importantly, some congressional actions have changed the basic character of the system from a retirement plan to a welfare program and have led to the crisis we now face—namely, the bankruptcy of the disability fund by 1979 and the exhaustion of all funds in the old age and survivor's fund by the early 1980's. In 1940, when the system was first started, there were 42 workers paying into the system for every one person receiving benefits. Today, this ratio has slipped to about three workers for every one beneficiary.

In 1965, I stated on the floor of the House that:

> The costs will continue to rise and the problems of administration will increase. Further, I will predict that each Congressman's mail over the next decade will increase tenfold as he finds himself in the position of claims adjuster for disillusioned and dissatisfied constituents.

I venture to say that my prediction has been fulfilled as witnessed by the development of this legislation.

We must consider long-term solutions to this crisis and avoid any hastily imposed solutions which may send the system into a worse tail-spin. A politically expedient solution is not going to satisfy the 34 million people now depending on the system for benefits nor will it reassure the 100 million working Americans on whom the burden of supporting the system falls. A thorough reform is needed to place the system on a sound-running basis.

I have been following the discussions with great interest here today and I intend to listen to and evaluate every amendment to be offered. In the final analysis, my voting pattern will be directed toward these basic guiding principles:

The social security system must be financially sound;

We must adjust the system to reflect changes in the living and working patterns of both men and women which have taken place in our society;

Policies which discriminate against women and working spouses must be changed;

The earnings limitation must be increased and hopefully removed entirely; and

We must address the short-range financing problems of the system but also look to establishing an actuarially sound long-term approach.

What is needed is a comprehensive plan which restores financial soundness and equity to the social security system without imposing unacceptable tax burdens. Hard-working middle income Americans must not be saddled with the full burden.

Developing legislation which is the best solution to these problems will not be an easy task and all of us will be forced to make a number of very tough decisions on pending amendments.

One particular proposal has, I believe, been misinterpreted and misunderstood by many people. I refer to the proposal which would change the retirement age from 65 to 68. Many working people fear that they would be suddenly forced to work three more years for which they have not planned. This is not the intent of the proposal. It calls for a gradual advancement in the retirement age to 68 which would not be effective until the year 2000 and would become fully effective in the year 2011. I urge my colleagues to listen closely to the debate on this issue—because no person over 42 years of age today would be affected by this proposal. They will continue to qualify for benefits at age 65 or 62 as is now the case.

Of utmost concern in my area is the question of mandatory coverage. H.R. 9346 in its present form mandates for the first time social security coverage for three categories of workers; Federal employees, State and local government employees, and the employees of nonprofit organizations.

It is a well established principle of constitutional law that the Federal Government cannot force a State to spend money. Requiring the States to participate in the social security system clearly violates this principle.

A similar problem arises with any attempt to force nonprofit organizations to join the system. Since these organizations are now exempt from paying taxes, joining the social security system would violate this exemption. Also, once the precedent of weakening the tax exempt status of these groups has been established, I fear that additional burdens may be placed on them, driving many under and costing the American public the many valuable services they provide.

In addition to the constitutional questions raised by this legislation, there is also a number of practical considerations. Cities within my congressional district have written expressing concern over the impact this legislation will have on local budgets. For example, the city of Sonoma estimates that it will cost the city $43,000 per year. Taxes would have to be raised 25 cents per $100 assessed valuation or 4 to 5 employees would have to be laid off. Sonoma, at the present time, only employs 40 full-time workers. Laying off 4 employees would be a 10 percent reduction in employment.

The city of Santa Rosa, the largest in my congressional district, estimates a cost fo $550,000 per year. This amounts to 16 cents on the local tax rate, or an increase in property taxes of 13 percent for all property owners. Expanding these impacts to a national scale produces staggering results.

I have also received several hundred letters and phone calls from Federal, State and local employees living in my congressional district. In particular, the teachers and postal employees have been in contact with me expressing their opposition to mandatory coverage. I share their concerns and intend to vote for the Fisher and Nix amendments which will strike this section of the legislation.

I am pleased to note that the bill before us does attempt to address some of the present inequities in the present system. The current income limitation of $3,000 penalizes older Americans who can and want to work supplement their retirement income. The present bill proposes to raise the limitation to $4,000 in 1978 and $4,500 in 1979. As a sponsor of separate legislation to remove the earning ceiling entirely, I urge my colleagues to consider using this vehicle to accomplish this goal.

The bill would also permit beneficiaries, most importantly widows, to continue collecting benefits even if they remarry. I believe strongly that a widow has a right to continue receiving these benefits and should not be discouraged from remarrying by the fear of losing this income.

Mr. DERWINSKI. Mr. Chairman, I reserve the balance of my time.

Mr. ULLMAN. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Virginia (Mr. FISHER).

Mr. FISHER. Mr. Chairman, I want to make just a few general comments on the bill before us at this time.

The Social Security Financing Amendments of 1977, H.R. 9346, is intended to restore financial soundness to the social security system. In the last few years the benefits paid to retired people, their dependents and survivors, and the disabled have been greater than the taxes paid by active workers. To reverse this trend and make certain that social security will be able to keep its promise to provide income protection for the elderly and others in our society, the bill makes some important changes. The bill accelerates the increase in the wage base subject to the payroll tax; it corrects the overindexing of future benefits; it removes inequities in the treatment of widows, widowers, and divorced persons; it increases the amount of wages that retirees can earn before their social security benefits are reduced; and it provides standby loan authority to bolster the trust funds if they fall below a certain level. Meeting these higher costs will not be pleasant, but it is necessary to put social security on a sound long-term basis.

One provision of the bill does seem unwise to me and I opposed it in the Ways and Means Committee and will be offering an amendment to delete it from the bill. This is the provision for universal coverage of Federal, State, and local government and nonprofit employees. This provision is objectionable, not because coverage for all workers is inherently a bad policy, but because the consequences of extending mandatory coverage to the remaining 6 to 7 million workers not presently covered have not been fully ex-

plored. The coverage should not be mandated until a thorough study has been conducted of its effects on existing retirement systems and the benefits which have been promised to workers. My amendment directs that the study present recommendations for bringing together the social security system with existing systems so that newly covered employees will not be made any worse off than if their present retirement system were continued.

The issue of coverage of Federal workers has been examined several times, with the usual conclusion that a way should be found to fill in gaps in coverage rather than requiring full social security coverage. The most recent report on this issue, done in 1969 by the Social Security Administration, found that—

> The liberalization and independent development of the civil service retirement and social security systems over a long period of time present formidable obstacles to the adoption of the [universal] coverage approach.

If there are "formidable obstacles" to coordinating social security and Federal staff retirement systems, over both of which Congress has control, there will be even greater difficulties in doing the same for State and local systems. The numbers of State and local retirement systems that involved, the fiscal implications, the legal and constitutional barriers to changing existing programs, are just some of the many questions about the effect of universal social security coverage on State and local governments and their employees. The answer to these questions is that we do not know.

My amendment also specifies a standby increase in the social security payroll tax revenue in case the additional coverage in 1982 of government employees is not enacted. This would involve a 0.1-percent increase in the tax rate and an $1,800 increase in the wage base. But, to repeat, these increases would not be necessary if in the meantime the social security and regular retirement systems are coordinated.

In the absence of a plan for coordinating the Federal retirement systems and social security and in the absence of adequate information about the effect on State and local government, I must conclude that the Ways and Means Committee acted in haste in mandating universal coverage. I hope that the full House of Representatives will join me in making the social security financing amendments a better bill by removing the universal coverage provisions.

For the interest of my colleagues I would like to include in the RECORD a partial list of the organizations that support my amendment to remove the universal coverage provisions. The Democratic steering and policy committee, the Department of Health, Education, and Welfare, and the U.S. Civil Service Commission also endorse my amendment.

The list follows:

SUPPORTERS

UNIONS

American Federation of Government Employees.
American Postal Workers Union.
National Association of Letter Carriers.
American Federation of Teachers.
International Association of Firefighters.
National Federation of Federal Employees.
National Treasury Employees Union.
Professional Air Traffic Controllers Association.

PROFESSIONAL GROUPS

American Foreign Service Associations.
National Association of School Principals.
National Education Association.
International Conference of Police Associations.

STATE AND LOCAL GOVERNMENT ORGANIZATIONS

National Association of School Boards.
National Association of Counties.
National Governors Association.
League of Cities.
National Association of State Legislatures.

RETIREES

National Association of Federal Employees.
National Retired Teachers Association.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Chairman, there is an issue which really has been troubling me. I have vacillated all over the arena on this issue, and I have come to realize that the gentleman is probably right. My question on universal coverage is: Will we ever really get equity and have universal coverage, assuming the study shows it is feasible? While the gentleman is supported by the need to have all the facts before we act obviously, I hear person after person and organization after organization tell me we will never have universal coverage, if we kill it now, it is dead forever. I hear Federal groups, State groups, local groups, all tell me they want to do everything they can to stay out of social security. How can we in good conscience go back to our people and tell them of the equities involved here and tell them that universal coverage will happen if the study indicates it is feasible and tell them that the system has to be fair and equitable for all and that, basically, universal coverage is equitable and yet face all of the other groups who will oppose universal coverage no matter what. I am making more of a statement, but to me this is a quandary. Can the gentleman reply to this?

Mr. FISHER. Yes, I believe I can.

In the first place, based on the realities of the situation right now, with the many support groups behind the Fisher amendment, there is strong doubt that the bill can pass without it. That is something that I think the gentleman would want to take into account.

I myself have pledged before my constituents that on the basis of a well-considered plan integrating social security with these other retirement systems, I will vote for it, and I would expect that is what will happen.

Furthermore, there is always the pressure of the alternative, which is a further increase in tax revenue from those presently covered. I think this can press us forward to achieve this integration and do this in an orderly, sensible, planned way.

Mr. GLICKMAN. Mr. Chairman, if the gentleman will yield further, I hope that this higher tax rate is in fact an incentive for us to go back and face the American people and tell them we are going to support a plan that does incorporate universal coverage in the future, after the study. If the study indicates universal coverage is feasible, I will fight for the inclusion of State, local, and Federal employees into the social security system.

Mr. FISHER. Mr. Chairman, that is included in my amendment.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. FISHER) has expired.

Mr. ULLMAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I have no doubt that the Fisher amendment will carry, and perhaps it should, but I feel very strongly as chairman of the committee that the social security system will only work if every American is included in it.

So I want to state right here that I think the Federal employees should face up to the real issue over the long run, and perhaps it is right that we develop an integrated program first. I think they ought to know what they are getting.

I believe the States will work out a plan if the Fisher amendment carries, and there will be a careful study. It will include an integrated plan that, hopefully, will not do harm either to the public treasury or to the employees, and it will give them coverage under both the social security and their government retirement systems. When that becomes coordinated, it would be my hope that we can move forward as expeditiously as possible and cover them as well as all other Americans under the social security system.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. ULLMAN) has expired.

Mr. CONABLE. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would like to ask the chairman of the Committee on Ways and Means if he really feels the Committee on Post Office and Civil Service is likely to come up with a recommendation for an integrated system, given the attitude it has taken on this measure. And would we not be in violation of their jurisdiction if we were to design such a system?

This is the dilemma that faces us.

Mr. ULLMAN. Mr. Chairman, if the gentleman will yield, that is absolutely correct. So it is going to take a coordinated effort on the part of both the Committee on Ways and Means and the Committee on Post Office and Civil Service to work out and get into legislative form the kind of program we need to enact in order to get everybody covered.

Mr. CONABLE. Mr. Chairman, I would like to make just one statement at this point.

It seems to me that since we have frozen the regular minimum benefit, there is very little advantage to Federal employees in staying out of this system.

When they realize—as realize, they must—that the social security benefits are nontaxable while theirs are taxable, it seems to me the pressure for them to come in will overcome this apparently convulsive reaction and suggestion that they should not participate in the same benefits as other Americans.

The CHAIRMAN. The time of the gentleman from New York (Mr. CONABLE) has expired.

Mr. CONABLE. Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Chairman, there is not any question that the social security system is an absolutely fundamental part of the American society and the American economy.

I think it is also fairly clear that almost any one of the suggestions that are offered, whether in the committee bill or by amendment, poses difficult, tough choices for Members of Congress and their constituents, because the time has passed for us to continue to play politics with the social security system. The time is here now for us to undertake extensive action to insure the soundness and the stability of this important, absolutely fundamental system to this society.

My concern, Mr. Chairman, is that the Committee on Ways and Means labored long and hard but has not produced as good a bill as I think we could have produced, and it will suffer here on the floor from the slings and arrows of those who have for so long resisted the effort to be covered within the system.

The Christian Science Monitor, on October 25 of this year, said that:

> So-called universal coverage is strongly resisted by public employees who now can retire early under their own pension plans and still qualify for a generous Social Security pension by holding down another job for, say, five years—an appalling misuse of public funds and a disservice to other Americans who pay into the system all their working lives. Congressmen should resist public employees' lobbying against the plan and include "universal coverage" in their legislation.

I agree with that statement. The American Federation of State, County, and Municipal Employees, my colleagues will remember, had an exceedingly perceptive ad that even my colleague, the gentleman from Michigan (Mr. FORD) will remember: "Is Your Congressman Serious About the Social Security Crisis?"

Mr. Chairman, let me suggest that there is a bottom line to the opposition that is posed by those who are presently covered by State, county, or Federal pension plans, who resist coming into the system. The bottom line is that they have the best of both worlds. They have an exceedingly generous pension plan, and they then also can participate as no other members of our constituencies can participate in the social security system.

Mr. Chairman, if any Member has an employee as I have who works for the S. S. Kresge Co. in Sheboygan, Wis., but who then also needs to hold down a second job, the person gets just one social security check upon retirement. The person does not get two, but the same man or woman who works for the fire department or for the Social Security Administration in the same city, Sheboygan, Wis., but who then retires early or moonlights on the side gets covered by both the Federal civil service retirement plan, generously supported by the Congress, in deficit to a substantial extent, but also then, of course, gets social security coverage.

Mr. Chairman, I simply do not think it is fair. I think that is the wrong kind of system for us to have developed.

Mr. Chairman, the kind of outrageous lobbying, the outrageous kind of campaign that has been carried on by otherwise honest and decent citizens, absolutely appalls me. I have never seen so much misinformation. I have not yet been found in the position of finding even so intelligent a Member as the gentleman from California (Mr. ROUSSELOT) screaming and hollering as he is about coverage of Federal employees and using his position on the Committee on Post Office and Civil Service to effectively undercut the effort to insure equity. I am sorry about that. I think it is too bad that that able Member takes that position.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield at that point?

Mr. STEIGER. I will yield to the gentleman from California, whose name I used. Of course, he has 4 minutes coming to him, which he recognizes.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the fact that my name was used. I just hope the Press Gallery takes note.

In any case, however, I will say to my colleague that I think it was the Committee on Ways and Means which undercut the position of Federal, county, and State employees in the method and by the technique which were used to bring this bill to the floor, without adequate consideration, in order to dump them into the system.

The gentleman is right. Some of them moonlight and are able to get into the system of social security by qualifying for the minimum number of quarters. We all know that.

If the gentleman does not like that fact, then we should provide some kind of program so that they have to contribute in a more positive way, to get into the social security system if they are already covered in other ways.

Additionally, Mr. Chairman, the gentleman has dumped in the teachers and lots of others. What is the number, 6.7 million new people? Is that not the number of persons the gentleman is dumping into this system?

Mr. STEIGER. That is about the right figure.

Mr. ROUSSELOT. It is somewhere around that figure.

Mr. STEIGER. We are not dumping them in.

Mr. ROUSSELOT. The gentleman is dumping them in.

Mr. STEIGER. Mr. Chairman, my time is limited. I will not yield further.

Mr. ROUSSELOT. The gentleman is dumping them in without adequate consideration.

Mr. STEIGER. Mr. Chairman, the minute the gentleman starts to get into the question of dumping, I have yet to figure out how one can say that when the Committee on Ways and Means, in spite of the criticism that is made by all of those who are in this field, and who have made a conscious decision to delay implementation of universal coverage until 1982, not 1979, not 1980, not 1981, but 1982, the fact is that 70 percent of those who are now working for State and municipal governments are covered by the social security system.

All of the military in the federal system are covered by social security, and it absolutely leaves me cold to think that it is impossible to devise a system that is fair and equitable for both those covered and those not now covered who can come into that system in 4 long years. So I reject the gentleman from California's characterization of our decision as one that involves dumping, because it is not that. It is a slow, methodical effort to insure that there is enough time to get it done.

I would, if I would, Mr. Chairman, raise, then, but one other issue in terms of my concern over the committee bill. I have an amendment, which is printed in the RECORD and made in order by the rule granted by the Committee on Rules, which attempts to deal with my very deep-felt concern over the extent to which we raise the base in the committee bill under what has become known as the Tucker-Mikva-Gephardt amendment. I will give credit to all three; I do not want to leave the gentleman from Arkansas (Mr. TUCKER) all by himself. The Tucker-Mikva-Gephardt amendment that we will be considering as part of the committee bill, in my judgment, precipitously and unnecessarily raises the base against which the rate is applied. If there is criticism of the Committee on Ways and Means—and I could have many—if there is one single criticism that I could make of their deliberations on social security, it is the conscientious decision to reject the effort to insure that we could deal with the hospital trust fund. We had down here the distinguished chairman of the Hospital Subcommittee who made a valid effort to defend the indefensible when he talked about the fact that we were not raiding the hospital trust fund. If there was a way to save both the taxpayers generally and the social security system, it was for us to have had the courage to face head-on the fact that the hospital insurance trust fund is not wage-related, should not be paid out of a wage base such as it is now, and it ought to be coming out of general revenues. That effort was rejected in the committee, and as a result we are going to suffer because of the extra-ordinarily high bases in the committee bill.

I cannot reach this issue, unfortunately, but I must tell my colleagues that if we were not in this position we could have significantly lowered the require-

ments under the Tucker-Mikva-Gephardt amendment. We could have reduced the tax. We could have insured the financial stability of the social security system now and in the future if we could have taken on the hospital trust fund issue. We could not, and we did not, and it is the tragedy of the Committee on Ways and Means that because of jurisdictional reasons they were not willing to tackle that problem. I regret that, and I am sorry that our constituents will pay that price, and that because of jurisdictional problems we were not willing to take this on, nor were we willing even to allow the distinguished chairman of the subcommittee to offer his amendment—and I cannot think of anyone I am so glad to see standing on his own two feet as I am to see the gentleman from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. Of course I will yield to the gentleman.

Mr. BURKE of Massachusetts. I just wish to rise to commend the gentleman because there has been no one on the committee—the subcommittee or the full committee—who has worked any harder than has the gentleman from Wisconsin. He has made an excellent statement here today which I agree with.

Mr. STEIGER. I thank my chairman very much. I am grateful to him for his leadership and patience.

Mr. Chairman, there are a number of very good provisions in this bill. It has been an honor to have had the opportunity to participate in this effort for the past 3 years.

Mr. PICKLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think the gentleman from Kansas (Mr. GLICKMAN) raised a very pertinent point a few minutes ago when he asked the gentleman from Virginia how can we explain to all others that we are mandating them under social security but we allow the Federal, State, and local employees not to be included under this system? The gentleman from Virginia answered by saying this was a standby provision, and by flatly saying that it is possible that we could not even get a bill unless we adopt the Fisher amendment. I find that rather shocking to say that the group that he represents would have such pressure and such political power that they would kill a bill unless they were taken out. He may be correct, but I find that rather offensive to think that that is the situation.

I also find it very difficult to accept the fact that this is just a standby tax.

The amendment which will be offered by the gentleman from Virginia (Mr. JOSEPH FISHER) would increase the wage base on all employers an additional $1,800 a year and at least a 0.1 rate; and it goes from now to 1987 or 1989. Some "standby." Whatever the tax and base increases that are built into the bill, he adds to them basically another $1,800, and a 0.1 tax increase.

Some actuarians will say that a 0.1 increase is not enough tax rate, that it really ought to go to 0.5. Our own committee estimated it might have to go to a 0.5, not 1.15, as the gentleman from Virginia (Mr. FISHER) has said in this debate.

It is one thing to say we are going to vote to remove universal coverage and say it softly and politely. The fact is the Fisher amendment ought to be known as the amendment which increases the wage base an additional $1,800, and for every year, and the rate to 0.1 or 0.2. And if the gentleman from Virginia disagrees with the gentleman from Texas, I will yield to him when I finish—not now.

The fact is that this is not just releasing us from universal coverage. This means 100 million Americans are going to have to pay the additional tax and base in order that we exempt the 6 million people which the gentleman from Virginia (Mr. FISHER) seems to think he alone represents.

I may say to the gentleman from Virginia (Mr. FISHER): "He is a fine gentleman but he has no monopoly on the number of Federal employees in his district." I am loaded with them, they are fine people, and their opposition in Austin is just as strong as they have been expressing to the gentleman from Virginia—perhaps not as many—but they are good, fine people who I think do not understand the bill.

The first thing I want to impress on those people is that this is not a standby tax. This is a tax of $1,800 on every employer. This means they are going to sock it to 100 million people in order to appease 2.6 million Federal employees.

This is not an easy vote. I know that. Or in some ways we can look at it, it is an easy vote because it is easy to say that we are not going to mandate them and not just dump them into this program.

We have been talking about universal coverage since 1938, ever since President Roosevelt recommended the program. His administration recommended then that we have mandatory universal coverage, and nearly every advisory committee since then has talked about that very subject. So this is not anything new.

I think we ought to realize that there is no free lunch and a lot of people are going to be paying very heavily because of this kind of vote.

I do not share the pessimism of those who feel it would be impossible to integrate the civil service retirement system with social security. We can integrate it. We can do it without causing anyone to lose his benefits and to be sure that none of them is deprived of any right he was given when he was first brought into the system.

The Ways and Means Committee is not liquidating the Federal retirement trust fund. We do not touch it. We are not going to use it and pump it over into the social security system. We cannot do that. We do not have the law or the right to do it.

The contention that we are going to grab this money and violate their fund is simply not a valid charge. In the long run we will need the taxes starting after 1982 and for a period of about 15 or 20 years it will help the social security system a great deal. In the long run, 75 years, it washes out. But I do know that the social security fund will or can remain solvent. Our social security fund is going to remain solvent. And we can do it if we remain fiscally responsible.

However, we do borrow from the hospital fund. We borrow about $6 billion from the hospital fund and increase the wage base, and then on top of that the Fisher amendment will increase it some more.

Now, you may think that is an easy way to do it, but the Lord help us 5 years from now when our hospital funds are gone and we cannot pay them back. You will think back to this time and say, "I voted to borrow that money. I voted not for coverage. I did not bring everyone under it. Now I wish I could go back and cast that vote again."

I was very pleased to see the chairman of the committee (Mr. ULLMAN) say that the gentleman did believe in universal coverage and that we ought to come to that point.

I am impressed with the statement of the gentleman from Virginia that the gentleman really just wants to study this for 2 years and then put in mandatory coverage. I do not quite equate that with the campaign that has been waged, but I accept the gentleman's statement that it is just for a study; but it is more than just a study.

I simply say that on universal coverage, do not be misled. The Fisher amendment is not just a vote for a study. It is a vote for a heavy tax increase. It ought to be known as the "Joe Fisher amendment to impose a tax, a $1,800 extra tax on employers, and a 0.1 tax on employees;" a tax that would cause an additional tax on 100 million people in order to simply keep 2.6 million Federal employees from getting out from being mandated under the system.

I think you will hear from those 100 million people in time. There is a basic element of fairness that will be conveyed to those people. When that happens, then I think there will be a different version at another time coming on this measure.

Mr. FISHER. Mr. Chairman, will the gentleman yield now?

Mr. PICKLE. I said I would yield some time. I yield to the gentleman from Virginia for 1 minute.

Mr. FISHER. Mr. Chairman, 1 minute to answer all those questions? I thank the gentleman. I will not attempt to answer them all, but I will try to answer a couple of them.

First, the amendment is exactly what it says. It would delete coverage of Federal, State, local, and nonprofit employees and provide for a study that would report back in 2 years as to how best we could integrate these several plans to cause financial responsibility. It is important as a matter of financial responsibility to have in the amendment what I call the standby increase in revenue but that would not be needed if a workable plan for extension of coverage is prepared and agreed to.

Mr. PICKLE. Mr. Chairman, may I interrupt and say simply that I have

put out a chart that shows the tax to 1987; but go ahead.

Mr. FISHER. The other point I want to make is that there is much misunderstanding, because the groups most affected have really not had a chance to focus on the universal coverage, at least in recent history. That is why we are getting all the communications from back home. The sensible thing to do is hold back, make a proper plan, and then go ahead.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. PICKLE. Mr. Chairman, I yield myself 1 additional minute.

Mr. FISHER. Mr. Chairman, I yield to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I would like to quote from page 34 of the committee report. The committee position is thus stated:

> Whether coverage should be extended to these specially excepted groups is a complex question which your commission has not been able to resolve in the time available.

That refers to including Federal, county, and State employees.

I think many of our complaints about universal coverage and the reason our Committee on Post Office and Civil Service overwhelmingly turned down the opportunity the gentleman offers to dump all these people in, even though it is not until 1982, is that they have not told us how. They leave that as wide open as the sky.

I think that is why Mr. Califano said he would like the option to remain open for a study of universal coverage.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. PICKLE. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman, may I reply that as a member of the Social Security Committee, I know this question was debated last year at length. We had witnesses before us who testified in depth why they should or should not come under it. This is not a new proposition.

Mr. ROUSSELOT. It is not. Was the gentleman for putting them all in?

Mr. PICKLE. I say to my friend that we must pass or try to pass some kind of social security bill, and that is our only choice. We cannot wait 2 years or more. We have got to act now.

Mr. TUCKER. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Arkansas.

Mr. TUCKER. I would like to respond specifically to the quote given by the gentleman from California. He used page 34. That does not refer to all Federal employees. Quite the contrary. It refers specifically to splinter groups of Federal and State employees in special categories, if the gentleman will read the full quote.

Mr. ROUSSELOT. The previous page and this page. It starts on page 33 and talks about coverage, extensive coverage.

Mr. CONABLE. Mr. Chairman, I yield 10 minutes to the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN. Mr. Chairman, for all of the best political reasons, I, too, think it would be nice to be able to vote for another 20-percent increase in social security benefits without having to raise taxes to pay for it. I, too, think it would be nice to vote for maximum benefits to everybody without having to increase taxes on anybody, and I, too, realize it would be nice to be able to continue the $1-billion-a-year subsidy of public employees from the social security system. The only trouble with that is, that is what got us into the miserable fiscal condition we are in now. We have already tried that approach, and that is what has destroyed the security of the social security system. More of the same will only make matters worse.

The virtue of this bill is that it moves the social security system back in the direction of fiscal soundness. It is deficient in that it only moves us back about four-fifths of the way, and relies too heavily on tax increases without enough attention to other ways of relieving the burden of the system.

But, it is profoundly important that this bill restores in a considerable measure the fiscal discipline that was lost a few years ago. Some of its shortcomings are corrected in the substitute to be offered by the gentleman from New York (Mr. CONABLE).

What is the nature of the problem? Unless major changes are adopted in the social security system this year, the disability component will exhaust its fund balance in 1979, and the entire program will run out of all reserves in 1982. That is because the social security benefits being paid out exceed the income from withholding taxes by something like $5 billion per year now. That annual deficit will exceed $11 billion by 1981, which means that major changes will be adopted.

But, which changes? Increased taxes on some or all of the 104 million taxpayers who now put up $82.1 billion a year on 9.9 percent of their taxable wages, omitting medicare; or does it mean decreased benefits on some or all of the 34 million beneficiaries who now receive $87.6 billion per year?

Let us look at taxes first. If the benefit schedules are not changed, the tax rate must be increased from 9.9 percent of taxable earnings now to 14 percent by the year 2000, and to 27 percent by 2050. That will not affect many of us, but it is our responsibility. That is in addition to all other taxes.

There are two ways being proposed—which I oppose—to raise that extra revenue. The tax rate could be increased, thus increasing the burden, the frustration and the resistance of taxpayers, or the debt could be financed out of Treasury general revenues. We have heard this proposed, but the Treasury is already running its own enormous deficits, so that would require the printing of that much more money which we do not have, thus decreasing the value of the dollar even faster.

Another tax proposal over in the other body would leave the tax rate as it is, but increase the taxable base from the present $16,500 to $50,000, or higher. Well, that would cause higher income workers to pay in more taxes, but it would also entitle them to correspondingly higher retirement benefits. So, it would wash out: those increased revenues would be realized over the first 5 years or so, but would not help at all over the long term. That kind of gimmick should be reserved only for short-term emergencies.

What about the benefit changes that are being contemplated? Right away, one-half of the deficit could be saved by halting a provision that since 1971 has doubled the cost-of-living increase for new retirees. Changing that "double whammy" to provide a single annual cost-of-living increment for the future has the unanimous support of the Committee on Ways and Means, since it only eliminates an unearned benefit which no one wants to pay for. Unless this is stopped, this double shuffle will, early in the next century, entitle retirees to social security benefits that would actually exceed their taxable wages.

Other choices are more controversial, Mr. Chairman. Universal coverage has been widely debated here today. This would add to the system 6 million additional workers in 1982: Federal employees, State and local government employees, 70 percent of whom already are in the system voluntarily, and employees of nonprofit organizations, 90 percent of whom are already in the system voluntarily.

The necessity for this is that at present many exempt workers in any of these categories find that they can wait until late in their careers and then establish eligibility by part-time moonlighting and thus qualify for a windfall social security benefit. This is presently lawful. But it is a considerable drain of nearly $1 billion a year on the social security system.

So it seems to me that the universal coverage is the only way to stop that. Otherwise, a tax increase would be required on the other 100 million or so employees who are paying into the system. Federal employees have raised concern about this, and the proposal contemplates no reduction in their retirement package and no increase in the withholding from their pay checks and no effect at all on those retiring now or before 1982. Only those wishing to qualify by the windfall procedure that I have talked about at a minimum cost to themselves will be disadvantaged.

Unless we require these 6 million employees to pay their fair share of the social security benefits they eventually can manage to receive anyway, then it will be necessary, as the gentleman from Texas (Mr. PICKLE) pointed out, to increase taxes by $1 billion a year on those 100 million workers in the system now. Those are the people who now pay the taxes to pay for the salaries and pensions of public employees.

Another major controversy is the proposal to gradually raise the age for full retirement benefits from 65 to 68—of course, leaving early retirement at re-

duced benefits at age 62. That proposal is not very popular, but neither is the $250 tax increase that will eventually be required if it is left at age 65, where it is now. A compromise schedule that would raise the full benefit age to 68 by the year 2001, beginning gradually only in 1990, was dropped in committee. I supported it only because of the tax savings to the very same workers who would be affected by the change.

The committee bill contains other provisions which are desirable. The outside earnings limitation, above which social security benefits are reduced, will be increased from $3,000 to $4,500 by 1979 and thus will help folks who must work to supplement their retirement income. That limit, it seems to me, should be raised even higher, and would be under the Steiger amendment.

The bill also fairly eliminates the penalty to a widow who loses her survivor's benefit if she remarries. Equity could be further increased by providing at least a fractional extra benefit for the working spouse, who now pays into the system with no net benefit to show for it upon retirement. The Conable substitute does afford better treatment for the working spouse.

So I hope the House will resist the Fisher amendment, adopt the Steiger amendment, and if we really want the social security system to be secure, adopt the Conable substitute.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Chairman, I must say that there is a lot of confusion about the impact of the committee amendment as it affects public employees.

Mr. MARTIN. Mr. Chairman, may I ask, is the gentleman referring to the Committee on Post Office and Civil Service?

Mr. WYLIE. No, I am referring to the amendment in the bill, on page 168 of H.R. 9346.

In an earlier colloquy with the gentleman from New York (Mr. CONABLE) and the gentleman from Wisconsin (Mr. STEIGER), they both said that this provision would not affect public-employee pension funds, and that they would still remain separate and distinct. Then the gentleman from Virginia (Mr. FISHER) said a little while ago that this amendment would provide for universal mandatory coverage for all Federal employees, all State employees and others under public-employee pension systems.

I think there is a lot of confusion, as I said, and the facts need to be clarified.

May I refer to a letter from Mr. James L. Sublett, who is executive director of the State Teachers Retirement System of the State of Ohio, in which he said as follows:

> Strong efforts are being made in the Federal Congress to make Social Security mandatory for all public employees regardless of the retirement programs presently covering those employees. The purpose of this effort is to provide a large infusion of new money into Social Security in an attempt to solve the serious financial problems of that program. In other words, teachers and other public employees would be forced to pay Social Security taxes to "bail out" other persons.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. MARTIN) has expired.

Mr. CONABLE. Mr. Chairman, I yield 3 additional minutes to the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN. Mr. Chairman, I would say to the gentleman from Ohio (Mr. WYLIE) that to an extent that is true; there would be an infusion of additional money. But we are talking about money to pay for the benefits to public employees who are already availing themselves of the system. They are already qualifying for social security benefits with a minimum payment into the system, and that has meant a net drain on the social security system for the benefit of those public employees on the order of $1 billion a year.

That is going to have to be corrected one way or the other. Either we bring public employees fully into the social security system along with everybody else—those 100 million people whose taxes are paying for the wages and pension benefits for public employees—or else we are going to have to increase the taxes paid by those private employees. It seems to me that of those two choices, the choice that is contained in the bill is the preferable one.

Mr. WYLIE. Mr. Chairman, if the gentleman will yield further, I must submit that I do not necessarily agree with that premise.

Mr. MARTIN. I understand that to be true.

Mr. WYLIE. I do not see the desirability of having these sound pension funds all over the United States put into a system that is not economically viable right now. I do not believe we should mandate that public employees put funds into the social security system—a system which has problems.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I thank my colleague for yielding.

The gentleman from North Carolina made the point that part of the problem with the Fisher amendment, as he understands it, is that it shifts a new burden to the private sector employees.

However, if this bill passes as it is written, there is a substantial tax increase included for everybody, and even under this bill the Federal, county, and State employees do not come in until 1982.

Mr. MARTIN. That is correct.

Mr. ROUSSELOT. So I think it is misleading to the Members of the House to imply that the only tax increases in this bill before the House or in any of the amendments before us are contained in the Fisher amendment. The fact is that that is not true.

Mr. MARTIN. Mr. Chairman, I will say to the gentleman that any misleading statement that would imply that that is the only tax increase in this bill has not been made by me.

Mr. ROUSSELOT. No, I am not saying that the gentleman from North Carolina implied that.

Mr. MARTIN. What I am saying is that the Fisher amendment will preserve the necessity for a tax increase on people who are already in the system, because they will have to ante up the taxes to pay for the benefits for which public employees now find themselves able to qualify without paying their fair share into the system.

Mr. ROUSSELOT. But they have to pay at least a minimum number of quarters, just as other people do, into the social security system, do they not?

Mr. MARTIN. That is true.

Mr. ROUSSELOT. And some of them may even have worked for 20 years before they came to work for the Federal Government and paid a substantial amount into social security. So we cannot say that all Federal, State, and county employees have not paid their fair share into the system.

Mr. MARTIN. Mr. Chairman, I am saying that this is why the most practical solution is the one that is contemplated in the bill, namely, to have a continuum of payments by people who are working in whatever sector, public or private. They pay into the social security system, and then they will be eligible for their full benefits, just as the people in the private sector are now eligible for benefits.

Mr. ROUSSELOT. But we do not know what the construction will be when we in 1982 merge the Federal, county, and State employees into the system.

Mr. MARTIN. Neither did we know in advance what the merger would mean to employees of General Motors or employees of any other corporation who are presently in the system.

Mr. ULLMAN. Mr. Chairman, I yield 4 minutes to the gentlewoman from Kansas (Mrs. KEYS).

Mrs. KEYS. Mr. Chairman, I think we would be remiss if we did not take just a few minutes to discuss the equity problems regarding sex discrimination under social security, to which a contribution has been made in this bill.

I think all of us have been aware for some time that in the social security law legal discriminations are still present regarding women. The Goldfarb decision by the Supreme Court, when it struck down the dependency test for male survivors, pointed up the problem.

There were proposals to try to deal with this problem which made it quickly apparent that dependency forces many other inequities on the social security system.

The requirement of 20 years of marriage under present law before the divorced wife or divorced spouse may collect benefits is one inequity. There are other inequities relating to disability for widows, the lack of any personal social security record for the women who works in the home, the lack of portability for anyone whose marital status changes. It

becomes clear that the dependency test for survivors is only one of the problems that the social security system has because of its structure.

Mr. Chairman, I would submit that the structure of the system was based upon a different time and a different era. It is based upon the idea that most workers are male and most workers support women and children. In today's life that is no longer true. Fifty percent of women work, and about 40 percent of families have both parents working in order to provide income for family members.

Mr. Chairman, these needs should be recognized in a restructuring of our system.

Much attention has been given to it by the Congress, by the Social Security Administration itself, by HEW, and by a task force on sex discrimination in the Justice Department. Many recommendations have come through to suggest that an income-splitting approach, much as we split income for the purpose of collecting tax revenues, would provide the answer to these dependency problems, and could provide the portability and the individual record that would bring to each American citizen equal treatment under social security law.

That could not be done at this time because our one crying need is to build a sound financial structure for the social security system now and to the end of this century. Every American citizen deserves to know that the financing of social security is sound and that there would never come a time when a check would not be forthcoming the first of each month.

Mr. Chairman, I would like to point out that in spite of these obstacles to improving the structure of social security, this bill does address those problems in three significant ways.

The most important way is the requirement of a departmentwide HEW study which would present a way to end any dependency requirement for survivors and which would eliminate the other equity problems in the social security system. We believe that this will bring to us the necessary facts and statistics to enable us to look at the structure and to eliminate the dependency nature of it.

In addition to that, the bill does attack two specific problems in a very positive way. It shortens the duration of marriage requirements from 20 to 5 years in order for divorced spouses to collect benefits, and it also solves the problem for older citizens who wish to marry and who would, under present law, lose their benefits.

Mr. Chairman, I urge support of the committee bill.

Mr. CONABLE. Mr. Chairman, I yield 1 minute to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. Mr. Chairman, I would like to associate myself with the remarks made by my distinguished colleague, the gentlewoman from Kansas (Mrs. KEYS), who, I think, speaks to the question of the inequities in the existing social security law as it applies to women.

Obviously, some beginning has been made in this bill toward the adoption of a fairer system. However, the beginnings do not address the broad scope of the inequities as they exist. Although the gentlewoman from Kansas (Mrs. KEYS) speaks well for women, I have to point out for the record that I believe and have confidence that there are many distinguished men on the committee who are also very aware of the inequities of the system as they relate to women. I would like to single out for commendation my colleague, the gentleman from New York (Mr. CONABLE) who has been particularly sensitive in initiating many of the proposals that we are voting on today, and my colleague, the gentleman from Massachusetts (Mr. BURKE) who has always been so cooperative in seeking new solutions. Nonetheless, we look toward the results of the task force to be established by Secretary Califano on the question of social security law as it affects women, and we look to Congress, especially the Committee on Ways and Means, to implement fair regulations in the comprehensive sense of these needs that must be met.

Mr. CONABLE. I thank the gentlewoman. I appreciate what the gentlewoman has said.

I would like to point out that the three provisions relating to sex discrimination which are in the committee bill came from the Republican substitute, which also included a 25-percent bonus under some circumstances for working wives, who get the worst deal under social security. The income-splitting plan that the gentlewoman from Kansas (Mrs. KEYS) mentioned would be a desirable step also, although it would probably reduce benefits for some men, and would also be a very expensive provision. I deeply regret that the committee bill does not include the 25 percent bonus, which is a halfway step and which would give working wives a down payment, at least, on the equity to which they are entitled.

Mrs. HECKLER. If the gentleman would yield further, I support his position on that and would like to express the same regrets.

Mr. Chairman, I rise today to address some of the issues confronting us in this legislation. As my distinguished colleagues are well aware, the social security system is in trouble and this legislation is needed to at least make a first step in solving the problems it faces.

There are short-term and long-range financial problems this legislation attempts to address. I agree with some provisions; I disagree with others. But I am very much distressed that the legislation fails to address in a meaningful way the inequities built into the system against women—both the working woman and the dependent wife.

The bill does mandate the removal of discriminatory language in the social security legislation. It also changes the duration of marriage requirement for aged or surviving divorced spouses benefits from 20 years to 5 years. And, in the bill, remarriage will no longer cause any reduction in benefits paid to aged widows or widowers, nor will marriage terminate benefits for certain other beneficiaries.

I applaud these changes as being important improvements over current provisions of the law. However, I do not believe it is enough.

The bill ignores the inequities that exist with regard to working women and does nothing for certain categories of widows.

Women who qualify both for retirement benefits and for supplementary dependent's benefits are in the position of having paid social security taxes, but of receiving retirement benefits which are no greater than would have been granted had they never been employed. This is simply not fair.

Another inequity arises when husband and wife both work and receive the same earnings as a couple in which only the man works. If man and wife each make a $4,000 average salary, for a combined earnings of $8,000, each will receive equal benefits. However, a man who makes an average salary of $8,000 will receive benefits on that amount and his wife will receive half of his higher benefits, even though she has never worked. Under this system we are penalizing the wife who works.

Not only are working women treated unfairly, but some widows are not treated at all. If a woman without dependent children is widowed before age 60, she has no benefits at all until she becomes 60. We know that there are more than 3 million widows between the ages of 35 and 64. As a woman approaches 50, and particularly during the decade between 50 and 60, she is unlikely to have dependent children, and yet this is exactly the decade when many women face widowhood, are unable to find jobs and face economic hardship.

These are problems that must be addressed by this administration and this Congress and they are not addressed in this bill. It is gratifying that the bill mandates a task force to study the parts of the system that are discriminatory. However, I am concerned that the Congress, and particularly the committee, will not move forcefully to correct these inequities. I urge my colleagues to do just that—to prepare legislation that will truly correct the inequities of the social security system as it applies to women.

Mr. CONABLE. I now yield 10 minutes to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Chairman, let me initiate my remarks by indicating to the chairman of the subcommittee and to the chairman of the full committee which considered this bill that in the almost 12 years that I have had the opportunity to serve in the State legislature and the House of Representatives, there have been few times when I have been afforded the opportunity to participate in a more reasonable, reasoned debate over a particularly sensitive subject. I commend the chairman of the subcommittee, the gentleman from Massachusetts (Mr. BURKE), a very dear old friend of over 35 years, and I also commend the chair-

man of the full committee, the gentleman from Oregon (Mr. ULLMAN).

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. I thank the gentleman for yielding.

I just wish to return the compliment to my good friend, the gentleman from California. For the benefit of the Members, he and I are old infantry buddies in the 77th Infantry Division. There was no harder worker on the Subcommittee on Social Security than the gentleman from California. He took every lead and made a great contribution toward this legislation.

Mr. KETCHUM. I thank the gentleman for his comments.

The committee wrestled long and hard with this most difficult of all subjects, a subject that means more to more people in the United States of America than any other subject that we will discuss this year or in many years to come. This particular subject, of course dealing with social security as it does, demands an answer. I do not necessarily feel that we have achieved the answer that we should have. I do not necessarily feel that this body, nor some of the past Congresses have been ready to bite the bullet and make the most difficult political decisions that they could possibly be called upon to make, because they are hard decisions. It is not easy to say let us cover everyone under social security. It is not easy to say we must increase taxable wage bases and perhaps tax rates over the whole range in order to bring this system into some kind of balance. But the decisions are going to have to be made. If the wrong decisions are made today, we are the people who are going to have to live with them. We are the people who are going to have to go back and try to tell our constituents that, yes, we have really solved the social security problem clear out for the next 75 years. If we pass the bill we have before us, we simply cannot make that statement in honesty and in sincerity.

I would say, speaking only for myself, that if we could solve this one problem—this one problem—most of us would be content to return to civil life saying at least we got one thing done, and we got it done right.

Then we could go back to our constituents and say: "The social security system is secure. It is balanced." But I am afraid that we cannot under the present bill.

I think that it was interesting during the course of the debate that the chairman of the subcommittee, the gentleman from Massachusetts (Mr. BURKE), who has time and time again brought forth a proposal which to me is philosophically outrageous since it calls for a third Federal and a third employer and a third employee contributions—it is outrageous to me, but I think it is an honest approach, if that is the answer that we want.

Unfortunately the substitute of the gentleman from Massachusetts (Mr. BURKE) was denied him in the committee, and I find that very sad, because I feel we should debate the whole range of options open to us to solve this very, very difficult and thorny question.

We have discussed universal coverage ad nauseum today and perhaps will some more in the future. It is interesting to me, going back to read over the quadrennial reports of the Social Security Commissions over the years to note that the very year I received my social security card, 1937, that Commission recommended to the Congress that all employees be brought under social security, and as recently as March 10, 1975 that same Commission, obviously with different members, stridently urged the Congress to do that same thing, and today we have an opportunity to bite that bullet.

Now what are our options if we do not choose to bring these people in? We can go with the Fisher amendment. We can go, as the gentleman from Illinois, Chairman ROSTENKOWSKI, mentioned earlier, with at .09 percent shortfall. And let me put that in dollars for the Members: $45 billion more in deficit. I do not think we want to go back to our people and talk about that.

Since 1937 the Commissions have been recommending: Put these people in. And since 1937 the Members of Congress have been saying: "I believe in universal coverage, oh Lord, how I believe in universal coverage—but not now." And once more we will probably do it again, saying we believe in universal coverage—but not now.

So I do not care how many more commissions and departments and agencies have studied this subject. The time is now.

If we are worried about imposing this burden upon our local communities, let me remind this body that just a short time ago, in the last Congress to be sure, we considered practically universal coverage for unemployment compensation, and we mandated it to cities and States. And this body voted for it. This is obviously a Federal program and now is the time.

What is our other option? If we choose not to bring in all of these individuals, we then have only one other honest option, and that is to permit any person covered under social security to opt out at their privilege when they want to opt out. If it is fair for public employees to resist coverage, is it not fair to all those other constituencies for them to opt out? I submit that is the only choice.

What is so special about public employees? What is so sacred about their retirement programs compared to the retirement programs of General Motors or the local gas station that they must pay both but this select group can opt out?

Let me say that I will have an amendment that I am very honored to have the opportunity to present.

I want to assure the body that this is not the Ketchum amendment. It is an amendment offered by over 150 Members of the House of Representatives and I, as a member of the Committee on Ways and Means, have the privilege of offering it on their behalf. That amendment will remove the most onerous part of the social security law presently extant, that is, the earnings limitation imposed upon thousands and thousands of retired individuals.

My amendment, the amendment of those individuals I just mentioned, will phase out by 1982 the earnings limitation.

Now, again, you have a bullet to bite, because it is not free. There are no free lunches in this bill. If we were to remove the earnings limitation tomorrow for all retirees 62 and up, the bill for that would be $8 billion.

The amendment that I bring before us will cost us in the neighborhood of $6 billion. If you believe strongly enough that we should remove the earnings limitation, then be brave enough to vote for the tax rate increase that it takes to pay for it.

The CHAIRMAN. The time of the gentleman from California (Mr. KETCHUM) has expired.

Mr. CONABLE. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. KETCHUM. Finally, Mr. Chairman, we have the Republican substitute. I am very proud to have been a part of it. It does solve the long-range problems in social security, but there are a lot of tough bullets to bite. One of those provisions says that in 2011, that is quite a little ways off, in the year 2011 we have to increase the retirement age from 65 to 68.

While we are on the subject, let us remember that that magic age of 65 was selected by Otto von Bismarck in the 1800's. He just pulled it out of a hat. I think what happened, most people died before age 65 then and he thought it would be a good idea. We picked it up and it became the social security law and it became a magic word. It is no longer so magic. People live longer.

This body a few weeks ago upped the mandatory retirement age to age 70. There can be no argument about that. Demographics will prove that this has to take place. You will have to bite that bullet sooner or later. Maybe by then you will be out of the Congress and will not have to worry about it.

Finally, there are some that oppose Social Security out of hand, who will oppose anything that comes up just to make a popular impression, take a good shot, and not offer any options. Of course, one thing certain is that we will not really have an opportunity to offer many options because of the rule, but let us vote for the Republican substitute and we can go home and tell our people honestly that the system is balanced for the next 75 years.

Mr. Chairman, we have some difficult decisions to make today. The easy ones, one of them would be to vote for the Fisher amendment. I hope we do not choose the easy way.

Mr. ULLMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Chairman, I am opposed to the universal coverage provision included in H.R. 9346 which would require local, State, Federal, and postal

employees be placed under social security beginning January 1, 1982. This provision fails to recognize the distinctly different underlying purposes of civil service retirement and social security programs.

The civil service retirement program was created by Congress in 1920 with the intent of providing a full retirement income based on salary and years of service. On the other hand, the social security program was established in 1933 as an income assistance program intended to supplement the earnings or savings of those who otherwise might not be able to support themselves. These two programs should not be interchangeable. They were created for two different purposes.

The civil service retirement program has been a primary employment benefit designed to attract and retain high caliber personnel. A sudden change in the program of this magnitude would represent a major change in an employee's benefit package and the agreed terms of employment which could result in a mass exodus from the civil service and cause many Government workers to retire early. We should be providing positive incentives for people to serve their Government—not creating conditions which would drive them out.

The social security system should be thoroughly reviewed and changes made where necessary to make the program more equitable. It is unfair to ask those who are contributing to the civil service retirement program to bail out the social security program.

The mandatory coverage provision appears to be a stop-gap measure to bring fast dollars to social security. It would not provide a comprehensive solution to the system's long-range funding problems.

The universal coverage provision would extend mandatory coverage to the 6 or 7 million workers not presently covered by social security. Nearly one-half of these workers are Federal employees and most of the remainder work for State and local governments.

Although the Ways and Means Committee rejected direct general revenue financing of social security, it apparently is willing to accept general revenues through the back door. The Federal employer share will have to be paid either from an increase in income taxes or in the deficit. The transfer of Federal general treasury funds to the social security trust fund will take place whether or not coordination is worked out by the civil service retirement and social security.

Equally disturbing is the prospect that State and local governments will have to pay nearly $4 billion more in 1982 to the Federal Treasury as the employer share of social security taxes. Some 30 percent of State and local government employees are not now under social security. These jurisdictions will have to raise the funds for the employer share in some way. This would have to be done by reducing existing pension benefits or by hiking the property tax or other regressive taxes which are the mainstay of local government finance.

Since 1950, State and local governments have been able voluntarily to bring their employees under social security. The proportion of employees so covered reached the 70-percent level in the early 1960's and has been stable at that point. Clearly, for various reasons, State and local governments have decided it was not in their best interests to bring the remainder of their employees under this coverage. The Congress should not attempt to override such local decisions.

The issue of coverage of Federal workers has been examined several times with the usual conclusion that we should find a way to fill in gaps in coverage rather than require full social security coverage. A report due from the Social Security Administration in consultation with the Civil Service Commission in 1972 was never submitted, apparently because a workable plan could not be agreed upon for coordinating the social security system with the civil service retirement system.

I believe that much of the momentum for bringing Federal employees into the social security program stems from the recent controversy on "double dipping" and I am concerned that Federal employees might be used as scapegoats for problems they had no part in creating. The Post Office and Civil Service Committee has conducted an investigation into "double dipping" and is now in the process of preparing legislation to remove any inequities that may exist.

I support the Fisher amendment to delete the mandatory coverage provision from this legislation and I am hopeful that it will be adopted by the House. From the point of view of costs and consequences to the employer in terms of new tax obligations, and to the employee in terms of changed or possibly diminished benefits, and to all taxpayers in terms of yet more taxes, we simply must conclude that the extension of universal coverage is not prudent or fair.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Chairman, during the amending process I will have two amendments that will be offered on the floor. There are not any lobbyists looking after the group of people that my first amendment is directed toward. I can remember back during the campaign of the President and during my own campaign and maybe even during your campaigns that you talked about "that group of people," the people whom you say make America strong, the forgotten American, I believe he has been called, the fellow making $20,000 a year, the fellow that is self-employed with his little business, his barbershop, his grocery store, his service station or insurance agency.

Mr. Chairman, without question the sound financing of our Nation's social security programs will affect millions of Americans currently receiving benefits and many more millions of Americans contributing to the system with justified expectation of the benefits. First, I think our people want assurances that the programs are going to be solvent over the short term, mid-term and long term. Second, it is my belief from discussions with and letters from my people that while the citizens of this country anticipate the need for some additional revenues into the system, they are not expecting to be shocked by dramatic increases in their contribution next year or the following 3 years.

Since the report of the trustees of the OASDI and HI trust funds stated the extremely critical reserve situation and predicted insolvency of the funds in the very near term, I have talked to thousands of my constituents concerning social security. I know that my people want solvency in the system. They are not going to accept easily or soon forget, however, an escalation of $11,400 in the wage base over the next 4 calendar years coupled with upward tax adjustments. Certainly, if you have constituents similar to mine who are middle income taxpayers and/or self-employed and who are vocal in their communities, they are not going to forget or forgive the dramatic increases in their annual contributions via wage base escalations which the Members of this body may perpetrate on them.

While we are dealing with complex issues affecting nearly every American and involving staggering sums of money, I trust that we shall realize that the figures for wage base escalation and tax rate adjustment provided in the bill are not the magic numbers or panacea. I know firsthand as a Ways and Means Committee member that these ad hoc wage base increases and concurrent tax rate adjustments were picked hastily and generated great division along nonparty lines in the committee during markup of the bill.

The amendment which I offer to title I of the bill provides an alternative to large wage base increases and eases the dramatic tax effect on middle income and self-employed taxpayers. This amendment would escalate the earnings base at a lesser incremental rate than the bill would do and provide a slight upward tax rate adjustment over the bill's tax rate adjustment.

The wage base increase of the amendment and the corresponding tax rate adjustment are actuarily sound and have been developed and approved for revenue purposes by the same actuaries that developed the numbers in the bill. I believe that as much and more time and attention have gone into preparation of this amendment than the bill's provisions. Frankly, the amendment is a better and more balanced approach to generation of the additional revenues required to prevent the system's collapse.

Understand that the amendment will raise equivalent revenues as the financing sections of the bill. The amendment raises coverage to 90 percent of all taxable wages as does the bill. The amendment does not change the HI rates or the disability allocation of the bill.

Briefly, let me outline the amendment's earnings base provisions and tax rates as compared to those in the bill:

Year	Jenkins amendment			H.R. 9346 [1]		
		Tax rates for OASDI (percent)			Tax rates for OASDI (percent)	
	Earnings base	Employee-employer	Self-employed	Earnings base	Employee-employer	Self-employed
1977	$16,500	4.95	7.90	$16,500	4.95	7.00
1978	18,000	5.15	7.10	19,900	5.05	7.10
1979	20,500	5.20	7.10	22,900	5.05	7.10
1980	23,000	5.20	7.10	25,900	5.05	7.10
1981	25,500	5.20	7.80	27,900	5.15	7.70
1982	28,000	5.20	7.80	(2)	5.15	7.70
1983	30,500	5.20	7.80	(2)	5.15	7.70
1984	33,000	5.20	7.80	(2)	5.15	7.70
1985	(3)	5.45	8.20	(2)	5.45	8.20

[1] Bill secs. 101 and 103.
[2] Automatic adjustment.
[3] To be adjusted according to law.

There is a difference for next year in the earnings base of $1,900 between my amendment and the bill. In 1979 there is a difference of $2,400 in the earnings bases; in 1980 a difference of $2,900; in 1981 a difference of $2,400; and the scheduled automatic adjustments after 1981 to the bill's base are expected to remain well ahead of the amendment's ad hoc increases. Under the amendment in 1985 the wage bases and rates would rise according to the automatic adjustments contained in the Social Security Act. The bill would move with these automatic adjustments after 1981.

It has been erroneously suggested by special interest representatives that the amendment penalizes a lower wage earner through tax rate increase rather than wage base increase. That argument is ill conceived since the difference in rates for a lower income wage earner under the bill and the amendment is negligible.

For example, an employee wage earner making $10,000 per year would have withheld in annual OASDI contribution only $10 more per entire year than the bill provides. That difference is reduced to $5 annually in 1981. Instead of fearing that wholly philosophical characterization of favoring the tax increase as opposed to base increase, I suspect that there is no way any Member voting for this bill can escape the fact that taxes are going up for everyone. The question should be who is being called upon by the financing provisions to make the fund solvent. The answer, as always, are the millions of middle-income and self-employed taxpayers who need the most relief with escalating local and State income and property taxes and Federal income and social security taxes.

What some people do not seem to understand about the wage base and tax rate is that adjustments have overall economic implications. By doing the politically disingenious act of laying the taxes on our middle income and self-employed to make social security solvent again without expanding the period of time over which the new revenues are generated from this group, this Congress ought to realize that the bill's dramatic wage base increases translate into dramatic increases in benefits. Benefit levels are tied to the wage base and that compounds the long-term problems which the Congress will hardly address this year.

Furthermore, in a period when the Nation is struggling to reduce unemployment and provide an economy conducive to work, I believe that it is a grave mistake to escalate the wage base so dramatically. I expect the bill will undo any economic stimulus measure that the Congress has taken this year or may expect to take next year.

I ask you to consider the impact of the bill on a self-employed taxpayer making $20,000 per year. Under the bill that self-employed taxpayer would contribute the sum of $1,412.90 for OASDI alone next year. This is an increase of $257.90 over this year's contribution of $1,155. The amendment which I propose would reduce that sudden leap to $1,278 or a difference of $134.90. Recall that the $10,000 wage earner is being taxed less than $1 per month more under the amendment.

I sincerely submit that logic selects the amendment as the better set of financing alternatives. For many I expect that this issue will again surface with the people. I doubt that my constituency differs much from yours. It is not my intention to shift the burden to those who cannot bear it. The amendment does not so shift the burden. I hold out some hope and faith that we shall not suddenly overburden those taxpayers who finance every single program emanating from the Federal coffers where it is just not necessary. Where it is not unfair to anybody to do otherwise.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague yielding to me.

I think the amendment the gentleman from Georgia intends to offer providing for an independent commission—and I understand my colleague from Wisconsin, (Mr. STEIGER) also has favored the same idea—is a good idea, especially the requirement that it report back within 2 years. In other words, it would not take a long time to produce this report and to look at all of the alternatives for the social security system as to how we would be dealing with benefits and financing. It is an excellent suggestion, and I hope the House will see fit to support it.

Mr. JENKINS. I thank the gentleman. I also might point out that the amendment provides that it shall be bipartisan.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield to the gentleman from New York.

Mr. CONABLE. An Advisory Council on Social Security is appointed by the President every 4 years. One is overdue now, and should have been appointed in February of this year. We have had constant studies of social security.

Mr. ULLMAN. Mr. Chairman, I yield myself 2 minutes for the purpose of responding to questions propounded to me by the gentleman from Wisconsin (Mr. ZABLOCKI), chairman of the Foreign Affairs Committee.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, I rise for the purpose of addressing several questions to the distinguished chairman of the Committee on Ways and Means with respect to the impact of the bill, as reported by the committee, on the Foreign Service.

Before asking my questions, however, I would like to state that I have very serious reservations about the impact of the bill on Federal employees and on existing Federal retirement systems in general. I have reviewed the committee's report on the bill with regard to the principal purposes and provisions of H.R. 9346 which affect Government workers. I am not convinced, at this time, that the extension of mandatory social security coverage to Government employees is the proper course of action in the absence of a thorough analysis of the economic impact of such a move. Furthermore, in my opinion, it would be advisable to have an acceptable plan to integrate social security with the existing Government retirement systems which does not involve any loss or harm to Government employees worked out before enacting mandatory coverage as provided in this bill.

Having made that general observation, I do have, as I indicated at the outset, some specific questions regarding the bill's impact on the Foreign Service which is under the jurisdiction of the Committee on International Relations.

Is the basic concept of the bill as reported by the Ways and Means Committee to make the social security system the basic retirement program for all Federal employees, including those under the Foreign Service retirement system, and to restructure existing Federal staff retirement systems so that they provide only supplemental retirement benefits?

Mr. ULLMAN. That is correct. Under the concept, Foreign Service retirees of the future would receive two checks, one from social security and the second from the Foreign Service retirement fund—the two to be equivalent to current Foreign Service retirement benefits.

Mr. ZABLOCKI. Who will develop the detailed plan for restructuring the Foreign Service retirement system established by title VIII of the Foreign Service Act of 1946?

Mr. ULLMAN. The bill calls for the Secretary of HEW to submit a comprehensive plan for restructuring the various Federal staff retirement systems affected. He would develop the plan for the Foreign Service system after considering the views of the Secretary of State.

Mr. ZABLOCKI. In consultation with the Secretary of State provided for by the language of the pending bill?

Mr. ULLMAN. The bill specifically requires the Secretary of HEW to consult with the Civil Service Commission. It is our intent that the Secretary also consult with the Secretary of State and give full consideraion to his views before developing a plan for restructuring the Foreign Service retirement system.

Mr. ZABLOCKI. I thank the gentleman for his clarifications. I think they are very important. While I do have reservations about the impact of this bill on Federal employees in general, in developing any plan for amending title VIII of the Foreign Service Act, the views of the Secretary of State should be given careful consideration. Also, I would expect that the International Relations Committee would review and report on such legislation after it is submitted by the Executive.

Is that the chairman's understanding?

Mr. ULLMAN. Yes.

Mr. ZABLOCKI. I thank the chairman.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Chairman, I rise to speak in favor of H.R. 9346. The members of the Social Security Subcommittee and of the Ways and Means Committee have spent a great deal of time over the past few months thinking about and studying this piece of legislation. I have been deeply impressed by the commitment of our subcommittee and committee chairmen to passing a significant reform bill this year. It is far from a perfect answer to our social security problems from my viewpoint. It fails to address and answer all of the problems and potential problems that beset the system. I would have preferred a bill that made significant changes in the way we fund and deal with disability cases and our medicare program. I would have preferred a bill that went much further than this one in reforming how the social security system views and treats dependents. I would have preferred a bill that had successfully addressed the retirement age question and would have expressed a single practical national retirement policy that would take effect far enough in the future so that we do not break our promise to people who have earned vested rights under the present program. I would have preferred a bill that made bigger strides toward equating the benefit system so that it better reflects contributions.

Recognizing that this bill is imperfect and recognizing that the social security system will still be in need of significant reform if it is passed, I want to strongly emphasize that I also firmly believe it is the best bill that could be brought to the Floor of the House of Representatives in 1977. Our subcommittee began work on this bill as soon as the national energy bill had cleared the House of Representatives. Some Members wanted long-range, all-inclusive legislation that would answer all of our problems. Some Members wanted a short-range bill that would only make minor adjustments in tax rate or tax base or both and get us through a year or two until meaningful reform could be addressed.

The subcommittee decided to commit to neither course, but rather to enact as much reform as we could agree on in the time circumstances permitted. The result is H.R. 9346 which I would characterize as a medium-range solution which addresses and answers a few major difficulties, puts off others, and assures the financial stability of the fund for from 25 to 40 years. Considering that under present law, the disability fund will be deficient in 4 years, I think this bill represents a desirable result. Its most important features are well known to you:

First, it corrects the error created by Congress in 1972 of putting a double escalator on entry-level benefits. If this error continues, we will be replacing 52 percent of wages for a worker earning average wages in the year 2000. In 1955 the replacement rate was 31 percent so the rate of escalation can be fully appreciated. This bill fixes and stabilizes the replacement rate at an average of 43 percent for all times in the future. If this bill did nothing more than this it would be a huge success.

Second, the bill raises the tax rate and tax base at a quicker pace than existing law, but it does not make increases in either base or rate over what is already anticipated in present law. Nobody wants to raise taxes—even if the raise is couched in terms of an acceleration of anticipated raises. People in general and Members of this House, in particular, ask what is wrong with the system that causes additional funding. I believe the following factors cause this need. They are:

Our 1972 error in double indexing for inflation on the entry-level benefit. This bill corrects that;

Administrative failures in the disability area. This bill does not correct this;

Our failure to match automatic benefit increases by an increase in the tax rate. This bill does not correct this problem per se, but with decoupling a solution is foreseeable.

And demographic factors—such as a declining birth and death rate. This bill obviously cannot affect these.

If you believe we must continue the social security system as a valuable national program that does something for people that they cannot or will not do for themselves, you must be ready to adequately fund the plan. To do otherwise requires severely cutting benefits but the consensus for that idea has not yet appeared. The debate then centers on whether to accelerate the rate or the base and this bill, I think, appropriately does both. However, it does lean a little more heavily on the base in an attempt to return the ratio of tax-covered wages under the program to a historical precedent level of about 90 percent.

Third, the bill reduces benefits by freezing the present minimum benefit for future beneficiaries at its 1979 dollar amount, subject to annual cost-of-living increases, and by offering a delayed benefit credit or bonus, if you will, to persons who delay receiving retirement benefits between ages 65 and 72.

Fourth, the bill raises the amount someone between 65 and 72 can earn without damaging his or her benefits to $4,000 from $3,000 in 1978 and $4,500 in 1979, leaving the inflation index on these amounts under existing law intact. Over 200 Members of this House desire movement in this regard. This level of movement is admittedly modest, but further increases simply require even further tax rate and base accelerations or outright increases.

Fifth, the bill mandates universal coverage. I hope this is an idea whose time has come. The inclusion of public employees is right because the revenues actually lost because of the current nonparticipants and the potential loss from the increasing numbers of social security "dropouts" impose an additional unfair cost on those who have no option but to remain covered and pay taxes. A further aggravation is the problem caused by "double-dipping" which is now legally practiced by 43 percent of the current Federal civil service annuitants. The opponents of this proposal say it needs to be studied further. The subject has been studied for 30 years and has been recommended by more than one Social Security Advisory Council.

Now is the time to make a commitment to universal coverage in a way that is appropriately sensitive to the time requirements for integration of the system and to the commitment to our public employees that the integration must not result in economic damage to them. To say the accomplishment of such integration is impossible flies in the face of the fact that the vast majority of American workers are successfully covered under integrated private and social security retirement systems. The committee bill regarding universal coverage is a commitment with a study. The Fisher amendment offers a study with a faint hope. I fear it is a faint hope because, try as we might, I fail to see how we can fully satisfy public employees who now enjoy a benefit universal coverage can never afford them—that is the privilege to double dip.

Finally, there are two important things this House bill does not do—it does not call for general revenue financing and it does not break parity between employer and employee contributions. Most social security watchers saw these significant changes as necessary to save the system. We have avoided both and constructed a system good for from 25 to 40 years.

In conclusion, a word on the proposal by our colleagues on the other side. It is deficient for four reasons. First, it spends a lot of money on taking away the retirement test entirely. Second, it raises the

retirement age to 65 and 68 without an adequate analysis of the significance or timing of that decision. Third, it calls for a gigantic tax rate increase (and not acceleration) of 1.20 percent of taxable payroll over the period between 1981 and 2011, which translates into at least a trillion taxpayers' dollars over the period 1985 to 2051. That is indeed a dear price to pay for what the alternative proposal gives you. Last, and most damaging it leaves the retirement and disability funds below 25 percent in 4 of the next 7 years and totally depletes the medicare fund by 1987.

In closing, I urge the Members to support H.R. 9346 and defeat all amendments. Regardless of your position on amendments, I hope you will vote for final passage. This bill, regardless of what amendments carry, is a good, balanced result of hard compromise—a strong reasonable solution for the next 25 to 40 years. I hope with all the hope I have that 1977 will be known as the beginning of reform for social security and not the end of reform. Our subcommittee chairman, the gentleman from Massachusetts who labored mightily on this bill, believes very strongly that we must have a second phase of social security reform beginning next year. I believe him and I believe in our capacity to do more to improve the system. But today—in the fall of 1977—we must take the first step to insure the system's finances—to begin reform—to recommit our Government to the notion that the social security program is one of our Government's best products that promises a reasonable life after retirement for our generation and many generations to follow.

Mr. CONABLE. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I would like to thank my friend, the gentleman from Missouri (Mr. GEPHARDT), for having raised the issue of the Republican substitute.

I would like to discuss that briefly because, among other things, although he actually identified some aspects of this substitute, he says that it proposes a gigantic rate increase. We do have a rate increase spread over the years between now and the year 2000 of 1.2 percent. However, let me say, Mr. Chairman, that our rate increase raises the rate to 7.4 in the year 1990 and the committee bill raises it to 7.45 in the year 1990, and their bill goes no further than that, leaving a very substantial deficiency for the rest of the 75-year period. In other words, the committee bill is the high-tax bill, not the Republican substitute.

Mr. Chairman, I think it is important that we talk just briefly about what is involved in these raises because I am not sure that all of my colleagues understand this. The committee bill is a high-tax bill. These apparently little tax increases add up to hundreds of billions of dollars, and it need not be so.

There are two ways in which taxes are raised, by increasing the rate or by increasing the wage base to which the rate applies.

The committee bill by 1981 raises the rate by 1.5 percent. By 1981 the base will soar to $27,900 from today's $16,500. Raising the rate improves the actuarial soundness of the system, but affects everyone. Raising the wage base affects only those who earn more than the present wage base, which does not increase the long-term soundness of the system since under the formulas increased pensions some years out will offset the increased yearly cash flow from applying the tax to a higher wage base. Also, since higher wage base means higher pensions, the temptation to subject them to income taxes, which are ultimately much larger for those with higher salaries, is greater. I would hate to see us start to tax social security benefits in any degree, and I think we should restrain our enthusiasm for raising the wage base, for this reason, if for no other. Raising the wage base also reduces our capacity to finance future cost-of-living increases in this regard, which is a financing device in the present law.

Let me just mention what the specific provisions of the Republican substitute are.

First, it removes the earnings limitation on beneficiaries in three stages by 1980.

Second, it advances the age of eligibility for full retirement benefits, slowly and gradually, 3 months each year, from 65 to 85, between the years 2000 and 2011. It has a tremendous actuarial impact for doing that.

Third, it brings all Government employees under social security coverage by 1982, following a study to assure their equitable treatment, an issue we have been talking about a great deal today.

Fourth, it provides a new working spouse's benefit, primarily to aid wives who work in covered employment.

Fifth, it reduces from 20 years to 5 the duration-of-marriage requirement for divorcees to receive a spouse's benefit.

Sixth, it ends the requirement that some beneficiaries, notably widows, lose benefits upon remarriage.

Seventh, it eliminates sex-discrimination language from the Social Security Act.

My colleagues will note that many of these provisions have had their impact on the committee bill.

Eighth, it requires no tax increase until 1981, then a three-stage rate advance totaling less than 1¼ percent over the next 75 years.

Ninth, it decouples wage indexes to correct a flaw in automatic benefit adjustment provisions and to stabilize ratios of benefits to wages.

Tenth, it freezes the minimum primary benefits but increases the special minimum benefits for those with many years' work at low wages and puts them on the automatic escalator.

Eleventh, it temporarily reassigns through 1981 three-quarters of the medicare tax increase, already scheduled next year, to OASDI trust funds.

Twelfth, it permanently reassigns after 1981 one-quarter of the 1978 medicare increase to OASDI funds.

Thirteenth, it reallocates taxes between OASI and DI trust funds.

Fourteenth, it permits any one of the trust funds, OASI, DI, and medicare, to borrow from each other to prevent exhaustion; and

Fifteenth, it limits survivorship and disability benefit amounts to the maximum payable to a retiree under this system.

I hope my colleagues will consider this provision.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Missouri.

Mr. GEPHARDT. I thank the gentleman for yielding.

Will the gentleman not agree, however, that in summation the Republican proposal calls for a much greater tax rate increase and also leaves all three funds in very serious shape in the short and the long terms?

Mr. CONABLE. The trust funds are much more reduced under the Republican proposal. None of them go into the negative, and we do not provide for borrowing power. The high-tax provision is the committee bill, however, which so increases the rate base and which raises the rate more than the Republican proposal does by 1990, and it has no further action after that time. Since the committee bill will carry through only to the year 2010, and since it does not deal with the total 75-year period, it avoids higher taxes after that time only by leaving a deficiency. Our rate increase is sufficient to take care of the full 75-year period

Mr. GEPHARDT. Will the gentleman yield?

Mr. CONABLE. I yield to the gentleman.

Mr. GEPHARDT. Between now and 1990 the gentleman's tax rate increase is much greater than the Democratic rate increase; is that not true?

Mr. CONABLE. No; that is not true. I will be happy to provide the figures for all those who are interested.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Arkansas (Mr. TUCKER).

Mr. TUCKER. Mr. Chairman, there has been a great deal of talk today and over the past several months about raising taxes and about whom we represent. I know whom we represent in the U.S. Congress, and I do not think that we represent solely or are charged solely with the responsibility of protecting the highest income people in this country.

Let us look at the history of the social security bill. The first wage base that was taxable under social security was $3,000. That may not sound like very much, but in 1937 $3,000 represented the full income of 97 percent of the employees in this country, and it represented 93 percent of the wage base in this country, the payroll in the country. We let that wage base stay low because we did not have the courage to raise it as we went along from year to year. The result was that during the 1950's and 1960's the taxable wage base fell into the 1970's, and today the $16,500 wage base that is taxable represents 100 percent of the salaries of 85 percent of the people in the country But 15 percent of the people in the country get a free ride on all of their income over $16,500.

I direct the attention of the Members to the chart we have placed here. There has been a great deal of discussion about how we raised the wage base. We did not just pluck it out of thin air. We simply moved back to the 90-percent level. I would have liked to move higher. I see no justification for not taxing the full salary of a man or woman who makes $100,000 a year. While it is true it rises to $27,900, it is also true it rises in that same year, and while it is true by 1987 our wage base is predicted to rise to over $37,000, it is also true under existing law the wage base would be almost $32,000 by that year.

What we have done is very modest. The option we have is to increase the tax on every working man and woman in this country. As a Democrat I have no difficulty whatsoever in making the decision that it is preferable to increase taxes equitably on the 15 percent who are not being taxed than it is to increase the burden on all our working men and women in this country. I am convinced the majority of Democrats in this Congress and I would hope the majority of Republicans in this Congress would find that a simple choice to make.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to the gentleman from Massachusetts, the chairman of our subcommittee.

Mr. BURKE of Massachusetts. Mr. Chairman, I commend the gentleman on his statement because he brought out an important fact. Those people earning more than $100,000 a year pay less than 1 percent tax into the social security fund, and some of those under present law earning under $16,500 pay close to a 6-percent tax. This is grossly unfair, but it is something that has to be rectified in the social security trust fund. Those people with high earnings should pay their share, and we intend after this legislation is acted upon to file to remove the entire ceiling and go for a reduced rate and let the people pay the more equitable and justifiable tax. This tax to me is grossly unfair to low wage earners and middle-income persons.

Mr. TUCKER. Mr. Chairman, I would like to point out how we take care of the $10,000-a-year wage earner, and I think that is the kind of person we in this Congress have a commitment to look after. He gets no tax increase in 1978; he gets no tax increase in 1979; he gets no tax increase in 1980; and not until 1981 does that man receive a tax increase and then of only $15 per year. I am proud of that result and I think this Congress can be proud of that result.

In 1987 the $10,000-a-year worker will be paying only $45 more per year and he gets a sound social security system in return.

What about the $15,000-a-year wage earner? He does not get hurt so badly either. He gets a sound social security system in return and he gets no tax increase until 1981, and then a tax of only $22.50 per year. By 1987 he is paying only $67.50 more per year than he would under existing law.

That is a good bill and a bill the Democrats can be proud of, but it does not answer all the problems of the social security system.

We need to think about the health insurance and disability. It is my feeling we cannot continue to increase the social security taxes in the future. I hope we will come back in 1978 or certainly in the next Congress and relieve the social security system of a burdensome tax that is regressive and one that is financing some welfare systems under social security.

But for the short term with this bill we get a sound social security system through the turn of the century and an opportunity to come back again and make those adjustments that need to be made.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to the distinguished ranking minority member on the committee, the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I thank the gentleman for yielding.

Will the gentleman comment on the effect on total pensions payable of increasing the wage base and does he see any particular problem in this? We have expanded the wage base already in order to cover cost-of-living increases. The gentleman is now suggesting a considerable additional expansion of the wage base which will mean the pensions will get very large for those who have higher salaries. Is that correct?

Mr. TUCKER. Those people should get higher pensions who are earning more money.

It has in the long term a slight net positive effect on the trust fund due to the fact, as the gentleman knows, that the benefits are slightly weighted toward the lower income individual.

Mr. CONABLE. Mr. Chairman, if the gentleman will yield further, may I ask if the gentleman has any view as to whether or not social security benefits should be taxable for income tax purposes?

Mr. TUCKER. I do not believe they should be taxable; however, I would point out that under the Republican substitute over the next several years the trust fund of the social security system reaches a level of 10 or 12 percent of the revenue, increasing every year, which means we have as little as 1 month's available cash flow and any economic crisis could totally bankrupt the social security system and we would find the social security recipients going without their checks.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. TUCKER) has expired.

Mr. ULLMAN. Mr. Chairman, I yield 1 additional minute to the gentleman from Arkansas.

Mr. CONABLE. Mr. Chairman, if the gentleman will yield further, it is invested in Government bonds. In effect what we have done is put IOU's in the trust fund. To be sure, they are paying interest to the trust fund, but the trust fund is not a pile of cash of some sort.

I am sure the gentleman is aware nobody is advocating a violation of the contract we have with beneficiaries to see that there is a flow of benefits to them, as required under the system.

Mr. TUCKER. No one advocates violation of the trust system. Several of our colleagues would risk that obligation by their proposals.

I would point out one of the major problems of the trust fund is that we do not draw interest and, therefore, it impacts directly on the social security trust fund.

Mr. Chairman, I would urge a vote for this, not that it is a final solution, but it gives us an opportunity to give a quick fix and gives us time to study this for long-range security.

Mr. CONABLE. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I rise in support of the Post Office and Civil Service Committee amendment to H.R. 9346, which would strike out those provisions of the bill which provide for mandatory social security coverage for Federal employees and those provisions which relate to a proposed study by the Secretary of Health, Education, and Welfare.

I urge my colleagues to support the Post Office and Civil Service Committee amendment which calls for a joint study to be performed by the Chairman of the Civil Service Commission, the Secretary of Health, Education, and Welfare, the Secretary of the Treasury, and the Director of the Office of Management and Budget. The study must be completed no later than 2 years after enactment of H.R. 9346 and our committee amendment also specifically details the issues to be considered. The committee approved the amendment by a unanimous vote and I urge my colleagues to read the Post Office Committee's report on H.R. 9346 and the detailed explanation of the proposed comprehensive study.

Mr. Chairman, I am dismayed and disappointed that the Ways and Means Committee included universal, mandatory coverage under social security as a part of this huge legislative package. The temptation was obviously irresistible to "tap" the large pool of Federal, State, local, and certain nonprofit organization employees not presently included in the social security system. Unfortunately, these workers have not come forward eagerly to volunteer as "saviors" of this bankrupt system. Instead, representatives of these groups have been exceedingly vocal in their disapproval of the hasty, ill-conceived plan to mandate universal coverage by 1982. I am sure that I am not the only Member of this body who has received letters, telephone calls, telegrams, and in-person pleas to defeat the Ways and Means proposal. Federal employees, especially, are adamant in their opposition to universal coverage.

Apart from the apparent willingness of these noncovered employees to be dragged kicking and screaming into a sinking social security fund, there is the obvious fact that the supporters of the proposal are seeking this participation

as a "quick-fix" for the seriously ailing system. This is the kind of short-term solution which has become the increasingly frequent legislative response of the Congress. It does not take much imagination to visualize the situation some years in the future when the quick-fix of new revenues from these employees has worn off and the system once again reveals its basic, and serious, defects. Universal coverage will not provide long-term fiscal integrity for the social security system and as Representatives of all the people, we must not rush headlong into endorsing a proposal the ramifications of which are not fully defined or understood.

Expanding coverage to those whose earnings are not now covered would, admittedly, improve the financial outlook of the fund, at least for the shorter run. However, there are other financial implications which should be recognized and examined. For example, State and local units of government which do not now participate in the social security system would be faced with enormous new costs. The cost to the county of Los Angeles, as a potential employer of 76,500 persons with a payroll of $1.5 billion in 1982, would be $84 million, at the proposed tax rate of 6.45 percent. Other estimates indicate that the real cost could be as high as $113 million in 1982, or a new tax burden per employee of between $1,098 to $1,477 (to be matched, of course, by the employer—in this case, the taxpayer).

Mr. Chairman, I urge the Members of the House to consider all the arguments presented by my colleagues on the Post Office and Civil Service Committee, and others, who seek a prudent, sound solution to the problems of social security financing. We must reject this "finger in the dike" approach advocated by the Ways and Mean Committee and accept the Post Office and Civil Service Committee amendment providing for a complete, detailed study of the mandatory universal coverage proposal before sentencing millions of Americans to a retirement of uncertainty and fiscal "insecurity."

In conclusion, I wish to commend the good chairman and ranking minority member of the Post Office and Civil Service Committee for the strong leadership role they have taken in this issue—the potential victims of the Ways and Means proposal express their gratitude.

Mr. ULLMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, I thank the chairman of the committee for yielding this time to me. I want to compliment him and the chairman of the subcommittee for their hard work in bringing this bill to the floor, which I hope, with the adoption of some amendments, this committee will approve. I also want to thank them for permitting me to testify before their committee on several occasions in connection with my several proposals pertaining to social security which have either been incorporated in this bill or which will be separately voted on today.

I would like to say this, however: I think the American people are mad as hell and they are not going to take it much longer when it comes to this social security system as it now exists and is being paid for. They are sick and tired of being asked simply to pay more and more taxes into the same old system. They are tired of bandaid and mercurochrome approaches. They want some fundamental changes in the social security system, and they do not want every 5 years to be asked to raise taxes again on the middle-class taxpayer. They just cannot stand it. They will not stand for it. They should not stand for it. When that public support ends so will social security. We cannot afford to let that happen.

Young people are fearful that they will never see a return on their payments into the system, and the elderly are concerned that their benefits will not be forthcoming. That is why I am grateful to my colleague from Georgia Mr. JENKINS, a member of the committee for offering as an amendment my proposal for a National Commission on Social Security, a proposal which I have introduced in two Congresses as legislation now with 65 cosponsors. I think it is high time that this National Commission legislation be passed.

Let me say to the gentleman from New York (Mr. CONABLE), for whom I have the greatest respect, who spoke in support of the present social security advisory councils as a vehicle for solution. One of the problems with the present advisory councils is that, not only are they appointed by the Secretary of HEW and not by the President, making them in-house councils, but all they have done during their entire period of existence is to rearrange the furniture on the deck of the *Titanic*, and they have not done anything at all about the fundamental, long-term problems of social security. We must change that now and move on to a comprehensive, meaningful long-term reappraisal of the system.

I think it is absolutely essential that we take a long, hard look at the entire system, to decide whether or not what was in place in the thirties will serve the needs of America for years to come; whether or not we need a completely new type of national retirement, disability and survivor system.

Let me pass on briefly to another subject. I want to commend the gentleman from Wisconsin (Mr. STEIGER) for his statement. I think we have got to move to a system of universal coverage. There is no question about it, because we cannot create an elitist group in this country who do not contribute to the social security system. You know, the American people are asking themselves this question: If the Commissioner of Social Security himself is not covered by social security, then something must be wrong with the system. If the Members of Congress are not covered by the system, it is no wonder Congress has let it become such a mess. Would you want to eat dinner at a restaurant where the chef would not eat his own cooking? I suggest not. We have got to reach that time where everybody in America knows that they are part of this system. There cannot be one group who stand aside and let everybody else pay the bill.

Furthermore, I think that it is despicable, and reprehensible to see the type of lies and misstatements and calculated deceptions which certain organizations have waged in the last few weeks about the concept of universal coverage. As far as I am concerned, they have severely damaged their credibility with me, and I am sure most of the members of this committee feel the same way. It is one thing honestly to oppose a position, it is quite a different thing to misrepresent a position to deceive and lie in order to prevail.

In this case the only valid point which the opponents of universal coverage have in their favor is that the terms and provisions of universal coverage should be spelled out by law at the same time it comes into affect. For that reason alone, and not because of the untruths about universal coverage, I believe the Fisher amendment should be adopted to lead to an orderly transition into universal coverage.

Mr. CONABLE. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. Mr. Chairman, I take this time to engage in colloquy with our distinguished colleague, the gentleman from Arkansas (Mr. TUCKER) with regard to the wage base.

My understanding is that, under the present law, with a maximum wage base of $16,500, the same contributions are paid, as the gentleman indicated, by someone with an income of $16,500 or $100,000. But also the same benefits are paid to those persons because only $16,500 at the present time counts in benefit computation.

What bothers me, working from the same set of facts the gentleman presented to us, is that the increase in the wage base which the gentleman is referring to will mean that social security will be in the future providing a larger proportion of benefits than it is now providing to the highest income group in America, reaching, if we follow the theory, all the way to the very highest levels of income in our society. In other words, we would be using social security to provide larger retirement benefits to those best able to provide for themselves.

Mr. Chairman, it seems to me, therefore, working on the same assumptions that the gentleman has mentioned, that there is a very strong argument for not increasing the wage base any faster than we have to. I acknowledge it has to go up, but it is a matter of degree that I know we are debating. Beyond this, the effect of providing through the social security system an increasing proportion of the total retirement benefits which might come to a higher income person means a shift toward reliance on a pay-as-you-go method of financing—social security—as against what are generally fully funded methods of providing retirement benefits, which are generally the techniques for funding systems used in the corporate sector today.

The effect of this, as I see it, is that if we shift more of the retirement financing in this country toward a pay-as-you-go system and away from fully funded systems, we will reduce the accumulation of capital in this country, because one of the greatest sources of capital formation today is pension plans which are on a fully funded basis, which, curiously, includes State and local pension plans, as well as private ones.

If this analysis is at all correct, the impact of raising the wage base substantially, and thereby slowing down the growth of private pension plans, will be to reduce the accumulation of capital, of capital formation, which we need in this country.

If I read the figures at all correctly, the greatest impact of all of that will be on the working people of this country who would not have as fast a rise in productivity as they would if we have a greater flow of capital formation.

I know the gentleman has given a great deal of thought to this, but I did want to take my time to present my point of view.

Mr. TUCKER. Mr. Chairman, will the gentleman yield?

Mr. GRADISON. I yield to the gentleman from Arkansas.

Mr. TUCKER. Mr. Chairman, I will be happy to attempt to respond in the short time available.

First, if the gentleman is suggesting we should not raise the wage base since to do that, and thereby stabilize the social security fund, we will somehow hurt other private pension systems, then I would have to say that in my order of priority I opt for taking care of the social security system, rather than private pension funds.

If the argument is that we are drawing large sums of money from the economy that we cannot afford and which will hurt capital formation, I answer that all money paid in, as the gentleman realizes, is paid back out in benefits and is still in circulation in the economy.

Finally, I would say to the gentleman that if we could pay social security taxes only on $5,000 or $8,000 or $9,000, that might not be such a bad idea, and we could do something like that if we would follow the suggestion of the gentleman from Masachusetts (Mr. BURKE) and finance at least one-third of the social security trust funds out of general revenue.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I want to add to the discussion we have already covered on the Fisher amendment comments from Secretary Califano discussing his support of the Fisher amendment.

Mr. Chairman, I would like to quote from page 2 of his letter to every Member of the House. This is what he said:

> Universal Coverage. The Committee bill would require the Secretary of HEW and the Chairman of the Civil Service Commission to develop a plan by 1980 with respect to how the social security system could be coordinated with the civil service retirement system. That study would be followed by mandatory coverage, effective January 1, 1982, of all Federal, state, and local government employees, as well as the employees of nonprofit organizations.
>
> We believe this is a complex matter that deserves careful study first; and an opportunity for the Congress to consider on what terms coordination of the different systems might best be accomplished, and an opportunity for the millions of affected employees to express their views. Representative Fisher will offer an amendment to eliminate mandatory coverage of Federal, state, local and nonprofit employees from the Committee bill and instead authorize a study of the ways to integrate these other retirement systems with social security.

Mr. Chairman, it is true, as several of my colleagues have pointed out, that as members of the Committee on Post Office and Civil Service, we do not think adequate time was given to a discussion of the merger of the systems, and that is why we favor the Fisher amendment. Evidently Secretary Califano agrees.

We feel that the complex nature of this legislation requires more time than the last 4 to 5 weeks during which the Committee on Ways and Means has been working on this particular bill.

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Yes, I will be happy to yield to my distinguished colleague, the gentleman from California.

Mr. CORMAN. Mr. Chairman, I will say first that I hope the Secretary never finds out which of the two of us is agreeing with him.

Mr. ROUSSELOT. Well, I believe on this issue he has ditched the other gentleman from California first.

Mr. CORMAN. I would put it out to my colleague that there are 12 million State, county, and municipal employees in this country, and 73 percent of them are already covered by social security.

Mr. ROUSSELOT. I understand that.

Mr. CORMAN. There is no great mystery as to how the two systems could be integrated. The Committee on Ways and Means, not having jurisdiction over the pension system, gave the Committee on Post Office and Civil Service some time, knowing full well it could act promptly and that it would not take 5 years to figure that out.

Mr. ROUSSELOT. Well, the gentleman did not give us 5 years to work it out from the time the bill was voted out by the committee. We were not given time to discuss the issue of the merger of the systems, and I think that is the issue.

The Committee on Ways and Means admits in its own report it did not have adequate time to address the issue. That is why I am sure many other members of the committee have insisted on more time for study. It is important to note that the committee was not able to even suggest what would be done in 1982, because it does not know.

I am not saying that it is an easy issue; it is not easy.

Mr. DERWINSKI. Mr. Chairman, I yield the remaining 1 minute I have to one of the great statesmen of the House, the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Chairman, I thank my distinguished leader on the Republican side from the Committee on Post Office and Civil Service for yielding this time to me.

Mr. Chairman, I rise in support of the amendment of the Committee on Post Office and Civil Service. I think it is the best solution to this problem of the Federal employees.

Mr. Chairman, the Ways and Means Committee bill is, no doubt, a well-meaning and worthwhile effort to strengthen the financial affairs of the social security system. In dealing with the issue of mandatory social security coverage for Federal employees by 1982, however, the bill departs from sound reasoning.

As reported by Ways and Means, the bill provided for a 2-year study on how best to coordinate the benefits of the civil service retirement system and the social security system. Rather than await the results of such a study, the Ways and Means Committee went one step further and made a decision to bring all Federal employees into the social security system by 1982.

To mandate this coverage of 2.8 million Federal employees simply as an expedient to help balance the books of an ailing social security system and without an indepth study, in my opinion, is shortsighted because very little thought has been given to the problems that might arise from universal coverage.

In contrast to the action by Ways and Means, the Post Office and Civil Service Committee has come up with what I feel is a more reasoned approach to the possibility of requiring social security coverage of Federal employees.

I am concerned that a step of this magnitude and complexity requires a thorough study of the benefits and financing of each system. Full consideration should be given to the proper approach for integrating the two systems. We must consider specific recommendations and proposals for a smooth transition which would protect the integrity of both the social security system and the Federal retirement system as well as the individual rights and benefits under each system.

The problems of coordinating two retirement income plans are enormous and require intensive study and consideration. Our amendment calls for a 2-year step-by-step approach to study all aspects of both systems, which in turn would be followed by specific legislative recommendations.

Under our committee amendment, if the study justified a feasible and equitable approach for integrating the social security and Federal retirement systems, then Congress would have the opportunity to enact into law a retirement system which has been researched and properly legislated.

One of the most important issues in anyone's life is security in old age. I be-

lieve that Congress should not make any drastic changes in a system without carefully examining the consequences.

Mr. ULLMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. Mr. Chairman, this bill, the Social Security Financing Amendments of 1977, has caused a great deal of concern among those who are now working and contributing to social security and those who are receiving social security benefits. I have received expressions of puzzlement from many of my constituents about the solvency of the social security trust fund. They ask how it can be in such dire financial trouble if they have, as one person put it, "contributed part of my paycheck to social security throughout my working life? Why are higher payroll taxes needed to shore up the system?"

To answer their question and resolve my own concern, I tried to work out for each of those constituents the likely contributions made by the employee and the employer over a working career. As might be expected, it works out to be much less than the person receives in retirement benefits within the first couple of years after retirement. The actual figures are astounding. Forty years of maximum social security contributions can be recouped in 12 to 18 months after retirement. A person paying the maximum in social security taxes from 1937 to 1977 will have contributed $8,723. Before that person and his or her spouse die, they will have received $62,947 in benefits. Clearly, social security needs constant infusions of new money to provide payments for today's retirees. That is why it is vital that we pass this legislation to restore the financial integrity of the system, to assure that it will be there for the retirees, widows, survivors and disabled who now depend on its benefits, and for tomorrow's retirees.

Our purpose today is to relieve social security of its current debt. However, incorporating the concept of universal coverage into the system, without a detailed study of its implications could well undo so much of the well-devised financing provisions in the bill.

I note that the Congressional Budget Office has reported that any financial boost to social security from universal coverage "would have negligible effects in 5 years." As I reviewed the language in the bill and in the committee report, it became increasingly clear that now is not the time to create a national retirement system. If we are to require that all working people be enrolled in the social security system, we must do so with precision and with clear purpose.

Universal coverage will affect more than 6 million public employees and teachers across the country. The number of existing pension programs this would involve is staggering. The Federal Government, alone, operates, more than 50 pension programs. Each State has at least one. Ohio has two excellent retirement plans for its public employees and teachers. We are talking about drastically modifying 100 plus pension programs. I approach universal coverage with an open mind, but the issue must be carefully reviewed. The implications for each pension program must be spelled out in detail. The States will need clear guidelines if universal coverage is to become a reality. That is why I will support Congressman FISHER's floor amendment today to delete the language for universal social security coverage from H.R. 9346.

Mr. Chairman, the U.S. Congress is in the midst of discussing social security reform—trying to make sure that the social security trust funds do not run out of money in the next few years.

Under the House Ways and Means Committee proposal, which is being considered on the floor of the House this week, the social security tax rate for employers and employees would rise to 7.45 percent of wages by 1990. The wage base subject to social security tax would rise to $39,600 by 1987.

Many constituents have asked me a simple question. How can social security be in financial trouble with so many millions of Americans and their employers paying social security taxes every week or month?

Some constituents narrow the question even further. How can there not be enough for me to retire on when I have paid into the system for 40 years?

Such constituents often follow that question with one of two angry statements:

First. "With the level of benefits I am due to get, I will receive far less in pension than I've paid into the system all these years." Or;

Second. "I'd have been a lot further ahead just putting my social security taxes into a bank account."

Both of those statements are wrong. Looking at why they are wrong tells a lot about the need for congressional action to bolster the social security trust funds.

Take the case of a married couple retiring in 1977. Assume that only one member of the family, probably the husband, was employed outside the home. Further assume that the man earned a high enough wage that he had to pay the maximum social security tax for every one of the 40 years from 1937, the start of social security, till 1977, the year of retirement.

How much will the worker have paid in social security taxes total in that 40-year period? Answer: $8,723.

How much would the worker have in the bank if he could have legally placed his social security taxes in an interest-bearing bank account? Answer: $13,711.

How much will the couple receive in social security benefits? Answer: The husband will get $437 monthly and his wife one-half that amount, $219 monthly. The total will be $656 monthly, or $7,872 yearly.

In 1 year, 1 month and 9 days, the couple will have gotten back every dime the husband paid in social security taxes over a 40-year period.

In 1 year, 8 months and 27 days, the couple will have gotten back everything the husband paid in plus all the interest the money would have earned in a savings account.

But what about the employer's tax paid on behalf of the employee? Since the employer tax has always been the same rate as the employee's tax, just double the figures above.

Within 3 years and 6 months after retirement, a worker will have gotten back everything he and his employer paid into social security plus the interest the money would have earned in a bank account. That total works out to $27,422.

In contrast, a couple retiring this year are projected to receive $62,947 in benefits before both die.

If at this point you are shaking your head in puzzlement—saying that you surely must have paid in more than $8,723 over a 40-year life of work—consider this. For the first 12 years of social security, the tax was 1 percent and the maximum wage base was $3,000. That's $30 per year or $360 total for 12 years. In other words, a retired worker would receive back in 3 weeks now what he paid in in social security taxes in the first 12 years of employment.

What all of this emphasizes is that social security is not a self-contained fund from which workers draw out just what they paid in. Essentially, it is a pay-as-you-go system. Retired workers today are to a large extent drawing out what present workers are paying in and what future workers will pay in.

Basically, that is why Congress is watching carefully the financial health of the social security system.

Mr. ULLMAN. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Chairman, I would like to take this opportunity to express my views concerning the bill we have before us today. Although I respect the good work and intentions of the Ways and Means Committee, it is my feeling that H.R. 9346 does not go far enough in providing for the long-range, comprehensive reforms that are needed to restore overall soundness to the social security system.

Provisions to increase payroll taxes, broaden the taxable wage base, require mandatory coverage of public employees, raise the level of allowable income for retirees, and permit automatic loans to the social security trust fund from the general revenues may assist in stabilizing the system in the short run. But in the long run, these changes do not address the real causes of today's crisis in social security.

The basic problems we face today stems from the fact that the structure of our social security system simply does not reflect today's social and economic conditions. Two trends have placed the current system in jeopardy. One is rising unemployment and the other is a change in the overall orientation of the system which has resulted in expanded benefits programs. As originally conceived in 1935,

the social security system was thought to be an insurance program for retired persons. Today, the system provides a wide range of benefits, including survivors', disability, and hospital payments, to 33 million people. For most of these people, social security is the major source of income. Forty percent of all families with heads of households over the age of 65 would be in poverty today if it were not for the income provided by their monthly social security checks.

Although the benefits offered through these expanded programs are essential Government services, it is becoming evident that the current structure of social security system cannot effectively maintain a sound retirement insurance program while at the same time providing adequate levels of income security for the elderly. Therefore, the basic structure of the system must be changed.

In order to restore the public's confidence in the social security system, as well as the system's financial stability, I feel it is necessary to separate the nonretirement programs out of the system and to fund these programs by means other than payroll taxes. A separate insurance program could return contributions plus accrued interest to its beneficiaries and a separate income security program for the elderly could be geared specifically to those most in need. Quite frankly, I fear that if this separation does not occur, social security trust fund balances will continue to face deficits even though we continue to raise payroll taxes and the taxable wage base.

In addition, I feel that the continued reliance on increased payroll taxes has reached the end of the road. Employees and businessmen simply cannot afford to pay out additional taxes which are regressive in nature. Every American taxpayer will suffer if this trend is allowed to continue, since it leads to higher prices, higher unemployment, and higher inflation. At the present time, the Federal payroll tax is the highest tax paid by about two-thirds of all wage earners and $2.5 billion will be paid in payroll taxes this year by persons officially classified as living in poverty.

To further ease the burden that payroll taxes are placing on our low-income people, our system of payroll taxes itself should be restructured. I suggest that two alternatives are available: First, an increase in the tax credit for individuals with incomes below the poverty level; or second, introduce into the payroll tax a system of personal exemptions and low-income allowances similar to those used in the individual income tax.

There are other far-reaching reforms that should be made if we want to correct the deficiencies in the present system. I feel it is necessary to remove entirely the income earnings limitation which now prohibits seniors over the age of 65 from earning more than $3,000 per year without losing a portion of their social security benefits. Although this matter is addressed in H.R. 9346, the proposed earnings limitation is too restrictive and thus offers little relief to our senior citizens. The complete removal of the retirement test will allow our elderly citizens to help themselves through increased earnings. Furthermore, tax revenues generated by their continued participation as working members in society will act as a stimulant to the economy.

Mr. Chairman, this summarizes my immediate concerns about the social security financing bill. It is my hope that the committee will recognize the need for a more comprehensive plan to reform the basic structure of our social security system. This is a commitment the Congress made years ago in 1935 and I feel the time is right for us to renew this commitment by making additional efforts to guarantee that the senior citizens in this country receive the benefits they desperately need and obviously deserve.

Mr. CONABLE. Mr. Chairman, I have no further requests for time.

Mr. ULLMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, there will be some seven votes taken soon. I believe that there are two of them that will be very strongly debated, perhaps others, but especially the one to take out universal coverage, which will be offered by the gentleman from Virginia (Mr. FISHER).

Mr. Chairman, I am going to offer an amendment that would strike from the bill a portion of section 104, which would remove the right to borrow money from the General Treasury if the ratio in the fund reserve got below 25 percent. That is formally written into the bill so that if it got below that particular level, then we could borrow automatically from the Federal Treasury.

Mr. Chairman, I think my amendment goes to the heart of this very program and is, perhaps, the most important question to be settled.

I recognize that there is opposition to it. The administration wants to leave it in the bill. We have had so many people from HEW outside here in the hall that they could have long since passed any kind of abortion bill if they just worked on it. The White House has had many people on the phone opposing the Pickle amendment, so many that they could have had an energy bill long since if they had not just concentrated on this one.

Mr. Chairman, I am simply saying that the administration wants the borrowing provision left in the bill because they expect to borrow money from general revenues. When that is done, this program is weakened considerably.

Mr. Chairman, I ask for the support of the Members. I would remind the Members that if we want to keep the social security program a self-supporting program, then we had better take that provision out.

My amendment does not weaken the bill. It adds a great deal of strength to it, and I would hope that the Members will support that amendment.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. BURKE).

Mr. BURKE of Florida. Mr. Chairman, I rise in opposition to H.R. 9346, the Social Security Amendments of 1977. I am concerned about the future of the social security system and I truly wish that my colleagues had been able to work out a few solutions to the numerous problems that plague the system. In my opinion, the whole thing is a mess and the approach being made by these amendments borders on "copping out."

Our colleague from Florida, Mr. SAM GIBBONS, who is a member of the Ways and Means Committee, has pointed out that presently there are slightly more than three persons in our Nation's work force for each person who is presently drawing social security benefits. At this rate, therefore, Mr. Speaker, by the year 2015 A.D., there will be only one person in our entire work force for each person that will then be receiving benefits. Certainly, this is ridiculous and most assuredly there will be a revolt by the working people who will be forced to carry the burden of financing this program. Regrettably, H.R. 9346 fails to meet the responsibility of this Congress to produce a solution to the short run or the long run problems of the social security program.

But, Mr. Chairman, what I have said is just my general objection to the bill and I have two specific objections in addition:

First, when I was first elected to Congress in 1967, I introduced legislation which would remove the earnings limitation on social security recipients. I appreciate the cost but the earnings limitation was intended originally to give jobs to the younger worker and to supplement the other income the worker would have when he retired. It was not intended to be a welfare program which it unfortunately has become. What originally looked like a form of insurance for the good life has, because of inflation, become a false hope to our elderly who have paid into the program. The worker who has put 20, 30, or 40 years on the job and because of inflation and high taxes has only social security benefits to look forward to at retirement. He or she are precluded from working, or if they do work he or she loses their social security check either totally, or in part, depending on how much is earned.

Mr. Chairman, I concede that H.R. 9346 offers some improvement in the present law since it increases the earning ceiling from the current $3,000 to $4,000 in 1978 and $4,500 in 1979 with a cost-of-living adjustment thereafter, but I suggest this is like building a 200-foot bridge when the river is 500 feet wide. It simply does not solve the problem.

My second objection is the idea of expanding coverage to include Federal, State, and local government workers, and employees of private nonprofit corporations beginning January 1, 1982. The universal coverage provision to extend mandatory coverage to these remaining 6 to 7 million workers certainly has not been fully explored. Nearly half of these workers are Federal employees, and the majority of the others are State and local government employees. The revenue the system is expected to realize from this change in 1982 is $13.5 billion. However, since the tax is shared equally by employer and employee, half of this revenue will come from general Federal revenue

financing of social security. The Federal Government as the employer will be obligated to pay its share by either that received from an increase in income taxes or an increase in borrowed funds further increasing our national debt. In addition, State and local governments will have to pay nearly $4 billion more in 1982 to the Federal Treasury as the employer share of social security taxes. Mr. Speaker, I call attention to the fact that about 30 percent of State and local government employees are not presently covered by social security. These public bodies will, therefore, have to raise the funds for their share as the employer in some way. One way they could turn would be by reducing existing pension benefits which may not be permissible under the law or by hiking the income on property taxes or perhaps some of the other regressive taxes which are presently the mainstay of local government financing. Mr. Speaker, I am no expert on financing, but I do know the suggested amendments in H.R. 9346 will not solve the social security dilemma. The truth is we should put welfare programs where they belong, pension funds where they belong, preserve the social security program in the manner it was originally intended, and halt Government borrowing against trust fund moneys.

To do this would take some courage, but at least it would establish confidence in our integrity to properly manage the peoples' retirement future.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, I would like to take a few moments to address the issue of mandating all Federal, State, and local public employees into the social security system without adequate study as to the exact impact this move would have on the existing retirement systems already in place for these workers.

For example, in the State of Ohio we have one of the best, if not the best, public service retirement systems in the Nation. A great number of people have put a lot of their earnings into these retirement funds and expect to get their fair share back when they retire. The last thing we should be doing in this social security reform bill is place these good systems in jeopardy.

Let us examine exactly what the State of Ohio has in operation at the present moment.

TEACHERS

The Ohio State teachers retirement system was set up in 1920 as a full-fledged retirement system and currently has about $3.6 billion in its fund. About 180,000 teachers are actively participating in the program by contributing to the fund, with 50,000 presently receiving benefits. The system covers public school and university teachers in Ohio.

To be eligible for retirement benefits a teacher may receive benefits at age 60 after 5 years on the job, or may retire at any age after 30 years of teaching. The benefit formula is 2 percent per year of an average of final salary up to a maximum 90 percent.

Under the Ohio State teachers retirement system the employer contributes 13.5 percent and the employee 8.5 percent. So one can easily see that Ohio's teachers are putting a lot of money in their program, expecting to get a lot out when they retire. Since a teacher's paycheck is not that large in comparison with other occupations, it can be argued that one of the reasons many people choose to become teachers is because of the good retirement benefits.

The teacher's retirement system invests their funds, and currently these investments pay for around 50 percent of the benefits currently paid to beneficiaries. This helps keep the overall cost of the program down. In addition to the retirement paycheck, teachers also receive comprehensive health care coverage.

SCHOOL EMPLOYEES

The Ohio school employees State retirement system, which was set up in 1937 and has a fund of $700 million, is almost identical to the teacher's program in providing excellent benefits to all nonteacher workers in the Ohio public school system. Custodians, cooks, bus drivers, clerks, secretaries, and many others benefit from this generous and effective program. Currently there are around 100,000 active paying members in the system with 24,000 people drawing benefits.

Eligibility requirements are the same as teachers mentioned before. A member may retire at any age with 30 years of service. Benefits are also the same, the formula is 2 percent per year of the final 3-year average salary up to a maximum 90 percent. Employers contribute 12.5 percent to the fund and employees contribute 8 percent.

Last year the system took in 45 percent of its income from employers, 31 percent from employees, and 21 percent from investments. This investment income paid for over 50 percent of the benefits paid out by the program. As in the teacher's program, the school employees system has an excellent comprehensive health care arrangement.

PUBLIC EMPLOYEES

The Ohio public employees retirement system was set up in 1935, has a fund of $3.5 billion, and covers most State, local, county, and municipal public servants. About 260,000 people are participating in the system, and 62,000 are receiving benefits. The benefits are the same as above: 2 percent per year of final average salary up to a maximum 90 percent and a worker can retire at any age with 30 or more years of service.

Employers under the public employee's retirement system contribute 13.71 percent under the State government and 13.95 percent if under a local government. Employees in either case contribute 8.5 percent. About 27 percent of the income coming into the system last year was from investments the system made. Health care benefits are also similar to those already mentioned under the other two systems.

POLICE AND FIREMEN

The final large public retirement system in Ohio is the police and firemen's disability and pension fund. It was set up in 1967 after combining the many local police and fire systems into one State program. Many of the old local systems date back to the 1800's. The fund is currently standing at $600 million. Participants include about 22,000 active paying members and 10,000 people receiving benefits. Retirement benefits are figured at 2 percent times the highest 3-year average salary times the number of years of service.

Police employers contribute 15.34 percent to the system and firemen employers contribute 16.77 percent. Employees contribute 7 percent to the fund. Around 24 percent of the income coming into the fund came from investments, and the health care benefits are as good as the ones previously mentioned.

It can be clearly seen that Ohio public servants have a very good retirement system. We want to keep this program strong and on a sound financial base. In examining H.R. 9346, the question needs to be asked, "What will happen to States like Ohio if they are required to pay social security taxes in addition to their present retirement programs," By requiring Ohio's public service employers and employees to contribute to the social security trust fund, are we actually forcing a drastic change in the present Ohio system and a possible loss of benefits? Will the combined social security-Ohio system guarantee the same benefit level that teachers, firemen, policemen presently receive? I do not think we can safely make that guarantee, and that is why it is critical we do not put teachers and other public employees under the social security system unless we can quarantee that they will not lose any of their present benefits.

H.R. 9346 is very unclear and vague on these crucial items, and before we go around mandating that all State and local employees start paying social security taxes, we need to study the long-range impact this will have on programs currently in effect. Certainly we cannot expect a teacher who is currently paying 8.5 percent of his/her income for retirement to pay an additional 7 to 8 percent in social security taxes on top of that. Certainly we cannot expect local school boards to pay an additional 7 to 8 percent into the social security system when many school districts in Ohio are having severe funding problems already.

Mr. GIAIMO. Mr. Chairman, as chairman of the Budget Committee I wish to make a few points regarding the economic and budgetary implications of the bill before us.

This bill is not consistent with the revenue estimates underlying the second budget resolution because there was no new tax increase assumed for 1978 in the resolution. This bill would increase on January 1, 1978, the wage base on which the social security tax is paid to $19,900, an increase of $2,200 over the level scheduled under current laws. This would increase revenue by $1.3 billion. Because the revenue figure in the second resolution is a floor, not a ceiling, this increase will not be subject to a point of order.

The increase does create a technical problem in that the revenue to the trust fund is also counted as budget authority, and no additional budget authority was included in the second budget resolution for this purpose. However, because this wage base increase has little economic impact in 1978, it is not inconsistent with the conference report language which reads:

> It should be emphasized that the conference substitute does not assume an increase in Social Security taxes during fiscal year 1978, since the conferees believe that any major increase in such taxes could not be justified given the present state of the economy.

According to the DRI econometric model, this provision would have no impact on the 1978 unemployment rate or the inflation rate. However, real GNP would be reduced by $1 billion in 1978, or by $1.5 billion adjusted for current dollars.

On the outlay side there will be a $0.4 billion reduction in fiscal year 1978. This amount is identical to the savings assumed in the second budget resolution.

Finally, let us take a look at the projected effect of this legislation on the Federal deficit over the next 5 years. Revenues will increase by $39.4 billion and outlays will decline by $1.1 billion, according to the Congressional Budget Office, resulting in a net reduction of $40.5 billion in the budget deficit.

Mr. FRASER. Mr. Chairman, I want to take this opportunity to indicate my support for an amendment that will be offered by the gentleman from Virginia (Mr. FISHER) at a later point in today's proceedings.

I endorse the principle of universal social security coverage as a compelling and desirable objective.

However, before the Congress commits itself to a specific date for beginning universal coverage, I believe we should have in readiness a plan that will show how universal coverage can be achieved without adversely affecting the contributions and benefits of the 6 to 7 million people who are not covered under the social security system at the present time.

In my judgment, it would be unwise to make a binding agreement without first resolving the many questions that have been raised about the workability and consequences of universal coverage.

As written, the bill before us requires all workers to pay into social security, starting in 1982, as well as into their regular retirement plan. Will they then receive benefits from each plan?

How will Federal service be credited to social security?

If the civil service retirement contribution is reduced, how will the commitments of the civil service trust fund be met?

When these questions are answered, I believe it is important for us to move ahead with universal coverage. Since 1937, the Social Security Advisory Councils have recommended that this principle be incorporated in our national social insurance system.

Universal coverage would protect those people who have not worked long enough in the Federal civil service or in employment covered by old age survivors and disability insurance to qualify for benefits under either retirement system. It would also protect emyployees at the State and local level who want social security coverage but who are not now able to obtain that coverage.

Full social security coverage, meshed with the current Federal civil service retirement system, would also help remedy the inequities that have been caused by the practice of "double-dipping." Under this arrangement, people who have already earned full Federal civil service pension rights, take part time or temporary jobs in covered employment merely to qualify for minimum social security benefits.

Double-dipping clearly runs counter to the intent of the social security system's benefit structure. Since low-income people have the greatest earnings-replacement needs during retirement, the social security system is structured to give the low-income worker a greater benefit return on every dollar contributed than a high income earner receives. Social security beneficiaries, then, who receive benefits based on contributions from low wages, should be those workers who had low earnings throughout lifetimes.

But many civil service retirees do not characteristically have low earnings histories, yet they receive social security benefits intended for people who have been poor throughout their working lives.

Finally, universal coverage is needed because it will enable the Department of Health, Education, and Welfare to equitably implement the standard of equal treatment for men and women required by the Supreme Court in Califano against Goldfarb.

I regret that we cannot move toward universal coverage at this time, since we lack the mechanisms to integrate the Federal, State, and local pensions systems with OASDI. Hopefully, the study required by the Fisher amendment will give us those mechanisms.

Mr. WIRTH. Mr. Chairman, the Ways and Means Committee's proposal to finance the social security system (H.R. 9346) contains many provisions which are headed in the wrong direction. I urge my colleagues to take a close look at this legislation.

In particular, I wish to express concern for section 3 of the bill which mandates universal coverage under the social security systems. Proposals to bring Federal, State, and local employees, and those employed by nonprofit organizations, into the social security system are ill-conceived and deserving of further study.

The telephone calls, telegrams, and letters that I have received from concerned constituents on this issue have been unprecedented in volume and intensity. The main concern of these people—Federal, State, and local employees not currently under the social security system—is an uncertainty about the effect congressional action mandating universal coverage may have.

It seems to me that before we vote to incorporate all employees in the system we should have a proposal outlining how this would be accomplished, what payroll taxes will be levied, and what benefits public employees may expect. To give tacit approval to the concept of universal coverage without a corresponding plan—to show and share with our constituents—is an unwise, unfair, and premature move.

The Ways and Means Committee sees this proposal as a short-term, shot-in-the-arm measure to boost the social security trust fund reserves by adding millions of well-paid, younger workers to the system. But in the long-run, when the millions of Federal, State, and local employees are ready to retire, who will pay for this additional burden to the social security system?

With a declining work force, fluctuating unemployment rates, and the continued addition of expanded benefit programs, the inclusion of many more workers may be creating an even bigger problem for the system in the long run than currently exists.

The current wording of this legislation provides for a joint study by HEW and the Civil Service Commission to provide plans for coverage of Federal employees under social security and to guarantee that no loss of benefits shall accrue from this incorporation. But as for the inclusion of State and local government employees into the system, the committee bill has no proposal to fund a similar study. The effect of including all State and local government employees—who already subscribe to a wide variety of retirement plans—is just not known. Questions about how they would be brought under social security, who would pay for their coverage, and what benefits they might expect, just have no answers at this time.

The committee may have rejected the use of general revenues in the social security trust fund in times of high unemployment but plans to incorporate all public employees in the system would have to include an employers' contribution. The employers' share will have to be paid through general tax revenues and it seems to me that transfer of General Treasury revenues to the social security trust fund in this way is a back door approach. A study of State and local systems would demonstrate that many State constitutional limitations would prohibit State and local governments from reducing pension benefits to their employees. One estimate of the additional cost to my State alone of including public employees under social security would amount to $120 million annually. This cost could not be borne by the State and a study of State and local options is a prerequisite to any vote to include these employees under social security.

In addition, the committee's action seems to have blurred the distinction between an insurance or minimum income base program—social security—and a prepaid retirement plan, such as offered by the Federal civil service or State and

local public employee retirement plans. I think this is a central issue in any attempts to seek long-range solutions to the social security financing dilemma. It seems to me we must not blur the distinction between prepaid retirement plans and an insurance program—social security. One solution, which the committee has chosen not to explore, is to separate from the income maintenance part of social security the medical and welfare costs and to finance these programs from general revenue. This approach, favored by many, including Mr. BURKE, the chairman of the Social Security Subcommittee, should be given serious consideration as a solution to the real problems that plague social security.

In summary, I believe there are simply too many unanswered questions about this section of the bill to support it and I urge my colleagues to support Mr. FISHER's amendment to delete the universal coverage provision and to replace it with a study of how such coverage would be enacted.

Mr. ROONEY. Mr. Chairman, I rise in support of H.R. 9346, a bill designed to restore the short-range and long-range soundness of the social security system and to make other improvements in the system.

As you know, this bill would reverse annual excesses of outgo over income in the social security trust funds by gradual increases in the taxable wage base and the payroll tax rates and by reallocation of income among the trust funds. It is my understanding that this legislation would provide a surplus of 0.09 percent of payroll in the social security cash benefits trust funds over the next 25 years in place of projected deficits of 2.34 percent and reduce the long-range (75-year) actuarial deficit from 8.2 percent of payroll to 2.75 percent.

Mr. Chairman, as chairman of the Retirement Income and Employment Subcommittee of the Select Committee on Aging, I have become increasingly aware of and deeply concerned with the economic situation of our country's 23 million senior citizens who are too often faced with unbearable financial problems. No one ever welcomes a tax increase. But in view of the fact that in 1975, 20.4 million of the total 22.4 million persons age 65 and over received social security payments, it is imperative that the Congress take steps now to maintain a solid financial foundation for the system. Perhaps even more important is the fact that in 1975, social security was virtually the sole source of income for 1 out of 4 elderly people in this country and for 1 out of 12 older couples.

Looking down the road, we know that the American population is, on the average, growing older, living longer, and retiring earlier. Clearly, the need to assure the financial integrity of the social security system cannot be overestimated.

One particularly desirable aspect of this legislation is its provision to liberalize the outside earnings limitation on social security recipients. Currently, the maximum annual wage that a beneficiary age 65 to 72 may earn without losing any benefits is $3,000. The bill raises this outside earnings ceiling to $4,000 in 1978 and $4,500 in 1979. After 1979 the ceiling will increase in line with the rise in annual earnings, as under present law. The outside earnings ceiling in present law, which is to rise to $3,240 in 1978, will continue to apply to beneficiaries under age 65.

I have cosponsored other legislation to completely remove this limitation because I believe it is grossly unfair to penalize those older Americans who wish to work and, in many cases, need to work in order to survive, when there is no limit on the amount of unearned income an individual may collect and still receive social security benefits. At least H.R. 9346 recognizes this issue and takes one small step in the right direction.

Mr. Chairman, I do not believe that this bill is a perfect piece of legislation. But it addresses an extremely important and complex problem which touches the lives of almost every family in this nation in one form or another. The bill was the subject of extensive deliberations by the Committee on Ways and Means and offers a basically sound solution to the short-range and long-range problems of the social security system. Therefore, I support H.R. 9346 and urge its passage.

Mr. APPLEGATE. Mr. Chairman, today we are debating an issue which is very significant to millions of Americans. Once again, for whatever reason, we find ourselves reacting to a problem instead of acting in time to prevent that problem.

I need not further inform my colleagues in the House as to the financial crisis faced by the social security system and the dismal prospects of the future if some sort of remedial action is not taken now. Surely, all of our offices have been inundated with this type of literature.

Since its inception, the social security system has proven its worth. It has helped the needy in many ways and has provided the added assistance that means the difference in many cases of living or just surviving.

However, over the years, social security has grown to the point where it is more than just a supplemental retirement income. It provides many other types of benefits to people of all ages. At the same time, the American people have also changed. We are living longer, retiring earlier, and less have been working over the past several years, as is reflected in the unemployment rates. All of these changes, both in the people and the social security system, add up to one thing; there is more money going out than is coming in, and that, Mr. Chairman, is the crux of the problem.

H.R. 9346 is a possible remedy to this financial problem. As this body knows, it is the aim of this bill to make the social security system actively sound through a number of ways. It calls for increases to both employer and employee in both the rate of contribution and wage base on which the contribution is computed. It also permits borrowing from the general revenue fund when the unemployment increases substantially. I am in favor of these provisions and would oppose any attempt to eliminate them.

However, there is one provision in the bill as written that would place all of the Federal, State, and local government employees, plus those of all nonprofit organizations under the system by 1982. These people's pension systems are being jeopardized because of this section of the bill. While I agree that measures should be taken to insure the financial stability of the social security system, I do not believe this should be achieved at the expense of these people.

While the bill might state that this program will be implemented in such a manner that will insure absolutely no financial loss to the affected individuals, it does not provide the procedure which will be used. It calls for a study to be conducted and to be completed by January 1, 1980, that will determine the guidelines for this new program. This is nothing more than "putting the cart before the horse."

I believe a better bill could be had if the so-called Fisher amendment is accepted and made part of the bill. As you know, Mr. Chairman, this amendment would exempt Government employees on all levels and those of nonprofit organizations from the bill until a definite study can be made to determine the method of implementation of the program. This is a sound and fair proposal and one which I intend to fully support.

I would urge all my colleagues to vote for the Fisher amendment and, in turn, for final passage only if this particular amendment is accepted. If it is not accepted, Mr. Chairman, H.R. 9346 should be resoundingly defeated.

Mr. PICKLE. Mr. Chairman, I supported the rule which the House Rules Committee granted the Ways and Means Committee on this vitally needed social security financing bill.

Perhaps second only to energy in its importance to the American people is the issue of adequate funding for our social security system.

This rule permits an up or down vote on the most crucial issues facing our social security system today. I really fear that if the House rejects this rule, we may not pass any legislation this session of Congress. We simply cannot do this. Although I may differ with my colleagues on some amendments and may not be able to support the kind of bill which might be passed today, I feel we must approve the rule.

More than 100 million Americans are directly affected by social security and we must act now to remove that shadow of doubt which has arisen over the last couple of years that the system is going down the tube.

There are difficulties and inequities in the program now and I do not think that my fellow members of Ways and Means pretend that this legislation will remove these problems overnight. But it is a good first step. I say this with some reservations, because I will be offering an amendment which I feel improves the bill.

My amendment would assure that social security retains its basic characteristics as an insurance system. I would do this by striking the section providing

the authority to pump funds or appropriate funds from the general treasury in the social security system, under certain conditions.

Although we do differ on this particular provision, I do want to laud the work of Chairman AL ULLMAN and Subcommittee Chairman JAMES BURKE, and also that of my other colleagues on the Social Security Subcommittee. The time has come when the Congress must act—and that time is now.

Mr. PEPPER. Mr. Chairman, each month 33 million persons receive benefit checks totaling over $6.5 billion drawn on social security trust funds. Of the 33 million, over three-quarters are age 60 or over and more than one-third are over 72 years of age. These persons need to be assured that their benefits are guaranteed for years to come.

I am very pleased with the promptness with which the chairman of the Social Security Subcommittee, Mr. BURKE, and the chairman of the Ways and Means Committee, Mr. ULLMAN, acted to get legislation before us that will provide this guarantee and I commend them for their efforts.

In my testimony before the Social Security Subcommittee, I strongly supported the provision in President Carter's proposal to use general revenues on at least a limited basis. I am sorry that the bill before us does not have this provision in it. The bill does have a "safety valve" provision, however, that would allow the old age and survivors insurance (OASI) and disability insurance (DI) trust funds to borrow from Federal general revenues whenever the assets of the trust funds drop below 25 percent of annual outgo.

While this provision is, in my opinion, inferior to that proposed by the President, I believe it must be included in this bill to provide the needed guarantee to social security beneficiaries, both present and future, that the funds are secure and will be there when needed. I am told that a survey of workers indicated that 60 percent did not believe social security benefits would be there when they retired. We must take steps to dispel this belief. In my view, this "safety valve" loan provision is such a step and efforts to eliminate it as suggested by the amendment to be offered by the gentleman from Texas (Mr. PICKLE) must be rejected.

Overall, this legislation has a number of provisions that I suggested in my testimony before the subcommittee and that I support strongly.

The "decoupling issue" is addressed in a way that will greatly reduce the projected long-range deficit in the trust funds and at the same time provide a wage-indexed formula which allows retirees to share in productivity increases in the economy over their working years.

The bill provides for an increase in the level of outside earnings of the retirement test for those between 65 and 72 and eliminates the monthly measure in favor of an annual one. While I am happy to see some liberalization of this limitation, I wish that we could eliminate the earnings test entirely.

I am extremely happy to see that the bill would correct a major injustice in the program by increasing the special minimum benefit for long term, low-paid workers and including it in future cost-of-living increases. For some reason this special minimum added in 1972 was about the only benefit not subject to the cost-of-living provisions and has suffered severe erosion as a result of high inflation over the past few years.

This legislation contains another important provision I have long advocated: it would eliminate the present practice of paying reduced benefits to a surviving spouse who chooses to remarry. These individuals will now receive the full 100 percent of social security benefits that they are entitled to from earlier marriages.

I am very pleased to note that the bill would increase the present 1 percent credit for delayed receipt of benefits beyond age 65 to 3 percent. This almost sleeper provision in the 1972 amendments has not been overly utilized. It does contain the potential, however, for helping to alleviate some of the financial problems of the trust funds by encouraging and rewarding persons who are willing and able to continue working to do so. I believe this approach of allowing greater options to people is infinitely superior to any attempt to force people to stay in the work force as the Republican substitute would do by increasing the age of eligibility from 65 to 68.

There is an aspect of the bill, however, that I have questions about; namely, the universal coverage provision. I am particularly concerned that we would require the coverage of Federal, State and local government employees without considering how the present retirement plans of these groups would be coordinated with the social security system. I would hope that we would come up with a plan or proposal of alternatives and consequences before we mandate universal coverage, and thus, I support the Fisher amendment.

I know that a number of amendments may be offered on this bill, some of which cause me great concern. In particular, the Republican substitute must be defeated. While this substitute does contain an appealing provision—elimination of the earnings test—it also contains a very undesirable one—increases in the age of eligibility for full social security benefits from 65 to 68. Such a move would constitute a cruel breach of faith with the middle-aged and older workers of this country who have paid into social security for decades on the assumption that at age 65 they would be entitled to full benefits. In addition, such a proposal would be most detrimental to blacks, American Indians and other minorities whose life span is less than whites. For these reasons, I urge the defeat of this substitute.

In conclusion, I am happy to see that we are taking steps to insure the financial integrity of the social security system and to assure future beneficiaries that their benefits will be paid. To achieve this end, it is essential that we retain the borrowing authority in the present bill.

Mr. ANNUNZIO. Mr. Chairman, in considering H.R. 9346, I find myself much in the position of a hostage in a hijacking in that I am forced to go along with the legislation solely because I have no alternative course of action.

Millions of Americans depend upon social security payments for their day-to-day existence. A vast majority of these people have no other sources of income. Millions of more Americans who are still in the work force are counting in social security payments when they are no longer able to work.

Given this stark, basic reality, it is necessary for me to support H.R. 9346.

In recent years the social security system has found itself in a deficit position—that is, it has paid out more in benefits than it has taken in in the form of payroll taxes. If these deficits are allowed to continue, it is only a matter of time before the entire system is bankrupt and the United States would be faced with its greatest social crisis.

To eliminate that possibility, H.R. 9346 advocates increasing the social security tax so that more money will be available for payments. Given a choice, I could not support such a concept for the American people are already overtaxed, and the all too easy solution to every problem that exists in this country is to raise taxes.

What assurances do we have that by raising taxes the deficits in the social security system will be eliminated? What assurances do we have that once the social security tax barrier is broken that we won't be asked again and again to add new taxes?

The taxpayers are not the ones who are responsible for the social security problems, but it is the taxpayers who must pay the penalty. I suggest that it does not have to be that way. I was an early sponsor of legislation that would change the method of collecting social security taxes from the present form to a formula under which the tax would be shared on an equal basis between the employee, the employer, and the general revenue fund of the U.S. Treasury. This is the so-called one-third/one-third/one-third formula. Not only would this legislation reduce the tax impact on both employers and employees, but it has been estimated that enactment of this legislation woull create up to 2 million new jobs which would result in increased income tax revenues to the Treasury of more than $30 billion per year.

The job-creating aspect of my legislation is extremely important because the social security tax has long been a reason why many employers do not increase their work force since they do not want to pay the increased tax. If that feeling is held under the current social security tax laws, you can imagine the reluctance that businessmen will have to hire additional employees when tax liability becomes even greater as it will under the legislation before us today.

I am deeply concerned that the distinguished Ways and Means Committee has not brought forward the one-third/one-third/one-third legislation for ac-

tion by the House, particularly since the bill has been cosponsored by more than 140 Members of the House.

But the gun is at our heads today. The social security system is in such a shambles that without an immediate tax increase, the widow who depends upon a small social security check each month to buy groceries and pay the rent might well find herself homeless and without food. Senior citizens, barely able to make ends meet on social security, would find themselves reduced to beggars standing on the street corner asking for handouts. And so it is, Mr. Chairman, with such unpleasant thoughts on my mind that I find myself forced to vote for this legislation. I am deeply concerned that we are not given an alternative and that we have resorted to the all too traditional method of solving problems by raising taxes. In the end, however, we do not solve problems, we merely buy time and it is an awfully expensive way to buy that time.

Let us not compound this mistake. Before another increase in social security taxes goes into effect, let us give serious consideration to my suggestion for solving the social security deficit problem. Let us take the burden off the taxpayer. My only wish is that we were not facing a loaded gun today and we could provide an alternative position.

Mr. ULLMAN. Mr. Chairman, this has been a good, responsible debate on a very important piece of legislation. We are going to have a number of amendments to consider.

Let me say that the gentleman from Texas (Mr. PICKLE) is going to offer one amendment that he made an argument for just a minute ago that I very strongly oppose. If we are going to allow this fund to get down below 30 percent, it seems to me there is no way we can do that unless we provide a standby loan authority. Bear in mind, we have a tax structure that will not allow that authority to be triggered under any normal circumstances. But there are millions of Americans out there who need that assurance. It is a borrowing authority with a mandatory payback. It is responsible. It is not general revenue. It allows us to allow the trust fund to go a little lower. If we have that borrowing authority, there is no reason to have as large a trust fund as a burden on the economy. So it makes eminent sense that we do that. This is the way that we avoid going to general revenues. So I urge the Members to oppose that amendment—as a matter of fact, to oppose all amendments.

The one amendment, of course, that I think will probably carry is the amendment of the gentleman from Virginia on eliminating universal coverage, but I want to say that if that carries—and I anticipate it will—that does not mean that we have given up on covering Federal employees and other public and nonprofit employees. It just means that we are going to have a study. It means that we are going to decide how to do it before we do it just 3 or 4 years down the road.

Mr. Chairman, I urge support of this bill. I would hate to go home, having failed to clean up the social security system. This bill does it—not in a hodgepodge or patchwork way, but in a good long-range responsible fashion, and I urge my colleagues to support it.

Mr. VENTO. Mr. Chairman, the steamroller inclusion of public employees in the financially troubled social security program is inappropriate.

The provision to include public emloyees in social security really ducks the problem and is very unfair to public employees who have paid higher amounts into separate funds for many years.

The controversial provision in the social security funding bill would be implemented in 1981, with the specific details for accomplishment left to future congressional action. This proposal is like a picture of an elephant seen from an inch away. It does not provide a full image and leaves public employees guessing.

Perhaps most harmful is that it puts off serious funding problems and increases future liability by inclusion of 6 million public employees.

While the legislation being considered increases the social security tax by 6.05 percent in 1978 (as scheduled), 6.45 percent in 1981, 6.75 percent in 1985, 69 percent in 1986, and 7.45 percent in 1990; and the amount of income paid on to $19,900 next year, $22,000 in 1979, $25,900 in 1980, and upward in further steps to an estimated $35,400 in 1985 and an expected $39,600 in 1987; it provides no assurance of resolving the real difficulties.

Unemployment levels at 7 to 8 percent and inflation increases have been the nagging culprits of the basic social security program reducing the number who pay into the program and increasing the amounts paid out.

The inclusion of public employees may provide short-term funds but long-term liabilities.

Most public employee funds are solvent and doing well with timely contributions from the emloyees and government. The committee action changes the rule for one inning of the ball game and trusts future congressional action to resolve the rules in the ninth inning.

An immediate small increase in the social security tax and income amounts, the addition of general revenue for the next 2 years, while modifying some benefit provisions, was realistic. The committee, however, opted for a panacea which simply aggravates the issue.

Many questions concerning provisions of this bill remain unanswered. First, is the constitutional issue of mandating the States inclusion; second, is the questionable financing—that is, how do you extend new coverage and increased benefits in most instances to public employess; third, how to provide medicare coverage with less contributions than are currently paid by public employees—surely, we do not expect them to pay into both programs.

The Civil Service retirement fund has a deficit of $100 million annually. Who is going to fund it in the future and assume the even greater liability when there is no continued participation by public employees.

Clearly, the direction that the committee has moved to is inappropriate. The ghost of the Railroad Retirement funding solution casts a pall over much of today's discussion.

Many of these questions and fears could have been resolved by the committee but not in the manner presented by this legislation. Unfortunately, this action has raised fears that will make needed reforms more difficult and confusing.

Today we face an important task. We must provide adequate funding for commitments that have been made to generations of Americans.

The subcommittee chairman, Representative JIM BURKE, sounded the warning during the general debate on the issue and has reminded this House and Congress of the magnitude of the problem. For almost 2 years the financial status of the social security fund has been in question.

While this legislation does not solve all of the problems, its provisions will restore some needed confidence and solvency to the trust funds. It will equitably adjust benefits through the decoupling proviso and provide new earned income limits for many working beneficiaries.

Clearly, the benefits historically derived from our social security system have been significant based on what an individual paid into the fund to receive them. The maximum contribution of each employer/employee through 1976 would have been $7,763.10. A person received survivors benefits, disability coverage, and retirement benefits in addition to medicare for that contribution.

We should have recognized that many in our society—90 percent aged 30 to 60—are covered by benefits, but only 85 percent pay in for at least one 3-month period in a 2-year period. Therefore, general revenue supplemental funding is logical considering the benefit structure and the cost of the system.

However, opposition precluded that alternative.

Instead, we cut back with a regressive increase which will fall hard on low-income persons. The increase in the wage base is a necessary step and, frankly, the basic revenue raiser in this proposal.

This proposal requires the self-employed who receive the same benefits to pay 1.5 times of the basic percentage. The logic in reducing the cost of the self-employed is that they receive no tax deduction which seems to make sense. But who makes up the loss to the social security trust funds? This is yet another justification for use of general revenue support for social security's basic program.

The other obvious inequity that exists in the social security benefit program is the difference between earned income and nonearned income. Apparently, this is a spill over from our basic tax laws. How much more effective would our solution be to social security funding if, in

fact, we considered the total economic status of beneficiaries?

We could save substantial amounts if we would only equalize earned and unearned income and address realistically and equitably all the "double dippers."

Much discussion has been stimulated about additional benefits, but our ability to provide these must be tempered by our willingness to resolve the financial status of today's programs.

Frankly, nothing invokes more justified anger from the American people than a retreat from past commitments. Certainly they may fight ardently to work beyond 65 and the right to earn higher incomes, but they do not want changed requirements placed on them by new modifications of age as some will propose today.

Social security is here to stay, and the commitments made, I trust, will be reflected in my colleagues votes on this and other amendments today. This program needs some basic reform. This proposal helps with funding, but is far from perfect. It is my hope that it is a start and that once we have met the crisis our future actions will address the inequities and long-term commitments so necessary to this program and our constituencies.

Mr. BINGHAM. Mr. Chairman, I rise to express my support for H.R. 9346, the Social Security Financing Amendments of 1977, and urge my colleagues to vote for its passage. Action by Congress to restore the fiscal integrity of the social security trust funds and public confidence in the social security system is long overdue. We should make every effort to enact such a law this year. House passage of H.R. 9346 this week is the necessary first step.

The House Ways and Means Committee is to be commended for tackling a most difficult and complex issue; and forging out of the competing approaches to social security financing, a legislative proposal which on the whole I believe most Americans can support—the exception being the universal coverage provision which I will discuss later.

H.R. 9346 represents completion of the first stage of social security reform—dealing with the most pressing problems facing the system; the short-run deficits in the old-age, survivors and disability insurance (OASDI) trust funds, the long-run deficit-producing problems with the present law, and sex discrimination in that law. H.R. 9346 restores the financial soundness of the OASDI trust funds by eliminating the actuarial deficit in the system through the first decade of the next century and by reducing the deficit for the next 75 years from 8.2 percent of taxable payroll to 1.69 percent. It also goes a long way toward ending the unequal treatment of men and women in the social security system.

Stage 2 of social security reform will involve examining and changing the disability insurance part of social security to make it more cost efficient and effective. I applaud that announced goal of the Ways and Means Committee and look forward to reviewing the result of their work early in 1978.

Since H.R. 9346 may affect every American's future security if enacted, I want to discuss its provisions, mentioning along the way a few shortcomings in the legislation which I hope will be corrected in the future.

INCREASES IN THE TAX RATE AND WAGE BASE

The bill provides for modest increases—beyond present law—in the social security tax rate on employers and employees, but prudently waits until 1981 to begin putting them into effect.

In addition, it gradually increases—beyond present law—the wage base on which social security taxes are paid, beginning next year, so as to cover 90 percent of payroll by 1981—the system now covers about 85 percent, a drop from 92 percent of payroll covered when social security was first established. The tables below will indicate the changes in tax rates and base this section of the bill provides for:

Tax Rate

[In percent]

Calendar year(s)	Present law	H.R. 9346
1977	5.85	5.85
1978–80	6.05	6.05
1981–84	6.30	6.45
1985	6.30	6.75
1986–89	6.45	6.90
1990	6.45	7.45

Wage base

Calendar year	Present law	H.R. 9346
1977	$16,500	$16,500
1978	17,700	19,900
1979	18,900	22,900
1980	20,400	25,900
1981	21,900	27,900

After 1981, wage base is increased in line with wage levels, as is the case under present law.

THE TAX RATE ON SELF-EMPLOYED

H.R. 9346 further restores the tax rate on the self-employed to its original level of 1½ times the employee rate, effective beginning in 1981. Since 1972 the rate has been frozen at 7 percent.

REALLOCATION OF FUNDS AMONG THE HI, OASI AND DI TRUSTS

The bill also reallocates a portion of funds from the hospital insurance (HI) trust fund to the old age, and survivors insurance (OASI) and disability insurance (DI) trust funds to help cover their short-run deficit problems. In addition, H.R. 9346 reallocates funds from the OASI to the DI trust fund which faces a more immediate financial problem than the former. In fact, if the present law is not changed and no reallocations are made, the DI trust fund will be exhausted in 1979 and the OASI trust fund will run out in 1983. Under this reallocation provision, a total of $10 billion in additional revenue will flow to the OASI and DI trust funds by 1983. In the meantime, implementation of various hospital cost containment programs now under active consideration by Congress will improve the financial stability of the HI trust fund.

STANDBY BORROWING AUTHORITY

The legislation includes standby borrowing authority for automatic loans from general income tax revenues to the OASI and DI trust funds whenever their assets at the end of a year drop below 25 percent of annual outgo. However, if such emergency loans are made, the bill provides for a temporary payroll tax rate increase until the loans are repaid. This provision is of special interest to me because it moves in the direction of the concept of supplementing social security funds with general revenues on an ongoing basis. For reasons I will discuss later, I have supported this concept for years along with Congressman BURKE, the chairman of the Social Security Subcommittee, and over 140 other Members of the House. A limited version of the supplementing idea was proposed earlier this year by President Carter. I am hopeful we will gain enough support in the future for full implementation of the concept.

DECOUPLING

H.R. 9346 takes care of half of the existing long-range deficit in the OASI and DI trust funds by correcting an error made in the 1972 law providing automatic cost-of-living increases in social security. This law unexpectedly resulted in windfall benefits for many future retirees by overadjusting for inflation in wages and prices in the complicated 1972 benefit formula. When the automatic provisions were enacted, it was expected that future replacement rates—initial benefits as a percentage of latest earnings—would remain fairly constant.

However, current projections of the present law show that benefit levels will rise by about 50 percent more than wages over the next 75 years, with most of this increase occurring after the 1990's. So if the law is not changed, certain retirees will receive more in initial benefits than they were last paid in wages and this will lead to continued financial problems for the system. To correct this error in the 1972 law, H.R. 9346 makes several technical changes which results in "decoupling" the system—that is, separating the procedure for granting current retirees cost-of-living increases from the method for calculating initial benefits for future retirees. Beginning in 1979, replacement rates will be stabilized in relation to wage levels. This is accomplished by "wage indexing."

Under H.R. 9346's new formula, each worker's earnings would be updated—indexed—to reflect the increases in average wages that have occurred since the earnings were paid. This adjustment would be done just prior to when the worker reaches 62, becomes disabled, or dies. Under present law, a worker's earnings are counted in actual dollar value. Earnings after age 62 or disability would be counted in actual dollar amounts; cost-of-living increases would apply beginning with age 62, disability or death—not before as under the 1972 law. To assure that workers now approaching retirement age will not be placed at a disadvantage, a 10-year transition period is provided. A worker who reaches age 62 after 1978 and before 1989 would be guaranteed a benefit no lower than he

would have received under present law as of January 1979.

FREEZING THE MINIMUM BENEFIT

Regarding another windfall benefit in present law, H.R. 9346 seeks to freeze the minimum benefit—paid to those with the minimum required coverage—for future retirees at an amount equal to the minimum benefit which will be in effect in January 1979—estimated to be about $121. Under current law the base amount rises annually with the cost-of-living both before and after benefits are paid. This freeze will insure that the minimum payment is always initially at the January 1979 level and only after payment begins is it adjusted for inflation.

CHANGES IN THE SPECIAL MINIMUM BENEFIT

Under the bill the special minimum benefit paid to future retirees with long work records at low pay is also frozen but for the initial payment only. Under present law this benefit is equal to $9 times the number of years of coverage a worker has in excess of 10 up to 30; thereafter it is not subject to annual cost-of-living increases. H.R. 9346 would increase the $9 figure to $11.50 and thus the maximum base payment from $180 to $230 effective 1979. It would also provide that the special minimum benefit would be kept up-to-date with future increases in the cost-of-living for both present and future beneficiaries.

UNIVERSAL MANDATORY COVERAGE

H.R. 9346's most controversial provision is the one extending mandatory coverage under social security to presently uncovered Federal, State, and local government employees plus workers of nonprofit organizations. This provision would also end the option State and local governmental units currently enjoy, which enables them to withdraw their employees from voluntary social security participation plans. H.R. 9346 also requires the Secretary of HEW in consultation with the Civil Service Commission to study the various methods of integrating the different systems and by January 1980 submit recommendations to Congress on how to equitably integrate Federal employees and retirees into the social security system without their suffering a loss in benefits or an increase in costs.

The provision for universal mandatory coverage has understandably caused a great deal of anguish and concern among those workers and retirees who would be affected by this integration. I am inclined to agree with them that Congress should wait to see the results of the study before deciding on the question of universal mandatory coverage and if and how it should be accomplished. So I intend to support the Fisher amendment to strike this provision in the committee's bill and substitute language mandating a detailed study on how to most equitably integrate presently uncovered workers and retirees into the social security system. To maintain the level of financing in the committee's bill, the Fisher amendment provides for additional tax rate increases in 1981 if universal coverage is not to be accomplished in 1982.

COVERAGE OF FOREIGN WORK

On a related coverage issue, included in the bill is a provision, the International Social Security Agreements, which would authorize the President to enter into bilateral agreements with interested countries providing for limited coordination of the U.S. social security system and systems of other countries. The agreements would eliminate dual social security coverage for the same work in each country covered by an agreement, and would enable individuals who work for periods in each of the countries covered by an agreement to qualify for a benefit in situations where they now are not eligible for any benefits. Each agreement would have to be submitted to Congress for 90 days before it could take effect.

INCREASE IN EARNINGS LIMITATION—RETIREMENT TEST

H.R. 9346 also contains provisions liberalizing certain aspects of social security benefits which many of us have urged for years. The most important change involves the so-called retirement test. Under present law, the amount a beneficiary under age 72 may earn in a year and still be paid full benefits for that year is set at $3,000 with future automatic increases annually as wage levels rise. This bill would increase the set amount to $4,000 in 1978—from $3,240—and $4,500 in 1979—from $3,480—and then let the automatic provision take over. The retirement test figure in present law would continue to apply to beneficiaries under age 65. The bill would also eliminate the present monthly measure of the retirement test which allows the payment of full social security benefits for any month in which a persons earns no more than one-twelfth of the annual earnings limit—in the case of 1977 this means no more than $250 a month, one-twelfth of $3,000.

In addition, the number of days a beneficiary under age 72 who works outside the United States in noncovered employment can work in a month and still be eligible for a benefit for that month would be increased from 6 to 8 days in 1978 and to 11 days in 1979 and thereafter.

INCREASE IN DELAYED RETIREMENT CREDIT

For workers reaching age 62 after 1978, the bill would increase the delayed retirement credit from 1 percent per year to 3 percent. This means that workers who delay receiving retirement benefits between ages 65 and 72 would have their payments increased by 3 percent for each year they do not take benefits as compared with 1 percent under present law.

EARLY PAYMENT OF BENEFIT CHECKS

Social security benefit payments are normally made on the third day of the month; SSI benefit checks are delivered on the first day of the month. Under this bill, effective upon enactment, when the delivery date falls on a Saturday, Sunday, or legal public holiday, social security and SSI checks would be delivered on an earlier date instead of later as now.

EQUAL TREATMENT OF MEN AND WOMEN

The bill includes a series of provisions making changes in the law to eliminate differences for men and women. Some of these would write into the act provisions which carry out Supreme Court decisions already being followed by regulations. The principal one is the Goldfarb decision eliminating the previous requirement in the act that men must prove dependency on their wives in order to receive spouses' or widowers' benefits on their wives' earnings records.

A summary of these provisions follows:

Benefits would be provided for young husbands and fathers who have in their care a child who is under age 18, or disabled, and who is entitled to benefits.

Benefits would be provided for aged divorced husbands and aged or disabled divorced widowers.

A widower would be permitted to obtain benefits on a deceased wife's earnings record if he is not married at the time he applies for widower's benefits, as widows now can. Present law bars payment if the widower remarries.

When both members of a couple are receiving special age 72 payments, the amount of the payments would be divided equally between the two, instead of giving the husband a full benefit and the wife one-half the husband's benefit.

Benefits of both male and female spouses of childhood disability or disabled worker beneficiaries would be terminated under this bill if the beneficiaries cease to be disabled. Previously, this termination only applied to female spouses.

An illegitimate child's status for purposes of entitlement to child's insurance benefits would be determined with respect to the child's mother in the same way as it is now determined with respect to the child's father.

A widower, as well as a widow, would be permitted to waive payment of a Federal benefit attributable to credit for military service performed before 1957 in order to have the military service credited toward eligibility for, or the amount of, a social security benefit.

Marriage or remarriage would be eliminated as a bar to entitlement to dependents' or survivors' benefits, and as an action which terminates entitlement to, or reduces, such benefits. This provision would be effective with respect to benefits after December 1978.

The duration-of-marriage requirement for divorced spouses to receive benefits based on their ex-husband or wife's record would be reduced from 20 years to 5.

This section of the bill would also direct the Secretary of HEW to conduct a study of further changes in the social security program needed to guarantee that women, as well as men, are treated equitably. The study is to be completed 6 months after enactment of the bill.

OTHER PROVISIONS

The bill limits payment of retroactive benefits only to those cases where the benefits are disability-related or where there was not early retirement.

The measure would require employers of workers receiving below the minimum

wage plus tips to be taxed on the portion of tip income which when combined with the workers' salary equals the minimum wage. Presently, only the employee is taxed on tip income—if over $20 a month.

H.R. 9346 would change the basis for calculating cost-of-living increases for early retirees under social security to place them on the same footing as persons who retire at age 65 or later.

The bill would make further changes in the law with regard to annual wage reporting by employers instead of quarterly reporting. The most significant change involves revising how annual wages would be credited in terms of quarters of coverage. Under H.R. 9346 a worker would receive one quarter of coverage—up to a total of four—for each $250 of earnings in a year, and the $250 base would be automatically increased every year to take account of increases in average wages. Under present law, a worker receives credit for a quarter of coverage for a calendar quarter in which he received at least $50 in wages.

Finally, the legislation would permit clergymen who previously did not elect social security coverage a second opportunity to come under the system as self-employed persons.

EXPECTED AMENDMENTS TO H.R. 9346

As I mentioned earlier, I plan to support the Fisher amendment to the House Ways and Means Committee's bill which strikes that measure's section on universal mandatory coverage and substitutes a provision requiring detailed studies of the issue instead. The results of the studies would have to be reported back to Congress in 2 years. With the necessary detailed information in hand, then Congress will be in a better position to consider the universal coverage issue. An important part of the Fisher amendment is that it requires participation of interested parties in the studies and outlines fully the questions which need to be covered by the studies. I believe this is the only approach to the issue which is fair to present and future participants in Federal, State, and local government retirement systems, and to other uncovered workers which would be affected by this section of the committee's bill.

I intend to oppose all other amendments expected to be offered to H.R. 9346 except for the Jenkins amendment creating a National Commission on Social Security. For the last two Congresses I have cosponsored legislation creating such a commission because I believe we need a thorough independent study of the social security and related health programs. Why? Because: First, program benefits are inadequate; second, sole reliance on the social security tax approach to financing the system is burdensome on low- and middle-income workers and works as a disincentive to employment, and third, because our work force is decreasing in relation to our retirement population. Congress needs the necessary information to improve the system over the long haul. Alternative approaches to financing have to be found—particularly there should be an examination of the use of general tax revenues. On the adequacy of benefits, we need a serious look at possible enactment of a special Consumer Price Index for the elderly, at cost-of-living increases every 6 months instead of annually and at a special housing allowance to take care of area cost-of-living differentials. The present Advisory Councils at the Social Security Administration are not doing this kind of thorough study. It is needed if we are to develop a system which offers security to all Americans, present and future, at a price the Federal Treasury and our taxpayers can afford to pay.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the reported bill will be considered as an original bill for the purpose of amendment, and said substitute shall be considered as having been read for amendment.

No amendments to the bill or to the committee amendment in the nature of a substitute shall be in order except amendments to the committee amendment in the nature of a substitute as specified in House Resolution 839, but amendments made in order shall not be subject to amendment except as specified in the above-mentioned resolution, shall not be subject to a division of the question, and shall only be considered in the order specified in the above-mentioned resolution. Debate under the 5-minute rule on each amendment to the committee amendment in the nature of a substitute made in order shall continue not to exceed 30 minutes, to be equally divided and controlled by the proponent of the amendment and the chairman of the Committee on Ways and Means or his designee.

The committee amendment in the nature of a substitute reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Social Security Financing Amendments of 1977".

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TITLE I—PROVISIONS TO IMPROVE THE FINANCING OF THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

ADJUSTMENTS IN TAX RATES

SEC. 101. (a)(1) Section 3101(a) of the Internal Revenue Code of 1954 (relating to rate of tax on employees for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 4.95 percent;

"(2) with respect to wages received during the calendar years 1978 through 1980, the rate shall be 5.05 percent;

"(3) with respect to wages received during the calendar years 1981 through 1984, the rate shall be 5.15 percent;

"(4) with respect to wages received during the calendar years 1985 through 1989, the rate shall be 5.45 percent; and

"(5) with respect to wages received after December 31, 1989, the rate shall be 6.00 percent.".

(2) Section 3111(a) of such Code (relating to rate of tax on employers for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 4.95 percent;

"(2) with respect to wages paid during the calendar years 1978 through 1980, the rate shall be 5.05 percent;

"(3) with respect to wages paid during the calendar years 1981 through 1984, the rate shall be 5.15 percent;

"(4) with respect to wages received during the calendar years 1985 through 1989, the rate shall be 5.45 percent; and

"(5) with respect to wages paid after December 31, 1989, the rate shall be 6.00 percent.".

(3) Section 1401(a) of such Code (relating to rate of tax on self-employment income for purposes of old-age, survivors, and disability insurance) is amended by striking out "a tax" and all that follows and inserting in lieu thereof the following: "a tax as follows:

"(1) in the case of any taxable year beginning before January 1, 1978, the tax shall be equal to 7.0 percent of the amount of the self-employment income for such taxable year;

"(2) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1981, the tax shall be equal to 7.10 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1985, the tax shall be equal to 7.70 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1984, and before January 1, 1990, the tax shall be equal to 8.20 percent of the amount of the self-employment income for such taxable year; and

"(5) in the case of any taxable year beginning after December 31, 1989, the tax shall be equal to 9.00 percent of the amount of the self-employment income for such taxable year.".

(b)(1) Section 3101(b) of such Code (relating to rate of tax on employees for purposes of hospital insurance) is amended by striking out paragraphs (1) through (4) and inserting in lieu thereof the following:

(1) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

(2) with respect to wages received during the calendar years 1978 through 1980, the rate shall be 1.00 percent;

(3) with respect to wages received during the calendar years 1981 through 1985, the rate shall be 1.30 percent; and

(4) with respect to wages received after December 31, 1985, the rate shall be 1.45 percent.".

(2) Section 3111(b) of such Code (relating to rate of tax on employers for purposes of hospital insurance) is amended by striking out paragraphs (1) through (4) and inserting in lieu thereof the following:

(1) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

(2) with respect to wages paid during the calendar years 1978 through 1980, the rate shall be 1.00 percent;

(3) with respect to wages paid during the calendar years 1981 through 1985, the rate shall be 1:30 percent; and

"(4) with respect to wages paid after December 31, 1985, the rate shall be 1.45 percent.".

(3) Section 1401(b) of such Code (relating to tax on self-employment income for purposes of hospital insurance) is amended by striking out paragraphs (1) through (4) and inserting in lieu thereof the following:

"(1) in the case of any taxable year beginning after December 31, 1973, and before January 1, 1978, the tax shall be equal to 0.90 percent of the amount of the self-employment income for such taxable year;

"(2) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1981, the tax shall be equal to 1.00 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1986, the tax shall be equal to 1.30 percent of the amount of the self-employment income for such taxable year; and

"(4) in the case of any taxable year beginning after December 31, 1985, the tax shall be equal to 1.45 percent of the amount of the self-employment income for such taxable year.".

ALLOCATIONS TO DISABILITY INSURANCE TRUST FUND

SEC. 102. (a)(1) Section 201(b)(1) of the Social Security Act is amended by striking out clauses (G) through (J) and inserting in lieu thereof the following: "(G) 1.55 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1979, and so reported, (H) 1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1981, and so reported, (I) 1.60 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1985, and so reported, (J) 1.80 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, and (K) 2.20 per centum of the wages (as so defined) paid after December 31, 1989, and so reported,".

(2) Section 201(b)(2) of such Act is amended by striking out clauses (G) through (J) and inserting in lieu thereof the following: "(G) 1.090 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1979, (H) 1.055 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1981, (I) 1.200 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1985, (J) 1.350 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1990, and (K) 1.650 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989,".

INCREASES IN EARNINGS BASE

SEC. 103. (a)(1) Section 230(a) of the Social Security Act is amended by inserting "or (c)" after "determined under subsection (b)".

(2) Section 230(b) of such Act is amended by striking out "shall be" in the matter preceding paragraph (1) and inserting in lieu thereof "shall (subject to subsection (c)) be".

(b) Section 230(c) of such Act is amended—

(1) by inserting "(1)" immediately before "the 'contribution and benefit base' "; and

(2) by striking out "section." and inserting in lieu thereof the following: "section, and (2) the 'contribution and benefit base' with respect to remuneration paid (and taxable years beginning)—

"(A) in 1978 shall be $19,900,

"(B) in 1979 shall be $22,900,

"(C) in 1980 shall be $25,900, and

"(D) in 1981 shall be $27,900.

For purposes of determining under subsection (b) the 'contribution and benefit base' with respect to remuneration paid (and taxable years beginning) in 1982 and subsequent years, the dollar amounts specified in clause (2) of the preceding sentence shall be considered to have resulted from the application of such subsection (b) and to be the amount determined (with respect to the years involved) under that subsection. For purposes of determining employer tax liability under section 3221(a) of the Internal Revenue Code of 1954 and for purposes of computing average monthly compensation under section 3(j) of the Railroad Retirement Act of 1974, except with respect to annuity amounts determined under section 3(a) or 3(f)(3) of such Act, clause (2) and the preceding sentence of this subsection shall be disregarded.".

(c)(1) Section 230 of such Act is further amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, the contribution and benefit base determined under this section for any calendar year after 1976 for purposes of section 4022(b)(3)(B) of Public Law 93-406, with respect to any plan, shall be the contribution and benefit base that would have been determined for such year if this section as in effect immediately prior to the enactment of the Social Security Financing Amendments of 1977 had remained in effect without change.".

(2) The amendment made by paragraph (1) shall apply with respect to plan terminations occurring after the date of the enactment of this Act.

(d)(1) The second sentence of section 215(i)(2)(D)(v) of such Act is amended by striking out "is equal to one-twelfth of the new contribution and benefit base" and inserting in lieu thereof "is equal to, or exceeds by less than $5, one-twelfth of the new contribution and benefit base".

(2) The third sentence of section 215(i)(2)(D)(v) of such Act is amended by striking out all that follows "clause (iv)" and inserting in lieu thereof "plus 20 percent of the excess of the second figure in the last line of column III as extended under the preceding sentence over such second figure for the calendar year in which the table of benefits is revised.".

STANDBY GUARANTEE OF TRUST FUND LEVELS

SEC. 104. (a) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j)(1) If at the close of any calendar year after 1977 the balance remaining in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund (as determined by the Secretary of the Treasury in the following February) is less than 25 percent of the total amount of the expenditures made from such fund under this title during the calendar year, there is hereby appropriated to the Secretary of the Treasury for loans to such fund, out of any moneys in the Treasury not otherwise appropriated, as of the following July 1, an amount equal to the difference between (A) such balance, and (B) 27½ percent of the total amount of such expenditures.

"(2) If at the close of any calendar year succeeding a calendar year with respect to which an appropriation for loans to either trust fund is made under paragraph (1)—

"(A) the balance remaining in that fund (as determined by the Secretary of the Treasury in the following February) is less than 35 percent of the total amount of the expenditures made from such fund under this title during such succeeding calendar year (whether or not an appropriation for loans to such fund is made under paragraph (1) with respect to such succeeding year), and

"(B) the outstanding balance of all loans (including accumulated interest) which were made to such fund under paragraph (1) with respect to calendar years before such succeeding year (and which have not been repaid to the Treasury under paragraph (3)) is $2,000,000,000 or more.

the taxes imposed by sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1954 with respect to wages received or paid (and taxable years beginning) in the second calendar year after such succeeding year shall be increased as provided in section 3125 of such Code.

"(3) Any amount appropriated for loans to either trust fund with respect to any calendar year under paragraph (1) shall be repaid, with interest, by transfer from such fund to the general fund of the Treasury. A repayment of such amount shall be made on July 1 next succeeding any subsequent calendar year at the close of which (as determined by the Secretary of the Treasury in the following February) the balance remaining in such fund exceeds 30 percent of the total amount of the expenditures made from such fund under this title during that calendar year, and any such repayment shall be in an amount equal to the difference between (A) such balance. and (B) 30 percent of the total amount of such expenditures. Interest on any such loan shall be at a rate, as determined by the Secretary of the Treasury, equal to the average market yield on the outstanding marketable obligations of the United States of comparable maturities at the time the loan was made.".

(b)(1)(A) Section 1401(a) of the Internal Revenue Code of 1954 (as amended by section 101(a)(3) of this Act) is amended by inserting "(subject to section 3125)" after "a tax" in the matter preceding paragraph (1).

(B) Sections 3101(a) and 3111(a) of such Code (as amended by section 101(a)(1) and (2) of this Act) are each amended by inserting "(subject to section 3125)" after "equal to the following percentages" in the matter preceding paragraph (1).

(2)(A) Chapter 21 of such Code (the Federal Insurance Contributions Act) is further amended by redesignating sections 3125 and 3126 as sections 3126 and 3127, respectively, and by inserting after section 3124 the following new section:

"Sec. 3125. Increase in tax rates to assure repayment of loans made to trust funds.

"Whenever an appropriation has been made under section 201(j)(1) of the Social Security Act for loans to the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, and section 201(j)(2) of such Act applies with respect to a succeeding calendar year, each of the rates of tax which would otherwise be effective under sections 3101(a) and 3111(a) with respect to wages received or paid in the second calendar year after such succeeding year shall be increased by 0.10 percent, and the rate or rates of tax which would otherwise be effective under section 1401(a) with respect to taxable years beginning in the second year after such succeeding year shall be increased by 0.15 percent.".

(B) The table of sections for subchapter C of chapter 21 of such Code is amended by striking out the last two items and inserting in lieu thereof the following:

"Sec. 3125. Increase in tax rates to assure repayment of loans made to trust funds.

"Sec. 3126. Returns in the case of governmental employees in Guam, American Samoa, and the District of Columbia.

"Sec. 3127. Short title.".

EFFECTIVE DATE

SEC. 105. The amendments made by sections 101, 102, and 103 shall apply with respect to remuneration paid or received, and taxable years beginning, after 1977. The amendments made by section 104 shall apply with respect to calendar years after 1977.

TITLE II—STABILIZATION OF REPLACEMENT RATES IN THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

COMPUTATION OF PRIMARY INSURANCE AMOUNT

SEC. 201. (a) Section 251(a) of the Social Security Act is amended to read as follows:

"(a)(1)(A) The primary insurance amount of an individual shall (except as otherwise provided in this section) be equal to the sum of—

"(i) 90 percent of the individual's average indexed monthly earnings (determined under subsection (b)) to the extent that such earnings do not exceed the amount established for purposes of this clause by subparagraph (B),

"(ii) 32 percent of the individual's average indexed monthly earnings to the extent that such earnings exceed the amount established for purposes of clause (i) but do not exceed the amount established for purposes of this clause by subparagraph (B), and

"(iii) 15 percent of the individual's average indexed monthly earnings to the extent that such earnings exceed the amount established for purposes of clause (ii),

rounded in accordance with subsection (g), and thereafter increased as provided in subsection (i).

"(B)(i) For individuals who initially become eligible for old-age or disability insurance benefits or die in the calendar year 1979, the amounts established for purposes of clauses (i) and (ii) of subparagraph (A) shall be $180 and $1,085, respectively.

"(ii) For individuals who initially become eligible for old-age or disability insurance benefits or die in any calendar year after 1979, each of the amounts so established shall equal the product of the corresponding amount established with respect to the calendar year 1979 under clause (i) of this subparagraph and the quotient obtained by dividing—

"(I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the second calendar year preceding the calendar year for which the determination is made, by

"(II) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year 1977.

"(iii) Each amount established under clause (ii) for any calendar year shall be rounded to the nearest $1, except that any amount so established which is a multiple of $0.50 but not of $1 shall be rounded to the next higher $1.

"(C)(i) No primary insurance amount computed under subparagraph (A) may be less than—

"(I) the dollar amount set forth on the first line of column IV in the table of benefits contained in (or deemed to be contained in) this subsection as in effect in December 1978, rounded (if not a multiple of $1) to the next higher multiple of $1, or

"(II) an amount equal to $11.50 multiplied by the individual's years of coverage in excess of 10, or the increased amount determined for purposes of this subdivision under subsection (i),

whichever is greater. No increase under subsection (i), occurring before the year in which an individual becomes eligible for old-age or disability insurance benefits or dies, shall apply to the dollar amount specified in subdivision (I) of this clause with respect to such individual.

"(ii) For purposes of clause (i)(II), the term 'years of coverage' with respect to any individual means the number (not exceeding 30) equal to the sum of (I) the number (not exceeding 14 and disregarding any fraction) determined by dividing (a) the total of the wages credited to such individual (including wages deemed to be paid prior to 1951 to such individual under section 217, compensation under the Railroad Retirement Act of 1937 prior to 1951 which is creditable to such individual pursuant to this title, and wages deemed to be paid prior to 1951 to such individual under section 231) for years after 1936 and before 1951 by (b) $900, plus (II) the number equal to the number of years after 1950 each of which is a computation base year (within the meaning of subsection (b)(2)(B)(ii)) and in each of which he is credited with wages (including wages deemed to be paid to such individual under section 217, compensation under the Railroad Retirement Act of 1937 or 1974 which is creditable to such individual pursuant to this title, and wages deemed to be paid to such individual under section 229) and self-employment income of not less than 25 percent of the maximum amount which, pursuant to subsection (e), may be counted for such year, or of not less than 25 percent of the maximum amount which could be so counted for such year (in the case of a year after 1977) if section 230 as in effect immediately prior to the enactment of the Social Security Financing Amendments of 1977 had remained in effect without change.

"(D) In each calendar year after 1978 the Secretary shall publish in the Federal Register, on or before November 1, the formula for computing benefits under this paragraph and for adjusting wages and self-employment income under subsection (b)(3) in the case of an individual who becomes eligible for an old-age insurance benefit, or (if earlier) becomes eligible for a disability insurance benefit or dies, in the following year, and the average of the total wages (as described in subparagraph (B)(ii)(I)) on which that formula is based. With the initial publication required by this subparagraph, the Secretary shall also publish in the Fed-

eral Register the average of the total wages (as so described) for each calendar year after 1950.

"(2)(A) A year shall not be counted as the year of an individual's death or eligibility for purposes of this subsection or subsection (b) or (i) in any case where such individual was entitled to a disability insurance benefit for any of the 12 months immediately preceding the month of such death or eligibility (but there shall be counted instead the year of the individual's eligibility for the disability insurance benefit or benefits to which he was entitled during such 12 months).

"(B) In the case of an individual who was entitled to a disability insurance benefit for any of the 12 months before the month in which he became entitled to an old-age insurance benefit, became reentitled to a disability insurance benefit, or died, the primary insurance amount of determining any benefit attributable to that entitlement, reentitlement, or death is the greater of—

"(i) the primary insurance amount upon which such disability insurance benefit was based, increased by the amount of each general benefit increase (as defined in subsection (i)(3)), and each increase provided under subsection (i)(2), that would have applied to such primary insurance amount had the individual remained entitled to such disability insurance benefit until the month in which he became so entitled or reentitled or died, or

"(ii) the amount computed under paragraph (1)(C).

"(C) In the case of an individual who was entitled to a disability insurance benefit for any month, and with respect to whom a primary insurance amount is required to be computed at any time after the close of the period of the individual's disability (whether because of such individual's subsequent entitlement to old-age insurance benefits or to a disability insurance benefit based upon a subsequent period of disability, or because of such individual's death), the primary insurance amount so computed may in no case be less than the primary insurance amount with respect to which such former disability insurance benefit was most recently determined.

"(3)(A) Paragraph (1) applies only to an individual who was not eligible for an old-age insurance benefit prior to January 1979 and who in that or any succeeding month—

"(i) becomes eligible for such a benefit,

"(ii) becomes eligible for a disability insurance benefit, or

"(iii) dies,

and (except for subparagraph (C)(i)(II) thereof) it applies to every such individual except to the extent otherwise provided by paragraph (4).

"(B) For purposes of this title, an individual is deemed to be eligible—

"(i) for old-age insurance benefits, for months beginning with the month in which he attains age 62, or

"(ii) for disability insurance benefits, for months beginning with the month in which his period of disability began as provided under section 216(i)(2)(C),

except as provided in paragraph (2)(A) in cases where fewer than 12 months have elapsed since the termination of a prior period of disability.

"(4) Paragraph (1) (except for subparagraph (C)(i)(II) thereof) does not apply to the computation or recomputation of a primary insurance amount for—

"(A) an individual who was eligible for a disability insurance benefit for a month prior to January 1979 unless, prior to the month in which occurs the event described in clause (i), (ii), or (iii) of paragraph (3)(A), there occurs a period of at least 12 consecutive months for which he was not entitled to a disability insurance benefit, or

"(B) an individual who had wages or self-employment income credited for one or more years prior to 1979, and who was not eligible for an old-age or disability insurance benefit, and did not die, prior to January 1979, if in the year for which the computation or recomputation would be made the individual's primary insurance amount would be greater if computed or recomputed—

"(i) under section 215(a) as in effect in December 1978, for purposes of old-age insurance benefits in the case of an individual who becomes eligible for such benefits prior to 1989, or

"(ii) as provided by section 215(d), in the case of an individual to whom such section applies.

In determining whether an individual's primary insurance amount would be greater if computed or recomputed as provided in subparagraph (B), (I) the table of benefits in effect in December 1978 shall be applied without regard to any increases in that table which may become effective (in accordance with subsection (i)(4)) for years after 1978 (subject to subsection (i)(2)(A)(iii)) and (II) such individual's average monthly wage shall be computed as provided by subsection (b)(4).

"(5) For purposes of computing the primary insurance amount (after December 1978) of an individual to whom paragraph (1) does not apply (other than an individual described in paragraph (4)(B)), this section as in effect in December 1978 shall remain in effect, except that, effective for January 1979, the dollar amount specified in paragraph (3) of subsection (a) shall be increased to $11.50. The table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978.".

(b) Section 215(b) of such Act is amended to read as follows:

"Average Indexed Monthly Earnings; Average Monthly Wage

"(b)(1) An individual's average indexed monthly earnings shall be equal to the quotient obtained by dividing—

"(A) the total (after adjustment under paragraph (3)) of his wages paid in and self-employment income credited to his benefit computation years (determined under paragraph (2)), by

"(B) the number of months in those years.

"(2)(A) The number of an individual's benefit computation years equals the number of elapsed years, reduced by five, except that the number of an individual's benefit computation years may not be less than two.

"(B) For purposes of this subsection with respect to any individual—

"(i) the term 'benefit computation years' means those computation base years, equal in number to the number determined under subparagraph (A) for which the total of such individual's wages and self-employment income, after adjustment under paragraph (3), is the largest;

"(ii) the term 'computation base years' means the calendar years after 1950 and before—

"(I) in the case of an individual entitled to old-age insurance benefits, the year in which occurred (whether by reason of section 202(j)(1) or otherwise) the first month of that entitlement; or

"(II) in the case of an individual who has died (without having become entitled to old-age insurance benefits), the year succeeding the year of his death;

except that such term excludes any calendar year entirely included in a period of disability; and

"(iii) the term 'number of elapsed years' means (except as otherwise provided by section 104(j)(2) of the Social Security Amendments of 1972) the number of calendar years after 1950 (or, if later, the year in which the individual attained age 21) and before the year in which the individual died, or, if it occurred earlier but after 1960, the year in which he attained age 62; except that such term excludes any calendar year any part of which is included in a period of disability.

"(3)(A) Except as provided by subparagraph (B), the wages paid in and self-employment income credited to each of an individual's computation base years for purposes of the selection therefrom of benefit computation years under paragraph (2) shall be deemed to be equal to the product of—

"(i) the wages and self-employment income paid in or credited to such year (as determined without regard to this subparagraph), and

"(ii) the quotient obtained by dividing—

"(I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the second calendar year (after 1976) preceding the year of the individual's death or initial eligibility for an old-age disability insurance benefit, whichever is earliest, by

"(II) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the computation base year for which the determination is made.

"(B) Wages paid in or self-employment income credited to an individual's computation base year which—

"(i) occurs after the second calendar year specified in subparagraph (A)(ii)(I), or

"(ii) is a year treated under subsection (f)(2)(C) as though it were the last year of the period specified in subsection (b)(2)(B)(ii),

shall be available for use in determining an individual's benefit computation years, but without applying subparagraph (A) of this paragraph.

"(4) For purposes of determining the average monthly wage of an individual whose primary insurance amount is computed (after 1978) under section 215(a) or 215(d) as in effect (except with respect to the table contained therein) in December 1978, by reason of subsection (a)(4)(B), this subsection as in effect in December 1978 shall remain in effect, except that paragraph (2)(C) (as then in effect) shall be deemed to provide that 'computation base years' include only calendar years in the period after 1950 (or 1936, if applicable) and prior to the year in which occurred the first month for which the individual was eligible (as defined in subsection (a)(3)(B) as in effect in January 1979) for an old-age or disability insurance benefit, or died. Any calendar year all of which is included in a period of disability shall not be included as a computation base year for such purposes.".

(c) Section 215(c) of such Act is amended to read as follows:

"Application of Prior Provisions in Certain Cases

"(c) This subsection as in effect in December 1978 shall remain in effect with respect to an individual to whom subsection (a)(1) does not apply by reason of the individual's eligibility for an old-age or disability insurance benefit, or the individual's death, prior to 1979.".

(d)(1) The matter in the text of section 215(d) of such Act which precedes paragraph (1)(C) is amended to read as follows:

"(d)(1) For purposes of column I of the table appearing in subsection (a), as that subsection was in effect in December 1977, an individual's primary insurance benefit shall be computed as follows:

"(A) The individual's average monthly wage shall be determined as provided in subsection (b), as in effect in December 1977 (but without regard to paragraph (4) thereof), except that for purposes of paragraphs (2)(C) and (3) of that subsection (as so in effect) 1936 shall be used instead of 1950.

"(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) (as so in ef-

fect), the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who attained age 21 after 1936 and prior to 1951 shall be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the year in which the individual attained age 21 and prior to the earlier of 1951 or the year of the individual's death. The quotient so obtained shall be deemed to be the individual's wages credited to each of the years included in the divisor, except that—

"(i) if the quotient exceeds $3,000, only $3,000 shall be deemed to be the individual's wages for each of years included in the divisor, and the remainder of the individual's total wages prior to 1951 (1) if less than $3,000, shall be deemed credited to the year in which the individual attained age 21, or (II) if $3,000 or more, shall be deemed credited, in $3,000 increments, to the year in which the individual attained age 21 and to each year consecutively preceding that year, with any remainder less than $3,000 being credited to the year immediately preceding the earliest year to which a full $3,000 increment was credited; and

"(ii) no more than $42,000 may be taken into account, for purposes of this subparagraph, as total wages after 1936 and prior to 1951.".

(2) Section 215(d)(1)(D) of such Act is amended to read as follows:

"(D) The individual's primary insurance benefit shall be 40 percent of the first $50 of his average monthly wage as computed under this subsection, plus 10 percent of the next $200 of his average monthly wage, increased by 1 percent for each increment year. The number of increment years is the number, not more than 14 nor less than 4, that is equal to the individual's total wages prior to 1951 divided by $1,650 (disregarding any fraction).".

(3) Section 215(d)(3) of such Act is amended (A) by striking out "in the case of an individual" and all that follows and inserting in lieu thereof the following "in the case of an individual who had a period of disability which began prior to 1951, but only if the primary insurance amount resulting therefrom is higher than the primary insurance amount resulting from the application of this section (as amended by the Social Security Amendments of 1967) and section 220.".

(4) Section 215(d) of such Act is further amended by adding at the end thereof the following new paragraph:

"(4) The provisions of this subsection as in effect in December 1977 shall be applicable to individuals who become eligible for old-age or disability insurance benefits or die prior to 1978.".

(e) Section 215(e) of such Act is amended—

(1) by striking out "average monthly wage" each place it appears and inserting in lieu thereof "average indexed monthly earnings or, in the case of an individual whose primary insurance amount is computed under section 215(a) as in effect prior to January 1979, average monthly wage," and

(2) by inserting immediately before "of (A)" in paragraph (1) the following: "(before the application, in the case of average indexed monthly earnings, of subsection (b)(3)(A))".

(f)(1) Section 215(f)(2) of this Act is amended to read as follows:

"(2)(A) If an individual has wages or self-employment income for a year after 1978 for any part of which he is entitled to old-age or disability insurance benefits, the Secretary shall, at such time or times and within such period as he may by regulation prescribe, recompute the individual's primary insurance amount for that year.

"(B) For the purpose of applying subparagraph (A) of subsection (a)(1) to the average indexed monthly earnings of an individual to whom that subsection applies and who receives a recomputation under this paragraph, there shall be used, in lieu of the amounts established by subsection (a)(1)(B) for purposes of clauses (i) and (ii) of subsection (a)(1)(A), the amounts so established that were (or, in the case of an individual described in subsection (a)(4)(B), would have been) used in the computation of such individual's primary insurance amount prior to the application of this subsection.

"(C) A recomputation of any individual's primary insurance amount under this paragraph shall be made as provided in subsection (a)(1) as though the year with respect to which it is made is the last year of the period specified in subsection (b)(2)(B)(ii); and subsection (b)(3)(A) shall apply with respect to any such recomputation as it applied in the computation of such individual's primary insurance amount prior to the application of this subsection.

"(D) A recomputation under this paragraph with respect to any year shall be effective—

"(i) in the case of an individual who did not die in that year, for monthly benefits beginning with benefits for January of the following year; or

"(ii) in the case of an individual who died in that year, for monthly benefits beginning with benefits for the month in which he died.".

(2) Section 215(f)(3) of such Act is repealed.

(3) Section 215(f)(4) of such Act is amended to read as follows:

"(4) A recomputation shall be effective under this subsection only if it increases the primary insurance amount by at least $1.".

(4) Section 215(f) of such Act is further amended by adding at the end thereof the following new paragraphs:

"(7) This subsection as in effect in December 1978 shall continue to apply to the recomputation of a primary insurance amount computed under subsection (a) or (d) as in effect (without regard to the table in subsection (a)) in that month, and, where appropriate, under subsection (d) as in effect in December 1977. For purposes of recomputing a primary insurance amount determined under subsection (a) or (d) (as so in effect) in the case of an individual to whom those subsections apply by reason of subsection (a)(4)(B) as in effect after December 1978, no remuneration shall be taken into account for the year in which the individual initially became eligible for an old-age or disability insurance benefit or died, or for any year thereafter.

"(8) The Secretary shall recompute the primary insurance amounts applicable to beneficiaries whose benefits are based on a primary insurance amount which was computed under section 215(a)(3) effective prior to January 1979, or would have been so computed if the dollar amount specified therein were $11.50. Such recomputation shall be effective January 1979, and shall include the effect of the increase in the dollar amount provided by section 215(a)(1)(C)(i)(II). Such primary insurance amount shall be deemed to be provided under such section for purposes of section 215(i).".

(g)(1) Section 215(i)(2)(A)(ii) of such Act is amended to read as follows:

"(i)) If the Secretary determines that the base quarter in any year is a cost-of-living computation quarter, he shall, effective with the month of June of that year as provided in subparagraph (B), increase—

"(I) the benefit amount to which individuals are entitled for that month under section 227 or 228,

"(II) the primary insurance amount of each other individual on which benefit entitlement is based under this title (including a primary insurance amount determined under section (a)(1)(C)(i)), and

"(III) the amount of total monthly benefits based on any primary insurance amount which is permitted under section 203 (and such total shall be increased, unless otherwise so increased under another provision of this title, at the same time as such primary insurance amount) or, in the case of a primary insurance amount computed under subsection (a) as in effect (without regard to the table contained therein) prior to January 1979, the amount to which the beneficiaries may be entitled under section 203 as in effect in December 1978, except as provided by section 203(a)(6) and (7) as in effect after December 1978.

The increase shall be derived by multiplying each of the amounts described in subdivisions (I), (II), and (III) (including each of those amounts as previously increased under this subparagraph) by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which the Consumer Price Index for that cost-of-living computation quarter exceeds such index for the most recent prior calendar quarter which was a base quarter under paragraph (1)(A)(ii) or, if later, the most recent cost-of-living computation quarter under paragraph (1)(B); and any amount so increased that is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10. Any increase under this subsection in a primary insurance amount determined under subparagraph (C)(i)(II) of subsection (a)(1) shall be applied after the initial determination of such primary insurance amount under that subparagraph (with the amount of such increase, in the case of an individual who becomes eligible for old-age or disability insurance benefits or dies in a calendar year after 1979, being determined from the range of possible primary insurance amounts published by the Secretary under the last sentence of subparagrpah (D)).".

(2) Section 215(i)(2)(A) of such Act is amended by adding at the end thereof of the following new clause:

"(iii) In the case of an individual who becomes eligible for an old-age or disability insurance benefit, or who dies prior to becoming so eligible, in a year in which there occurs an increase provided under clause (ii), the individual's primary insurance amount (without regard to the time of entitlement to that benefit) shall be increased (unless otherwise so increased under another provision of this title) by the amount of that increase, but only with respect to benefits payable for months after May of that year.".

(3) Section 215(i)(2)(D) of such Act (as amended by section 103 of this Act) is further amended by striking out all that follows the first sentence and inserting in lieu thereof the following: "He shall also publish in the Federal Register at that time (i) a revision of the range of the primary insurance amounts which are possible after the application of this subsection based on the dollar amount specified in subparagraph (C)(i)(II) of subsection (a)(1) (with such revised primary insurance amounts constituting the increased amounts determined for purposes of such subparagraph (C)(i)(II) under this subsection), or specified in section 215(a)(3) as in effect prior to 1979, and (ii) a revision of the range of maximum family benefits which corespond to such primary insurance amounts (with such maximum benefits being effective notwithstanding section 203(a) except for paragraph (3)(B) thereof (or paragraph (2) thereof as in effect prior to 1979)).".

(4) Section 215(i) of such Act is further amended by adding at the end thereof the following new paragraph:

"(4) This subsection as in effect in December 1978 shall continue to apply to sub-

sections (a) and (d), as then in effect, for purposes of computing the primary insurance amount of an individual to whom subsection (a), as in effect after December 1978, does not apply (including an individual to whom subsection (a) does not apply in any year by reason of paragraph (4)(B) of that subsection (but the application of this subsection in such cases shall be modified by the application of clause (I) in the last sentence of paragraph (4) of that subsection)). For purposes of computing primary insurance amounts and maximum family benefits (other than primary insurance amounts and maximum family benefits for individuals to whom such paragraph (4)(B) applies), the Secretary shall publish in the Federal Register revisions of the table of benefits contained in subsection (a), as in effect in December 1978, as required by paragraph (2)(D) of this subsection as then in effect.".

MAXIMUM BENEFITS

SEC. 202. Section 202(a) of the Social Security Act is amended to read as follows:

"Maximum Benefits

"(a)(1) In the case of an individual whose primary insurance amount has been computed or recomputed under section 215(a)(1) or (4), or section 215(d), as in effect after December 1978, the total monthly benefits to which beneficiaries may be entitled under section 202 or 223 for a month on the basis of the wages and self-employment income of such individual shall, except as provided by paragraph (3) (but prior to any increases resulting from the application of paragraph (2)(A)(ii)(III) of section 215(i)), be reduced as necessary so as not to exceed—

"(A) 150 percent of such individual's primary insurance amount to the extent that it does not exceed the amount established with respect to this subparagraph by paragraph (2),

"(B) 272 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (A) but does not exceed the amount established with respect to this subparagraph by paragraph (2),

"(C) 134 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (B) but does not exceed the amount established with respect to this subparagraph by paragraph (2), and

"(D) 175 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (C).

Any such amount that is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10.

"(2)(A) For individuals who initially become eligible for old-age or disability insurance benefits or die in the calendar year 1979, the amounts established with respect to subparagraphs (A), (B), and (C) of paragraph (1) shall be $230, $332, and $433, respectively.

"(B) For individuals who initially become eligible for old-age or disability insurance benefits or die in any calendar year after 1979, each of the amounts so established shall equal the product of the corresponding amount established for the calendar year 1979 by subparagraph (A) of this paragraph and the quotient obtained under subparagraph (B)(ii) of section 215(a)(1), with such product being rounded in the manner prescribed by section 215(a)(1)(B)(iii).

"(C) In each calendar year after 1978 the Secretary shall publish in the Federal Register, on or before November 1, the formula which (except as provided in section 215(i)(2)(D)) is to be applicable under this paragraph to individuals who become eligible for old-age or disability insurance benefits, or die, in the following calendar year.

"(D) A year shall not be counted as the year of an individual's death or eligibility for purposes of this paragraph or paragraph (7) in any case where such individual was entitled to a disability insurance benefit for any of the 12 months immediately preceding the month of such death or eligibility (but there shall be counted instead the year of the individual's eligibility for the disability insurance benefits to which he was entitled during such 12 months).

"(3)(A) When an individual who is entitled to benefits on the basis of the wages and self-employment income of any insured individual and to whom this subsection applies would (but for the provisions of section 202(k)(2)(A)) be entitled to child's insurance benefits for a month on the basis of the wages and self-employment income of one or more other insured individuals, the total monthly benefits to which all beneficiaries are entitled on the basis of such wages and self-employment income shall not be reduced under this subsection to less than the smaller of—

"(i) the sum of the maximum amounts of benefits payable on the basis of the wages and self-employment income of all such insured individuals, or

"(ii) an amount equal to the product of 1.75 and the primary insurance amount that would be computed under section 215(a)(1) for that month with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefit base determined for that year under section 230.

"(B) When two or more persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under section 202 or 223 for January 1971 or any prior month on the basis of the wages and self-employment income of such insured individual and the provisions of this subsection as in effect for any such month were applicable in determining the benefit amount of any persons on the basis of such wages and self-employment income, the total of benefits for any month after January 1971 shall not be reduced to less than the largest of—

"(i) the amount determined under this subsection without regard to this subparagraph,

"(ii) the largest amount which has been determined for any month under this subsection for persons entitled to monthly benefits on the basis of such insured individual's wages and self-employment income, or

"(iii) if any persons are entitled to benefits on the basis of such wages and self-employment income for the month before the effective month (after September 1972) of a general benefit increase under this title (as defined in section 215(i)(3)) or a benefit increase under the provisions of section 215(i)(3)) or a benefit increase under the provisions of section 215(i), an amount equal to the sum of amounts derived by multiplying the benefit amount determined under this title (excluding any part thereof determined under section 202(w)) for the month before such effective month (including this subsection, but without the application of section 222(b), section 202(q), and subsections (b), (c), and (d) of this section), for each such person for such month, by a percentage equal to the percentage of the increase provided under such benefit increase (with any such increased amount which is not a multiple of $0.10 being rounded to the next higher multiple of $0.10);

but in any such case (I) subparagraph (A) of this paragraph shall not be applied to such total of benefits after the application of clause (ii) or (iii), and (II) if section 202(k)(2)(A) was applicable in the case of any such benefits for a month, and ceases to apply for a month after such month, the provisions of clause (ii) or (iii) shall be applied, for and after the month in which section 202(k)(2)(A) ceases to apply, as though subparagraph (A) of this paragraph had not been applicable to such total of benefits for the last month for which clause (ii) or (iii) was applicable.

"(C) When any of such individuals is entitled to monthly benefits as a divorced spouse under section 202 (b) or (c) or as a surviving divorced spouse under section 202 (e) or (f) for any month, the benefit to which he or she is entitled on the basis of the wages and self-employment income of such insured individual for such month shall be determined without regard to this subsection, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 202 on the wages and self-employment income of such insured individual shall be determined as if no such divorced spouse or surviving divorced spouse were entitled to benefits for such month.

"(4) In any case in which benefits are reduced pursuant to the preceding provisions of this subsection, the reduction shall be made after any deductions under this section and after any deductions under section 222(b). Whenever a reduction is made under this subsection in the total of monthly benefits to which individuals are entitled for any month on the basis of the wages and self-employment income of an insured individual, each such benefit other than the old-age or disability insurance benefit shall be proportionately decreased.

"(5) Notwithstanding any other provision of law, when—

"(A) two or more persons are entitled to monthly benefits for a particular month on the basis of the wages and self-employment income of an insured individual and (for such particular month) the provisions of this subsection are applicable to such monthly benefits, and

"(B) such individual's primary insurance amount is increased for the following month under any provision of this title,

then the total of monthly benefits for all persons on the basis of such wages and self-employment income for such particular month, as determined under the provisions of this subsection, shall for purposes of determining the total monthly benefits for all persons on the basis of such wages and self-employment income for months subsequent to such particular month be considered to have been increased by the smallest amount that would have been required in order to assure that the total of monthly benefits payable on the basis of such wages and self-employment income for any such subsequent month will not be less (after the application of the other provisions of this subsection and section 202(q)) than the total of monthly benefits (after the application of the other provisions of this subsection and section 202(q)) payable on the basis of such wages and self-employment income for such particular month.

"(6) In the case of any individual who is entitled for any month to benefits based upon the primary insurance amounts of two or more insured individuals, one or more of which primary insurance amounts were determined under section 215(a) or 215(d) as in effect (without regard to the table contained therein) prior to January 1979 and one or more of which primary insurance amounts were determined under section 215(a)(1) or (4), or section 215(d), as in effect after December 1978, the total benefits payable to that individual and all other individuals entitled to benefits for that month based upon those primary insurance amounts shall be reduced to an amount equal to the product of 1.75 and the primary insurance amount that would be computed

under section 215(a)(1) for that month with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefits base determined under section 230 for the year in which that month occurs.

"(7) Subject to paragraph (6), this subsection as in effect in December 1978 shall remain in effect with respect to a primary insurance amount computed under section 215 (a) or (d), as in effect (without regard to the table contained therein) in December 1978, except that a primary insurance amount so computed with respect to an individual who first becomes eligible for an old-age or disability insurance benefit, or dies, after December 1978, shall instead be governed by this section as in effect after December 1978.".

INCREASE IN OLD-AGE BENEFIT AMOUNTS FOR DELAYED RETIREMENT

SEC. 203. Section 202(w)(1) of the Social Security Act is amended—

(1) by striking out "If the first month" and all that follows down through "to such individual" in the matter preceding subparagraph (A) and inserting in lieu thereof "The amount of an old-age insurance benefit (other than a benefit based on a primary insurance amount determined under section 215(a)(3)) which is payable without regard to this subsection to an individual"; and

(2) by inserting after "such amount," in subparagraph (A) the following: "or, in the case of an individual who first becomes eligible for an old-age insurance benefit after December 1978, one-quarter of 1 percent of such amount,".

CONFORMING AMENDMENTS

SEC. 204. (a) Section 202(m)(1) of the Social Security Act is amended to read as follows:

"(1) In any case in which an individual is entitled to a monthly benefit under this section on the basis of a primary insurance amount computed under section 215 (a) or (d), as in effect after December 1978, on the basis of the wages and self-employment income of a deceased individual for any month and no other person is (without the application of subsection (j)(1)) entitled to a monthly benefit under this section for that month on the basis of such wages and self-employment income, the individual's benefit amount for that month, prior to reduction under subsection (k)(3), shall not be less than that provided by subparagraph (C)(i)(I) of section 215(a)(1) and increased under section 215(i) for months after May of the year in which the insured individual died as though such benefit were a primary insurance amount.".

(b) Section 202(w) of such Act (as amended by section 203 of this Act) is further amended—

(1) by inserting after "section 215(a)(3)" in paragraph (1) (in the matter preceding subparagraph (A)) the following: "as in effect in December 1978 or section 215(a)(1)(C)(i)(II) as in effect thereafter";

(2) by inserting "as in effect in December 1978, or section 215(a)(1)(C)(i)(II) is in effect thereafter," after "paragraph (3) of section 215(a)" in paragraph (5); and

(3) by inserting "(whether before, in, or after December 1978)" after "determined under section 215(a)" in paragraph (5).

(c) Section 217(b)(1) of such Act is amended by inserting "as in effect in December 1978" after "section 215(c)" each place it appears, and after "section 215(d)".

(d) Section 224(a) of such Act is amended by inserting "(determined under section 215(b) as in effect prior to January 1979)" after "(A) the average monthly wage" in the matter following paragraph (8).

(e) Section 1839(c)(3)(B) of such Act is amended to read as follows:

"(B) the monthly premium rate most recently promulgated by the Secretary under this paragraph, increased by a percentage determined as follows: The Secretary shall ascertain the primary insurance amount computed under section 215(a)(1), based upon average indexed monthly earnings of $900, that applied to individuals who became eligible for and entitled to oldage insurance benefits on May 1 of the year of the promulgation. He shall increase the monthly premium rate by the same percentage by which that primary insurance amount is increased when, by reason of the law in effect at the time the promulgation is made, it is so computed to apply to those individuals on the following May 1.".

EFFECTIVE DATE

SEC. 205. The amendments made by the provisions of this title other than section 201(d) shall be effective with respect to monthly benefits and lump-sum death payments under title II of the Social Security Act payable for months after December 1978. The amendments made by section 201(d) shall be effective with respect to monthly benefits of an individual who becomes eligible for an old-age or disability insurance benefit, or dies, after December 1977.

TITLE III—COVERAGE UNDER THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

STUDY CONCERNING MANDATORY COVERAGE OF FEDERAL EMPLOYEES

SEC. 301. (a) As soon as possible after the date of the enactment of this Act, the Chairman of the Civil Service Commission, the Secretaries of the Treasury and Health, Education, and Welfare, and the Director of the Office of Management and Budget, shall jointly undertake and carry out a detailed study with respect to coverage of Federal employees within the old-age, survivors, and disability insurance system.

(b) The study to be undertaken under subsection (a) shall include—

(1) a review of the methods by which full coverage of Federal employees within the old-age, survivors, and disability insurance system could be attained;

(2) an analysis of the adjustments to such system (as well as to the civil service retirement and disability system and other Federal employee retirement systems involved, including the foreign service, judiciary, Central Intelligence Agency, and District of Columbia retirement systems) which are necessary under each such method to provide such coverage, particularly—

(A) adjustments in age, service, and other eligibility requirements; and

(B) adjustments in the nature and level of disability, death, and survivor benefits (taking into account any related factors, such as the taxability of such benefits);

(3) a comparison of the financial aspects of each such method, particularly—

(A) the adjustments required by each such method in the contributions by Federal employees, the Government (whether by specific contribution or by appropriation), and others involved;

(B) the adjustments required by each such method in the manner in which benefits are financed under the retirement systems involved; and

(C) the effects of each such method on the solvency of the retirement systems involved;

(4) the effects of each such method of coverage on—

(A) recruitment and retention of Federal employees;

(B) other employee benefits (such as health benefits coverage provided for civil service annuitants); and

(C) Federal, State, and local income tax systems;

(5) a review of the methods by which partial coverage of Federal employees within the old-age, survivors, and disability insurance system could be attained, together with consideration of the factors described in paragraphs (2), (3), and (4) as they would relate to such partial coverage; and

(6) alternatives to providing coverage of Federal employees within the old-age, survivors, and disability insurance system which would improve the solvency of the old-age, survivors, and disability insurance system.

In connection with such study, interested parties, including Federal employee organizations, associations of retired Federal employees, and heads of agencies administering Federal employee retirement systems, shall be allowed to submit views, arguments, and data.

(c) Upon the completion of the study under subsection (a) and in any event no later than two years after the date of the enactment of this Act, the Chairman of the Civil Service Commission, the Secretaries of the Treasury and Health, Education, and Welfare, and the Director of the Office of Management and Budget shall submit to the President and to the appropriate committees of each House of the Congress a joint report on the results of such study together with their recommendations. Any such recommendation which includes adjustments of existing statutes shall be accompanied with draft legislation accomplishing such adjustments.

(d) With respect to Federal employees under the Federal employee retirement systems, the study and the report under this section shall include at least one method of coverage of such employees within the old-age, survivors, and disability insurance system which provides—

(1) that the benefits available to such Federal employees would not be less favorable than the benefits which are then currently available to such employees under the Federal employee retirement systems; and

(2) that the contributions required of such Federal employees would not be greater than the contributions which are then currently required of such employees under the Federal employee retirement systems.

(e) For purposes of this section, the term "Federal employee" means—

(1) an employee, as defined in section 2105 of title 5, United States Code;

(2) an officer or employee of the United States Postal Service or of the Postal Rate Commission; and

(3) any other individual in the employ of the United States or any instrumentality of the United States.

COVERAGE OF STATE AND LOCAL EMPLOYEES

SEC. 302. (a) Section 218(g) of the Social Security Act is amended—

(1) by striking out "Upon" in paragraph (1) and "If" in paragraph (2), and by inserting in lieu thereof "Subject to paragraph (4), upon" and "Subject to paragraph (4), if", respectively; and

(2) by adding at the end thereof the following new paragraph:

"(4) No agreement under this section may be terminated under paragraph (1) or paragraph (2) (either in its entirety or with respect to any coverage group) unless the applicable notice referred to in such paragraph is given on or before September 13, 1977.".

(b) Effective with respect to service performed after December 1981—

(1) section 218 of the Social Security Act is repealed;

(2) section 210(a) of such Act is amended by striking out paragraph (7); and

(3) section 3121(b) of the Internal Revenue Code of 1954 is amended by striking out paragraph (7).

(c)(1)(A) Chapter 21 of the Internal Revenue Code of 1954 (the Federal Insurance Contributions Act), as amended by section 104(b)(2) of this Act, is further amended by redesignating sections 3126 and 3127 as sections 3127 and 3128, respectively, and by

inserting after section 3125 the following new section:

"SEC. 3126. RETURNS IN THE CASE OF STATE LOCAL GOVERNMENTAL EMPLOYEES.

"In the case of the taxes imposed by this chapter with respect to services performed in the employ of a State or any political subdivision thereof, or in the employ of any instrumentality of a State or political subdivision thereof which is wholly owned thereby, the return and payment of the taxes may be made by the Governor of such State or such agents as he may designate. The person making such return may, for convenience of administration, make payments of the tax imposed by section 3111 with respect to such service without regard to the contribution and benefit base limitation in section 3121 (a) (1).".

(B) The table of sections for subchapter C of chapter 21 of such Code (as so amended) is further amended by striking out the last two items and inserting in lieu thereof the following:

"Sec. 3126. Returns in the case of State and local governmental employees.
"Sec. 3127. Returns in the case of governmental employees in Guam, American Samoa, and the District of Columbia.
"Sec. 3128. Short title.".

(2) (A) Section 6205(a) of such Code (relating to adjustment of tax) is amended—

(i) by striking out "3125" in paragraphs (3) and (4) and inserting in lieu thereof "3127";

(ii) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(iii) by inserting after paragraph (2) the following new paragraph:

"(3) STATE AS EMPLOYER.—For purposes of this subsection, in the case of remuneration received during any calendar year from a State or political subdivision thereof or any instrumentality which is wholly owned thereby, the Governor of the State and each agent designated by him who makes a return pursuant to section 3126 shall be deemed a separate employer.".

(B) Section 6413(a) of such Code (relating to adjustment of tax) is amended—

(i) by striking out "3125" in paragraphs (3) and (4) and inserting in lieu thereof "3127";

(ii) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(iii) by inserting after paragraph (2) the following new paragraph:

"(3) STATE AS EMPLOYER.—For purposes of this subsection, in the case of remuneration received during any calendar year from a State or political subdivision thereof or any instrumentality which is wholly owned thereby, the Governor of the State and each agent designated by him who makes a return pursuant to section 3126 shall be deemed a separate employer.".

(C) Section 6413(c) (2) of such Code (relating to applicability in case of certain governmental employees) is amended—

(i) by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) STATE EMPLOYEES.—For purposes of this subsection, in the case of remuneration received during any calendar year from a State or political subdivision thereof or any instrumentality which is wholly owned thereby, the Governor of the State and each agent designated by him who makes a return pursuant to section 3126 shall be deemed a separate employer."; and

(ii) by striking out "3125(a)", "3125(b)", and "3125(c)" in subparagraphs (D), (E), and (F) and inserting in lieu thereof "3127 (a)", "3127(b)", and "3127(c)", respectively.

(3) Section 230(c) of the Social Security Act is amended by striking out "3125," and inserting in lieu thereof "3126, 3127,".

(d) (1) Section 205(c) (5) (F) (iii) of such Act is amended by striking out "are made" and inserting in lieu thereof "were made".

(2) Section 209(i) of such Act is amended by striking out "(as defined in section 218 (b) (2))".

(3) Section 210(a) (10) (B) (ii) of such Act is amended by striking out ", unless" and all that follows and inserting in lieu thereof a semicolon.

(4) Section 210(k) of such Act is repealed.

(5) Section 211(c) (1) of such Act is amended by striking out "and in which" and all that follows and inserting in lieu thereof a semicolon.

(6) Section 211(c) (2) (E) of such Act is amended by striking out "with respect to fees" and all that follows and inserting in lieu thereof ", and".

(e) (1) Clause (A) in the second sentence of section 1402(b) of the Internal Revenue Code of 1954 is amended by striking out "under an agreement" where it first appears and all that follows down through "employees), or", and by striking out the comma before "as would be wages".

(2) Section 1402(c) (1) of such Code is amended by striking out "and in which" and all that follows and inserting in lieu thereof a semicolon.

(3) Section 1402(c) (2) (E) of such Code is amended by striking out "with respect to fees" and all that follows and inserting in lieu thereof ", and".

(4) Section 3121(b) (10) (B) (ii) of such Code is amended by striking out ", unless" and all that follows and inserting in lieu thereof a semicolon.

(5) Section 3121(j) of such Code is repealed.

(6) Section 6511(d) (5) of such Code is repealed.

(f) The amendments and repeals made by subsections (b), (c), (d), and (e) (1) through (5) of this section shall be effective with respect to service performed after December 1981. Subsection (e) (6) shall be effective with respect to claims accruing after December 1981.

COVERAGE OF EMPLOYEES OF NONPROFIT ORGANIZATIONS

SEC. 303. (a) (1) Section 3121(k) (1) of the Internal Revenue Code of 1954 (relating to waiver of exemption by organization) is amended—

(A) by striking out "The period" in the first sentence of subparagraph (D) and inserting in lieu thereof "Subject to subparagraph (G), the period"; and

(B) by adding at the end thereof the following new subparagraph:

"(G) No period for which a certificate is effective may be terminated under subparagraph (D) or paragraph (2) unless the applicable advance notice referred to in such subparagraph or paragraph is given on or before September 13, 1977.".

(2) Section 3121(k) (2) of such Code (relating to termination of waiver period by Secretary) is amended by striking out "If" and inserting in lieu thereof "Subject to paragraph (1) (G), if".

(b) Effective with respect to service performed after December 1981—

(1) section 210(a) (8) of the Social Security Act is amended—

(A) by striking out "(A)" immediately after "(8)",

(B) by striking out "this subparagraph" where it first appears and inserting in lieu thereof "this paragraph", and

(C) by striking out subparagraph (B);

(2) section 3121(b) (8) of the Internal Revenue code of 1954 is amended—

(A) by striking out "(A)" immediately after "(8)",

(B) by striking out "this subparagraph" where it first appears and inserting in lieu thereof "this paragraph", and

(C) by striking out subparagraph (B); and

(3) section 3121(k) of such Code (relating to exemption of religious, charitable, and certain other organizations) is repealed.

CREDITING OF CERTAIN STATE AND LOCAL SERVICE, AND CERTAIN SERVICE FOR NONPROFIT ORGANIZATIONS, PERFORMED PRIOR TO THE EFFECTIVE DATE OF COVERAGE

SEC. 304. Section 213 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Crediting of Certain State and Local Service, and Certain Service for Nonprofit Organizations, Performed Prior to Effective Date of Coverage

"(d) In the case of any individual who—

"(1) (A) performs service in the employ of a State or political subdivision or any instrumentality of any one or more of the foregoing which is wholly owned thereby (and derives at least six quarters of coverage therefrom) on or after the effective date of the repeal of section 210(a) (7) by section 302 of the Social Security Financing Amendments of 1977, and

"(B) also performed service in the employ of a State or political subdivision or any such instrumentality prior to such date, or

"(2) (A) performs service in the employ of a religious, charitable, educational, or other organization described in section 501(c) (3) of the Internal Revenue Code of 1954 which is exempt from income tax under section 501(a) of such Code (and derives at least six quarters of coverage therefrom) on or after the effective date of the repeal of section 210(a) (8) (B) by section 303 of the Social Security Financing Amendments of 1977, and

"(B) also performed service in the employ of such an organization prior to such date, each calendar quarter in which such individual performed service described in subparagraph (B) of paragraph (1) or (2) (whichever is applicable) shall, if it is not otherwise a quarter of coverage, be treated (under regulations prescribed by the Secretary) as a quarter of coverage for all the purposes of this title.".

EXCLUSION FROM COVERAGE OF CERTAIN LIMITED PARTNERSHIP INCOME

SEC. 305. (a) Section 211(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (10) the following new paragraph:

"(11) There shall be excluded the distributive share of any item of income or loss of a limited partner, as such, other than guaranteed payments described in section 707(c) of the Internal Revenue Code of 1954 to that partner for services actually rendered to or on behalf of the partnership to the extent that those payments are established to be in the nature of remuneration for those services.".

(b) Section 1402(a) of the Internal Revenue Code of 1954 (relating to definition of net earnings from self-employment) is amended—

(1) by striking out "and" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (11) the following new paragraph:

"(12) there shall be excluded the distributive share of any item or income or loss of a limited partner, as such, other than guaranteed payments described in section 707 (c) to that partner for services actually rendered to or on behalf of the partnership to

the extent that those payments are established to be in the nature of remuneration for those services.".

(c) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1977.

TAX ON EMPLOYERS OF INDIVIDUALS WHO RECEIVE INCOME FROM TIPS

SEC. 306. (a) Section 3121 of the Internal Revenue Code of 1954 (definitions under Federal Insurance Contributions Act) is amended by adding at the end thereof the following new subsection:

"(s) SPECIAL RULE FOR DETERMINING WAGES SUBJECT TO EMPLOYER TAX IN CASE OF CERTAIN EMPLOYERS WHOSE EMPLOYEES RECEIVE INCOME FROM TIPS.—If the wages paid by an employer with respect to the employment during any month of an individual who (for services performed in connection with such employment) receives tips which constitute wages, and to which section 3102(a) applies, are less than the total amount which would be payable (with respect to such employment) at the minimum wage rate applicable to such individual under section 6(a)(1) of the Fair Labor Standards Act of 1938 (determined without regard to section 3(m) of such Act), the wages so paid shall be deemed for purposes of section 3111 to be equal to such total amount.".

(b) Section 3111 of such Code is amended by inserting "and (s)" after "3121(a)" in subsections (a) and (b).

(c) The amendments made by this section shall apply with respect to wages paid with respect to employment performed in months after December 1977.

REVOCATION OF EXEMPTION FROM COVERAGE BY CLERGYMEN

SEC. 307. (a) Notwithstanding section 1402(e)(3) of the Internal Revenue Code of 1954, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed in regulations made under chapter 2 of such Code), if such application is filed—

(1) before the applicant becomes entitled to benefits under section 202(a) or 223 of the Social Security Act (without regard to section 202(j)(1) or 223(b) of such Act), and

(2) no later than the due date of the Federal income tax return (including any extension thereof) for the applicant's first taxable year beginning after the date of the enactment of this Act.

Any such revocation shall be effective (for purposes of chapter 2 of the Internal Revenue Code of 1954 and title II of the Social Security Act), as specified in the application, either with respect to the applicant's first taxable year ending on or after the date of the enactment of this Act or with respect to the applicant's first taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402(e)(1). If the application is filed on or after the due date of the applicant's first taxable year ending on or after the date of the enactment of this Act and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1954 with respect to all of the applicant's income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of such Code (notwithstanding section 1402(c)(4) or (c)(5) of such Code) except for the exemption under section 1402(e)(1) of such Code.

(b) Subsection (a) shall apply with respect to service performed (to the extent specified in such subsection) in taxable years ending on or after the date of the enactment of this Act, and with respect to monthly insurance benefits payable under title II of the Social Security Act on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual's application for revocation (as described in such subsection) is filed (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).

INTERNATIONAL AGREEMENTS WITH RESPECT TO SOCIAL SECURITY BENEFITS

SEC. 308. (a) Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"INTERNATIONAL AGREEMENTS

"Purpose of Agreement

"SEC. 233. (a) The President is authorized to enter into agreements establishing totalization arrangements between the social security system established by this title and the social security system of any foreign country, for the purposes of establishing entitlement to and the amount of old-age, survivors, disability, or derivative benefits based on a combination of an individual's periods of coverage under the social security system established by this title and the social security system of such foreign country.

"Definitions

"(b) For the purposes of this section—

"(1) the term 'social security system' means, with respect to a foreign country, a social insurance or pension system which is of general application in the country and under which periodic benefits, or the acturial equivalent thereof, are paid on account of old age, death, or disability; and

"(2) the term 'period of coverage' means a period of payment of contributions or a period of earnings based on wages for employment or on self-employment income, or any similar period recognized as equivalent thereto under this title or under the social security system of a country which is a party to an agreement entered into under this section.

"Crediting Periods of Coverage; Conditions of Payment of Benefits

"(c)(1) Any agreement establishing a totalization arrangement pursuant to this section shall provide—

"(A) that in the case of an individual who has at least 6 quarters of coverage as defined in section 213 of this Act and periods of coverage under the social security system of a foreign country which is a party to such agreement, periods of coverage of such individual under such social security system of such foreign country may be combined with periods of coverage under this title and otherwise considered for the purposes of establishing entitlement to and the amount of old-age, survivors, and disability insurance benefits under this title;

"(B)(i) that employment or self-employment, or any service which is recognized as equivalent to employment or self-employment under this title or the social security system of a foreign country which is a party to such agreement, shall, on or after the effective date of such agreement, result in a period of coverage under the system established under this title or under the system established under the laws of such foreign country, but not under both, and (ii) the methods and conditions for determining under which system employment, self-employment, or other service shall result in a period of coverage; and

"(C) that where an individual's periods of coverage are combined, the benefit amount payable under this title shall be based on the proportion of such individual's periods of coverage which was completed under this title.

"(2) Any such agreement may provide that—

"(A) an individual who is entitled to cash benefits under this title shall, notwithstanding the provisions of section 202(t), receive such benefits while he resides in a foreign country which is a party to such agreement; and

"(B) the benefit paid by the United States to an individual who legally resides in the United States shall be increased to an amount which, when added to the benefit paid by such foreign country, will be equal to the benefit amount which would be payable to an entitled individual based on the first figure in (or deemed to be in) column IV of the table in section 215(a) in the case of an individual becoming eligible for such benefit before January 1, 1979, or based on a primary insurance amount determined under section 215(a)(1)(C)(i)(I) in the case of an individual becoming eligible for such benefit on or after that date.

"(3) Section 226 shall not apply in the case of any individual to whom it would not be applicable but for this section or any agreement or regulation under this section.

"(4) Any such agreement may contain such other provisions, not inconsistent with this section, as the President deems appropriate.

"Regulations

"(d) The Secretary of Health, Education, and Welfare shall make rules and regulations and establish procedures which are reasonable and necessary to implement and administer any agreement which has been entered into in accordance with this section.

"Reports to Congress; Effective Date of Agreements

"(e)(1) Any agreement to establish a totalization arrangement entered into pursuant to this section shall be transmitted by the President to the Congress.

"(2) Such an agreement shall become effective on any date, provided in the agreement, which occurs after the expiration of 90 days on each of which at least one House of Congress is in session following the date on which the agreement is transmitted in accordance with paragraph (1).".

(b)(1) Section 1401 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(c) RELIEF FROM TAXES IN CASES COVERED BY CERTAIN INTERNATIONAL AGREEMENTS.—During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, the self-employment income of an individual shall be exempt from the taxes imposed by this section to the extent that such self-employment income is subject under such agreement to taxes or contributions for similar purposes under the social security system of such foreign country.".

(2) Sections 3101 and 3111 of such Code are each amended by adding at the end thereof the following new subsection:

"(c) RELIEF FROM TAXES IN CASES COVERED BY CERTAIN INTERNATIONAL AGREEMENTS.—During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, wages received by or paid to an individual shall be exempt from the taxes imposed by this section to the extent that such wages are subject under such agreement to taxes or contributions for

similar purposes under the social security system of such foreign country.".

(3) Section 6051(a) of such Code is amended by adding at the end thereof the following new sentence: "The amounts required to be shown by paragraph (5) shall not include wages which are exempted pursuant to sections 3101(c) and 3111(c) from the taxes imposed by sections 3101 and 3111.".

(4) Notwithstanding any other provision of law, taxes paid by any individual to any foreign country with respect to any period of employment or self-employment which is covered under the social security system of such foreign country in accordance with the terms of an agreement entered into pursuant to section 233 of the Social Security Act shall not, under the income tax laws of the United States, be deductible by, or creditable against the income tax of, any such individual.

VALIDATION OF PAST SOCIAL SECURITY COVERAGE FOR CERTAIN ILLINOIS POLICEMEN AND FIREMEN

SEC. 309. (a) Notwithstanding the provisions of subsection (d)(5)(A) of section 218 of the Social Security Act and the references thereto in subsections (d)(1) and (d)(3) of such section 218 (but subject to subsection (b) of this section), the agreement with the State of Illinois heretofore entered into pursuant to such section 218 shall be deemed to apply to all services which were performed prior to December 31, 1977, by any individual employed by such State or any political subdivision thereof in a policeman's or fireman's position covered by the Illinois Municipal Retirement Fund, and with respect to which such State has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1)(A) of such section 218 at the time or times established pursuant to such subsection (but only if there has been no refund of the sums so paid or, if a refund of part or all of such sums has been obtained, the State of Illinois repays to the Secretary of the Treasury the amount of such refund within ninety days after the date of the enactment of this Act).

(b) Subsection (a) shall not apply with respect to services performed by individuals employed by any political subdivision which indicates, in such manner and within such period as the Secretary shall prescribe, that it does not wish such subsection to apply with respect to those services.

COVERAGE FOR POLICEMEN AND FIREMEN IN MISSISSIPPI

SEC. 310. Section 218(p)(1) of the Social Security Act is amended by inserting "Mississippi," after "Maryland,".

COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR STATE AND LOCAL EMPLOYEES IN NEW JERSEY

SEC. 311. Section 218(d)(6)(C) of the Social Security Act is amended by inserting "New Jersey," after "Nevada,".

COVERAGE OF SERVICE UNDER WISCONSIN RETIREMENT SYSTEM

SEC. 312. Section 218(m)(1) of the Social Security Act is amended by inserting after "Wisconsin retirement fund" the following: "or any successor system".

CONFORMING AMENDMENTS

SEC. 313. (a)(1) Section 210(a) of the Social Security Act (as amended by the preceding provisions of this title and by section 601) is further amended by redesignating paragraphs (7) through (20) as paragraphs (5) through (18), respectively.

(2)(A) Section 205(o) of such Act is amended by striking out "section 210(a)(9)" and inserting in lieu thereof "section 210(a)(7)".

(B) Section 210(b) of such Act is amended by striking out "paragraph (9) of subsection (a)" and inserting in lieu thereof "paragraph (7) of subsection (a)".

(C) Section 211(c)(2) of such Act is amended—

(i) by striking out "section 210(a)(14)(B)" in subparagraph (A) and inserting in lieu thereof "section 210(a)(12)(B)";

(ii) by striking out "section 210(a)(16)" in subparagraph (B) and inserting in lieu thereof "section 210(a)(14)";

(iii) by striking out "section 210(a)(11), (12), or (15)" in subparagraph (C) and inserting in lieu thereof "section 210(a)(9), (10), or (13)"; and

(iv) by striking out "section 210(a)(20)" in subparagraph (F) and inserting in lieu thereof "section 210(a)(18)".

(b)(1) Section 3121(b) of the Internal Revenue Code of 1954 (relating to definition of employment), as amended by the preceding provisions of this title and by section 612, is further amended by redesignating paragraphs (7) through (20) as paragraphs (5) through (18), respectively.

(2)(A) Section 1402(c)(2) of such Code (relating to definition of trade or business) is amended—

(i) by striking out "section 3121(b)(14)(B)" in subparagraph (A) and inserting in lieu thereof "section 3121(b)(12)(B)";

(ii) by striking out "section 3121(b)(16)" in subparagraph (B) and inserting in lieu thereof "section 3121(b)(14)";

(iii) by striking out "section 3121(b)(11), (12), or (15)" in subparagraph (C) and inserting in lieu thereof "section 3121(b)(9), (10), or (13)"; and

(iv) by striking out "section 3121(b)(20)" in subparagraph (F) and inserting in lieu thereof "section 3121(b)(18)".

(B) Section 3121(c) of such Code (relating to included and excluded service) is amended by striking out "by subsection (b)(9)" and inserting in lieu thereof "by subsection (b)(7)".

(C) Section 3121(r)(3) of such Code (relating to election of coverage by religious orders) is amended by striking out "subsection (b)(8)(A)" and "section 210(a)(8)(A)" and inserting in lieu thereof "subsection (b)(6)" and "section 210(a)(6)", respectively.

(D) Section 3124 of such Code (relating to estimate of revenue reduction) is amended by striking out "section 3121(b)(9)" and inserting in lieu thereof "section 3121(b)(7)".

(c) Section 18(2) of the Railroad Retirement Act of 1974 is amended by striking out "section 210(a)(9) of the Social Security Act" and inserting in lieu thereof "section 210(a)(7) of the Social Security Act".

(d) The amendments made by this section shall apply with respect to service performed after December 1981.

TITLE IV—ELIMINATION OF GENDER-BASED DISTINCTIONS UNDER THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

PART A—EQUALIZATION OF TREATMENT OF MEN AND WOMEN UNDER THE PROGRAM

DIVORCED HUSBANDS

SEC. 401. (a)(1) Section 202(c)(1) of the Social Security Act is amended, in the matter preceding subparagraph (A), by inserting "and every divorced husband (as defined in section 216(d))" before "of an individual" and inserting "or such divorced husband" after "if such husband".

(2) Section 202(c)(1) of such Act is further amended—

(A) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), and by inserting after subparagraph (B) the following new subparagraph:

"(C) in the case of a divorced husband, is not married,";

(B) by striking out "after August 1950" in the matter following subparagraph (E) (as so redesignated); and

(C) by striking out "the month in which any of the following occurs:" and all that follows and inserting in lieu thereof the following:

"the first month in which any of the following occurs:

"(F) he dies,

"(G) such individual dies,

"(H) in the case of a husband, they are divorced and either (i) he has not attained age 62, or (ii) he has attained age 62 but has not been married to such individual for a period of 20 years immediately before the divorce became effective.

"(I) in the case of a divorced husband, he marries a person other than such individual,

"(J) he becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of such individual, or

"(K) such individual is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.".

(3) Section 202(c)(3) of such Act is amended by inserting "(or, in the case of a divorced husband, his former wife)" before "for such month".

(4) Section 202(c) of such Act is amended by adding after paragraph (3) the following new paragraph:

"(4) In the case of any divorced husband who marries—

"(A) an individual entitled to benefits under subsection (b), (e), (g), or (h) of this section, or

"(B) an individual who has attained the age of 18 and is entitled to benefits under subsection (d),

such divorced husband's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) (but subject to subsection (s)), not be terminated by reason of such marriage.".

(5) Section 202(c)(2) of such Act is amended by striking out "(C)" in the matter immediately preceding subparagraph (A) and inserting in lieu thereof "(D)".

(6) Section 202(b)(3)(A) of such Act is amended by striking out "(f)" and inserting in lieu thereof "(c), (f),".

(7) Section 202(c)(1)(E) of such Act (as redesignated by paragraph (2) of this subsection) is amended by striking out "his wife" and inserting in lieu thereof "such individual".

(b)(1) Section 202(f)(1) of such Act is amended, in the matter preceding subparagraph (A), by inserting "and every surviving divorced husband (as defined in section 216(d))" before "of an individual" and inserting "or such surviving divorced husband" after "if such widower".

(2) Section 202(f)(1) of such Act is further amended by striking out "his deceased wife" in subparagraph (E) and in the matter following subparagraph (G) and inserting in lieu thereof "such deceased individual".

(3) Paragraphs (3), (4), (6), and (7) of section 202(f) of such Act are each amended by inserting "or surviving divorced husband" after "widower" wherever it appears.

(4) Paragraph (3) of section 202(f) of such Act is further amended by striking out "his deceased wife" wherever it appears and by inserting in lieu thereof "such deceased individual", and by striking out "wife" wherever it appears and inserting in lieu thereof "individual".

(5) Section 202(f)(4) of such Act is further amended by striking out "remarries" and inserting in lieu thereof "marries", and by inserting "or surviving divorced husband's" after "widower's".

(6) Section 202(e)(3)(A) of such Act is amended by striking out "(f)" and inserting in lieu thereof "(c), (f),".

(7) Section 202(g)(3)(A) of such Act is amended by inserting "(c)," before "(f),".

(8) Section 202(h)(4)(A) of such Act is amended by inserting "(c)," before "(e),".

(c)(1) Section 216(d) of such Act is amended by redesignating paragraph (4) as paragraph (6), and by inserting after paragraph (3) the following new paragraphs:

"(4) The term 'divorced husband' means a man divorced from an individual, but only if he has been married to such individual for a period of 20 years immediately before the date the divorce became effective.

"(5) The term 'surviving divorced husband' means a man divorced from an individual who has died, but only if he has been married to the individual for a period of 20 years immediately before the divorce became effective.".

(2) The heading of section 216(d) of such Act is amended to read as follows:

"Divorced Spouses; Divorce".

(d)(1) Section 205(b) of such Act is amended by inserting "divorced husband," after "husband," and "surviving divorced husband," after "widower,".

(2) Section 205(c)(1)(C) of such Act is amended by inserting "surviving divorced husband," after "wife,".

REMARRIAGE OF SURVIVING SPOUSE BEFORE AGE 60

SEC. 402. Section 202(f)(1)(A) of the Social Security Act is amended by striking out "has not remarried" and inserting in lieu thereof "is not married".

ILLEGITIMATE CHILDREN

SEC. 403. (a) Section 216(h)(3) of the Social Security Act is amended by inserting "mother or" before "father" wherever it appears.

(b) Section 216(h)(3)(A)(i) of such Act is amended by striking out "daughter," at the end of clause (III) and all that follows and inserting in lieu thereof "daughter; or".

(c) Section 216(h)(3)(A)(ii) of such Act is amended by striking out everything after "time" and inserting in lieu thereof "such applicant's application for benefits was filed;".

(d) Section 216(h)(3)(B)(i) of such Act is amended by striking out "daughter," at the end of clause (III) and all that follows and inserting in lieu thereof "daughter; or".

(e) Section 216(h)(3)(B)(ii) of such Act is amended by striking out "such period of disability began" and inserting in lieu thereof "such applicant's application for benefits was filed".

TRANSITIONAL INSURED STATUS

SEC. 404. (a) Section 227(a) of the Social Security Act is amended—

(1) by striking out "wife" wherever it appears and inserting in lieu thereof "spouse";

(2) by striking out "wife's" wherever it appears and inserting in lieu thereof "spouse's";

(3) by striking out "she" wherever it appears and inserting in lieu thereof "he or she";

(4) by striking out "his" wherever is appears and inserting in lieu thereof "his or her"; and

(5) by inserting "or section 202(c)" after "section 202(b)" wherever it appears.

(b) Section 227(b) and section 227(c) of such Act are amended—

(1) by striking out "widow" wherever it appears and inserting in lieu thereof "surviving spouse";

(2) by striking out "widow's" wherever it appears and inserting in lieu thereof "surviving spouse's";

(3) by striking out "her" wherever it appears and inserting in lieu thereof "the"; and

(4) by inserting "or section 202(f)" after "section 202(e)" wherever it appears.

(c) Section 216 of such Act (as amended by the preceding provisions of this Act) is further amended by inserting before subsection (b) the following new subsection:

"Spouse; Surviving Spouse

"(a)(1) The term 'spouse' means a wife as defined in subsection (b) or a husband as defined in subsection (f).

"(2) The term 'surviving spouse' means a widow as defined in subsection (c) or a widower as defined in subsection (g).".

EQUALIZATION OF BENEFITS UNDER SECTION 228

SEC. 405. (a) Section 228(b)(2) of the Social Security Act is amended—

(1) by striking out "the husband's benefit" and inserting in lieu thereof "each of their benefits";

(2) by striking out "$64.40" and inserting in lieu thereof "$48.30"; and

(3) by striking out everything after "section 215(i)" the first time it appears and inserting in lieu thereof a period.

(b) Section 228(c)(3) of such Act is amended to read as follows:

"(3) In the case of a husband or wife, both of whom are entitled to benefits under this section for any month, the benefit amount of each, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the other is eligible for such month, over (B) the larger of $48.30 or the amount most recently established in lieu thereof under section 215(i).".

(c) The Secretary shall increase the amounts specified in section 228 of the Social Security Act, as amended by this section, to take account of any general benefit increases (as referred to in section 215(i)(3) of such Act), and any increases under section 215(i) of such Act, which occur after June 1974.

FATHER'S INSURANCE BENEFITS

SEC. 406. (a) Section 202(g) of the Social Security Act is amended—

(1) by striking out "widow" wherever it appears and inserting in lieu thereof "surviving spouse";

(2) by striking out "widow's" wherever it appears and inserting in lieu thereof "surviving spouse's";

(3) by striking out "wife's insurance benefits" in paragraph (1)(D) and inserting in lieu thereof "a spouse's insurance benefit";

(4) by striking out "'he" in paragraph (1)(D) and wherever it appears in paragraph (3) and inserting in lieu thereof "such individual";

(5) by striking out "her" wherever it appears and inserting in lieu thereof "his or her";

(6) by striking out "she" wherever it appears and inserting in lieu thereof "he or she";

(7) by striking out "mother" wherever it appears and inserting in lieu thereof "parent";

(8) by inserting "or father's" after "mother's" wherever it appears;

(9) by striking out "after August 1950";

(10) by inserting "this subsection or" before "subsection (a)" in paragraph (3)(A); and

(11) by striking out "his" in paragraph (3) and inserting in lieu thereof "his or her".

(b) The heading of section 202(g) of such Act is amended by inserting "and Father's" after "Mother's".

(c) Section 216(d) of such Act (as amended by section 401(c)(1) of this Act) is further amended by redesignating paragraph (6) as paragraph (8), and by inserting after paragraph (5) the following new paragraphs:

"(6) The term 'surviving divorced father' means a man divorced from an individual who has died, but only if (A) he is the father of her son or daughter, (B) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of 18, (C) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of 18, or (D) he was married to her at the time both of them legally adopted a child under the age of 18.

"(7) The term 'surviving divorced parent' means a surviving divorced mother as defined in paragraph (3) of this subsection or a surviving divorced father as defined in paragraph (6).".

(d) Section 202(c)(1) of such Act (as amended by section 401(a)(2) of this Act) is further amended by inserting "(subject to subsection (s))" before "be entitled to" in the matter following subparagraph (E) and preceeding subparagraph (F).

(e) Section 202(c)(1)(B) of such Act is amended by inserting after "62" the following: "or (in the case of a husband) has in his care (individually or jointly with such individual) at the time of filing such application a child entitled to child's insurance benefits on the basis of the wages and self-employment income of such individual".

(f) Section 202(c)(1) of such Act (as amended by section 401(a)(2)(C) of this Act) is further amended by redesignating the new subparagraphs (J) and (K) as subparagraphs (K) and (L), respectively, and by adding after subparagraph (I) the following new subparagraph:

"(J) in the case of a husband who has not attained age 62, no child of such individual is entitled to a child's insurance benefit,".

(g) Section 202(f)(1)(C) of such Act is amended by inserting "(i)" after "(C)", by adding "or" after "223,", and by inserting at the end thereof the following new clause:

"(ii) was entitled, on the basis of such wages and self-employment income, to father's insurance benefits for the month preceding the month in which he attained age 65,".

(h) Section 202(f)(6) of such Act is amended by striking out "or" at the end of subparagraph (A), by adding "or" after the comma at the end of subparagraph (B), and by adding after and below subparagraph (B) the following new subparagraph:

"(C) the last month for which he was entitled to father's insurance benefits on the basis of the wages and self-employment income of such individual,".

EFFECT OF MARRIAGE ON CHILDHOOD DISABILITY BENEFICIARY

SEC. 407. (a) Section 202(d)(5) of the Social Security Act is amended by striking out " a male individual" in the matter following subparagraph (B) and inserting in lieu thereof "an individual".

(b) The amendment made by subsection (a) of this section shall be effective with respect to benefits under title II of the Social Security Act for months after December 1977, but only in cases where the "last month" referred to in section 202(d)(5) of such Act is a month after December 1977.

EFFECT OF MARRIAGE ON OTHER DEPENDENTS' OR DEPENDENT SURVIVORS' BENEFITS

SEC. 408. (a) Section 202(c)(4) of the Social Security Act (as added by section 401(a)(4) of this Act) is further amended by inserting before the period at the end thereof the following: "; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless she ceases to be so entitled by reason of her death".

(b) Section 202(f)(4) of such Act is amended by inserting before the period at the end thereof the following: "; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless she ceases to be so entitled by reason of her death".

(c) Section 202(h)(4) of such Act is amended by striking out "a male individual" in the matter following clause (B) and inserting in lieu thereof "an individual".

(d) The amendments made by this section shall be effective with respect to benefits under title II of the Social Security Act for months after December 1977, but only in cases where the "last month" referred to in section 202(c)(4), 202(f)(4), 202(g)(3), or 202(h)(4) is a month after December 1977.

TREATMENT OF SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES

SEC. 409. (a) Section 211(a)(5)(A) of the Social Security Act and section 1402(a)(5)(A) of the Internal Revenue Code of 1954 are each amended by striking out "husband unless the wife exercises substantially all of the management and control of such trade or business, in which case all of such gross income and deductions shall be treated as the gross income and deductions of the wife" and inserting in lieu thereof "spouse who exercises the greater management and control over the trade or business, except that such income and deductions shall be divided equally between the two spouses if each spouse exercised the same amount of management and control over the trade or business".

(b) The amendments made by subsection (a) shall be effective with respect to taxable years beginning after December 1977.

CREDIT FOR CERTAIN MILITARY SERVICE

SEC. 410. Section 217(f) of the Social Security Act is amended by striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse", and by striking out "her" each place it appears in paragraph (2) and inserting in lieu thereof "his".

CONFORMING AMENDMENTS

SEC. 411. (a) Section 202(b)(3)(A) of the Social Security Act (as amended by section 401(a)(6) of this Act) is further amended by inserting "(g)," after "(f),".

(b) Section 202(p)(1) of such Act is amended by striking out "subparagraph (C) of subsection (c)(1)" and inserting in lieu thereof "subparagraph (D) of subsection (c)(1)".

(c) Section 202(q)(3) of such Act is amended by inserting "or surviving divorced husband" after "widower" in subparagraphs (E), (F), and (G).

(d) Section 202(q)(5) of such Act is amended—

(1) by inserting "husband's or" before "wife's" each place it appears;

(2) by inserting "he or" before "she" each place it appears;

(3) by inserting "his or" before "her" each place it appears;

(4) by striking out "the woman" in subparagraph (B)(ii) and "a woman" in subparagraph (C) and inserting in lieu thereof "the individual" and "an individual", respectively; and

(5) in subparagraph (D), by inserting "widower's or" before "widow's"; by inserting "wife or" before "husband" each place it appears; by inserting "wife's or" before "husband's" each place it appears; and by inserting "father's or" before "mother's".

(e)(1) Section 202(q)(6)(A)(i) of such Act is amended by striking out "or husband's insurance" in subdivision (I), and by inserting "or husband's" after "wife's" in subdivision (II).

(2) Section 202(q)(7) of such Act is amended, in subparagraph (B), by inserting "husband's or" before "wife's", by inserting "he or" before "she", and by inserting "his or" before "her", and in subparagraph (D) by inserting "or widower's" after "widow's".

(f)(1) Section 202(s)(1) of such Act is amended by inserting "(c)(1)," after "(b)(1),".

(2) Section 202(s)(2) of such Act is amended by inserting "(c)(4)," after "(b)(3),".

(3) Section 202(s)(3) of such Act is amended by inserting "(c)(4)," after "(b)(3),", and by inserting "(f)(4)," after "(e)(3),".

(g) Section 203(a)(3) of such Act (as in effect in December 1977) is amended by inserting ", or as a divorced husband under section 202(c) or as a surviving divorced husband under section 202(f)," after "section 202(e)", by striking out "she" and inserting in lieu thereof "he or she", and by inserting "or divorced husband or surviving divorced husband" after "such divorced wife or surviving divorced wife".

(h) The third sentence of section 203(b) of such Act is amended by inserting "or father's" after "mother's".

(i) The text of section 203(c) of such Act is amended to read as follows—

"(c) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefits or benefit under section 202 for any month—

"(1) in which such individual is under the age of seventy-two and on seven or more different calendar days of which such individual engaged in noncovered remunerative activity outside the United States; or

"(2) in which such individual, if a wife or husband under age sixty-five entitled to a wife's or husband's insurance benefit, did not have in his or her care (individually or jointly with his or her spouse) a child of such spouse entitled to a child's insurance benefit and such wife's or husband's insurance benefit for such month was not reduced under the provisions of section 202(q); or

"(3) in which such individual, if a widow or widower entitled to a mother's or father's insurance benefit, did not have in his or her care a child of his or her deceased spouse entitled to a child's insurance benefit; or

"(4) in which such an individual, if a surviving divorced mother or father entitled to a mother's or father's insurance benefit, did not have in his or her care a child of his deceased former spouse who (A) is his or her son, daughter, or legally adopted child and (B) is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased former spouse.

For purposes of paragraphs (2), (3), and (4) of this subsection, a child shall not be considered to be entitled to a child's insurance benefit for any month in which paragraph (1) of section 202(s) applies or an event specified in section 222(b) occurs with respect to such child. Subject to paragraph (3) of such section 202(s), no deductions shall be made under this subsection from any child's insurance benefits for the month in which the child entitled to such benefit attained the age of eighteen or any subsequent month; nor shall any deduction be made under this subsection from any widow's insurance benefits for any month in which the widow or surviving divorced wife is entitled and has not attained age sixty-five (but only if she became so entitled prior to attaining age sixty), or from any widower's insurance benefit for any month in which the widower or surviving divorced husband is entitled and has not attained age sixty-five (but only if he became so entitled prior to attaining age sixty).".

(j) Section 203(d) of such Act is amended by inserting "divorced husband," after "husband," in paragraph (1), and by inserting "or father's" after "mother's" each place it appears in paragraph (2).

(k)(1) Section 205(b) of such Act (as amended by section 401(d)(1) of this Act) is further amended by inserting "surviving divorced father," after "mother,".

(2) Section 205(c)(1)(C) of such Act (as amended by section 401(d)(2) of this Act) is further amended by inserting "surviving divorced father," after "surviving divorced mother,".

(l) Section 216(f) of such Act is amended by inserting "(c)," before "(f)" in clause (3)(A).

(m) Section 216(g) of such Act is amended by inserting "(c)," before "(f)" in clause (6)(A).

(n) Section 222(b)(1) of such Act is amended by striking out "or surviving divorced wife" and inserting in lieu thereof ", surviving divorced wife, or surviving divorced husband".

(o) Section 222(b)(3) of such Act is amended by inserting "divorced husband," after "husband,".

(p) Section 222(b)(2) of such Act is amended by inserting "or father's" after "mother's" each place it appears.

(q) Section 222(d)(1) of such Act is amended by inserting "and surviving divorced husbands" after "for widowers" in the matter following clause (iii).

(r) Section 223(d)(2) of such Act is amended by striking out "or widower" where that term appears in subparagraphs (A) and (B) and inserting in lieu thereof "widower, or surviving divorced husband".

(s) Section 225 of such Act is amended by inserting "or surviving divorced husband" after "widower".

(t)(1) Section 226(h)(3) of such Act is amended to read as follows:

"(3) For purposes of determining entitlement to hospital insurance benefits under subsection (b), any disabled widow age 50 or older who is entitled to mother's insurance benefits (and who would have been entitled to widow's insurance benefits by reason of disability if she had filed for such widow's benefits), and any disabled widower who is entitled to father's insurance benefits (and who would have been entitled to widower's insurance benefits by reason of disability if he had filed for such widower's benefits), shall, upon application for such hospital insurance benefits, be deemed to have filed for such widow's or widower's benefits.".

(2) For purposes of determining entitlement to hospital insurance benefits under section 226(h)(3) of the Social Security Act, as amended by paragraph (1) of this subsection, an individual becoming entitled to such hospital insurance benefits as a result of the amendment made by such paragraph shall, upon furnishing proof of such disability within twelve months after the month of enactment of this Act, under such procedures as the Secretary may prescribe, be deemed to have been entitled to the widow's or widower's benefits referred to in such section 226(h)(3), as so amended, as of the time such individual would have been entitled to such widow's or widower's benefits if he or she had filed a timely application therefor.

EFFECTIVE DATE

SEC. 412. Except as otherwise specifically provided in this part, the amendments made by this part shall apply only with respect to monthly benefits payable under title II of the Social Security Act for months after December 1977.

PART B—EFFECT OF MARRIAGE, REMARRIAGE, AND DIVORCE ON BENEFIT ELIGIBILITY

ELIMINATION OF MARRIAGE OR REMARRIAGE AS FACTOR TERMINATING OR REDUCING BENEFITS

SEC. 415. (a)(1) Section 202(b)(1) of the Social Security Act is amended—

(A) by adding "and" at the end of subparagraph (B),

(B) by striking out subparagraph (C),

(C) by striking out subparagraph (H), and

(D) by redesignating subparagraphs (D), (E), (F), (G), (I), (J), and (K) as subparagraphs (C), (D), (E), (F), (G), (H), and (I), respectively.

(2) Section 202(b) of such Act is further amended by striking out paragraph (3).

(b)(1) Section 202(c)(1) of such Act (as amended by sections 401(a)(2) and 406(f) of this Act) is amended—

(A) by striking out subparagraph (C),

(B) by striking out subparagraph (I), and

(C) by redesignating subparagraphs (D), (E), (F), (G), (H), (J), (K), and (L) as subparagraphs (C), (D), (E), (F), (G), (H), (I), and (J), respectively.

(2) Section 202(c) of such Act is further amended by striking out paragraph (4) (as added by section 401(a)(4) of this Act and amended by section 408(a)).

(3) Section 202(c)(2) of such Act (as amended by section 401(a)(5) of this Act) is further amended by striking out "(D)" in the matter immediately preceding subparagraph (A) and inserting in lieu thereof "(C)".

(c)(1) Section 202(d)(1) of such Act is amended—

(A) by striking out "was unmarried and" in subparagraph (B), and

(B) by striking out "or marries," in subparagraph (D).

(2) Section 202(d) of such Act is further amended by striking out paragraph (5), and by redesignating paragraphs (6) through (9) as paragraphs (5) through (8), respectively.

(d)(1) Section 202(e)(1) of such Act is amended—

(A) by striking out subparagraph (A),

(B) by striking out "paragraph (5)" in subparagraph (B) and inserting in lieu thereof "paragraph (3)",

(C) by striking out "subparagraph (B)" in subparagraph (E) and inserting in lieu thereof "subparagraph (A)",

(D) by striking out "subparagraph (B)", "paragraph (6)", and "paragraph (5)" in subparagraph (F) and inserting in lieu thereof "subparagraph (A)", "paragraph (4)", and "paragraph (3)", respectively,

(E) by striking out "remarries, dies," in the matter following subparagraph (F) and inserting in lieu thereof "dies, or", and

(F) by redesignating subparagraphs (B) through (F) as subparagraphs (A) through (E), respectively.

(2) Section 202(e)(2)(A) of such Act is amended by striking out ", paragraph (4) of this subsection,".

(3) Section 202(e) of such Act is further amended by striking out paragraphs (3) and (4), and by redesignating paragraphs (5), (6), and (7) as paragraphs (3), (4), and (5), respectively.

(4) The paragraph of section 202(e) of such Act redesignated as paragraph (3) by paragraph (3) of this subsection is amended by striking out "(1)(B)(ii)" and inserting in lieu thereof "(1)(A)(ii)".

(5) The paragraph of section 202(e) of such Act redesignated as paragraph (4) by paragraph (3) of this subsection is amended—

(A) by striking out "paragraph (1)(F)" and inserting in lieu thereof "paragraph (1)(E)", and

(B) by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (3)".

(e)(1) Section 202(f)(1) of such Act (as amended by the preceding provisions of this title) is further amended—

(A) by striking out subparagraph (A),

(B) by striking out "paragraph (6)" in subparagraph (B) and inserting in lieu thereof "paragraph (4)",

(C) by striking out "subparagraph (B)" in subparagraph (F) and inserting in lieu thereof "subparagraph (A)",

(D) by striking out "subparagraph (B)", "paragraph (7)", and "paragraph (6)" in subparagraph (G) and inserting in lieu thereof "subparagraph (A)", "paragraph (5)", and "paragraph (4)", respectively,

(E) by striking out "remarries," in the matter following subparagraph (G), and

(F) by redesignating subparagraphs (B) through (G) as subparagraphs (A) through (F), respectively.

(2) Section 202(f)(2) of such Act is amended by striking out "subparagraph (D)" and inserting in lieu thereof "subparagraph (C)".

(3) Section 202(f)(3)(A) of such Act is amended by striking out ", paragraph (5) of this subsection,".

(4) Section 202(f) of such Act is further amended by striking out paragraphs (4) and (5), and by redesignating paragraphs (6), (7), and (8) as paragraphs (4), (5), and (6), respectively.

(5) The paragraph of section 202(f) of such Act redesignated as paragraph (4) by paragraph (4) of this subsection is amended by striking out "(1)(B)(ii)" and inserting in lieu thereof "(1)(A)(ii)".

(6) The paragraph of section 202(f) of such Act redesignated as paragraph (5) by paragraph (4) of this subsection is amended by striking out "paragraph (1)(G)" and "paragraph (6)" and inserting in lieu thereof "paragraph (1)(F)" and "paragraph (4)", respectively.

(f)(1) Section 202(g)(1) of such Act (as amended by section 406(a) of this Act) is further amended—

(A) by striking out subparagraph (A),

(B) by striking out "subparagraph (E)" in subparagraph (F)(i) and inserting in lieu thereof "subparagraph (D)",

(C) by striking out "he remarries," in the matter following subparagraph (F), and

(D) by redesignating subparagraphs (B) through (F) as subparagraphs (A) through (E), respectively.

(2) Section 202(g) of such Act is further amended by striking out paragraph (3).

(g)(1) Section 202(h)(1) of such Act is amended—

(A) by striking out subparagraph (C),

(B) by striking out "marries," in the matter following subparagraph (E), and

(C) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(2) Section 202(h) of such Act is further amended by striking out paragraph (4).

(h)(1) Section 202(k)(2)(B) of such Act is amended—

(A) by striking out "(other than an individual to whom subsection (e)(4) or (f)(5) applies)", and

(B) by striking out the second sentence.

(2) Section 202(k)(3) of such Act is amended—

(A) by striking out "(A)" immediately before "If an individual is entitled to an old-age or disability insurance benefit", and

(B) by striking out subparagraph (B).

(i) Section 202(p)(1) of such Act (as amended by section 411(b) of this Act) is further amended by striking out "subparagraph (D) of subsection (c)(1), clause (i) or (ii) of subparagraph (D) of subsection (f)(1)" and inserting in lieu thereof "subparagraph (C) of subsection (c)(1), clause (i) or (ii) of subparagraph (C) of subsection (f)(1)".

(j)(1) Section 202(s)(2) of such Act is repealed.

(2) Section 202(s)(3) of such Act (as amended by section 411(f)(3) of this Act) is further amended by striking out "so much of subsections (b)(3), (c)(4), (d)(5), (e)(3), (f)(4), (g)(3), and (h)(4) of this section as follows the semicolon,".

DURATION-OF-MARRIAGE REQUIREMENT FOR DIVORCED SPOUSES AND SURVIVING DIVORCED SPOUSES

SEC. 416. (a) Section 216(d) of the Social Security Act is amended by striking out "20 years" in paragraphs (1) and (2), and in paragraphs (4) and (5) (as added by section 401(c)(1) of this Act), and inserting in lieu thereof in each instance "5 years".

(b) Section 202(b)(1)(F) of such Act (as redesignated by section 415(a)(1)(D) of this Act) is amended by striking out "20 years" and inserting in lieu thereof "5 years".

(c) Section 202(c)(1)(G) of such Act (as added by section 401(a)(2)(C) of this Act and redesignated by section 415(b)(1)(C)) is amended by striking out "20 years" and inserting in lieu thereof "5 years".

EFFECTIVE DATE

SEC. 417. (a) The amendments made by this part shall apply only with respect to monthly benefits payable under title II of the Social Security Act for months after December 1978, and, in the case of individuals who are not entitled to benefits of the type involved under such title for December 1978, only on the basis of applications filed on or after January 1, 1979.

(b) An individual whose entitlement to monthly insurance benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 of the Social Security Act terminated on account of such individual's marriage or remarriage, or on account of termination (except by reason of death) of the benefits to which such individual's spouse was entitled under section 223(a) or section 202(d)(1)(B)(ii) of such Act, prior to January 1979, may again become entitled to such benefits (provided no event which would otherwise terminate such entitlement has since occurred) beginning with January 1979 or, if later, with the first month (after January 1979) in which he files application for such reentitlement. The reentitlement of such individual to benefits under such subsection (and the entitlement of other persons to benefits under title II of the Social Security Act to the extent related to such individual or his entitlement) shall be treated for all the purposes of title II of the Social Security Act as though such reentitlement were the individual's initial entitlement.

PART C—STUDY

STUDY OF PROPOSALS TO ELIMINATE DEPENDENCY AND SEX DISCRIMINATION UNDER THE SOCIAL SECURITY PROGRAM

SEC. 421. (a) The Secretary of Health, Education, and Welfare, in consultation with the Task Force on Sex Discrimination in the Department of Justice, shall undertake and carry out, within the Department of Health, Education, and Welfare and the Social Security Administration, a detailed study of proposals to eliminate dependency as a factor in the determination of entitlement to spouse's benefits under the social security program, and of proposals to bring about equal treatment of men and women in any and all respects under such program, taking into account the practical effects (particularly the effect upon women's entitlement to such benefits) of such things as—

(1) changes in the nature and extent of women's participation in the labor force.

(2) the increasing divorce rate, and

(3) the economic value of women's work in the home. The study shall include appropriate cost analyses.

(b) The Secretary shall submit to the Congress within six months after the date of the enactment of this Act a full and complete report on the study carried out under subsection (a).

TITLE V—CHANGES IN EARNINGS TEST UNDER THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

LIBERALIZATION OF EARNINGS FOR INDIVIDUALS AGE 65 AND OVER

SEC. 501. (a) Section 203(f)(8)(A) of the Social Security Act is amended by striking

out "a new exempt amount which shall be effective (unless such new exempt amount is prevented from becoming effective by subparagraph (C) of this paragraph) with respect to any individual's taxable year which ends after the calendar year" and inserting lieu thereof "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable (unless prevented from becoming effective by subparagraph (C)) with respect to taxable years ending in (or with the close of) the calendar year after the calendar year".

(b)(1) Section 203(f)(8)(B) of such Act is amended by striking out "The exempt amount for each month of a particular taxable year shall be" in the matter preceding clause (i) and inserting in lieu thereof "except as otherwise provided in subparagraph (D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals, for each month of a particular taxable year, shall each be".

(2) Section 203(f)(8)(B)(i) of such Act is amended by striking out "the exempt amount" and inserting in lieu thereof "the corresponding exempt amount".

(3) The last sentence of section 203(f)(8)(B) of such Act is amended by striking out "the exempt amount" and inserting in lieu thereof "an exempt amount".

(c)(1) Section 203(f)(8) of such Act is further amended by adding at the end thereof the following new subparagraph:

"(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained age 65 before the close of the taxable year involved—

"(i) shall be $333.33⅓ for each month of any taxable year ending after 1977 and before 1979,

"(ii) shall be $375 for each month of any taxable year after 1978 and before 1980, and

"(iii) shall be determined (under subparagraph (B)) for each month of any taxable year ending after 1979 as though the dollar amounts specified in clauses (i) and (ii) had been determined (for the taxable years described in such clauses) under subparagraph (B).".

(2) No notification with respect to an increased exempt amount for individuals described in section 203(f)(8)(D) of the Social Security Act (as added by paragraph (1) of this subsection) shall be required under the last sentence of section 203(f)(8)(B) of such Act in 1977 or 1978; and section 203(f)(8)(C) of such Act shall not prevent the new exempt amount determined and published under section 203(f)(8)(A) in 1977 from becoming effective to the extent that such new exempt amount applies to individuals other than those described in section 203(f)(8)(D) of such Act (as so added).

(d) Subsections (f)(1), (f)(3), (f)(4)(B), and (h)(1)(A) of section 203 of such Act are each amended by striking out "$200 or the exempt amount" and inserting in lieu thereof "the applicable exempt amount".

(e) The amendments made by this section shall apply with respect to taxable years ending after December 1977.

ELIMINATION OF MONTHLY EARNINGS TEST

SEC. 502. (a) Clause (E) of the last sentence of section 203(f)(1) of the Social Security Act (as amended by section 501(d) of this Act) is further amended by inserting before the period at the end thereof the following: ", if such month is in the taxable year in which occurs the first month that is both (i) a month for which the individual is entitled to benefits under subsection (a), (b), (c), (d), (e), (f), (g), or (h) of section 202 (without having been entitled for the preceding month to a benefit under any other of such subsections), and (ii) a month in which the individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5)) of more than the exempt amount as determined under paragraph (8)".

(b) The amendment made by subsection (a) shall apply only with respect to monthly benefits payable for months after December 1977.

LIBERALIZATION OF TEST FOR DETERMINING DEDUCTIONS ON ACCOUNT OF NONCOVERED WORK OUTSIDE THE UNITED STATES

SEC. 503. (a) Effective with respect to months in taxable years ending after 1977 and before 1979, subsections (c)(1), (d)(1), and (d)(2) of section 203 of the Social Security Act (as amended by the preceding provisions of this Act) are each amended by striking out "seven or more" and inserting in lieu thereof "nine or more".

(b) Effective with respect to months in taxable years ending after 1978, subsections (c)(1), (d)(1), and (d)(2) of such section 203 (as amended by subsection (a) of this section) are each further amended by striking out "nine or more" and inserting in lieu thereof "twelve or more".

TITLE VI—COMBINED SOCIAL SECURITY AND INCOME TAX ANNUAL REPORTING

PART A—AMENDMENTS TO TITLE II OF THE SOCIAL SECURITY ACT

ANNUAL CREDITING OF QUARTERS OF COVERAGE

SEC. 601. (a)(1) Sections 209(g)(3), 209(j), 210(a)(17)(A), and 210(f)(4)(B) of the Social Security Act are each amended by striking out "quarter" wherever it appears and inserting in lieu thereof "year".

(2) Sections 209(g)(3) and 209(j) of such Act are each further amended by striking out "$50" and inserting in lieu thereof $100".

(3)(A) Section 209 of such Act is amended by striking out "or" at the end of subsection (n), by striking out the period at the end of subsection (o) and inserting in lieu thereof "; or", and by inserting after subsection (o) the following new subsection:

"(p) Remuneration paid by an organization exempt from income tax under section 501 of the Internal Revenue Code of 1954 in any calendar year to an employee for service rendered in the employ of such organization, if the remuneration paid in such year by the organization to the employee for such service is less than $100.".

(B) Section 210(a)(10) of such Act (as amended by section 302(d)(3) of this Act) is amended by striking out "(10(A)" and all that follows down through "(B) Service" and inserting in lieu thereof "(10) Service", and by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(b) Section 212 of such Act is amended to read as follows:

"CREDITING OF SELF-EMPLOYMENT INCOME TO CALENDAR YEARS

"SEC. 212. (a) For the purposes of determining average monthly wage and quarters of coverage the amount of self-employment income derived during any taxable year which begins before 1978 shall—

"(1) in the case of a taxable year which is a calendar year, be credited equally to each quarter of such calendar year; and

"(2) in the case of any other taxable year, be credited equally to the calendar quarter in which such taxable year ends and to each of the next three or fewer preceding quarters any part of which is in such taxable year.

"(b) For the purposes of determining average indexed monthly earnings, average monthly wage, and quarters of coverage the amount of self-employment income derived during any taxable year which begins after 1977 shall—

"(1) in the case of a taxable year which is a calendar year or which begins with or during a calendar year and ends with or during such year, be credited to such calendar year; and

"(2) in the case of any other taxable year, be allocated proportionately to the two calendar years, portions of which are included within such taxable year, on the basis of the number of months in each such calendar year which are included completely within the taxable year.

number of months in each such calendar month in which a taxable year ends shall be treated as included completely within that taxable year.".

(c) Section 213(a)(2) of such Act is amended to read as follows:

"(2)(A) The term 'quarter of coverage' means—

"(i) for calendar years before 1978, and subject to the provisions of subparagraph (B), a quarter in which an individual has been paid $50 or more in wages (except wages for agricultural labor paid after 1954) or for which he has been credited (as determined under section 212) with $100 or more of self-employment income; and

"(ii) for calendar years after 1977, and subject to the provisions of subparagraph (B), each portion of the total of the wages paid and the self-employment income credited (pursuant to section 212) to an individual in a calendar year which equals $250, with such quarter of coverage being assigned to a specific calendar quarter in such calendar year only if necessary in the case of any individual who has attained age 62 or died or is under a disability and the requirements for insured status in subsection (a) or (b) of section 214, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 216(i) would not otherwise be met.

"(B) Notwithstanding the provisions of subparagraph (A)—

"(i) no quarter after the quarter in which an individual dies shall be a quarter of coverage, and no quarter any part of which is included in a period of disability (other than the initial quarter and the last quarter of such period) shall be a quarter of coverage:

"(ii) if the wages paid to an individual in any calendar year equal to $3,000 in the case of a calendar year before 1951, or $3,600 in the case of a calendar year after 1950 and before 1955, or $4,200 in the case of a calendar year after 1954 and before 1959, or $4,800 in the case of a calendar year after 1958 and before 1966, or $6,600 in the case of a calendar year after 1965 and before 1968, or $7,800 in the case of a calendar year after 1967 and before 1972, or $9,000 in the case of the calendar year 1972, or $10,800 in the case of the calendar year 1973, or $13,200 in the case of the calendar year 1974, or an amount equal to the contribution and benefit base (as determined under section 230) in the case of any calendar year after 1974 with respect to which such contribution and benefit base is effective, each quarter of such year shall (subject to clauses (i) and (v)) by a quarter of coverage;

"(iii) if an individual has self-employment income for a taxable year, and if the sum of such income and the wages paid to him during such year equals $3,600 in the case of a taxable year beginning after 1950 and ending before 1955, or $4,200 in the case of a taxable year ending after 1954 and before 1959, or $4,800 in the case of a taxable year ending after 1958 and before 1966, or $6,600 in the case of a taxable year ending after 1965 and before 1968, or $7,800 in the case of a taxable year ending after 1967 and before 1972, or $9,000 in the case of a taxable year beginning after 1971 and before 1973, or $10,800 in the case of a taxable year beginning after 1972 and before 1974, or $13,200 in the case of a taxable year beginning after 1973 and before 1975, or an amount equal to the contribution and benefit base (as defined under section 230) which is effective for the calendar year in the case of any tab-

able year beginning in any calendar year after 1974, each quarter any part of which falls in such year shall (subject to clauses (i) and (v)) be a quarter of coverage;

"(iv) if an individual is paid wages for agricultural labor in a calendar year after 1954 and before 1978, then, subject to clauses (i) and (v), (I) the last quarter of such year which can be but is not otherwise a quarter of coverage shall be a quarter of coverage if such wages equal or exceed $100 but are less than $200; (II) the last two quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed $200 but are less than $300; (III) the last three quarters of such year which can be but are not otherwise quarters of coverage shall be quarters of coverage if such wages equal or exceed $300 but are less than $400; and (IV) each quarter of such year which is not otherwise a quarter of coverage shall be a quarter of coverage if such wages are $400 or more;

"(v) no quarter shall be counted as a quarter of coverage prior to the beginning of such quarter;

"(vi) not more than one quarter of coverage may be credited to a calendar quarter; and

"(vii) no more than four quarters of coverage may be credited to any calendar year after 1977.

If in the case of an individual who has attained age 62 or died or is under a disability and who has been paid wages for agricultural labor in a calendar year after 1954 and before 1978, the requirements for insured status in subsection (a) or (b) of section 214, the requirements for entitlement to a computation or recomputation of his primary insurance amount, or the requirements of paragraph (3) of section 216(i) are not met after assignment of quarters of coverage to quarters in such year as provided in clause (iv) of the preceding sentence, but would be met if such quarters of coverage were assigned to different quarters in such year, then such quarters of coverage shall instead be assigned, for purposes only of determining compliance with such requirements, to such different quarters. If, in the case of an individual who did not die prior to January 1, 1955, and who attained age 62 (if a woman) or age 65 (if a man) or died before July 1, 1957, the requirements for insured status in section 214 (a)(3) are not met because of his having too few quarters of coverage but would be met if his quarters of coverage in the first calendar year in which he had any covered employment had been determined on the basis of the period during which wages were earned rather than on the basis of the period during which wages were paid (any such wages paid that are reallocated on an earned basis shall not be used in determining quarters of coverage for subsequent calendar years), then upon application filed by the individual or his survivors and satisfactory proof of his record of wages earned being furnished by such individual or his survivors, the quarters of coverage in such calendar year may be determined on the basis of the periods during which wages were earned.".

(d) The amendments made by subsection (a) shall apply with respect to remuneration paid and services rendered after December 31, 1977. The amendments made by subsections (b) and (c) shall be effective January 1, 1978.

ADJUSTMENT IN AMOUNT REQUIRED FOR A QUARTER OF COVERAGE

SEC. 602. (a) Section 213(a)(2)(A)(ii) of the Social Security Act, as amended by section 601(c) of this Act, is amended by striking out "$250" and inserting in lieu thereof "the amount required for a quarter of coverage in that calendar year (as determined under subsection (e))".

(b) Section 213 of such Act is further amended by adding at the end thereof (after the new subsection added by section 304 of this Act) the following new subsection:

"Amount Required for a Quarter of Coverage

"(e)(1) The amount of wages and self-employment income which an individual must have in order to be credited with a quarter of coverage in any year under subsection (a)(2)(A)(ii) shall be $250 in the calendar year 1978 and the amount determined under paragraph (2) of this subsection for years after 1978.

"(2) The Secretary shall, on or before November 1 of 1978 and of every year thereafter, determine and publish in the Federal Register the amount of wages and self-employment income which an individual must have in order to be credited with a quarter of coverage in the succeeding calendar year. The amount required for a quarter of coverage shall be the larger of—

"(A) the amount in effect in the calendar year in which the determination under this subsection is made, or

"(B) the product of the amount prescribed in paragraph (1) which is required for a quarter of coverage in 1978 and the ratio of the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209 (a)) reported to the Secretary of the Treasury or his delegate for the calendar year before the year in which the determination under this paragraph is made to the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for 1976 (as published in the Federal Register in accordance with section 215(a)(1)(D)), with such product, if not a multiple of $10, being rounded to the next higher multiple of $10 where such amount is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.".

(c) The amendments made by this section shall be effective Jauary 1, 1978.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 603. (a)(1) Section 203(f)(8)(B)(i) of the Social Security Act is amended by striking out "was" wherever it appears and inserting in lieu thereof "is".

(2) Section 203(f)(8)(B)(ii) of such Act is amended to read as follows:

"(i) the product of the exempt amount described in clause (i) and the ratio of (I) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the calendar year before the calendar year in which the determination under subparagraph (A) is made to (II) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year before the most recent calendar year in which an increase in the exempt amount was enacted or a determination resulting in such an increase was made under subparagraph (A), with such product, if not a multiple of $10, being rounded to the next higher multiple of $10 where such product is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.".

(b)(1) The first sentence of section 218(c)(8) of such Act is amended by striking out "quarter" wherever it appears and inserting in lieu thereof "year", and by strikinng out "$50" and inserting in lieu thereof "$100".

(2) Section 218(q)(4)(B) of such Act is amended by striking out "any calendar quarters" and inserting in lieu thereof "a calendar year", and by striking out "such calendar quarters" and inserting in lieu thereof "such calendar year".

(3) Section 218(q)(6)(B) of such Act is amended by striking out "calendar quarters designated by the State in such wage reports as the" and inserting in lieu thereof "period or periods designated by the State in such wage reports as the period or".

(4) Section 218(r)(1) of such Act is amended—

(A) by striking out "quarter" in the matter before clause (A) and inserting in lieu thereof "year",

(B) by striking out "in which occurred the calendar quarter" in clause (A), and

(C) by striking out "quarter" in clause (B) and inserting in lieu thereof "year".

(c)(1) Effective with respect to estimates for calendar years beginning after December 31, 1977, section 224(a) of such Act is amended by striking out the last sentence.

(2) Section 224(f)(2) of such Act is amended to read as follows:

"(2) In making the redetermination required by paragraph (1), the individual's average current earnings (as defined in subsection (a)) shall be deemed to be the product of—

"(A) his average current earnings as initially determined under subsection (a);

"(B) the ratio of (i) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the calendar year before the year in which such redetermination is made to (ii) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for calendar year 1977 or, if later, the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability); and

"(C) in any case in which the reduction was first computed before 1978, the ratio of (i) the average of the taxable wages reported to the Secretary for the first calendar quarter of 1977 to (ii) the average of the taxable wages reported to the Secretary for the first calendar quarter of the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability).

Any amount determined under this paragraph which is not a multiple of $1 shall be reduced to the next lower multiple of $1.".

(d) Section 229(a) of such Act is amended—

(1) by striking out "shall be deemed to have been paid, in each calendar quarter occurring after 1956 in which he" and inserting in lieu thereof ", if he", and

(2) by striking out "wages (in addition to the wages actually paid to him for such service) of $300." at the end thereof and inserting in lieu thereof the following: "shall be deemed to have been paid—

"(1) in each calendar quarter occurring after 1956 and before 1978 in which he was paid such wages, additional wages of $300, and

"(2) in each calendar year occurring after 1977 in which he was paid such wages, additional wages of $100 for each $300 of such wages, up to a maximum of $1,200 of additional wages for any calendar year.".

(e)(1) Section 230(b) of such Act is amended by striking out the last sentence.

(2) Section 230(b)(1) of such Act is amended to read as follows:

"(1) the contribution and benefit base which is in effect with respect to remuneration paid in (and taxable years beginning in) the calendar year in which the determination under subsection (a) is made, and".

(3) Section 230(b)(2) of such Act is amended to read as follows:

"(2) the ratio of (A) the average of the total wages (as defined in regulations of the Secretary and computed without regard to the limitations specified in section 209(a)) reported to the Secretary of the Treasury or his delegate for the calendar year before the calendar year in which the determination under subsection (a) is made to (B) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or his delegate for the calendar year before the most recent calendar year in which an increase in the contribution and benefit base was enacted or a determination resulting in such an increase was made under subsection (a),".

(f)(1) Effective with respect to convictions after December 31, 1977, section 202(u)(1)(C) of such Act is amended by striking out "quarter" wherever it appears and inserting in lieu thereof "year".

(2)(A) Section 205(c)(1) of such Act is amended by striking out "(as defined in section 211(e))".

(B) Section 205(c)(1) of such Act is further amended by adding at the end thereof the following new subparagraph:

"(D) The term 'period' when used with respect to self-employment income means a taxable year and when used with respect to wages means—

"(i) a quarter if wages were reported or should have been reported on a quarterly basis on tax returns filed with the Secretary of the Treasury or his delegate under section 6011 of the Internal Revenue Code of 1954 or regulations thereunder (or on reports filed by a State under section 218(e) or regulations thereunder),

"(ii) a year if wages were reported or should have been reported on a yearly basis on such tax returns or reports, or

"(iii) the half year beginning January 1 or July 1 in the case of wages which were reported or should have been reported for calendar year 1937.".

(C) Section 205(o) of such Act is amended by inserting "before 1978" after "calendar year".

(g) The amendments made by subsection (b) of this section shall apply with respect to remuneration paid after December 31, 1977. The amendments made by subsections (d) and (f)(2) shall be effective January 1, 1978. Except as otherwise specifically provided, the remaining amendments made by this section shall be effective January 1, 1979.

PART B—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

DEDUCTION OF TAX FROM WAGES

SEC. 611. (a) Section 3102(a) of the Internal Revenue Code of 1954 is amended by striking out "or (C) or (10)", and by inserting after "is less than $50;" the following: "and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (7) (C) or (10) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar is less than $100;"

(b)(1) Paragraphs (1) and (2) of section 3102(c) of such Code are each amended by striking out "quarter" wherever it appears and in inserting in lieu thereof "year".

(2) Paragraph (3) of section 3102(c) of such Code is amended—

(A) by striking out "quarter of the" in subparagraph (A); and

(B) by striking out "quarter" wherever it appears in subparagraphs (B) and (C) and inserting in lieu thereof "year".

(c) The amendments made by this section shall apply with respect to remuneration paid and to tips received after December 31, 1977.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 612. (a) Sections 3121(a)(7)(C) and 3121(a)(10) of the Internal Revenue Code of 1954 are each amended by striking "quarter" wherever it appears and inserting in lieu thereof "year", and by striking out "$50" and inserting in lieu thereof "$100".

(b) Section 3121(a) of such Code is amended by striking out "or" at the end of paragraph (14), by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; or", and by adding after paragraph (15) the following new paragraph:

"(16) remuneration paid by an organization exempt from income tax under section 501(a) (other than an organization described in section 401(a)) or under section 521 in any calendar year to an employee for service rendered in the employ of such organization, if the remuneration paid in such year by the organization to the employee for such service is less than $100.'.

(c) Section 3121(b)(10) of such Code (as amended by section 302(e)(4) of this Act) is amended by striking out "(10)(A)" and all that follows down through "(B) service" and inserting in lieu thereof "(10) service", and redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(d) Sections 3121(b)(17)(A) and 3121(g)(4)(B) of such Code are each amended by striking out "quarter" and inserting in lieu thereof "year".

(e) The amendments made by this section shall apply with respect to remuneration paid and services rendered after December 31, 1977.

PART C—CONFORMING AMENDMENT TO THE RAILROAD RETIREMENT ACT OF 1974

COMPUTATION OF EMPLOYEE ANNUITIES

SEC. 621. (a) The last sentence of section 3(f)(1) of the Railroad Retirement Act of 1974 is amended—

(1) by inserting "paid before 1978" after "in the case of wages", and

(2) by inserting "and in the case of wages paid after 1977" before the period at the end thereof.

(b) The amendments made by this section shall be effective January 1, 1978.

TITLE VII—MISCELLANEOUS PROVISIONS

ACTUARIAL REDUCTION OF BENEFIT INCREASES TO BE APPLIED AS OF TIME OF ORIGINAL ENTITLEMENT

SEC. 701. (a) Effective with respect to monthly benefits payable for months after December 1977, section 202(q)(4) of the Social Security Act is amended by striking out all that follows subparagraph (B) and inserting in lieu thereof the following:

"then the amount of the reduction of such benefit (after the application of any adjustment under paragraph (7)) for each month beginning with the month of such increase in the primary insurance amount shall be computed under paragraph (1) or (3), whichever applies, as though the increased primary insurance amount had been in effect for and after the month for which the individual first become entitled to such monthly benefit reduced under such paragraph (1) or (3).".

(b) For purposes of applying section 202(q)(4) of the Social Security Act, as amended by subsection (a) of this section, to monthly benefits payable for any month after December 1977 in the case of an individual who was entitled to a monthly benefit as reduced under section 202(q)(1) or (3) of such Act prior to January 1978, the amount of reduction in such benefit for the first month for which such benefit is increased by reason of an increase in the primary insurance amount of the individual on whose wages and self-employment income such benefit is based and for all subsequent months (and similarly for all subsequent increases) shall be increased by a percentage equal to the percentage of the increase in such primary insurance amount (such increase being made in accordance with the provisions of section 202(q)(8) of such Act). Where such individual's benefit, reduced under section 202(q) of such Act, is increased as a result of the use of an adjusted reduction period or an additional adjusted reduction period (in accordance with paragraphs (1) and (3) of such section 202(q)), then for the first month for which such increase is effective and for all subsequent months, the amount of such reduction (after the application of the previous sentence, if an increase in the primary insurance amount is applicable) shall be determined—

(1) in the case of old-age and spouse's insurance benefits, by multiplying such amount by the ratio of (A) the number of months in the adjusted reduction period to (B) the number of months in the reduction period,

(2) in the case of widow's and widower's insurance benefits for the month in which such individual attains age 62, by multiplying such amount by the ratio of (A) the number of months in the reduction period beginning with age 62 multiplied by $\frac{19}{40}$ of 1 per centum, plus the number of months in the adjusted reduction period prior to age 62 multiplied by $\frac{19}{40}$ of 1 per centum. plus the number of months in the adjusted additional reduction period multiplied by $\frac{43}{240}$ of 1 per centum to (B) the number of months in the reduction period multiplied by $\frac{19}{40}$ of 1 per centum, plus the number of months in the additional reduction period multiplied by $\frac{43}{240}$ of 1 per centum, and

(3) in the case of widow's and widower's insurance benefits for the month in which such individual attains age 65, by multiplying such amount by the ratio of (A) the number of months in the adjusted reduction period multiplied by $\frac{19}{40}$ of 1 per centum, plus the number of months in the adjusted additional reduction multiplied by $\frac{43}{240}$ of 1 per centum to (B) the number of months in the reduction period prior to age 62 multiplied by $\frac{19}{40}$ of 1 per centum, plus the number of months in the adjusted reduction period prior to age 62 multiplied by $\frac{19}{40}$ of 1 per centum, plus the number of months in the adjusted additional reduction period multiplied by $\frac{43}{240}$ of 1 per centum,

with each such decrease being made in accordance with the provisions of section 202(q)(8) of such Act.

(c) When an individual is entitled to more than one monthly benefit under title II of the Social Security Act for any month and one or more of such benefits are reduced under section 202(q) of the Social Security Act, as amended by this Act, subsection (b) of this section shall apply separately to each such benefit before the application of section 202(k) of such Act (pertaining to the method by which monthly benefits are offset when an individual is entitled to more than one kind of benefit), and the application of this subsection shall operate in conjunction with section 202(q)(3) of the Social Security Act.

(d)(1) Section 202(q)(7)(C) of the Social Security Act is amended by striking out "because" and all that follows and inserting in lieu thereof "because of the occurrence of an event that terminated her or his entitlement to such benefits,".

(2) Section 202(q)(3)(H) of such Act is amended by inserting "for that month or" after "first entitled".

ELIMINATION OF CERTAIN OPTIONAL PAYMENT PROCEDURES UNDER THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

SEC. 702. (a)(1) The first sentence of section 202(j)(1) of the Social Security Act is

amended by striking out "An individual" and inserting "Subject to the limitations contained in paragraph (4), an individual" in lieu thereof.

(2) Section 202(j) of such Act is further amended by inserting at the end thereof the following new paragraph:

"(4)(A) Except as provided in subparagraph (B), no individual shall be entitled to benefits under subsection (a), (b), (c), (e), or (f) for any month prior to the month in which he or she files an application for such benefits if the effect of such payment would be to reduce, pursuant to subsection (q), the monthly benefits to which such individual would otherwise be entitled.

"(B)(i) If the individual applying for retroactive benefits is applying for such benefits under subsection (a), and there are one or more other persons who would, except for subparagraph (A), be entitled for any month, on the basis of the wages and self-employment income of such individual and because of such individual's entitlement to such retroactive benefits, to retroactive benefits under subsection (b), (c), or (d) not subject to reduction under subsection (q), then subparagraph (A) shall not apply with respect to such month or any subsequent month.

"(ii) If the individual applying for retroactive benefits is a surviving spouse, or surviving divorced spouse who is under a disability (as defined in section 223(d)), and such individual would, except for subparagraph (A), be entitled to retroactive benefits as a disabled surviving spouse, or surviving divorced spouse for any month before he or she attained the age of 60, then subparagraph (A) shall not apply with respect to such month or any subsequent month.

"(iii) If the individual applying for retroactive benefits has excess earnings (as defined in section 203(f)) in the year in which he or she files an application for such benefits which could, except for subparagraph (A), be charged to months in such year prior to the month of application, then subparagraph (A) shall not apply to so many of such months immediately preceding the month of application as are required to charge such excess earnings to the maximum extent possible.".

(3) Section 226(h) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) For the purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of an individual described in clause (iii) of subsection (b)(2)(A), the entitlement of such individual to widow's or widower's insurance benefits under section 202 (e) or (f) by reason of a disability shall be deemed to be the entitlement to such benefits that would result if such entitlement were determined without regard to the provisions of section 202(j)(4).".

(b) The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed on or after January 1, 1978.

EARLY MAILING OF BENEFIT CHECKS WHERE REGULARLY SCHEDULED DELIVERY DAY FALLS ON SATURDAY, SUNDAY, OR LEGAL HOLIDAY

SEC. 703. (a) Title VII of the Social Security Act is amended by adding at the end thereof the following new section:

"TIME FOR DELIVERY OF BENEFIT CHECKS WHEN REGULAR DELIVERY DAY FALLS ON A SATURDAY, SUNDAY, OR LEGAL HOLIDAY

"SEC. 708. (a) If the day regularly designated for the delivery of benefit checks under title II or title XVI falls on a Saturday, Sunday, or legal public holiday (as defined in section 6103 of title 5, United States Code) in any month, the benefit checks which would otherwise be delivered on such day shall be mailed in time for delivery, and delivered, on the first day preceding such day which is not a Saturday, Sunday, or legal public holiday (as so defined), without regard to whether the delivery of such checks would as a result have to be made before the end of the month for which such checks are issued.

"(b) If more than the correct amount of payment under title II or XVI is made to any individual as a result of the receipt of a benefit check pursuant to subsection (a) before the end of the month for which such check is issued, no action shall be taken (under section 204 or 1631(b) or otherwise) to recover such payment or the incorrect portion thereof.".

(b) The amendment made by subsection (a) of this section shall apply with respect to benefit checks the regularly designated day for delivery of which occurs on or after the thirtieth day after the date of the enactment of this Act.

DEFINITION

SEC. 704. As used in this Act and the amendments to the Social Security Act made by this Act, the term "Secretary" means, unless the context otherwise requires, the Secretary of Health, Education, and Welfare.

The Clerk will now report the amendment recommended by the Committee on Post Office and Civil Service printed in the bill.

Mr. LEVITAS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears. Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

COMMITTEE ON POST OFFICE AND CIVIL SERVICE AMENDMENT

The CHAIRMAN. The Clerk will now report the amendment recommended by the Committee on Post Office and Civil Service, printed in the bill.

The Clerk read as follows:

Committee on Post Office and Civil Service amendment:

STUDY CONCERNING MANDATORY COVERAGE OF FEDERAL EMPLOYEES

SEC. 301. (a) As soon as possible after the date of enactment of this Act, the Chairman of the Civil Service Commission, the Secretaries of the Treasury and Health, Education, and Welfare, and the Director of the Office of Management and Budget, shall jointly undertake and carry out a detailed study with respect to coverage of Federal employees within the old-age, survivors, and disability insurance system.

(b) The study to be undertaken under subsection (a) shall include—

(1) a review of the methods by which full coverage of Federal employees within the old-age, survivors, and disability insurance system could be attained;

(2) an analysis of the adjustments to such system (as well as to the civil service retirement and disability system and other Federal employee retirement systems involved, including the foreign service, judiciary, Central Intelligence Agency, and District of Columbia retirement systems) which are necessary under each such method to provide such coverage, particularly—

(A) adjustments in age, service, and other eligibility requirements; and

(B) adjustments in the nature and level of disability, death, and survivor benefits (taking into account any related factors, such as the taxability of such benefits);

(3) a comparison of the financial aspects of each such method, particularly—

(A) the adjustments required by each such method in the contributions by Federal employees, the Government (whether by specific contribution or by appropriation), and others involved;

(B) the adjustments required by each such method in the manner in which benefits are financed under the retirement systems involved; and

(C) the effects of each such method on the solvency of the retirement systems involved;

(4) the effects of each such method of coverage on—

(A) recruitment and retention of Federal employees;

(B) other employee benefits (such as health benefits coverage provided for civil service annuitants); and

(C) Federal, State, and local income tax systems;

(5) a review of the methods by which partial coverage of Federal employees within the old-age, survivors, and disability insurance system could be attained, together with consideration of the factors described in paragraphs (2), (3), and (4) as they would relate to such partial coverage; and

(6) alternatives to providing coverage of Federal employees within the old-age, survivors, and disability insurance system which would improve the solvency of the old-age, survivors, and disability insurance system.

In connection with such study, interested parties, including Federal employee organizations, associations of retired Federal employees, and heads of agencies administering Federal employee retirement systems, shall be allowed to submit views, arguments, and data.

(c) Upon the completion of the study under subsection (a) and in any event no later than 2 years after the date of the enactment of this Act, the Chairman of the Civil Service Commission, the Secretaries of the Treasury and Health, Education, and Welfare, and the Director of the Office of Management and Budget shall submit to the President and to the appropriate committees of each House of the Congress a joint report on the results of such study together with their recommendations. Any such recommendation which includes adjustments of existing statutes shall be accompanied with draft legislation accomplishing such adjustments.

(d) With respect to Federal employees under the Federal employee retirement systems, the study and the report under this section shall include at least one method of coverage of such employees within the old-age, survivors, and disability insurance system which provides—

(1) that the benefits available to such Federal employees would not be less favorable than the benefits which are then currently available to such employees under the Federal employee retirement systems; and

(2) that the contributions required of such Federal employees would not be greater than the contributions which are then currently required of such employees under the Federal employee retirement systems.

(e) For purposes of this section, the term "Federal employees" means—

(1) an employee, as defined in section 2105 of title 5, United States Code;

(2) an officer or employee of the United States Postal Service or of the Postal Rate Commission; and

(3) any other individual in the employ of the United States or any instrumentality of the United States.

Page 175, line 4, strike out "Federal, State," and insert "State".

Page 175, line 11, strike out "Federal, State" and insert "State".

Page 175 strike out line 15 and all that follows down through line 23.

Page 175, line 24, strike out "(2)(A)" and insert "(1)(A)".

Page 176, line 9, strike out "(3)(A)" and insert "(2)(A)".

Page 176, beginning on line 21, strike out "paragraph (1), (2), or (3)" and insert in lieu thereof "paragraph (1) or (2)".

Page 188, beginning on line 21, strike out "redesignating paragraphs (8) through (20) as paragraphs (5) through (17)" and insert "redesignating paragraphs (7) through (20) as paragraphs (5) through (18).".

Page 189, line 2, strike out "210(a)(6)" and insert "210(a)(7)".

Page 189, line 5, strike out "paragraph (6)" and insert "paragraph (7)".

Page 189, line 9, strike out "210(a)(11)(B)" and insert "210(a)(12)(B)".

Page 189, line 12, strike out "210(a)(13)" and insert "210(a)(14)".

Page 189, line 15, strike out "210(a)(8), (9) or (12)" and insert "210(a)(9), (10), or (13)."

Page 189, line 18, strike out "210(a)(17)" and insert "210(a)(18)".

Page 189, beginning on line 22, strike out "redesignating paragraphs (8) through (20) as paragraphs (5) through (17)" and insert "redesignating paragraphs (7) through (20) as paragraphs (5) through (18)".

Page 190, line 5, strike out "3121(b)(11)(B)" and insert "3121(b)(12)(B)".

Page 190, line 8, strike out "3121(b)(13)" and insert "3121(b)(14)".

Page 190, line 11, strike out "3121(b)(8), (9) or (12)" and insert "3121(b)(9), (10), or (13)".

Page 190, line 14, strike out "3121(b)(17)" and insert "3121(b)(18)".

Page 190, line 18, strike out "(b)(6)" and insert "(b)(7)".

Page 190, beginning in line 22, strike out "(b)(5)' and 'section 210(a)(5)" and insert "(b)(6)' and 'section 210(a6)".

Page 191, beginning in line 2, strike out "3121(b)(6)" and insert "3121(b)(7)".

Page 191, line 7, strike out "210(a)(6)" and insert "210(a)7".

Mr. NIX (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. NIX) will be recognized for 15 minutes, and the gentleman from Oregon (Mr. ULLMAN) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. NIX).

Mr. NIX. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise to urge my colleagues to vote "aye" with regard to the post office and civil service committee amendment to section 301 of H.R. 9346, the "social security financing amendments of 1977". I will be brief since the issue presented by the committee amendment is very simple.

Should we mandate social security coverage for Federal employees effective in 1982 and then attempt to find an equitable way to implement such coverage? Or, should we study the feasibility of mandating such coverage before we mandate the action? It seems to me the clear answer is that a plan for achieving coverage for Federal employees should be found before such coverage is required by law.

This is what our committee amendment provides. We do not take the position that mandatory social security coverage for Federal employees per se is bad. We simply do not know whether such coverage can be attained in a manner which is fair and equitable to the Federal employee and the taxpayer, and in addition, which is not more costly than the present separate systems.

What our committee requires is that a feasibility study be conducted by the Chairman of the Civil Service Commission and the Secretary of Health, Education, and Welfare (the heads of the two agencies which administer the two largest systems), and in addition, by the Secretary of Treasury and the Director of the Office of Management and Budget. The study is required to be completed within 2 years and is required to include a number of alternative methods by which social security coverage for Federal employees may be attained.

I point out for the Members that our committee ordered reported H.R. 9346, by unanimous voice vote, and the committee amendment to section 301 which strikes the mandatory coverage provisions and inserts in lieu thereof a requirement for a feasibility study was adopted by a record vote of 25 to 0. The committee has also received a letter from the Chairman of the Civil Service Commission indicating that the administration agrees with the committee amendment and supports the approach which it takes.

Mr. Chairman, the modified closed rule, under which this bill is being considered, makes in order not just the Post Office and Civil Service Committee amendment which deletes the mandatory coverage provisions for Federal employees, but also a substitute amendment to be offered by the gentleman from Virginia (Mr. FISHER) which expands upon the Post Office and Civil Service Committee amendment. Mr. FISHER's amendment, which is patterned after our amendment, would delete those provisions requiring mandatory coverage for State and local employees and nonprofit organizations. Our committee has taken no formal action with respect to the Fisher amendment since it relates to matters beyond our jurisdiction. I intend to support Mr. FISHER's substitute and I urge my colleagues to do likewise. In any event, however, I urge my colleagues to vote "aye" with respect to the Post Office and Civil Service Committee amendment which excludes Federal employees from mandatory social security coverage.

Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, I rise in support of the amendment adopted by a 25-to-0 vote by the Committee on Post Office and Civil Service Committee. The purpose of our committee amendment is simple and direct.

It strikes from H.R. 9346 those provisions mandating social security coverage for Federal employees. Let me emphasize as strongly as I can, the Post Office and Civil Service Committee amendment is not an attempt to prejudge the issue by dismissing it without benefit of hearing. What we are saying is that mandating social security coverage for Federal employees, at this time, is wrong since no one in this Chamber has any proof such a plan is workable.

Our committee amendment makes no determination now as to the efficacy of mandatory coverage for Federal employees. Instead, we direct the Chairman of the Civil Service Commission, Secretary of Health, Education, and Welfare, Secretary of Treasury, and Director of the Office of Management and Budget to conduct a comprehensive study on all aspects and consequences of this issue. Under our amendment, if an equitable and viable method of integrating the social security and Federal retirement systems can be arrived at, then the Congress will have the opportunity to enact proper law.

If social security coverage is to be extended, commonsense dictates the need for a careful review and study of how the various retirement systems for Federal employees are to be restructured. If such a system is feasible, will there be dual payments? How will integration of the systems be effected? These are but two of numerous questions which have to be answered intelligently before we tell Federal employees they are being placed under social security coverage.

The Committee on Ways and Means itself has made a good case for this amendment. In its report on H.R. 9346, the committee says there is not enough evidence available at the present time to make a proper determination as to whether social security coverage for various groups of individuals is appropriate.

Perhaps a solid case can be made for extending social security coverage to all Federal employees. On the other hand, there is a possibility a solid case can be made against such coverage.

All we are saying is that the issue should be studied carefully, before we jump off the deep end and discover there is no water in the pool.

Mr. Chairman, this specific committee amendment has been debated most of the afternoon, so I think the only appropriate thing is to sum it up. What we are trying to do is to see that the cart is not put before the horse.

The committee amendment provides for a necessary study so that if the Members should decide that the Federal civil service employees should be brought under social security, they would at least have the results of that study on which to base their judgment. As it stands now, we are telling the Federal employees, "Look, by 1982 you will be arbitrarily brought under this joint coverage. We

do not know what the conditions will be, we do not know how it will affect you individually, we do not know how much more you will have to contribute, what your benefits may or may not be." So the Members can imagine that almost 3,000,000 people are thoroughly up in arms because of the unknown factors.

Our committee position is rational, it is practical, it is consistent with sound legislative procedures.

With all due respect, our friends on the Committee on Ways and Means have been playing with too many mirrors and not dealing with enough facts and figures lately. So the Post Office and Civil Service Committee amendment is designed to see that the legislative procedure is sound, that the fears of Federal employees are not exaggerated, that they have answers to their questions in the best legislative tradition.

I urge the Members to support the Post Office and Civil Service Committee amendment.

Mr. GEPHARDT. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, I had not planned on speaking so soon. I was hoping we would have more than a corporal's guard here; but this is a pretty good guard, so I will fire away.

First of all, Mr. Chairman, I am opposed to this amendment and to the Fisher amendment, and I want to lay it on the line why I am opposed to it.

Some people say that this is brandnew, they never heard of universal coverage before, that this is a great surprise. It is a well-kept secret around here, but it is not a great surprise that people have been studying this issue ever since 1935, and ever since 1935 everyone who has ever studied the issue, inside the Government and outside the Government, every objective study has come down to the fact that there ought to be universal coverage for all people under the social security system. No ifs, no ands, no buts. That has always been the decision. It is no surprise. It is something that has been studied and talked about, and it is not new.

Why do certain people not want to come under the system? Well, they have the benefits anyway. As I told the Members here in the opening debate on this matter, for a contribution of as little as $111 in a lifetime—not in a month, not in a year, but in a lifetime—these people who are not now in the system get the benefit of the system, and they can take out in cash, just for one retiree—not for a retiree and spouse, but just for one retiree—$114 in a month. So they put in $111 in a lifetime, and they take out $114 the first day they retire. And if they are lucky enough to have a spouse the same age, they get 50 percent more. In addition to that, they get medicare for life. In addition to that, they get disability insurance for life. Sure, they do not want to come into the system. They have the best of all worlds. Who is paying for this great benefit? Those other poor suckers out there who are paying social security tax that we make them pay every year.

Are the Members in this room paying social security tax? Hell no, they are not. But there are those who have the gall to sit here and raise taxes. The only tax we have ever raised since I have been in Congress, and for about 40 years, year after year after year, and not pay 1 cent of social security taxes in ourselves.

Do the Members know how much this bill is going to increase taxes of working people in 1982? In 1983?

It is going to increase their taxes by $54 billion.

No, they do not want to come in. I do not blame them. If I had a "sweetheart" deal like that, if I was making a sucker out of the other taxpayers in the country, I would not want to come in either.

That is what the issue is, and that is what we are voting for if we vote for this amendment or if we vote for the Fisher amendment.

Mr. Chairman, I will now answer any questions any Member might have.

Mr. CARTER. Mr. Chairman, if the distinguished gentleman will yield, the gentleman made the statement that no Member in this House pays social security taxes.

Mr. GIBBONS. We are not paying it on our congressional salary.

Mr. CARTER. I want to tell the gentleman that some of us are paying social security. For many years I have paid social security.

Mr. GIBBONS. The gentleman is not paying it on that $57,500 congressional salary he is getting, though.

I am paying the social security tax, too, but I did not want to use myself as an illustration. I pay the tax, but there are doggone few of us who pay it. We could count the number who pay it on two hands.

Mr. CARTER. I just wanted to correct the gentleman. I might add that I never expect to collect 10 percent of that which I have paid in.

Mr. GIBBONS. Let us face it, if we adopt either this amendment or the Fisher amendment, it is not you or I who are going to pay more social security taxes into that system that we stuck on everybody else. No, we are not going to pay anything from that $57,500 into that social security system, but everybody else has to, except a few Federal employees and a few State and local employees.

All the soldiers and sailors and airmen are covered by social security. We have already required them to contribute, but we are going to make sacred cows out of ourselves and out of a few privileged Federal employees and out of a few privileged local and State employees who get the benefits anyway. That is all the issue is.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Arkansas (Mr. TUCKER).

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, while I admire the spirit of my friend, the gentleman from Florida (Mr. GIBBONS), I think he overstates the case to some degree.

I would hope the Federal employees do not get the message that there is no benefit to them in coming into the system on an integrated basis such as the Committee on Ways and Means contemplates. I think there are very substantial benefits to them, and that it makes a good deal more sense for everybody concerned than does the present two headed system that we have, each system functioning as though the other did not exist. They could be fitted together to provide more predictable and more natural benefits, fairer to all including the very same Federal employees who are now so suspicious and resistant.

Mr. TUCKER. Mr. Chairman, I thank the gentleman for his comments, and I agree with him.

Mr. Chairman, as a member of the Subcommittee on Social Security, I would like to point out a few of the basic facts involved with each of these amendments.

Seventy percent of our State and local government employees are, at their option, already covered by social security. Ninety percent of our nonprofit employees are already covered by social security, at their option. The Federal employees represent the only group that is not covered at all and have neither the obligation to be covered nor the opportunity to be covered under existing law.

Out of all the existing social security annuitants, 45 percent are currently receiving social security benefits. Some have worked only the minimum number of quarters to qualify. They did not do anything illegal, they did not do anything wrong, but nonetheless they place a great burden on the social security system which is not justified, and is not fair to other workers paying social security taxes.

Looking at ourselves as Members of Congress, we do not pay social security taxes on our $57,500 salary. That is not right. We have as fat a retirement system as anybody in the country. We ought to pay social security taxes on our salary, especially since we require everybody else to pay.

My wife is a schoolteacher in Arkansas, and she paid 6 percent each month into her teachers' retirement system; she also paid social security taxes. There are millions and millions of Americans who pay into pension systems, private pension systems and State pension systems, who also pay social security taxes.

The subcommittee provided that there would be a study, just as the gentleman from Virginia (Mr. FISHER) is suggesting in his amendment. The report that is due back would be forthcoming in 1980, and implementation of coverage would come in 1982. That is a reasonable approach.

Mr. Chairman, it is an approach which I do not think will pass today. I recognize that the Fisher amendment probably will pass. However, I hope all of us will recognize that this is something that has been recommended for a decade. It is

fair. It is not designed to hurt anybody; it is not designed to take any money out of the three trust funds, but it is a question of equity.

Mr. Chairman, if we do not do it this year, I hope all of us will recognize that it is something which should be done within the next 2 years.

Mr. NIX. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Chairman, it was my privilege to serve as chairman of the Retirement and Employee Benefits Subcommittee during the 94th Congress. In that capacity, I was astonished to discover that there are in existence 51 separate Federal retirement systems. One of my last actions as chairman of the subcomittee was to request that the General Accounting Office conduct an in-depth feasibility study to determine the possibility and the advisability of combining all of these fragmented systems. This report is due in February of 1978, and it quite obviously will provide us with much valuable information which will reflect directly on the proposition we are discussing today. Before adopting the committee's mandatory inclusion of Federal employees under social security, there are a number of questions that must be asked. I suggest that the Post Office and Civil Service amendment or the Fisher amendment certainly must be adopted until we have had a chance to study the results of the GAO study, and then to pursue additional Post Office and Civil Service Committee studies into the matter.

A proposal as drastic and consequential as combining the Federal retirement system with the social security system ought not to be accomplished willy-nilly. We need to know the answers to many profound questions in advance.

For example:

First. Will financial problems of the social security fund be resolved by integrating the two systems?

Chairman NIX points out in his letter to Chairman ULLMAN of Ways and Means that universal coverage provisions of the Ways and Means Committee bill does not rule out some future merger of the financial assets of the two systems. The Federal civil service retirement fund has $43 billion in assets, but also an unfunded liability of $107 billion.

Second. Can we insure, without studying the meshing in further detail, that cost to the Federal Government will not be larger if the merger is effected?

FISHER points out in the Ways and Means Committee report, in dissenting views, that the revenue to the OASDI system expected to come from universal coverage in 1982 is $13.5 billion. Because this tax is shared equally by employer and employee, half of this revenue will have to come from Federal Treasury—and State and local treasuries, if coverage extends to employees of State and local governments. This would seem to necessitate an increase in Federal income taxes, or in the deficit.

Chairman NIX estimates that an additional budgetary outlay of $2.6 billion in 1980 would be required.

How do we protect individual's rights and benefits under universal coverage?

First. If universal coverage is approved, Federal employees—who now pay 7 percent of their gross salary for retirement benefits—would pay an additional 5.1 percent in 1980. An employee earning $12,000 a year would pay $1,440 or 12 percent of his salary for social security and Federal retirement.

Second. Would Federal employees become eligible for medicare, as provided to social security beneficiaries? If so, the Federal employees health benefits program would have to offer a medicare supplement plan for all retirees, and for employees at age 65—Federal retirees now pay $20 and more a month for continuation of health benefits policies.

Third. Federal employees eligibility for workers compensation benefits, as currently provided under Federal retirement, would have to be modified to comply, with different disability benefits under OASDI. Disability under social security can be paid for a lifetime, with medical care in addition, for a worker with as few as six quarters employment subject to social security tax. Federal worker now does not get disability until he has been in Federal retirement program for 5 years, and benefits are lower.

Fourth. Civil service retirement benefits are subject to Federal income tax while social security benefits are not. An integration of the systems would be likely to have significant tax consequences for both employees and the Government as employer.

Fifth. Civil service retirement benefits can be refunded, while social security benefits may not. Will Federal employees continue to be able to withdraw retirement funds and still qualify for social security?

Sixth. For persons who have acquired a fully insured social security benefit prior to becoming Federal employees, will they lose the benefit which they have already earned?

Seventh. In the event that Federal employees are still eligible to retire under current provisions of civil service retirement law after having been covered under social security, would the annuity be treated as earnings for the purpose of the earnings limitation under social security? If so, this could effectively bar any receipt of social security until age 72, at least.

Further questions of intent: First. If section 301a of the Ways and Means Committee bill is enacted, it would allow for social security performed in a Federal penal institution by an inmate, which would then make inmates eligible: to receive credit for past service performed while serving time in a Federal prison. For example, an individual serving a life sentence could begin drawing social security benefits at age 65, and receive retroactive quarter of coverage credit for prior time served.

Second. Mandatory coverage would bring under social security the President and Vice President, and Members of Congress—this action should certainly not be effected without careful study.

It would also bring Federal judges under social security, such an action would have to be examined for its constitutionality, as it may constitute an unconstitutional reduction in pay for sitting judges under the meaning of article III, section 1 of the Constitution, which provides that "the judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office."

Major changes in the civil service retirement system have always followed adequate congressional and administrative study. The Civil Service Retirement Act of 1956 followed a comprehensive study of the civil service retirement systems and the needs for refinancing the fund. The Civil Service Retirement Amendments of 1969 followed the report of the Cabinet Committee on Federal Staff Retirement Systems of 1966.

Therefore, the complexities of the retirement system mandates the thorough study of ways in which the two systems could be meshed, and the consequences of such an action, prior to the formal integration of the two systems. It would be irresponsible to legislate the conversion of such a complex retirement system without first laying a firm foundation for conversion.

Mr. NIX. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Chairman, I rise in support of the amendment of the Committee on Post Office and Civil Service.

Actually, what we are asking here is no drastic change. We are not saying, "Don't put Federal employees under social security." I hope everybody understands that.

What we are saying, Mr. Chairman, is, "Let us look into the feasibility of it. Let us find out what is involved here so that the study in 1980 does not merely come in with a way of putting them together, but tells us also whether this step should be taken and what it will cost the taxpayers."

Mr. Chairman, there are people who think that Federal employees do not want to come into the system. The fact of the matter is that they do not know, and neither do we in this House know whether coverage under social security will be beneficial or harmful to them or to the taxpayers generally.

We are not proposing the upsetting of any timetable. We are just requiring that the 1980 study be a comprehensive study which determines the feasibility of combining the systems. And then, if it is determined that the Nation will benefit from combining the systems and that it will not cause the social security system to go further down into the hole, the program could be carried out by 1982. The timetable will be the same.

We would merely be acting intelligently—acting on the basis of sound information and understanding the consequence of our acts.

The Ways and Means Committee is opting for a "quick fix and the future be

damned." We are not junkies seeking a quick shot in the arm just so we can feel better for the moment regardless of the fact that in the long run we may be worse off. We are responsible legislators. It is important that we know what we are doing and do it right for a change.

Mr. NIX. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I rise in favor of both the Post Office and Civil Service Committee amendment and the Fisher amendment. I would like to briefly discuss a few issues that have been raised by those who oppose the Fisher amendment and said so. First of all, the claim has been made that Federal, State, and local employees are somehow presently sneaking into the social security system. They are not. They come in the same way that anybody else enters the system, and if they get 40 quarters of eligibility, they qualify.

If you do not like the way people can qualify on a minimum basis, then you are the Committee on Ways and Means; change the requirements if you think they are too minimal. Do not come here and tell us they are sneaking in. They are not coming in any differently than anybody else in this country, so do not give me this garbage that Federal, State, and local employees are sneaking around the corner to get in the system. They are not. They are paying the same as every other constituent that you have, as long as they are in the system under coverage.

Second, you ask why the Federal, State, and local employees are different? They are not different. If you do not like it, change the law. You are the committee. You change it.

What the real purpose of the committee amendment is is to get huge new revenues. That is what we need, because the system is in trouble. You want to grab this group of 6.7 million people—they are not all Federal employees; there is a small group of nonprofit people, too, you want to grab this new group because the system is in trouble. It is financially in trouble, like New York City. So we are going to grab a group over here that has a good system, pull them in, dump them into the system, and make them pay for all the problems that this Congress has created by not correcting the financing and benefit levels of the system before this.

Mr. ULLMAN. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Chairman, I can understand the distinguished gentleman from California (Mr. ROUSSELOT) urging that we let this system continue with those people in it who want to be in it and those people who do not want to be in not coming in. It is consistent for him to go back to 1964 when his candidate for President made that a national referendum issue.

What I do not understand is the people on the other side of the fight who seem to be now adopting this proposition.

I received a lot of telegrams and letters from schoolteachers and Federal employees and firemen and policemen who say, "Let social security be voluntary." But we made the opposite decision in 1964. We made that decision in 1932, as a matter of fact. We renewed it in 1964. It seems to me it comes with no grace for some people to accept the premise that social security is the bedrock of the national entire pension system for everybody else but them.

The Members have heard that we are going to "dump" people into the system, that this is precipitous, that this is a sneak play. In 1932 the first proposal for social security included Federal employees and sought to include as may local and State employees as they then thought the Constitution would permit them to include. That is 50-some-odd years ago, because the proposal that the Committee on Ways and Means has come up with does not take effect until 1982, 4 years hence. That hardly sounds like some kind of sneak play behind the door, as far as I can see.

We are going to have another study. Maybe this study could compile all of the previous studies that we have had. There are at least a dozen major studies that have been made on this question, and it would be helpful to dust them all off the shelf and bring them all to our attention again, because nothing new is going to be found in this study that was not found in the 12 earlier studies.

I confess that I can count the bumps on my head from all the mail and telephone calls I have received, and I am sure that my colleagues have received as many. This Member will not take up the cudgels again if and when the Fisher amendment is adopted, or the Civil Service Commitee amendment is adopted. I will let somebody else bring about that premise that everybody agrees on but nobody wants to do anything about.

But in the meantime, perhaps without all of the zeal that my colleague the gentleman from Florida has, I do think we ought to realize what we are doing to the millions and millions of employees who have no option. We do not tell them: "You can pay in if you want, and if not go get a private plan instead." We tell them they must pay and we are increasing the rate both by this bill and by existing law by a very hefty bite out of their paychecks every week. Everyone under 30 thinks he is supporting everybody over 30 in this country. When we see the size of the bite coming out of their paycheck, we cannot blame them.

We say we will shore it up, beef it up, and all of those things in this bill that I support, and then we say to a group of employees: "You put up enough of a lobbying effort and enough ruckus and we will continue giving you the pass that we have given you all these years."

I say to my friend, the gentleman from California, he is consistent, but some of my other friends are inconsistent. It seems to me they are promoting a high degree of inequity and unfairness in asking some people to pay for what others get.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, is it not true that people now paying taxes into the social security system are paying for the current beneficiaries? Social security is not an actuarially sound insurance and pension plan because those who pay social security currently have no guarantee that they will receive the benefits that the Government leads them to believe money is now being accumulated to protect those later payments.

Mr. MIKVA. It is an inequitable system.

Mr. NIX. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman for yielding.

I would like to sum up by saying three things.

First. This is a bipartisan effort. The effort for universal coverage was recognized both on the Republican side of the aisle and the Democrat side of the aisle in the subcommittee and has great support on both sides.

Second. The difference between the committee bill and the Fisher amendment is very simple. The committee bill calls for a commitment to universal coverage with a study of how it is to be done. The Fisher amendment or the Nix amendment would call for a study with a faint hope that it could ever happen. The reason is that the Federal and State and local government employees do not now nor in the future will want to give up the benefit and privilige they have today of being able to double-dip. It is a privilege or benefit no one would not want to give up.

Mr. NIX. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, I rise in support of the Post Office and Civil Service Committee amendment to the original bill to exclude Federal employees from mandatory coverage and in opposition to the Fisher substitute that is going to be introduced in a few moments.

It is important to understand the difference in the approach taken by the amendment originally offered by the gentlewoman from Maryland (Mrs. SPELLMAN) in the committee and the Fisher approach.

We had a nice clean amendment, which Members will find printed in the bill, which simply said that we study first and then make up our minds what we are going to do after we get this study, while the Ways and Means Committee said we should make up our minds first and then study and try to find the rationale for why we did it. That is mandating coverage for Federal employees.

Now the Fisher amendment comes along and wraps this amendment into a totally different approach with State, county, and local government employees and nonprofit organization employees. While a very few Federal employees are presently covered by social security in

their full-time employment and regular employment, that is not the case with State, county, and municipal employees or with the employees of nonprofit organizations. The overwhelming majority of those employees are presently covered under what is referred to as an optional plan.

We should keep in mind the present law is not optional for the employee; it is optional only for the employer. We have been receiving a lot of material from the National League of Cities and the Conference of Mayors and other groups. Remember, we are receiving their impression of what they want to do with respect to coverage as employers. We are not hearing from the employees of the State and local governments. From what I have been able to determine, the employees do in fact want to be covered by social security as in fact most of them are now.

The Fisher amendment also will leave you voting for an increase over and above the committee bill in the tax to be collected from every other wage earner in the country and virtually guarantees that the study in 2 years will not produce coverage for public employees, even though Mr. FISHER has stated here that he believes that coverage of Federal, State, and local employees will follow the study in his amendment.

Mr. NIX. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. HARRIS).

SOCIAL SECURITY COVERAGE OF FEDERAL EMPLOYEES SHOULD BE REMOVED FROM THE BILL

Mr. HARRIS. Mr. Chairman, the social security financing bill, as reported from the House Ways and Means Committee, has thrown the Federal employee's retirement future into a tailspin. Although the committee has not touched the civil service retirement program, the bill's provision mandating social security coverage of all Federal employees, is an irresponsible and heavyhanded action raising more questions than it answers.

The committee has included several provisions to restore financial soundness to the shaky social security program and I believe many of the provisions in the bill are good news for the current and future social security recipients. However, the mistake the committee made was to put Federal workers into social security without determining whether or how social security would be coordinated with the Federal retirement program.

COMPLICATIONS OF COORDINATION NOT ANSWERED

Many fundamental questions have to be answered, for example:

Are the underlying purposes of these two different programs compatible? The civil service retirement program was created by Congress in 1920 to provide a full retirement income based on salary and years of service; the social security program was established in 1933 as an income assistance program to supplement the earnings or savings of those who otherwise might not be able to support themselves.

What incentives should be provided in a retirement program to attract and retain quality Federal personnel and to keep retirement benefits for civil service employees competitive with private industry? The civil service retirement program has been a primary employment benefit provided to attract and retain high-caliber personnel. Our Federal personnel policies should be in the forefront of the Nation's employment practices. We want the best individuals possible to administer our Federal laws and programs. An adequate retirement program is a prime attraction to Federal service.

Does the provision mandating social security coverage without addressing what will happen to the Federal retirement program "break faith" with employees? A sudden change in the employee's benefit package contradicts the agreed-upon terms of employment. The biggest problem created by the bill is the "fear of the unknown." Not knowing what lies down the road; whether one's retirement is secure and retirement income predictable could inspire a mass exodus from the Federal service and induce employees into early retirement. It is not fair to employees to leave them up in the air.

How will the differing employee contribution rates, 7 percent for Federal retirement, 6.05 percent for social security in 1978 under the bill, and the years-of-participation requirements, 5 for Federal employees and 1½ years for social security for minimum benefits, be treated? The Federal employee who has 15 or 20 years of Federal service and has contributed 7 percent of his or her salary for those years has good reason to question what will happen under this bill, in my view. It is imperative that we protect the employee's vested pension rights.

What about health benefits, how will they be affected? Social security recipients also receive medicare, but Federal retirees do not. They sometimes pay more than 50 percent of the cost of their private health insurance which these days in a place like Washington, D.C., can be as much as $50 a month.

There are other issues to resolve as well, such as survivor benefits, disability benefits, taxation of pensions—civil service annuities are taxed; social security benefits are not—and the outside earnings limitation—under the bill, social security recipients could earn up to $4,000; civil service retirees have no such limitation on earnings. My point here is that the bill mandates a conclusion without justifying or fully exploring the merit of that conclusion. That is why I contacted every member of the Social Security Subcommittee the day after they acted, urging them to reverse their action.

LEAVES THE EMPLOYEE IN THE DARK

Perhaps the gravest result of the Ways and Means Committee action is the fact that the bill leaves the Federal employee in the dark. People take Federal jobs and enter into an employer-employee agreement. Retirement benefits are an important part of that agreement. As an employer, it is not fair for us to throw those benefits into the turmoil of uncertainty. That is precisely what this bill has done.

For these reasons—and to get my questions answered—I support the amendment offered by the House Post Office and Civil Service Committee, on which I serve, and the amendment offered by my colleague from Virginia (Mr. FISHER). These amendments would eliminate the mandatory coverage provision of the bill and call for the type of study we need to resolve the many questions posed here today. We must not break faith with our Federal employees. We must offer Federal workers a sound retirement package in return for their years of dedicated public service and their payments out of their own pockets for their retirement.

AMENDMENT OFFERED BY MR. FISHER AS A SUBSTITUTE FOR THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE AMENDMENT

Mr. FISHER. Mr. Chairman, I offer an amendment as a substitute for the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. FISHER as a substitute for the Committee on Post Office and Civil Service amendment:

Strike out sections 301 through 304 (beginning on page 164, line 20, and ending on page 176, line 25), and insert in lieu thereof the following:

STUDY CONCERNING MANDATORY COVERAGE OF FEDERAL EMPLOYEES

SEC. 301. (a) As soon as possible after the date of the enactment of this Act, the Chairman of the Civil Service Commission, the Secretaries of the Treasury and Health, Education, and Welfare, and the Director of the Office of Management and Budget shall jointly undertake and carry out a detailed study with respect to coverage of Federal employees within the old-age, survivors, and disability insurance system.

(b) The study to be undertaken under subsection (a) shall include—

(1) a review of the methods by which full coverage of Federal employees within the old-age, survivors, and disability insurance system could be attained;

(2) an analysis of the adjustments to such system (as well as to the civil service retirement and disability system and other Federal employee retirement systems involved, including the foreign service, judiciary, Central Intelligence Agency, and District of Columbia retirement systems) which are necessary under each such method to provide such coverage, particularly—

(A) adjustments in age, service, and other eligibility requirements; and

(B) adjustments in the nature and level of disability, death, and survivor benefits (taking into account any related factors such as the taxability of such benefits);

(3) a comparison of the financial aspects of each such method, particularly—

(A) the adjustments required by each such method in the contributions by Federal employees, the Government (whether by specific contribution or by appropriation), and others involved;

(B) the adjustments required by each such method in the manner in which benefits are financed under the retirement systems involved; and

(C) the effects of each such method on the solvency of the retirement systems involved;

(4) the effects of each such method of coverage on—

(A) recruitment and retention of Federal employees;

(B) other employee benefits (such as health benefits coverage provided for civil service annuitants); and

(C) Federal, State, and local income tax systems;

(5) a review of the methods by which partial coverage of Federal employees within the old-age, survivors, and disability insurance system could be attained, together with consideration of the factors described in paragraphs (2), (3), and (4) as they would relate to such partial coverage; and

(6) alternatives to providing coverage of Federal employees within the old-age, survivors, and disability insurance system which would improve the solvency of the old-age, survivors, and disability insurance system.

In connection with such study, interested parties, including Federal employee organizations, associations of retired Federal employees, and heads of agencies administering Federal employee retirement systems, shall be allowed to submit views, arguments, and data.

(c) Upon the completion of the study under subsection (a) and in any event no later than 2 years after the date of the enactment of this Act, the Chairman of the Civil Service Commission, the Secretaries of the Treasury and Health, Education, and Welfare, and the Director of the Office of Management and Budget shall submit to the President and to the appropriate committees of each House of the Congress a joint report on the results of such study together with their recommendations. Any such recommendation which includes adjustments of existing statutes shall be accompanied with draft legislation accomplishing such adjustments.

(d) With respect to Federal employees under the Federal employee retirement systems, the study and the report under this section shall include at least one method of coverage of such employees within the old-age, survivors, and disability insurance system which provides—

(1) that the benefits available to such Federal employees would not be less favorable than the benefits which are then currently available to such employees under the Federal employee retirement systems; and

(2) that the contributions required of such Federal employees would not be greater than the contributions which are then currently required of such employees under the Federal employee retirement systems.

(e) For purposes of this section, the term "Federal employee" means—

(1) an employee, as defined in section 2105 of title 5, United States Code;

(2) an officer or employee of the United States Postal Service or of the Postal Rate Commission; and

(3) any other individual in the employ of the United States or any instrumentality of the United States.

STUDY CONCERNING MANDATORY COVERAGE OF STATE AND LOCAL EMPLOYEES

SEC. 302. (a) As soon as possible after the date of the enactment of this Act, the Chairman of the Civil Service Commission, the Secretaries of the Treasury and Health, Education, and Welfare, and the Director of the Office of Management and Budget shall jointly undertake and carry out a detailed study with respect to coverage of all State and local government employees within the old-age, survivors, and disability insurance system.

(b) The study to be undertaken under subsection (a) shall include—

(1) a survey of the several States and their political subdivisions with the objective of determining—

(A) the types and coverage patterns of the various State and local retirement and disability systems now in existence,

(B) the categories of employees within each such State and locality not now covered under the old-age, survivors, and disability insurance system,

(C) the methods available in each such State and locality for financing full participation in the old-age, survivors, and disability insurance system,

(D) the financial ability of the various States and localities to participate in such system, and the ability of the Federal Government to require and administer such participation, and

(E) any special conditions or situations existing in particular States and localities which might cause problems in connection with the mandatory coverage of all their employees under the old-age, survivors, and disability insurance system;

(2) a review of the methods by which full coverage of all State and local employees within the old-age, survivors, and disability insurance system might be attained;

(3) an analysis of the kinds of adjustments to existing State and local retirement and disability systems which would be necessary under each such method to make effective provision for such coverage;

(4) a comparison of the financial aspects of each such method, particularly with reference to the ability of the various States and localities to bear the costs of participation in the Federal system on a mandatory full-coverage basis;

(5) the effects of each such method of coverage on existing coverage of State and local employees under their own retirement and disability systems;

(6) a survey of the legal and constitutional barriers to full participation in the Federal system, or to making the necessary adjustments to their own retirement and disability systems, which may exist in the various States and localities; and

(7) an analysis of the identifiable problems which may exist in particular States and localities in connection with the mandatory coverage of their employees under the old-age, survivors, and disability insurance system, with emphasis upon the special problems involved in returning employees to coverage under such system in States and localities whose employees were formerly covered pursuant to State agreement but which have heretofore elected to terminate such coverage.

In connection with such study, interested parties, including State and local employee organizations, associations of retired State and local employees, and heads of agencies administering State and local employee retirement systems, shall be allowed to submit views, arguments, and data.

(c) Upon the completion of the study under subsection (a) and in any event no later than 2 years after the date of the enactment of this Act, the Chairman of the Civil Service Commission, the Secretaries of the Treasury and Health, Education, and Welfare, and the Director of the Office of Management and Budget shall submit to the President and to the appropriate committees of each House of the Congress a joint report on the results of such study together with their recommendations. Any such recommendation which includes adjustments of existing Federal statutes shall be accompanied with draft legislation accomplishing such adjustments.

Strike out section 313 (beginning on page 188, line 18, and ending on page 191, line 9).

Redesignate sections 305 through 312 as sections 303 through 308, respectively.

Conform the taole of contents (on page 117).

* * * * *

Page 225, lines 12 and 13, strike out "(as amended by section 302(d)(3) of this Act)".

Page 232, line 9, strike out "(e)" and insert in lieu thereof "(d)".

Page 232, lines 11 and 12, strike out "(after the new subsection added by section 304 of this Act)".

Page 232, line 14, strike out "(e)" and insert in lieu thereof "(d)".

Page 242, lines 1 and 2, strike out "(as amended by section 302(e)(4) of this Act)".

* * * * *

Page 119, line 18, strike out "5.15 percent" and insert in lieu thereof "5.25 percent".

Page 120, line 2, strike out "5.45 percent" and insert in lieu thereof "5.55 percent".

Page 120, line 4, strike out "6.00 percent" and insert in lieu thereof "6.10 percent".

Page 120, lines 16 and 17, strike out "5.15 percent" and insert in lieu thereof "5.25 percent".

Page 120, line 20, strike out "5.45 percent" and insert in lieu thereof "5.55 percent".

Page 120, line 22, strike out "6.00 percent" and insert in lieu thereof "6.10 percent".

Page 121, line 14, strike out "7.70 percent" and insert in lieu thereof "7.90 percent".

Page 121, line 18, strike out "8.20 percent" and insert in lieu thereof "8.30 percent".

Page 121, line 21, strike out "9.00 percent" and insert in lieu thereof "9.15 percent".

Page 125, line 25, strike out "$27,900" and insert in lieu thereof "$29,700".

Mr. FISHER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The CHAIRMAN. The gentleman from Virginia (Mr. FISHER) will be recognized for 15 minutes and the gentleman from Oregon (Mr. ULLMAN) will be recognized for 15 minutes.

The Chair now recognizes the gentleman from Virginia (Mr. FISHER).

Mr. FISHER. Mr. Chairman, I have an amendment which I want to offer as a substitute for the Post Office and Civil Service Committee amendment to the social security financing bill. My amendment incorporates all the provisions of the Civil Service Committee amendment, but goes further. The purpose of my amendment is to strike the provisions requiring all Government employees and employees of nonprofit organizations to be covered by social security. The current law, under which Federal employees are not covered and employees of State and local governments and nonprofit organizations are covered as groups under voluntary agreements, would remain in effect.

In addition to striking universal coverage, my amendment will require studies concerning mandatory coverage of Federal and State and local government employees to be conducted jointly by the Civil Service Commission, Departments of Treasury and Health, Education, and Welfare, and the Office of Management and Budget. The results of these studies will be reported back to Congress in 2 years. In the case of Federal employees, a plan for coordinating social security with existing retirement systems would be prepared for the Congress to consider and act on. The plan for coordinating social security and the civil service retirement system must include a method which will make Federal employees no worse off than they would be under the existing system, in terms of

costs and benefits. The amendment also includes a small standby payroll tax increase and wage base increase to be effective in 1981—0.1 percent and $1,800 respectively based on estimates prepared by the Social Security Administration—to replace the revenue loss that would be incurred if coverage is not extended.

Whatever the merits of universal coverage, I do not think it should be required without a thorough study of its effects on existing retirement systems and the benefits which have been promised to employees. The study will permit this careful look before we leap into mandatory coverage. If the recommendation of the study is for universal coverage, Congress could then mandate it. In that case the additional taxes in the Fisher amendment would not be necessary. On the other hand, if the study proposes some other alternative, then Congress could act on that. Right now the lack of information about the impact of universal coverage, and the resulting distress that the affected employees and State and local governments have felt, make a strong case for the need for a study before the coverage requirement is imposed.

There is a significant difference between the study required by my amendment and the study already in the committee bill. Under the committee bill the social security coverage will be extended to Government workers, regardless of the conclusion and recommendation of the study. The study in my amendment will examine ways of coordinating social security with civil service retirement for Federal employees without having a predetermined conclusion. Also the study in my amendment will look into issues involved in coverage for State and local government employees. They are not included in the study in the bill.

Reliable data on the impact of universal coverage are hard to come by. Approximately 30 percent of all State and local government employees are not covered by social security. No one knows what effect the extension of social security will have on their existing, well-established pension plans. Nor does anyone know what the costs of this coverage will be, either to the Government employer or to the employee. The same questions exist with regard to Federal employees.

Universal coverage is really back-door general revenue financing for social security. Because the payroll tax is shared equally by employer and employee, half of the infusion of revenue from the new coverage will come from Federal, State, and local treasuries. The Federal employer share will have to be paid either from an increase in income and other taxes or in the deficit. Even more disturbing is the prospect that State and local governments will have to pay several billion dollars more in 1982 to the Federal Treasury as the employer share of social security taxes. These jurisdictions will have to raise the funds in some way. One way would be to reduce existing pension benefits, which may not be permissible under their laws or State constitutions. Another way would be to hike the property tax and other regressive taxes which are the mainstay of local government finance.

An additional problem with requiring State and local governments to pay social security taxes is a constitutional one. It has long been assumed that social security had to be voluntary for State and local governments. I would expect that this provision of the committee bill, if not changed by my amendment, would be challenged in the courts, perhaps successfully.

Security in old age is one of the most important issues in anyone's life. I do not believe that Congress should make changes in the arrangements that have been provided for workers in their old age without careful examination of the consequences. My amendment permits such an examination in the case of coverage under social security of Government and nonprofit organization employees. This issue should be carefully studied before the mandate for coverage is imposed. The study provision in my amendment permits this to occur in time for Congress to act to impose the coverage by the date contemplated in the committee bill, but in a much more orderly manner.

The social security financing bill will be a stronger bill with the inclusion of my amendment. The Democratic steering and policy committee has endorsed the Fisher amendment without a single dissenting vote. The Secretary of Health, Education, and Welfare and the Chairman of the Civil Service Commission have also endorsed my amendment. The House Committee on Post Office and Civil Service voted unanimously to delete Federal employees from the bill and call for a study. Major groups and associations are supporting the amendment including unions representing Federal employees, postal workers, teachers, policemen, and firemen and organizations representing State, county and municipal governments.

I urge my colleagues to vote for this amendment and for the bill.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield at that point?

Mr. FISHER. Very briefly.

Mr. ROUSSELOT. I agree with my colleague from Virginia (Mr. FISHER) on the need for a study. There have been complaints heard today that we have had too many studies, but as a result of our experience in 1972 when we tried to merge medicare with the Federal employees health benefits program, we ran into all kinds of problems in integrating those two programs, and the need for comprehensive study is apparent. The reason we had these problems is that we did not give the question enough study before we did it, and we had to keep extending the time of the merger.

So, the point the gentleman makes that we need adequate time to merge these complex systems is well taken. We have that on the basis of the bad experience of 1972 by this very same committee. At this point, I would like to call my colleagues' attention to the Post Office and Civil Service Committee report which discusses the abortive 1972 effort:

PREVIOUS EXPERIENCE ON SIMILAR LEGISLATIVE ISSUE

To illustrate the complexity of the proposition to integrate the benefits of the civil service retirement system with those of the social security system, it might be helpful to review a similar situation concerning the coordination of Medicare and the Federal Employees Health Benefits program.

The committee believes an analogy can be drawn between the unsuccessful attempt in 1972 to mandate coordination of Medicare and the Federal Employees Health Benefits program without the benefit of an adequate study to determine the feasibility of effecting such a change, and the attempt now in 1977 to integrate the benefits of the social security system with the civil service retirement system—the two largest retirement systems in the country—without a comprehensive study as contemplated by our committee amendment.

In 1972, the House Committee on Ways and Means adopted an amendment to H.R. 1 (Public Law 92–603, Social Security Amendments) providing that as of January 1, 1975, medicare payments would not be made for items and services covered under a beneficiary's Federal Employees Health Benefits Program plan unless, prior to that date, the Federal Employees Health Benefits program was modified to provide plans that supplement medicare coverage. The purpose of this provision was to focus attention on the need to consider improved coordination of Medicare and the Federal Employees Health Benefits program.

In the interim period (Oct. 30, 1972 to Jan. 1, 1975) full implementation of this requirement was to be accomplished. However, in 1974, because of the lack of progress toward coordination, the effective date was extended for another year to January 1, 1976 (Public Law 93–480). This law also provided for a joint progress report by the Department of Health, Education, and Welfare and the Civil Service Commission, to be submitted no later than March 1, 1975. This report, submitted on February 26, 1975, along with the recommendations of the General Accounting Office, outlined the problems of meeting the requirements of section 1862(c) of Public Law 92–603.

In the report, the Department of Health, Education, and Welfare and the Civil Service Commission maintained "that the modifications of Federal Employees Health Benefits Program in accordance with section 1862(c) would not be in the best interests of dually entitled Federal Employees Health Benefits and medicare beneficiaries, and would create expensive and unnecessary administrative problems". The reasons for this conclusion were expressed in a letter to Chairman David Henderson, House Committee on Post Office and Civil Service, from Secretary Casper Weinberger of the Department of Health, Education, and Welfare and Chairman Robert Hampton of the Civil Service Commission, as follows:

The Civil Service Commission actuarial estimates are that if, as section 1862(c) implies, the premiums for the supplemental plans were based solely on the health experience of the aged and disabled who are entitled to medicare, rather than on the health experience of all Federal Employees Health Benefits enrollees, a Federal Employees Health Benefits option to supplement part B alone would offer the same benefits as now for a higher premium. An option to supplement part A alone would offer the same benefits for about the same premium. Stated differently, an option to supplement when an individual has only part A appears unnecessary, while an option to supplement when an

individual has only part B would disadvantage those Federal Employees Health Benefits enrollees who subscribe to it.

Section 1862(c) requires that the Government's full standard contribution to Federal Employees Health Benefits Coverage (as calculated annually under 5 U.S.C. 8906) be applied to pay the beneficiary's premium for the supplemental Federal Employees Health Benefits option, has part B premiums or both, but does not provide for crediting any portion of the Government Federal Employees Health Benefits contribution toward the premium of the employee's or annuitant's spouse (or child) who may be covered under a Federal Employees Health Benefits family enrollment but not under medicare.

Twelve additional options would be needed under each of the 46 plans participating in the Federal Employees Health Benefits Program to supplement (a) Part A of Medicare, (b) Part B of Medicare, and (c) Parts A and B of Medicare, each for four family groupings: (1) for self only enrollees, (2) families where only the dependents are covered by medicare—making over 500 additional options. Thus, the Federal Employees Health Benefits Program would be greatly complicated.

The Comptroller General offered an alternative to achieve coordination which called for the Government to simply pay Medicare Part B premiums for all eligible Federal Employees Health Benefits enrollees. The Comptroller General's report also suggested continuation without change of the existing system for coordinating the benefits of the two programs.

After careful consideration of the various alternatives to coordinate the benefits under medicare and the Federal Employees Health Benefits program, the Committee on Ways and Means reported in 1975 that it "is not convinced that equity requires the Government to substantially increase its expenditures under the two programs in an effort to accomplish this."

The committee, therefore, concluded that the existing relationship between Medicare and the Federal Employees Health Benefits Program should be maintained. Public Law 94–182, repealed section 1862(c) of the Social Security Act on December 31, 1975, bringing to a close this legislative adventure.

The idea of better coordinating the benefits of Medicare with those of the Federal Employees Health Benefits Program was useful, and obviously the House Committee on Ways and Means felt it could be done by the mandated date of January 1, 1975, which was over 2 years from the date of enactment. However, as this entire issue was more carefully studied by the Department of Health, Education, and Welfare and the Civil Service Commission, it became increasingly evident that no easy method could be found to implement the legislative mandate. The Congress, seeing the futility of this requirement of law, wisely repealed it rather than attempt the cumbersome and overly costly approach of amending the Medicare and the Federal Employees Health Benefits laws.

To avoid a recurrence of this type of legislative procedure, we strongly suggest a careful comprehensive study be undertaken to determine the feasibility of integrating the Civil Service Retirement System and the Social Security System before mandating such integration.

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. FISHER. Very briefly.

Mr. ALLEN. Does not President Carter and his administration support the gentleman's amendment, including the amendment recommended by the Post Office Committee?

Mr. FISHER. Yes, they do, and Members have all received a letter from Secretary Califano. I have another letter from the head of the Civil Service Commission endorsing my amendment. The Democratic Steering and Policy Committee has endorsed the Fisher amendment without a single dissenting vote. The House Committee on Post Office and Civil Service has voted unanimously to delete Federal employees from the bill and call for a study. That is the extent of their jurisdiction. I do embrace their amendment entirely in mine.

Mr. ALLEN. I thank the gentleman.

Mr. FISHER. Many major groups have endorsed this, as the Members know from being on the telephone and receiving calls and mail in the last few days. I do urge most strongly that the Members vote for this amendment and for the bill. I think there is grave risk that the bill may not make it without this amendment.

Mr. WHITEHURST. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I yield to my colleague from Virginia.

Mr. WHITEHURST. Mr. Chairman, I wish to strongly support the amendment offered by my colleague from Virginia. I cannot recall an instance in which a committee of this Congress has approved major legislation—affecting millions of Americans and every unit of government in this Nation—with so little analysis or understanding of what the ultimate impact of the legislation will be. The Ways and Means Committee would require social security coverage for 6 or 7 million Federal, State, and local government workers as well as employees of private nonprofit organizations. Yet, the committee offers absolutely no evidence of the feasibility of bringing these workers into the social security system. It provides no guidance concerning the complex process required to meld the social security system with the 12 principal Federal retirement systems and the myriad State, local, and private nonprofit systems. Nor does the committee even tell us that there will be any real improvement in the fiscal condition of the social security trust fund. While most would agree that the committee provision would result in a quick infusion of funds into the trust fund, it must be remembered that the 7 million newly covered workers and the future generations of Government employees will be ultimately collecting social security benefits. Moreover, the Federal, State, and local governments would presumably be called upon to contribute billions annually from their general revenues as the employer's share of contributions to social security. But, the Ways and Means Committee, in its haste to enact this legislation, has neglected to provide us with estimates of the cost of future benefits for these newly covered workers or the contributions required from general revenues.

We should all understand that if the provision before us today becomes law, the civil service retirement system as presently constituted will no longer exist. Federal workers now contribute 7 percent of their salaries to the civil service retirement system. Under H.R. 9346, social security taxes will ultimately be raised to over 7 percent of a worker's income. All of us recognize that it is infeasible to require Federal employees to pay 14 percent of their incomes to retirement programs. In addition, there are overlapping disability and medical insurance aspects of social security and civil service retirement, and it would not make sense to continue these duplicative programs unchanged. Obviously, the contributions to and the benefits derived from the civil service retirement will have to be reduced. But, will the combined employee contributions to social security and civil service retirement be increased? Will total benefits be lower? Neither the Ways and Means Committee nor anyone else can answer these questions.

I have received scores of letters and telephone calls from Federal employees and others affected by the universal coverage provision. They want to know what the impact of the provision will be on them, and they are baffled when I respond that I do not know. Even the current Federal retirees are concerned, because they understand that contributions from current Federal workers help to pay their retirement income. If the current employees' contributions are reduced, the retirees' benefits could be threatened. These individuals are not necessarily opposed to universal social security coverage, but they want assurance that the contractual obligations of Federal, State, and local governments to them will be met. They cannot understand how the Congress can require universal coverage before finding out what its ramifications will be.

The amendment offered by the gentleman from Virginia does not preclude social security coverage of Government workers. It simply recognizes that the rational and responsible way to approach this complex issue is to determine the impact of universal coverage on employers, employees, and taxpayers before, and not after, imposing it. The Congress has a profound obligation to avoid causing widespread uncertainty and threatening the security of millions of citizens and their families. No change in the wide variety of Government retirement plans now in effect should be made until the Congress can explain the change clearly to the American people.

I urge the adoption of the amendment offered by the gentleman from Virginia.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank my colleague for yielding. I would like to say that I have received similar contacts, and I have found that most of the stuff that has been sent to me in these contacts has been wrong. It has been noted that this bill provides for a merger of civil service retirement and social security, which it does not. It is said that the employees in the civil service will lose their benefits under this proposal, which they would not.

However, there is one valid point that I think has been made. I favor universal coverage because I think it is fair, but

I also think it is fair to let the people know what type of coverage they are going to get before it is put on. For that reason, I see merit in the proposal of the gentleman from Virginia, and I hope we adopt it.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield so that I may put a question to the chair?

Mr. FISHER. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Chairman, it was my understanding that the amendments that were made in order by the rule, including the amendment of the gentleman from Virginia (Mr. FISHER) were to contain compensating increases in the social security tax rates and/or the wage base to maintain the actuarial status of all the trust funds at the same level as is provided for in the bill as reported by the committee. As I pointed out during general debate on this legislation, the Fisher amendment, unfortunately, does not do that. It is slightly underfinanced over the long run with respect to the cash program and seriously underfinanced in the short run with respect to the medicare trust fund.

Mr. Chairman, I would like to take the appropriate legislative remedy to correct this error which, if uncorrected, would cost the medicare trust fund almost $25 billion between 1982 and 1987 and which in 1987 would leave the medicare trust fund with far less of a reserve than was intended in the Ways and Means Committee bill.

Mr. Chairman, could the Chair advise me as to what procedural remedies would be available to the gentleman from Illinois to correct this unintentional but very serious error embodied in the gentleman's amendment?

The CHAIRMAN. The Chair would advise the gentleman that under the rule adopted by the House earlier today, the only means by which a perfecting or correcting amendment to the Fisher amendment could be considered would be by unanimous consent.

Mr. FISHER. Mr. Chairman, may I reclaim my time to respond to the gentleman's point?

Mr. ROSTENKOWSKI. Mr. Chairman, if the gentleman will yield, if that is the situation, is it appropriate at this time to then ask unanimous consent to modify?

The CHAIRMAN. If the gentleman from Virginia (Mr. FISHER) yields.

Mr. FISHER. Mr. Chairman, I just yielded to the gentleman. If I could respond to the point the gentleman makes, my amendment does incorporate, as I indicated earlier, a small increase in the tax rate and in the wage base to cover just the kind of contingency the gentleman raises. These are based on the actuarial figures that the Social Security Administration furnished earlier to our committee and which were the ones made available to me at the time I had to prepare the amendment.

I have subsequently received word from the Commissioner of Social Security, as follows:

In summary, I think it is unfair to conclude that the Fisher amendment fails to reasonably finance the several trust funds.

And the Commissioner goes on to say:

The point to be stressed about health insurance is that no provision is made, either in existing law, in the Committee bill or in the Fisher amendment, to adequately finance Health Insurance for the full 25-year period. The facts are that under present law Health Insurance will run out of money around 1987. Under the Fisher amendment, funds would not be exhausted until 1988, compared to 1991 under the Committee bill. In my view, this is all rather academic in that no one expects any of these arrangements to serve as the permanent arrangement for Health Insurance.

So it seems to me that it is just a question of whether we will run out in 1987, 1988, or 1991, and that long before that, obviously, preventive action will have to be taken by the committee and by the Congress.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield further?

Mr. FISHER. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Chairman, I certainly agree that the funds are going to run out and there is going to have to be another adjustment. But the spirit, as I understand it, of the rule, as was explained in several debates, was that if we should take government and not-for-profit employees out from under the umbrella of universal coverage, we would have compensating language to keep the actuarial status as it was in the committee bill.

I maintain that under the Fisher amendment the spirit of the rule is violated, and that the hospital trust fund will lose $25 billion.

Mr. FISHER. Mr. Chairman, my amendment was, as was the committee bill, based on the actuarial figures furnished to us. I have also read to the Members a communication from the Commissioner of Social Security dated just a day or two ago that makes the point I brought out.

I think the problem is one that has to be solved, but this is not the appropriate way to solve it.

Mr. ROSTENKOWSKI. Mr. Chairman, I will say to the gentleman that I am still under the impression that the Commissioner also agrees that we will lose $25 billion under this amendment from the health insurance fund.

Mr. FISHER. Mr. Chairman, another way to put it is that under my amendment the hospital fund runs down in 1988, under the present law it runs down in 1987, and under the committee bill it runs down in 1991.

Mr. ULLMAN. Mr. Chairman, if the gentleman will yield, I can well understand the concerns of the chairman of the Subcommittee on Health—and he should have concerns—as to the state of the HI trust fund. I want to make it clear, though, that in our committee proceedings we were talking about 0.15 percent of payroll in 1981.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. FISHER) has expired.

Mr. FISHER. Mr. Chairman, I yield myself 2 additional minutes.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield further?

Mr. FISHER. I yield to the chairman of the committee.

Mr. ULLMAN. Mr. Chairman, let me say that the gentleman's amendment about correlates with what I have stated. It is true that the amendment does bring the HI fund down more than I would like and more than the gentleman from Illinois (Mr. ROSTENKOWSKI) would like. But I hope the gentleman from Illinois, who is the chairman of the Subcommittee on Health, would agree that it would be better that we pursue this matter through the Congress and the other body. We will then in conference make an effort to bring the HI fund back up to the committee levels or above.

If the gentleman will agree with that approach, we could suspend any further consideration of this issue at this time.

Mr. ROSTENKOWSKI. Mr. Chairman, I certainly thank the committee chairman for that assurance.

Mr. MARTIN. Mr. Chairman, while driving to work this morning I was greeted with the radio news that the White House favors keeping Federal employees out of the social security system. I could not help but think how that word of support for employees could not be much different from similar statements that business employers must have made in 1936 when private employees were put into the system.

The truth is: under the present law half of our public employees already manage to qualify for social security benefits that exceed their contributions by $1 billion a year. That is a good deal for them. But somebody has to pay for it.

Do you want to guess who will have to pay for it? It is the same taxpayers who are in social security now. I am talking about those 100 million workers in the private sector who are the same ones who have to pay income taxes to pay for the salaries and fringe benefits for all our public employees. They are the ones who are going to have to ante up another billion dollars a year to pay for the 3 million public employees who will qualify for the windfall benefit. I think they are going to figure out what is going on.

The amendments of the Post Office Committee and of Mr. FISHER should be rejected.

Mr. FISHER. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Virginia (Mr. FISHER) has consumed 14 minutes.

Mr. ULLMAN. Mr. Chairman, I yield 3 minutes to the ranking minority member of the committee, the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I rise in opposition to the Fisher and Nix amendments.

I must say that I agree with the gentleman from Florida (Mr. GIBBONS) that there has been a great deal of misinformation in this area. Many of the people who are good, honest public employees have been terrified into believing that somehow their pension benefits are

going to be taken away from them after years of contributing into a system which is currently in existence.

There is, of course, no intent on the part of the committee to do that.

I must say that a second objection, about which I have heard a great deal here, is that nobody knows exactly how the integrated system is going to work. We have many examples of an integrated system, not only in business but with respect to Federal military employees and with respect to almost any system in which there is dual coverage, one related to the other and supplemental to the other.

In fact, many of the people who are objecting to our not having spelled out how this integration is going to take place would be the first people to object if the Committee on Ways and Means had tried to spell it out, because that would have been a violation of the jurisdiction of the Committee on Post Office and Civil Service. We clearly understood that, and that is the reason the effective date on the shift was made for 1982, so that there would be plenty of time to work out the details and give reassurances to the Federal and other public employees that they were not in fact going to have their benefits taken away from them, but that they were going to wind up with a more flexible and potentially more valuable system than the one they have at this point.

It has already been pointed out, Mr. Chairman, that the Fisher amendment is not adequately financed. I think there is a serious question as to what the impact ultimately will be.

Mr. Chairman, this issue will not go away. It is going to be coming up time and time again, as long as we have an enclave of Federal employees and public employees who are not covered by social security.

As long as our constituents can come to us and say, "Of course you are going to run the system into the ground; you do not need to worry about it because you are not covered by it," there is bound to be agitation to see that we accept the responsibility for directing this system adequately and that we make ourselves subject to any disabilities that may afflict the system.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding, and I certainly concur with his remarks.

I am wondering whether, through the gentleman to the chairman, a request of some sort might be in order to live up to the spirit of our agreement which says that any amendment offered must be balanced.

Does it take unanimous consent to do that?

The CHAIRMAN. The time of the gentleman from New York (Mr. CONABLE) has expired.

PARLIAMENTARY INQUIRY

Mr. KETCHUM. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. Does the gentleman from Oregon (Mr. ULLMAN) yield for the purpose of a parliamentary inquiry?

Mr. ULLMAN. I do, Mr. Chairman; I yield to the gentleman from California.

Mr. KETCHUM. I thank the gentleman for yielding.

Mr. Chairman, I make this parliamentary inquiry: There was an agreement on the part of the members of the Committee on Ways and Means that no amendment would be offered unless it was balanced.

To the best of my knowledge, Mr. Chairman, every Member offering an amendment has offered it on a balanced basis, replacing funds lost.

My parliamentary inquiry, Mr. Chairman, is, Will it be in order to make at least a unanimous-consent request that the figures in the Fisher amendment be adjusted upward to balance that fund?

The CHAIRMAN. The Chair will respond to the gentleman by saying that under the rule adopted by the House previously, such can be done only through a unanimous-consent request.

Mr. KETCHUM. I thank the Chair.

Mr. ULLMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. LEDERER).

Mr. LEDERER. Mr. Chairman, I rise in support of the Fisher amendment to delete title III, mandatory coverage for Federal employees from the proposed legislation.

I do not object to the principle of such coverage. Indeed, I have long felt the need to incorporate these groups under the social security system. However, the committee proposal, while addressing some of the more difficult financing aspects of this legislation, does not take into account the way such an integration process will take place. For example, the committee, I am sure, never intended to provide dual pension coverage for Federal employees, that is to provide full benefits under both the systems. Does the committee plan to require that Federal employees pay large sums of money into both systems? If so, what level of benefits will an employee who is unable to acquire the necessary quarters under social security receive?

There is no doubt in my mind that the integration of both of these pension systems will eventually take place. The retirement systems for Federal employees will need to be restructured to avoid overlapping benefits and dual payments vis-a-vis the social security system. This can hardly be done overnight and should be worked out before Members of this House are asked to vote on universal coverage at this time without the benefit of an intensive study on the implications of such coverage on the Federal employees, the civil service retirement system and the social security system.

Mr. Chairman, I realize that in some quarters it is very easy and somewhat advantageous to attack Federal employees. I might remind my colleagues in the House that we are also employees of the Federal Government. I do not believe that anyone wants to deny any pensioner, whether Federal employee or not, the pension they deserve without a careful study of the matter. Therefore, Mr. Chairman, I urge my colleagues to vote for the Fisher amendment and support the creation of a special commission to study and report back to the Congress on the implications of such an integration process. Once that occurs, and all the facts are before this body then I am sure I can support the efforts of my colleagues to provide for universal coverage, or at least have more information on which to base my vote.

Mr. ULLMAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Chairman, I rise in support of the Post Office Committee's amendment to the Fisher amendment, which would delete the provisions mandating social security coverage for all Federal, State, and local government employees.

Without question, the enactment of the universal coverage provision would have a tremendous impact upon the retirement pensions of millions of men and women who work for their Government at all of its levels. These are pensions for which they are devoting a part of their pay, and on which they are relying for material well-being in their retirement years.

I believe that, before making a change with such vast implications, we have a number of obligations to these workers which we must fulfill. I am supporting this amendment because I believe the House, in the bill before us now, has not yet fulfilled these obligations.

We have, first of all, an obligation to permit those who would be most affected by this legislation to have a say in the proceedings. As the mail and phone calls now coming to all of our offices attest, Government employees feel they have not had a chance to be heard, and they are right. The universal coverage provision was not seriously considered until mid-September, long after the hearings on this bill had been completed. It was not a part of the President's proposal, nor was it part of any other major proposal before the subcommittee.

I know that many of my colleagues assert that universal coverage has been discussed for many years, and refer to reports of the Advisory Council on Social Security and others in Washington. But all of us know there is a big difference between the attention focused upon proposals that are being seriously discussed and have some chance of being enacted, and those that are being bandied about generally, without having any significant support. Universal coverage has moved rather rapidly from the latter category to the former, and, again, the workers in Cleveland and everywhere else believe quite rightly that this decision is being made without their having a full opportunity to express their views, make suggestions, and otherwise participate in the decisionmaking.

Second, before we make any change along the lines suggested in this bill, we have an obligation to tell workers exactly what their pension would be under

the new legislation. Again, the bill before us fails to fulfill this obligation. At best, Federal workers would be told what kind of pension they would have as a result of the forces set in motion by this bill in 2 or 3 years, when the report of the Department of Health, Education, and Welfare is due. States and localities would be left to fend for themselves, and it is anybody's guess when or how they would resolve the many problems this bill would cause in their pension systems.

Many of my colleagues who favor this bill assert that social security an existing governmental pension plans can be integrated so that no one loses anything to which he is entitled. They may be right. But when it comes to something as important as someone's pension, we cannot simply say, "Trust me. I will take care of everything." Before we take the step proposed in this bill, we should be able to tell each working man and woman exactly what the change will mean for his or her pension.

I believe the approach of the Fisher amendment, which strikes the mandatory coverage language and calls for a study of universal coverage to be completed by 1980, is a reasonable one, which gives due recognition to what is at stake in the mandatory coverage issue. I urge its adoption.

Mr. ULLMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Virginia.

This bill, as reported by the Ways and Means Committee, would extend coverage of the social security system to all Federal employees, as well as to State and local employees not presently covered. Yet the bill gives no indication of how this will be accomplished. All we have to go on is that a study will be conducted on how this should be done, and the study would be submitted to the Congress at the beginning of 1980.

This approach seems to be a backwards way to address a public policy question. Any merging of the civil service retirement system with social security will require a very complex method of implementation if the goal that Federal employees as a group are not made worse off and that individual employees are unfairly treated is to be met. There would, without a doubt, be numerous questions on whether individual recommendations would achieve these goals. A strong possibility exists that no implementation program could be agreed to by 1982, or worse that an implementation program would be hastily adopted in order to meet the deadline in the bill for universal coverage.

This amendment would put the horse back in front of the cart by requiring the study to determine if and how this action should be taken before a commitment is made to adopting universal coverage. Personally I have some real questions as to whether universal coverage is advisable. The lack of information about how some of the unique aspects of the civil service retirement system would be treated makes me very reluctant to make a commitment. By conducting the study first, information will be available to make rational judgments on the details of a possible implementation of universal coverage. Social security questions have, by their nature, very long-term implications.

Once changes have been adopted, they are often difficult to correct. Even when they can be corrected, their impact can be immense as the decoupling issue has illustrated.

This amendment includes provisions for increases in the tax rate and wage base in the future to compensate any revenue lost by eliminating the mandate for universal coverage, so its adoption will not place the committee's carefully developed proposals for raising revenues for the trust funds in jeopardy.

To my mind there is no compelling reason to commit us to an action we may regret later, and thus urge my colleagues to support this amendment.

Mr. ULLMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Guam (Mr. WON PAT).

Mr. WON PAT. Mr. Chairman, I rise in support of Congressman JOSEPH FISHER of Virginia's amendment to strike from H.R. 9346 that section of the bill which would require mandatory participation in the Social Security Act for Federal, State, and local government employees by 1982.

Congressman FISHER suggests instead that the Department of Health, Education, and Welfare conduct a 2-year study of the effect of such a proposal on both the social security program and individual retirement programs of these employees. This is a far more practical approach if we are to prevent untold difficulties connected with so-called universal coverage.

I have been informed by the Governor of Guam's office that the retention of the present language of H.R. 9346 would impose economic problems for the retirement program now used by Government of Guam employees.

The Committee on Ways and Means is to be congratulated for its desire to strengthen the social security retirement program. But, at this time, I have serious reservations about the potential impact on future retirement benefits for employees of the Guam Government should they be required to contribute to the social security program. I call on my colleagues to first initiate a study of this proposal to insure that if, and when, it is implemented there will be no sudden and unpleasant surprises for government administrators or those we intend to benefit by any change in the law. Thank you.

Mr. ULLMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana (Mr. HUCKABY).

Mr. HUCKABY. Mr. Chairman, I would like to take this opportunity to speak on behalf of the Fisher amendment to the social security financing bill under consideration today. As you know, the amendment would delete the provisions requiring universal coverage under social security. In addition, the Fisher amendment will require studies concerning mandatory coverage of Federal, State, and local government employees to be conducted jointly by the Civil Service Commission, Departments of Treasury and Health, Education, and Welfare, and the Office of Management and Budget. The results of these studies will be reported back to Congress in 2 years.

The mandatory coverage proposal as reported by the Ways and Means Committee would for the first time mandate social security coverage for three categories of workers not previously included: Federal employees presently covered by the Civil Service Retirement and other retirement systems, State and local government employees, and the employees of nonprofit organizations. This extension, the committee estimates, would add about six to seven million additional workers to social security. Provision is also made for a comprehensive study of the integration of social security and civil service retirement and other Federal retirement systems. However, H.R. 9346 does not provide funds for a similar study of the impact of mandatory coverage on State and local systems.

In order to guarantee retirement benefits as expressed by legislative acts passed in the State of Louisiana, it cannot divert any portion of its assistance, nor would it be in a financial posture to support a second retirement program. At the present time, the State, from its general fund, contributes in excess of $50 million annually in support of various State retirement systems. Since these funds are necessary to guarantee benefits, and it is a violation of individual rights to reduce a benefit, the State would be in an untenable position. Current law mandates that all Louisiana State employees under age 55 become a member of the State system.

Therefore, if they were to be covered by social security, they have to pay into two systems, seriously affecting their "take home" pay. I am sure you can realize the effect on employee morale since Louisiana's salary structure is well below that of the private or Federal sectors. Since there has been an increasing trend of withdrawal from social security by State and local governments, this extension will seem unfair to those who have chosen alternatives. As of March 1976, 332 groups in the category of State and local government employees had withdrawn from the system.

But a more serious problem of this proposal is the constitutional and legal aspect. It is a well recognized principle of constitutional law that the Federal Government cannot require the States to spend money. Since State and local governments would be required, as employers, to pay social security contributions, it may be that mandating inclusion violates the U.S. Constitution.

I am genuinely concerned about mandatory coverage of teachers under social

security. Most teachers are already covered by the program but those that are not have many problems with the committee provision. For example, the committee bill simply provides mandatory coverage by 1982 without any consideration for a hold-harmless measure which would guarantee no reduction in already vested benefits or prohibit the possibility of dual taxation when two retirement systems remain in existence. In addition, the bill makes no provision that existing retirement systems be protected or integrated in a way that is fair to those individuals who have contributed to these systems.

Clearly, the committee bill is a case of putting the cart before the horse. It requires a study of existing retirement systems to establish the desirability of mandatory social security coverage but before the results of the study are available and even before the study is initiated, it requires mandatory coverage by 1982. This is simply a bad procedure and it should be rectified.

I strongly support the Fisher amendment to H.R. 9346 which would eliminate mandatory coverage and require that the question be reconsidered when the results of the authorized study are available. The Congress should act on the basis of solid information rather than speculation. Adoption of this amendment is vital to the continuing well-being of teacher, and all other retirement systems, across the country.

Mr. ULLMAN. Mr. Chairman, I yield 4 minutes to the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, there are a couple of things I wanted to say about the Fisher amendment which I did not address myself to the first time I talked.

I thought I had better get those points in now.

One is that we have just learned that the Fisher amendment does not meet the requirements made wisely by the chairman of the Committee on Ways and Means that these amendments be balanced. In fact, I do not know—and I wish somebody would tell me—how much the Fisher amendment is going to cost everybody else in the country. Obviously, it is going to take $25 billion out of the hospital insurance (medicare) trust fund.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I am advised that the Fisher amendment raises an additional $22.4 billion over and above what the committee bill has.

Mr. GIBBONS. Therefore, the Fisher amendment is going to cost the taxpayers now $22 billion to take care of those people who do not want to come into the system. Then, as the gentleman from Illinois (Mr. ROSTENKOWSKI) brought out, the Fisher amendment is going to cost another $25 billion, or, roughly a total of $47 billion, which we are going to tax other people for. That is in addition, as I understand it, to the $56 billion that this bill will raise in just 2 years, in 1982 and 1983, when the tax really begins to bite.

Mr. Chairman, the Congress has never levied a tax like that since I have been here. As a matter of fact, it has never levied a tax like that at any time in the history of the Congress, even during the war.

Mr. Chairman, another thing which the Fisher amendment does—and this has not been discussed here at all—is that it opens the door for all State and local employees who are now in the system to get out.

Do the Members understand that? Everybody who is now in the system, who is a State or local employee, can, under the Fisher amendment, get out of the system if they do not like it.

We had never discussed that in the committee. I never heard it discussed anyplace. In fact, I was surprised when I read it here on the floor. But I am not surprised at anything I hear about this amendment.

Mr. FISHER. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Virginia.

Mr. FISHER. I thank the gentleman for yielding.

Under the present law 2 years' notice has to be given. It is a long, involved process for a State or local government to withdraw from social security. Before any additional State and local units would be able to get out, the 2 years would have passed. The study and the plan would have been made, and there would have been adequate time to deal with it.

Mr. GIBBONS. That still does not explain why the gentleman is opening the door again for all of those people who come into the system, to jump out again. The trouble is that people do not understand the social security system. The social security system is not a pension system in the tradition of the private pension plans. All it is is a tax on working people today to pay for retired people today. That is all it has ever been since it was created. Surely that is all it will ever be and all it ever can be. So a voluntary system cannot work.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Illinois.

Mr. MIKVA. I thank the gentleman for yielding.

I was distressed to find out that the freeze provision will be repealed by the Fisher amendment. That was a provision wholly separate from universal coverage. It was taken up separately by the subcommittee, and the removal of this provision from the bill is one more reason why I think a vote against the Fisher amendment is necessary.

Mr. ULLMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. HANNAFORD).

Mr. HANNAFORD. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Virginia. Adoption of the provision in H.R. 9346 for universal coverage of Federal, State, and local employees not currently participating in the social security system would be a grave mistake at this time. The issue of universal coverage first deserves careful scrutiny by the appropriate committees in order to review the implications of such a proposal.

Within the State of California alone, universal coverage would cost State and local governments millions of dollars. In 1982, it is estimated that the cost for the entire State would range between $350 and $400 million. This would require that already tight budgets be further adjusted to cover federally mandated costs. Most likely, cuts in State and local budgets will mean decreases in areas such as services and maintenance. The consequences of such budget cuts cannot be brushed aside. Decreases in maintenance budgets within the last decade, for example, are now being manifested in the recognition that many urban areas throughout the Nation are sorely in need of more money than ever for urban rehabilitation and renewal.

Moreover, Mr. Chairman, studies exhibit positive correlations between severe maintenance budget cuts and high rate of unemployment. And this acts as a further drain on State and local finances through increased welfare payments.

Mr. Chairman, the other dimension of the universal coverage provision is its impact on individual citizens. For instance, a cursory examination of the impact on policemen and firemen who would be required to participate in the social security system reveals additional financial burdens which can least be afforded. Also, under the special retirement provisions for such State and local employees, social security coverage may mean that these workers would be forced to endure periods ranging from 10 to 13 years before becoming eligible to collect benefits under social security. Within the seven major cities of California, this provision would affect a total of about 21,000 policemen and firemen.

	Firemen	*Policemen*
Long Beach	425	700
Los Angeles	3,000	7,400
Oakland	700	675
Sacramento	455	525
San Diego	700	1,100
San Francisco	1,700	1,900
San Jose	623	870
	7,603	13,170

In Long Beach, the largest city in my district, the projected costs to the city of coverage for all State and local employees in 1982 would exceed $3 million. For a city the size of New York City, this cost would most likely exceed $50 million.

Additional costs to the city of Long Beach under universal coverage:

1978	$330,153
1979	557,798
1980	757,680
1981	1,040,359
1982	3,199,266
	5,885,256

Mr. Chairman, it is evident that this issue should be thoroughly studied. To act hastily now may result in fiscal dislocations in many urban areas around the country.

Mr. ULLMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, I rise to support the Fisher amendment and review for my colleagues the profound concerns that I have about H.R. 9346. I believe that the provisions of this bill do not comprise an acceptable long-term solution to the problem of financing the social security system.

My concerns with the bill range from its short-term effect on unemployment to the lack of recognition of the extent of the eventual impact of changing demographic patterns on the social security system. However, at this time my principal concern which I will address is the provision for mandatory inclusion of local, State, and Federal workers in the social security system.

Under this provision, approximately 6 million Americans would be brought under a mandatory social security system by 1980. These 6 million workers come from the Federal Government, a large number of State and local governments, and various nonprofit organizations. Each of these organizations currently has its own retirement benefit scheme whose provisions we predicated on the assumption that their employees will not participate in the social security scheme. The specific provisions of each retirement benefit scheme are the result of many years of bargaining and one tailored to the needs of each individual set of workers and employer. H.R. 9346 ignores the myriad of problems that would be encountered in blending all of these individual schemes with the social security system.

A simple analysis of the situation with regard to the Federal employees and the integration of their retirement benefit scheme with social security has revealed the many-headed hydra that we will let loose if the universal social security coverage provision is enacted. The details of such an analysis are too complex and lengthy to include here. However, many significant questions were raised that are not addressed by the bill.

For example: Would integration of the social security and civil service schemes result in an almost doubled retirement contribution by Federal employees or would their contribution stay the same and the bulk of the contribution be used for social security contributions? If the latter course is adopted, would the present contribution of general funds to support the Federal Civil Service retirement benefits be increased? In other words, would this be at least in the short term a system of indirect support from general revenues for the social security system? How would the benefits be reconciled for individuals working part of their lives in the Federal Civil Service and part under social security coverage? Benefit formulae are different in the two systems and retirement ages differ. An individual working in the Federal Government may retire with 30 years of service at, for example, age 60, and have 10 or more years under social security. He is eligible for Federal retirement benefits but social security benefits are available only at age 65. What happens in the intervening 5 years.

These examples could be continued "ad nauseam," but my point is already well served. We do not know whether the details of inclusion under social security of the 6 million workers covered by this provision can be achieved in a manner which will protect their vested pension rights. The fundamental question of equity for these people is left open.

I have not touched on the rather significant problems which the universal coverage proposal would present for State and local governments as well as nonprofit organizations. The complications involved in merging the civil service retirement and the social security systems are bad enough—and the laws creating both of these systems have been passed by the Congress. The pension system of State and local government are so numerous and disparate that we cannot even begin to highlight the pitfalls.

In addition, I would note that the extension of mandatory social security coverage to State and local governments raises significant constitutional issues. Just last year, the Supreme Court held in the case, *National League of Cities* v. *Usery*, 96 Sup. Ct. 2465 (1976), that Congress lacked the power under the commerce clause to impose the requirements of the Fair Labor Standards act on State governments. The majority opinion written by Justice Rendquist held that the Constitution did not delegate to Congress the authority to regulate the employer-employee relationships of State governments and their subdivisions. Since the pension arrangements of State and local governments have frequently evolved through collective bargaining, could not a case be made that the Federal Government by mandating social security coverage would be regulating State employer-employee relations?

A second constitutional problem is the tax on State and local governments which this proposal would involve. State governments have considerable immunity from Federal taxation. Universal social security participation would amount to a mandatory tax on all employers, including State and local governments.

The Congress under the Social Security Act imposes various taxes on private employers and rebates most of the money to the States that participate in the various programs under the conditions laid down by the Congress. But Congress cannot impose a payroll tax upon a State government and condition its rebate upon the State's submission to coverage under the act of its employees.

In the Unemployment Compensation Amendments of 1976, Congress resolved this dilemma by requiring the States to cover State and local government employees as a condition for receiving the 2.7 percent tax credit and Federal grant for administering State unemployment insurance programs in the private employment sector. Clearly it is within Congress' power to extend financial assistance to the States upon the condition that the States must meet certain standards in the operations of particular programs.[1] But while Congress is not limited in attaching conditions in its taxing and spending programs to its enumerated powers, it is limited to the extent that the conditions must be reasonably related to the purposes of the taxing and spending programs themselves.[2] The courts may well draw the line at the point at which Congress seeks to accomplish something extraneous to the program.

To phrase the constitutional issue another way, the courts could well find that it is not valid for Congress to attach conditions that, in and of themselves, promote the general welfare, since Congress may only legislate for the general welfare through its granted powers. Conditions imposed by Congress must promote the general welfare objective of the taxing and spending program itself and may not be utilized to go beyond the program to which they are attached.

Thus, the courts could find it improper for Congress to condition State participation in the social security program coverage of private employers and employees upon State submission to coverage of State employees, since this would be to accomplish some other general welfare purpose extraneous to the program for private employers and employees and a general welfare purpose that it could not in fact accomplish because it is beyond Congress delegated powers.

If universal coverage were enacted, I do not know if the courts would decide the issue along these lines. I believe, however, that we should weigh the constitutional issue carefully. We would be creating a rather chaotic situation if we coerced State and local governments into reshaping their retirement programs to accommodate universal social security coverage, only to have the courts several years later rule that universal coverage is unconstitutional.

We must, therefore, delete the universal coverage provision from H.R. 9346. The amendment offered by Mr. FISHER will delete this section and substitute instead a requirement that HEW conduct a detailed feasibility study of universal coverage and report to Congress by January 1, 1980, providing a suitable interval for analysis of this complex issue.

Mr. ULLMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. PICKLE).

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[1] *Steward Machine Co.* v. *Davis*, 301 U.S. 548 (1973); *Oklahoma* v. *Civil Service Comm.*, 330 U.S. 127 (1947).

[2] *Steward Machine Co.* v. *Davis, Supra.*, 590-591, 593; *Ivanhoe Irrigation Dist.* v. *McCracken*, 357 U.S. 275, 295 (1958); *Lau* v. *Nichols*, 414 U.S. 563, 569 (1974).

Mr. PICKLE. Mr. Chairman, I told the House earlier today that the Fisher amendment is not merely an amendment to take out universal coverage; it is a hefty additional tax on employer and employee. It will be a tax for at least an additional $1,800 wage base each year for the next 5 years and at least a 0.1 tax increase. Even now, as the gentleman from Illinois (Mr. ROSTENKOWSKI) pointed out, that tax is inadequate. This means in addition to what we are raising under the bill, there will be another $22 billion or $25 billion in order to satisfy 2.6 million people; you are going to tax 100 million other people. I say that is not basically fair. There is an element of fairness, though, about universal coverage, and we could integrate these two systems evenly, and we could do it smoothly, and we could do it as provided in the bill. I think the Fisher amendment should be defeated. With all due respect to the Federal, local, State, and municipal employees who honestly and sincerely resist the committee bill pertaining to universal coverage, I think both systems can be integrated without any loss to any person.

Mr. ULLMAN. Mr. Chairman, let me say that there has been some controversy about the Fisher amendment. In all fairness, under the actuarial understanding that we had at the time we were considering the matter in the committee, the taxes that have been imposed under the Fisher amendment I would consider as adequate to cover it. The social security actuary has developed later actuarial findings that there is some shortfall, but it does not come until after 1983, and at that time we fully expect to take care of that problem.

Let us fully understand where we are now. The Nix amendment is before us, along with the Fisher substitute. The Nix amendment would just remove Federal employees but would do nothing about local and State employees or nonprofit employees. The Fisher substitute would remove not only Federal but State and local and nonprofit employees from the bill and would require, in accordance with instructions from the committee, some increase in taxes to make up the deficit that results from removing these groups of employees.

That is where we are.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from California.

Mr. KETCHUM. I thank the chairman for yielding.

I would like to quote one statement in the RECORD when the gentleman from Oregon was explaining these amendments. He said:

> An amendment by Honorable JOSEPH FISHER which would strike the provisions . . . relating to State, and local employees and of employees of nonprofit organizations, but which would contain a compensating increase to maintain the actuarial status of the trust funds at the same level.

I submit that is not true. I really believe to be honest with the rest of the committee and the Committee of the Whole that the chairman should ask for unanimous consent to make a compensating balance with the Fisher amendment, so that we can be dealing with this subject in an open way.

Mr. ULLMAN. Let us say all of the amendments proposed vary in differing degrees with respect to their actuarial implications, both in the short and in the long range. There is no way to come out even-steven. They all have a fairly wide variance factor. At the time the committee was considering this we were talking about a 0.15 as an actuarial differential. That is essentially what the Fisher amendment provided, not all in tax rate but partly in wage base. Whereas I might have hoped it would have been a little higher, I disagree with the gentleman. I think it basically complies with the requirements.

Mr. FISHER. Mr. Chairman, if the gentleman will yield, there has been a lot of talk about actuaries and they do change their estimates as unemployment figures and birth rates and all the rest of it change.

The chairman is quite right. This amendment does follow the mandate of the committee to make up any revenue that might be lost.

I want to quote again, for those who pay a lot of attention to the actuaries, the head of the Social Security Administration writing on October 25:

> In summary I think it is unfair to conclude that the Fisher amendment fails to reasonably compensate the Federal trust funds.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I yield to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the situation is exactly this. The only thing the Fisher amendment asks is that the matter be studied and a determination be made whether or not we can integrate social security with the Federal civil service retirement system. There is a serious question about mandating mistakes. We should support the Fisher amendment.

Mr. VANIK. Mr. Chairman, I rise in support of the Fisher amendment to H.R. 9346. For several reasons, I cannot support mandatory coverage of public employees under social security. Such action would put an excessive burden on State and local governments, which are already financially strained.

According to data compiled by the National Conference of State Legislatures, mandatory coverage of State and local employees would cost the State of Ohio $50 to $100 million. One county in my district, Cuyahoga County, alone would face costs of $15 million. Moreover, these figures are reported to be conservative.

Mr. Chairman, it is obvious that, with universal coverage, we are mandating a major extension of the social security system without fully knowing how it will be implemented or what its impact will be. In good conscience, I cannot support so important a change with so little information. In addition to this dearth of information, the excessive burden that universal coverage would place on State and local governments only emphasizes the problem with the proposal.

Mr. Fisher's amendment provides for a study by HEW of the means of integrating social security with public employee retirement systems. Once these studies are conducted, we will be better able to determine the prospects and pitfalls of such a change. I believe that such an approach is more responsible and much fairer to State and local governments, which will have to bear the burdens that universal coverage might produce.

Mr. BAUCUS. Mr. Chairman, I rise today to speak in support of Representative FISHER's amendment to the social security financing bill, H.R. 9346.

The House Ways and Means Committee reported this bill with a provision requiring mandatory social security coverage of all Federal, State, and local government employees and employees of nonprofit organizations to be effective in 1982.

Supporters of this provision claim that universal coverage has been considered since the 1930's. They argue that the bill does not eliminate the Federal retirement system, it does not "merge" the two systems, and it does not authorize the transfer of any funds from the Federal retirement system to social security.

This may all in fact be true. But it seems to me that to mandate universal coverage before we have had the study presented to us which shows the effects and desirability of such a change, is a backward and ill-advised way to legislate.

There is much concern and confusion among my constituents concerning universal coverage. I have received more calls in my district offices on this provision than on any other bill since I took office. I can understand the fears of workers who would be affected and feel that Representative FISHER's amendment offers us a sound solution.

This amendment would delete the mandatory universal coverage provision and would require the Department of Health, Education, and Welfare to conduct a feasibility study of universal coverage to be presented to Congress by January 1, 1980.

Congress must be presented with a plan for coordinating social security with the other retirement systems before we can be expected to evaluate the desirability of such a change. In particular, coordinating the current Federal retirement systems with the social security system is an extremely complex matter and not one which should be blindly entered into. In addition, we must assure these workers that we are not using them to simply bail out the social security fund.

Present Federal, State, and local government employees and employees of nonprofit institutions accepted their jobs in part because of the feature benefits that were promised to them. I believe that we who represent these people have an obligation to insure that these workers do not come up short when they reach

retirement age. To do this, I feel that we must in all good conscience support Representative FISHER's amendment.

It is my hope that a majority of my colleagues will also echo these sentiments and join me in voting for Representative FISHER's amendment.

Mr. BIAGGI. Mr. Chairman, simply stated, unless we pass the Fisher amendment, I fear all the good features of H.R. 9346 will be washed down the drain when the bill is defeated. Therefore for the benefit of saving a good bill, I urge support of the amendment.

We all agree that the social security system is in grave trouble. The system, which has never missed paying benefits in its 40-year history, faces a shortage in its trust fund which places future benefit payments in jeopardy. The problem will only grow worse as the ratio of workers to beneficiaries continues to drop. A number of important reforms have been proposed in this bill. Some will require sacrifices, others are more obvious. Yet one point they have in common is that they were made after careful and lengthy study.

The proposal to require universal coverage under social security cannot claim to be the product of either studied or lengthy deliberations. What is being proposed is requiring all Federal, State, and local government employees as well as those employed in nonprofit agencies to join the social security system by 1982.

At the very least, such a proposal would unleash an administrative nightmare on the social security system, as well as on various preexisting retirement plans.

Another problem overlooked by the merger advocates is—how do we avoid incurring double costs in implementation? How do we determine which trust fund will pay already accrued benefits. Conceivably we could be adding and not relieving the strains on the social security trust fund.

The simple and compelling reason to support the Fisher amendment is that its alternative—merger by 1982—is premature. There are many unanswered questions about the impact of merger which must be answered. They can be under the terms of the Fisher amendment which mandates a detailed study on the issue.

Let us not act in haste on a matter of such critical importance. We are dealing with the economic fortunes of millions of Americans, including many elderly. We could at some future date consider merger. But the time is not now. To act now would leave this Congress susceptible to criticism as being overreactive.

We can be proud of our record thus far in addressing the fiscal problems of the social security system. We have passed H.R. 5383 curtailing mandatory retirement. This will allow more people to work and contribute into the system instead of merely taking from it. It could add some $600 million to the social security trust fund in 5 years. The other parts of H.R. 9346 will also aid in meeting short- and long-term challenges to the future of social security. Let us proceed with them and abandon the merger proposal.

Mr. AMBRO. Mr. Chairman, I rise with severely mixed emotions in reluctant support of the amendment introduced by the gentleman from Virginia (Mr. FISHER) to strike the provisions in the bill requiring mandatory social security coverage of Federal, State, and local government employees and employees of nonprofit organizations by 1982. I do so with reluctance, as I have said, and with some trepidation, because I am a firm believer in the social security system as an important fact of American life, and I am concerned with safeguarding the integrity of the trust fund. At present, more than 33 million Americans—1 out of 7—are receiving social security benefits, another 104 million make contributions to the system, and approximately 95 percent of our children and mothers are protected by survivors' insurance, which means that almost every American is involved in the social security system either as a beneficiary, a contributor, or the dependent of a contributor. It is to these citizens that we owe an obligation to protect the viability of the trust fund.

We are all aware of the economic and social factors that have served to undermine the trust fund in recent years: lowered birth rates, increased life expectancy, high unemployment, and inflation. Pointing fingers and attempting to affix blame are useless and enervating exercises. We must turn our energy and attention to remedying rather than just deploring the situation. To this end, we are being asked to make social security coverage universal extending it to all Federal, State, and local government employees and employees of nonprofit organizations, thereby bringing an additional 6 million workers into the system. We are told that this will help to improve the short term solvency of social security, that taxes levied on new workers coming into the system will improve its finances thus helping all private sector workers by preventing the need for another increase in the tax rate, and that it will ultimately help not hinder State and local government and their employees by supplanting many financially unsound pension plans with a more secure system. However, we are also being asked to approve this scheme and, after the fact, to commission a study to determine just how this can be done, and, I might add, if it can at all be done equitably and effectively. This, to put it tritely, is a classic case of putting the cart before the horse. Let us first do a thorough and complete study with a date certain for its submission, and then let us analyze it and act upon its recommendations. That is the only rational and logical way for us to proceed. The Fisher amendment contains just such a provision, and it is for this reason that I shall cast my vote in its favor.

Mr. BOB WILSON. Mr. Chairman, I rise in support of the substitute amendment offered by the gentleman from Virginia (Mr. FISHER) to strike the universal social security coverage mandated by H.R. 9346.

What it all boils down to is simply that this is the wrong legislation at this time. We just do not have enough solid information to make a rational decision on integrating social security with Federal retirement or on requiring participation by State and local governments.

Universal social security is not necessarily bad. In fact, social security has many good things to offer. A few examples would be the survivor protection for a worker with young children, the disability coverage for young workers with only minimal quarters under social security, the provision of a widow's benefit with no reduction in the retiree's monthly check, the nontaxability of social security and the payment of a benefit to divorced wives under certain circumstances.

Social security is also a very complex and intricate program, which does not easily integrate with other retirement plans by simply waving a magic wand, no matter how much some Members of this House would like to see it do so. The basic premises of Federal retirement and social security are different. Federal retirement is just that: a contributory program by both employer and employee, with annuities based on years of service and salary earned. The benefit is paid to the worker himself or herself, with any payment to a surviving spouse contingent upon the election of a reduced annuity by the retiree. Social security on the other hand goes far beyond the question of retirement benefits for the covered worker. Much emphasis is placed on survivor protection for young families. Benefit levels are heavily weighted in favor of those at the lower end of the earnings' scale and are not proportional to social security taxes paid. There are special benefits, like that for a wife, which require no contribution to the trust fund on the part of the worker or his spouse. By contrast, a working wife with many years of taxes paid into the social security trust fund often receives no payment at all for her social security-covered employment.

Trying to mesh social security with another large-scale Government retirement program is no easy task. As a member of the House Armed Services Committee, I can tell you that we have examined a number of alternatives to integrate military retirement and social security. It may seem elementary in principle, but the actual workings of offset formulas are highly complex and often discriminatory. A good example would be the case where the wife has worked and earned substantial social security credits on her own. In the military survivor benefit plan, we have widows who were formerly working wives and who are losing $150 to $200 per month from their survivor benefit plan annuities for a social security benefit they are not even receiving. I mention this only as an illustration of the difficulties involved. Corrective legislation in this instance has been passed by the House and is awaiting Senate action. In order to avoid a repetition of this type of problem and this is just one example, believe me, Congress has to do more homework before undertaking major surgery on one Federal program by using a meat cleaver on another.

I urge the House to mandate a comprehensive study of universal coverage and the actual mechanics of integrating Civil Service retirement and social security. With that type of data, Congress will be in a position to make a carefully reasoned, well-informed decision on the advisability of such an interweaving. The Post Office and Civil Service Committee will have an opportunity to study and propose one or more plans to supplement social security with a new Federal retirement plan or to determine that such integration is unsound and recommend a continuation of the present system. Additionally, the State and local governments will have a chance to give us their input on coverage for their employees and we will be able to examine the constitutional questions which need to be resolved if the States and localities are mandated into social security by the Federal Government.

According to the adage, haste makes waste. In the case of H.R. 9346, haste makes lousy legislation. We have serious problems with the long-term funding of social security. We also have some hard choices to make about its future course. Let us bite the bullet and make those decisions. Let us give the House an opportunity to consider the long-simmering issues of a realistic retirement earnings' test or no earnings' ceiling at all, of equity for working wives, of the use of general revenues versus a tax rate and wage base increase. Let us not, however, make the Federal, State, and local Government workers the scapegoat for the financial problems of the social security trust fund and hungrily eye their new social security taxes as a cure-all to our problems.

I again urge my colleagues to join in supporting the amendment by Mr. FISHER.

Mr. LUKEN. Mr. Chairman, I rise in opposition to a proposal by the House Ways and Means Committee that would require local, State, and Federal employees to be covered under the social security program beginning January 1, 1982.

This extension of coverage has become unpopular in many areas of the country as evidenced by the increasing trend of withdrawal from social security by State and local governments. Workers are afraid that universal coverage will jeopardize their rights to retirement benefits from pension plans they have paid into for years.

I, too, am skeptical of universal coverage. I noted that no adequate study has been done to determine the validity and feasibility of the Ways and Means proposal, and therefore believe it is foolish to pass this measure without further knowledge.

I would also like to bring to your attention that the Ways and Means Committee, which has jurisdiction over social security, has proposed legislation that integrates social security and Civil Service pension programs.

Obviously, the members of the Post Office and Civil Service Committee are skeptical as to the feasibility of meshing the two systems without impairing the pension rights of Federal employees. Their committee, which does have jurisdiction over the Federal pension program, voted unanimously against the Ways and Means Committee's proposal.

It is also interesting to note, Mr. Speaker, that provisions under title III require a study by HEW of the methods of integrating Federal and social security retirement plans, yet there are no provisions for a similar study of the meshing of State and local programs with social security. Such a study would demonstrate that many State and local governments cannot reduce pension benefits for their employees due to State constitutional restrictions or court decisions.

Furthermore, arguments have been raised that it is unconstitutional for Congress to tax State and local governments. However, these problems have not been resolved in the haste of the Ways and Means Committee.

Therefore, I urge my colleagues to consider these and other arguments against universal social security coverage, and to support the amendment offered by Mr. FISHER which will exempt local, State, and Federal employees from coverage, and will require HEW and others to study the feasibility of universal coverage.

Mr. VENTO. Mr. Chairman, the steamroller inclusion of public employees in the financially troubled social security program is inappropriate.

The provision to include public employees in social security really ducks the problem and is very unfair to public employees who have paid higher amounts into separate funds for many years.

The controversial provision in the social security funding bill would be implemented in 1981, with the specific details for accomplishment left to future congressional action. This proposal is like a picture of an elephant seen from an inch away. It does not provide a full image and leaves public employees guessing.

Perhaps most harmful is that it puts off serious funding problems and increases future liability by inclusion of 6 million public employees.

While the legislation being considered increases the social security tax by 6.05 percent in 1978—as scheduled—6.45 percent in 1981, 6.75 percent in 1985, 6.9 percent in 1986, and 7.45 percent in 1990; and the amount of income paid on to $19,900 next year, $22,900 in 1979, $25,900 in 1980, and upward in further steps to an estimated $35,400 in 1985 and an expected $39,600 in 1987; it provides no assurance of resolving the real difficulties.

Unemployment levels at 7 to 8 percent and inflation increases have been the nagging culprits of the basic social security program reducing the number who pay into the program and increasing the amounts paid out.

The inclusion of public employees may provide short-term funds but long-term liabilities.

Most public employee funds are solvent and doing well with timely contributions from the employees and government. The committee action changes the rule for one inning of the ball game and trusts future congressional action to resolve the rules in the ninth inning.

An immediate small increase in the social security tax and income amounts, the addition of general revenue for the next 2 years, while modifying some benefit provisions, was realistic. The committee, however, opted for a panacea which simply aggrevates the issue.

Many questions concerning provisions of this bill remain unanswered. First, is the constitutional issue of mandating the States inclusion; second is the questionable financing, that is, how do you extend new coverage and increased benefits in most instances to public employees; third, how to provide medicare coverage with less contributions than are currently paid by public employees—surely, we do not expect them to pay into both programs.

The civil service retirement fund has a deficit of $100 million annually. Who is going to fund it in the future and assume the even greater liability when there is no continued participation by public employees.

Clearly, the direction that the committee has moved to is inappropriate. The ghost of the railroad retirement funding solution casts a pall over much of today's discussion.

Many of these questions and fears could have been resolved by the committee but not in the manner presented by this legislation. Unfortunately, this action has raised fears that will make needed reforms more difficult and confusing.

Today we face an important task. We must provide adequate funding for commitments that have been made to generations of Americans.

The subcommittee chairman, Representative JIM BURKE, sounded the warning during the general debate on the issue and has reminded this House and Congress of the magnitude of the problem. For almost 2 years the financial status of the social security fund has been in question.

While this legislation does not solve all of the problems, its provisions will restore some needed confidence and solvency to the trust funds. It will equitably adjust benefits through the decoupling proviso and provide new earned income limits for many working beneficiaries.

Clearly, the benefits historically derived from our social security system have been significant based on what an individual paid into the fund to receive them. The maximum contribution of each employer/employee through 1976 would have been $7,763.10. A person received survivors benefits, disability coverage, and retirement benefits in addition to medicare for that contribution.

We should have recognized that many in our society—90 percent aged 30 to 60—are covered by benefits, but only 85 percent pay in for at least one 3-month period in a 2-year period. Therefore, general revenue supplemental funding is logical considering the benefit structure and the cost of the system.

However, opposition precluded that alternative.

Instead, we cut back with a regressive increase which will fall hard on low-income persons. The increase in the wage base is a necessary step and, frankly, the basic revenue raiser in this proposal.

This proposal requires the self-employed who receive the same benefits to pay 1.5 times the basic percentage. The logic in reducing the cost of the self-employed is that they receive no tax deduction which seems to make sense. But who makes up the loss to the social security trust funds? This is yet another justification for use of general revenue support for social security's basic program.

The other obvious inequity that exists in the social security benefit program is the difference between earned income and nonearned income. Apparently, this is a spillover from our basic tax laws. How much more effective would our solution be to social security funding if, in fact, we considered the total economic status of beneficiaries?

We could save substantial amounts if we would only equalize earned and unearned income and address realistically and equitably all the "double dippers."

Much discussion has been stimulated about additional benefits, but our ability to provide these must be tempered by our willingness to resolve the financial status of today's programs.

Frankly, nothing invokes more justified anger from the American people than a retreat from past commitments. Certainly they may fight ardently to work beyond 65 and the right to earn higher incomes, but they do not want changed requirements placed on them by new modifications of age as some will propose today.

Social security is here to stay, and the commitments made, I trust, will be reflected in my colleagues votes on this and other amendments today. This program needs some basic reform. This proposal helps with funding, but is far from perfect. It is my hope that it is a start and that once we have met the crisis our future actions will address the inequities and long-term commitments so necessary to this program and our constituencies.

Mr. McCLORY. Mr. Chairman, I rise in support of the amendment offered by our distinguished colleague, the gentleman from Virginia (Mr. FISHER).

There certainly is not one Member in this Chamber who would dispute the statement that the social security system is in serious trouble. Strong and deliberate measures must be taken in order to prevent financial disaster. The social security system simply cannot survive under current conditions by which payments exceed receipts—a situation with no end in sight if operations continue under present legislation.

As bad as things are with social security, they are not so bad that we should move in a precipitous manner. Yet, such would be the case if we today were to approve the provision of this bill which would mandate universal social security coverage.

Let us not debate the pros and cons of universal coverage, for we do not have anywhere near enough information on which to base our opinions—and that is my point. No one wants to perpetrate an injustice on Federal, State, and local government workers and employees of nonprofit organizations. But, this bill mandates universal coverage beginning in 1982—no matter what. The year 1982 may seem a long way down the road, but for a problem as complex as providing for the fair implementation of universal coverage, 1982 may be right around the corner.

Why do the supporters of this bill feel that we must mandate universal coverage today? Why must we act now?

The day before this bill was reported by the Ways and Means Committee, a petition hearing the signatures of 661 of my constituents in opposition of universal coverage was hand delivered to my office. Since that time I have received numerous letters, telegrams, and telephone calls stating the same position.

Many constituents would explain in detail what their current pension arrangements were and would then ask how they would be effected by universal coverage. When I looked at the committee report—which is over 300 pages in length—and saw that nothing within it could answer any of these constituent questions, I realized that I could not support the universal coverage provision of this bill.

As far as I am concerned, it is very simple: Without a study showing how universal social security coverage would work—and, for that matter, if it could work—I must oppose it.

I urge adoption of the amendment.

Mr. SEIBERLING. Mr. Chairman, I support the Fisher amendment, and I will vote for it. I want to make it clear, however, that I support the concept of universal coverage. The social security system was created to provide basic retirement insurance for every working person. Requiring universal coverage would guarantee everyone a retirement benefit based on their average monthly wage, and make them eligible for the supplemental benefits, such as medicare health insurance, which serve the special needs of persons in their retirement, and which are not always covered in other retirement plans. If social security were a universal program, the portability of coverage from public to private employment would guarantee retirement income for the many thousands of public employees who withdraw their pensions before retirement because of a job change, and thus lose their entitlement to full retirement benefits. It would also save the social security system about $1 billion a year by eliminating the opportunity for persons who retire early with full pensions to seek short-term or part-time employment merely to supplement their retirement pensions with the minimum social security benefit.

As we all know, the minimum benefit is heavily weighted to provide persons with a low average monthly wage over their working lifetime with a subsistence retirement income. I think it is grossly unfair that private employees should pay for the benefits of already-pensioned retirees with adequate retirement income who participate after retirement solely to qualify for the minimum social security benefits. This should not be allowed, and universal coverage is the only way to restore equity to the system and eliminate this situation.

We all know that there has been much misunderstanding about this proposal. Contrary to the misinformation which has been distributed about universal coverage, the Committee on Ways and Means did not intend that universal coverage would result in double payments by employers and employees. The committee specifically indicated that their proposal would not draw 1 cent from any other retirement system into the social security trust funds, and it has been repeatedly emphasized that universal coverage would not require the dismantling of any other retirement program. The purpose of universal coverage is to include all persons not now contributing to the system so that every person is assured some retirement income, and eligibility for necessary services. Under universal coverage, as I understand it, any additional retirement income could be financed on a voluntary basis to supplement the social security payment. Indeed, other retirement plans would continue to exist under universal coverage, since social security alone is not a total retirement plan.

However, the committee bill does not come to grips with the serious issues and questions that must be thoroughly examined before mandating universal social security coverage. There are five States which operate their own retirement systems totally independent from social security. Ohio is one of these States. The Public Employees Retirement System in Ohio has provided sound and adequate retirement coverage for State, municipal and school employees, and this system would probably continue under universal coverage to provide whatever additional benefits employees desire. But there is nothing in the universal coverage provision to suggest how this would be done. The committee bill would require a study by the Department of Health, Education, and Welfare to recommend how the civil service retirement system could operate along wtih social security, but the study proposed would not examine State, municipal, or teachers retirement systems and study the questions which must be answered if universal coverage is to become a reality.

For example, in Ohio, a person may retire with full pension benefits after 30 years of service, and many public employees take advantage of this provision to retire at 55. But they would not be eligible for full social security benefits until they reach 65. Would a supplemental retirement system provide them with adequate benefit levels during those years between retirement and eligibility for social security? Under universal coverage, less money would be contributed from payroll to the private retirement system, thus reducing the fund's earning power through investment. What addi-

tional costs would this mean for contributing employers and employees? Would the Federal Government provide technical assistance to help State and municipal employers with this transition? Would the State and municipal employers, faced with fiscal problems in recent years, be able to sustain the administrative expenses and the increased tax rates proposed by this legislation?

The Fisher amendment proposes a way to answer these and other questions raised by universal social security coverage. His amendment would require a comprehensive review of all existing retirement programs which are independent of social security, and would examine the financial impact of universal coverage for State and local employers. Each State would be surveyed to evaluate the existing retirement plans, and alternatives would be suggested for each State on how to participate in the social security system without reducing benefits for retirees. The study would be submitted to Congress in 1980.

There is one aspect of the Fisher amendment which concerns me, and that is the automatic tax rate increase proposed for 1981 if Congress does not mandate universal coverage. There are substantial tax rate increases in this bill already, and I am reluctant to impose an additional burden on those participating in social security should Congress not approve universal coverage. However, following the completion of the study called for by the Fisher amendment, the Congress will still have an opportunity to review whether to adopt a specific universal coverage plan. Moreover, in the meantime, Congress can and I believe will continue to review the whole question of financing social security. Accordingly, I believe the Fisher amendment is the best approach toward instituting universal social security coverage, and I will vote for the amendment.

Mr. BAUCUS. Mr. Chairman, I rise today to speak in support of Representative FISHER'S amendment to the social security financing bill, H.R. 9346.

The House Ways and Means Committee reported this bill with a provision requiring mandatory social security coverage of all Federal, State, and local government employees and employees of nonprofit organizations to be effective in 1982.

Supporters of this provision claim that universal coverage has been considered since the 1930's. They argue that the bill does not eliminate the Federal retirement system, it does not "merge" the two systems, and it does not authorize the transfer of any funds from the Federal retirement system to social security.

This may all in fact be true. But it seems to me that to mandate universal coverage before we have had the study presented to us which shows the effects and desirability of such a change, is a backwards and ill-advised way to legislate.

There is much concern and confusion among my constituents concerning universal coverage. I have received more calls in my district offices on this provision than on any other bill since I took office. I can understand the fears of workers who would be affected and feel that Representative FISHER'S amendment offers us a sound solution.

This amendment would delete the mandatory universal coverage provision and would require the Department of Health, Education, and Welfare to conduct a feasibility study of universal coverage to be presented to Congress by January 1, 1980.

Congress must be presented with a plan for coordinating social security with the other retirement systems before we can be expected to evaluate the desirability of such a change. In particular, coordinating the current Federal retirement systems with the social security system is an extremely complex matter and not one which should be blindly entered into. In addition, we must assure these workers that we are not using them to simply bail out the social security fund.

Present Federal, State, and local government employees and employees of nonprofit institutions accepted their jobs in part because of the future benefits that were promised to them. I believe that we who represent these people have an obligation to insure that these workers do not come up short when they reach retirement age. To do this, I feel that we must in all good conscience support the Fisher amendment.

It is my hope that a majority of my colleagues will also echo these sentiments and join me in voting for the Fisher amendment.

Mr. HILLIS. Mr. Chairman, I rise in support of the amendment. It has not been easy for me to decide how to vote on Mr. FISHER'S amendment to H.R. 9346. I have studied all of the arguments in favor of and opposed to this amendment. It is important that these arguments be examined carefully and be fully understood if this body is to make a responsible decision on the issue of universal coverage.

To begin with, it is no secret that Congress must make some improvements in the social security system in the very near future or else the trust fund will simply go bankrupt. That is an undebatable fact of life. We must live with it and work with it. To ignore it would prove disastrous.

Proponents of universal coverage argue that the increased funds which would be realized are necessary to help the financial situation of the social security trust fund. The billions of dollars which would eventually be realized by universal coverage are needed unless this Congress is willing to substantially increase the taxable wage base and the tax rates for employers and employees. While it is true that H.R. 9346 takes advantage of all three of these alternatives, the universal coverage provisions have allowed these increases to be smaller than they otherwise would be.

Another argument in favor of universal coverage is based on a matter of principle that all employees and employers should share in the burden of financing the social security system. Universal coverage does not single out Federal employees. Nor does it single out the other two categories affected, State and local government employees, and employees of nonprofit organizations. Just the opposite is true, universal coverage treats all employees, irrespective of their employer, equally.

The provisions of H.R. 9346, as reported by the Ways and Means Committee, do not call for the transfer of funds in the civil service retirement program to the social security fund. Nor does H.R. 9346 merge the two programs. All that this measure does is require employees heretofore exempt to join the social security system. While it may be true that the Congress might wish to amend the civil service retirement program in the future to reflect the inclusion of social security, the money and benefits of those who have paid into the civil service retirement fund will not be affected adversely.

It should be noted that most States and nonprofit organizations have already voluntarily joined the social security system. These States and/or organizations have been able to develop retirement programs which take into account the benefits of the social security system with no apparent difficuly. In fact, thousands of new pension programs are created every year in the private sector. Each of these programs must consider the benefits available and the contributions made to the social security program. The task of integrating the civil service retirement program, or any other heretofore exempt pension program, should not be any more difficult.

One last argument in favor of universal coverage is to stop employees who have been able to avoid paying into the social security system for years from moonlighting, or working a second job after retirement, just to qualify for a minimum number of quarters in order to receive social securiy benefits. This practice has cost the social security fund millions of dollars in the past.

Opponents of universal coverage, as mandated by H.R. 9346, also have several very good arguments in favor of their position, not the least of which is the uncertainty of universal coverage. It appears that the Ways and Means Committee has placed the carriage before the horse in calling for universal coverage by 1982. Since the ramifications of such a major step are so tremendous, it is only reasonable that the Congress should study this issue closely before voting to mandate that it be taken. A specific program of integration should be presented to the Congress which would answer the hundreds of quesions left unanswered by H.R. 9346. In one word, universal coverage is premature at this time.

I believe that the simple lack of adequate safeguards against loss of benefits has caused the greatest trouble with those employees who would be affected by universal coverage. The objections I have heard are not so much that universal coverage is bad per se, but that the method by which Congress is handling the issue lacks due caution. More hearings and studies should be done before we begin to tamper with the future plans of millions of Government employees. No one, not HEW, not the Civil Service Commission, not this Congress,

no one knows for sure what the ramifications of universal coverage as called for by H.R. 9346 will be if it is enacted.

It should be remembered by my colleagues that pension programs, such as the civil service retirement program, have different objectives than the social security system which is designed as a minimum (supplemental, if you will) income during the retirement years. Pension programs are designed to provide the employee with an acceptable standard of living after retirement. There is also a constitutional question whether the Federal Government can require State or local governments to join the social security system. It has been a well established position that the Federal Government cannot mandate that States spend money which universal coverage would involve. That question should be closely examined.

It is apparent that the opponents and proponents of Mr. FISHER's amendment have developed good arguments to support their positions. It is indeed difficult to determine which position best serves the interest of the American people in general while protecting the rights of all concerned.

I will support the Fisher amendment, not because I am against universal coverage, but because I believe more studies should be conducted before a final decision on the issue is made. It is unfair to ask millions of employees to simply have faith in the ability of Congress to solve whatever problems we might be creating by mandating universal coverage today. Congress, and all concerned parties, should understand what is involved before taking such a step.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. FISHER) as a substitute for the Post Office and Civil Service Committee amendment.

PARLIAMENTARY INQUIRY

Mr. ARCHER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ARCHER. Mr. Chairman, inasmuch as we were not permitted to offer a separate amendment for the Post Office and civil service employees, I would ask that this question be divided so we will have a separate vote. We can do anything by unanimous consent. I ask unanimous consent that this question be divided so we can vote separately.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. FISHER. Mr. Chairman, I object.

Mr. ULLMAN. Mr. Chairman, it is not in accordance with the rule.

The CHAIRMAN. Objection is heard.

The question is on the amendment offered by the gentleman from Virginia (Mr. FISHER) as a substitute for the Committee on Post Office and Civil Service amendment.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONABLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 386, noes 38, not voting 10, as follows:

[Roll No. 697]

AYES—386

Abdnor	Diggs	Kildee
Addabbo	Dingell	Kindness
Akaka	Dodd	Kostmayer
Alexander	Dornan	Krebs
Allen	Downey	Krueger
Ambro	Drinan	LaFalce
Ammerman	Duncan, Oreg.	Lagomarsino
Anderson, Calif.	Duncan, Tenn.	Latta
Anderson, Ill.	Early	Le Fante
Andrews, N.C.	Eckhardt	Leach
Andrews, N. Dak.	Edgar	Lederer
Annunzio	Edwards, Ala.	Leggett
Applegate	Edwards, Calif.	Lehman
Archer	Edwards, Okla.	Lent
Armstrong	Eilberg	Levitas
Ashbrook	Emery	Livingston
Aspin	English	Lloyd, Calif.
Badillo	Erlenborn	Lloyd, Tenn.
Baldus	Ertel	Long, La.
Barnard	Evans, Colo.	Long, Md.
Baucus	Evans, Del.	Lott
Bauman	Evans, Ga.	Lujan
Beard, R.I.	Evans, Ind.	Luken
Bedell	Fary	Lundine
Beilenson	Fascell	McClory
Benjamin	Fenwick	McCloskey
Bennett	Findley	McCormack
Bevill	Fish	McDade
Biaggi	Fisher	McDonald
Bingham	Fithian	McEwen
Blanchard	Flippo	McFall
Blouin	Flood	McKay
Boggs	Florio	McKinney
Boland	Flowers	Madigan
Bolling	Flynt	Mahon
Bonker	Foley	Markey
Bowen	Ford, Tenn.	Marks
Brademas	Forsythe	Marlenee
Breaux	Fountain	Marriott
Breckinridge	Fowler	Mathis
Brinkley	Frey	Mattox
Brooks	Fuqua	Mazzoli
Broomfield	Gammage	Meeds
Brown, Calif.	Gaydos	Metcalfe
Brown, Mich.	Giaimo	Meyner
Brown, Ohio	Gilman	Michel
Broyhill	Ginn	Mikulski
Buchanan	Glickman	Milford
Burgener	Goldwater	Miller, Calif.
Burke, Calif.	Gonzalez	Miller, Ohio
Burke, Fla.	Goodling	Mineta
Burke, Mass.	Gradison	Minish
Burleson, Tex.	Grassley	Mitchell, Md.
Burlison, Mo.	Gudger	Mitchell, N.Y.
Burton, John	Guyer	Moakley
Burton, Phillip	Hall	Moffett
Butler	Hamilton	Mollohan
Byron	Hammer-schmidt	Montgomery
Caputo	Hanley	Moore
Carney	Hannaford	Moorhead, Calif.
Carter	Hansen	Moorhead, Pa.
Cavanaugh	Harkin	Moss
Cederberg	Harrington	Motti
Chappell	Harris	Murphy, Ill.
Chisholm	Harsha	Murphy, N.Y.
Clausen, Don H.	Hawkins	Murphy, Pa.
Clay	Heckler	Murtha
Cochran	Hefner	Myers, John
Cohen	Heftel	Myers, Michael
Coleman	Hightower	Natcher
Collins, Ill.	Hillis	Neal
Collins, Tex.	Hollenbeck	Nedzi
Conte	Holt	Nichols
Corcoran	Holtzman	Nix
Cornell	Horton	Nolan
Cornwell	Howard	Nowak
Cotter	Hubbard	O'Brien
Coughlin	Huckaby	Oakar
Crane	Hughes	Oberstar
Cunningham	Hyde	Ottinger
Daniel, Dan	Ichord	Panetta
Daniel, R. W.	Ireland	Patten
Danielson	Jacobs	Patterson
Davis	Jeffords	Pattison
de la Garza	Jenkins	Pease
Delaney	Jenrette	Pepper
Dellums	Johnson, Calif.	Pettis
Dent	Johnson, Colo.	Pike
Derrick	Jones, N.C.	Pressler
Derwinski	Jones, Tenn.	Preyer
Devine	Jordan	Price
Dickinson	Kasten	Pritchard
Dicks	Kastenmeier	Pursell
	Kazen	Quayle
	Kelly	Quie
	Quillen	Vanik
	Rahall	Vento
	Railsback	Volkmer
	Rangel	Waggonner
	Regula	Walgren
	Reuss	Walker
	Richmond	Walsh
	Rinaldo	Wampler
	Risenhoover	Watkins
	Roberts	Waxman
	Robinson	Weaver
	Rodino	White
	Roe	Whitehurst
	Rogers	Whitley
	Roncalio	Whitten
	Rooney	Wiggins
	Rose	Wilson, Bob
	Rosenthal	Wilson, C. H.
	Rostenkowski	Wilson, Tex.
	Rousselot	Winn
	Roybal	Wirth
	Rudd	Wolff
	Runnels	Wright
	Ruppe	Wydler
	Russo	Wylie
	Ryan	Yates
	Santini	Yatron
	Sarasin	Young, Alaska
	Satterfield	Young, Fla.
	Sawyer	Young, Mo.
	Scheuer	Young, Tex.
	Schroeder	Zablocki
	Sebelius	Zeferetti
	Seiberling	
	Sharp	
	Shipley	
	Shuster	
	Sikes	
	Sisk	
	Skelton	
	Skubitz	
	Slack	
	Smith, Iowa	
	Smith, Nebr.	
	Snyder	
	Solarz	
	Spellman	
	Spence	
	St Germain	
	Staggers	
	Stangeland	
	Stanton	
	Steed	
	Steers	
	Stokes	
	Stratton	
	Studds	
	Stump	
	Symms	
	Taylor	
	Thompson	
	Thone	
	Thornton	
	Traxler	
	Treen	
	Trible	
	Tsongas	
	Udall	
	Van Deerlin	
	Vander Jagt	

NOES—38

AuCoin	Gephardt	Myers, Gary
Badham	Gibbons	Obey
Bafalis	Gore	Pickle
Beard, Tenn.	Hagedorn	Poage
Bonior	Holland	Rhodes
Brodhead	Jones, Okla.	Schulze
Carr	Kemp	Simon
Cleveland	Ketchum	Stark
Conable	Keys	Steiger
Corman	Maguire	Tucker
D'Amours	Mann	Ullman
Ford, Mich.	Martin	Weiss
Frenzel	Mikva	

NOT VOTING—10

Ashley	Koch	Teague
Clawson, Del	McHugh	Whalen
Conyers	Perkins	
Fraser	Stockman	

The Clerk announced the following pair:

On this vote:

Mr. Ashley for, with Mr. McHugh against.

So the amendment offered as a substitute for the Committee on Post Office and Civil Service amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the Committee on Post Office and Civil Service amendment, as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CORMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 380, noes 39, not voting 15, as follows:

[Roll No. 698]

AYES—380

Abdnor	Applegate	Benjamin
Addabbo	Archer	Bennett
Akaka	Armstrong	Bevill
Alexander	Ashbrook	Biaggi
Allen	Aspin	Bingham
Ambro	Badillo	Blanchard
Ammerman	Baldus	Blouin
Anderson, Calif.	Barnard	Boggs
Andrews, N.C.	Baucus	Boland
Andrews, N. Dak.	Bauman	Bolling
Annunzio	Beard, R.I.	Bonker
	Bedell	Bowen
	Beilenson	Brademas

Breaux	Goldwater	Moorhead, Calif.
Breckinridge	Gonzalez	Moorhead, Pa.
Brinkley	Goodling	Moss
Brooks	Gradison	Mottl
Broomfield	Grassley	Murphy, Ill.
Brown, Calif.	Gudger	Murphy, N.Y.
Brown, Mich.	Guyer	Murphy, Pa.
Brown, Ohio	Hall	Murtha
Broyhill	Hamilton	Myers, John
Buchanan	Hammer-schmidt	Myers, Michael
Burgener	Hanley	Natcher
Burke, Calif.	Hannaford	Neal
Burke, Fla.	Hansen	Nedzi
Burke, Mass.	Harkin	Nichols
Burleson, Tex.	Harrington	Nix
Burlison, Mo.	Harris	Nolan
Burton, John	Harsha	Nowak
Burton, Phillip	Hawkins	O'Brien
Butler	Hefner	Oakar
Byron	Heftel	Oberstar
Caputo	Hightower	Ottinger
Carney	Hillis	Panetta
Carter	Hollenbeck	Patten
Cavanaugh	Holt	Patterson
Cederberg	Holtzman	Pattison
Chappell	Horton	Pease
Chisholm	Howard	Pepper
Clausen, Don H.	Hubbard	Pettis
Clay	Huckaby	Pike
Cochran	Hughes	Pressler
Cohen	Hyde	Preyer
Coleman	Ichord	Price
Collins, Ill.	Ireland	Pritchard
Collins, Tex.	Jeffords	Pursell
Conte	Jenkins	Quayle
Corcoran	Jenrette	Quie
Cornell	Johnson, Calif.	Quillen
Cornwell	Johnson, Colo.	Rahall
Cotter	Jones, N.C.	Railsback
Coughlin	Jones, Tenn.	Rangel
Crane	Jordan	Regula
Cunningham	Kasten	Reuss
Daniel, Dan	Kastenmeier	Richmond
Daniel, R. W.	Kazen	Rinaldo
Danielson	Kelly	Risenhoover
Davis	Kildee	Roberts
de la Garza	Kindness	Robinson
Delaney	Kostmayer	Rodino
Dellums	Krebs	Roe
Dent	Krueger	Rogers
Derrick	LaFalce	Roncalio
Derwinski	Lagomarsino	Rooney
Devine	Latta	Rose
Dickinson	Le Fante	Rosenthal
Dicks	Leach	Rostenkowski
Diggs	Lederer	Rousselot
Dingell	Leggett	Roybal
Dodd	Lehman	Rudd
Dornan	Lent	Runnels
Downey	Levitas	Ruppe
Drinan	Livingston	Russo
Duncan, Oreg.	Lloyd, Calif.	Ryan
Duncan, Tenn.	Lloyd, Tenn.	Santini
Early	Long, La.	Sarasin
Eckhardt	Long, Md.	Satterfield
Edgar	Lott	Scheuer
Edwards, Ala.	Lujan	Schroeder
Edwards, Calif.	Luken	Sebelius
Edwards, Okla.	Lundine	Seiberling
Eilberg	McClory	Sharp
Emery	McCloskey	Shipley
English	McCormack	Shuster
Ertel	McDade	Sikes
Evans, Colo.	McDonald	Sisk
Evans, Del.	McEwen	Skelton
Evans, Ga.	McFall	Skubitz
Evans, Ind.	McKay	Slack
Fary	McKinney	Smith, Iowa
Fascell	Madigan	Smith, Nebr.
Fenwick	Mahon	Snyder
Findley	Markey	Solarz
Fish	Marks	Spellman
Fisher	Marlenee	Spence
Fithian	Marriott	St Germain
Flippo	Mathis	Staggers
Flood	Mattox	Stangeland
Florio	Mazzoli	Stanton
Flowers	Meeds	Steed
Flynt	Metcalfe	Steers
Foley	Meyner	Stokes
Ford, Mich.	Michel	Stratton
Ford, Tenn.	Milford	Studds
Forsythe	Miller, Calif.	Stump
Fountain	Miller, Ohio	Taylor
Fowler	Mineta	Thompson
Frey	Minish	Thone
Fuqua	Mitchell, Md.	Thornton
Gammage	Mitchell, N.Y.	Traxler
Gaydos	Moakley	Treen
Giaimo	Moffett	Trible
Gilman	Mollohan	Tsongas
Ginn	Montgomery	Udall
Glickman	Moore	Van Deerlin
Vander Jagt	White	Wydler
Vanik	Whitehurst	Wylie
Vento	Whitley	Yates
Volkmer	Whitten	Yatron
Waggonner	Wiggins	Young, Alaska
Walgren	Wilson, Bob	Young, Fla.
Walker	Wilson, C. H.	Young, Mo.
Walsh	Wilson, Tex.	Young, Tex.
Wampler	Winn	Zablocki
Watkins	Wirth	Zeferetti
Waxman	Wolff	
Weaver	Wright	

NOES—39

AuCoin	Gephardt	Mikva
Badham	Gibbons	Myers, Gary
Bafalis	Gore	Obey
Beard, Tenn.	Hagedorn	Pickle
Bonior	Holland	Poage
Brodhead	Jacobs	Rhodes
Carr	Jones, Okla.	Schulze
Cleveland	Kemp	Simon
Conable	Ketchum	Stark
Conyers	Keys	Steiger
Corman	Maguire	Tucker
D'Amours	Mann	Ullman
Frenzel	Martin	Weiss

NOT VOTING—15

Anderson, Ill.	Heckler	Sawyer
Ashley	Koch	Stockman
Clawson, Del	McHugh	Symms
Erlenborn	Mikulski	Teague
Fraser	Perkins	Whalen

The Clerk announced the following pairs:

On this vote:

Mr. Ashley for, with Mr. McHugh against.

So the Committee on Post Office and Civil Service amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. JENKINS

The CHAIRMAN. Under the rule, the Chair now recognizes the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JENKINS: Page 125, strike out lines 22 through 25 and insert in lieu thereof the following:

"(A) in 1978 shall be $18,000,

"(B) in 1979 shall be $20,500,

"(C) in 1980 shall be $23,000,

"(D) in 1981 shall be $25,500,

"(E) in 1982 shall be $28,000,

"(F) in 1983 shall be $30,500, and

"(G) in 1984 shall be $33,000.

Page 126, line 3, strike out "1982" and insert in lieu thereof "1985".

Page 119, strike out lines 13 through 18 and insert in lieu thereof the following:

"(2) with respect to wages received during the calendar year 1978, the rate shall be 5.15 percent;

"(3) with respect to wages received during the calendar years 1979 through 1984, the rate shall be 5.20 percent;

Page 120, strike out lines 12 through 17 and insert in lieu thereof the following:

"(2) with respect to wages paid during the calendar year 1978, the rate shall be 5.15 percent;

"(3) with respect to wages paid during the calendar years 1979 through 1984, the rate shall be 5.20 percent;

Page 121, strike out lines 12 through 15 and insert in lieu thereof the following:

"(3) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1985, the tax shall be equal to 7.80 percent of the amount of the self-employment income for such taxable year;

Mr. JENKINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The CHAIRMAN. The gentleman from Georgia (Mr. JENKINS) will be recognized for 15 minutes in support of his amendment, and the gentleman from Oregon (Mr. ULLMAN) will be recognized for 15 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I wish to speak to my fellow Members about my amendment which decreases the galloping wage-base increase in the bill reported by the committee. Initially, I have studied the administration's proposal for social security financing sent to us earlier in the year and it is clear that it did not recommend the wage-base increases contained in the committee bill. The President in his May message recommended an increase in the wage bases for employees of no more than $600 for 1979 with an additional $600 in 1981, 1983, and 1985.

This committee bill which we are asked to support calls for an increase of $3,400 in the wage base for year 1978 alone; that is a tremendous increase for the middle-income and self-employed taxpayer. I urge my fellow Members to give such an increase some cautious scrutiny.

I realize that we are concerned about the wage earner on income of $10,000 to $15,000 per year. I am concerned for him. I represent thousands of good, hard-working wage earners. I do not seek to shift the tax burden from upper- to middle-income workers. I seek with my amendment to forestall large and overwhelming tax increases to middle-income taxpayers.

My amendment would slow the rate of incremental increase in the wage base. In order to do it and generate equivalent revenues to prevent the system's failure my actuaries have indicated that I must raise the tax rate 0.1 percent in 1978. This slight rate increase means that a $10,000 wage earner will contribute only $10 per year more than the bill provides. This increased contribution is less than $1 additionally per month in payroll withholding.

A wage earner making $15,000 per year will contribute $15 per year more than the bill provides. That increase in withholding is almost $1.25 per month.

However, my amendment brakes the spiraling increase in the wage base. My amendment alleviates the overburdensome 23-percent tax increase which the bill schedules for next year.

Permit me to discuss the people who are benefitted by my amendment. While I do not know individually the people of your district, I would believe that they are much like the people of the Ninth District of Georgia.

My amendment is aimed to help that group of Americans that everyone in his or her campaign has said the Government needs to help. This group consists of that small private businessman that is struggling to operate a little business

and compete in today's market with inflationary economic conditions.

I cannot understand why the committee proposes to increase the tax burden on the middle income and self-employed taxpayer. Every bit of the burden is being laid squarely on his shoulders. How can we dare to go out of here and truly tell him "I want to help you" when we saddle him with staggering new taxes.

Where is our help?

Let me insist that if we are ever going to help him it is time to do it now.

It is not that this solid and stable group of working Americans will escape an increase in withholding if my amendment is adopted. To generate revenues for the long failing system that self-employed downtown merchant earning $20,000 per year will have a 10-percent tax increase under my amendment. But let us spare him that full 23-percent increase which the bill contains for 1978 alone.

Since coming to the Congress last January, I have heard much discussion of the lagging economy, sluggish recovery, and uncontrolled inflation. While we seek to have an economy conducive to the creation of private sector jobs, business is left uncertain about the future of increased investment and the need for expanded employment. While we look primarily to our small and independent businessman to provide jobs to the jobless, we run their tax up to a point where they cannot expand their business.

Who are these Americans earning between $17,000 and $30,000 per year? They are the small and independent businessmen. The middle income and self-employed taxpayer. The corner druggist. The service station manager if he has not been gobbled up by a corporate giant. The hardware store operator. The feed store. The grocery store. The real estate man. The advertiser. The small and independent weekly newspaper. The radio station. The clothing store. The barber. The beautician. The music and record shop. The piano teacher or dance teacher. The jeweler and gift shop owner. The shoe store. The furniture seller and antique retailer. The tire salesman. The small automobile dealer. The minister.

These are people that we hurt. These are the good people that everyone here must face next July and August if we choose to seek reelection. If my amendment is not adopted, we must tell them, "Yes, I helped make the social security system solvent again, but I made you pay the lion's share to alleviate the problem."

I cannot conscientiously impose these taxes after telling my people that I know your problems and needs and that I want fair treatment for the self-employed and for the small and independent businessman.

If we realize the great need to help this segment of the Nation's economy, let us understand that relief is long overdue. I am talking about the little businessperson who struggles every single day to cope with existing financial conditions. It is not the individual who earns over $40,000 that concerns me. He will not be hurt. I am not concerned for the corporate executive. He or she will not be hurt. I am not concerned about the Fords or the Rockefellers or the large corporations. No, my concern is for that American earning from $17,000 to $30,000 who will pay nearly $250 more in tax next year under the bill.

The people for whom I seek relief are the business people who struggle with Federal regulations hoping that it will not be necessary to expend large sums for legal advice and representation. While the big companies have their counsel and their accountants, the little business struggles alone. These are business people for whom the Congress has recently raised the minimum wage.

If you will look, these Americans for whom I plead tonight are the financial integrity of this Government. They pay the taxes that make this system work. They pay the county and city property taxes which operate the schools, the local governmental service fees. They are the civic leaders. They are the band boosters and the active church members. They are parents educating children in an age of spiraling tuition increases.

As long as I have the privilege to be here, I shall not permit my fellow Members to forget this segment of our working, producing, and taxpaying society. I truly expect support for this group to increase. Otherwise I fear that we shall break them and poison the family man on our system of government.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield to the gentleman from New York.

Mr. CONABLE. After my great success in fighting the Fisher amendment, I hope it will not hurt the gentleman too much if I support his amendment. I think it is a modest step, but a step in the right direction. If a bigger step is indicated, a smaller step is not bad.

I do think there are many complications that are going to attend our fast expanding wage base. The gentleman has put his finger on some of them. I think we are going to be tempted to tax pensions in the future, and I strongly oppose that. I think it is going to reduce our capacity to finance future cost-of-living increases by an expanding wage base once we have taken the step the committee bill does.

I think also that there are serious questions of equity involved, and a serious impact on our private pension systems if we raise the wage base to the extent the committee bill does. So, I compliment the gentleman on his amendment and I intend to support it.

Mr. JENKINS. I thank the gentleman for his comments and for his support.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield to the gentleman from Texas.

Mr. PICKLE. As I understand what the gentleman is offering, it would be to provide a more gradual increase in the wage base and a slightly more rapid increase in the rate. I think that is important, because the committee bill places a heavy emphasis on the wage base. It goes from $17,700 next year up to as much as $39,000 and more. The gentleman in the well is offering an amendment that increases the wage base slowly, but puts in a tax. It is a balance, and it would not be nearly as onerous to business people as the bill before us.

I think that is a fair approach, and I think the gentleman has got a good amendment. I support his amendment.

Mr. JENKINS. I thank the gentleman for his comments.

I want to say that I am not attempting to burden any one group over another. I just simply think that it is unfair to unload totally upon this group who earn between the $20,000 and $25,000.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. I think what the gentleman from Georgia is trying to do—I know he is well-intentioned—but what he is doing here is raising the tax rate on 85 percent of the employees faster than the committee bill does up until 1984. This will hit the employers very hard, particularly those in manufacturing areas of this country who are losing hundreds of thousands of jobs.

The wage base increase only affects about 13 or 14 percent of the wage earners in this country, and does not affect the employment picture as bad as the gentleman's amendment will. I hope the gentleman's amendment is defeated, because if it is adopted, it will contribute to higher unemployment in this country, particularly in the manufacture of textiles, shoe wares, and the other manufacturing plants around the country that are going down the tube at the present time.

Mr. JENKINS. I thank the gentleman for his comments. I disagree with him. I point out that were I seeking to unload this tax burden upon the employee and employer, I would increase the tax rate to a higher level. I have attempted to strike a balance within sound actuarial limits and subject to the rule which has bound each Member in offering amendments.

Additionally, I submit that the administration has never advocated that the employees' share increase at the rate which the bill proposes.

The people about whom I am speaking are the same people that we say that we want to help. They reside in small towns and large towns. They are the people who always carry the tax burden. This bill does not help them. It is unfortunate for them that the House is going in the direction of the bill.

The individual that I want to help with my amendment is the "Rocky" of the Nation's economy. He is bruised and battered and has been time and time again. The Congress is ready to stick him again. Nevertheless, he holds on day after day and year after year.

When we go to our district this is the citizen who tells us:

> This is a good nation; this is a good country. We must do something about Social Security and reform the whole tax structure. I cannot bear the oppressive taxation too much longer.

The Government is going to make these citizens dishonest. After a while he will be forced to circumvent compliance. I urge you to examine the realities and not permit the undoing of our country's small and independent business operator.

Mr. Chairman, I submit that my amendment is modest. I regret that the rule will not permit me to offer more relief. What relief the amendment does provide should be adopted.

Mr. ULLMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is my hope that we might be able to proceed very expeditiously on some of these amendments. I think we understand them. It is also my hope that the committee might rise about 9 o'clock tonight, and the more amendments we get out of the way tonight, the less time it is going to take tomorrow to finish the bill. It may even be possible, if we could move rapidly enough, that we could finish the bill tonight.

But let me very quickly relate to the Jenkins amendment. I want to commend the gentleman for doing some very serious thinking about this matter, but I urge the Members to stay with the formula the committee has laid out. What the gentleman from Georgia, Mr. JENKINS, would do is this: In 1978, he would increase the tax rates, by 0.1 percent and then in 1979 and 1980 by 0.15 percent above the committee bill; by 1981 to 1984, continuing 0.05 percent above the bill, and then in 1985 and thereafter, he would stay with the committee tax rates. On the base, he would start out in 1977 the same as the committee bill, and he would arrive at the same place as the committee bill in 1985. But between 1977 and 1985 we would both step up the base. He would step it up with a little different format than we would, and he would start it a little slower. I think one could draw 100 different versions of the way to do it. The committee has studied it very carefully, and I urge the Members to stay with the committee and vote against the gentleman's amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Chairman, the difference between the committee bill and the Jenkins amendment as it relates to rates is that the Jenkins amendment starts out exactly the same and ends up the same, and the only difference is for years during the years 1978–84. It is very minuscule, in the rate difference.

Mr. ULLMAN. On rate, there is a 0.1 percent increase in the Jenkins amendment in 1978, which is an early rate increase, and then a 0.15 in 1978 and 1980, which is a very sizable increase in rate.

Mr. ROUSSELOT. But it is a 7-year period?

Mr. ULLMAN. Yes. 1977 is the same. 1985 is the same. But in those intervening years, he uses a little different schedule of base increase.

Mr. ROUSSELOT. Well, his base, of course, does not go up quite as rapidly.

Mr. ULLMAN. Yes, but it gets to the same place eventually.

Mr. ROUSSELOT. Yes, eventually, but the wage base goes up more slowly.

Mr. ULLMAN. Yes, that is right.

Mr. ROUSSELOT. So this amendment really is, as the gentleman from Georgia (Mr. JENKINS) said, a middle-income amendment. It is for the middle-income people who are covered.

Mr. ULLMAN. Except that in both the bill and under the amendment we arrive at the same place; we are just using different steps.

Mr. ROUSSELOT. So I would assume that if we do not care for the middle income, we should probably vote against this amendment.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Chairman, I might point out to my friend, the gentleman from California (Mr. ROUSSELOT), that if the amendment offered by the gentleman from Georgia (Mr. JENKINS) is adopted, it will more than likely cost us about 500,000 jobs.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield, where did the gentleman from Massachusetts (Mr. BURKE) get that information? I have seen no such figures from the Joint Economic Committee or the Budget Committee.

Mr. BURKE of Massachusetts. This would cost 500,000 jobs in the manufacturing areas of this country. The textile firms are just holding on now by their fingertips.

Mr. ROUSSELOT. We know the problems of the textile industry, but this amendment does not effect that problem.

Mr. BURKE of Massachusetts. They just need a little bit of a push to put them over the precipice now.

Mr. ROUSSELOT. Like the minimum wage?

Mr. BURKE of Massachusetts. That is right.

Mr. ROUSSELOT. Yes, that is right, just like the increase in the minimum wage, that does adversely affect the textile industry.

Mr. BURKE of Massachusetts. What we would be doing here is this: This tax goes on the employer on one side and on the employee on the other, but the employer actually feels he is paying it, so this is a double tax he is paying.

If we want to reduce the manufacturing jobs in this country, you should vote for this amendment.

Mr. ULLMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas (Mr. TUCKER).

Mr. TUCKER. Mr. Chairman, I would like to be very clear to my colleagues in stating what this amendment would do, because it might have some surface attractions, but it also has some real deep dangers. I want the Members to be very clear about what it does.

The wage base, as adjusted in this amendment, ultimately reaches the same base rate level set forth in the committee bill. As a matter of fact, it does so by 1984. We are just quibbling about a thousand dollars or so.

The important thing is this: in order to ease that wage base in just a little bit slower, we have, first, a 0.1 percent tax increase, in 1978 and then we have another 0.05 percent tax increase on top of that in 1979.

So this amendment increases the tax immediately on 85 percent of the employees in this country and 85 percent of the employment—and that includes the employers in the country—by next year. That means a couple of billion dollars in taxes next year on all employment, or on 85 percent of it, and 85 percent of the employees, and this is just to take care of a very few people.

That would have a severe economic impact, and that is why the committee did not take this approach. We did not want to put that kind of a tax burden on all jobs and on all employers next year.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to my friend, the gentleman from Missouri.

Mr. GEPHARDT. Mr. Chairman, the gentleman is saying, then, that we are not talking about a middle-class amendment; we are talking about an amendment that would benefit only about 15 percent of the wage earners, the highest paid people in the United States?

Mr. TUCKER. The gentleman is correct. This does not take care of the middle class; this takes care of the top 15 percent of the wage earners in the country, and it puts added burdens on the remaining 85 percent of the wage earners in this country.

Mr. JENKINS. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to the gentleman from Georgia.

Mr. JENKINS. Mr. Chairman, the gentleman said the amendment is for the highest income group in the country?

Mr. TUCKER. The top 15 percent.

Mr. JENKINS. How much more does the $25,000 a year man who is self- employed pay in 1978 under this bill than he does this year?

Mr. TUCKER. Under our bill he would in 1978 pay $133 more than he would under present law.

Mr. JENKINS. I am speaking of the self-employed.

Mr. TUCKER. The gentleman's amendment makes no change in the self-employed tax rate from the committee bill, which stays at 1½ times.

Mr. JENKINS. But the bill's wage base goes up, does it not, a total of $3,400 from what it is in 1977?

Mr. TUCKER. Yes, but it goes up only $2,000, less than $2,000 over what it would go up anyway. Under existing law it would go to $17,700 next year, and under the committee bill it would go to $19,900. So there is only a $2,000 increase in wage base.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. TUCKER) has expired.

Mr. JENKINS. Mr. Chairman, I yield myself the remainder of the allocated time.

My amendment does not increase the real tax burden on wage earner. I would not seek to shift the burden to that individual. He is struggling too in a tough economy.

My amendment reduces the tax burden on the middle income and self-employed taxpayer. It spreads tax increases over a number of years reducing the burden and the percentage of yearly increase. No needed revenue to insure the system's solvency is lost.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. JENKINS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. JENKINS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 136, noes 281, not voting 17, as follows:

[Roll No. 699]

AYES—136

Abdnor	English	Montgomery
Ambro	Ertel	Moore
Anderson, Ill.	Evans, Ga.	Moorhead, Calif.
Andrews, N.C.	Flippo	Motti
Andrews, N. Dak.	Flynt	Murphy, Pa.
Applegate	Forsythe	Nichols
Archer	Fountain	O'Brien
Ashbrook	Fowler	Pickle
AuCoin	Fuqua	Poage
Badham	Gammage	Quayle
Bafalis	Ginn	Quillen
Barnard	Glickman	Rhodes
Bauman	Goldwater	Risenhoover
Beard, Tenn.	Gradison	Robinson
Bingham	Grassley	Rose
Boggs	Gudger	Rousselot
Bowen	Guyer	Rudd
Breaux	Hall	Runnels
Breckinridge	Hansen	Satterfield
Brinkley	Harris	Sawyer
Brown, Mich.	Harsha	Schulze
Brown, Ohio	Hefner	Sebelius
Broyhill	Holt	Shuster
Buchanan	Huckaby	Sikes
Burgener	Hyde	Skelton
Burleson, Tex.	Ireland	Skubitz
Butler	Jenkins	Smith, Iowa
Cederberg	Johnson, Colo.	Snyder
Chappell	Jones, N.C.	Spence
Cochran	Kelly	Stangeland
Collins, Tex.	Ketchum	Stump
Conable	Lagomarsino	Symms
Corcoran	Latta	Treen
Crane	Leach	Vander Jagt
Cunningham	Lent	Waggonner
Daniel, Dan	Levitas	Walker
Daniel, R. W.	Livingston	Wampler
Davis	Lloyd, Tenn.	Watkins
de la Garza	Long, La.	Whitley
Derwinski	Lott	Whitten
Devine	McClory	Wiggins
Dornan	McDonald	Wilson, Tex.
Duncan, Tenn.	McEwen	Winn
Edwards, Ala.	Martin	Wydler
Edwards, Okla.	Mathis	Wylie
	Michel	Young, Tex.

NOES—281

Addabbo	Broomfield	Coughlin
Akaka	Brown, Calif.	D'Amours
Alexander	Burke, Calif.	Danielson
Allen	Burke, Fla.	Delaney
Ammerman	Burke, Mass.	Dellums
Anderson, Calif.	Burlison, Mo.	Dent
Annunzio	Burton, John	Derrick
Armstrong	Burton, Phillip	Dicks
Aspin	Byron	Diggs
Badillo	Caputo	Dingell
Baldus	Carney	Dodd
Baucus	Carr	Downey
Beard, R.I.	Carter	Drinan
Bedell	Cavanaugh	Duncan, Oreg.
Bellenson	Chisholm	Early
Benjamin	Clausen, Don H.	Eckhardt
Bennett	Clay	Edgar
Bevill	Cleveland	Edwards, Calif.
Biaggi	Cohen	Eilberg
Blanchard	Coleman	Emery
Blouin	Collins, Ill.	Evans, Colo.
Boland	Conte	Evans, Del.
Bonior	Conyers	Evans, Ind.
Bonker	Corman	Fary
Brademas	Cornell	Fascell
Brodhead	Cornwell	Fenwick
Brooks	Cotter	Findley
		Fish
		Fisher
		Fithian
		Flood
		Florio
		Flowers
		Foley
		Ford, Mich.
		Ford, Tenn.
		Frenzel
		Frey
		Gaydos
		Gephardt
		Giaimo
		Gibbons
		Gilman
		Gonzalez
		Gore
		Hagedorn
		Hamilton
		Hammer-schmidt
		Hanley
		Hannaford
		Harkin
		Harrington
		Hawkins
		Heftel
		Hightower
		Hillis
		Holland
		Hollenbeck
		Holtzman
		Horton
		Howard
		Hubbard
		Hughes
		Ichord
		Jacobs
		Jeffords
		Jenrette
		Johnson, Calif.
		Jones, Okla.
		Jones, Tenn.
		Jordan
		Kasten
		Kastenmeier
		Kazen
		Kemp
		Keys
		Kildee
		Kindness
		Kostmayer
		Krebs
		Krueger
		LaFalce
		Le Fante
		Lederer
		Leggett
		Lehman
		Lloyd, Calif.
		Long, Md.
		Lujan
		Luken
		Lundine
		McCloskey
		McCormack
		McDade
		McFall
		McKay
		McKinney
		Madigan
		Maguire
		Mahon
		Mann
		Markey
		Marks
		Marlenee
		Marriott
		Mattox
		Mazzoli
		Meeds
		Metcalfe
		Meyner
		Mikulski
		Mikva
		Milford
		Miller, Calif.
		Miller, Ohio
		Mineta
		Minish
		Mitchell, Md.
		Mitchell, N.Y.
		Moakley
		Moffett
		Mollohan
		Moorhead, Pa.
		Moss
		Murphy, Ill.
		Murphy, N.Y.
		Murtha
		Myers, Gary
		Myers, John
		Myers, Michael
		Natcher
		Neal
		Nedzi
		Nix
		Nolan
		Nowak
		Oakar
		Oberstar
		Obey
		Ottinger
		Panetta
		Patten
		Patterson
		Pattison
		Pease
		Pepper
		Pettis
		Pike
		Pressler
		Preyer
		Price
		Pritchard
		Pursell
		Quie
		Rahall
		Railsback
		Rangel
		Regula
		Reuss
		Richmond
		Rinaldo
		Roberts
		Rodino
		Roe
		Rogers
		Roncalio
		Rooney
		Rosenthal
		Rostenkowski
		Roybal
		Ruppe
		Russo
		Ryan
		Santini
		Sarasin
		Scheuer
		Schroeder
		Seiberling
		Sharp
		Shipley
		Simon
		Sisk
		Slack
		Smith, Nebr.
		Solarz
		St Germain
		Staggers
		Stanton
		Stark
		Steers
		Steiger
		Stokes
		Stratton
		Studds
		Taylor
		Thompson
		Thone
		Thornton
		Traxler
		Trible
		Tsongas
		Tucker
		Udall
		Ullman
		Van Deerlin
		Vanik
		Vento
		Volkmer
		Walgren
		Walsh
		Waxman
		Weaver
		Weiss
		White
		Whitehurst
		Wilson, Bob
		Wirth
		Wolff
		Wright
		Wylie
		Yates
		Yatron
		Young, Alaska
		Young, Fla.
		Young, Mo.
		Zablocki
		Zeferetti

NOT VOTING—17

Ashley	Goodling	Steed
Bolling	Heckler	Stockman
Clawson, Del	Koch	Teague
Dickinson	McHugh	Whalen
Erlenborn	Perkins	Wilson, C. H.
Fraser	Spellman	

The Clerk announced the following pairs:

On this vote:

Mrs. Spellman for, with Mr. Ashley against.

Mr. Teague for, with Mr. McHugh against.

Mr. Del Clawson for, with Mrs. Heckler against.

Mr. Dickinson for, with Mr. Whalen against.

Messrs. SNYDER, EDWARDS of Oklahoma, ABDNOR, ERTEL, and QUILLEN changed their vote from "no" to "aye."

Mr. FISH and Mrs. SMITH of Nebraska changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PICKLE

Mr. PICKLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PICKLE: Strike out section 104 (beginning on page 127, line 16, and ending on page 131, immediately before line 4).

Page 131, line 5, strike out "105" and insert in lieu thereof "104".

Page 131, strike out the sentence beginning in line 7.

Conform the table of contents on page 117.

Page 169, strike out lines 1 through 5 and insert in lieu thereof the following: "of 1954 (the Federal Insurance Contributions Act) is amended by redesignating sections 3125 and 3126 as sections 3126 and 3127, respectively, and by inserting after section 3124 the following new section:".

Page 169, line 6, strike out "3126" and insert in lieu thereof "3125".

Page 169, in the matter following line 22, strike out "3126", "3127", and "3128" and insert in lieu thereof "3125", "3126", and "3127", respectively.

Page 170, line 4, strike out "3127" and insert in lieu thereof "3126".

Page 170, line 15, strike out "3126" and insert in lieu thereof "3125".

Page 170, line 19, strike out "3127" and insert in lieu thereof "3126".

Page 171, line 5, strike out "3126" and insert in lieu thereof "3125".

Page 171, line 17, strike out "3126" and insert in lieu thereof "3125".

Page 171, lines 21 and 22, strike out "3127 (a)", "3127(b)", and "3127(c)" and insert in lieu thereof "3126(a)", "3126(b)", and "3126(c)", respectively.

Page 171, line 25, strike out "3127,".

Mr. PICKLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PICKLE. Mr. Chairman, I do not want to see the social security program turned into a welfare or need program. It is an insurance program. We probably destroy the insurance program the moment you borrow from the General Treasury. It could become a charity program.

Since its creation in 1935, amidst this country's greatest depression, the social security system has been the bedrock of our social structure. Why has this system served so well and been so popular among Americans? It is because of the high public confidence it has enjoyed. Folks have always been able to count on the system to deliver.

Accordingly, I feel the worse thing that the House could do to erode public confidence is to pump funds from the General Treasury into the system. And if we do not strike the authority in this bill to use general revenues, I fear we will be giving rise to the whispers of the last few years that the social security system is going the way of the Edsel.

At first glance, it may seem that the "standby" authority is an innocuous and safe approach to employ. But if one will closely examine the calculations used to conclude that the authority will never become necessary, one may become skeptical. The committee bill says that no borrowing from the Treasury will be permitted unless the OASDI funds dips below the reserve ratio of 25 percent.

The social security trustees report figures that the ratio—income compared to outgo—will reach its lowest level in 1980 and that it will be about 26 or 27 percent.

Mr. Chairman, the plight of the social security system is the result of numerous factors and should not be solely attributed to mishandling by the Congress.

Certainly Congress must bear some of the responsibility because we have expanded the system over the years to a much different version of the original program designed to provide supplementary income for retired workers. We have made changes that has added survivors, the disabled, and the sick—medicare. I feel that these were progressive and humane advances but I do question whether we always provided adequate financing to pay for the extended benefits.

In the last 4 or 5 years, there have been three main reasons for the difficulty we find ourselves in today:

First. Recession—Beginning in 1973, we have extremely high numbers of unemployed—ranging from 7 to 9 million—which has deprived the trust fund of billions of dollars,

Second. Cost of Living—In 1972, the Congress, with good intentions, enacted a formula for retirement benefits which enabled workers to get higher benefits than their earnings normally called for. This bill has halted that error by "decoupling."

Third. Disability Insurance—Inconsistencies in the definition of disability have caused an unanticipated rapid growth in disability payments seriously jeopardizing that fund.

All want to see our elderly citizens have a decent supplementary income. They have worked for it, paid for it, and are entitled to it. Over the years to assure that level, we have raised both the taxable wage base and rate. But we should remember that the young working force has a real stake in this system as well. They must be assured that the funds they are paying now will accrue to their benefit when they retire. For this reason, we must not think of any one particular segment; the retired, the young worker, the disabled, the Federal employee, the Member of Congress. Instead, we must keep in mind that this bill has a vital interest for all Americans.

I am a little wary, however, of some of the economic assumptions that the trustees make in light of predictions of other prestigious prognosticators.

For example, the committee projections are based on:

An unemployment rate of 5.2 percent in 1980—current rate 6.9 percent—and down to 4.5 by 1981–82.

Inflation: 6.33 percent in 1978, 5.33 percent in 1979, and 4.7 percent in 1980—currently, 6.5 percent.

Real GNP: to increase by 5.4 percent in 1978, 5.2 percent in 1979, and 5.1 percent in 1980—now 4.8 percent.

The Council of Economic Advisers and the Joint Economic Committee have both made forecasts which are much less optimistic than that of the social security trustees.

For example, the JEC predicted that real GNP would grow only 4 to 4.4 percent next year—1 full percent below the committee predictions. The CEA also stated that it expected real growth to be around 4.5 percent. Even less optimistic has been the private business council which predicted an inflation rate of 6.2 percent in 1978.

Naturally, we can tinker around these figures all day but what it really gets down to is that with just slight variations on the assumptions by the trustees, the reserve ratio could plummet below the danger level of 25 percent and we would have general taxpayer dollars supporting social security.

Some would pooh-pooh and say that this is not really of any importance. I strongly disagree and feel like we would change the intrinsic strength of the social security system. This amendment will be the most important vote you will ever cast on social security. This amendment means whether or not we keep the program on an insurance basis or turn it into a welfare or need program.

First. If you favor turning social security into a program of general assistance, then it should be done in a straightforward manner. But on the other hand, if you believe that Congress would be signaling the American people that we really feel that the social security system can pay for itself and retain the solidarity of an insurance system, you will vote for this amendment.

Second. If you borrow from the General Treasury you turn the social security system into a needs, or welfare program. You depart from an insurance program and weaken the basic strength of the system.

Third. If you borrow, you will be paying for that deficit from a deficit in the General Treasury. What is the deficit in the Treasury? Let us look at the last 6 years:

Congressional Budget Office says:
1978 projected deficit in 2d budget resolution $61 billion 0.25.
1977 $48.1 billion.
1976 $66.5 billion.
1975 $45.1 billion.
1974 $4.7 billion.
1973 $14.8 billion.
1972 $23.4 billion.
1971 $23.0 billion.
1969 plus $3.2 billion last time there was a surplus $225.6 billion.

Fourth. If you borrow from general revenues, you will destroy the confidence of those who have paid into the social security trust fund and especially the young now paying in. The only argument advanced for the stand-by borrowing authority is that people will lose confidence in their government—that retirees will become alarmed. My friends, the thing that would alarm them most is to realize that their money depends on borrowing from the General Treasury which has a deficit of $225 billion over the last 6 years. What security can retirees have with that kind of track record?

Fifth. If we vote for this backdoor borrowing, we will be allowing the Congress no alternative. Certainly if we did have another recession and we saw that the fund was in dire jeopardy, we surely could take steps at that time to shore it up. Adopting this approach, the stand-by borrowing authority strips us of that alternative.

Sixth. Do not be too assured that since this proposal is coupled with an agreement to pay a tax to refund the Treasury that future Congresses will not simply waive that painful tax. It would not be the first time such a thing happened—in exchange, unemployment compensation program.

Seventh. This would be a foot in the door for permanent social security funding out of general revenues. The Burke approach would have one-third employer, one-third employee, and one-third General Treasury. This would mean about $30 billion out of general revenues at current levels. Of course, this $30 billion amount would simply be added to the already swollen Federal deficit.

My friends, this is not a partisan matter. This should not be a political matter. It is a most fundamental question: Do you want a deficit-ridden Treasury to become a partner in the social security insurance program. Our beloved senior citizens who have earned their money deserve better than that. Let us remove the borrowing authority from this bill. By removing the borrowing authority, you do not weaken the bill, you strengthen it by announcing to the 100 million employers and employees that the program can be maintained as an insurance system and not be given any damaging handout program.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding, and I also thank him for his courage and his perceptiveness in offering this amendment. The proponents of the committee bill say that borrowing will not be necessary from the General Treasury. They are all honorable men. I think for that reason we do not need the borrowing power, and I consider granting of borrowing power to the administrators of the social security system a step down the primrose path once again.

Mr. Chairman, I wish to support the gentleman from Texas in his amendment, and I want to compliment him on the argument he has made in support of it.

Mr. PICKLE. Mr. Chairman, how much time do I have?

The CHAIRMAN. The gentleman has consumed 7½ minutes.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield 30 seconds to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Chairman, the gentleman has given me just enough time to remind him of the story of that fellow who went fishing down in his district in Texas. He was out there in the little stream and he caught a little minnow on the hook, and he was trying to take the hook out. The little minnow kept wiggling around. The man said, Hold still, little fish, I am not going to hurt you; I am just going to gut you."

And that is what the gentleman wants to do with this bill. He wants to gut this bill.

Mr. PICKLE. Mr. Chairman, I say to the gentleman from Massachusetts that I heard that was a catfish the man was working on and not a little minnow. But I guess he thinks we just do things bigger

down in Texas. But what the gentleman said is happening is just what this bill does to the American people.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Wisconsin.

Mr. STEIGER. I thank the gentleman for yielding.

Mr. Chairman, I must say that I am somewhat surprised by the statement made by the gentleman from Massachusetts. If this is the centerpiece of this bill, it is in deep, deep trouble. The Pickle amendment is absolutely necessary to retain the soundness of the social security system. It is inconceivable to me that we would in fact adopt a kind of system based on an artificial figure, this 25 percent figure, which is artificial, to say the least, and then say this if we go below that, without any action by the Congress, without any debate by this body, we will borrow. I think that destabilizes the confidence in the American people.

Mr. Chairman, I commend the gentleman for his excellent amendment.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California (Mr. KETCHUM).

Mr. BURKE of Massachusetts. Mr. Chairman, the gentleman just mentioned my name. I thought he would be kind enough to yield to me.

Mr. PICKLE. Mr. Chairman, if the chairman of the committee is not able to yield to the gentleman from Massachusetts (Mr. BURKE) I will yield to the gentleman later.

Mr. KETCHUM. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Texas (Mr. PICKLE). He is quite right. If the reserves were to drop below 25 percent, it is obvious, I think, that Congress would come back, decide what we are going to do, and try to decide what direction we are going to take. But if we are going to take the direction that the bill takes us, the gentleman is quite correct, then it takes us in the direction of the original bill of my dear friend, the gentleman from Massachusetts (Mr. BURKE).

That is really what we are talking about here. If we allow this foot in the door with this bill in its entirety, then we really are pointing to Federal funding of social security, and that is a total repudiation of what social security is all about.

If we really want to do this, then let us scrap what we are doing here and let us take up the amendment suggested by the gentleman from Massachusetts (Mr. BURKE). Let us be honest about it and let us go for Federal funding.

Years ago we had an old gentleman in this country by the name of Townsend, and what the gentleman from Massachusetts leads up to is a Townsend plan, but instead of 30 bucks every Thursday, it is going to be 200 or 300 bucks, and we will guarantee everybody in the United States, upon achieving a given age—and we can pick that one out of the air—a payment every Thursday for the rest of their lives.

Let us be honest about it. The gentleman in the well is 100-percent correct.

I urge the Members to support the gentleman's amendment if they value the social security system as it was originally drafted, and I congratulate the gentleman from Texas (Mr. PICKLE) for offering his amendment.

Mr. PICKLE. Mr. Chairman, I appreciate the gentleman's comments very much.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield now?

Mr. PICKLE. Mr. Chairman, I reserve the balance of my time.

Mr. ULLMAN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I must say in response that there is no Member in this room who is more strongly opposed to the use of general revenues in the social security system than is the chairman of the Committee on Ways and Means.

I say to the Members that this borrowing authority is our best insurance that we never will go to general revenues.

Let me say, second, that we have in the bill a financing structure that will keep this borrowing authority from triggering. I want to say that the reason that is important is that it would be a mistake, in my judgment, to try to build up the reserves in the trust fund too fast. That would have an adverse impact on the economy.

If we build up too many billions of dollars in the trust funds, then we are taking that money away from segments of the economy where we could achieve growth.

So it is or hope that we can keep the trust funds at reasonable levels. If we are going to get down near 30 percent, then I think, in order to insure or to give the American people, the people who depend upon social security for a living, the assurance that they need, that the money will be there to pay their benefits, this borrowing authority is tremendously important. Under ordinary circumstances there will be no trigger.

If we should reach some kind of an economic downturn that nobody can anticipate—and it could happen quickly—we do not want to get ourselves in a posture where all at once everybody is uptight about the social security trust fund running out of money. This would guarantee that it would not. It has in it an automatic tax that will trigger when we borrow and will automatically replenish the trust fund to proper levels.

Mr. Chairman, that is a good device. The Government of the United States has been borrowing from the social security system for 40 years. I think there is nothing wrong with a situation where, under unforeseen circumstances, the social security system should turn around and borrow funds from the Federal Government, borrowing only under a stringent repayment formula.

Mr. Chairman, I urge the Members to oppose the Pickle amendment and to support the committee. This is a key part of this bill.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. ULLMAN) has expired.

Mr. ULLMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr. Chairman, I wonder where the great leaders of the Republican Party have gone to. Where are the men like Senator Vandenberg who recommended that general revenues be used? What has happened to that party over there? Why are their numbers depleted? Because they have lost touch with the people.

Mr. Chairman, why do they not build up a man like Senator Vandenberg in their ranks today and take up the cudgels on behalf of the employers and the employees in this country? Why do they follow that old, archaic philosophy which they are advocating here today?

Mr. Chairman, let them pick up and read the speeches of Senator Vandenberg and renew and revitalize their party. They should not follow their leaders back to 1932.

Mr. Chairman, the Pickle amendment is the harshest and the cruelest thing we could do to the elderly in this country because what it does is to tell the elderly in this country that these funds might go broke. It says, "We are not going to give you any assurance that your check is going to be forthcoming."

Mr. Chairman, I do not believe the gentleman from Texas (Mr. PICKLE) wants to do that. I do not believe members of the minority party want to do that. I think they want to put a little bit of their heart into this bill. I say to them, use that and use it the way Senator Vandenberg used it. He thought it over carefully, and he put in the Vandenberg amendment the using of general revenues.

Mr. Chairman, all they are asking for here is a minimum guarantee, through the legislation, that the fund will not go broke.

Are we going to say to the elderly of this country, "We are not going to give you that assurance"?

A vote for the Pickle amendment is letting down the old folks in this country just as sure as we are sitting here.

Mr. ULLMAN. Mr. Chairman, I yield 4 minutes to the gentleman from Arkansas (Mr. TUCKER).

Mr. TUCKER. Mr. Chairman, the eloquence of the gentleman from Massachusetts (Mr. BURKE) is unmatchable.

Let me review briefly with my colleagues the history which brings us to where we are today.

The social security trust funds, measured at a percentage at the end of the year of expenditures during the year, are rapidly declining. The Committee on Ways and Means was faced with several options as to how we could get those trust funds back up to a safe level. We could have made a huge increase in the tax rate and a huge increase in the wage base or made a cutback very severely in benefits. There are any number of ways or approaches by which to drive the trust fund reserves back up very quickly.

We chose, instead, to take a very moderate approach, doing a little bit of several things. The result is that the trust funds do decline and in 1980 and 1981 reach a very low level of about 26 or 27 percent. Then they start back up again and reach a safe level.

Why is the 26 percent level not safe? Very simply, a 26-percent reserve level means that we only have about a 3-month balance to cover cash flow demand on social security trust funds.

Thus, Mr. Chairman, if there were another Arab oil embargo or if economic circumstances are not as good as projected in the social security board of trustees' mid-term projection, which is certainly possible, we could go below 25 percent.

If we do and if it occurred in 1980 or 1981 while we are out of session, in a campaign, or in some other way unable to come back immediately with tax increases, the old people in this country might not get their check.

Mr. Chairman, what we are suggesting is very modest because in 1944 the Senator Vandenberg to whom the distinguished gentleman from Massachusetts (Mr. BURKE) referred, said this, and I quote; and this was a fine Republican Senator:

> We pledge the Congress to an equivalent direct appropriation to social security to preserve the integrity of its obligations.

Mr. Chairman, the Senate Finance Committee in 1944 said of the 1939 amendments:

> Congress obligates itself in the future to direct appropriations from general revenue.

Mr. Chairman, the result was that in 1944 the U.S. Congress adopted by a voice vote in the Senate and a voice vote in the House an absolute guarantee of general revenue funds if the social security fund ran out of money.

The reason it was necessary at that time was that the Congress was refusing to go ahead and make the necessary increases in the tax and wage base to keep the trust funds up. By 1950 the reserve was so high that it was no longer necessary to have that amendment, and it was taken out.

Mr. Chairman, all we are asking for is that the House provide this loan authority, which is repayable within the wording of the bill. It is a very modest amendment, but it is fiscally sound. It assures that we will meet payrolls if we have to send out checks in the months when the reserves have gone too low.

It gives the old people of this country also a great psychological boost in that we have made good on what my friend, the gentleman from Texas, recognizes as a solid political commitment never to let the old people of this country miss their social security checks.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding.

Does the gentleman in the well think that this will not go over the 25 percent?

Mr. TUCKER. I would hope that it would not.

Mr. PICKLE. Does the gentleman think it will trigger it? I see the gentleman hesitates.

Mr. TUCKER. If the gentleman will let me answer the question, I will reclaim my time. I think that it is impossible that it can trigger it. Another loan embargo would trigger it. That is why we need this.

Mr. ULLMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Chairman, I would like to ask a question, and the question was just stated by the sponsor of the amendment. He is asking the question as to whether or not the gentleman thought it would trigger 25 percent, and the gentleman said he did not know. Let me ask him what his view is. The way the bill is structured financially, what will happen in 1986 and 1987 in terms of balance in the trust funds?

Mr. TUCKER. If the gentleman will yield, in 1986 and 1987 after we get past the short term, by then we will be way back up to the 40 or 45 percent level of reserves. Thus, we are facing a danger. When we reach that level of reserves, if a loan is triggered, under the provisions of the bill it will automatically be repaid out of those excess funds.

Mr. GEPHARDT. So the gentleman's theory here is that we have constructed a financially sound bill, and the loan authority is simply a back-up for those 4 years if we have a problem.

Mr. PICKLE. If the gentleman will yield, on the basis we do not need this. It is not necessary. I asked the committee to do something because the danger is in two immediate years, and the committee would not do it. Therefore, if it is going to be rosy, we do not need this standby authority.

Mr. GEPHARDT. I hope, as the gentleman in the well does, we do not need it, but we are close. We will be at 26 percent. It may be that unemployment may be higher when we go in. We also believe we have a bill financially structured so that it will go to 50 percent in 1985 and the money will clearly be paid back. It is a financially sound bill. The loan authority is to assure the people of this country that this loan will be repaid.

Mr. TUCKER. If the gentleman will yield further, to vote for this amendment would be financially irresponsible, totally financially irresponsible for the people of this country. Please vote no on the Pickle amendment.

Mr. ULLMAN. Mr. Chairman, I yield myself 1 minute.

There are millions of Americans out there waiting for a signal from us that we will keep this social security fund on a basis where the money will be there when they need to draw on it. This is the signal. Here we are saying we will back up that social security trust fund to the full extent of the American Treasury. We are doing it on a sound basis, on a repayable basis. This is the signal they are looking for.

Mr. PICKLE. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. PIKE).

Mr. PIKE. Mr. Chairman, I do not honestly think that we have lost touch with the American people here, and I honestly do not think that those who support this amendment, as I do, are fiscally irresponsible. We know that what the American people want most of all are increased benefits, and they want lower taxes. We can give them these things so fast it would make your head spin. Can you imagine the terror that would strike all our hearts if in the middle of a political campaign we were called upon to come back to Washington to make sure that the old people got their checks? We would get down here so fast, and we would do that so rapidly and with such joy, with the whole thought that this is some terror to hold over the older people in America. My Lord, we would like that opportunity in the middle of a political campaign, to come down here and vote to help the old people.

The real issue here is, is social security going to be an insurance program, or is it going to be a welfare program? And when we start dipping into the Federal Treasury to make the payments to the social security people, it has become a welfare program. If we are going to go that route, for heaven's sake, let us come back here, recognize the route we are going, and vote to do it.

I personally would vote, and in that instance we might at least consider freezing the basic benefits instead of raising the taxes one more time, but at least let us do it through the front door.

I hope the amendment is adopted.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. PIKE. I yield to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I applaud the gentleman's statement. I think what we are doing here is in effect a subterfuge, and I deeply regret it.

Mr. PICKLE. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman, I had not planned to speak on this amendment even though I support it without reservation, but I speak now because I take seriously and resent very much the recent statement by the gentleman from Arkansas (Mr. TUCKER) that anyone who supported this amendment was irresponsible, that it was irresponsible to do it. There are some of us who just happen to believe that this is not the way to finance social security, and we do it in good faith.

The choice is ours to do as we will. There are only three ways we can finance increased costs of social security: By increasing the tax rate, by increasing the wage base which is taxed, or by Treasury financing. We can get Treasury financing by direct contribution or by borrowing. We can get it any way we want.

There are some of us who believe, and everybody said in the committee, this authority was not going to be needed. If it is not, why should we include it in this bill? I think we ought to support this amendment. It is not an irresponsible vote. If we believe in financing social security as we always have, we will cast a responsible vote by voting our conscience. But vote your conscience and you will cast a responsible vote.

Mr. PICKLE. Mr. Chairman, the social security program is an insurance program. Employers and employees have paid into it evenly. They have run their own system. If we go to the general Treasury, we destroy the discipline of the system. Can Members imagine what Congress would do if all we had to do was

to pay from the Treasury extra benefits? I think we can understand there may be no control on it.

If we get to a point where the ratio is so low, then this Congress would be called back into session and we would debate the issue in full body and come up with the right answer. It is best to do it that way. Then we cannot come through the back door and put this formula in and say we have taken the easy way. The responsible way is to knock this borrowing authority out. It will not weaken the bill and it will give confidence to the American people that this is a program for employees and employers and they can run their own program.

I therefore ask the Members to vote "aye" on this amendment.

Mr. ALEXANDER. Mr. Chairman, I rise in support of the Pickle amendment to H.R. 9346, the Social Security Financing Amendments of 1977. This amendment, which will strike the standby authority for the social security retirement and disability funds to borrow money from the General Treasury, speaks to the central issue in the bill before us today.

I oppose such standby borrowing authority because the primary need for the social security system is solvency. To rely upon loans from the Treasury to achieve a sound system is at best temporary and does not provide a permanent solution to combat the imminent bankruptcy of the Social Security Administration.

I share the view of my colleague from Texas that there could be no clearer signal to the American people that the social security system is going down the drain than to have it bailed out in this manner by general revenues.

I urge adoption of the Pickle amendment.

Mrs. HECKLER. Mr. Chairman, I would like to speak in favor of the amendment offered by my distinguished colleague from Texas (Mr. PICKLE). Although I understand the committee's concern about the financial problems of the social security system, I do not believe this is the best method of insuring its financial stability.

The social security system was set up as a trust fund and it must stay a trust fund in order to maintain its integrity. It was designed as a system whereby individuals could contribute over the years of their working lives and would then earn benefits when they reached retirement.

Social security is not welfare; it is an earned right. Bringing social security into the process of appropriations from the General Treasury would remove from the system that dignity, that integrity, which has made it so great a success.

If we vote to allow standby borrowing for social security, we will set a precedent for using general revenues to finance social security and I believe that is a bad precedent to set. It would, I emphasize, make social security indistinguishable from welfare. And it would make it very tempting for Congress to dip deeper and deeper into the Federal Treasury to finance the social security system. I believe that would be a fatal mistake.

Even though we are merely voting on standby authority, and there are those who argue that that authority will not be used, I believe the chances are it will be used and that it will lead to general revenue financing of social security.

I must express my opposition to that concept and therefore my support for the amendment offered by my distinguished colleague from Texas (Mr. PICKLE). I would urge my colleagues to vote for this amendment and to defeat the proposition that the social security trust fund should not still be held in trust. I believe it must be held in trust and not comingled with the general revenues of the Federal Treasury.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. PICKLE).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ULLMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 196, noes 221, not voting 17, as follows:

[Roll No. 700]

AYES—196

Abdnor	Flynt	Martin
Alexander	Forsythe	Michel
Anderson, Ill.	Fountain	Milford
Andrews, N.C.	Frenzel	Miller, Ohio
Andrews, N. Dak.	Frey	Mitchell, N.Y.
Archer	Fuqua	Montgomery
Armstrong	Gammage	Moore
Ashbrook	Gibbons	Moorhead, Calif.
AuCoin	Goldwater	Murphy, Ill.
Badham	Gonzalez	Myers, John
Bafalis	Gradison	Nichols
Bauman	Grassley	Nowak
Beard, Tenn.	Gudger	O'Brien
Bennett	Guyer	Panetta
Boggs	Hagedorn	Pettis
Bonker	Hall	Pickle
Bowen	Hamilton	Pike
Breaux	Hammer-schmidt	Poage
Breckinridge	Hansen	Pressler
Broomfield	Hefner	Pritchard
Brown, Mich.	Hightower	Quayle
Brown, Ohio	Hillis	Quie
Broyhill	Hollenbeck	Quillen
Burgener	Huckaby	Railsback
Burke, Fla.	Hughes	Regula
Burleson, Tex.	Hyde	Rhodes
Butler	Ichord	Roberts
Byron	Ireland	Robinson
Caputo	Jacobs	Rogers
Cederberg	Jeffords	Rousselot
Chappell	Jenkins	Rudd
Clausen, Don H.	Jenrette	Runnels
Cleveland	Johnson, Colo.	Ruppe
Cochran	Jones, N.C.	Russo
Cohen	Jones, Okla.	Santini
Coleman	Kasten	Sarasin
Collins, Tex.	Kazen	Satterfield
Conable	Kelly	Sawyer
Corcoran	Kemp	Schulze
Cotter	Ketchum	Sebelius
Coughlin	Kindness	Sharp
Crane	LaFalce	Shuster
Cunningham	Lagomarsino	Sikes
Daniel, Dan	Latta	Skelton
Daniel, R. W.	Leach	Skubitz
Davis	Lent	Smith, Nebr.
de la Garza	Livingston	Snyder
Derrick	Lloyd, Tenn.	Spence
Devine	Long, La.	Stangeland
Dornan	Lott	Stanton
Duncan, Tenn.	Lujan	Steiger
Edwards, Ala.	McClory	Stump
Edwards, Okla.	McDonald	Symms
Emery	McEwen	Taylor
Evans, Del.	McKinney	Thone
Evans, Ind.	Madigan	Thornton
Findley	Mahon	Treen
Fish	Mann	Trible
Flowers	Marlenee	Vander Jagt
	Marriott	Volkmer
Waggonner	Whitley	Wylie
Walker	Whitten	Yatron
Walsh	Wiggins	Young, Alaska
Wampler	Wilson, Tex.	Young, Fla.
White	Winn	Young, Tex.
Whitehurst	Wydler	

NOES—221

Addabbo	Fithian	Murtha
Akaka	Flippo	Myers, Gary
Allen	Flood	Myers, Michael
Ambro	Florio	Natcher
Ammerman	Foley	Neal
Anderson, Calif.	Ford, Mich.	Nedzi
Annunzio	Ford, Tenn.	Nix
Applegate	Fowler	Nolan
Aspin	Gaydos	Oakar
Badillo	Gephardt	Oberstar
Baldus	Giaimo	Obey
Barnard	Gilman	Ottinger
Baucus	Ginn	Patten
Beard, R.I.	Glickman	Patterson
Bedell	Gore	Pattison
Bellenson	Hanley	Pease
Benjamin	Hannaford	Pepper
Bevill	Harkin	Preyer
Biaggi	Harrington	Price
Bingham	Harris	Pursell
Blanchard	Harsha	Reuss
Blouin	Hawkins	Rahall
Boland	Heftel	Rangel
Bonior	Holland	Richmond
Brademas	Holtzman	Rinaldo
Brinkley	Horton	Risenhoover
Brodhead	Howard	Rodino
Brooks	Hubbard	Roe
Brown, Calif.	Johnson, Calif.	Roncalio
Buchanan	Jones, Tenn.	Rooney
Burke, Calif.	Jordan	Rose
Burke, Mass.	Kastenmeier	Rosenthal
Burlison, Mo.	Keys	Rostenkowski
Burton, John	Kildee	Roybal
Burton, Phillip	Kostmayer	Ryan
Carney	Krebs	Scheuer
Carr	Krueger	Schroeder
Carter	Le Fante	Seiberling
Cavanaugh	Leggett	Shipley
Chisholm	Lederer	Simon
Clay	Lehman	Sisk
Collins, Ill.	Levitas	Slack
Conte	Lloyd, Calif.	Smith, Iowa
Conyers	Long, Md.	Solarz
Corman	Luken	Spellman
Cornell	Lundine	St Germain
Cornwell	McCloskey	Staggers
D'Amours	McCormack	Stark
Danielson	McDade	Steed
Delaney	McFall	Steers
Dellums	McKay	Stokes
Dent	Maguire	Stratton
Derwinski	Markey	Studds
Dicks	Marks	Thompson
Diggs	Mathis	Traxler
Dingell	Mattox	Tsongas
Dodd	Mazzoli	Tucker
Downey	Meeds	Udall
Drinan	Metcalfe	Ullman
Duncan, Oreg.	Meyner	Van Deerlin
Early	Mikulski	Vanik
Eckhardt	Mikva	Vento
Edgar	Miller, Calif.	Walgren
Edwards, Calif.	Mineta	Watkins
Eilberg	Minish	Waxman
English	Mitchell, Md.	Weaver
Ertel	Moakley	Weiss
Evans, Colo.	Moffett	Wilson, C. H.
Evans, Ga.	Mollohan	Wirth
Fary	Moorhead, Pa.	Wolff
Fascell	Moss	Yates
Fenwick	Motti	Young, Mo.
Fisher	Murphy, N.Y.	Zablocki
	Murphy, Pa.	Zeferetti

NOT VOTING—17

Ashley	Goodling	Stockman
Bolling	Heckler	Teague
Clawson, Del	Holt	Whalen
Dickinson	Koch	Wilson, Bob
Erlenborn	McHugh	Wright
Fraser	Perkins	

The Clerk announced the following pairs:

Mr. Teague for, with Mr. Fraser against.

Mr. Del Clawson for, with Mr. McHugh against.

Mr. Dickinson for, with Mr. Ashley against.

Ms. Holt for, with Mr. Whalen against.

Mr. DAVIS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. CORMAN

Mr. CORMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CORMAN: Page 133, strike out "may be less" in line 13 and all that follows down through page 134, line 2, and insert in lieu thereof the following: "may be less than an amount equal to $11.50 multiplied by the individual's years of coverage in excess of 10, or the increased amount determined for purposes of this clause under subsection (i)".

Page 134, line 3, strike out "clause (i)(II)" and insert in lieu thereof "clause (i)".

Page 137, line 13, strike out "subparagrah (C)(i)(II)" and insert in lieu thereof "subparagraphs (C)(i)".

Page 138, lines 1 and 2, strike out "subparagraph (C)(i)(II)" and insert in lieu thereof "subparagraph (C)(i)".

Page 139, line 6, strike out "and (II)" and insert in lieu thereof the following: ", (II) there shall be no statutory minimum primary insurance amount as otherwise set forth on the first line of column IV of that table, and for purposes of determining primary insurance amounts below the amount so set forth the Secretary shall extend columns II, III, IV, and V of the table backward to zero by the insertion of additional figures on lines ahead of the first line therein, and (III)".

Page 149, lines 14 and 15, strike out "section 215(a)(1)(C)(i)(II)" and insert in lieu thereof "subsection (a)(1)(C)(i)".

Page 151, line 5, strike out "subparagraph (C)(i)(II)" and insert in lieu thereof "subparagraph (C)(i)".

Page 152, line 6, strike out "subparagraph (C)(i)(II)" and insert in lieu thereof "subparagraph (C)(i)".

Page 152, lines 8 and 9, strike out "such subparagraph (C)(i)(II)" and insert in lieu thereof "such subparagraph (C)(i)".

Page 152, strike out lines 5 through 21 and insert in lieu thereof the following:

SEC. 204. (a)(1) Section 202(m) of the Social Security Act is repealed.

(2) Section 202(k)(2)(A) of such Act is amended by striking out "or subsection (m)".

(3) Section 227(b) of such Act is amended by striking out "(and section 202(m))".

Page 163, line 2, strike out "section 215(a)(1)(C)(i)(II)" and insert in lieu thereof "section 215(a)(1)(C)(i)".

Page 163, line 4, strike out "section 215(a)(1)(C)(i)(II)" and insert in lieu thereof "section 215(a)(1)(C)(i)".

Page 184, strike out lines 1 through 17 and insert in lieu thereof the following:

"(2) Any such agreement may provide that an individual who is entitled to cash benefits under this title shall, notwithstanding the provisions of section 202(t), receive such benefits while he resides in a foreign country which is a party to such agreement.

Page 120, strike out lines 2 through 4 (as previously amended), and insert in lieu thereof the following: "5.50 percent;

"(5) with respect to wages received during the calendar years 1990 through 1999, the rate shall be 6.05 percent; and

"(6) with respect to wages received after December 31, 1999, the rate shall be 6.10 percent.".

Page 120, strike out lines 20 through 22 (as previously amended) and insert in lieu thereof the following: "5.50 percent;

"(5) with respect to wages paid during the calendar years 190 through 1999, the rate shall be 6.05 percent; and

"(6) with respect to wages paid after December 31, 1999, the rate shall be 6.10 percent.".

Page 121, line 18, strike out the figure immediately preceding "percent" (as previously amended) and insert in lieu thereof "8.25".

Page 121, line 19, strike out "and".

Page 121, strike out lines 20 through 23 (as previously amended) and insert in lieu thereof the following:

"(5) In the case of any taxable year beginning after December 31, 1989, and before January 1, 2000, the tax shall be equal to 9.05 percent of the amount of the self-employment income for such taxable year, and

"(6) in the case of any taxable year beginning after December 31, 1999, the tax shall be equal to 9.15 percent of the amount of the self-employment income for such taxable year.".

Mr. CORMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. CORMAN) will be recognized for 15 minutes in support of his amendment, and the gentleman from Oregon (Mr. ULLMAN) will be recognized for 15 minutes in opposition to the amendment.

The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, I rise in support of this amendment and urge its adoption because of the deletion of universal coverage from this bill.

The amendment repeals the minimum social security cash benefits for new beneficiaries after 1978.

This amendment will save the social security program about $2.3 billion in 6 years, 1979 to 1984, and will permit a reduction in social security payroll tax of 0.05 percent for the worker and 0.05 percent for the employer for a 15-year period from 1985 to 1999.

More than the dollar savings involved, this amendment restores a measure of the social insurance principle of relating benefits to contributions.

Under present law, a worker with an average monthly wage of $76 or less receives a minimum benefit of $114.30. This benefit amount ranges from about 150 percent for a worker with an average monthly wage of $76 to 2,850 percent for the lowest average monthly earnings possible. In other words, the minimum benefits guarantees a beneficiary with very low social security contributions to receive a monthly cash benefit far in excess of his or her average monthly wage.

This benefit is related to the issue of universal coverage because of the opportunity for public employees, who remain outside the social security system, to double-dip into social security for this windfall benefit on top of their public pension.

As of December 1975, 45 percent of civil service annuitants were also receiving social security benefits with more than a quarter of whom were receiving the windfall minimum benefit. This does not include State and local government employees who are receiving the minimum under dual retirement benefits. In addition, the social security minimum benefit goes to public employees and their dependents under disability and survivors coverage.

The minimum benefit is increasingly criticized as a welfare provision which was needed previously in the absence of alternative income maintenance benefits. Since social security began, a wide variety of income maintenance programs have been established to address these needs and further improvements will be forthcoming. A reappraisal is needed of the minimum benefit in the changed world.

The minimum benefit is categorized by some as a welfare benefit because it is paid to people with marginal labor-force attachment. More than 75 percent of all workers who became entitled to the minimum in 1970 had 9 years or less in covered employment since 1950, and only about 20 percent had earned over $1,800 in any year since 1950.

This amendment will not affect low-paid workers who have regularly contributed to social security. For example, a worker retiring this year after having only earned the prevailing Federal minimum wage each year under social security would receive a benefit of $233.50, more than twice the social security minimum benefit.

Furthermore, this amendment does not affect the special minimum benefit which is paid to workers who have long time social security coverage but at low wages. The special minimum compensates these workers by providing an alternative method of computing benefits based on the number of years of their covered employment.

H.R. 9346, as reported, inadequately addresses the need to eliminate the minimum benefit by freezing it at its June 1978 amount of about $120.60. This amendment reflects serious concern about prolonging the minimum benefit.

Under the amendment, new social security beneficiaries after 1978 would have their benefits computed on the basis of their covered wages with no minimum benefit amount. This amendment would not affect people entitled to a social security minimum benefit before 1979. Of course, all beneficiaries—present and future—would receive the full benefit of future social security cost-of-living increases.

One of the major advances of H.R. 9346 is to "decouple" future social security benefits. For the first 10 years under decoupling—1979 to 1988—there is a transitional period during which a new beneficiary would have his or her benefit computed under either the new "decoupled" formula or the June 1978 benefit table. The effect of this transitional program and the committee's recommended freeze of the minimum benefit is that the minimum benefit of about $120.60 would continue to be paid unless a beneficiary had a higher benefit computation under the "decoupled" formula. After 1988, new beneficiaries would have their benefits computed under the "decoupled" formula with $120.60 still as the minimum.

The amendment would repeal the minimum benefit by entitling new beneficiaries to the higher of that benefit based on an expanded June 1978 benefit

table or the "decoupled" formula. The 1978 benefit table would be expanded by applying the ratio of benefits to wages for all average monthly wage amounts of $76 or less. After the 10-year transition, benefits would be based solely on the "decoupled" formula.

To illustrate the mechanics of this expanded benefit table, it is necessary to explain that the first step of the social security benefit computations is a percentage of the first $110 in average monthly wages with a minimum benefit floor. For example, after the cost-of-living increase expected in June 1978, the first step of the social security formula will be more than 150 percent of the first $110 in average monthly wages with the minimum of $120.60. Thus, if the first step of the June 1978 benefit formula was actually 150 percent of the first $110, the benefit table would be expanded to show a worker with an average monthly wage of $110 would be eligible for a benefit of $165, a worker with a lower covered wage of $70 could receive a proportional, but smaller benefit of $105, and a $50-a-month worker at $75.

Again the worker could receive a higher benefit on the basis of the "decoupled" formula during the transition period.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, I wish to commend the gentleman for offering this amendment.

Actually if we believe in anything in this country, we ought to believe that we should be against unjust enrichment. What we have here is an opportunity to correct a problem in which a lot of people in effect rob the poor box and get benefits that were never intended.

Mr. Chairman, the gentleman from California (Mr. CORMAN) is right on target in offering his amendment, and I hope it is agreed to.

Mr. ULLMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is my hope that we can dispose of the debate on this amendment very rapidly. This will be the final amendment offered this evening. After we consider this amendment, we will go over until tomorrow morning.

Let us make sure, Mr. Chairman, of what we are doing here. What we are doing is taking that $114 floor and denying it to certain individuals. It might be an agricultural worker; it might be a domestic. It is somebody who has worked in and out of the work force for a number of years; it could very well be someone who relies completely on this for a living. We are saying that that person, in place of getting $114, would get the actuarial rate, which may be $15, it may be $40, it may be $50. That is very harsh treatment.

Let me say to the Members of the Committee that we have frozen that minimum. It will be phased out over a period of 10 years or so. That is the right way to approach the problem.

We faced up to the problem in the committee bill, but to adopt the Corman amendment and eliminate that minimum would be harsh treatment of many, many hundred of thousands of Americans who have gotten into the social security system because they have been in and out of the work force. We are talking about agricultural workers, domestic workers, and a lot of fringe people who need that minimum.

Mr. Chairman, I urge the Members to oppose this amendment.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, in fact, these people who participate in the minimum because they have paid in only a small amount are poor people. They should be supported by all taxpayers, not just those taxpayers who work. They should be supported through a welfare system such as the SSI system, consonant with their dignities as human beings.

This should be handled as SSI has been handled during recent years. It is a bad idea to put the load on social security and provide a welfare payment of this sort.

Mr. Chairman, I commend the gentleman from California (Mr. CORMAN) for offering this amendment. The payment of SSI should help the social security system. The gentleman's amendment will make this help effective, because it will mean that we no longer are paying substantially above the actuarial base for those who have paid in only a slight amount, and at the same time we are protecting those people who are in fact poor.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of the amendment offered by the gentleman from California (Mr. CORMAN).

I think we have to bear in mind that we are not talking about the minimum special benefit which was set aside for individuals who have very low earnings over a long period of time. What the gentleman from California is addressing now is the ripoff that we were talking about prior to our acceptance of the Fisher amendment. This amendment will absolutely knock out that nonsense.

As the gentleman from New York (Mr. CONABLE) has correctly pointed out, this is not going to hurt the individual who is "in and out of the system," because we have over the years devised benefits through the supplemental security income system which takes care of those people, and rightly so.

Mr. Chairman, I urge the Members to adopt the Corman amendment. This puts the plug in on these individuals who are riding a gravy train. They should be called welfare recipients, because that is what they are.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the chairman of the subcommittee.

Mr. BURKE of Massachusetts. Mr. Chairman, I am sorry that I must rise in opposition to the amendment offered by my good friend, the gentleman from California (Mr. CORMAN). The trouble with this amendment is that the gentleman is trying to throw the baby out with the bath water. He is trying to correct a situation that should be corrected. But the situation should not be corrected in this way, because the gentleman is trying to take care of those people who are double-dipping but not to take care of those people who would be hurt by this amendment.

There are thousands of other people who depend upon these checks and who have too much respect to apply for welfare. The only income they have is that minimum check, and they would rather starve to death than go down to the welfare office and apply for welfare.

They are people who have worked all through their lifetimes, but they have just not earned enough to gain enough payment benefits to survive.

I say to the gentleman that I think he should withdraw this amendment, because eventually the situation is going to take care of itself anyway. It is going to work itself out every year, because more people get eliminated by it every year. To do it in this way would put a hardship on the American people who have worked all during their lifetimes but did not earn enough to qualify for the proper payments.

Mr. CORMAN. Mr. Chairman, I will only point out that this amendment does not affect anybody who qualifies with 10 years of employment. It does not affect anybody who needs the money.

Mr. Chairman, I urge an aye vote, and I yield back the balance of my time.

Mr. ULLMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Chairman and members of the committee, I reluctantly oppose this amendment. We did not discuss it in subcommittee. There were no hearings on it, but I will bet that no Members got any letters from anybody against this amendment. I will bet that no Members got any letters at all about the problem that is involved here because the agricultural workers do not write lots of letters. The domestic workers do not write lots of letters. The people who are on that borderline, for whom this minimum benefit was first put into the law, are not the kind we are going to hear from. This is a free vote. We could vote for this amendment, and we will not catch any heat back home.

However, we ought to think about the people whom my colleague, the gentleman from Massachusetts (Mr. BURKE), talked about, people who think they have earned that social security check and who will not go into a welfare office to collect the same money. If they do go in, then there is no saving here. We have not saved any money on this, but what we have done is that we have said that we were going to clean up the system.

Mr. Chairman, there are hundreds of thousands of people in the pipeline, some

of them within a quarter of eligibility. We are telling them right now, "Forget about the minimum benefit. That is the end of it. Get welfare."

Mr. Chairman, that is wrong. I want to get the double-dippers. That is why I stood with 36 other Members, so we could get the double-dippers. We should, but this does not get at the double-dippers unless we are talking about some domestic worker or some agricultural worker who has never earned enough under the minimum benefit which we provided in the law. If that person is a double-dipper, then vote for the amendment. Otherwise, even though there is not any lobbying at this time, we ought to vote "no."

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Chairman, may I ask the gentleman this question: This amendment would be better if it were included in a welfare reform bill so that we could look at the whole picture, have hearings, and understand what we are doing; is that correct?

Mr. MIKVA. Absolutely. We know there are a lot of people whom my good friend, the gentleman from California (Mr. CORMAN), does not want to hurt, but I think they will be hurt by this amendment.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, this is a problem which we ought to recognize, but I think the committee took the responsible approach by freezing the minimum and then phasing it out over a period of time. We may have to come to the point the gentleman from California is trying to get to because the intent of his amendment is good, but I really think it may be too harsh an approach.

The committee has tried to deal responsibly by freezing it and then gradually phasing it out.

Mr. ULLMAN. Mr. Chairman, I urge a vote against the amendment and yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. CORMAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KETCHUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 131, noes 271, not voting 32, as follows:

[Roll No. 701]

AYES—131

Addabbo	Bellenson	Cleveland
Ammerman	Bennett	Coleman
Anderson, Ill.	Biaggi	Collins, Tex.
Archer	Blanchard	Conable
Armstrong	Bonior	Conyers
Ashbrook	Bowen	Corcoran
Aspin	Breaux	Corman
AuCoin	Brodhead	Crane
Badham	Brown, Mich.	Cunningham
Bafalis	Burgener	D'Amours
Baucus	Burke, Calif.	Daniel, Dan
Bauman	Burleson, Tex.	Daniel, R. W.
Beard, Tenn.	Carr	Devine
Dornan	Krueger	Quie
Duncan, Oreg.	LaFalce	Regula
Early	Lent	Rhodes
Edwards, Ala.	Livingston	Robinson
Edwards, Okla.	Lloyd, Calif.	Rosenthal
Ertel	Long, Md.	Rousselot
Fenwick	Lott	Rudd
Fish	Luken	Satterfield
Fisher	McCloskey	Sawyer
Forsythe	McDade	Sharp
Frenzel	McDonald	Shuster
Gibbons	McEwen	Sisk
Glickman	McKay	Smith, Nebr.
Gradison	Marriott	Snyder
Grassley	Martin	Stangeland
Hagedorn	Mattox	Stump
Hall	Meeds	Taylor
Hamilton	Meyner	Thone
Hammer-schmidt	Michel	Treen
	Milford	Trible
Hollenbeck	Miller, Calif.	Van Deerlin
Ichord	Miller, Ohio	Volkmer
Ireland	Moore	Waggonner
Jacobs	Moorhead, Calif.	Walker
Jeffords		Wa'man
Johnson, Colo.	Murtha	Weaver
Jones, Okla.	Nolan	Wiggins
Kelly	Panetta	Yatron
Kemp	Pease	Young, Fla.
Ketchum	Pike	Zeferetti
Keys	Poage	
Kindness	Pritchard	

NOES—271

Abdnor	English	Lundine
Akaka	Evans, Colo.	McClory
Ale-ander	Evans, Del.	McCormack
Allen	Evans, Ga.	McFall
Ambro	Evans, Ind.	McKinney
Anderson, Calif.	Fary	Madigan
	Fascell	Maguire
Andrews, N.C.	Findley	Mahon
Andrews, N. Dak.	Fithian	Mann
	Flippo	Markey
Annunzio	Flood	Marks
Applegate	Florio	Marlenee
Baldus	Flowers	Mathis
Barnard	Flynt	Mazzoli
Beard, R.I.	Foley	Metcalfe
Bedell	Ford, Mich.	M'k'ski
Benjamin	Fountain	Mikva
Bevill	Fowler	Mineta
Bingham	Frey	M'n'sh
Blouin	Fuqua	Mitchell, Md.
Boggs	Gammage	M'tchell, N.Y.
Boland	Gaydos	Moakley
Brademas	Gephardt	Moffett
Breck'nridge	Gi'man	Mollohan
Brinkley	Ginn	Montgomery
Brooks	Goldwater	Moorhead, Pa.
Brown, Calif.	Gonzalez	Mottl
Brown, Ohio	Gore	Murphy, Ill.
Broyhill	Gudger	Murphy, N.Y.
Buchanan	Guyer	Murphy, Pa.
Burke, Fla.	Hanley	Myers, Gary
Burke, Mass.	Hannaford	Myers, John
Burlison, Mo.	Harkin	Myers, Michael
Burton, John	Harrington	Natcher
Butler	Harris	Neal
Byron	Harsha	Nedzi
Caputo	Hawkins	Nichols
Carney	Hefner	Nowak
Carter	Heftel	O'Brien
Cavanaugh	Hightower	Oakar
Cederberg	Hillis	Oberstar
Chappell	Holland	Obey
Chisholm	Holtzman	Ottinger
Clausen, Don H.	Horton	Patten
	Howard	Patterson
Clay	Hubbard	Pattison
Cochran	Huckaby	Pepper
Cohen	Hughes	Pettis
Collins, Ill.	Hyde	Pickle
Conte	Jenkins	Pressler
Cornell	Jenrette	Prever
Cornwell	Johnson, Calif.	Price
Cotter	Jones, N.C.	Pursell
Coughlin	Jones, Tenn.	Quayle
Daniel'son	Jordan	Quillen
Davis	Kasten	Rahall
de la Garza	Kastenmeier	Railsback
Delaney	Kazen	Rangel
Dellums	Kildee	Reuss
Derrick	Kostmayer	Richmond
Derwinski	Krebs	Rinaldo
Dicks	Lagomarsino	Risenhoover
Dingell	Latta	Roberts
Dodd	Le Fante	Rodino
Downey	Leach	Roe
Drinan	Lederer	Rogers
Duncan, Tenn.	Leggett	Roncalio
Eckhardt	Lehman	Rooney
Edgar	Levitas	Rose
Edwards, Calif.	Lloyd, Tenn.	Rostenkowski
Eilberg	Long, La.	Roybal
Emery	Lujan	Runnels
Ruppe	Staggers	Walsh
Russo	Stanton	Wampler
Santini	Stark	Watkins
Sarasin	Steed	Weiss
Scheuer	Steers	White
Schroeder	Steiger	Whitehurst
Schulze	Stokes	Whitley
Sebelius	Stratton	Whitten
Seiberling	Studds	Wilson, C. H.
Shipley	Thompson	Wilson, Tex.
Sikes	Thornton	Winn
Simon	Traxler	Wirth
Skelton	Tsongas	Wolff
Skubitz	Tucker	Wylie
Slack	Udall	Yates
Smith, Iowa	Ullman	Young, Mo.
Solarz	Vander Jagt	Young, Tex.
Spellman	Vanik	Zablocki
Spence	Vento	
St Germain	Walgren	

NOT VOTING—32

Ashley	Ford, Tenn.	Perkins
Badillo	Fraser	Ryan
Bolling	G'aimo	Stockman
Bonker	Goodling	Symms
Broomfield	Hansen	Teague
Burton, Phillip	Heckler	Whalen
Clawson, Del	Holt	Wilson, Bob
Dent	Koch	Wright
Dickinson	McHugh	Wydler
Diggs	Moss	Young, Alaska
Erlenborn	Nix	

The Clerk announced the following pairs:

On this vote:

Mr. Fraser for, with Mr. Ashley against.
Mr. Teague for, with Mr. Nix against.

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. ULLMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. EVANS of Colorado, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of nonprofit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on each of the amendments to the bill just considered.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

Further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the

amendments of the House to the bill (S. 1863) entiled "An act to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STENNIS, Mr. MCINTYRE, Mr. CULVER, Mr. BUMPERS, Mr. GOLDWATER, Mr. TOWER, and Mr. BARTLETT to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to House amendment to the Senate amendment to the bill (H.R. 6010) entitled "An act to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes;" disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CANNON, Mr. INOUYE, and Mr. STEVENS to be the conferees on the part of the Senate.

REPORT ON RESOLUTION PROVIDING FOR RADIO AND TELEVISION COVERAGE OF HOUSE PROCEEDINGS

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95–759), on the resolution (H. Res. 866) amending the Rules of the House of Representative to provide for television and radio coverage of the proceedings of the House, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT OF CONFEREES ON S. 1863, AUTHORIZING SUPPLEMENTAL APPROPRIATIONS FOR DEPARTMENT OF DEFENSE

Mr. PRICE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1863) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes, with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messrs. PRICE, BENNETT, STRATTON, ICHORD, NEDZI, CHARLES H. WILSON of California, LEGGETT, WHITE, NICHOLS, BOB WILSON, DICKINSON, WHITEHURST and SPENCE.

HOUR OF MEETING TOMORROW

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11 a.m. tomorrow, Thursday, October 27, 1977.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. QUAYLE. Mr. Speaker, reserving the right to object, would the gentleman inform us of the schedule for tomorrow and for Friday?

Mr. BRADEMAS. Will the gentleman yield?

Mr. QUAYLE. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Tomorrow, first we will conclude consideration of H.R. 9346, Social Security Financing Amendments of 1977. Then, we will move tomorrow and for the balance of the week to H.R. 8200, uniform bankruptcy law, and House Resolution 866, House radio and television coverage.

Mr. QUAYLE. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

INTRODUCTION OF FEDERAL REGULATORY EXPEDITING AND EFFICIENCY ACT

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DICKS. Mr. Speaker, today I have introduced legislation which is designed to make a positive first step to reduce the extensive delay that exists in the Federal bureaucratic process.

Every Member is, I am sure, aware of numerous cases in which literally years elapse before a final decision is made on a matter before a Federal agency. According to statistics compiled by the U.S. Administrative Conference and the Senate Governmental Affairs Committee, administrative agency proceedings average 19 months for licensing, 21 months for ratemaking, and 3 years for enforcement actions. For enforcement actions it takes well over a year before a hearing is even convened.

The consequence of this delay is a tremendous cost burden on the Government, consumers, and industry. The Senate committee has estimated that undue regulatory delay results in economic costs of tens of millions of dollars. The Congressional Budget Office, by calculating the daily cost of operation in regulatory agencies, has concluded that a week's delay would cost the taxpayers approximately $53 million and that a month's delay would result in a more than $200 million cost. These figures do not address additional costs from undue delay in rulemaking in Cabinet departments, nor do they assess the inflated legal fees for participants in the process, the increase in the expense of doing business and disincentive to invest that results from the uncertainty of how the agency will act. Finally, it cannot begin to account for the major health costs than can result from needless injuries and deaths.

There are of course a number of reasons such delay exists. Often there are monetary incentives on the part of some participants to delay a process. These motivations are inherent in the process and no legislation is going to eliminate them. What can be done however is to structure the process so as to minimize the opportunities to delay for delay's sake.

Agency processes and procedures, including inadequate controls of the course of proceedings and the lack of structures to establish priorities, are further factors that result in duplication, confusion, and undue delay.

This Federal Regulatory Expediting and Efficiency Act would attempt to address some of these causes, particularly in the area of agency management and reduce the incidence of unnecessary delays. As a first step, each Federal agency which receives a petition for the commencement of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation would be required to make a decision on whether to grant or deny such petition within 120 days, and if granted to begin appropriate proceedings within 30 days.

Provisions similar to this have been included in other legislation, including the FTC Act amendments recently passed by the House, but thus far have been limited to a particular agency. This bill would extend the requirement to any department or agency with the power to promulgate rules and regulations rather than attempt to deal with the bureaucratic structure in a piecemeal way.

Where this 120-day requirement has been instituted on a voluntary basis such as at the CAB, it has proved quite successful. In May of 1976, before this provision was adopted by the Board, there were 41 rulemakings petitions pending, with an average age of 10 months. Two of the petitions were 2 years old and one was 5 years old. In the intervening year, with a roughly constant intake of five petitions monthly, and with no increase in resources for handling them, the average age of the 10 petitions pending was 2 months. All but one of the petitions received within the period were processed within the 120-day deadline, and the exception required only an additional 30 days.

The bill provides recourse for the petitioner in the case where an agency fails to take action within the prescribed period, or where it denies such a petition, before the appropriate U.S. court of appeals. The court could, if the petitioner demonstrates that the agency action, or inaction, was arbitrary and capricious, and met other strict criteria, order the agency to initiate action on the petition. The criteria are intentionally drawn to put the burden on the petitioner to demonstrate the necessity of the action requested in the filed petition. This, along with the necessity that the petitioner absorb the time and expense of judicial review should serve as a deterrent to spurious civil actions.

While the 120-day rule for initiating proceedings has demonstrated that it can expedite this stage of proceedings, incentives for avoiding delay in later stages would appear to be warranted as well. It is for this reason that the bill directs agencies to establish timetables for general classes of proceedings as recommended by the Senate Governmental Affairs Committee in its study of Federal regulation, published in July of this year.

Standardized time limits would allow for management by exception, where

managers would be required to give their attention only to exceptional cases. Furthermore, a system of standardized deadlines that forces an agency to operate within a particular framework would promote, in the words of an ICC staff task force studying regulatory reform, "stability in the administrative process and consistency in the treatment of parties." Based on what experience we have had with timetables, it can be said that the establishment of deadlines and keeping responsible personnel aware that they will be called upon to explain delays provides a powerful incentive to complete work promptly.

The legislation carefully avoids the temptation to impose rigid timetables for all agencies by congressional mandate. I recognize that the nature of agency proceedings varies considerably from agency to agency and there are times when a proceeding might not be suitable to general timetables. In such cases, the bill provides procedures for the agency to identify such instances and to provide special timetables for them. Notice of this action would be provided in the Federal Register. Procedures for amending timetables for specific cases is also included.

At the same time I am a strong supporter of congressional oversight of Federal regulation. To insure that the established timetables for general proceedings are not overly long, their enactment would be subject to veto by the Congress. As an additional check of the agencies, parties damaged by unreasonable special deadlines or by failure to meet timetables could file their complaint with the Congress for aid in its oversight function.

While certainly not a cure-all for the immensely complex problem of undue delay in the exercise of the regulatory function, I am convinced that this legislation will be a strong first step in putting our house in order and facilitating a more expedient and efficient execution of this important aspect of Government:

FEDERAL REGULATORY EXPEDITING AND EFFICIENCY ACT—SECTION-BY-SECTION ANALYSIS

Section 2a—Establishes a 120 day period for any agency which receives a petition for the commencement of a proceeding for the issuance, amendment or repeal of a rule, regulation or order to grant or deny such petition. If the petition is granted, an appropriate proceeding would be commenced in 30 days. If the petition is denied, or no action is taken in the 120 days the agency will publish its reasons in the Federal Register.

Section 2b—Provides judicial review for petitioner in the case of a denied petition or if no action is taken in the 120 day period. The petitioner would have 60 days to commence such action. If the petitioner demonstrates to the Court that the agency action, or inaction, was arbitrary and capricious, the action requested is necessary and in the public interest, and that the failure of the agency to take action will result in a continuation of practices not consistent or in accordance with its responsibility, the Court may order the agency to initiate an appropriate proceeding. The Court would have no authority to take any other action.

Section 3a—Directs each Federal agency to promulgate a rule within one year of the act's enactment establishing timetables for general classes of proceedings utilized by the agency. The rule would include criteria for determining which proceedings would be subject to these timetables. The rule would become effective within 60 calendar days of continuous session of Congress unless vetoed by one of the Houses by resolution. Such resolution would explain the objections of the House and direct the agency to amend the rule to meet these objections.

Section 3b—Establishes procedures for agencies to establish special timetables for proceedings not subject to general timetables and for amended timetables in cases where established timetables cannot be met.

Section 3c—Allows any party aggrieved by the failure of an agency to conform to timetables or by the establishment of unreasonable schedules to file a complaint which would be referred to the appropriate committees of Congress.

Section 4—Definitions:

Defines "Federal agency" to include all authorities of the government with the exception of the Congress, the courts, territorial governments, special commissions and the D.C. Government.

"Procedings" is defined to include the rulemaking, adjudication and licensing processes.

SBA BOTTLENECK ON DISASTER LOANS IN GEORGIA

(Mr. MATHIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MATHIS. Mr. Speaker, serving in the Congress, as every Member of this House knows, brings experiences that can best be described as extremely frustrating on many occasions. I have never, however, been more frustrated than in recent weeks, in attempting to deal with the Small Business Administration in their handling of disaster loans in my district. The entire State of Georgia has been devastated this year by a drought that is the worst in the long history of the State, and while the economy of the whole State has been crippled, no sector of the economic community has been hit nearly so hard as the farmers. Entire crops failed, soybeans and peanuts were hard hit, livestock producers are in the worst straits in memory, some cotton fields were simply harrowed, because there was no cotton to pick. All of this disaster, Mr. Speaker, at a time when the costs of production have never been higher. My farmers very simply are facing bankruptcy.

We in this Congress decided some time ago that the Small Business Administration was the vehicle by which we would extend emergency assistance to these farmers, and we in the Congress directed SBA to follow through. Only yesterday, this House appropriated an additional $1.4 billion to meet their needs. The only problem thus far has been the inability of the SBA to deliver. To my knowledge, not a single check has been received by a farmer, or a farm-related business, in my district, and all that we have received from the SBA are promises. For the past several weeks, my office and I have been told that checks are on the way. I know that it has been difficult for the SBA to move into an area entirely new to them, and I understand their problems of sheer numbers. The agency has been flooded with applications, more, I think, than anyone ever anticipated. I can understand a backlog, I can understand a bottleneck, I can understand a flood of applications slowing the process, and I have attempted to justify SBA's problems almost daily to increasingly panic stricken farmers. What I can no longer understand, Mr. Speaker, and what I certainly can no longer tolerate, is the inability of the SBA to deliver at least some checks to the farmers of my district. There can be, and there is, no excuse for the delay that has occurred. There are farmers in my district who have applications that have been pending for more than 8 weeks, and they have received nothing other than promises. Many farmers and businessmen are beginning to think that the promises made to them, by their elected Representatives, and their Government agencies, are nothing more than some form of cruel joke. Time after time they have told, "checks are on the way," "things are beginning to move," "We have approved several loans," and other such encouraging news. Mr. Speaker, there is no place on the back of these statements for endorsements, and I know of no bank that will credit a farmers account on the basis of a promise. It is past time for the SBA to stop making promises, and start delivering checks.

THE ADMINISTRATION'S "DOUBLE STANDARD"

The SPEAKER. Under a previous order of the House, the gentleman from Oklahoma (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of Oklahoma. Mr. Speaker, the administration's harsh attack recently on the energy industry is only the latest example in what has now become a disturbing pattern—the President's apparent willingness to use a double standard in defense of bad policy. Americans sense this double standard, and their confidence in the administration is declining rapidly.

The President singled out the oil companies for sabotaging his energy program. But these companies are just one part of a large, informal coalition of Republicans and Democrats, both liberal and conservative in Congress and out; of labor unions, businessmen, farmers, and consumer groups—all rebelling against that so-called energy program. This "energy program" they have concluded, is nothing more than another massive tax increase. And they do not like it.

So, to try to salvage some success, the administration is trying hard to direct the public's criticism away from its own energy program and toward the energy industry instead.

Under President Carter's plan, the price of domestic oil would be raised to the current selling price on the world market. But the resulting difference between the present price in the United States and the world price would be taken in taxes by the Federal Government. What the administration is attacking is the industry's belief that some of the money from higher prices should be used to increase exploration and production: To develop more energy, in other words. Increased exploration would produce new jobs both to manu-

facture and operate added drilling equipment. Increased manufacture of drilling equipment would in turn create a need for other jobs in other areas of the economy. More petroleum from increased domestic production would permit more American dollars to remain at home stimulating our own economy. The administration says this approach is evil and wrong.

What the administration prefers is its plan to tax at least $350 billion out of our economy by 1985, which amounts to a direct and indirect tax increase of almost $4,000 for every working American over the next 7 years. And what would the country receive in exchange for this punitive, inflationary tax? Originally, part of the money was to be rebated to the public, but now the administration talks of using the tax money to finance programs like welfare.

Why are ideas that would help people by promoting needed investment, jobs, and economic growth bad, while those that would take away more of everybody's earnings in taxes, produce no new energy, and lead to a bigger Federal bureaucracy somehow good?

The same double standard holds true for natural gas. The administration says it will protect consumers and fight to keep natural gas prices regulated by the Federal Government. But natural gas in deep wells is extremely expensive to discover and produce, and producers cannot make a profit at regulated prices. So they will not explore or drill. Since there is a shortage, and consumers are not allowed to purchase unregulated natural gas at slightly more than $2 per thousand cubic feet, the void must be filled with more expensive foreign substitutes—unless, of course, we want our factories and schools to shut down like last winter. It is hard to understand how consumers are being "ripped off" if they pay $2 to domestic producers, but are being "protected" if they have to pay as high as $4 to foreign producers to get the energy they need.

But double standards are not confined to energy. In fact, they are now commonplace. During the campaign, Candidate Carter attacked President Ford for not immediately firing FBI Director Clarence Kelley after it was revealed that Kelley had had a few hundred dollars worth of carpentry work in his apartment done by Government carpenters at the taxpayers' expense. But when President Carter learned that his own Director of the Office of Management and Budget had improperly negotiated millions of dollars of loans, overdrawn his bank account by several hundred thousand dollars, and engaged in banking practices the Comptroller of the Currency called "unsafe and unsound," the President took no action except to call Bert Lance a man of impeccable integrity and superior competence.

In foreign policy, the double standard seems to hurt our friends and help our enemies. The administration is planning to pull our defensive forces out of South Korea, and appears to be moving further away from another ally, Taiwan, while moving closer to Communist China and providing aid through the back door to North Vietnam.

The United States has teamed up with the Soviet Union to pressure Israel, the only free democratic country in the Middle East, to negotiate with the PLO, a terrorist organization devoted to the total destruction of Israel.

Closer to home, the administration properly invokes the principle of human rights against Brazil, Argentina, El Salvador, and Guatemala, but concern for human rights suddenly fades when it comes to improving relations with Cuba, or paying hundreds of millions of dollars to a dictatorship in Panama.

When inconsistency is common practice, when rules are applied for some but not for others, when there is government by double standard, public confidence will continue to decline. Creating false scapegoats will not make this problem go away.

WHAT IS SO NEGATIVE ABOUT KEEPING TAXES DOWN?

The SPEAKER. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 5 minutes.

Mr. CLEVELAND. Mr. Speaker, a short while ago a constituent and friend of mine, Mr. George Emeny of New London, N.H., directed my attention to the excellent editorial in the October 17 issue of U.S. News & World Report, entitled "Think 'Positive'?"

That editorial was excerpted from an article by Warren T. Brookes that appeared in the July 3, 1977, edition of the Boston Herald American. Mr. Brookes' article, commenting on the folly of spending for spending's sake, is a fine rebuttal to those who refer to advocates of limited Government spending as "negative."

It makes the oft-overlooked but very important point that the so-called positive legislators are creating more than just inflationary harm by their spending policies. What has slowly been developing, as Mr. Brookes makes clear, is an erosion of our individual freedoms, as we are being smothered and coerced by mountains of Government regulations. This loss of freedom is the direct result of newer and larger Government spending programs.

Mr. Speaker, I still cherish the notion of individual freedom, and I have long opposed the spending of Federal dollars on programs designed to protect or take care of people who can well take care of themselves. Mr. Brookes' article expresses that point of view eloquently. I am grateful to Mr. Emeny for pointing out the editorial to me, and I commend the entire article to my colleagues:

WHAT IS SO NEGATIVE ABOUT KEEPING TAXES DOWN?

(By Warren T. Brookes)

During the past few years, it has become fashionable in the media, generally, to refer to any politician who votes against major spending programs as "negative," or "lacking in compassion."

Similarly, politicians who regularly vote for vast government social enterprises are regarded as "positive," or "compassionate," and being "for the people," or "liberal."

In this political lexicon, then, any politician who attempts to stand for limited government, and for individual freedom and responsibility, risks being branded as "negative."

To this automatic response, we would pose a rather simple question: "What is 'negative' about freedom?"

Or, to put it another way, what is "negative" about preserving the right of individual citizens to live their own lives free of the constant interference of government, and the excessive burden of its taxation?

But then, let's turn it around.

What, we may well ask is "positive" or "liberal" about a government that now takes almost 44 percent of the nation's total personal income?

What is "positive" about a government that runs annual deficits of over $50 billion—and prints money to finance them?

What is "positive" about a constant inflation rate of nearly 7 percent—a rate at which half of your life savings are destroyed every 10 to 12 years?

What is "positive" and "liberal" about a government whose regulations now cost consumers more than $100 billion a year?

What is "positive" about government health programs that have single-handedly driven the nation's spending on health care from 5 percent of the GNP to nearly 9 percent, in just 10 years?

What is "positive" or "liberal" about a Social Security System that is now taking more from the taxpayers than they can ever get back—and is still going bankrupt?

What is "positive" about a public education system that now spends over $1500 dollars a year per student—and doesn't teach them how to read, write, or do arithmetic?

"What is "positive" about a welfare system that is turning millions of Americans into helpless wards of the state, and encouraging millions of others to choose dependence instead of work?

What is "positive" about a government whose total accumulated long term debt and obligations are over $5 trillion—more than the total worth of the economy?

What is "positive" about a government energy policy that suceeds only in putting millions of people out of heat and work in the middle of a severe winter?

What is "positive" about more than $4 billion in known welfare abuse, error and fraud?

What is "positive" about a nation where there are nearly 85 full-time dependents or employes of government for every 100 productive private taxpayers?

What is "positive" about government housing and urban development programs that have only accelerated urban decay, and isolated the poor in bleak warehouses?

What is "positive" about a government which is printing money at a rate more than twice as fast as the nation's economy is growing?

What is "positive" or "liberal" about asking government bureaucrats to make decisions for you, which you are better able to make for yourself—and at much lower cost?

What is "positive" about government policies that first create energy shortages, and then demand billions in new taxes to "solve" them, that creates a crisis, and demands even more power and control to "alleviate" it?

In short, what is "positive" or "liberal" about big government, with all its trappings of bureaucratic power, waste and arrogance, and with all its constant threats to individual freedom, privacy and expression?

We think we know what Thomas Jefferson would have said to these rhetorical questions. In 1801 he wrote:

"Every man wishes to pursue his occupation and to enjoy the fruits of his labors and the produce of his property in peace and

safety, and with the least possible expense. When these things are accomplished, all the objects for which government ought to be established are answered."

Yet the very "liberal" politicians who regularly hold up Jefferson as their patron saint have, in fact, a very different concept of our government—a concept which, in the name of human security, demands a greater and greater level of government action, spending and domination in every phase of our lives; a concept that in the guise of liberalism, constantly calls for more and more compulsory programs for our individual good, and a constant diminution of our freedom.

Have you ever noticed how often those who call themselves "liberals," use the term "compulsory," and "mandatory" in their political glossary of social programs?

Have you ever noticed how quickly these "liberals" turn to the establishment of more government agencies with more arbitrary power to make more rules affecting us—without representative appeal?

The reason for all this, of course, is that, far from being "positive", or "liberal" these power-hungry politicians have a very "negative" and authoritarian view of mankind.

They see us not as independent individuals, able to take care of our own lives, but as helpless collective groups of "little people" with constant needs and problems which only a benevolent government can provide or solve.

They encourage us, not to strive for individual dominion, achievement and reliance, but for the vain and unholy grail of security, and protection, of an increasingly expensive, and expansive central government.

They are willing, apparently, to ignore the wise counsel of Benjamin Franklin, who warned in 1787, that "They that give up essential liberty in order to obtain a little temporary safety, deserve neither liberty, nor safety."

Above all, they seem to forget that it was Jefferson, the philosophical mentor of the American Revolution, who wrote over 170 years ago that:

"If a nation values anything more than freedom, it will lose its freedom—and the irony of it is that if it is comfort or money that it values more than freedom, it will lose the comfort and the money, too."

As this nation moves into its third century of independence and ponders immense and far-reaching decisions about the direction of its government and its society, we would do well to ask ourselves again the question: "What is negative about freedom?"

THE PLIGHT OF THE REBINOVS

The SPEAKER. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, in Belgrade, Yugoslavia, representatives of the United States, the Soviet Union, and over 30 other nations are engaged in a review of compliance with the Helsinki Accords, signed in August 1975. The result thus far has been encouraging, for although President Carter has apparently instructed the U.S. representatives, led by Ambassador Goldberg, to refrain from naming specific countries in any official speeches or statements, the United States has been outspoken in its condemnation of the performance of "Eastern European nations" on human rights.

The reaction of the Soviet Union is predictable. "Interference in internal affairs, excess emphasis on mere political rights, lack of concern with economics and culture"—these are some of the charges made against the United States. Of course, the Soviet Union has good reason for making these charges, but not because of any concern about the economic health of the citizens of the world. The Soviet Union is afraid of any special emphasis being placed on its abysmal record or protecting or promoting political rights and freedoms.

Literally hundreds of Soviet citizens are now struggling to leave that state, tired of a system which stiffles individual initiative, represses its citizens, and harasses and persecutes any who disagree with the official line.

One case of the many has been brought to my attention. Arkady and Lena Rebinov, 74/1 Svetlanovksy Prospect, Apartment 144, Leningrad, R.S.F.S.R., are attempting to emigrate from the Soviet Union, but have encountered especial difficulty obtaining official permission. So far, they have been refused exit visas five times by the Soviet authorities, and several of those refusals have been accompanied with the suggestion that the couple divorce, thus allowing one party to emigrate, while leaving the other in the U.S.S.R. as, in effect, a hostage against good behavior. They have been trying to exit the Soviet Union for over 6 years, since long before President Carter began his human rights campaign, yet they are still unable to leave.

The Rabinovs, both of whom are engineers, were fired from their jobs almost immediately after requesting permission to emigrate, and have been unemployed since. They have been living since 1971 on the charity of friends.

Not only did Arkady and Lena Rabinov lose their jobs, but Arkady's father, who had been employed at the University of Leningrad for 25 years, was fired as a result of the couple's desire to emigrate. The elder Rabinov consequently lost faith in the Soviet system, applied for an exit visa, and is now living in the United States, in San Jose, Calif.

The section of the Helsinki Accords which is concerned with human rights, the so-called basket 3, states that—

Signatory nations will make it their aim to facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions, and organizations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connexion. In addition, the participating States will deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family.

Clearly, in this as in numerous other cases, the Soviet government has not abided by its pledges. Suggestions to a couple that they divorce so that one of the couple many emigrate, thus effecting their permanent separation, can hardly be called contributing to the "solution of humanitarian problems." Forced separation of father and son is the very opposite of dealing "in a positive and humanitarian spirit" with attempts at family reunion.

One searches for any rationale for the continued actions of the Soviet authorities in making it so difficult to leave the U.S.R.R. One clue might be found in the fact that elderly people seem to have an easier time gaining official visas than do young people; perhaps only those with their productive years behind them are allowed to emigrate, thus forcing other nations to pick up the costs of retirement and social security programs. Yet that explanation weakens when we see that young people who do remain behind when their parents or grandparents leave are invariably fired from their jobs. They are not allowed any kind of employment, not even menial jobs and are continuously harassed. These people may be productive, energetic citizens, but they are not being used as such, they are not allowed to work or produce anything.

There is only one reason that the government makes it so difficult to leave the U.S.S.R., only one reason why they push and prod and worry those people who are courageous enough to apply for emigration visas, and that is to intimidate the rest of the citizens of the Soviet Union. We know that thousands of Russian Jews have applied for emigration in spite of official condemnation. One has to wonder what would happen if the gates were open, as they are here and in other truly democratic countries, and if all were allowed to leave if they wished. We are not talking here of people who desire to change the Soviet system, but of people—like Arkady and Lena Rabinov—who simply want out.

It is no longer possible for the United States to isolate itself from the rest of the world, allowing torture and persecution to continue unabated so long as it does not happen here; and it is no longer possible for the Soviet Union to harass its citizens, who are merely trying to claim the rights which have been promised them, without attracting worldwide attention and reproach.

The Soviet government still claims that the American human rights campaign constitutes interference in the internal political affairs of the Soviet Union. That is a statement they can no longer make with any authority, for the U.S.S.R. has agreed to protect and promote the human and political rights of its citizens not only in the Helsinki Accords, but in the Charter of the United Nations as well. The United States and other democracies must hold the Soviet Union to those promises so that the Rabinovs, and other like them, will be allowed the full exercise of their rights.

WHITHER THE DOLLAR?—II

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, yesterday the New York Stock Exchange continued its long downward slide. As usual, explanations of why are not any more useful than most Monday-morning quarterbacking, but it is clear that the decline of the market indicates more than a little uncertainty about our economic future.

This unease about the future is reflected abroad in the currency markets, among other places. The dollar has been drifting down with the stock market, and as usual gold is climbing up as the dollar falls.

Here at home we see more and more demand for protection against foreign competition, a sign that our prodigious trade deficit is really beginning to hurt. Against this we hear reports that Japan, with a huge trade surplus, is going to turn on the import supercharger, to cool things off a bit.

What is going on here?

Our economy is hurting, and that is what makes the stock market go down.

We are incurring an unsustainable trade deficit, which is producing large inflationary pressures, and at the same time creating additional unemployment.

Japan and Germany, with huge trade surpluses, are not expanding their markets, so that the United States is having considerable problems in reducing that trade deficit, which will easily be $20 billion this year. If our trading partners are not helping, we cannot say that we are, either; our oil import bill is going up, not staying steady or going down.

We are in a most precarious situation, one made worse by the uncertainty of our Nation's economic policy. The White House and the Federal Reserve are in open disagreement over what our monetary policy should be; and apparently the Secretary of the Treasury and the Chairman of the Federal Reserve do not always agree on what the value of the dollar should be in foreign exchange markets. Disarray in the face of a dangerous situation can hardly reassure either our own citizens or those of the rest of the world.

I believe that the trade deficit, and the declining value of the dollar, are matters that urgently need attention. Yet the Treasury occasionally hints that the deficit is not all that bad, and that the dollar ought to be depreciated against certain other currencies, most notably the yen and the German mark. On the one hand, the deficit is defended as a way of helping other countries finance their oil deficits; on the other our deficit is laid at the feet of Germany and Japan. Maybe so: But we cannot have it both ways. Either we are going to work to eliminate that deficit, or we are bound to see Germany and Japan telling us that they cannot help those who will not help themselves.

While we ourselves present a confused picture to the rest of the world, which looks to us for help and leadership, there seems precious little to encourage a feeling of optimism. The International Monetary Fund is seeking some new resources, most notably its new, $10 billion supplementary financing facility. This, however, would only be a tiny drop in the world's very leaky financial bucket. While the IMF seeks new resources to provide it some prestige, influence, and leverage, there is genuine confusion about what it is supposed to be doing. The agency was created to assure monetary stability, but its principal activity in the past few years has been to finance oil deficits.

If the role of IMF is confused, and if it is too weak to deal effectively with the most pressing of the world's economic problems, and if we ourselves appear to be a confused giant, where is the source of economic power and leadership in the world? Is it in the Bank for International Settlements, where the principal central bankers meet to find common ground? Or is the world running without a rudder?

No nation that is as involved in world trade as we are, and no nation with the economic power that we have, can expect others to carry our own burden of responsibility. We cannot expect the IMF to help us, we cannot expect our trading partners to be any more accommodating than they have to, and we cannot give up leadership to any other power.

It is one thing for the Treasury Secretary to push the dollar up or down by one remark or another, but it is quite another thing to adopt economic policies and programs that will stabilize our currency and lead to a renewed sense of confidence. Yet that hard task cannot be shunned, except at the greatest peril to our national well-being.

We have to begin with the fact that the world is living with a new mercantilism, centered in the oil-exporting countries of OPEC. The old mercantilism insisted that there be a permanent imbalance of trade, which would concentrate wealth in the hands of a few fortunate and favored countries. To that end, European powers would prohibit, for instance, manufacturing in colonial areas, which were expected perpetually to remit more wealth to the mother country than could ever be regained through trade. This new mercantilism fostered by OPEC insists that the oil-importing countries of the world must run an annual deficit of $40 billions or so. And OPEC is prepared to enforce this mercantilism through its control of pricing and production. The result of any deficit is that somebody ends up with less money each year. The question is, who bears the burden? So far, it is largely the United States, for our deficit is bigger than that of anyone else. One argument is that Germany and Japan should run deficits, too, and share the burden. Perhaps so; at least that would help out the dollar.

Yet it seems to me to beg the issue to argue, as the Treasury has been, about who should finance the deficit. I think we should ask whether there should be an oil deficit or not. We should ask whether this new mercantilism should be attacked, not whether it should be financed. For as long as OPEC holds its power, the rest of the world is going to suffer a case of pernicious economic anemia.

I believe that our Government would be wise to seek ways and means of persuading OPEC to give up its mercantilist dreams, either by direct action of some kind, or by finding methods of weakening OPEC's economic power—by reducing oil imports, for example. It can be said that this would be an arduous task, and maybe a dangerous one as well. Yet I believe that we could do more to develop our own resources, and that we could shift our oil buying from surplus countries to areas with which we have a more favorable balance. And I believe that we could speak publicly about this new mercantilism and what it is doing to all the people of the world, including our own.

What we cannot afford is confusion of purpose. If our Government cannot agree within itself, then no matter what resolute statements are issued, no one can believe them. Confusion of purpose can only undermine whatever action we take.

We cannot forget that in order for us to have balanced trade, someone else must accept losses. We know from German statements reported today that no one will accept those losses easily. Just as we are demanding protection from foreign imports, so too will the people of Germany demand protection against us, if their terms of trade become unfavorable to any real extent. Neither Germany nor Japan can be expected to want a cheap dollar, any more than we should want one. To them, it would mean instability; to us it would mean inflation.

Trade warfare will solve no problem; we have more to lose in a trade war than anyone else. Yet that is what we invite if the dollar continues to decline.

Always, the issue seems to return to this fundamental point: as long as the OPEC countries have a huge surplus, a surplus that accumulates, the rest of the world must suffer. We are asking our partners to help finance a deficit that the globe itself cannot support except at its peril.

Eventually, we are going to have to face the need to bring the world's trade into fundamental balance. OPEC is the real problem, and until we face that, neither the stock market nor the rest of the world can have much confidence in the future of our economy or our currency. It is time that our Government acted with unity and resolution, and long past it. Ours should be the firm voice of leadership, but what we are showing is confusion and uncertainty. That is something we can ill afford. There has been an economic revolution in the world, and we ought to let the American people know that fact. It is absolutely vital to our future that we deal with the central fact of the new situation, not just throw palliatives at its symptoms, which is what we have been doing. Nobody is going to lead for us; we have to do that for ourselves.

A TRIBUTE TO ROBERT RUSSELL

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, I would like to commend to your attention, that of our distinguished colleagues, and of all who read this RECORD, a highly esteemed businessman and eminent humanitarian of our area, Mr. Robert Russell.

Robert Russell, president of Russell Anaconda Aluminum Corp., will be honored by B'nai B'rith with its highest honor, the National Humanitarian Award, at a testimonial Gold Medallion Dinner on December 11 at the Konover Hotel in Miami Beach.

An outstanding American, Mr. Russell was born in Brooklyn, N.Y., and graduated from Brooklyn College, city of New York. A resident of Palm Bay Plaza in Miami, Robert Russell is a member of the Westview Country Club, Standard Club, Harmonie Club, Jockey Club, and the Palm Bay Club.

Robert Russell is a man of outstanding achievement whose vision and leadership have brought great distinction to all

his endeavors. One of Miami's leading citizens, he stands as a magnificent example for all our young people.

As president of Russell Anaconda Aluminum Co., director of Levitz Furniture Co., Bodin Knits, Inc., and Lawnlite, Mr. Russell has earned an eminent position in the business community. He is a member of the Greater Miami Chamber of Commerce and the Hialeah-Miami Springs Chamber of Commerce.

But his professional accomplishments cannot be separated from his civic and philanthropic commitments. Mr. Russell is much more than a businessman. He is an involved community leader.

Mr. Russell is a past president of the Greater Miami Jewish Federation, and a director of the Council of Jewish Federations and Welfare Funds, the American Joint Distribution Committee, Temple Israel of Greater Miami, the United Fund of Dade County and the Heart Association of Greater Miami.

He is also national chairman of the United Jewish Appeal, a trustee of Mount Sinai and Cedars of Lebanon Hospitals, a member of the board of governors of Tel Aviv University and the Jewish Agency of Israel.

B'nai B'rith is not alone in recognizing Robert Russell's humanitarian contributions. He has received numerous citations from organizations, including the National Conference of Christians and Jews, Miami Committee of Foreign Relations, the Greater Miami Jewish Federation, and the University of Miami Council of Advisers.

Robert Russell is a man whose commitment to his community exemplifies the finest in both American and Jewish tradition. B'nai B'rith is proud to honor him with its National Humanitarian award.

SECRETARY CALIFANO ADDRESSES THE COLLEGE ENTRANCE EXAMINATION BOARD

The SPEAKER. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, the distinguished Secretary of Health, Education, and Welfare, the Honorable Joseph A. Califano, Jr., delivered a significant address this week before the annual meeting of the College Entrance Examination Board in San Francisco, Calif.

Secretary Califano outlined his views on a subject of great significance in the field of education—basic competency testing—and suggested a number of ways in which the Federal Government can support State and local efforts to improve students' academic performance.

Because I believe that Members of the House of Representatives and Senate will read with great interest Secretary Califano's remarks on this subject, I insert his address at this point in the RECORD.

REMARKS OF JOSEPH A. CALIFANO, JR.

Thank you for inviting me to join you on the 25th anniversary of the College Board.

It's a great pleasure to be here; to address an organization with an abiding commitment to the theme of this forum—"Excellence and Equity in the Search for Standards."

In keeping with that theme, I want to discuss two subjects with which all of you are familiar and to which those of us in Government must give careful thought.

They are educational testing and educational opportunity in America. I want to ask—and suggest some answers—to these questions:

First, what are the proper uses of tests as we seek to train students in certain fundamental skills that every citizen in a democracy should possess?

Second, should we have national tests and standards?

These questions arise, amid the growing concern of our people that educational quality in America, despite the best efforts of parents, teachers and government officials, is going, not up, but down, and sharply down.

Each year from 1963 to 1976, scores on the verbal and mathematics scholastic aptitude tests went down. During those thirteen years, the overall decline was nearly 50 points on the verbal test, more than 30 points on mathematics.

A survey of the national assessment of educational progress showed that in 1975, more than twelve out of every 100 17-year-old high school students were functionally illiterate; and that only ten of every hundred could calculate a simple taxi fare.

Only 34 percent of 17-year olds could determine the most economical size of a product.

Only 53 percent knew that each state had two senators.

Only 53 percent were aware that the President does not appoint Members of Congress.

These statistics of declining competence are daily and sadly confirmed by stories we read in the news:

Last year in Washington, D.C., a high school graduate was rejected by a local university; his scores on repeated tests fell far below the minimum range for acceptable applicants. The story made headlines—because the young man was the valedictorian of his high school class.

Here in San Francisco, a young man sued school officials—because upon graduation from high school in 1972, he discovered that his reading skills were those of a fifth grader.

Amid reports of falling test scores and semi-literate high school graduates, it is no wonder that public confidence in our educational system is more often waning than waxing. In the past three years, the number of Americans rating their public schools as good or excellent has fallen almost 25 percent. And this year, 83 percent of persons polled favored a return to basics—a return to the three Rs, taught in more orderly classrooms.

There is an insistent message for all of us in this intense concern about American education: The American people—in return for the billions of tax dollars they spend on education; in return for the great hope they invest in their children's future—are demanding that a basic level of competence, a set of minimum skills, be transmitted by our elementary and secondary schools to their students.

As you know, many reasons have been suggested for the decline in test scores: The changing composition of test-taking students; insufficient classroom time on the three Rs; the erosion of academic standards; instability in family structure; the impact of television.

The explanations of declining scores may be arguable, but the result is not:

Growing concern about educational quality and basic skills has set off an explosion of interest in testing.

BASIC COMPETENCY TESTS

All over the nation, parents, legislators and educators are demanding more testing as a way to ensure that the schools are teaching and the students are learning. At last count, 26 states had adopted some form of competency testing program; every other state but one was contemplating some kind of program for testing basic skills.

In the face of this passionate concern, it is important that we, as public officials and educators, exchange our views on the proper use of tests—and their limitations. And it is equally important that all of us communicate those views to the American people—who are vitally interested in basic educational competence.

To begin with, I should emphasize that the tests I am discussing this morning—basic competency tests—are measures of basic skills like reading, writing or arithmetic; estimates, at a given moment, of achievement, of learning. They do *not* attempt to measure I.Q., intelligence, or native ability. Used properly, basic competency tests are diagnostic tools—not devices for labeling or stigmatizing students.

Achievement tests play a vital role in our educational system. The process of educating successive generations—of training the parents, the voters, the professionals of tomorrow—is too important to be set loose on uncharted seas, with no compass to discover whether that process is going in the right direction. I share a view which most of you hold: Testing is not the only way, but it is an important way, of getting information to point—and keep—us on the right course.

Let me indicate what I believe to be some valid uses of testing.

The first use of tests is to diagnose individual learning problems. A single test can hardly give a complete picture of how much a student has learned, but it is one indicator, to be combined with others such as classroom performance, that can help us evaluate a child's progress. The purpose is not to attach a label, but to identify students to whom teachers—and parents—should give special attention, and then ensure that achievement is brought up to par. Tests are only the beginning; the key is to have carefully crafted remedial programs ready to follow. And the earlier in schooling that the process of testing, diagnosis, and remedy starts, the more effective it will prove.

A second use of tests is to certify that students at a particular level—and high school graduates—possess certain basic abilities. Fewer than half the 18 year olds in this country go on to college. It is important for society to know that our future generations are equipped with certain basic skills. And it is important for these teenagers to have a reliable job credential. If a diploma does not signify any genuine achievement, graduates may be locked out of jobs. Unemployment of our youth remains over 15%; the rate for certain groups—black youth in our central cities, for example—is a staggering 38%. These teenagers need the chance to earn a diploma that will be regarded as evidence of achievement, not a worthless ticket to unemployment and the city streets.

The third purpose of testing is the one that has generated the greatest interest and controversy: the idea that basic skills testing will make our schools more responsive to parents and taxpayers who are vitally concerned with educational quality. Our schools must be responsive to the public; the mission of education, like the mission of government, it is too important to be immune from outside scrutiny. Used properly, standardized tests can provide a view from outside; they provide one important perspective for evaluating how well students and schools are doing.

The mere fact that a school's test scores seem low, however, does not mean school officials are doing a bad job. The concern expressed by some teachers and school officials that they will automatically—and unfairly—be blamed for low test scores is a legitimate

one. It is unrealistic to expect test scores in a district that is long on social ills and short on money to match those from the best and most affluent suburban schools. And tests are but one way of assessing performance.

LIMITS OF TESTING

But it is fair to ask school officials what responses to the test scores seem appropriate. For as all of you are well aware, tests are only one step in making schools responsive and, ultimately, making them better. They must be part of an effort shared by teachers, parents, and officials—to improve our schools. Testing does not educate children; it can only help us to perform that task more effectively. Even the best programs of basic skills testing will be worthless—unless we connect them with programs designed to remedy the shortcomings and capitalize on the achievements tests uncover.

Testing for basic competency can serve important purposes in our educational system. But basic competency testing will be acceptable and effective only if we stress, along with its benefits, the critical limitations and dangers of testing.

First, like other methods of assessing educational achievement, tests are far from perfect. The beguiling precision of test scores disguises many difficult questions about what tests measure and how well they succeed. Tests are tools—not magic wands. Even with the most sophisticated tests, the assessment of learning will still require sensitive judgments about a child's human development; tests can help inform such judgments; tests cannot make them.

Second, there is the issue of cultural bias. Tests can prove especially difficult for particular groups of children. A question about the stock market relates more closely to the life experiences of one cultural group than another. Clearly students whose native tongue is not English will find standardized tests more difficult. School children from poor or broken families may have faced obstacles making success in school far more difficult to attain.

But these are reasons for improving tests—not discarding them. We must continue our efforts to develop tests whose content does not place an excessive premium on cultural background. Even these will prove harder to children from deprived backgrounds or with less facility in English, but this does not make the tests unfair.

For there are some subjects—I would include the three Rs among them—that every child must know to share fully in the opportunities of American life. A low test score does not mean a student is inferior or uneducable; it means only that to date his progress in the subjects tested shows considerable room for improvement. We must identify children who lack these basic skills, so that we can help them. Not to do so would be the ultimate injustice.

The third basic limitation on the use of tests is that they measure progress toward but a few of the myriad goals we ask our schools to pursue. Not all skills are basic skills; in focusing on minimal competency, we cannot let the minimum become the maximum. We must ensure that students of ability are given the chance to develop to the fullest, and that important subjects beyond the three Rs are not overlooked.

Academic achievement is but one objective of our schools. Few of us would be happy to see high school graduates who had mastered English literature and trigonometry—but who lacked maturity, self-discipline, honesty, and judgment. Standardized tests can help us measure whether students are learning certain skills; they cannot tell us how well schools are performing other large and important parts of their jobs.

This last limitation is a clear warning which all of us must sound to the public against preoccupation with testing. The purpose of schools is not merely to produce high scores on achievement tests; it is to educate children, to help teach them to appreciate what is worthwhile, to give them the ability to extract meaning from future experiences.

To teach to the tests: to focus obsessively on test scores, would be stultifying—and unlikely in the end, to improve student achievement. Our great and urgent need goes far beyond tests and testing programs—it is to improve dramatically the whole process of education. If we do that, test scores will reflect that improvement.

In short, basic competency tests, used skillfully and sensitively, are useful and necessary—they are a limited, but very important tool for charting and improving the process of education. We need to do more testing and we need to do better testing.

IMPORTANCE OF LOCAL CONTROL

Having said all this, am I advocating, on behalf of the Department I head and the Federal Government, a program of national tests, or national standards of scholastic achievement?

Absolutely not.

I believe that proposals for Federal testing programs, however well-intentioned, are misguided; that even a wholly voluntary national test or set of standards would be a step in precisely the wrong direction.

There are several reasons I oppose so strongly the idea of tests and standards imposed from Washington:

If a test is given largely because someone in Washington seems to think it is a good idea, local commitment may be wanting. The tests may end up as little more than a distracting waste of time and money, rather than part of an enthusiastic effort to spur individual educational achievement.

There is no single test that is right for every school. Basic questions about test coverage arise even in testing the three Rs: should mathematical reasoning or computation be stressed? Should a reading test measure understanding of a narrative paragraph or an advertisement? Should the examples used to test competency in arithmetic be different for farm children than for those whose experience is limited to urban streets? What kind of test best measures early basic competency in a bilingual educational situation?

There are many unanswered questions about the quality, validity, and characteristics of different tests themselves. Tests whose main purpose is individual diagnosis may be wrong for evaluating curriculum. States and localities have encountered surprising division in deciding how to design a basic competency test. In the next few years, educators and researchers will be able to test these tests and determine whether some are simply better than others—and under what circumstances. These questions do not lend themselves to national answers—certainly not at this time.

Most importantly, in this country control of curriculum has always rested with States and localities, not with Washington. Any set of test questions that the Federal Government prescribed should surely be suspect as a first step toward a national curriculum. That would not merely run counter to strongly held views about local control of education; it would stifle local experiments with a variety of approaches to learning.

In its most extreme form, national control of curriculum is a form of national control of ideas. We should be very wary of treading in that direction; the traditional role of Federal support for education has been to encourage diversity—not rigid uniformity. We could cherish the fact that our children can march through the educational system to the tune of many different drummers; we should not take any step ourselves that might encourage them to a single one.

It is one of the chief virtues of our Federal system that we have fifty potential laboratories for innovation in education; fifty different centers for developing ideas and programs. I believe that every state should have a program for developing and measuring basic skills that includes competency testing; but I think each of the fifty states—and each of the school districts within those states—should decide how it can make most effective use of competency testing in its program. The Federal Government should support, but not direct, their efforts.

SUPPORTING ROLE OF THE FEDERAL GOVERNMENT

Although I oppose any program of national testing, there is an important role for the Federal Government. This Administration can and should take some major steps to help the states and localities, and I have several to announce today:

First, educators need to know exactly what different tests measure; how they compare; what their strengths and limitations are. We will join in supporting a major new study of tests by the National Academy of Sciences. We will expand existing research efforts to evaluate not only the technical properties of tests, but also the ways they are being used in practice by different school systems.

Second, the information we develop must be communicated speedily to educators and local officials in the states. We will therefore provide broad support for organizations like the Education Commission of the States, which runs workshops and provides technical assistance to states and localities. We will ensure that training and information are available to help state and local decisionmakers to answer a baffling array of technical and policy questions about basic competency testing.

Third, as we gain experience with basic competency testing, we must evaluate the results from the broadest possible perspective. The National Academy of Education, which can provide just that perspective, has accepted our invitation to establish a Committee on Testing and Basic Skills, which will advise us about these questions on a continuing basis.

Fourth, as part of a new emphasis on basic skills, we are establishing in HEW's Office of Education a project on fundamental skills. This will be the first time that 13 different Federal programs dealing with basic skills—programs which together spend three and one-half billion dollars annually—have been linked together. This innovation will sharpen goals, strengthen programs, and ensure better targeting of funds by HEW as we work to help states and localities develop effective plans for improving basic skills.

Fifth, I have asked the National Institute of Education to launch a major study of the reasons why students fail to perform well on tests and basic skills. We need to know who is not performing well, why they are not performing well, how this failure affects students' lives, and what we can do to improve their basic skills. The knowledge we gain will permit states and localities to design effective remedial programs as an integral part of their testing effort.

Sixth, we will support demonstration projects aimed at developing a library of educational TV and video-disk programs that could transform these modern technologies into important educational resources. Our best estimates indicate that by the time students enter first grade they have watched 3,000 to 4,000 hours of television; when they leave high school, they have spent more time in front of a television set than in the classroom. Television is often blamed for educational shortcomings. We intend to evaluate and develop its educational potential, and to build effective bridges between these new learning resources and the classroom teacher.

Seventh, we will seek to strengthen the critical role of parents in educating their children. It is easy for parents to criticize

teachers. But when achievement levels are below par, parents must hold themselves equally accountable and examine what they can do to help their children. We will support model parent-teacher projects and parent advisory bodies to find new ways to keep parents informed about their children's progress, the significance of test scores, and what they can do to assist teachers. We will also support development of educational materials that parents can use with their children in the home, especially during the summer months to counteract the falloff in achievement that seems to occur during the summer vacation.

In all these efforts, let me emphasize the Federal Government will play a limited, supporting role We want to supplement and strengthen the efforts of the states and local schools—not to supplant them. The vital energy, the commitment to design effective programs and to see that they work, must percolate up from the local schools—not trickle down from Washington.

MEASURING POTENTIAL OF COLLEGE APPLICANTS

Now, having spoken about testing as a tool for insuring excellence, I want to touch briefly on the other commitment you and I share: A commitment to fairness in educational admissions.

The striking lack of minority participation in our medical, law, graduate and other professional schools has been amply documented. Five facts illustrate the problem:

In 1950, 10 percent of our total population was Black, yet only 2.2 percent of all physicians were Black. By 1970, 11.1 percent of the total population was Black, yet the percentage of Black physicians remained unchanged.

The number of Black lawyers in this nation hovers just above 2 percent of the profession—a percentage which has not changed markedly in twenty years.

Less than 5 percent of all doctoral degrees awarded between 1973 and 1976 went to minority candidates.

If all the Black Ph. D's ever educated in this country were placed on our university campuses, there would be less than three per campus.

The number of women faculty members declined from 1974–75 to 1975–6.

Obviously, without special efforts to recruit and include more minority students, this glaring under-representation in the professions and the doctoral ranks will only continue.

As we go forward in our efforts to increase minority participation in higher education, we should recognize that the admissions process has never been a totally objective one. It has, with good reason, been left to the discretion of our institutions of higher learning. Through the years, graduate and professional schools—and colleges to an even greater degree—have looked to a number of factors beyond mere test scores and grades in determining fitness for admission, for example: geographical mix; motivation; personal interests; specialized interests; extra-curricular activities and work experience; whether a parent was an alumnus or alumna; whether the parent or applicant has been, or will be, a substantial contributor. The search for diversity is nothing new.

On this point, I would emphasize that we must continually seek new ways of measuring true human potential: Ways that reach beyond the traditional yardsticks. This is a task that you especially can lead. We must discover how to discount the effects of early disadvantage on the development of academic competence. We must broaden the range of talents measured in admission tests. We must find ways to discover vital personal qualities—motivation, integrity, idealism—that bear upon aptitude and achievement.

This quest is compelled, I believe, by the humane purpose of affirmative action programs which seek, not to exclude, but to include; not to set rigid and arbitrary quotas but to establish flexible and reasonable numerical goals that operate as neither a floor nor a ceiling; not to force the unqualified upon unwilling faculties, but to bring in minority applicants who are fully qualified to pass the course of study and become responsible professionals.

Great reserves of human talent have been locked up by our national legacy of slavery and discrimination. Our mission is to ensure that this potential can be released—your mission, as leaders in educational admissions, is to ensure that this potential will be recognized.

Last week, a Nobel Prize was awarded to an American woman, the medical physicist Dr. Rosalyn Yalow. In speaking of her career, Dr. Yalow recalled that when she finished college, she was told that a woman could never get into graduate school in physics. So for a time, until she finally won an assistantship at a university in the Midwest—she went to work as a typist. She was a very good typist—but an even better physicist.

Our goal, yours and mine, is a nation in which no person who has great dreams and native ability will be barred from the training he needs, or she needs, to fulfill those dreams and perfect that ability. Our goal is a nation in which the twin ideals of excellence and equity are not mere dreams, but actualities.

I believe that, with earnest effort, we can achieve that goal—and for all that you are doing to bring that achievement nearer, your nation is in your debt.

Thank you.

THE FEDERAL CIGARETTE TAX REFORM AND ANTISMUGGLING ACT OF 1977

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

Mr. DRINAN. Mr. Speaker, I am today introducing, together with Representative EDWARD N. PATTISON of New York, legislation which would end the crime of cigarette bootlegging overnight and transfer millions of dollars from the vaults of organized crime into hard-pressed State treasuries where the funds belong.

The bill, the Federal Cigarette Tax Reform and Antismuggling Act of 1977, would make this crime a Federal offense. But the smuggling of large quantities of cigarettes over interstate highways in the dead of night is a crime whose detection is virtually impossible in the absence of clearly illegal searches and seizures. The only way to make a real dent in this serious and rapidly growing crime is to remove the wide interstate cigarette tax differentials which are responsible for its commission. Representative PATTISON of New York and I have worked together to devise a comprehensive bill which we believe is fair and effective.

The bill which we are introducing today would amend the Internal Revenue Code to remove completely the incentive for interstate cigarette smuggling by establishing a uniform Federal tax. The Federal tax would be increased from its present level of 8 cents per pack to 29 cents per pack. Each State which refrained from levying a tax on cigarettes would then be eligible to receive from the Federal Government a reimbursement based upon the number of packs of cigarettes sold. Each State would, in effect, receive Federal moneys equal to their share of the total tax imposed.

Twenty-nine cents is equivalent to the highest present combined State, city, and Federal tax. Thus, no State would suffer a revenue loss as a result of the enactment of this bill. In fact, most States would receive additional revenues due to the elimination of the illegal smuggling which cuts severely into revenues derived from the taxation of cigarettes.

The bill's costs are minimal but its benefits are substantial. It is unlikely that any State would fail to participate, and so the crime of interstate bootlegging of cigarettes—an offense which threatens to become one of organized crime's most significant revenue sources—would vanish. Organized crime would suffer. The threats, beatings, and murders which have grown to accompany the crime would disappear. Individuals engaged in legitimate cigarette distribution and sales would regain the jobs which have been lost to professional criminals. States would receive their fair share of taxes levied on cigarettes.

As smuggling increases, States lose more and more of their expected revenues from taxation of cigarettes, so they steadily raise the taxes—as they have been doing. This only encourages more smuggling, which results in more revenue losses, which results in higher taxes. The only way to break this vicious cycle is to increase the tax in one step and make the price uniform.

In coming days and weeks, we will be speaking out on the millions lost annually as a result of cigarette smuggling. I hope that we will ultimately enact into law this or similar legislation to break the vicious cycle of cigarette smuggling. Time is of the essence, as this crime continues to skyrocket and the States continue to lose millions of dollars annually.

The text of the bill follows:

H.R.9763

A bill to amend the Internal Revenue Code of 1954 to discourage interstate bootlegging of cigarettes by increasing the Federal tax on cigarettes and to provide payments to States which do not impose a special tax on cigarettes and to amend title 18, United States Code, to impose certain penalties with respect to such bootlegging and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) cigarettes are transported in interstate commerce for the purpose of avoiding State cigarette taxes, and the States are unable to stop such transportation through the exercise of their police powers;

(2) there is a causal relationship between cigarettes so transported and the rise of racketeering in the United States;

(3) organized crime has realized millions of dollars from the sales of such cigarettes, and has channeled profits from such sales into other illicit activities;

(4) a sharply expanded role by the Federal Government is essential for effective law enforcement against cigarette bootlegging since the interstate nature of the transportation

places individual States at too great a disadvantage to handle such enforcement effectively; and

(5) such an expanded role must include the requirement of records by dealers in cigarettes and an additional Federal tax on all cigarettes.

(b) PURPOSE.—The purpose of this Act is to provide a timely solution to a serious organized crime problem and to help provide relief to many cities and States.

SEC. 2. IMPOSITION OF ADDITIONAL TAX ON ALL CIGARETTES.

(a) IMPOSITION OF TAX.—Subsection (b) of section 5701 of the Internal Revenue Code of 1954 (relating to imposition of tax on cigarettes) is amended by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(3) ALL CIGARETTES.—In addition to the taxes imposed by paragraphs (1) and (2), on all cigarettes regardless of weight, $11.50 per thousand; except that, if more than 6½ inches in length, each 2¾ inches, or fraction thereof, of the length of each shall be counted as one cigarette."

(b) Subchapter A of chapter 52 of such Code (relating to definitions; rate and payment of tax; exemption from tax; and refund and drawback of tax) is amended by adding at the end thereof the following new section:

"SEC. 5709. PAYMENTS OF ADDITIONAL TAX ON CIGARETTES TO STATES.

"(a) PAYMENTS TO STATES.—If any cigarettes on which tax was paid under section 5701(b)(3) are sold at retail in any State, there shall be paid (without interest) to the chief financial officer of such State an amount equal to the excess of—

"(1) the amount of the tax imposed by section 5701(b)(3) so paid in respect of such cigarettes, over

"(2) the amount of the State cigarette tax (if any) of such State imposed in respect of such cigarettes.

"(b) DEFINITIONS.—For purposes of this section—

"(1) STATE CIGARETTE TAX.—The term 'State cigarette tax' means any tax imposed by any State on the sale of cigarettes. Such term does not include a general sales tax (as defined in section 164(b)(2)) and does not include any tax imposed by any political subdivision of any State.

"(2) STATE.—The term 'State' includes the District of Columbia.

"(c) CLAIM FOR PAYMENT.—

"(1) IN GENERAL.—Any claim for payment under this section to any State shall be made at such time, and in such manner, as the Secretary shall by regulations prescribe.

"(2) ADVANCE PAYMENTS.—The regulations prescribed under paragraph (1) shall provide for advance allowance of the payment to which such State may be entitled for any period, and a reconciliation of amounts allowed in advance under this paragraph for any period and the amounts to which such State was actually entitled for such period."

(c) The table of sections for subchapter A of chapter 52 of such Code is amended by adding at the end thereof the following new item:

"Sec. 5709. Payments of additional tax on cigarettes to States."

(d) The amendments made by this section shall apply to cigarettes removed from the factory or from internal revenue bond, or released from customs custody, after the day which is one year after the date of the enactment of this Act.

SEC. 3. AMENDMENTS TO TITLE 18.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 59 the following new chapter:

"Chapter 60. CIGARETTE TRAFFIC

"Sec.
"1285. Definitions.
"1286. Unlawful Acts.
"1287. Recordkeeping and Reporting.
"1288. Penalties.
"1289. Effect on State Law.
"1290. Enforcement and Regulations.

"DEFINITIONS

"SEC. 1285. As used in this chapter: (a) the term 'cigarette' means:

"(1) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

"(2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (1).

"(b) the term 'contraband cigarettes' means a quantity in excess of twenty thousand cigarettes, bearing no evidence of the payment of applicable State cigarette taxes in the State where they are found, and which are in the possession of any person other than

"(1) a person holding a permit issued pursuant to chapter 52 of title 26, United States Code, as a manufacturer of tobacco products or as an export warehouse proprietor, or a person operating a customs bonded warehouse pursuant to 19 U.S.C. 1311 or 1555, or an agent of such person;

"(2) a common or contract carrier; *provided, however*, That the cigarettes are designated as such on the bill of lading or freight bill;

"(3) a person licensed, or otherwise authorized by the State where the cigarettes are found, to deal in cigarettes and to account for and pay applicable cigarette taxes imposed by such State; or

"(4) an officer, employee, or other agent of the United States, or its departments and wholly owned instrumentalities, or of any State or any department, agency, or political subdivision thereof, having possession of cigarettes in connection with the performance of their official duties.

"(c) the term 'common or contract carrier' means a carrier holding a certificate of convenience or necessity or equivalent operating authority from a regulatory agency of the United States or of any State or the District of Columbia;

"(d) the term 'State' means any State, or the District of Columbia, which requires a stamp, impression, or other indication to be placed on packages or other containers of cigarettes to evidence payment of cigarette taxes;

"(e) the term 'dealer' means any person who sells or distributes in any manner any quantity of cigarettes in excess of 20,000 in a single transaction;

"(f) the term 'Secretary' means the Secretary of the Treasury or his delegate;

"(g) the term 'person' means any individual, corporation, company, association, firm, partnership, society, or joint stock company.

"UNLAWFUL ACTS

"SEC. 1286. (a) It shall be unlawful to ship, transport, receive, or possess contraband cigarettes.

"(b) It shall be unlawful to knowingly make any false statement or representation with respect to the information required by this chapter to be kept in the records of a dealer.

"RECORDKEEPING AND REPORTING

"SEC. 1287. Each dealer shall maintain such records of shipment, receipt, sale, or other disposition of cigarettes at such place, for such period, and in such form as the Secretary may by regulations prescribe. Dealers shall make such records available for inspection at all reasonable times, and shall submit to the Secretary such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Secretary may enter during business hours the premises (including places of storage) of any dealer in cigarettes for the purpose of inspecting or examining:

"(a) any records or documents required to be kept by the dealer, and

"(b) any cigarettes kept or stored by the dealer at such premises.

"PENALTIES

"SEC. 1288. (a) Whoever violates any provisions of this chapter or regulations promulgated thereunder shall be sentenced to pay a fine of not more than $10,000, or to be imprisoned for not more than two years, or both.

"(b) Any contraband cigarettes involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

"EFFECT ON STATE LAW

"SEC. 1289. Nothing in this chapter shall be construed to affect the concurrent jurisdiction of a State to enact and enforce State cigarette tax laws, to provide for the confiscation of cigarettes and other property seized in violation of such laws, and to provide penalties for the violation of such laws.

"ENFORCEMENT AND REGULATIONS

"SEC. 1290. The Secretary shall enforce the provisions of this chapter and may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter."

(b) CONFORMING AMENDMENT.—The table of chapters of title 18, United States Code, is amended by inserting after the item relating to chapter 59 the following new item:

"60. Cigarette traffic..... 1285"

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2) the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION.—Sections 1286(b) and 1287 of title 18, United States Code (as added by this Act), shall take effect at the beginning of the first month which commences more than 120 days after the date of the enactment of this Act.

SEC. 5. UNLAWFUL USE OF CERTAIN VESSELS, ETC.

(a) IN GENERAL.—Section 1(b) of this Act entitled "An Act to provide for the seizure and forfeiture of vessels, vehicles, and aircraft used to transport narcotic drugs, firearms, and counterfeit coins, obligations, securities, and paraphernalia, and for other purposes", approved August 9, 1939 (49 U.S.C. 781(b)), is amended—

(1) by striking out "or" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof: "; or"; and

(3) by adding after paragraph (3) the following new paragraph:

"(4) Any cigarettes, with respect to which there has been committed any violation of any provision of chapter 60 of title 18, United States Code, or any regulation issued pursuant to such chapter."

(b) DEFINITIONS.—Section 7 of such Act (49 U.S.C. 787) is amended—

(1) by striking out "and" at the end of subsection (e);

(2) by striking out the period at the end of subsection (f) and inserting in lieu thereof "; and"; and

(3) by adding after subsection (f) the following new subsection:

"(g) The term 'cigarettes' means 'contraband cigarettes' as defined in section 1285(b) of title 18, United States Code."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

IMPORT RESTRAINTS ON SPECIALTY STEEL SHOULD BE CONTINUED

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. APPLEGATE) is recognized for 5 minutes.

Mr. APPLEGATE. Mr. Speaker, tomorrow, I and many of my colleagues who represent steel producing areas will meet with President Carter to discuss the steel situation. It is my hope that some positive action will result from this meeting.

During our meeting, we intended to discuss the specific problems facing the industry and to urge positive solutions to them.

We intend to urge the President to accept the International Trade Commission's recommendation to continue to import restraint on specialty steel and to consider extending those restraints to the basic steel industry as well. In addition, we will offer what we consider to be sound proposals to prevent the present situation from reoccurring in the future.

The industry's problems, whether they are monetary, international or environmental, must be dealt with now with both short- and long-term solutions. The steel caucus fully intends to consider all of the ramifications that any of our actions may have; but these actions must be taken soon.

The President has a commitment to the people of our country to reduce unemployment and to stimulate the economy. He has the executive authority to aid the steel industry at any point in time that he wishes. He must be encouraged to act now. If Mr. Carter insists on maintaining his previously-stated position of only enforcing the Trade Act of 1974, I believe Congress must respond to the cries of the people and deal with these problems legislatively.

I firmly believe that the steel caucus has accomplished a great deal in the past 2 months. We have brought to light an adverse situation of epidemic proportions and have received the attention of the President.

We must not let down. We must finish the job we have started. We owe it to the people of our country.

QUICKLY FOR SUGAR: SLOWLY FOR STEEL

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, from newspaper accounts, it appears that the administration is planning to drive up the price of sugar by 3.5 cents per pound or by 35 percent over the current world price through a series of quotas and tariffs.

Not only will these costs be passed along to the consumer in higher sugar, bakery, and soft drink prices, but the Department of Agriculture's chief economist, Howard Hjort, is reported to have said that this action "has the potential to give windfall profits" to refiners, importers, and big sugar users who have built up large stocks in expectation of higher prices.

To drive up the price, the administration will use tariffs and quotas, legal authority available under the Trade Act and agricultural acts of the United States. The policy of mandating higher sugar prices was adopted by the Congress as an amendment to the 1977 Agriculture Act.

At the same time that the administration moves to use quotas and tariff to protect the sugar speculators, it refuses to consider such actions to assist the depressed and trade-impacted steel industry which is daily adding to the Nation's rolls of the unemployed; 60,000 steelworkers are already receiving some form of import adjustment assistance.

I find it incredible for the Government to move so quickly and radically to provide protection for the sugar industry which has a total employment of 37,000 jobs while it ignores the threat to over 500,000 steelworkers who face uncertainty and the risk of joining the 60,000 already consigned to long term or permanent unemployment.

How much will America's new sugar policy cost the American consumers and taxpayers? If the price of imported sugar is too low, is it due to dumping by other exporters? Have sugar imports drastically increased to threaten the American industry? Sugar imports are up 11 percent between January and July of 1977 compared to the same period in 1976. Steel imports have increased approximately 25 percent in the same time period. The administration's response to the steel industry crisis is to urge antidumping procedures which have not been used by the sugar industry.

Trade policy in America should be the same, and apply equally to steel, to textiles, electronics, and shoes, as it does to sugar, meat, dairy, and other agricultural products.

America cannot have one policy for agricultural goods and another for manufactured products. We should begin to develop standards and principles which are common to all sectors of our economy.

It seems to me that it is at least as important for America to retain a viable and healthy steel industry as it is to maintain a sugar cane and sugar beet industry. It takes years to build a steelmill and train its workers. Once a mill is closed, a valuable part of the Nation's industrial base is lost. If acreage devoted to sugar beets, and to a lesser extent, sugar cane, is no longer profitable, other crops can be planted. When sugar prices rise, those acres can be returned to sugar production.

It appears that sugar has more muscle in this administration than steel.

THE PLIGHT OF THE ARONOVICH FAMILY

The SPEAKER. Under a previous order of the House, the gentlman from Illinois (Mr. YATES) is recognized for 5 minuts.

Mr. YATES. Mr. Speaker, the fact that human rights are basic and universal enabled many thoughtful people in this country and around the world to believe that real progress could be made in advancing this vital cause through the process established at Helsniki in 1975. Unfortunately, that belief and hope has not been fulfilled.

The disappointments and shortcomings of the Helsinki accords have been well documented in the recent report of the Commission on Security and Cooperation in Europe, on which I serve, as well as in other less comprehensive reports and articles. There is, however, an unavoidable feature of even the best written reports that causes us to think about the general issue rather than the individual circumstances and events that create the general condition. This is no less true when the subject is human rights, and I believe it is important to take a few moments to reflect on the lives of real families and individuals who suffer because of the deprivation of rights which are considered basic to everyone.

I have families in my district who are separated from their loved ones because of the cruel and arbitrary denial of the right to emigrate by the Soviet Union, and I know that other Members also have constituents who experience the pain and sense of helplessness that these denials cause.

I would like to take a moment to review with you the case of Mr. Felix Aronovich and his family.

Felix Aronovich is an engineer living in Leningrad, but his mother, brother, wife, and infant son now live in my district. In early 1973, the Aronovich family, which then consisted of the mother and two sons—Felix and Victor, were granted exit visas by the Soviet authorities. At the last moment, however, the visa for Felix Aronovich was rescinded at the railroad station on the pretext that his work had involved him in a classified project. His mother and brother were told to leave the country or face imprisonment, and they left.

Nearly 2 years later, the wife of Felix Aronovich, who was pregnant, was permitted to leave and has joined the other family members in Chicago. But Felix remains in Russia where he has been threatened by the Soviet authorities with the loss of his apartment, which is a serious event in that country where housing is in desperate supply. His continued efforts to secure a visa have been unsuccessful, and the pleas of his family that he be permitted to leave on the grounds of reuniting the family have been ignored. My efforts and the inquiries of other public officials, which include the Vice President and the Speaker of the House, have been met with silence. So this man made family tragedy continues. Felix now has an infant son that he has never seen. The cruelty and inhumanity that permits this

to continue personifies the human rights issue. We need to think about the Aronovich family and the other families in this very real situation when we use the term "human rights" and we need to think about how we can do everything we can to help reunite this sorrow-laden family.

COMMED: TOMORROW'S UTILITY TODAY

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, there are people who are doing something direct to alleviate our serious energy problem. One such organization is the Commonwealth Edison Co. This utility which supplies electrical energy to the vitally important northern Illinois area has led the Nation in shifting to a basic energy source which is not dependent on petroleum fuels. Commonwealth Edison leads the Nation's private utilities in the generation of nuclear energy.

As indicated in the October 24 Business Week article that follows my remarks, Commonwealth Edison generates 44 percent of its electrical energy with nuclear plants and 50 percent with coal fueled plants. Nothing more can be done to help this Nation out of its growing energy dilemma than shifting to coal and nuclear fuel since these sources are available now in quantities which can significantly help and are available completely independent of foreign assistance of any kind. The recognition of these facts by the management of Commonwealth Edison and the competence of this management to do something about it is indeed commendable.

I highly commend to my colleagues the Business Week article which follows. It is an excellent case history of what can be done, and must be done, to bail ourselves out of our growing energy problem. It is also a testimonial to the vision and tenacity of Chairman Tom Ayers and the other leaders of Commonwealth Edison.

COMMED: TOMORROW'S UTILITY TODAY

Prodded by the high cost of oil and government policy, the nation's electric utilities are expected to spend heavily in the years to come to build plants fueled by uranium and coal. But the future has already arrived for Commonwealth Edison Co., the big Chicago-based utility. Thanks to an ambitious building program started in the 1960s, Commonwealth Edison produces 44 percent of its electricity with nuclear plants and 50 percent with coal-fired units.

Now Commonwealth Edison, which ranks first in generating capacity among private operating companies, has just embarked on yet another building binge. This one, stretching over the next four years, calls for $4.6 billion in spending, mostly for four new plants, three of which will be nuclear.

DRAWBACKS

CommEd's mammoth construction programs—especially its nuclear plants—may have put the company ahead of the pack of utilities racing into alternatives to oil. But its pioneering effort has posed a host of problems, too. In financial terms, this building drive has already cost the company a bundle. It also promises to push rates up in the near term, and it has put a squeeze on earnings. In the past five years, when most utilities shunned big spending, CommEd's capital expenses totaled $3.2 billion, profits were flat, and return on common equity, at 10.8 percent, dropped below the industry average of 11.6 percent.

Moreover, since outsiders refused to promise the utility fixed prices to act as the project manager for its new nuclear plants, CommEd has had to take on that job itself, a complex task that consumes a healthy share of the work day of Chairman Thomas G. Ayers and much of the attention of Comm Ed's four other top executives. They now get a head start on the work day with a discussion over coffee that begins at 7:30 a.m.

Finally, CommEd's heavy commitment to nuclear plants has, not surprisingly, landed it in trouble with government regulators and environmentalists. Just last week it became the most heavily fined utility in the country for environmental violations. "It's no secret that we've had a lot of problems with Commonwealth Edison," says James G. Keppler, the Nuclear Regulatory Commission's Midwest regional director.

But the squeeze on earnings is Ayers' prime concern at the moment, one he hopes will be eased by a 14.5 percent rate increase he has requested from the Illinois Commerce Commission. That could add $280 million annually to revenues. "This increase is absolutely crucial. We've got to have the earnings to attract the capital we need," says Ayers, who hopes to raise an added $3.1 billion through new security sales by 1981. The company earned $241.8 million last year on revenues of $1.9 billion.

NUCLEAR PIONEER

Geography accounts for CommEd's dependence on coal, since its home state is rich in coal reserves. But the company was a genuine pioneer in the nuclear field. It opened the first of its seven atomic plants in 1960, long before most utilities even considered the nuclear option. Though CommEd's early entry was a risk, its head start in nuclear power means many troubles and costs facing other utilities are behind it. "The company is going to start looking very good in a few years and probably for a long time after that," says Lewis J. Perl, vice-president of National Economic Research Associates Inc., a utility consulting firm.

The racial shift in the structure of fuel prices following the Arab oil embargo gives the Chicago utility's nuclear gambit a good chance of paying off. To produce 1 million Btus of nuclear-generated heat costs CommEd only 18.5¢, compared with $1.07 for low-sulfur coal and $3.25 for oil. So despite the series of construction-related rate increases that CommEd's customers have absorbed, their rates are still 10 percent below the national average. The pending rate increase, however, would push the company's rates above the national standard.

STARTING OUT

CommEd began studying atomic energy in the 1950s. Even then it was clear that trying to meet its growing energy demands with coal alone would give the company intractable problems with transportation and ash disposal. To become schooled in atomic technology, CommEd engineers were dispatched to work on reactor experiments at the government's nearby Argonne National Laboratory. By 1955 the Atomic Energy Commission was sufficiently impressed by CommEd's nuclear savvy to give it the go-ahead to build its own plant. A year later the company began designing a 200-megawatt nuclear generator that started operating in 1960. Then came four years of testing the unit, located near Morris, Ill. That trial period convinced CommEd executives that nuclear power would shape the company's future. Says Ayers: "We ran that plant under all kinds of conditions, and the technology proved itself. And we were amazed at how economical it was. By 1964 we were sure we had a winner."

The construction of CommEd's first seven atomic plants, built in the 1960s, went smoothly But in the late 1960s the AEC's successor, the Nuclear Regulatory Commission, toughened its siting and safety requirements. Those changes made licensing new plants a complex, lengthy affair. As a result, the outside companies that built CommEd's early plants, such as General Electric Co., refused to be hemmed in by fixed-price contracts. So Ayers, who became chairman in 1973, decided CommEd would manage the construction of new plants itself. It was not certain that the Chicago utility could run its building program more efficiently than outside companies could. Still, because construction was bound to be costly yet central to the company's future, Ayers wanted it placed under his direct control. "And Commonwealth Edison is now in the forefront in nuclear plant construction," says one industry executive. "They're much more sophisticated than the rest of the industry."

Since 1974, Ayers has beefed up the company's construction design and purchasing department to more than 40 engineers and accountants. Budgets for each major project are now partitioned into 800 separate jobs, each with its own timetable plotted on a chart and programmed into the company's computer bank. The computer receives those numbers daily, and the construction department determines each week whether the project as a whole is on schedule.

COST-CUTTING

Managing its own construction is already helping CommEd. As project manager for each plant, the company has standardized parts, procedures, and scheduling for construction. Altogether, these refinements have trimmed the building period for a plant by six months and lopped an estimated $25 million from its cost. Today, the utility's new 1,100-megawatt plants cost an estimated $1 billion each.

The company has also moved ahead of most other utilities in lining up low-cost supplies of uranium and coal. In 1974 it acquired Cotter Corp., a Colorado-based mining and exploration company, which CommEd says will meet its uranium needs through 1990. And the utility bought the mining rights to 8,200 acres of land in Wyoming in 1976 that should yield about 250 million tons of coal at prices well below the open-market rate.

Although CommEd has been an adept builder of nuclear plants, critics say it has often operated those facilities poorly. Since 1974 the company has been fined $84,500 by the NRC for various violations. Just last week it passed Virginia Electric & Power Co., to gain its dubious distinction of "most fined," when the agency levied a $21,000 penalty against CommEd for fouling up an equipment test at one of its atomic plants. Last summer the company's engineers, while conducting a test of some circuits, inadvertently shut off one of the two emergency cooling systems at its Zion nuclear plant for 40 minutes. That error, which some critics say almost caused a hazardous leak of radiation, was termed a "serious incident" by the NRC. To make its message doubly clear, the agency took the unusual step of having its head of inspection and enforcement meet with Ayers to discuss steps to prevent such accidents. To date, however, there are no apparent injuries from the mishaps at its nuclear sites. Says the NRC's Keppler: "I wouldn't fault them for lack of cooperation, but corrective action sometimes isn't broad enough to prevent recurrences."

LOOKING BACK

The charges of some local environmentalists are more vehement. Says David D. Comey, director of Chicago's Citizens for a Better Environment: "Commonwealth Edison has

a staff at those nuclear stations that has no idea of what it is doing." Replies Ayers: "Some of these groups are very unreasonable. But they have made us more sensitive to safety problems than we might have been otherwise." Ayers admits that the technology at nuclear plants generally is by no means perfect, but he views the previous accidents at CommEd units as relatively minor problems, not a genuine hazard to public safety.

Ayers says he has no regrets about the calculated gamble CommEd took by diving into the nuclear field years ago. Instead, he sees his company as a model that other utilities will soon be forced to emulate. But that may mean the Illinois company's 2.7 million customers will be paying higher rates in the next few years, while the construction program is still going full steam. "Our rates will have to go up," he says. Yet that investment should ensure its customers gentle rate rises for years afterward, because, he says, "the biggest part of our costs will be getting these new facilities into place."

And now that CommEd has become a seasoned builder of new plants, Ayers thinks that, given occasional rate relief, the inflationary costs that have sapped earnings in the past should be under control. "I had hoped we could do better for our stockholders in recent years," says Ayers, 62. "But before I get out of here, I plan to do everything I can to increase those earnings a good deal."

RULES OF PROCEDURE, SELECT COMMITTEE ON POPULATION

(Mr. SCHEUER asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. SCHEUER. Mr. Speaker, I include the following:

RULE NO. 1

(a) The Rules of the House are the rules of the committee and so far as applicable, except that a motion to recess from day to day is a motion of high privilege in committee.

(b) The Committee is authorized to have printed and bound testimony and other data presented at hearings held by the committee. All costs of stenographic services and transcripts in connection with any meeting or hearing of the committee shall be paid from the contingent fund of the House.

(c) The committee shall submit to the House, not later than January 2 of each odd-numbered year, a report on the activities of the committee under Rules X and XI of House Rules during the Congress ending at noon on January 3 of such year.

(d) The committee's rules shall be published in the Congressional Record not later than 30 days after the Congress convenes in each odd-numbered year.

RULE NO. 2

Regular and special meetings

(a) The regular meeting date of the Select Committee on Population shall be the first Wednesday of every month when the House is in session. Clause 2(b) of Rule XI of the House. Additional meetings may be called by the Chairman as he may deem necessary or at the request of a majority of the Members of the Committee in accordance with Clause 2(c) of Rule XI of the House of Representatives. The determination of the business to be considered at each meeting shall be made by the Chairman subject to Clause 2(c) of Rule XI of the House of Representatives. A regularly scheduled meeting need not be held if there is no business to be considered.

(b) If the Chairman of the committee is not present at any meeting of the committee the ranking member of the majority party on the committee who is present shall preside at the meeting.

(c) The committee may not sit, without special leave, while the House is reading a measure for amendment under the 5-minute rule.

RULE NO. 3

Open meetings

As required by Clause 2(g), Rule XI, each meeting for the transaction of business, of the Committee shall be open to the public except when the Committee in open session and with a quorum present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public: *Provided, however,* That no person other than members of the Committee, and such congressional staff and such departmental representatives as they may authorize, shall be present in any business session which has been closed to the public. This provision does not apply to any meeting that relates solely to internal budget or personnel matters.

RULE NO. 4

Records and rollcalls

(a) The result of each rollcall vote in any meeting of the Committee shall be made available for inspection by the public at reasonable times at the Committee offices, including a description of the amendment, motion, order or other proposition; the name of each Member voting for and against, and whether by proxy or in person, and the Members present but not voting.

(b) All Committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access thereto.

RULE NO. 5

Proxies

A vote by any member in the committee may be cast by proxy, but such proxy must be in writing and in the hands of the chief clerk of the committee during each rollcall in which such member's proxy is to be voted. Each proxy shall designate the member who is to execute the proxy authorization and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto; except that a member may authorize a general proxy only for motions to recess, adjourn or other procedural matters. Each proxy to be effective shall be signed by the member assigning his vote and shall contain the date and time of day that the proxy is signed. Proxies may not be counted for a quorum. The member does not have to appear in person to present the proxy.

RULE NO. 6

Quorums

No recommendation shall be reported to the House unless a majority of the Committee is actually present. For the purposes of taking any action other than closing meetings, promulgating Committee orders, or changing the Rules of the Committee, the quorum shall be one-third of the members of the Committee. For purposes of taking testimony and receiving evidence, two Members shall constitute a quorum.

RULE NO. 7

Hearing procedures

(a) The Chairman, in the case of hearings to be conducted by the committee, shall make public announcement of the date, place, and subject matter of any hearing to be conducted on any measure or matter at least 1 week before the commencement of that hearing unless the committee determines that there is good cause to begin such hearing at an earlier date. In the latter event the chairman shall make such public announcement at the earliest possible date. The clerk of the committee shall promptly notify the Daily Digest Clerk of the Congressional Record as soon as possible after such public announcement is made.

(b) Unless excused by the chairman, each witness who is to appear before the committee shall file with the clerk of the committee, at least 48 hours in advance of his appearance, a written statement of his proposed testimony and shall limit his oral presentation to a summary of his statement.

(c) When any hearing is conducted by the committee upon any matter, the minority party members on the committee shall be entitled, upon request to the Chairman by a majority of those minority members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during a least one day of hearing thereon.

(d) Committee members may question witnesses only when they have been recognized by the chairman for that purpose, and only for a 5-minute period until all members present have had an opportunity to question a witness. The 5-minute period for questioning a witness by any one member can be extended only with the unanimous consent of all members present. The questioning of witnesses in hearings shall be initiated by the chairman, followed by the ranking minority party member and all other members alternating between the majority and minority. In recognizing members to question witnesses in this fashion, the chairman shall take into consideration the ratio of the majority to minority members present and shall establish the order of recognition for questioning in such a manner as not to disadvantage the members of the majority. The chairman may accomplish this by recognizing two majority members for each minority member recognized.

(e) The following additional rules shall apply to hearings:

(1) The chairman at a hearing shall announce in an opening statement the subject of the investigation.

(2) A copy of the committee rules and this clause shall be made available to each witness.

(3) Witnesses at hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.

(5) If the committee determines that evidence or testimony at a hearing may tend to defame, degrade, or incriminate any person, it shall—

(A) afford such person an opportunity voluntarily to appear as a witness;

(B) receive such evidence or testimony in executive session; and

(C) receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

RULE NO. 8

Every investigative report shall be approved by a majority vote of the committee

at a meeting at which a quorum is present. Supplemental, minority, or additional views may be filed in accordance with House Rule XI, 2(1)(5). The time allowed for filing such views shall be 3 calendar days (excluding Saturdays, Sundays, and legal holidays) unless the committee agrees to a different time, but agreement on a shorter time shall require the concurrence of each member seeking to file such views. A proposed report shall not be considered in committee unless the proposed report has been available to the members of the committee for at least 3 calendar days (excluding Saturdays, Sundays, and legal holidays) prior to the consideration of such proposed report in committee. If hearings have been held on the matter reported upon, every reasonable effort shall be made to have such hearings available to the members of the committee prior to the consideration of the proposed report in committee.

RULE NO. 9

Broadcasting of committee hearings

The rule for the broadcasting of committee hearings shall be the same as Rule XI, clause 3 of the Rules of the House of Representatives.

RULE NO. 10

Committee staff

The chairman is authorized:

(1) to appoint either on a permanent basis or as experts or consultants for the Select Committee, such staff as he considers necessary;

(2) to prescribe the duties and responsibilities of such staff;

(3) to fix the pay of such staff;

(4) to terminate the employment of any such staff members as he considers appropriate;

(5) to authorize reimbursement for members and staff for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

RULE NO. 11

Travel of members and staff

(a) Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, the provisions of this rule shall govern travel of committee members and staff. Travel to be reimbursed for any member or any staff member shall be paid only upon the prior authorization of the chairman. Travel may be authorized by the chairman for any member and any staff member in connection with the attendance of hearings conducted by the committee and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the committee. Before such authorization is given there shall be submitted to the chairman in writing the following:

(1) The purpose of the travel;

(2) The dates during which the travel is to be made and the date or dates of the event for which the travel is being made;

(3) The location of the event for which the travel is to be made;

(4) The names of members and staff seeking authorization.

(b)(1) In the case of travel outside the United States of members and staff of the committee for the purpose of conducting hearings, investigations, studies, or attending meetings and conference involving activities or subject matter under the legislative assignment of the committee prior authorization must be obtained from the Chairman. Before such authorization is given, there shall be submitted to the Chairman, in writing, a request for such authorization. Each request, which shall be filed in a manner that allows for a reasonable period of time for review before such travel is scheduled to begin, shall include the following:

(A) the purpose of the travel;

(B) the dates during which the travel will occur;

(C) the names of the countries to be visited and the length of time to be spent in each;

(D) an agenda of anticipated activities for each country for which travel is authorized together with a description of the purpose to be served and the areas of committee jurisdiction involved; and

(E) the names of members and staff for whom authorization is sought.

(2) Requests for travel outside the United States shall be initiated by the Chairman and shall be limited to members and permanent employees of the committee.

(3) At the conclusion of any hearing, investigation, study, meeting or conference for which travel outside the United States has been authorized pursuant to this rule, each member and staff attending meetings or conferences shall submit a written report to the Chairman covering the activities and other pertinent observations or information gained as a result of such travel.

(c) Members and staff of the committee performing authorized travel on official business shall be governed by applicable laws, resolutions, or regulations of the House and of the Committee on House Administration pertaining to such travel.

RULE NO. 12

Other procedures and regulations

The Chairman of the full Committee may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the Committee.

RULE NO. 13

Designation of clerk of the committee

For the purposes of these rules and the Rules of the House of Representatives, the Staff Director of the Committee shall act as the Clerk of the Committee.

THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1977

(Mr. McCLORY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. McCLORY. Mr. Speaker, over the past few years investigations conducted by committees of the House and of the other body have uncovered substantial evidence of improprieties within the intelligence community. The claimed justification for these questionable actions, which sometimes involved warrantless wiretapping, was that they were in the interest of "national security." There has been general agreement that strict procedures should be established to bring such practices under control while not unduly burdening the intelligence community in a way that would hamper its effectiveness. The bill I am introducing today attempts to strike a delicate balance in this area of foreign intelligence gathering.

Mr. Speaker, the legislation on the subject of electronic surveillance to obtain foreign intelligence information is titled the Foreign Intelligence Surveillance Act of 1977. The measure sets forth rigorous procedures to be followed when gathering foreign intelligence by wiretap or other electronic means. It reposes primary responsibility for such intelligence gathering in the executive branch where it properly belongs—without interference or veto by the judicial or legislative branches. At the same time, the measure provides safeguards against abuses which might otherwise be indulged in.

While the courts have generally held that the fourth amendment—against unreasonable searches and seizures—applies to surveillance for national security purposes, the courts generally have indicated that prior judicial approval of such surveillance is not required. This bill would provide the requisite fourth amendment protection while not requiring that application be made to a court to approve the surveillance.

A number of aspects of this bill help assure that all electronic surveillance for national security purposes is reasonable and therefore within the proscriptions of the fourth amendment. First, the power to authorize such surveillance—which rests with the President and two senior, executive branch officials—is nondelegable. Second, a document would have to be drawn outlining specific facts to support an order for such electronic surveillance. Third, now that committees have been firmly established in the House and the other body to oversee intelligence activities, the bill establishes an important check on the executive power by providing that all documents relating to electronic surveillance for national security purposes be made available for scrutiny by these committees.

Again, I would like to emphasize that I believe the Foreign Intelligence Surveillance Act of 1977 strikes the delicate balance necessary to provide the protection due under the fourth amendment while not unduly burdening the intelligence community. For this reason, I urge the support of my colleagues for what I feel is the best solution to a difficult problem.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. QUAYLE) to revise and extend their remarks and include extraneous material:)

Mr. EDWARDS of Oklahoma, for 5 minutes, today.

Mr. CLEVELAND, for 5 minutes, today.

(The following Members (at the request of Mr. WATKINS) and to revise and extend their remarks and include extraneous matter:)

Mr. UDALL, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. RODINO, for 5 minutes, today.

Mr. DRINAN, for 5 minutes, today.

Mr. APPLEGATE, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BROWN of Ohio, immediately following the remarks of Mr. CONABLE during general debate today on H.R. 9346.

Mr. MARTIN, to revise and extend his remarks immediately after the remarks of Mr. FISHER.

(The following Members (at the request of Mr. QUAYLE), and to include extraneous matter:)

Mr. BADHAM.
Mr. CARTER.
Mr. SARASIN in two instances.
Mr. MICHEL.
Mr. WHALEN in four instances.
Mr. DORNAN.
Mr. PURSELL.
Mr. LAGOMARSINO in two instances.
Mr. SYMMS in two instances.
Mr. BROOMFIELD in two instances.
Mr. COLEMAN.
Mr. MCCLORY.
Mr. ROUSSELOT in six instances.
Mr. HYDE.

(The following Members (at the request of Mr. WATKINS) and to include extraneous matter:)

Mr. PEPPER.
Mr. DODD.
Mr. CLAY.
Mr. KILDEE.
Mr. RICHMOND.
Mr. RANGEL.
Mr. STARK.
Mr. ROSE in two instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. FRASER in two instances.
Mr. PANETTA in two instances.
Mr. GIBBONS.
Mr. RODINO.
Mr. MCFALL.
Mr. HAMILTON.
Mr. WOLFF in two instances.
Mr. VANIK.
Mr. VOLKMER.
Mr. ZABLOCKI.
Mr. SIMON.
Mr. MCDONALD.
Mr. WIRTH.
Mr. VENTO.
Mr. PATTEN.
Mr. AMBRO.
Mrs. LLOYD of Tennessee.
Mr. GEPHARDT in two instances.
Mr. OBERSTAR.
Mr. RONCALIO.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 455. An act for the relief of Ermelinda Rossi;

S. 556. An act for the relief of Lee Young Soo;

S. 948. An act for the relief of Chin Ah Park and Chin Suk Park;

S. 1003. An act for the relief of Me Young Lee;

S. 1005. An act for the relief of Young Shin Joo;

S. 1551. An act for the relief of In Hea Kim and Myung Sung Kwon;

S. 1682. An act to provide for the implementation of treaties for the transfer of offenders to or from foreign countries; and

S. 2149. An act to create the District Court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5101. An act to authorize appropriations for activities of the Environmental Protection Agency, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following title:

On October 20, 1977:

H.R. 7769. To authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia, and to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided, and for other purposes; and

H.J. Res. 573. Commemorating Gen. Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people.

On October 25, 1977:

H.R. 2817. To provide for certain additions to the Tinicum National Environmental Center;

H.R. 3744. To amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, and for other purposes;

H.R. 4297. To amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such act for fiscal year 1978; and

H.R. 7797. Making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes.

ADJOURNMENT

Mr. WATKINS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until Thursday, October 27, 1977, at 11 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2599. A letter from the Acting Comptroller General of the United States, transmitting his review of the deferrals of budget authority contained in the message from the President dated October 3, 1977 (H. Doc. No. 95–235), pursuant to section 1014(b) of Public Law 93–344 (H. Doc. No. 95–249); to the Committee on Appropriations and ordered to be printed.

2600. A letter from the Director, Defense Civil Preparedness Agency, transmitting a report on property acquisitions of emergency supplies and equipment during the quarter ended September 30, 1977, pursuant to section 201(h) of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

2601. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–87, "To amend the District of Columbia Health Regulations," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

2602. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting a report on actions taken in response to the recommendations contained in the report of the Board of Visitors to the U.S. Naval Academy, July 15 and 16, 1975, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

2603. A letter from the Acting Comptroller General of the United States, transmitting a report on the need for Federal agencies to consider full costs in making procurement and stockage decisions recommended by the Commission on Government Procurement (PSAD–77–170, October 26, 1977); to the Committee on Government Operations.

2604. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2605. A letter from the Director of Defense Research and Engineering, transmitting a report on Department of Defense procurement from small and other business firms during October 1976–April 1977, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

2606. A letter from the Acting Comptroller General of the United States, transmitting a report on the foreign military sales program in Saudi Arabia (ID–77–19A. October 26 1977); jointly, to the Committees on Government Operations, and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce, House Joint Resolution 621. Joint resolution approving the Presidential decision on an Alaska natural gas transportation system, and for other purposes. (Rept No. 95–739, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. ECKHARDT: Committee on Interstate and Foreign Commerce.

H.R. 8331. A bill to amend the Securities Investor Protection Act of 1970; with amendment (Rept. No. 95–746). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee of conference. Conference report on S. 1019 (Rept. No. 95–747). Ordered to be printed.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 2770. A bill to amend section 142 of title 28, United States Code, relating to the furnishing of accommodations to judges of the courts of appeals of the United States (Rept. No. 95–748). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on the District of Columbia. H.R. 9544. A bill to amend the

District of Columbia Self-Government and Governmental Reorganization Act with respect to the payment of certain revenue bonds issued by the Council of the District of Columbia (Rept. No. 95–749). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. H.R. 7249. A bill to amend the Federal charter of the Big Brothers of America to include Big Sisters International, Incorporated, and for other purposes (Rept. No. 95–750). Referred to the House Calendar.

Mr. DIGGS: Committee on the District of Columbia. S. 1062. An act to amend section 441 of the District of Columbia Self-Government and Governmental Reorganization Act (Rept. No. 95–751). Referred to the House Calendar.

Mr. BROOKS: Committee on Government Operations. Report on the West Valley and the nuclear waste dilemma (Rept. No. 95–755). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Tennessee: Committee on House Administration. House Resolution 315. Resolution to provide that employees of the House Beauty Shop shall be subject to the compensation classification system established by the House Employees Position Classification Act, and for other purposes; with amendment (Rept. No. 95–756). Referred to the House Calendar.

Mr. SMITH of Iowa: Committee on Small Business. Report on "mpact of the Administration of the Occupational Safety and Health Act on Small Business (Rept. No. 95–757). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee on Small Business. S. 1306. An act to provide temporary authority to the Administrator of the Small Business Administration to facilitate water conservation practices and emergency actions to mitigate the impacts of the 1976–77 drought; with amendment (Rept. No. 95–758). Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK: Committee on Rules. House Resolution 866. Resolution amending the Rules of the House of Representatives to provide for television and radio coverage of the proceedings of the House (Rept. No. 95–759). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAZZOLI: Committee on the Judiciary. H.R. 8481. A bill for the relief of M. Sgt. George C. Lee, U.S. Air Force (Rept. No. 95–752). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. H.R. 9071. A bill to confer jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of John T. Knight (Rept. No. 95–753). Referred to the Committee of the Whole House.

Mr. HARRIS: Committee on the Judiciary. H.R. 6760. A bill for the relief of Charles M. Metott (Rept. No. 95–754). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN:

H.R. 9751. A bill to authorize the Secretary of State to make a grant of up to $500,000 to the International Institute for Strategic Studies for use in constructing a new headquarters building for that organization; to the Committee on International Relations.

By Mr. BROYHILL (for himself and Mr. GUDGER):

H.R. 9752. A bill to amend section 5(c) of the National Trails System Act to require the Secretary of the Interior to study the feasibility of designating the Overmountain Men Victory Trail as a national scenic trail, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DICKS:

H.R. 9753. A bill to improve the functioning of Federal agencies by requiring the completion of proceedings in a timely manner; to the Committee on the Judiciary.

By Mr. MARKEY:

H.R. 9754. A bill to amend section 1307 of the Tariff Act of 1930; to the Committee on Ways and Means.

By Mr. MOAKLEY (for himself, Mr. SIMON, Mr. FARY, Mr. MURPHY of Pennsylvania, Mr. PICKLE, Mr. FRASER, Ms. LLOYD of Tennessee, Mr. BOLAND, Mr. BADILLO, Mr. VENTO, Ms. MIKULSKI, Mr. EILBERG, Mr. DEVINE, Mrs. SPELLMAN, Mr. ROE, Mr. AKAKA, Ms. HOLTZMAN, Mr. HARRINGTON, and Ms. COLLINS of Illinois):

H.R. 9755. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for the cutting and removal of corns, warts, and calluses and the reduction of club nails; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. RICHMOND (for himself, Mr. BALDUS, Mr. PHILLIP BURTON, Mr. DAVIS, Mr. EDGAR, Mr. FASCELL, Mr. FLORIO, Mr. FUQUA, Mr. GINN, Mr. HILLIS, Mr. HOWARD, Mr. HUGHES, Mr. KREBS, Mrs. LLOYD of Tennessee, Mr. MATTOX, Mr. MURPHY of Pennsylvania, Mr. PERKINS, Mr. PRICE, Mr. PURSELL, Mr. ROSENTHAL, Mr. ROYBAL, Mr. SNYDER, Mr. VENTO, Mr. WHALEN, and Mr. BOB WILSON):

H.R. 9756. A bill to provide an opportunity to individuals to make financial contributions, in connection with the payment of their Federal income tax, for the advancement of the arts and the humanities; to the Committee on Ways and Means.

By Mr. RONCALIO (for himself, Mr. ARMSTRONG, Mr. BAUCUS, Mr. EVANS of Colorado, Mr. FOLEY, Mr. HANSEN, Mr. JOHNSON of California, Mr. JOHNSON of Colorado, Mr. LUJAN, Mr. MCKAY, Mr. MARLENEE, Mr. MARRIOTT, Mr. RISENHOOVER, Mr. RUDD, Mr. RUNNELS, Mr. SANTINI, Mr. STUMP, Mr. SYMMS, and Mr. ULLMAN):

H.R. 9757. A bill entitled "Grazing fee moratorium of 1977"; to the Committee on Interior and Insular Affairs.

By Mr. SISK (for himself and Mr. PANETTA):

H.R. 9758. A bill to amend section 4 of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499d(a)); to the Committee on Agriculture.

By Mr. SOLARZ (for himself, Mr. BONIOR, Mr. CARNEY, Ms. CHISHOLM, Mr. DIGGS, Mr. DOWNEY, Mr. DRINAN, Mr. EDWARDS of California, Ms. HECKLER, Mr. JENRETTE, Mr. MAGUIRE, Mr. METCALFE, Ms. MIKULSKI, Ms. OAKAR, Mr. RODINO, Mr. ROSENTHAL, Mr. RUSSO, Mr. SCHEUER, Mr. SEIBERLING, Mr. VENTO, and Mr. WAXMAN):

H.R. 9759. A bill to require recipients of Federal aid to higher education to provide senior citizens with access, on a space available basis, to already scheduled courses and programs; to the Committee on Education and Labor.

By Mr. WHITEHURST:

H.R. 9760. A bill to establish a Special Advisory Council on Social Security Financing; to the Committee on Ways and Means.

By Mr. AKAKA:

H.R. 9761. A bill to amend the Education of the Handicapped Act; to the Committee on Education and Labor.

By Mr. BAFALIS:

H.R. 9762. A bill to permit the Department of Transportation to proceed with a highway project in Lee County, Fla., without regard to section 106 of Public Law 89–665 or procedures developed under section 1(3) of Executive Order No. 11593; jointly, to the Committees on Interior and Insular Affairs, and Public Works and Transportation.

By Mr. DRINAN (for himself and Mr. PATTISON of New York):

H.R. 9763. A bill to amend the Internal Revenue Code of 1954 to discourage interstate bootlegging of cigarettes by increasing the Federal tax on cigarettes and to provide payments to States which do not impose a special tax on cigarettes and to amend title 18, United States Code, to impose certain penalties with respect to such bootlegging and for other purposes; jointly, to the Committees on Ways and Means, and the Judiciary.

By Mr. GLICKMAN (for himself and Mr. BALDUS):

H.R. 9764. A bill to require research into the comprehensive and various uses of grain or grain products in the development and use of fuels, and for other purposes; to the Committee on Science and Technology.

By Mr. GLICKMAN (for himself, Mr. AKAKA, Mr. BEDELL, Mr. BLANCHARD, Mr. BRODHEAD, Mr. BURLISON of Missouri, Mr. CONYERS, Mr. CORNWELL, Mr. CORRADA, Mr. DOWNEY, Mr. FITHIAN, Mr. HUCKABY, Ms. KEYS, Mr. LAFALCE, Mr. LLOYD of California, Mr. MILLER of California, Mr. MITCHELL of Maryland, Mr. PANETTA, Mr. ROE, Mr. RUNNELS, Mr. STEERS, Mr. TRAXLER, Mr. WHITEHURST, and Mr. WINN):

H.R. 9765. A bill to encourage the use of alcohol in motor vehicle fuels by requiring certain retailers to make alcohol-blended fuels available for sale, by allowing the rapid amortization of facilities producing alcohol for use in motor vehicle fuels, and by exempting alcohol-blended fuels from certain requirements of the Clean Air Act; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. HYDE (for himself, Mr. AKAKA, Mr. ANDREWS of North Dakota, Mr. ARCHER, Mr. AUCOIN, Mr. BADHAM, Mr. BEARD of Rhode Island, Mr. BOLAND, Mr. BRINKLEY, Mr. BROWN of Ohio, Mr. BURGENER, Mr. BURKE of Massachusetts, Mr. CONTE, Mr. CORCORAN of Illinois, Mr. DICKINSON, Mr. ERTEL, Mr. FARY, Mr. FREY, Mr. GRADISON, Mr. HILLIS, Mr. HOLLAND, Mrs. HOLT, Mr. HORTON, and Mr. KEMP):

H.R. 9766. A bill to have an inscription and appropriate medals, ribbons, and tributes placed upon the crypt at the National Cemetery at Arlington, Va., reserved for an American soldier who lost his life in Southeast Asia during the Vietnam era, and whose identity is unknown; to the Committee on Veterans' Affairs.

By Mr. HYDE (for himself, Mr. LE FANTE, Mr. LENT, Mr. LOTT, Mr. MCCLOSKEY, Mr. MCDONALD, Mr. MCEWEN, Mr. MANN, Mr. MAZZOLI, Mr. MITCHELL of New York, Mr. NICHOLS, Mr. NOLAN, Mrs. PETTIS, Mr. PURSELL, Mr. QUIE, Mr. RUSSO, Mr. STANGELAND, Mr. STEERS, Mr. STUMP, Mr. WHITLEY, Mr. YATRON, and Mr. YOUNG of Florida):

H.R. 9767. A bill to have an inscription and appropriate medals, ribbons, and tributes placed upon the crypt at the National Cemetery at Arlington, Va., reserved for an American soldier who lost his life in Southeast Asia during the Vietnam era, and whose identity is unknown; to the Committee on Veterans' Affairs.

By Mr. MONTGOMERY (by request):

H.R. 9768. A bill to amend title 38, United States Code, to provide additional compensation for certain disabled veterans who require constant medical aid and attention; to the Committee on Veterans' Affairs.

By Mr. PREYER (for himself and Mr. BEARD of Rhode Island):

H.R. 9769. A bill to suspend until the close of June 30, 1980, the duty on certain nitrocellulose; to the Committee on Ways and Means.

By Mr. WHITEHURST (for himself and Mr. BADILLO, Mr. ROBERT W. DANIEL, Jr., Mr. EDWARDS of Oklahoma, Mr. HARRINGTON, and Mr. STARK):

H.R. 9770. A bill to designate certain lands within the national forest system as wilderness; and for other purposes; to the Committee on Interior and Insular Affairs.

By Ms. HOLTZMAN (for herself, Miss JORDAN, Mrs. HECKLER, Mrs. BOGGS, Mrs. BURKE of California, Mrs. CHISHOLM, Mrs. COLLINS of Illinois, Mrs. FENWICK, Ms. KEYS, Mrs. MEYNER, Ms. MIKULSKI, Ms. OAKAR, Mrs. SCHROEDER, Mrs. SPELLMAN, Mr. WRIGHT, Mr. BRADEMAS, Mr. FOLEY, Mr. RODINO, Mr. EDWARDS of California, Mr. CONABLE, and Mr. MCKINNEY):

H.J. Res. 638. Joint resolution extending the deadline for the ratification of the equal rights amendment; to the Committee on the Judiciary.

By Mr. PEASE (for himself, Mr. ZABLOCKI, Mr. FRASER, Mr. BRECKINRIDGE, Mr. METCALFE, Mr. HARRINGTON, Mr. EILBERG, Mr. HAWKINS, Mr. MOAKLEY, Mr. BEILENSON, Mr. LONG of Maryland, Mr. UDALL, Mr. ROSE, Mr. BEDELL, Mr. GLICKMAN, Mr. SOLARZ, Ms. MIKULSKI, Mr. VENTO, Mrs. SPELLMAN, Mr. CORMAN, Mr. ROSENTHAL, Mr. DODD, Mr. PATTISON of New York, and Mr. RICHMOND):

H. Con. Res. 387. Concurrent resolution reaffirming the commitment of the United States to obtain full compliance with the human rights provisions of the Helsinki Accords and to press for global commitment to human rights; to the Committee on International Relations.

By Mrs. COLLINS of Illinois (for herself, Mr. DIGGS, Mr. BUCHANAN, Mr. SOLARZ, Mr. BONKER, and Mr. WHALEN):

H. Con. Res. 388. Concurrent resolution expressing concern about the recent acts of repression by the Government of the Republic of South Africa; to the Committee on International Relations.

By Mr. FITHIAN:

H. Res. 867. Resolution to require Amtrak, the Urban Mass Transportation Administration, and Conrail to purchase domestic steel and steel products; to the Committee on Government Operations.

By Mr. FLYNT (for himself, Mr. SPENCE, Mr. TEAGUE, Mr. QUILLEN, Mr. BENNETT, Mr. QUIE, Mr. HAMILTON, Mr. COCHRAN of Mississippi, Mr. PREYER, Mrs. FENWICK, Mr. FLOWERS, and Mr. CAPUTO):

H. Res. 868. Resolution expressing the sense of the House that the Government of the Republic of Korea extend full and unlimited cooperation to the investigation of the Committee on Standards of Official Conduct to determine whether Members of the House were involved in accepting anything of value from such Government or any agent of such Government; to the Committee on International Relations.

By Mr. LAGOMARSINO:

H. Res. 869. Resolution to amend the Rules of the House of Representatives to establish certain reporting requirements and other requirements relating to foreign travel by Members and employees of the House; to the Committee on Rules.

By Mr. MANN for himself, Mr. AMBRO, Mr. BEDELL, Mr. BIAGGI, Mr. BLOUIN, Mr. BREAUX, Mr. BRECKINRIDGE, Mr. BURKE of Massachusetts, Mr. CAPUTO, Mr. EVANS of Indiana, Mr. HANLEY, Mr. HUBBARD, Mr. HYDE, Mr. KREBS, Mr. MAGUIRE, Mr. MINISH, Mr. MOTTL, Mr. PATTERSON of California, Mr. RISENHOOVER, Mr. RUSSO, Mr. SHIPLEY, Mr. TUCKER, Mr. WALKER, Mr. WALSH, and Mr. HAMMERSCHMIDT):

H. Res. 870. Resolution relative to customs duties on textile, apparel, and fiber products; to the Committee on Ways and Means.

By Mr. PREYER (for himself and Mr. WIGGINS):

H. Res. 871. Resolution providing for the extension of the existence of the Select Committee on Ethics; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. MARLENEE introduced a bill (H.R. 9771) for the relief of Robert O. Crous, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

306. By Mr. QUILLEN: Petition of Raymond J. Ballard, Johnson City, Tenn., relative to repeal of the Witholding Tax law; to the Committee on Ways and Means.

307. Also, petition of Dr. L. J. Carter, Erwin, Tenn., relative to repeal of the Withholding Tax law; to the Committee on Ways and Means.

308. Also, petition of Willis E. Edwards, Erwin, Tenn., relative to repeal of the Withholding Tax law; to the Committee on Ways and Means.

309. By the SPEAKER: Petition of the General Assembly of the Presbyterian Church in America, Macon, Ga., relative to the proposed withdrawal of U.S. forces from Korea; to the Committee on International Relations.

310. Also, petition of the National Association of Community Health Centers, Washington, D.C., relative to allowing medicaid reimbursement for abortions; jointly, to the Committee on Appropriations, and Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8200

By Mr. DANIELSON:

Page 309, immediately after line 18, insert the following new paragraph and redesignate the subsequent paragraphs accordingly:

(4) "bankruptcy court" means United States district court for each judicial district;

Page 339, line 2, strike out "586(b)" and insert in lieu thereof "906(b)".

Page 434, line 9, strike out "586(a)(1)" and insert in lieu thereof "906(a)(1)".

Page 437, line 2, strike out "586(a)(1)" and insert in lieu thereof "906(a)(1)".

Page 531, line 25, strike out "586(b)" and insert in lieu thereof "906(b)".

Page 532, line 15, strike out "586(b)" and insert in lieu thereof "906(b)".

Page 545, strike out line 3 and all that follows through line 16 on page 581, and insert in lieu thereof the following:

TITLE II—AMENDMENTS TO TITLE 28 OF THE UNITED STATES CODE AND TO THE FEDERAL RULES OF EVIDENCE

SEC. 201. (a) Sections 455(a) and 455(c) of title 28 of the United States Code are each amended by striking out "referee in bankruptcy" each place it appears and inserting in lieu thereof "bankruptcy judge".

(b) The heading for section 455 of title 28 of the United States Code is amended by striking out "referee in bankruptcy" and inserting in lieu thereof "bankruptcy judge".

(c) The item relating to section 455 in the table of sections of chapter 21 of title 28 of the United States Code is amended by striking out "referee in banruptcy" and inserting in lieu thereof "bankruptcy judge".

SEC. 202. (a) The heading for section 460 of title 28 of the United States Code is amended by striking out "Alaska,".

(b) The item relating to section 460 in the table of sections of chapter 21 of title 28 of the United States Code is amended by striking out "Alaska,".

SEC. 203. Section 526(a)(2) of title 28 of the United States Code is amended—

(1) by striking out "referees" and inserting in lieu thereof "bankruptcy judges";

(2) by striking out "and receivers in bankruptcy" and inserting in lieu thereof "in cases under title 11"; and

(3) by striking out "United States commissioners" and inserting in lieu thereof "magistrates".

SEC. 204. Section 571(b) of title 28 of the United States Code is amended by inserting immediately after "judges," the following: "bankruptcy judges, United States trustees and their assistants, staff, and other employees,".

SEC. 205. Section 604(a) of title 28 of the United States Code is amended—

(1) by redesignating paragraph (13) as paragraph (14); and

(2) by inserting immediately after paragraph (12) the following:

"(13) Lay before Congress, annually, statistical tables that will accurately reflect the bankruptcy business transacted by the several district courts, and all pertinent data with respect to bankruptcy matters relating to such courts;".

SEC. 206. Section 620(b)(3) of title 28 of the United States Code is amended by striking out "referees,".

SEC. 207. Section 621(b)(1) of title 28 of the United States Code is amended by striking out ": *Provided, however*" and all that follows through "a member" and inserting in lieu thereof "A member".

SEC. 208. Chapter 42 of title 28 of the United States Code is amended—

(1) by striking out section 629; and

(2) by striking out the item relating to section 629 in the table of sections.

SEC. 209. Section 631(c) of title 28 of the United States Code is amended—

(1) by striking out "of the conference, a part-time referee in bankruptcy or" and inserting in lieu thereof "of the conference,"; and

(2) by striking out "magistrate and part-time referee in bankruptcy," and inserting in lieu thereof "magistrate and".

SEC. 210. Section 634(a) of title 28 of the United States Code is amended by striking out "for full-time and part-time United States magistrates not to exceed the rates now or hereafter provided for full-time and

part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended" and inserting in lieu thereof "not to exceed $48,500 per annum, subject to adjustment in accordance with section 225 of the Federal Salary Act of 1967 and section 461 of this title".

SEC. 211. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 49 thereof the following:

"Chapter 50—BANKRUPTCY JUDGES

"Sec.
"771. Creation; appointment; tenure.
"772. Qualifications; removal.
"773. Oath of office; compensation; benefits; expenses.
"774. Number and locations.
"775. Vacancies; temporary assignments.
"776. Powers.
"777. Duties.
"778. Training.
"779. Dockets.

"§ 771. Creation; appointment; tenure

"(a) There is created in each judicial district the office of bankruptcy judge.

"(b) The judicial council of each circuit shall appoint bankruptcy judges to serve in each district court of the circuit, including territorial district courts, in such numbers and at such locations within each district as the Judicial Conference of the United States may determine pursuant to this chapter. The appointment, whether an original appointment or a reappointment, shall be by the concurrence of a majority of all the judges of the judicial council of the circuit. Whenever there is no such concurrence, appointment shall be by the chief judge of the circuit. In making appointments under this subsection, the judicial council of the circuit may consider any recommendations of the district courts within the circuit, the organized bar within the circuit, and any association or committee for merit selection of judicial officers then in existence in the circuit.

"(c) Each bankruptcy judge shall be appointed for a term of 15 years. An individual appointed as a bankruptcy judge may not serve under this chapter after having attained the age of 70 years, except that, upon the unanimous vote of all the judges of the judicial council of the circuit, a bankruptcy judge who has attained the age of 70 years may continue to serve for the remainder of his term, or for such portion thereof as such judicial council considers appropriate, and may be reappointed under this chapter. Upon the expiration of his term of office, a bankruptcy judge shall continue to perform the duties of the office until a successor is appointed and qualified.

"§ 772. Qualifications; removal

"(a) No individual may be appointed or reappointed to serve as a bankruptcy judge unless such individual—

"(1) has been a member of the bar for at least five years and is currently a member in good standing of the bar of the highest court of the State in which he is to serve, or, in the case of an individual appointed to serve—

"(A) in the District of Columbia, a member in good standing of the bar of the United States District Court for the District of Columbia;

"(B) in the Commonwealth of Puerto Rico, a member in good standing of the bar of the Supreme Court of Puerto Rico, and in territorial district courts, a member in good standing of the bar of the district court of the territory; or

"(C) in two or more districts extending into two or more States, a member in good standing of the bar of the highest court of one of such States;

"(2) is determined by the judicial council of the circuit to be competent to perform the duties of the office;

"(3) is not related by blood or marriage to a judge of the court of appeals of the circuit, or to a judge of the district court in which he is appointed to serve;

"(4) is not holding any office of profit or emolument under the laws of the United States or of any State or political subdivision thereof, except that nothing in this paragraph shall be construed to prohibit the appointment of an individual acting as referee in bankruptcy under the Bankruptcy Act nor to prohibit the appointment of any retired officer or retired enlisted personnel of the Regular and Reserve components of the Army, Navy, Marine Corps, and Coast Guard, or member of the National Guard of the United States or of the National Guard of a State, territory, or the District of Columbia, except National Guard disbursing officers who are on a full-time salary basis; and

"(5) is a resident of, and has an office within, the judicial district of the district court or one of the district courts under which such individual is to hold appointment, except that—

"(A) whenever a bankruptcy judge is temporarily transferred or permanently appointed to another judicial district, residence or office in such other district shall not be required for eligibility; and

"(B) bankruptcy judges serving the District of Columbia shall reside in the District of Columbia or within 20 miles thereof.

"(b) Removal of an bankruptcy judge during the term for which he is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability. Removal shall be by the judicial council of the circuit in which the bankruptcy judge serves, but shall not occur unless a majority of all the judges of such judicial council concur in the order of removal. Any cause for removal of any bankruptcy judge coming to the knowledge of the Director of the Administrative Office of the United States Courts shall be reported by him to the chief judge of the circuit in which such bankruptcy judge serves, and a copy of the report shall at the same time be transmitted to the judicial council of the circuit, to the judges of the district court concerned, and to such bankruptcy judge. Before any order of removal may be entered with respect to a bankruptcy judge, a full specification of the charges shall be furnished to such bankruptcy judge, and he shall be accorded an opportunity to be heard on such charges.

"§ 773. Oath of office; compensation; benefits

"(a) Each individual appointed as a bankruptcy judge under this chapter shall, before performing the duties of his office, take the same oath as that prescribed for judges of the district courts of the United States. The appointment of a bankruptcy judge shall be entered of record in the appropriate district court, and notice of such appointment shall be given to the Director of the Administrative Office of the United States Courts by the clerk of such court.

"(b) Each bankruptcy judge shall receive as full compensation for his services a salary of $48,500 per annum, subject to adjustment in accordance with section 225 of the Federal Salary Act of 1967 and section 461 of this title.

"(c) All bankruptcy judges, and all clerical and secretarial assistants employed in the office of a bankruptcy judge, shall be deemed to be officers and employees in the judicial branch of the United States Government within the meaning of subchapter III of chapter 83 of title 5 (relating to civil service retirement), chapter 87 of such title (relating to Federal employee's group life insurance, and chapter 89 of such title (relating to Federal employee's health benefits program).

"(d) A bankruptcy judge serving under this chapter shall be allowed actual and necessary expenses incurred in the performance of his duties, including compensation for necessary secretarial and other necessary supporting personnel. Such expenses and compensation shall be determined and paid by the Director of the Administrative Office, under such regulations as he shall prescribe with the approval of the Judicial Conference. The Administrator of General Services shall provide bankruptcy judges with necessary courtrooms, office space, furniture, and facilities in buildings owned or occupied by departments and agencies of the United States. If suitable courtroom and office space is not available in such buildings, the Administrator of General Services, at the request of the Director of the Administrative Office, shall procure and pay for suitable courtrooms, office space, furniture, and facilities in other buildings, but only if such request has been approved as necessary by the judicial council of the appropriate circuit.

"§ 774. Number and locations

"(a) The Director of the Administrative Office of the United States Courts shall make continuing studies and surveys of conditions in the judicial districts to determine the number of bankruptcy judges needed for the expeditious and effective administration of justice and the locations at which such bankruptcy judges should serve.

"(b) In conducting any survey under subsection (a) of this section, the Director of the Administrative Office shall take into account local conditions in each judicial district, including the areas and the population to be served, the transportation and communications facilities available, the numbers and types of bankruptcy cases filed, and any other material factor. The Director of the Administrative Office shall give consideration to suggestions from any interested party.

"(c) Upon completion of the surveys conducted under subsection (a) of this section, the Director of the Administrative Office shall report his recommendations concerning the number of bankruptcy judges needed and their suggested locations to the district courts, the judicial councils of the circuits, and the Judicial Conference of the United States. The district courts shall advise the judicial councils of their respective circuits, stating their recommendations and the reasons therefor. The judicial council of each circuit shall advise the Judicial Conference, stating its recommendations and the reasons therefor, and shall also report to the Judicial Conference the recommendations of the district courts within its circuit. The Judicial Conference shall, in light of the recommendations required by this subsection, determine the number of bankruptcy judges to be appointed and the locations at which they shall serve.

"(d) Except as otherwise provided in this chapter, the Judicial Conference may, from time to time, in light of the recommendations of the Director of the Administrative Office, the district courts, and the judicial councils of the circuits, change the number of bankruptcy judges and the locations at which they shall serve.

"§ 775. Vacancies; temporary assignments

"(a) Whenever the office of bankruptcy judge is vacant, the clerk of the district court in which the territory or any part of the territory served by such bankruptcy judge is located shall immediately give notice of such vacancy to the Director of the Administrative Office of the United States Courts. Upon the recommendation of the Director of the Administrative Office, the district court, and the judicial council of the circuit that the office be continued without change, the vacancy may be filled. If a change in the office is recommended by the Director of the Administrative Office, the district court, or

the judicial council of the circuit, the vacancy shall not be filled until the Judicial Conference has acted thereon.

"(b)(1) Whenever the office of a bankruptcy judge is vacant or whenever the expeditious transaction of the bankruptcy business of the district court or courts requires—

"(A) the judge or any one of the judges of the district court may act;

"(B) the judge or the chief judge of the district court may designate and assign temporarily any bankruptcy judge of the district to act;

"(C) the chief judge of the circuit may designate and temporarily assign one or more bankruptcy judges within the circuit to act in any district within the circuit;

"(D) the chief judge of the circuit may, with the consent of the chief judge of any other circuit, designate and temporarily assign a bankruptcy judge from such other circuit to act in any district within the circuit;

"(E) the chief judge of the circuit may order that pending cases be referred and future cases referred to one or more bankruptcy judges within the circuit; or

"(F) the chief judge of the circuit may, with the approval of the Director of the Administrative Office, designate and temporarily assign a retired bankruptcy judge to act in any district within the circuit, and such retired bankruptcy judge shall be deemed to be a reemployed annuitant within the meaning of the civil service laws.

"(2) All designations and assignments made pursuant to paragraph (1) of this subsection shall be entered of record in the office of the clerk of the district court to which the bankruptcy judge is assigned. A bankruptcy judge designated and assigned pursuant to such paragraph shall discharge all judicial duties for which he is designated and assigned, and shall have all the powers of a bankruptcy judge for the district to which he is assigned for the period of such assignment.

"(3) The chief judge of a circuit or a judge or chief judge of a district court may make new designations and assignments in accordance with the provisions of this subsection, and may revoke designations and assignments previously made by him.

"§ 776. Powers

"(a) Each bankruptcy judge serving under this chapter shall have—

"(1) the power to conduct all proceedings under title 11;

"(2) to the extent authorized by rule or order of the district court, the power to conduct trials and other proceedings in actions under section 1334(b) of this title; and

"(3) the power to administer oaths and affirmations.

"(b) A person aggrieved by an order of a bankruptcy judge in a case or proceeding under title 11 or aggrieved by a judgment entered in a case heard by a bankruptcy judge under subsection (a)(2) of this section, may, within ten days after the entry thereof or within such extended time as the court may allow for good cause shown upon petition filed within such ten-day period, file with the bankruptcy judge a petition for review or appeal of such order or judgment by a judge of the district court and serve a copy of such petition upon the adverse parties who were represented at the hearing or trial. Such petition shall set forth the order or judgment complained of and the alleged errors with respect to such order or judgment. Unless the person aggrieved petitions for review of such order of judgment within such ten-day period, or any extension thereof, the order of the bankruptcy judge shall become final. Upon application of any party in interest, the execution or enforcement of the order or judgment complained of may be suspended by the court upon such terms as will protect the rights of all parties in interest.

"(c) Notwithstanding any other provision of law (other than section 362 of title 11), a bankruptcy judge may not enjoin a proceeding in any State or Federal court.

"(d) In a proceeding before a bankruptcy judge, any of the following acts or conduct shall constitute a contempt of a district court for the district in which such bankruptcy judge is serving:

"(1) disobedience or resistence to any lawful order, process, or writ;

"(2) misbehavior at a hearing or other proceeding, or so near the place thereof as to obstruct such hearing or proceeding;

"(3) failure to produce, after having been ordered to do so, any pertinent document;

"(4) refusal to appear after having been subpoenaed or, upon appearing, refusal to take the oath or affirmation as a witness, or, having taken the oath or affirmation, refusal to be examined according to law; or

"(5) any other act or conduct which, if committed before a judge of the district court, would constitute contempt of the court.

A bankruptcy judge may impose a fine not in excess of $1,000 for contempt of court. Upon the commission by any person of any act warranting imprisonment or a fine in excess of $1,000, the bankruptcy judge shall forthwith certify the facts to a judge of the district court. The judge of the district court shall serve or cause to be served upon such person an order to appear before such judge to show cause why such person should not be adiudged in contempt by reason of the facts so certified. The judge of the district court shall thereupon hear the evidence of the act or conduct complained of and, if warranted, punish such person in the same manner and to the same extent as for a contempt committed before a judge of such court, or commit such person upon the condition applicable in the case of defiance of the process of such court or misconduct in the presence of a judge of such court.

"§ 777. Duties.

"(a) A bankruptcy judge shall—

"(1) furnish or cause to be furnished such information with respect to cases or proceedings before such bankruptcy judge as may be requested by a party in interest;

"(2) transmit to the clerk of the district court such papers as may be on file before such bankruptcy judge whenever such papers are needed in any proceding in court, and secure the return of such papers after they have been used, or, if it is impractical to transmit the original papers, transmit certified copies thereof by mail;

"(3) on request of a party in interest, preserve the evidence taken, or the substance thereof as agreed upon by the parties when a reporter is not in attendance;

"(4) prepare promptly and transmit to the clerk of the district court certificates on petitions for review of orders made by such bankruptcy judge, together with a statement of the questions presented, the findings and orders thereon, the petition for review, a transcript of the evidence or a summary thereof, and all exhibits; and

"(5) safely keep, perfect, and transmit to the clerk of the district court, at the conclusion of a case, the records required to be kept by this title.

"(b) A bankruptcy judge shall not engage in the practice of law or any other business, occupation, employment, or activity inconsistent with the expeditious, proper, and impartial performance of the duties of his office.

"§ 778. Training.

"The Federal Judicial Center shall conduct periodic training programs and seminars for bankruptcy judges, including an introductory training program for new bankruptcy judges.

"§ 779. Dockets

"The Director of the Administrative Office of the United States Courts shall furnish bankruptcy judges adequate docket books and forms prescribed by the Director.".

(b) The table of chapters of part III of title 28 of the United States Code is amended by inserting immediately after the item relating to chapter 49 the following:

"50. Bankruptcy judges---------- 771".

SEC. 212. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 55 thereof the following:

"Chapter 56—UNITED STATES TRUSTEES

"Sec.
"901. United States trustees.
"902. Assistant United States trustees.
"903. Oath of office.
"904. Official stations.
"905. Vacancies.
"906. Duties; standing trustees; supervision.
"907. Salaries.
"908. Expenses.

"§ 901. United States trustees

"(a) There is created in each judicial district the office of United States trustee.

"(b) The district court for each judicial district shall appoint a United States trustee by the concurrence of a majority of all the judges of the district. Whenever there is no such concurrence, such appointment shall be by the chief judge of the district. The same individual may be appointed to serve as United States trustee for more than one judicial district.

"(c) Each United States trustee shall be appointed for a term of seven years. On the expiration of his term of office, a United States trustee shall continue to perform the duties of the office until a successor is appointed and qualifies.

"(d) Each United States trustee is subject to removal for cause by the concurrence of a majority of all the judges of the judicial district in which such trustee is serving.

"§ 902. Assistant United States trustees

"(a) The district court for each judicial district shall, subject to the approval of the Judicial Conference, appoint one or more assistant United States trustees by the concurrence of a majority of all the judges of the district. Whenever there is no such concurrence, such appointment shall be by the chief judge of the district.

"(b) Each assistant United States trustee is subject to removal for cause by the concurrence of a majority of all the judges of the judicial district in which such trustee is serving.

"§ 903. Oath of office

"Each United States trustee and assistant United States trustee, before taking office, shall take an oath to execute faithfully the duties of the office.

"§ 904. Official stations

"The Judicial Conference may determine the official stations of the United States trustee and any assistant United States trustees within the judicial districts for which such trustees are appointed.

"§ 905. Vacancies

"The chief judge for a judicial district may appoint an acting United States trustee whenever the office of United States trustee in such district is vacant. The individual so appointed may serve until the earlier of 90 days after such appointment or the date on which the vacancy is filed by appointment under section 901 of this title.

"§ 906. Duties, standing trustees; supervision

"(a) Each United States trustee, within his district, shall—

"(1) establish, maintain, and supervise a panel of private trustees that are eligible and available to serve as trustees in cases under chapter 7 of title 11;

"(2) serve as and perform the duties of a trustee in a case under this title when required under title 11 to serve as trustee in such a case;

"(3) deposit or invest, under section 345 of title 11, money received as trustee in cases under title 11;

"(4) perform the duties prescribed for the United States trustee under title 11; and

"(5) make such reports as the Judicial Conference directs.

"(b) If the number of cases under chapter 13 of title 11 commenced in a particular judicial district so warrant, the United States trustee for such district may, subject to the approval of the Judicial Conference, appoint one or more individuals to serve as standing trustee, or designate one or more assistant United States trustees for such district to perform the duties of the United States trustee, in cases under such chapter. The United States trustee for such district shall supervise any such individual appointed as standing trustee in the performance of the duties of standing trustee.

"(c) Each United States trustee shall be under the general supervision of the Judicial Conference. The Director of the Administrative Office of the United States Courts shall provide general coordination and assistance to the United States trustees.

"(d) The Judicial Conference shall prescribe by rule qualifications for membership on the panels established by the United States trustee under subsection (a)(1) of this section, and qualifications for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11. The Judicial Conference may not require that an individual be an attorney in order to qualify for appointment under subsection (b) of this section to serve as standing trustee in cases under such chapter 13.

"(e)(1) A United States trustee who has appointed an individual under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11 shall, pursuant to guidelines promulgated by the Judicial Conference, fix—

"(A) a maximum annual compensation for such individual, not to exceed the lowest annual rate of basic pay in effect for grade GS–16 of the General Schedule prescribed under section 5332 of title 5; and

"(B) a percentage fee, not to exceed ten percent, based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

"(2) An individual appointed to serve as standing trustee shall collect the percentage fee fixed under paragraph (1)(B) of this subsection from all payments under plans in the cases under chapter 13 of title 11 for which such individual serves as standing trustee. Such individual shall pay annually to the United States trustee, and the United States trustee shall pay to the Treasury—

"(A) any amount by which the actual compensation of such individual exceeds five percent upon all payments under plans in cases under chapter 13 of title 11 for which such individual serves as standing trustee; and

"(B) any amount by which the percentage fee fixed under paragraph (1)(B) of this subsection for all such cases exceeds—

"(i) such individual's actual compensation for such cases, as adjusted under subparagraph (A) of this paragraph; plus

"(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases.

"§ 907. Salaries

"The Judicial Conference shall fix the annual salaries of the United States trustee and any assistant United States trustees at rates of compensation not to exeed the lowest annual rate of basic pay in effect for grade GS–16 of the General Schedule prescribed under section 5332 of title 5.

"§ 908. Expenses

"Each United States trustee serving under this chapter shall be allowed actual and necessary expenses incurred in the performance of his duties, including compensation for necessary secretarial and other necessary supporting personnel. Such expenses and compensation shall be determined and paid by the Director of the Administrative Office of the United States Courts, under such regulations as he shall prescribe with the approval of the Judicial Conference. The Administrator of General Services shall provide United States trustees with necessary office space, furniture, and facilities in buildings owned or occupied by departments and agencies of the United States. If suitable office space is not available in such buildings, the Administrator of General Services, at the request of the Director of the Administrative Office, shall procure and pay for suitable office space, furniture, and facilities in other buildings.".

(b) The table of chapters of part III of title 28 of the United States Code is amended by inserting immediately after the item relating to chapter 55 the following:

"56. United States trustees.....901".

SEC. 213. Section 959(b) of title 28 of the United States Code is amended by striking out "A" and inserting in lieu thereof "Except as provided in section 1165 of title 11, a".

SEC. 214. (a) Section 1334 of title 28 of the United States Code is amended to read as follows:

"§ 1334. Proceedings under title 11; related cases

"(a) The district courts shall have original jurisdiction, exclusive of the courts of the States, of all cases or proceedings under title 11.

"(b) Subject to subsection (c) of this section, the district courts shall have original, but not exclusive, jurisdiction of all civil proceedings by or against a debtor in possession, a trustee, or other representative of the estate of a debtor appointed under title 11 to administer the debtor's estate.

"(c) An original action under subsection (b) of this section may be filed only with the consent of the district court, upon a showing of need to have the case heard in a district court to prevent a potential loss of assets or to avoid other adverse effects on the administration of the estate of the debtor. The decision of a district court denying consent to the filing of such an original action shall not be reviewable by appeal or otherwise.".

(b) The item relating to section 1334 in the table of sections of chapter 85 of title 28 of the United States Code is amended by striking out "Bankruptcy matters and proceedings" and inserting in lieu thereof "Proceedings under title 11; related cases".

SEC. 215. Section 1360(a) of title 28 of the United States Code is amended by striking out "within the Territory" and inserting in lieu thereof "within the State".

SEC. 216. Section 1391 of title 28 of the United States Code is amended by adding at the end thereof the following:

"(g) Except as provided in subsection (i) of this section, a case or proceeding under section 1334(a) of this title may be brought only in the judicial district—

"(1) in which the debtor has resided or has had his domicile or principal place of business, or in which his principal assets have been located, for the longest portion of the 180-day period immediately preceding the commencement of the case or proceeding; or

"(2) in which there is pending a case under title 11 concerning such debtor's affiliate, general partner, or partnership.

"(h) A case of proceeding under section 1334(b) of this title may be brought only in accordance with the provisions of subsections (b) through (f) of this section.

"(i) A case under section 304 of title 11 may be brought only in the judicial district in which the principal place of business of the debtor in the United States is located, or the principal assets of the estate in the United States are found, except that—

"(1) a case to enjoin the commencement or continuation of an action or proceeding in a State court, or the enforcement of a judgment, may be brought only in the judicial district embracing the court in which is pending the action against which the injunction is sought; and

"(2) a case to enjoin the enforcement of a lien against property or to require the turnover of property of the estate, may be brought only in the judicial district in which such property is found."

SEC. 217. Section 1441 of title 28 of the United States Code is amended by adding at the end thereof the following:

"(e) Any party may, in accordance with subsection (b) of this section, remove a civil action of which the district courts have original jurisdiction under subsection 1334 (b) of this title brought in a State court to the district court embracing the place where such action is pending upon a showing that such removal would prevent a potential loss of assets or avoid other adverse effects on the administration of the estate of the debtor, except that no civil action by a governmental unit to enforce such governmental unit's police or regulatory power may be removed under this subsection. A petition for removal under this subsection shall be filed in accordance with the requirements of section 1446(b) of this title.".

SEC. 218. Section 2075 of title 28 of the United States Code is amended by—

(1) striking out "under the Bankruptcy Act" and inserting in lieu thereof "in cases under title 11"; and

(2) by striking out the last sentence thereof.

Sec. 219. Section 2201 of title 28 of the United States Code is amended by inserting "or a proceeding under section 505(c) or 1146(d) of title 11" immediately after "the Internal Revenue Code of 1954".

Sec. 220. (a) Rule 1101(a) of the Federal Rules of Evidence is amended by striking out "referees in bankruptcy" and inserting "bankruptcy judges" in lieu thereof.

(b) Rule 1101(b) of the Federal Rules of Evidence is amended by striking out "the Bankruptcy Act" and inserting in lieu thereof "title 11, United States Code".

Page 581, strike out lines 22 and 23 and insert in lieu thereof the following:

(2) by inserting ", bankruptcy judges, and magistrates" immediately before the semicolon.

Page 590, strike out lines 19 through 22 and insert in lieu thereof the following:

(A) by striking out "referee" each place it appears and inserting "bankruptcy judge" in lieu thereof; and

(B) by striking out "receiver,".

Page 592, strike out lines 11 through 14.

Page 599, strike out lines 9 through 12.

Page 599, line 13, strike out "(b)" and insert in lieu thereof "SEC. 334.".

Page 599, line 13, strike out "such Act" and insert in lieu thereof "the Organic Act of Guam".

Page 599, strike out lines 19 through 22.

Page 599, line 23, strike out "(b)" and insert in lieu thereof "SEC. 335.".

Page 599, line 23, strike out "such Act" and insert in lieu thereof "the Revised Organic Act of the Virgin Islands".

Page 600, line 17, strike out "TITLE IV—TRANSITION" and insert in lieu thereof "TITLE I—GENERAL PROVISIONS".

Page 602, strike out lines 3 through 16 and insert in lieu thereof the following:

EFFECTIVE DATE

SEC. 402. This Act shall take effect 180 days after the date of enactment of this Act.

Page 603, line 2 and line 4, strike out "United States".

Page 603, immediately after line 17, insert the following new subsections:

(e) Any individual serving as a referee in bankruptcy on the date of enactment of this Act shall continue to serve until the expiration of his term of office and until his successor is appointed and qualified.

(f) The rules of bankruptcy procedure in effect on the date of enactment of this Act shall remain in effect until amended or repealed by the Supreme Court pursuant to section 2075 of title 28 of the United States Code.

Page 603, strike out line 18 and all that follows through line 23 on page 611.

By Mr. ERTEL:

Page 405, line 19, strike out "or".

Page 405, after line 19, insert the following:

(8) for a loan insured or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) if—

(A) such loan first becomes due—

(i) within five years before the date of the filing of the petition; or

(ii) after the date of the filing of the petition; and

(B) excepting such debt from discharge under this paragraph will not impose an undue hardship on the debtor or a dependent of the debtor; or

Page 405, line 20, strike out "8" and insert "9" in lieu thereof.

Page 406, line 11, strike out "or (6)" and insert "(6), or (8)" in lieu thereof.

Page 406, line 15, strike out "or (6)" and insert "(6), or (8)" in lieu thereof.

EXTENSIONS OF REMARKS

LABOR'S LOST VOTES AND VOICE

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Wednesday, October 26, 1977

Mr. METCALF. Mr. President, according to Prof. Peter Drucker, industry consultant and author, "the employees of America are the only true owners of the means of production." In his book published last year, "The Unseen Revolution, How Pension Fund Socialism Came to America," Drucker states that "through their pension funds (employees) are the only true capitalists around, owning, controlling, and directing" the country's capital.

There is no question that pension funds have an enormous impact. They are the single largest holders of corporate stocks and bonds, holding 20 to 25 percent of the stock in U.S. corporations and about 40 percent of the bonds. Assets of public and private funds amounted to some $445 billion at the end of last year. Within this total, assets of State and local government pension funds amount to about $117 billion; private corporate and union pension funds together amount to an estimated $240 billion. About two-thirds of all workers in the private sector covered by pensions are in collectively bargained plans. In all, an estimated $200 billion of the $445 billion total are the pension assets of the private and public sector union members.

The assets of some large public pension plans are measured in billions of dollars. The pension fund assets of the United Auto Workers and Western States Teamsters each rank individually well over $1 billion. Unions with more than $200 million in assets include the International Ladies Garment Workers Union, Bakery and Confectionary Workers, International Brotherhood of Electrical Workers, Central States Teamsters, the Boilermakers and Blacksmiths, and the National Maritime Union.

The size and significance of major union pension funds can be illustrated by one of the United Auto Workers three pension funds, the Ford–UAW retirement plan. At the end of last year its net assets amounted to $1,351,389,734. The $872,970,258 common stock portfolio within that total included investments valued at from $10 million to $62 million in 24 major companies—American Home Products, Atlantic Richfield, Caterpillar Tractor, Citicorp, Digital Equipment, Dow Chemical, Eastman Kodak, Exxon, General Electric, General Motors, IBM, ITT, Johnson & Johnson, S. S. Kresge (K-Mart), Eli Lilly, Minnesota Mining and Manufacturing, Monsanto, J. C. Penney, Philip Morris, Procter & Gamble, Raytheon, Schering Plough, Sears Roebuck, and Xerox.

Eleven of these favored firms of Ford-UAW's investment managers—all of which are large banks—are among the 16 corporations which the AFL–CIO Union Label Department classifies as the leading antiunion or nonunion corporations popular with bank trust department pension accounts. Ford-UAW pension managers also have $14,703,931 in stock in the other five corporations on the antiunion list.

Professor Drucker's contention that employees own, control, and direct large amounts of pension fund capital is a major, monstrous myth. The union funds, the larger corporate pension funds, and also the public pension funds, are for the most part controlled by banks, primarily large banks which direct the investment and voting of nonpension investments as well.

This fact of economic life is well documented in the Twentieth Century Fund's excellent and recent "Conflicts of Interest" series of publications, which unfortunately was out of print before it was widely circulated. Even in the union fund which has obtained some notoriety because of questionable insider transactions, the Teamsters' Central States Pension Fund, all proxies are voted by a single custodian bank, which normally votes with management.

The manner of pension fund control is succinctly summarized by Jeremy Rifkin and Randy Barber in their forthcoming book, "Takeover." They state:

> The (pension fund) money, then, does belong to the workers, but in name only. What makes pension funds different from the normal kind of ownership assets, is that the true owners do not and are not allowed to exercise control over that which belongs to them. The funds are entrusted to other parties on their behalf. With non-negotiated funds, the corporations appoint their own trustees to oversee the pensions. With collectively bargained funds, over half are controlled exclusively by management and approximately 40% are controlled jointly by management and union representatives.

In both cases, however, almost all trusteed funds are handed over to a third party, usually a bank, sometimes an insurance company or independent asset manager, to invest on behalf of the beneficiaries. Thus the real control over the use of the fund is not in the hands of the employer, the union that negotiated the fund for the employees, or the individual employees themselves. In the final analysis, then, all three parties lose effective control over these tremendous assets. Their loss is the bankers' gain, and to some lesser extent the insurance companies. Even here we're not talking about banks or insurance companies "en masse," but some 25 institutional giants in both fields that control over $120 billion or one third of all private, state and local pension fund assets in the entire country.

The possibilities for mischief are substantial when an institution charged with investing other people's money also lends money to its portfolio companies. The problem is compounded when the lender-investor also has an interlocking board relationship with the portfolio company.

Prudence may dictate that the pension funds invested in a troubled or irresponsible company be sold, or voted against management. But such a sale may endanger a loan or credit line to the company by the same bank or insurance company which has invested other people's money in the firm. And a vote against management would embarrass the bank's or insurance company's own representative on the board of the company. Prof. Edward S. Herman, of the Wharton School of the University of Pennsylvania and author of the "Commercial Bank Trust Departments" book in the Twentieth Century Fund's "Conflict of Interest" series, shows how the "Chinese Wall" separating bank commercial and trust departments reminds me of the maginot line.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point in my remarks one small section of this revealing study.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> The trust arm's potential for contributing to the customer relationship, and hence for conflict of interest, would seem immense. In the absence of any constraints—which do exist in fact and sharply limit conflict abuse in practice—trust assets might be employed to acquire control or influence over commer-

cial customers or potential customers. Banking customers could be accommodated and the resources of the commercial department relieved, at the expense of trust accounts, by trust investments in customer bonds, notes, and other assets. Trust departments might also assist commercial customers by buying or not selling their securities in declining markets, by purchasing or financing in support of acquisition efforts, by refusing to sell to outsiders in takeover olds threatening customer managements, and by supporting customer management groups in proxy contests and in the disposition of proxies in general.

In many cases corporate business has been obtained by trust departments as part of a reciprocal relationship in which bank and customer build up credits with one another by giving and taking business offered and sought by the other. This relationship may lend itself to a subtle form of coercion, as doing business with the other party beccmes "the better part of valor." In half a dozen cases, the author has been told that a particular piece of corporate business was obtained by bank "muscle," with the customer (in each case a modest-sized business) accepting the bank's trust department service out of fear of displeasing a powerful creditor. Several trust department officers, past and present, have told the author that the commercial relationship not only attracts but holds trust business on the bank's books; one of them asserting that in the mid- and late 1960s a major bank with which he was associated "couldn't lose" two-thirds of its corporate pension business.

Trust department clients include those who do business with the commercial arm and those who do not, those with no leverage in other parts of the bank, and those with a great deal of leverage. This extensive and deliberately incurred overlap of customers reduces effective separation of the different divisions of the bank. Preservation of trust department autonomy and a wholly objective treatment of security purchases and sales, or of controversial questions of proxy disposition, are likely to be more difficult when the securities and proxies are those of powerful and sensitive customers of the bank. . . .

In a number of cases, sales have not taken place because of specific business being done with the customer that was thought to require reciprocal and friendly behavior by the bank. In one recent instance, for example, when a large new offering of customer's stock threatened to depress its price, investment officers of the bank proposed selling the stock, buying warrants, and waiting for a lower price. The top management decided that the stock would not be sold as a matter of "policy." Some of the investment officers thought that one reason for this decision was that the bank was an agent in the offering and therefore would gain a substantial daily inflow of balances. In another instance, where an officer of a bank was a director of a customer company and the bank carried out a range of services for the customer, the pension fund managers of the bank were prevented from unloading a part of their holdings because of the "explaining" that the officer would have to do as a director of the customer.

Constraint in selling not only may be related to the sensitivity of commercial customers but also may be a function of a more direct bank interest. The bank as creditor may have a stake in the successful outcome of a new stock issue or in the maintenance of a market for the customer's outstanding securities, creating a sharp conflict of interest between the bank's obligations as fiduciary and as creditor. In one case the commercial department, concerned over how a sharp drop in the price of a customer's stock might affect the payoff of a large loan, prevailed upon the trust department to delay a desired sale and then to spread it out over a longer period.

In its case against Continental Illinois begun in 1973, the Air Line Pilots Association (ALPA) emphasized the fact that Continental bought for its fiduciary accounts substantial equity interests in a number of companies (Penn Central, Management Assistance, Inc., Lum's, TWA, and U.S. Freight) with whom Continental had a creditor relationship. In each instance Continental either sold off the stocks only after their prices fell sharply, or was still holding them, despite severe declines, at the time the suit was initiated. For example, Continental invested $488,250 in Management Assistance, Inc. (MAI), in 1965 and 1966, and still held the same number of shares at the end of 1971, when their value had sunk to $32,881. Continental was the principal creditor of MAI during the period of decline in its stock and by explicit agreement had access to all confidential information about its operations. A number of issues are raised by this situation: whether or not the trust department's acquisition of this stock was linked to the bank's interest in the company; whether or not information on the quality and status of the company was communicated from the commercial department to the trust department; and whether or not the bank was inhibited in selling off the stock either by its own stake in the company or out of fear of "inside trade" violations of the securities laws. Whatever the merits of the ALPA case, the potential conflict and basis of a selling constraint are clear.

The belated sales of large quantities of Penn Central stock by major bank trust departments just before June 21, 1970, raise similar conflict-of-interest questions. Chase, Morgan, and Continental Illinois together sold 1,160,075 shares of Penn Central between April 1 and June 19, 1970. A great deal of attention has been directed to whether or not these sales were based on "inside information." The question of why such sophisticated investors stayed so long wtih so risky, ill-managed, and deteriorating an enterprise is more interesting. Some of the author's bank informants have stressed the difficulty of selling in volume, the belief in the government's inevitable bailing out of the railroad, reluctance to admit a serious error in judgment, and simple ignorance of the facts. Other such informants, however, have suggested the importance of large "background" considerations: (1) the unwillingness to disaffect the management of the ailing giant and risk losing substantial deposits; (2) the large debt positions of some of the institutions, which would be damaged by a collapse in the price of Penn Central stock; and (3) a tacit understanding among the banks that they were "in this together" and had a joint interest (and perhaps "social responsibility") in standing by the railroad and not starting a panic exit. Insofar as these considerations influenced the disposition of trust holdings of Penn Central, fiduciary principles were clearly violated. It is not yet possible to make a definite assessment of the importance of these constraints, but their total irrelevance would suggest a degree of ineptitude that is perhaps even more difficult to accept . . .

Mr. METCALF. Unions have been indirectly supporting unfair labor practices through use of financial managers closely tied to such corporations with antebellum attitudes toward workers. I was pleased to note in the October 11 issue of the Wall Street Journal that the new president of the Machinists Union, William Winpisinger, has proposed that labor's money power be used to help improve such practices. The machinists have about $150 million in pension funds with Manufacturers Hanover Trust, whose directors include the chairman of J. P. Stevens & Co., which has one of the worst antilabor records in the country. Mr. Winpisinger has suggested that his union move pension funds from Manufacturers Hanover, and that other unions do likewise.

The only conceivable rationale for labor's lethargy regarding the Stevens case must be that the union members have been Druckered or are simply unaware that literally billions of dollars of their pension funds are managed by large banks and insurance companies which loan money to the firm and in at least three instances sit on the Stevens board.

Union members and other Americans have a direct concern over the management of capital by a relatively few large institutions whose interests are sometimes in opposition to those of pension fund contributors. I recall the testimony a few years ago by Jacob Clayman, secretary-treasurer of the AFL-CIO's Industrial Union Department before the Subcommittee on Reports, Accounting and Management, regarding job exports. The number of foreigners on the payroll of U.S.-based multinationals overseas exceeded the number of unemployed persons in the United States. Similarly, as Rifkin and Barber point out, the pension funds of union workers in the Graybelt—the northern industrial States—are being invested in other parts of the country, thus magnifying the problems of the industrial States whose workers produced the wealth.

The concern of union leaders over management of union funds ranges from the head of a major union, such as Mr. Winpisinger of the Machinists, to the president of a retail clerks union in California, Mel Rubin, who placed a resolution before the Bank of America board asking for disclosure of information concerning its trust department's influence and ownership power in corporations in which it has stock. The interest of stockholders in the exercise of corporate power extends well beyond union members, as evidenced by votes on stockholder propositions requesting identification of major stock voters in a corporation. Such resolutions at Consolidated Edison and the Dreyfus Fund have in both 1976 and 1977 received more votes at stockholder meetings—some 16 and 37 percent respectively—than other resolutions before the dozens of corporations where controversial propositions were considered. Yet the large institutional investors are still so powerful and arrogant, in relation to stockholders, that Bank of America and many other institutions will not even reveal to those whose money they manage how the stock is voted.

Mr. President, witnesses from some of the major banks have testified that they wish they did not have the power to vote so much stock. I believe it is time for Congress to help relieve them of a responsibility they say they do not want. I believe it is time for beneficiaries of all pension funds—private and public—to review arrangements that have been

made in their behalf regarding investment and management of those funds, and the voting of stock in their portfolios. They should have a voice in these matters.

GRAZING FEES HIKE MUST BE REVERSED

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. RONCALIO. Mr. Speaker, I am today introducing legislation, cosponsored by many Members whose districts have public grazing lands, to place a 1-year moratorium on any increase in the current average $1.51 per animal unit month grazing fee.

When Congress passed the Federal Land Policy and Management Act of 1976 last fall, we directed the Secretaries of Interior and Agriculture to conduct a study to determine the value of grazing privileges on the public lands, and report back to us within 1 year. On Friday, October 21, the Secretaries' report was forwarded to Congress on schedule. Basically, the Secretaries recommend an increase in the level of grazing fees from the current $1.51 per animal unit month (AUM) to $1.89 per AUM for the 1978 grazing year, which begins on March 1, 1978. In subsequent years, the fee would rise at an annual 25-percent rate until "fair market value" is reached in 1980 or 1981. Upon attainment of "fair market value," the amount of change in the fee for any given year would be limited to an increase or decrease of 12 percent in the fee charged during the previous year, and would be based on changes in the grazing fee on private lands.

While I appreciate the concerns of those who wish to raise the grazing fees to so-called "fair market value," and recognize that at least 62.5 percent of the fees collected are returned to the States for range improvements and other assistance, I cannot support the recommendations of the Secretaries. In the first place, I have grave reservations as to the wisdom of increasing the fee by as much as 25 percent in any given year. Such a rate of increase is roughly four times our national inflation rate, and cannot be tolerated. This is especially true at a time when the livestock industry is in a depressed economic position which has been aggravated by severe drought in the Western States. At a minimum, therefore, Congress must act to limit the Secretaries' implementation of the increased fee proposal to a more acceptable annual percentage rate; 25 percent per year is simply too much.

I am also troubled by the Secretaries' rejection of alternatives, including the recommendation of their own Technical Committee, to tie the fee to the cost of production and livestock prices. I submit that this demonstrates insensitivity to the current financial realities of cattle production in the public land States.

Congress will need time to address this issue—more time than will be available before the Secretaries' recommendations take effect on March 1. As such I would urge my colleague's support of this 1-year moratorium.

Although the fee amounts in controversy here are small by comparison to national budgetary standards, they are indeed sizeable to the troubled livestock industry. I therefore request this 1-year moratorium so that we will have the time necessary to work out a more equitable solution. To get a head start on the problem, it is my intention to commence hearings on this legislation in my Subcommittee on Indian Affairs and Public Lands next week.

TRIBUTE TO FRANK STUBBLEFIELD, FRIEND AND COLLEAGUE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 17, 1977

Mr. McCLORY. Mr. Speaker, it was with a feeling of sadness and deep reflection that I learned of the recent passing of our former colleague, Representative Frank Stubblefield of Kentucky.

Those of us who had the privilege of serving with Representative Stubblefield came to admire and respect him—and to develop close ties of friendship with this gentle, hard working Member of the House of Representatives.

Mr. Speaker, in connection with the agreement to subsidize the automotive parts industry in Canada—and the international contract which was negotiated in this respect—Frank Stubblefield and I worked closely together in behalf of our respective constituents whose business interests were adversely affected by this misguided program.

Although our efforts proved unsuccessful against the pressures of a determined administration—and the State Department bent on promoting Canadian industry at the expense of many American jobs and business interests—time has proven that his judgment was correct. Indeed, Frank Stubblefield advanced political and public positions which in my view were consistent with the best interests of the Nation and of those he undertook to serve in the U.S. House of Representatives.

Mr. Speaker, in addressing these brief remarks to my colleagues I want to add that I cherish the memories of long service with Frank Stubblefield. His contributions were many—and the Nation has benefited from them.

Mr. Speaker, in addition to this tribute of friendship and respect I want also through these remarks to communicate my deep sympathy to his widow, Odessa Bowes Stubblefield, and to other members of Congressman Frank Stubblefield's family.

TRIBUTES TO E. F. SCHUMACHER

HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. ROSE. Mr. Speaker, as my colleagues are aware, Dr. E. F. Schumacher died of a stroke on September 4. He was the author of "Small Is Beautiful: Economics as If People Mattered."

This man, whom many of us met in March when he spoke at a seminar sponsored by the Congressional Clearinghouse on the Future, was an innovative thinker, and his concept of appropriate technology is now widely considered to be the right approach to development in the Third World. Also, many groups in developing nations are insisting that energy depletion will force more use of appropriate technologies which are less capital intensive, and more labor intensive.

Mr. Speaker, many articles have appeared about Dr. Schumacher, but the two I am inserting into the RECORD today are among the best. Dr. Schumacher was a great man, and we should take time to honor his life and his ideas.

The texts of the articles appear following:

[From the Washington Star, Sept. 1977]

AN APPRECIATION OF "SMALL IS BEAUTIFUL" AUTHOR

(By William Delaney)

"People will know E. F. Schumacher as a man who asked the right questions of his society and of all societies at a crucial time in their history," declared Republican Sen. Charles Percy from his Chicago office.

"The world has lost a sensitive human being who saw through the nonsense of materialistic economics and growth at any cost," said Democratic Gov. Jerry Brown at a labor Day picnic in Pleasanton, Calif.

"Schumacher's ideas blur to extinction a lot of hostile ideological lines," noted one of his Washington admirers, environmentalist Byron Kennard, citing the economist's influence on such diverse Americans as Republican Elliot Richardson, Ralph Nader, Democrat Morris Udall and the late welfare-rights activist George Wiley.

Schumacher, the European who watched the ideas in his "Small Is Beautiful" book catapult from the California counterculture into the Washington establishment itself, died Sunday of an apparent stroke while traveling on a Swiss train.

Long influential with leaders of developing nations, his call for the development of "appropriate" or "intermediate" technologies—something between a crude hoe and an air-conditioned tractor—gained growing attention in industrial societies in the 1970s as petroleum shortages seemed to prophesy an end to an era of energy-dependent abundance.

On a visit here in March, he spent a half-hour conferring with President Carter at the White House. As the bemused Schumacher remarked that week to a bipartisan gathering of members of Congress:

"When I came here 2½ years ago, only one governor (Brown) was interested. Now they're all interested."

According to an Associated Press dispatch from Geneva, the German-born Englishman became ill aboard a train to Zurich and was taken to a hospital at Romont, where he was pronounced dead on arrival, at age 66. The

cause of death was not immediately disclosed, but an American friend who had spoken by phone with Schumacher's family said yesterday they believe it was a stroke.

At the time of his death the bestselling "Small Is Beautiful: Economics As If People Mattered" had been translated into 15 languages.

Published in the spring of 1973, only months before the Western world was plunged into a continuing "energy crisis," Schumacher's book pitted what he termed "Buddhist economics" against high-technology, consumption-based, giant-scale economics that relies on natural resources as if they were limitless.

Instead of urging expensive, technological problem-solvers upon Third World countries, Schumacher called for alternative technologies that respect the virtues (to him) of self-sufficiency, localism and population dispersal. Instead of desalinization plants, he would propose inexpensive, homemade tanks to collect rainwater.

His book was an instant hit with counterculture groups in California's Bay Area, for example, and politician Jerry Brown occasionally referred to it as his platform.

"When he traveled around the country in 1974, he got a tremendous reception from the hippies," Kennard recalled. "Here was this upperclass, very civilized European. He didn't know quite what to make of it. But when I tried to arrange meetings with him for people here, like George Meany of the AFL–CIO, nobody ever seemed to have heard of him."

All that had changed on his visit this spring, as Schumacher himself remarked to the congressmen.

A tall, silver-haired man whose English retained a trace of a German accent, the Bonn-born scholar had studied at Columbia University, among other institutions, before fleeing Germany to England in 1937.

Interned on a work farm with other German refugees when war broke out, he eventually became a top economics advisor to the British government and served for 20 years on its National Coal Board.

It was during his service as an economics consultant to Burma in the late 1950s that he became impressed with Buddhist nonmaterialism and other ideas that were to flower in "Small Is Beautiful." In 1964 he helped set up the Intermediate Technology Development Group in London, to assist Third World countries.

Although his scale-it-down, self-help, minimal-energy-waste ideas struck Westerners as fresh, "he was simply reminding us of ancient traditions," said Karl Hess, the former Goldwater Republican who became a self-styled anarchist intrigued by neighborhood collectives.

"He was Greece coming back into the world to talk where only Rome had been talking," Hess said yesterday from his farm in Berkeley County, W. Va. "He'd fit in perfectly in Appalachia."

Schumacher's "alternative" or "appropriate" technology phrase has been institutionalized in everything from the Panhandle Appropriate Technology Group, which Hess and his friends attend, to the Office of Appropriate Technology in the Agency for International Development here.

The federal government has established a $3 million National Center for Appropriate Technologies in Butte, Mont.—"A little money channeled this way wouldn't hurt," Schumacher said of the center, "but I wouldn't want to see this bureaucratized."

A new Schumacher book, "A Guide For the Perplexed," is being published this month.

Described by one friend as his philosophical "summa," the book tackles modern man's rationalistic faith in science and technology. The friend says Schumacher suggests that our scorn for our supposedly superstitious, mystic ancestors is ill-founded, that they may have achieved a measure of wisdom that eludes us, that we at our peril have chosen to ignore.

"Thank God he got the book done and had a chance to see a completed copy," said Peter Gillingham, founder of Intermediate Technology in Menlo Park, Calif., and collaborator with Schumacher on a book called "Good Work," to be published next year.

"People have been asking me, 'What can we do?' He has a wife and four children under 16," added Gillingham. "Buy his book."

Despite his fascination with Buddhism, the economist became a Roman Catholic about six years ago—according to Gillingham, following Ghandi's advice to explore one's own cultural roots first.

Schumacher, who had visited Indonesia and India this sumer and was to begin a Canadian visit later this month, enjoyed provoking his listeners by telling them he was only one generation removed from the soil.

Listeners who knew his background—his father was a noted economist, his brother-in-law the Nobel Prize physicist Werner Heisenberg—would look puzzled.

Then Schumacher would deliver the punch line: "My son is a pig farmer."

That son, one of four children by a first wife, who died of cancer in the 1950s, is indeed a noted swine breeder in England.

[From The Washington Post, Oct. 2, 1977]

SMALL IS STILL BEAUTIFUL

(By Barabara Ward)

Anyone fortunate enough to have known Fritz Schumacher, who died last month, will now be chiefly mourning the loss of a friend who combined a remarkable innovating intelligence and rigor of mind with the greatest gentleness and humor. But what the world has lost is of far greater importance.

It was in the 1960s, at the height of the euphoria about "stages of growth" that would lead the developing world, in the wake of Western prosperity, to the same ultimate felicity of high technology and high consumption, that Schumacher first sounded a warning note. He began asking, for countries desperately short of capital and endowed—even overendowed—with an abundant and growing labor force, how anyone could expect that high-cost technology, largely replacing manpower, could lead to anything but economic and social disruption. He was the first Western expert to argue that in such areas as India (and, by implication, China) the prime needs, especially in the rural areas where most people lived, were workplaces which could be established at, say, $100 to $1,000 in capital costs and tools and machinery which would use to the full the manpower and the human skills locally available.

This "intermediate technology"—which has come to be generally known as "appropriate technology"— would conform to local requirements and permit the most rapid and socially acceptable forms of growth. Schumacher foresaw that undue priority given to, say, the petrochemical complex—which can demand $10 million in investment and propriate technology"—would conform to local line or the "Green Revolution" in agriculture would lead in the Third World to huge debts abroad and spreading underemployment and deepening maldistribution of income at home.

What was prophecy in 1965 is certainly in 1977. But Schumacher was not content to be a prophet. His best known book, "Small Is Beautiful," belongs in some measure to the category of exhortation, but his literal invention of the concept of "appropriate technology" and his establishment of an institution—the Intermediate Technology Development Group—to study its implications and encourage its widespread use has revolutionized the policies of international lending agencies and—though more slowly—of governments throughout the world.

The sheer scale of the impact is almost unbelievable when it is seen to be what it is—the inspiration of a single man. For instance, by 1982 the U.N. Environmental Program hopes to have "a global network of institutions to test, apply and publish advice on appropriate and environmentally sound technology." The World Health Organization has introduced a new program entitled "Appropriate Technology for Health." The technology and employment branches of both the International Labor Organization and the U.N. Industrial Development Organization are developing appropriate technology programs.

Several agencies, realizing that rural water supplies and sanitation are virtually inconceivable without small-scale technology and full local involvement, are concentrating on "appropriate technology" in these areas. The U.N. Development Program is working in the irrigation sector, and the World Bank recently helped sponsor a seminar at Oxford on appropriate technologies for sanitation.

These signs of a new direction in development thinking also can be found in national aid programs. Britain's Overseas Development Ministry has set aside over $2 million for work on appropriate technology. America has gone further. A special unit has been set up in this area within the U.S. Agency for International Development, with a starting fund of $20 million.

The Dutch and Swedish governments are also increasing their interest in this sphere, and it is perhaps of melancholy interest to note that in the very week of Schumacher's untimely death, the Asian Development Bank published a study of the effects in Asia of the Green Revolution (supported by so many aid agencies), which reported on its general failure to increase food production on the needed scale and its tendency to increase social disruption, the flight from the land, and the swelling of vast urban megalopolises where adequate employment, education and even the minimum decencies of life are not available for at least a third of the inhabitants.

There are those in the Third World who see "appropriate technolcgy" as one more Western plot to ensure that the main instruments of power in modern production are kept from the poorer countries so they may continue in abject dependence. It is probably for this reason that developing nations rejected a resolution at the ILO World Employment Conference in 1976, proposing the establishment of an International Institute for Appropriate Technology.

But the fear is based on misapprehensions, as can be seen from several examples. The first is, of course, the degree to which a vast country like China has based most of its crucial rural development on "appropriate technology" and thereby has increased its independence from more industrialized societies.

The second can also be illustrated from the Chinese experience. To begin with, labor-intensive techniques and technologies can lay a secure basis for a later more elaborated use of what is valuable in more sophisticated technology and science. The stronger the base—in employment, skills and the satisfaction of basic needs—the higher the pyramid of capital expansion and scientific research that can be raised up later. And not all modern "breakthroughs" are valuable simply because they are modern. If appropriate agricultural technology helps minimize the

use of a range of lethal pesticides, herbicides and fungicides, people will not only have enough to eat—they also will avoid the deaths and injuries to which so many Third World farmers and laborers have succumbed through use and misuse of these chemicals.

Finally, one should not forget the degree to which Schumacher's own thinking was profoundly shaped by his experience in the Third World. It was after serving as economic adviser first to Burma in the 1950s and in India in the early 1960s that, influenced by Buddhist thought and Gandhian philosophy, he began to evolve his concepts of a technology appropriate to each people's cultural tradition and his "economics as though people mattered." In a very real sense, his thought was a gift from the Third World to the first, and the lessons he devoted his life to teaching may turn out, sooner than we expect, to be as relevant to New York City as to Lagos or Bombay.

FARMERS NEED HELP

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. CARTER. Mr. Speaker, many of the farmers in our country are in financial difficulty. The prices of corn, wheat, and soybeans have gone down tremendously. The price of corn is the lowest I have known it to be for many years. I submit that if something is not done immediately for the relief of our farmers, many farmers both large and small will go under.

To assist these people who provide us food and fiber, I am preparing legislation for the reduction of the interest rate of operating loans to farmers who are having serious difficulties in meeting their payments. Presently the interest rate for operating loans is at 8 percent. I see a need to bring the rate down to 5 percent or lower. Mr. Speaker, our great frontier where farmers at one time could take up land at nominal prices are gone. We must provide low interest loans for those of our young people who wish to buy farms and continue farming. The legislation I propose, again, will lower the interest rate to 5 percent.

There are cooperatives throughout our country which charge as much as 11 or 12 percent. It is a known fact the average farmers simply cannot pay this high interest rate and survive. In my own State of Kentucky, 88 percent of the farms have a gross sale of less than $20,000. Mr. Speaker, the farming population constitutes some of the finest citizens in our country. They need help and they must have it. I trust that the legislation which I introduce will have strong support.

Furthermore, Mr. Speaker, the steel industry is in difficulty, many steel mills are releasing employees. And, Mr. Speaker, this is a direct result of importation of subsidized foreign steel. Our industry and our workers must receive fair treatment, whether it be by trade agreements or by tariffs.

Again, the electronic industry in the United States is undergoing the same difficulty as the farming and steel industries are. One of our largest electronic manufacturing companies is moving 25 percent of its production abroad. Again, such legislation as is necessary to retain the jobs which are being shipped abroad must be enacted into law. It is time for us to realize now that we are faced with the possibility of a recession of serious proportions. One possibility is to give tax breaks or other incentives, for it costs far less to provide jobs through assistance to industry than for the Federal Government to attempt to form them by governmental actions.

WHALEN ENDORSES RICHMOND ARTS AND EDUCATION BILL

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. WHALEN. Mr. Speaker, I am pleased to join with several of my colleagues in the reintroduction of H.R. 1042, the Richmond arts and education bill. This legislation would give citizens the chance to make financial contributions for the enhancement of the arts and education while filing their Federal income tax.

This legislation has four major provisions. First, it would place a checkoff box for voluntary contributions on the front page of the Federal 1040 tax return form. Second, these contributions would be funneled to either the National Endowment for the Arts or the National Endowment for the Humanities, or both equally. Third, none of the funds raised through the checkoff procedure could be used for administrative purposes. Fourth, the funds raised through this procedure shall not affect the amount appropriated by Congress for either of the National Endowments.

This legislation is sorely needed, Mr. Speaker. "Art," wrote Tolstoi three-quarters of a century ago, "is a human activity having for its purpose the transmission to others of the highest and best feeling to which men have risen." Government's role in the arts, it seems to me, is to encourage these "highest and best feelings" by lending its hand to the arts.

The arts in America are feeling the pinch of an uncertain economy. We risk losing significant portions of our arts and education communities. Yet, the United States lags behind many Western nations in its support of artistic endeavor. According to one recent survey, the United States spends less than 40 cents per citizen on the performing and visual arts, compared to Great Britain contributing $1.23, Israel $1.34, Canada $1.40, and West Germany $2.80. The beauty of the Richmond bill is that the arts in this country would receive a Government-sponsored boost, without increased Federal spending.

A recent Harris poll found that a majority of the American people want to contribute in some manner to the arts. It is estimated that this bill would raise between $1.6 and $2.3 billion annually for the advancement of the arts.

I commend the distinguished gentleman from New York (Mr. RICHMOND) for his leadership on this issue and look forward to the scheduling of the hearings on this legislation.

NUCLEAR POLICY DEEPER IN TROUBLE

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. GOLDWATER. Mr. Speaker, on several occasions I have advised my colleagues of my concern over the administration's efforts to defer our breeder reactor program and the reprocessing of spent nuclear fuel. I have pointed out that self-denial of advanced nuclear technology by the United States will not set an example that will be followed by the other industrial nations, nor will it provide an effective means for us to influence the energy policies of those nations.

The administration, rather than heeding this advice, has continued on a course of hamstringing our nuclear development program. Instead of pushing ahead with needed plants and facilities, we are devoting our efforts to paper studies of alternative nuclear processes and strategies that may or may not "solve" the proliferation problem. The latest of these studies is the International Nuclear Fuel Cycle Evaluaion, begun in Washington this past week in the hope of influencing other nations to be just as cautious in their nuclear development efforts as the United States has now become.

Will they do so? Not if the following article in the Washington Post of October 22, 1977, is any indication. The article, entitled "Carter Call for Plutonium Curb Unheeded at 40-Nation Parley," makes it clear that the United States has still been unsuccessful in convincing other nations that the potential for nuclear weapons proliferation through misuse of peaceful nuclear facilities is a real problem, one that requires reassessment of nuclear power objectives. While these studies proceed, the United States will be marking time in its advanced nuclear programs, but other nations will still forge ahead.

One aspect that is particularly galling, and one which I find difficult to understand at all, is the reported statement by the U.S. Ambassador to the conference that:

> We do not expect these studies to reach resolutions to these questions or to reconcile the views of various participants in the Conference.

It is sad enough that we are emphasizing studies rather than accelerated development, but to engage in studies not expected to reach solutions seems wasteful at best. This stalling of nuclear activities is certainly not the intent of the Congress, as evidenced by the recent passage of funding for the Clinch River

breeder reactor, and for detailed evaluation of reprocessing modes at the Barnwell nuclear fuel reprocessing plant.

Mr. Speaker, I am hopeful that events such as those reported in the following article will convince the administration, sooner rather than later, of the fallacies in our current approach toward nuclear policy. As I have said several times before, the proliferation problem can be solved through sound technical and diplomatic programs, without the need for the United States to abandon needed nuclear energy options or engage in technological isolationism.

Mr. Speaker, I recommend the Washington Post article to all Members and suggest that they carefully consider its significance. The article follows:

CARTER CALL FOR PLUTONIUM CURB UNHEEDED AT 40-NATION PARLEY

(By Thomas O'Toole)

President Carter's call for a worldwide pause in the use of plutonium nuclear fuel went unheeded yesterday when 40 nations ended three days of talks at the State Department without agreeing to any slowdown.

None of the 40 nations said last night at the end of the talks that they would cancel or defer projects to enrich uranium nuclear fuel, reprocess plutonium out of spent uranium fuel or use plutonium as a nuclear fuel once it had been extracted from spent uranium. President Carter has asked Congress to defer indefinitely plutonium projects in the United States while asking the rest of the world to follow the U.S. example.

State Department officials representing the United States in the talks tried to put a happier face on the closing session by insisting they never expected anybody else to agree to a plutonium slowdown.

"They weren't asked to slow anything down," Ambassador-at-Large Gerald Smith said last night at a press conference. "We never expected any agreements, since this is not a negotiation. It was a study designed not to interfere with any plans other nations already have."

Smith described the three days of talks as "serious and businesslike" in which all 40 nations agreed to split up into eight study groups to discuss for the next two years all aspects of the use of nuclear fuel that impinge on the possible spread of nuclear weapons.

"We do not expect these studies to reach solutions to these questions or to reconcile the views of various participants in this conference," Smith said. "These joint technical analyses pose a challenge without precedent but the fact that they're being attempted bodes well for a successful evaluation of these issues."

Outside observers viewed even the setting up of these eight study groups as something of a defeat for the United States since six of the eight are to be chaired and run by countries whose views on the plutonium question are in opposition to the White House.

The only two groups not opposed to the U.S. position will deal with "alternate" fuel cycles that do not produce plutonium from spent fuel and worldwide uranium supplies. They are the least controversial of the eight issues to be studied and are to be chaired by the United States and by Canada, which is one of the few countries of the world sympathizing with President Carter's views on plutonium.

Some of the most controversial studies will be chaired by countries most strongly opposed to the White House view on uranium enrichment and plutonium use.

The study group on uranium enrichment will be chaired by France, Germany and Iran, the first two of which would like to export enrichment plants and the last would like to import them. The study team on the reprocessing of plutonium from spent uranium is chaired by Japan and Great Britain. Japan is one of the world's most vocal advocates of plutonium fuel for power.

A third study group on the fast breeder power plant which produces plutonium and will run on plutonium will be chaired by Belgium, Italy and the Soviet Union. All three countries are at work in some way on fast breeder plants of their own.

Smith said that one bright aspect of the three-day session was that it brought together countries that have not signed the non-proliferation treaty prohibiting the spread of nuclear weapons. It had been reported by observers that some of these countries complained that they were being asked to sign the treaty while being denied technology that could bring them nuclear power.

"A standing concern of many nations is that they're not getting a fair share of nuclear technology," Smith replied. "This is going to be a constant tension in these discussions."

While the conference was attended by most of the countries supplying and using nuclear energy, the absence of Taiwan and South Africa was conspicuous.

State Department officials insisted every country was welcome but Smith conceded that Taiwan did not receive a formal invitation and South Africa's was issued only late last week.

RON DIORIO AND AL DAMELIO—BOYS' CLUB HALL OF FAME

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. SARASIN. Mr. Speaker, on November 6, 1977, the Boys' Club of Waterbury, Conn., will be inducting two outstanding men into the second annual hall of fame. These men were selected for their participation and contributions made to athletics in the Waterbury area as well as participating in boys' club activities.

Don Diorio spent a great deal of time at the boys' club during his younger years and participated in many of the club's athletic programs. Ron attended the Sacred Heart High School where he excelled in baseball, basketball, and football. He then attended the University of New Haven playing both baseball and basketball.

In 1969, Ron signed a pro contract as a relief specialist with the Philadelphia Phillies. In 1973, Ron pitched 23 games for the Phillies while posting a fine 2.73 E.R.A. Ron currently is employed with the world champion New York Yankees.

Al Damelio has been a very prominent participant and organizer for the past 40 years. Al in his younger years was a very successful athlete. He participated in CYO basketball and baseball and was an outstanding player in the industrial league and city amateur baseball league. Mr. Damelio also has given many years of outstanding coaching service to the boys' club as well as other leagues. Al is still active in the American Amateur Baseball Congress and Lil' Fellers League. He has also been active in bringing many successful tournaments to the Waterbury area.

I wish to extend my sincere congratulations to both Ron Diorio and Al Damelio for their selection into the Boys' Club Hall of Fame and wish them every success in the future.

THE QUESTION OF CHINESE-AMERICAN RELATIONS

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. BADHAM. Mr. Speaker, the question of Chinese-American relations remains an unresolved one for this Nation, and although movement toward full recognition of the Peking government appears to be momentarily stalled, the pressure in that direction in unrelenting. Like many other questions of national policy today, the China question tends to be addressed in simplistic terms, which are at best a very rough approximation of reality. The proponents of "full recognition" have, I fear, constructed a theoretical structure of Chinese-American relations which appears plausible at first glance from the perspective of one sitting in Washington, or New York or Boston, but is more questionable when viewed in a global perspective. The "American centrism" of these commentators has led them to assume that close relations with the United States are somehow of major importance to the leaders of the Chinese People's Republic, independent of the exigencies of the Sino-Soviet split and the Taiwan question. This assumption, in turn, would suggest that once Sino-Soviet tensions are relieved and the United States has abandoned its ally on Taiwan, relations between the PRC and this country will continue to be positive and constructive. All that must be done to achieve this desirable end, we are told, is to sever our relationship with the Republic of China on Taiwan.

I see no indication, however, that the assumptions of these thinkers are valid. To the contrary, it must never be forgotten that the essential interests of this Nation lie with those who share its fundamental interests and values. The Republic of China is one such nation; the American relationship with the People's Republic of China, on the other hand, is based on the immediate tactical interests of both sides, and as those tactics change, so will our relationship with that country. American policy must be based on a more solid base than mere tactics, but that is exactly what the proponents of "full recognition" are proposing when they suggest that this Nation sever its ties with Taiwan.

In the case of our China policy, principle coincides with basic interest. We have undertaken solemn treaty obligations toward the Republic of China which we cannot ignore. For the United States to unilaterally abandon these obligations would be a sorry spectacle.

As with all major foreign policy questions, it is important to penetrate beyond

the surface terms of discussion, to a deeper and more highly focused level of analysis. The points I have made today have been developed in greater detail in a highly thoughtful and, I think, penetrating commentary by Thomas H. Etzold, professor of strategy at the Naval War College. I have benefited from its insights, and I believe all those who take the time to read it will do likewise:

ARE "FULL RELATIONS" IMPORTANT TO CHINA?

(By Thomas H. Etzold)

In observing the China policy of the Nixon-Kissinger years and now of the Carter administration, I am reminded, sadly, of certain metaphysical disquisitions of the late Middle Ages. Then, learned men debated a fundamental question of human outlook, that of whether the earth was, or was not, the center of the universe. Of course it was not, any more than the United States today is the center of international politics. Yet, in approaching the issues of Sino-American relations, especially those surrounding the Taiwan-U.S. tie and so-called "normalization" of relations with Peking, the government of the United States appears to have persisted in a Ptolemaic view, an "Americacentrism" that distorts perception of how things fit together and, therefore, of what one should expect in the relations between China and the United States.

One misapprehension resulting from a Ptolemaic view is the notion that in relations with China the United States has influence naturally and by right rather than by circumstance. It is, however, wrong to imagine that the United States is central, or even very important, in the larger concerns of the Communist leaders of modern China. In a remarkable lack of percipience, Americans have probably never realized adequately the extent to which the domestic reconstruction of China after 1949 overshadowed external affairs. The aim of the revolution was no less than to make a new society for a nation four or more times larger than the population of the United States, with a cultural and political heritage some 30 times longer. Indeed, the Chinese seem to have established a priority for national policy often advocated for the United States in recent years, but never attained internal affairs first and foreign affairs second.

Despite its relative unimportance in the overall Chinese scheme, the United States of late has received a lot of attention from China's chiefs. This has caused some befuddlement in the United States, for many Americans—including some who should know better—have mistaken these courtesies for indications that the United States has become more important to China; that this is a fundamental and enduring change; and that with certain adjustments on either side, a warm, substantial and profitable political-economic relationship might develop. The United States has only to withdraw from support of Taiwan and, in turn, the People's Republic of China will open its economy, country and culture, and perhaps take up a "constructive" role in regional and world politics.

But the reasons for China's regard for America's dignitaries are much less profound or promising than the Ptolemaic politicians, the wishful thinkers of Washington, would like to believe. For they arise from circumstances, not from any intrinsic American importance in the Chinese perspective. One reason for the amount of notice the United States has received in recent Chinese considerations—an obvious one—surely is the Sino-Soviet animosity. There is no doubt, as many have observed, that, much as we do, the Chinese seek to insure themselves against Russian menaces by playing at triangular politics, even to the point of seeking military sales and assistance from the United States.

Another such reason for the modicum of importance assigned to the United States in China's foreign affairs has been the American guarantee of Taiwan. Here there has been significant misperception on the American part. The Taiwan connection has grown into the central issue of Sino-American relations; it has been easy, though erroneous, to assume that similarly Taiwan has become something more for the Chinese than it has always been—namely, a peripheral, though contentious, matter alongside the problems of leadership and governance facing China's headmen.

It is evident that now, with the Sino-Soviet dispute in full swing and the security treaty with Taiwan intact, the United States has some influence, some standing, with the leadership of the People's Republic of China. It is not as evident, however, that in the long run the United States may well retain more influence by irritating Peking rather than by placating it. And here, perhaps, some explication is necessary.

The first important fact to recognize is that the United States cannot ensure the long continuation of the Sino-Soviet dispute in terms that offer political advantage or require the Chinese to show solicitude for America's leaders and interests. Further, as George F. Kennan has noted in "The Cloud of Danger," it is precarious policy, poor statecraft, to base one's relations with another country on that country's bad relations with still a third. Nor is it in the interests of the United States to encourage dangerously hostile relations among any two other countries, much less such powerful ones as China and Russia. Such a policy can only make the climate of great power relations less agreeable for all, and somewhat more risky.

The second point of importance follows from the first: Precisely because the United States cannot depend on the continuation of advantage from a Sino-Soviet dispute, it must retain its connection with Taiwan, and thus its ability to command some measure of consideration in the councils of the People's Republic of China. This may seem paradoxical. It has been more popular to argue, as have the officials of the PRC and their tame American academies and journalists, that once the shadow of the U.S.-Taiwan treaty is lifted, Sino-American relations will flower. But has anyone been observing how difficult it has been in the last several years to conceive just what would be the ingredients of "normal good relations" and how they would benefit the United States? China could scarcely do more than it does now to pin down Soviet military capabilities to the benefit of the United States and its Western allies. The U.S. government does not—and should not—wish to encourage China to political activism outside its borders. And the United States can, after all, absorb only limited quantities of tung oil and hog bristles, which are China's leading exports to America. Moreover, I would venture to say that, before long, American Ping-Pong players will tire of being paddled to pieces by the wizards of *wei-hai-wei*.

Recently the administration has given increasing indication that it will move speedily toward full, "normal" relations with Peking, and, because it is critical to Peking's definition of "normal" relations, toward abrogating the defense treaty with Taiwan. The expectation is that great and good relations cannot be far behind. Yet one must suspect that this idea is nothing more than the 1977 version of the hoary China myth—if only every Chinaman would buy a shirt with a tail four inches longer!—that bemused Americans for generations, only to prove unfounded. There never was much substance either to the China market or to the Sino-American relationship. George Kennan, who otherwise favors abrogation of the defense treaty, made an important point both in his recent book and in an interview broadcast in December 1976: "I think," he said, "that [the Chinese] don't particularly like foreigners. I don't think they're terribly interested in us, and I think they're capable, along with their great delicacy of behavior, of great ruthlessness when you least expect it of them. I would feel that Americans ought to be very careful in their dealings with them."

In the long run, it is going to be more essential for the United States to get the attention of China than to remove the irritant of Taiwan from Sino-American relations. As things stand, only that relationship with Taiwan seems likely to assure the United States of a decent regard from Peking. It is up to the People's Republic of China to demonstrate how badly it wants full relations with the United States, and how much these may be worth both to them and to the United States. And for this demonstration, the United States can afford to wait; there is no need either for unseemly haste or for the imprudent sacrifice of an ally. If the United States does not pause, one must fear the day when America's relations with China may resemble nothing so much as comic lines in a tragic play:

"GLENDOWER: I can call spirits from the vasty deep.

"HOTSPUR: Why, so can I, or so can any man;

But will they come when you do call for them?"

Will the Chinese come? Will they even answer, when the United States has given in on the Taiwan issue and the terms of Sino-Soviet relations offer less opportunity? A modern-day disciple of Ptolemy would be certain of a positive answer. That in itself may be reason enough to be uncertain, and therefore cautious about seeing things in the manner of Ptolemy and doing things in the manner of Peking.

AL GARLAND

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. GIBBONS. Mr. Speaker, on October 24, a distinguished civil servant, Allen Hunter Garland, died.

Half his life was spent working for the U.S. Government. He gave two decades of service to the Department of Commerce on international trade and commercial issues.

During these years of service, a new international trading order came into being. The value of world trade—that had collapsed in prewar years—is now at the trillion dollar mark. Millions of Americans now earn a good living from world trade. The world is more prosperous and a safer place because of this rise in cooperative trading relationships.

Mr. Garland helped bring this about in his work at the Department of Commerce and in the Office of the President's Special Representative for Trade Negotiations.

We, in the Congress, who bear a responsibility for trade policy formulations knew Mr. Garland well. He spoke to us

time and again on complex negotiations and difficult issues. He was always informed and straightforward. He helped us find answers. He helped turn policy into successful action. We will miss him and we will be grateful that there are men and women in Government who worked with Mr. Garland, learned their occupations partly from him and partook of his dedication to the public interest.

FOOTBALL IS UNDER THE GUN

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. CLAY. Mr. Speaker, I wish to take this opportunity to share with my colleagues the following article which appeared in the Los Angeles Herald-Examiner on Thursday, November 18, 1976.

FOOTBALL IS UNDER THE GUN

(By Melvin Durslag)

An Armenian traveler, a gentleman of great erudition, inquired of your correspondent the other day why the practice exists in American football to end each quarter with the firing of a gun.

It appeared to this gentleman that at a stage of our culture in which military toys are being discouraged and the family of nations is working towards peaceful solutions that a gun at a sports event is an anachronism of sorts.

What he didn't understand, of course, is that officials use guns at football for at least three reasons.

First, it isn't as easy to stop play flashing a switchblade.

Second, in the areas in which stadia repose today, officials don't want to be the only ones in the neighborhood without a gun. What they have is only a starter's pistol, but the mere idea of clutching cold steel at least is comforting.

Finally, the history of football calls for guns. The game was invented in 1869 by John Wayne, who lined up Rutgers and Princeton, drew a .44 and shouted:

"Reach, you s.o.b.'s!"

Originally, the sport was known as eachball, but when Amos Alonzo Stagg disarmed Wayne by kicking him in the groin, the name was changed to football.

The firing of a gun by an official isn't as bad when you consider that at some places, after the home team scores, they fire a cannon.

The stands vibrate from the roar of the damned thing, and those watching their first game ask nervously if tanks will soon be rolling in.

At the Super Bowl game not long ago, do you know what they did at halftime? They reenacted the Battle of New Orleans.

FIRING MUSKETS

Everyone was firing muskets, guys were falling dead and the medical corps was hauling the wounded away on stretchers.

It was a swell scene, one that could have been improved only if they had done the sinking of the Lusitania.

Occasionally, at the opening ceremony of football games, the band marches out in smart military fashion, strikes up the national anthem—and fighter planes swoop over the stadium with a deafening roar.

It's surprising they haven't yet thought of strafing the end zones, or, better yet, knocking out the cannon used by the home team.

You get a feeling of security, however, knowing that air cover is provided at your football games, and, at the next Rose Bowl, you look for help from the Fifth Fleet.

To understand the need for firing a gun to end quarters, we had a talk with a Mr. Gelb, a celebrated official from the Hushpuppy Athletic Conference, known as HAC.

"Where did you learn to fire a gun, Mr. Gelb?" we inquired.

"I saw Dirty Harry," he answered.

"And that gave you your start?"

"No, I got my start watching Kojak, Serpico, Hawaii Five-O, Streets of San Francisco and Policewoman. I especially liked the draw of Angie Dickinson."

"Have you ever thought of ending the first quarter by pulling a gun from a purse?"

"Right now, I'm working from a holster. But before the season is over, I want to try drawing a gun that's strapped to a leg."

TRAINING PROGRAM

As part of the conference training program, Mr. Gelb goes out on the range once a month and practices with a tape recording. It is a mass of voices shouting, "Five, four, three, two, one!"

At that point, Mr. Gelb pulls the trigger.

"When I was a rookie," he explained, "I got excited in a game and fired when the count was only three. They made me take extra practice."

To understand further why officials feel more comfortable with a gun in football, you examine the picture earlier this year at Foxboro, Mass., where the Patriots were playing the Jets.

A gang pulled a handicapped fan from his wheelchair and stole it. An elderly woman got hit on the head with a whiskey bottle. Fights broke out; 30 people needed hospital treatment. A cop got his jaw broken and a man got stabbed in the parking lot.

But the humanitarian award, the Silver Star for knight-errantry, went to a fan who emerged from the stadium while an ambulance attendant was giving mouth-to-mouth resuscitation to a heart victim.

The fan urinated on the attendant's back.

So reflecting on this tender tale of Americana, you may wonder whether this country is yet ready to end its football quarters with a buzzer, or a bell, or a bugler blowing taps.

The job may call for a gun, unless you favor a grenade.

CARL BOVEE

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. PURSELL. Mr. Speaker, one of Michigan's leading educators, the late Carl Bovee, will be honored Thursday, October 27, when the Instructional Materials Center at Cass Elementary School in Livonia, Mich., is dedicated in his memory.

It is a well-deserved honor to mark an outstanding career and a man of true professional and personal distinction.

Our family had a long personal association with Carl Bovee.

He was one of the best known national authorities and innovators in the field of educational audiovisual techniques.

As a school administrator, he was also one of the best. Under his leadership, the Cass Elementary School was a very wholesome and creative place to learn and to teach.

Carl had a rare understanding of people, and his sensitive approach drew out the best in both teaching professionals and young students. He was a genius at assisting teachers, but not stifling their creativity with preset theories and classroom methods.

In the hearts of those who knew and worked with him, Carl Bovee remains a living definition of all the best aspects of our educational system.

The following article defines some of the outstanding accomplishments of this inspirational educator:

[From the Michigan Elementary Principal]

CORLAN DRURY BOVEE

Born, June 30, 1915; died, January 6, 1977; President, Michigan Association of Elementary School Principals (MAESP) 1965–66.

One of the most active members of MAESP and a leader in education administration, Corlan (Carl) Bovee, passed away unexpectedly early on the morning of January 6, 1977.

To pay real tribute to Carl would take a book. However, I will do my best in this limited space to highlight the love and respect that all of us had whose lives were touched by Carl.

Carl was a beautiful man. No one described this better than some of his teachers at the Cass Elementary School in Livonia. "He was a humanist. He put into practice what he preached. He was a man of his convictions. His building was full of warmth and love. Carl inspired his teachers through his actions. He was not afraid to try new techniques. He was an innovator. He inspired his staff through his actions and his model behavior. He initiated the first metric workshop in the Livonia system. He had excellent relationships with his school community. He was gentle, warm and loving."

Carl was an only child whose parents passed away some time ago. There was no family left. But he did have an adopted family which included Harvey Plows and his family, his students, his teachers, fellow administrators, the Rotary Club and MAESP. For the past twenty-three years, Carl and Harvey shared a home.

His accomplishments as an educator and a member of MAESP illustrate the devotion and dedication Carl had for his fellow man. Here is just a synopsis of the depth of his leadership roles:

1956–59, MAESP Chairman, Committee on Preparation of the Principal.

1960–61, MAESP Chairman, Professional Study Committee.

1961–63, MAESP-Elected Vice President.

1962–63, MAESP-Chaired first Camp Kett committee.

1963–64, MAESP Chairman, Constitution Revision Committee.

1964–76, MSU Director, Community Resources Workshops.

1964–65, MAESP-Elected President-Elect.

1965–66, MAESP-President.

1966–67, MAESP Chairman, State Conference Planning Committee.

1968–72, Vice-President of National Association of Community Resources Workshops.

1972–77, Member of the executive committee of the National Association of Industry Education Corporation.

1972–73, MAESP Chairman, Multi-media committee for NAESP convention in Detroit.

As president during 1965–66, he provided the leadership in the reorganization of MAESP. The passage of Public Act 379 (Teacher Negotiations Rights) in 1965 resulted in Carl driving to every region of the state to urge calmness and levelheadedness. This involved some 24,000 miles. Carl also chaired the committee that chose Ed Keller as the first executive secretary of MAESP.

Carl was not one to back off from any call for assistance. As local chairman for the MAESP convention in Detroit in 1973, I was

in need of a multi-media chairman, someone who could coordinate the AV needs of all presentors at the convention. This task has been considered one of the most difficult of all chairmanships. I needed a knowledgeable multi-media specialist, organizer and coordinator. Who else but Carl Bovee could competently handle this role. In spite of a busy schedule he accepted the invitation and once again provided outstanding leadership.

When it came to versatility, Carl had all the credentials. His interests included flowers, classical music, hi-fi and stereo systems and photography. For many years he provided the AV equipment, recordings, and photography for our state conference. At one time he taught the first and only college course for credit on hi-fi and stereo systems at MSU. He had the distinction of being principal of a Lincoln School at three different locations—Wayne, Battle Creek and Livonia.

Carl was a mover. He was not one for standing still. There were always challenges to meet. He believed more in the human approach to educating children than academics for academics sake. He loved people and in return was loved by those who knew and worked with him.

Carl, I don't know why you were taken from us. I would like to believe someone up there needed a warm, loving person to lead a workshop and no one better could be found than you.

So long, Carl, and may our paths meet again in the next world.

FRITZ PINIS,
Past President, MAESP.

ARMS: MORE GIVE THAN TAKE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. LAGOMARSINO. Mr. Speaker, there has been much concern over the apparent weakness of the American position in the SALT negotiations and the various concessions the Carter administration has been alleged to have made to the Soviets. I would like to bring to the attention of my colleagues an editorial from the Los Angeles Times and one written by Messrs. Evans and Novak. These statements raise serious questions in my mind about the administration's actions in regard to the signing of a SALT agreement with the Soviet Union.

[From the Los Angeles Times, Oct. 17, 1977]

ARMS: MORE GIVE THAN TAKE

Now we know why Andrei Gromyko, the usually dour Soviet foreign minister, was so jovial the other day after a White House talk on a prospective arms-control agreement. Judging by the information that has since leaked out, the Carter Administration is prepared to acept a new pact in which America makes most of the concessions.

As reported by Times staff writer Oswald Johnston Friday, the two big powers are in the final stages of negotiating a new strategic arms limitation treaty. The results are disappointing.

The Carter Administration, which had high hopes of initiating substantial reductions in the number of strategic nuclear vehicles on each side, has been unable to interest the Russians in anything more than a symbolic cut from the overall ceiling of 2,400 agreed on at Vladivostok three years ago.

More disturbing, however, are the sublimits proposed for inclusion in this ceiling.

The prospective agreement, for example, is said to call for a range limitation of 360 miles for ground-launched cruise missiles. This is of relatively minor consequence for the U.S. strategic forces, which have other long-range delivery systems, but is of serious concern to the European members of NATO.

The Europeans would like the option of using cruise missiles—which are really highly accurate, unmanned jet planes—to counterbalance the ominous force of SS-20 ballistic missiles that the Russians are already deploying for potential use against targets in West Europe. But a 360-mile range limitation would make it impossible for cruise missiles based in West Germany, Italy or Britain to hit military targets in Soviet territory in case of invasion.

Understandably, the NATO allies are not amused by the prospect of this concession at their expense.

The Administration apparently is ready, too, to accept a 1,500-mile-range limit on U.S. air-launched cruise missiles. This would be fine if the B-1, which would have been able to penetrate Soviet air defenses before launching its bombs and missiles, were available. But the decision has been made that it won't be. And cruise missiles launched from bombers well outside Soviet territory need more than a 1,500-mile range to hit many targets.

Again, Russia made no meaningful concession in return. Moscow agreed only to deploy its new Backfire bomber so as to curb its effectiveness as an intercontinental bomb carrier. But the restriction would be unenforceable in case of a real emergency.

The Administration minimizes its concession on cruise-missile range limits, arguing that the commitment would be for only three years; after that, longer-range missiles could be deployed. Actually, however, there would be strong diplomatic and political pressures to make the limits permanent.

Finally, U.S. negotiators were unable to persuade the Russians to accept a ceiling of 150 on the sort of superheavy missiles that they have and that America doesn't. The prospective agreement reportedly will allow the Soviet Union to maintain up to 308 of these giants with multiple warheads; that is enough, at least in theory, to wipe out the U.S. force of land-based Minuteman missiles in a surprise attack.

Since such a one-sided capability could not be tolerated, America would have no choice but to go ahead with its proposed MX missile—a large, costly mobile ICBM designed to survive a massive attack.

Obviously, any strategic arms agreement has to be a matter of give-and-take; the United States cannot expect to have everything its own way. Based on presently available information, however, we fear that, from the American viewpoint, the prospective treaty involves far more give than take.

We think the negotiators should talk on until a more balanced accord is reached. If that is impossible, the President should not allow himself to be persuaded that a bad agreement is better than none.

THE BACKFIRE "CONCESSION"

(By Rowland Evans and Robert Novak)

The tentative arms-control agreement virtually pinned down when Soviet Foreign Minister Andrei Gromyko visited the White House does not classify the Russian Backfire bomber as a strategic weapon despite a new U.S. intelligence report showing it able to reach North America with ease.

A top-secret study puts the Backfire's range at over 10,000 kilometers (about 6,200 miles), nearly double some previous estimates. Yet, the strategic arms limitation agreement relies on a Kremlin pledge—clearly unverifiable—not to use its impressive new bomber as a strategic weapon.

That alone would guarantee significant opposition to Senate approval of the SALT II treaty. But briefings within the national-security bureaucracy on the tentative agreement point to the all-too-familiar pattern of U.S.-Soviet negotiations: steady U.S. retreats with no significant Russian concessions.

Senior U.S. officials claim a major "concession" by the Soviets in agreeing to lower the overall limit of 2,400 strategic launchers (including long-range bombers) fixed at Vladivostok in 1975. But since the limit applies to each side, calling it a concession can be challenged.

More significant, the new agreement abandons President Carter's demand of last spring that Moscow effectively limit the number of its fearsome heavy missiles. Without that limitation and in the absence of U.S. heavy missiles, the Russians gave up nothing by reducing the overall limit on strategic launchers.

Similarly, there is a familiar taste to the way the tentative SALT II agreement handles two weapons systems left in limbo at Vladivostok: the U.S. cruise missile and the Soviet TU-26 bomber—the Backfire. The United States will severely limit cruise-missile ranges for three years. But, according to secret briefings, the Backfire will be limited only by "unilateral" Soviet declarations promising not to use it strategically and promising not to increase production.

Reliance on the Kremlin's word collides with highly classified Air Force briefings, featuring a chart showing the Backfire with longer range than the other bombers listed. That chart in turn reflects a recent study sponsored by the Defense Intelligence Agency and carried out by the Air Force's foreign-technology division at Wright-Patterson Air Base.

It reveals that, thanks to important areodynamic modifications, the Backfire's "B" model—now in serial production—has substantially increased its range. If refueled once, in midair, the Backfire range is 8 per cent greater than the most advanced B-52s and 17 per cent greater than the shelved B-1. The DIA study's conclusion is unmistakable: The Backfire is an intercontinental weapon.

As part of the SALT II agreement, the Russians agree not to refuel the Backfire. But that assurance crumbles on two points: First, the Backfire can hit the continental U.S. without refueling on a one-way mission; second, the Kremlin's promises are simply not verifiable. The "B" model is fitted for mid-air refueling, and advanced Soviet "civilian" aircraft such as the wide-bodied IL-86 can be easily modified to become a tanker.

Nor does the Soviet "unilateral" promise not to increase production really insure against the threat to the United States of a greatly expanded Backfire fleet. Thanks to meager U.S. air defenses, the bomber is believed by the Pentagon to be a much bigger threat than is envisioned by the Arms Control and Disarmament Agency.

Thus, as informally agreed upon, SALT II describes an uneven poker game between the Russian and the American. Each is limited in his betting by table stakes. But when needed, the Russian can reach into his pocket and up the ante—by calling on the long-range Backfire bomber, not included in the overall limit on strategic launchers.

How can the U.S. negotiators countenance this? Senior officials say various U.S. intelligence agencies disagree on the Backfire's range. Yet, a 1976 study performed for the Central Intelligence Agency, which put the Backfire range at 6,000 kilometers (about 3,700 miles), has been discredited as based on faulty premises. In secret congressional testimony July 28, CIA Director Stansfield Turner himself conceded his agency's study was out of date.

U.S. negotiators are putting aside their own intelligence study and accepting Rus-

sian promises because they believe that the nation's need for an overall arms-limitation treaty outweighs inequitable provisions it may contain. That was the philosophy espoused by chief SALT negotiator Paul Warnke and his lieutenants in private life, though certainly not by candidate Jimmy Carter or a good many U.S. senators. This contrast promises a historic Senate debate with profound consequences.

BING SPEAKS OUT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. DORNAN. Mr. Speaker, a few days ago, America lost one of her favorite sons unexpectedly. The beloved Bing Crosby died of a heart attack while engaged in his favorite pastime, golf.

A few weeks previous, Bing had been asked by his friend, Los Angeles Herald Examiner columnist Jim Bacon, to write a guest column while Bacon was on vacation. Crosby, before leaving for Spain on what would be his final journey, wrote an amazingly thoughtful column which I ask be reprinted in the CONGRESSIONAL RECORD today.

In his column, Bing talked about himself and the things he loved. He also had some very pointed and accurate comments to make about today's entertainment industry. Bing Crosby loved show business and he loved working in it. But he came to abhor the moves in recent years to cheapen the industry by injecting more and more quasi-pornography and ever increasing explicit sex into films and now television programing. In his opinion, this creeping pornography and permissiveness undermines the strength of the family traditional morality and the American way of life. He could not have been more correct.

I commend Bing's excellent column to my colleagues and hope that they will keep his goodby to us in mind when called upon to vote for legislation to curb pornography. While his words are not couched in the legislative terms used by the pathetic defenders of pornography, his warning rings truer and is more in keeping with the spirit of free speech than the twisted apologia of the self-styled "free speechers" who defend sexual perversion and permissiveness.

We will miss this great American. Bing's class and devotion to decency are evident in his following words.

PUZZLED OVER "LONER" LABEL

(By Bing Crosby)

I'm certainly pleased to have the use of some of James Bacon's space—very prestigious space—because I want to try and level a base canard that has gained some currency lately in the Press, in a book or two, on TV and in radio interviews.

It is alleged by some careless people that I am "a loner." A cold fish without sentiment or convivial instincts. Now I don't suppose there are many people who really care or who are really interested in whether I'm any of these things, or all of them. But I care. A lot.

My description of a loner would be a recluse, an introvert—a man insecure and deeply introspective. Now I really don't think I'm any of these things. True, I'm very demonstrative. I don't gush, wring my hands or beat my bosom. The only thing that can really arouse my ire is to miss a 2-foot putt when it means the match.

I really think I'm extremely gregarious. Actually I know more people from more different walks of life and levels of society than anyone I ever heard of except perhaps only Bob Hope—and of course he's ubiquitous.

I have played golf, shot, fished and consorted with kings, princes, heads of state, jockeys, seniors, juniors, pros—both men and women, doctors, lawyers, famous amateurs male and female, artists, painters, hustlers, drunks, financiers, touts, writers and scientists, every kind of athlete, in practically every famous golf course that exists.

I even played golf with some Chicago hoods in the mid 30's. Involuntarily, to be sure! And the association was short-lived. We just never kept in touch.

Up until recently, I held membership in fifteen different golf clubs here and abroad. I've played in countless tournaments, exhibitions and charity matches. I've shot and fished all over the United States, Canada, Alaska, Hawaii, South America, England Scotland, Ireland, France, Spain, the Bahamas, Iceland, Mexico, and I've made eight safaris into East Africa.

All of this you may be sure, has enabled me to develop a vast circle of friends and acquaintances. People with whom I correspond and with whom I visit whenever opportunity allows. I hate name-dropping so I'm not going to drop any names, but I've been associated with racing and baseball (in official and social postures). I've been to every good race track in the United States and Europe. I know personally many trainers, riders and breeders. I've seen every classic and every important race in the last thirty or forty years. I even built a race track one time.

I am a great sports spectator. I've seen Super Bowls, most of the big heavyweight contests, many important boxing contests, track meets. Been to five or six Olympic Games. I guess I've taken it all in. I don't know what else I could see that would be available. All the important tennis matches. And I honestly don't think this sounds very much like a loner.

And what I have just described here is actually only a small part of what I've been up to through the years, in addition to making a few films.

Puzzling over how this negative opinion got around—that I was a loner—I think I might have come up with some of the reasons why. Since I first achieved any success or stature, I have always traveled more or less alone. When I came to work, I drove down in my car. If I attended a function or a party or went to a football match or baseball game or boxing or whatever kind of public event, I either went alone or with members of the family or maybe one or two other guys.

I have never had an entourage, or a retinue trailing along behind me. Something like this would disturb me—to be always accompanied thus. It attracts attention. I'd worry about them. Are they being taken care of? Are they set for lunch or dinner? Where are they going to stay? Are they happy? Would they "yes" me along, or give me honest opinions? I don't really see where it's necessary to have this kind of procession.

I've had the same law firm for 45 years. They look after everything for me. I may lunch with one of the firm partners three or four times a year, or talk things over on the telephone maybe once a week.

It's only natural, I suppose, when people see me drive up alone, or walking alone en route to work or whatever, they must say, "He's a loner." They're accustomed to seeing so many performers with five or six guys trailing along behind in preferred pecking order. They must think I'm very odd.

But I love to walk. I love to walk alone. That's when I do some of my best thinking—or practically all of my thinking.

I have so many friends in show business—old and valued friends—but I have just as many friends who know nothing about show business or any of its aspects. When I finished a picture or a job on TV, I was gone the next day. Golfing, shooting, traveling. Without a thought of or a connection with any part of the entertainment world.

Now maybe some of the people I've worked with might have thought this indicated I didn't care for their company. Not at all. I love them all. Never had a disagreement with anyone in any cast of any picture I ever worked in. Truly, I had great fun and many laughs with most of them. I can't think of a single film in which we didn't have laughs, gags, ribs going all the time.

I never had a director who I didn't like personally. Some of them I adored. I had a few beefs with some producers over song material once or twice. Nothing serious. Otherwise it was all just a breeze.

Sentimental? Acutely. When I see three U.S. athletes mount the risers at the Olympic Games to receive the Medals, and they play our National Anthem, I'm very misty-eyed.

Newsreels or TV films of American troops in faraway places fighting, suffering and dying affect me deeply.

It makes me very sad to see people embarrassed or treated shabbily in public.

Honestly, I would have to say that I'm really a softie.

Now that we have disposed of this quite trivial matter, I hope, I want to use a little more of Jim's space to talk about something which is very serious. Even critical.

I love show business. Every facet of it. And I'm extremely grateful for what it has done for me. I would be nothing without it. But I'm worried now. Pornographic pictures, dirty books and magazines seem to be beyond any kind of control.

I was laid up for five or six weeks lately—hospitalized—and of course, I saw lots and lots of TV. It became apparent to me that very slowly and very subtly writers and producers are working in nudity, permissiveness, irresponsibility, profanity, scenes of semi-explicit sex, provocative dialogue, smutty innuendoes and situations into their shows. Moral responsibility is almost indiscernible.

Now I abhor censorship. Another word I dislike is boycott. But the inability of the former to be useful will surely produce the latter. Already there are little groups all over the country—groups of concerned people who want to do something about this before it's too late.

Let me tell you something. If they all get together and they become a nationwide organization of fifteen or sixteen million people and they tell some of the big advertisers on TV, some of the big sponsors, that they will stop buying their products unless they clean up their shows—Impact? You bet. Now I don't condone boycott any more than I do censorship, but it could happen.

I don't believe the First Amendment should apply here. A citizen can say or do anything he wants out on the street unless he breaks the law, but he shouldn't be allowed to come into a man's house and fill his TV set with prurient material. It certainly is not the type of thing that you want your children to see daily. Its effect can't be anything else but harmful.

They see these chic, sophisticated people behaving immorally, salaciously. People living together without the benefit of marriage must be the thing to do, they think. Must be clever or attractive. Kids, you know, are indelibly impressed by anything they see in a film done by attractive, famous people.

I happen to believe that the family is the basis for a sound society. A good strong so-

ciety makes for a good strong community, and you get enough good strong communities and you've got a strong nation.

It's my fervent prayer that responsible people in the business—people of principle—will exert their influence in an effort to eliminate this highly objectionable material.

I really dislike ending this little piece on a gloomy note, but I do feel strongly that there are some serious consequences involved.

Talking to a TV executive recently and voicing my sentiments he said to me, "we're only depicting life as it is," but I fear that they are depicting life as it is going to be if they are not diverted This seems like a very unattractive prospect to me.

CALIFANO IN CONTEXT

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. STARK. Mr. Speaker, on October 25, 1977, the Wall Street Journal ran an article entitled "Power and Success at HEW" by Jonathan Spivak. While one could excerpt isolated criticisms from this article which would make it appear as if the story portrayed Secretary Califano in an unflattering light, a more accurate excerpt from the article would be the final and concluding paragraph which states:

Joseph Califano is as well prepared as anyone for this task. If he accomplishes just part of his ambitious plans, he could turn out to be the HEW Secretary everyone remembers.

Mr. Speaker, I would like to include the entire Wall Street Journal article by Mr. Spivak which outlines accurately, I believe, Mr. Califano's strengths as well as some of the criticisms of his tenure as Secretary of HEW.

POWER AND SUCCESS AT HEW

(By Jonathan Spivak)

WASHINGTON.—He has infuriated doctors by publicizing exorbitant Medicare fees and angered hospital administrators by advocating a strict ceiling on their mounting charges. Women's groups are appalled at his adamant anti-abortion stand, and educators are dismayed because he has blocked an independent department of education.

What's more, some White House officials regard him as arrogant and dangerously independent, and his own bureaucrats bristle at his burdensome demands and enormous egotism. "Congress will crucify him," hopefully predicts one piqued underling.

Yet 46-year-old Joseph Califano is not only surviving but thriving as Secretary of Health, Education, and Welfare. "I just love this job," he says. Like a riverboat gambler, Mr. Califano is running a high-risk operation. He is determined to turn his department into the driving force behind the government's domestic programs—with initiatives in health, in education and in welfare. The dangers of failure are great, but there's also the opportunity for exciting victories.

So far he is pleasing the man who counts, Jimmy Carter, by dominating one of the most unresponsive federal bureaucracies, in a department which spends almost $500 million a day and affects almost every American. By most accounts Mr. Califano has delighted the President with a rapier-stroke reorganization of the HEW establishment, imposed with complete surprise on an unsuspecting corps of civil servants. And despite the objections to his way of operating, he is given high marks at the White House for drafting the administration-proposed welfare overhaul.

IMPRINT ON THE HILL

The HEW chief is also beginning to make an imprint on Capitol Hill. His people put together a Social Security financing package that has helped precipitate congressional action to meet the deficit after years of delay. The department's hotly controversial hospital cost control measure now appears on its way to enactment; it would constitute the first long-range federal effort to crack down on inflationary health-care costs.

Mr. Califano's approach to his job was shaped in the 1960s, a period of intense presidential activism. His experience then as a youthful White House aide bossing older Cabinet officers (then-Secretary of Labor Willard Wirtz refused to take his calls after a while) built his self-assurance. And he retains a strong attachment to the Great Society innovations of that era, such as the antipoverty program, health care for poor children, aid to public schools and assistance for black colleges. Earlier this year he successfully advocated increases in certain spending for the poor and later was largely responsible for persuading the President to accept a congressional increase of $1 billion in the HEW budget for aid to education.

Much like his political mentor Lyndon Johnson, Mr. Califano holds the reins of power tightly and insists on making every important political decision himself. One result is that decisions back up: For example, Food and Drug Administration Commissioner Donald Kennedy had to wait for months for a response to plans to speed marketing of new drugs and improve other FDA procedures.

Indeed, there are echoes of the imperial presidency in the Califano regime—signs of a fascination with the accouterments of power and even a tendency to high-handedness. By the Secretary's order, all high HEW officials must be reachable 24 hours a day, and last summer one medical official on his way from Washington to a Northern vacation was halted at the New Jersey border by a Califano call. The official promptly returned to Washington—to tend to the chief's ailing tennis wrist.

The Secretary's out-of-town trips are executed with all the meticulousness of a presidential journey. And in Washington or out, his preoccupation with his treatment in the press is unremitting. When away, he has been known to call in at break of day to find out what's in the Washington papers and to complain when an unflattering picture of him appears in The Green Sheet, the Department's daily collection of press clippings. This once-slim publication has grown to 50 pages or more and has spawned "early bird" and Saturday editions to suit Mr. Califano's arduous hours.

What's more important, he has moved to centralize power in his immediate office. Although he promised a retrenchment, his cadre of personal assistants has grown significantly in size and influence. Almost weekly another special aide is designated to handle immunization, national health insurance or some other matter.

Mr. Califano has also displayed a penchant for secrecy that antagonizes both senior career officials and influential Congressmen. They feel excluded from policymaking. But the Secretary does work closely with the lieutenants he has brought in, and Eileen Shanahan, his chief public affairs aide, insists there's healthy dissent within the ruling group. Mr. Califano welcomes subordinates telling him when he's wrong, she says. Certainly, the Secretary has assembled a competent group of agency heads who display dedication and vigor.

As a result, the Office of Education is finally moving to deal with bedrock problems such as the decay of urban schools. The Food and Drug Administration has disposed of several long-pending issues; it has ordered removal of antibiotics from animal feed because of a potential threat to human health and has restricted use of nitrite additives in food because of cancer concerns. And the Department's medical research arm, the National Institutes of Health, is attempting for the first time to assess the practical effects of its manifold findings.

But the heads of these and other HEW agencies don't act without consulting Mr. Califano, and little is done except in the Secretary's name. H's oft-imperious approach clearly contrasts with the unpretentious style of the Carter administration. And there's no doubt that some of the Georgians, particularly Hamilton Jordan, the President's political adviser, intensely dislikes Mr. Califano's independent ways. They are angered by his reluctance to find HEW jobs for deserving campaign workers and his choice of a well-known Ohio Republican as Deputy Commissioner of Education.

But Joe Califano and Jimmy Carter do get along, and it's instructive to search for the reasons. Despite their differences in personality and politics, the two men seem to share a similar lack of ideology. It's difficult to tell where Mr. Carter stands philosophically; he often seems most interested in making the government work better. And it's equally hard to tell what Mr. Califano really wants—except power and, perhaps, a reputation for good works. While the Secretary talks of compassion for the poor (he frequently recalls his modest background as the son of a Brooklyn school-teacher), he can be ruthless when his own interests are involved.

For example: Earlier this year HEW was invaded by indignant disabled citizens protesting the Department's failure to issue regulations barring discrimination against them. After a television camera caught Mr. Califano in a particularly unfortunate exchange with one of the sit-in demonstrators, their treatment suddenly worsened. Food was cut off, medical care was not planned, and contact with friends and relatives became difficult. The objective was to force them out of the building without the embarrassment of arrests, and that actual outcome allowed Mr. Califano to emerge from the confrontation with his liberal reputation unsullied.

A MEASURE OF RUTHLESSNESS

Whether or not tough tactics are warranted in dealing with the public, HEW Secretaries plainly need to exert a measure of political ruthlessness in managing the Department's constituent agencies; with their own legal and political bases, these agencies have persisted in displaying both independence and inertia.

Often HEW Secretaries have been so soft-hearted that they have ended up as political eunuchs and forgettable figures. David Mathews, the low-keyed scholar who preceded Mr. Califano, was bored by the bureaucrats and unwilling to invest the lengthy hours needed to keep on top of the Department. During his tenure, the usual autonomy enjoyed by the constituent agencies verged on anarchy.

Mr. Califano and his crew are determined to reverse this trend. With welfare revision, national health insurance, education policy changes and other fundamental issues coming along, there's clearly an inviting opportunity for an HEW Secretary who knows how to seize and wield power.

Joseph Califano is as well prepared as anyone for this task. If he accomplishes just part of his ambitious plans, he could turn out to be the HEW Secretary everyone remembers.

UNITED NATIONS DAY

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. FRASER. Mr. Speaker, last Monday, October 24, marked the 32d anniversary of the coming into force of the United Nations Charter. On that day in 1945, the required number of UN member states ratified the Charter and in doing so pledged themselves to promote international peace and security, reduce the gap between the rich and poor, and promote fundamental freedoms for all without distinction as to race, nationality, sex, or religion.

We celebrate October 24 as United Nations Day. This gives us the opportunity to reflect on the important contribution the United Nations has made particularly as a global forum where small and large states, the weak and the powerful can come together to discuss and voice their concerns on vital international issues. UN Day also allows us to consider some of the great challenges that UN member states must meet if we are to survive together on planet Earth—economic development, the Law of the Sea, the protection of the human environment, arms control and disarmament, outer space, and human rights.

Secretary General Waldheim in his 1977 UN Day message has captured the spirit of the 32d anniversary of the Charter's coming into force and I request that his message be inserted in the RECORD.

SECRETARY-GENERAL'S MESSAGE ON UNITED NATIONS DAY 1977

On United Nations Day we commemorate the ratification of the U.N. Charter and the official beginning of the organization's historic work 32 years ago by its 51 founding member nations. Today, delegates from an almost universal membership of 149 nations are gathered for the thirty-second session of the General Assembly to take up an agenda that includes some of the most dangerous and complex problems confronting the international community.

A full list of the issues that have come before the U.N. in its nearly one-third of a century reflects the troubled history of the world since 1945. There have been many notable achievements in this time, but there is also much unfinished work. The record and worth of the United Nations, however, cannot be measured in simple terms of success—or lack of it—on each individual item. Far more significant is that nations are now increasingly turning to it with their most difficult global concerns.

It is easy, of course, to question the value of international cooperation in the face of all our continuing crises. The situation remains tense in the Middle East, Cyprus and Southern Africa, where failure to reach settlement is the cause of mounting frustration and bitterness. The arms race continues to escalate, and so does the danger of nuclear proliferation. Respect for human rights is still not universal, and, for the great majority of the world's people, hopeless poverty remains the cruelest enemy of all. The intractibility and persistence of these problems, however, underscore the importance of U.N. involvement in helping its members find peaceful and constructive solutions that otherwise could be inconceivable. We have only to look back at some of the local and regional conflicts that erupted since 1945 to see that without a U.N. to help contain them, the world could have suffered the unthinkable alternative to global peace.

The evidence of these years also helps put into focus the U.N.'s vitality in working with its members to identify the major new problems of the world community as they have emerged. Population pressures, the threat to the environment, world hunger, the competition for the riches of the seas, energy and the dwindling supply of non-renewable natural resources—these are just a few. Add to them the urgence of developing a new and more equitable international economic order and what becomes clear is that only the United Nations provides the collective capacity to find global solutions to global problems.

We are now, I believe, much more realistic about how we must proceed in achieving the ideals set forth in the Charter. This new sense of realism recognizes that the U.N. cannot solve the problems before it without the political will of its member states. In the final analysis they are the United Nations, and the organization can act only to the extent they use it creatively as an ongoing instrument to integrate and conciliate their diverse policies and priorities in the interest of world order. But this also requires the support of the people of the world. Only with their help and understanding can we finally succeed in building an international community funded on global peace, human rights and economic and social justice. This was our goal thirty-two years ago. It remains the goal to which we rededicate ourselves today.

LETTER TO PRESIDENT CARTER

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. SARASIN. Mr. Speaker, a constituent of mine, Mr. Elwood L. "Sonny" Metz, Jr., of Newtown, Conn., business manager, International Union of Operating Engineers, has asked me to place the following letter in the CONGRESSIONAL RECORD.

The letter was written by the Honorable Gerald F. Stevens, minority leader of the House of Representatives of the State of Connecticut, to President Carter concerning the formulation of a new standard in regard to awarding future major Federal contracts. In essence, his proposal would stipulate that future contracts written would have a clause that requires the hiring of local workers to fill the majority of jobs when unemployment in that particular area exceeds the national average.

Due to the high increase in unemployed construction workers not only in my State but throughout the country, I have become quite concerned over the efforts of the Federal Government in initiating methods in which this increase can be reduced. I thought my colleagues would find this letter by Minority Leader Stevens to President Carter as one excellent attempt to provide a vehicle to assure an equitable distribution of Federal contract work to unemployed construction workers throughout our country.

The letter follows:

STATE OF CONNECTICUT,
HOUSE OF REPRESENTATIVES,
Hartford, Conn., September 30, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Your concern with the high rate of unemployment in various sectors of our population is widely known. Throughout the campaign of 1976 and since assuming office, you have made clear your commitment to finding a solution to this most important problem.

The State of Connecticut has been hit especially hard in recent years with high unemployment. Many of our largest cities have extremely high rates, with specific trades and professions being harder hit than others.

One of those areas hardest hit in Connecticut is the construction industry. At present, the unemployment rate among construction workers in our State far surpasses that in other areas. In recent months there has been very little opportunity to make a significant dent in the numbers of unemployed construction workers.

However, the Federal Government recently awarded a contract for what is known as the Park River Project. The cost of this project amounts to some $23 million and is one of the largest construction projects in progress anywhere in our State. It could have helped our unemployment situation considerably if the contractor had hired Connecticut laborers, engineers and teamsters.

Unfortunately this contract was awarded to a firm from outside Connecticut. That firm is bringing in to our State nearly two thirds of all the workers needed for the job. This means that approximately 200 jobs have been lost by Connecticut workers for a period of nearly two years.

Mr. President, because I know that you are concerned with unemployment, I am asking that you consider the following proposal: I recommend that your administration establish immediately a new standard for the awarding of major federal contracts. Tied to each new contract should be a stipulation that requires the hiring of local workers to fill the majority of jobs when unemployment in that particular area exceeds the national average.

Such a requirement would aid greatly in relieving the unemployment situation in our State and would obviously assist you in your efforts to find a workable solution to the problems of the unemployed. If such a provision were in effect when this Park River Project contract was awarded, an additional two hundred construction workers in our State would be employed today.

Mr. President, I ask that you give careful consideration to this proposal. I believe that it is both reasonable and practical. If I can be of any assistance to you in following through with such a proposal, please feel free to call on me at any time.

Sincerely,

GERALD F. STEVENS,
House Minority Leader.

MANDATORY RETIREMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for October 26, 1977, into the CONGRESSIONAL RECORD:

MANDATORY RETIREMENT

Suddenly, a human rights issue—mandatory retirement—is before the Congress and the nation.

The House of Representatives has passed a bill that extends the mandatory retirement age from 65 to 70 in private industry, and removes it altogether for federal employees. The bill, however, does not apply to companies with fewer than 20 employees, or to certain occupations, such as firemen.

The bill, which may be among the session's most important legislation, has also been passed in a slightly different form in the Senate. The Senate version would continue to permit forced retirement at age 65 for tenured college professors and for some high-paid business executives. These and other differences between the two bills will have to be resolved in a House-Senate Conference. Since the President remains noncommital, and the debate on the issue is building, the future of the bill remains in doubt.

There never was any scientific reason for picking 65 years as a normal retirement age. Bismarck, the 19th century German Chancellor, picked 65 as the retirement age when he set up the first social security system, and in the 1930s this country used the same age to determine when a person could receive full social security benefits. Today it is the most common mandatory retirement age, although momentum has developed to lower the retirement age (e.g. reduced social security benefits are now available at age 62).

Older persons—and there are now 23 million citizens over age 65 in the United States—have become increasingly outspoken against forced retirement. Many of them who do not want to keep on working, nonetheless, object to the idea of being forced to quit.

Not everyone agrees with efforts to modify or eliminate mandatory retirement. These persons contend that we should not rush into mandatory retirement without knowing more about its impact on unemployment, sex discrimination and shifting consumer patterns. They believe it will disrupt an orderly system that has worked reasonably well: promotion prospects would fade, young talent would wither on the wine, pension plans would be upset, medical and life insurance costs would climb, jobs for blacks, women and the young would be even more limited than they are today, getting rid of unproductive employees would become harder and salary costs for corporations and businesses would rise. There is no doubt that abolishing fixed age retirement creates distinct problems. Educators see comfortably tenured faculty as staying on too long and blocking rising young teachers. Businessmen see uncertain consequences of the bill for pension arrangements and personnel policies.

Using arguments based on equity, those persons against mandatory retirement argue that it is unjust and discriminatory, just as denial of employment based on sex or race is discriminatory. These persons argue that people should be judged on their merits and that forced retirement squanders the talents of productive people and destroys their usefulness and sometimes their morale. Without employment their lives go blank. They claim that eliminating or modifying mandatory retirement will not have an enormous impact on the country because most persons would choose to retire anyway. They are optimistic about the contributions an older person can bring to the economy, to business and to academic life. They argue that what people seem to want, and deserve most, is greater choice.

So far the arguments against mandatory retirement have carried the day in the Congress. No legislator wants to vote to continue discrimination, or against the right to work or against 23 million older persons. My expectation is that the mandatory retirement age will be lifted, even though the change will create some very real problems. This effort is part of the quiet revolution underway in the American working place: people want more options, including early retirement, part-time work, more flexible hours, four-day weeks, shared jobs and the right to keep on working after age 65.

The bill before the Congress is another illustration that we are going to have to come to terms with a population that is living longer and staying healthier. Older people want to remain productive and they are interested in second careers, part-time work, flexible retirment programs, and diverse working schedules. They certainly want more than just leisure. While institutions generally favor keeping compulsory retirement because it solves many problems for them, individuals generally are opposed to it. Both institutions and individuals have good arguments, but it is important to begin to search for a common ground. The move away from mandatory retirement is probably meritorious, but perhaps we should provide a transition period of a year or two.

INTERVIEW WITH ZBIGNIEW BRZEZINSKI

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. WHALEN. Mr. Speaker, I recently read an excellent piece about Zbigniew Brzezinski, President Carter's National Security Adviser, which appeared in the form of a question-and-answer interview with Jonathan Powers in the October 10 edition of the London Times.

I believe that my colleagues will find the piece of great interest and very worth while reading since it covers a number of current issues of major import. I might take this opportunity to note that Mr. Brzezinski has made his mark already as a key member of the U.S. foreign policies team. Those of us who are involved in the international relations area are pleased it goes without saying, to note Mr. Brzezinski's professionalism. The administration is fortunate indeed to have his great expertise available to bear on the international issues of the day.

Mr. Speaker, I insert at this point in the RECORD the London Times article titled, "One Man's Eye on the World:"

ONE MAN'S EYE ON THE WORLD

JP: I noticed in an article you write, I think it was a conference presentation that was published in the *Lugano Review* some time ago, you perceived a moment, a time of pessimism in the West but also pessimism in the East—a lack of confidence in the Communist countries. There's a general pessimism in the developed societies?

ZB: Yes, because both the western society and the Communist society—and a Communist society is really a derivative western society because Marxism is a western concept applied in semi-eastern societies—have based their concept of the future largely on the basis of some idealized conception of a state of well-being which some day will emerge. In a way it's a perception of the future which is based on the notion of some sort of Utopian condition. In one sense, this is rooted in religion. In another sense, nationalism implies somehow or other the idea that if you achieve your nationhood things will be well, provided you merge yourself with it. In different ways Rousseau and others contributed to that.

Marxism, too, has a concept of the future which, for all of its historical dynamism, is a curiously static concept. You reach the Communist society, and you have reached the state of well-being. I think what western man has learned and what the Communists are learning even more painfully, is that you never reach the state of perfection, that all social change is a process, that this process can point towards an improvement or towards degradation. That you cannot *a priori* be certain as to which it will be. I think this has induced in western man a sense of uneasiness, which is coupled with tremendous awakening of aspirations worldwide and concomitant with it a certain sense of guilt on the part of western man over the fact that he's well-to-do, relatively speaking, while much of the rest of humanity is very poor. Speaking now personally, I remain very optimistic. I remain optimistic both intellectually and politically.

JP: You have singled out that one of the necessary components in realizing that optimism is leadership. I remember in *Encounter* you wrote that: "The real need for leadership today in the United States is not for personal leadership. Charismatic appeal, real or manufactured by mass media, is not the historical need at the moment. The need is for spiritual leadership." You wrote this some five years ago, and then along comes Jimmy Carter, who also talks of spiritual leadership. I wonder what you meant by "spiritual leadership" when you wrote that, and also whether as you meant it, you see it now in President Carter?

ZB: I think that my relationship to Carter is very much derivative of these deeply held views. I have, as you note, felt very strongly that what makes society tick is a shared belief that what makes a society creative is a joint commitment to the future that is morally just—and perceived as such, and that a society that doesn't believe in anything is a society in a state of dissolution. I think one of the dangers that the West confronted and is confronting is the loss of belief. Belief to me is not consumption. The West has shifted increasingly the basis of its own legitimacy from a transcendental view of man to essentially a GNP-type orientation divided into per capita increments. And that is not enough. This is what I meant when I said that spiritual leadership is needed. That is to say, a sense of historical direction which is based on the notion that man is more than just a material being and that the end of social and political action is a cumulative improvement in the spiritual condition of man. But this does not mean asceticism. It does mean that we have to be conscious of social justice and of welfare. We have to create the pre-conditions for the spiritual elevation of man. When Carter came along, I sensed in him an orientation which though probably derived from different roots, was in some ways fundamentally similar.

JP: One of the fundamental themes you pinpointed is how in a sense this is the age of equality, and that this is very close to the essence of the Christian tradition. And yet we've got many people today, arguing that the idea of equality has now gone forward so far that we are in danger of a greyness, a lack of initiative, a lack of inspiration. And although the welfare state isn't as far advanced here, you've always really had that criticism of the effort to strive towards any concept of equality. Yet to you, I think, the urge for equality is quite important, quite fundamental, in your foreign policy, isn't it?

ZB: Well, I wouldn't use the word equality, although I must confess I've used it at times. I would probably, if I wanted to be more precise, use the word "equity". I do think that the age of liberty was closely connected with eighteenth and nineteenth-century developments which originated in Western Eu-

rope and spread to America. Indeed, America became the standard-bearer of the concept of liberty. I do think with the worldwide explosion in political consciousness, the issue of equity has surfaced on a global scale. To some extent it had surfaced earlier within the context of the industrial state itself. Much of democratic evolution over the past hundred years has involved greater access to political participation, greater opportunities for the underprivileged. That is equity. I suppose, in a sense, that is equality, if one doesn't give a strict, mechanical interpretation to the meaning of equality. Equality to me doesn't mean that everybody wears the same kind of suit, rides the same kind of bicycle, and reads the slogans. That's not equality, that's regimentation. There has to be a balance, therefore, struck between equality and the need for liberty, which gives man the opportunity for self-expression, for the fulfilment of the self, for the attainment of his telos, whatever that is, for each individual. The genius of modern democracy, to me, lies in finding the right balance between liberty and equality defined in that sense, or equity. Increasingly, the same combination of issues is becoming central in world affairs. This is why I stress so much that the role of the United States in world affairs should not be that of preserving the status quo, or maintaining balance of power, but rather, giving change, positive direction, the desire to make possible a just and creative blend between liberty and equity, or if you will, equality. I think if the United States can do that then it will gain for itself as creative a role as it acquired initially by becoming the standard-bearer of liberty. We live today in a world in which national self-determination has, by and large (although there are some notable exceptions) been attained. We are increasingly moving into a phase in world affairs in which the organization of a global community is needed. And that organization will only be possible if the United States particularly provides some of the needed momentum for blending liberty with equality, for developing codes of international obligations.

JP: What would you do if Eurocommunists come to power? Do you feel you would *have* to do something, some kind of response is necessary?

ZB: Well, first of all, we do not wish the communist parties to come to power in Western Europe. Secondly, we have confidence that the West European electorates will use their best judgment to preserve democratic systems and will therefore opt for democratic parties. Thirdly, we have to deal with the world as it is. Fourthly, the existence of Eurocommunist parties, as of themselves, does encourage change in the nature of Communism, and it is unwise for the United States to engage in direct interference in domestic affairs of other countries, of the sort that could make the Eurocommunist parties symbols of national independence. Lastly, Eurocommunism is a highly differentiated phenomenon. All * * * really is a catchword for West European Communist parties. Some of these parties are still highly Stalinist, such as the Portuguese. Some of them have begun de-Stalinization, but they've only begun it, like the French. Some of them are relatively de-Stalinized, but are still highly Lennist, like the Italian. Some are de-Stalinized and probably are de-Leninized, such as perhaps the Spanish. It's useful to bear these distinctions in mind because I think they enable us to make more discriminating judgments in regard to specific West European Communist parties.

JP: A question on South Africa. George Ball in the recent issue of *Atlantic* has written quite a strong attack on present American policy in Southern Africa. Ball argued that the United States may provoke upheaval at a faster rate than it will develop if South Africa is left alone. And I wonder whether you've got second thoughts about the push you're making?

ZB: I would say that what is at stake here is of really major importance, both in international and human terms. What is at stake is how to avoid a trans-continental war, which will simultaneously be a black versus white and a red versus white war. In other words, a war which will merge the racial conflict into an ideological conflict. What is at stake here is the livelihood of some millions of people, black and white. What is at stake here, in short, is how to avoid historical tragedy. There's no doubt that there are compelling reasons why the South African society has to undergo a progressive process of transformation. Its values, its social arrangements are out of keeping with the spirit and moral imperatives of our time. At the same time, what is involved here is a deep legacy of history. Three hundred years of white society, some of whom fought for their own independence, only 70-some odd years ago. They are deeply engrained national feelings, reinforced by history and by the Bible. These are not circumstances which are amenable to easy change. These are circumstances which have to be dealt with compassion and with a sense of historical perspective. What we're trying to do is to encourage a process of change which will outpace what otherwise looks like a rather apocalyptical alternative. We're not putting pressure on South African society to commit suicide. We're trying to get the South Africans to rethink the historical destiny of their own country, so that through change that society can survive and make possible the cohabitation of the white and black communities.

JP: What seemed to have really upset George Ball, and we knew it upset the South Africans, is what Vice-President Mondale said at his press conference in Vienna, after meeting with Vorster. He said that he really did believe in pursuit, fairly fast, to one-man, one-vote.

ZB: I'm sorry that upset George, for whom not only have I the highest regard, but whom I consider a friend. However, the fact of the matter is that the notion of one-man, one-vote is rooted in some very basic assumptions of what man is about. Namely, that irrespective of man's formal training, irrespective of social status, and certainly irrespective of his colour, that man fundamentally is a spiritual being, quite similar, quite equal, and entitled to certain fundamental rights. One-man one-vote is simply the political expression of that fundamentally important philosophical attitude, which is at the very root of what this society is all about. And which is at the root of what the world hopefully is becoming. I don't think that's an inflammatory statement. That's a definition of an end objective. Moving toward that end objective will take time. Our point is that that movement has to accelerate, if it is to outpace the twin horsemen of apocalypse, namely racial war and ideological war.

JP: And you take issue with Ball in believing that cumulative economic, social and political pressures are more likely to enable you to make a contribution which will help produce a less violent situation, rather than as he says, have the effect of fuelling the pace of violent intervention?

ZB: I have an acute awareness of the limit of my own information and good judgment. And I don't say this in any snide or imperially intellectual or arrogant sense. But my reading of South African developments is that over the past several decades they have moved, in terms of apartheid, not in the right direction. To be sure there have been some marginal improvements lately. The question is, can that society adapt rapidly enough? To circumstances, which are really quite different, from those which apartheid seems to be based on.

JP: One of the great surprises of your writing on the Soviet Union, is that you seem to think that Stalinism saved the world from an even more dangerous Russia than it was under his regime.

ZB: I wouldn't use the words save mankind or save the world, whichever words you use. I don't think it's an issue of salvation. The point I was making is sufficiently provocative, paradoxical, without it being exaggerated. It is simply this: Russia is a great society. It is a great country. It is a country with a really impressive imperial tradition. Like all countries it is likely to go through an intensifying and then declining imperial cycle. I'd argue the United States, for example, entered into an imperial cycle early in the century and then peaked, and American national consciousness is now focused more on organizing the well-being of the world than on promoting—in a simple-minded fashion—American political or economic imperial ambitions. My argument is that Stalinism has sapped the creative intellectual vitality of the Russian people. Stalinism was particularly destructive. It would be hard for me, for anyone, to argue that killing millions of your best people, incarcerating millions more, shooting your entire general staff, executing many of your intellectuals, decimating your political elite, is a particularly constructive undertaking. To boot, the processes of industrialization which were undertaken under Stalin, at tremendous physical sacrifice, were not more impressive than those achieved in other societies with similar results, but at much lower social cost. I consider Stalinism not only to have been an historical crime, but a tremendous historical mistake.

JP: So paradoxically, since Russia will always be an imperial power that would threaten American and western interests, one has a perverse interest in the maintenance of that grey regime?

ZB: No, I don't think it follows. Because only if one assumed that imperial regimes always remain imperial, then that logic would follow. But my point is there are cycles in it. Just as the United States has gone through an imperialist cycle, and one could cite relations between the United States and some other countries to the South or in the Far East which were truly imperialistic, I think in some respects almost colonialist, and then waned. So it is my hope that the Soviet Union or the Russians will increasingly move into the world in a more cooperative, less imperially assertive fashion and begin participating in what is gradually, truly emerging: namely, a global community. And I believe that this kind of a process is more likely to manifest itself in the context of political, intellectual pluralism or diversity.

JP: I suppose this is the purpose in part of your human rights strategy, yet many people are asking: can you produce democracy in the Soviet Union? Are the democrats there? Solzhenitzyn comes out of the Soviet Union and says his ideal regime was Franco's Spain.

ZB: I don't want to let that quote about Solzhenitzyn pass; I'm not sure he would have said that. It seems to me that the emergence of more democratic values is something which is inherent in the human condition. I'd argue that lip service that is paid to democracy, the various democratic constitutions that have been adopted in many countries, even if not applied in practice, in itself is an acknowledgement of the compelling power of mankind's demand for human rights. In the final analysis, hypocrisy is a blow to virtue.

JP: The Soviet Union perceives that the human rights strategy is a direct threat, direct interference. Indeed, a senior Soviet diplomat argued, the other day, that if you start publicly banging away at the old leaders and in a sense solidifying their cause behind them.

ZB: First of all, I don't think that anybody has been banging away at any old leaders.

JP: Well they see it as a direct threat, interpret it. . . .

ZB: It's like saying some old ladies are having dreams about me. I can't help their dreams. I can't help what a Soviet diplomat whispers to you. All I can comment on is what we have and have not been doing, and we have not been banging away at old leaders, to quote you or him. The point is, however, that if people are concerned about the power of the human rights idea, they're thereby acknowledging that this idea is compelling. And they are acknowledging it not because anybody is raising it from the outside or reinforcing it with threats, because it hasn't happend, but they're acknowledging the fact that it is compelling because obviously it has some internal resonance. That I find a good sign for humanity. Indeed, I believe that the historical inevitability of our times is not some Utopian revolution but it is the increasing self-assertiveness of men on behalf of his own human rights. This is the inevitability of our times, and I think it is a good thing for the United States to be associated with that.

JP: Kissinger has argued that nuclear superiority is meaningless in an age of overkill. Many people consider him wrong, but I wonder where you stand on that issue?

ZB: I don't consider nuclear superiority to be politically meaningless. I can fully acknowledge the fact that at a certain point strategic weaponry ceases to exercise military significance in terms of marginal differences and consequences, if used. However, the *perception* by others or by one self of someone else having quote unquote strategic superiority *can* influence political behaviour. It can induce some countries to act in a fashion that sometimes has been described in "Finlandization". And it can induce self-imposed restraint on the party that feels weaker and last but not least, it can induce the party that feels that it enjoys strategic superiority to act politically in a more assertive fashion.

JP: So you don't think we are in a state of obvious military balance, that these small changes that are being argued over are in a sense peripheral, that the general essentials of agreement are being lost in a debate that's raging around marginal issues?

ZB: I wouldn't say the debate, if you're talking about strategic arms limitations talks, is raging around peripheral issues. It's raging—although I wouldn't use the word raging—I don't think it's a raging debate—it's a serious discussion around rather central issues. Namely, what kind of systems are the Soviets deploying which are most threatening to use and viewed by us as most destabilizing in the strategic situation, and what kind of systems that we may be deploying now or in the future are similarly perceived by the Soviets. The name of the game is to identify these concerns, to understand each other's concerns and then to try to strike up an arrangement that is responsive to these concerns while at the same time being symmetrical in its numerical expression and in its political perception. The cumulative need to deal with these three areas: responsiveness to concerns, numerical symmetry, and equality in political perception, given the differentiated kinds of systems we have, is such that it's really very difficult to reach a quick agreement. Even with the best of will on both our sides. And I happen to believe that there is the best of will on both sides. I think, in fact I know, that we're negotiating in good faith and very much want to reach an agreement.

JP: What are the stumbling blocks—that no longer can one separate a strategic from a tactical weapon?

ZB: Well, I have already indicated to some extent the stumbling blocks. Namely, that what concerns us is different from what concerns them. Therefore, it may be difficult for them to understand the nature of our concerns, and vice versa. Secondly, given the differences in the nature of the systems it is very difficult to reach equations which seem numerically equal. And it is all the more difficult to make an arrangement that is politically perceived to be equal. We have very accurate but much smaller warheads. They have big missiles. We have planes with air-launched cruise missiles. They don't. These are all differences which really are very, very complex indeed.

JP: The total elimination of nuclear weapons was a constant Carter theme throughout his campaign and early days in office, but there's obviously a long way to go. But that kind of ambition—does it actually have a practical bite today?

ZB: I would say that it is the kind of morally imperative goal which has to be set in order to accelerate the process of change towards a desirable objective. Browning, I think, once put it rather well: "A man's goal should exceed his grasp or what's heaven for?" One doesn't expect to reach heaven with one's grasp, but one's pointing towards it. One begins to move in the right direction. I don't think anybody expects that we'll quickly achieve a world totally free of nuclear weapons but if we begin to think about that goal as something which would be desirable to reach, then we begin to make progress, not only on strategic arms limitation talks but also on containing nuclear proliferation. And thereby set in motion processes of change which over time could really become significant.

JP: But have you initiated any studies on what a non-nuclear world would look like, or how to achieve a non-nuclear world?

ZB: We are doing not so much studies but are trying in effect to move in that direction, and we're doing so on two fronts. One, we're trying to make strategic arms limitation talks into strategic arms reduction talks.

And that's a step in the right direction. And secondly, we are setting in motion the international fuel evaluation cycle studies designed to establish more convincingly that it is possible to have nuclear power for peaceful use without the weapon spin-offs which heretofore seemed to be associated with the development of nuclear energy.

JP: Stalin once said: The nuclear weapon is something with which you frighten people with weak nerves." Isn't the best bargaining weapon against another power with nuclear weapons not to have one's own, but to show that one would never give in to the blackmail. To say to the blackmailer, yes, you can have us but only as rubble. And that if you follow that line of reasoning through, then one becomes less anxious about one's own quantity or even quality of nuclear weapons stockpile.

ZB: No, I don't find that argument particularly convincing. And I don't think Stalin believed it because when he was saying it, he was surreptitiously but very energetically developing nuclear weapons.

JP: Do you honestly think, in the final analysis as a human being, a Christian, a father, you could actually recommend to the President to push the button and kill millions of people?

ZB: I don't know whether I would. Certainly I think I would and I certainly think I would without too much hesitation if I thought that someone else was launching a nuclear attack on me. And I would do so because if I didn't have the conviction that I have the determination and the will to do it I think I would enhance the probability of war by eliminating the deterrent effect on the party which would have the capacity to launch a nuclear attack.

JP: Even though that that might make the chance of the regeneration of human society that much more difficult, even impossible?

ZB: Well, first of all, that really is baloney. And I do emphasize the importance of the deterrent effect, namely that no one should ever calculate that they can launch a nuclear attack on someone without suffering the consequences. That's essentially important. As far as human society and all that is concerned, it sounds great in a rally. The fact of the matter is and I don't want this to be understood as justifying the use of nuclear weapons, because we don't want to use them and we're not going to use them first in an attack, the fact of the matter is that if we used all our nuclear weapons and the Russians used all of their nuclear weapons, about 10 per cent of humanity would be killed. Now this is a disaster beyond the range of human comprehension. It's a disaster which is not morally justifiable in whatever fashion. But descriptively and analytically, it's not the end of humanity. It's not the destruction of humanity. People like to use slogans and therefore one of the most frequently used slogans in the United States and the Soviet Union have in their power to destroy humanity.

JP: Well, Kissinger himself used to say that.

ZB: It just happens not to be true. It's a good thing to say however because it enhances one's reluctance and repugnance for the use of nuclear weapons. And I am all in favour of that. But I am not in favour of giving one party the capacity to say to somebody else: if you don't do this we'll destroy you. Because I don't think in that context the world would long be stable.

JP: I just think it must be a kind of peculiar courage, a peculiar psyche, that convinces oneself you could actually do it.

ZB: Do you have children?

JP: I have two little girls, yeah.

ZB: If somebody killed one of those girls, would you be able to kill that person?

JP: Oh, I think so, but the scale and proportions are totally different.

ZB: Not at all. The reaction is exactly the same thing. Namely if you see something which is totally unwarranted, morally repugnant, completely unjustifiable, and would react in a strong way. You'd protect these children. When you reach public office in which you're responsible for the security of your country, you have to be able to make it very clear to anyone who threatens the survival of that country that this is not an act which one can undertake with impunity.

JP: You don't find it emotionally difficult to make that jump?

ZB: Not at all. Not in the least. If I did I would feel I shouldn't be here.

BRUCE T. MERRIMAN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. KILDEE. Mr. Speaker, I was saddened to learn last week of the passing away of a good friend of mine, Bruce T. Merriman, whose delightful personal style and leadership had been a major factor for many years in community affairs in Flint, Mich., and the surrounding Genesee County area.

Since 1976, Mr. Merriman had been chairman of the Genesee County Economic Development Commission, and he had served on its board since 1971. In 1975, he was chairman of the Genesee County Community Action Agency, and he was a member of the 1974 charter re-

vision commission which drafted a new charter for the city of Flint. He also was a former chairman of the Genesee County Democratic Party. In addition to his many official duties, his sense of civic responsibility often led him to strong and effective involvement in other worthy causes and projects. It was largely due to his individual determination, for example, that the city of Flint recently received a Federal grant of $600,000 to build the bikepaths that follow the Flint River.

Perhaps the best tribute was given after he passed away by a man who had often worked with Mr. Merriman on key projects. Speaking of Mr. Merriman, it was said: "He knew all the people and was a tremendous worker. He did a lot for this county. More than a lot of people realize."

AN ALTERNATIVE APPROACH TO UNEMPLOYMENT

HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. ROSE. Mr. Speaker, Dr. James W. Hathaway of Appalachian State University in Boone, N.C., has sent me a copy of an article he published in the February issue of Northwest Insurance Journal entitled "Our National Policy Against Employment," and I would like to insert it into the RECORD so that my colleagues can read it.

Dr. Hathaway argues, Mr. Speaker, that we need to take a serious look at our tax policies if we are to solve the unemployment situation in our country. He points out that "a system that can produce more goods than are needed and less employment than is needed is a curse to mankind," and he suggests some alternative economic approaches to the current dilemma.

Mr. Speaker, Dr. Hathaway's ideas are worth considering as we think about the future of our Nation's economy. The full text of his article follows:

OUR NATIONAL POLICY AGAINST EMPLOYMENT

(By James W. Hathaway)

When Patrick Moynihan in a recent interview unhesitatingly labeled unemployment as the major threat to the survival of capitalism, he was undoubtedly accompanied by a million inaudible amens throughout the United States and the western world. Unemployment statistics, so cynically underreported by the B.L.S., do not reflect the frustration, misery, anger, and hopelessness of the millions of individuals afflicted by this societal disease. These are human beings we are talking about. They have aspirations, a need to feel valuable, a right to join this society as working partners. Our business system, aided and abetted by inept government policies, denies them this right. In the "pursuit of happiness" they are left at the starting block.

While cries of concern are voiced by many in positions of authority, accompanied by various stop-gap solutions, the fact is that the intrinsic cause of unemployment in our economy has never been thoroughly examined. If it were, the explanation would stand out in stark simplicity. The reason we have chronic unemployment in this marvelously productive economy is that employment is neither the objective of business management nor of government policy. The primary goal is and has been production. In pursuing that goal we assume that employment will result as a by-product. Actually this does not necessarily follow. In the search for profits the business owner wants to increase production and his profit margins. Frequently, the best way to do this is to substitute capital for labor. In addition, most of our government policies toward business encouragement rely upon promoting growth through rewards for increased investment. These policies, rather than emphasizing the need for employment, actually discourage it.

Our continued emphasis on production is the result of many hundred years of human endeavor during which the basic problem was to provide enough food, clothing, and shelter for everybody. During this period, the possibility that the time might come when we had enough production without the necessity of everyone working was not considered. That possibility has now become a reality. In face of this reality we now have a choice: is it actually additional production that we want or do we really want adequate production with an employment opportunity for everybody?

NEED TO FEEL WORTHWHILE

It seems doubtful that very many members of society would be happy with a system which provided for all their material wants with no opportunity for work. Psychologists have theorized that people need a feeling of worthwhileness which most of us attain through our work. Frederik Pohl has written a short-story of a future society where people at the lowest status level are required to consume great quantities of products and are not allowed to work at all. Members of this society, when promoted to higher status levels, are allowed to consume less and work more. At the highest status level they need consume only what they want and are allowed to work as much as they like. There is probably much truth in this fiction in terms of the values of today's society. These values are reflected in the Full Employment Act which Congress thought was a desirable national goal. We also, of course, have many promoting the idea of public job programs to take up the slack in employment. The conclusions one would probably have to reach, on the basis of this and other substantial evidence, is that people value meaningful work as much as they do a reasonable standard of living, particularly if the latter seems to be readily available. Recognizing this truth, we should now create a private business economy that emphasizes employment at least as much as it does production.

A decision that full employment should be a primary goal brings two immediate questions to mind. The first is, can the system as currently constituted provide full employment? Historically it has not been able to do so. Furthermore, with the current rewards provided for capital investment, and with national policy devoted almost entirely to economic growth, it is not likely that it will do so. A review of economic growth both here and abroad and the accompanying employment statistics, will provide that the former provides no guarantee of jobs for a rising population. Moreover none of the changes that have been instituted recently in the laws affecting business can be evaluated as encouraging employment at the expense of capital growth.

There are two developments in the world economic sector that may make our capital intensive system even less likely to provide full employment than it has in the past. By nature a highly capitalized business system is much less flexible and capable of adjustment during a period of rapid change. There seems little doubt that we are in such a period and will be for some time. Abrupt changes in values, in discretionary income, and in government spending priorities, all create massive shifts in effective demand. Specialized capital equipment cannot move quickly to meet these changes in demand and additional unemployment results. There is also the threatened scarcity of materials which wreaks havoc with a system dependent on high production levels. Scarcity of resources interferes with the ability to produce and the resulting price rise changes the effective demand. During the recent oil shortage we saw the demand for high-powered automobiles dry up and the capacity for fertilizer prove inadequate. Considering carefully the past, the present, and the probable future, one would have to conclude that it is extremely unlikely that complete employment opportunity can be made available with any regularity by the business system as we have designed it.

The second question one would ask would be, what would happen if employment were given equal weight as an objective with our current objective of production? Obviously the productivity per employee would drop because we would not be able to provide each employee with the same tools we have in the past. What would happen to total production in view of greater employment cannot be predicted but it might very well be within the range of current production. While the income per employee would drop in relation to his production, his disposable income might remain stable or increase because he would be relieved of the necessity for supporting large numbers of unemployed people. As will be detailed later, it would also no longer be necessary to support the millions of government employees now employed in the process of transferring wealth from the productive to the non-productive sector.

PRODUCTION VS. EMPLOYMENT

If we were to change our emphasis on production versus employment, although the change need not be made abruptly, it would still greatly change the values and policies now dominant in the system. What would the rewards be for effecting such a change? Certainly one would be the restoration of dignity to the millions who are without work and the creation for them of a more meaningful life. The value of this cannot be measured. The transformation of one household from the despair of unemployment to the rewards of a productive job is a goal in itself. We could do it for millions of households! Many of the poor, the minorities, the aged would, through employment, be restored to a productive role in society. No rise in the G.N.P., however dramatic, can excuse the broken lives and the human despair that our careless disregard of employment has created.

There is also the distinct possibility that chronic unemployment would ultimately destroy both our business system and our democratic state. The scenario for this could take various forms, but each would involve curtailment of freedom and the loss of individual opportunity. Another value flowing from full employment could be a substantial reduction in the government bureaucracy about which there is so much concern. Much of that bureaucracy is involved in redistributing income required by the system's failure to provide employment opportunity.

If we were to decide that employment should rank high as an objective of economic policy, the tools to accomplish that change are readily available. Currently the cards are all stacked toward the encouragement of capital investment. Among the things that we provide to encourage capital are investment credit, depreciation allowances, government loans and cheap credit,

treatment of interest as an expense, and favorable capital gains tax treatment. On the other hand, we provide substantial penalties against employment. Among the handicaps the employer faces regarding his employees are social security taxes, unemployment compensation taxes, workman's compensation expense, the problems of meeting the Fair Labor Standards Act, OSHA and the EEOC, and the expense involved in federal and state withholding requirements.

The cumulative effect of all these policies has been to greatly encourage the use of capital and greatly discourage the use of labor. Thus we could without the passage of new laws or setting up new agencies merely one by one abolish items of preferential treatment for capital and remove taxes that discourage employment until we provide the amount of employment encouragement that is needed. In removing taxes on employment, worthwhile programs which they fund should be continued. The tax structure should merely be rearranged so that the funding comes from other sources. Taxes on the use of resources or on consumption might be in order. This would appear to be a much easier and more logical way of attacking the unemployment problem than any of the others now being considered.

What we want to accomplish is obvious. We want to discourage the replacement of labor with capital, a process which has been profitable for a long time. Businessmen will choose whatever mix of the two factors that results in the best profit. By making it more expensive to use capital and less expensive to use labor, employment will gradually increase. The optimum situation for society will be reached when full employment results. At that point the incentives to use either capital or labor can be stabilized and changed again only when technological advances disrupt the balance.

There would be other advantages accruing from the resulting slowdown in capital growth. There would be less demand for scarce resources. Most of the analyses of the future indicate that the availability of resources will provide us with many problems. There would be much greater flexibility in shifting production from product to product and from industry to industry. It appears that the rapid changes now going on will require the business system to quickly respond to major shifts in demand. The more highly capitalized a business system becomes the less capable it is of adjusting to these probable future events.

FUTURE EMPLOYMENT NEEDS

The attainment of almost completely full employment would make possible the release of millions of government employees who are currently employed in the process of transferring income from one group to another. In terms of the total production of the nation, this group now provides a function of small utility and given full employment there would be need for only a small fraction of them. Two alternative areas of employment could be considered. They could be transferred to the private sector in order to increase the total production of goods and services. Or, if society so desired, they could be placed in other aspects of government where we already have substantial needs. These would include improvements of secondary roads, pollution control, mass transportation, and so forth.

The foregoing approach to a policy of full employment seems so simple and has so many desirable side effects that it is hard to understand why it has not been tried. Although part of the answer lies in our desire to make work easier, the primary reason is our obsession with increased production. The purpose of any system created by people is the satisfaction of human wants. A system that can produce more goods than are needed and less employment than is needed is a curse to mankind, not a benefit. The time has come when we should purposefully abandon production as our only goal and redirect the business system so that it also provides the opportunity for employment to all who seek it. This would be the development of a business system to function as if people really mattered.

ONCE MORE, UNEMPLOYMENT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. RANGEL. Mr. Speaker, one of the chief objectives of the new President was to begin to take action that would abate the rise in unemployment. Although President Carter has supported public works legislation which helped to create temporary jobs, he has not been vigorous in his support of legislation designed to relieve the permanent ravages of unemployment, Congress, too, has been remiss in not acting more swiftly on the Humphrey-Hawkins bill.

I believe my colleagues have an obligation to positively legislate in this area in order to eradicate this problem. Bayard Rustin, president of the A. Philip Randolph Institute, has written an informative and insightful essay on this timely issue which is so important to us all. His comments follow:

[From The Los Angeles Times, Sept. 25, 1977]

BLACKS CONFRONT UNEMPLOYMENT

(By Bayard Rustin)

As the August unemployment statistics reveal, the black employment situation is bad and getting worse.

While unemployment, as officially measured, increased to more than 7%, that increase consisted almost entirely of black workers. Black joblessness jumped to 14.5%, matching the post-World War II high of September, 1975. Black unemployment is currently running considerably higher than its historic ratio of twice that of white unemployment.

It is not the statistics by themselves which are important. They assume a political importance because the Carter Administration is under intense political pressure from the black community. More important, the black leadership is united in the belief that it is the economy more than any other factor which is frustrating the black struggle for equality.

The official government unemployment statistics do not accurately measure the true extent of joblessness for white or black workers. Those statistics simply ignore both those workers who have become so discouraged that they have given up searching for work and part-time workers who need and want full-time jobs but are unable to find them. Blacks are particularly likely to be among the hidden unemployed. Almost 30% of the discouraged workers are black, as are about one-fifth of the part-time workers who want full-time jobs. If discouraged workers and half of the involuntary part-time workers are counted as unemployed, the real rate of unemployment is close to 10% and well above 20% for black workers.

To make matters worse, unemployment is a greater hardship for black workers. Not only do black workers usually receive lower unemployment benefits because of their lower incomes, but they are also more likely to work in industries, such as domestic work, agriculture and government, that are not covered by unemployment compensation.

The most important immediate cause of high black unemployment is the stagnant, recession-prone and low growth economy of recent years. Tight labor markets are an essential requirement in lessening racial discrimination and black economic inequality. Eight years of vigorous economic growth, antidiscrimination efforts and innovative social legislation during the Kennedy-Johnson administrations reduced black unemployment from a level of above 12% at the beginning of the decade to a fraction above 6% by 1969. The planned unemployment of the Nixon and Ford administrations not only proved ineffective in reducing inflation, it returned black joblessness to double-digit levels.

Black workers have not recovered from the 1974 recession which created proportionately more unemployment among them than among whites. Black men, who make up less than 6% of the work force, accounted for more than 10% of the increase in unemployment between 1973 and 1975. The inadequate and uncertain recovery from the depths of the recession has done little to reduce black joblessness. In the summer of 1976, there were 20% fewer white adults unemployed than a year earlier, but only 5% fewer black adults were unemployed.

Unemployment cuts across every category in the black community. In every occupation, black unemployment is considerably greater than that of whites, although both the unemployment gap and the absolute level of unemployment are lower for the black occupational elite For black men, 20 years old and over, the unemployment rate is 11.7%, while the rate for black women is 12.2%. There were more than 1 million unemployed black adults slightly more than a year ago, a figure more than 50% higher than the number of jobless black adults in 1974.

Between 1974 and 1976, the number of unemployed married black men jumped by more than 75,000 to 225,000, raising the unemployment level from 4.3% to 6.5%. As bad as unemployment is among black men, it is even worse among black women. In 1976, 13% of black women household heads were unemployed.

The most visible and most tragically affected of the black unemployed are black teen-agers. According to the unemployment figures released in early September, over 40% of black teen-agers are unemployed. This figure, however, embraces only those who are in the labor force. As unemployment among teenagers frequently takes the form of low levels of participation in the labor market, the real level of black teen-age unemployment could easily be higher than 60%. Thousands of black youth are growing up without that job experience vital for successful careers as adults. While there is a growing recognition of the problem of teen-age unemployment, there is less appreciation that employment problems during the teen-age years carry over into later years. Unemployment among young, black adults is nearly as severe as that of black teen-agers.

The proposal for a subminimum wage for teen-agers would only lead to further demoralization and the reinforcement of antiwork attitudes. If we are serious about attacking the problem of black youth unemployment, decent jobs with a future should be our goal. This insight compelled the Congressional Black Caucus to oppose the youth subminimum wage. The subminimum wage concept, as well as opposition to a decent minimum wage, is advanced primarily by people who have an economic interest in maintaining a pool of low-wage workers.

Even after adjusting for differences in social background and education, there continues to be a wide income gap between black

and white Americans. Overt discrimination, where employers refuse to hire blacks, has lessened, but pervasive forms of institutionalized discrimination remain.

Because it is deeply rooted, the economic inequality of black Americans cannot be easily erased by gimmicks or instant remedies. Although this does not mean we are powerless to reduce discrimination, it does mean that there must be a long and sustained drive to root out economic and social inequities.

At a minimum, the Carter Administration needs to take new initiatives to meet its economic goals. But this will do little more than avert a more disastrous situation. The President should reevaluate his extremely modest goals for the economy and adopt a more farsighted and bolder approach. Several steps would be particularly encouraging. First, the Administration should fight for an acceptable version of the Humphrey-Hawkins Full Employment bill. We need, in other words, a genuine national commitment to full employment. Second, the Administration should abandon its illusory notion that the way to stimulate the economy is to revive business confidence by making a balanced budget the overwhelming economy objective.

General economic and social policies are needed to create a favorable environment to reduce the economic inequality of black Americans, but specific, targeted programs are needed to resolve those problems which particularly affect the black community. Such programs as the Recruitment and Training Program and the Urban League's LEAP have achieved an impressive record for placing black youth in nontraditional occupations, primarily in the building trades, even during a period of high unemployment. But these and similar programs will serve *only* as Band-Aids so long as the economy is functioning well below the level at which it should be operating.

PROTECTION AGAINST AGE DISCRIMINATION

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. PANETTA. Mr. Speaker. I would like to take this opportunity to state my views on the Senate version of the Age Discrimination in Employment Amendments of 1977. As passed by the Senate on October 18, H.R. 5383 would merely raise the mandatory retirement age from 65 to 70 years of age. Unlike the House version, the Senate bill does not include the provision requiring a ban on mandatory retirement for Federal workers. It is my feeling that the omission of this essential provision defeats the whole purpose of the antimandatory retirement bill.

As things stand now the House bill is only an interim step toward the abolition of all age-based discrimination. The choice of age 70 for non-Federal workers was a compromise to meet the concerns of the business and labor communities. However, we must not lose sight of the fact that this interim step is vital. Ending age discrimination for Federal employees will serve as an important experiment and example for workers in other areas. Without this experiment, it is conceivable that no significant step will be taken to end age discrimination in employment. To simply raise the mandatory age of retirement, without going one step farther, at least for Federal employees, ignores the rights of 2.7 million senior citizens.

Age discrimination is not unlike other types of discrimination. It is a matter of basic civil rights that individuals be permitted to make their own choice about whether or not to continue working in their later years. Contrary to the beliefs of some, banning mandatory retirement does not bar or discourage voluntary retirement. And it in no way interferes with an individual's eligibility to receive social security benefits. Banning mandatory retirement simply gives individuals the right to choose for themselves when they will retire.

Mr. Speaker, the overwhelming passage of the House bill by a vote of 359 to 4 clearly indicates the tremendous need for this important piece of legislation. In addition, 18 leading national senior citizens organizations have endorsed H.R. 5383. It is important, therefore, that the conferees uphold this commitment to take a significant step toward eliminating all age discrimination in employment by continuing to support the House provision to ban mandatory retirement for Federal workers when the bill goes to conference this week.

THE CONSUMER PROTECTION SOMETHING

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. MICHEL. Mr. Speaker, a recent editorial in the Washington Star points out that supporters of a consumer protection agency are now "trying a new tactic."

Ralph Nader, a leading advocate of such an agency, threatened Congressmen with political destruction if they did not support a consumer protection agency. That did not work. So now those who would impose such an agency on the people have "watered down" their demands, placing restrictions on the agency's powers.

But as the Star correctly states, "a thorn by any other name is still a thorn." The idea of a consumer protection agency under any name is one whose time has passed, if, indeed, it ever arrived.

At this time I would like to insert into the RECORD, "That what-d'ya-call-it bill," Washington Star, October 21, 1977:

[From the Washington Star, Oct. 21, 1977]

THAT WHAT D'YA-CALL-IT BILL

Rebuffed when they tried to cram the legislation down congressional throats—Ralph Nader even resorted to threats to get at least one House member at the polls—supporters of a consumer protection agency are trying a new tactic.

White House consumer advocate Esther Peterson and a coalition of Naderesque consumer lobbies announced the other day that they would accept some watering down of the bill to get it through Congress this year.

They would eliminate a provision that would require businesses and industries to answer questionnaires propounded by the proposed agency. They would place some restrictions on the agency's right to appeal decisions of other government agencies on matters affecting consumers. They would write into the legislation a provision mandating the White House promise to abolish 26 other federal consumer agencies as soon as the new agency went into operation. They would eliminate a proposal to establish regional offices.

That might swing some votes to the bill, but it doesn't go to the basic question: Is this new agency really necessary?

We gather from a news account in The Star that one reason supporters are anxious to get the bill through Congress this year is that President Carter, who warmly endorsed the measure, needs a legislative victory. If the White House is pushing it for that reason, perhaps it ought to rethink its course. Foisting a costly new agency off on the taxpayers is not likely to win friends, even if it is done in the name of consumerism.

The changes that Mrs. Peterson, Mr. Nader & Co. are willing to make are designed, we suspect, to get the consumer protection agency's foot in the bureaucratic door. Once in operation, it probably would just grow and grow, in size and authority and budget, as most other government agencies have.

Supporters once more are willing to change the name. First it was to be the Consumer Protection Agency; then they called it Agency for Consumer Protection; now they would call it the Office of Consumer Representation.

Members of Congress ought not be thrown off by either the changes proposed in the legislation or by the change of name. A thorn by any other name is still a thorn.

PRIVATE FIREFIGHTERS ARE BETTER AND CHEAPER THAN GOVERNMENT

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. SYMMS. Mr. Speaker, the May 1976 issue of Reason magazine contained an article by magazine editor Robert Poole describing the work of a private firefighting firm in Scottsdale, Ariz. The article was reprinted in the October 1977 issue of Conservative Digest.

Many lose sight from time to time that private enterprise can take care of just about any service or function for which there is a demand. Mr. Poole makes the point that the private fire department in Scottsdale charges one-quarter of what the public—government—fire department cost. The article follows:

PRIVATE FIRE FIGHTERS ARE BETTER AND CHEAPER THAN GOVERNMENT

(By Robert Poole, Jr.)

If your town wants to cut its firefighting budget by 75 percent—and help free enterprise at the same time—it should consider using a private firefighting company. Scottsdale, Ariz., does—and with amazing results.

This Phoenix suburb, with a population of 100,000, has used the private Rural/Metro Company to fight its fires for the last 25 years and currently pays only about $7.00 per resident for its fire protection, about one-quarter of the national average for cities of the same size.

Rural/Metro's secret is cutting labor costs, which eat up 90 percent of the budget of an average U.S. city's fire department. By relying heavily on Auxiliaries—city employees who are trained to fight fires and are on call one week out of every four—the company holds its full-time work force to 51, compared with an average of 118 in similarly-sized cities around the nation.

Auxiliaries, who range from janitors to engineers, pass the same stringent selection procedures as regular firefighters and undergo a rigorous training program, and Scottsdale Fire Chief Lou Witzman estimates an Auxiliary can perform three-quarters of the tasks a full-time firefighter can. Auxiliaries are paid a $50 monthly retainer plus $6.40 per hour on duty (with no fringe or retirement benefits). Proud of their fire department and eager to earn extra money, Scottsdalians are lined up waiting for a chance to serve in the Auxiliaries.

Rural/Metro also cuts labor costs with innovative equipment (the National Commission on Productivity has cited the city for eight significant innovations in firefighting). "Attack trucks"—smaller, more maneuverable and cheaper to operate than regular pumpers—handle minor incidents (75 percent of all cases) by themselves, and are "scout planes" in major fires, rushing officers to the scene so they can plan in advance proper deployment of the main force of equipment.

Another innovation is the Snail—a remote-controlled "robot fireman" which can drag a hose into areas too hot or dangerous for firefighters. The Snail, which cost only $3,000 to build, is controlled by one man but does the work of four.

And the "Engine 21" carries an extra pump that can be either hooked to a spare hydrant or added to the truck's on-board pump to produce a water flow of 2,200 gallons per minute, over twice that standard pumpers can deliver. This truck was built by Rural/Metro for only $25,000 (most firetrucks cost $40,000).

Rural/Metro has been effective as well as cheap. Over the past 12 years, the per capita fire loss in Scottsdale has averaged $4.44 per year, compared to a national average of $12.00. That's what can happen when you hand a "public" service over to private enterprise.

THE BOUNDARY WATERS CANOE AREA CONTROVERSY

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. FRASER. Mr. Speaker, on October 21, the Christian Science Monitor carried an article about the controversy surrounding the Boundary Waters Canoe Area in northern Minnesota. Entitled "Minnesota Canoe Area Spawns Ecology Debate," the article highlights the sensitivity and complexity of the issues Congress will have to address in deciding the future of this unique area. I commend the article to my colleagues' attention:

MINNESOTA CANOE AREA SPAWNS ECOLOGY DEBATE

(By Austin C. Wehrwein)

MINNEAPOLIS.—Once again the future of the Boundary Waters Canoe Area (BWCA) in northern Minnesota is at stake. The issue—wilderness preservation vs. "managed use"—is not unique, but the site of the controversy is.

The largest wilderness area east of the Rocky Mountains and the only lakeland canoe wilderness, BWCA's million acres contains 1,076 clear lakes and 1,200 miles of canoe routes, as challenging now as they were when the French explorers found them in 1654.

Stretching for more than 100 miles along the Minnesota-Canadian border where it melds with Quetico Provincial Park of Ontario, the BWCA is, according to a U.S. Forest Service spokesman, "pristine, endangered, rugged, primitive, beautiful, and fragile."

It is an enclave of virgin pine, some three centuries old, and the home of the almost-extinct eastern timber wolf, beaver, moose, black bears, lynx, and bald eagles.

WHY THE FUSS?

Why, then, the controversy that has fueled law suits, hearings, bitter public meetings, and politicking since Congress made BWCA part of the National Wilderness Preservation System in 1964?

The root of the problem is that the Forest Service's mandated mission is somewhat ambiguous: to preserve the area's "primeval character," while allowing logging and motorboating.

The issue now is framed in two bills introduced by Minnesota congressmen. Rep. Don Fraser (D) of Minneapolis, a "strict wilderness" advocate, wants to ban mining, logging, motorized boats, and snowmobiles throughout the BWCA. Rep. James Oberstar (D), whose northeastern Minnesota district includes the BWCS and who advocates "balanced use," would allow logging, limited horsepower boats, and snowmobiles—but not mining—in about one-third of the area.

COMPROMISE POSSIBLE

While a compromise may be in the wind, it's expected to be weighted on the "strict" side since the Carter administration's position generally matches that of Mr. Fraser, who has considerable support on Capitol Hill. But even a restricted use of snowmobiles and motorboats would be a gain for the "strict" side because motorboats are now allowed on 60 percent of the waters, and snowmobiles, though under a temporary ban, have in the past been widely used in the area.

Predictably, Mr. Oberstar has charged that a "strong environmental contingent in the White House" gave M. Rupert Cutler, Assistant Agriculture Secretary for Conservation and a former Wilderness Society officer, a free hand.

But William Futrell, president of the Sierra Club, which is anathema in northern Minnesota, has in turn charged that Mr. Oberstar's bill was "a nickel and dime nibbling away" that would open the door to gradual wilderness destruction. The Fraser bill, he said, draws a protective line.

STATE DIVIDED

In Minnesota, even the hard-liners for "balanced use" who contend that not everybody wants to paddle a canoe for trackless miles, concede the area is a national treasure—at least part of it.

A Minneapolis Tribune statewide poll in August found 49 percent favored "wilderness only" and 46 percent supported "multiple use." A breakdown showed 54 percent in Minneapolis and St. Paul in favor of "wilderness only," but 54 percent in northern Minnesota supporting "multiple use."

The poll reflects a traditional split. Many who live near BWCA think that city-dwelling environmentalists want to lock up resources for selfish reasons—even if it means ruin for resort businesses and for economic development that provides jobs. However, there also is a thriving band of pro-preservation "canoe outfitters" who supply the thousands of "purists" who get around the area with muscle power alone.

PLENTY OF ROOM

The "preservationists" contend there is plenty of room outside the BWCA for both lodging and motorized recreation. In their view, this wilderness belongs to the nation, not to a thinly populated, relatively small region. They say that the BWCA represents but one-half of 1 percent of the continental U.S. and that the Oberstar bill would "chop out" one-fifth of all the wilderness left in the eastern U.S.

To soften the impact of his bill, Mr. Fraser has proposed several types of aid, such as compensation for timber companies with area contracts and for resort owners on the area's periphery.

THE BROOKLYN BRIDGE

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. RICHMOND. Mr. Speaker, the Brooklyn Bridge is one of this country's most impressive engineering feats. Built during the Gilded Age, the bridge still stands as America's most versatile and useful historical monument. Along the bridge's stone supports, spans a history of service to the Nation. Though perhaps not as romantic as some of the other bridges around the Nation, the Brooklyn Bridge has become a staunch symbol of commerce and an inseparable part of the Big Apple itself.

I believe the following articles capture the true spirit which characterizes the bridge and its surroundings. The first article by Matthew L. Wald appeared recently in the New York Times. The second is by Ward Morehouse III, and appeared in the Washington Post last week. I would like to share these articles with my colleagues, not just because the bridge stands out in my district's skyline, but because the bridge symbolizes the sturdiness of the past while demonstrating the ability to survive the future.

The articles follow:

STORY OF MANHATTAN UNCOVERED SOUTH OF BROOKLYN BRIDGE

(By Matthew L. Wald)

NEW YORK, N.Y.—Archeologists are producing something new from a very old piece of Manhattan—its autobiography.

Everything forgotten, thrown out, or covered up on a venerable but rundown square block not far south of the Brooklyn Bridge—an area that has been crowded since it was created almost 170 years ago by filling in part of the East River—is providing material for its story.

The block, bounded by Fulton, Front, John and South Streets, was purchased by New York State in 1974 and will eventually house a maritime musem. It is known to the state as the "Schermerhorn Row Block," for Schermerhorn row, the only file of slant-roof warehouses still intact in New York City.

EBBED AND FLOWED

Since 1810, commercial enterprises of nearly every description have ebbed and flowed through the block's 20 buildings, with floors added and walls erected or knocked down to accommodate their growth and shrinkage.

Counting houses, warehouses, drygoods stores, fish markets, sweatshops, houses of prostitution, a tobacco-processing factory, a bank and an insurance company are now providing rich source material for scientific study of a microcosm of New York. One unknown company left behind a "mystery machine" whose purpose still puzzles archeologists.

Engineers have already learned a good deal about Nineteenth Century landfill techniques—for example, the fill used has taught them new things about the diet of early Manhattanites: the many deer and rabbit bones found indicate that game was widely used. And an above-ground archeologist hopes to write the first definitive scholarly study of windows of the last century based on the panes, frames and sash weights of the buildings.

Archeologists and engineers on the site, who have been working for a year and will not finish before 1980, proudly call Schermerhorn row "our block" and speak almost gleefully of the massive dissection they have undertaken.

"DRAMATIC SPACES"

"The fact that it has survived so intact is amazing," said Brian McMahon, the Historic Site Restoration coordinator, who is specializing in windows. During the initial examination of the buildings, hotel rooms and a hotel laundry that were sealed 50 years ago were rediscovered.

"It has some very dramatic spaces," McMahon said.

What impresses archeologists most is what they refer to as the "fabric" of the buildings—the original walls, moldings, nails, door frames, hinges, beams, and other details. They are still largely intact, allowing the archeologists to document the repeated physical changes in the block, which has had varied fortunes.

"This was once the most important block in the city," said Jan Pokorny, the project architect, explaining that before the completion of the Brooklyn Bridge in 1883, the ferry left from the foot of Fulton Street and mail to and from Brooklyn was deposited in a grocery store at the corner.

During its busy mercantile period, the block was headquarters for four of the city's biggest shippers, including A. A. Low, whose company pioneered trade with China and Japan, and Phelps and Peck, later the largest metal company in the country.

BROOKLYN BRIDGE

With the construction of the Brooklyn Bridge, with its Manhattan approach nearly half a mile away, and the advent of deeper-draft ships, which could dock only on the Hudson River, less prominent businesses moved into the buildings, including fish markets, and tobacco and burlap factories.

Now, every quirk of the buildings, to the trained observer, helps tell their long story. Showing a visitor through one of the buildings of the Schermerhorn row—named for Peter Schermerhorn, who had the buildings erected between 1810 and 1812—McMahon said that an odd patch in the ceiling, under which the supports are perpendicular to those in the rest of the building, might represent a blocked-up shaftway.

The visitor peered at an old auto license plate, which bore the legend "1940 New York World's Fair" under its number, nailed to the floor nearly under the altered ceiling.

"That's it!" exulted McMahon, whose attention was drawn to the license plate for the first time. "It was a shaftway, that is a patch over the rope hole."

Nearby, he pointed out another patch in the floor, which would have escaped less careful notice, through which a rope probably once returned, to form a loop connected to a hoist near the building's roof.

THE BROOKLYN BRIDGE IS NOT FOR SALE

(By Ward Morehouse III)

NEW YORK, N.Y.—The rose ribbons of early morning sunlight shoot through the spider web of cables of the Brooklyn Bridge—the dawn of another day when the "great bridge" will be "bought" and "sold" many times.

Yet despite a cornucopia of anecdotes about selling New York's most famous span, city officials aver that not a single suspension cable is for sale.

But the bridge, which opened with great pomp on May 24, 1883, and was "built to last 1,000 years," has indeed undergone some weathering.

The great span has been "subject to stresses it was not designed for," said Robin Burns of the New York City Planning Commission.

One result: rods connected to the vaulting cables are now being replaced.

Traffic on the toll-free "eighth wonder of the world" now numbers some 100,000 vehicles a day—quite a leap from the scattering of sheep, hogs, cattle, horses, wagons, and pedestrians that paid from 2 to 10 cents to cross from Brooklyn to Manhattan before the turn of the century.

And since proposed plans to impose new tolls on the bridge have not been dropped by city fathers, the prospects for stemming the current traffic flow are dim.

Besides the major refurbishing work of replacing the rods, the original color of the great bridge recently was restored.

Instead of bleak "battleship gray," suspension-cable painters colored the cables their original cream and returned the bridge's roadway to chocolate brown.

New York area pollution makes it necessary to paint the bridge every three years.

While it has provided grist for probably more tall tales than any other engineering structure on earth, the Brooklyn Bridge may also have marked the beginning of modern, skyscraper-swept New York. "All modern New York, heroic New York, started with the Brooklyn Bridge," writes respected English critic Kenneth Clark.

This first span to arc over the East River also was to become a symbol of America's "gilded age of manufacturing," the late 1800s.

Brilliantly colored turn-of-the-century "ad cards"—pictured the 277-foot high towers of the bridge displaying signs for "Lydia E. Pinkham's Vegetable Compound" and other now obscure products.

Not lost in the midst of obscurity is the fact the Brooklyn Bridge is "bought and sold many times a day," says Martha Gershun of the city's Planning Commission. Over the years, first-time tourists to New York have been especially good prospective customers.

"I don't know why anyone would want to buy it in the first place," said Werner Schwartz of the city's Department of Transportation. "But since they moved the London Bridge, who knows what could happen. But we don't want to sell it. We want it."

A spokesman for the Chamber of Commerce in Lake Havasu City, Ariz., said that city, where the London Bridge is now the community's biggest tourist drawing card, would not be interested in buying the Brooklyn Bridge too.

Anyway, it would probably take an act of the U.S. Congress to actually sell the structure, for only after Congress authorized construction of the Brooklyn Bridge did work actually begin on Jan. 2, 1870.

Thirteen years later the opening ceremonies marking the completion of the bridge were noted "from the rocky headlands of Maine to the gold shores of the Pacific and from the gleaming waters of the St. Lawrence to the vast expanse of the Mexican Gulf," according to one official account.

THINK "POSITIVE"?

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. COLEMAN. Mr. Speaker, on October 17, 1977, the U.S. News & World Report published an editorial which I believe expresses the opinions of millions of Americans.

According to the results of a congressional questionnaire which I sent to every resident of north Missouri, big Government spending, which leads to inflation and economic crisis, is the most important problem which they face. I share their concern, and would like to take this opportunity to share the following words of Warren T. Brookes of the Boston Herald American, with my colleagues:

THINK "POSITIVE"?

(The following is an eloquent commentary on big government written recently by Warren T. Brookes in the Boston Herald American. With their permission, excerpts are reprinted here.—Marvin Stone, Editor)

During the past few years, it has become fashionable in the media, generally, to refer to any politician who votes against major spending programs as "negative," or "lacking in compassion."

Similarly, politicians who regularly vote for vast government social enterprises are regarded as "positive" or "compassionate" or "liberal" (i.e. "for the people").

What is "positive" about a government that runs annual deficits of over 50 billion dollars—and prints money to finance them?

What is "positive" or "compassionate" about a constant inflation rate of nearly 7 per cent—a rate at which half of our life savings are destroyed every 10 to 12 years?

What is "positive" about a government whose regulations now cost consumers more than 100 billion dollars a year?

What is "positive" about government health programs that have singlehandedly driven the nation's spending on health care from 5 per cent of the GNP to nearly 9 per cent, in just 10 years?

What is "positive" or "liberal" about a Social Security System that is now taking more from the taxpayers than they can ever get back—and is still going bankrupt?

What is "positive" about a public education system that now spends over $1,500 a year per student—and doesn't teach them how to read, write, or do arithmetic?

What is "positive" or "compassionate" about a welfare system that is turning millions of Americans into helpless wards of the state, and encouraging millions of others to choose dependency instead of work?

What is "positive" about a government whose total accumulated long-term debt and obligations are over 5 trillion dollars—more than the total worth of the economy?

What is "positive" about a government energy policy that succeeds only in putting millions of people out of heat and work in the middle of a severe winter?

What is "positive" about more than 4 billion dollars in known welfare abuse, error and fraud?

What is "positive" about a nation where there are nearly 85 full-time dependents or employes of government for every 100 productive private taxpayers?

What is "positive" or "compassionate" about government housing and urban-de-

velopment programs that have only accelerated urban decay, and isolated the poor in bleak warehouses?

What is "positive" about a government which is printing money at a rate more than twice as fast as the nation's economy is growing?

What is "positive" or "liberal" about asking government bureaucrats to make decisions for you, which you are better able to make for yourself—and at much lower cost?

What is "positive" about government policies that first create energy shortages, and then demand billions in new taxes to "solve" them, that create a crisis, and demand even more power and control to "alleviate" it?

In short, what is "positive" or "compassionate" or "liberal" about big government, with all its trappings of bureaucratic power, waste and arrogance, with all its constant threats to individual freedom, privacy and expression?

We think we know what Thomas Jefferson would have said to these rhetorical questions. In 1801 he wrote:

"Every man wishes to pursue his occupation and to enjoy the fruits of his labors and the produce of his property in peace and safety, and with the least possible expense. When these things are accomplished, all the objects for which government ought to be established are answered."

THE WATER CONSERVATION AMENDMENTS ACT OF 1977

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. PANETTA. Mr. Speaker, today I am inserting the text of my testimony before the Committee on Public Works and Transportation on September 30, 1977, on the subject of amendments to the Federal Water Pollution Control Act (Public Law 92–500).

All this year, the committee has been holding hearings on necessary amendments to Public Law 92–500. Witnesses have touched on many areas of change that are needed. The purpose of my remarks was to draw attention to a very important area to which I believe too little attention has been given: water conservation.

As you know, the Federal Government through the Environmental Protection Agency administers a massive program of Federal water treatment plant construction grants. This year, we will provide some $17 billion for that purpose. At the same time, we find ourselves in the midst of one of the Nation's worst droughts that has affected some 35 States. To alleviate the impact of that drought, the Federal Government provides literally millions of dollars in emergency and disaster assistance to State and local governments and individuals.

Mr. Speaker, I find that a contradictory situation. Until recently, there has been no consideration of requiring some conservation efforts as a prerequisite for receiving sewage treatment plant construction funds. The effect of this situation is that it is easier for communities to apply for construction grants than to implement or receive assistance in implementing water conservation measures which might make construction, expansion or extension of such facilities unnecessary or less necessary. The result is that already severe water shortages are aggravated.

To address this problem, I have introduced H.R. 9360, the Water Conservation Amendments Act of 1977 which amends Public Law 92–500 to build in the reduction of unnecessary water consumption as one of the goals and purposes of our water pollution program.

I believe that making water conservation one of the chief goals of our pollution control program is a logical and fiscally sound proposal. The Federal Government has a legitimate interest in such an approach because it pays for 75 percent of the costs of new and expanded plants. Local governments benefit because reduced consumption may make costly construction and expansion unnecessary and reduce the users fees charged to homes and businesses, thus making the locality more attractive to potential new investors in the community. In short, the benefits are substantial.

I would urge my colleagues to give serious thought to the need for water conservation incentives in our water pollution control program. I might note that EPA Administrator Douglas Costle has indicated his support for such an approach.

The text of my testimony follows:

TESTIMONY OF THE HONORABLE LEON E. PANETTA

Thank you, Mr. Chairman, for the opportunity to present testimony on revisions and amendments to the Federal Water Pollution Control Act, P.L. 92–500.

The law itself, some 89 pages long, is staggeringly complex. There is no question that both the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works have done an outstanding job in outlining needed changes. Although there are still some substantial points of contention between the two Committees, there is no doubt that the final bill will address the major issues facing us in water pollution control.

However, there is, in my view, one key water issue not fully addressed by either Committee, no doubt because of the severe time constraints involved. That issue is water conservation.

On September 28, I introduced H.R. 9360, a bill to amend the Water Pollution Control Act to recognize the relationship between the reduction of unnecessary water consumption and the "prevention, reduction, and elimination of pollution," the primary goal of the law. H.R. 9360 also makes a number of changes to P.L. 92–500 to facilitate the reduction of unnecessary water consumption by every type of water consumer receiving Federal sewage treatment funds.

I think that little needs to be said here about the need for water conservation incentives and legislation. This Committee, in its fine work with regard to water resources construction projects, has long recognized the need to provide for assured adequate water supplies for every region of this country. Besides the tragic drought that is affecting some 35 states at the present time, recent breakdowns in water supply systems in this area and the resulting imposition of mandatory water conservation measures illustrate just how fragile our water supplies are, even in times of adequate rainfall.

Mr. Chairman, the concern that prompted me to speak before you today and to introduce my bill, the Water Conservation Amendments Act of 1977, is my belief that our generous funding of sewage treatment plant construction has largely ignored the issue of increased water consumption.

For some years now, the Federal government, through the Environmental Protection Agency, has administered a comprehensive and badly-needed water treatment facility construction program. Under the program, 75 percent of the cost of construction of these massive plants is picked up by the Federal government. Until recently, there has been no consideration of requiring communities to demonstrate their efforts at water conservation in requesting an expansion of existing facilities. The unfortunate effect of this system is to make it easier for communities to apply for construction funds than to implement or even receive assistance in implementing water conservation measures.

It seems to me that we have to get control of this situation at this point. This year we provided some $17 billion for construction of sewage treatment plants. Billions of dollars have been appropriated in past years. While the need for the plants is without question and while we must plan ahead for construction of tertiary treatment plants, we must also begin to look at ways to keep the costs of water treatment from escalating endlessly.

The institution of water conserving measures is one way to do this. The cost of treating sewage is, as you know, a direct variable of the total volume of water in which the sewage is carried. This fact determines the cost of operation of the plant and also the need for expansion of existing facilities. If a community cuts its actual consumption of water even slightly, the costs of treatment will drop sharply, even if the concentration of sewage in the treated water is very high. Conversely, if consumption in a community rises sufficiently, the community may have to build a new plant, even though the concentration of sewage in the treated water may be fairly low.

These considerations, as well as the ever-present threat of drought and the fiscal crunch that is facing every level of government today, make water conservation an attractive and essential alternative to constant expansion of facilities.

The Water Conservation Amendments Act, H.R. 9360, addresses this need in three basic ways. First, it establishes the reduction of unnecessary water consumption, as a means of achieving the "prevention, elimination, and reduction of pollution", as national policy. Second, building on that policy, the bill incorporates water conservation into the many programs, research efforts, and assistance plans administered by EPA. For example, the bill directs the Administrator to investigate possibilities for and conduct research into reduction of unnecessary water consumption in agriculture, one of the largest consumers of water. The bill also directs the Small Business Administration to expand its loan program to provide additional assistance for the institution of water conservation measures by small businessmen. The third basic area of the bill is the linking of Federal water treatment construction assistance to the formulation and implementation of water conservation programs.

This latter proposal, although drafted before it, resembles EPA's draft amendment on this subject which was submitted to the Committee this spring. It requires applicants to demonstrate that methods for the reduction of the total flow of sewage have been studied and that such methods as are suitable have been or will be adopted. Upon a finding by the Administrator that an applicant has not or will not meet these criteria, the Administrator is directed to reduce from 75 percent to 70 percent the Federal share of the total cost of construction, provided the

applicant meets all other criteria for the grant. The amendment also asks that the applicant demonstrate that the size of the proposed treatment facility will be appropriate *after* the adoption of water conservation measures. It is my hope that this latter requirement will enable us to make some significant savings in construction costs through recomputation of needed size and capacity of plants.

I realize this is a strong proposal. But as so many communities in my state have shown, water conservation can be accomplished through relatively simple means. While many areas have cut consumption as much as 50 percent because of the drought, it is worth noting that this bill only requires a modest 15 percent cut in consumption to receive full funding. Many Californians can testify that such a cut can be easily and painlessly achieved. Further, it is worth remembering that the bill includes a wide range of research and assistance by the Federal government into ways of reducing consumption. Although it may seem hard to believe, we know very little today about the technology of water conservation. Assistance and research will greatly ease the switch to water-saving living styles.

I would like to point out also that a relatively simple water conservation program can result in tremendous savings to a community through the elimination or reduction of the need for and cost of expansion of treatment facilities. In addition, reduced consumption means reduced operating costs which in turn means reduced users fees or reduced ad valorem fees where ad valorem is based in part on the proportion of usage. These savings are a direct benefit to homeowners and businesses which no community can afford to ignore. Moreover, a community that is able to assure potential residents or businesses that it has taken steps to assure a dependable water supply has a priceless advantage in encouraging investment.

Mr. Chairman, I am aware of the tremendous amount of work that has already gone into revision of the Federal Water Pollution Control Act. I know you are all anxious to settle the matter as soon as possible. But I would like to take this opportunity to urge you to give some serious thought to building water conservation language into PL 92-500, if not during this session, then during the next. I believe it is a logical and fiscally sound addition to our water pollution control program. Now that we have voted some $17 billion for construction grants and now that the complex issues contained in the Act are fresh in our minds, the time is right to look closely at every means of cleaning up our waters and safeguarding our most essential resource, water.

Thank you again, Mr. Chairman and Members of the Committee, for the chance to speak before you today.

SIXTH CONGRESSIONAL DISTRICT OF NEW YORK NEWSLETTER TEXT

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. WOLFF. Mr. Speaker, ever since being elected to the Congress it has been my custom to place into the CONGRESSIONAL RECORD the complete text of my districtwide newsletters. The text of the newsletter which will be mailed to my constituents shortly appears below. I believe my colleagues will find it both informative and interesting.

WOLFF NEWSLETTER

DEAR FRIEND AND CONSTITUENT: Widespread uneasiness over a still unsettled economy, once again strained by a new rise in interest rates, continuing high unemployment and incidence of crime, remains the crucial concern of our country. There is no immediate reversal in sight of the underlying causes that spawn persistent inflationary conditions.

Why do these conditions continue to be unresolved? The answer is simple when we remember that nearly every thing that happens economically to affect our lives and our life style here at home has its origin in events and decisions that take place elsewhere in the world, I speak of energy shortages caused by outrageous oil prices, high prices for food and other commodities that are influenced by equally high prices for energy and petroleum based fertilizers, and the ready availability of illegal drugs, on our streets and in our schools, that continue to burden society by spawning drug related crime.

The United States' economy would not be where it is today if it were not for the pressures initiated from abroad—the Vietnam War that depleted our country's assets and robbed our nation's resources, the Arabs imposition of the oil embargo (a modern day Sword of Damocles), world wide tensions heightened by the threat of Soviet arms expansion and international power plays. These are the situations that threaten our future stability as a secure and viable nation.

Make no mistake, we live in an interdependent world, frought with serious problems, and we must come to grips with these problems before it is too late.

My new, additional responsibility as a United States Representative to the 32nd Session of the United Nations General Assembly—an appointment made by President Carter—will open up new lines of communications with other nations on how best we can settle mutual concerns.

The coming months literally will be a long haul as I undertake a new direction of "shuttle diplomacy"—working at the United Nations in New York and "shuttling" back to Washington on important legislative matters facing the House of Representatives.

You may ask how does a Congressmen who is a stern critic of the United Nations and a proponent of sweeping reforms expect to be an effective Delegate to this same body.

As you know from my legislative actions in the Congress, I am a strong advocate of the investigative process. I just do not believe much that is being told us and must gain first hand knowledge of what is going on rather than have some bureaucrat make the determination.

As a ranking Member of the House Subcommittee on International Operations, the panel empowered to deal with State Department conduct and the diplomatic service, I plan to work from within to learn how the United Nations can become effective as a global organization and how well the United States Mission represents us in this body.

While I support the basic tenets upon which the United Nations was founded and believe it is vital to America's best interests to have some place where all sides can talk together and hopefully prevent situations from burgeoning into major conflagrations, certain changes are essential at the United Nations to bring it back to its original mandate.

You will recall that I am the author of the Congressional Resolution to suspend all U.S. participation in the General Assembly until such time that this body returns to its mandated Charter role as a world peace keeping institution. This action was precipitated when the General Assembly became politicized and supported distorted views the Mid-East and other areas of the world that totally disregarded the wishes of the American people. The United States, remember, is the major source of funds for this world body.

We need a bolder, stronger voice in the United Nations. It must become more representative a body or it will follow the fate of the old League of Nations.

Unfortunately, much of what has been done in the United Nations by United States policy makers has not been subject to the oversight of Congress, the body elected to be the Representatives of the American people. In the past, foreign aid too often has not been used to fulfill real needs but rather to buy tenuous friendships—the wrong application of American dollars. We still have to learn that you cannot buy friendships or real concern for the serious problems facing the world.

Now, as a US Delegate to the United Nations, as well as your Congressman, I am in a unique position. In Congress, I am the Chairman of two House Committees, the Select Committee on Narcotics Abuse and Control and the Subcommittee on Asian and Pacific Affairs.

The narcotics committee is trying to bring about an end to drug abuse in this country and presently is holding oversight hearings to determine exactly what is being done by various separate federal agencies to eradicate the problem. We do not grow any hard drugs here in the United States; all are cultivated and produced abroad for transshipment—yet, 70 percent of all our street crime is drug related.

For this reason alone, we must gain the full cooperation of foreign nations to stop the illegal traffic. The United Nations can be the catalyst and exert its influence on the drug producing and trafficking nations to gain greater global cooperation to eradicate this burgeoning threat to future generations.

The Subcommittee on Asian and Pacific Affairs is holding two sets of hearings: (1) on the normalization of relations with China and (2) on our still Missing in Action Americans to determine what effect resolution of these issues will have on the United States and the rest of the world—all of which is work that is closely integrated with duties at the United Nations.

At the United Nations, I am a member of two committees, administration (budget) and human rights. The first is the nuts and bolts of the United Nations operations and deals with multi-lateral expenditures and financing practices; the second is concerned with what should be a basic concern for human dignity and freedom—not as has been perverted by the United Nations of recent years in its definition of racism.

In the meetings of both these committees, as well as in plenary conferences and the General Assembly, my voice will be heard on what I know to be the ideals and principles of the American people. If at any time, I am faced with restrictions, advanced by State Department bureaucrats who fear I might shake the status quo, I will make my views known from the floor of Congress. That is the advantage of being a Congressman at the same time as being a Delegate to the United Nations.

Americans are fed up with some of the things that are going on at the United Nations and have expressed their desire for essential reforms.

The United Nations must be made to be more effective if it is to meet and overcome the tremendous global problems that confront the world today. We cannot sit back and permit America's values and principles to become further eroded. Without peace, the world cannot progress to solve the many problems that plague society here at home and elsewhere.

If progress is to be achieved, we must work at it, not just talk. We must find equitable

solutions to our problems if we are to ever realize better relationships between nations in this increasingly interdependent world.

AMBASSADOR ANDREW YOUNG—AN IMPORTANT AMERICAN

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. WHALEN. Mr. Speaker, a great deal has been written in a relatively short time about our former colleague, who is now chief of the U.S. mission to the U.N., the Honorable Andrew Young.

But little of what I have read has succeeded in conveying what Andy Young is really like. As a member of the U.S. delegation to the 32d General Assembly of the United Nations, I have come to know him much better than I did when we served together in this body. Thus, when I read Joseph Lelyveld's piece about Andy in the October 16, 1977 issue of the New York Times Magazine, I was struck by its poignancy. I think that it would be very helpful for Members of this body as well as readers of the CONGRESSIONAL RECORD to peruse the article and perhaps gain a better insight into Andy Young. It does not tell everything about him. But it conveys some of the key aspects of this important American which are lost in the general uproar of the events of the day.

Mr. Speaker, I insert herewith Mr. Lelyveld's piece from the Sunday Times of October 16, 1977:

CORRIDORS OF MORALITY

(By Joseph Lelyveld)

NEW YORK.—Andrew Young was at about the three-quarter mark in the marathon of his day. It had started at dawn with an early-morning TV interview and would now run into the morrow, for he had just allowed a tennis court to be booked for midnight in his name. The former pastor who does most of his preaching these days at the United Nations is often—even typically—behind schedule, but this evening if he was to be blamed at all, it could only be in an indirect sense. Conceivably, had his appeal in the afternoon to the Security Council for support on the latest Rhodesia initiative been less fervently in the idiom of the so-called Third World, the Russians and Chinese might not have looked so discomfited, might even have found a way to respond. Instead, wary of each other and unable to challenge the American's credentials on Africa, they had resorted to delaying tactics. So Young now had to scratch a Brazilian reception and hurry to a British cocktail party, if he wasn't to be unpardonably late for a dinner with the Egyptian Foreign Minister.

His 10 minutes in his official residence in the Waldorf Towers thus amounted to a pit stop. Now as he opened the door to leave, he seemed for a fraction of an instant to hesitate on the threshold. What he found before him there was the familiar but unexpected figure of Henry Kissinger, looking noticeably slimmed down in a well-cut dinner jacket. Kissinger, who was just opening the door to a nearby stairway, also seemed surprised but recovered before Young. "Good evening, Mr. Ambassador," he said. Then still holding the stairway door he remarked in encouraging terms on the seeming progress on Rhodesia. Young's fingers danced as he described the snag in the Security Council but Kissinger, smiling benignly, urged him not to worry: The Russians wouldn't risk a confrontation now on Rhodesia. With that, he ducked down the stairs.

It was a fleeting, chance encounter—nothing more—but telling in the sense of shared experience that lingered in the corridor for a moment, like a fragrance. Henry Kissinger and Andy Young can be presented, accurately enough, as polar opposites in the diplomatic arts: the global strategist and moralizing preacher, the wily bargainer and ingenuous activist; the one too subtle, it will be said, and the other not subtle enough. But there's a sense in which the Reverend is a lineal descendant of the Professor. In part, it's a matter of flamboyance, of style. Young, like Kissinger, makes his own agenda, according to his own sense of the world, which doesn't depend on the latest State Department briefing. More obviously, it's that Young in southern Africa followed in Kissinger's footsteps, and not just figuratively, as he jetted from John Vorster in Pretoria to Ian Smith in Salisbury. Just a year before—when not even Jimmy Carter might have foreseen Young's role there—Kissinger had announced the outlines of a Rhodesian settlement, which had promptly evaporated like countless Rhodesia settlements before it. Now Young—in tandem with the British Foreign Secretary, David Owen—was trying to move the ball back to the same goal-to-go position.

The comparison stops there. It looks like a new game. The United States has now taken sides, at least rhetorically, with the disenfranchised majority not only in Rhodesia but in South Africa itself: an enormous shift in emphasis in policy that might not have occurred without Andy Young, and one that; without him, would never have gotten the benefit of the doubt from the black African states. Because of this, in the first General Assembly since Young took over the American mission to the U.N., the siege of provocative, overblown resolutions under which American representatives have labored for years seems to be lifting—just as Young predicted it would when, months ago, he entered on the scene with a blithe confidence and unbuttoned lip that led one respected commentator to dismiss his act as "diplomatic vaudeville." Back then, his preoccupation with southern Africa tended to be regarded as a personal fixation, as if it were a virtuous fad, not unlike health food or meditation. Now, with remarkably little debate—aside from scurrilous broadsides from right-wing critics who accuse Young of supporting "Communist butchers and terrorists"—his fixation is policy.

That makes it hard not to recognize Young as a serious diplomatic operative. So now the commentators are beginning to note the recent dearth of flaps, as if the free spirit who spouted ad libs on the varieties of racism from Scandinavia to Queens had finally been reined in or even exorcised. The truth is that the story of Young's off-the-cuff remarks died from tedium, once it became clear that he would not talk himself out of his job. He's still a free spirit, more practiced perhaps in his answers, more focussed on his assignment than when he was starting out, but not in the least repressed or subdued. He even argues that he was strengthened by the controversies that dogged him because they gave him an opportunity to demonstrate his independence and staying power. That smacks of rationalization, but the demonstration was made.

Now, just as Young always predicted they would, the white South African and Rhodesian powers-that-be have discovered that it's more practical to deal with him directly than to try to bypass him in their relations with the United States. In May, South Africa threatened to deny him entry. Three months later, he was received courteously at the seat of government in Pretoria. After the Anglo-American negotiating team passed through Salisbury, Ian Smith was quoted as saying that he found it easier to speak to the American, Young, than the Englishman, Owen.

That testimonial lends weight to the Andrew Young theory of diplomacy, which holds that a negotiator should adopt a strong advocate's position at the outset and stick to it with equanimity and sweet reasonableness until negotiations finally proceed on his terms. Although they didn't budge, Vorster and Smith seem to have reinforced Young's conviction that his experience with Alabama and Georgia sheriffs in the days of the civil-rights movement prepared him for Southern Africa. "I get along with those kind of folks," he says. "I understand them. They're desperate men. They keep saying they're ready to fight to the death. When I hear that I say, 'That doesn't take much preparation. You can always do that later on, but now let's talk about living.'" It may be naive to suppose that hemmed-in politicians can be moved from a position of obduracy by pious coaxing, but there's something formidable about a persistent man who's not afraid to be called naive. And that's Andy Young, who doesn't just imagine it's possible for him to win the confidence of white negotiators in Southern Africa, but argues that black Americans are best equipped to do this because they're more sensitively attuned to racial anxieties than whites. It's a remarkable twist of history that the argument can be made at all, that a black activist who negotiated in Birmingham, Ala., in 1963 can be negotiating in Pretoria and Salisbury in 1977. But Young still speaks as if it was inevitable all along.

It's cheering to find that Andy Young revisited is not a sadder, wiser figure after eight months in the diplomatic game. The cockiness that occasionally shades into fatuousness is still there, and so is his unbounded moral energy, which is the basis of his optimism. It's not that he's convinced that the world has to change because a black Congressman from Atlanta happened to acquire an office in Turtle Bay with a panoramic view of the East River. All that's unreasonable about him, finally, is the degree to which he believes in trying. Young isn't promising the illusive foreign-policy achievement—the big win—that the Administration now needs, according to the scorecard keepers who have somehow salvaged that expectation from the assorted disasters of our time. He won't even assert in positive terms that the country is ready for Andrew Young and his goals. But he'll go on testing the hypothesis that it might be. "I've been saying it's a different America," he remarked. "I'm not sure it is, but that's what I've been saying."

DEDICATED PUBLIC SERVANT, J. B. HEDRICK RETIRES FROM 30 YEARS OF SERVICE

HON. JOHN J. McFALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. McFALL. Mr. Speaker, in San Joaquin County, Calif , the local housing authority will soon lose the services of one of the most dedicated and capable housing officials in the Nation. On November 15, J. B. Hedrick will retire as secretary-executive director of the Housing Authority of the County of San Joaquin after 30 years of public service.

A brief look at his association with public housing in San Joaquin County will clearly demonstrate that he is an

outstanding public servant of unique ability.

J. B. first went to work for the housing authority in March 1947, as a laborer. Not long thereafter he was promoted to mechanic. Just 4 years later he was promoted again as project maintenance superintendent. During these years he learned first hand the benefits and ways to improve public housing. He was personally involved with the residents and developed a deep personal understanding of their needs and desires.

In July 1956, J. B. was promoted again to the post of housing manager. He served in that capacity for 12 years. The position provided him the opportunity to begin to apply his personal management qualities and dedication in striving to achieve the best possible public housing for San Joaquin County.

In 1968 the board of commissioners of the housing authority made him deputy secretary-executive director. Two years later, March 1, 1970, J. B. was promoted to secretary-executive director. His career had then taken him from the first rung of the employment ladder as a laborer, to the very top. He now directed the entire operation of the housing authority. Over the years he fulfilled his new responsibilities with an ability not often witnessed, and with a marvelous depth of understanding of the people he served.

His constant and sincere dedication has been to help people. During the years he has worked for the housing authority J. B. has spent his personal time and energies in serving the people in other capacities.

A particular concern J. B. has exhibited is for elderly persons. I believe everyone shares a recognition that many of our Nation's elderly have particular needs, in the areas of housing, medical services, transportation, and nutrition. It is in addressing these needs that J. B. has concentrated his efforts. He is a past chairman and ex officio officer of the San Joaquin County Commission on Aging, vice president of the Senior Service Agency, and a member of Senior Citizens Action Now.

His service to young people is demonstrated by his work as president of the Young Men's Christian Association, and as a member of the advisory council of the California youth authority's foster grandparent program. His concern for those afflicted with disease or who have a physical handicap is shown by his chairmanship of the Easter Seal Society Barrier Free Committee, and his membership on the board of directors of the United Way. He is a member of the United Way's affirmative Action Advisory Committee, and serves as secretary of the California Information Center.

This constant dedication to helping people plus his professional background in public housing have combined to lead J. B. into an active participation in the National Association of Housing and Redevelopment Officials, NAHRO. He is a 25-year member of NAHRO and now serves as president of its Pacific Southwest Regional Council, and as a member of its National Committee on Housing Management and Maintenance. This involvement has given him a unique understanding of national housing programs. I have often appreciated his wise counsel when the Congress is considering housing legislation.

But now J. B. has elected to retire from the housing authority responsibilities he has so ably performed. I am, however, confident we will continue to have the benefit of his participation in community affairs. For the moment he plans to retire to California's beautiful Mother Lode area, just east of San Joaquin County. I hope this will afford him and his wife, Joni, more time to enjoy their life together and the company of Teri and Jerald, their children, and their four granddaughters.

On November 3, 1977, J. B.'s friends and admirers will gather in Stockton's Civic Auditorium to bid him their best as he leaves the service of the Housing Authority. At the age of 51, J. B. is not yet ready to retire from an active life, but in light of his 30 years of untiring commitment to public housing, the people of San Joaquin County and the Nation as a whole, owe J. B. a deep debt of appreciation.

CARTER'S TACTICAL ERROR

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial from the Santa Maria Times, a newspaper in my district. I believe that the editorial is quite correct in pointing out the importance of the B–1 bomber to U.S. defense interests and the decline of the American bargaining position at the SALT talks.

The article follows:

CARTER'S TACTICAL ERROR

Sometime ago a new nuclear bomber appeared on the scene which, when added to the weapons inventory, provided a still further throw-weight advantage. That advantage is now about 2 to 1 and will increase because of the flexibility of the new bomber.

The weapon, far superior to any other, can carry a nuclear load up to ten tons; can be used for very high altitude surveillance missions of up to 8,700 kilometers, refueled up to distances of 17,000 km; or at very low ground hugging super sonic speed to get under enemy warning systems, can go unrefueled for 2,400 km or 4,250 refueled which means it can destroy all essential enemy targets; has a variable-geometry wing; and weighs about 2½ times as much as its nearest enemy counterpart and thus is probably 2½ times superior.

It is called Backfire and since it belongs to the Russians it is not for sale to the U.S. military.

The Backfire's unrefueled combat radius is such that it could destroy all essential U.S. targets and be recovered south of the U.S. borders or, if refueled, could land back in Soviet territory.

It is a nuclear bomber offering higher pay load, greater flexibility and dependability than the cruise missiles and being manned, can be recalled (and reused).

Members of the house have recently begun talking of reviewing funding for the B–1 and we agree that they should. In our opinion there are valid and pressing reasons for going ahead with the B–1.

The Russian Backfire plays an important part in the triad concept of defense of both countries, the United States and Russia. The Russians through their production capacity of Backfire will gain operating strategic bomber superiority shortly.

Concerning the second leg of the triad, the Soviets have passed the United States in throw-weight but not in strategic warheads and bombs. The throw-weight advantage will soon be three to one against the United States.

The United States, in abandoning the B–1, has not only weakened its military position but its position at the SALT talks which will influence future superiority.

It must be understood that the SALT talks are aimed at limiting strategic weapons. A controversy is the classification of the Backfire as a strategic or tactical weapon. Since the Backfire, as is the B–1, is a multi-role weapon. The Russians could care less how the Backfire is classified for it can easily circumvent the numbers laid down without an infraction of the accord.

President Carter, in our opinion, made a mistake in backing away from our strategic-tactical weapon, the B–1, before the SALT talks. In our opinion, our position would have been far stronger with the balance of the B–1 chip in that particular poker game.

The Backfires now in service number more than 100 and the Russians continue to produce them at the rate of five Backfires per month.

We feel that the B–1 can be a checkmate for peace and strongly urge the immediate refunding of B–1 in order for production to resume immediately.

WHAT WE CAN DO TO KEEP THE CANAL

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. SYMMS. Mr. Speaker, I am sure that many of our colleagues have received many inquiries from their constituents asking what they can do as individuals to help defeat the Panama Canal treaty. The October 1977 issue of Conservative Digest contains an article by publisher Richard A. Viguerie that I think is very informative as to what the American people can do to stop the surrender of the canal by the Carter administration.

DON'T LET CARTER SURRENDER OUR CANAL

President Carter is trying to persuade the American people that giving the Panama Canal to Marxist dictator General Torrijos, and paying him to take it, is good for the United States. The President is wrong on this issue, as he has been wrong on other issues in the last nine months. In this vital matter of foreign policy, the President is playing with our national defense and our ability as a nation to survive.

The treaty should be rejected by the U.S. Senate for good and solid reasons. They are:

1. The United States has the right to remain in control of the zone and operate the canal "in perpetuity" and "as if it were sovereign". We acquired the canal by treaty and have paid Panama every year since then to continue operating the canal.

2. The canal has tremendous significance to the United States military. All of our

naval vessels except our large aircraft carriers can "clear" the canal.

If we abandon the canal to a Marxist dictator, we lose control over its use. General Torrrijos could close the canal at any time he wants, keeping our navy out. Egypt nationalized the Suez Canal after Britain turned it over and there is no reason to believe Torrijos would not do the same to us.

3. General Torrijos is one of the most repressive dictators in the western hemisphere and has ruled his country with an iron hand since he seized power. Torrijos threw out the freely elected President of Panama, Arnulfo Arias, only days after Arias was elected by the people of Panama. Panama rates as low as the Soviet Union and Cuba in the political and civil liberties its people enjoy and lowest in Latin America.

4. President Carter not only wants to give the Canal to Panama, he wants to pay them $50 million a year to take it. Under Dictator Torrijos, Panama's economy has become a shambles and needs U.S. tax dollars to pay back the big New York banks. Panama is in hock to U.S. banks for $2,700,000,000. Grabbing control of the canal is not enough for General Torrijos. He needs the money to operate it and pay back the banks.

5. General Torrijos has already announced that as soon as he gets control of the canal, the rates will go up. This means higher costs to the shippers and higher costs to the American consumer.

6. The Soviet Union has eyed the Panama Canal for years. After turning it over to General Torrijos, we can expect Soviet engineers to operate the canal under a tentative economic and commercial agreement signed by Panama and the Russians.

Conservatives cannot allow President Carter to give the canal to General Torrijos. We need to mobilize on this issue as we have never done before.

Write, wire or call your congressman or senator.

Convince ten friends that the treaty should be defeated, get them to write their senators, ask them to each get ten more friends to do the same. We need an outpouring of American sentiment to convince the Senate the treaty is not in the best interests of the United States.

Write letters to your local newspapers asking them to editorialize against the treaty.

Call your local radio station talk shows.

Enlist the aid of other organizations you belong to.

Contact the local presidents of labor unions who oppose the treaty.

Generate intensive grass-roots opposition to the treaty and let your congressmen and senators hear the outcry from the country.

But even that is not enough. The treaty will be referred to the Senate Foreign Relations Committee for hearings. It is essential that you and your friends write, wire and call committee members to voice your opposition. We have listed the members of that committee below, with their addresses.

More than 70 percent of the American people oppose the treaty, according to recent surveys. But that opposition must be marshalled and expressed in letters, calls and wires to the media and the Congress if we are to succeed in this vital battle. We have won before when we went to the American people and expressed our strong opinions forcefully and dramatically. This issue, more than any other we have tackled in recent years, demands our active support and tireless efforts. We must convince the Senate that the American people insist on being heard on this critical issue.

Senate Foreign Relations Committee Members. (Listed by party, in order of seniority on the committee. Write Senator xxxx, Room (number listed below), Senate Office Bldg., Wash., D.C. 20510.) Democrats: John Sparkman, chairman, from Alabama (Room 3203); Frank Church, Idaho (Room 245); Claiborne Pell, R.I. (325); George McGovern, S.D. (4239); Hubert Humphrey, Minn. (2121); Dick Clark, Iowa (404); Joseph Biden, Del. (347); John Glenn, Ohio (204); Richard Stone, Florida (1327); Paul Sarbanes, Md. (362).

Republicans: Clifford Case, N.J. (315); Jacob Javits, N.Y. (321); James Pearson, Kan. (5313); Charles Percy, Ill (4321); Robert Griffin, Mich. (353); Howard Baker, Tenn. (4123).

DRUG PROBLEM RISING IN WESTERN EUROPE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. WOLFF. Mr. Speaker, for many years the heroin problem has been assumed to be a problem peculiar to the United States. In recent years, however, this problem has been growing at unprecedented rates in Western Europe and it is now abundantly clear that the problem of heroin is one of international dimension. In this respect it is encouraging to note that many European governments are actively cooperating with the Drug Enforcement Administration (DEA) in an effort to break the chain of the illicit heroin trafficking, a chain which finds its origins in the poppy fields of Asia. I would like to call to the attention of my colleagues an article which recently appeared in the Washington Post which discusses the rising problem of heroin in Western Europe:

[From the Washington Post, Sept. 19, 1977]

DRUG PROBLEM RISING IN EUROPE

(By Murray Seeger)

THE HAGUE.—For years Europeans thought of drug addiction as an American problem. No longer. For example:

Three men—two Thais from Bangkok and a Dutchman—met recently in Copenhagen. The Asians handed over a package containing nearly 12 pounds of heroin. All three were arrested.

The First Secretary of the Liberian embassy in Sierra Leone flew from Hong Kong to Amsterdam. A suitcase he checked on the flight was opened by customs officers and 55 pounds of heroin were discovered.

There have been a number of similar incidents.

"Almost every city of Western Europe is becoming a center of heroin addiction," an American narcotics agent based in Europe said in a recent interview.

The number of European users is still thought to be far below that of the United States, but it is rising sharply. In West Germany alone, the number of registered addicts increased from 2,000 in 1972 to 25,000 last year. Drug-related deaths in West Germany, one of Europe's major drug markets, rose from 104 in 1973 to 325 last year.

Persuaded by clear evidence that addiction is spreading, most European governments are cooperating with the U.S. Drug Enforcement Agency to try to break the chain that leads back to the poppy fields of Asia.

The European campaign is focused on Amsterdam, which police agencies agree is the home of the drug trade's biggest wholesalers, bankers and killer-enforcers, nearly all of them Chinese.

"We can never win this battle, but we believe we can channelize it," Jan van Straten, chief of the Dutch National Police drug unit, said in an interview. "We can't break it completely. There is too much money involved."

Proud of their reputation for having a liberal, charitable, open society, Dutch officials admit that the drug problem got out of hand before they began a serious counterattack last year.

Amsterdam Police Commissioner Gerard Toorenaar, a colorful officer with a reputation for personal bravery, was a lonely voice calling for tougher enforcement tools to help his understaffed force crack the organized international racket.

"We didn't like every colleague in Europe pointing their fingers at us," he said. "We can't root out the heroin trade entirely, but we can cut it down."

Now, nearly a year after a series of tough new laws went into effect, Dutch authorities are optimistic that they can make some progress. One statute provides for longer jail sentences, up to 12 years for international traffickers in place of the previous four-year maximum, and up to eight years instead of two for domestic violators.

Moreover, simple possession of small quantities of heroin now means a short jail term or a fine, instead of the previous potential of a two-year term that was rarely imposed.

The national police intelligence unit has assigned several of its 165 agents exclusively to drug enforcement activities, and the squad is to be enlarged to 23. One officer has been stationed in Bangkok, a prime shipping center for drugs.

The U.S. Drug Enforcement Agency has three agents at the American embassy here and a fourth is being added to help train the Dutch officers. U.S. military police have assigned a unit to work with Dutch customs inspectors watching for drug traffic involving American troops.

In addition, since November, Amsterdam police have arrested and deported 700 Chinese as illegal aliens.

"We think most of these people were engaged in trafficking," Van Straten said.

Nowadays, Asians arriving in Europe are examined especially closely for drugs. The agents cite the case of 19 couriers from Kuala Lumpur, Malaysia, apparently sent with the idea that at least some of them could get through.

In Vienna, Austrian police found 40 pounds of heroin on nine of the couriers. In Brussels, Belgian agents recovered 30 pounds from the other 10.

Two barometers suggest that the Dutch police have made inroads into the illegal traffic. The street price of Chinese heroin in Amsterdam rose from about $30 a gram to more than $160 over the past year. The volume of drug seizures has risen dramatically, from 50 grams (1½ ounce) in 1971, to 376 pounds last year. So far in 1977, the Dutch have seized 352 pounds, 277 of which came from a single Rotterdam incident.

Still the Dutch police do not underestimate the difficulty in breaking into the core of the Chinese drug trade.

Amsterdam, one of the world's favorite tourist cities, is now plagued by petty crimes committed by addicts trying to support their habits. Overdose deaths occur at a rate of one a week among the city's 10,000 addicts. About half of the users are foreigners attracted by the city's easygoing atmosphere, the availability of drugs and the generous welfare benefits.

Amsterdam has always had Chinese users of hashish and opium, and the more recently arrived Turkish migrant workers brought in soft drugs.

The end of the Vietnam war accelerated heroin sales. Police experts believe that the Chinese who were supplying heroin to the American troops in Vietnam started looking elsewhere for markets as the war wound down and the troops were withdrawn.

The drugs now coming to Amsterdam originate in the "Golden Triangle," where Burma, Thailand and Laos meet. This was the source of heroin for Vietnam.

Given the Netherlands' history as an international trading center, its strongly rooted Chinese community and its lax drug laws, Amsterdam was an ideal point to relocate the business.

In France and Italy, the problem is less serious, but the trend is the same toward more use, especially among youths.

Stockholm, Sweden, is another major drug center. In a huge underground arcade in the center of the city, addicts meet their dealers openly and addicted prostitutes solicit customers.

Britain, which had an enlightened program of treating addicts with heroin substitutes, has now found that addiction to the real thing is on the rise.

CONGRESSMAN WHALEN CONGRATULATES THE DAYTON BALLET ON ITS 40TH ANNIVERSARY

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. WHALEN. Mr. Speaker, I was very pleased to note in the October 10 edition of the Dayton Daily News that the Dayton Ballet is observing its 40th anniversary this month.

Now housed in the historic Victory Theater in the heart of the downtown area, the Dayton Ballet has become an impressive dance company following rather humble beginnings. It is without a doubt one of our community treasures, destined to grow and play an ever larger role in the cultural life of the Miami Valley.

I commend the Dayton Ballet for its contributions and congratulate the organization on this most happy occasion. I insert herewith, Mr. Speaker, an excellent article by Betty Dietz Krebs, the Daily News art editor, which describes in detail some of the past and much of the present of the Dayton Ballet:

DAYTON BALLET'S SUCCESS AT AGE 40 IS NO ACCIDENT

(By Betty Dietz Krebs)

The idea that life begins at 40 may be a canard since it somehow indicates that the years before have been spent marking time.

For the Dayton Ballet has done anything but mark time. The past four decades for the company which was founded here by Josephine Schwarz and her sister, Hermene Schwarz, have been a time of remarkable growth.

"Miss Jo" and "Miss Hermene" as they have been known to several generations of dance-minded Daytonians, have seen Dayton Ballet develop into one of the nation's top regional companies.

Saturday night at the Dayton Art Institute, where Dayton Ballet made its first appearance, turned into a festive celebration for the Schwarzes and the dancers. A succession of tributes put a lot of fizz into a dance-filled evening that was culminated by a proclamation from Mayor James McGee declaring Oct. 8 Dayton Ballet Company Day in Dayton.

The excitement carries over this week when the Schwarz sisters are honored at the 1977 Presidents Club Citizens Legion of Honor luncheon Wednesday at Stauffer's Plaza Hotel.

The spirit of history relived was conveyed by the costume design production written and narrated by Bess Saylor, one of two associate directors of the company. This presentation, first shown at the DAI during last winter's infamous cold spell, parades some of the costumes from 12 ballets designed by Hermene Schwarz over the past 40 years. Snippets of choreography from the ballets show how these costumes fit both the dramatic and dance concepts of the works.

Premiere Symphony, a work originally created by Stuart Seastian 10 years ago when he was a 16-year-old member of the company, was revived by Sebastian for the occasion. Some revisions were also made but essentially it's the same work set to Prokofiev's Classical Symphony.

This is a fresh, stylish use of the classical dance and the patterns that emerge indicate the young choreographer, now a nationally known free-lancer, has a fine eye for movement and line. Elena Commendador and Daniel Jamison were especially effective in the lyrical show movement. The ensemble included some four of the company's ablest dancers who often appear in leading roles—DeAnn Duteil, Laura Koverman, Camille Ross and Melissa Swartz.

Duteil and Ron Hollenkamp also made a vivid impression as the tender young lovers in the charming pas de deux of the Flower Festival in Genzano. Choreography here was created by William Martin Viscount after Bournonville.

The coming weekend will continue the anniversary excitement for the company. Performances at the Victory Theater, new home of the dance company, will feature as guest soloist, Rebecca Wright, a Dayton Ballet "graduate" who is now a principal dancer with the New York City Ballet.

THE 100TH ANNIVERSARY OF NEWARK YMWCA

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. RODINO. Mr. Speaker, I would like to share with my colleagues an event in my home district that will have national significance.

Comparatively few institutions in Newark can boast of serving the area for more than 100 continuous years. However, the YMWCA of Newark and vicinity is celebrating this milestone with a dinner honoring life members of the Y on November 3 at the Robert Treat Hotel. More than 500 people are expected to attend to salute the Y for its long history of service to the Newark community.

The secret of the Y's successful existence and growth in 100 years is that, as the face of Newark changed, so did the Y. It has been a vital service to the growth and development of the Newark area.

Newarkers are all familiar with the present day Y headquarters at 600 Broad Street where a full range of activities for every member of the family is conducted, in addition to programs which cater to the needs of the business community.

The "new" Y was built in 1954 at the same time the YW and the YMCA merged into one. It has been there long enough now that people tend to forget that it was not always there. A lot of history preceded the move to its present location.

The YWCA was the first to appear on the Newark scene in 1871. It was founded to promote "the spiritual, moral, mental and temporal welfare of women, especially young women who are dependent upon their own exertion for support."

The YMCA followed in 1881. Its ideal was "To improve the spiritual, intellectual and social condition of young men."

The YW opened shop in East Park Street, then moved to 50 Atlantic Street where 23 young women were given the comforts of home, including lodging, meals, and the attendance of a woman physician, for $3 a week.

An employment bureau for needle workers "seeking honest toil" was created in 1873.

In 1875, the YW formed a flower mission, distributing flowers to the sick. It later was absorbed by an auxiliary society of the YW which devoted much of its time to looking after the needs of women suffering from incurable diseases. In 1881, the YW established a Home for Women with Incurable Diseases.

Free educational classes were started by the YW in 1885 with a few desks and a typewriter, and courses in sewing were made available.

A branch for black women was organized in 1921 on Jones Street, and at the same time a program for foreign-born women was begun.

Through the years, as women entered more diversified fields, courses were offered in public speaking, beauty culture, business skills, and courses that carried graduate credits at Columbia University.

Where the YMCA started out with 23 women in its first home, the YMCA, in its second year of existence, reported activities among 23,000 boys and young men.

In 1882 a building was purchased on Clinton Street and a year later a gymnasium was added.

After moving to its Halsey Street location, the YM provided the origin of the Boy Scouts of Newark, and was instrumental in the founding of the Ironbound Community and Industrial Service.

Kamp Kiamesha in Newton was opened by the YM in 1909, and during the World War I years military training was added to the program to "instill into the hearts and minds of the boys the spirit of patriotism and service."

A branch for black men and boys was opened in 1928 in rented rooms at 145 West Market Street, which was moved in 1931 to new headquarters at 153 Court Street.

Both the Court Street and the Jones Street Y's operated independently until the merger of the YM and the YW. Then both groups formed the Southwest Y at the Jones Street location.

Other branches and camps cropped up as the city started sprawling. A North End Community Boys' Work branch was operating in the early 1900's and in 1922 branches were extended to Roseville and Vailsburg. South branch was active in the community in the 1930's and 1940's. Suburban branches were located in

Irvington and Belleville. The West Hudson branch in Kearny, and the Y Girls' Center in the Clinton Hill section of Newark are serving their areas today.

Both the YM and the YW were affected by the changes wrought by World War II. The YM organized three local USO centers and opened its facilities to half a million servicemen each year. They offered them emergency sleeping facilities, recreation, meals, medical examinations, and religious services. The YW gave special attention to women in war work, training them to keep fit, and providing recreation for them.

After the war, it became apparent that a new Y was necessary to meet the needs of the growing metropolis. Newark's population had doubled since the Halsey Street Y had been built and through hard use, the building was worn out.

A new Y was under construction in 1952 when the boards and members of the YM and YW voted to merge the two organizations into the Young Men's & Young Women's Christian Association of Newark and vicinity. The merger became effective in 1954.

The spanking new facility opened in 1956; boasted a 75- by 25-foot swimming pool with underwater lighting and AAU championships were held there soon after the opening.

With the merger of the YM and the YW, a new style of programing developed involving the entire family. Family memberships were offered and family camping was encouraged at the Y camps in Sussex County.

The Y's present executive director, Robert Wilson, Jr., came to Newark in 1970 and under his direction, the scope of the Y has increased even more.

At the outset, his goal was to bring inner city youth and families into a closer relationship with the YMCA.

He immediately set about informing the inner city areas of Newark about the programs offered at the Y.

Teenage clubs were formed and contemporary problems came into focus through several programs, such as the model United Nations, the youth and government for teenagers, and the international management council for adults.

Bilingual programs have been added to aid the growing Hispanic community. Through funding from model cities and the high impact anti-crime program, juvenile offenders were sent to summer programs and Outward Bound camps under Y sponsorship.

The Y opened its doors to other community organizations, supplying them with meeting space at little or no charge. National, State, county, and local groups have met there for years.

In addition, the Y has reached out and helped families by opening day care centers for toddlers, and a center for children with learning difficulties. It also established juvenile programs, and provided housing for youths enrolled in the division of youth and family services.

Mr. Speaker, the future of the Y will, as the past has demonstrated, depend on the needs of the ever-changing community it serves. Please join me in paying tribute to this extraordinary organization on its 100th birthday.

SOME PUBLIC EMPLOYEES WANT SOCIAL SECURITY

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. GEPHARDT. Mr. Speaker, title III of H.R. 9346, the Social Security Fiscal Reform Act of 1977, mandates integration or universal coverage of all Federal, State, local, and nonprofit organization employees in the social security system beginning January 1, 1982. Many people assume that all public employees oppose this legislation. I support this legislation for many reasons, foremost of which is the need to be fair and equitable to all employees such that our Nation has one retirement system in which everyone has a stake. Thus, I am happy to report the American Federation of State, County, and Municipal Employees, representing 700,000 employees, also supports this legislation.

AFSCME believes that integration is necessary not to save social security, but rather their own public retirement systems. St. Louis' three retirement systems alone have unfunded liability in the sum of $115,822,000. Integration with social security, which by no means assumes loss of benefits or an increase in employer or employee contributions, could be structured to help relieve cities such as St. Louis of their unfunded liabilities.

AFSCME, whose slogan is "the union that cares," has provided me with additional information in support of their position, which I wish to share with my colleagues as follows:

UNIVERSAL COVERAGE AND STATE AND LOCAL GOVERNMENT PENSION COSTS

Coverage of all state and local government employees under the Social Security System would go a long way towards defusing the impending catastrophic fiscal crisis which state and local governments will be facing when their largely underfunded pension promises come due. As of 1975, the unfunded liability of all state and local pension plans was estimated at more than $300 billion and is growing at an accelerating pace. In Massachusetts alone, the statewide pension system covering all state and local workers has reached $13 billion because it has been financed on a pay-as-you-go basis. Public employees in the state must rely solely on this financially unstable plan for their retirement income security, since they do not have the basic coverage provided by Social Security.

The fiscal impact of Social Security coverage on state and local governments whose employees are not currently covered under the System has become a concern recently due to the pending legislation in the House of Representatives which would make coverage universal. It has been alleged that universal coverage would pose an undue fiscal burden on state and local governments because it would increase payroll costs at a dramatic rate.

On the contrary, over the long run universal coverage would serve to control rising pension costs of state and local governments. Taking the Massachusetts plan as an example, if Social Security were made universal, the State would then have an opportunity to redesign its financially troubled pension system so that benefits are coordinated with Social Security. The pay-as-you-go Massachusetts plan would be phased-out through attrition of current employees. All new employees hired after a specified date would be covered under the new system. Current employees also would have an opportunity to participate, and many would join if the plan were made non-contributory. The benefits under this new plan, when combined with Social Security, would provide workers with more adequate retirement income security at a more reasonable total cost than the pay-as-you-go state system that is currently in effect.

Several studies were completed recently, corroborating the fact that state and local governments cannot afford to provide decent benefits to their employees without Social Security. These studies also confirmed the fact that Social Security benefits cannot be replaced by employer-sponsored plans.

In California, for example, a nationally-known consulting firm (Wyatt Co.) undertook a study to determine the cost to the state for replacing Social Security benefits for state workers, should the state opt out of the System. For partial replacement of Social Security benefits, the cost would run more than 12 percent of payroll, in addition to the state's current cost for financing state pension benefits. And in Alaska, a separate study determined that the cost of partial replacement ranged from 12.5 percent of state payroll up to a whopping 22 percent of payroll under four alternative programs.

The reality is that the cost of providing even substandard pensions by financially strapped public employers will continue to be prohibitive unless Social Security is made universal and public pension plans are redesigned so that they are coordinated with Social Security.

TRIBUTE TO MONSIGNOR KIEFER, SAN PEDRO MAN OF THE YEAR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. ANDERSON of California. Mr. Speaker, one of the most important assets which any community can have is a strong spiritual leadership which also takes an active role in community affairs. In my own congressional district in southern California, we have been fortunate in having religious institutions which demonstrate a strong concern for the welfare and benefit of all our citizens, regardless of denomination.

Therefore, when the San Pedro community demonstrates its gratitude for the services rendered by the Right Reverend Monsignor Thomas Kiefer by naming him Man of the Year on Saturday, October 29, it will be an event of special significance. For Monsignor Kiefer, through his selfless devotion to others, has come to occupy a very special place in the hearts of those of us who live and work in the Los Angeles harbor area.

Born in St. Louis, Mo., in 1919, Thomas Kiefer graduated from the St. John Major Seminary in Los Angeles and was ordained to the priesthood of the Roman Catholic Church on May 4, 1946. He came to know and love the San Pedro community during the years 1947 to 1955, when he served at Mary Star of the Sea Parish, where he now is pastor.

Extremely active in working with youth in the area, Father Kiefer became athletic moderator of Mary Star of the Sea High School soon after it was established in 1951. After leaving Mary Star,

he became vice principal of St. Michael's High School in Los Angeles in 1955.

As principal of Bishop Amat High School, Father Kiefer served for 14 years at the La Puente campus, from 1957 to 1971. He became principal at St. Genevieve High School in Van Nuys in 1971, where he served until his return to Mary Star of the Sea Parish in 1975.

In 1968, Father Kiefer was elevated to the position of monsignor when he was named to the office of chaplain to His Holiness by Pope Paul VI. He became the Right Reverend Monsignor Kiefer in 1975 when named as Prelate of Honor.

During his many years as an administrator in the high schools of the archdiocese of Los Angeles, Monsignor Kiefer was active in programs aimed at benefiting the young people who grew and developed under his leadership. He is a founder of the Catholic Athletic Association of the Archdiocese of Los Angeles, and served 6 years as a member of the Executive Committee of the Catholic Interscholastic Federation. In addition, he was a member of the CIF's Council for 15 years.

Since returning to Mary Star of the Sea Parish, Monsignor Kiefer has devoted much of his time and energy to a number of community projects, especially in the field of youth activities. He has been very involved with the San Pedro Boys Club, and serves as a member of its board of directors.

Mr. Speaker. Msgr. Thomas Kiefer has earned the title of "San Pedro Man of Year" through his outstanding leadership of Mary Star of the Sea Parish and his profound commitment to the community. The respect and admiration in which he is held in the harbor area are tributes to his effectiveness. The award he is to receive this Saturday is a heartfelt expression of thanks from a grateful community.

My wife, Lee, joins me in congratulating Msgr. Thomas Kiefer as he is honored as San Pedro Man of the Year, and in wishing him many happy and productive years to come as pastor at Mary Star of the Sea.

THE CHURCH OF ST. THERESA OF THE INFANT JESUS OBSERVES 50TH ANNIVERSARY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. BIAGGI. Mr. Speaker, on Sunday, October 30, it will be my distinct honor and privilege to join in the celebration of the 50th anniversary of the Church of St. Theresa of the Infant Jesus, located in the Bronx, in my congressional district. This joyous occasion will represent a major religious milestone in the history of the Bronx.

St. Theresa's was founded in 1927, under the direction of the archbishop of New York, Cardinal Hayes. The church grew rapidly under the able and compassionate leadership of Rev. Msgr. Bonaventure J. Filetti.

No tribute to St. Theresa's would be complete without taking time to cite the instrumental role which Monsignor Filetti played during his 20 years as pastor. His tireless leadership guided the growth of the parish in its early years. By the time he was transferred to St. Patrick's Cathedral in 1946, St. Theresa's was an established and active force in the Pelham Bay community.

On May 3, 1946, the pastorship of St. Theresa's was ably assumed by my old friend, Rev. Msgr. Mario Ponsiglione. Monsignor Ponsiglione came to St. Theresa's with a reputation as an innovative leader. His first priority was to provide the many children of the parish with a Christian education. In a short 10 years after he became pastor, the school was completed. Also during his 28 years at St. Theresa, a new convent and rectory as well as a complete renovation of the church, were completed. As a result of his many achievements, Monsignor Ponsiglione was awarded the distinguished honor of being named domestic prelate in the household of His Holiness, Pope Pius XII.

Monsignor Ponsiglione's retirement in July of 1974 was a sad day for the people of the St. Theresa parish as well for the religious community of New York as a whole. His career in service to our Lord spanned 50 years.

Rev. Msgr. Robert R. Mazziotta became the next pastor of St. Theresa and remains in this capacity today. He has provided able leadership and direction for the parish which now include 2,500 families and 546 students. The many activities associated with the church make it a focal point for the Pelham Bay community.

The history of St. Theresa's is not lacking in tragedy. On February 7, 1965, a spectacular fire destroyed the entire church complex. It was a time of despair for the parish, but their dedication, support, and in some cases labor allowed the church to be fully restored and operating in a short time.

Mr. Speaker, for the past five decades, two generations of Bronxites have called St. Theresa's their home parish. Her past has been distinguished, her future appears bright and enduring. St. Theresa has provided 50 years of commitment and service to her parishioners and the Pelham Bay community. It has been fortunate to have the highest caliber of priests and nuns providing religious and educational guidance.

The significance of this 50th anniversary cannot be minimized. It is an occasion of great joy for the parish.

I extend my warmest congratulations to Pastor Mazziotta and his staff and wish to pay special tribute to Chairmen Marcy Turso and Harry Gaffney who are conducting a gala dinner dance on Sunday in honor of the anniversary.

I am proud to be associated with St. Theresa of the Infant Jesus Church on this momentous occasion. I am pleased to share their history with my colleagues in the House.

KEYNOTE ADDRESS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. SIMON. Mr. Speaker, almost a year ago I read a speech by the distinguished leader, Dr. Barry Commoner, of Washington University in St. Louis, given to the National League of Cities convention in Denver, Colo.

I have just reread that speech, and it merits attention once again.

I am also inserting into the RECORD at this point, a column which I wrote for the newspapers in my district some weeks ago.

My column does not contain anywhere near the wisdom that the address of Dr. Commoner contains, but it tends to buttress his argument.

I urge my colleagues to read the Commoner speech:

KEYNOTE ADDRESS

(By Barry Commoner)

No one needs to be told that our cities are in crisis. Each year the quality of urban life becomes worse; the problems multiply; the costs escalate; bankruptcy threatens.

But the worst casualty is hope—the hope that something meaningful can be done; that the problems can be cured instead of postponed; that the debts can be paid instead of juggled.

Hope has been eroded by repeated experience: every strategy to save the cities, however grandly it starts, soon falters, stumbles and ends as only another way to stave off, for a time, the urban day of reckoning.

Hope has been overwhelmed by the bewildering complexity of the urban crisis. Every attempt to deal with one part of the crisis seems to conflict with another. Efforts to improve school integration are hindered by the housing problem; sensible housing is frustrated by the lack of mass transportation; mass transportation funds are lacking because of the welfare burden and rising administrative costs; costs escalate because of unemployment and inflation; unemployment worsens as industries flee the city; and the flight from the city is spurred by the failure to solve the problems of school integration, housing, and welfare. The cities seem to be trapped in an endless cycle of interconnected problems.

Despite their complexity, nearly all of the cities' chaotic troubles stem from only two, but enormously difficult, economic ones—unemployment and inflation. Lack of work generates most of the human misery that city agencies confront, and the rising cost of living limits what can be done to alleviate it.

Of course, crime statistics will continue to rise—when nearly 20 percent of white teenagers and 40 percent of black teenagers are unable to find their first job, making the shattering discovery at this crucial time in their lives that there is no place for them in the national economy.

Of course, the welfare load grows heavier—when even the incomes of the employed cannot keep pace with ever-rising prices of lifes necessities.

Of course, social services will decline—when they are squeezed between falling tax revenues, and inflationary pressures.

But blaming the urban crisis on unemployment and inflation only seems to be the old maneuver of shifting the cities' problems to the federal government, where such economic issues are ordinarily dealt with. It

leaves the cities in the familiar and frustrating position of pleading for federal help.

I should like to propose a new idea: that the key to the unemployment and inflation problems is a new energy policy, and that the cities can take the lead in creating it. While it remains true that unemployment and inflation must be curbed in order to solve the cities' problems at their root, this approach gives the cities a way to tackle these problems on their own initiative.

To see the crucial links that connect energy, unemployment, inflation, and the fate of the cities, we need to know certain basic facts:

First: Nearly all (96%) of U.S. energy comes from petroleum, natural gas, coal, and uranium. These are nonrenewable resources; they get used up. Every barrel of oil taken out of the ground means that there is one less barrel that can be produced later; every pound of uranium ore that is refined means that there will be that much less available later.

Second: Although the supplies of oil, gas and uranium are indeed exhaustible, we are in fact, not likely to actually exhaust them, to literally use them up. The real trouble with a nonrenewable energy supply is economic. As oil, for example, becomes scarcer and more energy, more capital and other resources need to be invested in producing it, a vicious cycle develops: oil production costs begin to rise, forcing up the price of oil; this adds to the rising cost of production, again driving the price of oil upward, and so on at an endless and ever-increasing rate. The law of diminishing returns is at work. So long as we rely on nonrenewable sources of energy we will run out of our ability to afford it long before we run out of the energy itself.

Third: Every source of energy is useful only after it is transformed into some appropriate form. The cost of the necessary energy-transforming machinery depends on its technological maturity. For example, in contrast with, let us say an oil burner, a nuclear power plant is a new and very complex technology which is still in the process of being redesigned. Because nuclear power plants have had to meet safety and environmental protection requirements that were not anticipated in the original design, their costs have increased by 130 percent in the last five years, and since waste and reprocessing problems remain unsolved the costs will continue to rise. That explains why nuclear power is the most expensive energy source and why utilities constantly demand higher rates to raise the huge amounts of capital needed to build nuclear plants. Shale oil and synthetic fuel production are also immature technologies, which also mean higher energy prices.

Fourth: Rising energy prices can only lead to economic disaster. According to conventional wisdom, energy has been "underpriced" and, as the price rises, the "free market" will see to it that less is used. But this conventional view overlooks a basic, overriding fact about energy: that—unlike other scarce, high-priced goods (elephant tusks, for example)—where it is needed there is no substitute for energy. Energy is absolutely, universally irreplaceable. It is uniquely the source of all the work done in the production system (or for that matter, in the universe). As a result, as diminishing returns force the price of energy to rise, manufacturers let the increase "pass through" to the price of the goods they produce. Since energy is used to produce all goods and services, this means a general increase in prices. It is no accident that we first experienced double-digit inflation when the previously constant price of energy suddenly began to escalate in 1973. An energy policy that depends on nonrenewable resources and immature technologies means runaway inflation.

Fifth: Inflation that is driven by the rising price of energy is certain to place the heaviest burden on the poor, the central city dwellers. Energy is particularly important in the production of life essentials: food, clothing and shelter. Energy has become a major cost of agricultural production and of food products; modern synthetic fabrics use much more energy than the older, natural ones; households have become increasingly dependent on electricity, the most costly form of energy. The life necessities, which make up most of a low-income budget, have thus become particularly vulnerable to the rising price of energy. To make matters worse, the use of energy has become grossly inefficient. Freight has been shifted from railroads to trucks, which use four times as much energy to haul the same tonnage. Although electric-resistance space heaters are less than one percent energy-efficient, ten percent of our electric output is used for that purpose. Meanwhile, only about 0.3 percent is devoted to transportation, in which electric power can be used with nearly 100 percent efficiency. We pay more for energy and get less out of it.

Sixth: Because of these trends, the U.S. economy is now in an absolutely unprecedented situation: For the first time in history the relative price of energy is rising at a rapid and continuing rate. In the last two and a half years the price of energy, relative to general wholesale prices, which in the previous 25 years had been essentially constant, jumped from an index value of 72 to 106. The rapidly rising price of energy not only drives all prices upward, it creates uncertainties that delay new industrial investments. It forces economic dislocations (as in the auto industry) that cost jobs. It is a prescription for inflation and unemployment.

Here, then, is the real meaning of the energy crisis. It is not the distant prospect of some day running out of energy. Rather, it is the immediate prospect of economic catastrophe.

Although it is convenient to blame the rising price of energy on the OPEC countries, in truth it is the inevitable result of United States energy policy. A detailed study of U.S. oil production by the National Petroleum Council (sponsored by the Department of the Interior) published in 1971, predicted that, because of diminishing returns, the price of domestic oil would rise, beginning in 1973, at a rate which would become faster year by year. They were right. OPEC officials must have read the report, and thus forewarned of a coming rise in the U.S. oil price, they made the natural decision to anticipate it by raising their own, in 1973.

Every step taken by the Ford Administration in the name of "energy policy" has been a move toward ever higher energy prices: It has attempted to stimulate domestic oil and gas production by means of business "incentives"; to speed the construction of nuclear power plants; to develop shale oil and synthetic fuels. For reasons already given, each of these actions drives the price of energy upward.

This is the energy policy that the new Administration will inherit. It is a policy that is rapidly carrying the country toward economic disaster. Until that policy is changed, there will be no escape from inflation, unemployment and the downward trend of the economy.

The cities have the most to gain from a new energy policy, for they are the worst victims of the present one. Cities are particularly vulnerable to the rising price of energy. If it continues to soar, in the spread-out municipal areas people will be forced to pay ever-increasing costs just to survive—to go to and from work, to go shopping, to visit the doctor. The rising cost of employees' travel between the suburbs and city businesses will give industry yet another excuse to flee the city. And in the new homes that make up the urban sprawl, the householder will discover that an "all-electric" home each year loses resale value as the price of electricity—which is rising faster than the price of all other forms of energy—escalates. In a word, metropolitan areas have become energy-intensive. The destruction of city neighborhoods and the rise of concentrated shopping areas; the decay of the inner city and the creation of suburban sprawls; the envelopment of metropolitan areas in a snarl of highways—all this means a heavy dependence on energy, which forces the cost or urban living to escalate in step with the price of energy.

What can be done? Is the energy crisis just another of the cities' insoluble problems?

Far from it. Once it is seen in its true, economic form, the basic strategy of solving the energy crisis, and the powerful initiative that the cities can take to accomplish it, become clear. The basic strategy is to take advantage of the rapid, unprecedented rise in the price of fuel, which gives a strong economic incentive for investments that cut down the use of fuel. In other words, precisely because our present energy sources have—for good reason—become the leading edge of inflation, an investment that reduces the use of these sources becomes a uniquely cost-effective hedge against inflation.

There are two ways of doing just that, which—unlike offshore oil or nuclear power—can be readily available anywhere in the country: insulation and solar energy.

Here is one example: In the St. Louis area about $2,000 would be needed to effectively insulate a conventional frame house with no present insulation. Insulating such a home (heated by natural gas and cooled by electricity) would save about $83 in present utility costs annually. But $83 will not cover the payments on a $2,000, 20-year loan. However, since the price of energy is bound to go on rising, in about five years the utility savings will in fact make the $2,000 investment worthwhile. The problem is that even with good prospects of an eventual net saving, few householders are likely to be in a position to take on such a debt and incur an immediate, if temporary, increase in their operating costs in order to save money in the future.

Solar energy, which also cuts down the need for fuel offers a similar protection against inflation. One of the myths about solar energy is that it will be feasible only in the sunniest parts of the country. But the fact is that the most and least sunny regions differ only by a factor of two. Another myth about solar energy is that it is too expensive. But the fact is that one important solar technology—collectors to provide space heat and hot water—is already economical in many parts of the country, when properly combined with conventional energy sources.

For example, a recent Washington University study [1] showed that a St. Louis homeowner could cut his hot water bill, right now, by installing a solar collector to meet about 46 percent of the need, the rest being provided by electricity. Although the collector would cost $660 installed, amortized at eight percent bank financing it would still reduce the overall annual total hot water bill by ten percent.

Nationwide, 24 percent of all homes now use electric water heaters, which consume 16 percent of all residential electricity, second in demand only to refrigeration. Based on the St. Louis data, these homes could be equipped for about one-half solar hot water at a total cost of about $10.5 billion. This investment would save about 30 billion

[1] Bernard Yudow, "Engineering Design and Economics of Solar Domestic Hot Water Heating in St. Louis" (Masters Thesis), Sever Institute of Technology, Washington University, St. Louis, Mo., Aug., 1975.

kilowatt-hours of electricity, worth about $1 billion (at $.03/kwh), annually. This energy saving could eliminate the need for about seven million-kilowatt nuclear power plants, costing about $1.3 billion each. So, as a rough estimate, the nation could produce the same amount of hot water by investing $10 billion in solar collectors or in nuclear power plants. But the solar collectors are likely to be much more reliable and certainly much less risky than the nuclear power plants; and besides, you don't need to be a multibillion dollar corporation to buy one.

These examples show that insulation and solar heating can be used to counteract rising utility costs, with future, and in some cases present, savings to the householders—*if* suitable financing can be arranged. To illustrate what might be accomplished nationally in this way here is a final example.[2] It is based on Mr. Ford's proposal to invest $100 billion of public funds to provide private entrepreneurs with capital for energy investments in nuclear power, shale oil and synthetic fuel—all of which would contribute considerably to the rising price of energy. If this sum were used instead to provide loans for solar heat installations (interest-free, but with the recipient required to pay back the annual savings in fuel, reckoned at a fixed, rather than constantly inflating price) after ten years the following could be accomplished: Most single family homes and commercial buildings in the U.S. would be using solar heat for 60 percent of their space heat requirements and that part of their heating bill would no longer increase in price; the fuel saved could reduce national oil imports by about 20 percent; in the tenth year and thereafter, about $6.5 billion would be paid back to the government annually. With insulation loans added, such a program could be even more effective.

Without more detailed analysis these figures must be regarded as approximate. But they are precise enough to show that the rapidly rising price of conventional energy makes it feasible—in some places immediately and in most of the country within the next few years—to use investments in insulation and solar heat as powerful, cost-effective weapons against inflation. But none of this can happen without some kind of government intervention to facilitate the necessary financing. In return the country would receive very considerable advantages:

First: The soaring cost of energy would begin to be stabilized. To the degree to which insulation and solar devices reduce the consumption of oil, natural gas and nuclear power, the consumer will become freed of the need to meet constantly rising utility bills.

Second: Demand for fuels and electricity would be reduced; this would help to cut back the rate of increase in energy prices and inflation generally. It would also reduce the need for the very heavy capital expenditures that are required by utilities to expand energy production, and so help to check the rapid demand for utility rate increases.

Third: Insulation and solar heating are job-creating programs, involving carpenters, plumbers, electricians, glass workers, sheet-metal workers, and the construction industry as a whole. For example, the $100 billion ten-year program cited above could probably create nearly a million jobs, or enough to reduce the unemployment rate by one percentage point. The work would be highly decentralized, and foster employment throughout the country. And since the work is tied to housing and commercial buildings, cities and suburbs would particularly benefit from the new job opportunities.

[2] David Kriebel, "Calculations of Energy Use and Cost in a National Program Investing $100 Billion in Solar Heating Systems", Center for the Biology of Natural Systems, Washington University, St. Louis, Mo., Aug., 1976.

Fourth: By reducing fuel consumption, the program would diminish air pollution, again especially in the cities.

To implement such a program, what is needed is an agency which, for the sake of these considerable social advantages, would offer loans at favorable financial terms for insulation and solar heating in homes and commercial buildings. In order to match the highly local, decentralized nature of the necessary work the agency ought to operate on a local, rather than national scale. Unlike nuclear power, solar energy (or insulation for that matter) yields no economy of scale: Solar energy can be produced, and energy saved by insulation, just as economically on the scale of a single home as on the scale of a shopping center. Multibillion dollar energy corporations would have no advantage over local small businesses in such work. In fact, given the need for designs detailed to match the specifics of local buildings, local, small businesses would have a distinct advantage.

What is needed, then, is a lending agency that can provide the financing to link the local customers' needs for energy-saving insulation and solar installations, with local businesses that want to provide these goods. What is called for is not some new Federal bureaucracy, but rather, in each city or metropolitan region, a kind of Urban Energy Bank, matched in size to the area that it serves and supplied with funds raised either in the bond market, or provided federally (or both).

It seems to me that the appropriate administrative base for such an agency is the city. Directed toward local needs, an Urban Energy Bank could not only catalyze an energy-saving program, but could also use the program to facilitate urban renewal. By using devastated central city areas as demonstration sites of the program, special subsidies that might help end the tragic course of urban decay could be justified.

Beyond these advantages to the cities themselves, such a program would begin to create a sensible national energy program. Up to now proposals for a national energy program have been based on huge, costly, centralized facilities. A good caricature of what is usually called for is the so-called "energy park"—with its dozens of multibillion dollar nuclear installations, and yet-to-be-demonstrated plants for handling radioactive wastes as safely as though they were fireplace ashes. Current proposals that are based on such huge nuclear installations, or on mammoth plants to cook fuel out of shale or to turn coal into gasoline, would further concentrate energy production—and the economic power that it entails—in the hands of the same multibillion dollar, multinational corporations that have brought us—wittingly or not—into our present predicament. And to keep a sharp eye on them—and to pick up the bill for the enormous capital costs—we would also need a new, expensive, federal bureaucracy.

But now, with a new Administration we could do things differently. President-elect Carter has already given voice to the importance of energy conservation, solar energy and a critical look at the future of nuclear power. More important, he has called on the people of the U.S. to rely less on the old, centralized bureaucratic attempts to solve their problems, and more on their own creative energy and initiative. Energy policy is a unique opportunity to make a start in this new direction. For the cities it is a chance to end the era of not-so-benign neglect, to break out of the grip of the concentrated economic and political power that has enfranchised urban decay and stifled local initiative that sought to fight it.

The energy crisis creates both the necessity and the opportunity to strike at the heart of our most disastrous urban and national problems.

It calls for a new energy program that addresses the economic impact of the crisis—inflation and unemployment.

It calls for the building of a new partnership between the people and the governments they have elected to serve them.

It gives the cities the opportunity to lead the way toward these goals.

It gives us all the challenge to restore hope in the cities', and the nation's, future.

An Energy Lesson From Cyprus

Life is full of ironies and some of those are visible on the rooftops of newly built homes for refugees in Cyprus.

I was in Cyprus recently, at President Carter's request, as part of a small delegation attending the funeral of their President, Archbishop Makarios.

Senator Charles Mathias of Maryland, Congressman John Buchanan of Alabama and I spent an afternoon visiting places where the United States has been spending some of its Agency for International Development (AID) money. What interested us most were the solar heating units on the homes of refugees.

The units are primarily used for hot water heating, which is one of the major users of energy in Cyprus, the United States or any other country.

An electric hot water heater in an American home, on the average, will use slightly more electricity during the course of a year than will an air conditioner. A water heater uses 15 per cent of all the energy consumed in the home.

Those solar units on the Cyprus refugee homes cost approximately $240 each.

The United States has helped in the resettlement and housing of the refugees (as we should) and on the average we assume about 54 per cent of the cost of refugee housing—including the solar heating units.

The ironies are these:

While in the United States we complain loud and long about an energy shortage and the need to find alternative forms of energy, a poorer nation is doing much more about it, in large part through U.S. help.

The United States pays 54 per cent of the cost of those solar units, but try getting FHA approval for a loan for a house that includes solar heating in the United States!

Or try getting a solar heating unit that costs anywhere close to $240 in the United States. Part of the reason for this is of course cheaper labor in Cyprus, but most is the fact that the companies there have seen the need, the demand has been created, and they have produced in quantity inexpensive, effective solar heating units.

These solar units in Cyprus—or anywhere—are built so that electricity or some other form of energy can supplement the sun's heating ability. Whatever the sun does not do, electricity or oil or gas does.

At least half the homes in Cyprus appear to have solar heating while in the United States probably fewer than one per cent have solar heating. Both these statistics are guesses on my part, but conservative guesses.

It is true that Cyprus has more sun than most parts of the United States, but it is equally true that solar energy can be put to good use in the coldest portions of our nation.

We can learn from others.

We have talked much about the energy crunch.

Cyprus has acted.

PERSONAL EXPLANATION

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. PATTEN. Mr. Speaker, yesterday afternoon, I regrettably had to catch a train to return to New Jersey for the

funeral of a dear friend. As a result, I missed the final three rollcall votes and would like to now state how I had intended to vote:

Rollcall No. 692: Sexual Exploitation of Minors: "Nay."

Rollcall No. 693: Supplemental Appropriations: "Aye."

Rollcall No. 694: EPA Authorization Conference Report: "Aye."

BANKRUPTCY IN STUDENT LOAN PROGRAM

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. DODD. Mr. Speaker, today the House of Representatives is considering one of the most controversial and emotional issues relating to bankruptcy—the question of discharge of student loans through bankruptcy.

I strongly support section 316 of H.R. 8200 which protects the right of persons with student loans to have those loans treated in the same manner as other loans in a bankruptcy proceeding. The Judiciary Committee's bill would not give preferential treatment to any student but rather would prevent a change in the law resulting in unfairly penalizing 10 million of our Nation's citizens.

Bankruptcy is provided for in the U.S. Constitution and should be considered a totally legitimate alternative to any person whose financial circumstances warrants it.

The student loan program in recent years has suffered substantial losses accounting for millions of dollars, and my colleagues are justified in their concern over these losses. However, they have yet to justify their contention that bankruptcies are responsible for more than a small percentage of the losses incurred or that vast numbers of students are "taking the easy way out" by discharging their loans through bankruptcy. In fact, the greatest part of the losses is due to simple default, nonpayment, and not bankruptcy.

Everyone by now has read published horror stories relating how persons who, having benefitted from large student loans, took the option of entering the bankruptcy courts rather than assume their rightful obligation of repaying the loans. Clearly, this irresponsible behavior is not condoned by anyone.

However, there is no evidence to indicate that this behavior is typical of students overall, and it is grossly unfair to legislate an exemption to the bankruptcy code covering 10 million students based on the actions of a small percentage of students.

There are two major arguments forwarded by those seeking an exemption for student loans. They are, first, that students are rushing headlong into bankruptcy court as an easy way to rid themselves of large debts rather than making a good faith effort of repaying the loan; and second, that the student loan program is floundering as a result of the substantial losses incurred in recent years due to bankruptcy.

Neither of these arguments is supported by fact. Last year a GAO study was requested to provide the Congress with statistical data with which to evaluate the student loan program. The results of the study do not substantiate the claims of widespread abuse by students.

First. Are students abusing the bankruptcy alternative? GAO found that in addition to guaranteed student loans, other Federal and private loans averaging about $1,600 were also included in bankruptcy petitions. Furthermore, only 8 percent of bankruptcy petitions in the GAO sample listed educational loans as the only indebtedness, and only 35 percent had educational debts which represented 60 percent of their unsecured debts. This means that the vast majority of students entering bankruptcy had debts for which educational loans were only a small part.

The proposed exemption for student loans gives a special distinction to students as a group which is highly offensive because it would amend the law to treat education loans precisely as the law now treats loans incurred by fraud, felony, and alimony dodging. By this action, we would be subjecting all students to an assumption of criminality which is prejudicial and an assumption unsupported by existing data.

Second. How has bankruptcy affected the student loan program? It has been charged that the losses in the student loan program have risen sharply in the last few years. It is true that the volume of losses has increased but so have the number and volume of student loans. The significant point is that the losses due to bankruptcy have remained at a stable rate and, according to the GAO study, account for only about 4 percent of the total claims paid and for less than 1 percent of the total matured loans.

However, while bankruptcy represents a small part of the losses in the student loan program, a serious problem does exist with the high rate of default, nonpayment, experienced with student loans. According to the GAO, the number of defaults through fiscal year 1975 have accounted for as much as 17.6 percent of the cumulative losses for the federally insured portion and 8.9 percent for the guarantee agency portion.

It must be recognized that default and bankruptcy are two separate problems, and changing the bankruptcy laws will do nothing to correct the rate of default which accounts for 96 percent of the losses incurred by the student loan program.

Last year the House amended the Higher Education Act of 1965 and included a number of revisions in the administration of the student loan program in an effort to reduce the rate of default. Furthermore, it is hoped that the revisions contained in H.R. 8200 will further reduce the number of people entering into bankruptcy overall.

The Judiciary Committee, of which I am a former member, has been working on a comprehensive revision of the bankruptcy law for 6 years and during that time has enjoyed strong bipartisan cooperation. During their thorough review of all aspects of the bankruptcy law, they examined the question of discharge of student loans at some length and were not convinced that students as a group were guilty of the widespread abuse which has been charged.

Furthermore, they see the proposed exemption as being completely contrary to the fundamental premises of bankruptcy law: a fresh start for the debtor, and equality of treatment for all debts and creditors.

This position was held unanimously by the Judiciary Subcommittee on Civil and Constitutional Rights where the bill originated and was upheld by an overwhelming margin in the full committee.

Mr. Speaker, there has been a great deal of emotional and misleading information circulating. The facts do not support the basic contention of dramatically rising numbers of students rushing wholesale into bankruptcy courts in an effort to irresponsibly rid themselves of their rightful obligations.

The real problem has been in the very high default rate and the poor administration of the student loan programs. I am hopeful that the revisions in the Higher Education Act and the Bankruptcy Law Revision will be effective in reducing the losses now sustained by the Office of Education and that the Congress will refrain from making an ill-advised action which would unfairly penalize the students of this country.

CHATTEM RETIREMENT PLAN

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mrs. LLOYD of Tennessee. Mr. Speaker, at a time when many of us in the Congress are hearing a great deal of discussion about the pros and cons of postponing mandatory retirement until age 70 for those individuals who would prefer to continue their employment, would like to call to the attention of my colleagues a remarkably foresighted retirement plan adopted by the Chattem Drug and Chemical Co. of Chattanooga, Tenn. The Chattem plan addresses all of the major concerns raised by those who have opposed the easing of mandatory retirement.

The plan follows:

CHATTEM'S NEW RETIREMENT PLAN

1. Chattem has had a well-regarded pension plan for a long time. It provided for retirement at age 65 and for early retirement from 55 to 65. A person retiring between 60 and 65 would have his pension reduced by one-fifteenth for every year and a person retiring between 55 and 60 would have his pension reduced five-fifteenths plus one-thirtieth for every year before 60. A person could work beyond 65 at the request of the board but pension payments began at age 65 or a lump sum settlement was made then.

2. When our pension plan was reviewed and revised this year to comply fully with ERISA, we made it possible for a person to retire earlier with less decrease in benefits

The new plan we adopted provides for a 3 percent decrease for every year between 60 and 65 and a 5 percent decrease for every year between 55 and 60. Quite a number of companies have similar provisions to make early retirement more attractive, and I know of at least one with exactly our provisions, one with 5 percent of every year, and one with 4 percent for every year.

3. In revising our plan I requested that people working beyond age 65 have their benefits increased for each additional year of work instead of having to begin receiving their pension at age 65 as in the past. Since the funds to provide the pension will draw interest for a longer period and the pension will be paid out over a shorter period, the pension will increase for each year worked. Without any additional contribution by the employee or by the company, a person's benefits increase by 12 percent a year. This is calculated on a 7 percent rate of interest and on a single life income type of pension. There are various types of options in our pension plan. Any survivorship option, of course, reduces the 12 percent figure. Thus, a person working to age 70 at Chattem can retire at 160 percent of full benefits under the Chattem Plan. This percentage increase applies to the Chattem portion of total retirement benefits only, of course, and doesn't alter Social Security benefits.

Actuarily, the mathematical increase for each year worked is progressive, and a person working to age 75 could receive 175 percent to 185 percent of his normal full pension as of age 65 without any further contribution. For various reasons we decided initially, however, to make the increase level at 12 percent a year. It is possible, I think, that we have made this additional benefit not quite generous enough and the early retirement provisions between 60 and 65 a bit too generous and costly.

Our goals for our plan are for a person with 20 years of service and less than $10,000 of compensation per year to retire at age 65 at 70 percent of salary, including 50 percent of Social Security; from $10–15,000, 65 percent; from $15–25,000, 60–65 percent; and above $25,000, 50–60 percent. These goals are based on single life income options.

4. Since we made known our new retirement benefits, there have not been many retirements at Chattem, but it is interesting to see what has taken place in those few instances. One person has chosen early retirement, with a level-income option. Three others have asked the Personnel Department to calculate their exact benefits if they choose early retirement, which now interests them very much. One person was pressed very hard to remain after age 65 and still chose regular retirement in spite of the increased benefits. One person has retired without being offered or requesting longer employment. Two people have been given the choice of working beyond age 65 and have accepted. One has continued his same duties and one has had his responsibilities somewhat lessened. One of these chose lump sum settlement and one was not covered by the plan.

Our personnel manager predicted when we adopted the new plan that the most popular feature would be the improved early retirement benefits, and our limited experience thus far indicates this is the case. People who have the opportunity to stay on after age 65, however, seem to be the most grateful.

5. We try to recognize at Chattem that people differ widely in a great many ways, and we try to give them the maximum leeway to pursue their goals as individuals within the necessary bounds of overall corporate policy. By making it easier for people to take early retirement and also more attractive to work beyond age 65, we believe that we have helped both those who wish to enjoy retirement at an earlier age and those who, for psychological and personal reasons, wish so much to continue an active business career or need very much the additional money to offset the inroads of inflation. While this is good for the individuals, it is also good for the company and helps us discharge further our social obligations.

EFFORTS TO CANCEL OR DIMINISH DIEGO GARCIA BASE CONSTITUTE A DANGEROUS GAME

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. McDONALD. Mr. Speaker, in the recent talks on the Indian Ocean relative to its "de-militarization" a mistaken notion has grown up that somehow the base at Diego Garcia is not important. Just how important it is was recently discussed in a booklet authored by the former head of the JCS, Admiral Moorer and Prof. Alvin Cottrell, for the Center for Strategic and International Studies of Georgetown University. The booklet is entitled: "U.S. Overseas Bases: Problems of Projecting American Military Power Abroad." Chapter 3 discusses the Indian Ocean and shows clearly that even with Diego Garcia, the Soviet Union has significant advantages in the bases it already possesses in the Indian Ocean area over Diego Garcia. Therefore, if we give up the base or do not continue to develop its capabilities, we will be in even a worse strategic position in that area. Chapter 3 is reproduced below for the edification of my colleagues on this issue:

IV. THE INDIAN OCEAN

The map (page 32) indicates the location of the principal Soviet and American basing facilities in the Indian Ocean Basin.

The Soviets presently have access to naval and/or air bases or facilities in Iraq, South Yemen, and Somalia. In contrast, the United States has only limited access to air strips on the Indian Ocean littoral and naval access to only two ports: Bahrain and Diego Garcia. The British have already withdrawn from Masirah, handing over various technical equipment on the island to Omani authorities. The Omani government has stated that friendly countries who have reached agreements in advance may have transit use of facilities overall its territories, including Masirah (FBIS, 1976: C.3). For example, the United States has been permitted to continue to use Masirah for Orion P-3 air maritime surveillance flights, but Masirah could not possibly serve as a U.S. naval facility without prohibitive financial costs. The United States had access for occasional flights when Masirah was a Royal Air Force base; that arrangement has been continued with Sultan Qaboos.

Any possibility of American access to the airbase in Gan in the Maldives seems to have evaporated. Earlier this year the president of the Maldives, Ami Ghmad, emphasized his country's support for the UN resolution to make the Indian Ocean a zone of peace. According to The Delhi Domestic Service, "the former British military base in Gan has been vacated and (the Maldive) government had offered its use as an international airport." (FBIS, 1977b: S.3)

It seems certain at this writing that the U.S. presence in Bahrain will be significantly curtailed (FBIS, 1977a:c–1) and that the Bahrain government will not allow the United States to continue the practice of "homeporting". The U.S. manpower level will be reduced significantly from its present size of about 125 shore-based personnel (together with dependents numbering about 500) to 75 personnel with only a few dependents. The United States will most likely resort to a policy of a certain number of visits per year to the Persian Gulf. The U.S. flagship for the Middle East Force, the 14,000-ton command ship *LaSalle*, will become an afloat command homeported in Norfolk, but permanently deployed to the Indian Ocean area. Under the new arrangement, U.S. naval vessels will have to request permission in advance. The foreign minister of Bahrain, in regard to the new agreement, stated as follows: "They will have to make a request each time, but we will make arrangements. They will be welcome to take supplies. But we don't want the U.S. presence in such a way that it could be construed as a base and give other Persian Gulf or Indian Ocean countries an excuse to allow foreign powers to put in military bases." (Lippman, 1977)

With the prospects for access to facilities in the littoral states diminished, the U.S. base in Diego Garcia assumes greater importance. Yet, Diego Garcia alone cannot begin to match Soviet facilities in the Indian Ocean region. The complex being developed on the island in the Chagos Archipelago will not even equal the Soviet facilities in Somalia. In Berbera on the Gulf of Aden the Soviets have access to two airstrips of 14,500 and 17,500 feet and capable of handling any aircraft in the Soviet inventory; these contrast with the 8,000-foot runway on Diego Garcia. The Soviets have developed another air base at Mogadiscio on the Indian Ocean coast of Somalia. (The runway on Diego Garcia will eventually be enlarged to 12,000 feet if the project is not prevented by the Carter administration's proposed negotiations with the Soviets on demilitarizing the Indian Ocean.) A major communications center for the Soviet Indian Ocean fleet is being developed in Somalia. Satellite pictures indicate the presence of tenders for Soviet diesel submarines in the area. American anchorage and bunkering facilities at Diego Garcia compare unfavorably with Soviet access to similar or better facilities, especially in Berbera, where they dispose over a floating drydock and cruise missile storage facilities (even though other facilities to which the Soviets can resort in Aden, South Yemen, Umm-Qasr, Irak, and elsewhere along the northwestern littoral of the Indian Ocean are considerably less elaborate).

The foregoing certainly contradicts the view of such critics of Diego Garcia as Tom Farer (1976: 110) and others who argue that "Western facilities in the Indian Ocean . . . constitute a far more substantial infrastructure than the Russians have been able to assemble." The problems related to an American presence in the Indian Ocean have been exacerbated by developments along the Ocean's South African littoral, where U.S. access to facilities has now been greatly reduced or limited. The United States finds use of these facilities either denied by host countries or, in the case of the Republic of South Africa itself, exercise a self-denial in deference to political-ideological considerations and American domestic politics:

Today the United States and Western Europe continue to deny themselves the use of South African ports, even Luanda and Lourenço Marques (Maputo) have in the meantime been barred to them . . . An alternative to Lourenço Marques (Maputo) was Diego Suarez, the well-endowed former French naval base on the northern tip of Madagascar; but this port has since been denied to France and thus to the United States. Mombasa in Kenya is still accessible, but it is substantially more remote, its facilities limited, and its continued availability cannot be projected with confidence over the

coming years. (Hahn and Cottrell, 1976: 49–50)

The loss of or diminished U.S. access to such facilities must be seen as a serious impairment of the U.S. Navy's ability to project a presence into the Indian Ocean, particularly if the Suez Canal were to be closed again—as is likely in the event of another Middle East conflict. As a former Chief of Naval Operations has put it (Zumwalt, 1976: 454–455):

. . . An American naval presence in the Indian Ocean that has plausibility requires a base where fuel, ammunition and spare parts in some quantity can be stored, where planes of all sizes can land, and where a carrier task group can anchor if need be. It happens that almost exactly in the middle of the Indian Ocean there is precisely such a place, a British Island named Diego Garcia. . . . Transforming it into a base that could give a carrier group in the Indian Ocean the logistics it needed to move freely was rather a modest undertaking.

Diego Garcia, therefore, represents the one base which could support in a direct regional sense U.S. naval deployments into the Indian Ocean's all important northwest quadrant. Yet, doubt has been cast upon the development of the full potential of Diego Garcia as a U.S. naval-air base, especially in the wake of the Congressional efforts to block its development and President Carter's recent statement of his administration's intent to pursue negotiations with the Soviet Union toward the complete demilitarization of the Indian Ocean.

Symptomatic of the post-Vietnam mood, there has been a steady opposition among elements of the U.S. Congress—particularly in the Senate—to the development of Diego Garcia President Carter's initiative seems certain to encourage this opposition and to impose self-restraint on the use of the island—at least until the possibility of negotiations with the Soviet Union has been fully explored. At this writing, a U.S. team to prepare for the negotiations is already being assembled in the U.S. government. In reply to President Carter's initiative, former Soviet President Podgorny indicated that his country was willing to open talks with the United States and other concerned countries. He did point out, however, that the "key question" would be "the elimination of imperialist bases." At the same time, he denied that the Soviet Union had any bases in the Indian Ocean or any intention of establishing them (New York Times, 1977b). Such statements hardly augur well for meaningful and realistic negotiations. Indeed, a shrewd Soviet policy would be to keep the hope of negotiations alive, in the meantime playing upon domestic opposition in the United States to curtail or slow down significantly the development of Diego Garcia.

The concept of a "zone of peace" in the Indian Ocean has appealed to a number of U.S. analysts. Thus, Dale R. Tahtinen (1977: 44) recently wrote: "Indeed, in a nuclear age a superpower need not have a large fleet and bases all over the world to be insulated from military challenges." This kind of blithe argument overlooks a host of considerations, among them the fact that an overseas naval presence permits the United States to exercise its nuclear deterrent with fewer nuclear submarines. The range of Polaris and Poseidon missiles is relatively limited, and while Trident portends a marked improvement in that respect, their presence in the Indian Ocean would greatly aggravate Soviet ASW problems. Simultaneously, U.S. targeting flexibility would be enhanced vis-à-vis some targets in the Soviet Union. Finally, such an approach ignores the political benefits that can accrue to a country with the capability of employing its naval force in support of foreign policy.

PEAT: AN ENERGY SOURCE FOR THE FUTURE?

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. OBERSTAR. Mr. Speaker, on October 4, 1977, I invited 85 of our colleagues from both the House and Senate to a briefing on the utilization of peat as a viable and competitive energy source. The Members represented the seven States—Alaska, Florida, Louisiana, Michigan, Minnesota, North Carolina, and Wisconsin—with the Nation's largest deposits of peat. Representatives of the Minnesota Gas Co., the Institute of Gas Technology, and the Gas Research Institute reported on their extensive examination of peat's energy potential.

For centuries peat has been used extensively as a home heating fuel in Europe and the Soviet Union. Yet the United States, which has the second largest peat reserve in the world, estimated at 52.5 million acres, does not use this resource commercially as a source of energy. We have enjoyed the comfort and convenience of abundant supplies of natural gas and refined oil products which are easily delivered and stored, and burn cleanly. For this reason the dried, compacted form of peat which is burned in other parts of the world, has not been widely used in the United States.

However, in the face of an energy crisis, characterized by diminishing reserves of domestic natural gas and growing dependence on foreign crude oil, we must examine every potential domestic energy resource.

Ninety percent of the peat reserves in the contiguous 48 States are located in areas which have no significant reserves of other fossil fuels. For those States, peat represents a very important energy resource.

The energy potential of peat is remarkable. The recoverable energy potential of peat exceeds that of domestic natural gas, crude oil, lignite or oil shale. The energy available from U.S. peat deposits is estimated to be equivalent to about 240 billion barrels of oil. Furthermore, technological advances will allow us to utilize peat as a fuel without sacrificing the convenience to which we have grown accustomed.

Based on laboratory-scale tests, cosponsored by ERDA and the Minnesota Gas Co., peat was found to be an exceptionally good raw material for substitute natural gas (SNG) production. moreover, an efficient process for converting peat to SNG was discovered. The process of converting peat to SNG was found to be both technically feasible and economically attractive. The creation of a comprehensive peat gasification program would provide 31 trillion cubic feet of SNG annually for 20 years. By comparison, our current annual level of gas consumption is about 20 trillion cubic feet.

Peat SNG can be produced in gasification plants similar to those already designed for coal conversion. The high-moisture content and biologically active state of peat will make the process more efficient than coal conversion. Our existing network of natural gas pipelines can provide the transportation logistics necessary to bring SNG to its market. In terms of consumer price, SNG produced from peat can be competitive with any domestic fuel.

The environmental problems relating to peat harvesting are much less severe than those associated with coal strip mining. Land reclamation is easier after peat harvesting since the land contour is not drastically altered in removing 5 to 15 feet of peat. The Bureau of Mines is now developing environmentally acceptable methods for harvesting peat, including specific techniques for reclamation. Potential uses of mixed peat lands include agricultural and forestry production, and wildlife habitats.

The Minnesota Gas Co., IGT, and GRI plan to continue peat gasification tests on larger scales. However, we must encourage the commercial use of peat by helping to offset the initial high capital outlay associated with peat gasification plants.

It is essential that we keep peat gasification in the forefront of energy research programs. By developing our domestic peat reserves, we will introduce a competitive domestic fuel to the American market and reduce our dependence on foreign energy resources.

LEST WE FORGET

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. HYDE. Mr. Speaker. our legislated Veterans' Day has passed into history, and our historical Veterans' Day of November 11 approaches. Sadly enough, we have not yet, as a nation, honored those men and women who served in Vietnam, those who lost their lives, and those still missing in action.

Veterans of other wars have been honored at our National Cemetery in Arlington, Va., at the Tomb of the Unknown Soldier. Our Vietnam veterans have not yet been honored at the Tomb of the Unknown Soldier due to a ridiculous technicality in the law.

Under present law, until an Unknown Soldier from the Vietnam war is placed in the crypt at Arlington Cemetery. there cannot be a display of medals, ribbons and tributes to honor Vietnam veterans. Due to the advanced state of forensic and pathological science, at the present time there is no unknown soldier from the Vietnam war whose remains can be placed in the crypt built between the tombs housing the World War II and Korean War Unknown Soldiers.

It is ironic that the United States recently joined in admitting Vietnam as a

member of the United Nations, before we have paid tribute to our Vietnam veterans and war dead at Arlington National Cemetery. Never has a war been less popular with Americans, and never have the servicemen who fought for their country received so little recognition and support from their fellow citizens as those who served in Southeast Asia.

I am pleased to reintroduce with 44 cosponsors—thus bringing the total number of cosponsors to 102—a bill that directs the Secretary of Defense to honor our Vietnam veterans by placing an appropriate display of tributes and medals at Arlington National Cemetery.

The Veterans of Foreign Wars, the American Legion, the National League of Families of American Prisoners and Missing in Action in Southeast Asia, and the Non Commissioned Officers Association of the United States have all endorsed this legislation, which also calls for a special plaque to be placed on the crypt already prepared for the Vietnam Unknown Soldier bearing the inscription:

"Let all people know that the United States of America pays tribute to the men and women who answered their Country's call to serve in Vietnam and those who are unaccounted for Prisoners of War or Missing in Action."

Surely we have waited far too long to pay appropriate tribute to those who gave their lives in that strange, distant and unpopular war. We must not delay any longer.

Following is a current list of cosponsors of my Vietnam Tribute bill:

CO-SPONSORS—VIETNAM TRIBUTE

James Abdnor, Daniel K. Akaka, Mark Andrews, Bill Archer, Les AuCoin, Robert E. Badham, Max Baucus, Edward P. Beard, Adam Benjamin, and James J. Blanchard.

Edward P. Boland, Jack Brinkley, Clarence J. Brown, Clair Burgener, James A. Burke, M. Caldwell Butler, James Cleveland, Thomas Coleman, Silvio O. Conte, and Tom Corcoran.

David L. Cornwell, Edward Derwinski, William L. Dickinson, Robert Dornan, Thomas J. Downey, John J. Duncan, Mickey Edwards, Joshua Eilberg, David Emery, and Allen E. Ertel.

Thomas B. Evans, Jr., John Fary, Millicent Fenwick, Walter H. Flowers, L. H. Fountain, Donald Fraser, Bill Frenzel, Louis Frey, Jr., Benjamin Gilman, and Willis D. Gradison, Jr.

Charles Grassley, Tennyson Guyer, Sam B. Hall, Jr., George Hansen, Elwood Hillis, Ken Holland, Marjorie S. Holt, Frank Horton, William J. Hughes, and Andy Ireland.

John Jenrette, Jr., Jack F. Kemp, William Ketchum, Thomas N. Kindness, Robert Lagomarsino, Raymond Lederer, Joseph A. Le Fante, Norman F. Lent, Marilyn Lloyd, and Clarence Long.

Trent Lott, Paul N. McCloskey, Jr., Larry McDonald, Robert C. McEwen, Matthew McHugh, James R. Mann, Dan Marriott, Romano L. Mazzoli, Joe Moakley, and Robert H. Michel.

Clarence Miller, Donald J. Mitchell, Austin Murphy, Stephen Neal, Bill Nichols, Richard Nolan, James L. Oberstar, Shirley Pettis, Larry Pressler, and Carl D. Pursell.

Dan Quayle, Albert H. Quie, Frederick Richmond, Marty Russo, Richard T. Schulze, Paul Simon, Gladys Spellman, Floyd Spence, Arlan Stangeland, and Newton I. Steers, Jr.

Bob Stump, David C. Treen, William Walsh, G. William Whitehurst, Charles Whitley, Charles Wilson, Larry Winn, Jr., John Wydler, Gus Yatron, C. W. Bill Young, Don Young, and Robert Young.

TRIBUTE TO CLEMENS F. MICHALSKI

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. ZABLOCKI. Mr. Speaker, earlier this week I joined hundreds of other mourners in paying last respects to Clemens F. Michalski, who died on October 20, 1977.

I was privileged to know him and be associated with him throughout his long public career, during which he held office at the ward, city, county, State, and Federal levels.

In private life we were friends, belonging to the same church and fraternal societies.

In classic American tradition, Clemens F. Michalski worked his way up the ladder of success from humble origins, overcoming substantial obstacles through dedication, long hours, and an outstanding record of service.

I would like to share with my colleagues the following article from the Milwaukee Sentinel of October 21, 1977, which highlights his distinguished career:

SOUTH SIDE'S MICHALSKI, 75, DIES

Clemens F. Michalski, 75, a public official here for 35 years and an institution on the South Side, died Thursday of heart failure.

Michalski collapsed in his home at 3300 W. Oklahoma Ave. Thursday and was taken in a police ambulance to nearby St. Luke's Hospital. He was pronounced dead on arrival at 12:54 p.m.

Using a personal approach to politics, Michalski had an undefeated record at the polls as he was elected state representative, alderman, sheriff and county clerk. He retired from public office in 1967 as county clerk.

As a politician, he endeared himself to people on the South Side when he helped them get buckets of coal and jobs as snow shovelers or federally financed laborers during the Depression.

One Christmas when there was no snow on the ground, Michalski obtained shredded ice from an ice company and had it spread on a hill in Kosciuszko Park so children could try out their new sleds.

One of 11 children of a Polish immigrant who worked as a blacksmith, Michalski was born on the South Side.

He dropped out of high school after two years and went to work as an apprentice machinist, he recalled in a recent interview, "because the football coach refused to let me play guard or tackle on the first team."

He later worked 10 years as a machinist and inspector at Allis-Chalmers, and was a part time salesman of Essex and Hudson cars for a Milwaukee dealer.

Michalski's political career began in 1932 when he joined the Democratic Party and was elected chairman of the old 12th Ward Democratic Unit.

He campaigned for the election of Franklin D. Roosevelt, and served as a State Athletic Commission inspector for two years.

He was elected in 1934 to the State Assembly, and served two years before being elected alderman.

During his 16 years as alderman, Michalski's booming voice was heard in City Hall as he successfully pushed for street, playground and other improvements in his ward, including the city's first public outdoor swimming pool in Kosciuszko Park.

He operated a beer and liquor store on Mitchell St. for five years and invested money in South Side real estate while an alderman.

President Harry Truman appointed Michalski a federal marshal for the Eastern District of Wisconsin in 1952, and he held that position until 1956 when he was elected sheriff of Milwaukee County.

After two terms as sheriff, then the limit under state law, Michalski was elected county clerk in 1960.

His campaign for clerk was boosted at a Milwaukee Society of the Polish National Alliance dinner where he was honored as an outstanding American of Polish descent. Then Gov. Gaylord Nelson, Rep. Clement Zablocki, Mayor Maier and former County Executive John Doyne all turned up at the affair to praise Michalski.

A year after his retirement in 1967, Michalski suffered a heart attack and a stroke. He was also afflicted with an eye disease. With the help of therapy treatments and exercise, Michalski overcame his physical handicaps and spent many hours in his basement woodworking shop making bookcases, tables and other furnishings.

He said he met Jimmy Carter during a presidential campaign visit here, and campaigned for Carter last fall because "he strikes me as being a man who is really concerned about helping minority groups and factory workers with limited incomes."

Michalski's survivors include his wife, Patricia; two daughters, Mrs. Caroline Bagin, of Milwaukee, and Mrs. Patricia Mueller, of Cumberland, Md.; a son, Robert, of Franklin; two sisters, Celia Michalski and Mrs. Alice Ureda, both of Milwaukee; a brother, Arthur, of Milwaukee; and six grandchildren.

MANDATORY RETIREMENT

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. GEPHARDT. Mr. Speaker, as one of only four Members of the House who voted against H.R. 5383, the Age Discrimination in Employment Act amendments, I would like to explain to my colleagues my reasons for opposing the changes in mandatory retirement authorized by the bill and my thoughts concerning the need for a broader approach to age discrimination issues.

Thus, I am inserting in the RECORD the text of a letter I recently wrote the St. Louis Post-Dispatch in response to their editorial in favor of eliminating mandatory retirement. I hope my colleagues

will agree that this legislation and its effects deserve more careful examination.

The letter follows:

SEPTEMBER 30, 1977.

Mr. WILLIAM F. WOO,
St. Louis Post-Dispatch,
St. Louis, Mo.

DEAR MR. WOO: I would like to direct your attention to the editorial entitled "Mandatory Retirement" which appeared on Sunday, September 25, 1977. Because I was one of the four Representatives who voted against the bill to prohibit mandatory retirement before the age of 70 for most workers, I feel obligated to respond to your editorial in support of this measure to end one example of age discrimination.

At the outset, I would like to recognize the benefits of this legislation that are generally recognized by all. Supporters argue correctly that chronological age alone is a poor indicator of ability to perform a job. Certainly, the world has reaped invaluable benefits from the talents and experience of senior citizens. In my view, older Americans have much to contribute and should be given better opportunities to remain productive and creative citizens.

I do not believe, however, that the legislation approved by the House of Representatives last week will effectively eliminate age discrimination problems and could create additional headaches for the government and the public alike.

It cannot be denied that the mandatory retirement issue is inextricably tied to the Social Security System. Any change in retirement policies will have a significant impact on the country's major pension program, as clearly revealed in your editorial and the related article the Post-Dispatch carried on the House action. Because of the interrelationship between these two questions, I believe they must be addressed together. Instead, however, the House went ahead and passed legislation impacting heavily on the Social Security System while the House Ways and Means Committee is still trying to work out revisions in Social Security financing.

Not only does this inconsistency create confusion for the Congress and the government, it sends conflicting signals to the American worker. The House has, in effect, said, "You cannot be forced to retire before you reach 70, but we encourage you to retire at 62 or 65 years of age by entitling you to retirement benefits at ages 62 and 65." We can increase the Social Security age, but a long phase-in will be required.

A second concern is the bill's failure to establish a consistent policy with respect to retirement. It would, in effect, permit mandatory retirement at age 70 for private industry but eliminates mandatory retirement altogether from most of the Civil Service System. If it is a good idea to require private employees to retire at 70, why is it a bad idea for federal employees? It is almost impossible now to fire an incompetent federal employee. If there is no age limit, it is frightening to imagine the personnel problems that may ensue. I believe mandatory retirement rules are valid if the age line picked is tied to some legitimate facts. The previous limit of 65 was based on life expectancy tables. Life expectancy has increased, but the latest tables better justify a retirement age of 68 rather than 70. the recently passed House bill picked 70 out of a hat rather than basing it on hard facts.

The inconsistency between federal and private employees is matched by the inconsistency among federal employees. The bill includes provisions permitting retention of special requirements for such employees as firefighters, law enforcement personnel, and air traffic controllers who are subject to statutory retirement ages other than 70 years of age. In short, although the bill is based on the concept that mandatory retirement is discriminatory, it still applies different sets of values to different groups of people.

I might point out here that the same day this bill was passed, the House also approved a pension increase for Members of Congress who retire next year on the grounds that opportunities to attract new "blood" ought to be increased. Again, conflicting signals or sets of values are being communicated.

Finally, the bill is too narrow. Age distinctions are evident throughout our legal system. Age is a factor in determining qualifications to vote, to work, to drive, to run for elective office, to name only a few examples. Age discrimination is practiced against not just the elderly but those at all points of the spectrum. Too many middle-aged workers have lost their jobs only to find employers are more interested in bringing younger people into the company. Too many capable young Americans have been passed over in favor of more experienced workers because of seniority systems.

These examples demonstrate that we ought to take a broader, more comprehensive look at age discrimination and the impact of legislation to overcome it. As your editorial points out, no one really knows what the impact of the House-passed bill would be. Would it discourage early retirement or have little effect on current custom? Will it reduce opportunities for the younger worker or the minority worker? Will it raise unemployment? What does it really do if the Social Security retirement age remains at 62 and 65? What would happen if elimination of age discrepancies were carried to the extreme? (Last week an administrative board in the District of Columbia ruled that restaurants could not prevent children from patronizing topless and bottomless bars under the city human rights law encompassing age discrimination which was enacted several years ago.)

In conclusion, I believe the House acted hastily and prematurely in passing this bill to change retirement policies. Its goal is admirable and desirable, but its effect could have serious repercussions for workers of all ages and its actual benefits may be illusory. I am encouraged by reports that the Senate plans to take a closer look at this proposal before taking final action. I hope supporters of the Age Discrimination Act amendments will join in this more careful examination of the legislation and consider its effect not only on those who choose to work after age 65, but also those who do not and those who have not yet reached retirement age.

Yours very truly,

RICHARD A. GEPHARDT,
Third District, Missouri.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 27, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 28

9:00 a.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 1954, S. 2227, and S. 2228, providing for the elimination of the carryover basis provisions of the estate tax law, and to resume hearings on H.R. 6715, to amend the Tax Reform Act of 1976 (P.L. 94-455).
2221 Dirksen Building

Governmental Affairs
Permanent Investigations Subcommittee
To resume hearings concerning the awarding of labor union insurance contracts.
3302 Dirksen Building

9:30 a.m.
Governmental Affairs
Civil Service and General Services Subcommittee
To hold hearings on H.R. 3447, 3755, and S. 1559, bills relating to civil service survivor annuities; S. Res. 244, calling for Treasury Department study of Federal retirement systems; and H.R. 6975, relating to a change in the name and number of hearings examiners which may be established by the Civil Service Commission.
1318 Dirksen Building

Judiciary
Separation of Powers Subcommittee
To resume hearings to receive testimony associated with Executive branch negotiations for the disposition of the territory and property of the U.S. in the Isthmus of Panama.
1114 Dirksen Building

Judiciary
Criminal Laws and Procedures
To resume hearings on S. 2013, to require the additional labeling of explosive materials for the purpose of identification and detection.
6202 Dirksen Building

Judiciary
Antitrust and Monopoly Subcommittee
To continue oversight hearings on ICC's price regulation in the motor common carrier industry.
1224 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Select Indian Affairs
To mark up S. 1214, to establish standards for the placement of Indian children in foster or adoptive homes; S. 1215, to provide grants to Indian-controlled post-secondary educational institutions; and S. 468, authorizing funds for construction and for operations costs of the Navajo Community College.
457 Russell Building

10:30 a.m.
Appropriations
To consider H.R. 9375 supplemental appropriations for fiscal year 1978, and H.R. 9019, to rescind certain budget authority.
S-128, Capitol

OCTOBER 31

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on IPM, an integrated pest management technique for controlling crop damage by insects and other pests.
322 Russell Building
Energy and Natural Resources
To hold hearings on the nomination of Walter N. Heine, of Pennsylvania, to be Director of the Office of Surface Mining Reclamation and Enforcement.
3110 Dirksen Building
Governmental Affairs
Permanent Investigations Subcommittee
To resume hearings concerning the awarding of labor union insurance contracts.
3302 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1885, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

10:00 a.m.
Judiciary
To continue consideration of S. 1437, to codify, revise, and reform the Federal criminal laws.
S-126, Capitol

NOVEMBER 1

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To continue hearings on IPM, an integrated pest management technique for controlling crop damage by insects and other pests.
322 Russell Building
Governmental Affairs
Permanent Investigations Subcommittee
To continue hearings concerning the awarding of labor union insurance contracts.
3302 Dirksen Building
Judiciary
Constitution Subcommittee
To hold oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

9:30 a.m.
Judiciary
To hold hearings on the nomination of Elsijane Trimble Roy, to be U.S. district judge for the eastern and western districts of Arkansas.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume mark up of legislation proposing simplification of the truth-in lending laws (S. 1312, 1501, 1653, and 1846).
5302 Dirksen Building

NOVEMBER 2

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building
Energy and Natural Resources
To hold hearings on the nominations of Robert D. Thorne, of California, to be an Assistant Secretary for Energy Technology, and John M. Deutch, of Massachusetts, to be Director of the Office of Energy Research, both of the Department of Energy.
3110 Dirksen Building
Governmental Affairs
Permanent Investigations Subcommittee
To continue hearings concerning the awarding of labor union insurance contracts.
3302 Dirksen Building
Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

10:00 a.m.
Rules and Administration
To hold hearings and to consider the nominations of John W. McGarry, of Massachusetts, and Samuel D. Zagoria, of Maryland, each to be a member of the Federal Election Commission.
301 Russell Building

NOVEMBER 3

9:00 a.m.
Energy and Natural Resources
To hold hearings on the nomination of Robert H. Mendelsohn, of California, to be an Assistant Secretary of the Interior.
3110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 4

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Mortimer L. Downey III, of Virginia, to be Assistant Secretary of Transportation for Budget and Programs; to be followed by hearings on the nominations of Frank H. Neel, of Georgia, James R. Mills, of California, Harry T. Edwards, of Michigan, Charles Luna, of Texas, Anthony Haswell, of Illinois, and Ronald G. Nathan, of the District of Columbia, each to be a Member of the Board of Directors of the National Railroad Passenger Corporation.
5110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
Until 5:00 p.m. 4232 Dirksen Building

NOVEMBER 8

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

NOVEMBER 9

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building
Judiciary
Constitution Subcommittee
To hold hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2226 Dirksen Building

NOVEMBER 10

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building
Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 15

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the United Nations conference on science and technology for development in 1979.
Until 5:00 p.m. 5110 Dirksen Building

CANCELLATIONS

OCTOBER 27

11:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

OCTOBER 28

9:30 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:30 a.m.
Commerce, Science, and Transportation
To resume hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S.-flag vessels.
5110 Dirksen Building

OCTOBER 31

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 1

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products. 3110 Dirksen Building

NOVEMBER 14

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings. 2228 Dirksen Building

NOVEMBER 15

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings. 2228 Dirksen Building

NOVEMBER 16

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings. 2228 Dirksen Building

NOVEMBER 17

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings. 2228 Dirksen Building

NOVEMBER 18

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings. 2228 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, October 27, 1977*

The House met at 11 o'clock a.m.

Rabbi Tzvi H. Porath, Ohr Kodesh Congregation, Chevy Chase, Md., offered the following prayer:

Father of the strong and the wise
Before whom even the strongest are weak
And the wisest are as an unlearned child
Inspire the leaders of this great Nation with Thy goodness

In moments of temptation give them strength;
In hours of doubt, renew their faith;
In days of weariness, give them courage.

Clothe their deliberation with wisdom; to enable them to distinguish truth from falsehood, right from wrong

Guide them in their actions, so that they reflect a small spark of Thy great wisdom

And may we all have a share in helping to make a creative contribution to a better, more peaceful world.

Amen.

CALL OF THE HOUSE

Mr. STEIGER. Mr. Speaker, under clause 1, rule I, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 702]

Applegate	Diggs	Michel
Armstrong	Dodd	Montgomery
Ashley	Drinan	Murphy, Ill.
AuCoin	Duncan, Tenn.	Murphy, Pa.
Badillo	Eckhardt	Roncalio
Bedell	Edwards, Ala.	Scheuer
Beilenson	English	Seiberling
Bevill	Flowers	Shuster
Bolling	Ford, Mich.	Skubitz
Brown, Mich.	Gibbons	Stockman
Burton, John	Harkin	Stokes
Burton, Phillip	Harsha	Teague
Chappell	Heckler	Tucker
Chisholm	Kemp	Vander Jagt
Clawson, Del	Kindness	Waxman
Conyers	Koch	Whalen
Cornwell	McFall	Wiggins
Davis	McHugh	Wilson, Tex.
Derrick	Marlenee	Young, Alaska

The SPEAKER. On this rollcall 377 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1771. An act to amend certain provisions of the Foreign Assistance Act of 1961 relating to the Overseas Private Investment Corporation.

RABBI TZVI PORATH

(Mr. STEERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEERS. Mr. Speaker, it is my pleasure and my honor to welcome Rabbi Tzvi Porath and Mrs. Porath to our session this morning. He is now in his 25th year at the Ohr Kodesh Congregation in Chevy Chase, Md.

He was previously an Air Force chaplain for 4 years in World War II.

He was the first Jewish chaplain at the National Institutes of Health. He is now the chaplain at the Bethesda Naval Hospital.

He obtained his master's degree in social work at the University of Pittsburgh; his Ph. D. at Yeshiva University in New York. He also received an honorary doctorate at the Jewish Theological Seminary in New York.

Mr. Speaker, our community is well aware of his contributions to it and his dedication to our well-being, personally and spiritually.

In particular, we salute his dedication to the cause of Soviet Jewry. His work in behalf of those who face persecution is an inspiration to us all.

APPOINTMENT OF CONFEREES ON H.R. 3454, ENDANGERED AMERICAN WILDERNESS ACT OF 1977

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3454) to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designation, to further the purposes of the Wilderness Act of 1964, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Arizona? The Chair hears none, and apponts the following conferees: Messrs. UDALL, KASTENMEIER, RONCALIO, WEAVER, VENTO, JOHNSON of Colorado, and SYMMS.

APPOINTMENT OF CONFEREES ON S. 1750, SACCHARIN STUDY, LABELING, AND ADVERTISING ACT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1750) to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for 18 months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gen-

tleman explain his unanimous-consent request?

Mr. STAGGERS. We are going to conference on the bill S. 1750; just to conference.

Mr. ROUSSELOT. Just to conference, and to protect the House position?

Mr. STAGGERS. That is right.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, ROGERS, SATTERFIELD, PREYER, FLORIO, DEVINE, and CARTER.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO MEET DURING 5-MINUTE RULE TODAY

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may be permitted to meet today during the 5-minute rule. We have scheduled an informal briefing only.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman assure us that there will be no legislation considered?

Mr. HUGHES. There will be no markup.

Mr. ROUSSELOT. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ARROGANCE OF POWER SHOWN IN PRESIDENTIAL APPOINTMENT

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. HYDE. Mr. Speaker, the term "arrogance of power" appropriately describes the President's appointment of Samuel Zagoria as Republican member of the Federal Election Commission.

The spirit, if not the letter of the law—designed to provide honesty, fairness, and balance to Federal elections is trampled upon by the leader of the Democratic Party, selecting as Republican member someone whose political philosophy is compatible with his own, rather than someone acceptable to the Republican leadersihp. Contrary to what the law contemplates, Mr. Carter opposes political diversity on the FEC; he demands unanimity with his own views in support of Federal financing of congressional elections.

By this action Mr. Carter has brutalized not only the rights of the Republican minority, but the democratic process itself.

HOW VIETNAM USES U.S. DOLLARS

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Florida. Mr. Speaker, for some months now I have been telling my colleagues about U.S. dollars going to Vietnam through the World Bank and some of the other multinational organizations. Today, I would like to tell the Members what the Vietnamese are planning to do with some of their money. Unfortunately, the time limit placed upon me this morning will require that I provide the details for the record, which I will do.

Members might be interested to know that General Giap, Hanoi's Minister of Defense, was also North Vietnam's leading general during the war, has been reported as reaching an agreement to provide guns, ammunition, and military advisers to the PLO. I do not think anyone in this Chamber needs a crystal ball to tell him what the PLO is going to do with the guns and ammunition they may be getting from Vietnam.

THE ABORTIVE INTERNATIONAL WOMEN'S YEAR CONFERENCE

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, now this morning's Washington Post has neatly fallen into the trap laid by the administration and the State Department for, if you will pardon the expression, the abortive International Women's Year Conference. Recently the State Department issued a press release, when people of all political persuasions started to complain about the conduct of regional IWY delegate conferences, stating that in their eyes anyone who did not go along with the libber proposals of Abzug and company was a member of the ultra-right, whatever that is.

As a State legislator, I voted for ratification of ERA, but I began to wonder about the situation when, quoting Elizabeth Becker of today's Post on Abzug, she says:

> She and Jean Stapleton, who plays television's classic housewife . . .

Jean Stapleton is a superb actress, but hardly America's classic housewife. I doubt many American women or men would consider this role the "classic housewife." Quoting further from the article:

> The degree of success the proposals will meet next month apparently rests on the support that "ultra-right" groups have drummed up among the elected state delegations. Abzug said the KKK, the John Birch Society, the Mormon Church and the Right to Life antiabortion group were among the groups "attempting to subvert the conference."

I take strong exception to the fact that Abzug and company are lobbying with statements like this are funded from the Federal Treasury and admonished not to lobby for the ERA. They have clearly done so illegally and have tried to pass the blame on to others. Abzug should go.

VETERANS' ADMINISTRATION RESEARCHERS, DR. ROSALYN S. YALOW AND DR. ANDREW V. SCHALLY, RECEIVE NOBEL PRIZE

(Mr. HAMMERSCHMIDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to congratulate the two Veterans' Administration researchers who recently received the most widely recognized honor in the world, the Nobel Prize.

Dr. Rosalyn S. Yalow of the Bronx, N.Y. VA Hospital, and Dr. Andrew V. Schally of the New Orleans VA Hospital, recently selected to share the award for two different projects, are career VA employees. Between them they have given the Veterans' Administration more than 40 years of service. It is obviously a tribute to them to receive such an award, Mr. Speaker, and I congratulate them both from the bottom of my heart. In addition, it speaks favorably for our Veterans' Administration medical system that it has been able to attract and hold such talented employees for so many fruitful years. At a time when the VA medical system has come under attack from some quarters as being outmoded, it is obvious that, not only is mainstream medicine continuing to be practiced in our hospitals, but research efforts are being conducted that are on the cutting edge of modern scientific thought.

The Nobel Prize to those two distinguished researchers was no shot out of the blue. Both have previously received the prestigious Albert Lasker Award for basic research, and between them hold a dozen other major national awards for their accomplishments.

I congratulate them, and also the many other VA researchers who continue to accomplish great things, not only for our Nation's veterans, but for the citizens of the world.

PLO AND GENEVA CONFERENCE

(Mr. FREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FREY. Mr. Speaker, almost a month has elapsed since the release of the United States-U.S.S.R. pact on resumption of the Geneva Conference. The ensuing days have brought cries of protest from concerned Jewish-Americans, murmurs from the White House against a "Jewish lobby," and stepped up efforts here and abroad to discredit the Israeli leadership.

Those who seek a lasting peace in the Mideast—and let me add I think the

President is one who does—might consider their stance now that the shock of the settlement has subsided.

Three specific areas of concern are evident in the letters, calls and literature I have received in my office. All three relate directly to the Carter-Vance-Gromyko agreement of October 1.

First. The phrase "resolution of the Palestinian question" gives rise to the fear of recognition, and therefore legitimization, of the PLO.

Second. The phrase "withdrawal of Israeli armed forces from territories occupied in the 1967 conflict" questions the defensibility of Israel's borders in the face of continued agitation and a newly strengthened PLO.

Third. The call for a "just and lasting settlement—comprehensive, and incorporating all parties concerned" raises serious doubts about an imposed settlement, hammered out between the United States, the U.S.S.R., Israel, Arab nations and the PLO. A settlement the President would like to see this year.

Those three phrases, or "key issues" as the agreement terms them, must scare the devil out of the Israelis and must in turn give pause to the free world. With the United States already tilting heavily toward the Arab position and now bringing the Soviet Union into the arena, Israel is becoming increasingly and dangerously isolated.

There can be no question that the United States-U.S.S.R. agreement is a warning to Israel. One need only consider who stands to gain from an enforced Geneva Convention to understand that the United States has signaled Israel that they will stand alone in Geneva.

The PLO, now legitimatized by Carter and Gromyko, will bring to the table a strong argument for a new Palestinian state. Their argument will be backed by the United States call for withdrawal of Israeli forces from the 1967 borders.

Farouk Kaddomi, the political representative of the PLO, was interviewed by Newsweek while attending a Palestine National Council (PNC) meeting in Cairo in March. The interview has been quoted many times, but bears repeating. Kaddomi said the establishment of a West Bank/Gaza state would only set the stage for the takeover by the Palestinians of "the rest of our land." Kaddomi said:

> There are two stages to our return. The first phase is to the 1967 lines, and the second to the 1948 lines . . . the third stage is the democratic state of Palestine.

At the March PNC meeting, the leadership of the PLO again affirmed their commitment to the destruction of Israel. Not one word of the 1968 National Covenant, the constitution of the PLO, was changed. That covenant asserts that the partitioning of Palestine in 1947 and the establishment of Israel are fundamentally "null and void" (article 19). Article 20 denies that Jews are a national people with a right to statehood. Article 15 calls for the Arabs to "purge the Zionist presence from Palestine."

At the March meeting in fact the PLO reaffirmed its specific adherence to the covenant and called for further "armed struggle" for "all" the land and pledged to reject "peace or recognition" with Israel.

The administration has argued that PLO recognition of the U.N. resolution 242 implicitly means recognition of Israel—but the facts are otherwise. In fact the President has invited to the conference table a terrorist organization committed to the destruction of Israel.

The entrance of the Soviet Union is another worrysome Carter initiative. The previous administration slowly and carefully froze the Soviet Union out of the Mideast discussions—effectively cutting their dominance in the area. Carter's invitation smacks of appeasement—a move to gain Soviet acceptance of SALT proposals.

If—and it is a big if—the Geneva Conference is successful and a settlement acceptable to all parties is reached, President Carter will have moved closer to détente with the Soviets. If Geneva is unsuccessful, President Carter will have given the Soviets diplomatic reentry to the Mideast, and for nothing.

What of American interests in the Mideast? Lasting peace, not just an end to hostilities, is a goal all Geneva participants must seek. Without that peace, Geneva crumbles, the PLO is strengthened, and the Soviets regain influence. The stakes are incredibly high and at what cost to America?

During the last 30 years, the relationship between Israel and the United States has had its ups and downs. The high points—recognition of the Israeli state, the 6-day war, the Sinai talks—have strengthened the relationship. Israel today is America's strongest, most loyal ally in the Mideast. While the enormous amount of support Israel receives from the Jewish-American community is a contributing factor to the sense of camaraderie and unity of purpose America enjoys with Israel, there is more to the "special relationship."

Free people the world over look to Israel as a symbol of the honesty, decency, and fairness of mankind. The Carter initiative puts this symbol in jeopardy. I hope that the President reconsiders the policy presently pursued.

PRESIDENT CARTER BACKS STEEL CAUCUS LIKE HE BACKED GAS PRODUCERS

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, I am a member of the Steel Caucus, as are many Members of this body. The Steel Caucus met at the White House this morning, and I was not able to go, because I was fulfilling other duties as a member of the Committee on Education and Labor. It is my understanding, however, and I think the Members will be glad to know, that the President generally gave the Steel Caucus the same promise that he gave the gas producers last October. He is behind them 1,000 percent. Maybe he will put it in writing, too.

BING SPEAKS OUT

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. DORNAN. Mr. Speaker, most Americans were shocked at the untimely passing 2 weeks ago of that incomparable, great American, Bing Crosby. However, most Americans are not aware that Mr. Crosby left us an eloquent goodbye in the form of a guest column in the Los Angeles Herald Examiner newspaper. Bing's career spanned an amazing one-half century. He is obviously an expert on entertaining.

Another beloved performer, Jack Haley, Sr., whose career has spanned an even longer period of time, since 1919, has asked me to bring to my colleagues attention this moving, thoughtful Bing Crosby column. I have placed it in the CONGRESSIONAL RECORD of yesterday, October 26. It is on pages 35355 and 35356. I would just like to read one brief paragraph to give my colleagues a feeling for the depth of concern of Bing's warning to all of us. He suffered, as we know, a serious accident last summer, and he wrote of his observations during his recovery period as follows:

> I was laid up for five or six weeks lately—hospitalized—and of course, I saw lots and lots of TV. It became apparent to me that very slowly and very subtly writers and producers are working in nudity, permissiveness, irresponsibility, profanity, scenes of semi-explicit sex, provocative dialogue, smutty innuendoes and situations into their shows. Moral responsibility is almost indiscernible.

Mr. Speaker, I think the responsibility weighs heavily upon us to fight for the type of decency across our land that was personified by the career of the great Bing Crosby and to remember his final words. and heed his warning. After all, he told his final audience at the Palladium "I love you all."

HUMAN RIGHTS IN SOUTH AFRICA

(Mr. EDWARDS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Oklahoma. Mr. Speaker, from time to time there comes before the people of this country an issue that is of such pervasive moral effect that silence becomes impossible and previous positions must be reexamined. One of those isues is before us now as we see a long-time and important ally of this country, South Africa, reaching to extremes in the suppression of human rights.

I realize that we cannot ignore the importance of South Africa as a necessary element in our national security.

On the other hand, however, it becomes absolutely imperative that every one of us, and particularly those of us who call ourselves conservatives and who value individual liberty as among the highest of values, speak out forcefully in condemnation of what is happening in South Africa today.

SEEKING ANSWERS TO ADMINISTRATION'S POSITION ON BUSING

(Mr. MARTIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN. Mr. Speaker, all the Members know how important it is to be able to help our constituents to get straight answers for them from their Government. We know how inadequate we feel when we are unable to succeed in that task.

Let me share with the Members of the House a recent experience in trying to help Mr. Everett Roberts, my constituent, who has been trying to get an answer from the administration on the question of the position of the President regarding busing. He found that his inquiry was referred first to Secretary Schlesinger and then to Secretary Califano, without any answer being submitted to him as yet.

So Mr. Roberts asked if I could help. I tried to make a contact in an indirect way. We contacted the White House Press Office to find out the President's position on busing. The President did not have a position.

We further requested that any type of news release would do, or any campaign clipping or unofficial statement. A second time we learned that no statement of the President's position could be given, and that the administration was taking a "no-comment" position on the issue.

So I had to apologize to my constituent and suggest that a nonposition was the most expedient position possible for the President.

Since then I have learned that on May 24, 1976, in an interview with U.S. News & World Report, the President did favor voluntary transfers of schoolchildren, disfavored mandatory busing, but supported Federal court orders mandating busing. That is to favor what is popular, oppose what is unpopular, and enforce the law. I can only wonder, and entreat my constituent to use understanding.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of nonprofit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 405, nays 3, not voting 26, as follows:

[Roll No. 703]

YEAS—405

Abdnor	Corcoran	Hamilton
Addabbo	Corman	Hammer-
Akaka	Cornell	schmidt
Alexander	Cornwell	Hanley
Allen	Cotter	Harrington
Ambro	Coughlin	Harris
Ammerman	Crane	Harsha
Anderson,	Cunningham	Hawkins
Calif.	D'Amours	Hefner
Anderson, Ill.	Daniel, Dan	Heftel
Andrews, N.C.	Daniel, R. W.	Hightower
Andrews,	Danielson	Hillis
N. Dak.	Davis	Holland
Annunzio	de la Garza	Hollenbeck
Applegate	Delaney	Holt
Archer	Dellums	Holtzman
Armstrong	Dent	Horton
Ashbrook	Derrick	Howard
Ashley	Derwinski	Hubbard
Aspin	Devine	Huckaby
Badham	Dickinson	Hughes
Bafalis	Dicks	Hyde
Baldus	Diggs	Ichord
Barnard	Dingell	Jacobs
Baucus	Dornan	Jeffords
Bauman	Downey	Jenkins
Beard, R.I.	Drinan	Jenrette
Beard, Tenn.	Duncan, Oreg.	Johnson, Calif.
Bellenson	Early	Johnson, Colo.
Benjamin	Edgar	Jones, N.C.
Bennett	Edwards, Ala.	Jones, Okla.
Bevill	Edwards, Calif.	Jones, Tenn.
Biaggi	Edwards, Okla.	Jordan
Bingham	Eilberg	Kasten
Blanchard	Emery	Kastenmeier
Blouin	English	Kazen
Boggs	Erlenborn	Kelly
Boland	Ertel	Kemp
Bonior	Evans, Colo.	Ketchum
Bonker	Evans, Del.	Keys
Bowen	Evans, Ga.	Kildee
Brademas	Evans, Ind.	Kindness
Breaux	Fary	Kostmayer
Breckinridge	Fascell	Krebs
Brinkley	Fenwick	LaFalce
Brodhead	Findley	Lagomarsino
Brooks	Fish	Latta
Broomfield	Fisher	Le Fante
Brown, Calif.	Fithian	Leach
Brown, Mich.	Flippo	Lederer
Brown, Ohio	Flood	Leggett
Broyhill	Florio	Lehman
Buchanan	Flynt	Lent
Burgener	Foley	Levitas
Burke, Calif.	Ford, Mich.	Livingston
Burke, Fla.	Ford, Tenn.	Lloyd, Tenn.
Burke, Mass.	Forsythe	Long, La.
Burleson, Tex.	Fountain	Long, Md.
Burlison, Mo.	Fowler	Lott
Burton, Phillip	Fraser	Lujan
Butler	Frenzel	Luken
Byron	Frey	Lundine
Caputo	Fuqua	McClory
Carney	Gammage	McCloskey
Carr	Gaydos	McCormack
Carter	Gephardt	McDade
Cavanaugh	Giaimo	McDonald
Cederberg	Gibbons	McEwen
Chappell	Gilman	McFall
Chisholm	Ginn	McKay
Clausen,	Glickman	McKinney
Don H.	Goldwater	Maguire
Clay	Gonzalez	Mahon
Cleveland	Goodling	Mann
Cochran	Gore	Markey
Cohen	Gradison	Marks
Coleman	Grassley	Marlenee
Collins, Ill.	Gudger	Marriott
Collins, Tex.	Guyer	Martin
Conable	Hagedorn	Mathis
Conte	Hall	Mattox
Mazzoli	Pursell	Stanton
Meeds	Quayle	Stark
Metcalfe	Quie	Steed
Meyner	Quillen	Steers
Michel	Rahall	Steiger
Mikulski	Railsback	Stokes
Mikva	Rangel	Stratton
Milford	Regula	Studds
Miller, Calif.	Reuss	Stump
Miller, Ohio	Rhodes	Symms
Mineta	Richmond	Taylor
Minish	Rinaldo	Thompson
Mitchell, N.Y.	Risenhoover	Thone
Moakley	Robinson	Thornton
Moffett	Rodino	Traxler
Mollohan	Roe	Treen
Moore	Rogers	Trible
Moorhead,	Roncalio	Tsongas
Calif.	Rooney	Tucker
Moorhead, Pa.	Rose	Udall
Moss	Rosenthal	Ullman
Mottl	Rostenkowski	Van Deerlin
Murphy, Ill.	Rousselot	Vanik
Murphy, N.Y.	Roybal	Vento
Murphy, Pa.	Rudd	Volkmer
Murtha	Runnels	Waggonner
Myers, Gary	Ruppe	Walgren
Myers, John	Russo	Walker
Myers, Michael	Ryan	Walsh
Natcher	Santini	Wampler
Neal	Sarasin	Watkins
Nedzi	Satterfield	Waxman
Nichols	Sawyer	Weaver
Nix	Scheuer	Weiss
Nolan	Schroeder	White
Nowak	Schulze	Whitehurst
O'Brien	Sebelius	Whitley
Oakar	Seiberling	Whitten
Oberstar	Sharp	Wiggins
Obey	Shipley	Wilson, C. H.
Ottinger	Shuster	Wilson, Tex.
Panetta	Sikes	Winn
Patten	Simon	Wirth
Patterson	Sisk	Wolff
Pattison	Skelton	Wright
Pease	Skubitz	Wydler
Pepper	Slack	Wylie
Perkins	Smith, Iowa	Yates
Pettis	Smith, Nebr.	Yatron
Pickle	Snyder	Young, Alaska
Pike	Solarz	Young, Fla.
Poage	Spellman	Young, Mo.
Pressler	Spence	Young, Tex.
Preyer	St Germain	Zablocki
Price	Staggers	Zeferetti
Pritchard	Stangeland	

NAYS—3

Lloyd, Calif.	Mitchell, Md.	Wilson, Bob

NOT VOTING—26

AuCoin	Eckhardt	McHugh
Badillo	Flowers	Madigan
Bedell	Hannaford	Montgomery
Bolling	Hansen	Roberts
Burton, John	Harkin	Stockman
Clawson, Del	Heckler	Teague
Conyers	Ireland	Vander Jagt
Dodd	Koch	Whalen
Duncan, Tenn.	Krueger	

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 9346, with Mr. EVANS of Colorado in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, October 26, 1977, all time for general debate had expired. The first four amendments made in order pursuant to House Resolution 839 had been disposed of.

The Chair recognizes the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Chairman, under the rule an amendment to be offered by myself was made in order. With the adoption of the Fisher amendment, however, it is necessary for me to ask unanimous consent at this point to offer

a revised amendment to reflect the adoption of the Fisher amendment.

Mr. Chairman, I ask unanimous consent to do so.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, yesterday when this rule was debated the gentleman from Maryland opposed it, as did a number of other Members of the House. I think, as a matter of fact, 153 Members voted against it, a rather large number to vote against a rule.

I would like to quote from the rule:

No amendments to the bill or to the committee amendment in the nature of a substitute shall be in order except . . .

Then there are eight exceptions, which in the view of the gentleman from Maryland grants to eight Members of the House a greater privilege of debate and offering amendments than it does to the remainder of the House.

The rule says nothing about additional amendments to correct mistakes resulting from the amendments made in order by the rule.

If we live by the rule, it seems to me we also have to die by the rule. I do not support closed rules at any time, even when they are to my advantage. I regret that I must object.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, I appreciate my colleague from Maryland yielding.

This is not an easy position for any of us to find ourselves in. I must admit that were we to go back down this road again, I would not accept the rule that was offered by the Committee on Ways and Means, because of the fact it did not allow flexibility.

The problem, may I say to my colleague from Maryland and to the committee, is that as a result of the adoption of the Fisher amendment yesterday, in order to maintain my commitment to the Committee on Ways and Means to offer amendments that are balanced, as balanced as the committee bill, I am required to raise the rate under the proposal in order to recognize the adoption of the Fisher amendment.

I would under this amendment, for example, have to raise it from the Fisher amendment from 5.15 to 5.40 percent in 1981 to 1984; 5.55 to 5.75, 1985 to 1989; 6.10 to 6.15, 1990 to 2010; and 6.15 to 6.20 in 2011 and thereafter.

Those increases in rates are required to maintain the same kind of integrity to the social security system, as the committee bill as modified by FISHER.

It is for that reason that I have asked unanimous consent to modify my amendment.

Under the rule, as the gentleman from Maryland knows, I can offer my amendment, and perhaps I will do so if for no other reason than to give the House a chance to debate this issue and then simply ask unanimous consent to withdraw the amendment, and I hope I will be given that opportunity.

Mr. BAUMAN. Mr. Chairman, further reserving the right to object, I would say that the gentleman from Wisconsin has just admitted rather candidly that the rule is wrong. It is a rule that allows consideration of this legislation in a manner that would not permit the protection of the integrity of the social security system. In other words, the Committee on Rules wrote a rule that allowed a bill of this major importance to come to the floor with only limited amendments to be offered, in such a manner that it could destroy the social security system. That, I think, is the responsibility of the leadership of this House and the Committee on Rules and those that seek to gag Members.

Mr. Chairman, I do object.

The CHAIRMAN. Objection is heard.

AMENDMENT OFFERED BY MR. STEIGER

Mr. STEIGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEIGER: Page 226, strike out lines 3 through 7 and insert in lieu thereof the following:

"(i) shall be $333.33⅓ for each month of any taxable year ending after 1978 and before 1980.

"(ii) shall be $375 for each month of any taxable year ending after 1979 and before 1981,

"(iii) shall be $416.66⅔ for each month of any taxable year ending after 1980 and before 1982,

"(iv) shall be $458.33⅓ for each month of any taxable year ending after 1981 and before 1983,

"(v) shall be $500 for each month of any taxable year ending after 1982 and before 1984, and

Page 226, line 8, strike out "(iii)" and insert in lieu thereof "(vi)".

Page 226, line 10, strike out "1979" and insert in lieu thereof "1983".

Page 226, strike out "in 1977 or 1978" in line 18 and all that follows down through the end of line 24 and insert in lieu thereof "in 1978, 1979, 1980, 1981, or 1982.".

Page 227, line 6, strike out "1977" and insert in lieu thereof "1978".

* * * * *

Page 125, strike out lines 22 through 25 and insert in lieu thereof the following:

"(A) in 1978 shall be $19,200,

"(B) in 1979 shall be $22,200,

"(C) in 1980 shall be $25,000,

"(D) in 1981 shall be $26,000,

"(E) in 1982 shall be $27,000,

"(F) in 1983 shall be $28,700,

"(G) in 1984 shall be $30,300, and

"(H) in 1985 shall be $31,800.

Page 126, line 3, strike out "1982" and insert in lieu thereof "1986".

Page 119, line 18, strike out "5.15" and insert in lieu thereof "5.40".

Page 120, strike out lines 2 through 4 and insert in lieu thereof the following:

5.75 percent;

"(5) with respect to wages received during the calendar years 1990 through 2010, the rate shall be 6.15 percent; and

"(6) with respect to wages received after December 31, 2010, the rate shall be 6.20 percent.".

Page 120, line 16, strike out "5.15" and insert in lieu thereof "5.40".

Page 120, strike out lines 20 through 22 and insert in lieu thereof the following:

5.75 percent;

"(5) with respect to wages paid during the calendar years 1990 through 2010, the rate shall be 6.15 percent; and

"(6) with respect to wages paid after December 31, 2010, the rate shall be 6.20 percent.".

Page 121, line 14, strike out "7.70" and insert in lieu thereof "8.10".

Page 121, line 18, strike out "8.20" and insert in lieu thereof "8.60".

Page 121, line 19, strike out "and".

Page 121, strike out lines 20 through 23 and insert in lieu thereof the following:

"(5) in the case of any taxable year beginning after December 31, 1989, and before January 1, 2011, the tax shall be equal to 9.20 percent of the amount of the self-employment income for such taxable year; and

"(6) in the case of any taxable year beginning after December 31, 2010, the tax shall be equal to 9.30 percent of the amount of the self-employment income for such taxable year.".

Page 122, line 9, strike out "1.00" and insert in lieu thereof "0.90".

Page 122, line 23, strike out "1.00" and insert in lieu thereof "0.90".

Page 123, line 15, strike out "1.00" and insert in lieu thereof "0.90".

Mr. STEIGER (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued the reading of the amendment.

Mr. STEIGER (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. The gentleman from Wisconsin (Mr. STEIGER) will be recognized for 15 minutes, and the gentleman from Oregon (Mr. ULLMAN) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Chairman, the dilemma that is posed by the rule and also by the position in which I find myself is a difficult one. The amendment that is now before us is one that was designed to deal with two specific aspects of the committee-reported bill, about which I have problems.

Mr. Chairman, the first of those is the earnings limit. As the Members know, under the committee bill the earnings limit is raised only to $4,000 in 1978 and to $4,500 in 1979. This amendment proposes to raise the earnings limit. As the Members know, the earnings limit is how much can one earn before there is a penalty on their social security benefits. My amendment would raise it in 1979 to $4,000: then to $5,000 in 1981; and then to $6,000 in 1983. It would be a statutory raise in the outside earnings test, and it is one which I think is fair, safer and surer than that which is proposed in the committee bill. Interestingly enough,

the committee bill gets us fairly close to that same level by 1983, if one assumes there continues to be a rate of inflation and wages go up at the same rate as they are at the present time.

But the other aspect of the committee bill was the aspect of the base. The base, as the Members know, under the bill that was reported to us by the Committee on Ways and Means, begins in 1978 to jump from where it would be under present law at $17,700 to $19,900, and it ends up in 1987 at $39,600. That is substantially above that which even the President of the United States proposed. He would have brought it to $33,900.

The proposal which I have before the committee now is one which raises the base in 1978 to $19,200, and then far more gradually brings it up to a level of only $35,400 in 1987. Thus, there is about a $4,000 difference between the Steiger proposal and the committee bill, and it is one which attempts to ameliorate what I believe is an otherwise precipitous increase in the base. Thus, this amendment was designed, when it was talked about in the Committee on Ways and Means and when I had it before the Members in the CONGRESSIONAL RECORD and when the Committee on Rules granted the rule, to deal with both prongs of the problem, that is, outside earnings limit rising above the committee bill, while at the same time lowering the base.

I also proposed, as part of the amendment, a 0.1 percent increase in tax in 1981, which would be across-the-board, of course, for all.

What has happened is that we yesterday adopted the Fisher amendment, and when we did that, then the Steiger proposal is not as well balanced as I believe it should be and, frankly, as I think the House ought to face the issues. It would be necessary to raise the tax rate in the 1981–84 period under this proposal to give exactly the same income flow to the trust fund.

This does not, may I say to my colleague, the gentleman from Maryland, break the fund, but it would be necessary to define the amendment to more clearly reflect the agreement which was reached in the Committee on Ways and Means. With the objections to the modified amendment and because of the constraint of the rule, I must say that I find myself in a position where I am not at all sure that it makes any sense for us to vote on the Steiger proposal.

As I indicated to the gentleman from Maryland under his reservation, were we to do this again, I would not accept the kind of rule that we received, if in fact we were not then given the opportunity to take cognizance of an action taken in the Committee of the Whole. I think it is important in the future for both the Committee on Ways and Means and for the Committee on Rules to recognize that the kind of rule under which we are operating makes it impossible for the committee to have a full and adequate discussion of the issues.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I will be delighted to yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding.

I appreciate the particular dilemma in which the gentleman finds himself. I did not rush precipitously to vote for what was obviously going to be a bad rule. It has proved to be a bad rule.

The fact that the amendment offered by the gentleman from Wisconsin (Mr. STEIGER) is now not in conformance with the agreement reached earlier in our committee is only one example. The amendment which was offered yesterday by the gentleman from Virginia (Mr. FISHER), and which was adopted, is another amendment which is out of balance because of some actuarial errors.

So we are operating under a rule that, instead of protecting us, has actually handcuffed us in our efforts to produce a good bill in this Committee. The gentleman from Wisconsin (Mr. STEIGER) really finds himself between Scylla and Charybdis, and he is probably going to have to withdraw his amendment.

Not only, in that case, do all Members of this Committee who cannot offer amendments find themselves being muffled today by this outrageous closed rule, but even the Members that the rule was designed to help are being forced to withdraw their amendments because they do not work under this rule.

If there ever has been a time since I have been in this House that we have proved the folly of letting a very small elite legislate for all of us who are supposed to be the representatives of the people, this is the time.

I congratulate the gentleman from Wisconsin for pointing out this folly into which we have let ourselves fall. I will point out also that the gentleman has brought to our attention another problem in the bill, and that is that the earnings limitation has not increased adequately to keep up with what most Members of the House feel is a necessity in today's world.

Mr. Chairman, I am sorry the gentleman from Wisconsin (Mr. STEIGER) is in these straits, and I think it is a shame the House has let itself fall into this trap.

Mr. STEIGER. Mr. Chairman, I thank my colleague, the gentleman from Minnesota (Mr. FRENZEL) for his comments.

I will eat my crow, and I will also try to spell those two other words—"the rock and the hard place" in which I find myself.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Chairman, I want to commend the gentleman from Wisconsin (Mr. STEIGER). He has worked hard on this bill and has tried to bring about a fair and equitable solution of these problems. He acted very fairly in the committee.

I understand the dilemma in which the gentleman finds himself this morning, and I want to commend him for his statement.

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from California but before doing so I want to thank my thoughtful subcommittee chairman.

Mr. SISK. Mr. Chairman, I thank the gentleman for yielding.

Let me say in all fairness to my colleague, the gentleman from Wisconsin (Mr. STEIGER), that I am not here to toss blame around to anyone, but I am just a little bit super-sensitive today about some of the comments I have heard from some of my friends on the other side with reference to the Committee on Rules.

I sat through the hearings and heard every word that was said, as far as I know, in connection with the rule, and I would appreciate the comments of my colleague, the gentleman from Wisconsin, with regard to that. So far as I know, we gave the gentleman exactly the rule that he requested. If there is fault to be found, then I suppose we are all at fault.

Let me say in all fairness to my good friend, the gentleman from Oregon (Mr. ULLMAN)—and I have great respect for him—that I was under the impression that we had given the gentleman exactly what he requested.

I am very sorry that the situation has developed, that we come to the position we are in now, but I think in fairness, particularly after the comments just made about the Committee on Rules, that the record should be set straight.

I do not know toward whom those remarks were aimed, but all I am trying to say is that I do not think the Committee on Rules needs any defense. I know, however, that the Committee on Rules is often the whipping boy of the House, and I think it always will be.

Mr. Chairman, I appreciate the comments of the gentleman from Wisconsin (Mr. STEIGER) on the issue.

Mr. STEIGER. Mr. Chairman, may I say to my colleague, the gentleman from California (Mr. SISK), that I hope he will note that I was not really aiming at the Committee on Rules as much as I was aiming at my own committee and myself, because I agreed to the rule.

However, I do not think any of us were fully cognizant of the fact that the Fisher amendment, frankly, was not balanced in the way I thought we had agreed to a balance, nor did we take cognizance of the effect of the adoption of the Fisher amendment. I say that because obviously I could not write my amendment, assuming the Fisher amendment were adopted. I suppose I could have said, "If Fisher is adopted, I will have to have an alternative form."

I guess what I am saying is that if we are to go over this road again, the Committee on Ways and Means will have to do a better job to assure that when we have made our decision, we are fully cognizant of the implications of the decision we have made.

Mr. SISK. Mr. Chairman, I thank my colleague for his comments.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I also wish to commend the gentleman from Wisconsin (Mr. STEIGER) for his diligence.

Insofar as the rule is concerned, the committee did request a rule that would allow committee amendments, and that was not included in the rule.

I think that would have been one way out of the dilemma. If we adopted amendments that made conforming changes necessary, then at least we could have brought back a committee amendment to bring it back into proper structure; but I do concur that it is a very difficult thing.

It would be impossible under an open rule where one was making adjustments on the floor. That is the reason we had a closed rule through the years because we build a package. Once one upsets the package, then all at once every other amendment is totally out of order.

I would readily agree with the gentleman with respect to the future, and I will be happy to work with him and with the gentleman from New York (Mr. CONABLE) and our members to try to develop a procedure that would take care of this problem.

Mr. Chairman, I fully concur. I appreciate the gentleman's responsibility in suggesting that he might withdraw his amendment.

Mr. STEIGER. First, Mr. Chairman, may I say that I do appreciate the comments of my colleague, the gentleman from Oregon (Mr. ULLMAN), the distinguished chairman of the committee, on this subject.

Yes, I think we do need to work out a better procedure to see that this sort of thing does not happen. Committee amendments, I do not think, are the answer because that is a kind of after-the-fact thing.

What we tried to do in the amendment process—and I thought it was the right decision—was to say, "If you are going to lower the base, as I was proposing, you have to increase the rate."

The committee amendment comes along in such a way that, in effect, I am getting a free ride. I do not think that is what we want.

Mr. ULLMAN. Mr. Chairman, what we could do under those circumstances is make assumptions that if the Fisher amendment carried, the committee could come back and offer an amendment to the other provisions to put them in order.

Mr. STEIGER. That would be in order.

Mr. ULLMAN. I hope, at least, that we can work out some procedure along those lines to take care of the problem.

Mr. SISK. Mr. Chairman, will the gentleman yield further?

Mr. STEIGER. I yield to the gentleman from California.

Mr. SISK. Mr. Chairman, I thank the gentleman for yielding.

Let me say that I have been very much impressed with the procedure we had here yesterday. I was frankly of the opinion that we had devised what has been a unique rule.

I have had a number of people ask me the question, "Is this not something brand new?" Basically, it is.

Unfortunately, we did not leave that escape valve which would take care of the situation, which I would hope would not cause us to revert to the closed rule again.

Mr. Chairman, I want to commend my colleague, the gentleman from Oregon (Mr. ULLMAN), for having devised what seems to me has been a very good situation, giving an ample opportunity for people to discuss the matter and yet retain some control. Unfortunately, I think we learn by our mistakes; and perhaps we can improve the situation in the future.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. Mr. Chairman, I yield briefly to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding.

I am very tempted to get into the discussion on the whole rule question; but since that has been batted back and forth, I will try to restrain myself, though with some difficulty.

Mr. Chairman, I would like to ask my colleague, the gentleman from Wisconsin (Mr. STEIGER), whether, if I support his effort to eliminate completely the earnings limitation in a responsible manner, it is the gentleman's position that he may have to withdraw his amendment because of problems already described by the gentleman from Wisconsin.

I hope we will have another opportunity.

Mr. STEIGER. We will.

Mr. ROUSSELOT. I hope we will have the opportunity through the Ketchum amendment, which is in order under this very strange, unusual, and different rule that is now being developed.

Mr. STEIGER. Mr. Chairman, I cannot yield to the gentleman further.

Mr. ROUSSELOT. In that case, we can support the Ketchum amendment.

Mr. STEIGER. Yes, that is right.

Mr. Chairman, I ask unanimous consent to be permitted to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. KETCHUM

Mr. KETCHUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KETCHUM: Page 224, line 17, insert "And Eventual Repeal" after "Liberalization" (and conform the table of contents on page 118).

Page 226, strike out lines 7 through 13 and insert in lieu thereof the following:

"(iii) shall be $416.66⅔ for each month of any taxable year ending after 1979 and before 1981, and

"(iv) shall be $458.83 for each month of any taxable year ending after 1980 and before 1982.".

Page 226, line 18, strike out "1977 or 1978" and insert in lieu thereof "1977, 1978, 1979, or 1980".

Page 227, strike out lines 5 and 6 and insert in lieu thereof the following:

(e) Subject to subsection (f), the amendments made by the preceding provisions of this section shall apply with respect to taxable years ending after December 1977.

(f) Effective with respect to taxable years ending after December 31, 1981—

(1) subsections (d)(1), (f)(1)(B), and (j) of section 203 of the Social Security Act, and subsection (c)(1) of such section 203 (as amended by section 411(i) of this Act,) are each amended by striking out "seventy-two" and inserting in lieu thereof "sixty-five";

(2) the last sentence of section 203(c) of such Act (as so amended) is amended by striking out "nor shall any deduction" and all that follows and inserting in lieu thereof "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.";

(3) clause (D) of section 203(f)(1) of such Act is amended to read as follows: "(D) for which such individual is entitled to widow's or widower's insurance benefits if she or he becomes so entitled prior to attaining age 60, or";

(4) section 203(f)(3) of such Act is amended by striking out "age 72" and inserting in lieu thereof "age 65";

(5) section 203(f)(5)(D) of such Act is repealed;

(6) section 203(h)(1)(A) of such Act is amended by striking out "the age of 72" and "age 72" and inserting in lieu thereof in each instance "age 65";

(7) the heading of section 203(j) of such Act is amended by striking out "Seventy-two" and inserting in lieu thereof "Sixty-five";

(8) subsections (f)(1), (f)(3), (f)(4)(B), and (h)(1)(A) of section 203 of such Act (as amended by section 501(d) of this Act) are each further amended by striking out "the applicable exempt amount" and inserting in lieu thereof "the exempt amount"; and

(9) the amendments made by subsections (a), (b), and (c)(1) of this section shall cease to be effective; and the provisions of section 203 of such Act (as otherwise amended by the provisions of this Act) shall read as they would if such subsections (a), (b), and (c)(1) had not been enacted.

Page 119, line 17, strike out "calendar years 1981 through 1984" and insert in lieu thereof "calendar year 1981".

Page 119, after line 18, insert the following new paragraph:

"(4) with respect to wages received during the calendar years 1982 through 1984, the rate shall be 5.25 percent;

Page 119, line 19, strike out "(4)" and insert in lieu thereof "(5)".

Page 120, line 2, strike out "5.45 percent" and insert in lieu thereof "5.55 percent".

Page 120, line 3, strike out "(5)" and insert in lieu thereof "(6)".

Page 120, line 4, strike out "6.00 percent" and insert in lieu thereof "6.10 percent".

Page 120, lines 15 and 16, strike out "calendar years 1981 through 1984" and insert in lieu thereof "calendar year 1981".

Page 120, after line 17, insert the following new paragraph:

"(4) with respect to wages paid during the calendar years 1982 through 1984, the rate shall be 5.25 percent; and

Page 120, line 18, strike out "(4)" and insert in lieu thereof "(5)".

Page 120, line 20, strike out "5.45 percent" and insert in lieu thereof "5.55 percent".

Page 120, line 21, strike out "(5)" and insert in lieu thereof "(6)".

Page 120, line 22, strike out "6.00 percent" and insert in lieu thereof "6.10 percent".

Page 121, line 13, strike out "1985" and insert in lieu thereof "1982".

Page 121, after line 15, insert the following new paragraph:

"(4) in the case of any taxable year beginning after December 31, 1981, and before January 1, 1985, the tax shall be equal to 7.05 percent of the amount of the self-employment income for such taxable year;

Page 121, line 16, strike out "(4)" and insert in lieu thereof "(5)".

Page 121, line 18, strike out "8.20 percent" and insert in lieu thereof "8.35 percent".

Page 121, line 20, strike out "(5)" and insert in lieu thereof "(6)".

Page 121, line 21, strike out "9.00 percent" and insert in lieu thereof "9.15 percent".

Mr. KETCHUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MARTIN. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Obviously a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears. Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. KETCHUM (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, how many pages is this amendment?

Mr. KETCHUM. Mr. Chairman, if the gentleman will yield, I cannot say. I imagine it is about four.

Mr. ROUSSELOT. The reason I ask that question is I want to be sure that the Ketchum language conforms to the rule and is "balanced" in its end result. Can the gentleman assure us that this will conform on the basis of the terrible rule that we now have to live with?

Mr. KETCHUM. Mr. Chairman, will the gentleman yield further?

Mr. ROUSSELOT. I am happy to yield.

Mr. KETCHUM. To the very best of my knowledge, it will.

Mr. ROUSSELOT. I am delighted to hear that. We actually have an amendment now being offered under that bad rule that will conform, even though the original bill has been changed.

Mr. KETCHUM. Mr. Chairman, if the gentleman will yield further, I say to the gentleman from California that that question arose earlier this morning. I discussed it with the actuaries. They informed me that no change in the Ketchum amendment is necessary.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, is that the understanding of the chairman of the committee also?

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I would be delighted to yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, would the gentleman from California repeat the statement?

Mr. ROUSSELOT. The question is, does the amendment of the gentleman from California (Mr. KETCHUM) comply with the balanced objectives of the current rule, in view of the fact that the original bill has been changed?

Mr. ULLMAN. Will the gentleman yield?

Mr. ROUSSELOT. I would be delighted to yield.

Mr. ULLMAN. There appears to me to be a problem. In the Fisher amendment, we increased the rate by 0.1 in 1981, and that carries on through. Now, it appears to me that if the Ketchum amendment is not revised, that the exact same increase that we put into effect in the Fisher amendment would be in effect in the Ketchum amendment. Therefore, there would be no additional taxes on top of the Fisher amendment in order to accommodate this problem.

If in fact that were the case, I would very much wish that by unanimous consent we would allow that 0.1 in 1982 to be a part of the Ketchum amendment and carry on through. If that were true, then the Ketchum amendment would be adequately financed in tandem with the Fisher amendment, but as I understand the amendment, that would be necessary in order to provide the financing for the Ketchum amendment.

Mr. ROUSSELOT. Further reserving the right to object, I am not sure I understood the answer. What is the understanding of the gentleman from California?

Mr. KETCHUM. If the gentleman will yield——

Mr. ROUSSELOT. I will be glad to yield.

Mr. KETCHUM. The 0.1 increase in this amendment as presented takes place in 1982, prior to the Fisher amendment. If the chairman of the committee is correct, and I am not positive that he is or is not, the actuarial studies that we have been living with for the last few days or few months, a 0.1 technical amendment might be necessary to follow Fisher through.

Mr. ULLMAN. Will the gentleman yield further?

Mr. ROUSSELOT. I will be glad to yield.

Mr. ULLMAN. The Ketchum amendment, if I understand this, was intended to finance the liberalization of the outside earnings exemption by a 0.1 increase in payroll taxes beginning in 1982. Is that right?

Mr. KETCHUM. That is correct.

Mr. ULLMAN. Now, if it were in order, I would like to ask unanimous consent that that tax increase in 1982 be included as part of his amendment to adjust for the discrepancy that has been created by the addition of the Fisher amendment.

The CHAIRMAN. The Chair will state that such a request would not be in order at this time.

Mr. ROUSSELOT. That is my point.

Further reserving the right to object, the gentleman in the well, Mr. KETCHUM, is convinced on the best information available to him under this very strange rule his amendment does, in fact, conform to the rule. Is that correct?

Mr. KETCHUM. To the very best I can determine.

Mr. ROUSSELOT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. BURKE of Massachusetts. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BURKE of Massachusetts. What question did we determine by the unanimous-consent request?

The CHAIRMAN. By unanimous consent we just dispensed with reading of the amendment.

Mr. BURKE of Massachusetts. I thank the Chairman.

The CHAIRMAN. The gentleman from California (Mr. KETCHUM) will be recognized for 15 minutes, and the gentleman from Oregon (Mr. ULLMAN) will be recognized for 15 minutes.

The Chair recognizes the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Chairman, this amendment really speaks for itself, so I shall take very little time. What this amendment does is to dispense with one of the most onerous provisions of the social security law as it applies to those individuals who are now retired. Due to circumstances totally beyond their control, our retired citizens are practically being taxed out of their homes. They rely on their retirement; they rely on their social security, to provide at least a part of their living in their retirement years.

Through the ravages of inflation and increased property taxation, that no longer is true. As a result, those individuals attempt to supplement their income by doing additional work. As most of the Members know, the earnings limitation presently stands at $3,000. The committee bill raises those earnings limitations to $4,000 in 1978, to $4,500 in 1979, and that is it.

What this amendment seeks to do is to carry that forward and to allow a $5,000 earnings in 1980; $5,500 in 1981, and in 1982 to completely eliminate the earnings limitation so that all of our citizens 65 years of age and over will be subject to no other limitations than are presently in order for those individuals who are 72 years of age.

To accomplish this—and I certainly wish to be candid—there is a price tag.

There is no free lunch. Over 100 Members of this body have sponsored or cosponsored bills to bring this about.

Understandably, most of those bills have been introduced with no comments relative to financing.

Under the provisions of the agreement reached by the members of the Committee on Ways and Means with the chairman, we have attached to this a 0.1 tax increase in 1982, which will fund this amendment. I urge its adoption. I offer it, as I indicated yesterday, not on behalf of BILL KETCHUM, but on behalf of the over 100 Members who have offered this bill in this Congress.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. I thank the gentleman for yielding.

Mr. Chairman, as one of the Members who was an introducer of such a bill, I would like to join with the gentleman from California (Mr. KETCHUM) in support of this amendment. While we are talking about the fiscal aspect, many, many people on social security do not want to work and they are not going to work, and most of them are not able to work. But there are some who can and who should be permitted to work. One thing we have to remember is that those social security recipients who do continue to work and earn more, under this amendment, they will be in fact contributing to the social security trust fund and, depending on their income, will also be contributing to the general fund of the United States through their income taxes. So it is not all one sided. They are not just taking out. They will also be putting back in.

In Pinellas County, Fla., the country in which I live—and we are just a few days from when the social security checks go out—there will be 230,000 Pinellas Countians receiving social security checks. A lot of those people are able to work and should not be prohibited, through a financial penalty, from working.

Mr. Chairman, I want to give the Members this thought: Many of the persons who find themselves in the category of senior citizens today, retired, older Americans, are the very people who made such a tremendous contribution to the great advances that we have experienced in this country in medicine, in science, in industry, and they have a lot to offer. If they are permitted to be involved in the work force of this country, without being penalized from a financial standpoint, I think we would be amazed at the tremendous reservoir of knowledge and experience that these people have and could make available to us without it costing us very much at all.

Mr. Chairman, I think this is a good amendment whose time is well past due.

Mr. KETCHUM. I thank the gentleman for his contribution.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I rise in support of his amendment and would like to commend him for his leadership on the Ways and Means Committee and in the Congress in this very important effort.

I have sponsored legislation in this Congress and past Congresses to remove the earnings limitation entirely. Over 130 have joined us this year in introducing similar legislation. Our colleague from California (Mr. KETCHUM) has worked long and hard to build this support and has become the champion of our senior citizens.

It is a well known fact that Americans today are living longer lives and enjoying many more productive years. Our efforts to remove the earnings limitation imposed on their social security benefits is in recognition of this fact.

Many of our senior citizens would like to continue working past the retirement age in order to supplement their retirement incomes. I firmly believe that anyone who has the desire to continue working either part time or full time should be allowed to do so and not prevented from doing so by an arbitrary limitation placed on them.

In talking to senior citizens in my congressional district and in the many letters I receive from them, they have told me that they want the freedom to live a life of independence. They want to be able to decide for themselves whether or not to continue working. They want the freedom to adjust their lifestyles in a way consistent with their own desires. They want to live out their twilight years with a degree of independence which permits them to be recognized as individuals.

The kinds of limitations placed on their earnings by the social security law has trapped them into a position where they have become dependent on other people and dependent on Government just to get by. They are proud individuals and this dependence is extremely difficult for them to accept.

At a time when Mr. and Mrs. Middle America are struggling to keep their heads above water, it is inequitable to deny our seniors an equal opportunity to adjust to the continually rising cost of living. Despite the automatic cost-of-living increases they receive annually in their benefits, many would like to be able to provide more for their families and live their lives with more dignity.

My colleague's amendment increases the earnings limitation to $5,000 in 1980, to $5,500 in 1981 and removes all limitations thereafter. The distinguished chairman of the Ways and Means Committee (Mr. ULLMAN) has indicated that this amendment is actuarially in balance.

I urge my colleagues to join us in voting for this proposal.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, it is with a great deal of pleasure that I rise to support my colleague (Mr. KETCHUM) in his amendment repealing the social security earnings limitation in 1982.

Although the amendment does not go as far as my own bill (H.R. 2457) repealing the limitation immediately, it does provide for a 5-year phase-out and, as such, is a compromise worthy of adoption by this house.

Mr. Chairman, it has been said that the true test of a society is the way in which it treats its senior members. I think it is fair to say that the social security earnings test has become for many a symbol of the arbitrary and condescending way we treat our seniors. The earnings test is not only unfair, it is, in my view, counterproductive.

It is unfair because it selects an arbitrary figure—at the present time less than the official poverty level—above which a 50-percent tax is applied on earnings. This 50-percent tax is in addition to Federal and State income taxes already paid on those earnings. The penalty is also arbitrary because it applies only to earned income, ignoring income from investments. And it is arbitrary because it does not relate to need.

But there is an economic argument as well as a humanitarian one for repealing the earnings limitation. The earnings test deprives our economy of the skills and productive capacity of millions of older citizens who want to work, who are capable of working, and who are not now working for no other reason than to avoid having their social security checks reduced. Not only do we lose their skills and output, we also lose the taxes which they would be paying on those earnings.

All this because of an arbitrary rule which relies solely on a person's age and income level to determine their capabilities.

Mr. Chairman, this House recently acted to give senior citizens new protection against age discrimination in employment. I feel we can do no less in this area of need. To me, it makes no sense to penalize a person for working. I urge adoption of this amendment as a humane, realistic, and economically sound approach to this issue.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the chairman of the subcommittee.

Mr. BURKE of Massachusetts. Mr. Chairman, I would like to have the gentleman at the microphone explain how this will affect Members of Congress who have reached the age of 65 and who draw down a $57,500 salary. Will they also be able to draw their social security benefits at the age of 65 under the gentleman's amendment?

Mr. KETCHUM. Mr. Chairman, I will say to the gentleman from Massachusetts (Mr. BURKE), who has been my dear friend from so many years ago, that under the present bill, as it is before us, neither the gentleman nor I will have one penny deducted for social security. Unfortunately, this body chose not to include all of us, so it is not going to affect us at all unless, I would say to my friend, the gentleman from Massachusetts, he and I upon our retirement from the Congress would, either voluntarily

or involuntarily, go out and qualify for social security.

Mr. BURKE of Massachusetts. Mr. Chairman, if the gentleman will yield further, I am not speaking of retired Members. I am talking about Members like myself who are over 65 years of age.

Will I be able to draw my social security checks month after month if I am in Congress in 1982, as I expect to be?

Mr. KETCHUM. Yes; I rather imagine that the gentleman from Massachusetts (Mr. BURKE) will in any event since he will be 72 in 1982 just as the gentleman from Florida (Mr. PEPPER) indicated some weeks ago when this very body recognized the fact that times have changed, conditions have changed, people are living longer and more productive lives, and, as a result, this body very wisely decided to raise the retirement age to age 70.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. Mr. Chairman, I have supported, as the gentleman knows, the elimination of the earnings limitation. I testified before the gentleman's subcommittee on this subject and strongly supported the idea of the gentleman's amendment.

As I understand the amendment, which is in order under this rule, there would be no earning's limitation after 1982; is that correct?

Mr. KETCHUM. The gentleman is correct.

Mr. ROUSSELOT. So we would move in a responsible way toward eliminating this earnings limitation over a period of several years; it would not happen all at once?

Mr. KETCHUM. That's correct.

Mr. ROUSSELOT. So we are, by voting for the gentleman's amendment, doing it in a responsible way so as not to have the impact of that earnings limitation fall entirely next year?

Mr. KETCHUM. That's precisely the reason that it is graduated.

Mr. ROUSSELOT. The gentleman's amendment includes a very responsible method of getting to that point of no limitation, to be exact by 1982.

Mr. KETCHUM. I feel that it does, and I thank the gentleman for pointing that out.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's answer. I support the gentleman's amendment.

Mr. KETCHUM. Mr. Chairman, I reserve the balance of my time.

Mr. ULLMAN. Mr. Chairman, I would like to have the attention of the gentleman from California (Mr. KETCHUM).

He has been very diligent in attempting to keep his amendment on a sound actuarial basis in accordance with the mandate of the committee.

I ask unanimous consent, Mr. Chairman, that the rates in his amendment be adjusted to conform to the impact of the Fisher amendment on the bill.

Would the gentleman have any objection to doing that? I think that is what he intends to do. What, in fact, happened is that the Fisher amendment increased the taxes by 0.1, and that is exactly what the gentleman from California (Mr. KETCHUM) would do beginning in 1982; but the gentleman from Virginia (Mr. FISHER) has already done it in 1981. Therefore, the numbers in the Ketchum amendment beginning in 1982 are exactly the same as the number in the Fisher amendment from there on; but, in fact, they ought to be 0.1 higher.

I think that is the gentleman's intent, Mr. Chairman; and I would just ask unanimous consent that the numbers be adjusted to accommodate the Fisher amendment.

The CHAIRMAN (Mr. YATES). Is there objection to the request of the gentleman from Oregon?

Mr. BURKE of Massachusetts. Reserving the right to object, Mr. Chairman, and I am very reluctant to object, I would like to ask my good friend, the gentleman from Oregon (Mr. ULLMAN), my chairman, if he would be willing to agree to a unanimous-consent request allowing me to offer my general revenue sharing bill, one-third, one-third, and one-third.

Mr. ULLMAN. Mr. Chairman, if the gentleman will yield, as my friend, the gentleman from Massachusetts (Mr. BURKE), knows, I would do almost anything for him and have through the years. However. this is a very technical problem associated with an amendment that is being offered that is out of conformity because of the previous action that has been taken.

I think everyone here would want that amendment to be adjusted so that it does what the gentleman wants it to do and is not distorted because of previous action taken here.

Mr. ROUSSELOT. I reserve the right to object, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Massachusetts (Mr. BURKE) had reserved the right to object.

Is the gentleman from Massachusetts finished?

Mr. BURKE of Massachusetts. Mr. Chairman, the gentleman from Oregon (Mr. ULLMAN) still has not answered my question which was whether he would agree to my unanimous-consent request.

Mr. ULLMAN. If the gentleman will yield further, Mr. Chairman, I think that would be a little beyond the authority that I might have. At some future time the gentleman and I are going to be working that problem out. He is going to be around for a long time.

Mr. ROUSSELOT. Reserving the right to object, Mr. Chairman——

The CHAIRMAN pro tempore. The Chair will inform the gentleman from California that the gentleman from Massachusetts (Mr. BURKE) still has the floor.

Mr. BURKE of Massachusetts. Mr. Chairman, I am not going to object at this time. However, I am still reserving the right until I hear the rest of the argument. I wish my good friend would agree since I want to offer my general revenue sharing bill.

Mr. ULLMAN. Mr. Chairman, I am always going to get along with my good friend, the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oregon (Mr. ULLMAN) that the amendment offered by the gentleman from California (Mr. KETCHUM) be modified?

There was no objection.

The CHAIRMAN pro tempore. The request is granted, and the Clerk will report the modification to the amendment.

The Clerk read as follows:

Page 119, after line 18, insert the following new paragraph:

"(4) with respect to wages received during the calendar years 1982 through 1984, the rate shall be 5.35 percent;

Page 120, line 2, strike out "5.45 percent" and insert in lieu thereof "5.65 percent".

Page 120, line 4, strike out "6.00 percent" and insert in lieu thereof "6.20 percent".

Page 120, after line 17, insert the following new paragraph:

"(4) with respect to wages paid during the calendar years 1982 through 1984, the rate shall be 5.35 percent; and

Page 120, line 20, strike out "5.45 percent" and insert in lieu thereof "5.65 percent".

Page 120, line 22, strike out "6.00 percent" and insert in lieu thereof "6.20 percent".

Page 121, after line 15; insert the following new paragraph:

"(4) in the case of any taxable year beginning after December 31, 1981, and before January 1, 1985, the tax shall be equal to 8.05 percent of the amount of the self-employment income for such taxable year;

Page 121, line 18, strike out "8.20 percent" and insert in lieu thereof "8.45 percent".

Page 121, line 21, strike out "9.00 percent" and insert in lieu thereof "9.30 percent".

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I want to say that the gentleman from California (Mr. KETCHUM) has been diligent in attempting to meet this actuarial requirement. I am pleased that he is accepting this modification because the amendment does now conform with the requirement of the committee that the items in the amendment be adequately financed.

Mr. Chairman, I think the gentleman would agree that I did not want to argue with him on the basis that it was not financed properly. I think we want to argue on the merits and not on a technical matter.

Therefore, this puts the argument on that plane: should we totally eliminate the limitation on outside earnings for older workers, or should we not?

I think, Mr. Chairman, we would be making a very, very bad mistake if we moved now to totally eliminate the restrictions on outside earnings for any beneficiaries. We would change the program totally from a retirement program to an annuity program. That was not the original intent. What we would say is that when one got to be 65, one could continue to work at his job and draw his full social security benefits. The system

was never intended to do that. If we had no unemployment, then maybe this could be justified.

The argument was made a few minutes ago, "That fellow is still paying into social security." The real argument is if he were not on that job, there would be another job opening for a young American or for a black American, or for one of those 6 or 8 millions of Americans who do not have a job. That is why we cannot do this at this time. It would be a great disservice to the workers paying into the social security system.

In the committee bill we move in the direction the gentleman wants. We increase the outside earnings exemption to $4,000 next year, then to $4,500, and then we have a step-up, an automatic increase, from there on. Remember, that is not a 100-percent exclusion. All it means is that you can still have a job and have social security benefits, even though you make more than that, because for earnings in addition to that exemption, for every $2 of earnings there is a reduction of $1 in social security, and that works its way all the way up the ladder. A person with a high benefit can earn up to $12,000 today and still get some social security benefits. They would be reduced benefits of course.

So I think what we have done in the bill is the responsible approach to the problem.

Organized labor, the National Council for Senior Citizens—everyone who is closely involved with this thing is just emphatically opposed to doing what the gentleman is suggesting. I know it is appealing, but I appeal to the good judgment and reason and common sense of the Members of this House to reject the amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

The gentleman mentioned the history of the original social security legislation as it relates to retirement benefits. The gentleman knows full well that the original intent of social security was to provide supplemental income. It was never intended to be the total income of the individual; is that not true? Is that not true?

Mr. ULLMAN. That is not true in the sense that the gentleman is suggesting. It is not supposed to be a supplemental income for somebody in the work force.

Mr. ROUSSELOT. But in retirement.

Mr. ULLMAN. It is supposed to be a supplemental retirement income.

Mr. ROUSSELOT. That is right.

Mr. ULLMAN. For those who have other retirement.

Mr. ROUSSELOT. That is right.

Mr. ULLMAN. But what the gentleman would do would make it a supplemental income for people in the work force, and that is not what was intended in any sense whatsoever.

Mr. ROUSSELOT. No. As I understand the gentleman from California's amendment—and since I support removing the earnings limitation and so testified before the subcommittee—the purpose is to provide that those who receive the social security retirement benefit have the free option to earn more than just a limited amount.

I would like to make one more point, if the gentleman would yield—and I appreciate his yielding—the only real place that the gentleman from California's amendment is different from the committee amendment is basically in the last year, 1982. The committee raises the limit to $5,640 and leaves it there. The gentleman from California says from 1982 on there will be no limitation. Is that not correct?

Mr. ULLMAN. May I reclaim my time? The basic principle involved here is not what the gentleman suggests—how much outside earnings there are. That man or woman reaching the age of 65 says,

Shall I retire and draw social security, or shall I continue to work and pay in?

Mr. ROUSSELOT. No. It is how much money one earns.

Mr. ULLMAN. I am not yielding now to the gentleman. That is not the proper perspective of what we ought to be doing in the social security system.

It seems to me what we are doing here is saying to all of those professional people, doctors, and lawyers who can work on through later years—we are saying to them,

Just keep on working. We will pay you social security the minute you reach 65, even though you are making $100,000, or however much. You are still going to get your social security.

That is wrong.

If we expand the limit, that is all right, but at least there is a limit. Let us keep that limit on. Let us not let that wealthy class of people, who tend to work longer, pick up that social security benefit. That is not what the system was intended to do.

Mr. Chairman, I yield 2 minutes to the chairman of the subcommittee, the gentleman from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr. Chairman, the gentleman from California is not correct, because in the law, after we raise these earnings ceilings during the next few years, there is an acceleration clause based on raising the wages, where the earnings limit will be raised periodically according to the rise of wages in the country.

Mr. KETCHUM. That is after 1982, if the gentleman will respond?

Mr. BURKE of Massachusetts. No.

Mr. KETCHUM. The gentleman has an accelerator after 1982? And what is it attached to, may I ask?

Mr. BURKE of Massachusetts. From 1980 on.

Mr. KETCHUM. From 1980 on there is an accelerator?

Mr. BURKE of Massachusetts. Yes.

Mr. KETCHUM. And what is it attached to? The cost of living or what?

Mr. BURKE of Massachusetts. It is attached to the wage base.

Mr. KETCHUM. The wage base which is kept by the Department of Labor?

Mr. BURKE of Massachusetts. It has been taken care of. I think the whole trouble with the gentleman is that he is a little confused.

Mr. KETCHUM. I am not confused at all.

Mr. BURKE of Massachusetts. The gentleman is confused on the earnings ceilings because the removal of the earnings ceilings is what the high-rollers in the country are looking for. They are the high-income people. This is for the people making $35,000 or $50,000 a year, and it will allow some earning $100,000 a year to draw his full social security benefits. It will destroy the whole principle of social security. I am surprised my good friend, the gentleman from California, should go this far, and also I am surprised at the other gentleman from California (Mr. KETCHUM). I know he is trying to help the little people, but it is not going to help the little people that much. It will help the big people, the fat cats, those making $75,000 or $100,000 a year, and they are going to be able to draw full social security benefits. It will be a drain on the system.

Mr. ULLMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman.

I agree with my chairman and his position on this amendment. I give two reasons for it.

First, I think we have got to focus on this tax increase which this calls for. Under the bill as it stands with the Fisher amendment we are raising the tax per year of a person making $10,000 a year by $70 in 1982. If we add this on, we will be raising it by $80; for a man making $20,000, the committee bill raises the tax by $140, but the Ketchum amendment would raise it $160. For those making $30,000, it would be at $210 and he would go to $240; for those making $40,000, it would go to $280, and the Ketchum amendment would carry him to $320. The cumulative effect of adding this on to what we have already done in my book is too much and we should defeat it. We are already at the breaking point on taxes.

Mr. ULLMAN. Would the gentleman agree when we look at all these high-salaried people making this $100,000, when they draw their benefits, they would be quite high?

Mr. GEPHARDT. We have raised the retirement test in this bill to $6,000 by 1983. I think that is enough. We can and should look at it again in the future.

Mr. DRINAN. Mr. Chairman, early this year I introduced legislation to eliminate the earnings restriction of the social security law. I sought to repeal the provision which denies an older worker $1 in benefits for every $2 of earnings he or she makes over the limit which this year is $3,000.

In my view this restriction is unfair and discriminatory. It serves to penalize those older workers who most need the income from continued employment in order to maintain a decent standard of living. Older Americans who have substantial income from investments, stocks, bonds, rents, or similar assets are not subject to any reduction in their social security benefits based on these hold-

ings. This issue has been one of my main concerns since my election to the House in 1970 and I am deeply gratified that today we have the opportunity to strike this restriction from the law.

Under this amendment the earnings limitation will rise to $5,000 in 1980, $5,500 in 1981, and be totally eliminated in 1982. H.R. 9346 already provides that the earnings restriction will move to $4,000 in 1978 and $4,500 in 1979. This progression toward removal of the cap on outside earnings will vindicate the rights of those older workers between the ages of 65 and 72 to continue working without being penalized through the loss of their social security benefits.

Proponents of retaining the earnings limitation often argue that a change in the law would deviate from the intent of the original social security program. Yet, such arguments are not supported by fact. As the program was first reported by the Committee on Ways and Means in 1935, there was no earnings limitation included. The first Advisory Council on Social Security in 1938 described the contributory program as one in which payments would be "afforded as a matter of right." When the Congress acted on the Council's report by passing the Social Security Amendments of 1939, both the Ways and Means Committee and the Finance Committee reaffirmed this concept by declaring that "by granting benefits as a matter or right it preserved individual dignity." The concept of an individual earning a right to his or her benefit was restated approvingly by the Advisory Councils of 1948, 1958, and 1965.

Time for repealing the earnings restriction is long overdue and I urge my colleagues to support this amendment.

Mr. BIAGGI. Mr. Chairman, I rise today in support of the Ketchum amendment to eliminate the outside earnings limitation on social security beneficiaries.

The earnings limitation is unfair. It amounts to nothing more than a repayment of earned benefits. Under current law, social security recipients under the age of 72 who earn more than $3,000, in addition to paying both income and social security payroll taxes on the entire amount, must forfeit $1 in social security benefits for every $2 earned over and above the current $3,000 limit.

What this provision amounts to is nothing more than a penalty on those senior citizens who wish to continue working after the age of 65.

As chairman of the Subcommittee on Federal, State, and Community Services of the House Select Committee on Aging, I have been involved with the issue of senior citizen employment and the recent passage of legislation to curtail mandatory retirement. During committee and subcommittee hearings on this issue I heard witnesses testify on the effects of retirement on persons capable of and willing to work. The American Medical Association, a traditionally conservative group, testified that retirement adversely effects the well-being and life expectancy of those who wish to continue employment.

I see a parallel between mandatory retirement and the social security earnings limitation. Both discriminate against our senior citizens who wish to continue as members of the labor force. With the imminent passage of legislation to curtail mandatory retirement. I believe it is only logical and appropriate that the 95th Congress act today to eliminate the earnings limitation.

H.R. 9346, the Social Security Financing Amendments of 1977, as approved by the House Ways and Means Committee would increase the earnings limitation to $4,000 in 1978 and $4,500 in 1979. The Ketchum amendment would continue to raise the exemption to $5,000 in 1980 and $5,500 in 1981, and completely eliminate the retirement test for those individuals over age 65 in 1982.

The cost of the Ketchum amendment to the social security system would be minimal. The exempt amounts proposed during the phase-in periods of 1980 and 1981 would only slightly exceed what is already provided for under the automatic adjustment provisions of the Social Security Act. Consequently, no additional financing is needed for these years.

Compensation for the cost of the complete elimination of the earnings limitation in 1982 would be provided for through the imposition of a minimum payroll tax of 0.1 percent on employers and employees. This is certainly a small price to pay for an equitable social security system.

In each of the past three Congresses, I have sponsored legislation to eliminate the earnings limitation. It is gratifying to hear this proposal being discussed today. Passage of this legislation, with the Ketchum amendment, will insure the financial integrity of the social security system and insure our social security recipients of those benefits for which they contributed and to which they are entitled. I urge immediate approval of this amendment.

Mr. ALEXANDER. Mr. Chairman, I rise in support of the Ketchum amendment to phase out the outside income limitation for social security recipients.

I have been a sponsor of legislation to increase the outside earning income limitation to $10,000 in every session of the Congress since 1973. I have done so because of the number of retirees in my State who have written and talked to me about their need to continue working after retirement just to make ends meet. The Ketchum proposal will once and for all eliminate this repressive provision of the law that has virtually told the Nation's senior member of the labor force that he cannot retire and at the same time continue to work to the extent he wishes after age 65.

Under current law, a social security beneficiary who earns more than $3,000 during the year is penalized $1 for every $2 over that amount earned.

The Ketchum amendment would continue limitations in 1978 at $4,000 in 1979 at $4,500, in 1980 at $5,000 and in 1981 at $5,500. Beginning in 1982, the outside earnings limitations would be completely eliminated for those citizens over age 65. To offset the increased payments in 1982, the amendment provides for an increase in both the employer and employee tax rate of 0.1 percent each.

Mr. Chairman, many Americans of retirement age are capable of working, want to work, and are still valuable members of the work force. This Congress is working toward wiping away a gross inequity to the Nation's elderly with passage of legislation earlier this year to end mandatory retirement for most of the Nation's senior workers. We should eliminate this inequity as well for those who want to retire, continue working on a part-time basis and still retain the full measure of social security benefits that are rightfully theirs.

Mr. STANGELAND. Mr. Chairman, I rise in support of my colleague's amendment which would remove the earnings limitation on recipients of social security benefits. I have always thought that it was unfair to impose a limitation on the amount of money which a retired person receiving social security benefits could earn. These workers have earned their benefits and should receive them while still being allowed to lead full, active, and productive lives. This ceiling on earnings discourages our older citizens from continuing to contribute to our economic well-being and limits the jobs available to those who choose to work.

The earnings of these workers continue to be subject to social security taxes, so there is no great loss to the overall system. In addition, both Houses of Congress have recently voted to raise the mandatory retirement age in private industry to 70. Previously workers were forced to retire at age 65 although many had no desire to do so. Hopefully this change in the age discrimination law would allow millions of workers to continue their employment. This, of course, would eliminate some of the financial burden on the social security system and would solve the problem for many who do not choose to retire. But what about those who have already been forced into retirement? This amendment will assure their equality under the law and rectify what I consider to be an injustice.

Mr. ASHBROOK. Mr. Chairman, I rise in strong support of the Ketchum amendment. This amendment provides for a gradual phaseout of the earnings limitation on social security.

The current law allows up to $3,000 in annual earnings. Every $2 earned by a social security recipient beyond that amount results in a $1 loss in benefits.

The bill before us today does improve the situation. It would raise the limitation to $4,000 in 1978 and to $4,500 in 1979. This is a step forward but I do not believe it goes far enough. In fact, I am sponsoring a bill that would immediately increase to $5,000 the amount of outside earnings permitted each year without deductions from benefits.

The high rate of inflation has been especially difficult for older Americans. They should not be penalized for working and trying to better their economic status. After years of paying into the social security system they are entitled to full benefits, benefits that are rightfully theirs.

I urge Congress to give a financial break to our Nation's older Americans. I urge the complete phaseout of the social security earnings limitation.

Mr. ULLMAN. Mr. Chairman, I have no further requests for time, and I ask for a vote.

Mr. KETCHUM. Mr. Chairman, I would like to close this debate with a remark or two, and pending that let me state to the body that I shall, when we return to the House, ask unanimous consent that all Members may have 5 legislative days in which to enter their remarks on this amendment.

I think what we have got to face up to is that we are living in changing times. The social security system in 1935 addressed a totally different problem than the social security system addresses in 1977. As my friend, the gentleman from Massachusetts knows, 35 years ago we stormed the beaches of Guam. Things have changed since then. Attitudes have changed. People are living longer and more productive lives. In that process of change, while many of us are enjoying the fruits of all those changes, those individuals who are retired have not been able to share in all those benefits.

It is one thing to stand here and talk about wealthy doctors and wealthy lawyers, but I say to my colleagues, do not talk to the elderly rich in your districts, talk to those people that this very Congress discovered were eating dog food because they could not afford anything else.

Certainly, there are going to be individuals who benefit from this amendment that I wish would not benefit, but that is the way things are. We cannot draw a bill which addresses one segment of society in a program such as this.

What we are attempting to do is address the changing times. In 1935 we were going through a Great Depression and the object then of forcing individuals, if you will, to retire at the age of 65 was to remove them from the workforce to make room for others. In those days, everyone on the street wanted to work.

I submit to my colleagues, you can pick up the Washington Post or the Washington Star and look at job after job that is open and available and no one to fill them. These are jobs that these senior citizens would like to fill. These are the people whose productive capacity is still there. They have so much to offer the United States, so much in expertise, so much richness of experience, that it is a crime to deny them. To say on the one hand that 65 is a magic age, but at age 72 it is OK, earn anything you want; rich doctor, rich lawyer, keep right on practicing, because you can draw your social security, but not if you are age 65, that is a magic, magic age.

I ask you, I implore you, this amendment is balanced. There is a price for this amendment which we must pay and which we must ask every working man and woman in America to help pay.

I beg of you, pass this amendment. It is long overdue.

Mr. ULLMAN. Mr. Chairman, let me just conclude by saying, what we would be doing here would be getting into massive double dipping in the social security system. It was never intended to do that. I urge that we vote down this amendment.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from California (Mr. KETCHUM).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 25, noes 33.

RECORDED VOTE

Mr. KETCHUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 268, noes 149, not voting 17, as follows:

[Roll No. 704]

AYES—268

Abdnor	Emery	Lott
Alexander	English	Lujan
Allen	Erlenborn	Luken
Ambro	Evans, Del.	McClory
Anderson, Calif.	Evans, Ga.	McDade
	Evans, Ind.	McDonald
Anderson, Ill.	Fascell	McEwen
Andrews, N.C.	Fenwick	McKay
Andrews, N. Dak.	Findley	McKinney
	Fish	Madigan
Applegate	Fithian	Markey
Archer	Flippo	Marks
Armstrong	Flynt	Marlenee
Ashbrook	Ford, Tenn.	Marriott
Badham	Forsythe	Martin
Badillo	Fountain	Mathis
Bafalis	Fowler	Mattox
Barnard	Frenzel	Michel
Baucus	Frey	Mikulski
Bauman	Fuqua	Miller, Ohio
Beard, R.I.	Gammage	Mitchell, N.Y.
Beard, Tenn.	Gibbons	Moakley
Bennett	Gilman	Mollohan
Bevill	Ginn	Moore
Biaggi	Glickman	Moorhead, Calif.
Blanchard	Goldwater	
Blouin	Goodling	Mottl
Boggs	Gore	Murphy, N.Y.
Bowen	Gradison	Murtha
Breaux	Grassley	Myers, John
Breckinridge	Guyer	Myers, Michael
Brinkley	Hagedorn	Natcher
Broomfield	Hall	Neal
Brown, Mich.	Hammer-schmidt	Nichols
Brown, Ohio		Oakar
Broyhill	Hanley	Ottinger
Buchanan	Hannaford	Panetta
Burgener	Hansen	Pepper
Burke, Fla.	Harkin	Perkins
Burleson, Tex.	Harrington	Pettis
Burton, John	Harris	Pike
Butler	Harsha	Pressler
Byron	Heckler	Pritchard
Caputo	Hefner	Pursell
Cederberg	Hightower	Quayle
Clausen, Don H.	Hillis	Quie
	Hollenbeck	Quillen
Cleveland	Holt	Rahall
Cochran	Horton	Railsback
Cohen	Hubbard	Rangel
Coleman	Huckaby	Regula
Collins, Tex.	Hyde	Rhodes
Conable	Ichord	Rinaldo
Conte	Ireland	Risenhoover
Corcoran	Jeffords	Roberts
Cornwell	Jenrette	Robinson
Coughlin	Johnson, Colo.	Roe
Crane	Jones, N.C.	Rogers
Cunningham	Jones, Tenn.	Roncalio
D'Amours	Kasten	Rooney
Daniel, Dan	Kazen	Rose
Daniel, R. W.	Kelly	Rousselot
Davis	Kemp	Rudd
de la Garza	Ketchum	Runnels
Delaney	Kindness	Ruppe
Derrick	Krueger	Russo
Derwinski	Lagomarsino	Santini
Devine	Latta	Sarasin
Dickinson	Leach	Satterfield
Dicks	Lehman	Sawyer
Dornan	Lent	Schroeder
Drinan	Levitas	Schulze
Duncan, Tenn.	Livingston	Sebelius
Early	Lloyd, Calif.	Shipley
Edwards, Ala.	Lloyd, Tenn.	Shuster
Edwards, Okla.	Long, Md.	Sikes
Simon	Symms	White
Skelton	Taylor	Whitehurst
Skubitz	Thone	Whitley
Smith, Nebr.	Traxler	Whitten
Snyder	Treen	Wiggins
Solarz	Trible	Wilson, Bob
Spence	Tsongas	Wilson, C. H.
St Germain	Vander Jagt	Wilson, Tex.
Staggers	Waggonner	Winn
Stangeland	Walgren	Wolff
Stanton	Walker	Wydler
Steers	Walsh	Wylie
Steiger	Wampler	Yatron
Studds	Watkins	Young, Alaska
Stump	Weiss	Young, Fla.

NOES—149

Addabbo	Gaydos	Nix
Akaka	Gephardt	Nolan
Ammerman	Giaimo	Nowak
Annunzio	Gonzalez	Oberstar
Ashley	Gudger	Obey
Aspin	Hamilton	Patten
Baldus	Hawkins	Patterson
Bedell	Heftel	Pattison
Beilenson	Holland	Pease
Benjamin	Holtzman	Pickle
Bingham	Howard	Poage
Boland	Hughes	Preyer
Bonior	Jacobs	Price
Bonker	Jenkins	Reuss
Brademas	Johnson, Calif.	Richmond
Brodhead	Jones, Okla.	Rodino
Brooks	Jordan	Rosenthal
Brown, Calif.	Kastenmeier	Rostenkowski
Burke, Calif.	Keys	Roybal
Burke, Mass.	Kildee	Ryan
Burlison, Mo.	Kostmayer	Scheuer
Burton, Phillip	Krebs	Seiberling
Carney	LaFalce	Sharp
Carr	Le Fante	Sisk
Cavanaugh	Lederer	Slack
Chisholm	Leggett	Smith, Iowa
Clay	Long, La.	Spellman
Collins, Ill.	Lundine	Stark
Conyers	McCormack	Steed
Corman	McFall	Stokes
Cornell	Maguire	Stratton
Cotter	Mahon	Thompson
Danielson	Mann	Thornton
Dent	Mazzoli	Tucker
Diggs	Meeds	Udall
Dingell	Metcalfe	Ullman
Downey	Meyner	Van Deerlin
Duncan, Oreg.	Mikva	Vanik
Eckhardt	Milford	Vento
Edgar	Miller, Calif.	Volkmer
Edwards, Calif.	Mineta	Waxman
Eilberg	Minish	Weaver
Evans, Colo.	Mitchell, Md.	Wirth
Fary	Moffett	Wright
Fisher	Moorhead, Pa.	Yates
Flood	Moss	Young, Mo.
Florio	Murphy, Ill.	Young, Tex.
Foley	Murphy, Pa.	Zablocki
Ford, Mich.	Myers, Gary	Zeferetti
Fraser	Nedzi	

NOT VOTING—17

AuCoin	Dodd	Montgomery
Bolling	Ertel	O'Brien
Carter	Flowers	Stockman
Chappell	Koch	Teague
Clawson, Del	McCloskey	Whalen
Dellums	McHugh	

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. AuCoin against.

Mr. Montgomery for, with Mr. McHugh against.

Mr. Carter for, with Mr. Dellums against.

Messrs. BARNARD, ROSE, FLIPPO, OTTINGER, EMERY, JEFFORDS, MURTHA, BAUCUS, LUKEN, MOAKLEY, STUDDS, and MARKEY changed their vote from "no" to "aye."

Ms. HOLTZMAN and Mr. POAGE changed their vote from "aye" to "no."

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. JENKINS

The CHAIRMAN. Under the rule, the Chair recognizes the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JENKINS:

Add to the table of contents the following new title:

TITLE VIII—NATIONAL COMMISSION ON SOCIAL SECURITY

Sec. 801. Establish a National Commission on Social Security.

Add the following new title and section after title VII:

TITLE VIII—NATIONAL COMMISSION ON SOCIAL SECURITY

SEC. 801. (a)(1) There is hereby established a commission to be known as the National Commission on Social Security (hereinafter referred to as the "Commission").

(2)(A) The Commission shall consist of—

(i) five members to be appointed by the President, by and with the advice and consent of the Senate, one of whom shall, at the time of appointment, be designated as Chairman of the Commission;

(ii) two members to be appointed by the Speaker of the House of Representatives; and

(iii) two members to be appointed by the President pro tempore of the Senate.

(B) At no time shall more than three of the members appointed by the President, one of the members appointed by the Speaker of the House of Representatives, or one of the members appointed by the President pro tempore of the Senate be members of the same political party.

(C) The membership of the Commission shall consist of individuals who are of recognized standing and distinction and who possess the demonstrated capacity to discharge the duties imposed on the Commission, and shall include representatives of the private insurance industry and of recipients and potential recipients of benefits under the programs involved as well as individuals who capacity is based on a special knowledge or expertise in those programs. No individual who is otherwise an officer or full-time employee of the United States shall serve as a member of the Commission.

(D) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

(E) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(F) Members of the Commission shall be appointed for a term of two years.

(G) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manned as that herein provided for the appointment of the member first appointed to the vacant position.

(3) Members of the Commission shall receive $138 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(4) The Commission shall meet at the call of the Chiarman, or at the call of a majority of the members of the Commission; but meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

(b)(1) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of—

(A) the Federal old-age, survivors, and disability insurance program established by title II of the Social Security Act; and

(B) the health insurance programs established by title XVIII of such Act.

(2) Such study, investigation, and review of such programs shall include (but not be limited to)—

(A) the fiscal status of the trust funds established for the financing of such programs and the adequacy of such trust funds to meet the immediate and long-range financing needs of such programs;

(B) the scope of coverage, the adequacy of benefits including the measurement of an adequate retirement income, and the conditions of qualification for benefits provided by such programs including the application of the retirement income test to unearned as well as earned income;

(C) the impact of such programs on, and their relation to, public assistance programs, nongovernmental retirement and annuity programs, medical service delivery systems, and national employment practices;

(D) any inequities (whether attributable to provisions of law relating to the establishment and operation of such programs, to rules and regulations promulgated in connection with the administration of such programs, or to administrative practices and procedures employed in the carrying out of such programs) which affect substantial numbers of individuals who are insured or otherwise eligible for benefits under such programs, including inequities and inequalities arising out of marital status, sex, or similar classifications or categories;

(E) possible alternatives to the current Federal programs or particular aspects thereof, including but not limited to (i) a phasing out of the payroll tax with the financing of such programs being accomplished in some other manner (including general revenue funding and the retirement bond), (ii) the establishment of a system providing for mandatory participation in any or all of the Federal programs, (iii) the integration of such current Federal programs with private retirement programs, and (iv) the establishment of a system permitting covered individuals a choice of public or private programs or both; and

(F) methods for effectively implementing the recommendations of the Commission.

(3) In order to provide an effective opportunity for the general public to participate fully in the study, investigation, and review under this section, the Commission, in conducting such study, investigation, and review, shall hold public hearings in as many different geographical areas of the country as possible. The residents of each area where such a hearing is to be held shall be given reasonable advance notice of the hearing and an adequate opportunity to appear and express their views on the matters under consideration.

(c)(1) No later than four months after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress a special report describing the Commission's plans for conducting the study, investigation, and review under subsection (b), with particular reference to the scope of such study, investigation, and review and the methods proposed to be used in conducting it.

(2) At or before the close of each of the first two years after the date on which a majority of the authorized membership of the Commission shall submit to the President and the Congress an annual report on the study, investigation, and review under subsection (b), together with its recommendations with respect to the programs involved. The second such report shall constitute the final report of the Commission on such study, investigation, and review, and shall include its final recommendations; and upon the submission of such final report the Commission shall cease to exist.

(d)(1) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule by title 5, United States Code.

(2) In addition to the Executive Director, the Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(e) In carrying out its duties under this section, the Commission, or any duly authorized committee thereof, is authorized to hold such hearings sit and act at such times and places, and take such testimony, with respect to matters with respect to which it has a responsibility under this section, as the Commission or such committee may deem advisable. The Chairman of the Commission or any member authorized by him may administer oaths or affirmations to witnesses appearing before the Commission or before any committee thereof.

(f) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, any such department or agency shall furnish any such data or information to the Commission.

(g) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(h) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

(i) It shall be the duty of the Health Insurance Benefits Advisory Council (established by section 1867 of the Social Security Act) to provide timely notice to the Commission of any meeting thereof, and the Chairman of the Commission (or his delegate) shall be entitled to attend any such meeting.

Mr. JENKINS (during the reading). Mr. Chairman, I ask unanimous consent to dispense with further reading of the amendment and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The CHAIRMAN. The gentleman from Georgia (Mr. JENKINS) will be recognized for 15 minutes, and the gentleman from Oregon (Mr. ULLMAN) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Chairman, I yield 4 minutes to myself and ask permission to revise and extend my remarks.

During the consideration of H.R. 9346 by the Ways and Means Committee on which I serve, I proposed this amendment to create a National Commission on Social Security. It failed there on a 17-to-17 tie vote. However, fellow members, both Democratic and Republican, have urged me to offer this amendment. I believe it will have the support of a great majority in this Chamber.

The reason that I introduced the amendment was the paucity of information on the various proposals for the long-term financing of our social security programs. There is little doubt that H.R. 9346 addresses only the short-term

financial needs of these programs. I believe that the Congress must soon find solutions to the long-term problems. Indeed, if this Congress raises the taxes on American citizens, as this bill proposes, to finance the programs between 1978 and 1985, I think it is equally important to assure our taxpayers that we intend to maintain a viable system through long-term solutions.

I have come to the Congress without much confidence in study and advisory councils. Too often they serve little use. However, as a member of the committee which has debated the intricate and complex issues in social security, I am convinced that a high level, nonpartisan, independent Commission with the mandate to work quickly and report to the Congress would well serve the Nation. In its entire history the system has never been studied by an independent group. Previous studies have been entirely by the administration without a broad scope or outlook for innovative financing methods.

In my judgment the study is necessary if the Congress is going to enact necessary long-term solutions to retirement, survivorship, disability, and health insurance programs. I urge your support.

Let me add that creation of this Commission is not an original idea. It is the composite idea of many Members of Congress. Mr. LEVITAS, my friend and senior colleague from Georgia, introduced a similar measure in the last Congress and earlier in this session. Our friend, Mr. STEIGER of Wisconsin, has introduced similar legislation and urged its enactment.

The Commission is a basic first step in our providing assurance of the long-term existence of social security.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield to my distinguished chairman, the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I want to commend the gentleman from Georgia for all the work he has done on this, and I know the gentleman from Wisconsin (Mr. STEIGER) on the other side has worked hard as the gentleman from Georgia has.

The committee did not vote to include this matter in the bill. I have no strong feelings about it. If properly constituted, the Commission might work out very well. I hope maybe we could limit debate on this and get to a quick vote.

Mr. JENKINS. Mr. Chairman, I thank the chairman for his support.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield 4 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, I thank my colleague, the gentleman from Georgia (Mr. JENKINS), for yielding.

Mr. Chairman, taking the admonition of the chairman of the Ways and Means Committee, I will not prolong the discussion of this matter, but I think a few comments are in order because this is an extremely important amendment that my colleague, the gentleman from Georgia (Mr. JENKINS), has offered. Several weeks ago I asked my colleague from Georgia, who serves on the Ways and Means Committee, if he would offer the National Commission amendment during the committee proceedings. It was a concept I had been working on for 2 years and I felt with his assistance we could get the job done. He agreed and diligently pursued the cause until we are now about to make this important decision.

Mr. Chairman, I do not see how we as responsible Members of Congress could consider passing another social security tax increase, another Band-Aid-and-Mercurochrome approach to shore up the system, without at the same time giving the American people some hope or some opportunity or some means by which to believe that a fundamental, long-term comprehensive consideration for change in the entire social security system will be forthcoming for the future.

We simply cannot continue to deal with the problem of finances of social security from 1 year to another. We simply cannot try to take care of universal coverage on the one hand or earnings limitation on the other on a piece-by-piece approach. There are more fundamental questions about social security that must be asked and must be asked by people who will not just sit in the social security offices in Baltimore and contemplate, but who will go out across America and talk to the retired people, and to the widows, and other beneficiaries and find out what is wrong with that system as far as their benefits are concerned, and, by the same token, talk with and listen to the wage earners, self-employed people, and to the businessmen employers who are contributing to this present system and find out from them what its problems are and what it means when we get to the point where over 8 percent of a person's earnings matched by employer payments are going into this system with all of its existing inequities.

I think the time has finally come—and today we reach an extremely important milestone—for the first time a blue ribbon, bipartisan National Commission, independent of HEW, will come into existence, appointed by the President of the United States, the Speaker of the House, and the President pro tempore of the Senate to ask those fundamental questions and make bold, innovative recommendations for the new future of survivorship, retirement, and disability programs.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding. I know that the gentleman from Georgia who is now speaking has been a strong advocate of keeping the number of commissions to a minimum, and I, too, have tried to follow that general rule. But we need a blue ribbon commission to study alternatives to the present social security system. I think the structure of this commission suggested by our other colleague, the gentleman from Georgia (Mr. JENKINS) is a good one. It assures that this commission must produce a product within 2 years; that the members of the commission are to be appointed by the House of Representatives, the Speaker, the President pro tempore of the Senate, the executive branch; that it include the private insurance industry as well as potential beneficiaries; that it is to be independent of the bureaucracy downtown and not fully dependent on the social security system itself; and that there are built into this amendment clear guidelines, rules and regulations, and recommendations, to report back to the House of Representatives and the Senate. I, too, agree with the gentleman from Georgia (Mr. JENKINS) the gentleman from Wisconsin (Mr. STEIGER), and the members of the committee—that we need a strong and independent commission to do positive and constructive work in many areas.

Let me explain: We are only beginning to get a glimpse today of some of the drastic effects social security has brought about on our lifestyle—on savings, capital formation, jobs, and economic growth. Many of these effects were never anticipated by the authors of social security and they are imperfectly understood today. Any government action which impinges on our freedom of choice and creates inefficiency ought to be reexamined. Let me give the House just a few examples.

When social security was enacted in 1935 half of the male population over age 65 was in the labor force. Today the figure is only 1 in 5 or 20 percent. The social security program, however, was not designed to discourage or penalize older working Americans. It was supposed to provide a modest supplement to the income of retired workers in commerce and industry. Professor Boskin of Stanford estimates that approximately two-thirds of the decline in the over-65 work force—one-third of those over 65—can be attributed to the benefit structure and earnings test of social security. This is wrong. We should not be biased against work. We should not discriminate against the aged. We should leave individuals alone to choose to work or not to work—unimpeded by Government. The national Social Security Commission will investigate how to make retirement a simple matter of individual choice.

Another example: Social security has replaced private savings and thereby decreased investment, capital formation, and economic growth. According to Dr. Feldstein of Harvard, the working population of this country makes its decision on how much to save and how much to consume on the basis of its expectations of future income. Citizens prepare for their own retirement by setting aside a part of their earnings. Private savings are invested. they earn a rate of return, and the holder of the investment eventually lives off the principal and the interest. The average wage earner today treats his social security taxes as a

pension investment and reduces his private savings accordingly.

Unfortunately, social security does not invest what it collects but spends its receipts on present benefits. The resulting reduction in total investment in the American economy causes capital formation to be less than it would otherwise be. Less capital per worker leads to lower productivity, lower wages, and higher unemployment—less of everything for everyone. We have created a bias against the traditional American virtue of thrift and against our historical emphasis on economic growth. The national Social Security Commission will study how to make savings once more a matter of individual choice.

Yet another example: social security has combined social insurance with social welfare and has created capricious transfers in income. As Joseph Pechman of the Brookings Institution has pointed out, this results in an inequitable distribution of the tax burden. Social security taxes the young in order to distribute benefits to the aged, irrespective of need. The aged are not automatically poor, and welfare should only go to the poor. So, too, a social insurance system should be tied directly to contributions, and each should receive benefits according to his share of the fund. Using funds from an insurance fund to pay for welfare results in a regressive tax scheme.

Furthermore, the current insurance aspects of our social security system are not tied directly to an individual's contributions at all. Social security is like a generational chain letter, with each generation paying for the preceding generation's benefits. Because of demographic changes, some generations are going to have to pay higher taxes than others. Contrary to the intent of the law, social security capriciously transfers income from the young to the old, from lower and middle income taxpayers to poor and rich beneficiaries, and from less populous to more populous succeeding generations. The National Social Security Commission will study how the insurance aspects of social security may be fully funded, and how the welfare and insurance components may be separated. We need to give our citizens the opportunity to freely determine their own welfare without depending on the future tax dollars of future taxpayers.

We need to study how the social security system may become voluntary for those in the labor force. We need to study how social security may return the decision to save and consume to the individual. We need to study the effects of social security on attitudes toward work, retirement, and the family, and how we can make those attitudes a matter of free choice. We need to study how the insurance aspects of social security may be fully funded, and how the welfare and insurance components of the system may be separated. In essence, we need to give our citizens the opportunity to freely determine their own welfare, and the National Commission on Social Security should tell us how to do it.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding.

Is there anything in this amendment that says after the Commission makes its reports that Congress is going to do anything except look at it and say, "We did not do that; it is politically not feasible?"

Mr. LEVITAS. No. The National Commission cannot legislate, but what the National Commission can do is for the first time have the mandate and tools to fully and thoroughly examine the entire social security system, and in making its recommendations go into those issues that we have feared to go into for so long. We need to ask questions about general revenue funding, about the rule of private insurance programs and private sector operation, among other such questions that people have feared to ask about the social security sacred cow. I believe that when the American public realizes that there is some hope that we will make some fundamental changes, then the American public will demand that the Congress must act, and when the public speaks loudly, the Congress jumps.

Mr. JOHN L. BURTON. If the gentleman will yield further, the social security system is really only one part of the whole pension system in the country. Now that the President is going to appoint a Commission to study the entire pension system, we will go for this Commission, which probably we should have done 4 years ago because of all of the tax increases that are going to be in this one. But is there going to be some kind of coordination?

Mr. LEVITAS. Yes.

Mr. JOHN L. BURTON. Because if we were afraid to even go into the issue, I can imagine how well we are going to do when they come back with the solution.

Mr. LEVITAS. Let me respond. The gentleman from California makes a good point. Two and a half years ago when I first introduced legislation to create this National Commission and again this year I introduced the bill again with over 65 other Members of this body who are strongly in support of this proposal, I said that then—2 years ago—was the time to do this job and we did not need to come up to this point of financial crisis in order to create a National Commission; but we did not do it then. We seem to require a crisis to prompt us to act.

As part of this particular National Commission provision, the National Commission is mandated to look at other retirement programs and how they relate to social security and to the Commission which the President is going to appoint on all other retirement matters and there can be a perfect interface with this National Commission on Social Security.

Mr. JOHN L. BURTON. Has it been checked out due to the unique nature of this Commission, that is, appointments by the Congress, the Speaker, the President pro tempore, and the President; are we going to run into any problems under the Buckley against Valeo case, as we did on the Election Commission?

Mr. LEVITAS. I do not think so. That dealt with actual rulemaking and regulatory powers. The National Commission does not have rulemaking or regulatory powers.

Mr. JOHN L. BURTON. The type of power they have is such that would not be an issue?

Mr. LEVITAS. No, it would not. I urge support for this amendment.

Mr. WATKINS. Mr. Chairman, will the gentleman from Georgia yield, so I can ask the author of the amendment a question?

Mr. JENKINS. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Chairman, does this Commission request also take into consideration a study of the Social Security Office?

The CHAIRMAN. The time of the gentleman from Georgia (Mr. JENKINS) has expired.

Mr. JENKINS. Mr. Chairman, I yield myself 2 additional minutes.

I yield to the gentleman from Oklahoma (Mr. WATKINS).

Mr. WATKINS. Mr. Chairman, did the gentleman get the question?

Mr. JENKINS. Would the gentleman repeat the question?

Mr. WATKINS. Will this Commission take into consideration the delivery system or the problems of social security offices in trying to provide these services?

Mr. JENKINS. Yes. There will be an in-depth study of the entire social security system.

Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Chairman, I am not much for commissions, either, but I must say as I looked at this problem and dealt with it for some time, the very points that the gentleman in the well, the gentleman from California, somewhat earlier was making and also made by the gentleman from Georgia (Mr. LEVITAS), it seems to me a very real reason why the Commission is a good idea. Most importantly, because it is mandated to go beyond the social security advisory committee that does exist under the law, although the one that is supposed to be appointed has not been appointed; but while they have looked at the social security system they have been rather myopic. That is all they have looked at from the standpoint of how do you do the best job for the system.

Retirement is not isolated to social security. It affects IRA's, Keogh's, and private employer systems and it is that which the Commission should address itself to. What is the relationship between all these various pension systems that we have; what is the relationship in terms of where we go in this country, in terms of retirement policies?

Mr. Chairman, I commend the gentleman from Georgia for the gentleman's leadership and for the gentleman's very active pursuit of this concept. I think the

Commission is worth the price and it is worth establishing. I am delighted to support it.

Mr. JENKINS. Mr. Chairman, I reserve the balance of my time.

Mr. ULLMAN. Mr. Chairman, I am not going to take a great deal of time. As has been indicated, as far as I am personally concerned, the amendment makes some sense. If it is properly handled, it can be a very productive operation.

There has been some comment that somewhere along the line the Social Security Subcommittee and the Committee on Ways and Means has not lived up to its responsibilities. I think that is not the level where the studies ought to be made. There are many factors wholly beyond our control. There are great demographic changes taking place in this country and we need to look at them. I think that is where the focus ought to be. There are changes in our whole concept of retirement that we need to look at.

As the gentleman from Wisconsin said, the interrelationship between all of the pension programs, private and public pension programs, and the programs of social security need to be looked at. The study will obviously also include whether every American ought to be paying into the program or not.

So, I think that by broadening the dimensions of this study it can be very helpful to us. I would hope that if we adopt it, the commission is able to organize and get to work quickly on a subject that is terribly important for every American.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from New York.

Mr. CONABLE. I am unenthusiastic, Mr. Chairman, about another study, but if the study does have the effect of going beyond the normal subject matter of the Advisory Council on Social Security, which has studied this subject in a narrow sense often, and frequently made recommendations that this Congress has ignored, I also must conclude that such a study would not do a great deal of harm. I am cheerful about any decision made by this body. I think I probably will vote for the study, but I wanted the Members to know that there has been a great deal of study of this subject already.

Mr. ULLMAN. Let me say that in accepting this study, I think it is of extreme importance that it be properly constituted, with the best staff available in this country; that we take the problems seriously. I have served on commissions. Ordinarily it takes a year or 18 months even to get organized. I hope that is not the case here. I hope we can move expeditiously get the proper staffing, and have this commission do what we all expect it to do; that is, look at the whole gamut of retirement and make, in fact, recommendations that will insure that we can move toward a future social security system into the next century.

Mr. Chairman, I yield back the balance of my time.

Mr. JENKINS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. JENKINS).

The amendment was agreed to.

Mr. FUQUA. Mr. Chairman, I reluctantly rise in opposition to H.R. 9346. I say "reluctantly" because I am fully cognizant of the massive problems confronting our social security system and the great need for action if we are to protect the integrity of social security.

This bill, however, takes a "band-aid" approach to the problem and will not, in the long-run, solve the problems. I oppose it even as a stop-gap measure because I recognize that if this bill passes many people will assume that the problems have been solved and this is simply not the case.

We cannot continue to raise taxes on employers and employees in an effort to keep social security afloat. The working man and woman is hard pressed as it is without having additional amounts deducted from his or her paycheck and employers will be left with no recourse but to raise the price of goods and services and this would be counterproductive to our drive to stimulate the economy.

It is my belief that the committee's work on this legislation was rushed and I do not feel that adequate consideration has been given to other proposals as to how best assure the solvency of social security. One approach I favor is the removal of disability payments from the social security system.

For many years social security worked well and it was only when additional burdens were added that the problems began. As a matter of fact, experts in the field tell me that the removal of disability would, by itself, place social security back on its feet again.

Disability payments must be recognized as a national problem which we, as a society, must solve and I propose that disability payments be made from general revenue rather than tapping the very limited resources of the social security trust fund.

Additionally, we should consider the possibility of a short-term infusion of funds from general revenue to make up for the losses already incurred from administration of disability.

This proposal deserves the most serious consideration by the House Ways and Means Committee and I believe it would be in the best interest of the Nation if we return this bill to the committee for their further consideration.

Mr. ASHBROOK. Mr. Chairman, I am deeply concerned by the committee's recommendation of mandatory social security coverage for Federal, State, and local government employees. This is a bad idea and it should be rejected.

The issue of mandatory coverage has great significance for millions of Americans. Approximately 2.6 million Federal employees and 4 million State and local government workers would be affected by this legislation. I do not believe that the proposed change is fair to these people.

Enactment of the Ways and Means Committee proposal would add an element of uncertainty. Could the social security system and the other government retirement systems be integrated in an equitable manner? Would people in the other retirement systems lose some of the benefits they have been promised? What rules would apply?

There are, of course, no answers to these important questions. Nevertheless we are urged to plunge head first into uncharted territory. Again, this is not fair to the local, State and Federal government employees who have such a great stake in this matter.

I also want to point out that since 1950 State and local governments have had the opportunity to bring their employees under social security. About 70 percent have availed themselves of that opportunity. The other State and local governments decided that it was not in their best interest to come under the plan. It is wrong for Congress to now override these local decisions and impose universal coverage, especially without a thorough study of the ramifications. This is one more example of unnecessary Federal intrusion into State and local affairs.

What we really have here is an attempted temporary bailout of the social security system. That system does face some difficult financial times ahead. Mandatory social security coverage of all Federal, State, and local government employees, however, is not the right way of solving the problem. It is merely a band-aid approach to a serious situation.

Let us be honest. One of the key problems is that social security has been turned into something it was never intended to be. Too many have tried to make a welfare plan out of it rather than carrying out its original purpose. And now we are being urged to bail out the social security system with other people's retirement plans. We are being urged to tamper with the pensions of local, State, and Federal workers rather than make hard decisions regarding the social security system.

People who have paid into their own retirement systems deserve to receive the benefits they have been counting on. They should not have to risk these benefits because of unwise governmental actions. They should be allowed to get the benefits for which they have worked.

I strongly urge the defeat of the mandatory social security coverage provision. It is a simple matter of fairness.

Mr. OTTINGER. Mr. Chairman, today we are considering H.R. 9346, a bill designed to restore the short-range and long-range financial soundness of the social security system and make other improvements in the system. Since public support for the program depends on confidence in its solvency, we must act now to restore financial integrity to the program and assure people that their social security protection is secure. This bill is very complex but it does assure the solvency of the programs of the social security system. Therefore, while I have some very strong objections to certain provisions of H.R. 9346, I will vote for final passage of this bill.

My overriding concern is the increase in the payroll tax. In testimony before

the Social Security Subcommittee in July, I stressed my strong desire to avoid increasing the payroll tax which already places a staggering burden on low- and middle-income workers—the backbone of this country. These workers pay the majority of our taxes, a disproportionate share, yet receive none of the benefits of the programs for which they pay. They are the most disillusioned of our voters. Placing further burdens on them is a travesty.

We have gone too far already in taxing low- and middle-income workers for social security. In 1937, the social security tax rate was 1 percent on a maximum base of $3,000, resulting in an annual tax of $30 or less. In 1977, at the rate of 5.85 percent, on the maximum base of $16,500, the tax is $965.25—a 3,000 percent increase. In fact, half the workers in the United States pay more in social security tax than they do in income tax.

Unfortunately, under the committee bill social security taxes are increased beyond those rates scheduled in existing law. An individual earning $15,000 annually now pays a social security tax of $877.50. Under this bill, the tax on $15,000 will be increased to $967.50 in 1981, and $1,012.50 in 1985. When you consider a typical person earning $300 per week has total payroll deductions—social security and Federal income tax—of approximately $68 per week, with a total take home pay of only $231 per week the injustice of further payroll deductions is apparent. Under this bill the deductions would increase and it is easy to see the reasons for distress.

Mr. Chairman, I would far prefer to use general revenues to finance part of the social security system. These revenues are generated by personal and corporate incomes taxes which are progressive in nature and therefore the low- and middle-income workers are not forced to carry such a disproportionate share of the load. H.R. 9346 allows standby authority for automatic loans from the general revenues to the trust fund whenever assets at the end of the year drop below 25 percent of annual outgo. However, if this borrowing authority is used, payroll tax rates will be temporarily increased to repay the loans. There is therefore really no resort to general revenues in this financing scheme. I will vote for this measure because of the urgency involved, but I am very dissatisfied with the financing route chosen by the Ways and Means Committee.

I have the same conflict with the earnings limitations provisions. I strongly support the increase in the earnings limitation for social security beneficiaries. This is long overdue. However, the limits are still too low—they should be eliminated altogether—and the cost of this very modest increase should not be tied to an increase in the payroll tax.

Finally, the most controversial provision of this bill—future universal social security coverage—has caused much concern, especially among the Federal Government workers affected. I think this is due largely to the fact that the details of universal coverage have not been worked out.

There has been a lot of misinformation about what this bill does and does not do regarding the present civil service retirement program. H.R. 9346 does not require that the Federal civil service retirement system be merged with social security or authorize the transfer of any funds from the Federal program to social security as widely stated; nor does it change any of the rights or benefits earned by employees under Federal, State, local or private retirement plans.

In fact, a provision of the bill requires that any plan for coordinating Federal retirement with social security shall insure that Federal employees would not be worse off in respect to coverage protection or the amount of contribution required of them. This protection is essential. Employees certainly are entitled to receive the benefits they were promised at the time they were hired as well as any improvements made in benefits during their working careers.

Clearly, if universal social security coverage were to be mandated, at some future time Congress would have to adjust the Federal civil service retirement program to take account of the new social security coverage in order to eliminate duplicative contribution requirements—5.85 percent of salary for social security and 7 percent for civil service retirement. Therefore the bill requires the Department of Health, Education, and Welfare, in conjunction with the Civil Service Commission, to put together a plan by January 1, 1980, on how the social security system can be coordinated with the civil service retirement system—in other words, how the federal system can be converted into a supplementary retirement program, as private pension plans are now.

Coordinating these two systems—social security and civil service retirement—would require a great deal of careful attention. Indeed it would be a very complex task. But these adjustments have been made in hundreds of companies where private pension plans are coordinated with social security payments. For Government workers, as for millions of other workers, social security can provide broader coverage than Federal employees now receive plus full retirement benefits.

I believe universal social security coverage is fair and right and will result in added benefits for Government and voluntary agency workers. However, I will support the Fisher amendment, only because the risks and benefits of coordination have not been spelled out and I don't believe it is fair to ask Federal workers to buy a plan the details of which are not available.

Congressman FISHER's amendment eliminates the 1982 mandated coverage of Federal, State, and local government employees. It requires that a plan for coordinating the systems be developed before Congress sets a date for extending coverage to all workers. Representative FISHER is not opposed to universal coverage some time in the future; his amendment merely requires, quite properly, that a plan should be worked out before a decision is made.

In conclusion, Mr. Chairman, I am voting for H.R. 9346 to assure the financial soundness of the social security program, but very reluctantly because of the harsh effects of the payroll tax on middle-income Americans.

Mr. DRINAN. Mr. Chairman, if social security coverage is to be required of all Federal employees as well as State and local government employees and those employees of nonprofit organizations not presently participating in the system, logic and commonsense would seem to require that careful study of such mergers be made before we mandate universal coverage. H.R. 9346 calls for universal coverage by 1982 but does not say how these retirement plans will be restructured under a merger with the social security program. Millions of workers would be affected and they have many questions which not even Members of Congress can answer at this time.

The Fisher amendment which would remove the requirement that universal coverage be accomplished by 1982 puts us back in the responsible position of legislating on the basis of careful study and discussion and not in a vacuum. Bringing Federal employees including Members of Congress into the social security system may or may not be a good idea; hopefully the study which will be due in 1980 will provide the information needed before a decision of this significance can be made.

The inclusion of State and local government employees raises a number of constitutional issues which must be addressed particularly in view of the 1976 Supreme Court decision in National League of Cities against Usery. In that decision the Court held that the Constitution did not delegate to Congress the authority to regulate the employer-employee relationships of State governments and their subdivisions.

The many problems and possible obstacles in bringing about universal coverage merit careful and responsible deliberation. By adopting the Fisher amendment we will dispel the alarm felt by the millions of workers whose retirement systems might be affected.

Mrs. LLOYD of Tennessee. Mr. Chairman, although the action taken by the House today in approving amendments to the Social Security Act recognizes the need to address both the long- and short-term weaknesses in the financing of the trust fund, I cannot accept the position taken by the majority that the only solution to this financial instability is to increase the taxes paid into the fund by both individuals and employers. Rather than attempt to patch over the problems of the social security fund, the Congress must examine the underlying objectives which the social security system was designed to meet, and the ever expanding array of social welfare programs which have been appended to those basic objectives. Because we have not given sufficient attention to the underlying causes of the weakness in the trust fund, I felt compelled to oppose this measure today. I am hopeful that

with the opportunity to work from a base constructed by the House, the Senate will be able to fashion a bill which more adequately meets the present needs of the social security system.

As originally conceived in 1935, the social security system was intended to be an insurance program for the elderly. Today, the system provides a wide range of benefits, including survivors', disability, and hospital payments, to 33 million people. While it is apparent that the current structure of the social security system can adequately support the income security programs for the retired and survivors' benefits, it is equally clear that the fund cannot continue to support the nonretirement programs which now overburden the social security system. I do not deny the fact that the benefits provided through these programs are essential and should be supported by Government funding. However, the legislation passed today fails to separate the nonretirement programs from the traditional benefits of the social security system. By funding these additional programs out of general revenues, where they properly belong, the Congress could protect both the fiscal stability of the social security trust fund, and avoid excessive increases in the social security tax rate and wage base.

This bill will raise the marginal tax rates of all Americans; not only the middle class, but also the low-income and wealthy Americans on top of the heavy burden of taxes already being paid. In its present form, this bill will result in a drain of $55 billion from consumers to tax revenues. In addition, employers will be required to pay an even larger share of the taxes than employees. This will only force a limit to the growth in employment which would further reduce tax revenues for the system and increase the demand for benefits to meet the nonretirement programs.

A particularly undesirable provision of this bill permits General Treasury funds to be borrowed to eliminate deficits in the social security system. Elimination of this provision, which I supported, would have maintained the insurance status of the social security system and prevented the growth in welfare programs thereby reenforcing the original purpose of the system. The standby authority in the bill appears to be a reasonable and practical approach, although I do support a review on a yearly basis of the need to transfer funds from general revenues to eliminate annual deficits. I feel the approach in this bill represents a trigger mechanism which can only provide a permanent back door method of financing the social security system through general revenue funds.

The original bill provided for some increase in the income earnings limitation and I strongly supported the successful attempt on the floor today to provide for a phasing-out of the limitation by the year 1982. Senior citizens are now prohibited from earning more than $3,000 per year if they wish to avoid forfeiting a portion of their social security benefits. The elimination of the retirement income ban will allow our elderly citizens to help themselves through increased earnings while protecting their eligibility to receive social security benefits. Furthermore, the tax revenues generated by their continued participation in our economy will provide support both to the social security system and our economy in general. The mandatory retirement legislation, passed by the House and Senate and in conference at this time, would allow people to continue to work until the age of 70. This legislation will also lend a substantial degree of stability to the system by allowing those people who choose to work to continue to contribute to the system while eventually collecting benefits from the system for a shorter period of time.

The irony of these shortsighted solutions is that the American people will be led to believe that the problems of the social security system have been solved and that is simply not the case. This legislation fails to provide the assurance that senior citizens in the future will receive the benefits they desperately need and obviously deserve. I suggest that H.R. 9346 does not go far enough or in the right direction toward providing for the long-range, comprehensive reforms that are needed to restore overall soundness to the social security system.

Mr. STOKES. Mr. Chairman, I rise in support of H.R. 9346, the Social Security Financing Amendments of 1977, as amended.

The principal or major purpose of the Social Security Act of 1935, as stated in its preamble, was: "To provide for the general welfare by establishing a system of Federal old-age benefits * * *."

In recent years, an increasing number of senior citizens have come to depend upon social security in their golden years. However, the program is fraught with financial difficulties and as a result, many older Americans are trapped in a system which guarantees but subsistence living standards.

I feel this bill is intended to restore the soundness to the social security system which has been losing money as benefit payments outpace tax receipts.

Mr. Chairman, I would specifically like to address my position on several amendments to the bill.

I voted against the Jenkins amendment, which sought to extend the increase in the wage base over a greater number of years, because though the maximum wage base has increased steadily, the disheartening fact remains that the elderly poor pay a greater percentage of their incomes than persons making more than the maximum wage base. The only equitable solution would be the requirement that the higher income earners make contributions in greater proportion to their income. This increase must be imminent and cannot be delayed for additional years.

I supported the Fisher amendment, which struck the provisions in the bill requiring mandatory social security coverage of Federal, State, and local employees, and employees of nonprofit organizations effective in 1982. A merger of the social security system and Federal retirement system—which were established for two different objectives—would mandate some workers to contribute and to collect—double dip—from both systems, which is just not equitable.

This amendment additionally requires the Department of Health, Education, and Welfare and the Civil Service Commission to conduct a feasibility study of universal coverage and report to the Congress by January 1, 1980, on proposals for integrating social security coverage for Government employees with Civil Service retirement benefits. I believe this is only fair since not enough information exists from which to conclude that universal coverage is prudent at this time. Coordination of these two systems, which affect so many Americans, will take a great deal of thoughtful, careful analysis and should not be done hastily.

Mr. Chairman, the Corman amendment also deserves attention. I voted against this amendment which sought to eliminate the minimum benefit from the social security program. It would have been totally unfair for Congress to cut off a level of benefits which beneficiaries had expected and counted on.

In conclusion, Mr. Chairman, I feel this bill is a giant step in addressing the financial problems of the social security system. Those of us who have been closest to the needs of the elderly realize they have a right to share in a social security program based upon a realistic appraisal of their contributions and needs.

I urge my colleagues to support this bill as amended.

Mr. CLEVELAND. Mr. Chairman, I intend to vote against final passage the social security financing bill. Before getting into my reasons for doing so, I would like to point out that this legislation does contain some needed improvements in the social security system which I support. Notable among these is the decoupling provision which eliminates the present double adjustment of benefit increases by indexing benefit levels to increases in wages only.

Other provisions which I endorse are the elimination of a variety of sex discriminatory practices and provisions to improve the treatment of women under the system—although the latter do not go as far toward that end as the Republican substitute which would provide compensation for the added contribution of working wives. I also support the freeze of the minimum primary benefit which I am sorry to say has been taken advantage of by those for whom it was not specifically intended.

In addition, we have at last succeeded in removing the earnings limitation which deprives senior citizens of their entitlement to social security benefits which they have earned if they choose to continue leading productive working lives beyond the age of 65. This is a much-needed improvement and one which I have been supporting for many years.

In the final analysis, however, this bill leaves unresolved the long-range deficit of the social security trust fund; a deficit which will equal $800 billion over 75 years.

UNFAIR TO MIDDLE-INCOME PEOPLE

Yet, in spite of this enormous and unresolved deficit, the legislation before us mandates a rapid increase in the wage base that will be unfairly punitive to middle-income Americans and will certainly have a depressing effect on the economy. While I realize fully that increases in the wage base as well as the tax rate are necessary, I feel that the committee's approach is neither sound nor fair.

UNIVERSAL COVERAGE

With regard to perhaps the most controversial provision of the bill; namely, universal coverage, I am disappointed at the House's approval of the Fisher amendment which struck this requirement. Universal coverage as provided for in the committee bill would have extended mandatory coverage, effective in 1982, to the three major groups not under social security: First, Federal civilian employees; second, State and local government employees, and third, employees of nonprofit organizations. This provision would have brought some 6 million additional workers into the system thereby extending social security coverage to 97 percent of the work force.

In spite of the fact that Federal employees and their organizations have mounted a vigorous opposition to this provision, I am convinced that it is unfair to the other working people of this country to continue the present system. Under the present law, many Federal workers have taken advantage of early retirement provided for in their pension system and then worked just enough years to obtain the minimum social security benefit to supplement their retirement income. As the gentleman from Florida pointed out in earlier debate, this means that a worker who has contributed as little as $111 in his lifetime to the social security trust fund can draw monthly benefits of $114 when he retires from social security in addition to whatever pension he is getting from other plans. This is demonstrably unfair to those who have worked a lifetime under social security and contributed far more in order to gain their benefits.

Furthermore, I believe if public employees would closely examine the universal coverage provisions, they would find it less objectionable than it may seem at first glance. In addition, with respect to State and local governments, it is important to point out that 70 percent of those employees already are covered by the social security system.

In conclusion, Mr. Chairman, while I feel very strongly that the House has a responsibility to act to remedy the financial situation of the social security trust and restore its integrity, I feel equally as strongly that such action must be responsible and responsive to the needs of our citizens. This legislation, in my opinion, does not meet those tests.

Mr. HAGEDORN. Mr. Chairman, as with the energy bill that was so skillfully propelled through this body earlier this year, H.R. 9346, the Social Security Financing Amendments of 1977, is primarily a tax measure. As with the energy program, these taxes are largely disguised and represent substitutes for genuine policy reform. The best that can be said about H.R. 9346 is that it is an improvement upon what was originally submitted by the administration.

There is little dispute that the social security system is facing a severe financial crisis, and that many of the comfortable myths that have grown around the program are being shattered. The program does not pay for itself, it is not actuarially sound, and it is not insurance. Workers are guaranteed nothing under the program and, as this bill demonstrates, may have their benefit levels changed at any time by a simple majority of Congress.

The system, in its current form, will survive only as long as the working majority in the country at any given time is willing to tax itself to pay program beneficiaries. This has posed no problem in the past simply because workers far outnumbered beneficiaries and bore a relatively reasonable tax burden. After years, however, of political exploitation of social security, a majority of workers find themselves paying more for social security than they do for Federal income taxes (not even counting the employer's contribution which is effectively part of the employee's total wage).

Expected demographic patterns portend a worsening of this situation during the latter quarter of this century. Sharply increased taxes, or reduced benefit levels will be necessary as the proportion of workers to beneficiaries declines from 3 to 1 currently to slightly more than 2 to 1 by the year 2000. The most sanguine observers of social security, such as former HEW Secretary Wilbur Cohen, concede that tax rates may have to be increased by 25 percent over this period, while less interested observers have suggested the need for a minimum 50-percent increase in the payroll tax. This would all come on top of the nearly 400-percent increase in the social security wage base from 1971 to 1981.

Despite such skyrocketing payroll tax increases, the social security program has run increasingly large annual deficits, with the trust fund having a current unfunded liability estimated to be in excess of $3.5 trillion.

Mr. Chairman, H.R. 9346 would increase taxes by nearly $65 billion over the next 5 fiscal years, and result in an eventual tripling of social security taxes. Hit hardest, by far, would be the middle-income American for whom the majority professes to have so much concern.

An individual employee earning $15,000 in 1977 would be paying into social security $878, with his employer paying the system another $878. The self-employed individual would be paying $1,185. Assuming, conservatively, a 5-percent annual inflation over the next 13 years, these same individuals would have to be earning $28,283 in 1990 to be able to maintain the same standard of living. Under the new law, they will be paying $2,107 (plus matching employer contribution), and $2,956 respectively. As a percentage of total income, the social security tax will have risen 32.3 percent.

An individual employee earning $20,000 in 1977 would be paying social security taxes of $965, as would his or her employer. The self-employed individual would be paying $1,303. Again, assuming a modest 5-percent inflation rate, these individuals would have to be earning $37,130 in 1990 to simply keep pace with increases in the cost of living. Under the new law, they will be paying $2,766 (plus matching employer contribution), and $3,880 respectively. As a percentage of total income, their social security taxes will have risen by approximately 60.4 percent.

By granting standby authority to the social security system to borrow from general revenues, this bill has also made available to Congress vast new sums of money that will enable it to continue meting out periodic benefit increases without having to make too clear who is paying for them.

The Fisher amendment, which I strongly opposed, would, in addition, tell the 100 million workers who are covered by social security that we are not satisfied with the amount of new taxes that the committee version of this bill imposes upon them, and that, in order to protect public employees and Members of Congress from the burdens of social security, we are going to raise their taxes still more. The Fisher amendment, by removing these groups from the purview of the program, would increase everyone else's taxes by $22 billion, raising their wage base by $1,800 and their tax rates by 0.1 percent. Somehow, the wondrous merits of compulsory participation in social security have escaped those most responsible for legislating and administering the program.

Public (and nonprofit) employees would not have lost any benefits whatsoever in being brought under social security. The experience of "integrated" retirement systems, both in the private sector and the public sector (military employees) has been a successful one, a fact attested to by numerous studies. A high percentage of State and local employees have already opted for inclusion under the social security program with no resultant loss of benefits.

We hear much about this or that piece of legislation being "labor legislation," and being a priority of the unions. Organized labor may have been quiet on this bill, but I guarantee that their members (as well as all other workers) will ultimately suffer far more from this single piece of legislation than from the failure of Congress to pass a dozen pieces of "common situs," "cargo preference," or "labor law reform" legislation. Not only are they going to be socked with enormously increased taxes, but the system in which they are forced to place so much confidence has been made only marginally sounder. In addition, the cost to the employer of hiring individuals, particularly those with any degree of skills, has been raised substantially, making it likely that many employers will make do with fewer employees. Billions more dollars have also been taken from the private capital markets, insuring continued shortages of investment

funds, and continued levels of high unemployment.

Many of the shortcomings in H.R. 9346 can be remedied by passage of the Conable substitute. This measure would provide for far more moderate increases in wage base and tax rate levels, make progress toward universal coverage, provide for a new "working spouse" benefit program for working wives, and restructure minimum benefits provisions, and the allocation of taxes among the OASDI and hospital insurance funds.

There are several provisions in this bill which I believe are worthy of commendation, including the decoupling and wage-indexing provisions, the gradual phase-out of outside earnings limitations upon social security recipients, and the elimination of sex-based differences in the social security law. It is despite these provisions that I find myself having to vote against this bill. H.R. 9346 is a bankrupt reform of an increasingly bankrupt program.

Mr. LEGGETT. Mr. Chairman, as we consider final passage of the Social Security Financing Amendments of 1977, I would like to offer several observations to my colleagues on the health of the social security system and its future. While I am generally pleased with the bill presented to the House by the Ways and Means Committee and the Committee on the Post Office and Civil Service, and I am pleased with the floor amendments we have adopted, especially the amendment offered by Congressman FISHER. I must state that we have not remedied all the problems the social security system will face over the next 75 years. We delude ourselves if we believe that the actions we have taken over the past 2 days have solved all the problems for all time.

I continue to be troubled by the regressive nature of the social security tax structure and the adverse impact it has on employment and industrial expansion. Sooner or later the Congress must address these problems. I do not believe we have done so adequately during our debate on this bill.

The proposed changes in the social security tax system will have an adverse impact on employment. The rapid increase in social security taxes proposed in H.R. 9346 would result in both the employer and employee having to pay $1,800 per annum in social security taxes for annual earnings of $27,900 or more by 1981. The employer would be burdened with a tax of 6.45 percent of every employee's earnings who received less than $27,800 a year.

This burdensome tax would undoubtedly persuade many employers that they should not add employees to their work force and that they should seek ways to minimize the manpower that they currently employ. The tax increase would, therefore, add as a disincentive to investment in industrial expansion. This at a time when the U.S. economy is struggling to recover from a worldwide recession and the climate for business investment is already an adverse one.

The proposed employee tax increases will take from each individual a considerably increased proportion of their earnings. The loss of this disposable income will be greatest for that mass of our population with increases in the low and middle ranges. The loss of gross national product will be $4 billion in current dollars. The effect of this loss will be to substantially reduce the rate of growth of spending power in the economy. This, itself, will cause further unemployment.

The net effect of the social security tax raises has been estimated to cause an increase in unemployment of at least 0.2 percent by 1981. This small percentage rise represents the lives and self-respect of hundreds of thousands of Americans who will be thrown out of work. The increased unemployment also represents substantial losses to the Treasury in income taxes and the increased payment of unemployment and welfare benefits. If the increase in unemployment is only 0.2 percent, the dollar loss to the Treasury is over $3 billion or approximately one-third of the increased revenues that will be generated by the social security tax increase. While I support efforts to bolster the sagging Social Security System, I think we all should be aware of this troubling aspect of our reform efforts.

In these remarks I have not yet touched upon the most invidious aspect of the social security tax rate increases. The social security tax is one of the most regressive that this country levies on its citizens.

Essentially what we will achieve by this bill, if it is passed, is to increase the taxes on those who can least afford to pay. I refer to the lower income groups and those with larger families and middle incomes, in order that we may guarantee a very modest standard of living during their later years. In all of this, those taxpayers who can most afford to pay will remain comparatively unscathed.

The social security tax is levied at a flat percentage rate from the first dollar of income up to a ceiling which currently is above the average annual income of less than 80 percent of our people. The increased ceiling on earnings proposed in this bill will increase this percentage. However, the tax changes will still leave a group of taxpayers with the highest incomes in our society who will pay a much smaller percentage of their earnings in social security taxes than those with lower incomes.

Within that group of taxpayers who earn less than the social security ceiling, the percentage of income paid in social security taxes is the same whether the individual is close to the poverty level or in the comfortable middle-income group. This situation would be acceptable if the inequities were redressed by the progressive income tax structure. However, we have before us proposed to achieve an adjustment in the income tax system which would mitigate the regressive social security tax increase encompassed in this bill. Such an adjustment may, indeed, be very difficult to achieve as it has been estimated that even with the present rates more than half of our working population pay more in social security taxes than in income taxes. If social security tax rates are to continue to rise and to be levied at a flat rate for every dollar earned from the first dollar earned, then our taxation system will become progressively more regressive and our efforts to minimize the miseries of poverty in this country will suffer. While I do not believe that we have adequately treated this question today, I trust the Congress will do so in the near future.

I will turn finally to the long-term problems of the Social Security System. The demographic trends in this country have placed a ticking time bomb under the Social Security System as it is currently constituted. During the period immediately following World War II, there was a baby boom which led to a bulge in our population growth in these years. We have already experienced the problems that this population bulge posed as it passed through our school systems, including the current problems of declining enrollment. This same bulge will cause similar problems in our social security systems in the second and subsequent decades of the next century, only 30 years away. The problems caused by increased numbers of people entering the retirement community will be supplemented by a decrease in the number of people entering the work force and paying social security taxes. Nobody can foresee whether the current low fertility rates will persist through the next several decades. However, if we make the reasonable assumption that the fertility rate will not rise then the percentage of our population 65 or over will increase from 10.3 percent in 1974 to about 19 percent in 1985 and about 36 percent in 2050.

If the percentage of population under 65 who work is similar in 2050 to today, this implies that the ratio of social security beneficiaries to working taxpayers in 2050 will be almost four times the present ratio. As a consequence, if the social security benefits continue to be paid from a depleted fund through current revenues, the social security tax burden on the working population of 2050 will be four times higher than the tax burden on our citizens today. Unless we address soon the problems of social security financing posed by the demographic changes in the United States, this is the legacy we will be passing on to our children.

The increased tax provisions in H.R. 9346 will not solve the long-term problem of social security financing in my view. The only option before us in consideration of this bill which acknowledges the long-term problem is the amendment offered by Mr. CONABLE and our Republican colleagues to increase the age at which full social security benefits are paid from 65 to 68. I commend the recognition of the long-term problem embodied in this amendment, but I do not believe that the proposed solution is acceptable. The amendment would renege on a promise of benefits at 65 made to the American people in levying social security taxes from them over the past 30 years.

In conclusion, I would like to reiterate my intense concern for the short-term impact of this bill on our economy and particularly the lower income groups in our country, and my concern that the bill does not adequately address the long-term needs of our Nation. I will vote for this bill, only because I believe that some short-term increase in revenues is necessary to insure the solvency of our Social Security System, and, therefore, the peace of mind and security of our citizens who are dependent upon its bene-

fits. However, I will continue to work to find a permanent solution to the social security financing problem that is fair and equitable for each and every citizent of this Nation. I invite all of you to join me in this endeavor for it surely will not be a simple task.

Mr. WEISS. Mr. Chairman, I am voting for H.R. 9346, the Social Security Financing Amendments of 1977, but I do so reluctantly. I am in favor of increasing revenues and easing the burden caused by recent deficits in the trust funds, but I have reservations about how this bill accomplishes these goals. That is why I voted against the gentleman from Virginia's (Mr. FISHER) amendment, and why I intend to vote for the motion to recommit.

Our social security program enables us to give assistance to people who need and deserve it. But recent deficits in the program's trust funds and the impact of demographic changes evidence a need for structural change. Specifically, social security must be funded in a more progressive manner.

Currently, it relies too heavily on the regressive payroll tax. And while H.R. 9346 proposes changes in the payroll tax and the taxable wage base which are less regressive, these proposals do not go far enough. Better recommendations will be included in the motion to recommit.

The best of these will propose reallocating insurance trust fund taxes to the old age and survivors and disability insurance trust funds and will advocate more general revenue financing of social security. This latter recommendation is especially important because only through General Treasury financing will the social security system become fully progressive.

One of the most puzzling aspects of H.R. 9346 is that, in a time when the President is calling for tax cuts, it contains a tax increase. In fact, the proposed increases may far outweigh any tax cuts in the President's tax reform package. This hardly seems the best way to coordinate Presidential and congressional efforts to improve the economy.

H.R. 9346's other major deficiency is its failure to include all Government employees in the social security system. This was eliminated with the passage of the Fisher amendment.

If the social security system is to operate at maximum efficiency, it must include a provision for universal coverage. Not only would universal coverage help insure against future deficits, it would help improve the fund's short-term solvency and provide millions of State and local government workers with broader retirement insurance than they are now receiving.

By raising an additional $213.6 billion in tax revenues over the next 10 years, H.R. 9346 will provide badly needed money for the social security trust funds. But this is, at best, a temporary solution. Social security's permanent health depends on a more progressive revenue system and universal coverage. Without these two aspects, social security is neither socially just nor financially secure.

The CHAIRMAN. Under the rule, the Chair recognizes the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I do not seek recognition.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. EVANS of Colorado, Chairman of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of nonprofit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes, pursuant to House Resolution 839, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONABLE

Mr. CONABLE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. CONABLE. I am, Mr. Speaker, in its present form.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONABLE moves to recommit the bill H.R. 9346 to the Committee on Ways and Means with instructions to report back the same forthwith with the following amendments:

Strike out section 104 (beginning on page 127, line 16, and ending on page 131, immediately before line 4).

Page 131, line 5, strike out "105" and insert in lieu thereof "104".

Page 131, strike out the sentence beginning in line 7.

Conform the table of contents on page 117.

* * * * *

Page 169, strike out lines 1 through 5 and insert in lieu thereof the following: "of 1954 (the Federal Insurance Contributions Act) is amended by redesignating sections 3125 and 3126 as sections 3126 and 3127, respectively, and by inserting after section 3124 the following new section:".

Page 169, line 6, strike out "3126" and insert in lieu thereof "3125".

Page 169, in the matter following line 22, strike out "3126", "3127", and "3128" and insert in lieu thereof "3125", "3126", and "3127", respectively.

Page 170, line 4, strike out "3127" and insert in lieu thereof "3126".

Page 170, line 15, strike out "3126" and insert in lieu thereof "3125".

Page 170, line 19, strike out "3127" and insert in lieu thereof "3126".

Page 171, line 5, strike out "3126" and insert in lieu thereof "3125".

Page 171, line 17, strike out "3126" and insert in lieu thereof "3125".

Page 171, lines 21 and 22, strike out "3127 (a)", "3127(b)", and "3127(c)" and insert in lieu thereof "3126(a)", "3126(b)", and "3126 (c)", respectively.

Page 171, line 25, strike out "3127,".

Strike out section 301 (as added by the amendment) and insert in lieu thereof the following:

COVERAGE OF FEDERAL EMPLOYEES

SEC. 301. (a)(1) Section 210(a) of the Social Security Act is amended by striking out paragraphs (5) and (6).

(2)(A) Section 210(l)(1) of such Act is amended to read as follows:

"(1) Except as provided in paragraph (4), the term 'employment' shall include service (other than service performed while on leave without pay) which is performed by an individual as a member of a uniformed service on active duty after December 1956.".

(B) Section 210(o) of such Act is amended by striking out ", notwithstanding the provisions of subsection (a),".

(C) Section 229(a) of such Act is amended by striking out "service as a member of a uniformed service (as defined in section 210 (m)) which was included in the term 'employment' as defined in section 210(a) as a result of the provisions of section 210(l)" and inserting in lieu thereof "service, as a member of a uniformed service, to which the provisions of section 210(l)(1) are applicable".

(b)(1) Section 3121(b) of the Internal Revenue Code of 1954 (relating to definition of employment) is amended by striking out paragraphs (5) and (6).

(2)(A) Section 3121(m)(1) of such Code (relating to service in the uniformed services) is amended to read as follows:

"(1) INCLUSION OF SERVICE.—The term 'employment' shall include service (other than service performed while on leave without pay) which is performed by an individual as a member of a uniformed service on active duty after December 1956.".

(B) Section 3121(p) of such Code (relating to Peace Corps volunteer service) is amended by striking out ", notwithstanding the provisions of subsection (b) of this section,".

(c) The amendments made by this section shall be effective with respect to service performed after December 1981.

(d)(1) As soon as possible after the enactment of this Act, the Secretary of Health, Education, and Welfare in consultation with the Civil Service Commission shall undertake and carry out a detailed study of how best to coordinate the benefits of the civil service retirement system and the benefits of the old-age, survivors, and disability insurance system, with the objective of developing for Federal employees a combined program of retirement, disability, and related benefits which will assure that such employees are no worse off, comparing their benefits under the combined program with the benefits they would receive under the Federal staff retirement systems then in effect, upon their coverage under the old-age, survivors, and disability insurance system pursuant to the amendments made by this section.

(2) Upon the completion of the study under paragraph (1) and in any event no later than January 1, 1980, the Secretary shall submit to the Congress a full and complete report on the results of such study together

with a specific and detailed plan for coordinating the benefits of the civil service retirement system and the benefits of the old-age, survivors, and disability insurance system (along with such comments or recommendations as may be appropriate with respect to other staff retirement systems covering Federal employees). The plan so submitted shall include such financing and benefit provisions and other features as may be necessary to assure that the employees involved will not be placed at a disadvantage by the coordination of the benefits of the systems as compared with their treatment under the Federal staff retirement systems in effect prior to such coordination.

(e) In addition to and along with the study provided for under subsection (d), the Secretary shall carry out a study of how best to coordinate the Medicare program and the program established by the Federal Employees Health Benefits Act, with the objective of developing for Federal employees a combined program of health insurance benefits to accompany the retirement and disability program developed under subsection (d). Such combined program shall include the features necessary to assure that Federal employees are no worse under that program, in terms of benefits, than they were under the Federal Employees Health Benefits Act as theretofore in effect. The study under this subsection shall in general take into account the same aspects of the two health insurance programs and their coordination as those taken into account (with respect to the two retirement and disability systems) under subsection (d); and the report submitted under subsection (d)(2) shall include or be accompanied by a full and complete report on the results of the study under this subsection.

Conform the table of contents (on page 117).

Page 119, line 18, strike out "5.25 percent" and insert in lieu thereof "5.23 percent."

Page 120, line 2, strike out "5.55 percent" and insert in lieu thereof "5.53 percent."

Page 120, line 4, strike out "6.10 percent" and insert in lieu thereof "6.08 percent."

Page 120, lines 16 and 17, strike out "5.25 percent" and insert in lieu thereof "5.23 percent."

Page 120, line 20, strike out "5.55 percent" and insert in lieu thereof "5.53 percent."

Page 120, line 22, strike out "6.10 percent" and insert in lieu thereof "6.08 percent".

Page 121, line 14, strike out "7.90 percent" and insert in lieu thereof "7.87 percent".

Page 121, line 18, strike out "8.30 percent" and insert in lieu thereof "8.27 percent".

Page 121, line 21, strike out "9.15 percent" and insert in lieu thereof "9.12 percent".

Page 125, line 25, strike out "$29,700" and insert in lieu thereof "$27,900".

Beginning on page 125, strike out section 103.

On page 119, line 11, strike out "1977" and insert in lieu thereof "1978".

On page 119, strike out lines 13 to 15 and insert in lieu thereof "(2) with respect to wages received during the calendar year 1979, the rate shall be 5.225 percent and with respect to wages received during the calendar year 1980, the rate shall be 5.50 percent".

On page 119, line 17, strike out "1984" and insert in lieu thereof "1985".

On page 119, line 18, strike out "5.15" and insert in lieu thereof "5.625".

On page 120, line 1, strike out "1985 through 1989" and insert in lieu thereof "1986 through 2010".

On page 120, line 2, strike out "5.45" and insert in lieu thereof "5.70".

On page 120, line 4, strike out "1989" and "6.00" and insert in lieu thereof "2010" and "6.70", respectively.

On page 120, line 10, strike out "1977" and insert in lieu thereof "1978".

On page 120, strike out lines 12 to 14 and insert in lieu thereof "(2) with respect to wages received during the calendar year 1979, the rate shall be 5.225 percent and with respect to wages received during the calendar year 1980, the rate shall be 5.50 percent.".

On page 120, line 16, strike out "1984" and insert in lieu thereof "1985".

On page 120, line 16, strike out "5.15" and insert in lieu thereof "5.625".

On page 120, line 19, strike out "1985 through 1989" and insert in lieu thereof "1986 through 2010".

On page 120, line 20, strike out "5.45" and insert in lieu thereof "5.70".

On page 120, line 22, strike out "1989" and "6.00" and insert in lieu thereof "2010" and "6.70", respectively.

On page 121, line 5, strike out "1978" and insert in lieu thereof "1979".

On page 121, strike out lines 8 to 11, and insert in lieu thereof "in the case of any taxable year beginning after December 31, 1978 and before January 1, 1980, the tax shall be equal to 7.30 percent of the amount of the self-employment income for such taxable year and in the case of any taxable year beginning after December 31, 1979 and before January 1, 1981, the tax shall be equal to 7.55 percent of the amount of self-employment income for such taxable year.".

On page 121, line 13, strike out "1985" and insert in lieu thereof "1986".

On page 121, line 14, strike out "7.70" and insert in lieu thereof "8.10".

On page 121, line 17, strike out "1984, and before January 1, 1990," and insert in lieu thereof "1985, and before January 1, 2011".

Page 121, line 21, strike out "1989" and insert in lieu thereof "2010".

Page 124, line 7, strike out "1.50" and insert in lieu thereof "1.55".

Page 124, line 9, strike out "1.60" and insert in lieu thereof "1.70".

Page 124, line 11, strike out "1.80" and insert in lieu thereof "1.90".

Page 124, line 14 ,strike out "2.20" and insert in lieu thereof "2.30".

Section 1817(a) of the Social Security Act is amended as follows:

"(1) In paragraph (1), by inserting "and before January 1, 1979" after "1965" and by inserting ", and 133⅓ per centum of such taxes on wages reported in calendar year 1979 and 200 per centum of such taxes on wages reported for calendar years after 1979" before the semicolon.

(2) In paragraph (2), by inserting "for taxable years ending before January 1, 1979" after "income" the first time that it occurs and by inserting ", and 133 per centum of such taxes on self-employment income reported for taxable years ending in calendar year 1979 and 200 per centum of such taxes on self-employment income reported for taxable years ending after calendar year 1979" before the period.

Page 122, line 14, strike out "1.45" and insert in lieu thereof "1978".

Page 122, strike out lines 7 to 9 and insert in lieu thereof "(2) with respect to wages received during calendar year 1979, the rate shall be .725 percent, and with respect to wages received during calendar year 1980, the rate shall be .55 percent".

Page 122, line 12, strike out "1.30" and insert in lieu thereof ".675".

Page 122, line 14, strike out "1.45" and insert in lieu thereof ".75".

Page 122, line 20, strike out "1977" and insert in lieu thereof "1978".

Page 122, strike out lines 22 to 24 and insert in lieu thereof "(2) with respect to wages received during calendar year 1979, the rate shall be .725 percent, and with respect to wages received during calendar year 1980, the rate shall be .55 percent.".

Page 123, line 1, strike out "1.30" and insert in lieu thereof ".675".

Page 123, line 4, strike out "1.45" and insert in lieu thereof ".75".

Page 123, line 10, strike out "1978" and insert in lieu thereof "1979".

Page 123, strike out lines 13 to 16 and insert in lieu thereof "(2) in the case of any taxable year beginning after December 31, 1978, and before January 1, 1980, the tax shall be equal to .725 percent of the amount of the self-employment income for such taxable year, and in the case of any taxable year beginning after December 31, 1979, and before January 1, 1981, the tax shall be equal to .55 percent of the amount of the self-employment income for such taxable year".

Page 123, line 19, strike out "1.30" and insert in lieu thereof ".675".

Page 123, line 22, strike out "1.45" and insert in lieu thereof ".75".

Mr. CONABLE (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. The gentleman from New York (Mr. CONABLE) is recognized for 5 minutes in support of his motion to recommit.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Arizona (Mr. RHODES), the distinguished minority leader.

Mr. RHODES. Mr. Speaker, I rise to support the motion to recommit the bill, H.R. 9346, offered by the gentleman from New York (Mr. CONABLE).

Some months ago I joined with my Republican colleagues in offering a 15-point plan to restore the fiscal integrity of the social security system. The intent of our plan was to restore the system to a sound financial footing, to remove discrimination, to eliminate the limitation on income and to keep these payroll taxes paid by American wage earners as low as possible.

Today we are faced with H.R. 9346, a bill supported by the Democratic majority which will result in a tripling of the social security taxes paid by American wage earners and employers. This motion to recommit is our last chance to preserve the integrity of the social security system without placing such an onerous tax burden on the people of this country.

The motion to recommit is not always the easiest way to amend legislation. There are severe limitations placed on what the minority can do under the motion to recommit and the merits are often overlooked on the basis of partisan politics. I appeal to my colleagues, especially on the majority side, to put aside partisan politics and to consider this motion to recommit on its merits.

The motion to recommit would not place State and local employees under the social security system. There is adequate provision in existing law for these employees to join social security on a voluntary basis. I oppose any mandatory inclusion of State and local employees under the social security system.

I urge all my colleagues to support the motion to recommit.

Mr. CONABLE. Mr. Speaker, we have had a rapid march of events here on the floor. I think it is important for the

Members to understand what is being offered by the minority in this motion to recommit. It is, I think, something the Members will want to consider very seriously.

There are three major proposals in the motion to recommit.

First, we do bring Federal civilian employees under social security coverage by January 1, 1982, following a study to assure affected employees they will be at least as well off under the changes as under existing law. We do not bring in State and local employees.

Second, we reallocate taxes from the hospital insurance or medicare trust fund to old-age survivor and disability trust fund, as follows:

In 1979, we reallocate 25 percent of the hospital insurance taxes to OASDI. In 1980, we reallocate 50 percent of the hospital insurance taxes to OASDI. Thereafter, the hospital insurance trust fund would be reimbursed for reallocated revenues from the general funds of the Treasury.

Mr. Speaker, I say to my friends who may be concerned about this that this was the original proposal of one of our distinguished former colleagues, John Byrnes. The hospital insurance trust fund is not an actuarially constituted trust fund. People qualify for medicare on the basis of their coverage, no matter how much they have paid into the system. So I much prefer this type of general treasury contribution to the trust funds over the generalized loaning that is permitted under the committee bill and which our friend, the gentleman from Texas (Mr. PICKLE), tried to strike out yesterday.

This motion to recommit also removes authority from the committee bill for trust funds to borrow generally from the general funds of the Treasury; in other words, the General Treasury will contribute only the reallocated portion of the hospital insurance fund.

Let me give the Members some idea as to what this accomplishes for us in this bill. As we watched this bill proceed in its consideration on the floor of the House, I think many Members have become greatly concerned about the tremendous tax increases that are involved for the working people of this country and for the employers.

This bill, through the transfer to OASDI, would take funds out of the hospital insurance fund. Under this motion to recommit, we would in 1979 transfer $5.6 billion, in 1980 $12.3 billion, in 1981 $16.1 billion, and so forth.

The result of this, may I say to my colleagues who are concerned about the size of the tax increase, is that we will be able to stay with existing law as to both the base and the rate. Existing law involves some increase in both the base and the rate, but what the committee bill does is to go far beyond that.

It seems to me, given the state of unemployment in this country, we would be far better off to avoid increasing the taxes on labor. Reallocation of the hospital insurance taxes will, in short, save us a staggering load on the backs of American labor.

Mr. STEIGER. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to my friend, the gentleman from Wisconsin.

Mr. STEIGER. Mr. Speaker, I thank my colleague for yielding.

May I say to the House that this motion to recommit is, I think, exceedingly thoughtful in the approach that it takes. Let us recognize that the bill that is before us, as reported by the committee and as amended on the floor, imposes staggering tax burdens upon the American people. It does so because the Committee on Ways and Means was unwilling to deal with the issue of how to handle the hospital trust fund.

So the motion to recommit, by the combination of general revenues put in only that trust fund, gives us a chance to have a balanced, sound, stable social security system, one that does not impose this kind of additional taxes and one which provides far greater equity.

Mr. Speaker, it is a significant improvement upon the bill which comes from the Committee on Ways and Means, and I urge its adoption.

Mr. CONABLE. Mr. Speaker, I call the attention of my colleagues to the summary of this motion to recommit, which is available at the minority desk if anyone wishes to see it.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank my colleague for yielding. Mr. Speaker, one major point of this motion to recommit is that the social security taxes imposed are less than those in the committee bill because both the rates and wage base schedules are lower?

Mr. CONABLE. Yes, that is the whole idea.

The SPEAKER. The gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes in opposition to the motion to recommit.

Mr. ULLMAN. Mr. Speaker, what the minority has done here is to reinstitute the coverage of Federal employees. We had a vote of 386 to 38, by which the Members of this body decided that they did not want the Federal employees covered.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the minority leader.

Mr. RHODES. Mr. Speaker, I have asked the gentleman to yield at this point so I may make a correction.

The vote was not just on Federal employees; it was on State and local employees as well.

Mr. ULLMAN. Mr. Speaker, it is true that we did not have a vote just on Federal employees, but I venture to say that was the basis for most of the opposition to the committee bill.

The other thing that the minority has done is this: It has phased the hospital insurance fund out of social security and has gone to general revenue funding for the hospital insurance fund. Well, at some point we are going to have to face up to the health insurance problems in this country, possibly in the next Congress, but now is not the time to commit ourselves to general revenue funding of health costs under medicare.

Therefore, they have done two things: They have eliminated the bulk of the medicare program from the social security financing, and they have included Federal employees. By doing those two things, they are able to adjust the rates in a more favorable manner; but I think all of us here have already agreed that we did not want to solve the problems of the social security system through the inclusion of Federal employees at this time.

Some time in the future I am going to support that proposition, and also at some time in the future, if we solve the health problem overall, we may be able to move toward a separate kind of financing, but not through general revenues.

When we move health costs out of social security, we are going to have to adopt a new revenue component and not dump that cost on the income taxpayers of the country.

Mr. CONABLE. Mr. Speaker, will the gentleman yield for a question?

Mr. ULLMAN. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, we are not eliminating the payroll tax for health insurance. We are simply diverting half of it.

The Committee on Ways and Means would still have jurisdiction.

Mr. ULLMAN. Mr. Speaker, I am glad for the correction.

I did not get the recommittal motion until a minute before it was offered. Consequently, I have not had a chance to study it. However, what we are doing is taking 50 percent of the current costs and putting them under general revenues.

Mr. Speaker, this has been a fine debate on the problems of social security. I think that the bill which we have to vote on is a sound one.

Mr. Speaker, I strongly urge the Members to vote down the recommittal motion. We have already, I think, made our determination with respect to coverage of Federal employees. Under the motion to recommit they would try to reimpose that coverage.

Mr. Speaker, let us vote down the recommittal motion, and let us have a good, strong vote for final passage of this very important social security bill.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

Mr. CONABLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 57, nays 363, not voting 14, as follows:

[Roll No. 705]

YEAS—57

Anderson, Ill.	Fenwick	Michel
Badham	Fithian	Pettis
Bafalis	Frenzel	Pritchard
Beard, Tenn.	Gibbons	Rhodes
Bonior	Gonzalez	Robinson
Brown, Mich.	Gradison	Schulze
Burgener	Hagedorn	Stangeland
Clausen, Don H.	Hansen	Stanton
Cleveland	Jeffords	Steiger
Cochran	Johnson, Colo.	Studds
Cohen	Kelly	Symms
Conable	Kemp	Treen
Crane	Ketchum	Vander Jagt
D'Amours	Keys	Weiss
Dornan	Lent	Wiggins
Duncan, Tenn.	Levitas	Wilson, Bob
Erlenborn	McDonald	Wirth
Evans, Colo.	McEwen	Wydler
Evans, Ind.	Marks	
	Martin	

NAYS—363

Abdnor	Daniel, Dan	Hollenbeck
Addabbo	Daniel, R. W.	Holt
Akaka	Danielson	Holtzman
Alexander	Davis	Horton
Allen	de la Garza	Howard
Ambro	Delaney	Hubbard
Ammerman	Dellums	Huckaby
Anderson, Calif.	Dent	Hughes
Andrews, N.C.	Derrick	Hyde
Andrews, N. Dak.	Derwinski	Ichord
Annunzio	Devine	Ireland
Applegate	Dickinson	Jacobs
Archer	Dicks	Jenkins
Armstrong	Diggs	Jenrette
Ashbrook	Dingell	Johnson, Calif.
Ashley	Downey	Jones, N.C.
Aspin	Drinan	Jones, Okla.
Badillo	Duncan, Oreg.	Jones, Tenn.
Baldus	Early	Jordan
Barnard	Eckhardt	Kasten
Baucus	Edgar	Kastenmeier
Bauman	Edwards, Ala.	Kazen
Beard, R.I.	Edwards, Calif.	Kildee
Bedell	Edwards, Okla.	Kindness
Beilenson	Eilberg	Kostmayer
Benjamin	Emery	Krebs
Bennett	English	Krueger
Bevill	Ertel	LaFalce
Biaggi	Evans, Del.	Lagomarsino
Bingham	Evans, Ga.	Latta
Blanchard	Fary	Le Fante
Blouin	Fascell	Leach
Boggs	Findley	Lederer
Boland	Fish	Leggett
Bonker	Fisher	Lehman
Bowen	Flippo	Livingston
Brademas	Flood	Lloyd, Calif.
Breaux	Florio	Lloyd, Tenn.
Breckinridge	Flynt	Long, La.
Brinkley	Foley	Long, Md.
Brodhead	Ford, Mich.	Lott
Brooks	Ford, Tenn.	Lujan
Broomfield	Forsythe	Luken
Brown, Calif.	Fountain	Lundine
Brown, Ohio	Fowler	McClory
Broyhill	Fraser	McCormack
Buchanan	Frey	McDade
Burke, Calif.	Fuqua	McFall
Burke, Fla.	Gammage	McKay
Burke, Mass.	Gaydos	McKinney
Burleson, Tex.	Gephardt	Madigan
Burlison, Mo.	Giaimo	Maguire
Burton, John	Gilman	Mahon
Burton, Phillip	Ginn	Mann
Butler	Glickman	Markey
Byron	Goldwater	Marlenee
Caputo	Goodling	Marriott
Carney	Gore	Mathis
Carr	Grassley	Mattox
Cavanaugh	Gudger	Mazzoli
Cederberg	Guyer	Meeds
Chappell	Hall	Metcalfe
Chisholm	Hamilton	Meyner
Clay	Hammer-schmidt	Mikulski
Coleman	Hanley	Mikva
Collins, Ill.	Hannaford	Milford
Collins, Tex.	Harkin	Miller, Calif.
Conte	Harrington	Miller, Ohio
Conyers	Harris	Mineta
Corcoran	Harsha	Minish
Corman	Hawkins	Mitchell, Md.
Cornell	Heckler	Mitchell, N.Y.
Cornwell	Hefner	Moakley
Cotter	Heftel	Moffett
Coughlin	Hightower	Mollohan
Cunningham	Hillis	Moore
	Holland	Moorhead, Calif.
Moorhead, Pa.	Rinaldo	Steers
Moss	Risenhoover	Stokes
Mottl	Roberts	Stratton
Murphy, Ill.	Rodino	Stump
Murphy, N.Y.	Roe	Taylor
Murphy, Pa.	Rogers	Thompson
Murtha	Roncalio	Thone
Myers, Gary	Rooney	Thornton
Myers, John	Rose	Traxler
Myers, Michael	Rosenthal	Trible
Natcher	Rostenkowski	Tsongas
Neal	Rousselot	Tucker
Nedzi	Roybal	Udall
Nichols	Rudd	Ullman
Nix	Runnels	Van Deerlin
Nolan	Ruppe	Vanik
Nowak	Russo	Vento
O'Brien	Ryan	Volkmer
Oakar	Santini	Waggonner
Oberstar	Sarasin	Walgren
Obey	Satterfield	Walker
Ottinger	Sawyer	Walsh
Panetta	Scheuer	Wampler
Patten	Schroeder	Watkins
Patterson	Sebelius	Waxman
Pattison	Seiberling	Weaver
Pease	Sharp	White
Pepper	Shipley	Whitehurst
Perkins	Shuster	Whitley
Pickle	Sikes	Whitten
Pike	Simon	Wilson, C. H.
Poage	Sisk	Winn
Pressler	Skelton	Wolff
Preyer	Skubitz	Wright
Price	Slack	Wylie
Pursell	Smith, Iowa	Yates
Quayle	Smith, Nebr.	Yatron
Quie	Snyder	Young, Alaska
Quillen	Solarz	Young, Fla.
Rahall	Spellman	Young, Mo.
Railsback	Spence	Young, Tex.
Rangel	St Germain	Zablocki
Regula	Staggers	Zeferetti
Reuss	Stark	
Richmond	Steed	

NOT VOTING—14

AuCoin	Flowers	Stockman
Bolling	Koch	Teague
Carter	McCloskey	Whalen
Clawson, Del	McHugh	Wilson, Tex.
Dodd	Montgomery	

The Clerk announced the following pairs:

Mr. McHugh with Mr. Stockman.
Mr. Montgomery with Mr. Carter.
Mr. Dodd with Mr. Del Clawson.
Mr. AuCoin with Mr. McCloskey.
Mr. Koch with Mr. Flowers.
Mr. Teague with Mr. Charles Wilson of Texas.

Messrs. HEFNER, RUPPE, MOORE, EVANS of Georgia, GUYER, COLLINS of Texas, HUCKABY, FINDLEY, SATTERFIELD, GOODLING, GLICKMAN, ROUSSELOT, and MOORHEAD of California changed their vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. WRIGHT). The question is on the passage of the bill.

The question was taken.

Mr. ULLMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 275, nays 146, not voting 13, as follows:

[Roll No. 706]

YEAS—275

Addabbo	Anderson, Ill.	Baldus
Akaka	Andrews, N.C.	Barnard
Alexander	Annunzio	Baucus
Allen	Applegate	Beard, R.I.
Ambro	Ashley	Bedell
Ammerman	Aspin	Beilenson
Anderson, Calif.	Badillo	Benjamin
	Bafalis	Bevill
Biaggi	Harkin	Patterson
Bingham	Harrington	Pattison
Blanchard	Harris	Pease
Blouin	Hawkins	Pepper
Boggs	Heckler	Perkins
Boland	Hefner	Pressler
Bonker	Heftel	Preyer
Brademas	Hightower	Price
Breckinridge	Hillis	Rahall
Brinkley	Hollenbeck	Rangel
Brooks	Holtzman	Richmond
Brown, Calif.	Howard	Rinaldo
Brown, Mich.	Hubbard	Risenhoover
Broyhill	Hughes	Roberts
Burke, Calif.	Ireland	Robinson
Burke, Mass.	Jenkins	Rodino
Burlison, Mo.	Jenrette	Roe
Burton, Phillip	Johnson, Calif.	Rogers
Butler	Jones, N.C.	Roncalio
Byron	Jones, Tenn.	Rooney
Carney	Jordan	Rose
Cavanaugh	Kastenmeier	Rosenthal
Cederberg	Kelly	Rostenkowski
Chisholm	Keys	Roybal
Clausen, Don H.	Kildee	Ruppe
Clay	Kostmayer	Russo
Collins, Ill.	Krebs	Santini
Conyers	Krueger	Scheuer
Corman	LaFalce	Seiberling
Cornell	Latta	Sharp
Cornwell	Le Fante	Shipley
Cotter	Lederer	Sikes
D'Amours	Leggett	Simon
Daniel, R. W.	Levitas	Sisk
Danielson	Lloyd, Calif.	Skelton
Davis	Long, La.	Skubitz
de la Garza	Long, Md.	Slack
Delaney	Luken	Smith, Iowa
Dellums	McClory	Snyder
Dent	McCloskey	Solarz
Derrick	McCormack	Spellman
Dicks	McFall	St Germain
Diggs	McKay	Staggers
Dingell	Maguire	Stark
Downey	Mann	Steed
Drinan	Markey	Steers
Duncan, Oreg.	Marks	Stokes
Early	Marlenee	Stratton
Eckhardt	Marriott	Studds
Edgar	Martin	Thompson
Edwards, Ala.	Mathis	Thornton
Edwards, Calif.	Mattox	Traxler
Eilberg	Mazzoli	Trible
Emery	Meeds	Tsongas
Ertel	Metcalfe	Tucker
Evans, Colo.	Meyner	Udall
Fary	Mikulski	Ullman
Fascell	Mikva	Van Deerlin
Fenwick	Milford	Vanik
Fisher	Mineta	Vento
Flippo	Minish	Waggonner
Flood	Mitchell, Md.	Walgren
Florio	Mitchell, N.Y.	Walsh
Flynt	Moakley	Wampler
Foley	Moffett	Watkins
Ford, Mich.	Mollohan	Waxman
Ford, Tenn.	Moorhead, Pa.	Weaver
Forsythe	Moss	Weiss
Fountain	Murphy, Ill.	White
Fowler	Murphy, N.Y.	Whitehurst
Fraser	Murphy, Pa.	Whitley
Frey	Murtha	Wilson, Bob
Gammage	Myers, Michael	Wilson, C. H.
Gaydos	Natcher	Wilson, Tex.
Gephardt	Neal	Wolff
Giaimo	Nedzi	Wright
Gilman	Nichols	Wylie
Ginn	Nix	Yates
Glickman	Nolan	Yatron
Gudger	Nowak	Young, Fla.
Hall	Oakar	Young, Mo.
Hamilton	Oberstar	Zablocki
Hanley	Obey	Zeferetti
Hannaford	Ottinger	
	Patten	

NAYS—146

Abdnor	Buchanan	Coughlin
Andrews, N. Dak.	Burgener	Crane
Archer	Burke, Fla.	Cunningham
Armstrong	Burleson, Tex.	Daniel, Dan
Ashbrook	Burton, John	Derwinski
Badham	Caputo	Devine
Bauman	Carr	Dickinson
Beard, Tenn.	Chappell	Duncan, Tenn.
Bennett	Cleveland	Edwards, Okla.
Bonior	Cochran	English
Bowen	Cohen	Erlenborn
Breaux	Coleman	Evans, Del.
Brodhead	Collins, Tex.	Evans, Ga.
Broomfield	Conable	Evans, Ind.
Brown, Ohio	Conte	Findley
	Corcoran	Fish

Fithian	Lent	Reuss
Frenzel	Livingston	Rhodes
Fuqua	Lloyd, Tenn.	Rousselot
Gibbons	Lott	Rudd
Goldwater	Lujan	Runnels
Gonzalez	Lundine	Ryan
Goodling	McDade	Sarasin
Gore	McDonald	Satterfield
Gradison	McEwen	Sawyer
Grassley	McKinney	Schroeder
Guyer	Madigan	Schulze
Hagedorn	Mahon	Sebelius
Hammer-schmidt	Michel	Shuster
	Miller, Calif.	Smith, Nebr.
Hansen	Miller, Ohio	Spence
Harsha	Moore	Stanceland
Holland	Moorhead, Calif.	Stanton
Holt		Steiger
Horton	Mottl	Stump
Huckaby	Myers, Gary	Symms
Hyde	Myers, John	Taylor
Ichord	O'Brien	Teague
Jacobs	Panetta	Thone
Jeffords	Pettis	Treen
Johnson, Colo.	Pickle	Vander Jagt
Jones, Okla.	Pike	Volkmer
Kasten	Poage	Walker
Kazen	Pritchard	Whitten
Kemp	Pursell	Winn
Ketchum	Quayle	Wirth
Kindness	Quie	Wydler
Lagomarsino	Quillen	Young, Alaska
Leach	Railsback	Young, Tex.
Lehman	Regula	

NOT VOTING—13

AuCoin	Dornan	Stockman
Bolling	Flowers	Whalen
Carter	Koch	Wiggins
Clawson, Del	McHugh	
Dodd	Montgomery	

The Clerk announced the following pairs:

On this vote:

Mr. Dodd for, with Mr. Del Clawson against.
Mr. Carter for, with Mr. Dornan against.

Until further notice:

Mr. AuCoin with Mr. Flowers.
Mr. Montgomery with Mr. Stockman.
Mr. McHugh with Mr. Whalen.
Mr. Koch with Mr. Wiggins.

Mrs. FENWICK and Mr. RUSSO changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TITLE AMENDMENT TO H.R. 9346

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that the title of the bill, H.R. 9346, be amended to read as follows: "A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide for the conduct of studies with respect to coverage under the system for Federal employees and for employees of State and local governments, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes.".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman explain to us why all of this is necessary?

Mr. ULLMAN. If the gentleman will yield, this is merely an amendment to the title to take into account the amendments that have been made to the bill.

Mr. ROUSSELOT. The gentleman can assure us that it in no way changes the substance of the bill from what we have passed?

Mr. ULLMAN. That is absolutely correct.

Mr. ROUSSELOT. I appreciate the gentleman's clarification, Mr. Speaker, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on each of the amendments and on the bill just passed, H.R. 9346.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

PERMISSION TO CONSIDER HOUSE RESOLUTIONS 851, 852, 853, AND 854 IN THE HOUSE

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that when House Resolutions 851, 852, 853, and 854, disapproving the deferral of certain budget authority, are considered, they each be considered in the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

DISMISSING THE ELECTION CONTEST OF ALBERT DEHR AGAINST ROBERT L. LEGGETT

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration I call up a privileged resolution (H. Res. 770), and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 770

Resolved, That the election contest of Albert Dehr, contestant, against Robert L Leggett, contestee, Fourth Congressional District of the State of California, be dismissed.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. THOMPSON) is recognized for 1 hour.

Mr. THOMPSON. Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the chairman of the ad hoc election panel, the gentleman from New York (Mr. PATTISON).

Mr. PATTISON of New York. Mr. Speaker, before getting into this contest, allow me to go into some background. Eight cases were filed before the Committee on House Administration arising out of elections for seats in the 95th Congress, five from the general election of November 2, 1976, two from primary elections, and one from a subsequent special election.

The U.S. Constitution provides Congress with plenary power over its own elections and the rules of the House give the Committee on House Administration authority and jurisdiction to process these matters.

In order to provide for both an efficient and expeditious handling of these eight cases, the Honorable FRANK THOMPSON, JR., chairman of the full Committee on House Administration, pursuant to the rules of the House and the rules adopted for the Committee on House Administration, designated this and seven other three-member ad hoc panels to deal with these eight separate cases to the point of disposition, subject to the approval of the full committee and ultimately the full House.

This ad hoc panel consists of Mr. JONES of Tennessee, Mr. BURKE of Florida, and myself, as chairman.

A formal notice of contest was filed by Albert Dehr, unsuccessful candidate for a seat in the 95th Congress in the November 1976 general election. Mr. Dehr filed his notice of contest in this case on January 3, 1977. Pursuant to the rules of the House, the case was referred to the committee on House Administration.

Congressman LEGGETT responded on February 8, 1977, and the matter was brought before the ad hoc election panel.

On July 15, the panel heard oral argument, both sides being represented by able counsel. The contestant claimed that Congressman LEGGETT received votes allegedly cast for a write-in candidate.

On July 29, 1977, the panel met again to consider this matter. After carefully considering the legal arguments, examining copies of the ballot inserts and receiving a staff report from committee general counsel, the panel voted unanimously to dismiss the election contest.

I might say, Mr. Speaker, it was clear to the panel that the likelihood of any votes being erroneously cast for Congressman LEGGETT was extremely remote. The contestant was given every opportunity to demonstrate otherwise, but failed to do so.

Finally, on September 21, 1977, the full Committee on House Administration met and voted, again unanimously. to dismiss this contest.

Mr. Speaker, this matter was fully investigated and fairly heard. I urge my colleagues to vote with the committee to dismiss this contest.

Mr. THOMPSON. I yield for the purpose of debate only to the ranking minority member of the panel, the gentleman from Florida (Mr. BURKE).

Mr. BURKE of Florida. Mr. Speaker, I thank the gentleman from New York for yielding.

As the ranking minority member of this ad hoc committee, I would like to concur with a statement my colleague from New York has just given. This matter has been examined fully by the committee. My opinion is that the committee was fair with the attorneys on both sides, and after hearing all the testimony and the probable evidence the committee found no reason that the outcome

of this election should be reversed. I agree with the recommendations of the committee.

Mr. THOMPSON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DISMISSING THE ELECTION CONTEST OF ELSA DEBRA HILL AND FELIX J. PANASIGUI AGAINST WILLIAM CLAY

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 822), and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 822

Resolved, That the election contest of Elsa Debra Hill and Felix J. Panasigui, contestants, against William Clay, contestee, First Congressional District of the State of Missouri, be dismissed.

The CHAIRMAN. The gentleman from New Jersey (Mr. THOMPSON) is recognized for 1 hour.

Mr. THOMPSON. Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from California (Mr. VAN DEERLIN), chairman of the ad hoc election panel.

Mr. VAN DEERLIN. Mr. Speaker, this contested election involves the Democratic primary in the First Congressional District of Missouri.

NED PATTISON and BILL FRENZEL also served the ad hoc panel hearing the case.

The Democratic primary for the First Congressional District of Missouri was held on August 3, 1976. There were seven candidates.

Congressman WILLIAM L. CLAY received 29,094 votes. I will skip over the second, third, and fourth finishers, all of whom accepted the official tally.

The fifth highest number of votes cast were for one of the contestants in this action, Felix J. Panasigui. He received 957 votes.

The sixth highest number of votes were for the other contestant, Elsa D. Hill, who received 574.

On August 30, 1976, the contestants Panasigui and Hill filed their notice of contest with the Clerk of the House.

Since that time the contestants have filed numerous documents and pleading with our committee. The allegations contained in those documents raise substantially the same charges that the contestants filed with the St. Louis Board of Election commissioners. They are:

First. That Ms. Hill's and Mr. Panlasigui's names were left off the primary ballot in at least 17 different polling places;

Second. That in a number of instances, the name of Ms. Hill appeared on the ballot in a place other than its designated position;

Third. That illegal votes were cast under the names of registered voters who did not appear at the polls; and

Fourth. That some votes were cast on the machines after the closing of the polls.

A staff report prepared by committee general counsel indicates that the St. Louis board of election commissioners thoroughly investigated the described charges, and found that: "There is no merit in the complaints filed by Mrs. Hill."

The staff report also indicates that the contestants requested that the Public Integrity Section of the Criminal Division of the Justice Department conduct an investigation, and that subsequently an investigation was conducted by the Federal Bureau of Investigation. Attached to the staff report was a letter from Justice stating that: "The matter was closed in the Criminal Division as lacking foundation."

Additionally, committee staff went to St. Louis and met with the board of election commissioners and their counsel. At that meeting the board's investigation was discussed, and supporting documents were provided to staff.

On September 29, 1977, the ad hoc election panel voted, unanimously, to dismiss the election contest.

Finally, on October 20, 1977, the full Committee on House Administration voted, again unanimously, to dismiss this matter.

Mr. Speaker, over the past several weeks, members of the committee and staff have been harassed—even threatened—in connection with this case. Enough of the taxpayers money has been expended on the matter, which clearly has no basis in fact or law.

Mr. Speaker, I urge colleagues to join in supporting the recommendations of the panel and committee, and dismissing this election contest.

Mr. THOMPSON. Mr. Speaker, I thank the gentleman from California.

Mr. Speaker, I yield, for purposes of debate only, such time as he may consume to our distinguished colleague, the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I thank the chairman for yielding.

I subscribe to the statement of the gentleman from California and hope this resolution will be speedily adopted.

Mr. THOMPSON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DISMISSING THE ELECTION CONTEST AGAINST W. WYCHE FOWLER, JR.

Mr. THOMPSON. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 825), and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 825

Resolved, That the election contest of Wyman C. Lowe, contestant, against W. Wyche Fowler, Junior, contestee, Fifth Congressional District of the State of Georgia, be dismissed.

The SPEAKER pro tempore. The gentleman from New Jersey is recognized for 1 hour.

Mr. THOMPSON. Mr. Speaker, before yielding to the chairman of the ad hoc panel, I would like to express my appreciation not only to the three panel chairmen who are presenting these election contest matters today, but to all the other members, majority and minority, of the Committee on House Administration who served on these panels.

We think that we have saved a tremendous lot of time, money, and that each and every one of the panel chairmen have done a really outstanding job, as have their colleagues from the minority.

In this case, the panel chairman to whom I yield, is the gentleman from Pennsylvania (Mr. AMMERMAN).

Mr. AMMERMAN. Mr. Speaker, I have been designated by the Honorable FRANK THOMPSON, chairman of the Committee on House Administration, to chair the ad hoc panel investigating the contested election involving the Fifth Congressional District of Georgia.

Also serving with me are the Honorable LUCIEN NEDZI of Michigan, and the Honorable BILL FRENZEL of Minnesota.

By way of background, a special election was held in Atlanta, Ga., on March 15, 1977, to fill the seat vacated by U.N. Ambassador, Andy Young. There were 12 candidates in that election. WYCHE FOWLER ran first with 29,898 votes; John Lewis ran second with 21,531. The contestant in today's case, Wyman Lowe, came in eighth, with 276 votes.

As Mr. FOWLER did not receive a majority, a runoff election was held on April 5, 1977. In that election, Mr. FOWLER defeated Mr. Lewis by 54,378 to 32,732 votes.

On April 15, 1977, Mr. Lowe filed this election contest with the House of Representatives. Since that time, Mr. Lowe has filed numerous documents and pleadings with this committee. Generally, Mr. Lowe alleges three grounds in support of his election contest:

First. That since Mr. FOWLER, who was president of the Atlanta City Council did not resign that seat, he was ineligible to run for Congress;

Second. Mr. Lowe asserts that since he received 36,000 votes in the 1970 Democratic primary against Andy Young and only 276 votes in his 1977 race, there must exist fraud because of the disparity in vote totals; and

Third. That the vote tallys did not properly total and that there were shortages in unused, extra ballots.

The members of the panel have been provided with a staff report prepared by committee general counsel.

In summary, that report indicates that the office of the Atlanta city attorney had ruled on February 16, 1976, that members of the Atlanta City Council did not have to resign to run for other office.

The staff report also concluded that the precedents of the House require a higher degree of proof than a showing that a candidate received substantially fewer votes in a subsequent election.

Additionally, committee staff went to Atlanta and met with the city attorney's

office and Fulton County election officials. It was determined that the allegations of the voting irregularities made by Mr. Lowe were not substantiated. In many instances Mr. Lowe apparently misread the tally sheets and used the congressional vote rather than the total vote cast for Congress and the county commissioner race. The staff was satisfied that the alleged discrepancies were either explained away by examination or normal to the election process.

On October 6, 1977, the ad hoc election panel met and unanimously voted to dismiss the election contest.

Finally, on October 13, the full Committee on House Administration met and voted, again unanimously, to dismiss this case.

Mr. Speaker, I might point to my colleagues that this is the third election contest Mr. Lowe has filed with the House. This contest has no claim to legitimacy—in either fact or law—and I strongly urge my colleagues to promptly dismiss this matter.

Mr. THOMPSON. Mr. Speaker, I yield such time as he may consume to the distinguished minority member of the panel, the gentleman from Minnesota (Mr. FRENZEL), for debate only.

Mr. FRENZEL. Mr. Speaker, I thank the distinguished gentleman from New Jersey for yielding to me.

I support the statement of the distinguished gentleman from Pennsylvania, the task force chairman, and hope that the resolution will be promptly adopted.

Mr. THOMPSON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 717, FEDERAL MINE SAFETY AND HEALTH AMENDMENTS ACT OF 1977

Mr. PERKINS. Mr. Speaker, I call up the conference report on the Senate bill (S. 717) to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 3, 1977.)

Mr. PERKINS (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. PERKINS) will be recognized for 30 minutes, and the gentleman from Connecticut (Mr. SARASIN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, there is much in this conference report that can and should be applauded. For those of us who are closely identified with attempting to bring safer and more healthful working conditions to our Nation's coal miners, however, this legislation really reflects two chief accomplishments:

First. It affords to metal and nonmetal miners the same health and safety protections that have been available since 1969 to coal miners; and

Second. It draws from the tragic 1976 disaster at the Scotia Coal Mine in eastern Kentucky, which resulted in the needless and outrageous loss of 26 coal miners.

I will leave it to my colleagues to amplify on the protections this legislation will bring to metal and nonmetal miners, and will confine my own brief remarks to the mining I know best—coal mining—and to the lessons of Scotia that are now embodied in this new law.

On June 9, 1977, an experienced coal miner, Mr. Basil Holbrooke of Big Stone Gap, Va., appeared before our committee to testify as to his knowledge of the Scotia disaster. Mr. Holbrooke worked for the Scotia Coal Co. for 7 years. He had the good sense to quit that employment in 1969 because, as he stated to us:

> I was afraid of my own life. I mean there was going to be an explosion, and I knew it. It may take two weeks, three weeks, a year, two years, three years, but it is going to go. It is going and it did happen.

Basil Holbrooke told this to his brother in 1969. Scotia did "blow" in 1976—and his brother was killed in the second of the two explosions that occurred there on those March days.

Basil's testimony was illustrative in several important respects. For example, since the enactment of the landmark Coal Act of 1969, this committee has become increasingly intolerant of the ineptness and insensitivity of the Interior Department's enforcement of the law. Our oversight hearings into every major coal mine disaster since then have pointed the clear finger of complicity to the Interior Department in one or another serious respects. Those who live in the coal communities, and who were given hope by the promise of the 1969 act, have become cynical and despondent over its lack of enforcement. Mr. Holbrooke related this to the Scotia disaster:

> Chairman PERKINS. You once told me that you told the reporters down there that there was the law, but it was not enforced. Is that correct?
>
> Mr. HOLBROOKE. Yes, sir. We have laws. We have got plenty of laws. We have got laws to protect every man that goes in the coal mine, but these laws have got to be carried out. How can you protect people if they are not carried out.
>
> The only way that you can have safety, as I said, the only way that you can have safety is that everyone gets concerned with it. Then you have a good operation.
>
> Chairman PERKINS. When you quit there in 1969, you said that the conditions were such that they were intolerable, and you made the statement that the mine was going to blow sooner or later. Was that because of the inadequacy of the law, or was it because of the inadequacy of the enforcement?
>
> Mr. HOLBROOKE. It was the inadequacy of the enforcement.

Hopefully, this legislation puts an end to inadequate enforcement. One of its most important provisions transfers full enforcement responsibility from Interior to the Labor Department. We have simply given up on Interior. They have forfeited their entitlement to continue in the administration of this law. We have had enough. And our Nation's miners have had enough. Although we recognize that the Labor Department cannot reverse the failure to enforce this law overnight, we are hopeful that it will be better attuned to the safety and health needs of our miners, and not be unduly diverted by production considerations.

With respect to Scotia's widespread reputation as a dangerous coal mine, Basil Holbrooke was not alone in believing it would someday "blow." As our committee noted in our report of October 15, 1976, entitled "Scotia Coal Mine Disaster," Scotia was—

> " . . . known as one of the most dangerous mines in the United States and the most gassy mine in eastern Kentucky. In addition, the Scotia mine had a long and chronic history of federal coal mine health and safety violations. From the record, it is clear that the Scotia mine was a bad mine, a dangerous mine, a mine with a long and chronic history of health and safety violations. It was a mine which in our opinion placed production and profit before the safety and health of its miners. It was a mine which essentially ignored the law.

All of this was known to the Federal authorities involved and also to the community at large. Thus, it could have been reasonably calculated by anyone with even superficial knowledge of the Scotia operation that the mine was dangerous and that it was only a matter of time before it would blow. Yet, it was allowed to continue producing coal without regard for the safety of its miners.

We believed then and believe now that the Interior Department had the authority under the existing law to shut Scotia down based on its prior history of persistent dangerous violations. In order to eliminate any future doubt, however, the conference report contains clear authority for Federal inspectors to deal with a Scotia-type operation. This provision gives authority for an operator to be put on notice of a pattern of violations in the mine which could significantly or substantially contribute to the cause and effect of a mine safety or health hazard. Repeated violations of the same degree of potential hazard could result in the closure of the mine. This provision is directed to the Scotia-type operator. It is intended to give unquestioned authority to the inspector to deal with the reckless operator who operates his mine without regard for the safety or health of his miners. Thus, the conference report draws from the Scotia experience in this respect as well.

Additionally, this new law bears the Scotia stamp in its requirements for mandatory health and safety training and for access to mine rescue teams. Here again, the testimony of Basil Holbrooke was illustrative:

Chairman PERKINS. From all of your experience as a coal miner, which perhaps is as great as any other coal miner in the United States of your age, how do you rationalize the situation that took place there at Scotia?

Mr. HOLBROOKE. I think that some one or some people were lax in their safety, in my honest opinion. When you drop your safety, I don't care what mine it is, or where it is at, when you drop your safety programs, you have not got a coal mine, because you have got a mine that is not safe for the employees. So actually you do not have coal mine. You have something for a man to go in there and harm himself, any person who enters that mine.

Any company, any organization has to have a safety program, and let me put it this way, and men that enter any coal mine, you have to have men as well as company officials to work a safety program.

As our committee's Scotia report summarized:

The company's safety education and training program was a sham, and no one, including the company's safety inspector, could remember the last time a fire or mine evacuation drill had been conducted at the Scotia mine. Nothing more tragically demonstrates Scotia's sham program than the fact that six of the miners who died on March 9th probably could have saved themselves had they received proper training . . .

This new law requires detailed safety and health training and retraining. No more will miners die because they were not taught the basic fundamentals in self-protection.

Yet another lesson of Scotia is reflected in the conference report's requirement that mine rescue teams be available to certain mines in the case of accidents or disasters. Too often in the past, rescue efforts at a disaster site have had to await the delayed presence of a skilled but distant mine rescue team while hope for the safety of the victims has waned with the agonizing passing of each hour.

Mr. Speaker, this legislation also provides broader protection for miners who invoke their safety rights. If miners are to invoke their rights and to enforce the act as we intend, they must be protected from retaliation. In the past, administrative rulings of the Department of the Interior have improperly denied the miner the rights Congress intended. For example, *Baker* v. *North American Coal Co.*, 8 IBMA 164 (1977) held that a miner who refused to work because he had a good faith belief that his life was in danger was not protected from retaliation because the miner had no "intent" to notify the Secretary. This legislation will wipe out such restrictive interpretations of the safety discrimination provision and will insure that they do not recur.

Mr. Speaker, before concluding my remarks I would like to address one aspect of the conference report that seems to be somewhat ambiguous.

Section 103(a) of the conference report provides that authorized representatives of the Secretary or the Secretary of Health, Education, and Welfare shall make frequent inspections and investigations for the purpose of (1) obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of accidents and the causes of diseases and physical impairments originating in such mines, (2) gathering information with respect to mandatory health or safety standards, (3) determining whether an imminent danger exists, and (4) determining whether there is compliance with the mandatory health or safety standards or with any citation, order, or decision issued under this title or other requirements of this act. The Secretary shall develop guidelines for additional inspections of mines based on criteria including, but not limited to, the hazards found in mines subject to this act, and his experience under this act and other health and safety laws.

In carrying out the requirements of clauses (3) and (4)—concerning imminent dangers or compliance with standards—the Secretary shall make inspections of each underground coal or other mine in its entirety at least four times a year and of each surface coal or other mine in its entirety at least two times a year.

In addition to the regular inspections of each mine in its entirety as specified in section 103(a), section 103(g)(1) provides that whenever a representative of a miner, or a miner at a mine where there is no such representative, has reasonable grounds to believe that a violation or imminent danger exists, such representative or miner shall have a right to obtain an immediate inspection. Further, section 103(i) provides for additional inspections for any mine which liberates excessive quantities of methane or other explosive gases, or where a methane or gas ignition has resulted in death or serious injury, or there exists some other especially hazardous condition.

Section 103(f) provides that a miners' representative authorized by the operator's miners shall be given an opportunity to accompany the inspector during the physical inspection and pre- and post-inspection conferences pursuant to the provisions of subsection (a). Since the conference report reference is limited to the inspections conducted pursuant to section 103(a), and not to those pursuant to section 103(g)(1) or 103(i), the intention of the conference committee is to assure that a representative of the miners shall be entitled to accompany the Federal inspector, including pre- and post-conferences, at no loss of pay only during the four regular inspections of each underground mine and two regular inspections of each surface mine in its entirety, including pre- and post-inspection conferences.

The original section 103(a) of the Federal Coal Mine Health and Safety Act of 1969 provided that—

In carrying out the requirements of clauses (3) and (4) of this subsection in each underground mine, such representatives shall make inspections of the entire mine at least four times a year.

Section 103(a) of the 1969 act did not include the new provisions—

The Secretary shall develop guidelines for additional inspections of mines based on criteria including, but not limited to, the hazards found in mines subject to this act, and his experience under this act and other health and safety laws.

Section 103(h) of the 1969 act provided generally that—

At the commencement of any inspection . . . the authorized representative of the miners at the mine . . . shall be given an opportunity to accompany the authorized representative of the Secretary on such inspection.

Since the conference report does not refer to any inspection, as did section 103(h) of the 1969 act, but, rather to an inspection of any mine pursuant to subsection (a), it is the intent of the committee to require an opportunity to accompany the inspector at no loss of pay only for the regular inspections mandated by subsection (a), and not for the additional inspections otherwise required or permitted by the act. Beyond these requirements regarding no loss of pay, a representative authorized by the miners shall be entitled to accompany inspectors during any other inspection exclusive of the responsibility for payment by the operator.

Also, Mr. Speaker, the Senate bill contained a "general duty" clause generally requiring operators to provide a safe and healthful working place. We did not accept this Senate provision out of recognition that the law already contains explicit health and safety standards and also because we did not want such a vague and general duty clause to possibly become an inspector's vehicle for harassing and unjustifiably intimidating well-intentioned coal operators.

Finally, Mr. Speaker, I would be remiss if I did not take note of the tremendous contributions to the health and safety of our Nation's miners of the gentleman from Pennsylvania (Mr. DENT). Mr. DENT managed the landmark 1969 act and has responded to the legitimate needs of miners and their families during all of his legislative service. This legislation, as well, bears his stamp. Although he was physically unable to participate in the actual conference with the Senate, he was otherwise able to succeed in insuring that the bill fulfilled its potential. He deserves our continued recognition and respect.

Mr. Speaker, this is good legislation for all of our Nation's miners. It accords to metal and nonmetal miners the equivalent protections we have provided for coal miners; and with respect to coal miners, it underscores and secures the ambitious promise of the 1969 act. It truly deserves our unanimous support.

At this time, Mr. Speaker, I will yield time to the distinguished gentleman from Pennsylvania (Mr. GAYDOS), who conducted the hearings on the metallic and nonmetallic parts of this legislation. I know that the gentleman from Pennsylvania (Mr. GAYDOS) did a most thorough job, and he is prepared to answer any questions on the metallic and nonmetallic features. I think we will all understand better the provisions of the Federal Mine Safety and Health Act after the gentleman's presentation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. GAYDOS).

Mr. GAYDOS. Mr. Speaker, I would like first to express my sincere appreciation to—

The gentleman from Kentucky (Mr. PERKINS), the chairman of the full Committee on Education and Labor, for his dedication to upgrading the protections afforded all miners;

The gentleman from Pennsylvania (Mr. DENT), the chairman of the Subcommittee on Labor Standards, who has always been instrumental in improving safety and health conditions for miners;

The members of the Subcommittee on Compensation, Health, and Safety for their support of this legislation: AUSTIN MURPHY, ROBERT CORNELL, LEO ZEFERETTI, JOSEPH LE FANTE, MICHAEL MYERS, GEORGE MILLER, RONALD SARASIN, and JOHN BUCHANAN; and

Senator WILLIAMS and the other Senate conferees for their commitment to improving the safety and health of our Nation's miners.

I am pleased to report that the conferees on S. 717, the Federal Mine Safety and Health Amendments Act of 1977, have reached an agreement that is embodied in the conference report now under consideration. This legislation will go a long way toward improving the safety and health conditions in this Nation's mines.

Mining is recognized as one of this country's most hazardous occupations, and with the increased emphasis on the production of our natural resources, it is important that legislation be enacted now to provide improved safety and health conditions for our miners.

The conference substitute, while combining the best features of both the Senate and House bills, retains the salient provisions of the bill that passed the House in July. It provides, as did the House bill:

First. For joining all miners, both coal and noncoal, under one legislative act;

Second. For transferring the administrative and mine enforcement functions from the Department of Interior to the Department of Labor; and

Third. For upgrading the protections afforded metal and nonmetal miners.

The conference substitute also retains the provision that was included in the House bill which insures that existing and new standards applicable to metal and nonmetallic mines remain separate from existing and new standards applicable to coal mines.

The conference substitute contains numerous provisions which, in the opinion of the conferees, will result in a vastly improved national commitment to the safety and health of more than 487,000 miners, and which provisions I have hereinafter set forth.

STANDARDS-SETTING

The conference substitute modifies the standards-setting procedure of the 1969 Federal Coal Mine Health and Safety Act, which has served as the basis for the legislation now being considered. The substitute eliminates lengthy delays in existing standards-setting procedures by establishing strict statutory timetables to govern each step of the process. In other words, once the standards-setting process begins, it is regulated within a specific statutory time frame. For example, this bill limits advisory committee consideration of proposed standards to 180 days and it further provides that a requested hearing on any standard proposal must commence within 60 days of notice. These timetables should facilitate more expeditious promulgation of standards.

The conference substitute also addresses the problems associated with existing procedures for promulgating health standards. Unlike the Coal Act, the conference substitute vests the authority to develop all safety and health standards in the Secretary of Labor. This assignment of authority to one Secretary will eliminate the confusion and delay that sometimes result from the dual-agency promulgation roles (of Interior and HEW) required by the current Coal Act.

The conferees recognize the health expertise of the Secretary of HEW and the conference substitute thereby authorizes him, through NIOSH, to prepare criteria documents to be used in the development of health standards. To eliminate delay in the health standards-setting process, the conference substitute requires the Secretary of Labor to act on a NIOSH recommendation that is accompanied by appropriate criteria within 60 days of receipt.

In situations of grave danger to miners, the conference substitute authorizes the Secretary of Labor to issue emergency temporary standards without first going through the statutory standards-setting process. This provision should allow the Secretary to react quickly to grave dangers which threaten miners before those dangers manifest themselves in serious or fatal injuries or illnesses. A 9-month time limitation on emergency temporary standards insures operator participation in the promulgation procedure that results in the issuance of a final, permanent standard.

ADMINISTRATIVE REVIEW OF NOTICES, ORDERS, AND PENALTY PROPOSALS

The conference substitute effectuates several changes in the administrative review procedures that should expedite the handling of civil penalty matters, thereby increasing the efficiency of civil penalties as enforcement mechanisms.

The conference substitute provides for an independent Federal Mine Safety and Health Review Commission. This Commission is assigned all administrative review responsibilities and is also authorized to assess civil penalties. The objective in establishing this Commission is to separate the administrative review functions from the enforcement functions, which are retained as functions of the Secretary. This separation is important in providing administrative adjudication which preserves due process and instills confidence in the program. This separation is also important because it obviates the need for de novo review of matters in the courts, which has been a source of great delay.

The conference substitute imposes strict time limitations on each step of the procedures for administrative review and penalty assessment. The failure of an aggrieved party to exercise his right to contest an order on a penalty proposal within the statutorily imposed time limitations will render the administrative determination at that stage the final agency action, which is reviewable and enforceable in the courts. Concurrently, because uncontested agency determinations do become final agency actions, the time limitations have the effect of shifting the burden of seeking review from the Secretary to the aggrieved party.

Additionally, the conference substitute authorizes the courts to enforce routinely agency determinations that are not appealed within the statutory time limitations. This should keep penalty matters moving more expeditiously and should increase the usefulness or civil penalties as enforcement tools.

SAFETY AND HEALTH TRAINING

The conference substitute requires each operator to have a Secretary-approved safety and health training program. This program must provide:

No less than 40 hours of training for new underground miners who have had no previous underground work experience;

No less than 24 hours of training for new surface miners who have had no previous surface work experience; and

No less than 8 hours of annual retraining for all miners.

Any miner reassigned to a new task must be provided with training in the safety and health aspects of his new assignment if such miner has had no work experience at the new task.

The conference substitute further requires that safety and health training be provided at the expense of the operator and during normal working hours. Miners are to be paid their normal rate of compensation for time spent in training, and new miners are to be paid their beginning wage rate. If such training is given away from the mine, miners are to be compensated for their expenses.

Under the provisions of the conference substitute, operators are to certify that each miner received the requisite training. Training certificates are to be provided to each miner and a copy of each certificate is to be maintained at the mine. When a miner leaves an operator's employ, the training certificate is to be provided to the miner.

MINER PARTICIPATION IN INSPECTIONS

The conference substitute expands the concept of miners' participation in inspections by authorizing miners' representatives to participate not only in the actual inspection of a mine, but also in any pre- or post-inspection conferences held at that mine. The presence of such representatives at an opening conference aids miners in understanding the concerns of the inspector, and attendance at the closing conference enables miners to be apprised more fully of the inspection results.

The conference substitute additionally authorizes the Secretary's representative to permit more than one miner representative to participate in an inspection and in inspection-related conferences. However, it provides that just one such representative of miners, who is also an employee of the operator, is to be paid

by the operator for his participation in the inspection and conferences.

JUDICIAL REVIEW OF ANY STANDARD

The conference substitute authorizes any person who may be adversely affected by any promulgated standard to seek review of the standard in the U.S. Court of Appeals. This provision requires that all actions for review be commenced within 60 days of final promulgation of the standard. It further provides that objections not raised in administrative proceedings may not be considered by the court except for good cause. Because this review procedure is the only mechanism for contesting the validity of a standard, such standards shall not be subject to collateral attack in enforcement proceedings.

PENALTIES

In addition to those penalties currently authorized under the Coal Act, the conference substitute:

Authorizes the issuance of a discretionary penalty, of not more than $1,000 per day, for any violation that remains unabated beyond the abatement period; and

Provides a criminal sanction, of not more than $1,000 or 6 months imprisonment, or both, for persons convicted of giving advance notice of any inspection.

WITHDRAWAL ORDERS

In addition to the withdrawal orders authorized by existing law, the conference substitute authorizes the Secretary to issue a withdrawal order based on the existence of a pattern of violations of standards that could "significantly or substantially contribute to the cause and effect of a mine safety and health hazard."

PROTECTION FROM IMMINENT DANGER

The conference substitute authorizes miners or their representatives to make written requests for inspections based on suspected violations of standards or conditions of imminent danger. The substitute requires the Secretary to notify the operator of a mine or his agent forthwith if the complaint indicates that an imminent danger exists. Otherwise, miners might continue to work in an imminently dangerous situation until the Secretary is able to inspect the mine pursuant to the request. While this provision, in fact, gives the operators the opportunity to abate such dangerous conditions, its sole purpose is to protect the health and safety of miners.

PROTECTION OF MINERS AGAINST DISCRIMINATION

The conference substitute expands the coverage of those presently protected against discriminatory actions under the Coal Act to include applicants for employment.

Additionally, to protect miners from the adverse and chilling effect of loss of employment while discrimination charges are being investigated, the conference substitute provides that if the Secretary determines that any such charge was not brought frivolously, the Secretary may seek temporary reinstatement of the complaining miner pending final outcome of the investigation.

INSPECTIONS OF SURFACE MINES

Because of the significant number of injuries and deaths occurring in surface mines, the conference substitute mandates a minimum of two inspections annually of all such surface mines.

CONCLUSIONS

Mr. Speaker, the conference substitute contains numerous other provisions which, in the opinion of the conferees, will result in a vastly improved national commitment to the safety and health of this Nation's 487,000 miners.

I commend the conference report to the House and urge Members to give it their full support.

Mr. PERKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Speaker, I rise in support of the conference report on S. 717, the Federal Mine Safety and Health Amendments Act of 1977. The issues addressed by this conference report were the focal points of hearings conducted earlier this year by the Subcommittee on Compensation, Health and Safety, of which I am a member, and I fully support the agreement reached by the conferees on this report.

This legislation will go a long way toward improving the safety and health conditions in this Nation's mines. Mining is recognized as one of this country's most hazardous occupations, and with the increased emphasis on the production of our natural resources, it is important that legislation be enacted now to provide improved safety and health conditions for our miners.

The conference substitute, while combining the best features of both the Senate and House bills, retains the salient provisions of the bill that passed the House in July and will result in vastly improved safety and health standards to thousands of miners.

I urge all Members to give it their full support.

Mr. SARASIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on mine safety. During the last 5 years, I have supported strong Federal legislation in combination with the States to assure employee health and safety in the work place. I believe this conference report is most effective in assuring health and safety in the working environment of miners.

The Committee on Education and Labor has been studying the mine safety problem for the last two Congresses. Last Congress we reported and passed a bill that offered additional protections to our Nation's metal and nonmetallic miners. The conference report today offers additional protection to our metal and nonmetallic miners and to our coal miners as well.

During House consideration of the mine safety legislation earlier this year, I offered a substitute to the committee bill which would have retained two separate acts, the Metal and Nonmetallic Mine Safety Act and the Federal Coal Mine Health and Safety Act, but the substitute would have substantially upgraded the Metal and Nonmetallic Mine Safety Act in a manner similar to the conference report under consideration. The House rejected my substitute, choosing to combine metal and nonmetal into the existing Coal Mine Health and Safety Act. I accept the judgment of the House in that regard, and the conference report reflects that determination. The House bill, although combining the two, did not substantially strengthen either the Coal Act or the Metal and Nonmetallic Act as my substitute did. The work of the other body did provide for upgrading the enforcement provisions of both coal and noncoal in a manner similar to my substitute. The result of the conference conforms to my view that the metal and nonmetallic miners need additional protections, and, although combining coal and noncoal, keeps the standards as to each separate. The effect of the conference conforms to my dedication to support legislation I think most effective in assuring health and safety in the work place.

Let me emphasize a few of the points of interest from the conference and the report. First, the "general duty" clause in the Senate bill, not contained in the House bill, was eliminated. During House consideration of the Mine Safety Act, in the substitute I offered was a provision for a general duty clause. However, my substitute addressed only the metal and nonmetallic mines. I felt this was necessary since our hearings revealed that mandatory standards for metal and nonmetallic mines were not as prolific as standards for coal mines. It was further alleged that there were many "permissive" or advisory standards floating around which had not been made mandatory as to metal and nonmetal mines. For those reasons, I thought it best to cover metal and nonmetal mines under a general duty clause in order to adequately protect the miners in those mines.

On the other hand, it is readily apparent from reading the coal act, and its interim standards, that coal mines are well covered by mandatory standards. It appears there is absolutely no necessity for a general duty clause that would be applicable to coal mines. Since the bill that emerged from conference combined coal and noncoal into one act, the conferees took into consideration the abundance of standards regulating coal mines and found a general duty clause would not further the interests of health and safety, but may result in some mischief. From my own point of view, I also felt that the general duty clause in the context of the Coal Act, with its mandatory penalties, may not be in the best interest of the hardrock miners either. For the first time, noncoal mines will be subject to mandatory civil penalties, and the imposition of the general duty clause, which would have allowed the issuance of citations and assessment of civil penalties based on a violation of that clause, may have detracted from the sometimes successful attempts to achieve voluntary compliance and created too much of an adversary relationship. In my mind, the intent of the legislation should be to offer protection to the workers, not to

create an unduly heavy burden on the operators. Further, miners are protected by the imminent danger withdrawal order, which can be issued even if the imminent danger does not result from a violation of a mandatory health or safety standard. With this protection, it appears the general duty clause becomes redundant. The conference acted wisely in eliminating the general duty clause considering the circumstances.

Secondly, the standard-setting process is greatly improved by the conference report. Of particular interest is the conferees' recognition of the value of cross-examination in the development of standards. Under the Metal and Nonmetallic Act, the right of cross-examination was expressly recognized. Our hearings revealed at least one instance where the right to cross-examination in the development of standards for trona mines prevented what could have been a dangerous standard for underground trona miners. Although the bill that emerged from conference adopted the Coal Act's standard-setting procedure which does not expressly require cross-examination in the standard-setting process, the conferees were convinced of the value of cross-examination. Accordingly, it is my understanding that the conferees' intent was that the Secretary was to permit cross-examination so that a definitive hearing record could be developed. I might even say that it is the intent of the conference that cross-examination is preferred, but that such preference is not to be construed as a means to delay the standard-setting process. In this regard, the Secretary is directed to exercise discretion so that the law and the standard-setting process will be reconciled in the interests of the health and safety of the miners.

Thirdly, I find that the conference report puts heavy emphasis on health standards and training. Both these issues have been relatively ignored for years. As a matter of fact, under the Metal and Nonmetallic Act, health was completely forgotten and NIOSH had no authority to assist in development of health standards. The emphasis on health must not be underestimated, for we are discovering more and more dangers in the environment of the work place. The authority and the emphasis are in the conference report. It is a great improvement.

Fourth, the conference report contains a new type of withdrawal order based on a pattern of violations. This new enforcement authority was included as a result of the investigations the committee conducted into the cause of the Scotia Coal Mine explosion in 1976. This authority will enable MSHA to close mines in which inspectors find a pattern of consistent serious violations of the standards set by this act.

Fifth, in proposing and assessing civil penalties, the conference report conforms to the House bill which provided that six criteria shall be considered. Therefore, in proposing civil penalties, the Secretary must consider: First, the gravity of the violation; second, the good faith of the person charged; third, the history of previous violations; fourth, the size of the business being charged; fifth, the negligence of the operator; and sixth, the effect on the operator's ability to continue in business. The Senate bill had eliminated the last two criteria, but the conference reinstated them. I believe that since we are now bringing the metal and nonmetallic miners under coverage of mandatory civil penalties for the first time, that the last two criteria are essential. Many of the metal and nonmetallic operations are small businesses. They need to be evaluated on that basis, as well as on the basis as to whether they were negligent or not.

Sixth, the conference report provides for the transfer of enforcement from the Department of the Interior to the Department of Labor under a new Assistant Secretary for Mine Safety and Health. The concept of worker safety and health programs in one Department is not an unrealistic concept, but it should be emphasized that mine safety will be separate from OSHA. The upgrading of mine safety and health enforcement to the Assistant Secretary level, no matter where located, is an improvement that registers no dissent. As there is no doubt that the Labor Department's main concern will be the worker, labor's complaint that the Department of the Interior was more production oriented than safety conscious, resulting in a conflict of missions, will be alleviated. The fact that the Steelworkers and the United Mine Workers personally feel they would get more protection from the Department of Labor is compelling reason for the transfer, since these are the workers who must work at the hazardous occupation of mining.

It has been argued that research will be disrupted and fragmented if the transfer takes place, but it is not beyond comprehension that the Department of the Interior and the Bureau of Mines can cooperate with the Department of Labor in developing technical expertise to provide for greater production of resources along with better safety methods. There is no reason why effective research within Interior cannot continue and there is no reason the two Departments should not cooperate as effectively as the Department of the Interior claims the Bureau of Mines and MESA have in the past. It is the conferees' intention that they do so.

By supporting the transfer, I do not cast any aspersions upon the Department of the Interior or MESA. The statistics supplied show that fatalities and disabling injuries in mines have shown an encouraging downward trend. As I have previously stated, that is to the Department of Interior's and MESA's credit, and I continue to hope that that trend will accelerate when the transfer takes place.

Finally, there has been some representations that possibly mine safety will become mixed with OSHA or enforcement and research funds will be diverted into general industry safety. However, in supporting the transfer, I expect, as the conference report indicates separate administration from OSHA, a continuing emphasis on safety and health for miners, no organizational or policy changes by the Department outside the confines of the legislation, and no redistribution of MSHA resources to OSHA general industry. Since all of us are aware of the highly dangerous conditions of working in the mines, there can, in good conscience, be no lessening of concern of the welfare of our Nation's miners. I believe the Department of Labor will carry out our expectations in the manner we have expressed.

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. SARASIN. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Speaker, I support the conference report on mine safety.

For two Congresses we have been debating mine safety legislation. During the 94th Congress on a bill to amend the Metal and Nonmetallic Act of 1966, I offered an amendment that would have retained the enforcement of mine safety in the Department of the Interior. The House rejected that amendment, and I accept the judgment of the House in that regard.

The conference report before us today transfers enforcement from the Department of the Interior to the Department of Labor. It has been alleged that the Department of the Interior was caught in a "conflict of missions" in both enforcing mine safety and of finding efficient ways of meeting the need and demands for production of energy and mineral resources. Although I am skeptical of that reasoning, it is clear that the Department of Labor has been the traditional agency entrusted with the responsibility for overseeing the welfare, safety, and health of our Nation's work force. Since both the major unions representing employees who work in our Nation's mines, the United Mine Workers and the Steelworkers, regard the Department of Labor with considerably more credibility than they do the Department of the Interior, and since those representatives of workers feel that the transfer is in the best interests of the miners, I am supporting the transfers at this time.

The conference report is a strong piece of legislation. It brings metal and nonmetallic operators under the provisions of the Federal Coal Mine Health and Safety Act and repeals the Metal and Nonmetallic Act. It is apparent that these new provisions of law as they affect noncoal mines will be a strong dose for some of the smaller operators. It is hoped that the Department of Labor will make every effort to acquaint them with the new provisions of the law as quickly as possible.

I am pleased that an amendment I offered in committee, which was accepted, is retained in the conference report, namely that standards promulgated under this bill would be applicable to metal and nonmetallic mines or to coal mines respectively. I direct the attention

of the House to page 64 of the statement of managers which states:

The Senate bill and the House amendment contained substantially similar provisions concerning the carryover of existing safety and health standards under the Metal and Coal Acts as standards applicable to metal and nonmetallic mines and coal mines respectively under this bill. The Senate bill used the term defined in the Coal Act, "mandatory health or safety standards"; the House amendment referred only to "standards". The Senate bill stated that such standards be applicable until modified, amended or revoked under the provisions of this bill. The House amendment more clearly specified that new standards promulgated under this bill be applicable to metal mines or to coal mines.

The conference substitute conforms to the House amendment, with a technical amendment to include the defined term, "mandatory health or safety standards."

Therefore, it is clear that although the two laws are merged into one, the Secretary, in promulgating standards, is to promulgate standards applicable to metal and nonmetallic mines or to coal mines, respectively.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. SARASIN. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Speaker, I rise in support of the conference report on mine safety. During the consideration of this legislation before our committee, I endorsed strong legislation to insure a safe and healthful working environment in our Nation's mines. This conference report represents such strong legislation.

The conference report implements the will of the House by bringing metal and nonmetallic mining and milling under the jurisdiction of the Federal Coal Mine Health and Safety Act of 1969. In doing so, it repeals the Metal and Nonmetallic Mine Safety Act of 1966.

The conference report further complies with the will of the House by transferring the enforcement of mine safety from the Department of the Interior to the Department of Labor under a new Assistant Secretary for Mine Safety and Health. This transfer resolves the alleged conflict in the Department of the Interior between its mission of maximizing production and protecting the well-being of the Nation's miners. The transfer places the protection of miners in the same Department which is responsible for the health and safety of most American workers.

In combining metal and nonmetallic mining with coal mining in a single statute, the conference report retains the amendment offered by Mr. QUIE in committee which requires that standards promulgated be applied separately and respectively to metal and nonmetallic mines or to coal mines. This seems to be an appropriate accommodation to those who were concerned about the combination of the two acts.

Over the years there has been much attention quite rightly focused on the harsh safety statistics in mining, but there has been too little attention directed to the potentially dangerous health conditions existing in many noncoal mines, and even in coal mines. During committee markup I offered an amendment, which was accepted, which would direct the Secretary of Health, Education, and Welfare to determine whether toxic materials or harmful physical agents found in mines are potentially toxic at concentrations in which they are used or found in mines and to present such determinations to the Secretary of Labor, together with all pertinent criteria and a proposed standard. The reported bill directed that research be made and standards prepared to protect miners from dangers and health hazards in terms of exposure to toxic or carcinogenic substances about which not enough is known presently to provide for concerned enforcement of health standards.

The conference report strengthened the provisions for the health of miners and health standards. I invite the attention of the House to page 41 of the conference report in the statement of managers:

The Senate bill required that in setting standards dealing with toxic substances and harmful physical agents, the Secretary establish a standard, based on the best available scientific and other data, which would adequately assure that no miner would suffer material impairment of health or functional capacity even if exposed to the regulated substance or hazard regularly for the period of his working life. The Senate bill further provided that when practicable, the standard be expressed in terms of objective criteria or performance desired. The House amendment contained no such provision.

The Senate bill and the House amendment contained provisions requiring the Secretary of Health, Education, and Welfare, within 18 months in the Senate bill, and 3 years in the House amendment, and on a continuing basis thereafter, to determine whether toxic materials or harmful agents found in mines are potentially toxic in concentrations found in the mines, and to transmit such information to the Secretary. The Senate bill required that thereafter, the Secretary of HEW shall forward proposed standards and appropriate criteria to the Secretary, as developed, and that, as received, the Secretary shall within 60 days, either propose health standards pursuant to the rulemaking procedure or publish his determination not to do so. The House amendment required the HEW Secretary to submit proposed standards and criteria to the Secretary at the time he submitted the toxic substance list. The House version compelled the Secretary to publish such recommended standards upon receipt.

In both regards, the conference substitute conformed to the Senate bill, which had a better defined emphasis on health. The conference report also requires the use of labels, personal protective equipment or technological procedures be used where appropriate and further provides for medical monitoring of miner exposures. Additionally, periodic medical exams are required at the operator's expense where a miner is exposed to toxic materials, and encourages participation in medical program. The conference substitute, consistent with the House bill, does not provide for variances to health standards.

Further, in its concern for the health of miners, the conference substitute speeds up the issuance of the standards-setting process and even provides for emergency temporary standards.

This emphasis on health plus the retention of the essential safety approach of the House version makes this conference report one which should be acceptable to the House and I urge its support.

Mr. SARASIN. Mr. Speaker, I yield back the balance of my time.

Mr. PERKINS. Mr. Speaker, we have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. WRIGHT). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 376, nays 35, answered "present" 1, not voting 22, as follows:

[Roll No. 707]

YEAS—376

Addabbo	Cederberg	Flippo
Akaka	Chappell	Flood
Allen	Chisholm	Florio
Ambro	Clay	Flynt
Ammerman	Cleveland	Foley
Anderson, Calif.	Cochran	Ford, Mich.
	Cohen	Ford, Tenn.
Anderson, Ill.	Coleman	Forsythe
Andrews, N. Dak.	Conable	Fountain
	Conte	Fowler
Annunzio	Conyers	Fraser
Armstrong	Corcoran	Frenzel
Ashley	Corman	Frey
Aspin	Cornell	Fuqua
Badham	Cornwell	Gammage
Badillo	Cotter	Gaydos
Baldus	Coughlin	Giaimo
Barnard	Cunningham	Gibbons
Baucus	D'Amours	Gilman
Beard, R.I.	Daniel, Dan	Ginn
Beard, Tenn.	Daniel, R. W.	Glickman
Bedell	Danielson	Goldwater
Bellenson	Davis	Gonzalez
Benjamin	de la Garza	Goodling
Bennett	Delaney	Gore
Bevill	Dellums	Gradison
Biaggi	Dent	Grassley
Bingham	Derrick	Guyer
Blanchard	Derwinski	Hagedorn
Blouin	Dickinson	Hall
Boggs	Dicks	Hamilton
Boland	Diggs	Hammer-schmidt
Bonior	Dingell	
Bonker	Dornan	Hanley
Bowen	Downey	Hannaford
Brademas	Drinan	Harkin
Breaux	Duncan, Oreg.	Harrington
Breckinridge	Duncan, Tenn.	Harris
Brinkley	Early	Harsha
Brodhead	Eckhardt	Hawkins
Brooks	Edgar	Heckler
Broomfield	Edwards, Ala.	Heftel
Brown, Calif.	Edwards, Calif.	Hightower
Brown, Mich.	Ellberg	Hillis
Brown, Ohio	Emery	Holland
Buchanan	English	Hollenbeck
Burgener	Erlenborn	Holtzman
Burke, Calif.	Ertel	Horton
Burke, Fla.	Evans, Colo.	Howard
Burke, Mass.	Evans, Del.	Hubbard
Burlison, Mo.	Evans, Ga.	Huckaby
Burton, John	Evans, Ind.	Hughes
Burton, Phillip	Fary	Hyde
Butler	Fascell	Ichord
Byron	Fenwick	Ireland
Caputo	Findley	Jacobs
Carney	Fish	Jeffords
Carr	Fisher	Jenkins
Cavanaugh	Fithian	Jenrette

Johnson, Calif.	Moore	Shipley
Johnson, Colo.	Moorhead, Calif.	Shuster
Jones, N.C.	Moorhead, Pa.	Sikes
Jones, Okla.	Moss	Simon
Jones, Tenn.	Mottl	Sisk
Jordan	Murphy, Ill.	Skelton
Kasten	Murphy, N.Y.	Skubitz
Kastenmeier	Murphy, Pa.	Slack
Kazen	Murtha	Smith, Iowa
Kemp	Myers, Gary	Smith, Nebr.
Ketchum	Myers, John	Snyder
Keys	Myers, Michael	Solarz
Kildee	Natcher	Spellman
Kindness	Neal	Spence
Kostmayer	Nedzi	St Germain
Krebs	Nichols	Staggers
Krueger	Nix	Stanton
LaFalce	Nolan	Stark
Lagomarsino	Nowak	Steed
Latta	O'Brien	Steers
Le Fante	Oakar	Steiger
Leach	Oberstar	Stockman
Lederer	Obey	Stokes
Leggett	Ottinger	Stratton
Lehman	Panetta	Studds
Levitas	Patten	Taylor
Livingston	Patterson	Thompson
Lloyd, Calif.	Pattison	Thone
Lloyd, Tenn.	Pease	Thornton
Long, La.	Pepper	Traxler
Long, Md.	Perkins	Treen
Lott	Pettis	Trible
Lujan	Pickle	Tsongas
Luken	Pike	Tucker
Lundine	Pressler	Udall
McCory	Price	Ullman
McCloskey	Pritchard	Van Deerlin
McCormack	Quie	Vander Jagt
McDade	Quillen	Vanik
McEwen	Rahall	Vento
McFall	Railsback	Volkmer
McKay	Rangel	Waggonner
McKinney	Regula	Walgren
Madigan	Reuss	Walker
Maguire	Richmond	Walsh
Mahon	Rinaldo	Wampler
Mann	Risenhoover	Watkins
Markey	Robinson	Waxman
Marks	Rodino	Weaver
Marlenee	Roe	Weiss
Marriott	Rogers	White
Mathis	Roncalio	Whitehurst
Mattox	Rooney	Whitley
Meeds	Rosenthal	Whitten
Metcalfe	Rostenkowski	Wilson, Bob
Meyner	Roybal	Wilson, Tex.
Michel	Runnels	Winn
Mikulski	Ruppe	Wirth
Mikva	Russo	Wolff
Milford	Ryan	Wright
Miller, Calif.	Sarasin	Wydler
Mineta	Sawyer	Wylie
Minish	Scheuer	Yates
Mitchell, Md.	Schroeder	Yatron
Mitchell, N.Y.	Schulze	Young, Fla.
Moakley	Seiberling	Zablocki
Moffett	Sharp	Zeferetti
Mollohan		

NAYS—35

Abdnor	Gudger	Roberts
Andrews, N.C.	Hansen	Rose
Archer	Hefner	Rousselot
Ashbrook	Holt	Rudd
Bauman	Kelly	Santini
Broyhill	McDonald	Satterfield
Burleson, Tex.	Martin	Sebelius
Collins, Tex.	Miller, Ohio	Stangeland
Crane	Poage	Stump
Devine	Preyer	Symms
Edwards, Okla.	Quayle	Young, Mo.
Gephardt	Rhodes	

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—22

Alexander	Collins, Ill.	Pursell
Applegate	Dodd	Teague
AuCoin	Flowers	Whalen
Bolling	Koch	Wiggins
Carter	Lent	Wilson, C. H.
Clausen, Don H.	McHugh	Young, Alaska
Clawson, Del	Mazzoli	Young, Tex.
	Montgomery	

The Clerk announced the following pairs:

Mr. McHugh with Mr. Young of Alaska.
Mr. Teague with Mr. Carter.
Mr. Montgomery with Mr. Pursell.
Mr. AuCoin with Mr. Wiggins.
Mr. Koch with Mr. Lent.
Mr. Dodd with Mr. Whalen.
Mr. Applegate with Mr. Del Clawson.
Mr. Flowers with Mr. Don H. Clausen.
Mr. Charles H. Wilson of California with Mrs. Collins of Illinois.
Mr. Alexander with Mr. Mazzoli.

Messrs. YOUNG of Missouri, GUDGER, HEFNER, MARTIN, PREYER, BROYHILL, ROSE, and ROBERTS, changed their vote from "yea" to "nay."

Mr. SCHEUER changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

DIRECTING THE CLERK TO MAKE CORRECTIONS IN THE ENROLLMENT OF S. 717

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con. Res. 57) to correct the enrollment of the Senate bill S. 717 to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I wonder if the gentleman would explain why this unanimous-consent request is required.

Mr. GAYDOS. Will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. When the report was printed, there were several conforming changes that were required, which were of a technical nature. The corrections have been made.

Mr. ROUSSELOT. Does the gentleman mean we have been considering and voting on an imperfect bill?

Mr. GAYDOS. Voting on a bill that was not perfected as far as technical requirements were concerned.

Mr. ROUSSELOT. Shocking!

Mr. GAYDOS. Well, that happens now and then.

Mr. ROUSSELOT. Oh, it does?

Mr. SARASIN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I am delighted to yield to my distinguished colleague from Connecticut, where there are a number of coal mines.

Mr. SARASIN. I would just like to assure the gentleman from California that this is an essential change. There is no essential move and no great change in the bill. We are not trying to do anything to the gentleman.

Mr. ROUSSELOT. The gentleman is not doing it to me because I do not have coal mines in my district. I am just like my former colleague from Hawaii, Patsy Mink, who used to be a great authority on coal mines.

But, the gentleman can now assure me that there are absolutely no substantial changes as a result of the unanimous-consent request of the gentleman from Pennsylvania in the substance of the bill?

Mr. SARASIN. That is correct.

Mr. ROUSSELOT. I appreciate knowing that my two colleagues can assure me of that.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 57

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate is authorized and directed, in the enrollment of the bill (S. 717) to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes, to make the following corrections:

(1) In section 101(a) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, insert "this section and in accordance with" after "in" the second time it appears.

(2) In section 101(c) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, strike "health or".

(3) In section 104(h) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, strike "subsections (b), (c), or (d)" and substitute "this section".

(4) In the fourth sentence of section 109(d) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, strike "case," and substitute "case".

(5) In section 110(d) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, insert "and section 107" immediately after "section 104".

(6) In section 115(c) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 201 of the bill, strike "(g)" and substitute "(f)".

(7) In section 202(e) of the Federal Coal Mine Health and Safety Act of 1969, as amended by section 202(a) of the bill, strike "means" and substitute "mean".

(8) In section 301(b)(1) of the bill, strike "or other".

(9) In section 301(b)(2) of the bill, strike "under section 101 of the Federal Mine Safety and Health Act of 1977.".

(10)(A) In section 302(a) of the bill, strike "Amendments", and (B) strike "Mining Enforcement and Safety" and substitute "Mine Safety and Health".

(11) In section 303(a)(5) of the bill, strike "last" and substitute "first".

(12) In section 305 of the bill, strike "Health and Safety" and substitute "Safety and Health".

Mr. GAYDOS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate concurrent resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 1139, NATIONAL SCHOOL LUNCH AND CHILD NUTRITION AMENDMENTS OF 1977

Mr. PERKINS. Mr. Speaker, I call up the conference report on the bill (H.R. 1139) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to revise and extend the summer food service program for children, to revise the nonfood assistance program, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 14, 1977.)

Mr. PERKINS (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman assure us we will have full and complete discussion on the free lunch program?

Mr. PERKINS. If the gentleman will yield, I can assure the gentleman from California that that will be the case.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. PERKINS) will be recognized for 30 minutes, and the gentleman from Minnesota (Mr. QUIE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. PERKINS. Mr. Speaker, the conference report on H.R. 1139 is a balanced piece of legislation which was hammered out in conference and has the support of all the conferees, both Senate and House Members and Republicans and Democrats. I believe that it is a sound bill making a number of needed improvements in our Federal feeding programs.

The six major provisions of the conference report are the following:

First, the summer food service program for children is extended for 3 fiscal years and the requirements for both sponsors and vendors are tightened up and include the imposition of criminal penalties for any fraudulent conduct.

Second, the commodity distribution program is made more responsive to the needs of children by giving local schools the right to refuse up to 20 percent of the commodities offered to them and by requiring the States and the Department of Agriculture to listen to the advice of local schools on the types of commodities their children will consume. The program is also amended by requiring an analysis of Kansas' experience with cash in lieu of commodities and by permitting the funding of no more than 10 local pilot projects using cash in lieu of commodities.

Third, the food service equipment program is amended by continuing for 3 years the reservation of one-third of the funds to expand the program to "no program schools" and to schools without the facilities to prepare and cook hot meals or to receive hot meals. A priority on the use of nonreserved funds is also established in order to first provide assistance to those schools without the facilities to prepare and cook hot meals on site and to kitchens operated by schools.

Fourth, the so-called "competitive foods" section is amended to require the Secretary of Agriculture to approve the particular foods which can be offered by local schools at the same time and place of the operation of their school lunch program. Presently, the States and local school districts have sole discretion in deciding which competitive foods can be offered.

Fifth, a new nutrition education program is established for 3 fiscal years. This program will provide funds for nutrition education to be offered throughout the country for all students in elementary and secondary schools and in other institutions.

Sixth, miscellaneous improvements are also made by eliminating an extra payment for milk, by increasing the funds for State administration, by increasing the reimbursements for breakfasts in especially needy schools and by cutting back on unnecessary paper work in determining children eligible for free and reduced price meals.

Mr. Speaker, I would now like to go into some more detail on these provisions of the conference report for the information of the Members.

SUMMER FOOD SERVICE PROGRAM

As you may recall, when H.R. 1139 was before the House on May 18, I pointed out that the committee had found, during its oversight hearings, evidence of numerous abuses in the summer food service program—abuses such as inedible food, overordering of meals, unsuitable meal sites, and substantial waste. We felt that the viability of the program was at stake, and that it was imperative to enact strong corrective legislation immediately to prevent such abuse in future summers. Although legislation was too late to have a bearing on the summer program in 1977, the Department of Agriculture took the opportunity to effect substantial improvements in the 1977 program through modification of its regulations, and it is to be highly commended for this action.

The need for revision of the summer lunch program led the committee to consider other aspects of child feeding which were in need of improvement or correction—namely, commodity donations, plate waste, food service equipment, State administrative expenses, and the breakfast program, all of which eventually became part of H.R. 1139, but the primary concern, and the impetus for action, was the need to eliminate the abuses in the summer program which had been revealed, and which had resulted in misuse of program funds for private gain.

Concerning the summer program, the conference report basically sustains the anti-fraud provisions which the House approved in May. We have tightened up the eligibility requirements for sponsors as well as vendors, insured high quality offerings to children by means of food and facilities inspection requirements, and set criminal penalties for fraud and embezzlement. We have also adjusted the State administrative cost structure and the advanced payment provision so that they will be in compliance with sound management policy.

The conference report encourages sponsorship by well-qualified service institutions and public and private schools, and retains the House provision which requires the Secretary of Agriculture and the States to seek eligible institutions located in rural areas as sponsors of a summer program.

The conference report adopts the provision to authorize the summer program for 3 fiscal years—through 1980. The House bill contained a 2-year authorization only. But there is no question about the intention of the Committee on Education and Labor—we will be looking at the quality of the program and the effect of this legislation upon the performance of sponsors and vendors long before the expiration date of the legislation and will have no hesitation in making additional changes if it appears to be necessary to do so.

COMPETITIVE FOODS AND NUTRITION EDUCATION

The conference committee dealt with two provisions, namely, the competitive food service amendment, and the nutrition education amendment, in a manner that is thoroughly consistent. One provision tends to be reinforcing to the other. Both provisions are designed to upgrade children's dietary habits and food intake.

First, the competitive food provision, as adopted by the conference, amends existing law by requiring the Secretary of Agriculture to approve competitive

foods that may be offered at the time and place of the service of school lunch. Public Law 91–248 enacted May 14, 1970, gave to the Secretary of Agriculture the power to issue regulations relating to the "service of food in participating schools and service institutions in competition with the programs" authorized under the Child Nutrition Act and the School Lunch Act. Public Law 92–433, enacted September 26, 1972, curtailed the Secretary's authority to regulate, as follows:

Such regulations shall not prohibit the sale of competitive foods in food service facilities or areas during the time of service of food under this Act or the National School Lunch Act if the proceeds from the sales of such foods will inure to the benefit of the schools or of organizations of students approved by the schools.

Thus, a school could approve a competitive food service making available offerings which could make no contribution to the child's nutrition, and which would be undermining the National School Lunch program.

I have received communications from a number of segments of the scientific and medical community, as I am sure my colleagues have, including physicians, dentists, nutritionists, dietitians, and public health workers, urging that Federal regulations again be mandated for competitive foods, in the interest of protecting children's health, including dental health. While it is true that a few States and localities have been able to prohibit the encroachment of vending machines and counter sales of junk foods, for example, in West Virginia, the State board of education has prohibited the sale of candy, soft drinks, chewing gum, and popsicles, what is needed is the force and effect of the Secretary's regulatory power. The Department has assured the conferees that their intent is to make certain that the foods available do make a "positive nutritional contribution in terms of their overall impact of children's diets and dietary habits."

Second, the nutrition education amendment provides for grants to State education agencies, at the rate of 50 cents for each child enrolled in schools and institutions, to undertake a variety of educational endeavors aimed at providing students with instruction on the nutritional value of foods and the relationship between food and health. This program goes hand in hand with the provision regulating competitive food service. It would be totally inconsistent to provide nutrition education on the one hand, and to permit on the other hand, the sale of food offerings which were totally contrary to the teachings of nutrition education.

In its report to the Congress entitled, the National School Lunch Program—Is It Working?, dated July 26, 1977, the General Accounting Office expressed the need to upgrade nutrition education, as follows:

. . . it may be desirable to shift the emphasis on nutrition education from conceiving it as a passive, abstract discipline to a viable, active part of preventive health. We believe nutrition education needs to deal with current food trends. It needs to identify food as more than a mere composite of RDA nutrients. Improved nutrition education involves disseminating appropriate knowledge on extenders, saturated fats, fibers, preservatives, and other food constituents present in today's market. Associating diet practices with day-to-day health is felt to be more relevant for school children, who made aware of health problems in their environment, may see direct application of nutrition instruction in their daily lives.

The conference report confirms that the Congress and the Federal Government must play a dominant role in fostering a wide dissemination of information now available on the relationship between food and obesity, heart and vascular disease, tooth decay, and other costly health problems. Nutrition education is, in fact, a bargain, compared to the costs incurred because of ignorance of proper dietary needs, and resulting health problems.

The nutrition education program was a 5-year entitlement in the Senate bill. Thus, a State would become entitled to a grant of funds in the amount of 50 cents multiplied by the number of children enrolled in its schools and institutions.

The conference report provides for a 2–year entitlement program, and one additional year for which funds would have to be appropriated. I feel this is a fair compromise for the adoption of a new and important program which is intended to improve children's health through knowledge and understanding. If effectively carried out, nutrition education will alter children's eating patterns and we would hope at the same time, widen participation in the school lunch program, cut the waste of food, and lower the unit cost of providing meals.

For the purpose of the legislative history in interpreting the provisions for the new program, I would like to mention that in calculating its coverage we consulted with the Congressional Budget Office which, using data found in the "Projection of Educational Statistics to School Year 1985–86" published by the Center for Educational Statistics of the Department of Health, Education, and Welfare, estimated that for fiscal year 1978 there would be the following number of eligible children: 49,021,000 children in school grades kindergarten through twelth grade; 2,003,000 children in independent nursery schools and kindergartens; and 1,300,000 children in other educational institutions. This would give us a total of 52,400,000 children enrolled in schools and educational institutions who could be participating in the program.

COMMODITIES PROGRAM

A number of significant amendments were adopted by the conference committee that will greatly impact the commodities program. First, the "stand-by" authority for the Secretary of Agriculture to purchase commodities for the child nutrition programs and title VII of the Older Americans Act is extended for 5 additional years. The conference committee agreed that this authority should be continued in order to cover any unusual situations that might arise in agricultural marketing which would cause the level of commodity support per meal to fall below the mandated level for the nutrition programs.

Second, several amendments were adopted to alleviate many of the operational problems that have been associated with the program in the past. These amendments reflect those recommendations that were included in the General Accounting Office's evaluation of the program and testimony presented to both the House and Senate committees during their respective hearings on the program last spring.

Third, the conference report adopts two studies which will be designed to obtain information on the most effective and efficient means of operating the commodities program. The first amendment directs the Secretary of Agriculture to conduct pilot projects in local schools in order to study the effect of part or all cash payments in lieu of the delivery of federally donated commodities. The second study is limited to a comparison of one of the States that receives donated foods with the State of Kansas, which is the only State presently receiving cash in lieu of commodities. Both the local pilot projects and the State study will assess the administrative feasibility and nutritional impact of a cash system versus the donated commodities system.

EQUIPMENT PROGRAM

The amendments to the food service equipment assistance program accomplish two principal objectives. First, the conference committee extends the reservation of funds for 3 years in order to facilitate the expansion of the school lunch program to "no program schools" and also to schools without the facilities to prepare and cook hot meals and to receive hot meals. There are approximately 13,000 schools with an enrollment exceeding 2 million children that are presently without a food service program. The conference committee feels that the 3-year extension will provide adequate time and funding to enable these target schools to purchase the equipment that is necessary to carry out a food service program. The conference committee's second objective is to encourage the onsite preparation of meals. The amendments to the unreserved funds gives priority in the apportionment of these funds to schools without the facilities to prepare or cook hot meals, a kitchen operated by local schools, and schools having antiquated or poorly functioning equipment. The conference committee believes that the onsite preparation of meals not only enhances the taste but also insures the nutritional value of the school meals. Therefore, the committee feels that these amendments will effectively encourage a number of schools to prepare their meals onsite.

MISCELLANEOUS

The conference report on H.R. 1139 is a well-balanced forward-looking document, which aims to assist States and

localities to provide the best possible nutrition, especially to needy children, but in fact to all children. The improvement in the summer program alone is expected to be widespread, but we have also taken steps to encourage especially needy schools to have a breakfast program by indexing their increased rates of reimbursement, have eliminated a very troublesome provision in the special milk program which made it impossible for schools to conceal the identity of needy children who received additional milk, have increased State administrative expenses under a new allocation formula, and have required development of State staffing standards, in addition to controlling competitive foods, and instituting the nutrition education program.

I urge all Members of the House to adopt the conference report on H.R. 1139.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the distinguished gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I thank the distinguished chairman of the committee for yielding.

Mr. Speaker, I would like to ask the chairman of the committee and the chairman of the conference committee two questions regarding State administrative expenses.

The first question has to do with interpreting the present law's provisions regarding the expenditure of unused State administrative funds appropriated under section 7 of the Child Nutrition Act for the purpose of administration in the summer feeding program. If I understand it correctly, the Department of Agriculture now has on hand approximately $630,000 in funds returned to it in fiscal year 1977 by States which could not use these funds for the administration of the school lunch program, the school breakfast program, and the child care feeding program. The Department would like to reallocate the unused funds from these programs to the States for the purpose of paying for the administration of last summer's summer food service program for children. I would like to know whether the chairman of the committee would interpret this action as permissible under the present law.

The second question I have has to do with the conference report before us today. I would like to know whether the intention of the conferees was to the effect that States could transfer any unused funds in their own entitlement from the newly increased allotment for the administration of the regular school lunch program under section 7 of the Child Nutrition Act as amended by H.R. 1139 to pay for the administration of the summer feeding program.

Mr. PERKINS. Mr. Speaker, let me first make an observation which I think is very important.

The gentlewoman from New York (Ms. HOLTZMAN), in the early days of our hearings on the summer feeding program, called to our attention fraud that was being committed in certain sections of this country and suggested that the committee take immediate action. At that time I had called this matter to the attention of the General Accounting Office and gave it some information that I had received in connection with fraud.

However, the gentlewoman from New York (Ms. HOLTZMAN) was the Member who really brought this issue to the forefront, and she is responsible for many of the improvements in this legislation, trying to eliminate these fly-by-night operations seeking to defraud the U.S. Government. I want to say that the gentlewoman is entitled to most of the credit in that area.

Mr. Speaker, my answers to the Congresswoman's questions are affirmative in both instances. I do believe that it would be permissible under the present law, namely, section 7 of the Child Nutrition Act, for the Department to use funds returned to it by the States for reallocation to States to pay for the administration of their summer feeding program during fiscal year 1977.

I also believe that the conference report before us would permit a particular State to shift unused funds earmarked for paying for the costs of the administration of the school lunch, school breakfast, and child care feeding programs to paying for additional costs of the summer feeding program within that particular State. These funds, of course, should only be shifted by the State after all of the regular programs; for example, school lunch, school breakfast, child care—have been assured the best administration possible.

I do, however, have reservations under the conference report before us about the Department in future years reallocating funds between States to use them for paying for any increased costs of the summer program within other States. Although I believe that, if a State required additional funding for the administration of its summer feeding program, that State should have some flexibility in transferring any of its unused State administrative funds for the additional administrative costs of its summer feeding program, I do not believe that under H.R. 1139 one State's administrative funds should be used to cover the additional costs of another State's summer program. My primary concern is that the States that do not have comprehensive summer feeding programs may be discouraged from expanding their programs if their administrative funds are being transferred to those States that already have well-established programs.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Speaker, I want to tell the gentleman that I am deeply honored by his remarks; and I must add that the gentleman himself, the very distinguished chairman from Kentucky, and his committee have responded with great alacrity and with great concern on this issue.

Mr. Speaker, I am proud to have worked with the chairman on this matter.

Mr. PERKINS. Mr. Speaker, it was a great pleasure for me to work with the gentlewoman from New York (Ms. HOLTZMAN) because she wanted to see this program survive, grow, and be prosperous insofar as the welfare of the children of the country is concerned. We knew that if we did not make some corrections, there was a possibility that the program could go down the drain.

Again, Mr. Speaker, I wish to compliment the gentlewoman from New York (Ms. HOLTZMAN).

Mr. CORNELL. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Wisconsin.

Mr. CORNELL. Mr. Speaker, I thank the gentleman for yielding.

I noted in the course of the gentleman's statement that he mentioned that in the conference report the special milk program was eliminated and the funds for that would be allocated in future programs.

I was wondering whether the gentleman would explain why this action was taken.

Mr. PERKINS. Mr. Speaker, the gentleman is correct that the conference report contains a provision of the Senate bill which proposes to eliminate the second free milk for needy children. The Senate was quite insistent on this provision as was the Department of Agriculture and, therefore, the House conferees felt that we had to accept it.

I would like to assure the gentleman, though, that if there are any grave difficulties with this provision, the committee will review its effects thoroughly within the next 6 months. And, if changes are necessary, we will make those changes. The committee must vote out by next May 15 another school lunch bill since several of the programs are expiring, and this bill will give us the opportunity to correct any inequities we may find resulting from this provision.

I would, though, like to point out in defense of the Senate's position and of the position of the Department of Agriculture the following reasons for their supporting this amendment.

First, present practice has led to a public identification of poor children. The way things operate now needy children receive free milk as part of their regular school lunches and breakfasts. But then they also receive a second free half pint of milk on their lunch trays or they receive it during the course of the school day even if no other students in the building are given the opportunity for a second milk. This, of course, means that needy children are clearly identified in front of all of their classmates. This violates the spirit of the National School Lunch Act which forbids the overt identification of needy children in any of these programs.

Second, for the same reasons, namely, having to give needy children milk when

other children do not receive milk, over 4,000 schools have dropped out of the special milk program entirely. This, of course, penalizes both needy and nonneedy children since none of those children in those 4,000 schools will now have milk available to them. The Department of Agriculture tells us that more schools are also thinking of dropping out.

Third, under the Senate bill there was a trade-off of the cost savings from this amendment to the funding of a new nutrition education program. And, the Department of Agriculture and some of the House conferees accepted the Senate's new nutrition education program with the understanding that overall it would not increase the budget for the school lunch program since there was this trade-off of funds.

For all of these reasons, Mr. Speaker, the House conferees accepted this Senate amendment regarding the milk program. But, again, I would like to assure my colleague that the committee stands ready to examine the effects of this provision to determine if remedial action is necessary next year.

Again, as I stated to the gentleman from Wisconsin, Mr. CORNELL, we will do our best to work this situation out next year. He is a member of the committee and has worked untiringly to make this the best bill possible. I certainly wish to congratulate the distinguished gentleman.

Mr. CORNELL. I thank the chairman, and I want to assure him, of course, that we in Wisconsin are well aware, without any further education, of the nutritional value of milk.

Mr. PERKINS. I am sure of that. I well understand the gentleman's position, and I am a deep believer in making sure that we get our school lunch milk.

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Minnesota. I want to state that no one has been more devoted and considerate than has the gentleman from Minnesota in trying to fashion a workable program and the best program possible for the schoolchildren of this country.

I yield to the gentleman.

Mr. QUIE. I thank the gentleman for yielding.

This is the one part, I would say to the chairman, that gave me real reservations, because I voted against receding to the Senate on this issue.

I am concerned. It has been raised by Earl Teppley, the assistant director of the school lunch program in Minnesota, that many children who are eligible for the free lunch in fact bring a lunch from home. If this Senate provision is read strictly, or even literally, then such children would be denied even one free milk under the special milk program. I do not think this was the intent of the conferees of the House or the Senate. My hope is that the Department of Agriculture will frame its regulation so as to avoid it.

I would like, then, to ask the chairman if he agrees with me that a person who does bring a lunch from home and qualifies for a free milk should be able to receive it.

Mr. PERKINS. I wholeheartedly agree with the distinguished gentleman from Minnesota, Mr. QUIE's statement. We never intended anywhere along the line to deny any child in the lunchroom from receiving the milk that the child was entitled to. I would certainly think that if the Department had a regulation that they issued to that effect, it would be issued contrary to the law and contrary to the intention of this Congress. Not only that, but it would do great harm and violence to the schoolchildren of this country, and I cannot visualize the Department going that far in construing the Senate language.

Mr. QUIE. Secondly, I will say to the chairman I decided not to raise a strong objection here so that this legislation can go through. I want to take a look at it and see what kind of harm we might be causing, because I do not see that there is anything wrong with providing the second half pint of milk, as we did before, to those receiving class A lunches. However, we do have legislation coming up early next year. Is it the chairman's contention that we can take up the special milk program again then to make any corrections that we find we need to make to correct any mistakes that we have made in this legislation?

Mr. PERKINS. It is the chairman's intention, along with the cooperation of the distinguished gentleman from Minnesota, to bring legislation up early next year on other expiring feeding programs and at that time to give thorough consideration to the entire milk program, and make sure that we do not let this milk program slide backward.

To my way of thinking a child needs milk, and the bones of that child need milk, and I want to do everything possible to make sure we have a sound milk program.

Mr. BLOUIN. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Iowa.

Mr. BLOUIN. I would like to thank the chairman, first of all, for the commitment he made with regard to the milk program and his promise to take another look at it next year and also to compliment the gentleman for his leadership throughout the conference committee. It is an enjoyable experience to work with him on a conference.

I compliment the fine product that we were able to come up with. I support it.

Mr. PERKINS. Mr. Speaker, let me respond by saying there is no way that the committee can overlook the milk program when we have such individuals on the committee as those who presently constitute it, such as the gentleman from Iowa (Mr. BLOUIN). He and the gentleman from Wisconsin and many others have been out in the forefront. Maybe they had another motive in mind—the farmers—but these Members first had in mind taking care of the schoolchildren of this country. We will certainly get this worked out, I am very sure, to their satisfaction next year.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I thank the gentleman from Kentucky for yielding. At the outset I compliment the distinguished chairman of the Education and Labor Committee for the fine leadership he has given the committee and the House in providing for the well-being of the schoolchildren throughout this country. We all owe him a debt of gratitude.

I also join with him in the fine words he expressed and the appreciation he expressed for the gentlewoman from New York (Ms. HOLTZMAN).

Mr. Speaker, the bill now before us, H.R. 1139, as reported by the conference committee, is an excellent bill and one which I am proud to support. Changes contained in this bill reflect a growing awareness of the need to facilitate program administration, thereby improving program operation and expanding participation in all the child nutrition programs.

Several provisions facilitate improved program administration. The amount of State administrative expense funding has been increased, so that sufficient funds are available to State agencies to fully and effectively administer the school food and child care food programs. At the same time, the Secretary is charged with the responsibility of developing reasonable State staffing standards to insure that sufficient staff is available to administer these programs. And State agencies are required to submit a plan each year to the Secretary, detailing the plans for utilization of State administrative moneys. Increased funding, staffing patterns, and State blueprints for expenditures, are all geared to improving program administration with the end result of increased program participation. We expect the Secretary to develop reasonable staffing standards to insure that proper attention is paid to each program covered by State administrative funds—school breakfast, school lunch and child care feeding. Only by careful monitoring by the Secretary, and aggressive action by the States, will these child nutrition programs reach the congressional goal of meeting more effectively the nutritional needs of our children.

The summer food program has been substantially amended, and thereby improved. Specific criteria have been provided to assist State agencies in approving sponsors and vendors. Thus, a sponsor entitled to participate is one which has adequate administrative and financial capabilities and has not been deficient in prior program operation. Vendors must register with the State agencies, disclosing any past history with the program, to enable States and sponsors to judge the capabilities of vendors with whom they enter into contracts.

Emphasis has been placed on State administration. State agencies are required to provide technical assistance to

sponsors in applying for and conducting the program, as well as encouraging self-preparation of meals by sponsors. Specific efforts must be made by the Secretary and the State to encourage rural participation, and again, technical assistance in applying—and conducting—the program is required. The detailed management and administration plans, required to be submitted to the Secretary, will enable the Department of Agriculture to effectively monitor program operation, and to improve program participation by insuring the statute and the regulations are fully complied with.

Provisions in contracts for food service include a requirement for food quality and safety standards, and meals provided by a food service management company must be periodically inspected to assure compliance with local health standards. To assist States in this responsibility, up to 1 percent in additional program funds may be used for State and local health department inspections and meal quality testing. These provisions should improve the quality of meals provided by food service management companies, and thereby improve consumption and participation, minimizing program abuse in this area.

At the same time, self-preparation by sponsors is actively encouraged. In addition to the development of model meal specifications by the Secretary, and encouragement by the State agency of self-preparation, sponsors which self-prepare meals are entitled to a higher percentage of advance funding. All sponsors are entitled to receive advance funds by June 1, July 15, and August 15, to facilitate program operation. For those sponsors contracting with a food service management company, the amount equals 50 percent of the amount needed during the month in which the payment is made, while a sponsor which self-prepares meals is entitled to receive 65 percent. Advance funding is an important adjunct to effective sponsor operation. State agencies must take necessary steps to provide these funds to sponsors on a timely basis, as required by the statute, as well as provide additional reimbursement earned within 75 days after a valid claim is received. Too often have programs been unable to operate because of delayed advance funding, and too often have good sponsors been unable to continue because of slow reimbursement. These provisions, fully adhered to, should facilitate smooth program operation and expanded participation.

All in all, the summer food program will be substantially strengthened as a result of the conference committee's work, and clear-cut lines of administrative responsibilities should result in expanded participation.

The conference committee has also taken steps to improve participation in the school breakfast program, in furtherance of the 1975 requirement to expand the school breakfast program to all needy schools. In recognition of the increasing cost of preparing nutritious school breakfasts, the committee has increased the reimbursement rate for those schools designated as especially needy. At the same time, the bill requires each State to formulate criteria which entitle schools to receive the higher especially needy rate of reimbursement. These criteria are to be included in the State plan of child nutrition operations required under section 11 of the National School Lunch Act, and are subject to approval by the Secretary. The more realistic rates of reimbursement will provide an important incentive to schools, enabling them to participate in the school breakfast program. And the inclusion of the State's criteria for especially needy rates of reimbursement in the State plans will enable the Secretary of Agriculture to carefully monitor State efforts at program expansion. These two provisions are useful tools to facilitate the required participation of all needy schools in the school breakfast program.

Mr. PERKINS. Mr. Speaker, let me in response state that the gentleman from New York, as I recall, sat by the side of the gentlewoman from New York. He was very much interested and did everything in his power to see that we wrote the best bill and the best possible piece of legislation to eliminate the corruption that had taken place in many areas of the country, and the gentleman made a great contribution.

Mr. WEISS. I thank the chairman.

Mr. STEIGER. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Wisconsin (Mr. STEIGER), my former colleague and great friend.

Mr. STEIGER. Mr. Speaker, I appreciate the chairman's yielding.

I regret exceedingly that I was not on the conference at least on this occasion. Perhaps I could have helped my friend, the gentleman from Minnesota. I am amazed at what has been done insofar as the milk program is concerned. The gentleman understands of course that I have some interest in that, given my own constituency.

Can I clarify with the gentleman from Kentucky what his intention is? This severely disrupts the existing program. I recognize, given the Department of Agriculture's letter, the reason that some changes were necessary. What is the gentleman going to deal with next year, that might necessarily include the gentleman from Wisconsin (Mr. BOB CORNELL) and the gentleman from Vermont (Mr. JIM JEFFORDS) and the gentleman from Minnesota (Mr. QUIE) and others, to handle this issue? What is it that we have a shot at next year that might correct what I think otherwise is a very serious mistake?

Mr. PERKINS. Let me state to my distinguished former colleague on the committee, that perhaps if he had not moved on to the Ways and Means Committee, this legislation would not have been in this condition. Maybe we would have kept the second pint of milk without any problems. But notwithstanding, I feel that without identifying the schoolchild there is a way to work this situation out.

Under mandatory regulations now, we take that second pint of milk, perhaps not during the regular noon meal, but in an off period, and look up that child and set that milk down before him. That is embarrassing to all of us. We can overcome any problems with eliminating that second milk next year when we deal with the WIC program and the child care program, but both of which expire next year.

There is no earthly reason why with the assistance of the people that come before our committee and if they will spend a half hour or so that we cannot find some way to work this out without identifying this particular child.

Mr. STEIGER. Mr. Speaker, if the gentleman will yield further, and I am grateful for these comments, the gentleman may be sure, and I will be back.

I must say, given what has happened, I would be constrained to vote against the conference report if it comes to a vote.

I very much appreciate the commitment of the gentleman from Kentucky that we will have a chance to vote on this again next year. I appreciate that assurance.

Mr. PERKINS. Mr. Speaker, let me say we very much appreciate the help of the gentleman from Wisconsin.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to lend my support to the conference report and I want to compliment the chairman of the committee for the gentleman's work and also to the members of the minority on the committee for their work in putting together a program that I think was conceived in chaos and in allegations of corruption and a program that has resulted in something we can hold our heads high and be proud of. I think we have reached that balance where we can expand participation and at the same time dramatically increase the use of Federal funds in these programs. I wholeheartedly endorse the conference report.

Mr. Speaker, the conference committee has reported out a child nutrition bill, H.R. 1139, that demonstrates our continuing concern for improving child nutrition program administration and participation.

In recognition of the fact that State agencies must play an active role in administering and improving program operation, the conference bill increases the level of State administrative expense funding available. State educational agencies will receive an amount equal to 1 percent of program expenditures in fiscal year 1978, and up to 1½ percent in fiscal year 1979 and 1980, to enable them to conduct the school feeding and child care feeding programs. This increase will enable State agencies to take aggresive steps to improve program participation in these areas. To insure this goal, the Secretary has been directed to develop State staffing standards, so that sufficient

personnel for planning and administration are available. We do not expect the Secretary to establish a universal staffing standard, but we do expect to see staffing standards related to program size and need developed, and enforced. Only in this way may we be assured that the moneys available are being well utilized in improved and expanded program operation. The State plans for utilization of administrative funds, required by the conference bill, must be scrutinized by the Secretary, to insure that realistic staff allocations are made to improve and expand each child nutrition program.

A very important tool has been made available to State agencies and to schools to bring about the much-needed and mandated effort to expand the school breakfast program to all needy schools, such as the schools in which 25 percent or more of the children qualify for free or reduced-price meals. Each State agency must develop criteria by which schools qualify for higher reimbursement rates as being especially needy. These criteria, which of course must be reasonably related to a positive expansion effort, must be approved by the Secretary of Agriculture and included in the State's plan of child nutrition operations. Each school meeting the established criteria shall receive especially needy reimbursement for each free breakfast served. The reimbursement rate has been initially established at 10 cents over the basic national average payment. At the same time, the Secretary will calculate semiannually the impact of the rise in the Consumer Price Index on the current 45-cent reimbursement rate. When the differential of such calculations exceeed 10 cents, the especially needy schools will be entitled to receive the higher rate of reimbursement. This long-needed adjustment in especially needy reimbursement rates is another indication of our commitment to expand the school breakfast program to all needy schools. Those schools which cannot prepare and serve nutritious breakfasts because of high costs are now insured reliable and adequate funding and should be actively encouraged to participate in the program. We expect the Secretary to monitor the State definitions of especially needy so that only those definitions are approved which reasonably reflect the needs of expanding this program to all needy schools as expeditiously as possible.

The conference bill restores to the Secretary his authority to regulate the sale of competitive foods during school meal times. This authority is limited to foods which are approved by the Secretary, but is clearly broad enough to allow regulations limiting or prohibiting the sale of non-nutritious foods at the same time school meals are being served. We encourage the Secretary to effectively exercise this authority to further the goals of the act, providing nutritious meals to children, and thereby reducing plate waste.

The conference bill provides for many improvements in the administration of the summer food program, aimed at reducing abuse and encouraging expanded participation. Any eligible sponsor is entitled to participate in the program if it has adequate administrative and financial capabilities and a clean record in past program operation. In addition, eligible sponsors must provide a year-round service to the community, unless eligible children would not otherwise be served. The Secretary should provide guidelines for what constitutes community service to assist sponsors and State agencies in meeting the legislative requirements.

Food service management companies desiring to participate in the program will be required to register with the State agency, and a central record will be maintained by USDA of such registrations. This provision will enable States and sponsors to obtain information about such companies' past performance in the program, prior to entering into contracts, improving meal service and program operation.

State responsibilities have been clearly defined, with the goal of encouraging aggressive and effective program expansion and administration. To enable the Secretary to monitor State agency actions in this area, the State plan of summer food program management and administration requires specific, detailed information as to how the State's responsibilities will be carried out. This type of detailed plan is necessary, as a blueprint for the State agency, as a monitoring tool for the Secretary, and as an informational guide for the interested public. Effective program operation necessitates detailed planning and good monitoring. The State plan provides an excellent management tool to accomplish these purposes. The Secretary will be able to anticipate problems related to overly lax or overly stringent State administration.

A provision of the State plan requires that the State agencies provide aggrieved sponsors with a fair hearing and timely decision. This provision is an important one; it allows sponsors who believe that they have been unfairly denied program participation, or incorrect reimbursement, to appeal their denial to an impartial authority. It is to be hoped that the Secretary will publish standards for the fair hearing procedures so that sponsors in each State are assured of uniform treatment of their grievances, just as in the supplemental feeding program for women, infants, and children.

Substantial attention has been paid throughout this bill to improving the quality of meals served in the child nutrition programs. Technical assistance with regard to self-preparation and menu planning in the summer food program, solicitation from educational agencies on their needs for commodities, technical assistance on use of commodities in school meal programs, and the provision for nutrition education are all indicative of the committee's concern with improving program benefits and participation. The committee is to be commended for its work on this bill, and I urge every Member to accept the conference report.

Mr. PERKINS. Mr. Speaker, let me respond to the distinguished gentleman from California (Mr. MILLER).

There is not a more persevering Member in the Congress on any subject matter. This conference report that we have brought before the House today is the work of the entire Committee on Education and Labor, with members like the Congressman from California (Mr. MILLER) who contributed. The minority contributed. It is the work of the entire committee. I think it is a well thought out conference report.

Mr. ZEFERETTI. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Speaker, I thank the gentleman for yielding.

I, too, would like to join in strong support of the conference report and join in the words of compliment to the gentleman from Kentucky for the gentleman's leadership.

Also, I would like to mention the fact that we saw a program which the gentlewoman from New York exposed, with the type of confusion and type of abuse and the things that were going on in New York toward the program. We saw a tightening up of those abuses. We saw work going toward the resolving of some of the abuses.

More importantly, collectively as a unit in our committee, we put aside our differences. We worked together with the minority and the majority to produce this type of bill.

I think from this day forward, anyway, we can eliminate that type of abuse from ever happening again.

Mr. PERKINS. Mr. Speaker, I want to thank the gentleman from New York. The gentleman certainly made an important observation, that we worked collectively to make sure that these abuses were eliminated in order to have a better program. We were all interested in this to the extent that we knew if we did not correct these abuses, as has been pointed out here today by the gentleman from New York and others, that we would have trouble expanding the program in the future, and we have made a coordinated effort to clean up the people who have tried to profiteer and drag this program down.

Mr. QUIE. Mr. Speaker, I support the conference report on H.R. 1139, the National School Lunch and Child Nutrition Amendments of 1977. I think it represents a constructive compromise of differing House and Senate versions of the bill, which except in a few but fairly critical ways did not differ significantly.

At the outset I would like to say that neither bill contained specific limitations I would like to have seen on participation in the summer feeding program—limitations designed to insure that the number of participants does not exceed the number of needy children in a particular area which is being served. However, both bills greatly tightened administrative

controls over this program, and there already is evidence from the final tally of approved payments in New York City for this last summer that improved administration has dramatically cut down on phantom participants and other forms of fraud. Incidentally, I understand that legal counsel in the Department of Agriculture has raised an issue of whether excess State administrative funds provided by other sections of these two acts could be used to bolster State administration of this program. I think Congress intended this to be possible and to continue to be possible under these amendments. The alternatives to adequate State administration are an uncontrolled program or abdication of State responsibility in favor of Federal administration. These alternatives are almost equally undesirable.

One of the very good things in this conference report is that it adopts the Senate's scheme of setting priorities for choosing sponsors when more than one sponsor applies to serve an area eligible to receive the summer feeding program, but it moves public and nonpublic schools into the category of first preference, along with organizations which have proven to be good sponsors in the past. Our experience, gained through both extensive hearings and field investigations, is that the problems with this program tend to be very few when schools are the sponsors, and even fewer when schools both sponsor the program and prepare the meals.

Both bills contained what I considered to be unfair and too limited provisions restricting the use of equipment funds. The provisions would make it difficult to use the funds for equipment in schools which heat up preplated frozen meals rather than prepare and serve hot food on the premises or serve hot food prepared in a central kitchen and transported to the schools. I say these provisions were unfair and too restrictive because, while there have been some problems with quality control in preplated frozen meals—again, largely in New York City—our committee had testimony from the District of Columbia and other sources that preplated frozen meals can be an alternative in which the food is of high quality, very nutritious, attractive, and liked by the students. It is a less expensive operation, whether the meals are prepared and frozen in a central school system kitchen or purchased from a commercial source. But the real point is that for many inner-city public and private nonprofit schools this is the only feasible method of food service, and these schools should not be discriminated against in the distribution of equipment funds. Fortunately, the conference report adopts the less restrictive House language and the statement of managers makes it very clear that no such discrimination is intended. It merely affords a priority for equipment to prepare and serve, or receive, hot meals on the premises, without making alternative methods impossible to utilize.

The Senate bill contained three provisions which particularly troubled me and I would like to discuss the conference report treatment of those.

As I mentioned in my colloquy with Chairman PERKINS, one was the removal of a provision of the special milk program which assured, in effect, service of two half-pints of milk to children from families whose low income qualified the children for both a free lunch and a free milk. The proponents of this claimed that the "duplication" of milk service was unnecessary and costly. But I voted against receding to the Senate on this issue. I do not consider the service of a pint of milk to a needy child to be excessive. Milk is still the best and most natural food known, except for a very few persons whose bodies cannot chemically tolerate lactose. A full pint of milk for a child who probably is a nutritional risk does not seem to be unwarranted.

Moreover, as Earl Tepely, our State assistant director of the school lunch program in Minnesota pointed out to me, many children who are eligible for a free lunch, in fact, bring a lunch from home. If the Senate provision is read strictly, or even just literally, such children will be denied even one free milk under the special milk program. I do not think this result was intended by the conferees or by the Senate, and I hope the Department of Agriculture can frame its regulations so as to avoid it—and I hope Chairman PERKINS and others will cooperate with me in avoiding such a result. I appreciate the chairman's assurances, but it shows the peril of acceeding too quickly to provisions which may not have been very well thought out.

Second, the Senate bill completely repealed the second sentence of section 10 of the Child Nutrition Act which prohibited the Secretary, from banning or otherwise controlling competitive food service—that is, service which competes with the subsidized school lunch including the a la carte line of the school cafeteria—if the profits of it innure to the benefit of the school—which includes the school lunch account—or to an organization of students approved by the school. This sentence, added in 1973, put control of the competitive food service squarely where the control of school administration belongs—with State and local educational agencies. Had the school lunch program been administered by HEW instead of Agriculture the authority asserted by regulation by the Secretary of Agriculture prior to 1973 would have been contrary to a provision of the General Education Provisions Act which prohibits Federal control of the administration of schools. Prior to the 1973 amendment which inserted this sentence—which applied to regulations under both the School Lunch and Child Nutrition Acts—the Secretary not only dictated the foods which could be served in a competitive service, but he gave the school lunch program a monopoly. I sponsored the 1973 amendment when I discovered that student organizations could not sell fresh fruit around the time or near the premises where the school lunch was served.

Admittedly, an indeterminate number of school systems—despite authority at both State and local levels to control the kinds of foods served competitively, or even to completely prohibit a competitive service—permitted the sale of foods such as candy bars and carbonated beverages which many physicians, nutritionists, and parents regarded as being inappropriate, or so-called "junk foods." But I personally did not regard this as sufficient reason for the assertion of one of the most damaging and democratically untenable doctrines of our times: "Washington knows best!"

Nevertheless, with the assistance of my colleague from Michigan, Mr. FORD, the Senate position was essentially rejected by an amendment to the 1973 language giving the Secretary authority to control the kinds of foods sold competitively but not to give the school lunch program a monopoly. The conference report provision is accompanied by a statement of the managers adopting the Department of Agriculture's own interpretation that this is a limited power to be used sparingly to encourage the sound nutrition and nutritional habits of school children. I expect that understanding to be adhered to strictly and in good faith.

Finally, I am happy to come back to this House with a 3-year nutrition education program but not pleased that it contains an automatic entitlement for the first 2 years. I finally agreed to this entitlement provision because the bill overall is a good one and compromise is the essence of the conference procedure. But I must sound the warning raised too late in the Senate from both sides of the aisle: It is imperative that this Congress insures the integrity of its new budget control legislation and procedures. Uncontrollable expenditures not subject effectively to the regular appropriations process—for whatever worthy purpose—cannot be permitted to proliferate. A very large portion of the Federal budget is now beyond the control of either the Congress or the executive branch. An uncontrolled and uncontrollable Federal budget is one of the greatest economic disasters which could befall our people and our Nation. This one item for nutrition education, probably not exceeding $27.7 million for each of 2 years, after which the normal authorization-appropriation process is restored, is not large as such things go. But it goes very much in the wrong direction and I regret that the Senate conferees so obdurately insisted upon it. I must say that the Department of Agriculture's spokesman at the conference, on behalf of the Department and the administration, fought hard and long and, in my mind, persuasively, against this provision.

There are some other provisions which may need clarification. One is an amendment I offered to the nutrition education section which requires States to provide at least one-half the administrative funds for that program. That means cash, rather than "in kind" contributions. Customarily, when we intend that matching can in part be made up of "in kind" contributions we spell that out in the language of the statute. Here we were dealing only with administrative costs in terms of cash outlays.

Second, in the same vein, the administrative costs which may be reimbursed

and must be matched are State costs, not local administrative expenditures, and it is not the intention that such expenditures be used as part of the State administrative costs.

Finally, I am concerned that with a program such as nutrition education being commenced so late in the first year on an entitlement basis that someone in the Department may rule that unused funds can be carried over into the next year, with the result that when added to the second year of funding there may be a pool of funds much larger than required to plan and set in operation a good program. The temptation then is to spend the funds hurriedly and wastefully near the end of the second year. That has happened before in other programs. But here there is no authority for a carryover of funds specifically for this program. Had we intended one we would have expressly written it into the statute in the manner we did for State administrative funds for fiscal 1978 for general program purposes under the two acts. I want to see an effective and successful nutrition education program, but this end is not promoted by hasty and unnecessary expenditures.

As I say, overall I think we have reached a good compromise and have brought from it a good bill. It contains many important technical and substantive amendments to the two acts which have for the most part been outlined in detail by Chairman PERKINS. I think, however, that it is time we incorporated all these programs into a single Child Nutrition Act which would be far easier to understand and administer, and I hope the administration will encourage such an effort next year.

Even with the reservations I have expressed, I strongly support and urge adoption of the conference report.

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I certainly want to commend the chairman and the other Members of the committee for the bill and for the conference report, with one exception. Because of that exception, I must say I will vote against the conference report.

I am deeply concerned, as has already been expressed, at the elimination of the mandatory special milk program.

I do so because it is difficult for me to see, to understand, the reasons which have been utilized to do away with this program. If it is as horrible as would seem to be indicated, and all of these schools were having this problem, why is it that in the 3 years I have been here—and I have listened to most of the testimony—not a single objection was raised to this program during the committee hearings? Then, all of a sudden this bomb is dropped on us that the program is being done away with because they say it is creating real problems of stigma.

It is difficult for me to understand how that could come about when not one single witness brought it to our attention. We had witnesses from all categories, including schools, nutrition experts, and so forth. All of a sudden it is done away with. I cannot see that. It is hard for me to understand that.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I certainly will yield to the distinguished chairman.

Mr. PERKINS. First, let me say to my distinguished colleague that it has been a problem for quite a period of time. The Department of Agriculture has made public statements, or at least they have conveyed to me information that schools were dropping out of the program entirely because of the milk program. They were dropping out of the milk program because they were identifying this program with the needy child. They were cutting off their noses to spite their faces, and I regret that the schools took this attitude and dropped out of the milk program.

With 4,000 schools having dropped out of the public milk program entirely, we are depriving all the children of milk. For that reason, this provision was dropped this year for further study. I think that we will come up with a solution for this extra half pint of milk next year. I do not think there is any doubt about that, and I think the gentleman from Vermont can make a contribution.

Mr. JEFFORDS. I would like to point out that the letter is very indefinite. It says 4,000 schools have dropped out. However, the majority have come back in. We do not know why the rest did not come back in or why the majority have come back in, which indicates that the problem must have been resolved, or there must be some solution to it. We do not know if the majority is 3,999 or 2,001.

My point is that it was never really serious enough to be brought up in committee, even if it was brought to the attention of the chairman. At least, from my discussion with other Members, I do not know whether it was brought to the attention of the committee, but at least in the time I have been here it was not. I appreciate very much the chairman's comments.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Illinois.

Mr. SIMON. I have just done some quick calculating. I have the letter from Carol Tucker Foreman. It suggests, if the statistics are correct, that we are talking about roughly 3 percent of the total milk program, talking about a relatively small amount in which we have some problems with identification of poor children, and problems that are severe enough that Senator MCGOVERN, who sponsored the original milk program, moved to do away with it.

I think that there are enough who feel as the gentleman does, and as I do and as the chairman does, that if we see that there is a need for some modification and a renewal of the program, we can move there very, very rapidly. But, as the gentleman knows, conference committees are compromises. This is something that was not discussed on the House side, but the reasons established on the Senate side seemed to be substantial enough that we had to give serious consideration to it, particularly since it came from Senator MCGOVERN and was unanimous on the Senate side, from Senator DOLE and all the others, and from the Department of Agriculture.

Mr. JEFFORDS. That brings me to my next point. This trade-off, which to me is a false trade-off, as apparently the trade-off was made in committee, reduces the cost of the program by some $31 million. First, it must be significant.

Thirty-one million dollars worth of milk means a lot of milk. It is hard for me to understand how the reduction in consumption of $31 million in milk by needy children somehow is going to provide them additional nutrition.

Secondly, with a surplus situation we have now, the fact that we do not buy it in the school milk program means it will wind up in the storehouse. It will not save any money.

So to me, it is a false trade-off. Further, on the same point, recently this body passed the Agricultural Act of 1977 and in that act we accepted a responsibility to our Nation's dairy farmers. To suddenly remove this sizable fluid market would seem to me to run contrary to everything else we are attempting to do. The potential loss in fluid sales runs over $30 million. This loss will have to be absorbed and it will be the Commodity Credit Corporation that picks up the slack. At this time the CCC does not need this kind of help. On October 1 the stocks in the CCC were as follows:

	Million pounds
Cheese	69.7
Butter	162.2
Milk powder	634.0

This Congress, the U.S. Department of Agriculture and other agencies having an influence on programs such as the special milk program should not be discouraging program use. Rather, we should all be doing our part to make such programs grow.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Kentucky.

Mr. PERKINS. I thank the gentleman for yielding.

Mr. Speaker, we have been working on this school lunch program, and it is the largest feeding program in the world. Many Members in this Congress and I have been working on this for a quarter of a century. It has been the policy all through the years, even with the concept of a free and reduced price lunch, that, when we have made those lunches available, we try to work out ways not to identify that child to embarrass him. And that is what this all boils down to here. I do not say that we have the answer today. I think we can work it out. But if schools are dropped out of the program and deprive all of the children the milk, we are going to have more milk stored up in the warehouses until we find a solution. We are going to find a solution today in all of the regular programs. They all get one-half pint of milk. We are talking about the extra half pint for the reduced price for the free-lunch kids,

going around at 10 o'clock in the day, looking them up at recess or in the classroom, and dropping off one-half pint of milk, at a different hour from the time of having them go to the lunchroom at 10 o'clock or at 2 o'clock, separate from the regular school lunch, youngsters from the regular program. That is the reason they have been identified. It has been embarrassing to the youngsters. That is the reason many schools have dropped out of the program, which deprives the children in the regular school lunch program of their milk. This is the issue, and this is the issue the gentleman from Vermont can help us correct next year. We are going to bring it up.

Mr. JEFFORDS. Mr. Speaker, I think the way to make the changes is to study the problem and determine whether or not there is a cause and effect relationship, not to come through with a decision that takes everybody by surprise. First we should establish: Is there a problem?

It is very difficult for me to follow that reasoning. It seems to me that we are going at it backwards.

Second, the economy of this is totally false. We are saying we are saving something, and we are not. The taxpayers are going to pay for it one way or another. I would rather have it go to needy children rather than a storehouse.

Third, it seems to me that we have something the kids want—it is nutritious—and we are going to take it away from them, in the hopes they will use something else.

This great Nation of ours which should be capable of adequately nourishing the bodies of every individual is presently falling far short of that mark. About 1 in every 4 people are nutritionally deprived. It would seem to me that a program such as the special milk program is an excellent avenue to pursue in overcoming this deficiency. As I understand the arguments presented to the Senate, there were primarily two reasons for this proposed change, namely, the inability of school personnel, particularly at the secondary level to administer the program and the discrimination factor of having these nutritionally deprived children identified by their peers. It would seem to me that with the USDA and educational community expertise that these problems could be overcome.

For these reasons I will vote no in protest to what I believe is a step backward in providing good food to our children.

Mr. BLOUIN. Mr. Speaker, I take great pleasure in rising in support of H.R. 1139. The conference committee has reported a bill which contains needed improvements in several child nutrition programs.

The summer food program, a major portion of this bill, has been substantially revamped, making it stronger and less open to abuse. At the same time program operation has been improved, to insure that all eligible children are given the opportunity to participate. Thus, the bill provides that all eligible sponsors are entitled to conduct the program. To reduce program abuse, eligible sponsors are specifically defined as those with adequate administrative and financial capabilities; sponsors which have not been seriously deficient in past program operations; and sponsors which provide a year-round community service. In an important effort to expand participation, the Secretary and State agencies are required to actively seek eligible sponsors in rural areas, and to provide them with assistance in applying to participate. This provision will insure that attention is focused on expanding benefits for children in rural areas, where program participation has been low.

To facilitate program administration, at the same time insuring that all eligible children have an opportunity to participate, the bill provides for an order of priorities to be applied when sponsors compete to serve the same children or areas. Those sponsors which have previously administered successful summer food programs will be given first priority when choosing between competing sponsors. Encouraging continued participation by experienced sponsors is beneficial both to program administrators and to children.

Emphasis throughout the summer food program changes has been focused on encouraging sponsors to self-prepare meals. Thus, the State agencies are charged with responsibility to develop model meal specifications, with help from the Secretary. States are required to include in their State plans of operations the methods they will use to encourage and expand the use of self-preparation by sponsors. Technical assistance from the States must be made available to encourage expanded participation by sponsors, and to increase capability for self-preparation.

These provisions, together with ones specifically related to curbing abuse by food service management companies, the requirement of a reimbursement study which will result in more equitable food service and administrative cost reimbursements, earlier time frames for publication of regulations and instructions, and clearly delineated Federal, State, and sponsor responsibilities should go far to improve program performance and participation.

Concern with improving the quality of foods available in school meals program was evidenced in several ways. The conference bill extends the benefits of nonfood assistance reserved funds to those schools which are without the facilities to prepare and cook or receive hot meals. This provision will enable schools in districts which have central kitchens to obtain funds to enable them to purchase equipment to cook and receive meals prepared in the central kitchen. We intend to encourage the utilization of self-prepared meals in the school feeding programs to the maximum extent possible.

Thus, procedures which allow local educational agencies to report to the State agencies as to the type of commodities and the requirement that the Secretary provide technical assistance as to the use of commodities in the school feeding programs should also be geared to encouraging self-preparation and better utilization of those commodities made available by the Secretary.

The conference bill takes necessary steps to bring about the expansion of the school breakfast program to all needy schools as required in Public Law 94–105. First, each State will be required to establish criteria by which a school may be determined to be eligible for additional reimbursement for breakfasts. These criteria, subject to the approval of the Secretary, must be included in the State plans of child nutrition operations. Any school meeting these eligibility criteria will be eigible for a higher rate of reimbursement, as being "especially needy," enabling it to meet the costs of providing nutritious breakfasts for children.

The reimbursement rate for schools in "severe need" has been adjusted to reflect increasing costs. Currently, no school may receive more than 45 cents for breakfast. This "especially needy" rate has not changed since 1972, although the cost of preparing meals has increased substantially. The conference bill establishes an initial rate of 10 cents higher than the national average payment for free breakfasts. At the same time, the Department is required to adjust semiannually the 45 cents figure in accordance with the Consumer Price Index. At such time as the semiannual readjustments result in a differential higher than 10 cents above national average payment, the higher "indexed" differential will be applied. We are hopeful that the establishment of reasonable criteria by which schools are determined eligible for especially needy reimbursement, and the provision of sufficient funding for such especially needy schools, will bring about the mandated expansion effort by the Secretary and the States. Implementation of this section will create an incentive for schools in which a significant percentage of children are eligible for free or reduced-price meals to participate in the school breakfast program, so that the school breakfast program is made available in all needy schools.

The conference committee's concern for better program operation, expanded participation, and better nutrition runs throughout the bill. Because of this concern, the committee has returned to the Secretary his authority to issue regulations concerning the sale of competitive foods which do not meet the Secretary's approval. Judicious use of this authority will result in the issuance of regulations which limit the sale of empty-calorie junk foods during school meal times, thereby decreasing plate waste, and encouraging the eating of a nutritious lunch. At the same time, such regulations will assist in the process of nutrition education, by focusing on nutritious snacks and meals. We encourage the Secretary to use this authority wisely, and in furtherance of the congressional goals of improving child nutrition through the school meals program.

Mr. PERKINS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 386, nays 17, answered "present" 1, not voting 30, as follows:

[Roll No. 708]

YEAS—386

Abdnor	Daniel, Dan	Heckler
Addabbo	Daniel, R. W.	Hefner
Akaka	Danielson	Heftel
Allen	Davis	Hightower
Ambro	de la Garza	Hillis
Ammerman	Delaney	Hollenbeck
Anderson, Calif.	Dellums	Holt
	Dent	Holtzman
Anderson, Ill.	Derrick	Horton
Andrews, N.C.	Derwinski	Hubbard
Andrews, N. Dak.	Dickinson	Huckaby
	Dicks	Hughes
Annunzio	Diggs	Hyde
Applegate	Dingell	Ichord
Archer	Dornan	Ireland
Armstrong	Downey	Jacobs
Ashbrook	Drinan	Jenkins
Ashley	Duncan, Oreg.	Jenrette
Aspin	Duncan, Tenn.	Johnson, Calif.
Badillo	Early	Johnson, Colo.
Bafalis	Eckhardt	Jones, N.C.
Baldus	Edgar	Jones, Okla.
Barnard	Edwards, Ala.	Jones, Tenn.
Baucus	Edwards, Calif.	Jordan
Bauman	Edwards, Okla.	Kasten
Beard, R.I.	Eilberg	Kastenmeier
Bedell	Emery	Kazen
Bellenson	English	Kelly
Benjamin	Erlenborn	Kemp
Bennett	Ertel	Ketchum
Bevill	Evans, Colo.	Keys
Biaggi	Evans, Del.	Kildee
Bingham	Evans, Ga.	Kindness
Blanchard	Evans, Ind.	Kostmayer
Blouin	Fary	Krebs
Boggs	Fascell	Krueger
Boland	Fenwick	LaFalce
Bonior	Findley	Lagomarsino
Bowen	Fish	Latta
Brademas	Fisher	Le Fante
Breaux	Fithian	Leach
Breckinridge	Flippo	Lederer
Brinkley	Flood	Leggett
Brodhead	Florio	Lehman
Brooks	Flynt	Levitas
Broomfield	Foley	Livingston
Brown, Mich.	Ford, Mich.	Lloyd, Calif.
Brown, Ohio	Ford, Tenn.	Lloyd, Tenn.
Broyhill	Forsythe	Long, La.
Buchanan	Fountain	Long, Md.
Burke, Calif.	Fowler	Lott
Burke, Fla.	Fraser	Luken
Burke, Mass.	Frenzel	Lundine
Burleson, Tex.	Fuqua	McClory
Burlison, Mo.	Gammage	McCloskey
Burton, John	Gaydos	McCormack
Burton, Phillip	Gephardt	McDade
Butler	Giaimo	McFall
Byron	Gibbons	McHugh
Caputo	Gilman	McKay
Carney	Ginn	McKinney
Carr	Glickman	Madigan
Cavanaugh	Gonzalez	Maguire
Cederberg	Goodling	Mahon
Chappell	Gore	Mann
Chisholm	Gradison	Markey
Clay	Grassley	Marks
Cleveland	Gudger	Marlenee
Cochran	Guyer	Martin
Cohen	Hagedorn	Mathis
Coleman	Hall	Mattox
Collins, Ill.	Hamilton	Meeds
Conable	Hammer-schmidt	Metcalfe
Conte		Meyner
Conyers	Hanley	Michel
Corcoran	Hannaford	Mikulski
Corman	Harkin	Mikva
Cornwell	Harrington	Milford
Cotter	Harris	Miller, Calif.
Cunningham	Harsha	Mineta
D'Amours	Hawkins	Minish
Mitchell, Md.	Richmond	Stockman
Mitchell, N.Y.	Rinaldo	Stokes
Moakley	Risenhoover	Stratton
Moffett	Roberts	Studds
Mollohan	Robinson	Stump
Moore	Rodino	Taylor
Moorhead, Calif.	Roe	Thompson
	Rogers	Thone
Moorhead, Pa.	Roncalio	Thornton
Moss	Rooney	Traxler
Murphy, Ill.	Rose	Treen
Murphy, N.Y.	Rosenthal	Trible
Murphy, Pa.	Rostenkowski	Tsongas
Murtha	Roybal	Tucker
Myers, Gary	Rudd	Udall
Myers, John	Runnels	Ullman
Myers, Michael	Ruppe	Van Deerlin
Natcher	Russo	Vander Jagt
Neal	Ryan	Vanik
Nedzi	Santini	Vento
Nichols	Sarasin	Volkmer
Nix	Satterfield	Waggonner
Nolan	Sawyer	Walgren
Nowak	Scheuer	Walker
O'Brien	Schroeder	Walsh
Oakar	Schulze	Wampler
Oberstar	Sebelius	Watkins
Ottinger	Seiberling	Waxman
Panetta	Sharp	Weaver
Patten	Shipley	Weiss
Patterson	Sikes	White
Pattison	Simon	Whitehurst
Pease	Sisk	Whitley
Pepper	Skelton	Whitten
Perkins	Skubitz	Wilson, C. H.
Pettis	Slack	Wilson, Tex.
Pickle	Smith, Iowa	Winn
Pike	Smith, Nebr.	Wirth
Poage	Snyder	Wolff
Pressler	Solarz	Wright
Preyer	Spellman	Wydler
Price	Spence	Wylie
Pritchard	St Germain	Yates
Quillen	Staggers	Yatron
Rahall	Stangeland	Young, Alaska
Rangel	Stanton	Young, Fla.
Regula	Stark	Young, Mo.
Reuss	Steed	Zablocki
Rhodes	Steers	Zeferetti

NAYS—17

Badham	Hansen	Obey
Beard, Tenn.	Jeffords	Quayle
Collins, Tex.	McDonald	Shuster
Cornell	McEwen	Steiger
Crane	Miller, Ohio	Symms
Devine	Motti	

ANSWERED "PRESENT"—1

Rousselot

NOT VOTING—30

Alexander	Dodd	Montgomery
AuCoin	Flowers	Pursell
Boiling	Frey	Quie
Bonker	Goldwater	Railsback
Brown, Calif.	Holland	Teague
Burgener	Howard	Whalen
Carter	Koch	Wiggins
Clausen, Don H.	Lent	Wilson, Bob
	Lujan	Young, Tex.
Clawson, Del	Marriott	
Coughlin	Mazzoli	

The Clerk announced the following pairs:

On this vote:

Mr. Quie for, with Mr. Rousselot against.

Until further notice:

Mr. AuCoin with Mr. Burgener.
Mr. Koch with Mr. Bob Wilson.
Mr. Dodd with Mr. Lent.
Mr. Montgomery with Mr. Marriott.
Mr. Teague with Mr. Carter.
Mr. Howard with Mr. Lujan.
Mr. Mazzoli with Mr. Don H. Clausen.
Mr. Alexander with Mr. Goldwater.
Mr. Flowers with Mr. Railsback.
Mr. Brown of California with Mr. Whalen.
Mr. Holland with Mr. Frey.
Mr. Pursell with Mr. Del Clawson.
Mr. Coughlin with Mr. Wiggins.

Mr. ROUSSELOT. Mr. Speaker, I have a live pair with the gentleman from Minnesota, Mr. QUIE. If he were present, he would vote "aye." I voted "no." I withdraw my vote and vote "present."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 1139, just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6805, ESTABLISHING AN AGENCY FOR CONSUMER PROTECTION

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. 95–770) on the resolution (H. Res. 872) providing for consideration of the bill (H.R. 6805) to establish an Agency for Consumer Protection in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR RADIO AND TELEVISION COVERAGE OF HOUSE PROCEEDINGS

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 866 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 866

Resolved, That it is the purpose of this resolution to provide for a system for closed circuit viewing of the proceedings of the House and to provide for the orderly development of a system for audio and visual broadcasting thereof.

ESTABLISHMENT OF CLOSED CIRCUIT SYSTEM

SEC. 2. The Speaker shall devise and implement a system subject to his direction and control for closed circuit viewing of floor proceedings of the House of Representatives in the offices of all Members and committees and in such other places in the Capitol and the House Office Buildings as he deems appropriate. Such system may include other telecommunications functions as he deems appropriate.

STUDY OF BROADCASTING

SEC. 3. The Committee on Rules shall conduct a study of all alternative methods of providing complete and unedited audio and visual broadcasting of the proceedings of the House of Representatives. The committee shall report its findings and recommendations as soon as practicable but not later than February 15, 1978.

ESTABLISHMENT OF BROADCASTING SYSTEM

SEC. 4. (a) As soon as practicable after receipt of the report of the committee, the Speaker shall devise and implement a system subject to his direction and control for complete and unedited audio and visual broadcasting and recording of the proceedings of

the House of Representatives. He shall provide for the distribution of such broadcasts and recordings thereof to news media and the storage of audio and video recordings of the proceedings.

(b) (1) All television and radio broadcasting stations, networks, services, and systems (including cable systems) which are accredited to the House Radio and Television Correspondents' Galleries, and all radio and television correspondents who are accredited to the Radio and Television Correspondents' Galleries shall be provided access to the live coverage of the House of Representatives.

(2) No coverage made available under this resolution nor any recording thereof shall be used for any political purpose.

(3) Coverage made available under this resolution shall not be broadcast with commercial sponsorship except as part of bona fide news programs and public affairs documentary programs. No part of such coverage or any recording thereof shall be used in any commercial advertisement.

AUTHORITY TO DELEGATE

SEC. 5. The Speaker may delegate any of his responsibilities under this resolution to such legislative entity as he deems appropriate.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 866 provides for radio and television coverage of House floor proceedings. It is a resolution that many of us in this House have looked forward to for some time.

The history of this resolution stretches back over more than three decades. Our colleague from Florida, Mr. PEPPER, then a member of the other body, introduced a joint resolution in 1944 to provide for broadcasting of both House and Senate floor proceedings. The Joint Committee on the Organization of the Congress heard testimony on the matter in 1965. During hearings on the Legislative Reorganization Act of 1970, which I had the privilege to chair, the issue was considered at some length, and provisions for broadcasting of committee hearings were included in the Act.

In the 93d Congress, the Joint Committee on Congressional Operations undertook a 2-year study of the broadcasting question. Extensive investigation and hearings led the joint committee to issue a report in October 1974 strongly recommending the idea. In that same year, Chairman JACK BROOKS and other House members of the joint committee introduced a resolution to implement the report's recommendations.

The resolution was reintroduced in the 94th Congress by Mr. BROOKS and over 100 cosponsors. The Committee on Rules held 2 days of hearings on the resolution and referred it to an Ad Hoc Subcommittee on Broadcasting. The subcommittee undertook an extensive study of the question and reported out House Resolution 875. This resolution provided for broadcasting of House floor proceedings by utilizing a network pool concept. The resolution, unfortunately, was referred back to subcommittee by the full Committee on Rules and no further action on broadcasting was undertaken in the last Congress.

The prospects for broadcasting improved considerably in this Congress when the Speaker provided for a 90-day test of closed circuit coverage of House floor proceedings. The Select Committee on Congressional Operations and the Architect's Office were asked to conduct the test, which began on March 15 and concluded on September 15 of this year. The select committee reported on the test and recommended that a permanent broadcasting system be installed. Chairman BROOKS and the members of the select committee as well as the Architect and his staff should be commended for the excellent service they provided in conducting the test.

On October 6, 1977, House Resolution 821 was introduced. The Committee on Rules held hearings on the resolution on October 13 and 19. A markup session was conducted on October 25 when an amendment in the nature of a substitute was adopted. A clean resolution, House Resolution 866, was subsequently introduced and ordered reported on October 26, 1977.

The intent of House Resolution 866 is substantially the same as the earlier resolution. Both resolutions provide for broadcasting of House floor proceedings and both would vest all authority for devising and implementing the system with the Speaker.

House Resolution 866 provides for the establishment of a closed circuit system for viewing floor proceedings in the offices of all Members and committees and in other places in the House Office Buildings and the Capitol. Again, the Speaker is vested with all authority to devise and implement the system.

This provision was included in the resolution to insure that the Speaker would be able to undertake installation of the cabling for the closed circuit system during the upcoming recess. Testimony by both Mr. BROOKS and Mr. CLEVELAND at the Rules Committe hearing on October 13 indicated that this was the prime reason for taking a broadcast resolution to the floor at this time since it would be impossible from a technical standpoint to make the broadcast coverage available to the public until sometime in the second session of this Congress.

The resolution also requires the Committee on Rules to conduct a study of all possible alternatives for providing broadcasting and to report their findings no later than February 15, 1978. The committee believed that the study was necessary to assure that the Speaker received as much information as possible on all alternatives for broadcasting before he made a decision on which system to choose. At this time, two alternatives—providing for broadcasting by a network pool arrangment and by in-house system—have been analyzed in depth, but other possible alternatives have not been investigated extensively. Such alternatives might include a system operated by the Public Broadcasting System or by a commission on broadcasting established by the House.

As soon as practicable after receipt of the report of the Committee on Rules, the Speaker would devise and implement a system subject to his direction and control for the complete and unedited recordings of all the proceedings of the House. The Speaker shall provide for distribution of the broadcastings and recordings to the public and the news media. All of the television and radio broadcasting stations, networks, services, systems, and individual correspondents which are accredited to the House Radio and Television Correspondents' Gallery will have access to the live coverage of the House.

The resolution prohibits the use of any of the coverage for political or commercial advertising purposes.

Under the resolution, the Speaker may delegate any of his responsibility for broadcasting to any legislative entity he deems appropriate.

The resolution does not provide for a permanent change in the Rules of the House as did House Resolution 821. The Committee on Rules made this change to allow more time to evaluate a broadcast system before a permanent change in the rules was made. The resolution would provide for broadcasting for the rest of this Congress, and at the adoption of the rules for the next Congress, the change in the rules could be made.

Mr. Speaker, in the last few years, the broadcast media have become the principal source of information on public affairs for most Americans. No other medium of communication in history has transmitted ideas, viewpoints, and facts to so many people simultaneously, so graphically and so convincingly. According to published surveys, our people have more faith in the information they get from the broadcast media than from any other source, and they go to this source more frequently and for longer periods of time than to any other.

Moreover, a majority of the American people appear to favor televising Congress. A Roper poll conducted in July 1975 indicates that 53 percent of a national sampling want overall television coverage of Congress and an additional 15 percent favor partial television coverage of major congressional events.

A majority of the Members of the House have indicated their support for the broadcast coverage of floor proceedings. A poll conducted by Congressman PEPPER in the last Congress indicated that 68.7 percent of House Members favored broadcasting.

Mr. Speaker, broadcasting of House floor proceedings will allow the people of this country to be better informed about the actions of their elected representatives. The whole basis of our democratic system of government is predicated on an informed electorate. We would do well to remember the words of James Madison when he wrote:

> A popular government, without popular information or the means of acquiring it, is but a prologue to a farce or a tragedy, or perhaps both.

Those words are as true today as when they were written.

Mr. Speaker, I urge my colleagues to adopt House Resolution 866 providing for the broadcast coverage of the floor proceedings of the House.

Mr. Speaker, with that, I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I realize that compared to the social security amendments we just debated and voted on, perhaps Members feel this pales by comparison; but like the social security amendments, the result of this resolution will live with this body for a long, long time. We are talking about the broadcasting of the House floor proceedings.

Now, it would not happen immediately as a result of this resolution, but I think we should all understand at the beginning that this resolution is, in effect, saying that we are going to have audio and video coverage of House floor proceedings sometime, probably beginning next year. So, there should not be any misunderstanding about what this resolution would do.

I would like to say that it is a privilege to share this time with the gentleman from California (Mr. SISK) who is, I think, a recognized authority on this subject. He has spent a great deal of time working on trying to decide the best way to televise and record House floor proceedings.

I would also like to commend the gentleman from Texas (Mr. BROOKS) and the Committee on Government Operations for the time that they have spent on this. It has been very helpful.

This particular resolution is a privileged resolution. There will not be an opportunity for amendments to be offered, and there is some objection to that. Ordinarily, I am very uncomfortable with this type of proceeding. I would rather it had come to the floor under a straight open rule, but I think that when the Members see what is in this particular resolution, they will understand and agree, probably, in this instance that it was the way it could best be handled.

Here is the purpose of the resolution. It is threefold:

No. 1, to establish a closed circuit system for viewing the proceedings on the House floor. In other words, allowing the Speaker to go ahead and take action to devise and implement a system to have the activities on the House floor available in the Cannon and Longworth Buildings, committee rooms, and in the Capitol. The Speaker needs the authority in order to accomplish this and to begin on it right away, so that when we come back here in January or sometime in February, certainly, we can have that closed circuit television system all over the Capitol area. There is indication that the Speaker wanted it and that the Members wanted it.

Second, it would direct the Rules Committee to conduct a study into alternative methods of providing broadcast coverage of House floor action. Mr. SISK and the subcommittee did a lot of work on this. The results of their study were that we should have, as I understand it, a network and PBS pool which would provide this coverage. The pool would bear the cost for providing this coverage unedited to the public, to the Archives, and for the use of the networks.

The Brooks committee came up with the recommendation that we should just say, "We want this broadcast coverage, and here, Mr. Speaker, you go do it." I do not think it is fair to the Speaker, not to have a little more guideline about how it is going to be done. I ask the question, at least for now, do we want to pay the initial cost which may be $1 million or so and have it under the control of the House? There is some concern that the House itself would have control of the proceedings.

There were some members of the Rules Committee, and some testimony before the Rules Committee, that we should not go in that direction. There were other alternatives, and frankly the one that I prefer now is to say,

> Let us have it, but only turn it over to public broadcasting so that it can be used for educational purposes.

Perhaps they might want to do as they have done in Florida, condense what happened on the floor on any particular day to a 30-minute program which would show what happened.

But, there would be a greater opportunity for showing both sides of the debate. I worry—and I know some other Members worry—about the fact that this televised coverage would be available to the networks.

They have only limited time in each day's broadcasts to show what might have happened in debate in Congress on a particular issue. The temptation is certainly going to be great to show only one side of the debate or perhaps the most fiery and flamboyant speaker.

Perhaps some other Member on the floor of the House would have a very calm, low-key, lackluster, legalistic argument, which would be the basis of the real issue. Maybe we cannot deal with the fairness of the issue I am raising in this body. It gets into the first amendment question.

So the result of all this was that we said,

> Let us have the Committee on Rules look at these questions further, give us until the 15th of February to consider the alternatives and make some recommendations to the Speaker.

And then we would be back, in effect, where we would be right now, with the Speaker giving further consideration after study by the Committee on Rules.

There will be some cost as a result of this resolution. There is an estimate of $500,000 for the cameras and associated equipment for providing the closed circuit coverage. To wire the three office buildings and the Capitol for receiving broadcast coverage the report includes a figure of $345,000.

In conclusion, Mr. Speaker, I want to say that, as for myself, I hope this resolution will be adopted. I would like for us to have this broadcast coverage, but I think we should do it after some more study and after we are very well satisfied that all of the alternatives have been explored and we know exactly what we are getting into.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman for his statement. I must confess that I have the same concerns that the gentleman has expressed here. When we discussed the funding of public broadcasting, for example, in our appropriations subcommittee, we always had a line of questioning concerned with what is considered educational or cultural material versus those areas which appear to be purely political.

We always have attempted to insulate our public broadcasts from political influence or dominance of any kind as our public stations should be used primarily for the purpose of educating the general public and for the cultural advancement of the people.

I am glad to see the gentleman has so carefully pointed up here today that we should analyze any possible dangers in allowing the networks picking and choosing what they consider important in our daily sessions. I think that is why we are having a test period. But I realize we have come to that juncture where we are going to have to accept this as a matter of our daily lives and only hope that the networks and the news media will exercise good judgement and attempt to show fairly both sides of each issue.

Mr. LOTT. Mr. Speaker, I appreciate the gentleman's comments.

Under the resolution, no live coverage made available can be used for any political purpose, nor can it be used with commercial sponsorship except as part of bona fide news programs and public affairs documentary programs.

I would like to have a little explanation or a definition as to what is "political purpose." I think I could conjure up some situation where a Member might get access to the results of these broadcasts and maintain it is not for political purposes, when, in fact, it would be. Would he be able to use it maybe 65 days before an election in some way? Maybe not. Maybe I am just probing in the dark for some possibility, but I think it is an important possibility which should be explored, to make sure this is not used for political purposes.

Mr. MICHEL. Mr. Speaker, if the gentleman will yield further, I can think of a situation where a chairman of a committee or a ranking minority Member is managing time on a bill, and there are a certain number of Members on the subcommittee who will wish to speak. With broadcasting I think there is going to be much more of a inclination to make absolutely sure that there is time allocated to every member of that subcommittee.

Because, frankly, if each is not given his "air time" on a piece of legislation, there is going to be some kind of mistaken inference that he was not as interested as he should be in the business of the day because he was not allocated a certain proportion of the time.

There are all kinds of ramifications to this issue, and there can be Members who, frankly, may be hurt. We have heard this argument on the floor many times: When are you going to allocate time to some Members other than the

committee members, who have preempted all the time?

How do we take care of this kind of situation? We have to move very carefully. This can cut both ways, and it cuts across both sides of the aisle.

Mr. Speaker, I think the committee would be well served to really look at all of the alternatives very carefully, lest any one of the Members of this House be hurt in some fashion by whatever "broadcast time" he does or does not get.

Mr. LOTT. Mr. Speaker, I thank the gentleman again for his comments, because they are very pertinent.

I am not sure the Committee on Rules or any subcommittee would be able to deal with that problem and find a solution to it. That is a genuine risk we take when we start allowing the broadcasting of these House floor proceedings, and, of course, the gentleman from Texas and the gentleman from California looked at this and concluded: Well, that is just a risk we have to take.

This is a problem, and we have to recognize that Members will take advantage of every opportunity to be heard and to be seen as they appear before these microphones and cameras. I am sure that at least initially there is going to be perhaps some grandstanding. Maybe that is just one of the additional problems we will have, but at least it may be important in order to show the public what does happen here.

Mr. Speaker, I want to make one other point. The alternative from the Committee on Rules, in my opinion, was whether or not we were going to move forward with the broadcasting of these House floor proceedings right now or whether we were going to pass this resolution, which will give us a little more time and one more opportunity to review the alternatives and see if there are some protections we can provide or perhaps some limitations we should insist upon.

Mr. MICHEL. Mr. Speaker, will the gentleman yield further?

Mr. LOTT. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, I want to applaud the gentleman from Mississippi (Mr. LOTT) for the kind of statement he has made here today, and I commend the committee, too, for the manner in which we have proceeded, taking this one step at a time. I think this question has grave implications, far beyond the gentleman's service and my own service in this body, and we would do well to proceed very cautiously.

Mr. LOTT. Mr. Speaker, I appreciate the gentleman's making these points, because I am sure he is one of the Members who is going to benefit from this live broadcast coverage.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I want to make clear at the outset that I supported sending this resolution to the floor under an open rule. But it was the will of a majority of the Rules Committee to report this as a privileged resolution, and I accept that decision and support the adoption of House Resolution 866. During our markup on the original resolution we considered, House Resolution 821, introduced by the gentleman from Texas (Mr. BROOKS), the gentleman from California, (Mr. SISK), and others, I offered a substitute which, among other things, would have expressed the sense of the House that broadcast coverage should be carried by a network pool. The gentleman from Mississippi (Mr. LOTT) offered an alternative approach, expressing the sense of the House that the Public Broadcasting Service should be invited to provide the coverage. Those two amendments failed.

At that point, the gentleman from Mississippi (Mr. LOTT) offered the substitute which is before us today as House Resolution 866, which had been developed by him and the gentleman from California (Mr. SISK), in the spirit of bipartisan compromise. It is not every thing that many of us may have wanted, but I think it represents an historic and reasonable beginning.

Last March 15, when the closed-circuit broadcast test began, I offered a resolution as a question of privilege, directing the Rules Committee to evaluate the test and report to the House its findings and recommendations, including a recommendation as to whether this broadcast coverage should be made available to the public. This resolution fulfills that mandate. The Rules Committee has recommended, in this resolution, that as soon as possible after next February 15, the Speaker shall devise and implement a system for the broadcast coverage of all our proceedings and make that coverage available to the public and the news media. Thus, by adopting this resolution, the House will have the first real opportunity to go on record in favor of permitting the American people to view and listen to our debates on their television sets and radios.

Mr. Speaker, I do not think anyone will question my credentials as a strong advocate of broadcasting our proceedings. I testified in favor of this before the Joint Committee on Congressional Operations in the 93d Congress. I served on the Ad Hoc Subcommittee on Broadcasting in the last Congress and joined in sponsoring that subcommittee's resolution providing for broadcast coverage by a network pool arrangement. And, in this Congress I have introduced a House broadcast rule with some 30 cosponsors, and have joined with Congressman SISK on his broadcast resolution.

Every poll I have seen indicates that the public strongly favors this and a majority of the Members of this body favor this. The question is no longer whether we should go public with broadcast coverage; as the Select Committee on Congressional Operations pointed out in its report of September 27, "Televising the House," and I quote,

> Television coverage of House proceedings—complete, uninterrupted, unedited—is inevitable: a large majority of the general public desires it, and a substantial majority of Members of the House support it.

That report goes on to state,

> It is also desirable, both as a source of public understanding of the process and product of representative government and as a means of improving the operation of that process in the House.

I want to commend the select committee, and particularly the chairman (Mr. BROOKS) and the ranking minority member (Mr. CLEVELAND), on the work they have done on this over the years, and with this year's broadcast test, and on their dedication to making broadcast coverage a reality.

As Members of this body may be aware, there is a basic difference in the approach recommended by the select committee and that recommended by our Ad Hoc Subcommittee on Broadcasting in the last Congress. The select committee has recommended House operation and control of the broadcast system; our ad hoc subcommittee had recommended that coverage be provided by a network pool arrangement and made available to all U.S. broadcast stations, networks, services, and systems.

The resolution before us today does not commit the House or the Speaker to one means of coverage or another, nor did the resolution introduced by Chairman BROOKS. We all recognize that this decision must ultimately be made by the Speaker. What this resolution does do is to authorize and direct the Speaker to complete the closed-circuit broadcast system to all House offices as soon as possible.

In the meantime, the Rules Committee is directed to study the various alternatives for providing coverage and report its findings and recommendations to the House no later than February 15, 1978. As soon thereafter as possible, the Speaker shall devise and implement a system for broadcast coverage and make this available to the public and news media. I think it is important to note that the Speaker will in no way be bound to accept the recommendations of the Rules Committee, anymore than he will be bound to accept the recommendations of the select committee. But, it was our feeling in the Rules Committee that we should fully explore the various options available—in-House, network pool, and public broadcasting—lay these out before the House and the Speaker, and give him the benefit of our best judgment based on our study.

It would also be my hope that the Rules Committee could then develop and report a House broadcast rule providing guidelines for broadcasting our proceedings, without in any way impairing the right of the Speaker to choose the best means for coverage as he sees fit, or, for that matter, of changing to another method later on if he thinks it is advisable.

In conclusion, I think this is a good compromise resolution which incorporates the best of the select committee's original resolution while at the same time providing a means whereby the Speaker will have the fullest range of available options to choose from next February 15. I consider the vote on this resolution today to be a historic landmark for the House that will bring us into the modern media age. I urge its adoption.

Mr. Speaker, I listened with great interest to the colloquy that just took place

between the distinguished minority whip and my friend, the gentleman from Mississippi (Mr. LOTT), a member of the Committee on Rules.

One of the highlights of this matter that is, I think, a concern of many Members of this body is that somehow, even after this 90-day-or-longer test that we have now had of visual recording of the activities of this body, this is going to subject us to certain hazards and certain dangers and indignities that are not now inflicted upon us.

I could not help but remember, as I thought along those lines, that a few years ago we had a couple of Members of this body, both of whom are now departed—and so I do not think I am breaching the etiquette of the House by referring to them—who were somewhat elderly, and when it became a little late in the afternoon, after a long and arduous session, they would tend to doze as they sat here in seats located very close to the front of the Chamber.

On one occasion a certain newspaper in a front page article called attention to these two gentlemen and the fact that they were somewhat somnolent in their habits. It was obviously an article that caused them some embarrassment.

But we would never think, under the first amendment, of course, of trying to dictate to the gentlemen who sit in the Press Gallery and who represent the print media as to what they should write. I am sure that sometimes they demonstrate favoritism—or at least we all feel that way—toward one Member or another. And then there may be some Member who is on a subcommittee and has given a particularly stirring speech, but his immortal prose is not suitably recorded in the morning editions the following day, and some other Member's remarks are chosen instead.

Those are the hazards that we run when we dedicate ourselves, as we certainly do in this Chamber, to the ideals of freedom of speech and press and recognize the fact that we are under the constant scrutiny of the public.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Speaker, I thank the gentleman for yielding.

I was interested in the gentleman's remarks about elderly gentlemen dozing off.

I wanted to state to my good friend that even the young Members, with the bad air in this Chamber, on occasion doze off, too. The air is not the best, and some of the speeches that we have to listen to are like a kind of Nytol medicine.

Mr. ANDERSON of Illinois. Mr. Speaker, I hope the gentleman does not have reference to the remarks that I am currently making now in the well.

Mr. Speaker, I did not intend to point the finger at any particular group of Members in this body.

In conclusion, Mr. Speaker, I am going to support this resolution. I do pay tribute not only to the gentleman from California (Mr. SISK) and the gentleman from Mississippi (Mr. LOTT), who arranged the compromise that has been reported for us today; but I pay tribute to my good friend, the gentleman from Texas (Mr. BROOKS), the distinguished chairman of the Committee on Government Operations, and also of the Select Committee on Congressional Operations. I think he and his counterpart on that committee, the gentleman from New Hampshire (Mr. CLEVELAND), are to be commended for the work that they have done in arranging for the broadcast test which has further convinced many Members of this House that the time has indeed come to begin, on a continuous basis, the gavel-to-gavel coverage, audio and video, of the proceedings of this House.

Again, Mr. Speaker, I urge the adoption of the resolution.

Mr. QUAYLE. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Indiana.

Mr. QUAYLE. Mr. Speaker, I would just like to compliment the gentleman on his remarks, and I would like to associate myself with his remarks.

I would like to say that we are in the electronic age now. We have been debating in a spirit of openness in committees, in the House, and in the Government in general.

I think this is a step forward; and as the gentleman has said, the time has come for this coverage.

Mr. Speaker, I am sure that there are all sorts of fears that can be projected. Those fears can be raised in print as well as through the electronic media. I just do not think they are warranted or that what is feared will happen.

Mr. ANDERSON of Illinois. Mr. Speaker, I appreciate the contribution of the gentleman from Indiana (Mr. QUAYLE).

Mr. SISK. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, let me say this, that the achievement of getting to the floor today is due to many people who worked hard, many Members of the House; and I particularly want to pay tribute to my colleague, the gentleman from Texas (Mr. BROOKS), chairman of the Committee on Congressional Operations, for the great work that he and his committee did.

I well remember the testimony that some of us were able to give before that committee a number of years ago on this very subject; and it is certainly a privilege for me now to yield 5 minutes to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I thank the gentleman for his kind remarks.

Mr. Speaker, the resolution brought to the floor today by the Committee on Rules, House Resolution 866, provides the necessary authority for the Speaker to devise and implement a plan for both closed-circuit and broadcast coverage of House proceedings by radio and television.

House Resolution 866 is a substitute for House Resolution 821 which was designed to implement the recommendations of the House Select Committee on Congressional Operations. Those recommendations were based on 5 years of continuing study by the committee and 90 days of live testing of television coverage of the House.

The pending resolution, I am pleased to acknowledge, utilizes much of the language of House Resolution 821 and in all significant respects will accomplish almost precisely what we intended to be done in our select committee report and in House Resolution 821.

For example:

The resolution authorizes the Speaker to implement a closed-circuit system effective immediately.

The resolution provides that the Rules Committee shall continue to study various options for broadcasting House proceedings and report their recommendations by February 15—a provision permitted in any event.

The resolution authorizes the Speaker to implement a system for broadcast coverage, both live and recorded, to be made available to the news media as soon as practicable after February 15.

What this all comes down to is this. The Speaker has endorsed this proposal for broadcasting. If he continues to subscribe to this view, he will be able to move ahead promptly.

In describing the road ahead to live and recorded broadcast coverage of the House and, as soon thereafter as possible findings and recommendations approved unanimously by the seven members of the select committee:

First, the test has demonstrated both the technical feasibility of broadcast coverage of daily House sessions and the value—as an information source for the House and the general public—of providing such coverage.

Second, broadcast coverage should include both television and radio and it should consist, first, of a complete closed-circuit system for the information of Members, committees, and officers of the House and, as soon thereafter as possible, of full access to the public by means of live feeds for commercial and public broadcasters and the provision of audio and video recordings.

Third, in establishing such a broadcast system, the House should make certain that it will be compatible, from a technical viewpoint, with a longer range communications system designed to meet our future needs for data transmission.

Fourth, the report estimates that total costs of installing a basic closed-circuit system, including public access to the system, would be approximately $845,000. This would be a one-time capital expense, operating costs would be minimal.

Fifth, management and operation of a broadcast system should be the responsibility of the House directly; the report recommends that responsibility be placed with the Speaker, that the Architect of the Capitol be authorized to develop and operate the system, and that arrangements be made by the Speaker with the Library of Congress or some other legislative body for recording, distributing, and storing the broadcasts.

Sixth, in the operation of the broadcast system, the report proposes:

That advanced, color minicameras be used to provide a broadcast quality picture;

That the cameras be remotely controlled and focus exclusively on the offi-

cial action taking place on the House floor;

That coverage be complete from the opening gavel to the close of daily legislative business, with the Speaker authorized to decide whether or not to include special orders.

Those are the highlights of the report. They are entirely consistent with the views expressed by a substantial majority of our colleagues who participated in the select committee's detailed survey of Members' views and preferences.

It is important to distinguish between the terms of the resolution and the more detailed recommendations of the select committee.

The resolution is a bare bones one.

It simply directs the Speaker to develop a system for broadcasting and recording the daily proceedings of the House, to make that coverage available to the news media and the public, and to provide for storage of the recordings.

It authorizes him to delegate those responsibilities.

It requires the coverage to be complete and unedited.

And it prohibits the use of broadcast coverage for political purposes and for advertising purposes.

Otherwise, the resolution would not tie the Speaker's hands. It does not impose on him a specific method of implementation or a rigid timetable. In determining how he should proceed, the Speaker would have a wide range of options.

He would be free to delegate any or all of his responsibilities to any of a number of different legislative entities, which means any committee, commission or other organization within the legislative branch of the Government.

He would be free to determine the components and capabilities of a broadcast system.

And he would be authorized to use his best judgment in deciding when to expand the present system, when to resume broadcasting, and when to make it available to the public.

We believe the select committee's recommendations are reasonable, responsible, and practical.

They were approved unanimously by all seven members of the committee.

They are soundly based on more than 6 years of study, hearings, experimentation, and actual broadcast experience.

They correspond, in every significant respect, with the views expressed by a majority of Members responding to the relevant questions in the select committee's survey.

We believe, in other words, that we have demonstrated that a broadcast system such as we have recommended can work effectively in the interests both of the House itself and of the general public.

PRINCIPAL FINDINGS

On the basis of live and recorded television coverage, via closed-circuit, of 90 legislative days of House proceedings and of previous congressional studies, the select committee finds that:

First. In terms of demonstrating the feasibility of broadcast coverage of House proceedings, both live and recorded, providing both closed-circuit and public access to the broadcasts, and doing so at a reasonable cost measured by anticipated institutional and public benefits, the test of broadcast coverage has been successful. Despite minor problems with the lighting and sound systems in the House Chamber and the outdated electronic equipment in the Rayburn Building—all of which can readily be corrected—the test has shown that neither technical nor policy considerations stand in the way of early development of a permanent system for broadcasting House proceedings.

Second. Member interest in the test and in the future of broadcast coverage has been extensive. During the test, 121 Members [1] with offices in the Rayburn Building arranged to have their personal television sets—none were supplied to Members by the select committee or the Architect for the purposes of the test—connected to the master antenna system, and most received the test broadcasts regularly. This represents approximately 72 percent of Members [1] potentially capable of receiving the broadcasts. In addition, more than 150 Members responded to the select committee's detailed questionnaire soliciting their views and indicated in their replies to individual questions and in often extensive added comments the desire to make broadcast coverage as widely available and as useful as possible both for institutional and public purposes.

Third. Television coverage of House proceedings—complete, uninterrupted, unedited—is inevitable: A large majority of the general public desires it, and a substantial majority of Members of the House support it. It is also desirable, both as a source of public understanding of the process and product of representative government and as a means of improving the operation of that process in the House.

Fourth. Television coverage of House proceedings can serve as a valuable information resource for Members and staff in carrying out their respective functions in the legislative process.

Fifth. When focused exclusively on the official action in the House Chamber—the Members and officials of the House actively participating in the debate and other proceedings of the body—television coverage can provide the most accurate possible record of House proceedings.

Sixth. Similarly, television coverage of House proceedings, when made available to the general public either live by the electronic media or by means of audio and video recordings, can substantially contribute to public understanding of the issues being considered by the House and of the process by which legislation is enacted.

Seventh. A substantial majority of the more than 150 Members who responded to the select committee's questionnaire seeking their views on the present test and their preferences for future television coverage expressed a strong desire for continued closed-circuit broadcasting of floor proceedings; Members whose offices in the Rayburn Building enabled them to receive the broadcasts directly indicated they generally made considerable use of the broadcasts; Members in the Cannon and Longworth Buildings frequently urged that those buildings be wired to receive the broadcasts at the earliest possible time.

Eighth. A majority of Member respondents also indicated either a desire or a willingness to provide for regular public access to broadcast coverage of House proceedings, though individual Members recommended a variety of conditions.

Ninth. A similar majority of Members expressing a judgment desired that broadcast coverage, both closed circuit and public, include the complete daily proceedings of the House and not be limited to special events or selected portions or periods.

Tenth. Utilizing advanced state-of-the-art minicameras, similar to those tested by the select committee and the Architect, television coverage of the House can be provided unobtrusively, without the need for significant reconstruction of the Chamber, additional personnel, greatly enhanced or otherwise intrusive lighting, bulky equipment, and in a manner which fully protects the decorum and integrity of the House. All but one Member responding to the select committee's questionnaire reported they were seldom conscious of the fact that debate was being televised and were neither inconvenienced nor inhibited by the presence of live TV cameras in the House.

Eleventh. The same type of advanced minicamera makes it possible to obtain a broadcast quality—if not studio quality—picture, suitable both for closed-circuit and public broadcast purposes, without substantial increases in lighting levels or other changes in the environment of the House Chamber.

Twelfth. Appropriately positioned (one camera on each side of the Speaker's rostrum below the press gallery and one camera over the main entrance to the Chamber facing the Speaker's rostrum), a total of three television cameras is adequate to cover the entire area of the House floor. Computer-assisted programing of the cameras can provide approximately 70 preset "shots" (including split-screen pictures) which will cover all positions of the House floor from which Members engage in debate or other official action takes place. This will permit remotely controlled and virtually automatic operation of the cameras and assure uninterrupted coverage of the official debate and proceedings—an objective endorsed by a large majority of Members responding to the select committee's questionnaire.

Thirteenth. Focusing on the official action in the House Chamber, as described above, is essential in order to provide complete, uninterrupted and accurate television coverage of House proceedings.

[1] This figure has been constantly changing as additional Members arranged for the necessary connections to be made right up to the time of committee approval of this report. At least 10 committee installations have also been made.

Removing the cameras from the Members participating in debate in order to pan the Chamber and the galleries for color or reaction shots would not only interrupt the continuous coverage of official proceedings, but would distract viewers from the official business of the House without providing anything in its place of comparable value. Visual interest—to the extent it is a valid objective of a system designed to communicate accurately the official proceedings of an institution—would, however, be maximized by several factors: Limitations on the length of time individual Members may speak in the House, the use of a split-screen technique to capture both parts of a colloquy between Members, the computer programable preset camera positions which can quickly and smoothly shift among a wide variety of shots to obtain those which, at any moment, most effectively communicate the action on the floor.

Fourteenth. The operation, management, and supervision of a system of television coverage of House proceedings should be a responsibility of the House itself and should not be delegated or contracted out to groups outside the Congress. Television must communicate what the House does and how the House does it. The substance and procedure of House floor action should not be dominated or unduly influenced by the medium through which that action reaches the public. As a means of protecting the integrity of the House as a legislative institution, therefore, the House should accept its management responsibility. A substantial majority of Members responding to the select committee's questionnaire subscribed to this view and selected either the Speaker or a committee, officer, or other organization of the House as the preferred locus of operating responsibility. Only 18 of 150 Members preferred that a network pool provide the coverage.

Fifteenth. Conversely, House management of a television system need not and should not imply in any way the imposition of editorial control or any form of censorship of the content of televised coverage of House proceedings. A system which provides complete coverage of the daily legislative business of the House and which permits broadcasters either to take live feeds of such coverage or use recordings of the coverage would, by its nature, allow untrammeled exercise of editorial judgment by the users. Complete and unedited coverage of daily legislative activity—and the consequent editorial freedom of broadcasters to use all or any part of the coverage, as their judgment dictates—would only be enhanced by assuring that cameras at all times were focused on the Members and officials actively participating in official floor action.

Sixteenth. In developing a permanent system for broadcast coverage of House proceedings, two basic options for the closed-circuit portion are available: First, a one-way distribution system to carry televised proceedings in a single direction over a cable system similar to that in the Rayburn Building which would embrace the House side of the Capitol Building and Members' offices and committee suites in the Cannon and Longworth Buildings; and second, a system designed to accommodate the future needs of the Congress for the two-way distribution of information (both television and data transmission) between all buildings in the Capitol Hill complex. The two options need not be mutually exclusive so long as the system concept for the latter is established and cabling is installed that will accommodate anticipated future requirements and expansion. The Architect estimates the cost of the one-way system, including replacement of headend equipment (distribution control equipment) in the Rayburn Building, would be $130,000; an additional $197,000 would be required to develop the two-way system in the House. For either system, the cost of television cameras and associated equipment is estimated at $715,000.[2] Conservatively amortized, these capital costs would obligate the House to substantially less than $200,000 a year. Operating and maintenance costs would be minimal. Responses to the select committee's questionnaire revealed widespread interest among Members in a variety of additional applications within the House of television and related communications technology.

Seventeenth. In addition to demonstrating the feasibility of basic broadcast coverage of the House, the test also established the feasibility and desirability of transmitting, simultaneously, supplementary information which would enhance the intelligibility and utility of the broadcasts. Such information includes: yea and nay votes as they are tallied (a feature incorporated in the broadcasts during the test), identification of Members speaking, the title of the bill being debated, a summary of an amendment being considered, the time remaining for debate under the rule, a synopsis of motions as they are offered, and so forth. A substantial majority of the Members surveyed advocated the inclusion of such information in the broadcasts.

Eighteenth. The recording, reproduction, and distribution of broadcast coverage on audio and video tape for public use and archival purposes would be an essential part of a comprehensive House broadcast system. As an integral part of the overall system, this function could be performed within the House or assigned to a unit of the Library of Congress. Members surveyed by the select committee generally preferred that such tapes be available to all, that costs of duplicating tapes be paid by the users, and that production and distribution of the tapes be a responsibility of the House.

Nineteenth. In addition to live and recorded broadcast coverage of House proceedings, a House broadcast system should include an archival and reference facility for the storage and viewing of recordings. Such a facility should be available to Members and employees of the Congress and to the general public at convenient times and places and be operated under regulations approved by the Speaker.

Twentieth. The purposes for which broadcast coverage of House proceedings would be authorized, that is, meeting the informational needs of the House and the general public, could be compromised by allowing totally unrestricted use of the coverage. Substantial majorities of the Members surveyed by the select committee approved the imposition of prohibitions against the use of live or recorded coverage for commercial advertising and political purposes.

RECOMMENDATIONS

Based on its findings—summarized above and described at greater length in the body of this report—the select committee recommends that:

First. The Speaker, under his present authority, extend the present test of television coverage of House proceedings through the end of the first session of the 95th Congress so as to assure continued reception of the broadcasts by Members and staffs presently using this service.

Second. The House adopt a resolution, prior to the adjournment of the first session of the 95th Congress, authorizing the establishment of a permanent system of television and radio coverage of the daily proceedings of the House of Representatives, including the following specific provisions:

That television and radio coverage of the daily legislative business of the House be complete, continuous, and unedited, subject only to the invoking of rule XXIX or to the adoption of a specific resolution by the House;

That such coverage be made available to Members, officers and committees throughout the House on a closed-circuit basis;

That such coverage be made available to the general public at the earliest feasible time both live, through those broadcast stations, networks, services and systems which are accredited by the House Radio-TV Gallery, and by means of recordings;

That responsibility for the implementation of broadcast coverage be vested in the Speaker who may delegate all or any part of the operating responsibility to such officer, committee, or other entity of the Congress as may be appropriate; and

That the use of broadcast coverage, live or recorded, for political purposes or as part of a commercial advertisement or, except as part of bona fide news and public affairs documentary programs,

[2] Cost estimates prepared by the Select Committee staff differ in some respects from those of the Architect. The Select Committee staff recommends improving the present signal distribution system in the Rayburn Building and approximately doubling the Architect's estimate of the number of tap-offs (receptacles for receiving signals) in all three House Office Buildings and the House side of the Capitol at an increased cost of about $200,000. The staff also believes the Architect's cost estimates for cameras (five) and associated equipment could be reduced by about $200,000 by eliminating one camera and certain nonessential ancillary equipment. The bases on which both sets of cost estimates were prepared are included in detail in Chapter VII and Appendixes C and D of this report.

with commercial sponsorship, be prohibited.

Third. Appropriate provisions of the resolution described above be incorporated in the Rules of the House of Representatives.

Fourth. The Speaker request to the Architect of the Capitol to assume responsibility for the development and day-to-day operation of the House broadcast system utilizing remotely controlled and computer programable cameras.

Fifth. The Architect be authorized and directed to begin immediately the procurement of equipment and supplies and the installation of communications lines and associated equipment necessary to improve closed-circuit broadcast reception in the Rayburn Building and to extend such reception to the offices of Members, committees and officers of the House in the Cannon and Longworth Buildings and the House side of the Capitol Building so that a completely functioning system will be in place as close as possible to the convening of the second session of the 95th Congress.

Sixth. The Architect be authorized and directed, in completing the closed-circuit broadcast system, to prepare plans in cooperation with the House Information Systems and other interested groups in the House and Senate, for the development of a two-way distributional communications system designed to meet future congressional information and data transmission needs, including closed-circuit broadcasting, and to assure that the communications lines and associated equipment installed for closed-circuit broadcast purposes be capable of accommodating the requirement of such two-way system.

Seventh. As soon as practicable following the extension of the closed-circuit House broadcast system throughout the House, but no later than the beginning of the 96th Congress, the Speaker or his designee authorize radio and television broadcast stations, networks, and systems accredited by the House Radio-TV Correspondents Gallery to obtain and use broadcast coverage of House proceedings, both live and recorded, subject only to the conditions stipulated in such authorizing resolution as the House may adopt.

Eighth. The Speaker or his designee arrange with an appropriate entity of the House or with the Library of Congress for the recording, reproduction and distribution to the general public by means of audio and video tapes, of the broadcast coverage of House proceedings under such regulation—which should include the establishment of such fees as may be required to cover all costs of reproducing and distributing tape recordings—as the Speaker may approve, and that distribution of such recordings be authorized to begin at such time as public broadcast coverage becomes available.

Ninth. The Speaker or his designee arrange with an appropriate House entity, or the Library of Congress to store, for archival and reference purposes, recordings of broadcast coverage of House proceedings, and to make such recordings available for viewing at convenient times and places by Members and employees of the Congress and the general public under regulations approved by the Speaker.

Tenth. Permanent broadcast coverage of the House be conducted in such a way as to assure uninterrupted focusing of cameras on those Members and officials of the House actively participating in the debates or other official action in the House Chamber and to obtain a complete and accurate record of the official proceedings.

Eleventh. The Architect in cooperation with the Select Committee on Congressional Operations continue the development and implementation of means of providing as an integral part of broadcast coverages such supplementary information as was initiated during the test including identification of Members speaking during debate, and summaries or synopses of pending bills, amendments and motions so as to improve the intelligibility and informational value of broadcast coverage for viewers.

Mr. LOTT. Mr. Speaker, I yield 4 minutes to the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Speaker, I wish to be associated with the remarks of the distinguished gentleman from Texas (Mr. BROOKS) with whom I have enjoyed serving on the Select Committee on Congressional Operations. I would also like to be associated with the remarks of the distinguished gentleman from Illinois (Mr. ANDERSON) and thank him for his kind remarks in regard to the efforts of our committee and many members of the Committee on Rules to bring this historic occasion to its present state of fruition.

Mr. Speaker, given the somewhat inconsistent and incomplete and sometimes misleading coverage given recently by the news media to this general subject of broadcasting the proceedings of this body, one could be excused for not recognizing that this is a rather historic day in the history of the House. The significance of House Resolution 866, however, more than justifies the use of that term. Approval of the resolution, as has already been stated, will for the first time open to the American people the daily sessions of the House through the media of television and radio.

Although I am not fully cognizant of the rationale of the Committee on Rules in substituting their resolution, House Resolution 866, for the resolution which we submitted to them, House Resolution 821, I am quite certain that in the long run it will not make that much difference. The result, I am quite certain, will be the public broadcasting of the proceedings of this House.

A question at issue between some members of the Committee on Rules and the select committee involved who is going to control the broadcasting, the House itself or a network pool. In my opinion, the House will and should control the actual broadcasting of proceedings, just as the House now controls the daily printing of the Journal of the House, which is the record of the House. I think that analogy will win the day in any future intramural discussion as to who should be responsible for recording electronically the proceedings of the House.

Mr. Speaker, the question for the House, therefore, has become how rather than why.

So many legislative bodies—State, national, and international—are now televising their proceedings that the question of feasibility has been answered in the affirmative. Just this month the Canadian Parliament began televising its sessions. Congress remains one of the last holdouts—not because Members do not want it—most of us do—and not because most Americans do not favor it—opinion surveys show they do, also.

We have been cautious, and properly so, because commercial television can, under certain circumstances, have a distorting effect on reality. Both performers and viewers have been victims of this distortion. Unless the integrity of the environment is preserved, unless the character of the institution is protected and the rules of the game, so to speak, are observed, television programing can become the dominant factor, in which case the medium becomes the message.

In this context, the select committee's test of live television coverage of the House has produced some useful insights which may help to answer the question of how to do it.

We have found, for example, that the use of small, compact cameras allows television coverage to be unobtrusive, because bulky equipment, heavy cables, large control booths, and numerous technical personnel are not needed.

We have found that lighting levels in the House Chamber need not produce heat and glare and discomfort in order to get an adequate picture for broadcast purposes.

As a result, the select committee's survey of our colleagues revealed that only one Member—from among 160 respondents—indicated he was bothered or inhibited by the presence of live television cameras in the Chamber.

The select committee's test also demonstrated—at least to our satisfaction—that broadcast coverage can serve, in a fully compatible way, two distinct purposes: providing vital information to Members and staffs and allowing the American people to see their representatives at work in a meaningful way. We need not choose between a closed circuit system and a public system. The same system can serve both—so long as that system transmits a complete, accurate and understandable record of House legislative action.

It is essential that this condition be met. Unless broadcast coverage is complete and accurate, unless the record is authentic, the information being transmitted will be unreliable and the picture of the working Congress will be misleading. And both the House and its public will suffer.

It is not our purpose to make performers out of Members of Congress, nor to turn serious legislative business into entertainment. If commercial broadcasters or the American television audience are not interested in what happens and how it happens on the House

floor, then so be it. But I am certain they will be.

As a means of assuring the authenticity of broadcast coverage, the select committee has recommended two fundamental provisions: first, that the broadcast system be installed and operated by the House itself, not by an outside group; and, second, that coverage be devoted exclusively to the official action in the Chamber, to the Members actively participating in proceedings and debate.

On the first question, I believe the weight of evidence and experience is on the side of House operation of a broadcast system. Just as the press does not control the recording of our debates or the publication of the CONGRESSIONAL RECORD, so the networks should not control the electronic recording of our proceedings or the operation of the cameras in the Chamber.

Both, however, should and would have complete access to the product of that coverage and complete freedom to select, edit, and utilize all or any part of it. The reasonable requirements of the media will be fully met so long as the coverage itself is complete and unedited—which is precisely what the pending resolution would mandate.

House operation of a broadcast system, Mr. Speaker, would be less expensive than a network pool arrangement. It would be less subject to interruption. It would be more compatible with our closed-circuit requirements and with related House information needs. It would also be less likely to interfere with House procedures and it would not require alterations to the interior of the Capitol Building.

In this regard—as in every other significant respect—the recommendations of the select committee correspond with the preferences expressed by Members who replied to the committee's detailed questionnaire.

In brief, Mr. Speaker, we believe we have based our recommendations on the solid foundation of practical experience and an accurate assessment of our colleagues' views.

We believe the system we have proposed will satisfy the information needs of the public as well as the House.

We believe this system is technically sound and that it can be developed at a reasonable cost.

We believe, finally, that if H.R. 866 is approved by the House this year, we can have a complete closed circuit system—serving every Member and committee—installed early in the next session of this Congress, and available soon thereafter to the American people.

A unanimous and bipartisan committee has devoted 6 years of study and experimentation to the goal of opening the House more widely to the American people. How this is done should not be a matter of partisan dispute.

Mr. PRESSLER. Mr. Speaker, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from South Dakota.

Mr. PRESSLER. I thank the gentleman for yielding.

I wish to compliment the gentleman in the well and identify with his remarks.

I would like to ask about the gentleman's views down the road as to how this will affect small radio stations that are nonaffiliated with the national network—as we look down the road. Of course, this immediate bill does not, but what plans are under consideration for small radio stations?

Mr. CLEVELAND. I thank the gentleman for that question. I think that is one of the reasons why the Select Committee on Congressional Operations came up with its proposal that just as the House controls the CONGRESSIONAL RECORD and Journal which is available, as the gentleman knows, to everybody, it will control and make available to everybody the radio and television broadcasts and then the televising of our proceedings.

One of my objections to the proposal of my friend and distinguished colleague (Mr. ANDERSON of Illinois), to contract with a pool of the four major networks, is that the small stations could get this coverage but they might have to pay a sufficiently high price for it that the small stations might feel they could not afford it. That is one of the things we shall have to watch but that is down the road.

Today all we are saying is that we are going to go ahead with this system and get it into the Longworth Building, which does not have it, and we are going to install it in the Cannon Building, which does not have it. The Rayburn Building, of course, is connected now to the television system.

The Rules Committee will study the situation and come up with additional recommendations by February 15. I am convinced that their recommendations will coincide with the proposal of the select committee and for a number of reasons.

I have already talked about the analogy of our control of the printed record of our proceedings, but my friend the distinguished gentleman from South Dakota has put his finger squarely on another important point, which is that we are not going to turn this over to a monopoly of the Big Three broadcasting companies.

Mr. SISK. Mr. Speaker, at this time it gives me a great deal of pleasure to yield to a good friend and a gentleman knowledgeable in TV, who has had an industrial background in that area as well as in the Congress. I yield such time as he may consume to my friend, the gentleman from California (Mr. VAN DEERLIN).

Mr. VAN DEERLIN. Mr. Speaker, I thank my friend, the gentleman from California, for yielding.

It is surely not the fault of the gentleman from California, Mr. BERNIE SISK, that we have been as long as we have in following the lead of a great many Western democracies and many of the State legislatures in these United States in offering the people a full account of the proceedings in a body which, after all, belongs to them and not to us.

I am cheered also to think that with the passage of this resolution we are moving one step nearer to the full first amendment rights of all news people, both electronic and print.

I was glad that the question raised by the gentleman from South Dakota, and answered in part by the gentleman from New Hampshire, does lead me to a point that I wish to make concerning this legislation and having to do with the technology surrounding it.

Mr. Speaker, most of the attention given this resolution has turned on the use to be made by newscasters and especially by networks of the televised proceedings from this Chamber. I would direct the attention of my colleagues to a potentially far wider distribution: to millions of American homes and thousands of schools through the miracle of satellite. Independent broadcast stations and many cable franchises across the Nation already have invested in inexpensive earth stations for direct reception of satellite signals. Already today there are more than 150 cable systems which have their own Earth station dish. Applications for more than that number are today pending before the Federal Communications Commission. These earth stations come for as little as $15,000 for a four-meter dish. Two million cable subscribers are currently served by satellite. By 1981 or 1982, based on present projections, we are going to have 12 million homes perhaps which could be thus served as well as countless schools.

Gavel-to-gavel coverage of the House and Senate proceedings, although they may create no new star competition among the performers, will be available at times and to an extent that no commercial station, certainly no network, could or would provide. It is not within their economic capability. But they might easily be included within the new channel capability of a cable operator.

Do not the Members imagine that the debate heard earlier this afternoon and yesterday on social security reform, a subject which affects all Americans but particularly Americans in their later years and shutins and retired, might have been followed gavel to gavel by millions of our fellow citizens?

No, the economics are not prohibitive. At today's satellite lease rates the full proceedings of an entire Congress could be transmitted for about $1.5 million a year, not much if prorated among several hundred cable companies, if it is available and it will be made available under the terms of the resolution which specifically includes cable systems and signals which can be made available by satellite, the small and independent television stations around the country, we are, indeed, taking a step forward toward restoring the Government of this land to its own people.

Mr. SISK. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. ROSE).

Mr. ROSE. Mr. Speaker, I thank the gentleman for yielding.

I would like to say that the House Administration Committee Policy Group on Information and Computers has worked very closely with the Select Committee on Congressional Operations in devising their report. If and when the Speaker sees fit to make this system operational,

it would be our purpose to wire up the buildings of the Congress with a cable that could not only carry the video proceedings of this body, but also two-way computer communications between Member's offices and the central computer system that we have now in the House information system.

I think the approach of the gentleman from Texas (Mr. BROOKS) is unique for another important reason. What the gentleman from Texas (Mr. BROOKS) and the gentleman's committee have proposed is that the House be the recorder of the proceedings of this body and that someone else be the interpreter.

The SPEAKER pro tempore. The time of the gentleman from North Carolina has expired.

Mr. SISK. Mr. Speaker, I yield 1 additional minute to the gentleman.

Mr. ROSE. Mr. Speaker, I think it is important for us to realize that we record through the CONGRESSIONAL RECORD exactly what happens in this body. Someone else interprets it. What the gentleman from Texas (Mr. BROOKS) and the gentleman's committee have proposed is that the House record the visual scenes that take place in this body and the world is free to interpret what those scenes mean.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. ROSE. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. Mr. Speaker, what do we do when our fellow Members revise and extend their remarks and, as a result, the printed word in the CONGRESSIONAL RECORD is much different than what we actually heard on the floor?

Mr. ROSE. That is a good question.

Mr. ROUSSELOT. That means that the Members will need to be more mindful to be sure that what they say verbally more closely matches what is actually printed in the RECORD.

Mr. ROSE. We certainly will.

Mr. SISK. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. RYAN).

Mr. RYAN. Mr. Speaker, in all of my time here, which encompasses only 5 years, I cannot think of a single more important issue to come before this House than the one we now deal with and which we are looking at in this Chamber; however, were the television sets to be on and this to be fully televised on a national basis, there would be many Members here now instead of the few we see here present.

I have in my mind searched to try to find a historic parallel to this precedent in importance. I go back, for instance, to the first session of the Congress.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. RYAN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, does the gentleman want a quorum call? We will get it for the gentleman.

Mr. RYAN. No. It is enough to note that less than 40 people are in the Chamber.

Mr. ROUSSELOT. I just thought I would ask.

Mr. RYAN. Mr. Speaker, I go back to the first session of Congress, held in a second-story room in City Hall in Philadelphia. Certainly that was historic and precedent-making, but they knew what precedents they were setting. We do not know what we are doing now, in that sense. We are about to change this place that has been a forum for debate for almost 200 years. This is the 95th Congress, each Congress lasting 2 years, that is 190 years. We are now about to change it from a forum to a theater.

Now, that is not an exaggeration. That is a fact. We are about to change it in two ways from a forum to a theater. The first has to do with time. Do you remember, what was it, 3 years ago only, that we reported out a bill, a resolution from the Committee on the Judiciary, impeaching the President of the United States? The Committee on Rules at that time said, "We will schedule 40 hours of debate." Why? Because 5 minutes times each Member present makes about 36 hours, give or take a few minutes here and there. In any major measure we can have 40 hours of debate. Every single Member will want time. On the important and crucial votes before us. Abortion. Energy. B–1 bomber. How many others?

Every Member in this House that will demand his time. Why? Because the folks at home will say, "Where were you? Why were you not there?"

Because this place becomes a theater, it is no longer a place for men and women to debate the issues this country has. It becomes, in effect, a platform upon which every Member is required to stand up and talk. We can no longer gather in this Chamber to conduct the country's business. We all know we go on stage when we take the floor.

Now, let us go to the second thing, the matter of style.

This evening, right here on this legislation itself, one would presume that those who were for and those who were against this resolution each got half the time for debate. Is that the actual case? It is not. The time on this television resolution is divided between Republicans and Democrats, presuming the Republicans or the Democrats are opposed and the other side is for. This is part of my problem.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. SISK. Mr. Speaker, I am going to yield the gentleman 1 additional minute.

Mr. RYAN. I think the fact that I get 1 additional minute, and will be the first and only one, so far, to speak against the concept of making this place a theater instead of a forum, and the most important single action taken in my time here, and probably in the last 190 years, is a good indication of the problem which exists with this kind of action. Even now, on this measure, the time is not divided among those who support and oppose the issue, but between Republicans and Democrats on Rules Committee—both of whom favor the measure. Why can I not organize opposition? If opposition to this measure is stifled before television, what pressures will build afterward? We are not yet ready to keep this beloved House from becoming national theater—we should resist pressure to change this place from a place where reasonable men and women may debate to the kind of place which the Roman Senate became.

I am unalterably, implacably and totally opposed to the idea of having TV in this Chamber until we can arrive at some kind of decision as to what the implications will be for all of us in this House, and in this country.

Mr. SISK. Mr. Speaker, at this point I am going to yield 2 minutes to the dean of the Congress so far as interest in this subject is concerned, the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. I thank the able gentleman from California very much for yielding to me. I want, in the warmest way, to compliment him and Mr. LOTT, and the members of the ad hoc subcommittee of the Rules Committee, the chairman of the Select Committee on Congressional Operations, Mr. BROOKS, and Mr. CLEVELAND, the ranking minority member and all who have had a part, especially including our great Speaker, of course, in making, we think, imminent the realization of this dream of broadcasting the proceedings of the Congress that so many of us have cherished for a long time.

I have heard it said in this Congress and in this Government of ours that a good idea has a gestation period of a quarter to a third of a century. It was in 1944, just a third of a century ago, that I introduced in the other body a resolution to cover by radio the proceedings of the Congress of the United States. I introduced the proposal from time to time and, of course, included television when that medium came in. I am hoping that in the spring of this coming year we are going to begin the establishment of that institution. That, I believe, will be a meaningful step forward for the democracy of our country.

Our times have changed since the early days. The Members used to come here on stagecoaches and on horseback. Now, most of us come here by plane, or certainly by car, in most instances. Gallery observers are permitted to see us as we are, warts and nasal intonations included. The people back home have a right to the same privilege that the people in the galleries can enjoy, when the miracle of television and radio make it possible, to see and hear what the Members of the people's Congress say and do.

Today, we passed a social security bill which has one amendment which JIM BURKE says will cost the taxpayers of this country $7 billion a year. That bill affects 24 million, at least, living citizens of America. Many of them would have liked to have seen and heard the debate upon that issue. Time after time, we are considering matters of the most vital import to the people of this country.

We do not decree that the people hear us; we only propose to give them an opportunity to hear. All they have got to do is to turn that little knob and we are off, but why should they not have the privilege of turning it on and seeing and

hearing us as we debate the national concerns here in this body?

So, I think this is a great step forward in the perfection of the democracy of America, and I look forward anxiously to that happy day next year when the people all over America can turn that little knob and begin to see and hear what we are doing or not doing in the interests of this great America.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I rise in support of the resolution.

A year or so ago, when I was in London on a private trip, I had occasion to strike up a conversation with a cabbie. Because it was pretty obvious from my accent that I was a foreigner, he asked me where I was from, and finally discovered that I was a Member of Congress. I asked him what he thought about the Mother of Parliaments, the House of Commons. He replied, "I never knew what a bunch of bloody baboons ran this country until they put the show on the radio recently."

Apparently, the BBC had started broadcasting sessions of Commons and this one stouthearted Englishman learned something about the system of government at Westminster that he had never realized before.

I think some good may come from broadcasting and televising the House of Representatives.

I do not believe that Englishman's view necessarily applies to this body, the son of the Mother of Parliaments. I think perhaps some good opinions might be established in the minds of the American people who in general have a low regard of the House of Representatives of the United States. I do not think it will hurt anything. It is worth trying. It might even bring about a massive change, not only in the way we operate and conduct our affairs, but even in the composition of the body. And that could not be all bad.

Mr. SISK. Mr. Speaker, I yield myself 4 minutes, and I do this in order to answer some questions which have been raised. I do not desire to cut anyone off.

First, let me say that the Members will note from the resolution that this might, if passed—and I hope everyone will vote for this resolution—permit the Speaker to get and complete the in-house wiring. Then the Committee on Rules will be exploring certain alternatives. That effort will be headed by a very distinguished colleague, the gentleman from Louisiana (Mr. LONG), who is chairman of a subcommittee of the Committee on Rules. I want to recognize the gentleman. I believe he has indicated no particular desire to speak here, but he will be the gentleman chairing this subcommittee which will be analyzing and, hopefully, coming up with a recommendation.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Mississippi.

Mr. WHITTEN. I thank the gentleman for yielding.

Mr. Speaker, I rise at this point—since, apparently, this will pass and the Committee on Rules will give attention to it—to describe, I hope, objectively, a situation which we have now.

It is my understanding that the rollcalls today will equal about 720, as we head for the end of the year. I happen to hold hearings from 10 o'clock to 12 o'clock and from 1 o'clock to 5 o'clock for about two-thirds of the year. It means that one cannot handle his mail and his telephone calls under the existing conditions. If one misses a day from the floor, he misses about 10 rollcalls. One of them will be a quorum, which is normal; another will be the approval of the Journal; another will be to go into committees; and another will be because someone does not like something and he has 33 friends who will stand up with him. Under present conditions, it is extremely hard to halfway do our work on the committees.

I have, as other Members have, been in many, many areas with some of my colleagues, and when you come back, the same fellows are in the front of every picture. If we have this, I am saying here that this committee, which is going to study it—I am not objecting to what it is trying to do—will give some thought to those who do work, to have a chance to work, so that those in front of the camera will not hog the show and give the country the idea that certain Members are the ones who run the Congress.

We should give some thought to those Members who do work and give them some chance to work, so that those who are in front of the camera will not hog the show in the Congress before the country. We should let those who want to work have a chance to work. We need to change this rollcall system so a Member can get his work done.

Mr. SISK. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. LONG) so he may comment on some of the comments made by the gentleman from Mississippi (Mr. LOTT).

Mr. LONG of Louisiana. Mr. Speaker, I thank the gentleman for yielding me this time.

I think the discussions today has brought out far-reaching ramifications—and they are ramifications which are not completely thought out by all Members—as to what is going to happen as a result of the institution of the presentation of the proceedings of the House on television.

Because this is so complex and because it is so new, I invite all Members to give this matter some individual thought. I invite them to present their thoughts to us, just as our colleague, the gentleman from Mississippi, did and just as our colleague, the gentleman from California, did.

This really poses some problems that have never before come to our minds, problems that are going to have great effect upon this House of Representatives, and we certainly request that all the Members present their views to us so that we at least can get as comprehensive a look as is humanly possible, under these new circumstances, at the situation in which we are going to find ourselves.

Mr. RYAN. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from California.

Mr. RYAN. Mr. Speaker, one of the things I anticipate will happen almost immediately is that there will be an increase in the desire of individual Members to speak either for or against a particular issue.

As we have the rules written today, there is no change in the rules, and no Members, apart from those who are members of a subcommittee within which the policy matter is considered, are allowed to have much to say, other than in a simple pro forma 30 seconds or whatever the time happens to be, so we would be effectively squelching the very kind of debate the Members say they want.

Mr. SISK. Mr. Speaker, I yield myself 3 additional minutes.

First, Mr. Speaker, may I inquire as to how much time I have remaining?

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from California (Mr. SISK) now has 5 minutes remaining, and will have 2 minutes remaining after he uses his 3 minutes.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. SISK. Mr. Speaker, I yield myself 3 additional minutes, and I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's yielding.

I, like my colleague, the gentleman from Maryland (Mr. BAUMAN), feel inclined to support this resolution, but I would like to ask my distinguished colleague, the gentleman from California (Mr. SISK), this question:

On page 3 of House Resolution 866, the resolution before us, it says: "Authority To Delegate."

Then it says:

SEC. 5. The Speaker may delegate any of his responsibilities under this resolution to such legislative entity as he deems appropriate.

We have no back-up material in the committee report to tell why there is a need for this delegated power or why it was done.

Does the gentleman know what the Speaker has in mind with this delegated power or why he wants it?

Mr. SISK. Mr. Speaker, I would have to say that at this moment I do not, and I am not at this point going to assume what he may do.

Mr. ROUSSELOT. Is the Speaker going to delegate authority to the Committee on Rules, the Committee on Government Operations, or what?

Mr. SISK. Mr. Speaker, if the gentleman will permit me to continue, the gentleman knows, of course, that this is very clearly a grant of considerable authority to the Speaker.

Mr. ROUSSELOT. I would say it is quite substantial.

Mr. SISK. That is right. It is.

Mr. ROUSSELOT. Well, what is the Speaker going to do with it?

Mr. SISK. I think this is, of course, a matter of our faith and confidence in the Speaker, and in the final analysis, let me say to my colleague that this House will have confidence in the Speaker. I think my colleague is asking a good question.

Mr. ROUSSELOT. Yes, I think it is a terrific question. Perhaps the gentleman from Texas (Mr. BROOKS) can tell us, since he is very close to the leadership.

Mr. SISK. Mr. Speaker, if the gentleman will permit me to continue, in the final analysis the Speaker of the House can do nothing that this House does not approve. We will have the final say on the resolution, and the gentleman and I as individuals know what our independent moods are, and that we will vote as we see fit.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, I will speak as an individual Member, not as a part of the leadership, since I am not a part of the leadership, as the Members well know.

Mr. ROUSSELOT. But, Mr. Speaker, the gentleman is the chairman of a major committee.

Mr. BROOKS. Mr. Speaker, that is just one of the working committees of the House.

I will say to my distinguished friend, the gentleman from California (Mr. ROUSSELOT), that my recommendation was that of a select committee, and as a recommendation, that does not mean that is what the Speaker will do. But the recommendation was that the Speaker delegate the actual operation of the cameras to the Architect of the Capitol.

Mr. ROUSSELOT. Did the gentleman say: The Architect of the Capitol?

Mr. BROOKS. To the Architect.

Mr. Speaker, let me tell the Members why. The existing tests that have been running have been conducted with cameras that the Architect operates as part of the surveillance system for the garage and for the protection of the U.S. Capitol. Those are just off-the-shelf cameras. That office has the people who know how to install them, how to maintain them, and how to run them. They have the capability and the know-how. They have the responsibility for the operations in the Chamber, for the cameras, the lighting, and anything along the line of that type of installation within the Capitol.

I thought they were the appropriate people, but the Speaker might decide somebody else may do it. That was the recommendation of the select committee.

Mr. SISK. Mr. Speaker, I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in response to the gentleman's question, I understand the Speaker might delegate this authority to the Clerk, who would in turn contract it out on a pool arrangement or perhaps to some organization that would conduct this television operation.

Mr. ROUSSELOT. The gentleman's guess is that the Speaker will delegate the authority with respect to in-house details to the Clerk of the House; is that correct?

Mr. LOTT. Perhaps.

Mr. ROUSSELOT. The gentleman says perhaps, but he is not sure?

Mr. LOTT. No, I am not.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, I was interested in the comments by my friend, the gentleman from California (Mr. RYAN), in which he suggested that we will suddenly be transformed from a serious legislative forum into a theater.

My reaction is that we are already engaged in theater, and I think that we have had very good theater here this afternoon in considering this resolution. In fact, it was that eminent, great actor, Henry Kissinger, who once said that all politics is really theater—"Politics" spelled with a capital "P."

Mr. Speaker, I think there is a lot to what he said. What we are doing here is enlarging the theater very substantially. I think that is to the good. It will increase the visibility of the legislative branch and particularly of what I call the people's branch of the Government. I think that is all to the good.

I will further say that when the committees were opened to television and radio coverage, there was a similar apprehension about grandstanding. I do not think it has really materialized. I think it has not really altered the work of the committees substantially.

Finally, I will say, Mr. Speaker, that we really ought to tip our hat today to a former Member of the House, Bob Ellsworth, who in 1966, I believe, was the first Member of the House to introduce a resolution calling for full radio and television coverage. Several of us joined him on that occasion.

Perhaps my recollection of the history is not completely accurate, but Mr. Ellsworth went on to a distinguished career as Assistant Secretary of Defense and as NATO Ambassador. I think one of his great achievements was to nudge us down this road, which is a very good road to travel.

Mr. RYAN. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from California.

Mr. RYAN. Mr. Speaker, may I say to the gentleman that we have always had theater, perhaps, but at least we have had the filter of the print media which, because they are not here in substantial numbers, and the television does not show that, still have the capacity at least to filter down to what is the most important and salient elements of any argument.

Mr. FINDLEY. They also have the capacity to distort the image.

Mr. LOTT. Mr. Speaker, I yield the balance of my time to the gentleman from Washington (Mr. CUNNINGHAM).

The SPEAKER pro tempore. The gentleman from Washington (Mr. CUNNINGHAM) is recognized for 1½ minutes.

Mr. CUNNINGHAM. Mr. Speaker, I appreciate my colleague's yielding me this time.

In the State of Washington we introduced electronic coverage in our State legislature, and we turned a slow process into an absolute stop.

We did not have grandstanding, but we had a sudden spurt of everybody wanting to talk.

At the same time we did give the public some competition to "Sesame Street" on the part of adults.

Television did not show the great oratory. It showed the chairman maybe picking his nose or a senior committee chairman scratching his leg, or another member resting his eyes after working hard in reading the journal. The legislature was intimidated electronically.

Mr. Speaker, open government is laudable, but I submit, as the gentleman from California has indicated, that we might be allowing the camel to put his head in the tent.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman for yielding.

I am going to support this resolution.

One concern I have among all the concerns that have been expressed with respect to our image around the country is as to what kind of song is going to be picked as a lead-in song once the House of Representatives is opened.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I think in this atmosphere of one of the greatest of parliaments, we will find in time, after a shakedown cruise, during which people may be able to put on a little act, knowing that the proceedings are being televised, if we allow television to portray what it thinks is interesting and important, we will all get used to it and will bring to the American people the same feelings they had when we had the impeachment proceedings.

Mr. SISK. Mr. Speaker, I yield myself the remainder of my time.

Let me make a brief comment. There are today, I believe, 18 State legislatures that are using electronic media. For example, the Florida Legislature has had constant coverage, audio-video, for many years. They found very shortly that this showmanship ceased to be any problem. The Georgia State Legislature has as well.

Our committee has looked into this. I can understand some of the concerns that have been expressed here today, but, again, this has been the reason why for many years this matter was studied and has been looked at. As the gentleman from Florida (Mr. PEPPER) has so ably said earlier, we spent three decades here trying to determine where we are going, and all in all the history of experience that the committee had available to it indicates that in fact it is in the best interests of open government and in the best interests of our country. Therefore, I would urge that this resolution be agreed to.

Ms. HOLTZMAN. Mr. Speaker, I rise in opposition to House Resolution 866, a resolution amending the rules to provide for television and radio coverage and the proceedings of the House.

I strongly support radio and television coverage of House proceedings just as I supported such coverage of the impeachment proceedings. The issue is not, however, whether there will be coverage. There will be. The issue is instead what that broadcasting will be like—whether there will be gavel to gavel coverage of House proceedings, what rights there will be to edit and revise portions of the television transcripts, and whether there will be network coverage or coverage by public broadcasting. This resolution does not decide these issues but writes a blank check to the Speaker and leaves in his hands alone the decisions as to how the broadcasting will be done and by whom. These matters are too important to leave in the hands of a single individual, even the Speaker for whom I have great respect. They should be decided after careful deliberation by the full House.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 342, nays 44, not voting 48, as follows:

[Roll No. 709]

YEAS—342

Abdnor	Burton, John	Ellberg
Addabbo	Burton, Phillip	Emery
Akaka	Butler	English
Alexander	Byron	Erlenborn
Allen	Caputo	Evans, Colo.
Ambro	Carney	Evans, Del.
Ammerman	Carr	Evans, Ga.
Anderson, Ill.	Cavanaugh	Evans, Ind.
Andrews, N.C.	Cederberg	Fary
Andrews, N. Dak.	Chappell	Fascell
	Chisholm	Fenwick
Applegate	Clay	Findley
Archer	Cleveland	Fish
Armstrong	Cochran	Fisher
Ashbrook	Cohen	Fithian
Ashley	Coleman	Flippo
Aspin	Conable	Florio
Bafalis	Conte	Flynt
Baldus	Conyers	Foley
Baucus	Corcoran	Ford, Mich.
Bauman	Cornell	Ford, Tenn.
Beard, R.I.	Cotter	Forsythe
Beard, Tenn.	Crane	Fountain
Bedell	D'Amours	Fowler
Beilenson	Daniel, Dan	Fraser
Benjamin	Daniel, R. W.	Frenzel
Bennett	Danielson	Frey
Bevill	Davis	Fuqua
Bingham	de la Garza	Gammage
Blanchard	Delaney	Gaydos
Blouin	Dellums	Gephardt
Boggs	Derrick	Giaimo
Boland	Derwinski	Gibbons
Bonior	Devine	Gilman
Brademas	Dickinson	Ginn
Breaux	Diggs	Glickman
Breckinridge	Dornan	Goldwater
Brinkley	Downey	Gonzalez
Brodhead	Drinan	Gore
Brooks	Duncan, Tenn.	Gradison
Brown, Mich.	Early	Gudger
Brown, Ohio	Eckhardt	Guyer
Broyhill	Edgar	Hagedorn
Buchanan	Edwards, Ala.	Hall
Burke, Fla.	Edwards, Calif.	Hamilton
Burlison, Mo.	Edwards, Okla.	Hannaford
Hansen	Meeds	Santini
Harkin	Metcalfe	Sarasin
Harrington	Meyner	Sawyer
Harris	Michel	Scheuer
Hawkins	Mikulski	Schroeder
Heckler	Mikva	Sebelius
Hefner	Miller, Calif.	Seiberling
Heftel	Miller, Ohio	Sharp
Hightower	Mineta	Shuster
Hillis	Minish	Simon
Hollenbeck	Mitchell, Md.	Sisk
Holt	Mitchell, N.Y.	Skelton
Horton	Moakley	Skubitz
Hubbard	Moffett	Smith, Iowa
Huckaby	Montgomery	Smith, Nebr.
Hughes	Moore	Solarz
Hyde	Moorhead, Calif.	Spellman
Ichord		Spence
Ireland	Moorhead, Pa.	St Germain
Jacobs	Moss	Staggers
Jeffords	Mottl	Stangeland
Jenkins	Murphy, Ill.	Stanton
Jenrette	Murphy, N.Y.	Stark
Johnson, Calif.	Murphy, Pa.	Steers
Johnson, Colo.	Myers, Gary	Steiger
Jones, N.C.	Myers, John	Stockman
Jones, Okla.	Natcher	Stokes
Jones, Tenn.	Neal	Stratton
Jordan	Nichols	Studds
Kasten	Nowak	Thompson
Kastenmeier	Oakar	Thone
Kazen	Oberstar	Thornton
Kelly	Obey	Traxler
Kemp	Ottinger	Trible
Ketchum	Panetta	Tsongas
Keys	Patten	Tucker
Kildee	Patterson	Udall
Krebs	Pattison	Ullman
Krueger	Pease	Van Deerlin
LaFalce	Pepper	Vanik
Lagomarsino	Perkins	Vento
Le Fante	Pettis	Volkmer
Leach	Pike	Walgren
Lehman	Pressler	Walker
Levitas	Preyer	Walsh
Lloyd, Calif.	Price	Wampler
Lloyd, Tenn.	Pritchard	Watkins
Long, La.	Quayle	Waxman
Long, Md.	Quillen	Weaver
Lott	Rahall	Weiss
Luken	Railsback	White
Lundine	Rangel	Whitehurst
McCory	Regula	Whitley
McCloskey	Reuss	Whitten
McCormack	Rhodes	Wiggins
McDade	Rinaldo	Wilson, Tex.
McEwen	Risenhoover	Winn
McFall	Robinson	Wirth
McHugh	Rodino	Wright
McKay	Roe	Wydler
McKinney	Roncalio	Wylie
Madigan	Rooney	Yates
Maguire	Rose	Yatron
Mahon	Rosenthal	Young, Alaska
Mann	Rousselot	Young, Fla.
Markey	Rudd	Young, Mo.
Marks	Runnels	Zablocki
Marlenee	Ruppe	Zeferetti
Martin	Russo	

NAYS—44

Anderson, Calif.	Harsha	Roybal
	Holtzman	Ryan
Badham	Kindness	Satterfield
Biaggi	Latta	Shipley
Bowen	Lederer	Slack
Burke, Mass.	Livingston	Snyder
Burleson, Tex.	McDonald	Steed
Collins, Tex.	Milford	Stump
Corman	Mollohan	Taylor
Cornwell	Murtha	Treen
Cunningham	Myers, Michael	Waggonner
Dingell	Nedzi	Wilson, C. H.
Ertel	Nix	
Goodling	O'Brien	
Grassley	Poage	
Hammer-schmidt	Roberts	
	Rostenkowski	

NOT VOTING—48

Annunzio	Collins, Ill.	Lent
AuCoin	Coughlin	Lujan
Badillo	Dent	Marriott
Barnard	Dicks	Mathis
Bolling	Dodd	Mattox
Bonker	Duncan, Oreg.	Mazzoli
Broomfield	Flood	Nolan
Brown, Calif.	Flowers	Pickle
Burgener	Hanley	Pursell
Burke, Calif.	Holland	Quie
Carter	Howard	Richmond
Clausen, Don H.	Koch	Rogers
	Kostmayer	Schulze
Clawson, Del	Leggett	Sikes
Symms	Whalen	Young, Tex.
Teague	Wilson, Bob	
Vander Jagt	Wolff	

The Clerk announced the following pairs:

On this vote:

Mr. Mattox for, with Mr. Annunzio against.

Until further notice:

Mr. AuCoin with Mr. Bonker.
Mr. Flood with Mr. Broomfield.
Mr. Hanley with Mr. Carter.
Mr. Sikes with Mr. Lent.
Mr. Teague with Mr. Quie.
Mr. Wolff with Mr. Del Clawson.
Mrs. Burke of California with Mr. Nolan.
Mr. Dent with Mr. Brown of California.
Mr. Dodd with Mr. Bob Wilson.
Mr. Howard with Mr. Vander Jagt.
Mr. Koch with Mr. Symms.
Mr. Richmond with Mr. Burgener.
Mr. Rogers with Mr. Lujan.
Mr. Kostmayer with Mr. Whalen.
Mr. Mathis with Mr. Schulze.
Mr. Flowers with Mr. Pursell.
Mr. Mazzoli with Mr. Marriott.
Mr. Pickle with Mr. Leggett.
Mr. Badillo with Mr. Holland.
Mr. Barnard with Mr. Duncan of Oregon.
Mrs. Collins of Illinois with Mr. Don H. Clausen.
Mr. Dicks with Mr. Coughlin.

Mr. GAMMAGE changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The title was amended so as to read: "Providing for radio and television coverage of House proceedings."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SISK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 866, just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. DEVINE asked and was given permission to address the House for 1 minute.)

Mr. DEVINE. Mr. Speaker, I have taken this time in order to inquire of the majority leader the calendar for the remainder of the day, what time we expect to rise, and what the proceedings are on the calendar for the balance of the week.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, in response to the inquiry of the gentleman from Ohio, the House has made splendid progress today and throughout this entire week. We have completed everything on the schedule for the week, except for one item, H.R. 8200, the uniform bankruptcy law.

It would be our purpose to take up the rule immediately. If not too much time is consumed in debating and discussing the rule, we will get well into the debate which provides for 2-hours of general

debate, under an open rule; we will complete as much of that as possible, and we will rise at about 7 o'clock tonight. Then we would complete that bill tomorrow.

The House will convene at 10 o'clock tomorrow, and, surely, it is not beyond the realm of expectation that we would complete that bill well in time to conclude by 3 o'clock tomorrow afternoon.

Mr. DEVINE. Mr. Speaker, I thank the gentleman.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Speaker, is it the majority leader's understanding that there will be no amendments offered tonight?

Mr. WRIGHT. In response to that, Mr. Speaker, if the gentleman will yield further, I do not see any practical way in which we can conclude the general debate this evening. There are 2 hours of general debate. The chairman of that committee, the gentleman from New Jersey (Mr. RODINO) is here, ready to begin. I do not believe that we have any realistic expectation of getting into the 5-minute rule this evening, given the promise that was earlier made that we would rise about 7 o'clock.

Mr. ROUSSELOT. I thank the majority leader.

FURTHER MESSAGE FROM THE SENATE

After the message from the Senate, Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the amendments of the House to the bill (S. 1585) entitled "An act to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, or live performance, and for other purposes," agree to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CULVER, Mr. KENNEDY, Mr. BAYH, Mr. DECONCINI, Mr. MATHIAS, Mr. THURMOND, and Mr. WALLOP to be the conferees on the part of the Senate.

PROVIDING FOR CONSIDERATION OF H.R. 8200, BANKRUPTCY LAW REVISION

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 826 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 826

Resolved, That upon the adoption of this resolution it shall be in order to move, section 303(a) of the Congressional Budget Act of 1974 (Public Law 93-344) and clause 3 of rule XIII to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8200) to establish a uniform law on the subject of bankruptcies. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and all points of order against said substitute for failure to comply with the provisions of section 303(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 826 provides for the consideration of H.R. 8200, the bankruptcy law revision of 1977. This is an open rule providing for 2 hours of general debate to be divided and controlled in the customary manner by the Committee on the Judiciary. It is made in order to consider the committee amendment in the nature of a substitute as an orginal bill for the purpose of amendment, and all points of order against the substitute for failure to comply with section 303(a) of the Congressional Budget Act and clause 3 of rule XIII—the Ramseyer rule—are waived. The substitute shall be read by titles instead of by sections, and the rule provides for one motion to recommit with or without instructions.

The waiver of section 303(a) of the Budget Act is required to permit consideration of those parts of the bill which establish life tenure salaries and retirement for the bankruptcy judges. This part of the Budget Act prohibits the consideration of measures that contain entitlements for a fiscal year before the first budget resolution for that year has been adopted. The waiver of the Ramseyer rule allows consideration of the bill even though the committee report does not contain a Ramseyer, or a list of deletions and additions to existing law. This requirement was not made of this bill because it deletes in its entirety a voluminous set of laws, and the reprinting of these laws was felt to be cost-prohibitive.

Mr. Speaker, H.R. 8200 implements a comprehensive revision of our Nation's bankruptcy law, making improvements which have been deliberated over for a long time and the need for which has been demonstrated over the years. The last substantial revision of this system was in 1938, the year I sponsored a bankruptcy law revision bill during my service in the Senate.

As the Members are aware, this bill is very complex and as such it would be impossible for me to detail all its provisions to you now. Let me therefore outline the major concerns of H.R. 8200 and how they alter the present bankruptcy system in the United States.

H.R. 8200 establishes a new court structure to replace the existing structure of separate bankruptcy courts which are subordinate to and under the control of district courts. This new court system is to have complete jurisdiction over all bankruptcy cases, removing this responsibility from the Federal district court judges. There are to be life tenured judges in the new court system, although the current bankruptcy referees would continue to sit through the transition period of the bill, that is until 1983.

This legislation further creates a system of U.S. trustees to administer the new structure, thereby relieving the judges of any possible conflict in the dual responsibilities they hold at present. These Federal trustees would oversee the qualifications and appointments of private trustees and would serve as enforcers of the bankruptcy law.

The extensive revision proposed by the bill accounts for the remarkable growth in consumer and commercial credit industries as well as in the complexity of business reorganizations and other changes. The bill simplifies the establishment of repayment plans for the consumer debtor, and the loopholes which have worked in the past to impede the fresh start given to overburdened debtors have been closed. For the commercial debtor, moreover, the bill modernizes the law and particularly responds to changes in the areas of preference and protection of both creditors and debtors.

I feel it is important to note that the legislation encourages the use of alternatives to liquidation. It also consolidates the existing laws on business reorganization into an efficient and less time consuming procedure.

These are, as I have stated earlier, the general provisions of H.R. 8200. The bill represents a cumulative development of years of work and thousands of pages of testimony on a complex subject, and I believe it deserves full consideration by the House. I respectfully request, Mr. Speaker, that we adopt House Resolution 826 so that we may proceed to the consideration of this legislation.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank Mr. Pepper for yielding. Mr. Speaker, can the gentleman tell us how long the Committee on the Judiciary has worked on this legislation?

Mr. PEPPER. I cannot hear the gentleman.

Mr. ROUSSELOT. Can the gentleman tell us how long the Committee on the Judiciary has been working on this legislation?

Mr. PEPPER. I know that it has been several years. It is 6 years. I am advised by the able gentleman from California (Mr. EDWARD), that the Committee on the Judiciary has been working on this

bill, holding numerous hearings, taking the advice and counsel of innumerable people on the law. They know something about this subject, and this bill is a very good one.

Mr. ROUSSELOT. We can be assured, then, that this is not a hurry-up bill and that adequate time has been given to its drafting this large document?

Mr. PEPPER. It is a bill which we hope will provide for more expeditious disposition of bankruptcy cases.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say to the gentleman from California (Mr. ROUSSELOT), who just made inquiry of the gentleman from Florida (Mr. PEPPER), that they have been fiddling with this matter for several years. It is not a very new matter.

Mr. Speaker, this rule provides 2 hours of general debate for the consideration of H.R. 8200, the bankruptcy revision bill.

Points of order are waived against both the bill and the committee substitute for failure to comply with section 303(a) of the Budget Act. Section 303(a) prohibits new entitlement authority from becoming effective during a fiscal year until after the first budget resolution for that fiscal year has been adopted. Life tenure, high salaries and retirement benefits for the newly converted Federal judgeships and annuities to dependents would not become effective until fiscal year 1984. This new entitlement authority violates section 303(a) of the Budget Act, and therefore the waiver is necessary.

The chairman of the Budget Committee has written a letter in which he concludes that it would not serve the fundamental purposes of the Budget Act to insist on a strict application of the act to this bill.

In addition to a Budget Act waiver, this rule includes a waiver of the Ramseyer rule, clause 3 of rule XIII. The committee report does include some of the changes in existing law made by the bill. However, it does not include all of the old Bankruptcy Act which is being changed. Therefore the waiver of the Ramseyer rule is necessary.

In order to preserve the normal amending process, the rule makes the committee substitute in order as an original bill for the purpose of amendment. The substitute will be read by titles instead of by sections.

Finally, the rule does provide for a motion to recommit with or without instructions.

Mr. Speaker, I have a number of questions about this proposed bankruptcy law revision.

First, I am concerned because this bill will create a large number of new bankruptcy judgeships who will be political appointees. These appointees will have life tenure, so they will be with us for a long time. They will have excellent retirement benefits without making contributions.

Mr. Speaker, I am also concerned because this bill invites increased abuse of our student loan program. Under present law, there is a prohibition on a discharge in bankruptcy until 5 years after a student loan comes due. However, this bill removes that prohibition. So under this bill a student can go to college, or law school or medical school on money borrowed from the taxpayers. Then as soon as the student receives his diploma, he can declare bankruptcy and the taxpayers are left holding the bag. This is not fair to the taxpayers. It is not fair to the other hard-working student who borrows money to go to school, and then spends the first years of his career working to pay off the debt.

Mr. Speaker, these problems need to be corrected before this bill is enacted into law.

Mr. Speaker, the gentleman from Illinois (Mr. RAILSBACK) has asked for some time, and I yield such time as he may consume to him at this point.

Mr. RAILSBACK. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to include extraneous matter in the body of the RECORD during the remarks I make in the debate on this bankruptcy bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. BUTLER. Mr. Speaker, reserving the right to object, will the gentleman identify the extraneous matter that he has in mind.

Mr. RAILSBACK. If the gentleman will yield, Mr. Speaker, I will be pleased to identify the extraneous matter.

It will be a letter from Griffin Bell, the Attorney General, in opposition to the article III status granted to what will be about 200 judges at the expiration of a 6-year period. It will be a statement from the Chief Justice of the U.S. States Supreme Court, Chief Justice Burger, in opposition to the creation of the article III-status judges.

Mr. BUTLER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. LATTA. Mr. Speaker, I will say I am glad the gentleman withdrew his reservation of objection, because certainly he would want both sides of this issue properly discussed.

Mr. Speaker, I have no further requests for time, and I reserve the remainder of my time.

Mr. PEPPER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 358, nays 11, not voting 65, as follows:

[Roll No. 710]

YEAS—358

Abdnor	Evans, Colo.	McCormack
Addabbo	Evans, Ga.	McDade
Akaka	Evans, Ind.	McFall
Alexander	Fary	McHugh
Allen	Fascell	McKay
Ambro	Fenwick	McKinney
Anderson, Calif.	Findley	Madigan
	Fish	Maguire
Anderson, Ill.	Fisher	Mahon
Andrews, N.C.	Fithian	Mann
Andrews, N. Dak.	Flippo	Markey
	Florio	Marks
Applegate	Flynt	Marlenee
Archer	Foley	Martin
Armstrong	Ford, Mich.	Mathis
Ashbrook	Ford, Tenn.	Meeds
Ashley	Forsythe	Metcalfe
Aspin	Fountain	Meyner
Badham	Fowler	Michel
Bafalis	Fraser	Mikulski
Baldus	Frenzel	Mikva
Baucus	Frey	Milford
Beard, R.I.	Fuqua	Miller, Calif.
Beard, Tenn.	Gammage	Miller, Ohio
Bedell	Gaydos	Mineta
Beilenson	Gephardt	Minish
Benjamin	Giaimo	Mitchell, Md.
Bennett	Gibbons	Mitchell, N.Y.
Bevill	Gilman	Moakley
Biaggi	Ginn	Moffett
Bingham	Glickman	Mollohan
Blanchard	Goldwater	Montgomery
Blouin	Gonzalez	Moore
Boggs	Goodling	Moorhead, Calif.
Bonior	Gore	
Bowen	Gradison	Moorhead, Pa.
Brademas	Grassley	Moss
Breaux	Gudger	Mottl
Breckinridge	Guyer	Murphy, Ill.
Brinkley	Hagedorn	Murphy, N.Y.
Brodhead	Hall	Murphy, Pa.
Brooks	Hamilton	Murtha
Brown, Mich.	Hammer-schmidt	Myers, Gary
Brown, Ohio		Myers, John
Broyhill	Hannaford	Myers, Michael
Buchanan	Harkin	Natcher
Burke, Fla.	Harris	Neal
Burke, Mass.	Harsha	Nedzi
Burleson, Tex.	Hawkins	Nichols
Burlison, Mo.	Heckler	Nix
Burton, Phillip	Hefner	Nowak
Butler	Heftel	O'Brien
Byron	Hightower	Oakar
Caputo	Hillis	Oberstar
Carney	Hollenbeck	Obey
Carr	Holtzman	Panetta
Cavanaugh	Horton	Patten
Cederberg	Hubbard	Patterson
Chappell	Huckaby	Pattison
Chisholm	Hughes	Pease
Clay	Hyde	Pepper
Cleveland	Ichord	Perkins
Cochran	Ireland	Pettis
Cohen	Jacobs	Pike
Coleman	Jeffords	Pressler
Collins, Tex.	Jenkins	Preyer
Conable	Jenrette	Price
Conte	Johnson, Calif.	Pritchard
Conyers	Jones, N.C.	Quillen
Corcoran	Jones, Okla.	Rahall
Corman	Jones, Tenn.	Railsback
Cornell	Jordan	Rangel
Cornwell	Kasten	Regula
Crane	Kastenmeier	Reuss
Cunningham	Kazen	Rhodes
D'Amours	Kelly	Rinaldo
Daniel, Dan	Kemp	Risenhoover
Daniel, R. W.	Ketchum	Roberts
Danielson	Keys	Robinson
Davis	Kildee	Rodino
de la Garza	Krebs	Roe
Delaney	Krueger	Roncalio
Dellums	LaFalce	Rooney
Derrick	Lagomarsino	Rose
Derwinski	Latta	Rosenthal
Devine	Le Fante	Rostenkowski
Dickinson	Leach	Roybal
Dingell	Lederer	Rudd
Dornan	Lehman	Runnels
Downey	Levitas	Ruppe
Drinan	Livingston	Russo
Duncan, Oreg.	Lloyd, Calif.	Ryan
Duncan, Tenn.	Lloyd, Tenn.	Santini
Eckhardt	Long, La.	Sarasin
Edwards, Ala.	Long, Md.	Sawyer
Edwards, Calif.	Lott	Scheuer
Eilberg	Luken	Schroeder
Emery	Lundine	Sebelius
English	McClory	Seiberling
Erlenborn	McCloskey	Sharp

Shipley	Studds	Wayman
Shuster	Stump	Weaver
Simon	Taylor	White
Sisk	Thompson	Whitehurst
Skelton	Thone	Whitley
Slack	Thornton	Whitten
Smith, Iowa	Traxler	Wilson, C. H.
Smith, Nebr.	Treen	Wilson, Tex.
Snyder	Tribble	Winn
Solarz	Tsongas	Wirth
Spellman	Udall	Wolff
Spence	Ullman	Wright
St Germain	Van Deerlin	Wylie
Staggers	Vanik	Yates
Stangeland	Vento	Yatron
Stanton	Volkmer	Young, Alaska
Stark	Waggonner	Young, Fla.
Steed	Walgren	Young, Mo.
Steers	Walker	Zablocki
Steiger	Wampler	Zeferetti
Stockman	Watkins	

NAYS—11

Bauman	McDonald	Satterfield
Edwards, Okla.	Poage	Stratton
Hansen	Quayle	Wydler
Holt	Rousselot	

NOT VOTING—65

Ammerman	Diggs	Mazzoli
Annunzio	Dodd	Nolan
AuCoin	Early	Ottinger
Badillo	Edgar	Pickle
Barnard	Ertel	Pursell
Boland	Evans, Del.	Quie
Bolling	Flood	Richmond
Bonker	Flowers	Rogers
Broomfield	Hanley	Schulze
Brown, Calif.	Harrington	Sikes
Burgener	Holland	Skubitz
Burke, Calif.	Howard	Stokes
Burton, John	Johnson, Colo.	Symms
Carter	Kindness	Teague
Clausen, Don H.	Koch	Tucker
	Kostmayer	Vander Jagt
Clawson, Del	Leggett	Walsh
Collins, Ill.	Lent	Weiss
Cotter	Lujan	Whalen
Coughlin	McEwen	Wiggins
Dent	Marriott	Wilson, Bob
Dicks	Mattox	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Ertel for, with Mr. Ammerman against.

Until further notice:

Mr. Annunzio with Mr. Broomfield.
Mr. Hanley with Mr. Carter.
Mr. Richmond with Mr. Lent.
Mr. Flood with Mr. Quie.
Mr. Sikes with Mr. Del Clawson.
Mr. Teague with Mr. Bob Wilson.
Mr. Mattox with Mr. Vander Jagt.
Mrs. Burke of California with Mr. Symms.
Mr. Dent with Mr. Lujan.
Mr. Dodd with Mr. Whalen.
Mr. Howard with Mr. Schulze.
Mr. Koch with Pursell.
Mr. AuCoin with Mr. Marriott.
Mr. Rogers with Mr. Leggett.
Mr. Kostmayer with Mr. Holland.
Mr. Flowers with Mr. Don H. Clausen.
Mr. Mazzoli with Mr. Coughlin.
Mr. Pickle with Mr. McEwen.
Mr. Badillo with Mr. Evans of Delaware.
Mrs. Collins of Illinois with Mr. Barnard.
Mr. Boland with Mr. Burgener.
Mr. Bonker with Mr. Dicks.
Mr. Early with Mr. Kindness.
Mr. Edgar with Mr. Wiggins.
Mr. John Burton with Mr. Walsh.
Mr. Brown of California with Mr. Tucker.
Mr. Cotter with Mr. Stokes.
Mr. Weiss with Mr. Skubitz.
Mr. Harrington with Mr. Nolan.
Mr. Ottinger with Mr. Diggs.

Mr. HARSHA changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR CONFEREES TO FILE CONFERENCE REPORT ON H.R. 6010

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the conferees on the part of the House may have until midnight tonight, October 27, 1977, to file the conference report on H.R. 6010 to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman tell us why it is necessary to get a unanimous-consent request?

Mr. ROBERTS. The truth is, I do not know, but that is what the committee said we had to do.

Mr. ROUSSELOT. That is the best reply we have heard today.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT (H. REPT. NO. 95–773)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 6010) to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 8. (a) Section 403(b)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(b)(1)) is amended by striking out "to ministers of religion on a space available basis." and inserting in lieu thereof "on a space-available basis to any minister of religion, any person who is sixty years of age or older and retired, any person who is sixty-five years of age or older, and to any handicapped person and any attendant required by such handicapped person. For the purposes of this subsection, the term 'handicapped person' means any person who has severely impaired vision or hearing, and any other physically or mentally handicapped person, as defined by the Board. For purposes of this subsection, the term 'retired' means no longer gainfully employed as defined by the Board.".

((b) Within six months after the date of enactment of this section, the Board shall study and report to Congress on the feasibility and economic impact of air carriers and foreign air carriers providing reduced-rate transportation on a space-available basis to persons twenty-one years of age or younger.

SEC. 9. Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) Notwithstanding any other provision of this Act, any citizen of the United States who undertakes, within the State of California or the State of Florida, the carriage of persons or property as a common carrier for compensation or hire with aircraft capable of carrying thirty or more persons pursuant to authority for such carriage (i) within the State of California, granted by the Public Utilities Commission of such State, or (ii) within the State of Florida, granted by the Public Service Commission of such State, is authorized—

"(I) to establish services for persons and property which includes transportation by such citizen over its routes in California or Florida and transportation by an air carrier or foreign air carrier in air transportation; and

"(II) subject to the requirements of section 412 of this title, to enter into an agreement with any air carrier or foreign air carrier for the establishment of joint fares, rates, and services for such through service.

"(B) The joint fares or rates established under clause (II) of subparagraph (A) of this paragraph shall be the lowest of—

"(i) the sum of the applicable fare or rate for service in California approved by such Public Utilities Commission, or the sum of the applicable fare or rate for service in Florida approved by such Public Service Commission, and the applicable fare or rate for that part of the through service provided by the air carrier or foreign air carrier;

"(ii) a joint fare or rate established and filed in accordance with section 403 of this Act; or

"(iii) a joint fare or rate established by the Board in accordance with section 1002 of this Act.".

SEC. 10. (a) The first sentence of section 403(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1373) is amended to read as follows: "No change shall be made in any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, specified in any effective tariff—

"(1) of any air carrier, or foreign air carrier, directly engaged in the operation of aircraft if such rate, fare, or charge is for the carriage of property in air transportation, except after sixty days' notice of the proposed change filed, posted, and published in accordance with subsection (a) of this section; and

"(2)(A) of any air carrier, or foreign air carrier, if such rate, fare, or charge is for the carriage of persons in air transportation, or (B) of any air carrier, or foreign air carrier, not directly engaged in the operation of aircraft if such rate, fare, or charge is for the carriage of property in air transportation, except after forty-five days' notice of the proposed change filed, posted, and published in accordance with subsection (a) of this section.".

(b) The first sentence of section 1002(g) of such Act (49 U.S.C. 1482) is amended by inserting "at least fifteen days before the day on which such tariff would otherwise go into effect" immediately after "and delivering to the air carrier affected thereby".

SEC. 11. (a) The amendment made by subsection (a) of section 10 of this Act shall apply to any tariff change filed by any air carrier or foreign air carrier in accordance with section 403(c) of the Federal Aviation Act of 1958 after the thirtieth day after the date of enactment of this section.

(b) The amendment made by subsection (b) of section 10 of this Act shall apply to any tariff change filed by any air carrier for interstate or overseas air transportation in accordance with section 403(c) of the Federal Aviation Act of 1958 after the thirtieth day after the date of enactment of this section.

SEC. 12. (a) Section 406(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1376(b)) is amended by adding at the end thereof the following new sentence: "In determining compensation for any local service air carrier for the year 1966 in accordance with the

provisions of this subsection, the Board shall apply Local Service Class Subsidy Rate III–A as set forth in Board order E–23850 (44 CAB 637 et seq.), except that the Board shall not apply that part of such order which requires the Board to take into account any decrease in the Federal income tax liability of such carrier for such year resulting from any net operating loss carryback pursuant to section 172 of the Internal Revenue Code of 1954.".

(b) In the event that the Civil Aeronautics Board in determining the amount of compensation to be paid to any local service air carrier for the year 1966 in accordance with the provisions of section 406(b) of the Federal Aviation Act of 1958 took into account any decrease in the Federal income tax liability for such air carrier for such year resulting from any net operating loss carryback pursuant to section 172 of the Internal Revenue Code of 1954, the Board shall redetermine the compensation to be paid to such air carrier in accordance with section 406(b) as amended by this section, and shall make payment to such air carrier of any amount owed to such carrier as provided in such redetermination.

SEC. 13. Section 406(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1376) is amended by inserting at the end thereof the following new sentences: "Nothing in this section shall prohibit the Board from making payments as compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, for the period August 1, 1973, through July 31, 1975, where such payments have already been provided by Board order, to the holder of a certificate authorizing the transportation of mail by aircraft, to the account or for the benefit of any air carrier designated an 'air taxi operator' by the Board, which provided air transportation between points named in the holder's certificate in satisfaction of an express condition to the suspension by Board order of the holder's certificate authority to engage in air transportation between those points. In no event shall such payments differ from the amount previously provided by such Board order.".

SEC. 14. Section 501(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(b)) is amended to read as follows:

"ELIGIBILITY FOR REGISTRATION

"(b) An aircraft shall be eligible for registration if, but only if—

"(1)(A) it is—

"(i) owned by a citizen of the United States (other than a corporation) or by an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States; or

"(ii) owned by a corporation lawfully organized and doing business under the laws of the United States or any State thereof so long as such aircraft is based and primarily used in the United States; and

"(B) it is not registered under the laws of any foreign country; or

"(2) it is an aircraft of the Federal Government, or of a State, territory, or possession of the United States or the District of Columbia or a political subdivision thereof. For purposes of this subsection, the Secretary of Transportation shall, by regulation, define the term 'based and primarily used in the United States'.".

SEC. 15. (a) Section 601(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1421), relating to emergency locator transmitters, is amended as follows:

(1) In paragraph (1), immediately before ", minimum standards" insert the following: "and except as provided in paragraph (3) of this subsection".

(2) By adding at the end thereof the following new paragraph:

"(3) The Administrator shall issue regulations which permit, subject to such limitations and conditions as he prescribes in such regulations, the operation of any aircraft equipped with an emergency locator transmitter during any period for which such transmitter has been removed from such aircraft for inspection, repair, modification, or replacement.".

(b)(1) Section 601 of such Act is amended by relettering subsection (d), relating to aviation fuel standards, as subsection (e).

(2) Any reference to such relettered subsection (e) shall be relettered accordingly.

(c) That portion of the table of contents contained in the first section of such Act which appears under the side heading "Sec. 601. General safety powers and duties." is amended by striking out

"(d) Aviation fuel standards."

"(d) Emergency locator transmitters.

"(e) Aviation fuel standards.".

and inserting in lieu thereof the following:

SEC. 16. (a) Section 102 of the Federal Aviation Act of 1958 is amended by inserting under the center heading the following subsection heading:

"GENERAL FACTORS FOR CONSIDERATION".

(b) Section 102 of such Act is amended—

(1) by striking out "In the exercise and performance of its powers and duties under this Act," and inserting in lieu thereof "(a) In the exercise and performance of its powers and duties under this Act,";

(2) by redesignating existing clauses (a) through (f) as (1) through (6), respectively; and

(3) by adding at the end thereof the following new subsection:

"FACTORS FOR ALL-CARGO AIR SERVICE

"(b) In addition to the declaration of policy set forth in subsection (a) of this section, the Board, in the exercise and performance of its powers and duties under this Act with respect to all-cargo air service shall consider the following, among other things, as being in the public interest:

"(1) The encouragement and development of an expedited all-cargo air service system, provided by private enterprise, responsive to (A) the present and future needs of shippers, (B) the commerce of the United States, and (C) the national defense.

"(2) The encouragement and development of an integrated transportation system relying upon competitive market forces to determine the extent, variety, quality, and price of such services.

"(3) The provision of services without unjust discriminations, undue preferences or advantages, unfair or deceptive practices, or predatory pricing.".

(c) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE I—GENERAL PROVISIONS"

is amended by striking out

"Sec. 102. Declaration of Policy: The Board."

and inserting in lieu thereof

"Sec. 102. Declaration of Policy: The Board.

"(a) General factors for consideration.

"(b) Factors for all-cargo air service.".

SEC. 17. (a) Title IV of the Federal Aviation Act of 1958 (49 U.S.C. 1371 et seq.) is amended by adding at the end thereof the following new section:

"CERTIFICATE FOR ALL-CARGO AIR SERVICE

"APPLICATION

"SEC. 418. (a)(1) Any citizen of the United States who has a valid certificate issued under section 401(d)(1) of this title and who provided scheduled all-cargo air service at any time during the period from January 1, 1977, through the date of enactment of this section may, during the forty-five-day period which begins on the date of enactment of this section, submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

"(2) Any citizen of the United States who (A) operates pursuant to an exemption granted by the Board under section 416 of this title, and (B) provided scheduled all-cargo air service continuously (other than for interruptions caused by labor disputes) during the 12-month period ending on the date of enactment of this section, or whose predecessor in interest provided such service during such period, may, during the forty-five-day period which begins on the date of enactment of this section, submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

"(3) After the three hundred and sixty-fifth day which begins after the date of enactment of this section, any citizen of the United States may submit an application to the Board for a certificate under this section to provide all-cargo air service. Such application shall contain such information and be in such form as the Board shall by regulation require.

"ISSUANCE AND REVOCATION OF CERTIFICATE

"(b)(1)(A) Not later than sixty days after any application is submitted pursuant to paragraph (1) or (2) of subsection (a) of this section, the Board shall issue a certificate under this section authorizing the all-cargo air service covered by the application.

"(B) No later than one hundred and eighty days after any application is submitted pursuant to paragraph (3) of subsection (a) of this section, the Board shall issue a certificate under this section authorizing the whole or any part of the all-cargo air service covered by the application unless it finds that the applicant is not fit, willing, and able to provide such service and to comply with any rules and regulations promulgated by the Board.

"(2) Any certificate issued by the Board under this section may contain such reasonable conditions and limitations as the Board deems necessary, except that such terms and conditions shall not restrict the points which may be served, or the rates which may be charged, by the holder of such certificate.

"(3) Notwithstanding any other provision of this section, no certificate issued by the Board under this section shall authorize all-cargo air service between any pair of points both of which are within the State of Alaska or the State of Hawaii.

"(4) If any all-cargo air service authorized by a certificate issued under this subsection is not performed to the minimum extent prescribed by the Board, it may by order, entered after notice and opportunity for a hearing, direct that such certificate shall, thereafter, cease to be effective to the extent of such service.

"EXEMPTIONS

"(c) Any applicant who is issued a certificate under this section shall, with respect to any all-cargo air service provided in accordance with such certificate, be exempt from the requirements of section 401(a) of this Act, and any other section of this Act which the Board by rule determines appropriate, and any rule, regulation, or procedure issued pursuant to any such section.

"AIR CARRIER STATUS

"(d) Any applicant who is issued a certificate under this section shall be an air carrier for the purposes of this Act, except to the extent such carrier is exempt from any requirement of the Act pursuant to this section.".

(b) Section 101 of such Act (49 U.S.C. 1301) is amended by—

(1) renumbering paragraphs (11) through (38), and any references thereto, as paragraphs (12) through (39), respectively; and

(2) inserting immediately after paragraph (10), the following new paragraph:

"(11) 'All-cargo air service' means—

"(A) the carriage by aircraft of only (i) property as a common carrier for compensation or hire, or (ii) mail, or both, in commerce between a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same territory or possession of the United States, or the District of Columbia:

"(B) the carriage by aircraft of only (i) property as a common carrier for compensation or hire, or (ii) mail, or both, in commerce between a place in any State of the United States or the District of Columbia and any place in the Commonwealth of Puerto Rico or the Virgin Islands or between a place in the Commonwealth of Puerto Rico and a place in the Virgin Islands;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.".

(c) That portion of the table of contents contained in the first section of such Act which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by adding at the end thereof

"Sec. 418. Certificate for all-cargo air service.

"(a) Application.

"(b) Issuance and revocation of certificate.

"(c) Exemptions.

"(d) Air carrier status."

SEC. 18. (a) Subsection (d) of section 1002 of the Federal Aviation Act of 1958 (49 U.S.C. 1482(d)) is amended by—

(1) striking out "Whenever," and inserting in lieu thereof

"(1) Except as provided in paragraph (2) of this subsection, whenever,";

(2) striking out "interstate" and inserting in lieu thereof "interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii,";

(3) striking out "effective: *Provided*, That as to rates, fares, and charges for overseas air transportation, the Board shall determine and prescribe only a just and reasonable maximum or minimum, or maximum and minimum rate, fare, or charge." and inserting in lieu thereof "effective."; and

(4) adding at the end thereof the following new paragraphs:

"(2) With respect to rates, fares, and charges for overseas air transportation, the Board shall determine and prescribe only a just and reasonable maximum or minimum, or maximum and minimum rate, fare, or charge.

"(3) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate or charge demanded, charged, collected, or received by any air carrier for interstate air transportation of property or any classification, rule, regulation, or practice affecting such rate or charge, or the value of the service thereunder, is or will be unjustly discriminatory, or unduly preferential, or unduly prejudicial, or predatory the Board shall alter such rate, charge, classification, rule, regulation, or practice to the extent necessary to correct such discrimination, preference, prejudice, or predatory practice and make an order that the air carrier or foreign air carrier shall discontinue demanding, charging, collecting, or receiving any such discriminatory, preferential, prejudicial, or predatory rate or charge or enforcing any such discriminatory, preferential, prejudicial, or predatory classification, rule, regulation, or practice.".

(b) The last sentence of subsection (g) of such section 1002 is amended to read as follows: "If the proceeding has not been concluded and an order made within the period of suspension, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect at the end of such period, except that this subsection shall not apply to any initial tariff filed by any air carrier. The Board shall not suspend any proposed tariff under this subsection because of the proposed rate, fare, charge, classification, rule, regulation, or practice stated therein unless the Board is empowered to find such proposed rate, fare, charge, classification, rule, regulation, or practice unjust or unreasonable and empowered to determine and prescribe the lawful rate, fare, charge, classification, rule, regulation, or practice, or the lawful maximum or minimum, or maximum and minimum rate, fare, or charge.".

(c) The first sentence of subsection (h) of such section 1002 is amended by striking out "air transportation" and inserting in lieu thereof "interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii, or overseas or foreign air transportation".

(d) Subsection (i) of such section 1002 is amended by striking out "interstate" and inserting in lieu thereof "interstate air transportation of persons, air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii,".

(e)(1) Such section 1002 is amended by adding at the end thereof the following new subsection:

"DEFINITIONS

"(k)(1) For purposes of this section, the term 'interstate air transportation of property' means—

"(A) the carriage by aircraft of property as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia (other than the carriage by aircraft of property by a common carrier between any pair of points both of which are within the State of Alaska or Hawaii if such carriage is part of the continuous carriage of such property and another common carrier provides, as part of such continuous carriage, the carriage by aircraft of such property between any pair of points one of which is within the State of Alaska or Hawaii and the other of which is not within the same State); or between places in the same State of the United States (other than the State of Alaska or Hawaii) through the airspace over any place outside thereof; or between places in the same territory or possession of the United States, or the District of Columbia;

"(B) the carriage by aircraft of property as a common carrier for compensation or hire, in commerce between a place in any State of the United States or the District of Columbia and any place in the Commonwealth of Puerto Rico or the Virgin Islands or between a place in the Commonwealth of Puerto Rico and a place in the Virgin Islands;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

"(2) For purposes of this section, the term 'overseas air transportation' means—

"(A) the carriage by aircraft of persons as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and any place in a territory or possession of the United States; or between a place in a territory or possession of the United States, and a place in any other territory or possession of the United States;

"(B) the carriage by aircraft of property as a common carrier for compensation or hire in commerce between a place in any State of the United States, or the District of Columbia, and any place in a territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands); or between a place in a territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands), and a place in any other territory or possession of the United States (other than the Commonwealth of Puerto Rico and the Virgin Islands);

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

"(3) For purposes of this section, the term 'air transportation of property within the State of Alaska' means the carriage by aircraft of property (A) by a common carrier for compensation or hire in commerce between any pair of points both of which are within the State of Alaska if such carriage is part of the continuous carriage of such property and another common carrier provides, as part of such continuous carriage, the carriage by aircraft of such property between any pair of points one of which is within the State of Alaska and the other of which is not within such State, or (B) by a common carrier for compensation or hire in commerce between places in the State of Alaska through the airspace over any place outside thereof, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

"(4) For purposes of this section, the term 'air transportation of property within the State of Hawaii' means the carriage by aircraft of property (A) by a common carrier for compensation or hire in commerce between any pair of points both of which are within the State of Hawaii if such carriage is part of the continuous carriage of such property and another common carrier provides, as part of such continuous carriage, the carriage by aircraft of such property between any pair of points one of which is within the State of Hawaii and the other of which is not within such State, or (B) by a common carrier for compensation or hire in commerce between places in the State of Hawaii through the airspace over any place outside thereof, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.".

(2) That portion of the table of contents contained in the first section of such Act which appears under the side heading

"Sec. 1002. Complaints to and investigations by the Administrator and the Board."

is amended by adding at the end thereof

"(k) Definitions.".

SEC. 19. Notwithstanding section 16 of the Federal Airport Act (as in effect on April 26, 1950), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of subsection (b) of this section, to grant releases from any of the terms, conditions, reservations, and restrictions contained in Patent Number 1,128,955, dated April 26, 1950, by which the United States gave and granted a patent in certain property to the city of Redmond, Oregon, for airport purposes.

(b) Any release granted by the Secretary of Transportation under subsection (a) of this section shall be subject to the following conditions:

(1) The city of Redmond, Oregon, shall agree that in conveying any interest in the property which the United States granted the city by Patent Number 1,128,955, dated April 26, 1950, the city will receive an amount

for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

And the Senate agree to the same.

GLENN M. ANDERSON,
HAROLD T. JOHNSON,
TENO RONCALIO,
WILLIAM H. HARSHA,
GENE SNYDER,
Managers on the Part of the House.

HOWARD W. CANNON,
DANIEL K. INOUYE,
TED STEVENS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 6010) to amend title XIII of the Federal Aviation Act of 1958 to expand the types of risks which the Secretary of Transportation may insure or reinsure, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the House amendment struck out all of the House amendment and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the Senate amendment and the House amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

REDUCED FARES

House provision

Amends section 403(b)(1) of the Federal Aviation Act of 1958 (hereinafter in this statement referred to as the "Act") to permit the Civil Aeronautics Board (hereinafter in this statement referred to as the "CAB") to approve reduced air fares on a standby basis for retired persons 60 years of age or over, all persons 65 years of age or older, and handicapped persons. This provision also requires the CAB to study the economic feasibility of reduced fares for youth.

Senate provision

Same as the House provision.

Conference substitute

Same as the House and Senate provisions.

THROUGH SERVICE BY INTRASTATE CARRIERS

House provision

Amends section 401(d) of the Act to permit intrastate airlines in California to enter into agreements with interstate air carriers to offer through ticketing and baggage service. The joint fares offered for this service shall be the lower of the sum of the fares for the intrastate and interstate parts of such service or a joint fare established under the Federal Aviation Act of 1958.

Senate provision

Same as the House provision except it authorizes intrastate airlines to Florida to provide the same type of service.

Conference substitute

Same as the Senate provision.

AIR CARRIER TARIFF CHANGES

House provision

Amends section 403(c) of the Act to require air carriers to file any proposed change in passenger fares 45 days before the effective date of the proposed change. It also amends section 403(c) to require direct air carriers to file any change in freight rates 60 days before the effective date of such proposed change and indirect air carriers to file any proposed change in freight rates 45 days before the effective date of such proposed change. Further, it amends section 1002(g) of the Act to require the CAB to issue its decision on suspension of any proposed fare or rate change for interstate or overseas air transportation at least 15 days before the effective date of the change.

Senate provision

Same as the House provision.

Conference substitute

Same as the House and Senate provisions.

REDETERMINATION OF MAIL RATE COMPENSATION

House provision

Amends section 406(b) of the Act to require the CAB to reimburse any air carrier which was required to repay any part of its 1966 subsidy because of tax loss carrybacks used to reduce the carriers 1966 taxes.

Senate provision

Same as House provision.

Conference substitute

Same as House and Senate provisions.

SUBSIDY REPAYMENT

House provision

Amends section 406(a) of the Act to allow the CAB to pay a subsidy to an air taxi operator which payment was provided for by a CAB order allowing the air taxi to provide replacement service for a certificated air carrier during the period August 1, 1973, through July 31, 1975.

Senate provision

Same as the House provision.

Conference substitute

Same as the House and Senate provisions.

ELIGIBILITY FOR AIRCRAFT REGISTRATION

House provision

No comparable provision.

Senate provision

Amends section 501(b) of the Act to permit aircraft owned by citizens of foreign countries admitted for permanent residence in the United States, and aircraft owned by corporations lawfully organized and doing business under the laws of the United States or any State thereof which are based and primarily used in the United States, to be registered in the United States.

Conference substitute

Same as the Senate provision.

EMERGENCY LOCATOR TRANSMITTERS

House provision

No comparable provision.

Senate provision

Amends section 601(d) of the Act to provide the Administrator of the Federal Aviation Administration with increased flexibility to carry out the provisions of Public Law 92-596, as amended by Public Law 93-239, which require that emergency locator transmitters be installed on certain civil aircraft. The section requires the Administrator to issue regulations permitting the operation of civil aircraft subject to the statutory requirement during any period for which the transmitter has been removed for inspection, repair, modification, or replacement.

Conference substitute

Same as the Senate provision.

AIR CARGO

House provision

No comparable provision.

Senate provision

Section 102 of the Act is amended to add several criteria specifically relating to all-cargo air service to the declaration of policy which is to be considered by the CAB in the exercise of its duties under the Act.

A new section 418 is added to the Act establishing certificates for all-cargo air service. One hundred five days after the date of the enactment of the new section the Board is required to award all-cargo certificates to any air carrier who holds a certificate under section 401(d)(1) of the Act and has provided scheduled interstate all-cargo air service at any time between January 1, 1977, and the date of enactment. During the same time period, the Board is also required to award certificates for all-cargo air service to commuter air carriers who have provided scheduled all-cargo air service continuously during the 12-month period preceding the date of enactment. One year after enactment the Board is required to award all-cargo certificates to any applicant who demonstrates that it is fit, willing, and able to provide the proposed service and comply with rules and regulations promulgated by the Board. Certificates issued under this section shall not contain restrictions limiting the points to be served or the rates to be charged except insofar as the provision imposes special restrictions on service within Alaska. The CAB may exempt all-cargo carriers from other sections of the Act. The all-cargo service covered by the certificates includes interstate service as presently defined in the Act and service to Puerto Rico and the Virgin Islands.

Section 1002 of the Federal Aviation Act is amended to limit the Boards authority to regulate rates for the transportation of property, whether by all-cargo aircraft or combination aircraft, to those cases where the Board finds after notice and hearing that the rates are discriminatory, preferential, prejudicial, or predatory. The Board is precluded from suspending proposed cargo rates pending a hearing.

Conference substitute

Same as the Senate provision, except that it provides that all-cargo air service within the States of Alaska and Hawaii will continue to be governed by existing law.

The conference substitute provides that no certificate issued under new section 418 of the Act shall authorize cargo service between points in the State of Hawaii or between points in the State of Alaska. Such service will continue to be governed by existing law and the CAB may authorize such service by awarding certificates of public convenience and necessity under existing section 401 of the Act.

New section 418 does apply to service between points in Alaska or Hawaii, and points in other States. Such service may be authorized in all-cargo certificates awarded under new section 418.

The conference substitute amends section 1002 of the Federal Aviation Act to provide that rates for transportation between points in the States of Alaska or Hawaii will continue to be regulated under existing law. CAB will have authority to modify such rates if they are unjust or unreasonable, and to suspend the rates pending a hearing. The rates which will be regulated under existing law are (1) rates for the carriage of property between two points in Alaska or two points in Hawaii if the aircraft passes over a place outside the State, or (2) rates for the carriage of property between two points in Alaska or Hawaii, if such transportation is part of a continuous movement of the property, and another carrier provides, as part of such continuous movement, transportation between a point in Alaska or Hawaii and a point in another State.

Rates for the transportation of property between points in Alaska or Hawaii and points in other States are not affected by the conference substitute. These rates would be subject to the limitation imposed by the Senate amendment to section 1002 of the

Act and such rates could be regulated only if the Board found, after notice and hearing, that the rates were discriminatory, preferential, prejudicial, or predatory.

New section 418 permits the Board to exempt holders of certificates for all-cargo service from any section of the Act. While this section is intended to give the Board substantial discretion, the Managers do not contemplate that the Board will exempt carriers from the requirement of filing tariffs. Tariffs provide valuable notice of rates to users of air transportation. Tariffs will be necessary for the Board to effectively carry out its duties to determine whether rates for the transportation of property are discriminatory, preferential, prejudicial, or predatory.

AUTHORITY TO RELEASE PROPERTY RESTRICTIONS

House provision

No comparable provision.

Senate provision

Authorizes the Secretary of Transportation to grant, subject to certain conditions, releases from the terms, conditions, reservations, and restrictions set forth in a patent by which the United States granted a patent in certain property to the city of Redmond, Oregon, for airport purposes, under section 16 of the Federal Airport Act of 1946.

Conference substitute

Same as the Senate provision.

GLENN M. ANDERSON,
HAROLD T. JOHNSON,
TENO RONCALIO,
WILLIAM H. HARSHA,
GENE SNYDER,
Managers on the Part of the House.

HOWARD W. CANNON,
DANIEL K. INOUYE,
TED STEVENS,
Managers on the Part of the Senate.

BANKRUPTCY LAW REVISION

Mr. EDWARDS of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8200) to establish a uniform law on the subject of bankruptcies.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. EDWARDS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8200, with Mr. SIMON in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. EDWARDS) will be recognized for 1 hour, and the gentleman from Virginia (Mr. BUTLER) will be recognized for 1 hour.

The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Chairman, I yield 5 minutes to the distinguished chairman of the House Judiciary Committee, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, the matter before the House this afternoon is one of tremendous importance. It is the first major revision of our Nation's bankruptcy laws in 40 years, and the most significant changes proposed in the bankruptcy system since 1898, when the current Bankruptcy Act was enacted. This has been a long labor. The chairman of the subcommittee, Mr. EDWARDS, has worked on this legislation for over 7 years, since the time that he and our colleague Mr. WIGGINS were appointed to the Bankruptcy Commission in 1970. The ranking Republican of the subcommittee, Mr. BUTLER, has also devoted years to this effort. It has been a very commendable effort. The subcommittee has proposed major legislation that meets the needs of the bankruptcy laws and the bankruptcy system. It has been a monumental effort and I commend them for it.

Since the last major revision of the bankruptcy laws in 1938, much has changed in our economy. The bankruptcy laws must respond to the economy, because they are designed to be the cushion for both businesses and individuals that fail in our economic system. That is why this re-examination of the bankruptcy laws is so important. Since 1938, credit has become a major factor in our consumer economy. Consumer credit has increased twentyfold in that period. Business credit has increased substantially as well. The adoption of the uniform commercial code in the 1960's has given an additional spur to business lending, and has changed the ground rules on which the bankruptcy laws were based in 1938.

The bankruptcy system itself has also begun to strain. As the number of bankruptcy cases and their complexity has increased, the bankruptcy courts have become overburdened. The district courts have become crowded too, but for different reasons. The result has been a shift of the judicial duties in bankruptcy cases to the bankruptcy courts. In sum, the system has changed dramatically in the past 40 years without the necessary statutory changes to make it operate well.

These are the problems that the subcommittee set out to solve. They solved them in H.R. 8200, and they have done it in a balanced, fair way, that is neither pro-debtor nor pro-creditor. They have approached the bankruptcy law with an objective fairness that will benefit both debtors and creditors involved in bankruptcy cases. The law in 1938 was not designed to handle consumer cases. Now, however, consumer bankruptcies account for nearly 90 percent of the quarter of a million bankruptcy cases filed each year. This bill redesigns traditional bankruptcy protections to make them more effective for non-business debtors. For businesses, the bill facilitates reorganizations, protecting investments, and jobs.

But as I said, this is not a pro-debtor bill. It helps creditors as well. The bill redesigns the procedures for repayment plans and reorganizations for both individuals and businesses. They will be easier to use, and creditors will recover more. The bill also redefines the protections creditors are entitled to in bankruptcy. These protections have been eroded over the years by a confusing case law, and the bill corrects that.

However, the most significant portion of the bill concerns the way bankruptcy cases are handled. There is a hidden bankruptcy system today, processing nearly 250,000 cases each year, involving over 9 million creditors, over $27 billion in assets, and over $43 billion in claims. The volume is enormous. It exceeds the total number of Federal civil and criminal cases combined, but it is not a visible system.

The bankruptcy judges have done their work well over the years, but bankruptcy has outgrown itself, and we need a change in the bankruptcy courts as much as we do in the substantive law. The impact of that volume of cases and that amount of dollars is just too great to permit the system to continue as it is today or with only a few cosmetic changes. I think that H.R. 8200 has successfully redesigned the bankruptcy system. The bill does so with an historical perspective of the growth and changes of the bankruptcy system over the last 40 years so that the errors of the past will not be repeated. It recognizes statutorily the de facto separation between the district courts and the bankruptcy courts, and accomplishes a complete separation of the administrative and judicial functions of the bankruptcy judges. Both of these changes will lead to a fairer, better bankruptcy system. They are essential to the success of this bankruptcy law revision.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Illinois.

Mr. MIKVA. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the distinguished gentleman from New Jersey (Mr. RODINO) for the very cooperative manner in which this difficult matter of concurrent jurisdiction was worked out with the Committee on Ways and Means. As the gentleman from Oregon (Mr. ULLMAN) chairman of the Committee on Ways and Means, indicates, there has been a considerable agreement worked out in those areas which do involve concurrent jurisdiction. The Committee on Ways and Means is not seeking any kind of sequential referral at this time, but acknowledges that at some future time, as these problems come up, which involve the Internal Revenue Code, we would consider amendments at that time which might affect that concurrent jurisdiction.

Mr. RODINO. Mr. Chairman, I want to thank the gentleman for his comments. It indicates again the understanding on the part of the Committee on Ways and Means and its distinguished chairman the need to expedite and not to impede this legislation. We both recognize where the jurisdictional questions are. I think in this manner we can proceed to go forward and do a service to the public.

Mr. ULLMAN. Mr. Chairman, the bill, H.R. 8200, makes major revisions to the bankruptcy laws. Understandably, a bill of this scope cuts across several fields of law. The bill would make important changes affecting the Federal tax rules for bankruptcy cases. Mr. Speaker, tax considerations can have an important

effect on a bankruptcy case, for both businesses and individuals. It is important for the debtor, for creditors, for the trustee of the debtor, and in some cases for the court handling the case, to know how the decisions they make will affect the debtor's liability for Federal taxes.

The chairman of the Judiciary Committee and I engaged in discussions and correspondence during the time that this bill was under consideration by his committee. We both recognized the direct effect which many provisions of the bill would have on Federal tax law. The chairman acknowledged the strong mutual interest which his committee and the Committee on Ways and Means have in the parts of the bill which affect Federal taxes.

Pursuant to our agreement, the special tax provisions of H.R. 8200 will apply to State and local taxes only. The Federal tax aspects of these provisions, along with those provisions which amend the Internal Revenue Code and which were formerly contained in title III of H.R. 6, would be introduced as separate legislation and referred to the Committee on Ways and Means.

In the same spirit, the Committee on Ways and Means has attempted to accommodate the strong desire of Chairman RODINO and the Judiciary Committee to expedite basic bankruptcy reforms. Therefore, provisions which affect the priority and discharge status of tax claims in a bankruptcy action, and provisions dealing with procedures for determining tax liabilities in the bankruptcy court, remain in the bill before us today. On these latter provisions, Mr. Speaker, our committee has agreed not to request a sequential referral of the bill.

We believe, however, that the Committee on Ways and Means has concurrent jurisdiction over these priority and procedure issues as they affect Federal taxes, and we will want the opportunity to consider these issues. In general, the bill in its present form eliminates or reduces rights which the Federal tax authorities now have in collecting taxes from individuals and businesses in bankruptcy.

However, Mr. Chairman, because of the unusually heavy schedule of the Committee on Ways and Means during recent months, we are not in a position to offer committee amendments to H.R. 8200 today. Our hearings on the bill containing the special tax provisions recommended by the Judiciary Committee will provide the Committee on Ways and Means the opportunity to hear the views of the current administration and to consider the broad range of tax issues in the bankruptcy area. At that time, we will consider possible amendments to the bill before us today.

Mr. Chairman, I recognize that tax rules are important to the overall effectiveness of the broad reforms in bankruptcy. I can assure my colleagues that our work on the tax rules will try to balance the interests of bankruptcy policy with tax policy and procedures.

Mr. BUTLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Chairman, I want to join in the salute to the members of our committee and to all those who have worked to produce this monumental piece of legislation; it is landmark legislation in my opinion.

I would like particularly to commend the distinguished chairman of the subcommittee, Mr. EDWARDS, and my colleague from California, Mr. WIGGINS, for their service on the Bankruptcy Commission which helped produce this legislation, and likewise the ranking member of the subcommittee, Mr. CALDWELL BUTLER, who has labored long and hard on this bill. I have had the privilege of serving as a member of the subcommittee during this Congress, and had to catch up, of course, with a lot of work that had been done during the previous 2 years by the subcommittee in the preparatory work for the stage that we are reaching here today.

I would like to observe this; that regardless of what the political philosophy of the members of the subcommittee appears to be, there is a genuine attitude of objectivity with respect to resolving the various issues that were involved in this legislation.

Whether a person philosophically embraced a liberal or conservative or moderate point of view, whether he appeared to come to the subcommittee with a prodebtor or procreditor attitude, or probusiness or prolabor, or whatever it happened to be, it seemed to me that the issue that was before us in each instance was resolved with tremendous objectivity, without partisanship, and without holding tenaciously to some particular personal individual point of view, but with the objective of presenting here legislation which is neither prodebtor nor procreditor.

While this bill recodifies a great many portions of the existing bankruptcy law, it also makes important changes in the bankruptcy law which should contribute to better administration and provide benefits to both creditors and debtors who have occasion to utilize the bankruptcy laws of our Nation.

I think the bill tries to eliminate the sort of private domains that have been controlled by a few who have capitalized on bankruptcy, frequently to the detriment of debtors and creditors alike. We have tried to eliminate those areas which have brought very serious criticism to the whole institution of bankruptcy. The bill does accomplish that, it seems to me, in a very effective way.

This legislation has been scrutinized very, very carefully, almost word for word. The result is something, Mr. Chairman, in which the House should take great pride as one of the major pieces of legislation to emanate from the Judiciary Committee.

I make these statements because they reflect my judgment that much long and hard work of the subcommittee and many others that has gone into the final package that has been put together. It received the unanimous vote of the subcommittee, and the nearly unanimous vote of the full committee.

I look forward to the prompt, expeditious, and hopefully favorable, action on this historic legislation. Thank you, Mr. Chairman.

Mr. EDWARDS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the distinguished gentleman from New Jersey and the distinguished gentleman from Illinois for their remarks on this important legislation.

Mr. Chairman, this has indeed been a long labor, and I am very glad to have the bill before the House today. I would like to underscore the remarks to the two gentlemen that many years have been involved in this bill. Personally, I have spent over 6 years on this legislation, since I was appointed by Speaker Albert to serve on the Commission on the Bankruptcy Laws of the United States, which became operational in 1971. Before proceeding into detail on what the bill does and why, I would like to sketch out its gestation period and its major provisions. Then the other members of the subcommittee will assist me in describing each of these major provisions in greater depth.

The last time the bankruptcy laws of the United States were revised was in 1938. As a matter of fact, the person who did it, in large part, was Mr. Justice Douglas, before he was on the Supreme Court. To give you an idea of what has happened since that time, in 1946, there were 10,196 new bankruptcy cases. But after World War II, there was a bankruptcy explosion, until in 1967, there were new filings of 208,329 cases, and in 1975, there were 254,454 new cases.

Today, the system is badly in need of repair. This was pointed out in the Senate hearings and the House hearings in 1968 and 1969 that led to the creation of the Commission on the Bankruptcy Laws; by an in-depth study of the bankruptcy laws by the Brookings Institution published in 1971; and then by the Bankruptcy Commission itself, which was established in 1970, and on which my colleague CHUCK WIGGINS and I served. Mr. Chairman, the Subcommittee on Civil and Constitutional Rights, which I chair, confirmed the findings of all these previous studies during our 35 days of hearings on this legislation. During those hearings, we heard from over 100 witnesses, and we went into the matter in great depth. We learned that the bankruptcy system was not operating very well.

Well, what is wrong with the current system? Why are we here at all today?

The most serious problem is the court system itself. It is not a real court. It operates under the district court, which is perhaps more concerned with its own pressing business than with bankruptcy. I am not going to go into this issue of the new court system which is the heart of the bill. I understand that my colleague from Virginia, the ranking Republican, Mr. BUTLER, will explain the reasons why the bill must have the new court system. Briefly, however, the bill separates the existing bankruptcy courts from the district courts. The relationship between the two courts has not been a happy one, and this bill will correct that. The bill establishes the bankruptcy courts as in-

dependent of the district courts under article III of the Constitution. This is very important, because the nature of the work bankruptcy courts do is such that we want to make sure that we establish a real court, as contemplated by the Constitution, and not the subordinate system that exists today.

Well, in addition to the court system, what else is wrong with bankruptcy today?

The Brookings Report and the Bankruptcy Commission found that creditors were not getting enough money out of bankruptcy proceedings to make it worth their while to participate in attempting to recover their money. As a result, the administration of bankruptcy cases was left to professional administrators who do not act for the benefit of creditors, whose money is involved, but only for their own benefit. This is the infamous "bankruptcy ring" we have heard so much about. The bankruptcy system essentially had gotten out of control of the creditors, even though it was designed to be controlled by creditors.

There is little we can do to make creditors participate when they do not want to, but we can protect their interests by more careful supervision of bankruptcy administration than exists today. That is part of the reasons that we have proposed the United States trustee system—to handle the administrative matters that arise in bankruptcy cases when creditors are not there to handle them for themselves, and to supervise the people employed by the bankruptcy system to insure that it operates for the benefit of those whose money is involved—the creditors.

We do, however, try to make it possible for creditors to recover more in bankruptcy cases. First, and most important, we make it easier for debtors to repay their debts under the supervision and protection of the bankruptcy laws. I will go into that more in a minute.

Second, we give the bankruptcy trustee greater powers to recover assets that may have been fraudently transferred before bankruptcy or that may have been preferentially transferred before bankruptcy. In addition, the change in the bankruptcy court system and the increased jurisdiction of the bankruptcy court will enable the trustee to recover many more assets for creditors that he cannot recover today because he has to seek recovery in other courts, such as State courts or Federal district courts, where the process is too slow to make it worth his while.

The second thing that the Brookings Report and the Commission found was that the debtor, while he might get a discharge in bankruptcy and be released from his debts, because of loopholes and difficulties with the law, he could find himself with a discharge that was not much good. He still would find after discharge that he owed too much money through nondischargeable debts or debts that he had been forced to reaffirm. Or he did not have enough property for a fresh start—the exemptions provided by the bankruptcy laws were inadequate. I understand that the gentleman from Massachusetts, Mr. DRINAN, will explain these things in more detail.

Then there is another problem in current law for the personal bankrupt. We found that most of these people truly want to repay their debts. But the procedure for repayment for individual debtors, chapter XII, isn't working well. Its scope is too limited—the requirements for eligibility are too narrow. This bill makes the repayment procedure available to more people by expanding the eligibility from "wage earners" to any individual with regular income. This will enable the self-employed individual, the individual on a fixed income, and others to use the protection of chapter 13 for working out a repayment plan for their debts.

We also change the procedure somewhat to make the chapter 13 procedure easier to use. The requirement that creditors consent to the repayment plan is deleted. We feel that if the debtor makes an effort to repay his creditors, the creditors should not be able to say that the plan does not propose to pay enough or that it does not do other things that the creditors want. The debtor should be able to go ahead with the plan anyway. Then we also remove the penalty in current law for a debtor that is not able to repay his debts in full. This penalty has deterred many debtors from attempting a partial repayment plan and sent them into straight bankruptcy instead. Both the debtor and his creditors are the losers there.

These changes will give personal debtors the protections they need to repay their debts, free from the pressure of creditors who may not be willing to give the debtor a chance to try to work things out. We found that most individual debtors that wind up in bankruptcy are there for causes beyond their control, such as illness, accidents, or job layoffs. They are not deadbeats, but are honest citizens who need the fresh start that the bankruptcy laws can provide. That is why we do everything we can in this bill to facilitate repayment plans, and for those debtors that are just too far over their heads to attempt a chapter 13 plan, that is why we give them the full protections of the bankruptcy laws, without the loopholes that have made bankruptcy an ineffective remedy and have frustrated the fresh start for many consumer debtors.

Now for businesses, we make it easier for them to repay their creditors, too. Current law has three different reorganization chapters for businesses. For the business debtor and its attorney, this presents a difficult choice. For the business, it is worse, because none of the three chapters offers the full scope of bankruptcy powers that a business could use to reorganize and pay its creditors rather than going into straight bankruptcy, under which creditors usually get very little.

These procedures were written in 1938. The credit economy and credit law and practices have changed significantly since then, but the reorganization provisions have not kept up with the changes. The three different procedures are difficult, confusing, and unworkable. Some reorganizations are defeated simply because the procedure and the substantive law is inadequate to deal with the problem of the business that is in trouble. Once again, we take from the wealth of experience that has been accumulated over the last 40 years in business reorganizations.

We consolidate the three reorganization chapters into one flexible chapter. It gives the debtors the combined powers of the three current chapters, and gives creditors the combined protections of the three chapters. For example, for debtors, the bill gives the court the power to stay creditors while the reorganization takes place, and the debtor is given the opportunity to work out an arrangement with all of his creditors, not just with some as too often happens under chapter XI of current law. For creditors, they are given the opportunity to have some input into the formulation of a reorganization plan, and if the debtor is too uncooperative, then creditors may propose their own plan, which is not usually permitted under current law. For both debtors and creditors, the requirements for a reorganization plan are made more flexible, and the court is given the power to confirm the plan even though some creditors do not like the plan, so long as the plan meets certain statutory criteria of fairness. This is very important. This way creditors get more than if the business went into straight liquidation.

It also will save more businesses, which will protect jobs and protect public and private investors.

These provisions are the heart of the bill, Mr. Chairman. Now I am not going to say that the bill is not controversial. You are going to hear from some that there should not be any significant changes in the bankruptcy courts. We studied that in depth, and I understand that Mr. BUTLER is going to discuss it some more. Let me just say that that issue is very important to the bill, and was proposed only after the most careful consideration of all the options available.

You will also hear from some financial institutions that the bill damages the consumer credit industry. We do not think so. We studied that issue too in great depth, and are confident that our decisions are the right ones.

Mr. Chairman, this is a good bill. It proposes a long awaited and sorely needed change in our bankruptcy laws. It has received the most thorough consideration. It was reported out of subcommittee by a vote of 7 to 0 after 42 hours of markup, and out of full committee by a vote of 23 to 8. This has been a bipartisan bill all along. It does what we set out to do, and I believe it does it well and fairly to all parties. It has taken as long as it has to bring this bill to the floor because we wanted to be sure that everything we were doing was the best thing, and we wanted to be careful that the bill would withstand careful examination. I strongly urge its adoption.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Chairman, I thank the gentleman for yielding.

At this time I would like to take this opportunity to commend the gentleman from California (Mr. EDWARDS) and also the gentleman from Virginia (Mr. BUTLER) for the outstanding effort they have put into this measure. I hope that the full House, when the time comes, will reject the Daniels amendment that is going to be proposed tomorrow.

Mr. Chairman, on page 4 of the report submitted to the House there is reference to the reasons we ought to have independent bankruptcy courts. There is a reference made to the fact that it must operate under the supervision of an unconcerned district court.

Mr. Chairman, I would simply respectfully submit that it is not so much a question, at least as far as the State of Maine is concerned, of being unconcerned as of being overburdened.

I think this is the crux of the issue as to why it is essential that we create a separate, independent system for the bankruptcy court, not because the district court is not concerned about the situation, but because of various pieces of legislation that were passed by the House of Representatives, by this Congress, such as the Speedy Trial Act of 1974, requiring the accelerated disposal of criminal cases, because of the requirement that criminal cases take precedence over civil litigation, and because of the tremendous explosion of complex litigation, including antitrust cases, because of cases such as the Indian litigation now pending in various States, including Maine, so that there simply is not enough time for district courts to devote the kind of attention they need to the complexities of the bankruptcy litigation.

I just would like to see the record reflect that it is not a question of lack of concern or interest but a lack of time, a lack of expertise, and an inability to deal adequately with the complexities of bankruptcy issues, so I think that should stand corrected in the record.

Mr. EDWARDS of California. I thank the gentleman from Maine for his observations. There are, I believe, 399 district judges in the United States today. They are considerably behind in their work. We have not had an omnibus judge bill for a number of years. The new bill under consideration by the House Committee on the Judiciary provides presently somewhere around 81 or 82, or perhaps more, district judges, and I am sure it will be enacted very soon. It will be of great assistance to the district courts. However, one of the great attributes of the bankruptcy bill before us today is that in 1983 when new bankruptcy judges are appointed by the President, tenured judges, then the Chief Justice of the Circuit Courts can utilize these tenured judges to assist various districts where district judges are behind in their work, and it gives a certain amount of elasticity to the system that I think is very good.

Mr. COHEN. I was simply suggesting that we should not use the word "unconcerned" but rather "overburdened." It is not a matter of semantics, but I think a proper characterization of the problem.

Mr. EDWARDS of California. I thank the gentleman.

Mr. BUTLER. Mr. Chairman, I yield 2½ minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I would like to commend the Judiciary Committee for including a new consumer priority in this bill.

The bankruptcy laws were last overhauled in 1938, before credit buying became so common. In recent years, we have witnessed some of the largest business bankruptcies in history—W. T. Grant is just one example. All customers who held "Grant's script" have essentially lost their deposits. Recognition for the consumer creditor is long overdue.

Under present law, consumers, as "general unsecured creditors," are allowed to collect what is left of the bankrupt's estate after all other creditors have been taken care of. This bill will give consumers standing—after secured creditors, administrative expenses, and wages but before taxes.

The consumer priority was cosponsored by 59 Members of the House and several of our colleagues in the Senate. It is endorsed by the Consumer Federation of America, the National Association of Attorneys General, and the New York State Bar Association. The consumer priority is a small provision in this comprehensive reform bill. It is limited in scope, but it will mean a great deal to consumers who make deposits for goods and services which are not provided before a business goes bankrupt. As director of consumer affairs in New Jersey, I heard from hundreds of consumers who were surprised to be caught in this situation. Now they will have a chance to recover their assets.

The consumer priority is an important step, but there is still a problem. Bankruptcy proceedings are extremely complex, and it is difficult for the individual consumer creditor to follow the legal proceedings. Consumer claims are seldom large enough to justify hiring an attorney. In many cases, attorneys general have been allowed to intervene in bankruptcy proceedings on behalf of consumers. However, this is left to the discretion of the court. In one Massachusetts case, In Re Colonial Realty Investment Co., about 3,000 consumers lost about $14 million due to fraudulent real estate dealings. The attorney general's office was not allowed to intervene when the company filed in bankruptcy.

In its report to the House, the Judiciary Committee recognizes this problem, but states that—

> The general policy followed in the bill is to leave procedural matters to the Rules of Bankruptcy Procedure, promulgated by the Supreme Court to govern practice and procedure in bankruptcy cases . . .

The report also states that—

> It is assumed, however, that the bankruptcy (rules) will make appropriate provision for notice and intervention in order that the rights of widely-dispersed and ill-represented consumer creditors will be protected.

Mr. Chairman, I believe the intent of Congress is clearly stated in the committee report. I believe it is imperative that the bankruptcy rules be modified so that attorneys general, and perhaps State and local consumer protection offices as well, will be allowed to intervene on behalf of consumer creditors. This should not be left to judicial discretion. It should be clearly spelled out in the rules.

In my view, the attorney general should also be allowed to initiate an adversary proceeding in a bankruptcy case. It is my understanding that Wisconsin has been allowed to do this on behalf of consumers in the Kennedy and Cohen case. But this is also left to the court's discretion and should be spelled in the rules.

Mr. Chairman, I would be grateful for your comments.

Mr. BUTLER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I would like to join with the others in praising the work of the chairman of our subcommittee, his diligence and patience over the years that we have been working on this matter, and the very professional performance that has maintained and directed us through. I am pleased and proud to be a part of this work. I would also like to join in praising the excellent staff who spent many long hours working on this legislation. In particular I commend Kenneth N. Klee and Richard Levin who together with Alan Parker, Tom Breen, and Tom Boyd were instrumental in the drafting of this monumental legislation.

More people in the United States have a direct contact with the Federal judiciary through the bankruptcy courts than through any other means. Bankruptcy impacts on more people and a greater portion of our economic life than any other aspect of our Federal judicial system. During the course of a year, more people in this country are affected by bankruptcy cases than by all other Federal civil and criminal litigation combined.

In fiscal 1976, there were 246,000 bankruptcy cases as compared with 130,000 civil cases and 41,000 criminal cases filed in the district courts. Of the bankruptcy case load, 15 percent were business bankruptcies, a good portion of which were filed as chapter cases. By contrast, complicated civil litigation in the district court seems to be far less prevalent. During fiscal 1976, only 2,200 securities, commodities, and exchange cases were filed, and only 1,500 antitrust cases were filed in Federal courts; on the other hand, 10,000 social security, 13,000 personal injury, and 20,000 prisoner petition cases were filed in the district courts.

Within each bankruptcy case, several adversary proceedings and contested matters serve as minitrials of their own, magnifying, I think, the significance of the 246,000 bankruptcy cases by at least tenfold. Most civil cases involve two or three parties. By comparison, a bankruptcy case involves one or two debtors and often hundreds of creditors. In fiscal 1976, over 9 million creditors were scheduled in bankruptcy cases. This figure does not reflect the millions of creditors that filed claims or failed to file claims be-

cause the possibility of recovery was slight.

Bankruptcy cases often impact entire communities; and occasionally the entire Nation. Cases pending in bankruptcy courts in October 1976 involved over $27 billion in scheduled assets, and nearly $43 billion in scheduled liabilities. The W. T. Grant case involved assets of over $600 million and liabilities of $1.1 billion. It affected the jobs of 80,000 employees, the investments of 70,000 public investors, and the rights of millions of consumers.

Another large bankruptcy case, such as Penn Central, affects the lifestyle and jobs of countless Americans. The possibility that municipalities may have to seek relief under the Bankruptcy Act indicates the enormous importance of this legislation.

The problem will not go away. The 246,000 cases filed in 1976 represent a 24-fold increase over the 10,000 cases commenced in fiscal 1946. The court system and substantive laws drafted in 1898 and revised in 1938 are clearly inadequate to deal with the dramatic change that has taken place in our credit economy since World War II.

Just a brief word of history here. The gentleman from California (Mr. EDWARDS) has mentioned earlier that the basic bankruptcy law we are working with now is an 1898 law. There was a substantial revision in 1938. If we are on a 40-year cycle, then 1978 is an appropriate time for this revision.

But even if we do not have a cycle, we have to recognize the substantial changes that have taken place since 1938. The tremendous impact of bankruptcy legislation today indicates that changes are necessary in our bankruptcy laws.

One of the substantial changes that has taken place relates to the commercial law of the Nation. The Uniform Commercial Code was not the law in 1938; it is now the law in all of the States of the Union. There have been substantial changes in securities regulations since 1938. Our commercial practices have changed tremendously.

A basic characteristic of our consumer society in this country and of our economy today is the broad expansion of consumer credit. This problem was not among us in 1938; although bank practices have adjusted to the changes in consumer problems in this country, the bankruptcy law has not.

The need for change is apparent; the tremendous impact that I have emphasized before is also upon us. The bill itself is over 300 pages long and many in this Chamber will doubtless find it overwhelming at first glance. It is for that reason that Chairman EDWARDS and I will attempt to review for you the history of the Federal role in bankruptcy, as well as the most important provisions of this legislation.

The Congress derives its jurisdiction in bankruptcy from article I, section 8, clause 4 of the Constitution, which grants Congress the power to establish "* * * uniform Laws on the subject of bankruptcies throughout the United States;".

Historically, bankruptcy proceedings have been available only to "traders" or merchants whose businesses carried with them the threat of financial collapse. Such was the practice in the England of Henry VIII. The first bankruptcy legislation, passed by the Sixth Congress in 1800, extended coverage to "* * * banker(s), broker(s), factor(s), underwriter(s), (and) marine insurer(s)." It was extended to all persons in 1841. In that same year, the purpose behind the Bankruptcy Act was altered somewhat. Before 1841, and in England before 1800, bankruptcy was designed primarily for the benefit of creditors. After the 1841 act, the rehabilitation of the debtor became an object of congressional concern. In 1898, the act was rewritten to, among other things, apply to anyone residing in this country. Jurisdiction over adjudications in bankruptcy was granted to the U.S. courts; namely, the district courts, and procedures were outlined in a wholesale recodification of the previous three acts.

In 1937, Congressman Walter Chandler of Tennessee introduced H.R. 12889 which, when enacted on June 22, 1938, became the last major amendment to the 1898 act. The Chandler Act, as it came to be called, revamped chapters X–XII in an attempt to put the reorganization procedures of the act into a more judicial posture. It provided improved "relief" provisions for individual and agricultural compositions and a carefully prepared plan for corporate reorganization. It also attempted to increase the efficiency in administration by extending the terms, jurisdiction, qualifications, and duties of referees. With the passage of this act, referees became more like judges in their functions and responsibilities, and less like special masters.

On July 24, 1970, the Congress passed Senate Joint Resolution 88, which later became Public Law 91–354, thereby creating the Commission on the Bankruptcy Laws of the United States. Its directive was to "study, analyze, evaluate, and recommend" changes in the 1898 act. The documented cause for this legislative concern was the increase in bankruptcies during the previous 20 years by more than 1,000 percent, administrative problems which seemed to dictate reevaluation of the law, the effect of the "credit age" on the act and the limited experience and understanding of the act by both the Federal Government and the Nation's commercial community. The Commission's charge included, in the words of its report, consideration of "* * * the basic philosophy of bankruptcy, its causes, possible alternatives to the present system of bankruptcy administration, the applicability of advanced management techniques to administration of the act, and such other matters as the Commission should deem relevant to its assigned mission."

The Commission's report was filed on July 30, 1973, and was published in two parts. Part I contained the Commission's findings and recommendations and part II a proposed draft bill. This proposal was introduced as H.R. 10792 in the 93d Congress by Chairman EDWARDS and the ranking minority member of the subcommittee, CHARLES WIGGINS. The National Conference of Bankruptcy Judges, with continuous consultation with subcommittee staff, proposed an alternative version of its own. Chairman EDWARDS and Congressman WIGGINS felt it worthy of simultaneous consideration and introduced it also, as H.R. 16643.

In the 94th Congress, these bills were again introduced as H.R. 31 and 32, respectively.

Hearings on the bills took place for a full year, from May 1975, until May 1976. During that span we met 35 times, listened to more than 100 witnesses and, in the process, compiled a hearing record of more than 2,700 pages. Chairman EDWARDS inserted numerous views on the bankruptcy problem in the RECORD and all committee chairmen were solicited for their comments. No sequential referrals were requested.

Drafting began a month after hearings were completed and continued through the summer of 1976 and into the fall. On October 1, our subcommittee staff sent a preliminary draft to the National Bankruptcy Conference, which was the principal author of an earlier revision in 1938, and to the National Conference of Bankruptcy Judges. The former included Federal judges, lawyers, and academicians. From November to December, members of these organizations came to Washington for a series of meetings with our staff. We can document 13 full days of meetings on the form the new draft would take. Literally hundreds of additional hours of consultation took place via the telephone. By Christmas Day the process was completed and on January 4, 1977, with the commencement of this 95th Congress, Chairman EDWARDS and I introduced H.R. 6. Since that time the subcommittee has received numerous further comments from the bankruptcy bench, the bar, and the classroom.

On March 14 of this year, following reorganization, the membership of the subcommittee gathered to receive over 100 pages of briefing materials as a prelude for markup. A week later, on March 21, we began markup in earnest, meeting on 22 separate mornings and consuming 42 hours of discussion and debate. By the time we were finished, on May 16, every subsection of H.R. 6 had been examined and reexamined. Congressman DRINAN collected the changes which had developed during this process and submitted them to the subcommittee as an amendment in the nature of a substitute. Its practical form was as a working print. By the time we reported out, by a 7-to-0 vote, H.R. 6, as amended, staff had prepared over 30 memoranda on various portions of the bill and the subcommittee had considered over 120 amendments, of which over 100 were eventually adopted in the Drinan substitute.

After reporting H.R. 6, a motion was made to authorize staff to prepare appropriate technical amendments as a prelude to introducing a clean bill, which later, on May 23, became H.R. 7330. However, we received still further input from

the bankruptcy community and prepared to revise our clean bill once again.

On June 13, a lengthy constitutional memorandum on article III bankruptcy courts was circulated to all members of the Judiciary Committee. A 700-page briefing book discussing virtually all 300-plus sections of the bill, including a section-by-section analysis, was distributed to all Members on July 11, the date the second clean bill, H.R. 8200, was introduced by the combined membership of the subcommittee.

The full Judiciary Committee met to consider the clean bill on July 14, 15, and 19. After these days of debate, H.R. 8200 was reported by a vote of 26 to 3. On August 3, we learned that certain technical tax-related amendments would have to be made and the bill was accordingly recommitted and reconsidered. On September 8, the bill was rereported, this time by a vote of 23 to 8. During full committee, six amendments were accepted, three refused, and those which passed were incorporated into an amendment in the nature of a substitute.

On October 12, by voice vote, without dissent, H.R. 8200, which we have before us today, was granted a 2-hour open rule by the Rules Committee. The only other major statute which has remained unrevised for a longer period than the Bankruptcy Act is the Interstate Commerce Act passed in 1887.

There are a number of problem areas that have developed in the course of the recent examination undertaken in our subcommittee and in the hearings we held.

The chairman has touched on them lightly. I will mention them again, if I may.

An example of a complicated problem which has developed concerns our so-called chapter cases under the three chapters dealing with the reorganization of debtors, particularly business debtors. The problem has developed as to which chapter is more appropriate, and there are flexibility problems. This has resulted in countless delays and dissipation of energy in determining the appropriate chapter under which a case should proceed. The effect, of course, of any delay is a dissipation of the assets of the estate by attrition, which cannot benefit anyone. There are many other problems with reference to the disposition of straight bankruptcy cases today.

Under the Bankruptcy Act, the U.S. bankruptcy district courts are the bankruptcy courts. The bankruptcy courts appoint referees, called bankruptcy judges, under the bankruptcy rules, to a term of years. The bankruptcy judges handle nearly all the cases and matters in bankruptcy. Their orders are final unless reviewed on appeal and reversed by the district judge.

Delegation of issues to special masters, called referees, has evolved since 1898 to the point where the bankruptcy judges amount to what is a separate system. Though the court system is separate, it is not equal to the district court system and the judges and lawyers are treated accordingly.

The problems of litigation are every bit as significant as most Federal court litigation. I am sure you will concede that the W. T. Grant case is every bit as significant as the problem of corporal punishment of a fourth-grade student.

But, the impossible conflicts in which judges are placed by the statute are oppressive. The mixture of judicial and administrative functions under present law often require a bankruptcy judge to resolve a dispute with respect to which the judge has information from ex parte contacts or exercise of his administrative duties. For example, the judge may preside at the first meeting of creditors and conduct the examination of the debtor only to be later called upon to resolve a dispute concerning facts revealed during that examination.

The judge may grant a debtor in possession ex parte authority to enter into a contract subject to certain limitations and then be faced with a resolution of the dispute concerning the propriety of that contract or the meaning of the terms of that contract. A judge placed in either of these positions jeopardizes his reputation as an unbiased arbiter and his effectiveness as an adjudicator.

In addition to improper exposure on legal issues, the judge confronts procedural conflicts that are equally difficult. In many instances, the judge appoints the trustee. The judge is then called upon to resolve disputes between the trustee and the third parties. Not only does this situation create an apparent judicial bias, in many cases the evidence is that it gives rise to actual bias in some areas of the country.

The ex parte contracts of the judge, and appointment of the trustees are facets of a larger problem. The way the Bankruptcy Act is set up, the administrative duties of the judge cause the judge to identify himself with the debtor and his problem. The judge who participates in negotiating contracts, who works with the debtor and union to avoid a strike, and who advises the trustee or debtor on an ex parte basis concerning management of a business can hardly be expected to render an impartial decision.

When creditors elect a trustee in straight bankruptcy, a different problem arises. The creditors' attorneys exact their influence to elect friendly trustees or committees in order to pluck the plum of counsel to the trustee or counsel for the committee, as the case may be. This creates the so-called bankruptcy ring with all the implications that might fall from that connotation.

Deficiencies also arise with respect to other personnel in the bankruptcy court. Recent consolidation of the offices of clerk of the district court and clerk of bankruptcy court in many districts has severely weakened the control bankruptcy judges have over their clerical people. Even under an unconsolidated system, the bankruptcy judges have too little control over the administration of their courts.

You can see the implications of that when a conflict arises. Consolidation of the clerks' offices has intensified that problem, because bankruptcy and district court clerks are housed in the same location. The district court judges are then able to divert their better qualified clerks to the processing of their business.

Aside from the issues pertaining to the personnel who service the bankruptcy system, the volume of litigation in the bankruptcy courts is a source of continuing concern. The number of people and the dollar amounts involved are staggering. I have already mentioned the 250,000 cases pending in October 1976, involving the 250,000 debtors, 9 million scheduled creditors, and $27 billion in scheduled assets. Bankruptcy judges deal with issues that involve millions of dollars and frequently dozens or hundreds of jobs of employees of struggling companies.

Bankruptcy judges are constantly called upon to decide the effect of bankruptcy on the overburdened consumer. Will his debts survive bankruptcy and continue to plague him? What property will he be permitted to keep; what property is subject to liens; will the debtor be granted a discharge at all? These decisions are important, both personally and financially, to thousands of creditors and debtors.

They are real issues that in the absence of bankruptcy would have to be decided by either a Federal district or State court. They are not routine administrative determinations easily categorized or processed.

In spite of the important work done, much of the litigation today concerns the subject of jurisdiction. Bankruptcy courts are courts of limited jurisdiction and may resolve disputes concerning property over which the court has neither title nor possession only by consent. Essentially, the jurisdiction of the bankruptcy court today is an in rem jurisdiction limited to property in either the constructive or actual possession of the debtor. In the absence of constructive or actual possession, issues involving the bankrupt estate or between the bankruptcy trustee and creditors can only be resolved in the bankruptcy court with the consent of the litigating parties.

The proposed legislation would expand the jurisdiction of the bankruptcy court to resolve all disputes affecting the bankruptcy estate. The importance of this is to remove from the bankruptcy court so much of the wasted effort with regard to the jurisdiction of the bankruptcy court and also to make available a quicker resolution of the problems which arise in the bankruptcy court.

We cannot expand this jurisdiction of the bankruptcy court to resolve these disputes without imposing upon the bankruptcy court the exercise of judicial power, which as you know under article II of our Constitution, is reserved to courts presided over by tenured judges.

We need a court that is independent of the district courts. We cannot resolve the problems that we want to resolve in the bankruptcy area without having an independent bankruptcy court. We also need to give that court adequate powers to do its job. And we cannot give it those powers, and the jurisdiction it needs, once it is independent, unless we also tenure the judges of that court. I think that is important.

The independent court is the solution which has been agreed upon by everybody, all of the three groups which studied this problem: The National Bankruptcy Conference, the Bankruptcy Commission, and the bankruptcy judges themselves, through their conference, and of course finally, our subcommittee.

In summary, Mr. Chairman, I would like to make two points. The first point is that the independence of the bankruptcy court is perhaps the most significant single improvement that has been universally recommended.

The point that I will not labor too much, but I would like to repeat, is that 250,000 cases before the bankruptcy court with 9 million creditors involved means that the bankruptcy court impacts on more people in the United States, more citizens of this country, than any other aspect of the Federal judiciary, out of all proportion.

Now we have to resolve the problems that come before the bankruptcy court. They are every bit as significant in terms of dollars, in terms of litigants and in terms of the lives and property and jobs affected as the questions which ordinarily come before a district court. It is important, I think, therefore, that the jurisdiction of the bankruptcy court be of equal dignity with the district courts and the other courts, because unless you do so, unless you elevate the status of of the judges to the quality of the problems that are before them, then you are going to get second-rate judges; you are going to get second-rate solutions to problems; and you are going to get second-rate justice.

That is the first point which I would like to make.

The second point is that the jurisdiction of the bankruptcy courts today is limited, because they are not tenured judges and separate courts. If we are going to resolve all of the problems affecting a bankruptcy estate, we cannot follow existing law because it limits the bankruptcy courts to what amounts to an in rem jurisdiction, what is in possession of the bankruptcy estate.

We think it important not to dissipate the energies of the court in resolving jurisdictional problems, but to enable it to address itself to all of the other problems so they can be resolved quickly and effectively, and that means an expansion of jurisdiction. In expanding that jurisdiction you cannot expand the jurisdiction of the bankruptcy court into these areas without an exercise of judicial power under article III of the Constitution.

If you exercise the judicial power, then the court that exercises that power must have independent tenured judges. That, I think, is the controlling constitutional question in this area.

Now, in creating the independent court, we cannot trespass on the President's right to appoint the judges. We can create a new court and separate new judges, but there is no way we can fold in existing judges into that new court.

So we have provided for a transition period of 5 years so that the terms of existing judges continue effectively under the present appointment system until 1983. At that time we will have determined by other procedures exactly how many bankruptcy judges are needed, and the appointment power under article II of the Constitution is vested in the President. He will then appoint the new judges.

The independent article III court is what is called for here. I think it is the appropriate solution to this problem. We have considered it long and carefully and I urge upon you the acceptance of this legislation and the principles which it involves.

Briefly, I would like to outline for you the means by which we came to believe that article III status, and its accompanying life tenure, is constitutionally mandated.

At the outset, let me say that when we surveyed this issue, BOB MCCLORY and I were both strongly against the creation of more judges, especially tenured ones. We have come to believe, after the extensive study which I will outline shortly, that within permissible constitutional boundaries, there is simply no alternative way to act.

As I mentioned earlier, Senate Joint Resolution 88, enacted by the Congress on July 24, 1970, created the Commission on the Bankruptcy Laws of the United States. Its mission was to recommend new ways to improve the bankruptcy system in this country in order that it might be more equitable both to debtors as well as creditors. Much has changed in the way we have conducted business during the past 25 years or so since the act was last altered in a substantial way.

In 1973, the Commission's report was filed and one of its most significant recommendations was the creation of an independent bankruptcy court. Specifically, it recommended that—

(N)ew bankruptcy courts be created to have jurisdiction of all controversies arising out of a proceeding under the Act and all controversies between a trustee in bankruptcy on behalf of the estate of any third party.

As you can see, that recommendation covers a broad range of judicial powers. In fairness, I should note that the Commission's recommendations were also for a court to be created under article I of the Constitution, the legislative article, as opposed to article III, the judicial article. Judges were to hold office for 15 years under their recommendations. It is also fair to note that the constitutional issue was not explored deeply at that time. Everyone involved made the assumption, as we did, that broad judicial powers could be exercised by an article I court.

The bankruptcy judges themselves also favored an independent court. In a July 13, 1977, letter from Judge Conrad Cyr, president of the National Conference of Bankruptcy Judges, noted that—

. . . no controversy whatever exists over the proposal to establish a separate bankruptcy court among the bankruptcy bench and bar, those who know and work in and with the bankruptcy system.

He also noted further that—

Very nearly seven years after [the revision process began], the Judicial Conference of the United States, without prior study or consideration, resolved to oppose the creation of a separate bankruptcy court. * * * If ever there was doubt as to the need of a separate bankruptcy court, the recommendations of the Judicial Conference ad hoc committee on H.R. 6 have removed it.

The National Bankruptcy Conference similarly endorsed our efforts. In a letter dated February 11 of this year, the conference fully supported the independent bankruptcy court proposed by H.R. 6. I should note that the National Bankruptcy Conference has a diverse membership representing the entire United States and including active and retired referees in bankruptcy, bankruptcy professors from leading law schools, and practicing lawyers.

On April 2, 1976, the constitutional issue surfaced unexpectedly. In his prepared statement, William T. Plumb, a partner in the well-known law firm of Hogan & Hartson here in Washington, and earlier a consultant to the Commission, commented:

Except in instances where Congress enjoyed powers of local government [as in the case of the District of Columbia], or extra-territorial jurisdiction over citizens overseas [as in the case of military courts], the actual instances in which legislative courts have been upheld have involved matters between the government and others, where the sovereign power might as properly have been exerted to resolved disputes administratively without resort to any court.

The previous model for the bankruptcy court as an article I court such as the Tax Court. But as Mr. Plumb noted in this regard:

. . . the Tax Court affords no clear precedent. (It) can determine liability only against the taxpayer, who voluntarily invokes its jurisdiction, or against the United States which, through Congress, has consented to it.

Subsequent to Mr. Plumb's testimony, Chairman RODINO wrote nine constitutional authorities. Those responding were Brice Clagett, of the law firm of Covington & Burlington here in Washington, and who argued the landmark case of Buckley against Valeo, with which we are all familiar; Erwin Griswold of Jones, Day, Reavis & Pogue, and a former Solicitor General in the Nixon administration; Thomas Krattenmaker of Georgetown Law Center, who assisted in the litigation of Palmore against United States, the Supreme Court case which upheld the article I status of the District of Columbia Court System; Jo Desha Lucas of the University of Chicago Law School; Paul Mishkin of the University of California (Berkeley) Law School; Terrance Sandalow of Michigan Law School; David Shapiro of Harvard Law School; Herbert Wechsler of Columbia Law School; and Charles Alan Wright of the University of Texas Law School. Only Professor Griswold and, to a lesser extent, Professor Shapiro, felt article I status could be achieved. All, including these gentlemen, felt the question to be one of complex constitutional importance.

After reviewing these replies, and studying a 73-page brief prepared by counsel, a unanimous subcommittee felt that article III status for bankruptcy judges was constitutionally required. Ac-

cordingly H.R. 6, introduced in January of this year by Chairman EDWARDS and myself, was structured along these lines.

On July 14, 1977, the Department of Justice, which opposes article III status as a matter of policy, not constitutional law, released a lengthy report on H.R. 7330, the first clean bill to emerge after subcommittee markup. In its report, the Department, while calling for the Congress to avoid article III status, nevertheless admitted that—

> . . . upon the present state of the record, regardless of how Palmore is read, the Constitution requires that the bankruptcy court contemplated by H.R. 7330 (which is the same court contained in H.R. 8200) be an Article III court.

Thus we have a dilemma of sorts. While there are those of us who would love few things more than to be able to avoid more presidentially appointed judges, there stands in our way the Constitution and its requirement that the "judicial power" must be exercised by courts of the United States under article III. There simply is no other way. If we are to make the bankruptcy courts independent, and virtually every witness has begged that they be so, we must grant them independent status. This is the belief also, as I have noted, of the bankruptcy judges themselves who, interestingly, stand to eventually lose their jobs to Presidential appointees.

This bill serves no purpose whatsoever if the independence of the bankruptcy courts is removed; it is that lack of independence which has placed the bankruptcy courts in the lamentable position they now hold. To maintain their ancillary status would be to gut the bill and, in effect, erase the 6 years of work and study which went into its preparation.

Mr. EDWARDS of California. Mr. Chairman, I would like to add to the statement of the gentleman from Virginia. He has stated the problem with the current bankruptcy court system very well, and the reasons why we chose the course of action we did. I must say that we did not start out where we are. We understand that going to an article III bankruptcy court is a significant change from the current system. However, after consideration of all the evidence that we heard—over 2,700 pages of testimony during our hearings alone, and numerous other evidence from letters, from the Commission report, and from the Brookings report—we concluded that this court system was the only one that could solve the serious problems confronting the bankruptcy system today.

But the other portion of the solution is just as important. I am referring to the U.S. trustees, which are created by the bill. The Brookings report and the Bankruptcy Commission both recommended that an independent agency be created to handle bankruptcy cases. There is so much administrative work that bankruptcy judges do now that is inappropriate for a judge to do, and we relieve them of those duties. But someone has to supervise the administration of bankruptcy cases. We did not feel that it would be wise or appropriate to create a separate agency or bureaucracy to do that. We opted for a much smaller, less expensive solution—the U.S. trustees.

This system has the advantage that it is decentralized, and much more responsive to local needs. Bankruptcy is something that varies very much in different areas of the country, and it is important that those who supervise the administration of bankruptcy cases be locally based. There will be one U.S. trustee in each judicial district (though the bill permits the same individual to serve for more than one district). However, we do give the system some central direction by having the Attorney General provide general coordination, supervision, and assistance to the activities of the local U.S. trustees.

This system has another advantage, too, and one that is very important to the purposes of the bill. The current system suffers from too much contact between bankruptcy judges and bankruptcy trustees. Bankruptcy judges appoint trustees today, and then must review their actions. The judges must consult closely with the trustees in the administration of bankruptcy cases, and the judges must supervise the trustees generally to make sure that they are doing their jobs properly. The close relationship that develops between judges and trustees is one of the most discrediting factors in the current bankruptcy system. It gives rise to a terrible appearance of partiality when the bankruptcy judge must rule on litigation in which the trustee is one party, and in some instances, it gives rise to actual bias as well.

The U.S. trustee system that we propose is placed completely out of the control of the judicial side of the bankruptcy system. We separate the judicial and administrative functions in bankruptcy, and we place the administrative functions out of the control of the bankruptcy judge so that the same conflict that exists now will not arise again. This is one of the important changes in the administrative system for bankruptcy cases, and one that will go very far to insuring that the system is a fair one.

Some will say that placing the U.S. trustees in the executive branch is bad for several reasons. We considered those reasons indepth. They say that there is a conflict of interest, because the executive has to prosecute claims against estates, and the same officer will be controlling both the U.S. trustee and the prosecution of the claims. That is a red herring. The U.S. trustee will be serving as trustee in individual cases only where there are no assets involved. In those cases, there will rarely if ever arise any dispute about claims against the estate. The real conflict is in the current system where a party to litigation (the trustee) and the judge in that litigation are under the control of the same individuals, and where they work closely together. That is the conflict that we are trying to rid the system of.

They will also say that bankruptcy is inherently judicial, and that the executive should not be involved in bankruptcy cases. The Brookings Institute and the Bankruptcy Commission both proposed executive branch agencies to handle bankruptcy cases. Chief Justice Warren, in a speech in 1962, suggested that it would be entirely appropriate for bankruptcy to be handled in the executive branch.

Mr. Chairman, I understand that an amendment will be offered to place the U.S. trustees side by side with the bankruptcy courts. We will oppose this attempt, because it will lead us right back to the problems we have today.

Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Massachusetts (Mr. DRINAN), a member of the subcommittee, who has been a faithful member on this legislation and has made a giant contribution to this matter.

Mr. DRINAN. Mr. Chairman, I want to join the general acclaim for this bill. I have given 57 long and exciting mornings of my life to this bill, and consequently I am inclined to think that it is acceptable. I also want to thank the chairman and ranking minority member of the subcommittee for their diligence and their counsel.

Let me, Mr. Chairman, speak briefly to three points in the bill that have not been addressed. Chairman EDWARDS, I believe, touched on the important bankruptcy policy of providing a fresh start, especially for those seriously overburdened debtors that are not able to use the new, improved chapter 13. There are some terrible loopholes in current law that impair the fresh start, and we close them with this bill.

First let me speak of reaffirmations. This has been a practice that has led to notorious results. By the law of the States, which govern the effect of the bankruptcy discharge, a new promise to repay any part of a debt that was discharged in bankruptcy revives the debt completely. Experienced creditors have developed ways to induce debtors into reaffirmations of discharged debts. Consequently, the poor debtor, thinking that he had a discharge and a fresh start, found that he in effect inadvertently had reaffirmed some of his debts, and he comes out of bankruptcy not much better than when he went in. He still has debts plaguing him, and he does not have a complete fresh start.

We, therefore, have made reaffirmation impossible. A debtor may, if he is stricken by his conscience, repay the creditor, but that is not subject to enforcement in a court by the creditor. It has to be strictly voluntary.

Let me speak secondly of false financial statements. This is another area that has created severe problems for the individual debtor. Very frequently, the person entering into a transaction where he is going to pay on credit or where he is going to borrow money, is told by the prospective creditor to provide a list of debts. Then he is told to list only the most important debts. Inadvertently, the debtor leaves out some of those debts, and subsequently the creditor will say that there was a fraudulent practice. One bankruptcy judge had this to say about these financial statements:

> It is time to brand these so-called "financial statements" taken under these circumstances by their proper name—pieces of

paper prepared at the direction of loan company officials for the sole purpose of charging borrowers with issuance of false statement and intent to deceive in the event petitions in bankruptcy are later filed.

The Bankruptcy Commission proposed that these debts should not be excepted from discharge at all, and that they should be totally eliminated. We took a less radical view. We said that these claims may be brought into court so that the creditor can try to prove fraud if there is real fraud, but that if the creditor sues on this and if the debtor prevails, that he has the right to recover his counsel fees and expenses, such as a day that he has lost from work.

We have made this mandatory on the judge. It may be that some would feel that the award of counsel fees and costs should be discretionary, but I think that that would cut the heart out of this particular reform. The judge, by statute, will be required to give to the debtor the expenses that he has had. If we say that this is only discretionary, we are back to square one. We are back to the situation where the creditors can threaten the debtor with litigation, and get the debtor to settle even in cases where there is no fraud. The only way to provide the protection is to make the provision mandatory, to eliminate the uncertainty.

Let me speak next of exemptions. Under current law, the bankruptcy law gives the debtor whatever exemptions the State law provides. They define what property, such as a homestead, personal effects, and so on, that the debtor can keep to get a fresh start after bankruptcy. Unfortunately, these have been very inadequate in many States. For example, Pennsylvania has not revised its basic exemption law since 1849. These laws are inadequate, and defeat the basic Federal policy of providing a fresh start for debtors in bankruptcy. So we provide an alternative in this bill. We provide that the debtor can take Federal exemptions instead of his State's exemptions. This will keep many debtors from complete desolation after bankruptcy, and will insure the fresh start.

Now we followed the proposed Uniform Exemptions Act proposed for the States by the American Law Institute, and the Federal exemptions are very close to what the uniform law proposes.

Mr. Chairman, I just want to conclude by saying that this is a very balanced bill. There are some things that help debtors in this bill, but as Chairman EDWARDS pointed out, there are many things for creditors too. This bill is not pro-debtor nor pro-consumer. It follows the two basic principles involved traditionally in the long history of Anglo-American bankruptcy law.

First, we want to give a fresh start to the debtor; in all the writings on bankruptcy, this is the essence of bankruptcy. Let this poor individual discharge his debts. Ever since the mid-1800's, we do not put him in jail for debts he cannot pay. Give him a fresh start.

Second, treat all creditors substantially alike. We have sought to follow those two principles, and I think as never before, in this really monumental legislation, we have struck that balance.

We have brought bankruptcy out of the status of being a stepchild or an orphan in the Federal system. We have sought to give decency and dignity to the 250,000 people and the 9 million creditors who every year are involved in this system.

Mr. BUTLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska (Mr. THONE).

Mr. THONE. Mr. Chairman, I rise for the purpose of engaging the gentleman from the Judiciary Committee in a brief colloquy.

As a member of the Committee on Agriculture I am constrained to point out that the trust provision contained in new section 206 of the Packers and Stockyards Act is of critical importance to those of us who represent livestock producers. I note a statement on page 368 of the Report of the Judiciary Committee that this bill does not affect that provision. Nevertheless, livestock producers around the country would like assurance that the operation of section 206 will not be impaired.

As the Members will recall, it was barely a year ago that we enacted my bill (H.R. 8410), now Public Law 94-410, which contains a number of strengthening amendments to the Packers and Stockyards Act, including section 206. That bill and particularly that provision sprang directly from the concern of the Members over the terrible losses which befell livestock producers throughout the country as a result of the failure of American Beef Packers and several other large meat packers in the past 2 or 3 years. In the case of American Beef alone, thousands of livestock producers were left unpaid for more than $20 million worth of livestock which they had sold in good faith on a cash basis to this packer. Similar losses have attended the failure of other packers. I have seen families of my constituents ruined by these failures.

For this reason it is essential that we have the assurance of the gentleman from the Judiciary Committee that this bill will not in any way interfere with the operation of the trust provision or the other amendments made by Congress in Public Law 84-410 to strengthen the ability of the Secretary of Agriculture to deal effectively with these problems.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. THONE. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I thank the gentleman for raising this point and I can assure the gentleman that, as stated on page 368 of the report, this bill does not interfere in any way with the Secretary's administration of the trust provision or, for that matter, the balance of Packers and Stockyards Act or the act of July 12, 1943.

Mr. THONE. I thank the gentleman.

I thank the Members in the Chamber here for hanging on each and every word.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may desire to the distinguished gentleman from Missouri, the former chairman of the State Legislature of Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Chairman, I too would like to voice my support of this legislation. I have only been on the subcommittee working on this bill during this Congress, and thus did not participate in the hearings during the 94th Congress that led up to H.R. 8200. But I did have experience in private practice with Federal bankruptcy law, and I can say from personal experience the problems that H.R. 8200 solves are real ones, and the solutions that are proposed are good solutions. I participated in the markup of this bill in subcommittee, and I can say that it was a very thorough, and well thought out piece of legislation.

The bankruptcy courts are in bad shape today. They need improvements. The halfway measures that I understand are to be proposed by an amendment to the bill will just not do the job. The upgraded court system is essential to the proper operation of the bill.

The U.S. trustee system is also essential. The conflict of interest that exists in the present system is simply unfair to creditors that come in contract with the bankruptcy courts. I think that the way the bill approaches the administrative problems in bankruptcy cases is a very significant and worthwhile improvement over what we have today.

I am especially pleased with the changes in the substantive law as well. These improvements are necessary and the improved chapter 13, the improved fresh start for the debtor, and the improved corporate reorganization chapter have been shown by experience to be necessary.

But there is one issue that I would like to address in more detail. That is the treatment of educational loans. I understand that an amendment will be offered to single out student borrowers for discriminatory treatment under the bankruptcy laws.

I would oppose the amendment. I believe that, even though we have, under the present law enacted before I was a Member of this Congress, under the Higher Education Act, a provision that guaranteed student loans would not be dischargeable in a bankruptcy for a period of 5 years. It is my understanding that this was enacted with the understanding that the GAO would then make a study to determine how bad the abuse, if any, there was, so that we might have the analysis as we consider the bankruptcy revision.

We now have that study.

The results of that study show us that of the federally insured portion of those loans that are defaulted, discharge under bankruptcy is a very small percentage of the loss. Bankruptcy has accounted for only 4 percent of the total losses, and 4 percent of claims paid under the student loan program.

Therefore it is my impression that very few of the persons who are getting these loans are apt to go bankrupt. Very few are doing so for the purpose of trying to alleviate themselves from repaying these

loans. There is no question in my mind that for those who do file under bankruptcy, it is usually for other purposes and other reasons. As we all know, the whole purpose of a bankruptcy is to enable a person to get a fresh start. Now if they have a $4,000 or $5,000 loan hanging over their head, they are not getting that fresh start. However, under the circumstances, it is simply wrong to single out one class of borrowers for discriminatory treatment. It violates the two most fundamental principles of bankruptcy, as Mr. DRINAN mentioned: Give the debtor a fresh start, and treat all creditors equally. The amendment would deny a fresh start, and would give certain creditors a preferred position over other creditors. I strongly support the position taken in H.R. 8200.

There is one other issue I would like to discuss, Mr. Chairman, that concerns the interaction between the bankruptcy laws and two agricultural laws: The Perishable Agricultural Commodities Act and the Packers and Stockyards Act. There has been some conflict between the policies of each. I offered an amendment during the full committee consideration to resolve the conflict in an equitable fashion, and I understand that there will be two more amendments offered today to pick up some things that were missed in that full committee amendment and I support those corrective amendments. I am only bringing this up to show the cooperative attitude that the authors of this bill have maintained, and the objective examination they have given to every item in the bill. As my colleagues have said, this matter was given very thorough and professional treatment. The handling of the conflict with the agricultural laws is just one fine example of that. It is for these reasons that I support this bill. It is a fine effort, and should lead to significant improvements in the bankruptcy system and laws.

Thank you, Mr. Chairman.

Mr. BUTLER. Mr. Chairman, I yield 8 minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, let me at the outset express my respect for the chairman of the subcommittee, the gentleman from California (Mr. EDWARDS), and also my respect—and I mean this very sincerely—my respect for the gentleman from Virginia (Mr. BUTLER), the ranking minority member, and the other members of the subcommittee. I acknowledge to begin with that they have spent many, many hours drafting a bill that I think is a substantial improvement over the existing bankruptcy laws, and contains very many meaningful reforms.

Yet, nevertheless, I must strongly disagree with the policies underlying the judicial and administrative framework that would be created by this measure. The first problem which is of particular concern to me is H.R. 8200's adulteration of the Federal judicial structure in the name of bankruptcy reform.

Title II of the bill would newly create an independent judicial bureaucracy of some 200 courts to handle nothing but bankruptcy cases, although it is true that the bankruptcy judges, if they were not employed with bankruptcy, could be utilized for other purposes. Judges appointed to serve in the specialized article III courts would be given benefits far exceeding those enjoyed by the bankruptcy judges today. Their term of office would be extended from 6 years to life, during their good behavior. Their salaries would be increased by some $6,000 per year, to $54,500. They would have at least two additional employees in their service. Their physical facilities would be expanded, and their retirement benefits would be greatly changed, far beyond the benefits provided for a Member of Congress.

Let me just say it is my understanding they would be treated similarly to the way district judges are now treated, which would mean that if they were age 70 they could take retirement if they had worked for 10 years at full salary, or they could retire at age 65 if they had worked for 15 years at full salary.

To illustrate the magnitude of these increased retirement benefits after attaining only 10 years of service, they would receive this kind of a full salary retirement benefit and instead of having to contribute to their pensions, which they now must do, at the rate of something over $3,000 per year, these would be noncontributory pensions.

They would also be given the periodic cost-of-living increases.

Stating what should now be readily apparent, the cost of H.R. 8200's administrative and judicial framework, in my opinion, would be staggering. The Congressional Budget Office conservatively estimates the price tag for this legislation to be a net increase over current costs of more than $50 million annually. Adding this net increase to current costs of about $38 million per year, the total price tag of the bankruptcy system mandated by this legislation would approach $90 million per year.

The cost of these new article III courts is not justified by any theory of judicial administration, in my opinion. In fact, this measure would set a bad precedent at a time when the modern trend in jurisprudence is toward simplification and generalization of court jurisdiction and not toward specialization. It should be noted that the concept of a specialized article III court structure was not endorsed by the blue-ribbon Commission on Bankruptcy at the conclusion of its 2-year study of this subject matter. Indeed, even the original proposal of the National Conference of Bankruptcy Judges did not make such a recommendation. Article III status for bankruptcy courts has been opposed by numerous organizations and individuals, including the Chief Justice of the United States, the Attorney General and the Department of Justice, the U.S. Judicial Conference, the American College of Trial Lawyers, and virtually every Federal judge in the Nation. This is not the kind of support that warrants the spending mandated by H.R. 8200.

The second problem of concern to me is title II's placement of the Office of U.S. Trustee within the Department of Justice, something which was mentioned to me by the gentleman from North Carolina (Mr. GUDGER) relating to what could be very serious conflict-of-interest situations which will frequently arise.

As a major litigant in many bankruptcies, the Department of Justice should not be called upon to perform the additional inconsistent role of supervising the bankrupt's estate through the Office of U.S. Trustee. Rather, the trustee should be placed under the general supervision of the U.S. Judicial Conference.

I understand that when H.R. 8200 is read for amendment, my colleague, the gentleman from California (Mr. DANIELSON) will offer a substitute to title II—he is offering it on my behalf, as well—which will remedy the problems which I have just discussed, while preserving the laudable reforms of this legislation. I, of course, will wholeheartedly support his efforts, and I encourage my colleagues on both sides of the aisle to listen carefully to the debate that follows and lend whatever support they can to this revision in H.R. 8200.

Mr. Chairman, I include at this point the following correspondence:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., October 11, 1977.

Hon. TOM RAILSBACK,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN RAILSBACK: I understand that you and Congressman Danielson intend to offer two floor amendments to H.R. 8200, the proposed bankruptcy reform legislation, which would strike from the bill provisions which would create an Article III bankruptcy court and which would establish within the Department of Justice the Office of U.S. Trustee. Both of these amendments are consistent with the position taken by this Department in its March 16th letter to the Subcommittee and its July 14th letter to the full Committee.

The Department of Justice has consistently opposed the creation of a separate Article III bankruptcy court which, in this case, would have broader jurisdiction than our Federal courts of general jurisdiction, the district courts. We have likewise opposed the placement of the proposed U.S. Trustees within the Department of Justice. This Department, which is a major litigant in many bankruptcies, should not be placed in the incongruous position of supervising bankrupt estates. Deletion of these two provisions will enable this Department to withdraw its objectives to this most important legislation.

I hope that this statement of our views will be helpful.

Sincerely,

GRIFFIN B. BELL,
Attorney General.

SUPREME COURT
OF THE UNITED STATES,
Washington, D.C., August 29, 1977.

Hon. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Committee on the Judiciary, U.S. House of Representatives.

DEAR MR. CHAIRMAN: I very much appreciate the subcommittee's invitation to participate in its hearings on the State of the Judiciary and Access to Justce. I commend you and the members of your subcommittee for undertaking a wide-ranging review of the problems facing the federal judicial system, preliminary to developing a legislative agenda in furtherance of the ultimate goal,

delivery of justice to all. Because I consider Congressional concern with the larger issues facing the courts a matter of highest importance, I am pleased to accept your invitation to express some thoughts, which I hope are relevant.

It may be well to begin by reaffirming familiar major premises. From the earliest days of the Republic, justice has been a preeminent concern of our people. The preamble to the Constitution gives priority to establishing justice, ahead of the blessings of liberty. The pledge of allegiance, too, links justice with liberty and serves to remind each succeeding generation that justice for all remains a national aspiration of the highest importance. These old familiar propositions need to be recalled on occasion. As is so often true, however, the reality has fallen short of the aspiration, and there has been widespread discussion of how we, as a nation, might best reduce if not eliminate the gap. Your hearings are providing a valuable focus for this commentary and criticism and an appropriate forum for constructive assessment of resultant proposals.

To an aggrieved litigant seeking redress, the formal right to file a complaint and to become a party to a lawsuit is an empty promise if we fail to provide the "wheels" to deliver justice. And we have failed in many areas. Even a fair award four or five years delayed is drained of much of its value. And when the ultimate recovery is largely consumed in the expense of litigation, the system must be adjudged to have failed. Unfortunately, such failures are not isolated instances, both in state and federal courts. Happily, the new National Center For State Courts has already done much to expand the capacity of state courts. With close to 175,000 new cases filed in * * *

* * * * *

Simon Rifkind, a former federal judge and now a distinguished practitioner, made the same point at the Pound Revisited Conference, only last year. He enumerated the qualities we seek in our judges, judges charged with deciding difficult issues of far-ranging significance, and added: "If the judicial office is to attract people possessed of the qualities I have enumerated, it must be endowed with considerable prestige. The greater the number, the less the prestige. The less the prestige, the less the public respect, an essential ingredient of a satisfactory judicial system."

As you know, the Judicial Conference of the United States, and any number of circuit conferences, have spoken out sharply and with virtual unanimity, against the proliferation of Article III judges by a change in status of our present bankruptcy referees—a totally unnecessary and unwarranted step which will cost many millions of dollars per year. Some have misunderstood the nature of the objections. In part, the Judicial Conference view lies in the concern expressed by Frankfurter and repeated by Rifkind. Adding hundreds of specialized Article III judges at one fell swoop, in addition to the normal growth necessitated by the increase in caseload, cannot fail but to have an adverse effect on the institution as a whole. This is the warning of the Judicial Conference; this is part of its concern. Moreover, such a drastic change in the fabric of the federal judiciary is hardly required by the advantages sought to be gained. But this involves a longer more detailed discussion than is appropriate here.

Bankruptcy referees aside, unlimited expansion of the federal courts is not an acceptable solution. Neither assembly-line justice, nor a rapid expansion of the size of the federal judiciary beyond anything presently contemplated, with the concommitant dilution of prestige and, I fear, quality, can be the answer.

* * * * *

In this connection there is a lesson to be learned from history, one which illustrates the need to deal in the realities as best we can perceive them. Prior to the enactment of the Judges' Bill in 1925, the Supreme Court fell so far behind in its docket that it was perhaps justly criticized for not properly fulfilling its assigned role. The Congress responded to Chief Justice Taft's call with by-now familiar 1925 legislation which relieved the Court of much of its mandatory jurisdiction. There were many who then protested that access to the Court was being denied to litigants. In a formal sense, the argument had superficial appeal, but access in theory which in fact impedes or precludes the delivery of justice makes no sense. Happily, the spurious opposition in 1924–25 did not prevail, and Congress wisely chose to accord the indisputable realities a higher priority than dubious theory. In the hindsight of more than a half century of experience there is universal acceptance of that choice as a wise one by the Congress.

I close as I began, with warm appreciation for the opportunity to join with you in your concern with the larger issues which must be faced in fashioning the future of the federal judicial system. Whatever differences there may be among men of good will regarding the means of assuring the reality of justice for all, I know we are united in our commitment to that end.

Cordially and respectfully,

WARREN E. BURGER.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's yielding.

I have heard just today from several interested lawyers in California, and they inform me that the gentleman from Illinois (Mr. RAILSBACK) is also an author of the Danielson amendment; is that true?

Mr. RAILSBACK. That is true, and I am proud of it.

Mr. ROUSSELOT. So it should be called the Danielson-Railsback amendment?

Mr. RAILSBACK. I will accept that.

Mr. ROUSSELOT. And the gentleman is totally for that proposal?

Mr. RAILSBACK. Yes, I am.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman, who is my next door neighbor, yielding.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

Mr. BUTLER. Mr. Chairman, I yield 2 additional minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I have asked the gentleman to yield just to make one point.

The cost of the retirement is a matter as to which the gentleman obviously has some expertise.

There is a difference in salary as between the bankruptcy judge, presently called a referee on some occasions, and the U.S. district judge of $6,000. In addition to that, there is a contributory pension plan to which the United States contributes some $3,500.

Mr. RAILSBACK. That is per year, I understand.

Mr. BUTLER. That is per year. And that is for each one of the bankruptcy judges.

Mr. RAILSBACK. The gentleman is correct.

Mr. BUTLER. And, of course, the U.S. district court judge has no contributory plan under those circumstances. So the differential would be closer to $2,500, would it not?

Mr. RAILSBACK. I will try to respond accurately.

Mr. BUTLER. Is the gentleman saying, "Yes, but——"?

Mr. RAILSBACK. No, I am saying, "No, but——".

It would seem to me that the difference, which incidentally is not calculated in the study on page 467 of the report, which I commend to all the Members and which does contain a cost analysis, can be computed. I would think that the total retirement cost that would result from the bill after the article III judges are appointed would be something on the order of $3 million or $4 million per year. I intend to have that information tomorrow.

Mr. BUTLER. Mr. Chairman, in order that we may complete this colloquy, it is a fair statement, though, is it not, that the cost is the differential between the salary of the referee, as far as this is concerned, and the salary of the judge, and however we compute it, we can reasonably expect that the differential would remain the same?

Mr. RAILSBACK. That is not my understanding. In other words, the bankruptcy judges now will not get anything like the full salary retirement benefits they will receive once they become article III judges. As a matter of fact, what happens now is that they pay in about $3,500 a year or something more than $3,000, and even though they contribute now and they will not later, they actually do not receive as much now as they will.

Mr. BUTLER. Mr. Chairman, the gentleman has been working on this matter for some little time, but I understand he cannot tell me that the differential between the two salaries is not the basis. Can the gentleman give me a figure?

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has again expired.

Mr. RAILSBACK. Mr. Chairman, I appreciate the gentleman's asking me the question.

Mr. EDWARDS of California. Mr. Chairman, I yield 5 minutes to our distinguished colleague, the gentleman from California (Mr. DANIELSON), a member of the Committee on the Judiciary.

Mr. DANIELSON. Mr. Chairman, I thank the subcommittee chairman for yielding this time to me.

The first thing I wish to do is to take advantage of this opportunity to commend my most distinguished colleague, the gentleman from California (Mr. EDWARDS), the ranking minority member of the subcommittee, and in fact all the members of the subcommittee for a tremendous job in revising the bankruptcy laws. They have needed revising.

I think the committee has done an excellent job, and I am going to be proud to support the bill and shall do so with all diligence once we have made what I consider to be a couple of necessary corrections.

It pains me very much to have to offer an amendment to a bill that was reported out by a subcommittee chaired by the gentleman from California (Mr. EDWARDS), because I have tremendous respect for him.

He has given me a good deal of guidance and assistance here in the Congress. I trust, come what may on this bill, that relationship will continue.

Mr. Chairman, I would like to point out very briefly why I am going to be offering my amendment. I would like to state at the inception that I do not intend to discuss the rest of the bill because I have absolutely no quarrel with it and can only commend it.

However, there are two points in the bill with which I must disagree and which I could not allow to stand without trying to correct what I consider to be an understandable misconception on the part of the subcommittee.

The first of these two points is that this bill will create a special bankruptcy court under article III of the Constitution, with all that that entails—lifetime tenure, inflexibility, the inability to reduce the structure of this bankruptcy forum when there is a singular case which would justify it, and as my colleague, the gentleman from Illinois (Mr. RAILSBACK), has pointed out, the fact of noncontributory pensions, which is a fact, as we all know, in the judicial branch. The article III courts, in my opinion, are repugnant to the current trend to have single forums of general jurisdiction.

Mr. Chairman, those of us who have practiced bankruptcy law know that the bankruptcy forums work very well by the referral of bankruptcy matters to referees, who are particularly skilled and who handle nothing except the insolvency matters.

The other point which I will seek to amend is the provision of this bill under which it creates a new government job. Some of us may take offense at that, and I do not. This is the job of the U.S. trustee. I think he will serve a useful purpose, but what I do not like is this, and I think it is repugnant to our constitutional system: The U.S. trustee will take the part, generally speaking, of a supervising trustee functions in all bankruptcy cases. He will be on the Government payroll. He will have assistant trustees, if necessary; but the trustee is acting. He takes custody. He becomes the legal title holder of the estate of the bankrupt. He takes custody of the bankrupt's estate. He is an arm of the court. He must be an arm of the court. Under the bill as it is drafted, this U.S. trustee, paradoxically speaking, is going to be an employee of the Attorney General, in the executive branch. The Attorney General in the executive branch of the Government is going to be appointing and directing the activities of an arm of the court.

Mr. Chairman, I am a dedicated believer in separation of powers under our Constitution; and I can no more stand to have the executive branch filling a function in the judicial branch than I could to have either the executive or the judicial branch fulfilling a function of supervisor here in the legislative branch.

Mr. Chairman, we must keep these branches of the Government separated.

My amendment simply does not tinker with the bulk of this bill. I say "my amendment." It is mine and that of the gentleman from Illinois (Mr. RAILSBACK).

It does not tinker with the basic structure of the bill, but it will preserve the present structure under which the bankruptcy court is an adjunct of the U.S. district court. The so-called bankruptcy judges will be members of the judicial branch, but they will not have lifetime tenure. They will not be tenure judges, as is a U.S. district court judge today.

Second, the U.S. trustee would be, under my amendment, appointed by the judicial branch, as he properly should be since he is an arm of the judicial branch.

The CHAIRMAN. The time of the gentleman from California (Mr. DANIELSON) has expired.

Mr. EDWARDS of California. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, I thank the gentleman.

I am going to go really fast here.

I hope that the Members who took a look at the CONGRESSIONAL RECORD will take a peek at page 465 of the committee report which tells us what the costs are going to be under the committee bill. We cannot save all of them under the Danielson-Railback amendment. We can save about $20 million to $25 million per year, a very sizeable sum.

Mr. Chairman, on page 466 of the committee report there is also a projection with respect to retirement, and I think the Members ought to take a little bit of a look at that.

Lastly, I would like to have them read, if they will, please, the statement of Judge Shirley M. Hufstedler, of the U.S. Court of Appeals for the Ninth Circuit, who appeared before one of our subcommittees. I have her comments in the committee report at page 543. She points out the fact that we simply do not need this article III court.

In concluding here, I would like to state that the Danielson-Railsback amendment is supported by the Attorney General, Mr. Bell, the Department of Justice, the Judicial Conference of the United States, the Chief Justice of the United States, the Judicial Councils in each and every circuit of the U.S. courts, the American College of Trial Lawyers, and many others.

Letters to this effect are as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., October 11, 1977.

Hon. GEORGE E. DANIELSON,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN DANIELSON: I understand that you and Congressman Railsback intend to offer two floor amendments to H.R. 8200, the proposed bankruptcy reform legislation, which would strike from the bill provisions which would create an Article III bankruptcy court and which would establish within the Department of Jusitce the Office of U.S. Trustee. Both these amendments are consistent with the position taken by this Department in its March 16th letter to the Subcommittee and its July 14th letter to the full Committee.

The Department of Justice has consistently opposed the creation of a separate Article III bankruptcy court which, in this case, would have broader jurisdiction than our Federal courts of general jurisdiction, the district courts. We have likewise opposed the placement of the proposed U.S. Trustees within the Department of Justice. This Department, which is a major litigant in many bankruptcies, should not be placed in the incongruous position of supervising bankrupt estates. Deletion of these two provisions will enable this Department to withdraw its objectives to this most important legislation.

I hope that this statement of our views will be helpful.

Sincerely,

GRIFFIN B. BELL,
Attorney General.

AMERICAN COLLEGE
OF TRIAL LAWYERS,
Los Angeles, Calif., October 7, 1977.

Congressman GEORGE E. DANIELSON,
House of Representatives, Rayburn HOB,
Washington, D.C.

DEAR CONGRESSMAN DANIELSON: Pursuant to the recommendation of its Pound Revisited Committee, on August 5, 1977, the Board of Regents of the American College of Trial Lawyers adopted the position of the College in opposition to those proposals incorporated in H.R. 8200, 95th Congress, which would convert bankruptcy courts into separate, specialized courts under Article III of the United States Constitution and convert referees in bankruptcy to bankruptcy judges with tenure and status of United States district judges.

We oppose the creation of separate bankruptcy courts for the reasons that such specialized courts are unnecessary, would create additional unwarranted expense and would be contrary to sound court organization, as found and recommended by the American Bar Association Commission on Standards of Judicial Administration, Standards Relating to Court Organization (1974). See Standard 1.10, Unified Court System: General Principle, and Standard 1.11, United Court Structure.

We oppose the conversion of referees in bankruptcy to Article III tenure and status as the unnecessary creation of specialized judges when, as now, there is pressing need for the authorization of additional district judgeships to provide for increased general case loads, both civil and criminal, in the respective federal districts. The conversion of referees in bankruptcy to Article III judges would only multiply the number of persons entitled to be addressed as federal judge. We also oppose wholesale appointments which would certainly short-circuit the existing machinery for selection of federal judges, including the review by the American Bar Association of persons under consideration for such appointment.

Accordingly, the American College of Trial Lawyers urges that those aspects of H.R. 8200 not be enacted into law.

Respectfully submitted,

THOMAS E. DEACY, Jr.,
Chairman,
Pound Revisited Committee.

I believe that with the proper amendment to this bill we will have an excellent improvement in the bankruptcy laws, and at that time I will certainly work for its adoption.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Virginia.

Mr. BUTLER. I thank the gentleman for yielding.

I was interested in the gentleman's amendment. We have regularly had great cooperation from the gentleman from Illinois (Mr. RAILSBACK) and we received from time to time drafts of an amendment. We have been worrying about the Railsback amendment, and all of a sudden it is the Danielson amendment. We got a draft this morning much different from the one we got yesterday and somewhat different from the one we got last week, but is the one we got this morning the one that it is now?

Mr. DANIELSON. I will tell the gentleman if he would like to add the name of BUTLER to the names, I will accept that.

Mr. BUTLER. A rose by any other name would smell the same.

Mr. DANIELSON. It would smell just as sweet. I have on my desk an extra copy, and if the gentleman would like to have it, I will be sure to get it to him.

Mr. BUTLER. I am interested in the chronology of the amendments.

Mr. DANIELSON. If I may interrupt, I have lodged a copy of the amendment with the Clerk of the House. I will be pleased to provide the gentleman with an additional copy, which I do have with me, and it is only the bottom line that counts. The bottom line is the amendment that we have filed with the Clerk.

Mr. BUTLER. If the gentleman will yield further, I am very much interested in that and, of course, the number of drafts, but what I am asking is, is the one we got this morning the final draft? I want to congratulate the gentleman on the rapidity with which he has been able to circularize this draft this morning among that long list of people who approved his amendment. I think that is a remarkable piece of work, but I would expect nothing less from my colleague, the gentleman from California.

Mr. DANIELSON. The difficult we do immediately. I do thank the gentleman for his comments.

Mr. EDWARDS of California. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I note that on page 190 of House Report 95–595 then is an erroneous reference respecting the priority of certain taxes. The report states that taxes which are fines or penalties are not entitled to priority "even" to the extent of actual pecuniary loss. The word "even" is more properly replaced by the word "except"; the explanation should indicate that section 507(6) of H.R. 8200 is intended to deny priority status to tax claims that are fines or penalties except to the extent of actual pecuniary loss.

Mr. Chairman, I have no further requests for time.

Mr. BUTLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, I will be extremely brief. I intend to support the Danielson-Railsback amendment in whatever form it finally emerges, but I would remind my colleagues that Shapespeare rewrote "Hamlet" a few times, I am told, so the final draft will be, I am sure, a work of art.

I do rise simply to state that I am overwhelmed—and I mean that seriously—with the magnitude of the job that this committee has done on a very difficult and unglamorous job. The total revision of the Bankruptcy Code is truly a monumental achievement. It does not attract much press attention. No one will win a Pulitzer prize writing about the long hours that were spent in reviewing what is essentially dull material, but vital material, because the relationship between debtor and creditor is extremely important in the business of justice.

I am proud to serve with these gentlemen on this important committee. Kenneth N. Klee, Alan Parker, Richard Levin, and Tom Breen also deserve the highest praise for their professional dedication in what I say has not been the most pleasant nor the most spectacular nor exciting job but one which is very much a part of justice.

When I consider that last year we produced a comprehensive revision of the copyright law that was a monumental achievement and then this year we have produced the bankruptcy law, indeed the Judiciary Committee is in my judgment the best committee in Congress.

Mr. BUTLER. Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. DRINAN) such time as he may consume.

Mr. DRINAN. Mr. Chairman, I wonder if the distinguished gentleman from Illinois (Mr. HYDE) would clarify what I think he is endorsing as the Danielson amendment. I have received and have in hand the final version of the Danielson-Railsback amendment, and it would be my feeling, having served for a long time on this subcommittee, that this cuts the guts out of the bill, that this eviscerates the most important things we want to do.

I certainly appreciate the kind words of the gentleman from Illinois (Mr. HYDE), because I happen to have served on the subcommittee that also produced the copyright bill and on this different subcommittee which has produced this bill. I wonder if the gentleman from Illinois (Mr. HYDE) would explain why he thinks the Danielson amendment is well advised.

Mr. HYDE. I think I disagree with my respected colleague. I do not think the Danielson-Railsback amendment eviscerates the bill at all. It enhances the bill. I think an adjustment of the relationship between debtors and creditors, which are substantial, in this bill covers many pages. The quality of that job is not dependent on whether we set up a whole new article III court. I think that is overkill and I am against it.

I think one of the problems with our country is that we have too many lifetime judges. We have State judges that do work of much more broad significance who are not appointed for life. I just think we can accomplish this without the expense or the shattering of precedent by establishing an entirely new article III court. But in no way does that diminish my admiration of the bill nor the effectiveness of the final product once the Danielson-Railsback amendment is adopted, as I expect it would be.

Mr. BUTLER. Mr. Speaker, I said that I had no further requests for time, but in light of this colloquy I would like to say a few more remarks along the lines of the remarks of the gentleman from Illinois (Mr. HYDE) and the gentleman from Massachusetts (Mr. DRINAN).

The gentleman from Massachusetts (Mr. DRINAN) is exactly correct. The effect of the Railsback amendment is to gut the bill. The reason it does is because it keeps the status of the bankruptcy courts where they have always been, and that is in a stepchild situation. It goes to the pervasive jurisdiction of the bankruptcy court which we would create.

The problem is that today the bankruptcy court has before it problems it cannot resolve because its jurisdiction is limited. It cannot decide matters before it except as they affect the property before it. So if there is a controversy between a bankruptcy estate and a third party in possession of property, then they have to go elsewhere.

The bill, H.R. 8200, gives the bankruptcy court pervasive jurisdiction, a jurisdiction to solve all the problems surrounding a bankruptcy estate, and in doing this we are exercising the judicial power which we cannot do except under an article III court, a tenured court under the Constitution.

But this is the real effect of this bill and the value of this bill. What the Danielson amendment would do is take away the pervasive jurisdiction of the courts and put them back in the position they are today.

There was not a single person who testified before our subcommittee and the Bankruptcy Commission who did not tell us that this is what we really needed: a bankruptcy court independent of the district court.

The Danielson amendment would put us back where we are and destroy what we have done and put the bankruptcy court in a position where it cannot solve all the problems we have given them the power to do under this bill.

So do not be confused that the Railsback-Danielson amendment is just a little old amendment.

I did not always take this approach. I got to this point after examining this entire bill and realized that if we are going to do these things and have the kind of bankruptcy process indicated by the facts before us, then we have to have tenured judges. We cannot emasculate the judges and not give them the powers they ought to have if we want them to solve the bankruptcy problems. The people who work on those problems day to day are unanimously for our bill. They support the separate court and they support the article III court.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I commend the gentleman for his eloquence. I think it is fair to say that all members of the subcommittee and subsequently the members of the Committee on the Judiciary were reborn, if that is the right phrase, to the conviction that the gentleman from Virginia so eloquently stated.

We realize this may be a new concept for lawyers and nonlawyers alike. As a result, the staff and members of the subcommittee have issued a 73-page supplemental report explaining precisely the issues addressed so cogently and persuasively by the gentleman from Virginia (Mr. BUTLER). I would commend this to my colleagues.

Mr. Chairman, the Danielson-Railsback amendment would undo everything we have sought to do in the upgrading of the bankruptcy court.

Mr. Chairman, I think it is fair to say that among lawyers and among others, they have not had a very elevated view of the bankruptcy court today. That is wrong, because the bankruptcy court touches more lives than all the other Federal courts in this country. If American citizens go to the bankruptcy court and feel they have been mistreated, if they are delayed because their petitions must go back and forth to the district court judge because the referee or the bankruptcy judge does not have jurisdiction, this is not good for the administration of justice, because this is justice delayed.

I would join in the eloquent plea of the gentleman from Virginia (Mr. BUTLER) and say that the Danielson-Railsback amendment must be defeated. If it is not defeated, then the whole work of the Judiciary Committee and the outside commissions and many people over a long period of time would be defeated.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I just want to say the gentleman from Massachusetts talked about being born again or being reborn to this bill, which reminds me that the Attorney General of the United States, Mr. Griffin Bell of Georgia, supports the Danielson-Railsback amendment. I think in that context is important to note that those of us who do support the Danielson-Railsback amendment have the support and are in the company of the Attorney General of the United States.

Mr. BUTLER. Mr. Chairman, in the presence of all these reborn folks, I think it is an appropriate time to yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment.

Mr. EDWARDS of California. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. SIMON, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 8200) to establish a uniform law on the subject of bankruptcies, had come to no resolution thereon.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO HAVE UNTIL MIDNIGHT FRIDAY, OCTOBER 28, 1977, TO FILE CERTAIN REPORTS

Mr. BEILENSON. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until midnight Friday, October 28, 1977, to file certain reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

LIMITING ACTIVITIES OF FEDERAL EMPLOYEES IN INSPECTIONS OF MEDICAL RECORDS

(Mr. SATTERFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SATTERFIELD. Mr. Speaker, during consideration of medicare-medicaid antifraud and abuse legislation recently, it became evident that Federal officials, agents and employees, especially those at HEW, are actively engaged in requiring the production of and inspecting individually identifiable medical records of citizens without their knowledge or consent, regardless of whether such citizen is or is not receiving medical treatment at Government expense. There is every indication that this practice will expand dramatically during the next few years.

Accordingly, I am introducing today a bill to limit the activities of Federal officers, employees and agents in such inspections and disclosures of medical records. The purpose of this measure is to protect and preserve the right of a citizen to confidentiality of his medical records.

This bill stems from a belief in the fundamental right to confidentiality of one's medical records and the corresponding belief that inspection of a medical record without the consent of the patient, especially when the inspection is by the Federal Government or its agents, generally violates that right.

I am especially troubled by changes in the character and security of medical records in the past several years which have resulted from the ready availability of copying and recording equipment and an increase in the use of computers. As a result of this new technology individually identifiable health records may be no longer in the sole possession of one's physician but may be duplicated, in whole or in part, and held by various entities, such as clinics, laboratories, hospitals and other health care facilities, insurance companies, schools and business concerns, none of which share in the physician-patient relationship, which is the historic basis and chief safeguard of medical record confidentiality.

I have been startled and disturbed by the extent to which the Federal Government is presently engaged in delving into private, identifiable medical records, in an apparent effort to exploit what they perceive is a gold mine of information, with little or no regard for intrusions upon personal privacy.

I realize that there may be specific circumstances when the individual right to privacy must be subordinated to an immediate need to protect the public, as in the case of contagious diseases, epidemics, and certain research. I realize also that the key questions in this regard concern who shall have the authority to make that decision and the criteria upon which it should be made.

I believe my bill would provide a reasonable and effective method for dealing with these situations in a way which is compatible with the recent report of the Privacy Commission.

It would establish a clearly defined mechanism by which an objective, impartial determination of those instances when the need to protect public health in general transcends the right to individual privacy. The bill would leave that decision with the chief public health official of that State in which the medical record is situated, or to a State official who is authorized by State law to inspect such records, thus limiting present activities of Federal officials and employees by placing the ultimate decision in the hands of officials who are not employed by the Federal Government, who understand both the physician-patient relationship and the responsibility assumed by public health officials to protect the public health of all citizens.

In addition, my bill provides for access to such information in emergency situations endangering life and would permit limited inspection of the records of medicaid and medicare patients in order to audit the services provided to such patients and verify payments demanded from the Federal Government. Inspections pursuant to the investigation and prosecution of medicare or medicaid fraud and abuse would also be permitted.

Finally, my bill would not alter present law dealing with the confidentiality of medical records in the possession of the Defense Department and the Veterans' Administration, nor would it impair judicial processes.

I believe the situation is critical and that Congress should act without delay to insure against the continued violation of this right to confidentiality.

SELECT COMMITTEE ON THE COMMITTEE SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANDERSON) is recognized for 10 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, today, I am reintroducing, with a group of bipartisan cosponsors, a resolution to create a Select Committee on the Committee System to study and make recommendations on the realinement and modernization of our House committee structure. This resolution is virtually identical to title VII of the Obey resolution (H. Res. 766) with the exception that our resolution specifies that no more than 7 of the 13 select committee members shall be from the same political party. I originally introduced this as House Resolution 841 on October 18, 1977, with Representatives RHODES, MICHEL, DEL CLAWSON, FRENZEL, LOTT, and COUGHLIN. Today's reintroduction brings the total list of cosponsors to 46.

Mr. Speaker, the last major overhaul of our committee system took place with the Legislative Reorganization Act of 1946. In the 93d Congress we made a renewed effort at updating and realining our committees through the Select Committee on Committee Reform chaired by the gentleman from Missouri (Mr. BOLLING). The product of that select committee was House Resolution 988, the Committee Reform Amendments of 1974. While that resolution would have vastly improved our present chaotic jurisdictional tangle, it was unfortunately replaced by a much weaker Democratic caucus substitute that left present jurisdictions virtually intact. Since that time I think many Members have come to regret the rejection of the Bolling-Martin reforms. While the substitute resolution did adopt the select committee's proposal for the referral of legislation to more than one committee, the fact that we did little to rationalize committee jurisdictions has resulted in numerous multiple referrals that have only tended to confuse and delay the legislative process while increasing conflicts between committees. This disorder has forced the Speaker to appoint more ad hoc committees and has also resulted in the creation of more select committees. We have also witnessed an almost anarchic proliferation of subcommittees. All this has not only produced a legislative system with little rhyme, reason, direction or control, but has spread Members so thin with numerous committee assignments that they have little time to devote to any. This in turn can only result in reduced deliberation, expertise and quality at the committee stage of the legislative process.

Mr. Speaker, under the terms of our resolution, the Select Committee on the Committee System would be directed to conduct "a thorough and complete study with respect to the operation and implementation of rules X and XI of the Rules of the House of Representatives including committee structure of the House, the number and optimum size of committees, the appropriate committee and subcommittee assignments per Member, their jurisdiction, the number of subcommittees, committee rules and procedures, media coverage of meetings, staffing, space, equipment, and other committee facilities." The select committee would report back its findings and recommendations to the House not later than July 1, 1978. Hopefully, the Rules Committee and the House could then act on these recommendations prior to the adjournment of the 95th Congress so that the reforms could be in place by the beginning of the 96th Congress in January of 1979.

Mr. Speaker, at this point in the RECORD I include a list of cosponsors of my resolution to create a Select Committee on the Committee System:

COSPONSORS OF RESOLUTION CREATING A SELECT COMMITTEE ON THE COMMITTEE SYSTEM

Mr. Anderson of Illinois, Mr. Rhodes, Mr. Michel, Mr. Del Clawson, Mr. Frenzel, Mr. Lott, Mr. Coughlin, Mr. Abdnor, Mr. Armstrong, Mr. AuCoin, Mr. Carr, Mr. Carter, Mr. Cleveland, Mr. Corcoran of Illinois, Mr. Derwinski, Mr. Downey, Mr. Duncan of Tennessee, Mrs. Fenwick, Mr. Findley, Mr. Goodling, Mr. Gradison, Mr. Guyer, Mr. Hagedorn, Mr. Horton, Mr. Hyde.

Mr. Kindness, Mr. Lagomarsino, Mr. McClory, Mr. McEwen, Mr. McKinney, Mr. Mann, Mr. Marks, Mr. Mitchell of New York, Mr. Nolan, Mr. Panetta, Mr. Pressler, Mr. Pritchard, Mr. Quayle, Mr. Regula, Mr. Sebelius, Mr. Simon, Mr. Steers, Mr. Stockman, Mr. Vento, Mr. Winn, Mr. Edgar, Mr. Krueger.

ROLE OF THE HOUSE OF REPRESENTATIVES IN THE DISPOSAL OF AMERICAN TERRITORY AND PROPERTY IN THE PANAMA CANAL ZONE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. METCALFE) is recognized for 60 minutes.

Mr. METCALFE. Mr. Speaker, as chairman of the Subcommittee on the Panama Canal, I have followed the course of negotiations with Panama with great interest.

The signing of the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal on September 7 at the headquarters of the Organization of the American States, culminates 13 years of negotiations between our country and Panama. Discord over some of the basic terms of our relationship with Panama has existed ever since the signing of the Hay-Bunau Varilla Treaty in 1903. Of course, that discord will not disappear completely and immediately under the proposed treaties, but these are agreements in which the United States may take a great deal of pride. These treaties accomplish two important objectives: First, the treaties recognize that, as territorial sovereign, the Republic of Panama has an important role in the operation and management of the canal area; and second, the treaties recognize the vital interests of the United States in the Canal Zone.

In my opinion, the treaties fully protect those vital interests. Our national strength will be enhanced by ratification.

There are some in this body who are opposed to any meaningful change in our present treaty relationship with Panama. These Members have been in the forefront of those arguing that article XIII, paragraph 2 of the treaty signed by the President on September 7 that—

> The United States of America transfers, without charge, to the Republic of Panama all right, title and interest the United States of America may have with respect to all real property, including nonremovable improvements thereon. . . .

Is in violation of article IV, section 3, clause 2, of the Constitution of the United States.

The point should be stressed that one can support the new treaty relationship with the Republic of Panama and, at the same time, maintain that the form of the treaty is in violation of article IV, section 3, clause 2. This Member does just that.

Mr. Speaker, the Panama Canal Subcommittee, which I chair, held 3 days of hearings just before the August recess to examine the vital interests of the United States in the Panama Canal Zone. The testimony given during the 3 days of hearings has convinced me that a new treaty relationship defining the future form of the U.S. presence on the Isthmus is essential.

Brig. Gen. Irwin P. Graham, representing the Joint Chiefs of Staff, stated in testimony before the subcommittee:

> The Joint Chiefs of Staff believe that the preferred way to protect and defend the canal, thereby insuring its use when needed, is in conjunction with a cooperative Panama motivated by its own vested interest in protecting the waterway.

Further, General Graham stated that—

> I have not considered the Panama Canal, as a vital installation. I use the word "vital" very carefully in the strict context that you defined it, as necessary to the survival of our country.

On the third day of these hearings, the Honorable William D. Rogers, former Assistant Secretary of State for Inter-American Affairs, set forth in some detail the reason for a new treaty. He said:

> In my judgment those who are interested in maintaining peace and peaceful relations within the hemisphere ought to be in favor of a modernized treaty relationship between the United States and Panama. Latin America has been the most conflict-free region of the world historically. We have been very fortunate. There have been very few wars which have touched this hemisphere. The Panama Canal is by all odds the one point in this hemisphere most likely to produce violence in the near term future. Clearly, in my judgment, a modernized treaty relationship is a contribution to peace.

I am, however, most concerned that the Panama Canal Treaty to govern the canal until the year 2000 does not contain a provision which requires the House of Representatives to assent to the transfer of U.S. property and territory in the Canal Zone to the Republic of Panama. Article IV, section 3, clause 2 of the Constitution grants Congress the power to dispose of territory and other Federal property. That section states:

> The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States . . .

The Supreme Court has ruled on numerous occasions that the grant of power

contained in that provision is exclusive. *U.S.* v. *Gratiot*, 14 Pet., 39 U.S. 526 (1840); *Cross* v. *Harrison*, 16 Har., 57 U.S. 164 (1853); *Alabama* v. *Texas*, 347 U.S. 272 (1954).

I am aware that the Attorney General and the legal adviser of the Department of State have expressed the opinion that territory and property may be disposed of by treaty. Those opinions, while well-reasoned and well-written, reflect the ideas of the executive branch on the balance of power between the executive and the legislative branches of Government.

In the last decade, many Members of this body have stated a commitment to the cause of reasserting the strength of Congress. The framers of the Constitution, to assure that no single branch of our Government would become all-powerful, established separate branches of government. It is interesting to note that Members of the House of Representatives have, for almost two centuries, steadfastly asserted the right and duty of the House to participate in the disposition of American territory by treaty.

In February of 1816, House managers sought to explain the differences between Senate and House conferees on a bill concerning the regulation of commerce between Britain and the United States. In their report, they noted some areas of apparent agreement. While the House did not claim that implementing legislation was necessary for most treaties, the Senate appeared:

> . . . to acknowledge the necessity of legislative enactment to carry into execution all treaties which contain stipulations requiring appropriations, or which might bind the nation to lay taxes, to raise armies, to support navies, to grant subsidies, to create States, or to cede territory; if indeed this power exists in the government at all.

In May 1868, the House Foreign Affairs Committee reported on a proposed treaty with Russia. The committee stated that the House had the power to determine whether a treaty exceeded the scope of the treaty power—and if it was found to exceed the scope, the House could act on its own to make its interest felt, and:

> . . . would be justified not merely in withholding its aid, but in giving notice to foreign nations interested that it would not be regarded as binding upon the nation, in passing laws for its abrogation, and preparing the state for whatever consequences might attend its action.
>
> The House would be justified in such action in regard to any treaty which should change the character of the government; bring into the Union and confer political powers upon large populations incapable of self-government, whose participation in its affairs would imperil our institutions and endanger the peace and safety of the people; which should *alienate territory*, surrender political power to any other government . . ." (emphasis supplied)

More directly, in each previous disposal of Canal Zone territory and property to the Republic of Panama, the executive branch has sought House consent or conceded that implementing legislation was needed. The chairman of the Senate Foreign Relations Committee made the following comments during the debate over cession of territory in the zone to Panama in 1942:

> Those who are opposing the measure object because the matter is brought before the Senate in the form of a joint resolution. They say it should be in the form of a treaty.
>
> Mr. President, I am and have been and in the future shall continue to be ardent in my maintenance of the integrity and the rights of the Senate of the United States in all its proper functions as a branch of the Government; but the matter covered by the joint resolution has to be passed by the Congress sooner or later in some form, for the simple reason that under the Constitution of the United States, Congress alone can vest title to property which belongs to the United States. The Constitution itself confers on Congress specific authority to transfer territory or lands belonging to the United States. So, if we had a formal treaty before us and if it should be ratified, it still would be necessary for the Congress to pass an act vesting in the Republic of Panama the title to the particular tracts of land; because "the Congress" means both bodies. The House of Representatives has a right to a voice as to whether any transfer of real estate or other property shall be made either under treaty or otherwise. 88 Cong. Rec. at 9267.

The House Committee on Foreign Affairs, on page 10 of House report 68–1659, "Favoring Membership of the United States in the Permanent Court of International Justice," stated:

> While it is not argued that the House should act upon all treaties or upon slight occasion, yet because it may be deemed to express the preferences of the people represented more adequately than any other body, there is not only a right but a duty to express itself upon certain important international policies.

By the Indian Appropriation Act of 1872 (16 Stat. 544, 546, c. 20), the Congress brought to a close the practice of concluding agreements with the Indian tribes by treaty. The House objected to the manner whereby land was transferred to the Indians. Debate surrounding passage of that provision was intense. During the debate on the bill, Congressmen Shanks and Sargent made these comments:

> Mr. SHANKS. Mr. Chairman, having heard the statement of the gentleman from Oregon, (Mr. Smith) I am not willing to let this matter pass without putting in my denial on this floor of the position which the gentleman has taken. I do not believe, sir—and I announce here my firm conviction of what I say—I do not believe that the treaty-making power of this Government can part with one foot of the soil of this country without the sanction of Congress. I am not willing that the broad statement which he has made upon this floor shall pass without putting in my protest against the declaration of the right of the treaty-making power to sell the soil of this country. 97 Cong. Globe 764, 41st Cong. 3rd Session, Jan 26, 1871.

And now is it not within the legislative power of Congress to take money from the National Treasury? It is not within the legislative power of Congress, under the Constitution, to determine whether our domain shall be ceded to foreign nations or not? If, as the able gentleman from Wisconsin (Mr. Paine) argued last year, when this question was up, it be conceded that money may be taken from the Treasury, when the guardianship of the public money is placed in the hands of Congress by the Constitution, and that our domain may be given up to roving bands of Indians in large areas for all time to come, under the treaty-making power as it is called, and without the consent of Congress, then, by the treaty-making power they may repeal our laws regulating naturalization; they may regulate the issue of the United States bonds; give away our right to regulate commerce between the States, disarm our soldiers, abolish our Navy, bind us to declare war; they may, in short, invade every province which, by the Constitution of the United States, is placed within the jurisdiction of Congress. For there are no provisions more clear in the Constitution than those which provide that Congress shall appropriate the public money in order that it may be legitimately expended, and that it may deal with all these questions which affect the occupancy of the public domain. Id. at 766

After the Senate and House conferees had agreed to the final form of the legislation, and prior to passage of the bill, Members of the House discussed its significance:

> Mr. BECK. Mr. Speaker, having been on the committee of conference with the gentleman from California (Mr. Sargent) and the gentleman from Kansas, (Mr. Clarke), I desire to say that the House, in my judgment, has gained almost everything that it had a right to expect. All the valuable amendments which we supposed could properly be introduced into an Indian appropriation bill are retained, although some of them had been stricken out by the Senate, and the others had been changed, though not materially altered. In the bill as it now stands, while not ratifying any previous treaties made with the Indians, though we concur in carrying out the stipulations of existing legislation, there is a distinct agreement between the two Houses that from this time henceforward there shall be no more Indian treaties made by the Senate; that they will not treat the Indians in that regard as a people with whom they have a right to make treaties without consulting the House of Representatives; and that whatever is done shall be done by the Congress of the United States, by both Houses acting in the passage of laws. 99 Cong. Globe at 1811 41st Cong. 3rd Sess. March 1, 1871.
>
> Mr. LAWRENCE. I have not had an opportunity to examine this bill as it comes from the committee of conference; but I understand that it does not in terms or in legal effect ratify any past Indian treaty or treaties; and I understand further that it prohibits the making in future of any further Indian treaties. I regard this as the grandest triumph, for the past ten years, in the interest of the people, and in the interest of the power of the popular branch of Congress over this subject. I have given some attention in Congress for several years past to the subject of so-called Indian treaties. I believe I was the first in this Hall to affirm that all such treaties attempting to dispose of public lands were void. I am gratified to find that the Senate at last has abandoned all claim of right to make Indian treaties. The question may now be regarded as settled. A great question of constitutional law has been settled, at least so far as Congress can settle it. The result is that hereafter the land policy of Congress cannot be broken up and destroyed by Indian treaties. Henceforth the homestead policy is to become the fixed policy of Congress. Id., at 1812.

When the Senate conferees reported to that body, Senator Davis remarked:

> . . . Now, there is ingrafted upon this appropriation bill by this report of a committee of conference a provision dictated by the House of Representatives to the Senate in a spirit of unauthorized arrogance and in repudiation of the history and the practice of

the Government not only from its formation but from the settlement of the country by the colonists of making Indian treaties and giving to those Indian treaties the same obligation and validity that treaties with foreign independent powers have All this principle and doctrine of treaties, all the obligation and validity of treaties, are repudiated for the future by a provision so ingrafted, like a branch upon a tree, on this appropriation bill. It is an utterly vicious and ill-advised proposition. There is no truth in it, there is no justice in it, there is no sound policy or statesmanship in it; it is a monstrous proposition that ought to receive the rejection of every Senator, of every man of justice and philanthropy in the land. And yet in this extraordinary and astonishing report of a committee of conference the conferees on the part of the Senate have consented that upon this appropriation bill those time-honored principles of making treaties with the Indians from the first settlement of the country under the old Articles of Conferation and from the beginning of the Government under the present Constitution, shall all be repudiated and expunged. 99 Cong. Globe at 1821.

From comments of the proponents and opponents of that legislation, it is clear that all parties recognized what that legislation implicitly accomplished—a recognition that the disposal power is vested in Congress, not the President and the Senate.

The House of Representatives has also played a major role in the acquisition of U.S. territory and property.

On March 1, 1845, a joint resolution consenting that the Republic of Texas "be erected into a new State in order that the same may be admitted into the Union" was approved by the President. On December 29, 1845, the joint resolution for admission was approved. Both of these resolutions had been introduced in the House. A treaty of annexation had been previously rejected.

In 1898, Hawaii was annexed by resolution of Congress. The resolution originated in the House after rejection of a treaty of annexation.

Mr. Speaker, precedent clearly indicates that the House has consistently guarded its constitutional prerogatives under article IV, section 3, clause 2. We would be derelict in our responsibility if we do not insist on a separate vote in the House on the transfer of property to the Republic of Panama.

Mr. Speaker, it is my strong belief that the House must continue to assert its right and responsibility in this matter.

Therefore, I am introducing a House resolution which calls upon the Senate to consent to the ratification of the proposed treaty with Panama with the reservation that U.S. territory and property in the Canal Zone be disposed of only by act of Congress in accordance with article IV, section 3, clause 2 of the Constitution.

ECONOMIC POLICY: THE FED AND THE WHITE HOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 5 minutes.

Mr. REUSS. Mr. Speaker, the White House and the Federal Reserve are at it, each blaming the other for the queasy state of our economy.

In a sense, they are both right.

The Fed for many months has let the money supply get out of control, with a money growth target of 4 to 6.5 percent, and a performance of something like 10 percent. Naturally, both the stock market and capital investment are down, because investors and businessmen fear that the Fed, having lurched out of control on the money supply, will lurch back into severe monetary tightness. Recent efforts by the Fed to atone for its feckless performance over the last 6 months by raising short-term interest rates have added to the uneasiness, since these belated efforts at restraint have raised interest rates more, and more sharply, than if moderation in money growth had been pursued earlier.

Unquestionably, the Fed's techniques are inadequate. Its present method of lagged reserve accounting and its seasonal adjustment of the money supply, coupled with its slowness to bring the discount rate parallel to the Federal funds rate—all have contributed to the uncertainty.

As for the administration, we see it backing inflationary measures ranging from a food price-raising farm policy to its misguided "cargo preference" legislation. Instead of concentrating on a jobs-now program centering on the millions of chronically unemployed, mostly young, in our pockets of urban and rural poverty, administration spokesmen continue to vie with each other in thinking up new budget-busting tax cuts for business. In this respect, there seems little difference between the administration and Dr. Burns, who keeps urging a "bold tax policy" of favors for big business.

It would be good for the Republic if both Dr. Burns and White House officials would cool it. Let the press office forgo its Martin Luther role, and stop tacking attacks on the Fed on the White House bulletin board. Let Dr. Burns spend less time preening himself as the Nation's No. 1 inflation fighter, and instead demonstrate convincingly that the Fed knows what it is doing in monetary policy.

Specifically:

First. The administration should launch a massive attack on structural unemployment, and get the needed fiscal stimulus from that rather than from the vast trickle-down tax reductions it keeps talking about.

Second. The Federal Reserve should:

Become more open, stop suppressing dissent, and remember that its Board of Governors has seven members, not one.

Announce that the excess of new money already created beyond its projected target is herewith blanketed into the money supply as a permanent one-time catchup, and thus end fears that the Fed will attempt to compound its monetary mishaps by a drastic squeeze in the months ahead.

For the period ahead—for which the Fed will be announcing its targets in the next few days—slightly raise the increasingly important M_2 target over its present 7- to 9.5-percent band—with appropriate adjustments in the other aggregates.

For the period ahead, work on two objectives—to keep the aggregates from exceeding the band, and to prevent further rises in short-term rates. Focusing on both these goals will best prevent drastic departures from either one.

Closely watch velocity, and adjust the targets if and when a significant change in the velocity trend line appears.[1]

Solicit outside help in examining current Fed methodology as to lagged reserve requirements and seasonal adjustment of the money supply.

TRADE POLICIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 60 minutes.

Mr. DENT. Mr. Speaker, this morning I went to the White House for a meeting with the President and his advisers on the crisis facing the American steel industry, its workers, and those communities whose economic life blood depend on steel. Members of the House steel caucus and I listened to the President's people talk about the problem, but we heard very little about solutions.

For the past 20 years, Mr. Speaker, I have been on this floor warning my colleagues about the coming crisis. For 20 years I have attempted to alert the American people about this fallacy called free trade and its disastrous effects on our industrial capacity. For two decades I have preached that this Nation cannot survive on consumption and distribution alone, but also requires a strong and vibrant production base.

Until recently I have been ignored and dismissed as a "protectionist." It took the shutting down of American steel plants to awaken some of my colleagues to the stark reality that we are engaged in an international economic war with countries who do business under different sets of rules, with different priorities, and with different values.

Mr. Speaker, the question of international trade and international economic relations is the single greatest issue confronting this Government, this Congress,

[1] It is a mistake for the Administration to cite signs of tapering off in the rate of increase in the velocity of money for just one quarter as a justification for rapid money growth. Monetary policy should not try to anticipate, and to compensate for, short-run changes in velocity. These cannot be reliably predicted. There is not yet enough evidence of a possible drop in velocity from its trend over the long run to justify a call for rapid money growth. Velocity during the summer quarter, the last available figure, was unchanged from the previous quarter. But it was up 3.1 percent from the summer of 1976 to the summer of 1977, in line with its long-run trend of 3.2 percent a year. Sudden, unexpected large increases in money supply such as occurred this summer can result in temporary decreases in velocity, because it takes a while for people and businesses to actually spend the extra money. When they do, however, velocity should get back on track, unless people lose confidence and stop spending.

and the American people. The question and its resulting problems must be addressed and new solutions proposed. The steel crisis is merely symptomatic of a larger problem involving our entire industrial economy which I believe is threatened by outdated international trade and investment policies which are predicated more on diplomatic and political considerations than on the economic necessities of our people.

Unless we the leaders begin to seriously address the problem, I am convinced that those who must bear the burden, the growing ranks of unemployed production workers, will take their case to the streets and the ballot box for resolution.

Mr. Speaker, I have been given permission by Charles Walters, Jr., the author of "Unforgiven: The Biography of an Idea," to quote extensively from his work on the relationship between international trade and the American agricultural and industrial economy since World War I. The parts of the book that follow are taken from Mr. Walters' own analysis, the testimony of former Georgia Commissioner of Agriculture Tom Linder, and the collected speeches of former Pennsylvania Congressman Louis T. McFadden. I recommend the entire book to those of my colleagues whose own districts have suffered the results of this crazy policy called "free trade" and to those of you who, somewhere down the road, no doubt will meet face to face with constitutents who have lost their jobs and future to diplomacy and politics:

The Cassandras of history always rise so that this truth be given, and the beast of muddy brain always kills them, "unforgiven!" Those who stand up to be "unforgiven" can be found at almost any stopping point along the way. When the American nation was first formed, a man named Alexander Fraser Tyler wrote of the decline and fall of the Athenian Republic—

A democracy cannot exist as a permanent form of government. It can only exist until the voters discover they can vote themselves largess out of the public treasury. From that moment on the majority always votes for the candidate promising the most benefits from the public treasury with the result that democracy always collapses over a loose fiscal policy, always to be followed by dictatorship.

As have a hundred others, Tyler saw that the life cycle of democracy depends on free holders, on people who are independent economically as well as politically. And yet, at the end of the last decade, Ferdinand Lundberg was forced to ask, in the opening lines of The Rich and the Super-Rich, "How has this process been contrived of stripping threadbare most of the populace, which once at least owned small patches of virgin land?"

This is a story of death and wars and inflations and depressions. At one point I started to tell it in an epistolary manner, that is as a series of documents with only a rare assist from the editorial pencil, as the following few entries suggest.

Extract of testimony by Georgia Commissioner of Agriculture Tom Linder before the House Ways and Means Committee, 1947, as reprinted in a Georgia Department of Agriculture booklet entitled "Trade Treaties and International Control."

When England, France, Holland and Italy became involved in World War I against the central powers, the international bankers, especially J. P. Morgan and Company of America, the Rothschilds of England (and other international bankers) together with their associates, were called upon to loan large sums of money to the Allies, including England, France, Holland and Italy. Loans from these international bankers totaled approximately $15 billion in American money. At that time $15 billion was almost an unheard of sum of money.

By the summer of 1916, it became apparent that left to themselves, the Allies would lose the war and the central powers would be victorious. In the summer of 1916, the campaign for the election of a President for the United States got under way . . .

Wilson was elected in November with great shouts of rejoicing among the people that America would not be involved in a war . . .

When the United States entered world War I, in addition to the great loss of wealth, human life and suffering involved by the United States, we were called upon to loan approximately another $15 billion from the public treasury to these same European countries. The net result was that the Allies were indebted to the international bankers $15 billion and to the United States government another $15 billion. They could not pay either at that time.

The international bankers looked over the world and saw the hopelessness of collecting the money from the hungry and naked people of Europe. The only place international bankers could get their money was from the taxpayers of the United States.

Accordingly, in 1919, while Mr. Wilson was still President, the newspapers of this country, with one accord, began a campaign demanding that the war-torn countries of Europe pay us what they owed us. . . . The cry that "Europe pay us what she owes us" was a very popular cry. The newspapers did not take the trouble to explain who the "us" was who was to be paid. The burdened taxpayer of America naturally thought that he was the "us" that was to be paid.

No one took the trouble to explain to the taxpayer that he would be worse off if he got paid than he would if he did not get paid. No one took the trouble to explain that this country having a balanced economy could not collect in goods without having to pay for those goods all over again.

The taxpayer was accustomed, when someone paid him a debt, to go to the bank and get the money. He had no conception of the vast difference between collecting a debt here at home and the collection of a debt from a foreign country.

Consequently, the taxpayer who believing that he was the "us" that was to get the money fell for the trap, and became himself one of the loudest to demand payment of those debts.

The United States had no need for foreign goods. Our factories were capable of turning out all the manufactures that we needed. Our farmers were capable of producing all the food, fiber and feed that we needed. Our labor supply was adequate for every purpose. Our economy had become adjusted to a high level of prices and volume.

We were enjoying the best economical experience of our history. Nobody was being hurt except the international bankers who had loaned their money to England, France, Holland and Italy. If we had followed the sane course, we could have marked off those war debts and kept our own national economy on a high scale and have told the international bankers to go jump in the ocean.

Instead of doing this, we lowered the tariff bars and we started importing goods, merchandise and commodities to collect the war debts. From 1919 to 1929, over a period of 11 years, according to government figures, we imported goods to a total of more than $43 billion. By the time Mr. Coolidge was going out of office, it was apparent to all students of national and international economy that the American economic set-up had been wrecked by these wild imports. Mr. Coolidge being an astute student of national and international economy, stepped out from under with the memorable phrase, "I do not choose to run."

Direct quotation notes from speeches by Congressman Louis T. McFadden of Pennsylvania, delivered before the Government Club, New York City, April 7, 1930; before the Bethesda, Maryland Chamber of Commerce, December 7, 1931; and before the House of Representatives, December 20, 1930, February 14, 1931 and May 4, 1933, as printed in the "Congressional Record" and in "Collective Speeches of Congressman Louis T. McFadden."

The Germans signed the armistice agreement after a long series of negotiations between President Wilson and the German Chancellor in October. These negotiations ended in a peace agreement which was binding on both sides when the armistice came into effect. It provided for reparation payments which were less than a fourth of the sum afterwards fixed by the London ultimatum . . .

The official peace conference convened late in January, and in the meantime . . . conquest of Germany by the slow pressure of a food blockade, carefully concealed from the President and the trans-Atlantic audience, was well under way . . . By the end of March the land and sea blockade of Germany was doing its work. The German Government asked upon what terms the blockade would be lifted and food supplied, and a conference was arranged at Brussels to fix these terms. Germany delivered up all the gold in the Reichsbank and all the negotiable securities . . . and accepted the obligation to pay reparations in an indefinite sum and for an indefinite future to be fixed by her conquerors. In return she received a contract for the delivery in her ports of a fixed quantity of grain and foodstuffs per month for a definite number of months. Thomas Lamon and Norman Davis were the American members of this commission . . .

The Germans carried out the terms of this agreement, but the peace conference did not. There was fear that if food now reached Germany she might reject some of the terms agreed upon and those yet to be imposed. No food ships, therefore, were allowed to dock at German ports until after the treaty of Versailles was signed on June 28, 1919. . . .

(The U.S.) Senate did not ratify the treaty of Versailles, and in declining to ratify the treaty it incidentally declined to ratify the war settlement with Germany . . . But as the years passed, the supreme war council, not discouraged, continued to stage the elaborate drama of German reparations for the benefit of the trans-Atlantic audience . . . the London ultimatum of 1921 . . . created negotiable German reparation bonds in the sum of $33 billion belonging to the Allied States with a view to disposing of them chiefly in the United States . . .

It was to the American public then that the bulk of the German reparation bonds were to be sold, and to accomplish this purpose a systematic falsification of historical, financial and economic fact was necessary in order to create in America a state of mind that would make the sale of the bonds successful . . .

The hypnotic trance in which the paid American publicists, the political college professors have lived . . . enabled the international financiers to use their voices and pens to keep the political deception alive. Because the definite allied postwar policy has been to secure the quick return from America of the gold stock lost by Europe in the war . . .

In proportion as the United States increas(ed) its holdings of German reparation bonds, the allied Governments decreas(ed) their holdings of them, for it (was) from the allied Governments that the American investors (bought) bonds . . . What was done in the London ultimatum, the Dawes plan, and the Young plan leaves small doubt that it was the intention of the makers of the treaty of Versailles that American investors in these bonds should pay the German indemnity to the allied states in cash . . .

Someone had asked Mr. Ogden Mills what caused the depression (of the 1930s). He answered quite truthfully, "The Federal Reserve lent so much money abroad that it broke down the system.

THE FUTURE OF THE SAFE BANKING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Speaker, we must now face the realities of the legislative clock. Despite all of the efforts of the Subcommittee on Financial Institutions, there simply will not be sufficient time to complete markup on H.R. 9600, the Safe Banking Act, this session.

After next week, we understand, the House will meet only every third day and will consider only the energy conference report during the remainder of the session.

Therefore, I will not schedule further markups this session on H.R. 9600. The bill will be the first priority in the second session.

The fight for the Safe Banking Act clearly is not over—it has just begun. I am convinced—as much as I have been convinced of anything in my 17 years on this committee—that the Congress will enact meaningful—substantive—banking reform before it sine dies next year.

For 2 weeks, we had hoped that the logjams in the subcommittee would break and that we would be able to move this bill through the committee and on to the floor under the legislative wire.

Instead, we have been faced with slowdowns, filibusters, intervening votes on the floor and, at times, other committee priorities. It has not been an atmosphere conducive to quick resolution of a major bill.

We also have to face the fact that this subcommittee—and this legislation—have been at the eye of a bank lobbying effort seldom matched in the history of the committee.

The House has been flooded by mail from literally thousands of banks and much of this mail has been filled with distortions and highly misleading statements about the effects of the bill. It is a nationwide campaign being orchestrated through the Washington offices of the American Bankers Association under the guise of "grassroots" opinion.

Our subcommittee telephone lines have been jammed with calls from Members beseiged by this mail and personal visits from bankers—Members concerned about the effects of the bill. Happily, much of this concern has peaked and Members are beginning to place the bankers' scare tactics in context and realizing that no legitimate banker—intent on carrying out his charter—has anything to fear from the reforms of the Safe Banking Act.

In recent days, we have had a number of productive conferences with officials of the Carter administration. I am hopeful that these continuing conferences will produce administration support for a number of the substantive reforms in the Safe Banking Act.

Despite the confusion created by the intense lobbying efforts, I am convinced that there is a majority in this committee for the major provisions of H.R. 9600 and that this will become apparent when we return in January. I am deeply appreciative of the support which I have received in the subcommittee from many Members, particularly Mr. ANNUNZIO, Mr. HANLEY, Mr. PATTERSON, Mr. CAVANAUGH, and Ms. OAKAR and people like Mr. MINISH, Mr. MITCHELL, and Mr. BLANCHARD at the full committee level.

During the hearings, some of the bank supervisors—surprisingly—suggested that they needed more time to collect data on banking conditions in the United States. This period between sessions will give the regulators full opportunity to do just that and when we come back in January they will no longer have any excuses—real or imagined—for failure to address the Safe Banking Act.

Just as importantly, the recess period will give the subcommittee additional opportunity for intensive factfinding on banking problems. It will also provide the members of the subcommittee ample opportunity to read in detail each of the bills and substitutes before us and hopefully this will end the charade of line-by-line reading which has so slowed the subcommittee over the past 2 weeks. In short, the subcommittee should be able to move in an expeditious manner just as soon as we return in January.

Once again, I am thoroughly convinced that a majority of the Congress and a majority of the American people want a banking system that is safe, sound and responsive. I am convinced that we have a working majority for efforts to limit abusive self-dealing by bank insiders. I am convinced that we have a working majority to end the unfair and dangerous practices of allowing bank insiders to draw down funds through endless overdrafts. I am convinced that we have a working majority for disclosure—for the right of depositors, stockholders and the public to know what is happening to their money. I am convinced that we have a working majority that is for competition and against incestuous anticompetitive interlocking arrangements in the financial community. I am convinced that we have a working majority for regulation of the sale and manipulation of bank stock and against the kinds of scandals which this subcommittee found in the Texas-rent-a-bank schemes. I am equally convinced that we have a working majority to tighten the loose operations of bank holding companies. And I believe that this committee and the Congress is ready to give the American public the right to privacy of their personal banking records. And I am convinced that the mutual savings banks industry should have full consideration of their long efforts to gain Federal charters for their institutions.

There is nothing radical in the Safe Banking Act. As its title implies, this bill would provide safe banking that truly meets community needs.

PEACE CORPS REFORM BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. BONKER) is recognized for 10 minutes.

Mr. BONKER. Mr. Speaker, the introduction of the Peace Corps reform bill represents both a culmination point and a new beginning in establishing the Peace Corps as a uniquely valid and vibrant expression of "the best that is in us." The bill brings to a close an era in which the Peace Corps under ACTION lost much of its vitality and sense of purpose as it increasingly succumbed to the numbing process of bureaucratization and political manipulation. At the same time the bill provides a new beginning for the Peace Corps by establishing it as an independent public foundation with control over its operations, a renewed mandate focusing on the needs of the poorest sectors of developing countries, and a new emphasis on promoting a spirit of volunteerism in international and host country agencies.

The Subcommittee on International Development has been conducting hearings on the future of the Peace Corps. Most of the witnesses have felt rather strongly that the merger with ACTION in 1971 was a mistake; that an independent Peace Corps is essential if it is to regain its unique identity and commitment in helping the less fortunate around the globe. Further support for reorganization comes from an Aspen Institute report commissioned by ACTION last year, on the "Future of the Peace Corps," which recommended a "fresh start" by establishing the Peace Corps as a public corporation. Reorganization is also compatible with President Carter's decision to achieve more efficiency in the Federal Government. The independent status of a public service would insulate the Peace Corps from possible political manipulation which has occurred in past years, and remove several bureaucratic impediments which exist within an orthodox Government agency such as ACTION.

We have delayed introducing this bill several months to allow the leadership of ACTION more time to formulate its policies and programs with respect to the future of the Peace Corps. Unfortunately, it has taken over 8 months simply for a new Peace Corps director to be appointed. Perhaps it would be unrealistic to expect the leaders of ACTION to take steps on their own initiative which would cause them to lose an important program from within their jurisdiction. However, arguments provided thus far in favor of the status quo do not go to the heart of key issues addressed in the

bill. Within ACTION, the Peace Corps remains susceptible to political manipulation and politicization. Bureaucratic impediments associated with the personnel system, recruitment operations, and program implementation will also remain.

By introducing the Peace Corps reform bill at this time it is our intention that Congress be presented with a viable option as it determines the status of the Peace Corps. The bill will help focus attention on important issues surrounding the future of the agency. Given the importance attached to the Peace Corps by the American public, the Peace Corps deserves nothing less than a fresh start.

The bill follows:

H.R. 9774

A bill to restate the purpose of the Peace Corps, to establish the Peace Corps as a Government foundation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Peace Corps Reform Act".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) there are compelling reasons for establishing the Peace Corps as an independent organization, including—

(A) the need for the Peace Corps to be an innovative, creative, and flexible institution in order to successfully restore its vitality, establish its unique identity, and faithfully carry out its purpose;

(B) the danger that political and bureaucratic impediments exist within an orthodox Government agency such as ACTION or any new such agency which tend to compromise the essential and unique purposes and functions of the Peace Corps and which substantially reduce its effectiveness; and

(C) the need for independent recruitment, training, and personnel operations;

(2) the Peace Corps should concentrate its efforts with respect to—

(A) meeting the basic needs of those living in the poorest areas of developing countries;

(B) improving and promoting international volunteerism and voluntary action in host countries;

(C) increasing opportunities for cooperation and coordination with private and public, bilateral and multilateral organizations involved in development; and

(D) recruiting for the Peace Corps Americans from all social and economic levels, with special attention given to recruiting older citizens and youth whose talents and energies are under-utilized, in order to attract the most dedicated and committed volunteers to meet the specific needs of host countries.

(b) It is therefore the purpose of this Act to restate the purpose of the Peace Corps, and to establish the Peace Corps as an independent Government foundation in order to effectively fulfill that purpose.

RESTATEMENT OF PURPOSE OF PEACE CORPS

SEC. 3. Section 2 of the Peace Corps Act (22 U.S.C. 2501) is amended to read as follows:

"DECLARATION OF PURPOSE

"SEC. 2. The Congress of the United States declares that it is the policy of the United States and the purpose of this Act to promote world peace and friendship through a Peace Corps, which shall assist the least advantaged people in interested countries and areas, by providing men and women of the United States qualified for service abroad and willing to serve, under conditions of hardship if necessary, to help the peoples of such countries and areas in meeting their needs for trained manpower and strengthening their own development programs, to further a spirit of voluntary action, and to help promote a better understanding of the American people on the part of those served and a better understanding of other peoples among Americans.".

ESTABLISHMENT OF PEACE CORPS FOUNDATION; POWERS; TERMINATION

SEC. 4. (a) There is created as an agency of the United States of America a body corporate to be known as the Peace Corps Foundation (hereinafter in this Act referred to as the "Foundation").

(b) The Foundation shall carry out the purposes of the Peace Corps Act.

(c) In addition to those powers and authorities set forth in Section 10 of the Peace Corps Act, the Foundation, as a corporation—

(1) shall determine and prescribe the manner in which its obligations shall be incurred and its expenses;

(2) may, as necessary for the transaction of the business of the Foundation and without regard to the provisions of Title 5, United States Code, governing appointments in the competitive service or relating to classification and General Schedule pay rates, employ and fix the compensation of a professional and administrative staff which does not exceed ten percent of the total volunteer force placed abroad at any one time, nor shall more than one-third of the Foundation's professional and administrative staff be assigned in the United States.

(3) shall be entitled to the use of the United States mails in the same manner and on the same conditions as the executive departments of the Government;

(4) may, with the consent of any board, corporation, commission, independent establishment, or executive department of the Government, including any field service thereof, avail itself of the use of information, services, and facilities thereof in carrying out the provisions of this Act;

(5) may sue and be sued, complain, and defend, in its corporate name in any court of competent jurisdiction; and

(6) shall have such other powers as may be necessary and incident to carrying out its powers and duties under this section.

(d) The Foundation shall terminate on September 30, 1987. Upon termination of the corporate life of the Foundation, all of its assets shall be liquidated and, unless otherwise provided by Congress, shall be transferred to the United States Treasury as the property of the United States.

BOARD OF DIRECTORS

SEC. 5. (a) (1) The authority for the operations of the Foundation shall be vested in a board of directors (hereinafter in this Act referred to as the "Board") composed of seven members appointed by the President, by and with the advice and consent of the Senate as follows:

(1) Three members shall be appointed from among senior officers and employees of agencies of the United States concerned with development programs abroad, or United States citizens serving in multilateral international development agencies.

(2) Four members shall be appointed from private life from among United States citizens knowledgeable in development and volunteer programs abroad.

The President shall designate one of the four members from private life as chairman and one of such members as vice chairman.

(2) The Board shall meet at least four times in each year.

(b) Members of the Board shall be appointed for terms of five years, except that of the members first appointed two shall be appointed for terms of three years and two shall be appointed for terms of four years, as designated by the President at the time of their appointment. A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term; but upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified. Members of the Board shall be eligible for reappointment.

(c) Members of the Board shall serve without additional compensation, but shall be reimbursed for actual and necessary expenses, and for transportation expenses, when engaged in their duties on behalf of the Foundation.

(d) The Board shall direct the exercise of all the powers of the Foundation.

(e) The Board may prescribe, amend, and repeal bylaws, rules, and regulations governing the manner in which the business of the Foundation may be conducted and in which the powers granted to it by law may be exercised and enjoyed. A majority of the Board shall be required as a quorum.

(f) In furtherance and not in limitation of the powers conferred upon it, the Board may appoint such committees for the carrying out of the work of the Fundation as the Board finds to be for the best interests of the Foundation, each committee to consist of two or more members of the Board, which committees, together with officers and agents duly authorized by the Board and to the extent provided by the Board, shall have and may exercise the powers of the Board in the management of the business and affairs of the Foundation. The Board may establish the number which constitutes a quorum for any such committee.

ADVISORY COUNCIL

SEC. 6. (a) There shall be established in the Foundation an Advisory Council composed of the following members:

(1) Four members to be appointed by the President from among individuals having international stature as leaders in relations between developing and developed countries. One member shall be a citizen of an African country, one member shall be a citizen of a Latin American country, one member shall be a citizen of an Asian country, and one member shall be a citizen of a Near Eastern country.

(2) Two members to be appointed by the President who are Members of the House of Representatives, and two members to be appointed by the President who are Members of the Senate.

(3) One member to be appointed by the President, in consultation with the Board, from among officers and employees of the Agency for International Development.

(4) One member to be appointed by the President from among officers and employees of the State Department.

(5) One member to be appointed by the President from among officers and employees of the United Nations.

(6) The Vice President of the United States who shall be Chairman of the Advisory Council.

(b) The Advisory Council shall evaluate the policies of the Foundation with respect to programs abroad and advise the Board with respect to such policies, particularly as such policies relate to volunteerism and development. The Advisory Council shall meet at least twice each year.

(c) Members of the Advisory Council shall receive no compensation for their services but shall be entitled to reimbursement in ac-

cordance with Section 5703 of Title 5, United States Code, for travel and other expenses incurred by them in the performance of their functions under this section.

DIRECTOR OF THE PEACE CORPS

SEC. 7. (a) The Board shall appoint for a term of five years a Director of the Peace Corps and a Deputy Director of the Peace Corps. A Director or Deputy Director may be removed or reappointed at the Board's discretion.

(b) The Director shall direct such operations of the Peace Corps as the Board may authorize. The Deputy Director shall have such duties as the Board may assign.

(c) The Director shall be compensated at the rate of basic pay in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Deputy Director shall be compensated at the rate of basic pay in effect for level V of the Executive Schedule under section 5316 of such title.

COORDINATION OF PROGRAMS

SEC. 8 The Foundation shall establish procedures to maximize cooperation and coordination with the programs of other volunteer and development organizations, including the Agency for International Development, the United Nations, private voluntary organizations and volunteer agencies of host countries. From time to time the Foundation shall submit to the President, the Secretary General of the United Nations and other appropriate authorities recommendations for improving the coordination of such programs.

GENERAL PROVISIONS

SEC. 9. (a) The Foundation shall be a nonprofit corporation and shall have no capital stock. No part of its revenue, earnings, or other income or property shall inure to the benefit of its directors, officers, and employees and such revenue, earnings, or other income, or property shall be used for the carrying out of the corporate purposes set forth in this Act. No director, officer, or employee of the corporation shall in any manner directly or indirectly participate in the deliberation upon or the determination of any question affecting his personal interests or the interests of any corporation, partnership, or organization in which he is directly or indirectly interested.

(b) When approved by the Foundation, in furtherance of its purpose, the officers and employees of the Foundation may accept and hold offices or positions to which no compensation is attached with governments or governmental agencies of foreign countries.

(c) The Foundation shall establish a principal office in or near the District of Columbia. The Foundation is authorized to establish branch offices in any place or places in or outside the United States in which the field operations of the Peace Corps are conducted, in any of which locations the Foundation may carry on all or any of its operations and business.

(d) The Foundation, including its franchise and income, shall be exempt from taxation now or hereafter imposed by the United States, or any territory or possession thereof, or by any State, county, municipality, or local taxing authority.

(e) The Foundation shall be subject to the provisions of the Government Corporation Control Act.

AMENDMENTS TO TITLE I OF THE PEACE CORPS ACT

SEC. 10. (a) Sections 3 and 4 of the Peace Corps Act (22 U.S.C. 2502 and 2503) are hereby repealed.

(b) Section 5 of the Peace Corps Act (22 U.S.C. 2504) is amended—

(1) in subsection (c) by striking out "$125" in each place it appears and inserting in lieu thereof "$150";

(2) in subsection (e) by striking out in the last sentence "Subject to such conditions as the President may prescribe, such" and inserting in lieu thereof "Such";

(3) in subsection (f)(1)—

(A) in subparagraph (A) by striking out "852(a)(1)" and inserting in lieu thereof "851(a)"; and

(B) in subparagraph (B) by striking out "except as otherwise determined by the President,";

(4) in subsection (f)(2)—

(A) by striking out "and voluntary leaders",

(B) By striking out "respective", and

(C) by striking out "sections 5(c) and (6)(1)" and inserting in lieu thereof "section 5(c)";

(5) in subsection (g) by striking out ": *Provided*, That" and all that follows through "any volunteer so detailed or assigned" and inserting in lieu thereof "; except that no volunteer may be assigned to carry out secretarial or clerical duties on the staffs of the Peace Corps representatives abroad. Any volunteer detailed or assigned under this subsection";

(6) by amending subsection (i) to read as follows:

"(i) The Foundation may at any time terminate the service of a volunteer. No volunteer may serve more than five years in any 10-year period unless the Director of the Peace Corps under special circumstances personally approves an extension of not more than one year on an individual basis.";

(7) in subsection (k)—

(A) by inserting "(1)" after "(k)"; and

(B) by adding at the end thereof the following new paragraph:

"(2) In order to carry out programs referred to in paragraph (1), the Foundation shall establish an organization to be composed of former Peace Corps volunteers, the primary purposes of which shall be (A) to assist those individuals returning from service as Peace Corps volunteers in their readjustment in the United States, particularly with respect to employment opportunities, (B) to maintain contact with all former volunteers in order to solicit useful information from, and provide information and assistance to, such volunteers, and (C) to encourage private and public organizations to employ former volunteers, particularly with respect to the skills acquired by such volunteers.

(8) in subsection (m) by inserting "spouses and" after "The"; and

(9) by striking out "President" in each place it appears and inserting in lieu thereof "Foundation".

(c) Section 6 of the Peace Corps Act (22 U.S.C. 2505) is repealed.

(d) Section 7 of the Peace Corps Act (22 U.S.C. 2506) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking out "the President may employ" and all that follows through "Government" and inserting in lieu thereof "the Foundation may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, employ or assign persons, and may enter into agreements, with any agency of the United States, for the employment or assignment of officers or employees of such agency", and

(ii) by striking out ", except that policymaking officials shall not be subject to that part of section 1005 which prohibits political tests;" and inserting in lieu thereof a period;

(B) by amending paragraph (2) to read as follows:

"(2) The Foundation may request the President to, and the President may upon such request, assign to the Foundation to carry out functions under this Act any Foreign Service Reserve officer, any Foreign Service staff officer or employee, any alien clerk or employee, or any other officer or employee of the United States Government other than Foreign Service officers. The President may not assign any person, under this paragraph or under the Foreign Service Act of 1946, except upon the request of the Foundation."; and

(C) in paragraph (3) by inserting after "section 5941 of title 5, United States Code" the following: "(notwithstanding the exception contained therein relating to Government-controlled corporations)";

(2) by striking out subsection (b);

(3) in subsection (c)—

(A) by redesignating such subsection as subsection (b),

(B) by striking out "or (2)" in the second sentence, and

(C) by striking out "President in his discretion" in the last sentence and inserting in lieu thereof "Foundation in its discretion";

(4) by adding at the end of such section 7 the following new subsection (c):

"(c) No person employed or assigned under subsection (a) to perform functions under this Act may be so employed or assigned for more than five years in any 10-year period unless the Director of the Peace Corps under unusual circumstances only personally approves an extension of not more than one year on an individual basis."; and

(5) by striking out "President" in each place it appears and inserting in lieu thereof "Foundation".

(e) Section 8 of the Peace Corps Act (22 U.S.C. 2507) is amended—

(1) in subsection (a)—

(A) in the first sentence by inserting before the period at the end thereof the following: ", except that such training shall be conducted primarily by officers and employees of the Foundation or of other Federal agencies", and

(B) in the second sentence—

(i) by striking out "respectively" and "and volunteer leaders", and

(ii) in the second sentence by striking out "the respective terms 'volunteers' and 'volunteer leaders'" and inserting in lieu thereof "the term 'volunteers'";

(2) by striking out "President" in each place it appears and inserting in lieu thereof "Foundation"; and

(3) by striking out subsection (c).

(e) Section 9 of the Peace Corps Act (22 U.S.C. 2508) is amended by striking out "the President may make provision for" and inserting in lieu thereof "the Foundation may employ (to carry out activities in the United States or abroad) and fix the compensation of foreign nationals (except that no such foreign national may be so employed for more than five years in any 10-year period), unless the Director of the Peace Corps under special circumstances personally approves an extension of not more than one year on an individual basis, and the Foundation may provide for".

(f) Section 10 of the Peace Corps Act (22 U.S.C. 2509) is amended—

(1) in subsection (a)—

(A) by striking out "President" and inserting in lieu thereof "Foundation"; and

(B) in paragraph (2)—

(i) by striking out "Secretary of State" and inserting in lieu thereof "Foundation", and

(ii) by striking out ": *Provided*, That not more than one hundred and twenty-five Peace Corps volunteers or volunteer leaders shall be assigned to international organizations as described in this section";

(2) in subsections (b), (d), and (e) by striking out "President" and inserting in lieu thereof "Foundation";

(3) in subsection (c) by striking out "sections 5 and 6" and inserting in lieu thereof "section 5"; and

(4) in subsection (f) by striking out "as the President shall direct or" and insert in lieu thereof a comma.

(g) Section 11 of the Peace Corps Act (22 U.S.C. 2510) is amended by striking out "President" and inserting in lieu thereof "Foundation".

(h) Section 13 of the Peace Corps Act (22 U.S.C. 2512) is amended—

(A) in subsection (a)—

(i) by striking out "President" and inserting in lieu thereof "Foundation", and

(ii) by striking out "the per diem equivalent of the highest rate payable under section 5332 of title 5, United States Code" and inserting in lieu thereof "$100 per day"; and

(B) in subsection (b) by striking out "as a member of the Council authorized to be established by section 12 of this Act or".

(i) Section 14 of the Peace Corps Act (22 U.S.C. 2513) is amended—

(1) in subsection (a) by striking out "In" and inserting in lieu thereof "At the request of the Foundation in"; and

(2) in subsections (b) and (c)(3) by striking out "President" and inserting in lieu thereof "Foundation".

(j)(1) Section 15(a) of the Peace Corps Act (22 U.S.C. 2514(a)) is amended by striking out "for the procurement of supplies and services" and inserting in lieu thereof the following: "(1) for the procurement of such equipment and other supplies and services as are necessary to carry out Peace Corps activities abroad (including procurement from foreign sources) and (2)".

(2) Section 15(d)(11) of such Act (22 U.S.C. 2514(d)(11)) is amended by inserting before the semicolon the following: ", with respect to persons assigned under section 7(a)(2) of this Act".

(k) Section 19(a) of the Peace Corps Act (22 U.S.C. 2518(a)) is amended—

(1) by striking out "President" and inserting in lieu thereof "Foundation"; and

(2) by striking out "he" and inserting in lieu thereof "the Foundation".

(m) Section 22 of the Peace Corps Act (22 U.S.C. 2519) is amended to read as follows:

"Sec. 22. No volunteer or any other person employed or assigned to duties under this Act may, except upon the request of the Foundation to the appropriate agency or officer of the United States, be investigated to insure that the employment or assignment of such volunteer or person is consistent with the national interest.".

(n) Section 24 of the Peace Corps Act (22 U.S.C. 2521) is amended by striking out "No person shall be assigned to duty as a volunteer" and inserting in lieu thereof "No volunteer or any other person employed or assigned to duties".

(o) Section 24 of the Peace Corps Act (22 U.S.C. 2522) is amended—

(1) in subsection (g) by striking out "5(b), 5(m), and 6(2)" and inserting in lieu thereof "5(b) and 5(m)";

(2) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively; and

(3) by inserting after subsection (b) the following new subsection:

"(c) The term "Foundation" means the Peace Corps Foundation.".

AMENDMENTS TO TITLE III OF THE PEACE CORPS ACT

SEC. 11. Section 401 of the Peace Corps Act (22 U.S.C. 2501a) is amended—

(1) in subsection (b)(1)—

(A) by striking out "Activities carried out by the President" and inserting in lieu thereof "The Peace Corps Foundation is encouraged to engage in activities to carry out the purposes set forth in subsection (a) of this section. Activities engaged in by the Foundation in furtherance of clauses (1) and (2) of such subsection"; and

(B) by striking out the second sentence;

(2) in subsection (b)(2)—

(A) by striking out "$350,000" and inserting in lieu thereof "five percent of the annual Peace Corps appropriations"; and

(B) by inserting before the period at the end thereof the following: ", except that such share may not exceed one-half of the total cost of such programs or activities"; and

(3) by striking out subsection (c).

AMENDMENTS TO DOMESTIC VOLUNTEER SERVICE ACT OF 1973

SEC. 12. Section 401 of the Domestic Volunteer Service Act of 1973 (87 Stat. 405) is amended—

(1) in the fourth sentence by striking out "two Associate Directors" and inserting in lieu thereof "an Associate Director";

(2) in the fifth sentence—

(A) by striking out "One such" and inserting in lieu thereof "Such"; and

(B) by striking out ", and the other such Associate Director" and all that follows through the end of the sentence and inserting in lieu thereof a period;

(3) in the sixth sentence by striking out "no more than two Assistant Directors" and inserting in lieu thereof "an Assistant Director"; and

(4) in the seventh sentence—

(A) by striking out "Each such" and inserting in lieu thereof "Such"; and

(B) by striking out "Associate Director" and inserting in lieu thereof "Associate Director".

AMENDMENTS TO OTHER ACTS

SEC. 13. (a)(1) Section 912(3) of the Internal Revenue Code of 1954 is amended—

(A) by striking out "or volunteer leader" and "or 6";

(B) in subparagraph (A) by striking out "or section 6(1);

(C) in subparagraph (B) by inserting "and" after the comma; and

(D) by striking out subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(2) Section 3401(a)(13) of such Code is amended by striking out "or 6(1)" and by striking out "or volunteer leader".

(3) Section 3121 of such Code is amended—

(A) in subsection (i)(3) by striking out "or volunteer leader" and by striking out "or 6(1)"; and

(B) in subsection (p) by striking out "or volunteer leader".

(4) The first sentence of section 3122 of such Code is amended by striking out "or volunteer leader".

(5) Section 6051(a) of such Code is amended in the third sentence by striking out "or volunteer leader".

(b)(1) Section 205(p)(1) of the Social Security Act (42 U.S.C. 405(p)(1)) is amended by striking out "or volunteer leader".

(2) Section 209 of such Act (42 U.S.C. 409) is amended in the fourth paragraph by striking out "or volunteer leader" and by striking out "or 6(1)".

(3) Section 210(o) of such Act (42 U.S.C. 410(o)) is amended by striking out "or volunteer leader".

(c)(1) Section 8142 of title 5, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1) by inserting "and" after the semicolon;

(ii) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(iii) in paragraph (2), as redesignated by clause (ii), by striking out "or volunteer leader"; and

(B) in subsection (c)(2) by striking out "a volunteer leader referred to in section 2505 of title 22, or" and by striking out the comma after "section 2504 of title 22".

(2) Section 8332 of title 5, United States Code, is amended—

(A) in subsection (b)—

(i) in paragraph (5) by striking out "or volunteer leader";

(ii) by amending subparagraph (A) to read as follows:

"(A) a volunteer is deemed receiving pay during his service at the rates of readjustment allowances payable under section 2504(c) of title 22; and"; and

(iii) in subparagraph (B) by striking out "or volunteer leader" in each place it appears; and

(B) in subsection (j) by striking out "or volunteer leader" in each place it appears.

(d) The amendments made by this section shall not apply with respect to service as a volunteer leader before the date of the enactment of this Act.

TRANSITION PROVISIONS

SEC. 14. (a) The assets, liabilities, contracts, property, and records employed, held, used, or arising from the functions transferred by the amendments made by this Act are hereby transferred to the Foundation. Any unexpended balance of appropriations to carry out the purposes of the Peace Corps Act and other funds available for such functions are authorized to be transferred to the Foundation. Unexpended funds transferred under this subsection shall only be used for the purposes for which the funds were originally authorized and appropriated.

(b)(1) The Foundation, in employing personnel to carry out the purposes of this Act and the Peace Corps Act, shall give priority to personnel employed on the effective date of this Act exclusively with the Peace Corps.

(2) Any volunteers serving in the Peace Corps on the effective date of this Act shall be entitled to continue to so serve unless such service is terminated by the Foundation.

SAVINGS PROVISIONS

SEC. 15. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred by the amendments made by this Act after the date of enactment of this Act, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Foundation, a court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings pending at the time this Act takes effect with respect to functions transferred by the amendments made by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have

been discontinued or modified if this Act had not been enacted.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency with respect to functions transferred by the amendments made by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency with respect to functions transferred by such amendments, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit with respect to any function, transferred to the Foundation, then such suit shall be continued with the Foundation substituted.

REFERENCE

SEC. 16. With respect to any functions transferred by the amendments made by this Act and exercised after the effective date of this Act, reference in any other Federal law to the President with respect to functions so transferred shall be deemed to refer to the Foundation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 17. There are authorized to be appropriated to the Foundation to carry out its functions under this Act and the Peace Corps Act, for the three-year period beginning on October 1, 1978, and ending on September 30, 1981, the sum of $300,000,000, except that not more than $500,000 of any sums appropriated for such three-year period may be expended under section 13 of the Peace Corps Act.

Mr. TSONGAS. Mr. Speaker, I have cosponsored the Peace Corps Reform Act to encourage discussion, recently begun in the International Development Subcommittee, on the future of this organization.

I served in the Peace Corps in the early 1960's when the Peace Corps goals and the ideals of its volunteers meshed to make the cross-cultural experience a particularly worthwhile one.

I have never missed an opportunity to encourage young people to join the Peace Corps, not only for what they can try to accomplish to help other peoples of the world, but even more important for what they will learn and bring back to the United States in the way of better understanding of the people and objectives of other nations. This so-called third mission of the Peace Corps has always been the most realized and most effective in promoting world peace.

Those of us who served in the Peace Corps of the 1960's feel that much of the vitality of the organization was lost when it merged with ACTION. A more realistic appraisal probably is that two administrations with little enthusiasm for Peace Corps could hardly be considered a climate for its continued development. It is reasonable to allow a new and friendly administration a chance to make a Peace Corps within ACTION work. I have met with ACTION Director Sam Brown and respect his efforts to gain time to determine whether the Peace Corps should continue as part of ACTION. However, I hope this bill begins a round of discussions on the future of the Peace Corps. There are many ideas, beyond the independent foundation approach which are worthy of consideration and may well be part of a final bill. Particularly noteworthy is the inclusion of Third-World leaders on an advisory council and a renewed effort to work with other nations volunteer programs in offering multilateral development assistance.

My primary objective in these coming months will be to find the best combination of ingredients that will permit the Peace Corps to grow to meet the challenges of the 1980's and to retain the integrity that comes from the unique independence with which it was first created.

FUNDING FOR SANTA CRUZ HARBOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, today I am introducing legislation authorizing all funding needed to allow the Secretary of the Army, acting through the Corps of Engineers, to conduct the necessary studies to find a permanent solution to the annual blockage of the entrance to the small craft harbor in Santa Cruz, Calif.

Under current low, the harbor district would be obligated to pick up 35.1 percent of the cost of any such study. But clearly, the continuing crisis of keeping the harbor open is a responsibility of the Corps of Engineers. It is a corps problem requiring a corps answer developed at corps expense. My bill relieves the taxpayers of the harbor district of any financial burden in the effort to find a permanent solution.

The harbor is a major recreational and economic resource for Santa Cruz County. Yet, every winter for approximately 10 years, the entrance channel has filled with sand, making it completely inaccessible to the commercial fishermen and other boaters who use the harbor for docking and shelter.

In meetings with the fishermen, small-craft owners, harbor officials, and State and local officials, since the beginning of this year, I have come to learn firsthand how frustrating this situation has become to all involved. The harbor remains closed for up to 5 months at a time, and is cleared each year only after a dredging operation has been set up at considerable expense. This is not only an inconvenience to local residents who must pay taxes for the harbor, it is also a great financial burden on the local fishing industry.

As one who has spent most of his life in a fishing community, I personally know of the difficulties encountered by commercial fishermen—the weather, the struggle for a decent catch, competition from larger fishing boats, the heavy costs of operating fishing vessels, and so on. Having their boats locked in a sand-clogged harbor at the opening of the fishing season should not and must not be added to these problems.

With the cooperation of the Corps of Engineers along with State and local officials, an effort is now being made to respond to this crisis. As a result of a series of meetings held this year, the corps is moving on several fronts:

It has committed to a multiyear dredging contract rather than a year-to-year contract in order to insure that clearing of the harbor can begin immediately and be accomplished with experience and proper equipment.

The corps is experimenting with a sand bypass pump at the harbor mouth which, if proven successful, could save millions of dollars on maintenance dredging throughout the country.

In addition, the corps has entered into a contract with a private engineering firm which will recommend several solutions to the problem with the eventual goal of designing a permanent bypass system eliminating the need for annual dredging. At the same time, it has begun studies of the basic causes of the problem with the use of wave, beach, and hydrographic surveys.

The corps is to be commended for these actions. But I believe this effort should not be pursued at local taxpayers' expense, and the corps agrees. It is the responsibility of the Federal Government to insure that a permanent solution is found.

This legislation will provide full funding of the studies, after which the Secretary of the Army, acting through the Chief of Engineers, will report the results to Congress and recommend a permanent course of action.

Over the last 10 years, literally millions of dollars have been spent in an effort to keep the harbor open. This situation and the attendant costs are intolerable. A permanent answer must be found. It is my hope that this legislation is the beginning of that answer.

AMTRAK CRISIS IN MONTANA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. BAUCUS) is recognized for 10 minutes.

Mr. BAUCUS. Mr. Speaker, we in Montana are facing a transportation crisis due to the recent cutbacks on our Amtrak routes. As of September 7, our passenger rail service has been reduced by nearly 50 percent.

My district was one of the first effected by Amtrak's cutbacks. By now, many of my colleagues have also experienced severe cutbacks, and it is my understanding that Amtrak is planning additional service curtailments for late fall—cuts which will affect virtually every congressional district.

Because of the concern that these actions have generated—both here in Congress and among our constituents—I would like to discuss some of the actions which I have undertaken in attempting to understand the basis for these cut-

backs, and my efforts to restore full Amtrak service in Montana.

Montana has been threatened with cutbacks on her southern route—the North Coast Hiawatha—since its inception. Therefore, I submitted testimony to the House Appropriations Committee's Subcommittee on Transportation when they were considering Amtrak's budget last spring. In this testimony I stated our need in Montana for Amtrak, and I also requested that they be sensitive to our special needs as a rural State with vast distances between towns.

The statement follows:

STATEMENT OF CONGRESSMAN MAX BAUCUS

Mr. CHAIRMAN. I would like to thank you and the members of your subcommittee for providing me with this opportunity to testify on the transportation needs of western Montana

The geographic arrangement of my district makes adequate intercity transportation crucially important. My district spans an area some 250 miles wide and 650 miles in length. In addition, the major population centers within this area are far apart.

AMTRAK

Each year since I arrived in Congress, Montana has had to fight to retain its southern Amtrak route. This route, running from Chicago to Seattle, connects five of my State's major cities, and offers the only rapid intracity transportation between them and many other small towns along the route. It is my hope that, rather than continuing this battle with Amtrak, they will move ahead on their original plans for this route and expand it to daily services rather than continuing it on its present schedule of three runs per week.

In addition, it is my hope that Amtrak will consider operating a new north-south route within Montana. This would serve as an invaluable link between Montana and her neighbors to the south, as all current Amtrak routes within Montana run in an east-west direction.

In short, I am asking that there not be any major curtailments in Amtrak appropriations this year. Rather than cutting back, I see many areas for useful expansion of the rail system.

Amtrak has requested $534 million this year. The Ford budget included $490 million for Amtrak, and President Carter has restored $10 million to that amount. This $500 million represents the amount that Amtrak needs in order to continue operating at its present level. It is my hope that we can remove the possibility of route closures by appropriating a minimum of $500 million as requested by President Carter, and, perhaps, add on a portion of the original request for new routes.

However, Congress proceeded to give Amtrak only $488 million, a $12 million cut from President Carter's request. It was as the result of this shortfall that Amtrak claims it was forced into making severe service reductions.

It came as a great shock to both me and many other Montanans when Amtrak notified us in August of their plans to curtail Montana's service. There had been no public hearing on this matter and no prior notification that cutbacks were being considered. To clear up some of the confusion, I requested Amtrak to explain to us how the decision to cut back in Montana was reached, and what criteria were used. With jobs hanging in the balance, I felt that it was crucial that Amtrak fully explain its actions.

AUGUST 22, 1977.

Mr. PAUL H. REISTRUP,
President, Amtrak,
Washington, D. C.

DEAR MR. REISTRUP: I am writing to strongly protest the Amtrak Board's recent decision to cutback service on both of our two Montana routes. This cutback is an unfair blow to a rural area that depends on rail transportation. I also think the cutback is not economically justified.

It has yet to be shown that reducing the frequency of service will cut costs or increase ridership. We in the West need service that will provide same day return for local visits, and a reduction in service will serve to induce people to seek out other, more convenient modes of transportation. In addition, costs will not decrease in proportion with the decrease in service. Fixed costs will remain the same, and stationmanagers, information operators and maintenance crews will still be needed on a daily basis. Also, with a shortened schedule, the train crews will have to be housed overnight as they await the next train returning them to their home base

In addition, I would like the following information from you:

1) A detailed economic justification for the cutback.

2) A firm date for when the cutback will be ended if cost and ridership figures do not show a major economic advantage.

3) Current cost and ridership figures with your projections of what will be saved if ridership does not suffer, your projections of how ridership will suffer, and what will be saved if ridership suffers according to your projections.

4) A detailed explanation of what social and environmental factors will be taken into account and how they will be weighed into your decision.

I would appreciate your answer as soon as possible, and, in no event, later than the end of this month.

With best personal wishes, I am
Sincerely,

It was not until the cutbacks had gone into effect that Amtrak responded to my request, on September 8.

SEPTEMBER 8, 1977.

Hon. MAX BAUCUS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BAUCUS: Mr. Reistrup has asked me to reply to your letter concerning the reduction of service through Montana.

We anticipate the annual savings from the reduction in frequency on the Empire Builder and the North Coast Hiawatha will total $7.5 million. We do not expect additional housing costs for crews to be significant, as many overnight at one end already.

We have not yet established a firm date for a resumption in frequency on these routes. We will watch ridership patterns and revenue projections along both routes very carefully.

We did not make a study of the social and environmental factors as this was simply a matter of budgetary restraints.

I will have to obtain the answer to your third question from another office and will be back in touch with you on that at a later date.

If I may be of further assistance, please contact me.

Sincerely,

BRUCE PIKE,
Vice President, Government Affairs.

It is appalling that Amtrak stated that it made these cutbacks based wholly upon economic savings and with total disregard of human costs. Since Amtrak would not fully discuss its actions and the types of information they had available to use, it was necessary to call upon them to come before Congress and this committee to provide answers to all of the questions which Members of Congress had concerning the cutbacks, and also to state how much additional funding it would take in order to resume full schedules along all Amtrak routes. This was stated in a letter I wrote to Amtrak on September 14.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 14, 1977.

Mr. BRUCE PIKE,
Vice President for Government Affairs,
Amtrak, Washington, D.C.

DEAR MR. PIKE: Thank you very much for your response to my letter soliciting adequate information on Amtrak's decision to cut drastically back on its Montana routes.

I find it inconceivable that Amtrak could reduce routes in this way for a rural area such as Montana that is so dependent on rail transportation without taking into account any of the social and environmental factors involved in the problem. I also find it difficult to understand how such a decision could be made without immediate access to current cost and ridership figures with your projections of what will be saved if ridership does not suffer, your projections of how ridership will suffer, and what will be saved if ridership suffers according to your projections. It's ridiculous to link projected savings to current ridership levels if, in fact, the cutbacks will in and of themselves produce lessened ridership.

I have two purposes in writing this letter. The first is to urge speedy compliance with my request of August 22nd for these ridership and financial figures and estimates. My second reason for writing is to strongly urge the National Railroad Passenger Board to come before the appropriate committees of Congress to explain your cutback actions in detail. I especially hope that you will be prepared to come before the House Appropriations Subcommittee on Transportation with a complete justification of your actions and a well-documented request for any additional funding you will require to restore these routes immediately. Drastic actions such as you have taken require immediate Congressional oversight. I hope that you will not wait to channel any requests through the Department of Transportation or through the Office of Management and Budget, but will vote to immediately come before us with whatever it takes to restore Montana's service.

I would appreciate an immediate response to my letter, both by responding to me and by taking action to come before Congress to explain what you have done and what you need.

With best personal regards, I am
Sincerely,

MAX BAUCUS.

In addition, I called upon my colleagues whose districts were also affected by the cutbacks on the routes that extend from Chicago, through Montana and on to Seattle, to join me in asking that the Transportation Subcommittee of the Appropriations Committee call a hearing. At this hearing, Amtrak would have to justify their actions, and bring out into the open all of the actions that Amtrak had taken and was planning to take, as the result of the funding shortfall. I was pleased to have so many of my colleagues join me in this successful effort.

Re Amtrak route cutbacks.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 19, 1977.

Hon. JOHN J. MCFALL,
Chairman, House Committee on Appropriations, Subcommittee on Transportation, Washington, D.C.

DEAR MR. CHAIRMAN: Many constituents in our districts are facing severe transportation and economic crises due to the recent reductions along Amtrak routes serving our communities.

Amtrak officials publicly admit that these cuts were made without taking into account any social and environmental factors, and without an established timetable for evaluating and altering these cutbacks once their effects are determined. We simply cannot accept this sort of insensitive government action.

We are seeking your help. It is our hope that your Subcommittee will give prompt consideration to this matter by requiring Amtrak top officials to come before you and justify these cutbacks and detail their future plans for these routes. We also hope that you will seriously consider a supplemental measure which would permit a restoration of full service along all affected routes.

Thank you in advance for your prompt consideration of this most urgent request.

Sincerely,

Mark Andrews, Alvin Baldus, Max Baucus, Donald Fraser, Robert Kastenmeier, Mike McCormack, Joel Pritchard, Arlan Stangeland, John Cunningham, Ron Marlinee, Richard Nolan, Albert Quie, Henry Reuss.

The subcommittee graciously allowed me to sit with them and question Amtrak at its hearing in early October. This hearing proved to be quite an education and served to point out the complex nature of Amtrak's corporate structure, as well as its surprisingly limited accountability to Congress.

Because of the impact that the cuts are having in Montana, I requested that Amtrak president, Mr. Paul Reistrup, meet with me in my office to discuss the Montana situation following the hearing. He agreed, and as we met he consented to my interviewing him on tape, so that all concerned Montanans could have the benefit of his remarks.

AMTRAK TAPE

Hi, this is Max Baucus speaking. I have with me someone in my office who I think is probably on the minds of a lot of us in Montana—this is, Mr. Paul Reistrup, who is Chief Executive Officer with Amtrak. A lot of us in Montana, of course, are concerned about the recent cutbacks in Amtrak service through Montana from the daily service to, in some instances, four days a week and on another route, three days a week service. I'm going to be asking some questions and Mr. Reistrup's going to be answering them. We're going to have a discussion here, and we'll just take it from there.

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MAX. I suppose, Mr. Reistrup, the bottom line question that all of us are asking in Montana is when can we get daily service restored in both the Northern and Southern routes in Montana?

PAUL. Well, we hope, Congressman, by next summer. This will be, of course, with totally new equipment by that time, even with the slippage in delivery. The question is dollars. We need dollars to do that. Amtrak is here to run trains, and we want to run them, but it costs money to do so.

MAX. So, as I understand it, then, you're before the Congress these weeks asking for a supplemental of approximately $56 million, is that correct?

PAUL. Yes.

MAX. And if Congress grants that supplemental of $56 million, in addition to the regular Amtrak budget which, I think for '78 is about $488 million, is that correct?

PAUL. Yes.

MAX. So, if we grant that supplemental increase, then we can expect service to be restored in Montana as well as other parts of the country, is that correct?

PAUL. Yes.

MAX. But it depends upon the $56 million?

PAUL. There would be very, very few operations that would not be fully restored, and those really are unnecessary trains that in the northeast today are only five minutes apart.

MAX. There is no way, then, that we could get a restoration of service before next summer with the supplemental, is there?

PAUL. If we did get the total supplemental, we probably could restore service by Easter time or perhaps at least April on the Northern route, the one through Havre, Montana. The Southern route has traditionally been tri-weekly off season and would not go to daily until summertime.

MAX. I see. But we could at least get the Northern restored to daily service with the supplemental increase of $56 million by next late winter, early spring?

PAUL. Well, let's say springtime because it really depends on the delivery of the new equipment. Once we start putting in the new trains, we want to have all of the trains (being used?).

MAX. Now, why do we need new equipment? What new equipment are you talking about?

PAUL. The new equipment are the so-called "Superliners." They are bi-level cars that are coming from the Pullman Company. The first new sleeping cars in over twenty years and they have electric heat . . .

MAX. Right now we have steam heat, is that right?

PAUL. Yes, and very unreliable. Those cars, some of them dating back forty years, are becoming really risky to operate in very cold climates.

MAX. What about other considerations? A lot of us in Montana understand that sometimes you have to make certain cuts because of economics; that is, sometimes an operation isn't as profitable as we'd like it to be. But in Montana, as in other parts of the West, we have vast distances with virtually no other transportation—airline service, for example, or bus service. Why isn't that a reason that we should continue daily service in Montana?

PAUL. Well, it is a factor, and really, the driving issue behind this change was to prevent the operation of steam which has become a very high risk and unreliable during the cold weather period. I might point out that the Western United States has had about a nine percent cut in train miles, including Montana. The very highly populated areas in the Northeast went a lot higher than that—fifteen percent average, and one line went as high as twenty-eight percent.

MAX. I see. Then what you're saying is you're telling all of us from Montana to write their Congressmen and Senators to get the money. You say that the bottom line is money. That's what it comes down to.

PAUL. Well, we would really rather see you on the trains because if we bring in the revenue, then we don't need as much money from Congress. But Congressional support is needed in this case.

MAX. A lot of Montanans, though, say sometimes the trains are not as clean as they should be. Do you run into that at all because I run into an awful lot of that when I talk to Montanans. During the August recess, in particular. One lady told me she got on in Havre and the ashtray was all over her seat. She got off in Minneapolis. Three or four days later she got back on the train to go back to Havre and she figured out she was in the same seat—the ashes hadn't been cleaned up! That's why people say they don't ride Amtrak.

PAUL. Well, I hope those were new ashes. I must say that a lot of this is due to losing trains. Anytime there is a thought of losing a train, we become a whipping boy. My rides out there have shown that those trains are some of the best in the country. I would rate them at the very, very top.

MAX. Well, I hope we can continue cleaning them up because you're right—the more people that ride the trains, the better. It's a two-way street, obviously. The better service that's provided, the more likely people will ride trains. It's just that simple.

PAUL. Yes.

MAX. Unfortunately our time is up. This is Max Baucus speaking with Mr. Paul Reistrup from Amtrak. We're trying to restore Amtrak service in Montana to daily service. Thanks a lot, Mr. Reistrup, and I hope next time we talk, we'll see trains running daily. Thanks an awful lot.

PAUL. Good to be with you.

The growing uproar over the method in which Amtrak made its specific cutback decisions prompted its authorizing committee to investigate the possibility that Amtrak needs stricter regulations governing cutback procedures. The Subcommittee on Transportation and Commerce of the Committee on Interstate and Foreign Commerce held such a hearing on October 13. It is the job of this subcommittee to draft legislation stating the guidelines under which Amtrak must operate.

The specific focus of this hearing was to scrutinize the criteria Amtrak used in making the cutbacks, with an eye toward drafting legislation which would include clear guidelines regarding service curtailments—guidelines which Amtrak would have to follow whenever they considered such action. This was a good opportunity for me to share with the subcommittee the results of my attempts to get to the bottom of Amtrak's actions in Montana.

REMARKS BY CONGRESSMAN MAX BAUCUS

Mr. Chairman, I would like to thank you for permitting me to appear before you today. I would also especially like to thank this subcommittee for their attempt to get to the root of the problems which Amtrak currently faces.

As a relative newcomer in dealing head on with Amtrak, I must confess that, quite frankly, I am appalled by the manner in which Amtrak handled its recent budgetary crisis.

It is the inconsistencies involved with the recent cutbacks—and the lack of my formalized manner of dealing with frequency reductions—which are my main concerns.

To cut routes frequency almost across the board is not ever consistent with President Reistrup's philosophy of how to run trains that make money. He has made no secret of his opposition to frequency reductions. And yet, rather than developing alternative procedure which would require this action only on a minimal basis in the face of economic cutbacks, we see Amtrak making across-the-board frequency reductions on all long distance trains. I am confused.

On August 22, I wrote to Mr. Reistrup and requested information about the basis on which service to my state was to be cut almost in half. I requested:

(1) A detailed economic justification for the cutback.

(2) A firm date for when the cutback will be ended if cost and ridership figures do not show a major economic advantage.

(3) Current cost and ridership figures with your projections of what will be saved if ridership does not suffer, your projections of how ridership will suffer, and what will be saved if ridership suffers according to your projections.

(4) A detailed explanation of what social and environmental factors will be taken into account and how they will be weighed into your decision.

I was dismayed by the response. On September 8, Amtrak replied with the following:

"We anticipate the annual savings from the reduction in frequency on the Empire Builder and the North Coast Hiawatha will cost $7.5 million. We do not expect additional housing costs for crews to be significant, as many overnight at one end already.

"We have not yet established a firm date for a resumption in frequency on these routes. We will watch ridership patterns and revenue projections along both routes very carefully.

"We did not make a study of the social and environmental factors as this was simply a matter of budgetary restraints.

"I will have to obtain the answer to your third question (ridership figures and projections) from another office and will be back in touch with you on that at a later date."

I further questioned Amtrak's reasons when they appeared before the Transportation Subcommittee of the Appropriations Committee. My main concern was that Amtrak had failed to figure in the human and social costs of reducing service in areas with almost no transportation alternatives. Amtrak again stated that the cuts were based purely on economic savings.

During that same meeting, Mr. Reistrup stated that 60 percent of the reason he sought the cuts along the Montana routes was because our new equipment had not yet arrived, and that he would not continue to operate older equipment during our harsh winters. Does this mean that our routes would have cut back regardless of Amtrak's economic problems? Again, I am confused.

Amtrak has established that Route and Service Criteria do not pertain to frequency reductions. I feel that it is now time that we in Congress either determine that they do apply, or develop a separate set of criteria for frequency reductions.

Congress has not met with much success in creating quasi-private institutions. Amtrak certainly does not come across as a shining example of how government sponsored corporations become profitable and operate without federal support, and I certainly see the need for new Congressional instructions for Amtrak.

I would like to thank Mr. Santini, who spoke yesterday on the need for a national transportation policy. I fully agree, and truly hope that passenger rail service can be a viable component of such a plan.

My constituents need Amtrak, but they also need consistent justifications concerning any changes in their Amtrak service. It is my hope that this subcommittee will take steps to insure consistency and accountability.

Thank you Mr. Chairman.

In early October it became clear that the Transportation Appropriations Subcommittee was not going to take up a measure for supplemental funding for Amtrak—funding which would restore service on routes which were recently cut back. The committee did not intend to provide Amtrak with the opportunity to come before the subcommittee and attempt to justify its request for an additional $56 million.

Fortunately, some of my colleagues were as upset as I was over the severe impact of Amtrak cutbacks. Our constituents deserve to have their questions answered, and to have the facts set straight regarding the wisdom of supplemental funds. Following an unusual course of action, a small group of my colleagues serving on the Rules Committee and I were successful in insuring full-scale hearings by the Transportation subcommittee. The Rules Committee threatened to hold up a large, multi-billion dollar supplemental appropriations bill if hearings were not guaranteed. I was the only member of the Appropriations Committee to publicly support this uncommon action by the Rules Committee. We prevailed in our efforts to obtain a guarantee for a hearing, and this hearing was held October 26.

STATEMENT OF CONGRESSMAN MAX BAUCUS

Mr. Chairman, thank you for allowing me to appear before your subcommittee today as you consider a matter of great importance to my fellow Montanans—the question of supplemental funds for Amtrak. Most of you are already aware of my keen interest in this matter, and I will try to make my remarks as brief as possible.

Amtrak cut service to Montana by nearly 50% during the first week of September as the result of inadequate appropriations. This has created a serious transportation crisis in my district.

While it remains to be seen whether Amtrak will be given the additional funds that it is requesting, I do know that Montanans need dependable, regular service connecting their towns. Anything less than daily service will not serve the needs of Montanans who use the trains in order to conduct business and return home the same day. It does not serve the needs of retailers who depend on daily shipments and ready access to our train stations during business hours. And it does not serve the needs of the long distance pleasure travellers who have to fight with a confusing schedule in order to plan their outings. All of this causes economic harm to Montana—in addition to the jobs that were lost as a direct result of the cutbacks.

I am not advocating unlimited funds for Amtrak. While I remain convinced that daily service is a necessity for my district, I realize that there are many perplexing questions which must be confronted when investigating Amtrak. While we consdier this short-term funding, we should also be looking beyond this immediate crisis and developing suggestions for changes which will make Amtrak more responsive to the needs of our citizens, and also more accountable to those who are paying their bills—the American taxpayer.

Amtrak comes before you today requesting $56 million, an amount which would bring them up to their full authorization. I realize that there are those who did not wish to further debate the question of supplemental funding for Amtrak, as Amtrak has become increasingly expensive, and we have some hard decisions to make regarding Amtrak's future.

The Transportation and Commerce Subcommittee of the Interstate and Foreign Commerce Committee held hearings a few weeks ago with an eye towards drafting legislation which will clarify Congressional intent with regard to use of Route and Service Criteria, and possibly including new, more explicit criteria which Amtrak will have to follow in making frequent reductions. I commend that Subcommittee for its actions, and hope to see the conclusions which were reached during the hearing take the form of legislation early next session.

In the meantime, the real losers in the recent rounds of Amtrak cutbacks are our citizens back home. They are the ones who must bear the burden of service cutbacks which were made purely on an across-the-board economic savings basis. Even with future Congressional instructions to Amtrak on cutbacks, without the $56 million to restore full service, I am not convinced that we will be able to insure that those routes currently affected by cutbacks will ever recover or be given a re-examination in light of the new criteria.

Yet we all know that it is not simply a matter of appropriating $56 million. We need to know what steps Amtrak has taken to develop for itself a better system for dealing with service reductions. We need to know what steps Amtrak is taking to evaluate the effects of the cutbacks. And we need to know what kind of guarantee the Amtrak Board will give us as to how these funds will be spent.

As a member of the Appropriations Committee, I will be paying close attention to your hearings today. As you focus your attention on Amtrak, I hope that you will also be mindful of the people we represent—whose lives have been disrupted by the cutbacks and who may never again see the rail transportation they need.

Thank you.

The battle for adequate rail service for our citizens is far from over, and I will continue to keep abreast of all new developments. I hope that the result of all of the discussion surrounding the Amtrak question will result in an efficient rail system that meets the needs of our citizens. In the meantime, I would like to thank all of my constituents who have supported me in my efforts, and who, like myself, have been unwilling to give up their hopes for a resumption of rail service in the very near future.

THE POST HAS SEEN THE LIGHT—DIMLY

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, it is unbelievable. The Washington Post has seen the light, dimly. The Post, staunch defender of the left, arch foe of conservatism, except for selling ads to free enterprise firms, has come out against sanctions in South Africa. Not only has the liberal Post declared against sanctions, but it has done so in a way that makes a lot of sense. It is doubtful that this type of editorial, in direct opposition to the pronouncements of Ambassador Andy Young, will be taken seriously in the United Nations. The U.N. with its overwhelming majority of have-not nations, would like to see South Africa dismembered, hung, drawn, and quartered, and the United States, too, for that matter. We are tolerated there only for our largesse. It is a good editorial. It should be reprinted in the CONGRESSIONAL RECORD and I submit it for that purpose.

SANCTIONS AGAINST SOUTH AFRICA?

For the administration, the question of whether the United States should join the United Nations' cry for economic sanctions, or penalties, against South Africa for its latest political atrocities is an exercise in the diplomatic math. Having linked relations with South Africa to Pretoria's domestic policies, the United States can't *not* react with-

out losing credibility at home, in black Africa and in Pretoria. To overreact, however, could diminish South Africa's necessary cooperation in the Rhodesia and Namibia crises and put its government into an even more perverse and embattled mood. The administration must also void taking a stance so far in front of general public opinion—which remains, we believe, ambivalent—that Pretoria will be able to exploit the gap.

We don't like sanctions. This has nothing to do with favoring apartheid. It has to do with the conviction that sanctions are a poor and possibly self-defeating tool to use against a system so powerfully entrenched. Only if sanctions were intensified close to the point of a declaration of war would they likely do more than embitter and solidify most whites. How will the international community care for the vulnerable blacks inside South Africa—and also outside, in Botswana, for example, or Lesotho—who would be the first and principal victims? To start down the sanctions road is not what a responsible government ought to do just to satisfy its outrage or to keep up with the international Joneses. The effect on the people meant to be moved and helped is the first thing to keep in mind.

South Africa is no banana republic in which, if Washington chose, it could blow the system down. It resembles the Soviet Union in the sense that its white rulers are fiercely nationalistic and clannish and tend to respond by defiance to excessive outside pressure. South Africa has large stockpiles of the things that might be cut off by sanctions. It has devoted years, and its considerable wealth and ingenuity, to devising ways to render itself relatively immune. Among the ruling whites, under the manipulation of their chosen leaders, sanctions would doubtless heighten morale and the spirit of common sacrifice, rather as they have in neighboring Rhodesia, which, with a sixteenth as many whites, has survived and even prospered under *total* sanctions for a dozen years. What finally brought Ian Smith to the bargaining table was not sanctions but guerrillas.

Many Americans may not wish to be told their government, even in conjunction with other Western governments (which are even more economically dependent upon economic ties with South Africa) and with Third World governments (many of whom will continue to trade with Pretoria even as they vote sanctions), cannot itself undo apartheid. But the beginning of wisdom here is an awareness of the United States' own limitations. The feasible and effective steps the United States can take to end the system must necessarily be small compared both with the steps that the nonwhites of South Africa will take anyway and with the steps that self-interest may ultimately lead the whites to take themselves.

RECYCLING EFFLUENT ON LAND IS EFFECTIVE

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, an article appeared in the Washington Post on October 13, 1977, stating EPA's plans to implement a major policy to recycle effluent on land. For years, EPA has promoted expensive, elaborate treatment facilities for effluent before it is discharged into our Nation's waters. Under the land effluent treatment, partially treated effluent would be sprayed onto fields where it would be used to provide nutrients for crops.

EPA Administrator Costle has stated:

. . . The utilization of land-treatment systems has the potential for saving billions of dollars. This will benefit not only the nationwide water pollution control program, but will also provide an additional mechanism for the recovery and recycling of waste water as a resource.

Now that the land-treatment operation is getting a big push from EPA, I would like to share with my colleagues an article that demonstrates how such a treatment project has had proven success at American Cyanamid's fibers plant in Pensacola, Fla.:

SANTA ROSA'S "BIG GUNS" SHOOT WASTE AND FEED FLOURISHING BAYSIDE FOREST

PENSACOLA, FLA.—On the shores of Escambia Bay in Florida's Panhandle, an infant forest of pine trees is flourishing. Now, there's nothing odd about pine trees growing on the shoreline of a bay—except when they're being cultivated on an industrial plant site to eliminate a pollution problem.

The plant is Cyanamid's Santa Rosa fibers facility. The idea of using the plant's industrial waste as a pine tree nutrient grew out of the need to improve the quality of the waters of Escambia Bay, which was being seriously threatened by pollution from a number of firms. In 1970, Cyanamid initiated a program to reduce the carbon and nitrogen content of its water effluent. Although the systems designed to deal with the problem cut down on the carbon content of the effluent, it proved to be more difficult to remove the nitrogen from the waste water.

Santa Rosa's environmental staff and consultants came up with the perfect solution for the remaining discharge: instead of trying to reduce the nitrogen in the waste water, why not use it to irrigate and provide nutrient for a crop?

Botanists and foresters who were consulted on the project suggested using conventional slash pine trees because they grow well in sandy soil and thrive on the moisture and nutrients that would be provided by the treated waste water. The method chosen to dispose of the waste water and fertilize the trees was spray irrigation, a concept developed about ten years ago and utilized by a few organizations as a convenient means of disposing of waste water. The technique involves the use of large "Big Gun" sprinklers to distribute the nutrient and water among the trees.

Last December, 70 acres of the plant's 1,840-acre site were cleared to make room for the trees. In addition to solving an environmental problem, the project had additional benefits. Because of temporary production cutbacks at the plant, 15 employees who would have been laid off for a brief period were kept on the payroll by spending three weeks working full-time to plant 75,000 pine seedlings.

According to plant manager Fred Nagy, the results of the experiment have been excellent. "We planted a test crop of 5,000 seedlings that don't receive the waste water. They're six inches high but the other 70,000 that receive the nutrient are about 12 inches high and thriving."

Since March approximately 13 percent of the plant's waste water has been sprayed onto the trees, but if the experiment succeeds—and Nagy has no reason to doubt it will—part of the remaining 1770 acres can be planted to further reduce the plant's waste water.

The crowning touch to this clever bit of good old American ingenuity is that the trees just happen to be ideal for making pulp wood paper. So as the seedlings mature—which should take considerably less time than it does for trees treated in the conventional manner—they will be selectively harvested and sold to paper companies.

The forest may not be ideal for picnicking, admitted Nagy, since the soil is wet and sandy, but "we're really proud of how the trees are doing." The plant will have the opportunity to show off its pet project early this fall, when the public will be invited in to see how one local company is solving a ticklish pollution problem.

GETTING YOUR MAN

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, in Time magazine, October 17, 1977, an editorial entitled "Getting Your Man" is provocative and penetrating. It is by Thomas Griffith in the column entitled Newswatch. I feel that it should be reproduced in the CONGRESSIONAL RECORD and I submit it for that purpose.

GETTING YOUR MAN

Bert Lance is back in Georgia and no longer a threat to the republic, so it should be possible to discuss more coolly how the press treated him. The press has already delivered its own verdict, conceding only that maybe there were a few excesses on its part (TIME, Sept. 19). But since Lance turned out to be guilty of shoddy banking practices, newshounds were not barking up the wrong tree, were they? Jimmy Carter, who hopes to live in wary peace with the press, has resisted all invitations at news conferences to accuse reporters of having driven Lance out of Washington. So all's well that—for the press—ended well? Not exactly. An NBC poll last week reported that 59 percent of the public thought Lance should have quit, yet by 45 percent to 42 percent they concluded that Lance was indeed harassed from office by the press. There is still something to be said about the means that were used.

The end did not justify the New York *Times*, which, having been slow out of the starting gate on Watergate, gave the front-page spotlight to Lance even on days when there was no story about him that deserved such treatment. There is a difference between pursuing the facts and going after a man. The end also did not ennoble William Safire, the Nixon speechwriter turned columnist who seeks to establish—with the repetitious use of labels like Lancegate—that all politicians are as shabby as Nixon. Cheap-shot comparisons are an old and dubious journalistic device: as if two people who share one trait can be said to share them all. *New York* magazine got in a worse cheap shot by egregiously referring to Lance as Carter's Bebe Rebozo.

Yet one has to hand it to Safire, who often sportingly supplies the antidote to his own poison. On a trip to London he reported that "the average Briton" was horrified by the Lance affair: "Once again the American press seems to be engaged in 'breaking' a President . . . So I tell my British friends that the real stability of American government is in our public sense of constitutional morality, and that the press is doing the Carter presidency a favor," etc. Safire, however, then prints the reply of an English friend: "I would be more inclined to believe you if you chaps didn't seem to relish it so."

One of the journalistic inflations of the story was the frequent and foolish assertion that Lance held the "second most important post in government." If this be so, does anyone believe that one American in 20 could name the previous occupant?

Television coverage too had much to answer for. It only bore witness to, it did not instigate, Senator Percy's nasty innuendos about tax evasion by Lance, and Percy's subsequent smarmy retraction. Moreover, TV's

steady eye on the hearings produced what no amount of print reporting could do: a dramatic switch of public sympathy to Lance, who, despite the damaging admissions he had to make, carried himself more impressively under relentless scrutiny than any other congressional witness within memory.

In its own reporting, however, television was guilty of cruel but not unusual punishment. Scenting the kill, TV camera crews laid daily siege to Lance as he left his home in the morning or his office at night. A small army of pushy reporters thrust long microphone rods into his face and asked the most impertinent questions, hoping to elicit an off-guard response. This is a drumhead trial, and few of those who are subjected to such a process escape unscathed. A print reporter who finds a rumor to be unfounded usually does not refer to it in print; but a television reporter's unverified insinuation, heard on-camera, lingers in the audience's ear. The scene recalls the notorious "ratissage," or rat hunt, of the French army in Algeria, in which captured guerrillas had to run a gauntlet of soldiers wielding rifle butts.

But television's treatment of Lance even more closely resembled those familiar scenes on local news shows where a rape or murder suspect is brought to police headquarters, ducking his way through a mob of hectoring reporters. Those nightly scenes illustrate television's show-biz fascination with action, drama and sadism.

By putting Bert Lance through the twice-daily gauntlet of shoving reporters, the press might say in its own defense that each newsman was only responding to competitive pressures for a new picture, a new quote. Nothing personal, you understand: we do it to everybody who gets in a jam. But this tumultuous, superficial "reporting," which is about all the public ever sees of reporting, gives all journalism a bad name. And these are matters to keep in mind, even though Lance was right to quit, Carter was wrong in defending him, and it was Lance's own failure to justify his past conduct, and not harassment by the press, that really brought him down.

HEALTH MAINTENANCE ORGANIZATION AMENDMENTS OF 1977

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, our ever worsening health care crisis has now reached disastrous levels. Current projections have total health care expenditures in this country over $220 billion by 1981. Less than 5 years ago, in cosponsoring the Health Security Act, I expressed concern that the figure had then exceeded $80 billion. Health care inflation is an issue which cannot escape notice. It is a threat to our efforts to assure all Americans of good medical care.

The tragic victims of this crisis are those without health insurance or those with very little coverage, the poor and of course, the elderly. I was distressed to hear the recent announcement of increased out-of-pocket payments under the medicare program that will go into effect January 1, 1978 unless Congress enacts my bill to hold the increases off an additional 6 months.

These increases mean further burdens and hardship for those who can least afford them—those who live on fixed incomes and those who are most susceptible to expensive illness. It is a sad irony when the health care plight of the elderly approaches the state that existed before medicare. The same situation is true for the medicaid recipients faced with ever-increasing out-of-pocket payments they cannot afford.

It is clear, Mr. Speaker, that the enactment of a realistic and effective health program which will guarantee equal access to health care for all Americans is going to be a difficult and arduous task. We are fortunate that the administration is moving rapidly to draft a bill for submission to the Congress next year. President Carter's strong sentiments for a national health program are an essential element, and I am sure we will see a good program within the next few years.

In the meantime, the poor and the elderly suffer the catastrophic costs of health care unless this Congress acts. There is something we can do now, something which will not mean huge outlays of money but will afford some economic relief to those in need and still afford medical care of the highest quality. We can and should assure the elderly and the poor of unfettered access to health maintenance organizations.

We should all be familiar with the proven advantages of HMO's. They offer comprehensive medical benefits, economic efficiency and require only nominal premiums. Through an emphasis on preventive and out-patient services, they are able to significantly reduce hospital utilization and channel the savings into broader services. The success of the large prototype HMO's—Kaiser Foundation Health Plan, Health Insurance Plan of Greater New York, Group Health Cooperative of Puget Sound, Group Health Association, Inc. in Washington, D.C.—led to the formulation of a national HMO effort. The Health Maintenance Organization Act of 1973, Public Law 93-222, was the result of this effort.

Since the passage of the HMO Act in the 93d Congress, the program has been fraught with problems. Delays in the issuance of regulations, uncertainty in administration and inadequate funding have been major problems, but the principal difficulty has been the unworkable law itself. Many of the restrictions of the 1973 Act were corrected by the amendments adopted in the 94th Congress.

I have been encouraged by recent developments. Final regulations for the amendments have been drafted and will soon be published. The Carter administration has undertaken a new initiative on HMO's, and enthusiasm for the program has been revived. I firmly believe that HMO's will become a nationally recognized and utilized health care system in the next 5 years.

Today over 6 million people receive health care through over 180 HMO's. This number will surely grow. It is our task to see to it that the poor and the elderly have every opportunity to participate in the benefits of this growth. They must be given fair access to that growth.

The bill I am introducing today, the Health Maintenance Organization Amendments of 1977, is designed to expedite the orderly growth of HMO's with a commensurate enrollment of medicare and medicaid beneficiaries.

Present law on HMO membership for medicare beneficiaries is inadequate. My bill calls for a reimbursement system for HMO's more closely related to prevailing HMO practices. In this way, HMO's will be able to realize almost the full benefit of their hospital utilization savings. They can provide medicare eligibles services in addition to those provided under the present reimbursement formulas in which HMO's must either share the savings with the Government or are reimbursed only for their costs and not for their efficiency. Under my proposal, an HMO will be paid on a prospective basis 95 percent of the costs of rendering the part A and B services in the community. In addition to the obvious 5 percent saving to the Government, the HMO will be required to use its savings for the provision of additional benefits for medicare members, or the reduction of premium rates charged to those enrollees. These additional benefits should appropriately include home health care, elderly day health care, and other services which can help to prevent institutionalization of older citizens. This provision can reduce, to a great extent, the out-of-pocket costs to the medicare member and encourage the enrollment of more medicare beneficiaries.

The law now requires that at least one-half of HMO membership be nonmedicare or medicaid. This denies HMO membership to many medicare eligibles and may well stultify HMO growth in areas which are heavily populated by the poor or the elderly. My bill would permit the Secretary of HEW to waive this requirement where an HMO proposes to serve an area where there is a high concentration of elderly or poor citizens and where, under current requirements, the HMO could not adequately serve the population of that area.

Many States do not contract with HMO's for medicaid benefits. My proposed legislation would remedy this unfair exclusion of medicaid eligibles by requiring States to offer the option of membership in qualified HMO's with a negotiated prepaid risk contract.

Mr. Speaker, these amendments would have caused some concern a few years ago. Those of us who followed the scandalous conduct of some prepaid health plans in recent years were quite anxious to curb such nefarious activities. I emphasize that no prepaid group practice and no qualified HMO was involved in these abuses. Indeed, the limitations in present law were designed to prevent any such activities by federally qualified HMO's. Now, however, the Congress and the administration have acted to prevent the recurrence of these situations and we can be confident of the ability of HMO's to be run honestly and efficiently. The new HMO regulations will have strong financial and reporting controls along with a disqualification power in the Secretary. The new Inspector General of HEW is empowered to investigate and seek appropriate corrective action in the area of medicaid fraud and abuse. Congress has passed and the President has signed the medicare-medicaid anti-

fraud and abuse amendments. The role of the General Accounting Office, proven effective, cannot be discounted. Now that these safeguards are in place, there is no reason to hesitate in encouraging membership in HMO's by the poor and the elderly.

A further provision of my bill seeks to encourage the growth of HMO's by providing grants to assist HMO's, or entities which intend to become HMO's, in meeting the cost of construction of facilities for ambulatory services, or portions of facilities for ambulatory services to be used for the provision of health services to members who reside in medically underserved areas.

Moreover, the bill includes authority for a loan program to assist in the construction of facilities. These loans would not exceed 90 percent of construction costs, and the total amount received under both the loan and grant programs is not to exceed $2.5 million. The bill authorizes an initial appropriation to establish a revolving fund to carry out the loan program established by the bill.

An additional provision of my bill, Mr. Speaker, seeks to expand on the concept embodied in section 1311 of the current law, which deals with restrictive State laws and practices. One of the major problems in establishing HMO's is that States often treat them as if they were insurance entities. HMO's do not offer insurance policies; they contract for guaranteed care directly with their subscribers. Therefore, it is not necessary to have restrictive State laws beyond those which are necessary for general laws of incorporation, or building codes. Section 6 of my proposed bill therefore provides that the HMO law supersede State laws which relate to federally qualified health maintenance organizations or entities for which a grant, contract, loan, or loan guarantee was made under the HMO law. This provision does not apply to applicable criminal laws, general incorporation laws or building codes of the States.

Finally, Mr. Speaker, my bill would amend the Internal Revenue Code to grant nonprofit HMO's tax-exempt status under section 501(c)(3). Several of the old line prepaid group practice prototypes already have this tax-exempt status. This is done on the theory that HMO's, with their dramatic savings in hospital utilization, are performing the same functions as a hospital, on an outpatient basis. This tax treatment will make them eligible to receive tax-exempt donations. It will also enable them to attract physicians through the deferred compensation arrangements permitted under the code. Such tax status for nonprofit, federally qualified HMO's will further the congressional purpose of making HMO's a national alternative to the fee-for-service system.

Mr. Speaker, I believe this legislation can help to make available to our citizens a high quality of health care at lower cost both to individuals and to the Government. It can reduce unnecessary utilization of the costliest forms of health care and, at the same time, encourage those citizens who ordinarily would not see a physician regularly to do so.

In my own district, we have seen evidence of the success of this concept. Cuban refugees to our shores brought with them the tradition of "Centros Beneficos," which started out as institutions providing both inpatient and outpatient health care and later expanded to include recreational and educational activities, as well. The "Centros" were the forerunners of the modern HMO.

It is my hope that the Congress will act expeditiously to bring the benefits of economically efficient, available health care to all our people.

CIVIL AERONAUTICS BOARD: THE PROFIT IMPACT TEST AND MARGINAL COSTS

(Mr. MOSS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MOSS. Mr. Speaker, 8 years ago, in 1969, several of my colleagues and I, constituting the group commonly referred to by the airline industry as the "Members of Congress," filed two complaints with the Civil Aeronautics Board which led to the institution of a proceeding known as the domestic passenger fare investigation. See the CONGRESSIONAL RECORD for April 23, 1969, pages 10120–10134, and September 29, 1969, pages 27403–27457.

In these two complaints, and the subsequent proceeding to which we were made a party of record, we requested the Board to establish "load factor" and "dilution" standards to protect the fare-paying public—in particular, the passenger paying the regular full fare—from being charged excessively high fares because of uneconomical or inefficient air carrier operations.

The term "load factor" refers to the percentage of seats offered for sale actually occupied by fare-paying passengers, and "dilution" occurs when passengers occupying those seats use discount fares rather than the regular full fare. To illustrate, if there are 100 seats on an airplane and 60 of those seats are occupied by fare-paying passengers, then the load factor is 60 percent. If there were 50 passengers on the plane, the load factor would be 50 percent, and so on.

The importance of this load factor figure lies in the fact that most airline costs are "capacity costs," and therefore do not vary with the volume of traffic actually transported. As a consequence, the lower the load factor, the greater the cost of service which must be borne by each passenger. For example, if the cost per seat for a given trip is $100, and the load factor is 50 percent, then each passenger must pay $200 per flight if the airline is to be fully reimbursed for rendering its service. On the other hand, if the load factor were 60 percent, then each passenger would only have to pay $166.67 per flight—or $33.33 less—for the same service to similarly fully reimburse the airline.

Naturally, it is to the public's advantage to achieve as high a load factor as possible since this will not only reduce the cost and fare per passenger, but also the amount of fuel consumed. However, it is not always possible to fill planes with passengers paying the regular, full fare since some travelers are more price sensitive than others. Consequently, the airlines frequently offer discount-fares to encourage passengers to use their services and fill otherwise empty seats.

For example, an airline may discover it is only able to find 50 passengers per flight willing to travel at its regular, full fare, but that if it offers a discount of 20 percent, 10 more passengers will show up for each flight. Thus it may establish a regular, full fare of $173, and a discount-fare of $138, to achieve a 60-percent load factor. Such a policy is, of course, to be encouraged since it reduces the regular, full fare, some 13.5 percent in this case—from $200 to $173, as well as the amount of fuel consumed per passenger. However, it should be noted that: First, the discount fares paid by the 10 passengers using those fares will dilute the revenue that would have been received if all passengers had paid the regular, full fare by 3.4 percent, and second, if more than 10 passengers use the discount fares, the dilution will be greater—and if the dilution is greater, then the regular, full fare will have to be higher than $173 per trip if the airline is to be fully reimbursed for rendering its service to the public.

Thus, Mr. Speaker, I believe you and our colleagues can clearly see that these two standards are interrelated, and that any "load factor" standard must be accompanied by a "dilution" standard if passengers paying the regular, full fare are to be protected from uneconomical and inefficient air carrier operations.

In the domestic passenger fare investigation my colleagues and I recommended the adoption of a 60-percent load factor standard and a dilution rate not in excess of 10 to 12 percent for the reasons previously set forth in the RECORD for June 30, 1972, at pages 23847–23851. The CAB, however, rejected our proposal deciding instead to determine regular, full fares on a formula basis that utilized a 55-percent load factor and assumed the discount fares are not part of the fare structure. Since this combination of a 55-percent load factor and a zero dilution rate will produce a fare about 1.8 percent lower than the targeted goal of our recommendation, my colleagues and I naturally deferred to the enlightened judgment of the Board with respect to these two standards. One might say we chose to languish in the fruits of the victory arising from the agony of our two defeats.

There is another part of the discount fare question. It deals with the issue of the added, or "incremental," costs associated with handling discount fare traffic. On this issue we did not acquiesce.

In its 1972 order on discount fares the Board stated it would, first, evaluate all proposed discount fares under the profit-impact test, and second, fix the level of regular, full fares on the basis of the revenues which would be realized and the expenses which would be incurred in the absence of the promotional fares; CAB order 72–12–18, pages 54 and 55. To satisfy the profit-impact test, discount fares must generate sufficient additional traffic revenues to offset the loss of revenue

from the self-diversion of regular, full fare traffic to the lower discount fares plus the added cost of carrying the additional traffic; ibid., page 16. This test is predicated upon the assumption that discount traffic does not affect capacity.

Unfortunately for the traveling public and stockholders of the airlines, the costing estimates of the air carriers were not particularly helpful to the Board in determining the appropriate added cost for the purpose of calculating its profit impact test. As a consequence, the Board decided to estimate the added cost on a "market-price" basis of 30 percent of revenues from generated passengers.

I must interject that my colleagues and I had also urged the agency to adopt the market-price method for allocating discount fare expenses. The Board, however, refused to consider that proposal in a very lengthy footnote, number 27, stating it did not agree with our characterization of those expenses as joint or common costs. Oh, the agony of another defeat.

The reason the Board chose the 30-percent figure to represent added costs is because that number approximates the relationship which its so-called "non-capacity expenses" bear to total revenues, and the CAB considers such costs—which comprise primarily terminal expenses—to be traffic-related. In the Board's view, "traffic-related costs, as opposed to capacity costs, will tend to fluctuate in proportion to traffic changes even during the short-term period as defined herein. Such costs are characterized by a high proportion of labor and other variable costs, on the one hand, and relatively low-fixed costs on the other."

It is upon this latter point which I and my colleagues most emphatically disagree with the Board. While it is true that labor costs constitute the largest proportion of ground handling expenses, it is likewise a fact, as anyone who has passed through an airline terminal several times has observed, that the number of station employees on-duty does not tend to fluctuate in proportion to traffic changes in the short-run.

Indeed, Mr. Speaker, the station managers and industrial engineers of the airlines tell us that such labor does not even vary with traffic in the long-run unless a flight arrival or departure is discontinued at the peak period, or the airline management reduces the service standards, because they must staff for the capacity provided at the peak periods regardless of the total traffic flow. The best that can be said for the Board's position that its noncapacity expenses are traffic-related is, therefore, that the thesis is inaccurate and misleading.

I might add, one of the main reasons we have fought this hypothesis so tenaciously is because of its ability to contaminate and corrupt other theses. For example, just last month the Board used non-capacity expenses as a proxy for short-run marginal costs in disapproving lower advance purchase excursion fares between New York and London; CAB order 77-9-55. Fortunately for the public, the President saw through the ruse and approved the fares.

Setting aside the question of the validity of the Board's proposition to another day, the fact remains that the cost portion of the Board's profit impact test is predicated on its noncapacity expenses. That is their test of lawfulness—not our test, or the test of any other reasonable man, but the Board's test of just and reasonable. Accordingly, taking into consideration the fact that the Board has had complete and total control over its computer program, the making of its nonvariable, and the identification of all additional revenues and added costs associated with discount fares, it does not seem unreasonable or unfair to use the Board's own orders to test the impact of its past actions.

At the time of the discount fare decision in the domestic passenger fare investigation the Board did not establish any methodology for adjusting the fare level to account for excessive use of discount fares. Instead, it stated it would institute a rulemaking procedure for effectuating such a mechanism. That proceeding was never instituted. Rather, 2 years later, without notice or hearing or rulemaking, the Board announced and applied a revised discount fare adjustment and disallowance methodology, and stated that it would shortly issue a notice of proposed rulemaking dealing with the details of the discount fare methodology. To date, that second notice of proposed rulemaking has similarly never been issued. Finally, last January the Board revised the methodology again so as to separate the publication of the disallowed capacity costs and the disallowed noncapacity costs.

As a result of this latest change, we—the public—can now review the success or failure of the Board's past action with respect to discount fares using its profit impact test. We do this by comparing the disallowed discount fare revenues, which represent the additional revenues generated by discount fares, with the disallowed noncapacity costs associated with the discount fare traffic, which supposedly represent all the added costs which would be incurred if no additional capacity were provided.

The results of such a comparison are most disturbing. According to the CAB's latest costing methodology, in the 48 contiguous States the domestic trunk airlines lost—I repeat, lost—an incredible $31 million in net earnings from discount fare traffic for the year ended September 30, 1976; $21 million for the year ended December 31, 1976; and, $18 million plus for the year ended March 31, 1977. Considering that these figures represent losses of 15 to 24 percent on each additional sales dollar, it is clear that in the aggregate the discount fares approved by the CAB do not pass the Board's profit impact test by any stretch of the imagination. In other words, by the Board's definition, the discount fares are in the aggregate unjust since they do not cover the cost of rendering the service.

Fortunately, for our constituents who are airline stockholders, the Board's figures do not reflect a real loss since the calculations are only "hypothetical." However, if those numbers did reflect the true situation, I feel certain several airlines would have to contend with angry stockholders—some of whom would be seeking a change of management. Happily, however, this is not the situation and no one, including the Government officials responsible for this erroneous information, is therefore in danger of losing his position.

Mr. Speaker, there is one other aspect of this question to which I believe I should address myself at this time, and that is simply: How is the CAB able to find an increase in the airlines' rate of return on investment after its discount fare adjustment, if those discount fares do not pass its profit impact test?

The answer is really very simple: Under the CAB's rate of return methodology, every dollar lost on discount fares increase the earnings from regular, full fare traffic. Conversely, if the discount fares did pass the Board's profit impact test, they would reduce the earnings from regular, full fare traffic. Unlike the normal business situation, under the Board's formula profits from discount fare traffic do not reduce the revenue need from regular, full fare passengers but instead increase it.

I think it safe to say, there is something wrong with the Board's marginal cost program.

In all fairness to the Board, I should add there is another disallowance of expenses in the discount fare adjustment which is fair and reasonable, if it is being made correctly. That is the disallowance for excess capacity.

As I noted earlier, discount fares are offered to the public to encourage them to use the airlines services and fill otherwise empty seats. At the present time, by CAB's definition, otherwise empty seats are those in excess of a 55-percent load factor. That is to say, the CAB has determined that airline operations which result in regular, full fare-paying passengers occupying less than 55 percent of the seats are excessive, uneconomical, and inefficient operations, and that the public should not have to bear the burden of such excesses.

For the last year, according to the CAB's calculation which may be subject to similar questions as I have raised here today, the domestic trunk airlines' load factor has been 55 percent including, not excluding, discount fare traffic. Accordingly, the Board should be making some adjustment for this excess capacity which will increase the carriers' rate of return.

Mr. Speaker, I have taken a great deal of this distinguished body's valuable time today to discuss the inaccuracies of just one report, of just one Federal agency. There is no doubt they are serious errors. But more important, the mistakes blithely made in this report for "administrative convenience" are emblematic not only of the quality of work in this Federal agency, but also other regulatory agencies which try so frequently to model their industry in their image of the world, rather than the world as it really is.

I assume the Civil Aeronautics Board will be somewhat embarrassed by the facts which I have stated here today. As a Member of this Congress, I know that I am embarrassed by the quality of their report and waste of this Nation's investment in computers. And as you and our colleagues know so well, Mr. Speaker, it is we—the elected Members of the House and the Senate—who will ultimately be held responsible for the quality of this work and that of the other Federal agencies by the people of this great country.

On the other hand, Mr. Speaker, neither I nor my colleagues have any apology to the electorate. We have tried, time and time again, to get the Board to face reality. We have attempted to get the Board to deal with fact and law in hearings before the Congress, in actions we initiated in the courts, and even in their own agency proceedings. We have gone the last mile, and then some distance beyond.

Mr. Speaker, I will not pretend to know whether what I have said here today will, or will not, motivate the agency, under its distinguished new Chairman's guidance, to begin to mend its way. I do know, however, that regardless of what the Board decides to do, the world will not change—and that until the Board brings its computer programs into conformity with the real world, similar errors to those which I have disclosed here today will continue to haunt the Board, and you and I and our colleagues will continue to be criticized for the poor quality of our Federal agencies' reports.

CIVIL AERONAUTICS BOARD PROFIT IMPACT TEST—DOMESTIC TRUNK INDUSTRY RATE OF RETURN ON INVESTMENT, 48-STATE SCHEDULED PASSENGER SERVICE

[Dollar amounts in thousands]

CAB Order No.	77-1-93	77-5-62	77-8-13
For the 12-mo ended	September 1976	December 1976	March 1977
As adjusted to	Jan. 15, 1977	May 15, 1977	Aug. 15, 1977
Passenger revenues:			
55-percent standard load factor	9,230,608	9,613,047	9,940,238
Removal of all discount fares [1]	9,101,973	9,485,781	9,817,443
Additional revenue generated by discount fares	128,635	127,266	122,795
Noncapacity expenses:			
55-percent standard load factor	3,057,213	3,145,146	3,256,593
Removal of all discount fares [1]	2,896,961	2,996,424	3,114,847
Added costs incurred by generated discount fare traffic	160,252	148,722	141,746
Added profit (loss) attributable to discount fare traffic; "the profit impact test"	(31,617)	(21,456)	(18,951)

[1] Excluding children and military fares.

SOCIAL SECURITY SYSTEM

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, the House acted properly yesterday when we refused to do away with separate civil service retirement systems for Federal employees, and the employees of State and local governments as well as school systems. I regret that I was not here for the vote on the last amendment before the House on Wednesday night, but I was unavoidably detained outside the Chamber during the time of the vote. At the same time I realized the Fisher amendment would be adopted overwhelmingly.

Mr. Speaker, we are not going to let the social security system go broke—there is no way that we will let that happen, but we cannot do it by injecting fear about their own retirement into millions of employees who have been working and planning for years and years based on a form of government retirement. I do not believe there is a schoolteacher in Kentucky today who is not rejoicing with relief over the action we took yesterday.

But one additional action is necessary if we are going to do what is right in this matter, and that is sending the bill back to Ways and Means, so that the study provision can be removed. Realistically, there is no need for a study on combining social security and civil service, because it is not going to be done.

So why go ahead with a study when its only result can be to continue to create doubt and worry in the minds of employees of all levels of government? Why go to the expense and the waste of time and the waste of effort, when we know that combining social security and civil service is not what we want to do.

I hope that this House will act realistically today, and vote to send the bill back to committee, so that the study can be dropped from it.

I voted against the rule with a view of offering an amendment to the Fisher amendment that would also have deleted the study. I was prevented from offering this amendment when the close rule was adopted only permitting amendments agreed to before the Committee on Rules.

GENERAL LEAVE

Mr. BEILENSON. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from Washington, Mr. BONKER.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from California?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MARRIOTT (at the request of Mr. RHODES), for today after 3:30 p.m. and the balance of the week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. QUAYLE) to revise and extend their remarks and include extraneous matter:)

Mr. ANDERSON of Illinois, for 10 minutes, today.

Mr. KEMP, for 5 minutes, today.

(The following Members (at the request of Mr. BEILENSON) to revise and extend their remarks and include extraneous material:)

Mr. METCALFE, for 60 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. REUSS, for 5 minutes, today.
Mr. DENT, for 60 minutes, today.
Mr. ST GERMAIN, for 5 minutes, today.
Mr. BONKER, for 10 minutes, today.
Mr. PANETTA, for 5 minutes, today.
Mr. BAUCUS, for 10 minutes, today.
Mrs. COLLINS of Illinois, for 5 minutes, today.
Mr. MITCHELL of Maryland, for 60 minutes, November 1, 1977.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. RHODES, and to include extraneous matter.

Mr. QUIE, to revise and extend his remarks during consideration of the conference report on H.R. 1139 immediately following Mr. PERKINS.

Mr. EDWARDS of California, immediately following the remarks of Mr. BUTLER on H.R. 8200 in the Committee of the Whole today.

(The following Members (at the request of Mr. QUAYLE) and to include extraneous material:)

Mr. FREY.
Mr. WALKER.
Mr. BUTLER.
Mr. PRITCHARD.
Mr. SHUSTER.
Mrs. HOLT.
Mr. ASHBROOK in three instances.
Mr. THONE.
Mr. ABDNOR in two instances.
Mr. DON H. CLAUSEN.

Mr. WHALEN in two instances.
Mr. HOLLENBECK in two instances.
Mr. MCCLORY.
Mr. MICHEL.
Mr. SYMMS in three instances.
Mr. WALSH.
Mr. YOUNG of Florida.
Mr. STEERS.
Mr. EDWARDS of Alabama.
Mr. HAGEDORN.
Mr. GILMAN in two instances.
Mr. SNYDER.
Mr. ANDERSON of Illinois.
Mr. ROUSSELOT.
Mr. LAGOMARSINO.
Mr. KEMP in two instances.

(The following Members (at the request of Mr. BEILENSON) and to include extraneous material:)

Mr. FRASER.
Mr. DENT.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. WAXMAN in two instances.
Mr. CLAY.
Mrs. SCHROEDER.
Mr. RICHMOND in two instances.
Mr. JACOBS.
Mr. EDWARDS of California in two instances.
Mr. BINGHAM.
Mr. WOLFF.
Mr. HAMILTON.
Mr. LE FANTE.
Mr. BAUCUS.
Mr. DRINAN.
Mr. NIX.
Mr. LEDERER.
Mr. LUKEN.
Mr. RODINO.
Mr. BEARD of Rhode Island.
Mr. CONYERS.
Mr. AMBRO.
Mr. ROGERS.
Mr. MAGUIRE.
Mrs. SPELLMAN.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2521. An act to provide for the mandatory inspection of domesticated rabbits slaughtered for human food, and for other purposes;

H.R. 2850. An act to suspend until the close of June 30, 1978, the duty on certain latex sheets, and for other purposes;

H.R. 2982. An act to suspend until the close of June 30, 1980, the duty on synthetic tantalum/columbium concentrate, and for other purposes;

H.R. 3259. An act to continue to suspend for a temporary period the import duty on certain horses, and for other purposes; and

H.R. 9090. An act to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agriculture Act of 1970 and the Agricultural Act of 1949.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 5101. To authorize appropriations for activities of the Environmental Protection Agency, and for other purposes.

ADJOURNMENT

Mr. BEILENSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 33 minutes p.m.), the House adjourned until tomorrow, Friday, October 28, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2607. A letter from the Deputy Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to regulate the exportation and transportation of animal semen; to the Committee on Agriculture.

2608. A letter from the General Counsel, U.S. General Accounting Office, transmitting a report on the status of certain budget authority that was proposed, but rejected, for rescission; to the Committee on Appropriations.

2609. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting a report on implementation of the recommendations contained in September 30, 1976, report of the National Advisory Committee on Juvenile Justice and Delinquency Prevention on standards for the administration of juvenile justice, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

2610. A letter from the Acting Administrator of General Services, transmitting a report on the disposal of surplus Federal real property for historic monument purposes during fiscal year 1977, pursuant to section 203(o) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

2611. A letter from the Secretary of Agriculture and the Secretary of the Interior, transmitting a report on fees for livestock grazing on Federal lands in the Western States, pursuant to section 401(a) of the Federal Land Policy and Management Act of 1976; to the Committee on Interior and Insular Affairs.

2612. A letter from the Secretary of Health, Education, and Welfare, transmitting the annual report for 1976 on the National Health Service Corps, pursuant to section 329(g) of the Public Health Service Act, as amended (86 Stat. 1292); to the Committee on Interstate and Foreign Commerce.

2613. A letter from the Comptroller General of the United States, transmitting a report on the need for closer integration between U.S. and NATO military command structures (LCD-77-447, October 26, 1977); jointly, to the Committees on Government Operations, Armed Services, and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. Report on budget allocation of the Committee on Ways and Means on the second budget resolution for fiscal year 1978 (Rept. No. 95-760). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 4458. A bill to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes; with amendment (Rept. No. 95-761). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEVILL: Committee on Appropriations. House Resolution 851. Resolution disapproving the deferral of certain budget authority (D78-30) relating to the Energy Research and Development Administration, gas cooled thermal reactor program, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 95-764). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEVILL: Committee on Appropriations. House Resolution 852. Resolution disapproving the deferral of certain budget authority (D78-33) relating to the Energy Research and Development Administration, magnetic fusion energy program—Fusion Material Test Facility, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 95-765). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEVILL: Committee on Appropriations. House Resolution 853. Resolution disapproving the referral of certain budget authority (D78-34) relating to the Energy Research and Development Administration, magnetic fusion energy program—Intense Neutron Source Facility, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 95-766). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEVILL: Committee on Appropriations. House Resolution 854. Resolution disapproving the deferral of certain budget authority (D78-35) relating to the Energy Research and Development Administration, high energy physics program—intersecting storage ring accelerator, which is proposed by the President in his message of October 3, 1977, transmitted under section 1013 of the Impoundment Control Act of 1974 (Rept. No. 95-767). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 3384. A bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so (Rept. No. 95-768). Referred to the House Calendar.

Mr. MEEDS: Committee on Rules. House Resolution 872. Resolution providing for the consideration of H.R. 6805. A bill to establish an Agency for Consumer Protection in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes (Rept. No. 95-770). Referred to the House Calendar.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 9434. A bill to amend the Social Security Act to increase the dollar limitations and Federal medical assistance percentages applicable to the medicaid programs of Puerto Rico, the Virgin Islands, and Guam (Rept. No. 95-771). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 9704. A bill to amend the Federal Crop

Insurance Act, and for other purposes; with amendment (Rept. No. 95–772). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON of California: Committee of conference. Conference report on H.R. 6010 (Rept. No. 95–773). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HARRIS: Committee on the Judiciary. H.R. 5466. A bill for the relief of Doris Mauri Coonrad (Rept. No. 95–762). Referred to the Committee of the Whole House.

Mr. DANIELSON: Committee on the Judiciary. H.R. 8212. A bill for the relief of Charles P. Bailey (Rept. No. 95–763). Referred to the Committee of the Whole House.

Mr. DANIELSON: Committee on the Judiciary. H.R. 3084. A bill for the relief of Morris and Lenke Gelb; with amendment (Rept. No. 95–769). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Dakota (for himself, Ms. MIKULSKI, Mr. GLICKMAN, Mr. D'AMOURS, and Mr. MCDADE):

H.R. 9772. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to provide persons who own farm operations and businesses with more equitable compensation when they are displaced from such farm operations and businesses by the Federal Government; to the Committee on Public Works and Transportation.

By Mr. BEARD of Rhode Island:

H.R. 9773. A bill to amend the Natural Gas Act to provide that no certificate for the construction or extension of any liquefied natural gas facility may be granted unless the State or States in which such facilities are located have been approved by the affected States; to the Committee on Interstate and Foreign Commerce.

By Mr. BONKER (for himself, Mr. HARRINGTON, Mr. GILMAN, Mr. TSONGAS, and Mr. NIX):

H.R. 9774. A bill to restate the purpose of the Peace Corps, to establish the Peace Corps as a Government foundation, and for other purposes; to the Committee on International Relations.

By Mr. DON H. CLAUSEN:

H.R. 9775. A bill to amend the Federal Aviation Act of 1958, relating to aircraft piracy, to provide a method for combating terrorism, and related purposes; jointly, to the Committees on International Relations, the Judiciary, and Public Works and Transportation.

By Mr. CONTE (for himself, Mr. WINN, Mr. MOAKLEY, Mr. CORCORAN of Illinois, Mr. BOLAND, Mrs. SPELLMAN, Mrs. KEYS, Mrs. LLOYD of Tennessee, Mr. MADIGAN, Mr. EILBERG, Mr. BAUCUS, Mr. COHEN, Mr. RICHMOND, Mrs. CHISHOLM, and Mr. HARRINGTON):

H.R. 9776. A bill to authorize the Commissioner of Education to make grants for teacher training, pilot and demonstration projects, and comprehensive school programs, with respect to health education and health problems; to the Committee on Education and Labor.

By Mr. RODINO:

H.R. 9777. A bill to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation;" to the Committee on the Judiciary.

H.R. 9778. A bill to amend title 28 of the United States Code to encourage prompt, informal and inexpensive resolution of civil cases by use of arbitration in U.S. district courts, and for other purposes; to the Committee on the Judiciary.

By Mr. FASCELL (for himself, Mr. LUNDINE, and Mr. HOLLENBECK):

H.R. 9779. A bill to require the Office of Management and Budget to provide information on the formulas and assumptions used in the distribution of domestic assistance; to the Committee on Government Operations.

By Mr. GLICKMAN:

H.R. 9780. A bill to assure that the Federal Government protects and serves the interests of consumers, and for other purposes; jointly, to the Committee on Interstate and Foreign Commerce, and the Judiciary.

By Mr. HYDE (for himself, Mr. FITHIAN, and Mr. O'BRIEN):

H.R. 9781. A bill to have an inscription and appropriate medals, ribbons, and tributes placed upon the crypt at the National Cemetery at Arlington, Va., reserved for an American soldier who lost his life in Southeast Asia during the Vietnam era, and whose identity is unknown; to the Committee on Veterans' Affairs.

By Mr. KEMP:

H.R. 9782. A bill to amend section 206 of the Federal Water Pollution Control Act relating to reimbursement for certain publicly owned sewage collection systems; to the Committee on Public Works and Transportation.

By Mr. LAGOMARSINO:

H.R. 9783. A bill to amend section 1652 of title 38, United States Code, to make 1977 graduates of the service academies eligible for educational assistance under the GI bill; to the Committee on Veterans' Affairs.

By Mr. MCHUGH (for himself, Mr. KOCH, Mr. KREBS, Mr. MIKVA, Mr. OTTINGER, Mr. UDALL, Mr. PEPPER, Mr. MINETA, Mr. MCCLOSKEY, Mr. HANNAFORD, Mr. FOWLER, Mr. DAVIS, Mr. DODD, Mr. HOLLAND, Mr. WALSH, Mrs. HECKLER, Mr. BENJAMIN, Mrs. SPELLMAN, Mr. CARR, Mr. NIX, Mr. DOWNEY, Mrs. BURKE of California, Mr. JACOBS, Mr. ROYBAL, and Mr. BEDELL):

H.R. 9784. A bill to provide for adequate supplies of food in cases of emergency, and to reaffirm commitments made by representatives of the United States of America at the 1974 World Food Conference to participate in a system of nationally held and internationally coordinated food reserves; jointly, to the Committees on Agriculture, and International Relations.

By Mr. MITCHELL of Maryland:

H.R. 9785. A bill to provide for the temporary transfer of the hospital ship U.S.S. *Sanctuary* (AH–17) to LIFE International for the purpose of providing health care and related services to developing nations on a nonprofit basis, and to authorize funds for such purposes; jointly, to the Committees on Armed Services, and International Relations.

By Mr. OTTINGER (for himself and Mr. ZEFERETTI):

H.R. 9786. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $5,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

By Mr. PANETTA:

H.R. 9787. A bill to modify the project for navigation in Santa Cruz Harbor, Santa Cruz, Calif., and to authorize certain studies in connection with such harbor; to the Committee on Public Works and Transportation.

By Mr. PEPPER:

H.R. 9788. A bill to amend the Public Health Service Act to revise the program of assistance for health maintenance organizations, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. SATTERFIELD:

H.R. 9789. A bill to provide for the confidentiality of individually identifiable medical records; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. WHALEN (for himself, Mr. ASHBROOK, and Mr. KETCHUM):

H.R. 9790. A bill to amend the Internal Revenue Code of 1954 to provide that trusts established for the payment of product liability claims and related expenses shall be exempt from income tax, and that a deduction shall be allowed for contributions to such trusts; to the Committee on Ways and Means.

By Mr. WHALEN (for himself and Mr. HYDE):

H.R. 9791. A bill to amend the Internal Revenue Code of 1954 to provide that the first $5,000 of an individual's civil service retirement annuity shall be exempt from income tax; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. ABDNOR, Mr. ARMSTRONG, Mr. ASHBROOK, Mr. DON H. CLAUSEN, Mr. ROBERT W. DANIEL, JR., Mr. DEVINE, Mr. EDWARDS of Alabama, Mr. LEACH, Mr. LLOYD of California, Mrs. LLOYD of Tennessee, Mr. MARLENEE, Mr. MARRIOTT, Mr. MOORHEAD of California, Mr. MOTTL, Mr. PRESSLER, Mr. ROE, Mr. RUNNELS, Mr. RUSSO, Mr. SKUBITZ, Mrs. SMITH of Nebraska, Mr. STANGELAND, Mr. YATRON, and Mr. YOUNG of Alaska):

H.R. 9792. A bill to provide for permanent tax rate reductions for individuals and businesses; to the Committee on Ways and Means.

By Mr. KREBS:

H.R. 9793. A bill to amend the Internal Revenue Code of 1954 to allow any active participant in a retirement plan a deduction for amounts of retirement savings paid by such individual in any taxable year before such individual's retirement rights vest under such plan; to the Committee on Ways and Means.

By Mr. MURPHY of New York (for himself, Mr. LEGGETT, Mr. RUPPE, Mr. DE LA GARZA, and Mr. FORSYTHE):

H.R. 9794. A bill to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act; to the Committee on Merchant Marine and Fisheries.

By Mr. NEDZI:

H.R. 9795. A bill to authorize the Secretary of the Treasury to designate an Assistant Secretary to serve in his place as a member of the Library of Congress Trust Fund Board; to the Committee on House Administration.

By Mr. ROGERS (for himself, Mr. PREYER, Mr. SCHEUER, Mr. WAXMAN, Mr. MAGUIRE, Mr. MARKEY, Mr. OTTINGER, Mr. WALGREN, Mr. CARTER, Mr. SKUBITZ, Mr. WOLFF, Mr. RODINO, Mr. MANN, Mr. BADILLO, Mr. MURPHY, of Illinois, Mr. RANGEL, Mr. STARK, Mr. ENGLISH, Mr. RAILSBACK, Mr. FREY, Mr. GILMAN, Mr. GUYER, Mr. BIAGGI, and Mr. NEAL):

H.R. 9796. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROONEY (for himself, Mr. YATRON, Mr. MURPHY of Pennsylvania, Mr. DENT, Mr. LEDERER, Mr. MURTHA, and Mr. NIX):

H.R. 9797. A bill to authorize the creation of the Energy Corporation of the Northeast and to authorize the Secretary of the Treasury to provide guarantees for the obligations of such corporation and other financial assistance to such corporation; jointly, to the Committees on Interstate and Foreign Commerce, Banking, Finance and Urban Affairs, and the Judiciary.

By Mr. STEERS (for himself and Mr. MOFFETT):

H.R. 9798. A bill to amend the Consumer Product Safety Act to provide that electrical wiring systems shall be considered to be consumer products for purposes of such act; to the Committee on Interstate and Foreign Commerce.

By Mr. BRADEMAS (for himself, Mr. QUIE, Mr. PERKINS, Mr. JEFFORDS, and Mr. THOMPSON):

H.J. Res. 639. Joint resolution to authorize the President to call a White House Conference on the Humanities; to the Committee on Education and Labor.

By Mr. BAUMAN (for himself, Mr. TREEN, Mr. KINDNESS, Mr. HILLIS, Mr. ABDNOR, Mr. KEMP, Mr. TRIBLE, Mr. WINN, Mr. QUIE, Mr. BEDELL, Mr. HUCKABY, Mr. SPENCE, Mr. GLICKMAN, Mrs. SMITH of Nebraska, Mr. JENRETTE, Mr. JONES of North Carolina, and Mr. MCCLOSKEY):

H.J. Res. 640. Joint resolution ordering the President of the United States, the Secretary of Agriculture, and other officials to develop and implement a comprehensive program for foreign sales of American agricultural commodities, in order to protect the welfare of American farmers, and for other purposes; to the Committee on International Relations.

By Mr. ANDREWS of North Dakota (for himself, Mr. BEVILL, Mr. ENGLISH, Mr. FRENZEL, Mr. JENRETTE, Mr. PATTERSON of California, Mr. SIMON, Mrs. SPELLMAN, and Mr. STANGELAND):

H. Con. Res. 389. Concurrent resolution providing that residential telephone subscriber interests, especially those of citizens in rural areas, be protected as competition is permitted in the telecommunications industry; to the Committee on Interstate and Foreign Commerce.

By Mr. DIGGS:

H. Con. Res. 390. Concurrent resolution denouncing the recent acts of repression by the Government of South Africa and calling for an end to certain U.S. Government practices which provide indirect support for the South African Government; jointly to the Committees on Banking, Finance and Urban Affairs, and International Relations.

By Mr. ANDERSON of Illinois (for himself, Mr. ABDNOR, Mr. ARMSTRONG, Mr. AUCOIN, Mr. CARR, Mr. CARTER, Mr. CLEVELAND, Mr. CORCORAN of Illinois, Mr. DERWINSKI, Mr. DOWNEY, Mr. DUNCAN of Tennessee, Mrs. FENWICK, Mr. FINDLEY, Mr. GOODLING, Mr. GRADISON, Mr. GUYER, Mr. HAGEDORN, Mr. HORTON, Mr. HYDE, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. MCCLORY, Mr. MCEWEN, Mr. MCKINNEY, and Mr. MANN):

H. Res. 873. Resolution to establish a select committee to be known as the Select Committee on the Committee System; to the Committee on Rules.

By Mr. ANDERSON of Illinois (for himself, Mr. MARKS, Mr. MITCHELL of New York, Mr. NOLAN, Mr. PANETTA, Mr. PRESSLER, Mr. PRITCHARD, Mr. QUAYLE, Mr. REGULA, Mr. SEBELIUS, Mr. SIMON, Mr. STEERS, Mr. STOCKMAN, Mr. VENTO, Mr. WINN, Mr. EDGAR, and Mr. KRUEGER):

H. Res. 874. Resolution to establish a select committee to be known as the Select Committee on the Committee System; to the Committee on Rules.

By Mr. MANN (for himself, Mr. BAUCUS, Mr. BLANCHARD, Mrs. BOGGS, Mr. BROWN of Ohio, Mr. D'AMOURS, Mr. DANIELSON, Mr. DENT, Mr. DUNCAN of Oregon, Mr. EDWARDS of Alabama, Mr. FORD of Michigan, Mr. HUCKABY, Mr. JONES of Tennessee, Mr. KILDEE, Mr. LEVITAS, Mr. MARLENEE, Mr. MINETA, Mr. MOORE, Mr. PEPPER, Mr. RICHMOND, Mr. ST GERMAIN, Mr. SANTINI, Mr. SAWYER, Mrs. SPELLMAN, and Mr. WHITEHURST):

H. Res. 875. Resolution relative to customs duties on textile, apparel, and fiber products; to the Committee on Ways and Means.

By Mr. METCALFE:

H. Res. 876. Resolution concerning the power of Congress to dispose of U.S. property and territory in the Canal Zone; to the Committee on International Relations.

By Mr. MICHEL (for himself, Mr. RHODES, Mr. ANDERSON of Illinois, Mr. FRENZEL, Mr. BAUMAN, Mr. ARMSTRONG, Mr. STEIGER, Mr. WIGGINS, Mr. GILMAN, Mr. FORSYTHE, Mr. EVANS of Delaware, Mr. YOUNG of Florida, Mr. COUGHLIN, Mr. SARASIN, Mr. MCDADE, Mr. WALKER, Mr. LOTT, Mr. BEARD of Tennessee, Mr. MCKINNEY, Mr. JOHN T. MYERS, Mr. JOHNSON of Colorado, Mr. HYDE, Mr. WINN, Mr. O'BRIEN, and Mr. PRITCHARD):

H. Res. 877. Resolution providing for the House of Representatives to determine with specific guidelines what constitutes an official expense prior to the $5,000 increase of a Member's official expenses allowance; to the Committee on House Administration.

By Mr. RISENHOOVER:

H. Res. 878. Resolution relative to restricting the proposed reorganization of the field and insuring offices of the Department of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

By Mr. THOMPSON:

H. Res. 879. Resolution authorizing funds for the standing and select committees of the House of Representatives; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BAUCUS:

H.R. 9799. A bill for the relief of F. H. Stoltze Land and Lumber Co., Inc.; to the Committee on the Judiciary.

By Mr. FAUNTROY:

H.R. 9800. A bill for the relief of Jerome S. Wagshal; to the Committee on the Judiciary.

By Mr. HOLLENBECK:

H.R. 9801. A bill for the relief of Mrs. Tsin-Sing Yao Tang; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

311. By the SPEAKER: Petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to regional development banks; to the Committee on Banking, Finance and Urban Affairs.

312. Also, petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to the rehabilitation of our national rail transportation system; to the Committee on Interstate and Foreign Commerce.

313. Also, petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to the outstanding achievements of Senator Hubert H. Humphrey; to the Committee on Post Office and Civil Service.

314. Also, petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to providing Federal funds for Science and Technology to meet the needs of the people; to the Committee on Science and Technology.

315. Also, petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to recommendations made by the National Food Policy Committee; jointly, to the Committees on Agriculture, and International Relations.

316. Also, petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to volunteerism; jointly, to the Committee on Education and Labor, and Post Office and Civil Service.

317. Also, petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to attracting foreign investment to the United States; jointly, to the Committees on Interstate and Foreign Commerce, and International Relations.

318. Also, petition of Massachusetts Medical Society, Boston, Mass., relative to national comprehensive health insurance; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

319. Also, petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to acceleration of offshore energy exploration and development; jointly, to the Committees on Merchant Marine and Fisheries, and Interior and Insular Affairs.

320. Also, petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to Federal assistance for drought areas; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Public Works and Transportation.

321. Also, petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to a policy statement on older Americans; jointly, to the Committees on Banking, Finance, and Urban Affairs, Education and Labor, Interstate and Foreign Commerce, and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8200

By Mr. ERLENBORN:

On page 592, strike Sec. 316, lines 23 through 25.

SENATE—*Thursday, October 27, 1977*

(Legislative day of Friday, October 21, 1977)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

This is the day which the Lord hath made; we will rejoice and be glad in it.—Psalms 118: 24.

Almighty God, we thank Thee for the priceless gift of a new day in which to serve Thee. Some days are dark and dreary, the pace is slow and accomplishments few. Other days are bright and cheerful, work moves briskly and achievements are many. But every day is a portion of eternity. Every day has its own value and pattern and is lived under Thy providence. May we enter upon the succeeding hours with a resolute faith and a daring hope to do all the good we can, in all the ways we can, and for all the people we can. Grant us grace and wisdom to complete only what accords with Thy will for this time and place.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 27, 1977.

To the Senate:

Under the provisions of rule I, section 3 of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, October 26, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9 A.M. ON FRIDAY AND SATURDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today and tomorrow, it stand in recess until 9 a.m. on tomorrow and Saturday, respectively.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I hope it will be possible and advisable to vitiate the order for convening on Saturday.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Reserving the right to object, will the Senator please withhold judgment on the Saturday session until we see what we achieve prior to that? It may be that a Saturday session might not be absolutely necessary. Perhaps it will not be as productive as the Senator would like. If I knew we would achieve a great deal on Saturday, I would be glad to go along with it. The Senator could make that request tomorrow.

Mr. ROBERT C. BYRD. I hope the Senator will allow me to proceed in this fashion. Sometimes I think it is good therapy to announce that there will be a Saturday session unless we finish the business. We can always vitiate the order.

Mr. LONG. If we get unanimous consent, we can vitiate it.

Mr. ROBERT C. BYRD. I do not think we will have too much trouble vitiating an order for a Saturday session.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TALMADGE. I thank the distinguished majority and minority leaders.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no requests for time, and I do not require the time allotted to me under the standing order, and I yield it back.

THE PANAMA CANAL TREATIES—NO. 20

Mr. ALLEN. Mr. President, in one of my earlier speeches to the Senate on the subject of the proposed Panama Canal treaties, I emphasized the fact that one of the major flaws of the proposed treaties, is that the new proposed treaties, rather than building on and modifying our existing treaty relationship with Panama, would wipe out that relationship in its entirety and would, in effect, start out completely anew. Now, certainly there are advantages in a fresh start in almost any project, and I would be the last to insist that it would be impossible to start anew in our dealings with Panama, but, Mr. President, if that course of action is to be followed, then much greater care must be given to preserving the substantive rights of the United States than has been given thus far in this new reordering of the structure of the bilateral rights and obligations now existing between the United States and the Republic of Panama.

But because we have had such close diplomatic ties with Panama since the formation of the Republic of Panama in 1903, in my judgment, regardless of the ultimate outcome, we would still make a grave error and would make our task unnecessarily difficult if we were to abolish in toto all existing treaties, protocols, executive agreements, exchanges of letters, and similar notes, memorandums, or other documents bearing on the Panama Canal and on the close ties of the United States with Panama. However, Mr. President, near total abolition is exactly what is contemplated by these proposed treaties.

Article I of the proposed Panama Canal Treaty would in one stroke abrogate virtually every document of significance negotiated with Panama in the past 74 years. Article I would wipe out presumably both the good and the bad without discriminating between the two. Article I would, for example, wipe out the present monopoly the United States enjoys with respect to construction of any canal across the Isthmus of Panama and would leave the Soviet Union or any other third nation free to negotiate with Panama for rights to construct a new sea level canal, either within the present Canal Zone or at some other location in the isthmus. It would leave the Soviet Union or Cuba or some other third nation with which Panama might enjoy particularly cordial relations complete freedom to negotiate even for completion of the third locks canal now lying within the canal and initially worked on by the United States prior to World War II.

So, Mr. President, that is one example of an existing right of the United States which would be destroyed by this wholesale meat-ax abrogation of all existing significant treaty ties with Panama. But there are plenty of other rights now enjoyed by the United States which would be lost, presumably forever. Also among the many and valuable rights now enjoyed by the United States which would be destroyed with the implementation of article I is our present right to deny access to the canal to a belligerent vessel of war or any other vessel which is employed by a belligerent power as a transport or fleet auxiliary. The United States obtained this right in an agreement concluded in 1914 between Robert Lansing, then acting Secretary of State, and Eusebio A. Morales, Ambassador Plenipotentiary for Panama. A protocol of the agreement, the protocol of 1914, was signed at Washington on October 10, 1914, and entered into force on the same day. It is found at 38 Statutes at Large 2042. In pertinent part, Mr. President, the protocol reads as follows:

Hospitality extended in the waters of the Republic of Panama to a belligerent vessel of war or a vessel belligerent or neutral,

whether armed or not, which is employed by a belligerent power as a transport or fleet auxiliary or in any other way for the direct purpose of prosecuting or aiding hostilities, whether by land or sea, shall serve to deprive such vessel of like hospitality in the Panama Canal Zone for a period of three months, and *vice versa*.

In other words, Mr. President, that is a very diplomatic way of saying simply that if either Panama or the United States decided not to allow the passage of a belligerent vessel of another nation, then that vessel had best go around the horn because it could be a 3-month wait for passage through the canal. In practical effect, the protocol of 1914 gives to the United States the right to forbid the passage of a vessel belonging to a nation at war with any other nation, and the rights set forth in the protocol, when coupled with the territorial interest of the United States in the Canal Zone, guarantee to the United States the legal authority to deny passage to a belligerent vessel belonging to a nation making war on the United States or on an American ally.

Without this protocol, Mr. President, or without the retention of territorial rights in Panama, the United States could find itself in the ridiculous position of having agreed, as a matter of international law pursuant to these proposed treaties, to permit the passage of warships of a nation attacking this country or of a nation invading an ally of this country. One can almost imagine the grim race which might be conducted by American warships and belligerent vessels of an enemy nation—a race which, if won by the United States, would perhaps entitle the United States to move to the head of the line of merchant vessels but which, in any event, if lost by the United States, would entitle the belligerent vessels equally to free and unimpeded passage through the isthmus. The war and the race could presumably be resumed on the other side.

Mr. President, that cited prospect is obviously farfetched and represents a fact situation which would be, in practice, almost inconceivable. But, Mr. President, the scenario I have described would be, nevertheless, completely permissible within the legal confines of these proposed treaties. Why not be more honest about the matter? Why not lay out on paper exactly what the position of the United States is? Why surrender rights vital to our national security interests while at the same time asserting that we could, through military might, secure the desired result? No, let us be candid with Panama and with ourselves.

We now have the right as a matter of international law to deny passage through the canal to belligerent vessels of other nations. What possible good can be achieved by setting up the legal fiction that the canal will always remain perfectly neutral and that even in time of a war in which the United States is itself participating, the canal will be available to ships of all nations?

I might point out, Mr. President, that should we in fact adhere at some future date to this legal fiction which would be set abroad in these proposed treaties—should we in fact adhere to the concept that we will guarantee the perfect neutrality of the canal itself in all circumstances—then the United States could find it necessary to tie down in the Caribbean and the Pacific military and naval forces, which might be better utilized elsewhere, solely in order that those forces could watch the approaches to the Panama Canal.

This argument is not new, and I recognize, Mr. President, that much has changed in naval strategy with the advent of nuclear weapons, but certain basic principles of warfare are going to remain immutable throughout the ages, and certainly in some later war, either conventional or nuclear, in which the United States or an ally of the United States unfortunately might become engaged, in some future unhappy day, we could well expect to see physical control of the Panama Canal as a significant military factor. Prior physical control is the key, because otherwise the United States could face the task of a Normandy-like invasion of the isthmus or the expense and danger of perpetual naval overwatch.

So, Mr. President, while we are worried here in the Senate about obtaining an amendment to these treaties to make clear that U.S. warships would have the right of priority passage through the canal, let us not overlook the broader issue of control of the canal during wartime, and let us not overlook this protocol of 1914 which would be quietly wiped out by article I of the proposed Canal Treaty. Let us instead consider protecting our rights to the canal in wartime, and let us consider direct incorporation of the protocol of 1914 into the body of the proposed Canal Treaty so that the protocol may continue in full force and effect in order to guarantee thereby to both Panama and the United States the right to deny effectively the hospitality of the waters of the Republic of Panama or the hospitality of the waters of the Panama Canal Zone to any belligerent vessel of any country. Let us maintain our rights within the legal text of our treaties with Panama and not through the threat of force of arms.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the unfinished business, H.R. 5263, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts.

The ACTING PRESIDENT pro tempore. The pending question is on the amendment by the Senator from Ohio (Mr. METZENBAUM), No. 1505, as modified, with the vote thereon to occur at 12 o'clock noon.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

Mr. ROBERT C. BYRD. Mr. President, what is the unfinished business?

The ACTING PRESIDENT pro tempore. The clerk will state the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts.

LEGISLATIVE SCHEDULE FOR TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 10:45 a.m. today.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—I should like to ask the majority leader if he has some idea as to what our schedule may be for today. Today is Thursday, and I know that people are trying to make their plans.

I heard with interest the majority leader ask for consent to meet on tomorrow and on Saturday. However, I wonder whether the majority leader can give us some further insight as to the probable Senate schedule for today.

Mr. ROBERT C. BYRD. The vote on the Metzenbaum amendment will not occur until 12 o'clock noon. Consequently, it is the feeling of the distinguished manager of the bill, Mr. LONG, that the Senate would be wasting its time to start deliberations on the unfinished business before about 11 o'clock. So we will reconvene at 10:45.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Mr. METZENBAUM was scheduled to meet with the President this morning. Therefore, he asked yesterday afternoon that there be no votes on his amendment prior to 11 o'clock. I know of no amendments that will be offered to his amendment at this point, so I think we might as well wait until the Senator from Ohio is here to debate his amendment. I see no point in Senators speaking to it at this moment.

Most Senators feel that if there is to be a vote about 12 o'clock, they will show up in the last half hour to hear what is being said at that point. Most of us know that we do not persuade many people by speaking to vacant desks.

Mr. BAKER. I do not object to that procedure. As a matter of fact, I think it is far better to recess than to go through quorum calls and casual debate on a matter.

I wondered, however, whether the majority leader could give me some idea as to whether we are going to be in late today, or what his plans are in that respect.

Mr. ROBERT C. BYRD. I hope we will be in as late as the Senate is making progress on the bill.

The vote on the Jackson amendment at 3 o'clock today will be a very key vote. Depending upon the outcome of that vote, I would think that the Senate might be able to make progress on amendments thereafter, and establish the kind of momentum that could see us finish action on the bill by tomorrow night.

I am willing to stay as long as the distinguished manager of the bill and the ranking member feel it is productive and profitable for the Senate to remain in session.

I emphasize that the vote at 3 o'clock today probably will be a telling vote as to what the future may hold in regard to this bill.

Mr. BAKER. Even if the amendment to be voted on at 3 o'clock were not to be adopted, does the majority leader feel that it would be necessary to work for most of Friday, say, in order to finish this matter, if possible?

Mr. ROBERT C. BYRD. So far as I can see, I would think so. But I do not know how many Senators will persist in calling up amendments after the 3 o'clock vote. I have a feeling that there is an inclination on the part of most Senators to get on with the business without undue delay and get this bill to conference.

Senators have been told that if we do not finish action on the bill this week we will be on it next week and if that occurs then our hope that we may be able to complete floor work on the remaining measures by or before next Saturday, a week from this Saturday, will, of course, be greatly diminished, and until we are able to complete the floor work the conferees on the various energy bills and other matters in conference are going to be consistently interrupted by quorums and rollcalls which hinders their work and prolongs the session.

I simply hope that Senators will be on hand to call up their amendments. I hope they will not unduly delay the Senate by calling up amendments that really are meaningless and which will not be conducive to the finalizing of action on this bill and getting it to conference without undue delay.

Mr. BAKER. Mr. President, if the majority leader will permit me, I suggest, if I may, that after the vote at 3 o'clock, we could canvass our respective Members. I am more than willing, indeed I am anxious, to meet with the majority leader, say at 3 o'clock this afternoon, and try to determine where we are and where we are likely to go on this bill.

Mr. ROBERT C. BYRD. This is a very helpful suggestion, and I am delighted to cooperate in that manner.

Mr. BAKER. I thank the majority leader.

RECESS UNTIL 10:45 A.M.

Mr. ROBERT C. BYRD. Mr. President, I renew my request for a recess.

There being no objection, the Senate, at 9:41 a.m., recessed until 10:45 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SARBANES).

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following calendar orders: No. 460, No. 462, No. 464, No. 465, No. 467, No. 468, and No. 470.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, I say to the majority leader that, according to our calendar, those items have been cleared for passage at this time and are qualified under the rules with respect to reports and otherwise. We have no objection to their consideration and passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the minority leader.

COMMISSION ON DOMESTIC AND INTERNATIONAL HUNGER AND MALNUTRITION

The Senate proceeded to consider the resolution (S. Res. 271) to establish a Commission on Domestic and International Hunger and Malnutrition, which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the resolving clause and insert new language.

Mr. LEAHY. Mr. President, Senate Resolution 271 expresses the sense of the Senate that the President of the United States should establish a Commission on Domestic and International Hunger and Malnutrition. The 55 Senators who have joined me in cosponsoring the resolution agree that this Commission would be the most practical and effective means to provide the President and Congress with a concise and comprehensive analysis of public policy as it relates to the root causes of world hunger and a framework for effective action to facilitate the development of a unified national food, hunger, and nutrition policy.

It is absolutely essential that we develop a unified national food policy because, despite our efforts, the problem of hunger is still painfully acute throughout the world.

The problem of hunger—both in this country and abroad—is not simply a matter of lack of food. In fact, we are recurringly faced with a paradox that the numbers of hungry and malnourished increase while there are burdensome grain stocks in the United States and elsewhere in the world.

The problem of hunger is rooted in many factors. We must increase our understanding of the causes. Our policies and programs need to be developed on a more informed basis and implemented more effectively. Moreover, our programs must be unified and coordinated into a unified policy.

The proposed Presidential Commission on Domestic and International Hunger and Malnutrition will serve these needs. It has three important goals. First, the Commission will establish clearly the causes of domestic and international hunger and malnutrition and their interrelationships. This will provide those of us in Government as well as individuals and groups in the private sector with the understanding necessary to focus effectively on the hunger problem.

The second goal of the Commission will be to identify and evaluate existing programs and policies that are concerned with hunger and malnutrition. So many Federal, private, and international programs attempt to deal with the hunger problem, that it is necessary to get a firm grip on what is being done before we can improve the situation.

The accomplishment of these first two goals—understanding the causes of hunger and present programs to combat it—will allow the Commission to attack its third and crucial goal with adequate preparation and expertise. This final goal is to bring to the Congress and the President specific recommendations on how to significantly reduce hunger and malnutrition and to outline specific steps for the development of a well-defined and coordinated national food policy.

It will take much more than the establishment of a commission to eliminate the specter of hunger. However, the Commission can act as a catalyst for a new intensive commitment by the American public to insure that the most basic human right—to be free from hunger and malnutrition—is guaranteed.

I want to thank all those who have worked so hard to bring about the passage of this legislation. I especially commend Senator DOLE for the leadership he has provided in trying to eliminate hunger and malnutrition both in this country and throughout the world, and for his efforts on behalf of the passage of this legislation. I also want to give special thanks to my good friend singer/songwriter Harry Chapin. Harry is cofounder of World Hunger Year, an organization devoted to raising the public's awareness of the problem of hunger and malnutrition, and he and members of the WHY staff have contributed immeasurably to the development and passage of this resolution.

I also thank the following for their support of this resolution of Senate Resolution 271: Interreligious Task Force, National Farmers Union, National Farm-

ers Organization, AFL–CIO, United Auto Workers, Bread for the World, Oxfam-America, National Federation of Milk Producers, Action Center, and the many other groups and individuals who supported this legislation.

Finally, I thank the Senators and Congressmen who support this legislation. The strength of their support evidences a renewed commitment to eliminating the specter of hunger and malnutrition which afflict millions in our country and on our planet.

We understand our action can shape a world where:

A child born today can be glad to be alive, secure in the prospect of a lifetime of mental and physical well-being.

A family can provide for its own basic needs.

The most basic human right, to be free from hunger and malnutrition, is guaranteed.

We are committed to bringing about such a world.

The amendment was agreed to.

The resolution, as amended was agreed to.

The preamble was amended.

The resolution, with its preamble, reads as follows:

Whereas hunger and malnutrition remain daily facts of life for millions of people throughout the world;

Whereas there is a need to examine the continuing paradox that worldwide hunger and malnutrition can exist while there are burdensome grain surpluses in the United States and elsewhere in the world;

Whereas it is in the interest of the United States to reduce significantly hunger and malnutrition and to assist other nations and people in their efforts to improve their capabilities to feed themselves;

Whereas the economic, food, and development policies of the United States significantly affect the nutritional, social, economic, and political conditions of developed and developing nations;

Whereas the United States should develop a clearly defined food and development policy that reflects the relationships between domestic and international hunger and malnutrition;

Whereas Americans are concerned about, and wish to make a valuable contribution to, the process of formulating policies to meet basic human needs; and

Whereas, in this time of greater national emphasis on protecting basic human rights, there can be no higher priority than the preservation of life itself: Now, therefore be it

Resolved, That it is the sense of the Senate that the President should establish a Commission on Domestic and International Hunger and Malnutrition (hereinafter referred to as the "Commission") in order that the President and Congress may be better apprised of the pervasiveness of hunger and malnutrition and take steps necessary to counteract the problem.

SEC. 2. (a) The Commission should—

(1) establish clearly the causes of hunger and malnutrition and the relationship between domestic and international hunger and malnutrition;

(2) identify and evaluate Federal programs and policies related to hunger and malnutrition; and

(3) develop for the President and Congress specific recommendations for policies and legislation to reduce significantly hunger and malnutrition throughout the world and assist in implementing and disseminating such recommendations.

(b) To carry out subsection (a) of this section, the Commission should—

(1) assemble, correlate, integrate, and generate information and resources on food, hunger, malnutrition, and related matters;

(2) assess the organization and structure of current programs that affect domestic and international hunger and malnutrition;

(3) analyze the findings obtained from such work and assessment, make recommendations for action, and transmit the findings and recommendations to the President, Congress, and the public; and

(4) assist in implementing the recommendations and conduct an educational program to disseminate the findings and recommendations to the people of the United States, as directed by the President or Congress.

SEC. 3. The Commission should have a balanced membership composed of fifteen persons from diverse backgrounds, to be appointed by the President.

SEC. 4. (a) The Commission should—

(1) not later than six months after the date on which the appointment of all members to the Commission is completed, prepare and transmit to the President and Congress an interim report on the progress achieved in implementing section 2 of this resolution, which should include a schedule of activities and goals for the following six months;

(2) not later than one year after the date on which the appointment of all members to the Commission is completed, prepare and transmit to the President and Congress a final report, containing a detailed statement of the Commission's findings and recommendations; and

(3) for a period of up to one year after the transmission of the final report and as directed, assist in the implementation of the recommendations and conduct an educational program to disseminate the findings and recommendations.

(b) The Commission should terminate not later than two years after the date on which the appointment of all members to the Commission is completed.

SEC. 5. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. DOLE. Mr. President, I was pleased to cosponsor with Senator LEAHY and other congressional colleagues, Senate Resolution 271, to establish a Presidential Commission on Domestic and International Hunger and Malnutrition. I believe the problems of world and national hunger and malnutrition deserve strong bipartisan support. The establishment of a Presidential Commission on food problems will help maintain the momentum that was initiated by the World Food Conference, and would help keep a sharp focus on food and agricultural matters.

A SEARCH FOR NEW APPROACHES

We read reports of large numbers of hungry and malnourished people in some of the developing countries. None of us know the full answer to alleviating this problem. But it seems to me that it would be worth the establishment of this Presidential Commission to keep these problems in focus, and search for new ways and new ideas to get the abundance of our farms to those who need it. And at the same time help developing countries help themselves in strengthening their economies.

There has been interest in addressing the hunger and malnutrition in this country and abroad for many decades. Yet still much more needs to be done. Congress passed Public Law 480 or food for peace legislation in 1954. This great piece of bipartisan legislation has been and is still the major vehicle through which our Government has addressed the problems of enough food and economic development in needy foreign countries. For example, about $30 billion worth of commodities have moved from U.S. farm production to the ill fed in foreign lands. While we can take pride in the accomplishments of Public Law 480 programs, it is just one of a number of approaches to the world food problem. It is envisioned that this Presidential Commission will serve as another great move in this direction.

A COMMISSION WITH AN ACTION PLAN

Some may say the last thing we need is another study commission. We are all aware of the numerous unilateral and bilateral organizations established to alleviate hunger and malnutrition in this country and abroad. It is my understanding that the present Commission will not duplicate these ongoing efforts. But rather it will consider fully the activities of existing programs as it sets about outlining an action plan. The Commission will ultimately help us define a U.S. food policy and its global relationships. And also support and supplement the World Food Council in its coordinating role covering world food matters by all agencies of the United Nations system.

I look forward to reviewing the recommendations and action plan this Presidential Commission will bring back to this Congress.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–503), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE

The purpose of this resolution is to express the sense of the Senate that the President should establish a Commission on Domestic and International Hunger and Malnutrition.

COMMITTEE AMENDMENT

The committee amendment to Senate Resolution 271 strikes all after the title and inserts in lieu thereof an amendment in the nature of a substitute and an amendment to the preamble in the nature of a substitute.

In addition to making technical changes to the resolution, as introduced, the committee amendment—

(1) Adds a new provision to section 4 of the resolution providing for the termination of the Commission on Domestic and International Hunger and Malnutrition at the end of 2 years; and

(2) Deletes from section 3 of the resolution the provision that the President should take into account "age, wealth, and relationship to the problems of hunger and malnutrition" in selecting persons for membership on the Commission.

BACKGROUND

I. The magnitude of hunger in the world is awesome. The United Nations estimated in 1976 that one in every eight persons in the world suffers from hunger, and that twice that number are malnourished. In the United States alone, millions of Americans suffer from hunger or malnutrition. At a time when there are record grain crops in many parts of the world, these continuing problems of hunger and malnutrition present an unparalleled challenge to the people and governments of the world.

II. Congress has long been committed to meet this challenge. This is evidenced in our established domestic food and nutrition programs and in our international food and economic assistance programs.

Domestically, the most significant of these programs are the national school lunch program and the food stamp program, funded at an annual level of over $8 billion.

Internationally, the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480) has provided over $30 billion for direct grants of food and low-interest financing. In addition, the United States has provided economic development and food assistance through the Agency for International Development, the World Bank, the International Monetary Fund, the World Food Program, and other bilateral and multilateral institutions.

III. These programs should be unified by a national food, hunger, and nutrition policy that (1) Reflects the relationships between domestic and international hunger and malnutrition; and (2) provides a comprehensive framework for effective action.

In order to facilitate the development of a unified national food, hunger, and nutrition policy by the President and Congress, the committee believes the President should establish a Commission on Domestic and International Hunger and Malnutrition.

IV. The major thrust of the Commission would be to assess and evaluate United States policies and programs which affect domestic and international hunger and malnutrition. The Commission is not intended to be a fact-finding body, but is expected to use existing information and resources.

Specifically, the Commission would have the responsibilities to—

1. Assess whether hungry and malnourished people are in fact receiving food and other assistance intended for them;

2. Examine U.S. food, economic, and development assistance programs as to their effect on the food production systems of the recipient countries, especially as to their effect on the ability of those countries to produce adequate amounts of food for their own domestic consumption;

3. Assess the impact of our domestic food and agricultural programs and policies on the domestic and world food supply, hunger and malnutrition, and the relationship between each; and

4. Address the continuing paradox of worldwide hunger and malnutrition in the face of worldwide grain surpluses, and especially address the need to use effectively U.S. grain surpluses.

Throughout the consideration of each of these issues, the Commission should evaluate the relationship of each program and policy to the others, and the cohesiveness of all programs and policies.

Based on its assessments and evaluations, the Commission would present to the President and Congress recommendations for a comprehensive and well-defined national food and development policy.

V. The committee believes that the Commission should be composed of persons representing diverse backgrounds, including representatives of the executive branch and Congress. A special effort should be made to include persons who have practical knowledge in the areas of food production and supply; hunger and malnutrition; and related public policy. The committee recommends that Congress be consulted with respect to the appointment of members to the Commission.

VI. The Commission's responsibilities would be more comprehensive than those of previous studies and commissions. The most recent study of domestic food policy was undertaken by the White House Conference on Food, Nutrition, and Health in 1969; international food policy was not considered at that conference. The most recent U.S. study of world food problems was undertaken by the Department of Agriculture and the Department of State prior to the World Food Conference in 1974. This study concentrated on assessing world food needs through 1985, but did not fully consider the relationships between United States domestic food policy and world food problems.

It is important to note that this Commission will not duplicate the work of the World Food Council, which coordinates and integrates the various food policies of United Nations agencies The Commission will enhance the work of the World Food Council by offering a cohesive national food policy for the United States.

INCREASED EXPENDITURES BY THE SELECT COMMITTEE ON SMALL BUSINESS

The resolution (S. Res. 272) increasing the amount which may be expended by the Select Committee on Small Business for the procurement of the services of individual consultants or organizations thereof was considered and agreed to, as follows:

Resolved, That section 2 of S. Res. 140, Ninety-fifth Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$1,500" and inserting in lieu thereof "$4,500".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–507), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

Senate Resolution 272 would amend the 1977 expenditure-authorization resolution of the Select Committee on Small Business (S. Res. 140, 95th Cong., agreed to June 14, 1977) by increasing by $3,000—from $1,500 to $4,500—that portion of the funds already authorized which the committee could expend for the procurement of the services of individual consultants or organizations thereof. No increase in this committee's present total authorization of funds ($174,500) would result from this action.

An explanation for the request is expressed in a joint letter addressed to Senator Howard W. Cannon, chairman of the Committee on Rules and Administration, by Senator Gaylord Nelson, chairman, and Senator Lowell P. Weicker, Jr., ranking minority member, of the Select Committee on Small Business, which letter is as follows:

OCTOBER 3, 1977.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, Washington, D.C.

DEAR MR. CHAIRMAN: Senate Resolution 272, introduced on September 27, 1977, and reported unanimously from the Select Small Business Committee on September 30, 1977, has been referred to the Rules and Administration Committee for consideration.

This resolution amends Senate Resolution 140, agreed to June 14, 1977, which authorized a budget of $174,500 for the period July 1, 1977, through February 28, 1978, for the Small Business Committee. The resolution would increase the maximum for consultants, within the committee's already approved budget, from $1,500 to $4,500, an increase of $3,000. The amendment would not in any way increase the overall budget of the Small Business Committee.

As stated in our April 22, 1977, letter to you in support of Senate Resolution 140, it is anticipated that most of the $1,500 approved for consultant services will be utilized for computer services respecting econometric models which will be useful on small business economic issues coming before the committee. The additional $3,000 authorization is being requested to support the services of a consultant in providing background research on and in conducting hearings in two areas of major importance to small business: Government patent policy and competition in the pharmaceutical industry. The committee currently has no staff member with expertise in either of these fields and regards its continuing work in them as necessary to issues before the committee affecting small business. The consultant would do the preparation for and conduct about three hearings in each of the two areas, after which the projects would be assigned to a regular staff member who would have worked with the consultant and developed the necessary specialization to follow through on these long-term investigations.

Since September 1, 1977, there has existed a vacancy on the statutory payroll of the Small Business Committee which will not be filled in the immediate future. Based on the salary level of the vacating professional staff member, this vacancy represents an overall cost saving to the contingency fund of the Senate of at least $5,000. For roughly the same period of time as the vacancy, it would cost only about $3,000 for the consultant to produce the hearings that are proposed, or $2,000 less than if the departed staff member had remained on the payroll and produced the same hearings.

The Small Business Committee would like to begin the work on these hearings at the earliest possible time. This resolution has the unanimous support of committee members. It does not increase the overall budget of the Small Business Committee, and in fact represents a cost saving to the Senate and the taxpayer for the services rendered. Therefore, we would hope that the Rules Committee would take favorable and early action on Senate Resolution 272.

Sincerely,

GAYLORD NELSON,
Chairman.
LOWELL P. WEICKER, JR.,
Ranking Member.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEES ON ARMED SERVICES, ENERGY AND NATURAL RESOURCES, ENVIRONMENT AND PUBLIC WORKS, AND FOREIGN RELATIONS

The resolution (S. Res. 297) authorizing supplemental expenditures by the Committee on Armed Services, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Foreign Relations for inquiries and investigations was considered and agreed to, as follows:

Resolved, That section 2 of S. Res. 142, Ninety-fifth Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$475,000" and inserting in lieu thereof "$483,700".

SEC. 2. Section 2 of S. Res. 158, Ninety-fifth Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$775,000" and inserting in lieu thereof "$797,000".

SEC. 3. Section 2 of S. Res. 157, Ninety-fifth Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$858,500" and inserting in lieu thereof "$875,800".

SEC. 4. Section 2 of S. Res. 156, Ninety-fifth Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$905,000" and inserting in lieu thereof "$918,100".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–508), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

Pursuant to Senate Resolution 252, Section 3(f), the Committee on Rules and Administration reports a resolution authorizing expenditures out of the contingent fund of the Senate to pay compensation and expenses of eligible staff members transferred from the Joint Committee on Atomic Energy to four standing committees of the Senate for a 90-day period.

Under Senate Resolution 252, an Office of Classified National Security Information was established upon the President signing S. 1153 into law on September 20, 1977, eliminating the Joint Committee on Atomic Energy. On that date, those staff members of the Joint Committee who were not transferred to the new Office or did not find employment elsewhere were transferred temporarily to the new committees.

As negotiated by the Rules Committee, two staff members went to Foreign Relations, one to Armed Services, three to Environment and Public Works, and two to Energy and Natural Resources. The total maximum cost for the transfer of the 10 employees for the 90-day transition period is $61,100 as worked out by the Senate disbursing officer. This sum includes the cost-of-living raise effective October 1, 1977, but is left optional to the chairmen of the concerned committees to grant.

Section 1 of Senate Resolution 297 would amend Senate Resolution 142, agreed to June 14, 1977 (the expenditure-authorization resolution of the Committee on Armed Services) by increasing by $8,700—from $475,000 to $483,700—funds available to the committee for inquiries and investigations through February 28, 1978.

Section 2 of the resolution would amend Senate Resolution 158 agreed to June 14, 1977 (the expenditure-authorization resolution of the Committee on Energy and Natural Resources) by increasing by $22,000—from $775,000 to $797,000—funds available to the committee for inquiries and investigations through February 28, 1978.

Section 3 of the resolution would amend Senate Resolution 157, agreed to June 14, 1977 (the expenditure-authorization resolution of the Committee on Environment and Public Works) by increasing by $17,300—from $858,500 to $875,800—funds available to the committee for inquiries and investigations through February 28, 1978.

Section 4 of the resolution would amend Senate Resolution 156, agreed to June 14, 1977 (the expenditure-authorization resolution of the Committee on Foreign Relations) by increasing by $13,100—from $905,000 to $918,100—funds available to the committee for inquiries and investigations through February 28, 1978.

A supporting letter and data addressed to the chairman of the Rules Committee from Mr. Robert Malstrom, Senate disbursing officer, follows:

U.S. SENATE,
OFFICE OF THE SECRETARY,
Washington, D.C., September 26, 1977.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The provisions of section 3(f), Senate Resolution 252, agreed to August 5, 1977, directs that the Committee on Rules and Administration shall report a resolution which authorizes expenditures out of the contingent fund of the Senate during the transition period by the new committees sufficient to enable each new committee to pay the compensation and expenses of the eligible staff members transferred to its staff under this resolution.

The four committees named in the resolution have agreed as to which eligible staff members would be assumed by each committee and those staff members have already been transferred, effective September 20, 1977. On that basis, the total cost for salaries and agency contributions for the 90-day transition period has been computed and is shown on the attached listings:

(1) Showing cost at September 1977 rates at no cost-of-living increase;

(2) Showing cost at October 1977 rates, if cost of living is authorized.

I have included a summary of the requested increase in committee funding allocations to show the amount of increase for each committee and the new allocation requested at (1) no cost-of-living increase, and (2) including cost-of-living increase.

Also enclosed is suggested language for a Senate resolution to increase the allocation of funds for the committees concerned for the cost of such salaries and contributions; this language, however, does not include any funds for any cost-of-living increase.

If you have any questions regarding any of these items, please contact me directly on 4–3205 or 4–3206.

Respectfully,

ROBERT A. MALSTROM,
Financial Clerk, U.S. Senate.

Enclosures.

SUMMARY OF THE REQUESTED INCREASE IN COMMITTEE FUNDING ALLOCATIONS DUE TO ASSUMPTION OF TRANSITION STAFF FROM JOINT COMMITTEE ON ATOMIC ENERGY

Committee	S. Res.—	Agreed to (1977)	Total allotment	Cost at current (September 1977) rates for transition staff	(1) New allocation	Cost at cost-of-living (Oct. 1, 1977) rates for transition staff	(2) New allocation
Armed Services	142	June 14	$475,000	$8,100	$483,100	$8,700	$483,700
Energy and Natural Resources	158	...do....	775,000	21,400	796,400	22,000	797,000
Environment and Public Works	157	...do....	858,500	16,200	874,700	17,300	875,800
Foreign Relations	156	...do....	905,000	12,300	917,300	13,100	918,100
Total			3,013,500	58,000	3,071,500	61,100	3,074,600

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

The resolution (S. Res. 298) authorizing additional expenditures by the Committee on Rules and Administration for routine purposes was considered and agreed to, as follows:

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, during the Ninety-fifth Congress, $30,000 in addition to the amounts, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946, and in S. 128, Ninety-fifth Congress agreed to April 1, 1977.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–509), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

Section 134(a) of the Legislative Reorganization Act of 1946 (Public Law 601, 79th Cong., 60 Stat. 812, August 2, 1946) authorized each standing committee of the Senate to expend not to exceed $10,000 per Congress for routine purposes.

Senate Resolution 298 would authorize the Committee on Rules and Administration to expend from the contingent fund of the Senate, during the 95th Congress, $30,000 in addition to the amount, and for the same purposes, specified in said section 134(a).

The Committee on Rules and Administration has received additional funds for such routine purposes pursuant to Senate Resolution 128, agreed to April 1, 1977, in the amount of $20,000.

Approval of Senate Resolution 298 would increase to $50,000 the amount which the committee could expend during the 95th Congress in addition to and for the same purpose as its statutory $10,000 per Congress.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RAWLEIGH MOSES & COMPANY, INC.

The resolution (S. Res. 234) to refer the bill (S. 1953) entitled "A bill for the relief of Rawleigh Moses and Company, Incorporated" to the Chief Commissioner of the U.S. Court of Claims for a report thereon was considered and agreed to, as follows:

Resolved, That bill (S. 1953) entitled "A bill for the relief of Rawleigh Moses and Company, Incorporated" now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–511), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to refer the bill S. 1953, for the relief of Rawleigh Moses & Co., Inc., to the Court of Claims for proceedings in accordance with sections 1492 and 2509, title 28, United States Code, to determine the character of the demand of the claim, or a gratuity in the amount, if any, legally or equitably due from the United States to the claimant.

STATEMENT

Rawleigh Moses & Co., Inc., is the successor in interest to ECT Corp. which was awarded a contract to manufacture cotton duck vehicle covers for the U.S. Army. ECT's successful bid was based on the mistaken assumption that the Army would supply the cotton duck. Although the Army argued that it had no obligation to supply the material, it agreed to reimburse ECT for the cost of such material if the price were fair and reasonable. ECT obtained the material at a price acceptable to the Army and produced over 2,000 vehicle covers.

The Army, however, refused to honor its promise, claiming that the supply officer, who authorized ECT to purchase the material, did not have the required authority to bind the Army. Therefore, the basis of ECT's equitable claim, which is now asserted by Moses, is that (1) ECT performed the contract at a loss of more than $50,000 in reliance on the Army's promise and (2) the Army has unjustly benefited by obtaining these vehicle covers at a smaller price than was fair.

This claim has been litigated before the Armed Services Board of Contract Appeals and the U.S. Court of Claims which construed the contract at issue and denied the claim. Although Moses was not entitled to recover as a matter of law, the equitable claim may be asserted against the United States.

The enactment of this legislation involves no direct additional expenditure to the Government.

The Committee believes that the resolution is meritorious and recommends it favorably.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DONATIONS OF MARKERS RECOGNIZING THE CONTRIBUTIONS OF GEN. THADDEUS KOSCIUSZKO

The concurrent resolution (S. Con. Res. 44) to authorize the Secretary of the Interior to accept donations of suitable markers recognizing the contributions of Gen. Thaddeus Kosciuszko, was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

Whereas the year of 1977 marks the bicentennial of the Battle of Saratoga, a turning point of the American War of Independence; and

Whereas a part of the victory at Saratoga is credited to the military genius of General Thaddeus Kosciuszko of Poland; and

Whereas the engineering skill and advice of General Thaddeus Kosciuszko contributed significantly to the tactics of the Continental Army in both the north and south theaters of the American War of Independence: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the sites of service of General Thaddeus Kosciuszko as identified by but not limited to the Polish National Alliance and the Copernicus Society should be recognized by the Federal, State, and local governments as the Kosciuszko Military Engineering Sites and marked by suitable markers; and be it further

Resolved, That the Secretary of the Interior be encouraged to accept the donations of such suitable markers for placement within units of the National Park System, pursuant to the authority granted to the Secretary of the Interior in the Act of August 21, 1935 (49 Stat. 666).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–512), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SENATE CONCURRENT RESOLUTION 44

PURPOSE

Senate Concurrent Resolution 44 expresses the resolve of the Senate that the Secretary of the Interior be encouraged to accept donations of suitable markers recognizing the role of Gen. Thaddeus Kosciuszko in the American Revolutionary War.

BACKGROUND AND NEED

During the Revolutionary War, when the needs of our Nation were so great, Gen. Thaddeus Kosciuszko volunteered to leave his native Poland and join the Continental Army. After Polish military service and training in military engineering in Paris, he arrived in the Colonies in August, 1776. Immediately upon his arrival in this country, Kosciuszko was engaged to help fortify the city of Philadelphia against attack by the British. His extraordinary engineering talents were soon recognized as he was dispatched to build extensive fortifications along the Hudson River used to deter the British at Fort Ticonderoga.

Kosciuszko's most notable success however, was his fortification of Saratoga, N.Y. This victory, considered by many to be one of the 10 most important battles in history, persuaded France and Spain that the Continental Army could fight against England's finest troops.

Throughout the Revolutionary War, Kosciuszko helped the Americans repulse the British forces at almost every critical turn. The British Navy's attempt to cut off all of New England by sailing up and seizing control of the Hudson Valley was stopped by Kosciuszko's shrewd fortification of West Point. Another British attempt to sail up the Delaware and trap General Washington north of Philadelphia was halted by Kosciuszko's twin forts on the river just south of what is now the Philadelphia Navy Yard. British operations in the South were split and confused and ultimately defeated at Yorktown, thanks to the tactics and fortifications engineered by Kosciuszko at key points in the long and arduous campaign.

After the American Revolution, General Kosciuszko returned to his native Poland. When, in 1817, he was awarded $18,000 and 500 acres of land in Ohio as compensation for his military service in the Continental Army, he directed the money and the funds raised from the sale of the Ohio land to be used toward the founding of a school in Newark, N.J., for the education of freed black people. This was one of the first educational institutions for black people in the United States, and served as a further example of his love for freedom and betterment of all.

LEGISLATIVE HISTORY

Senator Jackson introduced S. 1326 on April 20, 1977. The Subcommittee on Parks and Recreation conducted a hearing on this measure on June 28, 1977. S. 1326 would have authorized the Secretary of the Interior to designate the sites of service of General Kosciuszko during the American War of Independence and connect these sites by the "Kosciuszko Historic Route." On September 14, 1977, Senator Jackson introduced Senate Concurrent Resolution 44, which, rather than depict an historic route, recognizes the various Kosciuszko military engineering sites with suitable interpretive markers. Markers would be donated and placed within the particular units of the National Park System.

Joining Senator Jackson as cosponsors of Senate Concurrent Resolution 44 are Senators Stevenson, Pell, Metzenbaum, and Church.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LAND ACQUISITIONS WITHIN THE SAWTOOTH NATIONAL RECREATION AREA, IDAHO

The bill (S. 791) to authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13 of the Act of August 22, 1972 (86 Stat. 612; 16 U.S.C. 460aa–12) is amended by striking "$19,802,000" and inserting in lieu thereof "$47,802,000".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–514), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 791, as ordered reported, would increase the authorization ceiling for the Sawtooth National Recreation Area from $19,802,000 to $47,802,000 for acquisition of land and interests in land.

BACKGROUND AND NEED

In establishing the Sawtooth National Recreation Area, the Congress intended that in order to avoid the use of condemnation and high land acquisition costs, affected landowners would comply with regulations promulgated by the Secretary of Agriculture which were published April 29, 1974. All of the owners of the large land holdings have approached the Forest Service requesting that a scenic easement be purchased on their properties. Many have stated that if the Forest Service does not voluntarily acquire the scenic easements, they will find themselves in a position of violating the regulations. This situation could make it necessary for the Forest Service to begin condemnation action in order to enforce the private land use regulations imposed by the Secretary.

In addition, the cost estimates included in the Sawtooth Act were partly based on an original provision (subsequently deleted) which would have permitted the continuance of existing nonconforming uses within the area. Therefore, acquisition of these properties and uses has added significantly to the land acquisition costs.

Since the land acquisition program began, 8,754 acres have been acquired in fee and easements. Expenditures for these acquisitions have reached the limit set by the Congress. In order for the Forest Service to comply with the act, 14,046 acres of additional land must be acquired. Approximately 11,060 acres would be acquired in scenic easements with 1,370 acres to be acquired in fee.

The committee believes that any further delay in the land acquisition program at Sawtooth will not only result in higher acquisition costs, but will also work a hardship on those private landowners who must, because of regulations promulgated by the Secretary, sell their land.

LEGISLATIVE HISTORY

The committee favorably reported and the Senate passed a similar authorization increase for the Sawtooth National Recreation Area in the 94th Congress. The House, however, took no action on the proposal.

The committee has not conducted hearings on this measure this year.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVEYANCE OF CERTAIN LANDS ADJACENT TO THE GUND RANCH, GRASS VALLEY, NEV., TO THE UNIVERSITY OF NEVADA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 477, S. 917.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, this matter is cleared on our calendar. We have no objection to its consideration at this time.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 917) to provide for conveyance of certain lands adjacent to the Grand Gund Ranch, Grass Valley, Nevada, to the University of Nevada.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill (S. 917) which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That the Secretary of the Interior is authorized to convey to the University of Nevada upon its application the following lands located in the State of Nevada, or any portion thereof, under the provisions of the Act of June 14, 1926, as amended (44 Stat. 741, as amended; 43 U.S.C. 869), but notwithstanding the acreage limitations in subsection (b)(ii) or the limitation on disposition in the last sentence of subsection (c) of the first section of that Act:

1. East half southwest quarter, section 7, township 24 north, range 48 east, 80 acres;
2. Southeast quarter northwest quarter, section 7, township 24 north, range 48 east, 40 acres;
3. South half northeast quarter, section 7, township 24 north, range 48 east, 80 acres;
4. South half northwest quarter, section 8, township 24 north, range 48 east, 80 acres;
5. South half southeast quarter, section 8, township 24 north, range 48 east, 80 acres;
6. West half, section 16, township 24 north, range 48 east, 320 acres;
7. West half southeast quarter, section 16, township 24 north, range 48 east, 80 acres;
8. Southwest quarter northeast quarter, section 16, township 24 north, range 48 east, 40 acres;
9. Entire, section 17, township 24 north, range 48 east, 640 acres;
10. Northeast quarter northwest quarter, section 18, township 24 north, range 48 east, 40 acres;
11. North half northeast quarter, section 18, township 24 north, range 48 east, 80 acres;
12. Northwest quarter northwest quarter, section 20, township 24 north, range 48 east, 40 acres;
13. East half northwest quarter, section 20, township 24 north, range 48 east, 80 acres;
14. East half, section 20, township 24 north, range 48 east, 320 acres;
15. West half, section 21, township 24 north, range 48 east, 320 acres;
16. West half northeast quarter, section 21, township 24 north, range 48 east, 80 acres;
17. Northwest quarter southeast quarter, section 21, township 24 north, range 48 east, 40 acres;
18. West half, section 28, township 24 north, range 48 east, 320 acres;
19. East half, section 29, township 24 north, range 48 east, 320 acres;
20. South half northwest quarter, section 4, township 23 north, range 48 east, 80 acres;
21. Southwest quarter, section 4, township 23, north, range 48 east, 160 acres;
22. West half southwest quarter, section 5, township 23 north, range 48 east, 80 acres;
23. Southwest quarter northwest quarter, section 5, township 23 north, range 48 east, 40 acres;
24. East half southeast quarter, section 7, township 23 north, range 48 east, 80 acres;
25. West half west half, section 8, township 23 north, range 48 east, 160 acres;
26. East half east half, section 8, township 23 north, range 48 east, 160 acres;
27. Southwest quarter, section 9, township 23 north, range 48 east, 160 acres;
28. South half northwest quarter, section 9, township 23 north, range 48 east, 80 acres;
29. Northwest quarter, northwest quarter, section 9, township 23 north, range 48 east, 40 acres;
30. West half, section 16, township 23 north, range 48 east, 320 acres;
31. East half east half, section 17, township 23 north, range 48 east, 160 acres;
32. West half west half, section 17, township 23 north, range 48 east, 160 acres;
33. East half section 18, township 23 north, range 48 east, 320 acres;
34. Lots 3 and 4, east half, southwest quarter, section 19, township 23 north, range 48 east, 110.79 acres;
35. West half southeast quarter, section 19, township 23 north, range 48 east, 80 acres;
36. Northeast quarter, section 19, township 23 north, range 48 east, 160 acres;
37. West half northwest quarter, section 20, township 23 north, range 48 east, 80 acres;
38. East half southwest quarter, section 20, township 23 north, range 48 east, 80 acres;
39. Southeast quarter, section 20, township 23 north, range 48 east, 160 acres;
40. East half northeast quarter, section 20, township 23 north, range 48 east, 80 acres;
41. West half west half, section 21, township 23 north, range 48 east, 160 acres;
42. Northeast quarter, section 29, township 23, north, range 48 east, 160 acres;
43. West half southeast quarter, section 29, township 23 north, range 48 east, 80 acres;
44. West half, section 29, township 23 north, range 48 east, 320 acres;
45. Entire, section 30, township 23 north, range 48 east, 542.28 acres;
46. Entire, section 31, township 23 north, range 48 east, 543.44 acres;
47. Northwest quarter, section 32, township 23 north, range 48 east, 160 acres.

SEC. 2. No conveyance shall be made under this Act unless application therefor by the University of Nevada is received by the Secretary of the Interior within one year of the effective date of this Act.

SEC. 3. The land conveyed by this Act shall be used for the establishment and operation of a rangeland research station and for the conduct of associated experimental range management and improvement programs. The patent or other document of conveyance issued pursuant to this Act shall incorporate the limitation set forth in this section and shall provide that title to the land shall revert to the United States if the land is used for any other purpose.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-521), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 917 would direct the Secretary of the interior to convey to the University of Nevada all right, title and interest of the United States to about 8,040 acres of Bureau of Land Management land.

BACKGROUND

The lands described in S. 917 are vacant public lands lying between the floor of Grass Valley and the Simpson Park Mountain range. About one-fourth of the acreage appears to have good potential for intensive agricultural use by irrigation. In 1973, the University of Nevada acquired the Gund Ranch, a working cattle ranch adjacent to the lands that would be conveyed by S. 917. The ranch consists of about 2,800 acres which in conjunction with the contiguous public

lands supported a 450–500 head cattle operation on a year-long basis.

If operation of the ranch on a commercial basis were continued, the owner could generally expect that grazing privileges on the adjacent public lands could continue. However, since the University is not in the livestock business, it could not qualify as a grazing permittee under the Taylor Grazing Act (43 U.S.C. 315).

The University now wishes to obtain the public lands in question for agricultural and natural resources research and demonstration. If appropriate arrangements could be made in this regard, range users, as well as the Bureau of Land Management and other land managing agencies, could be greatly benefited by the results of the research undertaken. In an attempt to find some mutually acceptable course of action there have been, for over a year, numerous discussions between the University and the BLM's Nevada State Office. The decision was reached that legislation was required.

SUMMARY OF PROVISIONS AND COMMITTEE AMENDMENT

Under S. 917, as introduced, the conveyance of title for the 8,040 acres would reserve mineral interests to the United States unless the criteria of Section 209 of the Federal Land Policy and Management Act of 1976 (FLPMA) are met. Administrative costs would be paid by the University and the conveyance would be made upon such terms and conditions as the Secretary deems necessary to insure proper land use and protection of the public interest. The land would be used for a rangeland research station and for conduct of an associated experimental range management and improvement program. Title would revert if it were used for other purposes. The conveyance would not be subject to the requirements of the National Environmental Policy Act of 1969 (NEPA).

The administration witness at the hearing on S. 917 objected to its provisions on several grounds which are detailed in the report of the Department of the Interior printed in the executive communications section of this report. During the mark-up on S. 917, Senator Laxalt offered as an amendment a substitute bill suggested by the administration.

The amendment, agreed to by the Committee on Energy and Natural Resources, would enable the Secretary to receive and consider the University's application for a conveyance of the lands in question under the provisions of the Recreation and Public Purposes Act, notwithstanding the acreage limitations therein. This would do no more than waive the acreage limitations and would enable the Secretary to consider the University's application for all of the lands and make the conveyance at a low cost to the University. Other requirements of the Recreation and Public Purposes Act (44 Stat. 741, as amended; 43 U.S.C 869), such as submission of a plan to the Secretary and the requirement that no more land be conveyed than is needed for the project proposed would remain in effect. Minerals would be reserved and a reverter would be included in the patent. NEPA would apply.

LEGISLATIVE HISTORY

S. 917 was introduced on March 4, 1977, by Senator Laxalt, for himself and Senator Cannon. The Subcommittee on Public Lands and Resources of the Committee on Energy and Natural Resources held a hearing on the measure on September 22, 1977.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to convey to the University of Nevada upon its application the following lands located in the State of Nevada, or any portion thereof, under the provisions of the Act of June 14, 1926, as amended (44 Stat. 741, as amended; 43 U.S.C. 869), but notwithstanding the acreage limitations in subsection (b)(ii) or the limitation on disposition in the last sentence of subsection (c) of the first section of that Act:

1. East half southwest quarter, section 7, township 24 north, range 48 east, 80 acres;
2. Southeast quarter northwest quarter, section 7, township 24 north, range 48 east, 40 acres;
3. South half northeast quarter, section 7, township 24 north, range 48 east, 80 acres;
4. South half northwest quarter, section 8, township 24 north, range 48 east, 80 acres;
5. South half southeast quarter, section 8, township 24 north, range 48 east, 80 acres;
6. West half, section 16, township 24 north, range 48 east, 320 acres;
7. West half southeast quarter, section 16, township 24 north, range 48 east, 80 acres;
8. Southwest quarter northeast quarter, section 16, township 24 north, range 48 east, 40 acres;
9. Entire, section 17, township 24 north, range 48 east, 640 acres;
10. Northeast quarter northwest quarter, section 18, township 24 north, range 48 east, 40 acres;
11. North half northeast quarter, section 18, township 24 north, range 48 east, 80 acres;
12. Northwest quarter northwest quarter, section 20, township 24 north, range 48 east, 40 acres;
13. East half northwest quarter, section 20, township 24 north, range 48 east, 80 acres;
14. East half, section 20, township 24 north, range 48 east, 320 acres;
15. West half, section 21, township 24 north, range 48 east, 320 acres;
16. West half northeast quarter, section 21, township 24 north, range 48 east, 80 acres;
17. Northwest quarter southeast quarter, section 21, township 24 north, range 48 east, 40 acres;
18. West half, section 28, township 24 north, range 48 east, 320 acres;
19. East half, section 29, township 24 north, range 48 east, 320 acres;
20. South half northwest quarter, section 4, township 23 north, range 48 east, 80 acres;
21. Southwest quarter, section 4, township 23 north, range 48 east, 160 acres;
22. West half southwest quarter, section 5, township 23 north, range 48 east, 80 acres;
23. Southwest quarter northwest quarter, section 5, township 23 north, range 48 east, 40 acres;
24. East half southeast quarter, section 7, township 23 north, range 48 east, 80 acres;
25. West half west half, section 8, township 23 north, range 48 east, 160 acres;
26. East half east half, section 8, township 23 north, range 48 east, 160 acres;
27. Southwest quarter, section 9, township 23 north, range 48 east, 160 acres;
28. South half northwest quarter, section 9, township 23 north, range 48 east, 80 acres;
29. Northwest quarter, northwest quarter, section 9, township 23 north, range 48 east, 40 acres;
30. West half, section 16, township 23 north, range 48 east, 320 acres;
31. East half east half, section 17, township 23 north, range 48 east, 160 acres;
32. West half west half, section 17, township 23 north, range 48 east, 160 acres;
33. East half, section 18, township 23 north, range 48 east, 320 acres;
34. Lots 3 and 4, east half, southwest quarter, section 19, township 23 north, range 48 east, 110.79 acres;
35. West half southeast quarter, section 19, township 23 north, range 48 east, 80 acres;
36. Northeast quarter, section 19, township 23 north, range 48 east, 160 acres;
37. West half northwest quarter, section 20, township 23 north, range 48 east, 80 acres;
38. East half southwest quarter, section 20, township 23 north, range 48 east, 80 acres;
39. Southeast quarter, section 20, township 23 north, range 48 east, 160 acres;
40. East half northeast quarter, section 20, township 23 north, range 48 east, 80 acres;
41. West half west half, section 21, township 23 north, range 48 east, 160 acres;
42. Northeast quarter, section 29, township 23 north, range 48 east, 160 acres;
43. West half southeast quarter, section 29, township 23 north, range 48 east, 80 acres;
44. West half, section 29, township 23 north, range 48 east, 320 acres;
45. Entire, section 30, township 23 north, range 48 east, 542.28 acres;
46. Entire, section 31, township 23 north, range 48 east, 543.44 acres;
47. Northwest quarter, section 32, township 23 north, range 48 east, 160 acres.

SEC. 2. No conveyance shall be made under this Act unless application therefor by the University of Nevada is received by the Secretary of the Interior within one year of the effective date of this Act.

SEC. 3. The land conveyed by this Act shall be used for the establishment and operation of a rangeland research station and for the conduct of associated experimental range management and improvement programs. The patent or other document of conveyance issued pursuant to this Act shall incorporate the limitation set forth in this section and shall provide that title to the land shall revert to the United States if the land is used for any other purpose.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The Senate continued with the consideration of H.R. 5263.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 972

Mr. METZENBAUM. Mr. President, I ask unanimous consent to send an amendment to the desk to modify the amendment that is mine pending at the desk.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, the Senator certainly has a right to amend his amendment. Is he asking for modification of his amendment?

Mr. METZENBAUM. Yes.

The PRESIDING OFFICER. As I understand it, the Senator is asking for a modification of his amendment.

Mr. BAKER. Mr. President, I might say, if the majority leader will yield to

me, I understand there is no objection on this side to the modification as it was described.

Mr. ROBERT C. BYRD. Mr. President, with the assurance given to me by Senator METZENBAUM, I have no objection.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Add at the end of amendment No. 1505 the following:

"TERRITORIAL APPLICATION

"———. The provisions of this title shall apply to the contiguous forty-eight States, Alaska, and the District of Columbia."

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Ohio will be so modified.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are certain measures on the calendar which have been cleared for action by unanimous consent. I ask that the clerk transfer to the Unanimous Consent Calendar, therefore, the following measures:

Calendar Orders Nos. 471, 473, 474, 475, 476, and 478.

The PRESIDING OFFICER. The measures will be so transferred.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The Senate continued with the consideration of H.R. 5263.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered.

OPPORTUNITIES FOR ADOPTION ACT OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 141.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, this measure has been on the calendar for some time, but we have this morning been able to clear it on our calendar, and we have no objection, now, to Senate consideration of the measure at this time.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 961) to promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes and for other purposes,

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Human Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Opportunities for Adoption Act of 1977".

TITLE I—ADOPTION OPPORTUNITIES

FINDINGS AND DECLARATION OF PURPOSE

SEC. 101. The Congress hereby finds that many thousands of children remain in institutions or foster homes solely because of legal and other barriers to their placement in permanent, adoptive homes; that the majority of such children are of school age, handicapped, or both; that adoption may be the best alternative for assuring the healthy development of such children; that there are qualified persons seeking to adopt such children who are unable to do so because of barriers to their placement; and that in order both to enhance the stability and love of the child's home environment and to avoid wasteful expenditures of public funds, such children should not be maintained in foster care or institutions when adoption is appropriate and families for them can be found. It is, therefore, the purpose of this title to facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit by adoption, particularly children with special needs, by—

(1) promoting the establishment of uniform adoption regulations in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption;

(2) providing Federal financial assistance to States for the purpose of assisting certain public and private nonprofit agencies and certain adoptive and prospective adoptive parents in meeting certain costs of adoption in order to remove or alleviate the financial obstacles which present serious barriers to securing permanent and loving home environments for children who would benefit by adoption; and

(3) providing for the establishment of a National Office of Adoption Information and Services in the Department of Health, Education, and Welfare to (A) promote quality standards for adoption services (including pre-placement, post-placement, and post-adoption counseling and standards to protect the rights of children in need of adoption), and (B) provide for a national adoption information exchange system to bring together children who would benefit by adoption and qualified prospective adoptive parents who are seeking such children.

COMMITTEE ON UNIFORM ADOPTION REGULATIONS

SEC. 102 (a) Not later than ninety days after the date of enactment of this Act, the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") shall appoint a Committee on Uniform Adoption Regulations (hereinafter referred to as the "Committee") to be composed of not less than eleven nor more than seventeen members generally representative of public and voluntary groups interested and with expertise and experience in facilitating the achievement of the purposes of this title (including, but not limited to, national, State, and local child welfare organizations (including those representative of minorities) and adoptive parent organizations) and the Director of the National Office of Adoption Information and Services established under section 104(a).

(b) The Committee shall—

(1) review current conditions, practices, and laws relating to adoption, with special reference to their effect on facilitating or impeding the finding of suitable adoptive homes for children who would benefit by adoption and the completion of suitable adoptions for such children; and

(2) not later than twelve months after the date on which the members of the Committee have been appointed, propose to the Secretary uniform adoption (including adoption assistance agreement) regulations which would facilitate adoption by families of all economic levels.

(c) Following receipt of the Committee's proposals, but not later than three months thereafter, the Secretary shall publish, along with any comments and proposed modifications, the proposed uniform adoption regulations in the Federal Register for comment and, after soliciting and giving due consideration to the comments of interested individuals, groups, and organizations and consulting further with the Committee, shall issue and publish final uniform adoption regulations which shall apply in connection with the administration of the grant program established pursuant to section 103. Nothing in such uniform adoption regulations shall be deemed to conflict with the provisions of any interstate compact in operation pursuant to which States are making, supervising, or regulating placements of children, and no State shall be denied a grant under section 103 because of its participation in or implementation of any such compact.

(d) The Committee shall be terminated thirty days after the Secretary publishes the final uniform adoption regulations pursuant to subsection (c) of this section.

(e) Members of the Committee, other than those regularly employed by the Federal Government, while serving on business of the Committee, shall be entitled to receive compensation at a rate not in excess of the daily equivalent of the rate payable to a GS–18 employee under section 5332 of title 5, United States Code, including traveltime; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.

GRANTS FOR ADOPTION ASSISTANCE AND SERVICES

SEC. 103. (a) The Secretary, in accordance with regulations which he or she shall prescribe and giving due consideration to the needs of each State and to the needs of particular population groups within each State, shall make grants to States, upon application, for allocation, by State agencies principally responsible for services to families and children, to public and private nonprofit adoption agencies which meet standards of quality prescribed pursuant to section 104(b)(5) for the purpose of assisting such agencies in facilitating the adoption of children with special needs. Funds provided in such grants shall be used for meeting part of the cost of some or all of the following:

(1) The adoptive placement of children with special needs without regard to the location of the agency serving the prospective adoptive parents (including identifying children in need of adoption, locating and counseling their biological and legal parents, freeing appropriate children for adoption, locating suitable homes for such children,

and providing pre-placement, post-placement, and post-adoptive counseling and other special services to children with special needs, and to prospective and actual adoptive parents and other family members) and the training and support of necessary staff.

(2) The provision of pre-natal, natal, and post-partum services to women who are voluntarily planning to place their children for adoption (after having been informed in writing that the acceptance of such services does not in any way constitute an obligation to proceed with adoption) and who are unable to assume such costs, in order to protect the health and welfare of both the woman and child; but only to the extent that assistance under other Federal or State programs in the community in question is not readily available to provide adequately for such services.

(3) The provision of assistance to children with special needs by—

(A) assisting prospective adoptive parents, who would consider adoption but for their financial inability to meet a particular child's needs, in defraying the placement, post-placement, and post-adoption cost of supporting children with special needs, in amounts of assistance determined by the Secretary to be adequate to enable such adoptive parents to adopt such children (including payment for legal fees and court costs); and

(B) assisting adoptive parents in locating and, where alternative support is not reasonably available, defraying the cost of, post-placement and post-adoption special services to children requiring such services as a result of conditions which existed prior to their placement or adoption,

up to an amount not exceeding the amount (and not exceeding any Federal share of such amount) which similar services or support, or both, would cost the State in question were it to provide or secure, or to continue to provide or secure, appropriate services or support, or both, as the guardian of such children.

(b) The Secretary, in cooperation with State agencies principally responsible for services to families and children, shall insure that the following requirements are met in the provision of assistance pursuant to clause (3) of subsection (a) of this section:

(1) Declarations, subject to periodic agency review, by the adoptive parent of the need for continuing, and the adequacy of, such assistance shall be made no more frequently than annually.

(2) Assistance shall be made available only pursuant to an adoption assistance agreement (meeting such criteria as the Secretary shall establish in regulations, including regulations prescribed pursuant to section 102 (c)) negotiated and entered into by the adoptive parents prior to completion of the adoption process. Such agreement shall, to the maximum extent feasible, involve all parties and agencies which may be or have providing assistance or services to the child, so as to establish the maximum possible coordination, continuity, and unification in the future provision of such assistance and services. Such agreement may provide that assistance payments may be made before such adoption becomes final.

(3) In determining the appropriate amount of assistance to be provided, due consideration shall be given to the recommendations of any adoption agency through which assistance under this section is provided and which is presently supporting the child in question in foster care or institutional care, and of the prospective adoptive parents.

(4) A system shall be established in such State under which the foster parents providing care to a child in need of adoption will be notified of the possibility of the provision of the financial assistance for adoptive placement authorized by this title if it appears to be in the child's best interest to remain in the home of such foster parents. If such parents wish to file application to adopt the child and are found, after study, to be appropriate adoptive parents for the child but for their financial inability to meet the child's needs, they shall be provided (A) all necessary assistance in completing the legal and procedural requirements necessary to effectuate adoption, and (B) appropriate financial assistance and services, including payment for legal fees and court costs, pursuant to an adoption assistance agreement.

(c) The Secretary shall take such steps as he or she deems necessary to encourage and facilitate the enactment of comprehensive adoption assistance legislation in each State.

(d) The Secretary, in carrying out the provisions of subsection (a) of this section, shall insure that at such time as the final uniform regulations referred to in section 102(c) are published in the Federal Register, only States adopting and implementing, within an appropriate period of time which the Secretary shall determine, programs consistent with such regulations shall remain eligible for grants under this section.

(e) For the purposes of this title—

(1) the term "children with special needs" means those children who are in special circumstances either (A) because they have established significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, or (B) because they are not likely to be adopted by reason of one or more factors such as physical or mental disability, emotional disturbance, recognized high risk of physical or mental disease, age, sibling relationship, or racial or ethnic factors;

(2) the term "adoptive parents" includes single persons able to meet the needs of prospective adoptive children;

(3) the term "special services to children" includes such special educational, social, medical, dental, surgical, physical therapy, mental health, and other services as are necessary to assure the well-being of children with special needs, to the extent that such special services relate to the factors set forth in clause (1) of this subsection; and

(4) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any Indian tribe as that term is defined in section 102(5) of the Older Americans Act of 1965, as amended.

(f) Notwithstanding any other provisions of law, (1) no child receiving assistance under any other law prior to such child's adoptive placement or adoption with assistance provided under an adoption assistance agreement entered into in accordance with the provisions of this title shall be deemed ineligible for such amount of assistance solely by reason of such placement or adoption if the adoption agency in question certifies the need for the child to continue to receive such assistance, and (2) no assistance provided to adoptive parents or prospective adoptive parents pursuant to this title shall be taken into account as income, receipts, or resources for purposes of determining the eligibility of such parents or their respective adopted child for benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal financial assistance.

(g) No financial assistance shall be provided to a State or adoption agency pursuant to this title unless the grant, contract, or agreement under which such assistance is provided specifically provides satisfactory assurances that such financial assistance will be used so as to supplement and increase the existing level of expenditures by such recipient for such purposes and in no case to supplant such expenditures.

(h) Each State shall provide in its application for financial assistance under subsection (a) of this section satisfactory assurances that it will participate in the national adoption data gathering and analysis system established pursuant to section 104(b)(1) and the adoption information exchange system established pursuant to section 104(b)(6) and will establish and operate compatible systems for maintaining information on the current status and location of children in foster care placement, pursuant to standards prescribed by the Secretary in regulations.

ESTABLISHMENT OF THE NATIONAL OFFICE OF ADOPTION INFORMATION AND SERVICES

SEC. 104. (a) There is hereby established in the Children's Bureau in the Department of Health, Education, and Welfare a National Office of Adoption Information and Services (hereinafter referred to as the "Office") which shall be headed by a Director (hereinafter referred to as the "Director") who shall be appointed by the Secretary or his or her designee. The Office shall be the principal agency for carrying out the provisions of this title. The Secretary shall make available to the Office, together with appropriate administrative expenses, such consultant services and personnel (but not fewer than 15 central office positions) as are necessary for carrying out activities under sections 102 through 105 It shall be the duty of the Director, in accordance with regulations which he or she shall prescribe, to—

(1) provide (directly or by grant to or contract with public or private nonprofit agencies and organizations) for the establishment and operation of a national adoption data gathering and analysis system;

(2) conduct a continuous education and training program on adoption, including making grants to public and private nonprofit agencies and organizations, and to prepare, publish, and disseminate to all interested parties, private and public agencies and organizations (including, but not limited to, hospitals, health care and family planning clinics, pregnancy counseling agencies, and social service agencies), and governmental bodies, information and education and training materials regarding adoption and adoption assistance programs;

(3) conduct a program of making grants to and contracts with public and private nonprofit agencies and organizations for the demonstration of methods and programs to enhance the ability of families at risk to care for their children in their own home and to prevent the inappropriate or lengthy placement of children in foster care;

(4) measure and evaluate the impact of the programs authorized by this title and, not later than ninety days after September 30 of each year, prepare and submit to the Secretary, for transmittal to the President and the Congress, a report on such evaluation, which shall include, but not be limited to (A) the number of children placed in adoptive homes by adoption agencies during the year preceding the annual report, the number of such children placed under adoption assistance agreements, and the major characteristics of such children; and (B) the number of children currently in foster care and other custodial public or private institutions who have been in such status for six months or more, and the legal status of such children with respect to guardianship;

(5) insure that adoption agencies receiving assistance pursuant to this title subscribe to standards of quality, in accordance with regulations which the Secretary shall prescribe, for adoption services (including pre-placement, post-placement, and post-adoption counseling and standards to protect the rights of the children in question) and comply with the provisions of section 103(g);

(6) notwithstanding any other provision of law, provide (directly or by grant to or contract with public or private nonprofit

agencies or organizations) for (A) the operation of a national adoption information exchange system (including appropriate information necessary to facilitate the adoptive placement of children, utilizing computers and data processing methods to assist in the location of children who would benefit by adoption and in the placement in adoptive homes of children awaiting adoption) and (B) the coordination of such system with similar State and regional systems;

(7) provide (directly or by grant to or contract with public or private nonprofit agencies or organizations, including parent groups) for the provision of technical assistance in the planning, improving, developing, and carrying out of programs and activities relating to adoption; and

(8) consult with other appropriate Federal departments and agencies in order to promote maximum coordination of the services and benefits provided under programs carried out by such departments and agencies with those provided for under this title, and seek to coordinate, and advise the Secretary with respect to the coordination of, such aspects of all programs within the Department of Health, Education, and Welfare as relate to the purposes and provisions of this title.

(b)(1) Each State and adoption agency receiving Federal assistance under this title, pursuant to grants, subgrants, contracts, or subcontracts, entered into other than by formal advertising and which are otherwise authorized by this title, shall maintain such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in paragraph (1) of this subsection, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, or subcontracts referred to in paragraph (1) of this subsection.

STUDY OF UNLISTED ADOPTION PLACEMENTS

SEC. 105. (a) The Secretary shall provide for a study designed to determine the nature, scope, and effects of the interstate (and, to the extent feasible, intrastate) placement of children in adoptive homes (not including stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity. Such study shall to the extent feasible, attempt to determine—

(1) the number of children placed each year by such persons and agencies;

(2) the characteristics of such children (including their age and special needs and the socioeconomic level of their biological parents);

(3) the methods by which adoptive parents are located and deemed to be qualified to adopt children;

(4) the characteristics of the families which adopt such children (including their ages and socioeconomic characteristics, the way in which they learned of the child's availability for adoption, and the number of adoptive and biological children already in the family);

(5) the effect of such placement on the well-being of the children and any siblings in the adoptive family;

(6) the extent to which fees are charged for such adoption-related services and the amount of such fees;

(7) the extent to which such placement activities comply with or violate applicable laws; and

(8) the effectiveness of existing laws or mechanisms, including the Interstate Compact on the Placement of Children, in protecting the interests of such children and meeting their physical, mental, psychological, emotional, and other needs.

(b) Not later than two years after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the results of such study, together with any legislative recommendations deemed appropriate.

AUTHORIZATION OF APPROPRIATIONS

SEC. 106. (a) There are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1978, and such sums as may be necessary for the succeeding three fiscal years to carry out this title, except as provided in subsection (b) of this section.

(b) Of the amounts appropriated for any fiscal year in excess of $10,000,000 under subsection (a) of this section, not less than $2,000,000 shall be used for the purpose of carrying out the provisions of sections 104(b)(3) and 105.

TITLE II—AMENDMENTS TO CHILD ABUSE PREVENTION AND TREATMENT ACT

AUTHORIZATION OF APPROPRIATIONS AND EARMARKING

SEC. 201. (a) Section 5 of the Child Abuse Prevention and Treatment Act (hereinafter in this title referred to as "the Act") (42 U.S.C. 5106) is amended by striking out "succeeding fiscal year" and inserting in lieu thereof "three succeeding fiscal years. Of the funds appropriated for any fiscal year under this section, not less than 50 per centum shall be used for making grants or contracts under sections 2(b)(5) (relating to research) and 4(a) (relating to demonstration projects) and not less than 20 per centum shall be used for making grants or contracts under section 4(b)(1) (relating to grants to States), giving special consideration to continued Federal funding of child abuse and neglect programs or projects (previously funded by the Department of Health, Education, and Welfare) of national or regional scope and demonstrated effectiveness.".

(b) Section 4(a) of the Act (42 U.S.C. 5105(a)) is amended by striking out the last sentence thereof.

(c) Section 4(b)(1) of the Act (42 U.S.C. 5105(b)(1)) is amended by striking out all words preceding "grants" and inserting in lieu thereof "The Secretary, through the Center, is authorized to make".

NATIONAL CENTER FUNCTIONS

SEC. 202. Section 2 of the Act (42 U.S.C. 5103) is amended by—

(1)(A) striking out "and" after clause (5) of subsection (b);

(B) striking out the period at the end of clause (6) of subsection (b) (as amended by this section) and inserting in lieu thereof a semicolon and "and"; and

(C) inserting below clause (6) the following:

"(7) in consultation with Federal agencies serving on the Advisory Board on Child Abuse and Neglect (establishing by section 6 of this Act), prepare a comprehensive plan for seeking to bring about maximum coordination of the goals, objectives, and activities of all agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and shall submit such plan to such Advisory Board not later than twelve months after the date of enactment of this clause.

The Secretary shall establish research priorities for making grants or contracts under clause (5) of this section and, not less than sixty days before establishing such priorities, shall publish in the Federal Register for public comment a statement of such proposed priorities.";

(2) inserting at the end of subsection (c) the following new sentence: "Grants may be made under clause (5) of this subsection for periods up to three years, but such grants shall be conditioned on periodic review not less often than annually by the Secretary utilizing a peer review mechanism to assure the quality and progress of the research under such grants."; and

(3) inserting after subsection (c) the following new subsection:

"(d) The Secretary shall make available to the Center such staff and resources as are necessary for the Center to carry out effectively its functions under this Act.".

OBLIGATION OF STATE AWARDS

SEC. 203. Section 4(b)(2) of the Act (42 U.S.C. 5105(b)(2)) is amended by inserting immediately below clause (J) the following new sentence:

"If a State has failed to obligate funds awarded under this subsection within eighteen months of the date of award, the next award under this subsection made after the expiration of such period shall be reduced by an amount equal to the amount of such unobligated funds unless the Secretary determines that extraordinary reasons justify the failure to so obligate.".

ADVISORY BOARD

SEC. 204. Section 6 of the Act (42 U.S.C. 5107) is amended by—

(1) inserting before the period at the end of the first sentence in subsection (a) a comma and "and not less than three members from the general public with experience or expertise in the field of child abuse and neglect";

(2) striking out "administered" each place it appears in the second sentence in subsection (a) and inserting in lieu thereof "planned, administered,"; and

(3) redesignating subsection (c) as (e) and inserting after subsection (b) the following new subsections:

"(c) The Advisory Board shall review the comprehensive plan submitted to it by the Center pursuant to section 2(b)(7), make such changes as it deems appropriate, and submit to the President and the Congress a final such plan no later than eighteen months after the date of enactment of this subsection.

"(d) Members of the Advisory Board, other than those regularly employed by the Federal Government, while serving on business of the Advisory Board, shall be entitled to receive compensation at a rate not in excess of the daily equivalent payable to a GS–18 employee under section 5332 of title 5, United States Code, including traveltime, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.".

Amend the title so as to read: "A bill to promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, to extend and improve the provisions of the Child Abuse Prevention and Treatment Act, and for other purposes.".

Mr. CRANSTON. Mr. President, joining me as original cosponsors of S. 961 are the Senators from New Jersey (Mr. WILLIAMS), from Michigan (Mr. RIEGLE), from West Virginia (Mr. RANDOLPH), from Idaho (Mr. CHURCH), from New Hampshire (Mr. DURKIN), from Minnesota (Mr. HUMPHREY), and from Hawaii (Mr. INOUYE). The Senators from Colorado (Mr. HART and Mr. HASKELL), from Delaware (Mr. BIDEN), from Hawaii (Mr.

MATSUNAGA), from Iowa (Mr. CLARK), and from New Hampshire (Mr. MCINTYRE) subsequently joined in cosponsorship along with the ranking minority member of the Human Resources Committee, the senior Senator from New York (Mr. JAVITS).

SUMMARY OF S. 961

Mr. President, S. 961 was reported favorably by the Committee on Human Resources on May 16. Before bringing my colleagues up to date on the legislation before us today, I would like first to briefly summarize the two titles of S. 961 as reported by the committee:

BASIC PURPOSE OF TITLE I (ADOPTION)

The purpose of title I, as reported, is to facilitate the removal of barriers to interstate adoptions and the placement of children with special needs in permanent adoptive homes. Children with special needs are defined as those children in our country—usually in foster care and who have no hope of ever returning to their homes of birth—who are in special circumstances either because they have established significant emotional ties with prospective adoptive parents while in their care as foster children, or because they are not likely to be adopted because of one or more factors such as physical or mental disability, emotional disturbance, recognized high risk of physical or mental disease, age, sibling relationship, or racial or ethnic factors.

Title I has five operative sections which would:

First, create a Committee on Uniform Adoption Regulations in HEW to develop uniform procedures to facilitate interstate placement of children, on the basis of which the Secretary would then promulgate these uniform regulations, compliance with which would be a condition for further receipt of assistance by a State under this title;

Second, provide for grants for adoption assistance and services to States for allocation to approved adoption agencies, to be used for either or all of three purposes: First, assisting adoption agencies in finding adoptive homes for children with special needs; second, assisting in meeting the costs of pre-natal, natal, and post-partum services for expectant women who are unable to meet such costs and are voluntarily planning to place their children for adoption; and third, assisting in the provision of adoption subsidy agreements under which the special costs required to meet the needs of children with special needs will be borne by the State as they would have been if the child had remained in a foster home, and specifying that no child placed for adoption under such an agreement who was receiving assistance under any other law prior to such child's adoption shall be deemed ineligible for continuation of such assistance solely by reason of the child's adoption if the adoption agency certifies the need for the child to continue to receive such assistance;

Third, establish a National Office of Adoption Information and Services in HEW to provide for an adoption information exchange system and to seek to coordinate programs as well as to carry out education and training programs;

Fourth, require a study of adoptive placements by persons or agencies not licensed or subject to regulation by any Government agency (black market adoptions); and

Fifth, provide for a 4-year authorization of appropriations of $20 million for fiscal year 1978 and such sums as may be necessary for the succeeding 3 fiscal years.

BASIC PURPOSE OF TITLE II (CHILD ABUSE)

The purpose of title II, as reported, is to extend for 2 years the authorizations of appropriations for the Child Abuse Prevention and Treatment Act at the existing $25 million level, and make certain improvements in the act which would:

First, make it possible for the Secretary to increase funding for State programs beyond the present 20-percent maximum, while at the same time providing a 20-percent minimum for State grants;

Second, include research efforts in the 50-percent expenditure earmark now applicable only to demonstration projects, permit 3-year research grants made with funds obligated from a single year's appropriation, and require public participation in the establishment of research priorities;

Third, provide for special consideration for continued funding of certain demonstration projects funded by the Department of Health, Education, and Welfare which are of proven effectiveness and which are of regional or national significance;

Fourth, encourage States to obligate their State grants on a more expeditious schedule; and

Fifth, provide for greater exchange of information among Federal agencies on the Advisory Board on Child Abuse and Neglect concerning planned activities, provide for public membership on the Board, and require submission by the Board to the President and the Congress of a comprehensive plan detailing the goals and objectives of child abuse prevention and treatment programs, and for seeking to achieve maximum coordination of the goals and activities of all Federal and non-Federal programs in this field.

SUBSEQUENT ACTION BY FINANCE COMMITTEE

Mr. President, since the time that S. 961 was reported, I introduced a bill on behalf of the administration, S. 1928, which was referred to the Finance Committee. S. 1928 incorporated the provisions of S. 961 which dealt with adoption assistance program for hard-to-place children. The Finance Committee considered these provisions of S. 1928 in connection with another bill, H.R. 7200. Last month, the Finance Committee ordered H.R. 7200 reported with the adoption assistance provisions taken largely from S. 961. In light of this action by the Finance Committee, we are deleting from S. 961 those provisions which relate to the adoption assistance program in anticipation of favorable Senate action on the Finance Committee bill.

Mr. JAVITS. Mr. President, as ranking minority member of the Human Resources Committee I am pleased to support this essential legislation. The passage of S. 961 will be an important step toward improvement of our children's welfare. I commend the efforts of Senator CRANSTON, chairman of the Subcommittee on Child and Human Development, and Senator HAYAKAWA, ranking Republican of the subcommittee, to promote and encourage Federal action to remove the social and jurisdictional barriers which so often prevent adoption of handicapped or otherwise special children, and to continue research into the prevention and treatment of child abuse.

Both titles of this bill will assist a most vulnerable segment of our population—our children.

As proposed by amendment No. 1431, offered by Senator CRANSTON, and cosponsored by myself and Senator HAYAKAWA, title I of S. 961 will help to remove the currently existing obstacles to interstate adoptions and will facilitate the placement of children with special needs in permanent adoptive homes. Too often, children who can benefit from placement in permanent homes are obstructed by regulations and adoptive procedures which vary greatly from State to State. Already a very cumbersome and frustrating procedure within a single State, interstate adoption is likely to be even more difficult.

Under our amendment, S. 961 directs the the Secretary of Health, Education, and Welfare to appoint an advisory panel to recommend model adoption legislation and procedures to facilitate interstate adoption of children. The recommendations of this panel will serve to erode many of the jurisdictional and procedural barriers which make interstate adoptions so trying and so prolonged for so many prospective adopting parents.

Our amendment, Mr. President, reemphasizes the intent of S. 961 to establish a national adoption information system. Both the national adoption information data gathering and analysis system and the national adoption information exchange system proposed by our amendment will bring together children who would benefit by adoption and qualified prospective parents seeking to adopt such children. These informational services will be carried out by an administrative arrangement determined by the Secretary of HEW.

This amendment, Mr. President, conforms fully to the spirit and intent of S. 961 as reported by the Committee on Human Resources. It will enable the Secretary of Health, Education, and Welfare to deal with overall reform of the adoption process, while legislative consideration of the administration's child welfare bill, S. 1928, continues. It is crucial that this necessary reform of the adoption process not be delayed while we consider the comprehensive and complex provisions of the administration bill, which extend beyond adoption services. By providing the Secretary of HEW with a mechanism to promote quality national standards for adoption services, we can commence this essential reform now.

Mr. President, the problem of adoption for both prospective parent and child, so difficult generally, is amplified in the case of children with special needs. This problem is particularly acute for handicapped children. On March 31 of this

year the Subcommittee on the Handicapped of the Human Resources Committee heard testimony from the American Occupational Therapy Association which pointed to the fact that developmentally disabled children are largely ignored by the public and by potential adopting parents:

> We strongly urge the consideration of a Federal program to encourage states to adopt laws which provide tax incentives or other benefits to encourage families to adopt handicapped children. Many facilities for the developmentally handicapped are, in reality, orphanages for children whom the public does not wish to acknowledge. Families may be reluctant to adopt these children because they may not be able to support the costs of their therapeutic needs. All handicapped children, regardless of their categorical designation (developmentally disabled, physically handicapped, emotionally disturbed, learning disabled, etc.) would benefit from a general incentive of this type.

Furthermore, Mr. President, as was noted in testimony on S. 961 before the Subcommittee on Child Abuse and Human Development, there are major problems in the financing of uninsurable medical services for both adoptive children and those in foster care:

> The absence of vesting Medicaid eligibility in children who have serious handicaps or special needs is serious. Since private insurance is generally not available for such children once they are adopted, the removal of Medicaid coverage effectively blocks the permanent placement of the most handicapped in all but the wealthiest of families. The result is that public treasury continues to bear not only the medical risk but the board and care as well as social service expense.

Mr. President, these disincentives to adoption must be eliminated. We must provide services, such as special education, social, medical, dental, surgical, physical therapy, mental health, and other services for children with special needs, which effectively remove such egregious barriers, and assure the well-being of these children.

Mr. President, the need for adoption assistance to States, such as that provided for by this act, has been reemphasized in a recent letter to me from the New York State commissioner of social services, Philip Toia:

> At present, our state efforts fall short of our goal of placing children freed for adoption in permanent homes. Regardless of the number of programs and innovations we provide to promote adoptions, one overwhelming fact remains as an impossible obstacle for the state to overcome: current federal policy act as a financial incentive for local governments to keep children in foster care rather than place them in adoptive homes. The federal government pays 50% of the cost of foster care under Section 408 of the Social Security Law. In addition, children placed under this provision are eligible for Medicaid. Under existing policy and practice, adoption subsidy payments are borne entirely by local and state governments and the child is not eligible for Medicaid unless the adopting parents qualify, which most of them do not.

Mr. President, title I as amended, will facilitate for the first time a Federal policy on adoption, a landmark policy which must be effected if we are to begin to serve the needs of children for permanent homes in which they can grow to become productive participants in our society.

Mr. President, I have joined with Senators PERCY and CRANSTON in proposing amendment No. 624, which establishes support for programs of prevention, identification, and treatment of sexual abuse of children through the National Center on Child Abuse and Neglect. The problem of sexual abuse of children is part of this hidden epidemic which has come increasingly to public light, and deserves explicit attention. We must prevent and treat the deleterious effects of such abuse.

The National Center, established under Public Law 93-247 as a focal point of Federal efforts, has begun to make significant efforts to provide assistance to States to encourage innovative and effective programs to deal with child abuse. The National Center emphasizes the essential position of States and State agencies in delivering services to abused and neglected children and their families by providing grants to States meeting specific criteria.

A number of States, Mr. President, have had problems in meeting the HEW regulations that they appoint a guardian ad litem to represent an abused or neglected child in all judicial proceedings. Other States have raised objections to the inclusion of the condition of mental injury in the current act's definition of child abuse. The Center has worked diligently to reconcile such conflicts, and the programs which the Center has initiated have done much to improve the existing knowledge on child abuse and neglect. Thus, the progress made by the National Center to date lays the foundation for an effective system for identifying, treating, and preventing child abuse and neglect throughout the United States.

Currently, as I noted, we have but a minimal base of knowledge with which to deal with the problem of child abuse and neglect. Continued research support, such as that provided in this bill, can help to expand that base.

Even with this dearth of knowledge, however, we must understand that the amelioration and control of child abuse cannot occur merely through the identification and treatment of guilty and battered children.

This bill, Mr. President, will strengthen our national policy of child welfare, a policy which we must continue to improve and refine, for—both literally and figuratively—America's children represent our national patrimony and our national future. I urge its favorable consideration by the Senate.

Mr. WILLIAMS. Mr. President, I rise in support of this important children's initiative. As chairman of the Senate Human Resources Committee and as a longstanding cosponsor of S. 961, I welcome this opportunity to reaffirm my support for the expeditious passage of the Adoption Reform Act of 1977 and the amendments to the Child Abuse Prevention and Treatment Act.

Title I of the bill is designed to facilitate the placement and adoption of hard-to-place children. First, it would encourage the establishment of a model adoption statute and procedures for adoption. Second, it would establish within the Department of Health, Education, and Welfare an appropriate administrative unit to provide a centralized focus for the coordination and planning of all departmental activities relating to adoption and foster care.

Another important provision incorporated in this measure would establish a national adoption and foster care data gathering and analysis system. And finally, a study conducted by the Secretary of HEW, would be implemented to investigate and determine the scope and effects of the placement of children in adoption homes by unlicensed persons or organizations.

Most recently, action taken by the Senate Finance Committee on H.R. 7200 relating to foster care and adoption assistance necessitated a conforming modification of S. 961 as reported by the Senate Human Resources Committee. The bill before us reflects these changes. I am hopeful that Senator CRANSTON'S determination to remove the legal and other impediments to securing homes for thousands of homeless, disabled, or otherwise hard-to-place children will be rewarded today by the unanimous adoption of this bill.

Mr. President, there is clearly an urgent need for this legislation. We have no conclusive data on the numbers of children across the Nation that are eligible for adoption yet have waited interminably in foster homes or in institutions. From available information, however, it appears that thousands are left in foster homes or in institutions because they are in legal limbo. Others are there because they are physically or mentally handicapped, or because they are difficult to place due to their age or racial background.

Mr. President, adoption trends have been changing dramatically over the last decade. Children who are currently free for adoptive placement are not the healthy infants traditionally sought by couples, but rather, they are children for whom adoptive placement has not been made within 6 months after they are available for adoptive placement. The Department of Health, Education, and Welfare has estimated that of the foster children that could be freed for adoption, 90 percent of them are physically or mentally handicapped, older, minority, or part of a sibling group. Figures from 1971, the most recent statistics available, indicate that the total number of available children may be upwards of 200,000 children.

Testimony received by the Senate Human Resources Committee on S. 961 revealed that children in foster care settings often experience multiple, short-term placements that may seriously jeopardize the healthy development of the child. One of the prime reasons for these multiple placements is the lack of any tracking system or reliable, factual data on the children in the system. Thus, social workers have no way of knowing the length of time they have been there, the number of placements the child has had, or the patterns in which children are adopted. This type of followup information is critically necessary if we are to facilitate the adoption of our hard-to-

place children. This information would also assist us in preventing children from getting lost in the system. The provision in S. 961 which would establish a national adoption and foster care data gathering and analysis system would seek to redress this problem.

Since the original introduction of this adoption measure, Senator CRANSTON, myself and the other cosponsors of the bill have received an outpouring of enthusiasm and support from many persons throughout the Nation who are vitally interested in amending the antiquated and outmoded adoption statutes existing in the various States.

S. 961 brings that needed leadership for the implementation of a plan of action involving concerned agencies, adoptive parents, and public and private groups dealing with adoption. I believe we must take this action to overcome the longstanding barriers to adoption—barriers that hinder the adoptive placement—and thus the health and welfare—of thousands of children.

Another key feature of the Adoption Reform Act would establish an identifiable unit with full responsibilities for foster care and adoption activities in the Department of HEW. Never before has there been a centralized focus for the planning and coordination of all departmental activities affecting this vital area. Through this unit, potential adoptive parents will find the needed resources to locate eligible adoptees. This information exchange system will bring the knowledge on adoption up to the standards of the 20th century.

In their examination of adoption and foster care, it was brought to the attention of both our committee and the comparable House unit that there has been severe abuse of the adoption system throughout the operation of black market adoptions. The full nature, scope, and effect of the placement of children in adoptive homes by entities not licensed by a governmental body is unknown. In my view, the evaluation of black market activities, such as is anticipated by this legislation, will be extremely helpful in determining the scope of abuse and will in general shed light on the welfare of the untold numbers of children involved in such adoptions.

CHILD ABUSE PREVENTION AND TREATMENT AMENDMENTS

Title II of the bill extends the Child Abuse Prevention and Treatment Act for 2 years. The need for the continued involvement in efforts to combat child abuse is clearly warranted. It is currently estimated that nearly 1 million children in this country are the victims of child abuse and neglect. Prior to the enactment of Public Law 93–247 there was no coordinated Federal effort to assist in meeting this complex nationwide problem. The enactment of this law provided the necessary resources to begin the combative effort to curb this awful abuse.

Mr. CRANSTON. Mr. President, this matter has been cleared on all sides, as have four amendments which I will now offer.

First, I call up my amendment No. 1431.

AMENDMENT NO. 1431

(Purpose: An amendment to delete and clarify material in bill as reported in view of action of Finance Committee in reporting H.R. 7200.)

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and others, proposes an amendment numbered 1431.

Mr. CRANSTON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause through the end of title I and insert in lieu thereof the following:

That this Act may be cited as the "Adoption Reform Act of 1977".

TITLE I—ADOPTION OPPORTUNITIES

FINDINGS AND DECLARATION OF PURPOSE

SEC. 101. The Congress hereby finds that many thousands of children remain in institutions or foster homes solely because of legal and other barriers to their placement in permanent, adoptive homes; that the majority of such children are of school age, handicapped, or both; that adoption may be the best alternative for assuring the healthy development of such children; that there are qualified persons seeking to adopt such children who are unable to do so because of barriers to their placement; and that, in order both to enhance the stability and love of the child's home environment and to avoid wasteful expenditures of public funds, such children should not be maintained in foster care or institutions when adoption is appropriate and families for them can be found. It is, therefore, the purpose of this title to facilitate the elimination of barriers to adoption and to provide permanent and lowing home environments for children who would benefit by adoption, particularly children with special needs by—

(1) promoting the establishment of model adoption legislation and procedures in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption;

(2) providing a mechanism for the Department of Health, Education, and Welfare to (A) promote quality standards for adoption services (including pre-placement, post-placement, and post-adoption counseling and standards to protect the rights of children in need of adoption), and (B) provide for a national adoption and foster care information data gathering and analysis system and a national adoption information exchange system to bring together children who would benefit by adoption and qualified prospective adoptive parents who are seeking such children.

MODEL ADOPTION LEGISLATION AND PROCEDURES

SEC. 102. (a) Not later than eighteen months after the date of enactment of this Act, the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") shall issue, based on the recommendations of the panel described in subsection (b) of this section, proposed model adopted legislation and procedures and publish such proposal in the Federal Register for comment. After soliciting and giving due consideration to the comments of interested individuals, groups, and organizations and consulting further with such panel, the Secretary shall issue and publish model adoption legislation and procedures which shall not conflict with the provisions of any interstate compact in operation pursuant to which States are making, supervising, or regulating placements of children.

(b)(1) Not later than ninety days after the date of enactment of this Act, the Secretary shall appoint a panel (hereinafter referred to as the "panel") to be composed of not less than eleven nor more than seventeen members generally representative of public and voluntary organizations, agencies, and persons interested and with expertise and experience in facilitating the achievement of the purposes of this title (including, but not limited to, National, State, and local child, welfare organizations, including those representative of minorities, and adoptive parent organizations). The panel shall (A) review current conditions, practices, and laws relating to adoption, with special reference to their effect on facilitating or impeding the location of suitable adoptive homes for children who would benefit by adoption and the completion of suitable adoptions for such children; and (B) not later than twelve months after the date on which the members of the panel have been appointed, propose to the Secretary model (including adoption assistance agreement) legislation and procedures relating to adoption designed to facilitate adoption by families of all economic levels.

(2) The panel shall be terminated thirty days after the Secretary publishes the final model legislation and procedures pursuant to subsection (a) of this section.

(3) Members of the panel, other than those regularly employed by the Federal Government, while serving on business of the panel shall be entitled to receive compensation at a rate not in excess of the daily equivalent of the rate payable to a GS–18 employee under section 5322 of title 5, United States Code, including traveltime; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.

(c) The Secretary shall take such steps as he or she deems necessary to encourage and facilitate the enactment in each State of comprehensive adoption assistance legislation and the establishment in each State of the model legislation and procedures published pursuant to subsection (a) of this section.

INFORMATION AND SERVICES

SEC. 103. (a) The Secretary shall establish in the Department of Health, Education, and Welfare an appropriate administrative arrangement to provide a centralized focus for planning and coordinating of all departmental activities affecting adoption and foster care and for carrying out the provisions of this title. The Secretary shall make available such consultant services and personnel, together with appropriate administrative expenses, as are necessary for carrying out such purposes.

(b) In connection with carrying out the provisions of subsection (a) of this section, the Secretary shall—

(1) provide (directly or by grant to or contract with public or private nonprofit agencies and organizations) for the establishment and operation of a national adoption and foster care data gathering and analysis system utilizing data collected by States pursuant to requirements of law;

(2) conduct (directly or by grant to or contract with public or private nonprofit agencies or organizations) an education and training program on adoption, and prepare, publish, and disseminate (directly or by grant to or contract with public or private nonprofit agencies and organizations) to all interested parties, public and private agencies and organizations (including, but not limited to, hospitals, health care and family planning clinics, and social services agen-

cies), and governmental bodies, information and education and training materials regarding adoption and adoption assistance programs;

(3) notwithstanding any other provision of law, provide (directly or by grant to or contract with public or private nonprofit agencies or organizations) for (A) the operation of a national adoption information exchange system (including only such information as is necessary to facilitate the adoptive placement of children, utilizing computers and data processing methods to assist in the location of children who would benefit by adoption and in the placement in adoptive homes of children awaiting adoption) and (B) the coordination of such system with similar State and regional systems;

(4) provide (directly or by grant to or contract with public or private nonprofit agencies or organizations, including parent groups) for the provision of technical assistance in the planning, improving, developing, and carrying out of programs and activities relating to adoption; and

(5) consult with other appropriate Federal departments and agencies in order to promote maximum coordination of the services and benefits provided under programs carried out by such departments and agencies with those carried out by the Secretary, and provide for the coordination of such aspects of all programs within the Department of Health, Education, and Welfare relating to adoption.

STUDY OF UNLICENSED ADOPTION PLACEMENTS

SEC. 104 (a) The Secretary shall provide for a study (the results of which shall be reported to the appropriate committees of the Congress not later than eighteen months after the date of enactment of this Act) designed to determine the nature, scope, and effects of the interstate (and, to the extent feasible, intrastate) placement of children in adoptive homes (not including stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity.

SEC. 105. There are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1978, and such sums as may be necessary for the succeeding three fiscal years to carry out this title.

Mr. CRANSTON. Mr. President, this amendment, which I offer on behalf of the Subcommittee on Child and Human Development and the chairman and ranking minority member of the full Human Resources Committee along with seven other cosponsors, revises the text of title I of the bill to take into account certain adoption assistance provisions in the bill as reported which have now been substantially incorporated into H.R. 7200 as ordered reported by the Finance Committee.

Mr. President, I move adoption of amendment No. 1431.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute for the committee substitute.

Mr. CRANSTON. Mr. President, this is only a partial substitute. It is only for title I.

The PRESIDING OFFICER. The Senator is correct. The question is on agreeing to the perfecting amendment to the committee amendment in the nature of a substitute.

The amendment was agreed to.

AMENDMENT NO. 624

Mr. CRANSTON. Mr. President, I call up amendment No. 624, which I offer on behalf of the Senator from Illinois (Mr. PERCY), myself, and other Senators.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), in behalf of himself, Mr. PERCY, and others, offers an amendment numbered 624.

Mr. CRANSTON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, line 4, insert "(1)" after "(a)".

On page 34, insert between lines 18 and 19 the following:

"(2) Section 5 of such Act is further amended by—

"(A) inserting '(a)' after 'SEC. 5.'; and

"(B) adding after subsection (a) the following new subsection:

"'(b)(1) There are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1978, and $2,000,000 for the fiscal year ending September 30, 1979, for the purpose of making grants and entering into contracts (under sections 2(b)(5) (relating to research), 4(a) (relating to demonstration projects), and 4(b)(1) (relating to grants to States)) for programs and projects designed to prevent, identify, and treat sexual abuse of children, including programs involving the treatment of family units.

"'(2) Of the sums appropriated under this subsection, not more than 20 per centum shall be expended under section 2(b)(5).

"'(3) As used in this subsection, the term—

"'(A) "sexual abuse" includes the obscene or pornographic photographing, filming, or depiction of children for commercial purposes, or the rape, molestation, incest, prostitution, or other such forms of sexual exploitation of children under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary; and

"'(B) "child" or "children" means any individual who has not attained the age of eighteen.

"'(4)(A) Nothing contained in the provisions of this subsection shall be construed as prohibiting the use of funds appropriated under subsection (a) for programs and projects described in subsection (b), nor be construed to prohibit programs or projects receiving funds under subsection (a) from receiving funds under subsection (b).

"'(B) No funds shall be obligated or expended under this subsection unless an amount at least equal to the amount of funds appropriated in fiscal year 1977 has been appropriated for programs and projects under subsection (a) for any succeeding fiscal year.'".

On page 34, line 19, strike "(b)" and substitute "(c)".

On page 34, line 21, strike "(c)" and substitute "(d)".

Mr. CRANSTON. Mr. President, this amendment provides additional focus for research and services regarding sexual abuse of children.

I move adoption of amendment no. 624.

The amendment was agreed to.

UP AMENDMENT 973

(Purpose: To make technical corrections in S. 961.)

Mr. CRANSTON. Mr. President, I send to the desk, on behalf of the committee, an unprinted amendment to correct technical errors in the designation of U.S. code citations for the child abuse prevention and treatment act and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 973.

On page 34, line 6—

Mr. CRANSTON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, line 6, strike out "5106" and insert in lien thereof "5104".

On page 34, line 19, strike out "5105(a)" and insert in lieu thereof "5103(a)".

On page 34, lines 21 and 22, strike out "5105(b)(1)" and insert in lieu thereof "5103(b)(1)".

On page 35, line 2, strike out "5103" and insert in lieu thereof "5101".

On page 35, line 12, strike out "establishing" and insert in lieu thereof "established".

On page 36, line 15, strike out "5105(b)(2)" and insert in lieu thereof "5103(b)(2)".

On page 36, line 25, strike out "5107" and insert in lieu thereof "5105".

Mr. CRANSTON. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 974

(Purpose: To define child as a person under eighteen or as defined by state law for purposes of the Child Abuse Prevention and Treatment Act.)

Mr. CRANSTON. Mr. President, I send to the desk, on behalf of the Senator from Wyoming (Mr. WALLOP), an unprinted amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for Mr. WALLOP, proposes an unprinted amendment numbered 974.

Mr. CRANSTON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 36, between lines 12 and 13, insert the following new section:

DEFINITION OF CHILD

SEC. 203. Section 3 of the Act (42 U.S.C. 5102) is amended by inserting a comma and "or the age specified by the child protection law of the State in question," after "eighteen".

On page 36, line 14, strike out "SEC. 203." and insert in lieu thereof "SEC. 204.".

On page 36, line 25, strike out "SEC. 204." and insert in lieu thereof "SEC. 205.".

Mr. CRANSTON. Mr. President, this amendment would amend the Child Abuse Prevention and Treatment Act to permit a State, such as Wyoming, to receive funds under the State grant program where the State law provides for the reporting of child abuse and neglect for persons under an age lower than 18, 16 in the case of Wyoming. No other State is affected by this amendment. I

believe this amendment is noncontroversial.

Mr. WALLOP. Mr. President, today through the Senator from California, Mr. CRANSTON, I am offering an amendment to title II of S. 961, the Amendments to the Child Abuse Prevention and Treatment Act, which would amend the definition of "child" in the 1974 act. Under existing law, "child" is defined as a person under the age of 18. My proposal would incorporate the definition of child under State child protection statutes where that definition differs from the Federal law. Section 5102 of title 42 would be amended to read as follows:

For purposes of this chapter the term "child abuse and neglect" means the physical or mental injury, sexual abuse, negligent treatment, or maltreatment of a child under the age of eighteen, *or the age specified by the child protection law of the state in question*, by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulation prescribed by the Secretary.

The purpose of the act is to prevent and treat child abuse throughout the United States. Grants are made available to States to assist the States in developing, strengthening and carrying out child abuse and neglect prevention and treatment programs. In order to qualify for Federal moneys, a State must have in effect a child abuse and neglect law which defines child as a person under the age of 18 in accordance with the 1974 act.

This requirement has worked a grave injustice on my own State of Wyoming. The Wyoming State Legislature passed a child abuse and neglect law which took effect on May 27, 1977. The Child Protective Services Act is designed to protect the best interests of the child, to offer protective services when necessary to prevent any harm to the child or any other children living in the home, to protect children from abuse or neglect which jeopardizes their health or welfare, to stabilize the home environment and to preserve family life whenever possible.

The Wyoming statute defines "child" as any person under the age of 16. After assessing the needs of the State, and given the availability of other programs for those young adults between the ages of 16 and 18, the State legislature fixed 16 as the statutory age.

Because the definition differs from the 1974 act which applies to children up through the age of 18, Wyoming is deemed ineligible for grant moneys. Surely this could not have been the intent of the Congress when it enacted this legislation in 1974. Congress intended then, as it does now, to encourage States to enact child protection laws and to assist them in combating child abuse and neglect through Federal grants. Wyoming has been committed to eliminating child abuse and has gone a long way toward reaching that end. To cite but one example, we have established a number of child protection teams which have offered assistance to troubled areas throughout the State. Gillette, Rock Springs and Douglas are but a sampling of the communities which have benefited from State programs.

This amendment would enable Wyoming to build a bigger and better statewide child abuse prevention program. By amending the definition of "child" in the act, Wyoming will become eligible for grant moneys which are desperately needed to accomplish the goals set forth in both the Federal act and our State statute.

I thank the Senator from California for his kind help and generous support.

Mr. CRANSTON. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, with these amendments, S. 961 will provide for the following in the adoption area:

First, creation of a panel of experts in the Department of Health, Education, and Welfare to develop a model State adoption law, including adoption assistance programs. The development of such model legislation will be of particular importance in reducing the types of interstate barriers which make efforts to adopt a child across State lines a maze of redtape and legal obstacles;

Second, establishment of an adoption information exchange system to match waiting children with adoptive parents;

Third, require HEW to gather sufficient data nationally so State adoption and foster care programs can be properly evaluated;

Fourth, provide for information clearinghouse and education and training materials in the area of adoption programs; and

Fifth, require HEW to conduct a study of so-called black market adoptions through unlicensed agencies.

With respect to the Child Abuse Prevention and Treatment Act, S. 961 will continue the program for an additional 2 years at the present authorization level of $25 million with an additional $2 million authorized for special research and programs related to sexual abuse of children. The bill also calls for the improvement of the quality of research being conducted on how to prevent and treat child abuse by directing the National Child Abuse Prevention Center to develop research priorities. S. 961 also improves existing law by requiring the National Child Abuse Prevention Center to develop a comprehensive plan of action and to add public members to the child abuse advisory board.

Mr. President, I believe that the passage of these two measures—the adoption reform and child abuse legislation—along with action on adoption assistance and child welfare provisions in the Finance Committee's bill will mean much to the hundreds of thousands of unfortunate children in this country who will be affected by this legislation.

ADOPTION REFORM PROVISIONS

Mr. President, I introduced S. 961, the proposed Opportunities for Adoption Act, on March 9 of this year. Title I of the bill—the adoption reform title—represents the culmination of more than 5 years of research, drafting, counseling with experts in the adoption field, redrafting, and introduction into the legislative process—first in the 93d Congress, and again in the 94th. The first hearings on the adoption proposals were held during the summer of 1975 by the former chairman of the Senate Subcommittee on Children and Youth, now Vice President MONDALE. When we were unsuccessful because of time pressures last Congress in securing Senate passage of the Opportunities for Adoption Act, I introduced the new version—S. 961—in the 95th Congress.

HEARINGS ON ADOPTION REFORM

I called hearings on S. 961 on April 4, 1977, as one of my first actions as chairman of the newly designated Subcommittee on Child and Human Development of the Human Resources Committee. The hearings dramatically demonstrated the disincentives to adoption inherent in our present foster-care system, and demonstrated as well that there are many compassionate adults who are eager to shower love and affection on children with special needs if only they could be freed from the limbo of foster care. The hearings increased my own enthusiasm about the prospect of providing more meaningful and stable lives for many of these youngsters who in the present system have no hope of ever returning to their homes of birth, and for making a real difference in the otherwise uncertain, too often hopeless, lives of thousands of children.

Those testifying in favor of S. 961 at the April 4 hearing include parents who had adopted special needs children and who, I must add, were among the finest and most extraordinary public witnesses I have ever heard—Joe and Laurie Flynn, Pennsylvanians who are the parents of 10 children, 5 of whom are adopted, Ruthann and Henry Haussling, Virginians who have just initiated adoption proceedings for their fifth "special needs" child, and Meg and Allen Tucker, also from Virginia, and the adoptive parents of Jenny and Brian, two "special needs" children. When Jenny came to the Tuckers she was 3 years old, was legally blind, had deformed hands, and was diagnosed as mentally retarded. She lived with her new parents for 8 months before speaking. She became hysterical at the sights of a suitcase—a reaction, according to her parents, caused by the fact that, before coming to the Tuckers, each of the eight times she left the hospital after corrective surgery, she was brought to a different foster home. The emotional impact of such instability on a child of three is difficult to comprehend. But Jenny's awareness of what was happening to her was acute—once mistakenly diagnosed as mentally retarded, she is now a top student in her second grade class.

Mr. President, also testifying in favor of S. 961 were representatives of the North American Center on Adoption of the Child Welfare League of America, the North American Council on Adoptable Children—an adoptive parents group representing over 500 local organizations—the National Conference of Catholic Charities, the Edna McConnell Clark Foundation—a group which devotes its

resources to bettering the lives of children caught in the foster care system—and a representative from the State of Michigan's Social Services Department. In addition, the subcommittee received letters of support for the bill from all areas of the country.

The only witnesses testifying to less than enthusiastic support for S. 961 were those representing the Department of Health, Education, and Welfare. They indicated their support for the concepts embodied in S. 961, but asked that action on the bill be deferred pending the development by the Department of an overall social services delivery system strategy, but even this mild reluctance was soon to be withdrawn.

ADMINISTRATION SUPPORT

Shortly after the hearings, Mr. President, Vice President MONDALE, sparked by congressional concern, initiated discussions within the administration in an effort to accelerate work on proposals for reform in this area. On July 12, after scores of hours of discussion and negotiations within the Administration and between congressional staffs and HEW and White House staffs, the Vice President unveiled a major administration proposal to reform the present Federal foster care system and to remove the present disincentives to the adoption of "special needs" children which our foster care system perpetuates. Two weeks later, on July 26, I introduced on behalf of the administration legislation embodying that proposal—S. 1928, the proposed Child Welfare Amendments of 1977. S. 1928 was referred to the Committee on Finance, and was considered by the committee in conjunction with its work on H.R. 7200, the House-passed legislation to amend the Social Security Act. A few weeks ago, the Finance Committee ordered H.R. 7200 reported with the adoption provisions in S. 1928 accepted virtually intact as part of H.R. 7200.

The adoption provisions of S. 1928 and H.R. 7200 were derived from section 103 of S. 961 which authorizes Federal financial participation in adoption assistance programs. Briefly, the Finance Committee bill specifically would permit the use of foster care maintenance money—title IV–A of the Social Security Act—and medicaid funds—title XIX of the Social Security Act—for adoption assistance to meet the costs associated with caring for a "special needs" child who might otherwise have been relegated to spending his or her childhood years in foster-care placements.

Adoption assistance is a practice whereby financial assistance and services to meet the special needs of hard-to-place children are provided to the adoptive families when their inability to provide financially for a child's needs is the sole factor preventing them from providing an adoptive home for a waiting child. Adoption assistance programs have proven to be much less costly than institutional care, and in many instances. less costly than long-term foster care.

It should be pointed out that many of these "special needs" children have preexisting medical conditions which the adoptive parents' medical insurance carrier will not cover. This sitution is one of the primary barriers to adoption of these children.

BENEFITS OF ADOPTION ASSISTANCE

Mr. President, I recently received a letter from a San Jose, Calif., resident expressing her support for this legislation, and sharing with me a personal experience—which I would like to share with my colleagues—demonstrating one aspect of the potential benefits of permitting medicaid coverage in adoption situations.

This parent wrote:

We have a terminally ill foster child, 13 years old, who was abandoned as an infant. She has been in several foster homes and hospitals, and came to us last December.

Only those who know her and see her frequently can appreciate what the knowledge that she can be adopted has done for her.

In terms of both physical and emotional health, this factor has surely had as great an impact on her life as modern medicine.

Mr. President, California has a successful adoption assistance program which demonstrates the cost-effective benefit of the adoption assistance practice.

Since 1970, over 3,000 children in California have been placed in adoptive homes under this program. In Los Angeles County alone, during the period 1975 through 1976, 873 children who had been in long-term foster care were placed in adoptive homes, 267 being placed with some financial assistance to their families. The cost savings for that 1-year period were $1,327,523. The county has estimated that if these 267 children were carried in foster care until the age of 18, the additional cost to the county over that period would have been $16,777,651 not including the additional costs in service and administration. There is no reason to believe that these figures are atypical of the cost savings available by subsidizing the adoption of "hard-to-place" children.

The Children's Bureau of HEW, in a January 1975 unpublished report, has documented additional examples of the cost savings of adoption assistance agreements. In a survey of several States that have subsidized adoption programs, the monetary saving for the adoption of hard-to-place children is measured by the cost which would have been absorbed by the State if the child were not adopted. For example, the Children's Bureau estimates that the average cost of caring for a child in a residential institution is between $20 and $30 a day, or between $7,000 to $10,000 per year. In one of the reports on the State surveys it was estimated that by providing assistance for the adoption of a 3-year-old child who might otherwise have remained in an institution for retarded persons, the State was saving (even with the assistance) $7,320 per year. It was estimated that the total savings which would result from the adoption of that one child would be $131,760 for the period until the child reached age 21.

RELATIONSHIP OF FINANCE COMMITTEE BILL TO S. 961

Mr. President, the need for the adoption assistance provisions in the State grant section—section 103(f)—of S. 961 no longer exists as a result of the Finance Committee bill's specific provisions for Federal financial participation in adoption assistance through the foster care and medicaid titles of the Social Security Act. Section 103(f) of S. 961 very generally specified through a "notwithstanding clause" that no child who is placed for adoption and who is receiving assistance under any Federal assistance program should loose eligibility for that assistance solely by reason of the child's adoption. But the specific mechanism for that authorization was not a part of S. 961. It had always been our intention to work on the section 103(f) proposal with the Finance Committee. I am delighted that the Finance Committee, by its action in incorporating the adoption provisions of S. 1928 into H.R. 7200, has endorsed this approach to providing stability for children. This truly is a giant step forward for the estimated 120,000 children now in foster care waiting to be adopted.

AMENDMENT NO. 1431 TO S. 961

Mr. President, with the development of the administration's support for adoption reform and the Finance Committee's endorsement of Federal financial participation in adoption subsidy, the sponsors of S. 961 have introduced an amendment to title I of the bill which removes the State grant section—section 103—and makes minor changes in the sections 102, 104, and 105 requirements of S. 961 consistent with administration wishes as expressed during our work in developing S. 1928. It also modifies the authorization of appropriations contained in section 106.

I was delighted that my colleague from California, the ranking minority member of the Subcommittee on Child and Human Development, (Mr. HAYAKAWA) has expressed his wish to join in cosponsorship with us of Amendment No. 1431. I particularly value his support for our effort.

BARRIERS TO INTERSTATE PLACEMENT

Amendment No. 1431, in section 102, retains the basic mechanism from S. 961 for identifying the barriers to interstate placement and for recommending solutions to the problems they pose by calling for the development of model State adoption legislation and procedures to be issued and published by the Secretary of HEW.

MODEL LAWS

In my introductory remarks on S. 961, I summarized the extent of those barriers to interstate placements. I would like at this point to include an excerpt from my March 9 floor statement in this regard:

BARRIERS TO ADOPTION

In 1971, the Children's Bureau granted funds to the Child Welfare League of America for a project designed to identify the specific legal and policy provisions and practices that constitute common impediments to adoption. The study undertaken by Roberta Hunt for the League's Research Center

and entitled "Obstacles to Interstate Adoption" examines the varying and sometimes conflicting ways in which the States strive to achieve both socially desirable and legally incontestable adoptions.

Among the obstacles she summarizes are the following:

First. Conflicting termination or relinquishment proceedings among and even within States which result in a situation where the adoption of a child in one State would not be recognized as valid were the family to move to another State.

Second. Local laws and policies restricting the right to consent to adoption to executives of local agencies, thereby prohibiting the transfer of guardianship from State to State. This results in a situation where adoptive parents must go to the State of the child's origin to file a petition. And in some States, laws restrict the filing of petitions to residents of that State.

Third. Conflicting State laws and policies regarding the termination of guardianships: The laws of one State making no provision for the termination of guardianship except in proceedings for adoption; the laws of another State requiring such termination even before the adoptive placement is made.

Fourth. Diversity in State adoption laws on the question of when an adoption decree may be granted.

Fifth. The existence of "importation and exportation of children" laws in some States which, while enacted a century ago to provide safeguards for the children by blocking their movement across State lines, now constitute an obstacle to interstate adoptive placements.

Sixth. The absence of uniform or coordinated interstate adoption assistance policies, for expenditures such as transportation, especially where older children are involved and preliminary visits across State lines are needed. In addition, the diverse provisions for subsidizing unusual adoption costs present obstacles to interstate adoption. For example, where a family in a State having adoption subsidy arrangements adopts a hard-to-place child from another State, that family will often be ineligible for subsidy assistance unless the other State also has a subsidy arrangement.

In her report, Ms. Hunt also suggests possible solutions to these obstacles, but concludes by citing the need for leadership in implementing a plan of action toward those solutions.

S. 961, and the substitute amendment provide for such a plan of action.

Mr. President, the findings in the Child Welfare League's study were substantiated at the April 4 hearing on S. 961 when the adoptive parent witnesses told us of their experiences with such barriers. Meg and Allen Tucker told the following story:

In 1974, we applied for a second child. The agency called to inform us of an available sibling pair. The younger, an infant of 9 months, was healthy. His brother, 3 years old, had multiple anomalies, including eye problems, missing fingers, and he had a cleft palate and hairlip.

We visited the sibling pair and we wanted to adopt them very, very much. We were very interested in them. When we began to discuss how we were going to help the 3-year-old with his medical problems, the redtape began.

Insurmountable problems arose when we began to consider where we would get help. The child was enrolled in Crippled Children's Bureau, as was Jenny, our daughter.

Jenny was having a series of hand operations at that time. Crippled Children's Bureau was helping us financially, and they required that Jenny's orthopedic surgery be done at a hospital in Arlington.

However, Crippled Children's Bureau cleft palate center is in Richmond. Our predicament was that simply, simultaneously, we would be taking Jenny, for hand surgery, to a hospital in Arlington; we would be taking our 3-year-old son, for cleft palate surgery, to a hospital in Richmond, while trying to manage a baby at home.

Even if I went to Richmond, with the baby, there was no place for me to stay without hiring a hotel room—another expense that we did not think we could afford.

In lieu of taking the 3-year-old child to Richmond, we asked if it would be possible if they would give us the money, and we could find a hospital in Arlington or around northern Virginia, which had a good cleft palate center.

We indicated that both Children's Hospital and Georgetown Center had excellent facilities. This would have made it possible for us to adopt these handicapped children.

Our suggestion was flatly refused. Not only was it refused, but the idea of using Virginia's funds to pay for medical services rendered at a hospital out of State was simply unheard of. No interstate reciprocity was tolerated.

Crippled Children's Bureau could not legally make such a substitution, even though they would eventually pay for the same operation at the same expense, only at a different location.

As a result, we could find no plausible way to adopt them.

. . . All we can tell you, Senator Cranston, is we went down past that adoption agency, and stopped in to say "Hi" to them and to show them Brian, whom they had not for 1 year, and those children were still not adopted after 1 year.

Mr. President, I asked Ruthann Haussling, the president of the Washington, D.C. metropolitan area chapter of the Council on Adoptable Children—the COAC—to tell us about some of the difficulties facing members of COAC by the jurisdictional barriers that confront parents in the Washington area. She replied:

Yes. We had a family in our organization who, again, lived in Fairfax County, Va., and they had adopted before, so they already did have a home study. What they would have needed would be an update, a simple matter; usually, it is just one visit from a caseworker, to make sure the family is still functioning on an appropriate level.

They became interested in a 14-year-old black Puerto Rican boy in New York State. And a 14-year-old child, just on the basis of age, is considered very hard to place.

This family was very excited about the possibility of having this child enter their family. And there was no way they could get their home study done. They even tried to go to Richmond, and get Richmond to order their local agency, which was the Fairfax County Department of Social Services, to do the study, and Richmond just would not.

It is kind of interesting to note—and in no way are we trying to say that intercountry placements are not extremely important, and they should definitely be going on—but if someone wants to adopt through, for instance, David Livingston, or HOPE, which places children from Korea, those agencies can order the local agencies to do the studies. But you cannot get anybody to order anyone to do anything about a child who might live 5 miles away from you, but outside the jurisdiction.

And, Mr. President, I want to share with my colleagues the following contribution made to this dialog by Meg Tucker:

Let me give you a vivid example of a roadblock we had, that scared both Allen and myself tremendously.

Jenny came down here; one of her hands was deformed badly, and we had been told that she needed a series of operations, starting right away. This was about 2 months after we had Jenny.

So we found a doctor, a very capable doctor. He said that he was as willing to perform the operations. We told him about our financial situation. He said that did not really matter, that he would go ahead with it anyway.

We wrote to New York State, saying is there any money you could give us to help with Jenny's handicaps, and they wrote back saying no, that we were unfortunately ineligible, because she was no longer a ward of New York State.

So then, I started in at Richmond, saying, "Now we are going to live here in Richmond. Could you help us out?" And they said no, that she was the responsibility of New York.

It came down to the morning of Jenny's operation, and the nurse came up to Allen and myself and said, "Would you like to sign the papers?" for the release for Jenny's operation, and we said, "No. She is not ours."

Now, when a child is placed in your home, that is exactly what it is; she is placed. She is not ours. We could not adopt Jenny for a good year after we got her. It took 1 year by the time we adopted her. So we had no legal right to sign any papers for an operation.

But yet, New York State was not going to help us, and Virginia claimed that it was not their responsibility. So we signed the papers, knowing full well that if anything happened to Jenny in that operation, we could be in a lot of trouble.

Those are barriers that you go up against all the time. Now, we knew about Jenny's operation, but a tonsillectomy on a normal child which had been adopted from another State would probably present the same problem.

Mr. TUCKER. There is another barrier that just came to mind, and that is the exchange of information about the medical history of a child from one State to another.

We were told by the agency in New York, where we got Jenny, that there was no way we could get the complete medical history for her and give that history to the doctor who wanted to operate on her, even though the operation was apparently necessary.

What we got instead was a very brief summary, paragraph explanation of the medical history, which our doctor in Virginia said was practically useless.

So in terms of exchange of information between States, I think the same principles can be applied as to the exchange of financial resources.

Mr. President, I believe these excerpts from the April 4 hearing record on S. 961 cogently demonstrate the need for the States to work together in a uniform manner to deal with adoption procedures and policies. Section 102 of amendment No. 1431 to S. 961 provides a mechanism for the States to come together for this purpose.

ADOPTION INFORMATION AND SERVICES

My substitute amendment No. 1431 also revises section 104 of title I of S. 961, which calls for the establishment of a national office of adoption information and services in HEW. It would substitute a new section 103—Adoption Information and Services—which would require the Secretary to establish in HEW "an appropriate administrative arrangement to provide a centralized focus for planning and coordinating of all depart-

mental activities affecting adoption and for carrying out the provisions of" title I as amended by the substitute amendment.

DATA GATHERING

The Secretary would be required to provide for the establishment and operation of a national adoption and foster-care data gathering and analysis system, utilizing data collected by States pursuant to requirements of law. Such information should assist in the development of sound adoption policies and practices.

EDUCATION AND TRAINING PROGRAM

In addition, Mr. President, under the substitute amendment, the Secretary is required to conduct an education and training program on adoption, as was provided for in section 104(b) of title I of S. 961. Appropriate information on adoption and available adoption services and adoption education and training materials would then be disseminated to all interested agencies, individuals, and organizations, including hospitals, health care and family planning clinics, pregnancy counseling agencies, social service agencies, and governmental bodies, so that those considering adoption and working in the field can be better informed about current practices and about changes that will come about with the successful enactment of the administration proposals as now incorporated in H.R. 7200.

ADOPTION INFORMATION EXCHANGE

Mr. President, the substitute amendment No. 1431 also provides for an adoption information exchange system, as was provided for in section 104(b)(6) of S. 961 as reported. This provides for the operation—by HEW directly or under contract—of a national adoption information exchange system, utilizing computers and data processing methods to assist in the location of children who would benefit by adoption and in the placement in adoptive homes of children awaiting adoption, and to coordinate the system with similar State and regional systems. The Adoption Resources Exchange of North America, ARENA, operated by the North American Center on Adoption, of the Child Welfare League of America, demonstrates the potential of such a system for locating adoptive homes for a child anywhere in the country. I believe that the enactment of this provision will contribute to the continuance and improvement of the ARENA type exchange mechanism, and will assure all children waiting for adoption of a far greater opportunity for permanent placement with a loving family.

TECHNICAL ASSISTANCE AND COORDINATION

Mr. President, also included in our substitute amendment is the provision from clause (7) of section 104(b) of S. 961 as reported, providing for the provision of technical assistance in the planning, improving, developing, and carrying out of programs and activities relating to adoption, and clause (8) of that subsection, which provides for the consultation with other appropriate Federal departments and agencies in order to promote maximum coordination of the services and benefits provided under programs carried out by those departments and agencies.

STUDY OF UNLICENSED ADOPTION PLACEMENTS

Mr. President, amendment No. 1431 also retains intact the requirement—although not the specificity—of section 105 of S. 961 as reported that the Secretary provide the appropriate committees of Congress with the results of a study designed to determine the nature, scope, and effects of black market adoption. Testimony on the proposed "Opportunities for Adoption Act" strongly suggested that most black marekt placements occur between States with weak adoption laws and procedures, and that these placements are extraordinarily exploitive of all parties involved. Congress can better determine how it should proceed in tackling this problem, and HEW how best to draft model adoption legislation, after having the benefit of the best possible national survey.

AUTHORIZATION OF APPROPRIATIONS

Our substitute amendment provides for an authorization of appropriations to carry out the purposes of the substitute at the level of $5 million for the fiscal year ending September 30, 1978, and such sums as may be necessary for the succeeding 3 fiscal years. S. 961 as reported had authorized the appropriation of $20 million for fiscal year 1978, a sum now unnecessary in light of the financing which would be available under title IV–A and IV–E of the Social Security Act as proposed in H.R. 7200 for child welfare services, including adoption services.

Mr. President, I have discussed this amendment with HEW, and HEW is generally supportive of legislation providing for HEW development of model adoption legislation and for improved adoption information, technical assistance, services and coordination arrangements.

EXTENSION OF THE CHILD ABUSE PREVENTION AND TREATMENT ACT—TITLE II OF S. 961

Mr. President, title II of S. 961 as reported provides for a 2-year extension of the Child Abuse Prevention and Treatment Act, Public Law 93–247, along with certain modifications in the existing legislation.

The Child Abuse Prevention and Treatment Act was signed into law on January 31, 1974. Since that time, the National Center on Child Abuse and Neglect—mandated by the law—has been established within the Department of Health, Education, and Welfare. The National Center has become a focal point for national efforts to deal with child abuse and neglect issues, serving as a source of funding for basic research into the problems of child abuse and neglect for demonstration projects designed to prevent and treat child abuse and neglect and support for State programs dealing with child abuse.

ONE MILLION CHILDREN—VICTIMS OF CHILD ABUSE

It is currently estimated that 1 million children in this country annually are the victims of child abuse and neglect. Some experts asserted that as many as 10,000 children are severely battered each year, at least 50,000 to 70,000 are sexually abused, and that hundreds of thousands of other children suffer from varying degrees of physical and emotional abuse. Approximately 2,000 children die each year in circumstances suggestive of child abuse.

Some have characterized child abuse as a medical-social disease of epidemic proportions. It is a phenomenon which exists at all levels and among all segments of our society. There is a common misconception that child abuse is a problem which afflicts only the poor and underprivileged. Data provided from two of the treatment projects funded by the National Center on Child Abuse and Neglect—the Family and Child Advocates of Evanston, Ill. and the Family Stress Center of Chula Vista, Calif., indicate that child abuse programs serve families of every economic strata.

In the Evanston project, 31.5 percent of the families served had incomes of over $12,000, with 9.7 percent of those with incomes of over $20,000. Thirty-seven percent of the families served in the Chula Vista project had incomes between $10,000 and $15,000 with 6.5 percent of the families served having incomes over $15,000. Both of these projects report that the abusive and/or neglect types of behavior which caused families in the income brackets above $10,000 to become involved in their treatment programs were not dissimilar in any way from those of families in the lower brackets. They included child battering concurrent with serious family stress, cases of child discipline so harsh that it bordered on torture, cases of temporary abandonment, and cases of parental rejection and emotional deprivation resulting in serious behavior problems on the part of children.

Mr. President, despite the widespread evidence that child abuse and neglect constitutes a nationwide problem affecting all segments of society, prior to the enactment of Public Law 93–247 in 1974, there was no coordinated Federal effort to deal with this societal problem. Although some effective programs existed on the local level, funding and support for these programs were fragmented. The Child Abuse Prevention and Treatment Act, which received enormous bipartisan support in Congress, provided for the first time an essential, coordinated Federal effort to assist in combating this complex and troublesome problem.

The Child Abuse Prevention and Treatment Act deals with this problem in a variety of ways. First, the act provides for the establishment of a National Center on Child Abuse and Neglect. This Center, established in HEW, operates mandated programs for the collection and dissemination of information, including data relating to the incidence of child abuse and neglect. Second, the act serves as a source of funding for basic research in the area of child abuse and neglect and for service delivery, resource, and innovative demonstration projects designed to prevent and/or treat child abuse and neglect. Third, the act establishes a grant program to encourage the States to develop, strengthen, and carry out State child abuse and neglect prevention and treatment programs. Finally, the act provides for an advisory board

to assist the Secretary of HEW in seeking to coordinate Federal programs dealing with child abuse and neglect.

Mr. President, I would like to outline briefly some of the programs and accomplishments thus far under this legislation.

DEMONSTRATION AND RESOURCE PROJECTS

A major portion of the funds appropriated under the act are directed, under the statute, toward demonstration and resource programs. These demonstration and resource programs, structured in a variety of ways, test various methods of delivering services to abused and neglected children and their families and of improving the capacity of existing regional, State, and local agencies to identify, treat, and prevent child abuse and neglect.

The National Center has also funded 20 demonstration treatment centers throughout the country, expending approximately $4.2 million in each of fiscal year 1976 and 1977 on these centers. Most of these projects utilize interdisciplinary teams of professionals to perform child protective investigations and child and family assessment as well as direct treatment. Many operate 24-hour hotlines for parent counseling. All of these centers are focused on the goal of keeping families together and demonstrate what can be accomplished when the staffs have the time, resources, and training to meet the needs of multiproblem, abusive, and neglecting families.

Mr. President, it is noteworthy to comment on the fact that eight of these demonstration treatment centers address the problems of three types of families that are often not adequately served by existing systems—Native American, military, and rural families. These projects are seeking to be sensitive to the traditions and problems of the populations they serve and to place child protective work within the clientele's cultural context.

An additional important accomplishment under the act has been the establishment of 16 regional or State resource demonstration projects designed to explore the best means of helping States, localities, and private citizens assess, coordinate, and improve services. These projects received approximately $4.5 million in each of fiscal years 1976 and 1977. Responding to State and local needs, they provide a diversity of training and technical assistance, including consultative services on case management and agency administration.

PARENTS ANONYMOUS—HELPING PARENTS TO HELP THEMSELVES

Mr. President, I would like to comment briefly on the success of one particular demonstration project, Parents Anonymous. With the assistance of Federal funds, Parents Anonymous chapters have grown from 50 to 600 chapters in all parts of the country with at least one chapter in every State. This organization, helping thousands of parents and families in overcoming their problems, operates a national toll-free hotline where parents can call any time of the day or night to get help. Parents Anonymous is based upon the concept that abusive parents, working together, can learn to deal with their frustrations and eliminate the abuse of children.

Mr. President, I am particularly pleased by the outstanding success and growth of this vital organization because I sponsored an amendment to the original Child Abuse Prevention and Treatment Act which specifically authorized funding, under the demonstration project authority, of self-help parent organizations. The vitality and strength of this organization and its philosophy of self-help has been truly rewarding to witness.

Mr. President, I am also pleased to report that Parents Anonymous was recently awarded an additional grant by HEW of $356,000 to support the development of State and coordinating chapters. Additionally, Parents Anonymous has received a training grant from the National Institute of Mental Health to provide continued leadership in the development and dissemination of techniques for treating and preventing child abuse and neglect.

I am delighted with this continued commitment of resources to support the important and valuable work done by Parents Anonymous and I congratulate both HEW and the grantee on this excellent grant.

RESEARCH PROJECTS

Mr. President, one of the most critical problems facing us in the field of child abuse and neglect is the paucity of primary knowledge about its causes, nature, and extent as well as its prevention and treatment. One of the most important activities of the National Center has been its funding of 16 research projects which are exploring: First, the factors contributing to abuse and neglect, including family, social, and economic stress; second, the relationship between drug and alcohol abuse and child maltreatment; third, promising prevention and treatment techniques; and, fourth, the means to measure and evaluate the effectiveness of programs. These projects were funded at approximately $2.2 million for each of fiscal years 1975 and 1976. The Center has also been conducting a nationwide study of the incidence and severity of child abuse and neglect in the United States. The incidence study, when completed, will provide much needed precise data which will assist in improving the allocation of limited service resources and help reveal the true magnitude of the child abuse and neglect problem in this country.

INFORMATION CLEARINGHOUSE

Mr. President, another need identified in the congressional hearings which led to the enactment of Public Law 93–247 was the necessity of a central place for obtaining information about child abuse and neglect. The act provides that the National Center shall "compile, analyze, and publish a summary annually of recently conducted and currently conducted research on child abuse and neglect" and "develop and maintain an information clearinghouse on all programs, including private programs, showing promise of success for the prevention, identification, and treatment of child abuse and neglect."

In response to this legislative mandate, the National Center has been developing and maintaining the information clearinghouse and disseminating the information it collects to all relevant groups and persons. The information clearinghouse has collected information on over 2,000 operating treatment programs and on over 1,500 publications and audiovisual materials. All of these materials have been abstracted and placed in a computer with online capability. This system has the capacity for almost instantaneous review and retrieval of information.

The National Center also publishes and updates a summary of research entitled "Child Abuse and Neglect Research: Projects and Publications." In addition, the National Center provides an analysis of findings of various research projects which is of particular use to agencies making plans for research programs and to individuals seeking support for research in child abuse and neglect.

TRAINING PROGRAMS

Another function carried out by the National Center is the provision of technical assistance to public and nonprofit agencies and organizations to assist them in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect as well as the compilation and publication of training materials for personnel who are engaged or intend to engage in the prevention, identification, or treatment of child abuse and neglect.

In fulfilling this obligation, the National Center has carried out a survey and needs assessment of agencies and organizations delivering services to abused or neglected children and their families. This assessment indicated that there was an immediate need to train a core group of professionals and paraprofessionals in the diagnosis, reporting, and treatment of child abuse and neglect and that suitable training curricula had to be developed as soon as possible for the training of a broad range of professionals.

Responding to these identified needs, the National Center trained 1,700 professionals and paraprofessionals in a series of 5-day conferences in all parts of the country. The training consisted of developing new skills in multidisciplinary teamwork and coordination among professionals in child protection, social work, health, law, law enforcement, and education. In addition, the regional offices of the National Center annually provide training for an additional 12,000 people.

The National Center has also developed written materials for dissemination to persons delivering services for the prevention and treatment of child abuse and neglect. It has published a set of six monographs. The first three monographs comprise a three-volume series on the various problems of child abuse and neglect. Volume I is an overview, examining child maltreatment from such perspectives as characteristics of parents and children, effects of child abuse and neglect, and State reporting laws. Volume

II discusses the roles of some of the many professionals and agencies involved in case management and those working with abusive parents such as child protective services agencies, physicians and hospitals, the police, and teachers. Volume III deals with the coordination of community resources. The three remaining booklets in this series deal with central registers on child abusers, the diagnosis process and treatment program, and working with abusive parents from a psychiatric point of view.

The National Center has also developed a multidisciplinary curriculum package for use by local agencies in training programs. That package is currently being field tested by 22 national and State training grantees and by 16 resource projects. It is estimated that in its first year of use, 10,000 people will be trained with the assistance of this curriculum package.

ASSISTANCE TO STATES

Mr. President, another important aspect of the act is the provision of grants to States to assist them in the development and operation of child abuse and neglect prevention and treatment programs. To qualify for this assistance, a State must meet the list of criteria set forth in the act. These criteria deal with effective child abuse reporting procedures, comprehensive definition of child abuse and neglect, investigation of reports and administrative procedures, personnel, and training. They also require States to maintain such safeguards as confidentiality of records and appointment of guardians ad litem for children involved in child abuse or neglect court proceedings. The act also requires that the Federal funds supplement and not supplant the State funds already being expended on child abuse and neglect programs.

Although some States have experienced difficulties in meeting some of the requirements—particularly the requirement for comprehensive definition of child abuse and neglect as it related to reporting instances of known or suspected mental injury and the requirement for appointment of a guardian ad litem for children in judicial proceedings—the number of States which have become eligible has increased dramatically each year.

Only three States became eligible for funding during the first year. However, by fiscal year 1975, the number increased to 16, and in fiscal year 1976, 29 States received grants. I have recently been advised that 42 States were determined eligible, fully or on a conditional basis, to receive grants under this program during fiscal year 1977.

Additionally, States or other grantees in many States not eligible under the State assistance provision of the act have received funds for demonstration or resource projects. Thus, funds have been distributed under the act in all States either through the State grants or demonstration and resource project funds.

Since the act requires that State grants must supplement and not supplant State funds already being expended on child abuse and neglect programs, these funds have been used primarily to develop innovative approaches. States have been encouraged to avoid merely increasing existing staff and, rather, to concentrate on moving into new areas and developing new programs that promise greater results. Several States have used their grants to focus public attention on the nature and extent of child abuse and neglect, and the need to improve services. Other States have utilized the funds to develop or improve their central register system and to coordinate and assess the effectiveness of existing services. Some States have established special diagnostic, physiological and health care, and crisis services in centers for children and families.

Mr. President, the utilization of these funds by State agencies has led to the development of a variety of innovative and productive programs for dealing with child abuse and neglect. Federal funds have been used to stimulate creative State application of program ideas and generate increased consciousness of the problem of child abuse and neglect on a State and local level.

SUMMARY OF PROVISIONS IN S. 961

PROPOSED CHANGES IN THE CHILD ABUSE PREVENTION AND TREATMENT ACT

Mr. President, testimony from a variety of witnesses at the hearings held by the Subcommittee on Child and Human Development of the Human Resources Committee in April indicated virtually unanimous support for extension of the Child Abuse Prevention and Treatment Act. Although various witnesses suggested amendments in the law to help facilitate the achievement of the original goals of combating child abuse and neglect, not a single witness suggested that the program should be terminated. The testimony presented at the hearings indicated that while the program had begun to address some of the critical problems in the area of child abuse and neglect, enormous challenges remain to be met. Many of the witnesses testified as to the need for continuing and expanding research into the basic causes and treatment approaches. Other witnesses expressed the nationwide need for more service programs and a need to commit more funds to State programs.

Representatives from the Department of Health, Education, and Welfare testified regarding the scope of the various programs launched under the act and the desire of the Department to have the act extended for 1 year to permit the new administration the opportunity to review this program along with other Federal programs. However, after extensive discussions with HEW representatives, the committee determined that a 1-year extension would not afford the Department adequate time to consider the program in the context of a larger social issues strategy. Rather, it was felt that a 2-year extension was necessary to permit formulation of an administration position on the program. In view of this determination and the testimony and correspondence received by the committee in support of renewal of the act, the committee decided to extend the authorization of appropriations for 2 years, with several amendments designed to effectuate the original goals of the act.

STRENGTHENING COMMITMENT TO RESEARCH AND STATE PROGRAMS

The first amendment—section 201—in the committee bill is designed to respond to the demonstrated need to allocate more funds for basic research into the causes and treatment of child abuse as well as the need to provide States with more funds to develop and strengthen innovative State programs. Under existing law, 50 percent of the funds appropriated must be spent on demonstration and resource programs and not less than 5 percent nor more than 20 percent may be allocated for the State grant program.

There is no earmarking for research funding. The amendment in the committee bill places research into the present 50-percent earmark of funds for demonstration and resource projects and provides that not less than 20 percent of the funds appropriated under the act shall be allocated to the States. Thus, the committee bill removes the present 20-percent ceiling on State grant allocations, and establishes 20 percent as the floor for the State grant program. Under this formula, the committee left to the discretion of the National Center additional funding of State programs above the 20-percent level which the committee bill preserves as a minimum up to 50 percent.

CONTINUATION OF NATIONAL OR REGIONAL PROJECTS OF DEMONSTRATED EFFECTIVENESS

Mr. President, the committee was concerned over the discontinuation of a number of national or regional demonstration projects of demonstrated effectiveness because of the HEW policy to discontinue demonstration projects after 3 years. The committee felt that such programs should be given special consideration for continued funding under the act because of the danger that they might otherwise be terminated with little basis for generating local support where their constituency was regional or national. Although State or local programs can seek other sources of funding upon completion of their demonstration project, funding of national or regional projects poses far more difficult problems. The committee felt that where such projects had demonstrated their effectiveness in dealing with the problems of child abuse and neglect, they should not be summarily terminated but that continued funding should be seriously considered.

PRIORITIES FOR RESEARCH

Mr. President, the committee also felt that there was a need for the National Center to direct its research funding into new areas based upon fresh perspectives and therefore added a provision which would require the establishment of research priorities, to be published in the Federal Register and be subject to public comment by experts in the field as well as other interested persons. At the same time, the committee was concerned that the National Center have the ability to fund the type of long-range, high-quality research projects which are necessary to develop the basis of information necessary to proceed with new programs in the area of child abuse and neglect. Therefore, the committee added a pro-

vision authorizing the Center to fund research projects for 3-year periods, using funds to cover the 3 years from the first year's appropriation, but providing that, in the event of such advance funding, the grant would still be subject to annual review.

The committee was also concerned about testimony as to the inability of the National Center to carry out all of its functions effectively because of understaffing problems. The committee therefore adopted an amendment requiring the Secretary of HEW to make available to the National Center the necessary staff and other resources necessary to carry out its functions.

UTILIZATION OF STATE GRANTS

Mr. President, although there was considerable testimony at our hearings on the innovative and useful projects developed by States under the State assistance programs, the committee was very concerned over the failure of many States to utilize all the funds obligated to them under the act. Out of the $3.1 million allocated to States in the last reporting period, States had obligated only $1.3 million. Although there were indications that some of the delays in obligation of State funds were legitimately related to State administrative procedures, the committee felt it should provide an amendment to encourage States to utilize their allocations by providing for a reduction in future grants of an amount equal to the amount of unobligated funds after 18 months, unless extraordinary reasons justify the failure to so obligate.

ADVISORY BOARD

Mr. President, under the existing law, the advisory board consists of representatives from various Federal agencies involved in the area of child abuse and neglect, such as the Departments of Justice, Labor, Interior, Agriculture, Housing and Urban Development, and Defense, as well as the Department of Health, Education, and Welfare. The advisory board is responsible for seeking the effective coordination of Federal child abuse and neglect programs and has prepared annual reports on the long-range plans and budget projections of Federal agencies and on the results of past activities and contemplated future activities of Federal agencies in this field.

Numerous witnesses testified that the advisory board should be expanded to include members of the public involved in the field of child abuse and neglect. The committee concurred with these recommendations and added an amendment to the act providing for the appointment of at least three public members with backgrounds in the field of child abuse and neglect. The committee also added a new responsibility for both the National Center and the advisory board by requiring the Center—not later than 12 months after enactment—to develop a comprehensive plan to seek to achieve maximum coordination of activities of all agencies and organizations in the field of child abuse and neglect. This amendment requires the plan first be submitted to the advisory board by the National Center for its input or modification and then be submitted to the Congress and the President—within 6 months after review by the board. This amendment is complemented by the charge which directs the board to deal on a continuing basis—rather than sporadically as at present—with the activities planned by member agencies in the child abuse field.

Mr. President, the committee felt that these amendments to the existing legislation would provide for the relatively short-term continuation of the program while making those changes necessary to improve program operation while the administration's review and evaluation of the entire child abuse prevention and treatment goes forward.

AMENDMENT 624—SEXUAL ABUSE OF CHILDREN

Mr. President, I was pleased to join with Senator PERCY and Senators RANDOLPH, RIEGLE, and JAVITS in sponsoring and in proposing amendment No. 624 to title II of S. 961 to authorize the National Center for Child Abuse and Neglect to undertake a major effort to prevent and treat cases of child sexual abuse.

There has been a growing concern in Congress and the public, over the use of children as young as 3 years old in the production of pornography. It is also estimated that between 50,000 and 70,000 children are subjected to sexual abuse each year. A significant measure to impose criminal penalties upon adults who engage in the sexual exploitation of children for commercial purposes—S. 1585—recently passed the Senate by an overwhelming vote of 85 to 1. S. 1585 grew out of hearings held by the Judiciary Committee's Subcommittee To Investigate Juvenile Delinquency which exposed the extent of this devastating problem. The diligent efforts of Senators CULVER and MATHIAS—original cosponsors of S. 1585—to secure passage of this important legislation have greatly contributed to our efforts to combat this problem.

While there is clearly an urgent need to enact legislation such as S. 1585 to discourage adults from exploiting children in this fashion, there is an equally great need to devote appropriate resources to the task of helping the innocent children who are victims of sexual abuse and exploitation. The growth of child pornography, child prostitution, child molestation, incest involving children, and similar sexual abuses leaves lasting scars upon the young victims of these practices. It is not enough to impose criminal penalties upon the adults who abuse children in this fashion. There is an urgent need to develop treatment programs to help these children overcome—or at least diminish—the emotional damage suffered, and to try to find ways to help the abusers themselves.

The amendment proposed by Senator PERCY to title II of S. 961, in which I am pleased to join, along with Senators RANDOLPH, RIEGLE, and JAVITS, authorizes $2 million per year for 2 years for the National Center for Child Abuse and Neglect to spend specifically on programs related to child sexual abuse. Money would be made available to State and local governments, as well as nonprofit private institutions on the same basis as is currently used for other child abuse programs. Funds could be utilized for direct service programs or research projects. This measure will provide important and greatly needed impetus for agencies to begin to develop effective approaches for helping deal with the very sad problem.

BROAD SUPPORT FOR EXTENSION OF THE CHILD ABUSE PREVENTION AND TREATMENT ACT

Mr. President, the Subcommittee on Child and Human Development has received numerous letters of support for extension of Public Law 93–247 from people in all parts of this country. We have been contacted by State, county, and local agencies, by representatives of private organizations, and by many concerned individuals. These individuals and organizations have expressed uniform support for extension of this legislation so that our national efforts to combat the problems which child abuse and neglect pose for our children can continue. It is a battle which we cannot afford to lose and one in which Federal leadership and initiative is vital. I believe that this measure will spell hope and a new chance for the future for thousands of children.

Mr. PERCY. Mr. President, today, the Senate will have an opportunity to complete the work it began 2 weeks ago to grapple with the growing problem of child pornography. At that time, through the adoption of stiff criminal penalties against the producers, distributors, and sellers of child porn, this body took strong action against the perpetrators of this grisly form of child abuse. Now it is time to address ourselves to the victims.

I have proposed an amendment to title II of S. 961, amendment No. 624, to authorize $2 million for 2 years, or a total of $4 million, to the National Center for Child Abuse and Neglect for programs aimed at preventing and treating cases of sexual child abuse. Clearly, the most appalling effect of child pornography, as well as other forms of child sexual abuse, is the mark that is being left on literally tens of thousands of American youth. The psychological scars on the minds of children ranging in age from 3 to 16 years from participation in child pornography, child prostition, child molestation, incest involving children, and similar practices, can be severe and last a lifetime.

If we are sincere in believing that our children are our most important resource, then this human cost of child sexual abuse is something we can no longer tolerate.

In most cases, the child victims of sexual abuse have no place to turn for help. Treatment programs for sexually abused children remain few and experimental. Professionals are still grappling with awesome problems involved in providing effective therapy to these children. Clearly, there is a need for strong commitment, not only on the part of government but also on the part of the people of this Nation and the local communities themselves, if effective help is to be made available. The amendment I have proposed would establish the pace in this field by drawing existing child abuse programs into the sexual abuse area, by stimulating research, and by promoting the development and implementation of

new operational approaches and facilities.

The U.S. Congress has a unique responsibility to not turn a deaf ear to thousands of our own youth who are clearly in their hour of need, and whose need has all too often gone unheeded.

I trust my colleagues in the Senate will respond to this responsibility, and act favorably on my amendment.

Mr. CULVER. Mr. President, I wish to express my support for S. 961, legislation incorporating title I, the Opportunities for Adoption Act, and title II, provisions to extend and modify the Child Abuse Prevention and Treatment Act.

The need for this legislation is clear. The Federal Government is currently spending approximately $700 million to maintain some 350,000 children in foster or institutionalized care. It is estimated that possibly one-third of these children may have special needs such as physical or mental disabilities and have little or no hope of returning to their natural parents.

It is well known that prospective adoptive parents are ready and willing to provide permanent homes for many of these children but existing barriers to interstate adoptions and the termination of Federal financial assistance upon adoption of these children continue to be enormous problems to many couples who desire to adopt a child.

This legislation reduces these barriers and extends Federal support to permanent placement of eligible children in adoptive homes. Currently, only long-term foster care is aided. S. 961 will provide grants for adoption assistance and services to States. Such grants will be allocated to adoption agencies to assist them in finding homes for children with special needs, to help meet the costs of prenatal, natal and postpartum services for needy women who are voluntarily planning to place their children for adoption, and to aid prospective adoptive parents who would consider adoption but are financially unable to do so.

Mr. President, many thousands of children remain in institutions solely because of legal or financial barriers that restrict their placement in adoptive homes. As chairman of the Subcommittee To Investigate Juvenile Delinquency, I believe it is essential to insure that humane alternatives are found for children who require help. I am hopeful that passage of S. 961 will aid in that goal.

Title II—amendments to the Child Abuse Prevention and Treatment Act—provides a 2-year extension of this act. This is a vitally important step toward combating the increasing number of child abuse cases—one of the most alarming problems this country faces.

Although no exact statistics exist, evidence indicates that reported cases of physical abuse are growing in shocking proportions. More importantly, estimates suggest that quite possibly only one in 100 incidents is reported.

Medical studies on child abuse place the probable national incidence between 50,000 and 75,000 per year. And these reported incidents involve almost exclusively abuse of children in their own homes. They do not include child abuse in schools and children's institutions, although sadly enough, this kind of abuse is known to occur frequently in all parts of the country.

There are also no systematic records of the massive abuses and neglect of children due to malnutrition and hunger, inadequate education and substandard living conditions. These forms of abuse and neglect are some of the most serious yet least talked about and least acted upon aspects of the child abuse problem.

In 1974, the Congress enacted the Child Abuse Prevention and Treatment Act in response to this nationwide problem. This legislation signaled not only a recognition of the tragedy of child abuse but also that the Congress was ready to make a commitment toward eliminating as far as possible this frightening reality.

It is appropriate that we rededicate ourselves to that commitment. Earlier this year, in testimony before the Select Subcommittee on Education in the House of Representatives, I urged that substantial changes be made in the existing law to help facilitate the achievement of the original goals of combatting child abuse and neglect.

I felt that while research continued to be important, it was also essential for funding distribution to be improved to allow more money to be allocated for existing as well as new child abuse prevention and treatment programs.

The new legislation now calls for a higher allocation of funds to States to provide, develop, and strengthen programs. These programs provide services to abused and neglected children and their families and are intended to aid regional, State, and local agencies in identifying child abuse cases.

Funds have also been provided to local parental self-help organizations through Parents Anonymous. With past Federal assistance, Parents Anonymous chapters have grown all over the country. Through counseling services, Parents Anonymous has helped thousands of parents deal with their family problems.

Mr. President, many diseases afflict children. We have, in many cases, found a cure. But there is no miracle cure for child abuse. We can only hope that through better understanding and improved programs we can aid the suffering and bring to a minimum this crippling and all too often fatal disease.

I strongly urge that we reaffirm our commitment to combatting the tragic problem of child abuse and neglect by acting affirmatively on this important legislation.

Mr. CRANSTON. Mr. President, I know of no further amendments. I believe we are ready for third reading.

The PRESIDING OFFICER. First, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate H.R. 6693. a bill to amend the Child Abuse Prevention and Treatment Act to extend the authorization of appropriations contained in such act, and I move that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the House bill.

The assistant legislative clerk read as follows:

Calendar No. 420, a bill (H.R. 6693) to amend the Child Abuse Prevention and Treatment Act to extend the authorization of appropriations contained in such Act, and for other purposes,

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. CRANSTON. Mr. President, I move that H.R. 6693 be amended by striking out all after the enacting clause and inserting in lieu thereof the text of S. 961 as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 6693) was read the third time, and passed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT 976

Mr. CRANSTON. Mr. President, I move that the title of the bill be amended with the title amendment in S. 961 as reported.

The PRESIDING OFFICER. Without objection, the title will be so amended.

The title was amended so as to read:

"A bill to promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, to extend and improve the provisions of the Child Abuse Prevention and Treatment Act, and for other purposes.".

Mr. CRANSTON. Mr. President, I move that S. 961 be indefinitely postponed.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make necessary technical and clerical corrections in the engrossment of H.R. 6693.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I thank all Senators and other persons involved in the passage of this measure.

Mr. President, I suggest the absence of a quorum.

Mr. BUMPERS. Mr. President, will the Senator withhold that?

Mr. CRANSTON. I withdraw it.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The Senate continued with the consideration of H.R. 5263.

Mr. BUMPERS. Mr. President, are we back on the Metzenbaum amendment now?

The PRESIDING OFFICER. The Senator is correct.

UP AMENDMENT NO. 975

(Purpose: To suspend the excise tax on business use of oil and natural gas while expeditious efforts to convert to other fuels are underway.)

Mr. BUMPERS. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 975 to the Metzenbaum amendment.

Mr. BUMPERS. Mr. President, I ask uanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10 of amendment No. 1505, after line 13, add the following:

"(5) TEMPORARY SUSPENSION OF TAX.—The Secretary or his delegate shall temporarily suspend the imposition of the tax imposed by Section 4991 for the period of time during which he determines that the taxpayer is proceeding as expeditiously as possible to convert a powerplant or a major fuel-burning installation from the use of oil or natural gas.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Arkansas yield for a unanimous-consent request?

Mr. BUMPERS. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the amendment by Mr. METZENBAUM, the Senator from New Mexico (Mr. DOMENICI) be recognized to call up an amendment cosponsored by himself, Mr. CHURCH, and other Senators; and that there be a 1-hour time limitation thereon, to be equally divided between Mr. DOMENICI and Mr. LONG.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Mr. President, reserving the right to object, what does that do with the Jackson amendment and the 3 o'clock vote?

Mr. ROBERT C. BYRD. It would not interfere.

Mr. PACKWOOD. This would come after the 3 o'clock vote?

Mr. ROBERT C. BYRD. Before.

Mr. PACKWOOD. I would object to that.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Mr. President, reserving the right to object, the Metzenbaum vote will occur at 12 noon, is that correct?

The PRESIDING OFFICER. Yes.

Mr. BUMPERS. And the request is for 1 hour?

Mr. ROBERT C. BYRD. One hour on an amendment by Mr. DOMENICI to follow that.

Mr. BUMPERS. Could the Senator tell me how much debate there will be on the Jackson amendment prior to the vote at 3 on that?

Mr. ROBERT C. BYRD. Well, the remaining time between the point of the disposition of the Domenici amendment and the hour of 3 o'clock would be available for debate on the Jackson amendment.

Mr. BUMPERS. Then that would be from somewhere around 1:30 until 3 o'clock?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BUMPERS. I have no objection, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President——

The PRESIDING OFFICER. The Senator from Arkansas, I believe, has the floor.

Mr. BAKER. Mr. President, will the Senator from Arkansas yield to me for a moment, so I can have a brief colloquy with the majority leader?

Mr. BUMPERS. I yield.

Mr. BAKER. Mr. President, I think the problem is that some Senators are concerned about the diminution of time for debate on the Jackson amendment if we were to schedule the Domenici amendment as the majority leader has suggested.

I wonder what the possibility would be to extend the time on the Jackson amendment, with the vote, instead of 3 o'clock, at 4 o'clock? I happen to know that the Senator from New Mexico very much wants to do this today.

I am sure he does not want to discommode anyone else.

If it were possible to follow the suggestion, I think it may be a good thing to try.

Mr. ROBERT C. BYRD. Mr. President, I think we would have to touch various bases. I would not be in a position at this point to agree to that. It would have to be agreed to by Mr. LONG and Mr. JACKSON.

Mr. BAKER. Could the majority leader check on that, to move the time from 3 o'clock to 4 o'clock, so we could schedule in the Domenici amendment immediately after the Metzenbaum amendment and still not reduce the available time?

Mr. LONG. It would be all right with me to move forward the time on the Jackson amendment and go to the Domenici amendment thereafter.

Mr. BAKER. Does the Senator move to move it back from 3 o'clock to 2 o'clock?

Mr. LONG. Yes.

Mr. BUMPERS. Mr. President, I would have to object.

Mr. LONG. Let me put it this way: As far as I am concerned procedurally, anything goes. What does the Senator want to do?

Mr. BAKER. Since the Senator from Louisiana gestured with both hands, I assume one of them was in my direction. What I would like to do is move the vote on the Jackson amendment to 4 o'clock and schedule the Domenici amendment for 1 hour immediately after the Metzenbaum amendment.

Mr. BUMPERS. Will the majority leader consider another proposal, Mr. President? I feel qualified to speak on the Jackson-Bumpers amendment. If we could have a unanimous-consent agreement that there would be at least 1 hour of debate on the Jackson amendment prior to the vote, to be equally divided between Mr. LONG and Mr. JACKSON, then whatever length of time it would take for the Domenici amendment, we would still know we would have 1 hour of debate before the vote on the Jackson amendment.

Mr. BAKER. If the Senator will let me respond, this proposal would be better than that, because we were suggesting a 1-hour time limitation of Domenici, which would start running right after the Metzenbaum vote, which would be over at 12:20. So the Domenici debate would end at 1:20, and if there is a rollcall vote that would make it 1:30 or 1:40. The time betwen 1:40 and 3 o'clock would be available for debate on the Jackson-Bumpers amendment.

Mr. BUMPERS. If the Senator will permit me, I have no objection to that proposal.

Mr. PACKWOOD. I object. If we cut an hour off the time for debate on the Jackson amendment, I picture that I will not have a chance to make some of the arguments I would like to. I would object to cutting down the time I thought we would initially have.

Mr. BUMPERS. Is the objection of the Senator from Oregon that there is not enough time left to debate the Jackson amendment?

Mr. PACKWOOD. As far as I am concerned, there would not be. I have no objection to moving the time back to 4:15, if we are going to take an hour and a quarter on the Domenici amendment. I want to make sure there is a 3-hour time for debate on the Jackson amendment so I have time to speak.

Mr. BAKER. I wonder, Mr. President, if the principals involved would inquire to see if they could clear a unanimous-consent order already entered so that the vote on the Jackson-Bumpers amendment will occur not later than 4:15 this afternoon.

Mr. LONG. Mr. President, as far as the Senator from Louisiana is concerned, we agreed to vote this afternoon. It can be moved around to whenever we want to vote. I really do not have that much confidence in my own oratorical abilities nor that of the others. I think most people have pretty well decided how they are going to vote anyway. I would be willing to vote now, at midnight, or any time between, and accommodate anybody about anything. I just got through letting my good friend from Ohio (Mr. METZENBAUM) pick up two votes on me by ex-

empting Hawaii from his amendment. If I can give away votes that freely, I believe I could vote on the Jackson amendment any time anybody would want to vote.

Mr. BUMPERS. I can leave this proposition with the majority leader: As long as the majority leader leaves at least 1 hour prior to the vote on the Jackson amendment, anything that can be worked out would be agreeable.

Mr. ROBERT C. BYRD. Why not permit us to consult with the various parties and see what we can work out, Mr. President?

Mr. BAKER. So the matter is clear, I would like to propose that there be a revision of the unanimous-consent orders now entered so that immediately after the Metzenbaum amendment is disposed of we would proceed to the consideration of the Domenici-Church amendment, on which there will be a time limitation of 1 hour, with the conditions the majority leader will describe. I would also suggest that at the conclusion of that action, we proceed once again to the consideration of the Jackson-Bumpers amendment, and that there be a vote on the Jackson-Bumpers amendment not later than 4:15.

Mr. ROBERT C. BYRD. If we could agree to a 2-hour limitation on the Jackson amendment, that would move it to 3:30.

Mr. PACKWOOD. Might I say this: The Senator from Arkansas indicates he needs no more than 1 hour, and the Senator from Louisiana is prepared to vote any time. If we amend the unanimous-consent order so I could have a half hour of time under my control, that would be sufficient to protect myself.

Mr. LONG. I would be glad for the Senator to speak for a half hour.

Mr. BUMPERS. I am glad to hear the Senator say that. I thought if we had an hour and a half——

Mr. BAKER. I think the Senator's ego is about to be offended. Nobody wants to hear him for a half hour. (Laughter.)

TIME-LIMITATION AGREEMENT ON SPECIFIED AMENDMENTS

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, that upon the disposition of the amendment by Mr. METZENBAUM, Mr. DOMENICI be recognized to call up the amendment which he, Mr. CHURCH, and others cosponsor; that there be a 1-hour time limitation on that amendment; that upon the disposition of that amendment there be a time limitation of 1½ hours on the amendment of Mr. JACKSON, 1 hour of which would be under the control of Mr. LONG and Mr. BUMPERS, one-half hour of which would be under the control of Mr. PACKWOOD, and that would result in a vote on the Jackson amendment at about 3 o'clock today.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. To be sure I understand, is the majority leader saying that the time will be equally divided, but 30 minutes of the time will be under the control of the Senator from Oregon?

Mr. ROBERT C. BYRD. Thirty minutes of 1½ hours will be under the control of the Senator from Oregon. That will result in a vote occurring right at 3 o'clock.

Mr. PACKWOOD. There will be an hour and a half of time with 1 hour to be equally divided between the Senator from Arkansas and Senator JACKSON and Senator LONG, and I would have a half hour.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. This means that a vote will occur on the amendment by Mr. METZENBAUM at 12 o'clock. Assuming that that amendment is disposed of by 12:15, on a 15-minute rollcall vote. the 1½ hours would begin on the Domenici amendment, which would be 1:30.

Mr. BUMPERS. The vote on the amendment of Mr. DOMENICI is in there.

Mr. ROBERT C. BYRD. One hour and a half after 1:30 will be 3 o'clock.

Mr. PACKWOOD. And I will still have my half hour.

Mr. ROBERT C. BYRD. That is correct.

Mr. BUMPERS. Mr. President, the amendment——

Mr. ROBERT C. BYRD. Has the question been put by the Chair?

Mr. BAKER. Has the Chair put the question?

The PRESIDING OFFICER. The request has already been agreed to without objection.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, does the order for the unanimous-consent agreement provide for an hour-and-a-half of debate, rather than a vote at 3 o'clock?

Mr. ROBERT C. BYRD. Exactly.

The PRESIDING OFFICER. The Senator is correct. The three-way control of time is an hour and a half of debate and I believe it safe to say the vote would occur at 3 p.m.

Mr. BAKER. That is right.

Mr. ROBERT C. BYRD. For once, I hope the time is not out of joint.

Mr. PACKWOOD. Will the Senator yield for a unanimous-consent request?

Mr. BUMPERS. I yield.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that Letitia Chambers, of the Special Committee on Aging, may have the privilege of the floor during pendency of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 975

Mr. BUMPERS. Mr. President, the amendment I have offered to the Metzenbaum amendment simply does this: His amendment places a user tax on all boiler users who are using natural gas under boilers. He places a tax on all of those who can convert. It is my understanding that about 90 percent of the boilers in this country are not convertible from gas or oil to coal—at least not convertible readily—and about 10 to 11 percent are convertible. My amendment simply says that, once the investment is made and good faith effort started by those industries or utilities to convert to coal, the Secretary shall suspend the tax. I do not think these people ought to be paying tax while they are doing everything they can to convert to coal. It is just an equitable amendment, which I think perfects the Metzenbaum amendment.

I have cleared it with Senator METZENBAUM, who is not present right now. I feel comfortable in saying that to the Chamber. I move its adoption.

The PRESIDING OFFICER. Is there objection to the amendment?

The question is on agreeing to the amendment.

The amendment No. UP 1975 was agreed to.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. LONG. Mr. President, I yield myself 2 minutes.

I had in mind a good argument that I thought might persuade a few votes, but I see so few Senators around here that I really think it would be wasted on empty seats. Everybody I see here has pretty well made up his mind already. I do not see my good friend from Ohio here to speak. About the only thing I see to do is just let the time run against both sides for the time being, with the understanding that, when both Senators are present, we shall divide the remaining time.

I make a parliamentary inquiry: Are we under controlled time?

The PRESIDING OFFICER. No, we are not. The only order is that there be a vote at 12 o'clock.

Mr. LONG. Then I ask unanimous consent that, after my having suggested the absence of a quorum, which I propose to do, the time thereafter be divided between the Senator from Ohio and the Senator from Louisiana, the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LONG. I ask unanimous consent that we have a quorum call and that it be charged equally to both sides.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Are we under any time agreement?

The PRESIDING OFFICER. The Senate will vote at 12 o'clock and by unanimous consent the time is running equally against both sides during the quorum call.

Mr. JAVITS. May I have time without any special consent?

The PRESIDING OFFICER. The Senator is recognized.

AMENDMENT NO. 1505

Mr. JAVITS. Mr. President, I shall support the amendment offered by Senator METZENBAUM and his associates because I believe that it is exactly targeted to the very situation which can properly produce a tax to finance whatever other activities we decide it should finance. The Senate bill is based upon the theory that we will stimulate production by the necessary assistance from Government, but that the money to be used for that purpose will come from taxes which will be contained in either our bill or the House bill, or both.

The difficulty with the tax suggested by the administration, to compel conversions to the use of coal, was, in my judgment, that it was indiscriminate. That is, that it sought to compel it, whether or not there was any possibility of actually bringing it about.

The virtue of the Metzenbaum amendment, while it may not be perfect—I gather that Senator DANFORTH and others may have some problems with it—nonetheless, utilized a specific, targeted rifle shot at the users capable of switching from oil and gas to coal. It imposes no sacrifice on those whose sacrifice will serve no useful national purpose. It places no heavy burden on any single region of the country as distinguished from others, and it rebates every dollar paid if the user takes the action which fosters the national interest, to wit, converts where he is able—and I emphasize those words—from present use of oil or natural gas to coal.

The tax as it is now estimated would save three-quarters of the oil and gas that would be conserved under the administration's proposal, but it would do so by imposing only one-thirteenth of the tax burden which would have been imposed by the administration's proposal.

It is, therefore, noninflationary, or at least de minimis in terms of inflation. I believe, therefore, that the Senator from Ohio has presented us with a very constructive approach.

Mr. President, we are under great challenge in this body before the American people. We have been painted to the Nation as emasculating and general weakening, destroying, the energy package presented to us by the President.

But, Mr. President, it seems to me that if the people analyze what has occurred—to wit, the point basically in the bill before us which is to meet the tax bill, essentially a tax bill, of the other body with a set of ideas and legislative proposals which can utilize effectively those taxes with the fundamental objective of materially reducing the dependence of the United States upon imported oil, both for its economic, political, and balance of payments reasons—then I think the Senate would have stood up to the test which the country sees as being put before it.

It seems to me, therefore, Mr. President, we should construe this amendment as an effort to curtail imports of foreign oil to the extent of 1.200 million barrels per day by 1985. This means, by rough calculation, a saving to us of $6.6 billion per year as a drain on our balance of payments.

Mr. President, I have stood in this place before and anticipated grave international difficulties, even a depression, if we keep this hemorrhage of dollars in the payments for an uneconomic pricing of oil to the OPEC countries.

Mr. President, one last thing, the industrial user tax as passed by the other body discriminates between those industries which use oil and those which use gas. For no apparent or enunciated reason, to me, the tax rates for these fuels, equally precious to our total domestic energy needs, are far different.

The discrimination which is there shown, Mr. President, of oil versus gas, further embeds a regional economic advantage to those areas that use primarily oil, Every State that uses residual fuel oil as an industrial fuel is similarly impacted, and that includes States from Maine to Florida, and from Rhode Island to California.

The amendment before us effectively eliminates that discrimination and imposes equal tax rates on the users we wish to reach.

Mr. CURTIS. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. CURTIS. What is the rate of tax provided for in the Metzenbaum amendment?

Mr. JAVITS. $6 a barrel on oil and the Btu equivalent on gas.

Mr. CURTIS. Is it not true that the administration recommended, and the House enacted, a $3 a barrel tax?

Mr. JAVITS. The House did, that is true, except there are two points here. One. the gas tax is advantageous in terms of Btu content, which it reaches; and second, the fact that this tax is targeted upon a particular group, which is the most susceptible to the——

Mr. CURTIS. I am aware of that, but——

Mr. JAVITS. May I finish?

The most susceptible to the fact we are seeking to attain by the tax.

Therefore, I tend to favor it because, although it is higher, and I will not dispute that with the Senator, it is targeted in a way which the administration's tax is not.

Mr CURTIS. Here is what concerns me. Suppose the conference comes back and takes the House application as to who pays the tax, and the Senate rate of tax. Then we would have the administration tax doubled on everybody.

Mr. LONG. Will the Senator yield?

Mr. JAVITS. I get the point, and may I answer it because it goes to a central part of my own view of this bill?

I am delighted both the ranking member and the chairman are on the floor. I have deep regard and respect for them.

My central view of this particular bill is that we are going to pass a bill when we get the conference report. I expect to vote for the Senate bill, almost whatever it is, because I want this to go to conference and allow us to begin to get a result.

I think it is more important to get an answer here, either it is "yes" or "no," than to get a "no" answer.

But I think that notice should be served upon the conferees that, in my judgment, I, and I think many others in this body, will judge the conference report in this case as if it were a bill before the Senate.

Normally, things get wrapped up—and I am a conferee as often as other Senators. We bring it in here, everybody says, "Well, what's the use, they did this or that, we don't like it, but nonetheless, we have to take it, it's our last chance."

That is not going to be the case on the conference report.

I can contemplate a situation where it may go back two, three or four times, because we are really dealing with a bill and, as we cannot amend it, the only way somebody can get any result is by sending it back.

Mr. LONG. Will the Senator yield?

Mr. JAVITS. Of course.

Mr. LONG. On this point, we have done it before in going to conference with the House, as we did with the amendment last year. In the tax reform act of last year, the conferees agreed to an amendment which had to do with the inheritance tax and was not contained in either the House or the Senate bills. In such cases, the House can go to the House Rules Committee and obtain a rule there to bring before the House for a vote subject matter that was beyond the purview of the House bill.

Now, our Rules Committee does not have that jurisdiction. So a single Senator can object, that a compromise between the two positions that adds new material goes beyond the purview of the conference, and even though we are completely within the jurisdiction of the tax-writing committee—and we expect to stay within that jurisdiction—if we have material that went beyond what is in the two bills.

Let me give one simple example. We have a provision in the bill that would seek to save the refineries of this country with regard to imports. They are at a competitive disadvantage. We hope that in conference we can work out something to save the small independent refineries. We think that those things probably would be within the purview of the conference.

However, the junior Senator from New York makes his point that if we do what that implies, it would impact on New York and the northeastern part of the United States. He could not support any such conference report unless we found some way to spread the burden across the entire country, rather than impacting on the area he represents.

Without the language we are seeking to have here which would give us the flexibility, we could not solve such a problem. I point out that we are not in this case talking about the person on whom the tax is imposed, but rather about the person who bears the final burden. Without the flexibility we seek in conference, we could not provide the answer. What we want to do is not to bring before the Senate something it does not want. We seek to bring before the Senate something that the Senate will want. But without that flexibility, how could we do it?

Mr. JAVITS. I respond to the Senator as follows: In what I said this morning—I am sorry if the Senator was not in the Chamber—I was addressing myself to

the Metzenbaum amendment on boiler tax and user tax. The Senator is talking about the Jackson amendment.

Mr. LONG. Yes, I am.

Mr. JAVITS. That is up after this one. Let me take two bites of the cherry.

Mr. LONG. I am sorry. I was in the middle of a conversation.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. RIBICOFF. Mr. President, the point made by the Senator from New York is appropriate and most pertinent. As I contemplate what is trying to be achieved, it is for the conference to work with the President to bring forth an energy program that is meaningful for the country. Since the Senate is being asked to take in faith what the conferees are going to do, without having had an opportunity to review or to try to amend or modify an entire energy program, I would expect the Senate to look at what comes back from the conference as a most important piece of legislation that deserves and requires considerable debate and discussion, to make sure it comports with what the majority of the Senate feels is a good energy program.

So I agree with the Senator from New York. Should I be a conferee, I would view the conference exactly with that background and that understanding, and I agree with the objective formulated by the Senator from New York.

Mr. JAVITS. I thank my colleague very much. I am honored that he agrees with me.

I yield the floor.

UP AMENDMENT NO. 977

Mr. DANFORTH. Mr. President, I ask unanimous consent—if I need unanimous consent—that I may be recognized to offer two amendments at this time, each of which has been agreed to by the Senator from Ohio.

The PRESIDING OFFICER. Does the Senator ask unanimous consent to offer them en bloc?

Mr. DANFORTH. Yes. I ask unanimous consent to offer two amendments at this time, en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Are they amendments to the Metzenbaum amendment?

The PRESIDING OFFICER. Are they amendments to the Metzenbaum amendments?

Mr. DANFORTH. That is correct.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered,

The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes two unprinted amendments, en bloc, numbered 977.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 8, line 5, insert the following:

"(6) Any use of natural gas or petroleum used as feedstock for ammonia and other petrochemicals.

On page 8, line 5, insert the following:

Delete lines 5 through 17, on page 8.

Add after line 5.

"(2) Exempt all process use. All process use of oil and natural gas is exempt from the tax."

Mr. DANFORTH. Mr. President, one of these amendments expressly exempts from the tax the use of oil and natural gas as feed stocks for ammonia and petrochemicals, and the other would exempt from the tax the use of oil and natural gas for process use.

Mr. PACKWOOD. Mr. President, will the Senate yield?

Mr. DANFORTH. I yield.

Mr. PACKWOOD. I thought the Senator from Ohio said last night that he had exempted process and feed stocks from his amendment. At least, as I read the RECORD this morning, he indicated that they were not in his amendment to start with.

Mr. METZENBAUM. The answer to the Senator from Oregon is that we have exempted process use. There seems to be a desire on the part of the Senator from Missouri—and I well understand that—that there be further clarification, to have it specifically spelled out. I have no objection to his amendment, because that never was our intent.

Mr. PACKWOOD. When the Senator says "exempt," he does not mean in the sense that the Secretary of the Treasury looks at them and says, "You are a feedstock industry." The Senator limits it to a boiler tax—and a narrow boiler tax at that.

Mr. METZENBAUM. The Senator is correct. This will make it specific.

Mr. PACKWOOD. I want to make sure that by the adoption of the amendment of the Senator from Missouri—what is the language?

Mr. DANFORTH. The first is the use of oil and natural gas as a feedstock for ammonia and petrochemicals.

Mr. PACKWOOD. I want to make sure that, by adopting that amendment, we are not giving anybody an impression that any other feedstock might be covered, if it is not excluded by the Senator's amendment.

Mr. LONG. Mr. President, I must claim half of the time remaining, because we have been going along informally, and I understand the time has been charged equally. How much time remains?

The PRESIDING OFFICER. Two minutes to each side.

Mr. LONG. Then, I must claim my remaining 2 minutes. If the Senator wishes to yield for further colloquy, it will have to be on his time.

Mr. DANFORTH. Mr. President, the intent of this amendment is simply to clarify what I believe to be the intent of the Senator from Ohio.

Mr. LONG. I am not yielding for that purpose.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

Mr. LONG. Mr. President, I wish to make clear my principal objection to the Metzenbaum amendment.

The Metzenbaum amendment is the kind of thing that would logically emerge from a conference between the House and the Senate. The Senate has no user tax. The House has a user tax that covers a lot of people other than those covered by the Metzenbaum amendment.

Logically, you could compromise in conference with the Metzenbaum amendment. But if the Senate agrees to the Metzenbaum amendment, it means that we have at least that much agreed to already when we go to conference; and in a tough conference between the House and the Senate, we can expect the House to insist that we take half of what remains.

So that those Senators who are concerned about applying the House user tax to their States had better understand that if they vote for the Metzenbaum amendment, they have already given away the store before they start to bargain. The result is that when they vote for that amendment, they are voting to come back from conference with something that goes far beyond it.

I know that the Senator does not want that to happen, but that is the only result I can see from putting it in.

If Senators want to arrive at the type of compromise suggested by the amendment, the best way is to vote against the amendment. Otherwise, in a tough conference, we will wind up halfway between that and the bill.

I think it would be far better to have the freedom to negotiate in this area and to arrive in conference at something along the line that this suggests, rather than to go to conference, where you already have this much laid down.

The PRESIDING OFFICER. The 2 minutes of the Senator have expired.

The Senator from Ohio has 2 minutes remaining.

Mr. METZENBAUM. Mr. President, I believe that this amendment, which was discussed at length last night, is a very adequate answer to the administration's program and the House approach to the entire question of a gas and oil users' tax. It is not complicated. It does not provide for an unfair burden on those who cannot convert. It provides only that the tax shall be applicable to new facilities and those facilities that have coal-burning capacity and there is a refusal to convert.

It will save 80 percent of the total amount of the energy that would be saved by the administration's bill. I believe that the administration's bill, as is self-evident, is in danger in the Senate. The Finance Committee did not see fit to report it. The Finance Committee has a provision for $26 billion in tax credits. This proposal will provide for $3 billion in net revenue to the Treasury, a difference of $29 billion; and it will accomplish the same objectives, without providing this unfair, undue, and unnecessary burden on American industry.

I believe that we want to conserve energy. I believe that we can conserve energy. I believe that we want to be fair to American industry.

Mr. PERCY. Mr. President, will the Senator yield

Mr. METZENBAUM. I yield.

Mr. PERCY. Mr. President, I commend the distinguished Senator on his amendment. I am proud to be a cosponsor.

This amendment would make a major step toward accomplishing our national objective of becoming less dependent on petroleum products. It would utilize the resources we have, such as coal. It would be tragic if the Senate were to turn down this amendment.

Mr. CRANSTON. Mr. President, I would like to take just a moment to ask a few questions of the Senator from Ohio about the intention of his amendment.

First, I note that the Senator modified his amendment last night to exempt:

> Any new, or existing coal-capable combustor which qualifies for any exception or exemption from the requirement to use coal under any provision of law or regulation shall not be subject to the terms of the tax under this title.

Am I correct in my understanding that this modification makes clear that any facility which cannot burn coal for environmental or economic reasons will be exempt from the tax?

Mr. METZENBAUM. Yes, the Senator from California is correct.

Mr. CRANSTON. Good. This is an important provision for my State of California. As the Senator from Ohio knows, California is not likely to be in a position to utilize coal, except in certain unique circumstances, because of our severe air pollution problems and because of economic constraints, California has no significant coal deposits of its own, so any coal we might be able to use must be transported many miles.

I would like to ask one other question of the Senator from Ohio. In California, our utilities tell me that their best option in the near future is to develop combined-cycle facilities. These will rely on national gas or distinate fuels. I understand that these combined cycle facilities are much more efficient than the older oil and gas boilers. Is it the Senator's intention to exempt such combined-cycle facilities from the tax?

Mr. METZENBAUM. As long as the facility in question is exempted from any requirement to convert to coal, the answer is "yes." Such combined-cycle facilities would not be subject to the tax.

Let me repeat to the Senator from California what I have said several times in explaining my amendment. This tax is limited to new or existing coal—capable facilities, meaning those facilities which can convert to coal. This amendment does not intend to tax any facility which has been exempted from any requirement to convert to coal, for to do so would constitute a penalty with no purpose.

Mr. CRANSTON. I thank the Senator from Ohio very much for his clarifications.

TO PROMOTE CONVERSION TO COAL

Mr. HUMPHREY. Mr. President, I support the amendment offered today by my colleague from Ohio, Senator METZENBAUM, to the energy tax bill.

His amendment is designed to accelerate our efforts to reduce reliance on declining oil and gas reserves and to reduce oil imports, as well.

It is drafted to fit both the House energy bill and the President's energy package. But, it is a more refined piece of legislation.

For example, it would impose oil- and gas-user fees only on a relative handful of domestic industrial firms and utilities. Fully 89 or 90 percent of all boilers in operation today would not be affected—they will not pay any user fee.

For comparison purposes: The administration's proposal would raise a total of $98 billion in user fees by 1985 and save 1.5 million barrels of oil a day by then. The Senator's amendment—because it focuses on only the largest firms and utilities—would impose fees of only $5 billion by 1985. Yet, it would still save an estimated 1.2 million barrels of oil daily by 1985.

Senator METZENBAUM's amendment would impose user fees only on larger firms which have the capability of burning coal now. Small firms, or those large ones without coal burning capability will not be charged the fee. The amendment, however, does impose user fees, as well, on all large, new boilers to insure that they use our most abundant resource.

The amendment also enables firms to escape paying any user fees if they convert to coal—and the CRS has estimated that 40 percent of the fees will, in fact, be avoided in that fashion. This is a provision similar to one in the House bill.

We know coal is our most abundant fossil resource.

We know that coal offers us the best short-term supply solution to rising oil imports.

We know that many of our largest firms and utilities are going to convert to coal soon by necessity. They simply cannot continue to use scarce natural gas needed to heat homes, to process food, to produce fertilizer and chemicals, and for other critical applications. And, their continued use of oil bloats our oil imports and reduces our national ability to pursue an independent, realistic foreign policy. Firms and utilities who can convert to coal should be weaned of oil and gas now.

The President, the House of Representatives, and the Senate have seen the wisdom in encouraging this rapid conversion to coal. Two previous bills passed and signed into law attest to that.

The issue addressed by the Senator's amendment is the speed with which such conversions should occur.

We cannot afford to wait for each individual industrial firm and utility to reach an independent decision that the time is right to go to coal. And, I believe we cannot wait until the existing law forces them to convert. The reason they will not rapidly convert to coal is that it is cheaper now—and will be for a good while—for them to continue using oil and gas. They have a responsibility to stockholders and consumers to keep costs down.

But we have a higher responsibility. It is a responsibility that reaches into every home, every car, every board room, and work shop. It is a responsibility to prevent another energy crisis, to preserve our precious oil and gas for critical uses and pursue a foreign policy unhampered by a needlessly bloated oil import level.

We are not keeping faith with our Nation if we do not face up to that larger responsibility. And, I interpret that responsibility to mean supporting Senator METZENBAUM's amendment.

The PRESIDING OFFICER. (Mr. ZORINSKY). The time on the amendment has expired.

The question is on agreeing to the amendment as amended and modified.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, pursuant to the order, an amendment of mine will follow this amendment, and I ask unanimous consent that it be in order to ask for the yeas and nays on the Domenici-Church amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on the Domenici-Church amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended and modified, of the Senator from Ohio.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BRYD (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from South Dakota (Mr. McGOVERN). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

The PRESIDING OFFICER. Will Senators please take their seats and clear the well.

The clerk will suspend with the reading of the roll until Senators take their seats or the aisles and the well is cleared. The clerk will suspend the rollcall.

The Senate is not in order. We will not proceed with the rollcall vote unless Senators clear the well and take their seats. The clerk will not proceed until the well is cleared and Senators take their seats or retire to the cloakroom.

The clerk will proceed.

The legislative clerk resumed the call of the roll.

Mr. ABOUREZK (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator

from Minnesota (Mr. HUMPHREY). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. HANSEN (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Massachusetts (Mr. BROOKE). If he were present and voting, he would vote "yea." I have voted "nay." Therefore, I withdraw my vote.

The legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 51, nays 37, as follows:

[Rollcall Vote No. 580 Leg.]

YEAS—51

Anderson	Heinz	Nunn
Bayh	Huddleston	Packwood
Bumpers	Inouye	Pell
Cannon	Jackson	Percy
Case	Javits	Proxmire
Chafee	Kennedy	Ribicoff
Church	Leahy	Riegle
Clark	Magnuson	Roth
Cranston	Mathias	Sarbanes
Culver	Matsunaga	Sasser
Danforth	McIntyre	Schweiker
DeConcini	Metcalf	Sparkman
Durkin	Metzenbaum	Stafford
Eagleton	Morgan	Stevenson
Ford	Moynihan	Welcker
Glenn	Muskie	Williams
Hart	Nelson	Zorinsky

NAYS—37

Allen	Garn	McClure
Baker	Gravel	Melcher
Bartlett	Griffin	Randolph
Bellmon	Haskell	Schmitt
Bentsen	Hatch	Scott
Burdick	Hatfield	Stennis
Byrd, Harry F., Jr.	Hayakawa	Stevens
	Helms	Stone
Chiles	Hollings	Talmadge
Curtis	Johnston	Thurmond
Dole	Laxalt	Tower
Domenici	Long	Wallop
Eastland	Lugar	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—3

Robert C. Byrd, against.
Abourezk, against.
Hansen, against.

NOT VOTING—9

Biden	Hathaway	McGovern
Brooke	Humphrey	Pearson
Goldwater	McClellan	Young

So Mr. METZENBAUM's amendment No. 1505, as amended and modified, was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 978—(PRINTED AMENDMENT NO. 1523)

(Purpose: To provide a refundable credit to the elderly for energy costs.)

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico (Mr. DOMENICI) is recognized to call up an amendment, on which there shall be 1 hour of debate, to be equally divided between and controlled by the Senator from New Mexico (Mr. DOMENICI) and the Senator from Louisiana (Mr. LONG).

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? We cannot hear the Presiding Officer.

The PRESIDING OFFICER. The Senator from West Virginia is correct. The Senate is not in order. Senators will please be seated, or take their conversations to the cloakrooms.

Mr. GLENN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. DOMENICI. I yield.

Mr. GLENN. I ask unanimous consent that two members of my staff, Lyle Morris and Rick Ross, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I yield to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the time for this request not come from the time of the Senator from New Mexico.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. I ask unanimous consent that Erich Evered of my staff be accorded the privilege of the floor during the consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I request the same consent for Alan Bennett of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I ask unanimous consent that Dave Rust of my staff be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I call up my amendment, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself and others, proposes an unprinted amendment numbered 978.

The amendment is as follows:

On page 20, between lines 2 and 3, insert the following new section:

SEC. 1012. ENERGY COST CREDIT FOR THE ELDERLY.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by inserting immediately after section 44G the following new section:

"SEC. 44H. ENERGY COST CREDIT FOR THE ELDERLY.

"(a) GENERAL RULE.—In the case of an individual who has attained the age of 65 years before the close of the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year a credit of $75.

"(b) LIMITATION BASED ON INCOME.—The amount of the credit allowed by subsection (a) shall be reduced by 1.5 percent of the amount by which the adjusted gross income of such individual exceeds $7,500 for the taxable year.".

(b) REFUND OF EXCESS CREDIT.—

(1) Section 6401(b) (relating to amounts treated as overpayments) is amended—

(A) by striking out "and 44F (relating to certain energy-related depreciable property)," and inserting in lieu thereof "44F (relating to certain energy-related depreciable property), and 44H (relating to energy cost credit for the elderly),", and

(B) by striking out "and 44F" and inserting in lieu thereof "44F, and 44H".

(2) Section 6201(a)(4) (relating to assessment authority) is amended—

(A) by striking out "or 44F" in the caption thereof and inserting in lieu thereof ", 44F, or 44H",

(B) by striking out "income) or section 44C" and inserting in lieu thereof "income), section 44C", and

(C) by inserting "or section 44H (relating to energy cost credit for the elderly," after "credit),".

(c) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting immediately after the item relating to section 44G the following new item:

"Sec. 44H. Energy Cost Credit for the Elderly.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1977 and before January 1, 1986.

Mr. DOMENICI. Mr. President——

The PRESIDING OFFICER. The Senate is not in order. Senators will please retire to the cloakrooms if they have conversations.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senators CHURCH, BROOKE, HUMPHREY, CASE, CHILES, DECONCINI, DURKIN, HASKELL, HATCH, HATFIELD, HEINZ, HELMS, LEAHY, PELL, SCHMITT, THURMOND, and STONE be added as original cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I yield to the Senator from Rhode Island.

Mr. PELL. Mr. President, I ask unanimous consent that Robert Foust of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I make the same request for a member of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I ask once more that the Chair get order, please.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOMENICI. This proposal is a rather simple amendment, but yet a very important one from this Senator's standpoint, and apparently from the standpoint of many other Senators. What we are doing, by this amendment, is expressing an opinion on what we think should be done with the revenue in the event energy taxes are imposed. The bill that comes to us from the Senate Committee

on Finance may be a good game plan for the utilization of energy taxes, but there is one significant element missing from it that this amendment would attempt to redress.

Basically, we have provided no assistance to those people who are most hurt and least able to make ends meet because of the energy crisis and its ever-increasing utility bills. This amendment would establish an energy relief tax credit for the elderly.

This proposed amendment would provide relief through a $75 refundable credit that will help defray some of the rising energy costs which are a growing burden on our less fortunate elderly. The credit would be fully applicable for elderly households who have an adjusted gross income of $7,500 or less. Families with an adjusted gross income between $7,500 and $12,500 would receive a reduced credit.

Mr. President, that may not sound like a lot of money, but we all know that $75 would be a significant asset and aid to those senior citizens who live on a fixed income. By helping them defray the cost of their utility bills and other energy costs in their homes, we will be helping that group of Americans who can do the least to help themselves through this crisis.

We can say to most Americans, "You may be able to increase your earnings; you may be able to put someone else in the family to work; you will have an opportunity to earn more money in this economy." But we say to most senior citizens, "You will get your social security check and whatever little fixed income you have, and you are just going to have to live with it through this crisis."

Initially, my amendment will cost about $1 billion a year, and over its life it will increase about 3 percent a year.

We selected the refundable tax credit because it is a simple and easy mechanism for providing relief to more than 10 million elderly households and another 6 million aged individuals who live alone. I would like to note, Mr. President, that this tax credit will achieve two basic objectives. First, it will provide some relief from rising energy costs directly to those most in need of assistance. The median income of single individuals over 65 is approximately $3,300 a year or $275 per month. A $75 credit would thus equal an amount close to one-third of 1 month's income. Second, it is fully compatible with the "lifeline" utility rate concept adopted by the Senate just a few weeks ago. Life-line plus this energy tax credit will go a long way toward helping older Americans meet the challenge of spiraling fuel costs.

Mr. President, when I first became the ranking minority member of the Special Committee on Aging, about 8 months ago, I proposed a series of hearings to explore the impact on the elderly of rising energy costs. When I made that suggestion I did not want us to simply review the problem—I wanted us to search for meaningful, responsible solutions. We found that the steady rise in fuel and utility prices, coupled with the severe winter of 1976–77, had placed an intolerable burden on the meager budgets of our middle- and lower-income elderly. Social security benefits rose 30 percent between 1973 and 1976, but, during that same period, the cost of electricity rose 42 percent, natural gas 58 percent, and fuel oil 83 percent. We also discovered that older persons were already making a heroic effort to conserve energy. I would point out that the enactment of the energy relief tax credit will not encourage the elderly to consume more energy.

Earlier this year Congress enacted a special one-time emergency program that made $200 million available, through the Community Services Administration, to senior citizens who needed help in paying their fuel bills. That was a good program, but it did not reach most of our hard-pressed senior citizens.

Mr. President, the Senate Budget Committee, in a March 1976 report entitled "Tax Expenditures", identifies 74 Federal income tax provisions which reduce Government revenue. The report defines tax expenditures as "* * * revenue losses resulting from Federal tax provisions that grant special tax relief designed to encourage certain kinds of behavior of taxpayers or to aid taxpayers in special circumstances." These 74 different tax expenditures range from the investment tax credit, to the deductibility of mortgage interest and property taxes, to the encouragement of export sales abroad.

I am not criticizing these or other tax expenditures, Mr. President, but I am pointing out that the Congress—in its collective wisdom—has on many occasions used tax incentives to achieve socially desirable objectives. Our amendment is consistent with previous practice and it will serve a useful and constructive purpose. It will pick up where the CSA crisis intervention program left off. It would make additional funds available to middle- and low-income elderly households to assist them in meeting their rising fuel bills. We must not put our senior citizens in a position of having to choose between heating their homes or eating. That is the cruel choice confronting many older Americans, and I believe we should do everything we can to ease their dilemma.

Mr. President, I urge my colleagues to act favorably on this important amendment.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. DOMENICI. I am delighted to yield to my good friend from Idaho, the chairman of the Special Committee on Aging.

Mr. CHURCH. First, I commend the Senator for the statement he has made. I have joined him in cosponsoring this amendment, because the hearings——

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators who wish to carry on conversations will retire from the floor.

Mr. CHURCH (continuing). Because the hearings held by the Special Committee on Aging made it clear that older Americans have been hard hit by rising energy costs.

I ask the Senator from New Mexico if he recalls that those hearings revealed that home heating expenses this past winter ranged between one-fourth and one-third of the disposable income of our retired elderly people.

Mr. DOMENICI. I say to my good friend from Idaho we received that testimony from FEA and other sources. I frankly believe not only is it true but, if anything, it is on the low side in terms of the Senator's part of the country.

Mr. CHURCH. I agree with the Senator. The figure I have given represents an estimate of the average impact upon older Americans.

The other fact underscored by these hearings—which I would call to the attention of the Senator—is that many older people were paying upwards of $150 a month for just heating their homes, particularly in the Northeastern States.

At that time, the average social security benefit for a retired worker was $223 a month. This underscores the impossible squeeze facing these older people. We must find some way to assist them in adjusting to rising energy costs, whatever form this bill finally takes. All of us know that energy costs are going up. This is really a modest effort, but an important step for those struggling on limited incomes. The formula is practical. It would aid the elderly in greatest need, those with adjusted gross income not exceeding $7,500 a year. These people could obtain a $75 tax credit. Then the credit is phased out, from $7,500 to $12,500 a year. Any elderly household with an adjusted gross income above $12,500, of course, would not receive the credit at all.

Mr. DOLE. Will the Senator yield?

Mr. CHURCH. I will be happy to yield in a moment.

The point I want to make—and it is one which I know the Senator concurs in—is that we are trying to target this relief to those people who need it most. Among the elderly, those with adjusted gross income under $7,500 have felt the harsh impact of increased energy costs. They also represent a sizable portion of all older Americans.

Now, I will be happy to yield to the distinguished Senator.

Mr. DOLE. I just want to raise a couple of questions. Between the Dear Colleague letter, which is signed by the distinguished Senators, and the amendment I think there is a discrepancy. In one there is talk about households and in the amendment there is no reference to households. I would assume the cost, which is $1 billion, is based on households. If there is no household limitation in the amendment, I would guess the cost would skyrocket because it would be much greater than $1 billion. I wonder if the Senator intends to amend the amendment to limit it to households, or should we disregard the "Dear Colleague" letter which came to our attention.

Mr. DOMENICI. That is an oversight. I thank the Senator. Where the word "individual" is in paragraph A, it should say "head of household."

UP AMENDMENT NO. 979

Mr. President, I send a modification to the desk and ask unanimous consent that I be permitted to modify the previous amendment.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The modification is as follows:

On line 6 of UP-978, strike "an individual" and insert in lieu thereof: "a head of household".

Mr. CHURCH. Mr. President, I support the Domenici-Church amendment to H.R. 5263 to provide a refundable tax credit of $75 for elderly households with adjusted gross income not exceeding $7,500 a year.

This credit would be phased out gradually for households with adjusted gross income between $7,500 and $12,500.

Our amendment would also provide relief for households with insufficient income to file a Federal tax return. These persons can qualify for the full $75 refundable credit by filing a simplified rebate form with the Internal Revenue Service.

Senator DOMENICI and I are fully aware that the Energy Production and Conservation Tax Incentive Act, as reported by the Senate Finance Committee, does not include the Carter administration's crude oil equalization tax.

However, there is a good possibility that the conferees will approve some form of energy tax, even if it takes a different form than proposed by President Carter.

If this is done, then the low- and moderate-income elderly should be entitled to relief from the inevitable rising energy costs.

Energy prices have shot upward at a recordbreaking pace since 1973—in large part because of the oil embargo, energy shortages, and other factors.

All Americans have been affected in one form or another. But the elderly—many of whom live on limited incomes—are among those experiencing the greatest hardship and deprivation.

Hearings conducted by the Senate Committee on Aging make this clear. These points were also confirmed by a Federal Energy Administration study which included these major findings:

The elderly poor consume much less energy than other age groups but spend a much higher proportion of their income for energy-related expenditures.

The aged poor's energy costs are primarily for everyday necessities—such as cooking and heating—rather than discretionary items.

The elderly poor pay a higher per unit cost for electricity and natural gas than other income groups.

The energy cost squeeze affects the elderly in many other ways. Failing health or limited income, for example, may create serious barriers for making necessary repairs or purchasing needed insulation to conserve fuel and energy. It may also impose impossible choices about whether to heat or eat.

During the past winter many older Americans were faced with heating bills ranging upward from $150 a month, while trying to exist essentially on social security. Yet, the average social security benefit for a retired worker was only $223 at that time. Now, it is $234 a month.

High level officials from the Carter administration have informed the Committee on Aging that older Americans—especially the low-income aged—have been especially hard hit by the rise in energy prices since 1973. Energy costs for elderly households with incomes not exceeding $5,000 increased from 45 percent in the Western States to almost 68 percent in the North-central States from 1973 to 1976.

In the Northeast, aged households with less than $5,000 disposable income spend more than $1 out of every $4 for energy—27.3 percent to be exact. Similarly situated elderly households in the West spend almost 16 percent of their disposable income for energy.

Many older Americans now have home heating expenses ranging between one-fourth and one-third of their disposable income.

Social security and supplemental security income increases have fallen far behind rising energy costs in recent years. Yet, these programs are the economic mainstay for the vast majority of older Americans. Social security and SSI benefits increased about 28 percent between 1973 and 1976. However, energy costs rose at a much more accelerated pace during this same period: 42 percent for electricity, 58 percent for natural gas, and 83 percent for fuel oil.

These facts underscore the need for relief for older Americans. Large numbers—despite the $200 million crisis intervention program—are burdened with last year's fuel costs, although another winter is near.

The refundable tax credit can provide welcome and overdue relief for more than 10 million eligible elderly households and more than 6 million aged individuals living alone or with nonrelatives.

For these reasons, I urge adoption of the Domenici-Church amendment.

Mr. President, I commend the Senator from New Mexico for his initiative, and I am very proud to be a cosponsor.

Mr. HART. Will the Senator yield?

Mr. DOMENICI. First, Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 16 minutes.

Mr. DOMENICI. I have agreed to yield to the Senator from North Carolina.

Mr. HELMS. I will defer for a moment.

Mr. HART. I just have one question.

Mr. DOMENICI. I yield to the Senator from Colorado.

Mr. HART. Does the Senator from New Mexico realize that the Senator from Colorado is a sponsor of the so-called lifeline rate the energy bill, which passed rather overwhelmingly. I wanted to clarify for the record and for the conferees on this matter, that it is not the intent of the sponsors of this amendment that this proposal, if it were to be agreed to—and I believe it is a good proposal and I hope it will be agreed to—will be used in any way for the so-called lifeline provision which the Senate has adopted by a substantial margin.

Mr. DOMENICI. I want to assure the Senator from Colorado that it is not intended as a substitute to the lifeline concept. I think the testimony which has been received in the Special Committee on Aging, and other committees, would clearly indicate that if and when lifeline is operative in this country, we will still have one group, the fixed income elderly, bearing an undue energy burden. If we enact both proposals we would not be doing too much to help those who can help themselves the least. I want to make that very clear.

Mr. HART. The Senator from New Mexico has very accurately identified the problem. I believe the record supports this amendment and equally supports the lifeline provision. That is why I believe it was agreed to a couple of weeks ago. I am hopeful that with that statement, Senators particularly those on the conference who will be dealing with this issue, will not in any way, among themselves or with our House counterparts, take the position that if this amendment is agreed to, and again I hope it is, that this will take care of the senior citizens and we can drop the lifeline provision in the conference.

I think it is extremely important, as a great reform measure and as one designed to help a very needy segment of our society, that these are not only compatible but they are in fact supplementary.

Mr. LONG. Will the Senator yield?

Mr. DOMENICI. I yield.

Mr. LONG. What the Senator is proposing, as I understand it, is to give a tax credit for the benefit of these older people. Is that correct?

Mr. DOMENICI. Householders would be getting a $75 a year refundable tax credit.

Mr. LONG. This refundable tax credit, as I understand it, is founded on the same constitutional right to legislate as the earned income. These older people would receive this payment as a tax refund from the Treasury whether we actually find that they are paying that much tax or not. In other words, it is based on a permanent appropriation for tax refunds. It is similar to the permanent appropriation for interest on the national debt.

Mr. DOMENICI. That is correct. I know the Senator from Louisiana has worked hard on behalf of that concept to aid the poor people in this country. That premise has come out of his committee before. I believe since it was valid there it is as valid here. He is correct in his interpretation.

Mr. LONG. Mr. President, I agree with the Senator about our right to do this on a tax bill.

I have favored that concept, and I have worked for the earned income credit. I point out that we have, elsewhere in this bill, other refundable tax credits. It is my understanding that we have had all sorts of quarrels about what this is and what it is not, what you can do and what you cannot do by way of a refundable tax credit. It was not at my instance but at the instance of other Members of Congress that the constitutionality of this approach was raised.

Mr. Elmer Staats, the Comptroller General, responded by saying that Congress clearly had the right to do this kind of thing if it wanted to do so, that it is clearly constitutional and purely within the judgment of Congress whether we really want to do it or whether we do not want to do it.

It never occurred to me that someone might raise some point that this creates a problem under the budget laws. As long as we are within the budget figures, I see no problem at all about it. Nevertheless, the point was brought to my attention that someone might want to raise a question that there is a problem involved on the budget laws that this is an entitlement.

I make a parliamentary inquiry: If this should be considered an entitlement, would that mean, then, if this amendment is added, that this bill would have to be referred to the Appropriations Committee?

The PRESIDING OFFICER. Section 401 of the Budget Act provides that if a committee reports a bill or a resolution that contains new spending authority which creates an entitlement, it shall then be referred to the Committee on Appropriations.

Mr. LONG. So it would not be the addition of this amendment but the fact that the committee reported other refundable tax credits that could raise that question.

The PRESIDING OFFICER. That possibly could.

Mr. LONG. Do I understand correctly that this amendment, assuming there were no other refundable tax credits in it, would be regarded as an entitlement, and, if so, would this amendment require that the bill be referred or the amendment be referred to the Appropriations Committee?

The PRESIDING OFFICER. The section does not speak to floor amendments, just to reported bills or resolutions.

Mr. LONG. Let me make the point clear, Mr. President, that I do not regard this as an entitlement, nor do I regard the committee amendments as an entitlement. They are based on a permanent appropriation for tax refunds. They are not something that entitles someone to an appropriation. The appropriation has already been enacted. So I do not think there is a budget or a constitutional problem, either with what the committee did or with regard to the amendment that the Senator has offered.

It seems to me it is a matter that is entirely within the wisdom of the Senate: Does the Senate want to do it or does the Senate want not to do it?

Mr. DOMENICI. I thank the Senator.

Mr. LONG. Let me say with regard to the amendment, Mr. President, that this is not necessarily an energy amendment. I understand the Senator's argument that, in view of the problems that the energy crisis has brought to a lot of poor people, perhaps we should do more. I know we have done a lot for the aged, and I am sure that, from time to time, we shall want to do more. As manager of this bill, I can recall that, on an earlier occasion with a similar amendment, I opposed the amendment. Then, when the roll was called, I think I was voted down by a vote of 80 to 1. I do not like to be in the position of being against something that the Senate wants to do for the elderly, particularly those in low income status, or anything else. My attitude about this matter is that the Senate should vote and decide what it wants to do about it.

In other instances, we have been very generous to the elderly, but I am not here to say that perhaps more should not be considered. If it be the judgment of the Senate that this should be done, as far as this Senator is concerned, I would be prepared to take it to conference and ask the House to give it their consideration.

Mr. DOLE. Will the Senator yield?

Mr. LONG. Yes.

Mr. DOLE. I do not know who has the time.

Mr. LONG. The cost of this amendment is substantial, I may say. It would be about $1 billion.

I yield to the Senator from Kansas.

Mr. DOLE. I just checked the correction that the distinguished Senator from New Mexico sent to the desk. I think he meant to change the word "individual" to "head of household" everywhere that the word "individual" appeared. It also appeared on the second page.

Mr. DOMENICI. We intended that wherever the word "individual" is found, I say to my good friend from Kansas, that the words he just described be used there instead. We intended to place a limit of one $75 credit per year to a single household, regardless of whether it is a single elderly person living alone, an elderly couple or a family.

Mr. DOLE. I understand that, if we are talking about $7,500, are talking about the total income in the household?

Mr. DOMENICI. That is correct.

Mr. DOLE. Would that be the combined income of the husband and wife? I do not know whether we count the children or not, because I think we get into a definition here that has a direct bearing on just how much the amendment might cost.

I agree with the distinguished chairman. This amendment is certainly very appealing. It does not save any energy, but neither does anything else in the bill save energy or relate to energy. So I cannot complain from that standpoint.

But it is another example of how we are loading up this bill, $1 billion or more starting in fiscal 1979. We already have $40 billion and this is going to add on $3 billion or $4 billion, so I do not think it makes a great deal of difference.

But I hope we will make the point sometime today, when we talk about recommitting this bill. We should recommit and come back with a bill that directs attention to the production of energy or conservation of energy instead of what we have now.

Speaking for the minority—the distinguished Senator from Nebraska (Mr. CURTIS) is not here—it would be my suggestion that we take the amendment to conference and, hopefully, if there is a conference, it can be worked out on that basis.

The PRESIDING OFFICER. Without objection, the amendment will be so modified with respect to the verbiage of the "individual" and "head of household."

The modification is as follows:

UP AMENDMENT 980

On page 2, line 1, of UP-978, strike "individual" and insert "head of household."

Mr. DOMENICI. Mr. President, let me take just a minute to respond with reference to Senator LONG's parliamentary inquiry and his statements thereafter.

First, I want to make the point that this bill is effective in 1978, but it does not have a budget impact until 1979. Therefore, it is the opinion of this Senator that it would not have been subject to a point of order because, under section 303 of the Budget Reform and Impoundment Act, section (b), "Exceptions thereto," paragraph 2 thereunder, specifically says that, if it is effective in the year of the budget but does not have an impact until the following year, it is accepted.

Let me respond further and then yield to my good friend from North Carolina.

First, I made the general point when I opened this discussion that I assumed that, at some point, we would have a bill that imposed substantial energy taxes of some kind. I was concerned that we use some of those taxes to provide overt help to those people most affected and least able to help themselves. This amendment will not increase the energy supply. Maybe we need to do that elsewhere in this bill. But if there is going to be a substantial amount of money raised by energy taxes, then it appears to me that it is better to target the use of it, as far as people are concerned, to the thrust in this particular approach.

It will be $75 per year per household and that will take care of some of the burden. We cannot do it all.

The other goal I have had for 3 or 4 months was to find something that was manageable, that could work easily and would meet the needs of the poor elderly. This is the best vehicle I could find.

I hope the Senate adopts it by an overwhelming majority because it will do two things. It will clearly say that, if there are going to be energy taxes, we want some substantial help to go to the fixed-income elderly to alleviate their problem; two, it will put us clearly on the record that we want to use some of that money to help people, even if it will not increase energy supplies.

Mr. President, I yield as much time as the Senator from North Carolina may need.

Mr. LONG. Mr. President, a parliamental inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. Mr. President, are we proceeding under divided time at this moment?

The PRESIDING OFFICER. Yes, we are.

Mr. LONG. I thank the distinguished Senator.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, as cosponsor of the amendment of the distinguished Senator from New Mexico, I submit that this is a fair and equitable proposal. It does not have the defects of some other proposals—one or two of which have been accepted or approved by the Senate—it is simple and direct; it offers help only to the truly needy over 65.

Elderly citizens trying to live on limited fixed incomes have been hit hard by ever-increasing inflation. Their dollars are buying less and less, yet these citizens often have no way whatsoever to increase their incomes to offset inflation that they did not cause and which they cannot stop. It is high time that they were given some consideration, because there are people who have worked all their lives, paying their taxes, and rearing and educating their children.

Senators are aware that in recent weeks other amendments have been submitted to various pieces of legislation to afford anti-inflation relief to senior citizens. One, the so-called lifeline amendment which was adopted by this body, provided up to a 40-percent reduction in utility bills for those over 65. It is questionable, however, whether this amendment will survive the House-Senate conference—if, indeed, there is a conference. The amendment has come under severe criticism on the grounds that it would cause utility rates to rise sharply for younger citizens, create confusion in the delicate task of establishing utility rate structures, and indiscriminately provide the special discount to all senior citizens, even those at the highest income levels.

It is not my purpose at this time to argue the merits of one approach over another. However, I do think it is important, if we are truly going to provide relief to the elderly, the truly needy among our senior citizens, that we present the House-Senate conference with several viable options so that they might be able to agree on something that is acceptable to the majority.

I happen to believe that the Domenici amendment—and of the Senator from North Carolina and others—before us is the best approach, if for no other reason than it is simple. It is my view that even those who favor some other plan should consider that we would be doing a disservice to our senior citizens if we did not afford the conference the opportunity to consider this direct and sensible proposal of the distinguished Senator from New Mexico.

I thank the Senator for yielding to me.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Mexico has 8 minutes remaining.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum and charge it to my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator RANDOLPH be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I yield back the remainder of my time.

Mr. LONG. Mr. President, if we can find some brave soul who would like to make a statement against this amendment, I have time available for him and I would like to spread the word if anyone would like to speak against the amendment.

Mr. President, I have time. I can call. I recall sometime ago I spoke against a matter, and it was 80 to 1 voted against it. I do not relish that role.

The revenue cost is substantial. However, the amendment has a lot of human and social appeal. I would have to simply trust it to the conscience of Senators to say whether they would like to vote for the amendment.

I yield back the remainder of my time if there are no requests for time, Mr. President.

Mr. DOMENICI. Before the Senator does that, will he yield me 1 minute?

Mr. LONG. Yes.

Mr. DOMENICI. Mr. President, one of my original cosponsors who worked with me on this amendment, the distinguished Senator from Massachusetts (Mr. BROOKE) is not here and will not be recorded on this vote. I want to state my appreciation to him for his help as a member of the Select Committee on Aging. He has a genuine and abiding interest in the well-being of older Americans.

I am sorry he will not be here to record his vote. But I do want the record to reflect his active participation and that of his staff in preparing this amendment.

I thank him for it and I am sure the senior citizens that know about his work on the Special Committee on Aging appreciate his work on this amendment.

Mr. LONG. Mr. President, I yield 2 minutes to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I commend the distinguished Senator from New Mexico for focusing attention upon the need of some people who will have difficulty in paying their fuel bills in the coming months.

Mr. President, I am sure this amendment is going to pass by an overwhelming vote. If it survives in the conference, I hope some material changes can be made. Here is what will happen. There are some poor people that will need $400 or $500 to help with their fuel bill. This gives them $75. This treats everybody in a class of 65. It gives them $75 for a whole year, I assume. I am sure it is not monthly.

Mr. DOMENICI. But only if their income is less than $7,500.

Mr. CURTIS. I am coming to that.

Social security is not included in the adjusted gross income. A couple drawing the maximum of social security, based upon the husband's wages, will draw $7,920. That added to $7,500 makes $15,420.

I think some of them will need a great deal more than $75, and some will not need it. Also, the $75 for those in need is rather insignificant. But I commend the Senator for his interest in these people.

I share the feeling of the chairman. No one wants to oppose it. But I hope that a few changes can be made if it is to become law—so that it does a little more for the people who are in danger of being cold—in some other approach. As I say, I concede that it is going to be agreed to. No one wants to oppose it. But perhaps it can be improved a little if it does become law.

Mr. STONE. Mr. President, I have joined as an original cosponsor of an amendment to the energy tax bill which would provide an energy cost credit for the elderly. This energy tax credit recognizes the fact that the energy prices, particularly utility rates, have increased drastically over the last few years and that these increased prices have placed a particularly heavy burden on our senior citizens.

In traveling through my State of Florida, I have learned that above all other concerns is the concern over increased energy prices particularly high utility rates. Many of Florida's citizens simply can no longer pay for basic and essential electricity. Our senior citizens, many of whom have modest and fixed incomes, are particularly vulnerable to these price hikes.

According to testimony before the Senate Committee on Aging, the elderly poor consume much less energy than any other age group—but spend a higher proportion of their income on it. Last winter, many older citizens had to pay monthly heating bills ranging from $150 to $300, while the average social security benefit for a retired worker was only $223 per month. We are talking about vital uses of energy, for cooking and keeping warm, that are very difficult to cut back.

This amendment would recognize the harsh impact of higher energy prices on families with fixed incomes by allowing a refundable tax credit for elderly households with incomes under $7,500 a year. A partial credit would also be made available, on a sliding scale, to households with incomes below $12,500.

Although I believe it is best to rely on State utility commissions to regulate utilities and utility rates, I believe the time has come to recognize that the economic burden of increased energy prices, especially for the elderly, to some extent, require national solutions.

President Carter's energy tax proposal and the energy tax bill adopted by the House of Representatives purposes a crude oil equalization tax which will

raise billions of dollars of additional tax revenue. In my opinion, no better use can be made of this money than to alleviate the financial squeeze on our senior citizens resulting from higher utility rates and higher energy prices in general.

Therefore, I have joined as a sponsor of this amendment and urge its adoption by the Senate.

Mr. LONG. Mr. President, if there are no further requests for time, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. SASSER). All time having been yielded back, the question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. BROOKE) would vote "yea."

The result was announced—yeas 88, nays 2, as follows:

[Rollcall Vote No. 581 Leg.]

YEAS—88

Allen	Glenn	Morgan
Anderson	Gravel	Moynihan
Baker	Griffin	Nelson
Bartlett	Hansen	Nunn
Bayh	Hart	Packwood
Bentsen	Haskell	Pell
Biden	Hatch	Percy
Bumpers	Hatfield	Randolph
Burdick	Hayakawa	Ribicoff
Byrd, Harry F., Jr.	Heinz	Riegle
Byrd, Robert C.	Helms	Roth
Cannon	Hollings	Sarbanes
Case	Huddleston	Sasser
Chafee	Inouye	Schmitt
Chiles	Jackson	Schweiker
Church	Javits	Scott
Clark	Johnston	Sparkman
Cranston	Kennedy	Stafford
Culver	Laxalt	Stennis
Curtis	Leahy	Stevens
Danforth	Long	Stevenson
DeConcini	Lugar	Stone
Dole	Magnuson	Talmadge
Domenici	Mathias	Thurmond
Durkin	Matsunaga	Tower
Eagleton	McClure	Wallop
Eastland	McIntyre	Weicker
Ford	Melcher	Williams
Garn	Metcalf	Zorinsky
	Metzenbaum	

NAYS—2

Bellmon	Proxmire

NOT VOTING—10

Abourezk	Humphrey	Pearson
Brooke	McClellan	Young
Goldwater	McGovern	
Hathaway	Muskie	

So the Domenici-Church amendment No. 978 was agreed to.

AMENDMENT NO. 1506

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the amendment by the Senator from Washington (Mr. JACKSON). Debate on this amendment is limited to 1½ hours, with 30 minutes each for the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Oregon (Mr. PACKWOOD).

Mr. LEAHY. Mr. President, I ask unanimous consent that Judy Heffner, of my staff, be accorded the privilege of the floor both for debate and votes on this matter throughout the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I ask unanimous consent that Rob Lyon, Mike Mishoe, and John Napier, of Senator THURMOND's staff, be accorded the privilege of the floor during debate and votes on the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I make the same request for Bob Boyd and Gary Kuzina of the Budget Committee Staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that the time taken for calling the roll be charged equally against all three sides.

Mr. PACKWOOD. Which rollcall? The one we just had? We just had a unanimous-consent agreement that that was not to be charged to anybody.

The PRESIDING OFFICER. The quorum call was not charged to any side.

Mr. LONG. Yes, but I would like that time to be charged against all three.

Mr. PACKWOOD. I object.

Mr. LONG. OK. Then I ask unanimous consent that it be charged equally against the proponents and the opponents. It will not cost you anything.

Mr. PACKWOOD. OK. That is fine.

Mr. BUMPERS. Mr. President, reserving the right to object, under the agreement, Senator PACKWOOD has 30 minutes, Senator LONG has 30 minutes, and Senator JACKSON and I have 30 minutes. I have no objection as long as it is charged three ways. Is that the request?

Mr. PACKWOOD. I object.

Mr. LONG. I would like to ask unanimous consent that it be charged just against LONG and JACKSON, the two contending parties.

Mr. BUMPERS. Mr. President, the Senator from Oregon is opposed to the amendment. He has 30 minutes. Mr. LONG is opposed to the amendment. He has 30 minutes. Senator JACKSON and I are for the amendment, but we only have 30 minutes, so the time is tilted, with 1 hour against us. I thought I was overly generous in allowing the opponents to have an hour and us 30 minutes.

Mr. LONG. I ask unanimous consent that the time be charged two-thirds against the opponents and one-third against the proponents.

Mr. PACKWOOD. Mr. President, I object to whittling away my 30 minutes.

Mr. LONG. We are not cutting into your 30 minutes.

Mr. PACKWOOD. All right, no objection.

Mr. BUMPERS. Wait a minute——

Mr. LONG. I get 2 minutes and you get 1 minute. That is all I am asking.

Mr. BUMPERS. All right.

Mr. PACKWOOD. Mr. President, on the desk of the Senators are two tables which I had distributed just a few moments ago, which indicate the situation in which we find ourselves at the moment and what we must do in conference if we hope to meet the President's goals.

On one table is shown simply the estimation of different organizations which have studied our needs as to how much oil we would use per day in 1985 if there were no energy plan. Note the administration's estimate is 22.8 million barrels per day, and apart from one lower estimate by the Joint Committee on Taxation, all of the other estimates are higher than the administration's. But for the moment, taking the admininstration's figures of 22.8 million barrels per day that we will use in 1985 without any plan, I then want to go to what the President's goals are as announced in his speech to Congress last spring.

The President indicated that he wanted to reduce oil imports by 1985 to 6 million barrels per day or less. That means, by simple mathematics, that if under the administration's estimate we would use 22.8 million barrels per day without any plan, and if the administration wants to reduce our imports to 6 million barrels per day, without any plan we would have to produce domestically 16.8 million barrels of oil per day.

Today we are producing about 9.2 million barrels of oil per day. We are importing about 8.8 million barrels per day.

What the administration is saying is that without any plan we would have to find some way to increase our domestic production 7.6 million barrels per day between now and 1985, or, in the alternative, conserve that much, or convert that much. By conversion I simply mean

shifting from the use of oil to using some other source of energy. But in one of those three ways, conservation, conversion, or production, we have to make up the 7.6 million barrels per day or fall short of what the President said we should reduce our imports to.

The President introduced a plan last spring to meet what he said were the energy problems this country faced. The General Accounting Office, the Congressional Research Service, the Office of Technology Assessment, and the Congressional Budget Office all studied the President's plan. They all said that it fell short, dramatically short, of meeting the President's goal. Let me emphasize again I am talking about the President's plan falling short of meeting the President's goals.

The General Accounting Office commented in its assessment of the President's plan that it was incongruous that he would set forth goals for this country to meet and then give us a plan that does not meet the goals.

The Congressional Budget Office says that instead of 6 million barrels per day imported in 1985, we will import 7.9 million barrels per day.

The Office of Technology Assessment estimates between 8.4 and 10.4 million barrels per day.

The General Accounting Office says 10.3, and the Congressional Research Service says 11.8.

If we take those estimates, we are short somewhere between 4 and 5 million barrels per day under the President's plan.

The House as it passed the bill is a little bit weaker than the President's plan. It did not pass the standby gasoline tax, which conserved something. It did not pass its fuel user tax, which the President wanted, which conserved something. So the House bill was a little bit worse than the President's plan.

The Senate bill is about the same as the House bill except we chose to do it by a different route. We had a great number of energy credits, principally for conservation and conversion; relatively little for production.

As the bill is currently written, we could go to conference and we could adopt sufficient production credits that I think we could get, between conversion, conservation and production, the 7.6 million barrels of oil we need.

There is not much more to be obtained out of conservation. The House bill was strongest there. The President's bill was strongest there. The bill in the Senate Finance Committee was strongest in the area of conservation.

There is a little bit to be gained in further conversion.

To be realistic, if the President's goals are going to be met at all, they are going to have to be met with increased production. If the Jackson amendment passes, it will preclude the conference from adopting any production incentives which are not already in the House or the Senate bill. The production incentives that are in the House and the Senate bills, if they were all adopted, will still leave us short 4 to 5 million barrels per day. So by adopting the Jackson amendment we effectively prevent this Congress, in this bill, from achieving the President's goals of reducing imports to 6 million barrels per day by 1985.

It can be argued, "Well, we can pass another bill next year or the year after that," although each year that we put off an effort to meet our ultimate goals of 8 or 10 years away simply moves out the achievement of those goals another 8 or 10 years.

My fear is that if the Jackson amendment passes and we go to conference, we will get a bill. The bill may have some of the President's taxes in it, it may have some of the Senate Finance Committee's conservation and conversion credits in it, but it will be a bill woefully short of meeting the President's energy goals for this Nation.

There will be a great desire, however, going into an election year, for Congress and the President to claim credit that we have solved the energy crisis. What I fear is that if we pass a mediocre bill, it will be signed by the President, with all of the Senators and Representatives invited to the White House to watch the signing ceremony, we will all get pens from the signing ceremony, and it will be announced that the President's energy bill has passed. The public will be left with the impression we have solved the energy crisis. Whatever impetus, whatever steam, there was in the public to force Congress to indeed meet the energy crisis will have escaped and in 2, 3, or 4 years, if we have another boycott, this Nation will be brought to its knees.

During the 1973 boycott we stumbled a bit and we halted. But in those years we were only importing about 22 to 24 percent of our oil. Today we are importing almost 50 percent of our oil at a cost of about $45 billion.

If we pass nothing better than the President's plan, we will increase those imports by 1.5 million to 2 million barrels per day, increase them from present imports 1.5 million to 2 million barrels per day. And who knows what the world price will be in 1985? At that time this country could be 50 to 60 percent dependent upon imported oil. We could be paying the Arab OPEC countries so much for it that there would be no way that we could ever have an even balance of payments, let alone a favorable balance of payments.

It would make this country very subject to economic, diplomatic, and military blackmail. I do not know how many of my fellow Senators have read the story in the Washington Star this afternoon indicating that Prince Saud, when he was here, indicated to President Carter that Saudi Arabia intended to use its oil exports as a weapon to force the United States into coercing Israel into what the Arabs regard as a more favorable negotiating attitude about the Middle East peace settlement. That is exactly the kind of blackmail I am talking about.

I should like to think that this country is not prepared to trade energy for integrity. I do not want this country to have to be forced to the test of whether or not we continue to supoprt Israel if it means the cost is having our oil cut off by the OPEC countries. That is exactly the situation we will put ourselves into and the choice we will have to make if we adopt the President's bill or the House bill or the Senate bill in its present form.

I know which side I shall opt on in that case, and it will be on the side of Israel. But this Nation does not have to be put to that choice if we will simply leave the hands of the Senate conferees free to try to work out in conference sufficient production credits, some conversion credits, to try to get our production and our conversion up to those additional 4 to 5 million barrels a day.

The choice is simply that: Do we want to try to achieve the President's goals or not? If we want to achieve the President's goals, the Jackson amendment must be defeated, because if the Jackson amendment is passed, it will not be possible. If we adopt the best of the President's bill, the best of the House bill, and the best of the Senate bill, it will not be possible, with the pasasge of the Jackson amendment, to come any place close to meeting the goals that the President has set in this country for the field of oil imports.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, would the distinguished Senator yield a few moments so we could have a colloquy on the Jackson amendment?

Mr. PACKWOOD. I would be happy to.

Mr. PERCY. I shall take just a few moments. I should like to put to the manager of the bill, our distinguished colleague (Mr. LONG), a question. Does the Senator from Louisiana agree that incentives for renewable resources and for conservation are appropriate and desirable?

Mr. LONG. Yes, they are.

Mr. PERCY. And that incentives for production are desirable?

Mr. LONG. Yes, they are.

Mr. PERCY. As I indicated yesterday, the Jackson amendment would eliminate the possibility of there being anything but rebates for the crude oil tax. This would exclude conservation and renewable resource incentives, mass transit aid, energy conservation, and producer incentives. For that reason, I certainly oppose the amendment and hope everyone in the Senate will.

The amendment would make conference compromises more difficult. Is that not true?

Mr. LONG. Mr. President, the Senator from Illinois has an amendment which is the kind of thing that could not be considered in conference. That amendment has to do with the burden that will be placed on State and local governments if we agree to the crude oil tax. The Senator has an amendment to try to ease the burden on State and local governments for building highways because of the higher cost of asphalt and the higher

construction costs resulting from the higher cost of oil.

What the Senator is talking about is the need for a credit, not to the person who pays the crude oil tax but to the person who wound up buying the product. If a tax is levied at the refinery and someone further down the line winds up with the product, the tax has been passed on through to him, but he is not the one paying the tax. The burden falls finally on him—let us say the State government in this case. But the State government is not the one to pay the tax. They are the one that wound up with the final burden.

If we want to provide relief to the State government, we could do that with this section of the bill, but we could not do it without this section of the bill unless it had been provided for in advance.

There are other problems that we are just not going to be able to foresee. For example, we have one problem of what happens with the entitlements program with regard to refineries. Let use say the President puts a fee on oil imports. That would impact on those who receive those oil imports. They would be willing to go along if the whole Nation shared the burden of those costs rather than just their section of the country. We cannot take care of that in conference. We do not know how to take care of it right now, but we think we can find a way to take care of it between now and when the conference is over, but that section would prevent us from doing it.

Mr. PERCY. I hope we shall get into the rebate to the States because of the impact on the States now if they carry out conservation measures. Lost gas tax revenues are a disincentive to carry out what is in the national interst.

Mr. LONG. Here is the problem: the House bill is as different from the Senate bill as night is from day. The House bill is one of the biggest tax increases in history; the Senate bill is one of the biggest tax cuts. Between those two, any of a number of things could happen if we try to work out some compromise in a hard-fought conference such as we anticipate. If you do it one way, it impacts on one group. If you do it another way, it impacts on someone else.

How can we ease the burden and take care of those whose problems have not been antcipated until we consider what the possible compromise would be? On the House side, if the House goes beyond the limits of what was in the House and Senate bills, the House can go to its Rules Committee and get a rule which will permit them to vote on what the House conferees recommend. We do not have any such authority in our committee. A single Senator opposed to the bill can make the point of order that this goes beyond the four corners of the Senate and the House bill and therefore, we could not do anything about it.

Mr. PERCY. The Senator from Illinois thinks that we have an obligation here to do everything we possibly can to create an energy bill. I am sure that is what the distinguished manager of the bill is trying to accomplish. We will, through amendments, try to put some substance into the bill.

I want to make it clear that I do have some sympathy with some of the points made by the Senator from Washington (Mr. JACKSON). The Senator from Illinois, for instance, does not want to see us provide unnecessary incentives or unreasonable incentives to producers beyond what is really cost-effective. I think we have to be extremely careful of that.

I support the crude oil tax. I think we need to increase the price of oil to its replacement cost so that consumers really have a feeling as to what its true value is. We have been underpricing energy for so many years that we cannot get a realistic energy policy because of the pricing.

Mr. LONG. Let me make this clear to the Senator from Illinois. The reason the committee, in this case, requests more flexibility in conference than we usually do is not because we want to bring back something you will not like, but because we hope to bring back something that you will like. It is because we want to bring back something that will muster 51 votes.

When we had the problem of the crude oil tax in the committee, the Senator from Louisiana tried to persuade the committee that we ought to consider enough things that would mitigate against the taxpayers' resentment against paying more taxes and, hopefully, find enough things that would encourage additional production that the committee might be willing to go along with either all or some part of that tax.

We did not get that far. The committee insisted on voting. Mr. ROTH, strongly opposed to the tax, kept demanding a vote on his motion to strike it. To be democratic, we could not deny him that right, and when he had a vote, it was stricken.

If we consider—and I do not see how we can confer with the House without considering it—the one element that the President said will defeat the bill, if we have any thought of bringing it back, we ought to consider the kind of things that I would have liked to ask the Senate Finance Committee to consider. We did not have that opportunity, instead of putting some things in the package to provide some incentives.

As Senator BYRD said last night, Columbia Broadcasting System took a poll. They asked citizens, "Would you favor a tax if it were to go back into producing additional energy?" Seventy percent of the people said yes. So if it could be used that way, they would be willing to go along with it. But if there is not adequate incentive, and the producers do not get adequate results to justify the tax, they are opposed to it.

What we hope to do is come back with something that would provide those incentives.

Mr. PERCY. The Senator from Illinois supports having the option to recycle part of that money back to producers as incentives. I think to propose a tax and then send it back to the very people who have been paying the tax does not make sense.

It makes no sense to tax oil producers to raise the price of oil with one hand, while giving the money back to them with the other.

I think we need incentives for oil and gas supplies, but I believe free market prices are the appropriate way to provide the necessary incentives.

It is just impossible for us to outwit the marketplace. We cannot repeal the law of supply and demand, and we cannot devise a better system than the market system.

If we keep the rules of the game fair, and if we have a vigilant antitrust division, I think we ought to leave the market pricing mechanism in place.

I supported the Pearson-Bentsen natural gas bill for the same reasons I oppose subsidies to conventional fuel producers:

Subsidies and price controls both reduce the real cost of energy to consumers.

Subsidies and control both undermine conservation.

Subsidies for oil and gas also support what I consider a drain America first policy.

I think we have to be extraordinarily careful here. They only help burn up faster what limited supplies we have in the ground.

Subsidies to existing producers, such as a plowback, are anticompetitive. They help many times the companies who already have the capital to invest, but provide no aid for new entrants into the industry.

I wonder if my distinguished colleague could comment on how we get investment capital to new entrants with a plowback?

Mr. LONG. There are all kinds of ways it can be done. One can provide a tax credit for the production of additional energy. We have some of that in the bill, but there are other ways to do it.

If one is in the business of producing energy, one can provide that if the producer can produce still more, he could receive additional consideration from the tax laws, provided—if we wanted to so provide—that whatever he makes in that respect must go back into producing still more energy.

There are all sorts of ways that type of thing can be done, if there is a will to do it.

It all gets down, in my judgment, just to a matter of judgment, whether we think the means to do it is reasonable and is perhaps the most efficient way of doing it.

If one does not think so, by all means vote it down.

Mr. PERCY. Where the distinguished Senator and I do agree is that section 1054 must stay in this bill, because what does make sense, and on which we have no disagreement whatsoever, is that we must provide incentives for conservation and for renewable resources. Section

1054 specifically allows for that. That is why I strongly support its retention.

The free market works quite well for energy producers. But conservation investments need additional help for these reasons:

The market places no value on the national security nor on the environmental benefits to be obtained from reducing energy use and hence reducing oil imports;

The market gives future generations no claim on the nonrenewable fossil fuels they will need, such as for petrochemical feedstocks for medicines;

The market gives big firms a big advantage in gaining access to capital and finding full information about alternatives. But energy efficiency investments take place one home, one office, one industrial plant at a time. Home owners cannot float 8 percent bond issues. It is also not rational for them to spend $50,000 to hire consultants to study whether a solar hot water heater would be economical.

Mr. LONG. I hope the Senator realizes we are not talking about a decision for the conference. We are talking about something the conference would propose to the Senate and House, hoping to muster, maybe, a vote on this business, and then something that will still have to be approved by the President.

The Senator has had a chance to look over that list of House conferees. Perhaps he has talked to some of those conferring. I assume we would be conferring with the same people. I am told it is the toughest set of conferees the Senate ever ran into. They will probably be even more difficult on this tax bill.

So that we are not really talking about something that the Senate has to buy just because somebody rules it. We simply want to make an offer that the Senate will like. If one does not like it, we think it should vote it down.

Mr. PERCY. If I can make one further point, as I read the bill, on page 96, section 1054, it provides specific authority for incentives, not only for increased production and conservation of energy, but for conversion to alternate sources of energy.

As I just mentioned, the marketplace does not take into account the needs of future generations. It does not give future generations a claim on the nonrenewable fossil fuels they will need.

So, for that reason, we need added incentives to now go toward renewable sources that are not economical today in the marketplace.

Solar is very expensive, expensive right here in Washington, D.C. It is very hard to install a cost-effective system, whether it is in the White House or whether it is in the system that I had designed for my own home here. Very difficult to justify it even on a 20-year payoff basis. So we need added incentives to do that.

Mr. LONG. The Senate voted to modify the language. Everyone understands we are talking about tax incentives, not about prices, not talking about loans, not talking about loan guarantees. We are talking about matters that fall exclusively in the taxwriting committees, exclusively about tax incentives and tax mechanisms.

Mr. PERCY. But the language says to provide tax incentives and other economic incentives.

Mr. LONG. That language has been changed. That is why I asked it be reprinted.

I would like to pass this along to the Senator, a copy of the modified language.

In other words, to ease the fears of those who felt that we might be trespassing on the jurisdiction of some other committee, that language has been modified to make it clear that all we are talking about here is tax incentives.

We are not talking about loans or guarantees, not talking about prices. We are talking about tax incentives and tax mechanisms.

That was done to satisfy the concern of the Senator from Washington (Mr. JACKSON) and the Senator from Wisconsin (Mr. PROXMIRE). At that time, this Senator thought they would be satisfied with that.

But the Senator can see we are only talking about matters that lie exclusively within the jurisdiction of the tax-writing committees.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

The Senator from Arkansas has 24 minutes remaining, and the Senator from Oregon has 18 minutes remaining.

Who yields time?

Mr. PERCY. Mr. President, will the Senator yield me 1 additional minute?

Mr. LONG. Mr. President, I thought I had 30 minutes to begin with. I do not think I yielded time for the Senator from Oregon to make his speech. That time was charged to him, I am sure.

The PRESIDING OFFICER. The Senator is correct. The Senator, however, has had 12 minutes charged to him as a result of a quorum call.

Mr. LONG. Twelve minutes for the quorum?

The PRESIDING OFFICER. Twelve minutes as the result of a quorum call and 18 minutes as the result of the debate.

Mr. JACKSON. Mr. President, a parliamentary inquiry. How much overall time do we have?

The PRESIDING OFFICER. Twenty-four minutes to the Senator from Arkansas and 18 minutes to the Senator from Oregon.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Senator from Oregon or the Senator from Louisiona have 10 additional minutes.

Mr. LONG. The Senator from Oregon has how much time?

The PRESIDING OFFICER. The Senator from Oregon has 18 minutes.

Mr. LONG. Then, Mr. President, I will just suggest that we leave it the way it is. I will borrow some time from the Senator from Oregon, if I can.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I love the chairman like a father. He has generously given away his time and charged it to a quorum call, and now he wants my time.

Mr. LONG. I do not want any favors. I will take my chances.

Mr. PACKWOOD. I am happy to yield. I get into this frustration quite often.

I yield to the Senator from Illinois.

Mr. PERCY. I will summarize the position I have taken and why I disagree with the Senator from Washington, and why I will vote against his amendment, even though I am sympathetic to some of the things he has had to say.

I want to see adequate flexibility in the bill the Senate sends to conference so there can be tax incentives for conservation and renewable energy sources. I urge that section 1054 incentives go for these ends, not just to aid producers. That will create a package of energy for the future that will take care of future generations.

Mr. PACKWOOD. I share the sentiments of the Senator from Illinois.

The PRESIDING OFFICER. The Senator's 1 minute has expired. Who yields time?

If no Senator yields time, it runs against both sides evenly.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum. Before I do so, we had a time agreement earlier whereby the time would run 2 minutes against Mr. LONG and 1 minute against us. We are back to equal time now, and I assume that the time for a quorum call would go equally against the Senator from Oregon and the Senator from Arkansas.

The PRESIDING OFFICER. Is the Senator proposing that as a unanimous-consent request?

Mr. BUMPERS. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. I object.

Mr. LONG. Reserving the right to object——

The PRESIDING OFFICER. Objection is heard. Who yields time? The time continues to run against both sides.

Mr. BUMPERS. I yield myself such time as I may take.

Mr. President, I suppose, based on the fact that nobody wishes to speak further on this amendment, that we shortly can yield back our time and proceed to a vote. I should like to make three or four observations about the Jackson-Bumpers amendment.

No. 1, there seems to be a pervasive thought here that if this amendment is not defeated, there will be no incentives left to propose either alternative energy or more conventional forms of energy, such as oil and gas. Let me refresh everybody's memory about what the price of oil is right now.

The price of new oil to anybody who wants to go out and find it is about $12. At the end of this year, it will be $11.78.

The OPEC price of oil, which is set arbitrarily by 13 member nations, is $14.

In private conversations around this body, and sometimes on the floor, we hear very persuasive arguments that the only way we can deal with imported oil and the problem of the trade deficits that result from it is to deregulate oil. The implication is that the oil companies simply are not going to find all that oil out there for us if we do not deregulate the price. That is usually followed—or it is fuzzed up—with the concept of free enterprise and letting the marketplace decide.

Mr. President, I just looked at a chart that was placed on my desk, which shows that the Congressional Budget Office, the Legislative Research Office, and everybody else makes no claim—not even the President claims, if he got everything in his bill—that we ever could reduce our dependence on foreign oil below 6 million barrels a day. Frankly, I do not think we ever will get down to 6 million barrels a day. But, to be optimistic for a moment, if we were down to 6 million barrels a day or even 3 million barrels a day, we still would be dependent on the OPEC cartel to run the wheels of industry and heat the homes and industries in this country.

What does that mean? That means, No. 1, that those people who champion the free enterprise system in oil and gas want the OPEC cartel to decide what a fair price is.

I do not think anybody in this body is naive enough to believe that if we deregulated all oil today, the price of every barrel of domestic oil would move to $14 tomorrow. If the OPEC cartel, at the end of the year, raised the price of their oil to $20 a barrel, the price of domestic oil would move to $20 a barrel the next day.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. BUMPERS. I am happy to yield.

Mr. JACKSON. Is it not a fact that, in the case of the old oil, which is at the price of $5.25 a barrel, that oil would go up almost $9, to $14, the current OPEC price? So we would have not just the gradual phasing-in but also a sudden input of enormous inflation in terms of the economy as a whole.

Mr. BUMPERS. The Senator certainly is correct.

Mr. HART. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield.

Mr. HART. Does the Senator, as a committee member, know what the cost of producing oil is in this country today?

Mr. BUMPERS. I am sorry, I cannot answer that.

Mr. HART. I asked that because I have asked producers in my State and representatives of major companies. Perhaps the committee chairman knows the answer to this. I have asked a considerable number of representatives of industry to tell me, if they were to walk out of their office or my office and find a barrel of new oil, what it would cost them. It is almost impossible to find out what those costs are. Yet, we are being asked by the advocates of decontrol, regardless of what the cost is, to let it go to the price that the Senator is indicating.

I believe the reason why there is resistance to that approach—the so-called industrial incentive approach—is that no one knows whether what the industry would call profits would become, in fact, unjust enrichment. I think if we knew better what it would cost to buy new barrels of oil, it would help us in determining whether to take off the lid.

Mr. JACKSON. Mr. President, I think the Senator from Colorado has raised a very important point. The truth is that those who really are going after it, the independents, have much higher costs. But in the case of Prudhoe Bay, in Alaska, that oil is being brought to the surface for less than a dollar a barrel.

The costs to deliver that flow from there are something else again. I point out that old oil, of course, costs very little to bring to the surface. So we have given them a price that gives, in turn, ample profit to be used to go out—and this is the large companies that are involved—after so-called new oil. The price of new oil today is right close to $12 a barrel. That is the current upper tier price. And as proposed in the President's program it will run into figures around $13 a barrel for the so-called new oil that would be available that is discovered on and after April 20.

Mr. HART. Does the Senator know what it cost to produce that?

Mr. JACKSON. No, I do not. I think there is the problem. It varies by areas. The ones that are out trying to go after the oil on land, that is, in the various oil producing States today, may have very high cost oil in comparison with any big finds that occur in the Outer Continental Shelf and Alaska. The difference in variation is many dollars—as I pointed out, the latest find in Alaska is less than $1 a barrel. When you get into the tight rock formations, or where you have to go down deeper and deeper, you have much higher costs. That is what we should address ourselves to and encourage those people to go after that oil and that gas that is in those tight formations and in high cost areas.

Mr. BUMPERS. Mr. President, first of all, the Senator from Colorado has indeed made a good point. It is a legitimate figure that no one has. All the proponents of deregulation whom I have ever heard curse that terrible cartel; they curse the American dependency on the cartel, and yet every move in this body by those proponents is to get the price of American oil up to the OPEC price. It is an arbitrary thing. A cartel is supposed to be inimical to everything we believe about the free enterprise system, and yet every move, every thrust here is made to reach the price of the OPEC cartel, whatever it is.

Right now the price of new oil in this country is $12 a barrel, just $2 a barrel less than the present OPEC price. Incidentally, that is only a 400-percent increase over what it was 5 years ago. But what happens when we give them that kind of an incentive? Production has declined 500,000 barrels a day in the past 12 months.

There have to be limits, Mr. President, and I only want to say that the Jackson amendment, if it is adopted, leaves only $40 billion worth of incentives. All the Jackson amendment does is say: Let us strike that section which gives the conferees of the Finance Committee the right to go to conference with a blank check. The Finance Committee has not even been kind enough to give this body a shopping list. The House of Representatives has adopted the so-called crude oil tax. If that amendment or if a proposal were offered in the Senate of the crude oil tax which the House has adopted, I daresay it would be defeated on a margin of somewhere around 2 to 1, maybe 3 to 1. Yet that is a position that the House of Representatives will have when the conferees go to the conference and if those few conferees decide to recede to the House, we already have the crude oil tax with an increase of 7 cents to 8 cents a gallon for gasoline.

I said the other day I thought it was sort of a foolish idea to raise this money from people who can least afford it, but at least the President had the sensitivity and the decency to say we are going to rebate it. That was another foolish idea, but at least it indicated a sensitivity to the plight of people who were going to be hardest hit by it.

But what do the Senate conferees say in section 1054? They say something 10 times more idiotic. They say, "Send your money to the Senate conferees and we will decide how to refund it to the major oil companies, not to the people." We do not even have the responsibility of facing up to the task of raising the taxes here. The House has already been kind enough to do that. So all the conferees have to do is recede, they have their taxes, and then they start talking about "Who are we going to give it to?"

Make no mistake about it. If this amendment is defeated, that is the way it is going to happen.

Would Senators like to have some say about how any taxes raised in this are going to be spent? Senators are going to have that until it comes back in the form of a conference report. Senators do not have a priority list of incentives that these conferees are thinking about. Senators do not have a list of suggestions. They have nothing. Senators are saying: "Go over there and do good, men, and bring us back something we will like, the President will like and we will all go home happy."

I said yesterday, and I will say again today, I have never heard of and certainly in the 3 years I have been in the Senate never known of language in a bill which gives conferees a blank check to go negotiate all over again, and Senators are abdicating their responsibility as Senators from their respective States if they vote against that amendment, and make no mistake about that.

I do not intend to do it, Mr. President. I do not like this bill, and I do not like

the House bill, and I am not likely to like whatever they come back with. But there is one thing for sure. The Senate has a duty and a responsibility to pass a bill, not delegate responsibility to somebody else to pass a bill for them.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. BUMPERS. I am happy to yield.

Mr. DOLE. I share some of the same views as the Senator. He says we have a responsibility to write a bill. Does he think it is absolutely crucial we do that between now and next year? Do we have to pass a bad bill just so we can go home and say we passed an energy bill?

Mr. BUMPERS. Absolutely not. I have already canceled all my appointments and engagements for the next 30 days anyway.

Mr. DOLE. I think the Senator makes the point I agree with, that is, in the event the Jackson amendment fails—I am not certain that is an answer, either, because that is still a bad bill—why not recommit this to the Finance Committee? If it kills it, fine. If it does not, we can work something else out.

Mr. BUMPERS. I reserve judgment on how I will vote on a motion to recommit. I know it is a difficult thing to do. One of the things I am concerned about is when the conferees come back with that conference report with the House. The Senator and I both know from experience how difficult, if not almost impossible, it is to get a conference report rejected.

Yet we are going to be faced with a fait accompli when we defeat the Jackson amendment today. They are going to go to the conference and come back with a bill, and the Senator and I both know it is almost impossible to do anything about it at that stage, and there is not anyone in that body naive enough to believe otherwise. The Senator makes a good point. This is still a bad bill if the Jackson amendment is adopted. Of course it is. I think it is infinitely better. At least the Senator and I have an idea what the conference is going to talk about. If the Jackson amendment is defeated, we will not be privy to the conference over there. We do not know what they will talk about.

The Senator from Alaska stood up yesterday afternoon and said, "I want this blank check as a conferee because I want an excess profits tax."

I finally got the Parliamentarian to rule that an excess profits tax would be outside the scope of the conference. But if the Senator from Alaska thought it was within the scope, God only knows what the rest of them are thinking.

Mr. DOLE. As to the blank check I think the point is made we do not know how many Senators are going to sign that check. That is a matter of concern to some of us. Are we all going to sign it or one or two Senators going to sign it? How many are going to negotiate the blank check? I am beginning to think it would not be very many. It seems to some of us—although I think the Senator is right, the Jackson amendment does not offer much either—maybe it is best to start over.

Mr. BUMPERS. I thank the Senator for his comments and they are certainly well taken.

As I say, I will reserve judgment on how I might personally vote on a motion to recommit, but I think we are setting a very bad precedent today if we give this sort of carte blanche authority to anyone. I am not saying, incidentally, if the authority were given to me as a conferee, say, on the Energy Committee I would not love it. I would. I am just saying it is a bad precedent. It is one I hope the Senate will reject.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield to the Senator from Massachusetts.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. KENNEDY. Mr. President, I rise to add my support to the Jackson-Bumpers amendment.

It is important to recognize that, although we are talking about only 78 words in this particular amendment, the opportunity it provides to do damage to the American consumer is actually greater than the $40 billion that exists in the remainder of the legislation that came from the Finance Committee. This little provision has a greater potential for doing damage to the pocketbooks of the American consumer than all the other 100 pages in this legislation.

Mr. President, we have heard a great deal during the course of the debate by those who support this provision about the flexibility which the members of the Committee on Finance want on this particular proposal. I think it ought to be very well understood as to what the full implications of this proposal are, Mr. President. It is another way of saying, effectively, that we are going to have deregulation of oil for the American consumer and for the oil industry.

A proposal for deregulation of oil prices could not stand on its own feet here before the Senate of the United States. Yet it is being proposed indirectly in this particular section. The words may be different, but the industry understands the full import of this proposal. And the American consumers will understand it when they begin spending hundreds and thousands of additional dollars over the next few years in higher prices for oil.

We hear the explanation, Mr. President, in support of this proposal. They ask for flexibility. What we are talking about is the flexibility to transfer billions of dollars from the American taxpayers' pockets into the coffers of the major oil companies. That is what we are talking about in this provision.

Mr. President, under this provision, the conferees are asking the power to provide billions of dollars in higher profits to the oil companies, through various plowback mechanisms. This provision is a stalking horse for oil price decontrol. The lid will be off, prices will soar again, and the profits will go to the oil companies.

So, Mr. President, I join in hoping that this section will be deleted.

It is interesting, Mr. President, to look at the record in terms of the profits of the major oil companies since 1972, the last year before the OPEC cartel. For the 21 largest oil companies, profits increased by 103 percent during this 5-year period. They earned $5.7 billion in profits in the first half of 1977.

During this same period, the cost of home heating oil, which is used by 85 percent of the consumers in New England, went up by 140 percent. The cost of gasoline went up 77 percent. But the total profits for the largest oil companies topped them all—profits went up 103 percent.

What happened to the ordinary citizen? Average wages for the American worker during this period rose by only 38 percent, compared to a 103-percent rise in profits for the largest 21 oil and gas companies in the country.

Section 1054 is a provision in this bill that may keep tax profits rolling in. It will mean billions and billions of dollars more to the oil companies.

Mr. President, I would define the flexibility which the members of the Committee on Finance are seeking as flexibility to stage a raid on the ordinary citizen to obtain these higher profits. President Carter's program also relies on higher prices to achieve our goal of energy conservation. But the President's program rebates every dollar in higher prices to the average citizen. The Finance Committee wants the flexibility to take these dollars out of the average consumer's pocket and put them into the treasuries of the oil and gas companies. They want the flexibility to undermine the President's program. They want the flexibility to kill the rebate.

I reserve what time remains and yield it back to the sponsors of the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. How much time is remaining?

The PRESIDING OFFICER. The Senator from Oregon has 15 minutes; the Senator from Arkansas has 1 minute.

Mr. PACKWOOD. I yield myself such time as I may need.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, there has been no refutation from any of the Senators who have spoken in favor of the Jackson amendment on the table I have passed out with the different assessments in it, not from the Republican Party, not from the American Petroleum Institute, but from four respective organizations as to how woefully short the President's bill is in terms of meeting our energy needs, 4 million to 5 million barrels a day short. That is the bill as it was introduced.

The House bill is worse. They took out some of the President's taxes; they took out some of the user taxes, some of the

standby gasoline taxes, and it is worse.

The Senate bill is about as bad. We achieve about the same rate of conservation, amount of production as the House bill does, but we do it in a credit fashion rather than in a tax fashion, but we are short, too.

Mr. KENNEDY. Mr. President, will the Senator yield? Will the Senator support an amendment that strikes the provisions that have a negligible effect on energy saving, after the Jackson amendment?

Mr. PACKWOOD. I see the Senator has a list of those amendments, and I would be happy to spend the rest of the afternoon debating them.

Mr. KENNEDY. I ask whether the Senator will support them, since the test he is talking about here is the test of savings in energy. The Senator says there is no justification for any other test.

Mr. PACKWOOD. When we get to the Senator's amendments we will see whether or not the amendments he wants to propose will or will not save energy.

Mr. KENNEDY. If we use the test of the Committee on Finance, would the Senator support them then?

Mr. PACKWOOD. I would prefer to withhold and take the Senator's amendments one at a time. I am ready to go on all of them.

Now then what we are facing is the situation of going to conference and not being able to produce a bill that will meet the President's goals or come any place close to it.

Here again is the Washington Star this afternoon. Prince Saud says he is perfectly willing to use Arab oil to attempt to force us to change our policy against Israel, to use our exports to make us coerce Israel and to use Arab oil in terms of changing our position in the Middle East.

There is only one way we are going to stop that kind of pressure on the United States. There is only one way to stop the cartel, and that is if we conserve or convert or produce enough energy in this country so that we are not dependent on foreign oil; and we have only one hope of doing it in this bill, just one, and that is if we get to conference and can use some of the money that the House bill provides for further production of energy.

The Senator from Massachusetts talked about $40 billion in credits. First, let me put it in perspective. It is $40 billion over 8 years, and that saves about 2.2 million barrels per day. Those are the savings. There is not any more saving in that $40 billion, and with that saving we are still 4 million to 5 million barrels of oil short. We will be importing 10 million to 11 million barrels of oil a day in 1985.

Let me read once more from the analysis of the proposed national energy plan their opening paragraph. Let me again indicate this is a committee of Congress chaired by the Senator from Massachusetts, Senator KENNEDY. Let me read their opening sentence:

The national energy plan's assessment of the world energy crisis is accurate. The level of United States oil imports is the pressure gauge that will measure how well American policy is succeeding.

If imports can be held close to the goal of the plan

I might add that is 6 million barrels a day.

the United States may well manage a relatively smooth and peaceful transition to sustainable energy resources. If not, the transition may be neither smooth nor peaceful.

What does the Senator from Massachusetts say? He says we are going to use this money for production. I hope so. There is one thing you can guarantee if we use it for rebates, one thing, it will not produce a drop of oil or gas or coal or anything else.

It will give people a little bit of money back in their pockets, so that when they are out of work and there is no gas, they can spend it for something, but it is not going to produce any energy.

Has any one of the supporters of this amendment, who castigates this bill on the floor, offered anything, offered an amendment to produce more energy, or conserve more energy, or convert more energy? No. They say, time after time after time, "No" to the oil companies, "No" to production, "No" to conservation—just "No"; and we come up with a bill that is a failure.

Maybe we should send the bill back. I am not wild about it. The chairman tried. I voted with the President. I voted for the damned equalization tax, the user tax, and the gas guzzler tax. But we could not produce a bill in committee.

Let us put the blame where it belongs, not with big oil. Big oil is split, to begin with, on the equalization tax, which the President says is the linchpin of his plan. They did not testify against it. Most of them do not care. They had other things in the bill they did not like, but that was not one of them.

The linchpin of the President's program was defeated because of the opposition of the Consumer Federation of America and the AFL–CIO, both of whom came and testified and lobbied against it, because they did not want the price of oil and gas raised to a level where the consumers would have to pay the cost of producing it.

We subsidize it now. We subsidize foreign oil; we subsidize foreign gas. All of us who buy it will have to pay the subsidy. Take it out of our taxes. Subsidize it so we do not know what the cost is. Well, ladies and gentlemen, one day we are going to have to pay the cost of energy in this country. We are not going to pay it by rebating to the people the taxes that the President proposes and that the House offered.

If those who oppose this bill have another way to get us to 6 million barrels a day imports by 1985, they have yet to come forward with it. What they have come forward with is no, no, no. And that is not going to be an answer to Saudi Arabia, let alone an answer to Israel, when we are asked to change our position and subject ourselves humbly to Middle East gunboat diplomacy, because we are too weak—because we are too weak—to fend off their demands, because, on the floor of the Senate today, we refused to face up to the possibility of writing an energy bill that would meet our needs and, instead, voted for the Jackson amendment, which will insure only one thing: It will insure that we cannot write an energy bill that will meet our needs.

Mr. President, I reserve the remainder of my time.

Mr. BUMPERS. Mr. President, I yield 30 seconds to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have listened to the Senator from Oregon talk about how those of us who are opposed to the deregulation are opposed to incentives for the oil companies.

Mr. President, they have an incentive of 103 percent. A 103–percent increase in profits in the last 5 years. What is the American consumer supposed to give to the major oil companies? How much higher must their profits go? And are they using their profits for more exploration? No; Mobil is buying the Montgomery Ward. Mobil is buying the Irvin Ranch. Gulf is buying Ringling Brothers Circus. That is what they are doing now with their profits. Why do they not look for oil, instead of circuses and land deals?

The PRESIDING OFFICER (Mr. CULVER). The Senator's time has expired.

Mr. BUMPERS. Mr. President, I yield one-half minute to the Senator from Washington.

The PRESIDING OFFICER. All time of the Senator from Arkansas has expired.

Mr. PACKWOOD. Mr. President, do I have any time left?

The PRESIDING OFFICER. The Senator has 6 minutes.

Mr. PACKWOOD. Does the Senator have a plan to pick up the 6 million barrels a day we are short?

Mr. KENNEDY. The President's program provides the best plan we have available. We have passed several good pieces of legislation as a start in the Senate. This final part is one of the key pieces, too. But it would be irresponsible to use the energy crisis as a pretext for higher profits for the oil companies.

The fundamental differences between us is that the Senator from Oregon supports a program that will set higher prices and give the proceeds to the oil companies. The President's plan sets higher prices but the proceeds will be rebated to the average citizens of America.

Mr. PACKWOOD. Mr. President, the Senator is right.

Mr. KENNEDY. Mr. President, will the Senator allow me to finish? The Senator asked me a question, and I am trying to respond.

Mr. PACKWOOD. Mr. President, I will reclaim my time, because the Senator is not answering the question. Does the Senator from Massachusetts have a plan to pick up the 4 million to 5 million barrels a day we are short? This bill does not do it, the House bill does not do it, and the President's bill does not do it.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

Mr. PACKWOOD. Yes.

Mr. BUMPERS. Will you promise us that the bill you come back with from conference will produce 4 million barrels a day?

Mr. PACKWOOD. I cannot guarantee that. I do not know what the conference will do.

Mr. BUMPERS. You cannot guarantee it, I see.

Mr. PACKWOOD. But I can guarantee that with the Jackson amendment it is impossible.

Mr. JACKSON. Mr. President, will the Senator yield for a question?

Mr. PACKWOOD. Yes.

Mr. JACKSON. Is the Senator aware of what the President's program will provide in incentives for discovery of new oil?

Mr. PACKWOOD. I will let the Senator tell us on my time.

Mr. JACKSON. I think when the Senator from Oregon talks about incentives, it should be pointed out that under the President's program new new oil goes to the world price. I would point out that it can only go up thereafter on the basis of inflation. Second, it does not go up to the OPEC price.

Mr. PACKWOOD. Is the Senator from Washington aware, when he talks about price, that under the President's program we are 4 million to 5 million barrels a day short of his goal?

Mr. JACKSON. I understand that, but I am trying to point out, about price incentives on new new oil—all we are after is new oil, is it not?

Mr. PACKWOOD. What we are trying to do is pick up 7.6 million barrels a day equivalent through conservation, conversion, or production.

Mr. JACKSON. Let me point out to the Senator what our difference is. We oppose the idea of taking old oil and going from $5.25 to the world price of almost $14. That does not provide any more oil.

I believe in incentives. My objection here is that you are taxing people over here with a sales tax, and that is what you are confined to in this conference; you are taxing those people on the gas at the pump, you are taxing the farmer for his energy requirements, you are taxing the homeowner, and, under the provisions of this bill as reported, you seek to take those funds and to transfer those funds, a part or all of them, to the energy producer. But you are not willing to let the Senate vote on these proposals—one at a time. You want to force feed them to the Senate all at once in a conference report.

I am trying to point out that the energy producer, in terms of new oil, goes to the world price. What more do you want? The only other issue remaining is unjust enrichment. If you allow those people to have the old oil, that was produced for $1 or $2 a barrel, go to $13.50 and not add a barrel of oil, I say that is indeed, Mr. President, unjust enrichment.

Mr. LONG. Mr. President, will the Senator give me 1 minute?

Mr. PACKWOOD. I yield the Senator 1 minute.

Mr. LONG. Mr. President, I would like to talk, not about hobgoblins on Halloween eve, but about what the issue here is. We have a bill from the House which is one of the biggest tax bills in history.

The Senate has a bill which is one of the biggest tax cut bills.

The bills are as different as night to day even though they share a common interest with regard to energy. On this bill, we expect one of the most hard-fought conferences in the last 20 years. In trying to resolve the differences, if the House must go outside the four corners of their rules, they can go to the House Rules Committee, and that House Rules Committee can give them a rule to vote on what they bring back and recommend to the House.

Our Rules Committee has no such power. So when we come back, Mr. President, if we want to go outside the four corners of what would ordinarily be in conference, a single Senator can prevent us from having the Senate judgment voted on that matter.

What this section gives us is limited purely to taxes, and purely within the jurisdiction of the Senate Finance Committee. It would give us the opportunity and the privilege of presenting the same thing to the House that the House Rules Committee would present to the House.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. PACKWOOD. I yield 1 additional minute, Mr. President.

Mr. LONG. All I contend, Mr. President, out of the many different possible solutions to a very difficult conference. many of which will be proposed that could be said to be subject to a point of order in the House or in the Senate, is that the Senate give the Senate conferees the same privilege of bringing back to the Senate for the Senate's vote—if the Senate does not like it, they will vote it down—something that we think the President will sign and what we hope the Senate will like. If the Senate does not like it, I hope they will vote it down. To reject out of hand many of the logical things to be considered in conference merely because a Senator does not agree with those who go to conference, or he does not want to trust someone, makes very little sense to this Senator when to do so means we will not have a bill. If the Senate does not like the bill, please vote it down, and I would assume there would be a further conference to try to work out something the Senate would like. If the House has that privilege, the Senate should have the same.

Mr. PROXMIRE. Mr. President, I wholeheartedly support Senator JACKSON'S amendment to delete the rest of section 1054 from the energy tax bill now before us.

The language which this amendment would strike from the bill states in effect that the energy conference committee cannot impose any tax to meet the President's energy goals unless it also provides for "tax incentives and other economic incentives for increased production and conservation of energy and for conversion to alternative sources of energy, and mechanisms for avoiding or mitigating adverse and undesirable consequences arising out of the energy crisis."

Mr. President, there is no justification whatsoever for presuming that the energy industry has suffered from adverse and undesirable consequences as a result of our energy crisis. This is a clear-cut case of the public's loss having become the energy industry's gain. The only real loss suffered by the oil and gas industry has been the loss of its "helping hand, what is good for big oil is good for the country" image—a loss that has been more than compensated by the financial reward of millions of dollars in higher revenues.

Under the Energy Policy and Conservation Act, old domestic oil is now selling for $5.25 per barrel. New oil goes for more than twice that figure; $11.28 per barrel. Whatever happened to the 1972 estimate of the National Petroleum Council that $5 per barrel oil would be enough or the Nixon administration's estimate that $7 per barrel would be sufficient incentive to bring forth all the additional oil that could be recovered? Whatever happened to the natural gas industry's claims that 35 cents per Mcf would do the job? Then 50 cents. Just last year gas producers were saying that $1 per Mcf would be plenty.

The profit motive is a powerful tool in capitalism, and I can understand why the oil and gas producers of this country will take every dime they can get. But their wanting it does not mean the U.S. Senate has to give it to them every time they ask for it. And that is just what could happen if the Finance Committee bill goes to conference without the Jackson amendment. It is clear from the report language accompanying this section of the bill that the language we are trying to strike out would give the Senate conferees carte blanche to rebate any or all of taxes imposed by the bill, not to the American people but to the energy industry.

Mr. President, that would be unconscionable. When the President of the United States said the energy crisis could lead to the biggest ripoff in history, he was speaking charitably. The oil and gas industry has already achieved the biggest ripoff in history. From here on up it is all gravy. Prices for oil and gas have gone through the roof since the Arab oil embargo. Yet production has declined.

There is no evidence whatsoever that further price hikes or incentives will bring forth additional production. What we need is a firm pricing policy so that the energy industry will know what to expect in terms of future revenues. As long as we hold out the possibility of ever-higher prices, the industry will have every good reason it needs to delay further exploration and development in anticipation of even greater windfalls than its already getting.

Mr. President, enough is enough.

I urge adoption of the pending amendment.

Mr. HUMPHREY. Mr. President, I urge my colleagues to support the amendment offered by my good friends Senator JACKSON and Senator BUMPERS.

The intent of their amendment regarding section 1054 is to prevent a sharp and enormous income redistribution to energy companies from consumers.

The Senate Finance Committee has voted out a bill basically designed to redistribute income from general taxpayers to corporations. It provides in excess of $30 billion between now and 1985 to corporations in the form of tax credits—in most cases these are tax credits for actions that the firms themselves will or should take in any case. And, because these credits will be earned predominantly from energy production investments, our energy companies will be the major beneficiaries—directly or indirectly—of these credits.

Yet, these tax credits are not free. They represent tax revenues not available to pay for Government programs or to reduce the national debt. They are lost revenues which must be made up—and they can only be made up from the paychecks of men and women—working people who will be forced to forgo tax cuts or even to pay higher taxes as a result.

These tax credits will take money from the pockets of working families and put it in corporate coffers. And, the money will be used to pay these companies for actions—for energy production and conservation investments—they will make even without the income transfer.

But the committee-reported bill would go even further. In section 1054, carte blanche authority is provided to guarantee that an even greater income redistribution will occur—a redistribution again largely from individuals to our energy companies. Section 1054 seeks to insure that any Government revenues from new energy taxes will be used to stimulate additionnal energy production, conservation and energy-efficient transportation systems. In reality, the overwhelming portion will be devoted to energy production in the guise of loan guarantees, direct price subsidies, and so on.

The energy tax bill conferees could agree on as many as three new major energy taxes—the President's gas-guzzler fee, the crude oil equalization tax and the industrial/utility oil and natural gas user charge. Together, these three taxes could generate revenues in excess of $80 billion though 1985—with one-half coming from the user charges alone.

These taxes could yield revenues—and an income redistribution—which is double that of the bill's tax credit provisions.

And, most of this staggering redistribution—from motorists, businesses, and especially consumers—will flow to energy companies, the companies who now produce our fossil and nuclear energy.

The impact on consumers could be sufficient, I am afraid, to trigger a serious recession.

Equally important, this revenue handover provision will have the real effect of decontrolling crude oil prices. It will provide the means for oil producers to earn revenues comparable to those ensuing from oil decontrol.

After all, an oil company will accept price subsidies of $3 or $4 per barrel, for example, just as readily as it would accept the extra $3 or $4 per barrel should oil be decontrolled—it is all the same, and it is all profit.

The Senate has repeatedly rejected oil decontrol. Repeatedly. But, that was when it was presented in a straight up-or-down fashion. But Section 1054 uses an indirect approach to achieve, and possibly even surpass, the same objective as decontrol.

It would provide the flexibility to negotiate in conference for income redistribution on a massive and unheard-of scale from consumers to our oil and energy companies.

So, the issue is joined. And, in reality, it is a straightforward one: Should oil be decontrolled? Should oil companies or consumers receive tax cuts or credits financed by taxes collected from consumers?

If my colleagues think energy profits are too low, then they should vote against this amendment to strike section 1054. If you think consumers should pay oil companies upwards of $80 billion more by 1985, then vote against this amendment.

But, if you think oil companies earn sufficient profits and that consumers should receive most, if not all of any energy taxes they pay, then I urge you to support the Jackson amendment.

The PRESIDING OFFICER. All time has expired.

Mr. BUMPERS. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the amendment of the Senator from Washington. The yeas and nays have been ordered and the clerk will call the roll.

Mr. METCALF (after having voted in the affirmative). Mr. President, on this vote, I have a pair with the Senator from Arkansas (Mr. MCCLELLAN). If he were here and voting, he would vote "nay." I voted "aye." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 38, nays 56, as follows:

[Rollcall Vote No. 582 Leg.]

YEAS—38

Abourezk	Eagleton	Metzenbaum
Anderson	Glenn	Morgan
Bayh	Hart	Muskie
Biden	Haskell	Nelson
Brooke	Hollings	Pell
Bumpers	Humphrey	Proxmire
Burdick	Jackson	Riegle
Case	Javits	Roth
Church	Kennedy	Sarbanes
Clark	Leahy	Stevenson
Cranston	Magnuson	Weicker
Culver	Mathias	Williams
Durkin	McIntyre	

NAYS—56

Allen	Bentsen	Cannon
Baker	Byrd, Harry F., Jr.	Chafee
Bartlett	Byrd, Robert C.	Chiles
Bellmon	Curtis	Danforth
DeConcini	Helms	Ribicoff
Dole	Huddleston	Sasser
Domenici	Inouye	Schmitt
Eastland	Johnston	Schweiker
Ford	Laxalt	Scott
Garn	Long	Sparkman
Gravel	Lugar	Stafford
Griffin	Matsunaga	Stennis
Hansen	McClure	Stevens
Hatch	Melcher	Stone
Hatfield	Moynihan	Talmadge
Hathaway	Nunn	Thurmond
Hayakawa	Packwood	Tower
Heinz	Percy	Wallop
	Randolph	Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Metcalf, for.

NOT VOTING—5

Goldwater	McGovern	Young
McClellan	Pearson	

So Mr. JACKSON's amendment (No. 1506) was rejected.

Mr. LONG. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Mr. President, for Senator MCINTYRE, I ask unanimous consent that T. J. Oden and William V. Donovan of his staff be granted privilege of the floor during consideration of the pending measure and all amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. MATSUNAGA). The point of order is well taken. The Senate is not in order.

The Senate will please be in order. Senators will cease conversation on the floor.

The Senate will be in order.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

UNANIMOUS-CONSENT REQUEST—H.R. 5263

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader earlier today suggested during colloquy with me that sometime during the afternoon we attempt to ascertain the number of amendments and the authors thereof that might be expected to confront the Senate yet today.

It is hoped by the leadership that action can be completed on this bill by the close of business tomorrow, so as to avoid a Saturday session.

So at this time, I take the floor to ascertain whether or not Senators would indicate how many amendments they expect to call up and whether or not they would agree to a time limitation thereon.

Mr. HEINZ. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. HEINZ. I have one amendment. I would certainly agree to a time limitation. I would suggest 40 minutes, equally divided.

Mr. ROBERT C. BYRD. Mr. HEINZ, 40 minutes, equally divided.

Several Senators addressed the Chair.

Mr. BAYH. Mr. President, I have an amendment. I think it has been agreed to by all parties. I think a maximum of

10 minutes on a side would be appropriate.

I have not talked to our distinguished leader on the Finance Committee, but the rumors I have is that it will be acceptable to him.

Mr. ROBERT C. BYRD. Would the Senator talk to the chairman and indicate what his amendment is about?

Mr. President, in the meantime, I ask unanimous consent the time limitation suggested by Mr. HEINZ on his amendment be ordered.

Mr. PACKWOOD. Object.

The PRESIDING OFFICER. The Senator from Oregon objects.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I have an amendment which I think will be agreed to, but whether it is or not, I agree to a 10-minute time limitation, 5 minutes on each side.

Mr. BAKER. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. In an attempt to get a reading of where we are on this side, I have prepared a list and when the Senator is prepared to do it, I will be glad to go over it.

Mr. ROBERT C. BYRD. Very well, that being the case, I yield on this side.

Mr. KENNEDY. Mr. President, I have what I consider to be four major amendments and probably three smaller ones, with rollcall votes on the latter three, definitely on the four, and I think probably on one, 1 hour, and the others maybe 20 minutes on each side.

I will be glad to work out the time limitation.

Mr. ROBERT C. BYRD. Very well.

I am not proposing the request yet, but I am recording the amount of time that the authors of the amendments would be willing to take.

Mr. DECONCINI. I have an amendment. One hour.

Mr. ROBERT C. BYRD. One hour. All right.

Mr. HATHAWAY. I have two amendments. I would be glad to have a half hour on each.

Mr. ROBERT C. BYRD. A half hour on each. Equally divided?

Mr. HATHAWAY. Equally divided.

Mr. BAYH. Twenty minutes, to be equally divided on the amendment I just addressed myself to.

Mr. ROBERT C. BYRD. I yield to Senator HART.

Mr. HART. I have one amendment, 1 hour, equally divided.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. MCINTYRE. Three amendments, 1 hour on one, 30 minutes on the second, 20 on the third.

Mr. ROBERT C. BYRD. One hour, 30 minutes and 20 minutes.

I believe that completes the roster on my side.

Mr. BAKER. Would the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I think most of our Members who are affected are on the floor. I would ask them to speak for themselves in this respect, but I have these notations.

I have Senator GARN, who has four amendments. He intends to call up two. He is willing to accept a 20-minute time limitation, 10 minutes on a side, on each of two amendments.

Mr. ROBERT C. BYRD. Very well.

Mr. BAKER. I have Senator JAVITS who has two amendments. He wants an hour on one, 40 minutes on the other, equally divided.

I have Senator PERCY, seven amendments, he will call up four, I understand.

Mr. PERCY. I am ready to go with four after Senator HEINZ. Three for 20 minutes, 10 minutes on a side; and one of 30 minutes, 15 minutes on a side.

Mr. BAKER. The Senator will do those four today. And the other three?

Mr. PERCY. Tomorrow.

Mr. BAKER. Will be tomorrow.

I have Senator SCHMITT, four amendments, and he asked for 10 minutes, equally divided, on each of four amendments.

Is the Senator ready to go today?

Mr. SCHMITT. Yes.

Mr. BAKER. Any time on those.

I have Senator WEICKER, one amendment, 2 hours, equally divided. Senator BARTLETT is on the floor and I would like, if I may, Mr. President, to yield to Senator BARTLETT to explain his situation.

Mr. BARTLETT. I thank the distinguished minority leader.

I say to the distinguished majority leader that Senators HANSEN, BELLMON, and myself have six amendments. We expect we will bring up four of those.

At this time, we would like not to place a time limit on them for the reason that there are a number of people who have wanted, possibly, to speak on them, and this includes both sides of the aisle, and we want to assess the situation before we would like to consider a time limit.

Mr. ROBERT C. BYRD. Very well.

Mr. BAKER. Mr. President, I have also an indication that Senator MCCLURE has two amendments on which he wants 40 minutes, equally divided.

A notation that Senator ROTH has three amendments, on which he is not at this time in a position to make a time agreement.

Mr. President, we have others here that I would like to inquire about that I have not yet checked.

Senator BELLMON is not on the floor, I believe, but I have an indication of one amendment from him.

Senator BROOKE, one amendment.

Senator DOLE, one amendment.

Senator HELMS does not.

Mr. CURTIS. Will the distinguished leader yield?

Mr. BAKER. I am happy to yield.

Mr. CURTIS. Our distinguished leader made reference to the amendments by Senator ROTH. While he is not present to speak on the time limit, he does want them included and provided for in any unanimous-consent request, so they would be in order and germane.

Mr. BAKER. I thank the Senator.

Mr. CURTIS. I do not know what his time limit is, but I agreed we would include them in any unanimous consent.

Mr. BAKER. Three amendments?

Mr. CURTIS. Three amendments.

Mr. BAKER. And no time limit at this point.

I thank the Senator.

Mr. CURTIS. I am sure he will arrive at one later, but he wants them included so they will become germane.

Mr. BAKER. It is my understanding the distinguished Senator from Massachusetts (Mr. BROOKE) has four amendments; that Senator LUGAR has one amendment; that Senator MATHIAS has two amendments.

Senator PACKWOOD, I believe, is on the floor; he has no amendment.

Mr. PACKWOOD. I have no amendments.

Mr. BAKER. He has no amendments.

Senator TOWER has three amendments.

Mr. President, I advise the majority leader, that is the extent of my list at this time.

Is there anyone else on the floor who has an amendment that has not been mentioned? Senator HEINZ has already taken care of his. That is all I know of at this moment.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader and I thank all Senators for their cooperation.

I suggest to the distinguished minority leader that he and I meet a little later and talk with the manager and the ranking manager, to see if we can then propound a list in accordance with the suggestions made by the various Members.

Mr. CHILES. If the Senator is going to do that, perhaps if we have a final vote on this bill by, say, 5 o'clock tomorrow, we could work in all those amendments.

Mr. ROBERT C. BYRD. The Senator makes a good suggestion.

Mr. JACKSON. Mr. President, I understand that some of these amendments have nothing to do with taxes. They relate to EPCA—that is the price control authority—and I would not be able to agree on a time limitation, if we are going to take up price control. Those amendments have nothing to do with the tax bill. We will have to review them.

Mr. LONG. Apropos of what the Senator has said, it is my thought that perhaps we should initiate consideration of this bill by applying for cloture right in the beginning, to try to get a germaneness rule. I have no desire to limit anybody's debate. They can talk as much as they wish, so far as I am concerned, but we would do well to have the usual type of germaneness agreement, not to go beyond taxes in this bill.

Mr. JACKSON. The Senator will agree that if we get into EPCA, we will be getting into the whole price control area.

Mr. LONG. In some respects I sought to accommodate the Senator from Washington and the Senator from Wisconsin (Mr. PROXMIRE) by narrowing what we reported out of the committee, just to respect jurisdictional problems; but that also had the effect of narrowing the germaneness of the bill. From my point of view, I hope we can get a germaneness arrangement. Much as I would like to vote for some of the amendments that are not germane, I feel that we should try

to confine ourselves to germaneness, if we can.

Mr. ROBERT C. BYRD. Mr. President, I say to the distinguished Senator from Washington that if we work out any proposal, I will visit with him, so that he will know what amendments are up, and he will be in a position to protect himself.

Mr. JACKSON. I would agree basically with the distinguished chairman of the committee. I think we will have to follow some germaneness rule or we will be here ad infinitum, taking up matters that certainly are not relevant to the main thrust of what is going on here.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. RIBICOFF. In view of the number of amendments, could the majority leader enlighten the Senate as to the schedule? I assume we will be staying late tonight because of the large number of amendments we have before us.

Mr. ROBERT C. BYRD. Yes. I always have to lean on the manager and the ranking manager of the bill.

It is my hope that we could stay reasonably late. Obviously, we cannot finish the bill today. I will discuss the matter with those two Senators. If we get the list of amendments and the times relative thereto, we will be in a position to know whether we can even finish the bill tomorrow.

I thank the Senators.

LABOR–HEW APPROPRIATIONS

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. MAGNUSON. I want to ask this of the Senator from Tennessee. I do not like to bring up this matter again, but it is important that we do something about it, because we are running out of time.

I have had some conferences with the House—the majority leader has—and with the chairman of the Appropriations Committee of the House, together with the distinguished Senator from Massachusetts and the distinguished Senator from Pennsylvania.

The matter of abortion involves the whole HEW appropriation again, which will run out of time at midnight on Monday. I do not know whether or not we can get another continuing resolution. Everyone knows what that would mean with respect to salaries and grants all over the country.

The House wants the Senate to vote again on the House-proposed language, and they would like to have a rollcall vote. We did vote on it when we had the conference report about 10 days ago, and we did consider the House-suggested language, but we had a voice vote. They would like us to have a record vote. If the Senate votes the way I think it will, then I think they are willing to come back into conference with us on language involving abortion.

We would have that conference, I hope, tomorrow or certainly no later than Monday morning. The Appropriations Committee is meeting all day tomorrow on the supplemental appropriation bill, which is a huge bill. It is getting almost as big as the regular bill. Eleven subcommittee chairmen are going to present their cases to the full committee tomorrow. That will take all day. Many of those members, of course, are on the HEW conference.

Inasmuch as a large number of Senators are present, I hope we could set aside this matter temporarily.

Our matter has to be taken care of. We all have an interest in it. We have tried our best to achieve some compromise with the House, but we have been unsuccessful.

I hope this vote will express the opinion of the Senate as to how it feels about this matter, and then we will try to have a conference, perhaps tomorrow. Perhaps we could fit it in. However, at midnight Monday we will face the same problem.

My question is to both the minority and majority leaders. A number of Senators are present. I had hoped to speak before others left, but the amendment seekers beat me to it.

Mr. BAKER. I do not mean to preempt the majority leader, but I can report that, on this side, it is my information that there is no objection to proceeding in this way with the principals who have been involved with this matter. There are a number of other Members on this side who are still present on the floor, and if there is an objection to proceeding in that way, now would be the time to say so. The Senator from North Carolina, the Senator from Pennsylvania, the Senator from Oklahoma, and a number of others have expressed deep interest in this matter; and if it is agreeable to them. it is agreeable to me.

Mr. MAGNUSON. The Senator from Pennsylvania will submit the resolution. It is the only way we could do it under the procedural rule. His resolution, of course, would be to accept the House language. As to those who do not wish to accept the House language, which the Senate voted on before, their vote would be "no." Those who wish to accept the House language, which would end the matter, would vote "aye."

I think we could get a time limitation on the matter. I would not take up any more time than I have taken up now. I have explained it.

The Senator from Indiana is deeply interested in this matter. I hope we can do this within 15 or 20 minutes.

And that is all right with the Senator from Pennsylvania.

Mr. SCHWEIKER. That is agreeable to both sides.

Mr. MAGNUSON. I am sure it is all right with the Senator from Massachusetts.

So if the Senator wants to allow us to bring it up, and he will make the motion, I think the majority and minority leaders could get a time limitation agreement.

Mr. ROBERT C. BYRD. Mr. President, I am glad to make an effort at this point.

I think that this request would meet with the approval of Mr. SCHWEIKER and Mr. MAGNUSON, and I believe, as I understand the chairman to say, Mr. BROOKE and Mr. HELMS.

TIME-LIMITATION AGREEMENT

I ask unanimous consent that when the Senate proceeds to the consideration of a resolution (S. Res. 307) relative to instructing the Senate conferees on Senate amendment No. 82 to H.R. 7555, the Labor-HEW appropriation bill, debate on the resolution be limited to 20 minutes.

Mr. MAGNUSON. Twenty minutes is fine. I do not think we will need to take that long.

Mr. ROBERT C. BYRD. Not to exceed 20 minutes, to be equally divided and controlled by the Senator from Washington (Mr. MAGNUSON) and the Senator from Massachusetts (Mr. BROOKE).

Mr. SCHWEIKER. That should be the Senator from Pennsylvania.

Mr. ROBERT C. BYRD. And the Senator from Pennsylvania. Strike that.

Mr. MAGNUSON. The Senator from Massachusetts and I are on the same side. It is the Senator from Pennsylvania.

Mr. ROBERT C. BYRD. I beg the Senator's pardon.

I further ask unanimous consent that amendments to the amendment not be in order and at the expiration of time on this resolution there be a vote thereon without any motion relative thereto being in order.

I think that meets with the desires of the two managers of the resolution.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Mr. President, reserving the right to object, and I shall not object.

The PRESIDING OFFICER. The Senator reserves the right to object.

Mr. HEINZ. Might I ask the majority leader whether I heard him correctly or not that he has not asked that it be considered immediately?

Mr. ROBERT C. BYRD. The Senator is correct.

Will the Senator from Washington and the Senator from Pennsylvania be agreeable to having this matter come up immediately after the amendment by Mr. HEINZ has been disposed of? He has the floor and has offered his amendment, and I think we owe him that courtesy.

Mr. MAGNUSON. I hope we do not lose a lot of our Senators in the meantime. If the Senator will let us go ahead——

Mr. HEINZ. I am perfectly prepared to have my amendment set aside as long as I am recognized afterwards.

Mr. MAGNUSON. If the Senator will let us go ahead, we will have a rollcall and have a much bigger audience for the Senator's amendment when we are through with that rollcall vote.

Mr. HEINZ. If the Senator believes we will have that huge an overpowering audience present, I am delighted.

The PRESIDING OFFICER. The Chair advises the majority leader that the majority leader has the floor.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, if the order is agreed to at this time so that the chairman and the ranking minority member can present their case and we have a vote on that, then Mr. HEINZ be recognized after the disposition of the conference report.

The PRESIDING OFFICER. Is there objection?

Mr. PERCY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ROBERT C. BYRD. I believe the Senator from North Carolina has been seeking the floor.

Mr. MORGAN. Mr. President, I wish to propound a unanimous-consent request.

I ask unanimous consent that Dan Dudeny, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. The unanimous-consent request of the majority leader is to be ruled upon.

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. May the Senator from North Carolina have his unanimous-consent request ruled upon?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ROBERT C. BYRD. I yield.

Mr. HEINZ. Mr. President, I ask unanimous consent that Mr. Jeff Garin, of my staff, be accorded the privilege of the floor during consideration of the HEW appropriation matter, and I also ask unanimous consent that Mr. Mark Bisnow, of my staff, and Bill Reinsch, of my staff, be accorded the privilege of the floor during consideration of the energy tax bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, for planning purposes, I ask unanimous consent that following consideration of and voting on the Heinz amendment the four amendments that the Senator from Illinois has be in order and be offered in sequence.

The Senator from Illinois is willing to enter into time limitation agreements on them, but I understand that will be objected to, but I think that can be disposed of reasonably quickly.

Mr. ROBERT C. BYRD. Very well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I yield first to the Senator from Pennsylvania who wishes to submit the resolution.

RESOLUTION TO INSTRUCT CONFEREES ON H.R. 7555

Mr. SCHWEIKER. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) for himself and Mr. HELMS offers a resolution:

S. RES. 307

To instruct the Senate conferees on H.R. 7555.

Resolved, That the conferees on the part of the Senate on the disagreeing votes of the two Houses on amendment No. 82 to H.R. 7555, the Labor-HEW Appropriation bill, are instructed as follows: To recede forthwith from their insistence upon the Senate amendment to the House amendment to the Senate amendment No. 82 and to concur in the House amendment.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the resolution.

Mr. JAVITS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. SCHWEIKER. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SCHWEIKER. I yield.

Mr. JAVITS. Has Senator BROOKE been notified?

Mr. MAGNUSON. He has been notified, and if he needs time, I will give him such time as he needs on my time.

I yield.

The PRESIDING OFFICER. The Senate will be in order. Senators will cease conversation on the floor. The Senate will be in order.

The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I am having distributed, so that all Members may have a copy, the exact House language that we will be voting on.

My resolution says that the Senate should recede from its position, which was "medical necessity," and accept the House language. The House language says this:

SECTION 209. None of the funds contained in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. This section does not prohibit payment for medical procedures, performed before the fact of pregnancy is established, necessary for the prompt treatment of the victims of forced rape or incest reported to a law enforcement agency. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Mr. President, this is the language that the House of Representatives has adopted. I present it in an effort to reach an agreement and to resolve the impasse that has delayed the Labor-HEW bill. We have been working on this issue since June, and I think it is time we accept what is basically a ratification of the current law and be done with it.

Along with the language that I passed out to each Senator's desk, I also passed out a letter which was sent to Chairman MAGNUSON from the leading House conferees, Congressman FLOOD, chairman of the Labor-HEW Subcommittee, and Congressman MICHEL, ranking minority member.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
October 25, 1977.

Hon. WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor, Health, Education, and Welfare, Senate Committee on Appropriations, Washington, D.C.

DEAR SENATOR MAGNUSON: The House conferees on the Labor-HEW Appropriation Bill met this afternoon to discuss ways of resolving the difficult issue which has been delaying the enactment of the bill for the past several months. They asked us to convey their views to you in this letter.

On October 12, the House of Representatives, by a record vote of 263 to 142, voted to adopt new language regarding payments for abortion. A copy of that language is attached. On the same day, the Senate, by a voice vote, rejected the new House language, and adopted an alternative language provision. On October 13, by record vote of 234 to 163, the House of Representatives rejected the revised Senate language. On October 17, by voice vote, the Senate insisted on its amendment, and agreed to the further conference asked by the House.

The recent votes in the House clearly indicate that a weaker antiabortion provision would not be acceptable, and would probably be voted down even if supported by a majority of the House Conferees. On the other hand, it is our impression that the language adopted by the House on October 12 might well be accepted by the Senate if it were put to a roll call vote. For that reason, we ask that the House of Representatives be extended the courtesy of a Senate roll call vote on the language adopted in the House on October 12. As you know, we extended such a courtesy to the Senate on September 27 and October 13.

Sincerely,

DANIEL J. FLOOD,
Chairman, Labor-HEW Subcommittee.
ROBERT MICHEL,
Ranking Minority Member, Labor-HEW Subcommittee.

Mr. SCHWEIKER. Mr. President, I wish to read one paragraph from Mr. FLOOD's letter:

The recent votes in the House clearly indicate that a weaker antiabortion provision would not be acceptable, and would probably be voted down even if supported by a majority of the House Conferees. On the other hand, it is our impression that the language adopted by the House on October 12 . . .

That is the language that is before us now.

. . . might well be accepted by the Senate if it were put to a roll call vote. For that reason, we ask that the House of Representatives be extended the courtesy of a Senate roll call vote on the language adopted in the House on October 12. As you know, we extended such a courtesy to the Senate on September 27 and October 13.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHWEIKER. Mr. President, I thank the distinguished chairman of this subcommittee. He has had a very difficult job. While we are on different sides of the issue, he has been very accommodating and very fair to those of us who differ with him. He has made it parliamentarily possible to get this vote today. It was not an easy thing to do and, frankly, without his support and cooperation to get this vote, those of us who felt differently would have not had an opportunity to have an expression of the will of the Senate.

In view of the letter from Congressman FLOOD, the House language may well be the only language we can get, and I urge its adoption. My resolution is a motion to recede from the Senate position of abortion in cases of medical

necessity, and to accept the House language which is very close to the original language that those of us on this side have been advocating all along.

Mr. MAGNUSON. I thank the Senator.

Of course, I am deeply appreciative of him and the Senator from North Carolina, and others, whose views I know on this matter allow us to do this. I think the House language should be printed in the RECORD at this point so the record will show what we will vote on.

I ask unanimous consent that the House language be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

New House language (adopted October 12, 1977):

SECTION 209. None of the funds contained in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. This section does not prohibit payment for medical procedures, performed before the fact of pregnancy is established, necessary for the prompt treatment of the victims of forced rape or incest reported to a law enforcement agency. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Mr. MAGNUSON. It does not substantially change the original House language whatsoever. Part of it is something we have already agreed upon before.

I think the Senator from Oregon wishes about a half minute.

Mr. PACKWOOD. One minute.

Mr. MAGNUSON. One minute.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 1 minute.

Mr. PACKWOOD. Mr. President, this language from the House of Representatives gets worse and worse almost instead of better and better. I hope we do vote on this. I hope we turn it down by a bigger margin than we defeated it before.

What we now have if we were to adopt the House language is a situation that says the following:

No woman can have an abortion unless her life is endangered except, first, in the case of rape or incest if she reports it, if she reports it to the legal authorities; second, that she can have an abortion if she has ectopic pregnancy, which is where the fetus is growing in the Fallopian tube and must be aborted; and third, this is not even an abortion: payments are allowed for drugs or devices to prevent pregnancy.

Mr. President, this is so narrow and so limited as to almost be an insult to the Senate, but I hope we vote on it and I hope we defeat it overwhelmingly.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I assured the Senate we would only take about 10 minutes, but the Senator from Massachusetts (Mr. BROOKE), who has worked so hard on this matter, and who is the ranking member of the subcommittee handling HEW, is someplace where I cannot seem to get hold of him. I have an SOS out for him, and I would like to suggest, if the majority leader would not mind, and it will not take more than a minute, the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. MAGNUSON. On the quorum?

The PRESIDING OFFICER. Yes.

Mr. MAGNUSON. I ask unanimous consent that the time not be taken out of anybody's time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MAGNUSON. We are not going to take too much time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. I yield such time to the Senator from Massachusetts as he may desire.

The PRESIDING OFFICER. How much time?

Mr. MAGNUSON. I yield my remaining time.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. BROOKE. Mr. President, I will not take up the time of the Senate any more than is necessary. We have been over this issue time and time again.

Mr. President, may we have order, please?

The PRESIDING OFFICER. The Senate will be in order. Senators will cease their conversations.

The Senator from Massachusetts.

Mr. BROOKE. I thank the Chair.

Mr. President, as I said, I will not take up the time of the Senate any more than is necessary. We have been over this issue time and time again, and the House language on abortion is totally unacceptable. It does not provide for the health of the mother nor does it provide for the health of the fetus.

The language on rape and incest, the House language, is more repressive than the policy that is even now in effect. It is harsh and clearly unworkable and thus, Mr. President, the House language is no compromise in any sense of the word.

I think it should be soundly rejected by the Senate and, in so doing, we will send to the other body a clear signal that its conferees must return to conference and finally make a serious effort to reach a workable and a humane compromise on this very vital issue.

I have debated this issue on the floor many, many times with my esteemed colleague from North Carolina and my esteemed colleague from Pennsylvania, and others, and we know what the issue is; and actually the House has given not 1 inch on the position it has taken, and yet we, on the Senate side, have tried in good faith to make a compromise with the House. The House has now asked us to vote on their language. Senator SCHWEIKER has brought this matter up on the floor for a vote.

Well, Mr. President, I hope it is clear to my colleagues that a "no" vote is necessary. What does a "no" vote mean? A "no" vote means we will say to the House of Representatives again that the Senate feels very strongly about its own position; that the Senate conferees are ready, willing, and able to sit down with the House conferees and come to some reasonable compromise on this issue.

We are now getting perilously close to the deadline we set through the recent continuing resolution. Many employees of HEW and others are affected by this. We do not want to make their pay hostage to this abortion issue. But it is a very important issue, important to many people, many poor women throughout this country, and many men throughout this country, as well.

We want to have the opportunity to sit down with the House conferees and reach a reasonable, humane compromise. We are ready to do so, and we hope the House will be ready to do so.

The only way in which we can have the House do that is for us to send them a clear signal, and that clear signal can only come about by a strong "no" vote on this proposal.

So, Mr. President, I urge a "no" vote by my colleagues on the proposal sponsored by my distinguished colleague from Pennsylvania.

Mr. MAGNUSON. Mr. President, I am willing to yield back the remainder of my time.

Mr. SCHWEIKER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the resolution.

The yeas and nays have been previously ordered, the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mr. PEARSON), the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. CHAFEE) would vote "nay."

The result was announced—yeas 33, nays 59, as follows:

[Rollcall Vote No. 583 Leg.]

YEAS—33

Allen	Ford	Proxmire
Bartlett	Garn	Randolph
Biden	Griffin	Roth
Byrd, Harry F., Jr.	Hatch	Schweiker
Curtis	Hatfield	Scott
Danforth	Helms	Stennis
DeConcini	Johnston	Stevens
Dole	Laxalt	Stone
Domenici	Lugar	Thurmond
Durkin	McClure	Zorinsky
Eagleton	Melcher	
	Nelson	

NAYS—59

Abourezk	Hansen	Morgan
Anderson	Hart	Moynihan
Baker	Haskell	Nunn
Bayh	Hathaway	Packwood
Bellmon	Hayakawa	Pell
Bentsen	Heinz	Percy
Brooke	Hollings	Ribicoff
Bumpers	Humphrey	Riegle
Burdick	Inouye	Sarbanes
Byrd, Robert C.	Jackson	Sasser
Cannon	Javits	Schmitt
Case	Kennedy	Sparkman
Chiles	Leahy	Stafford
Church	Long	Stevenson
Clark	Magnuson	Talmadge
Cranston	Mathias	Tower
Culver	Matsunaga	Wallop
Eastland	McIntyre	Weicker
Glenn	Metcalf	Williams
Gravel	Metzenbaum	

NOT VOTING—8

Chafee	McClellan	Pearson
Goldwater	McGovern	Young
Huddleston	Muskie	

So the resolution was rejected.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the resolution was rejected.

Mr. MAGNUSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SEXUAL EXPLOITATION OF MINORS

Mr. CULVER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1585.

The PRESIDING OFFICER (Mr. MATSUNAGA) laid before the Senate a message from the House of Representatives insisting upon its amendments to the bill (S. 1585) to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, or live performance, and for other purposes and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. CULVER. I move that the Senate disagree to the amendments of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. CULVER, Mr. KENNEDY, Mr. BAYH, Mr. DECONCINI, Mr. MATHIAS, Mr. THURMOND, and Mr. WALLOP conferees on the part of the Senate.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

The Senate continued with the consideration of H.R. 5263.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CURTIS. Mr. President, will the distinguished Senator yield for a unanimous-consent request?

Mr. HEINZ. I yield to the Senator from Nebraska.

Mr. CURTIS. I ask unanimous consent that this be placed at the end of his remarks.

I ask unanimous consent that Mr. Tom Graves of my staff be granted the privilege of the floor during consideration and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1524

(Purpose: Strike the intercity bus credit (sec. 1029)).

Mr. HEINZ. Mr. President, I call up amendment No. 1524 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes amendment numbered 1524:

On page 44, beginning with line 12, strike all through line 6 on page 57.

Mr. HEINZ. Mr. President, I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a limitation of time on this amendment, in accordance with the wish of the author, of 40 minutes, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Without objection, it is so ordered. The Senator from Pennsylvania is recognized for 20 minutes.

Mr. HEINZ. Mr. President, the amendment I offer is identical to an amendment that Senator KENNEDY also had proposed. I offer it jointly on his and my behalf.

Very simply, the amendment would strike section 1029 from the bill, section 1029 being a provision that would create a major new, and in my view, totally unnecessary subsidy for the intercity bus industry.

Lest there be any confusion, that is spelled i-n-t-e-r, not i-n-n-e-r. It is between cities and not in cities.

Specifically, the section awards the intercity bus industry some $200 million per year for 5 years—that is a billion dollars—in refundable tax credits. We all know that refundable tax credits are tax payments you get whether you paid taxes or not. The entire intercity bus industry pays Federal income taxes of less than $20 million a year right now; so, when we talk of some $200 million a year, we are, in reality, talking about a direct subsidy, not a typical tax credit such as the one we have with the investment tax credit.

The provision has been justified in the report from the Committee on Finance on two grounds: First, that assistance to the bus industry could help entice travelers away from automobiles, thereby achieving significant energy savings; and second, that, in general, the industry is experiencing serious financial difficulties which jeopardize quality bus service.

Mr. President, although that logic is superficially plausible, a recent study by the Congressional Budget Office, prepared at my request, showed that the facts simply are otherwise. That study concludes that the tax credit, in fact, will accomplish neither of those goals.

In reaching my view that a tax subsidy is unwarranted at this time, I have been especially impressed by the following Congressional Budget Office findings, which I have extracted from their very comprehensive report, which I put in the RECORD yesterday. The first finding I bring to the attention of my colleagues is that, while the industry has experienced some recent financial problems, its average rate of return on net worth over the 5-year period from 1971 through 1976 was 13.3 percent after taxes. Moreover, the Interstate Commerce Commission has just granted an 11-percent fare increase, and that is expected to raise the rate of return for this year, 1977, to 13.8 percent.

This is a regulated industry. That means that, because of the regulation, a fair rate of return is assured. There are some who say that that rate of return does not have to be as high as the average rate of return that unregulated industries receive, because regulated industries are not subject to the same kind of business risks as unregulated industries.

Mr. President, the second finding from the Congressional Budget Office report is that the energy savings from this billion-dollar proposal are marginal and, giving this proposal all the benefit of every doubt, savings that will amount to "clearly no more than 2,000 barrels of oil per day." Two thousand barrels of oil per day? We import 7 million barrels of oil per day. Moreover, those savings are going to be temporary.

There is one good thing about the amendment, and that is that it is a temporary amendment. It only lasts for 5 years. But in 1982, this $200 million refundable tax credit ends and when it ends, I think we are safe in assuming that the 2,000 barrels a day, if it is that much, in terms of oil savings will end. Accordingly to the Congressional Budget Office "in terms of energy savings per Federal dollar, this provision ranks extremely low"—underlined and their emphasis—"relative to other energy-related provisions discussed by the 95th Congress."

Simple arithmetic indicates that paying $200 million per year to save 2,000 barrels of oil per day means, in effect, that it would cost $274 per barrel of oil saved. Well, for the same $200 million, if the object is to save oil, we could purchase over 19 times as much of it from the Arabs at their price of $14 a barrel.

The third finding of particular importance is that the energy tax bill, as reported, already contains a new $17 million tax break for this same industry in that it removes the excise tax on intercity buses and bus parts.

Fourth, it may be difficult to insure that the tax credits benefit the intended bus companies rather than their holding companies. I think we ought to recognize that some 75 to 80 percent of all the passenger miles and bus revenues here are generated by two companies—fine companies, most assuredly, but two companies, Greyhound and Trailways. That, in the first case, is a gigantic conglomerate. Greyhound owns the Armour Meat Packing Co. and many other companies as well. In the second instance, Trailways is a subsidiary of another con-

glomerate, TCO, Inc., which owns, among other things, Holiday Inns.

It is not at all this Senator's idea that we should take from the taxpayers of this country $1 billion over the next 5 years and give it to two of the largest conglomerates in the United States. I think that is taking from the poor and giving to the rich. While these bus companies may, at some point in time, have serious problems deserving of our attention, I do not think that this is the time and I certainly do not think this is the way to give it.

It is especially noteworthy that three people testified before the Senate on this matter. They testified, as I understand it, not before the Committee on Finance, where no hearings were held, but before the Senate Committee on Commerce. One representative was from the bus industry and he, understandably enough, testified in favor of this approach. The two other people who testified represented the Federal Government, the Interstate Commerce Commission on the one hand and the Department of Transportation on the other. They testified in opposition to any kind of subsidy at this time, as well as against the Finance Committee's proposal of a refundable tax credit.

Furthermore, a major ICC study is currently under way to determine the condition and needs of the industry. The report is due early next year. It would be only sensible to me to see what it says before we proceed to legislate remedies to the very problems it is investigating, particularly when they be billion dollar legisaltive remedies for large conglomerates.

I do not want anyone to think that anything I have said is a criticism of the immensely valuable service performed by the inter city bus industries or in any way a criticism of any individual company.

I offer my amendment to strike this section 1029 because I just think it is the wrong approach at the wrong time, and it costs too much money.

I am not indifferent to the possibility that changed circumstances could cause the industry to require Federal financial assistance. They would not be the first industry to come to the Congress for Federal financial assistance. But as the CBO study clearly states, the industry has experienced certain problems and its situation is expected to improve.

Indeed, if we put in the $17 million estimated in tax breaks from the removal of the excise tax and use taxes, this industry may well be making 15 or 16 percent on net worth after taxes, which would be the envy of almost any company in the United States, regulated or not.

I promise to carefully examine any proposals in the future concerning this industry, but the proposal at hand, in my judgment, simply is not the answer.

I urge my colleagues to support my amendment to delete from the bill this $1 billion program which I would characterize as taking from the poor taxpayer and giving to the rich conglomerate.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield myself 8 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 8 minutes.

Mr. LONG. Mr. President, admittedly, the provision to try to provide decent, modern buses for the poor is not one of the most efficient energy savers in this bill.

The idea is to fix it so those who do not own an automobile, those who cannot afford to go on an airplane, those in 13,000 communities who have no other means of moving around except their feet, would have some decent terminals, rather than the falling down, sloppy ones available now. Admittedly, it is not the most energy-saving recommendation in the bill.

But I contend, Mr. President, it does more to help the less privileged than anything in the bill, dollar for dollar; more to help the poor and less to help the rich than anything in this bill.

The Senator talks about the fact the buses have averaged 13 percent on equity during the last 6 years. He does not bother to explain that the very study he is referring to, his authority, says that the profit margin went down from 16 percent, steadily down to 8 percent now. So it is half what it was in 1971. They are losing passengers.

Why do they have such old, filthy, sloppy bus terminals, in the worst parts of town? Because they cannot afford to build any other.

I do not know how much the Senator has ridden buses, probably not any more than I have, and that is not a greal deal. My wife used to ride them every weekend to go from here down to North Carolina to see her family because at that time she did not have the pleasure of owning her own automobile. She tells me today she would not be caught in one of those terminals, she would not feel safe, she would not feel clean, she would not be caught on one of those buses, even though she rode them most of her life.

She has not stepped up in class because she married a U.S. Senator. She is as ordinary and down to earth as she ever was.

But the equipment is going down, and the terminals, and the poor people cannot afford their own automobiles and have to settle for worse and worse in the way of transportation and at higher fees.

What do we try to do, to save for these poor souls who cannot afford anything else?

They are going to get a cut in the cost of getting on the bus, rather than having the price raised. What is wrong with that? That is $100 million, not for the company or this big conglomerate, that is $100 million for poor people, the poor soul that does not have an automobile, the poor fellow that has no option but to either ride the bus or walk.

Mr. President, 8 percent is their average profit. One of these big bus companies, according to the officers of that company, said that company is making 4 percent. One would make more money by putting it in a tax-exempt bond as a return.

Yes; it is a big conglomerate. I happen to be a friend of the president of one of the other companies in the conglomerate, who is the president of a steamship company. He tells me he has repeatedly urged those people to get rid of the blamed bus company, one of the biggest in the country. It is a turkey. It is a money loser. Get rid of it, and if they cannot find anybody to take it, then sell the buses and get rid of them, too, because they could put money more profitably into something else.

If they do that, of course, that would terminate the service in about half the communities in the country.

Mr. President, we have 13,000 communities in America not served by an airline, not served by a railroad, where they have nothing but the intercity buses.

We want to improve those buses to give those people something more decent to ride on. We want to improve the terminals to give them a better place to go to get on the buses. We would like to provide them with better service.

We provide that either they have to put this into the equipment and into the terminals or they do not get it—and they cannot. Any profit they might make cannot flow through the parent company.

To the contrary, from a scurrilous letter I saw in the Washington Post, the language of the bill very clearly states that this money must be spent to fix up terminals, to buy houses, or they would not get the $100 million; or, Mr. President, this money must be spent to reduce the fares by $100 million, or they do not get the other $100 million.

What is wrong with that? They say it costs $1 billion. Where do we get the billion? The difference between the $200 million to which I referred and the $1 billion to which the Senator referred.

Oh, how people love it when we find something that is going to help the poor, to multiply the figure, $200 million a year multiplied by 5 years. That gives $1 billion.

Why does the Senator not go ahead and assume we might even continue this kind of thing, helping poor people, for a hundred years? Let me see, 100 years multiplied by—how much would that be? I do not have the time to work it out, I will ask the staff to work it out.

It makes a really impressive thing. Something to help the poor with, and how much that would be, x million, multiplied by so many companies?

But the point, Mr. President, is that we are not trying to help the company, but help poor people who have to ride on those buses.

Have you ever been on one lately, in one of those stinking privies back in the rear of one of those buses? I did recently, Mr. President. I am not going back.

Mr. President, have you been in one of those bus terminals lately and tried the bathroom in one of those?

You will not go pack again soon, if you can avoid it. You will make your plans before you leave home. [Laughter.]

Mr. President, we want to give the traveling public something decent here, something they can enjoy, something which will improve on what they have.

Two courageous souls found the courage to vote for grandma—they fear grandma is going to have to pay more for heat, and she is going to get $70. That is great. But she cannot buy an automobile for $70, not even a flivver. How is grandma going to see her little grandchildren if there is no bus and she does not own an automobile?

Rather than see the service terminated, we would like to see it improved upon. We would like to see it continued. We would like to attract back to the buses some people who are not riding them now. If we could, we would have a great deal of energy saving.

Furthermore, we would like to consider in conference the possibility, if we agreed to any part of the user tax, of taking some of that money and using it for urban transit.

I wonder whether our dear friend from Pennsylvania is going to be upset if we try to move around some people in Pennsylvania in urban transit.

The PRESIDING OFFICER. The Senator's 8 minutes have expired.

Mr. LONG. I yield myself 2 additional minutes.

I will wait until we can find a way to reduce the cost of moving those people around in Philadelphia or Pittsburgh, as a part of this bill. That is one of the things we can consider in conference, for which he and others voted, to give us flexibility in the conference. If we can work out something of that sort. I will wait to see if he is going to be against that.

But those who live at the end of nowhere, at the fork of the road or the turn of the creek, need some conveyance even more than people who live in a big city, because there are less transportation opportunities available to them.

Mr. President, I hope Congress is not going to reject the good intentions of the Senate Finance Committee in trying to help people. We believe we have drafted it as closely as we can, to be sure the money will be spent for what we want to do to help these poor people.

The same problem confronted us previously with regard to rail service. We provided funds to help Amtrak, to help the people avoid a discontinuance of rail service. I voted for it. I do not apologize for it. I am glad I did. I will try to see that rail service continues.

By comparison, let us look at how much more efficient this provision is, to try to save service, than the cost of trying to save Amtrak, by waiting until the Government had to move in.

Amtrak moves 18 million passengers per year, at a cost of $640 million. This proposal proposes to improve the transportation service for 350 million passengers a year, at a cost of $200 million.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. LONG. I yield myself an additional 2 minutes.

In other words, Mr. President, we propose to benefit 20 times as many passengers, and we propose to do it at one-third the cost. That is a good buy. We propose to help 20 times as many passengers at one-third the cost.

What is the alternative? The alternative is to expect these poor people to pay more for bus service rather than less, as the buses will have less passengers and as their stations go down.

The industry is disinvesting. It is not replacing the equipment as fast as it wears out. It is not replacing the old, worn-out terminals with better ones. We want to reverse that trend. I think we would be well advised to continue to do this.

The House has felt that if there is to be a tax, there should be a rebate. Even if we do not go along with the rebate principle, perhaps we should do it at least for the poor. Whether we can or cannot, it is part of an energy bill.

If we agree to any taxes, it certainly will increase the cost of bus service and force an increase in rates on the passengers and a further reduction of the number of people who ride buses. We say it is a good alternative to do just the opposite, to improve bus conditions, so that the people of this country, especially the poor, would get the benefits which would result from this proposal.

Mr. HEINZ. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 8 minutes remaining.

Mr. KENNEDY. Mr. President, will the Senator yield me 5 minutes?

Mr. HEINZ. I am pleased to yield 5 minutes to my good friend from Massachusetts.

Mr. KENNEDY. Mr. President, as we see the tears shed on the floor of the Senate about all the poor people who are going to benefit under this bus subsidy, I am reminded of the matter we discussed last year on the tax reform bill—every time we raised the issue of tax shelters, we suddenly heard the chairman of the Finance Committee talking about the small family farmer. It is all a smokescreen. We are really talking about ripoffs in terms of tax shelters and tax subsidies, but they are always packaged for us as benefits for the poor and the family farmer. Meanwhile, the committee is pouring giveaways worth billions and billions of dollars into the Internal Revenue Code in new tax expenditures.

Make no mistake about it: This is a billion dollar tax expenditure. And who ends up paying for it? It is basically the working people, because they are the ones who do not have the tax loopholes. Their taxes have to make up the difference. As the chairman talks about all the working people who are going to ride those buses, we should recognize who is going to make up that billion dollars. It is going to be the same working people. Make no mistake about it.

The Finance Committee is not giving the working people, or the senior citizens, or the poor people living in the inner cities any break in this measure.

The Finance Committee, in their own report, was too embarrassed even to say that the revenue savings from this provision are negligible. They cite several other purported subsidies in their bill as producing negligible energy savings. But this one does save enough to be called "negligible."

In a preliminary report, the staff estimated the savings under this program at a thousand barrels a day in 1985, at a cost of $200 million a year. That comes out to a cost of $548 for each barrel of oil saved under this proposal that the Senate Finance Committee is recommending this afternoon.

Mr. President, for the past several years, I have joined the Senator from Connecticut (Mr. WEICKER) in proposals to open up the highway trust fund, to permit the use of those resources for alternatives to laying down concrete, for buses and for transportation. We have been strong supporters of mass transit. I believe that we should ask the Surface Transportation Subcommittee of the Commerce Committee, which has jurisdiction in this area, to consider this proposal and try to justify it.

No one could be more eloquent in doing so that the distinguished Senator from Louisiana, Senator LONG, who is not only chairman of the firearm committee, but also chairman of the Surface Transportation Subcommittee. I hope he will come back here at a later time. I hope he will come back here, as the chairman of the Surface Transportation Subcommittee of the Commerce Committee, and point out what needs to be done in the terms of appropriations for the people he is concerned about, whom he has talked about this afternoon.

Make no mistake about it, Mr. President: This is a sizable tax expenditure, but it is grossly inefficient, and it has no place in this energy bill.

Mr. President, the Senator from Louisiana refers to those people who are going to benefit from this tax credit I should like to read from "Business Week" of October 3. At the end, the article talks about how lobbying activities are being stepped up. It says:

> The request for subsidies is only one part of the bus operators' assault on Washington. Another is NAMBO's recent retention of Lewis, a Washington insider who, as chairman of the U.S. Railway Assn., helped establish Conrail, the freight operation that is the successor to six bankrupt railroads in the Northeast and Midwest. And both Trailways and Greyhound are stepping up their Washington activities: Trailways sends an executive vice-president from Dallas to Washington four days a week, and Greyhound, based in Phoenix, this month opened a Washington office.

Those two gentlemen have earned their salaries, whatever they are, with this particular amendment. But let us hope that the Senators are also going to earn their salary today, by supporting the Heinz amendment.

Mr. President, I ask unanimous consent to have the article printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Business Week, Oct. 3, 1977]

THE DRIVE TO SUBSIDIZE INTERCITY BUSES

Intercity bus companies have been far from mute about the poor condition of their

finances and a decline in traffic that they attribute partly to Amtrak, the federally subsidized rail passenger operation. But executives have said repeatedly that they cannot last much longer against subsidized, nontax-paying competition. This month they turned their protests toward Washington and asked Congress for a subsidy and a tax exemption.

The nation's 450 bus companies are in the worst year of a five-year decline in revenues and ridership. Overall industry profits in 1976 plunged to $52 million on operating revenues of $1.2 billion from 1971's $101.4 million on operating revenues of $953.2 million. Net operating revenues of the Class I carriers, the 80 largest companies, dropped to $44.9 million from $94 million in the same period. And a recent report by the Interstate Commerce Commission says that the operating ratio of expenses to revenues for the 10 largest companies has climbed to 97 from 94.7 in the past year.

"We're hit by a double whammy," says Arthur D. Lewis, president of the National Association of Motor Bus Owners (NAMBO). Rising costs for other forms of transportation, such as airlines, can be partly offset by a constantly expanding number of passengers. But bus ridership on the Class I carriers has dropped to 112 million from 129 million passengers in the last five years.

ENERGY SAVERS

James L. Kerrigan, chairman of Greyhound Lines, Inc., charges that Amtrak, formally National Railroad Passenger Corp., "is skimming the cream of our ridership, taking the one passenger per bus that makes a route profitable." But companies add that Amtrak is attracting riders from their few profitable routes, chiefly in the Boston-to-Washington Corridor. The result is that there are less profits with which to subsidize shorter, rural bus routes. The intercity bus industry serves some 15,500 communities, 14,000 of which have no other form of public transportation, but those 14,000 points account for only 30% of revenues.

And bus officials point to their studies showing that buses are the most energy-efficient form of transportation. Estimates of passenger miles per gallon of fuel range from 90 to 162 for buses, 14 to 64 for cross-country trains, 25 to 41 for passenger autos, and 18 to 28 for airplanes.

Intercity buses do not receive any direct government subsidies, though they obviously travel on government-funded highways. Bus operators pay a 10% excise tax on new buses, 8% on parts and accessories, 4¢ per gal. for diesel fuel, and $3 annually per 1,000 lb. of gross weight for buses over 26,000 lb. Nor does terminal construction get government financing. As a result, most bus stations are dirty, run-down, and located in decaying central cities.

TAX EXEMPTIONS

Nor do the buses themselves have a good public image. A Transportation Dept. study earlier this year found that "large segments" of the traveling public view bus travel unfavorably." Riders complain of the lack of through ticketing and baggage transfers, cramped seats, unpleasant side-to-side swaying, and little available information on bus schedules.

Bus companies say they could improve their facilities if they had cash to plow back into operations. "Trailways made pretax profits last year of $9 million on $26 million in revenues," says J. Kevin Murphy, president of Continental Trailways Inc. "To get the cash flow to replace 10% of our bus fleet per year and attend to 20% of our terminals, we would need profits of $37 million."

The propsed tax exemptions, which have passed the House of Representatives as part of the energy package, waive all except the weight tax. If the exemptions get through the Senate, intercity bus operators would get about $17 million in tax relief. NAMBO's Lewis says that more substantial sums are needed to bail out buses. And Murphy of Trailways has proposed to the Senate a refundable tax credit that, based on a formula incorporating fuel efficiency, passenger-miles traveled, and company revenues, would give intercity buses about $200 million a year: $40 million for new terminals, $60 million for equipment, and $100 million for fare cuts.

Bus officials point out that this $200 million is less than half of Amtrak's $468.8 million subsidy for fiscal 1976, and they have hit Amtrak's losses and the fact that most Amtrak fares are set substantially below cost. Says Greyhound's Kerrigan: "I know Amtrak claims its is only a tool of Congress, but did Congress order the system to sell some tickets at 10% of cost?" Kerrigan's accusations have been sharp, frequent, and often personally directed at Paul H. Reistrup, president of Amtrak. Reistrup's response to charges of unfair competition has been that the two systems should work together against the automobile, which carries 88% of intercity traffic, compared to 2% for buses and 1% for Amtrak. In spite of Amtrak protestations that it does not want to get drawn into battles with buses, it has drawn up detailed figures challenging Greyhound's estimate of just how much the bus line paid for highway use last year.

RIDER PROFILE

Bus passengers, and to an extent train passengers, are extremely sensitive to rising fares. NAMBO surveys indicate that 60% of bus riders are women, 60% are over 55 years old or under 20, and 60% earn less than $10,000 per year. Many are on fixed incomes or unemployed. Most of them are visiting family or friends; about 10% are on business. "If the fares go up [as they have by 34% in the past five years], many people simply will have to cancel their trips," says NAMBO's research director, Frederic Mueller.

Bus operators' requests for subsidies have come at a propitious time, as Amtrak announces route cuts and fare increases for the fall. An average of 22 out of 120 trains a day will be trimmed from the Northeast Corridor, while seven other routes around the country will go from daily runs to three or four times a week. Amtrak's directors have also approved an average fare increase of 2½%, all effective Oct. 30.

And Congress may be losing its fascination with Amtrak. Senator Clifford P. Case (R-N.J.) sent an angry letter to Reistrup last week demanding the cost, revenue, and ridership information on which the route-cut decisions were made. Amtrak's budget last year was $45.6 million less than what it had requested, and Congress is looking hard at the next set of appropriations. In spite of Congress' growing anger, Amtrak last week asked for an additional $56.6 million for fiscal 1978, bringing its budget request to a total of $545 million. If it gets the full amount, Amtrak says, it will be able to restore its service cuts.

POWERFUL SUPPORT

But the excise-tax exemptions for buses should move through Congress easily. "It's one title in a large package, and really isn't that large," says a Senate staffer. And the refundable tax credit is supported by Senator Russell B. Long (D-La.).

The request for subsidies is only one part of the bus operators' assault on Washington. Another is NAMBO's recent retention of Lewis, a Washington insider who, as chairman of the U.S. Railway Assn., helped establish Conrail, the freight operation that is the successor to six bankrupt railroads in the Northeast and Midwest. And both Trailways and Greyhound are stepping up their Washington activities: Trailways sends an executive vice-president from Dallas to Washington four days a week, and Greyhound, based in Phoenix, this month opened a Washington office.

Mr. KENNEDY. Mr. President, I reserve the remainder of my time.

Mr. LONG. Mr. President, if I were a shareholder in either of those companies, I would be disappointed at the performance of the officers. If I were the chairman of the board or an officer, I would plead with Congress to keep those services modern and try to attract customers back to the buses, try to fix up the terminals.

In terms of dollars, we have done ten times as much for the railroads. Goodness knows how much we have done for the airlines when they needed it. I would hate to count the billions.

We have done for other means of transportation far more than we are talking about here when we thought that it justified what we were trying to do.

I am not arguing that this is the most efficient energy saver in the bill. I am not saying that. It does more social and economic justice than anything in the bill that we recommended out of the committee. We have a lot of recommendations here, and the Senator I know dislikes a lot of them, including the one to insulate homes.

But the fact is, Mr. President, the people who ride these buses are low-income people. Many of them are old. Many of them are poor. Many of them are minorities. They do not have the option of riding some other means of conveyance.

Do we wish to upgrade the service available to them or downgrade it? Do we want to have a further rate increase on those poor souls or have it cut?

We voted here to say that grandma was going to get the $71 if she is over 65. But for the poor people below 65 they do not get anything extra to help solve the problems of higher energy cost to them. As I say, even grandma may be faced with worse and worse service, buses that are in steadily worse condition, and terminals in steadily worse condition. Why can we not do something about all that?

We do propose to do something about it. If that is the only way grandma has to get around or the only way any other poor family out in a small town or a rural area has to get around, or even persons living in a city wanting to go visit relatives in some other part of the country, if they cannot afford to go on the airplane, cannot afford to go on the train, or the airlines do not reach that particular destination, how else can they get there?

Mr. President, we wish to attract people back to buses and, as I say, if it be the judgment of this Senate that we should try to improve bus conditions and reduce rates rather than raise them, then I for one wish to support the concept in conference that we should try to do the same type of thing for mass transit in cities.

But I would think that if we do not wish to do anything to help the poor people in the rural areas that would be an indication to us that those in this Senate do not want to do anything to help people in the cities to move about either.

So perhaps they want to just forego any thought of trying to help improve mass transit for the people who must use mass transit because they have no other choice in cities and to attract people to that as an energy saver, perhaps not the most efficient, but as an energy saver, just as we seek to do with busing.

But, Mr. President, it has been my privilege to know a lot of people who lived in small towns and had little choice about how they were going to get somewhere other than to take a bus if they were going to get there. I still know a lot of people like that. I know a lot of people who just because of age or poor health cannot get a driver's license and do not have the privilege of riding in an automobile from one city to the next, even if they had that opportunity or if they had the money to buy the automobile.

There are a great number of people who for one reason or another do not have much choice about whether they ride a bus or not. For those people we should try, in my judgment, to try to improve the condition of these badly run down bus stations that are getting worse every day, and we should try to improve the conditions of the buses on which the people must ride, hoping to attract more riders to them.

Also, Mr. President, I think that we would do well to try to see to it that those who have no choice but to go this way, the cheapest form of transportation and the most energy efficient, that they would travel at lower rates rather than higher rates.

I think all of that is justified and it would be well advised to do it. I simply trust it to the judgment of the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Pennsylvania has 3 minutes remaining.

Mr. HEINZ. Mr. President, I have to say that I was very moved by the remarks of the distinguished Senator from Louisiana, but I was not moved by bus.

Two percent of all the people who travel in this country travel by bus. The Senator says he is concerned about poor people. So am I. The fact is that 80 percent of the people who have family incomes of less than $10,000 do not go by bus. They go by car. Seventeen percent go by air or by rail. And the other 3 percent go by bus.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. HEINZ. I cannot. I do not have that much time. I will yield on the Senator's time.

Mr. LONG. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. HEINZ. I yield on the Senator's time.

Mr. LONG. Mr. President, the Senator might say it is a small percentage but those happen to be the least of them all. In terms of passenger miles of people who board buses, we have 350 million passengers who get on buses. If the Senator says that is a small percentage, I say that is the least of them all, those at the bottom of the economic ladder. I hope he does not think any less of them just because they may not be as much in number as those who may be able to afford something better.

Mr. HEINZ. Mr. President, the fact is that if the Senator really wants to help poor people it seems to me that we should have a program directed at poor people. This, I would hasten to remind the Senator—not that he really needs it—goes not to poor people, but it goes to bus companies.

The Senator is concerned about the poor and people in rural areas, and so am I, but as I understand the Senator's program the money goes to the headquarters of Trailways, Greyhound, and other bus companies, and we have no way of knowing what they are going to do with it except one thing is for sure. However they spend this money, they are going to spend it in a way that increases their profitability. They might spend it in Philadelphia. They might spend it in Keokuk, Iowa. They might spend it in Boston. I do not know where they are going to spend it. But they are going to spend it to improve their profits which are going to be in 1977 probably higher than at any other time.

I compliment the Senator from Louisiana on indicating that this really is not an energy-saving amendment. He has been very frank about that. It is an amendment to subsidize bus travel. It is an amendment to rebuild bus terminals. I am not so sure I would have supported the Senator on the previous amendment if I had known that building bus terminals was going to be in the scope of this conference. It seems to me that what we want is an energy bill, and this amendment, among the other problems with it, has nothing to do with energy.

I say to my good friend from Louisiana, if he will bring out of his Transportation Subcommittee of the Commerce Committee an amendment to help poor people who travel, I will support it. If he will offer a substitute now to change the approach so that it really helps the poor people, helps the people in rural areas, helps the people we want to help, not the people who travel up here to lobby us. I will support it.

The amendment, however, in its present form simply does not do what I think the Senator wants to do. That is why I urge the removal from the bill of section 1029 and the support of this amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania has used up all of his time.

Mr. LONG. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Louisiana has 2½ minutes remaining.

Mr. LONG. Mr. President, under the committee bill the money goes to bus companies only to pay for reduction in rates. That is a $100 million rate reduction for the poor people who ride those buses. I am not saying they have to be poor to get on, but that class generally is poor. The other $100 million goes only to pay for new terminals, and only to pay for better buses.

We have voted, Mr. President, to do a great deal more than that for railroad service. We have voted to do far more than that for airline service. If Senators want to use their multiplying factor, multiply that by 10 years, go back and compute and put it in terms of 1977 dollars all we have done for the airlines and the mail subsidies and the railroad land subsidies—take all the land grants involving billions upon billions of dollars, just land grants to a single railroad, and the minerals beneath the railroad right now are worth about $5 billion or $6 billion. So of all the things that have been done to provide service—and I am not here to find fault with those who did—this is very small, aimed at saving a service without which 13,000 communities would have no public service available to their people at all.

Mr. President, the industry is disinvesting. Expenses keep increasing compared to the operating revenues. There are less passengers on the bus. And we are going to see a discontinuance of service unless we find some way to improve it. We can either vote to improve the service the people have or see it continue to deteriorate and run down.

It was not much energy saving and probably, in fact, cost us more energy when we voted to say we are going to provide whatever that was for grandma to help these old people buy a little more energy, to buy a little more heat in their homes, but only two brave Senators could be found to vote against that when the roll was called.

If we can do that to help old people to find some money to meet their energy needs, I would think, Mr. President, we could afford to improve the condition of the intercity buses available to people who have no other transportation service available.

Mr. HEINZ. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, is it appropriate to make a point of order against this provision, on the basis that it provides effectively a direct payment to two large companies? On that basis and that interpretation, this matter should be considered by the Commerce Committee. I make a point of order at this particular time to that effect.

Mr. LONG. Mr. President, it is my understanding that several hundred companies could benefit from this proposal. This is a tax credit which is a purely revenue measure backed up by a permanent appropriation which is completely within the jurisdiction of the Senate Committee on Finance, and I contend the point of order is not well taken at all. It does not require an authorization. It is purely a tax measure.

Mr. KENNEDY. Mr. President, as I understand it, in excess of 90 percent of this benefit may go to two companies.

This sort of bailout belongs in the Committee on Commerce. But I doubt that the Commerce Committee would provide this wasteful a subsidy. The Finance Committee is poaching on the jurisdiction of the Committee on Commerce. The Chair should look behind the language of this amendment. Only a small amount of the dollars would be distributed to other companies. Most would go to the two large bus companies. On that basis, this section should be a matter before the Committee on Commerce.

The PRESIDING OFFICER. Be that as it may, the provision provides for an amendment to the Internal Revenue Code, which is strictly within the jurisdiction of the Committee on Finance, and the Chair rules that the point of order is not well taken.

The question now recurs on agreeing to the amendment of the Senator from Pennsylvania, amendment No. 1524. The yeas and nays having been ordered, the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS (when his name was called). Present.

Mr. NELSON. Mr. President, may we have order in the Chamber.

The PRESIDING OFFICER. The point of order is well taken. The Senate will be in order. Senators will clear the well. Senators will cease conversations. The Senate will be in order. The clerk will suspend until the Senate will come to order.

The clerk will proceed.

The second assistant legislative clerk resumed and completed the call of the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

On this vote, the Senator from California (Mr. HAYAKAWA) is paired with the Senator from New Mexico (Mr. DOMENICI). If present and voting, the Senator from California would vote "yea" and the Senator from New Mexico would vote "nay."

The result was announced—yeas 42, nays 42, as follows:

[Rollcall Vote No. 584 Leg.]

YEAS—42

Abourezk	Byrd, Harry F., Jr.	Culver
Bartlett	Chiles	Danforth
Bayh	Church	DeConcini
Bellmon	Clark	Durkin
Biden	Cranston	Garn
Brooke	Hart	Glenn
Haskell	Kennedy	Riegle
Hatch	Laxalt	Schweiker
Hatfield	Lugar	Scott
Hathaway	Metzenbaum	Sparkman
Heinz	Morgan	Stevenson
Hollings	Nelson	Weicker
Jackson	Packwood	Zorinsky
Javits	Percy	
	Proxmire	

NAYS—42

Allen	Hansen	Pell
Anderson	Helms	Randolph
Baker	Humphrey	Ribicoff
Bentsen	Inouye	Roth
Burdick	Johnston	Sasser
Byrd, Robert C.	Leahy	Schmitt
Cannon	Long	Stafford
Case	Magnuson	Stennis
Curtis	Mathias	Stevens
Dole	Matsunaga	Stone
Eagleton	McClure	Talmadge
Eastland	McIntyre	Tower
Ford	Melcher	Wallop
Gravel	Nunn	Williams

ANSWERED "PRESENT"—1

Bumpers

NOT VOTING—15

Chafee	Huddleston	Muskie
Domenici	McClellan	Pearson
Goldwater	McGovern	Sarbanes
Griffin	Metcalf	Thurmond
Hayakawa	Moynihan	Young

The PRESIDING OFFICER. On this vote there are 42 yeas and 42 nays, with one Senator having answered "present." The amendment is rejected.

(As will appear hereafter in today's proceedings, the Presiding Officer subsequently announced that Mr. THURMOND's name was not included as having voted "yea" in the foregoing tabulation, and that, therefore, the amendment was agreed to.)

AMENDMENT NO. 1514

(Purpose: To authorize payments to the States out of revenues collected from any tax on crude oil for the purpose of restoring, resurfacing, and rehabilitating Federal-aid highways.)

Mr. PERCY. Mr. President, I call up my amendment No. 1514.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an amendment numbered 1514.

Mr. PERCY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. 1058. PAYMENTS TO STATES FOR FEDERAL-AID HIGHWAY RESTORATION.

(a) FINDINGS.—The Congress finds that—

(1) fuel conservation efforts have severely decreased the growth of motor fuel tax revenues in fiscal years 1974 through 1977 resulting in a loss of billions of dollars in State revenues and in a projection of additional losses of billions of dollars in fiscal years 1978 through 1981;

(2) inflationary costs for highway construction have far outstripped motor fuel tax revenues and are expected to continue to do so as a result of increased prices for petroleum products; and

(3) limited State motor fuel tax revenues prevent States from adequately maintaining and preserving the Nation's investment in the highway system.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1978, 1979, 1980, and 1981, from the amount of funds in the Treasury during each such fiscal year received from any new tax on crude oil imposed under any provision of the Internal Revenue Code of 1954 added by this Act an amount not to exceed $400,000,000 to carry out the provisions of this section.

(c) PAYMENTS.—

(1) IN GENERAL.—The Secretary of Transportation shall make quarterly payments during each of the fiscal years 1978, 1979, 1980, and 1981 to each State in an amount equal to one-fourth of the amount which is apportioned to that State for that fiscal year under paragraph (2).

(2) APPORTIONMENT.—The Secretary of Transportation shall apportion to each State for each fiscal year an amount which bears the same ratio to the total funds made available under this section for that fiscal year as the amount apportioned to that State during that fiscal year under paragraphs (1), (2), and (6) of section 104(b) of title 23, United States Code, bears to the amount apportioned to all States under such paragraphs during that fiscal year.

(d) USE OF PAYMENTS.—A State shall use any amount received under this section only for resurfacing, restoring, and rehabilitating Federal-aid highways (within the meaning of section 101(a) of title 23, United States Code.

The PRESIDING OFFICER. The Senate will be in order.

Mr. PERCY. Mr. President, I yield to the Senator from Delaware for a unanimous-consent request.

Mr. BIDEN. Mr. President, I ask unanimous consent that Paul Laudicina and Richard Andrew, of my staff, be granted the privileges of the floor during the consideration of the pending measure, H.R. 5263.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I ask the same privileges for David Carol, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. DOLE. Mr. President——

The PRESIDING OFFICER. The Senate will be in order. The Senator from Illinois has the floor.

Mr. PERCY. Mr. President, I come to my colleagues today with a very simple but a highly important amendment, an amendment that is endorsed in principle by the National Governors Association, and which affects every single one of our 50 States.

I ask that we compensate States for gasoline tax revenue which they lose as a result of Federal gas-saving measures. Otherwise, the States will actually have a disincentive against enforcement of gasoline conservation plans.

I propose adding language to the energy tax bill to allow diversion of some crude oil tax revenues for this, should the House-Senate conference adopt a wellhead tax. Congress has adopted and approved auto fuel economy as a national policy. We mandated fleetwide mileage standards and are now considering a variety of other measures to assure that these standards are met.

Mr. President, may we have order, please?

The PRESIDING OFFICER. The Senate will be in order. Senators will clear the well. Senators will cease conversations or retire to the cloakroom if

they wish to continue their conversations.

The Senator from Illinois.

Mr. PERCY. Mr. President, as we know, all of the States have indicated their determination to do everything they can to support conservation measures. The President has met with the Governors. The Governors, to a person, I believe, have pledged their cooperation and support in all conservation measures.

We passed the 55-mile-an-hour speed limit. For a long period of time it was really not enforced by the States. Now State by State they are beginning to enforce that speed limit as one means of cutting back on consumption.

State cooperation is crucial. Under our federal form of government, once a national policy has been adopted, we have to depend upon our many States to implement that policy.

Will Senators put themselves in the position of a Governor? All States are hard pressed for revenue. They simply cannot get enough funds to take care of all the needs they face. Here is a Governor and his transportation department in the position of doing everything they can to conserve energy, to cut down fuel costs.

FURTHER PROCEEDINGS ON AMENDMENT NO. 1524

The PRESIDING OFFICER. The Senator will cease for an important announcement.

On the last vote, a Senator had voted but was not shown on the tabulation, initially. The new tabulation stands at 43 yeas, 42 nays, and 1 present.

(The retabulation, in accordance with the foregoing announcement is as follows:)

[Rollcall Vote No. 584 Leg.]

YEAS—43

Abourezk	Durkin	Metzenbaum
Bartlett	Garn	Morgan
Bayh	Glenn	Nelson
Bellmon	Hart	Packwood
Biden	Haskell	Percy
Brooke	Hatch	Proxmire
Byrd, Harry F., Jr.	Hatfield	Riegle
	Hathaway	Schweiker
Chiles	Heinz	Scott
Church	Hollings	Sparkman
Clark	Jackson	Stevenson
Cranston	Javits	Thurmond
Culver	Kennedy	Weicker
Danforth	Laxalt	Zorinsky
DeConcini	Lugar	

NAYS—42

Allen	Hansen	Pell
Anderson	Helms	Randolph
Baker	Humphrey	Ribicoff
Bentsen	Inouye	Roth
Burdick	Johnston	Sasser
Byrd, Robert C.	Leahy	Schmitt
Cannon	Long	Stafford
Case	Magnuson	Stennis
Curtis	Mathias	Stevens
Dole	Matsunaga	Stone
Eagleton	McClure	Talmadge
Eastland	McIntyre	Tower
Ford	Melcher	Wallop
Gravel	Nunn	Williams

ANSWERED "PRESENT"—1

Bumpers

NOT VOTING—14

Chafee	Huddleston	Muskie
Domenici	McClellan	Pearson
Goldwater	McGovern	Sarbanes
Griffin	Metcalf	Young
Hayakawa	Moynihan	

So amendment numbered 1524 was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote——

Mr. BAKER. Mr. President, a point of order.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

Mr. BAKER. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President I have no desire to get involved in a dispute about who wins or loses. I am simply trying to inquire how the change occurred. Was it by unanimous consent? How was the clerical error brought to the attention of the Chair? What action was taken? I would respectfully request the Chair to advise us on what occurred.

The PRESIDING OFFICER. In recording the vote the clerk discovered that a Senator who had voted was not recorded in the tabulation.

Mr. BAKER. Now, Mr. President, a further inquiry. Do I understand from the statement just made by the Chair that on the tally sheet the Senator had been noted as voting, but, that in the tabulation, that is, the counting, it was not shown in the total at the bottom of the column?

The PRESIDING OFFICER. In totaling the vote the clerk discovered that a Senator who was shown as being absent had in fact voted, to his recollection, and the clerk then checked with the Senator, and the Senator did indeed say that he did vote.

Mr. BAKER. Mr. President, a further inquiry. I make the point of order that the clerk has no such authority to inquire of a Senator whether he voted or not.

Just so we can try to unravel this at the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator from Illinois——

Mr. BAKER. The Senator from Illinois did not have the floor. I sought recognition and the Chair recognized me.

The PRESIDING OFFICER. That is correct.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, after consultation with the clerks on the tally of the next preceding vote, the Heinz amendment, these facts have been made to appear. In tabulating the vote, the result was delivered to the Chair as 42–42 and 1 present and the Chair announced it.

The PRESIDING OFFICER. That is correct.

Mr. BAKER. And the Chair announced that the amendment, therefore, failed.

No motion to reconsider was made.

Thereafter, as I understand it, the tally clerk noticed that on his sheet the name of the distinguished Senator from South Carolina had not been noted, had not been marked. But, the tally clerk did remember the Senator from South Carolina had voted. The tally clerk then verified the fact that the Senator from South Carolina had voted and called this matter to the Chair's attention. The Chair then proceeded to announce the changed tally, at which point I sought and was given recognition to make certain parliamentary inquiries and to inquire of the precedents involved by the Parliamentarian.

I believe that is the factual situation.

There is no doubt at all that the Senator from South Carolina did, in fact, vote and that there is a clerical error in the tally which did change the result.

Now, to avoid an unfortunate precedent, at least in my view an unfortunate precedent, of a tally clerk being able to change the result and the outcome of a vote, I am prepared at this time and I do ask unanimous consent that the vote of the Senator from South Carolina may be recorded and that the result of the vote on the Heinz amendment may reflect that.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Reserving the right to object, and I will not object.

First of all, let me say this could set an extremely dangerous precedent, as the distinguished minority leader has so stated.

Under the rules, no Senator may vote after the Chair has announced the vote, and the Chair is not even allowed under the rules to entertain a unanimous-consent request to allow a Senator to vote after the Chair has announced the results.

Now, I am not going to object in this instance. As a matter of fact, I join the minority leader in making the request, because I stood here and was listening to the lobbying going on in the well and I watched Mr. THURMOND. I saw him delay his vote and I heard him vote "aye."

Now, I voted on the opposite side and the "aye" vote would, of course, carry the day for Mr. HEINZ, but that is not the question here.

I do know Mr. THURMOND voted and, as his vote was not counted in the tie vote, he is entitled to be recorded.

For that reason, I would join the minority leader in making the request.

Mr. BAKER. Mr. President, I thank the majority leader.

Mr. ABOUREZK. Reserving the right to object——

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. May I ask the Senator from Tennessee (Mr. BAKER) if the vote by Mr. THURMOND, if recorded, would change the result to show passage of the Heinz amendment?

Mr. BAKER. It would.

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. That is correct.

Mr. ABOUREZK. All right.

The next question I have is of the distinguished majority leader.

He said that he and the minority leader would both like to avoid setting a precedent. I would just point out, in look-

ing at the book of precedents, there are two that are printed in this book which show when the clerk made an error, that after the vote was closed a Senator would be allowed to record his vote if, indeed, he did vote, even though it changed the outcome of the vote.

So it would seem to me we are not setting any new precedent, and better to do it that way than ask unanimous consent which, in fact, is out of order. The request itself is out of order.

Mr. BAKER. Mr. President, if I can respond, the problem I have with that is that the tally clerk, on his own initiative, sought to verify with the Senator and called the attention of the Chair to the fact the Senator voted. Had the Senator himself made that point, I think it would have been supported by precedent.

But my concern was whether the tally clerk, on his own volition, could inquire if the Senator had voted, certify a different result to the Chair, and have it announced, as the previous announcement.

Mr. ABOUREZK. I might say, the precedents do not speak to that point at all. They just speak to the facts we have.

This case, in fact, is kind of on all fours. He did vote and it was not recorded. He is entitled to have it done under the precedents.

I make a further parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Would the Chair rule that the Senator, according to the precedents, is entitled to have his vote recorded as he voted?

The PRESIDING OFFICER. The Senator has so ruled by announcing the change in the result.

Mr. ABOUREZK. I would object to the request.

Mr. ROBERT C. BYRD. The Senator objects?

Mr. ABOUREZK. Yes.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. An objection would have the contrary effect.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. BAKER. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Minnesota?

Mr. BAKER. I yield the floor, Mr. President.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. HUMPHREY. Mr. President, now we are quibbling over procedure, not substance.

The simple fact is that the Senator from South Carolina did vote, and he did vote in the affirmative.

There are those of us who were in the well doing lobbying. In fact, I was joking with some of my friends that voted the opposite of my vote and said that I was a very poor lobbyist. I wish they were as friendly to me today as they had been on Tuesday, but they continued to vote their own convictions.

I heard the Senator from South Carolina vote. His vote is entitled to be recorded, and it can be announced and it concludes the whole procedure.

I think he was wrong, but that was the first time we disagreed. My affection for him is not in any way diminished.

So whether we get the unanimous consent or not, if the precedent that has been read or referred to by the Senator from South Dakota is the precedent, and the Chair can tell us that, then we can go ahead and the vote is complete.

Personally, I think it would clean up what seems to be a bit of a mess, that the motion of the Senator from Tennessee would simplify everything, we get it all done, and all we are doing is ratifying a precedent.

Mr. LONG. Mr. President, I do not know why we are wasting all this time talking about this. I did everything I could to defeat the amendment. I lost by one vote. The distinguished Senator in the chair is a very fine and able Presiding Officer, fine as anybody we have. He is an honest man.

Let us forget about it and go on to the next amendment.

Mr. HEINZ. Mr. President, I appreciate the remarks of the distinguished Senator from Louisiana and, to lay the matter at rest, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

Mr. ALLEN. I ask for the yeas and nays on the motion to lay on the table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

On this vote, the Senator from California (Mr. HAYAKAWA) is paired with the Senator from New Mexico (Mr. DOMENICI). If present and voting, the Senator from California would vote "yea" and the Senator from New Mexico would vote "nay."

The result was announced—yeas 46, nays 39, as follows:

[Rollcall Vote No. 585 Leg.]

YEAS—46

Abourezk	Garn	Morgan
Anderson	Glenn	Nelson
Bartlett	Hart	Packwood
Bayh	Haskell	Percy
Bellmon	Hatch	Proxmire
Biden	Hatfield	Ribicoff
Brooke	Hathaway	Riegle
Byrd, Harry F., Jr.	Heinz	Sarbanes
	Hollings	Schweiker
Chiles	Jackson	Scott
Church	Javits	Sparkman
Clark	Kennedy	Stevenson
Cranston	Laxalt	Thurmond
Culver	Leahy	Weicker
Danforth	Lugar	Zorinsky
Durkin	Metzenbaum	

NAYS—39

Allen	Gravel	Nunn
Baker	Hansen	Pell
Bentsen	Helms	Roth
Burdick	Humphrey	Sasser
Byrd, Robert C.	Inouye	Schmitt
Cannon	Johnston	Stafford
Case	Long	Stennis
Curtis	Magnuson	Stevens
DeConcini	Mathias	Stone
Dole	Matsunaga	Talmadge
Eagleton	McClure	Tower
Eastland	McIntyre	Wallop
Ford	Melcher	Williams

ANSWERED "PRESENT"—1

Bumpers

NOT VOTING—14

Chafee	Huddleston	Muskie
Domenici	McClellan	Pearson
Goldwater	McGovern	Randolph
Griffin	Metcalf	Young
Hayakawa	Moynihan	

So the motion to table the motion to reconsider the vote by which the amendment was adopted was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. HART). The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the colloquy vis-a-vis the vote on Mr. THURMOND be stricken from the record now that there has been a motion to reconsider which was properly made so that there will not be any confusion from reading that record.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I think that is a good way to liquidate the confusion.

Mr. ABOUREZK. Mr. President, reserving the right to object, would that wipe out the precedent that would have been established by that colloquy if the unanimous-consent request is agreed to?

Mr. ROBERT C. BYRD. No. As the Senator pointed out there are already precedents so this sets no precedent.

Mr. ABOUREZK. Would it add to the precedent?

Mr. ROBERT C. BYRD. It may add, but there are already precedents, as the Senator pointed out.

I was out of the Chamber when all this happened. When I came into the Chamber, I did not realize that the Chair had allowed Mr. THURMOND's vote to be counted. I thought the unanimous-consent request was for the purpose of allowing Senator THURMOND's vote to be recorded which vote had not been recorded, but who had indeed voted, and I

think that my statement would merely confuse the readers of the RECORD in the future. As the Senator from South Dakota correctly pointed out, the Senator from South Carolina having voted, there were precedents for the Chair's counting that vote. The concern of the Senator from Tennessee was that this whole thing was initiated by the clerk, and this is not any disrespect to the clerk. I think if we wiped out that colloquy the precedents would not be disturbed. There might be some confusion otherwise in the future.

Mr. ABOUREZK. Mr. President, with all respect to the majority leader, I think it is a valuable precedent to add on. I object to that unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. The Senator has a right to object. I have stated the reasons why I said what I did previously so that as far as I am concerned that clarifies my part in the matter.

The PRESIDING OFFICER. Objection is heard.

Mr. BUMPERS. Mr. President, will the majority leader yield for a question? Can he give us some idea as to how long we will be in session this evening?

Mr. ROBERT C. BYRD. Until about 8 o'clock.

Mr. BAKER. Mr. President, since we have this state of affairs, I think I might just explain where we are, in my view, just for a second.

I have never in this colloquy tried to establish a position to support or overturn the Heinz amendment. That was not my purpose. My purpose was to point out that something was happening that I had not seen happen in the Senate before—something that greatly concerned me as a future precedent. Not that an error was being corrected, but rather, that on the initiative of the tally clerk himself, after the vote had been announced; after the next amendment was laid down and was pending; and after debate had begun; that a tie vote was changed.

Now, changing is fine with me. I really do not care what the outcome was. But I think, Mr. President, we ought to give consideration to whether or not this should be considered as a precedent of the Senate. I suggest that it should not; that is, that the tally clerk should not have the authority on his own inquiry, to suggest to the Chair that a result as previously announced should be changed.

AMENDMENT NO. 1514

Mr. PERCY. Mr. President, I very much appreciate this interruption [laughter]. This amendment that I was in the midst of offering and discussing affects every single State in the Union. I could read how much money will be rebated to each State by this amendment.

There is not a single State in the Union that will not be rebated considerable money if this amendment is accepted by the managers of the bill and adopted by the Senate.

What I was pointing out, as the unusual situation occurred, was that the Governors of the States have a tremendous desire to adhere to national policy and to conserve energy. They have pledged this to the President.

The PRESIDING OFFICER. Will the Senator suspend until there is order in the Senate?

The Senator from Illinois.

Mr. PERCY. They have pledged to the President they will do everything they can to support the centerpiece of the administration's energy program, which has been described by the President as conservation of energy. It is easier to save than to continue to pay higher prices to produce, although both are absolutely essential.

The problem is that as they save energy, as they observe the 55-mile-per-hour speed limit, as they go to smaller, more efficient cars in the States, and as industry converts to an average of 27.5 miles per gallon by 1985, which will save tremendous quantities of fuel, every single State sees its revenue dropping. They get between 7 and 10 cents a gallon, so every gallon saved means that much less money.

This provides a disincentive on the part of the States against observing the national policy.

In addition, as petroleum costs go up the cost of asphalt continues to go up. The cost of maintaining roads is continuing to increase.

Mr. LONG. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. LONG. If the Senator will yield, I have been studying the Senator's amendment parliamentarily while the Senator has made such a great speech, and I am ready to make him a proposition. If he will settle for what he has now I will propose that we accept his amendment. If he does not talk us out of it, I think we ought to just accept it, because what the Senator wants to do is to propose some refund to the States or some payments to the States out of the crude oil tax money, if we should pass the crude oil tax.

The States will undoubtedly have increased expenses in asphalt for highways, and for the gasoline they would be using for their State highway patrol, and their maintenance crews, and all that.

So while I do not know whether the figure the Senator has in mind is exactly the figure we ought to have—and there is no way I could be convinced that it should not be either more or less at this point—I would be willing to take the amendment to conference. In the event we agree to the crude oil tax, I would urge this be considered in connection with that.

Mr. PERCY. I express great appreciation to the distinguished manager of the bill.

Mr. President, I come before my colleagues today with a very simple but highly important amendment. I ask that we compensate States for vital gasoline tax revenue which they lose as a result of gas-saving measures. Otherwise actually the States have a disincentive to enforce gasoline conservation plans. I propose adding language to the energy tax bill to allow diversion of some crude oil tax revenues for this, should the House-Senate conference add a wellhead tax.

The Congress has adopted improved auto fuel economy as a policy goal. We mandated fleetwide mileage standards, and are now considering a variety of other measures to insure that these standards are met.

The States have shown great willingness to cooperate in conservation measures. Almost all are well along the way to implementing plans to meet the goal of a 50-percent reduction in energy use which the Energy Policy and Conservation Act mandated for them. Mr. President, I applaud the initiative and ingenuity which the States have shown in their conservation plans.

Unfortunately for the States, every gallon of gasoline saved means a revenue loss of 7 to 10 cents. The cumulative loss since the 1973 oil embargo totals $2.3 billion nationwide, a 10-percent shortfall in expected gas revenues.

This presents enormous difficulties for already financially hard-pressed State governments. Gov. Jim Thompson of Illinois has been in the leadership in pointing this out and asking for relief. He is bipartisanly supported by many State Governors. Gas taxes provide an average of 9½ percent of total State revenues, or about $8 billion per year. The revenue loss resulting from Federal conservation actions really hurts. The Illinois Department of Transportation reports that, based on Chase Econometrics data, Federal miles-per-gallon standards will cost States $800 million annually by 1980, and $3.6 billion annually by 1985 in lost revenue.

But the events of the last 4 years hurt road repair programs even more than the numbers indicate. Road repair requires asphalt and tar. Both are petroleum products and have risen in cost along with petroleum. The highway construction cost index has climbed by an enormous 31 percent since 1973.

Cost escalation and revenue losses place States in a double bind. States have amassed a backlog of road maintenance needs.

I note that the lost revenue does not affect new highway construction, but rather repair and resurfacing of roads. Mr. President, I would be reluctant to press for aid to States if the money were only going to build new highways. That would defeat our energy-saving goals. But the lost money would not go for such uses. It would go to keep roads from deteriorating. I remind my colleagues that, while we work in a city that has a workable bus and subway system, large numbers of Americans have no form of transport other than the car. To let the roads these people need fill with potholes will save no gasoline. It will only make their cars and trucks fall apart faster.

Many States have tried to raise their gas taxes to cover their losses. But only a few have succeeded. So far this year legislatures in over half the States have turned down such requests, citing anticipated rises in gas prices due to the crude oil tax and increased Federal taxes as

the reasons. We in Washington are thus the cause of this problem. It is up to us, not the States, to alleviate the revenue crunch, at least for the next few years.

President Carter has firmly stated his support for aid to States to compensate for lost gas tax revenues. In his national energy plan speech of April 20 he said:

One of the side effects of conserving gasoline is that state governments who have a limited amount of tax per gallon collect less money through gasoline taxes. To reduce their hardships and to insure adequate highway maintenance, we should compensate states for this loss.

In his press conference 2 days later he reiterated as follows:

As I mentioned in my energy speech, though, we have one problem: and that is the maintenance of highways that are already constructed. As we reduce the consumption of gasoline, we will have to make that up to a State so they can continue adequate maintenance programs, because they will sell less gas in these States and then will collect less gas tax.

Mr. President, I would like to point out some essential features of the program I propose:

First, my amendment would authorize the payment to the States of $400 million per year for 4 years, but only if there is a crude oil equalization tax. The money would not come from general revenues. It is my intent that aid to the States be within the scope of the energy tax bill conference, should the conference add a wellhead tax.

Second, States could not use this money for new road construction. Its use would be limited to highway resurfacing, restitution, and rehabilitation—so-called "3R" projects as defined under the 1976 amendments to the highway trust fund legislation.

Third, the money would be allocated according to congressionally determined formulae for non-interstate highway aid, as defined by the highway trust fund legislation. This insures a fair distribution of the money based on weighted averages of a State's area, population, and existing road mileage.

I feel the program I propose is the least we can do, given what we are asking States to undertake as part of our national energy conservation efforts. I hope my colleagues will agree by supporting this amendment.

I ask unanimous consent that a letter from the National Governors Association to Senator LONG pointing out that all of the Governors support this amendment be printed in the RECORD, and I ask unanimous consent that the schedule for the rebates to be paid to each State, providing there is a wellhead tax adopted, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS' ASSOCIATION,
October 26, 1977.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR LONG: We would like to take this opportunity to transmit the National Governors' Association policy on the implications of energy prices on public services as the Senate prepares for final action and the conference on the energy bill.

The imposition of a crude oil equalization tax would have profound impact on the states. Any large increase in the price of petroleum and petroleum products diminishes state revenues derived from gallonage taxes and increases the cost of providing public services. For example, road construction and maintenance requires liquid asphalt; public buildings must be heated, often with oil; and, state police and health departments use autcs extensively.

Enclosed are excerpts from the policy positions adopted by the Governors which seek to have the federal government recognize and ameliorate the impact of any such federal tax program.

Sincerely,

GEORGE BUSBEE,
Chairman, Committee on Transportation, Commerce and Technology.
JULIAN M. CARROLL,
Chairman, Committee on Natural Resources and Environmental Management.

Enclosure.

EXCERPTS FROM THE NATIONAL GOVERNORS' ASSOCIATION POLICY POSITIONS ON TRANSPORTATION FINANCE AND ENERGY

All states have felt the impact of declining motor fuel tax collections, despite increasing vehicle travel, and therefore urge a reevaluation of transportation funding mechanisms so that the commerce of the nation can continue to move. With a national policy of energy conservation, it will be necessary to hold the state and federal transportation programs harmless from this impact. A portion of the revenue generated by any energy conservation taxes is necessary to ensure transportation services and should be channeled into transportation, wtih supplemental funds added as necessary, to meet the urgent and immediate needs of an adequate, comprehensive, integrated transportation system. State preemption of energy taxes for transportation purposes should be considered in the development of energy conservation programs. For example, consideration should be given to either exempting or rebating those portions of energy taxes that would cause an increase in the cost of nonfuel petroleum products such as liquid asphalt.

The Governors are greatly concerned that the proposed national energy conservation program will have a devastating effect on the states' receipts of highway user revenues. These funds represent the overwhelming majority of each state's total highway budget, and any reduction will seriously jeopardize the entire highway maintenance and construction program. It should be realized that adequately maintained and improved highways are in themselves energy efficient, safe, and will significantly contribute to fuel savings. In view of the enormous needs that have been documented for the highway system all across the nation, and recognizing the states' financial limitations, the National Governors' Association strongly recommends that a significant portion of any additional federal energy fuel taxes be returned to the states in an amount sufficient to insure the preservation of existing highway facilities, as well as the continuation of needed new improvements.

Gasoline and other motor fuel taxes should not be forced to bear the full burden of the energy conservation effort to the detriment of the overall highway program or the individual state's ability to use fuel taxes to finance construction and maintenance of its highway system. Should Congress establish any additional user taxes, the funds should be directed to the states, or preemption, to the same degree, should be allowed to offset any reduction in highway funds caused by such a program.

Percentage share of noninterstate highway apportionments

	Percentage share	Dollar share in millions
Alabama	1.8	$7.2
Alaska	3.0	12.0
Arizona	1.2	4.8
Arkansas	1.2	4.8
California	7.7	30.8
Colorado	1.4	5.6
Connecticut	1.1	4.4
Delaware	.5	2.0
Florida	2.8	11.2
Georgia	2.3	9.2
Hawaii	.5	2.0
Idaho	.8	3.2
Illinois	4.6	18.4
Indiana	2.3	9.2
Iowa	1.7	6.8
Kansas	1.6	6.4
Kentucky	1.6	6.4
Louisiana	1.7	6.8
Maine	.7	2.8
Maryland	1.5	6.0
Massachusetts	2.0	8.0
Michigan	3.7	14.8
Minnesota	2.2	8.8
Mississippi	1.3	5.2
Missouri	2.5	10.0
Montana	1.2	4.8
Nebraska	1.2	4.8
Nevada	.8	3.2
New Hampshire	.5	2.0
New Jersey	2.5	10.0
New Mexico	1.0	4.0
New York	6.8	27.2
North Carolina	2.3	9.2
North Dakota	.9	3.6
Ohio	4.2	16.8
Oklahoma	1.6	6.4
Oregon	1.3	5.2
Pennsylvania	4.7	18.8
Rhode Island	.5	2.0
South Carolina	1.2	4.8
South Dakota	1.0	4.0
Tennessee	1.9	7.6
Texas	5.9	23.6
Utah	.8	3.2
Vermont	.5	2.0
Virginia	2.1	8.4
Washington	1.7	6.8
West Virginia	.8	3.2
Wisconsin	2.2	8.8
Wyoming	.8	3.2
United States	100	400

Mr. PERCY. I yield back the remainder of my time.

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. Is all time yielded back? There is no time limit on this amendment. The question is on agreeing to amendment numbered 1514.

The amendment was agreed to.

AMENDMENT NO. 1493

Mr. PERCY. Mr. President, I think that under the unanimous-consent agreement I have time for four amendments in sequence.

The PRESIDING OFFICER. The Senator is correct.

Mr. PERCY. I now call up my second amendment.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes amendment numbered 1493.

Mr. PERCY. Mr. President, I ask unanimous consent that further read-

ing of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On pages 20 to 22, strike all from and including line 18 on page 20 to and including line 10, page 22.

On page 20, between lines 17 and 18, insert the following:

(b) ALCOHOL USED AS FUEL NOT SUBJECT TO TAXES ON DISTILLED SPIRITS.—

"(1) IN GENERAL.—Subsection (a) of section 5214 (relating to withdrawal of distilled spirits from bonded premises free of tax or without payment of tax) is amended by striking out the period at the end of paragraph (9) and inserting in lieu thereof '; or', and by adding after paragraph (9) the following new paragraph:

"'(10) without payment of tax to the extent that such spirits are alcohol (other than alcohol produced from petroleum or natural gas) the primary use of which is fuel for motor vehicles.'.

"(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to alcohol withdrawn after December 31, 1977.

"(c) GASOLINE MIXED WITH ALCOHOL.—

"(1) IN GENERAL.—Section 4081 (relating to imposition of tax on gasoline) is amended by adding at the end thereof the following new subsection:

"'(c) GASOLINE MIXED WITH ALCOHOL.—

"'(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on the sale of any gasoline—

"'(A) in a mixture with alcohol, if at least 10 percent of the mixture is alcohol, or

"'(B) for use in producing a mixture at least 10 percent of which is alcohol.

"'(2) LATER SEPARATION OF GASOLINE.—If any person separates the gasoline from a mixture of gasoline and alcohol on which tax was not imposed by reason of this subsection, such person shall be treated as the producer of such gasoline.

"'(3) ALCOHOL DEFINED.—For purposes of this subsection, the term "alcohol" includes methanol and ethanol but does not include alcohol produced from petroleum or natural gas.'.

"(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales after December 31, 1977, and before October 1, 1985.

"(d) ALCOHOL MIXED WITH SPECIAL FUEL.—

"(1) IN GENERAL.—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection:

"'(k) FUELS CONTAINING ALCOHOL.—

"'(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on the sale or use of any liquid fuel at least 10 percent of which consists of alcohol (as defined by section 4081(c)(3)).

"'(2) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol on which tax was not imposed by reason of this subsection, such separation shall be treated as a sale of the liquid fuel.'.

"(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales or use after December 31, 1977, and before October 1, 1985.

"(e) REPORTS.—

"(1) ANNUAL REPORT.—On April 1 of each year, beginning with April 1, 1979, and ending on April 1, 1985, the Secrteary of Energy, in consultation with the Secretary of the Treasury and the Secretary of Transportation, shall submit to the Congress a report on the use of alcohol in fuel. The report shall include—

"(A) a description of the firms engaged in the alcohol fuel industry,

"(B) the amount of alcohol fuels sold in each State and the amount of gasoline saved in each such State,

"(C) the revenue loss resulting from the exemptions from tax for alcohol fuels under sections 4041(k), and 4081(c) of the Internal Revenue Code of 1954, and

"(D) the cost of production and the retail cost of alcohol fuels as compared to gasoline and special fuels before the imposition of any Federal excise taxes.

"(2) The reports submitted to the Congress on April 1, 1985, shall contain, in addition to the information required under paragraph (1), an analysis of the effect on the alcohol fuel industry of the termination of the exemption from excise taxes provided under sections 4041(k) and 4081(c) of the Internal Revenue Code of 1954.".

On page 22, line 11, strike "(3)" and insert "(f)".

On page 23, strike lines 4 through 6.

Mr. LONG. Mr. President, I thought the Senator was going to move to reconsider the vote by which his amendment was agreed to.

I move to reconsider the vote by which Mr. Percy's amendment was agreed to.

Mr. PERCY. I move to lay that motion on the table.

The PRESIDING OFFICER. Is there objection that the motion be in order at this point, another amendment being pending? Without objection, it is so ordered. The motion is now in order.

The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Illinois.

UP AMENDMENT NO. 981

Mr. PERCY. Mr. President, I ask unanimous consent that I be permitted to modify the amendment to remove some ambiguity which was pointed out to me by the distinguished Senator from Nebraska, the minority floor manager of the bill.

The PRESIDING OFFICER. The Senator has the right to modify his amendment, there being no action having been taken on it, without unanimous consent.

If the modification will be sent to the desk it will be properly noted in the amendment.

Mr. PERCY. I send, therefore, this amendment, as modified to the desk.

The PRESIDING OFFICER. The clerk will report the modification.

The second assistant legislative clerk read as follows:

On page 1, line 5 (of Amdt. No. 1493) strike all down through line 10 on page 2.

On page 3, line 6, strike "or" and on line 6 after "gas" insert: "or coal".

Mr. PERCY. Mr. President, today I am offering an amendment to the energy tax bill to encourage the use and commercialization of ethanol and methanol motor fuels. The amendment contains two provisions designed to stimulate demand for alcohol fuels and to monitor developments in the alcohol fuel industry.

The first provision would exempt fuels containing at least 10 percent alcohol from the present Federal excise tax of 4 cents per gallon for a test period of 6 years. This exemption would cover alcohol derived from any nonfossil fuel or noncoal source, including agricultural products, forest materials, garbage, and urban sewage.

The second provision would require the Secretary of Energy to submit a yearly report to Congress on the state of the art in the alcohol industry and Federal efforts to aid in its development.

Mr. President, my distinguished colleague from Kansas, Senator DOLE, recently introduced in the Senate Finance Committee an amendment similar to mine. The two amendments differ in a number of ways—most importantly, Senator DOLE's amendment provides for an exemption of 4 cents on agriculturally or forestry derived alcohol, but only a 1-cent exemption for alcohol derived from garbage, urban sewage, and other methanol sources. Discrimination against these sources, especially garbage and sewage, would be most unfortunate as they provide useful sources from which to produce alcohol and clean up the environment. In addition, alcohol produced from these sources is equally expensive as agriculturally or forestry derived alcohol. One must remember that methanol is not as efficient as ethanol and, therefore, one cannot simply compare price per gallon figures to ascertain which alcohol is less expensive to produce.

Senator DOLE has agreed to cosponsor my amendment because, he believes, "the net effect will be to increase even more the tax incentives for production and consumption of gasohol instead of gasoline." My amendment will make the goal we have in mind less complicated for the consumer. He will have the choice of buying either conventional gasoline, or a renewable, domestic, clean alcohol fuel. Differences in prices for alcohol fuel derived from different sources would confuse the public and decrease the effectiveness of alcohol fuel as an alternative to imported petroleum.

Mr. President, my amendment as originally introduced included alcohol derived from coal under the 4-cent exemption. Because of the deep concern of many Senators over the necessity to develop renewable sources of alcohol, I have decided not to include alcohol derived from coal under the exemption.

In addition to Senator DOLE, I am very pleased that this amendment is cosponsored by Senators ALLEN, ANDERSON, BURDICK, CURTIS, FORD, HELMS, JAVITS, HOLLINGS, LUGAR, MATHIAS, MCCLURE, MCGOVERN, PELL, RIEGLE, YOUNG, and ZORINSKY.

Alcohol as a motor fuel could make a significant contribution toward reducing this Nation's dependence on foreign sources of petroleum. It is completely usable in present automobile engine designs when mixed with gasoline in amounts less than 20 percent, and only requires minor alterations of the engines for blends greater than that. Alcohol fuel will not only substitute for the dwindling supplies of petroleum, but its increased utilization would provide a strong market for agricultural surplus

and wastes, forest products, and even garbage and urban sewage.

The United States presently consumes 103 billion gallons of gasoline each year. The use of 10 percent alcohol-blended motor fuel could cut this Nation's gasoline imports by 10 billion gallons yearly, or almost 1½ million barrels of crude oil each day. In addition, alcohol fuel can aid dramatically in eliminating harmful pollutants from car exhaust and in improving mileage efficiency.

The sources of alcohol are many and a sufficient supply could be produced to meet the demands for it in the future. Various States, including California, Indiana, Maine, Nebraska, and Washington, as well as various foreign nations, have taken important initiatives in alcohol fuel development and are designing means of alcohol production consistent with the peculiarities of their specific regions The success of these initiatives is demonstrating the many benefits of a domestic fuel industry built on American agricultural and natural resources.

Despite this progress, development of an alcohol fuel industry is still a risky enterprise and the present capacity of the industry is quite small. Alcohol production is more costly than that of gasoline and, therefore, less profitable. Economies of scale will not be realized until the use of alcohol fuel becomes widespread. And that is our problem: to provide a catalyst to get this industry underway, and provide a real incentive to have it a mass-production industry. You know, you can distill alcohol in very small quantities, even at home. But what we need is to have the incentive for mass production. The benefits to be gained are there only when we get mass production underway.

As Richard Curry, director of the American Automobile Association's Department of Environment and Energy points out:

> Harvesting and processing will involve considerable expense, but with the incentive of constant, widespread demand, a blended-fuel market should grow to profitable proportions fairly soon after a dedicated effort is made to tap it.

Preferential treatment for alcohol-blended fuel is, therefore, necessary to stimulate a strong market for this valuable domestic resource.

Exemption from the present 4-cent-per-gallon Federal excise tax on blends of alcohol-gasoline will provide a mechanism to do just this. By making alcohol fuel price competitive with gasoline, it would serve to promote public awareness of alcohol fuel as a way of decreasing our dependence on foreign fuel sources and will supply a market for spoiled or moldy grain reserves, and timber. As the demand for alcohol fuel increases, the construction and commercialization of alcohol producing plants would be encouraged.

The exemption will cause little revenue loss to the U.S. Treasury because at present, the capacity to produce alcohol is small and will require several years to build. As proposed, the exemption will end on January 1, 1985. By this time, alcohol-blended fuels are expected to be cost competitive with gasoline and preferential treatment of alcohol will no longer be necessary. This would be especially true if the price of gasoline continues to rise as it has in the past.

In view of the last amendment, which the floor manager of the bill has accepted, I wish to point out that it has no effect whatever on State revenues, because the gasoline taxes of the States will presumably remain the same whether it is an alcohol blend or not.

In addition, because the total consumption of motor fuel will not be affected by the blending of alcohol with gasoline, State fuel tax revenues will not be reduced.

In order to stimulate public awareness of the energy crisis and our own attempt in the Congress to encourage the development of renewable, clean, and dependable alternatives to our reliance on foreign sources of petroleum, the Congress must take active and forceful measures. An exemption from the Federal excise tax for alcohol fuel will provide an attractive consumer incentive to buy this new fuel.

I have introduced further legislation, amendment 1494 to the Energy tax bill to promote alcohol fuels. Specifically, a Federal agency would be authorized to operate a certain number of its vehicles on alcohol fuel in a demonstration and research project. The information learned from this project would be very useful in evaluating the economic, scientific, technological, and environmental feasibility of utilizing alcohol fuel on a large scale.

President Carter wants this Nation to cut energy needs by 10 percent before 1985. Not only would the development of an alcohol fuel industry help dramatically in achieving this goal, but it would stimulate the economy, clean up the air we breath, build a market for agricultural surplus, and lessen our dependence on foreign oil imports. It would mean that one could save 60 cents off the price of alcohol-blended fuel on a 15-gallon fillup. And, the consumer would have the satisfaction of knowing that he is helping to build a domestic alternative to foreign petroleum, one which is renewable and environmentally benign.

Many individuals and groups have thrown in their support for alcohol fuels. The American Automobile Association recently said that—

> Alcohols are indeed alternative-fuel possibilities of real merit. The use of alcohol as a blend could realize the President's goal of a 10% reduction in gasoline consumption all by itself.

The New York State Alliance To Save Energy stated that—

> The promise of alcohol fuels lies not only in their potential role as replacements for waning gasoline supplies, but also as improvements on petroleum fuel itself." Janeway Engineering Company wrote that ". . . the time is ripe for an extensive effort to develop alcohol's great potential in the overall energy program.

I think, Mr. President, we should also give considerable credit to the most widely read columnist in the world, Jack Anderson, for the pioneering work he has done in continuing to promote this concept. He has said to me on more than one occasion that he cannot understand why, in something so obviously beneficial, we cannot move ahead as a country.

The problem is that we have not had the incentive to do it. That is the kind of incentive this amendment is designed to give.

Mr. President, the national energy plan devotes only a single sentence to alcohol as an alternative source of energy. In my opinion, to fail to focus on such a valuable resource would be to seriously undermine any effort to solve our energy needs. In its evaluation of the national energy plan, the Office of Technology Assessment made this point clear:

> Before a national energy plan is enacted, it should focus in detail on programs that must be started at once to provide adequate energy sources for the years after 1985. For example, the plan does not address the transition from a petroleum base to a new liquid fuel base such as alcohol produced from plant life.

I ask that the Senate address this oversight today by adopting my amendment.

Mr. President, this bill has been condemned by a great many people. They call it a "nothing" bill and a "giveaway" bill. We are now starting to build substance into this bill here on the floor, to give it real body. I think when we have built provisions like this into it, the bill will have a lot more support. I ask that the Senate address this problem today by adopting this amendment.

I ask unanimous consent, Mr. President, that the letter I received from Charles R. Fricke, administrator of the Agricultural Products Industrial Utilization Committee of the State of Nebraska, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 23, 1977.

DEAR MEMBERS OF CONGRESS: Representing the Nebraska Agricultural Products Industrial Utilization Committee which sponsors the Nebraska Grain Alcohol and Gasohol Program, I endorse the amendment to the Energy Tax Bill drafted by U.S. Senator Charles Percy of Illinois to exempt alcohol blended fuels from the four cent federal gasoline excise tax. I also endorse Senator Percy's statement released with his proposed amendment on September 15, 1977.

Senator Percy's amendment provides a beginning point to help solve the nation's two top problems—agriculture and energy. The two items should go hand in hand in the energy bill. The energy bill should be amended or expanded to provide for further incentives to complement that of Senator Percy's in order to place agriculture in the appropriate position to help with America's energy problems and even the worst economic problems that the nation faces today.

Members of Congress, please consider the legislation recommended by Senator Percy as the first successful step away from the threat of future oil embargoes and its potential damaging effects on the American economy.

Respectfully yours,

CHARLES R. FRICKE,
Administrator, Agricultural Products Industrial Utilization Committee.

Mr. PERCY. Mr. President, I also ask unanimous consent that a letter dated October 25, 1977, which he has sent to

his colleagues, from Carl Curtis, the chairman of the Republican Conference, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
REPUBLICAN CONFERENCE,
Washington, D.C., October 25, 1977.

DEAR COLLEAGUE: As you know, the Republican Conference is fully committed to policies to conserve energy to help allay the effects of depleting world oil and natural gas reserves.

However, we are also fully committed to policies that encourage active exploration for new sources of energy—to maintain our high standards of living and to spur higher levels of employment.

In this spirit, I commissioned the Conference staff to make a thorough survey of tests and studies of alcohols as gasoline extenders for motor vehicles.

I enclose their report: *Alcohol: The Renewable Fuel from our Nation's Resources* and attach a summary.

The report concludes that from both technological and economic vantages gasohol (and particularly an ethanol-gasoline blend) is within reasonable grasp as a gasoline extender. The implications for conservation of oil and for the agricultural community are vast.

I commend the report to you.

Cordially,

CARL T. CURTIS.

Mr. JAVITS. Will the Senator yield?

Mr. PERCY. I will be happy to yield.

Mr. JAVITS. I would like to ask my colleague some questions, Mr. President. First, what is the exact difference between the alcohol provisions of the Senator's amendment and those adopted by the Finance Committee?

Mr. PERCY. The amendment adopted by the Finance Committee specifically limits the fuel tax exemption on alcohol derived from coal, sewage, garbage, and other nonagricultural, nonforestry sources. The pending amendment provides for a full 4-cent exemption from the Federal fuel tax for alcohol derived from any source other than petroleum, natural gas, or coal. I believe that this general exemption is necessary. Different prices for alcohol fuel derived from different sources will not only be confusing to consumers, but also difficult to police. In order to stimulate initial interest in alcohol fuels, the consumer must be presented with an easy choice, either alcohol blended fuels or conventional gasoline.

The rationale for the smaller exemption for alcohol from garbage and sewage in the committee amendment is that alcohol derived from these sources is cheaper to produce than from agricultural sources. It is important to point out, however, that methanol from garbage and wastes is only two-thirds as efficient as ethanol produced from agricultural goods. Thus, though methanol may be cheaper to produce, it costs about the same as ethanol in terms of energy output. Four gallons of ethanol equal about 6 gallons of methanol in energy output and cost. Therefore, it would be unfair to methanol sources to deprive them of the full exemption.

Mr. JAVITS. If the Senator will yield further, how much does the Senator figure in our consideration of this amendment we ought to estimate the cost for both ethanol and methanol?

Mr. PERCY. Alcohol does not have as high an energy output as does gasoline. Therefore, the price should be compared in terms of equal energy output. Ethanol, or grain alcohol, costs about 85 cents per gallon or about $1.10 per equivalent energy output as a gallon of gasoline. Methanol, or wood alcohol, costs between 45 cents and 70 cents per gallon or about $1.10 per equivalent energy output as gasoline.

Mr. JAVITS. How will the use of alcohol fuels affect American agriculture?

Mr. PERCY. Alcohol fuels will serve the economy and the agricultural sector in several ways.

First, it will offer a stable market for surplus agricultural products.

Second, alcohol refineries can utilize distressed grains, that is, spoiled or sprouted grain, to produce alcohol. It has been estimated that there is enough spoiled and unusable grain in Nebraska alone to produce 20 million gallons of alcohol a year. In addition, the byproducts of ethanol fermentation can be used as a nutritious cattle feed. In this way, grain which would not normally be edible could now enter the human food chain as meat protein.

Mr. JAVITS. Mr. President, I have two other questions. One, is it not a fact that in the cities in States such as Illinois, New York, and other industrial States, we have a big problem on the disposition of garbage, of waste, and this is very suitable for conversion into methanol and, therefore, presents an additional critical source of much effectiveness in respect to the amendment which the Senator has proposed?

Mr. PERCY. Well, it does offer, without any question, an additional source which would be extremely important. New York City probably has more urban waste than any other city in the world, certainly in this country.

I would like to ask my distinguished colleague a few questions about the use of urban waste.

What is the technological status of converting urban waste into usable fuels from the standpoint of the knowledge of the Senator from New York?

Mr. JAVITS. It has been converted into methane gas, into use as a renewable derived fuel for steam, and into methanol, where we have a proven record at Union Carbide, for example, in New York, and for various industrial chemicals. There is a demonstration plant for the conversion of garbage and waste at Charleston, W. Va. Our estimate is that 75 to 80 percent of the municipal solid wastes are convertible to some form of energy.

Mr. PERCY. Could I ask this question of my distinguished colleague?: Why convert garbage to alcohol or methanol?

Mr. JAVITS. Precisely because I thoroughly agree with the Senator about his amendment. Methanol can be utilized as a fuel which burns completely and which does not require expensive antipollution equipment. As the Senator points out in arguing for his amendment, it is a very valuable gasoline supplement.

Mr. PERCY. Could the distinguished Senator from New York tell us how urban areas dispose of their refuse now? Would it be more efficient to convert this refuse into methanol? We have had a tremendous controversy in all the States bordering the Great Lakes concerning disposal of their refuse. How is that problem handled in New York? Is there a controversy over that also?

Mr. JAVITS. That is correct. In fact, New York faces an order to quit dumping in the open sea because it washes up on the beaches.

Right now, most cities use their refuse for land fill, but these sites have very materially diminished, especially for very big cities, and especially the older cities.

I have just explained about New York and the order it faces from the Environmental Protection Agency. Philadelphia has simply been dumping its waste in the Atlantic Ocean because it has run out of dumping sites.

Costs per ton for land fill vary from State to State, ranging from about $2 a ton in rural areas to $19 a ton in New York City. These are expected to go up very materially.

Very clearly, the cost will be much lower for disposing of this refuse if it could be done through conversion to methanol. Cities have a very, very real and pressing interest in this amendment.

I would like to ask the Senator just to be sure: His amendment does cover refuse and waste as a source of methanol?

Mr. PERCY. Yes, it specifically does. We have no question but it not only will help the disposal problems of the cities, but that cities are an excellent source of alcohol-producing material.

Mr. JAVITS. I have one other question, my last question, of the Senator: How will this exemption of 4 cents per gallon make alcohol fuel prices competitive with gasoline? This is an economic question which I believe we need to be answered.

Mr. PERCY. The economics are the heart of this whole problem. The 4 cents per gallon exemption would equalize the price in the following manner: A gallon of no-lead gasoline costs 70 cents per gallon. A 90-percent gasoline and 10-percent alcohol mixture would use 63 cents worth of gasoline. The 90-percent gasoline 10-percent alcohol mixture would use 11 cents of alcohol. The total cost of the mixture would thus be 63 cents plus 11 cents, or 74 cents total.

An exemption from the Federal fuel tax of 4 cents would reduce this to 70 cents, the same as a gallon of no-lead gasoline.

We could not expect the consumer to drive up to that pump and pay 4 cents more per gallon, even though it is somewhat more efficient, cleaner, and gives a little more mileage. It is hard to prove that to him right then and there when he sees 4 cents more on that pump. But if it is the same price, there is no question but what he will be converting very quickly.

Mr. CURTIS. Will the distinguished chairman yield at that point?

Mr. JAVITS. May I just finish my comment?

I think the Senator has rendered a great service to the people of my State and, I hazard, to the people of his and many other States in proposing this

amendment. I consider it an honor to join as a cosponsor. I hope very much that it carries with the Senate. As he has said, it is a direct action of a very material kind to really make this bill what we want it to be, to wit, a really effective means for finding new and better domestic sources of energy.

Mr. CURTIS. Will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. CURTIS. I appreciate the support on this gasohol fuel matter.

With reference to the competitive costs, I point out these facts. What has been done in this legislation is take the tax off the entire blend so that, in the blended motor fuels of 10 gallons—1 gallon of alcohol and 9 gallons of gasoline—there is a saving of 40 cents. So in a practical way, that 40 cents becomes a subsidy to get the gasohol started.

I want to point out these two other facts: Ethyl's characteristics allow a lower octane, less expensive fuel to be used in the blended fuel and therefore obtains a favorable economic result.

Also, when we get started on this, it is going to become much more efficient. During World War II, we had our entire supply of natural rubber shut off. President Roosevelt appointed the President of the Union Pacific Railroad rubber czar. He had one order: Make rubber—with the authority to build factories, do anything necessary. The first synthetic rubber that rolled off was so expensive that it was almost a standoff. But by the time the war ended, synthetic rubber was driving natural rubber off the market, and it is to this day.

Also, when we make alcohol from vegetable products, there is a protein byproduct. The techniques and the know-how are available so that, before long, that protein will be an edible protein. It will have a value by the pound or the ounce and it will also make a great contribution to nutrition of the world because the hungry and undernourished people need protein and we seem to have an abundance of carbohydrates.

I thank the Senator for yielding.

Mr. PERCY. The Senator from Nebraska was on the floor when we amended the amendment so as to remove any possibility of any problem with drinkable alcohol, and the exemption of Federal taxation on that. So I thank him.

My colleague has been a pioneer in this area, and not only because the State of Nebraska has a lot of surplus agricultural products that can be used. I think he has done this because of his natural interest in seeing that the overall objectives that we have are achieved.

This Nation has been known for its efficiency, except in energy. We have not been very efficient in the way we have used it. Here, we have a chance to improve our efficiency, and get rid of waste and get rid of forestry byproducts and agricultural products that are spoiled and cannot be used while, at the same time, benefiting the consumer. I commend our distinguished colleague for his leadership in this field.

Mr. JAVITS. May I join in that, because CARL CURTIS really has been the leader. Indeed, years ago, I saw the movement which he has helped very materially. I would like to join with the Senator in thanking him.

Mr. CURTIS. I thank my distinguished friends.

Mr. DOLE. If the Senator will yield very briefly, I think as far as this Senator is concerned—I cannot speak for the floor leaders—but it is a good amendment that the Senator has discussed. Because it will be helpful, I appreciate the comments of the distinguished Senators from New York and Illinois.

It has been indicated that we are discussing matters which are substantial. It does improve on the amendment adopted in the Senate Committee on Finance. Certainly, I think it will be helpful down the road. It is one of the better provisions that can be added to the bill in the Senate Finance Committee. It has been improved on now by the distinguished Senators from New York and Illinois. I hope it will be adopted.

Mr. President, at a time when we face an emergency in fuel supply shortages, we must do everything possible to increase our own supply and to derive benefit from our ability to produce in the agriculture and forestry sectors great quantities of renewable resources. Our present surplus situation in wheat, for example, has caused economic disaster in the wheat producing area because of resulting low prices. Gasohol must be advanced in every way possible. The amendment before the Senate will further promote the use of gasohol.

FINANCE COMMITTEE

The Finance Committee adopted an amendment which I proposed exempting from the Federal excise tax on motor fuels of gasoline-alcohol blends. Such blends contain 10-percent alcohol. If the gasohol is at least 10-percent alcohol by volume and the alcohol is from products other than agricultural and forestry products or from petroleum, then there is a 1-cent reduction in the gas tax. The amendment, today, adds biomass and waste products to the list.

REDUCE OIL IMPORTS

Mr. President, this Senator from Kansas was one of the supporters of the provision in the farm bill to carry out research on this gasohol idea and to establish pilot plants to produce alcohol from agricultural products.

A 4-cent tax break for gasohol will make it price competitive with gasoline. Although I do not anticipate immediate substantial production of gasohol, I feel increased use of gasohol will help the industry to grow. Sales of gasohol means that public consciousness that gasohol can reduce our national dependence on foreign imports will be expanded. The energy savings for the next year or two may be small, however, no practical alternative should be overlooked in our struggle for energy self-sufficiency.

NEW MARKETS

Mr. President, use of agricultural, forestry and waste products to produce the alcohol will result in a new market never realized, and produce a more efficient fuel for motorists. Gasohol produces less pollution than regular gasoline. The State of Nebraska has led the way in promoting consumer use of gasohol by cutting the State gasoline tax on this fuel. Their program has been so successful that at least three other States have authorized studies of gasohol use.

Mr. President, alcohol can be distilled from timber waste, municipal garbage, wastepaper, and coal. Alcohol production plants are much cheaper to build than gasoline refineries and the few years which these amendments cover would be sufficient to develop a viable alcohol industry.

Mr. PERCY. I thank my distinguished colleague.

Mr. LUGAR. Will the Senator yield?

Mr. PERCY. I am happy to yield to the Senator from Indiana.

Mr. LUGAR. I should like to add my voice in support of what I think is a very constructive and distinctive improvement. It is certainly an area that we can make some headway on and progress in a constructive way during this legislative colloquy.

I point out that research currently underway at Purdue University suggests not only the use of corn—I have a great deal of interest in that being utilized for this—but, for that matter, any number of cellulose products. The whole industry, really, is burgeoning in America on this basis. But we really have to bridge the economics of it. That the Senator has done in his amendment.

Furthermore, on the distribution problems, I think the amendment, in many ways, speaks to that, by suggesting that conventional distribution with the addition of these incentives may in fact get us off the dime literally. I appreciate the amendment and simply want to add my support.

Mr. PERCY. I thank my distinguished colleague. He knows that disposal of waste in metropolitan areas is a tremendous problem. We can now have a feeling that trash is going to be usefully used, that we can resolve what is now becoming an increasingly difficult and costly problem for the mayors of all our cities.

Mr. LONG. Mr. President, we agreed in the committee to the Dole amendment, which had to do with making alcohol from various farm products, most of which are in surplus today. The amendment by Mr. PERCY is cosponsored by Mr. DOLE. I assume it is an extension of the principle that we agreed to in the committee. As such, I have no objection to it. If someone wants to speak against it, I should be pleased to hear what they have to say. I personally have no objection to the amendment.

Mr. PERCY. I thank my distinguished colleague very much, indeed. I think it is a good amendment. I think it will strengthen this bill.

I have no further comments in support. I know no one else who is for the amendment who has asked to speak.

Mr. ALLEN. Mr. President, I commend the distinguished Senators from Illinois (Mr. PERCY), New York (Mr. JAVITS), Nebraska (Mr. CURTIS), and Indiana (Mr. BAYH) for their leadership in supporting alcohol blended fuel and I am pleased to speak in support of amendment 1493 to the pending bill, H.R. 5263 and to cosponsor the amendment. This

amendment would go just a small step further in helping to bring on stream, a potential energy-savings of great magnitude than does the bill as reported from the Senate Committee on Finance.

The committee, under the distinguished leadership of the Senator from Louisiana (Mr. LONG), has already recognized the desirability of promoting gasohol by exempting from the 4-cent gasoline tax, gasoline-alcohol blends if such blends contain at least 10-percent ethanol and/or methanol and if the alcohol is made from agricultural or forestry products. The committee was less generous in alcohol-blended gasolines produced from other sources when recommending only a reduction in the tax rate to 3 cents per gallon for gasohol containing alcohol made from other products.

Amendment 1493 would simply extend the principle already established by the committee by extending the 4-cent per gallon exemption to all gasohol made from whatever source. Surely, Mr. President, once we have established the irrefutable premise that research and development of gasohol should be pursued, we should press for inclusion of all types of R. & D. that might be realized.

The Department of Energy recently wrote me to explain the status of Government research into the production of alcohol from biomass and its possible use as an alternative fuel source. The gist of that communication indicates a very real potential for achieving substantial energy savings in the foreseeable future if the processes or studies are suitably funded or, if there are incentives for our energy firms, or other firms, to get into this line of business. A salient portion of the DOE communication says that some studies have indicated that although there are no technical barriers at this time (to the production of the mixtures), grain-based alcohol is not an economically competitive fuel resource. But later, the Department admits that "a tax break on motor fuel containing grain alcohol would help make this mixture competitive with gasoline at the pump." The Department pointed out to me that the State of Nebraska is promoting the use of gasohol by forgoing a 3-cent per gallon State tax on the product.

Mr. President, I am convinced that exemption from the present 4-cent per gallon Federal fuel tax for alcohol-blended gasoline would provide the mechanism and the environment to encourage the development of a private alcohol fuel industry. It appears to me that we must take a full step to encourage the development of such an industry. The committee has taken half a step; our amendment completes the step by including all forms of alcohol-blended motor fuels. The incentives provided by the committee, and by our amendment, would serve to consume agricultural residues, timber products, coal, and various types of sewages and waste. It is my firm belief that as the demand for alcohol fuel increases, the construction and commercialization of alcohol producing plants would also be encouraged.

The committee has pointed out that there would be a minimal loss of revenue to the U.S. Treasury with the passage of the committee's amendment and I doubt that our amendment's addition would change that revenue-loss assessment.

Further, Mr. President, we are not seeking something that is a permanent fixture. The proposed exemption would end on January 1, 1984, when, it is hoped, alcohol-blended fuels could be expected to be cost competitive with gasoline.

Mr. President, it is estimated that the American driving public consumes 103 billion gallons of gasoline each year. If we can cut down on the crude oil imports—by whatever degree—that it takes to produce all that gasoline by encouraging this type of research and development, then I believe we will have taken a giant step in the direction away from our heavy dependence on crude oil imports.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified.

The amendment as modified was agreed to.

Mr. PERCY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DUTY ON SYNTHETIC RUTILE

Mr. LONG. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 3387.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the text of the bill (H.R. 3387) entitled "An Act to continue until the close of June 30, 1979, the existing suspension of duty on synthetic rutile", with the following amendment:

In lieu of the matter proposed by the amendment of the Senate, insert:

SECTION 1. (a) Section 3 of Public Law 94–401 is amended—

(1) by inserting "and the fiscal year ending September 30, 1978," after "1977," in the matter preceding paragraph (1) of subsection (a);

(2) by inserting "and such fiscal year ending September 30, 1978," after "1977," in subsection (a)(1)(B);

(3) by striking out "or fiscal year" in subsection (a)(2) and inserting in lieu thereof "or either such fiscal year";

(4) by striking out "or fiscal year" in subsections (b), (c)(1), and (c)(2)(A) and inserting in lieu thereof in each instance "or either fiscal year";

(5) by inserting ", or the fiscal year ending September 30, 1978" before the period at the end of subsection (d)(1); and

(6) by striking out "for each fiscal year" in subsection (d)(2) and inserting in lieu thereof "for either such fiscal year".

(b) Section 5(b) of Public Law 94–401 is amended by striking out "September 30, 1977" and "October 1, 1977" and inserting in lieu thereof "September 30, 1978" and "October 1, 1978", respectively.

(c) Section 6 of Public Law 94–401 is amended by striking out "September 30, 1977" and "October 1, 1977" and inserting in lieu thereof "September 30, 1978" and "October 1, 1978", respectively.

(d) Section 7(a)(3) of Public Law 93–647 is amended by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1978".

(e) Section 50B(a)(2)(B) of the Internal Revenue Code of 1954 (definition of Federal welfare recipient employment incentive expenses) is amended by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1978".

(f) The amendments made by this section shall be effective on October 1, 1977.

SEC. 2. (a) Section 3304(a)(6)(A) of the Internal Revenue Code (relating to approval of State unemployment compensation laws) is amended by striking out "and" at the end of clause (ii) and by adding at the end thereof the following new clause:

"(iv) with respect to any services described in clause (i) or (ii), compensation payable on the basis of services in any such capacity may be denied as specified in clauses (i), (ii), and (iii) to any individual who performed such services in an educational institution while in the employ of an educational service agency, and for this purpose the term 'educational service agency' means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions, and".

(b) The amendments made by subsection (a) shall apply with respect to weeks of unemployment which begin after December 31, 1977.

SEC. 3. (a)(1) Section 403(a) of the Social Security Act is amended by striking out "10" in each of the last two sentences and inserting in lieu thereof "20".

(2) Section 406(b) of such Act is amended—

(A) by striking out the semicolon at the end of clause (2)(E) and inserting in lieu thereof a period; and

(B) by adding at the end thereof (after and below clause (2)(E)) the following new sentences:

"Payments with respect to a dependent child which are intended to enable the recipient to pay for specific goods, services, or items recognized by the State agency as a part of the child's need under the State plan may (in the discretion of the State or local agency administering the plan in the political subdivision) be made, pursuant to a determination referred to in clause (2)(A), in the form of checks drawn jointly to the order of the recipient and the person furnishing such goods, services, or items and negotiable only upon endorsement by both such recipient and such person; and payments so made shall be considered for all of the purposes of this part to be payments described in clause (2). Whenever payments with respect to a dependent child are made in the manner described in clause (2) (including payments described in the preceding sentence), a statement of the specific reasons for making such payments in that manner (on which the determination under clause (2)(A) was based) shall be placed in the file maintained with respect to such child by the State or local agency administering the State plan in the political subdivision.".

(3) The amendments made by this subsection shall apply with respect to payments of aid to families with dependent children made for months beginning on or after October 1, 1977.

(b) Notwithstanding any other provision of law, Federal financial participation in aid to families with dependent children under a State plan approved under section 402 of the Social Security Act, for quarters (with respect to which expenditure reports were timely filed by the State) during the period beginning with the calendar quarter in which

Public Law 90-248 was enacted and ending with the first calendar quarter of 1977, shall not be denied, on or after October 1, 1977, by reason of the provision of goods, services, or items in the form of a check which is drawn jointly to the order of the recipient and the person furnishing such goods, services, or items and which shows the purpose for which the check is drawn, or by reason of the failure of the State to meet the requirement of the last two sentences of section 403(a) of such Act or the failure of the State (or any political subdivision thereof) to carry out the functions and duties prescribed in clauses (A), (B), (C), and (E) of section 406(b)(2) of such Act, regardless of the form in which the aid involved was paid, if (and to the extent that) the amount of such aid was correct and the payment of the aid in that form did not result in assistance in cases or in amounts not authorized by or under part A of title IV of such Act.

SEC. 4. (a) Section 167(k) of the Internal Revenue Code of 1954 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1978" each place it appears and inserting in lieu thereof "January 1, 1979".

(b) Section 203(b) of the Tax Reform Act of 1976 is amended by striking out ", and before January 1, 1978, and expenditures made pursuant to a binding contract entered into before January 1, 1978".

SEC. 5. Section 4(c) of the Act entitled "An Act to suspend until the close of June 30, 1975, the duty on certain carboxmethyl cellulose salts, and for other purposes", approved October 26, 1974 (Public Law 93-483), is amended to read as follows:

"(c) EFFECTIVE DATE.—The provisions of this section shall apply with respect to amounts received during calendar years 1973, 1974, and 1975, and, in the case of a member of a uniformed service receiving training after 1975 and before 1979 in programs described in subsection (a), with respect to amounts received after 1975 and before 1983."

SEC. 6. (a) Section 2(b) of Public Law 94-331 is amended by striking out "and before December 31, 1976".

(b) The effective date of this section shall be the first day of the calendar quarter following enactment of this Act.

SEC. 7. (a) Section 4(b) of Public Law 94-331 is amended by striking out "and before December 31, 1976".

(b) The effective date of this section shall be the first day of the calendar quarter following enactment of this Act.

SEC. 8. (a) Section 1612(b) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (10) thereof,

(2) by striking out the period at the end of paragraph (11) thereof and inserting in lieu of such period the following: "; and", and

(3) by adding after and below paragraph (11) thereof the following new paragraph:

"(12) interest income received on assistance funds referred to in paragraph (11) within the 9-month period beginning on the date such funds are received (or such longer periods as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period).".

(b) The amendment made by this section shall be effective July 1, 1976, with respect to catastrophes which occurred on or after June 1, 1976, and before December 31, 1976. With respect to catastrophes which occurred on or after December 31, 1976, the amendment made by this section shall be effective the first day of the calendar quarter following enactment of this Act.

SEC. 9. (a) The first sentence of section 1613(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (4) thereof,

(2) by striking out the period at the end of paragraph (5) thereof and inserting in lieu of such period the following: "; and", and

(3) by adding after and below paragraph (5) thereof the following new paragraph:

"(6) assistance referred to in section 1612(b)(11) for the 9-month period beginning on the date such funds are received (or for such longer period as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period); and, for purposes of this paragraph, the term 'assistance' includes interest thereon which is excluded from income under section 1612(b)(12).".

(b) The amendment made by this section shall be effective July 1, 1976, with respect to catastrophes which occurred on or after June 1, 1976, and before December 31, 1976. With respect to catastrophes which occurred on or after December 1, 1976, the amendment made by this section shall be effective the first day of the calendar quarter following enactment of this Act.

SEC. 10. (a) Chapter 25 of the Internal Revenue Code of 1954 (relating to general provisions for employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3506. INDIVIDUALS PROVIDING COMPANION SITTING PLACEMENT SERVICES.

"(a) IN GENERAL.—For purposes of this subtitle, a person engaged in the trade or business of putting sitters in touch with individuals who wish to employ them shall not be treated as the employer of such sitters (and such sitters shall not be treated as employees of such person) if such person does not pay or receive the salary or wages of the sitters and is compensated by the sitters or the persons who employ them on a fee basis.

"(b) DEFINITION.—For purposes of this section, the term 'sitters' means individuals who furnish personal attendance, companionship, or household care services to children or to individuals who are elderly or disabled.

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purpose of this section.".

(b) The table of sections for such chapter is amended by adding at the end thereof the following new item:

"Sec. 3506. Individuals providing companion sitting placement services.".

(c) The amendments made by this section shall apply to remuneration received after December 31, 1974.

(d) The amendments made by this section shall not be construed as affecting (1) any individual's right to receive unemployment compensation based on services performed before the date of the enactment of this Act, or (2) any individual's eligibility for social security benefits to the extent based on services performed before that date.

SEC. 11. Section 457(c) of the Social Security Act is amended—

(a) in paragraph (1)—

(1) by striking out "such support payments" and inserting in lieu thereof "amounts of child support payments which represent monthly support payments", and

(2) by inserting ", which represent monthly support payments," immediately after "amounts so collected", and

(b) in paragraph (2)—

(1) by striking out "such support payments" and inserting in lieu thereof "amounts of child support payments which represent monthly support payments",

(2) by inserting ", which represents monthly support payments," immediately after "amount so collected", and

(3) by striking out the period at the end thereof and inserting in lieu of such period a comma, and (c) by adding at the end thereof the following new provision:

"and so much of any amounts of child support so collected as are in excess of the payments required to be made in paragraph (1) shall be distributed in the manner provided by subsection (b)(3) (A) and (B) with respect to excess amounts described in subsection (b).".

Resolved, That the House agree to the amendment of the Senate to the title of the bill.

Mr. LONG. Mr. President, several provisions of law related to child care and the social services program expired on September 30 of this year. To avoid disruptions in these programs and to deal with certain other urgent matters, the Finance Committee reported out legislation (H.R. 3387) which was then passed by the Senate with a number of floor amendments. The House of Representatives has now considered this bill and has agreed to accept it with certain modifications.

The Senate bill would have provided a 4-month extension (through January 31, 1978) of these provisions: Additional child care funding (at a $200 million annual rate); authority for paying the cost of hiring welfare recipients in child care jobs through direct grants and tax credits; suspension of certain Federal standards for child care including staffing standards for preschool children; and authority to use social services funds for certain types of treatment of drug addicts and alcoholics. The House amendment accepts all of these provisions but extends them for 1 year (through September 30, 1978) rather than for 4 months.

The Senate bill would have clarified the unemployment compensation statute to provide that certain school employees of State agencies will be precluded from getting benefits during vacation periods on the same basis as employees of individual school districts. The House accepted this provision.

The House also accepted a provision of the Senate bill previously passed by the House broadening the ability of States to pay aid to families with dependent children benefits through protective and vendor payment mechanisms. This provision also waived retroactive recoupment of Federal funds from States which had failed to meet existing requirements in the past.

The Senate bill extended and broadened certain provisions designed to assure that supplemental security income (SSI) beneficiaries who are affected by major natural disasters do not lose any SSI benefits, because of Federal disaster relief or because they are forced to temporarily change their living accommodations. The House has agreed to this provision.

Another provision of the Senate bill clarifies the child support statute to uphold existing HEW regulations concerning the distribution of child support collections after a family goes off welfare. If the State collects more from an absent parent in any month than the family's monthly support entitlement as determined by a court order, HEW regulations permit the State to retain the excess as repayment of past assistance to the family. The provision was agreed to by the House.

Three tax amendments were also included in the Senate bill. One amendment extends the exclusion from income

for tax purposes of payments under the Armed Forces professions scholarship program (and similar programs for members of the uniformed services). Present law excludes such income for persons who began to participate in such programs by the end of 1976. The Senate amendment extended that date to 1978. The House has accepted this Senate amendment with technical corrections.

A second tax amendment extended for 6 months, to July 1, 1978, the special 5-year amortization rule for certain costs of rehabilitating low-income rental housing. Subsequent to Senate passage, the Committee on Finance agreed to support a 1-year extension of this provision and the House amendment would provide such a 1-year extension, through December 31, 1978.

The third tax amendment would reverse a revenue ruling which has held that individuals who provide companion sitting services are employees of the agencies which refer them to jobs rather than of the individuals who engage their services even though they are paid directly by those for whom they sit. Under the amendment, the sitters would not be employees of the agencies for purposes of determining liability for employment and withholding taxes. The House has accepted the amendment with an additional provision assuring no retroactive loss of benefit credit under social security or unemployment as a result of these changes.

One Senate amendment was not accepted by the House. This was an amendment which sought to provide increased Federal matching under the medicaid program for certain services for Indians. This alone of all the Senate amendments was a matter that is not within the jurisdiction of the Ways and Means Committee, and I understand that the Ways and Means Committee was informed that the committee of jurisdiction would be unwilling to accept that amendment.

Overall, then, I believe that the House has overwhelmingly accepted the Senate bill. Almost every Senate provision was either agreed to or improved by the House. I urge the Senate to agree to the House amendments to the Senate amendment.

Mr. President, I move that the Senate concur in the House amendment to the Senate amendment.

The motion was agreed to.

DUTY ON CERTAIN MATTRESS BLANKS

Mr. LONG. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 2849.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1, 2, 3, 4, 5, and 6 to the bill (H.R. 2849) entitled "An Act to suspend until July 1, 1978, the rate of duty on mattress blanks of rubber latex".

Resolved, That the House agree to the amendment of the Senate numbered 7 to the aforesaid bill with the following

AMENDMENT

In lieu of the matter proposed by the said amendment, insert:

SEC. 3. In determining whether a person is a substantial contributor within the meaning of section 507(d)(2) of the Internal Revenue Code of 1954 for purposes of applying section 4941 of such Code (relating to taxes on self-dealing), contributions made before October 9, 1969, which—

(1) were made on account of or in lieu of payments required under a lease in effect before such date, and

(2) were coincident with or by reason of the reduction in the required payments under such lease,

shall not be taken into account. For purposes of applying section 507(d)(2)(B)(iv) of such Code, the preceding sentence shall be treated as having taken effect on January 1, 1970.

Resolved, That the House agree to the amendment of the Senate to the title of the bill.

Mr. LONG. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment numbered 7.

The motion was agreed to.

DUTIES ON YARNS OF SILK

Mr. LONG. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 3373.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1, 2, 3, 4, and 5 to the bill (H.R. 3373) entitled "An Act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk".

Resolved, That the House agree to the amendment of the Senate numbered 7 to the aforesaid bill with the following amendment:

AMENDMENT:

In lieu of the matter proposed by the said amendment, insert:

SEC. 2. (a) Section 4254 of the Internal Revenue Code of 1954 (relating to computation of tax) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN STATE AND LOCAL TAXES NOT INCLUDED.—For purposes of this subchapter, in determining the amounts paid for communications services, there shall not be included the amount of any State or local tax imposed on the furnishing or sale of such services, if the amount of such tax is separately stated in the bill."

(b) The amendment made by this section shall take effect only with respect to amounts paid pursuant to bills first rendered on or after the first day of the first month which begins more than 20 days after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of communications services rendered more than 2 months before the effective date provided in the preceding sentence, no bill shall be treated as having been first rendered on or after such effective date.

Resolved, That the House disagree to the amendment of the Senate numbered 6 to the aforesaid bill.

Resolved, That the House agree to the amendment of the Senate to the title of the bill.

Mr. LONG. Mr. President, I move that the Senate recede from the Senate amendment No. 6 and concur in the House amendment to the Senate amendment No. 7.

The motion was agreed to.

Mr. LONG. I ask unanimous consent that I might move to reconsider the vote by which all three of these measures were agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. I so move, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

Mr. LONG. Mr. President, I ask unanimous consent that when the bill H.R. 9346, the Social Security Financing Amendments of 1977, is received from the House of Representatives, it be placed on the calendar.

The PRESIDING OFFICER. Without objection——

Mr. PACKWOOD. Mr. President, wait a minute.

Could the Senator give me that again, is this the bill just passed?

The PRESIDING OFFICER. Does the Senator from Oregon reserve the right to object?

Mr. PACKWOOD. Yes, I do.

Mr. LONG. Mr. President, let me explain what I have in mind.

We in the Finance Committee have been working in committee on our social security financing recommendations. We reached a tie vote on some of the votes in the committee. I am going to ask the committee to meet and vote again on those matters so that, hopefully, we can agree on a majority position for the Senate Finance Committee.

Undoubtedly, however, we work the matter out in committee, we will still have a traditional floor fight on the difference of opinion expressed between the majority and minority.

The House has finished work on their social security bill. I would assume the Senate would like to substitute its judgment for that of the House. In committee we have agreed to report out a less important tariff bill with the committee judgment on social security financing as an amendment, and to put the bill on the calendar.

I would think the best way to proceed would be just to report the committee's recommendation and then proceed to substitute the committee's recommendation for the House social security financing bill.

I know the Finance Committee will want to recommend its own position as a substitute for the House bill. That being the case, rather than put the House bill in the committee, it is my thought we should simply report our own bill and then, having acted on it, substitute it for the House bill which would be waiting on the calendar.

Mr. PACKWOOD. With that explanation, I have no objection.

Mr. LONG. I thank the distinguished Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY PRODUCTION AND CONSERVATION TAX INCENTIVE ACT

AMENDMENT NO. 1494

Mr. PERCY. Mr. President, I call up my amendment No. 1494.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Tho Senator from Illinois (Mr. PERCY) proposes an amendment numbered 1494.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of H.R. 5263, add the following new title:

"TITLE

"SEC. 01. This title may be cited as the 'Alcohol Fuels Research and Demonstration Project of 1977.'

"FINDINGS AND PURPOSE

"SEC. 02. (a) The Congress hereby finds and declares that—

"(1) domestic reserves of petroleum are finite and insufficient to meet current and foreseeable energy needs;

"(2) it is desirable to achieve as rapidly as possible the capability of becoming independent of foreign sources of energy; and

"(3) it is in the best interest of the Nation to rapidly investigate, develop, and employ technologies to economically produce and utilize domestic, nonpetroleum and nonnatural gas derived alcohol fuels as a substitute for, and as a supplement to, petroleum and petroleum products.

"(b) The purpose of this title is, through a limited, scientifically controlled, research and demonstration project which utilizes alcohol fuels (in lieu of or in combination with conventional petroleum-based fuels) in the operation of passenger vehicles, to provide Congress with information as to the economic, scientific, technological, and environmental feasibility of utilizing alcohol as a motor fuel on a large scale.

"DEFINITIONS

"SEC. 03. For the purposes of this title—

"(1) the term 'alcohol fuel' means domestic ethanol and methanol of greater than 99 per centum purity derived from sources other than petroleum or natural gas;

"(2) the term 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

"(3) the term 'motor vehicle' means any gasoline-powered passenger sedan or station wagon designed for use on the Nation's highways;

"(4) the term 'blend' means a fuel mixture consisting of at least 10 per centum alcohol by volume;

"(5) the term 'Project Administrator' means the chief executive official of the project agency selected under section 04; and

"(6) the term 'executive agency' means an executive agency as defined in section 105 of title 5, United States Code, and shall also include the United States Postal Service.

"SELECTION OF A PROJECT AGENCY

"SEC. 04. (a) No later than six months after the date of the enactment of this title, the Secretary of Energy shall, applying the criteria specified in subsection (b), select an executive agency to conduct the research and demonstration project authorized by this title.

"(b) The Secretary in his selection of the project agency, shall apply the following criteria:

"(1) the agency annually purchases or leases (for a period of a year or more) more than one thousand five hundred passenger sedans or station wagons which are expected to be fueled and maintained at a common facility or facilities;

"(2) the agency's vehicles operate in several different locations under different climatic conditions; and

"(3) the agency is capable of collecting research and other data which the Secretary expects to collect under section 05.

"ESTABLISHMENT OF A RESEARCH AND DEMONSTRATION PLAN

"SEC. 05. (a) No later than six months after the selection of a project agency, the Secretary of Energy, after consultation with the Project Administrator, shall establish a research and demonstration plan (hereinafter in this title referred to as the 'plan') which shall include—

"(1) the variety of motor vehicle models, types, and sizes to participate in the demonstration, which, to the extent feasible, shall represent a cross-section of motor vehicles;

"(2) the modifications required in conventional automotive design to utilize the alcohol fuel;

"(3) the appropriate method of mixing, storage, and delivery of fuel blend;

"(4) the changes in motor vehicle maintenance or operation anticipated in utilizing the alcohol fuel;

"(5) the research and other data, both base and comparative, particularly with regard to vehicle emissions and performance, to be collected by the Project Administrator under the plan and to be transmitted to the Secretary pursuant to section 06(d).

"(b) The plan shall require that all alcohol used shall be produced and refined in the United States.

"(c) Except as provided in subsection (b), the Secretary of Energy, after his adoption of the plan, and after consultation with the Project Administrator, may alter the plan from time to time to further the purposes of this title.

"OPERATION OF MOTOR VEHICLES USING ALCOHOL FUEL

SEC. 06. (a) In accordance with the plan but in no case later than one year after the establishment of the plan, the Project Administrator shall require for a period not to exceed three years that at least one thousand of the motor vehicles purchased or leased (for a period of a year or more) during such period and expected to be fueled at pumps under his control shall be equipped to utilize an alcohol-blended fuel. One hundred of these motor vehicles shall be equipped to utilize a fuel which is at least 90 per centum alcohol.

"(b) The Project Administrator shall provide such storage and pumping facilities, and require that they be operated in such a manner, as to conform to the plan. The Project Administrator shall operate and maintain motor vehicles involved in the plan in the manner specified in such plan.

"(c) Pursuant to section 05(b), the Project Administrator shall not use alcohol which was produced or refined outside the United States or which is of petroleum or natural gas origin.

"(d) The Project Administrator shall collect and transmit to the Secretary of Energy such research and other data as may be specified in the plan.

"REPORTS TO CONGRESS

"SEC. 07. (a) The Secretary of Energy, no later than sixty days after the end of each fiscal year, concluding with the fiscal year ending September 30, 1981, shall submit to Congress interim reports on the progress during each such fiscal year of the demonstration project provided for in this Act.

"(b) The Secretary, no later than five years after the date of the enactment of this title, shall submit a final report to Congress on the results of the research and demonstration project provided for in this title and shall include in such report an analysis—

"(1) of the research and other data collected under the project, particularly with respect to the environmental impact of substituting alcohol fuel for conventional fuel;

"(2) of the projected impact on foreign energy consumption of increased use of alcohol fuel in motor vehicles;

"(3) of the technological and economic feasibility of increased use of alcohol fuel in motor vehicles;

"(4) of the desirability and feasibility of further research, development, and demonstration projects and implementation programs in this area, particularly with respect to expanding the use of alcohol fuels in motor vehicles; and

"(5) of technological, economic, cultural, and political problems hindering commercialization of alcohol fuels ready for further use.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 08. For the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, there are authorized to be appropriated such sums, not to exceed in the aggregate for such three fiscal years, $3,000,000, as may be necessary to carry out the provisions of this title.".

Amend the title so as to read: "An Act to establish an experimental research and demonstration project utilizing domestic nonpetroleum and non-natural gas derived alcohol fuels in the operation of certain Government-owned and maintained passenger vehicles, to report the scientific and environmental implications of such projects to Congress for use in developing energy and environmental policies, and for other purposes.".

Mr. PERCY. Mr. President, I think we can take care of this amendment very quickly, but I will have a few comments to make.

Mr. President, I recently introduced amendment No. 1494 to S. 5263, the energy tax bill, to create a Federal alcohol fuel test fleet. Specifically, the amendment would require the Secretary of Energy to select a Federal agency to operate 1,000 of its passenger vehicles on alcohol fuel in a test and demonstration project. Nine hundred of the passenger vehicles would run on alcohol blended gasoline, 100 would operate on straight alcohol.

At a time when the Congress is taking serious steps to develop a viable alternative to fossil fuels, an alcohol fuels tests fleet should be given high priority. The fleet will provide important data on the economic, technological, and environmental feasibility of utilizing alcohol fuels. Valuable information would be obtained on the methods of storing and pumping alcohol fuels, their environmental impact, the alterations required to facilitate alcohol fuel in present automobile designs, and the maintenance required to service alcohol-powered vehicles. Such information would be most useful to policymakers as they evaluate this important energy alternative.

The Congress has witnessed a burst of activity in recent months with regard to alcohol fuel. I recently introduced another amendment to the energy tax bill which would make alcohol fuel derived from renewable sources price competitive with conventional gasoline by exempting it from the Federal gasoline tax. This amendment has now been adopted by the Senate. This should encourage the public consumption of this new domestic fuel. A recent alcohol rally on the steps

of the Capitol demonstrated the grassroots support for this domestic, renewable alternative to the billions of dollars we spend each year to import petroleum.

A Federal alcohol fuel test fleet would be an important step in encouraging the use of alcohol as an automotive fuel. It would provide the information necessary to prevent potential problems when alcohol fuel use becomes widespread. The program will require no new purchases of automobiles, and will require little in the way of alterations to the existing vehicle fleet.

It is my understanding that if an automobile uses a 10-percent blend of alcohol no engine modification of any kind is needed. If it uses 100 percent alcohol, modification of the carburetor, and so forth, might cost as much as $30 to $40. But we must consider the tremendous value gained by this experiment.

I have just mentioned the rally out on the Senate steps which was led by Senator CURTIS and other distinguished colleagues. Senator JAVITS spoke, and others. We had cars there that had been driven halfway across the country on alcohol. This was a real demonstration, not a controlled experiment.

Senator BAYH was the leader of that rally on the Senate steps. We applaud him for the efforts he made to encourage such a program. Now it is time for a controlled experiment.

As I indicated, vehicles using the blended fuel will require no engine alterations, and vehicles using the straight alcohol will need only minor changes. The total cost of the 3-year program, including the purchase of alcohol fuel, storage and pumping facilities, testing equipment, and personnel, would be less than $3 million. This is a small price in comparison to the many benefits to be derived.

It is a catalytic expenditure, which might induce similar expenditure of hundreds of millions of dollars by the private sector.

But we would be proving something that might have to be proved by any number of private sector studies and market research studies on this. We can provide this testing at very little cost.

An alcohol fuel test fleet will demonstrate the desire of the Congress to beat the energy crisis. It will lessen unfamiliarity of this new fuel if the Governmetn itself tests and uses the fuels in its own vehicle fleet. Alcohol could save us billions of gallons of imported oil each year. It would strengthen many American markets and would create much needed jobs. A Federal alcohol fuel test fleet could prove this.

I am pleased that Senators BAYH, GRAVEL, and LEAHY have joined as cosponsors of this legislation. I ask for speedy action by the Senate on this amendment to create an alcohol fuel test fleet.

Mr. LONG. Mr. President, this amendment may very well serve a good purpose. I have not had an opportunity to study it, but it would be all right with me if the Senate wants to pass it.

Mr. CURTIS. It is acceptable to me.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment, No. 1494, was agreed to.

Mr. PERCY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

AMENDMENT NO. 1488

(Purpose: Delete residential credit in section 1011.)

Mr. DOLE. Mr. President, I call up amendment No. 1488 and ask for its immediate consideration.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is to be recognized to offer an amendment.

Mr. PERCY. Mr. President, I ask unanimous consent that the Dole-Kennedy amendment be in order to be considered at this time and that the Percy amendment, No. 1492, be the order of business immediately following disposition of the Dole-Kennedy amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I call up amendment No. 1488 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mr. KENNEDY, proposes an amendment numbered 1488.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 5, strike all after line 7 through line 2 on page 20 and insert in lieu thereof the following:

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44B the following new section:

"SEC. 44C. RESIDENTIAL ENERGY CREDIT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the qualified renewable energy source expenditures.

"(b) QUALIFIED EXPENDITURES.—For purposes of subsection (a)—

"(1) RENEWABLE ENERGY SOURCES.—In the case of any dwelling unit, the qualified renewable energy source expenditures are the following percentages of the renewable energy source expenditures made by the taxpayer during the taxable year with respect to such unit:

"(A) 30 percent of so much of such expenditures as does not exceed $2,000, plus

"(B) 20 percent of so much of such expenditures as exceeds $2,000 but does not exceed $10,000.

"(2) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—If for any prior taxable year a credit was allowed to the taxpayer under this section with respect to any dwelling unit by reason of renewable energy source expenditures, paragraph (1) shall be applied for the taxable year with respect to such dwelling unit by reducing each dollar amount contained in such paragraph by the prior year expenditures taken into account under such paragraph.

"(3) CREDIT IN LIEU OF FEDERAL GRANT.—No credit shall be allowed under subsection (a) with respect to any expenditures in connection with the acquisition, leasing, construction, or installation of any item if any such expenditure is paid for directly or indirectly from the proceeds of any grant under any program—

"(A) established under the Energy Conservation in Existing Buildings Act of 1975,

"(B) administered by the Secretary of Agriculture in carrying out Farmer's Home Administration weatherization grant programs, or

"(C) administered by the Director of the Community Services Administration in carrying out weatherization programs under section 222(a)(12) of the Economic Opportunity Act of 1964.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) RENEWABLE ENERGY SOURCE EXPENDITURE.—

"(A) IN GENERAL.—The term 'renewable energy source expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for renewable energy source property installed in connection with a dwelling unit—

"(i) which is located in the United States, the Virgin Islands, or Guam, and

"(ii) which is used by the taxpayer as his principal residence.

"(B) ITEMS INCLUDED.—The term 'renewable energy source expenditure' includes only expenditures for—

"(i) renewable energy source property,

"(ii) labor costs properly allocable to the onsite preparation, assembly, or installation of renewable energy source property, or

"(iii) the leasing of property which uses solar energy for any purpose described in paragraph (4)(A)(i).

"(C) SWIMMING POOL, ETC., USED AS STORAGE MEDIUM.—The term 'renewable energy source expenditure' does not include any expenditure properly allocable to a swimming pool used as an energy storage medium or to any other energy storage medium which has a function other than the function of such storage.

"(2) RENEWABLE ENERGY SOURCE PROPERTY.—The term 'renewable energy source property' means property—

"(A) which, when installed in connection with a dwelling—

"(i) uses solar energy for the purpose of heating or cooling such dwelling or providing hot water for use within such dwelling,

"(ii) uses wind energy for nonbusiness residential purposes,

"(iii) is necessary to distribute or use geothermal deposits (as defined in section 613(e)) which provide geothermal energy to heat or cool such building or provide hot water for use within such building, or

"(iv) uses any other form of renewable energy which the Secretary specifies by regulations,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 5 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the property.

"(3) CONSULTATION IN PRESCRIBING STANDARDS.—Performance and quality standards shall be prescribed by the Secretary under paragraph (2), only after consultation with the Secretary of Energy, the Secretary of Housing and Urban Development, and other appropriate Federal agencies.

"(4) WHEN EXPENDITURES MADE; AMOUNT OF EXPENDITURES.—

"(A) Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when original installation of the item is completed.

"(B) In the case of renewable energy source expenditures in connection with the construction or reconstruction of a dwelling, such expenditures shall be treated as made when the original use of the constructed or reconstructed dwelling by the taxpayer begins.

"(C) The amount of any expenditure shall be the cost thereof.

"(D) If less than 80 percent of the use of an item is for nonbusiness residential purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness residential purposes shall be taken into account. For purposes of the preceding sentence, use for a swimming pool shall be treated as use which is not for residential purposes.

"(5) PRINCIPAL RESIDENCE.—The determination of whether or not a dwelling unit is a taxpayer's principal residence shall be made under principles similar to those applicable to section 1034, except that—

"(A) no ownership requirement shall be imposed, and

"(B) the period for which a dwelling is treated as the principal residence of the taxpayer shall include the 30-day period ending on the first day on which it would (but for this subparagraph) be treated as his principal residence.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a principal residence by 2 or more individuals—

"(A) the amount of the credit allowable under subsection (a) by reason of renewable energy source expenditures made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) each of such individuals shall be allowed a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominum management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(e) BASIS ADJUSTMETS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(f) TERMINATION.—This section shall not apply to expenditures made after December 31, 1985."

(b) CREDIT TO BE REFUNDABLE.—

(1) Section 6401(b) (relating to amounts treated as overpayments) is amended—

(A) by striking out "oil) and 43" and inserting in lieu thereof "oil), 43",

(B) by inserting ", and 44C (relating to residential energy credit)" after "credit)", and

(C) by striking out "and 43," and inserting in lieu thereof ", 43, and 44C,".

(2) Section 6201(a)(4) (relating to assessment authority) is amended—

(A) by striking out "or 43" in the caption thereof and inserting in lieu thereof ", 43, or 44C",

(B) by striking out "oil) or section 43" and inserting in lieu thereof "oil), section 43", and

(C) by inserting "or section 44C (relating to residential energy credit)," after "income),".

(c) CERTAIN LOANS REDUCED BY AMOUNT OF CREDIT.—The amount of any loan or advance of credit which an individual is eligible for under—

(1) title I of the National Housing Act (but only if such loan or advance of credit may be purchased under section 314 of the Federal National Mortgage Association Charter Act), or

(2) any loan program with respect to the purchase and installation of solar heating and cooling equipment administered by the Secretary of Housing and Urban Development,

shall be reduced by the amount of the credit which is allowed under section 44C of the Internal Revenue Code of 1954, as added by subsection (a), for the purchase or installation of an item which the proceeds of such loan or advance of credit are to be used for.

(d) INSPECTION.—To the extent not presently authorized and utilized by any agency of the United States in the assessment and collection of income taxes, no procedure or practice which utilizes onsite inspection of the residence of an individual shall be employed to determine if that individual is entitled to a credit under section 44C of the Internal Revenue Code of 1954, as added by subsection (a), unless such procedure or practice provides that such inspection shall take place only with the written consent of such individual.

(e) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44B the following new item:

"Sec. 44C. Residential energy credit."

(2) Subsection (c) of section 56 (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, 44C, 44E, 44F, and 44G."

(3) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by inserting after paragraph (20) the following new paragraph:

"(21) to the extent provided in section 44C(e), in the case of property with respect to which a credit has been allowed under section 44C;".

(4) Subsection (b) of section 6069 (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after April 20, 1977.

Mr. DOLE. Mr. President, I think this amendment can be discussed and disposed of in rather short order. If it can be done in an expeditious way, perhaps we still could call up the motion to recommit this evening. Otherwise, I would suspect that the motion to recommit might have to be delayed until tomorrow.

Mr. President, one of the credits that disturbed many of my colleagues in the Senate Finance Committee discussions, markup, and votes was the costly, ineffective residential tax credit.

The Senator from Kansas, of course, would like to recommit the entire bill. I am somewhat cautious in offering amendments to improve the bill. I might add that it did influence the vote of the Senator from Kansas on the so-called Heinz bus amendment.

But now it appears there is no way we can really improve this legislation enough. So I think probably it is the better part of wisdom to try to improve it where we can and then send what remains back to the Finance Committee.

Mr. President, under the bill reported by the Finance Committee, an individual is allowed a refundable tax credit of 20 percent of the first $2,000 of expenditures for home insulation and other energy conservation components.

These components consist of such essential items as energy meters, clock thermostats, and fluorescent lights. During the mark up in the Finance Committee, there was not a single time that was denied admission to the magic list of energy components. Once on this list an item will be subsidized for years to come by the Federal Government.

WINDFALL

The residential tax credit, as presented, is nothing more than a windfall. If enacted, it will force prices up, cause shoddy and dangerous products to be pawned off, and drain needed money from the Treasury. As reported, the residential tax credits will cost $6.3 billion in the next 7 years. While I applaud the intent of the proposal, it seems to me to be misguided.

The Congressional Budget Office has concluded that for each barrel of oil conserved as a result of the credit, Federal revenues will be reduced by $2.42.

The CBO reports that "these costs are high because a large portion of the credits are paid to people who would have made energy savings improvements in any event."

ENERGY COST IS INCENTIVE

Residential energy improvements will be installed because it makes economic sense—not because the Federal Government provides a subsidy. The high cost of energy is enough incentive to insulate a home. This rapid rise in price has prompted many homeowners and some renters to add various conservation devices.

In 1975, 9.1 million or 22 percent of the occupied single-family house added some form of insulation. The bulk of these expenditures, about 61 percent, were under $100.

The Senator from Kansas questions a program to give away money for something that is already being done. The installation of energy saving components are already cost-effective. According to the Office of Technology and Assessment, a homeowner who installs insulation can expect to recover the cost in as little as 3 years.

While insulation material causes the greatest concern for the Senator from Kansas, the other items listed as energy saving components should not be subsidized just because they allegedly save a small amount of energy.

ENERGY SAVINGS

Throughout the Finance Committee markup of this bill, we were constantly bombarded with energy-saving estimates. When pressed for the validity of the estimates we were told no one could be certain of the accuracy. Again, according to OTA, the energy savings may not occur because consumers will invest any money they save from insulation in energy-consuming devices such as air conditioners or balance out the dollar savings with higher thermostat settings after insulation is added.

In order to assess middle- and low-income people with improving the energy efficiency of their homes, the Senate has already enacted S. 2057. This bill now in conference with the House, provides billions of dollars in loans and grants for residential energy improvement. The proposal in the Senate bill is just one more example of legislative overkill.

FULL CAPACITY

The fact that the insulation industry is running at full capacity further supports my amendment. The rush by the public to insulate homes have created a shortage of insulation materials and higher prices.

According to the FEA, the homeowners are re-insulating their homes at a rate of 4.8 million homes this year. The average for the previous 3 years was 2.7 million. In addition, builders of new homes used an average of 721 pounds of insulation in 1976 as against 624 pounds in 1974.

Nowhere is the insulation crunch more evident than in the homebuilding industry. Just when the production of housing has gotten back to normal the construction industry is about to stop building. It is ironic that it is not the lack of money but the lack of insulation.

In a typical house, insulation accounts for 1 to 1.5 percent of the sales price and yet the lack of insulation may well break down the $80 billion homebuilding industry. A survey by the National Association of Homebuilders shows up 10 percent in the last 2 months and between 30 and 40 percent in the last 6 months. The scarcity of insulation is so acute than many contractors who cannot buy directly from the manufacturer pay sometimes twice what they paid last year for the exact same product.

Fiberglass amounts to 80 percent of present insulation sales. Presently three companies—Owens Corning, Johns Mansville, and Certain-Teed produce about 80 percent of the fiberglass insulation. Because of technological barriers the FTC reports that it would take 10 years and $80 million for a new producer to enter the fiber insulation market.

The leading substitute to fiberglass is cellulose, generally made from shredded newspapers. Cellulose must be treated with a flame retardant usually boric acid. Unfortunately, borates are in tight supply and are being allocated by suppliers.

The residential tax credits barely survived a vote in the House Ways and Means Committee and the Senate Finance Committee. The proposal has even been criticized by the administration's own Council of Wage and Price Stability. The Council concluded "that the chief beneficiary of the tax credit would be the manufacturer of fiber glass insulation."

The sharp increase in demand is not being met by a similar increase in supply. According to Gary Marbry—a vice president of Owens-Corning which accounts for 50 percent of sales of fiber glass insulation—"if Congress passes the tax credit program, the shortage would accelerate."

SHORT SUPPLIES

If there are not adequate supplies when the credits become effective, people will simply outbid each other for supplies and the tax credits will flow straight out of the hands of the consumer to producers. I really do not believe that is the intent of the legislation.

Due to the lead times involved, it will take several years for supplies to catch up. The insulation industry has told me that expansion of production facilities is not expected to be completed for 2 to 7 years. Expansion of capacity cannot be expected to continue at a level necessary to meet a sharp, short-term increase in demand caused by a one-time push for insulating existing buildings.

Not only is there not enough supplies of insulation but the market is being flooded with poorly made, poorly installed materials. Despite the huge rush for profit, the Government has almost completely failed to regulate an industry it so aggressively patronizes.

In recent months, the Federal Trade Commission and the Consumer Product Safety Commission, have been investigating the insulation rip-off problem. Among the findings around the country include:

First. A dealer in Florida who sold insulation that ate through the water pipes of a new house.

Second. A rash of fires caused in Michigan by poorly installed insulation.

Third. Reports of con artists taking advantage of elderly.

Mr. President, I conclude by suggesting that we should not keep the insulation tax credit in this legislation. In fact, I am willing to wipe out all the tax credits and willing to begin again. But I guess in all those that we will come to this is near the top of the list. The residential credits should be eliminated from this legislation.

Mr. President, we should not vote on any measure that would cause the market chaos that the residential tax credits would cause.

The facts show that the insulation industry is operating at full capacity now.

They have in effect, indicated that if there is any tax credit the insulation manufacturers are going to walk off with the profits. The bill provides a subsidy of almost $7 billion, which even in this Congress is still a great deal of money.

The facts show that the insulation industry is operating at full capacity. The expansion rate of the industry demonstrates an orderly growth rate cannot be reasonably accelerated due to normal constraints such as EPA approval cycles, construction timetables, and prudent commitment of capital.

Mr. President, the Senator from Kansas is, also, realistic. Here we have a chance to vote to help someone, and by the comments that were made we certainly cannot deny this credit because it may help someone. It might accidentally help someone, and it might purposely help someone. Based on the facts and based on the record, that the American people will respond and insulate their homes. They will insulate their homes based on its economics and based on its conditions. We are not going to increase the insulation rate and not going to increase the insulation supply by passing a tax credit. It is going to cost nearly $7 billion.

I hope that the amendment will be supported.

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield to the distinguished Senator from Massachusetts.

Mr. KENNEDY. Will the Senator yield 10 minutes?

Mr. DOLE. I yield to the Senator from Massachusetts 10 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I am glad to join the Senator from Kansas on this particular measure. There are just a few points that I want to highlight and supplement what the Senator from Kansas has already mentioned.

I think very briefly, Mr. President, there are five basic arguments against this particular proposal.

First of all, it is inefficient. It is an inefficient tax expenditure.

What that means is that there is already an incentive to insulate. You can already recover your investment in a period of 4 or 5 years without the tax expenditure. So there is already an incentive for insulation without this additional tax expenditure of about $1 billion a year over the period of the next 8 years.

Second, it is highly inflationary. Mr. President, I refer to the chart here on the floor in the middle of the back row. What this chart shows is that the growth in the Consumer Wholesale Price Index has risen between January 1 of this year and September of this year from 220 to 251, while the overall Wholesale Price Index went from 187 to only 195. That represents a 4 percent increase in the overall Wholesale Price Index, while in the area of insulation the index has gone up 3 times as much, by 14 percent. This is without the tax credit. I daresay if we provide the tax credit, you are going to see the red line on the chart go right up through the ceiling.

We already have a saturated market. This is what the National Association of Home Builders says. They say the average builder this year is being restricted to 40 percent of the annual amount of insulation used in 1976. They are only able to get 40 percent of what they got last year. In 1975, 22 percent of all the single family owned homes insulated their homes, and that was a 100 percent increase over 1974.

So what we are seeing is the dramatic growth in terms of home insulations over the past 3 years, and an explosion in the costs of insulation, all without the tax credit.

With the tax credit, we are going to see costs increase even more dramatically. Rather than actually benefiting the individual homeowner, the cost is going to go into additional costs and profits to the insulation manufacturers, if they are able to provide it.

Third, Mr. President, this credit is inequitable. It goes to the well-to-do homeowners who will receive far greater benefits than the low-income owners.

You will need a $2,000 outlay before you can get the full credit. Obviously, in order to spend $2,000 for insulation, you must have a substantial income. The low-income person, the lower middle-income person, the elderly people, that on tight budgets will not be able to make the kind of expenditures needed to take full advantage of the credit.

Fourth, it is complex. The tax return and the IRS audit process will be even more confusing. One of the objectives of the President's program in terms of tax reform is tax simplification. Yet this amendment will add another line to the tax form, on both the short and the long form.

Finally, Mr. President, it is extraordinarily expensive, costing $800 million per year.

On the Antitrust Subcommittee, we heard from the suppliers, as the Senator from Kansas pointed out. There are three major suppliers of insulation. There are a number of other suppliers of cellulose. But cellulose, as an alternative form of insulation, needs processing with boric acid. And there are only three companies that produce boric acid. If the insulation is not treated with boric acid, it gives rise to very substantial dangers and hazards because of fire.

We put into the RECORD on Tuesday a statement reporting a series of fires over recent months because of inferior insulation. So there are some real health hazards and safety hazards at the present time because of the exploding market.

Mr. President, this amendment does not make sense from any of those points of view. I think it will only cause a further dramatic increase in insulation costs. The homeowners will have to pay more for insulation, and the manufacturer will get the profits.

We heard the testimony of the third largest manufacturer of insulation, who opposes the tax credit. This is the third largest manufacturer. He believes that it will cause distortion in the market, because there will be an explosion in demand for the next 2 to 3 years. But then there will be a reduction in terms of demand as most homes become insulated, thereby distorting the market in a very significant way. He is reluctant to build new capacity in his plant, because he thinks this demand will taper off. They so testified before our committee.

For these reasons, along with the reasons that have been outlined by the Senator from Kansas, I am hopeful that this amendment would be agreed to.

The Committee on Finance, when they supported this amendment, did not even phase it out for the richest and the wealthiest people in this country, following the formula for the rebate program last spring. It is available to the wealthiest individuals in this country as well as to those in the middle income groups.

If the committee is going to justify the credit in terms of those who are hard-pressed in the middle income groups, it seems to me they should have at least followed previous precedents, by a phaseout of the credit. Yet they failed to do it.

I reserve the remainder of my time.

Mr. PACKWOOD. Mr. President, is there a time limit on this amendment?

The PRESIDING OFFICER. There is no time limit.

Mr. PACKWOOD. Would the Senator from Massachusetts respond to some questions?

Mr. KENNEDY. I would be delighted to respond.

Mr. PACKWOOD. I did not hear what the Senator's yearly revenue estimate of loss was. Did the Senator say $100 million?

Mr. KENNEDY. Approximately $800 million.

Mr. PACKWOOD. What is the estimated energy saving with this amendment?

Mr. KENNEDY. It is exceedingly difficult to obtain a reliable figure. The figure in the report of the Committee on Finance mention 325,000 barrels of oil savings a day in 1985. But how do they know how much saving is going to result from this credit, as opposed to savings achieved because people are already rushing to insulate without the credit. We already have a saturated market. The 325,000 savings estimate is a dubious one, because most of it would probably take place anyway, whether or not a credit is enacted. Right now, there can not be any more insulating than is already taking place, because the supply of insulation is so scarce. How can the tax credit produce any more insulation, when there is not enough being made now to meet the demand that already exists. They are not making insulation at the IRS. The credit is just a tax cut. It is not an incentive at all to insulate.

But the Senate Committee on Finance asks us to swallow a saving of 325,000 barrels oil per day.

Mr. PACKWOOD. Is that a Committee on Finance estimate or the estimate of the Joint Committee on Internal Revenue Taxation?

Mr. KENNEDY. That is the Joint Committee on Taxation. Would the Senator enlighten me—did the Senator support this provision in the committee?

Mr. PACKWOOD. Oh, yes.

Mr. KENNEDY. Would the Senator enlighten me as to what his estimate is? Is it going to be a $6 billion tax expenditure?

Mr. PACKWOOD. Actually, $6.3 billion, in terms of the total expenditures. We tried to find the best evidence available. We say the Joint Committee may be right or wrong, and they may be, but all we can do is go on the best evidence we can find.

UP AMENDMENT NO. 982

Mr. PACKWOOD. Mr. President, I send to the desk an amendment and ask for——

Mr. KENNEDY. Will the Senator answer his own question, that he asked me?

Mr. PACKWOOD. Yes. I would estimate 300,000 barrels a day, rather than 325,000.

Mr. KENNEDY. What is the Senator's basis for that? Is it not a fact that the manufacturers have indicated that there will be no further increase in production with this tax credit?

Mr. PACKWOOD. I am accepting the estimates of the Joint Committee on Taxation, who had already made these estimates for the committee. With the exception of such matters as energy meters and time clocks, on which, as I recall, the Joint Committee may have estimated higher, I think the Joint Committee has reduced the estimates, but I think that 300,000 is as low and as fair an estimate as you are likely to find.

Mr. KENNEDY. I would like the Senator to distinguish how much energy would be saved without the tax credit and what you believe is the benefit of the additional energy saving from the tax credit. This could be an even bigger lemon than the bus credit, where the committee asked us to spend $1 billion over 7 years for no energy saving at all. Here, the committee is asking us to spend $6 billion; and you ought to be

able to give us some indication of what a reliable estimate of savings would be.

If the Senator wants to leave it that way, I can understand why, because there is not any evidence to justify this kind of huge expenditure; but if there is anything the Senator would want to add, I would welcome it.

Mr. HASKELL. Mr. President, will the Senator from Oregon yield for a question?

Mr. PACKWOOD. Not quite yet. I am offering an amendment.

The PRESIDING OFFICER. Is the Senator offering his amendment as an amendment to the Dole amendment, or is the amendment in the nature of a substitute for the language of the Dole amendment, or in lieu of the language of the Dole amendment?

Mr. PACKWOOD. It is a substitute for the Dole amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an unprinted amendment numbered 982 to amendment No. 1488: In lieu of the language proposed to be inserted, substitute the following:

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted substitute the following:

SEC. 1011. RESIDENTIAL ENERGY CREDIT.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44B the following new section:

"SEC. 44C. RESIDENTIAL ENERGY CREDIT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the qualified energy conservation expenditures, plus

"(2) the qualified renewable energy source expenditures.

"(b) QUALIFIED EXPENDITURES.—For purposes of subsection (a)—

"(1) ENERGY CONSERVATION.—In the case of any dwelling unit, the qualified energy conservation expenditures are 20 percent of so much of the energy conservation expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $2,000.

"(2) RENEWABLE ENERGY SOURCES.—In the case of any dwelling unit, the qualified renewable energy source expenditures are the following percentages of the renewable energy source expenditures made by the taxpayer during the taxable year with respect to such unit:

"(A) 30 percent of so much of such expenditures as does not exceed $2,000, plus

"(B) 20 percent of so much of such expenditures as exceeds $2,000 but does not exceed $10,000.

"(3) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—If for any prior taxable year a credit was allowed to the taxpayer under this section with respect to any dwelling unit by reason of energy conservation expenditures or renewable energy source expenditures, paragraph (1) or (2) (whichever is appropriate) shall be applied for the taxable year with respect to such dwelling unit by reducing each dollar amount contained in such paragraph by the prior year expenditures taken into account under such paragraph.

"(4) MINIMUM DOLLAR AMOUNT.—No credit shall be allowed under this section with respect to any return for any taxable year if the amount which would (but for this paragraph) be allowable with respect to such return is less than $10.

"(5) CREDIT IN LIEU OF FEDERAL GRANT.—No credit shall be allowed under subsection (a) with respect to any expenditures in connection with the acquisition, leasing, construction, or installation of any item if any such expenditure is paid for directly or indirectly from the proceeds of any grant under any program—

"(A) established under the Energy Conservation in Existing Buildings Act of 1975,

"(B) administered by the Secretary of Agriculture in carrying out Farmer's Home Administration weatherization grant programs, or

"(C) administered by the Director of the Community Services Administration in carrying out weatherization programs under section 222(a)(12) of the Economic Opportunity Act of 1964.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ENERGY CONSERVATION EXPENDITURE.—The term 'energy conservation expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for insulation or any other energy-conserving component (or for the original installation of such insulation or other component) installed in or on a dwelling unit—

"(A) which is located in the United States, the Virgin Islands, or Guam,

"(B) which is used by the taxpayer as his principal residence, and

"(C) the construction of which was substantially completed before April 20, 1977.

"(2) RENEWABLE ENERGY SOURCE EXPENDITURE.—

"(A) IN GENERAL.—The term 'renewable energy source expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for renewable energy source property installed in connection with a dwelling unit—

"(i) which is located in the United States, the Virgin Islands, or Guam, and

"(ii) which is used by the taxpayer as his principal residence.

"(B) ITEMS INCLUDED.—The term 'renewable energy source expenditure' includes only expenditures for—

"(i) renewable energy source property,

"(ii) labor costs properly allocable to the onsite preparation, assembly, or installation of renewable energy source property, or

"(iii) the leasing of property which uses solar energy for any purpose described in paragraph (5)(A)(i).

"(C) SWIMMING POOL, ETC., USED AS STORAGE MEDIUM.—The term 'renewable energy source expenditure' does not include any expenditure properly allocable to a swimming pool used as an energy storage medium or to any other energy storage medium which has a function other than the function of such storage.

"(3) INSULATION.—The term 'insulation' means any item—

"(A) which is specifically and primarily designed to reduce when installed in or on a dwelling (or water heater) the heat loss or gain of such dwelling (or water heater),

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

"(4) OTHER ENERGY-CONSERVING COMPONENT.—The term 'other energy-conserving component' means any item (other than insulation)—

"(A) which is—

"(i) a replacement furnace or boiler designed to provide more efficient energy utilization by improving heat generation or lowering heat losses,

"(ii) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(iii) a device for modifying flue openings designed to increase the efficiency of operation of the heating system,

"(iv) an electrical or mechanical furnace ignition system which replaces a gas pilot light,

"(v) a storm or thermal window or door for the exterior of the dwelling,

"(vi) an automatic energy-saving setback thermostat,

"(vii) caulking or weather stripping of an exterior door or window,

"(viii) a heat pump which replaces an electric resistance heating system, or

"(ix) meters which display the cost of energy usage,

"(x) a replacement fluorescent lighting system, or

"(xi) an item of the kind which the Secretary specifies by regulations as increasing (by conversion or otherwise) the energy efficiency of the dwelling,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

In establishing regulations under this subparagraph, the Secretary shall prescribe (i) guidelines setting forth the criteria which are used in the determination of whether an item is an energy-conserving component, and (ii) a procedure under which a manufacturer of an item may request the Secretary to specify or certify that item as an energy conserving component.

"(5) RENEWABLE ENERGY SOURCE PROPERTY.—The term 'renewable energy source property' means property—

"(A) which, when installed in connection with a dwelling—

"(i) uses solar energy for the purpose of heating or cooling such dwelling or providing hot water for use within such dwelling,

"(ii) uses wind energy for nonbusiness residential purposes,

"(iii) is necessary to distribute or use geothermal deposits (as defined in section 613(e)) which provide geothermal energy to heat or cool such building or provide hot water for use within such building, or

"(iv) uses any other form of renewable energy which the Secretary specifies by regulations,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 5 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the property.

"(6) CONSULTATION IN PRESCRIBING STANDARDS.—Performance and quality standards shall be prescribed by the Secretary under paragraphs (3), (4), and (5) only after consultation with the Secretary of Energy, the Secretary of Housing and Urban Development, and other appropriate Federal agencies.

"(7) WHEN EXPENDITURES MADE; AMOUNT OF EXPENDITURES.—

"(A) Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when original installation of the item is completed.

"(B) In the case of renewable energy source expenditures in connection with the construction or reconstruction of a dwelling, such expenditures shall be treated as made when the original use of the constructed or reconstructed dwelling by the taxpayer begins.

"(C) The amount of any expenditure shall be the cost thereof.

"(D) If less than 80 percent of the use of an item is for nonbusiness residential purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness residential purposes shall be taken into account. For purposes of the preceding sentence, use for a swimming pool shall be treated as use which is not for residential purposes.

"(8) PRINCIPAL RESIDENCE.—The determination of whether or not a dwelling unit is a taxpayer's principal residence shall be made under principles similar to those applicable to section 1034, except that—

"(A) no ownership requirement shall be imposed, and

"(B) the period for which a dwelling is treated as the principal residence of the taxpayer shall include the 30-day period ending on the first day on which it would (but for this subparagraph) be treated as his principal residence.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a principal residence by 2 or more individuals—

"(A) the amount of the credit allowable under subsection (a) by reason of energy conservation expenditures or by reason of renewable energy source expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) each of such individuals shall be allowed a credit under subsection (a) for the taxable year in which such calendar year ends (subject to the limitation of paragraph (4) of subsection (b)) in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528 (c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(f) TERMINATION.—This section shall not apply to expenditures made after December 31, 1985."

(b) CREDIT TO BE REFUNDABLE.—

(1) Section 6401(b) (relating to amounts treated as overpayments) is amended—

(A) by striking out "oil) and 43" and inserting in lieu thereof "oil), 43",

(B) by inserting ", and 44C (relating to residential energy credit)" after "credit)", and

(C) by striking out "and 43", and inserting in lieu thereof ", 43, and 44C,".

(2) Section 6201(a)(4) (relating to assessment authority) is amended—

(A) by striking out "or 43" in the caption thereof and inserting in lieu thereof ", 43, or 44C",

(B) by striking out "oil) or section 43" and inserting in lieu thereof "oil), section 43", and

(C) by inserting "or section 44C (relating to residential energy credit)," after "income),".

(c) CERTAIN LOANS REDUCED BY AMOUNT OF CREDIT.—The amount of any loan or advance of credit which an individual is eligible for under—

(1) title I of the National Housing Act (but only if such loan or advance of credit may be purchased under section 314 of the Federal National Mortgage Association Charter Act), or

(2) any loan program with respect to the purchase and installation of solar heating and cooling equipment administered by the Secretary of Housing and Urban Development,

shall be reduced by the amount of the credit which is allowed under section 44C of the Internal Revenue Code of 1954, as added by subsection (a), for the purchase or installation of an item which the proceeds of such loan or advance of credit are to be used for.

(d) INSPECTION.—To the extent not presently authorized and utilized by any agency of the United States in the assessment and collection of income taxes, no procedure or practice which utilizes onsite inspection of the residence of an individual shall be employed to determine if that individual is entitled to a credit under section 44C of the Internal Revenue Code 1954, as added by subsection (a), unless such procedure or practice provides that such inspection shall take place only with the written consent of such individual.

(e) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44B the following new item:

"Sec. 44C. Residential energy credit."

(2) Subsection (c) of section 56 (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, 44C, 44E, 44F, and 44G."

(3) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by inserting after paragraph (20) the following new paragraph:

"(21) to the extent provided in section 44C(e), in the case of property with respect to which a credit has been allowed under section 44C;".

(4) Subsection (b) of section 6096 (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

(f) EFFECTIVE DATE. Except in the case of insulating, the amendments made by this section shall apply to taxable years ending on or after April 20, 1977. In the case of insulation, "April 20" reread "January 1, 1977."

Mr. PACKWOOD. Mr. President, this is a substitute in only one term. This amendment changes the effective date of the tax credit to January 1, 1979, for insulation only. In no respect does it change any other aspect of the Dole amendment.

This seems to have been the principal fear or criticism of the Senator from Kansas and the Senator from Massachusetts; so if you are worried about tax gouging in the next 2 years, since the tax credit will not be effective until 1979, I would think that would solve the problem. I move the adoption of the amendment, and I ask for the yeas and nays.

Mr. BENTSEN. Will the Senator yield for a question?

Mr. PACKWOOD. Yes.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BENTSEN. Did you ask for the yeas and nays?

Mr. PACKWOOD. I asked for the yeas and nays.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. If the Senator will yield for a question——

Mr. PACKWOOD. Yes.

Mr. BENTSEN. As I understood the Senator, he said that he had changed the Dole amendment, but the only thing he had changed in the Dole amendment was to move the date up to January 1, 1979, on insulation only.

If that is the case, then you are striking what the committee has done otherwise.

Mr. PACKWOOD. I did not mean to give that impression. If I did, I misstated myself. I have put back in the essence of the Finance Committee language, changing only the effective date for the insulation credit, and the rest of my amendment would be the same as the Finance Committee's language.

Mr. HASKELL. Mr. President, will the Senator yield for a question?

Mr. PACKWOOD. Yes.

Mr. HASKELL. I might say, Mr. President, that in the Finance Committee I believe I voted for the insulation credit, but this was before I found that the three principal manufacturers are now operating at 100 percent of capacity, and before I had been informed by people in the homebuilding business that there is actually a black market in insulation material.

It now occurs to me that if people are trying to insulate their houses anyway, why do we give them money for something they are already doing? Perhaps the Senator could address himself to that particular proposition.

Mr. PACKWOOD. This is not only, of course, an insulation amendment. It refers to replacement of furnaces, lights,

and so on. We are, of course, trying to reduce the use of oil throughout the country, and thus reduce our imports.

Mr. HASKELL. Perhaps this Senator could restate it as to insulation. If the insulation manufacturers are operating at 100 percent of capacity, and it is very difficult, even impossible, to get insulation on the regular market, therefore, if people are trying to insulate their homes to the maximum extent possible, given the materials available, why is the Congress of the United States attempting to pay them for something they are doing anyway?

Mr. PACKWOOD. To the extent that that argument is valid, it is the reason I am offering my amendment to make it effective only in January 1979.

Mr. HASKELL. If they are doing it anyway today, I do not see why they will not be doing it anyway a year from now.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. PROXMIRE. The fact is, we will not have any data on what the situation is for supply and demand in 1979 until a year from now. Why take this kind of action when we may have a situation just as tight and difficult in the availability of insulation materials in 1979 as we have now? There is no assurance that the problem will solved by that time; why would it not be wiser to adopt the Dole-Kennedy amendment, and then we can take another look at it next year and see if a tax credit would be appropriate?

Mr. PACKWOOD. Two reasons. One is that insulation is a part of the amendment, but not the overwhelming part of the amendment. You have heat pumps, you have storm windows, you have thermostats. All during the debate, we have been having some trouble with that, and we have stated the figures of the joint committee that we relied upon. Every year that we put this off will be 1 year later that we save that much oil, and 1 year later that we will be that much more dependent on imports.

Mr. PROXMIRE. We can act next year with the same kind of timing as if we act this year. If we pass this now, it would mean that for the next 12 months we would be serving notice on all homeowners that they could postpone their insulation action until 1979, because they will get a tax credit on it, and it will be in the law. Therefore, it might have a beneficial effect, and whatever vigorous action you are getting now is likely to be slowed down very sharply in 1978.

Mr. PACKWOOD. That argument, I suppose, could be made for everything that is in the bill. We could postpone the effective date on the tax credit for a couple of years and people would say they would wait 2 years. I am frankly trying to accommodate the argument of the Senator from Kansas and the Senator from Massachusetts that insulation was, indeed, a special problem and saying, therefore, that the credit would not apply until 1979. I am reluctant to delay a program, in this case the President's program, and the program of the House Ways and Means Committee, if it saves 300,000 barrels of oil per day.

I am ready to vote.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I rise in support of the Finance Committee incentives for residential energy-saving components. The administration has supported this particular position. This is the only incentive in the bill for individuals. All of the other credits are for business. But this is something that consumers can take advantage of for their own homes or apartments. Consumers can go out and buy insulation material, weatherstripping, storm windows, and other energy-saving equipment and receive a tax credit. When we talk about the shortage of insulation material and the problem of full capacity, there is some truth in that. The Senator from Oregon has made a very valid argument in that regard. His intentions are good. However, this Finance Committee provision applies to many items in addition to insulation such as replacement furnaces or boilers.

The problem we run into is that we talked about giving this tax credit effective April 20. A lot of people had relied on it and anticipated that they were going to get this credit.

The statement has been made that we let the wealthy also have the credit. That is true. But we ought to be given credit for the fact that we went far beyond what the House did by putting in a refundable tax credit to try to take care of poorer people who do not have the income and who are not paying taxes. These people who want to insulate their homes are cold in the winter, hot in the summer, and have high utility bills.

Here is a provision that will give up to $400 in a refundable tax credit to assist them in accomplishing that insulation work.

The Senator from Massachusetts is one who has supported the refundable tax credit concept. He has done it to try to help industry in his area.

The question has been brought up as to how much that weighs in the decision of the person deciding whether to put in the insulation, or whether to put in a heat pump? I do not know. I do not know the answer to that any more than I am sure he knows.

That is a matter of subjective judgment. I am not sure that anyone can put a pencil to it and give us an exact figure. All we know is that it does have some influence in trying to cut down on the amount of oil being imported.

Today, the committee and staff have estimated this incentive will save 325,000 barrels a day by 1985. That is a very material saving to be accomplished.

I think this is a positive step to reduce oil imports, something which the House agrees with, something which the administration agrees with, and something which the Finance Committee has reported to the full Senate.

Again, it is something for the individual and for that person who usually cannot afford to purchase this kind of insulation or other types of equipment which will help save on the cost of energy.

Mr. PACKWOOD. I am ready.

Mr. DOLE. Do I understand we are about to vote on the Packwood amendment?

Mr. BENTSEN. That is correct.

Mr. LONG. Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I hope the Senator from Oregon will not persist in his amendment. Perhaps he did not realize it at the time, but there has been something of a tradition in the executive branch as well as in Congress that, where the administration recommends something like the investment tax credit, to keep people from postponing their expenditures and from waiting to see what Congress is going to do, they will ask the committee chairmen to sign a letter saying that they agree that if something of this sort is to be done, the date will be the date of the President's recommendations—in this case, April 20.

If the Senate wants to vote to eliminate the tax credit, then, of course, there has been no breach of faith, because nobody would get an insulation credit and, therefore, no one would be prejudiced. But if someone purchased insulation on or after April 20, having read those news releases which announced April 20 as the effective date, this person would have a right to rely upon that type of commitment.

It has been done for years. It did not start with the Senator from Louisiana. That type of precedent was set many years ago.

Frankly, if the Packwood amendment were to pass, I suppose I would have to vote for the Dole amendment to strike the whole thing just because it would be far better to have no insulation credit, from my point of view, than for this Government to break its word. What the Senator seeks to achieve in general terms can be done in many other different ways. But when we have a procedure where we try to tell people to go ahead and make their investments, so that they will not be prejudiced, I think it would be a real cause for concern for Congress to break that traditional good-faith commitment.

Mr. BENTSEN. Will the Senator yield?

Mr. LONG. Yes, I yield.

Mr. BENTSEN. We run into another serious problem in trying to forestall the purchase of insulation until January 1, 1979. We run into a situation where a fellow wanting to buy insulation decides, "I can get a 20-percent discount if I wait until January 1979."

I think we would see that, in many cases, the purchase of insulation would be deferred. I think we would lose some of the savings that we might otherwise have in the way of the importation and use of oil for heating purposes if we delay this implementation until that date.

Mr. LONG. Mr. President, I have discussed this matter with the Senator from Oregon. He understands that I plan to make a motion to table it and, under those circumstances, Mr. President, I do move to lay the Packwood amendment on the table.

Mr. PACKWOOD. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Oregon. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from Nevada (Mr. LAXALT), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 80, nays 2, as follows:

[Rollcall Vote No. 586 Leg.]

YEAS—80

Allen	Eastland	Melcher
Anderson	Ford	Metzenbaum
Baker	Garn	Morgan
Bartlett	Glenn	Nelson
Bayh	Gravel	Nunn
Bellmon	Hansen	Pell
Bentsen	Hart	Percy
Biden	Haskell	Proxmire
Brooke	Hatch	Ribicoff
Bumpers	Hatfield	Riegle
Burdick	Hathaway	Roth
Byrd, Harry F., Jr.	Heinz	Sasser
	Helms	Schmitt
Byrd, Robert C.	Hollings	Schweiker
Cannon	Inouye	Scott
Case	Jackson	Sparkman
Chiles	Javits	Stafford
Church	Johnston	Stennis
Clark	Kennedy	Stevens
Cranston	Leahy	Stevenson
Culver	Long	Stone
Curtis	Lugar	Talmadge
Danforth	Magnuson	Thurmond
DeConcini	Mathias	Tower
Dole	Matsunaga	Weicker
Durkin	McClure	Williams
Eagleton	McIntyre	Zorinsky

NAYS—2

Packwood	Wallop

NOT VOTING—18

Abourezk	Huddleston	Moynihan
Chafee	Humphrey	Muskie
Domenici	Laxalt	Pearson
Goldwater	McClellan	Randolph
Griffin	McGovern	Sarbanes
Hayakawa	Metcalf	Young

So the motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I will speak for only 2 or 3 minutes. I think we have heard enough on the subject, and most Senators have made up their minds.

Mr. DOLE. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. Senators will cease conversations.

Mr. BENTSEN. Mr. President, the administration proposed this residential insulation and energy-saving equipment provision. The House has voted for it. I think the people of the country are counting on it.

But let me make this point: We are not just talking about insulation. What the Dole amendment would strike would not be just insulation. It would strike incentives for heat pumps, thermostats, caulking, storm windows, storm doors—a great many things that are not in short supply.

In addition, housing starts in September have leveled off. This incentive is estimated to save some 325,000 barrels of oil a year by 1985, a very positive saving.

Mr. HANSEN. Mr. President, may we have order?

The PRESIDING OFFICER. The point is well taken. The Senate will be in order. The Senate will please come to order.

Mr. BENTSEN. Mr. President, this is the only credit in the bill that is for individuals. The remainder of the credits are for business. This is a credit for the homeowner who wants to install insulation or wants to put in that thermostat or wants to buy that heat pump to try to cut down on his utility bill.

We took an extra step. We tried to do something for someone who is poor.

The House provision provides a credit to the extent that you pay taxes. We went further than that, to give a tax credit to those people who do not have the income to pay tax, to see that they have a chance to be warm in winter or to be cool in the summer, and to see that they can cut down on their escalating utility costs.

I think this is an affirmative, positive step. I believe that the Senate is ready to vote, and I am going to move to table the amendment. I move to table the Dole amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. DOLE. Mr. President, may we have a couple of minutes first?

Mr. BENTSEN. Yes.

Mr. DOLE. Mr. President, I think the Senator from Texas has stated his view accurately. I do not quarrel with those views, except to point out one or two things.

The entire bill reported by the Finance Committee is a disaster. We have approximately $40 billion worth of tax credits. This one adds up to $6.3 billion. We always have been faulting the industry about the windfall. There are only three companies that make insulation. They cannot make it fast enough. They do not have it. They are opposed to the credit, as are the National Association of Home Builders. We are considering an expenditure of $6.3 billion.

The American people insulated their homes and increased insulation 22 percent in 1975. They are doing it, because it makes sense, not because we the Government will authorize tax credits. There is no need for the credits. I do not know of anybody who asked for the credit, except those who makes thermostats and other gadgets, they want the credits to increase their sales.

It may be that, if my amendment is agreed to, it will strengthen the motion to recommit, so I have mixed views about offering the amendment. But it is $6.3 billion—to save how much energy? In what year? The joint committee says 1985. Nobody knows that it will save that much energy in 1985; and if it does, it is only about 300,000 barrels a day.

I yield to the distinguished Senator from Massachusetts.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. I yield a couple of minutes to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I will put some additional facts in the RECORD which have not been touched upon.

The Senator from Kansas says, "Where does it save in 1985? 300,000 barrels a day." That is the estimate; 300,000 barrels a day will be saved in 1985.

Let me remind Senators that it is not at a cost of $6.3 billion in 1985. That is the cost over the years between now and 1985.

The Senator from Massachusetts indicates that the cost is about $800 million a year, to save 300,000 barrels a year.

I remind the Senate that once this credit is made, once the homeowner has taken it once, it saves oil year after year after year, not just 1 year, although you only get 1 year's credit.

Let us take the figures of the Senator from Kansas: 300,000 barrels a day, at a cost of $800 million revenue lost to the Treasury. If we do not save those 300,000 barrels a day, we will have to import them. To import 300,000 barrels a day at today's prices, it is approximately $1.5 billion. That is going to flow out of this country—a net loss to the consumers and to this country of $760 million in 1985, let alone the $1.5 billion year after year after year that is going to flow out if we do not have 300,000 barrels a day.

The bottom line of a successful bill is, do we reduce or de we increase imports? This amendment is going to increase imports 300,000 barrels a day.

Mr. CHILES. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Members will cease conversations.

Mr. CHILES. Will the Chair ask the staff to cease conversations? It is not the Senators who are talking; it is the staff members who are talking.

The PRESIDING OFFICER. The Senate will be in order.

Mr. PACKWOOD. I quote from a story which appeared in the Washington Star this afternoon:

A subtly expressed but powerful message came through clearly during the visit of the Saudi Arabian foreign minister, Prince Saud al-Faisal.

U.S. pressure on Israel to soften its stand on Middle Eastern peace negotiations is linked to continued U.S. prosperity, Saud said in carefully indirect fashion * * *.

But Saud's speech made plain in a public way the theme which officials have been hearing. It is, basically, that an iron fist of determination to settle the Middle East situation by winning Palestinian rights from an adamant Israel exists inside the velvet glove of Saudi Arabia's subtle diplomacy.

The United States "has overwhelming influence with Israel," the prince said. "The decisive question is whether the United States has the commitment to help bring about a just and lasting settlement."

Saud warned that Washington cannot regard its dedication to the survival of Israel as the ultimate determinate of its policy.

That is what we are facing. Every single additional barrel that we import is another iota of pressure brought upon this country in our diplomacy, our military defense, and our economic well-being by countries over whom we have no control.

Here we have a provision in the Finance Committee bill that was offered by the President. This was not put in by the makers of gimmicks. The President asked for it. The House passed it. We have kept it. It cost the Treasury $800 million a year loss as opposed to $1.5 billion to purchase the same oil that we otherwise save. How on Earth can the Senate vote for an amendment that is going to increase our imports by 300,000 barrels a day, with an outflow of $1.5 billion, jeopardize our diplomacy and saying we are passing any kind of worthwhile bill?

I yield the floor.

Mr. KENNEDY. Mr. President, will the Senator from Texas yield 2½ minutes to me as a cosponsor?

Mr. BENTSEN. I am delighted to yield 2½ minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, just a few brief comments.

The committee report estimates a saving of 325,000 barrels per day. But we have no idea whether the credit produces this saving, or whether it would occur without the credit. People are already insulating their homes as fast as they can. Not enough insulation is available today to meet today's demand. A tax credit would not produce any more incentive.

Here is the statement of the National Assoication of Home Builders. It says:

The average builder is being restricted to 40 percent of the amount of insulation used in 1976.

Why? Because the industry cannot produce any more. What is the testimony of the manufacturers of insulation? They say the leadtime for constructing new capacity is 18 months, but they are not going to expand. Why? Because they are afraid the current demand is only a blip, and that a few years from now they will be caught with too much capacity after all the homes are insulated. In 1975, 2 years ago, 22 percent of all American homes were insulated. People know they have to insulate. The credit is not an incentive. It is just a tax cut, a windfall to people for what they are doing any way.

That is the trouble with using the tax laws to try to write incentives. There is a vast amount of waste, and very little incentive.

What has been the impact without this insulation credit? The wholesale price index has climbed three times faster for insulation this year than it did for other commodities. Three times higher without the tax credit. So inflation is a real danger.

So Senator DOLE and I say that, if we spend an additional $800 million a year in tax expenditures for insulation, the price will go up even faster. It is not going to mean new insulation because the market is already producing at capacity. What we are going to see is that this benefit will go to the producers in the market in the form of higher prices, and not to the homeowner. What good does it do a homeowner to get a $400 tax credit for $2,000 worth of insulation, if the tax credit simply causes the price of the insulation to go up to $2,400?

For those reasons we believe that the amendment is justified.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Mr. President, I intend to take no more than 30 seconds.

Last spring I proposed a package of credits that would have incorporated into the law what we had in last year's bill. It was voted down because a lot of Senators said they did not want to spoil the President's energy package and if we were to pick out the goodies out of that package, we would never get the remainder of it passed.

All I want to say now is for heaven's sake, let us not at this moment decide we do not want to extend any credit at all because if we do not we are going to be putting off another year what we should have done last spring.

Mr. BENTSEN. Mr. President, just a minute here. Let me make one point. When he talks about insulation just remember what they are really striking at in this situation. It is not just insulation. But it also says credits for energy savings components including a replacement furnace or boiler providing more efficient energy utilization, a replacement burner for a furnace which provides increased combustion efficiency, devices to modify flue openings, electrical or mechanical ignition systems that replace a gas pilot light, exterior storm or thermal doors or windows, any automatic energy-saving setback thermostat, any heat pump replacing an electrical resistance heating system, exterior caulking or weatherstripping of doors or windows, meters which display the cost of energy usage, and fluorescent replacement lighting systems.

With that I move to table.

SEVERAL SENATORS. Vote! Vote!

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Kansas.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Senators will clear the well. We do not want a repetition of what happened earlier today.

The clerk will resume calling the roll.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Maryland (Mr. SARBANES), the Senator from Kentucky (Mr. FORD), the Senator from Maine (Mr. HATHAWAY), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from West Virginia (Mr. RANDOLPH) would vote "yea".

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), the Senator from Nevada (Mr. LAXALT), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 62, nays 16, as follows:

[Rollcall Vote No. 587 Leg.]

YEAS—62

Allen	Garn	Packwood
Baker	Glenn	Pell
Bartlett	Gravel	Percy
Bayh	Hansen	Ribicoff
Bellmon	Hatch	Riegle
Bentsen	Hatfield	Roth
Biden	Heinz	Sasser
Brooke	Hollings	Schmitt
Bumpers	Inouye	Scott
Burdick	Jackson	Sparkman
Byrd, Robert C.	Javits	Stafford
Cannon	Johnston	Stennis
Case	Leahy	Stevens
Chiles	Long	Stone
Church	Magnuson	Talmadge
Clark	Mathias	Thurmond
Cranston	Matsunaga	Tower
Danforth	McClure	Wallop
DeConcini	Melcher	Williams
Durkin	Metzenbaum	Zorinsky
Eastland	Nunn	

NAYS—16

Anderson	Hart	Nelson
Byrd, Harry F., Jr.	Haskell	Proxmire
	Helms	Schweiker
Culver	Kennedy	Stevenson
Dole	Lugar	Weicker
Eagleton	Morgan	

NOT VOTING—22

Abourezk	Hayakawa	Moynihan
Chafee	Huddleston	Muskie
Curtis	Humphrey	Pearson
Domenici	Laxalt	Randolph
Ford	McClellan	Sarbanes
Goldwater	McGovern	Young
Griffin	McIntyre	
Hathaway	Metcalf	

So the motion to lay on the table Mr. DOLE's amendment (No. 1488) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 983

Mr. PERCY. Mr. President, a successful amendment I introduced earlier today would encourage gasohol, and save up to a potential 1.5 million barrels of oil a day. I now send to the desk an amendment which could save up to 160,000 barrels per day.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 983:

On page 61, line 23, insert the following:—

Mr. PERCY. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 61, line 23, insert the following:

Delete "(M) any other property of a kind specified by the Secretary by regulation," and add

"(M) energy efficient replacement electric motors, as determined by the Secretary (after consultation with the Secretary of Energy), or

"(N) any other property of a kind specified by the Secretary by regulation,"

Mr. PERCY. Mr. President, this amendment could save up to 160,000 barrels a day. I mention this because this entire Senate bill has been criticized for putting too much emphasis on just production and production incentives. I think the Senate has a responsibility not only to stimulate production, but also to stimulate conservation.

Mr. President, the administration, the House, and the Finance Committee have all recognized the urgency of saving energy in this country. There has been wide agreement that incentives to businesses to conserve are a proper way to encourage the marketplace to achieve our energy goals. The national energy plan would grant an additional investment tax credit for conservation and alternate fuel investments.

I have noted that a major item, high efficiency electric motors, has been left off the lists of conservation items to receive an additional credit. The amendment I am offering today would allow a credit for such motors.

Various coal, nuclear and alternative technologies are available to generate additional electricity supplies. But no one to my knowledge claims that the cost of additional electricity supplies is likely to fall any time soon. It is therefore imperative that we find new ways to conserve electricity to protect consumers from high prices. Increasing the efficiency of electric motors, which consume 60 percent of all electricity produced in this country, is a must on any list of conservation actions.

Electric motors are found in every sector of the economy. They power such items as washing machines, air-conditioners, industrial compressors, and fans.

Motors are a very well known type of technology. Standard electrical engineering textbooks show the small handful of basic designs the motor industry produces. To increase new motor efficiency involves no new technology. Increases in the length of the motor core, or use of improved and thicker metals in the core can raise efficiency by up to 35 to 45 percent.

Of course, these efficiency improvements cost money. To cut losses by 25 percent may raise the cost of a motor one-quarter or more. A 35-percent reduction increases costs by up to one-half.

Higher electricity prices are encouraging businesses to buy high-efficiency motors. Unfortunately, many firms are still concerned primarily with the first cost of an investment, not its life-cycle cost. For others, power costs are too small a portion of their total expenses to require serious attention and cost-cutting measures. Thus, further Federal action to stimulate energy savings is appropriate in view of the potential for improvement, and the need to conserve.

On Wednesday the Energy Conference Committee killed a Senate-passed proposal to set minimum efficiency standards for electric motors and other industrial equipment. This leaves no special incentive programs in this vital area. It makes my amendment all the more necessary.

I propose extending the business tax credit for conservation devices in the energy tax bill to high-efficiency electric motors. It would qualify as "specially defined energy property," and thus qualify for a 10 percent additional credit (20 percent total).

Mr. President, I wish to discuss briefly my amendment.

I feel an appropriate threshold for the credit would be to include those motors which are 25 percent more efficient than the industry average, or 1 in 20 sold today. Under my proposal the Secretary of the Treasury, in consultation with the Secretary of Energy, would issue efficiency standards under which electric motors would qualify under any amendment.

This amendment can achieve significant energy savings at a low price tag to the taxpayer. If applied today it would cost only $104 million in revenue losses by 1985.

FEA estimated that more efficient motors in the size range to which this credit would apply could save 5 percent of total U.S. electrical consumption by 1990, or the equivalent of 160,000 barrels of oil per day. I believe my amendment will set us well along the road to achieving those savings.

Mr. President, my amendment provides a workable answer to this one area of conservation potential, electric motors. I urge my colleagues to join with me in supporting this concept.

Mr. President, as I have indicated, the potential savings could be up to 160,000 barrels a day. I think it is by steps like this that we are finally going to achieve the goal established by the President of the United States and by Dr. Schlesinger at the International Energy Conference last month, when he said we would cut our consumption of imported oil to 6 million barrels a day from our present rate of 8.8 million barrels, and we would do that by 1985, when we otherwise would be consuming 16 million barrels a day.

I ask my distinguished colleague, the manager of the bill, for his reaction to this amendment.

The PRESIDING OFFICER. Does the Senator from Louisiana seek recognition?

Mr. LONG. Mr. President, our staff has studied this proposal. We have undertaken to provide assistance in redrafting it to meet some technical problems that we saw in it. As it has been redrafted, Mr. President, I would be pleased to vote for the amendment, and urge the House to consider it if it be the judgment of the Senate that we should take it to conference.

Mr. PERCY. I thank my distinguished colleague.

The PRESIDING OFFICER. Does the Senator from Wyoming seek recognition?

Mr. HANSEN. No.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. PERCY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1489

(Purpose: To authorize the Secetary of Agriculture to permit any person to use set-aside acreage for the production of any agricultural or forestry product which is to be used or sold for primary use in the manufacture of a gasoline blend fuel.)

Mr. BAYH. Mr. President, I call up my printed amendment No. 1489, as modified.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an amendment numbered 1489, as modified:

On page 23—

Mr. BAYH. Mr. President, I ask unanimous consent that the amendment be considered as read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 23, between lines 6 and 7, insert the following new subsection 1021(e):

AGRICULTURAL COMMODITIES USED IN THE PRODUCTION OF CERTAIN BLENDED FUELS.

(e) Under such regulations as the Secretary of Agriculture shall prescribe, any person participating in any year in any program ad-

ministered by the Department of Agriculture under which there is an acreage set-aside program in effect for such year may be permitted, notwithstanding any other provision of law, to use the set-aside acreage of the farm for the production of any agricultural or forestry product which is to be used or sold by such person for primary use in the manufacture of a gasoline blend exempted from taxation under section 4081(c) of the Internal Revenue Code of 1954.

Mr. BAYH. Mr. President, the purpose of this amendment is to authorize the Secretary of Agriculture to permit any farmer to use set-aside acreage for the production of any agricultural or forestry product which is to be used or sold for primary use in the manufacture of alcohol fuels. I am pleased that my very distinguished colleagues, Senator DOLE, ABOUREZK, ANDERSON, EAGLETON, JAVITS, MORGAN, ZORINSKY, TOWER, CHURCH, and MCGOVERN are cosponsors of this amendment.

Mr. President, this amendment will create an additional incentive and opportunity to tap the energy potential of our Nation's farmland and improve the prospects for opening a new market for grain and other farm and forest products. The distinguished chairman of the Agriculture and Forestry Committee, Senator TALMADGE, has joined in support of this measure. Of course, the distinguished ranking member of the Agriculture Committee, Senator DOLE, also supports this measure and, as I have mentioned, is a cosponsor. I hasten to add that our distinguished colleague from Nebraska, Senator CURTIS, also has stated his strong support for this amendment.

This amendment is a complement to the action already taken by the Senate Finance Committee and included in H.R. 5263 which would remove the 4-cent-per-gallon Federal excise tax from gasoline-alcohol blend fuels containing at least 10-percent alcohol derived from agricultural or forestry products, by-products or residues. I would like to note that I have been a strong supporter of that tax incentive, as many of my colleagues know. Specifically the amendment would give the Secretary of Agriculture authority to adopt regulations which would allow farmers to use their set-aside acreage for the production of crops to be used or sold for primary use in the production of alcohol fuels which are exempt from the Federal excise tax under this new provision of the internal revenue code.

It is important to emphasize that this bill does not compel any change in administration of the farm program adopted in the Food and Agriculture Act of 1977. Rather, the amendment would authorize the Secretary of Agriculture to permit farmers to use set-aside acreage to grow fuel crops, just as the Secretary now has authority to permit farmers to use set-aside acreage under certain conditions to grow sorghum, hay, sunflower, castor beans, and several other crops. The amendment would not impair the supply-limiting and price-supporting purposes of the set-aside programs, because it would not add to the supplies of agricultural products in traditional markets. Regulations prepared by the Secretary of Agriculture would assure that there would be no competition with grains in traditional markets.

This amendment would allow idle cropland to be used as a laboratory for the application of our best technology to the development of a new market for agricultural crops which might help solve some of the energy problems that our Nation will face over the coming years. At the same time this amendment, if fully implemented by the Secretary of Agriculture and if a sufficient market is developed, will be a step in removing that part of our farm program which is the most frequent irritant of farmers and consumers alike: The compelled idling of farmland from production of crops.

Mr. President, our greatest natural resource throughout our history and in the foreseeable future is the productive capacity of our rich farmland and forestland and our favorable climate. The energy that can be generated and captured each year in our growing crops is renewable. That energy should be utilized both now and in the long run as a substantial part of our overall energy program. We dare not continue our heavy reliance on foreign fuels and exhaustible domestic fossil fuels. Alcohol fuels derived from the products of our Nation's farms and forests and by reclamation of wastes are the most apparent and exploitable renewable energy source available today. We must apply American ingenuity and technological capacity to developing the potential of alcohol fuels. Of course, this amendment will not create a quick and easy solution to farm surpluses or to energy shortages but it can be part of solutions to both problems at no cost to the Government.

Mr. LONG. Mr. President, I have discussed this amendment with the chairman of the Agriculture Committee, the distinguished Senator from Georgia (Mr. TALMADGE), and it was his view that we should agree to this amendment. So, as far as I am concerned, I expect to vote for it, and if the Senate agrees with the judgment of the Senator from Indiana and those of us who are inclined to vote for it, I will be pleased to ask the House to accept it.

Mr. BAYH. I thank the distinguished chairman. I also appreciate his pricking my rather tired memory at this time. The chairman of the Agricultural Committee as well as Senator CURTIS both have joined in cosponsoring a bill which would do the same thing. For reasons of parliamentary procedure and the courtesy of the chairman of the Finance Committee, they were reluctant to go into that at this time. I have already mentioned that my distinguished friend from Kansas has been one of the leadoff Senators in this area. I did omit Senator CURTIS and the chairman of the Agricultural Committee (Mr. TALMADGE) who have been pursuing this through the legislative and not the amendatory form.

Mr. DOLE. Mr. President, I do not want to do anything to upset what has already been laid on here. I do commend the Senator from Indiana. I am not certain what the practical effect of the amendment will be. We do have the provisions in the bill which we believe will be helpful, and I certainly think this amendment complements that. I am happy to be a cosponsor. I hope it is acceptable to the chairman.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

The PRESIDING OFFICER. Are there further amendments?

ADDITIONAL STATEMENTS SUBMITTED

Mr. GARN. Mr. President, we are faced today with legislation which is the wrong remedy for a nonproblem. The best thing that could happen to the country would be for us to fail totally to get an energy bill past the Congress this year. Let me take a few minutes to expand on those statements.

To begin with, this whole mess was sent up here by the President of the United States because of the "energy crisis." Now there is, indeed, an energy crisis, but it is not the one the President thinks it is. The President issues calls to arms in "the moral equivalent of war," and then goes on to attack the oil companies for "war profiteering." Of course, he has to jump on the American people for not listening to him, and threaten to force them to change their behavior too.

The problem is the people know that there is no "moral equivalent of war" to be fought. They know that the "crisis" bears the clear label "Made in Washington," and they are not about to lay down their lives, or even turn down their thermostats, for that kind of war. They know what we here in the Senate know, and what the President knows. We are in no danger of running out of fossil fuels in the near future. We are running out of fuels that are available at the prices that make politicians popular, and that is the problem. This crisis is not an energy crisis; it is not an economic crisis. It is a political crisis. For years Washington has been meddling in the energy business and it has made a mess of things. Now when the day of reckoning is about to arrive, rather than admit the error, and get out of the way, Washington trots out its time-worn solution: "More Government."

A good illustration of the availability of fuel in America is the MOPPS study, carried out earlier this year by the Energy Research and Development Administration. Although the Carter administration did its best to bury this report, and doctored it up as best it could before finally releasing it, it makes hash out of the administration's contention that higher natural gas prices will not produce more natural gas. The most pessimistic figures ERDA could come up with showed that at a price of $3.25 per 1,000 cubic feet, there would be twice as much gas available as under the Carter proposal of a ceiling of $1.75.

Vince McKelvey, Director of the U.S. Geological Survey, has time and again refused to confirm the administration's estimates of available reserves. As a result McKelvey was fired, thus introducing politics into the Geological Survey in a big way.

There are enormous supplies of alternative fuels available. These include

solar wind, geothermal, oil shale, tar sands, nuclear fission, nuclear fusion, gasohol, alcohol, hydrogen, tides, magnetohydrodynamics, secondary and tertiary recovery systems, and others too numerous to mention and not even discovered yet. There are two ways to make them available. One is to try to guess what they are, and encourage their production directly. The other is to free the energy marketplace from controls, and allow the wisdom and preferences of consumers to decide which ones will be developed, and at what rate.

The choice of the Carter energy program, echoed in the House bill, and picked up in the bill before us, is the route of governmental omniscience. The House apparently thinks it is smart enough to know what conservation measures people ought to adopt. The Finance Committee thinks it is smart enough to figure out what kinds of alternative sources are most promising.

The carrot approach, adopted by the House, has some serious inequities built into it. The Finance Committee recognized those, and wisely took most of them out of the bill sent over here. For instance, it makes no sense to impose a burdensome tax on utilities burning oil and natural gas, in some cases even where there are not alternatives. There are already penalties imposed on such utilities, in the form of the high cost of fuel they must bear. Those that can convert to coal are already converting, as fast as they can. Of course, with some of the requirements imposed on coal-burning facilities under the Clean Air Act, and the difficulty in obtaining coal under present leasing policies (or non-policies) and strip mining regulations, there is less incentive to convert than there might be.

The House-passed bill also contained a gas-guzzler tax. This is another example of the stick approach, one that is terribly arbitrary and discriminatory. In the western part of the United States we have tremendous distances to drive. Some of us also have large families. Cars adequate to the size of our families, and up to the distances we have to travel tend to be large cars, heavy cars, the kind of cars that are going to get hit by a gas-guzzler tax. Fuel costs are going up. Consumers know that. To the extent they can, they are buying more fuel-efficient cars, and Detroit is manufacturing them. To argue that people will not switch unless this Congress passes a law forcing them to is to say that the American people are stupid. And I do not believe they are stupid.

The carrot approach being tried by the Finance Committee is also arbitrary and discriminatory, in a different way. It is marginally better in that it is a constructive approach. By trying to encourage the development of alternative energy sources, the committee at least showed that it knew what the problem is. But that committee is not smart enough to know what technologies should be encouraged and which should not. If they were that smart, they should go into the stock market, and not waste time writing legislation.

As an example, let me point out that the bill as reported contains a $3 per barrell credit for oil squeezed out of shale. Now as it happens, we have a lot of shale in Utah, and I have in the past supported some limited incentives for oil shale production. Just the other day, I got in the mail a piece of oil shale, about as big as a softball. I think all Senators got them, sent by Senator BELLMON. Senator BELLMON also sent me a little vial of oil that had been squeezed out of shale. He was trying to show that it could be done. But I knew it already. We all know it can be done. The question is, can it be done economically? Well, the answer is yes, if you give the companies a $3 credit for each barrell, and that may be a good thing. It may be that oil shale is what we want in the United States.

But why not tar sands? We have tar sands in Utah as well as oil shale. The technology for extracting oil from tar sand is not as far along as the technology for oil shale, but it is there. Why should we not encourage that just as well as oil shale?

And rather than either of those, why not gasification of coal? We have a number of people who have been trying to get up some interest in a coal gasification plant down on the Kaiparowits Plateau. Why should not we not give them the equivalent of a $3 per barrel tax credit?

Why not geopressurized methane? Why not hydrogen? Why not Fisher stoves? Why not Stanley Steamers?

The point is that we do not have any good way to deciding these questions, because they are not political questions, and that is what we are good at deciding. The answer to the desirable technology is an economic question, and if the Federal Government has demonstrated anything over the years, it is that it is lousy at deciding economic questions. Politics is our bag, and we ought to get out the economic questions, and let the market tell us whether we should be encouraging oil shale, or hydrogen, or just what we should encourage. The marketplace itself will do that, without the risk of a single taxpayer dollar.

The worst effect of this legislation now before us, Mr. President, is that it makes it virtually certain that we are going to end up with some kind of a crude oil equalization tax. The Finance Committee was wise enough to reject that tax out of hand, and I commend them for it. Their reasoning, as expressed in the committee report is persuasive and logical. I cannot fault it. What I cannot understand is, given their reasoning, why they are willing to report out a bill that simply invites a tradeoff of some of these tax credits for some form of the COET. I cannot blame the chairman of the committee for wanting a bill. It is the nature of committee chairmen to pass bills as it is the nature of dogs to scratch fleas and politicians to seek publicity. What I cannot understand is why so many of the rest of us seem to be willing to go along with a strategy that may bankrupt the country. I know that there is no formal compromise already agreed upon. Senator LONG says there is not, and he is an honorable man. I believe him. I also know that if he takes this bill to conference with the House, there will be a compromise agreed on, and it will involve a COET. Senator LONG knows it too, I think, and I think he will admit it if he is asked.

I also know the oil companies favor something along this line. Let us have it all out in the open here. I am often accused of carrying water for the oil companies, and I suppose I sometimes do, because the companies have been very efficient providers of energy, and the country needs energy. The companies also know that energy is not produced by passing laws. It is produced by investment, and risk, and a little luck, and a lot of hard work. The companies put their money on the line, and they have done a great job. So I guess I do support them, most of the time.

But not this time. If they want this kind of a compromise, I am going to oppose them. The result of this bill, after the conference committee finishes with it, will be a tremendous tax on the American people, with the proceeds of that tax delivered to the oil companies. Or at least part of it.

A few weeks ago, I outlined the kind of natural gas agreement we ought to get. One essential part was the dismantling of the Federal regulatory bureaucracy. Of course we did not do that, in the bill we passed, and this bill would not do it for oil either. We would still be left with the whole mishmash of regulations and bureaucrats we now face. This would not be decontrol. Any oil company that thinks it would be is crazy. The American people will never buy this scheme. This COET is going to be a monstrosity, a monstrosity as bad as the present entitlements program.

Let me just point out one problem with the COET. The marketplace right now is flush with oil and gasoline. In fact, according to a Rand Corp. study, there is no way the oil companies could pass on to the consumer the costs of the COET. So the entire amount would have to come out of profits. And the fact is that there simply are not enough profits to provide it. Right now, we need additional investment in oil companies, to permit the exploration and development that will supply our future needs. What will be the impact of a massive cut in profits (even the administration admits that the COET would reduce profits by one-third) on the willingness of investors to invest in oil companies? I will tell the Senate what the impact will be. It will be to discourage investment. And that means less production, which in turn means increased imports, just like the present entitlements program. I begin to wonder if the Government does not have a conscious policy of increasing our dependence on the Middle East.

Just to make this exposition complete, let me dispose of the idea that decontrol of oil would mean a massive increase in the price of gasoline at the pump. It would not. Right now domestic refiners are buying some of their crude oil in the Middle East, at something over $13 per barrel. They are buying some of their crude in the United States at something

near $13, and some of it in the United States at price down to around $5. I do not know the exact prices.

They take crude from those sources, and refine it into gasoline, and they sell it to retailers. Now how do they set their price? Do they set it on the basis of their average cost for a barrel of oil? That would be something around $8 to $9. No; they do not. There is an old principle of economics that teaches us that the price is set on the basis of the marginal unit. In this case, the last barrel of oil they buy is foreign oil, selling for about $13 per barrel. That means that gasoline prices right now, today, are set on the basis of $13 oil. If we let the price of all oil rise to the market price today, that is, to $13, the price of 1 gallon of gasoline would not change a bit. Of course, because of the mass of regulations, and so on, there would be increases some places, and decreases others, but on average, there would be no change in the price of gasoline.

Now, within a very short time, that higher price for domestic oil would call forth additional supplies. Robert Hall and Robert Pindyck of the policy study group of the MIT Energy Study Laboratory estimated that price increases of this magnitude could call forth new supplies within 2 to 3 years.

Market prices for oil would call out those additional supplies and within a short time, there is every reason to expect the price of gasoline to begin to fall. Let us be honest, the days of 20-cent gasoline are over, but there is no reason for us to be in bondage to foreign producers for the rest of existence. Even more importantly, a market price for oil would give us some measure for all of the alternative energy sources we hear so much about. There is considerable evidence that these are coming on stream now as fast as they can, but a rational pricing system of petroleum could only add impetus. The most important result would be the establishment of some certainty in energy markets.

So let us come down to the bottom line, Mr. President. What I am suggesting is, instead of the complex and wasteful system of carrots and sticks in the legislation before us, let us go to work and get rid of the governmental controls that got us into this mess. Let us kill any idea of an energy tax, which will rip billions out of the pockets of consumers, and any idea of cranking up a handout for energy companies, so they will not have to work for their money in the marketplace. Neither of those alternatives is going to be acceptable to the consumer or to the taxpayer. Let us for once act as statesmen, make our arguments on a political basis, and then get out of the economic questions we are so ill suited to make.

Mr. BAKER. Mr. President, we are engaged in debate of an issue of vital importance to the well being and security of the Nation, probably the most important opportunity and responsibility addressed by the 95th Congress. I believe it is appropriate to express, therefore, my dismay that much of this discussion has borne little relevance to either the true problem or a feasible solution.

In today's edition of The Washington Post, a distinguished group of the Nation's leading economists expressed in clear and unmistakable terms their dismay at the nature of this debate. In an advertisement, the Economists for Responsible Energy Policy strip through many of the distorted arguments offered in support of the administration's energy policy. They point out, as I and many of my colleagues have pointed out in the past, that in response to the shortage of domestic energy resources and an ever increasing dependence on imported energy, the administration has created an incredible $10 billion a year bureaucracy and has proposed the "largest peacetime tax increase in history," neither of which will increase by 1 cubic foot of gas or 1 gallon of oil the amount of energy available to the American people. In turn, the President has ignored the single most important resource available to us—the inherent genius of the market system.

I would ask my colleagues to consider the arguments offered by the Economists for Responsible Energy Policy and for that purpose I ask unanimous consent that the article and those who signed it be printed at this point in the RECORD.

There being no objection, the advertisement was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 27, 1977]

(The following commentary is a paid advertisement:)

DEMAGOGUERY AT THE WHITE HOUSE

Not since Richard Nixon left the White House has the public witnesed an outburst quite like President Carter's at his recent news conference on energy. The President heaped invective upon his opponents, denounced oil companies as "war profiteers" and declared that defeat of his energy program and removal of natural gas price controls will mean "the biggest rip-off in history."

As responsible economists of all parties, we deplore discussion of important national issues in these terms. We believe that the President's intemperate language reveals the essential weakness of his case.

The issue is not oil companies versus the people. And one does not need to be a fan of the oil companies to recognize that. Every signer of this statement has been critical of the oil industry. We strongly oppose the current system of controls and import subsidies that adds millions of dollars to the income of oil refiners. We believe in a competitive oil industry free from monopoly.

We think the best way to achieve the goals of energy conservation and limited imports from OPEC is to let the market set prices—with rewards going to those who serve consumers most efficiently. Mr. Carter wants the bureaucracy to set prices and to distribute the rewards politically.

Under Carter's plan the lobbyists he deplores really would have the ability to "rip-off" the public. This possibility has certainly been recognized by some of the oil companies themselves. Contrary to public impression, not all the oil companies have been fighting the Carter program. They see the possibility that it would protect them from competition as well as grant them direct subsidies.

The so-called "energy program" would be the largest peacetime tax increase in history. It would make many billions more dollars of tax revenue available for lobbyists to seek—as well as mandate an expensive bureaucracy which would increase the overhead costs of making energy available to consumers. Already the Department of Energy is to cost $10 billion annually—a sum roughtly equal to the combined after-tax earnings of America's major oil companies.

Mr. Carter would use taxes to raise the domestic price of oil to the world level. This is his way of eliminating the subsidy we are now paying through the "entitlement program" for the import of foreign oil. A far better way to achieve the same goal is to let the market set the price. This would provide the domestic owners of oil, many of whom are not large oil companies, with the same incentive to produce oil which we currently provide to OPEC. It makes no sense to say that OPEC oil producers can receive $12 or $13 per barrel when American producers are limited to $6 per barrel. But this is exactly what the President's tax on crude oil would do.

If the market is allowed to set the price, this will bring forth additional energy supplies which will lead to lower prices in the future. But if the cost to the consumer goes up due to a tax increase, it will go up now and permanently. There is no increased production. The consumer's only hope under the Carter plan is that bureaucrats in the Department of Energy will somehow be more enterprising and efficient at bringing forth energy supplies than all of the many energy companies operating under the spur of profit and competition. Does anyone really expect this to be true?

There is no energy crisis in the U.S. today, but there is an energy problem. It was created by political manipulation and price controls in energy markets. Former President Nixon deserves much of the blame for imposing these controls on oil as part of his general price control program in 1971. The controls on natural gas that created the crisis of last winter date from more than 20 years ago. And the present system of oil taxes and subsidies was passed by Congress and signed into law by President Ford in 1975. Now a Democratic President seeks to perpetuate the mistaken policies of his Republican predecessors.

At the very time that the Carter Administration is opposing de-control and thus denying the public the right to purchase American gas at $2.20 per MCF, the Department of Energy is making long-term deals to import natural gas from Algeria and Indonesia at $3.50 per MCF.

Angry rhetoric from Mr. Carter will not persuade a reasonable citizen that it is better for our economy to spend $3.50 for gas than it is to spend $2.20.

Perhaps with more serious reflection, Mr. Carter may come to realize this himself. Perhaps he will return to his pre-election position that controls, which are a major cause of our energy problems, should be eliminated.

Congress has been told that it must rush to pass Mr. Carter's current energy plan. "This is the moral equivalent of war." And what is that? William James, from whom President Carter borrowed the phrase, defined "the moral equivalent of war" as nonmartial suffering, something which involves "discomfort and annoyance, hunger and wet, pain and cold, squalor and fifth." We do not believe that the American people deserve to have "discomfort, pain, squalor, etc." imposed upon them by their government.

ECONOMISTS FOR RESPONSIBLE ENERGY POLICY

This advertisement is presented as a public service by National Taxpayers Union. Contributions to help bring this message to other Americans would be appreciated.

Clay LaForce, Chairman, Department of Economics, UCLA.

William R. Allen, Professor of Economics, UCLA.

John Riley, Professor of Economics, UCLA.
Martin Anderson, Senior Fellow, Hoover Institution, Stanford University.
Henry S. Rowen, Professor of Public Management, Stanford University.
James Sweeney, Professor—Stanford Engineering—Economic Systems, Stanford University.
Dennis Logue, Professor of Business, Dartmouth College.
Robert Hall, Professor of Economics, MIT.
Armen Alchian, Professor of Economics, UCLA.
Mark Schupack, Professor of Economics, Brown University.
George Boots, Professor of Economics, Brown University.
William Poole, Professor of Economics, Brown University.
Paul MacAvoy, Professor of Economics, Yale University.
Thomas Sowell, Visiting Professor Economics, Amherst College.
Richard H. Timberlake, Jr., Professor of Banking and Finance, University of Georgia.
Colin D. Campbell, Professor of Economics, Dartmouth College.
Richard T. Seldon, Chairman, Dept. of Economics, University of Virginia.
Robert Bish, Director of Research, Institute of Urban Studies, University of Maryland.
G. Warren Nutter, Professor of Economics, University of Virginia.
Richard N. Rosett, Dean, Graduate School of Business, University of Chicago.
George Stigler, Charles R. Walgreen Distinguished Service Professor of American Institutions, University of Chicago.
Murray Weidenbaum, Mallinckrodt Distinguished University Professor, Washington University.
Hans Sennholz, Professor of Economics, Grove City College.
Martin L. Lindahl, Professor of Economics, Emeritus, Dartmouth College.
Allan Meltzer, Maurice-Falk Professor, Carnegie-Mellon University.
Karl Brunner, Professor of Economics, University of Rochester.
Robert E. Lucas, Jr., Professor of Economics, University of Chicago.
Ronald I. McKinnon, Professor of Economics, Stanford University.
Ezra Solomon, Dean Whitter Professor of Finance, Stanford University.
William Meckling, Professor of Economics, University of Rochester.
James Buchanan, Distinguished University Professor, Virginia Polytechnic Institute.
Walter J. Mead, Professor of Economics, University of California at Santa Barbara.
Michael Ward, Professor of Economics, UCLA.
Murray Rothbard, Professor of Economics, Polytechnic Institute of New York.
Benjamin Rogge, Professor of Economics, Wabash College.
Milton Friedman, Past President, American Economics Association, Nobel Prize Winner.
William Fellner, American Enterprise Institute, Sterling Professor of Economics, Emeritus, Yale University.
D. Gale Johnson, Professor of Economics, University of Chicago.
C. Lowell Harriss, Professor of Economics, Columbia University.
Edward J. Mitchell, Professor of Business Economics, University of Michigan.
Yale Brozen, Professor of Economics, Graduate School of Business, University of Chicago.

Mr. CHILES. Mr. President, Senator MUSKIE, chairman of the Budget Committee, is absent due to illness. He has asked me to submit this editorial from tonight's Washington Star about the Budget Committee's procedural concerns with the energy tax bill. I, therefore, ask unanimous consent that it be included in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BUDGET ACT AMONG FRIENDS

Several years ago, with an eye to restoring its failing power over the nation's purse-strings, Congress committed itself to a budgeting process. The notion was both simple and sound. As the legislative year progressed, each house would adopt "binding" budget resolutions that set a ceiling on expenditures and a floor under revenues. And that would end the budgetary chaos—every committee the keeper of its own purse—on which executive intrusion fed.

But as we have observed from time to time, the Budget Act was easier to enact than it is to enforce. Enforcement occasionally demands hard choices. And in the Senate's current dealing with energy legislation we have a typical illustration of that fact.

Understand, to begin with, that the Senate is really in a mood to turn over to the Finance Committee the tedious job of dealing wih the tax aspects of the energy bill—which is to say, really, in a mood to confide the job to Sen. Russell Long. The administration, we gather, is encouraging this expansive mood. Its hopes for meaningful energy legislation are pinned to the extraordinary talents of Senator Long, who is to go to the Senate-House conference committee and wheel and deal in the Senate's behalf.

No harm in that, necessarily, even though it seems an exceptional delegation of power even for Senator Long. The problem is that Senator Long's committee has reported an energy tax bill that breaches the binding budget resolution for 1978 by $800 million. Under the Budget Act, that exposes the bill to Budget Committee objection on a point of order. But wait. Lest this inconvenient housekeeping matter get in the way, the Senate energy tax bill contains an ingenious provision, Section 1056.

As Senator Edmund Muskie, the Budget Committee chairman, explains, that provision "directs the Secretary of the Treasury to implement the effective dates of the act on a phased basis, so that the revenue loss which would otherwise occur does not actually breach the Budget Resolution revenue floor during 1978." It is, he adds, "a cosmetic device to get around this year's budget resolution." Presto!

But what the Budget Committee watchdogs are asking is this: What if every Senate committee, pursuing the political imperative of the hour, attached a Section 1056 to its bills? The result, obviously, would make a scrap of paper of the budget resolution: ironic indeed.

After all, this "cosmetic device" hands back to the executive branch the very authority—the control of taxes and expenditures—which the Budget Act was designed to retrieve for its rightful owners. Each year's budget resolutions, "binding" in theory, would be no more binding than all the escape hatches calling on executive branch officers to time the execution of Congress's will to suit themselves.

To many, this will seem tedious constitutional fundamentalism at a time when legislative latitudinarianism is called for. In fact, however, the Senate is up against an unpleasant but inescapable duty. If it's really to be the keeper of its own budgetary household, it can't evade the budget resolution every time important business is pending and the White House is pleading with it to get parliamentary niceties aside and get a move on.

Of course, it is argued that the energy tax bill at issue here is a mere preliminary to the conference committee bargaining. If so, that is itself an admission, in a way, of legislative irresponsibility. The Senate, warned Senator Muskie this week, "cannot vote for legislation it would be unwilling to see enacted into law. We cannot simply delegate legislative responsibility to our conferees to rectify our Senate excesses."

Indeed not. But the Senate, in its haste to act on energy and to arm its lone ranger, Senator Long, for the conference committee, is taking a familiar view: What's a Budget Act among friends?

ROUTINE MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILL

A message from the President of the United States announced that on October 23, 1977, he approved and signed the bill (S. 2169) to name a certain Federal building in Washington, District of Columbia, the "Hubert H. Humphrey Building."

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:34 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the Speaker has signed the following enrolled bills:

S. 455. An act for the relief of Ermelinda Rossi.
S. 556. An act for the relief of Lee Young Soo.
S. 948. An act for the relief of Chin Ah Park and Chin Suk Park.
S. 1003. An act for the relief of Me Young Lee.
S. 1005. An act for the relief of Young Shin Joo.
S. 1551. An act for the relief of In Hea Kim and Myung Sung Kwon.
S. 1682. An act to provide for the implementation of treaties for the transfer of offenders to or from foreign countries.
S. 2149. An act to create the District Court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States or America.
H.R. 5101. An act to authorize appropriations for activities of the Environmental Protection Agency, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

At 12:07 p.m., a message from the House of Representatives delivered by Mr. Berry announced that:

The House agrees to the amendments of the Senate Nos. 1, 2, 3, 4, 5, and 6 to the bill (H.R. 2849) to suspend until

July 1, 1978, the rate of duty on mattress blanks of rubber latex; and that the House agrees to the amendment of the Senate No. 7 with an amendment in which it requests the concurrence of the Senate.

The House agrees to the amendments of the Senate Nos. 1, 2, 3, 4, and 5 to the bill (H.R. 3373) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk; and that the House agrees to the amendment of the Senate No. 7 with an amendment in which it requests the concurrence of the Senate.

The House agrees to the amendment of the Senate to the bill (H.R. 3387) to continue until the close of June 30, 1979, the existing suspension of duty on synthetic rutile, with an amendment in which it requests the concurrence of the Senate.

The House has passed the bill (S. 1585) to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, or live performance, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The House insists upon its amendments to the bill (S. 1863) to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes, disagreed to by the Senate; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PRICE, Mr. BENNETT, Mr. STRATTON, Mr. ICHORD, Mr. NEDZI, Mr. CHARLES H. WILSON of California, Mr. LEGGETT, Mr. WHITE, Mr. NICHOLS, Mr. BOB WILSON, Mr. DICKINSON, Mr. WHITEHURST, and Mr. SPENCE were appointed managers of the conference on the part of the House.

The House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 2256. An act for the relief of Edmundo Alfredo Oreiro Espinueva;

H.R. 4875. An act for the relief of Elizabeth D. Yee Kraus;

H.R. 7278. An act to amend section 10 of the Merchant Marine Act, 1936.

H.R. 7442. An act to amend the Communications Act of 1934 to provide for the regulation of utility pole attachments;

H.R. 8358. An act to amend title 44, United States Code, to provide for the designation of libraries of accredited law schools as depository libraries of Government publications;

H.R. 8803. An act to amend the National Trails System Act, and for other purposes; and

H.R. 9251. An act relating to extensions of time for the existing tax treatment of certain items.

At 2:18 p.m., a message from the House of Representatives delivered by Mr. Berry announced that:

The House insists upon its amendments to the bill (S. 1750) to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for 18 months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ROGERS, Mr. SATTERFIELD, Mr. PREYER, Mr. FLORIO, Mr. DEVINE, and Mr. CARTER were appointed managers of the conference on the part of the House.

The House disagrees to the amendments of the Senate to the bill (H.R. 3454) to designate certain endangered public lands for preservation as wilderness, to provide for the study of additional endangered public lands for such designation, to further the purposes of the Wilderness Act of 1964, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses there; and that Mr. UDALL, Mr. KASTENMEIER, Mr. RONCALIO, Mr. WEAVER, Mr. VENTO, Mr. JOHNSON of Colorado, and Mr. SYMMS were appointed managers of the conference on the part of the House.

The House insists upon its amendments to the bill (S. 1585) to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, or live performance, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. CONYERS, Ms. HOLTZMAN, Mr. GUDGER, Mr. VOLKMER, Mr. ERTEL, Mr. KILDEE, Mr. ASHBROOK, and Mr. RAILSBACK were appointed managers of the conference on the part of the House.

At 6:12 p.m., a message from the House of Representatives delivered by Mr. Berry announced that:

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 717) to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes.

The House agrees to the amendments of the Senate Nos. 1, 2, 3, and 4 to the bill (H.R. 1904) to suspend until July 1, 1980, the duty on intravenous fat emulsion; agrees to the amendment of the Senate No. 5 with an amendment in which it requests the concurrence of the Senate; and that the House disagrees to the amendment of the Senate No. 6 to the bill.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1139) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to revise and extend the summer food service program for children, to revise the nonfood assistance program, and for other purposes.

The House has agreed to, without amendment, the concurrent resolution (S. Con. Res. 57) to correct the enrollment of S. 717.

ENROLLED BILLS SIGNED

At 7:38 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the Speaker has signed the following enrolled bills:

H.R. 2521. An act to provide for the mandatory inspection of domesticated rabbits slaughtered for human food, and for other purposes.

H.R. 2850. An act to suspend until the close of June 30, 1978, the duty on certain latex sheets, and for other purposes.

H.R. 2982. An act to suspend until the close of June 30, 1980, the duty on snythetic tantalum/columbium concentrate, and for other purposes.

H.R. 3259. An act to continue to suspend for a temporary period the import duty on certain horses, and for other purposes.

H.R. 9090. An act to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949.

The enrolled bills were subsequently signed by the President pro tempore.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Commerce, Science, and Transportation:

With an amendment:

S. 1597. A bill to formalize common international safety requirements for the approval, examination, and inspection of containers, within the jurisdiction of the United States and used in international transport, to maintain a high level of safety of human life, to facilitate international container transport, and for other purposes (Rept. No. 95-552).

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry:

Without amendment:

S. 2230. A bill to amend the Federal Crop Insurance Act (Rept. No. 95-553).

S. Res. 308. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2230. Referred to the Committee on the Budget.

By Mr. MAGNUSON, from the Committee on Commerce, Science, and Transportation:

With an amendment:

S. 1185. A bill to regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes (Rept. No. 95-554). (Together, with minority views.)

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Commerce, Science, and Transportation:

Thomas F. Moakley, of Massachusetts, to be a Federal Maritime Commissioner.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE BILLS REFERRED

The following bills were each read twice by title and referred as indicated:

H.R. 2256. An act for the relief of Edmundo Alfredo Oreiro Espinueva; to the Committee on the Judiciary.

H.R. 4875. An act for the relief of Elizabeth D. Yee Kraus; to the Committee on the Judiciary.

H.R. 7442. An act to amend the Communications Act of 1934 to provide for the regulation of utility pole attachments; to the Committee on Commerce, Science, and Transportation.

H.R. 8358. An act to amend title 44, United States Code, to provide for the designation of libraries of accredited law schools as depository libraries of Government publications; to the Committee on Rules and Administration.

H.R. 9251. An act relating to extensions of time for the existing tax treatment of certain items; to the Committee on Finance.

H.R. 8803. An act to amend the National Trails System Act, and for other purposes; to the Committee on Energy and Natural Resources.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, October 27, 1977, he presented to the President of the United States the following enrolled bills:

S. 455. An act for the relief of Ermelinda Rossi;

S. 556. An act for the relief of Lee Young Soo;

S. 948. An act for the relief of Chin Ah Park and Chin Suk Park;

S. 1003. An act for the relief of Me Young Lee;

S. 1005. An act for the relief of Young Shin Joo;

S. 1551. An act for the relief of In Hea Kim and Myung Sung Kwon;

S. 1682. An act to provide for the implementation of treaties for the transfer of offenders to or from foreign countries; and

S. 2149. An act to create the District Court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JOHNSTON:

S. 2241. A bill to amend the Internal Revenue Code of 1954 to permit long-term lessees to take the amortization deduction, in lieu of depreciation, for rehabilitation of certified historic structures; to the Committee on Finance.

By Mr. GRIFFIN:

S. 2242. A bill for the relief of Sohini and Shiela; to the committee on the Judiciary.

S. 2243. A bill for the relief of Rohini; to the Committee on the Judiciary.

By Mr. PACKWOOD:

S. 2244. A bill for the relief of Chandrakant; to the Committee on the Judiciary.

By Mr. STENNIS (for himself and Mr. EASTLAND):

S. 2245. A bill to amend section 453 of the Internal Revenue Code of 1954; to the Committee on Finance.

By Mr. DOMENICI:

S. 2246. A bill for the relief of Mrs. Ascencion M. Lujan, Noe Lujan, Sevedeo Lujan, Jr., Cordelia Lujan Long, Antonioa Lujan, Venceslao Lujan, Marta Lujan, Felix Lujan, and Tovia Lujan; to the Committee on the Judiciary.

By Mr. SCHWEIKER:

S. 2247. A bill for the relief of Eugenia Cortes; and

S. 2248. A bill for the relief of Susanna Shu-hui Jean; to the Committee on the Judiciary.

By Mr. EAGLETON:

S. 2249. A bill to prohibit discrimination in rates charged by the Southwestern Power Administration and to require due process in the confirmation of such rates by the Federal Energy Regulatory Commission; to the Committee on Energy and Natural Resources.

By Mr. BENTSEN:

S. 2250. A bill to amend title II of the Social Security Act to eliminate the waiting periods for disability benefits and hospital insurance benefits with respect to any individual who becomes disabled as a result of a traumatic spinal cord injury; to the Committee on Finance.

By Mr. PELL:

S. 2251. A bill for the relief of Eastern Telephone Supply and Manufacturing, Inc.; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSTON:

S. 2241. A bill to amend the Internal Revenue Code of 1954 to permit long-term lessees to take the amortization deduction, in lieu of depreciation, for rehabilitation of certified historic structures; to the Committee on Finance.

HISTORIC PRESERVATION TAX INCENTIVES

Mr. JOHNSTON. Mr. President, last year the Congress included provisions in the 1976 Tax Reform Act of critical importance to our national historic preservation movement. The changes in section 191 of the Internal Revenue Code of 1954, among other things, provide the owners of historic properties favorable tax treatment on rehabilitation expenses of certified historic structures through accelerated depreciation or short-term amortization. Historic properties are defined as those included in the National Register of Historic Places or those located in a National Register district.

Problems in trying to use these preservation incentives have arisen because long-term lessees have not been allowed the same treatment as property owners, although this is not the case with similar permanent property improvements treatment in the Tax Code. Surplus Federal property, much of which is of historic value, is often donated to cities. We are all painfully aware of the multitude of pressures on our cities' budgets and it should come as no surprise that rehabilitation of these important parts of our national heritage is assigned a relatively low budgetary priority. Thus, the real hope for preserving these buildings lies in the hands of the private sector. If similar tax treatment is allowed to long-term lessees, then incentives to rehabilitate and save these buildings will be given.

The preservation movement has come a long way from its "monumental" beginnings which emphasized saving isolated structures, battlefields, mansions of the wealthy, museums, and the like. More and more, we have come to realize that a variety of properties are worth saving and that these properties can be adapted to new practical uses such as revived shopping complexes, innovative office or residential centers, and tourist centers. A ripple effect has been seen in many urban areas undergoing extensive restoration as new jobs are created in downtown areas and as out-of-town investment is brought in—all of which brings new dollars to local treasuries.

But this cannot be financed from Federal, State, or local budgets alone. To be successful and to encourage the growth of a broadened preservation movement, the private sector must be brought in and encouraged to invest in these properties. This was clearly the intent of the far-sighted 1976 act which provided us with new financial preservation tools. The minor change I propose will help make these incentives more workable and useful in the efforts we have already begun.

Mr. President, the bill I am introducing also provides for the same recapture provisions that apply to homeowners and I hope this will alleviate any concerns about this change. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 191 of the Internal Revenue Code of 1954 (relating to amortization of certain rehabilitation expenditures for certified historic structures) is amended by redesignating subsection (g) as (h), and by inserting after subsection (f) the following new subsection:

"(g) EXPENDITURES BY LONG-TERM LESSEES.—In the case of a certified historic structure held by a person under a lease of not less than 30 years' duration—

"(1) the deduction under this section shall be allowable to the lessee of such certified historic structure with respect to amounts expended by him in connection with certified rehabilitation, and

"(2) for purposes of applying paragraph (1), the amortizable basis of such certified historic structure is the amounts expended by the lessee in connection with certified rehabilitation.".

(b) The amendment made by subsection (a) shall apply with respect to additions to capital account made after June 14, 1976, and before June 15, 1981.

By Mr. DOMENICI:

S. 2246. A bill for the relief of Mrs. Ascencion M. Lujan, Noe Lujan, Sevedeo Lujan, Jr., Cordelia Lujan Long, Antonioa Lujan, Venceslao Lujan, Marta Lujan, Felix Lujan, and Tovia Lujan; to the Committee on the Judiciary.

Mr. DOMENICI. Mr. President, recently, I was requested to review the fatal explosion accident that occurred in 1959 at Los Alamos Scientific Laboratories. I met with the family of one of the men who died in that tragic accident, Mr. Sevedeo Lujan, and I have seen a number of documents relating to this case.

The facts available to me regarding the settlement made with the surviving wi-

dow by the U.S. Government are somewhat troubling. As I understand it, this mother of five children had to deal with the adjusters and lab representatives, without an interpreter or counsel, even though, for all practical purposes, she could not read or write English. It is also my understanding that the family was never briefed or counseled regarding the details of the accident and, in fact, the classified report about this accident was only recently declassified.

The legislation I submit today would allow a determination to be made whether the family is equitably entitled to additional compensation and, if so, the amount of such compensation.

This will allow the family to have their day of justice and the merits of their claim equitably examined.

By Mr. EAGLETON:

S. 2249. A bill to prohibit discrimination in rates charged by the Southwestern Power Administration and to require due process in the confirmation of such rates by the Federal Energy Regulatory Commission; to the Committee on Energy and Natural Resources.

Mr. EAGLETON. Mr. President, I am today introducing a bill to prohibit discrimination in rates charged by the Southwestern Power Administration and to require due process in the confirmation of such rates by the Federal Energy Regulatory Commission.

The purpose of section 1 of my bill is to clarify and reaffirm the intent of Congress with respect to marketing of Federal hydroelectric power by the Southwestern Power Administration under the Flood Control Act of 1944.

The act authorizes the Secretary of the Interior, in the alternative, to construct transmission lines "from funds to be appropriated by Congress" or to use the transmission lines of other utilities to transmit hydroelectric power, that is, the Secretary "is authorized to acquire, by purchase or other agreement transmission lines and related facilities."

In implementing the Flood Control Act and other similar acts, the policy of Congress always has been to encourage the Secretary to contract with other utilities to use their transmission lines, rather than to construct transmission lines with appropriated funds. And our policy always has been that rates to ultimate customers should be uniform and nondiscriminatory, whether the power is transmitted over Government-owned lines or lines made available by contract or lease. This is the concept of "postage stamp" rates—uniform rates for power delivered to load centers, regardless of the nature of the transmission lines' ownership.

The State of Missouri represents an example of the policy of Congress. In the 1950's and 1960's, Congress decided not to appropriate funds for constructing transmission lines in Missouri, but instead Congress directed the Federal marketing agency—the Southwestern Power Administration—to lease the transmission lines of privately owned electric utilities and rural electric cooperatives, paying rentals adequate to carry operating costs and the debt service of the money which the cooperatives borrowed from REA. Thus, we were spared the necessity of appropriating millions and millions of dollars to construct transmission lines.

Unfortunately, in recent years, the Southwestern Power Administration has deviated from, and ignored, our policy. Discrimination has occurred because the Southwestern Power Administration abandoned the concept of postage stamp rates by charging different rates for power transmitted over Government-owned lines and lines available to SPA by lease or contract. This is wrong, because customers who receive power over leased or contracted-for lines should not be penalized when such contracts and lease agreements were made pursuant to our direction and policy. Indeed, the cooperatives relied on that congressional directive, and the Secretary's contracts carrying it out, in borrowing money to build the lines that were thereupon leased to the Secretary.

My bill will remove this discrimination and assure equal treatment for customers in all States in the Southwest.

Section 2 of the bill would assure a full hearing before any SPA rate increase is approved. Section 5 of the Flood Control Act of 1944, as amended, which is codified at 16 U.S.C. 825s, authorizes the Secretary of the Interior to sell surplus power and energy generated at certain Federal dams, at rates which are confirmed and approved by the Federal Power Commission—now the Federal Energy Regulatory Commission.

Although almost all other wholesale rate proceedings conducted by the FPC entail trial-like hearings to resolve disputed adjudicative facts on which proposed rates are premised, the FPC has never provided hearings to test rates set under authority of section 5 of the Flood Control Act of 1944, because that statute does not require hearings. The failure of the FPC to provide hearings has resulted in a number of lawsuits, all of which are still pending. These suits, which have proven very costly to both the Federal Government and the customers, challenge rates approved by the FPC on a number of grounds, most of which would be cured if hearings were provided, as they are for most ratemaking done by the FPC.

The proposed amendment would require trial-type hearings to resolve any disputed facts underlying rates which are proposed under authority of section 5 of the Flood Control Act of 1944. It would require hearings at the FERC level rather than at the Interior Department—now DOE—level, because it is felt that hearings are most necessary at the confirmation and approval stage, rather than the proposal stage, of ratemaking. Also, it is felt that the hearings should be provided by an independent agency rather than by the agency selling the power and energy, and advocating the rate increase.

By Mr. BENTSEN:

S. 2250. A bill to amend title II of the Social Security Act to eliminate the waiting periods for disability benefits and hospital insurance benefits with respect to any individual who becomes disabled as a result of a traumatic spinal cord injury; to the Committee on Finance.

Mr. BENTSEN. Mr. President, today I am introducing legislation to eliminate the 29 month waiting period for social security disability and medicare benefits that now applies to people with severe spinal cord injuries.

Current law requires that an individual who applies for disability insurance—DI—benefits under the social security program must wait 5 months—after he is certified to be disabled before receiving the DI benefits. The purpose of this "waiting period" is to assure that an individual is seriously disabled and that the disability is permanent.

Current law also requires another waiting period of 24 months—after the 5 month DI waiting period—in order for a person to receive health insurance benefits under the medicare program.

Mr. President, I understand the rationale for the total of 29 months a person is required to wait before receiving the full benefits under the Social Security Act for which they are eligible as a disabled person. The Federal Government would incur an estimated $13 billion in additional annual expenditures if the waiting period were eliminated for all disabled persons. This issue of cost was a strong consideration in 1972 when the Congress voted to extend medicare benefits to disabled. Clearly, both I and my colleagues would have been glad to legislate no waiting period if that had been fiscally possible.

However, in the last 5 years it has become clear that what was fiscally responsible for most disabled persons is really fiscally irresponsible for those with severe spinal cord injuries. By requiring people with severe spinal cord injuries to wait 29 months for comprehensive insurance coverage and therefore comprehensive medical care, we increase the annual medical costs for each person by $3,000 to $5,000.

Mr. President, let me tell you about the kinds of people I am talking about—

Already paralyzed are 125,000 Americans as a result of severe spinal cord injuries and 8,000 to 10,000 new injuries add to this total each year.

Eighty percent of severe spinal cord injuries occur in the 15 to 30 year old range with over 50 percent of these injuries resulting from motor vehicle accidents. In fact, data gathered by the Texas Institute for Rehabilitation and Research—one of the foremost centers in this country for treatment of severe spinal cord injuries—has found that automobile accidents are by far the single largest cause of spinal cord injuries in this country.

A conservative estimate shows the average lifetime care of a quadriplegic costs between $325,000 and $400,000 and

our national annual expenditure is a sobering $2.4 billion and rising.

Seventy-five percent of all survivors of severe spinal cord injuries have the potential to return to their communities and live independent lives.

None of us can imagine the psychological problems that are caused by the kind of catastrophic accident which I am speaking of. Rehabilitation failure and concommitant loss of independence are not an uncommon result of spinal cord injuries. The tragedy of the young victims of this kind of injury is augmented by a long future in a nursing home or other institution.

Mr. President, results from the eleven spinal cord injury centers around this country show that we can change this bleak outlook for many injured and save money at the same time.

Data collected by HEW shows that with immediate and comprehensive care—

The length of initial hospitalization and rehabilitation is averaging 103 days as opposed to an average of 180 to 240 days without immediate and comprehensive care.

Costs for initial hospitalization and rehabilitation are averaging $3,000 for those who receive immediate and comprehensive care as compared to $36,000 for those who do not.

Proper rehabilitation followup can reduce annual medical costs by as much as $5,000.

Mr. President, I know of few actions we could take that would be as rational and cost effective as the elimination of the waiting period under medicare and disability insurance for those with severe spinal cord injuries.

At an initial annual cost of $10 million we will add many thousand productive Americans to our society instead of condemning them to a lifetime of dependence. And we will save the taxpayers money over the long run.

I urge my colleagues to join me in this effort, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 223(c) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of this title, an individual who is determined to be under a disability on the basis of an impairment consisting of paralysis which was caused by a traumatic spinal cord injury, shall be deemed to have completed his waiting period on the earliest date on which he is under a disability.".

(b) Section 226 of such Act is amended by adding at the end thereof the following new subsection:

"(j) For purposes of this section, an individual who is entitled to benefits as described in subsection (b)(2), but has not been so entitled for a period of 24 consecutive months as required by such subsection (b)(2), shall be deemed to have been so entitled for such a period of 24 consecutive months if such individual is entitled to such benefits on the basis of an impairment (consisting of paralysis) which was caused by a traumatic spinal cord injury.".

SEC. 2. The amendments made by this Act shall be effective on the date of enactment of this Act, but no individual shall be entitled to any retroactive benefits with respect to any period of time prior to the enactment of this Act, unless he would otherwise be entitled to such benefits without regard to the amendments made by this Act.

ADDITIONAL COSPONSORS

S. 753

At the request of Mr. HUMPHREY, the Senator from Iowa (Mr. CLARK), the Senator from Washington (Mr. JACKSON), and the Senator from South Carolina (Mr. THURMOND), were added as cosponsors of S. 753, Disability Benefits for the Blind.

S. 1855

At the request of Mr. HATCH, the Senator from Utah, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor to S. 1855, the "Employee Bill of Rights Act of 1977."

S. 2175

At the request of Mr. DURKIN, the Senator from Florida (Mr. STONE) was added as a cosponsor of S. 2175, a bill to amend section 232 of the Trade Expansion Act of 1962 to prohibit the President from increasing the rate of duty on imports of petroleum and petroleum products in the absence of a national military emergency.

SENATE RESOLUTION 301

At the request of Mr. DOLE, the Senator from Nebraska (Mr. CURTIS) was added as a cosponsor of Senate Resolution 301, a resolution concerning continued U.S. membership in the International Labor Organization.

SENATE RESOLUTION 302

At the request of Mr. MCINTYRE, the Senator from New Jersey (Mr. CASE), and the Senator from New York (Mr. JAVITS) were added as cosponsors of Senate Resolution 302, expressing the sense of the Senate with respect to a reorganization of the Department of Housing and Urban Development.

SENATE RESOLUTION 308—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 2230

(Referred to the Committee on the Budget.)

Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution:

S. RES. 308

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of S. 2230, a bill to amend the Federal Crop Insurance Act. Such waiver is necessary because the bill increases, upon enactment, the capital stock of the Federal Crop Insurance Corporation from $150,000,000 to $200,000,000. Without this legislation, the Federal Crop Insurance Corporation will be unable to meet its contractual obligations to insured farmers who suffer crop losses. Severe drought conditions are persisting in areas of the Midwest and the Southeast. Unanticipated losses resulting from indemnity claims by farmers in these areas are depleting the Corporation's operating capital, and thereby impairing the Corporation's ability to function.

SENATE RESOLUTION 309—SUBMISSION OF A RESOLUTION TO REFER A BILL TO THE COURT OF CLAIMS

(Referred to the Committee on the Judiciary.)

Mr. DOMENICI submitted the following resolution:

S. RES. 309

Resolved, That the bill (S. 2246) entitled "A bill for the relief of Mrs. Ascencion M. Lujan, Noe Lujan, Sevedeo Lujan, Jr., Cordelia Lujan Long, Antonioa Lujan, Venceslao Lujan, Marta Lujan, Felix Lujan, and Tovias Lujan." now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims. The Chief Commissioner shall proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code, and report back to the Senate, at the earliest practicable date, giving such findings of fact and conclusions that are sufficient to inform the Congress of the nature and character of the demand as a legal or equitable claim against the United States or a gratuity, and the amount, if any, legally or equitably due from the United States to the claimant.

AMENDMENTS SUBMITTED FOR PRINTING

ENERGY TAX BILL—H.R. 5263

AMENDMENT NO. 1525

(Ordered to be printed and to lie on the table.)

Mr. MOYNIHAN (for himself, Mr. RIBICOFF, Mr. JAVITS, and Mr. HATHAWAY) submitted an amendment intended to be proposed by them to the bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts.

AMENDMENT NO. 1526 AND 1527

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted two amendments intended to be proposed by him to the bill (H.R. 5263), supra.

AMENDMENT NO. 1528

(Ordered to be printed and to lie on the table.)

Mr. PERCY. Mr. President, on behalf of Senator STONE and myself I am today submitting an amendment to the energy tax bill, H.R. 5263, to urge the President to convene a Conference on Energy Conservation. I ask unanimous consent that the text of this amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1528

On page 104, line 20, insert the following:

SEC. 1058. White House Conference on Energy Conservation

(a) The Congress hereby finds that:

(1) With each passing day, the United States is further from reaching a goal of energy independence;

(2) With energy prices increasing and serious political and environment constraints on new sources of supply, energy conservation must be widely utilized as an important means to attain energy independence;

(3) Traditional, nonrenewable energy sources are being exhausted worldwide;

(4) Despite the existence of many technologically feasible ways of saving energy, the Nation has not utilized effective strategies and technologies to encourage energy conservation;

(5) The formulation of such strategies and the utilization of energy saving technology requires the distribution of information through private organizations, the public sector, and national conferences.

(b) The President of the United States is urged to call a White House Conference on Energy Conservation as soon as practicable following the date of enactment of this Act but not later than December 31, 1978, in order to develop recommendations and stimulate a national assessment of problems, and solutions to problems, involving energy conservation.

(c) (1) Any such conference, if called, shall be planned and conducted under the direction of the National Energy Conservation Planning and Advisory Council (hereinafter referred to as the "Council"), established pursuant to paragraph (2) of this subsection. Each Federal department and agency shall provide such cooperation and assistance to the Council, including the assignment of personnel, as may reasonably be required by the Chairman of the Council.

(2) There is established a National Energy Conservation Planning and Advisory Council, appointed by the President of the United States, composed of fifteen members who shall be representative of the categories referred to in paragraph (d) (1) of this section.

(3) The President at the time of appointment, shall designate one member to serve as Chairman and one to serve as Vice Chairman. Any vacancy in the Council shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

(4) It shall be the function of the Council to

(A) make all arrangements and preparation for the Conference, and to provide guidance and planning for the Conference;

(B) request the cooperation and assistance of such Federal departments and agencies having responsibilities in areas involving energy conservation;

(C) prepare and make available necessary background materials for the use of delegates to the White House Conference on Energy Conservation; and

(D) prepare and distribute such interim reports of the White House Conference on Energy Conservation as the Council deems appropriate.

(5) The Council shall have the power to appoint and fix the compensation of an Executive Director, and such additional staff personnel as it deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $125 a day for individuals.

(6) (A) Any member of the Council who is otherwise employed by the Federal Government shall serve without compensation in addition to that received in his regular employment.

(B) Members of the Council, other than those referred to in Subparagraph (A), shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day they are engaged in the performance of their duties (including traveltime); and, while so serving away from their homes or regular places of business, they shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(d) (1) For the purpose of ascertaining facts and making recommendations concerning energy conservation, the Council shall take such action as may be necessary to bring together, as participants in the Conference, the following:

(A) Members of the Congress and Federal, State and local government officials with responsibility over energy policies and programs;

(B) representatives of energy industries;

(C) representatives of public utilities;

(D) representatives of environmental and conservation organizations;

(E) representatives of consumer organizations;

(F) representatives of industrial and financial trade associations;

(G) representatives of small businesses;

(H) representatives of organized labor;

(I) representatives of the academic and scientific communities;

(J) representatives of agricultural groups;

(K) representatives of public transportation and public transit; and

(L) individual citizens with particular expertise in the energy field.

(2) A final report of the White House Conference on Energy Conservation shall be submitted by the Council to the President not later than one hundred and twenty days following the date on which the conference is called, and the findings and recommendations included therein shall be immediately made available to the public. The Council shall, within ninety days after submission of such final report, transmit to the President and the Congress their recommendations for administrative action and legislation necessary to implement the recommendations contained in such report.

(3) The Council shall cease to exist one hundred and twenty days after the submission of the final report required by paragraph (2).

(4) For the purpose of this section the term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(5) There is authorized to be appropriated such sum, not to exceed $5,000,000, as may be necessary to carry out this section.

(e) Subsections (c) and (d) of this amendment shall take effect only if the President of the United States calls a White House Conference on Energy Conservation pursuant subsection (b) of this section, and publishes a notice to that effect in the Federal Register.

AMENDMENT NO. 1529

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself, Mr. JACKSON, Mr. BROOKE, Mr. KENNEDY, and Mr. STONE) submitted an amendment intended to be proposed by them to the bill (H.R. 5263), supra.

AMENDMENT NO. 1530

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill (H.R. 5263), supra.

AMENDMENTS NOS. 1531 AND 1532

(Ordered to be printed and to lie on the table.)

Mr. DOLE submitted two amendments intended to be proposed by him to the bill (H.R. 5263), supra.

AMENDMENT NO. 1533

(Ordered to be printed and to lie on the table.)

Mr. ROTH (for himself, Mr. DOLE, Mr. GARN, Mr. HATCH, Mr. HAYAKAWA, Mr. HELMS, Mr. LAXALT, and Mr. STEVENS) submitted an amendment intended to be proposed by them to the bill (H.R. 5263), supra.

AMENDMENT NO. 1534

(Ordered to be printed and to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to the bill (H.R. 5263), supra.

AMENDMENTS NOS. 1535 THROUGH 1538

(Ordered to be printed and to lie on the table.)

Mr. BROOKE submitted four amendments intended to be proposed by him to the bill (H.R. 5263), supra.

AMENDMENT NO. 1539

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to the bill (H.R. 5263), supra.

AMENDMENT NO. 1540

(Ordered to be printed and to lie on the table.)

Mr. HATHAWAY (for himself, Mr. DURKIN, and Mr. BROOKE) submitted an amendment intended to be proposed by them to the bill (H.R. 5263), supra.

NOTICES OF HEARINGS

DRUG QUALITY AND COMPETITION

Mr. NELSON. Mr. President, the Subcommittee on Monopoly and Anticompetitive Practices of the Senate Small Business Committee will hold hearings on drug quality, competition, and Government procurement of drugs.

The hearings will be held in room 1318 Dirksen Senate Office Building at 10 a.m. on December 14, 15, and 16, 1977.

The witnesses will be announced at a later date.

ADDITIONAL STATEMENTS

THE PANAMA CANAL TREATIES: QUESTIONS AND ANSWERS

Mr. CRANSTON. Mr. President, Time magazine associate editor, Edwin War-

ner, recently contributed an excellent piece concerning the Panama Canal treaties in the October 31, 1977, issue of Time.

In plain language, Mr. Warner poses the major questions about the Panama Canal treaties and what effect approval of the treaties would have. His responses to those questions are reasonable and succinct.

I believe this information will be of interest to my colleagues and ask unanimous consent that the questions-and-answers section of this Time essay be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THAT TROUBLESOME PANAMA CANAL TREATY

(By Edwin Warner)

. . . Amid all the rhetorical smoke surrounding the canal treaty, people are understandably confused about the hard facts—and realities. Some key questions about the pact and what its approval would mean:

Q. How important is the Panama Canal for the U.S.?

A. Of course, it is still important, but not nearly so vital as it used to be. About 8 percent of U.S. international maritime trade passes through the waterway, much of it in non-American vessels. Some 4 percent of American coast-to-coast trade transits the canal, conpared with 9 percent in 1964 and 50 percent in 1940. Few U.S. warships make the trip; the supercarriers are too big, and the nuclear submarines are vulnerable to detection and attack because they must be on the surface to make the crossing. Besides, the U.S. has maintained two virtually separate navies in the Atlantic and the Pacific since World War II. Strategic materials are increasingly transported across the country by rail and truck. While disruption of the canal would be troublesome for the U.S., it would be far from fatal.

Q. What claim does Panama have to the canal?

A. Historically, at least, not much of one. The U.S. will be ceding the canal to Panama but not "returning" it, since Panama never really possessed it. If anything, Colombia was the aggrieved party. With American connivance, Colombian rebels "liberated" the isthmus from the Bogotá government in 1903 and turned the rights to build the canal over to the U.S. Panama and its canal came to life together; without the canal, Panama could scarcely exist as a viable nation. Canal revenues account for some 25 percent of Panama's gross national product, 20 percent of its employment and almost 40 percent of its foreign exchange earnings. Thanks to the canal, Panamanians have one of the highest per capita incomes of any nation in Latin America: a still very modest $1,060. In one sense, Panamanians can be grateful that America decided to build the canal.

Yet the present anomaly remains a small but proud nation cut in half by a huge waterway under the control of a foreign power. The arrangement may once have been economically justified, even a historical necessity, but it is a current indignity for Panamanians. As Venezuelan President Carlos Andres Perez Rodriguez told Carter: "The Panamanians feel exactly about the Canal Zone as North Americans would feel if the British owned the Mississippi River." In fact, Americans had much the same attitude as contemporary Panamanians when the Spanish and French (not the British) controlled the Mississippi at the turn of the 19th century. In 1956 America supported Egyptian sovereignty and condemned the British and French attempt to recover the Suez Canal. The U.S. has had too much experience with double standards in dealing with the Communist world to indulge in the same practice.

Q. Can Panama run the canal as well as the U.S.?

A. The American record is hard to beat. There have been remarkably few accidents or sinkings considering the amount of traffic. Yet there is no reason to assume that Panamanians cannot do as well; the Egyptians have learned to run the Suez Canal, which admittedly lacks the complex system of locks of the Panama Canal. Says a senior State Department official: "Nowhere is it written that you have to have a Georgia Tech degree to run the canal. The canal is damned important economically to the Panamanians. It is their only natural resource, and they will take care of it." Writes Vermont Royster, former editor of the Wall Street Journal: "For us, the canal is at most one adjunct to commerce and defense. For Panama, the canal is vital, the closing of the canal would be a disaster."

At the moment, Panama does not have the skilled manpower to take over the canal. But it has 23 years to train pilots, technicians and mechanics—a sufficient amount of time, one would think, since it takes a mere twelve years to train a brain surgeon. Panama has also said it would hire other nationals if there are not enough native citizens to do the job.

Q. Can the U.S. intervene militarily to protect the canal once Panama is in control?

A. No question has aroused more anxiety or opposition to the pact. Until 2000, the U.S. will control the canal and its military bases. After that the treaty states that the U.S. and Panama shall maintain the "neutrality" of the canal, a clause that seemed alarmingly vague to many people. When it became apparent that this concern was about to sink the treaty, Panama's head of state, General Omar Torrijos Herrera, went to Washington, and he and Carter issued a joint "statement of understanding." The "correct interpretation," they said, is that each country shall defend the canal against any aggressive act or other threat to its neutrality and shall make sure that it remains "open, secure and accessible." But the U.S. has no "right of intervention in the internal affairs of Panama." This seems to lead to a certain ambiguity. How can the U.S. defend the canal without somehow intruding in Panama's internal affairs? Treaty proponents admit the distinction is a fine one but think that it can be observed. The U.S. asks nothing more of Panama than a functioning canal.

The Carter-Torrijos understanding seemed to answer the question of intervention to almost everyone's satisfaction. Senate Majority Leader Robert Byrd, who has not said how he stands on the treaty, described the understanding as "a very important diplomatic achievement and a big plus for the President and the treaty." Republican Senator Robert Dole, one of the pact's chief critics, called the joint statement a "step in the right direction," his most favorable remark to date.

The Carter-Torrijos understanding also cleared up another controversial point. The treaty gives both nations the right to send its warships through the canal "expeditiously." But how expeditiously? Panamanian officials, under fire from the left, insisted that U.S. vessels would be granted no special treatment. A number of U.S. Senators found that position unacceptable. The new statement specifies that warships of either country would be entitled to "expedited treatment" and, during emergencies, could go to "the head of the line of vessels."

Q. What if the U.S. fails to ratify the treaty?

A. The reaction in Latin America would be dramatic. Countries on the coast of Latin America that depend heavily on the canal—Peru, Ecuador, Venezuela—have privately advised the U.S. that they have some misgivings about eventual Panamanian control. But publicly they would doubtless join the rest of the continent in denouncing the U.S. for a breach of faith. Certainly the rejection would sour American relations with Latin America and intensify distrust and hostility.

Failure to ratify would also be a gift to America's worst enemies. Latin America's left wing opposes the pact because it ensures a U.S.-Panamanian partnership for the foreseeable future and, perhaps more important, because it eliminates a major souce of antagonism between the U.S. and its southern neighbors. Notes the Buenos Aires Herald: "The Latin American left is clearly dismayed at the emergence of an agreement which may prove satisfactory to most Latin American opinion, ranging from the center left to the center right." If the Senate were to reject the pact, the Latin left would be able to say, "We told you so," and would probably gain adherents among disillusioned moderates. No right-winger in the U.S. is more fervent in his desire to see the treaty fail than is the Latin American left.

Q. If the U.S. does not ratify the treaty, can it protect the canal from violence?

A. Not very easily, say the people who should know: the Joint Chiefs of Staff. They believe it is in the national interest to cede control of the waterway. Acting alone, surrounded by a hostile population not only in Panama but in the rest of Latin America, the U.S. would need an estimated 100,000 troops to put down a determined guerrilla effort. And even that sizable a force could not seal off the waterway's lock mechanisms, dams and power plants from some kind of sabotage. A band of skilled terrorists, for example, could approach the Gatun Dam through the dense jungle with relative ease. Properly placed explosives could blow up the dam, drain the water that is required to operate the locks and put the whole canal out of commission for as long as two years. General George Brown, Chairman of the Joint Chiefs of Staff, told Time Correspondent Jerry Hannifin: "If I were a guerrilla backed by Fidel Castro or somebody, I would just love those Panamanian jungles. They are better than even the jungles of Viet Nam. An organized guerrilla effort would cost us heavily. That is why we want the Panamanians on our side from scratch under the new treaties. We need them to help us." If the U.S. were forced to take some kind of military action to protect the canal in, say, the year 2027, it would be in a far stronger moral position if it had approved the treaty. Then it would be fighting on behalf of Panama, not against it.

The Panama Canal treaty is no historical accident, no caprice of idle statesmen. It has been twelve long, arduous, ruminative years in the making; it is an idea whose time has come—and whose time may be running out, given the objection to the treaty among many Latin Americans, especially in Panama. Strongman or not, Torrijos is faced with opposition, chiefly radicals who are considerably farther to the left than he is. If the treaty is not ratified, if trouble breaks out in Panama, it will be all the harder to draw up a subsequent pact in an atmosphere of mutual recriminations. Responsible citizens of both countries would look back on the present period as an opportunity that was tragically missed."

SUPPORT GROWS FOR TAX RATE REDUCTIONS TO SPUR INVESTMENT AND ECONOMIC GROWTH

Mr. HATCH. Mr. President, I call my colleague's attention to the headline article in last evening's Washington Star. Arthur Burns has issued a stern warning to the Carter administration about the economic policy it is following. According to Dr. Burns, to quote the Star, we should take as our "model the pro-investment tax measures pushed through Congress by the Kennedy administration." Fortunately, the Congress already has before it the Kemp-Roth bill, of which I am a cosponsor, that is modeled on the Kennedy tax rate reductions. Instead of humoring the academics in the Carter administration who want to redistribute income under the guise of "tax reform," we should get busy on a proven method to get our economy going again. I ask unanimous consent to have last evening's headline article from the Star printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BURNS WARNS CARTER ON IGNORING BUSINESS

(By Lee M. Cohn)

Federal Reserve Chairman Arthur F. Burns, advising Congress and the Carter administration to pay more attention to business, today blamed inadequate profits and erratic government policies for slow economic growth and declining stock prices.

He suggested tax cuts for business, and hinted that President Carter should scale down his plans for tax reforms that might discourage investment.

Unless government policies shift to boost profits and bolster business confidence, Burns warned, unemployment may not decline much and the economy soon may slip into another recession.

The strongly worded advice, in a speech prepared for delivery at Gonzaga University, Spokane, Wash., obviously was intended as a message to Carter and Congress from business leaders. The administration is worried and puzzled by the declining stock market and the lack of business confidence. Burns was offering his analysis and prescriptions.

"Profits being earned by American business are at an unsatisfactory level," Burns said. If this situation continues, he said, it "could well prove an insurmountable barrier to the achievement of full employment in our country."

Largely because current profits are inadequate and prospects for future profits are cloudy, business is hesitating to invest in new plants and equipment, he said. Sluggish business investment is producing unbalanced economic growth, he said, warning:

"That . . . will make it more uncertain whether the (economic) expansion is going to continue at a sufficient pace to bring unemployment down significantly, or—for that matter—whether the expansion itself will long continue."

Whenever the economy has trouble, economists "promptly unlose a flood of fiscal and monetary proposals" intended to enlarge purchasing power, he said, chiding them for ignoring the importance of profits.

Business worries about the profit outlook are holding back the economy, he said, so "actions taken in Washington to enlarge the already huge budget deficit in the interest of more consumer spending are likely to be of little sustained benefit in reducing the level of unemployment."

This was why he opposed the $50 per person tax rebates proposed by the President early this year and then withdrawn, Burns said. He indicated clearly that he would oppose Carter's evolving plan to try to spur the economy through quick tax cuts for consumers next year.

Instead of focusing on tax cuts for consumers, the administration and Congress should shift toward "encouragement of investment through a bold tax policy," he suggested, citing as a model the pro-investment tax measures pushed through Congress by the Kennedy administration.

Burns urged caution about increasing business taxes through tax reforms, especially Carter's anticipated proposal to tax capital gains more heavily. "A mood of unease in both corporate board rooms and the stock exchanges" also is caused by concern about increased Social Security taxes on employers, costly welfare reforms and national health insurance, he said.

Besides questioning the merits of Carter's programs, Burns said the President is throwing too many proposals at the country. "I strongly suspect that the ability of businessmen to assimilate new policy proposals into their planning framework has now been stretched pretty far," he said.

To support his basic argument that profits are inadequate, Burns presented a complex series of adjustments to standard data. Because of inflation and other factors, he said, "raw profit numbers have become virtually meaningless as a guide to corporate affairs."

He estimated that standard accounting overstated corporate profits by $30 billion last year and resulted in corporations overpaying taxes by $10 billion or $12 billion.

"Anyone who wonders why capital spending has been so halting or why stock prices have behaved so poorly for so long would be well advised to study this dismal record of what American business has been earning," he said.

"The stock market, by and large, has not been behaving capriciously; instead it has been telegraphing us a message of fundamental importance."

Touching briefly on monetary policy, Burns reiterated that the Fed has "no intention of letting the money supply grow at a rate that will add fuel to the fires of inflation," but he emphasized that policy is to move gradually.

The Fed is not "preoccupied with the objective of monetary firmness," and will continue "probing for that delicate balance between too much and too little money." He appeared to be reassuring the administration and the financial markets that the Fed is not attempting a severe monetary squeeze.

THE HOME OF THE MAYO CLINIC

Mr. HUMPHREY. Mr. President, I wish to share with the Senate an article in the Washington Post, entitled "The Home of the Mayo Clinic." The article describes the unique characteristics of the world famous medical center and the city of Rochester, Minn., which have grown and flourished by working in cooperation with each other. By forming a common front, the city government, local businesses, and the medical complex have created an economically balanced and successful community with characteristics found nowhere else.

Rochester has become a professional town, depending heavily on the medical profession, but by no means a one-business town. The long-range planning and development of this city can serve as an example to all. By balancing the 10,000 persons employed by the clinic with 70 manufacturing firms, unemployment in Rochester was low as 3 percent last winter compared to 6.7 percent in Minnesota and 7.5 percent for the Nation. Businesses, public facilities and public transportation have been built to accommodate wheel chairs with ramps and extra wide doors. Downtown hotels are connected to all clinic buildings by long pedestrian tunnels and many inpatient services can be obtained simply by dialing hotel room service.

By working with the clinic, Rochester has built an area attractive to the thousands of annual visitors and has avoided the financial and social ills affecting many other cities. Per capita indebtedness in this city of 60,000 people is only $85. Bonded indebtedness could be nonexistent after the next 4 years.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

THE HOME OF THE MAYO CLINIC

(By Gale Tollin)

ROCHESTER, MINN.—Where else can a hotel guest dial room service for an enema?

Or order up a nurse to get you ready for a medical examination?

Or choose from a "low fat" or "salt free" option on the hotel menu?

Where else does a cafeteria display a sign requesting that patrons refrain from discussing their operations within earshot of other diners?

Nowhere else. Only in Rochester, Minn., home of Mayo Clinic, the world's largest private hospital, renowned for its life-saving capabilities, somehow or other larger than the city of 60,000 it inhabits.

Many businesses and public facilities have ramps to accommodate wheelchairs. Long before other cities, Rochester cut ramps into street corner curbs. Downtown restaurants have ramps rather than stairs, and taxis have extra wide doors. To make the scene complete, downtown hotels are connected to the eight clinic buildings by long pedestrian tunnels.

Other cities may rely on conventions or golf courses or bathing beaches. Rochester has none of these of tourist appeal. But the $180 million Mayo Clinic draws a quarter of a million visitors from all over the world each year. Not only the sick, but their families as well.

There are 13 hotels, more than 3,500 hotel and motel rooms and some 22 tourist or guest homes. Rates range from $3 to $100 a day. Three airlines operate more than 50 flights a day. They land at an all-weather airport, managed by a Mayo Clinic subsidiary. Total for the year: 320,000 passengers.

Less visible differences include the fact that Rochester has avoided the financial and social ills affecting many other cities, and it doesn't know the meaning of financial insolvency.

Unemployment at one point this winter was as low as 3 per cent compared with 6.7 per cent for the state and 7.5 per cent for the nation. Per capita indebtedness is only $85, and, says Mayor Alex Smekta, "If we

don't build any new schools in the next four years, we'll be free of bonded indebtedness in the city."

Because Rochester is a professional town and the people fairly affluent, Smekta says, property taxes have kept the city "ahead of the game." Of a $1,000 tax bill, $580 goes to the schools, $240 to Olmsted County and only $180 to the city.

"For $15 a month, the Rochester taxpayer gets police and fire protection, library services, streets, clean water and a fine recreation program," he says.

It was the clinic, founded in the early 1900s by two brothers, Drs. Will and Charles Mayo, that put Rochester on the map. The clinic likes the city and the city loves the clinic.

Dr. W. Eugene Mayberry, a Mayo Foundation executive, says the city has made no demands on the clinic. Rather it has been understanding and responsive to its needs.

Without Mayo, says Charles H. Withers, editor of the Rochester Post-Bulletin, the city would be "only a wide spot in the road."

While Rochester has 70 manufacturing firms and is by no means a one-business town, medicine is No. 1. The medical complex employs more than 10,000 people. IBM, which came to Rochester in 1956, has 5,000 employes.

"Over half of Rochester's families are supported directly by the medical complex," says Odean "Gunn" Erickson, president of the Chamber of Commerce and a Mayo controller.

Mayo's annual payroll for permanent staff approaches $80 million. The clinic employs 4,720 persons, and another 4,200 work at the two church-owned hospitals staffed by Mayo doctors—St. Mary with 1,100 beds and Methodist with nearly 700 beds. Both are undergoing extensive expansion programs.

Another 200 persons are employed by the 72-bed Olmsted Community Hospital, staffed by non-Mayo physicians. Rochester State Hospital adds about 500 employees to the city's medical payrolls.

The Mayo Graduate School of Medicine and the new Mayo Medical School have about 1,000 students. About 200 young physicians with Mayo training leave the city yearly.

Before IBM came in with its research and manufacturing operations, Rochester had a disproportionate number of young women—nurses, secretaries, technicians. The fact that IBM employs mostly men was one reason the firm was welcomed.

When a city has a high ratio of young women, Erickson says, "the girls have a hard time finding a man and they move somewhere else."

But IBM also was welcomed because it was a "clean" industry and provided citizens willing to work to enhance the city's cultural level.

"We want a better quality of life in Rochester, and you get it with a high percentage of professional people," says Mayor Smekta. "We want people with brains and abilities, people who are well-paid and enjoy the arts, people who are willing to participate in community affairs."

Clinic employees have been active with the Chamber of Commerce, and Erickson can't remember when one wasn't on the city council. The clinic long has had a policy of giving workers time off for community service.

"We try to be good neighbors," says Dr. Mayberry.

Erickson says professionals, including the Mayo M.D.'s and the IBM Ph.D.'s lend a cosmopolitan aura beyond that normally found in a city this size. He says it's part of what attracts people and keeps them.

"A lot of physicians now seem to be glad to get out of large cities where there are problems with crime, traffic and pollution," says Dr. Emmerson Ward, director of the Mayo Foundation development program.

"They maybe came with an idea that Rochester wouldn't be much of a place in which to live, but after three or four years they find it a pretty nice place, after all.

"They are happy to find a smaller community where living is easier and pleasant."

MISS TEENAGE AMERICA

Mr. TOWER. Mr. President, I would like to call to the attention of the Senate one of the finest institutions in our land dedicated to teenage achievement; namely, the Miss Teenage America competition which is now in its 17th year.

Miss Teenage America seeks as its overall goal the opportunity to reward the finest of our youth for their accomplishments. Miss Teenage America is not a beauty contest in any sense. Judging is based solely on scholastic achievement and awareness, as well as talent, poise, appearance, and expression. Thus, Miss Teenage America wears no crown, but rather a medallion representing her acceptance of the responsible honor which has been conferred upon her.

Since its inception, more than 100,000 young ladies between the ages of 15 and 17 have entered the Miss Teenage America competition. And since 1960, hundreds of thousands of dollars have been awarded in the form of scholarships to winners and runnersup.

The contest is open to all girls in the designated age group, even to those who are citizens living outside the Continental United States. There is no cost involved with all local winners and candidate-at-large victors receiving all-expense paid trips to the national competition city for themselves and for their chaperone.

This year, six young men will be eligible to receive scholarships for the first time in the history of the competition. Because Miss Teenage America has become such an important and noteworthy part of the American scene, as is witnessed by a national telecast of the finals in Dallas over the NBC–TV network on November 25, I feel it is worth this first recognition in its history from this body.

It is my privilege to congratulate the current Miss Teenage America, lovely Rebecca Ann Reid of Dallas. She has traveled all over the country for the past 11 months in her various capacities as national ecology adviser for the "Keep America Beautiful" campaign, sponsored by the Dr. Pepper Co.; national teen chairman for the Cystic Fibrosis Foundation; national teen ambassador for the Easter Seal Society; charter member of the K-ettes Service Club.

It is also my privilege to congratulate the Dr. Pepper Co. of Dallas which has made the Miss Teenage America possible with its financial assistance and particularly its chairman and president, Mr. W. W. Clements, for his unstinting and continuing encouragement to the youth of our Nation.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the notification I have just received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S–116 in the Capitol.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,
Washington, D.C., October 25, 1977.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover, Transmittal No. 78–3, concerning the Department of the Army's proposed Letter of Offer to the United Kingdom for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost in excess of $7 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL NO. 78–3

(Notice of proposed issuance of letter of offer pursuant to section 36(b) of the Arms Export Control Act)

(i) Prospective Purchaser: United Kingdom.

(ii) Total Estimated Value: Major Defense Equipment* [Deleted].

(iii) Description of Articles or Services Offered: [Deleted] TOW guided missiles (BGM–71A) and [deleted] TOW practice missiles (BTM–71A).

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: October 25, 1977.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

COMBATING TERRORISM

Mr. CASE. Mr. President, in a recent television interview, airline pilot Capt.

Tom Ashwood, an expert on security and skyjacking, estimated that hundreds of airports around the world lack proper security precautions.

As part of the continuing effort to combat international terrorism, Senator RIBICOFF Tuesday introduced the Omnibus Anti-Terrorism Act of 1977, S. 2236, legislation to use diplomatic initiatives and strong sanctions to encourage international cooperation to combat terrorist acts such as aircraft hijackings. I am a cosponsor of the bill.

On October 26, 1977, the bill and the issue of international terrorism were discussed on Macneil-Lehrer Report, a Public Broadcasting System interview program. Captain Ashwood, who made his comments on airport security during the interview, appeared on the program which discussed the new legislation, the attitudes at the United Nations, and the recent rescue of a hijacked German airliner.

In the television interview, there was a discussion of the reluctance of some nations to condemn terrorism. This is part of the theory that "one man's terrorist is another man's freedom fighter."

As far as the Senator from New Jersey is concerned, this is no justification for allowing terrorists to make innocent men, women, and children victims of their causes through such means as aircraft hijacking. Some of the recent incidents, such as the killing of the pilot of the West German airliner, indicate that the terrorists are not "freedom fighters," they are demented.

I ask unanimous consent that the transcript be placed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

TRANSCRIPT OF THE MACNEIL-LEHRER REPORT

ROBERT MACNEIL. Good evening.

One week ago, a force of specially-trained German commandos ended the latest international aircraft hijacking, by killing three terrorists, and wounding one. Excuse me. They stormed into a hijacked Lufthansa airliner at Somalia, and safely freed all hostages.

Since then, governments throughout the Western world have been wondering afresh how to combat the new wave of political terrorism, directed against airliners.

The International Federation of Airline Pilots Associations threatened a two day strike, which would have grounded most Western airlines, starting today. But they postponed the strike, when the United Nations General Assembly agreed to take up demands for a worldwide convention against hijackers, and against nations which give them sanctuary.

In Washington today, Senator Abraham Ribicoff asked Congress to make such countries punishable under American law.

Tonight we examine whether any of these moves will stop the new breed of terrorists, and if not, what will.

JIM LEHRER. Robin, Senator Ribicoff used strong words in introducing his legislation today. He said countries which aid, or abet terrorism are outlaws, and should be treated as such. The United States should name the countries publicly, and take action against them, the Senator said.

In his own list, he named the Soviet Union, China, North Korea, Cuba, Libya, Algeria, Syria, South Yemen, Iraq, Lebanon, Tanzania, the Congo, and Zaire.

The action he proposes to deal with them includes: the President's declaring them unsafe for Americans to travel to or live in: suspension of all air service between them and the United States: forbid passengers, baggage and aircraft coming from one of them to enter the United States, unless previously inspected at a third country. In addition, a public list of all airports in the world considered unsafe and dangerous would be kept, and flights originating in the United States would be banned from those airports until they conformed to security requirements.

The Ribicoff bill also urges the creation of an International terrorism working group, and the vigorous enforcement of existing international agreements on terrorists.

MACNEIL. Aircraft hijackings first came to American attention in the early 60s, when U.S. airliners were frequently diverted to Cuba. Those incidents petered out, after Congress passed a law, providing sentences of twenty years to death for aircraft piracy, and after Cuba stopped giving sanctuary to the hijackers.

Hijacking became a bigger, international problem, when Arab terrorists entered the field in 1968; following several spectacular incidents, two international conventions were signed at the Hague and at Montreal, providing for extradition, or punishment of skyjackers, or saboteurs.

Those conventions made it much harder for hijackers to find places to land, even to refuel. For example, the prolonged odyssey of the Lufthansas jet, hijacked in Majorca on October 13th.

It flew to Rome, to Cyprus, to Bahrain, to Dubai, and to Aden, before coming to rest finally in Somalia.

But while finding safe haven may be tougher, so are the hijackers themselves. Several new bands of fanatical terrorists have emerged, apparently with close communications between Japan, West Germany, and the Middle East.

The true identities of the three dead hijackers of the Lufthansa jet have been kept secret. Their leader called himself Captain Mahmoud and spoke fluent Arabic. And the fourth hijacker, a girl, wounded in the commando attack, is reported today to have told Somali police she is an Arab, born in Haifa, Israel; and a member of the Popular Front for the Liberation of Palestine.

Well, Israel is one country very familiar, and a familiar target of air terrorism. The Israeli Ambassador at the United Nations is Chaim Herzog.

Mr. Ambassador, are you in agreement with the moves in the United Nations to do something about this? Do you think there are enough?

Ambassador CHAIM HERZOG. I'm in agreement with all the moves to do something about it. But I would say that the last place in which anything really can be done is the United Nations. After the slaughter of Israel athletes in Munich in 1972, a resolution was brought in by the Secretary-General of the United Nations against terror. That resolution has now been languishing in the United Nations for five years; and they haven't succeeded in passing the resolution.

After Entebbe, the West German government proposed a convention against taking of hostages. That has been going on now, that's been under discussion for a year. Nothing has happened yet; and they now have come to the General Assembly, and asked them to give them another year, in order to discuss something simple, which the Arabs are sabotaging, the Arabs and their Communist allies are sabotaging all the time.

MACNEIL. Now, what about the present move to get what the International airline pilots would like, an international convention against hijacking, and against nations giving them sanctuary?

HERZOG. Well, I'm all for an international convention. And I think that the airline pilots were wrong in agreeing to this issue being relegated to a committee, to the special political committee in the General Assembly. Instead of insisting that it be dealt with by the plenary.

What's happened today, for instance, is that the special political committee already met.

MACNEIL. And you attended that meeting.

HERZOG. Yes. And Vietnam already announced that there are justifiable cases, when it refers to what they call liberation movements. Democratic Yemen, Guinea, and Iraq, three of the stalwarts of democracy in the world, incidentally, said that they thought there were more important problems to be dealt with.

In the final analysis the committee has now decided to hear tomorrow only the representatives of the International Civil Aviation Organization, and IFALPA, the pilots association, and then to adjourn for what they call group consultation; it means burying it again for some time.

MACNEIL. So, what this boils down to, Mr. Ambassador, as you say, the United Nations isn't going to do anything effective; and there's no point hoping for anything useful from there.

HERZOG. How can it, when you've got next month, Libya, which is financing international terror, president of the Security Council? And the PLO, which has led this whole international terrorist movement, an observer, and was last month, or two months ago, appointed an observer of the International Civil Aviation Organization?

MACNEIL. You accused Libya of financing international terror. Would the law that Senator Ribicoff wants, which Jim outlined, would the sanctions that he wants impress countries like Libya?

HERZOG. Definitely. All those countries are linked with the world. You cannot today, in this modern, sophisticated world, you can't cut yourself off from the world, and moves such as are envisaged in Senator Ribicoff's proposal will definitely impress all those countries.

You already saw the result in the recent odyssey that you pointed out now, of this plane that landed up in Nobadishu.

MACNEIL. This is one case where a large country like the United States, taking unilateral action, and passing a law on its own could actually have an effect on an international situation.

HERZOG. It could have a tremendous effect. When we had the Entebbe debate—remember, after we saved our hostages in Entebbe, what did the United Nations do? There was a proposal to condemn Israel in the Security Council. It didn't succeed. But at that time, I proposed that all three countries get together, and take action to outlaw anybody who harbors, gives any comfort, or any assistance whatsoever to hijackers, or finances, or anybody who's behind it.

MACNEIL. Good. We'll come back.

LEHRER. The United States is supporting the U.N. resolution on terrorism, but has yet to state a formal position on the Ribicoff bill. Ambassador Hayward Isham is Director of the State Department's office for combatting terrorism, and is chairman of an interagency working group on terrorism. He is a career

foreign service officer, and is the former Ambassador to Haiti.

Mr. Ambassador, first, on the U.N. resolution. You heard what Ambassador Herzog just said: that it's not strong enough, and it won't accomplish anything. Do you agree with that?

Ambassador HAYWARD ISHAM. I would think that for all its possible shortcomings, this resolution will be effective and useful. It will place this world body on record. It will establish the condemnation of terrorism. It will call for a tightening of international security measures at airports; and it will call for the ratification of those two conventions, the Hague and the Montreal convention by those states that have not yet done so.

So I think that this—particularly because it—by all evidence will be a broadly-based resolution. If all goes well, I think it will have a satutary effect.

LEHRER. All right. Generally speaking going through the list of difficulties, of prior resolutions, and other things, that Ambassador Herzog just went through, why is it so difficult to get all the nations of the world to agree on anti-terrorism movements? From a diplomatic standpoint, a political standpoint?

ISHAM. Well. I think Ambassador Herzog suggested something of the answer to that—that there are—much of the terrorism springs from a cause, or a political motivation, connection with the Middle Eastern situation, and with efforts to resolve it. There are very strong feelings as to the legitimacy of moves in this field, and a disinclination on the part of some to simply outlaw all forms of terrorism. They wish to make an exception for what is called liberation, national liberation movements.

LEHRER. Then they will define that in individual cases.

ISHAM. Yes. Right.

LEHRER. All right. Let's move to the Ribicoff bill. The State Department has not taken a position on that. What bothers you the most about that?

ISHAM. Well, we are very interested in the Ribicoff bill; and we consulted, we have been consulting with the Senator's office on it for some time, and most recently, Friday, we are examining it with great care; and we'll be providing our comments, of course, to the Senator as hearings begin upon it in the normal course of events.

I think the bill has good things in it; and—

LEHRER: Is the sanctions—let me just ask you bluntly; is it the suggested sanction against various countries, like the Soviet Union, China, and all of that, is that what gives you problems?

ISHAM. Well, the whole question of identifying countries, which aid and abet terrorism is a very complicated one. We have the definition which is used in existing U.S. law, which provides for the prohibition of all military and economic assistance to any countries, which aid and abet terrorists, by giving them sanctuary from prosecution is a more precise definition. What the legislative language on the books now talks about sanctuary from prosecution; and that, I think, is something which is useful.

The degree to which any given country aids and abets any given terrorist act is very difficult to determine very often, and in addition to that, your objective, of obtaining the curtailment of it may be achieved in other ways, than by, than by a public identification. You may wish to do it privately in the first instance.

LEHRER. All right. Thank you. As we've said, the primary emphasis for action, both at the U.N., and in Congress has come from the people who actually fly the planes, the airline pilots. Captain Tom Ashwood is the pilot's principal expert on security and skyjacking. He's chairman of the flight security committees of both the international and the U.S. Airline Pilots Associations. He's been a pilot for a major airline for sixteen years.

Captain, you can take your choice here. Ambassador Herzog's view of the U.N. action. He doesn't hold out much hope. But we also have Ambassador Isham's view. Where do you come down?

Captain ASHWOOD. I guess I balance somewhere in the middle, between the two Ambassadors. Inasmuch as I, too, share some of the cynicism that Ambassador Herzog has about the United Nations as a functional, useful body.

However, it's the only one—it's the only international body that we can go to; and then, I disagree with him, in regards to its possible effectiveness. Maybe it's not very effective as a legislative type body. But if this resolution does get to the floor, does get voted upon, at least this one time, we will see who is for, and who is against us—if nothing else, we'll have a clear identification of who we're up against exactly and why. And we'll be able to ascertain, and analyze why they are against such a, what I consider to be, a motherhood issue.

And as an international group of pilots, where else do we go? What other international group can we attend ourselves to? We individually work with our own governments. The U.S. Pilots Association, whom I also represent works directly with the U.S. government over here, and I presume my British colleagues do the same, and so forth, and so on.

And it's really a double-pronged effort. It's a parochial effort. In one's own country; and it's also an international effort; and the only International forum we have, which is the United Nations.

LEHRER. Do you agree with Ambassador Herzog that the unilateral action, contained in the Ribicoff bill, would get some action?

ASHWOOD. Absolutely it would get some action. I couldn't endorse that bill more strongly. When I saw the thing for the first time last week. I couldn't believe I was reading a potential piece of legislation out of the U.S. Congress. It was magnificent.

LEHRER. You think that unilateral action then without a really strong international cooperation, or strong international agreement could still, even at the U.N., take the cynical view, take the Herzog view of the U.N.—individually, if countries like the United States, and other countries did the same thing, they could still get something done. Right?

ASHWOOD. Of course, they can get something done. In fact, that's probably the most powerful means of gettting it done. It's an economic, a commercial means of doing it. You impose some sort of commercial sanctions, as well as political sanctions against a nation. Where do they get the spare parts for the American aircraft that they're flying, for instance.

LEHRER. Let me ask you this. Sympathy with terrorists aside, terrorism and terrorists aside, how many really unsafe, unsecure airports are there in the world?

ASHWOOD. Hundreds.

LEHRER. You mean, really bad ones?

ASHWOOD. Hundreds.

LEHRER. How do you define a secure airport? I mean, what are the unsecure airports doing that makes them unsecure?

ASHWOOD. They don't have any security. The physical security that you see at any U.S. airport, and some foreign airports.

LEHRER. Are you talking about X-ray machines, and guards at the gate——

ASHWOOD. X-ray machines. Guards at the gate. The magnetometers for checking your person as you pass through them; and so forth; these are the visible evidence of security. I mean, it's such an obvious thing. It's become such a part of our everyday lives in the United States, over the past five years, that we accept it now. The price is really quite small. It averages out forty-two cents a ticket in the United States. And for the security that it gives us. Security hasn't dropped in the United States. We're still having as many instances. If you check the FAA latest figures, you'll see that. We're catching them now. They're not being successful.

So, just a bit of basic security will help a tremendous amount; and you're talking in terms of nickels and dimes, and you're talking about an industry, a multibillion dollar industry that we're involved in here; and how come some of these nations, such as Spain don't have the simplest security measures?

I caught flights in Europe last week, when I was travelling for committee work over there, and it was like stepping on a bus on 14th Street, there was that much security. I had bags, suitcases with me, which I took on board. I could have had a whole arsenal of weapons. And this was only one week after one of the airlines, aircraft had been hijacked.

LEHRER. And you pilots want—you're going to get that changed, right, or you're going to have your strike?

ASHWOOD. Well, I think that's a distinct possibility.

LEHRER. All right.

MACNEIL. Let's have another view from inside the aircraft. A flight attendant, who's been flying the international skies for fifteen years is Elizabeth Rich. Although she's never been directly involved in a hijacking herself, she's studied the subject of air piracy extensively, interviewing pilots, passengers, and hijackers. Ms. Rich has put her findings in a book called "Flying Scared".

Ms. Rich, you fly with TWA now; and you fly to the Middle East frequently, I believe. Are you still flying scared?

ELIZABETH RICH: Well, for a while I wasn't; but recently I am. I fly both to Tel Aviv and to Cairo. And the intermediate stops that go there. Athens and Rome. And I do see the security at all these airports. I think I can compliment—

MACNEIL. Do you agree with Mr. Ashwood—

RICH. Ambassador Herzog. Tel Aviv has the best security of any airport I've been in. But the other airports are extremely negligent.

MACNEIL. All the way along the route?

RICH. Pretty much. I mean, you have army personnel in Cairo, in Rome, and you have police in Athens. But most, it's just a routine job. They are not on alert. They don't consider our airways the battefield, which apparently they're becoming. All along the Israelis have considered it that.

I also would like to make the point that the Israelis combat train their crews; while I really don't have any desire to be combat-trained. It's not something I'd like for myself, because I think the world leaders should do something about this problem, but if it goes on, I would prefer to be combat-trained.

MACNEIL. Is that true, Mr. Ambassador, that El Al crews are actually trained to be able to fight their way out of a terrorist situation?

HERZOG. I'm not familiar with the type of training they get. But I would say that El Al has the best security in the world today.

RICH. Well, let me put it that way. I am trained—all my emergency, and safety training, to preserve the life of all my passengers, and that includes the skyjacker; all of my instructions are to agree with the skyjacker, and not to upset the skyjackers; these were

guidelines that were developed for the fairly pathological, crazy ones we have in the United States.

MACNEIL. The ones that were skyjacking for their own personal reasons?

RICH. Well, like the man last week, who committed suicide. They were all fairly suicidal; although I'm not so sure we can say these—the terrorists are not suicidal either. Three of them committed suicide in a German jail; and the other ones got killed. I mean, it's a means of confrontation.

MACNEIL. As somebody who actually would potentially have to deal with in an aircraft, you see a different problem with the new political groups, who are hijacking for political reasons, than you did from your researches into those who were hijacking for personal reasons a few years ago.

RICH. I think they're extremely vicious. I think they're extremely dedicated. I have no idea—I mean, the PLO and the Palestinian question, or the Eritrean rebels, or the other groups that are trying to gain territory, territorial and political recognition, at least you know what they're after.

But something like Baader-Meinhof, who just want to tear down all political institutions. I don't know what they're after. And I don't know on what grounds I could appeal to them.

MACNEIL. You've had a lot of experience in flying; and you've observed a great deal, and studied a great deal about it; what do you think should be done in practical terms? I mean, do you want yourself to be trained for combat training?

RICH. Well, no. I think——

MACNEIL. Do you want crews to be armed aboard planes?

RICH. What a horrible thought. I mean, I think Ribicoff's proposal is a wonderful proposal. I just feel so cynical. I worked with Captain Ashwood five years ago on a flight which we organized of the United Nations delegates to Montreal to try to get them to pass some treaties that had teeth in them. But they were never passed; and I feel very cynical about the leaders of the world doing something about a problem which victimizes every single one of them. I could read you the list of all the countries who've been victimized by skyjacking. It's Communist, non-Communist, and we have the Arabs, the OPEC ministers skyjacked out of their meeting in Vienna; I mean, what more evidence do we have to have that it's going to hit everyone; and yet, we have little countries like Vietnam—the Ambassador said—there are reasons for it. Well, we're going to get it too eventually.

MACNEIL. Let's come back to the question of hitting everyone; and particularly, this country—in a moment. But first of all, let's pursue the practical things that can be done.

LEHRER. Captain Ashwood, what about arming crews? Arming the pilots in the cockpit?

ASHWOOD. I'm distressed at the very idea of doing that, or even having to do that. The pilot's function is to fly an aircraft; and get his passengers from where they came from to where they want to go. And the prospects of a shootout at altitude is just too horrible to contemplate. An airplane doesn't lend itself to that type of situation.

Let me just finish this point.

LEHRER. Sure.

ASHWOOD. And also, there's a severe danger, if you arm the crews, everybody will say: Okay, that's it; we've done it; that's enough. I don't want the crews to be armed. I don't want to fight those people on the flight deck in my aircraft. I want them stopped, before they get on my airplane. I want preventive security.

LEHRER. Would the same thing apply then to putting armed guards on airplanes? Germany, West Germany is considering that; and Mr. Ambassador, doesn't El Al now put armed guards on many of their flights?

HERZOG. Well, I'm not exactly familiar with all the details that they do about security. All I know is that the El Al flights are reasonably secure.

LEHRER. Right.

HERZOG. But I agree with the Captain that the answer is to stop it before it happens, to make sure that these people know in advance that they have no recourse anywhere in the world, and that finally, they will just not succeed.

LEHRER. Ambassador Isham, I mean, from the United States point of view, you heard what a pilot, and a flight attendant have said, and they're very cynical that you and the rest of the U.S. government, or the rest of the world are really going to do anything about this. Is there a good reason for them to be cynical, and questioning?

ISHAM. There's certainly good reason to be questioning. But it's our job to pursue, and overcome obstacles like that. We intend to do that. We've pledged the highest priority on achieving a much greater measure of cooperation; and I think already the very fact is Ambassador Herzog mentioned that a number of those Middle Eastern states refuse to let that aircraft land is in itself evidence of the effectiveness of the public program, which has been marshalled against hijackers.

LEHRER. All right. Robin.

MACNEIL. Yes. What occurs to me, and I'll ask you first, Mr. Ambassador, seems to be some, at least coordination and contact between several of these groups, whichever Palestinian group is responsible, the Baader-Meinhof group in Germany, the Red Army in Japan; and increasing evidence that there's some coordination and contact between them.

Do you identify that contact in Israel? Do you see it all as sort of directed against Israel, or do you see it directed against something else?

HERZOG. No. I don't see it as directed only against Israel. Of course, it began to a degree—

MACNEIL. I understand.

HERZOG. By being directed against Israel. But they suddenly found that because of the weakness of the governments of the world, they found that they were onto a good thing, and you could just hijack a plane, and get five million dollars for doing it; and then strengthen the organization.

There is a definite link between them. Most of those people, including the Baader-Meinhof and the Red Army have been trained in PLO camps in Lebanon. The Red Army people, Japanese, who came, and massacred the Puerto Ricans in Lod Airport, have been trained in Lebanon; and in fact, were operating for a Palestinian group; and, in fact, this group now, in Nobadishu too, they, all they spoke about the whole time was the Palestinian identity.

MACNEIL. Since one of their themes seems also to be overthrowing, or undermining the democratic institutions, and economic institutions, are you surprised that they have not struck in this country?

HERZOG. No. I'm not surprised. The reason is that you've taken measures. You've taken steps. If you had not taken the steps that you've taken, today I'm quite sure you'd have been plagued by this scourge as well. But you have airport security. That security, whether it's good or not is a deterrent. It's a mental deterrent; and therefore, people are careful. There are places where they can do it easier, like some of the countries that were mentioned by the Captain before.

MACNEIL. Ambassador Isham, is it true, as has been reported, that this country has its own sort of specially-trained group of troops, prepared to look after such terrorists as the West Germans did recently, and as the Israelis did a year or so ago at Entebbe? Do we have such special units?

ISHAM. Yes. We do. The Pentagon did confirm just last week. We have highly-trained ranger battalions that are equipped for dealing with these situations.

MACNEIL. I see. Do we have any reason to believe that our security is so good in this country, that we are not at risk from these new, international terrorist groups?

ISHAM. No. On the contrary. I think we must consider ourselves very much at risk; and that's the reason we have these, precisely these forces.

MACNEIL. Is the United States doing anything further to strengthen its airport, and general security against such moves, in view of these recent incidents?

ISHAM. We are, we have, we are reviewing this whole matter right now, both with respect to the United States, and international airports; the FAA has a program, bilateral assistance technically to many countries; and we are strengthening that——

MACNEIL. I think I must end it there, Mr. Ambassador. Thank you, and Mr. Ashwood very much. Good night, Jim.

LEHRER. Good night, Robin.

MACNEIL. Thank you, Ms. Rich, and Ambassador Herzog.

Jim Lehrer and I will be back tomorrow evening.

I'm Robert MacNeil. Good night.

THE UNITED STATES SHOULD NOT WITHDRAW FROM THE ILO

Mr. HUMPHREY. Mr. President, a decision will be made soon as to whether the United States will remain in, or withdraw from, the International Labor Organization.

I, along with a number of my colleagues, have been pressing for a decision to remain in the ILO. We firmly believe that it would be highly detrimental to the long-term foreign policy interests of this Nation to abandon a vitally important international organization.

In my estimation, it is easy to attack an international organization such as the ILO, particularly when very little is known concerning its activities—most of which are highly positive and relevant to the needs of millions of laborers worldwide.

Some opponents attack the ILO for allegedly ignoring human rights violations by member nations even though a stated principle of the organization is to preserve and to protect these rights. Needless to say, at the very least this statement is misleading and at the very best it is self-serving. It is self-serving because the U.S. Senate has not given its advice and consent to ratification to even one human rights convention drawn up by the ILO. We have not even given our advice and consent to ratification of the Convention Prohibiting Forced Labor. In other words, while we might protest that the ILO has not lived up to its stated principles, and this is a somewhat dubious assertion, we have very little credibility on these issues because of our failure to ratify even one human rights convention. We have very

little moral standing to demand more of others than we demand of ourselves.

As we pointed out in our letter of October 7 to the President:

ILO is an institution which has a workable mechanism that actually brings about legislative change at the national level in the field of human rights. This mechanism is tripartite (workers, employers and governments) in character and celebrated its 50th anniversary this year. In 1976, 45 different countries changed 80 pieces of national legislation as a result of ILO pressure and brought that legislation into line with ILO social and human rights standards. In 1975, 55 countries amended approximately 94 pieces of legislation. Over the past 14 years, approximately 1,100 national laws were changed because of the ILO. In 1969, ILO received the Nobel Peace Prize for its work in human rights. We should not give up such an effective forum as the ILO when it is, in fact, so efficiently performing the very tasks in the field of human rights which you are urging should be carried out.

I might add, it is because of this ILO human rights record that the Soviet Union is anxious for the United States to withdraw from the ILO. The ILO was designated as the only international organization to monitor and report on compliance with the human rights provisions of the Helsinki accords.

However, I do not want to belabor this point. We are concerned, and justifiably so, over politicization of international organizations. But, as I noted in my letter to the President of October 17:

Politicization of International Organizations has not been a one-way street. Our past policy had been one of affording the United Nations system a nominal role in our foreign policy decision-making processes. The United Nations was a convenient tool of the United States foreign policy when it suited our interests—interests, I might add, which were predominantly political in nature. Oftentimes we ignored, or at best devoted lip service to, the economic and social concerns of the less developed nations which comprise a vast majority of the membership of the U.N. The frustrations of the developing nations over our narrow political concerns should be, therefore, understandable. And I believe we have paid a price for our narrow and parochial policies of the past. That is why I commend your initiatives in affording the United Nations a more prominent and broader role in our foreign policy considerations.

Our stakes in an atmosphere of global cooperation are tremendous and growing. With only six percent of the world's population, we now consume nearly 40 percent of the world's resources. By the year 2000 it is estimated that we will be import-reliant for 12 out of 13 critical minerals essential to the maintenance of the economic viability of any industrialized state. This situation does not lend itself to confrontation or withdrawal from the world community. Quite the contrary, it calls for a much more aggressive and creative policy which seeks to strengthen cooperation and which places the United States in a leadership role of negotiating a planetary bargain in which all nations of this fragile globe can share equitably in the fruits of the international economic system.

For all the frustrations we have experienced in recent years, the United Nations remains a remarkable achievement of mankind. The developing nations of the world, as do our allies, continue to look to us for the leadership which always seems to be momentarily side-tracked by other foreign policy concerns. The world has become a much more complex place in which to live than it was in the late 1940s and 1950s. The tremendous problems of uncontrolled population growth, hunger, illiteracy and disease with which we are all threatened will only be resolved in an atmosphere of cooperation and understanding. We must build upon the international institutions, rather than contribute to their dismantling. There is much at stake for future generations in our doing this.

In essence, what is required is not action which people might feel to be politically expedient at the moment. There are problems in the ILO. But these problems will not be resolved by our withdrawal from the institution. In addition, I am not one to give up any battle and I am not one to encourage our abandoning an international organization, thereby encouraging the control of such institutions by those whose political and value systems are so completely contrary to ours. I do not think it is in our tradition to walk away from a problem, if, indeed, the problem is as serious as alleged.

I also encourage my colleagues to study the "Critical Issues Review Paper" compiled by the Democratic Committee of the American Democrats Abroad in Switzerland. It is a truly educational piece which places the operations of the ILO in their proper perspective.

Mr. President, I ask unanimous consent that the letter of October 7 to the President, my letter of October 17 to the President, and the "Critical Issues Review Paper" be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., October 7, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We read with great interest your major foreign policy address at Notre Dame University last May 22. In that speech, you "reaffirmed America's commitment to human rights as a fundamental tenet of our foreign policy," said that "our policy must reach out to the developing nations to alleviate suffering and to reduce the chasm between the world's rich and poor," and further that "we can no longer expect that the other 150 nations will follow the dictates of the powerful, but we must continue—confidently—our efforts to inspire, and to persuade, and to lead."

We agree with all of these statements.

We also believe that a decision to withdraw the United States from the International Labor Organization would be contrary to your statements at Notre Dame, inimical to the long range foreign policy interests of the United States and its leadership position in the world and against the broad policy lines which you laid down in your speech to the United Nations on March 17.

On November, 1975, Secretary of State Kissinger wrote to the ILO saying, "This letter constitutes notice of the intention of the United States to withdraw from the International Labor Organization." Interestingly enough, the letter went on to say, "The United States does not desire to leave ILO. The United States does not expect to do so. We do intend to make every possible effort to promote the conditions which will facilitate our continued participation."

The ILO Constitution requires a member State to give two years notice of its intention to withdraw from the Organization. If you take no action to cancel the 1975 letter, the United States will cease to remain a member of the oldest Specialized Agency in the United Nations system, as of November 6 of this year.

Before making your final decision, we urge you to take the following matters into consideration:

1. Human Rights:

ILO is an institution which has a workable mechanism that actually brings about legislative change at the national level in the field of human rights. This mechanism is tripartite (workers, employers and governments) in character and celebrated its 50th anniversary this year. In 1976, 45 different countries changed 80 pieces of national legislation as a result of ILO pressure and brought that legislation into line with ILO social and human rights standards. In 1975, 55 countries amended 94 pieces of legislation. Over the past 14 years, approximately 1,100 national laws were changed because of the ILO. In 1969, ILO received the Nobel Peace Prize for its work in human rights. We should not give up such an effective forum as the ILO when it is, in fact, so efficiently performing the very tasks in the field of human rights which you are urging should be carried out.

2. Basic Needs:

On March 17, when you spoke at the United Nations, you said, "the United States will be advancing proposals aimed at meeting the basic human needs of the developing world and helping them to increase their productive capacity." ILO developed, over the past 8 years, a basic needs strategy designed to help the poor of the world. This strategy was unanimously adopted at the ILO's World Employment Conference in June of last year. Since then, this development thesis has been strongly supported by the Non-Aligned Conference, the UN General Assembly, the World Bank and at last month's OECD Ministerial Meeting. Both Governor Gilligan and Ambassador Young spoke at different UN meetings in Geneva recently and said the U.S. strongly supported the basic needs concept. In 1975, we in the Congress reshaped the U.S. bilateral aid program in order to direct that assistance to the poor of the world.

We have been pleased to see our idea pushed so aggressively and so successfully by ILO on a global basis. It would seem to us to be a mistake for the United States to abandon the Organization mainly responsible for this new development strategy.

3. Israel:

There has been justified criticism of the action taken by the ILO Conference in 1974 when it adopted a resolution criticizing Israel's handling of the occupied territories without following ILO investigative procedures. As you are aware, however, ILO has held four world conferences in the past 14 months and not one of these conferences has adopted any resolution concerning Israel, or Zionism, or the Middle East. Israel has not given notice of its intent to withdraw from ILO nor has it taken a position in favor of U.S. withdrawal. In fact, in June 1975, an Israeli workers' representative was elected to the ILO Governing Body for a three-year term. In November 1976, Israel was elected to a seat on 5 of the ILO's 10 Industrial Committees which deal with such subjects as textiles, chemical industries, inland transport, etc.

4. U.S. Allies:

A Major U.S. objective in ILO over the past 12 months has been to ensure that its "natural allies" would stand together with the United States on political issues which might arise in ILO. This objective has been clearly achieved. Again and again, OECD countries have spoken out in support of United States positions and have voted in the same fashion. As recently as July 12, the foreign ministers of the EEC announced they would make a joint plea to the Secretary of State that the United States remain in ILO. (They believe that a U.S. withdrawal

from ILO might lead ultimately to the destruction of the United Nations.) Certainly, if the United States leaves, many of our supporters and allies at ILO will feel as though they are being deserted.

5. Tripartism:

The United States has been concerned about a weakening of tripartism. In fact, much progress has been made in this area. In 1976, the ILO Conference adopted an international convention on tripartite consultation, which called for the adoption of national consultative machinery by member States to strengthen the tripartite mechanism. The U.S. worker delegate to the Governing Body was elected Vice President of the 1977 Conference. A strong resolution on tripartism was adopted unanimously by that same Conference. The Canadian worker spokesman in the Governing Body was elected, on June 23, to be Chairman of the Governing Body, the first time in ILO history that someone other than a government representative has been so honored.

6. Structure:

The word "structure" is short-hand for an attempt by the newer ILO members from the Third World to increase their power and influence in the decision-making organs of the 58-year-old ILO. During this year's Conference, the United States Delegation urged an amendment to ILO's procedures which the Third World agreed to talk about on condition that their amendments were also discussed. The United States Delegation refused this request and, therefore, was not successful in achieving its immediate goal. The Conference did agree, however, to set up a special working party to discuss the entire "structure" problem and report back to the ILO Conference next June. The United States delegate, in plenary, stated that the United States "disassociated itself from the report," even though this meant that the Delegation, by this statement, isolated itself from all other member States.

In conclusion, Mr. President, we believe that the U.S. notice of withdrawal has certainly had a healthy impact on member States as well as on ILO itself. The situation which the United States complained about in the Kissinger letter has improved considerably. ILO is by no means perfect but much that is favorable to the U.S. position has been accomplished in the past 21 months.

We believe that a U.S. withdrawal would have a major negative impact on our foreign policy objectives, would be construed by many as a trend towards isolationism and would be considered to be inconsistent with your frequently stated objectives in the area of human rights. A U.S. departure would also seriously cripple ILO and gradually enable it to be dominated by forces unfriendly to the United States objectives.

For all these reasons, we do believe that the United States should remain in ILO, should fight there for its beliefs and should try to further strengthen the Organization, its aims and objectives, through an even more active and positive leadership role than we have played in the past.

Respectfully,

George McGovern, Charles H. Percy, Jacob K. Javits, Edward M. Kennedy, Edmund Muskie, Harrison Williams, Thomas Eagleton, Alan Cranston.

Hubert H. Humphrey, Gary Hart, Dick Clark, John C. Culver, Paul S. Sarbanes, Lee Metcalf, Mike Gravel.

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., October 17, 1977.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: It is my understanding that you will make a decision this week as to whether or not the United States will remain in the International Labor Organization.

As you will recall, on October 6, 14 of my colleagues joined with me in sending you a letter outlining our reasons why the United States should remain in the ILO. Senators Frank Church, Birch Bayh and Mark Hatfield also belatedly asked that their names be added to the letter.

Because I believe so strongly that a decision to withdraw from the ILO would have such adverse consequences for the U.S. throughout the entire U.N. system and would be so completely contrary to our long-term national interests, I am writing you once again to respectfully request that your decision be that the U.S. remain in the ILO.

The United States has been confronted with increasing difficulties in International Organizations in recent years. The politicization of some of these organizations has, indeed, been contrary to our own interests and deserving of our strongest criticism. However, these problems must be placed in their proper perspective.

Politicization of International Organizations has not been a one-way street. Our past policy had been one of affording the United Nations system a nominal role in our foreign policy decision-making processes. The United Nations was a convenient tool of United States foreign policy when it suited our interests—interests, I might add, which were predominantly political in nature. Oftentimes we ignored, or at best devoted lip service to, the economic and social concerns of the less developed nations which comprise a vast majority of the membership of the U.N. The frustrations of the developing nations over our narrow political concerns should be, therefore, understandable. And I believe we have paid a price for our narrow and parochial policies of the past. That is why I commend your initiatives in affording the United Nations a more prominent and broader role in our foreign policy considerations.

Our stakes in an atmosphere of global cooperation are tremendous and growing. With only six percent of the world's population, we now consume nearly 40 percent of the world's resources. By the year 2000 it is estimated that we will be import-reliant for 12 out of the 13 critical minerals essential to the maintenance of the economic viability of any industrialized state. This situation does not lend itself to confrontation or withdrawal from the world community. Quite the contrary, it calls for a much more aggressive and creative policy which seeks to strengthen cooperation and which places the United States in a leadership role of negotiating a planetary bargain in which all nations of this fragile globe can share equitably in the fruits of the international economic system.

For all the frustrations we have experienced in recent years, the United Nations remains a remarkable achievement of mankind. The developing nations of the world, as do our allies, continue to look to us for the leadership which always seems to be momentarily side-tracked by other foreign policy concerns. The world has become a much more complex place in which to live than it was in the late 1940s and 1950s. The tremendous problems of uncontrolled population growth, hunger, illiteracy and disease with which we are all threatened will only be resolved in an atmosphere of cooperation and understanding. We must build upon the international institutions, rather than contribute to their dismantling. There is much at stake for future generations in our doing this.

I believe in the old adage that you get out of any endeavor what you are willing to put into it. That is particularly true with reference to the United Nations system. I believe in our political system and the values that we, as a nation, represent. That is why it is complete anathema to me to permit an institution to be controlled by those whose views and value systems are so completely contrary to ours. If we are experiencing difficulties in the ILO, then we should work all that much harder to rectify them. We should also start demonstrating a sensitivity to the social and economic concerns of the developing countries. In so doing, we might see a more cooperative attitude on their part.

In conclusion, Mr. President, the only advantage I see to a withdrawal from the ILO is a momentary satisfaction. I think our withdrawal would set the stage for accelerated confrontation in an age in which the United States is becoming so reliant upon other nations of the globe for our own survival. I do not think this is a legacy we want to leave our children or our grandchildren.

Thank you for your kind consideration of my views in this important matter.

With best wishes.

Sincerely,

HUBERT H. HUMPHREY.

CRITICAL ISSUES REVIEW PAPER

(By the American Democrats Abroad in Switzerland)

The future of American membership in the international labor organization.[1]

A policy decision of major importance to the Democratic Party, the United States and the entire free world.

Within the next few weeks, the United States will have to decide whether or not to remain a member of the International Labor Organization in Geneva. In November 1975, the ILO was informed by letter that the United States was dissatisfied with certain perceived developments at the ILO, and if there was no progress in these matters the United States woud withdraw from membership effective November 6th 1977.

THE ILO IN A NUTSHELL

The International Labor Organization, almost totally unknown in the United States, is the oldest of the specialized agencies of the United Nations. It dates back to the end of the First World War when it was established as a vehicle for international cooperation in seeking an improvement in the rights and the standard of living of working people throughout the world.

Almost automatically the ILO became the most important major international organization working in the field of human rights. It has been universally recognized in this role and has received many international honors. On its 50th birthday in 1969, the ILO was awarded the Nobel Peace Prize for its contributions to human rights.

The ILO consists of three basic components. There is an annual conference at which delegates assemble from all over the world to: adopt international standards protecting the rights, health, safety and welfare of workers, vote resolutions on various matters, and to set the overall policy guidelines for the ILO. There is a governing body, composed of governmental, worker and management delegates, which gives general executive direction to the organization throughout the rest of the year. Finally, there is the secretariat which serves the annual conferences and governing body, carries out research, and supervises a vast array of activities in the field in countries throughout the world.

The ILO provides practical training to workers in many skills, to trade-union lead-

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[1] An earlier policy paper addressed this question from other perspectives.

ers, to government officials, to managers, and even to entrepreneurs, the latter much criticized by the Soviet Union. It provides essential data on world employment, searches for new methods of creating employment, seeks harmonious adaptation to technological change and new approaches to development. It works closely with other UN agencies to promote improvements in human welfare.

THE CHARGES AGAINST THE ILO

The letter sent by the United States in 1975, signed by Henry Kissinger, expressed dissatisfaction with four points. These were that there had been a drift away from tripartism, selective concern for human rights, abandonment of due process, and too much politicization at the ILO. However, the letter also stated that the United States did not want to leave the ILO, and did not expect to leave the ILO. It finally promised that the United States would make every possible effort to promote conditions which would facilitate our continued participation.

EVENTS SINCE THE KISSINGER LETTER

The American threat to leave the ILO was taken seriously. Many efforts were made to find out what exactly the United States wanted to see done at the ILO by way of improvement. No fully satisfactory response was ever given to these requests, many of which came from our closest friends and allies.

Part of this failure to give an adequate response stems from a continual problem that the United States has had in taking the ILO seriously. In 1970, and again in 1977, the GAO reported to the Congress that the Executive branch had not been acting responsibly toward the ILO. The 1977 report of the GAO stated:

"U.S. participation in the Organization has been one of crisis management alternated with periods of low interest levels." The report further stated: "Today, more than 1 year into a 2-year waiting period before withdrawal becomes final, and having stated the United States will do all it can to resolve its problems with the Organization, the Federal agencies responsible for U.S. participation have not developed an overall statement of U.S. objectives for the Organization."

Without the benefit of knowing what exactly the United States wanted to see done, the ILO has taken steps to meet each of the American criticisms.

The first issue is tripartism which addresses the fundamental uniqueness of the ILO in the UN. Each member country is represented at the ILO by three separate voices, that of labor, management and the government. It has been charged that the universality of membership in the ILO embraces countries whose political philosophies do not allow independent voices to labor and management. This of course is true. Nevertheless, the tripartite principle is still the major deal of the ILO.

To reaffirm its commitment to tripartism, the ILO in June 1977 voted a unanimous resolution concerning the Strengthening of Tripartism in ILO Supervisory Procedures of International Standards and Technical Cooperation Programmes. Tripartism is alive, active and working well at the annual conferences, the governing body and the secretariat.

The other three issues of the Kissinger letter, selective concern for human rights, failure of due process, and the politicization of issues, were largely based upon actions perceived to have been inimical to Israel.

During the last two years, major efforts have been made to dispute the validity of these charges and demonstrate that to the extent that there was any validity that progress was indeed being made. During the last 15 months, the ILO has hosted 4 world conferences, 2 annual conferences, a World Employment Conference and a World Maritime Conference. At no time did any of these conferences adopt a resolution attacking Israel, or any other member state, nor did they mention Zionism, racism or the Middle East.

Ironically, it is at the ILO that Israel has been given the most favorable treatment by any of the UN family organizations. An Israeli worker delegate was elected to the governing body in 1975 continuing a long tradition of Israeli participation in the leadership of the ILO. Israel has not given any notice of intention to withdraw from the ILO.

To further meet the American criticisms, the ILO at the June 1977 conference voted unanimously to adopt two resolutions, the one previously mentioned on tripartism and a second concerning the promotion, protection and strengthening of freedom of association, trade union and other human rights. To meet the U.S. points one by one the resolution on tripartism stated;

The Conference "Invites the Governing Body of the International Labor Office to consider all measures—constitutional as well as informal to ensure not only full compliance with ILO instruments but also promotion of the application in all countries of standards concerning human rights."

This same resolution also stated: "political issues outside the competence of the ILO shall not be a proper subject of inquiry by the ILO, and that member States shall cooperate fully in all investigations of allegations of violations under this section, and the ILO shall conduct such investigations, according all parties due process."

In June 1977, the governing body established a tripartite committee to investigate charges made against Czechoslovakia that it had violated in ILO convention prohibiting discrimination in employment by having dismissed persons who signed the "Charter of 77".

The ILO has taken the American charges seriously and has made a significant attempt to meet the charges, and to reply in a responsible manner.

ARGUMENTS IN FAVOR OF AMERICAN WITHDRAWAL FROM THE ILO

Proponents of withdrawal from the ILO state that there has been no progress on the four points in the Kissinger letter and that we must therefore leave the ILO or lose credibility in the eyes of the world. They further contend that the United States is maligned at the ILO and we should not have to tolerate this

ARGUMENTS AGAINST AMERICAN WITHDRAWAL FROM THE ILO

A very good case can be made for the fact that there has been substantial response by the ILO to the four points of the Kissinger letter.

But, beyond this question of the adequacy of progress on the four points, there are many other considerations which should make the United States want to remain a member of the ILO. American withdrawal from the ILO now would complicate our commitment to human rights, embarrass us at Belgrade, weaken the UN, be a disservice to American business, disappoint our allies, give an undeserved gift to our foes, and be totally out of character with decades of tradition of the United States and the Democratic Party.

OUR COMMITMENT TO HUMAN RIGHTS

The credibility of the American commitment to the cause of human rights is directly related to the actions we take in their behalf. The ILO is universally recognized as one of the most useful vehicles there is today for observing how well human rights are being observed throughout the world. For example, the 1977 ILO report on the applications of standards cited human rights violations in the Soviet Union, Czechoslovakia, Cuba and elsewhere.

During the 1977 June conference of the ILO there was a noticeable shift in the behavior of the Soviet Union. Responding to their evident vulnerability to the effectiveness of the ILO machinery in the supervision of human rights, the Soviet Union started taking initiatives to force the United States to leave the ILO.

EMBARRASSMENT AT BELGRADE

The Belgrade Conference starts soon to discuss how well the agreements signed at Helsinki are being applied, and how well human rights are being protected. Here again, the ILO report on the application of standards will provide much useful information on how the Soviet Union and other totalitarian countries have been fulfilling previous such agreements.

An American decision to withdraw from the ILO at the same time that ILO documents are being shown to be of prime importance can only lead to major embarrassment of the United States. Furthermore, if the United States leaves the ILO, what guarantees will we have that there will be such useful reports in the future?

THE FUTURE OF THE UN

The charges made against the ILO could be easily repeated in a similar form against all of the other bodies in the UN system. Indeed, if credibility, logic and consistency are at stake these charges must be made. Since the charges against the ILO relate to abuse of Israel we should now be planning our withdrawal from the WHO, FAO, UNESCO and even the UN itself since at all of these bodies Israel has been more badly abused than at the ILO.

DISSERVICE TO AMERICAN BUSINESS

The ILO is now drafting a voluntary code of conduct for multinational companies in their social and labor practices throughout the world. It would be a disservice to American business to have the United States leave the ILO while this code is being debated. Contents of the code could have a major impact on the future operations of American business overseas for many years.

Research on multinational companies carried out by the ILO has been seen to be fair and balanced, particularly when compared to similar research carried out by other organizations. In keeping with the tripartite principle, ILO reports allow American companies to speak up in their own behalf, in their own words.

ABANDONMENT OF OUR ALLIES

The allies of the United States want very much for us to remain in the ILO. They have repeatedly said so in public and in private. They pointedly ask, on the credibility imperative to withdraw, "Credible in whose eyes?"

A VICTORY TO OUR FOES

The Soviet Union and other countries vulnerable on human rights issues would like to see us leave the ILO. It would relieve them of much of the threat that the ILO could be used to make their life very uncomfortable. Our withdrawal gives them a totally undeserved reprieve from this threat. What we really need to do is to start taking advantage of the ILO instruments and to use them responsibly to move forward toward progress on human rights.

AGAINST THE TRADITIONS OF AMERICA AND THE DEMOCRATIC PARTY

One of the great traditions of the United States and of the Democratic Party is the continual recognition of our obligation to play a responsible role as a world leader. Withdrawal from the ILO goes against this tradition.

In 1934, Franklin Roosevelt told the ILO in his letter thanking the ILO for its wel-

come of American participation: "I share with you the hope that American participation will assist both in giving an impetus to general social progress and in speeding economic recovery in all countries."

In 1963, John Kennedy stated at American University, "World Peace, like community peace, does not require that each man love his neighbor, it requires only that they live together with mutual tolerance, submitting their disputes to a just and peaceful settlement."

In 1976, the Platform of the Democratic Party claimed: "We can't give expression to our national values without continuing to play a strong role in the affairs of the United Nations and its agencies."

In 1977, Jimmy Carter stated at Notre Dame, "We can no longer expect that the other 150 nations will follow the dictates of the powerful, but we must continue, confidently, our efforts to inspire, and to persuade, and to lead."

WHAT MUST BE DONE?

We, American Democrats Abroad, share Jimmy Carter's sentiments from the Notre Dame speech. We think they are particularly appropriate in relation to our present decisionmaking on the ILO. What the world deserves, and the ILO desperately needs is a responsible American effort to inspire, and to persuade, and to lead.

We ask you to reflect upon the profundity of the importance of the ILO decision. If you agree with us that it would not only be unwise, but irresponsible for the United States to abandon the ILO, we urge you to join us in communicating this conviction to the President.

We believe that not only should the United States withdraw the letter of 1975, but should also at the same time make a bold new declaration of intent to work with renewed vigor at the ILO.

ARE CORPORATE PROFITS ADEQUATE TO FINANCE ECONOMIC GROWTH?

Mr. HATCH. Mr. President, we have the tax reform debate ahead of us. One of the issues will be capital formation and whether corporate profits are adequate for economic growth. Alan Reynolds, vice president of the First National Bank of Chicago, has written an excellent survey of this issue in the First Chicago World Report. He shows that no matter how we measure it, corporate profits are lower than we think and the tax bite is greater than we think. I believe that all of us will find Mr. Reynolds' factual summary helpful during the debate on tax reform. I ask unanimous consent to have the summary printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

QUESTIONS ABOUT CORPORATE PROFITS

(Note.—The adequacy of corporate profits has become the subject of a considerable controversy among economists. Some aspects of that controversy include how profits should be measured, which years should serve as a standard for comparison, and whether the lower profits of recent years are part of a secular trend or simply a cyclical symptom.)

Several recent articles have challenged conventional methods of measuring profits and the widely-shared belief that low profitability has become a chronic problem requiring tax reductions or other palliatives. Among the more recent challengers was a *Wall Street Journal* article entitled "Business Doesn't Need a Tax Break" by MIT Professor Lester Thurow, a new study by Martin Feldstein and Lawrence Summers of Harvard in the *Brookings Papers on Economic Activity*, and a paper by George M. von Furstenberg and Burton G. Malkiel in the *Journal of Finance*.

MEASUREMENT PROBLEMS

The first question is how to measure profits. Book profits are overstated in an inflation because depreciation allowances are based on the historical cost of plant and equipment rather than on higher current replacement costs. Profits are therefore adjusted for this and other distortions by making a capital consumption adjustment (CCA).

Profits are also exaggerated for companies using FIFO accounting by a rise in the replacement price of inventories. Inventory profits are not available for fixed investment or distribution as dividends, since they are needed merely to maintain higher priced inventories. In addition, such profits can incur tax liability. Inventory profits will persist only if inflation accelerates at ever-increasing rates. For such reasons, book profits are appropriately reduced by making an inventory valuation adjustment (IVA). The IVA and CCA have been subtracted from net profits in the first column in Table 1 to arrive at adjusted net profits.

TABLE 1.—PROFITS OF NONFINANCIAL CORPORATIONS

[In billions of dollars]

	Unadjusted after-tax profits	Adjusted after-tax profits [1]	Reduction of real indebtedness [2]	After-tax economic profits	After-tax economic profits as a percent of capital [3]
1962	23.1	24.2	1.5	25.7	6.8
1963	25.5	27.2	1.0	28.2	6.1
1964	30.7	32.8	2.3	35.1	8.5
1965	37.2	38.9	1.3	40.2	8.9
1966	40.0	41.7	4.8	46.5	8.8
1967	37.7	39.6	4.9	44.5	7.4
1968	38.3	38.5	8.3	46.8	7.1
1969	35.1	33.1	9.4	42.5	6.1
1970	27.9	24.3	10.9	35.2	4.6
1971	33.3	28.8	12.3	41.1	5.0
1972	42.4	38.5	11.7	50.2	5.7
1973	53.1	36.4	17.5	53.9	5.2
1974	60.3	16.9	25.5	42.4	3.4
1975	61.6	37.5	27.8	65.3	4.8
1976	76.9	48.3	23.7	72.0	5.0
1977 I	79.5	43.4	27.9	71.3	NA
1977 II	85.3	51.7	27.9	79.6	NA

[1] With Inventory Valuation Adjustment (IVA) and capital consumption adjustment (CCA).
[2] From G. M. vonFurstenberg and B. G. Malkiel, "Financial Analysis in An Inflationary Environment," Journal of Finance (May 1977).
[3] Fixed and variable capital stocks, net of depreciation and valued at replacement cost; estimated by the Bureau of Economic Analysis, US. Department of Commerce.

A more complicated problem arises in the proper handling of corporate debt. Professor Thurow treats all of the net interest paid by nonfinancial corporations as being the same as profits, noting that debt capital has risen in volume relative to equity capital. However, this treatment of debt finance as equivalent to equity finance is extraneous to the issue of whether profits are adequate (after taxes) to encourage an adequate level of business investment. Those who buy corporate bonds do not expect the same risk as stockholders, and too much debt piled on top of a limited equity base can make the stockholders' return on a firm's investments more vulnerable to economic fluctuations.

Corporations certainly do not view their interest obligations as profit. The willingness of both borrowers and lenders to take on the added risks of investment depends on favorable expectations concerning future returns to equity owners.

Professors von Furstenberg and Malkiel raise a different point. Book profits are calculated after deducting net interest, but interest rates tend to incorporate a premium reflecting expected inflation. This compensation for the effect of inflation in reducing the real value of corporate debt, they say, is neither real income to the lenders (although it is taxed as such) nor a real cost to the borrowers (although it is deductible from corporate income). They therefore adjust net interest to estimate this overstatement of the real cost of corporate debt. These adjustments are added to the third column of Table 1 to arrive at "Economic Profits" in the fourth column. The result of all these adjustments is that profits averaged only 3.9% of GNP from 1970 to 1976, compared with an average of about 5.4% from 1962 to 1968.

RATE OF RETURN

The most significant comparison, however, is not between profits and GNP, but between profits and the amount of capital invested. The last column of Table 1 relates the adjusted, after-tax "economic profits" of nonfinancial corporations to the replacement cost of their net plant, equipment, residential capital and inventories. This gauge of the rate of return on invested capital has slipped from over 8% in the late 1960s to less than 5% in the 1970s. This data helps to explain the weakness in both the stock market and business investment in recent years.

There has been some debate about whether this weakness of profits of recent years represents a lasting trend, or is simply a reflection of the unusually unfavorable cyclical developments. Feldstein and Summers found that the before-tax rate of return since 1970 has been one or two percentage points lower than can be explained by recent low rates of capacity utilization alone. They attribute this to price controls and rising energy prices, rather than to any permanent problems.

Thurow argues that there has been a 35% cut in corporate income tax collections (not rates) from 5.5% to 3.6% of GNP since 1947–53. But we are interested in taxes as a percentage of profits, not of GNP. Corporate profits have also fallen as a percentage of GNP. Besides, corporate profit taxes were extraordinarily steep in the Korean War period because of an 82% excess profits tax.

Table 2 shows postwar federal, state and local corporate income taxes as a percentage of profits (adjusted for inventory profits and inadequate depreciation allowances). Not

since the Korean War have we experienced such high rates of corporate taxation as in 1973–76. Even if we added von Furstenberg and Malkiel's somewhat controversial adjustment of net interest to the profit figures (as in the "Economic Profits" of Table 1), the tax rate still exceeded 50% in 1974 and averaged over 43% in 1973–76, compared with an average rate of 40% in 1964–68.

TABLE 2.—*Corporate income taxes as a percent of profits of nonfinancial corporations*

	Taxes as a Percent of Adjusted Profits [1]	Taxes as a Percent of Economic Profits [2]
1962	46.0	44.4
1963	45.5	44.7
1964	42.3	40.7
1965	41.1	40.4
1966	41.4	38.8
1967	41.2	38.4
1968	46.6	41.8
1969	50.1	43.9
1970	52.8	43.7
1971	51.0	42.1
1972	46.5	40.0
1973	52.2	42.4
1974	71.5	50.1
1975	50.7	37.4
1976	53.0	43.0
1977 I	54.8	42.5
1977 II	52.6	41.8

[1] Before-tax profits with IVA and CCA.

[2] As above, plus "reduction in real indebtedness" from Table 1.

It may be true that if corporations want to invest, they currently have enough funds. But this is not the issue. Corporations won't invest those funds in physical assets unless they believe that such investments will yield an adequate return to equity owners. Moreover, the apparent increase in the volatility of profits has added a risk premium to business investments, and has increased corporations' desire to hold more assets in liquid forms.

It is also true that low levels of capacity utilization are a major explanation for low before-tax profits. When plants are operating far below capacity, fixed overhead costs must be spread over fewer units. But taxation can certainly aggravate the situation, as in 1974, and the direction of causality can run both ways. That is, a squeeze on after-tax profits can and does contribute to recession, and therefore to low capacity utilization.

The real issue is not the taxation of corporations *per se*, but the taxation of income from capital investments. All taxes are paid by workers, consumers or investors, not by some impersonal corporate entity. If excessive taxes are levied on income from investments (whether imposed at the corporate or individual investor level, or both), nobody should be too surprised that investment is thereby discouraged. In a classic Brookings Institution study, *Who Bears the Tax Burden?* Joseph Pechman and Benjamin Okner figured that under conventional assumptions of how corporate and property taxes are shifted, the average tax rate on income from capital was nearly double the rate on an equal income from labor.

COPYING GOOD YEARS

Even if the after-tax return on capital really could be expected to remain near the 1947–53 average, that would be comforting only if we could be satisfied with as weak and erratic an economic performance as was experienced in 1947–53. The Chairman of the Council of Economic Advisers, Charles Schultze, has indicated that the Administration's growth targets require increasing real business fixed investment by 9–10% a year between now and 1981. Schultze points to 1962–66 to show that it can be done. It is no coincidence that those years saw the lowest rate of corporate taxation in the postwar period, as well as exceptionally strong net profits (as can be seen in both tables). If we want to repeat the economic experience of the 1960s, it might be prudent to copy the tax incentives of that era.

THE GENOCIDE CONVENTION AND EXTRADITION

Mr. PROXMIRE. Mr. President, one of the objections to the Genocide Convention which has been repeatedly emphasized during the past 28 years concerns extradition. Opponents of ratification frequently claim that untrue or suspect charges would arise that American citizens had attempted genocidal acts against a racial, ethnical, national, or religious group. They further claim that ratification of the Genocide Convention would deprive U.S. citizens of their right to a fair trial by requiring that they stand trial in foreign countries and under undemocratic regimes. These arguments have absolutely no merit.

During the Foreign Relations Committee's hearings on the convention last May, Herbert J. Hansell, legal adviser to the Department of State, made three points to clarify this issue. First, the Genocide Convention is not an extradition treaty. U.S. law provides for extradition only when a separate extradition treaty is in force covering that specific crime. This convention simply adds genocide to the list of crimes which would be affected by any new extradition treaties we conclude or existing ones we revise.

In addition, the United States refuses to sign any extradition treaty with a nation which does not guarantee what we consider to be a fair trial. Although the legal details of foreign judicial systems never match ours exactly, the State Department has had considerable experience in evaluating the fairness of such systems.

Finally, since governments and judicial systems change over time, the United States has safeguards which are consulted for each particular criminal case. One of these is that any government making charges against an American citizen and asking for extradition must provide as much evidence of their legitimacy as would be required for a trial in U.S. courts. Thus, the threat of extradition because of trumped-up charges cannot be taken seriously.

Mr. President, the Genocide Convention is not an extradition treaty. It deals with extradition in the same manner and with all of the safeguards that apply to other international treaties. I am convinced that the American judicial system is the most open and objective in the world, and the Genocide Convention simply extends our interests to the international level.

Objections to this treaty on the basis of extradition are without merit. I urge my colleagues to reject such untrue charges and to ratify the Genocide Convention immediately.

CHILD LABOR IN AGRICULTURE

Mr. JAVITS. Mr. President, in light of the debate on the child labor provisions of the minimum wage bill (S. 1871), I think my colleagues will be interested in this discussion of the dangers to children of labor in agriculture authored by the National Consumers League. I insert it so that citizens and appropriate local and State authorities may have notice of scientific and medical facts involved and take necessary precautionary actions. I ask unanimous consent that the text of this statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

NCL OPPOSES ANY CHILD LABOR EXTENSIONS UNDER THE MINIMUM WAGE LEGISLATION

The National Consumers League, founded in 1899 to fight abusive, unsafe and unhealthy worker and consumer conditions, vehemently opposes unsafe or exploitive labor conditions, particularly child labor practices.

When considering the issue at hand, child labor in commercial agriculture—it is imperative that we examine it in all its aspects. Children in general fall victim to the deleterious effects of pesticides, herbicides and fungicides more readily than adults. Children laboring in fields are victimized even more than children not exposed to these conditions.

The National Cancer Institute has found that cancer is the leading disease killer among all American children. This fact is not to be confused with the leading cause of deaths for children which is accidents. Authorities at Mt. Sinai Hospital's Department of Environmental Medicine attribute the high death rate in children caused by cancer to the following facts:

Nationally, children have higher levels of chlorinated hydrocarbons in their bodies than adults (chlorinated hydrocarbons are the group of chemical compounds which contain chlorine, carbon and hydrogen; examples of chlorinated hydrocarbins are DDT, Aldrin, Dieldrin, Heptachlor, Chlordane, Mirex, Toxaphene).

Chlorinated hydrocarbons are one of the leading causes of artificially introduced cancers.

The reasons that children have higher levels of chlorinated hydrocarbons in their bodies than adults are thought to be fourfold: (1) children weigh less than adults and they are less able to tolerate the toxicity of chemicals; (2) Children, because of their smaller size, are lower to the ground thereby expanding their exposure to the wide spectrum of pesticides, herbicides and similar toxic substances; (3) Children are more naive about their physicial environment and its dangers than adults. Just as a child will risk running in front of a car after a ball, for example, so s/he will eat strawberry or apple still coated with a toxic substance. Scientific literature documents this point in data that shows that the victims of pesticide and herbicide poisoning are usually children; (4) For the majority of adults in the United States, exposure to pesticides and other toxic agricultural products began late in the 1940's and 1950's—it continued to intensify in the 1960's. Repeated exposure to the deleterious effects of these poisons results not only in mutagenic or carcinogenic damage to body cells but also to stored quantities of poisons in our bodies the effects of which are cumulative.

Children laboring in the fields are victims of the above national pattern many times over. Because these children were born in the late 1960's, during when the use of deadly

sprays was intensifying, they have been exposed to the poisons at every stage of their development—in utero, post-natally through breast and bottle feeding, and now through arduous work in the fields.

We know that the carcinogenic effect of pesticides and other similar chemicals has a latency period of 20–30 years. What are we doing to future generations when we allow these children to work in the fields? In another 10 to 20 years will these nine and ten year olds, now in their pre-adolescent stage, have to suffer the horrors of sterility or of bearing a malformed child? California is currently in the process of documenting sterility cases suffered because of DCPB and of banning the hazardous chemical.

In setting standards for re-entry in the fields ("re-entry" being the time required to elapse between spraying and entering the field again safely after spraying) has the child laborer's small body weight and high susceptibility to cancer been taken into account? We think not. Children laboring in fields are not covered by any standards designed ostensibly to protect them. Toxicity standards have been set to protect the processor of the substances, not the laborer. Thus the laboring child is once more a double victim—s/he is the victim of having been born in the 1960's with all the carcinogenic exposure of the time plus s/he is being treated as though s/he were not the real reason for setting health standards.

We find that, as is true elsewhere, the circumstances under which children worked in the fields of Oregon or Maine have been altered considerably over the past few decades.

As stated earlier, in the 1940's and 1950's people were just beginning to be exposed to the dangers of agricultural spraying. Spraying of all pesticides has increased every year since the 1940's.

The potato crop of Maine is now subjected to intensive spraying of the herbicide DNBP (4-6 dinitrothenol-o-sec-butyl phenol) which is also known as Dinocebe, Premerge or Sinox PE.

Spraying takes place about two weeks before harvest to kill the potato vines, thus making harvest easier. Experts at EPA's Pesticide Registration Division state that the acute effects (that is the immediate and short-term effects as opposed to the long-term effects) of DNBP are highly toxic, corrosive to skin and eyes, and if ingested directly, fatal. The same experts do not know what the long-term effects of this chemical are. It is being reviewed in the reregistration process of pesticides and herbicides currently taking place. Can we afford to expose children in the fields of Maine to a herbicide whose long-term effects are unknown?

In the state of Oregon the pesticide Trithion (Carbophenothion) is sprayed heavily on strawberries, cane berries and pole beans (School Days, Saturdays, Sundays and Fiestas (Children Who Work in Commercial Agriculture), a report by the American Friends Service Committee, 1501 Cherry Street, Philadelphia, Pa., 1977). Again in conferring with officials at EPA's Pesticide Registration Division, we have learned that this chemical compound is one of the deadly chlorinated hydrocarbons whose carcinogenic and mutagenic effects are continually being exposed.

HOW CANAL TREATIES WOULD BENEFIT IOWA FARMERS

Mr. CULVER. Mr. President, for the people of Iowa one of the most important questions concerning the proposed Panama Canal treaties is the impact those agreements would have on American agriculture, and in particular farm exports.

Recently the Des Moines Register published an analysis of this issue by one of Iowa's most respected commentators, Lauren Soth. Mr. Soth details the importance of the canal for agricultural exports and concludes that our agricultural interest calls for every reasonable foreign policy to keep that route open. That goal, he argues, requires that these treaties be ratified.

Mr. Soth also declares:

The surest way to close the canal and to put our farm exports under handicap, particularly in the growing Asian markets, is to try to hold control of the canal by force.

In view of the importance and timeliness of these facts for the people of Iowa and other agricultural states, Mr. President, I ask unanimous consent that the full text of Mr. Soth's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW CANAL TREATIES WOULD BENEFIT IOWA FARMERS

(By Lauren Soth)

Public opinion polls show large majorities of Americans opposed to Senate ratification of the Panama Canal treaties which have been signed by President Carter and Panama's ruler, Gen. Omar Torrijos.

The popular opposition to the treaties appears to be based on chauvinistic feelings about not giving up "our territory." It cannot be the result of serious thought about economic consequences.

The principal stake (practically the only stake) of the United States in the canal is its value for commercial shipping, especially for exports of agricultural products. The canal is vulnerable to sabotage or guerrilla attack. No treaty and no military guard can assure complete protection.

But it is evident from recent uprisings that continuing the U.S.-imposed. one-sided arrangement on the canal would risk interruptions of traffic and destruction of the lock system.

American farmers have been expanding their markets in Asia tremendously in the last two decades. Japan now is the largest single country market for U.S. farm products. Of the total of around $23 billion of agricultural exports this year, about $8.5 billion will go to Asian markets, $4 billion to Japan. About 70 per cent of the U.S. farm commodities export to 15 markets in Asia last year passed through the Panama Canal.

One-fifth of all American agricultural exports last year were shipped through the canal.

The canal is particularly important to the big-volume trade in corn, soybeans and wheat. The U.S. Department of Agriculture (USDA) reports that one-fifth of total corn exports moved through the canal, a fourth of soybean exports and nearly half of grain sorghum exports.

The proportion of wheat shipped that way is not so high, since the white wheat and hard spring wheat of the Northwest usually are shipped via Pacific coast ports. But much of the hard red winter wheat of the Great Plains goes through Panama.

The tolls for shipping through the canal will go up under the new treaties, but they would have to go up anyway because of higher operating costs—even if the U.S. could get away with its present low rate of payment to Panama (which it cannot). The tolls are expected to increase about 25 to 30 per cent under the new treaties. But this would add only about five per cent to the total shipping cost for most products going through the canal.

Of course, the higher shipping cost would apply to all canal users. The United States still would have a transportation cost advantage over Brazil in shipment of soybeans to Japan, for example. If the canal were closed to U.S. use, however, Brazil would have a 50-cent a bushel edge, since we'd have a longer haul around Cape Horn.

The Panama Canal is important to the United States for internal as well as international trade. Many bulk commodities shipped between eastern and western parts of the country go through the canal, including canned fruits and vegetables, citrus and dried fruits.

Several of the least thoughtful opponents of the treaties argue that the canal should remain in U.S. hands exclusively in order to assure use of this trade route for American farm products. That kind of reasoning is possible only for a Rip Van Winkle who has been asleep in the last 20 years and oblivious to the political trends in South America and to the riots in Panama.

The surest way to close the canal and to put our farm exports under handicap, particularly in the growing Asian markets, is to try to hold control of the canal by force.

Because of the energy situation, we will have to rebuild our railroad system in the next few years. This will make it feasible to move more products east and west by rail and perhaps permit greater exports of farm products to Asia from West Coast ports.

But the longer ship route, through the canal, undoubtedly will continue to be the cheapest way from the Midwest—and our agricultural interest calls for every reasonable foreign policy to keep that route open.

That seems to me to require the ratification of the Panama Canal treaties.

WATERWAY USER CHARGES: THE VIEWS OF GOVERNOR THOMPSON OF ILLINOIS AND THE NATIONAL GOVERNORS ASSOCIATION

Mr. DOMENICI. Mr. President, Governor Thompson of Illinois, whose State is one of the most dependent on inland waterway transportation, has announced his support for an effective waterway user charges system, such as the one supported by President Carter and passed by the Senate in June. I have resubmitted that Senate-approved language as amendment No. 1460 to H.R. 8309.

Governor Thompson, in referring to the modest House-passed figure, stated:

I don't think the fees in the bill . . . are high enough by any means. They don't go anywhere near far enough in supporting the water transportation system. User charges ought to be increased to some fair relationship to the cost of the Federal Government in maintaining the waterway system.

The Governor, in effect, was reiterating the view of the National Governors Association, which recently endorsed waterway user charges. I must note that the association said user charges should not include costs of power generation, recreation, flood control, et cetera. These costs are already recovered by the Federal Government from identifiable beneficiaries. Under the terms of the bill adopted by the Senate and now included in my amendment, No. 1460, non-navigation costs are specifically excluded from waterway user charges. Only navigation-related costs would be recovered.

Mr. President, I ask unanimous consent that the pertinent portions of an article from the Alton, Ill., Telegraph, as well as the copy of a policy statement

issued in September by the National Governors Association, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Alton Telegraph, Oct. 24, 1977]

THOMPSON BACKS CARTER'S STANCE ON DILUTED LOCK BILL

(By Bill Lambrecht)

ELSAH.—Gov. James R. Thompson said Saturday he approved of President Carter's threats to veto the Alton lock and dam bill if passed to him from the U.S. Senate without higher barge user fees.

"I think the President was quite right to warn Congress the other day that he would veto the Alton lock and dam project unless water user fees for the barge companies were increased."

"They ought to be increased to some fair relationship to the cost to the federal government in maintaining the waterway system," the governor said.

Thompson's comments on Lock and Dam 26 came Saturday during a visit to Principia College at Elsah, in the governor's last speech of a 40-mile, 12-county trip along the west edge of Illinois begun Wednesday night.

The governor repeated support for construction of a new lock and dam facility at Alton, but said he opposed any deepening of the channel by the Army Corps of Engineers from 9 to 12 feet.

"I think also it is time to end the 150 year subsidy of barge owners, most of whom pay no taxes of any consequences to a state like Illinois while railroads are paying thousands in taxes," Thompson said.

"The subsidies of barge lines is almost 100 percent, and I think it ought to stop."

"I don't think the fees in the bill now before Congress are high enough by any means. They don't go anywhere near far enough in supporting the water transportation system."

POLICY STATEMENT OF THE NATIONAL GOVERNORS ASSOCIATION—SEPTEMBER 1977

"The Association views with interest pending legislative proposals dealing with water transportation related user fees. While an equitable charge or fee should be assessed to water transportation users for the operations and maintenance of navigation aids and channels, the Association feels that benefits such as power generation, recreation, flood control, etc., accruing to a state or region should be considered when determining the amount of charges or fees to be assigned to water transportation users. The Association feels strongly that the States should share equitably in the collected fees for the continued operation or maintenance of said State's water transportation system."

CHAIRMAN BURNS ON BUSINESS PROFITABILITY AND BUSINESS CONFIDENCE

Mr. JAVITS. Mr. President, Arthur F. Burns, Chairman of the Board of Governors of the Federal Reserve System, made an important contribution to the debate on the U.S. economy in a speech he gave in Spokane, Wash., on October 26, 1977.

The speech, entitled "The Need for Better Profits," addressed itself to what I consider to be the major problem facing the U.S. economy today: the lack of business confidence and its impact on long-term capital investment decisions by U.S. business. I do not need to remind my colleagues that without long-term capital investment the improvement in our economy will continue to lag, raising serious questions whether we will be able significantly to reduce unemployment.

Chairman Burns cited the great difficulty that U.S. business is having in evaluating the implications of the major policy initiatives that are being considered by the administration. As a first step in meeting the concerns of U.S. business, Chairman Burns calls on the administration to adopt a bolder tax policy similar to the investment tax credit and income tax reductions of the 1960's.

Mr. President, Chairman Burns has been a dedicated servant of the American people and as Chairman of the Board of Governors of the Federal Reserve System has provided outstanding leadership in dealing with the severe economic issues facing the Nation today.

I commend to my colleagues this speech and request unanimous consent that it be printed in the RECORD:

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH OF CHAIRMAN BURNS

It is a pleasure for me to be here on the campus of Gonzaga University to participate in this celebration of Founder's Day. I am also pleased to be able to join you in honoring a great teacher of economics, Dr. Graue. It is eminently fitting that Dr. Graue's contribution to economic understanding should be noted today not only by festivity but also by serious economic discussion.

In consonance with that, I would like to address a feature of our current economic environment which, as long as it persists, could well prove an insurmountable barrier to the achievement of full employment in our country. I refer to the fact that the profits being earned by American business are at an unsatisfactory level.

It is both striking and disturbing, I believe, that profits get relatively little attention these days from economists. I have the impression that the economics profession has almost forgotten that ours is still predominantly a profit-motivated economy in which, to a very large extent, whatever happens—or doesn't happen—depends on perceived profit opportunities. Certainly, the preoccupation in the Nation's capital tends to be with other matters. The slightest hint, for example, of emerging trouble for the economy will promptly unloose a flood of fiscal and monetary proposals, virtually all predicated on the notion that what is crucial is governmental manipulation of aggregate demand. Seldom does anyone pause to ask what should be a compellingly obvious question—namely, whether lack of confidence in profit opportunities on the part of our profit-oriented businessmen and investors may not be the essential cause of difficulty.

My own judgment is that a deep-rooted concern about prospective profits has in fact become a critical conditioner of economic performance in our country. If I am right in thinking so, actions taken in Washington to enlarge the already huge budget deficit in the interest of more consumer spending are likely to be of little sustained benefit in reducing the level of unemployment. That was a principal reason why I felt no lasting benefit could flow from the $50 rebate that was under consideration early this year.

If poor profitability is adversely affecting economic performance, we should expect business firms to exercise great caution in embarking on capital-investment projects. No businessman is likely to add to his plant or equipment if the promise of a decent return is not present. The current expansion of the over-all economy, while otherwise generally satisfactory, has been marked by notably weaker investment spending than was characteristic of previous recoveries. In the two-and-a-half years of this expansion, real capital outlays have increased only half as much as they did, on average, over like periods in the previous five expansions. The shortfall has been especially marked in the case of major long-lived industrial construction projects, and it has occurred even in industries—such as paper and basic chemicals—in which the rate of utilization of industrial capacity is well advanced.

Unless the willingness of businesmen to invest in new plant and equipment increases decisively, the expansion of economic activity now under way will continue to lack balance. And that, I need hardly add, will make it more uncertain whether the expansion is going to continue at a sufficient pace to bring unemployment down significantly, or—for that matter—whether the expansion itself will long continue.

The weakness of profits in recent years is not the only cause of investment hesitancy, but it is unquestionably a very important cause. To be sure, many people have a contrary impression about the general level or the trend of profits. In fact, the most commonly cited profits figures—the so-called book profits that businesses report to their stockholders—have risen spectacularly in the last few years, and in total are currently running just about double their level a decade ago. But these raw profit figures are misleading and they should never be taken at face value.

In actuality—as the more sophisticated observers of corporate finances know—raw profit numbers have become virtually meaningless as a guide to corporate affairs because of the way in which inflation distorts the calculation of profits. Under historical cost accounting—the method used widely for inventory valuation and universally for capital-asset valuation—the true costs of producing goods in an on-going business are far from fully captured. Rather, they are significantly understated with respect to both the drawdown of materials from inventory and the consumption of capital assets. And when costs are understated on an accounting basis, profits of course are overstated; that is to say, the reported total of profits contains an element of inflationary fluff that in no sense enlarges a firm's ability to pay dividends or add to retained earnings.

The practical consequence of the inflationary fluff on a company's fortunes is decidedly negative, since taxes have to be paid on the "phantom" portion of profits. Quite obviously, this has lessened the ability of corporations to add to their capital investment without borrowing. The tax drain has become very large in recent years because of the enormous understatement of costs. For 1976, for example, the Commerce Department estimates that the replacement cost of inventories used up by nonfinancial corporations exceeded by $14 billion the materials expenses claimed for tax purposes. More striking still is the Department's estimate for last year of the amount by which depreciation charges based on historical cost fell short of the replacement cost of the capital assets consumed. That estimate came to nearly $36 billion, making the combined understatement of costs from these two sources $50 billion in 1976.

The huge understatement of costs that arises because of inflation cannot be ignored by anyone seriously concerned with corporate earnings. Once account is taken of the distortions wrought by inflation—and when an offsetting adjustment is also made to allow for the changes over time in Treasury depreciation rules—we find that the level of corporate profits was overstated in 1976 by about $30 billion, and that this resulted in an overpayment of some 10 to 12 billion dollars in income taxes. True economic profits

of corporations are thus very different from reported book profits.

Just how poor the trend of profits has recently been is clearly indicated by the fact that in each year from 1968 through 1975 the after-tax "economic profits" of nonfinancial corporations from domestic operations were, in the aggregate, consistently below the levels reached during 1965–1967. A new high level of these profits was indeed reached during 1976, but even that achievement is decidedly unimpressive when profits are expressed as a rate of return on the amount of equity capital in use. So far in the inflation-riddled 1970's, the after-tax rate of return on stockholders' equity has averaged only about 3¼ per cent when the tangible assets portion of equity capital is valued, as it should be, on a replacement cost basis. That figure is lower by two percentage points than the average rate of return for the 1950's and 1960's. Despite a sizable recovery from the recent recession, the rate of return on the equity investment in our corporations appears to be running currently at a level not significantly different from the depressed average so far this decade.

Anyone who wonders why capital spending has been so halting or why stock prices have behaved so poorly for so long would be well advised to study this dismal record of what American business has been earning. Historically, there has been an impressively close correlation between the rate of return on stockholders' equity and the rate of real investment. The linkage between the rate of return on equity and the behavior of equity prices is looser, but it still suggests that professional investment managers are no longer being deceived by the inflationary fluff in profit numbers. The stock market, by and large, has not been behaving capriciously; instead it has been telegraphing us a message of fundamental importance.

At any given point in time, investment activity and stock market behavior are conditioned, of course, by much more than current profit readings. What is ultimately decisive in determining the behavior of investors and businessmen is not the rate of return currently earned on past investments but rather expectations about future earnings. Very often current earnings are an excellent proxy for expectations about future earnings; sometimes they are not. My judgment is that businessmen and investors at present have a sense of doubt and concern about the future that is even greater than would be justified by the low level of true economic profits.

One telling piece of evidence that this is so is the pronounced hesitancy of businessmen in going forward with capital-spending projects that involve the acquisition of long-lived assets. The investment recovery that we have experienced so far in this cyclical expansion has been heavily concentrated in relatively short-lived capital goods that promise quick returns—trucks, office equipment, and light machinery, for example. Major investment projects that cannot be expected to provide payback for many years encounter serious delays in getting management's approval. Indeed, the decline of industrial construction that set in during the recent recession continued through the first quarter of this year—two years after general economic recovery got under way—and has not yet turned around decisively enough to establish a clear trend.

Many businessmen have a deep sense of uncertainty about what the longer future holds and, as a consequence, are discounting expected future earnings more heavily than they ordinarily would in their investment calculations. The special degree of risk that businessmen see overhanging new undertakings means that they often will not proceed with a project unless the prospect exists for a higher-than-normal rate of return. This is not only skewing investment toward short-lived assets; it is also fostering an interest in mergers and acquisitions—something that does not require waiting out new construction undertakings. There has been a noticeable pickup in merger activity recently, but such activity generates neither additional jobs nor additional capacity for our Nation's economy.

The reasons why businessmen appear to be assigning special risk premiums to major investment undertakings are complex, and I certainly cannot deal with them exhaustively today. But I would like at least to touch on the conditioning influences that seem most important—beyond, of course, the critical fact that current corporate earnings, properly reckoned, are discouragingly low.

My frequent discussions with businessmen leave little doubt in my mind that a strong residue of caution in businessmen's thinking has carried over from the recession of 1974–75. I think it is fair to say that the present generation of business managers had developed an inordinate degree of faith in government's ability to manage and sustain economic expansion. When they discovered that that faith was not justified, the experience was sobering—particularly for the not inconsiderable number of businessmen who had imprudently expanded debt in the froth of the earlier prosperity. Moreover, the lingering sense of unease produced by the severity of the recession has been deepened by the sluggishness of the subsequent recovery in much of the world economy outside the United States. In contrast to the widely-shared conviction of just a few years ago that the business cycle had been mastered, a surprising number of businessmen are now seized by concern that the world economy may have entered a downphase of some long cycle. One factor sparking such speculation is apprehension that the quantum jump in energy prices may be affecting the world's growth potential to a more serious extent than was originally thought likely.

More troublesome still, the specter of serious inflation continues to haunt the entire business community. The fear that inflation will not be effectively controlled is indeed a key reason for the high risk premiums that businessmen nowadays typically assign to major investment undertakings. Increasingly, businessmen understand the severity of the burden they are carrying on account of the taxation of "phantom" profits. They also have learned the hard way—from the frenetic conditions of 1973–74—that inflation is totally inimical to a healthy business environment. Having little basis for projecting how inflation will affect their enterprises and fearful that government may in time resort to direct controls once again, they feel bewildered in attempting to judge their future costs or their future selling prices. Because of that, they yearn for some solid piece of evidence that inflation will be tamed. They are troubled because no such evidence is yet at hand.

Added to these concerns is the fact that businessmen have had great difficulty in evaluating the implications of the major policy initiatives that are being considered this year. Businessmen cannot at this juncture confidently judge what kinds of energy will be available in the years ahead. Nor do they yet have any firm basis for assessing what kinds of tax incentives or disincentives may apply to particular energy uses. They are concerned that innovations in Social Security financing now under consideration may end the traditional rule under which employer and employee taxes have been the same and, as a consequence, lead to multi-billion dollar increases in the Social Security levies they have to pay They suspect, moreover—as do many others—that the revamping of welfare programs will prove much more expensive than is now being estimated and that still additional taxes on businesses will be imposed as a means of financing reform. And the daily rumors about impending tax reform, among which ending of preferential treatment of capital gains is frequently emphasized, have contributed to a mood of unease in both corporate board rooms and the stock exchanges. So too has the expectation that a serious campaign for a costly undertaking in national health insurance may start next year.

I strongly suspect that the ability of businessmen to assimilate new policy proposals into their planning framework has now been stretched pretty far. In fact, I seldom talk with a businessman these days who does not, in one way or another, voice concern about his inability to make meaningful projections of corporate costs and earnings for the years immediately ahead.

The implications of the matters on which I have been dwelling—the behavior of profits and the state of mind of the business community—appear to have escaped a good many people. Economic analysts who insist, for instance, that capital spending will automatically catch fire as capacity margins diminish are, in my judgment, thinking too mechanically. Much will depend on the process by which the economy reaches more intensive utilization of resources—especially on government's role in that process.

I also think that analysts endeavoring to assess capital-spending prospects—and indeed prospects for the economy generally—may be neglecting a sensitive cyclical development. I refer to the fact that, whereas prices charged by business generally advanced more rapidly than did the costs incurred by business in the early stages of this expansion, that is no longer the case. This, of course, means that profits per unit of output have stopped rising and may indeed have begun to fall—a development typical of the more advanced stage of business-cycle expansions and one that is certainly not conducive to vigorous capital-investment activity. I know enough about business-cycle behavior to avoid at this time the inference that a sustained profits squeeze is emerging. We have here, nevertheless, an incipient balance in the economic situation that ought to concern us. And it is one more compelling reason to ask if national policy does not need to be more explicitly oriented to the strengthening of profitability and the encouragement of capital formation.

The last time business investment in fixed capital was as weak as it has been since 1973 was in the late 1950's and early 1960's. I believe there are some policy lessons we can profitably draw from that period. There was a great deal of concern at that time that a phase of deep-seated economic malaise had set in, with worry voiced that sluggishness in business investment might well prevent the economy from attaining full employment. The parallels with today—both in objective fact and in assessment—are close in many respects, the major differences being that profit rates were not as low then, nor was inflation comparably troublesome.

A bold policy approach—predicated on the need for stimulation of capital investment—was then developed, with one of President Kennedy's early messages to Congress calling for enactment of an innovative tax device, namely, the investment tax credit. The Revenue Act of 1962 brought the tax credit into being. That same year witnessed a reinforcement of investment incentives in the form of significant liberalization of Treasury depreciation rules. This investment-oriented thrust of policy was followed, moreover, by recommendations for broadly based income tax reductions for both businesses and individuals, and they ultimately were embodied in the Revenue Act of 1964. Taken

together, those actions of the early 1960's were sensitively responsive to conditions that have many similarities to the situation in which we now find ourselves. And what is particularly worth recalling, those actions soon had the consequence of strengthening dramatically both investment activity and the general economy.

If we were able to launch a policy response now that was just as unambiguously positive in its implications for profitability, I for one would have little doubt about our economy's capacity to shake off its malaise. As every recent study of our Nation's investment needs has emphasized, we are confronted with an enormous capital-formation challenge for the years ahead. If we have the good sense to create hospitable conditions for saving and investing, I truly believe ours could become an age of sustained progress in employment and well-being.

The doubts and uncertainties that now prevail in the business and investing community reflect, in large part, irritation or annoyance at what is viewed as governmental myopia. They must not be interpreted as being indicative of business timidity. That enormous vitality and dynamism still exist in our business system is attested by the extraordinary fact that, despite the weakness of profits in recent years and the cumulating anxieties about the future, our economy has actually generated nearly seven million jobs since the spring of 1975—nearly all of them, I should add, in private industry.

The practicality of so many initiatives in this Administration's first year is arguable, but the President's leadership also bespeaks a seriousness of purpose that in the end may bring lasting benefits to our Nation. We have been through a year of animated policy debates—a year, I think, of useful growth in the perception of how plausible but divergent objectives can be practically blended. The basic reform this country now needs is the creation of an environment with many new job opportunities for our people. I expect the dust of controversy to settle and that constructive legislation will follow.

I do not mean to suggest that encouragement of investment through a bold tax policy is all that is needed. Such encouragement is vital, to be sure, and it will undoubtedly make a difference in the willingness of businessmen to invest in new and equipment. But the effort at eliminating the high risk that now attaches to investment must be of broader reach. It must go to the array of concerns of the business community about energy policy, about environmental codes, about governmental regulations at large, and—above all—about inflation.

I cannot overstate the importance of unwinding the inflation that is continuing to plague our economy. There is a paramount need for avoiding new cost-raising measures by government, of which the recently legislated increase of the minimum wage is only the most recent very troublesome example. Fiscal and monetary policies need to be conducted in ways that will quiet rather than heighten inflationary expectations. On the fiscal side, this means that great caution will have to be observed both in giving up tax revenues and in program initiatives entailing new expenditures. As a practical matter, expenditures on some existing programs may therefore have to give way. We simply dare not take steps that would result in any appreciable enlargement of our already swollen budget deficit. That could only excite unease in the business and financial community.

On the monetary side, I want to assure you that we at the Federal Reserve fully appreciate the critical linkage between money creation and inflation. We have no intention of letting the money supply grow at a rate that will add fuel to the fires of inflation. On the contrary, we are determined to bring about a gradual reduction in the rate of money expansion to a pace compatible with reasonable price stability. That cannot be done quickly because of the powerful inflationary pressures that have become embedded in our economic life over so many years; but I assure you that it will be done if the Federal Reserve retains—as I expect it will—the independence from political pressures on which the Congress has so wisely insisted across the decades. That does not mean that the Federal Reserve is preoccupied with the objective of monetary firmness. Our obligation to foster financial conditions that favor the expansion of job opportunities is clear and I assure you this is very much on our minds. We constantly keep probing for that delicate balance between too much and too little money.

The increase of short-term interest rates that has occurred since late April has served to check what would otherwise have been an explosion of the money supply. By taking measures to check the growth of money, we have demonstrated that we remain alert to the dangers of inflation. As a consequence, long-term interest rates, which nowadays are extremely sensitive to expectations of inflation, have remained substantially stable. Had we not taken steps to bring the money supply under control, I have little doubt that fears of inflation would now be running stronger, and that long-term interest rates, which play such a significant role in shaping investment decisions, would therefore now be higher than they in fact are. In that event, of course, the continuance of economic expansion would be less secure.

We at the Federal Reserves always welcome advice on how best to proceed. Ours, however, is the responsibility to act in the monetary area, and we intend to exercise that responsibility in ways that promote the long-run as well as the immediate interests of this Nation.

PASSAGE OF GI BILL IMPROVEMENT ACT

Mr. HUMPHREY. Mr. President, I am pleased that the Senate has passed the GI Bill Improvement Act of 1977, providing for a cost-of-living increase in benefits for veterans who are furthering their education. This legislation, with the accelerated tuition provision, allows veterans to use the benefits they are entitled to at an accelerated rate to meet higher tuition costs.

I commend Senator CRANSTON, the chairman of the Veterans' Affairs Committee, and his colleagues, for reporting an equitable and workable bill. Over the years, veterans have rallied to the call to serve their country when the need arose. I think that it is very fitting that Congress respond to veterans' needs as swiftly as possible, and a 6.6 percent across-the-board increase in education benefits is certainly a good beginning. I have every hope that the administration's fiscal policy will bring down the spiraling rate of inflation. However, since prices have continued to accelerate, the 6.6 percent adjustment will allow veterans to keep up with expenses incurred in their schooling.

The accelerated tuition program, with a lowered threshold of $700 for eligibility, will affect a larger number of veterans in a greater number of States, while maintaining the focus of the Senate committee's accelerated tuition concept on equitability.

Finally, by extending the delimiting date for veterans who are in the process of finishing up their educational programs, we express our confidence in our investment, by giving them the needed extra time to complete their studies at a reduced rate of assistance.

I am hopeful that the Senate and House conferees will formulate a final bill incorporating these important concepts. The young veterans of our Nation must be given every opportunity to finish this instructional phase of their lives. For they are the future—and we cannot go wrong by investing in our future.

HOW WE TAX AWAY OUR OPPORTUNITIES

Mr. HATCH. Mr. President, the most important issue of tax reform is to break the tax barriers to economic growth. The administration has expressed concern with the low rate of capital formation in our economy, but the September 2 version of the administration's tax reform options seems primarily concerned with "equity," by which the administration means income redistribution. The redistributive thrust goes so far as to propose a capital levy or wealth tax in the form of the taxation of capital gains as ordinary income.

During periods of inflation, this can amount to confiscation of people's assets. Suppose a person invests $5,000 in an income producing asset and that over a period of years inflation pushes the price of that asset up to $10,000. Suppose the person has to sell the asset to meet family educational or medical expenses. Although the replacement cost of the asset is $10,000, the IRS will claim that the person has realized capital gains income from the sale of the asset in the amount of $5,000. A person in the 20 percent tax bracket would find that the Government had confiscated $1,000 of his assets, or 10 percent of the current nominal value of the asset. A person in the 50 percent bracket would find Government had confiscated 25 percent of the current nominal value of his assets. This confiscation comes on top of the taxation of the income generated by the asset during the period of time that it was held.

Mr. President, a nominal increase in price is not income. It is simply inflation. To tax capital gains as ordinary income is to tax inflation—that is, to tax a tax. Does the administration really believe that people are going to invest during periods of inflation when their rewards is confiscation of their assets?

Prof. David Meiselman, a distinguished and nationally respected economist, has published an article in the Tax Foundation's "Tax Review," which shows how we have been taxing away the economic opportunities of all Americans. In the upcoming tax reform there is a danger that we will go even further down this road of declining opportunity. To help the Congress find the right road, I ask unanimous consent that Dr. Meiselman's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BREAKING THE TAX BARRIERS TO ECONOMIC GROWTH

(By David I. Meiselman)

In the past few years we have all seen many reports describing and analyzing the slow and faltering growth of the American economy over the past decade. After two and a half years of the current business cycle expansion, the performance of the American economy is still highly unsatisfactory, a record which cannot be explained or excused by the temporary adversities of the business cycle or the weather, or even the serious and not so temporary adversity of the OPEC oil cartel. Inflation and unemployment are simply too high; productivity and growth are too low. Moreover, I believe that poor and ill-advised public policy, especially in the tax area, is the major factor causing our dismal performance.

There are many mysteries about economic growth, but the lack of complete knowledge should not blind us to what we do know. We do know that in recent years, since at least 1960, growth in American productivity and output has been the slowest of any of the Western world's major industrial economies! Indeed, despite all her many serious problems, even Great Britain has experienced more per capita growth than the United States. Between 1960 and 1973, real output per employed person increased by an average of only 2.1 percent per year in the United States, while in the U.K. it increased by about 2.8 percent per year or about a third more. Since 1974, per capita output in the United States and the U.K. have increased at an average of about 1 percent per year, partly reflecting sharp recessions in both countries. These differences in growth may appear small in any one year, but they accumulate over the years like compound interest so that during the 13 year period the overall increase in output per employed person was about 43 percent in the United Kingdom compared with about 31 percent in the United States. Other countries grew still more rapidly.

One of the main reasons for our slow growth is that the American economy has been devoting too many resources to consumption and to government and not enough resources to the capital formation which makes growth possible. In fact, of all the Western industrial countries, the United States has devoted the smallest fraction of its Gross National Product since 1960 to private capital formation. Between 1960 and 1973, total fixed investments, which includes housing, has been 17.5 percent of real output, compared with 22 percent in Canada, about 25 percent in France and Germany, and over 35 percent in Japan. Even the British have devoted a larger proportion of output to capital formation than we have. Furthermore, the differences between American and foreign capital formation would be even greater if we excluded housing from the comparisons and examined only investment in plant and equipment, inventories and the like.

It is not merely coincidental that the United States has been lowest in both capital formation and economic growth. Output can increase only when technology improves or, with a given level of technology, when either more capital or more labor is used. Technical progress itself depends on capital formation. Technological improvements do not occur automatically; instead, they are typically the consequence of deliberate and planned research and development, a form of capital investment. And for a given level of technology, if there is little additional fixed capital, output can increase only when there are more labor inputs—from more people working, or from people working longer hours. The only dependable way to increase labor productivity, output per man-hour, is to increase the amount of capital per worker. Alternatively, a decrease in the amount of capital per worker tends to decrease labor productivity. These regularities depend on the operation of perhaps the oldest and best established principle in all of economics, known either as the Law of Diminishing Returns or the Law of Variable Proportions. Economists of diverse persuasions from Karl Marx or Paul Samuelson or Milton Friedman to Friedrich von Hayek may differ on many matters, but all agree that labor productivity depends on the amount of capital per worker.

PRODUCTIVITY DETERMINES WAGES

Thus, one factor making for slow growth per worker has been a sharp rise in the labor force in recent years unmatched by any speedup in the rate of capital formation.

In the 1950–1955 period, the growth of capital per worker increased at the rate of 3.6 percent per year, and slowed in the decade thereafter. From 1965 to 1970 capital per worker increased at the rate of 2.6 percent per year. In the 1970's there has been a sharp decline in the growth of capital per worker. The Congressional Budget Office estimates that it grew at the rate of about 1.6 percent per year between 1970 and 1975 and only 1 percent per year since 1975. In fact, during the current business cycle expansion since early 1975, real gross non-residential fixed capital formation has increased only slightly and has actually declined as a fraction of Gross National Product. This is hardly the basis for the economic growth and the expansion of opportunity which the nation can and should achieve.

It turns out that real wage rates, and, to some extent, employment as well, depend on labor productivity—not because employers are guided by ethical reasons to reward workers for their productivity, but because market forces compel employers to do so. When, as the result of capital investment, employees become more productive it will pay at least some employers to add to their work forces. As the demand for labor goes up, the result will be some combination of more employment and higher real wages as employers in general are forced to offer higher wages both to attract workers and to keep them from quitting. The maximum each employer is willing to pay is determined by the productivity of labor, and hence by the ratio of capital to labor. Competition among employers tends to drive wage rates to this point. Therefore, wages and employment opportunities will be held down if capital investment is slow.

If capital formation is so crucial for economic growth and rising real wage rates, why is the United States doing such a bad job of it? I contend that a number of public policy measures, by unduly penalizing saving and investment, have diverted resources that individuals would prefer to devote to capital formation and future consumption towards present consumption by households and by government. And one of the worst sets of policies, resulting in this wasteful distortion, is our Federal tax system.

TAXATION ON CURRENT CONSUMPTION

The fundamental bias against capital formation in our tax system results from the multiple taxation of income which is saved and invested. Individuals must pay taxes on essentially all income they earn, whether they spend it immediately or save it. The same holds true for corporations and their profits. This means that a dollar of current income is taxed only once when spent for consumer goods. However, the same dollar of current income devoted to saving is subject to multiple taxation because taxes must also be paid on the interest, dividends, capital gains, and the like that result from saving and investing. The use of income for saving is thereby taxed at substantially higher rates than the use of income for consumption. People naturally respond by saving and investing less. This distortion by multiple taxation is particularly great in the case of dividends, for the return on equity is also subject to an initial corporate profits tax of 48 percent. To be sure, so-called capital gains are taxed at lower rates than ordinary income, but this only moderates the distortion; it does not eliminate it.

For full tax equality between saving and consumption, all private sector saving should be deductible from the income tax base, whether invested in a savings account, the purchase of machine tools, the education of one's children, or the building of a shopping center. Only current consumption would be taxed. This would mean that businesses could, in effect, write off 100 percent of the cost of production facilities in the year they acquire them, thereby eliminating depreciation and other recovery allowances. Canada and England already essentially have this system, and other countries generally permit substantially faster write-offs of depreciating capital assets than the United States does.

To be sure, some savings, especially in pension funds, do receive a partial tax break partly because under some circumstances taxes can be deferred and partly because some or all of employer contributions may not be taxed at all. But this route has its own dangers and shortcomings because it further bureaucratizes yet another important feature of American life by separating people from control of their own assets. Instead, control is vested in the hands of faceless caretakers and institutions who are required to act "prudently," which means they tend to provide funds to safe, established and large enterprises and activities. The system offers little to new, to risky or to small enterprises, or to individuals and families who wish to start new businesses. This is yet another sad example of how government keeps people out and protects those who have already made it. Indeed, much of the tax system seems like an evil contrivance designed to keep people from becoming rich rather than striking at the rich themselves.

The damage wrought by our Federal tax system has been aggravated by inflation. Taxable profits have traditionally been calculated on the basis of historic rather than replacement costs. When prices increase, the cost of replacing inventories also increases, and depreciation, based on historic costs, becomes insufficient to replace machines being used. During inflation, therefore, recorded profits are overstated. Inflation thereby levies a special and additional tax on business capital under our current tax laws. Shifting from FIFO to LIFO accounting for inventories moderates but does not eliminate these problems for the inventory component. By itself, the extra inflation tax on business capital would result in a reduced rate of capital formation relative to periods such as the first half of the 1960's when there was ltitle or no inflation. Because post-tax rates of return depend crucially on inflation, capital formation depends on anticipations of future inflation as well as on actual and anticipated public policies affecting future inflation.

INDEXATION RECOMMENDED

Thus, one important and needed reform would be to permit indexation of depreciation allowances to permit depreciation charges to cover current replacement costs rather than historic costs. Of course, if saving were exempt from income taxation there would be full write-offs of capital expenditures and no such adjustments would be necessary. However, if saving is not made deductible, indexation of depreciation would help mitigate some of the bad effects in inflation. Indexation is also desirable because it avoids creating erroneous capital gains when capital gains are subject to tax. Under present arrangements, the combination of inflation and capital gains taxation

essentially amounts to a capital levy. Indexation of the entire tax code, including personal and corporate tax rates, are also desirable second-best solutions because indexation avoids the problems caused when the inflation process effectively alters real tax rates by putting individuals into higher tax brackets even when their real incomes remain the same. Tacitly raising tax rates and imposing capital levies by inflation rather than by explicit debate and legislation are not among the Congress' more forthright and honorable actions.

I may add that, even without inflation, taxing capital gains suffers from the basic fault of the tax system as a whole, which is that it tends to cause multiple taxation of income which is saved and invested rather than consumed. When people save they add to their wealth. Multiple taxation results when both income and the wealth generating the income are taxed. Because the capital gains are realized, the capital gains tax is a peculiar kind of transactions tax, not even a systematic or uniform tax on increases in value. As such, the capital gains tax is yet another form of capital levy which not only reduces saving and investment, but seriously interferes with the efficiency of capital markets.

I regret that some Administration spokesmen and others seem to be suggesting a further blurring of the fundamental distinction between capital and income, including an increase in the capital gains tax. I find it hard to see how an increase in the multiple taxation of capital would help to achieve the Administration's stated goal of spurring capital formation.

INFLATION INCREASES TAX BIAS

The combination of inflation, capital gains taxation and other features of the present tax code also bear heavily on saving as well as capital formation, both because the effects of inflation are far from uniform and because the pace of future inflation is uncertain and, in many respects, subject to the erratic twists and turns of public policies, especially Federal Reserve monetary policy, which are themselves highly uncertain and unpredictable. Markets try to reflect future inflation, but large errors are unavoidable. Under current inflationary circumstances, there is no effective way an ordinary family can attain or depend on future real income and real wealth by accumulating real assets for emergencies or for planned future needs such as retirement or sending children to college.

In addition, inflation increases the tax bias against saving because inflation causes still higher taxes on saving relative to other uses of income for several reasons. First, inflation-induced nominal capital gains are subject to tax, even if the assets lose real value because their nominal values increase less than the inflation rate. The result is a capital levy. Second, historic cost accounting for depreciation and various other business costs means that reported profits are overstated, effectively causing an increase in real tax rates, resulting in still another capital levy. Third, because some payments, such as interest rates, reflect inflation, classifying them as income and subjecting them to taxation is yet another form of capital levy. For some years the small saver has not only suffered a loss in the real value of his deposit, but he has also paid a tax on his interest "earnings," even though the real interest rate has been negative! The same has been true for large investors who hold Treasury bills. Indeed, the puzzle is why so many people continue to hold assets in these and similar forms when overall real rates of returns are negative. One answer may well be that large numbers of people are so fearful of alternative investments that they are effectively willing to pay something to be able to hold on to their existing assets. In view of poor business earnings, reflected in the poor performance of the stock market, and the lack of progress on the inflation front as well as the growing web of burdensome, irksome and costly regulation, who is to say that they are wrong?

Indeed, I believe that the problem of trying to save and to accumulate or conserve real assets is one of the most pressing and pervasive economic and social problems in America today, seriously affecting all of our citizens as well as all of our private institutions. As an economist, the question I am most frequently asked is, "How can I save and protect myself from inflation?" I regret that I have no good answer under present circumstances, even for myself or my family. The tragedy is compounded by the fact that on the other side of the coin there is a growing short-fall of capital formation.

FULL DEDUCTIBILITY OF SAVING

Where do we go from here? First, I believe that the long-standing bias in the Federal tax system against saving and investment should be corrected. For full tax equality between the consumption and saving uses of after-tax income, savings should be deductible from the income tax base so that only consumption is taxed. Progressivity can be built into such a tax and I would favor a mild degree of progressivity with appropriate deduction for human capital outlays such as health care and education. I would also favor an indexing arrangement to keep "real" tax rates intact. With the full deductibility of saving, taxes on corporate income and on capital gains can be eliminated. In addition, taxes such as the estate and gift taxes that yield little revenue and create much mischief can be reduced or eliminated.

A roughly equivalent alternative would be a value added tax with appropriate deductions for capital outlays.

Second, as an inferior alternative to the full deductibility of saving, other steps can be taken to moderate the bias against saving and investment, including a partial deductibility of saving. Major elements of the tax code can and should be indexed. The corporate tax should be eliminated, with corporate income attributed to stockholders. Instead of increasing capital gains taxes, present rates should be reduced or, preferably, capital gains and losses should not be included in the tax base, especially since the corporation could no longer be used as a device for keeping earnings out of the personal income tax base.

For other desirable tax changes I would urge the Congress to review the record and follow the examples of the Kennedy Administration and of the Congress during the early 1960's actions which set the stage for a surge of economic growth as well as for the elimination of inflation. Then, the distortions of the tax system were moderated by effectively reducing the tax biases against saving and investment by means of a combination of policies that included more rapid depreciation and the investment credit as well as the reduction in both corporate and personal tax rates. The Kennedy tax cuts have been more than offset by inflation moving people and businesses into higher tax brackets. We would need tax cuts to get us back to the Kennedy tax rates.

Third, it is essential to abandon the deliberate use of inflation as an instrument of public policy, even for short periods of time. To avoid an abrupt shock to the economy, the inflation should be slowed gradually and eliminated over a four-to-five year period. The maintenance of general price stability will require steady, non-inflationary courses for monetary and for fiscal policies. For monetary policy this means a long-term growth of money in the neighborhood of 1 percent per year for M_1 and 4.0 percent for M_2; for fiscal policy, relatively stable taxes and expenditures close to or at a balanced budget. The staggering deficit of the federal government must be eliminated, primarily through expenditure control, partly to avoid having the deficit crowd out private capital formation. I see no need and much danger in setting out ot achieve a budget surplus in order to facilitate capital formation, a negative crowding-out effect, as it were. Paying the additional taxes to provide the surpluses results in undesirable distortions and I find it difficult to believe that any surplus, once achieved, can long be protected against the expenditure bias of governments and of special interests. There are better and more dependable ways to eliminate the bias against saving and investment, and to get the country moving again.

SMALL HOSPITALS AND RURAL HEALTH CARE

Mr. CLARK. Mr. President, last month I presented a speech to the Senate on the potential dangers for small, rural hospitals in the administration's hospital cost containment proposal. In that speech, I noted that many small hospitals would be forced to close, since it would be impossible for them to abide by the revenue ceilings, the occupancy goal of 80 percent, and the four beds-per-thousand population standard. I emphasized that this policy would be severely detrimental for rural health care delivery and for rural development in general.

I have received several letters from Iowa hospital administrators in response to my remarks. The overwhelming majority of the responses favored an exemption for small hospitals. The most common reasons cited were:

First, existing physicians would leave small communities, forcing rural people to travel many miles for health services. This would pose an especially difficult problem for the elderly and handicapped;

Second, medical students would not be motivated to practice in small communities, as they would be unwilling to settle in an area that lacks a hospital and medical peers;

Third, small local hospitals are necessary for adequate emergency care;

Fourth, the economic impact of a hospital upon a small community is great. The loss of a hospital would lead to higher unemployment in rural areas;

Fifth, the patient load of small community hospitals fluctuates greatly. There would be an insufficient amount of hospital beds at some points during the year if small hospitals are forced to sharply reduce the number of beds;

And sixth, if small rural hospitals are forced to close, larger city hospitals may have to build additional beds in order to handle the increased patient load.

A few hospital administrators did object to a specific exemption for small hospitals. The major reasons for their opposition was their feeling that secondary hospitals would bear the full brunt of the bed reductions and that small hospitals represent a drain on their potential patient population.

I am pleased that the administration seems to have moderated its position on this matter, as reflected in the proposed National Guidelines for Health Planning which was published in the Federal Reg-

ister of September 23, 1977. I ask unanimous consent that the portion of these guidelines that pertain to general hospitals be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

GUIDELINES

It is proposed to add Part 121 to Title 42 of the Code of Federal Regulations which, when codified, will consist of the following material:

I. GENERAL HOSPITALS—BED-POPULATION RATIO

Guideline

There should be less than four non-Federal, short-term hospital beds for 1000 persons in a health service area; except under extraordinary circumstances. The standard for the bed-population ratio applies to all non-Federal short-term hospital beds (including general medical/surgical, pediatric, obstetric, and other short-term specialized beds).

Conditions which justify an exception to this standard for a health service area are:

1. Age correction: Individuals 65 years and older have a higher hospital utilization rate—up to four times that of the general population—than any other age group. Bed-population ratios for health service areas in which the percentage of elderly people is significantly (more than 33 percent) higher than the national average may be planned at a level higher than 4.0 per 100 persons.

2. Seasonal population fluctuations: Large seasonal variations in hospital utilization may justify bed-population ratios higher than 4.0 per 1000 persons. Bed-population ratios should reflect the Nation's vacation and recreation patterns as well as the needs of migrant workers.

3. Urban areas: Large numbers of beds in one part of a Standard Metropolitan Statistical Area (SMSA) may be compensated for by fewer beds in other parts of the SMSA. Health service areas which include a part of an SMSA may plan for bed-population ratios higher than 4.0 per 1000 persons reflecting existing patterns if there is a joint plan among all the Health Systems Agencies serving the SMSA which provides for less than 4.0 beds per 1000 persons in the SMSA as a whole.

4. Rural areas: Hospital care should be accessible to most individuals within a reasonable period of time. In rural areas in which a majority of the residents would otherwise be more than 15 minutes automobile travel time from a hospital, bed-population ratio of greater than 4.0 per 1000 persons may be justified.

5. Areas with referral hospitals: In the case of an institution which provides a substantial portion of its services to individuals not residing in the health service area in which the institution s located, the HSA for that area may exclude from its computation of bed-population ratio the patient load that is from outside the HSA.

Discussion

There is general agreement that the number of general hospital beds in the United States is significantly in excess of what is actually needed. This excess bed capacity contributes to the high cost of hospital care with little or no recognizable health benefits. Empty beds are often filled by patients who could be cared for as well or better using less expensive treatment modalities, such as ambulatory care or home care.

In 1976, the Institute of Medicine recommended that the nation should achieve at least a 10 percent reduction in the bed population ratio in the next five years and further significant reductions thereafter. The Institute statement noted: This would mean a reduction from the current national average of approximately 4.4 non-federal short-term general hospital beds per 1,000 population to a national average of approximately 4.0 in five years and well below that in the years to follow; many states and health service areas should be below the national 4.0 average at the end of five years.

It must be stressed that the 4.0 beds per 1000 population standard is a maximum level and not a description of an ideal situation. It is anticipated that in subsequent plans HSAs will be required to indicate how they will reach a bed-population ratio of 3.7 per 1000 population except under extraordinary circumstances. HSAs whose areas are now below the 4.0 per 1000 level but above 3.7 per 1000 are urged to attempt to decrease bed-population ratios to the lower figures.

II. GENERAL HOSPITALS—OCCUPANCY RATE

Guidelines

There should be an average annual occupancy rate of at least 80 percent for all non-Federal, general short-term hospitals in a health service area, except under extraordinary circumstances. Conditions which justify an exception to this standard for a health service area include:

1. *Seasonal population fluctuations:* In some areas, the influx of people for vacation or other purposes may require a greater supply of hospital beds than would otherwise be needed. Large seasonal variations in hospital utilization which can be predicted through hospital and health insurance records may justify an average annual occupancy rate of lower than 80 percent.

2. *Rural areas:* Lower average annual occupancy rates are often required by small hospitals to maintain empty beds to accommodate normal fluctuations of admissions. In rural areas with significant numbers of small (fewer than 4,000 admissions per year) hospitals an average occupancy rate of less than 80 percent may be justified.

Discussion

There is substantial evidence that excess hospital capacity contributes significantly to high hospital costs. Empty hospital beds are expensive to staff and maintain. Occupancy rates currently average 75 percent nationwide. Major hospital capacity studies indicate that an average hospital occupancy rate of 80 percent is a reasonable national goal. Higher averages have been advocated, especially for medical-surgical units. In 1973, the Hill-Burton program recommended a 90 percent average for medical-surgical units.

HSAs whose areas currently exceed the proposed 80 percent average annual occupancy rate should attempt to increase occupancy rates still further. It must be stressed that the proposed standards are minimal levels and not a description of an ideal.

Mr. CLARK. Mr. President, these proposed guidelines contain special exemptions for rural hospitals for both the bed-to-population ratio standard and the occupancy rate standard. The guidelines state:

Hospital care should be accessible to most individuals within a reasonable period of time. In rural areas in which a majority of the residents would otherwise be more than 45 minutes automobile travel time from a hospital, a bed-population ratio of greater than 4.0 per 1000 persons may be justified.

Lower average annual occupancy rates are often required by small hospitals to maintain empty beds to accommodate normal fluctuations of admissions. In rural areas with significant numbers of small (fewer than 4,000 admissions per year) hospitals an average occupancy rate of less than 80 percent may be justified.

I urge the Department of Health, Education, and Welfare to include and clarify these two important exceptions within the final health planning guidelines, for they recognize the special situation of small rural hospitals.

I ask unanimous consent that a few samples of the letters I received from Iowa hospital administrators be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

GREENE COUNTY MEDICAL CENTER,
Jefferson, Iowa, September 23, 1977.

Hon. DICK CLARK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CLARK: Thank you for your letter of September 22nd containing your speech delivered to the Senate on September 16th. I would be most happy to respond to your remarks.

In general, my opinion is very favorable. I feel your comments are well placed and representative of the situation in Iowa. If I may I would like to comment specifically on various parts of your speech.

I believe hospitals and those who manage them are very well aware of, and support, the concept that we must conquer the spiraling costs of health care. But I honestly feel we need to know why costs in hospitals are increasing. Placing a cap on hospitals alone will not, in my opinion, work without the end result being poor quality of patient care or even no patient care within a reasonable distance. Hospitals are not of like needs throughout the country. What works in one area will not necessarily work in another. Our country was built on individualism and I do not think hospitals need be ashamed because of this quality. However, I also strongly support the sharing of services between hospitals whenever and wherever this is economically possible without lowering the quality of care.

Our very existence would be jeopardized by a 9 per cent limit; our operating margin is very slim. In our case, we are a county hospital and without the tax support being provided we would be in serious financial straits; although I might add that in 1966 I was able to operate a hospital without tax support. As you are aware, Medicare was implemented that year and added considerably to our not being able to function without tax support.

Referring to the Iowa HSA figures you cited, consider for a moment that if more than half of Iowa's 134 community hospitals were closed, where would the patients we are currently serving go? Naturally they would have to go to those hospitals remaining open. If this were to happen, I would be willing to bet my bottom dollar that you would see one of the biggest building booms in hospitals that we have experienced since Hill-Burton was first implemented. Already, in our area, the referral pattern has changed drastically since the malpractice crisis hit us. A neighboring larger hospital is contemplating additional beds and the nearby clinic has stated they are going to add another floor along with twenty new physicians just to take care of the referral pattern changes. It is beyond my comprehension how this can be cost-effective for the state in general.

Our hospital is the largest employer within the county and our economic input to the county contributes greatly to it remaining solvent at this time. One of my professors from Upper Iowa some years ago stated a rule of thumb that a decrease in payroll within a community is not just the loss of that payroll, but that it could be multiplied by 5 to arrive at a realistic cost. That may or may not be true, but in our case the loss of a million and a half dollars of payroll could well throw the county in chaos.

Our full time equivalent employees amount to 180 and in a county of only 12,500 population this could be very significant in the unemployment rate. We have a total of ten physicians on our active medical staff. We have recruited four of these during my tenure. I believe I can say with all honesty that our hospital, the medical clinic we assisted in obtaining, and our school system, contributed greatly to our being successful in gaining new physicians. Yet hospitals and the Iowa school systems are taking a terrific beating as a result of changes in laws and regulations.

The possibility of utilizing hospital beds for both acute and long term care patients is, to me, very attractive. I believe there is much good in the Talmadge bill (S. 1470); however, I also feel that the 50 bed figure is too low and should be closer to the 100 bed level. Iowa's Swing Bed Program is a step in the right direction, but I am not sure that it goes far enough and that it may not become bogged down with administrative decisions and arbitrary determinations on when a patient is classified as non-acute. Time will tell and, hopefully we will be able to obtain a workable solution that will assist others.

Senator Clark, I appreciate your courtesy in sending a copy of the Congressional Record containing your speech. As I said earlier, there is a great deal of merit in your comments. It is reassuring to know that we are being represented by a concerned and interested senator who is willing to speak his mind and listen to his constituency so he may evaluate their comments.

Thank you for allowing me to express myself on this issue.

Sincerely,

JAMES E. BAGLEY,
Executive Director.

MAHASKA COUNTY HOSPITAL,
Oskaloosa, Iowa, September 29, 1977.

Hon. SENATOR DICK CLARK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CLARK: Thank you for the copy of your speech and also for requesting my reaction to it.

I disagree with a cap on one segment of the economy and none on the suppliers for that segment. I am also under the impression that health care costs are being charged for the millions of dollars being spent on the increasing number of agencies to look at health care and these dollars do not provide one day of patient care.

The cap proposal would certainly be disastrous for smaller hospitals and as you mentioned, their costs are usually less per diem than larger hospitals.

I believe a hospital is one of the items involved in obtaining and holding physicians for that locality, as physicians can not spend time driving excessive miles per day in the trips they make to see their patients in the hospital. I know our doctors are at the hospital 1, 2 or more times each day to see their patients. Also, a local community hospital is necessary for convenience and less travel cost for the patients. It costs money to drive many miles for a service that could be provided locally and also in some cases, life saving measures and equipment must be closer than miles away.

I firmly believe in health planning to avoid duplication of special services and under-utilization when these services are duplicated.

There are many reasons for increasing hospital costs. You have probably heard these and possibly some I don't list, but I will list mine anyway.

1. Rapid technology advances with the introduction of new equipment, medicines, etc., cost if you are to stay up to date.

2. Patient demands—some special equipment is very costly and sometimes quickly obsolete. When your life is dependent on this, does cost or utilization enter into it?

3. Increasing labor costs (most mandated and encouraged by Government.) Hospitals used to have a very low pay scale compared to other industry and their catch up has made higher labor costs in percentage. High labor cost in other industries affect hospital costs the same as they affect consumer costs. I do believe in employees being able to earn a living wage based on responsibilities and duties and they should make more working than if they were on unemployment or a charity program. Hospital employees are not second rate citizens.

4. Increasing cost of utilities and insurance. It costs money to conserve energy as many buildings were built when there was no conservation thoughts and this was not very many years ago.

5. Increased administrative costs due to excess paper work and duplication of paper work, government reports, surveys, etc.

Now for utilization of hospital beds. The 80 percent occupancy rate would be very uncomfortable for some smaller community hospitals as the patient load fluctuates so much up and down that to maintain this 80 percent based on this fluctuation, there would be times when beds would be very short. I believe some standby beds are necessary insurance and the cost is negligible if they are not staffed except when needed. If hospitals with low occupancy are staffing these unused beds, they are contributing to excessive costs. The swing bed program could help in the case of staffing unused beds to reduce cost if you have enough SNF patients and/or a shortage of nursing home beds. If you were staffed for your actual acute care occupancy, you could not break even or reduce costs by increasing staff to go into this program. There could be occasions where the increased cost would be justified by providing a needed community service.

I think you are absolutely right in your statement of the impact of closing smaller hospitals. Convenience and accessibility to acute care is very important to everyone in the community and also it is necessary to procure and keep local physicians, and people in these communities have the same rights for convenient medical care as in metropolitan areas.

I am also not in favor of any National Health Insurance operated by the Federal Government. It is a known and proven fact that private enterprise can operate (at a profit) at much less cost than the government can. As you and I both know, complete medical care without a reasonable deductible to be paid by the patient, would result in over utilization of doctor's services as the patient is usually seen when they go to the doctor's office and this doctor can not be expected to examine any patient for no fee even when it turns out the patient didn't need to come in. A doctor's, the same as any professional (lawyer, CPA, etc.), stock in trade is time.

Apparently most hospitals are trying to control costs by energy conservation measures, group purchasing, voluntary rate review, staffing patterns and using the budget as a working tool. Hospitals present a different type of operation than most business. I feel a hospital, in most part, must be run as a business except you may have a department or two that does not pay its way. These departments must operate to provide a needed service. One of these departments in smaller hospitals could be the Emergency Room, a very much needed service.

Again, thank you and I appreciate your reading my personal feelings on the medical cost problems.

Very truly yours,

EARL R. BOLAND,
Administrator.

ST. JOSEPH MERCY HOSPITAL,
Mason City, Iowa, October 3, 1977.

Hon. RICHARD CLARK,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR CLARK: I am gravely concerned about actions currently underway in Washington that may severely damage what health care "system" there is in existence.

Your concern for small rural hospitals is laudable, however, exempting them from any of the controls, particularly financial and bed numbers may have a disastrous side effect. The full impact of controls, under the above conditions, here in Iowa would fall on the secondary care or referral center hospitals. Thus, the referral hospitals in Mason City, Waterloo, Des Moines, Sioux City, Dubuque, etc. would be required to bear the brunt of the bed reductions and not be able to maintain services and equipment to referral standards of care.

The full impact could well be the devise of the secondary level of care and the quality and proximity to rural hospitals and practitioners it provides. Instead, we could have the under 100 bed hospitals buying various pieces of esoteric equipment and attempting to attract specialists. Low volume of such services in a multiplicity of small hospitals would artificially escalate the cost of such services and quality would diminish. However, since they would not be under the same financial controls as the over 100 bed facilities, the potential of funds being much more readily available would be very real.

Further, if the proposed forced bed reductions to four beds per 1,000 falls on the secondary and tertiary (Iowa City) hospitals across the state alone, many of them could be closed or become too small a unit to provide specialty services that require volume to remain cost effective and of acceptable quality.

Regulations or controls for only parts of the system are not the answer. I trust you will give the comments in this letter your careful study. The real potential for damage of true accessibility and quality of care in Iowa could be enormous.

All of the emerging guidelines fail to present a clear picture of how the bed reductions and cost controls are to be applied, nor the consequences.

Of course, further regulations to inhibit new services and a stiffening of present controls could be developed to attempt to overcome my expressed concerns. The disabling of secondary care level hospital facilities in Iowa could not be overcome by new controls.

Sincerely,

GLEN E. HAYDON,
Director, Community Relations.

RELIEF TO SMALL BUSINESSES THROUGH THE REGULATORY FLEXIBILITY ACT

Mr. TOWER. Mr. President, I am pleased to join Senators NELSON and CULVER as a cosponsor of S. 1974, the Regulatory Flexibility Act.

The purpose of this legislation is to encourage the regulatory agencies to take into consideration the effect regulations will have on small business and to provide appropriate exemptions and modifications for smaller firms. This two-tier approach to regulation is necessary because Federal regulators tend to impose inequitable and burdensome reporting and compliance requirements on small firms.

REGULATION STIFLING SMALL BUSINESS

The unprecedented growth of Federal regulation is of utmost concern to small business firms. The early 1970's saw the creation of seven new regulatory agencies including the Environmental Protection

Agency, the Consumer Product Safety Commission, and OSHA. Between 1970 and 1974 the pages in the Federal Register containing Government regulations had grown from 20,036 to 42,422 per year; and some 29 major regulatory statutes had been enacted.

It has been estimated that there are in excess of 63,000 Government employees involved in regulatory activities. The Council of Economic Advisers several years ago estimated that the costs of Federal regulation to the consumer is about $130 billion a year. This comes down to a cost of about $2,000 for the average American family.

Small businesses are simply not equipped to keep up with this proliferation of Federal regulation. The dilemma of the small businessman is illustrated by the plight of a small retailer who told the National Federation of Independent Businesses in September of 1977 that he had just discovered a ruling of the Federal Communications Commission which forbids sale of 23-channel CB's after December 31, 1977. The retailer had several thousand dollars of inventory which he cannot sell by the deadline. In pursuing the case for its member, the National Federation of Independent Businesses was told by the Federal Communications Commission that the small retailer had no legitimate complaint because the rule was promulgated in the Federal Register well over a year and a half ago. The FCC assumed this man regularly reads the Federal Register.

In my State of Texas many small wholesalers with an inventory of Tris, a widely used flame retardant, were irreparably harmed by inconsistent Government regulation. Following Government dictates under the Flammable Fabrics Act, these retailers stocked up on flame retardant children's sleepwear. Acting on reports by the National Cancer Institute the Consumer Product Safety Commission banned this Tris-treated sleepwear from the market leaving my constituent as a victim of this bureaucratic snafu.

The farmers in Texas have not escaped Government foulups. The U.S. Department of Agriculture recently was concerned in protecting Texas farmers from the deadly South American fire ants which have been swarming up from Mexico. But their emergency control program was prohibited by the Environmental Protection Agency which outlawed the use of the only pesticide known to be effective against the fire ants.

The citizens of Midland, Tex., did not escape bureaucratic mishandling when they saw the price of land for a senior citizens' housing project go up by 20 percent when one Federal agency involved could not decide whether it should be located east or west of a particular street. The sites were within a block of each other.

Small firms find it particularly difficult to comply with federally mandated paperwork requirements which are now estimated to cost about $100 billion a year. U.S. News & World Report in April of 1977 gave the following examples—

A West Coast engineering firm reports: "Our small business was required to complete 1,342 federal and State forms for the year ended 1975."

From the office manager of a manufacturing company in the Midwest with 72 employees: "I find myself devoting more than 50 percent of my time to filing reports pertaining to OSHA, ERISA, Census Bureau, Pollution Abatement, BLS, State and Federal EPA reports, EEO reports and so on—the value of which is questionable at best."

A California engineering executive says: "Forty per cent of my time is being utilized for recordkeeping for government agencies. Small businesses faced with the burden of this sort of paperwork are eliminating programs within their operation so that the reporting requirements are no longer necessary."

Says an accountant in the Southeast: "The excess paperwork caused by the Pension Reform Act of 1974 . . . is resulting in termination of retirement plans on a wholesale basis, especially by small companies."

The manager of a 509-bed hospital in the South reports that he recently had to add five full-time employees to cope with added paperwork requirements. His wry comment: "The additional paperwork does not and will not give better care or any care to the patient."

Particularly hard hit are the small financial institutions in this decade of mandatory disclosures. The typical small bank must file a multitude of forms with the Federal Deposit Insurance Corporation, State or Federal bank regulatory agencies, the Department of Labor, Treasury, and Commerce, as well as with numerous local and Federal taxing authorities. Disclosures and record keeping in home mortgage lending are required under the Federal Home Mortgage Disclosure Act, the Bank Secrecy Act, RESPA, Truth in Lending, as well as by HUD and the VA. Federally mandated paperwork has made the relatively simple process of granting a home mortgage loan a complex one accompanied by delays which are expensive to the consumer.

I am also concerned with the impact consumer credit laws such as the Truth in Lending Act have had on small retailers. Hearings before the Senate Banking Committee on which I serve have revealed that the small firms have been unable to cope with the complexities of the credit laws and have given up their shopping plans for bank credit cards in increasing numbers. This puts the small retailer at a competitive disadvantage and increases the financial power of the large institutions.

SMALL BUSINESS UNABLE TO COPE WITH REGULATIONS

A representative of the National Federation of Independent Businesses recently told the Senate Judiciary Committee when testifying in favor of a flexible approach to regulation that small firms have a particularly difficult time in complying with Federal regulations.

It is next to impossible for the small firms to discover and comprehend regulations. Typically the proprietor does not have expensive lawyers and accountants to interpret the regulations and fill out the forms. He or she must do these things themselves. Although the Federal Register is the official source of information concerning regulations, the majority of Americans never read this publication. Larger firms and accountants and lawyers subscribe to specialized loose-leaf services to keep informed. The small businessperson simply cannot afford the publications or the service of professionals.

This is compounded by the fact that a disproportionate cost of Government regulation falls on small business. The large firms find it economically feasible to utilize computers to comply with regulation and paperwork requirements. The small firm does not have the volume of work to utilize modern technology. In addition, a number of studies have shown that small business is not able, as are the larger firms, to pass on to the consumer the cost of regulation.

These difficulties facing small business suggest a tiering of regulations to relieve the small firms of unreasonable burdens. This has been done in some areas such as the Fair Labor Standards Act, OSHA, the Interstate Commerce Commission Act, and the Internal Revenue Service requirements for payroll withholdings. The Regulatory Flexibility Act is framed to require a more rationale and uniform approach to this problem.

Mr. President, although I feel that the true solution to this problem lies in a go-slow approach by Congress in passing additional regulatory laws, the Regulatory Flexibility Act is a step in the right direction and I urge its prompt enactment.

CONSUMER HEALTH AND SAFETY

Mr. EAGLETON. Mr. President, I bring to my colleagues' attention a speech which one of my constituents, John W. Hanley, chairman and president of Monsanto Co., delivered on October 17 at the Economic Club of Detroit. In his speech Mr. Hanley called for an objective weighing of risks versus benefits as a national policy for evaluating products or component substances from the standpoint of consumer health and safety. His comments deserve to be carefully considered.

I ask unanimous consent that the speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

HAS EMOTION TIPPED THE SCALES ON CONSUMER SAFETY?

Without casting aspersions on the chef, let me tell you that the luncheon you just finished contained hundreds, perhaps thousands, of potentially toxic substances.

In spite of that—God willing—we'll all be around this evening to enjoy another nourishing meal. I think you'll agree that the negligible risk of eating our lunch was well worth the benefits derived.

Risks and benefits are the major element of a broader theme I'd like to discuss today. And I'm delighted to have an opportunity to discuss it before your prestigious group, which is justly renowned as a significant sounding board for economic, political and social ideas.

Speaking of social ideas, I read recently that not only adults but even youngsters are becoming more concerned with the food they eat. This strikes me as progress from the days when young people seemed less preoccupied with eating their food than with occasionally throwing it at one another.

I recall a public notice circulated at Oxford University some years ago on the sub-

ject. It said in the classically understated British style:

"Gentlemen coming from homes where bread-throwing at the dinner table is habitual, and finding a difficulty in conforming suddenly to the unfamiliar ways of a higher civilization, will be permitted to continue their domestic pastime on a payment of five shillings a throw."

A perennial domestic pastime I've been following with keen interest is that of the Big Three auto makers in issuing their forecasts for the coming year. I must say they offer a refreshing contrast with the pessimistic predictions emanating from some quarters these days. A good-to-excellent year for the auto industry means good-to-excellent business for chemicals and many other industries as well. So let's hope those crystal balls are bright and clear—and right!

The Big Three estimates of continued high level sales volume could not have been made had Congress not provided the early-August reprieve in tailpipe emission standards when that issue threatened to shut down the entire auto industry.

The recent controversies over auto emissions in the air, phosphates in our lakes, and saccharin our soft drinks are typical of the increasingly disruptive debate that has boiled up over environmental and consumer safety.

By now, the scenario is dismally familiar to all of us.

First, a strict regulatory interpretation raises a public issue about some suspected product hazard.

Then, a newly aroused activist group clamors for the product's banishment from the marketplace.

The news media report and sometimes amplify the clamor.

A crisis period ensues, marked by conflicting charges and equally confusing counter-charges about who or what is at fault.

Finally, the product is arbitrarily suspended, often without any real attempt to quantify the costs or effects of such a ban.

Such outbursts of emotionalism are, in my judgment, a poor substitute for rational decision-making on public issues affecting the health, safety and livelihood of millions of Americans.

The best way—indeed, the only sensible way—of coping with the increasingly complex decisions we face in this area is through constructive assessment—objective evaluation—of the risks and benefits involved.

Risk is inherent in all human activity, and everyone of us makes personal judgments on risks and benefits throughout our life. You make one when you decide whether to buckle your seat belt. how to invest your savings, or whether to change jobs.

On a much broader scale, the same principle applies. The same kinds of risk-benefit evaluations, I believe, can vastly improve decision-making on public issues.

That determination cannot be made on an exclusively scientific basis, with scientist battling scientist over interpretations of test data. We need scientific opinion to define and focus the elements of the debate, which then must move into the public arena for a decision. The quality of the political debate, and the likelihood of a satisfactory decision can be further enhanced if the public understands the fuller consequences of its choices.

This point was underscored not long ago in a conversation I had with one of the nation's leading public opinion pollsters.

He related that when field investigators asked respondents: "Would you like to see comprehensive National Health Insurance become a reality in this country?" the reaction was strongly in favor!

But when the query added a simple and realistic proviso: "Would you be willing to pay somewhat more in taxes to make this National Health Insurance a reality?" the responses were revised—strongly against! Cost/Benefits!

This afternoon I'd like to relate the cost/benefit concept to some recent events, where emotion and rhetoric rather than reason have been allowed to tip the scales. I'll do it with illustrations drawn chiefly from my own industry, but with implications for all of American business—specifically the controversies over detergent phosphates, the safety of chemical food additives, and the dispute over causes and incidence of cancer. I'll conclude with a plea for perspective in assessing consumer risks.

Two weeks ago, a ban went into effect in your state of Michigan on the sale of phosphate detergents, for which Monsanto is a major supplier. The ban was the long-range result of pressure by well-meaning environmentalists who conveyed to the public a feeling that, if only phosphates in detergents were banned, then surely the quality of water in the Great Lakes would improve. Their intentions, it seems, were far better than their information.

Let's examine very specifically the costs and desired benefits of a detergent phosphate ban.

First of all, phosphates are not toxic. They are not pollutants. They are one of nature's nutrients in our air and water, and in every plant and animal. It's because they help things grow that they have become controversial: In excessive quantities they can help support an overgrowth of algae in our lakes and streams.

Today, there is general agreement that the amount of phosphorus in some lakes should be reduced. The dispute is over the most effective means of doing this.

The contribution of detergent phosphates to the total phosphorus load in the Great Lakes averages less than 9 percent. Some 90 percent of the phosphorus going into the Great Lakes will be unaffected by the ban. That includes phosphorus from agricultural run-off, atmospheric sources and human waste.

A scientific model, commonly employed by water quality experts, has been used to predict the effect of changed phosphorus levels on the growth of algae. The analyses suggest that the small reduction in phosphorus from a phosphate detergent ban would not perceptibly improve water quality.

Not only that, but I believe this ban tends to distract public attention from the real issue, which is waste treatment. Human waste and sewage including detergent phosphates contribute some 30 percent of the phosphorus entering the Great Lakes. Effective sewage treatment is a basic requirement. The simple additional step of chemical treatment is a practical means for removing phosphorus at existing waste treatment plants. There are also ancillary benefits because in the chemical precipitation of phosphorus, the overall efficiency of the waste removal process is increased.

The cost per person for improving waste treatment is small—smaller than the cost of banning phosphate detergents. The costs of the ban are detergents that are less effective, less safe and more expensive.

Those less effective products result in the use of more water and electricity for extra washing and rinsing, and more dependence on additional cleaning aids like pre-soak agents. According to documented studies by the washing machine manufacturers, the non-phosphate detergents generally reduce the wear-life of garments and of washing machines.

The weight of scientific evidence certainly doesn't seem to justify these costs for the negligible benefits of the ban, especially when a cheaper, more effective alternative is available.

In the case of the latest food controversy—over the threatened banning of saccharin—the Food and Drug Administration was constrained by law from resorting to a meaningful risk/benefit analysis.

The law in question is the so-called Delaney Clause of the Food, Drug and Cosmetic Act. It holds that no additive can be used in food if it can be shown to cause cancer in humans or animals, regardless of test feeding levels.

What the Delaney Clause ignores, though, is that in the two decades since its passage, our country's scientific community has made vast progress in its ability to detect incredibly small traces of both naturally-occurring and manmade chemicals. The ability to detect trace chemicals is now from 10,000 to one million times more sensitive than in the late 1950s, when the Delaney Clause became law.

Two results of these quantum leaps stand out. One is that the idea of absolute purity has had to be discarded. Nothing exists in nature as a pure substance. With today's technology, if you examine a material closely enough, you will inevitably discover traces of other substances. Some scientists have predicted that just a step into the future it may be possible to find at least one molecule of everything in everything.

A second result is the discovery that a few man-made chemicals were found in the environment which either clearly did, or seemed to, present an unacceptable risk to health or the environment. In the past few years, as this new knowledge unfolded, industry and government together have taken important and aggressive steps to eliminate these risks—as well they should!

But honestly held concerns about a relatively few dangerous chemicals have increasingly been transformed into a broad indictment of all chemicals—particularly all chemicals in foods. That's dangerously flawed reasoning.

Food is composed exclusively of chemicals. The coffee drinkers in the audience just consumed methanol, acetone, isoprene and a long list of other chemicals down to the very last drop. The simple potato is made up of at least 150 distinct chemical substances.

All nutritious foods, like those in our luncheon today, are a mixture of hundreds of natural chemicals, any one of which in sufficient amounts could be harmful. But eating such chemicals is a perfectly normal situation that man has always lived with and always will. The human body is able to handle these potentially harmful materials in normal quantities because of its metabolic and immune systems—the materials are simply detoxified!

Incidentally, if the present standards used to test and ban man-made chemicals were applied to so-called "natural" foods, a long list of them, including peanuts and lettuce and other green vegetables, would be declared illegal.

The use of man-made chemicals in our food supply has resulted in immense benefits—from food production to processing—from distribution to preservation in your home. Chemicals, including additives, have played a major role in virtually eliminating diseases such as pellagra, scurvy and botulism—and improved diet is a significant factor in the increase in life expectancy by 18 years in the past half century.

A responsible decision to permit chemical food additives must weigh any risks that remain after thorough testing against the benefits of protection against spoilage and bacteria, enhanced nutrition, greater convenience, lower cost, and on and on!

It goes without saying that the most careful controls are needed to regulate the use of chemicals in agriculture and food processing. Virtually any chemical—whether table salt or potent pesticide—can be dangerous if used improperly or in excess. But the preponderance of scientific evidence

strongly supports the claims of the safety of food processing, of additives, and of the overall nutritional quality of today's food supply.

In the saccharin case, the public outcry over the potential loss of the country's last artificial sweetener was a resounding signal that a majority, based on their experience and current knowledge, were willing to accept the level of risk that had been identified in order to enjoy the benefits of the product.

Polls show that 73 percent of the public feel there is inadequate justification for a ban. Three out of four strongly agree it would be better just to label products containing saccharin than to ban the additive outright.

As you know, the Congress has now sensibly intervened to keep saccharin on the market, at least for the next eighteen months. During that time a panel of experts will examine all existing test data on saccharin, including not only the controversial Canadian test, but also a significant number of other tests which showed no increase in the incidence of cancer.

At the same time, some members of Congress keep insisting that there is nothing to worry about because American ingenuity and enterprise will come up momentarily with another artificial sweetener to replace saccharin. I wish it were that easy!

American industry has produced so many innovative products that it's become, in effect, a victim of its own success. The public thinks the chemical industry could develop another saccharin if it only wanted to . . . the auto industry could produce the perfect car if it only wanted to . . . utilities could provide cheaper power if they only wanted to.

The fact is that the chemical industry has been trying to improve upon saccharin now for some 80 years—and hasn't succeeded yet! So my advice is: Don't let your coffee get cold while you wait for that eventuality.

The judgment called for transcends the saccharin dispute. What's needed on the food additive issue must be applied to all consumer safety issues: a reasonable weighing of benefits against costs or risk. An emotional charge against any detectable risk should not replace a balanced consideration of both the level of the risk and the scope of the benefits.

Commissioner Barbara Franklin of the Federal Consumer Product Safety Commission underlined that concept recently while speaking about the broad issue of consumer safety.

She said, "All of us who are regulators would do well to constantly remind ourselves of one fundamental truth—there is no absolute safety." Then she added, "What it is we must deal with—and deal with aggressively and appropriately—are the unreasonable risks that products may pose to human health and the environment."

In two sentences, the commissioner spoke volumes.

Lurking in the background of the debate over saccharin and other chemicals in our food is the haunting suspicion that possibly . . . maybe . . . I wonder . . . if I consume sufficiently large quantities, will I get cancer? That's the final subject area I want to discuss briefly.

An unemotional weighing of risks and benefits is a difficult order when a real or even rumored threat of cancer is involved. And yet balanced analysis is still very important. For example, if the risk of cancer turned out to be unreal or so negligible as to be discounted, or if the benefits were to overshadow any limited risk of cancer, then judgment may well dictate accepting the risk.

Let me draw an analogy. The drug that cures Rocky Mountain spotted fever causes fatal anemia in one out of every 10,000 persons. The fever itself will kill eight out of every ten persons who contract the disease. Clearly, the benefit of taking the drug far outweighs the risk—but there is a risk.

It's easy to understand that there is perhaps no more emotion-charged rhetoric than that surrounding the causes and incidence of cancer. Because of this emotional content, I am concerned by the irresponsible misuse of cancer statistics to imply a surge in cancer rates due to industry in general and the chemical industry in particular. This charge often goes unchallenged because it's unpopular to argue against absolute safety . . . to leave oneself open to a false accusation of favoring health hazards for commercial gains.

The implication I refer to is drawn from the statement that more than 90 percent of cancers are "environmentally induced." But the National Cancer Institute uses that terminology to describe all cancer not resulting from factors of heredity.

We have to break down the "90 percent" to understand what is meant by "environmentally induced" cancer. The major element is smoking, which according to the American Cancer Society causes at least 80 percent of lung cancer.

The three so-called environmental factors of smoking, diet and use of alcohol account for more than half of all cancer. The causes of 35 to 40 percent of cancers are uncertain, and may be partly attributable to a number of factors, including both air and water pollution, excessive exposure to sunlight, poor health care and possibly natural ingredients in food. Direct occupational exposure is believed to cause between 5 and 6 percent of known cancer.

Of course, even 5 or 6 percent is unacceptable, and industry abhors being a part of the statistics. But by and large, business is working energetically to reduce this still further. It is important to keep this issue in proper perspective while the task of improving workplace conditions and insuring product safety continues.

It has become fashionable at gatherings such as this for businessmen to denounce government intervention in sweeping terms, then shrug their shoulders in mute resignation.

Fashionable but, I'm afraid, largely futile.

The 16th century Florentine statesman, Machiavelli, who knew a thing or two about politics, remarked that "Fortune is arbiter of half our actions, but she still leaves control of the other half to us."

I think it is up to us in the business community to take the lead in controlling that "other half" and try to change things for the better. What's more, I'm convinced that we can help bring about constructive change if we work to persuade labor, educators, professional people and government officials that our proposals on risk-benefit would serve the broad public interest.

Just think, what a wonderful opportunity there would be for productive business-government collaboration in developing cost-benefit studies in support of all significant legislative undertakings.

Several senators have pointed out that, even on as important a piece of legislation as the Occupational Safety & Health Act, there was not systematic estimate made in advance as to the likely economic impact. The same thing is true on the proposal now before Congress to raise the retirement age beyond 65—a move that may be proper but which will have the most profound and wide-ranging, unstudied repercussions throughout our economy.

As a nation, we badly need to have our leaders examine the full financial and social implications of legislative proposals before they are voted upon. Only in this way will we be able to ask the right questions in evaluating public policy proposals.

Through its particular expertise, business could contribute enormously to strengthening this aspect of the legislative function. At the same time, it could demonstrate through deeds its tangible commitment to share in the solution of key social as well as economic problems.

I would encourage you to use your influence in bringing fully balanced analysis to bear on the legislative and regulatory processes in this country. I hope that you will find ways for your own organizations to undertake steps in either the education of our legislators or of the American people, or both.

One effective step that each of us here could take is to learn the facts and speak out when the opportunity arises. In short, to play our proper role as citizens in the dialogue of democracy.

Speaking out, ladies and gentlemen, it's part of the rent we must pay for our room on earth!

CAB DEFERS ACTION ON LOW FARES

Mr. PERCY. Mr. President, on October 25, 1977, the Civil Aeronautics Board deferred action on a request by three airlines to provide low-fare service between New York City and Miami. The Board said that it needed more time to study the proposals.

The Board was asked to approve a 31 to 50 percent reduction in the standard one-way coach fare of $109 between the two points. The proposed fare would have been $55 one-way with no restrictions. It was initially offered by Delta Air Lines and subsequently matched by Eastern Air Lines and National Airlines.

We have heard voices in some quarters that there is no need for the passage of the Air Transportation Regulatory Reform Act of 1977 because of the recent rash of low fares approved by the Civil Aeronautics Board. However, as this decision in the New York City/Miami proposal indicates, the Board still has statutory authority to delay and to even deny proposals for low-priced fares.

It is the belief of many, and one which I share, that without the real possibility of the passage of airline regulatory reform legislation, neither the airlines nor the CAB would be moving toward lower fares. One only has to look back to the era prior to the introduction of this bill, to determine that low-fare proposals by the airlines at that time were few and far between.

This disappointing decision by the Board underscores the need for the passage of the Air Transportation Regulatory Reform Act of 1977 by this Congress. If the airlines are sincere about serving the public through lower air fares, they will have little dispute with a proposed law which will give them greater pricing flexibility without CAB interference.

The bill, for instance, permits airlines to raise or lower fares without CAB interference within a zone of reasonableness. That zone would be 5 percent above and 35 percent below CAB-approved fare levels. Fares could be lowered an additional 20 percent during off-peak hours.

I am including a copy of a Wall Street Journal article from Wednesday, October 26, detailing the CAB's decision to postpone the New York City/Miami fare proposal, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAB POSTPONES ACTION ON DELTA'S BID TO SLASH FARES

WASHINGTON.—The Civil Aeronautics Board deferred action on Delta Air Lines' proposal to offer cut-rate fares for New York-Miami travel pending further study.

The regulatory agency asked carriers for more data on whether bids by Eastern Air Lines and National Airlines to match the Delta proposal should be allowed. Delta wants to slash the fare for passengers willing to be packed in tighter, but Eastern and National proposed matching cuts in their fares without any change in the current seating configuration.

The Delta plan would give travelers on the route savings of 31 percent or 50 percent from the standard one-way coach fare of $109, depending on day of departure. But passengers would be squeezed in tighter on McDonnell-Douglas DC8s, without any food or movies offered and only soft drinks and coffee available free.

Delta had proposed starting the new "aerobus" fare plan on Dec. 15. Eastern and National offered their matching "super-no-frills" service to begin Dec. 1, and those proposals were suspended by the CAB, too.

Delta's move was seen as aimed at boosting its market share of the New York-Florida air-travel business, one of the few markets it's had difficulty in cracking.

The proposal was one of many fare discounts that airlines have been offering recently, amid congressional consideration of legislation to encourage lower fares by reducing CAB regulation of the carriers. The CAB has approved most of these bargain-fare plans.

BELGRADE AND HUMAN RIGHTS

Mr. HUMPHREY. Mr. President, leopards may not change their spots, but experts in spotting changes in the Soviet Union and Eastern Europe are beginning to see encouraging signals of those nations' cautious responsiveness to Western human rights concerns. The signals are mixed and still tentative gestures of compliance with the 1974 Helsinki agreement. Put together, however, they compose a message of Eastern readiness to conduct the business of détente according to some Western rules.

That readiness is undergoing an extensive test during the present Belgrade Conference. This meeting in the Yugoslav capital has brought together 33 European states, the United States and Canada to look over each other's records in implementing the Final Act they signed together 26 months ago. It is a precedent-setting review of international promises, an occasion to talk frankly about trade and technology, information flow and cultural change, and—not least—about human rights.

For all the international declarations there have been on the subject of civil, political, religious, and other liberties in the post-war decades, the truth is that human rights had been, until Helsinki, almost a taboo subject for diplomatic discourse. Belgrade has changed that history. The most divisive of East-West issues is now out on the table, and the challenge has been to find ways to discuss it constructively.

Judging by the signals being sent from Poland, East Germany and Romania, however, the conversation need not be a dialog of the deaf. Earlier this year, but obviously in preparation for the Belgrade sessions, authorities in Warsaw and Bucharest decided to relent in the heavy pressures they were placing on the few courageous domestic dissidents who had allied their cause with that of international human rights standards. Activists who had been jailed were released and amnestied in moves which received relatively little attention in the United States. In recent months, East Germany sent prominent intellectuals and less known student militants almost directly from custody to exile in West Germany.

All such gestures were clearly designed to avoid criticism at the Belgrade meeting, but all were also back-handed acknowledgments of the importance of that assembly and of the commitments its members undertook to fulfill at Helsinki. In other areas, especially the reunification of divided families, the Final Act is producing similar results. Bulgaria, for example, prior to Belgrade, made significant progress in reducing—almost to the point of eliminating—the list of divided family cases involving relatives in the United States. Emigration from Romania to West Germany and the United States rose markedly this year; ethnic Germans have been able to leave Poland and the Soviet Union in record numbers as well. Even the rate of Jewish emigration from the U.S.S.R. has taken a dramatic rise for the first time in years, with a more than 18 percent increase for the first nine months of 1977, as compared with the same period in 1976. The sharpest jump occurred in the last 3 months, raising the possibility that the yearly total could reach 20,000 by the end of 1977, after 2 years of stagnation at the 13,000 to 14,000 level.

There is every reason to be encouraged by these gestures, but yet no reason to be content with them. There is still a very long way to go before Eastern bloc practices match the pledges they gave at Helsinki. One signal which could have a greater impact than all the others put together would be a gesture by the Soviet Union toward the 11 dauntless men imprisoned there this year for seeking to press their own government to honor its Helsinki promises.

All are members of what are known as the Public Groups To Promote Observance of the Helsinki Agreement in the U.S.S.R. Prof. Yuri Orlov, writer Alexandr Ginaburg, and physicist Anatoly Scharansky were among the founders of the first group in Moscow. Mykola Rudenko, Aleksei Tykhy, Myroslav Marynovych and Mykola Matusevych created the Ukrainian Group; Zviad Gamaskhurdia and Merab Kostava founded the group in Georgia. All nine were arrested between early February and the end of April. Rudenko and Tykhy were tried (in an ad hoc courtroom in a factory in a remote village) in June and sentenced to 12 to 15 years, respectively, in prison and exile. Then, in September, Lithuania Group member Viktoras Petkus was arrested, and Feliks Serebrov, who had been assisting the Moscow Group investigate the political use of psychitary, was taken into custody.

At Helsinki, all 35 signatories pledged to "promote and encourage the effective exercise of civil, political * * * and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development." In the months since that summit-level promise, several of the signatories have shown an understandably reluctant willingness to abide by it. Now it is the turn of the Soviet Union to show—perhaps by an amnesty coinciding with the 60th anniversary of the 1917 Revolution—that it, too, takes its word seriously. Such a gesture would have great meaning, not just within the context of the Belgrade Conference, but also for the future of the dialogue that is the best hope of a lasting détente.

SALT NEGOTIATIONS

Mr. ANDERSON. Mr. President, news reports have recently appeared which indicate that the Carter administration is within reach of an agreement of a new Strategic Arms Limitation Treaty with the Soviet Union. I certainly hope so. The need for a drastic reduction in the strategic weapons of our Nation and of the Soviet Union is very great.

But one part of the outline of a new agreement as discussed in the press disturbs me very much. That part is the alleged agreement to restrict American transfer of cruise missile technology to our NATO allies. Our allies are understandably interested in the nonstrategic uses of the cruise missile as a weapon armed with conventional explosives to hit rail yards, bridges, road junctions, and other such targets in the face of a Russian conventional attack on Western Europe. The cruise missile holds out the promise of a cheap way to overcome the huge Russian advantage in number of tanks, artillery tubes, and combat troops. Some of our allies also wish to use the cruise missile to replace their aging medium range strategic nuclear force. I find it disturbing that we are considering placing the interests of our allies on a low level. In connection with this a column in a recent issue of the Economist of Great Britain deserves attention and I request unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CRUISE FOR EUROPE

The United States should not buy a nuclear arms deal with Russia at the price of its allies' confidence.

President Carter already has enough problems in reaching an agreement with Mr. Brezhnev over nuclear weapons not to want another; it is now highly probable that the October 3rd deadline originally set for a Salt-2 agreement will pass without one. But another problem has to be added to his list. The nuclear deal Mr. Carter eventually strikes with the Russians—if he does—should not include a clause preventing the United States from helping some of its European allies to make cruise missiles.

Britain, in particular, may need the cruise missile for its own nuclear armoury, and Germany is keen that it should also be deployed in Europe with non-nuclear warheads by the Nato alliance. These tiny superaccurate hedgehoppers will be a cheaper way of keeping the British nuclear deterrent in existence than building a new generation of missile submarines. But Britain's decision

whether to replace its present Polaris submarines with cruise missiles some time in the 1980s will depend in part on how much it will cost to do so. That in turn will depend on how much of the technology can be obtained from the United States and how much of this particular wheel Britain will therefore not have to reinvent on its own.

For the United States to accept any limits at all on cruise missiles would be a large concession. Certainly its present willingness to offer a three-year moratorium on deployment, while development of this complex piece of technology continues, is the farthest its allies should agree to its going, and even that requires a matching moratorium on Russia's deployment of its huge new SS–18 missile. The Americans have always insisted that they will make no deal with the Russians about nuclear weapons actually deployed which cannot be checked by some sort of inspection. Successive American administrations have stuck to this principle through thick and thin, and Mr. Carter has reaffirmed it. But checking cruise missiles on the ground, when that time does come, seems likely to be almost impossible. They are easily hidden, and even if they are seen it is impossible to tell whether they have nuclear or nonnuclear warheads, or to guess their range to within a thousand miles. If the American government promises to obey certain rules about cruise missiles the New York Times and the Washington Post will make sure it honours its promise. When Russia too makes cruise missiles—as it eventually will—Pravda is unlikely to perform the same service.

The Russians also want a guarantee that the United States will not transfer cruise-missile technology to its allies. The Americans should have no truck with such a notion from a country which argues that its new Backfire bombers and its medium-range SS–20 missiles should not be included in the American-Soviet nuclear negotiations because they can reach only as far as western Europe.

DEVELOPMENT OF DIEGO GARCIA

Mr. HATCH. Mr. President, for some time I have been concerned about the administration's intentions concerning continued development of Diego Garcia, our naval station in the Indian ocean territory (BIOT) created in 1965 to provide site for joint U.K./U.S. military facilities. London arranged the transfer of four of the least populated island groups from two British crown colonies to form the territory. BIOT was established to insure the security of communications and transit routes between Africa and the Far East. This concern with security was prompted by the decline of British authority east of Suez. Military facilities in the BIOT have since been opposed by many island and littoral countries in the Indian ocean, most of which support the United Nations resolution favoring a zone of peace in the Indian ocean.

The United States leases the Chagos Archipelago island of Diego Garcia from the British for a minimal fee and both British and American troops administer the island. Diego Garcia is well suited for military facilities. Located near the geographic center of the Indian Ocean, 1,000 nautical miles south of the tip of India, Diego Garcia is close to the equator and out of the path of cyclonic storms common to latitudes farther south. The atoll is flat, with land ranging from 40 to 2,500 meters in width, enclosing a lagoon that has good natural anchorages. Its configuration permits the building of several runways of varying orientation. The single disadvantage of the location is that it is almost 2,000 miles from the Arabian coast.

Because of Diego Garcia's central location in the Indian Ocean, we are able to monitor much of the activity of the Soviet forces in the area. With the recent turn of events in Somalia, the Soviet base at Berbera is tenuous at best. The Soviets are now in the position of having to actively seek a new location for their base. It has been reported that the Soviets have approached the Republic or Maldives in an effort to lease an abandoned British air base in Maldives. President Ibraham Nasir indicated in a news release yesterday that he has refused to allow the Soviets to gain a position in his country for fear that they would compromise his nation's nonaligned position. I point out that the Maldives are located about 200 miles north of Diego Garcia. President Nasir further indicated that the Soviets announced their purpose for wanting the base to be for maintenance of Soviet fishing vessels operating in the Indian Ocean. I think that everyone in this body can understand the true reason the Soviets desire to locate in this strategic position.

I am grateful that President Nasir refused the Soviet offer, but I still am anxious about what President Carter's intentions are toward the U.S. position at Diego Garcia. Without our station there, we would have nothing between Norfolk, Va., and Subic Bay in the Phillipines. Diego Garcia permits our ships to stop and refuel as well as take on logistic supplies. The natural lagoon in the center of the island is large enough, and through ongoing dredging techniques, will be deep enough to allow even a small carrier to be brought into the base in an emergency. At the present time we have about $28 million invested in physical improvements on the island. More funds have been appropriated for continued expansion of the islands facilities but they are unspent at this moment I recently inquired of the Department of the Navy just what the situation was in this matter and was provided the response to my questions, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEVELOPMENT OF DIEGO GARCIA

Question: Specifically, how much of currently appropriated funds for continued U.S. Navy expansion on Diego Garcia have not been spent?

Answer: $15.6M of the $39.2M authorized remains unobligated.

Question: What are Navy's reasons for holding up the expenditure of these funds?

Answer:

Total. The status of the Military Construction (MCON) Program for Diego Garcia, as of 13 Oct. 77, is summarized as follows:

Program (fiscal years):	*Millions*
Authorized:	
1975 and 1976	$31.9
1978	7.3
Total	39.2
Obligated:	
1975 and 1976	23.6
1978	0
Total	23.6
Unobligated:	
1975 and 1976	8.3
1978	7.3
Total	15.6

Fiscal Year 1975 and Fiscal Year 1976 Programs. The obligation of FY 75 and FY 76 funds is on schedule. Because of storage limitations on Diego Garcia and in order to preclude unnecessary deterioration of materials, it is Navy practice not to order such materials in advance of the date necessary to meet shipping and construction schedules. In addition, some funds have been held in reserve to meet shipping costs and contingencies. FY 75 and FY 76 MCON Program construction is scheduled to be completed in 1980.

Fiscal Year 1978 Program. Shipping and construction schedules have not yet required obligation of FY 78 funds, but material procurement for this program probably will commence in Nov. 77. The Deputy Assistant to the President for National Security Affairs has assured the Chairman of the Senate Armed Services Committee that no FY 78 funds will be expended for aircraft maintenance and barracks construction on Diego Garcia until the Administration has completed an Indian Ocean policy review, has had an opportunity to evaluate the results of discussions with the Soviet Union on Indian Ocean arms control, and has consulted fully with the Congress concerning any decision regarding construction of the facilities. Of the $7.3M in the FY 78 program, $3.3M is associated with aircraft maintenance and barracks construction. The remaining $4M will be obligated at an appropriate time.

Mr. HATCH. I have great concern for the response concerning the fiscal year 1978 program. The Navy's comments that "no fiscal year 1978 funds will be expended for aircraft maintenance and barracks construction on Diego Garcia until the administration has completed an Indian Ocean policy review, has had the opportunity to evaluate the results of discussions with the Soviet Union on Indian Ocean arms control, and has consulted fully with the Congress concerning any decision regarding construction of the facilities," lead me to believe that the administration may consider abandoning our position at Diego Garcia during negotiations with the Soviet Union. I would not be able to support any decision that would place our presence in the Indian Ocean in jeopardy. Most naval experts agree that the United States would be foolish indeed to give up a solid position in such a strategically important area.

THE DOMESTIC DEVELOPMENT BANK: A RESPONSE TO URBAN FISCAL CRISIS

Mr. HUMPHREY. Mr. President, we live in one of the most powerful and

influential nations in the world. We have done much to be proud of, and our generosity is known around the world. We send our technology, expert assistance, and financial support to every continent. I think, sometimes, that our role as a world leader has blinded us to some of our own problems at home. Our State and local governments are making a valiant effort, but they can no longer sustain the financial burden that is imposed on them.

Recently, the Joint Economic Committee held an informative hearing that discussed financing municipal needs. Herrington J. Bryce, vice president, Washington operations, Academy for Contemporary Problems, presented an impressive statement to the committee which vigorously supports the idea of a Domestic Development Bank. Also testifying before the committee was Paul R. Porter, former Administrator of the Marshall plan, which brought Europe back on its feet after World War II.

Herrington Bryce indicated in his testimony that there is a need for a Domestic Development Bank which would couple financial assistance with technical assistance. The bank would, thus, serve as a useful instrument in financing large-scale well-integrated projects. It would supplement the private capital market, rather than compete with it.

Paul Porter was the administrator of one of the most successful urban redevelopment programs ever to be implemented. After World War II, U.S. aid assisted European nations in getting back on their feet. They regained their pride, their ability to be self-sustaining, and their optimism for the future. But, what of our own cities?

They have not suffered the devastation and destruction of war, but they face a different threat—their acute fiscal distress which makes economic disaster a not-too-distant possibility. This is worsened by our own apathy and neglect. What must it take before we are motivated to act?

Mr. President, S. 1396, the National Domestic Development Bank Act, would provide a useful supplement to the existing municipal bond market for our troubled cities. It would give new hope to our State and local governments. I ask unanimous consent that the testimonies of Herrington J. Bryce and Paul R. Porter before the Joint Economic Committee be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY BY HERRINGTON J. BRYCE

Mr. Chairman and Members of the Joint Economic Committee: I am honored to have the opportunity to appear before you. The comments I have to make are brief. They do not necessarily reflect the views of The Academy for Contemporary Problems or the organizations by which it is operated.[1]

My comments are in the form of eight items upon which I am prepared to elaborate.

1. The key role of an urban development bank ought to be to increase the efficiency or to supplement the private capital market, rather than to compete with it. This ought to be a very conscious policy. Such an institution could significantly reduce transaction costs by assisting both borrowers and lenders. Two ways of doing this are to increase the accuracy of information and to provide technical assistance. This presumes that the bank will not only make direct loans or guarantee loans, but will assist in making potential issues attractive to private lenders.

2. Such an institution could help in the coordination of a number of federal programs. The leveraging of funds is important. Thus, the bank should go beyond merely rejecting projects which conflict with regional or comprehensive planning and actually assist jurisdictions in coordinating and integrating projects and the use of federal program funds.

3. It seems to me that the real advantage of going to a quasipublic bank with subsidies comes where there are large-scale investments to be made. One of the functions that this bank could perform is packaging, bringing together large-scale well-integrated projects.

4. A program domain should be clearly identified—economic development, public works. But the bank should be free to use the most prudent business principles in choosing among alternative investments within this domain.

5. One of the perceived notions of this institution is that it should reverse the regional flow of capital. There is logic to the way capital flows from one region to another. There is some sense in capital flowing into areas where there are higher expected rates of return I would not want to see any new institution disturb the inter-regional flow that results from any number of factors, including the fact that different jurisdictions through their own initiatives have different financing arrangements, different kinds of institutions for financing long-term investments.

There is something to be said for rewarding imagination on the part of states. There is something to be said for rewarding imagination on the part of individual cities and counties. It seems to me that the structure of an urban development bank, even though it should be centralized, should also have a number of regional if not local branches which can respond to local needs as they are perceived.

6. The bank should be aggressive in seeking investment alternatives within its domain.

7. The board that would direct the institution is part of the political equation to be taken into account. Decisions on the use of public capital should not only be made by bankers; the board should also include political figures and individuals who represent the public at large. I say that partly because I would hope that this institution would have more than a market function. The fact is that even if the market operated perfectly there would be a number of socially worthy investments which would not be undertaken. The interests which favor those investments should be represented on the board.

8. Significant contributions of the bank would be the pooling of risks among jurisdictions and the reduction of transactions costs for many jurisdictions. Furthermore, to the extent that the bank concerns itself with large-scale projects which are well-integrated, it also pools the risks of each unit, reduces it transactions costs, and makes location decisions more favorable. A single firm might be unwilling or unable to borrow funds at an appropriate rate so as to locate in a neighborhood. But the packaging of several of these firms into one project could change the entire outlook.

STATEMENT BY PAUL R. PORTER

I offer two suggestions concerning the highly constructive proposal of Senator Humphrey for a National Domestic Development Bank.

The first is that the proposed bank should have a specific mandate to promote the recovery of cities and other distressed urban areas.

The second would increase the participation of private capital in the bank's operations.

I preface these suggestions with a short comment on population losses now occurring in most central cities—in some cases, stunning losses. They occur in small cities as well as big ones; in the Sunbelt as well as in the older industrial states.

Between 1950 and 1970, St. Louis lost more than a third of its population. Between 1970 and 1975, it lost again—this time, nearly one resident out of five. In the same five years, Minneapolis—the city that launched a distinguished public career by once choosing as its mayor a man whose name future generations will honor in the select company of Webster and Clay—even this fair city lost one resident out of seven. Atlanta, Cleveland, and Detroit lost one of eight; Fort Worth, one of eleven. More in this range could be cited.

Up to a point, some loss of population may be desirable in cities that have had overcrowded districts. But when losses are heavy and rapid, they erode a city's tax base faster than it can cut expenses. Residents who remain bear a larger share of municipal debt and pension obligations. Taxes must be raised or services cut, or both, so much that still more residents leave. Thus, a downward spiral is created in which population losses and rising taxes propel each other.

When I propose recovery of these and other crippled cities, I do not speak of any specific level of population. Nor do I have in mind a restoration of a past era. By recovery I mean regained capabilities: a city's capability to compete effectively with its suburbs as a place to live; a capability to sustain a high level of employment and other economic opportunities—subject, of course, to a vigorous national economy; and a capability of the city to meet its needs without permanent dependence upon a subsidy.

The proposed National Domestic Development Bank could assist the recovery of cities in two major respects. First, it could lend to local governments so that they may maintain, improve or expand basic community facilities, as contemplated in the offered bill.

The second type of assistance would be a separate operation and would go beyond the bill as drafted. It would facilitate the financing of the kind of housing which, by renovation or new construction, would enable a city to induce more people who work in the city to live in it and to contribute their local taxes to its revenues. Cities have a promising opportunity to bid for suburban-reared new families as new residents. They make a large market for housing, and they grow in number.

In this type of assistance, the National Domestic Development Bank would lend only to other banks to be chartered by it. Until a better name is found, I will call them City Recovery Banks. They would be privately owned, and they would compete with each other for capital and for housing projects to finance. To raise private capital, they would necessarily pay a market rate for money. By meeting standards set by the National Domestic Development Bank, they could borrow from it without interest, from funds appropriated by the Congress for that purpose.

To establish an approximate interest rate at which City Recovery Banks would lend to their borrowers, the National Domestic Development Bank would make its interest-free loans proportionate to the volume of private

[1] Many of the points I shall make here today are related to my views as expressed in *The Brookings Institution Round Table Discussion on Urban Development Banking*, on March 21, 1977, at The Brookings Institution, 1775 Massachusetts Avenue, N.W., Washington, D.C. That institution, of course, holds no responsibility whatsoever for these comments.

capital raised by a City Recovery Bank. The ratio would be a standard one for all such banks, but would vary from time to time in response to experience and prevailing economic conditions.

As a rough illustration, let us assume that at a particular time a City Recovery Bank would need to pay 8% for private money. Let us assume also that a one percentage point in its lending rate would cover its operating costs and profit. In this situation, a one-to-one ratio between public and private capital would result in a lending rate of four-plus-one, or five, per cent. A ratio of one dollar of public money to three private dollars would result in a six-plus-one, or seven, per cent rate to ultimate borrowers. Since the City Recovery Banks would compete, some would offer better rates than others. In slack times, an increase in the proportion of public capital would give a stimulus to housing construction.

The suggestions I have offered are necessarily abbreviated. If they interest the Committee, I would be pleased to help the Committee staff to develop them further.

Elsewhere I have discussed more fully than I can here the high risk to cities in becoming permanently dependent upon a subsidy—especially when their political influence shrinks as their population falls. The American people supported the Marshall Plan because the beneficiary nations were required to use the aid they received to make aid unnecessary. Our cities have important strengths and opportunities to do the same which are not now adequately used. I believe that this Marshall Plan principle must govern future aid to cities if they are to receive the broad public support they need.

THE STATE OF OUR COMMERCIAL AVIATION INDUSTRY

Mr. INOUYE. Mr. President, recently on the occasion of receiving the 1977 distinguished achievement award of the Wings Club, Mr. Laurance Rockefeller made some very thoughtful and sobering remarks about the state of our commercial aviation industry, and the threat to its viability and growth which is posed by the current airline regulatory reform measures being considered in Congress.

I believe we should all reflect on what Mr. Rockefeller had to say, and I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF LAURANCE S. ROCKEFELLER

Mrs. Johnson, the Reverend Jeffrey, President Tom Davis, Tom Watson, Walter Cronkite, honored guests and friends—

Thank you very much, Tom, for your most gracious, thoughtful and generous remarks. Your participation on this occasion means a great deal to me personally.

The presence tonight of so many old friends—here on the dais and in the audience—is something I deeply appreciate.

I'm extremely grateful to the Wings Club, and to the awards committee, including my good friends, Floyd Hall and Dick Jackson, for giving me this award.

However, I cannot accept this award for myself alone. I must share credit for whatever success I've had over the past 40 years in the world of aviation with two groups of exceptional men.

The first group includes those brilliant, far-seeing scientists, engineers and dreamers who had an idea, a product or a plan but needed financial backing and sound business help.

The second group consisted of my associates. Together we did what we could to provide a climate which would make these smaller companies successful. We gave financial support, budgeting capabilities, production know-how, mature legal counsel and marketing assistance.

We were most fortunate in becoming partners with people and companies that played critical roles in the early pioneering development of a number of key areas, such as: air transportation, jet aircraft, helicopters, liquid fuel rockets, ram jet engines, electronics and other areas of high technology.

Time permits me to mention only briefly a few of these projects and some of the people behind them.

In 1938, my first venture capital investment was in Eastern Air Lines. Captain Eddie Rickenbacker teamed with a good friend of mine, Bill Harding of Smith Barney, who was primarily responsible for shaping the package which put Eastern under Captain Eddie's guidance. I've been a stockholder ever since.

That same year, with encouragement from Grover Loening, I invested in Platt-Le Page aircraft company, which was just starting to develop a twin-rotor helicopter.

A young man named Frank Piasecki worked for the company. Subsequently, he formed a new company around new design concepts in which I invested in 1946. Its name was changed to Vertol Aircraft and it was later sold to Boeing.

J. S. "Mac" McDonnell came to see me in 1939 with a briefcase full of papers, representing virtually all there was of McDonnell Aircraft Company. That briefcase spawned one of the most successful aerospace concerns in the world, including production of the first carrier-based jet fighter.

After World War II, we got into liquid rocket development through Reaction Motors, founded by Lovell Lawrence, and into ram jet engines through Marquardt Aircraft, established by Roy Marquardt.

In electronics, we helped structure such companies as Airborne Instruments Laboratories and Aircraft Radio. We also aided the development of Flight Refueling, headed by Sir Alan Cobham.

Aside from technology, we've been acutely aware of the human factor in air transportation safety. In that connection, for many years we actively supported the Flight Safety Foundation, founded by Jerry Lederer.

Three other firms in which we are still actively interested have had significant space-age roles. Itek, founded by Dick Leghorn, has been a pioneer in optics and space reconnaissance photography. Intel has become a spectacular success in the field of semi-conductor memories and microprocessors. Thermo-Electron, headed by the brilliant George Hatsopoulos, conducts important research in solar energy and produces equipment that recovers and recycles waste energy.

Many of the earlier companies I've mentioned had such unique capabilities that they were acquired by aerospace giants such as Lockheed, Boeing, Cessna, Cutler-Hammer, and Thiokol. With such sponsorship, continued success and expanded production were assured.

Now let me refer to the second group which I have mentioned and to whom I am so gratefully indebted—my associates whose aviation and engineering background, coupled with their business experience, nurtured the growth of so many aviation-oriented companies.

Before World War II, Bill Harding and Randy Marston were my mainstays.

After the war, I identified—not surprisingly—with some former Air Force and Navy flight officers—Harper Woodward, Teddy Walkowicz, Watson Newhall, Jeeb Halaby, Charlie Smith and Dick Jackson, with Stuart Scott as our legal counsel. Later, Peter Crisp came aboard, representing a younger generation of venture capitalists.

Eventually, as interests in other areas, particularly conservation and cancer research, demanded more of my time, it was necessary for Harper to assume leadership responsibility for our venture activities. This arrangement permitted me to continue my role as a catalyst with less direct participation.

Through the years, some of the group moved on to new opportunities.

Four of us—Harper, Teddy, Peter and I—are also working intensively as board members at Memorial Sloan-Kettering Cancer Center in supporting research directed toward the conquest of cancer—a goal which has proven to be even more difficult and just as challenging as our aerospace endeavors.

So much for reminiscing.

This award has given me the opportunity to ponder the problems confronting the aerospace industry in general and the air transport industry in particular. I am especially concerned about those problems emanating from recent legislative proposals pending under the label of "deregulation," or, as some say, "flying free."

These proposals would reshape federal policy in air transport. But before that's done, it seems to me essential to assess the total potential impact of such reshaping on all phases of this industry. The stakes are far greater than is generally appreciated. Briefly, let's look at what we now have.

First, we in the United States have the finest, safest, most comprehensive and lowest cost commercial air service system in the world.

Second, we have built an air transport industry which employs approximately 1½ million people, including manufacturers, airports and other directly related air support activities. It is a major positive factor in our export trade and international balance of payments.

Third, we have created this great industry principally with private capital, without heavy government operating subsidies at taxpayers' expense.

These three points are so interrelated that major change in any one has great impact on the others.

"Competitive franchises" setting forth specific airline routes have been the foundation of our air transport system. These franchises have provoked keen competition along major routes. They not only recognize the public service character of the industry but they provide a solid basis for planning and financing for all those engaged in air transport.

Our nation's airlines need $65 billion in the next 12 to 15 years to re-equip their fleets. That's a lot of money—and it's a lot of jobs for American workers and a big lift for the American economy. But that money isn't going to be put up by investors if the airlines can't pay for the new equipment.

Some simple economic truths seem to have escaped many in Washington.

First, the CAB's idea of the rate of return on airline investment and its rate-making standards are so unrealistic as to largely disregard the expectations of the capital market.

Furthermore, the "deregulators," or "re-regulators," tend to push political prescriptions, regardless of the costs of service, thus ignoring economic causes of the industry's financial weakness.

The so-called "free market entry" proposal could easily destroy the "competitive franchise" structure which I mentioned earlier. Poorer service at higher costs would follow, accompanied with an unwarranted increase in the use of aircraft, which would mean additional, if not wasteful, fuel consumption.

The theory behind the "free market entry" is that more airline competition would mean lower air fares. It assumes lower fares would mean more traffic, more revenues and a healthier aviation industry.

To date, airlines are unable to confirm from their experience that elasticity of demand is such that by increasing service and reducing fares, they can actually add to net revenues.

"Free market entry" is more likely to add more planes to already profitable routes, thus creating or expending excess capacity. It would quickly become a question of which air carriers could take the losses the longest.

The end result would be less, not more, competition. It could imperil the survival of some airlines and confront the nation with a situation like that of the railroad industry

In the background of any such chaos in the air transport industry is the spectre of nationalization. Certainly, most Americans do not want to see another industry nationalized. Currently, Amtrak, with nearly a $500 million annual subsidy, is considering raising fares and cutting services for want of more taxpayer subsidy.

We can have more constructive airline competition today if the government gives us greater latitude on fares and reduces the amount of government regulation without dismantling the system around which the industry has been built.

My plea is simple. Let's work within our system and improve it. Let's free it from over-regulation. Let's not be misled by mirages that reflect political ploys nor by siren songs of "free enterprise" which lure us onto the rocks of nationalization.

Frank Borman summed up the situation very well in a recent Wings Club luncheon talk. He said we need to reform the regulators—we need to stress public convenience and necessity and get away from political expediency.

If we do these things, our air transport industry can and will serve the American people with low cost quality services and still provide the vast sums needed to continually replace aircraft as they become obsolete.

One final personal observation, if I may. In a sense, aviation and I grew up together. So it is with great satisfaction to me that our son, Larry, is carrying on in this exciting field He has become a licensed pilot, which is something I never ever dreamed of attempting.

In 1967, Larry, with 18 months of flying time, and a good friend as a co-pilot with only a student license, flew around the world in a twin-engine Beech Baron. He logged 33,000 miles—and considerably aged his parents.

Charles Lindbergh, in a letter which Larry only recently share with us, congratulated him on the flight. He was impressed, Charles wrote, "because of the type of plane you used and your need of combining modern facilities and regulations in some areas with early flying techniques in others."

Like Lindbergh, Larry has actively concerned himself with the quality of our environment as it relates to the well-being and survival of all living things.

As for myself, it has been a challenging and exciting experience to be a participant in one of the most dramatic and creative periods of human inventiveness—from the DC-3s of 1938 to supersonic and outer space flight.

Thank you again for this most significant award. I'm sincerely and humbly grateful to all of you for your presence and participation here tonight.

BUILDING QUALITY CITIES FOR AMERICA'S FUTURE

Mr. HUMPHREY. Mr. President, in the past, our cities have always been a source of great pride to us. Their businesses and their industries have contributed to America's greatness. Now things are different. Unemployment and inflation have combined to put a strangle hold on the growth of many of our cities. The financial future for many of them has become a nightmare. The tax exempt bond market which serves as their primary source of revenue is no longer adequate to meet cities' needs, for it, too, is a victim of the fluctuating economic situation and serves least those who need it the most.

Recently, a distinguished panel addressed itself to the topic of alternative methods for financing municipal needs, before the Joint Economic Committee. Two highly respected experts offered their views to the committee; Dr. Charles Haar, professor at the Harvard Law School, and George Peterson, director of public finance at the Urban Institute in Washington, D.C. Both presented their perspectives on the proposal to establish a Domestic Development Bank that is currently pending before Congress.

Professor Haar views the role of the bank as a "packager dealing with long-term planning." He commented:

Dealing with the whole question of fiscal and financial planning was for a long time so strangely absent from government budgets and government planning.

He believes that the bank will make the municipal bond market more efficient and more effective as an alternative to the tax-exempt bond market. Professor Haar further perceives the bank as the most promising outlet for achieving tax reform.

In conclusion, Professor Haar stated:

I think that the Bank can introduce quality into the whole financial picture of State and local government financing. We really have no criteria at this time in this country for urban development lending. I think this is a way, in which not only can the Bank help cities put their houses in financial order, (but) I think cities can rearrange themselves.

Mr. George Peterson of the Urban Institute cited the fact that in 1976, State and local governments spent about 13 percent less than they did in 1975. Among the reasons for this are the decline in Federal aid and the extreme cyclical fluctuations in capital spending.

Mr. Peterson points out that older urban areas have been hardest hit, especially in areas presently suffering from high unemployment rates. Studies from the Urban Institute show that repair and maintenance is the first item to be cut back—and it has been cut back in almost all of these older cities. He states:

In my opinion one of the most hidden serious consequences of the current fiscal crunch that cities are experiencing has been deferred maintenance . . . it is a liability we're building for the future.

The No. 1 priority, then, should focus on investment in the basic capital infrastructure.

Mr. Peterson views the magnitude of the problem as extremely serious. He believes that we must work within and expand the roles of the programs that presently assist State and local governments. I strongly concur with Mr. Peterson that a Domestic Development Bank should not be viewed as a substitute either for existing grant programs or for expanded Federal assistance. Mr. Peterson strenuously urges the need for a long-term commitment to the investment needs of the cities.

Mr. President, the testimony of George Peterson and Charles Haar brings home the point that we are continuing to operate by crisis management. To continue on this basis presents a still gloomier picture. For this reason, I urge the enactment of S. 1396, the National Domestic Development Bank Act, as speedily as possible. It seems to me that the near financial disaster of New York City should have taught us a lesson. Our cities have given us so much. Let us at least give them the assistance they need so that they might have relief from their fiscal distress.

THE M–X: A WAR-FIGHTING WEAPON

Mr. CULVER. Mr. President, perhaps the most important strategic decision which the United States faces in the next few years is whether to develop and deploy the mobile M–X missile.

A recent editorial in the Des Moines Register makes a compelling and succinct case against the need for such an awesome and expensive weapon. The editorial notes that we already have a mobile missile force safe from a first-strike attack—on board our nuclear submarines. These weapons guarantee our deterrent capability with a stable, survivable, nonthreatening retaliatory force.

The M–X, however, is based on the absurd premise that we could fight and win a "limited" nuclear war. As the Register argues:

The M–X is not a war-preventing weapon; it is a war-fighting one.

Mr. President, I ask unanimous consent that this cogent analysis of this critical issue be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ONE-UPMANSHIP ON MISSILES

Considering the superiority of U.S. intercontinental ballistic missiles (ICBMs) in multiple warhead targeting and guidance technology, one wonders about the obsession of so many U.S. defense experts with the technologically inferior yet larger Soviet ICBMs. Freud might have had a field day with those who now are aching for a big missile of their own—the proposed MX ICBM.

The MX would be much bigger and carry more warheads than the present generation Minuteman III ICBM; each MX warhead would be more powerful and more accurate than a Minuteman's.

The MX would be a mobile missile. The most widely discussed plan is to install it horizontally in a 10-mile to 20-mile long buried, hardened trench. The missile would move randomly along the length of the trench to confuse Soviet targeting, and for firing would be elevated to break through the trench.

The Air Force says the U.S. needs a mobile MX because its ICBMs in fixed, underground silos are becoming increasingly vulnerable to improved Soviet big missiles. A mobile force of 200 to 300 MXs—less vulnerable but not invulnerable to missiles—would deter an attack on U.S. land-based ICBMs because they would ensure the survival of adequate land forces for retaliation, according to Air Force logic.

But the U.S. already has a mobile force that should deter an attack; strategic submarines, which carry more than 4,000 nuclear warheads. Submarines should remain invulnerable unless an unexpected breakthrough is made in antisubmarine warfare. No one has proved that all U.S. fixed, land-based ICBMs could be knocked out by Soviet missiles, or that the Soviet Union would ever think the risks acceptable enough to attempt a disarming first strike.

The MX is not a war-preventing weapon; it is a war-fighting one. It would be used to destroy Soviet missiles in their silos—there can be no other explanation for all the power and accuracy being designed into it.

With the MX in the U.S. arsenal, the Soviet Union might have good reason to suspect that the United States would shoot first in a nuclear war and therefore the Soviets might start thinking about preemptive attack.

It is not certain whether a new SALT agreement would allow testing and deployment of the MX. The Pentagon recently proposed increasing the budget and speeding the development of the MX, perhaps hoping to get the missile in under the wire should SALT ban the introduction of new weapons after a specified date.

There are better things to do with money than to bury it in a trench. There are better ways to ensure peace than to develop weapons that threaten war.

SENATOR McGOVERN ADDRESSES ANNUAL MEETING OF THE GREATER SOUTH DAKOTA ASSOCIATION

Mr. ABOUREZK. Mr. President, my colleague, Senator GEORGE MCGOVERN, this week addressed the annual meeting of the Greater South Dakota Association (GSDA) in Pierre.

GSDA is an association of Chambers of Commerce and business organizations in our State whose purpose is to advance our economic development.

For the coming year, GSDA has set out seven areas that they identify as requiring special attention. These include a strong transportation system, promotion of agriculture and tourism, maintenance of a climate that will bring new jobs to South Dakota, development of a statewide water delivery system, and more direct involvement of a statewide water delivery system and more direct involvement of business in various aspects of government policy formation.

In his remarks to GSDA, Senator MCGOVERN addresses himself to those concerns. I believe his speech will be of interest not only to South Dakotans, but others who share his belief, and mine, in the long-term potential for rural America.

Mr. President, I ask unanimous consent that Senator MCGOVERN's speech be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR GEORGE MCGOVERN

I am pleased to be with you here in Pierre this evening for the annual meeting of the Greater South Dakota Association.

Although our perceptions on public issues may have differed on some issues in the past, I think we are united here tonight in working together toward a common goal whose foundation is the progressive development and growth of South Dakota.

Your new President, Buck Moore, has laid out a challenging, affirmative action agenda for GSDA. I commend him—and you—for this positive recognition of the realities ahead and the need for aggressive involvement of all sectors of our economy in working toward a solution. I do not regard the years ahead so much as problems, but as an opportunity for us to move South Dakota forward.

While I am not here tonight as a defender of everything the national government does, I would like to make the case for some degree of consistency in our view of Federal programs.

It is counterproductive, for example, to constantly condemn Federal programs and policies on the one hand, and then be first in line for Federal benefits when the need arises.

I am reminded of the comment of a rancher from the Faith area, with whom I visited at the State Fair. He said, "We don't really want a farm program, but we don't want to be too far from one either." And I suspect that is the view of many South Dakotans. They do not want the Federal Government to interfere, but they want to be able to rely on Federal assistance when it is needed—for example, the massive amounts of Federal aid that came to Rapid City after the disastrous flood there in 1972; the over $30 million in drought aid assistance that came to South Dakota last year; and the constant flow of Federal tax dollars to qualified South Dakotans through the Small Business Administration, Farmers Home, Federal Housing and the range of DHEW programs, to name but a few.

None of us like the paperwork, none of us welcome the administrative hassle, but there are few among us who completely reject Federal assistance when we need it and when we are qualified to receive it under existing programs. I hope that everyone will always feel free to be critical of Federal policy and to recommend constructive solutions to problems that are properly in the public domain. But I would also ask that we be honest with ourselves and realistic in our view of the proper role of the Federal Government under our system.

We are meeting at a time when the nation is facing up to what some have called the "new realities" of the growth potential of our Nation. We must proceed under the operational constraints of a growing energy shortage, a new awareness of the importance and political strength of environmental concerns and the realization that national economic expansion can no longer be totally restricted to our own land, but must include the development of international markets.

Nowhere is this more in evidence than in the area of our State's most important revenue producer—agriculture. The surplus products of the land are everywhere to see and the simple fact is that our domestic markets do not have the capacity to utilize this abundance which is, itself, a testimony to the efficiency of American farmers and ranchers.

By the same token, we must encourage the development of wise national and state policy that will continue to open our State's boundaries to visitors from other parts of the country. Their visitations are extremely important to the economy of our State—and certainly to the Black Hills—making the Memorial Day to Labor Day period especially critical for those businesses who are dependent upon tourists.

But having acknowledged these two important areas of almost universal concern to South Dakota's revenue picture, we need to turn our attention to other ways in which we can build the kind of economy that will stabilize our State's income beyond the sometimes fickle whims of weather and farm prices and the variable interest of tourists in coming to South Dakota.

We are making progress in this area. Certainly GSDA, our Chambers of Commerce, the State Department of Economic and Tourism Development and others, are making substantial contributions to an expanding economic base for our State. One need only visit Rapid City, Aberdeen, Sioux Falls, or other major South Dakota communities to see evidence of growth and expansion in a number of small and intermediate size plant facilities that provide employment opportunities for South Dakota citizens.

Acknowledging the primary economic importance of agriculture and tourism, we nonetheless need a working agenda to promote our State across the country. We need to continue the kind of cooperation between the public and private sectors that was successful, for example, in bringing the Litton Microwave Oven plant to Sioux Falls, standing off a determined challenge from the State of Minnesota to have it locate there. We need to insure that the favorable tax, business and labor climate in South Dakota is continued as the foundation for our efforts to bring new business to our State.

But it is not enough to simply retain what we have. Improvements are needed if we are going to realistically be in the picture for additional development opportunities. Let me suggest to you what I regard as some of the critical areas of a working agenda for state development.

First we need to finalize definitive plans for South Dakota's utilization of our fair share of Missouri River water stored in our State. Our experience with the Oahe Irrigation Project indicates that long term development plans may not always continue to have the sustained public support necessary to see them through to completion.

But regardless of the final outcome of Oahe—and let me say here that the Administration has made it very clear that the decision on Oahe rests here in South Dakota with the Oahe Board and possibly with the next session of the State Legislature—we do nonetheless need to develop similarly ambitious projects that will permit the major transferral of water for use on both the east and west sides of the Missouri River in South Dakota.

Any business considering a South Dakota site will want and need an assured source of water—not only for its own operation, but also for its employees in terms of their using it for domestic and recreational uses.

At this time, especially in the James River Basin, we are unable to guarantee any business enterprise that high quality water will be available in sufficient quantity. The problems of major cities and smaller communities in the James River Basin are merely the forerunners of similar, and perhaps larger, difficulties that will face other communities throughout our State unless we act affirmatively to meet this challenge.

The growing demands of irrigation and rural water systems have already drawn down our limited sub-surface supplies in many areas. We need to have a reliable supplemental source of water, and the logical place to look for it is in the Missouri River Valley.

Certainly the western part of South Dakota—historically more arid than East River counties—must play a part in any solution of our statewide water transferral and distribution problems.

I need not recite for you here the various plans and proposals which have been advanced. But the time for quibbling among ourselves is past. We need to develop a supportable consensus and bring our desired projects on line as soon as possible.

As some of you may know, I have called a meeting in Sioux Falls for November twelfth to make one last procedural effort to resolve the conflict on the Oahe Project. I have no special reason to believe that we will

succeed, but I do feel that the critical nature of the project requires one final administrative attempt to work out a working agreement. If it fails, then it is quite likely that the Oahe issue will, again, come before the State Legislature for final resolution.

Second, we need to face up to the problem of intrastate—and interstate—transportation. From firsthand experience we know that a prime requirement for businesses in South Dakota is their ability to obtain the raw materials from which their products are made and to, in turn, ship the finished product to market.

South Dakota's rail service is a disgrace. We are faced with a flood of applications from the operating rail carriers to abandon line segments in various parts of the State. The post-World War II process of deferred maintenance has caused substantive deterioration of both track and roadbeds. It is no wonder that shippers must turn, in many instances, to highway transportation to move their products. We need to have a national policy on rail transportation. The groundwork, to a degree, has been laid by the Con-Rail experience in the northeastern part of the United States. Unless the rail carriers themselves are willing to undertake the massive job of upgrading their facilities, then it is likely that the Federal Government will, in time, be asked to undertake that responsibility. Presently pending in the Congress is a concept that I advanced some years ago that would provide for railroads the same degree of support that we presently provide for highways and airports—giving the Federal Government the responsibility of maintaining trackage and roadbeds marked for abandonment and, in turn, leasing the use of the lines involved to the operating rail carriers. I hold no special brief for that approach, but it is certainly something that will have to be seriously considered if the railroads, with Federal loan assistance, cannot or will not do the job.

With interstate highway mileage nearly complete in South Dakota, we must turn our attention back to our farm to market roads and secondary highway systems. We need to insure that there is a four lane highway link with the Interstate for such communities as Aberdeen, Huron and Pierre. We need to upgrade other highways in various parts of the State at a pace that we can afford.

We need to continue our efforts to maintain and improve a viable system of commercial air service. Deregulation of the nation's air carriers, as has been proposed in pending draft legislation, could seriously impair the existing service enjoyed for many South Dakotans to the national airways system. With no rail passenger service, and with the knowledge that almost half a million people boarded commercial airlines in our State last year, we must continue to stand firm on the promotion and development of fully adequate air service in our State.

Third, with the cooperation or our investor and consumer owned utilities, we must work to maintain adequate supplies of electric energy—not only to service existing customer demand but to provide, as well, surplus power that can be sold as peaking power through a regional and national grid system to other areas, with the understanding that it can be called back for use here at home when needed. The revenues from sale of peaking power can, in turn, be recycled into additional development here at home.

Fourth, and on a more procedural than substantive level, we should insure that the attraction of additional businesses to South Dakota not only has a high priority but also benefits from a coordinated effort in both the public and private sectors. We have learned that by all of us working together we can frequently succeed against other more populous areas. But it takes the very best efforts of us all to make this happen.

We have all traveled at one time or another through our neighboring States of Minnesota and Iowa.

It is commonplace to see light industry locating near small and medium sized communities in those States. These plants employ up to 150 workers and produce either a finished product for marketing locally or statewide or even nationally, or they are involved in the production of some component part that is assembled elsewhere.

We have that kind of activity developing in our own State, but we have not thus far been able to maximize the obvious attraction that South Dakota has for that kind of economic activity.

These small industries offer an economic stabilizer for the State and the communities in which they are located. They help to act as a "buffer" against the fluctuating agriculture revenues and help to sustain at least a minimum level of income when there is a significant shortfall in the farm economy, as we experienced during the 1976 drought in South Dakota.

In addition to an ongoing search for these kinds of facilities, we must develop the potential to process more of what we grow. Aside from meat packing, we are sending too much of the raw product from our farms, such as grain, to larger commercial centers, such as Minneapolis, for final processing. The more of this that we can process in final form within the boundaries of South Dakota, the more revenue will remain here at home. I do not have to detail for this audience the importance of economic diversification any more than I would have to recite the need for crop rotation to South Dakota farmers.

But we need to recognize that while the price the farmer actually receives for his product is relatively unchanging within certain limits, the increased costs to the consumer for food come in the processing, packaging, transportation and retail marketing of the final food product. We need to be more involved in the financially productive "links" in the food chain.

Understandably, neither the Congressional delegation nor State officials want to be involved in competition among South Dakota cities for industrial facilities, but when we are doing battle with other States, we can surely all join in a united effort.

Finally, let me say in the abstract that the free enterprise system has served this country well.

Our system should not be based on conglomerates and multi-national corporations—any more than its foundation should be big government. There must be a realistic common sense balance with the individual good and the public interest as the guiding principles under which the free enterprise system can function as it was intended.

We must—at both the state and national levels—work to create an economic climate which permits the small merchant to function alongside the large corporation to the detriment of neither and to the ultimate benefit of our people. We must keep a check-rein on government and insure that hard earned tax dollars are wisely and properly expended. We must encourage competition, innovation and inventiveness and not fail to reward those who seek a higher standard of performance. Perhaps most important, we must not stifle ideas and the individual's ability to implement them.

Even as our society becomes more complex and our problems appear more challenging, we must rely even more on our basic economic principles. In the end, that is what this country—and this great State—is all about.

A NEW NATIONAL ECONOMIC POLICY PROCESS—VITAL FOR A FULL EMPLOYMENT ECONOMY

Mr. HUMPHREY. Mr. President, tens of thousands of people from all walks of life sent a message to Washington during Labor Day Week.

At rallies and conferences across the Nation they declared that the country's official unemployment rate of 6.9 percent, as bad as that is, masks the fact that close to 10 million people are jobless or underemployed—that unemployment rates for youth and minorities exceed 50 percent in many inner city areas and match or exceed the nightmare of the 1930's Great Depression.

They declared that attaining and holding a full employment economy is the Nation's first priority.

They said enactment of the Full Employment and Balanced Growth Act of 1977 will provide the key by which Congress and the administration can establish and utilize the procedures and framework to achieve this goal.

They are absolutely clear on what they want Congress and the administration to do on this score.

What all these people have said is that they are sick and tired of an economy that is swinging with increasing rapidity between the extremes of boom and bust. They are sick and tired of being robbed of confidence in the future. They will no longer tolerate economic conditions that tear families apart, cause illness, and drive otherwise law-abiding people to commit crimes to provide themselves with the things they could earn if they had a decent job.

They say we—the Government—can manage our economy better and they are demanding that we do.

The people who have made this statement to Congress and the administration, participated in programs supported by full employment action councils across the country. They are community leaders, businessmen, labor union members, church groups, civil rights organization members, and others involved in community action programs. They represent a large cross section of the Nation's society and economy.

Mr. President, the time is long overdue, when a mechanism must be provided to give us an alternative to the too little and too late, crash landing planning with which the Nation attempts to meet economic crisis.

That mechanism is S. 50 and H.R. 50, the Full Employment and Balanced Growth Act of 1977.

The legislation states that achieving and sustaining a full employment, stable growth economy, is the first, ongoing responsibility of Government.

To this end, the bill requires that the administration and Congress develop and implement long and short range fiscal and monetary policies and programs that will enable us to reduce unemployment to 3 percent for workers 20 years old and older within 4 years following enactment. And the measure mandates that unemployment for teenagers be reduced to the same level as quickly as possible.

The primary emphasis of the bill is on the private sector. It says in effect that most of the job opportunities necessary to reach the employment goal of the bill must be created by business and industry. The legislation requires implementation of tax, spending and money supply policies and programs that create an

economic climate promoting maximum activity by business.

When necessary to fill the gap between business performance and the employment goal of the bill, temporary public works and facilities, job training, and public employment programs would be created.

For the most part the Full Employment and Balanced Growth Act is a national economic policy planning bill. It prescribes the steps that must be taken by both the executive and legislative branches to carry out a comprehensive, goal oriented, economic policy. In the process the state of the Nation's economy would be assessed and we would decide where we should be heading and how we should get there.

This proposal is in no way a mandatory planning program like the economic planning projects of Communist countries. Under the economic policy process required by this legislation the Government would not interfere with private sector activity. As a matter of fact, the bill specifically prohibits this. Rather, the legislation requires that Government policies and programs be coordinated to help guide the economy toward the goals of the measure.

One of the most articulate and concise arguments for a more rational national economic policy planning process has been made by Nat Weinberg, former director, special projects, United Auto Workers Union, and a member of the former National Commission on Supplies and Shortages.

Mr. Weinberg contends that the Commission did not live up to its full responsibility when it produced a report and recommendations which failed to call for establishment of an agency to conduct ongoing long- and shortrun processes to improve the performance of the Nation's economy.

His convictions on this subject are so strong that a separate volume, containing his additional views was issued by the Commission.

Although the recommendations in the Weinberg views differ in some respects from the provisions of the Full Employment and Balanced Growth Act, both of them parallel each other in direction and goals.

Mr. President, it is for this reason and to promote greater understanding of why such a process is needed and how such an effort could be carried out, that I ask unanimous consent that Mr. Weinberg's summary of his additional views and recommendations be printed in the RECORD.

There being no objection, the views were ordered to be printed in the RECORD, as follows:

ADDITIONAL VIEWS OF COMMISSIONER WEINBERG ON INDICATIVE PLANNING*

*A semantic issue must be dealt with at the outset. Some who favor indicative planning are reluctant to use the word "planning" for fear of the hostility that word arouses in certain quarters. However, if the substance of any proposal is planning, anti-planners will be sure to attach the planning label to it regardless of any euphemism used by its proponents. It should be noted that leading sponsors of the legislation that created this Commission did not hesitate to mention "planning" during the Congressional debates on the legislation.

SUMMARY

Events of recent years have driven home to many the thought expressed by Senator Mansfield as the legislation creating this Commission was debated in the Senate "[S]ome mechanism ought to be provided," he said, "that gives us an alternative to the crash-based planning with which the Nation attempted to meet the energy crisis." He went on to discuss the need for economic planning.

When, as a result of Senator Mansfield's initiative, Congress established the National Commission on Supplies and Shortages, it intended that the Commission should at least evaluate the advisability of creating an independent agency to do indicative economic and social planning for the United States. The leadership of the Senate understood and expected that the Commission would go further and recommend creation of such an agency.

This separate report is necessary because the main report of the Commission does neither.

If the recommendations of the main report were carried out, there would be some improvement in the sectoral forecasting and policy analysis capabilities of the Federal Government. But such improvements, in themselves, are not adequate substitutes for indicative planning.

How indicative planning would work

Indicative planning must be clearly distinguished from the mandatory planning of the communist countries. Under indicative planning, the Government would not intervene in the economy in any different fashion from the way it does now—except for one important change: it would attempt systematically to coordinate its actions so that they would contribute as efficiently as practicable to the achievement of democratically determined national goals. Neither the goal-setting nor the forecasting functions required for planning would plunge the Government into a range of wholly new activities. Government already does both on an extensive scale. But when goals are set without planning, there is often a danger that as we pursue one goal we frustrate the attainment of others. Under planning, proposed goals and the means for attaining them would be examined for consistency with other goals and means, and the totality of the goals would be considered in relation to the availability of resources to achieve them. As for government forecasting, it is now done on a piecemeal basis. Indicative planning would require that the separate forecasts for sectors of the economy and for regional development add up to a coherent whole, taking into account, to the fullest extent possible, the interrelationships and interactions among the various parts of the economy. Under these circumstances, any action by the Government relating directly to one part of the economy could be assessed in the light of its indirect effects on the other parts.

Insofar as the private sector is concerned, indicative planning would neither infringe any freedoms nor increase "dictation" by government. Private institutions would continue to conduct their affairs under planning just as they do today except that they would have a better foundation of information upon which to build their own plans, including advance knowledge of what government intends to do. The forecasts required for planning, including forecasts of the sectoral and regional effects of planned governmental actions, would provide a common framework of assumptions for private as well as public decisionmaking, thus tending to promote smoother meshing of activities within and between the private and public sectors.

The shaping of indicative planning mechanisms for the United States should be guided by two principles.

The first is that the planning process should be democratic, attracting the widest possible participation of the citizenry in determining the goals to be sought through planning. This can best be accomplished by offering the public alternative plan options whose respective goals reflect the differences in the value systems of the major interest groups in our pluralistic society. The preparation of such options would require the involvement of representatives of those interest groups in the top echelon of the planning agency. Presentation of clear-cut choices among proposed plans would stimulate public discussion and debate. This in turn would tend to impel the President and Congress to propose and adopt plans that would conform reasonably well to the desires of the majority.

The second principle is that there must be realistic and reasonably effective procedures to carry out whatever plans are ultimately adopted by Congress. Implementaton requires legislation, including appropriations and tax measures, that are consistent with the plans. It is more difficult to integrate legislation with planning under our governmental institutions than it would be under a parliamentary system. Nevertheless, by tying congressional action on proposed plans into the existing budget process, the separate items of economic and social legislation adopted by Congress could be made to add up to a reasonable approximation of a coherent plan.

Recommendations

The recommendations in this separate report are submitted with no claim that they represent the only, or even the best possible, means for indicative planning in the United States. They do show, however, that it is possible to set up democratic and reasonably effective planning institutions and procedures that would fit without difficulty into the existing governmental framework.

In broad outline, the recommendations are as follows:

Formulation and publication of plan options.—An independent Commission would be created by Congress, composed of three public members, and two each representing consumers, labor, and business, respectively. Any two commissioners would be free to develop and propose their own plan option. A new Statistics Center (needed in any case to coordinate governmental statistical programs and to improve analyses for policymaking) would help the Commissioners to develop options that were coherent and feasible. All the options developed in the Commission would be presented simultaneously to the President, the Congress, and the public.

Presidential response.—The President would be required to respond to the options in his Economic Report. He could adopt or modify one of the options prepared in the Commission or he could propose a different option developed by his staff, also with the aid of the new Statistics Center.

Congressional action.—The Congressional Joint Economic Committee (JEC), after consultation with the appropriate legislative committees, could adopt one of the options presented by the Commission and the President, modify one of them or develop its own. The JEC would be assisted by a Congressional Planning and Budget Office (which would incorporate the present Budget Office) working closely with the new Statistics Center. Certain numerical goals of the plan proposed by the Joint Economic Committee, upon approval by Congress, would be included in the concurrent resolutions on the budget required under the present Congressional budget process. The JEC, in liaison with the appropriate legislative committees, would monitor proposed legislation for conformity with its plan and the latter's numerical goals. The budget adopted by Congress would be required to be consistent with those goals and thus would become the main instrumentality for implementation of the plan.

Follow-up.—The President would be required to use his discretionary powers in a manner consistent with the numerical goals. The Federal Reserve Board would be required to provide the volume of credit needed to attain those goals and, if necessary, to allocate credit to facilitate their attainment.

No need to wait

Planning is one of the most difficult and complex processes a society can undertake. No one can claim that planning and the forecasting associated with it will work perfectly. The difficulties will be especially great in the early years, when a planning commission would be well-advised to proceed slowly and cautiously, not attempting to do too much too soon. But the alternative to planning is more of what we have now—a piecemeal, haphazard series of responses to the increasingly serious problems that confront us. As a planning commission accumulates data, experience and expertise, its proposed options could be made more sophisticated and their probable implications could be spelled out in greater detail.

There is no good reason to wait, however, before embarking on indicative planning. The state of the art, it is true, still leaves much room for improvement. Nevertheless, it is advanced enough to have produced results considered useful by other democratic countries engaged in indicative planning.

It is ironic that the United States has waited this long to undertake indicative planning, since it was our Government that stimulated much of the planning now carried on in the non-communist world. It required Western European governments to engage in extensive planning as a condition for receipt of grants under the Marshall Plan. It imposes similar requirements upon less developed countries receiving U.S. economic aid.

Indicative Planning and Full Employment

Indicative planning would help to attain stable full employment—a goal which, judging by the verbal tributes paid to it, has practically universal support. In view of the human hardships and economic waste resulting from unemployment, it would be indefensible deliberately to plan for anything less than full employment. A recent study found that a one percent rise in the unemployment rate is associated, after a few years, with an increase of tens of thousands of disease-caused deaths and significant increases in suicides, homicides, and mental hospital and prison admissions. The economic waste resulting from unemployment is staggering. As of the third quarter of 1976, the loss of Gross National Product, compared to what it would have been with a 4 percent rate of unemployment, was over $200 billion at an annual rate and far greater compared to the GNP level under actual full employment.

To those who fear that full employment must bring inflation in its train, three things must be said.

First, based in part upon recent experience, there is increasing skepticism among economists about the concept of an unavoidable trade-off between full employment and price stability. In fact, there is a growing belief that policies based on acceptance of the trade-off notion tend to aggravate inflation.

Second, the searching examination of economic interrelationships entailed in planning would help to uncover in advance, and would thereby facilitate preparations to offset, potential bottlenecks and other potentially inflationary factors.

Third, a governmental commitment to stable full employment, supported by a plan designed to make good on that commitment, would avert or minimize the recessions that cause underinvestment by industry, followed, as recovery proceeds, by shortages of capacity that trigger inventory hoarding and speculation, thus tending to spread inflation throughout the economy.

Indicative planning, therefore, could make possible the simultaneous achievement of the goals of full employment and price stability.

TREASURY DEPARTMENT ANNOUNCES THE MEMBERSHIP AND MEETING DATES FOR ITS SMALL BUSINESS ADVISORY COMMITTEE

Mr. NELSON. Mr. President, as chairman of the Senate Small Business Committee, I would like to bring to the attention of this body that on October 21 Secretary of Treasury W. Michael Blumenthal announced the reconstitution of the Treasury Small Business Advisory Committee. The Secretary has listed the current membership of the Advisory Committee and a date for the first meeting of the new committee has been scheduled for December 6 and 7, 1977 in Washington, D.C.

I ask unanimous consent that the Treasury's release listing the membership of their Small Business Advisory Committee for 1977–78 be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. NELSON. It is notable that the committee membership of 25 is large enough to reflect the wide diversity of the Nation's small business enterprises; and that the chairman, William L. Hungate, is a respected former Member of Congress who served with distinction on the House Committee on Small Business. We are glad to observe also that the small and independent business organizations in my own State of Wisconsin are represented on this advisory body.

The Small Business Committee wishes to commend Secretary Blumenthal for his actions in continuing this body and constituting it in a way which should permit it to have a significant role.

VALUE OF SMALL BUSINESS COMMUNICATION WITH TAX AUTHORITIES

The diversity of the small business community is as wide and varied as the U.S. economy, because small business makes up a significant part of that economy. According to the Small Business Administration's definitions, small business accounts for 97 percent of the number of U.S. enterprises, 55 percent of all private employment, 48 percent of business output, 43 percent of the GNP and over half of all industrial inventions and innovations. The dynamism of this segment of the economy is especially important to national growth, job creation, and the country's competitive position in the world marketplace.

Equally important, the possibilities of entering and building a small business make the American dream of business ownership a daily reality. This outlet is vitally important in preserving the traditional values of American society: initiative, freedom, individuality, pride in craftsmanship, competitiveness, efficiency, and rewarding risk-taking and hard work.

The tax system has a pervasive effect upon entrepreneurship at every stage—the decision to leave a secure career and begin a new enterprise; the determination to surmount the inevitable obstacles that defeat 50 percent of businesses within the first 2 years, including the economical cycles, personnel problems, regulations, taxes, and paperwork (40 percent of which is related to taxation in one form or another).

It is practically certain that any entrepreneur with enough faith in his idea will not be an expert in the immensely technical details of accounting, reporting, and taxation.

Our fledgling entrepreneurial community, as well as the existing businesses supporting more than 30 million American families, need all the help they can get when it comes to understanding the formulation and implementation of tax policies.

This is particularly true because the tax system in this country is based on self-assessment. We trust our citizens to report their financial affairs to their Government accurately, and to pay the taxes which they calculate are due. That such a system is able to operate is a tribute to the good character of the great majority of the American people.

WHAT THE ADVISORY COMMITTEE CAN ACCOMPLISH

In my view, the Treasury Small Business Advisory Commitee creates a valuable link between the Government and the people by establishing a channel of communication between those who administer the law and a significant segment of those who must obey it.

This Treasury Advisory Committee will allow the Department and the Internal Revenue Service to explain their policies, procedures, and plans to small business owners and their representatives. These spokespersons can, in turn, rapidly distribute the information to millions of small business owners through their own trade newsletters and publications. This provides an opportunity to improve compliance with the law among existing small businesses, as well as the thousands of new ventures which are continually being established.

The Advisory Committee also gives the small business community a vehicle to express its frustrations with the tax system, to point out inequities and to suggest specific improvements in policies, regulations, forms, instructions, procedures, and attitudes. In other words, the Advisory Committee gives the average small business owner an opportunity to talk back to the system.

The regular meetings of committee members with high-level Treasury and Internal Revenue Service officials thus promise the most constructive kind of interchange within a democratic system of government.

BACKGROUND

During 1975 and 1976, there were two previous small business advisory committees concerned with taxation—one group assisting IRS and the other serving as advisory to the Treasury Department. In the Small Business Committee's view, these bodies distinguished themselves by developing several issues of im-

portance to small business through task groups. Their recommendations were thus well considered and of substantial value to the tax authorities, as the Treasury's current action confirms. Further history of these tax advisory committees is contained in recent annual reports of the Senate Small Business Committee. I ask unanimous consent that the relevant excerpts from our committee's 1976 and 1975 reports also be printed at the conclusion of my remarks as a matter of interest.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

CONCLUSION

Mr. NELSON. The Small Business Committee very much appreciates the willingness of the present Treasury Department to consult with us in the course of launching the Small Business Advisory Committee which has just been announced. We wish this committee well and will cooperate in every way to facilitate its maximum contribution to the work of the Treasury Department.

EXHIBIT 1

SECRETARY BLUMENTHAL NAMES 25 MEMBERS TO TREASURY SMALL BUSINESS ADVISORY COMMITTEE

Secretary of the Treasury W. Michael Blumenthal today announced the appointment of twenty-five members to the Treasury Small Business Advisory Committee. Committee members were chosen from small businesses of various types and sizes in different sections of the country, from the academic community, and from professional organizations representing small business.

The objective of the Committee is to provide information and advice to the Secretary on the broad range of economic issues which from time to time affect the small business community. To allow for a more comprehensive and mutual understanding of our national economic situation, the Committee will provide a means of communication between the small business community and the Secretary on economic issues including capital formation, tax policy, tax administration and governmental regulation.

A listing of the members of the Treasury Small Business Advisory Committee is attached.

TREASURY SMALL BUSINESS ADVISORY COMMITTEE

Chairman: Mr. William L. Hungate, St. Louis, MO; Thompson & Mitchell, Attorneys at Law; former Congressman 9th Congressional District of Missouri; former Chairman, St. Louis Small Business Task Force on Taxation for Small Business Administration; former Chairman, House of Representatives Small Business Subcommittee on Regulatory Agencies; former Chairman of the House Judiciary Subcommittee on Criminal Justice (1973–77).

Mr. Harry G. Austin, Mars, PA.; President, James Austin Company; past President Smaller Manufacturers Council of Western Pennsylvania.

Mr. Walton E. Bell, III, Washington, D.C.; Partner, Arthur Andersen & Company, Certified Public Accountants.

Mr. Alan J. Bennett, Los Angeles, CA; Secretary, Black Businessmen's Association of Los Angeles; President, Centaurans 7 Enterprises, Inc.

Mr. Craig M. Bollman, Jr., Denver, CO; President, Aristek Corporation; Chairman, Advocacy and Public Communication Committee of the Small Business Advisory Council.

Mr. Eugene N. Bryant, Atlanta, GA; Owner/operator, service station; owner/operator, day care and early achievement center.

Dr. Berkeley G. Burrell, Washington, D.C.; President, National Business League; President, Booker T. Washington Foundation.

Mr. Bruce G. Fielding, Mountain View, CA; Bruce G. Fielding & Co., Certified Public Accountants; member, Commission on Federal Paperwork; Director of National Federation of Independent Business.

Ms. Susan Hager, Washington, D.C.; President, Hager-Sharp Associates, Inc.; National Advisory Council to the Small Business Administration; past President, National Association of Women Business Owners.

Mr. Patrick Ionatta, Bethpage, NY; President, Ecolotrol, Inc.; Chairman, New York State Association of Small Business Councils; Chairman, Executive Committee, National Mobilization Task Force of the U.S. Chamber of Commerce on Small Business; Vice President, Small Business of Long Island Association of Commerce and Industry; member, Executive Committee, U.S. Chamber of Commerce Council on Small Business.

Ms. Carol R. Johnson; Cambridge, MA; President, Carol R. Johnson & Associates, Inc.

Mr. James D. McKevitt, Washington, D.C.; Washington Council, National Federation of Independent Business.

Mr. Charles M. Noone, Washington, D.C.; McCarty & Noone; Vice Chairman, Small Business Committee of the Corporation, Banking and Business Law Section, American Bar Association.

Mr. Clayton L. Norman, Detroit, MI; Owner/operator two McDonald's franchises; member, Booker T. Washington Business Association.

Mr. Vincent M. Panichi, Beachwood, OH.; Monastra, Ciuni & Panichi, Certified Public Accountants; Professor, John Carrol University; member, Board of Directors of the Council of Smaller Enterprises for Northern Ohio.

Mr. Edward H. Pendergast, Jr., Boston, MA; Hurdman and Cranstoun, Certified Public Accountants; President, Massachusetts Society of Certified Public Accountants; past President, Smaller Business Association of New England, Inc.

Dr. Reed M. Powell, Pomona, CA; Dean, School of Business Administration, California State Polytechnic University; Chairman, Small Business Committee of the American Assembly of Collegiate Schools of Business; past Chairman, U.S. Small Business Administration National Advisory Council.

Ms. Gloria M. Shatto, San Antonio, TX; George R. Brown Professor of Economics and Business, Trinity University; Board of Trustees, and Berry College; Board of Trustees, Georgia Tech Research Institute (1975-77); former Professor of Economics and Associate Dean, College of Industrial Management, Georgia Institute of Technology.

Mr. Minor S. Shirk, Chandler, AZ; Minor S. Shirk, P.A. P.C.; first Vice President, National Society of Public Accountants; past Chairman, National Society of Public Accountants Federal Taxation Committee.

Ms. Janis W. Stefl, Jacksonville, IL; Accountant and Business Manager, Psychologists & Educators, Inc. (publishing).

Mr. Milton D. Stewart, Washington, D.C.; Chairman, Research Council for Small Business and the Professions; past President, National Small Business Association; past President, National Association of Small Business Investment Companies.

Mr. Walter B. Stults, Washington, D.C.; Executive Vice President, National Association of Small Business Investment Companies; former Staff Director, U.S. Senate Select Committee on Small Business.

Mr. Lee A. Vann, St. Paul, MN; Commissioner, Minnesota Department of Economics Development; former owner, Lee Vann Concepts, Inc.

Mr. Max Weil, New York, NY; President, Max Weil Association of Pension Consultants and Administrators.

Mr. John A. Zerbel, Milwaukee, WI; John A. Zerbel and Associates, Certified Public Accountants.

EXHIBIT 2

(Excerpted from the "Twenty-Sixth Annual Report of the Select Committee on Small Business," U.S. Senate, 94th Cong., 2d SESS., S. Rept. 94–636 (pp. 109–110).)

E. SMALL ADVISORY COMMITTEE TO THE COMMISSIONER OF INTERNAL REVENUE

Since 1971, the committee has attempted to foster an exchange of views between small business spokesmen and their organizations and the officials of the Internal Revenue Service. The objective has been to provide a forum for face-to-face communication which would identify problems and reduce frustrations between the IRS and the 97 percent of the business community which is classified as "small business."

A history of the development of the liaison meetings to include 17 small business and professional organizations in 1974 is set forth in the committee's most recent annual report.[106] A list of the organizations and persons participating is included in the same report at pages 358 through 360. The accomplishments of the various constituent task groups which participated in these liaison sessions is also summarized therein.

Early in 1975 Commissioner Donald C. Alexander formally announced the formal establishment of the Small Business Advisory Committee,[107] and incident to its inaugural meeting on October 1 and 2, made public the list of 19 prominent accountants, attorneys, small business executives and educators named to serve on the Advisory Committee.

The committee chairman, Senator Nelson, reported these developments to the Senate and the occasion to compliment Commissioner Alexander on his consistent encouragement of the small business liaison effort and for setting up the permanent, ongoing Advisory Committee.[108]

The committee considers this development to be a milestone in the history of the small business movement in terms of the recognition accorded to the small business community and the opportunities for constructive discussion, better understanding, and joint accomplishment.

For example, the "Tax Guide for Small Business" the basic tax information publication distributed by IRS to smaller and new firms, was originally issued as a print of the Select Committee on Small Business in 1956. It was revised and updated by the organizations making up the liaison group between 1971 and 1974.[109] It was then made available freely to small businesses by Commissioner Alexander as a result of inquiry and discussion of the liaison group with IRS officials. About ¼ million of these publications cir-

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[106] Twenty-Fifth Annual Report of the Select Committee on Small Business, pp. 103–7.

[107] See IRS Press Release establishing the Small Business Advisory Committee: IR 1443 dated Jan. 14, 1975; also release on appointment of Advisory Committee membership; IR 1505, dated Sept. 2, 1975.

[108] "Small Business Advisory Committee Holds First Meeting with the Internal Revenue Service," Congressional Record, Oct. 2, 1975, pp. 31347–31348, remarks of Senator Nelson.

[109] The interior cover of the "Tax Guide for Small Business, 1976 Edition," generously acknowledged the continued assistance of the Select Committee on Small Business, in producing the current publication.

culate to the new and small businesses each year.

At the October meeting, the committee gained a "coordinator" in the form of former IRS Commissioner Randolph Thrower. It also created 4 working groups parallel to the four major divisions of the Internal Revenue Service.

Since the Advisory Committee is an organ of the Internal Revenue Service, the primary reports of its activities, of course, must come from that source. However, from the remarks and correspondence of small businesmen and their organizations to the Committee, it is apparent that interest in the Advisory Committee is high.

The committee hopes that the promise of this group will continue to be realized. In a letter of August 11, 1975, the chairman and Ranking Minority Member, Senator Javits, expressed their continuing interest in the group and pledged that:

"This committee will in the future, as it has in the past, give the Internal Revenue Service the widest possible cooperation in its efforts toward improving communication between the tax authorities and small business enterprise."

(Excerpted from the "Twenty-Seventh Annual Report of the Select Committee on Small Business," U.S. Senate, 95th Cong., 1st Sess., S. Rept. 95-30 (pp. 48-51))

C. ADMINISTRATIVE MATTERS

IRS ADVISORY COMMITTEE

Previous committee annual reports have recounted the efforts to establish a small business advisory committee to the Internal Revenue Service [11] with formal status given by the Federal Advisory Committee Act.[12]

The committee was established by Commissioner Donald C. Alexander and held its first meeting in October 1975.

This committee is pleased to report that the advisory committee met periodically in 1976 with apparent benefit to both the small business communitiy and the Revenue Service.

The committee quickly took on a structure that included a coordinator (former IRS Commissioner, Randolph Thrower) and several subcommittees which functioned between meetings and was able to gather and analyze information and present viewpoints to the plenary sessions. Among the many important subjects discussed by the advisory committee during the past year were:

Problems of small business adjustment to ERISA

Possible staggered filing seasons

Changes to estimated tax and tax deposit procedures

IRS public information programs for small business

A report is being prepared with the cooperation of the IRS staff which should detail the agendas, discussions and accomplishments of this advisory committee. It is expected that it will be completed in early 1977.

Beyond the specifics, however, the atmosphere of the advisory committee encouraged and elicited frank and full exchange of views between representatives of the small business community and the highest officials of the Internal Revenue. The presence of the Commission and numerous Assistant Commissioners, often for extended periods of time at these sessions, the questions asked and the quality of the responses all appeared to reflect that the small business spokesmen were serving a broad segment of the taxpaying public rather than a narrow special interest group.

Your committee feels this process has an inestimable value to our self-assessment tax system and to our democratic government. From its observations, your committee feels that the Small Business Advisory Committee to the Commissioner of Internal Revenue has fully justified continuation in future years.

The reaction of the small business community to the sympathetic and able conduct of these sessions by Commissioner Alexander is reflected in a resolution presented by the members of the committee to the Commissioner at their November 16 session. (See appendix K.) Your committee wishes to add its own commendation for this significant advance in the cause of small business in the tax field.

We hope and trust that future commissioners will find that this advisory body will be of comparable value in their administration of the Internal Revenue laws.

PENSION AND TREASURY ADVISORY GROUPS

It is said that imitation is the sincerest form of flattery. During 1976, the ERISA Advisory Council established a Small Plans Impact Work Group and the Treasury Department created a Small Business Advisory Council on Economic Policy. These actions were the subject of remarks by the chairman of your committee at the time which are included in this report.[13] (See appendixes L and M.)

A meeting of the Small Business Advisory Committee on Economic Policy was held on December 7, 1976, with the Treasury Secretary Simon and his principal staff assistants. Subsequent to a plenary session, the group divided into task forces on tax policy, equity capital, long-term credit, and government paperwork and regulation. Deliberations of these bodies and a later general discussion led to the preparation of a report for submission to Secretary Simon and presentation to the new Secretary of Treasury taking office in January of 1977.

This report entitled "Treasury Small Business Advisory Committee on Economic Policy Report of Recommendations to the Secretary of the U.S. Department of the Treasury, December, 1976" (as editorially revised, January 7, 1977) contains valuable information and recommendations on a range of small business tax and financial problems. To make this work more widely available, it is reprinted as appendix N of this report.

SMALL BUSINESS ADVISORY COMMITTEES GENERALLY

It should also be noted that there was a small business adviser to the Securities and Exchange Commission for part of 1976. When this position was abolished in October, the committee protested vigorously by letter and received assurances from the SEC that it would be reestablished in the near future.[14]

Your committee wishes to do all it can to encourage the establishment of small business points of contact and small business advisory bodies. This is in accordance with the philosophy that most effective representation of small business in the governmental process takes place at the time policy decisions, regulations, forms and technical rulings are actually being discussed by decisionmakers in the Federal Government. Thus, representation at these junctures by small business owners and their spokesmen is the most effective possible for the small business community.

During 1976, legislation was proposed by the committee to formalize these advisory relationships (S. 3085 [15] and S.J. Res. 177 [16]).

On March 8 of this year, the chairman of your committee, Senator Nelson, was the lead-off witness at hearings before the Government Operations Committee considering amendments to the Federal Advisory Committee Act. He brought to the committee's attention a study sponsored by the Office of Management and Budget entitled "Small Business Reporting Burden" which underscored the fact that small business has very limited representation on government advisory bodies. A prime example is the Business Advisory Council on Federal Reports.

"In practice the panels, too, have tended to be dominated by representation from large business—a natural consequence of the difficulty experienced by small businesses in giving the time and absorbing the expense involved in sitting on (such) panels."

Senator Nelson argued for "fair representation" as proposed in S. 3085 for small business on government advisory committees, boards and councils that deal with economic matters. (Senator Nelson's statement is included in this report as appendix O.)

MAINE LABOR SUPPORTS DICKEY-LINCOLN

Mr. MUSKIE. Mr. President, the Maine AFL-CIO meeting in convention in Portland yesterday unanimously adopted a resolution supporting construction of the Dickey-Lincoln hydroelectric power project.

The resolution was presented to the convention by Joseph Penna, an officer of local No. 895 of the International Association of Machinists and chairman of the resolution committee, and by John J. Joyce, international representative for the International Brotherhood of Electrical Workers.

Mr. President, I direct the attention of my colleagues to the resolution by representatives of Maine's working people and ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION No. 29

Whereas the proposed Dickey-Lincoln Hydro-Electric project represents a valuable source of energy with clearly measurable environmental and social trade-offs, and

Whereas the continued supply of electric power is of the utmost importance to the continuation of our way of life.

Therefore, be it resolved that this Convention strongly endorses the construction of the Dickey-Lincoln project and the creation of an Energy Policy Committee within the

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[11] Twenty-Sixth Annual Report (pp. 109-110).

[12] 86 Stat. 770 (1972), 5 U.S.C. App. 1 (Supp. IV, 1974) (Public Law 92-463).

[13] Congressional Record, May 11, 1976, p. 13223 and p. 13266 (remarks of Senator Nelson).

[14] Letter to SEC Chairman Roderick Hills from Senator Nelson, Chairman of the Senate Select Committee on Small Business, dated Oct. 22, 1976.

[15] S. 3085, to insure fair and equitable representation for smaller and medium-sized businesses on Federal advisory committees, 94th Cong. 2d Sess. Introduced on March 4, 1976 by Senator Nelson for himself and Senators Brock, Nunn, and Weicker. Congressional Record, Mar. 4, 1976, pp. 5373-5374 (remarks of Senator Nelson).

[16] S.J. Res. 177, 94th Cong. 2d Sess., a joint resolution requiring each executive department and agency to designate a small business specialist. Introduced on March 4, 1976 by Senator Nelson for himself and Senators Brock, Nunn, Weicker, Javits, Johnston and Culver. Congressional Record, Mar. 4, 1976, pp. 5378-5380 (remarks of Senator Nelson, with insertion).

Maine AFL–CIO to study and report to the next convention on the problems and prospects of other forms of electric power generation within the guidelines of National AFL–CIO policy.

PANAMA CANAL

Mr. THURMOND. Mr. President, one of the outstanding citizens and eminent attorneys in South Carolina, Mr. Motte J. Yarbrough, has sent to me a research paper on the Panama Canal. Mr. Yarbrough is a knowledgeable historian, and has recommended that this research paper should be printed in the CONGRESSIONAL RECORD.

Mr. President, in order to share this research information with my colleagues, I ask unanimous consent that the article entitled "Give Away of Our Panama Canal," by Floyd L. Hibbs, appear in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GIVE AWAY OF OUR PANAMA CANAL

(By Floyd L. Hibbs)

Around 1903, there were strong arguments made to build a canal to connect Atlantic and Pacific Oceans in Nicaragua, so Panama representatives proposed a treaty, which in five places, used the word perpetuity, to describe the United States title to the Canal Zone.

In 1903 the United States purchased the 647 square miles, which comprises the Panama Canal Zone. We paid $10,000,000 for it, with an annuity of $250,000 a year, which has grown to $2,328,000 now. The annuity is not a lease, but payment for loss of revenue, that Panama's railroad, which crosses the isthmus might lose.

We also paid $25,000,000 to Colombia for her claim of title to the zone, and $162,000,000 to the owners of the land, in the zone. Also paid off the French investors, who had tried and failed to build a canal there.

To think, we only paid $7,200,000 for Alaska, with its 586,000 square miles, compared to the 647 square miles above.

The Panamanians were very happy with the treaty then, and reasonably so, since the Canal accounts for 21% of Panama's Gross National Product.

Today the people of Panama, with their employment and other income, from the Canal Zone, take about 190 million dollars annually, giving Panama, with its 1.5 million population, the highest per capita income in Central America.

The Kremlin's long standing ambition has been to control every main waterway of the World, especially the Panama Canal. So leftist officers, of Panama's National Guard, a few years ago seized the Nation at gunpoint and deposed the popular duly elected President, Arnulfo Arias, who along with his cabinet, is in exile. The present regime is actually a front, for the real rulers of the nation; the seven man Directorate of the Communist Party. The National Assembly was dissolved and political parties declared "extinct". 11 articles of the constitution were suspended, concerning such rights as freedom from arrest, freedom of speech, freedom of assembly, freedom to travel and inviolability of the domicile.

General Omar Torrijos, the leftist Dictator has demanded that a new Canal treaty be made, giving complete control of the canal eventually to Panama. Also demands one billion dollars as initial payment and 50 to 60 million dollars a year from now on. Torrijos dictatorship now requires 35¢ on every tax dollar to finance its large debt of 1.2 billion dollars.

President Carter isn't the first President who wanted to give our canal away to Panama. However President Carter promised during his campaign for the Presidency—"I would never give up complete or practical control of the Panama Canal Zone." A secret treaty drafted by Lyndon Johnson's State Dept., was to be kept secret until it was signed, was foiled, when the Chicago Tribune, exclusively secured a copy of treaty and published it, in full, on July 15, 1967. The Senators and Congressmen thereby being able to read the text of the proposed treaty, at the same time the State Dept. refused to release it. But the State Dept. never gives up.

In 1974, President Ford's Secretary of State, Henry Kissinger, made a flying trip to Panama and signed an eight point statement agreeing to surrender eventual control of canal to Panama. The State Dept. with Ellsworth Bunker, 83 year old, Council of Foreign Relations and Chief Negotiator have worked steadily to finalization of treaty, ever since. One of the first things President Carter did, after taking office, was to appoint Sol M. Linowitz, as his chief negotiator.

Linowitz was a registered agent for the pro-Communist government of Salvador Allende, when he controlled Chile. Until recently, Linowitz was a director and member of the executive committee of Marine Midland Bank in New York, which is on the "problem list" of banks that have over extended themselves with large debts that are uncollectable. Marine Midland Bank has made large loans to Panama.

Linowitz and Bunker are our negotiators in negotiating the treaty now.

Linowitz said to an International meeting in Los Angeles, "Contrary to the belief of many Americans the United States did not purchase the Canal Zone in 1903. It is clear that under the law we do not have sovereignty in Panama."

However, the United States Supreme Court ruled in 1907 and again in 1972 that the 1903 treaty purchase was legal and gave the United States ownership of canal in perpetuity.

Linowitz also says we can't defend the canal anyway, so it would be better to give it away peacefully. We defended it in Korean conflict and Vietnam, as well as in the riots of 1964, so why can't we now?

Linowitz further says that the Joint Chiefs have said that it would be to our interest to sign a new treaty. If so, probably in fear, as they know if they oppose President Carter, they might get General Singlaub treatment. (Singlaub opposed pulling our troops out of Korea.)

You hear that the United States doesn't need canal now. However 71 percent of canal traffic originates or terminates in United States Ports, with traffic through the canal close to 14,000 transits annually.

Alaskan oil can reach the east coast, with less expense only by way of Panama Canal.

With the giving away of the Panama Canal, the United States would need a navy independently able to meet crisis, in the Atlantic and Pacific Oceans. Recent United States Commander-in-Chiefs in Pacific, have expressed the view that without this interoceanic link, such operations as the Korean and Vietnam wars simply could not have been conducted.

Answering the charge that our ships are too large to go through the Panama Canal is the fact, that only 13 ships in the United States Navy have beams too great to permit passage. The remainer of the fleet of 470 ships—not to speak of an equal number in reserve, can use the canal and do so beautifully.

Total United States investment in the Canal including its defense is estimated at nearly 7 billion dollars from 1904 to 1974.

The real issue in the Panama Canal Treaty dispute, is United States versus Communist control. Gulf and Caribbean areas are now on their way toward becoming "Red Lakes." The giveaway of our canal will expand the Moscow-Havana Axis-Caribbean-Gulf basin, for the encirclement of the United States.

It was humiliating to retreat from a foreign country, many thousands of miles away from home. It is quite another thing to be forced to abandon our own property and the fruits of our labor, and our own investments, as well as the safety of our American citizens.

It is a historical fact, that Panama governments have been overthrown ever so often. Some feel that by time we turn canal over to Panama, another government there, more friendly to United States might be in power.

Lenin said, way back when, that the Suez and Panama canals must be neutralized, so Russia would support the present leftist government forever, so that the canal will be in Communist hands.

PEGGY MANDJURIS

Mr. HOLLINGS. Mr. President, it happens too often that the story of the Capitol is written as if it played on a stage peopled only by Senators, Congressmen, and perhaps a handful of aids. They make the headlines, it is true. But just as the heart of a story is below the headline, so the story of the Capitol is in its many supporting players.

Thus it is always a happy occasion when the media focuses on one of those legions of Capitol Hill workers who does her job especially well. Such an employee is Peggy Mandjuris, special assistant in the office of our able Sergeant at Arms, Nordy Hoffman. Peggy is a success at her job not just because she is at home in the Capitol, but more importantly because she is at home with people. She has a very special dedication and understanding which brings her many friends and the Capitol many happy visitors.

Under the banner of Mike Morgan, the Fort Lauderdale News carried a story recently which describes one example of the commitment and enthusiasm Peggy puts into her work every day of the year. I commend this article to the attention of my colleagues to focus on the contribution one excellent employee is making, and to remind us all that throughout this building there are hundreds of devoted public servants trying only to make a real contribution through their jobs.

Mr. President, I ask unanimous consent that the article from the October 21 Fort Lauderdale News be printed in the RECORD.

There being no objection, the story was ordered to be printed in the RECORD, as follows:

IT TOOK A BLIND MAN TO SHOW HER: THE DAY SHE REALLY SAW THE CAPITOL

(By Mike Morgan)

Tradition plays a powerful force in both great and small ways in the nation's Capitol building.

Thus it is that in the splendid Senate Chamber two old snuff boxes are still kept filled with fresh supplies of snuff in the event any of the Senators wish to sniff, or dip, or tuck a little snuff under the lip.

I don't know how often the snuff is used, but it is on hand even as it was generations past when so many gentlemen carried their own snuff boxes.

And in keeping with tradition all desks in the Senate Chamber have an inkwell, a penholder and a glass shaker filled with blotting sand. You can hardly revere past ways of

life more than keeping a supply of blotting sand available.

All of the above historical minutiae I learned while taking a tour of the Capitol under the aegis of Peggy Mandjuris. Peggy is a most pleasant, highly informative lady who is a repository of a wealth of history concerning the Capitol.

She is a special assistant in the office of the Sergeant at Arms of the U.S. Senate, and has a passion for unearthing every tiny and major fact she can about the Capitol, its chambers, rooms, decorations, statues, paintings and all the furnishments that make the building a living, working history lesson for all who walk its corridors.

It was the good fortune of my wife and I that Peggy escorted us on a tour and, as she lovingly and enthusiastically told about the Capitol, anecdotes of men (and women) and objects in the building it turned out to be one of the more delightful and rewarding fruits of our visit to Washington, D.C.

(Add to your store of minutiae. Can you guess whatever happened to the desk Nixon used in the White House? A piece of furniture now sometimes called the Watergate desk. Well, it is now being used by Vice President Walter Mondale in the office reserved for him in the Senate Wing of the Capitol!)

But one of the anecdotes that clings most to memory concerns itself with a tour Peggy gave sometime past . . . one that she too will always remember.

We were waiting in the anteroom of the office of the Sergeant at Arms for another person who was scheduled to take the tour. He was late. The tour takes about an hour and quarter. I mentioned that she must grow bored having to make the tour so often.

A smile came on her face as she shook her head in denial. And she told me the following:

Once I got a call from an aide to a senator who asked me to give special treatment to someone who was scheduled for a tour.

"It made me a little angry because I try and give every person special treatment. The man was late and I did not feel kindly about it.

"And then he showed up at last.

"He was blind. I felt simply torn up when I saw him and he apologized for 'having a little trouble' making his way to the office."

All her rancor vanished.

So the two went on tour.

It was a talking tour. Every point of interest Peggy described in great detail. They stood in front of paintings and she would build a word picture of color, action, subject. She would speak of a statue, a panel, a bit of architectural detail and often he would pass his hands over the object to get a tactile vision.

"Sometimes he even got on his knees to touch and feel, as if he were trying to physically absorb what I was telling him."

So they proceeded to the several chambers, the great vaulted rooms, along the corridors, up and down small winding staircases as Peggy endeavored to give a special treatment that flowed from her heart.

She would paint vivid word scenes of the magnificent crystal chandeliers that hung in many of the historic chambers or rooms . . . his face, almost stiff with intent tilted upward as if he saw each shimmering crystal.

And so she depicted in great detail all those things that ordinarily could be dismissed with a few sentences.

Somehow, she is certain (and I am too), that the blind man "saw".

Peggy ended her vignette on a richly quiet tone.

"This was the longest tour I ever gave. It took over four hours. And I'll tell you something—when it was over I felt as if I had seen, really seen, the Capitol for the first time."

NATIONAL TELECOMMUNICATIONS POLICY

Mr. SCHWEIKER. Mr. President, many of my colleagues are aware of the debate which is currently going on in the Congress concerning telecommunications service in the country. While this debate continues as to what course the industry should take, and while each of us studies the issues, we must also be mindful that the people back home have very strong feelings concerning the quality and cost of their telephone service. The citizens express their concern in a variety of ways. In Pennsylvania, organizations representing all walks of life have set forth their views in formal resolutions, most of which call upon the Congress to carefully examine matters of telecommunications and to insure those matters are resolved in their—the general public's interest.

I have compiled a list of those organizations who have passed resolutions. I ask unanimous consent that this list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

COMPANY RESOLUTIONS—1977

EASTERN REGION

Philadelphia area

Government:
Council of the City of Philadelphia.
Minority groups:
All Sports Boys & Girls' Club, Inc.
American Foundation for Negro Affairs.
Baptist Ministers' Conference of Philadelphia & Vicinity.
Family of Leaders.
Citizens of Tioga Nicetown, Inc.
Concerned Parents of South Philadelphia.
Council of Spanish Speaking Organizations, Inc.
Harrowgate Community Center.
House of Umoja.
Ludlow Community Association.
Mantua Community Planners.
Meadow Street Civic Association.
Neighborhood Action Bureau, Inc.
North City Congress.
O.I.C.
Operation P.U.S.H.
Our Neighbor's Civic Association.
Resident Action Committee.
Southwest Divinity Community Association.
Spanish Merchants Association of Philadephia, Inc.
20th Century Sports & Community Service.
Volunteers in Aid of Sickle Cell Anemia, Inc.
Other:
Democratic Women's Forum of Philadelphia.
Frankford Chargers Football Teams.
Ladies Social of the Philadelphia Rifle Club.
Senior citizens:
Tabor Leisure Club.
Service organizations:
Kiwanis Club of Philadelphia.

Eastern area

Minority groups:
Casa Guadalupe.
NAACP—Chester Branch.
Other:
Hannah Penn Republican Women of Pennsylvania.
Service organizations:
Ambler Business & Professional Women's Club, Inc.
Delaware County Chamber of Commerce.
Easton Chamber of Commerce.
Indian Valley Chamber of Commerce.
Main Line Chamber of Commerce.
North Penn Chamber of Commerce.

WESTERN REGION

Central area

Government:
Lackawanna County Commissioners.
Minority groups:
Hamilton Health Center, Inc.
Harrisburg Spanish Speaking Center.
Monroe Community Workshop.
National Association of Black Social Workers.
Options Program Outreach Center Harrisburg Hospital.
Uptown Drill Team.
Uptown Fifth Street Local Action Council.
Service organizations:
Anthracite Council Telephone Pioneers.
Altoona Lions Club.
Bellefonte Junior Women's Club.
Bloomsburg Area Chamber of Commerce.
Bradford Area Chamber of Commerce.
Central Susquehanna Valley Chamber of Commerce.
Clearfield Business & Professional Women's Club.
DuBois Business & Professional Women's Club.
DuBois Chamber of Commerce.
Greater Berwick Chamber of Commerce.
Greater Hazleton Business & Professional Women's Club.
Greater Pottsville Area Chamber of Commerce.
Greater Shamokin Area Chamber of Commerce.
Harrisburg Business & Professional Women's Club.
Horshoe Curve Life Members, Telephone Pioneers.
Koch-Conley Post No. 121 American Legion, Scranton.
Lackawanna Chapter, American Business Women's Association, Scranton.
Lewistown Business and Professional Women's Club.
Milton Jarrett Norman American Legion Post 201, Sunbury.
North Branch Life Member Club, Telephone Pioneers.
Pocono Mountains Chamber of Commerce.
Pilot Club of Pottsville Inc.
Soroptomist Club of Pottsville.
Soroptomist International of Williamsport.
State College Business & Professional Women's Club.
Sunbury Area Jaycees.
Susquehanna Council Life Member, Telephone Pioneers.
Tiadaghton Junior Women's Club.
Tom McKeon Life Member, Telephone Pioneers.
Warren Business & Professional Women's Club.
Warren County Chamber of Commerce.
Warren County Kiwanis Club.
West Side—Kingston Business & Professional Women's Club.
Williamsport Life Member, Telephone Pioneers.
Women's Club of Lafiin.
Wyoming Valley Women's Club.
Senior citizens:
F. W. Black Senior Citizens Center.
Boyd Memorial Center.
East Penns Valley Senior Citizens Club of Centre County.
Lycoming County Senior Citizens.
McVeytown Neighborhood Center.
Montgomery, Pa. Chapter Lycoming Senior Citizens.
Newbury Chapter Senior Citizens.
Pennsylvania Association of Older Persons, Inc.
Uptown Late Start Senior Citizens Center, Inc.

Williamsport Chapter Senior Citizens.
YMCA Golden Age, Williamsport.
Other:
Concerned Members of Mt. Nettany Dog Training Club.
Tark Hill Rod & Gun Club.
Williamsport Area Council Republican Women.
Wopsononock Archers.
Xi Epsilon Beta Chapter of Beta Sigma Phi.

Western area

Consumer group:
Mercer County Community Action and Consumer Protection Agencies.
Government:
Borough of Charleroi.
Borough of Greenville.
Borough of Rochester.
Carroll Township Board of Supervisors.
Pittsburgh City Council.
Township of Indiana.
Washington County Board of Commissioners.
Minority groups:
Mercer County Community Action Agency.
National Association for the Advancement of Colored People.
Operation Better Block.
Squirrel Hill Urban Coalition.
Other:
Republican Club of Hopewell Township.
Rolling Hills Baptist Church.
Senior citizens:
Charleroi Area Senior Citizens.
Monongahela Senior Citizens Club.
Retired Senior Volunteer Program.
Elfinwild Senior Achievers.
Service organizations:
Allegheny Chamber of Commerce.
American Legion, Department of Pennsylvania 32nd District.
Carnegie Chamber of Commerce.
Carnegie Rotary Club.
Exchange Club of Aliquippa.
Greensburg Progressive Women's Club.
Greenville Area Chamber of Commerce.
Kiwanis High Noon Club.
Kiwanis Sun Down Club.
Kiwanis Sunrise Club.
Kiwanis Twilite Club.
Lincoln Place Lions Club.
Monroeville Rotary.
Shenango Valley Chamber of Commerce.
Uniontown Area Chamber of Commerce.
Verona-Rosedale Kiwanis Club.
Special interest group:
Concerned of Pennsylvania, Inc.
Mercer County Grange.

STATE

Service organizations:
Pennsylvania Chamber of Commerce.
Pennsylvania Council of Republican Women.
Pennsylvania Chamber of Commerce Executives.
Pennsylvania Federation of Business and Professional Women's Clubs.
Pennsylvania Legislature.
Pennsylvania Utilities—Railroad—Area Developers Association.

Delaware

Special interest group:
Delaware Disadvantaged Foundation, Inc.
Delaware Farm Bureau.
Capital Grange No. 18, Dover.

PENDING RESOLUTIONS

Delaware

Retired Federal Employees.
Urban Coalition.

Central Area

Carbondale Business and Professional Women's Club.
Hazleton Women's Club.
Peckville Business and Professional Women's Club.
YMCA Senior Citizens State Legislative Committee.

Western Area

Lawrence County Commissioners.
Federation of Glass Bottle Blowers.
Mount Pleasant Borough.

STATEMENT OF SENATOR HATHAWAY ON DICKEY-LINCOLN HYDROELECTRIC PROJECT

Mr. MUSKIE. Mr. President, yesterday the U.S. Corps of Engineers held its second scheduled hearing on the Dickey-Lincoln hydroelectric project in northern Maine. With the release of the draft environmental impact statement on this major power project, debate on the project within the State has been vigorous. Both Senator HATHAWAY and I have expressed our continued firm support for the project both at the hearing in Fort Kent, Maine, last week, and the hearing in Augusta yesterday.

Senator HATHAWAY has worked carefully with the proposal to build Dickey-Lincoln since it was first authorized in the midsixties. His thoughtful comments are valuable to all of us. I ask unanimous consent to print in the RECORD a copy of Senator HATHAWAY's statement from the hearing yesterday, summarizing the substantial need for and benefits of the project, and supplementing many of the points made in the earlier hearing.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR WILLIAM D. HATHAWAY

Thank you for the opportunity to present some brief remarks before this second hearing on the Dickey-Lincoln Hydroelectric project in Augusta, Maine. Statements were submitted on behalf of myself and Senator Muskie at last week's hearing in Fort Kent, and I would like to supplement some of the points made at that time in support of Dickey-Lincoln.

The Dickey-Lincoln hydroelectric project is now in the final phases of the environmental impact process, and judgment will eventually be made as to whether or not to proceed with construction. There is little doubt that this project has become more controversial than when it was originally authorized in 1965. Our understanding of both environmental and energy resource development has been enlarged considerably over those 12 years. Those two demands—environmental concerns and energy resource development—are often viewed as being in direct conflict with one another. Since 1973 and the Arab oil embargo, we have learned how essential it is to balance these conflicting demands in order to permit orderly economic growth.

That is what the environmental impact process is all about—providing choices which account for environmental values, and which mitigate any adverse impacts on the environment to the extent feasible.

Recent intense coverage of the draft Environmental Impact Statement on Dickey-Lincoln has resulted in a distorted focus only on adverse impacts of the project, both real and imagined, to the detriment of a full discussion of the benefits from the project. I am hopeful that these hearings on the draft will balance the record in that regard and provide the necessary information to ensure that a balanced judgment is made on Dickey-Lincoln, weighing both the benefits and the costs. I continue to feel that the project's benefits are substantial; and that these benefits, when considered with the environmental impacts outlined in the draft EIS, outweigh the costs of the project.

Dickey-Lincoln is first and foremost a power project. The costs of construction allocated to the power benefits of the project amount to 98% of the total costs of the project. Discussion of Dickey-Lincoln needs to be put into the context of our regional and national energy picture.

At present, the United States imports nearly 50% of its oil needs, up from approximately 23% before the 1973 oil embargo. In turn we depend upon oil for nearly 50% of our overall energy conservation. Our national dependency upon the less secure foreign sources of oil has grown steadily as Canada and Western Europe have curtailed their exports in response to their own supply needs. Our vulnerability to severe supply interruptions with potential consequences far outweighing those of 1973–4, has increased rather than declined.

New England and Maine are particularly dependent upon oil and oil imports, as the principal source of energy for the region. While New England receives a share of the benefit of domestically produced price controlled oil, climate and oil dependency combine to produce some of the highest energy costs in the nation.

Development of Dickey-Lincoln is the development of a native energy resource which can replace the equivalent of 2.3 million barrels of oil per year. At today's world market price that represents nearly $30 million dollars annually which would be available within this country, rather than being exported to the oil producing countries. What will 2.3 million barrels of oil be worth in 25 years? Even now we await the December meeting of the OPEC ministers to decide what the price of oil will be this coming year. Will the increase for this year be 5% or 50%? Is it probable that there will be no increase at all?

Dickey-Lincoln is a clean and renewable alternative source of energy. The waters of the St. John are a fuel resource whose cost will not rise in response to economic and political pressures; the economic cost of a hydroelectric project is in the initial construction. Fuel costs thereafter will be stable, and maintenance relatively simple and inexpensive.

Maine will be a primary recipient of this energy resource, with 44% of the energy allocated for use within the state. The peaking power which will be available in the rest of New England as well as that in Maine represents a minimum of 17% of New England's overall peak power needs in the mid 1980's. Peaking power is necessary to ensure that maximum power demands are met at the time of day or year when the highest demand is put upon the electrical system. It is ordinarily one of the most expensive components of a generating system. Hydroelectric power, however, is one of the more desirable sources of peak energy, with quick start-up time, flexibility and cost-free fuel supply.

In addition to this peaking power, there will be baseload power available to the state of Maine from the project. 100 per cent of the state's projected public power needs can be met in the mid-1980's from Dickey-Lincoln, at costs considerably below other available alternatives.

To give a concrete example of what this amount of energy could represent, Maine's share of the Dickey-Lincoln power—533 million kilowatt hours—is the amount of energy which could supply over 60,000 average households per year.

As a secure energy resource, Dickey-Lincoln represents economic development for the state of Maine. In the short term—some 7 or 8 years—there will be direct construction jobs from the project. The Corps of Engineers estimates that there will be a peak labor force of some 1900 people, and approximately $100 million in direct pay-

rolls for men and women working on the project. Several millions of dollars of additional economic activity will in turn be generated by such an economic stimulus.

Much has been said about the potential socio-economic impact of such an infusion of funds and jobs into northern Maine. The draft EIS makes reference to the possibility of increased social problems such as alcoholism and prostitution. This has resulted in fears of a boom and bust cycle which would devastate the cultural and social structure of northern Maine.

Needless to say, this possibility is a very real and compelling concern of those who live in the project area. I think this possibility, however, has been exaggerated. I have heard comparisons made with the Alaska pipeline project. Dickey-Lincoln simply does not compare to the Alaska pipeline either in magnitude or in physical or social setting. The Alaska pipeline involved billions of dollars; the need for a specialized workforce which was imported from all over the world; and the crossing of thousands of miles of frozen tundra in a state in which "wilderness" does not adequately describe the pristine nature of the physical environment. As an aside, I would note here that the pipeline has indeed been built despite these obstacles, and we will soon be receiving the benefit of a new domestic source of oil.

In the case of Dickey-Lincoln, the vast majority of workers will be from the state and 90% of the unskilled positions, and 24% of the skilled positions can be filled from the Aroostook County workforce itself. I would anticipate that nearly all of the workers will come from the New England region.

In fairness, the social, cultural and economic impact of long-term unemployment such as that experienced in all of Maine, and more particularly in northern Maine, must be weighed against these more remote possible adverse impacts which might result from raising the economy of the area. To someone who is unemployed, prosperity may indeed be an "adverse" impact which would be welcomed.

The relocation of residents of Allagash and St. Francis is of justified concern, both to the communities involved and the overall communities as a whole. Question has arisen as to the adequacy of present assistance for individuals in obtaining replacement housing. The underlying federal purpose is to ensure that "decent, safe and sanitary" housing is available to those relocated by the project. Should the present level of assistance not be adequate to provide such replacement housing, then additional funds can and would be sought to ensure that the statute's purposes are met.

In terms of the communities as a whole, there is recent precedent for special town relocation assistance which would go beyond the standard relocation authority of the Corps of Engineers. In a 1974 authorization Congress provided the Corps with authority to work with non-federal interests to relocate the Town of North Bonneville, Washington to a new townsite when additional construction on the Bonneville dam was to result in flooding of the town. This type of special legislative approach may well be applicable in the case of Dickey-Lincoln. I hope that these hearings will result in a definition of what might be needed in terms of overall community relocation assistance. I would urge the Corps and the people of Allagash and St. Francis to work together developing the needed information so that recommendations in this regard could be considered with the final impact statement.

As a federal project, the economics of Dickey-Lincoln have been extensively analyzed. No other federal programs undergo such a rigorous economic analysis. The traditional cost-benefit analysis by the Corps weighs the financial costs and benefits of the project over its 100 year life. A discount factor (or interest rate) is used to bring the costs and benefits of the project into the same time frame, to show their "present worth." This discount factor has been the subject of some controversy, with opponents of the project alleging that it is artificially low, resulting in a more favorable cost benefit ratio than is justified. It should be remembered, however, that the discount factor relates to when benefits and costs occur. The higher the discount factor in general, the greater the emphasis upon more immediate benefits as opposed to benefits which will be forthcoming in the future. With that understanding, it might be suggested that as a matter of policy, no discount rate should be used in weighing the benefits and costs of developing a renewable energy resource, whose worth may be inestimable in future years.

In any case, Dickey-Lincoln has a favorable cost benefit ratio under any of the various economic analyses used by the Corps. The Corps may also do a life cycle analysis of Dickey-Lincoln, comparable to that which has recently been started on the Passamaquoddy tidal project. Under life cycle analysis, Dickey's benefits may be even more substantial.

Further, the public investment in the project is repaid over a 50 year period through the rate schedule. Since nearly all of the costs of the Dickey project are allocable to the generation of hydro power, nearly all of its costs will be repaid. At the same time, those rates will be at or below the current electrical rates for New England.

Current projections for rate increases indicate that these savings will become increasingly substantial in future years. One estimate is that Dickey-Lincoln can save consumers in Maine alone some $12,000,000 annually from the projected power costs for other energy resources. Simply expanded over the 100 year life of the project, that represents a savings of 1.2 billion dollars. That should be compared to the potential economic loss from timber over the life of the project which the draft EIS places at maximum at $311 million dollars.

This is a savings in power costs which is 4 times the maximum estimated potential loss of economic benefit from the inundation of the forested acres.

In addition to power benefits, Dickey-Lincoln also represents permanent flood control for the entire St. John River Valley. The Corps estimates that the average annual flood control benefit of the project, even with completion of a local flood protection dike, to be over $650,000. These are costs which are most immediately borne by residents and businesses of the area, but which the general taxpayer ultimately bears.

The benefits of the project are considerable There are also several points which should be made to place some of the adverse impacts into better perspective. First, as has been noted, many of the adverse impacts can and will be mitigated, such as providing adequate relocation assistance, working to mitigate some of the potential social impacts of the project, and providing for relocation of wildlife affected by the projects, such as the U.S. Fish and Wildlife service has recommended.

Secondly, some of the losses need to be put into a broader context. For example, the loss of forest from the project represents approximately ½ of 1% of the state's forested area, and only 2% of that of Aroostook County alone.

The 278 miles of streams and brooks which will be flooded are only 14% of all the streams and brooks in the St. John River basin above the dams. In relationship to all of Maine's streams and rivers, this amount is only a fraction of a percentage point.

That does not reflect the quality of the river, however, and the loss of whitewater canoeing on the river is an unavoidable impact. This loss should be put into perspective too; the river is available for canoeing only a short period of the year; there were only 2,328 canoeing visitor days in 1975; and only 19% of these were from the state of Maine itself.

It has been asked why Maine should develop an energy resource to benefit the rest of New England; perhaps, it is just as fair to ask why we should preserve it so that our wood can be cut for Canadian sawmills, and our river be canoed by a small number of individuals, principally nonresidents.

This is not to imply that there are not major environmental trade-offs which must be made should Dickey-Lincoln be constructed, nor to downgrade the significance of the choices which present themselves. There is no doubt that a balancing must be made between which energy resources we will develop for the future.

All of our most readily available choices involve environmental risks, ranging from oil spills, to air pollution, to nuclear waste disposal.

The more exotic energy resources are promising but are unlikely to provide any significant energy supplies until well after the turn of the century.

Conservation must continue to be emphasized. But the reality is that Maine's electrical growth rate has increased again from the low of 1975. In the first 9 months of this year alone, Central Maine Power Company estimated its growth at 7.8 percent, well above the 5.4 percent annual rate of growth now projected for New England. Conservation can bring down our rate of growth; it cannot, however, prevent growth in demand itself. Conservation and economic development must also be brought into balance; recession may be an effective conservation tool, but it is clearly not a desirable one.

Dickey-Lincoln at its simplest represents a valuable domestic energy resource, which in turn represents secure and stable economic development and jobs for people. That is the basic context in which the debate on the draft EIS should be placed. Dickey-Lincoln would be the largest single public investment in the future of New England which has ever been made.

It is an investment once made which will not be withdrawn or closed as a result of later policy changes. It is an investment in the future of Maine and of New England. It is an investment in a more prosperous future for Maine's children and grandchildren. It is an investment in energy, jobs, and freedom from devastating floods. It is an investment which involves risks, and which will necessarily involve some irreversible commitments of resources.

It is an investment, most of all, which needs to be viewed in the perspective of our present resource use, and our projected resource needs.

The people of Maine deserve a thoughtful and balanced judgment on whether or not to build Dickey-Lincoln. I am confident that these hearings will contribute to such a judgment and hope that my thoughts have been of assistance in reaching that balance.

DEMAGOGUERY AT THE WHITE HOUSE

Mr. HATCH. Mr. President, recently the President of the United States accused the Members of the Senate of selling out to the oil industry. This is the way he and his advisers interpreted the Senate's reservations about his energy bill. I would like to call to the attention of my distinguished colleagues the response to the President's angry accusations from 41 of the Nation's most distinguished economists of all political persuasions. Although the Senate has

shown, in my view, better judgment than the administration concerning the energy problem, I believe that we need to listen to what these distinguished experts have to say every bit as much as President Carter and the oil companies need to listen. We should also keep in mind that these distinguished experts, unlike Dr. McKelvey, Dr. Knudsen, and the ERDA staff, cannot be fired, replaced, and dispersed by President Carter for telling the truth about the energy problem. We will all have to live with their outspoken opinions in the Nation's leading universities about the merit of our energy legislation.

Mr. President, I ask unanimous consent that a full page statement in today's Washington Post be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 27, 1977]

DEMAGOGUERY AT THE WHITE HOUSE

Not since Richard Nixon left the White House has the public witnessed an outburst quite like President Carter's at his recent news conference on energy. The President heaped invective upon his opponents, denounced oil companies as "war profiteers" and declared that defeat of his energy program and removal of natural gas price controls will mean "the biggest rip-off in history."

As responsible economists of all parties, we deplore discussion of important national issues in these terms. We believe that the President's intemperate language reveals the essential weakness of his case.

The issue is not oil companies versus the people. And one does not need to be a fan of the oil companies to recognize that. Every signer of this statement has been critical of the oil industry. We strongly oppose the current system of controls and import subsidies that adds millions of dollars to the income of oil refiners. We believe in a competitive oil industry, free from monopoly.

We think the best way to achieve the goals of energy conservation and limited imports from OPEC is to let the market set prices—with rewards going to those who serve consumers most efficiently. Mr. Carter wants the bureaucracy to set prices and to distribute the rewards politically.

Under Carter's plan the lobbyists he deplores really would have the ability to "rip-off" the public. This possibility has certainly been recognized by some of the oil companies themselves. Contrary to public impression, not all the oil companies have been fighting the Carter program. They see the possibility that it would protect them from competition as well as grant them direct subsidies.

The so-called "energy program" would be the largest peacetime tax increase in history. It would make many billions more dollars of tax revenue available for lobbyists to seek—as well as mandate an expensive bureaucracy which would increase the overhead costs of making energy available to consumers. Already the Department of Energy is to cost $10 billion annually—a sum roughly equal to the combined after-tax earnings of America's major oil companies.

Mr. Carter would use taxes to raise the domestic price of oil to the world level. This is his way of eliminating the subsidy we are now paying through the "entitlement program" for the import of foreign oil. A far better way to achieve the same goal is to let the market set the price. This would provide the domestic owners of oil, many of whom are not large oil companies, with the same incentive to produce oil which we currently provide to OPEC. It makes no sense to say that OPEC oil producers can receive $12 or $13 per barrel when American producers are limited to $6 per barrel. But this is exactly what the President's tax on crude oil would do.

If the market is allowed to set the price, this will bring forth additional energy supplies which will lead to lower prices in the future. But if the cost to the consumer goes up due to a tax increase, it will go up now and permanently. There is no increased production. The consumer's only hope under the Carter plan is that bureaucrats in the Department of Energy will somehow be more enterprising and efficient at bringing forth energy supplies than all of the many energy companies operating under the spur of profit and competition. Does anyone really expect this to be true?

There is no energy crisis in the U.S. today, but there is an energy problem. It was created by political manipulation and price controls in energy markets. Former President Nixon deserves much of the blame for impcsing these controls on oil as part of his general price control program in 1971. The controls on natural gas that created the crisis of last winter date from more than 20 years ago. And the present system of oil taxes and subsidies was passed by Congress and signed into law by President Ford in 1975. Now a Democratic President seeks to perpetuate the mistaken policies of his Republican predecessors.

At the very time that the Carter Administration is opposing de-control and thus denying the public the right to purchase American gas at $2.20 per MCF, the Department of Energy is making long-term deals to import natural gas from Algeria and Indonesia at $3.50 per MCF.

Angry rhetoric from Mr. Carter will not persuade a reasonable citizen that it is better for our economy to spend $3.50 for gas than it is to spend $2.20.

Perhaps with more serious reflection, Mr. Carter may come to realize this himself. Perhaps he will return to his pre-election position that controls, which are a major cause of our energy problems, should be eliminated.

Congress has been told that it must rush to pass Mr. Carter's current energy plan. "This is the moral equivalent of war." And what is that? William James, from whom President Carter borrowed the phrase, defined "the moral equivalent of war" as nonmartial suffering, something which involves "discomfort and annoyance, hunger and wet, pain and cold, squalor and filth." We do not believe that the American people deserve to have "discomfort, pain, squalor, etc." imposed upon them by their government.

ECONOMISTS FOR RESPONSIBLE ENERGY POLICY

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James Sweeney, Professor—Stanford Engineering—Economic Systems, Stanford University.

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Yale Brozen, Professor of Economics, Graduate School of Business, University of Chicago.

SUNSET LEGISLATION

Mr. CANNON. Mr. President, the October 23, 1977, issue of the Washington Post contained an article on sunset legislation. Because of the widespread interest in this legislation, which is now under consideration by the Committee on Rules and Administration, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE TROUBLE WITH SUNSET LAWS

(By Mark Green and Andrew Feinstein)

What could be wrong with a reform supported by Sens. James O. Eastland and Edward M. Kennedy, embraced warmly by The Business Roundtable and Common

Cause, and repeatedly endorsed by President Carter—a reform unanimously approved by the Senate Governmental Affairs Committee in June and enacted into law by 16 state legislatures in the last year alone?

Plenty, if the reform is "sunset" legislation.

To be sure, at a time when attacking the government bureaucracy is as popular as jogging, sunset laws have an obvious appeal. Government, and consequently government waste, have grown dramatically in recent decades; once a program is launched, Congress rarely reexamines its underlying rationale; therefore, say sunset proponents, an "action-forcing" mechanism is needed to terminate periodically all federal programs unless a program can justify its continued existence to Congress.

Two pending sunset bills are S. 2, sponsored by Sen. Edmund S. Muskie and 41 others, and S. 600, with a stellar sponsorship including Sens. Robert Byrd, Abraham Ribicoff and Charles Percy. S. 2 would halt the authority to spend money for government functions which are not reapproved over a six-year cycle. S. 600 would scrap agencies and their supporting laws if not reapproved over an eight-year cycle. So while S. 600 focuses on the programmatic content of federal regulation, S. 2 takes on the entire spending side of the federal budget.

Undoubtedly, the task of reapproval is massive, but no one knows just how massive. The number of programs to be reviewed depends on who is defining the term "program." While a Governmental Affairs Committee "table of federal programs" lists 1,250 units, the Senate Rules Committee estimated there could be 50,000 programs.

Even taking the lower figure, Congress would have to review more than 200 programs per year under S. 2, or better than a program a day that Congress is in session. Colorado's sunset process, involving just 13 regulatory agencies a year, is one thing; one program a day is quite another.

As is, members of Congress are so busy that a recent House poll found that members were able to use only an average of 11 minutes a day for reading. All of which substantiates Sen. Thomas F. Eagleton's complaint that, "I hear my colleagues mutter about how we senators are becoming captive creatures of our burgeoning office and committee staffs; with sunset, 'burgeoning' may well become 'bloated'."

The workload problem cannot be easily dismissed, especially for a proposal which would guillotine agencies if Congress did not act. Given this burden and the fact that the Congress, like college students, does most of its work at the end of the term, the likely result would be a perfunctory thumbs-up or thumbs-down on many programs. Yet such a cursory review is the very evil to which sunset is addressed.

Worse is sunset's inherent bias against "people" programs—those protecting consumer health and safety, safeguarding civil rights, aiding the needy.

While it is not difficult to tally up the costs to business of health and safety legislation, such as the Auto Safety Act or the Occupational Safety and Health Act (OSHA), it is inherently impossible to quantify the benefits to society. How do you put a price tag on the avoidance of cancer in future generations because the government prohibited an employer from using carcinogens?

Due to powerful corporate opposition, these "people" programs often require a catastrophe or prolonged gestation to come into existence. Tough food and drug laws were passed in the wake of the 1938 elixir sulfanilamide and 1962 thalidomide tragedies; the struggle to create an Agency for Consumer Advocacy is now in its eighth year. Their extinction should not depend on a successful filibuster or a presidential veto. Opponents of these social programs—needing only 145 House votes or 34 Senate votes to sustain the veto of a Ford-like President—would have undue leverage over the content of fundamental programs. It shouldn't be so easy to scuttle what took so much deliberation to create.

As Sierra Club official Carl Pope has written, "By the end of Gerald Ford's unelected term in office, under some sunset proposals we would have lost the Clean Air Act, the Clean Water Act, OSHA and possibly NEPA [National Environmental Protection Act]. Each of these would have been up for review, and none would have been signed by the President in effective form."

Human welfare programs usually have diffuse and unorganized constituents: welfare mothers; consumers who may buy a dangerous drug or car; workers who may lose an eye. Corporate welfare programs usually have politically powerful constituents, such as major contractors for weapons systems or the merchant marine for the Federal Maritime Commission. In the struggle to keep Congress from failing to renew their programs, the latter are far better equipped to play power politics.

For example, the most prominent federal agency terminated has been the Office of Economic Opportunity (a benefit program for poor people), not the Department of Commerce (a benefit program for big corporations). The Senate Banking Committee recently voted to abolish the Renegotiation Board, an agency which benefits taxpayers generally but is strongly opposed by military contractors seeking the highest profits possible.

When S. 2 was considered by the Governmental Affairs Committee, the section which subjected "tax expenditures" to sunset review was deleted. "Tax expenditures," which total about $125 billion annually, are noncollected taxes that mainly benefit corporations and the wealthy. Senators, notably Finance Committee chairman Russell B. Long, successfully complained that the possible termination of tax expenditures would create "uncertainty" and undermine investor "confidence."

But what about the "uncertainty" of states dependent on federal aid to education, and what of the "confidence" of consumers that airplanes are safe because of a Federal Aviation Administration? "The Congress has determined that the program which provides for the subsistence needs of aged, blind and disabled persons would continue in force unless and until modified by subsequent legislation," said a study of sunset legislation by the Finance Committee staff. "In establishing this program on a 'permanent' basis, Congress was likely motivated by the belief that a poor, aged, blind or disabled person should not have to worry each year—or even once every five years—about the security of his benefit payments."

Nor will it suffice for proponents of sunset to argue that their approach merely forces oversight and that, in practice, few or no agencies will be abolished. To establish credibility, sunset reviewers will be prone to operate on Voltaire's maxim that the British had to "kill an admiral from time to time to encourage the others."

To say that the sunset solution is defective is not to say that the problems of inadequate congressional oversight and executive agency misregulation are not real. Yes, Congress must exercise ultimate control over federal programs. So why not instead require congressional committees (i.e., an "action-forcing" mechanism) to undertake periodically a "zero-based" review of the cost, performance, need for and alternatives to all federal programs and tax expenditures? A program or authorization would then be eliminated only if Congress affirmatively passed legislation, but not if it did nothing.

This shift in burden would help protect against extinguishing agencies, in the words of the Senate Finance staff report, "through scheduling inadvertencies or from being held hostage by a President or by a determined minority interest against the will of the majority of Congress." For Congress to insist that elimination result from non-action betrays a lack of confidence in its own ability to act where necessary.

The Congressional Budget Office, "zero-based" reviews by federal agencies of themselves and a reinvigorated congressional "oversight" process are all recent phenomena. They should be able to demonstrate their collective potential before enacting into law a mechanistic approach that confuses slogans for reform—a "draconian cure," according to a report of the House Subcommittee on Oversight and Investigation, "that may be worse than the alleged illness."

S. 1883—THE LABOR REFORM BILL

Mr. THURMOND. Mr. President, in the October 24, 1977, edition of the Southern Textile News, there appears an excellent guest editorial reprinted from the Gaffney Ledger in Gaffney, S.C.

Early next session, the Senate will be called upon to debate S. 1883, the companion bill to H.R. 8410, which has already passed the House of Representatives.

The editor of the Gaffney Ledger has appropriately and wisely pointed out the dangers inherent in this bill. He should be commended for his excellent and incisive analysis.

Mr. President, this editorial contains suggestions which merit the close study of my colleagues, and in order to share it with them I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WE OPPOSE H.R. 8410

The Ledger opposes the passage of H.R. 8410, "The Labor Reform Act of 1977" and the "gag rule" providing for its limited consideration and debate.

H.R. 8410 clearly illustrates how the control and influence of big labor over this administration can deform the legislative process in the name of "reform."

The purported goals of H.R. 8410 to make the National Labor Relations Board (NLRB) procedures more fair, more prompt and more predictable, would be worthy objectives. However, the real objectives of this bill are too thinly veiled to escape recognition. It is purely and simply a political payoff. It rewards organized labor for its support in the 1976 presidential campaign.

H.R. 8410 is essentially a "pro big labor" bill which makes it easier for unions to organize and grants them coercive new leverage at the bargaining table. It is an unequal and distasteful interference in the balance of normal collective bargaining relations. H.R. 8410 is so blatantly one-sided that it contains no parallel sanctions for willful misconduct by unions.

H.R. 8410 is a total departure from our present national labor policy. The hallmark of the National Labor Relations Act (NLRA) has been its balanced approach to resolving labor-management disputes. Congress has steadfastly declined to refashion the Act into a punitive device. H.R. 8410 changes the NLRA from a remedial statue to a punitive statue. It strengthens the institutional power of big labor in a manner that tilts the balance of our national policy in favor of the labor bosses at the expense of the employer, the employee and due process.

We believe that H.R. 8410 will produce greater management resistance, stimulate more litigation, and lead to more labor strife than presently exists.

We believe that amendments to H.R. 8410 should be adopted to protect the employees against the abuses of either the unions or employers.

We support amendments to H.R. 8410 which will: (1) protect the employee's right to secret ballot elections for union representation; (2) protect the employee from fines for exercising any rights guaranteed by the NLRA; (3) provide employees with right to a secret ballot election to determine whether to call, maintain or resume a strike; (4) protect the employee's right to hear both sides of union representation arguments; (5) protect the employee's contract right to a legal, arbitrated decision; (6) provide employees with the right not to have mandatory union contributions used for political purposes; and (7) provide the right of an employee with a religious belief prohibiting union support to withhold such support.

We firmly believe that any employee should have the right to refuse union representation or to refuse the payment of dues if the employee chooses not to be represented by a union.

Freedom, we believe, is not a matter which you can work out a compromise.

FATHER LEONARD CUNNINGHAM

Mr. HOLLINGS. Mr. President, on October 13 in the Charleston (S.C.) Evening Post, there appeared a feature article by staff writer Mari Maseng on a most remarkable human being, Father Leonard Cunningham.

The article concerned itself with the fact that Father Cunningham would be leaving the Union heights area of North Charleston to return to the Trappist Monastery at Mepkin Abbey near Goose Creek, S.C. And it detailed, at some length, the very great impact that Father Cunningham had made in the Union Heights community over the past 8 years.

I am personally familiar with that impact. When Father Cunningham took an extended leave of absence from Mepkin Abbey to live in the community, Union Heights could only be described as a tragic situation. A predominantly black ghetto in every pathetic sense of the word, it was afflicted with a high crime rate, abject poverty, badly deteriorated housing, a total lack of leadership and hope, and as near a complete absence of concern by local elected officials as we are likely to find.

To say that Father Cunningham brought change to Union Heights is an understatement. By establishing the Union Heights Community Center, he provided a focal point for leadership, and the citizens of Union Heights—most of whom were property owners—came forward to work for the betterment of their community. They founded the Community Improvement Association, and they turned the harsh light of publicity on conditions there. Elected officials—myself among them—came to Union Heights to see first-hand what the conditions were, and we were compelled to act.

Union Heights is no oasis today, but much has been accomplished. There are parks and basketball courts. There are organized recreational and educational activities. Abandoned housing and derelict automobiles have been removed, the people are united. The crime rate has dropped dramatically. Through it all was Father Cunningham—pushing, cajoling, pleading, organizing activities, helping young people find jobs and scholarships, helping older people get health care and always, always applying pressure to the political leadership.

His concern for and dedication to his fellow man stand out, in my mind, as an outstanding example of Christian brotherhood, transcending race or social rank or even religious philosophy. And though his is just one small example of selfless activism in behalf of others, it is one that should be recognized by all who care about the human condition. I know my colleagues join me in commending Father Cunningham for his service to others, and I ask unanimous consent that Ms. Maseng's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNION HEIGHTS TO CONTINUE PROGRAMS

(By Mari Maseng)

There's going to be a void in Union Heights after Sunday night.

That night in Chicora High School a farewell reception for Father Leonard Cunningham will be held, and it will mark the end of a special time for the 12-block, predominantly black residential area.

Eight years ago a 45-year-old Roman Catholic priest grew restless at Mepkin Abbey near Goose Creek. He was one of many who were feeling the need to experience a "ministry of presence", of working in the field.

The church understood the need, he said, and gave him and others an extended leave of absence. He was different, however. Father Cunningham is black.

He is the only black priest in South Carolina and one of only 300 in the United States. He is also an independent thinker who saw the need to minister to the human needs of the people in Union Heights.

"The religious needs were already being met by the established Christian Church," he said, and he made no attempt to convert the residents to Catholicism.

"It's a deeply religious Christian community. There's a church on every street corner." But not all the streets were paved. There was an obnoxious ditch cutting across the area, "a source of great sorrow and disease."

"When he first came there were cars left in the street and abandoned houses," Mrs. Evelyn Vinson, 59, said. She had lived in Union Heights for 39 years. Her 12 children have grown up there.

"The community really needed some guiding," she said. Then Father Cunningham, backed by money from the United Methodist Church, set up a community center at 2057 Comstock Ave. "We accomplished a lot of things by having a community center and working together. I miss him already."

Most residents of Union Heights are property owners, which sets them apart from residents of many other areas in the industrial neck. "There are a few scattered whites who really can't afford to get out, but they are good neighbors and get along beautifully," Father Cunningham said. The people he has been working with are good people, he said, and he respects them.

Since he's been there, he says crime has dropped 80 per cent.

"Now they have something to do," he said. "They've got four little mini-parks and two basketball courts," he said. He organized recreational and educational activities, helped young people find jobs, helped others get college scholarships, worked to register the people to vote and applied pressure on the political powers.

The Community Improvement Association arranged for local politicians to tour the area. "Their reaction was one of total stun and shock," the priest said. "We've since created a beautiful friendship with these people as they became aware of the needs of the community and started to make the necessary improvements."

But his approach to ministry was unorthodox in another way, also. Three years ago he ran for a seat in the State House of Representatives.

"It was really just a cry for help," he said. "I didn't really expect to win. I just wanted to accentuate the needs of the community."

Father Cunningham didn't win. The church didn't support his campaign. "Unfortunately, there were those who didn't seem to especially agree with my political cry."

But Father Cunningham continued working in the area and the residents came to depend on him. They went to him for advice on matters they were unfamiliar with, Henry Wright, vice president of the civic association, said. He drove the elderly to the hospital, guided the young people.

"He did everything and helped everybody, old and young." Wright, 61, said. There were some youths who did not respond to him, but, Wright said, you get that anywhere.

"Three or four years ago he said 'you never know where the church might send me' and started working very close" so the neighborhood could carry on without him Mrs. Vinson said. Wright said the community will miss him, but will continue his programs.

"I deeply regret my having to leave. When I look upon it, I see my return into the monastery as a necessary ingredient to the preservation of my peace of mind."

Many have wondered what he will be doing at the monastery on the beautiful and spacious grounds on the former Henry Luce estate.

"People have been asking monks that prior to the beginning of Christianity," Father Cunningham said, and laughed. "The Trappist form is a life of partial separation from civilian life, the main elements being study and work, since monks are responsible for earning their own living.

"There are 60,000 chickens up there!" he said. The primary income comes from eggs.

A lot of people have told him they suspect his return is only temporary, but the priest answers that being a monk is a permanent commitment.

ONE SENATOR'S CONCERNS

Mr. HATCH. Mr. President, while the Congress and the administration are bickering over how many energy taxes we are going to impose on the American people and the distribution of the revenues, our overall situation and that of our allies continues to deteriorate. While many in our own Government continue to pretend that the enemy is our own oil companies, Soviet power grows unabated. The lead editorial in today's Wall Street Journal reports that Soviet power is so visible to Europeans that it intimidates them from investing in economic growth. The uncertainty is such that they consume and live for the moment. All the while they observe us fighting to destroy one of our most valuable industries in order to increase, not American power in the world, but Federal power over American lives. Our allies cannot find it reassuring that at a time of growing So-

viet power, the American Government is primarily interested in increasing its power over its own citizens. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DEAD WEIGHT ON EUROPE

The sorry performance of Europe is both a grave economic concern and a deep intellectual puzzle. So it was fascinating to explore the problem, and see a new shaft of light shed on its causes, in a long private conversation with one of the most informed and influential men on the continent.

On this side of the Atlantic, Americans are disappointed with our own economic recovery. Even the rapid gains of the first half of this year only barely dented the unemployment rate, held up by a rapidly growing work force. (Over 48% of adult women are now in the labor force.) In the second half, recovery has slowed, chiefly because capital investment has not come on stream as it has at this stage of past recoveries. Some industries, notably steel and farming, are falling into distress. Growth for the year will probably come in around 5% to 5½%, above the long-term trend but disappointing in relation to the depth of the 1973–74 decline.

But where the U.S. finds disappointment, Europe finds despair. None of the European economies enjoyed our rapid first-half spurt. Where American steel companies face shrunken profits, British and German steel companies face huge loses. Despite the well publicized optimism on the London stock exchange, the British economy seems likely to finish the year without growth. Despite a good first quarter, Italy's industrial production is now falling. Production is also falling in Sweden where the socialist miracle is over. Though the Bundesbank, like the Fed, has exceeded its monetary growth targets, the West German economy stalled in the second quarter, showing real growth of only 0.5%.

European stagnation will make itself felt on the U.S. economy, indeed must already be doing so. The greatest danger is that stagnation feeds protectionist impulses in each of these economies. If the United States starts to lead the way with a little protectionism to aid steel, it might set off flash fires in Europe. We could yet see the spiral of protectionism, decline, more protectionism and more decline that typified the Great Depression.

Why, we asked a distinguished European, has the continent not shared even in the cool recovery experienced here? The first answers were the conventional economic ones: The inflation had been much more virulent in countries like Britain and Italy, so the process of correction must take longer, and it is a drain on the rest of Europe. And unlike the United States, Europe imports nearly all of its oil. The oil-price increase was in effect a tax increase, with the same depressing effects on the economy. This was felt more and longer in Europe.

And the problem of investment. There has been a world-wide decline in profit margins, and therefore slowing investment. The lack of robust capital investment is currently slowing the U.S. recovery, but investment is even weaker in Europe. West Germany, which other European nations expect to pull them up from stagnation, shows particular signs of doubt. Consumer saving is high, but business investment is weak. There is some investment by the largest corporations, which are run by managers whose contracts last five years. But nearly none by medium and small concerns, much more important there than here, run by individuals and families.

As the conversation meanders into its third hour, a new topic suddenly emerges. German industrialists, the visitor is suddenly moved to report, keep coming back even now to a reported remark by Henry Kissinger, that in 10 years all the European countries will probably be socialist or Communist. The former Secretary of State has tried to overcome the impact of these words, but they so neatly summarize the industrialists' own fears that they will not go away. Potential investors see the growing power of the Soviet Union, and they read of U.S. defense exercises assuming a minimum loss of one-third of Germany. "They wonder, will their big ally be there?"

What will they think, we perversely ask, if the U.S. now signs a strategic arms agreement that would outlaw subsonic, conventionally armed weapons that can strike from Germany to Russia, but permit supersonic, nuclear weapons that can strike from Russia to Germany? "As you describe it," the distinguished European cautiously replies, the deal is so lopsided no American government would agree to it. In time he will learn that the U.S. government has agreed to precisely that, in a treaty sharply curtailing the allied cruise missile but not the Soviet SS–20 ballistic missile.

In time, those German industrialists will learn that too. European investment will be driven down another notch, the European economies will follow, and tend to drag the U.S. along. And we would be astonished if these relationships are even dreamed of by anyone in the current White House, Pentagon or Treasury as they grapple one day with the arms talks, the next day with the sagging dollar and the next day with protection for steelworkers in Youngstown.

FEDERAL WATER POLICY: AN ASSESSMENT

Mr. JACKSON. Mr. President, on October 26, Senator FRANK CHURCH delivered the keynote address at the 46th annual convention of the National Water Resources Association, held this year in Boise, Idaho. The address is a remarkable summation of the Federal role in developing our water resources and the crucial contribution of these water projects to the growth of the West.

Congress, Senator CHURCH notes in his speech, has always taken care when authorizing Federal water projects "to fit them into the framework of State custom and local desires. The genius of the formula was to take the cloth as it came, and then to weave into it a tapestry of dams, locks, and canals; of harbor works and then to weave into it a tapestry of plants and flood control and reclamation projects."

The Senator then continues:

. . . from the start, there have always been those who have wished to tear the cloth, who have advocated that the Federal Government assert its authority under the supremacy clause of the Constitution, take up its scissors and start to cut and trim the tapestry. We must stand against them, now and in the future, as we have in the past.

This speech, Mr. President, speaks for the concerns of many of us in the West. It is fitting, I think, that when Senator CHURCH addressed the association, he was presented with its award naming him Water Statesman of the Year, in recognition of his outstanding leadership in fashioning water policy. It is a coveted award, and the Senator is to be congratulated.

I ask unanimous consent, Mr. President, that the text of Senator CHURCH's address be printed in the RECORD.

THE FUTURE ROLE OF THE FEDERAL GOVERNMENT IN WATER RESOURCES

I feel highly privileged to be asked to speak at this 46th Convention of the National Water Resources Association on a subject as important as The Future Role of the Federal Government in Water Resources."

To this subject, I can only bring you one man's opinion, an opinion which stems largely, I readily admit, from the oft-quoted observation of Patrick Henry, who said:

"I have but one lamp by which my feet are guided, and that is the lamp of experience. I know no way of judging of the future but by the past."

So I will speak to you today from an experience of more than twenty years in the United States Senate, during which I have kept close watch on water issues as a member of what used to be the Interior Committee, but is now known as the Committee on Energy and Natural Resources.

I would speak also as a Westerner of pioneer stock, proud of the history of my state and mindful of the crucial contribution of water projects to the development of Idaho.

We meet in Boise, originally a fort in Indian territory and a trading post for the wagon trains moving through from the rain country of the Mississippi flatlands toward the rain country of the Oregon coasts.

The wagons followed the Oregon Trail, known at the time as the "longest cemetery on earth," marked by a grave every quarter mile along the way. In those thousands of lonely, shallow graves, where the identity of loved ones was sought to be preserved by a pile of rocks and a rough-hewn wooden cross, lay the victims of a vast, raw, hostile wasteland.

Because of this fearsome barrier, the long trek West became a tale of heroism—a struggle for survival against the mightiest obstacles nature could interpose: towering mountains, wind-swept prairies, blistering deserts—a challenge so formidable that the way west remains to this day a living legend.

Those hardy pioneers who made it to the coast and began to clear and cultivate their rain-fed farms must have felt that the great wasteland they had traversed would forever remain empty and wild, with nothing more than a few settlements clinging close to the cavalry posts and scattered boom-and-bust mining towns, wherever gold might be found.

What else, after all, could be expected of such barren country, where the snow clung to the mountain summits in the winter and disappeared in a raging torrent in the spring; where the rainfall was so sparse that soil once broken by spade or plow soon blew away in clouds of dust.

But, as necessity is indeed the mother of invention, the determined men and women who chose to settle in the wasteland found an answer in the miracle wrought by irrigation.

They built dams to store the melted snow; they spread the river waters upon the arid land through a network of canals and made the desert bloom; sagebrush gave way to wheat, barley, potatoes, peas, beans, corn and sugarbeets. Orchards took root on the sunny, irrigated slopes. The population thickened; tiny settlements became bustling towns, and cities began to grow. As the water in the ditches brought life to the farms, so the farms made possible the permanent development and growth of the great hinterland, now know as the Intermountain West.

Of course, the key to the miracle was the storage and prudent use of scarce water. And the settlers soon discovered that new laws would have to be devised to safeguard the water and provide for its orderly disposition. The old laws which served the abundantly-watered states of the East simply would not work in the West.

It is said that the first Western water law grew from the barrel of a gun—Winchester

water law. But, as the courts replaced the posses, the doctrine of appropriated water rights emerged. It was a practical, workable doctrine, based on the unique circumstances of Western life. Stated in its most elementary terms, the right to claim water rested on putting it to beneficial use. As between such users, he who was first-in-time was first-in-right.

Since the doctrine was fair and sensible, it was generally accepted. And it has served the West well. If federal land grants, administered through the Homestead and Desert Land Entry Acts, were the bricks with which the West was built, state water laws furnished the mortar which cemented them together.

Management of water rights under state law thus became an integral part of our Western heritage. The Federal Government, long engaged in an ambitious expansion of irrigation, has deferred to state water law throughout the 75-year history of the Bureau of Reclamation. Congress has repeatedly stressed its determination to recognize and uphold state water law.

Just three weeks ago, Western Senators met as a group with President Carter, where we were assured that he had no intention of tampering with water rights as determined by state law. The Secretary of Interior, Cecil Andrus, former Governor of Idaho and a Westerner through and through, can certainly be trusted on this score.

Recently, Secretary Andrus declared unequivocally: "I do not advocate and have never advocated federal water rights that would preempt or infringe upon state or private rights. And, as a former Governor, I have always opposed moving water from one river basin to another."

Why, then, are we so anxious? What makes us fret? Must we forever be reassured by each new Administration?

The answer, succinctly stated, is: "Yes!" Before Westerners will be satisfied, every new Administration must take an oath to hold state water law inviolate. I have served with six Presidents and had it out with each of them. And I tell you this: the protection of water rights under state law can never be taken for granted. It requires an unrelenting vigilance!

Easterners or Southerners might not understand the story of the farmer who ended up in jail in Burley, Idaho, charged with severely beating three men. He was known to be even-tempered, so one of his curious friends dropped by the jail to find out what had provoked him. The farmer explained how these three toughs had appeared on his farm one night, drunk and mean.

"What did they do?" asked the friend.

"Well, first they kicked my dog," said the farmer.

"Is that when you took in after them?" his friend asked.

"No, that didn't get me too riled, but then they burned my barn."

"I bet you went after them then, didn't you?"

"No, it was an old barn, but then they grabbed my wife."

"So that's when you did it?"

"No, I figured she could take care of herself. But when they started messin' with my irrigation ditch, now that made me madder than the dickens, so I whipped hell out of them rascals!"

Unfortunately, the Burley farmer didn't finish the job, because the rascals are back. They are on the attack again. And once more it is necessary for us to circle the wagons.

The latest threat, in my judgment, takes the form of a national water policy study by the Federal Water Resource Council. The Council postulates certain "problems" and then lists alternate "options" for their solution.

Now I find it alarming that the Federal Water Resource Council should list state administration of water rights as a "problem" which, in the words of the Council, "tends to institutionalize" water rights, making it more difficult to carry out "regional programs such as interbasin transfers."

I find it even more alarming that one of the solutions suggested is that "the Federal Government might purchase rights to water" and reallocate them to the most "socially desirable" or economically productive use. Purchase could be through "voluntary sale or through eminent domain procedures."

In plain language, this proposal, if adopted, would enable federal condemnation of existing water rights on the whim of some federal agency which decided it was more "socially desirable" to use the water elsewhere.

Testifying at these water policy hearings in Seattle on August 21, Idaho's Governor John Evans had this to say about such proposals:

"It is foolish to list state control of water rights as a problem to be overcome from the federal level. Such thinking shows a significant lack of sensitivity to the attitudes of the states and their people. It also shows a lack of knowledge about the responsible manner in which the states have handled their water resources . . .

"The tone of this report can only be interpreted as laying the groundwork for a federal takeover of states' water rights. Such a takeover would run contrary to the clearly established intention of the courts, the Congress and the states. It appears to have its only support in federal water planning agencies. I would strongly advise those agencies that to take such an unsupported and insupportable position in the face of Congressional intent, judicial decision and political reality, is to invite disaster."

I emphatically agree. May the warning be sounded loud and clear: What Congress, the courts, and the states have joined together, let no federal agency contrive to put asunder!

The same applies to federal acquisition of water rights through eminent domain. In the twelve western states that are largely owned by the Federal Government, we have problems enough with Uncle Sam condemning land without inviting him to start condemning water!

It is not that we are unappreciative of the indispensable role of the Federal Government in the development of our water resources. Gathered here to observe the 75th anniversary of the Bureau of Reclamation, we gladly acknowledge its enormous contribution in bringing water and wealth to the semi-arid West. We should applaud the T.V.A. for cracking the grinding poverty of the rural South. And we should praise the Corps of Engineers for furnishing the whole country with thousands of flood control projects, while converting our major rivers into arteries of commerce. It is no small thing to make a staircase of the Columbia and Snake Rivers, enabling Lewiston, Idaho, nearly five hundred miles from the coast, to serve as a seaport to the Pacific Ocean!

Here in the Northwest, that corner of America renowned for its hydro-electric power, federal dams, combined with the operations of the B.P.A., have brought us the blessings of abundant electricity at the lowest rates in the entire country.

We may argue—as indeed we do—over where development of our water resources should end and preservation begin. But every informed person would have to agree that the Federal Government has served as the central force in harnessing our rivers and putting our water to work.

Now all of this has been accomplished with a decent respect for the opinions of our citizenry. Congress, when authorizing these great federal enterprises, took care to fit them into the framework of state custom and local desires. The genius of the formula was to take the cloth as it came, and then to weave into it a tapestry of dams, locks and canals; of harbor works and transmission lines; of hydro-electric plants and flood control and reclamation projects.

Yet, from the start, there have always been those who have wished to tear the cloth, who have advocated that the Federal Government assert its authority under the supremacy clause of the Constitution, take up its scissors and start to cut and trim the tapestry.

We must stand against them, now and in the future, as we have in the past. We must not permit them to tamper with triumph or to sabotage success!

Until now, we have gotten along well by leaving well enough alone. There is trouble implicit in any attempt by the Federal Government to quantify and lay claim upon water flowing from public lands, based upon some arbitrary estimation of the unknown and unknowable—namely, what the Federal Government's need for the water may turn out to be in the future.

There is trouble implicit in trying to reinstate the 160-acre limitation retroactively, forty-four years after Interior Secretary Wilbur declared it inapplicable to the Imperial Valley in California, saying: "These lands, already having a vested right, are entitled to have such vested right recognized without regard to acreage limitation." Even where this historic limitation clearly applies, the time has come to give it the flexibility that modern farming demands; at the very least to relate the permissible acreage on Bureau of Reclamation projects to the productivity of the land in question. I have introduced a bill in Congress to do this.

Finally, there is trouble implicit in any attempt to divert water from one great natural river basin to another. Our success story contains many a chapter of the generous help Congress has given to each region of the country for the development of its own water resources, in accordance with its own needs.

But never have we permitted the transbasin diversion of water, enabling one region of the country to prosper at the *expense* of another. And as long as I serve in the Senate, I will do all in my power to see to it that we never do. In that regard, it helps some to be a ranking member of the Senate Energy and Natural Resources Committee.

I learned this lesson years ago, when the Senators from the Northwest joined those from the Southwest in supporting the passage of the Colorado River Development Act, one of the biggest water storage and development projects ever wrapped in a single, statutory package. In exchange, I worked with Senator Len Jordan, then my colleague from Idaho, and Senator Henry Jackson, the Chairman of the Committee, in getting inserted in the bill a ten-year prohibition, not only against any diversion of water out of the Northwest, but against any federal study of such a transfer.

At the time, it was thought by some federal planners, along with the Engineering Department of the City of Los Angeles, that a surplus of water existed in the Northwest which should be tapped for the benefit of the Southwest. But the ten-year moratorium, which Congress wisely adopted, has given us time to demonstrate that no such surplus exists.

Speaking for Idaho, Governor Evans states the case in these words:

"The people by Constitutional amendment created the Idaho Water Resources Board. That Board was charged with developing a plan for the use of Idaho's water resources. It has been developed, and it calls for the use of every drop of Idaho's water.

"There is no use to talk of creating on the federal level the mechanisms to make interbasin transfer of water possible. We in Idaho have already determined that there is no

water available for such a scheme. Every drop we have is destined for an important use in Idaho."

When it comes to the management of water, I am a conservative—not in the distorted, debased sense with which that term has come to be used in our contemporary politics—but in the old-fashioned sense that systems which have served us well should be left alone.

The Federal Government has served us well in aid of the states where water is concerned. Let it continue to be an ally, not an enemy!

The Congress has served us well as final arbiter of the Federal Government's role in water matters. Let it not be usurped by overly ambitious federal agencies!

Nature doles out problems enough with which we are forced to cope. This past season of drought throughout the land should remind us that there is no plentitude of water anywhere. Again, the Federal Government, acting through Congress, responded constructively by administering relief in the form of emergency grants and low-interest loans. We are poignantly aware, however, that no amount of money can long substitute for insufficient water supplies.

So, with our reservoirs drained and winter approaching, I depart from polemics to close with a plea we should all take to heart:

Think snow!

ORDER OF BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, the order to reconvene at 9 a.m. tomorrow morning has already been entered.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, there is a special order for Mr. ALLEN on tomorrow.

The PRESIDING OFFICER. The Senator is correct.

ORDER FOR RECOGNITION OF SENATOR HANSEN ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the consummation of the order for Mr. ALLEN, Mr. HANSEN be recognized for not to exceed 15 mintues.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF H.R. 5263 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the completion of that order for Mr. HANSEN, the Senate resume the consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. This will mean that the Senate will resume consideration of the unfinished business at about 9:30 tomorrow morning.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar under new reports, it being my understanding that this nomination has been cleared on the minority side and all around.

Mr. BAKER. Mr. President, we have no objection.

There being no objection, the Senate proceeded to the consideration of executive business.

GOVERNMENT PRINTING OFFICE

The second assistant legislative clerk read the nomination of John J. Boyle, of Maryland, to be Public Printer.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask that the President be immediately notified of the confirmation of Mr. Boyle to be Public Printer.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet during the session of the Senate on Friday, October 28; Monday, October 31; Tuesday, November 1, and Wednesday, November 2, to continue its investigation of union insurance.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary may be authorized to meet during the session of the Senate on Monday, October 31.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETURN OF OFFICIAL PAPERS ON S. 1528

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. MUSKIE, I submit a resolution and ask for its immediate consideration.

The resolution (S. Res. 310) was read, considered by unanimous consent, and agreed to as follows:

S. RES. 301

Resolved, That the Secretary of the Senate be directed to request the House of Representatives to return to the Senate the official papers on S. 1528 including the amendments of the Senate to the amendment of the House thereto.

TRANSFER OF MEASURE TO UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, Calendar Order No. 479 has been cleared for action by unanimous consent. I ask that the clerk transfer that calendar order to the Unanimous Consent Calendar.

The PRESIDING OFFICER. The measure will be so transferred.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9 a.m. tomorrow. After the two leaders or their designees have been recognized under the standing order, Mr. ALLEN will be recognized for not to exceed 15 minutes, to be followed by Mr. HANSEN for not to exceed 15 minutes. The Senate will then resume its consideration of the unfinished business.

It is hoped that Senators will be prepared to call up their amendments. Several rollcall votes are anticipated on tomorrow.

The distinguished minority leader and I, and others, will meet early in the morning to see if we can finalize some unanimous-consent requests for some time agreements with respect to the various amendments which were indicated today during the colloquy on the part of Senators as being candidates to be called up.

Hopefully we will meet with more success than we did today.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9 a.m. tomorrow.

The motion was agreed to; and at 8:49 p.m. the Senate recessed until tomorrow, Friday, October 28, 1977, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 27, 1977:

DEPARTMENT OF THE TREASURY

Stella B. Hackel, of Vermont, to be Director of the Mint for a term of 5 years, vice Mary T. Brooks, resigned.

DEPARTMENT OF JUSTICE

Alexander O. Bryner, of Alaska, to be U.S. attorney for the district of Alaska for the term of 4 years, vice G. Kent Edwards, resigned.

Larry D. Patton, of Oklahoma, to be U.S. attorney for the western district of Oklahoma for the term of 4 years, vice David L. Russell, resigned.

Harry D. Mansfield, of Tennessee, to be U.S. marshal for the eastern district of Tennessee for the term of 4 years, vice Bruce R. Montgomery

Joseph N. Novotny, of Indiana, to be U.S. marshal for the northern district of Indiana for the term of 4 years, vice James W. Traeger.

CONFIRMATION

Executive nomination confirmed by the Senate October 27, 1977:

GOVERNMENT PRINTING OFFICE

John J. Boyle, of Maryland, to be Public Printer.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

COMMANDER MOSES SPEAKS OUT

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. HOLLENBECK. Mr. Speaker, the national commander of the Jewish War Veterans, Mr. Herman Moses, recently submitted testimony to the Communications Subcommittee of the Committee on Interstate and Foreign Commerce. His comments on the Public Broadcasting System are particularly significant as we consider the future of PBS. The testimony of Commander Moses serves to underscore the importance of insuring that PBS maintains its independence while remaining responsive to the public. For this reason, I would like to share it with my colleagues:

COMMMANDER MOSES SPEAKS OUT

As the National Commander of the Jewish War Veterans of the USA, the nation's oldest active veterans organization, I sincerely appreciate this opportunity to submit written testimony before this honorable committee.

Your hearings regarding the operations of the Public Broadcasting System come at an opportune time. It affords the citizenry the opportunity to report and comment on current policies and operations of PBS. Permit me to relate an ongoing problem that our organization (and many others) have with PBS and then suggest what should be an appropriate response by the Congress of the United States.

Last month, the leadership of Jewish War Veterans in Philadelphia alerted me that the PBS outlet in that city, Channel 12, had prepared a special one hour program to be aired on September 2nd, but postponed to September 30, for alleged reasons on which I will comment shortly. This one hour program consists of an interview with one Frank Collin, an American Nazi, who has stirred up so much trouble in my home city of Chicago and its suburbs, and David Duke, a so-called leader among the various factions of the Ku Klux Klan. Efforts by our organization and other interested community groups to obtain a tape of the program for viewing in advance of its release were denied to us by PBS. The officers at PBS stated that a prescreening of this show would violate the station's First Amendment rights and would amount to censorship of their presentations. The request by community groups in Philadelphia for time to comment on the air immediately following the one hour special was also denied.

We also learned that PBS in Philadelphia was making this one hour special available to all the PBS outlets throughout the country.

It seems incredulous that the Congress of the United States would, on the one hand, conscript its manpower to be sent overseas to fight nazism as we did in World War II, spend billions of dollars, sacrifice the lives of millions of men and women, and on the other hand, turn over funds to bureaucrats running the Public Broadcasting System who allow native Fascists to spew their venom with governmental sanction and taxpayers' funds. Moreover, PBS officials deny responsible community groups such as the Jewish War Veterans the opportunity to view and comment on the T.V. presentations by these native Fascists. What is the rationale for this idiocy?

As an attorney, I distingush between the First Amendment privilege of free speech for the citizen in the community and a right of an official paid by government funds to promote public television programs which give legitimacy to native Fascists. In my judgment, the latter has no claim to First Amendment rights unless the government specifically confers such power. I do not believe it was the intent of Congress when it authorized funds for Public Broadcasting System that it would be sponsoring public broadcasts featuring the views of native Fascists whose interest opposed the fundamental principles of the Constitution of the United States and seek, in essence, to overthrow our government.

Nor do I believe it was the intent of Congress in funding PBS that responsible community groups would be denied the opportunity to preview controversial shows and have the opportunity to object and respond properly to adverse material sponsored by the public network. If community groups are prevented and are shut out from legitimate roles in programming for public broadcasting, then why should government support public broadcasting?

I believe that the PBS officials in Washington are aware that the local affiliate in Philadelphia erred badly, or else why did they succeed in forcing a postponement of the show's presentation on September 2nd? They were alerted to the fact that the Jewish War Veterans had requested permission to make a presentation at these Hearings. The postponement has not altered our view that the episode should be of concern to our law makers in Washington.

Note, that my statement does not call for the termination of funding for PBS. Its concept is worth preserving. What I recommend is that Congress provide for a consumer advisory role in PBS so that we, the public, can have a voice in blowing the whistle when arrogant bureaucrats deny the public interest.

I wish to thank the Chairman and the members of this Committee for the opportunity to present my organization's comment on this vital matter.

I respectfully request that this written statement be made a part of the permanent record of this Hearing.

BORIS LEIBOVICH TSITILIONOK

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. FREY. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

At this time, I would like to bring to the Members' attention the situation of Boris Leibovich Tsitilionok:

BORIS LEIBOVICH TSITILIONOK

Boris Tsitilionok is a 31 year old toolmaker who applied for an exit visa in 1971. Refused on the basis of national security, he subsequently lost his job and was placed under incessant KGB surveillance with periodic visits to their offices, threats of repression, and fortnightly arrests.

In February 1975, he was among nine Jewish activists who demonstrated briefly in Moscow carrying banners of "Visas not Prisons" and "Free Emigration of the Soviet Jews to Israel." Their demonstration was brought to an end within 30 seconds by police and KGB men. In March 1975, he was sentenced to 5 years in exile in Siberia.

Prior to sentencing, Boris' parents, who live in Haifa, wrote the following appeal:

"Our son participated in ten demonstrations and was detained 25 times and this was only during 1972–73. In July 1973, he was thrown into prison together with other boys where they were beaten up severely by the prison guards. During Brezhnev's visit to the U.S. he was detained and arrested 9 times. . . . On the 10th of November, 1974 he was picked up in the street by members of the KGB and warned that if he would continue to insist on his emigration he would be put in a mental institution. . . . Our family begs you to undertake urgent measures before it is too late. Our family will be very grateful to you if you will raise your voice in defense of our son."

In another plea dated October 5, 1975, his mother Batia wrote:

"My son, Boris, is now in the Far North, Siberia. . . . I want to stress that he is an official Israeli citizen. He got his citizenship on the 10th of March 1972. I, as many Jewish mothers, appeal to the Jewish hearts and consciences all over the world to take an active part in our struggle, in our fight for free emigration of the Soviet Jews to Israel. I am very obliged to your attention and for your noble participation in the face of the Orphans of Aliyah."

LOVE POLKA

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. NIX. Mr. Speaker, I wish to commend to the attention of the U.S. Congress an endearing and melodically superior piece of music entitled, "Love Polka." In an area of musical endeavor where many works are written, but so very few are chosen for recital, this piece, written by Trudy Buchman of Philadelphia has had the honor of being included in the award-winning Ferko String Band's Bicentennial album "Best of the Mummers." Moreover, its simple but warm harmonies enabled the "Love Polka" to be featured at the Robin-Hood Dell in Philadelphia, Pa., as well as at innumerable charity balls.

Trudy Buchman, a composer and a member of the American Society of Authors, Composers, and Publishers, has already won three ASCAP awards for this exquisite piece of musical virtuosity. In these cloudy and depressing economic times, I enthusiastically recommend to the sensitive ears of the Congress this heart-warming and sunny "Love Polka" as the perfect pick-me-up.

Unfortunately, House rules preclude the insertion of this lovely musical score into the RECORD, but no one could doubt the timeliness of this catchy tune.

A TRIBUTE TO GEN. CASIMIR PULASKI

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. WALSH. Mr. Speaker, my distinguished colleague, the Honorable JAMES M. HANLEY, and I would like to take this opportunity to pay tribute to the 200th anniversary of the arrival of Brig. Gen. Casimir Pulaski in America to help our soldiers in their War for Independence.

The expertise this outstanding Polish commander rendered to the American fighting efforts during the Revolutionary War is well documented in American history books.

In his memory, the city of Syracuse on October 7, 1977, observed "General Pulaski Day." A granite memorial was dedicated in his honor in Pulaski Park.

The text of a newspaper article published in the Syracuse Post-Standard that same day follows:

SACRIFICE OF POLISH PATRIOT RECALLED

(By Bob Lessels)

As the distant report of the "shot heard 'round the world" echoed over the fields of Europe, it awakened the fires of freedom in the hearts of many men of exceptional caliber.

From Germany came Baron deKalb, destined to die leading an infantry brigade for Washington; from Prussia came the dour Baron vonSteuben, the stern disciplinarian who moulded the raw militia into an effective army; from France came the immortal Marquis de Lafayette, Washington's youthful aide who later would aid his own nation into its revolution, leading the French National Guard in seizing the Bastille; and from Poland came both an engineer—the brilliant Thaddeus Kosciuszko—and a dashing cavalryman, Count Casimir Pulaski.

Perhaps because of his flamboyance, his youthful vigor and his daring courage, Pulaski is second only to Lafayette in the hearts and minds of those Americans aware of the contributions which went into shaping this nation. If for none of these reasons, then Pulaski would still be honored for the fact that he sacrificed his life that this nation might survive.

Pulaski was of the Polish nobility, a count who had led a force in 1772 to wrest Polish independence from Tsarina Catherine the Great of Russia. The heroic Poles, however, were defeated and Pulaski went into exile in France. While his estates were confiscated by the enemy, he carried with him a wealth of knowledge in cavalry operations and tactics.

While in France he learned of the American Revolution.

Pulaski sought out Benjamin Franklin, the Continental Congress' representative to the court of Louis XVI, king of France, and so charmed the distinguished diplomat that Franklin provided him with a letter of recommendation to Washington.

Arriving in America in 1777, Pulaski was made commander of Washington's cavalry. At the time of his assumption of command, the Continental cavalry was being employed in a wasteful, ineffective manner—serving only as perimeter guards and mounted couriers.

Pulaski would teach them to charge.

Most military "experts" of the time felt North America was unsuited to traditional cavalry operations, sweeping mounted raids and charges. Britain, while sending dozens of regiments of infantry into the North American cauldron, committed but two cavalry units, the 16th (The Queen's) Light Dragoons and the 17th Light Dragoons.

By their very purpose, these dragoon regiments were little more than mounted infantrymen. They were trained to ride to threatened points along the infantry line of battle, dismount and fight on foot—bolstering the hard-pressed infantrymen.

Pulaski sought to create a different form of cavalry, one which would strike the enemy from the saddle—a highly mobile force of shock troops which could punch holes in the enemy's line—holes through which accompanying infantrymen could follow. So successful were the young Pole's tactics, they were employed in World War II. Fast-moving formations of tanks and mechanized infantry functioned along the same lines as conceived and proven by Pulaski.

Pulaski's tactics were first put into practice on Sept. 11, 1777. At Brandywine, near Wilmington, Del., Pulaski led his new force into action.

The British had surrounded a portion of Washington's infantry and were tightening their ring in preparation to close in for the kill. Pulaski hurled his force against this ring, first throwing it off balance, then breaking it long enough for the outnumbered American infantrymen to break free.

When replaced as Chief of Cavalry, by Gen. Stephen Moylan, Pulaski was asked to raise a force of 300 horsemen of his own.

They were a varied assortment of men with one thing in common, they could fight in the saddle. Many were Europeans, veterans of light cavalry units—French hussars, Hessian jaegers and Polish uhlans and wore portions of their foreign uniforms while serving the American cause. With this colorfully garbed unit rode Pulaski's cousin.

They received their baptism of fire in October, 1778. A British force had landed at Egg Harbor, N.J , Pulaski's cavalrymen swept into the invaders, cut them to shreds and drove them off.

In 1780, the war moved into the South. Pulaski and his men followed, often acting as the vanguard of the Continental forces in this area.

On Oct. 9, 1779, American and French forces combined for an assault on British-held Savannah, Ga. Among the American commanders was Pulaski. Although urging a quick, cavalry-like thrust, Pulaski was ignored by the senior allied commanders who delayed their assault far too long.

The British, long forewarned of the impending assault, bolstered their defense until they were nigh impregnable. When the waves of Americans and Frenchmen finally sallied forth for the attack, they broke time and again before the granite-like redcoats, well-protected behind battlements. The British suffered barely 100 casualties.

Before the tragic day was over, however, more than 800 Americans and Frenchmen had fallen, including the gallant Pole—Casimir Pulaski—struck down by a cannon ball while leading a last-ditch charge in support of the faltering infantry.

PERSONAL EXPLANATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mrs. SCHROEDER. Mr. Speaker, on Tuesday, October 25, 1977, I was absent for Roll No. 684. Had I been present I would have voted "yea."

SUPPORT FOR LEGISLATION TO AUTHORIZE MISSOURI BASIN HYDROPOWER FOR IRRIGATION

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. ABDNOR. Mr. Speaker, on Tuesday, November 2, I will introduce a bill to provide low-cost Missouri River Basin Hydropower for irrigation. Elsewhere in today's RECORD are my remarks supporting its enactment, and following are resolutions which have already been passed urging adoption of this legislation:

RESOLUTION 77-10-3

Whereas, one of the present and foremost national objectives is the revitalization of rural America, and

Whereas, such revitalization is necessary if rural areas are to keep pace with the economic and social advancements of the more populous sections of the country, and

Whereas, in order to enhance these conditions in South Dakota, the State's number one industry—agriculture—must be stimulated, thus creating expanded and stabilized agriculture operations and new job opportunities, and

Whereas, such new job opportunities will provide South Dakota's young people with the opportunity to remain in the State rather than migrating to the larger cities, thus adding to the congestion which presently exists there, and

Whereas, one of the best means of achieving this goal is the wise and prudent development of the State's water resources, and

Whereas, the development of the Lake Andes-Wagner Irrigation Project, located in Charles Mix County, South Dakota, would improve and help to stabilize the agricultural economy of the area and state, and

Whereas, Charles Mix County has suffered a direct loss of a considerable tax base due to the fact that thousands of acres of lands were inundated by Lake Francis Case and removed from the tax roll, and

Wheras, promises where made to the people of South Dakota as a part of the Flood Control Act of 1944 of irrigation development and low-cost power as just compensation for the thousands of acres of rich bottom land which was inundated by the great mainstream reservoirs, and

Whereas, electric power for pumping water for other than Federally developed irrigation projects will be almost impossible to obtain on a long term basis at a price that irrigators can afford to pay, and

Whereas, we believe it to be the intent of Congress to make available benefits of low-cost hydroelectric power to the rural people in the Missouri Basin,

Now, therefore, be it *resolved* That the Board of Directors of the Lake Andes-Wagner Irrigation District of Charles Mix County, South Dakota, supports legislation designed to extend the use of Missouri Basin hydro power for pumping purposes to other than Federally financed and developed irrigation projects on a long term basis at the presently established pumping rate of $0.0025 (2.5) mills per kilowatt hour, and

Be it further *resolved*, That a copy of this resolution be sent to Governor Kneip and our congressional delegation.

RESOLUTION —

Whereas, thousands of irrigable acres of land originally intended for development as part of Federal irrigation projects using Missouri River water have not been developed; and,

Whereas, thousands of other irrigable acres of land may potentially be developed for irrigation, using Missouri River water, by non-Federal bodies, both private and public; and,

Whereas, development of irrigable lands in South Dakota, utilizing water from the Missouri River, is in the best interest of South Dakota's agriculturally based economy; and,

Whereas, electric power for pumping water for other than Federally developed irrigation projects will be almost impossible to obtain on a long term basis at a price that irrigators can afford to pay; and,

Whereas, we believe it to be the intent of Congress to make available benefits of low cost hydroelectric power to the rural people in the Missouri Basin; and,

Whereas, the benefits of most of the Federally-financed irrigation promised to partially compensate for the 500,000 acres of land flooded in South Dakota to provide for reservoir storage space may not be realized;

Now, therefore, be it *resolved*, That the Board of Directors of East River Electric Power Cooperative supports legislation designed to extend the use of Missouri Basin hydro power for pumping purposes to other than Federally financed and developed irrigation projects on a long term basis at the presently established pumping rate of $0.0025 (2.5) mills per kilowatt hour; provided such legislation is not inconsistent with the preference given public bodies and cooperatives in all flood control acts including the 1944 Flood Control Act and does not diminish the rights and entitlements of other preference customers to Missouri Basin hydro power; and,

Be it further *resolved*, That a copy of this resolution be furnished to the South Dakota Congressional delegation.

RESOLUTION —

Whereas, thousands of acres of land that were intended for development in South Dakota along the Missouri River as part of Federal Irrigation Projects have not been developed, and

Whereas, the land along the Missouri River may be developed by non-Federal bodies by both private and public, and

Whereas, electric power for pumping water for other than Federally developed irrigation projects will be difficult to obtain on a long term basis at a reasonable price,

Now, therefore, be it *resolved*, That the Board of Directors of Charles Mix Electric Association, Inc. support legislation designed to use Missouri Basin hydro-power for pumping purposes to other than Federally developed irrigation projects on a long term basis at the present rate of 2.5 mills per kilowatt hour.

Governor Kneip and Secretary Vern Butler of the South Dakota Department of Natural Resources Development have also expressed their support for this measure. I am certain numerous other individuals, groups, and organizations in the Missouri River Basin will rally their support as well once they have a chance to become familiar with the bill.

THE 200-MILE WHALING PROHIBITION

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. MURPHY of New York. Mr. Speaker, on Wednesday, September 5, 1977, the House of Representatives concurred in the Senate amendments to S. 1522, legislation authorizing appropriations under the Marine Mammal Protection Act for fiscal year 1978. In addition to authorizing appropriations to carry out the Marine Mammal Act, the bill prohibited commercial whaling within waters subject to the jurisdiction of the United States. I want to clarify the intent of this amendment.

Japanese and Russian whalers traditionally have taken a significant number of sperm and bryde whales within 200 miles of the United States and its possessions. Beginning in March of this year, these whaling grounds became subject to the jurisdiction of the United States under the Fisheries Conservation and Management Act of 1976. There has been concern, despite the extension of jurisdiction out to 200 miles, that Russian and Japanese whaling vessels would continue to operate in these waters. The language of S. 1522 effectively insures that foreign nations will not continue to commercially whale within our 200-mile zone.

I want to emphasize that the language of S. 1522 does not prohibit either the legitimate taking of whales for scientific purposes or the capturing of live whales for public display purposes as provided in the Marine Mammal Protection Act. It should also be clear that S. 1522 does not alter existing law on subsistence whaling by Native Alaskans. Subsistence whaling will continue to be subject to the appropriate provisions in the Marine Mammal Protection Act and the 1946 Convention for the Regulation of Whaling.

INTEREST GROUP MISUSES MEMBERS' NAMES

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. SHUSTER. Mr. Speaker, I would like to bring to the attention of the Members of the House a very disturbing incident and one which I hope would not be repeated.

An organization called Americans Against Union Control of Government has sent mass mailings to congressional districts with the Member's name boldly printed at the top of the label. I have written a letter to this organization stating that I did not authorize the use of my name and requested that this practice be stopped immediately. In addition, I have written to the Postmaster General asking for advice on any recourse that would be available to me to prevent such an occurrence in the future. For the Members information, I would like to include a copy of my letters to the organization and Mr. Bailar:

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 26, 1977.

Mr. BENJAMIN F. BAILAR,
Postmaster General,
Washington, D.C.

DEAR MR. BAILAR: Please be advised that my name is appearing above the name and address on envelopes mailed by an organization called Americans Against Union Control of Government without my authorization.

Attached is a copy of one such envelope along with a letter which I have sent to the organization.

Is there any recourse which I might have to assure that such unauthorized use of my name in the U.S. mails is not continued?

Sincerely,

BUD SHUSTER,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 26, 1977.

Mr. DAVID Y. DENHOLM,
Executive Vice President, Americans Against Union Control of Government, Suite 430, 8320 Old Courthouse Road, Vienna, Va.

DEAR MR. DENHOLM: I was surprised when my Altoona Office received an envelope from the Postal Service which shows my name above the name and address of the person to whom the envelope was addressed.

It would appear to be part of a mass mailing conducted by your organization in which my name is used without my authorization.

Please be formally advised that I did not authorize the use of my name in this mailing; that I ask that such use be stopped forthwith; and that I request you to immediately reply in writing providing me with the circumstances around which this mistake occurred.

Sincerely,

BUD SHUSTER,
Member of Congress.

TRIBUTE TO GEORGE KONHEIM

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. WAXMAN. Mr. Speaker, on November 12, 1977, George Konheim will be named "Man of the Year" by the alumni of Vista Del Mar Child Care Service at their annual winter ball reunion. Vista Del Mar, originally an orphanage and now a residential treatment center for children, has become the foremost agency of its kind in the United States. Each year the alumni pay tribute to those who honor their responsibility to others by their contributions and dedication to the needs of the young people who are served by this outstanding facility. George Konheim has shown a lifetime of devotion to children, and his contributions have played a major role in helping Vista Del Mar gain its respected position. He has served as president of Vista Del Mar for the last 10 years and has helped guide this agency through its greatest decade of growth. During this period all residential treatment cottages have been replaced and schools have been added as well as infirmary and food facilities.

George Konheim has also devoted his time and energy to many other community institutions. The United Jewish Welfare Fund, the Beverly Hills Civil Service Commission, Cedars-Sinai Medical Center, Masons, Shriners, and Temple Beth Am have all been recipients of his dedication to his fellow men.

George Konheim's family support and contribute to his belief in community service. He and his wife, Eve, have three sons, Bruce, Neil, and Lyn; and a daugh-

ter, Terri, all living in Los Angeles. They will be joining the many friends who will be gathering to honor him on November 12. George Konheim is worthy of the greatest esteem of the people of his city and State for his dedication to children and to civic betterment. I ask the Members to join me in paying tribute to this most deserving man.

BURNS CRITICIZES CARTER

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. RHODES. Mr. Speaker, for months now, many of us in Congress have been urging the Carter administration to formulate a coherent and comprehensive economic policy that will address the danger signals which are becoming so obvious around us. The stock-market is down, profits are down, investment is down. There is a queasiness in the business community over the future. Yet, this administration apparently fails to see the very obvious relationship between profits and investment in new plant and equipment, which means more jobs. This administration, while talking a good game about not increasing taxes, nevertheless comes in with programs, such as the energy bill, which are, in effect, high tax measures that simply will take out of our economy billions of dollars that are needed to provide the real jobs required to reduce unemployment.

In essence, we have been warning that the economic policies of this administration are ineffective. I reiterate this today because of an article in today's Washington Post ir. which Arthur F. Burns, Chairman of the Federal Reserve Board, is quoted as uttering the same kinds of warnings.

In a speech prepared for delivery in Spokane, Wash., Mr. Burns is reported as saying that unless business is able and willing to increase decisively its investment in new plant and equipment, expansion of the economy will continue to lack balance. He calls upon this administration to devise an economic policy that recognizes the essentiality of profits to enable business to contribute to this expansion. To this I heartily say, "Amen." The text of the article follows:

[From the Washington Post, Oct. 27, 1977]

BURNS CRITICIZES CARTER

(By James L. Rowe, Jr.)

Federal Reserve Board Chairman Arthur F. Burns yesterday described the Carter administration's economic policies as ineffective, and rejected White House criticism of the Fed's credit-tightening policies.

Burns said that the Federal Reserve has no intention "of letting the money supply grow at a rate that will add fuel to the fires of inflation," nor will it allow growth to be jeopardized by excessively high interest rates.

His remarks, which came in a speech prepared for delivery in Spokane, Wash., appeared to be a direct reply to White House suggestions that Federal Reserve Board policies could threaten to choke off the nation's economic recovery.

Instead, Burns implied that the administration was trying to gain short-term political points from its criticism of the Fed.

The Federal Reserve Board, Burns said, will conduct monetary policy "in ways that promote the long-run as well as the immediate interests of the nation."

The sluggishness of the economic recovery is due primarily to the low level of business profits after inflation and the lack of business confidence in the future, Burns said.

He said the administration's policies have not dealt with the low level of corporate profits and have contributed to the lack of business confidence by proposing one policy initiative after another that business is neither able to understand nor evaluate.

Without a spurt in business investments in plant and equipment—which take a long time to build—job creation will slow and shortages could occur.

"Unless the willingness of businessmen to invest in new plant and equipment increases decisively, the expansion of economic activity now under way will continue to lack balance," Burns warned.

"And that, I need hardly add, will make it more uncertain whether the expansion is going to continue at a sufficient pace to bring unemployment down significantly, or—for that matter—whether the expansion itself will long continue," he said.

Burns called on the administration to devise a new policy that is "just as unambiguously positive in its implications for profitability" as was the investment tax credit proposed by President Kennedy in the early 1960s.

He also warned of the dangers of inflation, and said the government must be careful of programs that either give up tax revenues or entail big new expenditures.

That is a clear sign that Burns will oppose any big tax cuts that the President and other members of his administration have said may be necessary to stimulate the economy next year. The economy does not need more consumer spending, but more business investment, was Burns' message.

Low business confidence perplexes the administration as well. Treasury Secretary W. Michael Blumenthal said last week that Carter's economic policies, which will be unveiled soon, will be prudent. Blumenthal said that the big rush of major policy proposals—which he admitted created uncertainties—is over.

The low level of business confidence has been reflected not only in sluggish spending on long-term investment but in a depressed stock market. After the Burns speech was reported stock prices climbed sharply.

In his speech, Burns said that businesses have had "great difficulty in evaluating the implications of the major policy initiatives that are being considered this year."

He said businesses cannot judge what kind of energy will be available in the future or at what cost, nor what tax incentives or disincentives will apply to energy use.

They are worried about the implications of revamping the Social Security system and the welfare programs and that "still additional taxes on businesses will be imposed."

Rumors of tax changes "have contributed to a mood of unease in both corporate boardrooms and the stock exchanges," as has the prospect of a costly national health insurance program, he said.

"I strongly suspect that the ability of businessmen to assimilate new policy proposals into their planning framework has now been stretched pretty far. I seldom talk with a businessman these days who does not in one way or another, voice concern about his inability to make meaningful projections of corporate costs and earnings for the years immediately ahead," he said.

Burns said the profits that corporations report to their shareholders are seriously exaggerated because they do not take account of the effects of inflation. He said that after a complex series of adjustments are applied, businesses overstated their profits by $30 billion and overpaid their taxes by $10 billion to $12 billion last year.

While Burns has opposed Carter administration policies before—he criticized the $50-a-person tax rebate the President finally abandoned last spring—yesterday's was the broadest and sharpest attack he has launched on the administration's economic proposals.

Burns' term as chairman of the central bank expires at the end of January, and Carter has not said whether he will name a new chairman.

HUMPHREY-HAWKINS REVISITED

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. ASHBROOK. Mr. Speaker, according to recent reports, the White House and congressional supporters of the Humphrey-Hawkins bill have been working on a revised version of this legislation. Their goal is a mutually acceptable bill that could be considered early next year.

No matter what modifications are agreed to, however, the basic thrust of Humphrey-Hawkins is wrong. Its emphasis is on providing Government-financed public service jobs rather than creating permanent and meaningful jobs in the private sector.

If we follow the misguided Humphrey-Hawkins path, our Nation will be hit with larger budget deficits and more inflation. Billions of dollars will be spent funding deadend jobs.

Instead of a massive Government-funded jobs program, we should concentrate on ending needless Government regulation, stopping unfair foreign competition and increasing the incentives for job creation in the private sector of our economy.

Following is a good editorial on this subject from the October 2 Cleveland Plain Dealer:

REAL JOBS OR MAKEWORK?

The nation's unemployment rate now stands at 7.1 percent. For blacks, it is nearly twice that figure. Among black teen-agers unemployment runs to a staggering 40 percent. So, why not enact the Humphrey-Hawkins "full employment" bill pending in Congress and reduce unemployment, eventually, to 4 percent? The answer is disarmingly simple. It won't work.

To understand why, one must recognize the nature of this country's unemployment problem.

Unlike the experience of the Depression of the 1930s when millions of skilled workers with solid job backgrounds were idled, unemployment today is chiefly structural. That is, it exists among people who are only minimally affected by swings of the business cycle.

These unemployed are predominantly the young, the unskilled and minorities. And the unemployment is centered largely in the major cities.

Public service employment, precisely what the Humphrey-Hawkins bill would create, can have only a transitory effect on reducing chronic, structural unemployment. As Robert T. Hall, formerly with the National

Manpower Commission and currently assistant secretary of commerce for economic development, noted recently, "I spent more years than I care to remember creating public service employment. But after two years of public service employment all you have is two years of canceled wage stubs."

Hall, in concert with a growing number of economists, argues that the best line of attack against structural unemployment is selective investment that will create permanent, private sector jobs and, in the process, teach marketable skills.

In the same Forbes magazine article in which Hall was quoted, Michael Wachter, a University of Pennslyvania labor economist, declared: "Our problem is not unemployment but low skills. Public service employment does nothing to imporve that. It may teach a person to come to work on time, but that's about all . . ."

The federal government already has at least nine public service jobs programs in operation. Some are worthwhile, others amount to little more than a misappropriation of public funds.

What has not yet been tried on a sufficient scale is what the Carter administration unsuccesfully attempted to sell Congress earlier this year, namely grant business and industry tax credits to hire and train the chronically unemployed. This way, those unemployed who genuinely want to work and have the aptitude to learn marketable skills can be brought into real jobs that are self-sustaining because they create wealth.

This approach plus the kind of enlightened tax and general economic policies that promote rather than retard private sector growth, offers the most realistic prospects for lasting reductions in unemployment.

THE VOICE OF EXPERIENCE: "EUROCOMMUNISM" AS SEEN THROUGH AN EXPERTS EYES

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. MICHEL. Mr. Speaker, a report appearing in the Washington Post quotes Chinese Vice Premier Teng Hsiaoping as saying he does not want Communist parties in Italy, Spain, and France to enter the governments of those countries.

Why? Because, explains Teng, if Communists gain power in Italy, Spain, and France they will "accentuate a policy of appeasement toward the Soviet Union."

If the Communists in those countries were friends of China rather than the Soviet Union, I am certain Teng would welcome their participation in government. But it is interesting to note that Teng, an old master of Communist theory and practice, knows just what will happen when Communists become partners in power. It takes one to know one.

The article follows:

[From the Washington Post, Oct. 24, 1977]

TENG ON EUROCOMMUNISM

PARIS.—Chinese Vice Premier Teng Hsiaoping said in an interview published here that China does not want Communist parties in France, Italy or Spain to enter the governments of those countries.

Teng told Agence France-Presse that if Communists gain power in the three countries, they will "accentuate a policy of appeasement toward the Soviet Union."

AN OPEN LETTER TO PRESIDENT CARTER

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. BYRON. Mr. Speaker, a constituent of mine, Prof. Hungdah Chiu, who teaches at the University of Maryland School of Law, recently testified before the House Subcommittee on Asian and Pacific Affairs on the normalization of relations with the People's Republic of China. During his testimony, Professor Chiu stressed the importance of maintaining diplomatic ties with the Republic of China on Taiwan.

I share Professor Chiu's commitment to the 17 million residents of Taiwan who have chosen not to join the Communist way of life. I have personally visited Taiwan and can verify that only through diligent efforts and a healthy free enterprise system have the Taiwanese been able to contribute so much to the economy of the free world.

The Ad Hoc Concerned Americans for Asia-Pacific Peace and Stability have recently sent an open letter to President Carter urging him to continue diplomatic ties with the Republic of China. As this letter was signed by many residents of Maryland's Sixth Congressional District and accurately describes my feelings with regard to China policy, I would like to take this opportunity to include the letter in the RECORD at this time.

AN OPEN LETTER TO PRESIDENT CARTER

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As Secretary of State Cyrus Vance prepares for his trip to Peking, we fellow Americans—of all professions and ethnic backgrounds—look forward to our national interests being furthered with this visit.

It is important for us to state that while we do not oppose taking steps toward normalizing relations with the People's Republic of China, we strongly urge you to continue diplomatic ties with the Republic of China on Taiwan.

The United States and Taiwan have been friends and allies continuously for nearly thirty years. Thousands of immigrants from Taiwan have successfully integrated into American society, making valuable contributions in science, industry, professions, business, culture, and community life. Over 200,000 Americans annually visit Taiwan for business, education, and pleasure.

The 17 million residents in Taiwan have chosen not to join the Communist way of life. They have developed a free enterprise system closely resembling that of the United States. As you know, they have contributed their share to the stability and prosperity of the free world's economy. Taiwan's trade with the United States for 1976 alone was US$4.8 billion.

You have pledged in your Presidential campaign to continue U.S. commitment to the security, freedom, and independence of the people of Taiwan, and we commend you for it. We support the opinion of the majority of the American public, as revealed in recent opinion polls, that the United States should not abandon Taiwan out of our eagerness to establish diplomatic relations with Peking.

We believe that the freedom and security of Taiwan is in the best interests of the United States, and that our China policy should be guided by this convention.

Respectfully yours,

AD HOC CONCERNED AMERICANS FOR ASIA-PACIFIC PEACE AND STABILITY.

EASY TO FIND A JOB IF YOU ARE UNSKILLED? NOT VERY

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. JACOBS. Mr. Speaker, for about as long as I can remember I have heard that there would be no unemployment if the unemployed would simply consult the help wanted ads in newspapers.

Last Sunday's Washington Post listed 3,403 available jobs. Which is just fine if you happen to be a welfare recipient with skills as an accountant or an auto mechanic or an auto shop manager or a computer programer or an administrative assistant or an attorney or a draftsman or a teacher or an electronics technician or an engineer or a keypunch operator or a nurse or a typist.

On the other hand, if you happen to be on welfare and could do housekeeping, you might be interested in the fact that 8 of the 3,403 jobs are listed in the category of housekeepers and maids.

Seven of the jobs are listed as laborers—of course six of those jobs require a car and phone.

Easy to find a job if you are unskilled? Not very.

Jobs available:

Accountants	242
Auto mechanics and body	57
Auto shop managers, clerical and sales	29
Bank tellers and clerical	18
Bank (loan officers, executives, managers, etc.)	28
Barber and beauticians	35
Carpenters	38
Cashier	10
Food Service (cafeterias, bars, etc.)	109
Computer programmers	135
General construction workers	9
General construction superintendents	13
Bookkeepers	66
Administrative assistants	84
Assemblers	7
Assistant managers	21
Attorneys	12
Delivery and drivers	22
Dental assistants	28
Draftsmen	22
Directors, foremen, supervisors, managers, etc	61
Education: aides	10
Education: teachers	18
Electronics technicians	103
Engineers	134
Management trainee	50
Factory help	2
Janitors and handymen	6
Grounds workers	6
Gas station attendant	9
Housekeepers and maids	8
Hotel clerks	5
Hosts/hostesses	5
Insurance: sales	4
Insurance: clerical	5
Insurance: specialized (experience required)	21
Keypunch	62
Laborers (6 say car and phone required)	7

Maintenance (experience required for all)	46
Mechanics (experience required)	17
Medical (technical staff)	38
Nurses (LPN's and RN's)	110
Sales: retail	46
Sales: telephone solicitors	21
Sales: commission sales	82
Sales: managerial (experience required)	96
Secretarial: typists	158
Secretarial: experience required	223
Secretarial: basic skills only (typing, telephone, etc.)	188
Security guards	14
Stock clerks (100 need transportation)	116
Trainees (general)	6
Part-time help	15
Miscellaneous specialized jobs (plumbers, real estate agents, therapists, etc.)	692
Miscellaneous general jobs (messengers, go-go dancers, attendants, etc.)	34

INTRODUCING LEGISLATION TO FACILITATE DEVELOPMENT OF IRRIGATION IN THE MISSOURI RIVER BASIN

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. ABDNOR. Mr. Speaker, on Tuesday, November 1, Congressman PRESSLER and THONE will join me in introducing a bill—Senator MCGOVERN will introduce an identical measure in the Senate—to authorize the Bureau of Reclamation to supply low-cost hydroelectric power to irrigation projects in the Missouri River Basin which are constructed, operated, and maintained by irrigation districts organized under State law.

Enactment of this legislation is needed, because the irrigation which was to have been developed by the Federal Government has not been forthcoming. These projects were to have offset economic losses suffered by South and North Dakota, Montana, and Nebraska when vast acreages in these States were innundated by reservoirs created to provide flood control, hydropower, and navigation benefits to downstream and neighboring States.

Indicative of the commitment made to my State, South Dakota, as well as the other States of the basin whose sacrifice for the public good was and remains so great are the words uttered in August of 1962 by the late President John F. Kennedy as he stood overlooking great Oahe Dam—near my State's capitol city, Pierre—and dedicated it to the benefit of the people of my State as well as the Nation. His words which brought hope and promise to the people of my State were:

> This dam alone will supply enough irrigation to serve an area larger than the nation of Luxembourg.

But today my State has yet to see the Federal Government live up to 1 acre of its commitment to us to provide assistance for irrigation development. Although we do not intend to release the Federal Government from its commitment, it is our hope that enactment of this legislation will be of some help to potential irrigators to begin to realize a portion of the promise which has been held out to us.

The concept for this legislation was originally suggested by Benjamin, Kasl and Associates, consulting engineers to the Lake Andes-Wagner Irrigation District. In suggesting this legislation they offered the following background information and justifications:

MISSOURI RIVER BASIN

The drought in the Missouri River Basin during recent years has accentuated the need for irrigation to stabilize and increase the agricultural production of that area. This need was supposed to have been met by the development of over 4,000,000 acres in irrigation projects to be constructed along the Missouri River by the Bureau of Reclamation as a part of the Missouri River Basin Project authorized by the 1944 Flood Control Act. After over 30 years, however, the Bureau has been able to get construction under way on only two large projects in this area. These are the Garrison Project in North Dakota to be supplied by pumping from Garrison Reservoir and the Oahe Project in South Dakota to be supplied by pumping from Oahe Reservoir. No project to be supplied by pumping from Fort Peck Reservoir in Montana has yet been planned. Likewise, no Nebraska projects to be served from Lewis and Clark Lake behind Gavins Point Dam have been planned by the Bureau.

The long delay in getting Bureau projects built and the current drought has prompted serious consideration of privately financed irrigation projects in this area. The Lake Andes-Wagner Irrigation District in South Dakota has recently employed engineering firms to make a feasibility study of a 73,000-acre project to be supplied by pumping from Lake Francis Case behind Fort Randall Dam. The construction cost would be financed by sale of long-term bonds. Planning work on a smaller version of this project was completed by the Bureau of Reclamation in 1966, but it has been unable to obtain Federal funding to begin construction. With continued delays being encountered by the Bureau, there will be more cases like this where local irrigation districts will attempt to get projects built by private financing.

Privately financed irrigation projects will face much more serious financial problems than those built by the Bureau of Reclamation because they cannot receive financial assistance from Federal power revenues to pay construction costs. Also, with the projected national energy shortage, it will be almost impossible to obtain a long-term contract from the utilities for pumping power at a fixed cost that the farmers can afford to pay. The Bureau of Reclamation could meet this critical need by obtaining authorization from the Congress to supply pumping power to these projects under a long-term contract at the MRBP rate of 2½ mills per kilowatt-hour. All of the pumping power will be generated at the Corps' six hydro plants on the main stem by large releases for navigation during the April to October navigation season.

The 2½ mill pumping rate was a critical feature of the plan for the Missouri River Basin Project as authorized by Section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887). On page 22 of Senate Document 191 the following recommendations are made.

"The population and prosperity of this region cannot be expected to expand without further irrigation development, made and operated at costs within the ability of the irrigators to pay. In the plan proposed, irrigation pumping with its incidental power requirements plays a large part. The cost of such power will be an important element in the irrigators' annual expenses, and must be low if success is to be achieved. Experience and study indicate that the cost per kilowatt-hour should not exceed 2½ mills for energy delivered to major project pumping plants."

Those recommendations were incorporated in the Bureau's interim Rate Schedules in March 1950 and the 2½ mill pumping rate is still in effect. The above quoted recommendations are still valid today and are even more applicable to privately financed irrigation projects because of the lack of all other Federal subsidies. Since the pumping rate was authorized by the Congress solely for Missouri Basin Project irrigation units constructed by the Bureau of Reclamation, however, the extension of its availability to privately financed irrigation projects in the basin should be authorized by the Congress.

The supplying of the Missouri Basin Project pumping power at the 2½ mill rate should be limited to only those privately financed irrigation projects that pump water from Corps of Engineers' reservoirs on the main stem of the Missouri River in the Dakotas, Montana, and Nebraska. The Federal Government should furnish this assistance to those privately financed irrigation projects to partially offset the loss of about 1,200,000 acres of land that was inundated in those four states by the construction of the six flood control and navigation reservoirs extending from Fort Peck to Gavins Point on the main stem of the river. It would also recognize the fact that these same projects would have had the benefit of the Federal pumping power if they had been built by the Bureau of Reclamation as originally envisioned when the Missouri Basin Project was authorized in 1944. Lastly, it would encourage the development of the privately financed irrigation projects in that area instead of depending entirely on Federal projects as has been the case in the past.

There are precedents for the extension of a preferential pumping rate to other irrigation projects than those constructed by the Bureau of Reclamation, but all were accomplished by administrative action. These are:

1. Prior to 1974 the Bonneville Power Administration had a discount of 0.60 of a mill on its E–5 commercial rate where the power was used for irrigation pumping by either irrigation districts or private farming companies. This reduces the E–5 rate from 1.25 mills to 0.65 mills.

2. In 1966 the Bureau of Reclamation made Missouri River Basin Project pumping power available at the 2½ mill rate to the following irrigation projects in Montana:

(a) The Kinsey Project and the Lewis and Clark Project on the Yellowstone River. These projects were constructed under the Soil Conservation Service program.

(b) The Sidney Pumping Project on the Yellowstone River constructed by the State Water Conservation Board.

Mr. Speaker, the text of the bill which evolved and which I will introduce on Tuesday follows:

H.R. —

A bill to authorize the Secretary of the Interior to supply hydroelectric pumping energy at the Missouri Basin Project pumping rate to irrigation projects in the Missouri River Basin which are constructed, operated, and maintained by irrigation districts organized under state law

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of the Interior, acting through the Bureau of Reclamation, is authorized

to supply electrical pumping energy to irrigation projects in the Missouri River Basin which are constructed, operated, and maintained by irrigation districts organized under state law. Such energy shall be supplied only to those irrigation projects pumping from reservoirs on the mainstream of the Missouri River, including Fort Peck Reservoir, Lake Sakakawea, Lake Oahe, Lake Sharpe, Lake Francis Case, and Lewis and Clark Lake.

SEC. 2. Electrical energy for pumping authorized to be supplied by the Act shall be supplied in accordance with a 30-year power service contract entered into between the Secretary of the Interior and the irrigation district at a rate of 2½ mills per kilowatthour and shall be made available at the low-voltage side of that substation on the transmission system under the jurisdiction of the Secretary of the Interior which is nearest the project and shall be transmitted from that point at the expense of the irrigation district.

SEC. 3. Pumping power authorized to be supplied by this Act shall be supplied subject to the following conditions:

(1) No power shall be supplied to any project unless the Governor or Governors of the state or states in which it is located certify it is consistent with the goals and policies of the State or States.

(2) No power shall be supplied to any irrigation district until it has entered into a long-term contract with the Secretary of the Interior for a water supply. That contract shall contain such terms and conditions as the Secretary of the Interior deems necessary to protect the interests of the United States, including, but not limited to, a requirement that the irrigation district comply with all acreage limitations otherwise applicable to projects supplied water by the Secretary of the Interior.

(3) No power shall be supplied by the Secretary of the Interior under this Act in excess of that which would otherwise be available to projects constructed by the Secretary.

SEC. 4. The supplying of power to any irrigation district by the Secretary of the Interior, pursuant to this act, shall not abridge the right to the preference in the sale of power and energy generated at the reservoir projects on the Missouri River given to public bodies and cooperatives as provided in Section 5, 58 Stat. 890 (16 USCA 825c).

Taken in context of the foregoing, I believe the provisions of this legislation are largely self-explanatory. However, I would like to emphasize two key provisions which are intended to defuse any objection which might be raised on the basis that this legislation confers a new or unwarranted benefit on certain prospective irrigators to the potential detriment of other beneficiaries of Missouri Basin hydropower.

First, subsection 3(3) explicitly states:

No power shall be supplied by the Secretary of the Interior under this Act in excess of that which would otherwise be available to projects constructed by the Secretary.

Second, while subsection 3(3) insures that no more water or power shall be supplied to irrigators than provided for previously, section 4 makes express reference to the "preference clause" in further insuring that this legislation in no way lessens or alters the rights of the Bureau's preference power customers. The language of section 4 was suggested by East River Electric Power Cooperative, Inc., headquartered in Madison, S. Dak. This legislation has East River's full support. Their resolution and others in support of this legislation are reprinted elsewhere in today's RECORD.

For the benefit of my colleagues and interested readers of the RECORD, I would like to reiterate the remarks I made on the floor of the House on Monday, June 13, during debate on the fiscal year 1978 appropriation:

On May 8, 1944, the late Senator Karl Mundt, who was then South Dakota's First Congressional District Representative, rose in this chamber and entered into the debate on what came to be known as the Flood Control Act of 1944, authorizing among other things, implementation of the Pick-Sloan Missouri Basin Program.

The Congressman, who represented an area whose farm population had peaked around 1910 and has continued to decline even until today, talked of water—of too much and of too little. Even as the Representative of a people who bore vivid memories of the agonies of the dust bowl days of the Dirty Thirties, he explained how he had been attending meetings and discussing plans for flood control and river improvements on the Missouri River ever since 1929.

Congressman Mundt told of the agreement which had been struck under which the dams which would be built to control flood waters would be built high enough to impound water sufficient for irrigation. Only the limitation of engineering science and topography were to hold down the size of the dams insofar as they could be constructed to aid irrigation.

The Congressman expressed the support of South Dakotans for all of the multiple purposes of the dams, including flood control, hydroelectric power, and navigation. He saved his superlatives, however, and drove home his primary persuasive thrust to his colleagues, as follows:

"Finally, and most emphatically, South Dakotans are interested in irrigation. Growing out of the river-development program outlined in house document 475 and the May 1 report of the bureau of reclamation there now beckons to us one of the greatest and most profitable irrigation opportunities in this country. A proposed irrigation project near Huron, S. Dak., is one of the largest ever engineered by the bureau of reclamation. It encompasses some of the richest soil in this republic. It envisages making available a regulated and consistent supply of moisture which will add greatly to the farm products available to this country and to the world. From the water impounded behind dams erected for flood control can come the source supply needed to fill irrigation ditches and bring moisture to hundreds of thousands of parched acres."

Mr. Chairman, to this day my state has more than its share of parched acres. In fact, parts of South Dakota recorded their driest year on record last year—even drier than the Thirties. The dams have been built, though. The flood control, hydropower, and navigation benefits ae being realized and enjoyed; but not a single acre of federally assisted irrigation has been provided.

Let me convey a portion of what former Second District Congressman E. Y. Berry had to say in a recent article published in the Rapid City Journal:

"In 1941 when the Missouri River states committee, the forerunner of the interagency committee, was organized, Gov. Harlan Bushfield appointed me to serve with him as our state's representatives in the promotion of irrigation and river development.

"I then served on the committee with Gov. Sharpe. He and I met with representatives of all the Missouri River states in Omaha during the devastating flood of 1943 when the river south of Sioux City was 10 miles wide. The downstream states that were losing millions of dollars every few years from floods, wanted the upstream states to permit large mainstream dams to be built in order to protect them from future high waters.

"Gov. Sharpe and I joined the delegates from Montana and North Dakota in demanding that if we gave up some two million acres of our best lands and tax base to be flooded forever with these great reservoirs that our states would be compensated by the use of that stored water for irrigation, thus replacing the land and tax loss.

"We received the unanimous pledge from the representatives of all the states, as well as the federal officials who were participating, that if we would give up our lands and tax base for flood control purposes, that such loss would be replaced elsewhere by greatly increased production through irrigation."

Mr. Chairman, it should not require any further explanation for our colleagues to appreciate the deep moral commitment of the federal government to the states of the Upper Missouri Basin to assist with irrigation development. The flood control features of the Pick-Sloan Plan resulted in permanent innundation of over 500,000 acres in South Dakota alone. We have no navigation in our state and the bulk of our hydropower is consumed in Minnesota, Iowa, and Nebraska (35.4 percent, 17 percent, and 16.3 percent, respectively, in FY 1976).

Irrigation remains our hope and the means of fulfillment of the promise held out to us. I respectfully urge and I trust my colleagues will not deny enactment of this legislation to the citizens of my State and the Missouri River Basin.

PRESIDENTIAL AWARD TO P. L. THOMAS PAPER CO.

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. WOLFF. Mr. Speaker, since 1961 the Department of Commerce has presented the prestigious Presidential "E" Award for excellence in recognition of those companies that have made outstanding contributions to the expansion of U.S. trade abroad over an extended period of time.

It is, indeed, my pleasure to congratulate and extend recognition to the achievement of the P. L. Thomas Paper Co., Inc., Paul Greene, president, as the first export company in the paper industry to receive the Presidential "E" Award.

The P. L. Thomas Paper Co. earned this 1977 coveted award through the use of intensive market research study, new product development, a comprehensive credit program, and the establishment of an efficient and service-oriented overseas marketing operation.

We in this body are well aware of the critical need to increase overseas trade to achieve a more favorable U.S. balance of trade. The singular contribution made by the P. L. Thomas Paper Co. and its president who is one of my constituents, to this effort is worthy of meritorious attention.

REGARDLESS OF RACE OR NATIONAL ORIGIN—IF YOU ARE AN AMERICAN INDIAN

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. ASHBROOK. Mr. Speaker, one of the problems liberals create as they expand the Government for every conceivable purpose is that these programs begin to contradict themselves. This fact seldom seems to intrude itself on liberal legislators' notice, because they usually just create a program and then forget it. Those of us who try to keep an eye on these programs, however, cannot help noticing that they are making Uncle Sam and people who ask for his help into professional hypocrites.

Two examples of this growing hypocrisy are to be found among the successful applications for bilingual education programs filed by American Indian tribes this year. One, the Mississippi Band of Choctaw Indians, filled out an application of a little over a hundred pages for HEW. Two of these pages are painstakingly concerned with making the applicants swear that the funds obtained are not to be used strictly for only one racial group or people of a single national origin. The Mississippi Band of Choctaw Indians must swear that its program of education in Choctaw for the tribe will not necessarily exclude, for example, a naturalized citizen of Chinese descent born in Malaya.

In the "program narrative" section of the application—about the 10th page—must sign, guaranteeing that—

> . . . this tribe of Indians has retained its ethnic identity (well over ninety percent are classified as "full bloods") and native language . . .

About the 90th page is the required statement, which this same applicant must sign, guaranteeing that—

> A. The applicant agrees to make no distinction on the ground of race, color or national origin in providing to individuals any service, financial aid or other benefit under any program receiving Federal assistance extended to the applicant by the Department (HEW).

The program is open to anyone of any race or color so long as they are Choctaw Indian. It is open to anyone of any national origin so long as his place of origin is Mississippi. Since 1865, though, Mississippi has been pretty thoroughly a part of the United States, which seems to make the "national origin" of program beneficiaries quite specific.

The Wabnaki Indians of Maine, in their comparatively brief 54-page application, had to make the same pledge. But Maine, too, is entirely within the United States. The grant is open to anyone of any race or national origin so long as he is a Wabnaki Indian from Maine.

In order to get Federal programs for their people, Indian tribal officials have to sign this hypocritical civil rights pledge. But they have been dealing with the U.S. Government for a long time, and are, unfortunately, probably not surprised. Washington has often spoken to them with a forked tongue, and the liberal overuse of the civil rights pledge continues in that forked-tongue tradition.

HANDICAPPPED ACCESS TO THE BOUNDARY WATERS CANOE AREA

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. FRASER. Mr. Speaker, one of the most forceful and eloquent statements presented at the September 12 and 13 hearings on the Boundary Waters Canoe Area was made by Prof. William Muir of Carleton College.

A teacher of botany and environmental biology, Professor Muir has traveled in the BWCA in both a professional and personal capacity. He and his wife have paddled over 2,000 miles and have crossed almost 400 portages in the BWCA over the last 6 years. Yet, he has never seen any of these lakes or this terrain—he has been legally blind since 1968.

Concern was raised at the hearings that enactment of the Fraser bill would prevent handicapped persons and senior citizens from using the area, since motor travel would be prohibited. Professor Muir challenges this assumption. He says:

> The Boundary Waters is more accessible to the physically handicapped and elderly than any other true wilderness area in the United States. Portages on some routes are short and easy, and, unlike when backpacking in a mountainous area, the canoe supports the person over most of the distance traveled. Further, unless a handicapped person lacks useful arms, he or she can paddle a canoe . . . If a person lacks the strength or faculties to operate a paddle, then it surely would be unsafe for that person to mount and use a motor.

The argument that the Fraser bill would keep the BWCA open only to the young and hardy is placed in a useful perspective by Professor Muir's observations. I commend to my colleagues' attention a portion of his testimony and a letter he subsequently forwarded to my office:

TESTIMONY OF WILLIAM H. MUIR

It has been stated that the banning of snowmobiles and motorboats from the BWCA constitutes discrimination against the handicapped. This is a phony issue, supported and perpetrated mainly by those having little or no interest in the welfare of the handicapped. To make the BWCA truly accessible to amputees and those confined to wheel chairs would require that the rough, granite-strewn, and boggy portages be turned into motorized roadways. Thus, bowing to this phony issue would eliminate the essentially roadless nature of the area and take us back to the legal battles against roads which occurred in the thirties and twenties. The Boundary Waters would lose its wilderness nature and would be more like the millions of acres which lie to the east, south, and west, where the lakes already are directly available to the handicapped by road access. Motorized interests would have succeeded in destroying the BWCA, and that, clearly, is their objective.

I am classified as a seriously handicapped person and am eligible for retirement on total disabilitiy. I am a severe diabetic, requiring two large injections of insulin daily, and I am totally and absolutely blind. I have advanced circulatory impairment, with my feet and lower legs being quite numb and atrophied, making it necessary for me to wear special support shoes. Yet, with my wife's help, I continue with my teaching. During five summers since 1971, my wife and I canoed two thousand miles in the Boundary Waters and Quetico. Needless to say, my paddle position was in the bow. During that time we also crossed 398 portages, carrying the usual back packs, etc. On all of those portages my wife and I each fell only once. We usually were accompanied by students from the thirteen schools of the Associated Colleges of the Midwest, and we instructed the students in botany and environmental biology. I have never seen any of those portages, but because of my experiences on them with my good wife, I can describe many of them in great detail! Thus, the area certainly is available now to many who are severely handicapped without the use of motorized vehicles.

The only time my wife and I have ever come close to being killed within the BWCA was when we were canoeing on Basswood Lake in a storm and were fighting very high waves. A largee motorized launch approached close to us, and its wake capsized us. The launch did not stop or turn to help. The weather was cold, and we were wearing heavy clothing. We were saved only by our life jackets and the grace of God.

Will we be forced as a nation to alter the Snake, Salmon, and Colorado Rivers so that one and all can traverse them in safety? Will we be forced to provide insulated chair lifts to the summits of Grand Teton, Shasta, McKinley, and Everest? To be handicapped is a relative thing, and I believe that most of us would be handicapped when dealing with such places. Minnesota has more than ten thousand lakes outside the Boundary Waters Canoe Area, and most of these have public access points, making them directly accessible by motor vehicle. I am sure that almost all who are severely handicapped physically will be content to travel on such waters. When my "handicaps" reach the point where I am no longer able to paddle over Basswood Lake and portage down the Basswood River, then I will be happy to do likewise.

I do not believe that anyone would seriously suggest that snowmobiles and motorboats be eliminated from all of the country north of Duluth or even from all of the three million acres of the Superior National Forest. The Fraser bill is only asking for the banning of motorized travel in the million acres of the BWCA. Those who must get their kicks from motorized sport still would have many millions of acres north of Duluth. I can see no reason for not sparing the Boundary Waters, which is the last hope for the countless thousands who wish to escape briefly from mechanization and for the animal community, which should have the right to do the same. Eight years ago it was stated in a national publication that ". . . the great white silence is gone forever." The Fraser bill provides a badly needed exception to that statement.

"I come here to find myself."—John Burroughs.

NORTHFIELD, MINN.,
October 11, 1977.

Congressman KEITH SEBELIUS,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN SEBELIUS: During the hearings on the Boundary Waters Canoe Area, held by the subcommittee on National Parks and Insular Affairs on September 12 and 13, I was pleased to note the concern which you expressed for the elderly and the physically handicapped. Because of my interest in that matter, it was my hope that you still would be on hand when I presented my oral testimony. However, my presentation was not made until very late on September 13 when you were occupied elsewhere. My wife and I visited your office the following morning and had a very good discussion with Nancy Robinson. At that time, though, I did not attempt to cover all of the points which I tried to make in my oral testimony. We agreed that it might be wise for me to write to you since my oral testimony did not duplicate my written statement. (For your convenience a copy of my written testimony is enclosed.)

For five summers, starting in 1971, I was a faculty member of the Wilderness Field Station of the Associated Colleges of the Midwest (a consortium of thirteen colleges) with teaching duties in field botany and environmental biology. At that time the station was in the BWCA. Teaching was carried out within the BWCA and adjacent Quetico, and most was done on canoe trips lasting up to twelve days. Since 1971 my wife and I have paddled over two thousand miles and have crossed 398 portages with heavy back packs, etc. During this interval we have lived for the equivalent of one full year within the BWCA and also have lived two complete winters in the far north under very primitive conditions.

For thirty-five years I have been a severe diabetic, requiring two large injections of insulin daily. As a consequence, I have serious circulatory impairment with no pulse being detectable by hand below my hips. My feet and lower legs are atrophied and numb, necessitating my wearing special high support shoes. For nine years I have been totally blind. Before that, my family and I camped in the north but never visited the BWCA or Quetico. Thus, I have never seen any of the water or portages referred to above.

Since I became blind, my wife and I have crossed portages of up to a mile and a half in length with back packs of fifty or more pounds. We have crossed some of the worst in the BWCA. I have not moved along without aid and would not advise any handicapped person to attempt to do so. I follow my wife, holding a six foot beaverwood staff in my right hand and a strap which hangs from her pack in my left. She calls signals, almost continuously, warning of fallen trees, jagged branch stubs at head height, protruding rocks in the path (if any), fissures in the granite, steep cliffs, and other obstacles. Able-bodied folk traverse such hazards without a thought, and the heavy work is lightened by the forward momentum which we cannot develop at all. A portage which takes the able-bodied fifteen minutes often takes us forty-five, and the weight on our backs sometimes does become oppressive.

On several occasions, my wife and I have stopped at the middle of a long portage, aching and soaked with sweat; and we have asked ourselves what in blue blazes we were doing there. The reward comes at the end. It is the attainment of the next lake and the feeling of achievement gained by completing such a march. Few folk experience this feeling today. Proportionately more physically handicapped can realize it than others, and the rough portages of the BWCA provide an excellent opportunity. Those portages should not be "improved", for that would take away part of the sense of achievement. Many with physical handicaps would require more help than I, and that is what friends are for. To be handicapped is relative, and on some portages and mountains most would be handicapped.

The Boundary Waters is more accessible to the physically handicapped and elderly than any other true wilderness area in the United States. Portages on some routes are short and easy, and, unlike when back-packing in a mountainous area, the canoe supports the person over most of the distance traveled. Further, unless a handicapped person lacks useful arms, he or she can paddle a canoe. I can paddle well in the bow for hours on end.

If a person lacks the strength or faculties to operate a paddle, then it surely would be unsafe for that person to mount and use a motor. Additionally, to be squired around by someone else in a motorboat would ruin any feeling of accomplishment and dash any hope of gaining a sense of wilderness. It also is hard to imagine a handicapped person carrying a motor and gasoline over a rough portage. (Actually, I can't imagine why anyone would want to do that.) Why add to the problem by taking along such encumbrances? We live in a generation which is hooked on motors, but hundreds of thousands have succeeded in breaking the habit in the BWCA. For those who wish to remain hooked, there are thousands of lakes outside the Boundary Waters.

On September 12, a young woman from Denver, Colorado, spoke at the hearings regarding the use of the BWCA by the handicapped, although she had not been there herself. I felt great compassion for her as she noted that she had lost one lung and one leg. Even though she has not done so, I am sure that she could negotiate portages and paddle a canoe. My good wife and I would be happy to accompany her! An outboard motor could be nothing but a hindrance and a danger. The young lady recited a long list of sports in which handicapped of various sorts could engage, including soccer, volleyball, and tennis. None of the sports listed involves the use of motors.

Several lakes within the BWCA are especially valuable to the handicapped and elderly. These lakes can be reached from the outside after crossing only one or two portages. Basswood Lake, where we have camped extensively, is one of the best examples. It has several hundred miles of shoreline because of its many bays, peninsulas, and islands. These features also break the wind and make refuge much more accessible than one might expect on a large lake. After reaching such a lake, a handicapped or elderly person could canoe and camp for a week or more in beautiful surroundings without having to cross a single additional portage. The presence of motors would ruin any feeling of wilderness and would increase the danger, as I noted with an example in my written testimony.

During the testimony on September 12, a gentleman told you of the great difficulty in getting to Basswood to fish if a motor could not be used. The testimony was misleading. He said it first was necessary to travel 5 miles down Fall Lake, starting at the southwest end, before reaching a portage to Basswood. This is not so.

On the south side of Fall Lake, about two-thirds of the way down, is a free campground (U.S. Forest Service) and public access where cars may be parked and boats launched. From there one can paddle in twenty minutes to the portage into Newton Lake. That portage can be negotiated, even by me, in fifteen minutes. The trip down Newton and the portage into Pipestone Bay of Basswood require about a half an hour. This, if one wishes to fish in Basswood for a day or two or paddle and camp there for a week, it is possible to be on the lake an hour and a half after leaving the car. However, if one has to repeatedly mount and unmount a motor and make two or three extra trips over each portage to carry it and gasoline (returning empty-handed after the first crossing), then it will take at least twice as long.

If the fisherman wishes to work beyond Pipestone Bay, there can be no better place to go than Back Bay. The portage from Pipestone to Back Bay is smooth and can be crossed by the canoeist in ten to fifteen minutes. Multiply that time by at least three if fishing boat, motor, and gasoline are involved. Back Bay is a beautiful spot, with many small bays, peninsulas, and wooded islands. We have fished and traveled there many times with our students, and the experience has been marred by the roar of motors, the smell of gasoline, and the presence of oil on the water.

My point is that if Basswood remains free of motors, then the fisherman will be able to get to it more quickly with a canoe than formerly with a boat and motor. For the canoeist, and most especially for the handicapped and elderly, Basswood is one of the most important wilderness lakes. Keeping it and other peripheral lakes within the Boundary Waters free of motors will guarantee that wilderness will be available to many to whom it otherwise would be denied.

Sincerely,

WILLIAM H. MUIR,
Professor of Botany.

REPUBLIC OF SOUTH AFRICA

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mrs. HOLT. Mr. Speaker, many of us are very disturbed by the repressive measures undertaken by the Republic of South Africa in recent days. We had hoped for a gradual and peaceful resolution of the internal political problems afflicting that country. It was our hope that South Africa could achieve an arrangement providing for greater political and economic participation by its black population without threatening the political and economic survival of the white population.

Admittedly, the problem is incredibly complex, because it involves much more than a simple black-white situation. There are eight black national groups in South Africa, each with its own language and distinctive culture. There are large Asian and colored (mulatto) minorities. And the political and economic power belongs to a white minority.

I offer no solutions. We cannot expect the white population to voluntarily self-destruct after building a nation there for more than 300 years and achieving remarkable economic development. We cannot expect the black majority, although it is culturally divided, to continue enduring a condition that deprives it of political rights and economic opportunity.

The rising black consciousness of recent times has brought demonstrations and riots. The white regime of Prime Minister Vorster has responded with harsh repression, including mass imprisonment of dissenters, the closing of

newspapers, the banning of organizations. Freedom of expression and freedom of assembly are currently dead in South Africa.

Here is a country which claimed an identity with Western civilization, has received considerable abuse from Western nations, because of its racial policies, and has now contradicted the most fundamental and cherished ideals of Western civilization by imposing police state control of dissent.

Given these circumstances, the United States obviously cannot support the existing South Africa regime, but there are critical problems associated with attempting to punish it. The free world is enormously dependent on the mineral resources of South Africa.

South Africa has an estimated 64 percent of the world's reserves of vandium, 48 percent of the world's reserves of manganese, 83 percent of the world's reserves of chromium, and 46 percent of the world's reserves of fluorspar—all of which are essential to the steel industry of the free world.

South Africa also has 86 percent of the world's reserves of platinum group metals and 49 percent of the world's gold reserves.

If a Marxist, pro-Soviet regime ever managed to seize control of South Africa, the economy of the entire free world would be gravely threatened. We would also face disastrous consequences if the Soviet Union ever managed to win control of the oil resources of the Mideast.

But the goal of Soviet foreign policy is to obtain control of those immense natural resources in the Mideast and Africa, and we should not entertain any illusions to the contrary.

Despite our deep and abiding disapproval of the policies of the South Africa regime, it is the major bulwark against Soviet domination of Southern Africa. We know that Soviet influence is strong in other states of Southern Africa, and that guerilla factions armed with Soviet weapons are waging war against Rhodesia. Angola and Mozambique are Soviet colonies.

Mr. Speaker, I see no easy solution to the dilemma as to how we should manage our relations with South Africa, but I do know this: The immense mineral resources there are vital to the free world, and our economic survival must be our paramount consideration. Our concern for human rights in South Africa must not impel us to commit acts of economic suicide.

ERNEST M. MABINS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. CLAY. Mr. Speaker, St. Louis has suffered the loss of a giant of a man. Ernest M. Mabins will be remembered as one of the noblest citizens of Missouri. He rose from poverty to become one of the greatest leaders our city has ever known. He was strong in mind and body. He used his strength and energy to aid the poor and help the helpless.

St. Louis is a poorer city today. Mr. Mabins will long be remembered by the thousands of people whose lives he touched. We are all richer for having known him.

I wish to share with my colleagues just one of the many news articles which appeared in the St. Louis newspapers. Below is a reprint from the St. Louis Argus:

ERNEST M. MABINS

(By Scott F. Anderson)

Ernest M. Mabins believed that the Black community must sustain itself through efforts of its own, and he set his dreams on the success, or failure, of that effort.

Mabins, 59, spent each afternoon and every Sunday at 4290 Natural Bridge, the site of HELP, Inc., an organization receiving no federal money and giving Black St. Louisans a daycare center, cultural enrichment programs for children, adult education classes, Scout activities and senior citizen and welfare functions.

Volunteering time since he founded HELP back in 1962, Mabins had been the only president the organization ever had.

His dream was to build a home for senior citizens, and Phil White, HELP's executive director, said that will continue to be HELP's goal.

The senior citizens' programs continue to grow, White said, and the auditorium, library and classrooms in the organization's building continue to provide adults with the skills they need to begin to function in everyday life.

STARTED OIC HERE

This interest in skill development that would allow Black people to enter the community as viable contributors made Mabins the first chairman of the city's Opportunities Industrialization Center (OIC), a federally-funded job training program to help the poor. Set up in 1970, OIC's early years in St. Louis were spent at HELP's Natural Bridge facilities.

"He was concerned about developing people," White said.

After his arrival in St. Louis in 1951, Mabins' Sundays were given to the City Workhouse to help the prisoners there with prayer and song.

Born in Luxora, Ark., the last of 21 children and son of a Baptist minister, Mabins worked his way through Tennessee State University, Nashville, and was an instructor there before coming to St. Louis with his wife, the former Marie Westmoreland.

A businessman dedicated to the advancement of Black business, Mabins operated Gibson's Hauling Co., a trash hauling operation, from 1951 until his retirement last year.

He organized the first Black Business Exposition in 1964 and pioneered a St. Louis Black business directory in 1966.

BLACK DIRECTORY

The first directory listed goals that remain applicable today: to show Black businesses' economic impact on the community, to alert citizens to competent Black businesses, to serve as a spring-board to bring Black businesses together, to encourage patronage of Black businesses, to help Black businesses better serve the Black community.

"He had tremendous rapport with the business community, and HELP's success can be attributed to that because material goods came to us as a result of it," said White.

"He didn't believe in government handouts."

Mabins also gave his time to the advisory board of the Salvation Army and welfare committee of the Downtown Kiwanis Club, and he was an Optimist Club member.

THE CIVIL RIGHTS ACT OF 1977

HON. M. CALDWELL BUTLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. BUTLER. Mr. Speaker, as a chief sponsor of the proposed Civil Rights Act of 1977, I want to share with my colleagues a detailed explanation of the procedures in the bill including the administrative regulations, prohibited action, investigatory mechanisms, sanctions, exemptions, and interpretive rulings. We plan to introduce the Civil Rights Act of 1977 tomorrow and welcome cosponsors.

ADMINISTRATIVE RESPONSIBILITY

At present, responsibility for civil rights program administration is scattered throughout the executive branch as well as in independent regulatory agencies. The 38 provisions replaced by this act are currently administered by over 20 different Federal agencies. There is no Government-wide civil rights coordination whatsoever. In a few instances different Cabinet members have been assigned responsibility for coordinating or directing the activities of Cabinet agencies implementing a particular statute or Executive order. The diffusion of authority, staff and budgetary resources has created much of the waste and ineffectiveness and has led to the double jeopardy and due process problems discussed earlier. An early consideration of ours was whether to design a coordination mechanism for a diffuse system or to identify a single agency to which all responsibility and authority would be assigned. The total failure of existing coordination processes to insure consistency, fairness, and efficiency has been extensively documented by the U.S. Civil Rights Commission and in testimony on several occasions before oversight committees of the Congress. The peer group relationship of the President's Cabinet simply does not lend itself to effective coordination. Similarly, the experience with out-of-agency administrative control, for example Department of Labor—E.O. 11246—has demonstrated that theoretical models of central control with delegate agencies do not work.

Diffusion of responsibility has also led to increasing differences in legal interpretation based on the varying social philosophies and funding strategies of the agencies in question. Finally, the staffs of many of these regulatory agencies are simply too closely related in terms of employment background and career goals to those being regulated.

Thus our assessment of the situation led inevitably to the conclusion that there should be a single agency with full civil rights responsibility. Three sites for this centralized civil rights responsibility have been seriously considered: The Equal Employment Opportunity Commission (EEOC), the Department of Justice, and a new civil rights agency yet to be established. We selected the second alternative.

The Equal Employment Opportunity Commission was created by title VII of the Civil Rights Act of 1964 and currently has authority only for the enforcement of that provision—banning employment discrimination on the basis of race, color, national origin, sex, and religion. The record of that Agency in carrying out its existing responsibilities is a dismal one. With a backlog of over 100,000 complaints, EEOC's inefficiency and ineffectiveness has been extensively documented in testimony before both houses of Congress. While part of the reason for this ineffectiveness has been poor management—which we have to believe may now be improving—a large part of the problem lies in the basic concept of the role of the agency. Clearly EEOC sees its role as, in large part, an advocacy one. It has sought, not merely to enforce the law but, to expand upon it. While an "advocacy" presence on behalf of people protected by civil rights is an important one, what is needed now is a central civil rights agency whose primary function is to fully execute the sweeping nondiscrimination provisions of the proposed legislation. Conformance with law must always be aggressively advocated but advocacy without operational effectiveness will not satisfy the duty owed to those protected by the statute.

Accordingly, the issue becomes whether to assign the responsibility in question to the Attorney General or to create yet another Federal agency. For several reasons we are convinced that the Department of Justice is the logical site for the responsibility. Unlike most types of economic regulation, the protection of civil rights is itself a constitutional duty of all branches of the Federal Government. Thus, if Congress were to rescind existing civil rights legislation it would still be unlawful for the executive branch to provide public funds to organizations with practices violate of equal protection guarantees. The legal duty of the executive branch to refrain from directly or indirectly participating in unlawful discrimination is thus inherent. As the Government's chief lawyer and law enforcement official, the Attorney General has always been charged with the most important legal duties and all constitutional obligations. The violation of civil rights is certainly no less fundamental than the violation of other criminal provisions. It is not by chance that the Attorney General has been given authority to bring "pattern and practice" cases of discrimination under many of the existing statutes. From a theoretical standpoint, we are persuaded that law enforcement activities are the proper role of the Justice Department. The cost and confusion that would be generated by the creation of a new civil rights agency seem totally unnecessary.

The organization of the central civil rights responsibilities within the Department of Justice is left to the discretion of the Attorney General by the proposed legislation. It is our expectation that the existing budget level of the combined staff now assigned to civil rights activities will be maintained. Positions would be transferred to the Department of Justice where increased management consolidation will result in an actual increase in the number of staff assigned to investigation and resolution activities.

PROHIBITED ACTION

Discrimination on the basis of any of the individual characteristics discussed above is prohibited by the proposed legislation in all aspects of employment, service delivery, and commercial practices of covered organizations. Each type of prohibited action is currently unlawful under one or more statutes. However, the single prohibition in the proposed legislation serve to eliminate existing gaps and inconsistencies in coverage caused by differing jurisdictional bases.

Affirmative action obligations of Federal contractors under section 503 of the Rehabilitation Act of 1973 and E.O. 11246 will continue; however, employment discrimination responsibilities under both sections will be repealed.

INVESTIGATIVE PROCEDURES

At present, a wide range of investigative procedures exist under the various civil rights provisions. While some mandate periodic compliance reviews—for example E.O. 11246—most are silent. Many authorize "pattern and practice suits" by the Attorney General for example. Some require complaint investigation and prescribe specific timeframes, for example, title VII. Regulations issued under other statutes require investigation without specifying timeframes, for example, title IX. In some cases no formal complaint procedure is specified by either the statute or regulations, for example, Equal Pay Act.

Because of the predicament for the Federal court system created by the rapidly increasing number of cases being litigated in the Federal courts, we have established expedited complaint investigation resolution procedures to be followed by the Attorney General. Our purpose is to create powerful incentives for individual complainants to use administrative procedures in lieu of resort to the Federal courts. Such a choice by large numbers of complainants will only be made if the administrative process is speedy and complainants' rights are fully protected. An overview of the process is set forth below:

Day 1—Receipt of complaint in proper form by Attorney General.

Day 2 (30)—Initiation of Investigation by Attorney General.

Plus 90 days (120)—Completion of Investigation.

Plus 30 days (150)—Notify complainant and respondent of determination.

Plus 30 days (180)—If complaint not upheld, period for complainant to provide new information and argument. If complaint upheld, period for respondent to provide information refutation, argument.

Plus 70 days (250)—If complaint upheld, Attorney General must: (i) Accept voluntary compliance plan; (ii) Commence an action in the district court for temporary relief; and (iii) Commence a preliminary administrative hearing.

Plus 30 days (280)—Determination by independent hearing judge. If adverse, immediate termination of all Federal financial assistance.

Plus 30 days (310)—If adverse decision, commence civil action to permanent relief.

Mr. Speaker, complainants are not allowed to bring suit under the statute once the process above has begun until a final determination by the Attorney General that complaint lacks merit or a determination by the hearing judge is issued. Complainants are afforded the full rights of a party in the administrative process. Complaint procedures in the proposed regulation are similar to those currently existing statutory provisions as well as to the terms of an order entered by the U.S. District Court for the District of Columbia last year construing the duty of the Government to "promptly investigate complaints."

From the viewpoint of the regulated organization the process described above provides a full "due process" administrative hearing before any sanctions are imposed as well as an expedited resolution of the matter. Because of the impact that the Attorney General's decision not to proceed on the merits would have on the prospects for subsequent litigation, the likelihood of multiple forms should be significantly reduced.

The Attorney General is required to conduct routine compliance reviews of regulated organizations from time to time and may at any time decide to expand a complaint investigation activity into a "pattern and practice" compliance review.

SANCTIONS

Existing legislation provides a wide variety of final sanctions including fines and punitive damage—for example, Equal Pay Act—grant and contract termination and debasement—for example, title VI; Executive Order 11246—disqualification or license revocation—for example, Revenue Sharing—to injunctive relief and court awarded complainant damages—for example, title VII.

In addition to the final sanctions, interim sanctions of grant "deferral" and contract suspension are currently used under certain provisions—for example, title VI, Executive Order 11246—before the regulated organization is afforded the opportunity to participate in a formal hearing. This practice has been defended as necessary to maintain the existing level of Federal funds pending a hearing. In reality, it is a denial of funds without a hearing and thus a denial of basic "due process" rights. Many have argued convincingly that some sort of interim sanction is necessary to provide an incentive for voluntary compliance and to discourage regulated organizations from prolonging the hearing indefinitely. Furthermore, the need to prevent Federal funds from flowing to a discriminatory organization while lengthy litigation proceeds is an important one.

The proposed legislation would create a single type of final sanction where all efforts at voluntary compliance efforts fail: the injunctive relief necessary to elimmate present discriminatory practices, the effects of past practices and to prevent any future occurrence. In addition, in imposing a final sanction the court may order whatever actual damages are necessary to fully compensate victims of discrimination. The final sanction thus is a corrective one rather

than a punitive one—for example, fund termination. In addition, the proposed legislation requires the imposition of an interim sanction—grant/contract termination—but only if there is an adverse decision by a Federal hearing judge following an expedited formal hearing.

This nondiscretionary interim sanction would continue until voluntary settlement, a decision by a Federal district judge to lift the sanction pending the outcome of civil litigation—but limited to no more than 180 days—or a final decision—in favor of the regulated organization—or remedial order. This approach thus creates a powerful incentive to voluntary resolution through fund cutoff but only after a formal finding on the record of noncompliance.

Civil and criminal sanctions for willful violations are provided and should serve to punish those organization officials responsible for discrimination directly rather than through a fund termination sanction that punishes program beneficiaries rather than perpetrators.

EXEMPTIONS

The proposed legislation does not reflect existing affirmative action obligation under Executive Order 11246 or section 503 of the Rehabilitation Act of 1973. It contains 10 specific exemptions from the general prohibition. The first incorporates the basic provisions of the Indian Preference Act and deals with employment practices on or near an Indian reservation. The second exemption permits employment discrimination based on group membership where an employer can demonstrate that group membership is a bona fide occupational qualification necessary to normal operation of the business. The third and fourth exemptions deal with religious affiliation or belief. In one instance educational institutions controlled by religious organizations in very limited situations will be permitted to limit employment to persons who are members of a particular religion. In the other employers will be required only to make reasonable accommodations to the religious practices of employees without undue hardship to the conduct of the employers business. This same standard of reasonable accommodation without undue hardship forms the basis for another area of exemption from employment discrimination prohibitions reliated to physically and mentally handicapped individuals.

This exemption parallels provisions of regulations issued by the Departments of Labor and HEW under sections 503 and 504 of the Rehabilitation Act of 1973. Another area of exemption permits elected officials to select policymaking employees and immediate advisors on the basis of political affiliation or belief. It thus parallels the "schedule C" hiring standards permitted in Federal employment. An eighth exemption category permits regulated organizations to designate areas for "adults only" because such a designation may advance the enjoyment of all persons residing in the area rather than depriving any persons on the basis of age from access to housing. The exemption does not permit the designation of an entire project as for adults only but rather allows certain subunits or areas to be so designated. Finally, employers with fewer than 15 employees who do not receive direct or indirect public support are exempted from the act altogether. The bill does not extend to so-called "right to treatment" issues unless the organization providing the basic services in question discriminates on the basis of age, handicap, or any of the other categories of discrimination prohibited by the bill. We remain concerned, however, that appropriate legislation—for example H.R. 3—be enacted to protect the rights of all institutionalized persons to adequate and appropriate treatment.

INTERPRETIVE RULINGS

The proposed legislation establishes a system for requesting interpretive rulings similar to that currently in effect within the Internal Revenue Service. These procedures permit a regulated organization to secure an interpretation of the applicability of the statutory prohibitions to a situation described by the organization. Interested persons other than those regulated organizations seeking the interpretation may participate in the interpretive ruling process. A review and appeal procedure may be established by the Attorney General as part of the system. Judicial review procedures follow those currently in effect for revenue rulings by the IRS. Regulated organizations are entitled to rely on these interpetive rulings until such time as they are modified.

CONCLUSION

In our view the proposed Civil Rights Act of 1977 if enacted would dramatically improve the effectiveness of the currently fragmented and confused Federal civil rights efforts. The act would establish a fair and speedy resolution of individual grievances while mandating a program of general compliance reviews. Civil rights compliance would take its rightful place as an important law enforcement activity and those regulated would be given clear and uncontradicted notice of what is required; the "due process" procedures which must accompany a serious compliance process are also provided. Uniform coverage of both groups protected and organizations regulated will create the intrinsic regulatory fairness crucial to effective public support. The time has come to give this important area of national responsibility a full measure of congressional attention.

SAN MARINO HISTORICAL SOCIETY SALUTES PIONEER IN EDUCATION ELMER C. NEHER

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. ROUSSELOT. Mr. Speaker, a very important event is taking place in my district in the State of California tonight. The members of the San Marino Historical Society are holding a special function to salute the pioneers of the San Marino School District and will honor Mr. Elmer C. Neher, San Marino's first superintendent of schools. Of the many people who contribute to the betterment of our society, few make a more significant impression than those who are dedicated teachers and school administrators. Elmer C. Neher was both a teacher and an administrator. And indeed he was a pioneer.

The Merriam-Webster dictionary defines a pioneer as "a person or group that originates or helps open up a new line of thought or activity or a new method or technical development." Elmer C. Neher was a man ahead of his time in education. While he would be the last person to debase readin' writin' and 'rithmetic, he blended the scholastic disciplines for performance and quality with a compassionate interest in each pupil. Mr. Neher's career in the San Marino School District began in 1922 when he was hired to teach the seventh and eighth grades at Huntington School. He later became principal at Huntington and, in 1927, the duties of superintendent were added to his teeming responsibilities. In 1930, the school board elected Elmer Neher to be San Marino's first full-time superintendent of schools. A task which he undertook with dedication and carried out with devotion until his retirement in 1956.

A native of San Gabriel and Pomona Valleys, Elmer Neher was born and raised in the San Dimas-La Verne area and attended Pomona College. He taught first in Arcadia before taking the position in San Marino at Huntington School. During his career, Mr. Neher served as a member of the Los Angeles County Board of Education. He was also a member of the County School Administrators Association and the California School Administrators Association.

Thost of us who were educated in the schools of San Marino have benefited immeasurably from the influence of this fine man and those pioneers who served with him and are also present on the occasion of this tribute. We join together to say thank you, Mr. Neher for a lifetime of service to the citizens of your community. You will always be remembered for the positive and constructive way in which you assisted in solving the problems of administering our schools; but, most especially you will be remembered for your close availability to students, parents, and teachers alike—for your understanding—and for your inspired leadership in the field of education.

STATE APPROVAL FOR LIQUEFIED NATURAL GAS

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. BEARD of Rhode Island. Mr. Speaker, I am introducing a bill in the House today that addresses itself to a most serious problem being faced by a number of communities throughout the country. In its attempts to provide facilities for the importation and storage

of liquefied natural gas, the Federal Power Commission has selected a number of sites for proposed location of LNG facilities. Some of these sites, such as one situated in the middle of Narragansett Bay in Rhode Island, present very serious environmental problems and potential danger because of the proximity of nearby populated areas.

It would appear that the FPC has been systematically disregarding the loud voices of disapproval emanating from many of these proposed sites. In Rhode Island the opposition has been demonstrated as overwhelming. Gov. J. Joseph Garrahy himself has taken an unequivocal position against the issuance of a license to build an LNG facility on Prudence Island, a key part of a proposed Bay Islands Park System.

Accordingly, Mr. Speaker, I submit this bill which would require the Federal Power Commission to withhold any license for LNG construction or expansion without the approval of the State (or States) involved.

Every State has the legal mechanism to conduct the proper evaluation of the sentiment of its citizens and those citizens should have a voice in matters as critical as the location of LNG installations. I earnestly urge my colleagues to examine the intent of this bill because its provisions could apply to any one of the 50 States at any time.

WULF VILENSKY—1 YEAR LATER AND COUNTING

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. KEMP. Mr. Speaker, this is not the first time that I have spoken in behalf of Col. Wulf Vilensky and his wife, Sonia, who have been denied permission to leave the Soviet Union to join their family in Israel. I had hoped that it would not be necessary to bring to your attention and the attention of my colleagues the sad fact that another year has passed by and still the Vilensky's endeavors to emigrate to Israel have not met with success.

As my colleagues recall, Wulf Vilensky served courageously as a colonel in the army for his native Lithuania during World War II, and by the end of the war he had received 26 medals including the "Hero of the Country Medal," the highest ranking medal awarded by the Soviet Union. In addition, he has been honored by the Presidium of the Supreme Soviet of the Lithuanian SSR "for many years of work in the military training field, for active participation in public work." Colonel Vilensky lectured at a university in Vilnius for 7 years after he retired from active service, and he has stood by to watch his son and daughter and their families leave for Israel while he and his wife are forced to remain in Lithuania without any relatives. It is with renewed determination that I pledge my efforts to insure that this inhumane separation of families is ended once and for all. I had such high hopes that real progress was being made when the Helsinki Agreement was first signed, but it is past due the time when we must face the reality of the situation. The Soviet Union has continued to violate its pledge by denying applicant after applicant the right to emigrate to Israel until it seems that the the approval of an exit visa is a rare exception to the rule. I urge my colleagues to join me in redoubling our efforts in behalf of Soviet Jewry, and in insuring that our commitment to those families is reflected in all of our policies. Freedom and human dignity are entities which we must not allow to be denied by the few in power, and if any agreements or treaties are to have credibility, all must be adhered to.

SOCIAL SECURITY

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. AMBRO. Mr. Speaker, the social security bill that we just passed was hastily conceived and sloppily crafted.

Ballyhooed as a measure which would assure the solvency of the social security trust fund, amendments which passed and others which did not, made the bill, in my judgment, one which requires considerable work in the House-Senate conference. On balance, if such a phrase can be used in this case, it seemed to me that the bill had a touch more beneficial ingredients than those which were detrimental. However, the Ketchum amendment which phases out all limitations on earnings should be revised. While I supported it, that amendment represented the alternative, and the only alternative that we were offered to an all too low $4,500 limitation. I have consistently supported a reasonable earnings limitation because it seems to me that those who are working and earning in excess of, let's say, $25,000 should not be recipients of social security. An adjunct problem is that those who receive that same $25,000 or more in unearned income do receive social security benefits. This paradox must be reconciled.

I voted for amendments which would extend the time and reduce the wage base and percentages for social security contributions. Unfortunately these failed and the impact of these contributions now fall inequitably, heavily and once more on middle-income wage earners. This too, I hope, will be addressed by the conference so that the report that emerges will be one that is far better thought out and fairer to both senior citizens, employees and employers.

In sum, because of the hesitation with which this bill was developed, because of what I discern as a lack of in-depth thinking with respect to all of its ramifications and because of the syndrome that seems to pervade the leadership of this House that this body has to do it first and fastest, this bill is one which requires considerable work by the conference. I voted yes on final passage because first and foremost I want to assure the solvency of the social security trust fund and we were given no choice but to accept or reject this bill. Nevertheless, unless the issues raised herein, and others, are addressed and modified when the conference report returns for a final vote to the House, I shall have strong second thoughts about once more supporting this measure.

MIDDLE EAST

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. LUKEN, Mr. Speaker, the Jewish Federation of Cincinnati concerned with the situation in the Middle East has passed a resolution on this important issue which I believe would be of interest to my colleagues.

The resolution follows:

RESOLUTION ON MIDDLE EAST

We applaud President Carter's efforts to bring about peace in the Middle East and his firm commitment to support Israel. However, we are concerned about some aspects of the policy developments in our country's efforts to achieve a Middle East peace, dependent as it is on Arab recognition of Israel's legitimacy and direct negotiations between the parties.

We perceive American policy moving towards acceptance of the Palestine Liberation Organization as an equal participant in the Geneva Peace Conference. Together with the joint U.S./Soviet communique, this has profoundly dangerous implications.

The joint U.S./Soviet communique's language "the legitimate rights of the Palestinian people" is interpreted in the Arab world as national rights for Palestinians, meaning creation of an independent, separate Palestinian entity between Israel and Jordan. The Arab world knows this could only be done if the United States and the Soviet Union impose their will upon Israel and not in a bargaining process between the Arab states and Israel.

In any case, as the P.L.O. has stated, such an entity would still not solve the crucial issue of permanent settlement of Arab refugees.

Far-reaching implications for the Middle East and the world result from the creation of such an entity. It would give the P.L.O. a springboard from which to carry out its declared purpose of destroying Israel. It would give the Soviet Union a new power base in the area and serve as a center for revolutionary, radical agitation against Jordan, Saudi Arabia, and Egypt, countries which now are relatively U.S. oriented.

The Soviet aim in the Middle East is to deprive the U.S. of influence in the area. Soviet actions in continuing a massive arms supply to the Arabs are designed to intensify conflicts, not ease them. The U.S. should not legitimize Soviet acts detrimental to our own and Israel's interests in peace. The quest for peace in the Middle East is a vital part of American foreign policy which we all fervently support. In encouraging a short-term solution we must not advocate or support the creation of a P.L.O. dominated Palestinian entity which would contain seeds certain to bring chaos and war over a longer term.

Rather, the U.S. should use its good offices to bring the states involved—Israel, Egypt, Jordan, Syria, and Lebanon—to Geneva on the basis of U.N. Resolutions 242 and 338, and permit those states to negotiate the terms of

a peace among themselves. It should not vary from this position, except with Israel's approval, as agreed to in the "Memorandum of Agreement" dated September 1, 1975.

We think U.S. involvement is essential to bring about direct peace negotiations between Israel and the Arab states. We ask you to support U.S. efforts towards that end without U.S. pressure on Israel to make substantial concessions before such negotiations start.

SOME RICH KIDS HELP RADICALS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. SYMMS. Mr. Speaker, the October 1977 issue of Conservative Digest magazine contains an article by our colleague, the Honorable LARRY MCDONALD, discussing some of the financial resources of the radical left and new left movements in the United States. Congressman MCDONALD points out with documented sources that much of the financial support of these radical groups comes from wealthy individuals who one would think would have a vested interest in preserving freedom of enterprise and a free society. The article follows:

GUILT-RIDDEN RICH KIDS HELP RADICALS

In 1974 a small group of wealthy young radicals "embarrassed to be connected to their money" organized the Haymarket Peoples Fund (HPF)—named after the anarchist-provoked bombing and riot in 1886 in which eight Chicago policemen were killed. The HPF was established as a tax-exempt operation to provide money to groups in New England involved in political "organizing" for "social change" and who are not able to obtain funds from other sources.

The concept of the Haymarket Fund originated with George Pillsbury, 27, and David Crocker, 28, who both are heirs to large flour industry fortunes. After an upbringing he has described as being "sheltered in an expensive Minneapolis suburb and an exclusive eastern prep school, St. Paul's," Pillsbury took a bachelor's degree in "urban studies" at Yale. It was as a Yale undergraduate in New Haven that Pillsbury decided "our system is structured to keep . . . many people . . . inescapably trapped at the bottom of the pyramid."

George Crocker has described a similar revelation:

"I remember being in a college economics class in the 60s where we were studying the classic pyramid. The professor was pointing to the small number of people on top that something had to be done about to effect social change. I suddenly realized I was on the top and was one of the folks something had to be done about."

Most of the Haymarket money comes from a tiny handful of people, although the group has begun direct mail solicitations of small contributions. The Haymarket Peoples Fund makes grants three times a year in amounts ranging generally from $500 to $2,500, concentrating on housing and tenants organizing, welfare rights, food stamp and relief issues, the prison movement, and "anti-imperialist" propaganda projects.

In 1975, Haymarket distributed approximately $88,000 from a total of 24 donors to 80 organizations. In 1976, $122,000 was distributed among 115 groups. Although Haymarket notes that some of its original donors are running through their trust funds and are now soliciting donations from less wealthy radicals, most of its money still comes from heirs of the Sears and Roebuck, DuPont, Pillsbury, and IBM fortunes.

The Haymarket Fund provided the initial loan for the anti-CIA "teach-in" held in May 1976 at Boston University which featured the Center for National Security Studies, National Lawyers Guide, and Counter-Spy magazine.

Among the "anti-imperialist" groups funded by the HPF in 1976 were the Boston Coalition for the Liberation of South Africa; Friends of Indochina, an outgrowth of the Indochina Peace Campaign which "continues to do political work about the Indochina war," and the Indochina Curriculum Group, "a group of teachers who have developed a curriculum and materials on Southeast Asia and the war in Vietnam for use in secondary schools."

Other recipients of Haymarket 1976 grants were the Tenants First Defense Committee, which is supporting a radical tenants union fighting a conspiracy suit filed against it by a landlord; and the Northeast Prisoners Association, which dissolved in 1976 when investigations of the terrorist Sam Melville, Jonathan Jackson Brigade, pointed to the prison movement.

In the area of the media, Haymarket grants "to lay down the foundations for revolutionary change" went to the Allston Brighton Community News, which serves as a "house organ" for local radical groups and to the Sunday New Collective, which produces a weekly program on the University of Massachusetts-Amherst radio station.

The Black Panther School of Freedom Fighting in Boston's Roxbury District received Haymarket money, as did the Maine Gay Task Force and the Massachusetts chapter of the National Lawyers Guild which, said Haymarket "has spent the last year and our funds keeping black and Latin activists out of jail."

The Haymarket Peoples Fund channeled $30,580 in "donor-directed" grants to such projects as the monthly *Dollar and Sense*, a Somerville-based economic journal in which many New American Movement activists are involved in writing up Marxist economic concepts "in a readable and understandable way and from a radical perspective," and Urban Planning Aid, "New England's largest and most important resource organization for low-income and working class organizing."

Recognizing that many groups Haymarket would like to fund "are clearly not within the guidelines of the IRS exempt designation," HPF set up another entity, Rank & File, Inc., to receive non-tax-exempt, non-tax-deductible contributions. In 1976 Rank & File distributed $25,000 to such groups as Boston Information Center on Panama– "a group working to provide educational material . . . to help the Panamanian people regain control over the Canal and end the U.S. colonial presence"–and *For the People*, a Fall River-New Bedford radical newspaper organizing among the Portuguese ethnic communities. Why all HPF's other projects are classified tax-exempt is an interesting question.

AMNER BORISOVICH ZAVUROV

HON. CHARLES THONE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. THONE. Mr. Speaker, we are continuously notified of cases of government authorized ethnic and religious discrimination in the Soviet Union. Among those repeatedly singled out are Soviet Jews whose requests for exit visas have been denied. More often than not, these people suffer undue harassment.

One such "refusenik" is Amner Borisovich Zavurov of Shakhrizyab. Mr. Zavurov was granted an exit visa in August of 1975 and prepared to depart for Vienna. Just prior to his departure, his visa was confiscated, making it impossible for him to leave the country. Additionally, his internal passport was not returned to him, thus he could not obtain work.

A government created Catch-22, therefore, led to his arrest on charges of "failure to have an internal passport" and "hooliganism." He is currently serving a 3-year sentence in an unknown location.

As a cosigner of the Helsinki Final Act, which obligates the signatories to respect fundamental human rights, we must urge the Soviet Union to release refuseniks such as Mr. Zavurov. We must make a point to constantly remind the Soviets of their responsibility to facilitate freer movement among people and to act "in conformity with the purpose and principles of the Universal Declaration of Human Rights," important elements in the strengthening of friendly relationships.

FUNDRAISING ACTIVITIES OF THE CITIZEN'S COMMITTEE FOR THE RIGHT TO KEEP AND BEAR ARMS

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. WALKER. Mr. Speaker, I would like to focus the attention of this body on what I consider to be highly unethical and grossly ill-conceived actions on the part of the Citizen's Committee for the Right to Keep and Bear Arms. As one who firmly opposes legislation aimed at curtailing second amendment rights, I sympathize with the philosophy of the CCRKBA. However, recent fundraising activities by this group are an affront to this body and many of its Members.

Thus far, well over 1,000 of my constituents have received fundraising appeals from the CCRKBA. This appeal bears my name in a fashion designed to mislead the recipient into believing that I am sanctioning and sponsoring this effort to solicit money.

I am in no way connected with the CCRKBA and I have in no way authorized the use of my name and office for such an appeal. Furthermore, I have been informed that approximately 600,000 similar appeals have been mailed nationally with more than a million planned for the near future with the name of individual Congressmen displayed.

In a sincere effort to be reasonable, I personally contacted Mr. Allan Gottlieb, executive director of the organization, to request that he and the CCRKBA immediately make a followup mailing to those of my constituents who received the deceptive mailing. Due to the improper use of my name and office, I felt that this was a perfectly acceptable way

of setting the record straight. His response was to hang up the telephone in the middle of our conversation.

I cannot believe there is anyone in the Congress more opposed to gun control legislation than I am. However, I cannot and will not condone this kind of irresponsible special interest appeal for money.

Several colleagues have noticed these appeals arriving in their districts and I wish to forewarn my other colleagues that their good names and offices may also be abused through what I regard as misleading tactics and unethical behavior on the part of Citizen's Committee for the Right to Keep and Bear Arms. John Snyder, legislative representative of the group, has assured me in a subsequent conversation that the group will correct the situation in future mailings, but until CCRKBA is willing to make an effort toward correcting the mistakes already made, I am fearful that each Member of Congress will be made a party to misleading his or her own constituents.

WOODLAWN WESLEYAN CHURCH, LANDOVER HILLS, MD.

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mrs. SPELLMAN. Mr. Speaker, I wish to take this opportunity to recognize in the Congress of the United States the efforts of the congregation of the Woodlawn Wesleyan Church and their pastor, the Reverend Ron Fenwick of Landover Hills, Md. These fine people have been honored by the Christian Life magazine at the international Sunday school convention in Detroit as the fastest growing Sunday school in the State of Maryland for 1976–77.

An award for an active church program is a double blessing. Through their diligent endeavors, by reaching out to welcome new families and by renewing old friendships, the members of Woodlawn Wesleyan Church have helped to make Landover Hills a more "close-knit" community. It cannot be doubted that these families, who make the Sunday school active and successful, are strengthened through the inspirational instruction of their institution.

Personal sacrifice in a program of this type is neither easy nor sure of reward. When reward does come, it is by far more meaningful for being unsought. This well-deserved recognition is their second reward. While I am sure the sense of accomplishment they surely must feel gives them compensation for their efforts, national commendation must be especially gratifying.

Mr. Speaker, I know my colleagues join in offering our warmest and most sincere congratulations to the congregation of the Woodlawn Wesleyan Church and especially thier paster, Reverend Fenwick. May their efforts continue to prosper and their members remain active and enthusiastic.

ERISA

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. DENT. Mr. Speaker, I would like to take this opportunity to apprise my colleagues of what I feel are extremely significant developments relating to the administration of ERISA.

When Congress passed ERISA in the summer of 1974, many of us who worked most closely on it realized that ERISA would periodically need amending. This was apparent for two reasons. First, the subject of Federal regulation of pension and welfare plans is an inherently difficult one. Laws designed to protect participants' interests, prevent tax abuse, and establish a termination insurance fund are all conjoined into one statute.

Second, because of this complexity, numerous well-intended but clearly temporary compromises were required of the labor and tax committees in order to produce any pension reform legislation at all.

It was clear in 1974 that these two factors were producing an administrative framework for ERISA that sooner or later would necessitate congressional revision. None of the conferees on ERISA was satisfied with the unclear and incomplete division of administrative authority between the Department of Labor, Internal Revenue Service, and Pension Benefit Guaranty Corporation that was finally devised. Together with my colleagues, I hoped in 1974 that this allocation of duties among the various agencies would work. It has been clear for some time now that it does not work satisfactorily.

One need only speak briefly with plan administrators to learn of the frustrations and inefficiencies that this multiagency presence has created. Pension plan dollars that should be paid to plan participants in the form of plan benefits are instead paid to attorneys and administrators and accountants and actuaries as people in good faith attempt to comply with ERISA, only to be booted from one agency to another in a seemingly endless search for answers, information, and guidance.

Different agencies, administering similar laws from widely differing perspectives and with widely differing motivations, produce uncoordinated enforcement policies that generate additional frustration and confusion at the expense of efficient plan administration and effective enforcement of ERISA. One need only review the growing involvement of the Securites and Exchange Commission in applying the antifraud provisions of the Securities Acts in the context of employee benefits plans to gain an appreciation of just how seriously this multiagency involvement threatens to impede the devolpment of a coordinated Federal attitude toward private pension systems and the efficient enforcement of ERISA.

In the spring of this year, Congressman ERLENBORN, Congressman CONABLE, and I coauthored H.R. 4340, which would consolidate all the Labor Department, Pension Benefit Guaranty Corporation, and Internal Revenue Service employee benefit plan functions into a single agency. The bill also permits the President to transfer additional functions from other agencies to the consolidated employee benefit administration. We have held hearings on H.R. 4340, and action on it early next year is expected.

I also urged President Carter to address the ERISA administration problem as part of his plan to reorganize the bureaucracy. To his credit, the President apparently recognized the need for revision of the administrative framework under ERISA. Efforts have been under way in the Office of Management and Budget to design an appropriate reorganization plan that would address the problems of multiagency administration and successfully resolve them.

I am hopeful, Mr. Speaker, that OMB will note the direction in which both the House and the Senate are headed—toward the consolidation of all the agencies now involved in administering ERISA into a single agency—and that any reorganization plan submitted by OMB will reflect this growing congressional consensus.

Because the development of a sensible and workable consolidation framework is an arduous undertaking, I urge my colleagues to remain patient if OMB and the White House conclude that it may take longer than originally anticipated to develop the kind of reorganization plan which will permanently and successfully cure the existing problems. Surely it is preferable to wait a few more months for a solution which will achieve truly efficient administration and permit the development of a coordinated and thoughtful Federal attitude toward retirement systems than to be presented with a cosmetic reorganization plan that cures only the most flagrant manifestations of multiagency administration but purports to be a permanent solution to a difficult and complex problem.

I urge my colleagues to take a sharp interest in this matter, and to give OMB the benefit of the experiences we have all shared in the administration of the Pension Reform Act.

CODIFICATION OF THE INTERSTATE COMMERCE ACT AND RELATED LAWS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. RODINO. Mr. Speaker, I am today introducing a bill to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code. This bill has been prepared by the Office of the Law Revision Counsel, in cooperation with the Interstate Commerce Commission, as a part of the program of the office to prepare and submit to the Judiciary Committee of the House of Representatives, for enactment into positive law, all titles of the United States Code.

Anyone interested in obtaining a copy of the bill, and a copy of the draft report to accompany the bill, should contact:

Edward F. Willett, Jr., Law Revision Counsel, House of Representatives, B-351-A Rayburn House Office Building, Washington, D.C. 20515.

The office also has available on request a list of changes made to a previous committee print of the bill, dated September 1, 1977.

Persons wishing to comment on the bill should submit those comments to the Office of the Law Revision Counsel not later than January 16, 1978.

FIFTH VAN CLIBURN INTERNATIONAL QUADRENNIAL PIANO COMPETITION

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. RICHMOND. Mr. Speaker every once in awhile a valuable program comes to my attention.

The Fifth Van Cliburn International Quadrennial Piano Competition was held in Fort Worth, Tex., this past September.

My distinguished friend and colleague, JIM WRIGHT who represents Fort Worth can be honored and proud of this competition.

I would like to share with you a letter from Julius Bloom, executive director of the Carnegie Hall Corp., which describes the program in greater detail:

THE CARNEGIE HALL CORP.,
New York, N.Y., October 4, 1977.

Hon. FREDERICK W. RICHMOND,
House of Representatives,
Washington, D.C.

DEAR FRED: Knowing your great concern for the cultural welfare of our country and in admiration of the substantive measures you are advocating to strengthen the arts, I wish to share with you the deep impression left on me by the Fifth Van Cliburn International Quadrennial Piano Competition, held in Fort Worth, Texas, September 11 through 25, 1977.

Conceived in 1958 by Dr. Irl Allison, Founder and then President of the National Guild of Piano Teachers, the Competition was created to honor the young Texas pianist Van Cliburn, who won the prestigious Tchaikovsky Competition in Moscow that same year. In 1962 the first Van Cliburn Competition was held in Fort Worth and has been repeated at four-year intervals, rapidly growing in stature so that it is now recognized as one of the foremost music competitions of the world.

It is truly international in scope, the first-prize winners having come successively from the United States, Rumania, Brazil, the Soviet Union and South Africa. This year, of the 192 applications, 85 contestants were accepted. They ranged in age from 18 to 29 and came from 11 states and 25 other countries. The 13 members of the distinguished jury were from Argentina, England, France, Italy, New Zealand, the Philippines, the Soviet Union, Switzerland and Uruguay as well as the United States.

It is a tribute not only to the Van Cliburn Foundation, Inc., sponsors of the Competition, but to the entire community of Fort Worth for the generosity, intelligence, determination, sensitivity and adherence to the highest musical ideals with which the Competition was planned over the past four years and brought to fruition last month. That alone would merit the highest of praise. Yet, above all, what moved me to my roots was the outpouring of hospitality and human concern of so many of our fellow Americans in Fort Worth.

Each of the contestants lived with a local family during the entire period of the Competition and so won the hearts of their hosts that friendships were formed that will undoubtedly be life-long. One could feel the love vibrations of these families and their guests all over Fort Worth. It was a quality which the hundreds of observers from other countries and states felt immediately and led so many of them to state that this was what made the Competition unique, for usually the young musicians lead cloistered lives under dormitory-like conditions and have little if any opportunity to mix, let alone live with local families.

Many of the visitors from abroad, contestants and observers alike, kept saying that Fort Worth conveyed a touching and heartwarming image of America and its people. It is this spirit of friendship and genuine concern for humane values which Fort Worth has contributed both to the cause of music and to the meaning of America.

As a seasoned worker in behalf of music in America, I wish to share with you my enormous admiration of Fort Worth, the Van Cliburn Foundation and its extraordinary chairperson, respected for her organizing talents and loved for her generous personality throughout the world, Mrs. Elton M. Hyder, Jr.

Sincerely,

JULIUS BLOOM.

SHULMAN APPOINTED TO FIFTH AVENUE SYNAGOGUE—SHAAREI TEFILA HONORED

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. WAXMAN. Mr. Speaker, Rabbi Dr. Nisson E. Shulman currently rabbi of Congregation Shaarei Tefila in Los Angeles, has been called to the pulpit of the Fifth Avenue Synagogue of New York City—perhaps the best known and most prestigious Orthodox Synagogue in all America.

The honor of Rabbi Shulman's appointment belongs not only to the rabbi and his family but to the congregation he has served in Los Angeles. The sorrow the board of trustees and congregants of Shaarei Tefila feel at the departure of their brilliant Rav is mixed with a feeling of deep pride that of all the rabbis in the world who might have been chosen for the Fifth Avenue Synagogue post, the honor came to their own leader. Shaarei Tefila, and indeed the entire Los Angeles Jewish community, was gratified to see Rabbi Shulman's outstanding accomplishments and abilities so nobly recognized.

Rabbi Shulman meets the sublime standards traditional Judiasm has over the centuries demanded of its great leaders. On the one hand, the rabbi is a man of both sacred and secular scholarship—supremely erudite in the classical literature of Scripture, Talmud, the Legal Codes, and the Responsa. On the other hand, Rabbi Shulman has matched the depth of his scholarship with the warmth of his pastoral duties. To his congregation, to the larger community, and, as a leader in the U.S. Naval Chaplaincy, Rabbi Shulman has been a kind, gentle, and ever-caring "shepherd."

Fortunate are the members of the Fifth Avenue Synagogue, Congregation Shaarei Tefila, the Greater New York Jewish community, and indeed, we as a Nation to have in our midst so rare and precious a human being as Rabbi Shulman. May God grant him much Hatzlachah—good fortune—in his new post.

NEW YORK LEAGUE FOR THE HARD OF HEARING

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. MURPHY of New York. Mr. Speaker, as we all know, living with a handicap imposes special problems on the people who are afflicted. We can readily see the plight of the paraplegic who cannot function without a wheelchair or the blind person crossing the street or hailing a taxi.

But a large number of Americans suffer from a handicap that is largely invisible. These are the hearing impaired.

Hearing loss, in degrees from moderate to severe, affects an estimated 20 million people in this country. It is difficult for us to know the world where all sound is muffled at best.

There exists a crucial human need to help, not only to effectively diagnose hearing loss, but also to advise, to educate, to counsel, to assist, to guide the hearing handicapped individual and members of his family. All this must be done with the aim of helping these people—whether old or young—to realize their fullest potential.

That is why I would like to address your attention today to one institution which has dedicated itself to helping the hearing impaired and to educate others about their plight.

Throughout the more than 66 years since it began as a one room agency for employment counseling of the hearing impaired, the New York League for the Hard of Hearing has had one concern: total dedication to the idea that a hearing impaired person can be helped if he or she is valued as a total human being. The league's record of service as a health and social service agency illustrates well the great strides it has taken in developing programs, utilizing available technologies, and introducing and adding new services in an effort to better secure a happier, fuller life for people with a hearing loss.

In 1910 the league became the country's first organization devoted to helping persons who were hard of hearing and 12 years later started the first hearing aid consultation service in the United States.

It was the first agency to conduct a hearing loss detection program in the public schools. The program was later made mandatory by State legislation. It pioneered care for older adults who had hearing impairments and was the first organization to offer group orientation in the use of the hearing aid.

The league was the first agency in the New York metropolitan area to dispense hearing aids on a not-for-profit basis.

Any person who comes to the New York League for the Hard of Hearing is helped in some way. For a young child who needs to learn to speak, to communicate, it can mean undergoing years of intensive aural habilitation in both individual and group settings. It can also mean countless hours of counseling, not only for himself, but also for members of his family, along with periodic evaluation of hearing, psychological testing and evaluation of his language process. Therapy and rehabilitation help never ceases. It may begin from the time the baby is first seen at the league and may extend through high school and into college. And when he or she has grown into an adult prepared to undertake many of life's differenet challenges, the need for counseling and emotional security may be greater.

For people with hearing losses, especially if they are adults who have fully developed language, the fitting of a hearing aid alone is not enough. Helping the individual who has a progressive hearing loss requires special planning. That person has the greatest adjustment to make and very often counseling help is needed to obtain a realistic perception of one's self.

By recognizing the dedication and accomplishments of the New York League for the Hard of Hearing, we are taking note that we care deeply about the problems faced by the handicapped and that we support the efforts of those organizations that seek to help. The New York League for the Hard of Hearing has done just that.

PERSONAL EXPLANATION RE INCORRECT VOTE ON H.R. 9346 AMENDMENT

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. BINGHAM. Mr. Speaker, yesterday, during consideration of the Social Security Financing Amendments of 1977, H.R. 9346, the gentleman from Georgia (Mr. JENKINS) indicated his intention to offer two amendments to the bill—one to reduce the annual wage base increases and raise the tax rate accordingly, and the other to create a National Commission on Social Security. I oppose the wage base amendment, but am in favor of the Commission amendment, because of its similarity to measures I cosponsored this year and last.

When Mr. JENKINS offered his first amendment last evening, I was incorrectly advised that it concerned creation of the National Commission on Social Security, and so voted for it. While it is too late to change my vote, I would like the record to show that I am not in favor of spreading the social security wage base increases recommended in H.R. 9346 over a greater number of years and then increasing the annual tax rate to cover the loss in revenue. I believe this regressive approach places an unfair burden on low- and middle-income workers. I support the House Ways and Means Committee's wage base and tax rate schedule and am pleased the House upheld their recommendations by rejecting the Jenkins amendment. The House later approved, with my support, the creation of the National Commission.

THE PRINCIPLES REMAIN THE SAME

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. DON H. CLAUSEN. Mr. Speaker, the people of the Redwood Empire have many reasons to count their blessings. In addition to living in a beautiful garden spot with a marvelous climate, they are also well served by a network of locally owned and operated newspapers, television, and radio stations which do an admirable job of keeping the people well informed. The largest of the papers, the Santa Rosa Press Democrat, is celebrating its 120th birthday, which is a tremendous amount of continuity in a State that was admitted to the Union 127 years ago, and during that period this newspaper has established and maintained very high standards of excellence, reliability, and public service.

It is with great pride that I submit for the RECORD the following editorial from the Press Democrat detailing much of its historical development.

The article follows:

THE PRINCIPLES REMAIN THE SAME

The Press Democrat will be 120 years old tomorrow, and we are looking forward to the next 120 years, thank you.

It was on Oct. 22, 1857 that our founder, Alpheus Russell, printed the first edition of the Sonoma Democrat. The first subscriber was John S. Taylor, who gave Russell a $5 gold piece to encourage the young printer to publish his own newspaper.

The editorial goals expressed in that first issue by Russell were: "in all things tending to the local advancement of our county in her future career, we wholly and devotedly pledge our constant efforts." Those goals have remained unchanged during the past 120 years.

The Sonoma Democrat changed hands several times before it was purchased by Thomas L. Thompson in 1871. He published it as the Daily Democrat until 1897, when a young newspaperman by the name of Ernest L. Finely purchased an interest in the newspaper. He earlier had started an evening newspaper, the Evening Press, with his two partners. The two papers were consolidated under its present name. The Press Democrat, and in a few years Ernest Finley was the sole owner.

The Press Democrat was a morning publication until 1951, when it was merged with the revived Evening Press to become an afternoon publication five days a week and a morning publication on Sunday. It has continued that publication schedule to this day.

Ernest L. Finley believed people working at the local level could accomplish more than by depending on a remote federal government.

His philosophy was exemplified in his fight to build the Golden Gate Bridge. He believed the counties which were to be served by the bridge should construct it, and waged a long fight, both in his editorial columns and at regional meetings, to obtain the passage of the bridge bonds. The bridge stands as a monument to local control. Not a cent of federal or state money was spent in its construction.

At one time during the bridge battle, his circulation manager told him that opponents of the bridge were halting subscriptions to the newspaper, and perhaps it might be better to ease up on his campaign.

Finley answered, "Damn the circulation, the bridge must be built!" And it was.

Ernest Finley died in 1942. His widow, Mrs. Ruth Finley, became publisher upon his death. She carried on his work, constantly improving The Press Democrat, and becoming one of the most respected newspaperwomen in the West before her death in 1973. Her son-in-law, Evert B. Person, is now president and publisher of The Press Democrat. Since he has been publisher, The Press Democrat has embarked on a program of technological changes in production, and significant changes in the format of the newspaper.

Computers, visual display terminals, and photo-composition machines have taken the place of the old linotype machines with their lead type.

But still the principles remain the same—to present the news as accurately and as fairly as possible, to restrict our opinion to the editorials printed on this page, and to speak out strongly on local, state, and national issues when we think necessary.

GROWING TRADE DEBATE: THE ISSUES

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 26, 1977

Mr. ANDERSON of Illinois. Mr. Speaker, we are all acutely aware of the huge trade deficit being accumulated by the U.S. economy. Our trade deficit could very well be as high as $30 billion this year. This could mean a decline in the value of the American dollar in relation to other currencies, increased inflation and a fall in the U.S. standard of living. With this in mind, I would like to present my colleagues with a case study on a U.S. multinational corporation.

International Harvester has expanded its export business by 600 percent since 1950. Of their 1976 exports, $351 million were directly dependent on their investments abroad. Without this sizable income derived from overseas investments made by companies like International Harvester, America's trade deficit problem would be far more severe than it is now.

The following article appeared in the October issue of International Harvester's Public Affairs Newsletter. As you shall see, the report centers on commonly asked questions of trade economics and our Government's policy on the taxation

of U.S. multinational corporations as they do business abroad:

GROWING TRADE DEBATE: THE ISSUES

Have IH investments overseas deprived American factories of export opportunities?

Quite the opposite. The company's manufacturing affiliates abroad generate a large market for our exports that might not exist otherwise. During the period from 1950 to 1976, our export business expanded 600 percent—from $124 million annually to $763 million last year. Of our 1976 exports, $351 million were directly dependent on our investments abroad. Without these investments, the remaining $412 million would have been seriously reduced—on the logical assumption that our markets would otherwise have been dominated by foreign competitors.

Aren't America's current trade policies detrimental to U.S. interests because they make us overly dependent on foreign goods?

No nation, not even the U.S. can stand completely alone in this world. Even during World War II we relied heavily on raw material imports for our defense effort. Our need for foreign oil is evident. Less publicized are figures like these: in 1976, the U.S. imported 98 percent of its manganese and cobalt, 92 percent of its platinum, 89 percent of its chromium, 87 percent of its aluminum, 85 percent of its tin and more than 50 percent of its mercury, titanium, nickel, tungsten and zinc. Less than half of these imports compete with American products.

Haven't International Harvester and other multinational companies set up production facilities abroad to take advantage of low wages?

As a matter of fact, most of the investments overseas are in countries where the wage rates are relatively high. IH has invested abroad; to reach foreign markets that would not be available because of tariff and nontariff barriers; to generate a market for U.S. components used in the production process; to develop and produce products suited to the specific needs of the foreign market; to avoid transportation costs where they would impose a competitive disadvantage: to establish a corporate presence in the foreign marketplace. IH and its predecessor companies have been overseas for more than 120 years, ever since the era of Cyrus Hall McCormack and his reapers.

Hasn't America's balance of payments been hurt by overseas investments?

International Harvester's experience over the past 20 years proves otherwise. During this period, the payment inflow (sales, commissions, royalty, interest and dividends) exceeded our outflow (capital expenditures and imports) by about three to one. Last year the favorable balance of payments for IH was $531 million. It is close to $4 billion over the past 20 years.

The truth is, without the income from overseas investments of U.S. multinational companies, America's balance of payments problem would be far more severe than it now is.

Aren't foreign investments by International Harvester and other multinational companies taking away U.S. jobs?

The company's employment trends offer the best answer to the charge that we have exported jobs. Between 1960 and 1976. IH employment outside the U.S. declined 14 percent, from 36,034 to 30,970. In the same period, U.S. employment dropped from 68,244 to 66,580, or 2 percent. Today one of every five of our U.S. employees holds his or her job because of our rapidly growing export business.

Every major government or academic study done on the subject shows that American companies create jobs at home when they invest abroad because they help keep American products competitive in world markets.

American firms such as IH receive a full tax credit for their taxes paid overseas, whereas U.S. domestic companies are allowed only a deduction for state taxes.

Doesn't this constitute an unfair advantage for foreign production and an incentive to favor foreign over domestic capital investments?

Tax considerations are minor factors in decisions to invest abroad. About two thirds of all American investments overseas are in countries where the tax rate equals or exceeds the U.S. rate.

Removing the foreign tax credit would subject U.S. firms to double taxation and would raise the taxes they pay on their earnings from 50 to 75 percent. A burden of this kind would prevent many of our products from competing with the machines of companies not subject to this double taxation of foreign earnings. Several thousand of our U.S. employees who directly depend on the success of our overseas operations would be affected.

What can be done to help workers who lose their jobs due to sudden increases in competing imports?

The answer lies in a tax-supported, adequately funded and workable adjustment assistance program to compensate, retrain and relocate workers displaced by increased imports. The present adjustment assistance program, although greatly improved by the Trade Act of 1974, is still bureaucratically slow and cumbersome.

Also needed is a concerted effort by business, government and labor to work together in programs to increase productivity, technological innovation and export opportunities.

Aren't American firms exporting technology that only improves competing imports coming back into the United States?

Technology exports have been a two-way street. More than 45 percent of U.S. patent applications are of foreign origin. Behind the dramatic breakthroughs in foreign technology has been the utilization of a much larger percentage of gross national product for civilian research and development. In many cases, these programs are government-subsidized.

In the U.S., the proportion of government research and development has been declining. During the last 10 years at International Harvester, slightly more than a billion dollars has been spent on research and development. Of that amount, more than 70 percent has been spent on developing technology in the United States.

Investments overseas generate imports, don't they?

For the last 20 years, exports of IH products manufactured in the U.S. have exceeded imports from our foreign factories by more than four to one. Our imports last year, excluding those covered by the U.S.-Canadian auto agreement, were only 8.2 percent of total foreign affiliate sales. Truck sales from Canada under the auto agreement represented an additional 4.4 percent of foreign affiliate sales. Total IH imports into the U.S. represent about 6.7 percent of IH sales in the U.S.

It is true that import competition from newly established factories of U.S. affiliates can create dislocations in some labor-intensive industries such as consumer electronics. But in perspective the volume of directly competitive goods amounts to less than 2 percent of the U.S. total.

Are government incentives to exporters, such as the Domestic International Sales Corporation, really necessary?

Most of the countries with which we trade still maintain elaborate export incentive programs. France, Belgium and The Netherlands impose no income tax at all on export earnings; Japan and France finance exports at interest rates far below market rates; Japan, Brazil and the European Economic Community offer exporters special tax rebates.

In the U.S., by contrast, even with the DISC incentive, exporters like IH must still pay 50 percent of the income tax due on export earnings, and the remaining 50 percent is deferred only as long as the money is reinvested in the export business.

As for export financing, the U.S. Export-Import Bank is supposed to keep its rates near commercial market rates in order not to compete with private financing. Most foreign export financing programs are more generous than those of the U.S.

The U.S. government allows companies to defer payment of any U.S. tax due on their overseas earnings until those earnings are actually brought back to the U.S. Doesn't this provide an incentive for companies to invest overseas rather than in the U.S., where full tax must be paid?

No country today taxes the foreign earnings of its corporations before they have been remitted. Should the U.S. decide to take such action, it is unlikely that other countries would follow suit. Indeed, countries in which the money was earned might see the U.S. action as an attempt to force the remittance of more earnings to the U.S. This could lead to higher taxes on profit remittance. Most countries now tax such remittances anyway at a rate of 25 to 30 percent (often reduced by tax treaties). Either way, an American company would find itself at a competitive disadvantage vis-a-vis its foreign-based competitors. This, in turn, would leave less cash available in the U.S.

Companies such as International Harvester do not invest overseas to take advantage of tax situations but in order to remain competitive in foreign markets.

OUR STAKE IN WORLD MARKETS

National attention has turned again to the closely related issues of international trade and taxation. The U.S. trade balance has swerved sharply into the deficit column. Appeals for greater curbs on imports have come from such industries as steel, footwear and consumer electronics. Criticism of overseas investment has also surfaced, along with proposals that U.S. tax incentives for investing abroad be cut back. These issue are important to the future of all of us at International Harvester. At stake is our ability to compete successfully in world markets.

SOUTH AFRICAN INVESTMENT

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. MAGUIRE. Mr. Speaker, there are some signs that the appropriateness of direct U.S. private investment in South Africa is becoming an issue for some of the investors themselves. Following is the text of an article which appears in the October 26, 1977, issue of the New York Times describing the decision of Control Data Corporation not to expand its investments in South Africa, together with an account of an as yet unresolved controversy at Stanford University concerning its investment in companies which do business in South Africa:

CONTROL DATA PLANS NO EXPANSION OF ITS SOUTH AFRICAN INVESTMENT

(By Deborah Rankin)

The Control Data Corporation, citing recent repressive developments in South Africa, said yesterday that it had decided not to enlarge its investment there.

At the same time, however, Stanford University concluded after a major cost-benefit

study that the university should not liquidate its holdings in American companies doing business in that country because it would be too costly.

Control Data, a computer services company, becomes one of the rare American corporations to adopt, at least temporarily, a policy of non-expansion in South Africa, where it employs just 150 workers.

"The closing down (by the South African Government) of newspapers, the Christian Institute, student groups and other organizations is regrettable," the company said in a prepared statement.

"We hope that this action will be reversed," it added. "At the present time, our company does not consider it appropriate to enlarge our investment in South Africa."

The exception to its new policy, Control Data said, was a project aimed at establishing a computer-based education system for black people in South Africa. Funds have been allocated for the project and the cooperation of the United States Government and the South African Government have been sought, the company said.

Control Data made its statement in response to an inquiry from the United Church Board for World Ministries, which has been urging companies to withdraw from South Africa.

Following a survey, conducted before last week's repressive moves by the South African Government, the church body said executives of more than 50 major companies responded with a unanimous refusal to withdraw their operations.

At Stanford, the staff study found that divestiture of the university's investment portfolio of American companies with assets in South Africa would cost the university at least $1.4 million and "very likely . . . much more," the study said.

The biggest impact would probably be to reduce the university's rate of return on its endowment fund. Divestiture would narrow the list of investment alternatives, and "the loss of diversification can only make the investment management job extremely difficult," the report stated.

The staff said that divestiture also would create a "significant risk" that corporations directly affected by the boycott would cease making contributions to the university.

Stanford owns securities in 59 American companies active in South Africa, with a total market value of $125 million. This represents 37 percent of the market value of the university's stock holdings.

The recommendation of the staff study against divestiture is subject to approval by the university's board of trustees.

The study followed student protests last spring against the university's refusal to vote its proxies in Ford Motor Company against further investments in South Africa.

AMERICA'S OLDEST CHEVY DEALERSHIP

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. HOLLENBECK. Mr. Speaker, I would like to take this opportunity to draw my colleagues' attention to a business firm in New Jersey that was recently recognized by General Motors as "America's Oldest Chevy Dealership." I. J. Demarest of Westwood has given three generations of fine service to the people of Bergen County, and on October 9 the Bergen Record published an article about his career in community service.

The text of the Record article follows:

OLDEST CHEVY DEALERSHIP

(By Steve Govoni)

For years, signs along roads leading to Moline, Kan., have declared "Chig" Ames' business to be "America's Oldest Chevy Dealership."

That's wrong, Chevrolet officials searched their records and found that I. J. Demarest of Westwood predated by a year the business started in 1915 by Ames' father.

"I guess we'll have to change our billboards to say 'Second Oldest Dealership,' " said Bob Winn, Ames' general manager.

It wasn't until late this summer that Chevrolet sought to rank its oldest dealerships. Company officials previously had told Ames he was one of the oldest, but not the oldest. But Ames didn't change the signs.

The oldest continuous dealer-operator distinction belongs to 90-year-old I. J. Demarest, whose son Irwin and grandson Roger now run the business.

On Valentine's Day, the Demarests will have operated from the same corner for almost 64 years.

It all started in 1914, Chevrolet was only three years old. Local gas stations were in the midst of a price war that saw costs drop by two cents a gallon. For the lucky few who owned a car, gas was a mere 11 cents a gallon.

I. J. was a plumber earning about $13.50 a week when he decided to wrench himself from the business. He started with $247 and big competition from the more established Ford Motor Co.

Demarest sold seven cars in the first year and 15 in the second.

Starting out was risky. Progress came slowly. For the first 10 years, recalls I. J., he worked 15 hours a day. Sometimes, he would interrupt an evening to haul a drunken customer's wreck back to the shop.

But the big break came in 1921. Despite a business slump, he bought all the Chevrolets he could get from a factory on 57th Street in Manhattan and stored them in any garage or barn he could borrow. Chevrolet was priced several hundred dollars above the Model T.

The cars didn't move. Several months passed and I. J.'s misgivings multiplied. When business finally picked up, nearby dealers couldn't get cars fast enough. So they came to I. J., who sold them at a profit that finally established his business.

Those were the days before auto financing, and I. J. talked the First National Bank of Westwood into starting a bank service to repay a car purchase. Bank officials were wary at first, but eventually both the bank and the dealership prospered.

In the years that followed, he hired an ox-drawn cart to parade a new model through Westwood. In later promotional efforts, oxen gave way to majorettes and high school marching bands, and parades resembled caravans.

Salesmen would don funny masks and tuxedos to pique curiosity around town.

"There was an incredible amount of curiosity, and people didn't know much about cars then," I. J. recalls. "Whenever you sold a car, you always had to teach four or five members of the family how to drive it."

"It's a lot easier now. They all know more about it than you do."

I. J. has limited contact with the business nowadays. While he drives a new Chevrolet each year, he fondly remembers his first car, a 1904 or 1905, two-cylinder Rambler, the engine of which was accessible only by lifting the entire body.

On its garage wall is a plaque from General Motors recognizing the more than 50 years I. J. put into his business.

I. J. looks at it and recalls encouragement he received from Alfred P. Sloan, onetime chairman of General Motors, who was instrumental in GM's rise to corporate gianthood.

"Demarest, don't worry what Ford does." I. J. remembers Sloan saying, "whatever happens, Chevrolet will do it a little bit better."

Sloan became president of GM in 1923. It was around that time that automobile sales were transformed by four important factors: installment loans, the used car trade-in, the closed body, and the annual model.

As Sloan wrote in his memoir, "My Years with General Motors":

"We expected Ford, generally speaking, to stay put. We set this plan in motion and it worked as forecast."

Though I. J. has seen his family follow the spirit of Sloan's advice, he is hard pressed to recall any especially satisfying moments during his active dealer days.

"If there are, you're in trouble," he explains. "It's aggression you need—to keep on pushing and pushing."

H.R. 8200—INDEPENDENT BANKRUPTCY COURTS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. EDWARDS of California. Mr. Speaker, the issue of the fate of the existing bankruptcy courts will be decided by the House this week when it considers H.R. 8200, the bankruptcy revision bill. Much has been written about this bill already, and it has been examined in great depth by very many people. I believe, however, that the people who are in the current bankruptcy system, who operate it today, and who must live with all of its problems are probably the best qualified to speak on the best resolution of the problems confronting the bankruptcy courts today. So I would like to include in the RECORD two letters I have received, from the president and the immediate past president of the National Conference of Bankruptcy Judges.

NATIONAL CONFERENCE OF BANKRUPTCY JUDGES,
October 20, 1977.

Re H.R. 8200 as reported.

Hon. DON EDWARDS,
Chairman, Subcommittee on Constitutional and Civil Rights, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN EDWARDS: It is my understanding that the Amendment in the nature of a substitute to H.R. 8200 (Committee Print September 8, 1977) is to be debated on the House Floor October 26, 1977.

At this time I wish to reaffirm the support of the National Conference of Bankruptcy Judges, and my support individually, for this Bill which calls for expanded bankruptcy court jurisdiction and establishes a separate and independent bankruptcy court under Article III of the U.S. Constitution.

Thanks so much for your great interest and effort in connection with this very important legislation.

Sincerely,

DAVID KLINE,
President.

NATIONAL COMMITTEE OF BANKRUPTCY JUDGES,
October 20, 1977.

Re H.R. 8200 as reported.

Hon. TOM RAILSBACK,
Member of Congress, House Office Building, Washington, D.C.

DEAR CONGRESSMAN RAILSBACK: The position of the National Conference of Bankruptcy Judges has been requested on H.R.

8200 as reported. Enclosed is a copy of a letter just written to Congressman Edwards and Congressman Butler reaffirming the Conference's support, and my support individually, for this Bill which calls for expanded bankruptcy court jurisdiction and establishes a separate and independent bankruptcy court under Article III of the U.S. Constitution.

Sincerely,

DAVID KLINE,
President.

NATIONAL CONFERENCE OF
BANKRUPTCY JUDGES,
Bangor, Maine, July 13, 1977.

Hon. PETER W. RODINO, Jr.,
Chairman, House Committee on the Judiciary, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: In my capacity as its president, I respectfully invite your consideration of the views of the National Conference of Brankruptcy Judges in connection with H.R. 8200, a bill providing for the comprehensive revision of the Bankruptcy Act of 1898, which I understand is scheduled for early mark-up before your Committee on the Judiciary.

H.R. 8200 is the product of the most extensive, expert and careful study ever undertaken of the bankruptcy laws of the United States. It would reform our increasingly important bankruptcy system in response to contemporary social and economic conditions. Notwithstanding the serious obstacles encountered in this highly complex endeavor, the efforts of the Subcommittee on Civil and Constitutional Rights, under the able leadership of Chairman Don Edwards, in fashioning a more efficient and effective bankruptcy system have met with great success. The National Conference of Bankruptcy Judges, along with virtually every other organization of the bankruptcy bench and bar, enthusiastically endorse H.R. 8200.

The recent efforts of the Judicial Conference of the United States in opposition to H.R. 8200 have created an illusion of controversy concerning the proposal to establish bankruptcy courts separate from the district court. It is important for the Congress to understand, however, that no controversy whatever exists over the proposal to establish a separate bankruptcy court among the bankruptcy bench and bar, those who know and work in and with the bankruptcy system.

As you know, the concept of a separate bankruptcy court grew out of a study conducted by the Commission on the Bankruptcy Laws of the United States. The Commission concluded that the establishment of a separate bankruptcy court was essential to the effective administration of the bankruptcy laws. Except for the dissent of District Judge Edward Weinfeld (whose spirited defense of his own position precipitated the recent action of the Judicial Conference of the United States in opposition to a separate bankruptcy court) in regard to the establishment of a separate bankruptcy court, the recommendations of the Commission were unanimous. The other Commission member representing the Judicial Branch, District Judge Herbert L. Will, joined the majority in favoring a separate bankruptcy court.

Since the creation of the Commission, in July 1970, the matter of bankruptcy law revision has received widespread attention from business and professional groups all over the country. I know of no organization of the bench or bar which opposed the establishment of a separate bankruptcy court during the entire course of the Commission study and the ensuing three-year period of congressional consideration. Indeed, the reaction was overwhelmingly favorable.

Support for a separate bankruptcy court did not come about overnight, but is a result of the long process which began with the in-depth, two-year study by the Commission on the Bankruptcy Laws of the United States. Numerous witnesses were heard by the Commission, experts consulted, and all interested parties, including the Judicial Conference, were given an opportunity to be heard. Subsequently, groups like the National Bankruptcy Conference painstakingly considered each of the recommendations of the Commission and came up with proposals for modification. The National Conference of Bankruptcy Judges developed its own proposals and prepared a bill which was introduced and considered along with the Commission bill. Extensive hearings on those bills were held by the appropriate Senate and House Judiciary subcommittees. In the House the hearings before the Subcommittee on Civil and Constitutional Rights went on for 36 days. On the basis of those hearings and an enormous wealth of proposals, data and advice volunteered from throughout the country, new bills were drafted. H.R. 8200, the bill presently before your Committee, evolved in just that manner.

Very nearly seven years after this deliberative process began, the Judicial Conference of the United States, without prior study or consideration, resolved to oppose the creation of a separate bankruptcy court. It thereupon authorized a study of H.R. 6 (predecessor to H.R. 8200), the results of which were eagerly awaited by all who are interested in bankruptcy administration. It was with utter dismay that bankruptcy judges and others familiar with the workings and needs of the bankruptcy system read the reports of the Judicial Conference Ad Hoc Committee on H.R. 6, which essentially rejected every significant rationale for the creation of a more effective bankruptcy court system in an attempt to strengthen the remote control of the district court over bankruptcy judges and their increasingly important and heavy caseload. If ever there was doubt as to the need of a separate bankruptcy court, the recommendations of the Judicial Conference Ad Hoc Committee on H.R. 6 have removed it.

The National Conference of Bankruptcy Judges strongly supports H.R. 8200 and, particularly, its provisions for the establishment of a separate and independent court of bankruptcy under Article III of the Constitution.

Respectfully,

CONRAD K. CYR,
President.

AMERICAN BANKERS ASSOCIATION,
Washington, D.C., October 4, 1977.

Hon. DON EDWARDS,
Chairman, Subcommittee on Civil and Constitutional Rights, House Committee on the Judiciary, Washington, D.C.

DEAR CONGRESSMAN EDWARDS: The American Bankers Association supports the provisions in H.R. 8200 which are designed to upgrade the Bankruptcy Court and convert it into an Article 3 Court. We hope that the Congress will retain this portion of H.R. 8200.

Sincerely yours,

ROBERT J. GRIMMIG,
American Bankers Association Bankruptcy Task Force.

PHASED NATIONALIZATION OF THE U.S. ECONOMY

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. SYMMS. Mr. Speaker, in his newspaper column dated September 22, 1977, Anthony Harrigan reports on an address given by Dr. John Howard, director of the Rockford College Institute, in which he discussed the gradual nationalization of the U.S. economy and the growth of the nonproducing public sector at the expense of the private sector.

Dr. Howard likens the present situation to a protracted military conflict in which more and more territory falls into the hands of the collectivists. The Harrigan editorial reads as follows:

PHASED NATIONALIZATION

(By Anthony Harrigan)

In a perceptive address in Chicago this summer, Dr. John Howard, director of the Rockford College Institute, warned that what is at issue today "is in fact the survival in our country of organized private endeavor."

Dr. Howard likened the situation to a protracted military conflict, noting that "the tide of the struggle continues to move against us, with more and more territory that was once privately controlled falling to the collectivists." He observed that "the army of occupation comprised of bureaucratic regulators and compliance officers is garrisoned in our communities and badgers us with threats of cancelled government contracts or the withdrawal of federal subsidies."

The army of regulators rarely misses a strategic or tactical opportunity. A case in point is the energy crisis. Congress is responding to this crisis, not with a call for private initiative but with insistence that new controls be applied to energy industries.

The vanguard of the forces of collectivism in this country long has been eager to deny all freedom to the electric power industry. The collectivists recognize that the electric power industry is the key industry in an industrial society. If the utilities are forced to accept a new measure of government control, the entire free enterprise system is dealt a staggering blow.

The regulators had a field day in the House of Representatives when the National Energy Bill, H.R. 8444, came up for consideration. The public isn't aware of what happened when Part V—the Public Utility Regulatory Policy section—was acted upon.

A utility company executive recently pointed out what Part V of H.R. 8444 contains. He said:

It mandates the rate structures to be used by private utilities.

It severely limits a utility's ability to communicate with customers.

It allows the federal government to tell us who the utility will interconnect with, transport power for and sell to.

It would allow a company's facilities to be placed in a dispatch pool to be controlled as they see fit.

It would allow the federal government to tell utility when and where to upgrade or build new transmission lines.

It would set federal specifications on materials, engineering, etc. to be used in generating plants.

It could severely limit the kinds of people willing to serve on Board of Directors due to new reporting requirements.

It establishes the right, under certain conditions, of an intervenor to hire an attorney and a staff of experts and have the utility pay the bill.

It establishes yet another layer of red tape and regulatory lag already almost impossible to deal with.

It discriminates by leaving most public power and cooperatives out of its coverage.

The utilities may not have many friends. They are easy and frequent targets. No one likes to pay utility bills, especially in a time of rapidly increasing energy costs. Higher costs of electricity are a ready-made issue for demagogues at the federal, state, and local levels. Angry protesters find it a simple task to present utilities as demons and to ignore such basic realities as the boost in prices by the Arab oil monopoly.

It's unfortunate that the utilities don't have more defenders. Important freedom issues are involved in legislation such as H.R. 8444. In approving Part V, the House of Representati es authorized a kind of phased nationalization of the electric power industry. It deprived the management of utilities of fundamental rights that should be enjoyed by business under the free enterprise system.

The American people don't want nationalization, but they are getting it bit by bit.

INTRODUCTION OF LEGISLATION RESPECTING THE CONVENTION ON PSYCHOTROPIC SUBSTANCES

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. ROGERS. Mr. Speaker, today I was pleased to introduce legislation to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970, and other laws, to meet the obligations of the United States under the Convention on Psychotropic Substances.

Many of my distinguished colleagues on the Subcommittee on Health and the Environment of the Interstate and Foreign Commerce Committee and the Select Committee on Narcotics Abuse and Control have joined me in sponsoring this legislation. I want to thank Mr. PREYER, Mr. SCHEUER, Mr. WAXMAN, Mr. MAGUIRE, Mr. MARKEY, Mr. OTTINGER, Mr. WALGREN, Dr. CARTER, Mr. SKUBITZ, Mr. WOLFF, Mr. RODINO, Mr. MANN, Mr. BADILLO, Mr. MURPHY of Illinois, Mr. RANGEL, Mr. STARK, Mr. ENGLISH, Mr. RAILSBACK, Mr. FREY, Mr. GILMAN, Mr. GUYER, Mr. BIAGGI, and Mr. NEAL for their sponsorship of this legislation. I commend these gentlemen for their concern about drug abuse and their leadership in supporting legislation to curb the illicit trafficking of abusable drugs. In addition, I want to express my thanks to several individuals and their staffs for their assistance in helping me develop this legislation: Dr. Peter Bourne of the Office of Drug Abuse Policy, Dr. Robert DuPont of the National Institute of Drug Abuse and Dr. Donald Kennedy of the Food and Drug Administration in the Department of Health, Education, and Welfare, Peter Bensinger of the Drug Enforcement Administration in the Department of Justice, and Mathea Falco of the Office of International Narcotics Matters in the Department of State.

Mr. Speaker, let me say a few words about the Convention on Psychotropic Substances and the legislation I am introducing.

The Convention on Psychotropic Substances is an international agreement intended to help curb the distribution and use of abusable psychotropic substances for purposes other than legitimate medical and scientific ones. It requires parties to it to provide for regulatory controls respecting the manufacture, distribution, importation, and exportation of these substances. The psychotropic substances controlled under the convention include the hallucinogens, the amphetamines, the barbiturates, and the tranquilizers. Narcotic drugs are controlled under the 1961 Single Convention on Narcotics. The United States has been a party to the Single Convention on Narcotics since 1967.

The Convention on Psychotropic Substances was signed at Vienna, Austria, in 1971. It became effective in August 1976 after 40 countries signed it without reservation or deposited their instruments of ratification of accession. Although the United States participated in drafting the convention, it has not yet formally ratified it. The convention is not self-executing and thus requires parties to it to amend their laws, in a manner necessary to meet its requirements for the control of psychotropic substances. Although most of the control requirements under the convention are met by the Controlled Substances Act and the Controlled Substances Export and Import Act, some conforming changes in these laws must be made in order for the United States to meet all of its obligations if it became a party to the convention.

During the last Congress, the Subcommittee on Health and the Environment held hearings on bills similar to the one I am introducing today. Witnesses from the Departments of Health, Education, and Welfare, Justice, and State testified in support of those previous bills. Several individuals and organizations outside the Government were concerned that previous bills failed to provide the scientific and medical community with an adequate voice in the decisionmaking process involving the scheduling and controlling of psychotropic substances. In addition, concern was expressed regarding the wisdom and constitutionality of the delegation of the general decisionmaking function to international entities respecting the control of these substances.

I believe that the revisions of previous bills which are incorporated in the bill I am introducing, and other changes in circumstances will largely alleviate these concerns. Several of these revisions are aimed at providing procedural safeguards in the decisionmaking process under the Controlled Substances Act to assure ample opportunity for input by the scientific and medical community and other interested parties respecting implementation by the United States of international decisions requiring specific controls on psychotropic substances. New provisions for notice and comment have been added at stages in the decisionmaking process which were not included in previous bills. The recommendations of the Secretary of Health, Education, and Welfare respecting a scheduling or control proposal under the convention, are binding upon the representative of the United States in discussions and negotiations relating to the proposal. There are other provisions in the bill to assure that bona fide research activities and the ethical practice of medicine in the United States will not be impeded.

I have observed that the other countries which are already parties to the convention share the belief that legitimate medical and scientific activities respecting psychotropic substances should be preserved. In fact, I have been informed that a sizeable majority of the members of the United Nations Commission on Narcotic Drugs—the primary international decisionmakers under the convention—have medical and scientific backgrounds.

Finally, I believe there is no question with respect to the constitutionality of the legislation I am introducing. The legislation clearly provides sufficiently specific limits and procedures for the implementation of legal controls over psychotropic substances to meet international obligations under the convention. In addition, the legislation specifically provides that it will not take effect until the date that the convention enters into force in respect to the United States. It is a well-established legal principle that the Congress has the power to pass legislation to amend Federal laws to meet the requirements of a treaty which is not self-executing, so long as the legislation does not encroach upon the rights of individuals under the Constitution.

Mr. Speaker, on August 2, 1977, President Carter transmitted a special message on drug abuse. The message included a recommendation that the Congress adopt legislation to implement the Convention on Psychotropic Substances. The legislation I introduced today is responsive to the President's recommendation and would clear the path for ratification of the convention by the United States. I believe the United States must remain strong in is international commitment to curb the trafficking of illicit, abusable psychotropic substances. The enactment of this legislation would represent another strong indication of this commitment by the United States. It is my understanding that a companion bill to the bill I am introducing will be introduced in the Senate before adjournment. I hope that the Subcommittee on Health and the Environment will be able to hold hearings on this legislation in the near future, and that all my colleagues in the Congress will support it when it reaches the House and Senate floors for consideration.

A NEED FOR GUIDELINES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. GILMAN. Mr. Speaker, I have today joined my distinguished colleague from Illinois (Mr. MICHEL) in cosponsoring his resolution preventing the proposed increase in January 1978 of the official expense allowance for Members of Congress.

House Resolution 850, which I am cosponsoring, would postpone any increase until such time that the House Administration Committee provides for specific guidelines as to what is allowable, so far as reimbursed expenditures are concerned.

As all the Members of this body are aware, the incidentals of the $2,000 expense account afforded each Representative were published last week, subjecting many of us to unwarranted criticism.

All of this could have been avoided if there had been some adequate guidance. For the most part, our staffs have been left in the dark, as to just what is proper or improper in submitting these accounts.

To substantially increase this expense account at this time, without any guidelines or more concrete rules to follow is ridiculous.

The integrity of the Congress is again being challenged because of an open-ended regulation. It is the duty of the House Administration Committee to move expeditiously to set down some rules and regulations that we can all readily follow.

When these expense accounts were first made public I wrote to the distinguished chairman of the House Administration Committee asking that his unit provide adequate guidelines to dispel what have been termed "grey areas" in determining which expenses apply to this account.

I have also requested the House Administration Committee to provide for an independent auditor of House Accounts with the authority to render advisory opinions on the propriety of any expenditures.

I was heartened to read in this week's Washington Post that my request of the committee is apparently being considered. That article states:

Since the Clerk of the House report disclosed recently a range of questioned "official" expenditures, (Rep.) Thompson's Administration Committee has decided to take another look "with an eye to amending existing regulations to provide more guidance."

Although I previously received opinions from both the House Administration Committee and the Internal Revenue Service as to the propriety of my charging dues and organizational expenses against this "official expense account," I have reimbursed the Clerk of the House for these expenses until such time as there are specific guidelines established.

I urge my colleagues to approve this important resolution in order to remove any cloud of impropriety.

An independent audit is also necessary to insure the proper functioning and validity of this system.

Such reforms will not only bring us out of the dark and will provide answers to our questions, but will also respond to Mr. MICHEL's concern and this body's concern that the existing system has brought "the integrity of every one of us into question."

PEARSE KERR IN IRELAND

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. LEDERER. Mr. Speaker, I appreciate this opportunity to speak to my colleagues of the House about the very serious situation of Pearse Kerr in Ireland.

Pearse is a 17-year-old young man from the Philadelphia area who moved to Ireland with his family in 1972. In August, he was arrested without warrant by British soldiers and special branch detectives accusing him of being a member of the "Junior Irish Republican Army," also known as Fianna Eireann. Since then, he has been in a maximum security cell and suffered brutal treatment.

Regardless of his alleged crime or guilt, it is hard to believe that our Government would permit such treatment to an American citizen incarcerated in a foreign country.

The articles I include here detail the beatings and brutal treatment of young Pearse. I call upon my colleagues to bring their combined pressure to bear on the administration to protect this citizen's life as we would want done were we in his place:

THE CROWN VS. PEARSE KERR

(By Jack McKinney)

They grew up together, the five of them. Shooting baskets in the yard of St. Joseph's Parochial School, playing touch on the shaded streets of Cheltenham, swapping albums and baseball cards and perceptions of life.

Today, John Jastremski, Pat Lalgale and Tommy Gers are seniors at Cardinal Dougherty High School, where Jastremski and Gers play varsity basketball.

Martin Hediger, also a senior, is a starter on Cheltenham High's Suburban One defending co-champion football team and, like Jastremski and Gers, he plans to go on to play small college ball.

Pearse Kerr, 17, is in C Wing of Crumlin Road Prison, Belfast, Northern Ireland.

The former Cheltenham youngster, who moved to Belfast with his family in 1972, has been in a maximum security cell since mid-August, when British soldiers and Special Branch detectives hauled him out of bed at 5 a.m. and arrested him without a warrant under the broad powers of a current Northern Ireland emergency act.

Kerr says he was brutally beaten by two detectives for 24 hours in the "interview room" of Castlereagh Barracks in East Belfast.

With his swollen left arm hanging uselessly by his side and his neck unable to fully support his head, Kerr says he signed a statement falsely implicating himself as a member of the illegal Fianna Eireann, commonly known as the "Junior Irish Republican Army." Then he was formally charged, solely on the basis of his confession.

Kerr's allegations of brutality were supported by an official hospital report, which indicated Kerr had suffered a fractured left arm and disabling neck injuries during his interrogation.

In a handwritten statement for his lawyer, Kerr relived the scene:

"One of them said, 'I'll give you five minutes to think over whether to confess.' I asked for a solicitor (attorney) . . . Two minutes later the second one asked me whether I was going to talk. I said no and he slapped me across the face. He said he'd give me worse treatment than this if I didn't talk. I declined to say anything.

"One of them said, 'You think you're tough?' I said no . . . The third one said to the others, 'Look at the shape of him. Let me at him. I'll make him talk' . . . I still refused to talk.

"The first one faced me and grabbed me by the throat while the other two held my arms down. This treatment continued for three to four minutes . . .

"I was nearly unconscious, but I managed to break away. My vision was clouded, I stumbled over to the table. It seemed that their voices were distant, blurred . . .

"The choking treatment was continued after an interval . . . I was punched in the stomach, I can't remember how many times . . . I was choked twice after this.

"They started to bend my hand back. I shouted to them to let my hand go. This treatment continued for awhile . . . No. 1 pushed my left hand back further . . . I broke loose and ripped the first one's sleeve . . . I was slung down on the floor and was strangled once more."

The detectives finally broke for lunch and returned the boy to his cell.

When he was brought back to the interrogation room two hours later, "I was told I'd get more of the same treatment if I didn't sign a statement," Kerr recounted.

At 1435 Hours of Aug. 18, almost 10 hours after his pre-dawn arrest, Pearse Kerr, 17-year-old American citizen, signed away his freedom.

On Aug. 18 at 2335 hours—more than 13 hours after his interrogation began—the boy finally was taken to Ulster Hospital, Dundonald, where according to the hospital report, "He was X-rayed and told that he had a fracture of the left arm."

Further examination revealed Kerr could not rotate his head to the left without considerable pain "immediately below the left jaw." The prisoner also complained of "extreme tenderness" in the abdomen.

According to his Belfast attorney, Patrick Marrinan, the case of The Crown vs. Pearse Kerr is based on the following two charges:

"That you, Pearse Kerr, on a date between the 1st of June, 1977, and the 30th of June, 1977, in the City of Belfast, did have in your possession a fireman, or imitation firearm, with the intention of committing an indictable offense.

"And that you, Pearse Kerr, on a date between the 1st of June, 1977, and the 30th of June, 1977, did belong to a proscribed organization, namely the Junior Irish Republican Army, contrary to Section 19-A of the Northern Ireland Emergency Provisions Act, 1973."

Attorney Marrinan claims both charges are totally without foundation and the second charge is supported only by the statement that was extracted from Kerr through force.

But to date, the authorities have not attempted to prove either charge.

Each Monday since his arrest on Aug. 18, Kerr has been taken from his bare, unheated cell in Crumlin Road Prison and led through an underground tunnel to the courthouse across the street, where the prosecutor regularly informs the judge that the Crown's case is not yet ready for prosecution.

Police officials in Northern Ireland could not be reached to discuss the Kerr case.

Such stories have filtered steadily out of Northern Ireland in recent years.

But Pearse Kerr's case is different because he is an American citizen by birth and by rights.

He is in Northern Ireland today only because his Belfast-born parents moved back there in 1972—when Pearse was 12 and his brother Brendan was 9—so that his father could be with his own terminally ill mother in the time she had left.

Pearse's parents, Brendan and Betty, were Belfast natives who met and married in America after emigrating in search of the economic opportunities they had found closed to Catholics in Northern Ireland.

"They were getting on well here," recalls John Doran, a local supermarket manager who is Betty Kerr's brother and Pearse's godfather.

"Brendan was working in construction. They were buying their house in Cheltenham.

"But when Brendan got word, early in '72, that his mother was critically ill, he took the family over to visit her, and I think that's

when he made up his mind to move back and be with her in her final months. He sold the house, took the kids out of school and moved back that October."

Martin Hediger, 17, remembers the impression the first trip to Belfast made on Pearse Kerr.

"Pearse was always gung-ho about Northern Ireland and the struggle over there," Hediger recalled. "But that trip seemed to confirm all his feelings.

"He told me how, when they arrived there, the British soldiers put his father up against the wall with a machine gun to his head while they searched him and questioned him."

But long before that visit, according to John Jastremski, 16, Pearse Kerr had no doubts as to who the bad guys in Northern Ireland were.

"I can tell you this. He had no time for the English," said Jastremski. "He said the English had no right being in Ireland. He told us how they'd maim people with their rubber bullets and how little kids over there couldn't play with toy guns because the English would shoot them in the street.

"But I know Pearse was no troublemaker," Jastremski emphasized. "He had an Irish temper, all right, and he wouldn't back down from a fight. But he was never an instigator."

Tommy Gers remembered the T-shirts. While he and the others were sporting the emblems of the Phillies or Eagles, Gers recalled, "Pearse would be wearing those T-shirts that said, 'United Ireland!' It was something you knew not to kid him about, because you could see how deeply he felt about it."

Martin Hediger, who thought of Pearse Kerr as his closest friend—I'm 517 Cheltenham Ave. and Pearse was 601"—said: "Pearse used to tell me about how that Special Powers Act worked over there. He told me how they could just bust into your house without a reason and take you out."

Ironically, that was the very act the security forces invoked when they arrested Pearse Kerr.

On the morning of his arrest, Kerr was visited in his cell by the U.S. vice consul in Belfast, Wayne Allen Roy, who reported that he found the youth to be in good physical condition.

But when Kerr appeared in court the following morning, his left arm was in a cast and his head was tilted at an unnatural angle.

Both Vice Consul Roy and an official of the State Department in Washington declined to discuss the circumstances of Kerr's injuries. They claimed they were "protecting his rights" under the Privacy Act.

"I always thought that American citizenship was one of the most precious gifts in the world," says Doran, Pearse's godfather. "I still want to believe that, but how can I after what I see happening to my nephew?

"The American Consulate in Belfast knows this has happened to an American citizen over there. The State Department knows. But what are they doing about it?

"If this were a case of an American citizen being captured while serving as a mercenary in Africa or the Middle East somewhere, it would be front page stuff all across this country. But when it comes to Northern Ireland, where a 17-year-old boy can be pulled out of his bed and tortured, the American media suddenly become the three monkeys. See, hear and do nothing."

When the Daily News relayed word of Pearse's trouble to his old schoolmates back in Cheltenham, Pat Laigale said, "Pearse was a good kid, never a troublemaker. He knew when to work and when to have fun. He played sports, rooted for the Phillies and Eagles.

"He was just the same as the rest of us. Except that he moved."

[From the Philadelphia Daily News, Oct. 20, 1977]

THE POWER OF PRIVACY

When the wind whistles down from Black Mountain to chill the stone-walled cells of Crumlin Road Prison, Belfast, the untried American teenager in C Wing finds no comfort in the fact that the U.S. State Department is protecting his right to privacy.

Pearse Kerr would much prefer another blanket.

The only thing that Kerr, a 17-year-old native of suburban Cheltenham, could have going for him would be the force of outraged public opinion from the country of his birth.

But either through diplomatic cowardice or gross bureaucratic insensitivity, the U.S. State Department is limiting his access to that very force—while citing his "rights" under the Privacy Act.

When the Daily News queried the State Department about the circumstances of Kerr's detention, a desk officer in Washington, named Peter Murphy, had this to say:

"Of course, you know this case is governed by the Privacy Act. We have no release signed by Mr. Kerr, so what we can tell you is rather limited. We have to protect Mr. Kerr's right to privacy, you know."

Apparently, that's the only right that has been protected in Kerr's case. The young man reportedly suffered a fractured left arm and neck injuries when he was beaten and choked during his interrogation.

"The mistreatment which you mention is known by the department," Murphy acknowledged, "and we've requested a formal investigation of it by the Northern Ireland authorities. That's about it. That's about all we can tell you within the confines of the Privacy Act."

Murphy referred all further questions to Wayne A. Roy, the U.S. vice consul in Belfast. The phone number he gave was incorrect, but that wasn't Murphy's fault. In two of the three listings checked at the State Department, the phone number for the Belfast Consulate was incorrect.

In Belfast, Vice Consul Roy confirmed he had seen Kerr on the morning of his arrest and had found the young man to be in good health. He was asked if he noticed any change in Kerr's condition when the prisoner was brought into court the following day.

"The only thing that I observed was that a cast had been placed on his wrist," Roy reported. "Obviously, I'm not a doctor, so I didn't examine him. But he did complain to me about the wrist."

In the course of this complaint, did Kerr tell the vice consul how he had suffered the injury?

"Well, he went into some detail," Roy admitted. "But that's privileged information between the consul and an American citizen. Obviously, I'm not at liberty to discuss what someone tells me in that sort of situation. That had better come from him."

Unfortunately, in the place where Pearse Kerr is currently boarding, they don't call people to the phone.

EXPLANATION OF PROPOSED CIVIL RIGHTS ACT OF 1977

HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. PRITCHARD. Mr. Speaker, on behalf of the cosponsors of the Civil Rights Act of 1977, I would like to insert an explanation of this legislation in the RECORD and encourage my colleagues to read it and join with us in supporting what we believe is a constructive, positive, and forward-reaching approach to the enforcement of civil rights laws. This is not a partisan bill, although it was developed by the staff and members of the Wednesday group. For those who have been involved in the enforcement process, the need for consolidation and reorganization is apparent. This bill will not weaken civil rights laws or their enforcement. On the contrary, it is intended to improve the system; to eliminate the endless delays that are now common occurrence; to make the process work.

The material follows:

EXPLANATION OF PROPOSED CIVIL RIGHTS ACT OF 1977

The current maze of Federal civil rights legislation and Executive Orders has frustrated the attainment of full civil rights for millions of Americans intended to be protected by the provisions and has needlessly confused and burdened the thousands of organizations regulated by the Federal Government. After a thoughful beginning in the mid-sixties, Congress has taken increasingly to piecemeal, hastily considered legislative action.

At present over fifty Federal provisions are concurrently operating to regulate equal opportunity practices of various organizations. The crazy-quilt pattern of the existing legal mandates has left large gaps in coverage for certain groups of people (e.g. religious minorities), on the one hand, and has erected a maze of overlapping and often inconsistent provisions on the other (e.g. sex discrimination in employment). Many of the newly created civil rights provisions have scant or non-existent legislative histories; some have been passed as floor amendments in both houses.

As this legislative maze has developed, the Executive Branch has done little to improve things. At present, it is fair to say that there is virtually no coordination among Federal agencies with similar or overlapping responsibilities. Substantively, the ony attempt at policy coordination has been the statutorily mandated Equal Employment Opportunity Coordinating Council. It has proved ineffective in even forcing the Labor Department, EEOC and the Civil Service Commission to adopt consistent policies on employee testing and selection requirements. From a procedural standpoint, only a few agreements even attempt to sort out the burdens placed on regulated crganizations.

To illustrate, one university (the University of California) alleged to have discriminated on the basis of sex in setting salaries was investigated by four different Federal agencies on the same complaint during one year. Each agency conducted its own full scale investigation utilizing different substantive standards and different procedures. Under the present system double, triple and quadruple jeopardy occurs often. Duplicative paperwork demands from the various overlapping agencies rounds out the confusing and chaotic regulatory environment for most organizations.

The situation for those whose rights are protected is no less bleak. Some of the agencies involved in the regulatory maze have formal complaint procedures; others do not. Some of the agencies have established time frames for action on a complaint; others have different time frames or no time frames. Because of the overlap, complaints are often faced with an Alphonse and Gaston comedy act as various agencies try to excuse their failure to act. In recent years, faced with an evermounting complaint backlog, many Federal agencies have often failed to respond to complaints at all. HEW, for example, has been involved in several different

Mandamus proceedings targeted at forcing the agency to follow its own civil rights regulations with regard to complaint investigation. Complainants frustrated by the process have increasingly taken to the Federal Courts which are, in turn, in danger of being flooded by these individual grievance cases.

The burden of this inefficient and ineffective system has fallen heavily on the taxpayer. Duplication of administrative responsibility has resulted in a glut of highly paid administrators who appear to be the only true beneficiaries of the current situation. Regardless of the number of employees or the duplication of activities, each office must have supergrade executive and often extensive management overhead. A simple reduction in the number of agencies would dramatically shift increased staff and money to the investigation and resolution of problems. Action must be taken now.

During the last campaign, President Carter promised sweeping government reorganization to reduce wasteful Federal spending. The President promised that a study of civil rights reorganization would be a high priority. However, it was not until this summer that the President's Reorganization Project in the Office of Management and Budget initiated a serious study of the problem. We understand that a final report and recommendations for all civil rights activities will not be forthcoming until October, 1978. For several reasons we do not believe that Congress should await the President's reaction to that report before taking action. First, the volume of complaints filed with Federal agencies is increasing and backlogs are rapidly expanding. Second, unless something significant is done now, the Courts will be further inundated with grievances of this type. Third, as will be evident from our proposal, while we believe governmental reorganization is essential to a solution, it must follow or be coupled with legislative action to simplify the mandates and procedures. Scores of new piecemeal legislative proposals are currently before the Congress which would complicate the present situation even further. Fourth, administrative waste can not be allowed to continue unchecked. Finally, important constitutional concepts of "double-jeopardy", "due process," and the "right to petition the government for a redress of grievances" demand immediate action to alter the system.

OUR PROPOSAL

In light of the various inequities, inconsistencies and waste inherent in the present system we propose to replace forty seven statutes, one executive order (and portions of another), and four independent or "free standing" regulations with a single comprehensive statute. This legislation will extend uniform protection to members of all groups which have been discriminated against historically while at the same time presenting to those being regulated a single set of standards and procedures incorporating fundamental due process considerations. The direct consequences of the approach we are proposing include:

A single uniform procedure to be followed in regulating all organizations outside the Federal government to ensure basic civil rights. Guarantees which will provide a single point of reference for defining rights and responsibilities.

The elimination of gaps in existing coverage so that all protected groups will be treated equally, and that basic civil rights protections will be extended to groups not covered by general provisions.

The elimination of existing problems of inconsistency and duplication.

An end to most "double-jeopardy" problems for regulated organizations and the establishment of due process hearing procedures before sanctions are imposed.

The complete protection of complainant rights including the establishment of time frames for Government action on complaints and procedures guaranteeing the rights of complainants to fully participate in and challenge complaint-related decision-making.

A grant of authority to the Attorney General to seek a court order to maintain the status quo pending complaint investigation where irreparable harm might otherwise result.

Continuation of fund cut-off as a powerful incentive to voluntary compliance but only as an interim sanction after the opportunity for an accelerated preliminary hearing.

A final sanction that solves the problem rather than punishes innocent parties and is accompanied by civil and criminal penalties for willful violations.

Civil rights compliance in the hands of the Government's chief law enforcement official and staffed primarily by attorneys, rather than diffused throughout the various Cabinet agencies and thus subject to varying social philosophies and funding strategies.

Mandatory involvement of State and Local government in voluntary compliance processes.

Elimination of waste and excessive duplicative overhead and administrative costs and the simplification of reporting requirements.

BASIC PROVISIONS

The basic objective of the proposed legislation is to establish a Federal civil rights enforcement responsibility to eliminate discrimination on the basis of stereotypical factors in the operation of all institutions and organizations engaged in interstate commerce or directly or indirectly benefiting from public funds.

We are proposing to assign all civil rights regulatory responsibilities to the Attorney General of the United States—the government's chief law enforcement official. We are also establishing mandatory complaint investigation procedures designed to protect fully the rights of those persons who may have been victims of the unlawful discrimination. In determining those groups protected by the statute, we have incorporated all groups now generally protected and have added groups which have been historically discriminated against but have been inadequately and incompletely covered. The procedures followed rely heavily on "good faith" voluntary compliance efforts by regulated organizations. Interim sanctions are applied only in situations where a Federal hearing judge has determined that a violation has occurred and is still uncorrected. In all cases final sanctions are corrective rather than punitive but civil and criminal penalties are established for those who wilfully violate the act. Courts are permitted broad equitable discretion in forming appropriate remedies and cease-and-desist authority is expressly provided for where necessary to protect the rights of complainants who might otherwise be irreparably harmed.

PERSONS PROTECTED

Discrimination on the basis of the following individual characteristics is prohibited by the statute:

Race, color and national origin.
Sex, marital and parental status.
Religious affiliation or belief.
Political affiliation or belief.
Age.
Physical or mental handicap.
Lack of citizenship status.

Discrimination on the bases of race, color, national origin, religion, age and handicap is generally prohibited by existing statutes. Sex discrimination and discrimination on the basis of political affiliation or belief and discrimination on the basis of marital status are prohibited by several statutes but gaps in existing coverage are serious. Discrimination on the bases of parental status, and lack of citizenship status is prohibited by only a few provisions. We have included both of these characteristics in this proposed legislation because we feel that discrimination on each of these bases is fundamentally unfair. While regulated organizations and institutions have the right to set reasonable eligibility or qualification standards for employment and services, we can envision only a few instances (covered by express exceptions in the statute) where ethnicity, sex, social and family history, or age would constitute just criteria. The first amendment surely also protects citizens from publicly supported discrimination because of religious or political views. Certainly handicapped persons should not be hired unless qualified for a position if reasonable accommodation is made. Without in any way underestimating the serious problems posed by illegal aliens, the Supreme Court has long held that permanent resident aliens (and thus taxpayers) are fully entitled to the equal protection of the laws.

The sex discrimination prohibition does not include discrimination based on affectional or sexual preference.

Thus, the organizations covered by this statute are the sum of those covered by previous provisions. Gaps and inconsistencies among the statutory approaches have been eliminated. As is currently the case, organizations with fewer than fifteen employees are exempted unless they receive direct or indirect support from public funds.

MINORITIES AND THE MINIMUM WAGE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. McCLORY. Mr. Speaker, in connection with the final action on the Fair Labor Standards amendments—which boosts the minimum wage level to more than $3 an hour in 1980—it would seem important for those who purport to represent the interests of minorities, and particularly minority youth, to take note of the adverse effect which minimum wage boosts have on minority youth employment.

The Chicago Defender, a publication owned and operated by prominent members of the black community in Chicago, calls attention forthrightly to the adverse effect of minimum wage boosts on minority youth employment.

Mr. Speaker, in the Fair Labor Standards amendments, provision is made for establishing a minimum wage commission. I am hopeful that this commission, when named, will include personnel who can think and act objectively on the subject of minimum wage increases and who can weigh the relative social and economic effects of this legislation on the American consumer, American small business and particularly young Americans, many of whom are excluded from employment because of minimum wage provisions.

Mr. Speaker, it should seem clear to all of us that eliminating service station employees, and the rapid growth of self-service drugstores, restaurants and vir-

tually all types of retail establishments that the minimum wage levels virtually bar employment in these service jobs to millions of Americans who otherwise might benefit if employed at levels which their services justify.

Mr. Speaker, in this connection I am not speaking about any skilled workers or any other Americans whose experience, training or education justify far more than any minimum wage which the Congress might enact. Indeed, I do not have reference to any service jobs, including domestic service, which would in most cases justify more than the minimum wage level. However, to try to blanket in virtually every type of job, skilled and unskilled, including those without training, without experience or without an adequate education—does the greatest disservice to those who are affected—and punishes the American taxpayer and the Ameriacn consumer—while expanding the welfare rolls with those who might otherwise be at least partially self-supporting if given the chance in some unskilled type of employment.

Mr. Speaker, relative particularly to the effect of the minimum wage on minority youth employment, I am pleased to attach a reprint of the article from the Chicago Defender by D. Parke Gibson for the edification of my colleagues:

[From the Chicago Defender, July 16, 1977]

MINORITIES AND THE MINIMUM WAGE

(By D. Parke Gibson)

Historically, minorities have looked to policies of the Federal government as a means of overcoming the inequities of our Society. The positive results of legislative, executive and judicial actions on behalf of America's black and other minorities are well documented. But, there comes a time when we should seriously question the real impact of programs and policies on the nation's underprivileged.

Such a bill that should be questioned in light of present economies is H.R. 3744—which would (a) increase the Federal minimum wage from $2.30 to $2.85 per hour; (b) index the minimum wage to 60 percent of the average manufacturing wage, and (c) eliminate the tip credit allowance which allows the combination of salary and tips to at least equal the minimum wage.

At a time when the U.S. is combating both high inflation and unemployment rates—some 37 percent for minority youth—the impact of H.R. 3744 could adversely affect unskilled workers—particularly Black teenagers.

If anybody can be called the "employer of the first resort," as compared to the Federal government being, as some suggest the "employer of last resort," it has to be foodservice (restaurant) industry, whose 550,000 independent operators, and a growing number of Black entrepreneurs, employ more than eight million people in full-time and part-time capacities, many of them younger unskilled workers in entry-level positions.

While teenagers make up only 10 percent of the nation's workforce, they constitute a third of the foodservice workforce.

The impact of a higher minimum wage was contained in a study for industry by Dr. Andrew F. Brimmer, a former Governor of the Federal Reserve Board, and an economist now heading his own firm in Washington, D.C., who says that evidence is mounting which demonstrates that as legal minimum wages have climbed, the adverse effect on the young has become increasingly clear. The burden falls primarily on young unskilled workers—and particularly on black teenagers. Yet, public perception and beliefs still adhere to the contrary view, that increases in the minimum wage have no detrimental effects.

If the tip credit is repealed, a system that ensures total income to every worker at least equal to the minimum wage, employers would immediately face more than doubling in labor costs for tipped employees—that is, loss of the present $1.15 credit plus the 24 percent increase over the current minimum wage.

What would happen? According to the National Restaurant Association, some food service jobs would be lost if restaurant operators cut employment to keep their labor costs constant. Additional wages would cost some $3.9 billion, which could only be met by cutting personnel or raising menu prices, or both.

The U.S. Chamber of Commerce estimates the passage of H.R. 3744 would cause nationwide employment opportunities in all industries to be reduced by 2.7 million jobs.

Led by organized labor, a number of civil rights leaders have been enlisted in the effort to raise the minimum wage to $3.00 an hour. Undoubtedly, participants in the new coalition are well-motivated but they should be cognizant of the evidence that they may be strengthening the barriers to minority youth employment.

TRIBUTE TO WILLIAM O. GUTIERREZ, A LIVELY MAN OF COMMUNITY AFFAIRS

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. ROUSSELOT. Mr. Speaker, of the many people who have contributed to better understanding of the problems of youth in a society where there are racial differences, none has given more selflessly than William O. Gutierrez, of Arcadia, Calif. It is with great pride that I call to the attention of my colleagues in the House of Representatives the many achievements of a man who has dedicated his life to improving communication between diverse peoples and has through the great love he has for his fellow man performed a useful and valuable service to our community and the entire county of Los Angeles.

Bill Gutierrez has many times been honored for his devoted interest and full-time attention to the needs of the unfortunate. At a Salute to Bill Gutierrez Dinner held last April in Monterey Park, Calif., the guest of honor was affectionally introduced as "the Happy Social Worker," and in the invocation Father Roger Luna gave thanks unto God for all the love that Bill has known how to share with so many needy, disadvantaged, neglected, and abandoned people and he further gave thanks "for all the beautiful things that Bill has done, for his wisdom, perseverance, fortitude, infinite patience, for his unflagging and unquenchable spirit of optimism, and for his tremendous and untiring dedication to hard work."

Bill Gutierrez has written down a personal statement of philosophical beliefs wherein he states the belief that—

Diverse human beings can communicate with each other, with greater understanding; that we should encourage it. With proper inter-group relations concepts, human beings, however affected, can come to some degree of accommodation, even under very trying circumstances and explosive situations and issues.

He further states that he also firmly believes—

that any degree of accommodation can initiate a climate for better negotiation of differences among diverse peoples. Attempts to bring this relative degree of less or greater human communication and understanding, however, must come from a positive frame of reference,

And he then defines his own frame of reference as—

translating—that the quality of life and human endeavor in Los Angeles County is in the interdependence of its people, in the interrelatedness of their intelligence and knowledge, and in the interrelations of their faith in God and His work.

Bill Gutierrez has made these words manifest in good works.

Although he was born in Globe, Ariz., Bill Guiterrez has lived in Los Angeles County all of his adult life. He received has undergraduate education at the University of California at Los Angeles and completed his masters in applied psychology at the University of Southern California. Bill Gutierrez recently retired as director of the East Los Angeles Multi-Service Center for the Los Angeles County Department of Community Development where he worked with youth. His professional affiliations include the following advisory communities and boards: Los Angeles County District Attorney's Narcotics Prevention Project, East Los Angeles Junior College, La Plaza de la Raza, East Los Angeles Big Brothers (past board member), the Small Business Administration, Youth Training and Employment for East Los Angeles, Associated Study Committee Organization (past president), and the Fair Employment Practices Committee for the State of California (past adviser).

This is not the entire list of Bill Gutierrez' impressive activities. Bill served in the U.S. Air Force from 1946 to 1949 and before his enlistment he was a member of the U.S. Citizens Defense Corps of Los Angeles, Calif., in the auxiliary fire service. Now, one might conclude that this is quite enough public activity and private interest for one man, but Bill Guiterrez was a probation officer for 13 years in the San Gabriel Valley, he was director of the Los Angeles County Narcotics Information Service, affiliated with the county dangerous drugs commission, for 6 years, and district supervisor for Central Los Angeles in which capacity he worked with 15 communities to develop and coordinate a coalition to prevent juvenile delinquency, and as recently as last May, Bill Gutierrez was elected for a 3-year term on the board of directors of the Los Angeles Girl Scout Council which serves more than 45,000 girls in the Los Angeles basin.

Bill Gutierrez has been recognized for his contributions to community betterment by numerous groups and the cities of Azusa, La Verne, Pomona, and La Puente. On Saturday, October 29, he will again be honored and recognized for the many ways in which he has given to others and I am especially pleased that I have an opportunity to participate on the occasion of the Narcotics Prevention Association, Inc.'s seventh Annual Acknowledgement Dinner honoring persons dedicated to the Narcotics Prevention project for the years 1976 to 1977.

Mr. Speaker, the people in Los Angeles County are justifiably proud of this distinguished citizen. I consider that I am exceptionally fortunate to have Bill Gutierrez and his lovely wife Adele as constituents, and I thank you for the time you have given me on the floor of the House of Representatives to express gratitude on behalf of the residents of California's 26th Congressional District to this lively and dynamic man of community affairs.

A NEWSLETTER TO CONSTITUENTS ON THE ECONOMY FROM REPRESENTATIVE JOHN CONYERS, JR.

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. CONYERS. Mr. Speaker, last summer I began a series of newsletters to my constituents on the impact of the Federal Government in Detroit. Called "the Federal Connection" project, each newsletter examines a particular issue and policy-area in depth in the context of Federal spending, the laws and regulations that determine who or what is eligible for funding, the agencies that administer the programs, what the programs are intended to accomplish, and whether Federal action has been adequate in addressing the needs of Detroiters.

Last June the first newsletter in the series was mailed out. A general discussion of the Nation's economy, the newsletter is divided into three sections: The Economy: Where We're At and Where We Ought To Be; The Beginnings of the Carter Presidency; and The Priority of Full Employment. I am placing the newsletter in the RECORD as a means of sharing some thoughts on the economy with my colleagues.

CONGRESSMAN JOHN CONYERS, JR., REPORTS TO YOU

THE ECONOMY: WHERE WE'RE AT AND WHERE WE OUGHT TO BE

Leadership and vision

Ever since the First Administration of Franklin Roosevelt, Americans have followed closely the activity of presidents during their "first hundred days" in office. Few expect social problems to be solved in such a short period of time; nevertheless, new presidents are expected to offer fresh perspectives, articulate new goals, and advance bold proposals. Citizens correctly view the presidency as the engine of government.

The extent to which presidents identify early the most pressing issues, set forth priorities for dealing with them, and focus a sense of national resolve on them is often the key to change. At any given time a great many issues trouble citizens and beg for official notice. Great presidents are those who tackle the big issues first.

In the early summer of 1977 Americans were concerned most about the state of the economy, the critically high levels of unemployment and inflation that have persisted for several years.

Unemployment and inflation

When President Carter took office in January, unemployment stood at the highest level since the 1930s and inflation was the highest in one hundred years. This was the legacy of the previous Administration that sought to control inflation by dampening economic activity, regardless of how many people were thrown out of work.

The unemployment rate in May was 6.9%, still twice the rate in 1969 and two percentage points higher than the average rate from 1946 to 1975. It is estimated there are several million others who have given up looking for work or else who work less than fulltime involuntarily. Minorities and the young remain worst off, experiencing twice to four times the national average. The jobless rate among black teenagers in inner cities is 40% or more.

The rate of inflation has risen again in the first few months of the year, which if price trends continue, would amount to an annual rate of more than 10%. The cost of basic necessities—food, housing, health care, and energy—is skyrocketing. One household in five is deprived of a decent housing unit at an affordable price. The cost of health care has increased 100% since 1950: the average hospital bed per day now costs $175.

Investment and production

Industrial production is at 80% of capacity. The construction industry remains one of the most depressed. Manufacturing is employing fewer and fewer Americans: only one-fifth of American workers in 1977 are involved in manufacturing, as compared to one-third in 1955.

Each year tens of billions of dollars leave the American economy for investment abroad. Multinational corporations find it more profitable to build factories in South Korea, where the wage-rate is 40¢, than to employ workers in this country. Banks like New York City's Citibank find it more lucrative to lend money to Brazil than to extend loans to New Yorkers. 30% of all new investment by American firms goes to purchasing equipment or building factories overseas. Half of the total profits of all U.S. banks are made abroad.

Next year the Pentagon will have nearly $120 billion to spend. Not only does weapons spending eliminate money for social programs; it creates fewer jobs than other types of investments. According to the Bureau of Labor Statistics, $1 billion in weapons purchases in 1970 generated only 70% as many jobs as an equivalent amount spent on housing construction. It is estimated a single B–1 bomber will cost at least $110 million. That is equivalent to the total amount of federal support for black colleges and universities across the country.

Uneven economic development

When the economy is viewed in terms of different regions of the country, the picture is even worse. Whereas the South is growing in wealth, the Northeast is declining. For example, between 1960 and 1975 the Northeast lost 13.9% of its jobs, almost 800,000. jobs In contrast, the South gained almost a million and a half jobs. Worst off are the cities in declining regions. Between 1960 and 1970 Detroit lost 20% of its jobs. One of the most serious aspects of the national economic problem is the uneven economic growth among different regions and between cities and suburbs.

This gives some idea of the economic problems facing the Carter Administration and the country.

Vital social and economic statistics

(as of May 1977)

The National Budget

Spending, $460 billion.
Receipts (taxes), $402 billion
Deficit, $58 billion.
Military Spending, $120 billion.
National Debt, $671 billion.
Interest on Debt, $42 billion.

The Economy

"Official" Unemployment, 6,737,000 people.
Part-time workers, 3,174,000 people.
Unemployed 15 weeks or more, 1,816,000 people.
Inflation, 6.8 percent.
Food Inflation, 9.9 percent.
Average Hours work per week, 36.2 hours.
Average take-home pay today, $161.88.
Average take-home pay today (in current dollars), $90.84.
Average take-home pay 10 years ago (measured in less inflated 1967 dollars), $90.86.

THE BEGINNINGS OF THE CARTER PRESIDENCY

The Carter Presidency coincides with the beginning of America's Third Century. A new Democratic Administration after eight years rekindled hope. Yet the problems facing the country are enormous. A recent national opinion poll reported that while a great majority of Americans like the new President, they have doubts about his ability to improve and reform the economy. Many feel that "the system" is beyond the control of even the best-intentioned leaders. And that is part of the challenge to the new Administration.

After the "first hundred days" of the Carter Presidency journalists rushed into print and broadcasters filled the airwaves with countless analyses of its achievements and failures. Most of the reviews of the President's performance were favorable: critics divided on the question of where Mr. Carter was leading the nation—whether down a liberal or conservative path. While the pundits were guessing, the President's standing continued to rise in the polls.

Domestic policy

In domestic policy President Carter has tackled the energy problem in calling for the creation of a unified Energy Department. He has proposed a strategy to conserve petroleum and natural gas and promote the use of alternative resources such as coal and solar energy. The budget he submitted in February increased federal spending over the Ford budget in key areas: adding $6 billion in local public works employment; $6.4 billion in public service employment; nearly a billion in community development and public housing; $1.5 billion in health care; and more than $5 billion in public assistance programs; all over the next two years. He laid out guidelines for welfare reform, which may include the guarantee of a job to each welfare family and a uniform income maintenance program for those unable to work. Other initiatives involved universal voter registration the same day as voting, public financing of congressional elections, and a consumer protection agency.

Criticism

Critics charge that President Carter has failed to keep promises he made during the campaign and that he has side-stepped critical issues. It is said he has shifted emphasis from achieving full employment with all due speed to combatting inflation and balancing the federal budget, regardless of whether this

results in a significant reduction in unemployment. He supported a lower minimum wage than the AFL–CIO recommended. It is said he has made too many compromises in order to win big business support; failed to keep his campagn pledge to reduce military spending by $5–7 billion; has delayed the effort at welfare reform and the development of national health insurance; offered an energy program that maintains the stranglehold big oil companies have over energy supply; and has done little so far to aid cities. Critics charge he has dodged the issue of national planning for full employment, which is at the heart of the Hawkins-Humphrey Full Employment Bill, legislation he voiced support of during the campaign.

It is, however, too early to form an adequate judgment of the Carter Presidency. A hundred days is not enough time to evaluate performance. The problems the President faces will take time to resolve fully. A great many people remain hopeful that the new Administration will confront the issues with courage, responsibility, and justice. A real test of the Carter Presidency in the view of many is his ability to fulfill his commitment of economic reform and do the things necessary to build a lasting full employment economy.

THE PRIORITY OF FULL EMPLOYMENT

There are a great many issues that deserve attention and solution, but at the top of the list is the question of providing a job to every American who is able and willing to work.

To create a full employment economy, which was last done during World War II, requires national planning—to provide work for the young; for the hundreds of thousands of workers who each year lose their jobs as a result of new technologies, or shut-down plants in their communities; to supply jobs in cities which are losing jobs at an alarming rate; to train people in the skills useful in the future; and to furnish the goods and services such as decent housing and education, adequate health care and transportation which communities across the country require.

The waste of resources

The problems of the American economy all point to one overriding issue: the terrible waste and underutilization of people and of material resources. It is no coincidence that millions are unemployed at the same time the nation faces a shortage in essential things like housing, health care, transportation, and energy supply. A full employment economy would provide the jobs that would create these goods and services. The fact of the matter is that the country is not investing adequately in its own people, their communities, and the well-being of future generations.

For example, it is estimated that achieving the national housing goal of 25 million new homes by 1980 will cost $400 billion; maintaining and upgrading transportation will cost over $70 billion; insuring an adequate supply of energy at reasonable prices over the next 10 years will require $600 billion or more in new investment; and providing universal and comprehensive health care will cost over $11 billion. Where is the money going to come from to meet these costs? Or put in another way, who will control the resources, the spending and the investment in the years ahead, and toward what ends?

Conservatives would like to have taxes and federal spending cut so that consumers and corporations would have the choice where to spend their money, regardless of public needs. Liberals want to increase federal spending on social programs, and redistribute wealth from those who have more than they need to those who have little or nothing.

The need to plan

Economic problems such as unemployment and inflation, the short supply of critical goods and services, the uneven economic growth in the country, the underutilization of industrial capacity, the flight of investment funds overseas require the development of a national planning capability. With planning, Federal, State, and local governments would be able to determine present and future demands on resources, identify available and potential resources, and allocate investment capital where it is needed most. With planning, workers would be trained in useful skills and jobs would be created where they are needed. The private sector would continue to produce what consumers want. But corporations would have a responsibility to meet overall employment, production, and investment targets.

National planning would work to insure price stability as well as full employment. Price increases must be restrained, and part of a planning capability would be presidential authority to prevent unwarranted or prohibitive price increases. Since four basic necessities—food, housing, health care, and energy—account for nearly 75% of the average four-person urban family's yearly expenditures, some form of price control in these key areas, which are among the most inflationary, would have to be established, if nothing else works.

A national agenda

We have to put first things first. It is my hope that the Carter Administration in the months ahead will develop an agenda that focuses on fundamental economic reform and full employment—an agenda that places as high a value (if not a higher one) on jobs, on health care, on income support as it does on balancing budgets, combatting inflation, and reorganizing the bureaucracy.

A word about balanced budgets

The federal budget was balanced in 1929, but that did not save us from the Great Depression. Balanced budgets are reasonable if all Americans are working or else supporting their basic needs in other ways. The Congressional Budget Office estimates that if unemployment were cut by half, the federal budget would not only be balanced, but yield a surplus. But a balanced budget should not be viewed as the highest goal of government, especially as long as millions are out of work and millions of others are in need of help.

How are federal budgets balanced, or federal spending brought into balance with revenues? There are four ways that come to mind: a) cut back on expenditures so that they don't exceed revenues; b) raise taxes high enough so that they cover expenditures; c) shift the priorities of federal spending so that, for example, military spending is cut to permit an adequate level of spending on social programs and a balance between expenditures and revenues; d) stimulate the economy through deficit spending (borrowing by the government in private money markets) and increase the money supply in the short-run in order to achieve a full-employment economy and, therefore, a surplus of revenue and balanced budget in the long-term.

Changing priorities

It is inconceivable that a responsible government can drastically reduce spending when 26 million of its people are living in poverty The second alternative—to raise revenues through more taxes—can be accomplished to a great degree by eliminating the tax subsidies and loopholes that benefit wealthy individuals and the corporations (which amount to tens of billions of dollars) and requiring them to pay their fair share in taxes. The third option—to shift more spending to Social Programs—is very sensible but is resisted mightily by the Defense Establishment and its supporters in Congress and the corporations. One thing is clear: it will be virtually impossible for the President to fulfill his promise to create national health insurance, raise the level of income support to those unable to work and at the same time increase defense spending. If 80 B–1 bombers are built, there will be $8 billion less to spend on these social programs. And it is hard to see how a budget can be balanced by doing both. It appears that a balanced budget without reduced military spending or a high rate of economic growth could be achieved only at the expense of the unemployed and the poor.

A humane Federal budget

This leaves the fourth alternative: to allow the government to borrow what is needed to create public jobs and finance public investment, as long as such jobs and investment are not available in the private sector. With full employment several million additional Americans would be earning decent incomes, paying taxes, and not charging the government for unemployment compensation and related welfare costs.

At his news conference on May 12, President Carter was questioned about a balanced budget. He replied: "We consider the realization of a balanced budget to be tied very closely with the right of people to have a job. If we are going to have high unemployment, we are not going to have a balanced budget."

It is my hope that the President will bring revenues into balance with spending by first getting people back to work, which would bring the necessary additional revenue into the Federal treasury.

HOPEFUL PROGRESS IN SPAIN AND PORTUGAL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by my constituent Gen. Henry Huglin. General Huglin is a retired Air Force brigadier general and syndicated columnist. He comments on the political evolution in both Spain and Portugal. General Huglin describes both countries as governments facing major economic, social, and political problems. Of major importance to both countries is whether they can build democracy through times of political and social turmoil. His conclusion is that the United States should continue to encourage and support both Spain and Portugal's further democratic political evolution and economic recovery.

The article follows:

HOPEFUL PROGRESS IN SPAIN

(By Henry Huglin)

(NOTE FOR EDITORS.—This subject is best dealt with in the full text of about 800 words. However, for any needed reductions, the margin nos. indicate the paras. suggested for deletion to achieve 700—7, 600— 7 and 6, or 500—7, 6, and 5. If identification is given, suggest it be along the lines of: "The author is a retired Air Force brigadier general and syndicated columnist.")

MADRID.—Gratifying, for our interests as well as the Spaniards', Spain is evolving politically remarkably well, so far.

In the two years since the death of Generalissimo Franco, and the end of nearly 40 years of dictatorial rule, major steps have

been taken to introduce democratic forms and civil liberties and to tackle Spain's major problems.

The new King, Juan Carlos, has proved to be politically astute, with skill, courage, and good timing.

He has relaxed the pervasive grip of the government enough to siphon off built-up tensions, and yet not so much that the radical, revolutionary elements could take advantage of the unfamiliar civil rights and liberties.

He has also moved shrewdly to out-maneuver the old-line Falangist party of Franco in order to get on with the modernization of Spain.

He has put a very able moderate, Adolpho Suarez, in as prime minister.

And he got the old Cortes (parliament) to vote its own replacement with a much more representational body, the election for which was held in June.

The June election for the new Cortes was, reportedly, as fair and valid as any election in our country. And the great majority of the Spanish voted for the moderate parties which stand for continued peaceful evolution.

The major task of this newly-elected Cortes is now to draw up a new democratic constitution for the country.

But, beyond the restructuring of the constitution and government, Spain has pressing major economic, social, and political problems.

Inflation is about 30%, unemployment about 6%, and the growth rate only about 1%. Further, the great gap between the rich and poor is stark. But the government is moving to improve the economy, restructure taxation in a more equitable way, and reduce the entrenched privileges and inequities in the system.

Then there are strong movements for autonomy in several regions of Spain. But the government is now accommodating in delegating authority along the lines of that of our states.

Whether the Spanish can make the further needed social, economic, and political changes smoothly and peaceably is still highly uncertain.

They have had many upheavals and revolutions, and other tries at democracy, with drifts into near anarchy and then reversion to authoritarianism.

Spanish society is something of a labyrinth of divisive factions—racial, ethnical, regional, and ideological—which for centuries have scrapped among themselves and, even in the quietest of times, had difficulty working together.

And the Spaniards seem especially prone to passionate attachment to causes, volatility, machismoism, and individualism to anarchical excess.

Spain has, generally, been held together only by a strong central government, backed by the army, civil guard, police, and tough court system.

So, the Spanish have just not seemed to have the restraint, tolerance, and willingness to compromise which are essential to making democracy work.

Hence, it is remarkable that so much progress has been made in two years; and this success gives cautious hope for future peaceful, beneficial evolution.

In international affairs orientation, Spain is preeminently focused on membership in the European Community, for which she has formally applied.

As to Spain and our country, we have been linked since 1953 through mutual security agreements. These have given us highly important air and naval bases in that country. In return, we have provided military assistance and economic aid highly important to Spain.

The agreements were replaced last year with a five-year treaty. It provides for our continued use of four bases, in return for $1.22 billion in credits and grants for military, technical, and cultural assistance.

Our government has long promoted the admission of Spain into NATO, in which, for our interests and NATO's, there would be clear advantages. And, now that Spain is becoming democratic, the other NATO members would most likely welcome her admission. However, whether Spain will now apply for membership is not certain. The advantages and disadvantages of NATO membership are matter of contention within major factions in Spain—along with alternative orientation toward non-alignment and close ties with the "third world."

Our geopolitical interests and responsibilities are involved in the outcome of Spain's political evolution.

Happily the leadership that has emerged in Spain has, so far, been equal to the tasks and challenges. And the Spanish have shown unexpected prudence and sensitivity to the realities of their situation and the difficulties of self-government, in their support of a gradual, step-by-step evolution. Hence, so far so good in Spain.

PORTUGAL IN A TOUGH SITUATION

(By Henry Huglin)

(NOTE FOR EDITORS.—This subject is best covered in the full text of about 800 words. However, for any needed reductions, the margin numbers indicate the paras suggested for deletion to achieve about 700 words—7, 600—7 and 6, or 500—7, 6, and 5. If identification is given, suggest it be along the lines of: "The author is a retired Air Force brigadier general and syndicated columnist.")

LISBON.—Economically Portugal is in a frightful mess. She is suffering mightily from the combined trauma of a benign but stultified 50-year-old dictatorship, a two-year anarchical revolution, and a sudden end of a 500-year-old empire.

And Portugal's economic bind affects her prospects for social and political stability and progress and for building an enduring democracy.

How these troubles and uncertainties are resolved will determine Portugal's international political orientation, including her ties to NATO, entry into the European Community, and relations with our country.

Portugal has been for over three years now in the throes of a grave social, economic, and institutional crisis. This was brought on by a coup in April 1974 which overthrew the long-entrenched rightist authoritarian regime.

The old regime's seemingly-endless and costly war against the guerrilla independence movements in the Portuguese African territories was the trigger of the coup. The "Armed Forces Movement" that staged the coup was comprised of 240 disillusioned officers, mostly young, idealistic, and naive. They had been much influenced by the propaganda of the African guerrillas against whom they had fought and, after they seized power, by well-organized domestic Communists and their pat proposals for radical actions.

This ruling military group set out to restructure Portuguese society. They made gross mistakes. One was the too-precipitous granting of independence to the African territories. Others were wildly-foolish acts causing economic and social upheaval at home—such as allowing peasants and factory workers to seize farms and factories, disastrously disrupting the economy, rule of law, business confidence, foreign investment, and tourism.

In Mozambique and Angola, the Marxist regimes that seized power expelled or caused to flee about 800,000 white, Indian, and mixed-blood people who have gone to Portugal, mostly penniless and embittered, greatly complicating her economic problems.

The Portuguese weathered the excesses of the radical, nearly-bloodless, but disastrous two-year revolution. They voted moderates into power last year, including a highly-respected general, Antonio Ramalho Eanes, as president and Mario Soares as prime minister. But, by the time they took office 15 months ago, the economy was in shambles and the crunch had come. Soares said: "After 50 years of fascism and two of anarchy, the country is on the verge of bankruptcy."

The new government is striving—through austerity measures, reform, and insistence on hard work and law and order—to cope with Portugal's enormous economic problems.

But, still, living standards are dropping, inflation is nearly 40%, unemployment nearly 25%, and the balance of payments deficit $1.2 billion.

It may take years of austerity, work, and sacrifice by all sectors of Portuguese society for Portugal really to get on a sound economic basis. So, the question will be as to whether this can be achieved in a democratic way.

We have no current problems with Portugal. Our relations have been very good during the 28 years both of us have been members of NATO

Portugal has granted us highly important air and naval base rights in the Azores Islands 800 miles west of Portugal, in a key spot in the Atlantic.

These bases provide a vital refueling place for military aircraft operating over the Atlantic. And they also provide a key surveillance point for tracking movements of Soviet ships, including nuclear missile submarines.

Hence, we have great strategic interests in these bases remaining available to our and other NATO forces. Therefore, the continued pro-Western and pro-NATO orientation of Portugal is highly important to us and our NATO partners.

But, beyond the strategic aspect, Portugal's remaining democratic and coping well with her difficult problems in a democratic way are of great importance—as an example to other economically squeezed and politically troubled countries, such as Italy, Greece, Turkey, and neighboring Spain.

During Portugal's two-year revolutionary trauma, our government played the diplomatic role cooly. We gave quiet support for democratic elements struggling—in the end successfully—against a powerful bid by Communist factions to gain power by any means. We have provided nearly $500 million in many kinds of economic assistance the past several years. We also recently promised $300 million more, as part of a $750 million package put up by 11 nations.

We need to, and no doubt will, continue our encouragement and quiet support for Portugal's further democratic political evolution and economic rejuvenation. We can do no more, except hope that the Portuguese and their leaders, who basically have to solve their problems, will prove equal to their monumental task—and succeed democratically.

MORE SUPPORT FOR THE PRODUCT LIABILITY INSURANCE TAX EQUITY

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. WHALEN. Mr. Speaker, I am today reintroducing the Product Liability Insurance Tax Equity Act with additional cosponsors. This legislation, first introduced as H.R. 7711 on June 9, is frequently referred to by its acronym, PLITE.

There is a very serious problem today, in that the Federal tax laws discriminate against those who self-insure. For those who can no longer afford or obtain product liability or professional liability insurance coverage, the tax code puts them in a double bind. And it distorts the way the insurance marketplace should function.

PLITE is intended to end Federal tax discrimination against those who self-insure for all or part of their potential liability for products or professional services. The bill does this by providing that taxpayers may establish qualified, tax-exempt trust funds for purposes of product or professional liability self-insurance; contributions to such trust funds would be eligible for treatment as a business expense.

A number of national trade and professional organizations have stated their support for PLITE, and many more are very interested in it. The following is a brief list of groups that have formally endorsed the bill; the list is selected to give a sense of the diversity of our support:

ENDORSERS OF PLITE

National Small Business Association.
National Society of Professional Engineers.
Federation of American Hospitals.
National Machine Tool Builders Association.
National Tool, Die and Precision Machining Association.
Boating Industry Associations.
National Association of Brick Distributors.
Louisiana Hospital Association.
Eastern Regional Roller Skating Rink Operators Association.

In addition to these national and regional associations, we have also received letters of support and encouragement from literally hundreds of individuals and companies from all over the country. This is especially gratifying to me and my cosponsors, and it causes us to work all the harder for passage of the Product Liability Insurance Tax Equity Act.

Presently, there are 55 cosponsors of PLITE. Their names appear in a list at the end of this statement. In addition, similar measures that have been proposed by other Members have attracted about three dozen cosponsors. So, there is a substantial, bipartisan body of support in the House for reform of the tax treatment of self-insurance reserve funds.

It is my understanding, Mr. Speaker, that there has not been any action this fall on H.R. 7711 or related bills because the Ways and Means Committee has been reluctant to approach any tax revision proposals on a piecemeal basis. As the President's message on comprehensive tax reform had been expected, this struck me as a reasonable position.

However, it is my hope that the committee will take up consideration of this issue early next year, when we return from recess. PLITE is designed to provide immediate, direct relief to those companies and individuals who are most severely affected by the liability insurance crisis. Many are in dire straits and cannot wait much longer.

At this point in the RECORD, I wish to insert the names of the cosponsors of the Product Liability Insurance Tax Equity Act. The list follows:

COSPONSORS OF PLITE

John Anderson (Ill.).
John Ashbrook (Ohio).
Les AuCoin (Ore.).
Doug Barnard (Ga.).
Max Baucus (Mont.).
Berkley Bedell (Iowa).
Elford Cederberg (Mich.).
Silvio Conte (Mass.).
Jack Cunningham (Wash.).
Robert Edgar (Penn.).
Alan Ertel (Penn.).
Millicent Fenwick (N.J.).
Edwin Forsythe (N.J.).
Donald Fraser (Minn.).
Willis Gradison (Ohio).
Tennyson Guyer (Ohio).
Michael Harrington (Mass.).
Jerry Huckaby (La.).
William Hughes (N.J.).
John Jenrette (S.C.).
Jack Kemp (N.Y.).
William Ketchum (Calif.).
Tom Kindness (Ohio).
John LaFalce (N.Y.).
Jim Leach (Iowa).
Joseph Le Fante (N.J.).
Norman Lent (N.Y.).
Marilyn Lloyd (Tenn.).
Thomas Luken (Ohio).
Paul McCloskey (Calif.).
James Mann (S.C.).
Romano Mazzoli (Ky.).
Helen Meyner (N.J.).
Robert Mollohan (W. Va.).
George O'Brien (Ill.).
Richard Ottinger (N.Y.).
Ned Pattison (N.Y.).
Don Pease (Ohio).
Claude Pepper (Fla.).
Richardson Preyer (N.C.).
Joel Pritchard (Wash.).
Robert Roe (N.J.).
Marty Russo (Ill.).
Ronald Sarasin (Conn.).
John Seiberling (Ohio).
William Stanton (Ohio).
Newton Steers (Md.).
Robert Traxler (Mich.).
Paul Tsongas (Mass.).
Bruce Vento (Minn.).
Doug Walgren (Penn.).
Robert Walker (Penn.).
William Walsh (N.Y.).
Charles Wilson (Tex.).
John Wydler (N.Y.).

HANOI JOINS ARAB TERRORISTS

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. YOUNG of Florida. Mr. Speaker, As I promised earlier today, I am now providing more information for the RECORD on a reported agreement between Vietnam and the Palestine Liberation Organization (PLO).

As we all know, American tax dollars will be reaching Communist Vietnam indirectly through institutions like the United Nations and the World Bank. At the same time it is interesting to see what Hanoi is planning to do with some of its own money. A news story which appeared in the October 26 Review of the News, reports that an accord negotiated by General Vo nguyen Giap, Hanoi's Minister of Defense, has been concluded between Vietnam and the Palestine Liberation Organization in which Vietnam is promising to provide the PLO with military instructors and a large supply of guns and ammunition.

I realize that most Members are familiar with the policies and practices of the PLO but to refresh our memories the PLO over the years has been very active in terrorist activities, including hijackings, bombings, assassinations, and direct terrorists assaults against Israeli civilian populations, including women and children. So while American tax dollars are heading toward Vietnam, Hanoi is going to aid the PLO by strengthening the very forces who are determined to destroy Israel.

Before the administration gets too carried away with normalizing relations with Vietnam and attempts to force Israel to negotiate in Geneva with the Palestinians, I would suggest that we should find out exactly what the policies and relationships are between the PLO and Communist Vietnam. It appears to me that if Hanoi is going to aid the PLO in their fight against Israel, the United States should certainly not be in a position of providing direct assistance to Vietnam through the UNDP, of the World Bank, or any other international organization.

Whether such an agreement has actually been reached between the PLO and Vietnam, the State Department will neither confirm nor deny. The State Department does admit, however, that they have reports of Palestinians receiving arms from Vietnam. The State Department also confirms that the Palestinians have received arms from Communist China and North Korea.

It is important that the administration slow down and carefully weigh all the possibilities before continuing this pellmell rush to normalize relations with Vietnam, while at the same time pressuring Israel into negotiations with the Palestinians.

Mr. Speaker, a copy of the news summary in the October 26 edition of The

Review of the News follows for the benefit of our colleagues:

HANOI JOINS ARAB TERRORISTS

The Western press had devoted far too little space to the accord concluded this summer between Hanoi and the Palestine Liberation Organization. General Vo nguyen Giap, Hanoi's Minister of Defense and Commander of its Armed Forces, represented Vietnam in the negotiations which ended with Hanoi promising to provide the P.L.O. with military instructors and a large supply of arms.

This could be the first step in moving the Vietnam War to a new field, where it will be resumed with the New York Times now finding itself in the position of the South Vietnamese it worked to defeat. There is irony in that all right. Israel has already given asylum to 60-some Vietnamese refugees rescued off a sinking junk. Those refugees could now find themselves facing their old enemies.

By June 1977 the Association for the Rights of Man in Vietnam estimated that at least 20,000 Vietnamese refugees had gone down at sea in their attempts to escape in leaky and overcrowded boats. Many were left to their fate by foreign ships which refused help because no country would then take the refugees off their hands. The number of suicides in Vietnam, alone, was estimated at some 30,000 in June 1977, with the number increasing daily.

STATEMENT OF THE HONORABLE JOHN M. MURPHY, CHAIRMAN OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES, ON THE FLOOR OF THE HOUSE, IN REGARD TO THE MEXICAN FISHERIES AGREEMENT

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. MURPHY of New York. Mr. Speaker, I am today introducing legislation that would immediately bring into force and effect the Governing International Fisheries Agreement with Mexico, better known as GIFA.

As the Members will recall, the Committee on Merchant Marine and Fisheries reported legislation late last year that resulted in the enactment of the Fishery Conservation and Management Act of 1976. That act—better known as the 200-Mile Fishery Zone Act—extended the fishery zone of the United States from 12 to 200 miles as of March 1, 1977. After that date, the act provides that no foreign fishing vessels will be authorized to fish within our 200-mile fisheries zone unless the foreign nation concerned has entered into a GIFA with the United States, has submitted an application for each of the fishing vessels planning to fish within these waters, has secured a permit for each of such vessels, and has paid the appropriate fees associated with the issuance of such permits.

To date, there have been 10 GIFA's signed with the United States and approved by the Congress. The GIFA's falling into this category are with the countries of Poland, East Germany, South Korea, Russia, Spain, Romania, Taiwan, Bulgaria, Japan (for 1 year only), and with the European Economic Community. The GIFA with Cuba was forwarded to the Congress on May 17 of this year, and after waiting for the 60-day congressional review period to run its course, it went into effect on August 6 of this year. The second GIFA with Japan was forwarded to the Congress on June 2 of this year, and after allowing for the 60-day congressional review period went into effect on the 4th of this month.

In addition, a Reciprocal Fisheries Agreement between the United States and Canada—which, incidentally, is not considered to be a GIFA—was approved by the House earlier this year and legislation to provide for its approval became public law on July 26 of this year.

Mr. Speaker, on the seventh of this month, the President forwarded to the House a GIFA recently entered into with Mexico. In his message to the Congress, the President urged that favorable consideration be given to this agreement at an early date. Since the Congress has acted promptly on the other GIFA's entered into with the United States and in view of the President's request, I think it is imperative that this same courtesy be extended to our neighboring country of Mexico. The legislation I am introducing would accomplish this purpose and it would result in the fishing vessels of Mexico being put on an equal basis with the fishing vessels of other countries which are permitted to fish within our 200-mile zone.

Mr. Speaker, the Mexican agreement is substantially the same as the GIFA's which have been previously agreed to by the Congress. Simply explained, the legislation would have the effect of terminating the 60-day congressional review period required by section 203 of the 200-Mile Fisheries Zone Act and it would reduce from 45 to 7 the number of days in which the regional fishery management councils and the public would have to comment on any application for fishing permits submitted pursuant to such GIFA.

Mr. Speaker, I would like to emphasize that the passage of this legislation would in no way affect that provision of the law that allows foreign vessels licensed to fish in our waters to only fish for excess stocks of fish.

Mr. Speaker, this legislation will be referred to our Subcommittee on Fisheries and Wildlife Conservation and the Environment for consideration. Chairman LEGGETT has already announced that his subcommittee intends to hold hearings on the legislation this coming Monday, October 31, at 10 a.m. Immediately upon the conclusion of those hearings, I plan for my full committee to meet in executive session with a view toward marking up this bill and bringing it to the floor for consideration before we adjourn at the end of next week.

We have been in close touch with our colleagues on the Senate side, and I am advised that the Committee on Foreign Relations and the Senate Committee on Commerce, Science, and Transportation—the committees to which this legislation would be jointly referred after it passes the House—are planning to agree to our bill so that it can go to the President for his signature prior to adjournment.

Mr. Speaker, I sincerely hope the Members of the House will cooperate in the prompt passage of this legislation.

FEDERAL INTERVENTION AND REGULATION

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. HAGEDORN. Mr. Speaker, once again, the Federal Government has sought to place blame upon an element of the private sector for problems brought about by Washington in the first place. Once again, this alleged culpability is being used as an excuse to justify deep encroachments by the Federal Government in the affairs of the private sector. Once again, Federal intervention and regulation is more likely to worsen the basic problem that it was designed to correct.

I am referring to H.R. 6575, the Hospital Cost Containment Act of 1977, which would place revenue ceilings and capital expenditure limitations upon acute-care facilities. The administration is correct in its observation that a serious problem exists in the cost of health care today. As President Carter himself stated when he announced this program.

Since 1950, the cost of a day's care in the hospital has increased more than 1000%—eight times the rise in the Consumer Price Index. Today, the average hospital stay costs over $1300; just 12 years ago, a slightly shorter stay cost less than $300.

The administration is incorrect, however, in its persistent belief—demonstrated also in its energy proposals—that economic disruptions directly traceable to Government action can be cured through larger doses of Government action. A recent commentary in the initial issue of the magazine Regulation published by the American Enterprise Institute takes a brief look at the factors behind sharply rising health care costs and concludes that Government health programs and tax laws are more to blame than are "profit-hungry" hospitals.

By imposing cost limitations upon hospitals while doing nothing to affect levels of demand, the most likely result of the proposed legislation will be to reduce the quality of medical care that hospitals will be able to provide. As the article in Regulation also notes, it would

subject the health care industry to a "system of controls that strongly resembles public utility regulation," along with the inevitably attendant bureaucracy.

Columnist M. Stanton Evans has arrived at similar conclusions in a recent article published in Human Events. I would like to bring both of these articles to the attention of my colleagues at this point in the RECORD:

CONTAINING HOSPITAL COSTS

The Carter administration is developing a new program of government regulation in an effort to slow the rapid rise in health care costs. The first step is the proposed Hospital Cost Containment Act of 1977, which would limit revenue increases for acute-care hospitals to approximately 9 percent in the first year and place a national ceiling on capital expenditures by these hospitals. The next step, now promised for 1978, would be more extensive controls as part of a national health insurance plan.

The cost of an average hospital stay increased by 15 percent in 1976 and, if not restrained, is expected by many to do the same in 1977. Currently the largest share of health care expenditures—40 percent—is for hospital care. By slowing the projected increase in hospital revenues to 9 percent, the Carter administration expects net public and private savings of $1.9 billion in the program's first year.

A limit on annual revenue increases would force hospitals to economize on the services they offer. This feature of the plan represents a form of controls less restrictive than outright wage and price controls, but restrictive nonetheless. Except for the wages of nonsupervisory personnel, a hospital would not be able to use higher costs to justify increases in revenue beyond the 9 percent cap. The exception could be significant: with only labor costs being passed through, the use of labor might increase in some areas, while at the least the incentives to keep labor costs down would be weak.

A national ceiling on capital expenditures would add a new federal layer of controls to existing restraints on expenditures for hospital expansion or improvement. The ceiling, expected to be set at about half the $5 billion spent for this purpose in 1976, would be distributed among the states according to population factors, construction costs, and the need for expansion or modernization. The states would ration their quotas to hospitals through federally required certificate-of-need programs.

In short, the plan—if enacted—would subject a major segment of the health care industry to a system of controls that strongly resembles public utility regulation. Controls on capital expenditures would be administered by local health systems agencies, controls on revenue increases through existing third-party payers (Medicare, Medicaid, Blue Cross, state agencies, and private insurers). The Carter administration expects that, by using these review mechanisms, only a small federal bureaucracy would be needed to run the program.

The proposal is, at best, a partial or quick-fix nostrum for the problem it is designed to remedy. There are three main causes of rising hospital costs: (1) the use of retrospective reimbursement, (2) the costs of keeping up with rapid advances in medical technology, and (3) the third-party reimbursement system. The hospital cost containment bill addresses the first and the second, but not the third—which is generally considered the most important. In the case of the first—the fact that payment comes after services have been performed and is based on their cost, so that hospitals have little incentive to economize—the proposed limits on revenue increases would lead hospital managements to find ways to limit their costs. In the case of the second—the costs associated with new technology—the proposed ceiling on capital expenditures would strengthen existing arrangements designed to keep hospitals from buying equipment that will be underutilized and whose purpose is mainly to attract medical staff.

For the third major cause—the problems introduced by third-party payment—the bill would do nothing. About 90 percent of all hospital bills are now paid through public and private insurance. When patients pay little or none of their hospital bill directly, they tend to accept more expensive services where cheaper would do—for example, in-patient care where out-patient treatment would be equally appropriate. Third-party payment has grown, among other reasons, because rising incomes have given families and individuals more money to spend for health insurance premiums. Also, income tax laws that allow individuals to deduct their health insurance premiums and businesses to deduct the cost of the health benefits they provide have made nontaxed health benefits more valuable (at some income levels) than equal amounts of taxable income. Finally, the federal programs of Medicare and Medicaid, which now account for 60 percent of the federal health budget, include restrictions that encourage the use of expensive hospital services at times when nursing homes, out-patient clinics, and home health care would do.

In addition to the fact that the bill does not deal with third-party payments, there is a subsidiary difficulty. Many metropolitan hospitals, whose out-patient services often provide the only medical care available to poor and needy big-city residents, might have to cut back some of these money-losing services.

Government health programs and tax laws have been the major forces behind rising hospital costs, and these costs, in turn, have made the programs more expensive and created political pressures to solve the problem. Rather than adjusting the incentives in its programs and tax laws to induce more cost-conscious behavior, the government's response is to apply a regulatory tourniquet. Experience with revenue control regulation in other industries has been that, in the long run, it leads to more comprehensive controls and creates vested interests that can be expected to resist changes in technology, regulation, or consumer preferences.

WHY HOSPITAL COSTS KEEP RISING

(By M. Stanton Evans)

When President Carter announced his plan to control the rising cost of hospital care, he used some frightening statistics.

"Since 1950," he said, "the cost of a day's care in the hospital has increased more than 1,000 per cent—over eight times the rise in the Consumer Price Index. Today, the average hospital stay costs over $1,300; just 12 years ago, a slightly shorter stay cost less than $300. This relentless increase places a severe burden on all of us—and strikes hardest at the poor and elderly."

Having horrified us in this manner, the President went on to offer a program for correction—a cap on annual price increases, "incentives" to discourage "unnecessary hospitalization," an adjustment formula for hospital wage hikes, and other familiar bureaucratic nostrums. The cure for the problem, in Mr. Carter's view, is a further dose of federal regulation.

Left unexplained in all of this is any notion of why hospital prices have been mushrooming upward in such a manner. The usual statements refer to the problem vaguely as though it were a well-known natural attribute of hospitals that doesn't really need explaining.

Some effort is made to pin the problem on the private sector (Mr. Carter says severely that "the private sector's response to the challenges of cost containment will help decide its future role in our health care system"). But even this is not pushed very far. So we are left with an enormous, unanswered question: *Why* have hospital costs been soaring wildly out of sight?

The omission is a strange one, since it should be obvious that only if we know the cause of the difficulty will we have any chance of correcting it. If we can find out where these enormous costs are coming from, we can go to the source of the problem and start applying remedies. If we are in doubt, as President Carter seems to be our supposed cures might actually make the problem worse. The omission becomes the stranger still when we note that the causes must be known to Mr. Carter and his advisers, since they are spelled out at length in official documents.

If we read these documents, we discover that the reason for the present mess in hospital costs is none other than the government itself—the very agency that Mr. Carter invokes to cure the (falsely) suggested failings of the private sector. Note that Mr. Carter contrasts the present cost of a hospital stay with that existing a dozen years ago. The date is significant, although he doesn't tell us why, because it was just 12 years ago, in 1965, that Congress enacted Medicare and Medicaid. That year is the dividing line between comparative sanity in medical pricing and the runaway inflation of which the President complains.

It may seem hard to believe, but before the advent of Medicare and Medicaid, the hospital price index was lower than the consumer price index, taking 1967 as the base year for comparison. In 1965, the CPI was 94.5, the hospital index 76.6. Five years later, consumer prices stood at 116.3, while hospital prices had almost exactly doubled, to 145.4. And in the years since 1970, hospital prices have doubled yet again (282 in 1976) while the CPI moved up to 172.

Thus, in a single decade after adoption of Medicare and Medicaid, hospital charges have increased by roughly 300 percent, while consumer prices otherwise have risen roughly 75 percent. It is obvious from this comparison, and from many other data, that the problem with hospital costs was created for us by the adoption of Medicare and Medicaid.

Their contributions to the problem were several. By dumping an extra $30 billion a year of demand into our medical system, these government programs bid up all the factors of supply. By delivering health care "free" to millions, they made consumers oblivious of price. And by reimbursing hospitals on the basis of costs, they freed administrators to buy expensive equipment and offer wage hikes to employes, passing the bills along to Uncle Sam. (Hospital wages went up an average of 5 percent a year from 1951–65; from 1967–71, they rose at 10 percent a year.)

While it is hard to disentangle all these factors, the shift toward third-party payment deserves a bit of special notice. Some 90 percent of hospital costs are now picked up by someone other than the patient, and 55 percent are paid by the federal govern-

ment. This means that, despite the continued uproar over medical prices, the average citizen doesn't face the problem directly (average out-of-pocket medical expenses in 1976 were only $155), so this average citizen feels little compunction about demanding still more "quality" care regardless of cost, driving the spiral of third-party reimbursements ever higher.

This process was slowed by wage and price controls in the early '70s, but when controls were lifted the suppressed inflation asserted itself again with all the usual force of pent-up demand. That experience suggests the problem can be corrected, not by putting a lid on prices—which in considerable measure is what Mr. Carter proposes to try again—but by moving back toward market arrangements in the field of health care.

For those who doubt the nature of the problem, here's an easy way to test the difference, before and after Medicare: From 1960 through 1965, consumer prices for all services, less medical care, were moving upward at an annual rate of 2 per cent, physician services at 2.8 per cent, and hospital prices at 5.8 per cent. From 1965 through 1970, consumer prices rose at 5.7 per cent, physician services at 6 per cent, and hospital prices at 13.9 per cent. (Figures compiled by the Department of Health, Education and Welfare.)

From these data, the impact of Medicare and Medicaid is instantly apparent. While hospital costs were moving upward in the early '60s in response to increased demand through group insurance plans (also encouraged by federal policy), the truly vertiginous price hikes did not occur until the arrival of the federal programs. The statistical record is so plain that even HEW acknowledges it.

"The medical price index," says the department, "accelerated during 1965–70, but decelerated rapidly with the imposition of cost controls in 1971. Whereas prices for physician and dental services did not move much faster than the CPI (except during 1965–70), the increase in rates for a hospital semi-private room ranged from two to three times the annual rate of increase experienced by the CPI, with notable acceleration recorded after the onset of Medicare."

Funny that Mr. Carter should mention none of this—or is it?

DR. ZELMA GEORGE AN EXTRAORDINARY WOMAN

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. STOKES. Mr. Speaker, I have asked for the floor on this occasion to bring to your attention and to the attention of my colleagues in the U.S. House of Representatives the extraordinary life and career of Dr. Zelma Watson George of Cleveland, Ohio.

Dr. George is a person of unusual accomplishment and versatility. She is a scholar, sociologist, educator, diplomat, musician, and humanitarian. Mr. Speaker, let me emphasize that these are not merely occasional interests of Dr. George, but full-fledged, simultaneous careers. Dr. George was born into a day and age in which it was extremely difficult for a woman to succeed professionally. To be black and a woman was to be doubly discriminated against. These "obstacles" did not deter this incredible woman in her goals, but spurred her on to higher prominence and achievement.

Mr. Speaker, I would like to bring your attention to an excellent article which gives considerable insight into Dr. George's distinguished careers and rich and rewarding personal life. I urge that my colleagues assembled here today read its contents carefully for it is my belief that she is certainly among the most accomplished women in the history of this Nation. Therefore, Mr. Speaker, I respectfully submit the feature article on Dr. Zelma Watson George which appeared in the October 4, 1977 edition of the Cleveland Plain Dealer newspaper:

DR. ZELMA GEORGE—HER LIFE IS DEDICATED TO "WORKING WITH THE HARD CORE"

(By Judy Sammon)

As a young girl, she dreamed of being an ice skater when she grew up. Her ankles, alas, were too weak.

Her brain, however, was not.

Instead, Dr. Zelma Watson George grew up to become a sociologist, educator, diplomat, college administrator, opera singer, lecturer and champion of human rights.

"The direction of my life has always been aimed along paths that lead to people, and, subsequently, to understand them better," she said in her Shaker Heights apartment recently. She had just returned from a three-week Mediterranean music cruise.

Her hearing is less than perfect; she has difficulty understanding consonants at certain pitches. Her legs are a source of pain, she has had two artificial knee implant operations in the past three years. But she is not complaining.

One might assume that after more than 50 years in work largely dedicated to the service of others, Dr. George might have drained her cup.

"My work is really only half done," she says at 73.

Three years ago, when she retired as director of the Jobs Corps for Women here, Dr. George made a list of things she wanted to do in her leisure time.

"I planned to learn how to play the guitar, take up flying lessons again and write the book I had promised my publisher some years before," she recalled.

She has been too busy to accomplish any of these goals.

Were Dr. George to write an autobiography, friends say, an entire forest would be needed to provide paper for the task. Yet, ask Dr. George what activity in her career has been the most rewarding, and she refers to an Aesop tale.

"Do you remember the story of the worm and centipede?" she asked. "It seems the worm asked the centipede how he managed to walk on so many legs. When the centipede tried to analyze it, he could no longer stand."

All her activities, she implied, have been equally rewarding. "I don't think I can recall one dull moment in my life," she said.

Outspoken, strong-willed and very proud, she once described to an interviewer her dilemma: "I live in two worlds, white and black. I can't desert either one, and as yet, I haven't been able to make them one."

Those are still her sentiments, although she dislikes being categorized.

"I am a woman, black, and I am fat. I have always been a minority. These are assets or liabilities, depending or how you use them. They happen to have been assets to me because I worked harder," she said.

Dr. George received her doctorate in sociology from New York University in 1954. She earned her doctorate in courage while a member of the U.S. delegation to the 15th General Assembly of the United Nations. There, she took a special interest in the treatment accorded to representatives of the newly independent African nations.

On Dec. 16, 1960, Dr. George rose to her feet in spontaneous applause after the General Assembly had voted 89 to 0 with nine abstensions, including the U.S., for a resolution recommending the "speedy and unconditional end of colonialism."

Almost immediately, Dr. George, the only black U.S. delegate, was mobbed by delegates from dozens of African and Asian countries, congratulating her solitary act of unrestrained courage.

Earlier, she had tried to call President Dwight D. Eisenhower to get the U.S. to support the declaration, but was unable to reach him. While she made it clear that she considered herself a member of the U.S. team, she felt she was "much closer to the situation" than other members.

Today, she is as equally unrestrained in her admiration for Andrew Young, U.S. ambassador to the U.N.

"He has brought an entirely new manner and technique to the field of diplomatic relations. He speaks the truth, and he has established the fact that he is honest," she said.

"Even those who disagree with Young believe that he can be trusted. The diplomatic game has always been not letting anyone know where you stand, and we have gotten nowhere with that particular diplomatic stance. Everyone knows where Young stands," she said.

A Republican, she is postponing any judgment on President Carter until she sees "how far he is willing to go in backing Young and genuinely demonstrate that he approves of what Young is doing," she said.

Carter's stand on human rights has endeared him to her so far, she said.

Dr. George is still a member of the U.N. board and "religiously" attends its meetings. She also is a member of the International Peace Academy Board and the World Federalist Board. She thinks in international terms, and her thoughts are still focused on Third World countries.

"We have spent a lot of time telling them how much they need us, without realizing how much we need them. The western countries have really been sowing some bad seeds, but I'm not saying others haven't done it, too. It seems to me that whoever gets power usually abuses it," she said.

Dr. George feels America should be working on a Declaration of Interdependence, a subject of her lectures during the 1976 Bicentennial year.

"Independence, as such, doesn't work anymore, because we are extremely dependent on other peoples. We must realize the complete interdependence of mankind, each in need of the other. One group of countries

needs another for one set of reasons, but that other group needs the first just as desperately for another set of reasons.

"What would happen to this country emotionally if we didn't have our coffee every day? We are very dependent on other parts of the world for our most essential products."

It's her opinion that America conceptualizes only things, "and not ideas, and that's why we are unable to sell our ideas to the world.

"We try to sell the words, 'freedom and democracy,' but I don't think we have really sold the ideas to ourselves. When I say 'sell,' it's the difference between talking and communicating. How can we sell something that we haven't practiced at home?"

She has always been strong in her convictions, she said.

Lena and Samuel Watson were very disappointed when their first child was born; they had wanted a son. Zelma Watson George made sure she never let her parents down again.

Her parents were educators; her father turned to the Baptist ministry when his family started to grow. She remembers Booker T. Washington and W.E.B. DuBois debating in her father's church in Texas, where Marion Anderson later came to sing. Her childhood was decidedly middle class.

She remembers a visit from the Ku Klux Klan one night when her father and mother were taken by local law officers to be questioned about the escape of a prisoner. That memory would haunt her for years.

"My father was the greatest influence in my life," she said. "Even after he died, I was doing the things I thought he would want me to do."

She remembers running to her father crying as a teen-ager when some classmates snickered at her size.

"My father told me I had to learn to do things fat girls are not supposed to do. He encouraged me to take up swimming and diving and taught me to do the best job that I could. My emancipation began accidentally, when he helped me become emancipated from my size."

She was a champion diver in high school and college.

Few fathers would go as far as the Rev. Mr. Watson to insure that his child be equipped for success.

When she was accepted by the University of Chicago, her family was living in Topeka. Her application was made along with the selection of a dormitory.

It was a bittersweet day when she heard from the university. While Zelma had been accepted by that prestigious institution, she was informed that as a Negro, she was unacceptable for dormitory life. She would have to find another place to stay.

Her father, however, would not allow his 17-year-old daughter to live alone in Chicago. Instead, he found a ministry there and moved the entire family. Zelma received her undergraduate degree in 1924.

Later, she enrolled at Northwestern University to study organ, followed by the study of voice at the American Conservatory of Music in Chicago. She also worked full time as a social case worker and probation officer to juvenile court there.

When her father died in 1925, she helped her mother educate the five younger Watsons, all of whom would eventually graduate from college.

In 1932, she became dean of women and director of personnel administration at Tennessee A & I State University, where her mother taught. Later, she became executive director of the Avalon Community Center in Los Angeles and studied Negro music under a Rockefeller Foundation grant.

It was during a visit to Cleveland in 1942 to pursue her studies of Negro music that she met lawyer Clayborne George, president of the Civil Service Commission. They were married two years later.

"He was a wonderful human being, husband and lover," she said of her mate. He died on Christmas Eve in 1970.

It was during their marriage that Dr. George saw another "postponed dream" come true. As a young woman, she had aspired to become an opera singer, but "there was no chance for a black to make a living at it then. I also had obligations to my family at that time."

In 1949, she appeared in the title role of Gian-Carlo Menotti's "The Medium" at Karamu Theater. The next year, she played the same role in a revival on Broadway, with members of the original cast. Menotti later said that he would like to write an opera especially for her.

It was a heady experience.

After 13 weeks on Broadway and several theatrical offers, she returned home to a worried husband. His Christmas gift to her that year was six house dresses, a hint at what role he would prefer her to perform.

Several years later, she sang in another Menotti opera, "The Consul," at Cleveland Play House and participated in productions at Karamu.

It was her friendship with the late U.S. Rep. Frances Bolton ("my political mentor") that launched her on her diplomatic career.

"She introduced me to President Eisenhower and to the late Treasury Secretary George M. Humphrey, who were later responsible for my State Department trips." In 1959, she received a grant from the State Department for a six-month tour of the world under the Educational Exchange Program.

During the six-month "People to People" tour, she addressed thousands in Japan, Singapore, Indonesia, West Africa and Western Europe, taped more than 100 "Voice of America" programs, and discussed the problems of blacks and women in this country.

She was impressed, she said, with "the oneness of mankind" and the similarity of aspirations and goals. A year later, Dr. Zelma Watson George was appointed to the U.S. delegation to the U.N.

Several plaques and framed awards hang on the walls in a hallway in Dr. George's apartment, including the Dag Hammarskjold Award, presented in 1961 for "distinguished service to the cause of world peace through world law."

But the plaque she treasures most, and to which she directs visitors' attention, is the "big sister" award, presented by her five younger sisters and brother in appreciation for her guidance and sacrifice.

But thriving on press clippings, plaques and awards is the lot of those captive to the past: Dr. George is charged by the present and future. Her leitmotif has always been action.

Perhaps one day she'll get around to writing a book about her family, but right now, she promises to keep: lectures, board meetings, more music research.

When she was director of the Jobs Corps for Women here, (the oldest center of its kind in the country), she cautioned the thousands of young women under her guidance to learn to postpone some dreams.

"Everybody wants everything now," she said. "We are a society in a hurry. I used to tell the young ladies that postponement is a skill, a discipline we need to learn, and a technique for survival found in Negro spirituals."

Having dedicated her life to "working with the hard core," she has chosen a few young people as her own special project.

Dr. George is involved in a project that Links Inc. has undertaken, and which will be complete early next year.

"It's a major folk art exhibition, "The Afro-American in Decorative Arts' exhibit, or, primarily, the art of the slave, which will open in February at the Cleveland Art Museum," she said.

She believes that it is the first of its kind attempted anywhere.

"It was difficult getting the museum to recognize folk art as an exhibition worthy of study," she said. The exhibit, including a ship built by slaves, will be here two months and will travel to six other major are museums before it winds up at the Smithsonian Institution.

Dr. George, who has always been close to the people, once wrote:

"Women must be interested in the total life, not just in 'women's things.' There isn't a thing that happens that doesn't touch a woman and her family."

She could have been writing about herself.

CITIZENSHIP

HON. JACK EDWARDS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. EDWARDS of Alabama. Mr. Speaker, we hear quite a bit these days about voter apathy and disrespect for the privilege of American citizenship. Recently, however, I had the opportunity to hear a speech on the subject of citizenship which was a refreshing change and, I hope, an example of the real feeling of patriotism in this country. Written by Ms. Memory Carnes, an 11-year-old sixth grader from Mobile, Ala., it is as follows:

CITIZENSHIP

You are an American citizen. What are some of the rights and responsibilities of a good citizen? A good citizen is an informed citizen. He is one who reads and tries to learn as much as possible about the United States, its government, and its way of life.

One of the most important responsibilities of an adult citizen is to exercise his right to vote and then to support the winning candidate for the good of all. He votes intelligently at primary and general elections. Every citizen should be proud of his or her right to share in the government of his community. He keeps informed as to the honesty, ability, and qualifications of candidates for public office.

A good citizen obeys all government laws, pays taxes levied by chosen representatives, and is ready to defend the nation if the need arises. It is his responsibility to serve the

jury when called by court, to hold public office, if qualified and chosen, and to learn to recognize un-American propaganda when he sees it, hears it, or reads about it. It is the duty of the citizen to speak out against such propaganda, and to live in a way that will uphold American ideals and show others how to live in the same way.

A good citizen will recognize the value of the American democratic form of government. Our government has provided its citizens with more freedom of opportunity, more protection against oppression, more personal fulfillment, and more comforts than any other system devised by man. All of these benefits increase our responsibility as American citizens.

It is the duty of the citizen to preserve the American form of government and to pass it on to coming generations. Freedom has never geen given to man or nation. It has to be earned. It is kept by constant loyalty. If you believe in freedom and in this country, you will oppose wrong-doing and cruelty. You will fight, if necessary, to keep this country, your country, the United States of America, strong and free. It is the duty of the citizen to love his country, support its constitution, obey its laws, respect its flag, and defend it against its enemies.

I can give you many examples of a young good citizen, but I will only give a few. He does his work and gets it in on time. He is not lazy. He is friendly toward his classmates and has good conduct. He works for the happiness and well-being of others. If we practice good citizenship as young people, we will be good adult citizens.

CARTER-TORRIJOS STATEMENT NO CLARIFICATION OF U.S. RIGHT TO DEFEND CANAL AGAINST PANAMANIAN AGGRESSION OR THREAT, SAYS LIBRARY OF CONGRESS

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. SNYDER. Mr. Speaker, I asked the American Law Division of the Library of Congress for an opinion on the legal status and importance of the joint statement issued by President Carter and dictator Omar Torrijos supposedly to clear up the proposed treaties' ambiguity over the U.S. right to intervene militarily to defend the Panama Canal.

The opinion which follows should indicate to all Members of both Houses of Congress that the joint statement still leaves us in the dark as to what we can and cannot do to defend the Panama Canal, and that the Senate must amend the treaties to make U.S. rights in this regard absolutely clear and unequivocal:

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., October 19, 1977.

To: Honorable Gene Snyder.
From: American Law Division.
Subject: Legal Status of General Torrijos/President Carter's Statement of 10/14/77.

This memorandum is in response to your request for an analysis of the legal affect of the joint statement issued by President Carter and General Torrijos on Friday, October 14, 1977. That statement is set forth below:

TEXT OF CARTER-TORRIJOS STATEMENT

"Under the treaty concerning the permanent neutrality and operation of the Panama Canal (The Neutrality Treaty), Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall in accordance with their respective Constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

"This does not mean, nor shall it be interpreted as a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.

"The Neutrality Treaty provides that the vessels of war and auxiliary vessels of the United States and Panama will be entitled to transit the Canal expeditiously. This is intended, and it shall be so interpreted, to assure the transit of such vessels through the Canal as quickly as possible, without any impediment, with expedited treatment, and in case of need or emergency, to go to the head of the line of vessels in order to transit the Canal rapidly."—from the New York Times October 15, 1977.

You have asked us to consider the legal weight of that statement as it relates to the right of the U.S. to intervene militarily in the Canal Zone.

The excerpts attached to this memorandum from Whiteman, Digest of International Law, p. 386–406, indicate that a joint statement issued by the Heads of State of the two countries party to a bi-lateral treaty is entitled to some weight in the interpretation of a treaty provision.

However, the Carter-Torrijos statement, while guaranteeing each party the right to act against threats directed at the Canal, also specifies that the U.S. may not intervene in the internal affairs of Panama. It is not altogether clear that the statement would permit the United States to intervene in the event that the aggression or threat should result from Panamanian action.

KENNETH MERIN,
Legislative Attorney.

ALUMINUM WIRING

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. STEERS. Mr. Speaker, today I am introducing a bill that clarifies a very important point in the area of consumer safety. I am joined in this effort by my colleague, Hon. TOBY MOFFETT. This bill states that the Consumer Product Safety Act is amended to make clear that a "consumer product" includes any "electrical wiring system or component part which is designed for installation in or around any permanent or temporary household or residence or any structure to which the public has access."

The reason for this bill is clarify language already in the Consumer Product Safety Act. It is my opinion that all electrical wiring is already included in the act. However, a court decision in Delaware stated that the Commission was prohibited from disseminating any information to the public on aluminum wiring because, in the opinion of the court electrical wiring is not a "consumer product."

We are introducing this amendment solely to clarify this jurisdiction because of the continuing litigation in this area which is resource and time consuming for the Consumer Product Safety Commission. We feel that there is a vital need to protect the public from the hazards associated with aluminum wiring. The Consumer Product Safety Commission should be allowed to pursue solutions to this problem as the Congress originally intended for them to do so.

UNITED STATES AND MOZAMBIQUE

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1977

Mr. WHALEN. Mr. Speaker, as a member of the U.S. delegation to the U.N. 32d General Assembly this fall I have had unusual opportunities for extensive firsthand contact with representatives of countries which are much misunderstood by Americans. One of those countries is Mozambique, an African nation newly freed from its colonial shackles and struggling to overcome the afflictions of underdevelopment.

Unfortunately, information about Mozambique has been based on limited sources contributing to a misperception about that country which has resulted in substantial hostility toward Mozambique in influential U.S. circles. One of the concrete consequences of that hostility, and I think an undesirable one, is the legislative prohibition on direct U.S. assistance to that country.

Mr. Speaker, I submit herewith for the RECORD a brief but thoughtful analysis by a recent American visitor to Mozambique published by the Los Angeles Times, with the hope that his observations may help all of us in the Congress to gain a more complete picture:

[From the Los Angeles Times, Oct. 16, 1977]

AMERICA CAN STILL PATCH THINGS UP WITH MOZAMBIQUE

(By Allen Isaacman)

The escalating crisis in Southern Africa, fueled most recently by the apparent murder of black South African leader Steve Biko, has already received special attention in the current session of the United Nations. As the representative of Southern Africa's "front-line" nations—Angola, Botswana, Mozambique, Tanzania and Zambia—Mozambique President Samora Machel recently addressed the General Assembly and, later in his visit, conferred with President Carter and other high U.S. officials.

Machel's presence in this country at this critical juncture signals the important role Mozambique has assumed in the continuing struggle in Southern Africa. At first glance, Mozambique seems an unlikely candidate for such a central position on the world stage. Independent only since 1975, it is neither a military nor an economic power in Africa. Its army, estimated to number 20,000 troops, poses little threat to the forces of Rhodesia or South Africa, whose larger armies are armed with sophisticated Western weapons; its economy, long crippled by shortages of capital and skilled technicians, is only now showing signs of improvement.

But Mozambique has captured the heart and imagination of much of Africa by its successful struggle against Portuguese colonial rule and by its refusal to be intimidated by its powerful South African and Rhodesian neighbors—the latter having attacked the new nation more than 150 times in the last 18 months, according to Mozambique officials. President Machel has received extremely enthusiastic receptions in his travels throughout the continent, reinforcing the assessment of one veteran journalist that just as the '50s belong to Ghana's Kwame Nkrumah and the '60s to Julius Nyerere of Tanzania, so Machel will be the pace-setting African leader of the 1970s.

Now that Machel has concluded his first visit to this country, it is appropriate to assess our relations with his increasingly important young nation.

Diplomatic contacts between the United States and independent Mozambique have been strained since the beginning, the residue of 25 years of American support for the Portuguese colonial regime. Over the years, we provided Lisbon, our NATO ally, with substantial amounts of arms, diplomatic protection and economic assistance, and as recently as 1971, the Nixon Administration offered a bankrupt Portuguese government $400 million in loans, enabling Portugal to continue fighting independence movements in Mozambique, Angola and Guinea-Bissau. (This loan was particularly galling to Africans since it was appreciably more than the total of $350 million in such export-import bank loans given by the United States to all of Black Africa between 1946 and 1970.)

Thus, when the coup in Portugal took place and Mozambique's colonial regime fell in April, 1974, relations between Frelimo (the Mozambique Liberation Front) and the United States were tense. Nevertheless, in an attempt to improve relations with Washington, the new government extended its first formal diplomatic invitation to an American dlegation led by Donald Easum, then assistant secretary of state for African affairs.

Despite this gesture from Frelimo, however, relations between the countries deteriorated rapidly. Easum was removed from his post in the fall of 1974, reportedly for expressing American support for majority rule in Africa. Then the Angola fiasco pitted the United States and South Africa against the Popular Movement for the Liberation of Angola (MPLA), a close ally of Frelimo, reconfirming Mozambique's suspicions about long-term American objectives in Africa. Mozambique countered by refusing to invite an official American delegation to its independence celebration in June, 1975, although several months later diplomatic ties were established between the countries.

Lately, the Carter Administration has sought to establish a more "balanced" Southern African policy by distancing itself somewhat from the minority regimes in South Africa and Rhodesia. This has improved our relations with Mozambique slightly, yet hostility toward Mozambique within influential media, business and political circles continues to undercut such efforts at reconciliation.

American reporters, with few noticeable exceptions, have long portrayed Mozambique in the most unflattering terms. Accounts of widespread political repression, anti-white racism, the forced resettlement of peasants, nationalization of foreign industry and Soviet domination have appeared regularly in the most prestigious American newspapers. Most of these reports, however, reflect not first-hand observation of the country, but unconfirmed rumors and second-hand accounts originating in South Africa, Rhodesia and African capitals.

For example, John Burns, a reporter for the New York Times who actually visited Mozambique in 1976, wrote: "With the (Mozambique) government issuing few visas for journalists, the image of the new government abroad was largely formed by the accounts of departing settlers. The country was said to have become a police state and the economy a disaster. Rumors of feuding among Frelimo's leaders and fighting in the provinces were presented as incontrovertible fact. A visitor's assessment is not so dire . . . There is little sign of fear among the people of Mozambique. For all the problems of daily life, the government seems popular."

Negative views of Mozambique have been echoed by conservative American industrialists, many of them investors in Rhodesia and South Africa. Typical of their view is that of Anthony Harrigan, executive vice president of the United States Industrial Council, who has warned that the presence of Machel, "the new dictator of Mozambique," constitutes a threat to Southern Africa, "mineral treasure house of the continent."

My own assessment, based on personal observation and conversations with Mozambique government officials and foreign diplomats and technicians in the country, is quite different.

At independence, Frelimo inherited an impoverished country whose population suffered from most of the afflictions of underdevelpment. The illiteracy rate was over 90%, rural health care was nonexistent and the urban African population was reduced to living in makeshift shanty towns.

Since then, the educational system in Mozambique has been totally revamped to provide schooling to all citizens. In the last two years, Mozambique officials report, the number of students in primary schools has increased from 700,000 to 1,200,000 and more than 400,000 adults have been enrolled in literacy classes. When the government nationalized the medical profession, it declared that proper health care—restricted during the colonial period to the wealthy Portuguese community—would be available to all citizens as a right not a privilege of race or class Today, virtually all medical treatment is free.

Limited nationalization of housing—homeowners are allowed to retain two residences for personal use, but landlordship has been abolished—has also enabled the state to relocate 120,000 impoverished Mozambicans from shanty towns to previously segregated modern apartment buildings. Peasants in the rural area, many of whom were landless, have taken the initiative and organized more than 50 communal villages which offer a variety of social services heretofore unavailable.

Accusations of an antiwhite backlash are also untrue. Upon my arrival at Mozambique's international airport, I noticed a large government-printed poster depicting a black-and-white arm embracing. The caption read Abaixo com Racismo,—"Down with Racism." This message is also repeated daily on the radio, in newspapers and can be seen in wall drawings—which function much like Chinese wall posters—centrally placed throughout the principal cities.

Mozambique's commitment to a multiracial society is more than rhetoric, however. The Nationalities Act extends Mozambican citizenship to all Portuguese who have either resided in Mozambique for five years or who were born there. Further, white Mozambicans are currently represented at the highest levels of government. Three important ministers, for instance, are white. Most Portuguese, fearing retribution or refusing to live under an African government, have fled. But a small number continue to reside in Mozambique as expatriates, some owning factories and farms which the government has promised to protect as long as they do not exploit their workers.

Widespread charges that Mozambique is a pawn of the Soviet Union, Cuba or China are vigorously denied by high government officials. Marcelino dos Santos, a founding member of Frelimo and minister of economic planning and development, remarked that Frelimo had not fought for so many years against the Portuguese to become a satellite of yet another foreign power. Even United States Ambassador to Mozambique Willard de Pree has acknowledged Mozambique's autonomy. "Sure Frelimo Marxist," notes De Pree, "but they keep their distance from Moscow. They're very independent . . . pro Third World."

Mozambique's commitment to the principle of nonalignment is reflected in its adamant opposition to the militarization of the Indian Ocean, its refusal to permit foreign bases on its own territory, its unwillingness to take sides in the Sino-Soviet split and its cordial relations with both socialist and Western countries. Indeed, Mozambique's largest single source of financial assistance is Sweden and technicians and advisers have come from such diverse countries as Italy, East Germany, England, China, Portugal, Tanzania, the Soviet Union and Zambia. Further, though Mozambique openly acknowledges that the socialist countries, who supported its independence movement through a decade of armed conflicts, are the nation's "natural allies," it has nevertheless formed a complex set of alliances, cutting across the East-West divide, to avoid dependence on any single power bloc.

Meanwhile, America's distorted image of Mozambique has continued to provide valuable ammunition to conservative forces here, particularly in Congress. Last June, the House passed by voice vote an amendment prohibiting any foreign aid directly or indirectly to Mozambique. Such legislation would not only have deprived Mozambique of much-needed assistance (primarily through the United Nations), but it would have undermined the Carter Administration's own diplomatic initiatives in Africa. Recognizing these far-reaching implications, liberal congressmen, with the support of the White House, helped to fashion a compromise that ultimately restored multilateral aid but continued to prohibit direct assistance without the concurrence of both Houses.